LAWS
of
UTAH 2023

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LAWS

of the

STATE OF UTAH, 2023

Passed at the
GENERAL SESSION
of the
SIXTY-FIFTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
January 17, 2023
and Adjourned Sine Die on
March 3, 2023

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2023 General Session of the Sixty-Fifth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2023 General Session of the Sixty-Fifth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 17th of January 2023 and adjourned sine die on the 3rd of March 2023.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City,

this 21st day of December 2023

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
H. B. 215
Passed January 26, 2023
Approved January 28, 2023
Effective May 3, 2023

FUNDING FOR TEACHER SALARIES AND OPTIONAL EDUCATION OPPORTUNITIES

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill establishes the Utah Fits All Scholarship Program and provides funding for the program and a doubling of an educator salary adjustment.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions to codify and double the amount of the state-provided educator salary adjustment;
- establishes the Utah Fits All Scholarship Program (program);
- requires the state board to contract with, no later than September 1, 2023, a program manager to administer the program;
- authorizes the program manager to establish scholarship accounts on behalf of eligible students to pay for approved education goods and services starting in the 2024-2025 school year;
- prohibits a program manager from accepting scholarship funds in certain circumstances and requires other fiscal safeguards, auditing, and accountability measures;
- requires eligible schools and service providers to meet certain standards to be eligible to receive scholarship funds;
- establishes an annual and private portfolio submission to the program manager as an eligibility qualification;
- allows for a scholarship student to receive a prorated scholarship award if the student participates part-time in a local education agency;
- authorizes the program manager to administer the program and distribute scholarship funds;
- requires the state board to provide limited oversight of the program manager, including an appeal process for the program manager's administrative decisions;
- prohibits certain regulations of eligible schools and eligible service providers;
- requires background checks for employees and officers of a program manager;
- enacts program funding provisions;
- requires a program manager and the State Board of Education (state board) to submit reports on the program to the Education Interim Committee;
- classifies scholarship students' and scholarship account information as protected records; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to State Board of Education -- Contracted Initiatives and Grants -- Utah Fits All Scholarship Program, as an appropriation:
  - from Income Tax Fund, ongoing $42,500,000; and
  - from Income Tax Fund, one-time ($41,500,000), leaving $1,000,000 for Fiscal Year 2024.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2022, Chapters 147, 229, 274, 285, 291, 354, and 461
53F-2-405, as last amended by Laws of Utah 2022, Chapter 415
63G-2-305, as last amended by Laws of Utah 2022, Chapters 11, 109, 198, 201, 303, 335, 388, 391, and 415

ENACTS:

53F-6-401, Utah Code Annotated 1953
53F-6-402, Utah Code Annotated 1953
53F-6-403, Utah Code Annotated 1953
53F-6-404, Utah Code Annotated 1953
53F-6-405, Utah Code Annotated 1953
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53F-6-412, Utah Code Annotated 1953
53F-6-413, Utah Code Annotated 1953
53F-6-414, Utah Code Annotated 1953

REPEALS:

53F-6-101, as enacted by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and

technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-2-522 regarding mental health screening programs;

(l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(m) the report described in Section 53F-4-407 by the state board on UPSTART;

(n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(p) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

(q) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(r) the report described in Section 53G-7-221 by the State Board of Education regarding innovation plans; [~~and~~]

(s) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council[~~.~~]; and

(t) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(d) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(e) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(g) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(h) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(i) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

(j) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

(k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

(l) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 2. Section 53F-2-405 is amended to read:

53F-2-405. Educator salary adjustments.

(1) As used in this section, "educator" means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) (i) a license issued by the state board; and

(ii) a position as a:

(A) classroom teacher;

(B) speech pathologist;

(C) librarian or media specialist;

(D) preschool teacher;

(E) mentor teacher;

(F) teacher specialist or teacher leader;

(G) guidance counselor;

(H) audiologist;

(I) psychologist; or

(J) social worker; or

(b) (i) a license issued by the Division of Professional Licensing; and

(ii) a position as a social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

[~~(3) Money appropriated to the state board~~]

(3) (a) The state board shall distribute to each school district, each charter school, and the Utah Schools for the Deaf and the Blind money that the Legislature appropriates for educator salary adjustments based on the number of educator positions described in Subsection (4) in the school district, the charter school, or the Utah Schools for the Deaf and the Blind.

(b) Notwithstanding Subsection (3)(a), if appropriations are insufficient to provide the full amount of educator salary adjustments described in this section, the state board shall distribute money appropriated for educator salary adjustments [~~shall be distributed~~] to school districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

(4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) the amount of the salary adjustment [~~shall be the same~~] for each full-time-equivalent educator [~~position in the school district, charter school, or the Utah Schools for the Deaf and the Blind;~~] is:

(i) if Title 53F, Chapter 6, Part 4, Utah Fits All Scholarship Program, is funded and in effect, $8,400; or

(ii) if Title 53F, Chapter 6, Part 4, Utah Fits All Scholarship Program, is not funded and in effect, $4,200;

(b) an individual who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the individual works as an educator; and

(c) a salary adjustment may be awarded only to an educator who has received a satisfactory rating or above on the educator's most recent evaluation.

(5) [~~The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board:

(a) shall make rules to ensure that LEAs do not reduce or artificially limit a teacher's salary to convert the salary supplement in this section into a windfall to the LEA; and

(b) may make rules as necessary to administer this section [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~].

(6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

(i) maintain educator salary adjustments provided in prior years; and

(ii) provide educator salary adjustments to new employees.

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

(i) retirement;

(ii) worker's compensation;

(iii) social security; and

(iv) Medicare.

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

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments described in this section shall include salary adjustments for school administrators as specified in Subsection (7)(a).

(c) In distributing and awarding salary adjustments for school administrators, the state board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

Section 3. Section 53F-6-401 is enacted to read:

Part 4. Utah Fits All Scholarship Program

53F-6-401. Definitions.

As used in this part:

(1) "Eligible student" means a student:

(a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;

(b) who is a resident of the state;

(c) who, during the school year for which the student is applying for a scholarship account:

(i) does not receive a scholarship under:

(A) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(B) the Special Needs Opportunity Scholarship Program established in Section 53E-7-402; and

(ii) except for a student who is enrolled part-time in accordance with Section 53G-6-702, is not enrolled in an LEA upon receiving the scholarship;

(d) whose eligibility is not suspended or disqualified under Section 53F-6-401; and

(e) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d).

(2) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(3) (a) "Home-based scholarship student" means a student who:

(i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(ii) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to attend a home school; and

(iii) receives a benefit of scholarship funds.

(b) "Home-based scholarship student" does not mean a home school student who does not receive a scholarship under the program.

(4) "Program manager" means an organization that:

(a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;

(b) is not affiliated with any international organization;

(c) does not harvest data for the purpose of reproducing or distributing the data to other entities;

(d) has no involvement in guiding or directing any curriculum or curriculum standards;

(e) does not manage or otherwise administer a scholarship under:

(i) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(ii) the Special Needs Opportunity Scholarship Program established in Section 53E-7-402; and

(f) an agreement with the state board recognizes as a program manager, in accordance with this part.

(5) (a) "Program manager employee" means an individual working for the program manager in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.

(b) "Program manager employee" does not include:

(i) an individual who volunteers for the program manager or for a qualifying provider;

(ii) an individual who works for a qualifying provider; or

(iii) a qualifying provider.

(6) "Program manager officer" means:

(a) a member of the board of a program manager; or

(b) the chief administrative officer of a program manager.

(7) "Qualifying provider" means one of the following entities that is not a public school and is autonomous and not an agent of the state, in accordance with Section 53F-6-406:

(a) an eligible school that the program manager approves in accordance with Section 53F-6-408; or

(b) an eligible service provider that the program manager approves in accordance with Section 53F-6-409.

(8) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(9) "Scholarship account" means the account to which a program manager allocates funds for the payment of approved scholarship expenses in accordance with this part.

(10) "Scholarship expense" means an expense described in Section 53F-6-402 that a parent or scholarship student incurs in the education of the scholarship student for a service or goods that a qualifying provider provides, including:

(a) tuition and fees of a qualifying provider;

(b) fees and instructional materials at a technical college;

(c) tutoring services;

(d) fees for after-school or summer education programs;

(e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider recommends;

(f) educational software and applications;

(g) supplies or other equipment related to a scholarship student's educational needs;

(h) computer hardware or other technological devices that are intended primarily for a scholarship student's educational needs;

(i) fees for the following examinations, or for a preparation course for the following examinations, that the program manager approves:

(i) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;

(ii) a state-recognized industry certification examination; and

(iii) an examination related to college or university admission;

(j) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;

(k) contracted services that the program manager approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

(l) ride fees or fares for a fee-for-service transportation provider to transport the scholarship student to and from a qualifying provider, not to exceed $750 in a given school year;

(m) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or

(n) any other expense for a good or service that:

(i) a parent or scholarship student incurs in the education of the scholarship student; and

(ii) the program manager approves, in accordance with Subsection (4)(d).

(11) "Scholarship funds" means:

(a) funds that the Legislature appropriates for the program; and

(b) interest that scholarship funds accrue.

(12) (a) "Scholarship student" means an eligible student, including a home-based scholarship student, for whom the program manager establishes and maintains a scholarship account in accordance with this part.

(b) "Scholarship student" does not include a home school student who does not receive a scholarship award under the program.

(13) "Utah Fits All Scholarship Program" or "program" means the scholarship program established in Section 53F-6-402.

Section 4. Section 53F-6-402 is enacted to read:

53F-6-402. Utah Fits All Scholarship Program -- Scholarship account application -- Scholarship expenses -- Program information.

(1) There is established the Utah Fits All Scholarship Program under which, beginning March 1, 2024, a parent may apply to a program manager on behalf of the parent's student to establish and maintain a scholarship account to cover the cost of a scholarship expense.

(2) (a) The program manager shall establish and maintain, in accordance with this part, scholarship accounts for eligible students.

(b) The program manager shall:

(i) determine that a student meets the requirements to be an eligible student; and

(ii) subject to Subsection (2)(c), each year the student is an eligible student, maintain a scholarship account for the scholarship student to pay for the cost of one or more scholarship expenses that the student or student's parent incurs in the student's education.

(c) Except as provided in Subsection (2)(d), each year, subject to this part and legislative appropriations, a scholarship student is eligible for no more than:

(i) for the 2024-2025 school year, $8,000; and

(ii) for each school year following the 2024-2025 school year, the maximum allowed amount under this Subsection (2)(c) in the previous year plus a percentage increase that is equal to the five-year rolling average inflationary factor described in Section 53F-2-405.

(d) If a scholarship student enrolls in an LEA part-time in accordance with Section 53G-6-702, the program manager shall prorate the amount of the award described in Subsection (2)(c) in proportion to the extent of the scholarship student's partial enrollment in the LEA.

(3) (a) A program manager shall establish a scholarship account on behalf of an eligible student who submits a timely application, unless the number of applications exceeds available scholarship funds for the school year.

(b) If the number of applications exceeds the available scholarship funds for a school year, the program manager shall select students on a random basis, except as provided in Subsection (6).

(c) An eligible student or a public education student shall submit an application for an initial scholarship or renewal for each school year that the student intends to receive scholarship funds.

(d) (i) To maintain eligibility, a scholarship student or the scholarship student's parent shall annually complete and deliver to the program manager a portfolio describing the scholarship student's educational opportunities and achievements under the program for the given year.

(ii) The program manager may not disclose the content of a given scholarship student's portfolio except to the scholarship student's parent.

(4) (a) An application for a scholarship account shall contain an acknowledgment by the student's parent that the qualifying provider selected by the parent for the student's enrollment or engagement is capable of providing education services for the student.

(b) A scholarship account application form shall contain the following statement:

"I acknowledge that:

(1) A qualifying provider may not provide the same level of disability services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship recipient if I agree to this scholarship account;

(3) Agreeing to establish this scholarship account has the same effect as a parental refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time.".

(c) Upon agreeing to establish a scholarship account, the parent assumes full financial responsibility for the education of the scholarship student, including the balance of any expense incurred at a qualifying provider or for goods that are not paid for by the scholarship student's scholarship account.

(d) Agreeing to establish a scholarship account has the same effect as a parental refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or establishment of a scholarship account on behalf of a student does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(5) A program manager may not charge a scholarship account application fee.

(6) A program manager shall give an enrollment preference based on the following order of preference:

(a) to an eligible student who used a scholarship account in the previous school year;

(b) to an eligible student:

(i) who did not use a scholarship account in the previous school year; and

(ii) with a family income at or below 200% of the federal poverty level;

(c) to an eligible student who is a sibling of an eligible student who:

(i) uses a scholarship account at the time the sibling applies for a scholarship account; or

(ii) used a scholarship account in the school year immediately preceding the school year for which the sibling is applying for a scholarship account; and

(d) to an eligible student:

(i) who did not use a scholarship account in the previous school year; and

(ii) with a family income between 200% and 555% of the federal poverty level.

(7) (a) Subject to Subsections (7)(b) through (e), a parent may use a scholarship account to pay for a scholarship expense that a parent or scholarship student incurs in the education of the scholarship student.

(b) A scholarship student or the scholarship student's parent may not use a scholarship account for an expense that the student or parent does not incur in the education of the scholarship student, including:

(i) a rehabilitation program that is not primarily designed for an educational purpose; or

(ii) a travel expense other than a transportation expense described in Section 53F-6-401.

(c) The program manager may not:

(i) approve a scholarship expense for a service that a qualifying provider provides unless the program manager determines that the scholarship student or the scholarship student's parent incurred the expense in the education of the scholarship student; or

(ii) reimburse a scholarship expense for a service or good that a provider that is not a qualifying provider provides unless:

(A) the parent or scholarship student submits a receipt that shows the cost and type of service or good and the name of provider; and

(B) the program manager determines that the parent or scholarship student incurred the expense in the education of the scholarship student.

(d) The parent of a scholarship student may not receive scholarship funds as payment for the parent's time spent educating the parent's child.

(e) Except for cases in which a scholarship student or the scholarship student's parent is convicted of fraud in relation to scholarship funds, if a qualifying provider, scholarship student, or scholarship student's parent repays an expenditure from a scholarship account for an expense that is not approved under this Subsection (7), the program manager shall credit the repaid amount back to the scholarship account balance within 30 days after the day on which the program manager receives the repayment.

(8) Notwithstanding any other provision of law, funds that the program manager disburses under this part to a scholarship account on behalf of a scholarship student do not constitute state taxable income to the parent of the scholarship student.

(9) The program manager shall prepare and disseminate information on the program to a parent applying for a scholarship account on behalf of a student, including the information that the program manager provides in accordance with Section 53F-6-405.

(10) On or before September 1, 2023, and as frequently as necessary to maintain the information, the state board shall provide information on the state board's website, including:

(a) scholarship account information;

(b) information on the program manager, including the program manager's contact information; and

(c) an overview of the program.

Section 5. Section 53F-6-403 is enacted to read:

53F-6-403. Qualifying providers.

(1) Before the beginning of the school year immediately following a school year in which a qualifying provider receives scholarship funds equal to or more than $500,000, the qualifying provider shall file with the program manager a surety bond payable to the program manager in an amount equal to the aggregate amount of scholarship funds expected to be received during the school year.

(2) If a program manager determines that a qualifying provider has violated a provision of this part, the program manager may interrupt disbursement of or withhold scholarship funds from the qualifying provider.

(3) (a) If the program manager determines that a qualifying provider no longer meets the eligibility requirements described in this part, the program manager may withdraw the organization's approval of the qualifying provider.

(b) A provider or person that does not have the approval of the program manager in accordance with the following may not accept scholarship funds for services under this part:

(i) Section 53F-6-408 regarding eligible schools; or

(ii) Section 53F-6-409 regarding eligible service providers.

(4) If a qualifying provider requires partial payment of tuition or fees before the beginning of the academic year to reserve space for a scholarship student who has been admitted to the qualifying provider, the program manager may:

(a) pay the partial payment before the beginning of the school year in which the scholarship funds are awarded; and

(b) deduct the amount of the partial payment from subsequent scholarship fund deposits in an equitable manner that provides the best availability of scholarship funds to the student throughout the remainder of the school year.

(5) If a scholarship student described in Subsection (4)(a) chooses to withdraw from or otherwise not engage with the qualifying provider before the beginning of the school year:

(a) the qualifying provider shall remit the partial payment described in Subsection (4)(a) to the program manager; and

(b) the program manager shall credit the remitted partial payment to the scholarship student's scholarship account.

Section 6. Section 53F-6-404 is enacted to read:

53F-6-404. State board procurement and review of program manager -- Failure to comply.

(1) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals, on or before June 15, 2023, and enter an agreement with no more than one organization that qualifies as tax exempt under Section 501(c)(3), Internal Revenue Code, for the state board to recognize as the program manager, on or before September 1, 2023.

(b) An organization that responds to a request for proposals described in Subsection (1)(a) shall submit the following information in the organization's response:

(i) a copy of the organization's incorporation documents;

(ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;

(iii) a description of the methodology the organization will use to verify a student's eligibility under this part;

(iv) a description of the organization's proposed scholarship account application process; and

(v) an affidavit or other evidence that the organization:

(A) is not affiliated with any international organization;

(B) does not harvest data for the purpose of reproducing or distributing the data to another entity; and

(C) has no involvement in guiding or directing any curriculum standards.

(c) The state board shall ensure that the agreement described in Subsection (1)(a):

(i) ensures the efficiency and success of the program; and

(ii) does not impose any requirements on the program manager that:

(A) are not essential to the basic administration of the program; or

(B) create restrictions, directions, or mandates regarding instructional content or curriculum.

(2) The state board may regulate and take enforcement action as necessary against a program manager in accordance with the provisions of the state board's agreement with the program manager.

(3) (a) If the state board determines that a program manager has violated a provision of this part or a provision of the state board's agreement with the program manager, the state board shall send written notice to the program manager explaining the violation and the remedial action required to correct the violation.

(b) A program manager that receives a notice described in Subsection (3)(a) shall, no later than 60 days after the day on which the program manager receives the notice, correct the violation and report the correction to the state board.

(c) (i) If a program manager that receives a notice described in Subsection (3)(a) fails to correct a violation in the time period described in Subsection (3)(b), the state board may bar the program manager from further participation in the program.

(ii) A program manager may appeal a decision of the state board under Subsection (3)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) A program manager may not accept state funds while the program manager:

(i) is barred from participating in the program under Subsection (3)(c)(i); or

(ii) has an appeal pending under Subsection (3)(c)(ii).

(e) A program manager that has an appeal pending under Subsection (3)(c)(ii) may continue to administer scholarship accounts during the pending appeal.

(4) The state board shall establish a process for a program manager to report the information the program manager is required to report to the state board under Section 53F-6-405.

(5) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and include provisions in the state board's agreement with the scholarship organization for:

(a) subject to Subsection (6), the administration of scholarship accounts and disbursement of scholarship funds if a program manager is barred from participating in the program under Subsection (3)(c)(i); and

(b) audit and report requirements as described in Section 53F-7-405.

(6) (a) The state board shall include in the rules and provisions described in Subsection (5)(a) measures to ensure that the establishment and maintenance of scholarship accounts and enrollment in the program are not disrupted if the program manager is barred from participating in the program.

(b) The state board may, if the program manager is barred from participating in the program, issue a new request for proposals and enter into a new agreement with an alternative program manager in accordance with this section.

(7) (a) On or before January 1, 2024, the state board shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process for a scholarship student or a scholarship student's parent to appeal any administrative decision of the program manager for state board resolution within 30 days after the day of the appeal, including:

(A) scholarship expense denials; and

(B) determinations regarding enrollment eligibility or suspension or disqualification under Section 53F-6-405; and

(ii) make information available regarding the appeals process on the state board's website and on the scholarship application.

(b) If the state board stays or reverses an administrative decision of the program manager on appeal, the program manager may not withhold scholarship funds or application approval for the scholarship student on account of the appealed administrative decision unless as the state board expressly allows.

(8) The state board may not include a provision in any rule that creates or implies a restriction, direction, or mandate regarding instructional content or curriculum.

Section 7. Section 53F-6-405 is enacted to read:

53F-6-405. Program manager duties -- Audit -- Prohibitions.

(1) The program manager shall administer the program, including:

(a) maintaining an application website that includes information on enrollment, relevant application dates, and dates for notification of acceptance;

(b) reviewing applications from and determining if a person is:

(i) an eligible school under Section 53F-6-408; or

(ii) an eligible service provider under Section 53F-6-409;

(c) establishing an application process, including application dates opening before March 1, 2024, in accordance with Section 53F-6-402;

(d) reviewing and granting or denying applications for a scholarship account;

(e) providing an online portal for the parent of a scholarship student to access the scholarship student's account;

(f) ensuring that scholarship funds in a scholarship account are readily available to a scholarship student;

(g) requiring a parent to notify the program manager if the parent's scholarship student is no longer enrolled in or engaging a service:

(i) for which the scholarship student receives scholarship funds; and

(ii) that is provided to the scholarship student for an entire school year;

(h) obtaining reimbursement of scholarship funds from a qualifying provider that provides the services in which a scholarship student is no longer

enrolled or with which the scholarship student is no longer engaged;

(i) expending all revenue from interest on scholarship funds or investments on scholarship expenses;

(j) each time the program manager makes an administrative decision that is adverse to a scholarship student or the scholarship student's parent, informing the scholarship student and the scholarship student's parent of the opportunity and process to appeal an administrative decision of the program manager to the state board in accordance with the process described in Section 53F-6-404;

(k) maintaining a protected internal waitlist of all eligible students who have applied to the program and are not yet scholarship students, including any student who removed the student's application from the waitlist; and

(l) providing aggregate data regarding the number of scholarship students and the number of eligible students on the waitlist described in Subsection (1)(k).

(2) The program manager shall:

(a) contract with one or more private entities to develop and implement a commercially viable, cost-effective, and parent-friendly system to:

(i) establish scholarship accounts;

(ii) maximize payment flexibility by allowing:

(A) for payment of services to qualifying providers using scholarship funds by electronic or online funds transfer; and

(B) pre-approval of a reimbursement to a parent for a good that is a scholarship expense; and

(iii) allow scholarship students and scholarship student's parents to publicly rate, review, and share information about qualifying providers; and

(b) ensure that the system complies with industry standards for data privacy and cybersecurity, including ensuring compliance with the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

(3) In advance of the program manager accepting applications in accordance with Section 53F-6-402 and as regularly as information develops, the program manager shall provide information regarding the program by publishing a program handbook online for scholarship applicants, scholarship students, parents, service providers seeking to become qualifying providers, and qualifying providers, that includes information regarding:

(a) the policies and processes of the program;

(b) approved scholarship expenses and qualifying providers;

(c) the responsibilities of parents regarding the program and scholarship funds;

(d) the duties of the program manager;

(e) the opportunity and process to appeal an administrative decision of the program manager to the state board in accordance with the process described in Section 53F-6-404; and

(f) the role of any private financial management firms or other private organizations with which the program manager may contract to administer any aspect of the program.

(4) To ensure the fiscal security and compliance of the program, the program manager shall:

(a) prohibit a program manager employee or program manager officer from handling, managing, or processing scholarship funds, if, based on a criminal background check that the state board conducts in accordance with Section 53F-6-407, the state board identifies the program manager employee or program manager officer as posing a risk to the appropriate use of scholarship funds;

(b) establish procedures to ensure a fair process to:

(i) suspend scholarship student's eligibility for the program in the event of the scholarship student's or scholarship student's parent's:

(A) intentional or substantial misuse of scholarship funds; or

(B) violation of this part or the terms of the program; and

(ii) if the program manager obtains evidence of fraudulent use of scholarship funds, refer the case to the attorney general for collection or criminal investigation;

(iii) ensure that a scholarship student whose eligibility is suspended or disqualified under this Subsection (4)(b) or Subsection (4)(c) based on the actions of the student's parent regains eligibility if the student is placed with a different parent or otherwise no longer resides with the parent related to the suspension or disqualification;

(c) notify the state board, scholarship student, and scholarship student's parent in writing:

(i) of the suspension described in Subsection (4)(b)(i);

(ii) that no further transactions, disbursements, or reimbursements are allowed;

(iii) that the scholarship student or scholarship student's parent may take corrective action within 10 business days of the day on which the program manager provides the notification; and

(iv) that without taking the corrective action within the time period described in Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.

(5) (a) A program manager may not:

(i) disburse scholarship funds to a qualifying provider or allow a qualifying provider to use scholarship funds if:

(A) the program manager determines that the qualifying provider intentionally or substantially misrepresented information on overpayment;

(B) the qualifying provider fails to refund an overpayment in a timely manner; or

(C) the qualifying provider routinely fails to provide scholarship students with promised educational services; or

(ii) reimburse with scholarship funds an individual for the purchase of a good or service if the program manager determines that:

(A) the scholarship student or the scholarship student's parent requesting reimbursement intentionally or substantially misrepresented the cost or educational purpose of the good or service; or

(B) the relevant scholarship student was not the exclusive user of the good or service.

(b) A program manager shall notify a scholarship student if the program manager:

(i) stops disbursement of the scholarship student's scholarship funds to a qualifying provider under Subsection (5)(a)(i); or

(ii) refuses reimbursement under Subsection (5)(a)(ii).

(6) (a) At any time, a scholarship student may change the qualifying provider to which the scholarship student's scholarship account makes distributions.

(b) If, during the school year, a scholarship student changes the student's enrollment in or engagement with a qualifying provider to another qualifying provider, the program manager may prorate scholarship funds between the qualifying providers based on the time the scholarship student received the goods or services or was enrolled.

(7) A program manager may not subvert the enrollment preferences required under Section 53F-6-402 or other provisions of this part to establish a scholarship account on behalf of a relative of a program manager officer.

(8) The program manager shall:

(a) contract for annual and random audits on scholarship accounts conducted:

(i) by a certified public accountant who is independent from:

(A) the program manager;

(B) the state board; and

(C) the program manager's accounts and records pertaining to scholarship funds; and

(ii) in accordance with generally accepted auditing standards;

(b) demonstrate the program manager's financial accountability by annually submitting to the state board the following:

(i) a financial information report that a certified public accountant prepares and that includes the total number and total dollar amount of scholarship funds disbursed during the previous calendar year; and

(ii) no later than 180 days after the last day of the program manager's fiscal year, the results of the audits described in Subsection (8)(a), including the program manager's financial statements in a format that meets generally accepted accounting principles.

(9) (a) The state board:

(i) shall review a report described in this section; and

(ii) may request that the program manager revise or supplement the report if the report does not fully comply with this section.

(b) The program manager shall provide to the state board a revised report or a supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (9)(a).

Section 8. Section 53F-6-406 is enacted to read:

53F-6-406. Qualifying provider regulatory autonomy -- Home school autonomy -- Student records -- Scholarship student status.

(1) Nothing in this part:

(a) except as expressly described in this part, grants additional authority to any state agency or LEA to regulate or control:

(i) a private school, qualifying provider, or home school;

(ii) students receiving education from a private school, qualifying provider, or home school;

(b) applies to or otherwise affects the freedom of choice of a home school student, including the curriculum, resources, developmental planning, or any other aspect of the home school student's education; or

(c) expands the regulatory authority of the state, a state office holder, or an LEA to impose any additional regulation of a qualifying provider beyond any regulation necessary to administer this part.

(2) A qualifying provider:

(a) has a right to maximum freedom from unlawful governmental control in providing for the educational needs of a scholarship student who attends or engages with the qualifying provider; and

(b) is not an agent of the state by virtue of the provider's acceptance of payment from a scholarship account in accordance with this part.

(3) Except as provided in Section 53F-6-403 regarding qualifying providers, Section 53F-6-408 regarding eligible schools, or Section 53F-6-409

regarding eligible service providers, a program manager may not require a qualifying provider to alter the qualifying provider's creed, practices, admissions policies, hiring practices, or curricula in order to accept scholarship funds.

(4) An LEA or a school in an LEA in which a scholarship student was previously enrolled shall provide to the scholarship student's parent a copy of all school records relating to the student that the LEA possesses within 30 days after the day on which the LEA or school receives the parent's request for the student's records, subject to:

(a) Title 53E, Chapter 9, Student Privacy and Data Protection; and

(b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

(5) By virtue of a scholarship student's involvement in the program and unless otherwise expressly provided in statute, a scholarship student is not:

(a) enrolled in the public education system; or

(b) otherwise subject to statute, administrative rules, or other state regulations as if the student was enrolled in the public education system.

Section 9. Section 53F-6-407 is enacted to read:

53F-6-407. Background checks for program manager -- Bureau responsibilities -- Fees.

(1) As used in this section:

(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(b) "Department" means the Department of Public Safety.

(c) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

(d) "Personal identifying information" means:

(i) current name;

(ii) former names;

(iii) nicknames;

(iv) aliases;

(v) date of birth;

(vi) address;

(vii) telephone number;

(viii) driver license number or other government-issued identification number;

(ix) social security number; and

(x) fingerprints.

(e) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(f) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) The program manager shall:

(a) require an employee or officer of the program manager to submit to a criminal background check and ongoing monitoring;

(b) collect the following from an employee or officer of the program manager:

(i) personal identifying information;

(ii) a fee described in Subsection (4); and

(iii) consent, on a form specified by the program manager, for:

(A) an initial fingerprint-based background check by the bureau;

(B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Subsection (3); and

(C) disclosure of any criminal history information to the program manager;

(c) submit the personal identifying information of an employee or officer of the program manager to the bureau for:

(i) an initial fingerprint-based background check by the bureau; and

(ii) ongoing monitoring through registration with the systems described in Subsection (3) if the results of the initial background check do not contain disqualifying criminal history information as determined by the program manager;

(d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the program manager only receives notifications for individuals with whom the program manager maintains an authorizing relationship; and

(e) submit the information to the bureau for ongoing monitoring through registration with the systems described in Subsection (3).

(3) The bureau shall:

(a) upon request from the program manager, register the fingerprints submitted by the program manager as part of a background check with the WIN Database rap back system, or any successor system;

(b) notify the program manager when a new entry is made against an individual whose fingerprints are registered with the WIN Database rap back system regarding:

(i) an alleged offense; or

(ii) a conviction, including a plea in abeyance;

(c) assist the program manager to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the program manager only

receives notifications for individuals with whom the authorized entity maintains an authorizing relationship; and

(d) collaborate with the program manager to provide training to appropriate program manager employees on the notification procedures and privacy risk mitigation strategies described in this section.

(4) (a) The division shall impose fees that the division sets in accordance with Section 63J-1-504 for the fingerprint card of an employee or officer of the program manager, for a name check, and to register fingerprints under this section.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

Section 10. Section 53F-6-408 is enacted to read:

53F-6-408. Eligible schools.

(1) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, a private school with 150 or more enrolled students shall:

(a) (i) contract with an independent licensed certified public accountant to conduct an agreed upon procedures engagement as the state board adopts, or obtain an audit and report that:

(A) a licensed independent certified public accountant conducts in accordance with generally accepted auditing standards;

(B) presents the financial statements in accordance with generally accepted accounting principles; and

(C) audits financial statements from within the 12 months immediately preceding the audit; and

(ii) submit the audit report or report of the agreed upon procedure to the program manager when the private school applies to receive scholarship funds;

(b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(c) provide a written disclosure to the parent of each prospective scholarship student, before the student is enrolled, of:

(i) the education services that the school will provide to the scholarship student, including the cost of the provided services;

(ii) tuition costs;

(iii) additional fees the school will require a parent to pay during the school year; and

(iv) the skill or grade level of the curriculum in which the prospective scholarship student will participate; and

(d) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold:

(A) a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure; or

(B) if the private school is not physically located in Utah, a current educator license in the state where the private school is physically located; and

(ii) a contract employee.

(2) A private school described in Subsection (1) is not eligible to receive scholarship funds if:

(a) the private school requires a scholarship student to sign a contract waiving the scholarship student's right to transfer to another qualifying provider during the school year;

(b) the audit report described in Subsection (1)(a) contains a going concern explanatory paragraph; or

(c) the report of the agreed upon procedures described in Subsection (1)(a) shows that the private school does not have adequate working capital to maintain operations for the first full year.

(3) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, a private school with fewer than 150 enrolled students shall:

(a) provide to the program manager:

(i) a federal employer identification number;

(ii) the provider's address and contact information;

(iii) a description of each program or service the provider proposes to offer a scholarship student; and

(iv) any other information as required by the program manager; and

(b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d.

(4) A private school described in Subsection (3) is not eligible to receive scholarship funds if the private school requires a scholarship student to sign a contract waiving the student's rights to transfer to another qualifying provider during the school year.

(5) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, an LEA shall:

(a) provide to the program manager:

(i) a federal employer identification number;

(ii) the LEA's address and contact information;

(iii) a description of each program or service the LEA proposes to offer to scholarship students; and

(iv) any other information as required by the program manager;

(b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and

(c) enter into an agreement with the program manager regarding the provision of services to a scholarship student through which:

(i) the scholarship student does not enroll in the LEA;

(ii) in accordance with Subsection 53F-2-302(2), the LEA does not receive WPU funding related to the student's participation with the LEA; and

(iii) the LEA and program manager ensure that a scholarship student does not participate in a course or program at the LEA except in accordance with the agreement described in this Subsection (5)(c) under the program.

(6) An LEA described in Subsection (5) is not eligible to receive scholarship funds if:

(a) the LEA requires a public education system scholarship student to sign a contract waiving the student's rights to transfer to another qualifying provider during the school year; or

(b) the LEA refuses to offer services that do not require LEA enrollment to scholarship students under the program.

(7) Residential treatment facilities licensed by the state are not eligible to receive scholarship funds.

(8) A private school or LEA intending to receive scholarship funds shall:

(a) submit an application to the program manager; and

(b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship student's parents in any manner except remittances or refunds to a scholarship account in accordance with this part and procedures that the program manager establishes.

(9) The program manager shall:

(a) if the private school or LEA meets the eligibility requirements of this section, recognize the private school or LEA as an eligible school and approve the application; and

(b) make available to the public a list of eligible schools approved under this section.

(10) A private school approved under this section that changes ownership shall:

(a) cease operation as an eligible school until:

(i) the school submits a new application to the program manager; and

(ii) the program manager approves the new application; and

(b) demonstrate that the private school continues to meet the eligibility requirements of this section.

Section 11. Section 53F-6-409 is enacted to read:

53F-6-409. Eligible service providers.

(1) To be an eligible service provider, a private program or service:

(a) shall provide to the program manager:

(i) a federal employer identification number;

(ii) the provider's address and contact information;

(iii) a description of each program or service the provider proposes to offer directly to a scholarship student; and

(iv) subject to Subsection (2), any other information as required by the program manager;

(b) shall comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and

(c) may not act as a consultant, clearing house, or intermediary that connects a scholarship student with or otherwise facilitates the student's engagement with a program or service that another entity provides.

(2) The program manager shall adopt policies that maximize the number of eligible service providers, including accepting new providers throughout the school year, while ensuring education programs or services provided through the program meet student needs and otherwise comply with this part.

(3) A private program or service intending to receive scholarship funds shall:

(a) submit an application to the program manager; and

(b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship students' parents in any manner except remittances or refunds to a scholarship account in accordance with this part and procedures that the program manager establishes.

(4) The program manager shall:

(a) if the private program or service meets the eligibility requirements of this section, recognize the private program or service as an eligible service provider and approve a private program or service's application to receive scholarship funds on behalf of a scholarship student; and

(b) make available to the public a list of eligible service providers approved under this section.

(5) A private program or service approved under this section that changes ownership shall:

(a) cease operation as an eligible service provider until:

(i) the program or service submits a new application to the program manager; and

(ii) the program manager approves the new application; and

(b) demonstrate that the private program or service continues to meet the eligibility requirements of this section.

Section 12. Section 53F-6-410 is enacted to read:

53F-6-410. Parental rights -- Optional assessment.

(1) In accordance with Section 53G-6-803 regarding a parent's right to academic accommodations, nothing in this chapter restricts or affects a parent's interests and role in the care, custody, and control of the parent's child, including the duty and right to nurture and direct the child's upbringing and education.

(2) (a) A parent may request that the program manager facilitate one of the following assessments of the parent's scholarship student:

(i) a standards assessment described in Section 53E-4-303;

(ii) a high school assessment described in Section 53E-4-304;

(iii) a college readiness assessment described in Section 53E-4-305;

(iv) an assessment of students in grade 3 to measure reading grade level described in Section 53E-4-307; or

(v) a nationally norm-referenced assessment.

(b) (i) Notwithstanding any other provision of law, the entity administering an assessment described in Subsection (2)(a) to a scholarship student in accordance with this section may not report the result of or any other data pertaining to the assessment or scholarship student to a person other than the program manager, the scholarship student, or the scholarship student's parent.

(ii) The program manager may not report or communicate the result or data described in Subsection (2)(b)(i) to a person other than the relevant scholarship student and the scholarship student's parent unless the result or data is included in a de-identified compilation of data related to all scholarship students.

(c) In any communication from the program manager regarding an assessment described in this Subsection (2), the program manager shall include a disclaimer that no assessment is required.

(d) The completion of an optional assessment under this section satisfies the portfolio eligibility qualification described in Subsection 53F-6-402(3)(d).

Section 13. Section 53F-6-411 is enacted to read:

53F-6-411. Program funding.

(1) If a scholarship student enters or reenters the public education system during a given school year:

(a) no later than five business days after the day on which the student enters or reenters the public education system, the program manager shall immediately remove the balance in the scholarship student's scholarship account for other use within the program;

(b) the state board may not distribute any remaining state funds to the program manager for the student; and

(c) the program manager may use the balance described in Subsection (1)(a) for another scholarship student.

(2) At the end of a school year, a program manager shall withdraw any remaining scholarship funds in a scholarship account and retain the scholarship funds for disbursement in the following year.

(3) (a) To administer the program, the program manager may use up to the lesser of 5% or $2,500,000 of the funds the Legislature appropriates for the program.

(b) Subject to Subsection (3)(a), the funds for program administration described in Subsection (3)(a) are nonlapsing.

(c) The program manager may not retain administrative cost balances in excess of 25% of total administrative costs in any fiscal year.

Section 14. Section 53F-6-412 is enacted to read:

53F-6-412. Reports.

Beginning in 2025 and in accordance with Section 68-3-14 and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g:

(1) the program manager shall submit a report on the program to the Education Interim Committee no later than September 1 of each year that includes:

(a) the total amount of tuition and fees qualifying providers charged for the current year and previous two years;

(b) the total amount of goods paid for with scholarship funds in the previous year and a general characterization of the types of goods;

(c) administrative costs of the program;

(d) the number of scholarship students from each county and the aggregate number of eligible students on the waitlist described in Section 53F-6-405;

(e) the percentage of first-time scholarship students who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

(f) the program manager's strategy and outreach efforts to reach eligible students whose family income is at or below 200% of the federal poverty level and related obstacles to enrollments;

(g) in the report that the program manager submits in 2025, information on steps the program manager has taken and processes the program manager has adopted to implement the program; and

(h) any other information regarding the program and the program's implementation that the committee requests; and

(2) the state board shall submit a report on the cost-effectiveness of the program to the Education Interim Committee no later than September 1 of each year.

Section 15. Section 53F-6-413 is enacted to read:

53F-6-413. Legal proceedings.

(1) In any legal proceeding against the state in which a qualifying provider challenges the application of this part to the qualifying provider, the state shall bear the burden of establishing that the law:

(a) is necessary; and

(b) does not impose an undue burden on the qualifying provider.

(2) The following bear no liability based on the award or use of scholarship funds under this part:

(a) the state;

(b) the state board;

(c) the program manager; or

(d) an LEA.

(3) If any provision of this part is the subject of a state or federal constitutional challenge in a state court, scholarship students and scholarship students' parents may intervene as a matter of right to defend the program's constitutionality, subject to any court order that all defending parents and scholarship students intervene jointly.

Section 16. Section 53F-6-414 is enacted to read:

53F-6-414. Severability.

(1) If any provision of this part or the application of any provision of this part to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remaining provisions of this part remain effective without the invalidated provision or application.

(2) The provisions of this part are severable.

Section 17. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or

contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in

death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a

representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a); [~~and~~]

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding[~~.~~]; and

(86) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401.

Section 18. Repealer.

This bill repeals:

Section 53F-6-101, Title.

Section 19. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education — Contracted Initiatives and Grants

From Income Tax Fund	42,500,000
From Income Tax Fund, One-time	(41,500,000)
Schedule of Programs:	
Utah Fits All Scholarship Program	1,000,000

The Legislature intends that in fiscal year 2024, the State Board of Education may provide up to $1,000,000 to a program manager with which the State Board of Education contracts in accordance with Section 53F-6-404 for start-up, marketing, and other costs associated with initiating the Utah Fits All Scholarship Program created in Section 53F-6-402.

CHAPTER 2
S. B. 16
Passed January 27, 2023
Approved January 28, 2023
Effective January 28, 2023

TRANSGENDER MEDICAL TREATMENTS AND PROCEDURES AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Katy Hall

LONG TITLE

General Description:

This bill enacts provisions regarding transgender medical treatments and procedures.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Health and Human Services to conduct a systematic review of the medical evidence regarding hormonal transgender treatments and provide recommendations to the Legislature;
- requires the Division of Professional Licensing to create a certification for providing hormonal transgender treatments;
- requires a health care provider to meet certain requirements before providing a hormonal transgender treatment;
- prohibits a health care provider from providing a hormonal transgender treatment to new patients who were not diagnosed with gender dysphoria before a certain date;
- prohibits performing sex characteristic surgical procedures on a minor for the purpose of effectuating a sex change;
- specifies that an individual may bring a medical malpractice action related to certain medical treatments and procedures;
- specifies that an individual may disaffirm consent under certain circumstances;
- allows an individual to bring a medical malpractice action for treatment provided to the individual as a minor if the individual later disaffirms consent;
- extends the medical malpractice statute of limitations related to providing certain medical treatments and procedures; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

58-67-102, as last amended by Laws of Utah 2022, Chapter 233
58-67-502, as last amended by Laws of Utah 2021, Chapter 337
58-68-102, as last amended by Laws of Utah 2022, Chapter 233
58-68-502, as last amended by Laws of Utah 2021, Chapter 337

ENACTS:

26B-1-214, Utah Code Annotated 1953
58-1-603, Utah Code Annotated 1953
58-1-603.1, Utah Code Annotated 1953
78B-3-427, Utah Code Annotated 1953Utah Code Sections Affected by Revisor Instructions:
58-1-603.1, Utah Code Annotated 1953
78B-3-427, Utah Code Annotated 1953

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

Section 1. Section 26B-1-214 is enacted to read:

26B-1-214. (Codified as 26B-1-239) Systematic medical evidence review of hormonal transgender treatments.

(1) As used in this section, "hormonal transgender treatment" means the same as that term is defined in Section 58-1-603.

(2) The department, in consultation with the Division of Professional Licensing created in Section 58-1-103, the Physicians Licensing Board created in Section 58-67-201, the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201, the University of Utah, and a non-profit hospital system with multiple hospitals in Utah and experience in specialty pediatric care, shall conduct a systematic medical evidence review regarding the provision of hormonal transgender treatments to minors.

(3) The purpose of the systematic medical evidence review is to provide the Legislature with recommendations to consider when deciding whether to lift the moratorium described in Section 58-1-603.1.

(4) The systematic medical evidence review shall:

(a) analyze hormonal transgender treatments that are prescribed to a minor with gender dysphoria, including:

(i) analyzing any effects and side effects of the treatment; and

(ii) whether each treatment has been approved by the federal Food and Drug Administration to treat gender dysphoria;

(b) review the scientific literature regarding hormonal transgender treatments in minors, including short-term and long-term impacts, literature from other countries, and rates of desistence and time to desistence where applicable;

(c) review the quality of evidence cited in any scientific literature including to analyze and report

on the quality of the data based on techniques such as peer review, selection bias, self-selection bias, randomization, sample size, and other applicable best research practices;

(d) include high quality clinical research assessing the short-term and long-term benefits and harms of hormonal transgender treatments prescribed to minors with gender dysphoria and the short-term and long-term benefits and harms of interrupting the natural puberty and development processes of the child;

(e) specify the conditions under which the department recommends that a treatment not be permitted;

(f) recommend what information a minor and the minor's parent should understand before consenting to a hormonal transgender treatment;

(g) recommend the best practices a health care provider should follow to provide the information described in Subsection (4)(f);

(h) describe the assumptions and value determinations used to reach a recommendation; and

(i) include any other information the department, in consultation with the entities described in Subsection (2), determines would assist the Legislature in enacting legislation related to the provision of hormonal transgender treatment to minors.

(5) Upon the completion of the systematic medical evidence review, the department shall provide the systematic medical evidence review to the Health and Human Services Interim Committee.

Section 2. Section 58-1-603 is enacted to read:

58-1-603. Hormonal transgender treatment on minors -- Requirements.

(1) As used in this section:

(a) "Approved organization" means an organization with expertise regarding transgender health care for minors that is approved by the division.

(b) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by sex and reproductive organ anatomy, chromosomal makeup, and endogenous hormone profiles.

(c) "Disorder of sexual development" means a sexual development disorder where an individual:

(i) is born with external biological sex characteristics that are irresolvably ambiguous;

(ii) is born with 46, XX chromosomes with virilization;

(iii) is born with 46, XY chromosomes with undervirilization;

(iv) has both ovarian and testicular tissue; or

(v) has been diagnosed by a physician, based on genetic or biochemical testing, with abnormal:

(A) sex chromosome structure;

(B) sex steroid hormone production; or

(C) sex steroid hormone action for a male or female.

(d) "Health care provider" means:

(i) a physician;

(ii) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act; or

(iii) an advanced practice registered nurse licensed under Subsection 58-31b-301(2)(e).

(e) (i) "Hormonal transgender treatment" means administering, prescribing, or supplying for effectuating or facilitating an individual's attempted sex change:

(A) to an individual whose biological sex at birth is female, a dose of testosterone or other androgens at levels above those normally found in an individual whose biological sex at birth is female;

(B) to an individual whose biological sex at birth is male, a dose of estrogen or a synthetic compound with estrogenic activity or effect at levels above those normally found in an individual whose biological sex at birth is male; or

(C) a puberty inhibition drug.

(ii) "Hormonal transgender treatment" does not include administering, prescribing, or supplying a substance described in Subsection (1)(e)(i) to an individual if the treatment is medically necessary as a treatment for:

(A) precocious puberty;

(B) endometriosis;

(C) a menstrual, ovarian, or uterine disorder;

(D) a sex-hormone stimulated cancer; or

(E) a disorder of sexual development.

(f) "Mental health professional" means any of the following:

(i) a physician who is board certified for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(ii) a psychologist licensed under Chapter 61, Psychologist Licensing Act;

(iii) a clinical social worker licensed under Chapter 60, Part 2, Social Worker Licensing Act;

(iv) a marriage and family therapist licensed under Chapter 60, Part 3, Marriage and Family Therapist Licensing Act; or

(v) a clinical mental health counselor licensed under Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act.

(g) "Minor" means an individual who is less than 18 years old.

(h) "Physician" means an individual licensed under:

(i) Chapter 67, Utah Medical Practice Act; or

(ii) Chapter 68, Utah Osteopathic Medical Practice Act.

(i) "Puberty inhibition drug" means any of the following alone or in combination with aromatase inhibitors:

(i) gonadotropin-releasing hormone agonists; or

(ii) androgen receptor inhibitors.

(j) "Transgender treatment certification" means a certification described in Subsection (2).

(2) (a) The division shall create a transgender treatment certification on or before July 1, 2023.

(b) The division may issue the transgender treatment certification to an individual if the individual:

(i) is a health care provider or a mental health professional; and

(ii) has completed at least 40 hours of education related to transgender health care for minors from an approved organization.

(c) The division may renew a transgender treatment certification:

(i) at the time an individual renews the individual's license; and

(ii) if the individual has completed at least 20 hours of continuing education related to transgender health care for minors from an approved organization during the individual's continuing education cycle.

(d) Beginning January 1, 2024, providing a hormonal transgender treatment to a minor without a transgender treatment certification is unprofessional conduct.

(3) (a) A health care provider may provide a hormonal transgender treatment to a minor only if the health care provider has been treating the minor for gender dysphoria for at least six months.

(b) Beginning July 1, 2023, before providing a hormonal transgender treatment to a minor described in Subsection (3)(a), a health care provider shall:

(i) determine if the minor has other physical or mental health conditions, identify and document any condition, and consider whether treating those conditions before treating the gender dysphoria would provide the minor the best long-term outcome;

(ii) consider whether an alternative medical treatment or behavioral intervention to treat the minor's gender dysphoria would provide the minor the best long-term outcome;

(iii) document in the medical record that:

(A) the health care provider has complied with Subsections (3)(b)(i) and (ii); and

(B) providing the hormonal transgender treatment will likely result in the best long-term outcome for the minor;

(iv) obtain written consent from:

(A) the minor; and

(B) the minor's parent or guardian unless the minor is emancipated;

(v) discuss with the minor:

(A) the risks of the hormonal transgender treatment;

(B) the minor's short-term and long-term expectations regarding the effect that the hormonal transgender treatment will have on the minor; and

(C) the likelihood that the hormonal transgender treatment will meet the short-term and long-term expectations described in Subsection (3)(b)(v)(B);

(vi) unless the minor is emancipated, discuss with the minor's parent or guardian:

(A) the risks of the hormonal transgender treatment;

(B) the minor's short-term and long-term expectations regarding the effect that the hormonal transgender treatment will have on the minor;

(C) the parent or guardian's short-term and long-term expectations regarding the effect that the hormonal transgender treatment will have on the minor; and

(D) the likelihood that the hormonal transgender treatment will meet the short-term and long-term expectations described in Subsections (3)(b)(vi)(B) and (C);

(vii) document in the medical record that the health care provider has provided the information described in Subsections (3)(b)(viii) and (ix);

(viii) provide the minor the following information if providing the minor a puberty inhibition drug:

(A) puberty inhibition drugs are not approved by the FDA for the treatment of gender dysphoria;

(B) possible adverse outcomes of puberty blockers are known to include diminished bone density, pseudotumor cerebri and long term adult sexual dysfunction;

(C) research on the long-term risks to children of prolonged treatment with puberty blockers for the treatment of gender dysphoria has not yet occurred; and

(D) the full effects of puberty blockers on brain development and cognition are unknown;

(ix) provide the minor the following information if providing a cross-sex hormone as described in Subsection (1)(e)(i)(A) or (B):

(A) the use of cross-sex hormones in males is associated with risks that include blood clots, gallstones, coronary artery disease, heart attacks,

tumors of the pituitary gland, strokes, elevated levels of triglycerides in the blood, breast cancer, and irreversible infertility; and

(B) the use of cross-sex hormones in females is associated with risks of erythrocytosis, severe liver dysfunction, coronary artery disease, hypertension, and increased risk of breast and uterine cancers; and

(x) upon the completion of any relevant information privacy release, obtain a mental health evaluation of the minor as described in Subsection (4).

(4) The mental health evaluation shall:

(a) be performed by a mental health professional who:

(i) beginning January 1, 2024, has a current transgender treatment certification; and

(ii) is not the health care provider that is recommending or providing the hormonal transgender treatment;

(b) contain a determination regarding whether the minor suffers from gender dysphoria in accordance with the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders;

(c) confirm that the minor and the mental health professional have had at least three therapy sessions; and

(d) document all of the minor's mental health diagnoses and any significant life events that may be contributing to the diagnoses.

(5) A violation of Subsection (3) is unprofessional conduct.

Section 3. Section 58-1-603.1 is enacted to read:

58-1-603.1. Hormonal transgender treatment moratorium.

(1) As used in this section:

(a) "Health care provider" means the same as that term is defined in Section 58-1-603.

(b) "Hormonal transgender treatment" means the same as that term is defined in Section 58-1-603.

(2) A health care provider may not provide a hormonal transgender treatment to a patient who:

(a) is a minor as defined in Section 58-1-603; and

(b) is not diagnosed with gender dysphoria before the effective date of this bill.

(3) A violation of Subsection (2) is unprofessional conduct.

Section 4. Section 58-67-102 is amended to read:

58-67-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers.

(b) "Ablative procedure" does not include hair removal.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, in accordance with a fine schedule established by the division in collaboration with the board, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "Associate physician" means an individual licensed under Section 58-67-302.8.

(5) "Attempted sex change" means an attempt or effort to change an individual's body to present that individual as being of a sex or gender that is different from the individual's biological sex at birth.

(6) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by:

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

[~~(5)~~] (7) "Board" means the Physicians Licensing Board created in Section 58-67-201.

[~~(6)~~] (8) "Collaborating physician" means an individual licensed under Section 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

[~~(7)~~] (9) "Collaborative practice arrangement" means the arrangement described in Section 58-67-807.

[~~(8)~~] (10) (a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute (ANSI) designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and excludes ANSI designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection [~~(8)(a)~~] (10)(a), if an ANSI designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection [~~(8)(a)~~] (10)(a).

[~~(9)~~] (11) "Cosmetic medical procedure":

(a) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; and

(b) does not include a treatment of the ocular globe such as refractive surgery.

[~~(10)~~] (12) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection [~~(10)(a);~~] (12)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection [~~(10)(a);~~] (12)(a); or

(d) to make an examination or determination as described in Subsection [~~(10)(a)~~] (12)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

[~~(11)~~] (13) "LCME" means the Liaison Committee on Medical Education of the American Medical Association.

[~~(12)~~] (14) "Medical assistant" means an unlicensed individual who may perform tasks as described in Subsection 58-67-305(6).

[~~(13)~~] (15) "Medically underserved area" means a geographic area in which there is a shortage of primary care health services for residents, as determined by the Department of Health and Human Services.

[~~(14)~~] (16) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health and Human Services.

[~~(15)~~] (17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection [~~(15)(a)(i),~~] (17)(a)(i) nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within the individual's scope of practice.

[~~(16)~~] (18) "Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

[~~(17)~~] (19) (a) "Practice of medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any means or instrumentality, and by an individual in Utah or outside the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection [~~(17)(a)~~] (19)(a)(i) or (ii) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine," "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed physician and surgeon, and if the party using the designation is not a licensed physician and surgeon, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of medicine degree but is not a licensed physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection [~~(17)(b)(ii),~~] (19)(b)(ii) the conduct described in Subsection [~~(17)(a)(i)~~] (19)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or

(iii) conduct under Subsection 58-67-501(2).

[~~(18)~~] (20) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

[~~(19)~~] (21) "Prescription drug" means a drug that is required by federal or state law or rule to be

dispensed only by prescription or is restricted to administration only by practitioners.

(22) (a) "Primary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, castration, orchiectomy, penectomy, vaginoplasty, or vulvoplasty;

(ii) for an individual whose biological sex at birth is female, hysterectomy, oophorectomy, metoidioplasty, or phalloplasty; or

(iii) any surgical procedure that is related to or necessary for a procedure described in Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not sterile.

(b) "Primary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(23) (a) "Secondary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, breast augmentation surgery, chest feminization surgery, or facial feminization surgery; or

(ii) for an individual whose biological sex at birth is female, mastectomy, breast reduction surgery, chest masculinization surgery, or facial masculinization surgery.

(b) "Secondary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

[~~(20)~~] (24) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

[~~(21)~~] (25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-501.

[~~(22)~~] (26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

Section 5. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or [~~Section~~] 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; [~~or~~]

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1)[~~.~~]; or

(f) performing, or causing to be performed, upon an individual who is less than 18 years old:

(i) a primary sex characteristic surgical procedure; or

(ii) a secondary sex characteristic surgical procedure.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 6. Section 58-68-102 is amended to read:

58-68-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers.

(b) "Ablative procedure" does not include hair removal.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "AOA" means the American Osteopathic Association.

(5) "Associate physician" means an individual licensed under Section 58-68-302.5.

(6) "Attempted sex change" means an attempt or effort to change an individual's body to present that individual as being of a sex or gender that is different from the individual's biological sex at birth.

(7) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by:

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

[~~(6)~~] (8) "Board" means the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201.

[~~(7)~~] (9) "Collaborating physician" means an individual licensed under Section 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

[~~(8)~~] (10) "Collaborative practice arrangement" means the arrangement described in Section 58-68-807.

[~~(9)~~] (11) (a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute (ANSI) designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices and excludes ANSI designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection [~~(9)(a)~~] (11)(a), if an ANSI designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection [~~(9)(a)~~] (11)(a).

[~~(10)~~] (12) "Cosmetic medical procedure":

(a) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; and

(b) does not include a treatment of the ocular globe such as refractive surgery.

[~~(11)~~] (13) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection [~~(11)(a)~~] (13)(a);

(c) to hold oneself out as making or to represent that one is making an examination or

determination as described in Subsection [~~(11)(a)~~] (13)(a); or

(d) to make an examination or determination as described in Subsection [~~(11)(a)~~] (13)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

[~~(12)~~] (14) "Medical assistant" means an unlicensed individual who may perform tasks as described in Subsection 58-68-305(6).

[~~(13)~~] (15) "Medically underserved area" means a geographic area in which there is a shortage of primary care health services for residents, as determined by the Department of Health and Human Services.

[~~(14)~~] (16) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health and Human Services.

[~~(15)~~] (17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection [~~(15)(a)(i)~~] (17)(a)(i), nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are [~~preformed~~] performed by an individual licensed under this title who is acting within the individual's scope of practice.

[~~(16)~~] (18) "Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

[~~(17)~~] (19) (a) "Practice of osteopathic medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part is based upon emphasis of the importance of the musculoskeletal system and manipulative therapy in the maintenance and restoration of health, by an individual in Utah or outside of the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection [~~(17)(a)~~] (19)(a)(i) or (ii) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine," "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.," "D.O.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed osteopathic physician, and if the party using the designation is not a licensed osteopathic physician, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of osteopathic medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection [~~(17)(b)(ii)~~] (19)(b)(ii), the conduct described in Subsection [~~(17)(a)(i)~~] (19)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or

(iii) conduct under Subsection 58-68-501(2).

[~~(18)~~] (20) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

[~~(19)~~] (21) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(22) (a) "Primary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, castration, orchiectomy, penectomy, vaginoplasty, or vulvoplasty;

(ii) for an individual whose biological sex at birth is female, hysterectomy, oophorectomy, metoidioplasty, or phalloplasty; or

(iii) any surgical procedure that is related to or necessary for a procedure described in Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not sterile.

(b) "Primary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(23) (a) "Secondary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, breast augmentation surgery, chest feminization surgery, or facial feminization surgery; or

(ii) for an individual whose biological sex at birth is female, mastectomy, breast reduction surgery, chest masculinization surgery, or facial masculinization surgery.

(b) "Secondary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

[~~(20)~~] (24) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

[~~(21)~~] (25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-68-501.

[~~(22)~~] (26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

Section 7. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; [~~or~~]

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1)[~~.~~]; or

(f) performing, or causing to be performed, upon an individual who is less than 18 years old:

(i) a primary sex characteristic surgical procedure; or

(ii) a secondary sex characteristic surgical procedure.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 8. Section 78B-3-427 is enacted to read:

78B-3-427. Transgender procedures upon a minor -- Right of action -- Informed consent requirements -- Statute of limitations.

(1) As used in this section:

(a) "Hormonal transgender treatment" means the same as that term is defined in Section 58-1-603.

(b) "Minor" means the same as that term is defined in Section 58-1-603.

(2) (a) Notwithstanding any other provision of law, a malpractice action against a health care provider may be brought against a health care provider for damages arising from:

(i) providing a hormonal transgender treatment to a minor without complying with the requirements described in Section 58-1-603;

(ii) negligence in providing a hormonal transgender treatment to a minor; or

(iii) providing a treatment or procedure described in Subsection (2)(b)(ii) to a minor without the minor's consent including if the minor disaffirms consent under Subsection (3).

(3) (a) Notwithstanding any other provision of law, an individual who gave informed consent as a minor or for whom consent was given under Section 78B-3-406, may disaffirm the consent if:

(i) the treatment at issue began after the effective date of this bill;

(ii) the consent was provided for any of the following:

(A) a hormonal transgender treatment;

(B) a primary sex characteristic surgical procedure as defined in Section 58-67-102; or

(C) a secondary sex characteristic surgical procedure as defined in Section 58-67-102;

(iii) under the totality of the circumstances, a health care provider would have reason to believe that the minor, or a similarly situated minor, could later regret having given consent;

(iv) the individual suffered a permanent physical injury; and

(v) the consent is disaffirmed in writing before the individual reaches the age of 25 years old.

(b) A disaffirmation of consent under this Subsection (3) relates back to the day the original consent was given.

(4) Notwithstanding any other provision of law, a malpractice action against a health care provider described in Subsection (2)(a) may be brought before the patient is 25 years old if the treatment at issue in the malpractice action began, occurred, or continued on or after the effective date of this bill.

(5) Sections 78B-3-404 and 78B-3-406 do not apply to an action described in this section.

Section 9. Effective date.

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

Section 10. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace each instance of the phrase "the effective date of this bill" with the bill's actual effective date in the following Utah Code sections:

(1) Section 58-1-603.1; and

(2) Section 78B-3-427.

CHAPTER 3
H. B. 1
Passed January 26, 2023
Approved February 2, 2023
Effective May 3, 2023

HIGHER EDUCATION BASE BUDGET

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of higher education agencies and institutions;
- provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates ($5,393,200) in operating and capital budgets for fiscal year 2023, including:

- ($4,910,000) from the Income Tax Fund; and
- ($483,200) from various sources as detailed in this bill.

This bill appropriates $2,453,187,000 in operating and capital budgets for fiscal year 2024, including:

- $446,352,800 from the General Fund;
- $1,019,058,100 from the Income Tax Fund; and
- $987,776,100 from various sources as detailed in this bill.

This bill appropriates $22,824,000 in restricted fund and account transfers for fiscal year 2024, all of which is from the Income Tax Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2023.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

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

UNIVERSITY OF UTAH

Item 1
To University of Utah – Education and General
From Beginning Nonlapsing
Balances ..... (64,764,400)
From Closing Nonlapsing Balances ... 65,685,800
Schedule of Programs:
Education and General ..... (198,500)
Operations and Maintenance 1,119,900

Item 2
To University of Utah –
Educationally Disadvantaged
From Beginning Nonlapsing
Balances ..... (910,700)
From Closing Nonlapsing Balances 910,700

Item 3
To University of Utah – School of Medicine
From Beginning Nonlapsing
Balances ..... (6,002,800)
From Closing Nonlapsing Balances 6,002,800

Item 4
To University of Utah – Cancer Research
and Treatment
From Beginning Nonlapsing
Balances ..... (700,100)
From Closing Nonlapsing Balances 700,100

Item 5
To University of Utah – University Hospital
From Beginning Nonlapsing
Balances ..... (206,800)
From Closing Nonlapsing Balances 206,800

Item 6
To University of Utah – School of Dentistry
From Beginning Nonlapsing
Balances ..... (317,300)
From Closing Nonlapsing Balances 317,300

Item 7
To University of Utah – Public Service
From Beginning Nonlapsing Balances ... 164,600
From Closing Nonlapsing Balances .... (164,600)

Item 8
To University of Utah – Statewide
TV Administration
From Beginning Nonlapsing
Balances ..... (36,100)
From Closing Nonlapsing Balances 36,100

Item 9
To University of Utah – Poison Control Center
From Beginning Nonlapsing Balances ... 179,900
From Closing Nonlapsing Balances .... (179,900)

Item 10
To University of Utah – Center on Aging
From Beginning Nonlapsing Balances ... (1,000)
From Closing Nonlapsing Balances 1,000

Item 11
To University of Utah – Rocky Mountain Center for
Occupational and Environmental Health
From Beginning Nonlapsing
Balances ..... (34,200)
From Closing Nonlapsing Balances 34,200

UTAH STATE UNIVERSITY

Item 12
To Utah State University – Education and General
From Beginning Nonlapsing Balances ..... (7,582,500)
From Closing Nonlapsing Balances 6,756,000
Schedule of Programs:
Education and General ..... (1,158,600)
Operations and Maintenance 332,100

Item 13
To Utah State University – USU – Eastern Education and General
From Beginning Nonlapsing Balances ..... (377,600)
From Closing Nonlapsing Balances 377,600

Item 14
To Utah State University – Educationally Disadvantaged
From Beginning Nonlapsing Balances 100
From Closing Nonlapsing Balances ..... (100)

Item 15
To Utah State University – USU – Eastern Educationally Disadvantaged
From Beginning Nonlapsing Balances ..... (900)
From Closing Nonlapsing Balances 900

Item 16
To Utah State University – USU – Eastern Career and Technical Education
From Beginning Nonlapsing Balances ..... (183,800)
From Closing Nonlapsing Balances 183,800

Item 17
To Utah State University – Regional Campuses
From Beginning Nonlapsing Balances 4,788,700
From Closing Nonlapsing Balances ... (4,788,700)

Item 18
To Utah State University – Water Research Laboratory
From Beginning Nonlapsing Balances ... 585,000
From Closing Nonlapsing Balances .... (585,000)

Item 19
To Utah State University – Agriculture Experiment Station
From Beginning Nonlapsing Balances 1,304,400
From Closing Nonlapsing Balances ... (1,304,400)

Item 20
To Utah State University – Cooperative Extension
From Beginning Nonlapsing Balances 82,200
From Closing Nonlapsing Balances .... (133,600)
Schedule of Programs:
Cooperative Extension ..... (51,400)

Item 21
To Utah State University – Prehistoric Museum
From Beginning Nonlapsing Balances 31,500
From Closing Nonlapsing Balances ..... (31,500)

Item 22
To Utah State University – Blanding Campus
From Beginning Nonlapsing Balances 100
From Closing Nonlapsing Balances ..... (100)

Item 23
To Utah State University – USU – Custom Fit
From Beginning Nonlapsing Balances ... 193,100
From Closing Nonlapsing Balances .... (193,100)

WEBER STATE UNIVERSITY

Item 24
To Weber State University – Education and General
From Beginning Nonlapsing Balances ..... (1,470,800)
From Closing Nonlapsing Balances 1,065,800
Schedule of Programs:
Education and General ..... (405,000)

Item 25
To Weber State University – Educationally Disadvantaged
From Beginning Nonlapsing Balances ..... (94,100)
From Closing Nonlapsing Balances 94,100

SOUTHERN UTAH UNIVERSITY

Item 26
To Southern Utah University – Education and General
From Beginning Nonlapsing Balances ..... (1,428,200)
From Closing Nonlapsing Balances 1,428,200

Item 27
To Southern Utah University – Educationally Disadvantaged
From Beginning Nonlapsing Balances ..... (35,600)
From Closing Nonlapsing Balances 35,600

Item 28
To Southern Utah University – Rural Health
From Beginning Nonlapsing Balances ... 136,600
From Closing Nonlapsing Balances .... (136,600)

UTAH VALLEY UNIVERSITY

Item 29
To Utah Valley University – Education and General
From Beginning Nonlapsing Balances 3,478,800
From Closing Nonlapsing Balances ... (3,478,800)

Item 30
To Utah Valley University – Educationally Disadvantaged
From Beginning Nonlapsing Balances 8,300
From Closing Nonlapsing Balances ..... (8,300)

Item 31
To Utah Valley University – Fire and Rescue Training
From Beginning Nonlapsing Balances ... 234,700
From Closing Nonlapsing Balances .... (234,700)

SNOW COLLEGE

Item 32
To Snow College – Education and General
From Beginning Nonlapsing Balances 3,133,500
From Closing Nonlapsing Balances ... (3,133,500)

Item 33
To Snow College – Snow College – Custom Fit

From Beginning Nonlapsing Balances ... 167,800
From Closing Nonlapsing Balances .... (167,800)

UTAH TECH UNIVERSITY

Item 34
To Utah Tech University – Education and General
From Revenue Transfers, One-Time 555,000
From Other Financing Sources, One-Time ..... (555,000)
From Beginning Nonlapsing Balances ..... (627,100)
From Closing Nonlapsing Balances 627,100

Item 35
To Utah Tech University – Zion Park Amphitheater
From Beginning Nonlapsing Balances 24,800
From Closing Nonlapsing Balances ..... (24,800)

SALT LAKE COMMUNITY COLLEGE

Item 36
To Salt Lake Community College – Education and General
From Beginning Nonlapsing Balances ..... (3,380,700)
From Closing Nonlapsing Balances 3,176,500
Schedule of Programs:
Education and General ..... (204,200)

Item 37
To Salt Lake Community College – Educationally Disadvantaged
From Beginning Nonlapsing Balances 300
From Closing Nonlapsing Balances ..... (300)

Item 38
To Salt Lake Community College – School of Applied Technology
From Beginning Nonlapsing Balances ... 219,900
From Closing Nonlapsing Balances .... (219,900)

UTAH BOARD OF HIGHER EDUCATION

Item 39
To Utah Board of Higher Education – Administration
From Beginning Nonlapsing Balances 2,801,900
From Closing Nonlapsing Balances ... (7,201,900)
Schedule of Programs:
Administration ..... (4,400,000)

Item 40
To Utah Board of Higher Education – Student Assistance
From Beginning Nonlapsing Balances 22,978,700
From Closing Nonlapsing Balances ..... (18,452,800)
Schedule of Programs:
Education Re-engagement Scholarships 4,525,900

Item 41
To Utah Board of Higher Education – Student Support
From Beginning Nonlapsing Balances ..... (646,000)
From Closing Nonlapsing Balances 646,000

Item 42
To Utah Board of Higher Education – Medical Education Council
From Income Tax Fund, One-Time ... (5,050,000)
Schedule of Programs:
Medical Residency Grant Program ..... (4,500,000)
Forensic Psychiatry Grant Program ..... (550,000)

BRIDGERLAND TECHNICAL COLLEGE

Item 43
To Bridgerland Technical College
From Beginning Nonlapsing Balances ..... (50,900)
From Closing Nonlapsing Balances 50,900

DAVIS TECHNICAL COLLEGE

Item 44
To Davis Technical College
From Income Tax Fund, One-Time 140,000
From Beginning Nonlapsing Balances ..... (246,300)
From Closing Nonlapsing Balances 246,300
Schedule of Programs:
Davis Technical College 140,000

DIXIE TECHNICAL COLLEGE

Item 45
To Dixie Technical College
From Beginning Nonlapsing Balances ..... (74,900)
From Closing Nonlapsing Balances 74,900

Item 46
To Dixie Technical College – USTC Dixie – Custom Fit
From Beginning Nonlapsing Balances 1,000
From Closing Nonlapsing Balances ..... (1,000)

MOUNTAINLAND TECHNICAL COLLEGE

Item 47
To Mountainland Technical College
From Beginning Nonlapsing Balances ..... (413,300)
From Closing Nonlapsing Balances 381,100
Schedule of Programs:
Mountainland Technical College ..... (32,200)

OGDEN-WEBER TECHNICAL COLLEGE

Item 48
To Ogden-Weber Technical College
From Beginning Nonlapsing Balances ..... (2,076,600)
From Closing Nonlapsing Balances 2,076,600

SOUTHWEST TECHNICAL COLLEGE

Item 49
To Southwest Technical College
From Beginning Nonlapsing Balances 40,600
From Closing Nonlapsing Balances ..... (40,600)

Item 50
To Southwest Technical College – USTC Southwest – Custom Fit
From Beginning Nonlapsing Balances ... 194,500
From Closing Nonlapsing Balances .... (194,500)

TOOELE TECHNICAL COLLEGE

Item 51
To Tooele Technical College
From Beginning Nonlapsing Balances ..... (92,900)
From Closing Nonlapsing Balances 92,900

UINTAH BASIN TECHNICAL COLLEGE

Item 52
To Uintah Basin Technical College
From Beginning Nonlapsing Balances ..... (194,700)
From Closing Nonlapsing Balances 183,500
Schedule of Programs:
Uintah Basin Technical College ..... (11,200)

Item 53
To Uintah Basin Technical College - USTC Uintah Basin - Custom Fit
From Beginning Nonlapsing Balances 300
From Closing Nonlapsing Balances ..... (300)

Section 2. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UNIVERSITY OF UTAH

Item 54
To University of Utah - Education and General
From General Fund 220,410,600
From Income Tax Fund 122,717,200
From Dedicated Credits Revenue ... 319,871,200
From Dedicated Credits - State Land Grants 443,800
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 4,522,900
From Revenue Transfers 34,500
From Beginning Nonlapsing Balances 15,724,900
From Closing Nonlapsing Balances ..... (15,724,900)
Schedule of Programs:
Education and General 592,984,600
Operations and Maintenance 74,235,300
Educationally Disadvantaged 780,300

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.16%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - maintain the percent of high-yield awards granted.

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) students with disabilities registered and receiving services (target: 2%-5% of total university enrollment); 2) provision of alternative format services, including Braille and video captioning (target: provide accessible materials in a timely manner prior to materials being needed/utilized in coursework); and 3) provide interpreting services for deaf and hard of hearing students (target: maintain a highly qualified and 100% certified interpreting staff and achieve 100% delivery of properly requested interpreting needs).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

Item 55
To University of Utah - School of Medicine
From Income Tax Fund 41,178,600
From Dedicated Credits Revenue 31,865,100
From General Fund Restricted - Cigarette Tax Restricted Account 2,800,000
From Beginning Nonlapsing Balances 13,604,600
From Closing Nonlapsing Balances ..... (13,604,600)
Schedule of Programs:
School of Medicine 75,843,700

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - School of Medicine line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of medical school applications (target: exceed the number of applications as an average of

the prior three years); 2) the number of student enrolled in medical school (target: maintain a full cohort based on enrollment levels); 3) the number of applicants to matriculates (target: maintain a healthy ratio to insure a class of strong academic quality); 4) the number of miners served (target: maintain or exceed historical numbers served); and 5) the number of miners enrolled (target: maintain or exceed historical numbers enrolled).

Item 56

To University of Utah – Cancer Research and Treatment
From Income Tax Fund 8,002,100
From General Fund Restricted – Cigarette Tax Restricted Account 2,000,000
From Beginning Nonlapsing Balances 1,013,000
From Closing Nonlapsing Balances ... (1,013,000)
Schedule of Programs:
Cancer Research and Treatment ... 10,002,100

In accordance with UCA 63J–1–903, the Legislature intends that the University of Utah report performance measures for the University of Utah – Cancer Research and Treatment line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) extramural cancer research funding help by Huntsman Cancer Institute (HCI) investigators (target: increase funding by 5%); 2) support development of cancer training programs through promotion of student professional development and experiential learning opportunities designed for cancer research trainees and securing extramural funding for cancer training at HCI; and 3) increase outreach and research support of rural, frontier, and underserved populations.

Item 57

To University of Utah – University Hospital
From Income Tax Fund 5,784,100
From Dedicated Credits Revenue 455,800
From Revenue Transfers 18,915,900
From Beginning Nonlapsing Balances ... 664,500
From Closing Nonlapsing Balances .... (664,500)
Schedule of Programs:
University Hospital 24,524,300
Miners' Hospital 631,500

In accordance with UCA 63J–1–903, the Legislature intends that the University of Utah report performance measures for the University of Utah – University Hospital line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of annual residents in training (target: 578); 2) the number of annual resident training hours (target: 2,080,800); and 3) the percent of total resident training costs appropriated by the Legislature (target: 20.7%).

Item 58

To University of Utah – School of Dentistry
From Income Tax Fund 3,359,100
From Dedicated Credits Revenue 4,307,900
From Beginning Nonlapsing Balances ... 110,800
From Closing Nonlapsing Balances .... (110,800)
Schedule of Programs:
School of Dentistry 7,667,000

In accordance with UCA 63J–1–903, the Legislature intends that the University of Utah report performance measures for the University of Utah School of Dentistry line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of applications to the School of Dentistry; and 2) the number of students accepted.

UTAH STATE UNIVERSITY

Item 59

To Utah State University – Education and General
From General Fund 124,819,600
From Income Tax Fund 87,118,500
From Dedicated Credits Revenue ... 143,117,900
From Income Tax Fund Restricted – Performance Funding Rest. Acct. 3,175,300
From Beginning Nonlapsing Balances 17,345,400
From Closing Nonlapsing Balances ..... (17,345,400)
Schedule of Programs:
Education and General 296,711,200
USU – School of Veterinary Medicine 23,600,700
Operations and Maintenance 37,821,600
Educationally Disadvantaged 97,800

In accordance with UCA 63J–1–903, the Legislature intends that Utah State University report performance measures for Utah State University – Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five–year performance measures: 1) Access: percent of Utah high school graduates enrolled (target: increase by 0.73 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 4%; and

3) high-yield awards - increase the percent of high-yield awards granted by 3%.

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) students served (target: 20); 2) average aid per student (target: $4,000); and 3) transfer and retention rate (target: 80%).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

Item 60
To Utah State University - USU - Eastern Education and General
From Income Tax Fund 10,031,700
From Dedicated Credits Revenue 3,237,200
From Beginning Nonlapsing Balances ... 858,900
From Closing Nonlapsing Balances .... (858,900)
Schedule of Programs:
USU - Eastern Education and General 13,163,400
Educationally Disadvantaged 105,500

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Eastern Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) degrees and certificates awarded (target: 365); 2) FTE student enrollment (fall day-15 budget-related) (target: 950); and 3) Integrated Postsecondary Education Data System (IPEDS) overall graduation rate for all first-time, full-time, degree-seeking students within six years for bachelors and three years for associates (target: 49% with a 0.5% increase per annum).

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Eastern Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) students served (target: 275); 2) average aid per student (target: $500); and 3) transfer and retention rate (target: 50%).

Item 61
To Utah State University - USU - Eastern Career and Technical Education
From Income Tax Fund 6,417,000
From Dedicated Credits Revenue 182,000
From Beginning Nonlapsing Balances 1,459,500
From Closing Nonlapsing Balances ... (1,459,500)
Schedule of Programs:
USU - Eastern Career and Technical Education 6,599,000

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Eastern Career and Technical Education line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) career and technical education (CTE) licenses and certifications (target: 100); 2) CTE graduate placements (target: 45); and 3) CTE completions (target: 50).

Item 62
To Utah State University - Regional Campuses
From Income Tax Fund 15,366,000
From Dedicated Credits Revenue 22,435,300
From General Fund Restricted - Infrastructure and Economic Diversification Investment Account 250,000
From Revenue Transfers 324,200
From Beginning Nonlapsing Balances 10,230,200
From Closing Nonlapsing Balances ..... (10,230,200)
Schedule of Programs:
Administration 6,322,400
Uintah Basin Regional Campus 11,299,900
Brigham City Regional Campus 8,672,100
Tooele Regional Campus 12,081,100

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Regional Campuses line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) degrees and certificates awarded (targets for all campuses: 850); 2) FTE student enrollment (fall day-15 budget-related) (targets for each

campus: Brigham City – 650, Tooele – 1,200, and Uintah Basin – 375); and 3) Integrated Postsecondary Education Data System (IPEDS) overall graduation rate for all first-time, full-time, degree-seeking students within six years for bachelors and three years for associates (targets for campuses: 49% with a 0.5% increase per annum).

Item 63
To Utah State University – Cooperative Extension
From General Fund 75,000
From Income Tax Fund 19,919,600
From Federal Funds 2,088,500
From Dedicated Credits Revenue 250,000
From Revenue Transfers 69,600
From Beginning Nonlapsing Balances 9,760,000
From Closing Nonlapsing Balances ... (9,760,000)
Schedule of Programs:
Cooperative Extension 22,402,700

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University – Cooperative Extension line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) direct contacts (target: 722,000 on a three-year rolling average); 2) faculty-delivered activities and events (target: 2,000 on a three-year rolling average); and 3) faculty publications (target: 300 on a three-year rolling average).

Item 64
To Utah State University – Blanding Campus
From Income Tax Fund 2,806,700
From Dedicated Credits Revenue 1,921,800
From Beginning Nonlapsing Balances ... 555,500
From Closing Nonlapsing Balances .... (555,500)
Schedule of Programs:
Blanding Campus 4,728,500

Item 65
To Utah State University – USU – Custom Fit
From Income Tax Fund 275,800
From Beginning Nonlapsing Balances ... 193,100
From Closing Nonlapsing Balances .... (193,100)
Schedule of Programs:
USU – Custom Fit 275,800

WEBER STATE UNIVERSITY

Item 66
To Weber State University – Education and General
From Income Tax Fund 114,299,900
From Dedicated Credits Revenue 84,552,200
From Income Tax Fund Restricted – Performance Funding Rest. Acct. 1,688,700
From Beginning Nonlapsing Balances 1,713,200
From Closing Nonlapsing Balances ... (1,713,200)
Schedule of Programs:
Education and General 181,994,900
Operations and Maintenance 18,113,800
Educationally Disadvantaged 432,100

In accordance with UCA 63J-1-903, the Legislature intends that Weber State University report performance measures for Weber State University – Education and General Laboratory line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access – increase the percent of Utah high school graduates enrolled by 0.42%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 3%.

Item 67
To Weber State University – Rocky Mountain Center for Occupational & Environmental Health
From Income Tax Fund 802,000
Schedule of Programs:
Rocky Mountain Center for Occupational & Environmental Health 802,000

In accordance with UCA 63J-1-903, the Legislature intends that Weber State University report performance measures for Weber State University – Rocky Mountain Center for Occupational and Environmental Health line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of students in the degree programs (target: greater than or equal to 45); 2) The number of students trained (target: greater than or equal to 600); and 3) The number of businesses represented in continuing education courses (target: greater than or equal to 1,000).

SOUTHERN UTAH UNIVERSITY

Item 68
To Southern Utah University – Education and General
From Income Tax Fund 63,409,700
From Dedicated Credits Revenue 52,473,700
From Income Tax Fund Restricted – Performance Funding Rest. Acct. 798,600
From Beginning Nonlapsing Balances 10,061,000
From Closing Nonlapsing Balances ..... (10,061,000)
Schedule of Programs:

Education and General 106,306,000
Operations and Maintenance 10,273,500
Educationally Disadvantaged 102,500

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report performance measures for Southern Utah University - Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.34%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 3%.

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report performance measures for Southern Utah University - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) students served (target: 100); 2) average aid per student (target: $500); and 3) educationally disadvantage scholarships offered to minority students (target: 33% or more).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

UTAH VALLEY UNIVERSITY

Item 69
To Utah Valley University - Education and General
From General Fund 100,005,700
From Income Tax Fund 56,297,000
From Dedicated Credits Revenue ... 150,208,100
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 2,038,300
From Other Financing Sources 135,000
From Beginning Nonlapsing Balances 25,292,000
From Closing Nonlapsing Balances ..... (25,292,000)
Schedule of Programs:
Education and General 284,089,300
Operations and Maintenance 24,393,200
Educationally Disadvantaged 201,600

In accordance with UCA 63J-1-903, the Legislature intends that Utah Valley University report performance measures for Utah Valley University - Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 1.01%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 3%.

In accordance with UCA 63J-1-903, the Legislature intends that Utah Valley University report performance measures for Utah Valley University - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) portion of degree-seeking undergraduate students receiving need-based financial aid (target: 45%); 2) the number of students served in mental health counseling (target: 4,000); and 3) the number of tutoring hours provided to students (target: 22,000).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

Item 70
To Utah Valley University - Fire and Rescue Training
From Income Tax Fund 4,750,100
From Beginning Nonlapsing Balances ... 399,500
From Closing Nonlapsing Balances .... (399,500)
Schedule of Programs:
Fire and Rescue Training 4,750,100

SNOW COLLEGE

Item 71
To Snow College - Education and General
From Income Tax Fund 36,517,800
From Dedicated Credits Revenue 12,745,500
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 405,800
From Revenue Transfers 753,400
From Beginning Nonlapsing Balances 8,487,700
From Closing Nonlapsing Balances ... (8,487,700)
Schedule of Programs:
Education and General 44,442,500
Operations and Maintenance 5,948,000
Educationally Disadvantaged 32,000

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report

performance measures for Snow College – Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access – increase the percent of Utah high school graduates enrolled by 0.33%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 12.77%; and 3) high-yield awards – increase the percent of high-yield awards granted by 7%.

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report performance measures for Snow College – Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) aggregate completion rate of first generation, non-tradition (aged 25 or older), minority (not including non-resident, alien/international students), and Pell awarded students (target: 35%); 2) percent of remedial math students who successfully complete Math 1030, Math 1040, or Math 1050 (college-level math) within five semesters of first-time enrollment (target: 35%); and 3) percent of remedial English students who successfully complete English 1010 or higher (college level English) within three semesters of first-time enrollment (target: 65%).

Item 72
To Snow College – Career and Technical Education
From Income Tax Fund 3,601,300
Schedule of Programs:
Career and Technical Education 3,601,300

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report performance measures for Snow College – Career and Technical Education line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) percent of students per program capacity with the goal of a 2% increase in respective program capacity each year (target: 60%); 2) the number of career and technical education (CTE) degrees and certificates awarded (target: 200); and 3) percent of students who successfully pass their respective Utah licensing exams (programs include Automotive, Cosmetology, and Nursing) (target: 80% pass rate).

Item 73
To Snow College – Snow College – Custom Fit
From Income Tax Fund 425,400
From Beginning Nonlapsing Balances ... 167,800
From Closing Nonlapsing Balances .... (167,800)
Schedule of Programs:
Snow College – Custom Fit 425,400

UTAH TECH UNIVERSITY

Item 74
To Utah Tech University – Education and General
From Income Tax Fund 57,616,700
From Dedicated Credits Revenue 36,204,800
From Income Tax Fund Restricted –
Performance Funding Rest. Acct. 499,600
From Revenue Transfers 705,000
From Beginning Nonlapsing
Balances 6,449,000
From Closing Nonlapsing Balances ... (6,449,000)
Schedule of Programs:
Education and General 85,152,800
Operations and Maintenance 9,847,800
Educationally Disadvantaged 25,500

In accordance with UCA 63J-1-903, the Legislature intends that Utah Tech University report performance measures for Utah Tech University – Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access – increase the percent of Utah high school graduates enrolled by 0.40%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 6%.

In accordance with UCA 63J-1-903, the Legislature intends that Utah Tech University report performance measures for Utah Tech University – Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of students served (target: 20); 2) the number of minority students served (target: 15); and 3) expenditures per student (target: $1,000).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning

nonlapsing balance in the Education and General line item in the FY 2024 base budget.

SALT LAKE COMMUNITY COLLEGE

Item 75
To Salt Lake Community College - Education and General
From Income Tax Fund 117,018,100
From Dedicated Credits Revenue 61,556,200
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 1,720,800
From Revenue Transfers 3,688,300
From Beginning Nonlapsing Balances 8,168,700
From Closing Nonlapsing Balances ... (8,168,700)
Schedule of Programs:
Education and General 159,922,400
Operations and Maintenance 23,882,600
Educationally Disadvantaged 178,400

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report performance measures for Salt Lake Community College - Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.94%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 1%.

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report performance measures for Salt Lake Community College - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of needs-based scholarships awarded (target: 200); 2) percent of needs- based recipients returning (target: 50%); and 3) graduation rate of needs based scholarship recipients (target: 50%).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

Item 76
To Salt Lake Community College - School of Applied Technology
From Income Tax Fund 9,409,300
From Dedicated Credits Revenue 1,028,600
From Beginning Nonlapsing Balances ... 736,400
From Closing Nonlapsing Balances .... (736,400)
Schedule of Programs:
School of Applied Technology 10,437,900

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report performance measures for Salt Lake Community College - School of Applied Technology line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) membership hours (target: 350,000); 2) certificates awarded (target: 200); and 3) pass rate for certificate or licensure exams (target: 85%).

Item 77
To Salt Lake Community College - SLCC - Custom Fit
From Income Tax Fund 618,500
Schedule of Programs:
SLCC - Custom Fit 618,500

UTAH BOARD OF HIGHER EDUCATION

Item 78
To Utah Board of Higher Education - Administration
From General Fund 1,041,900
From Income Tax Fund 21,457,700
From Federal Funds 6,700
From Revenue Transfers 443,400
From Beginning Nonlapsing Balances 7,470,200
From Closing Nonlapsing Balances ... (7,470,200)
Schedule of Programs:
Administration 21,457,700
Utah Data Research Center 1,492,000

In accordance with UCA 63J-1-903, the Legislature intends the Board of Higher Education report performance measures for the Board of Higher Education - Administration line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled in the system by 3%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 3%.

In accordance with UCA 63J-1-903, the Legislature intends the Board of Higher Education report performance measures for the Board of Higher Education - Administration line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) The number of collaborative meetings held (target: 5 per month).

The Legislature intends that the Utah Board of Higher Education define "Educationally Disadvantaged" for purposes of determining amounts institutions budget to assist Educationally Disadvantaged students and to adjust FY 2025 budget requests to include these amounts in the Educationally Disadvantaged programs.

Item 79

To Utah Board of Higher Education - Student Assistance
From Income Tax Fund 38,937,200
From Beginning Nonlapsing Balances 18,860,700
From Closing Nonlapsing Balances ..... (18,860,700)
Schedule of Programs:
Opportunity Scholarship 18,092,700
Student Financial Aid 8,354,400
New Century Scholarships 1,983,900
Utah Promise Program 1,391,200
Western Interstate Commission for Higher Education 840,200
T.H. Bell Teaching Incentive Loans Program 2,031,800
Veterans Tuition Gap Program 125,000
Public Safety Officer Career Advancement Reimbursement 146,000
Student Prosperity Savings Program ... 50,000
Talent Development Grant Program 1,547,400
Access Utah Promise Scholarship Program 2,274,600
Career and Technical Education Scholarships 1,100,000
Adult Learner Grant 1,000,000

In accordance with UCA 63J-1-903, the Legislature intends the Board of Higher Education report performance measures for the Board of Higher Education - Student Assistance line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) for Regents, New Century, and Western Interstate Commission for Higher Education scholarships allocate all appropriations less overhead to qualified students.

Item 80

To Utah Board of Higher Education - Student Support
From Income Tax Fund 10,106,800
From Beginning Nonlapsing Balances ... 765,000
From Closing Nonlapsing Balances .... (765,000)
Schedule of Programs:
Services for Hearing Impaired Students 796,300
Higher Education Technology Initiative 4,498,800
Utah Academic Library Consortium 3,410,000
Math Competency Initiative 1,401,700

In accordance with UCA 63J-1-903, the Legislature intends the Board of Higher Education report performance measures for the Board of Higher Education - Student Support line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) hearing impaired (target: allocate all appropriations to institutions); 2) engineering initiative degrees (target: 6% annual increase); 3) HETI group purchases (target: $3.4 million savings); 4) Utah Academic Library Council (UALC) additive impact on institutional library collections budgets as reported to IPEDS; 5) resource downloads from UALC purchased databases. (target: three-year rolling average of 3,724,474). 6) the number of students taking math credit through concurrent enrollment (target: increase by 5%).

Item 81

To Utah Board of Higher Education - Education Excellence

In accordance with UCA 63J-1-903, the Legislature intends that the Board of Higher Education report performance measures for the Board of Higher Education - Education Excellence line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) increase college participation rates with Utah College Advising Corp (target: 5% increase); 2) completions (target: increase five-year rolling average by 1%); and 3) 150% graduation rate (target: increase five-year rolling average by 1%).

Item 82

To Utah Board of Higher Education - Talent Ready Utah
From Income Tax Fund 2,198,400
From Dedicated Credits Revenue 52,400
Schedule of Programs:

Talent Ready Utah 2,250,800

BRIDGERLAND TECHNICAL COLLEGE

Item 83
To Bridgerland Technical College
From Income Tax Fund 19,408,300
From Dedicated Credits Revenue 1,452,400
From Income Tax Fund Restricted –
Performance Funding Rest. Acct. 291,100
From Beginning Nonlapsing Balances ... 283,500
From Closing Nonlapsing Balances .... (283,500)
Schedule of Programs:
Bridgerland Tech Equipment 1,022,200
Bridgerland Technical College 20,129,600

In accordance with UCA 63J-1-903, the Legislature intends that Bridgerland Technical College report performance measures for the Bridgerland Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access – increase the percent of Utah high school graduates enrolled by 0.02%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 7%.

Item 84
To Bridgerland Technical College –
USTC Bridgerland – Custom Fit
From Income Tax Fund 600,000
Schedule of Programs:
USTC Bridgerland – Custom Fit 600,000

DAVIS TECHNICAL COLLEGE

Item 85
To Davis Technical College
From Income Tax Fund 22,985,900
From Dedicated Credits Revenue 2,007,100
From Income Tax Fund Restricted –
Performance Funding Rest. Acct. 385,300
From Beginning Nonlapsing
Balances 1,076,700
From Closing Nonlapsing Balances ... (1,076,700)
Schedule of Programs:
Davis Tech Equipment 1,112,100
Davis Technical College 24,266,200

In accordance with UCA 63J-1-903, the Legislature intends that Davis Technical College report performance measures for the Davis Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access – increase the percent of Utah high school graduates enrolled by 0.09%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 8%.

Item 86
To Davis Technical College – USTC Davis –
Custom Fit
From Income Tax Fund 686,900
Schedule of Programs:
USTC Davis – Custom Fit 686,900

DIXIE TECHNICAL COLLEGE

Item 87
To Dixie Technical College
From Income Tax Fund 10,695,200
From Dedicated Credits Revenue 737,700
From Income Tax Fund Restricted –
Performance Funding Rest. Acct. 124,400
Schedule of Programs:
Dixie Tech Equipment 544,900
Dixie Technical College 11,012,400

In accordance with UCA 63J-1-903, the Legislature intends that Dixie Technical College report performance measures for the Dixie Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access – increase the percent of Utah high school graduates enrolled by 0.03%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 7%.

Item 88
To Dixie Technical College – USTC Dixie –
Custom Fit
From Income Tax Fund 345,000
From Beginning Nonlapsing Balances 1,000
From Closing Nonlapsing Balances ..... (1,000)
Schedule of Programs:
USTC Dixie – Custom Fit 345,000

MOUNTAINLAND TECHNICAL COLLEGE

Item 89
To Mountainland Technical College
From Income Tax Fund 22,337,400
From Dedicated Credits Revenue 1,426,300
From Income Tax Fund Restricted –
Performance Funding Rest. Acct. 235,000
From Beginning Nonlapsing Balances ... 234,500
From Closing Nonlapsing Balances .... (234,500)
Schedule of Programs:
Mountainland Tech Equipment 982,800
Mountainland Technical College ... 23,015,900

In accordance with UCA 63J-1-903, the Legislature intends that Mountainland Technical College report performance measures for the Mountainland Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.11%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 8%.

Item 90
To Mountainland Technical College -
USTC Mountainland - Custom Fit
From Income Tax Fund 816,300
Schedule of Programs:
USTC Mountainland - Custom Fit 816,300

OGDEN-WEBER TECHNICAL COLLEGE

Item 91
To Ogden-Weber Technical College
From Income Tax Fund 20,619,500
From Dedicated Credits Revenue 1,697,400
From Income Tax Fund Restricted -
Performance Funding Rest. Acct. 268,600
From Beginning Nonlapsing Balances ... 708,700
From Closing Nonlapsing Balances .... (708,700)
Schedule of Programs:
Ogden-Weber Tech Equipment 1,070,100
Ogden-Weber Technical College 21,515,400

In accordance with UCA 63J-1-903, the Legislature intends that Ogden-Weber Technical College report performance measures for the Ogden-Weber Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.07%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 7%.

Item 92
To Ogden-Weber Technical College -
USTC Ogden-Weber - Custom Fit
From Income Tax Fund 684,600
Schedule of Programs:
USTC Ogden-Weber - Custom Fit 684,600

SOUTHWEST TECHNICAL COLLEGE

Item 93
To Southwest Technical College
From Income Tax Fund 7,613,300
From Dedicated Credits Revenue 336,700
From Income Tax Fund Restricted -
Performance Funding Rest. Acct. 134,300
From Beginning Nonlapsing Balances 40,600
From Closing Nonlapsing Balances ..... (40,600)
Schedule of Programs:
Southwest Tech Equipment 508,000
Southwest Technical College 7,576,300

In accordance with UCA 63J-1-903, the Legislature intends that Southwest Technical College report performance measures for the Southwest Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.01%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 7%.

Item 94
To Southwest Technical College - USTC
Southwest - Custom Fit
From Income Tax Fund 345,000
From Beginning Nonlapsing Balances ... 194,500
From Closing Nonlapsing Balances .... (194,500)
Schedule of Programs:
USTC Southwest - Custom Fit 345,000

TOOELE TECHNICAL COLLEGE

Item 95
To Tooele Technical College
From Income Tax Fund 7,069,700
From Dedicated Credits Revenue 248,800
From Income Tax Fund Restricted -
Performance Funding Rest. Acct. 90,400
Schedule of Programs:
Tooele Tech Equipment 384,300
Tooele Technical College 7,024,600

In accordance with UCA 63J-1-903, the Legislature intends that Tooele Applied Technical College report performance measures for the Tooele Applied Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.02%; 2) timely completion - increase the percent of a cohort

enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 4%; and 3) high-yield awards - increase the percent of high-yield awards granted by 6%.

Item 96
To Tooele Technical College - USTC Tooele - Custom Fit
From Income Tax Fund 325,000
Schedule of Programs:
USTC Tooele - Custom Fit 325,000

UINTAH BASIN TECHNICAL COLLEGE

Item 97
To Uintah Basin Technical College
From Income Tax Fund 11,326,600
From Dedicated Credits Revenue 410,000
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 120,900
From Beginning Nonlapsing Balances 4,800
From Closing Nonlapsing Balances ..... (4,800)
Schedule of Programs:
Uintah Basin Tech Equipment 673,200
Uintah Basin Technical College 11,184,300

In accordance with UCA 63J-1-903, the Legislature intends that Uintah Basin Technical College report performance measures for the Uintah Basin Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.01%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 4%; and 3) high-yield awards - increase the percent of high-yield awards granted by 6%.

Item 98
To Uintah Basin Technical College - USTC Uintah Basin - Custom Fit
From Income Tax Fund 450,000
From Beginning Nonlapsing Balances 300
From Closing Nonlapsing Balances ..... (300)
Schedule of Programs:
USTC Uintah Basin - Custom Fit 450,000

Subsection 2(b). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 99
To Performance Funding Restricted Account
From Income Tax Fund 22,824,000
Schedule of Programs:
Performance Funding Restricted Account 22,824,000

Section 3. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UNIVERSITY OF UTAH

Item 100
To University of Utah - Public Service
From Income Tax Fund 2,375,900
From Beginning Nonlapsing Balances ... 521,300
From Closing Nonlapsing Balances .... (521,300)
Schedule of Programs:
Seismograph Stations 818,000
Natural History Museum of Utah ... 1,419,400
State Arboretum 138,500

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Public Service - Seismograph Stations line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) timeliness of responses to earthquakes in the Utah region (target: transmit an alarm to the Utah Department of Emergency Management within 5 minutes and post event information to the web within 10 minutes for every earthquake of magnitude 3.5 or greater that occur in the Utah region); 2) publications and presentations related to earthquakes (target: publish at least five papers in peer-reviewed journals, make at least ten presentations at professional meetings, and make at least ten oral presentations to local stakeholders); and 3) raise external funds to support Seismograph Stations mission (target: generate external funds that equal or exceed the amount provided by the State of Utah).

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Public Service - State Arboretum line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills.

For FY 2024, the department shall report the following performance measures: 1) The number of memberships (target: increase 3% annually); 2) The number of admissions (target: increase 3% annually); 3) The number of school children participating in on-site field classes (target: maintain the present level of participation until the Education Center is build that will permit expansion beyond what current facilities permit); 4) The number of visitors who receive food assistance (target: track admissions through this new program); 5) The number of adult programs offered (target: maintain the present level of participation until the Education Center is built that will permit expansion beyond what current facilities permit); and 6) The number of schools and number of school children reached through the Arboretums Grow Lab, Botany Bin, Botany Box, and Virtual Garden program (target: maintain the present level of participation until additional staffing can be added that will permit expansion beyond current staffing allows).

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Public Service - Natural History Museum of Utah line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Total on-site attendance (target: meet or exceed 282,000); 2) Total off-site attendance (target: meet or exceed 200,000); and 3) The number of school interactions (target: meet or exceed 1,250).

Item 101
To University of Utah - Statewide TV Administration
From Income Tax Fund 2,890,100
From Beginning Nonlapsing Balances 81,200
From Closing Nonlapsing Balances ..... (81,200)
Schedule of Programs:
Public Broadcasting 2,890,100

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Statewide TV Administration line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of households that tune in to KUED television (target: greater than or equal to the number in each of the prior three years); 2) The number of visitors to KUEDs informational page and KUEDs video page (target: greater than or equal to the number in each of the prior three years); 3) The number of people participating in KUED community outreach events (target: greater than or equal to the number in each of the prior three years); and 4) "Gross impressions" or the number of exposures to programming as measured in households which includes duplicate viewing and gives a sense of the frequency with which households are tuning in (target: 1.9 million).

Item 102
To University of Utah - Poison Control Center
From Income Tax Fund 3,104,400
From Beginning Nonlapsing Balances ... 794,100
From Closing Nonlapsing Balances .... (794,100)
Schedule of Programs:
Poison Control Center 3,104,400

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Poison Control Center line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) poison control center utilization (target: exceed nationwide average); 2) healthcare costs averted per dollar invested (target: $10 savings for every dollar invested in the center); 3) service level speed to answer (target: answer 85% of cases within 20 seconds); and 4) The number of students, interns, residents and fellows who receive training from the center compared to the number of learners needed to fulfill faculty and program requirements for training learners (target: greater than or equal to 18).

Item 103
To University of Utah - Center on Aging
From Income Tax Fund 123,500
From Beginning Nonlapsing Balances 100
From Closing Nonlapsing Balances ..... (100)
Schedule of Programs:
Center on Aging 123,500

Item 104
To University of Utah - Rocky Mountain Center for Occupational and Environmental Health
From Income Tax Fund 1,215,100
From General Fund Restricted - Workplace Safety Account 174,000
From Beginning Nonlapsing Balances 2,400
From Closing Nonlapsing Balances ..... (2,400)
Schedule of Programs:
Center for Occupational and Environmental Health 1,389,100

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Rocky Mountain Center for Occupational and Environmental Health

line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of students in the degree programs (target: greater than or equal to 45 students); 2) the number of students trained (target: greater than or equal to 600); and 3) the number of businesses represented in continuing education courses (target: greater than or equal to 1,000).

Item 105
To University of Utah - SafeUT Crisis Text and Tip
From Income Tax Fund 4,102,100
Schedule of Programs:
SafeUT Operations 4,102,100

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - SafeUT Crisis Text and Tip line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Evaluating long-text chats (>10 threads) for satisfaction (target: 10% of long text chats will be evaluated for support/satisfaction); 2) Satisfaction with the service provided (target: 75% rated as satisfied); and 3) Actionable mental health care recommendations for long-text chats (>10 threads) (target: 75% acted upon).

UTAH STATE UNIVERSITY

Item 106
To Utah State University - Water Research Laboratory
From Income Tax Fund 2,450,800
From General Fund Restricted - Mineral Lease 1,745,800
From Gen. Fund Rest. - Land Exchange Distribution Account 66,400
From Beginning Nonlapsing Balances 2,750,800
From Closing Nonlapsing Balances ... (2,750,800)
Schedule of Programs:
Water Research Laboratory 4,263,000

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Water Research Laboratory line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of peer-reviewed journal articles published (target: 10); 2) The number of students supported (target: 150); and 3) Research projects and training activities (target: 200).

Item 107
To Utah State University - Agriculture Experiment Station
From Income Tax Fund 15,329,600
From Federal Funds 1,813,800
From Beginning Nonlapsing Balances 4,718,700
From Closing Nonlapsing Balances ... (4,718,700)
Schedule of Programs:
Agriculture Experiment Station 17,143,400

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Agriculture Experiment Station line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of students mentored (target: 300); 2) The number of journal articles published (target: 300); 3) Lab accessions (target: 100,000).

Item 108
To Utah State University - Prehistoric Museum
From Income Tax Fund 508,800
From Beginning Nonlapsing Balances 61,900
From Closing Nonlapsing Balances ..... (61,900)
Schedule of Programs:
Prehistoric Museum 508,800

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Prehistoric Museum line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Museum admissions (target: 18,000); 2) The number of offsite outreach contacts (target: 1,000); and 3) The number of scientific specimens added (target: 800).

SOUTHERN UTAH UNIVERSITY

Item 109
To Southern Utah University - Shakespeare Festival
From Income Tax Fund 21,600
Schedule of Programs:
Shakespeare Festival 21,600

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report performance measures for

Southern Utah University – Shakespeare Festival line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) professional outreach program in the schools instructional hours (target: 5% increase in five years); 2) education seminars and orientation attendees (target: 5% increase in five years); and 3) Shakespeare Festival annual fundraising (target: 2% increase in five years).

Item 110
To Southern Utah University – Rural Health
From Income Tax Fund 124,800
From Beginning Nonlapsing Balances ... 143,800
From Closing Nonlapsing Balances .... (143,800)
Schedule of Programs:
Rural Health 124,800

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report performance measures for Southern Utah University – Rural Health line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of rural healthcare programs developed (target: 47); 2) rural healthcare scholar participation (target: 1,000); and 3) graduate rural clinical rotations (target: 230).

UTAH TECH UNIVERSITY

Item 111
To Utah Tech University – Zion Park Amphitheater
From Income Tax Fund 60,400
From Dedicated Credits Revenue 35,700
From Beginning Nonlapsing Balances 47,200
From Closing Nonlapsing Balances ..... (47,200)
Schedule of Programs:
Zion Park Amphitheater 96,100

In accordance with UCA 63J-1-903, the Legislature intends that Utah Tech University report performance measures for Utah Tech University – Zion Park Amphitheater line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of performances (target: varied across years); 2) Ticket sales revenue (target: $35,000); and 3) Performances featuring Utah artists (target: varied across years).

Section 4. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2023.

CHAPTER 4
H. B. 4
Passed January 26, 2023
Approved February 2, 2023
Effective May 3, 2023

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR BASE BUDGET

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $55,022,700 in operating and capital budgets for fiscal year 2023, including:

- $67,700 from the General Fund; and
- $54,955,000 from various sources as detailed in this bill.

This bill appropriates $678,100 in expendable funds and accounts for fiscal year 2023.

This bill appropriates $4,582,000 in restricted fund and account transfers for fiscal year 2023.

This bill appropriates $422,583,200 in operating and capital budgets for fiscal year 2024, including:

- $129,392,100 from the General Fund;
- $25,674,100 from the Income Tax Fund; and
- $267,517,000 from various sources as detailed in this bill.

This bill appropriates $31,309,000 in expendable funds and accounts for fiscal year 2024.

This bill appropriates $30,533,300 in business-like activities for fiscal year 2024, including:

- $2,250,000 from the General Fund; and
- $28,283,300 from various sources as detailed in this bill**.**

This bill appropriates $44,722,200 in restricted fund and account transfers for fiscal year 2024, including:

- $24,722,200 from the General Fund; and
- $20,000,000 from various sources as detailed in this bill.

This bill appropriates $940,200 in fiduciary funds for fiscal year 2024.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2023.

Utah Code Sections Affected:
ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

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

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 1
To Department of Alcoholic Beverage Services-DABS Operations
From Liquor Control Fund, One-Time 25,800
From Beginning Nonlapsing Balances 1,694,600
From Closing Nonlapsing Balances 500,000
Schedule of Programs:
Executive Director 25,800
Operations 2,194,600

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to $7,500,000 of funds provided for the Department of Alcoholic Beverage Services - DABS Operations in Item 66 of Chapter 7 in Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. Funds shall be limited to information technology projects including Alcoholic Beverage Purchasing Program (Wine Club & Special Orders), Click & Collect, Compliance System Upgrade, and Stores Infrastructure.

Item 2
To Department of Alcoholic Beverage Services - Parents Empowered
From Beginning Nonlapsing Balances ... 100,000
Schedule of Programs:
Parents Empowered 100,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that $100,000 of the appropriations provided to the Alcoholic Beverage Services - Parents Empowered in Item 67 of Chapter 7 in Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to the Underage Drinking Prevention Media and Education campaigns.

DEPARTMENT OF COMMERCE

Item 3
To Department of Commerce - Building Inspector Training
From Beginning Nonlapsing Balances ... 742,800
From Closing Nonlapsing Balances ..... (18,500)
Schedule of Programs:
Building Inspector Training 724,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to Commerce - Building Inspector Training in Laws of Utah 2022 shall not lapse at the close of Fiscal Year 2023. The use of which is limited to statutory outreach and education on land use and building codes, $3,500,000.

Item 4
To Department of Commerce - Commerce
General Regulation
From General Fund, One-Time ..... (600)
From General Fund Restricted - Commerce
Service Account, One-Time 26,400
From Beginning Nonlapsing
Balances 5,395,800
Schedule of Programs:
Administration 307,700
Occupational and Professional
Licensing 227,700
Office of Consumer Services 2,520,400
Public Utilities 2,365,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to Commerce - General Regulation in Laws of Utah 2022 shall not lapse at the close of Fiscal Year 2023. The use of which is limited to information technology infrastructure obligations, $1,500,000.

Item 5
To Department of Commerce - Office of Consumer
Services Professional and Technical Services
From Beginning Nonlapsing
Balances 4,707,400
From Closing Nonlapsing Balances ... (2,707,400)
Schedule of Programs:
Professional and Technical
Services 2,000,000

Item 6
To Department of Commerce - Public Utilities
Professional and Technical Services
From Beginning Nonlapsing
Balances 3,240,500
Schedule of Programs:
Professional and Technical
Services 3,240,500

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 7
To Governor's Office of Economic Opportunity -
Administration
From General Fund, One-Time 26,500
From Beginning Nonlapsing
Balances 1,385,700
From Closing Nonlapsing Balances .... (500,000)
Schedule of Programs:
Administration 912,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity - Administration in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations and business marketing, and systems management $3,000,000.

Item 8
To Governor's Office of Economic Opportunity -
Business Development
From Beginning Nonlapsing
Balances 2,018,000
From Closing Nonlapsing Balances ... (5,000,000)
Schedule of Programs:
Corporate Recruitment and
Business Services ..... (3,449,000)
Outreach and International Trade 467,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity - Business Development in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations, personal services, SSBCI grants, and Manufacturing Modernization Grants $35,800,000.

Item 9
To Governor's Office of Economic Opportunity -
Office of Tourism
From Beginning Nonlapsing
Balances 3,732,200
From Closing Nonlapsing Balances ... (3,750,000)
Schedule of Programs:
Film Commission ..... (55,100)
Marketing and Advertising ..... (500)
Operations and Fulfillment 37,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity - Office of Tourism in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations, marketing, tourism, and film support $10,000,000.

Item 10
To Governor's Office of Economic Opportunity -
Pass-Through
From General Fund Restricted -
Outdoor Adventure Infrastructure
Restricted Account, One-Time 800,000
From Beginning Nonlapsing
Balances 12,909,600
Schedule of Programs:
Pass-Through 13,709,600

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity - Pass Through in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations and support $30,000,000.

Item 11
To Governor's Office of Economic Opportunity -
Pete Suazo Utah Athletics Commission
From Beginning Nonlapsing Balances ... 108,000
Schedule of Programs:
Pete Suazo Utah Athletics
Commission 108,000

Item 12
To Governor's Office of Economic Opportunity – Rural Employment Expansion Program
From Beginning Nonlapsing Balances 2,222,000
Schedule of Programs:
Rural Employment Expansion Program 2,222,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Rural Employment Expansion in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations and support $3,200,000.

Item 13
To Governor's Office of Economic Opportunity – Talent Ready Utah Center
From Beginning Nonlapsing Balances 22,045,800
Schedule of Programs:
Talent Ready Utah Center 16,807,800
Utah Works Program 5,238,000

Item 14
To Governor's Office of Economic Opportunity – Rural Coworking and Innovation Center Grant Program
From Beginning Nonlapsing Balances 1,405,600
Schedule of Programs:
Rural Coworking and Innovation Center Grant Program 1,405,600

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Rural Coworking and Innovation Center in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations and support $1,500,000.

Item 15
To Governor's Office of Economic Opportunity – Rural Rapid Manufacturing Grant
From Beginning Nonlapsing Balances 400
Schedule of Programs:
Rural Rapid Manufacturing Grant 400

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Rural Rapid Manufacturing Grant in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations and support $200,000.

Item 16
To Governor's Office of Economic Opportunity – Inland Port Authority

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Inland Port Authority in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to lease costs and personnel services $3,200,000.

Item 17
To Governor's Office of Economic Opportunity – Point of the Mountain Authority

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Point of the Mountain Authority in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to lease costs and personnel services $1,700,000.

Item 18
To Governor's Office of Economic Opportunity – Rural Opportunity Program
From Beginning Nonlapsing Balances ... 512,200
From Closing Nonlapsing Balances .... (500,000)
Schedule of Programs:
Rural Opportunity Program 12,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Rural Opportunities Grants in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations and support $20,000,000.

Item 19
To Governor's Office of Economic Opportunity – GOUTAH Economic Assistance Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Economic Assistance Grants in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations and support $10,000,000.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 20
To Department of Cultural and Community Engagement – Administration
From General Fund, One-Time 10,800
From Beginning Nonlapsing Balances 1,100,300
From Closing Nonlapsing Balances .... (735,400)
From Lapsing Balance ..... (200)
Schedule of Programs:
Administrative Services 374,900
Executive Director's Office 22,000
Information Technology ..... (14,100)
Utah Multicultural Affairs Office ..... (7,300)

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to $280,000 of the General Fund provided by Item 73, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts – Administration Division not lapse at the close of Fiscal Year 2023.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to $625,000 of

the General Fund provided by Item 73, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts – Administration Division not lapse at the close of Fiscal Year 2023. These funds are to be used for digital, IT, and innovation purposes.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to $850,000 of the General Fund provided by Item 73, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts – Administration Division not lapse at the close of Fiscal Year 2023. These funds are to be used for special projects, building maintenance, renovation, and outreach.

Item 21

To Department of Cultural and Community Engagement – Division of Arts and Museums
From Beginning Nonlapsing Balances 1,628,600
From Closing Nonlapsing Balances 39,000
Schedule of Programs:
Administration 20,300
Community Arts Outreach 100,000
Grants to Non-profits 1,510,200
Museum Services 37,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of the General Fund provided by Item 74, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts – Division of Arts and Museums not lapse at the close of Fiscal Year 2023. These funds are to be used for cultural outreach, community programming, and the purchase of art.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of the General Fund provided by Item 74, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts – Division of Arts and Museums not lapse at the close of Fiscal Year 2023. These funds are to be used for cultural outreach.

Item 22

To Department of Cultural and Community Engagement – Commission on Service and Volunteerism
From Beginning Nonlapsing Balances 68,400
Schedule of Programs:
Commission on Service and Volunteerism 68,400

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $150,000 of the General Fund provided by Item 75, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts – Commission on Service and Volunteerism not lapse at the close of Fiscal Year 2023. These funds will be used for community outreach and programming.

Item 23

To Department of Cultural and Community Engagement – Historical Society
From Beginning Nonlapsing Balances 29,500
From Closing Nonlapsing Balances ..... (54,400)
Schedule of Programs:
State Historical Society ..... (24,900)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $100,000 of the General Fund provided by Item 74, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts – Historical Society Division not lapse at the close of Fiscal Year 2023. These funds will be used for publishing and promoting the Historical Quarterly magazine.

Item 24

To Department of Cultural and Community Engagement – Indian Affairs
From Beginning Nonlapsing Balances ... 365,100
From Closing Nonlapsing Balances .... (398,600)
From Lapsing Balance ..... (41,200)
Schedule of Programs:
Indian Affairs ..... (74,700)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 of the General Fund provided by Item 77, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts – Indian Affairs Division not lapse at the close of Fiscal Year 2023.

Item 25

To Department of Cultural and Community Engagement – Pass-Through
From Beginning Nonlapsing Balances ... 275,000
Schedule of Programs:
Pass-Through 275,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 78, Chapter 7, Laws of Utah 2022 and Item 205, Chapter 300, Laws of Utah 2022 for the Department of Heritage and Arts – Pass Through not lapse at the close of Fiscal Year 2023. These funds will be used for contractual obligations and support.

Item 26

To Department of Cultural and Community Engagement – State History
From Beginning Nonlapsing Balances ..... (282,000)
From Closing Nonlapsing Balances 297,700
Schedule of Programs:
Administration 25,500
Historic Preservation and Antiquities 221,500
History Projects and Grants 1,500
Library and Collections 46,700
Public History, Communication and Information ..... (279,500)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $650,000 of the General Fund provided by Item 79, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts – State History Division not lapse at the close of Fiscal Year 2023. These funds will be used for operations, application maintenance, projects, and community outreach.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 of the General Fund provided by Item 206, Chapter 300, Laws of Utah 2022 for the Department of Heritage and Arts - State History Division not lapse at the close of Fiscal Year 2023. These funds will be used for operations, application maintenance, projects, and community outreach.

Item 27
To Department of Cultural and Community Engagement - State Library
From Beginning Nonlapsing Balances ... 141,100
From Closing Nonlapsing Balances 731,500
Schedule of Programs:
Administration 94,300
Blind and Disabled 250,000
Bookmobile 84,300
Library Development 367,800
Library Resources 76,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,000,000 of the General Fund provided by Item 80, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts - Division of State Library not lapse at the close of Fiscal Year 2023. These funds will be used for operations, application maintenance, projects, and community outreach.

Item 28
To Department of Cultural and Community Engagement - Stem Action Center
From Beginning Nonlapsing Balances ... 699,800
From Lapsing Balance 202,200
Schedule of Programs:
STEM Action Center 198,600
STEM Action Center - Grades 6-8 703,400

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $4,000,000 of the General Fund provided by Item 81, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts - STEM Action Center Division not lapse at the close of Fiscal Year 2023. These funds will be used for contractual obligations and support.

Item 29
To Department of Cultural and Community Engagement - One Percent for Arts
From Beginning Nonlapsing Balances ... 734,700
From Closing Nonlapsing Balances ... (1,163,400)
Schedule of Programs:
One Percent for Arts ..... (428,700)

Item 30
To Department of Cultural and Community Engagement - Arts & Museums Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 65, Chapter 7, Laws of Utah 2022 and Item 209, Chapter 300, Laws of Utah 2022 for the Department of Heritage and Arts - Arts and Museums Grants not lapse at the close of Fiscal Year 2023. These funds will be used for contractual obligations and support.

Item 31
To Department of Cultural and Community Engagement - Capital Facilities Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 33, Chapter 193, Laws of Utah 2022 and Item 210, Chapter 300, Laws of Utah 2022 for the Department of Heritage and Arts - Capital Facilities Grants not lapse at the close of Fiscal Year 2023. These funds will be used for contractual obligations and support.

Item 32
To Department of Cultural and Community Engagement - Heritage & Events Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 67, Chapter 193, Laws of Utah 2022 and Item 211, Chapter 300, Laws of Utah 2022 for the Department of Heritage and Arts - Heritage and Events Grants not lapse at the close of Fiscal Year 2023. These funds will be used for contractual obligations and support.

Item 33
To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $100,000 of the General Fund provided by Item 22, Chapter 7, Laws of Utah 2022 for the Department of Heritage and Arts - Commission on Service and Volunteerism not lapse at the close of Fiscal Year 2023.

INSURANCE DEPARTMENT

Item 34
To Insurance Department - Health Insurance Actuary
From Beginning Nonlapsing Balances 87,800
From Closing Nonlapsing Balances ..... (87,800)

Item 35
To Insurance Department - Insurance Department Administration
From General Fund, One-Time ..... (12,500)
From Federal Funds, One-Time ..... (54,100)
From General Fund Restricted - Insurance Department Acct., One-Time 29,300
From Beginning Nonlapsing Balances ..... (575,700)
From Closing Nonlapsing Balances ..... (21,700)
Schedule of Programs:
Administration ..... (638,800)
Captive Insurers 23,200
Electronic Commerce Fee 42,200
Insurance Fraud Program ..... (61,300)

Item 36
To Insurance Department - Title Insurance Program
From Beginning Nonlapsing Balances ... (3,600)

From Closing Nonlapsing Balances 3,600

LABOR COMMISSION

Item 37
To Labor Commission
From General Fund, One-Time 19,400
From Beginning Nonlapsing Balances . . . . . (716,900)
From Closing Nonlapsing Balances 716,900
Schedule of Programs:
Administration 19,400

PUBLIC SERVICE COMMISSION

Item 38
To Public Service Commission
From Beginning Nonlapsing Balances . . . 303,300
From Closing Nonlapsing Balances . . . . (303,300)

UTAH STATE TAX COMMISSION

Item 39
To Utah State Tax Commission - License Plates Production
From Beginning Nonlapsing Balances . . . 974,800
From Closing Nonlapsing Balances . . . . (132,200)
Schedule of Programs:
License Plates Production 842,600

Item 40
To Utah State Tax Commission - Tax Administration
From General Fund, One-Time 24,100
Schedule of Programs:
Operations 24,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Tax Commission - Administration up to $1,000,000 not lapse at the close of FY 2023. The use of nonlapsing funds is limited to protecting and enhancing the State's tax and motor vehicle systems and processes; paying for mailed postcard reminders; continuing to protect the State's revenues from tax fraud, identity theft, and security intrusions; and litigation and related costs.

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

DEPARTMENT OF COMMERCE

Item 41
To Department of Commerce - Architecture Education and Enforcement Fund
From Beginning Fund Balance 31,600
From Closing Fund Balance . . . . . (31,600)

Item 42
To Department of Commerce - Consumer Protection Education and Training Fund

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to Commerce - Consumer Protection Education in Laws of Utah 2022 shall not lapse at the close of Fiscal Year 2023. The use of which is limited to standard division education, enforcement, and approved legislative purposes regarding the JUUL multi-state settlement funds, $1,820,000.

Item 43
To Department of Commerce - Cosmetologist/Barber, Esthetician, Electrologist Fund
From Beginning Fund Balance 4,400
From Closing Fund Balance . . . . . (4,400)

Item 44
To Department of Commerce - Land Surveyor/Engineer Education and Enforcement Fund
From Beginning Fund Balance . . . . . (36,400)
From Closing Fund Balance 36,400

Item 45
To Department of Commerce - Landscapes Architects Education and Enforcement Fund
From Beginning Fund Balance 6,100
From Closing Fund Balance . . . . . (6,000)
Schedule of Programs:
Landscapes Architects Education and Enforcement Fund 100

Item 46
To Department of Commerce - Physicians Education Fund
From Beginning Fund Balance 8,400
From Closing Fund Balance . . . . . (8,400)

Item 47
To Department of Commerce - Real Estate Education, Research, and Recovery Fund
From Beginning Fund Balance 64,300
From Closing Fund Balance . . . . . (76,000)
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund . . . . . (11,700)

Item 48
To Department of Commerce - Residence Lien Recovery Fund
From Beginning Fund Balance 145,100
From Closing Fund Balance . . . . . (145,100)

Item 49
To Department of Commerce - Residential Mortgage Loan Education, Research, and Recovery Fund
From Beginning Fund Balance 115,900
From Closing Fund Balance 84,100
Schedule of Programs:
RMLERR Fund 200,000

Item 50
To Department of Commerce - Securities Investor Education/Training/Enforcement Fund

From Beginning Fund Balance 303,000
From Closing Fund Balance ..... (303,000)

Item 51
To Department of Commerce - Electrician Education Fund
From Beginning Fund Balance ..... (21,300)
From Closing Fund Balance 21,300

Item 52
To Department of Commerce - Plumber Education Fund
From Beginning Fund Balance ..... (1,700)
From Closing Fund Balance 1,700

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 53
To Department of Cultural and Community Engagement - History Donation Fund
From Beginning Fund Balance 200
From Closing Fund Balance ..... (200)

Item 54
To Department of Cultural and Community Engagement - State Arts Endowment Fund
From Dedicated Credits Revenue, One-Time 23,500
From Beginning Fund Balance 7,100
From Closing Fund Balance ..... (14,100)
Schedule of Programs:
State Arts Endowment Fund 16,500

Item 55
To Department of Cultural and Community Engagement - State Library Donation Fund
From Interest Income, One-Time 100
From Beginning Fund Balance 2,800
From Closing Fund Balance ..... (2,900)

Item 56
To Department of Cultural and Community Engagement - Heritage and Arts Foundation Fund
From Beginning Fund Balance 755,000
Schedule of Programs:
Heritage and Arts Foundation Fund ... 755,000

INSURANCE DEPARTMENT

Item 57
To Insurance Department - Insurance Fraud Victim Restitution Fund
From Licenses/Fees, One-Time ..... (175,000)
From Beginning Fund Balance ..... (106,800)
Schedule of Programs:
Insurance Fraud Victim Restitution Fund ..... (281,800)

Item 58
To Insurance Department - Title Insurance Recovery Education and Research Fund
From Dedicated Credits Revenue, One-Time ..... (13,000)
From Beginning Fund Balance 77,700
From Closing Fund Balance ..... (64,700)

PUBLIC SERVICE COMMISSION

Item 59
To Public Service Commission - Universal Public Telecom Service
From Beginning Fund Balance 1,479,100
From Closing Fund Balance ..... (1,479,100)

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

LABOR COMMISSION

Item 60
To Labor Commission - Employers Reinsurance Fund
From Dedicated Credits Revenue, One-Time 14,300,000
From Interest Income, One-Time 1,534,000
From Premium Tax Collections, One-Time ..... (17,300,000)
From Trust and Agency Funds, One-Time 1,466,000
From Beginning Fund Balance ..... (10,801,100)
From Closing Fund Balance 10,801,100

Item 61
To Labor Commission - Uninsured Employers Fund
From Beginning Fund Balance ..... (6,618,700)
From Closing Fund Balance 6,618,700

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

Item 62
To Latino Community Support Restricted Account
From Dedicated Credits Revenue, One-Time ..... (12,500)
Schedule of Programs:
Latino Community Support Restricted Account ..... (12,500)

Item 63
To General Fund Restricted - Industrial Assistance Account
From Beginning Fund Balance 24,564,500
From Closing Fund Balance ..... (20,000,000)
Schedule of Programs:
General Fund Restricted - Industrial Assistance Account 4,564,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic

Opportunity – Industrial Assistance Account t in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations and support $25,000,000.

Item 64
To General Fund Restricted – Motion Picture Incentive Fund

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Motion Picture Incentive Account in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations and support $1,500,000.

Item 65
To General Fund Restricted – Tourism Marketing Performance Fund

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Tourism Marketing Performance in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to contractual obligations and support $22,822,200.

Item 66
To General Fund Restricted – Native American Repatriation Restricted Account
From Beginning Fund Balance ..... (20,000)
From Closing Fund Balance 50,000
Schedule of Programs:
General Fund Restricted – Native American Repatriation Restricted Account 30,000

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

LABOR COMMISSION

Item 67
To Labor Commission – Wage Claim Agency Fund
From Dedicated Credits Revenue, One-Time ..... (1,600,000)
From Trust and Agency Funds, One-Time 1,600,000
From Beginning Fund Balance ..... (659,800)
From Closing Fund Balance 659,800

Section 2. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 68
To Department of Alcoholic Beverage Services – DABS Operations
From Liquor Control Fund 78,976,900
Schedule of Programs:
Administration 1,118,400
Executive Director 5,107,600
Operations 4,196,700
Stores and Agencies 63,062,400
Warehouse and Distribution 5,491,800

Item 69
To Department of Alcoholic Beverage Services – Parents Empowered
From Liquor Control Fund 660,300
From General Fund Restricted – Underage Drinking Prevention Media and Education Campaign Restricted Account 2,684,500
Schedule of Programs:
Parents Empowered 3,344,800

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 70
To Governor's Office of Economic Opportunity – Administration
From General Fund 3,012,100
From Beginning Nonlapsing Balances ... 500,000
From Closing Nonlapsing Balances .... (500,000)
Schedule of Programs:
Administration 3,012,100

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Administration line item, whose mission is to "Enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures: 1) Finance processing: invoices and reimbursements will be processed and remitted for payment within five days (Target = 90%), 2) Contract processing efficiency: all contracts will be drafted within 14 days and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 93%), 3) Public and Community Relations – Increase development, dissemination, facilitation and support of media releases, media advisories, interviews, cultivated articles and executive presentations. (Target = 5%).

Item 71
To Governor's Office of Economic Opportunity - Business Development
From General Fund 9,577,500
From Federal Funds 702,400
From Dedicated Credits Revenue 978,800
From General Fund Restricted - Industrial Assistance Account 265,600
From Rural Opportunity Fund 2,250,000
From Beginning Nonlapsing Balances 5,000,000
Schedule of Programs:
Corporate Recruitment and Business Services 13,827,600
Outreach and International Trade ... 4,946,700

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Business Development line item, whose mission is to "grow the economy by identifying, nurturing, and closing proactive corporate recruitment opportunities and by providing robust business services to organizations throughout the state." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures: 1) Corporate Recruitment: increase year over year average wage by 5%. 2) Business services: increase the total number of businesses served by 4% per year. 3) Compliance: number of completed assessments/number of annual reports received, 60%.

Item 72
To Governor's Office of Economic Opportunity - Office of Tourism
From General Fund 4,628,000
From Transportation Fund 118,000
From Dedicated Credits Revenue 310,400
From General Fund Rest. - Motion Picture Incentive Acct. 1,459,600
From General Fund Restricted - Tourism Marketing Performance 22,822,800
From Beginning Nonlapsing Balances . 3,750,000
From Closing Nonlapsing Balances ... (3,000,000)
Schedule of Programs:
Administration 1,281,700
Film Commission 2,298,700
Marketing and Advertising 23,572,800
Operations and Fulfillment 2,935,600

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Office of Tourism report performance measures for the Tourism and Film line item, whose mission is to "promote Utah as a vacation destination to out-of-state travelers, generating state and local tax revenues to strengthen Utah's economy and to market the entire State Of Utah for film, television and commercial production by promoting the use of local professional cast & crew, support services, locations and the Motion Picture Incentive Program." The Utah Office of Tourism shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures: 1) Tourism Marketing Performance Account - Increase state sales tax revenues in weighted travel-related NAICS categories as outlined in Utah Code 63N-7-301 (Target = Revenue Growth over 3% or Consumer Price Index - whichever baseline is higher). 2) Film Commission Metric - Increase film production spending in Utah (Target = 5%).

Item 73
To Governor's Office of Economic Opportunity - Pass-Through
From General Fund 1,495,200
From Dedicated Credits Revenue 246,600
Schedule of Programs:
Pass-Through 1,741,800

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Pass-through line item, whose mission is to "enhance quality of life by increasing and diversifying Utahs revenue base and improving employment opportunities." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures: 1) Contract processing efficiency: all contracts will be drafted within 14 days following submission of vendor data , including scope of work, into the Salesforce system by the intended recipient. (Target = 95%), 2) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

Item 74
To Governor's Office of Economic Opportunity - Rural Employment Expansion Program

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Rural Employment Expansion Program line item, whose mission is to "partner growing companies statewide with a quality workforce in rural Utah." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the

department shall report on the following performance measure: (1) Business development: Increase state-wide business participation in program (Target = 5%).

Item 75
To Governor's Office of Economic Opportunity - Rural Coworking and Innovation Center Grant Program

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Rural Coworking and Innovation Center Grant Program line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures: (1) Program Efficiency: Award the total legislative appropriation for fiscal year. (Target = 100%) (2) Assessment: Completed projects will be assessed against scope of work and budget. (Target = 100%). (3) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

Item 76
To Governor's Office of Economic Opportunity - Inland Port Authority
From General Fund 3,179,400
Schedule of Programs:
Inland Port Authority 3,179,400

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Inland Port Authority line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures: (1) Finance & Budget: Accounting standards will be in compliance with state regulations and guidance set forth by the State Auditors Office; budget reports will be made quarterly and maintain board approved balances. (Target = 98%). (2) Business Development: Report on business development in targeted areas to focus needs in all counties 29 counties across the state. (Target = 24). (3) Communications: Actively respond to requests via webpage for information, comments, or other purposes. (Target = 95%).

Item 77
To Governor's Office of Economic Opportunity - Point of the Mountain Authority
From General Fund 1,750,100
Schedule of Programs:
Point of the Mountain Authority 1,750,100

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Point of the Mountain Authority line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures for: (1) Engage a planning team to develop the framework master plan for The Point by June 30, 2023. (2) Conduct a process to gather input on the proposed master plan from the Working Groups, key stakeholders, and the public by June 30, 2023. (3) Create a process to evaluate development proposals from outside parties for The Point by June 30, 2023.

Item 78
To Governor's Office of Economic Opportunity - Rural Opportunity Program
From General Fund 6,550,000
From Beginning Nonlapsing Balances ... 500,000
Schedule of Programs:
Rural Opportunity Program 7,050,000

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Rural Opportunities Grants Program line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures for FY 2023: (1) Draft and send all pass through contracts for signature within 14 days following submission of vendor data including scope of work, 95%. (2) Process and remit invoices for payment within five days, 90%.

Item 79
To Governor's Office of Economic Opportunity - Economic Assistance Grants

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Economic Assistance Grants line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures: 1) Contract processing efficiency: all contracts will be drafted within 14 days following submission of vendor data, including scope of work, into the Salesforce system by the intended recipient. (Target = 95%), 2) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

Item 80

To Governor's Office of Economic Opportunity - GOUTAH Economic Assistance Grants
From General Fund 16,240,200
Schedule of Programs:
Pass-Through Grants 11,740,200
Competitive Grants 4,500,000

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Economic Assistance Grants line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures: 1) Contract processing efficiency: all contracts will be drafted within 14 days following submission of vendor data, including scope of work, into the Salesforce system by the intended recipient. (Target = 95%), 2) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

The Legislature intends that the Governor's Office of Economic Opportunity use ongoing appropriations provided by this item to grant $300,000 for the Northern Economic Alliance, $67,500 for the Pete Suazo Center for Business Development and Entrepreneurship, $2,800,000 for the Utah Industry Resource Alliance, $798,200 for the Utah Small Business Development Center, $912,500 for the World Trade Center Utah, and $4,060,000 for the Utah Sports Commission.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 81

To Department of Cultural and Community Engagement - Administration
From General Fund 10,084,500
From Federal Funds 100
From Dedicated Credits Revenue 193,500
From General Fund Restricted - Martin Luther King Jr Civil Rights Support Restricted Account 7,500
From Beginning Nonlapsing Balances 1,151,900
From Closing Nonlapsing Balances ... (5,556,000)
From Lapsing Balance ..... (7,500)
Schedule of Programs:
Administrative Services 3,239,600
Executive Director's Office 614,600
Information Technology 1,230,400
Utah Multicultural Affairs Office 789,400

Item 82

To Department of Cultural and Community Engagement - Division of Arts and Museums
From General Fund 3,436,700
From Federal Funds 924,100
From Dedicated Credits Revenue 129,500
From Beginning Nonlapsing Balances ... 211,000
From Closing Nonlapsing Balances ..... (88,800)
Schedule of Programs:
Administration 751,300
Community Arts Outreach 2,148,400
Grants to Non-profits 1,396,600
Museum Services 316,200

Item 83

To Department of Cultural and Community Engagement - Commission on Service and Volunteerism
From General Fund 449,800
From Federal Funds 4,941,700
From Dedicated Credits Revenue 38,100
Schedule of Programs:
Commission on Service and Volunteerism 5,429,600

Item 84

To Department of Cultural and Community Engagement - Historical Society
From Dedicated Credits Revenue 125,100
From Beginning Nonlapsing Balances 93,300
From Closing Nonlapsing Balances ..... (93,300)
Schedule of Programs:
State Historical Society 125,100

Item 85

To Department of Cultural and Community Engagement - Indian Affairs
From General Fund 532,300
From Dedicated Credits Revenue 59,300
From General Fund Restricted - Native American Repatriation 61,200
From Beginning Nonlapsing Balances ... 455,100
From Closing Nonlapsing Balances .... (195,100)
From Lapsing Balance ..... (41,200)
Schedule of Programs:
Indian Affairs 871,600

Item 86
To Department of Cultural and Community Engagement – Pass-Through
From Gen. Fund Rest. – Humanitarian Service Rest. Acct 6,000
From General Fund Restricted – National Professional Men's Soccer Team Support of Building Communities 100,000
Schedule of Programs:
Pass-Through 106,000

Item 87
To Department of Cultural and Community Engagement – State History
From General Fund 3,751,200
From Federal Funds 1,294,000
From Dedicated Credits Revenue 631,800
From Beginning Nonlapsing Balances 1,032,800
From Closing Nonlapsing Balances .... (956,500)
Schedule of Programs:
Administration 657,100
Historic Preservation and Antiquities 3,010,200
History Projects and Grants 130,900
Library and Collections 825,300
Public History, Communication and Information 774,500
Main Street Program 355,300

Item 88
To Department of Cultural and Community Engagement – State Library
From General Fund 3,926,300
From Federal Funds 1,915,200
From Dedicated Credits Revenue 1,957,400
From Revenue Transfers 150,000
From Beginning Nonlapsing Balances ... 306,900
From Closing Nonlapsing Balances .... (273,700)
Schedule of Programs:
Administration 680,500
Blind and Disabled 2,116,500
Bookmobile 1,090,300
Library Development 2,045,300
Library Resources 2,049,500

Item 89
To Department of Cultural and Community Engagement – Stem Action Center
From General Fund 10,674,900
From Federal Funds 285,900
From Dedicated Credits Revenue 256,700
Schedule of Programs:
STEM Action Center 2,162,500
STEM Action Center – Grades 6-8 .. 9,055,000

Item 90
To Department of Cultural and Community Engagement – One Percent for Arts
From Pass-through 500,000
From Beginning Nonlapsing Balances 2,105,000
From Closing Nonlapsing Balances ... (1,890,700)
Schedule of Programs:
One Percent for Arts 714,300

Item 91
To Department of Cultural and Community Engagement – Arts & Museums Grants
From General Fund 7,497,500
Schedule of Programs:
Pass Through Grants 1,497,500
Competitive Grants 6,000,000

The Legislature intends that the Department of Cultural and Community Engagement use ongoing appropriations provided by this item to grant $350,000 to the Utah Shakespeare Festival and $170,000 for Utah Humanities.

Item 92
To Department of Cultural and Community Engagement – Heritage & Events Grants
From General Fund 2,905,700
From Income Tax Fund 50,000
Schedule of Programs:
Pass Through Grants 955,700
Competitive Grants 2,000,000

The Legislature intends that the Department of Cultural and Community Engagement use ongoing appropriations provided by this item to grant $45,000 for the Larry H. Miller Summer Games, $180,000 for Warriors over the Wasatch/Hill Airforce Base Show, $200,000 for the Days of 47 Rodeo, $45,000 to the Utah Sports Commission for the Utah Championship, and $100,000 for America's Freedom Festival in Provo.

Item 93
To Department of Cultural and Community Engagement – Pete Suazo Athletics Commission
From General Fund 186,500
From Dedicated Credits Revenue 74,000
Schedule of Programs:
Pete Suazo Athletics Commission 260,500

INSURANCE DEPARTMENT

Item 94
To Insurance Department – Bail Bond Program
From General Fund Restricted – Bail Bond Surety Administration 44,200
Schedule of Programs:
Bail Bond Program 44,200

Item 95
To Insurance Department – Health Insurance Actuary
From General Fund Rest. – Health Insurance Actuarial Review 213,300
From Beginning Nonlapsing Balances ... 298,000
From Closing Nonlapsing Balances .... (232,100)
Schedule of Programs:
Health Insurance Actuary 279,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Insurance report performance measures for the Insurance – Health Insurance Actuary line item, whose mission is to "protect the financial security of people and businesses in Utah." The Department of Insurance shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the

following performance measures: 1) timeliness of processing rate filings (Target = 75% within 45 days).

Item 96

To Insurance Department - Insurance Department Administration
From Dedicated Credits Revenue 8,900
From General Fund Restricted - Captive Insurance 1,463,800
From General Fund Restricted - Criminal Background Check 165,000
From General Fund Restricted - Guaranteed Asset Protection Waiver 129,100
From General Fund Restricted - Insurance Department Acct. 10,014,500
From General Fund Rest. - Insurance Fraud Investigation Acct. 2,550,600
From General Fund Restricted - Relative Value Study Account 119,000
From General Fund Restricted - Technology Development 635,700
From Beginning Nonlapsing Balances 2,617,300
From Closing Nonlapsing Balances ... (1,693,600)
Schedule of Programs:
Administration 10,332,200
Captive Insurers 1,510,000
Criminal Background Checks 175,000
Electronic Commerce Fee 965,000
GAP Waiver Program 129,100
Insurance Fraud Program 2,780,000
Relative Value Study 119,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Insurance report performance measures for the Insurance Administration line item, whose mission is to "protect the financial security of people and businesses in Utah." The Department of Insurance shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) timeliness of processing work product (Target = 75% within 45 days); 2) timeliness of resident licenses processed (Target = 75% within 15 days); 3) increase the number of certified examination and captive auditors to include Accredited Financial Examiners and Certified Financial Examiners (Target = 25% increase); 4) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

Item 97

To Insurance Department - Title Insurance Program
From General Fund Rest. - Title Licensee Enforcement Acct. 136,400
From Beginning Nonlapsing Balances ... 101,600
From Closing Nonlapsing Balances ..... (78,000)
Schedule of Programs:
Title Insurance Program 160,000

LABOR COMMISSION

Item 98

To Labor Commission
From General Fund 7,450,000
From Federal Funds 3,265,600
From Dedicated Credits Revenue 119,800
From Employers' Reinsurance Fund 88,200
From General Fund Restricted - Industrial Accident Account 3,779,900
From Trust and Agency Funds 2,800
From General Fund Restricted - Workplace Safety Account 1,700,000
Schedule of Programs:
Adjudication 1,592,900
Administration 2,474,500
Antidiscrimination and Labor 2,433,600
Boiler, Elevator and Coal Mine Safety Division 1,909,200
Building Operations and Maintenance 216,700
Industrial Accidents 2,276,400
Utah Occupational Safety and Health 4,275,700
Workplace Safety 1,227,300

In accordance with UCA 63J-1-903, the Legislature intends that the Labor Commission report performance measures for the Labor Commission line item, whose mission is to "achieve safety in Utah's workplaces and fairness in employment and housing." The Labor Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures: (1) Percentage of workers compensation decisions by the Division of Adjudication within 60 days of the date of the hearing (Target-100%), (2) Percentage of decisions issued on motions for review within 90 days of the date the motion was filed (Target-100%), (3) Percentage of UOSH citations issued within 45 days of the date of the opening conference (Target-90%) (4) Number and percentage of elevator units that are overdue for inspection (Target-0%), (5) Percentage of the improvement over baseline of the number of employers determined to be in compliance with the state requirement for workers compensation insurance coverage (Target-25%), (6) Percentage of employment discrimination cases completed within 180 days of the date the complaint was filed (Target-70%).

PUBLIC SERVICE COMMISSION

Item 99

To Public Service Commission
From Dedicated Credits Revenue 600
From General Fund Restricted - Public Utility Restricted Acct. 2,762,400
From Revenue Transfers 11,600
From Beginning Nonlapsing Balances 1,230,000

From Closing Nonlapsing Balances .... (892,800)
Schedule of Programs:
Administration 3,072,900
Building Operations and Maintenance 38,900

In accordance with UCA 63J-1-903, the Legislature intends that the Public Service Commission report performance measures for the Administration line item, whose mission is "to provide balanced regulation ensuring safe, reliable, adequate, and reasonably priced utility service." The Public Service Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on: (1) Electric or natural gas rate changes within a fiscal year not consistent or comparable with other states served by the same utility (Target = 0); (2) Number of appellate court cases within a fiscal year modifying or reversing Public Service Commission decisions (Target = 0); (3) Number, within a fiscal year, of financial sector analyses of Utah's public utility regulatory climate resulting in an unfavorable or unbalanced assessment (Target= 0).

UTAH STATE TAX COMMISSION

Item 100
To Utah State Tax Commission - License Plates Production
From Dedicated Credits Revenue 4,830,900
From Beginning Nonlapsing Balances ... 750,500
From Closing Nonlapsing Balances .... (825,500)
Schedule of Programs:
License Plates Production 4,755,900

Item 101
To Utah State Tax Commission - Liquor Profit Distribution
From General Fund Restricted - Alcoholic Beverage Enforcement and Treatment Account 7,125,800
Schedule of Programs:
Liquor Profit Distribution 7,125,800

Item 102
To Utah State Tax Commission - Rural Health Care Facilities Distribution
From General Fund Restricted - Rural Healthcare Facilities Acct 218,900
Schedule of Programs:
Rural Health Care Facilities Distribution 218,900

Item 103
To Utah State Tax Commission - Tax Administration
From General Fund 32,064,200
From Income Tax Fund 25,624,100
From Transportation Fund 5,857,400
From Federal Funds 676,100
From Dedicated Credits Revenue 8,801,700
From General Fund Restricted - Electronic Payment Fee Rest. Acct .. 8,909,700
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account . 4,849,900
From General Fund Rest. - Sales and Use Tax Admin Fees 13,179,600
From General Fund Restricted - Tobacco Settlement Account 18,500
From Revenue Transfers 190,600
From Uninsured Motorist Identification Restricted Account 151,600
From Beginning Nonlapsing Balances 1,000,000
From Closing Nonlapsing Balances ... (1,000,000)
Schedule of Programs:
Operations 24,403,900
Tax and Revenue 21,188,300
Customer Service 37,762,300
Property and Miscellaneous Taxes ... 8,893,200
Enforcement 8,075,700

In accordance with UCA 63J-1-903, the Legislature intends that the Tax Commission report performance measures for the Tax Administration line item, whose mission is "to promote tax and motor vehicle law compliance." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Motor Vehicle Office Service in 20 minutes or less (Target = 94%), 2) Percentage of Tax Returns Processed Electronically (Target = 81%), and 3) Percentage of Closed Delinquent Accounts from Assigned Inventory (Target = 5%).

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 104
To Governor's Office of Economic Opportunity - Transient Room Tax Fund
From Revenue Transfers 1,384,900
Schedule of Programs:
Transient Room Tax Fund 1,384,900

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 105
To Department of Cultural and Community Engagement - History Donation Fund
From Dedicated Credits Revenue 2,600
From Interest Income 1,500
From Beginning Fund Balance 270,500

From Closing Fund Balance ..... (274,600)

Item 106
To Department of Cultural and Community Engagement - State Arts Endowment Fund
From Dedicated Credits Revenue 23,500
From Interest Income 2,000
From Beginning Fund Balance 420,000
From Closing Fund Balance ..... (429,000)
Schedule of Programs:
State Arts Endowment Fund 16,500

Item 107
To Department of Cultural and Community Engagement - State Library Donation Fund
From Interest Income 4,200
From Beginning Fund Balance 1,223,600
From Closing Fund Balance ..... (1,227,800)

Item 108
To Department of Cultural and Community Engagement - Heritage and Arts Foundation Fund
From Dedicated Credits Revenue 500,000
Schedule of Programs:
Heritage and Arts Foundation Fund ... 500,000

INSURANCE DEPARTMENT

Item 109
To Insurance Department - Insurance Fraud Victim Restitution Fund
From Licenses/Fees 250,000
From Beginning Fund Balance 100,000
Schedule of Programs:
Insurance Fraud Victim Restitution Fund 350,000

Item 110
To Insurance Department - Title Insurance Recovery Education and Research Fund
From Dedicated Credits Revenue 35,000
From Beginning Fund Balance 621,100
From Closing Fund Balance ..... (560,300)
Schedule of Programs:
Title Insurance Recovery Education and Research Fund 95,800

PUBLIC SERVICE COMMISSION

Item 111
To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits Revenue 16,506,000
From Beginning Fund Balance 9,499,500
From Closing Fund Balance 849,000
Schedule of Programs:
Universal Public Telecommunications Service Support 26,854,500

In accordance with UCA 63J-1-903, the Legislature intends that the Public Service Commission report performance measures for the Universal Telecommunications Support Fund line item, whose mission is to "provide balanced regulation ensuring safe, reliable, adequate, and reasonably priced utility service." The Public Service Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on: (1) Number of months within a fiscal year during which the Fund did not maintain abalance equal to at least three months of fund payments (Target= 0); (2) Number of times a change to the fund surcharge occurred more than once every three fiscal years (Target = 0); (3) Total adoption and usage of Telecommunications Relay Service and Caption Telephone Service within a fiscal year (Target = 30,000).

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 112
To Department of Alcoholic Beverage Services - State Store Land Acquisition Fund
From Beginning Fund Balance 5,000,000
From Closing Fund Balance ..... (5,000,000)

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 113
To Governor's Office of Economic Opportunity - Rural Opportunity Fund
From General Fund 2,250,000
Schedule of Programs:
Rural Opportunity Fund 2,250,000

Item 114
To Governor's Office of Economic Opportunity - State Small Business Credit Initiative Program Fund
From Interest Income 123,600
From Beginning Fund Balance 4,222,000
From Closing Fund Balance ..... (4,345,600)

LABOR COMMISSION

Item 115
To Labor Commission - Employers Reinsurance Fund
From Dedicated Credits Revenue 17,300,000
From Interest Income 3,000,000
From Trust and Agency Funds 1,466,000
Schedule of Programs:
Employers Reinsurance Fund 21,766,000

Item 116
To Labor Commission - Uninsured Employers Fund
From Dedicated Credits Revenue 5,046,500
From Interest Income 102,500
From Premium Tax Collections 1,350,900

From Trust and Agency Funds 17,400
From Beginning Fund Balance 8,433,400
From Closing Fund Balance ..... (8,433,400)
Schedule of Programs:
Uninsured Employers Fund 6,517,300

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 117
To General Fund Restricted – Industrial Assistance Account
From General Fund 250,000
From Beginning Fund Balance 20,000,000
Schedule of Programs:
General Fund Restricted – Industrial Assistance Account 20,250,000

Item 118
To General Fund Restricted – Motion Picture Incentive Fund
From General Fund 1,420,500
Schedule of Programs:
General Fund Restricted – Motion Picture Incentive Fund 1,420,500

Item 119
To General Fund Restricted – Tourism Marketing Performance Fund
From General Fund 22,822,800
Schedule of Programs:
General Fund Restricted – Tourism Marketing Performance 22,822,800

Item 120
To General Fund Restricted – Native American Repatriation Restricted Account
From General Fund 10,000
From Beginning Fund Balance 90,000
From Closing Fund Balance ..... (90,000)
Schedule of Programs:
General Fund Restricted – Native American Repatriation Restricted Account 10,000

Item 121
To General Fund Restricted – Rural Health Care Facilities Fund
From General Fund 218,900
Schedule of Programs:
General Fund Restricted – Rural Health Care Facilities Fund 218,900

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

LABOR COMMISSION

Item 122
To Labor Commission – Wage Claim Agency Fund
From Trust and Agency Funds 1,600,000
From Beginning Fund Balance 22,353,500
From Closing Fund Balance ..... (23,013,300)
Schedule of Programs:
Wage Claim Agency Fund 940,200

Section 3. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF COMMERCE

Item 123
To Department of Commerce – Building Inspector Training
From Dedicated Credits Revenue 836,000
From Beginning Nonlapsing Balances ... 851,800
From Closing Nonlapsing Balances .... (414,900)
Schedule of Programs:
Building Inspector Training 1,272,900

Item 124
To Department of Commerce – Commerce General Regulation
From Federal Funds 445,700
From Dedicated Credits Revenue 1,568,000
From General Fund Restricted – Commerce Service Account 33,111,800
From General Fund Restricted – Factory Built Housing Fees 110,000
From Gen. Fund Rest. – Geologist Education and Enforcement 21,500
From Gen. Fund Rest. – Latino Community Support Rest. Acct 12,500
From Gen. Fund Rest. – Nurse Education & Enforcement Acct. 52,800
From General Fund Restricted – Pawnbroker Operations 149,100
From General Fund Restricted – Public Utility Restricted Acct. 6,311,400
From Revenue Transfers 1,032,400
From General Fund Restricted – Utah Housing Opportunity Restricted 20,400
From Pass-through 140,200
From Beginning Nonlapsing Balances ... 600,000
From Closing Nonlapsing Balances .... (400,000)
Schedule of Programs:
Administration 8,589,600
Building Operations and Maintenance 374,700
Consumer Protection 2,720,900
Corporations and Commercial Code 4,501,200
Occupational and Professional Licensing 13,580,500
Office of Consumer Services 1,488,100
Public Utilities 5,407,900
Real Estate 2,671,300
Securities 3,841,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of

Commerce report performance measures for the Commerce General Regulation line item, whose mission is "to protect the public interest by ensuring fair commercial and professional practices." The Department of Commerce shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For 2024, the department shall report the following performance measures: 1) Increase the percentage of licensees and registrations department-wide who choose to file online in conjunction with new online registration options (Target = 50% adoption rate in first two years). 2) Increase the overall searches within the Controlled Substance Database by enhancing the functionality of the database and providing outreach (Target = 5% increase in the number of controlled substance database searches by providers and enforcement) 3) Increase the percentage of licensees and registrants ware given online reminders to renew their license or registration instead of mailed reminders (Target = 20% increase).

Item 125

To Department of Commerce - Office of Consumer Services Professional and Technical Services
From General Fund Restricted - Public Utility Restricted Acct. 504,100
From Beginning Nonlapsing Balances 3,210,500
From Closing Nonlapsing Balances .... (504,100)
Schedule of Programs:
Professional and Technical Services 3,210,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report performance measures for the Office of Consumer Services Professional and Technical Services line item, whose mission is to "assess the impact of utility regulatory actions and advocate positions advantageous to residential, small commercial, and irrigation consumers of natural gas, electric and telephone public utility service." The Department of Commerce shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Evaluate total "dollars at stake" in the individual rate cases or other utility regulatory actions to ensure that this fund is hiring contract experts in cases that overall have high potential dollar impact on customers. (Target = 10%, i.e. total dollars spent on contract experts will not exceed 10% of the annual potential dollar impact of the utility actions.), 2) The premise of having a state agency advocate for small utility customers is that for each individual customer the impact of a utility action might be small, but in aggregate the impact is large. To ensure that contract experts are used in cases that impact large numbers of small customers, consistent with the vision for this line item, the dollars spent per each instance of customer impact could be measured. (Target = less than ten cents per customer impact.)

Item 126

To Department of Commerce - Public Utilities Professional and Technical Services
From General Fund Restricted - Public Utility Restricted Acct. 151,400
From Beginning Nonlapsing Balances ... 150,000
From Closing Nonlapsing Balances .... (150,000)
Schedule of Programs:
Professional and Technical Services ... 151,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report performance measures for the Public Utilities Professional and Technical Services line item, whose mission is to "retain professional and technical consultants to augment division staff expertise in energy rate cases." The Department of Commerce shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall the following performance measures: 1) contract with industry professional consultants who possess expertise that the Division of Public Utilities requires for rate and revenue discussion and analysis of regulated utilities (Target = A fraction of consultant dollars spent vs. the projected cost of having full time employees with the extensive expertise needed on staff to complete the consultant work target of 40% average savings.)

FINANCIAL INSTITUTIONS

Item 127

To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions 8,778,700
Schedule of Programs:
Administration 8,458,700
Building Operations and Maintenance 320,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Financial Institutions report performance measures for the Financial Institutions Administration line item, whose mission is to "charter, regulate, and supervise persons, firms, organizations, associations, and other business entities furnishing financial services to the citizens of the state of Utah." The Department of Financial Institutions shall report to the Office of the Legislative

Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report on the following performance measures: (1) Depository Institutions not on the Department's "Watched Institutions" list (Target = 80.0%), (2) Number of Safety and Soundness Examinations (Target =Equal to the number of depository institutions chartered at the beginning of the fiscal year), and (3) Total Assets Under Supervision, Per Examiner (Target = $3.8 billion).

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF COMMERCE

Item 128
To Department of Commerce –
Architecture Education and Enforcement Fund
From Licenses/Fees 3,000
From Beginning Fund Balance 87,600
From Closing Fund Balance ..... (75,600)
Schedule of Programs:
Architecture Education and Enforcement Fund 15,000

Item 129
To Department of Commerce – Consumer Protection Education and Training Fund
From Licenses/Fees 262,500
From Beginning Fund Balance 500,000
From Closing Fund Balance ..... (500,000)
Schedule of Programs:
Consumer Protection Education and Training Fund 262,500

Item 130
To Department of Commerce –
Cosmetologist/Barber, Esthetician, Electrologist Fund
From Licenses/Fees 57,400
From Interest Income 1,000
From Beginning Fund Balance 36,300
From Closing Fund Balance ..... (4,100)
Schedule of Programs:
Cosmetologist/Barber, Esthetician, Electrologist Fund 90,600

Item 131
To Department of Commerce –
Land Surveyor/Engineer Education and Enforcement Fund
From Licenses/Fees 9,000
From Beginning Fund Balance 52,400
From Closing Fund Balance ..... (30,000)
Schedule of Programs:
Land Surveyor/Engineer Education and Enforcement Fund 31,400

Item 132
To Department of Commerce – Landscapes Architects Education and Enforcement Fund
From Licenses/Fees 4,100
From Beginning Fund Balance 21,800
From Closing Fund Balance ..... (20,900)
Schedule of Programs:
Landscapes Architects Education and Enforcement Fund 5,000

Item 133
To Department of Commerce –
Physicians Education Fund
From Dedicated Credits Revenue 1,200
From Licenses/Fees 22,000
From Beginning Fund Balance 95,500
From Closing Fund Balance ..... (93,700)
Schedule of Programs:
Physicians Education Fund 25,000

Item 134
To Department of Commerce – Real Estate Education, Research, and Recovery Fund
From Dedicated Credits Revenue 141,200
From Beginning Fund Balance 456,000
From Closing Fund Balance ..... (135,700)
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 461,500

Item 135
To Department of Commerce –
Residence Lien Recovery Fund
From Dedicated Credits Revenue 20,000
From Licenses/Fees 30,000
From Beginning Fund Balance 492,600
From Closing Fund Balance ..... (42,600)
Schedule of Programs:
Residence Lien Recovery Fund 500,000

Item 136
To Department of Commerce –
Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 161,900
From Interest Income 10,800
From Beginning Fund Balance 917,700
From Closing Fund Balance ..... (699,100)
Schedule of Programs:
RMLERR Fund 391,300

Item 137
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 206,900
From Beginning Fund Balance 310,200
From Closing Fund Balance ..... (232,400)
Schedule of Programs:
Securities Investor Education/Training/ Enforcement Fund 284,700

Item 138
To Department of Commerce –
Electrician Education Fund
From Licenses/Fees 28,800
From Beginning Fund Balance 62,600
From Closing Fund Balance ..... (62,600)
Schedule of Programs:
Electrician Education Fund 28,800

Item 139
To Department of Commerce – Plumber Education Fund
From Licenses/Fees 11,500
From Beginning Fund Balance 24,300
From Closing Fund Balance ..... (24,300)
Schedule of Programs:
Plumber Education Fund 11,500

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2023.

CHAPTER 5
H. B. 6
Passed January 26, 2023
Approved February 2, 2023
Effective May 3, 2023

INFRASTRUCTURE AND GENERAL GOVERNMENT BASE BUDGET

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $189,136,000 in operating and capital budgets for fiscal year 2023, including:

- $84,400 from the General Fund; and
- $189,051,600 from various sources as detailed in this bill.

This bill appropriates $11,631,900 in expendable funds and accounts for fiscal year 2023.

This bill appropriates $76,378,400 in business-like activities for fiscal year 2023, including:

- ($684,000) from the General Fund; and
- $77,062,400 from various sources as detailed in this bill.

This bill appropriates ($3,294,000) in restricted fund and account transfers for fiscal year 2023.

This bill appropriates $114,949,300 in capital project funds for fiscal year 2023, including:

- $25,000,000 from the General Fund; and
- $89,949,300 from various sources as detailed in this bill.

This bill appropriates $3,404,714,800 in operating and capital budgets for fiscal year 2024, including:

- $184,965,100 from the General Fund;
- $150,016,800 from the Income Tax Fund; and
- $3,069,732,900 from various sources as detailed in this bill.

This bill appropriates $36,961,300 in expendable funds and accounts for fiscal year 2024.

This bill appropriates $357,653,700 in business-like activities for fiscal year 2024.

This bill appropriates $366,000 in restricted fund and account transfers for fiscal year 2024, including:

- $3,660,000 from the General Fund; and
- ($3,294,000) from various sources as detailed in this bill.

This bill appropriates $1,806,907,100 in capital project funds for fiscal year 2024, including:

- $2,077,400 from the General Fund;
- $120,000,000 from the Income Tax Fund; and
- $1,684,829,700 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2023.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

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

CAREER SERVICE REVIEW OFFICE

Item 1

To Career Service Review Office
From Beginning Nonlapsing Balances 30,000
From Closing Nonlapsing Balances ..... (30,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Career Service Review Office in Item 1, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to grievance resolution: $30,000.

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 2

To Utah Education and Telehealth Network - Digital Teaching and Learning Program
From Beginning Nonlapsing Balances ... 296,300
From Closing Nonlapsing Balances .... (231,500)
Schedule of Programs:
Digital Teaching and Learning Program 64,800

Item 3

To Utah Education and Telehealth Network
From Beginning Nonlapsing Balances 19,778,200
From Closing Nonlapsing Balances ..... (16,013,200)
Schedule of Programs:
Administration ..... (241,500)
Course Management Systems ..... (395,100)
Instructional Support ..... (920,800)
KUEN Broadcast 34,500
Technical Services 5,030,400

Utah Telehealth Network 257,500

The Legislature intends that the appropriations by this line item from the American Rescue Plan Act Capital Projects Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021 Capital Projects fund after the Grant Plan has been approved by the U.S. Department of the Treasury. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 4
To Department of Government Operations – Administrative Rules
From Beginning Nonlapsing Balances 97,000
From Closing Nonlapsing Balances 208,100
Schedule of Programs:
DAR Administration 305,100

Item 5
To Department of Government Operations – DFCM Administration
From Beginning Nonlapsing Balances ... 206,300
From Closing Nonlapsing Balances .... (731,100)
Schedule of Programs:
DFCM Administration ..... (513,100)
Energy Program ..... (11,700)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DFCM Administration in Item 6, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to information technology projects, customer service, optimization efficiency projects, time-limited FTE's, and Governor's Mansion maintenance: $1,500,000; and Energy Program operations $200,000.

The Legislature intends that DFCM Administration add up to 5 vehicles for Project Management staff to provide services to customers in FY 2023.

Item 6
To Department of Government Operations – Executive Director
From General Fund, One-Time 24,300
From Beginning Nonlapsing Balances ... (1,500)
From Closing Nonlapsing Balances 1,500
Schedule of Programs:
Executive Director 24,300

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $390,000 of appropriations provided for the Executive Director line item in Item 6, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: general operations of the Executive Directors Office $125,000; capital improvements/maintenance, DP software, and equipment $75,000; leadership training $50,000; website maintenance $100,000; and internal auditing $40,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $375,000 of appropriations provided for the Executive Director line item in Item 30, Chapter 193, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to general operations of the Executive Director Office and contract expenses for the ISF audit and implementation of consultant recommendations.

Item 7
To Department of Government Operations – Finance – Mandated
From General Fund, One-Time ..... (644,800)
From Closing Nonlapsing Balances ... (3,916,200)
Schedule of Programs:
State Employee Benefits ..... (4,561,000)

The Legislature intends that FY 2020, FY 2021, or FY 2022 or FY 2023 appropriations from Federal Funds – Coronavirus Relief Fund or Federal Funds – American Rescue Plan remain available for expenditure in future fiscal years until all funds are expended or the period of availability has ended. This authorization to make expenditures in future fiscal years fulfills the Legislative review and approval of certain federal funds requests as required under 63J-5-204.

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distributes the excess deposits according to the formula provided in UCA 53C-3-203(4).

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $4,000,000 of appropriations provided for the Autism Amendments program in the Division of Finance Mandated line item in Item 54, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to autism services provided.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Ethics Commission in Item 8, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to Ethics Commission investigations and Commission and staff expenses: $120,000.

The Legislature intends that, if the amount available in the Mineral Bonus Account from payments deposited in the previous fiscal year exceeds the amount appropriated, the Division of Finance distribute the excess according to the formula provided in UCA 59-21-2(1).

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to

$5,000,000 of appropriations provided for the Division of Finance Mandated line item in Item 149, Chapter 300, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to fund the allocation to the Public Lands Litigation appropriations unit contingent on EAC approval.

Item 8
To Department of Government Operations – Finance – Mandated – Ethics Commissions
From Beginning Nonlapsing Balances 6,400
From Closing Nonlapsing Balances ..... (11,800)
Schedule of Programs:
Executive Branch Ethics Commission .. (1,300)
Political Subdivisions Ethics Commission ..... (4,100)

Item 9
To Department of Government Operations – Finance Administration
From Beginning Nonlapsing Balances ... 233,000
From Closing Nonlapsing Balances ... (2,389,400)
Schedule of Programs:
Finance Director's Office ..... (137,200)
Financial Information Systems ..... (2,456,600)
Financial Reporting 438,100
Payables/Disbursing 48,400
Payroll ..... (6,400)
Technical Services ..... (42,700)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $3,400,000 appropriations provided for the Finance Administration line item in Item 9, Chapter 8, Laws of Utah 2022 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to maintenance and operation of statewide systems $2,650,000; websites $100,000; training $150,000; professional services and studies $200,000; computer replacement $50,000; and costs associated with federal funds accountability $250,000.

Item 10
To Department of Government Operations – Inspector General of Medicaid Services

Under terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 appropriations provided for the Inspector General of Medicaid Services line item in Item 10, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: additional staff $100,000; training $15,000; travel $10,000; and case management system $375,000.

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional $60,000 of the states share of Medicaid collections during FY 2024 to pay the Office of the Attorney General for the state costs of the one attorney FTE that the Office of the Inspector General is using.

Item 11
To Department of Government Operations – Judicial Conduct Commission
From Beginning Nonlapsing Balances 10,800
From Closing Nonlapsing Balances ..... (16,700)
Schedule of Programs:
Judicial Conduct Commission ..... (5,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $100,000 of appropriations provided for Judicial Conduct Commission line item in Item 11, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to professional services for investigations.

Item 12
To Department of Government Operations – Post Conviction Indigent Defense
From Beginning Nonlapsing Balances 30,900
From Closing Nonlapsing Balances ..... (30,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of appropriations provided for Post Conviction Indigent Defense line item in Item 12, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to legal costs for death row inmates.

Item 13
To Department of Government Operations – State Archives
From Beginning Nonlapsing Balances ..... (50,400)
From Closing Nonlapsing Balances ..... (68,200)
Schedule of Programs:
Archives Administration ..... (85,600)
Patron Services 8,500
Records Analysis ..... (41,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $250,000 of appropriations provided for the State Archives line item in Item 13, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds limited to: electronic records management and preservation $75,000; records repository systems improvements $25,000; and computer systems upgrades $50,000, and open records portal and public notice website upgrades $100,000.

Item 14
To Department of Government Operations – Chief Information Officer
From General Fund, One-Time 20,900
From Beginning Nonlapsing Balances ..... (20,000,000)
From Closing Nonlapsing Balances ..... (20,416,200)
Schedule of Programs:
Chief Information Officer ..... (40,395,300)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $37,250,000 of appropriations provided for the Chief Information Officer line item in Item 14, Chapter 8, Laws of Utah 2022, shall

not lapse at the close of FY 2023. Expenditures of these funds are limited to costs associated with DTS rate study, other IT initiatives, to implement the provisions relating to a technology innovation program (H.B. 395, 2018 General Session) $250,000; for network enhancement, data security, and broadband (S. B. 1001 Item 45, 2021 Special Session 1) $12,000,000; for development of a Human Capital Management system (H.B. 2, Item 36, 2022 General Session) $5,000,000; and for Innovation funds (H.B. 2, Item 36, 2022 General Session) $20,000,000.

Item 15
To Department of Government Operations – Integrated Technology
From Federal Funds, One-Time ..... (423,100)
From Beginning Nonlapsing Balances ..... (168,800)
Schedule of Programs:
Utah Geospatial Resource Center ... (591,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $600,000 of appropriations provided for the Integrated Technology Services line item in Item 15, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: Utah Geospatial Resource Center projects $175,000; Google imagery $100,000; Global Positioning System Reference Network upgrades and maintenance $300,000; and Survey Monument Restoration grant obligations to local government $25,000.

Item 16
To Department of Government Operations – Human Resource Management
From General Fund, One-Time 684,000
From Beginning Nonlapsing Balances ..... (22,000)
From Closing Nonlapsing Balances 42,000
Schedule of Programs:
Statewide Management Liability Training 20,000
Pay for Performance 684,000

CAPITAL BUDGET

Item 17
To Capital Budget – Capital Development – Higher Education

The Legislature intends that before commencing construction of a capital development project funded for an institution of higher education during the 2022 General Session, the Division of Facilities Construction and Management (DFCM) and the institution shall report to the Infrastructure and General Government Appropriations Subcommittee and the Higher Education Appropriations Subcommittee on the status and cost of the project, and that DFCM and the institution shall seek feedback from the committees before committing funds for demolition or construction. The Legislature further intends that prior to committing funds for construction that DFCM, the institution, and the Board of Higher Education shall certify to the committees that the institution (1) has developed a plan that will utilize each classroom space in the building an average of 33.75 hours of instruction per week for spring and fall semesters with 66.7 percent seat occupancy, and will work to increase utilization of classroom space during the summer; and (2) has presented a plan to implement space utilization of non-classroom areas as per industry standards.

Item 18
To Capital Budget – Capital Improvements
From Beginning Nonlapsing Balances 136,999,000
Schedule of Programs:
Capital Improvements 136,999,000

Item 19
To Capital Budget – Pass-Through

The Legislature intends that appropriations for Olympic Park Improvement may be used for improvements at the Utah Olympic Park, Utah Olympic Oval, or Soldier Hollow Nordic Center.

The Legislature intends that up to $22,000,000 of appropriations provided in this item shall not lapse at the close of FY 2023.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 20
To State Board of Bonding Commissioners – Debt Service – Debt Service
From Federal Funds, One-Time ..... (79,900)
From Beginning Nonlapsing Balances 7,487,500
Schedule of Programs:
G.O. Bonds – Transportation 12,542,100
Revenue Bonds Debt Service ..... (5,134,500)

The Legislature intends that, if amounts appropriated from the Transportation Investment Fund of 2005 and the County of the First Class Highway Projects Fund to debt service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

The Legislature intends that in the event that sequestration or other federal action reduces the anticipated Build America Bond subsidy payments that are deposited into the Debt Service line item as federal funds, the Division of Finance, acting on behalf of the State Bonding Commission, shall reduce the appropriated transfer from Nonlapsing Balances Debt Service to the General Fund, one-time proportionally to the reduction in subsidy payment received, thus holding the Debt Service line item harmless.

TRANSPORTATION

Item 21
To Transportation – Aeronautics
From Beginning Nonlapsing Balances ... 982,400
Schedule of Programs:
Administration ..... (100)
Airport Construction 982,400
Civil Air Patrol 100

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that any unexpended funds from the one-time appropriation of $5,000,000 from the Aeronautics Restricted Account to the Aeronautics line item in Item 22, Chapter 282, Laws of Utah 2014, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to airport construction projects.

Item 22
To Transportation – Highway System Construction

The Legislature intends that if the Department of Transportation determines that land owned by the department near the Calvin L. Rampton Complex is surplus to the department's needs, proceeds from the sale of the surplus property may be used to help mitigate traffic impact associated with the Taylorsville State Office Building.

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Fund, to be used by the department for the construction, rehabilitation, and preservation of State highways in Utah. The Legislature intends that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance the appropriation otherwise made by this act to the Department of Transportation for other purposes.

Item 23
To Transportation – Engineering Services
From Beginning Nonlapsing
Balances 2,700,000
Schedule of Programs:
Construction Management 450,000
Engineering Services 73,000
Highway Project Management Team ... 300,000
Materials Lab ..... (173,400)
Preconstruction Admin ..... (204,000)
Program Development 260,000
Research 2,000,000
Right-of-Way 6,000
Structures ..... (11,600)

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $3,400,000 of appropriations provided for Engineering Services in Item 20, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to engineering special services projects, $300,000; and road usage charge program, $2,500,000. The Legislature intends that up to $600,000 in unexpended funds for the State Planning and Research (SPR) program state match shall not lapse at the close of FY 2023. Expenditures of these funds are limited to SPR state match for federal projects.

Item 24
To Transportation – Operations/
Maintenance Management
From Beginning Nonlapsing
Balances 8,000,000
Schedule of Programs:
Equipment Purchases 745,000
Field Crews ..... (1,224,000)
Lands and Buildings 2,000,000
Maintenance Administration ..... (863,600)
Maintenance Planning 1,450,800
Region 1 ..... (413,100)
Region 2 128,100
Region 3 ..... (175,500)
Region 4 682,600
Seasonal Pools ..... (330,300)
Traffic Operations Center 6,000,000

The Legislature intends that the Department of Transportation use maintenance funds previously used on state highways that now qualify for Transportation Investment Fund of 2005 to address maintenance and preservation issues on other state highways.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $2,000,000 in unexpended funds for lands and buildings shall not lapse at the close of FY 2023. Expenditures of these funds are limited to the improvement of a maintenance facility.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that any unexpended funds from the one-time appropriation of $6,000,000 for Advanced Traffic Management System in Item 21, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to Advanced Traffic Management System.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $2,200,000 of appropriations provided for Operations/Maintenance Management in Item 21, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to highway maintenance, $2,000,000; and equipment purchases, $200,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,500,000 in unexpended proceeds that are derived from the sale of real property or an interest in real property from a maintenance

facility shall not lapse at the close of FY 2023. Expenditures of these funds are limited to the purchase or improvement of another maintenance facility, including real property.

Item 25
To Transportation - Region Management
From Beginning Nonlapsing Balances ... 200,000
Schedule of Programs:
Region 2 200,000

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Region Management in Item 22, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to Region Management: $800,000.

Item 26
To Transportation - Safe Sidewalk Construction
From Beginning Nonlapsing Balances ... 460,300
From Closing Nonlapsing Balances 540,300
Schedule of Programs:
Sidewalk Construction 1,000,600

The Legislature intends that the funds appropriated from the Transportation Fund for pedestrian safety projects be used specifically to correct pedestrian hazards on state highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria set forth in UCA 72-8-104. The funds appropriated for sidewalk construction shall not lapse at the close of FY 2023. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these funds will be available for other governmental entities which are prepared to use the resources. The Legislature intends that local participation in the Sidewalk Construction Program be on a 75% state and 25% local match basis.

Item 27
To Transportation - Support Services
From Beginning Nonlapsing Balances ... 992,600
Schedule of Programs:
Administrative Services 192,600
Data Processing 300,000
Ports of Entry 500,000

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $800,000 of appropriations provided for Support Services in Item 24, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to computer software development projects, $300,000; and building improvements, $500,000.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that any unexpended funds from the one-time appropriation of $850,000 from the Transportation Fund to Support Services in Item 138, Chapter 463, Laws of Utah 2018, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to the development of rules and standards.

Item 28
To Transportation - Transportation Investment Fund Capacity Program
From Beginning Nonlapsing Balances ..... (12,416,700)
Schedule of Programs:
Transportation Investment Fund Capacity Program ..... (12,416,700)

The Legislature intends that as funding is available from the Transportation Investment Fund, the Department of Transportation may use funds along with matching and other funding to help mitigate traffic impact associated with the Taylorsville State Office Building.

The Legislature intends that any unexpended funds from the one-time appropriation of $733,000,000 for the TIF Capacity Program in Item 1, Chapter 387, Laws of Utah 2021, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to requirements in Chapter 387, Laws of Utah 2021.

There is appropriated to the Department of Transportation from the Transportation Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

The Legislature intends that any unexpended funds from the one-time appropriation of $35,000,000 for the TIF Capacity Program in Item 80, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to requirements in Chapter 441, Laws of Utah 2021.

Item 29
To Transportation - Amusement Ride Safety
From Beginning Nonlapsing Balances ... 113,400
Schedule of Programs:
Amusement Ride Safety 113,400

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $200,000 of appropriations provided for Amusement Ride Safety in Item 25, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to Amusement Ride Safety program.

Item 30
To Transportation - Transit Transportation Investment
From Beginning Nonlapsing Balances 86,963,200

Schedule of Programs:
Transit Transportation
Investment 86,963,200

The Legislature intends that any unexpended funds from the one-time appropriation of $101,600,000 for the Transportation Investment Fund in Item 2, Chapter 387, Laws of Utah 2021, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to requirements in Chapter 387, Laws of Utah 2021.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for the Transit Transportation Investment in Item 26, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to the Transit Transportation Investment program.

Item 31
To Transportation - Pass-Through

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that up to $300,000 of appropriations in Item 85, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to technical planning assistance.

Item 32
To Transportation - Railroad Crossing Safety
From Beginning Nonlapsing
Balances ..... (110,000)
From Closing Nonlapsing Balances .... (200,000)
Schedule of Programs:
Railroad Crossing Safety Grants .... (310,000)

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $500,000 of appropriations provided for the Railroad Crossing Safety Grants in Item 2, H.B. 4002, 2020 Fourth Special Session, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to railroad crossing safety grants.

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

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 33
To Department of Government Operations - State Debt Collection Fund
From Beginning Fund Balance 1,452,800
From Closing Fund Balance 175,100
Schedule of Programs:
State Debt Collection Fund 1,627,900

Item 34
To Department of Government Operations - Wire Estate Memorial Fund
From Beginning Fund Balance 900
From Closing Fund Balance ..... (900)

TRANSPORTATION

Item 35
To Transportation - County of the First Class Highway Projects Fund
From Interest Income, One-Time ..... (193,500)
From County of First Class Highway Projects Fund, One-Time 8,000,000
From Beginning Fund Balance 739,300
From Closing Fund Balance 1,458,200
Schedule of Programs:
County of the First Class Highway Projects Fund 10,004,000

The Legislature intends that, if amounts appropriated from the County of the First Class Highway Projects Fund to Debt Service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

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

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 36

Division of Facilities Construction and Management - Facilities Management
From Dedicated Credits Revenue, One-Time ..... (58,000)
From Beginning Fund Balance 385,700
From Closing Fund Balance ..... (730,700)
Schedule of Programs:
ISF - Facilities Management ..... (403,000)
Budgeted FTE 6.0

The Legislature intends that the DFCM Internal Service Fund may add up to 15 FTEs, and up to 10 vehicles, and multiple capital assets, beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTEs, vehicles, and capital assets will be reviewed and may be approved by the Legislature in the next legislative session.

Item 37
To Department of Government Operations - Division of Finance
From Dedicated Credits Revenue, One-Time 306,000

From Beginning Fund Balance 204,100
From Closing Fund Balance ..... (517,100)
Schedule of Programs:
ISF – Purchasing Card ..... (7,000)

The Legislature intends that the ISF – Finance – Purchasing Card program be authorized to increase its Capital Outlay for the new Travel and Expense Reporting System by $1,450,000 in FY 2023.

The Legislature intends that the ISF – Finance – Purchasing Card program be authorized to increase FTEs during the design and development of the new Travel and Expense Reporting System by 5 FTEs in FY 2023.

Item 38
To Department of Government Operations – Division of Fleet Operations
From Dedicated Credits Revenue, One–Time ..... (1,453,700)
From Other Financing Sources, One–Time ..... (2,500,000)
From Beginning Fund Balance ..... (51,225,400)
From Closing Fund Balance 54,440,000
Schedule of Programs:
ISF – Fuel Network 468,600
ISF – Motor Pool ..... (900,300)
ISF – Travel Office ..... (209,300)
Transactions Group ..... (98,100)

The Legislature intends that Fleet Operations transfer vehicles as appropriate from other agencies to meet statewide fleet needs and to reduce the overall count of the state fleet. In authorizing capital outlay for Fleet Operations, the Legislature intends that Fleet Operations purchase electric and plug–in hybrid vehicles whenever prudent.

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that appropriations for the Fleet Operations line item in Item 35, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to capital outlay authority granted within FY 2023 for vehicles not delivered by the end of FY 2023.

Item 39
To Department of Government Operations – Division of Purchasing and General Services
From Beginning Fund Balance 2,321,300
From Closing Fund Balance ..... (2,321,300)
Budgeted FTE ..... (9.0)
Authorized Capital Outlay ..... (450,000)

Item 40
To Department of Government Operations – Risk Management
From Dedicated Credits Revenue, One–Time ..... (8,000)
From Premiums, One–Time ..... (4,002,100)
From Interest Income, One–Time ..... (8,900)
From Other Financing Sources, One–Time ..... (367,500)
From Beginning Fund Balance 14,750,300
From Closing Fund Balance ..... (10,471,500)
Schedule of Programs:
ISF – Risk Management Administration ..... (180,000)
ISF – Workers' Compensation ..... (22,000)
Risk Management – Auto 224,900
Risk Management – Liability ..... (130,600)

Item 41
To Department of Government Operations – Enterprise Technology Division
From Beginning Fund Balance 2,449,600
From Closing Fund Balance ..... (4,092,600)
Schedule of Programs:
ISF – Enterprise Technology Division ..... (1,643,000)
Budgeted FTE 31.0

Item 42
To Department of Government Operations – Utah Inland Port Authority Fund
From Beginning Fund Balance 15,060,400
From Closing Fund Balance ..... (7,716,300)
Schedule of Programs:
Inland Port Authority Fund 7,344,100

Item 43
To Department of Government Operations – Human Resources Internal Service Fund
From General Fund, One–Time ..... (684,000)
From Beginning Fund Balance 852,500
From Closing Fund Balance ..... (1,002,700)
Schedule of Programs:
Administration ..... (362,900)
Information Technology ..... (61,100)
ISF – Core HR Services ..... (18,000)
ISF – Field Services ..... (446,100)
ISF – Payroll Field Services ..... (11,000)
Policy 64,900

TRANSPORTATION

Item 44
To Transportation – State Infrastructure Bank Fund
From Interest Income, One–Time ..... (411,000)
From Beginning Fund Balance 14,738,900
From Closing Fund Balance 58,440,400
Schedule of Programs:
State Infrastructure Bank Fund 72,768,300

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

Item 45
To Rail Transportation Restricted Account
From Beginning Fund Balance 3,294,000
From Closing Fund Balance ..... (6,588,000)
Schedule of Programs:
Rail Transportation Restricted Account ..... (3,294,000)

Subsection 1(e). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the

State Division of Finance to transfer amounts between funds and accounts as indicated.

CAPITAL BUDGET

Item 46
To Capital Budget - DFCM Capital Projects Fund
From General Fund, One-Time 25,000,000
From Beginning Fund Balance 54,608,300
Schedule of Programs:
DFCM Capital Projects Fund 79,608,300

Item 47
To Capital Budget - DFCM Prison Project Fund
From Beginning Fund Balance ..... (44,699,900)
Schedule of Programs:
DFCM Prison Project Fund ..... (44,699,900)

The Legislature intends that the Division of Facilities Construction and Management may transfer surplus funding from the Prison Project Fund to the Capital Projects Fund in fiscal year 2023 and fiscal year 2024 for construction of other capital development projects previously authorized by the Legislature.

Item 48
To Capital Budget - SBOA Capital Projects Fund
From Beginning Fund Balance 37,562,900
From Closing Fund Balance ..... (37,562,900)

TRANSPORTATION

Item 49
To Transportation - Transportation Investment Fund of 2005
From Licenses/Fees, One-Time 1,918,200
From Interest Income, One-Time .... (7,114,900)
From Designated Sales Tax, One-Time 46,650,700
From Beginning Fund Balance 856,459,900
From Closing Fund Balance ..... (780,588,500)
Schedule of Programs:
Transportation Investment Fund 117,325,400

The Legislature intends that, if amounts appropriated from the Transportation Investment Fund of 2005 to Debt Service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

Item 50
To Transportation - Transit Transportation Investment Fund
From Interest Income, One-Time 400,000
From Designated Sales Tax, One-Time ..... (10,347,100)
From Beginning Fund Balance 265,387,100
From Closing Fund Balance ..... (292,724,500)
Schedule of Programs:
Transit Transportation Investment Fund ..... (37,284,500)

Section 2. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAREER SERVICE REVIEW OFFICE

Item 51
To Career Service Review Office
From General Fund 306,400
From Beginning Nonlapsing Balances 30,000
From Closing Nonlapsing Balances ..... (30,000)
Schedule of Programs:
Career Service Review Office 306,400

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 52
To Utah Education and Telehealth Network - Digital Teaching and Learning Program
From Income Tax Fund 174,000
From Federal Funds 4,800
From Beginning Nonlapsing Balances ... 231,500
From Closing Nonlapsing Balances .... (151,300)
Schedule of Programs:
Digital Teaching and Learning Program 259,000

Item 53
To Utah Education and Telehealth Network
From General Fund 885,900
From Income Tax Fund 32,243,900
From Federal Funds 4,446,000
From Dedicated Credits Revenue 15,086,000
From Beginning Nonlapsing Balances 17,150,000
From Closing Nonlapsing Balances ..... (12,452,000)
Schedule of Programs:
Administration 3,823,800
Course Management Systems 2,808,000
Instructional Support 6,683,600
KUEN Broadcast 663,800
Operations and Maintenance 451,900
Public Information 359,700
Technical Services 40,493,800
Utah Telehealth Network 2,075,200

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 54
To Department of Government Operations - Administrative Rules
From General Fund 724,800
From Beginning Nonlapsing Balances ... 279,600
From Closing Nonlapsing Balances .... (159,200)
Schedule of Programs:
DAR Administration 845,200

Item 55
To Department of Government Operations - DFCM Administration
From General Fund 3,752,900
From Income Tax Fund 755,000

From Dedicated Credits Revenue 2,102,400
From Capital Projects Fund 3,969,200
From Beginning Nonlapsing Balances ... 920,100
From Closing Nonlapsing Balances .... (892,500)
Schedule of Programs:
DFCM Administration 9,815,500
Energy Program 614,500
Governor's Residence 177,100

The Legislature intends that the DFCM Administration add up to 5 vehicles for Project Management staff to provide services to customers in FY 2024.

Item 56
To Department of Government Operations – Finance – Elected Official Post–Retirement Benefits Contribution
From General Fund 1,248,800
Schedule of Programs:
Elected Official Post–Retirement Trust Fund 1,248,800

Item 57
To Department of Government Operations – Executive Director
From General Fund 1,913,400
From Dedicated Credits Revenue 597,000
From Beginning Nonlapsing Balances ... 237,700
From Closing Nonlapsing Balances .... (226,900)
Schedule of Programs:
Executive Director 2,521,200

Item 58
To Department of Government Operations – Finance – Mandated
From General Fund 17,396,700
From General Fund, One–Time 2,000,000
From Income Tax Fund 503,300
From Transportation Fund 991,600
From Federal Funds 2,306,400
From Dedicated Credits Revenue 696,200
From General Fund Restricted – Economic Incentive Restricted Account 3,255,000
From Gen. Fund Rest. – Land Exchange Distribution Account 308,200
From Beginning Nonlapsing Balances 3,916,200
Schedule of Programs:
Development Zone Partial Rebates .. 3,255,000
Internal Service Fund Rate Impacts 10,398,600
Land Exchange Distribution 308,200
State Employee Benefits 15,411,800
Annual Leave Trust Pools 2,000,000

Item 59
To Department of Government Operations – Finance – Mandated – Ethics Commissions
From General Fund 17,400
From Beginning Nonlapsing Balances ... 106,100
From Closing Nonlapsing Balances .... (107,700)
Schedule of Programs:
Executive Branch Ethics Commission 9,500
Political Subdivisions Ethics Commission 6,300

Item 60
To Department of Government Operations – Finance Administration
From General Fund 8,886,600
From Transportation Fund 450,000
From Dedicated Credits Revenue 1,918,600
From Gen. Fund Rest. – Internal Service Fund Overhead 1,382,300
From Qualified Patient Enterprise Fund ... 2,500
From Beginning Nonlapsing Balances 2,660,200
From Closing Nonlapsing Balances .... (546,200)
Schedule of Programs:
Finance Director's Office 488,500
Financial Information Systems 7,209,200
Financial Reporting 2,460,200
Payables/Disbursing 2,125,700
Payroll 2,260,400
Technical Services 210,000

Item 61
To Department of Government Operations – Inspector General of Medicaid Services
From General Fund 1,474,200
From Federal Funds 23,700
From Medicaid Expansion Fund 37,700
From Revenue Transfers 2,563,000
Schedule of Programs:
Inspector General of Medicaid Services 4,098,600

Item 62
To Department of Government Operations – Judicial Conduct Commission
From General Fund 304,500
From Beginning Nonlapsing Balances 69,600
From Closing Nonlapsing Balances ..... (9,000)
Schedule of Programs:
Judicial Conduct Commission 365,100

Item 63
To Department of Government Operations – Post Conviction Indigent Defense
From General Fund 33,900
From Beginning Nonlapsing Balances ... 200,000
From Closing Nonlapsing Balances .... (200,000)
Schedule of Programs:
Post Conviction Indigent Defense Fund 33,900

Item 64
To Department of Government Operations – Purchasing
From General Fund 910,200
Schedule of Programs:
Purchasing and General Services 910,200

Item 65
To Department of Government Operations – State Archives
From General Fund 3,479,500
From Federal Funds 45,700
From Dedicated Credits Revenue 69,600
From Beginning Nonlapsing Balances 68,200
From Closing Nonlapsing Balances ..... (20,500)
Schedule of Programs:
Archives Administration 1,782,800
Patron Services 832,500
Preservation Services 305,100

Records Analysis 722,100

Item 66
To Department of Government Operations – Finance Mandated – Mineral Lease Special Service Districts
From General Fund Restricted – Mineral Lease 27,797,500
Schedule of Programs:
Mineral Lease Payments 24,162,700
Mineral Lease Payments in Lieu 3,634,800

Item 67
To Department of Government Operations – Chief Information Officer
From General Fund 5,849,900
From Beginning Nonlapsing Balances 20,416,200
From Closing Nonlapsing Balances ..... (11,716,200)
Schedule of Programs:
Chief Information Officer 14,549,900

Item 68
To Department of Government Operations – Integrated Technology
From General Fund 1,539,300
From Federal Funds 300,000
From Dedicated Credits Revenue 1,256,900
From Gen. Fund Rest. – Statewide Unified E–911 Emerg. Acct. 345,700
Schedule of Programs:
Utah Geospatial Resource Center ... 3,441,900

Item 69
To Department of Government Operations – Finance Mandated – Paid Postpartum Recovery and Parental Leave Program
From General Fund 1,752,200
Schedule of Programs:
Paid Postpartum Recovery and Parental Leave Program 1,752,200

Item 70
To Department of Government Operations – Human Resource Management
From General Fund 726,400
From Beginning Nonlapsing Balances 26,300
From Closing Nonlapsing Balances ..... (21,900)
Schedule of Programs:
ALJ Compliance 20,000
Statewide Management Liability Training 26,800
Pay for Performance 684,000

CAPITAL BUDGET

Item 71
To Capital Budget – Capital Development – Other State Government
From Capital Projects Fund 2,077,400
Schedule of Programs:
Offender Housing 2,077,400

Item 72
To Capital Budget – Capital Improvements
From General Fund 93,820,000
From Income Tax Fund 116,340,600
Schedule of Programs:
Capital Improvements 210,160,600

Item 73
To Capital Budget – Pass–Through
From General Fund 3,000,000
Schedule of Programs:
Olympic Park Improvement 3,000,000

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 74
To State Board of Bonding Commissioners – Debt Service – Debt Service
From General Fund 31,875,400
From Transportation Investment Fund of 2005 356,279,800
From Federal Funds 1,358,400
From Dedicated Credits Revenue 29,423,600
From County of First Class Highway Projects Fund 7,779,400
From Beginning Nonlapsing Balances 23,545,800
From Closing Nonlapsing Balances ..... (23,545,800)
Schedule of Programs:
G.O. Bonds – State Govt 31,875,400
G.O. Bonds – Transportation 364,059,200
Revenue Bonds Debt Service 30,782,000

TRANSPORTATION

Item 75
To Transportation – Aeronautics
From Federal Funds 1,184,900
From Aeronautics Restricted Account 6,607,600
Schedule of Programs:
Administration 966,500
Aid to Local Airports 2,240,000
Airport Construction 4,506,000
Civil Air Patrol 80,000

Item 76
To Transportation – Highway System Construction
From Transportation Fund 253,087,200
From Federal Funds 389,243,200
From Expendable Receipts 1,563,200
Schedule of Programs:
Federal Construction 219,845,700
Rehabilitation/Preservation 420,520,800
State Construction 3,527,100

Item 77
To Transportation – Engineering Services
From Transportation Fund 30,156,900
From Federal Funds 37,148,700
From Dedicated Credits Revenue 2,257,700
Schedule of Programs:
Civil Rights 298,400
Construction Management 2,580,100
Engineer Development Pool 1,971,200
Engineering Services 3,305,400
Highway Project Management Team ... 906,800
Planning and Investment 579,500
Materials Lab 5,891,600
Preconstruction Admin 3,389,600
Program Development 36,334,400
Research 7,017,300
Right–of–Way 3,224,000
Structures 4,065,000

Item 78
To Transportation - Operations/ Maintenance Management
From Transportation Fund 169,629,600
From Transportation Investment Fund of 2005 6,901,400
From Federal Funds 3,171,600
From Dedicated Credits Revenue 10,771,800
Schedule of Programs:
Equipment Purchases 13,668,700
Lands and Buildings 8,700,000
Maintenance Administration 14,868,800
Maintenance Planning 3,350,800
Region 1 24,044,800
Region 2 32,421,600
Region 3 22,741,000
Region 4 48,374,400
Seasonal Pools 1,463,000
Shops 1,606,100
Traffic Operations Center 15,530,600
Traffic Safety/Tramway 3,704,600

Item 79
To Transportation - Region Management
From Transportation Fund 24,671,500
From Federal Funds 2,171,600
From Dedicated Credits Revenue 2,034,200
Schedule of Programs:
Region 1 7,502,600
Region 2 12,162,200
Region 4 9,212,500

Item 80
To Transportation - Support Services
From Transportation Fund 38,576,800
From Federal Funds 3,904,000
Schedule of Programs:
Administrative Services 3,723,000
Building and Grounds 967,700
Community Relations 1,600,700
Comptroller 3,470,900
Data Processing 13,491,500
Internal Auditor 1,258,000
Ports of Entry 11,381,800
Procurement 1,336,900
Risk Management 5,250,300

Item 81
To Transportation - Transportation Investment Fund Capacity Program
From Transportation Fund 1,813,400
From Transportation Investment Fund of 2005 1,216,373,200
From Beginning Nonlapsing Balances 741,137,400
From Closing Nonlapsing Balances ..... (704,324,000)
Schedule of Programs:
Transportation Investment Fund Capacity Program 1,255,000,000

Item 82
To Transportation - Transit Transportation Investment
From Transit Transportation Investment Fund 16,949,700
From Beginning Nonlapsing Balances 200,000,000
From Closing Nonlapsing Balances ..... (200,000,000)
Schedule of Programs:
Transit Transportation Investment 16,949,700

Item 83
To Transportation - Transportation Safety Program
From Transportation Safety Program Restricted Account 15,000
Schedule of Programs:
Transportation Safety Program 15,000

Item 84
To Transportation - Pass-Through
From General Fund 2,876,700
Schedule of Programs:
Pass-Through 2,876,700

Item 85
To Transportation - Railroad Crossing Safety
From Rail Transportation Restricted Account 366,000
From Beginning Nonlapsing Balances ... 200,000
Schedule of Programs:
Railroad Crossing Safety Grants 566,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 86
To Department of Government Operations - State Archives Fund
From Beginning Fund Balance 2,600
From Closing Fund Balance ..... (2,600)

Item 87
To Department of Government Operations - State Debt Collection Fund
From Dedicated Credits Revenue 3,696,900
From Other Financing Sources 200
From Beginning Fund Balance 828,300
From Closing Fund Balance ..... (599,200)
Schedule of Programs:
State Debt Collection Fund 3,926,200

Item 88
To Department of Government Operations - Wire Estate Memorial Fund
From Beginning Fund Balance 172,400
From Closing Fund Balance ..... (172,400)

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as

indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 89
To Department of Government Operations – Division of Facilities Construction and Management – Facilities Management
From Dedicated Credits Revenue 39,746,700
From Beginning Fund Balance 5,919,000
From Closing Fund Balance ..... (6,155,100)
Schedule of Programs:
ISF – Facilities Management 39,510,600
Budgeted FTE 168.0
Authorized Capital Outlay 462,600

The Legislature intends that the DFCM Internal Service Fund may add up to 15 FTEs, and up to 10 vehicles, and multiple capital assets, beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTEs, vehicles, and capital assets will be reviewed and may be approved by the Legislature in the next legislative session.

Item 90
To Department of Government Operations – Division of Finance
From Dedicated Credits Revenue 970,300
From Beginning Fund Balance 740,900
From Closing Fund Balance ..... (893,300)
Schedule of Programs:
ISF – Purchasing Card 817,900
Budgeted FTE 2.5

Item 91
To Department of Government Operations – Division of Fleet Operations
From Dedicated Credits Revenue 64,083,200
From Beginning Fund Balance 5,033,100
From Closing Fund Balance ..... (7,364,400)
Schedule of Programs:
ISF – Fuel Network 39,120,300
ISF – Motor Pool 22,182,600
Transactions Group 449,000
Budgeted FTE 41.0
Authorized Capital Outlay 25,000,000

Item 92
To Department of Government Operations – Division of Purchasing and General Services
From Dedicated Credits Revenue 20,504,600
From Other Financing Sources 27,600
From Beginning Fund Balance 14,022,200
From Closing Fund Balance ..... (14,236,100)
Schedule of Programs:
ISF – Central Mailing 12,802,200
ISF – Cooperative Contracting 4,242,000
ISF – Federal Surplus Property 65,000
ISF – Print Services 2,548,500
ISF – State Surplus Property 660,600
Budgeted FTE 91.0
Authorized Capital Outlay 1,580,000

Item 93
To Department of Government Operations – Risk Management
From Premiums 71,909,800
From Interest Income 926,800
From Beginning Fund Balance 25,812,600
From Closing Fund Balance ..... (29,077,000)
Schedule of Programs:
ISF – Risk Management Administration 1,657,600
ISF – Workers' Compensation 5,914,400
Risk Management – Auto 2,757,500
Risk Management – Liability 27,271,900
Risk Management – Property 31,970,800
Budgeted FTE 38.0
Authorized Capital Outlay 300,000

Item 94
To Department of Government Operations – Enterprise Technology Division
From Dedicated Credits Revenue ... 138,223,000
From Beginning Fund Balance 27,563,100
From Closing Fund Balance ..... (25,824,400)
Schedule of Programs:
ISF – Enterprise Technology Division 139,961,700
Budgeted FTE 730.6
Authorized Capital Outlay 10,000,000

Item 95
To Department of Government Operations – Utah Inland Port Authority Fund
From Dedicated Credits Revenue, One-Time 8,500,000
From Long-term Capital Projects Fund, One-Time 50,000,000
From Pass-through, One-Time 3,198,400
From Beginning Fund Balance 7,716,300
From Closing Fund Balance ..... (1,825,500)
Schedule of Programs:
Inland Port Authority Fund 67,589,200

The Legislature intends that the Division of Finance hold and maintain the $50,000,000 provided by this appropriation in the Long-term Capital Projects Fund as funds that may be used to secure, in accordance with this section, the $150,000,000 in debt associated with UIPA Crossroads Public Infrastructure District, Tax Differential Revenue Bonds, Series 2021. The Division of Finance shall deposit the appropriation into the Inland Port Revolving Loan Fund only if (1) the Utah Supreme Court issues, before June 30, 2024, an order that awards damages other than damages to compensate for harm incurred as a result of the unconstitutional provisions of the Utah Inland Port Authority as sought in Salt Lake City Corporation v. Inland Port Authority, et al., case no. 20200118; and (2) the courts decision precipitates a redemption of UIPA Crossroads Public Infrastructure District, Tax Differential Revenue Bonds, Series 2021. If all the qualifications of this section are not met, the Division of Finance shall lapse the appropriation to the Long-term Capital Projects Fund at the close of fiscal year 2024.

Item 96
To Department of Government Operations – Human Resources Internal Service Fund
From Dedicated Credits Revenue 15,652,900
From Beginning Fund Balance 2,300,600
From Closing Fund Balance ..... (2,881,200)
Schedule of Programs:
Administration 1,636,500
Information Technology 800,900
ISF – Core HR Services 246,900
ISF – Field Services 9,439,700
ISF – Payroll Field Services 921,000
Policy 2,027,300
Budgeted FTE 134.0
Authorized Capital Outlay 1,000,000

TRANSPORTATION

Item 97
To Transportation – State Infrastructure Bank Fund
From Interest Income 1,500,000
From Beginning Fund Balance 6,221,000
From Closing Fund Balance ..... (64,661,400)
Schedule of Programs:
State Infrastructure Bank Fund .. (56,940,400)

Subsection 2(d). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

CAPITAL BUDGET

Item 98
To Capital Budget – Capital Development Fund
From General Fund 2,077,400
Schedule of Programs:
Capital Development Fund 2,077,400

Item 99
To Capital Budget – DFCM Prison Project Fund

Item 100
To Capital Budget – SBOA Capital Projects Fund
From Dedicated Credits Revenue 450,000
From Other Financing Sources 10,200,000
From Beginning Fund Balance 42,828,200
From Closing Fund Balance ..... (5,265,300)
Schedule of Programs:
SBOA Capital Projects Fund 48,212,900

Item 101
To Capital Budget – Higher Education Capital Projects Fund
From Income Tax Fund 100,689,700
Schedule of Programs:
Higher Education Capital Projects Fund 100,689,700

Item 102
To Capital Budget – Technical Colleges Capital Projects Fund
From Income Tax Fund 19,310,300
Schedule of Programs:
Technical Colleges Capital Projects Fund 19,310,300

TRANSPORTATION

Item 103
To Transportation – Transportation Investment Fund of 2005
From Transportation Fund 43,172,500
From Licenses/Fees 95,759,100
From Interest Income 11,114,900
From County of First Class Highway Projects Fund 2,666,500
From Designated Sales Tax 688,503,800
From Beginning Fund Balance 1,084,645,000
From Closing Fund Balance ..... (304,056,500)
Schedule of Programs:
Transportation Investment Fund 1,621,805,300

Item 104
To Transportation – Transit Transportation Investment Fund
From Designated Sales Tax 32,935,800
From Beginning Fund Balance 21,489,500
From Closing Fund Balance ..... (39,613,800)
Schedule of Programs:
Transit Transportation Investment Fund 14,811,500

Section 3. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

TRANSPORTATION

Item 105
To Transportation – Aeronautics
From Dedicated Credits Revenue 435,100
From Aeronautics Restricted Account 286,700
Schedule of Programs:
Airplane Operations 721,800

Item 106
To Transportation – B and C Roads
From Transportation Fund 181,658,400
Schedule of Programs:
B and C Roads 181,658,400

Item 107
To Transportation – Cooperative Agreements
From Federal Funds 65,323,800
From Expendable Receipts 49,897,100
Schedule of Programs:
Cooperative Agreements 115,220,900

Item 108
To Transportation – Engineering Services
From Transportation Fund 2,041,100
From Federal Funds 469,300
Schedule of Programs:
Environmental 2,510,400

Item 109
To Transportation – Operations/ Maintenance Management
From Transportation Fund 10,627,400
From Federal Funds 6,008,700
Schedule of Programs:
Field Crews 16,636,100

Item 110
To Transportation – Region Management
From Transportation Fund 5,362,600
From Federal Funds 592,400
From Dedicated Credits Revenue 328,200
Schedule of Programs:
Region 3 6,283,200

Item 111
To Transportation – Safe Sidewalk Construction
From Transportation Fund 500,000
Schedule of Programs:
Sidewalk Construction 500,000

Item 112
To Transportation – Share the Road
From General Fund Restricted – Share the Road Bicycle Support 32,000
Schedule of Programs:
Share the Road 32,000

Item 113
To Transportation – Support Services
From Transportation Fund 3,007,600
From Federal Funds 535,800
Schedule of Programs:
Human Resources Management 3,543,400

Item 114
To Transportation – Amusement Ride Safety
From General Fund 190,000
From General Fund Restricted – Amusement Ride Safety Restricted Account 361,200
Schedule of Programs:
Amusement Ride Safety 551,200

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

TRANSPORTATION

Item 115
To Transportation – County of the First Class Highway Projects Fund
From Licenses/Fees 2,020,500
From Interest Income 200,000
From Revenue Transfers 40,523,500
From Beginning Fund Balance 35,855,600
From Closing Fund Balance ..... (45,564,500)
Schedule of Programs:
County of the First Class Highway Projects Fund 33,035,100

Subsection 3(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 116
To Rail Transportation Restricted Account
From General Fund 3,660,000
From Beginning Fund Balance 6,588,000
From Closing Fund Balance ..... (9,882,000)
Schedule of Programs:
Rail Transportation Restricted Account 366,000

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2023.

CHAPTER 6
H. B. 7
Passed January 26, 2023
Approved February 2, 2023
Effective May 3, 2023

NATIONAL GUARD, VETERANS AFFAIRS, AND LEGISLATURE BASE BUDGET

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $6,781,300 in operating and capital budgets for fiscal year 2023, including:

- $835,900 from the General Fund; and
- $5,945,400 from various sources as detailed in this bill.

This bill appropriates ($276,800) in expendable funds and accounts for fiscal year 2023.

This bill appropriates $122,876,200 in operating and capital budgets for fiscal year 2024, including:

- $58,909,600 from the General Fund;
- $200,000 from the Income Tax Fund; and
- $63,766,600 from various sources as detailed in this bill.

This bill appropriates $44,270,100 in expendable funds and accounts for fiscal year 2024.

This bill appropriates $12,000,000 in restricted fund and account transfers for fiscal year 2024, including:

- $12,009,500 from the General Fund; and
- ($9,500) from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2023.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

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

CAPITOL PRESERVATION BOARD

Item 1
To Capitol Preservation Board

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Capitol Preservation Board in item 14, Chapter 9, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. Use of any nonlapsing funds is limited to one-time operations costs.

LEGISLATURE

Item 2
To Legislature - Senate
From Beginning Nonlapsing Balances ..... (148,100)
From Closing Nonlapsing Balances 148,100

Item 3
To Legislature - House of Representatives
From Beginning Nonlapsing Balances ..... (50,900)
From Closing Nonlapsing Balances ..... (62,000)
Schedule of Programs:
Administration ..... (112,900)

Item 4
To Legislature - Office of Legislative Research and General Counsel
From Beginning Nonlapsing Balances 1,591,500
From Closing Nonlapsing Balances ... (1,591,500)

Item 5
To Legislature - Office of the Legislative Fiscal Analyst
From Beginning Nonlapsing Balances ..... (55,600)
From Closing Nonlapsing Balances 55,600

Item 6
To Legislature - Office of the Legislative Auditor General
From Beginning Nonlapsing Balances ... 120,900
From Closing Nonlapsing Balances .... (120,900)

Item 7
To Legislature - Legislative Services
From Dedicated Credits Revenue, One-Time ..... (14,500)
From Beginning Nonlapsing Balances ... 614,600
From Closing Nonlapsing Balances .... (822,400)
Schedule of Programs:
Administration ..... (222,300)

Item 8
To Legislature - Legislative Services Digital Wellness Commission
From Beginning Nonlapsing Balances ... 997,600

Schedule of Programs:
Digital Wellness Commission 997,600

UTAH NATIONAL GUARD

Item 9
To Utah National Guard
From General Fund, One-Time 818,600
From Beginning Nonlapsing Balances 7,561,000
From Closing Nonlapsing Balances ... (3,554,900)
Schedule of Programs:
Administration 36,600
Operations and Maintenance 3,822,300
West Traverse Sentinel Landscape 965,800

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 10
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund, One-Time 17,300
From Beginning Nonlapsing Balances 1,276,900
Schedule of Programs:
Administration 294,200
Cemetery 650,000
Outreach Services 350,000

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans and Military Affairs in Item 28, Chapter 9, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. Use of any nonlapsing funds is limited to one-time operations costs.

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

CAPITOL PRESERVATION BOARD

Item 11
To Capitol Preservation Board - State Capitol Fund
From Dedicated Credits Revenue, One-Time ..... (170,200)
From Beginning Fund Balance 296,000
From Closing Fund Balance ..... (402,600)
Schedule of Programs:
State Capitol Fund ..... (276,800)

UTAH NATIONAL GUARD

Item 12
To Utah National Guard - National Guard MWR Fund
From Beginning Fund Balance ..... (94,600)
From Closing Fund Balance 94,600

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 13
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Beginning Fund Balance 6,185,300
From Closing Fund Balance ..... (6,185,300)

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

Item 14
To Firefighters Retirement Trust & Agency Fund
From Beginning Fund Balance ..... (101,800)
From Closing Fund Balance 101,800

Section 2. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

LEGISLATURE

Item 15
To Legislature - Senate
From General Fund 4,280,000
From Beginning Nonlapsing Balances 1,778,000
From Closing Nonlapsing Balances ... (1,778,000)
Schedule of Programs:
Administration 4,280,000

Item 16
To Legislature - House of Representatives
From General Fund 6,955,900
From Beginning Nonlapsing Balances 3,503,700
From Closing Nonlapsing Balances ... (3,503,700)
Schedule of Programs:
Administration 6,955,900

Item 17
To Legislature - Office of Legislative Research and General Counsel
From General Fund 11,441,000
From Beginning Nonlapsing Balances 7,088,700
From Closing Nonlapsing Balances ... (7,088,700)
Schedule of Programs:
Administration 11,441,000

The Legislature intends that the Office of Legislative Research and General Counsel (LRGC) report performance measures for the LRGC line item, which "is responsible for drafting and processing all legislation, performing policy research and analysis, providing legal counsel, and staffing

legislative committees." The LRGC shall report to the Subcommittee on Oversight before October 31, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, LRGC shall report on the following performance measures: 1) Bills numbered within two business days after receiving approval from the sponsor (Target = 95%); 2) Bills numbered on the first day of the annual general session (Target = 200 bills); 3) Live priority bills completed or abandoned by the 5th Friday of the annual general session (Target = 80%); 4) Timely distribution of "Interim Highlights" to the Legislature (Target = Four business days after interim); 5) Review bills that have passed a chamber within 24 hours of the bill's passage (Target = 98%); 6) Comply with court-established deadlines when representing the Legislature, a legislator, or a legislative employee in litigation (Target = 100%); 7) Comply with time limits for submission of ballot titles and impartial analyses (Target = 100%); and 8) Comply with Open and Public Meeting notice requirements for legislative committees (Target = 100%).

Item 18

To Legislature - Office of the Legislative Fiscal Analyst
From General Fund 4,588,100
From Beginning Nonlapsing Balances 1,430,200
From Closing Nonlapsing Balances ... (1,381,300)
Schedule of Programs:
Administration and Research 4,637,000

The Legislature intends that the Office of the Legislative Fiscal Analyst (LFA) report performance measures for the LFA line item, whose mission is to "affect good government through objective, accurate, relevant budget advice." The LFA shall report to the Subcommittee on Oversight before October 31, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, LFA shall report on the following performance measures: 1) On-target revenue estimates (Target = 92% accurate for estimates 18 months out, 98% accurate for estimates four months out); 2) Correct appropriations bills (Target = 99%); 3) Unrevised fiscal notes (Target = 99.5%); and 4) Timely fiscal notes (Target = 95%).

Item 19

To Legislature - Office of the Legislative Auditor General
From General Fund 5,904,500
From Beginning Nonlapsing Balances 1,681,000
From Closing Nonlapsing Balances ... (1,681,000)
Schedule of Programs:
Administration 5,904,500

The Legislature intends that the Office of the Legislative Auditor General (LAG) report performance measures for the LAG line item, whose mission is "to serve the Utah Legislature and the citizens of Utah by providing objective and credible information, in-depth analysis, findings, and conclusions that help legislators and other decision-makers improve programs, reduce costs, and promote accountability." The LAG shall report to the Subcommittee on Oversight before October 31, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, LAG shall report on the following performance measures: 1) Total audits completed each year (Target = 20); 2) Number of agency recommendations and implementation status (implemented, in process, partial implementation, or not implemented); and 3) Number of legislative recommendations and implementation status (implemented, in process, partial implementation, or not implemented).

Item 20

To Legislature - Legislative Services
From General Fund 6,768,500
From Dedicated Credits Revenue 200,000
From Beginning Nonlapsing Balances 4,205,300
From Closing Nonlapsing Balances ... (4,205,300)
Schedule of Programs:
Administration 1,435,900
Pass-Through 786,800
Information Technology 4,745,800

The Legislature intends that Legislative Services (LS) report performance measures for the LS line item, which provides centralized "back office" administrative functions for the legislative branch. The LS shall report to the Subcommittee on Oversight before October 31, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, LS shall report on the following performance measures: 1) File server up-time (Target = 95%); 2) Microsoft Secure score (Target = 85%); 3) Legislative committee rooms opened, tested, and ready for meetings no later than one hour before any scheduled meetings (Target = 100%); 4) Employee onboarding completed within three business days (Target = 100% and provide actual numbers).

Item 21

To Legislature - Legislative Services
Digital Wellness Commission
From General Fund 300,000
Schedule of Programs:
Digital Wellness Commission 300,000

UTAH NATIONAL GUARD

Item 22

To Utah National Guard
From General Fund 8,274,300
From Federal Funds 59,645,400
From Dedicated Credits Revenue 46,500
From Beginning Nonlapsing Balances 3,554,900

From Closing Nonlapsing Balances .... (782,000)
Schedule of Programs:
Administration 1,526,400
Operations and Maintenance 68,012,700
Tuition Assistance 1,200,000

The Legislature intends that the Utah National Guard be allowed to increase its vehicle fleet by up to three vehicles with funding from existing appropriations.

In accordance with UCA 63J-1-201, the Legislature intends that the Utah National Guard (UNG) report performance measures for the UNG line item, whose mission is "to provide mission-ready military forces to assist both state and federal authorities in times of emergency or war." The UNG shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, UNG shall report on the following performance measures: 1) Personnel readiness (Target = 100% assigned strength); 2) Individual training completion (Target = 90% completion of qualifications); 3) National Guard Mission Fulfillment (Target = 100% fulfillment of every mission assigned by the Commander in Chief; 4) Installation readiness (Target = Installation Status Report of category 2 or better for each facility); 5) Facility project federal share (Target = 75%); 6) Facility maintenance cost per square foot (Target = $3.00); 7) Utility cost per square foot (Target = $2.00); 8) Tuition assistance applications fulfilled (Target = 700); and 9) Percentage of tuition assistance applications fulfilled (Target = 75%).

In accordance with UCA 63J-1-201, the Legislature intends that the Utah National Guard (UNG) report performance measures for the West Traverse Sentinel Landscape Program, whose purpose is "to provide: matching funds for established federal funding programs concerning sentinel landscapes; matching funds for local and private funding programs that assist with sentinel landscape designations; and incentives for landowners who voluntarily participate in land management practices that are consistent with Camp Williams's military missions." The UNG shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, UNG shall report on the following performance measures: 1) Number of acres preserved; 2) Number of acres under agreement for preservation.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 23
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund 3,156,000
From Federal Funds 702,200
From Dedicated Credits Revenue 350,700
Schedule of Programs:
Administration 682,300
Cemetery 861,600
State Approving Agency 271,000
Outreach Services 2,243,700
Military Affairs 150,300

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Veterans and Military Affairs (DVMA) report performance measures for the DVMA line item, whose purpose is to "Advocate for and honor veterans for their unique contributions; Connect veterans, family members, community groups, service organizations, military installations, support groups, and other stakeholders to each other and external resources; and Grow military missions and associated military installation workloads, consistent with national security." The DVMA shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, DVMA shall report on the following performance measures: 1) Provide programs that assist veterans with filing and receiving compensation, pension, and educational benefits administered by the U.S. Veterans Administration (Target = 5% annual growth); 2) Veterans benefits received (Target = $600 million); 3) Assist in ensuring veterans are employed in the Utah workforce (Target = Veterans unemployment rate no greater than the statewide unemployment rate); 4) Increase the number of current conflict veterans who are connected to appropriate services (Target = 10% annual increase); and 5) Veterans cemetery customer satisfaction (Target = 4.75 out of 5).

Item 24
To Department of Veterans and Military Affairs - DVMA Pass Through
From General Fund 1,547,500
From Income Tax Fund 200,000
Schedule of Programs:
DVMA Pass Through 1,747,500

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is

transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

UTAH NATIONAL GUARD

Item 25
To Utah National Guard - National Guard MWR Fund
From Dedicated Credits Revenue 2,755,700
From Beginning Fund Balance 266,400
From Closing Fund Balance ..... (266,400)
Schedule of Programs:
National Guard MWR Fund 2,755,700

In accordance with UCA 63J-1-201, the Legislature intends that the Utah National Guard (UNG) report performance measures for the Morale, Welfare, and Recreation Fund line item, which "is focused on enriching the lives of our fellow service members by offering a selection of military services and discounts." The UNG shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, UNG shall report on the following performance measures: 1) Financial sustainability (Target = Ratio of income to expenses at least 100%); and 2) Enhanced morale (Target = Average score of 70% or higher positive customer feedback).

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 26
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds 40,647,600
From Dedicated Credits Revenue 232,800
From Beginning Fund Balance 15,554,400
From Closing Fund Balance ..... (15,554,400)
Schedule of Programs:
Veterans Nursing Home Fund 40,880,400

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Veterans and Military Affairs (DVMA) report performance measures for the Veterans Nursing Home line item, whose purpose is to accept donations and gifts, and receive funds from state and federal agencies, insurance reimbursements, or cash payments, for the benefit of each home and its residents. The DVMA shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, DVMA shall report on the following performance measures: 1) Occupancy rate (Target = 95% average); 2) Number of homes in top 30% of all veterans homes nationally (Target = 3); 3) Performance ratings (Target = 4.75 [out of 5]); and 4) Customer satisfaction (Target = 4.5 [out of 5]).

Subsection 2(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 27
To General Fund Restricted - National Guard Death Benefits Account
From General Fund 9,500
From Beginning Fund Balance 366,500
From Closing Fund Balance ..... (376,000)

Item 28
To Firefighters Retirement Trust & Agency Fund
From General Fund 12,000,000
Schedule of Programs:
Firefighters Retirement Trust & Agency Fund 12,000,000

Section 3. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAPITOL PRESERVATION BOARD

Item 29
To Capitol Preservation Board
From General Fund 5,693,800
Schedule of Programs:
Capitol Preservation Board 5,693,800

In accordance with UCA 63J-1-903, the Legislature intends that the Capitol Preservation Board (CPB) report performance measures for the CPB line item, whose mission is "to be the stewards of the Capitol [to] maintain, improve, and oversee the buildings and grounds on the Capitol Hill Complex." The CPB shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the CPB shall report the following performance measures: 1) Stewardship plan for a safe, sustainable environment through maintenance, facility operations, and improvements (Target = Report on number of major projects completed); 2) Provision of high quality tours, information, and education to the public (Target = 50,000 students and 200,000 visitors annually); 3) Provision of event and scheduling program for all government meetings, free speech

activities, and public events (Target = 4,000 annually); and 4) Provision of exhibit and curatorial services on Capitol Hill to maintain the collections of artifacts for use and enjoyment of the general public (Target = 9,000 items).

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

CAPITOL PRESERVATION BOARD

Item 30

To Capitol Preservation Board – State Capitol Fund
From Dedicated Credits Revenue 280,000
From Beginning Fund Balance 1,508,800
From Closing Fund Balance . . . . . (1,154,800)
Schedule of Programs:
State Capitol Fund 634,000

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2023.

CHAPTER 7
S. B. 1
Passed January 26, 2023
Approved February 2, 2023
Effective February 2, 2023

PUBLIC EDUCATION BASE BUDGET AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2022, and ending June 30, 2023, and appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2023, and ending June 30, 2024.

Highlighted Provisions:

This bill:

- repeals obsolete provisions related to a past freeze on the minimum basic tax rate, including the equity pupil tax rate;
- provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- sets the value of the weighted pupil unit (WPU) initially at $4,175 for fiscal year 2023-2024;
- adjusts the number of WPUs in certain programs for student enrollment changes and statutory formula calculations;
- appropriates funds to the Uniform School Fund Restricted - Public Education Budget Stabilization Account;
- makes an appropriation from the Uniform School Fund Restricted - Trust Distribution Account to the School LAND Trust Program to support educational programs in the public schools;
- adjusts the revenue targets and estimates tax rates for the statewide Basic Rate and WPU Value Rate according to statutory provisions;
- provides appropriations for other purposes as described; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates $58,931,500 in operating and capital budgets for fiscal year 2023, including:

- $2,597,100 from the Uniform School Fund;
- ($1,500,000) from the Income Tax Fund; and
- $57,834,400 from various sources as detailed in this bill.

This bill appropriates ($1,513,200) in restricted fund and account transfers for fiscal year 2023.

This bill appropriates ($101,400) in fiduciary funds for fiscal year 2023.

This bill appropriates $6,978,248,400 in operating and capital budgets for fiscal year 2024, including:

- $8,704,000 from the General Fund;
- $3,981,754,800 from the Uniform School Fund;
- $206,228,600 from the Income Tax Fund; and
- $2,781,561,000 from various sources as detailed in this bill.

This bill appropriates $3,627,100 in expendable funds and accounts for fiscal year 2024.

This bill appropriates $789,467,900 in restricted funds and account transfers for fiscal year 2024, including:

- $440,640,400 from the Uniform School Fund;
- $347,077,500 from the Income Tax Fund; and
- $1,750,000 from various sources as detailed in this bill.

This bill appropriates $117,300 in fiduciary funds for fiscal year 2024.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-13-302, as last amended by Laws of Utah 2022, Chapter 239
11-13-310, as last amended by Laws of Utah 2018, Chapters 415, 456
53E-1-202, as last amended by Laws of Utah 2022, Chapter 274
53F-2-205, as last amended by Laws of Utah 2021, Chapter 382
53F-2-301, as last amended by Laws of Utah 2021, Chapter 319
53F-2-515, as last amended by Laws of Utah 2018, Chapter 456 and renumbered and amended by Laws of Utah 2018, Chapter 2
53F-9-302, as last amended by Laws of Utah 2022, Chapter 456
53F-9-305, as last amended by Laws of Utah 2022, Chapter 456
53F-9-306, as last amended by Laws of Utah 2022, Chapter 456
53G-3-304, as last amended by Laws of Utah 2018, Chapters 281, 456 and renumbered and amended by Laws of Utah 2018, Chapter 3
59-2-919.1, as last amended by Laws of Utah 2022, Chapter 293
59-2-926, as last amended by Laws of Utah 2022, Chapter 451
63I-2-211, as last amended by Laws of Utah 2018, Chapters 337, 456
63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370, and 409
63I-2-259, as last amended by Laws of Utah 2022, Chapter 264

REPEALS:

53F-2-301.5, as last amended by Laws of Utah 2022, Chapters 1, 409 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 409

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

Section 1. Section 11-13-302 is amended to read:

11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy suppliers -- Method of calculating -- Collection -- Extent of tax lien.

(1) (a) Each project entity created under this chapter that owns a project and that sells any capacity, service, or other benefit from it to an

energy supplier or suppliers whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this section to each taxing jurisdiction within which the project or any part of it is located.

(b) For purposes of this section, "annual fee" means the annual fee described in Subsection (1)(a) that is in lieu of ad valorem property tax.

(c) The requirement to pay an annual fee shall commence:

(i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit, other than any generating unit providing additional project capacity, of the project occurs, or, in the case of any facilities providing additional project capacity, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the generating unit providing the additional project capacity occurs; and

(ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the project commences, or, in the case of facilities providing additional project capacity, with the fiscal year of the taxing jurisdiction in which construction of those facilities commences.

(d) The requirement to pay an annual fee shall continue for the period of the useful life of the project or facilities.

(2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b) because the ad valorem property tax imposed by a school district and authorized by the Legislature represents both:

(i) a levy mandated by the state for the state minimum school program under Section 53F-2-301 [~~or 53F-2-301.5, as applicable~~]; and

(ii) local levies for capital outlay and other purposes under Sections 53F-8-303, 53F-8-301, and 53F-8-302.

(b) The annual fees due a school district shall be as follows:

(i) the project entity shall pay to the school district an annual fee for the state minimum school program at the rate imposed by the school district and authorized by the Legislature under Section 53F-2-301 [~~or 53F-2-301.5, as applicable~~]; and

(ii) for all other local property tax levies authorized to be imposed by a school district, the project entity shall pay to the school district either:

(A) an annual fee; or

(B) impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306.

(3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the fee base or value determined in accordance with Subsection (4) for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

(b) As used in this section, "tax rate," when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63M-5-302.

(c) There is to be credited against the annual fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds, the proceeds of which were used to provide public facilities and services for impact alleviation in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

(d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

(i) take into account the fee base or value of the percentage of the project located within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and

(ii) reflect any credit to be given in that year.

(4) (a) Except as otherwise provided in this section, the annual fees required by this section shall be paid, collected, and distributed to the taxing jurisdiction as if:

(i) the annual fees were ad valorem property taxes; and

(ii) the project were assessed at the same rate and upon the same measure of value as taxable property in the state.

(b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by this section, the fee base of a project may be determined in accordance with an agreement among:

(A) the project entity; and

(B) any county that:

(I) is due an annual fee from the project entity; and

(II) agrees to have the fee base of the project determined in accordance with the agreement described in this Subsection (4).

(ii) The agreement described in Subsection (4)(b)(i):

(A) shall specify each year for which the fee base determined by the agreement shall be used for purposes of an annual fee; and

(B) may not modify any provision of this chapter except the method by which the fee base of a project is determined for purposes of an annual fee.

(iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing jurisdiction.

(iv) (A) If there is not agreement as to the fee base of a portion of a project for any year, for purposes of an annual fee, the State Tax Commission shall determine the value of that portion of the project for which there is not an agreement:

(I) for that year; and

(II) using the same measure of value as is used for taxable property in the state.

(B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax Commission in accordance with rules made by the State Tax Commission.

(c) Payments of the annual fees shall be made from:

(i) the proceeds of bonds issued for the project; and

(ii) revenues derived by the project entity from the project.

(d) (i) The contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees.

(ii) It is the responsibility of the project entity to enforce the obligations of the purchasers.

(5) (a) The responsibility of the project entity to make payment of the annual fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues, money to make these payments, and the obligation to make payments of the annual fees is not otherwise a general obligation or liability of the project entity.

(b) No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of an annual fee.

(c) The project entity or any purchaser may contest the validity of an annual fee to the same extent as if the payment was a payment of the ad valorem property tax itself.

(d) The payments of an annual fee shall be reduced to the extent that any contest is successful.

(6) (a) The annual fee described in Subsection (1):

(i) shall be paid by a public agency that:

(A) is not a project entity; and

(B) owns an interest in a facility providing additional project capacity if the interest is otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

(ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in accordance with Subsection (6)(b).

(b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

(i) the fee base or value of the facility providing additional project capacity located within the jurisdiction;

(ii) the percentage of the ownership interest of the public agency in the facility; and

(iii) the portion, expressed as a percentage, of the public agency's ownership interest that is attributable to the capacity, service, or other benefit from the facility that is sold, including any subsequent sale, resale, or layoff, by the public agency to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

(c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect to its ownership interest as though it were a project entity.

(d) On or before March 1 of each year, a project entity that owns a project and that provides any capacity, service, or other benefit to an energy supplier or a public agency shall file an electronic report with the State Tax Commission that identifies:

(i) each energy supplier and public agency to which the project entity delivers capacity, service, or other benefit; and

(ii) the amount of capacity, service, or other benefit delivered to each energy supplier and public agency.

Section 2. Section 11-13-310 is amended to read:

11-13-310. Termination of impact alleviation contract.

(1) If the project or any part of it or the facilities providing additional project capacity or any part of them, or the output from the project or facilities providing additional project capacity become subject, in addition to the requirements of Section 11-13-302, to ad valorem property taxation or other payments in lieu of ad valorem property taxation, or other form of tax equivalent payments to any candidate which is a party to an impact alleviation contract with respect to the project or facilities providing additional project capacity or is receiving impact alleviation payments or means with respect to the project or facilities providing additional project capacity pursuant to a determination by the board, then the impact alleviation contract or the requirement to make impact alleviation payments or provide means therefor pursuant to the determination, as the case may be, shall, at the election of the candidate, terminate.

(2) In any event, each impact alleviation contract or determination order shall terminate upon the project, or, in the case of facilities providing additional project capacity, those facilities becoming subject to the provisions of Section 11-13-302, except that no impact alleviation contract or agreement entered by a school district shall terminate because of in lieu ad valorem property tax fees levied under Subsection 11-13-302(2)(b)(i) or because of ad valorem property taxes levied under Section 53F-2-301 [~~or 53F-2-301.5, as applicable,~~] for the state minimum school program.

(3) In addition, if the construction of the project, or, in the case of facilities providing additional project capacity, of those facilities, is permanently terminated for any reason, each impact alleviation contract and determination order, and the payments and means required thereunder, shall terminate.

(4) No termination of an impact alleviation contract or determination order may terminate or reduce any liability previously incurred pursuant to

the contract or determination order by the candidate beneficiary under it.

(5) If the provisions of Section 11-13-302, or its successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or other form of tax equivalent payments are payable, the remaining provisions of this chapter shall continue in operation without regard to the commencement of commercial operation of the last generating unit of that project or of facilities providing additional project capacity.

Section 3. Section 53E-1-202 is amended to read:

53E-1-202. Reports to and action required of the Public Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Public Education Appropriations Subcommittee:

(a) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(b) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities; and

(c) the report by the STEM Action Center Board described in Section 9-22-109, including the information described in Section 9-22-113 on the status of the computer science initiative.

(2) In accordance with applicable provisions, the Public Education Appropriations Subcommittee shall complete [~~the following: (a) the review described in Section 53F-2-301 of the WPU value rate; and (b)~~], if required, the study described in Section 53F-4-304 of scholarship payments.

Section 4. Section 53F-2-205 is amended to read:

53F-2-205. Powers and duties of state board to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.

(1) As used in this section:

(a) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(b) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:

(i) Basic Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

(2) Except as provided in Subsection (3) or (5), if the number of weighted pupil units in a program is underestimated, the state board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(3) If the number of weighted pupil units in a program is overestimated, the state board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (3)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state guaranteed local levy increments as defined in Section 53F-2-601, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by Section 53F-2-704;

(d) to fund the cost of the salary supplements described in Section 53F-2-504; or

(e) to support a school district with a loss in student enrollment as provided in Section 53F-2-207.

(4) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 [~~or 53F-2-301.5, as applicable,~~] are overestimated, the state board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

(5) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 [~~or 53F-2-301.5, as applicable,~~] are underestimated, the state board shall:

(a) spend the excess local contributions for the purposes specified in Subsection (3), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

(6) Except as provided in Subsection (3) or (5), the state board shall reduce the state guarantee per weighted pupil unit provided under the local levy state guarantee program described in Section 53F-2-601, if:

(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

(7) Money appropriated to the state board is nonlapsing, including appropriations to the Minimum School Program and all agencies, line items, and programs under the jurisdiction of the state board.

(8) The state board shall report actions taken by the state board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

Section 5. Section 53F-2-301 is amended to read:

53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

(1) The provisions of this section are not in effect for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

[~~(d) "Equity pupil tax rate" means the tax rate that will generate an amount of revenue equal to the amount generated by the equity pupil tax rate as defined in Section 53F-2-301.5 in the fiscal year that begins July 1, 2022.~~]

[~~(e)~~] (d) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

[~~(C) the amount generated by the equity pupil tax rate; and~~]

[~~(D)~~] (C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

[~~(f)~~] (e) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

[~~(g)~~] (f) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

[~~(h)~~] (g) "WPU value amount" means an amount:

(i) that is equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

[~~(i)~~] (h) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

[~~(j)~~] (i) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, [~~2018, is $408,073,800~~] 2023, is $708,960,800 in revenue statewide.

(b) The preliminary estimate of the minimum basic tax rate for a fiscal year that begins on July 1, [~~2018, is .001498~~] 2023, is .001356.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, [~~2018, is $18,650,000~~] 2023, is $22,929,400 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, [~~2018, is .000069~~] 2023, is .000044.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, each local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) [~~(A) Except as provided in Subsection (6)(b)(ii)(B), the~~] The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

[~~(B) For a calendar year that begins on January 1, 2018, the state is not subject to the notice and public hearing requirements of Section 59-2-926 if the state authorizes a combined basic rate that exceeds the tax rates authorized in this section.~~]

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:

(i) the combined basic rate; and

(ii) the basic levy increment rate[~~; and~~].

[~~(iii) the equity pupil tax rate.~~]

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302; and

[~~(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and~~]

[~~(c)~~] (b) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

[~~(9) After July 1, 2021, but before November 30, 2022, the Public Education Appropriations Subcommittee:~~]

[~~(a) shall review the WPU value rate, the impact of revenues generated by the WPU value rate on public education funding, and whether local school boards should continue to levy the WPU value rate; and~~]

[~~(b) may recommend an increase, repeal, or continuance of the WPU value rate.~~]

Section 6. Section 53F-2-515 is amended to read:

53F-2-515. Federal Impact Aid Program -- Offset for underestimated allocations from the Federal Impact Aid Program.

(1) In addition to the revenues received from the levy imposed by a local school board and authorized by the Legislature under Section 53F-2-301 [~~or 53F-2-301.5, as applicable~~], the Legislature shall provide an amount equal to the difference between the school district's anticipated receipts under the entitlement for the fiscal year from the Federal Impact Aid Program and the amount the school district actually received from this source for the next preceding fiscal year.

(2) If at the end of a fiscal year the sum of the receipts of a school district from a distribution from the Legislature pursuant to Subsection (1) plus the school district's allocations from the Federal Impact Aid Program for that fiscal year exceeds the amount allocated to the school district from the Federal Impact Aid Program for the next preceding fiscal year, the excess funds are carried into the next succeeding fiscal year and become in that year a part of the school district's contribution to the school district's basic program for operation and maintenance under the state minimum school finance law.

(3) During the next succeeding fiscal year described in Subsection (2), the school district's required tax rate for the basic program shall be reduced so that the yield from the reduced tax rate plus the carryover funds equal the school district's required contribution to the school district's basic program.

(4) For the school district of a local school board that is required to reduce the school district's basic tax rate under this section, the school district shall receive state minimum school program funds as though the reduction in the tax rate had not been made.

Section 7. Section 53F-9-302 is amended to read:

53F-9-302. Minimum Basic Growth Account.

(1) As used in this section, "account" means the Minimum Basic Growth Account created in this section.

(2) There is created within the Income Tax Fund a restricted account known as the "Minimum Basic Growth Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53F-2-301 [~~or 53F-2-301.5, as applicable~~].

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) Upon appropriation by the Legislature:

(a) 75% of the money from the account shall be used to fund the state's contribution to the voted local levy guarantee described in Section 53F-2-601;

(b) 20% of the money from the account shall be used to fund the Capital Outlay Foundation Program as provided in Section 53F-3-202; and

(c) 5% of the money from the account shall be used to fund the Capital Outlay Enrollment Growth Program as provided in Section 53F-3-203.

Section 8. Section 53F-9-305 is amended to read:

53F-9-305. Local Levy Growth Account.

(1) As used in this section, "account" means the Local Levy Growth Account created in this section.

(2) There is created within the Income Tax Fund a restricted account known as the "Local Levy Growth Account."

(3) The account shall be funded by:

(a) amounts deposited into the account in accordance with Section 53F-2-301 [~~or 53F-2-301.5, as applicable~~]; and

(b) other legislative appropriations.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) The Legislature shall appropriate money in the account to the state board.

Section 9. Section 53F-9-306 is amended to read:

53F-9-306. Teacher and Student Success Account.

(1) As used in this section, "account" means the Teacher and Student Success Account created in this section.

(2) There is created within the Income Tax Fund a restricted account known as the "Teacher and Student Success Account."

(3) The account shall be funded by:

(a) amounts deposited into the account in accordance with Section 53F-2-301 [~~or 53F-2-301.5, as applicable~~]; and

(b) other legislative appropriations.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) The Legislature shall appropriate money in the account to the state board.

Section 10. Section 53G-3-304 is amended to read:

53G-3-304. Property tax levies in new district and remaining district -- Distribution of property tax revenue.

(1) Notwithstanding terms defined in Section 53G-3-102, as used in this section:

(a) "Divided school district" or "existing district" means a school district from which a new district is created.

(b) "New district" means a school district created under Section 53G-3-302 after May 10, 2011.

(c) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:

(i) the minimum basic tax rate imposed under Section 53F-2-301 [~~or 53F-2-301.5, as applicable~~];

(ii) a debt service levy imposed under Section 11-14-310; or

(iii) a judgment levy imposed under Section 59-2-1330.

(d) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.

(e) "Remaining district" means an existing district after the creation of a new district.

(2) A new district and remaining district shall continue to impose property tax levies that were imposed by the divided school district in the taxable year prior to the qualifying taxable year.

(3) Except as provided in Subsection (6), a property tax levy that a new district and remaining district are required to impose under Subsection (2) shall be set at a rate that:

(a) is uniform in the new district and remaining district; and

(b) generates the same amount of revenue that was generated by the property tax levy within the divided school district in the taxable year prior to the qualifying taxable year.

(4) The county treasurer of the county in which a property tax levy is imposed under Subsection (2) shall distribute revenues generated by the property tax levy to the new district and remaining district in proportion to the percentage of the divided school district's enrollment on the October 1 prior to the new district commencing educational services that were enrolled in schools currently located in the new district or remaining district.

(5) On or before March 31, a county treasurer shall distribute revenues generated by a property tax levy imposed under Subsection (2) in the prior calendar year to a new district and remaining district as provided in Subsection (4).

(6) (a) Subject to the notice and public hearing requirements of Section 59-2-919, a new district or remaining district may set a property tax rate higher than the rate required by Subsection (3), up to:

(i) the maximum rate, if any, allowed by law; or

(ii) the maximum rate authorized by voters for a voted local levy under Section 53F-8-301.

(b) The revenues generated by the portion of a property tax rate in excess of the rate required by Subsection (3) shall be retained by the district that imposes the higher rate.

Section 11. Section 59-2-919.1 is amended to read:

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection [~~(6)~~] (5), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the taxable value of the property;

(iii) (A) the deadline for the taxpayer to make an application to appeal the valuation or equalization of the property under Section 59-2-1004; or

(B) for property assessed by the commission, the deadline for the taxpayer to apply to the commission for a hearing on an objection to the valuation or equalization of the property under Section 59-2-1007;

(iv) for a property assessed by the commission, a statement that the taxpayer may not appeal the valuation or equalization of the property to the county board of equalization;

(v) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(vi) the following, stated separately:

(A) the charter school levy described in Section 53F-2-703;

(B) the multicounty assessing and collecting levy described in Subsection 59-2-1602(2);

(C) the county assessing and collecting levy described in Subsection 59-2-1602(4); and

[~~(D) for a fiscal year that begins before July 1, 2023, the combined basic rate as defined in Section 53F-2-301.5; and~~]

[~~(E)~~] (D) for a fiscal year that begins on or after July 1, 2023, the combined basic rate as defined in Section 53F-2-301;

(vii) the tax impact on the property;

(viii) the time and place of the required public hearing for each entity;

(ix) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes;

(C) collection procedures; and

(D) the residential exemption described in Section 59-2-103;

(x) information specifically authorized to be included on the notice under this chapter;

(xi) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); and

(xii) other property tax information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(viii); and

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate.

[~~(4) For tax year 2022, the notice described in Subsection (1) shall state:~~]

[~~(a) the difference between:~~]

[~~(i) the dollar amount of the taxpayer's liability for the combined basic rate as defined in Section 53F-2-301.5; and~~]

[~~(ii) the dollar amount that the taxpayer's liability for the combined basic rate as defined in Section 53F-2-301.5 would have been if the combined basic rate were equal to the sum of the minimum basic tax rate and the WPU value rate, as those terms are defined in Section 53F-2-301.5; and~~]

[~~(b) the percentage change between the amount described in Subsection (4)(a)(i) and the amount described in Subsection (4)(a)(ii).~~]

[~~(5)~~] (4) For tax years 2022 through 2025, the notice described in Subsection (1) shall state:

(a) the difference between:

(i) the dollar amount of the taxpayer's liability for the rate imposed under Subsection 59-2-1602(2)(b)(i); and

(ii) the dollar amount of the taxpayer's liability if the rate imposed under Subsection 59-2-1602(2)(b)(i) were the certified revenue levy; and

(b) the percentage change between the amount described in Subsection [~~(5)(a)(i)~~] (4)(a)(i) and the amount described in Subsection [~~(5)(a)(ii)~~] (4)(a)(ii).

[~~(6)~~] (5) (a) Subject to the other provisions of this Subsection [~~(6)~~] (5), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b) (i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection [~~(6)~~] (5):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection [~~(6)~~] (5), if:

(i) the taxpayer revokes an election in accordance with Subsection [~~(6)(c)~~] (5)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection [~~(6)~~] (5) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 12. Section 59-2-926 is amended to read:

59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.

If the state authorizes a tax rate that exceeds the [~~applicable tax~~] combined basic rate described in Section 53F-2-301 [~~or 53F-2-301.5~~], or authorizes a levy pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual legislative general session that meets the following requirements:

(1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state authorized a levy that generates revenue in excess of the previous year's ad valorem tax revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of revenue from collections from redemptions, interest, and penalties:

(i) in a newspaper of general circulation in the state; and

(ii) as required in Section 45-1-101.

(b) Except an advertisement published on a website, the advertisement described in Subsection (1)(a):

(i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(ii) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear; and

(iii) shall be run once.

(2) The form and content of the notice shall be substantially as follows:

"NOTICE OF TAX INCREASE

The state has budgeted an increase in its property tax revenue from $_____ to $_____ or ____%. The increase in property tax revenues will come from the following sources (include all of the following provisions):

(a) $_____ of the increase will come from (provide an explanation of the cause of adjustment or increased revenues, such as reappraisals or factoring orders);

(b) $_____ of the increase will come from natural increases in the value of the tax base due to (explain cause of eligible new growth, such as new building activity, annexation, etc.); and

(c) a home valued at $100,000 in the state of Utah which based on last year's (levy for the basic state-supported school program, applicable tax rate for the Property Tax Valuation Fund, or both) paid $_____ in property taxes would pay the following:

(i) $_____ if the state of Utah did not budget an increase in property tax revenue exclusive of eligible new growth; and

(ii) $_____ under the increased property tax revenues exclusive of eligible new growth budgeted by the state of Utah."

Section 13. Section 63I-2-211 is amended to read:

63I-2-211. Repeal dates: Title 11.

[~~(1) Subsections 11-13-302(2)(a)(i) and (2)(b)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~]

[~~(2) Section 11-13-310, the language that states "or 53F-2-301.5, as applicable," is repealed July 1, 2023.~~]

[~~(3) Title 11, Chapter 53, Residential Property Reimbursement, is repealed on January 1, 2020.~~]

Reserved.

Section 14. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

[~~(1) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.~~]

[~~(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~]

[~~(2)~~] (1) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(3)~~] (2) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(4)~~] (3) Section 53B-8-114 is repealed July 1, 2024.

[~~(5)~~] (4) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(6)~~] (5) Section 53B-10-101 is repealed on July 1, 2027.

[~~(7)~~] (6) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(8)~~] (7) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(9)~~] (8) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(10)~~] (9) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(11) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~]

[~~(12)~~] (10) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~] (11) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(14)~~] (12) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(15)~~] (13) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(16)~~] (14) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(17) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~]

[~~(18) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.~~]

[~~(19) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.~~]

[~~(20) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.~~]

[~~(21) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~]

[~~(22) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~]

[~~(23) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~]

[~~(24) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~]

[~~(25)~~] (15) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete

sentences and accurately reflect the office's perception of the Legislature's intent.

Section 15. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates: Title 59.

[~~(1) In Section 59-2-926, the language that states "applicable" and "or 53F-2-301.5" is repealed July 1, 2023.~~]

[~~(2)~~] (1) Subsection 59-7-610(8), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(3)~~] (2) Subsection 59-7-614.10(5), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(4)~~] (3) Section 59-7-624 is repealed December 31, 2024.

[~~(5)~~] (4) Subsection 59-10-210(2)(b)(vi) is repealed December 31, 2024.

[~~(6)~~] (5) Subsection 59-10-1007(8), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(7)~~] (6) Subsection 59-10-1037(5), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(8)~~] (7) Section 59-10-1112 is repealed December 31, 2024.

Section 16. Repealer.

This bill repeals:

Section 53F-2-301.5, Minimum basic tax rate for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

Section 17. Fiscal Year 2023 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 17(a). Operating and Capital Budgets.

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

Public Education

State Board of Education - Minimum School Program

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

From Beginning Nonlapsing Balances	17,538,100
From Closing Nonlapsing Balances	(16,400,200)
Schedule of Programs:	
Necessarily Existent Small Schools	1,137,900

Item 2 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Uniform School Fund, One-Time	2,597,100
From Beginning Nonlapsing Balances	22,654,800
From Closing Nonlapsing Balances	(4,740,700)
Schedule of Programs:	
Pupil Transportation Grants for Unsafe Routes	5,600
At-Risk Students - Gang Prevention and Intervention	1,000,000
Centennial Scholarship Program	23,600
Title I Schools Paraeducators Program	200,000
School LAND Trust Program	80,100
Charter School Local Replacement	8,000,000
Educator Salary Adjustments	2,597,100
Matching Fund for School Nurses	400
Special Education - Intensive Services	1,000,000
Digital Teaching and Learning Program	2,000,000
Effective Teachers in High Poverty Schools Incentive Program	150,000
Elementary School Counselor Program	284,400
Teacher and Student Success Program	200,000
Student Health and Counseling Support Program	4,070,000
English Language Learner Software	900,000

Item 3 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Beginning Nonlapsing Balances	38,790,800
Schedule of Programs:	
Voted Local Levy Program	12,151,200
Board Local Levy Program	26,639,600

State Board of Education

Item 4 To State Board of Education - Child Nutrition Programs

From Revenue Transfers, One-Time	(174,400)
From Beginning Nonlapsing Balances	924,700
From Closing Nonlapsing Balances	(749,800)
Schedule of Programs:	
Federal Commodities	500

Item 5 To State Board of Education - Educator Licensing

From Revenue Transfers, One-Time	(131,900)
From Beginning Nonlapsing Balances	1,601,500
From Closing Nonlapsing Balances	(1,519,300)
Schedule of Programs:	
Educator Licensing	(56,900)
STEM Endorsement Incentives	7,200

Item 6 To State Board of Education - Fine Arts Outreach

From Beginning Nonlapsing Balances	(615,800)
From Closing Nonlapsing Balances	1,511,700
Schedule of Programs:	
Professional Outreach Programs in the Schools	841,900
Subsidy Program	54,000

Item 7 To State Board of Education - Contracted Initiatives and Grants

From Income Tax Fund, One-Time	(1,500,000)
From Public Education Economic Stabilization Restricted Account, One-Time	1,500,000

From Revenue Transfers, One-Time (6,900)
From Beginning Nonlapsing Balances 9,501,900
From Closing Nonlapsing Balances (10,434,500)
From Lapsing Balance (6,700)
Schedule of Programs:
Autism Awareness (6,700)
Carson Smith Scholarships (423,900)
Early Warning Pilot Program (75,000)
ELL Software Licenses 71,100
General Financial Literacy (20,500)
UPSTART (281,900)
ULEAD (203,600)
Special Needs Opportunity Scholarship Administration (5,700)
Item 8 To State Board of Education - MSP Categorical Program Administration
From Revenue Transfers, One-Time (95,700)
From Beginning Nonlapsing Balances 1,488,000
From Closing Nonlapsing Balances (1,431,000)
Schedule of Programs:
Adult Education 26,600
Beverley Taylor Sorenson Elementary Arts Learning Program (3,400)
Digital Teaching and Learning (108,100)
Dual Immersion 24,300
Special Education State Programs (116,800)
Youth-in-Custody 60,400
Early Literacy Program 16,600
CTE Online Assessments (35,000)
State Safety and Support Program 82,700
Student Health and Counseling Support Program 2,300
Early Intervention 11,700
Item 9 To State Board of Education - Science Outreach
From Beginning Nonlapsing Balances 646,000
From Closing Nonlapsing Balances (646,000)
Item 10 To State Board of Education - Policy, Communication, & Oversight
From Revenue Transfers, One-Time (331,800)
From Beginning Nonlapsing Balances 3,746,100
From Closing Nonlapsing Balances (3,570,300)
Schedule of Programs:
Policy and Communication (673,900)
Student Support Services (158,000)
School Turnaround and Leadership Development Act 675,900
Item 11 To State Board of Education - System Standards & Accountability
From Revenue Transfers, One-Time (467,200)
From Beginning Nonlapsing Balances 23,046,900
From Closing Nonlapsing Balances (22,315,200)
Schedule of Programs:
Teaching and Learning 68,300
Assessment and Accountability 618,400
Career and Technical Education 4,400
Special Education (414,800)
RTC Fees (11,800)
Item 12 To State Board of Education - State Charter School Board
From Revenue Transfers, One-Time (51,900)
From Beginning Nonlapsing Balances 2,208,400
From Closing Nonlapsing Balances (1,957,000)
Schedule of Programs:
State Charter School Board 199,500
Item 13 To State Board of Education - Utah Schools for the Deaf and the Blind
From Beginning Nonlapsing Balances 1,873,100
From Closing Nonlapsing Balances (3,152,000)
Schedule of Programs:
Administration (2,435,500)
Transportation and Support Services 1,714,700
Utah State Instructional Materials Access Center (612,700)
School for the Deaf 105,600
School for the Blind (51,000)
Item 14 To State Board of Education - Statewide Online Education Program Subsidy
From Beginning Nonlapsing Balances 3,792,100
From Closing Nonlapsing Balances (3,792,100)
Item 15 To State Board of Education - State Board and Administrative Operations
From Beginning Nonlapsing Balances 10,161,100
From Closing Nonlapsing Balances (10,624,900)
From Lapsing Balance 64,500
Schedule of Programs:
Indirect Cost Pool 385,600
Data and Statistics (833,000)
School Trust 48,100

Subsection 17(b). Expendable Funds and Accounts.

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

Public Education
State Board of Education
Item 16 To State Board of Education - Charter School Revolving Account
From Beginning Fund Balance (171,100)
From Closing Fund Balance 171,100
Item 17 To State Board of Education - Hospitality and Tourism Management Education Account
From Beginning Fund Balance 157,200
From Closing Fund Balance (157,200)
Item 18 To State Board of Education - School Building Revolving Account
From Beginning Fund Balance (81,700)
From Closing Fund Balance 81,700
Item 19 To State Board of Education - Charter School Closure Reserve Account
From Beginning Fund Balance 2,800
From Closing Fund Balance (2,800)

Subsection 17(c). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 20 To Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account

From Beginning Fund Balance	22,900
From Closing Fund Balance	(1,536,100)
Schedule of Programs:	
Public Education Economic Stabilization Restricted Account	(1,513,200)

Subsection 17(d). Fiduciary Funds.

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

Public Education

State Board of Education

Item 21 To State Board of Education - Education Tax Check-off Lease Refunding

From Beginning Fund Balance	900
From Closing Fund Balance	(900)

Item 22 To State Board of Education - Schools for the Deaf and the Blind Donation Fund

From Dedicated Credits Revenue, One-Time	(90,000)
From Interest Income, One-Time	(4,400)
From Beginning Fund Balance	12,900
From Closing Fund Balance	(19,900)
Schedule of Programs:	
Schools for the Deaf and the Blind Donation Fund	(101,400)

Section 18. Fiscal Year 2024 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 18(a). Operating and Capital Budgets.

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

Public Education

State Board of Education - Minimum School Program

Item 23 To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund	3,086,473,300
From Local Revenue	731,890,200
From Beginning Nonlapsing Balances	36,906,000
From Closing Nonlapsing Balances	(36,906,000)
Schedule of Programs:	
Kindergarten (25,647 WPUs)	107,076,200
Grades 1 - 12 (611,450 WPUs)	2,552,803,800
Foreign Exchange (398 WPUs)	1,661,800
Necessarily Existent Small Schools (10,708 WPUs)	44,705,900
Professional Staff (57,118 WPUs)	238,467,700
Special Education - Add-on (93,579 WPUs)	390,692,300
Special Education - Self-Contained (11,334 WPUs)	47,319,500
Special Education - Preschool (11,372 WPUs)	47,478,100
Special Education - Extended School Year (460 WPUs)	1,920,500
Special Education - Impact Aid (2,072 WPUs)	8,650,500
Special Education - Extended Year for Special Educators (909 WPUs)	3,795,100
Career and Technical Education - Add-on (29,257 WPUs)	122,148,000
Class Size Reduction (42,604 WPUs)	177,871,800
Students At-Risk Add-on (17,670 WPUs)	73,772,300

Item 24 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Uniform School Fund	795,721,000
From Income Tax Fund Restricted - Charter School Levy Account	35,169,000
From Teacher and Student Success Account	163,616,200
From Uniform School Fund Restricted - Trust Distribution Account	101,803,300
From Beginning Nonlapsing Balances	30,935,300
From Closing Nonlapsing Balances	(30,935,300)
Schedule of Programs:	
Pupil Transportation To & From School	121,440,100
Flexible Allocation - WPU Distribution	19,101,000
At-Risk Students - Gang Prevention and Intervention	2,322,800
Youth in Custody	30,684,900
Adult Education	17,245,300
Enhancement for Accelerated Students	6,670,900
Concurrent Enrollment	17,273,700
Title I Schools Paraeducators Program	300,000
School LAND Trust Program	101,803,300
Charter School Local Replacement	247,138,000
Early Literacy Program	14,550,000
Educator Salary Adjustments	194,181,800
Teacher Salary Supplement	22,266,100
School Library Books and Electronic Resources	765,000
Matching Fund for School Nurses	1,002,000
Dual Immersion	5,030,000
Teacher Supplies and Materials	5,500,000
Beverley Taylor Sorenson Elementary Arts Learning Program	17,080,000
Early Intervention	36,655,000
Digital Teaching and Learning Program	19,852,400
Effective Teachers in High Poverty Schools Incentive Program	801,000
Elementary School Counselor Program	2,100,000

Pupil Transportation Rural School Reimbursement 500,000
Pupil Transportation - Rural School Grants 1,000,000
Teacher and Student Success Program 178,616,200
Student Health and Counseling Support Program 25,480,000
Grants for Professional Learning 3,935,000
Charter School Funding Base Program 3,015,000
Item 25 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs
From Uniform School Fund 99,560,500
From Local Levy Growth Account 108,461,300
From Local Revenue 924,572,200
From Income Tax Fund Restricted - Minimum Basic Growth Account 56,250,000
Schedule of Programs:
Voted Local Levy Program 724,228,100
Board Local Levy Program 464,615,900
State Board of Education - School Building Programs
Item 26 To State Board of Education - School Building Programs - Capital Outlay Programs
From Income Tax Fund 14,499,700
From Income Tax Fund Restricted - Minimum Basic Growth Account 18,750,000
Schedule of Programs:
Foundation Program 27,610,900
Enrollment Growth Program 5,638,800
State Board of Education
Item 27 To State Board of Education - Child Nutrition Programs
From Income Tax Fund 400
From Federal Funds 337,864,300
From Dedicated Credits Revenue 6,200
From Dedicated Credit - Liquor Tax 50,046,600
From Revenue Transfers (570,300)
From Beginning Nonlapsing Balances 2,189,200
From Closing Nonlapsing Balances (512,700)
Schedule of Programs:
Child Nutrition 358,752,300
Federal Commodities 30,271,400
Item 28 To State Board of Education - Educator Licensing
From Income Tax Fund 4,531,000
From Revenue Transfers (384,900)
From Beginning Nonlapsing Balances 2,027,800
From Closing Nonlapsing Balances (1,415,200)
Schedule of Programs:
Educator Licensing 2,835,200
STEM Endorsement Incentives 1,627,200
National Board-Certified Teachers 296,300
Item 29 To State Board of Education - Fine Arts Outreach
From Income Tax Fund 5,710,000
From Beginning Nonlapsing Balances 29,200
From Closing Nonlapsing Balances (29,200)
Schedule of Programs:
Professional Outreach Programs in the Schools 5,371,000
Provisional Program 285,000
Subsidy Program 54,000
Item 30 To State Board of Education - Contracted Initiatives and Grants
From General Fund 8,293,700
From Income Tax Fund 52,412,300
From General Fund Restricted - Autism Awareness Account 50,700
From Revenue Transfers (135,700)
From Beginning Nonlapsing Balances 15,064,900
From Closing Nonlapsing Balances (9,957,600)
From Lapsing Balance (15,700)
Schedule of Programs:
Autism Awareness 35,000
Carson Smith Scholarships 8,137,300
Computer Science Initiatives 117,500
Contracts and Grants 3,194,300
Software Licenses for Early Literacy 12,678,100
Early Warning Pilot Program 700,000
Elementary Reading Assessment Software Tools 3,767,100
General Financial Literacy 469,400
Intergenerational Poverty Interventions 1,055,800
Interventions for Reading Difficulties 366,500
IT Academy 500,000
Paraeducator to Teacher Scholarships 30,500
Partnerships for Student Success 2,843,800
ProStart Culinary Arts Program 521,500
UPSTART 25,024,000
ULEAD 378,000
Supplemental Educational Improvement Matching Grants 156,900
Competency-Based Education Grants 2,931,700
Special Needs Opportunity Scholarship Administration 55,200
Education Technology Management System 1,850,000
School Data Collection and Analysis 900,000
Item 31 To State Board of Education - MSP Categorical Program Administration
From Income Tax Fund 7,583,300
From Revenue Transfers (515,500)
From Beginning Nonlapsing Balances 5,244,300
From Closing Nonlapsing Balances (4,413,600)
Schedule of Programs:
Adult Education 335,100
Beverley Taylor Sorenson Elementary Arts Learning Program 118,700
CTE Comprehensive Guidance 281,400
Digital Teaching and Learning 435,500
Dual Immersion 601,900
At-Risk Students 474,400
Special Education State Programs 157,900
Youth-in-Custody 1,275,600
Early Literacy Program 435,500
CTE Online Assessments 624,300
CTE Student Organizations 1,010,900
State Safety and Support Program 622,500

Student Health and Counseling Support Program	338,100
Early Learning Training and Assessment	968,100
Early Intervention	218,600
Item 32 To State Board of Education - Regional Education Service Agencies	
From Income Tax Fund	2,000,000
Schedule of Programs:	
Regional Education Service Agencies	2,000,000
Item 33 To State Board of Education - Science Outreach	
From Income Tax Fund	6,265,000
From Beginning Nonlapsing Balances	685,700
From Closing Nonlapsing Balances	(642,600)
Schedule of Programs:	
Informal Science Education Enhancement	6,070,000
Provisional Program	238,100
Item 34 To State Board of Education - Policy, Communication, & Oversight	
From General Fund	410,000
From Income Tax Fund	14,366,600
From Federal Funds	73,469,200
From Dedicated Credits Revenue	64,300
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	5,084,200
From General Fund Restricted - Mineral Lease	167,000
From Revenue Transfers	(1,028,600)
From Income Tax Fund Restricted - Underage Drinking Prevention Program Restricted Account	1,756,100
From Beginning Nonlapsing Balances	14,190,700
From Closing Nonlapsing Balances	(16,255,300)
Schedule of Programs:	
Math Teacher Training	110,700
Teacher Retention in Indigenous Schools Grants	501,400
Policy and Communication	1,817,500
Student Support Services	85,059,100
School Turnaround and Leadership Development Act	4,735,500
Item 35 To State Board of Education - System Standards & Accountability	
From General Fund	100
From Income Tax Fund	32,791,700
From Federal Funds	119,429,800
From Dedicated Credits Revenue	7,046,600
From Expendable Receipts	446,000
From General Fund Restricted - Mineral Lease	404,100
From Revenue Transfers	(2,466,700)
From Beginning Nonlapsing Balances	28,858,500
From Closing Nonlapsing Balances	(16,634,100)
Schedule of Programs:	
Teaching and Learning	32,370,800
Assessment and Accountability	29,012,400
Career and Technical Education	17,190,300
Special Education	81,829,100
RTC Fees	73,200
Early Literacy Outcomes Improvement	9,130,200
CPR Training Grant Program	270,000
Item 36 To State Board of Education - State Charter School Board	
From Income Tax Fund	3,729,100
From Revenue Transfers	(275,100)
From Beginning Nonlapsing Balances	6,889,100
From Closing Nonlapsing Balances	(6,320,000)
Schedule of Programs:	
State Charter School Board	4,023,100
Item 37 To State Board of Education - Utah Charter School Finance Authority	
From Income Tax Fund Restricted - Charter School Reserve Account	50,000
From Income Tax Fund Restricted - Charter School Reserve Account One-Time	(1,900)
Schedule of Programs:	
Utah Charter School Finance Authority	48,100
Item 38 To State Board of Education - Utah Schools for the Deaf and the Blind	
From Income Tax Fund	39,894,300
From Federal Funds	111,900
From Dedicated Credits Revenue	4,905,100
From Revenue Transfers	6,356,600
From Beginning Nonlapsing Balances	7,122,600
From Closing Nonlapsing Balances	(10,709,700)
Schedule of Programs:	
Support Services	16,000
Administration	11,138,100
Transportation and Support Services	11,738,400
Utah State Instructional Materials Access Center	2,265,800
School for the Deaf	12,911,300
School for the Blind	9,611,200
Item 39 To State Board of Education - Statewide Online Education Program Subsidy	
From Income Tax Fund	8,257,000
From Revenue Transfers	(60,900)
From Beginning Nonlapsing Balances	4,434,400
From Closing Nonlapsing Balances	(4,138,400)
Schedule of Programs:	
Statewide Online Education Program	8,492,100
Item 40 To State Board of Education - State Board and Administrative Operations	
From General Fund	200
From Income Tax Fund	14,188,200
From Federal Funds	1,785,500
From General Fund Restricted - Mineral Lease	1,173,200
From General Fund Restricted - Land Exchange Distribution Account	16,300
From General Fund Restricted - School Readiness Account	66,900
From Revenue Transfers	5,321,700

From Uniform School Fund Restricted - Trust Distribution Account 773,300
From Beginning Nonlapsing Balances 19,136,800
From Closing Nonlapsing Balances (8,140,500)
Schedule of Programs:
Financial Operations 4,514,000
Information Technology 14,616,800
Indirect Cost Pool 7,280,900
Data and Statistics 1,682,900
School Trust 791,000
Board and Administration 5,436,000
School and Institutional Trust Fund Office
Item 41 To School and Institutional Trust Fund Office
From School and Institutional Trust Fund Management Account 3,404,200
Schedule of Programs:
School and Institutional Trust Fund Office 3,404,200

Subsection 18(b). Expendable Funds and Accounts.

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

Public Education
State Board of Education
Item 42 To State Board of Education - Charter School Revolving Account
From Dedicated Credits Revenue 4,600
From Interest Income 132,200
From Repayments 1,511,400
From Beginning Fund Balance 7,258,700
From Closing Fund Balance (7,395,400)
Schedule of Programs:
Charter School Revolving Account 1,511,500
Item 43 To State Board of Education - Hospitality and Tourism Management Education Account
From Dedicated Credits Revenue 300,000
From Interest Income 5,200
From Beginning Fund Balance 745,200
From Closing Fund Balance (400,400)
Schedule of Programs:
Hospitality and Tourism Management Education Account 650,000
Item 44 To State Board of Education - School Building Revolving Account
From Dedicated Credits Revenue 500
From Interest Income 112,800
From Repayments 1,465,600
From Beginning Fund Balance 10,217,100
From Closing Fund Balance (10,330,400)
Schedule of Programs:
School Building Revolving Account 1,465,600
Item 45 To State Board of Education - Charter School Closure Reserve Account
From Beginning Fund Balance 1,002,800
From Closing Fund Balance (1,002,800)

Subsection 18(c). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Public Education
Item 46 To Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account
From Uniform School Fund 440,640,400
From Beginning Fund Balance 2,168,800
From Closing Fund Balance (2,168,800)
Schedule of Programs:
Public Education Economic Stabilization Restricted Account 440,640,400
Item 47 To Income Tax Fund Restricted - Minimum Basic Growth Account
From Income Tax Fund 75,000,000
Schedule of Programs:
Income Tax Fund Restricted - Minimum Basic Growth Account 75,000,000
Item 48 To Underage Drinking Prevention Program Restricted Account
From Liquor Control Fund 1,750,000
Schedule of Programs:
Underage Drinking Prevention Program Restricted Account 1,750,000
Item 49 To Local Levy Growth Account
From Income Tax Fund 108,461,300
Schedule of Programs:
Local Levy Growth Account 108,461,300
Item 50 To Teacher and Student Success Account
From Income Tax Fund 163,616,200
Schedule of Programs:
Teacher and Student Success Account 163,616,200

Subsection 18(d). Fiduciary Funds.

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

Public Education
State Board of Education
Item 51 To State Board of Education - Education Tax Check-off Lease Refunding
From Beginning Fund Balance 38,300
From Closing Fund Balance (37,400)
Schedule of Programs:
Education Tax Check-off Lease Refunding 900
Item 52 To State Board of Education - Schools for the Deaf and the Blind Donation Fund
From Dedicated Credits Revenue 115,000
From Interest Income 5,400
From Beginning Fund Balance 293,800
From Closing Fund Balance (297,800)
Schedule of Programs:
Schools for the Deaf and the Blind Donation Fund 116,400

Section 19. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2023.

(2) If approved by two-thirds of all the members elected to each house, the following sections take effect upon approval by the Governor, or the day following the constitutional time limit of Utah

Constitution Article VII, Section 8, without the Governor's signature, or in the case of a veto, the date of veto override:

(a) Section 17, Fiscal Year 2023 Appropriations;

(b) Subsection 17(a), Operating and Capital Budgets;

(c) Subsection 17(b), Expendable Funds and Accounts;

(d) Subsection 17(c), Restricted Fund and Account Transfers; and

(e) Subsection 17(d), Fiduciary Funds.

CHAPTER 8
S. B. 5
Passed January 26, 2023
Approved February 2, 2023
Effective May 3, 2023

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY BASE BUDGET

Chief Sponsor: Scott D. Sandall
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $24,178,100 in operating and capital budgets for fiscal year 2023, including:

- $1,143,600 from the General Fund; and
- $23,034,500 from various sources as detailed in this bill.

This bill appropriates ($26,411,500) in expendable funds and accounts for fiscal year 2023.

This bill appropriates $12,884,400 in business-like activities for fiscal year 2023, including:

- $13,066,000 from the General Fund; and
- ($181,600) from various sources as detailed in this bill.

This bill appropriates ($994,000) in restricted fund and account transfers for fiscal year 2023, all of which is from the General Fund.

This bill appropriates $592,632,600 in operating and capital budgets for fiscal year 2024, including:

- $99,596,700 from the General Fund;
- $499,500 from the Income Tax Fund; and
- $492,536,400 from various sources as detailed in this bill.

This bill appropriates $121,580,300 in expendable funds and accounts for fiscal year 2024, including:

- $60,000,400 from the General Fund; and
- $61,579,900 from various sources as detailed in this bill.

This bill appropriates $73,671,100 in business-like activities for fiscal year 2024.

This bill appropriates $12,212,900 in restricted fund and account transfers for fiscal year 2024, including:

- $8,170,500 from the General Fund; and
- $4,042,400 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2023.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 1

To Department of Agriculture and Food - Administration
From General Fund, One-Time 21,600
From Beginning Nonlapsing Balances ... (7,000)
From Closing Nonlapsing Balances .... (574,900)
Schedule of Programs:
General Administration ..... (560,300)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $574,900 of the appropriations provided for the Administration line item in Item 48, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures from General Fund are limited to: Computer Equipment/Software $100,000; Employee Training/Incentives $100,000; Equipment/ Supplies $100,000; Special Projects/Studies $219,900; Furnishings/Equipment $55,000.

Item 2

To Department of Agriculture and Food - Animal Industry
From Beginning Nonlapsing Balances ... (3,700)
From Closing Nonlapsing Balances 3,700

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,171,300 of the appropriations provided for the Animal Health line item in Item 49, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures from General Fund are limited to: Computer Equipment/Software $350,000 Employee Training/Incentives $200,000; Equipment/ Supplies $315,400; Special Projects/Studies $305,900.

Item 3

To Department of Agriculture and Food - Invasive Species Mitigation
From Beginning Nonlapsing Balances ..... (87,900)

From Closing Nonlapsing Balances 24,900
Schedule of Programs:
Invasive Species Mitigation ..... (63,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $316,200 of the appropriations provided for Invasive Species Mitigation in Item 51, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: invasive species mitigation projects.

Item 4
To Department of Agriculture and Food - Marketing and Development
From Beginning Nonlapsing Balances ..... (164,000)
From Closing Nonlapsing Balances ..... (90,100)
Schedule of Programs:
Marketing and Development ..... (254,100)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $90,100 of the appropriations provided for the Marketing and Development line item in Item 52, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of General Fund are limited to: Employee Training/Incentives $25,000; Special Projects/Studies $65,100.

Item 5
To Department of Agriculture and Food - Plant Industry
From Agriculture Resource Development Fund, One-Time ..... (207,500)
From Closing Nonlapsing Balances .... (832,700)
From Lapsing Balance ..... (207,500)
Schedule of Programs:
Environmental Quality 100,900
Grain Inspection ..... (185,000)
Grazing Improvement Program ..... (525,500)
Insect Infestation 260,300
Plant Industry ..... (898,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,126,400 of the appropriations provided for the Plant Industry line item in Item 53, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of General Fund are limited to: Employee Training/Incentives $100,000; Special Projects/Studies $100,000. Expenditures of Dedicated Credits are limited to: $500,000 to continue development of a department-wide computer system to manage regulatory programs, including DTS staffing; $426,400 Capital purchases/equipment.

Item 6
To Department of Agriculture and Food - Predatory Animal Control
From Closing Nonlapsing Balances 16,300
Schedule of Programs:
Predatory Animal Control 16,300

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $119,300 of the appropriations provided for Predatory Animal Control in Item 54, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to equipment/supplies.

Item 7
To Department of Agriculture and Food - Rangeland Improvement
From Beginning Nonlapsing Balances ..... (10,900)
From Closing Nonlapsing Balances 38,400
Schedule of Programs:
Rangeland Improvement 27,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $510,600 of the appropriations provided for Rangeland Improvement in Item 55, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to rangeland improvement projects.

Item 8
To Department of Agriculture and Food - Regulatory Services
From Closing Nonlapsing Balances 86,800
Schedule of Programs:
Weights & Measures 54,300
Food Inspection ..... (25,200)
Dairy Inspection 100,900
Egg Grading and Inspection ..... (43,200)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,128,900 of the appropriations provided for the Regulatory Services line item in Item 56, Chapter 5, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of General Fund are limited to Employee Training/Incentives $100,000; Equipment/Supplies $100,000; Special Projects/Studies $100,000. Expenditures of Dedicated Credits are limited to: $828,900 to continue development of a Food Safety Management computer system to manage regulatory programs, purchase equipment and supplies, and large-scale truck repair.

Item 9
To Department of Agriculture and Food - Resource Conservation
From General Fund, One-Time 7,500
From Revenue Transfers, One-Time .. 1,920,800
From Beginning Nonlapsing Balances 1,849,500
From Closing Nonlapsing Balances ... (2,245,000)
From Lapsing Balance ..... (393,500)
Schedule of Programs:
Conservation Commission 219,200
Resource Conservation 912,600
Resource Conservation Administration .. 7,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $2,245,000 of the appropriations provided for Resource Conservation in Item 57, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: AgVIP projects $2,000,000; Soil Health and Pollinator projects $75,000;

training/incentives $100,000; equipment/ supplies/and other projects $70,000.

Item 10
To Department of Agriculture and Food – Medical Cannabis
From Qualified Production Enterprise Fund, One-Time ..... (500)
Schedule of Programs:
Medical Cannabis ..... (500)

Item 11
To Department of Agriculture and Food – Industrial Hemp
From Closing Nonlapsing Balances .... (400,000)
Schedule of Programs:
Industrial Hemp ..... (400,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $400,000 of the appropriations provided for Industrial Hemp in Item 59, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: Training/incentives $100,000; equipment/supplies $300,000.

The Legislature intends that the department of Agriculture and Foods Hemp and Medical Cannabis Division remit all vehicles in active already replaced status to the Division of Fleet Operations. Further, the Legislature intends that the Industrial Hemp program maintain a fleet of 1 vehicle for every inspector in the program.

Item 12
To Department of Agriculture and Food – Analytical Laboratory
From Qualified Production Enterprise Fund, One-Time ..... (28,800)
From Beginning Nonlapsing Balances .. (85,300)
From Closing Nonlapsing Balances 84,500
From Lapsing Balance ..... (28,800)
Schedule of Programs:
Analytical Laboratory ..... (58,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $15,500 of the appropriations provided for Analytical Laboratory in Item 60, Chapter 5, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: Laboratory supplies and equipment.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 13
To Department of Environmental Quality – Drinking Water
From General Fund, One-Time 157,400
From Beginning Nonlapsing Balances .. (68,700)
From Closing Nonlapsing Balances .... (200,000)
Schedule of Programs:
Drinking Water Administration 157,400
System Assistance ..... (268,700)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $200,000 of the appropriations provided for Drinking Water in Item 99, Chapter 2, the Laws of Utah 2022 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to DW Source Water Sizing Requirements $200,000.

Item 14
To Department of Environmental Quality – Environmental Response and Remediation
From General Fund, One-Time 261,600
From Beginning Nonlapsing Balances ... (3,900)
From Closing Nonlapsing Balances .... (135,000)
Schedule of Programs:
Voluntary Cleanup ..... (19,700)
CERCLA 18,600
Petroleum Storage Tank Cleanup 60,300
Petroleum Storage Tank Compliance ... 63,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $135,000 of the appropriations provided for Environmental Response and Remediation in Item 100, Chapter 2, Laws of Utah 2022 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: Underground Petroleum Storage Tank (UST) Operator certification $25,000; Aboveground Petroleum Storage Tank (AST) program $35,000; Data processing hardware $30,000; Technological Services $45,000.

Item 15
To Department of Environmental Quality – Executive Director's Office
From General Fund, One-Time 292,800
From General Fund Restricted – Environmental Quality, One-Time .. (249,600)
From Beginning Nonlapsing Balances ... (2,500)
From Closing Nonlapsing Balances .... (300,000)
Schedule of Programs:
Executive Director Office
Administration ..... (285,200)
Radon 25,900

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $1,300,000 of the appropriations provided for the Executive Directors Office in Item 101, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to high level nuclear waste opposition $10,000; capital improvements/ maintenance, DP Software, document management database, and equipment $1,140,000; administrative law judge $150,000.

Item 16
To Department of Environmental Quality – Waste Management and Radiation Control
From General Fund, One-Time ..... (179,500)
From General Fund Restricted – Environmental Quality, One-Time 249,600
From Beginning Nonlapsing Balances 100
From Closing Nonlapsing Balances .... (650,000)
Schedule of Programs:
Hazardous Waste ..... (228,500)
Solid Waste ..... (63,300)
Radiation ..... (84,100)
Low Level Radioactive Waste ..... (130,600)
WIPP ..... (4,400)

Used Oil ..... (66,500)
Waste Tire ..... (5,000)
X-Ray 2,600

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $650,000 of the appropriations provided for Waste Management and Radiation Control in Item 102, Chapter 2, Laws of Utah 2022 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to Research and Development to replace Obsolete and Outdated Programming and Databases $550,000, Capital Improvements and Maintenance, DP Software and Equipment $75,000, and Community Outreach and Public Education $25,000.

Item 17
To Department of Environmental Quality - Water Quality
From General Fund, One-Time 227,400
From Beginning Nonlapsing Balances ..... (2,160,100)
From Closing Nonlapsing Balances ... (1,017,100)
Schedule of Programs:
Water Quality Support ..... (2,750,000)
Water Quality Protection ..... (135,000)
Water Quality Permits ..... (64,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $1,107,100 of the appropriations provided for Division Water Quality in Item 103, Chapter 2, Laws of Utah 2022 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to $80,000 for data processing software and consultant services; $750,000 for an improved WQ Compliance Database; $107,100 for independent scientific review activities as outlined in R317-1-10; $30,000 for Utah Inland Port monitoring activities; and $50,000 for environmental equipment.

Item 18
To Department of Environmental Quality - Trip Reduction Program
From Beginning Nonlapsing Balances . (260,600)
From Closing Nonlapsing Balances .... (237,800)
Schedule of Programs:
Trip Reduction Program ..... (498,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $237,800 of the appropriations provided for Trip Reduction Program in Item 104, Chapter 2, Laws of Utah 2022 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: reduction of trips/free fare days.

Item 19
To Department of Environmental Quality - Air Quality
From General Fund, One-Time 310,100
From Federal Funds, One-Time ..... (1,516,200)
From Beginning Nonlapsing Balances ..... (1,096,200)
From Closing Nonlapsing Balances ..... (11,017,500)
Schedule of Programs:
Compliance ..... (67,000)
Permitting ..... (268,000)
Planning ..... (13,595,100)
Air Quality Administration 610,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that $58,500 of General Fund provided to implement the provisions of S.B. 136 from the 2022 General Session not lapse at the close of FY 2023.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $11,277,500 of the appropriations provided for the Division of Air Quality in Item 105, Chapter 2, Laws of Utah 2022 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to reducing operating permit fees $100,000; permit annual fees $200,000; air monitoring equipment $550,000; air quality research $530,000; mobile monitoring data collection $12,000; electric vehicle charging equipment $2,944,500; replace wood-fired stoves and fireplaces with gas appliances $3,112,300; air quality monitoring network - Summit & Wasatch counties $462,500; ozone monitoring infrastructure - Wasatch front $3,236,200; Ozone and PM2.5 Study using Operating permit fees, $130,000.

Item 20
To Department of Environmental Quality - Laboratory Services
From Beginning Nonlapsing Balances . (250,000)
From Closing Nonlapsing Balances .... (250,000)
Schedule of Programs:
Laboratory Services ..... (500,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $250,000 of the appropriations provided for Laboratory Services in Item 106, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to laboratory services.

GOVERNOR'S OFFICE OF ENERGY DEVELOPMENT

Item 21
To Governor's Office of Energy Development - Office of Energy Development
From General Fund, One-Time ..... (1,400)
Schedule of Programs:
Office of Energy Development ..... (1,400)

DEPARTMENT OF NATURAL RESOURCES

Item 22
To Department of Natural Resources - Administration
From General Fund, One-Time 25,300
From Beginning Nonlapsing Balances 5,200
From Closing Nonlapsing Balances .... (225,000)
Schedule of Programs:
Administrative Services ..... (671,500)
Executive Director 477,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $225,000 appropriations provided for DNR Administration line item in Item 61, Chapter 2, Laws of Utah 2022 shall not lapse

at the close of FY 2022. Expenditures of these funds are limited to: Computer Equipment/ Software $75,000; Equipment/Supplies $25,000; and Current Expense $125,000.

Item 23
To Department of Natural Resources – DNR Pass Through
From Beginning Nonlapsing Balances ..... (1,073,500)
From Closing Nonlapsing Balances ..... (10,677,000)
Schedule of Programs:
DNR Pass Through ..... (11,750,500)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $10,677,000 appropriations provided for the Department of Natural Resources in Item 65, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to projects that have been appropriated but unexpended at the end of fiscal year 2023: Utah Lake Funding $8,722,000; Hogle Zoo "Wild Utah" exhibit $1,500,000; Bear Lake Improvements $350,000; and Utah County Fire Rehabilitation $105,000.

Item 24
To Department of Natural Resources – Forestry, Fire, and State Lands
From General Fund Restricted – Sovereign Lands Management, One–Time ..... (5,709,400)
From Beginning Nonlapsing Balances 51,651,800
From Closing Nonlapsing Balances ..... (60,196,900)
Schedule of Programs:
Division Administration ..... (982,100)
Fire Management ..... (1,243,900)
Fire Suppression Emergencies 8,133,700
Forest Management ..... (433,700)
Lands Management ..... (35,900)
Lone Peak Center 564,600
Program Delivery ..... (3,026,000)
Project Management ..... (17,231,200)

Under the terms of 631–1–603 of the Utah Code, the Legislature intends that up to $52,696,900 appropriations provided for the Division of Forestry, Fire, and State Lands in Item 66, Chapter 2, Laws of Utah 2022 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: Sovereign Lands Related Projects $5,825,700; Little Willow Water Line $17,800; Shared Stewardship $1,584,400; Aspen Regeneration $411,000; Fire Mitigation $458,000; Strategic and Targeted Fire Mitigation $1,400,000; Richfield Fire Cache, $3,000,000; and the Great Salt Lake Watershed Program $40,000,000.

Item 25
To Department of Natural Resources – Oil, Gas and Mining
From Beginning Nonlapsing Balances ... 287,500
From Closing Nonlapsing Balances ... (3,600,000)
Schedule of Programs:
Coal Program ..... (312,900)
OGM Misc. Nonlapsing ..... (2,999,600)

Under the terms of 63J–1–603 of the Utah Code, the legislature intends that appropriations provided for the Division of Oil, Gas and Mining in Item 67, Chapter 2, Law of Utah 2022 shall not lapse at the close of the fiscal year. Expenditures of these funds are limited to: Mining Special Projects/Studies ($250,000); Computer Equipment/Software ($50,000); Employee Training/Incentives ($50,000); Equipment/ Supplies ($50,000)

Item 26
To Department of Natural Resources – Parks and Recreation
From General Fund Restricted – Off–highway Vehicle, One–Time ..... (30,000)
Schedule of Programs:
Recreation Services ..... (30,000)

Item 27
To Department of Natural Resources – Species Protection
From Beginning Nonlapsing Balances .. (96,000)
From Closing Nonlapsing Balances ... (1,139,000)
Schedule of Programs:
Species Protection ..... (1,235,000)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided for the Species Protection program in Item 68, Chapter 2, Laws of Utah 2022 shall not lapse at the close of Fiscal Year 2023. Expenditures are limited to: Implementation of the Desert Tortoise Reserve, $739,000, and Implementation of Species Protection Program Projects, $400,000.

Item 28
To Department of Natural Resources – Utah Geological Survey
From Beginning Nonlapsing Balances . (222,000)
From Closing Nonlapsing Balances ... (2,056,400)
Schedule of Programs:
Administration ..... (1,679,000)
Energy and Minerals 213,400
Geologic Hazards ..... (193,100)
Geologic Information and Outreach 182,800
Geologic Mapping 127,600
Groundwater ..... (96,100)
Technical Services ..... (834,000)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $2,056,400 appropriations provided for the Utah Geological Survey line item in item 69, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: Employee Training/Incentives $50,000; Current Expense $50,000; Equipment/Supplies $200,000; Computer Equipment/Supplies $200,000; Grant Projects Match $804,300; Bonneville Salt Flats Restoration $331,400 and Great Salt Lake Groundwater Studies $420,700.

Item 29
To Department of Natural Resources – Water Resources
From Beginning Nonlapsing Balances ..... (4,841,400)
From Closing Nonlapsing Balances ..... (16,150,000)
Schedule of Programs:
Administration ..... (600,000)
Construction ..... (13,180,800)
Planning ..... (6,898,500)
Funding Projects and Research ..... (312,100)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Item 70, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: Operating Budget Items $300,000; Water Conservation Funding $300,000; Water Banking $125,000; Dam Safety Construction Project $6,000,000; Water Infrastructure $300,000; Agricultural Water Optimization $300,000; Transparent Water Billing $1,300,000, Secondary Water Metering $2,000,000, Integrating Water Planning and Land Use Planning $150,000, Great Salt Lake Amendments $4,600,000, Water as Part of a General Plan $275,000, and Innovation Grant $500,000.

Item 30
To Department of Natural Resources – Water Rights
From General Fund Restricted – Water Rights Restricted Account, One-Time 1,200
From General Fund Restricted – Boating, One-Time ..... (300)
From Designated Sales Tax, One-Time 478,200
From General Fund Restricted – Off-highway Vehicle, One-Time ..... (500)
From General Fund Restricted – State Park Fees, One-Time ..... (400)
From Beginning Nonlapsing Balances 5,484,100
From Closing Nonlapsing Balances ... (3,666,700)
Schedule of Programs:
Adjudication 4,162,700
Administration ..... (200,000)
Applications and Records ..... (1,517,100)
Field Services 230,000
Water Power Study ..... (150,000)
River Distribution Accounting Report ..... (230,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $3,666,700 appropriations provided for the Division of Water Rights in Item 71, Chapter 2, Laws of Utah 2022 shall not lapse at the close of Fiscal Year 2023. Expenditures are limited to: Computer Equipment Software/ Development $800,000; Professional Services $100,000; Equipment/Supplies $40,000; Employee Training/Incentives $5,000; Travel $15,000; Postage $25,000; Advertising $15,000; and the Navajo Water Rights Settlement $2,666,700.

Item 31
To Department of Natural Resources – Watershed Restoration
From General Fund Restricted – Sovereign Lands Management, One-Time ..... (2,000,000)
From Beginning Nonlapsing Balances .. (53,900)
From Closing Nonlapsing Balances ... (3,000,000)
Schedule of Programs:
Watershed Restoration ..... (5,053,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Watershed Restoration line item in Item 72, Chapter 2, Laws of Utah 2022 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to projects obligated by contract in FY 2022 up to $3,000,000.

Item 32
To Department of Natural Resources – Wildlife Resources
From Beginning Nonlapsing Balances . (798,100)
From Closing Nonlapsing Balances ... (5,775,000)
Schedule of Programs:
Administrative Services 66,900
Law Enforcement ..... (4,000,000)
Wildlife Section ..... (2,640,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Predator Control Program in Item 73, Chapter 2, Laws of Utah 2022 shall not lapse at the close of Fiscal Year 2023. Expenditures are limited to: Implementation of the Predator Control Program Plan, $200,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $700,000 of Wildlife Resources budget be used for big game depredation expenses and that these funds shall not lapse at the close of Fiscal Year 2023. The Legislature further intends that half of the funds be from the General Fund Restricted – Wildlife Resources account and the other half from the General Fund.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $875,000 of the General Fund appropriation for the Division of Wildlife Resources be used for Great Salt Lake /Utah Lake Waterbird expenses and that these funds shall not lapse at the close of Fiscal Year 2023.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $4,000,000 of the General Fund appropriation for the Division of Wildlife Resources be used for AIS Quagga Treatment tank expenses and that these funds shall not lapse at the close of Fiscal Year 2023.

Item 33
To Department of Natural Resources – Wildlife Resources Capital Budget

From Beginning Nonlapsing Balances . (599,400)
From Closing Nonlapsing Balances .... (599,400)
Schedule of Programs:
Fisheries ..... (1,198,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Capital line item in Item 74, Chapter 2, Laws of Utah 2022 shall not lapse at the close of Fiscal Year 2023. Expenditures of these funds are limited to Operations and Maintenance of the Hatchery Systems in the state: $599,400.

Item 34
To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund, One-Time 19,400
From Beginning Nonlapsing Balances ..... (1,336,800)
From Closing Nonlapsing Balances ... (6,581,000)
Schedule of Programs:
Public Lands Policy Coordinating Office ..... (7,898,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $6,581,000 of the General Fund appropriations provided for the Public Lands Policy Coordinating Office, in Item 75, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditure of these funds are limited to: activities and opportunities related to our Shared Stewardship Agreement with the Forest Service $500,000; Wild Horse and Burro Management $267,000; to offset future volatility of the Constitutional Defense Restricted Account $300,000; RS2477 and other litigation $320,000; Public Land Education $94,100; Monroe Mountain Data Gathering $279,000; Resource Management Plan Updates $403,800; Protection of Utah Natural Resources and Public Lands $4,417,100.

Item 35
To Department of Natural Resources - Division of State Parks
From Beginning Nonlapsing Balances ... 343,100
Schedule of Programs:
Park Management Contracts 50,000
State Park Operation Management 28,700
Heritage Services 264,400

Item 36
To Department of Natural Resources - Division of Parks - Capital
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, One-Time 15,000,000
From Outdoor Recreation Infrastructure Account, One-Time ..... (15,000,000)
From Beginning Nonlapsing Balances 109,267,300
From Closing Nonlapsing Balances ... (1,782,300)
Schedule of Programs:
Donated Capital Projects 356,200
Major Renovation 626,300
Region Renovation 627,800
Renovation and Development 105,874,700

Item 37
To Department of Natural Resources - Division of Outdoor Recreation
From General Fund Restricted - Off-highway Vehicle, One-Time 30,000
From Beginning Nonlapsing Balances ... 335,700
From Closing Nonlapsing Balances .... (110,000)
Schedule of Programs:
Management ..... (541,500)
Agreements ..... (36,800)
Administration 834,000

Under the terms of 631-1-603 of the Utah Code, the Legislature intends that up to $110,000 appropriations provided for the Division of Outdoor Recreation in Item 78, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: Outdoor Adventure Grant Projects $110,000.

Item 38
To Department of Natural Resources - Division of Outdoor Recreation- Capital
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, One-Time ..... (800,000)
From Beginning Nonlapsing Balances 8,238,000
Schedule of Programs:
Boat Access Grants 704,300
Recreation Capital ..... (800,000)
Off-highway Vehicle Grants 7,357,400
Trails Program 176,300

Item 39
To Department of Natural Resources - Office of Energy Development
From General Fund, One-Time 1,400
From Beginning Nonlapsing Balances 2,956,500
From Closing Nonlapsing Balances ... (3,415,000)
Schedule of Programs:
Office of Energy Development ..... (457,100)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $415,000 of the appropriations provided for the Office of Energy Development, Laws of Utah 2022, Chapter 2, Item 80 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: $165,000 OED administration special projects; and $250,000 for the Isotopes Research Center.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $2,000,000 of the appropriations provided for the Office of Energy Development, Laws of Utah 2022, Chapter 410, Item 117 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to EV Charging Infrastructure in rural Utah.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,000,000 of the appropriations provided for the Office of Energy Development, Laws of Utah 2022, Chapter 193, Item 182 shall not

lapse at the close of FY 2023. Expenditures of these funds are limited to the San Rafael Energy Research Center.

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 40
To School and Institutional Trust Lands Administration
From Beginning Nonlapsing Balances 1,000,000
Schedule of Programs:
Accounting 100,100
Administration ..... (87,100)
Auditing ..... (17,600)
Board ..... (1,600)
Development - Operating 20,600
Director 334,600
External Relations 126,000
Grazing and Forestry ..... (23,900)
Information Technology Group 112,400
Legal/Contracts 59,700
Mining ..... (142,400)
Oil and Gas 259,700
Surface 160,600
Renewables 98,900

Under the terms of 63J-1-603, the Legislature intends that up to $1,500,000 of the appropriations provided for the School and Institutional Trust Lands Administration in Item 184, Chapter 193, Laws of Utah 2022 not lapse at the close of FY 2023. Expenditures of these funds are limited to: $1,500,000 for the Land Management Business System Re-write project.

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 41
To Department of Agriculture and Food - Salinity Offset Fund
From Beginning Fund Balance 66,200
From Closing Fund Balance ..... (19,600)
Schedule of Programs:
Salinity Offset Fund 46,600

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 42
To Department of Environmental Quality - Hazardous Substance Mitigation Fund
From Revenue Transfers, One-Time .... (4,600)
From Beginning Fund Balance 153,300
From Closing Fund Balance ..... (42,800)
Schedule of Programs:
Hazardous Substance Mitigation Fund 105,900

Item 43
To Department of Environmental Quality - Waste Tire Recycling Fund
From Beginning Fund Balance ..... (1,196,100)
From Closing Fund Balance 1,196,100

Item 44
To Department of Environmental Quality - Conversion to Alternative Fuel Grant Program Fund
From Beginning Fund Balance 19,500
From Closing Fund Balance ..... (19,700)
Schedule of Programs:
Conversion to Alternative Fuel Grant Program Fund ..... (200)

DEPARTMENT OF NATURAL RESOURCES

Item 45
To Department of Natural Resources - Outdoor Recreation Infrastructure Account
From Dedicated Credits Revenue, One-Time ..... (5,020,800)
From Interest Income, One-Time 80,000
From Designated Sales Tax, One-Time 7,750,000
From Other Financing Sources, One-Time 246,000
From Beginning Fund Balance 12,326,100
From Closing Fund Balance ..... (15,306,900)
Schedule of Programs:
Outdoor Recreation Infrastructure Account 74,400

Item 46
To Department of Natural Resources - Wildland Fire Suppression Fund
From Beginning Fund Balance 17,714,800
From Closing Fund Balance ..... (44,353,000)
Schedule of Programs:
Wildland Fire Suppression Fund . (26,638,200)

Item 47
To Department of Natural Resources - Wildland Fire Preparedness Grants Fund
From Beginning Fund Balance 149,900
From Closing Fund Balance ..... (149,900)

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 48
To Department of Agriculture and Food - Agriculture Loan Programs
From Lapsing Balance ..... (151,800)

Schedule of Programs:
Agriculture Loan Program ..... (151,800)

Item 49
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Beginning Fund Balance 711,300
From Closing Fund Balance ..... (254,100)
Schedule of Programs:
Qualified Production Enterprise Fund 457,200

The Legislature intends that the department of Agriculture and Foods Hemp and Medical Cannabis Division remit all vehicles in active already replaced status to the Division of Fleet Operations. Further, the Legislature intends that the Medical Cannabis program maintains a fleet of no more than 1 vehicle for every 6 licensed establishments requiring an inspection, plus one additional vehicle for office staff.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 50
To Department of Environmental Quality – Water Development Security Fund – Water Quality
From General Fund, One-Time 13,066,000
Schedule of Programs:
Water Quality 13,066,000

The Legislature intends that the $13,066,000 General Fund provided by this item be used to fund the Graveyard Wash Reuse Storage Reservoir project.

DEPARTMENT OF NATURAL RESOURCES

Item 51
To Department of Natural Resources – Internal Service Fund
From Dedicated Credits Revenue, One-Time ..... (487,000)
Schedule of Programs:
ISF – DNR Warehouse ..... (487,000)
Budgeted FTE ..... (2.0)

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

Item 52
To General Fund Restricted – Environmental Quality
From General Fund, One-Time ..... (994,000)
Schedule of Programs:
GFR – Environmental Quality ..... (994,000)

Item 53
To General Fund Restricted – Agricultural Water Optimization Account
From Beginning Fund Balance 3,000,000
From Closing Fund Balance ..... (3,000,000)

Item 54
To General Fund Restricted – Public Lands Litigation Restricted Account
From Beginning Fund Balance ..... (4,500,000)
From Closing Fund Balance 4,500,000

Section 2. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 55
To Department of Environmental Quality – Drinking Water
From General Fund 1,719,100
From Federal Funds 4,747,700
From Dedicated Credits Revenue 442,200
From Revenue Transfers ..... (340,600)
From Water Dev. Security Fund – Drinking Water Loan Prog. 1,070,800
From Water Dev. Security Fund – Drinking Water Orig. Fee 237,800
From Beginning Nonlapsing Balances ... 200,000
Schedule of Programs:
Drinking Water Administration 1,198,400
Safe Drinking Water Act 2,317,900
System Assistance 3,767,300
State Revolving Fund 793,400

Item 56
To Department of Environmental Quality – Environmental Response and Remediation
From General Fund 1,291,600
From Federal Funds 5,349,800
From Dedicated Credits Revenue 1,124,200
From General Fund Restricted – Petroleum Storage Tank 57,100
From Petroleum Storage Tank Cleanup Fund 468,700
From Petroleum Storage Tank Trust Fund 2,023,500
From Revenue Transfers ..... (636,200)
From General Fund Restricted – Voluntary Cleanup 746,500
From Beginning Nonlapsing Balances ... 135,000
Schedule of Programs:
Voluntary Cleanup 700,700
CERCLA 5,054,900
Tank Public Assistance 57,100
Petroleum Storage Tank Cleanup ... 2,601,200
Petroleum Storage Tank Compliance 2,146,300

Item 57
To Department of Environmental Quality – Executive Director's Office
From General Fund 2,998,500
From Federal Funds 353,300
From Dedicated Credits Revenue 1,000
From General Fund Restricted – Environmental Quality 766,900

From Revenue Transfers 2,725,500
From Beginning Nonlapsing Balances 1,300,000
Schedule of Programs:
Executive Director Office Administration 6,829,700
Local Health Departments 1,118,400
Radon 197,100

Item 58
To Department of Environmental Quality – Waste Management and Radiation Control
From Federal Funds 1,490,500
From Dedicated Credits Revenue 2,606,400
From Expendable Receipts 172,500
From General Fund Restricted – Environmental Quality 7,479,700
From Revenue Transfers ..... (198,800)
From Gen. Fund Rest. – Used Oil Collection Administration 879,300
From Waste Tire Recycling Fund 163,200
From Beginning Nonlapsing Balances ... 650,000
Schedule of Programs:
Hazardous Waste 5,771,400
Solid Waste 1,495,600
Radiation 1,430,500
Low Level Radioactive Waste 2,697,800
WIPP 159,100
Used Oil 980,300
Waste Tire 163,400
X–Ray 544,700

Item 59
To Department of Environmental Quality – Water Quality
From General Fund 3,996,800
From Federal Funds 3,938,600
From Dedicated Credits Revenue 2,622,600
From General Fund Restricted – GFR – Division of Water Quality Oil, Gas, and Mining 100,700
From Revenue Transfers ..... (289,600)
From Gen. Fund Rest. – Underground Wastewater System 85,600
From Water Dev. Security Fund – Utah Wastewater Loan Prog. 1,693,500
From Water Dev. Security Fund – Water Quality Orig. Fee 110,600
From Beginning Nonlapsing Balances 1,017,100
Schedule of Programs:
Water Quality Support 3,741,200
Water Quality Protection 5,658,100
Water Quality Permits 3,790,000
Onsite Waste Water 86,600

The Legislature intends that ongoing funds appropriated to the Division of Water Quality for independent scientific review during the 2016 General Session be used on activities to support the Water Quality Act as outlined in R317–1–10.

Item 60
To Department of Environmental Quality – Trip Reduction Program
From Beginning Nonlapsing Balances ... 237,800
Schedule of Programs:
Trip Reduction Program 237,800

Item 61
To Department of Environmental Quality – Air Quality
From General Fund 6,730,900
From Federal Funds 7,462,900
From Dedicated Credits Revenue 6,577,700
From General Fund Restricted – GFR – Division of Air Quality Oil, Gas, and Mining 697,500
From Clean Fuel Conversion Fund 251,900
From Revenue Transfers ..... (1,122,900)
From Beginning Nonlapsing Balances 11,017,500
Schedule of Programs:
Compliance 4,527,300
Permitting 3,581,800
Planning 22,081,700
Air Quality Administration 1,424,700

Item 62
To Department of Environmental Quality – Laboratory Services
From General Fund 900,000
From Beginning Nonlapsing Balances ... 250,000
Schedule of Programs:
Laboratory Services 1,150,000

DEPARTMENT OF NATURAL RESOURCES

Item 63
To Department of Natural Resources – Administration
From General Fund 6,951,000
From General Fund Restricted – Sovereign Lands Management 52,700
From Beginning Nonlapsing Balances ... 225,000
Schedule of Programs:
Administrative Services 1,982,300
Executive Director 3,935,300
Lake Commissions 100,500
Law Enforcement 961,600
Public Information Office 249,000

Item 64
To Department of Natural Resources – Building Operations
From General Fund 1,420,900
Schedule of Programs:
Building Operations 1,420,900

Item 65
To Department of Natural Resources – Contributed Research
From Expendable Receipts 2,214,000
Schedule of Programs:
Contributed Research 2,214,000

Item 66
To Department of Natural Resources – Cooperative Agreements
From Federal Funds 20,625,700
From Expendable Receipts 8,180,700
From Revenue Transfers 5,779,200
Schedule of Programs:
Cooperative Agreements 34,585,600

Item 67
To Department of Natural Resources – DNR Pass Through
From General Fund 1,138,400
From Beginning Nonlapsing Balances 10,677,000

Schedule of Programs:
DNR Pass Through 11,815,400

Item 68
To Department of Natural Resources – Forestry, Fire, and State Lands
From General Fund 11,655,200
From Federal Funds 8,402,300
From Dedicated Credits Revenue 10,650,100
From General Fund Restricted – Sovereign Lands Management 3,033,200
From Revenue Transfers 10,001,800
From Beginning Nonlapsing Balances 60,196,900
Schedule of Programs:
Division Administration 1,947,400
Fire Management 3,558,600
Fire Suppression Emergencies 19,005,800
Forest Management 4,003,400
Lands Management 1,255,500
Lone Peak Center 7,614,700
Program Delivery 10,443,200
Project Management 56,110,900

Item 69
To Department of Natural Resources – Oil, Gas and Mining
From Federal Funds 8,097,000
From Dedicated Credits Revenue 278,900
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining 2,691,700
From Gen. Fund Rest. – Oil & Gas Conservation Account 4,714,600
From Beginning Nonlapsing Balances 3,600,000
Schedule of Programs:
Abandoned Mine 5,390,300
Administration 2,601,000
Board 200,400
Coal Program 2,642,900
Minerals Reclamation 1,227,600
OGM Misc. Nonlapsing 3,255,300
Oil and Gas Program 4,064,700

Item 70
To Department of Natural Resources – Species Protection
From Designated Sales Tax 2,450,000
From General Fund Restricted – Species Protection 901,400
From Beginning Nonlapsing Balances 1,139,000
Schedule of Programs:
Species Protection 4,490,400

Item 71
To Department of Natural Resources – Utah Geological Survey
From General Fund 4,873,200
From Federal Funds 1,436,100
From Dedicated Credits Revenue 515,900
From General Fund Restricted – Utah Geological Survey Oil, Gas, and Mining Restricted Account 634,000
From General Fund Restricted – Mineral Lease 1,467,300
From Gen. Fund Rest. – Land Exchange Distribution Account 23,700
From Revenue Transfers 1,353,300
From Beginning Nonlapsing Balances 2,056,400
Schedule of Programs:
Administration 2,383,200
Board 3,500
Energy and Minerals 2,173,700
Geologic Hazards 1,148,600
Geologic Information and Outreach 2,428,400
Geologic Mapping 1,780,700
Groundwater 2,110,400
Technical Services 331,400

Item 72
To Department of Natural Resources – Water Resources
From General Fund 6,528,100
From Federal Funds 1,055,200
From Dedicated Credits Revenue 5,100
From General Fund Restricted – Agricultural Water Optimization Restricted Account 2,800
From Designated Sales Tax 150,000
From Water Resources Conservation and Development Fund 4,227,200
From Beginning Nonlapsing Balances 16,150,000
Schedule of Programs:
Administration 1,564,500
Board 34,000
Cloudseeding 350,000
Construction 14,158,200
Interstate Streams 768,300
Planning 10,935,600
West Desert Operations 5,000
Funding Projects and Research 302,800

Item 73
To Department of Natural Resources – Water Rights
From General Fund 10,292,800
From Federal Funds 136,000
From Dedicated Credits Revenue 1,086,700
From General Fund Restricted – Water Rights Restricted Account 4,301,200
From Designated Sales Tax 175,000
From Beginning Nonlapsing Balances 3,666,700
Schedule of Programs:
Adjudication 8,174,700
Administration 1,354,000
Applications and Records 5,027,400
Dam Safety 1,219,100
Field Services 1,645,200
Technical Services 2,238,000

Item 74
To Department of Natural Resources – Watershed Restoration
From General Fund 5,616,800
From Dedicated Credits Revenue 50,000
From Designated Sales Tax 500,000
From Beginning Nonlapsing Balances 3,000,000
Schedule of Programs:
Watershed Restoration 9,166,800

Item 75
To Department of Natural Resources – Wildlife Resources

From General Fund 7,924,300
From Federal Funds 30,359,400
From Expendable Receipts 215,000
From General Fund Restricted –
Aquatic Invasive Species
Interdiction Account 1,440,700
From General Fund Restricted –
Mule Deer Protection Account 523,800
From General Fund Restricted – Predator
Control Account 852,000
From General Fund Restricted –
Support for State-owned
Shooting Ranges Restricted Account 26,600
From Revenue Transfers 117,200
From General Fund Restricted –
Wildlife Conservation Easement
Account 15,400
From General Fund Restricted –
Wildlife Habitat 3,384,500
From General Fund Restricted –
Wildlife Resources 43,368,500
From Beginning Nonlapsing
Balances 5,775,000
Schedule of Programs:
Administrative Services 12,523,600
Aquatic Section 22,111,900
Conservation Outreach 6,187,000
Director's Office 2,819,200
Habitat Council 3,384,500
Habitat Section 9,890,900
Law Enforcement 14,393,500
Wildlife Section 22,691,800

The Legislature intends that the General Fund appropriation for the Division of Wildlife Resources line item shall be used for making the mutually agreed upon $1,000,000 payment to the Utah School and Institutional Trust Lands Administration (SITLA) to preserve access to public land for hunters and wildlife dependent recreation.

The Legislature intends that the Division of Wildlife Resources spends up to $400,000 on livestock damage.

Item 76
To Department of Natural Resources –
Wildlife Resources Capital Budget
From General Fund 599,400
From Federal Funds 2,500,000
From General Fund Restricted –
State Fish Hatchery Maintenance ... 1,205,000
From Beginning Nonlapsing Balances ... 599,400
Schedule of Programs:
Fisheries 4,903,800

Item 77
To Department of Natural Resources –
Public Lands Policy Coordinating Office
From General Fund 3,056,900
From General Fund Restricted –
Constitutional Defense 1,295,400
From Beginning Nonlapsing
Balances 6,581,000
Schedule of Programs:
Public Lands Policy Coordinating
Office 10,933,300

Item 78
To Department of Natural Resources –
Division of State Parks
From General Fund 4,523,400
From Federal Funds 150,200
From Dedicated Credits Revenue 1,134,300
From Expendable Receipts 125,000
From General Fund Restricted –
State Park Fees 26,834,400
From Revenue Transfers 137,700
Schedule of Programs:
Executive Management 312,100
Park Management Contracts 1,046,000
State Park Operation
Management 29,275,300
Planning and Design 717,700
Support Services 1,289,500
Heritage Services 264,400

The Legislature intends that the General Fund appropriation for the Parks and Recreation line item shall be used primarily for the operations and maintenance of the division's heritage parks, museums, and This Is the Place Heritage Park. Upon request, the division shall provide detailed documentation as to how the Division's general fund appropriation was spent.

Item 79
To Department of Natural Resources –
Division of Parks – Capital
From Federal Funds 212,500
From Expendable Receipts 175,000
From General Fund Restricted –
State Park Fees 972,700
From Beginning Nonlapsing
Balances 1,782,300
Schedule of Programs:
Donated Capital Projects 175,000
Major Renovation 508,500
Region Renovation 100,000
Renovation and Development 2,359,000

Item 80
To Department of Natural Resources –
Division of Outdoor Recreation
From General Fund 493,500
From Federal Funds 2,037,100
From General Fund Restricted –
Boating 5,048,700
From Gen. Fund Rest. – Off-highway
Access and Education 19,000
From General Fund Restricted –
Off-highway Vehicle 6,611,400
From General Fund Restricted – Zion
National Park Support Programs 4,000
From Beginning Nonlapsing Balances ... 110,000
Schedule of Programs:
Management 1,075,500
Agreements 4,000
Oversight 9,140,600
Construction 213,000
Recreation Services 679,900
Administration 3,210,700

Item 81
To Department of Natural Resources – Division
of Outdoor Recreation– Capital
From Federal Funds 6,907,200

From General Fund Restricted –
Boating 575,000
From General Fund Restricted –
Off-highway Vehicle 3,900,000
Schedule of Programs:
Boat Access Grants 350,000
Land and Water Conservation 2,947,600
Recreation Capital 420,000
Off-highway Vehicle Grants 3,675,000
Trails Program 3,989,600

Item 82
To Department of Natural Resources –
Office of Energy Development
From General Fund 1,677,700
From Income Tax Fund 249,500
From Federal Funds 866,500
From Dedicated Credits Revenue 104,100
From Expendable Receipts 233,600
From Ut. S. Energy Program Rev.
Loan Fund (ARRA) 227,400
From Beginning Nonlapsing
Balances 3,415,000
Schedule of Programs:
Office of Energy Development 6,773,800

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 83
To School and Institutional Trust
Lands Administration
From Land Grant Management
Fund 13,163,700
Schedule of Programs:
Accounting 630,600
Administration 1,088,700
Auditing 441,100
Board 97,100
Development - Operating 1,453,400
Director 1,150,300
External Relations 310,400
Grazing and Forestry 738,500
Information Technology Group 1,563,200
Legal/Contracts 1,316,900
Mining 631,400
Oil and Gas 963,600
Surface 2,509,500
Renewables 269,000

Item 84
To School and Institutional Trust
Lands Administration - Land
Stewardship and Restoration
From Land Grant Management Fund 852,400
Schedule of Programs:
Land Stewardship and Restoration 852,400

Item 85
To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital
From Land Grant Management
Fund 5,000,000
Schedule of Programs:
Capital 5,000,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 86
To Department of Environmental Quality –
Hazardous Substance Mitigation Fund
From General Fund 400
From Dedicated Credits Revenue 6,000
From Interest Income 139,800
From General Fund Restricted –
Environmental Quality 1,200
From Revenue Transfers ..... (4,600)
From Beginning Fund Balance 5,137,600
From Closing Fund Balance ..... (4,967,900)
Schedule of Programs:
Hazardous Substance Mitigation
Fund 312,500

Item 87
To Department of Environmental Quality –
Waste Tire Recycling Fund
From Dedicated Credits Revenue 3,589,700
From Beginning Fund Balance 3,084,700
From Closing Fund Balance ..... (2,860,900)
Schedule of Programs:
Waste Tire Recycling Fund 3,813,500

Item 88
To Department of Environmental Quality –
Conversion to Alternative Fuel Grant
Program Fund
From Interest Income 800
From Beginning Fund Balance 50,000
From Closing Fund Balance ..... (28,300)
Schedule of Programs:
Conversion to Alternative Fuel
Grant Program Fund 22,500

DEPARTMENT OF NATURAL RESOURCES

Item 89
To Department of Natural Resources –
Outdoor Recreation Infrastructure Account
From Interest Income 80,000
From Designated Sales Tax 7,750,000
From Other Financing Sources 246,000
From Beginning Fund Balance 15,306,900
From Closing Fund Balance ..... (13,287,700)
Schedule of Programs:
Outdoor Recreation Infrastructure
Account 10,095,200

Item 90
To Department of Natural Resources –
UGS Sample Library Fund
From Dedicated Credits Revenue 400
From Beginning Fund Balance 81,500
From Closing Fund Balance ..... (81,900)

Item 91
To Department of Natural Resources –
Wildland Fire Suppression Fund
From General Fund 10,000,000

From General Fund, One-Time 50,000,000
From Interest Income 50,000
From General Fund Restricted -
Mineral Bonus 1,069,300
From Beginning Fund Balance 44,353,000
Schedule of Programs:
Wildland Fire Suppression Fund .. 105,472,300

Item 92
To Department of Natural Resources - Wildland Fire Preparedness Grants Fund
From Wildland Fire Suppression Fund ... 99,300
From Beginning Fund Balance 149,900
From Closing Fund Balance ..... (149,900)
Schedule of Programs:
Wildland Fire Preparedness Grants Fund 99,300

Item 93
To Department of Natural Resources - Watershed Restoration Expendable Special Revenue Fund
From Dedicated Credits Revenue, One-Time 1,500,000
Schedule of Programs:
Watershed Restoration Expendable Special Revenue Fund 1,500,000

Item 94
To Department of Natural Resources - Wild Game Meat Donation Fund
From Dedicated Credits Revenue 50,000
Schedule of Programs:
Wild Game Meat Donation Fund 50,000

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 95
To Department of Environmental Quality - Water Development Security Fund - Drinking Water
From Federal Funds 9,000,000
From Dedicated Credits Revenue 2,455,700
From Interest Income 745,000
From Designated Sales Tax 3,587,500
From Revenue Transfers 2,221,400
From Repayments 10,508,200
Schedule of Programs:
Drinking Water 28,517,800

Item 96
To Department of Environmental Quality - Water Development Security Fund - Water Quality
From Federal Funds 8,500,000
From Dedicated Credits Revenue 3,878,800
From Interest Income 3,958,200
From Designated Sales Tax 3,587,500
From Revenue Transfers 1,700,000
From Repayments 16,348,000
Schedule of Programs:
Water Quality 37,972,500

DEPARTMENT OF NATURAL RESOURCES

Item 97
To Department of Natural Resources - Internal Service Fund

Item 98
To Department of Natural Resources - Water Resources Revolving Construction Fund
From Water Resources Conservation and Development Fund 3,800,000
Schedule of Programs:
Construction Fund 3,800,000

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 99
To General Fund Restricted - Environmental Quality
From General Fund 1,724,200
Schedule of Programs:
GFR - Environmental Quality 1,724,200

Item 100
To General Fund Restricted - Agricultural Water Optimization Account
From Beginning Fund Balance 3,000,000
Schedule of Programs:
Agricultural Water Optimization Account 3,000,000

Item 101
To General Fund Restricted - Mule Deer Protection Account
From General Fund 250,000
Schedule of Programs:
General Fund Restricted - Mule Deer Protection 250,000

Item 102
To General Fund Restricted - Constitutional Defense Restricted Account
From Gen. Fund Rest. - Land Exchange Distribution Account 1,042,400
Schedule of Programs:
General Fund Restricted - Constitutional Defense Restricted Account 1,042,400

Section 3. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums

of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 103
To Department of Agriculture and Food – Administration
From General Fund 3,098,200
From Federal Funds 241,400
From Dedicated Credits Revenue 333,500
From Revenue Transfers 77,400
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention 30,000
From Beginning Nonlapsing Balances ... 574,900
Schedule of Programs:
General Administration 4,325,400
Sheep Promotion 30,000

Item 104
To Department of Agriculture and Food – Animal Industry
From General Fund 4,126,700
From Income Tax Fund 250,000
From Federal Funds 2,216,300
From Dedicated Credits Revenue 180,300
From General Fund Restricted – Horse Racing 86,700
From General Fund Restricted – Livestock Brand 1,551,300
From Revenue Transfers 3,900
From Beginning Nonlapsing Balances 1,181,200
From Closing Nonlapsing Balances ... (1,660,200)
Schedule of Programs:
Animal Health 2,706,200
Auction Market Veterinarians 72,700
Brand Inspection 2,117,700
Meat Inspection 2,875,600
Horse Racing Commission 164,000

Item 105
To Department of Agriculture and Food – Building Operations
From General Fund 446,300
Schedule of Programs:
Building Operations 446,300

Item 106
To Department of Agriculture and Food – Invasive Species Mitigation
From General Fund Restricted – Invasive Species Mitigation Account 2,027,100
From Beginning Nonlapsing Balances ... 316,200
Schedule of Programs:
Invasive Species Mitigation 2,343,300

Item 107
To Department of Agriculture and Food – Marketing and Development
From General Fund 796,800
From Federal Funds 326,800
From Dedicated Credits Revenue 22,800
From Beginning Nonlapsing Balances 90,100
Schedule of Programs:
Marketing and Development 1,236,500

Item 108
To Department of Agriculture and Food – Plant Industry
From General Fund 851,900
From Federal Funds 2,099,500
From Dedicated Credits Revenue 3,814,000
From Revenue Transfers 400,900
From Pass-through 190,300
From Beginning Nonlapsing Balances 1,126,400
From Lapsing Balance ..... (207,100)
Schedule of Programs:
Environmental Quality 105,400
Grain Inspection 338,700
Grazing Improvement Program 1,559,500
Insect Infestation 1,070,100
Plant Industry 5,202,200

Item 109
To Department of Agriculture and Food – Predatory Animal Control
From General Fund 1,439,500
From Revenue Transfers 759,200
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention 621,500
From Beginning Nonlapsing Balances ... 119,300
Schedule of Programs:
Predatory Animal Control 2,939,500

Item 110
To Department of Agriculture and Food – Rangeland Improvement
From Gen. Fund Rest. – Rangeland Improvement Account 4,032,700
From Beginning Nonlapsing Balances ... 510,600
Schedule of Programs:
Rangeland Improvement 4,543,300

Item 111
To Department of Agriculture and Food – Regulatory Services
From General Fund 1,698,200
From Federal Funds 1,682,300
From Dedicated Credits Revenue 4,736,800
From Revenue Transfers 1,300
From Pass-through 65,700
From Beginning Nonlapsing Balances 1,128,900
Schedule of Programs:
Regulatory Services Administration 1,455,000
Bedding & Upholstered 740,600
Weights & Measures 2,189,800
Food Inspection 2,938,400
Dairy Inspection 438,200
Egg Grading and Inspection 1,551,200

Item 112
To Department of Agriculture and Food – Resource Conservation
From General Fund 1,697,200
From Federal Funds 856,100
From Dedicated Credits Revenue 11,600
From Agriculture Resource Development Fund 958,300
From Revenue Transfers 385,900
From Utah Rural Rehabilitation Loan State Fund 142,500
From Beginning Nonlapsing Balances 2,245,000

From Closing Nonlapsing Balances . . . (1,742,900)
Schedule of Programs:
Conservation Commission 8,500
Resource Conservation 3,802,900
Resource Conservation Administration 742,300

Item 113
To Department of Agriculture and Food – Utah State Fair Corporation
From Dedicated Credits Revenue 6,138,400
Schedule of Programs:
State Fair Corporation 6,138,400

Item 114
To Department of Agriculture and Food – Industrial Hemp
From Dedicated Credits Revenue 1,145,400
From Beginning Nonlapsing Balances . . . 400,000
From Closing Nonlapsing Balances . . . . (400,000)
Schedule of Programs:
Industrial Hemp 1,145,400

The Legislature intends that the department of Agriculture and Foods Hemp and Medical Cannabis Division remit all vehicles in active already replaced status to the Division of Fleet Operations. Further, the Legislature intends that the Industrial Hemp program maintain a fleet of 1 vehicle for every inspector in the program.

Item 115
To Department of Agriculture and Food – Analytical Laboratory
From General Fund 1,053,400
From Federal Funds 2,000
From Dedicated Credits Revenue 296,000
From Beginning Nonlapsing Balances 15,500
From Lapsing Balance . . . . . (28,800)
Schedule of Programs:
Analytical Laboratory 1,338,100

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 116
To Department of Agriculture and Food – Salinity Offset Fund
From Revenue Transfers 4,800
From Beginning Fund Balance 1,049,600
From Closing Fund Balance . . . . . (957,600)
Schedule of Programs:
Salinity Offset Fund 96,800

Item 117
To Department of Agriculture and Food – Dept. Agriculture and Food Laboratory Equip. Fund
From Dedicated Credits Revenue 118,200
Schedule of Programs:
Dept. Agriculture and Food Laboratory Equip. Fund 118,200

Subsection 3(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 118
To Department of Agriculture and Food – Agriculture Loan Programs
From Agriculture Resource Development Fund 303,500
From Utah Rural Rehabilitation Loan State Fund 163,600
From Lapsing Balance . . . . . (131,800)
Schedule of Programs:
Agriculture Loan Program 335,300

Item 119
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Dedicated Credits Revenue 2,585,700
From Beginning Fund Balance 3,329,900
From Closing Fund Balance . . . . . (2,870,100)
Schedule of Programs:
Qualified Production Enterprise Fund 3,045,500

The Legislature intends that the department of Agriculture and Foods Hemp and Medical Cannabis Division remit all vehicles in active already replaced status to the Division of Fleet Operations. Further, the Legislature intends that the Medical Cannabis program maintains a fleet of no more than 1 vehicle for every 6 licensed establishments requiring an inspection, plus one additional vehicle for office staff.

Subsection 3(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 120
To General Fund Restricted – Agriculture and Wildlife Damage Prevention Account
From General Fund 350,000
Schedule of Programs:
General Fund Restricted – Agriculture and Wildlife Damage Prevention Account 350,000

Item 121
To General Fund Restricted – Invasive Species Mitigation Account
From General Fund 2,000,000
Schedule of Programs:
General Fund Restricted – Invasive Species Mitigation Account 2,000,000

Item 122
To General Fund Restricted – Rangeland Improvement Account
From General Fund 3,846,300
Schedule of Programs:
General Fund Restricted – Rangeland Improvement Account .. 3,846,300

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2023.

CHAPTER 9
S. B. 6
Passed January 26, 2023
Approved February 2, 2023
Effective May 3, 2023

EXECUTIVE OFFICES AND CRIMINAL JUSTICE BASE BUDGET

Chief Sponsor: Derrin R. Owens
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $44,653,000 in operating and capital budgets for fiscal year 2023, including:

- $423,800 from the General Fund; and
- $44,229,200 from various sources as detailed in this bill.

This bill appropriates ($42,100) in expendable funds and accounts for fiscal year 2023.

This bill appropriates ($338,700) in business-like activities for fiscal year 2023.

This bill appropriates $7,270,400 in restricted fund and account transfers for fiscal year 2023.

This bill appropriates $1,174,290,400 in operating and capital budgets for fiscal year 2024, including:

- $894,858,700 from the General Fund;
- $188,700 from the Income Tax Fund; and
- $279,243,000 from various sources as detailed in this bill.

This bill appropriates $24,639,400 in expendable funds and accounts for fiscal year 2024, including:

- $5,595,900 from the General Fund; and
- $19,043,500 from various sources as detailed in this bill.

This bill appropriates $84,757,300 in business-like activities for fiscal year 2024.

This bill appropriates $11,294,900 in restricted fund and account transfers for fiscal year 2024, all of which is from the General Fund.

This bill appropriates $3,695,200 in fiduciary funds for fiscal year 2024.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2023.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

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

ATTORNEY GENERAL

Item 1
To University of Utah - Education and General
To Attorney General
From Beginning Nonlapsing Balances 1,289,400
Schedule of Programs:
Administration 1,146,500
Child Protection ..... (919,000)
Civil 2,000,000
Criminal Prosecution ..... (938,100)

Item 2
To Attorney General - Children's Justice Centers
From General Fund, One-Time 100,000
From Dedicated Credits Revenue, One-Time ..... (9,800)
From Expendable Receipts, One-Time ..... (197,000)
From Revenue Transfers, One-Time 218,000
From Beginning Nonlapsing Balances ... 397,900
Schedule of Programs:
Children's Justice Centers 509,100

Item 3
To Attorney General - Prosecution Council
From Revenue Transfers, One-Time .. (508,500)
From Beginning Nonlapsing Balances 95,800
Schedule of Programs:
Prosecution Council ..... (412,700)

Item 4
To Attorney General - State Settlement Agreements
From Beginning Nonlapsing Balances 7,843,900
Schedule of Programs:
State Settlement Agreements 7,843,900

BOARD OF PARDONS AND PAROLE

Item 5
To Board of Pardons and Parole
From General Fund, One-Time 10,800
From Beginning Nonlapsing Balances 1,000,000
Schedule of Programs:
Board of Pardons and Parole 1,010,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $1,500,000 provided for the Board of Pardons and Parole in Item 56 of Chapter 3 Laws of Utah 2022 not lapse at the close of

Fiscal Year 2023. The use of any non-lapsing funds shall be limited to capital improvements, computer equipment, electronic records development, employee training, contract costs associated with defense counsel for offenders, or psychological evaluations for offenders.

UTAH DEPARTMENT OF CORRECTIONS

Item 6
To Utah Department of Corrections - Programs and Operations
From General Fund, One-Time 31,000
From Federal Funds, One-Time ..... (424,500)
From Beginning Nonlapsing Balances 9,474,200
Schedule of Programs:
Adult Probation and Parole Administration 208,500
Adult Probation and Parole Programs ..... (315,200)
Department Administrative Services .. 338,500
Department Executive Director 10,781,200
Department Training 680,300
Prison Operations Administration 642,700
Prison Operations Central Utah/Gunnison 2,218,600
Prison Operations Inmate Placement 294,000
Programming Administration 400,700
Programming Education 51,600
Programming Skill Enhancement 514,100
Programming Treatment 589,500
Prison Operations Utah State Correctional Facility ..... (7,323,800)

Item 7
To Utah Department of Corrections - Department Medical Services
From General Fund, One-Time ..... (40,000)
From Beginning Nonlapsing Balances 1,456,000
Schedule of Programs:
Medical Services 1,416,000

Item 8
To Utah Department of Corrections - Jail Contracting
From Beginning Nonlapsing Balances 2,711,800
Schedule of Programs:
Jail Contracting 2,711,800

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 9
To Judicial Council/State Court Administrator - Administration
From Federal Funds, One-Time ..... (56,000)
From Beginning Nonlapsing Balances 3,515,100
Schedule of Programs:
Administrative Office 3,200,000
Grants Program ..... (56,000)
Juvenile Courts 270,300
Law Library 44,800

Under Section 63J-1-603(3) of the Utah Code, the Legislature intends that appropriations of up to $3,225,000 provided to the Judicial Council/State Court Administrator - Administration in Laws of Utah 2022 Chapter 003, Item 60, shall not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to market comparability salary adjustments and career track advancement; employee retention, training, education assistance, and incentives; translation and interpreter services; IT programming and contracted support; computer equipment and software; courts security; special projects and studies; temporary employees (law clerks); trial court program support and senior judge assistance; grant match; furniture and repairs; purchase of Utah code and rules for judges; and Wellness Council carryforward.

Under Sections 63J-1-603 and 63J-1-602.1(72) of the Utah Code, the Legislature intends that any unspent funds remaining in the Law Library (Budget Line BAAA, Appropriation Code BAB) shall not lapse at the close of Fiscal Year 2023. Unused funds are to be used to supplement the costs of the Courts Self-help Center.

Item 10
To Judicial Council/State Court Administrator - Contracts and Leases
From Beginning Nonlapsing Balances ... 500,000
Schedule of Programs:
Contracts and Leases 500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided to the Judicial Council/State Court Administrator-Contracts and Leases in Laws of Utah 2022 Chapter 003, Item 105 shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to lease cost increases, contractual obligations and support.

Item 11
To Judicial Council/State Court Administrator - Grand Jury

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to $800 provided to the Judicial Council/State Court Administrator-Grand Jury in Laws of Utah 2022 Chapter 003, Item 61 shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to expenses related to the grand jury.

Item 12
To Judicial Council/State Court Administrator - Guardian ad Litem
From Beginning Nonlapsing Balances ... 372,000
Schedule of Programs:
Guardian ad Litem 372,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided to the Judicial Council/State Court Administrator-Guardian ad Litem in Laws of Utah 2022

Chapter 003, Item 62 shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to employee training, development, and incentives; computer equipment and software, special projects and studies, and temporary employees.

Item 13
To Judicial Council/State Court Administrator - Jury and Witness Fees
From Beginning Nonlapsing Balances 1,087,300
Schedule of Programs:
Jury, Witness, and Interpreter 1,087,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to $2,000,000 provided to the Judicial Council/State Court Administrator-Juror, Witness, Interpreter in Laws of Utah 2022 Chapter 003, Item 63 shall not lapse at the close of Fiscal Year 2023. The use of any non-lapsing funds is limited to expenses for jury, witness fees and interpretation services.

GOVERNOR'S OFFICE

Item 14
To Governor's Office - CCJJ - Factual Innocence Payments
From Beginning Nonlapsing Balances 1,200
From Closing Nonlapsing Balances ..... (1,200)

Item 15
To Governor's Office - CCJJ - Jail Reimbursement
From Beginning Nonlapsing Balances ... 855,700
Schedule of Programs:
Jail Reimbursement 855,700

Item 16
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund, One-Time 15,400
From Beginning Nonlapsing Balances 4,086,200
Schedule of Programs:
CCJJ Commission 308,700
Extraditions 219,500
Judicial Performance Evaluation Commission 255,800
Law Enforcement Services Grants 273,100
Sentencing Commission 75,200
State Asset Forfeiture Grant Program 2,364,900
State Task Force Grants 286,800
Substance Use and Mental Health Advisory Council ..... (53,400)
Utah Office for Victims of Crime 371,000

Item 17
To Governor's Office
From General Fund, One-Time 487,900
From Beginning Nonlapsing Balances ... 595,100
From Closing Nonlapsing Balances .... (200,000)
Schedule of Programs:
Administration 441,700
Lt. Governor's Office 420,300
Washington Funding 21,000

Item 18
To Governor's Office - Governors Office of Planning and Budget
From General Fund, One-Time 32,500
Schedule of Programs:
Administration 32,500

Item 19
To Governor's Office - Indigent Defense Commission
From Beginning Nonlapsing Balances 1,796,800
From Closing Nonlapsing Balances .... (121,400)
Schedule of Programs:
Office of Indigent Defense Services 1,166,500
Indigent Appellate Defense Division ... 467,800
Child Welfare Parental Defense Program 41,100

Item 20
To Governor's Office - Quality Growth Commission - LeRay McAllister Program
From Revenue Transfers, One-Time ..... (1,920,800)
From Beginning Nonlapsing Balances 2,177,600
Schedule of Programs:
LeRay McAllister Critical Land Conservation Program 256,800

Item 21
To Governor's Office - Suicide Prevention
From Beginning Nonlapsing Balances 3,900
Schedule of Programs:
Suicide Prevention 3,900

Item 22
To Governor's Office - Colorado River Authority of Utah
From Beginning Nonlapsing Balances 8,385,800
From Closing Nonlapsing Balances ..... (8,385,800)

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 23
To Department of Health and Human Services - Division of Juvenile Justice Services - Juvenile Justice & Youth Services
From General Fund, One-Time ..... (173,300)
From Federal Funds, One-Time 35,000
From Beginning Nonlapsing Balances 2,044,400
Schedule of Programs:
Juvenile Justice & Youth Services ... 2,040,900
Youth Services 3,500
Community Programs ..... (138,300)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $4,500,000 provided for the Division of Juvenile Justice Services - Juvenile Justice & Youth Services in Item 51 of Chapter 3 in Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. The use of any funds are limited to information technology, data processing and technology based

expenditures; capital developments, projects, facility repairs, maintenance, critical needs, and improvements; other charges for pass-through expenditures; and short-term projects and studies that promote efficiency and service improvement.

OFFICE OF THE STATE AUDITOR

Item 24
To Office of the State Auditor - State Auditor
From Dedicated Credits Revenue, One-Time ..... (584,300)
From Beginning Nonlapsing Balances ... 494,600
Schedule of Programs:
State Auditor ..... (177,700)
State Privacy Officer 88,000

DEPARTMENT OF PUBLIC SAFETY

Item 25
To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management
From Beginning Nonlapsing Balances 84,600
From Closing Nonlapsing Balances ..... (84,600)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $8,000,000 provided for the Department of Public Safety - Emergency Management - Emergency and Disaster Management item 74 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. Funding will be used for reimbursement for emergency costs and loans that qualify as determined in statute.

Item 26
To Department of Public Safety - Driver License
From Beginning Nonlapsing Balances 3,543,000
From Closing Nonlapsing Balances ... (5,390,400)
Schedule of Programs:
Driver License Administration 505,200
Driver Records ..... (1,165,500)
Driver Services ..... (1,170,200)
Uninsured Motorist ..... (16,900)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,000,000 provided for The Department of Public Safety - Driver License item 75 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and 63J-1-602.2. Funding shall be used for one-time enhancements to the uninsured motorist program and other one-time projects/expenses funded with General Fund.

Item 27
To Department of Public Safety - Emergency Management
From Beginning Nonlapsing Balances 1,224,300
From Closing Nonlapsing Balances ... (1,224,300)

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations of up to $1,000,000 provided for The Department of Public Safety - Emergency Management item 76 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. Funding shall be used for equipment, technology, and emergencies or disasters.

Item 28
To Department of Public Safety - Highway Safety
From Beginning Nonlapsing Balances 1,175,800
Schedule of Programs:
Highway Safety 1,175,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $200,000 provided for The Department of Public Safety - Highway Safety item 78 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment, technology, and other one-time operating expenses.

Item 29
To Department of Public Safety - Peace Officers' Standards and Training
From Beginning Nonlapsing Balances ... 181,000
From Closing Nonlapsing Balances ..... (54,500)
Schedule of Programs:
Basic Training ..... (11,300)
POST Administration 137,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,000,000 provided for The Department of Public Safety - Peace Officers' Standards and Training item 79 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. Funding shall be used for equipment, technology, and other one-time operating expenses. Funding shall be used for equipment, technology, one-time operating expenses and appropriated one-time funding for various training as required in statute.

Item 30
To Department of Public Safety - Programs & Operations
From General Fund, One-Time ..... (40,500)
From Beginning Nonlapsing Balances 15,530,400
From Closing Nonlapsing Balances ... (8,423,000)
Schedule of Programs:
CITS Communications ..... (900,200)
CITS State Bureau of Investigation 2,450,000
CITS State Crime Labs ..... (68,100)
Department Commissioner's Office 5,625,400
Department Intelligence Center 450,000
Fire Marshal - Fire Fighter Training ... 77,800
Fire Marshal - Fire Operations 761,200
Highway Patrol - Commercial Vehicle 600,000
Highway Patrol - Federal/State Projects 500,000
Highway Patrol - Field Operations ..... (4,129,200)

Highway Patrol – Protective Services 600,000
Highway Patrol – Safety Inspections ... 500,000
Highway Patrol – Special Enforcement ..... (1,700,000)
Highway Patrol – Special Services 800,000
Highway Patrol – Technology Services 1,500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $15,500,000 provided for The Department of Public Safety – Programs and Operations item 80 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment, helicopter parts purchases, technology, emergencies, funding from Senate Bill 68 "Law Enforcement Weapons Amendments" passed in the 2021 General Session, funding from House Bill 23 "First Responder Mental Health Services Amendments" passed in the 2022 General Session, and other one-time operating expenses and capital purchases.

Item 31
To Department of Public Safety – Bureau of Criminal Identification
From Revenue Transfers, One-Time .. (431,500)
From Beginning Nonlapsing Balances 4,000,000
From Closing Nonlapsing Balances ... (4,000,000)
Schedule of Programs:
Law Enforcement/Criminal Justice Services ..... (408,600)
Non-Government/Other Services ..... (22,900)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $4,000,000 provided for The Department of Public Safety – Bureau of Criminal Identification item 81 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. Funding shall be used for training, equipment purchases, and other one-time operating expenses. Funding shall be used for training, equipment purchases, and other one-time operating expenses. Carryover funding shall also be used to offset cyclical downturns in revenues collected by BCI as these revenues make up a majority of its budget.

STATE TREASURER

Item 32
To State Treasurer
From Beginning Nonlapsing Balances 70,000
Schedule of Programs:
Treasury and Investment 40,000
Unclaimed Property 30,000

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

ATTORNEY GENERAL

Item 33
To Attorney General – Crime and Violence Prevention Fund
From Beginning Fund Balance 102,400
From Closing Fund Balance ..... (102,400)

Item 34
To Attorney General – Litigation Fund
From Beginning Fund Balance 1,765,300
From Closing Fund Balance ..... (1,765,300)

GOVERNOR'S OFFICE

Item 35
To Governor's Office – Crime Victim Reparations Fund
From Beginning Fund Balance 1,453,400
From Closing Fund Balance ..... (1,453,400)

Item 36
To Governor's Office – Justice Assistance Grant Fund
From Beginning Fund Balance 6,097,600
From Closing Fund Balance ..... (8,271,500)
Schedule of Programs:
Justice Assistance Grant Fund ..... (2,173,900)

Item 37
To Governor's Office – State Elections Grant Fund
From Beginning Fund Balance 338,600
From Closing Fund Balance 2,600
Schedule of Programs:
State Elections Grant Fund 341,200

Item 38
To Governor's Office – Municipal Incorporation Expendable Special Revenue Fund
From Beginning Fund Balance 35,000
From Closing Fund Balance ..... (35,000)

Item 39
To Governor's Office – IDC – Child Welfare Parental Defense Fund
From Beginning Fund Balance 22,100
From Closing Fund Balance ..... (15,500)
Schedule of Programs:
Child Welfare Parental Defense Fund 6,600

Item 40
To Governor's Office – Pretrial Release Programs Special Revenue Fund
From Beginning Fund Balance 238,800
From Closing Fund Balance ..... (238,800)

DEPARTMENT OF PUBLIC SAFETY

Item 41
To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund
From Revenue Transfers, One-Time ..... (3,000,000)
From Beginning Fund Balance 4,279,400
From Closing Fund Balance 504,600
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 1,784,000

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

UTAH DEPARTMENT OF CORRECTIONS

Item 42
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits Revenue, One-Time ..... (425,700)
From Beginning Fund Balance ..... (144,100)
From Closing Fund Balance 231,100
Schedule of Programs:
Utah Correctional Industries ..... (338,700)

DEPARTMENT OF PUBLIC SAFETY

Item 43
To Department of Public Safety - Local Government Emergency Response Loan Fund
From Beginning Fund Balance 2,849,200
From Closing Fund Balance ..... (2,849,200)

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

Item 44
To General Fund Restricted - Indigent Defense Resources Account
From Revenue Transfers, One-Time .. 6,670,400
Schedule of Programs:
General Fund Restricted - Indigent Defense Resources Account 6,670,400

Item 45
To Colorado River Authority of Utah Restricted Account
From Revenue Transfers, One-Time 600,000
Schedule of Programs:
Colorado River Authority Restricted Account 600,000

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

GOVERNOR'S OFFICE

Item 46
To Governor's Office - Indigent Inmate Trust Fund
From Beginning Fund Balance ..... (179,400)
From Closing Fund Balance 179,400

Section 2. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ATTORNEY GENERAL

Item 47
To Attorney General
From General Fund 13,875,800
From Income Tax Fund 139,700
From Dedicated Credits Revenue 161,100
From General Fund Restricted - Tobacco Settlement Account 201,400
Schedule of Programs:
Administration 7,295,100
Civil 7,082,900

Item 48
To Attorney General - Children's Justice Centers
From General Fund 4,699,200
From Federal Funds 450,000
From Dedicated Credits Revenue 110,000
From Expendable Receipts 186,000
From Revenue Transfers 218,000
Schedule of Programs:
Children's Justice Centers 5,663,200

Item 49
To Attorney General - Contract Attorneys
From Dedicated Credits Revenue 1,500,000
Schedule of Programs:
Contract Attorneys 1,500,000

Item 50
To Attorney General - Prosecution Council
From General Fund 727,600
From Federal Funds 37,200
From Dedicated Credits Revenue 79,800
From Revenue Transfers 1,000,000
Schedule of Programs:
Prosecution Council 1,844,600

BOARD OF PARDONS AND PAROLE

Item 51
To Board of Pardons and Parole
From General Fund 7,238,800
From Dedicated Credits Revenue 2,300
Schedule of Programs:
Board of Pardons and Parole 7,241,100

UTAH DEPARTMENT OF CORRECTIONS

Item 52
To Utah Department of Corrections - Programs and Operations
From General Fund 353,980,200
From Income Tax Fund 49,000
From Dedicated Credits Revenue 4,246,900
From G.F.R. - Interstate Compact for Adult Offender Supervision 29,600
From General Fund Restricted - Prison Telephone Surcharge Account 1,800,000

From Revenue Transfers 7,500
Schedule of Programs:
Adult Probation and Parole Administration 4,506,100
Adult Probation and Parole Programs 102,112,900
Department Administrative Services 15,667,500
Department Executive Director 10,037,800
Department Training 3,923,100
Prison Operations Administration .. 12,384,000
Prison Operations Central Utah/Gunnison 59,011,100
Prison Operations Inmate Placement 4,175,800
Programming Administration 1,275,700
Programming Education 2,201,700
Programming Skill Enhancement .. 14,356,100
Programming Treatment 13,575,300
Prison Operations Utah State Correctional Facility 116,886,100

Item 53
To Utah Department of Corrections – Department Medical Services
From General Fund 35,756,400
From Dedicated Credits Revenue 629,800
Schedule of Programs:
Medical Services 36,386,200

Item 54
To Utah Department of Corrections – Jail Contracting
From General Fund 40,743,600
From General Fund, One-Time ..... (6,602,100)
From Federal Funds 50,000
From Beginning Nonlapsing Balances 1,032,400
Schedule of Programs:
Jail Contracting 35,223,900

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 55
To Judicial Council/State Court Administrator – Administration
From General Fund 131,426,400
From Federal Funds 671,400
From Dedicated Credits Revenue 3,383,800
From General Fund Restricted – Children's Legal Defense 481,300
From General Fund Restricted – Court Trust Interest 260,500
From General Fund Restricted – Dispute Resolution Account 565,100
From General Fund Restricted – DNA Specimen Account 269,600
From General Fund Rest. – Justice Court Tech., Security & Training 1,685,800
From General Fund Restricted – Nonjudicial Adjustment Account 1,056,000
From General Fund Restricted – Online Court Assistance Account 237,300
From General Fund Restricted – State Court Complex Account 322,000
From General Fund Restricted – Tobacco Settlement Account 193,700
From Revenue Transfers 1,095,500
Schedule of Programs:
Administrative Office 6,232,100
Court of Appeals 4,929,700
Data Processing 9,859,600
District Courts 63,436,200
Grants Program 1,434,200
Judicial Education 827,000
Justice Courts 1,437,000
Juvenile Courts 48,584,300
Law Library 1,171,400
Supreme Court 3,736,900

Item 56
To Judicial Council/State Court Administrator – Contracts and Leases
From General Fund 16,759,900
From Dedicated Credits Revenue 259,000
From General Fund Restricted – State Court Complex Account 4,439,100
Schedule of Programs:
Contracts and Leases 21,458,000

Item 57
To Judicial Council/State Court Administrator – Grand Jury
From General Fund 800
Schedule of Programs:
Grand Jury 800

Item 58
To Judicial Council/State Court Administrator – Guardian ad Litem
From General Fund 8,821,300
From Dedicated Credits Revenue 68,900
From General Fund Restricted – Children's Legal Defense 516,500
From General Fund Restricted – Guardian Ad Litem Services 110,500
From Revenue Transfers 10,000
Schedule of Programs:
Guardian ad Litem 9,527,200

Item 59
To Judicial Council/State Court Administrator – Jury and Witness Fees
From General Fund 2,561,600
From Dedicated Credits Revenue 10,000
Schedule of Programs:
Jury, Witness, and Interpreter 2,571,600

GOVERNOR'S OFFICE

Item 60
To Governor's Office – CCJJ – Factual Innocence Payments
From Beginning Nonlapsing Balances ... 353,600
From Closing Nonlapsing Balances ..... (100)
Schedule of Programs:
Factual Innocence Payments 353,500

Item 61
To Governor's Office – CCJJ – Jail Reimbursement
From General Fund 11,378,000
From General Fund, One-Time 1,347,100
Schedule of Programs:
Jail Reimbursement 12,725,100

Item 62
To Governor's Office – Commission on Criminal and Juvenile Justice
From General Fund 8,600,900
From Federal Funds 27,326,100

From Dedicated Credits Revenue 73,300
From Crime Victim Reparations Fund ... 666,800
Schedule of Programs:
CCJJ Commission 11,438,700
Judicial Performance Evaluation Commission 599,400
Sentencing Commission 201,100
Substance Use and Mental Health Advisory Council 179,500
Utah Office for Victims of Crime ... 24,248,400

Item 63
To Governor's Office – Emergency Fund
From General Fund Restricted – State Disaster Recovery Restr Acct 500,000
Schedule of Programs:
Governor's Emergency Fund 500,000

Item 64
To Governor's Office
From General Fund 7,914,900
From Dedicated Credits Revenue 1,627,400
From Expendable Receipts 15,200
From Beginning Nonlapsing Balances ... 700,000
Schedule of Programs:
Administration 5,321,800
Governor's Residence 496,300
Lt. Governor's Office 4,134,500
Washington Funding 304,900

Item 65
To Governor's Office – Governors Office of Planning and Budget
From General Fund 7,136,800
From Dedicated Credits Revenue 26,500
From Beginning Nonlapsing Balances 1,000,000
From Closing Nonlapsing Balances .... (500,000)
Schedule of Programs:
Administration 1,739,300
Management and Special Projects 989,200
Budget, Policy, and Economic Analysis 2,287,900
Planning Coordination 2,646,900

Item 66
To Governor's Office – Indigent Defense Commission
From General Fund 274,200
From Expendable Receipts 303,200
From General Fund Restricted – Indigent Defense Resources 8,085,100
From Revenue Transfers 333,200
From Beginning Nonlapsing Balances ... 121,400
From Closing Nonlapsing Balances .... (121,400)
Schedule of Programs:
Office of Indigent Defense Services 7,160,000
Indigent Appellate Defense Division 1,561,500
Child Welfare Parental Defense Program 274,200

Item 67
To Governor's Office – Suicide Prevention
From General Fund 100,000
Schedule of Programs:
Suicide Prevention 100,000

Item 68
To Governor's Office – Colorado River Authority of Utah
From Expendable Receipts 150,000
From General Fund Restricted – Colorado River Authority of Utah Restricted Account 1,539,100
From Beginning Nonlapsing Balances 8,385,800
From Closing Nonlapsing Balances ... (8,385,800)
Schedule of Programs:
Colorado River Authority of Utah ... 1,689,100

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 69
To Department of Health and Human Services – Division of Juvenile Justice Services – Juvenile Justice & Youth Services
From General Fund 95,714,400
From Federal Funds 2,861,600
From Dedicated Credits Revenue 1,430,600
From Expendable Receipts 28,000
From General Fund Restricted – Juvenile Justice Reinvestment Account 4,913,200
From Revenue Transfers ..... (458,000)
Schedule of Programs:
Juvenile Justice & Youth Services 15,326,400
Secure Care 22,771,800
Youth Services 39,045,600
Community Programs 27,346,000

OFFICE OF THE STATE AUDITOR

Item 70
To Office of the State Auditor – State Auditor
From General Fund 4,295,600
From Dedicated Credits Revenue 3,613,900
Schedule of Programs:
State Auditor 7,548,800
State Privacy Officer 360,700

DEPARTMENT OF PUBLIC SAFETY

Item 71
To Department of Public Safety – Division of Homeland Security – Emergency and Disaster Management
From Expendable Receipts 5,000,000
From Beginning Nonlapsing Balances 7,117,500
From Closing Nonlapsing Balances ... (7,117,500)
Schedule of Programs:
Emergency and Disaster Management 5,000,000

Item 72
To Department of Public Safety – Driver License
From Federal Funds 200,700
From Dedicated Credits Revenue 27,600
From Department of Public Safety Restricted Account 34,227,100
From Public Safety Motorcycle Education Fund 509,000
From Uninsured Motorist Identification Restricted Account 2,500,000

From Pass-through 62,000
From Beginning Nonlapsing Balances 9,459,700
From Closing Nonlapsing Balances ... (7,046,500)
Schedule of Programs:
DL Federal Grants 200,700
Driver License Administration 2,905,000
Driver Records 11,736,100
Driver Services 21,969,500
Motorcycle Safety 493,300
Uninsured Motorist 2,635,000

Item 73
To Department of Public Safety - Emergency Management
From General Fund 2,165,800
From Federal Funds 29,814,700
From Dedicated Credits Revenue 749,700
From Expendable Receipts 15,000
From General Fund Restricted - Post Disaster Recovery and Mitigation Rest Account 300,000
From Beginning Nonlapsing Balances 1,224,300
From Closing Nonlapsing Balances ... (1,224,300)
From Lapsing Balance ..... (300,000)
Schedule of Programs:
Emergency Management 32,745,200

Item 74
To Department of Public Safety - Emergency Management - National Guard Response
From Beginning Nonlapsing Balances ... 150,000
From Closing Nonlapsing Balances .... (150,000)

Item 75
To Department of Public Safety - Highway Safety
From Federal Funds 6,731,400
From Dedicated Credits Revenue 41,300
From Department of Public Safety Restricted Account 1,323,800
From Public Safety Motorcycle Education Fund 58,600
From Revenue Transfers 800,000
Schedule of Programs:
Highway Safety 8,955,100

Item 76
To Department of Public Safety - Peace Officers' Standards and Training
From General Fund 1,361,000
From Beginning Nonlapsing Balances 43,200
Schedule of Programs:
POST Administration 1,404,200

Item 77
To Department of Public Safety - Programs & Operations
From General Fund 15,288,700
From Transportation Fund 3,179,600
From Federal Funds 4,205,800
From Dedicated Credits Revenue 813,500
From Expendable Receipts 300,000
From Department of Public Safety Restricted Account 609,300
From General Fund Restricted - Fire Academy Support 3,661,000
From General Fund Restricted - Firefighter Support Account 250,000
From General Fund Restricted - Public Safety Honoring Heroes Account 300,000
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account 80,800
From Revenue Transfers 2,055,800
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau 223,500
From General Fund Restricted - Utah Law Enforcement Memorial Support Restricted Account 50,000
From Pass-through 15,100
From Beginning Nonlapsing Balances 3,969,500
From Closing Nonlapsing Balances ... (3,294,100)
Schedule of Programs:
Aero Bureau 2,240,700
CITS Administration 583,900
Department Commissioner's Office 9,045,000
Department Fleet Management 646,400
Department Grants 6,578,500
Fire Marshal - Fire Fighter Training 545,300
Fire Marshal - Fire Operations 4,350,600
Highway Patrol - Administration ... 1,499,200
Highway Patrol - Commercial Vehicle 5,087,500
Highway Patrol - Safety Inspections 1,131,400

STATE TREASURER

Item 78
To State Treasurer
From General Fund 1,205,100
From Dedicated Credits Revenue 1,349,000
From Land Trusts Protection and Advocacy Account 513,800
From Unclaimed Property Trust 2,148,200
Schedule of Programs:
Advocacy Office 513,800
Money Management Council 119,300
Treasury and Investment 2,442,300
Unclaimed Property 2,140,700

UTAH COMMUNICATIONS AUTHORITY

Item 79
To Utah Communications Authority - Administrative Services Division
From General Fund Restricted - Utah Statewide Radio System Acct. 22,000,000
Schedule of Programs:
Administrative Services Division ... 22,000,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 80
To Attorney General - Litigation Fund

From Dedicated Credits Revenue 2,000,000
From Beginning Fund Balance 1,765,300
From Closing Fund Balance ..... (850,000)
Schedule of Programs:
Litigation Fund 2,915,300

GOVERNOR'S OFFICE

Item 81
To Governor's Office – Crime Victim Reparations Fund
From General Fund 3,769,400
From Federal Funds 2,500,000
From Dedicated Credits Revenue 2,731,900
From Interest Income 82,000
From Beginning Fund Balance 1,071,600
Schedule of Programs:
Crime Victim Reparations Fund 10,154,900

Item 82
To Governor's Office – Justice Assistance Grant Fund
From Beginning Fund Balance 9,376,200
From Closing Fund Balance ..... (9,376,200)

Item 83
To Governor's Office – State Elections Grant Fund
From General Fund 500,000
From Federal Funds 4,818,400
From Interest Income 5,500
From Beginning Fund Balance 600,000
From Closing Fund Balance ..... (600,000)
Schedule of Programs:
State Elections Grant Fund 5,323,900

Item 84
To Governor's Office – Municipal Incorporation Expendable Special Revenue Fund
From Dedicated Credits Revenue 18,000
From Beginning Fund Balance 35,900
From Closing Fund Balance ..... (35,900)
Schedule of Programs:
Municipal Incorporation Expendable Special Revenue Fund 18,000

Item 85
To Governor's Office – IDC – Child Welfare Parental Defense Fund
From General Fund 6,500
From Interest Income 1,000
From Beginning Fund Balance 15,500
From Closing Fund Balance ..... (15,500)
Schedule of Programs:
Child Welfare Parental Defense Fund 7,500

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ATTORNEY GENERAL

Item 86
To Attorney General – ISF – Attorney General
From Dedicated Credits Revenue 57,548,300
From Beginning Fund Balance 5,088,800
From Closing Fund Balance ..... (5,088,800)
Schedule of Programs:
Civil Division 35,278,500
Child Protection Division 10,900,000
Criminal Division 11,369,800
Budgeted FTE 322.6

UTAH DEPARTMENT OF CORRECTIONS

Item 87
To Utah Department of Corrections – Utah Correctional Industries
From Dedicated Credits Revenue 28,000,000
From Beginning Fund Balance 7,171,700
From Closing Fund Balance ..... (7,962,700)
Schedule of Programs:
Utah Correctional Industries 27,209,000

DEPARTMENT OF PUBLIC SAFETY

Item 88
To Department of Public Safety – Local Government Emergency Response Loan Fund
From Beginning Fund Balance 7,127,900
From Closing Fund Balance ..... (7,127,900)

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 89
To Employment Incentive Restricted Account
From General Fund 1,500,000
Schedule of Programs:
Employment Incentive Restricted Account 1,500,000

Item 90
To General Fund Restricted – Indigent Defense Resources Account
From General Fund 8,053,900
Schedule of Programs:
General Fund Restricted – Indigent Defense Resources Account 8,053,900

Item 91
To Colorado River Authority of Utah Restricted Account
From General Fund 1,525,000
Schedule of Programs:
Colorado River Authority Restricted Account 1,525,000

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

GOVERNOR'S OFFICE

Item 92
To Governor's Office – Indigent Inmate Trust Fund

From Dedicated Credits Revenue 25,300
From Beginning Fund Balance 553,800
From Closing Fund Balance ..... (491,100)
Schedule of Programs:
Indigent Inmate Trust Fund 88,000

STATE TREASURER

Item 93
To State Treasurer – Navajo Trust Fund
From Trust and Agency Funds 4,724,800
From Beginning Fund Balance 85,640,400
From Closing Fund Balance ..... (87,983,000)
Schedule of Programs:
Utah Navajo Trust Fund 2,382,200

Section 3. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ATTORNEY GENERAL

Item 94
To Attorney General
From General Fund 10,902,200
From Federal Funds 4,008,000
From Dedicated Credits Revenue 972,600
From General Fund Restricted –
Consumer Privacy Account 170,000
From Attorney General Litigation Fund ... 9,300
From Revenue Transfers 1,059,900
Schedule of Programs:
Criminal Prosecution 17,122,000

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 95
To Judicial Council/State Court Administrator – Administration
From General Fund Restricted –
Court Security Account 11,178,700
Schedule of Programs:
Courts Security 11,178,700

GOVERNOR'S OFFICE

Item 96
To Governor's Office – Commission on Criminal and Juvenile Justice
From General Fund 1,753,200
From Dedicated Credits Revenue 36,700
From General Fund Restricted –
Criminal Forfeiture Restricted Account 1,353,000
Schedule of Programs:
Extraditions 424,700
State Asset Forfeiture Grant Program 1,353,000
State Task Force Grants 1,365,200

DEPARTMENT OF PUBLIC SAFETY

Item 97
To Department of Public Safety – Peace Officers' Standards and Training
From General Fund 2,273,600
From Dedicated Credits Revenue 70,400
From Uninsured Motorist Identification Restricted Account 1,500,000
From Beginning Nonlapsing Balances 11,300
Schedule of Programs:
Basic Training 2,802,300
Regional/Inservice Training 1,053,000

Item 98
To Department of Public Safety – Programs & Operations
From General Fund 110,272,300
From Transportation Fund 2,315,900
From Federal Funds 357,300
From Dedicated Credits Revenue 12,700,500
From General Fund Restricted – Canine Body Armor 25,000
From Department of Public Safety Restricted Account 3,630,700
From General Fund Restricted – DNA Specimen Account 1,533,200
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account 1,180,000
From Gen. Fund Rest. – Motor Vehicle Safety Impact Acct. 2,887,600
From Revenue Transfers 6,500
From Beginning Nonlapsing Balances 6,271,300
From Closing Nonlapsing Balances .... (693,000)
From Lapsing Balance ..... (1,100,000)
Schedule of Programs:
CITS Communications 12,331,100
CITS State Bureau of Investigation 11,466,500
CITS State Crime Labs 10,844,000
Department Intelligence Center 2,158,400
Highway Patrol – Federal/State Projects 4,233,200
Highway Patrol – Field Operations 73,807,300
Highway Patrol – Protective Services 9,921,600
Highway Patrol – Special Enforcement 3,942,800
Highway Patrol – Special Services ... 8,089,400
Highway Patrol – Technology Services 1,738,500
Information Management – Operations 854,500

Item 99
To Department of Public Safety – Bureau of Criminal Identification
From General Fund 2,885,400
From Dedicated Credits Revenue 5,744,000
From General Fund Restricted – Concealed Weapons Account 4,399,300
From Revenue Transfers 700,000
From Beginning Nonlapsing Balances 4,000,000

From Closing Nonlapsing Balances . . . (4,000,000)
Schedule of Programs:
Law Enforcement/Criminal Justice Services 2,445,800
Non-Government/Other Services . . . 11,282,900

UTAH COMMUNICATIONS AUTHORITY

Item 100
To Utah Communications Authority - Administrative Services Division
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct. 10,000,000
Schedule of Programs:
911 Division 10,000,000

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 101
To Attorney General - Crime and Violence Prevention Fund
From Dedicated Credits Revenue 250,000
From Beginning Fund Balance 102,400
From Closing Fund Balance . . . . . (102,400)
Schedule of Programs:
Crime and Violence Prevention Fund 250,000

GOVERNOR'S OFFICE

Item 102
To Governor's Office - Pretrial Release Programs Special Revenue Fund
From Dedicated Credits Revenue 300,000
From Beginning Fund Balance 238,800
From Closing Fund Balance . . . . . (238,800)
Schedule of Programs:
Pretrial Release Programs Special Revenue Fund 300,000

DEPARTMENT OF PUBLIC SAFETY

Item 103
To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From General Fund 1,320,000
From Dedicated Credits Revenue 3,669,400
From Beginning Fund Balance 4,227,600
From Closing Fund Balance . . . . . (3,547,200)
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 5,669,800

Subsection 3(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 104
To General Fund Restricted - DNA Specimen Account
From General Fund 216,000
Schedule of Programs:
General Fund Restricted - DNA Specimen Account 216,000

Subsection 3(d). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

ATTORNEY GENERAL

Item 105
To Attorney General - Financial Crimes Trust Fund
From Trust and Agency Funds 1,225,000
From Beginning Fund Balance 1,000
From Closing Fund Balance . . . . . (1,000)
Schedule of Programs:
Financial Crimes Trust Fund 1,225,000

Section 4. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2023.

CHAPTER 10
S. B. 7
Passed January 26, 2023
Approved February 2, 2023
Effective May 3, 2023

SOCIAL SERVICES BASE BUDGET

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $240,976,900 in operating and capital budgets for fiscal year 2023, including:

- ($41,873,500) from the General Fund;
- $5,050,000 from the Income Tax Fund; and
- $277,800,400 from various sources as detailed in this bill.

This bill appropriates $8,184,800 in expendable funds and accounts for fiscal year 2023.

This bill appropriates ($40,092,500) in business-like activities for fiscal year 2023.

This bill appropriates $25,037,100 in restricted fund and account transfers for fiscal year 2023, including:

- $142,200 from the General Fund; and
- $24,894,900 from various sources as detailed in this bill.

This bill appropriates ($461,300) in fiduciary funds for fiscal year 2023.

This bill appropriates $8,439,053,300 in operating and capital budgets for fiscal year 2024, including:

- $1,440,486,500 from the General Fund;
- $7,122,800 from the Income Tax Fund; and
- $6,991,444,000 from various sources as detailed in this bill.

This bill appropriates $79,426,500 in expendable funds and accounts for fiscal year 2024, including:

- $2,542,900 from the General Fund; and
- $76,883,600 from various sources as detailed in this bill.

This bill appropriates $127,154,600 in business-like activities for fiscal year 2024.

This bill appropriates $281,874,200 in restricted fund and account transfers for fiscal year 2024, including:

- $102,663,000 from the General Fund; and
- $179,211,200 from various sources as detailed in this bill.

This bill appropriates $223,534,400 in fiduciary funds for fiscal year 2024.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2023.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

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

DEPARTMENT OF WORKFORCE SERVICES

Item 1
To University of Utah - Education and General
To Department of Workforce Services - Administration
From General Fund, One-Time 23,100
From Beginning Nonlapsing Balances ..... (200,000)
Schedule of Programs:
Administrative Support ..... (200,000)
Executive Director's Office 23,100

Item 2
To Department of Workforce Services - General Assistance
From Beginning Nonlapsing Balances 2,170,000
Schedule of Programs:
General Assistance 2,170,000

Item 3
To Department of Workforce Services - Housing and Community Development
From Beginning Nonlapsing Balances ..... (325,200)
Schedule of Programs:
Community Development Administration 145,200
Housing Development ..... (470,400)

Item 4
To Department of Workforce Services - Operations and Policy
From Beginning Nonlapsing Balances ..... (3,200,000)
Schedule of Programs:
Other Assistance 1,500,000
Workforce Development ..... (4,700,000)

Item 5
To Department of Workforce Services - State Office of Rehabilitation

From Beginning Nonlapsing Balances ..... (2,736,100)
Schedule of Programs:
Executive Director ..... (2,736,100)

Item 6
To Department of Workforce Services – Unemployment Insurance
From Beginning Nonlapsing Balances . (285,500)
Schedule of Programs:
Unemployment Insurance Administration ..... (285,500)

Item 7
To Department of Workforce Services – Office of Homeless Services
From Beginning Nonlapsing Balances . (500,000)
Schedule of Programs:
Homeless Services ..... (500,000)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 8
To Department of Health and Human Services – Operations
From General Fund, One-Time 32,300
From Beginning Nonlapsing Balances 5,455,100
From Lapsing Balance 4,000
Schedule of Programs:
Executive Director Office 3,197,300
Finance & Administration 2,051,500
Data, Systems, & Evaluations 242,600

Item 9
To Department of Health and Human Services – Clinical Services
From Income Tax Fund, One-Time 5,050,000
From Beginning Nonlapsing Balances 2,731,900
From Closing Nonlapsing Balances 563,200
Schedule of Programs:
Medical Examiner 401,800
State Laboratory 556,100
Primary Care and Rural Health 1,302,200
Medical Education Council 1,035,000
Medical Residency Grant Program ... 4,500,000
Forensic Psychiatry Grant Program ... 550,000

Item 10
To Department of Health and Human Services – Department Oversight
From Beginning Nonlapsing Balances . (455,400)
From Closing Nonlapsing Balances 1,712,000
Schedule of Programs:
Licensing & Background Checks 1,256,600

Item 11
To Department of Health and Human Services – Health Care Administration
From Beginning Nonlapsing Balances 11,455,500
Schedule of Programs:
Integrated Health Care Administration 2,955,500
Provider Reimbursement Information System for Medicaid 8,500,000

Item 12
To Department of Health and Human Services – Integrated Health Care Services
From General Fund, One-Time .... (16,653,700)
From Federal Funds – Enhanced FMAP, One-Time 120,789,700
From Ambulance Service Provider Assess Exp Rev Fund, One-Time 649,500
From Medicaid Expansion Fund, One-Time ..... (31,556,300)
From General Fund Restricted – Medicaid Restricted Account, One-Time 41,500,000
From Nursing Care Facilities Provider Assessment Fund, One-Time 1,992,600
From Beginning Nonlapsing Balances 100,682,800
Schedule of Programs:
Children's Health Insurance Program Services 4,859,400
Medicaid Accountable Care Organizations 167,947,600
Medicaid Hospital Services ..... (2,400,000)
Medicaid Long Term Care Services 3,217,600
Medicaid Other Services 71,853,300
Expansion Accountable Care Organizations ..... (31,556,300)
Non-Medicaid Behavioral Health Treatment & Crisis Response 3,284,700
State Hospital 198,300

The Department of Health and Human Services may use up to a combined maximum of $41,500,000 from the General Fund Restricted – Medicaid Restricted Account and associated federal matching funds provided for Integrated Health only in the case that non-federal fund appropriations provided for FY 2023 in all other items of appropriation within the respective line item are insufficient to pay appropriate claims within the respective line item for FY 2023 when combined with federal matching funds.

Item 13
To Department of Health and Human Services – Long-Term Services & Support
From General Fund, One-Time .... (23,517,100)
From Beginning Nonlapsing Balances 19,076,000
Schedule of Programs:
Aging & Adult Services 300,000
Adult Protective Services 162,500
Office of Public Guardian 11,500
Aging Waiver Services ..... (152,100)
Community Supports Waiver Services ..... (1,191,500)
Disabilities – Other Waiver Services ..... (1,499,100)
Utah State Developmental Center ..... (2,072,400)

Item 14
To Department of Health and Human Services – Public Health, Prevention, and Epidemiology
From Beginning Nonlapsing Balances ... 845,100
Schedule of Programs:
Communicable Disease 135,400
Health Promotion and Prevention 239,400

Emergency Medical Services and Preparedness 445,300
Local Health Departments 25,000

Item 15
To Department of Health and Human Services – Children, Youth, & Families
From General Fund, One-Time ..... (1,758,100)
From Federal Funds, One-Time 1,011,700
From Beginning Nonlapsing Balances 6,519,800
From Closing Nonlapsing Balances .... (100,000)
Schedule of Programs:
Child & Family Services 4,408,800
Out-of-Home Services ..... (285,600)
Adoption Assistance 1,650,200
Children with Special Healthcare Needs ..... (100,000)

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

DEPARTMENT OF WORKFORCE SERVICES

Item 16
To Department of Workforce Services – Individuals with Visual Impairment Fund
From Beginning Fund Balance ..... (37,000)
From Closing Fund Balance 37,000

Item 17
To Department of Workforce Services – Individuals with Visual Impairment Vendor Fund
From Beginning Fund Balance 32,800
From Closing Fund Balance ..... (105,200)
Schedule of Programs:
Individuals with Visual Disabilities Vendor Fund ..... (72,400)

Item 18
To Department of Workforce Services – Navajo Revitalization Fund
From Beginning Fund Balance ..... (667,600)
From Closing Fund Balance 1,202,600
Schedule of Programs:
Navajo Revitalization Fund 535,000

Item 19
To Department of Workforce Services – Permanent Community Impact Bonus Fund
From Beginning Fund Balance ..... (7,533,700)
From Closing Fund Balance 7,548,700
Schedule of Programs:
Permanent Community Impact Bonus Fund 15,000

Item 20
To Department of Workforce Services – Permanent Community Impact Fund
From Beginning Fund Balance 49,067,900
From Closing Fund Balance ..... (42,061,900)
Schedule of Programs:
Permanent Community Impact Fund 7,006,000

Item 21
To Department of Workforce Services – Qualified Emergency Food Agencies Fund
From Beginning Fund Balance 32,000
From Closing Fund Balance ..... (1,100)
Schedule of Programs:
Emergency Food Agencies Fund 30,900

Item 22
To Department of Workforce Services – Uintah Basin Revitalization Fund
From Beginning Fund Balance 2,711,200
From Closing Fund Balance ..... (3,456,200)
Schedule of Programs:
Uintah Basin Revitalization Fund ... (745,000)

Item 23
To Department of Workforce Services – Utah Community Center for the Deaf Fund
From Beginning Fund Balance ..... (3,400)
From Closing Fund Balance 600
Schedule of Programs:
Utah Community Center for the Deaf Fund ..... (2,800)

Item 24
To Department of Workforce Services – Olene Walker Low Income Housing
From Beginning Fund Balance ..... (22,123,600)
From Closing Fund Balance 22,931,100
Schedule of Programs:
Olene Walker Low Income Housing 807,500

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 25
To Department of Health and Human Services – Allyson Gamble Organ Donation Contribution Fund
From Dedicated Credits Revenue, One-Time ..... (100)
From Beginning Fund Balance 231,200
From Closing Fund Balance ..... (231,100)

Item 26
To Department of Health and Human Services – Spinal Cord and Brain Injury Rehabilitation Fund
From Dedicated Credits Revenue, One-Time 97,500
From Beginning Fund Balance 237,500
From Closing Fund Balance 129,000
Schedule of Programs:
Spinal Cord and Brain Injury Rehabilitation Fund 464,000

Item 27
To Department of Health and Human Services – Traumatic Brain Injury Fund
From Beginning Fund Balance ..... (70,200)
From Closing Fund Balance 187,500
Schedule of Programs:
Traumatic Brain Injury Fund 117,300

Item 28
To Department of Health and Human Services – Maurice N. Warshaw Trust Fund
From Interest Income, One-Time ..... (3,300)

From Beginning Fund Balance 1,400
From Closing Fund Balance . . . . . (2,400)
Schedule of Programs:
Maurice N. Warshaw Trust Fund . . . . . (4,300)

Item 29
To Department of Health and Human Services – Out and About Homebound Transportation Assistance Fund
From Beginning Fund Balance 95,300
From Closing Fund Balance . . . . . (107,500)
Schedule of Programs:
Out and About Homebound Transportation Assistance Fund . . . . (12,200)

Item 30
To Department of Health and Human Services – Utah State Developmental Center Long-Term Sustainability Fund
From Beginning Fund Balance 10,831,300
From Closing Fund Balance . . . . . (10,831,300)

Item 31
To Department of Health and Human Services – Utah State Developmental Center Miscellaneous Donation Fund
From Dedicated Credits Revenue, One-Time 3,000
From Interest Income, One-Time 3,000
From Beginning Fund Balance 586,400
From Closing Fund Balance . . . . . (586,400)
Schedule of Programs:
Utah State Developmental Center Miscellaneous Donation Fund 6,000

Item 32
To Department of Health and Human Services – Utah State Developmental Center Workshop Fund
From Dedicated Credits Revenue, One-Time 70,000
From Beginning Fund Balance 15,500
From Closing Fund Balance . . . . . (15,500)
Schedule of Programs:
Utah State Developmental Center Workshop Fund 70,000

Item 33
To Department of Health and Human Services – Utah State Hospital Unit Fund
From Dedicated Credits Revenue, One-Time 21,200
From Interest Income, One-Time 4,000
From Beginning Fund Balance 211,900
From Closing Fund Balance . . . . . (217,300)
Schedule of Programs:
Utah State Hospital Unit Fund 19,800

Item 34
To Department of Health and Human Services – Mental Health Services Donation Fund
From Beginning Fund Balance 100,800
From Closing Fund Balance . . . . . (200,800)
Schedule of Programs:
Mental Health Services Donation Fund . . . . . (100,000)

Item 35
To Department of Health and Human Services– Suicide Prevention and Education Fund
From Beginning Fund Balance 1,217,700
From Closing Fund Balance . . . . . (1,217,700)

Item 36
To Department of Health and Human Services – Pediatric Neuro-Rehabilitation Fund
From Beginning Fund Balance 50,000
Schedule of Programs:
Pediatric Neuro-Rehabilitation Fund . . . 50,000

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

DEPARTMENT OF WORKFORCE SERVICES

Item 37
To Department of Workforce Services – Economic Revitalization and Investment Fund
From Beginning Fund Balance . . . . . (94,300)
From Closing Fund Balance 94,300

Item 38
To Department of Workforce Services – Unemployment Compensation Fund
From Beginning Fund Balance 200,142,500
From Closing Fund Balance . . . . . (241,093,900)
Schedule of Programs:
Unemployment Compensation Fund . . . . . (40,951,400)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 39
To Department of Health and Human Services – Qualified Patient Enterprise Fund
From Beginning Fund Balance 3,360,500
From Closing Fund Balance . . . . . (2,501,600)
Schedule of Programs:
Qualified Patient Enterprise Fund 858,900

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

Item 40
To General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account
From Beginning Fund Balance 807,600
Schedule of Programs:
General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account 807,600

Item 41
To General Fund Restricted – Homeless Account
From Beginning Fund Balance . . . . . (151,500)

From Closing Fund Balance 834,100
Schedule of Programs:
General Fund Restricted – Pamela Atkinson Homeless Account 682,600

Item 42
To General Fund Restricted – Homeless to Housing Reform Account
From Beginning Fund Balance 3,847,400
From Closing Fund Balance ..... (347,400)
Schedule of Programs:
General Fund Restricted – Homeless to Housing Reform Restricted Account 3,500,000

Item 43
To General Fund Restricted – School Readiness Account
From Beginning Fund Balance 969,100
From Closing Fund Balance ..... (1,400,700)
Schedule of Programs:
General Fund Restricted – School Readiness Account ..... (431,600)

Item 44
To Ambulance Service Provider Assessment Expendable Revenue Fund
From Dedicated Credits Revenue, One-Time 1,873,800
Schedule of Programs:
Ambulance Service Provider Assessment Expendable Revenue Fund 1,873,800

Item 45
To Medicaid Expansion Fund
From General Fund, One-Time 142,200
From Dedicated Credits Revenue, One-Time ..... (3,800,000)
From Expendable Receipts, One-Time 60,600
From Beginning Fund Balance 16,764,600
From Closing Fund Balance 1,631,500
Schedule of Programs:
Medicaid Expansion Fund 14,798,900

Item 46
To Nursing Care Facilities Provider Assessment Fund
From Dedicated Credits Revenue, One-Time 3,805,800
Schedule of Programs:
Nursing Care Facilities Provider Assessment Fund 3,805,800

Item 47
To General Fund Restricted – Children's Hearing Aid Program Account
From Beginning Fund Balance 62,000
From Closing Fund Balance ..... (62,000)

Item 48
To General Fund Restricted – Medicaid Restricted Account
From Beginning Fund Balance ..... (40,483,600)
From Closing Fund Balance 40,483,600

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 49
To Department of Health and Human Services – Human Services Client Trust Fund
From Interest Income, One-Time 200
From Trust and Agency Funds, One-Time ..... (461,500)
From Beginning Fund Balance ..... (110,300)
From Closing Fund Balance 110,300
Schedule of Programs:
Human Services Client Trust Fund .. (461,300)

Item 50
To Department of Health and Human Services –Utah State Developmental Center Patient Account
From Beginning Fund Balance ..... (160,500)
From Closing Fund Balance 160,500

Item 51
To Department of Health and Human Services – Utah State Hospital Patient Trust Fund
From Beginning Fund Balance 203,300
From Closing Fund Balance ..... (203,300)

Section 2. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF WORKFORCE SERVICES

Item 52
To Department of Workforce Services – Administration
From General Fund 4,740,600
From Federal Funds 10,127,000
From Dedicated Credits Revenue 116,800
From Expendable Receipts 106,300
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct 20,800
From Housing Opportunities for Low Income Households 5,000
From Medicaid Expansion Fund 1,200
From Navajo Revitalization Fund 10,800
From Olene Walker Housing Loan Fund 20,400
From OWHT-Fed Home 5,000
From OWHTF-Low Income Housing 20,400
From Permanent Community Impact Loan Fund 155,600
From Qualified Emergency Food Agencies Fund 4,100
From General Fund Restricted – School Readiness Account 17,300
From Revenue Transfers 3,780,900
From Uintah Basin Revitalization Fund ... 3,600
Schedule of Programs:

Administrative Support 12,147,100
Communications 1,476,300
Executive Director's Office 1,513,000
Human Resources 2,036,200
Internal Audit 1,963,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Administration line item, whose mission is to "be the best-managed State Agency in Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) provide accurate and timely department-wide fiscal administration as measured by audit findings or responses (Target: zero audit findings); 2) percent of DWS programs/systems that have reviewed, planned for, or mitigated identified risks (target: 100%); and 3) percent of DWS facilities for which an annual facilities risk assessment is completed using the Division of Risk Management guidelines and checklist (target: 98%).

Item 53
To Department of Workforce Services - Community Development Capital Budget
From Permanent Community Impact Loan Fund 93,060,000
Schedule of Programs:
Community Impact Board 93,060,000

Item 54
To Department of Workforce Services - General Assistance
From General Fund 4,313,400
From Revenue Transfers 254,200
Schedule of Programs:
General Assistance 4,567,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the General Assistance line item, whose mission is to "provide temporary financial assistance to disabled adults without dependent children to support basic living needs as they seek longer term financial benefits through SSI/SSDI or employment." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) positive closure rate (SSI achievement or closed with earnings) (Target = 65%), (2) General Assistance average monthly customers served (Target = 730), and (3) internal review compliance accuracy (Target = 95%).

Item 55
To Department of Workforce Services - Housing and Community Development
From General Fund 1,458,900
From Federal Funds 45,175,500
From Dedicated Credits Revenue 859,400
From Expendable Receipts 1,280,100
From Housing Opportunities for Low Income Households 530,600
From Navajo Revitalization Fund 61,900
From Olene Walker Housing Loan Fund 530,600
From OWHT-Fed Home 530,600
From OWHTF-Low Income Housing 530,600
From Permanent Community Impact Loan Fund 1,336,300
From Qualified Emergency Food Agencies Fund 37,300
From Revenue Transfers 587,000
From Uintah Basin Revitalization Fund 43,900
Schedule of Programs:
Community Development 7,512,800
Community Development Administration 1,280,100
Community Services 4,296,700
HEAT 23,123,600
Housing Development 6,237,800
Weatherization Assistance 10,511,700

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Housing and Community Development line item, whose mission is to "actively partner with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) utilities assistance for low-income households - unique number of eligible households assisted with home energy costs (Target = 26,000 households), (2) Weatherization Assistance unique number of low-income households assisted by installing permanent energy conservation measures in their homes (Target = 347 homes), and (3) Affordable housing units funded from Olene Walker and Private Activity Bonds (Target = 2,800).

Item 56
To Department of Workforce Services - Nutrition Assistance - SNAP
From Federal Funds 416,244,900
Schedule of Programs:
Nutrition Assistance - SNAP 416,244,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Nutrition Assistance line

item, whose mission is to "provide accurate and timely Supplemental Nutrition Assistance Program (SNAP) benefits to eligible low-income individuals and families." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) SNAP accuracy of paid benefits (Target= 97%), (2) SNAP - Certification Timeliness - percentage of cases where a decision of eligibility was made within 30 calendar days (Target = 95%), and (3) SNAP Calendar Days to Decision from Application Submission to Eligibility Decision (Target = 12 days).

Item 57

To Department of Workforce Services - Operations and Policy
From General Fund 52,766,000
From Income Tax Fund 3,038,000
From Federal Funds 293,436,500
From Dedicated Credits Revenue 479,300
From Expendable Receipts 2,035,900
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 39,400
From Housing Opportunities for Low Income Households 2,000
From Medicaid Expansion Fund 3,476,500
From Navajo Revitalization Fund 7,200
From Olene Walker Housing Loan Fund 40,400
From OWHT-Fed Home 2,000
From OWHTF-Low Income Housing 35,400
From Permanent Community Impact Loan Fund 259,300
From Qualified Emergency Food Agencies Fund 3,500
From General Fund Restricted - School Readiness Account 9,273,400
From Revenue Transfers 61,814,800
From Uintah Basin Revitalization Fund ... 2,800
Schedule of Programs:
Child Care Assistance 89,513,100
Eligibility Services 89,839,700
Facilities and Pass-Through 8,109,900
Information Technology 44,334,500
Nutrition Assistance 96,000
Other Assistance 294,600
Refugee Assistance 7,400,000
Temporary Assistance for Needy Families 70,088,100
Trade Adjustment Act Assistance ... 1,500,000
Workforce Development 108,047,300
Workforce Investment Act Assistance 4,530,000
Workforce Research and Analysis ... 2,959,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Operations and Policy line item, whose mission is to "meet the needs of our customers with responsive, respectful and accurate service." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) labor exchange - total job placements (Target = 30,000 placements per calendar quarter), (2) TANF recipients - positive closure rate (Target = 78% per calendar month), and (3) Eligibility Services - internal review compliance accuracy (Target = 95%).

Item 58

To Department of Workforce Services - Special Service Districts
From General Fund Restricted - Mineral Lease 3,015,800
Schedule of Programs:
Special Service Districts 3,015,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Special Service Districts line item, whose mission is to "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) the total pass through of funds to qualifying special service districts in counties of the 5th, 6th, and 7th class (completed quarterly).

Item 59

To Department of Workforce Services - Unemployment Insurance
From General Fund 1,072,600
From Federal Funds 28,422,900
From Dedicated Credits Revenue 730,100
From Expendable Receipts 33,700
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 1,000
From Housing Opportunities for Low Income Households 1,000
From Medicaid Expansion Fund 100
From Navajo Revitalization Fund 500
From Olene Walker Housing Loan Fund ... 1,500
From OWHT-Fed Home 1,000
From OWHTF-Low Income Housing 1,500
From Permanent Community Impact Loan Fund 7,500
From Qualified Emergency Food Agencies Fund 500
From General Fund Restricted - School Readiness Account 1,200
From Revenue Transfers 129,500

From Uintah Basin Revitalization Fund 500
Schedule of Programs:
Adjudication 5,500,400
Unemployment Insurance Administration 24,904,700

Item 60
To Department of Workforce Services – Office of Homeless Services
From General Fund 1,934,700
From Federal Funds 5,095,400
From Dedicated Credits Revenue 19,600
From Gen. Fund Rest. – Pamela Atkinson Homeless Account 2,401,200
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct 12,814,700
From General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account 10,314,000
From Revenue Transfers 25,000
Schedule of Programs:
Homeless Services 32,604,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Office of Homeless Services line item, whose mission is to "make homelessness rare, brief, and nonrecurring." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) HUD Performance Measure: Length of time persons remain homeless (Target = Reduce by 10%), (2) HUD Performance Measure: The extent to which persons who exit homelessness to permanent housing destinations return to homelessness (Target = Reduce by 10% from the previous year's achievement), (3) HUD Performance Measure: Number of homeless persons (Target = Reduce by 8% from the previous year's achievement), (4) HUD Performance Measure: Jobs and income growth for homeless persons in CoC Program-funded projects (Increase by 10% from previous years achievement), (5) HUD Performance Measure: Number of persons who become homeless for the first time (Target = Reduce by 6% from previous years achievement), and (6) HUD Performance Measure: successful housing placement – Successful exits or retention of housing from Permanent Housing (PH) (Target = 93% or above).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 61
To Department of Health and Human Services – Operations
From General Fund 19,971,200
From Income Tax Fund 543,600
From Federal Funds 29,495,900
From Dedicated Credits Revenue 3,163,800
From General Fund Restricted – Children with Cancer Support Restricted Account 2,000
From General Fund Restricted – Children with Heart Disease Support Restr Acct 2,000
From Revenue Transfers 3,243,700
Schedule of Programs:
Executive Director Office 2,196,100
Ancillary Services 2,790,000
Finance & Administration 21,621,500
Data, Systems, & Evaluations 15,039,100
Public Affairs, Education & Outreach 1,677,500
American Indian / Alaska Native 478,900
Continuous Quality Improvement ... 4,788,300
Customer Experience 7,830,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Executive Director Operations line item, whose mission is "to strengthen lives by providing children, youth, families and adults individualized services to thrive in their homes, schools and communities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Office of Quality and Design Continuous Quality Improvement: Percent of contracted providers who meet or exceed the Department of Health and Human Services quality standard (Target = 85%) Corrected department-wide reported fiscal issues -- per reporting process and June 30 quarterly report involving the Bureau of Finance and Bureau of Internal Review and Audit (Target = 98%), 2) Office of Licensing: Initial foster care homes licensed within three months of application completion (Target = 96%), and 3) System of Care: Percent of children placed in residential treatment out of children at-risk for out-of-home placement (Target = 10%).

Item 62
To Department of Health and Human Services – Clinical Services
From General Fund 15,804,700
From Income Tax Fund 3,355,900
From Federal Funds 2,323,700
From Dedicated Credits Revenue 12,083,000
From Expendable Receipts 185,600
From Department of Public Safety Restricted Account 436,800
From Gen. Fund Rest. – State Lab Drug Testing Account 760,200
From Revenue Transfers 519,600
Schedule of Programs:
Medical Examiner 9,250,500
State Laboratory 15,032,700
Primary Care and Rural Health 5,531,800

Health Clinics of Utah 1,347,500
Health Equity 545,600
Medical Education Council 1,711,400
Medical Residency Grant Program ... 1,500,000
Forensic Psychiatry Grant Program ... 550,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Clinical Services line item, whose mission is "improve access to physical, mental, and oral healthcare services for underserved populations; work to overcome critical healthcare provider shortages; provide safe and timely access to medical cannabis; and reduce health disparities and advance health equity in Utah". The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2023 the final status of performance measures established in FY 2023. For FY 2024, the department shall report the following performance measures: (1) Number of DHHS organizational units engaged in health equity-related activities (Target <=9 organizational units engage in health equity-related activities), (2) Mean turn around times or percentage of the time we meet our turnaround time standard for key tests; percentage of samples that meet specific turn around time goals (Target = Meet turn around time standards 95% time), (3) Percentage of autopsy reports completed within 60 days (Target = At least 90%), and (4) Increase the compliance rate of facility inspections for medical cannabis pharmacies (Target = Average 95% Compliance Rate).

Item 63

To Department of Health and Human Services - Department Oversight
From General Fund 8,826,800
From Federal Funds 11,427,800
From Dedicated Credits Revenue 1,938,600
From Revenue Transfers 2,879,300
From Beginning Nonlapsing Balances 3,495,900
From Closing Nonlapsing Balances ... (3,495,900)
Schedule of Programs:
Licensing & Background Checks ... 16,511,900
Internal Audit 7,532,200
Admin Hearings 1,028,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Department Oversight line item, whose mission is "protect the public's health through preventing avoidable illness, injury, disability, and premature death; assuring access to affordable, quality health care; and promoting health lifestyles by providing services and oversight of services which are applicable throughout all divisions and bureaus of the Department." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 2, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Rate of provider compliance with licensing rules (Target = Improve by 5% from baseline with baseline being developed) and 2) Number of days between criminal record released and staff determination (Target = Within 5 working days of the release of a criminal record).

Item 64

To Department of Health and Human Services - Health Care Administration
From General Fund 12,563,700
From Federal Funds 131,104,400
From Dedicated Credits Revenue 17,200
From Expendable Receipts 16,366,300
From Ambulance Service Provider Assess Exp Rev Fund 20,000
From Medicaid Expansion Fund 3,318,500
From Nursing Care Facilities Provider Assessment Fund 1,179,900
From Suicide Prevention Fund 12,500
From Revenue Transfers 44,752,500
Schedule of Programs:
Integrated Health Care Administration 99,202,000
Long-Term Services and Supports Administration 7,899,500
Provider Reimbursement Information System for Medicaid 7,837,900
Utah Developmental Disabilities Council 690,400
Seeded Services 93,705,200

The Legislature intends that the Department of Health and Human Services include in its annual Provider Reimbursement Information System report to the Social Services Appropriations Subcommittee by September 30, 2023 on new checks in place for unauthorized providers and utilization in the Provider Reimbursement Information System for Medicaid system per recommendations from an internal audit.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Health Care Administration line item, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023. For FY 2024, the department shall report the following performance measures: (1) Percent of Medicaid members/patients/clients that report adequate access to DHHS program services (Target = Improve from baseline with the baseline being developed)

and (2) Average decision time on pharmacy prior authorizations (Target = 24 hours).

Item 65

To Department of Health and Human Services – Integrated Health Care Services
From General Fund 805,831,500
From General Fund, One-Time 21,100,000
From Federal Funds 3,204,645,800
From Dedicated Credits Revenue 10,449,100
From Expendable Receipts 199,986,700
From Expendable Receipts – Rebates 253,277,300
From General Fund Restricted – Statewide Behavioral Health Crisis Response Account 16,930,600
From Ambulance Service Provider Assess Exp Rev Fund 5,071,200
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account 262,600
From Hospital Provider Assessment Fund 56,045,500
From Medicaid Expansion Fund 127,138,600
From Nursing Care Facilities Provider Assessment Fund 1,814,500
From General Fund Restricted – Psychiatric Consultation Program Account 322,800
From General Fund Restricted – Survivors of Suicide Loss Account 40,000
From General Fund Restricted – Tobacco Settlement Account 12,145,700
From Revenue Transfers 64,523,600
From Pass-through 1,813,000
Schedule of Programs:
Children's Health Insurance Program Services 175,999,600
Medicaid Accountable Care Organizations 1,573,895,900
Medicaid Behavioral Health Services 237,503,500
Medicaid Hospital Services 318,263,900
Medicaid Pharmacy Services 357,529,300
Medicare Buy-In and Clawback Payments 107,547,900
Medicaid Other Services 563,219,000
Offsets to Medicaid Expenditures ..... (41,066,500)
Expansion Accountable Care Organizations 592,371,500
Expansion Behavioral Health Services 78,899,900
Expansion Hospital Services 295,502,600
Expansion Other Services 128,829,400
Expansion Pharmacy Services 126,549,800
Non-Medicaid Behavioral Health Treatment & Crisis Response ... 176,636,700
State Hospital 89,716,000

Item 66

To Department of Health and Human Services – Long-Term Services & Support
From General Fund 16,536,700
From Federal Funds 23,273,700
From Expendable Receipts 30,900
From Revenue Transfers ..... (759,500)
Schedule of Programs:
Aging & Adult Services 30,994,800
Adult Protective Services 4,932,100
Office of Public Guardian 1,210,400
Aging Waiver Services 1,944,500

Item 67

To Department of Health and Human Services – Public Health, Prevention, and Epidemiology
From General Fund 18,774,800
From Federal Funds 314,787,600
From Dedicated Credits Revenue 854,100
From Expendable Receipts 1,823,500
From Expendable Receipts – Rebates 6,605,300
From General Fund Restricted – Cancer Research Account 20,000
From General Fund Restricted – Children with Cancer Support Restricted Account 10,500
From General Fund Restricted – Children with Heart Disease Support Restr Acct 10,500
From General Fund Restricted – Cigarette Tax Restricted Account 3,150,000
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account 9,131,600
From General Fund Restricted – Emergency Medical Services System Account 2,042,500
From General Fund Restricted – Tobacco Settlement Account 3,346,100
From Revenue Transfers 5,921,000
Schedule of Programs:
Communicable Disease 297,161,900
Health Promotion and Prevention .. 43,648,400
Emergency Medical Services and Preparedness 16,732,000
Local Health Departments 6,137,500
Population Health 12,800
Volunteer Emergency Medical Service Personnel Health Insurance Program 2,784,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Public Health, Prevention, and Epidemiology line item, whose mission is "prevent chronic disease and injury, rapidly detect and investigate communicable diseases and environmental health hazards, provide prevention-focused education, and institute control measures to reduce and prevent the impact of disease." The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023. For FY 2024, the department shall report the following performance measures: (1) Decreasing number and percentage of Utahns who experience a preventable illness or injury of public health concern (Target = Improve from baseline with the baseline being developed), (2) Decrease the percent of

Utah Adults who report fair or poor general health in very high Health Improvement Index areas (Target = Decrease by 1% annually), (3) Proportion of state, federal, and private funding allocated to essential public health services (Target = increase in state investment into essential public health services), and (4) Percentage of rules, disease plans, and response plans that are current (Target = 95%).

Item 68

To Department of Health and Human Services – Office of Recovery Services
From General Fund 15,029,200
From Federal Funds 26,583,500
From Dedicated Credits Revenue 4,638,400
From Expendable Receipts 4,711,200
From Medicaid Expansion Fund 53,000
From Revenue Transfers 3,159,000
Schedule of Programs:
Recovery Services 17,639,800
Child Support Services 25,581,900
Children in Care Collections 1,693,700
Attorney General Contract 5,869,000
Medical Collections 3,389,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Office of Recovery Services line item, whose mission is "to serve children and families by promoting independence by providing services on behalf of children and families in obtaining financial and medical support, through locating parents, establishing paternity and support obligations, and enforcing those obligations when necessary." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Medical Coverage for children (Target = Improve from baseline with the baseline being developed), 2) Cost Effectiveness (ORS overall) (Target = $5.50), and 3) Current Support Collection Rates (Target = 65%).

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF WORKFORCE SERVICES

Item 69

To Department of Workforce Services – Intermountain Weatherization Training Fund
From Dedicated Credits Revenue 69,800
From Beginning Fund Balance 3,500
From Closing Fund Balance ..... (3,500)
From Lapsing Balance ..... (69,800)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Intermountain Weatherization Training Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) Excluding contractors, the total number of weatherization assistance program individuals trained (Target=400), and (2) number of individuals trained each year (Target => 3).

Item 70

To Department of Workforce Services – Navajo Revitalization Fund
From Dedicated Credits Revenue 115,800
From Interest Income 150,000
From Other Financing Sources 1,000,000
From Beginning Fund Balance 8,044,700
From Closing Fund Balance ..... (7,730,500)
Schedule of Programs:
Navajo Revitalization Fund 1,580,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Navajo Revitalization Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: provide support to Navajo Revitalization Board with resources and data to enable allocation of new and re-allocated funds to improve quality of life for those living on the Utah portion of the Navajo Reservation (Target = allocate annual allocation from tax revenues within one year).

Item 71

To Department of Workforce Services – Permanent Community Impact Bonus Fund

From Interest Income 8,802,100
From Gen. Fund Rest. - Land Exchange Distribution Account 100
From General Fund Restricted - Mineral Bonus 8,342,200
From Beginning Fund Balance 451,315,500
From Closing Fund Balance ..... (468,409,900)
Schedule of Programs:
Permanent Community Impact Bonus Fund 50,000

Item 72
To Department of Workforce Services - Permanent Community Impact Fund
From Dedicated Credits Revenue 1,200,000
From Interest Income 4,275,000
From General Fund Restricted - Mineral Lease 25,467,900
From Gen. Fund Rest. - Land Exchange Distribution Account 11,500
From Beginning Fund Balance 212,945,200
From Closing Fund Balance ..... (193,854,600)
Schedule of Programs:
Permanent Community Impact Fund 50,045,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Permanent Community Impact Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) new receipts invested in communities annually (Target = 100%), (2) The Community Impact Board funds the Regional Planning Program and community development specialists, who provide technical assistance, prepare tools, guides, and resources to ensure communities meet compliance with land use planning regulations (Target = 24 communities assisted), and (3) Maintain a minimum ratio of loan-to-grant funding for CIB projects (Target: At least 45% of loans to 55% grants).

Item 73
To Department of Workforce Services - Qualified Emergency Food Agencies Fund
From Designated Sales Tax 540,000
From Revenue Transfers 375,000
From Beginning Fund Balance 1,100
From Closing Fund Balance ..... (1,100)
Schedule of Programs:
Emergency Food Agencies Fund 915,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Qualified Emergency Food Agencies Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) The number of households served by QEFAF agencies (Target: 25,000) and (2) Percent of QEFAF program funds obligated to QEFAF agencies (Target: 100% of funds obligated).

Item 74
To Department of Workforce Services - Uintah Basin Revitalization Fund
From Dedicated Credits Revenue 220,000
From Interest Income 200,000
From Other Financing Sources 7,000,000
From Beginning Fund Balance 20,199,300
From Closing Fund Balance ..... (22,594,300)
Schedule of Programs:
Uintah Basin Revitalization Fund ... 5,025,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Uintah Basin Revitalization Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: provide Revitalization Board with support, resources and data to allocate new and re-allocated funds to improve the quality of life for those living in the Uintah Basin (Target = allocate annual allocation from tax revenues within one year).

Item 75
To Department of Workforce Services - Olene Walker Low Income Housing
From General Fund 2,242,900
From Federal Funds 6,950,000
From Dedicated Credits Revenue 20,000
From Interest Income 3,080,000
From Revenue Transfers ..... (800,000)
From Beginning Fund Balance 195,160,400
From Closing Fund Balance ..... (187,375,800)

Schedule of Programs:
Olene Walker Low Income Housing 19,277,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Olene Walker Housing Loan Fund, whose mission is to "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) housing units preserved or created (Target = 811), (2) construction jobs preserved or created (Target = 2,750), and (3) leveraging of other funds in each project to Olene Walker Housing Loan Fund monies (Target = 15:1).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 76
To Department of Health and Human Services - Allyson Gamble Organ Donation Contribution Fund
From Dedicated Credits Revenue 224,600
From Interest Income 13,000
From Beginning Fund Balance 325,900
From Closing Fund Balance ..... (183,500)
Schedule of Programs:
Allyson Gamble Organ Donation Contribution Fund 380,000

Item 77
To Department of Health and Human Services - Spinal Cord and Brain Injury Rehabilitation Fund
From Dedicated Credits Revenue 450,000
From Beginning Fund Balance 786,300
Schedule of Programs:
Spinal Cord and Brain Injury Rehabilitation Fund 1,236,300

Item 78
To Department of Health and Human Services - Traumatic Brain Injury Fund
From General Fund 200,000
From Beginning Fund Balance 227,700
Schedule of Programs:
Traumatic Brain Injury Fund 427,700

Item 79
To Department of Health and Human Services - Maurice N. Warshaw Trust Fund
From Interest Income 1,000
From Beginning Fund Balance 160,100
From Closing Fund Balance ..... (161,100)

Item 80
To Department of Health and Human Services - Out and About Homebound Transportation Assistance Fund
From Dedicated Credits Revenue 75,600
From Interest Income 3,000
From Beginning Fund Balance 239,400
From Closing Fund Balance ..... (239,400)
Schedule of Programs:
Out and About Homebound Transportation Assistance Fund 78,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Out and About Homebound Transportation Assistance Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 81
To Department of Health and Human Services - Utah State Developmental Center Long-Term Sustainability Fund
From Dedicated Credits Revenue 12,100
From Interest Income 14,500
From Revenue Transfers 38,700
From Beginning Fund Balance 27,733,700
From Closing Fund Balance ..... (27,799,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Developmental Center Long-Term Sustainability Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 2, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 82
To Department of Health and Human Services - Utah State Developmental Center Miscellaneous Donation Fund
From Dedicated Credits Revenue 6,000
From Interest Income 6,000
From Beginning Fund Balance 1,175,400
From Closing Fund Balance ..... (1,175,400)
Schedule of Programs:
Utah State Developmental Center Miscellaneous Donation Fund 12,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report

performance measures for the State Developmental Center Miscellaneous Donation Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 83

To Department of Health and Human Services – Utah State Developmental Center Workshop Fund
From Dedicated Credits Revenue 140,000
From Beginning Fund Balance 33,200
From Closing Fund Balance . . . . . (33,200)
Schedule of Programs:
Utah State Developmental Center Workshop Fund 140,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Developmental Center Workshop Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 84

To Department of Health and Human Services – Utah State Hospital Unit Fund
From Dedicated Credits Revenue 42,400
From Interest Income 8,000
From Beginning Fund Balance 485,800
From Closing Fund Balance . . . . . (485,800)
Schedule of Programs:
Utah State Hospital Unit Fund 50,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Hospital Unit Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 85

To Department of Health and Human Services – Mental Health Services Donation Fund
From General Fund 100,000
From Beginning Fund Balance 200,800
From Closing Fund Balance . . . . . (200,800)
Schedule of Programs:
Mental Health Services Donation Fund 100,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Mental Health Services Donation Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 86

To Department of Health and Human Services – Suicide Prevention and Education Fund
From Beginning Fund Balance 1,217,700
From Closing Fund Balance . . . . . (1,217,700)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Suicide Prevention and Education Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 87

To Department of Health and Human Services – Pediatric Neuro-Rehabilitation Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measure for the Pediatric Neuro-Rehabilitation Fund, whose mission is "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following

performance measure: Percentage of children that had an increase in functional activity (Target = 70%).

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF WORKFORCE SERVICES

Item 88
To Department of Workforce Services - Economic Revitalization and Investment Fund
From Interest Income 100,000
From Beginning Fund Balance 2,169,000
From Closing Fund Balance ..... (2,268,000)
Schedule of Programs:
Economic Revitalization and Investment Fund 1,000

Item 89
To Department of Workforce Services - Unemployment Compensation Fund
From Federal Funds 1,592,600
From Dedicated Credits Revenue 18,557,800
From Trust and Agency Funds 205,579,400
From Beginning Fund Balance 1,164,545,000
From Closing Fund Balance ..... (1,263,933,800)
Schedule of Programs:
Unemployment Compensation Fund 126,341,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Unemployment Compensation Fund, whose mission is to "monitor the health of the Utah Unemployment Trust Fund within the context of statute and promote a fair and even playing field for employers." (1) Unemployment Insurance Trust Fund balance is greater than the minimum adequate reserve amount and less than the maximum adequate reserve amount per the annual calculations defined in Utah Code, (2) Maintain the average high cost multiple, a nationally recognized solvency measure, greater than 1 for the Unemployment Insurance Trust Fund balance (Target =>1), and (3) Contributory employers unemployment insurance contributions due paid timely, (paid by the employer before the last day of the month that follows each calendar quarter end.) (Target>=95%).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 90
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 2,241,300
From Revenue Transfers ..... (1,422,600)
From Beginning Fund Balance 3,543,300
From Closing Fund Balance ..... (3,549,400)
Schedule of Programs:
Qualified Patient Enterprise Fund 812,600

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 91
To General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account
From General Fund 5,000,000
Schedule of Programs:
General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 5,000,000

Item 92
To General Fund Restricted - Homeless Account
From General Fund 1,817,400
From Beginning Fund Balance 108,700
Schedule of Programs:
General Fund Restricted - Pamela Atkinson Homeless Account 1,926,100

Item 93
To General Fund Restricted - Homeless to Housing Reform Account
From General Fund 12,850,000
From Beginning Fund Balance 7,409,700
From Closing Fund Balance ..... (9,700)
Schedule of Programs:
General Fund Restricted - Homeless to Housing Reform Restricted Account 20,250,000

Item 94
To General Fund Restricted - School Readiness Account
From General Fund 3,000,000
From Beginning Fund Balance 1,916,100
From Closing Fund Balance ..... (81,700)
Schedule of Programs:
General Fund Restricted - School Readiness Account 4,834,400

Item 95
To Statewide Behavioral Health Crisis Response Account
From General Fund 16,903,100
Schedule of Programs:
Statewide Behavioral Health Crisis Response Account 16,903,100

Item 96
To Ambulance Service Provider Assessment Expendable Revenue Fund

From Dedicated Credits Revenue 5,091,200
Schedule of Programs:
Ambulance Service Provider Assessment Expendable Revenue Fund 5,091,200

Item 97
To Hospital Provider Assessment Fund
From Dedicated Credits Revenue 56,045,500
Schedule of Programs:
Hospital Provider Assessment Expendable Special Revenue Fund 56,045,500

Item 98
To Medicaid Expansion Fund
From General Fund 59,438,100
From Dedicated Credits Revenue ... 130,800,000
From Expendable Receipts 417,800
From Beginning Fund Balance 253,606,700
From Closing Fund Balance ..... (317,124,000)
Schedule of Programs:
Medicaid Expansion Fund 127,138,600

Item 99
To Nursing Care Facilities Provider Assessment Fund
From Dedicated Credits Revenue 41,030,900
Schedule of Programs:
Nursing Care Facilities Provider Assessment Fund 41,030,900

Item 100
To Psychiatric Consultation Program Account
From General Fund 322,800
Schedule of Programs:
Psychiatric Consultation Program Account 322,800

Item 101
To Survivors of Suicide Loss Account
From General Fund 40,000
Schedule of Programs:
Survivors of Suicide Loss Account 40,000

Item 102
To General Fund Restricted – Children's Hearing Aid Program Account
From General Fund 291,600
From Beginning Fund Balance 326,300
From Closing Fund Balance ..... (326,300)
Schedule of Programs:
General Fund Restricted – Children's Hearing Aid Account 291,600

Item 103
To General Fund Restricted – Medicaid Restricted Account
From Beginning Fund Balance 41,458,400
From Closing Fund Balance ..... (41,458,400)

Item 104
To Adult Autism Treatment Account
From General Fund 1,000,000
Schedule of Programs:
Adult Autism Treatment Account ... 1,000,000

Item 105
To Emergency Medical Services System Account
From General Fund 2,000,000
Schedule of Programs:
Emergency Medical Services System Account 2,000,000

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 106
To Department of Health and Human Services – Human Services Client Trust Fund
From Interest Income 9,100
From Trust and Agency Funds 4,907,600
From Beginning Fund Balance 2,040,500
Schedule of Programs:
Human Services Client Trust Fund 6,957,200

Item 107
To Department of Health and Human Services – Human Services ORS Support Collections
From Trust and Agency Funds 212,842,300
Schedule of Programs:
Human Services ORS Support Collections 212,842,300

Item 108
To Department of Health and Human Services –Utah State Developmental Center Patient Account
From Interest Income 1,000
From Trust and Agency Funds 2,002,900
From Beginning Fund Balance 736,700
From Closing Fund Balance ..... (736,700)
Schedule of Programs:
Utah State Developmental Center Patient Account 2,003,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Developmental Center Patient Account. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1)

Item 109
To Department of Health and Human Services – Utah State Hospital Patient Trust Fund
From Trust and Agency Funds 1,731,000
From Beginning Fund Balance 366,300
From Closing Fund Balance ..... (366,300)
Schedule of Programs:
Utah State Hospital Patient Trust Fund 1,731,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Hospital

Patient Trust Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Section 3. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF WORKFORCE SERVICES

Item 110

To Department of Workforce Services - State Office of Rehabilitation
From General Fund 22,746,800
From Federal Funds 52,069,700
From Dedicated Credits Revenue 559,300
From Expendable Receipts 566,700
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 500
From Housing Opportunities for Low Income Households 1,000
From Medicaid Expansion Fund 200
From Navajo Revitalization Fund 500
From Olene Walker Housing Loan Fund ... 1,000
From OWHT-Fed Home 1,000
From OWHTF-Low Income Housing 1,000
From Permanent Community Impact Loan Fund 2,300
From Qualified Emergency Food Agencies Fund 500
From General Fund Restricted - School Readiness Account 400
From Revenue Transfers 61,000
From Uintah Basin Revitalization Fund 500
From Beginning Nonlapsing Balances 8,000,000
From Closing Nonlapsing Balances ... (8,000,000)
Schedule of Programs:
Blind and Visually Impaired 4,004,900
Deaf and Hard of Hearing 3,292,000
Disability Determination 16,423,800
Executive Director 1,063,700
Rehabilitation Services 51,228,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Utah State Office of Rehabilitation line item, whose mission is to "empower clients and provide high quality services that promote independence and self-fulfillment through its programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) Vocational Rehabilitation - Percentage of all VR clients receiving services who are eligible or potentially eligible youth (ages 14-24) (Target >=41%), (2) Vocational Rehabilitation - maintain or increase a successful rehabilitation closure rate (Target = 55%), and (3) Deaf and Hard of Hearing Total number of individuals served with DSDHH programs (Target = 8,000).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 111

To Department of Health and Human Services - Integrated Health Care Services
From General Fund 46,711,100
From Federal Funds 547,768,500
From Expendable Receipts 21,931,000
From Nursing Care Facilities Provider Assessment Fund 38,036,500
From Revenue Transfers 159,474,100
Schedule of Programs:
Medicaid Home and Community Based Services 462,096,900
Medicaid Long Term Care Services 351,824,300

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittees by October 1, 2023 on the costs of changing all regular Medicaid respite care services billing units from one hour to fifteen minutes as is currently done for Medicaid waiver services. The report shall include at a minimum the cost impact to the State from the change and the rate increase that could be provided under a cost neutral scenario.

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittees by October 1, 2023 on (1) how the cost of regular services for Medicaid clients on the Community Supports Waiver compare to the cost of overnight therapeutic camping for the same number of days and (2) explore cost neutral options to offer overnight therapeutic camping to more clients on other waivers.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Integrated Health Care Services line item, whose mission is "Provide access to quality, cost-effective health care for eligible

Utahans." The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023. For FY 2024, the department shall report the following performance measures: (1) Percent of Medicaid adults and adolescents with major depressive episodes who receive treatment (Target = Improve from baseline with the baseline being developed), (2) Annual State General Funds Saved Through Preferred Drug List (Target => $20 million), (3) Percent of Medicaid members who promptly receive outpatient treatment after visiting a hospital for mental health issues (Target = national average - for 2020 this was 59%), (4) Rates of Utahns dying of drug-related causes (Target = Decrease rates of Utah drug deaths by 1 per 100,000 in each year from 2022 through 2027), (5) Percentage of youth clients with improved symptoms, or recovered, as measured by the Youth Outcome questionnaires (Target = 50%), (6) Percentage of adult clients with improved symptoms, or recovered, as measured by the Adult Mental Health Outcome (45% of adults), (7) Utah State Hospital (USH) patients have successful clinical outcomes and are discharged to lower levels of service when appropriate (Target = Delayed Adult Civil bed days will be reduced by 5 percent), (8) Percentage of Individuals Who Transitioned from Intermediate Care Facilities to Community-Based Services (Target = No less than 10% of individuals residing in Intermediate Care Facilities will transition to home and community based services on an annual basis), (9) Percent of Medicaid adult members that receive services from an integrated health plan or other integrated model (Target = 40%), and (10) Percent of clean claims adjudicated by Provider Reimbursement Information System for Medicaid within 30 days of submission (Target = 90%).

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittees by October 1, 2023 on the results of a pilot program to explore adding employee background check verification to the regular inspections of Intermediate Care Facilities for individuals with Intellectual disability and provide recommendations if these changes should be applied to all inspections.

Item 112

To Department of Health and Human Services - Long-Term Services & Support

From General Fund 201,365,900
From Income Tax Fund 185,300
From Federal Funds 842,700
From Dedicated Credits Revenue 1,992,500
From Expendable Receipts 1,300,000
From Revenue Transfers 378,050,000
Schedule of Programs:
Services for People with Disabilities 24,245,300
Community Supports Waiver Services 472,531,000
Disabilities - Non Waiver Services .. 2,765,500
Disabilities - Other Waiver Services 35,111,400
Utah State Developmental Center 49,083,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Long-Term Services and Supports line item, whose mission is "protect the public's health through preventing avoidable illness, injury, disability, and premature death; assuring access to affordable, quality health care; and promoting health lifestyles by providing services and oversight of services which are applicable throughout all divisions and bureaus of the Department." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of individuals who do not currently have a paid job in the community, but would like a job in the community (NCI) (Target = 44%), 2) Percent of Adults who Report that Services and Supports Help Them Live a Good Life (Target = 92%), 3) People Receiving Supports in their home or a Family Member's Home Rather Than a Residential Setting (Target = 57%), 4) Percent of Office of the Public Guardian (OPG) referrals where an alternative to guardianship with OPG is made (Target = 75%), and 5) The percentage of APS clients who accept referrals to community services (Target = 70%).

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittee by October 1, 2023 on the following related to the Waiting List for services administered by the Division of Services for People with Disabilities: (1) Current Waitlist Snapshot broken down by demographic information; (2) The number of individuals with the following NAQ findings: (a) Number of individuals with an NAQ that includes Physical Assaults; (b) Number of individuals with an NAQ that includes Sexual Assaults; (3) A 10-year historical trend of the Waitlist showing (a) How many people leave the waitlist each year due to receiving services; and (b) How many people leave the waitlist each year due to death/leaving state/other reasons; (4) A 5 year historical breakdown of funded waitlist individuals including (a) How many individuals funded each year? (b) How many

funded by attrition? How many funded by legislative appropriation? (d) How were the funded Individuals categorized by their NAQ score?; (5) 5-year future projection of waitlist growth based on the historical trends; and (6) A funding estimate for individuals on the wait list.

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittee by October 1, 2023 on the following related to rates administered by the Division of Services for People with Disabilities: (1) Historical values for each rate going back 5 years and the last date each rate was reviewed/changed; (2) The source of the rate value; (3) How much was paid out by the state for each rate and a breakdown of state/federal funding; (4) An analysis of each rate compared to the market; and (5) Projected appropriations needed to meet market amount for each rate.

Item 113

To Department of Health and Human Services - Children, Youth, & Families
From General Fund 168,937,900
From Federal Funds 140,514,700
From Dedicated Credits Revenue 3,466,300
From Expendable Receipts 886,200
From Expendable Receipts - Rebates 8,900,000
From General Fund Restricted - Adult Autism Treatment Account ... 1,507,000
From General Fund Restricted - Children's Account 340,000
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account 296,600
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp. 108,200
From General Fund Restricted - Choose Life Adoption Support Account 100
From General Fund Restricted - National Professional Men's Basketball Team Support of Women and Children Issues 100,000
From Revenue Transfers ..... (5,813,900)
From Beginning Nonlapsing Balances ... 100,000
From Closing Nonlapsing Balances .... (100,000)
Schedule of Programs:
Child & Family Services 137,080,200
Domestic Violence 12,947,400
In-Home Services 2,196,100
Out-of-Home Services 41,144,100
Adoption Assistance 21,730,100
Child Abuse & Neglect Prevention ... 6,823,000
Children with Special Healthcare Needs 37,455,500
Maternal & Child Health 59,866,700

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Child, Youth, and Families line item, whose mission is "to keep children safe from abuse and neglect and provide domestic violence services by working with communities and strengthening families." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Increase the percentage of infants and toddlers with Individual Family Service Plans who demonstrate improved positive social-emotional skills, including social relationships. (Target = at least 67.75%); 2) Percent of children confirmed as victims of abuse or neglect who experienced repeat maltreatment within 12 months (Target = 9.7% or less); 3) Number and percent of reunification (Reunification is the process of returning children in temporary out-of-home care to their families of origin) (Target = 2% increase over the FY21 rate); 4) Case worker turnover rate (Target = 22.4% reduction in turnover); 5) Average number of case workers per case (may include more than 1 child) (Target = 5% decrease over the FY22 rate); and 6) Average number of placements (including foster families) per child (Target = 4.48 moves per 1,000 days).

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF WORKFORCE SERVICES

Item 114

To Department of Workforce Services - Individuals with Visual Impairment Fund
From Dedicated Credits Revenue 45,700
From Interest Income 18,500
From Beginning Fund Balance 1,246,900
From Closing Fund Balance ..... (1,286,100)
Schedule of Programs:
Individuals with Visual Impairment Fund 25,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Individuals with Visual Impairment Fund, whose mission is to "assist blind and visually impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the

following performance measures: (1) Grantees will maintain or increase the number of individuals served (Target >=165), (2) Grantees will maintain or increase the number of services provided (Target>=906), and (3) Number of individuals provided low-vision services (Target = 2,400).

Item 115

To Department of Workforce Services - Individuals with Visual Impairment Vendor Fund
From Trust and Agency Funds 163,800
From Beginning Fund Balance 207,800
From Closing Fund Balance ..... (290,800)
Schedule of Programs:
Individuals with Visual Disabilities Vendor Fund 80,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Individuals with Visual Impairment Vendor Fund, whose mission is to "assist Blind and Visually Impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) Number of business locations receiving upgraded equipment purchased by fund will meet or exceed previous year's total (Target = 12), (2) Number of business locations receiving equipment repairs and/or maintenance will meet or exceed previous year's total (Target = 32), and (3) Business Enterprise Program will establish new business locations in government and/or private businesses to provide additional employment opportunities (Target = 4).

Item 116

To Department of Workforce Services - Utah Community Center for the Deaf Fund
From Dedicated Credits Revenue 5,000
From Interest Income 2,000
From Beginning Fund Balance 17,000
From Closing Fund Balance ..... (20,800)
Schedule of Programs:
Utah Community Center for the Deaf Fund 3,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Utah Community Center for the Deaf Fund, whose mission is to "provide services in support of creating a safe place, with full communication where every Deaf, Hard of Hearing and Deafblind person is embraced by their community and supported to grow to their full potential." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) Increase the number of individuals accessing interpreter certification exams in Southern Utah (Target=25).

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2023.

CHAPTER 11
H. B. 55
Passed February 2, 2023
Approved February 16, 2023
Effective February 16, 2023

OFF-HIGHWAY VEHICLE REGISTRATION REQUIREMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill exempts a snowmobile from the requirement to obtain and display a license plate for an off-highway vehicle and amends provisions related to off-highway vehicle safety courses.

Highlighted Provisions:

This bill:

- exempts a snowmobile from the requirement to obtain and display a license plate for an off-highway vehicle;
- allows the Motor Vehicle Division to charge a fee for the issuance of a new or replacement license plate;
- amends requirements related to off-highway safety courses; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

41-22-3, as last amended by Laws of Utah 2022, Chapter 143
41-22-5.1, as last amended by Laws of Utah 2022, Chapters 68, 143
41-22-19, as last amended by Laws of Utah 2022, Chapters 68, 143
41-22-32, as last amended by Laws of Utah 2022, Chapter 57

REPEALS AND REENACTS:

41-22-31, as last amended by Laws of Utah 2022, Chapters 57, 68 and 143

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

Section 1. Section 41-22-3 is amended to read:

41-22-3. Registration of vehicles -- Application -- Issuance of sticker and card -- Proof of property tax payment -- Records.

(1) (a) Unless exempted under Section 41-22-9, a person may not operate or transport and an owner may not give another person permission to operate or transport any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

(b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used or transported on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

(c) Unless specifically provided in this chapter, the division shall administer license plates, decals, and registration of off-highway vehicles in accordance with Chapter 1a, Motor Vehicle Act.

(2) (a) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.

(b) An owner of an off-highway vehicle may apply for automatic registration renewal as described in Section 41-1a-216.

(3) Each application for registration of an off-highway vehicle shall be accompanied by:

(a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;

(b) the past registration card; or

(c) the fee for a duplicate.

(4) (a) (i) Beginning on January 1, 2023, except as provided in Subsection (4)(e), the first time an off-highway vehicle is registered, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(ii) If an off-highway vehicle has been registered previously in this state but has not been issued an off-highway vehicle license plate, beginning on January 1, 2023, upon application for registration renewal, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(b) Upon each annual registration, the Motor Vehicle Division shall issue a registration decal and a registration card for each off-highway vehicle registered.

(c) The off-highway vehicle license plate:

(i) shall contain a unique five-digit number, using numbers, letters, or a combination of numbers and letters, to identify the off-highway vehicle for which it is issued;

(ii) shall be affixed to the rear of the off-highway vehicle for which it is issued in a plainly visible and upright position as prescribed by rule of the division under Section 41-22-5.1;

(iii) shall be maintained free of foreign materials and in a condition to be clearly legible;

(iv) shall be a distinct tan color with black lettering to identify the license plate as an off-highway vehicle license plate;

(v) shall have a location to attach the registration decal; and

(vi) may not be a personalized license plate or a special group license plate.

(d) At all times, a registration card shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

(e) An off-highway vehicle that is a motorcycle or a snowmobile is:

(i) not required to obtain or display an off-highway vehicle license plate; and

(ii) required to obtain and display an off-highway vehicle registration sticker.

(5) (a) Except as provided by Subsection (5)(c), an applicant for a registration card and registration decal shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(c) An off-highway vehicle for which an off-highway implement of husbandry sticker has been issued in accordance with Section 41-22-5.5 is:

(i) exempt from the requirement under this Subsection (5);

(ii) not required to obtain or purchase an off-highway vehicle license plate; and

(iii) required to obtain and display an off-highway vehicle registration sticker.

(6) (a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

(7) A violation of this section is an infraction.

Section 2. Section 41-22-5.1 is amended to read:

41-22-5.1. Rules of division relating to display of registration stickers.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after notifying the commission, shall make rules for the display of an off-highway vehicle license plate and registration decal on an off-highway vehicle in accordance withSection 41-22-3.

Section 3. Section 41-22-19 is amended to read:

41-22-19. Deposit of fees and related money into Off-highway Vehicle Account -- Use for facilities, costs and expenses of division, and education -- Request for matchingfunds.

(1) (a) Except as provided under Subsections (3) [~~and (4)~~] through (5) and Sections 41-22-34 and 41-22-36, registration fees and related money collected by the Motor Vehicle Division or any agencies designated to act for the Motor Vehicle Division under this chapter shall be deposited as restricted revenue into the Off-highway Vehicle Account in the General Fund less the costs incurred by the Motor Vehicle Division for collecting off-highway vehicle registration fees [~~or issuing an off-highway vehicle license plate~~].

(b) The balance of the money may be used by the division:

(i) for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities, including public access facilities;

(ii) for the mitigation of impacts associated with off-highway vehicle use;

(iii) for the education of off-highway vehicle users;

(iv) for off-highway vehicle access protection;

(v) to support off-highway vehicle search and rescue activities and programs;

(vi) to promote and encourage off-highway vehicle tourism;

(vii) for other uses that further the policy set forth in Section 41-22-1;

(viii) as grants or matching funds with a federal agency, state agency, political subdivision of the state, or organized user group for any of the uses described in Subsections (1)(b)(i) through (vii); and

(ix) for the administration and enforcement of this chapter.

(2) An agency or political subdivision requesting matching funds shall submit plans for proposed off-highway vehicle facilities to the division for review and approval.

(3) (a) One dollar and 50 cents of each annual registration fee collected under Subsection 41-22-8(1) and each off-highway vehicle user fee collected under Subsection 41-22-35(2) shall be deposited into the Land Grant Management Fund created under Section 53C-3-101.

(b) The Utah School and Institutional Trust Lands Administration shall use the money deposited under Subsection (3)(a) for costs associated with off-highway vehicle use of legally accessible lands within its jurisdiction as follows:

(i) to improve recreational opportunities on trust lands by constructing, improving, maintaining, or perfecting access for off-highway vehicle trails; and

(ii) to mitigate impacts associated with off-highway vehicle use.

(c) An unused balance of the money deposited under Subsection (3)(a) exceeding $350,000 at the end of each fiscal year shall be deposited in the Off-highway Vehicle Account under Subsection (1).

(4) One dollar of each off-highway vehicle registration fee collected under Subsection 41-22-8(1) shall be deposited into the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(5) (a) The Motor Vehicle Division shall collect a fee for any new or replacement license plate issued under this chapter.

(b) The fee described in Subsection (5)(a) shall be an amount equal to the fee for a new or replacement license plate as established pursuant to Section 63J-1-504.

(c) The commission shall use the revenue generated by the fee described in Subsection (5)(a) to cover the costs of issuing license plates under this chapter in the same manner as described in Subsection 41-1a-1201(3).

[~~(5)~~] (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after notifying the commission, shall make rules as necessary to implement this section.

Section 4. Section 41-22-31 is repealed and reenacted to read:

41-22-31. Division to set standards for safety program -- Safety certificates issued -- Cooperation with public and private entities -- State immunity from suit.

(1) (a) The division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, after notifying the commission, that establish curriculum standards for a comprehensive off-highway vehicle safety education and training program as described in this section; and

(ii) implement the program.

(b) (i) The division shall design the program to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe and ethical operation of an off-highway vehicle.

(ii) Components of the program shall include:

(A) the preparation and dissemination of off-highway vehicle information and safety advice to the public;

(B) the training of off-highway vehicle operators;

(C) education concerning the importance of gates and fences used in agriculture and how to properly close a gate; and

(D) education concerning respectful, sustainable, and on-trail off-highway vehicle operation, and respect for communities affected by off-highway vehicle operation.

(iii) Off-highway vehicle safety certificates shall be issued to those who successfully complete training or pass the knowledge and skills test established under the program and described in Subsections (2) and (3).

(iv) The division shall ensure that an individual has the option to complete the program online.

(2) Except as provided in Subsection (4), an individual under 18 years old may not operate an off-highway vehicle on public lands in this state unless the individual has completed the requirements of the program established in accordance with this section and rules made in accordance with Subsection (1) by completing:

(a) an in-person safety and skills course offered by the division; or

(b) a safety and skills course approved by the division that is offered online.

(3) Except as provided in Subsection (4), an individual that is 18 years old or older may not operate an off-highway vehicle on public lands in this state unless the individual has completed the requirements of the program established in accordance with this section and rules made in accordance with Subsection (1) by completing:

(a) a course described in Subsection (2); or

(b) a one-time course offered or approved by the division.

(4) The requirements described in this section do not apply to:

(a) a snowmobile or an off-highway implement of husbandry; or

(b) an individual operating an off-highway vehicle as part of a guided tour or a sanctioned off-highway vehicle event.

(5) A person may not rent an off-highway vehicle to an individual until the individual who will operate the off-highway vehicle presents a certificate of completion of the off-highway vehicle safety education and training program established in accordance with this section and rules made under Subsection (1).

(6) The division may cooperate with appropriate private organizations and associations, private and public corporations, and local government units to implement the program established under this section.

(7) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the state is immune from suit for any act, or failure to act, in any capacity relating to the off-highway vehicle safety education and training program. The state is also not responsible for any insufficiency or inadequacy in the quality of training provided by this program.

(8) A person convicted of a violation of this section is guilty of an infraction and shall be fined not more than $150 per offense.

Section 5. Section 41-22-32 is amended to read:

41-22-32. Approval of safety courses.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules, after consultation with the commission, that establish standards for an off-highway vehicle safety course for instruction on the safe operation of an off-highway vehicle.

(b) The division shall require that the information described in Subsection [~~41-22-31(1)(c)(iii)~~] 41-22-31(1)(b)(ii) be part of an off-highway vehicle safety course for instruction on the safe operation of an off-highway vehicle.

(2) If a private organization meets the standards set by the division under Subsection (1), the division shall approve the off-highway vehicle safety course as compliant with the standards and purposes of this chapter.

Section 6. Effective date.

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

Section 7. Retrospective operation.

The following sections have retrospective operation to January 1, 2023:

(1) Section 41-22-3; and

(2) Section 41-22-19.

CHAPTER 12
S. B. 20
Passed February 1, 2023
Approved February 16, 2023
Effective February 16, 2023

MILITARY INSTALLATION DEVELOPMENT AUTHORITY AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends provisions related to the Military Installation Development Authority.

Highlighted Provisions:

This bill:

- defines terms;
- for purposes of creating a public infrastructure district, clarifies who is considered the owner of military land within a project area by the Military Installation Development Authority (authority);
- amends provisions relating to ownership of a former rail line adjacent to a project area located at an air force base;
- enacts provisions immunizing a governmental entity from liability related to the ownership of certain historically contaminated property; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17D-4-201, as renumbered and amended by Laws of Utah 2021, Chapter 314
63H-1-208, as enacted by Laws of Utah 2021, Chapter 414

ENACTS:

63H-1-209, Utah Code Annotated 1953

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

Section 1. Section 17D-4-201 is amended to read:

17D-4-201. Creation -- Annexation or withdrawal of property.

(1) (a) Except as provided in Subsection (1)(b), Subsection (2), and in addition to the provisions regarding creation of a local district in Title 17B, Chapter 1, Provisions Applicable to All Local Districts, a public infrastructure district may not be created unless:

(i) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(b) (i) As used in this Subsection (1)(b):

(A) "Military land" means the same as that term is defined in Section 63H-1-102.

(B) "Project area" means the same as that term is defined in Section 63H-1-102.

(ii) Notwithstanding Title 17B, Chapter 1, Part 2, Creation of a Local District, and any other provision of this chapter, the development authority may adopt a resolution creating a public infrastructure district as a subsidiary of the development authority if all owners of surface property proposed to be included within the public infrastructure district consent in writing to the creation of the public infrastructure district.

(iii) For purposes of Subsection (1)(b)(ii), if the surface property proposed to be included within the public infrastructure district includes military land that is within a project area, the owner of the military land within the project area is the lessee of the military land.

(2) (a) The following do not apply to the creation of a public infrastructure district:

(i) Section 17B-1-203;

(ii) Section 17B-1-204;

(iii) Subsection 17B-1-208(2);

(iv) Section 17B-1-212; or

(v) Section 17B-1-214.

(b) The protest period described in Section 17B-1-213 may be waived in whole or in part with the consent of:

(i) 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) 100% of the surface property owners within the applicable area approving the creation of the public infrastructure district.

(c) If the protest period is waived under Subsection (2)(b), a resolution approving the creation of the public infrastructure district may be adopted in accordance with Subsection 17B-1-213(5).

(d) A petition meeting the requirements of Subsection (1):

(i) may be certified under Section 17B-1-209; and

(ii) shall be filed with the lieutenant governor in accordance with Subsection 17B-1-215(1)(b)(iii).

(3) (a) Notwithstanding Title 17B, Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the annexation; or

(B) adoption of a resolution of the board to annex the area, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to annex an area outside of the boundaries of the public infrastructure district without future consent of the creating entity;

(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the annexation into the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed, demonstrating the surface property owners' consent to the annexation into the public infrastructure district.

(b) Within 30 days of meeting the requirements of Subsection (3)(a), the board shall file with the lieutenant governor:

(i) a copy of a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(4) (a) Notwithstanding Title 17B, Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the withdrawal; or

(B) adoption of a resolution of the board to withdraw the property, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to withdraw property from the public infrastructure district without further consent from the creating entity;

(ii) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the withdrawal from the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn, demonstrating that the surface property owners consent to the withdrawal from the public infrastructure district.

(b) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

(c) Upon meeting the requirements of Subsections (4)(a) and (b), the board shall comply with the requirements of Section 17B-1-512.

(5) A creating entity may impose limitations on the powers of a public infrastructure district through the governing document.

(6) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection (6)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity, by the state, or by any municipality, county, or other political subdivision.

(ii) Notwithstanding Subsection (6)(b)(i) and Section 17B-1-216, the governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (6)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (6)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

(7) A creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

(8) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

Section 2. Section 63H-1-208 is amended to read:

63H-1-208. Former rail line.

(1) A former rail line automatically becomes included within a project area located at an air force base if:

(a) the authority acquires title to the former rail line as provided in Subsection (2); and

(b) a portion of the former rail line is adjacent to the project area.

(2) Notwithstanding Section 72-5-117, the Department of Transportation may transfer to the authority, at no cost to the authority, title to that portion of a former rail line adjacent to a project area located at an air force base that the Department of Transportation does not need for construction of a freeway interchange.

[~~(2)~~] (3) The authority may:

(a) develop the former rail line; or

(b) transfer title of all or part of the former rail line, at no cost, to another governmental entity or nonprofit entity who agrees to receive the title.

(4) A governmental entity or nonprofit entity that agrees to receive title to all or part of a former rail line under Subsection (3)(b) assumes responsibility for the maintenance of and any construction that remains to be completed on the former rail line.

Section 3. Section 63H-1-209 is enacted to read:

63H-1-209. Immunity from contaminated property claims.

(1) As used in this section:

(a) "Agency" means the same as that term is defined in Section 57-25-102.

(b) "Claim" means an action, suit, claim, demand, allegation, or cause of action, whether grounded in law or equity, made in a court of competent jurisdiction, mediation, arbitration, before a regulatory body, or in another dispute resolution forum.

(c) "Contaminated property" means real property in a project area that is:

(i) affected by historical contamination; and

(ii) owned by a governmental entity.

(d) "Environmental covenant" means the same as that term is defined in Section 57-25-102.

(e) "Governmental entity" means the same as that term is defined in Section 63G-7-102.

(f) "Hazardous materials" means the same as that term is defined in Section 19-6-302.

(g) "Hazardous substances" means the same as that term is defined in Section 19-6-302.

(h) "Historical contamination" means the placement, disposal, or release of hazardous materials or hazardous substances onto, into, under, or in a way that affects real property, and which placement, disposal, or release of hazardous materials or hazardous substances occurred prior to ownership of the real property by a governmental entity.

(i) "Ownership," "own," "owned," "owns," or "acquires" means to have an ownership or other established interest in real property, including holding title to, leasing, operating on, or maintaining real property.

(2) In addition to the liability protection provided by Subsections 63G-7-201(4)(l) and 63G-7-201(4)(s)(iii) and the other provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah, the protections of Subsection (3) apply to a governmental entity that owns or approves the use of contaminated property.

(3) (a) Ownership of contaminated property by a governmental entity, or a governmental entity's approval of the use of contaminated property does not subject a governmental entity, its agents, or its officers or employees to any liability for or related to a claim arising from, proximately caused by, or related to historical contamination.

(b) No governmental entity waives immunity from suit or liability by this section.

(c) A claim made against a governmental entity, its agents, or its officers or employees in violation of this section shall subject the claimant to the payment of double the attorney fees and costs incurred by the governmental entity related to the claim.

(d) This Subsection (3) does not limit or alter:

(i) claims against or the liability of the party that placed, disposed of, or released the hazardous materials or hazardous substances onto, into, under, or in a way that affects contaminated property; or

(ii) a workers' compensation claim made by an employee of an entity that works on contaminated property or conducts work related to contaminated property.

(4) If a governmental entity that owns contaminated property develops the contaminated property for public or governmental purposes, including recreation, government offices, parking,

or related uses, then Subsection (3) extends to that governmental entity, regardless of whether the governmental entity had a role in approving use of the contaminated property, if the governmental entity:

(a) obtains a certificate of completion from the Utah Department of Environmental Quality following participation in the voluntary cleanup program, as set forth in Section 19-8-111; or

(b) complies with the terms of an environmental covenant signed by an agency and properly recorded in the county records against the property.

Section 4. Effective date.

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

CHAPTER 13
S. B. 100
Passed February 3, 2023
Approved February 16, 2023
Effective February 16, 2023

SCHOOL GENDER IDENTITY POLICIES

Chief Sponsor: Todd D. Weiler
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill enacts provisions ensuring a parent's access to information related to a parent's child, including gender identity.

Highlighted Provisions:

This bill:

- defines terms;
- requires each school and each local governing board to ensure a parent's right to access the education record of the parent's child; and
- prohibits a school or local education agency from prohibiting a parent's access to the education record of the parent's child.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
53E-9-205, Utah Code Annotated 1953

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

Section 1. Section 53E-9-205 is enacted to read:

53E-9-205. Parental right to student information.

(1) As used in this section:

(a) "Education record" means the same as that term is defined in Section 53E-9-204.

(b) "Gender identity" means the same as that term is defined in Section 34A-5-102.

(c) "Parent" means a parent or legal guardian with legal custody of the child in question.

(d) "Sex" means the biological, physical condition of being male or female, determined by an individual's genetics and anatomy at birth.

(2) In accordance with Section 53E-2-201, each school and each local governing board shall ensure that no policy or action of the school or LEA:

(a) except as provided in Subsection 53E-9-203(6), operates to shield a student's education record from the student's parent; and

(b) interferes with a parent's:

(i) fundamental parental right and primary responsibility to direct the education of the parent's child; and

(ii) freedom of access to information regarding the parent's child.

(3) Notwithstanding any other provision of law, a school or LEA may not:

(a) prohibit a parent of a child from accessing the child's education record; or

(b) without written parental consent make changes to a student's education record regarding a student's gender identity that does not conform with the student's sex.

Section 2. Effective date.

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

CHAPTER 14
H. B. 430
Passed February 16, 2023
Approved February 21, 2023
Effective May 3, 2023

STATE OLYMPIC COORDINATION AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill enacts the Olympic and Paralympic Winter Games Act.

Highlighted Provisions:

This bill:

- defines terms;
- creates and describes the duties of the Olympic and Paralympic Winter Games Coordination Committee;
- renames the "Winter Sports Venue Grant Fund" to the "Olympic and Paralympic Venues Grant Fund";
- subject to certain requirements, authorizes the governor to sign agreements and make other assurances concerning the state's hosting of the Olympic and Paralympic Winter Games;
- addresses the state's liability under agreements and assurances concerning the state's hosting of the Olympic and Paralympic Winter Games;
- includes reporting requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63G-28-101, Utah Code Annotated 1953
63G-28-201, Utah Code Annotated 1953
63G-28-202, Utah Code Annotated 1953
63G-28-203, Utah Code Annotated 1953
63G-28-401, Utah Code Annotated 1953
63G-28-402, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
63G-28-301, (Renumbered from 51-11-102, as last amended by Laws of Utah 2020, Chapters 152, 354)
63G-28-302, (Renumbered from 51-11-201, as enacted by Laws of Utah 2018, Chapter 253)

REPEALS:
51-11-101, as enacted by Laws of Utah 2018, Chapter 253

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

Section 1. Section 63G-28-101 is enacted to read:

CHAPTER 28. OLYMPIC AND PARALYMPIC WINTER GAMES ACT

Part 1. General Provisions

63G-28-101. Definitions.

As used in this chapter:

(1) "Games" means the 2030 or 2034 Olympic and Paralympic Winter Games.

(2) "Games committee" means the Olympic and Paralympic Winter Games Coordination Committee created in Section 63G-28-201.

(3) "Host agreement" means an agreement with a site selection committee that is made in connection with the selection of the state for the location of the games.

(4) "Host assurance" means a written assurance to a site selection committee that is made in connection with the selection of the state for the location of the games.

(5) "Host committee" means a nonprofit corporation, including a successor in interest, that may:

(a) provide an application and bid to a site selection committee for selection of the state as the location of the games; and

(b) execute an agreement with the United States Olympic and Paralympic Committee regarding a bid and the bid process to host the games.

(6) "Site selection committee" means the International Olympic Committee or the International Paralympic Committee.

(7) "State security" means a financial obligation undertaken by the state under a host agreement.

Section 2. Section 63G-28-201 is enacted to read:

Part 2. Olympic and Paralympic Winter Games Coordination Committee

63G-28-201. Olympic and Paralympic Winter Games Coordination Committee -- Creation -- Membership -- Chairs -- Quorum -- Compensation -- Staff.

(1) There is created the Olympic and Paralympic Winter Games Coordination Committee to review and advise the Legislature on issues related to the state's hosting of the games.

(2) The games committee consists of the following members:

(a) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party; and

(b) three members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2) as co-chair of the games committee.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2) as co-chair of the games committee.

(4) (a) A majority of the members of the games committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes action of the games committee.

(5) A member of the games committee shall be paid salary and expenses in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(6) The Office of Legislative Research and General Counsel shall:

(a) provide staff support to the games committee; and

(b) consult with the Office of the Legislative Fiscal Analyst on fiscal issues reviewed by the games committee.

Section 3. Section 63G-28-202 is enacted to read:

63G-28-202. Games committee duties.

The games committee shall:

(1) review issues related to:

(a) the state's bid to host or hosting of the games;

(b) the impact of hosting the games on the state; and

(c) any state security;

(2) review a report provided to the games committee under Section 63G-28-203;

(3) review a host agreement or host assurance provided to the games committee under Section 63G-28-401; and

(4) make recommendations to the Legislature regarding a host agreement, a host assurance, and the state's role in hosting the games.

Section 4. Section 63G-28-203 is enacted to read:

63G-28-203. Host committee reports to games committee.

At least twice each year and at the request of the games committee, the host committee shall provide a report to the games committee regarding:

(1) the state's bid to host or hosting of the games;

(2) the projected budget for the games; and

(3) the financial impact of the games on the state.

Section 5. Section 63G-28-301, which is renumbered from Section 51-11-102 is renumbered and amended to read:

Part 3. Funds, Accounts, and Grant Programs

[~~51-11-102~~]. 63G-28-301. Definitions.As used in this [~~chapter~~] part:

(1) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

(2) "Fund" means the [~~Winter Sports Venue~~] Olympic and Paralympic Venues Grant Fund.

(3) "Improve" or "improvements" means the replacement or addition to infrastructure, buildings, building components, or facility equipment.

(4) "Venue" means a facility:

(a) designed and currently approved under standards developed by a generally recognized sports federation to host world-class level, international winter sports competitions; and

(b) used for recreational, developmental, and competitive athletic training.

(5) "Venue operator" means a person who:

(a) operates a venue that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(b) owns a venue or operates a venue under contract with the public owner of the venue.

Section 6. Section 63G-28-302, which is renumbered from Section 51-11-201 is renumbered and amended to read:

[~~51-11-201~~]. 63G-28-302. Olympic and Paralympic Venues Grant Fund.

(1) (a) [~~(a)~~] (i) There is created an expendable special revenue fund known as the[~~"Winter Sports Venue~~] "Olympic and Paralympic Venues Grant Fund."

[~~(b)~~] (ii) The fund shall consist of:

[~~(i)~~] (A) money appropriated to the fund by the Legislature;

[~~(ii)~~] (B) money donated to the fund from public or private individuals or entities; and

[~~(iii)~~] (C) interest on fund money.

(2) The division shall award grants from the fund to a venue operator to provide funding for construction, improvements, and repairs[~~, and improvements~~] to a venue.

(3) A venue operator's application for a grant award under this section shall include:

(a) the number of venues the venue operator plans to construct, [~~repair, or~~] improve, or repair;

(b) the venue operator's proposed improvements, repairs, or construction plans for a venue;

(c) the estimated cost of the venue operator's proposed improvements, repairs, or construction plans for a venue;

(d) any plan to use funding sources in addition to a grant award under this section to construct, improve, or repair[~~, or construct~~] a venue;

(e) the amount of [~~grant money~~] the requested grant award to fund the construction,

improvements, or repairs[~~, or construction~~] for each venue; and

(f) existing or planned contracts or partnerships between the venue operator and other individuals or entities to complete venue construction, improvements, or repairs[~~, or construction~~].

(4) The division may only award and distribute [~~fund money~~] a grant award to a venue operator that submits an application in accordance with Subsection (3).

(5) (a) As a condition of an award of a grant [~~money~~], the venue operator shall sign an agreement with the division governing:

(i) the venue operator's responsibilities for expending the grant [~~money~~] award; and

(ii) the division's and the state's right to review and audit the venue operator's use of the grant [~~money~~] award and the venue operator's performance under the grant award.

(b) The division shall ensure that the agreement contains:

(i) a requirement for an annual report and the required contents of [~~that~~] the report in accordance with Subsection (6)(b);

(ii) a right for the division or [~~its~~] the division's designee to visit and inspect the venue as often as needed before, during, and after construction[~~, repairs,~~] or improvements, or repairs begin or are complete; and

(iii) an absolute right for the division, the state auditor, and the legislative auditor to access and audit [~~all~~] the financial records relevant to the grant award.

(6) (a) A venue operator that receives [~~fund money~~] a grant award under this section may only use the grant [~~money~~] award to construct, improve, or repair[~~, or construct~~] a venue.

(b) A venue operator that receives [~~fund money~~] a grant award under this section shall annually file a report with the division [~~before October 1, 2019, and each year thereafter,~~] that details for the immediately preceding calendar year:

(i) the construction, improvements, and repairs, in process or completed, that were wholly or partially funded by a grant award under this section;

(ii) the total dollar amount expended from the grant award;

(iii) an itemized accounting that describes how the venue operator expended the grant [~~money~~] award;

(iv) the intended use for a grant [~~money~~] award that has not been expended; and

(v) the results of any evaluations of venue construction, improvements, or repairs.

Section 7. Section 63G-28-401 is enacted to read:

Part 4. Agreements

63G-28-401. Governor authority to execute host agreement -- Legislative notice.

(1) Subject to Subsection (3), the governor may:

(a) enter into a host agreement on behalf of the state that provides:

(i) state security for:

(A) amounts owed by the state to a site selection committee for claims by third parties arising out of or relating to the games; and

(B) a financial deficit accruing to the state as a result of hosting the games; and

(ii) other terms necessary for the state to host the games; and

(b) make a host assurance on behalf of the state that is necessary for the state to host the games.

(2) The state security under a host agreement may not be paid until after:

(a) any security provided by the host committee or another person is expended and exhausted; and

(b) the limits of any available insurance policy are expended and exhausted.

(3) The governor shall:

(a) ensure a host agreement includes:

(i) a requirement that a signatory of the host agreement mitigate damages if the signatory breaches the host agreement;

(ii) a provision allowing the state to terminate the host agreement for another signatory's unlawful activity; and

(iii) other provisions that protect:

(A) the state against liability under the host agreement; and

(B) the state's financial assets; and

(b) provide a copy of a host agreement or host assurance to the games committee and the Legislative Management Committee at least 72 hours before entering into the host agreement or making the host assurance.

Section 8. Section 63G-28-402 is enacted to read:

63G-28-402. Host committee insurance agreements -- State liability under host committee agreements.

(1) The host committee shall:

(a) list the state as an additional insured on any insurance policy purchased by the host committee to be in effect in connection with the preparation for and conduct of the games; and

(b) include in any agreement signed by the host committee that the state is not liable for the host committee's failure to perform the duties under the agreement.

(2) An insurance policy or other agreement that violates Subsection (1) is void.

Section 9. Repealer.

This bill repeals:

Section 51-11-101, Title.

CHAPTER 15
H. B. 22
Passed February 14, 2023
Approved February 27, 2023
Effective February 27, 2023

LOCAL DISTRICT AMENDMENTS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions relating to local districts.

Highlighted Provisions:

This bill:

- replaces the term "local district" with the term "special district" throughout certain titles of the Utah Code;
- under certain circumstances, provides for replacement of a board of trustees of a nonfunctioning improvement district; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.This bill provides retrospective operation.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

17-2-209, as last amended by Laws of Utah 2019, Chapter 42
17-15-32, as enacted by Laws of Utah 2018, Chapter 257
17-22-2, as last amended by Laws of Utah 2022, Chapter 335
17-23-17, as last amended by Laws of Utah 2022, Chapter 415
17-27a-103, as last amended by Laws of Utah 2022, Chapter 406
17-27a-305, as last amended by Laws of Utah 2021, Chapter 35
17-30-3, as last amended by Laws of Utah 2009, Chapter 218
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17B-1-105, as last amended by Laws of Utah 2009, Chapter 350
17B-1-106, as last amended by Laws of Utah 2021, Chapters 84, 162, 345, and 382
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17B-1-120, as enacted by Laws of Utah 2011, Chapter 205
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17B-1-210, as last amended by Laws of Utah 2011, Chapter 68
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17B-1-213, as last amended by Laws of Utah 2022, Chapter 381
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17B-1-215, as last amended by Laws of Utah 2014, Chapter 405
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17B-1-306.5, as last amended by Laws of Utah 2014, Chapter 377
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17B-1-310, as last amended by Laws of Utah 2013, Chapter 448
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17B-1-803, as renumbered and amended by Laws of Utah 2007, Chapter 329
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17B-1-1304, as renumbered and amended by Laws of Utah 2007, Chapter 329
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17B-2a-205, as enacted by Laws of Utah 2007, Chapter 329
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17B-2a-303, as enacted by Laws of Utah 2007, Chapter 329
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20A-11-101, as last amended by Laws of Utah 2022, Chapter 126
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20A-17-103, as enacted by Laws of Utah 2015, Chapter 106

ENACTS:
17B-2a-407, Utah Code Annotated 1953

REPEALS:

17B-1-101, as enacted by Laws of Utah 2007, Chapter 329
17B-2a-101, as enacted by Laws of Utah 2007, Chapter 329

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

Section 1. Section 17-2-209 is amended to read:

17-2-209. Minor adjustments to county boundaries authorized -- Public hearing -- Joint resolution of county legislative bodies -- Notice and plat to lieutenant governor -- Recording requirements -- Effective date.

(1) (a) Counties sharing a common boundary may, in accordance with the provisions of Subsection (2) and Article XI, Section 3, of the Utah Constitution and for purposes of real property tax assessment and county record keeping, adjust all or part of the common boundary to move it, subject to Subsection (1)(b), a sufficient distance to reach to, and correspond with, the closest existing property boundary of record.

(b) A boundary adjustment under Subsection (1)(a) may not create a boundary line that divides or splits:

(i) an existing parcel;

(ii) an interest in the property; or

(iii) a claim of record in the office of recorder of either county sharing the common boundary.

(2) The legislative bodies of both counties desiring to adjust a common boundary in accordance with Subsection (1) shall:

(a) hold a joint public hearing on the proposed boundary adjustment;

(b) at least seven days before the public hearing described in Subsection (2)(a), provide written notice of the proposed adjustment to:

(i) each owner of real property whose property, or a portion of whose property, may change counties as the result of the proposed adjustment; and

(ii) any of the following whose territory, or a portion of whose territory, may change counties as the result of the proposed boundary adjustment, or whose boundary is aligned with any portion of the existing county boundary that is being proposed for adjustment:

(A) a city;

(B) a town;

(C) a metro township;

(D) a school district;

(E) a [~~local~~] special district governed by [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(F) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(G) an interlocal entity governed by Title 11, Chapter 13, Interlocal Cooperation Act;

(H) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(I) a local building authority governed by Title 17D, Chapter 2, Local Building Authority Act; and

(J) a conservation district governed by Title 17D, Chapter 3, Conservation District Act; and

(c) adopt a joint resolution approved by both county legislative bodies approving the proposed boundary adjustment.

(3) The legislative bodies of both counties adopting a joint resolution under Subsection (2)(c) shall:

(a) within 15 days after adopting the joint resolution, jointly send to the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

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

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, jointly submit to the recorder of the county in which the property is located after the boundary adjustment:

(i) the original notice of an impending boundary action;

(ii) the original certificate of boundary adjustment;

(iii) the original approved final local entity plat; and

(iv) a certified copy of the joint resolution approving the boundary adjustment.

(4) (a) As used in this Subsection (4):

(i) "Affected area" means an area that, as a result of a boundary adjustment under this section, is moved from within the boundary of one county to within the boundary of another county.

(ii) "Receiving county" means a county whose boundary includes an affected area as a result of a boundary adjustment under this section.

(b) A boundary adjustment under this section takes effect on the date the lieutenant governor issues a certificate of boundary adjustment under Section 67-1a-6.5.

(c) (i) The effective date of a boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (3)(b) are recorded in the office of the recorder of the county in which the property is located, a receiving county may not:

(A) levy or collect a property tax on property within an affected area;

(B) levy or collect an assessment on property within an affected area; or

(C) charge or collect a fee for service provided to property within an affected area.

(5) Upon the effective date of a boundary adjustment under this section:

(a) all territory designated to be adjusted into another county becomes the territory of the other county; and

(b) the provisions of Sections 17-2-207 and 17-2-208 apply in the same manner as with an annexation under this part.

Section 2. Section 17-15-32 is amended to read:

17-15-32. County website listing of local government entities.

(1) As used in this section:

(a) (i) "Limited purpose entity" means a legal entity that:

(A) performs a single governmental function or limited governmental functions; and

(B) is not a state executive branch agency, a state legislative office, or within the judicial branch.

(ii) "Limited purpose entity" includes:

(A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section 62A-3-101;

(B) charter schools created under Title 53G, Chapter 5, Charter Schools;

(C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

(D) conservation districts, as that term is defined in Section 17D-3-102;

(E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

(F) housing authorities, as that term is defined in Section 35A-8-401;

(G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;

(H) interlocal entities, as that term is defined in Section 11-13-103;

(I) local building authorities, as that term is defined in Section 17D-2-102;

(J) [~~local~~] special districts, as that term is defined in Section 17B-1-102;

(K) local health departments, as that term is defined in Section 26A-1-102;

(L) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;

(M) school districts under Title 53G, Chapter 3, School District Creation and Change; and

(N) special service districts, as that term is defined in Section 17D-1-102.

(b) "Local government entity" means a municipality, as that term is defined in Section 10-1-104.

(2) Beginning on July 1, 2019, each county shall list on the county's website any of the following information that the lieutenant governor publishes in a registry of local government entities and limited purpose entities regarding each limited purpose entity and local government entity that operates, either in whole or in part, within the county or has geographic boundaries that overlap or are contained within the boundaries of the county:

(a) the entity's name;

(b) the entity's type of local government entity or limited purpose entity;

(c) the entity's governmental function;

(d) the entity's physical address and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;

(e) names of the members of the entity's governing board or commission, managing officers, or other similar managers;

(f) the entity's sources of revenue; and

(g) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.

Section 3. Section 17-22-2 is amended to read:

17-22-2. Sheriff -- General duties.

(1) The sheriff shall:

(a) preserve the peace;

(b) make all lawful arrests;

(c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within his county, all courts of record, and court commissioner and referee sessions held within his county, obey their lawful orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;

(d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;

(e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or for the custody of jurors;

(f) command the aid of as many inhabitants of his county as he considers necessary in the execution of these duties;

(g) take charge of and keep the county jail and the jail prisoners;

(h) receive and safely keep all persons committed to his custody, file and preserve the commitments of those persons, and record the name, age, place of birth, and description of each person committed;

(i) release on the record all attachments of real property when the attachment he receives has been released or discharged;

(j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;

(k) serve all process and notices as prescribed by law;

(l) if he makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if he fails to make service, certify the reason upon the process or notice, and return them without delay;

(m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within his county;

(n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;

(o) for the sheriff of a county of the second through sixth class that enters into an interlocal agreement for law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law enforcement service as provided in the interlocal agreement;

(p) manage search and rescue services in his county;

(q) obtain saliva DNA specimens as required under Section 53-10-404;

(r) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender;

(s) as applicable, select a representative of law enforcement to serve as a member of a child protection team, as defined in Section 80-1-102; and

(t) perform any other duties that are required by law.

(2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other subsection under Subsection (1) is a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Police interlocal entity" has the same meaning as defined in Sections 17-30-3 and 17-30a-102.

(ii) "Police [~~local~~] special district" [~~has the same meaning as~~] means the same as that term is defined in Section 17-30-3.

(b) Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county which includes within its boundary a police [~~local~~] special district or police interlocal entity, or both:

(i) serves as the chief executive officer of each police [~~local~~] special district and police interlocal entity within the county with respect to the provision of law enforcement service within the boundary of the police [~~local~~] special district or police interlocal entity, respectively; and

(ii) is subject to the direction of the police [~~local~~] special district board of trustees or police interlocal entity governing body, as the case may be, as and to the extent provided by agreement between the police [~~local~~] special district or police interlocal entity, respectively, and the sheriff.

(c) Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202(4), if a police interlocal entity or police [~~local~~] special district enters an interlocal agreement with a public agency, as defined in Section 11-13-103, for the provision of law enforcement service, the sheriff:

(i) does not serve as the chief executive officer of any interlocal entity created under that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and

(ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement.

Section 4. Section 17-23-17 is amended to read:

17-23-17. Map of boundary survey -- Procedure for filing -- Contents -- Marking of monuments -- Record of corner changes -- Penalties.

(1) As used in this section:

(a) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(b) (i) "Township" means a term used in the context of identifying a geographic area in common surveyor practice.

(ii) "Township" does not mean a metro township as that term is defined in Section 10-2a-403.

(2) (a) (i) Each land surveyor making a boundary survey of lands within this state to establish or reestablish a boundary line or to obtain data for constructing a map or plat showing a boundary line shall file a map of the survey that meets the requirements of this section with the county surveyor or designated office within 90 days of the establishment or reestablishment of a boundary.

(ii) A land surveyor who fails to file a map of the survey as required by Subsection (2)(a)(i) is guilty of an infraction.

(iii) Each failure to file a map of the survey as required by Subsection (2)(a)(i) is a separate violation.

(b) The county surveyor or designated office shall file and index the map of the survey.

(c) The map shall be a public record in the office of the county surveyor or designated office.

(3) This type of map shall show:

(a) the location of survey by quarter section and township and range;

(b) the date of survey;

(c) the scale of drawing and north point;

(d) the distance and course of all lines traced or established, giving the basis of bearing and the distance and course to two or more section corners or quarter corners, including township and range, or to identified monuments within a recorded subdivision;

(e) all measured bearings, angles, and distances separately indicated from those of record;

(f) a written boundary description of property surveyed;

(g) all monuments set and their relation to older monuments found;

(h) a detailed description of monuments found and monuments set, indicated separately;

(i) the surveyor's seal or stamp; and

(j) the surveyor's business name and address.

(4) (a) The map shall contain a written narrative that explains and identifies:

(i) the purpose of the survey;

(ii) the basis on which the lines were established; and

(iii) the found monuments and deed elements that controlled the established or reestablished lines.

(b) If the narrative is a separate document, it shall contain:

(i) the location of the survey by quarter section and by township and range;

(ii) the date of the survey;

(iii) the surveyor's stamp or seal; and

(iv) the surveyor's business name and address.

(c) The map and narrative shall be referenced to each other if they are separate documents.

(5) The map and narrative shall be created on material of a permanent nature on stable base reproducible material in the sizes required by the county surveyor.

(6) (a) Any monument set by a licensed professional land surveyor to mark or reference a point on a property or land line shall be durably and visibly marked or tagged with the registered business name or the letters "L.S." followed by the registration number of the surveyor in charge.

(b) If the monument is set by a licensed land surveyor who is a public officer, it shall be marked with the official title of the office.

(7) (a) If, in the performance of a survey, a surveyor finds or makes any changes to the section corner or quarter-section corner, or their accessories, the surveyor shall complete and submit to the county surveyor or designated office a record of the changes made.

(b) The record shall be submitted within 45 days of the corner visits and shall include the surveyor's seal, business name, and address.

(8) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the license of any land surveyor who fails to comply with the requirements of this section, according to the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act.

(9) Each federal or state agency, board, or commission, [~~local~~] special district, special service district, or municipal corporation that makes a boundary survey of lands within this state shall comply with this section.

Section 5. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, [~~local~~] special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owner's association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before

the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(15) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(16) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

(ii) a therapeutic school.

(17) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(18) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(19) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(20) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(21) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(22) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(23) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(25) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(26) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(27) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(28) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

(29) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(30) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(31) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(32) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(33) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(34) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(35) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(36) "Land use permit" means a permit issued by a land use authority.

(37) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(38) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

[~~(39) "Local district" means any entity Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.~~]

[~~(40)~~] (39) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(41)~~] (40) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(42)~~] (41) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[~~(43)~~] (42) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

[~~(44)~~] (43) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section 17-27a-901.

[~~(45)~~] (44) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(46)~~] (45) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

[~~(47)~~] (46) "Nonconforming use" means a use of land that:

(a) legally existed before the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(48)~~] (47) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

[~~(49)~~] (48) "Parcel" means any real property that is not a lot.

[~~(50)~~] (49) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(51)~~] (50) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(52)~~] (51) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

[~~(53)~~] (52) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

[~~(54)~~] (53) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

[~~(55)~~] (54) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the

potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(56)~~] (55) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, [~~local~~] special district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(57)~~] (56) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(58)~~] (57) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(59)~~] (58) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(60)~~] (59) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(61)~~] (60) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[~~(62)~~] (61) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[~~(63)~~] (62) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(64)~~] (63) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(65)~~] (64) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(66)~~] (65) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

(66) (a) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(b) "Special district" includes a governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(67) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(68) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(69) "State" includes any department, division, or agency of the state.

(70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (70)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 17-27a-523 if no new lot is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat;

(x) a deed or easement for a road, street, or highway purpose; or

(xi) any other division of land authorized by law.

(71) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(72) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(73) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(74) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(75) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(76) "Unincorporated" means the area outside of the incorporated area of a municipality.

(77) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(78) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 6. Section 17-27a-305 is amended to read:

17-27a-305. Other entities required to conform to county's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, [~~local~~] special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.

(b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a county may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a county building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor;

(B) approved by:

(I) a county building inspector; or

(II) (Aa) for a school district, a school district building inspector from that school district; or

(Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and

(C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a county.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a county official with authority to issue the certificate, if the school district or charter school used a county building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 17-27a-509;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 17-27a-304; or

(b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Section 7. Section 17-30-3 is amended to read:

17-30-3. Establishment of merit system commission -- Appointment, qualifications, and compensation of members.

(1) (a) Each county with a population of 20,000 or more shall establish a merit system commission consisting of three members appointed as provided in Subsection (1)(b).

(b) (i) As used in this Subsection (1)(b):

(A) "Police interlocal entity" means an interlocal entity, as defined in Section 11-13-103, that is created:

(I) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a county of the first class is a party; and

(II) to provide law enforcement service to an area that includes the unincorporated part of the county.

(B) "Police [~~local~~] special district" means a [~~local~~] special district, as defined in Section 17B-1-102:

(I) whose creation was initiated by the adoption of a resolution under Section 17B-1-203 by the legislative body of a county of the first class, alone or with one or more other legislative bodies; and

(II) that is created to provide law enforcement service to an area that includes the unincorporated part of the county.

(ii) For a county in which a police interlocal entity is created, whether or not a police [~~local~~] special district is also created in the county:

(A) two members shall be appointed by the legislative body of the county; and

(B) one member shall be appointed by the governing body of the interlocal entity.

(iii) For a county in which a police [~~local~~] special district is created but in which a police interlocal entity has not been created:

(A) two members shall be appointed by the legislative body of the county; and

(B) one member shall be appointed by the board of trustees of the police [~~local~~] special district.

(iv) For each other county, all three members shall be appointed by the county legislative body.

(c) Not more than two members of the commission shall be affiliated with or members of the same political party.

(d) Of the original appointees, one member shall be appointed for a term ending February 1 of the first odd-numbered year after the date of appointment, and one each for terms ending two and four years thereafter.

(e) Upon the expiration of any of the terms, a successor shall be appointed for a full term of six years.

(f) Appointment to fill a vacancy resulting other than from expiration of term shall be for the unexpired portion of the term only.

(2) Members of a commission shall be citizens of the state, shall have been residents of the area embraced by the governmental unit from which appointed not less than five years next preceding the date of appointment, and shall hold no other office or employment under the governmental unit for which appointed.

(3) The county legislative body may compensate a member for service on the commission and reimburse the member for necessary expenses incurred in the performance of the member's duties.

Section 8. Section 17-31-2 is amended to read:

17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.

(1) As used in this section:

(a) "Aircraft" means the same as that term is defined in Section 72-10-102.

(b) "Airport" means the same as that term is defined in Section 72-10-102.

(c) "Airport authority" means the same as that term is defined in Section 72-10-102.

(d) "Airport operator" means the same as that term is defined in Section 72-10-102.

(e) "Base year revenue" means the amount of revenue generated by a transient room tax and collected by a county for fiscal year 2018-19.

(f) "Base year promotion expenditure" means the amount of revenue generated by a transient room tax that a county spent for the purpose described in Subsection (2)(a) during fiscal year 2018-19.

(g) "Economic diversification activity" means an economic development activity that is reasonably similar to, supplements, or expands any economic program as administered by the state or the Governor's Office of Economic Opportunity.

(h) "Eligible town" means a town that:

(i) is located within a county that has a national park within or partially within the county's boundaries; and

(ii) imposes a resort communities tax authorized by Section 59-12-401.

(i) "Emergency medical services provider" means an eligible town, a [~~local~~] special district, or a special service district.

(j) "Tourism" means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, development, and advertising for the purpose described in Subsection (2)(a)(i).

(k) "Town" means a municipality that is classified as a town in accordance with Section 10-2-301.

(l) "Transient room tax" means a tax at a rate not to exceed 4.25% authorized by Section 59-12-301.

(2) Subject to the requirements of this section, a county legislative body may impose the transient room tax for the purposes of:

(a) establishing and promoting:

(i) tourism;

(ii) recreation, film production, and conventions; or

(iii) an economic diversification activity if:

(A) the county is a county of the fourth, fifth, or sixth class;

(B) the county has more than one national park within or partially within the county's boundaries; and

(C) the county has a base population of 9,000 or more according to current United States census data;

(b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

(i) convention meeting rooms;

(ii) exhibit halls;

(iii) visitor information centers;

(iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, and arenas;

(vi) related facilities;

(vii) if a national park is located within or partially within the county's boundaries, the following on any route designated by the county legislative body:

(A) transit service, including shuttle service; and

(B) parking infrastructure; and

(viii) an airport, if:

(A) the county is a county of the fourth, fifth, or sixth class; and

(B) the county is the airport operator of the airport;

(c) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes listed in Subsection (2)(b);

(d) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, paying for:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105; and

(e) making the annual payment of principal, interest, premiums, and necessary reserves for any of the aggregate of bonds authorized under Subsection (5).

(3) (a) The county legislative body of a county that imposes a transient room tax at a rate of 3% or less may expend the revenue generated as provided in Subsection (4), after making any reduction required by Subsection (6).

(b) The county legislative body of a county that imposes a transient room tax at a rate that exceeds 3% or increases the rate of transient room tax above 3% may expend:

(i) the revenue generated from the transient room tax at a rate of 3% as provided in Subsection (4), after making any reduction required by Subsection (6); and

(ii) the revenue generated from the portion of the rate that exceeds 3%:

(A) for any combination of the purposes described in Subsections (2) and (5); and

(B) regardless of the limitation on expenditures for the purposes described in Subsection (4).

(4) Subject to Subsections (6) and (7), a county may not expend more than 1/3 of the revenue generated by a rate of transient room tax that does not exceed 3%, for any combination of the purposes described in Subsections (2)(b) through (2)(e).

(5) (a) The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in Subsections (2)(b) through (2)(d) that are permitted to be paid from bond proceeds.

(b) If a county legislative body does not need the revenue generated by the transient room tax for payment of principal, interest, premiums, and reserves on bonds issued as provided in Subsection (2)(e), the county legislative body shall expend that revenue for the purposes described in Subsection (2), subject to the limitation of Subsection (4).

(6) (a) In addition to the purposes described in Subsection (2), a county legislative body:

(i) may expend up to 4% of the total revenue generated by a transient room tax to pay a provider for emergency medical services in one or more eligible towns; and

(ii) may expend up to 10% of the total revenue generated by a transient room tax for visitor management and destination development if:

(A) a national park is located within or partially within the county's boundaries; and

(B) the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) or the substantially similar body as described in Subsection 17-31-8(1)(b) has prioritized and recommended the use of the revenue in accordance with Subsection 17-31-8(4).

(b) A county legislative body shall reduce the amount that the county is authorized to expend for the purposes described in Subsection (4) by subtracting the amount of transient room tax revenue expended in accordance with Subsection (6)(a) from the amount of revenue described in Subsection (4).

(7) (a) Except as provided in Subsection (7)(b), a county legislative body in a county of the fourth, fifth, or sixth class shall expend the revenue generated by a transient room tax as follows:

(i) an amount equal to the county's base year promotion expenditure for the purpose described in Subsection (2)(a)(i);

(ii) an amount equal to the difference between the county's base year revenue and the county's base

year promotion expenditure in accordance with Subsections (3) through (6); and

(iii) (A) 37% of the revenue that exceeds the county's base year revenue for the purpose described in Subsection (2)(a)(i); and

(B) subject to Subsection (7)(c), 63% of the revenue that exceeds the county's base year revenue for any combination of the purposes described in Subsections (2)(a)(ii) through (e) or to pay an emergency medical services provider for emergency medical services in one or more eligible towns.

(b) A county legislative body in a county of the fourth, fifth, or sixth class with one or more national recreation areas administered by the National Park Service or the Forest Service or national parks within or partially within the county's boundaries shall expend the revenue generated by a transient room tax as follows:

(i) for a purpose described in Subsection (2)(a) and subject to the limitations described in Subsection (7)(d), the greater of:

(A) an amount equal to the county's base year promotion expenditure; or

(B) 37% of the transient room tax revenue; and

(ii) the remainder of the transient room tax not expended in accordance with Subsection (7)(b)(i) for any combination of the purposes described in Subsection (2) and, subject to the limitation described in Subsection (7)(c), Subsection (6).

(c) A county legislative body in a county of the fourth, fifth, or sixth class may not:

(i) expend more than 4% of the revenue generated by a transient room tax to pay an emergency medical services provider for emergency medical services in one or more eligible towns; or

(ii) expend revenue generated by a transient room tax for the purpose described in Subsection (2)(e) in an amount that exceeds the county's base year promotion expenditure.

(d) A county legislative body may not expend:

(i) more than 1/5 of the revenue described in Subsection (7)(b)(i) for a purpose described in Subsection (2)(a)(ii); and

(ii) more than 1/3 of the revenue described in Subsection (7)(b)(i) for the purpose described in Subsection (2)(a)(iii).

(e) The provisions of this Subsection (7) apply notwithstanding any other provision of this section.

(f) If the total amount of revenue generated by a transient room tax in a county of the fourth, fifth, or sixth class is less than the county's base year promotion expenditure:

(i) Subsections (7)(a) through (d) do not apply; and

(ii) the county legislative body shall expend the revenue generated by the transient room tax in accordance with Subsections (3) through (6).

Section 9. Section 17-34-3 is amended to read:

17-34-3. Taxes or service charges.

(1) (a) If a county furnishes the municipal-type services and functions described in Section 17-34-1 to areas of the county outside the limits of incorporated cities or towns, the entire cost of the services or functions so furnished shall be defrayed from funds that the county has derived from:

(i) taxes that the county may lawfully levy or impose outside the limits of incorporated towns or cities;

(ii) service charges or fees the county may impose upon the persons benefited in any way by the services or functions; or

(iii) a combination of these sources.

(b) As the taxes or service charges or fees are levied and collected, they shall be placed in a special revenue fund of the county and shall be disbursed only for the rendering of the services or functions established in Section 17-34-1 within the unincorporated areas of the county or as provided in Subsection 10-2a-219(2).

(2) (a) For the purpose of levying taxes, service charges, or fees provided in this section, the county legislative body may establish a district or districts in the unincorporated areas of the county.

(b) A district established by a county as provided in Subsection (2)(a) may be reorganized as a [~~local~~] special district in accordance with the procedures set forth in Sections 17D-1-601, 17D-1-603, and 17D-1-604.

(3) Nothing contained in this chapter may be construed to authorize counties to impose or levy taxes not otherwise allowed by law.

(4) Notwithstanding any other provision of this chapter, a county providing fire, paramedic, and police protection services in a designated recreational area, as provided in Subsection 17-34-1(5), may fund those services from the county general fund with revenues derived from both inside and outside the limits of cities and towns, and the funding of those services is not limited to unincorporated area revenues.

Section 10. Section 17-36-9 is amended to read:

17-36-9. Budget -- Financial plan -- Contents -- Municipal services and capital projects funds.

(1) (a) The budget for each fund shall provide a complete financial plan for the budget period and shall contain in tabular form classified by the account titles as required by the uniform system of budgeting, accounting, and reporting:

(i) estimates of all anticipated revenues;

(ii) all appropriations for expenditures; and

(iii) any additional data required by Section 17-36-10 or by the uniform system of budgeting, accounting, and reporting.

(b) The total of appropriated expenditures shall be equal to the total of anticipated revenues.

(2) (a) Each first-, second-, and third-class county that provides municipal-type services under Section 17-34-1 shall:

(i) establish a special revenue fund, "Municipal Services Fund," and a capital projects fund, "Municipal Capital Projects Fund," or establish a [~~local~~] special district or special service district to provide municipal services; and

(ii) budget appropriations for municipal services and municipal capital projects from these funds.

(b) The Municipal Services Fund is subject to the same budgetary requirements as the county general fund.

(c) (i) Except as provided in Subsection (2)(c)(ii), the county may deposit revenue derived from any taxes otherwise authorized by law, income derived from the investment of money contained within the municipal services fund and the municipal capital projects fund, the appropriate portion of federal money, and fees collected into a municipal services fund and a municipal capital projects fund.

(ii) The county may not deposit revenue derived from a fee, tax, or other source based upon a countywide assessment or from a countywide service or function into a municipal services fund or a municipal capital projects fund.

(d) The maximum accumulated unappropriated surplus in the municipal services fund, as determined prior to adoption of the tentative budget, may not exceed an amount equal to the total estimated revenues of the current fiscal period.

Section 11. Section 17-41-101 is amended to read:

17-41-101. Definitions.

As used in this chapter:

(1) "Advisory board" means:

(a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201;

(b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201; and

(c) for a critical infrastructure materials protection area, the critical infrastructure materials protection area advisory board created as provided in Section 17-41-201.

(2) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.

(b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

(3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(4) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the land proposed to be included in the relevant protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in the relevant protection area is located; and

(b) with respect to an existing agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the relevant protection area is located, if the relevant protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the relevant protection area is located.

(5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(6) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

(7) "Critical infrastructure materials operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

(8) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials operation; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.

(9) "Critical infrastructure materials protection area" means a geographic area created under the authority of this chapter on or after May 14, 2019, that is granted the specific legal protections contained in this chapter.

(10) "Crops, livestock, and livestock products" includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(11) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(12) "Industrial protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(13) "Mine operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, as of January 1, 2019:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

(14) "Mineral deposit" means the same as that term is defined in Section 40-8-4.

(15) "Mining protection area" means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls.

(16) "Mining use":

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection (16)(a)(i) that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

(vii) a mining activity that is identified in a work plan or permitting document;

(viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility; and

(xi) an activity described in Subsection 40-8-4(17)(a).

(17) (a) "Municipal" means of or relating to a city or town.

(b) "Municipality" means a city or town.

(18) "New land" means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether that land or mineral estate is included in the mine operator's large mine permit.

(19) "Off-site" means the same as that term is defined in Section 40-8-4.

(20) "On-site" means the same as that term is defined in Section 40-8-4.

(21) "Planning commission" means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within the unincorporated part of the county and not within a planning advisory area;

(b) a planning advisory area planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a planning advisory area; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a city or town.

(22) "Political subdivision" means a county, city, town, school district, [~~local~~] special district, or special service district.

(23) "Proposal sponsors" means the owners of land in agricultural production, industrial use, or

critical infrastructure materials operations who are sponsoring the proposal for creating an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

(24) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(25) "Unincorporated" means not within a city or town.

(26) "Vested mining use" means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Section 12. Section 17-43-201 is amended to read:

17-43-201. Local substance abuse authorities -- Responsibilities.

(1) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local substance abuse authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local substance abuse authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local substance abuse authority.

(b) Within legislative appropriations and county matching funds required by this section, and under the direction of the division, each local substance abuse authority shall:

(i) develop substance abuse prevention and treatment services plans;

(ii) provide substance abuse services to residents of the county; and

(iii) cooperate with efforts of the division to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section 26B-1-102, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide substance abuse prevention and treatment services; or

(ii) create a united local health department that provides substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of substance abuse services.

(c) Each agreement for joint substance abuse services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined substance abuse authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined substance abuse authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined substance abuse authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint substance abuse services may provide for joint operation of services and facilities or for operation of services and facilities under contract by one participating local substance abuse authority for other participating local substance abuse authorities.

(3) A county governing body may elect to combine the local substance abuse authority with the local mental health authority created in Part 3, Local Mental Health Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local substance abuse authority that joins a united local health department shall comply with this part.

(4) (a) Each local substance abuse authority is accountable to the department and the state with

regard to the use of state and federal funds received from those departments for substance abuse services, regardless of whether the services are provided by a private contract provider.

(b) Each local substance abuse authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance abuse programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local substance abuse authorities with regard to programs and services.

(5) Each local substance abuse authority shall:

(a) review and evaluate substance abuse prevention and treatment needs and services, including substance abuse needs and services for individuals incarcerated in a county jail or other county correctional facility;

(b) annually prepare and submit to the division a plan approved by the county legislative body for funding and service delivery that includes:

(i) provisions for services, either directly by the substance abuse authority or by contract, for adults, youth, and children, including those incarcerated in a county jail or other county correctional facility; and

(ii) primary prevention, targeted prevention, early intervention, and treatment services;

(c) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(d) appoint directly or by contract a full or part time director for substance abuse programs, and prescribe the director's duties;

(e) provide input and comment on new and revised rules established by the division;

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance abuse services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance abuse programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(i) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(j) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(k) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, [~~Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts~~] Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(m) for persons convicted of driving under the influence in violation of Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

(i) a screening;

(ii) an assessment;

(iii) an educational series; and

(iv) substance abuse treatment; and

(n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to supplement the cost of providing the services described in Subsection (5)(m).

(6) Before disbursing any public funds, each local substance abuse authority shall require that each entity that receives any public funds from the local substance abuse authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the local substance abuse authority shall be subject to examination by:

(i) the division;

(ii) the local substance abuse authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide substance abuse services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local substance abuse authority; and

(c) the entity will comply with the provisions of Subsection (4)(b).

(7) A local substance abuse authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(8) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-203.

(b) Public funds received for the provision of services pursuant to the local substance abuse plan may not be used for any other purpose except those authorized in the contract between the local substance abuse authority and the provider for the provision of plan services.

(9) Subject to the requirements of the federal Substance Abuse Prevention and Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure that all substance abuse treatment programs that receive public funds:

(a) accept and provide priority for admission to a pregnant woman or a pregnant minor; and

(b) if admission of a pregnant woman or a pregnant minor is not possible within 24 hours of the time that a request for admission is made, provide a comprehensive referral for interim services that:

(i) are accessible to the pregnant woman or pregnant minor;

(ii) are best suited to provide services to the pregnant woman or pregnant minor;

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

(iv) shall include a referral for:

(A) prenatal care; and

(B) counseling on the effects of alcohol and drug use during pregnancy.

(10) If a substance abuse treatment program described in Subsection (9) is not able to accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of the time that request for admission is made, the local substance abuse authority shall contact the Division of Integrated Healthcare for assistance in providing services to the pregnant woman or pregnant minor.

Section 13. Section 17-43-301 is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) As used in this section:

(a) "Assisted outpatient treatment" means the same as that term is defined in Section 62A-15-602.

(b) "Crisis worker" means the same as that term is defined in Section 62A-15-1301.

(c) "Local mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Public funds" means the same as that term is defined in Section 17-43-303.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

(2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the division to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section 26B-1-102, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

(3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 62A-15-630.5;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, [~~Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts~~] Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section 62A-15-1302;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section 62A-15-1302; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services, as described in Section 62A-15-630.4, to a resident of the county who has been ordered under Section 62A-15-630.5 to receive assisted outpatient treatment.

Section 14. Section 17-50-103 is amended to read:

17-50-103. Use of "county" prohibited -- Legal action to compel compliance.

(1) For purposes of this section:

(a) (i) "Existing local entity" means a [~~local~~] special district, special service district, or other political subdivision of the state created before May 1, 2000.

(ii) "Existing local entity" does not include a county, city, town, or school district.

[~~(b) (i) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, that:~~]

[~~(A) by statute is a political and corporate entity separate from the county that created it; and~~]

[~~(B) by statute is not subject to the direction and control of the county that created it.~~]

[~~(ii) The county legislative body's statutory authority to appoint members to the governing body of a local district does not alone make the local district subject to the direction and control of that county.~~]

[~~(c)~~] (b) (i) "New local entity" means a city, town, school district, [~~local~~] special district, special service district, or other political subdivision of the state created on or after May 1, 2000.

(ii) "New local entity" does not include a county.

(c) (i) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities – Special Districts, that:

(A) by statute is a political and corporate entity separate from the county that created the special district; and

(B) by statute is not subject to the direction and control of the county that created the special district.

(ii) The county legislative body's statutory authority to appoint members to the governing body of a special district does not alone make the special district subject to the direction and control of that county.

(2) (a) A new local entity may not use the word "county" in its name.

(b) After January 1, 2005, an existing local entity may not use the word "county" in its name unless the county whose name is used by the existing local entity gives its written consent.

(3) A county with a name similar to the name of a new local entity or existing local entity in violation of this section may bring legal action in district court to compel compliance with this section.

Section 15. Section 17-52a-503 is amended to read:

17-52a-503. Adoption of optional plan -- Election of new county officers -- Effect of adoption.

(1) If a proposed optional plan is approved at an election held under Section 17-52a-501:

(a) on or before November 1 of the year immediately following the year of the election described in Section 17-52a-501 in which the optional plan is approved, the county legislative body shall:

(i) if the proposed optional plan under Section 17-52a-404 specifies that one or more members of the county legislative body are elected from districts, adopt the geographic boundaries of each council or commission member district; and

(ii) adopt the compensation, including benefits, for each member of the county legislative body;

(b) the elected county officers specified in the plan shall be elected at the next regular general election following the election under Section 17-52a-501, according to the procedure and schedule established under Title 20A, Election Code, for the election of county officers;

(c) the proposed optional plan:

(i) becomes effective according to the optional plan's terms;

(ii) subject to Subsection 17-52a-404(1)(c), at the time specified in the optional plan, is a public record open to inspection by the public; and

(iii) is judicially noticeable by all courts;

(d) the county clerk shall, within 10 days of the canvass of the election, file with the lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct copy;

(e) all public officers and employees shall cooperate fully in making the transition between forms of county government; and

(f) the county legislative body may enact and enforce necessary ordinances to bring about an orderly transition to the new form of government, including any transfer of power, records, documents, properties, assets, funds, liabilities, or personnel that are consistent with the approved optional plan and necessary or convenient to place it into full effect.

(2) An action by the county legislative body under Subsection (1)(a) is not an amendment for purposes of Section 17-52a-504.

(3) Adoption of an optional plan does not alter or affect the boundaries, organization, powers, duties, or functions of any:

(a) school district;

(b) justice court;

(c) [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities – Local Districts~~] Title 17B, Limited Purpose Local Government Entities – Special Districts;

(d) special service district under Title 17D, Chapter 1, Special Service District Act;

(e) city or town; or

(f) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(4) (a) After adoption of the optional plan, the county legislative body may adopt a change to the geographic boundaries of a council or commission member's district.

(b) An action by the county legislative body under Subsection (4)(a) is not an amendment for purposes of Section 17-52a-504.

(5) After the adoption of an optional plan, the county remains vested with all powers and duties vested generally in counties by statute.

Section 16. Section 17B-1-102 is amended to read:

TITLE 17B. LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES - SPECIAL DISTRICTS

CHAPTER 1. PROVISIONS APPLICABLE TO ALL SPECIAL DISTRICTS

17B-1-102. Definitions.

As used in this title:

(1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.

(2) "Basic [~~local~~] special district":

(a) means a [~~local~~] special district that is not a specialized [~~local~~] special district; and

(b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a [~~local~~] special district, as defined under the law in effect before April 30, 2007.

(3) "Bond" means:

(a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and

(b) a lease agreement, installment purchase agreement, or other agreement that:

(i) includes an obligation by the district to pay money; and

(ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.

(4) "Cemetery maintenance district" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.

(5) "Drainage district" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.

(6) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a [~~local~~] special district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(7) "Fire protection district" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.

(8) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the district that issues the bond; and

(B) on taxable property within the district; and

(ii) in excess of the ad valorem property taxes of the district for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

(a) to guarantee the proper completion of an improvement;

(b) that is required before a [~~local~~] special district may provide a service requested by a service applicant; and

(c) that is offered to a [~~local~~] special district to induce the [~~local~~] special district before construction of an improvement begins to:

(i) provide the requested service; or

(ii) commit to provide the requested service.

(10) "Improvement assurance warranty" means a promise that the materials and workmanship of an improvement:

(a) comply with standards adopted by a [~~local~~] special district; and

(b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

(12) "Irrigation district" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that was created and operated as an irrigation district under the law in effect before April 30, 2007.

[~~(13) "Local district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers set forth in:~~]

[~~(a) this chapter; or~~]

[~~(b) (i) this chapter; and~~]

[~~(ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;~~]

[~~(B) Chapter 2a, Part 2, Drainage District Act;~~]

[~~(C) Chapter 2a, Part 3, Fire Protection District Act;~~]

[~~(D) Chapter 2a, Part 4, Improvement District Act;~~]

[~~(E) Chapter 2a, Part 5, Irrigation District Act;~~]

[~~(F) Chapter 2a, Part 6, Metropolitan Water District Act;~~]

[~~(G) Chapter 2a, Part 7, Mosquito Abatement District Act;~~]

[~~(H) Chapter 2a, Part 8, Public Transit District Act;~~]

[~~(I) Chapter 2a, Part 9, Service Area Act;~~]

[~~(J) Chapter 2a, Part 10, Water Conservancy District Act; or~~]

[~~(K) Chapter 2a, Part 11, Municipal Services District Act.~~]

[~~(14)~~] (13) "Metropolitan water district" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

[~~(15)~~] (14) "Mosquito abatement district" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

[~~(16)~~] (15) "Municipal" means of or relating to a municipality.

[~~(17)~~] (16) "Municipality" means a city, town, or metro township.

[~~(18)~~] (17) "Municipal services district" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

[~~(19)~~] (18) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

[~~(20)~~] (19) "Political subdivision" means a county, city, town, metro township, [~~local~~] special district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

[~~(21)~~] (20) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

[~~(22)~~] (21) "Public entity" means:

(a) the United States or an agency of the United States;

(b) the state or an agency of the state;

(c) a political subdivision of the state or an agency of a political subdivision of the state;

(d) another state or an agency of that state; or

(e) a political subdivision of another state or an agency of that political subdivision.

[~~(23)~~] (22) "Public transit district" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

[~~(24)~~] (23) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the [~~local~~] special district's ad valorem property taxes; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

[~~(25)~~] (24) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(26)~~] (25) "Service applicant" means a person who requests that a [~~local~~] special district provide a service that the [~~local~~] special district is authorized to provide.

[~~(27)~~] (26) "Service area" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

[~~(28)~~] (27) "Short-term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.

[~~(29)~~] (28) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

[~~(30)~~] (29) "Special assessment bond" means a bond payable from special assessments.

(30) "Special district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers described in:

(a) this chapter; or

(b) (i) this chapter; and

(ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;

(B) Chapter 2a, Part 2, Drainage District Act;

(C) Chapter 2a, Part 3, Fire Protection District Act;

(D) Chapter 2a, Part 4, Improvement District Act;

(E) Chapter 2a, Part 5, Irrigation District Act;

(F) Chapter 2a, Part 6, Metropolitan Water District Act;

(G) Chapter 2a, Part 7, Mosquito Abatement District Act;

(H) Chapter 2a, Part 8, Public Transit District Act;

(I) Chapter 2a, Part 9, Service Area Act;

(J) Chapter 2a, Part 10, Water Conservancy District Act; or

(K) Chapter 2a, Part 11, Municipal Services District Act.

(31) "Specialized [~~local~~] special district" means a [~~local~~] special district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, a water conservancy district, a municipal services district, or a public infrastructure district.

(32) "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

(33) "Tax and revenue anticipation bond" means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

(34) "Unincorporated" means not included within a municipality.

(35) "Water conservancy district" means a [~~local~~] special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.

(36) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a [~~local~~] special district.

Section 17. Section 17B-1-103 is amended to read:

17B-1-103. Special district status and powers -- Registration as a limited purpose entity.

(1) A [~~local~~] special district:

(a) is:

(i) a body corporate and politic with perpetual succession;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A [~~local~~] special district may:

(a) acquire, by any lawful means, or lease any real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;

(b) acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;

(c) transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);

(d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;

(e) borrow money and incur indebtedness for any lawful district purpose;

(f) issue bonds, including refunding bonds:

(i) for any lawful district purpose; and

(ii) as provided in and subject to [~~Part 11, Local District Bonds~~] Part 11, Special District Bonds;

(g) levy and collect property taxes:

(i) for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and

(ii) as provided in and subject to [~~Part 10, Local District Property Tax Levy~~] Part 10, Special District Property Tax Levy;

(h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;

(i) invest money as provided in Title 51, Chapter 7, State Money Management Act;

(j) (i) impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:

(A) maintaining and operating the district;

(B) acquiring, purchasing, constructing, improving, or enlarging district facilities;

(C) issuing bonds and paying debt service on district bonds; and

(D) providing a reserve established by the board of trustees; and

(ii) take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes;

(k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property;

(l) enter into a contract that the [~~local~~] special district board of trustees considers necessary, convenient, or desirable to carry out the district's purposes, including a contract:

(i) with the United States or any department or agency of the United States;

(ii) to indemnify and save harmless; or

(iii) to do any act to exercise district powers;

(m) purchase supplies, equipment, and materials;

(n) encumber district property upon terms and conditions that the board of trustees considers appropriate;

(o) exercise other powers and perform other functions that are provided by law;

(p) construct and maintain works and establish and maintain facilities, including works or facilities:

(i) across or along any public street or highway, subject to Subsection (3) and if the district:

(A) promptly restores the street or highway, as much as practicable, to its former state of usefulness; and

(B) does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it;

(ii) in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section 53C-1-103, if the director of the School and Institutional Trust Lands Administration, acting under Sections 53C-1-102 and 53C-1-303, consents; or

(iii) across any stream of water or watercourse, subject to Section 73-3-29;

(q) perform any act or exercise any power reasonably necessary for the efficient operation of the [~~local~~] special district in carrying out its purposes;

(r) (i) except for a [~~local~~] special district described in Subsection (2)(r)(ii), designate an assessment area and levy an assessment on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act; or

(ii) for a [~~local~~] special district created to assess a groundwater right in a critical management area described in Subsection 17B-1-202(1), designate an assessment area and levy an assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right to facilitate a groundwater management plan;

(s) contract with another political subdivision of the state to allow the other political subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public;

(t) upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:

(i) (A) with another political subdivision of the state; or

(B) with a public or private owner of property on which the district has a right-of-way or adjacent to which the district owns fee title to property; and

(ii) to allow the use of property:

(A) owned by the district; or

(B) on which the district has a right-of-way; and

(u) if the [~~local~~] special district receives, as determined by the [~~local~~] special district board of trustees, adequate monetary or nonmonetary consideration in return:

(i) provide services or nonmonetary assistance to a nonprofit entity;

(ii) waive fees required to be paid by a nonprofit entity; or

(iii) provide monetary assistance to a nonprofit entity, whether from the [~~local~~] special district's own funds or from funds the [~~local~~] special district receives from the state or any other source.

(3) With respect to a [~~local~~] special district's use of a street or highway, as provided in Subsection (2)(p)(i):

(a) the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:

(i) an excavation and the refilling of an excavation;

(ii) the relaying of pavement; and

(iii) the protection of the public during a construction period; and

(b) the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:

(i) may not require the district to pay a license or permit fee or file a bond; and

(ii) may require the district to pay a reasonable inspection fee.

(4) (a) A [~~local~~] special district may:

(i) acquire, lease, or construct and operate electrical generation, transmission, and distribution facilities, if:

(A) the purpose of the facilities is to harness energy that results inherently from the district's operation of a project or facilities that the district is authorized to operate or from the district providing a service that the district is authorized to provide;

(B) the generation of electricity from the facilities is incidental to the primary operations of the district; and

(C) operation of the facilities will not hinder or interfere with the primary operations of the district;

(ii) (A) use electricity generated by the facilities; or

(B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity.

(b) A district may not act as a retail distributor or seller of electricity.

(c) Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities.

(5) A [~~local~~] special district may adopt and, after adoption, alter a corporate seal.

(6) (a) Each [~~local~~] special district shall register and maintain the [~~local~~] special district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A [~~local~~] special district that fails to comply with Subsection (6)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(7) (a) As used in this Subsection (7), "knife" means a cutting instrument that includes a sharpened or pointed blade.

(b) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a [~~local~~] special district.

(c) Unless specifically authorized by the Legislature by statute, a [~~local~~] special district may not adopt or enforce a regulation or rule pertaining to a knife.

Section 18. Section 17B-1-104 is amended to read:

17B-1-104. Property owner provisions.

(1) For purposes of this title:

(a) the owner of real property shall be:

(i) except as provided in Subsection (1)(a)(ii), the fee title owner according to the records of the county recorder on the date of the filing of the request or petition; or

(ii) for a proposed annexation under Part 4, Annexation, the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and

(b) the value of private real property shall be determined according to the last assessment before the filing of the request or petition, as determined by:

(i) the county under Title 59, Chapter 2, Part 3, County Assessment, for property subject to assessment by the county;

(ii) the State Tax Commission under Title 59, Chapter 2, Part 2, Assessment of Property, for property subject to assessment by the State Tax Commission; or

(iii) the county, for all other property.

(2) For purposes of each provision of this title that requires the owners of private real property covering a percentage of the total private land area within the proposed [~~local~~] special district to sign a request, petition, or protest:

(a) a parcel of real property may not be included in the calculation of the required percentage unless the request or petition is signed by:

(i) except as provided in Subsection (2)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the request or petition with the person's signature; and

(ii) the person provides documentation accompanying the request or petition that reasonably substantiates the person's representative capacity; and

(c) subject to Subsection (2)(b), a duly appointed personal representative may sign a request or petition on behalf of a deceased owner.

Section 19. Section 17B-1-104.5 is amended to read:

17B-1-104.5. Groundwater right owner provisions -- Vote.

(1) For purposes of this title, an owner of a groundwater right, is on the date of the filing of a groundwater right owner petition or groundwater right owner request, the owner according to:

(a) a deed recorded with the county recorder in accordance with Section 73-1-10; or

(b) a water right of record filed in the state engineer's office in accordance with Section 73-1-10.

(2) For purposes of each provision of this title that requires the owners of groundwater rights covering a percentage of the total groundwater rights within the proposed [~~local~~] special district to sign a request, petition, or protest:

(a) a groundwater right may not be included in the calculation of the required percentage unless the request or petition is signed by:

(i) except as provided in Subsection (2)(a)(ii), owners representing a majority ownership interest in that groundwater right; or

(ii) if the groundwater right is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that groundwater right;

(b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the request or petition with the person's signature; and

(ii) the person provides documentation accompanying the request or petition that reasonably substantiates the person's representative capacity; and

(c) subject to Subsection (2)(b), a duly appointed personal representative may sign a request or petition on behalf of the estate of a deceased owner.

(3) For an election by groundwater right owners described in this title, each owner of a groundwater right is entitled to cast one vote.

Section 20. Section 17B-1-105 is amended to read:

17B-1-105. Name of special district -- Name change.

(1) (a) The name of each [~~local~~] special district created on or after May 1, 2000 shall comply with Subsection 17-50-103(2)(a).

(b) The board of each [~~local~~] special district affected by Subsection 17-50-103(2)(b) shall ensure that after January 1, 2005 the [~~local~~] special district name complies with the requirements of [~~that~~] Subsection 17-50-103(2)(b).

(2) The name of a [~~local~~] special district created after April 30, 2007 may not include the name of a county or municipality.

(3) The name of a [~~local~~] special district may include words descriptive of the type of service that the district provides.

(4) (a) A [~~local~~] special district board may change the name of that [~~local~~] special district as provided in this Subsection (4).

(b) To initiate a name change, the [~~local~~] special district board shall:

(i) hold a public hearing on the proposed name change;

(ii) adopt a resolution approving the name change; and

(iii) file with the lieutenant governor a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).

(c) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the [~~local~~] special district board shall:

(i) if the [~~local~~] special district is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending name change; and

(II) certificate of name change; and

(B) a certified copy of the resolution approving the name change; or

(ii) if the [~~local~~] special district is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (4)(c)(i)(A)(I) and (II); and

(II) a certified copy of the resolution approving the name change; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (4)(c)(i)(A)(I) and (II); and

(II) a certified copy of the resolution approving the name change.

(d) (i) A name change under this Subsection (4) becomes effective upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7.

(ii) Notwithstanding Subsection (4)(d)(i), the [~~local~~] special district may not operate under the new name until the documents listed in Subsection (4)(c) are recorded in the office of the recorder of each county in which the [~~local~~] special district is located.

Section 21. Section 17B-1-106 is amended to read:

17B-1-106. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, [~~local~~] special district under this title, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(B) that has filed with the [~~local~~] special district a copy of the general or long-range plan of the county, municipality, [~~local~~] special district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the [~~local~~] special district that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a [~~local~~] special district under this title located in a county of the first or second class prepares a long-range plan regarding the [~~local~~] special district's facilities proposed for the future or amends an already existing long-range plan, the [~~local~~] special district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of the [~~local~~] special district's intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the [~~local~~] special district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Utah Geospatial Resource Center created in Section 63A-16-505;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) (I) placed on the Utah Public Notice Website created under Section 63A-16-601, if the [~~local~~] special district:

(Aa) is required under Subsection 52-4-203(3) to use that website to provide public notice of a meeting; or

(Bb) voluntarily chooses to place notice on that website despite not being required to do so under Subsection (2)(b)(iii)(E)(I)(Aa); or

(II) the state planning coordinator appointed under Section 63J-4-401, if the [~~local~~] special district does not provide notice on the Utah Public Notice Website under Subsection (2)(b)(iii)(E)(I);

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the [~~local~~] special district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the [~~local~~] special district has one, and the name and telephone number of an individual where more information can be obtained concerning the [~~local~~] special district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each [~~local~~] special district intending to acquire real property in a county of the first or second class for the purpose of expanding the [~~local~~] special district's infrastructure or other facilities used for providing the services that the [~~local~~] special district is authorized to provide shall provide written notice, as provided in this Subsection (3), of the [~~local~~] special district's intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the [~~local~~] special district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the [~~local~~] special district

previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a [~~local~~] special district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the [~~local~~] special district shall provide the notice specified in Subsection (3)(a) as soon as practicable after the [~~local~~] special district's acquisition of the real property.

Section 22. Section 17B-1-107 is amended to read:

17B-1-107. Recording a release of lien.

If a [~~local~~] special district records a lien upon real property or a groundwater right for an unpaid assessment by the owner and the owner then pays the assessment in full, including, subject to Section 17B-1-902.1, any interest and administrative costs, the [~~local~~] special district recording the lien shall record the release of the lien.

Section 23. Section 17B-1-110 is amended to read:

17B-1-110. Compliance with nepotism requirements.

Each [~~local~~] special district shall comply with Title 52, Chapter 3, Prohibiting Employment of Relatives.

Section 24. Section 17B-1-111 is amended to read:

17B-1-111. Impact fee resolution -- Notice and hearing requirements.

(1) (a) If a [~~local~~] special district wishes to impose impact fees, the board of trustees of the [~~local~~] special district shall:

(i) prepare a proposed impact fee resolution that meets the requirements of Title 11, Chapter 36a, Impact Fees Act;

(ii) make a copy of the impact fee resolution available to the public at least 14 days before the date of the public hearing and hold a public hearing on the proposed impact fee resolution; and

(iii) provide reasonable notice of the public hearing at least 14 days before the date of the hearing.

(b) After the public hearing, the board of trustees may:

(i) adopt the impact fee resolution as proposed;

(ii) amend the impact fee resolution and adopt or reject it as amended; or

(iii) reject the resolution.

(2) A [~~local~~] special district meets the requirements of reasonable notice required by this section if it:

(a) posts notice of the hearing or meeting in at least three public places within the jurisdiction; or

(b) gives actual notice of the hearing or meeting.

(3) The [~~local~~] special district's board of trustees may enact a resolution establishing stricter notice requirements than those required by this section.

(4) (a) Proof that one of the two forms of notice required by this section was given is prima facie evidence that notice was properly given.

(b) If notice given under authority of this section is not challenged within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

Section 25. Section 17B-1-113 is amended to read:

17B-1-113. Liability insurance.

(1) Each [~~local~~] special district with an annual operating budget of $50,000 or more shall obtain liability insurance as considered appropriate by the [~~local~~] special district board.

(2) Each [~~local~~] special district with an annual operating budget of less than $50,000 is not required to obtain liability insurance, but liability insurance is encouraged, as considered appropriate by the [~~local~~] special district board.

Section 26. Section 17B-1-114 is amended to read:

17B-1-114. Special district property taxes on a parity with general taxes.

Unless otherwise specifically provided by statute, property taxes levied by a [~~local~~] special district shall constitute a lien on the property on a parity with and collectible at the same time and in the same manner as general county taxes that are a lien on the property.

Section 27. Section 17B-1-115 is amended to read:

17B-1-115. Validation of previously created special districts -- Continuation of certain special districts under this chapter -- Providing a previously authorized service.

(1) Each [~~local~~] special district created before April 30, 2007 under the law in effect at the time of the creation is declared to be validly and legally constituted.

(2) An entity created and operating under the law in effect before April 30, 2007 as a [~~local~~] special district but not as a cemetery maintenance district, drainage district, fire protection district, improvement district, irrigation district, metropolitan water district, mosquito abatement district, public transit district, service area, or water conservancy district shall continue on and after April 30, 2007 as a [~~local~~] special district subject to the provisions of this chapter but not subject to the provisions of [~~Chapter 2a, Provisions Applicable to Different Types of Local Districts~~] Chapter 2a, Provisions Applicable to Different Types of Special Districts.

(3) Nothing in this title may be construed to prohibit or limit a [~~local~~] special district from providing on or after April 30, 2007 a service that it was authorized before that date to provide.

Section 28. Section 17B-1-116 is amended to read:

17B-1-116. Property exempt from taxation and execution.

All property and assets of a [~~local~~] special district are exempt from taxation and exempt from execution.

Section 29. Section 17B-1-118 is amended to read:

17B-1-118. Special district hookup fee -- Preliminary design or site plan from a specified public agency.

(1) As used in this section:

(a) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a [~~local~~] special district water, sewer, storm water, power, or other utility system.

(b) "Impact fee" has the same meaning as defined in Section 11-36a-102.

(c) "Specified public agency" means:

(i) the state;

(ii) a school district; or

(iii) a charter school.

(d) "State" includes any department, division, or agency of the state.

(2) A [~~local~~] special district may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the [~~local~~] special district water, sewer, storm water, power, or other utility system.

(3) (a) A specified public agency intending to develop its land shall submit a development plan and schedule to each [~~local~~] special district from which the specified public agency anticipates the development will receive service:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the [~~local~~] special district to assess:

(A) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(B) the amount of any hookup fees, or impact fees or substantive equivalent;

(C) any credit against an impact fee; and

(D) the potential for waiving an impact fee.

(b) The [~~local~~] special district shall respond to a specified public agency's submission under Subsection (3)(a) with reasonable promptness in order to allow the specified public agency to consider information the [~~local~~] special district provides under Subsection (3)(a)(ii) in the process of preparing the budget for the development.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection (3) that complies with the requirements of that subsection, the specified public agency vests in the [~~local~~] special district's hookup fees and impact fees in effect on the date of submission.

Section 30. Section 17B-1-119 is amended to read:

17B-1-119. Duty to comply with local land use provisions.

A [~~local~~] special district shall comply with Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, and Title 17, Chapter 27a, County Land Use, Development, and Management Act, as applicable, if a land use authority consults with or allows the [~~local~~] special district to participate in any way in a land use authority's land use development review or approval process.

Section 31. Section 17B-1-120 is amended to read:

17B-1-120. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A [~~local~~] special district may impose an exaction on a service received by an applicant, including, subject to Subsection (2), an exaction for a water interest if:

(a) the [~~local~~] special district establishes that a legitimate [~~local~~] special district interest makes the exaction essential; and

(b) the exaction is roughly proportionate, both in nature and extent, to the impact of the proposed service on the [~~local~~] special district.

(2) (a) (i) A [~~local~~] special district shall base an exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) If requested by a service applicant, the culinary authority shall provide the basis for the culinary water authority's calculations described in Subsection (2)(a)(i).

(b) A [~~local~~] special district may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined in accordance with Section 73-1-4.

(3) (a) If a [~~local~~] special district plans to dispose of surplus real property that was acquired under this section and has been owned by the [~~local~~] special district for less than 15 years, the [~~local~~] special district shall offer to reconvey the surplus real property, without receiving additional consideration, first to a person who granted the real property to the [~~local~~] special district.

(b) The person described in Subsection (3)(a) shall, within 90 days after the day on which a [~~local~~]

special district makes an offer under Subsection (3)(a), accept or reject the offer.

(c) If a person rejects an offer under Subsection (3)(b), the [~~local~~] special district may sell the real property.

Section 32. Section 17B-1-121 is amended to read:

17B-1-121. Limit on fees -- Requirement to itemize and account for fees -- Appeals.

(1) A [~~local~~] special district may not impose or collect:

(a) an application fee that exceeds the reasonable cost of processing the application; or

(b) an inspection or review fee that exceeds the reasonable cost of performing an inspection or review.

(2) (a) Upon request by a service applicant who is charged a fee or an owner of residential property upon which a fee is imposed, a [~~local~~] special district shall provide a statement of each itemized fee and calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for a statement of each itemized fee no later than 30 days after the day on which the applicant or owner pays the fee, the [~~local~~] special district shall, no later than 10 days after the day on which the request is received, provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the [~~local~~] special district to create the calculation method described in Subsection (2)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed by the [~~local~~] special district; and

(iv) information on filing a fee appeal through the process described in Subsection (2)(c).

(c) (i) A [~~local~~] special district shall establish an impartial fee appeal process to determine whether a fee reflects only the reasonable estimated cost of delivering the service for which the fee was paid.

(ii) A party to a fee appeal described in Subsection (2)(c)(i) may petition for judicial review of the [~~local~~] special district's final decision.

(3) A [~~local~~] special district may not impose on or collect from a public agency a fee associated with the public agency's development of the public agency's land other than:

(a) subject to Subsection (1), a hookup fee; or

(b) an impact fee, as defined in Section 11-36a-102 and subject to Section 11-36a-402, for a public facility listed in Subsection 11-36a-102(17)(a), (b), (c), (d), (e), or (g).

Section 33. Section 17B-1-201 is amended to read:

Part 2. Creation of a Special District

17B-1-201. Definitions.

As used in this part:

(1) "Applicable area" means:

(a) for a county, the unincorporated area of the county that is included within the proposed [~~local~~] special district; or

(b) for a municipality, the area of the municipality that is included within the proposed [~~local~~] special district.

(2) "Governing body" means:

(a) for a county or municipality, the legislative body of the county or municipality; and

(b) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district.

(3) "Groundwater right owner petition" means a petition under Subsection 17B-1-203(1)(c).

(4) "Groundwater right owner request" means a request under Section 17B-1-204 that is signed by owners of water rights as provided in Subsection 17B-1-204(2)(b)(ii).

(5) "Initiating [~~local~~] special district" means a [~~local~~] special district that adopts a resolution proposing the creation of a [~~local~~] special district under Subsection 17B-1-203(1)(e).

(6) "Petition" means a petition under Subsection 17B-1-203(1)(a), (b), or (c).

(7) "Property owner petition" means a petition under Subsection 17B-1-203(1)(a).

(8) "Property owner request" means a request under Section 17B-1-204 that is signed by owners of real property as provided in Subsection 17B-1-204(2)(b)(i).

(9) "Registered voter request" means a request under Section 17B-1-204 that is signed by registered voters as provided in Subsection 17B-1-204(2)(b)(iii).

(10) "Registered voter petition" means a petition under Subsection 17B-1-203(1)(b).

(11) "Request" means a request as described in Section 17B-1-204.

(12) "Responsible body" means the governing body of:

(a) the municipality in which the proposed [~~local~~] special district is located, if the petition or resolution proposes the creation of a [~~local~~] special district located entirely within a single municipality;

(b) the county in which the proposed [~~local~~] special district is located, if the petition or resolution proposes the creation of a [~~local~~] special district located entirely within a single county and all or part of the proposed [~~local~~] special district is located within:

(i) the unincorporated part of the county; or

(ii) more than one municipality within the county;

(c) if the petition or resolution proposes the creation of a [~~local~~] special district located within more than one county, the county whose boundaries include more of the area of the proposed [~~local~~] special district than is included within the boundaries of any other county; or

(d) the initiating [~~local~~] special district, if a resolution proposing the creation of a [~~local~~] special district is adopted under Subsection 17B-1-203(1)(e).

(13) "Responsible clerk" means the clerk of the county or the clerk or recorder of the municipality whose legislative body is the responsible body.

Section 34. Section 17B-1-202 is amended to read:

17B-1-202. Special district may be created -- Services that may be provided -- Limitations.

(1) (a) A [~~local~~] special district may be created as provided in this part to provide within its boundaries service consisting of:

(i) the operation of an airport;

(ii) the operation of a cemetery;

(iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

(iv) garbage collection and disposal;

(v) health care, including health department or hospital service;

(vi) the operation of a library;

(vii) abatement or control of mosquitos and other insects;

(viii) the operation of parks or recreation facilities or services;

(ix) the operation of a sewage system;

(x) the construction and maintenance of a right-of-way, including:

(A) a curb;

(B) a gutter;

(C) a sidewalk;

(D) a street;

(E) a road;

(F) a water line;

(G) a sewage line;

(H) a storm drain;

(I) an electricity line;

(J) a communications line;

(K) a natural gas line; or

(L) street lighting;

(xi) transportation, including public transit and providing streets and roads;

(xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;

(xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;

(xiv) law enforcement service;

(xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;

(xvi) the control or abatement of earth movement or a landslide;

(xvii) the operation of animal control services and facilities; or

(xviii) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(b) Each [~~local~~] special district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a [~~local~~] special district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.

(i) A [~~local~~] special district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).

(ii) A groundwater right held by a [~~local~~] special district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

(iii) (A) A [~~local~~] special district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).

(B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.

(iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the [~~local~~] special district is subject to Section 73-1-4.

(v) A [~~local~~] special district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

(2) [~~For purposes of~~] As used in this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.

(3) (a) A [~~local~~] special district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).

(b) Subsection (3)(a) may not be construed to prohibit a [~~local~~] special district from providing more than four services if, before April 30, 2007, the [~~local~~] special district was authorized to provide those services.

(4) (a) Except as provided in Subsection (4)(b), a [~~local~~] special district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a [~~local~~] special district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

(i) sewage system; or

(ii) water system.

(5) (a) Except for a [~~local~~] special district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a [~~local~~] special district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a [~~local~~] special district need not be contiguous.

(6) For a [~~local~~] special district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

(a) paramedic service; and

(b) emergency service, including hazardous materials response service.

(7) A [~~local~~] special district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.

(8) A [~~local~~] special district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.

(9) A [~~local~~] special district may not be created under this chapter for two years after the date on which a [~~local~~] special district is dissolved as provided in Section 17B-1-217 if the [~~local~~] special district proposed for creation:

(a) provides the same or a substantially similar service as the dissolved [~~local~~] special district; and

(b) is located in substantially the same area as the dissolved [~~local~~] special district.

Section 35. Section 17B-1-203 is amended to read:

17B-1-203. Process to initiate the creation of a special district -- Petition or resolution.

(1) The process to create a [~~local~~] special district may be initiated by:

(a) unless the proposed [~~local~~] special district is a [~~local~~] special district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of private real property that:

(i) is located within the proposed [~~local~~] special district;

(ii) covers at least 33% of the total private land area within the proposed [~~local~~] special district as a whole and within each applicable area;

(iii) is equal in value to at least 25% of the value of all private real property within the proposed [~~local~~] special district as a whole and within each applicable area; and

(iv) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(b) subject to Section 17B-1-204, a petition that:

(i) is signed by registered voters residing within the proposed [~~local~~] special district as a whole and within each applicable area, equal in number to at least 33% of the number of votes cast in the proposed [~~local~~] special district as a whole and in each applicable area, respectively, for the office of governor at the last regular general election prior to the filing of the petition; and

(ii) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(c) if the proposed [~~local~~] special district is a [~~local~~] special district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of groundwater rights that:

(i) are diverted within the proposed [~~local~~] special district;

(ii) cover at least 33% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed [~~local~~] special district as a whole and within each applicable area; and

(iii) comply with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(d) a resolution proposing the creation of a [~~local~~] special district, adopted by the legislative body of each county whose unincorporated area, whether in whole or in part, includes and each municipality whose boundaries include any of the proposed [~~local~~] special district; or

(e) a resolution proposing the creation of a [~~local~~] special district, adopted by the board of trustees of an existing [~~local~~] special district whose boundaries completely encompass the proposed [~~local~~] special district, if:

(i) the proposed [~~local~~] special district is being created to provide one or more components of the same service that the initiating [~~local~~] special district is authorized to provide; and

(ii) the initiating [~~local~~] special district is not providing to the area of the proposed [~~local~~] special district any of the components that the proposed [~~local~~] special district is being created to provide.

(2) (a) Each resolution under Subsection (1)(d) or (e) shall:

(i) describe the area proposed to be included in the proposed [~~local~~] special district;

(ii) be accompanied by a map that shows the boundaries of the proposed [~~local~~] special district;

(iii) describe the service proposed to be provided by the proposed [~~local~~] special district;

(iv) if the resolution proposes the creation of a specialized [~~local~~] special district, specify the type of specialized [~~local~~] special district proposed to be created;

(v) explain the anticipated method of paying the costs of providing the proposed service;

(vi) state the estimated average financial impact on a household within the proposed [~~local~~] special district;

(vii) state the number of members that the board of trustees of the proposed [~~local~~] special district will have, consistent with the requirements of Subsection 17B-1-302(4);

(viii) for a proposed basic [~~local~~] special district:

(A) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;

(B) if one or more members will be elected, state the basis upon which each elected member will be elected; and

(C) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;

(ix) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; and

(x) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:

(A) the county legislative body;

(B) appointed as provided in Section 17B-1-304; or

(C) elected as provided in Section 17B-1-306.

(b) Each county or municipal legislative body adopting a resolution under Subsection (1)(d) shall, on or before the first public hearing under Section 17B-1-210, mail or deliver a copy of the resolution to the responsible body if the county or municipal legislative body's resolution is one of multiple resolutions adopted by multiple county or municipal legislative bodies proposing the creation of the same [~~local~~] special district.

Section 36. Section 17B-1-204 is amended to read:

17B-1-204. Request for service required before filing of petition -- Request requirements.

(1) A petition may not be filed until after:

(a) a request has been filed with:

(i) the clerk of each county in whose unincorporated area any part of the proposed [~~local~~] special district is located; and

(ii) the clerk or recorder of each municipality in which any part of the proposed [~~local~~] special district is located; and

(b) each county and municipality with which a request under Subsection (1)(a) is filed:

(i) has adopted a resolution under Subsection 17B-1-212(1) indicating whether it will provide the requested service; or

(ii) is considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).

(2) Each request under Subsection (1)(a) shall:

(a) ask the county or municipality to provide the service proposed to be provided by the proposed [~~local~~] special district within the applicable area; and

(b) be signed by:

(i) unless the request is a request to create a [~~local~~] special district to acquire or assess a groundwater right under Section 17B-1-202, the owners of private real property that:

(A) is located within the proposed [~~local~~] special district;

(B) covers at least 10% of the total private land area within the applicable area; and

(C) is equal in value to at least 7% of the value of all private real property within the applicable area;

(ii) if the request is a request to create a [~~local~~] special district to acquire or assess a groundwater right under Section 17B-1-202, the owners of groundwater rights that:

(A) are diverted within the proposed [~~local~~] special district; and

(B) cover at least 10% of the amount of groundwater diverted in accordance with groundwater rights within the applicable area; or

(iii) registered voters residing within the applicable area equal in number to at least 10% of the number of votes cast in the applicable area for the office of governor at the last general election prior to the filing of the request.

(3) For purposes of Subsections (1) and (2), an area proposed to be annexed to a municipality in a petition under Section 10-2-403 filed before and still pending at the time of filing of a petition shall be considered to be part of that municipality.

Section 37. Section 17B-1-205 is amended to read:

17B-1-205. Petition and request requirements -- Withdrawal of signature.

(1) Each petition and request shall:

(a) indicate the typed or printed name and current residence address of each property owner, groundwater right owner, or registered voter signing the petition;

(b) (i) if it is a property owner request or petition, indicate the address of the property as to which the owner is signing the request or petition; or

(ii) if it is a groundwater right owner request or petition, indicate the location of the diversion of the groundwater as to which the owner is signing the groundwater right owner request or petition;

(c) describe the entire area of the proposed [~~local~~] special district;

(d) be accompanied by a map showing the boundaries of the entire proposed [~~local~~] special district;

(e) specify the service proposed to be provided by the proposed [~~local~~] special district;

(f) if the petition or request proposes the creation of a specialized [~~local~~] special district, specify the type of specialized [~~local~~] special district proposed to be created;

(g) for a proposed basic [~~local~~] special district:

(i) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;

(ii) if one or more members will be elected, state the basis upon which each elected member will be elected; and

(iii) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;

(h) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; and

(i) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:

(i) the county legislative body;

(ii) appointed as provided in Section 17B-1-304; or

(iii) elected as provided in Section 17B-1-306;

(j) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(k) if the petition or request is a groundwater right owner petition or request proposing the creation of a [~~local~~] special district to acquire a groundwater right under Section 17B-1-202, explain the anticipated method:

(i) of paying for the groundwater right acquisition; and

(ii) of addressing blowing dust created by the reduced use of water; and

(l) if the petition or request is a groundwater right owner petition or request proposing the creation of a [~~local~~] special district to assess a groundwater right under Section 17B-1-202, explain the anticipated method:

(i) of assessing the groundwater right and securing payment of the assessment; and

(ii) of addressing blowing dust created by the reduced use of water.

(2) A signer of a request or petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the request or petition by filing a written withdrawal or reinstatement with:

(a) in the case of a request:

(i) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the

signer's property is located, if the request is a property owner request;

(ii) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's groundwater diversion point is located, if the request is a groundwater right owner request; or

(iii) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer resides, if the request is a registered voter request; or

(b) in the case of a petition, the responsible clerk.

Section 38. Section 17B-1-207 is amended to read:

17B-1-207. Signature on request may be used on petition.

A signature on a request may be used toward fulfilling the signature requirement of a petition:

(1) if the request notifies the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition to create a [~~local~~] special district; and

(2) unless the signer files a written withdrawal of the signature before the petition is filed.

Section 39. Section 17B-1-208 is amended to read:

17B-1-208. Additional petition requirements and limitations.

(1) Each petition shall:

(a) be filed with the responsible clerk;

(b) separately group signatures by county and municipality, so that all signatures of the owners of real property located within or of registered voters residing within each county whose unincorporated area includes and each municipality whose boundaries include part of the proposed [~~local~~] special district are grouped separately; and

(c) state the number of members that the board of trustees of the proposed [~~local~~] special district will have, consistent with the requirements of Subsection 17B-1-302(4).

(2) (a) A petition may not propose the creation of a [~~local~~] special district that includes an area located within the unincorporated part of a county or within a municipality if the legislative body of that county or municipality has adopted a resolution under Subsection 17B-1-212(1) indicating that the county or municipality will provide to that area the service proposed to be provided by the proposed [~~local~~] special district.

(b) Subsection (2)(a) does not apply if the county or municipal legislative body is considered to have declined to provide the requested service under Subsection 17B-1-212(3).

(c) Subsection (2)(a) may not be construed to prevent the filing of a petition that proposes the creation of a [~~local~~] special district whose area excludes that part of the unincorporated area of a county or that part of a municipality to which the county or municipality has indicated, in a resolution adopted under Section 17B-1-212, it will provide the requested service.

(3) A petition may not propose the creation of a [~~local~~] special district whose area includes:

(a) some or all of an area described in a previously filed petition that, subject to Subsection 17B-1-202(4)(b):

(i) proposes the creation of a [~~local~~] special district to provide the same service as proposed by the later filed petition; and

(ii) is still pending at the time the later petition is filed; or

(b) some or all of an area within a political subdivision that provides in that area the same service proposed to be provided by the proposed [~~local~~] special district.

(4) A petition may not be filed more than 12 months after a county or municipal legislative body declines to provide the requested service under Subsection 17B-1-212(1) or is considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).

Section 40. Section 17B-1-209 is amended to read:

17B-1-209. Petition certification -- Amended petition.

(1) No later than five days after the day on which a petition is filed, the responsible clerk shall mail a copy of the petition to the clerk of each other county and the clerk or recorder of each municipality in which any part of the proposed [~~local~~] special district is located.

(2) (a) No later than 35 days after the day on which a petition is filed, the clerk of each county whose unincorporated area includes and the clerk or recorder of each municipality whose boundaries include part of the proposed [~~local~~] special district shall:

(i) with the assistance of other county or municipal officers from whom the county clerk or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's respective county or municipality, whether the petition complies with the requirements of Subsection 17B-1-203(1)(a), (b), or (c), as the case may be, and Subsections 17B-1-208(2), (3), and (4); and

(ii) notify the responsible clerk in writing of the clerk or recorder's determination under Subsection (2)(a)(i).

(b) The responsible clerk may rely on the determinations of other county clerks or municipal clerks or recorders under Subsection (2)(a) in making the responsible clerk's determinations and certification or rejection under Subsection (3).

(3) (a) Within 45 days after the filing of a petition, the responsible clerk shall:

(i) determine whether the petition complies with Subsection 17B-1-203(1)(a), (b), or (c), as the case

may be, Subsection 17B-1-205(1), and Section 17B-1-208; and

(ii) (A) if the responsible clerk determines that the petition complies with the applicable requirements:

(I) (Aa) certify the petition and deliver the certified petition to the responsible body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) for each petition described in Subsection (3)(b)(i), deliver a copy of the petition to the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed basic [~~local~~] special district, with a notice indicating that the clerk has determined that the petition complies with applicable requirements; or

(B) if the responsible clerk determines that the petition fails to comply with any of the applicable requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(b) (i) A petition for which an election is not required under Subsection 17B-1-214(3) and that proposes the creation of a basic [~~local~~] special district that has within its boundaries fewer than one residential dwelling unit per 10 acres of land may not be certified without the approval, by resolution, of the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed [~~local~~] special district.

(ii) Before adopting a resolution giving its approval under Subsection (3)(b)(i), a county or municipal legislative body may hold one or more public hearings on the petition.

(iii) If a petition described in Subsection (3)(b)(i) is approved as provided in that subsection, the responsible clerk shall, within 10 days after its approval:

(A) certify the petition and deliver the certified petition to the responsible body; and

(B) mail or deliver written notification of the certification to the contact sponsor.

(4) Except for a petition described in Subsection (3)(b)(i), if the responsible clerk fails to certify or reject a petition within 45 days after its filing, the petition shall be considered to be certified.

(5) The responsible clerk shall certify or reject petitions in the order in which they are filed.

(6) (a) If the responsible clerk rejects a petition under Subsection (3)(a)(ii)(B), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (3)(a)(ii)(B) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (6)(a).

(c) If a petition is amended and refiled under Subsection (6)(a) after having been rejected by the responsible clerk under Subsection (3)(a)(ii)(B), the amended petition shall be considered as newly filed, and its processing priority shall be determined by the date on which it is refiled.

(7) The responsible clerk and each county clerk and municipal clerk or recorder shall act in good faith in making the determinations under this section.

Section 41. Section 17B-1-210 is amended to read:

17B-1-210. Public hearing.

(1) The legislative body of each county and municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each [~~local~~] special district that adopts a resolution under Subsection 17B-1-203(1)(e) shall hold a public hearing or a set of public hearings, sufficient in number and location to ensure that no substantial group of residents of the proposed [~~local~~] special district need travel an unreasonable distance to attend a public hearing.

(2) Each public hearing under Subsection (1) shall be held:

(a) no later than 45 days after:

(i) for a public hearing on a request, certification of a request under Subsection 17B-1-206(1)(b)(i); or

(ii) for a public hearing on a resolution, adoption of a resolution under Subsection 17B-1-203(1)(d) or (e);

(b) within the proposed [~~local~~] special district;

(c) except as provided in Subsections (6) and (7), within the applicable area; and

(d) for the purpose of:

(i) for a public hearing on a request, allowing public input on:

(A) whether the requested service is needed in the area of the proposed [~~local~~] special district;

(B) whether the service should be provided by the county or municipality or the proposed [~~local~~] special district; and

(C) all other matters relating to the request or the proposed [~~local~~] special district; or

(ii) for a public hearing on a resolution, allowing the public to ask questions of and obtain further information from the governing body holding the hearing regarding the issues contained in or raised by the resolution.

(3) A quorum of each governing body holding a public hearing under this section shall be present throughout each hearing held by that governing body.

(4) Each hearing under this section shall be held on a weekday evening other than a holiday beginning no earlier than 6 p.m.

(5) At the beginning and end of each hearing concerning a resolution, the governing body shall announce the deadline for filing protests and generally explain the protest procedure and requirements.

(6) Two or more county or municipal legislative bodies may jointly hold a hearing or set of hearings required under this section if all the requirements of this section, other than the requirements of Subsection (2)(c), are met as to each hearing.

(7) Notwithstanding Subsection (2)(c), a governing body may hold a public hearing or set of public hearings outside the applicable area if:

(a) there is no reasonable place to hold a public hearing within the applicable area; and

(b) the public hearing or set of public hearings is held as close to the applicable area as reasonably possible.

Section 42. Section 17B-1-211 is amended to read:

17B-1-211. Notice of public hearings -- Publication of resolution.

(1) Before holding a public hearing or set of public hearings under Section 17B-1-210, the legislative body of each county or municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each [~~local~~] special district that adopts a resolution under Subsection 17B-1-203(1)(e) shall:

(a) (i) in accordance with Subsection (2), post at least one notice per 1,000 population of the applicable area and at places within the area that are most likely to provide actual notice to residents of the area; and

(ii) publish notice on the Utah Public Notice Website created in Section 63A-16-601, for two weeks before the hearing or the first of the set of hearings; or

(b) mail a notice to each registered voter residing within and each owner of real property located within the proposed [~~local~~] special district.

(2) Each notice required under Subsection (1) shall:

(a) if the hearing or set of hearings is concerning a resolution:

(i) contain the entire text or an accurate summary of the resolution; and

(ii) state the deadline for filing a protest against the creation of the proposed [~~local~~] special district;

(b) clearly identify each governing body involved in the hearing or set of hearings;

(c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and

(d) describe or include a map of the entire proposed [~~local~~] special district.

(3) County or municipal legislative bodies may jointly provide the notice required under this section if all the requirements of this section are met as to each notice.

Section 43. Section 17B-1-212 is amended to read:

17B-1-212. Resolution indicating whether the requested service will be provided.

(1) (a) Within 60 days after the last hearing required under Section 17B-1-210 concerning a request, the legislative body of each county whose unincorporated area includes and the legislative body of each municipality whose boundaries include any part of the proposed [~~local~~] special district shall adopt a resolution indicating whether the county or municipality will provide to the area of the proposed [~~local~~] special district within its boundaries the service proposed to be provided by the proposed [~~local~~] special district.

(b) If a county or municipality adopts a resolution indicating that the county or municipality will provide the service proposed to be provided by the proposed [~~local~~] special district under Subsection (1)(a), the resolution shall include a reasonable timeline for the county or municipality to begin providing the service.

(2) If the legislative body of a county or municipality fails to adopt a resolution within the time provided under Subsection (1), the county or municipal legislative body shall be considered to have declined to provide the service requested and to have consented to the creation of the [~~local~~] special district.

(3) If the county or municipality adopts a resolution under Subsection (1) indicating that it will provide the requested service but does not, within 120 days after the adoption of that resolution, take substantial measures to provide the requested service, the county or municipal legislative body shall be considered to have declined to provide the requested service.

(4) Each county or municipality that adopts a resolution under Subsection (1) indicating that it will provide the requested service:

(a) shall diligently proceed to take all measures necessary to provide the service; and

(b) if the county or municipality fails to timely provide the requested service, the county will be considered to have declined to provide the service and the creation of the [~~local~~] special district may proceed accordingly.

Section 44. Section 17B-1-213 is amended to read:

17B-1-213. Protest after adoption of resolution -- Adoption of resolution approving creation for certain districts.

(1) For purposes of this section, "adequate protests" means protests that are:

(a) filed with the county clerk, municipal clerk or recorder, or [~~local~~] special district secretary or clerk, as the case may be, within 60 days after the last public hearing required under Section 17B-1-210; and

(b) signed by:

(i) the owners of private real property that:

(A) is located within the proposed [~~local~~] special district;

(B) covers at least 25% of the total private land area within the applicable area; and

(C) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(ii) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution.

(2) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1)(a).

(3) If adequate protests are filed, the governing body that adopted a resolution under Subsection 17B-1-203(1)(d) or (e):

(a) may not:

(i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the applicable area;

(ii) take any further action under the protested resolution to create a [~~local~~] special district or include the applicable area in a [~~local~~] special district; or

(iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)(d) or (e) proposing the creation of a [~~local~~] special district including substantially the same area as the applicable area and providing the same service as the proposed [~~local~~] special district in the protested resolution; and

(b) shall, within five days after receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.

(4) Subsection (3)(a) may not be construed to prevent an election from being held for a proposed [~~local~~] special district whose boundaries do not include an applicable area that is the subject of adequate protests.

(5) (a) If adequate protests are not filed with respect to a resolution proposing the creation of a [~~local~~] special district for which an election is not required under Subsection 17B-1-214(3)(d), (e), (f), or (g), a resolution approving the creation of the [~~local~~] special district shall be adopted by:

(i) (A) the legislative body of a county whose unincorporated area is included within the proposed [~~local~~] special district; and

(B) the legislative body of a municipality whose area is included within the proposed [~~local~~] special district; or

(ii) the board of trustees of the initiating [~~local~~] special district.

(b) Each resolution adopted under Subsection (5)(a) shall:

(i) describe the area included in the [~~local~~] special district;

(ii) be accompanied by a map that shows the boundaries of the [~~local~~] special district;

(iii) describe the service to be provided by the [~~local~~] special district;

(iv) state the name of the [~~local~~] special district; and

(v) provide a process for the appointment of the members of the initial board of trustees.

Section 45. Section 17B-1-214 is amended to read:

17B-1-214. Election -- Exceptions.

(1) (a) Except as provided in Subsection (3) and in Subsection 17B-1-213(3)(a), an election on the question of whether the [~~local~~] special district should be created shall be held by:

(i) if the proposed [~~local~~] special district is located entirely within a single county, the responsible clerk; or

(ii) except as provided under Subsection (1)(b), if the proposed [~~local~~] special district is located within more than one county, the clerk of each county in which part of the proposed [~~local~~] special district is located, in cooperation with the responsible clerk.

(b) Notwithstanding Subsection (1)(a)(ii), if the proposed [~~local~~] special district is located within more than one county and the only area of a county that is included within the proposed [~~local~~] special district is located within a single municipality, the election for that area shall be held by the municipal clerk or recorder, in cooperation with the responsible clerk.

(2) Each election under Subsection (1) shall be held at the next special or regular general election date that is:

(a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under Subsection 17B-1-209(3)(a); or

(b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section 17B-1-210.

(3) The election requirement of Subsection (1) does not apply to:

(a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the owners of private real property that:

(i) is located within the proposed [~~local~~] special district;

(ii) covers at least 67% of the total private land area within the proposed [~~local~~] special district as a whole and within each applicable area; and

(iii) is equal in value to at least 50% of the value of all private real property within the proposed [~~local~~] special district as a whole and within each applicable area;

(b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of registered voters residing within the proposed [~~local~~] special district as a whole and within each applicable area, equal in number to at least 67% of the number of votes cast in the proposed [~~local~~] special district as a whole and in each applicable area, respectively, for the office of governor at the last general election prior to the filing of the petition;

(c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the petition contains the signatures of the owners of groundwater rights that:

(i) are diverted within the proposed [~~local~~] special district; and

(ii) cover at least 67% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed [~~local~~] special district as a whole and within each applicable area;

(d) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 5, 2003, that proposes the creation of a [~~local~~] special district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed [~~local~~] special district:

(i) includes the unincorporated area, whether in whole or in part, of one or more counties; or

(ii) consists of an area that:

(A) has a boundary that is the same as the boundary of the municipality whose legislative body adopts the resolution proposing the creation of the [~~local~~] special district;

(B) previously received fire protection, paramedic, and emergency services or law enforcement service from another [~~local~~] special district; and

(C) may be withdrawn from the other [~~local~~] special district under Section 17B-1-505 without an election because the withdrawal is pursuant to an agreement under Subsection 17B-1-505(5)(a)(ii)(A) or (5)(b);

(e) a resolution adopted under Subsection 17B-1-203(1)(d) or (e) if the resolution proposes the creation of a [~~local~~] special district that has no registered voters within its boundaries;

(f) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 11, 2010, that proposes the creation of a [~~local~~] special district described in Subsection 17B-1-202(1)(a)(xiii); or

(g) a resolution adopted under Section 17B-2a-1105 to create a municipal services district.

(4) (a) If the proposed [~~local~~] special district is located in more than one county, the responsible clerk shall coordinate with the clerk of each other county and the clerk or recorder of each municipality involved in an election under Subsection (1) so that the election is held on the same date and in a consistent manner in each jurisdiction.

(b) The clerk of each county and the clerk or recorder of each municipality involved in an election under Subsection (1) shall cooperate with the responsible clerk in holding the election.

(c) Except as otherwise provided in this part, each election under Subsection (1) shall be governed by Title 20A, Election Code.

Section 46. Section 17B-1-215 is amended to read:

17B-1-215. Notice and plat to lieutenant governor -- Recording requirements -- Certificate of incorporation -- Special district incorporated as specialized special district or basic special district -- Effective date.

(1) (a) Within the time specified in Subsection (1)(b), the responsible body shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The responsible body shall file the documents listed in Subsection (1)(a) with the lieutenant governor within 10 days after:

(i) the canvass of an election under Section 17B-1-214, if a majority of those voting at the election within the proposed [~~local~~] special district as a whole vote in favor of the creation of a [~~local~~] special district;

(ii) certification of a petition as to which the election requirement of Subsection 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a), (b), or (c); or

(iii) adoption of a resolution, under Subsection 17B-1-213(5) approving the creation of a [~~local~~] special district for which an election was not required under Subsection 17B-1-214(3)(d), (e), (f), or (g) by the legislative body of each county whose unincorporated area is included within and the legislative body of each municipality whose area is included within the proposed [~~local~~] special district, or by the board of trustees of the initiating [~~local~~] special district.

(2) Upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5, the responsible body shall:

(a) if the [~~local~~] special district is located within the boundary of a single county, submit to the recorder of that county:

(i) the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; and

(ii) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); or

(b) if the [~~local~~] special district is located within the boundaries of more than a single county:

(i) submit to the recorder of one of those counties:

(A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); and

(ii) submit to the recorder of each other county:

(A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C); and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5).

(3) The area of each [~~local~~] special district consists of:

(a) if an election was held under Section 17B-1-214, the area of the new [~~local~~] special district as approved at the election;

(b) if an election was not required because of Subsection 17B-1-214(3)(a), (b), or (c), the area of the proposed [~~local~~] special district as described in the petition; or

(c) if an election was not required because of Subsection 17B-1-214(3)(d), (e), (f), or (g), the area of the new [~~local~~] special district as described in the resolution adopted under Subsection 17B-1-213(5).

(4) (a) Upon the lieutenant governor's issuance of the certificate of incorporation under Section 67-1a-6.5, the [~~local~~] special district is created and incorporated as:

(i) the type of specialized [~~local~~] special district that was specified in the petition under Subsection 17B-1-203(1)(a), (b), or (c) or resolution under Subsection 17B-1-203(1)(d) or (e), if the petition or resolution proposed the creation of a specialized [~~local~~] special district; or

(ii) a basic [~~local~~] special district, if the petition or resolution did not propose the creation of a specialized [~~local~~] special district.

(b) (i) The effective date of a [~~local~~] special district's incorporation for purposes of assessing property within the [~~local~~] special district is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated [~~local~~] special district may not:

(A) levy or collect a property tax on property within the [~~local~~] special district;

(B) levy or collect an assessment on property within the [~~local~~] special district; or

(C) charge or collect a fee for service provided to property within the [~~local~~] special district.

Section 47. Section 17B-1-216 is amended to read:

17B-1-216. Costs and expenses of creating a special district.

(1) Except as provided in Subsection (2), each county whose unincorporated area includes and each municipality whose boundaries include some or all of the proposed [~~local~~] special district shall bear their respective costs and expenses associated with the procedure under this part for creating a [~~local~~] special district.

(2) Within a year after its creation, each [~~local~~] special district shall reimburse the costs and expenses associated with the preparation, certification, and recording of the approved final local entity plat of the [~~local~~] special district and accompanying documents under Section 17B-1-215.

Section 48. Section 17B-1-217 is amended to read:

17B-1-217. Activity required -- Dissolution -- Conclusive presumption regarding creation and existence.

(1) A [~~local~~] special district that is not engaged in one or more of the following activities, services, or duties is subject to dissolution in accordance with Subsections (5) and (6):

(a) levying and collecting a tax;

(b) providing a commodity or service;

(c) collecting a fee or charging an assessment for a commodity, service, facility, or improvement provided by the [~~local~~] special district;

(d) undertaking planning necessary for the provision of a commodity, service, facility, or improvement as reflected in a written study or report;

(e) acquiring or maintaining property or an easement necessary for a service, facility, or improvement to be provided by the [~~local~~] special district in accordance with a general or master plan adopted by the district;

(f) constructing, installing, maintaining, owning, or operating infrastructure for the provision of a commodity, service, facility, or improvement; or

(g) legally incurring debt, contracting, or otherwise being obligated to provide a commodity, service, facility, or improvement within a reasonable period of time.

(2) For a [~~local~~] special district created after May 14, 2013, the [~~local~~] special district shall file with the state auditor a written certification:

(a) declaring that the district is engaged in an activity, service, or duty described in Subsection (1);

(b) identifying the activity in which the [~~local~~] special district is engaged; and

(c) no later than five years after the date on which a [~~local~~] special district is created as reflected in the certificate of incorporation issued by the lieutenant governor under Section 67-1a-6.5.

(3) (a) The state auditor shall send a deficiency notice in accordance with Subsection (3)(c) if:

(i) a [~~local~~] special district fails to deliver a certification in accordance with Subsection (2); or

(ii) the state auditor determines that, subject to Subsection (3)(b), a [~~local~~] special district created after January 1, 2005, and before May 15, 2013, is not engaged in an activity, service, or duty required under Subsection (1) within five years after the date on which the [~~local~~] special district is created as reflected in the certificate of incorporation issued by the lieutenant governor under Section 67-1a-6.5 or thereafter.

(b) The state auditor shall make a determination described in Subsection (3)(a)(ii) based on:

(i) the [~~local~~] special district's failure to file a required annual financial report with the state auditor in accordance with Section 17B-1-639; or

(ii) subject to Subsection (7), other credible information related to Subsection (1).

(c) (i) The state auditor shall send the deficiency notice to the [~~local~~] special district and the Utah Association of Special Districts.

(ii) The deficiency notice shall state that the [~~local~~] special district is required to file with the state auditor a written certification:

(A) declaring that the district was and continues to be engaged in an activity, service, or duty described in Subsection (1) prior to the date of the deficiency notice; and

(B) identifying the activity, service, or duty in which the [~~local~~] special district is engaged.

(4) If within four months of receiving a deficiency notice, a [~~local~~] special district fails to file a written certification with the state auditor in accordance with Subsection (2) or (3)(c)(ii), the state auditor shall, in writing:

(a) notify the lieutenant governor that the [~~local~~] special district has failed to meet the requirements of this section and specify the reason for the district's failure; and

(b) request that the lieutenant governor dissolve the [~~local~~] special district in accordance with Subsections (5) and (6).

(5) If the lieutenant governor receives a request to dissolve a [~~local~~] special district from the state auditor in accordance with Subsection (4), the lieutenant governor shall:

(a) issue a certification of dissolution under Section 67-1a-6.5; and

(b) send a copy of the certification of dissolution to:

(i) the state auditor;

(ii) the State Tax Commission;

(iii) the recorder of the county in which the [~~local~~] special district is located, or, if the [~~local~~] special district is located in more than one county, the recorder of each county in which the [~~local~~] special district is located;

(iv) the last known address of the [~~local~~] special district; and

(v) the Utah Association of Special Districts.

(6) A [~~local~~] special district identified in a certification of dissolution is dissolved:

(a) upon recordation of the certification by the county recorder; or

(b) if the [~~local~~] special district is located within more than one county, upon recordation of the certification by the county recorder of the last county to record.

(7) Notwithstanding any other provision of law, a [~~local~~] special district shall be conclusively presumed to have been lawfully created, existing, and active if for two years following the district's creation under Subsection 17B-1-215(4):

(a) the district has:

(i) levied and collected a tax; or

(ii) collected a fee, charge, or assessment for a commodity, service, facility, or improvement provided by the district; and

(b) no challenge has been filed in court to the existence or creation of the district.

Section 49. Section 17B-1-301 is amended to read:

17B-1-301. Board of trustees duties and powers.

(1) (a) Each [~~local~~] special district shall be governed by a board of trustees which shall manage and conduct the business and affairs of the district and shall determine all questions of district policy.

(b) All powers of a [~~local~~] special district are exercised through the board of trustees.

(2) The board of trustees may:

(a) fix the location of the [~~local~~] special district's principal place of business and the location of all offices and departments, if any;

(b) fix the times of meetings of the board of trustees;

(c) select and use an official district seal;

(d) subject to Subsections (3) and (4), employ employees and agents, or delegate to district officers power to employ employees and agents, for the operation of the [~~local~~] special district and its properties and prescribe or delegate to district officers the power to prescribe the duties, compensation, and terms and conditions of employment of those employees and agents;

(e) require district officers and employees charged with the handling of district funds to provide surety bonds in an amount set by the board or provide a blanket surety bond to cover officers and employees;

(f) contract for or employ professionals to perform work or services for the [~~local~~] special district that cannot satisfactorily be performed by the officers or employees of the district;

(g) through counsel, prosecute on behalf of or defend the [~~local~~] special district in all court actions or other proceedings in which the district is a party or is otherwise involved;

(h) adopt bylaws for the orderly functioning of the board;

(i) adopt and enforce rules and regulations for the orderly operation of the [~~local~~] special district or for carrying out the district's purposes;

(j) prescribe a system of civil service for district employees;

(k) on behalf of the [~~local~~] special district, enter into contracts that the board considers to be for the benefit of the district;

(l) acquire, construct or cause to be constructed, operate, occupy, control, and use buildings, works, or other facilities for carrying out the purposes of the [~~local~~] special district;

(m) on behalf of the [~~local~~] special district, acquire, use, hold, manage, occupy, and possess property necessary to carry out the purposes of the district, dispose of property when the board considers it appropriate, and institute and maintain in the name of the district any action or proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district property;

(n) delegate to a district officer the exercise of a district duty; and

(o) exercise all powers and perform all functions in the operation of the [~~local~~] special district and its properties as are ordinarily exercised by the governing body of a political subdivision of the state and as are necessary to accomplish the purposes of the district.

(3) (a) As used in this Subsection (3), "interim vacancy period" means:

(i) if any member of the [~~local~~] special district board is elected, the period of time that:

(A) begins on the day on which an election is held to elect a [~~local~~] special district board member; and

(B) ends on the day on which the [~~local~~] special district board member-elect begins the member's term; or

(ii) if any member of the [~~local~~] special district board is appointed, the period of time that:

(A) begins on the day on which an appointing authority posts a notice of vacancy in accordance with Section 17B-1-304; and

(B) ends on the day on which the person who is appointed by the [~~local~~] special district board to fill the vacancy begins the person's term.

(b) (i) The [~~local~~] special district may not hire during an interim vacancy period a manager, a chief executive officer, a chief administrative officer, an executive director, or a similar position to perform executive and administrative duties or functions.

(ii) Notwithstanding Subsection (3)(b)(i):

(A) the [~~local~~] special district may hire an interim manager, a chief executive officer, a chief administrative officer, an executive director, or a similar position during an interim vacancy period; and

(B) the interim manager's, chief executive officer's, chief administrative officer's, or similar position's employment shall terminate once a new manager, chief executive officer, chief administrative officer, or similar position is hired by the new [~~local~~] special district board after the interim vacancy period has ended.

(c) Subsection (3)(b) does not apply if:

(i) all the elected [~~local~~] special district board members who held office on the day of the election for the [~~local~~] special district board members, whose term of office was vacant for the election are re-elected to the [~~local~~] special district board; and

(ii) all the appointed [~~local~~] special district board members who were appointed whose term of appointment was expiring are re-appointed to the [~~local~~] special district board.

(4) A [~~local~~] special district board that hires an interim manager, a chief executive officer, a chief administrative officer, an executive director, or a similar position in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the interim manager, chief executive officer, chief administrative officer, executive director, or similar position.

Section 50. Section 17B-1-302 is amended to read:

17B-1-302. Board member qualifications -- Number of board members.

(1) Except as provided in Section 17B-2a-905, each member of a [~~local~~] special district board of trustees shall be:

(a) a registered voter at the location of the member's residence; and

(b) except as otherwise provided in Subsection (2) or (3), a resident within:

(i) the boundaries of the [~~local~~] special district; and

(ii) if applicable, the boundaries of the division of the [~~local~~] special district from which the member is elected or appointed.

(2) (a) As used in this Subsection (2):

(i) "Proportional number" means the number of members of a board of trustees that bears, as close as mathematically possible, the same proportion to all members of the board that the number of seasonally occupied homes bears to all residences within the district that receive service from the district.

(ii) "Seasonally occupied home" means a single-family residence:

(A) that is located within the [~~local~~] special district;

(B) that receives service from the [~~local~~] special district; and

(C) whose owner does not reside permanently at the residence but may occupy the residence on a temporary or seasonal basis.

(b) If over 50% of the residences within a [~~local~~] special district that receive service from the [~~local~~] special district are seasonally occupied homes, the requirement under Subsection (1)(b) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land, that:

(i) receives service from the district; and

(ii) is located within the [~~local~~] special district and, if applicable, the division from which the member is elected.

(3) (a) For a board of trustees member in a basic [~~local~~] special district, or in any other type of [~~local~~] special district that is located solely within a county of the fourth, fifth, or sixth class, that has within the district's boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under Subsection (1)(b) may be replaced by the requirement that the member be a resident within the boundaries of the [~~local~~] special district, or that the member be an owner of land within the [~~local~~] special district that receives service from the district or an agent or officer of the owner.

(b) A member of the board of trustees of a service area described in Subsection 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is not subject to the requirements described in Subsection (1)(b) if the elected official was elected at large by the voters of the county.

(c) Notwithstanding Subsection (1)(b) and except as provided in Subsection (3)(d), the county legislative body may appoint to the [~~local~~] special district board one of the county legislative body's own members, regardless of whether the member resides within the boundaries described in Subsection (1)(b), if:

(i) the county legislative body satisfies the procedures to fill a vacancy described in:

(A) for the appointment of a new board member, Subsections 17B-1-304(2) and (3); or

(B) for an appointment to fill a midterm vacancy, Subsection 20A-1-512(1)(a)(ii) or Subsection 20A-1-512(2);

(ii) fewer qualified candidates timely file to be considered for appointment to the [~~local~~] special district board than are necessary to fill the board;

(iii) the county legislative body appoints each of the qualified candidates who timely filed to be considered for appointment to the board; and

(iv) the county legislative body appoints a member of the body to the [~~local~~] special district board, in accordance with Subsection 17B-1-304(6) or Subsection 20A-1-512(1)(c), who was:

(A) elected at large by the voters of the county;

(B) elected from a division of the county that includes more than 50% of the geographic area of the [~~local~~] special district; or

(C) if the [~~local~~] special district is divided into divisions under Section 17B-1-306.5, elected from a division of the county that includes more than 50% of the geographic area of the division of the [~~local~~] special district in which there is a board vacancy.

(d) If it is necessary to reconstitute the board of trustees of a [~~local~~] special district located solely within a county of the fourth, fifth, or sixth class because the term of a majority of the members of the board has expired without new trustees having been elected or appointed as required by law, even if sufficient qualified candidates timely file to be considered for a vacancy on the board, the county legislative body may appoint to the [~~local~~] special district board no more than one of the county legislative body's own members who does not satisfy the requirements of Subsection (1).

(4) (a) Except as otherwise provided by statute, the number of members of each board of trustees of a [~~local~~] special district that has nine or fewer members shall have an odd number of members that is no fewer than three.

(b) If a board of trustees of a [~~local~~] special district has more than nine members, the number of members may be odd or even.

(5) For a newly created [~~local~~] special district, the number of members of the initial board of trustees shall be the number specified:

(a) for a [~~local~~] special district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b), or (c), in the petition; or

(b) for a [~~local~~] special district whose creation was initiated by a resolution under Subsection 17B-1-203(1)(d) or (e), in the resolution.

(6) (a) For an existing [~~local~~] special district, the number of members of the board of trustees may be changed by a two-thirds vote of the board of trustees.

(b) No change in the number of members of a board of trustees under Subsection (6)(a) may:

(i) violate Subsection (4); or

(ii) serve to shorten the term of any member of the board.

Section 51. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice of board member contact information.

(1) (a) Except as provided in Subsections (1)(b), (c), (d), and (e), the term of each member of a board of trustees begins at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created [~~local~~] special district begins:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member whom the governor appoints in accordance with Subsection 17B-2a-1005(2)(c):

(i) begins on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) ends on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(d) The term of a member of a board of trustees whom an appointing authority appoints in accordance with Subsection (5)(b) begins upon the member taking the oath of office.

(e) If the member of the board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for office.

(2) (a) (i) Except as provided in Subsection (8), and subject to Subsections (2)(a)(ii) and (iii), the term of each member of a board of trustees is four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) If the terms of members of the initial board of trustees of a newly created [~~local~~] special district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(iii), to result in the terms of their successors complying with:

(A) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(B) the requirement under Subsection (2)(a)(i) that terms be four years.

(iii) If the term of a member of a board of trustees does not begin on January 1 because of the application of Subsection (1)(e), the term is shortened as necessary to result in the term complying with the requirement under Subsection (1)(a) that the successor member's term, regardless of whether the incumbent is the successor, begins at noon on January 1 following the successor member's election or appointment.

(iv) An adjustment under Subsection (2)(a)(ii) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), (2), or (3), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(ii) A judge, county clerk, notary public, or the [~~local~~] special district clerk may administer an oath of office.

(b) The member of the board of trustees taking the oath of office shall file the oath of office with the clerk of the [~~local~~] special district.

(c) The failure of a board of trustees member to take the oath under Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member may serve any number of terms.

(5) (a) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position is filled in accordance with Section 20A-1-512.

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), the appointing authority may

appoint an individual to fill a new board of trustees position in accordance with Section 17B-1-304 or 20A-1-512.

(6) (a) [~~For purposes of~~] As used in this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a [~~local~~] special district board of trustees by a county or municipality that is entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) A member of a board of trustees shall obtain a fidelity bond or obtain theft or crime insurance for the faithful performance of the member's duties, in the amount and with the sureties or with an insurance company that the board of trustees prescribes.

(b) The [~~local~~] special district:

(i) may assist the board of trustees in obtaining a fidelity bond or obtaining theft or crime insurance as a group or for members individually; and

(ii) shall pay the cost of each fidelity bond or insurance coverage required under this Subsection (7).

(8) (a) The lieutenant governor may extend the term of an elected district board member by one year in order to compensate for a change in the election year under Subsection 17B-1-306(14).

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), to ensure that the term of approximately half of the board members expires every two years in accordance with Subsection (2)(a):

(i) the board shall set shorter terms for approximately half of the new board members, chosen by lot; and

(ii) the initial term of a new board member position may be less than two or four years.

(9) (a) A [~~local~~] special district shall:

(i) post on the Utah Public Notice Website created in Section 63A-16-601 the name, phone number, and email address of each member of the [~~local~~] special district's board of trustees;

(ii) update the information described in Subsection (9)(a)(i) when:

(A) the membership of the board of trustees changes; or

(B) a member of the board of trustees' phone number or email address changes; and

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the date on which the change requiring the update occurs.

(b) This Subsection (9) applies regardless of whether the county or municipal legislative body also serves as the board of trustees of the [~~local~~] special district.

Section 52. Section 17B-1-304 is amended to read:

17B-1-304. Appointment procedures for appointed members.

(1) The appointing authority may, by resolution, appoint persons to serve as members of a [~~local~~] special district board by following the procedures established by this section.

(2) (a) In any calendar year when appointment of a new [~~local~~] special district board member is required, the appointing authority shall prepare a notice of vacancy that contains:

(i) the positions that are vacant that shall be filled by appointment;

(ii) the qualifications required to be appointed to those positions;

(iii) the procedures for appointment that the governing body will follow in making those appointments; and

(iv) the person to be contacted and any deadlines that a person shall meet who wishes to be considered for appointment to those positions.

(b) The appointing authority shall:

(i) post the notice of vacancy in four public places within the [~~local~~] special district at least one month before the deadline for accepting nominees for appointment; and

(ii) post the notice of vacancy on the Utah Public Notice Website, created in Section 63A-16-601, for five days before the deadline for accepting nominees for appointment.

(c) The appointing authority may bill the [~~local~~] special district for the cost of preparing, printing, and publishing the notice.

(3) (a) After the appointing authority is notified of a vacancy and has satisfied the requirements described in Subsection (2), the appointing authority shall select a person to fill the vacancy

from the applicants who meet the qualifications established by law.

(b) The appointing authority shall:

(i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the appointment;

(ii) allow any interested persons to be heard; and

(iii) adopt a resolution appointing a person to the [~~local~~] special district board.

(c) If no candidate for appointment to fill the vacancy receives a majority vote of the appointing authority, the appointing authority shall select the appointee from the two top candidates by lot.

(4) Persons appointed to serve as members of the [~~local~~] special district board serve four-year terms, but may be removed for cause at any time after a hearing by two-thirds vote of the appointing body.

(5) (a) At the end of each board member's term, the position is considered vacant, and, after following the appointment procedures established in this section, the appointing authority may either reappoint the incumbent board member or appoint a new member.

(b) Notwithstanding Subsection (5)(a), a board member may continue to serve until a successor is elected or appointed and qualified in accordance with Subsection 17B-1-303(2)(b).

(6) Notwithstanding any other provision of this section, if the appointing authority appoints one of its own members and that member meets all applicable statutory board member qualifications, the appointing authority need not comply with Subsection (2) or (3).

Section 53. Section 17B-1-305 is amended to read:

17B-1-305. Notice of offices to be filled.

On or before February 1 of each election year in which board members of a [~~local~~] special district are elected, the board of each [~~local~~] special district required to participate in an election that year shall prepare and transmit to the clerk of each county in which any part of the district is located a written notice that:

(1) designates the offices to be filled at that year's election; and

(2) identifies the dates for filing a declaration of candidacy for those offices.

Section 54. Section 17B-1-306 is amended to read:

17B-1-306. Special district board -- Election procedures.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a [~~local~~] special district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the [~~local~~] special district board in consultation with the county clerk for each county in which the [~~local~~] special district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The [~~local~~] special district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each [~~local~~] special district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the [~~local~~] special district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the [~~local~~] special district shall publish the notice described in Subsection (3):

(a) by posting the notice on the Utah Public Notice Website created in Section 63A-16-601, for 10 days before the first day for filing a declaration of candidacy;

(b) by posting the notice in at least five public places within the [~~local~~] special district at least 10 days before the first day for filing a declaration of candidacy; and

(c) if the [~~local~~] special district has a website, on the [~~local~~] special district's website for 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective [~~local~~] special district board position, an individual shall file a declaration of candidacy in person with an official designated by the [~~local~~] special district within the candidate filing period for the applicable election year in which the election for the [~~local~~] special district board is held and:

(i) during the [~~local~~] special district's standard office hours, if the standard office hours provide at least three consecutive office hours each day during

the candidate filing period that is not a holiday or weekend; or

(ii) if the standard office hours of a [~~local~~] special district do not provide at least three consecutive office hours each day, a three-hour consecutive time period each day designated by the [~~local~~] special district during the candidate filing period that is not a holiday or weekend.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the [~~local~~] special district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the [~~local~~] special district; and

(iii) the individual communicates with the official designated by the [~~local~~] special district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the [~~local~~] special district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

_____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)".

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective [~~local~~] special district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the [~~local~~] special district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the [~~local~~] special district clerk shall certify the candidate names to the clerk of each county in which the [~~local~~] special district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the [~~local~~] special district is located and the [~~local~~] special district clerk shall coordinate the placement of the name of each candidate for [~~local~~] special district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the [~~local~~] special district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the [~~local~~] special district board of trustees, in consultation with the county clerk, shall provide for a separate [~~local~~] special district election ballot to be administered by poll

workers at polling places designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a [~~local~~] special district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic [~~local~~] special district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of [~~local~~] special district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a [~~local~~] special district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each [~~local~~] special district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that [~~local~~] special district.

(b) Each irrigation district shall bear the district's own costs of each election the district holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a [~~local~~] special district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (14).

(15) (a) This Subsection (15) applies to a [~~local~~] special district if:

(i) the [~~local~~] special district's board members are elected by the owners of real property, as provided in Subsection 17B-1-1402(1)(b); and

(ii) the [~~local~~] special district was created before January 1, 2020.

(b) The board of a [~~local~~] special district described in Subsection (15)(a) may conduct an election:

(i) to fill a board member position that expires at the end of the term for that board member's position; and

(ii) notwithstanding Subsection 20A-1-512(1)(a)(i), to fill a vacancy in an unexpired term of a board member.

(c) An election under Subsection (15)(b) may be conducted as determined by the [~~local~~] special district board, subject to Subsection (15)(d).

(d) (i) The [~~local~~] special district board shall provide to property owners eligible to vote at the [~~local~~] special district election:

(A) notice of the election; and

(B) a form to nominate an eligible individual to be elected as a board member.

(ii) (A) The [~~local~~] special district board may establish a deadline for a property owner to submit a nomination form.

(B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after the board provides the notice and nomination form under Subsection (15)(d)(i).

(iii) (A) After the deadline for submitting nomination forms, the [~~local~~] special district board shall provide a ballot to all property owners eligible to vote at the [~~local~~] special district election.

(B) A [~~local~~] special district board shall allow at least five days for ballots to be returned.

(iv) A [~~local~~] special district board shall certify the results of an election under this Subsection (15) during an open meeting of the board.

Section 55. Section 17B-1-306.5 is amended to read:

17B-1-306.5. Dividing a special district into divisions.

(1) Subject to Subsection (3), the board of trustees of a [~~local~~] special district that has elected board members may, upon a vote of two-thirds of the members of the board, divide the [~~local~~] special district, or the portion of the [~~local~~] special district represented by elected board of trustees members, into divisions so that some or all of the elected members of the board of trustees may be elected by division rather than at large.

(2) Subject to Subsection (3), the appointing authority of a [~~local~~] special district that has appointed board members may, upon a vote of two-thirds of the members of the appointing authority, divide the [~~local~~] special district, or the portion of the [~~local~~] special district represented by appointed board members, into divisions so that some or all of the appointed members of the board of trustees may be appointed by division rather than at large.

(3) Before dividing a [~~local~~] special district into divisions or before changing the boundaries of divisions already established, the board of trustees under Subsection (1), or the appointing authority, under Subsection (2), shall:

(a) prepare a proposal that describes the boundaries of the proposed divisions; and

(b) hold a public hearing at which any interested person may appear and speak for or against the proposal.

(4) (a) The board of trustees or the appointing authority shall review the division boundaries at least every 10 years.

(b) Except for changes in the divisions necessitated by annexations to or withdrawals from the [~~local~~] special district, the boundaries of divisions established under Subsection (1) or (2) may not be changed more often than every five years.

(c) Changes to the boundaries of divisions already established under Subsection (1) or (2) are not subject to the two-thirds vote requirement of Subsection (1) or (2).

Section 56. Section 17B-1-307 is amended to read:

17B-1-307. Annual compensation -- Per diem compensation -- Participation in group insurance plan -- Reimbursement of expenses.

(1) (a) Except as provided in Subsection 17B-1-308(1)(e), a member of a board of trustees may receive compensation for service on the board, as determined by the board of trustees.

(b) The amount of compensation under this Subsection (1) may not exceed $5,000 per year.

(c) (i) As determined by the board of trustees, a member of the board of trustees may participate in a group insurance plan provided to employees of the [~~local~~] special district on the same basis as employees of the [~~local~~] special district.

(ii) The amount that the [~~local~~] special district pays to provide a member with coverage under a group insurance plan shall be included as part of the member's compensation for purposes of Subsection (1)(b).

(d) The amount that a [~~local~~] special district pays employer-matching employment taxes, if a member of the board of trustees is treated as an employee for federal tax purposes, does not constitute compensation under Subsection (1).

(2) In addition to the compensation provided under Subsection (1), the board of trustees may elect to allow a member to receive per diem and travel expenses for up to 12 meetings or activities per year in accordance with rules adopted by the board of trustees or Section 11-55-103.

Section 57. Section 17B-1-308 is amended to read:

17B-1-308. Boards of trustees composed of county or municipal legislative body members.

(1) If a county or municipal legislative body also serves as the board of trustees of a [~~local~~] special district:

(a) the board of trustees shall hold district meetings and keep district minutes, accounts, and other records separate from those of the county or municipality;

(b) subject to Subsection (2), the board of trustees may use, respectively, existing county or municipal facilities and personnel for district purposes;

(c) notwithstanding Subsections 17B-1-303(1) and (2), the term of office of each board of trustees member coincides with the member's term as a county or municipal legislative body member;

(d) each board of trustees member represents the district at large; and

(e) board members may not receive compensation for service as board members in addition to

compensation the board members receive as members of a county or municipal legislative body.

(2) The county or municipal legislative body, as the case may be, shall charge the [~~local~~] special district, and the [~~local~~] special district shall pay to the county or municipality, a reasonable amount for:

(a) the county or municipal facilities that the district uses; and

(b) except for services that the county or municipal legislative body members render, the services that the county or municipality renders to the [~~local~~] special district.

Section 58. Section 17B-1-310 is amended to read:

17B-1-310. Quorum of board of trustees -- Meetings of the board.

(1) (a) (i) Except as provided in Subsection (1)(b), a majority of the board of trustees constitutes a quorum for the transaction of board business, and action by a majority of a quorum constitutes action of the board.

(ii) Except as otherwise required by law, an otherwise valid action of the board is not made invalid because of the method chosen by the board to take or memorialize the action.

(b) (i) Subject to Subsection (1)(b)(ii), a board may adopt bylaws or other rules that require more than a majority to constitute a quorum or that require action by more than a majority of a quorum to constitute action by the board.

(ii) A board with five or more members may not adopt bylaws or rules that require a vote of more than two-thirds of the board to constitute board action except for a board action to dispose of real property owned by the [~~local~~] special district.

(2) The board of trustees shall hold such regular and special meetings as the board determines at a location that the board determines.

(3) (a) Each meeting of the board of trustees shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) Subject to Subsection (3)(c), a board of trustees shall:

(i) adopt rules of order and procedure to govern a public meeting of the board of trustees;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (3)(b)(i); and

(iii) make the rules of order and procedure described in Subsection (3)(b)(i) available to the public:

(A) at each meeting of the board of trustees; and

(B) on the [~~local~~] special district's public website, if available.

(c) Subsection (3)(b) does not affect the board of trustees' duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Section 59. Section 17B-1-311 is amended to read:

17B-1-311. Board member prohibited from district employment -- Exception.

(1) No elected or appointed member of the board of trustees of a [~~local~~] special district may, while serving on the board, be employed by the district, whether as an employee or under a contract.

(2) No person employed by a [~~local~~] special district, whether as an employee or under a contract, may serve on the board of that [~~local~~] special district.

(3) A [~~local~~] special district is not in violation of a prohibition described in Subsection (1) or (2) if the [~~local~~] special district:

(a) treats a member of a board of trustees as an employee for income tax purposes; and

(b) complies with the compensation limits of Section 17B-1-307 for purposes of that member.

(4) This section does not apply to a [~~local~~] special district if:

(a) fewer than 3,000 people in the state live within 40 miles of the [~~local~~] special district's boundaries or primary place of employment, measured over all weather public roads; and

(b) with respect to the employment of a board of trustees member under Subsection (1):

(i) the job opening has had reasonable public notice; and

(ii) the person employed is the best qualified candidate for the position.

(5) This section does not apply to a board of trustees of a large public transit district as described in Chapter 2a, Part 8, Public Transit District Act.

Section 60. Section 17B-1-312 is amended to read:

17B-1-312. Training for board members.

(1) (a) Each member of a board of trustees of a [~~local~~] special district shall, within one year after taking office, complete the training described in Subsection (2).

(b) For the purposes of Subsection (1)(a), a member of a board of trustees of a [~~local~~] special district takes office each time the member is elected or appointed to a new term, including an appointment to fill a midterm vacancy in accordance with Subsection 17B-1-303(5) or (6).

(2) In conjunction with the Utah Association of Special Districts, the state auditor shall:

(a) develop a training curriculum for the members of [~~local~~] special district boards;

(b) with the assistance of other state offices and departments the state auditor considers

appropriate and at times and locations established by the state auditor, carry out the training of members of [~~local~~] special district boards; and

(c) ensure that any training required under this Subsection (2) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(3) (a) A [~~local~~] special district board of trustees may compensate each member of the board for each day of training described in Subsection (2) that the member completes, in accordance with Section 11-55-103.

(b) The compensation authorized under Subsection (3)(a) is in addition to all other amounts of compensation and expense reimbursement authorized under this chapter.

(c) A board of trustees may not pay compensation under Subsection (3)(a) to any board member more than once per year.

(4) The state auditor shall issue a certificate of completion to each board member that completes the training described in Subsection (2).

Section 61. Section 17B-1-313 is amended to read:

17B-1-313. Publication of notice of board resolution or action -- Contest period -- No contest after contest period.

(1) After the board of trustees of a [~~local~~] special district adopts a resolution or takes other action on behalf of the district, the board may provide for the publication of a notice of the resolution or other action.

(2) Each notice under Subsection (1) shall:

(a) include, as the case may be:

(i) the language of the resolution or a summary of the resolution; or

(ii) a description of the action taken by the board;

(b) state that:

(i) any person in interest may file an action in district court to contest the regularity, formality, or legality of the resolution or action within 30 days after the date of publication; and

(ii) if the resolution or action is not contested by filing an action in district court within the 30-day period, no one may contest the regularity, formality, or legality of the resolution or action after the expiration of the 30-day period; and

(c) be posted on the Utah Public Notice Website created in Section 63A-16-601.

(3) For a period of 30 days after the date of the publication, any person in interest may contest the regularity, formality, or legality of the resolution or other action by filing an action in district court.

(4) After the expiration of the 30-day period under Subsection (3), no one may contest the regularity, formality, or legality of the resolution or action for any cause.

Section 62. Section 17B-1-314 is amended to read:

17B-1-314. Compelling attendance at board meetings.

The board of trustees of a [~~local~~] special district may:

(1) compel the attendance of its own members at its meetings; and

(2) provide penalties it considers necessary for the failure to attend.

Section 63. Section 17B-1-401 is amended to read:

17B-1-401. Definitions.

[~~For purposes of~~] As used in this part:

(1) "Applicable area" means:

(a) for a county, the unincorporated area of the county that is included within the area proposed for annexation; or

(b) for a municipality, the area of the municipality that is included within the area proposed for annexation.

(2) "Retail" means, with respect to a service provided by a municipality or [~~local~~] special district, that the service is provided directly to the ultimate user.

(3) "Wholesale" means, with respect to a service provided by a [~~local~~] special district, that the service is not provided directly to the ultimate user but is provided to a retail provider.

Section 64. Section 17B-1-402 is amended to read:

17B-1-402. Annexation of area outside special district.

(1) An area outside the boundaries of a [~~local~~] special district may be annexed to the [~~local~~] special district, as provided in this part, in order to provide to the area a service that the [~~local~~] special district provides.

(2) The area proposed to be annexed:

(a) may consist of one or more noncontiguous areas; and

(b) need not be adjacent to the boundaries of the proposed annexing [~~local~~] special district.

(3) With respect to a [~~local~~] special district in the creation of which an election was not required under Subsection 17B-1-214(3)(d):

(a) an unincorporated area of a county may not be annexed to the [~~local~~] special district unless, after annexation, at least a majority of the unincorporated area of the county will be included in the [~~local~~] special district; and

(b) the annexation of any part of an area within a municipality shall include all of the area within the municipality.

(4) A [~~local~~] special district may not annex an area located within a project area described in a project

area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, without the authority's approval.

Section 65. Section 17B-1-403 is amended to read:

17B-1-403. Initiation of annexation process -- Petition and resolution.

(1) Except as provided in Sections 17B-1-415, 17B-1-416, and 17B-1-417, the process to annex an area to a [~~local~~] special district may be initiated by:

(a) (i) for a district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector and subject to Subsection (2), a petition signed by the owners of all of the acre-feet of water allotted to the land proposed for annexation; or

(ii) for all other districts:

(A) a petition signed by:

(I) the owners of private real property that:

(Aa) is located within the area proposed to be annexed;

(Bb) covers at least 10% of the total private land area within the entire area proposed to be annexed and within each applicable area; and

(Cc) is equal in assessed value to at least 10% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or

(II) the owner of all the publicly owned real property, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government; or

(B) a petition signed by registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 10% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition;

(b) a resolution adopted by the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the area proposed to be annexed; or

(c) a resolution adopted by the board of trustees of the proposed annexing [~~local~~] special district if, for at least 12 consecutive months immediately preceding adoption of the resolution, the [~~local~~] special district has provided:

(i) retail service to the area; or

(ii) a wholesale service to a provider of the same service that has provided that service on a retail basis to the area.

(2) If an association representing all acre-feet of water allotted to the land that is proposed to be annexed to a [~~local~~] special district signs a petition under Subsection (1)(a)(i), pursuant to a proper exercise of authority as provided in the bylaws or other rules governing the association, the petition shall be considered to have been signed by the owners of all of the acre-feet of water allotted to the land proposed for annexation, even though less than all of the owners within the association consented to the association signing the petition.

(3) Each petition and resolution under Subsection (1) shall:

(a) describe the area proposed to be annexed; and

(b) be accompanied by a map of the boundaries of the area proposed to be annexed.

(4) The legislative body of each county and municipality that adopts a resolution under Subsection (1)(b) shall, within five days after adopting the resolution, mail or deliver a copy of the resolution to the board of trustees of the proposed annexing [~~local~~] special district.

Section 66. Section 17B-1-404 is amended to read:

17B-1-404. Petition requirements.

(1) Each petition under Subsection 17B-1-403(1)(a) shall:

(a) indicate the typed or printed name and current residence address of each person signing the petition;

(b) separately group signatures by county and municipality, so that all signatures of the owners of real property located within or of registered voters residing within each county whose unincorporated area includes and each municipality whose boundaries include part of the area proposed for annexation are grouped separately;

(c) if it is a petition under Subsection 17B-1-403(1)(a)(i) or (ii)(A), indicate the address of the property as to which the owner is signing the petition;

(d) designate up to three signers of the petition as sponsors, one of whom shall be designated the contact sponsor, with the mailing address and telephone number of each;

(e) be filed with the board of trustees of the proposed annexing [~~local~~] special district; and

(f) for a petition under Subsection 17B-1-403(1)(a)(i), state the proposed method of supplying water to the area proposed to be annexed.

(2) By submitting a written withdrawal or reinstatement with the board of trustees of the proposed annexing [~~local~~] special district, a signer of a petition may withdraw, or once withdrawn, reinstate the signer's signature at any time:

(a) before the public hearing under Section 17B-1-409 is held; or

(b) if a hearing is not held because of Subsection 17B-1-413(1) or because no hearing is requested under Subsection 17B-1-413(2)(a)(ii)(B), until 20 days after the [~~local~~] special district provides notice under Subsection 17B-1-413(2)(a)(i).

Section 67. Section 17B-1-405 is amended to read:

17B-1-405. Petition certification.

(1) Within 30 days after the filing of a petition under Subsection 17B-1-403(1)(a)(i) or (ii) or within the time that the [~~local~~] special district and each petition sponsor designate by written agreement, the board of trustees of the proposed annexing [~~local~~] special district shall:

(a) with the assistance of officers of the county in which the area proposed to be annexed is located from whom the board requests assistance, determine whether the petition meets the requirements of Subsection 17B-1-403(1)(a)(i) or (ii), as the case may be, Subsection 17B-1-403(3), and Subsection 17B-1-404(1); and

(b) (i) if the board determines that the petition complies with the requirements, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the board determines that the petition fails to comply with any of the requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2) (a) If the board rejects a petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (2)(a).

(3) The board shall process an amended petition filed under Subsection (2)(a) in the same manner as an original petition under Subsection (1).

Section 68. Section 17B-1-406 is amended to read:

17B-1-406. Notice to county and municipality -- Exception.

(1) Except as provided in Subsection (2), within 10 days after certifying a petition under Subsection 17B-1-405(1)(b) the board of trustees of the proposed annexing [~~local~~] special district shall mail or deliver a written notice of the proposed annexation, with a copy of the certification and a copy of the petition, to the legislative body of each:

(a) county in whose unincorporated area any part of the area proposed for annexation is located; and

(b) municipality in which any part of the area proposed for annexation is located.

(2) The board is not required to send a notice under Subsection (1) to:

(a) a county or municipality that does not provide the service proposed to be provided by the [~~local~~] special district; or

(b) a county or municipality whose legislative body has adopted an ordinance or resolution waiving the notice requirement as to:

(i) the proposed annexing [~~local~~] special district; or

(ii) the service that the proposed annexing [~~local~~] special district provides.

(3) For purposes of this section, an area proposed to be annexed to a municipality in a petition under Section 10-2-403 filed before and still pending at the time of the filing of a petition under Subsection 17B-1-403(1)(a) and an area included within a municipality's annexation policy plan under Section 10-2-401.5 shall be considered to be part of that municipality.

Section 69. Section 17B-1-407 is amended to read:

17B-1-407. Notice of intent to consider providing service -- Public hearing requirements.

(1) (a) If the legislative body of a county or municipality whose applicable area is proposed to be annexed to a [~~local~~] special district in a petition under Subsection 17B-1-403(1)(a) intends to consider having the county or municipality, respectively, provide to the applicable area the service that the proposed annexing [~~local~~] special district provides, the legislative body shall, within 30 days after receiving the notice under Subsection 17B-1-406(1), mail or deliver a written notice to the board of trustees of the proposed annexing [~~local~~] special district indicating that intent.

(b) (i) A notice of intent under Subsection (1)(a) suspends the [~~local~~] special district's annexation proceeding as to the applicable area of the county or municipality that submits the notice of intent until the county or municipality:

(A) adopts a resolution under Subsection 17B-1-408(1) declining to provide the service proposed to be provided by the proposed annexing [~~local~~] special district; or

(B) is considered under Subsection 17B-1-408(2) or (3) to have declined to provide the service.

(ii) The suspension of an annexation proceeding under Subsection (1)(b)(i) as to an applicable area does not prevent the [~~local~~] special district from continuing to pursue the annexation proceeding with respect to other applicable areas for which no notice of intent was submitted.

(c) If a legislative body does not mail or deliver a notice of intent within the time required under Subsection (1)(a), the legislative body shall be considered to have declined to provide the service.

(2) Each legislative body that mails or delivers a notice under Subsection (1)(a) shall hold a public hearing or a set of public hearings, sufficient in number and location to ensure that no substantial group of residents of the area proposed for annexation need travel an unreasonable distance to attend a public hearing.

(3) Each public hearing under Subsection (2) shall be held:

(a) no later than 45 days after the legislative body sends notice under Subsection (1);

(b) except as provided in Subsections (6) and (7), within the applicable area; and

(c) for the purpose of allowing public input on:

(i) whether the service is needed in the area proposed for annexation;

(ii) whether the service should be provided by the county or municipality or the proposed annexing [~~local~~] special district; and

(iii) all other matters relating to the issue of providing the service or the proposed annexation.

(4) A quorum of the legislative body of each county or municipal legislative body holding a public hearing under this section shall be present throughout each hearing held by that county or municipal legislative body.

(5) Each hearing under this section shall be held on a weekday evening other than a holiday beginning no earlier than 6 p.m.

(6) Two or more county or municipal legislative bodies may jointly hold a hearing or set of hearings required under this section if all the requirements of this section, other than the requirements of Subsection (3)(b), are met as to each hearing.

(7) Notwithstanding Subsection (3)(b), a county or municipal legislative body may hold a public hearing or set of public hearings outside the applicable area if:

(a) there is no reasonable place to hold a public hearing within the applicable area; and

(b) the public hearing or set of public hearings is held as close to the applicable area as reasonably possible.

(8) Before holding a public hearing or set of public hearings under this section, the legislative body of each county or municipality that receives a request for service shall provide notice of the hearing or set of hearings as provided in Section 17B-1-211.

Section 70. Section 17B-1-408 is amended to read:

17B-1-408. Resolution indicating whether the requested service will be provided.

(1) Within 30 days after the last hearing required under Section 17B-1-407 is held, the legislative body of each county and municipality that sent a notice of intent under Subsection 17B-1-407(1) shall adopt a resolution indicating whether the county or municipality will provide to the area proposed for annexation within its boundaries the service proposed to be provided by the proposed annexing [~~local~~] special district.

(2) If the county or municipal legislative body fails to adopt a resolution within the time provided under Subsection (1), the county or municipality shall be considered to have declined to provide the service.

(3) If a county or municipal legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service but the county or municipality does not, within 120 days after the adoption of that resolution, take substantial measures to provide the service, the county or municipality shall be considered to have declined to provide the service.

(4) Each county or municipality whose legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service shall diligently proceed to take all measures necessary to provide the service.

(5) If a county or municipal legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service and the county or municipality takes substantial measures within the time provided in Subsection (3) to provide the service, the [~~local~~] special district's annexation proceeding as to the applicable area of that county or municipality is terminated and that applicable area is considered deleted from the area proposed to be annexed in a petition under Subsection 17B-1-403(1)(a).

Section 71. Section 17B-1-409 is amended to read:

17B-1-409. Public hearing on proposed annexation.

(1) Except as provided in Sections 17B-1-413 and 17B-1-415, the board of trustees of each [~~local~~] special district that certifies a petition that was filed under Subsection 17B-1-403(1)(a)(ii)(A) or (B), receives a resolution adopted under Subsection 17B-1-403(1)(b), or adopts a resolution under Subsection 17B-1-403(1)(c) shall hold a public hearing on the proposed annexation and provide notice of the hearing as provided in Section 17B-1-410.

(2) Each public hearing under Subsection (1) shall be held:

(a) within 45 days after:

(i) if no notice to a county or municipal legislative body is required under Section 17B-1-406, petition certification under Section 17B-1-405; or

(ii) if notice is required under Section 17B-1-406, but no notice of intent is submitted by the deadline:

(A) expiration of the deadline under Subsection 17B-1-407(1) to submit a notice of intent; or

(B) termination of a suspension of the annexation proceeding under Subsection 17B-1-407(1)(b);

(b) (i) for a [~~local~~] special district located entirely within a single county:

(A) within or as close as practicable to the area proposed to be annexed; or

(B) at the [~~local~~] special district office; or

(ii) for a [~~local~~] special district located in more than one county:

(A) (I) within the county in which the area proposed to be annexed is located; and

(II) within or as close as practicable to the area proposed to be annexed; or

(B) if the [~~local~~] special district office is reasonably accessible to all residents within the area proposed to be annexed, at the [~~local~~] special district office;

(c) on a weekday evening other than a holiday beginning no earlier than 6 p.m.; and

(d) for the purpose of allowing:

(i) the public to ask questions and obtain further information about the proposed annexation and issues raised by it; and

(ii) any interested person to address the board regarding the proposed annexation.

(3) A quorum of the board of trustees of the proposed annexing [~~local~~] special district shall be present throughout each public hearing held under this section.

(4) (a) After holding a public hearing under this section or, if no hearing is held because of application of Subsection 17B-1-413(2)(a)(ii), after expiration of the time under Subsection 17B-1-413(2)(a)(ii)(B) for requesting a hearing, the board of trustees may by resolution deny the annexation and terminate the annexation procedure if:

(i) for a proposed annexation initiated by a petition under Subsection 17B-1-403(1)(a)(i) or (ii), the board determines that:

(A) it is not feasible for the [~~local~~] special district to provide service to the area proposed to be annexed; or

(B) annexing the area proposed to be annexed would be inequitable to the owners of real property or residents already within the [~~local~~] special district; or

(ii) for a proposed annexation initiated by resolution under Subsection 17B-1-403(1)(b) or (c), the board determines not to pursue annexation.

(b) In each resolution adopted under Subsection (4)(a), the board shall set forth its reasons for denying the annexation.

Section 72. Section 17B-1-410 is amended to read:

17B-1-410. Notice of public hearing.

(1) Before holding a public hearing required under Section 17B-1-409, the board of trustees of each proposed annexing [~~local~~] special district shall:

(a) mail notice of the public hearing and the proposed annexation to:

(i) if the [~~local~~] special district is funded predominantly by revenues from a property tax, each owner of private real property located within the area proposed to be annexed, as shown upon the county assessment roll last equalized as of the previous December 31; or

(ii) if the [~~local~~] special district is not funded predominantly by revenues from a property tax, each registered voter residing within the area proposed to be annexed, as determined by the voter registration list maintained by the county clerk as of a date selected by the board of trustees that is at least 20 but not more than 60 days before the public hearing; and

(b) post notice of the public hearing and the proposed annexation in at least four conspicuous places within the area proposed to be annexed, no less than 10 and no more than 30 days before the public hearing.

(2) Each notice required under Subsection (1) shall:

(a) describe the area proposed to be annexed;

(b) identify the proposed annexing [~~local~~] special district;

(c) state the date, time, and location of the public hearing;

(d) provide a [~~local~~] special district telephone number where additional information about the proposed annexation may be obtained;

(e) specify the estimated financial impact, in terms of taxes and fees, upon the typical resident and upon the typical property owner within the area proposed to be annexed if the proposed annexation is completed; and

(f) except for a proposed annexation under a petition that meets the requirements of Subsection 17B-1-413(1), explain that property owners and registered voters within the area proposed to be annexed may protest the annexation by filing a written protest with the [~~local~~] special district board of trustees within 30 days after the public hearing.

Section 73. Section 17B-1-411 is amended to read:

17B-1-411. Modifications to area proposed for annexation -- Limitations.

(1) (a) Subject to Subsections (2), (3), (4), and (5), a board of trustees may, within 30 days after the public hearing under Section 17B-1-409, or, if no public hearing is held, within 30 days after the board provides notice under Subsection 17B-1-413(2)(a)(i), modify the area proposed for annexation to include land not previously included in that area or to exclude land from that area if the modification enhances the feasibility of the proposed annexation.

(b) A modification under Subsection (1)(a) may consist of the exclusion of all the land within an applicable area if:

(i) the entire area proposed to be annexed consists of more than that applicable area;

(ii) sufficient protests under Section 17B-1-412 are filed with respect to that applicable area that an

election would have been required under Subsection 17B-1-412(3) if that applicable area were the entire area proposed to be annexed; and

(iii) the other requirements of Subsection (1)(a) are met.

(2) A board of trustees may not add property under Subsection (1) to the area proposed for annexation without the consent of the owner of that property.

(3) Except as provided in Subsection (1)(b), a modification under Subsection (1) may not avoid the requirement for an election under Subsection 17B-1-412(3) if, before the modification, the election was required because of protests filed under Section 17B-1-412.

(4) If the annexation is proposed by a petition under Subsection 17B-1-403(1)(a)(ii)(A) or (B), a modification may not be made unless the requirements of Subsection 17B-1-403(1)(a)(ii)(A) or (B) are met after the modification as to the area proposed to be annexed.

(5) If the petition meets the requirements of Subsection 17B-1-413(1) before a modification under this section but fails to meet those requirements after modification:

(a) the [~~local~~] special district board shall give notice as provided in Section 17B-1-410 and hold a public hearing as provided in Section 17B-1-409 on the proposed annexation; and

(b) the petition shall be considered in all respects as one that does not meet the requirements of Subsection 17B-1-413(1).

Section 74. Section 17B-1-412 is amended to read:

17B-1-412. Protests -- Election.

(1) (a) An owner of private real property located within or a registered voter residing within an area proposed to be annexed may protest an annexation by filing a written protest with the board of trustees of the proposed annexing [~~local~~] special district, except:

(i) as provided in Section 17B-1-413;

(ii) for an annexation under Section 17B-1-415; and

(iii) for an annexation proposed by a [~~local~~] special district that receives sales and use tax funds from the counties, cities, and towns within the [~~local~~] special district that impose a sales and use tax under Section 59-12-2213.

(b) A protest of a boundary adjustment is not governed by this section but is governed by Section 17B-1-417.

(2) Each protest under Subsection (1)(a) shall be filed within 30 days after the date of the public hearing under Section 17B-1-409.

(3) (a) Except as provided in Subsection (4), the [~~local~~] special district shall hold an election on the proposed annexation if:

(i) timely protests are filed by:

(A) the owners of private real property that:

(I) is located within the area proposed to be annexed;

(II) covers at least 10% of the total private land area within the entire area proposed to be annexed and within each applicable area; and

(III) is equal in assessed value to at least 10% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or

(B) registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 10% of the number of votes cast within the entire area proposed for annexation and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition; or

(ii) the proposed annexing [~~local~~] special district is one that receives sales and use tax funds from the counties, cities, and towns within the [~~local~~] special district that impose a sales and use tax under Section 59-12-2213.

(b) (i) At each election held under Subsection (3)(a)(ii), the ballot question shall be phrased to indicate that a voter's casting a vote for or against the annexation includes also a vote for or against the imposition of the sales and use tax as provided in Section 59-12-2213.

(ii) Except as otherwise provided in this part, each election under Subsection (3)(a) shall be governed by Title 20A, Election Code.

(c) If a majority of registered voters residing within the area proposed to be annexed and voting on the proposal vote:

(i) in favor of annexation, the board of trustees shall, subject to Subsections 17B-1-414(1)(b), (2), and (3), complete the annexation by adopting a resolution approving annexation of the area; or

(ii) against annexation, the annexation process is terminated, the board may not adopt a resolution approving annexation of the area, and the area proposed to be annexed may not for two years be the subject of an effort under this part to annex to the same [~~local~~] special district.

(4) If sufficient protests are filed under this section to require an election for a proposed annexation to which the protest provisions of this section are applicable, a board of trustees may, notwithstanding Subsection (3), adopt a resolution rejecting the annexation and terminating the annexation process without holding an election.

Section 75. Section 17B-1-413 is amended to read:

17B-1-413. Hearing, notice, and protest provisions do not apply for certain petitions.

(1) Section 17B-1-412 does not apply, and, except as provided in Subsection (2)(a), Sections 17B-1-409 and 17B-1-410 do not apply:

(a) if the process to annex an area to a [~~local~~] special district was initiated by:

(i) a petition under Subsection 17B-1-403(1)(a)(i);

(ii) a petition under Subsection 17B-1-403(1)(a)(ii)(A) that was signed by the owners of private real property that:

(A) is located within the area proposed to be annexed;

(B) covers at least 75% of the total private land area within the entire area proposed to be annexed and within each applicable area; and

(C) is equal in assessed value to at least 75% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or

(iii) a petition under Subsection 17B-1-403(1)(a)(ii)(B) that was signed by registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 75% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition;

(b) to an annexation under Section 17B-1-415; or

(c) to a boundary adjustment under Section 17B-1-417.

(2) (a) If a petition that meets the requirements of Subsection (1)(a) is certified under Section 17B-1-405, the [~~local~~] special district board:

(i) shall provide notice of the proposed annexation as provided in Subsection (2)(b); and

(ii) (A) may, in the board's discretion, hold a public hearing as provided in Section 17B-1-409 after giving notice of the public hearing as provided in Subsection (2)(b); and

(B) shall, after giving notice of the public hearing as provided in Subsection (2)(b), hold a public hearing as provided in Section 17B-1-409 if a written request to do so is submitted, within 20 days after the [~~local~~] special district provides notice under Subsection (2)(a)(i), to the [~~local~~] special district board by an owner of property that is located within or a registered voter residing within the area proposed to be annexed who did not sign the annexation petition.

(b) The notice required under Subsections (2)(a)(i) and (ii) shall:

(i) be given:

(A) (I) for a notice under Subsection (2)(a)(i), within 30 days after petition certification; or

(II) for a notice of a public hearing under Subsection (2)(a)(ii), at least 10 but not more than 30 days before the public hearing; and

(B) by:

(I) posting written notice at the [~~local~~] special district's principal office and in one or more other locations within or proximate to the area proposed to be annexed as are reasonable under the circumstances, considering the number of parcels included in that area, the size of the area, the population of the area, and the contiguousness of the area; and

(II) providing written notice:

(Aa) to at least one newspaper of general circulation, if there is one, within the area proposed to be annexed or to a local media correspondent; and

(Bb) on the Utah Public Notice Website created in Section 63A-16-601; and

(ii) contain a brief explanation of the proposed annexation and include the name of the [~~local~~] special district, the service provided by the [~~local~~] special district, a description or map of the area proposed to be annexed, a [~~local~~] special district telephone number where additional information about the proposed annexation may be obtained, and, for a notice under Subsection (2)(a)(i), an explanation of the right of a property owner or registered voter to request a public hearing as provided in Subsection (2)(a)(ii)(B).

(c) A notice under Subsection (2)(a)(i) may be combined with the notice that is required for a public hearing under Subsection (2)(a)(ii)(A).

Section 76. Section 17B-1-414 is amended to read:

17B-1-414. Resolution approving an annexation -- Filing of notice and plat with lieutenant governor -- Recording requirements -- Effective date.

(1) (a) Subject to Subsection (1)(b), the [~~local~~] special district board shall adopt a resolution approving the annexation of the area proposed to be annexed or rejecting the proposed annexation within 90 days after:

(i) expiration of the protest period under Subsection 17B-1-412(2), if sufficient protests to require an election are not filed;

(ii) for a petition that meets the requirements of Subsection 17B-1-413(1):

(A) a public hearing under Section 17B-1-409 is held, if the board chooses or is required to hold a public hearing under Subsection 17B-1-413(2)(a)(ii); or

(B) expiration of the time for submitting a request for public hearing under Subsection 17B-1-413(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public hearing.

(b) If the [~~local~~] special district has entered into an agreement with the United States that requires the consent of the United States for an annexation of territory to the district, a resolution approving annexation under this part may not be adopted until the written consent of the United States is obtained and filed with the board of trustees.

(2) (a) (i) Within the time specified under Subsection (2)(a)(ii), the board shall file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3) and, if applicable, Subsection (2)(b); and

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

(ii) The board shall file the documents listed in Subsection (2)(a)(i) with the lieutenant governor:

(A) within 30 days after adoption of a resolution under Subsection (1), Subsection 17B-1-412(3)(c)(i), or Section 17B-1-415; and

(B) as soon as practicable after receiving the notice under Subsection 10-2-425(2) of a municipal annexation that causes an automatic annexation to a [~~local~~] special district under Section 17B-1-416.

(b) For an automatic annexation to a [~~local~~] special district under Section 17B-1-416, the notice of an impending boundary action required under Subsection (2)(a) shall state that an area outside the boundaries of the [~~local~~] special district is being automatically annexed to the [~~local~~] special district under Section 17B-1-416 because of a municipal annexation under Title 10, Chapter 2, Part 4, Annexation.

(c) Upon the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5, the board shall:

(i) if the annexed area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of annexation; and

(III) approved final local entity plat; and

(B) a certified copy of the annexation resolution; or

(ii) if the annexed area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsection (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution.

(3) (a) As used in this Subsection (3), "fire district annexation" means an annexation under this part of an area located in a county of the first class to a [~~local~~] special district:

(i) created to provide fire protection, paramedic, and emergency services; and

(ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d).

(b) An annexation under this part is complete and becomes effective:

(i) (A) on July 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from January 1 through June 30; or

(B) on January 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from July 1 through December 31; or

(ii) upon the lieutenant governor's issuance of the certificate of annexation under Section 67-1a-6.5, for any other annexation.

(c) (i) The effective date of a [~~local~~] special district annexation for purposes of assessing property within the annexed area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2)(c) are recorded in the office of the recorder of each county in which the property is located, a [~~local~~] special district may not:

(A) levy or collect a property tax on property within the annexed area;

(B) levy or collect an assessment on property within the annexed area; or

(C) charge or collect a fee for service provided to property within the annexed area.

(iii) Subsection (3)(c)(ii)(C):

(A) may not be construed to limit a [~~local~~] special district's ability before annexation to charge and collect a fee for service provided to property that is outside the [~~local~~] special district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (3)(b), of the [~~local~~] special district's annexation, with respect to a fee that the [~~local~~] special district was charging for service provided to property within the annexed area immediately before the area was annexed to the [~~local~~] special district.

Section 77. Section 17B-1-415 is amended to read:

17B-1-415. Annexation of wholesale district through expansion of retail provider -- Annexation of a special district that provides transportation services.

(1) (a) A [~~local~~] special district that provides a wholesale service may adopt a resolution approving the annexation of an area outside the [~~local~~] special district's boundaries if:

(i) the area is annexed by or otherwise added to, or is added to the retail service area of, a municipality or another [~~local~~] special district that:

(A) acquires the wholesale service from the [~~local~~] special district and provides it as a retail service;

(B) is, before the annexation or other addition, located at least partly within the [~~local~~] special district; and

(C) after the annexation or other addition will provide to the annexed or added area the same retail service that the [~~local~~] special district provides as a wholesale service to the municipality or other [~~local~~] special district; and

(ii) except as provided in Subsection (2), no part of the area is within the boundaries of another [~~local~~] special district that provides the same wholesale service as the proposed annexing [~~local~~] special district.

(b) For purposes of this section:

(i) a [~~local~~] special district providing public transportation service shall be considered to be providing a wholesale service; and

(ii) a municipality included within the boundaries of the [~~local~~] special district providing public transportation service shall be considered to be acquiring that wholesale service from the [~~local~~] special district and providing it as a retail service and to be providing that retail service after the annexation or other addition to the annexed or added area, even though the municipality does not in fact provide that service.

(2) Notwithstanding Subsection (1)(a)(ii), an area outside the boundaries of a [~~local~~] special district providing a wholesale service and located partly or entirely within the boundaries of another [~~local~~] special district that provides the same wholesale service may be annexed to the [~~local~~] special district if:

(a) the conditions under Subsection (1)(a)(i) are present; and

(b) the proposed annexing [~~local~~] special district and the other [~~local~~] special district follow the same procedure as is required for a boundary adjustment under Section 17B-1-417, including both district boards adopting a resolution approving the annexation of the area to the proposed annexing [~~local~~] special district and the withdrawal of that area from the other district.

(3) A [~~local~~] special district that provides transportation services may adopt a resolution approving the annexation of the area outside of the [~~local~~] special district's boundaries if:

(a) the area is within a county that has levied a sales and use tax under Section 59-12-2216; and

(b) the county legislative body has adopted a resolution approving the annexation of the areas outside of the [~~local~~] special district.

(4) Upon the adoption of an annexation resolution under this section, the board of the annexing [~~local~~] special district shall comply with the requirements of Subsection 17B-1-414(2), and the lieutenant governor shall issue a certificate of annexation and send a copy of notice as provided in Section 67-1a-6.5.

(5) Subsections 17B-1-414(2) and (3) apply to an annexation under this section.

Section 78. Section 17B-1-416 is amended to read:

17B-1-416. Automatic annexation to a district providing fire protection, paramedic, and emergency services or law enforcement service.

(1) An area outside the boundaries of a [~~local~~] special district that is annexed to a municipality or added to a municipality by a boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, is automatically annexed to the [~~local~~] special district if:

(a) the [~~local~~] special district provides:

(i) fire protection, paramedic, and emergency services; or

(ii) law enforcement service;

(b) an election for the creation of the [~~local~~] special district was not required because of Subsection 17B-1-214(3)(d); and

(c) before the municipal annexation or boundary adjustment, the entire municipality that is annexing the area or adding the area by boundary adjustment was included within the [~~local~~] special district.

(2) The effective date of an annexation under this section is governed by Subsection 17B-1-414(3)(b).

Section 79. Section 17B-1-417 is amended to read:

17B-1-417. Boundary adjustment -- Notice and hearing -- Protest -- Resolution adjusting boundaries -- Filing of notice and plat with the lieutenant governor -- Recording requirements -- Effective date.

(1) As used in this section, "affected area" means the area located within the boundaries of one [~~local~~] special district that will be removed from that [~~local~~] special district and included within the boundaries of another [~~local~~] special district because of a boundary adjustment under this section.

(2) The boards of trustees of two or more [~~local~~] special districts having a common boundary and providing the same service on the same wholesale or retail basis may adjust their common boundary as provided in this section.

(3) (a) The board of trustees of each [~~local~~] special district intending to adjust a boundary that is common with another [~~local~~] special district shall:

(i) adopt a resolution indicating the board's intent to adjust a common boundary;

(ii) hold a public hearing on the proposed boundary adjustment no less than 60 days after the adoption of the resolution under Subsection (3)(a)(i); and

(iii) (A) post notice:

(I) in at least four conspicuous places within the [~~local~~] special district at least two weeks before the public hearing; and

(II) on the Utah Public Notice Website created in Section 63A-16-601, for two weeks; or

(B) mail a notice to each owner of property located within the affected area and to each registered voter residing within the affected area.

(b) The notice required under Subsection (3)(a)(iii) shall:

(i) state that the board of trustees of the [~~local~~] special district has adopted a resolution indicating the board's intent to adjust a boundary that the [~~local~~] special district has in common with another [~~local~~] special district that provides the same service as the [~~local~~] special district;

(ii) describe the affected area;

(iii) state the date, time, and location of the public hearing required under Subsection (3)(a)(ii);

(iv) provide a [~~local~~] special district telephone number where additional information about the proposed boundary adjustment may be obtained;

(v) explain the financial and service impacts of the boundary adjustment on property owners or residents within the affected area; and

(vi) state in conspicuous and plain terms that the board of trustees may approve the adjustment of the boundaries unless, at or before the public hearing under Subsection (3)(a)(ii), written protests to the adjustment are filed with the board by:

(A) the owners of private real property that:

(I) is located within the affected area;

(II) covers at least 50% of the total private land area within the affected area; and

(III) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(B) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(c) The boards of trustees of the [~~local~~] special districts whose boundaries are being adjusted may jointly:

(i) post or mail the notice required under Subsection (3)(a)(iii); and

(ii) hold the public hearing required under Subsection (3)(a)(ii).

(4) After the public hearing required under Subsection (3)(a)(ii), the board of trustees may adopt a resolution approving the adjustment of the common boundary unless, at or before the public hearing, written protests to the boundary adjustment have been filed with the board by:

(a) the owners of private real property that:

(i) is located within the affected area;

(ii) covers at least 50% of the total private land area within the affected area; and

(iii) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(b) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(5) A resolution adopted under Subsection (4) does not take effect until the board of each [~~local~~] special district whose boundaries are being adjusted has adopted a resolution under Subsection (4).

(6) The board of the [~~local~~] special district whose boundaries are being adjusted to include the affected area shall:

(a) within 30 days after the resolutions take effect under Subsection (5), file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

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

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5:

(i) if the affected area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary adjustment; and

(III) approved final local entity plat; and

(B) a certified copy of each resolution adopted under Subsection (4); or

(ii) if the affected area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4); and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4).

(7) (a) Upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, the affected area is annexed to the [~~local~~] special district whose boundaries are being adjusted to include the affected area, and the

affected area is withdrawn from the [~~local~~] special district whose boundaries are being adjusted to exclude the affected area.

(b) (i) The effective date of a boundary adjustment under this section for purposes of assessing property within the affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (6)(b) are recorded in the office of the recorder of the county in which the property is located, a [~~local~~] special district in whose boundary an affected area is included because of a boundary adjustment under this section may not:

(A) levy or collect a property tax on property within the affected area;

(B) levy or collect an assessment on property within the affected area; or

(C) charge or collect a fee for service provided to property within the affected area.

(iii) Subsection (7)(b)(ii)(C):

(A) may not be construed to limit a [~~local~~] special district's ability before a boundary adjustment to charge and collect a fee for service provided to property that is outside the [~~local~~] special district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (7)(a), of the [~~local~~] special district's boundary adjustment, with respect to a fee that the [~~local~~] special district was charging for service provided to property within the area affected by the boundary adjustment immediately before the boundary adjustment.

Section 80. Section 17B-1-418 is amended to read:

17B-1-418. Annexed area subject to fees and taxes.

When an annexation under Section 17B-1-414 or 17B-1-415 or a boundary adjustment under Section 17B-1-417 is complete, the annexed area or the area affected by the boundary adjustment shall be subject to user fees imposed by and property, sales, and other taxes levied by or for the benefit of the [~~local~~] special district.

Section 81. Section 17B-1-501 is amended to read:

17B-1-501. Definition.

As used in this part, "receiving entity" means the entity that will, after the withdrawal of an area from a [~~local~~] special district, provide to the withdrawn area the service that the [~~local~~] special district previously provided to the area.

Section 82. Section 17B-1-502 is amended to read:

17B-1-502. Withdrawal of area from special district -- Automatic withdrawal in certain circumstances.

(1) (a) An area within the boundaries of a [~~local~~] special district may be withdrawn from the [~~local~~] special district only as provided in this part or, if applicable, as provided in Chapter 2a, Part 11, Municipal Services District Act.

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a [~~local~~] special district within a municipality because of a municipal incorporation under Title 10, Chapter 2a, Municipal Incorporation, or a municipal annexation or boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process of withdrawing that area from the [~~local~~] special district.

(2) (a) An area within the boundaries of a [~~local~~] special district is automatically withdrawn from the [~~local~~] special district by the annexation of the area to a municipality or the adding of the area to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

(i) the [~~local~~] special district provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) an election for the creation of the [~~local~~] special district was not required because of Subsection 17B-1-214(3)(d) or (g); and

(iii) before annexation or boundary adjustment, the boundaries of the [~~local~~] special district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-1-512(2)(b).

(3) (a) Except as provided in Subsection (3)(c) or (d), an area within the boundaries of a [~~local~~] special district located in a county of the first class is automatically withdrawn from the [~~local~~] special district by the incorporation of a municipality whose boundaries include the area if:

(i) the [~~local~~] special district provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services;

(ii) an election for the creation of the [~~local~~] special district was not required because of Subsection 17B-1-214(3) (g); and

(iii) the legislative body of the newly incorporated municipality:

(A) for a city or town incorporated under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, complies with the feasibility study requirements of Section 17B-2a-1110;

(B) adopts a resolution no later than 180 days after the effective date of incorporation approving the withdrawal that includes the legal description of the area to be withdrawn; and

(C) delivers a copy of the resolution to the board of trustees of the [~~local~~] special district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

(c) Section 17B-1-505 shall govern the withdrawal of an incorporated area within a county of the first class if:

(i) the [~~local~~] special district from which the area is withdrawn provides:

(A) fire protection, paramedic, and emergency services;

(B) law enforcement service; or

(C) municipal services, as defined in Section 17B-2a-1102;

(ii) an election for the creation of the [~~local~~] special district was not required under Subsection 17B-1-214(3)(d) or (g); and

(iii) for a [~~local~~] special district that provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services, the 180-day period described in Subsection (3)(a)(iii)(B) is expired.

(d) An area may not be withdrawn from a [~~local~~] special district that provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services, if:

(i) the area is incorporated as a metro township; and

(ii) at the election to incorporate as a metro township, the residents of the area chose to be included in a municipal services district.

Section 83. Section 17B-1-503 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) owners of private land equal in assessed value to more than 60% of the assessed value of all private

real property within the area proposed for withdrawal have consented in writing to the withdrawal.

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

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

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

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

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

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

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

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

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

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

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

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

(C) any other documentation required by law.

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

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

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

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

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

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

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

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

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

Section 84. Section 17B-1-504 is amended to read:

17B-1-504. Initiation of withdrawal process -- Notice of petition.

(1) Except as provided in Section 17B-1-505, the process to withdraw an area from a [~~local~~] special district may be initiated:

(a) for a [~~local~~] special district funded predominantly by revenues from property taxes or service charges other than those based upon acre-feet of water:

(i) by a petition signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn;

(B) covers at least 51% of the total private land within the area proposed to be withdrawn; and

(C) is equal in taxable value to at least 51% of the taxable value of all private real property within the area proposed to be withdrawn;

(ii) by a petition signed by registered voters residing within the area proposed to be withdrawn equal in number to at least 67% of the number of votes cast in the same area for the office of governor at the last regular general election before the filing of the petition;

(iii) by a resolution adopted by the board of trustees of the [~~local~~] special district in which the area proposed to be withdrawn is located, which:

(A) states the reasons for withdrawal; and

(B) is accompanied by a general description of the area proposed to be withdrawn; or

(iv) by a resolution to file a petition with the [~~local~~] special district to withdraw from the [~~local~~] special district all or a specified portion of the area within a municipality or county, adopted by the governing body of a municipality that has within its boundaries an area located within the boundaries of a [~~local~~] special district, or by the governing body of a county that has within its boundaries an area located within the boundaries of a [~~local~~] special district that is located in more than one county, which petition of the governing body shall be filed with the board of trustees only if a written request to petition the board of trustees to withdraw an area from the [~~local~~] special district has been filed with the governing body of the municipality, or county, and the request has been signed by registered voters residing within the boundaries of the area proposed for withdrawal equal in number to at least 51% of the number of votes cast in the same area for the office of governor at the last regular general election before the filing of the petition;

(b) for a [~~local~~] special district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector:

(i) in the same manner as provided in Subsection (1)(a)(iii) or Subsection (1)(a)(iv); or

(ii) by a petition signed by the owners of at least 67% of the acre-feet of water allotted to the land proposed to be withdrawn; or

(c) for a [~~local~~] special district funded predominantly by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water:

(i) in the same manner as provided in Subsection (1)(a)(iii) or Subsection (1)(a)(iv); or

(ii) by a petition signed by the registered voters residing within the entire area proposed to be withdrawn, which area shall be comprised of an entire unincorporated area within the [~~local~~] special district or an entire municipality within a [~~local~~] special district, or a combination thereof, equal in number to at least 67% of the number of votes cast within the entire area proposed to be withdrawn for the office of governor at the last regular general election before the filing of the petition.

(2) Prior to soliciting any signatures on a petition under Subsection (1), the sponsors of the petition shall:

(a) notify the [~~local~~] special district board with which the petition is intended to be filed that the sponsors will be soliciting signatures for a petition; and

(b) mail a copy of the petition to the [~~local~~] special district board.

Section 85. Section 17B-1-505 is amended to read:

17B-1-505. Withdrawal of municipality from certain districts providing fire protection, paramedic, and emergency services or law enforcement service or municipal services.

(1) As used in this section, "first responder district" means a [~~local~~] special district, other than a municipal services district, that provides:

(a) fire protection, paramedic, and emergency services; or

(b) law enforcement service.

(2) This section applies to the withdrawal of a municipality that is entirely within the boundary of a first responder district or municipal services district that was created without the necessity of an election because of Subsection 17B-1-214(3)(d) or (g).

(3) (a) The process to withdraw a municipality from a first responder district or municipal services district may be initiated by a resolution adopted by the legislative body of the municipality, subject to Subsection (3)(b).

(b) The legislative body of a municipality that is within a municipal services district may not adopt a resolution under Subsection (3)(a) to withdraw from the municipal services district unless the municipality has conducted a feasibility study in accordance with Section 17B-2a-1110.

(c) Within 10 days after adopting a resolution under Subsection (3)(a), the municipal legislative body shall submit to the board of trustees of the first responder district or municipal services district written notice of the adoption of the resolution, accompanied by a copy of the resolution.

(4) If a resolution is adopted under Subsection (3)(a) by the legislative body of a municipality within a municipal services district, the municipal legislative body shall hold an election at the next municipal general election that is more than 60 days after adoption of the resolution on the question of whether the municipality should withdraw from the municipal services district.

(5) (a) A municipality shall be withdrawn from a first responder district if:

(i) the legislative body of the municipality adopts a resolution initiating the withdrawal under Subsection (3)(a); and

(ii) (A) whether before or after the effective date of this section, the municipality and first responder district agree in writing to the withdrawal; or

(B) except as provided in Subsection (5)(b) and subject to Subsection (6), the voters of the municipality approve the withdrawal at an election held for that purpose.

(b) An election under Subsection (5)(a)(ii)(B) is not required if, after a feasibility study is conducted under Section 17B-1-505.5 and a public hearing is held under Subsection 17B-1-505.5(14), the municipality and first responder district agree in writing to the withdrawal.

(6) An election under Subsection (5)(a)(ii)(B) may not be held unless:

(a) a feasibility study is conducted under Section 17B-1-505.5; and

(b) (i) the feasibility study concludes that the withdrawal is functionally and financially feasible for the municipality and the first responder district; or

(ii) (A) the feasibility study concludes that the withdrawal would be functionally and financially feasible for the municipality and the first responder district if conditions specified in the feasibility study are met; and

(B) the legislative body of the municipality adopts a resolution irrevocably committing the municipality to satisfying the conditions specified in the feasibility study, if the withdrawal is approved by the municipality's voters.

(7) If a majority of those voting on the question of withdrawal at an election held under Subsection (4) or (5)(a)(ii)(B) vote in favor of withdrawal, the municipality shall be withdrawn from the [~~local~~] special district.

(8) (a) Within 10 days after the canvass of an election at which a withdrawal under this section is submitted to voters, the municipal legislative body shall send written notice to the board of the first responder district or municipal services district from which the municipality is proposed to withdraw.

(b) Each notice under Subsection (8)(a) shall:

(i) state the results of the withdrawal election; and

(ii) if the withdrawal was approved by voters, be accompanied by a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(9) The effective date of a withdrawal under this section is governed by Subsection 17B-1-512(2)(a).

Section 86. Section 17B-1-505.5 is amended to read:

17B-1-505.5. Feasibility study for a municipality's withdrawal from a special district providing fire protection, paramedic, and emergency services or law enforcement service.

(1) As used in this section:

(a) "Feasibility consultant" means a person with expertise in:

(i) the processes and economics of local government; and

(ii) the economics of providing fire protection, paramedic, and emergency services or law enforcement service.

(b) "Feasibility study" means a study to determine the functional and financial feasibility of a municipality's withdrawal from a first responder [~~local~~] special district.

(c) "First responder district" means a [~~local~~] special district, other than a municipal services district, that provides:

(i) fire protection, paramedic, and emergency services; or

(ii) law enforcement service.

(d) "Withdrawing municipality" means a municipality whose legislative body has adopted a resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district.

(2) This section applies and a feasibility study shall be conducted, as provided in this section, if:

(a) the legislative body of a municipality has adopted a resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district;

(b) the municipality and first responder district have not agreed in writing to the withdrawal; and

(c) a feasibility study is a condition under Subsection 17B-1-505(6)(a) for an election to be held approving the withdrawal.

(3) (a) As provided in this Subsection (3), the withdrawing municipality and first responder district shall choose and engage a feasibility consultant to conduct a feasibility study.

(b) The withdrawing municipality and first responder district shall jointly choose and engage a feasibility consultant according to applicable municipal or [~~local~~] special district procurement procedures.

(c) (i) If the withdrawing municipality and first responder district cannot agree on and have not engaged a feasibility consultant under Subsection (3)(b) within 45 days after the legislative body of the withdrawing municipality submits written notice to the first responder district under Subsection 17B-1-505(3)(c), the withdrawing municipality and first responder district shall, as provided in this Subsection (3)(c), choose a feasibility consultant from a list of at least eight feasibility consultants provided by the Utah Association of Certified Public Accountants.

(ii) A list of feasibility consultants under Subsection (3)(c)(i) may not include a feasibility consultant that has had a contract to provide services to the withdrawing municipality or first responder district at any time during the two-year period immediately preceding the date the list is provided under Subsection (3)(c)(i).

(iii) (A) Beginning with the first responder district, the first responder district and withdrawing municipality shall alternately eliminate one feasibility consultant each from the list of feasibility consultants until one feasibility consultant remains.

(B) Within five days after receiving the list of consultants from the Utah Association of Certified Public Accountants, the first responder district

shall make the first elimination of a feasibility consultant from the list and notify the withdrawing municipality in writing of the elimination.

(C) After the first elimination of a feasibility consultant from the list, the withdrawing municipality and first responder district shall each, within three days after receiving the written notification of the preceding elimination, notify the other in writing of the elimination of a feasibility consultant from the list.

(d) If a withdrawing municipality and first responder district do not engage a feasibility consultant under Subsection (3)(b), the withdrawing municipality and first responder district shall engage the feasibility consultant that has not been eliminated from the list at the completion of the process described in Subsection (3)(c).

(4) A feasibility consultant that conducts a feasibility study under this section shall be independent of and unaffiliated with the withdrawing municipality and first responder district.

(5) In conducting a feasibility study under this section, the feasibility consultant shall consider:

(a) population and population density within the withdrawing municipality;

(b) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(c) projected growth in the withdrawing municipality during the next five years;

(d) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of providing the same service in the withdrawing municipality as is provided by the first responder district, including:

(i) the estimated cost if the first responder district continues to provide service; and

(ii) the estimated cost if the withdrawing municipality provides service;

(e) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of the first responder district providing service with:

(i) the municipality included in the first responder district's service area; and

(ii) the withdrawing municipality excluded from the first responder district's service area;

(f) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years after the withdrawal;

(g) the fiscal impact that the withdrawing municipality's withdrawal has on other municipalities and unincorporated areas served by the first responder district, including any rate increase that may become necessary to maintain required coverage ratios for the first responder district's debt;

(h) the physical and other assets that will be required by the withdrawing municipality to provide, without interruption or diminution of service, the same service that is being provided by the first responder district;

(i) the physical and other assets that will no longer be required by the first responder district to continue to provide the current level of service to the remainder of the first responder district, excluding the withdrawing municipality, and could be transferred to the withdrawing municipality;

(j) subject to Subsection (6)(b), a fair and equitable allocation of the first responder district's assets between the first responder district and the withdrawing municipality, effective upon the withdrawal of the withdrawing municipality from the first responder district;

(k) a fair and equitable allocation of the debts, liabilities, and obligations of the first responder district and any local building authority of the first responder district, between the withdrawing municipality and the remaining first responder district, taking into consideration:

(i) any requirement to maintain the excludability of interest from the income of the holder of the debt, liability, or obligation for federal income tax purposes; and

(ii) any first responder district assets that have been purchased with the proceeds of bonds issued by the first responder district that the first responder district will retain and any of those assets that will be transferred to the withdrawing municipality;

(l) the number and classification of first responder district employees who will no longer be required to serve the remaining portions of the first responder district after the withdrawing municipality withdraws from the first responder district, including the dollar amount of the wages, salaries, and benefits attributable to the employees and the estimated cost associated with termination of the employees if the withdrawing municipality does not employ the employees;

(m) maintaining as a base, for a period of three years after withdrawal, the existing schedule of pay and benefits for first responder district employees who are transferred to the employment of the withdrawing municipality; and

(n) any other factor that the feasibility consultant considers relevant to the question of the withdrawing municipality's withdrawal from the first responder district.

(6) (a) For purposes of Subsections (5)(d) and (e):

(i) the feasibility consultant shall assume a level and quality of service to be provided in the future to the withdrawing municipality that fairly and reasonably approximates the level and quality of service that the first responder district provides to

the withdrawing municipality at the time of the feasibility study;

(ii) in determining the present value cost of a service that the first responder district provides, the feasibility consultant shall consider:

(A) the cost to the withdrawing municipality of providing the service for the first five years after the withdrawal; and

(B) the first responder district's present and five-year projected cost of providing the same service within the withdrawing municipality; and

(iii) the feasibility consultant shall consider inflation and anticipated growth in calculating the cost of providing service.

(b) The feasibility consultant may not consider an allocation of first responder district assets or a transfer of first responder district employees to the extent that the allocation or transfer would impair the first responder district's ability to continue to provide the current level of service to the remainder of the first responder district without the withdrawing municipality, unless the first responder district consents to the allocation or transfer.

(7) A feasibility consultant may retain an architect, engineer, or other professional, as the feasibility consultant considers prudent and as provided in the agreement with the withdrawing municipality and first responder district, to assist the feasibility consultant to conduct a feasibility study.

(8) The withdrawing municipality and first responder district shall require the feasibility consultant to:

(a) complete the feasibility study within a time established by the withdrawing municipality and first responder district;

(b) prepare and submit a written report communicating the results of the feasibility study, including a one-page summary of the results; and

(c) attend all public hearings relating to the feasibility study under Subsection (14).

(9) A written report of the results of a feasibility study under this section shall:

(a) contain a recommendation concerning whether a withdrawing municipality's withdrawal from a first responder district is functionally and financially feasible for both the first responder district and the withdrawing municipality; and

(b) include any conditions the feasibility consultant determines need to be satisfied in order to make the withdrawal functionally and financially feasible, including:

(i) first responder district assets and liabilities to be allocated to the withdrawing municipality; and

(ii) (A) first responder district employees to become employees of the withdrawing municipality; and

(B) sick leave, vacation, and other accrued benefits and obligations relating to the first responder district employees that the withdrawing municipality needs to assume.

(10) The withdrawing municipality and first responder district shall equally share the feasibility consultant's fees and costs, as specified in the agreement between the withdrawing municipality and first responder district and the feasibility consultant.

(11) (a) Upon completion of the feasibility study and preparation of a written report, the feasibility consultant shall deliver a copy of the report to the withdrawing municipality and first responder district.

(b) (i) A withdrawing municipality or first responder district that disagrees with any aspect of a feasibility study report may, within 20 business days after receiving a copy of the report under Subsection (11)(a), submit to the feasibility consultant a written objection detailing the disagreement.

(ii) (A) A withdrawing municipality that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the first responder district.

(B) A first responder district that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the withdrawing municipality.

(iii) A withdrawing municipality or first responder district may, within 10 business days after receiving an objection under Subsection (11)(b)(ii), submit to the feasibility consultant a written response to the objection.

(iv) (A) A withdrawing municipality that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the first responder district.

(B) A first responder district that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the withdrawing municipality.

(v) If an objection is filed under Subsection (11)(b)(i), the feasibility consultant shall, within 20 business days after the expiration of the deadline under Subsection (11)(b)(iii) for submitting a response to an objection:

(A) modify the feasibility study report or explain in writing why the feasibility consultant is not modifying the feasibility study report; and

(B) deliver the modified feasibility study report or written explanation to the withdrawing municipality and first responder [~~local~~] special district.

(12) Within seven days after the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection or, if an objection is submitted, within seven days after receiving a modified feasibility study report or written explanation under Subsection (11)(b)(v), but at least 30 days before a

public hearing under Subsection (14), the withdrawing municipality shall:

(a) make a copy of the report available to the public at the primary office of the withdrawing municipality; and

(b) if the withdrawing municipality has a website, post a copy of the report on the municipality's website.

(13) A feasibility study report or, if a feasibility study report is modified under Subsection (11), a modified feasibility study report may not be challenged unless the basis of the challenge is that the report results from collusion or fraud.

(14) (a) Following the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection, or, if an objection is submitted under Subsection (11)(b)(i), following the withdrawing municipality's receipt of the modified feasibility study report or written explanation under Subsection (11)(b)(v), the legislative body of the withdrawing municipality shall, at the legislative body's next regular meeting, schedule at least one public hearing to be held:

(i) within the following 60 days; and

(ii) for the purpose of allowing:

(A) the feasibility consultant to present the results of the feasibility study; and

(B) the public to become informed about the feasibility study results, to ask the feasibility consultant questions about the feasibility study, and to express the public's views about the proposed withdrawal.

(b) At a public hearing under Subsection (14)(a), the legislative body of the withdrawing municipality shall:

(i) provide a copy of the feasibility study for public review; and

(ii) allow the public to:

(A) ask the feasibility consultant questions about the feasibility study; and

(B) express the public's views about the withdrawing municipality's proposed withdrawal from the first responder district.

(15) (a) The clerk or recorder of the withdrawing municipality shall publish notice of a hearing under Subsection (14) on the Utah Public Notice Website created in Section 63A-16-601, for three consecutive weeks immediately before the public hearing.

(b) A notice under Subsection (15)(a) shall state:

(i) the date, time, and location of the public hearing; and

(ii) that a copy of the feasibility study report may be obtained, free of charge, at the office of the withdrawing municipality or on the withdrawing municipality's website.

(16) Unless the withdrawing municipality and first responder district agree otherwise, conditions that a feasibility study report indicates are necessary to be met for a withdrawal to be functionally and financially feasible for the withdrawing municipality and first responder district are binding on the withdrawing municipality and first responder district if the withdrawal occurs.

Section 87. Section 17B-1-506 is amended to read:

17B-1-506. Withdrawal petition requirements.

(1) Each petition under Section 17B-1-504 shall:

(a) indicate the typed or printed name and current address of each owner of acre-feet of water, property owner, registered voter, or authorized representative of the governing body signing the petition;

(b) separately group signatures by municipality and, in the case of unincorporated areas, by county;

(c) if it is a petition signed by the owners of land, the assessment of which is based on acre-feet of water, indicate the address of the property and the property tax identification parcel number of the property as to which the owner is signing the request;

(d) designate up to three signers of the petition as sponsors, or in the case of a petition filed under Subsection 17B-1-504(1)(a)(iv), designate a governmental representative as a sponsor, and in each case, designate one sponsor as the contact sponsor with the mailing address and telephone number of each;

(e) state the reasons for withdrawal; and

(f) when the petition is filed with the [~~local~~] special district board of trustees, be accompanied by a map generally depicting the boundaries of the area proposed to be withdrawn and a legal description of the area proposed to be withdrawn.

(2) (a) The [~~local~~] special district may prepare an itemized list of expenses, other than attorney expenses, that will necessarily be incurred by the [~~local~~] special district in the withdrawal proceeding. The itemized list of expenses may be submitted to the contact sponsor. If the list of expenses is submitted to the contact sponsor within 21 days after receipt of the petition, the contact sponsor on behalf of the petitioners shall be required to pay the expenses to the [~~local~~] special district within 90 days of receipt. Until funds to cover the expenses are delivered to the [~~local~~] special district, the district will have no obligation to proceed with the withdrawal and the time limits on the district stated in this part will be tolled. If the expenses are not paid within the 90 days, or within 90 days from the conclusion of any arbitration under Subsection (2)(b), the petition requesting the withdrawal shall be considered to have been withdrawn.

(b) If there is no agreement between the board of trustees of the [~~local~~] special district and the contact sponsor on the amount of expenses that will

necessarily be incurred by the [~~local~~] special district in the withdrawal proceeding, either the board of trustees or the contact sponsor may submit the matter to binding arbitration in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act; provided that, if the parties cannot agree upon an arbitrator and the rules and procedures that will control the arbitration, either party may pursue arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(3) A signer of a petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the public hearing under Section 17B-1-508 by submitting a written withdrawal or reinstatement with the board of trustees of the [~~local~~] special district in which the area proposed to be withdrawn is located.

(4) If it reasonably appears that, if the withdrawal which is the subject of a petition filed under Subsection 17B-1-504(1)(a)(i) or (ii) is granted, it will be necessary for a municipality to provide to the withdrawn area the service previously supplied by the [~~local~~] special district, the board of trustees of the [~~local~~] special district may, within 21 days after receiving the petition, notify the contact sponsor in writing that, before it will be considered by the board of trustees, the petition shall be presented to and approved by the governing body of the municipality as provided in Subsection 17B-1-504(1)(a)(iv) before it will be considered by the [~~local~~] special district board of trustees. If the notice is timely given to the contact sponsor, the petition shall be considered to have been withdrawn until the municipality files a petition with the [~~local~~] special district under Subsection 17B-1-504(1)(a)(iv).

(5) (a) After receiving the notice required by Subsection 17B-1-504(2), unless specifically allowed by law, a public entity may not make expenditures from public funds to support or oppose the gathering of signatures on a petition for withdrawal.

(b) Nothing in this section prohibits a public entity from providing factual information and analysis regarding a withdrawal petition to the public, so long as the information grants equal access to both the opponents and proponents of the petition for withdrawal.

(c) Nothing in this section prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's constitutional rights.

Section 88. Section 17B-1-507 is amended to read:

17B-1-507. Withdrawal petition certification -- Amended petition.

(1) Within 30 days after the filing of a petition under Sections 17B-1-504 and 17B-1-506, the board of trustees of the [~~local~~] special district in which the area proposed to be withdrawn is located shall:

(a) with the assistance of officers of the county in which the area proposed to be withdrawn is located, determine whether the petition meets the requirements of Sections 17B-1-504 and 17B-1-506; and

(b) (i) if the petition complies with the requirements set forth in Sections 17B-1-504 and 17B-1-506, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the petition fails to comply with any of the requirements set forth in Sections 17B-1-504 and 17B-1-506, reject the petition as insufficient and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2) (a) If the board rejects the petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled within 60 days after notice of the rejection.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement for an amended petition refiled under Subsection (2)(a).

(3) The board of trustees shall process an amended petition refiled under Subsection (2)(a) in the same manner as an original petition under Subsection (1). If an amended petition is rejected for failure to comply with the requirements of Sections 17B-1-504 and 17B-1-506, the board of trustees shall issue a final rejection of the petition for insufficiency and mail or deliver written notice of the final rejection to the contact sponsor.

(4) (a) A signer of a petition for which there has been a final rejection under Subsection (3) for insufficiency may seek judicial review of the board of trustees' final decision to reject the petition as insufficient.

(b) Judicial review under Subsection (4)(a) shall be initiated by filing an action in state district court in the county in which a majority of the area proposed to be withdrawn is located.

(c) The court in which an action is filed under this Subsection (4) may not overturn the board of trustees' decision to reject the petition unless the court finds that:

(i) the board of trustees' decision was arbitrary or capricious; or

(ii) the petition materially complies with the requirements set forth in Sections 17B-1-504 and 17B-1-506.

(d) The court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

Section 89. Section 17B-1-508 is amended to read:

17B-1-508. Public hearing -- Quorum of board required to be present.

(1) A public hearing on the proposed withdrawal shall be held by the board of trustees of a [~~local~~] special district that:

(a) certifies a petition under Subsection 17B-1-507(1)(b)(i) unless the petition was signed by all of the owners of private land within the area proposed to be withdrawn or all of the registered voters residing within the area proposed to be withdrawn; or

(b) adopts a resolution under Subsection 17B-1-504(1)(a)(iii) unless another [~~local~~] special district provides to the area proposed to be withdrawn the same retail or wholesale service as provided by the [~~local~~] special district that adopted the resolution.

(2) The public hearing required by Subsection (1) for a petition certified by the board of trustees of a [~~local~~] special district under Subsection 17B-1-507(1)(b)(i), other than a petition filed in accordance with Subsection 17B-1-504(1)(a)(iv), may be held as an agenda item of a meeting of the board of trustees of the [~~local~~] special district without complying with the requirements of Subsection (3)(b), (3)(c), or Section 17B-1-509.

(3) Except as provided in Subsection (2), the public hearing required by Subsection (1) shall be held:

(a) no later than 90 days after:

(i) certification of the petition under Subsection 17B-1-507(1)(b)(i); or

(ii) adoption of a resolution under Subsection 17B-1-504(1)(a)(iii);

(b) (i) for a [~~local~~] special district located entirely within a single county:

(A) within or as close as practicable to the area proposed to be withdrawn; or

(B) at the [~~local~~] special district office; or

(ii) for a [~~local~~] special district located in more than one county:

(A) (I) within the county in which the area proposed to be withdrawn is located; and

(II) within or as close as practicable to the area proposed to be withdrawn; or

(B) if the [~~local~~] special district office is reasonably accessible to all residents within the area proposed to be annexed, at the [~~local~~] special district office;

(c) on a weekday evening other than a holiday beginning no earlier than 6:00 p.m.; and

(d) for the purpose of allowing:

(i) the public to ask questions and obtain further information about the proposed withdrawal and issues raised by it; and

(ii) any interested person to address the board of trustees concerning the proposed withdrawal.

(4) A quorum of the board of trustees of the [~~local~~] special district shall be present throughout the public hearing provided for under this section.

(5) A public hearing under this section may be postponed or continued to a new time, date, and place without further notice by a resolution of the board of trustees adopted at the public hearing held at the time, date, and place specified in the published notice; provided, however, that the public hearing may not be postponed or continued to a date later than 15 days after the 90-day period under Subsection (3).

Section 90. Section 17B-1-509 is amended to read:

17B-1-509. Notice of hearing and withdrawal.

(1) Unless it is held as an agenda item of a meeting of the board of trustees of a [~~local~~] special district as allowed by Subsection 17B-1-508(2), before holding a public hearing under Section 17B-1-508, the board of trustees of the [~~local~~] special district shall:

(a) mail notice of the public hearing and of the proposed withdrawal to:

(i) if the [~~local~~] special district is funded predominantly by revenues from a property tax, each owner of private real property located within the area proposed to be withdrawn, as shown upon the county assessment roll last equalized as of the previous December 31;

(ii) if the [~~local~~] special district is funded by fees based upon an allotment of acre-feet of water, each owner of private real property with an allotment of water located within the area proposed to be withdrawn, as shown upon the district's records; or

(iii) if the [~~local~~] special district is not funded predominantly by revenues from a property tax or fees based upon an allotment of acre-feet of water, each registered voter residing within the area proposed to be withdrawn, as determined by the voter registration list maintained by the county clerk as of a date selected by the board of trustees that is at least 20 but not more than 60 days before the public hearing; and

(b) post notice of the public hearing and of the proposed withdrawal in at least four conspicuous places within the area proposed to be withdrawn, no less than five nor more than 30 days before the public hearing.

(2) Each notice required under Subsection (1) shall:

(a) describe the area proposed to be withdrawn;

(b) identify the [~~local~~] special district in which the area proposed to be withdrawn is located;

(c) state the date, time, and location of the public hearing;

(d) state that the petition or resolution may be examined during specified times and at a specified place in the [~~local~~] special district; and

(e) state that any person interested in presenting comments or other information for or against the petition or resolution may:

(i) prior to the hearing, submit relevant comments and other information in writing to the board of trustees at a specified address in the [~~local~~] special district; or

(ii) at the hearing, present relevant comments and other information in writing and may also present comments and information orally.

Section 91. Section 17B-1-510 is amended to read:

17B-1-510. Resolution approving or rejecting withdrawal -- Criteria for approval or rejection -- Terms and conditions.

(1) (a) No later than 90 days after the public hearing under Section 17B-1-508, or, if no hearing is held, within 90 days after the filing of a petition under Section 17B-1-504, the board of trustees of the [~~local~~] special district in which the area proposed to be withdrawn is located shall adopt a resolution:

(i) approving the withdrawal of some or all of the area from the [~~local~~] special district; or

(ii) rejecting the withdrawal.

(b) Each resolution approving a withdrawal shall:

(i) include a legal description of the area proposed to be withdrawn;

(ii) state the effective date of the withdrawal; and

(iii) set forth the terms and conditions under Subsection (5), if any, of the withdrawal.

(c) Each resolution rejecting a withdrawal shall include a detailed explanation of the board of trustees' reasons for the rejection.

(2) Unless denial of the petition is required under Subsection (3), the board of trustees shall adopt a resolution approving the withdrawal of some or all of the area from the [~~local~~] special district if the board of trustees determines that:

(a) the area to be withdrawn does not and will not require the service that the [~~local~~] special district provides;

(b) the [~~local~~] special district will not be able to provide service to the area to be withdrawn for the reasonably foreseeable future; or

(c) the area to be withdrawn has obtained the same service that is provided by the [~~local~~] special district or a commitment to provide the same service that is provided by the [~~local~~] special district from another source.

(3) The board of trustees shall adopt a resolution denying the withdrawal if it determines that the proposed withdrawal would:

(a) result in a breach or default by the [~~local~~] special district under:

(i) any of its notes, bonds, or other debt or revenue obligations;

(ii) any of its agreements with entities which have insured, guaranteed, or otherwise credit-enhanced any debt or revenue obligations of the [~~local~~] special district; or

(iii) any of its agreements with the United States or any agency of the United States; provided, however, that, if the [~~local~~] special district has entered into an agreement with the United States that requires the consent of the United States for a withdrawal of territory from the district, a withdrawal under this part may occur if the written consent of the United States is obtained and filed with the board of trustees;

(b) adversely affect the ability of the [~~local~~] special district to make any payments or perform any other material obligations under:

(i) any of its agreements with the United States or any agency of the United States;

(ii) any of its notes, bonds, or other debt or revenue obligations; or

(iii) any of its agreements with entities which have insured, guaranteed, or otherwise credit-enhanced any debt or revenue obligations of the [~~local~~] special district;

(c) result in the reduction or withdrawal of any rating on an outstanding note, bond, or other debt or revenue obligation of the [~~local~~] special district;

(d) create an island or peninsula of nondistrict territory within the [~~local~~] special district or of district territory within nondistrict territory that has a material adverse affect on the [~~local~~] special district's ability to provide service or materially increases the cost of providing service to the remainder of the [~~local~~] special district;

(e) materially impair the operations of the remaining [~~local~~] special district; or

(f) require the [~~local~~] special district to materially increase the fees it charges or property taxes or other taxes it levies in order to provide to the remainder of the district the same level and quality of service that was provided before the withdrawal.

(4) In determining whether the withdrawal would have any of the results described in Subsection (3), the board of trustees may consider the cumulative impact that multiple withdrawals over a specified period of time would have on the [~~local~~] special district.

(5) (a) Despite the presence of one or more of the conditions listed in Subsection (3), the board of trustees may approve a resolution withdrawing an area from the [~~local~~] special district imposing terms or conditions that mitigate or eliminate the conditions listed in Subsection (3), including:

(i) a requirement that the owners of property located within the area proposed to be withdrawn or residents within that area pay their proportionate share of any outstanding district bond or other obligation as determined pursuant to Subsection (5)(b);

(ii) a requirement that the owners of property located within the area proposed to be withdrawn or residents within that area make one or more payments in lieu of taxes, fees, or assessments;

(iii) a requirement that the board of trustees and the receiving entity agree to reasonable payment and other terms in accordance with Subsections (5)(f) through (g) regarding the transfer to the receiving entity of district assets that the district used before withdrawal to provide service to the withdrawn area but no longer needs because of the withdrawal; provided that, if those district assets are allocated in accordance with Subsections (5)(f) through (g), the district shall immediately transfer to the receiving entity on the effective date of the withdrawal, all title to and possession of district assets allocated to the receiving entity; or

(iv) any other reasonable requirement considered to be necessary by the board of trustees.

(b) Other than as provided for in Subsection 17B-1-511(2), and except as provided in Subsection (5)(e), in determining the proportionate share of outstanding bonded indebtedness or other obligations under Subsection (5)(a)(i) and for purposes of determining the allocation and transfer of district assets under Subsection (5)(a)(iii), the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition shall:

(i) engage engineering and accounting consultants chosen by the procedure provided in Subsection (5)(d); provided however, that if the withdrawn area is not receiving service, an engineering consultant need not be engaged; and

(ii) require the engineering and accounting consultants engaged under Subsection (5)(b)(i) to communicate in writing to the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition the information required by Subsections (5)(f) through (h).

(c) For purposes of this Subsection (5):

(i) "accounting consultant" means a certified public accountant or a firm of certified public accountants with the expertise necessary to make the determinations required under Subsection (5)(h); and

(ii) "engineering consultant" means a person or firm that has the expertise in the engineering aspects of the type of system by which the withdrawn area is receiving service that is necessary to make the determination required under Subsections (5)(f) and (g).

(d) (i) Unless the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition agree on an engineering consultant and an accounting consultant, each consultant shall be chosen from a list of consultants provided by the Consulting Engineers Council of Utah and the Utah Association of Certified Public Accountants, respectively, as provided in this Subsection (5)(d).

(ii) A list under Subsection (5)(d)(i) may not include a consultant who has had a contract for services with the district or the receiving entity during the two-year period immediately before the list is provided to the [~~local~~] special district.

(iii) Within 20 days of receiving the lists described in Subsection (5)(d)(i), the board of trustees shall eliminate the name of one engineering consultant from the list of engineering consultants and the name of one accounting consultant from the list of accounting consultants and shall notify the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition in writing of the eliminations.

(iv) Within three days of receiving notification under Subsection (5)(d), the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall eliminate another name of an engineering consultant from the list of engineering consultants and another name of an accounting consultant from the list of accounting consultants and shall notify the board of trustees in writing of the eliminations.

(v) The board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition shall continue to alternate between them, each eliminating the name of one engineering consultant from the list of engineering consultants and the name of one accounting consultant from the list of accounting consultants and providing written notification of the eliminations within three days of receiving notification of the previous notification, until the name of only one engineering consultant remains on the list of engineering consultants and the name of only one accounting consultant remains on the list of accounting consultants.

(e) The requirement under Subsection (5)(b) to engage engineering and accounting consultants does not apply if the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition agree on the allocations that are the engineering consultant's responsibility under Subsection (5)(f) or the determinations that are the accounting consultant's responsibility under Subsection (5)(h); provided however, that if engineering and accounting consultants are engaged, the district and the receiving entity, or in cases where there is no receiving entity, the district and the sponsors of the petition shall equally share the cost of the engineering and accounting consultants.

(f) (i) The engineering consultant shall allocate the district assets between the district and the receiving entity as provided in this Subsection (5)(f).

(ii) The engineering consultant shall allocate:

(A) to the district those assets reasonably needed by the district to provide to the area of the district remaining after withdrawal the kind, level, and quality of service that was provided before withdrawal; and

(B) to the receiving entity those assets reasonably needed by the receiving entity to provide to the

withdrawn area the kind and quality of service that was provided before withdrawal.

(iii) If the engineering consultant determines that both the [~~local~~] special district and the receiving entity reasonably need a district asset to provide to their respective areas the kind and quality of service provided before withdrawal, the engineering consultant shall:

(A) allocate the asset between the [~~local~~] special district and the receiving entity according to their relative needs, if the asset is reasonably susceptible of division; or

(B) allocate the asset to the [~~local~~] special district, if the asset is not reasonably susceptible of division.

(g) All district assets remaining after application of Subsection (5)(f) shall be allocated to the [~~local~~] special district.

(h) (i) The accounting consultant shall determine the withdrawn area's proportionate share of any redemption premium and the principal of and interest on:

(A) the [~~local~~] special district's revenue bonds that were outstanding at the time the petition was filed;

(B) the [~~local~~] special district's general obligation bonds that were outstanding at the time the petition was filed; and

(C) the [~~local~~] special district's general obligation bonds that:

(I) were outstanding at the time the petition was filed; and

(II) are treated as revenue bonds under Subsection (5)(i); and

(D) the district's bonds that were issued prior to the date the petition was filed to refund the district's revenue bonds, general obligation bonds, or general obligation bonds treated as revenue bonds.

(ii) For purposes of Subsection (5)(h)(i), the withdrawn area's proportionate share of redemption premium, principal, and interest shall be the amount that bears the same relationship to the total redemption premium, principal, and interest for the entire district that the average annual gross revenues from the withdrawn area during the three most recent complete fiscal years before the filing of the petition bears to the average annual gross revenues from the entire district for the same period.

(i) For purposes of Subsection (5)(h)(i), a district general obligation bond shall be treated as a revenue bond if:

(i) the bond is outstanding on the date the petition was filed; and

(ii) the principal of and interest on the bond, as of the date the petition was filed, had been paid entirely from [~~local~~] special district revenues and not from a levy of ad valorem tax.

(j) (i) Before the board of trustees of the [~~local~~] special district files a resolution approving a withdrawal, the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall irrevocably deposit government obligations, as defined in Subsection 11-27-2(6), into an escrow trust fund the principal of and interest on which are sufficient to provide for the timely payment of the amount determined by the accounting consultant under Subsection (5)(h) or in an amount mutually agreeable to the board of trustees of the [~~local~~] special district and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition. Notwithstanding Subsection 17B-1-512(1), the board of trustees may not be required to file a resolution approving a withdrawal until the requirements for establishing and funding an escrow trust fund in this Subsection (5)(j)(i) have been met; provided that, if the escrow trust fund has not been established and funded within 180 days after the board of trustees passes a resolution approving a withdrawal, the resolution approving the withdrawal shall be void.

(ii) Concurrently with the creation of the escrow, the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall provide to the board of trustees of the [~~local~~] special district:

(A) a written opinion of an attorney experienced in the tax-exempt status of municipal bonds stating that the establishment and use of the escrow to pay the proportionate share of the district's outstanding revenue bonds and general obligation bonds that are treated as revenue bonds will not adversely affect the tax-exempt status of the bonds; and

(B) a written opinion of an independent certified public accountant verifying that the principal of and interest on the deposited government obligations are sufficient to provide for the payment of the withdrawn area's proportionate share of the bonds as provided in Subsection (5)(h).

(iii) The receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall bear all expenses of the escrow and the redemption of the bonds.

(iv) The receiving entity may issue bonds under Title 11, Chapter 14, Local Government Bonding Act, and Title 11, Chapter 27, Utah Refunding Bond Act, to fund the escrow.

(6) A requirement imposed by the board of trustees as a condition to withdrawal under Subsection (5) shall, in addition to being expressed in the resolution, be reduced to a duly authorized and executed written agreement between the parties to the withdrawal.

(7) An area that is the subject of a withdrawal petition under Section 17B-1-504 that results in a board of trustees resolution denying the proposed withdrawal may not be the subject of another withdrawal petition under Section 17B-1-504 for two years after the date of the board of trustees resolution denying the withdrawal.

Section 92. Section 17B-1-511 is amended to read:

17B-1-511. Continuation of tax levy after withdrawal to pay for proportionate share of district bonds.

(1) Other than as provided in Subsection (2), and unless an escrow trust fund is established and funded pursuant to Subsection 17B-1-510(5)(j), property within the withdrawn area shall continue after withdrawal to be taxable by the [~~local~~] special district:

(a) for the purpose of paying the withdrawn area's just proportion of the [~~local~~] special district's general obligation bonds or lease obligations payable from property taxes with respect to lease revenue bonds issued by a local building authority on behalf of the [~~local~~] special district, other than those bonds treated as revenue bonds under Subsection 17B-1-510(5)(i), until the bonded indebtedness has been satisfied; and

(b) to the extent and for the years necessary to generate sufficient revenue that, when combined with the revenues from the district remaining after withdrawal, is sufficient to provide for the payment of principal and interest on the district's general obligation bonds that are treated as revenue bonds under Subsection 17B-1-510(5)(i).

(2) For a [~~local~~] special district funded predominately by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water, property within the withdrawn area shall continue to be taxable by the [~~local~~] special district for purposes of paying the withdrawn area's proportionate share of bonded indebtedness or judgments against the [~~local~~] special district incurred prior to the date the petition was filed.

(3) Except as provided in Subsections (1) and (2), upon withdrawal, the withdrawing area is relieved of all other taxes, assessments, and charges levied by the district, including taxes and charges for the payment of revenue bonds and maintenance and operation cost of the [~~local~~] special district.

Section 93. Section 17B-1-512 is amended to read:

17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period -- Judicial review.

(1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The board of trustees shall file the documents listed in Subsection (1)(a):

(i) within 10 days after adopting a resolution approving a withdrawal under Section 17B-1-510;

(ii) on or before January 31 of the year following the board of trustees' receipt of a notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or copy between July 1 and December 31; or

(iii) on or before the July 31 following the board of trustees' receipt of a notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or copy between January 1 and June 30.

(c) The board of trustees shall comply with the requirements described in Subsection (1)(b)(ii) or (iii) after:

(i) receiving:

(A) a notice under Subsection 10-2-425(2) of an automatic withdrawal under Subsection 17B-1-502(2);

(B) a copy of the municipal legislative body's resolution approving an automatic withdrawal under Subsection 17B-1-502(3)(a); or

(C) notice of a withdrawal of a municipality from a [~~local~~] special district under Section 17B-1-502; or

(ii) entering into an agreement with a municipality under Subsection 17B-1-505(5)(a)(ii)(A) or (5)(b).

(d) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5, the board shall:

(i) if the withdrawn area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of withdrawal; and

(III) approved final local entity plat; and

(B) if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b); or

(ii) if the withdrawn area is located within the boundaries of more than a single county, submit:

(A) the original of the documents listed in Subsections (1)(d)(i)(A)(I), (II), and (III) and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to one of those counties; and

(B) a certified copy of the documents listed in Subsections (1)(d)(i)(A)(I), (II), and (III) and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other county.

(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a [~~local~~] special district under

Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-1-502(3) shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.

(3) (a) The [~~local~~] special district may provide for the publication of any resolution approving or denying the withdrawal of an area:

(i) in a newspaper of general circulation in the area proposed for withdrawal; and

(ii) as required in Section 45-1-101.

(b) In lieu of publishing the entire resolution, the [~~local~~] special district may publish a notice of withdrawal or denial of withdrawal, containing:

(i) the name of the [~~local~~] special district;

(ii) a description of the area proposed for withdrawal;

(iii) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and

(iv) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the [~~local~~] special district, identified in the notice, during regular business hours of the [~~local~~] special district as described in the notice and for a period of at least 30 days after the publication of the notice.

(4) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the [~~local~~] special district by submitting a request, within 60 days after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

(5) Within 60 days after the request under Subsection (4) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-1-510 with respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).

(6) (a) Any person in interest may seek judicial review of:

(i) the board of trustees' decision to withdraw an area from the [~~local~~] special district;

(ii) the terms and conditions of a withdrawal; or

(iii) the board's decision to deny a withdrawal.

(b) Judicial review under this Subsection (6) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:

(i) if the resolution approving or denying the withdrawal is published under Subsection (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (5);

(ii) if the resolution is not published pursuant to Subsection (3), within 60 days after the resolution approving or denying the withdrawal is adopted; or

(iii) if a request is submitted to the board of trustees of a [~~local~~] special district under Subsection (4), and the board adopts a resolution under Subsection (5), within 60 days after the board adopts a resolution under Subsection (5) unless the resolution is published under Subsection (3), in which event the action shall be filed within 60 days after the publication.

(c) A court in which an action is filed under this Subsection (6) may not overturn, in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

(i) the court finds the board of trustees' decision to be arbitrary or capricious; or

(ii) the court finds that the board materially failed to follow the procedures set forth in this part.

(d) A court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

(7) After the applicable contest period under Subsection (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause.

Section 94. Section 17B-1-513 is amended to read:

17B-1-513. Termination of terms of trustees representing withdrawn areas.

(1) Except as provided in Subsection (4), on the effective date of withdrawal of an area from a [~~local~~] special district, any trustee residing in the withdrawn area shall cease to be a member of the board of trustees of the [~~local~~] special district.

(2) Except as provided in Subsection (4), if the [~~local~~] special district has been divided into divisions for the purpose of electing or appointing trustees and the area withdrawn from a district constitutes all or substantially all of the area in a division of the [~~local~~] special district that is represented by a member of the board of trustees, on the effective date of the withdrawal, the trustee representing the division shall cease to be a member of the board of trustees of the [~~local~~] special district.

(3) In the event of a vacancy on the board of trustees as a result of an area being withdrawn from the [~~local~~] special district:

(a) the board of trustees shall reduce the number of trustees of the [~~local~~] special district as provided by law; or

(b) the trustee vacancy shall be filled as provided by law.

(4) Subsections (1) and (2) apply only to a trustee who is required by law to be a resident of the [~~local~~]

special district or of a particular division within the [~~local~~] special district.

Section 95. Section 17B-1-601 is amended to read:

Part 6. Fiscal Procedures for Special Districts

17B-1-601. Definitions.

As used in this part:

(1) "Appropriation" means an allocation of money by the board of trustees for a specific purpose.

(2) "Budget" means a plan of financial operations for a fiscal year which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them, and may refer to the budget of a particular fund for which a budget is required by law or it may refer collectively to the budgets for all such funds.

(3) "Budget officer" means the person appointed by the [~~local~~] special district board of trustees to prepare the budget for the district.

(4) "Budget year" means the fiscal year for which a budget is prepared.

(5) "Calendar year entity" means a [~~local~~] special district whose fiscal year begins January 1 and ends December 31 of each calendar year as described in Section 17B-1-602.

(6) "Current year" means the fiscal year in which a budget is prepared and adopted, which is the fiscal year next preceding the budget year.

(7) "Deficit" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for [~~Local~~] Special Districts.

(8) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget year in each fund for which a budget is being prepared.

(9) "Financial officer" means the official under Section 17B-1-642.

(10) "Fiscal year" means the annual period for accounting for fiscal operations in each district.

(11) "Fiscal year entity" means a [~~local~~] special district whose fiscal year begins July 1 of each year and ends on June 30 of the following year as described in Section 17B-1-602.

(12) "Fund" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for [~~Local~~] Special Districts.

(13) "Fund balance" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for [~~Local~~] Special Districts.

(14) "General fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.

(15) "Governmental funds" means the general fund, special revenue fund, debt service fund, and capital projects fund of a [~~local~~] special district.

(16) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment.

(17) "Last completed fiscal year" means the fiscal year next preceding the current fiscal year.

[~~(18) "Local district general fund" means the general fund used by a local district.~~]

[~~(19)~~] (18) "Proprietary funds" means enterprise funds and the internal service funds of a [~~local~~] special district.

[~~(20)~~] (19) "Public funds" means any money or payment collected or received by an officer or employee of a [~~local~~] special district acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the district, or the officer or employee while acting within the scope of employment or duty.

[~~(21)~~] (20) "Retained earnings" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for [~~Local~~] Special Districts.

(21) "Special district general fund" means the general fund used by a special district.

(22) "Special fund" means any [~~local~~] special district fund other than the [~~local~~] special district's general fund.

Section 96. Section 17B-1-602 is amended to read:

17B-1-602. Fiscal year.

The fiscal year of each [~~local~~] special district shall be, as determined by the board of trustees:

(1) the calendar year; or

(2) the period from July 1 to the following June 30.

Section 97. Section 17B-1-603 is amended to read:

17B-1-603. Uniform accounting system.

The accounting records of each [~~local~~] special district shall be established and maintained, and financial statements prepared from those records, in conformance with generally accepted accounting principles promulgated from time to time by authoritative bodies in the United States.

Section 98. Section 17B-1-604 is amended to read:

17B-1-604. Funds and account groups maintained.

Each district shall maintain, according to its own accounting needs, some or all of the funds and account groups in its system of accounts, as prescribed in the Uniform Accounting Manual for [~~Local~~] Special Districts.

Section 99. Section 17B-1-605 is amended to read:

17B-1-605. Budget required for certain funds -- Capital projects fund.

(1) The budget officer of each [~~local~~] special district shall prepare for each budget year a budget for each of the following funds:

(a) the General Fund;

(b) special revenue funds;

(c) debt service funds;

(d) capital projects funds;

(e) proprietary funds, in accordance with Section 17B-1-629;

(f) if the [~~local~~] special district has a local fund, as defined in Section 53-2a-602, the local fund; and

(g) any other fund or funds for which a budget is required by the uniform system of budgeting, accounting, and reporting.

(2) (a) Major capital improvements financed by general obligation bonds, capital grants, or interfund transfers shall use a capital projects fund budget unless the improvements financed are to be used for proprietary type activities.

(b) The [~~local~~] special district shall prepare a separate budget for the term of the projects as well as the annual budget required under Subsection (1).

Section 100. Section 17B-1-606 is amended to read:

17B-1-606. Total of revenues to equal expenditures.

(1) The budget for each fund under Section 17B-1-605 shall provide a financial plan for the budget year.

(2) Each budget shall specify in tabular form:

(a) estimates of all anticipated revenues, classified by the account titles prescribed in the Uniform Accounting Manual for [~~Local~~] Special Districts; and

(b) all appropriations for expenditures, classified by the account titles prescribed in the Uniform Accounting Manual for [~~Local~~] Special Districts.

(3) The total of the anticipated revenues shall equal the total of appropriated expenditures.

Section 101. Section 17B-1-607 is amended to read:

17B-1-607. Tentative budget to be prepared -- Review by governing body.

(1) On or before the first regularly scheduled meeting of the board of trustees in November for a calendar year entity and May for a fiscal year entity, the budget officer of each [~~local~~] special district shall prepare for the ensuing year, in a format prescribed by the state auditor, and file with the board of trustees a tentative budget for each fund for which a budget is required.

(2) (a) Each tentative budget under Subsection (1) shall provide in tabular form:

(i) actual revenues and expenditures for the last completed fiscal year;

(ii) estimated total revenues and expenditures for the current fiscal year; and

(iii) the budget officer's estimates of revenues and expenditures for the budget year.

(b) The budget officer shall estimate the amount of revenue available to serve the needs of each fund, estimate the portion to be derived from all sources other than general property taxes, and estimate the portion that shall be derived from general property taxes.

(3) The tentative budget, when filed by the budget officer with the board of trustees, shall contain the estimates of expenditures together with specific work programs and any other supporting data required by this part or requested by the board.

(4) The board of trustees shall review, consider, and tentatively adopt the tentative budget in any regular meeting or special meeting called for that purpose and may amend or revise the tentative budget in any manner that the board considers advisable prior to public hearings, but no appropriation required for debt retirement and interest or reduction of any existing deficits under Section 17B-1-613, or otherwise required by law, may be reduced below the minimums so required.

(5) When a new district is created, the board of trustees shall:

(a) prepare a budget covering the period from the date of incorporation to the end of the fiscal year;

(b) substantially comply with all other provisions of this part with respect to notices and hearings; and

(c) pass the budget as soon after incorporation as feasible.

Section 102. Section 17B-1-608 is amended to read:

17B-1-608. Tentative budget and data -- Public records.

(1) The tentative budget adopted by the board of trustees and all supporting schedules and data are public records.

(2) At least seven days before adopting a final budget in a public meeting, the [~~local~~] special district shall:

(a) make the tentative budget available for public inspection at the [~~local~~] special district's principal place of business during regular business hours;

(b) if the [~~local~~] special district has a website, publish the tentative budget on the [~~local~~] special district's website; and

(c) in accordance with Section 63A-16-601, do one of the following:

(i) publish the tentative budget on the Utah Public Notice Website; or

(ii) publish on the Utah Public Notice Website a link to a website on which the tentative budget is published.

Section 103. Section 17B-1-609 is amended to read:

17B-1-609. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the board of trustees shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection (6), order that notice of the hearing:

(i) be posted in three public places within the district; and

(ii) be published at least seven days before the hearing on the Utah Public Notice Website created in Section 63A-16-601.

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) If the budget hearing is to be held in conjunction with a fee increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 17B-1-643; and

(b) shall be published or mailed in accordance with the notice provisions of Section 17B-1-643.

(4) Proof that notice was given in accordance with Subsection (1)(b), (2), (3), or (6) is prima facie evidence that notice was properly given.

(5) If a notice required under Subsection (1)(b), (2), (3), or (6) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(6) A board of trustees of a [~~local~~] special district with an annual operating budget of less than $250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in the [~~local~~] special district; and

(b) posting the notice in three public places within the district.

Section 104. Section 17B-1-612 is amended to read:

17B-1-612. Accumulated fund balances -- Limitations -- Excess balances -- Unanticipated excess of revenues -- Reserves for capital projects.

(1) (a) A [~~local~~] special district may accumulate retained earnings or fund balances, as appropriate, in any fund.

(b) For the general fund only, a [~~local~~] special district may only use an accumulated fund balance to:

(i) provide working capital to finance expenditures from the beginning of the budget year until general property taxes or other applicable revenues are collected, subject to Subsection (1)(c);

(ii) provide a resource to meet emergency expenditures under Section 17B-1-623; and

(iii) cover a pending year-end excess of expenditures over revenues from an unavoidable shortfall in revenues, subject to Subsection (1)(d).

(c) Subsection (1)(b)(i) does not authorize a [~~local~~] special district to appropriate a fund balance for budgeting purposes, except as provided in Subsection (4).

(d) Subsection (1)(b)(iii) does not authorize a [~~local~~] special district to appropriate a fund balance to avoid an operating deficit during a budget year except:

(i) as provided under Subsection (4); or

(ii) for emergency purposes under Section 17B-1-623.

(2) (a) Except as provided in Subsection (2)(b), the accumulation of a fund balance in the general fund may not exceed the most recently adopted general fund budget, plus 100% of the current year's property tax.

(b) Notwithstanding Subsection (2)(a), a [~~local~~] special district may accumulate in the general fund mineral lease revenue that the [~~local~~] special district receives from the United States under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq., through a distribution under:

(i) Title 35A, Chapter 8, Part 3, Community Impact Fund Act; or

(ii) Title 59, Chapter 21, Mineral Lease Funds.

(3) If the fund balance at the close of any fiscal year exceeds the amount permitted under Subsection (2), the district shall appropriate the excess in accordance with Section 17B-1-613.

(4) A [~~local~~] special district may utilize any fund balance in excess of 5% of the total revenues of the general fund for budget purposes.

(5) (a) Within a capital projects fund, the board of trustees may, in any budget year, appropriate from estimated revenue or fund balance to a reserve for capital projects for the purpose of financing future specific capital projects, including new construction, capital repairs, replacement, and maintenance, under a formal long-range capital plan that the board of trustees adopts.

(b) A [~~local~~] special district may allow a reserve amount under Subsection (5)(a) to accumulate from year to year until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) A [~~local~~] special district may disburse from a reserve account under Subsection (5)(a) only by a budget appropriation that the [~~local~~] special district adopts in accordance with this part.

(d) A [~~local~~] special district shall ensure that the expenditures from the appropriation budget accounts described in this Subsection (5) conform to all requirements of this part relating to execution and control of budgets.

Section 105. Section 17B-1-613 is amended to read:

17B-1-613. Appropriations not to exceed estimated expendable revenue -- Appropriations for existing deficits.

(1) The board of trustees of a [~~local~~] special district may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget year of the fund.

(2) If there is a deficit fund balance in a fund at the close of the last completed fiscal year, the board of trustees of a [~~local~~] special district shall include an item of appropriation for the deficit in the current budget of the fund equal to:

(a) at least 5% of the total revenue of the fund in the last completed fiscal year; or

(b) if the deficit is equal to less than 5% of the total revenue of the fund in the last completed fiscal year, the entire amount of the deficit.

(3) The provisions of this section do not require a [~~local~~] special district to add revenue to a fund that is used for debt service of a limited obligation, unless the revenue is pledged toward the limited obligation.

Section 106. Section 17B-1-614 is amended to read:

17B-1-614. Adoption of final budget -- Certification and filing.

(1) The board of trustees of each [~~local~~] special district shall by resolution adopt a budget for the ensuing fiscal year for each fund for which a budget is required under this part prior to the beginning of the fiscal year, except as provided in Sections 59-2-919 through 59-2-923.

(2) The [~~local~~] special district's budget officer shall certify a copy of the final budget for each fund and file it with the state auditor within 30 days after adoption.

Section 107. Section 17B-1-615 is amended to read:

17B-1-615. Budgets in effect for budget year.

(1) Upon final adoption, each budget shall be in effect for the budget year, subject to amendment as provided in this part.

(2) A certified copy of the adopted budgets shall be filed in the special district office and shall be available to the public during regular business hours.

Section 108. Section 17B-1-617 is amended to read:

17B-1-617. Fund expenditures -- Budget officer's duties.

(1) The budget officer of each [~~local~~] special district shall require all expenditures within each fund to conform with the fund budget.

(2) No appropriation may be encumbered and no expenditure may be made against any fund appropriation unless there is sufficient unencumbered balance in the fund's appropriation, except in cases of emergency as provided in Section 17B-1-623.

Section 109. Section 17B-1-618 is amended to read:

17B-1-618. Purchasing procedures.

All purchases or encumbrances by a [~~local~~] special district shall be made or incurred according to the purchasing procedures established for each district by the district's rulemaking authority, as that term is defined in Section 63G-6a-103, and only on an order or approval of the person or persons duly authorized.

Section 110. Section 17B-1-619 is amended to read:

17B-1-619. Expenditures or encumbrances in excess of appropriations prohibited -- Processing claims.

(1) A [~~local~~] special district may not make or incur expenditures or encumbrances in excess of total appropriations in the budget as adopted or as subsequently amended.

(2) An obligation contracted by any officer in excess of total appropriations in the budget is not enforceable against the district.

(3) No check or warrant to cover a claim against an appropriation may be drawn until the claim has been processed as provided by this part.

Section 111. Section 17B-1-620 is amended to read:

17B-1-620. Transfer of appropriation balance between accounts in same fund.

(1) The board of trustees of each [~~local~~] special district shall establish policies for the transfer of any unencumbered or unexpended appropriation balance or portion of the balance from one account in a fund to another account within the same fund, subject to Subsection (2).

(2) An appropriation for debt retirement and interest, reduction of deficit, or other appropriation required by law or covenant may not be reduced below the minimums required.

Section 112. Section 17B-1-621 is amended to read:

17B-1-621. Review of individual governmental fund budgets -- Hearing.

(1) The board of trustees of a [~~local~~] special district may, at any time during the budget year,

review the individual budgets of the governmental funds for the purpose of determining if the total of any of them should be increased.

(2) If the board of trustees decides that the budget total of one or more of these funds should be increased, it shall follow the procedures established in Sections 17B-1-609 and 17B-1-610 for holding a public hearing.

Section 113. Section 17B-1-623 is amended to read:

17B-1-623. Emergency expenditures.

The board of trustees of a [~~local~~] special district may, by resolution, amend a budget and authorize an expenditure of money that results in a deficit in the district's general fund balance if:

(1) the board determines that:

(a) an emergency exists; and

(b) the expenditure is reasonably necessary to meet the emergency; and

(2) the expenditure is used to meet the emergency.

Section 114. Section 17B-1-626 is amended to read:

17B-1-626. Loans by one fund to another.

(1) Subject to this section, restrictions imposed by bond covenants, restrictions in Section 53-2a-605, or other controlling regulations, the board of trustees of a [~~local~~] special district may authorize an interfund loan from one fund to another.

(2) An interfund loan under Subsection (1) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the board of trustees determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the board of trustees shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(B) a United States Treasury note of a comparable term.

(5) (a) For an interfund loan under Subsection (1), the board of trustees shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Section 17B-1-609 as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the board of trustees for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the [~~local~~] special district general fund to any other fund of the [~~local~~] special district; or

(b) a short-term advance from the [~~local~~] special district's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Section 115. Section 17B-1-627 is amended to read:

17B-1-627. Property tax levy -- Time for setting -- Computation of total levy -- Apportionment of proceeds -- Maximum levy.

(1) The board of trustees of each [~~local~~] special district authorized to levy a property tax, at a regular meeting or special meeting called for that purpose, shall, by resolution, set the real and personal property tax rate for various district purposes by the date set under Section 59-2-912, but the rate may be set at an appropriate later date

in accordance with Sections 59-2-919 through 59-2-923.

(2) In its computation of the total levy, the board of trustees shall determine the requirements of each fund for which property taxes are to be levied and shall specify in its resolution adopting the tax rate the amount apportioned to each fund.

(3) The proceeds of the levy apportioned for general fund purposes shall be credited as revenue in the general fund.

(4) The proceeds of the levy apportioned for special fund purposes shall be credited to the appropriate accounts in the applicable special funds.

(5) The combined levies for each district for all purposes in any year, excluding the retirement of general obligation bonds and the payment of any interest on the bonds, and any taxes expressly authorized by law to be levied in addition, may not exceed the limit enumerated by the laws governing each district.

Section 116. Section 17B-1-629 is amended to read:

17B-1-629. Operating and capital budgets.

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation for a proprietary or other required special fund, embodying estimates of operating resources and expenses and other outlays for a fiscal year.

(b) Except as otherwise expressly provided, the reference to "budget" or "budgets" and the procedures and controls relating to them in other sections of this part do not apply or refer to the "operating and capital budgets" provided for in this section.

(2) On or before the time the board of trustees adopts budgets for the governmental funds under Section 17B-1-605, it shall adopt for the ensuing year an operating and capital budget for each proprietary fund and shall adopt the type of budget for other special funds which is required by the Uniform Accounting Manual for [~~Local~~] Special Districts.

(3) Operating and capital budgets shall be adopted and administered in the following manner:

(a) (i) On or before the first regularly scheduled meeting of the board of trustees, in November for calendar year entities and May for fiscal year entities, the budget officer shall prepare for the ensuing fiscal year, and file with the board of trustees, a tentative operating and capital budget for each proprietary fund and for other required special funds, together with specific work programs and any other supporting data required by the board.

(ii) If, within any proprietary fund, allocations or transfers that are not reasonable allocations of costs between funds are included in a tentative budget, a written notice of the date, time, place, and purpose of the hearing shall be mailed to utility fund customers at least seven days before the hearing.

(iii) The purpose portion of the notice required under Subsection (3)(a)(ii) shall identify:

(A) the enterprise utility fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund to which the money is being transferred.

(b) (i) The board of trustees shall review and consider the tentative budgets at any regular meeting or special meeting called for that purpose.

(ii) The board of trustees may make any changes in the tentative budgets that it considers advisable.

(c) Budgets for proprietary or other required special funds shall comply with the public hearing requirements established in Sections 17B-1-609 and 17B-1-610.

(d) (i) The board of trustees shall adopt an operating and capital budget for each proprietary fund for the ensuing fiscal year before the beginning of each fiscal year, except as provided in Sections 59-2-919 through 59-2-923.

(ii) A copy of the budget as finally adopted for each proprietary fund shall be certified by the budget officer and filed by the officer in the district office and shall be available to the public during regular business hours.

(iii) A copy of the budget shall also be filed with the state auditor within 30 days after adoption.

(e) (i) Upon final adoption, the operating and capital budget is in effect for the budget year, subject to later amendment.

(ii) During the budget year, the board of trustees may, in any regular meeting or special meeting called for that purpose, review any one or more of the operating and capital budgets for the purpose of determining if the total of any of them should be increased.

(iii) If the board of trustees decides that the budget total of one or more of these proprietary funds should be increased, the board shall follow the procedures established in Section 17B-1-630.

(f) Expenditures from operating and capital budgets shall conform to the requirements relating to budgets specified in Sections 17B-1-617 through 17B-1-620.

Section 117. Section 17B-1-631 is amended to read:

17B-1-631. District clerk -- Meetings and records.

(1) The board of trustees of each [~~local~~] special district shall appoint a district clerk.

(2) If required, the clerk may be chosen from among the members of the board of trustees, except the chair.

(3) The district clerk or other appointed person shall attend the meetings and keep a record of the proceedings of the board of trustees.

Section 118. Section 17B-1-632 is amended to read:

17B-1-632. District clerk -- Bookkeeping duties.

The district clerk or other designated person not performing treasurer duties shall maintain the financial records for each fund of the [~~local~~] special district and all related subsidiary records, including a list of the outstanding bonds, their purpose, amount, terms, date, and place payable.

Section 119. Section 17B-1-633 is amended to read:

17B-1-633. District treasurer -- Duties generally.

(1) (a) The board of trustees of each [~~local~~] special district shall appoint a district treasurer.

(b) (i) If required, the treasurer may be chosen from among the members of the board of trustees, except that the board chair may not be district treasurer.

(ii) The district clerk may not also be the district treasurer.

(2) The district treasurer is custodian of all money, bonds, or other securities of the district.

(3) The district treasurer shall:

(a) determine the cash requirements of the district and provide for the deposit and investment of all money by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(b) receive all public funds and money payable to the district within three business days after collection, including all taxes, licenses, fines, and intergovernmental revenue;

(c) keep an accurate detailed account of all money received under Subsection (3)(b) in the manner provided in this part and as directed by the district's board of trustees by resolution; and

(d) collect all special taxes and assessments as provided by law and ordinance.

Section 120. Section 17B-1-635 is amended to read:

17B-1-635. Duties with respect to issuance of checks.

(1) The district clerk or other designated person not performing treasurer duties shall prepare the necessary checks after having determined that:

(a) the claim was authorized by:

(i) the board of trustees; or

(ii) the [~~local~~] special district financial officer, if the financial officer is not the clerk, in accordance with Section 17B-1-642;

(b) the claim does not overexpend the appropriate departmental budget established by the board of trustees; and

(c) the expenditure was approved in advance by the board of trustees or its designee.

(2) (a) (i) The treasurer or any other person appointed by the board of trustees shall sign all checks.

(ii) The person maintaining the financial records may not sign any single signature check.

(b) In a [~~local~~] special district with an expenditure budget of less than $50,000 per year, a member of the board of trustees shall also sign all checks.

(c) Before affixing a signature, the treasurer or other designated person shall determine that a sufficient amount is on deposit in the appropriate bank account of the district to honor the check.

Section 121. Section 17B-1-639 is amended to read:

17B-1-639. Annual financial reports -- Audit reports.

(1) Within 180 days after the close of each fiscal year, the district shall prepare an annual financial report in conformity with generally accepted accounting principles as prescribed in the Uniform Accounting Manual for [~~Local~~] Special Districts.

(2) The requirement under Subsection (1) to prepare an annual financial report may be satisfied by presentation of the audit report furnished by the auditor.

(3) Copies of the annual financial report or the audit report furnished by the auditor shall be filed with the state auditor and shall be filed as a public document in the district office.

Section 122. Section 17B-1-640 is amended to read:

17B-1-640. Audits required.

(1) An audit of each [~~local~~] special district is required to be performed in conformity with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(2) The board of trustees shall appoint an auditor for the purpose of complying with the requirements of this section and with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 123. Section 17B-1-641 is amended to read:

17B-1-641. Special district may expand uniform procedures -- Limitation.

(1) Subject to Subsection (2), a [~~local~~] special district may expand the uniform accounting, budgeting, and reporting procedure prescribed in the Uniform Accounting Manual for [~~Local~~] Special Districts prepared by the state auditor under Subsection 67-3-1(16), to better serve the needs of the district.

(2) A [~~local~~] special district may not deviate from or alter the basic prescribed classification systems for the identity of funds and accounts set forth in the Uniform Accounting Manual for [~~Local~~] Special Districts.

Section 124. Section 17B-1-642 is amended to read:

17B-1-642. Approval of district expenditures.

(1) The board of trustees of each [~~local~~] special district shall approve all expenditures of the district except as otherwise provided in this section.

(2) The board of trustees may authorize the district manager or other official approved by the board to act as the financial officer for the purpose of approving:

(a) payroll checks, if the checks are prepared in accordance with a schedule approved by the board; and

(b) routine expenditures, such as utility bills, payroll-related expenses, supplies, and materials.

(3) Notwithstanding Subsection (2), the board of trustees shall, at least quarterly, review all expenditures authorized by the financial officer.

(4) The board of trustees shall set a maximum sum over which all purchases may not be made without the board's approval.

Section 125. Section 17B-1-643 is amended to read:

17B-1-643. Imposing or increasing a fee for service provided by special district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a [~~local~~] special district, each [~~local~~] special district board of trustees shall first hold a public hearing at which:

(i) the [~~local~~] special district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the [~~local~~] special district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each [~~local~~] special district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

(b) The [~~local~~] special district board shall:

(i) post the notice required under Subsection (2)(a) on the Utah Public Notice Website, created in Section 63A-16-601; and

(ii) post at least one of the notices required under Subsection (2)(a) per 1,000 population within the [~~local~~] special district, at places within the [~~local~~] special district that are most likely to provide actual notice to residents within the [~~local~~] special district, subject to a maximum of 10 notices.

(c) The notice described in Subsection (2)(b) shall state that the [~~local~~] special district board intends to impose or increase a fee for a service provided by the [~~local~~] special district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d) (i) In lieu of providing notice under Subsection (2)(b), the [~~local~~] special district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c).

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be posted or mailed in accordance with the notice provisions of this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(3) After holding a public hearing under Subsection (1), a [~~local~~] special district board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(4) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(5) (a) This section does not apply to an impact fee.

(b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 126. Section 17B-1-644 is amended to read:

17B-1-644. Definitions -- Electronic payments -- Fee.

(1) As used in this section:

(a) "Electronic payment" means the payment of money to a [~~local~~] special district by electronic means, including by means of a credit card, charge card, debit card, prepaid or stored value card or similar device, or automatic clearinghouse transaction.

(b) "Electronic payment fee" means an amount of money to defray the discount fee, processing fee, or other fee charged by a credit card company or processing agent to process an electronic payment.

(c) "Processing agent" means a bank, transaction clearinghouse, or other third party that charges a fee to process an electronic payment.

(2) A [~~local~~] special district may accept an electronic payment for the payment of funds which the [~~local~~] special district could have received through another payment method.

(3) A [~~local~~] special district that accepts an electronic payment may charge an electronic payment fee.

Section 127. Section 17B-1-645 is amended to read:

17B-1-645. Residential fee credit.

(1) A [~~local~~] special district may create a fee structure under this title that permits:

(a) a home owner or residential tenant to file for a fee credit for a fee charged by the [~~local~~] special district, if the credit is based on:

(i) the home owner's annual income; or

(ii) the residential tenant's annual income; or

(b) an owner of federally subsidized housing to file for a credit for a fee charged by the [~~local~~] special district.

(2) If a [~~local~~] special district permits a person to file for a fee credit under Subsection (1)(a), the [~~local~~] special district shall make the credit available to:

(a) a home owner; and

(b) a residential tenant.

Section 128. Section 17B-1-701 is amended to read:

Part 7. Special District Budgets and Audit Reports

17B-1-701. Definitions.

As used in this part:

(1) "Audit reports" means the reports of any independent audit of the district performed by:

(a) an independent auditor as required by Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(b) the state auditor; or

(c) the legislative auditor.

(2) "Board" means the [~~local~~] special district board of trustees.

(3) "Budget" means a plan of financial operations for a fiscal year that includes:

(a) estimates of proposed expenditures for given purposes and the proposed means of financing them;

(b) the source and amount of estimated revenue for the district for the fiscal year;

(c) fund balance in each fund at the beginning of the fiscal year and the projected fund balance for each fund at the end of the fiscal year; and

(d) capital projects or budgets for proposed construction or improvement to capital facilities within the district.

(4) "Constituent entity" means any county, city, or town that levies property taxes within the boundaries of the district.

(5) (a) "Customer agencies" means those governmental entities, except school districts, institutions of higher education, and federal government agencies that purchase or obtain services from the [~~local~~] special district.

(b) "Customer agencies" for purposes of state agencies means the state auditor.

Section 129. Section 17B-1-702 is amended to read:

17B-1-702. Special districts to submit budgets.

(1) (a) Except as provided in Subsection (1)(b), within 30 days after it is approved by the board, and at least 30 days before the board adopts a final budget, the board of each [~~local~~] special district with an annual budget of $50,000 or more shall send a copy of its tentative budget and notice of the time and place for its budget hearing to:

(i) each of its constituent entities that has in writing requested a copy; and

(ii) to each of its customer agencies that has in writing requested a copy.

(b) Within 30 days after it is approved by the board, and at least 30 days before the board adopts a final budget, the board of trustees of a large public transit district as defined in Section 17B-2a-802 shall send a copy of its tentative budget and notice of the time and place for its budget hearing to:

(i) each of its constituent entities;

(ii) each of its customer agencies that has in writing requested a copy;

(iii) the governor; and

(iv) the Legislature.

(c) The [~~local~~] special district shall include with the tentative budget a signature sheet that includes:

(i) language that the constituent entity or customer agency received the tentative budget and has no objection to it; and

(ii) a place for the chairperson or other designee of the constituent entity or customer agency to sign.

(2) Each constituent entity and each customer agency that receives the tentative budget shall review the tentative budget submitted by the district and either:

(a) sign the signature sheet and return it to the district; or

(b) attend the budget hearing or other meeting scheduled by the district to discuss the objections to the proposed budget.

(3) (a) If any constituent entity or customer agency that received the tentative budget has not returned the signature sheet to the [~~local~~] special district within 15 calendar days after the tentative budget was mailed, the [~~local~~] special district shall send a written notice of the budget hearing to each constituent entity or customer agency that did not return a signature sheet and invite them to attend that hearing.

(b) If requested to do so by any constituent entity or customer agency, the [~~local~~] special district shall schedule a meeting to discuss the budget with the constituent entities and customer agencies.

(c) At the budget hearing, the [~~local~~] special district board shall:

(i) explain its budget and answer any questions about it;

(ii) specifically address any questions or objections raised by the constituent entity, customer agency, or those attending the meeting; and

(iii) seek to resolve the objections.

(4) Nothing in this part prevents a [~~local~~] special district board from approving or implementing a budget over any or all constituent entity's or customer agency's protests, objections, or failure to respond.

Section 130. Section 17B-1-703 is amended to read:

17B-1-703. Special districts to submit audit reports.

(1) (a) Except as provided in Subsection (1)(b), within 30 days after it is presented to the board, the board of each [~~local~~] special district with an annual budget of $50,000 or more shall send a copy of any audit report to:

(i) each of its constituent entities that has in writing requested a copy; and

(ii) each of its customer agencies that has in writing requested a copy.

(b) Within 30 days after it is presented to the board, the board of a large public transit district as defined in Section 17B-2a-802 shall send a copy of its annual audit report to:

(i) each of its constituent entities; and

(ii) each of its customer agencies that has in writing requested a copy.

(2) Each constituent entity and each customer agency that received the audit report shall review the audit report submitted by the district and, if necessary, request a meeting with the district board to discuss the audit report.

(3) At the meeting, the [~~local~~] special district board shall:

(a) answer any questions about the audit report; and

(b) discuss their plans to implement suggestions made by the auditor.

Section 131. Section 17B-1-801 is amended to read:

Part 8. Special District Personnel Management

17B-1-801. Establishment of special district merit system.

(1) A merit system of personnel administration for the [~~local~~] special districts of the state, their departments, offices, and agencies, except as otherwise specifically provided, is established.

(2) This part does not apply to a [~~local~~] special district with annual revenues less than $50,000.

Section 132. Section 17B-1-802 is amended to read:

17B-1-802. Review of personnel policies.

Each [~~local~~] special district that has full or part-time employees shall annually review its personnel policies to ensure that they conform to the requirements of state and federal law.

Section 133. Section 17B-1-803 is amended to read:

17B-1-803. Merit principles.

A [~~local~~] special district may establish a personnel system administered in a manner that will provide for the effective implementation of merit principles that provide for:

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) providing equitable and adequate compensation;

(3) training employees as needed to assure high-quality performance;

(4) retaining employees on the basis of the adequacy of their performance, and separation of employees whose inadequate performance cannot be corrected;

(5) fair treatment of applicants and employees in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;

(6) providing information to employees regarding their political rights and prohibited practices under the Hatch Political Activities Act, 5 U.S.C. Sec. 1501 through 1508 et seq.; and

(7) providing a formal procedure for processing the appeals and grievances of employees without discrimination, coercion, restraint, or reprisal.

Section 134. Section 17B-1-804 is amended to read:

17B-1-804. Compliance with Labor Code requirements.

Each [~~local~~] special district shall comply with the requirements of Section 34-32-1.1.

Section 135. Section 17B-1-805 is amended to read:

17B-1-805. Human resource management requirement.

(1) As used in this section:

(a) "Governing body" means the same as that term is defined in Section 17B-1-201.

(b) "Human resource management duties" means the exercise of human resource management functions and responsibilities, including:

(i) complying with federal and state employment law;

(ii) administering compensation and benefits; and

(iii) ensuring employee safety.

(c) "Human resource management training" means a program designed to instruct an individual on the performance of human resource management duties.

(2) If a [~~local~~] special district has full or part-time employees, the governing body shall:

(a) adopt human resource management policies;

(b) assign human resource management duties to one of the district's employees or another person; and

(c) ensure that the employee or person assigned under Subsection (2)(b) receives human resource management training.

Section 136. Section 17B-1-901 is amended to read:

17B-1-901. Providing and billing for multiple commodities, services, or facilities -- Suspending service to a delinquent customer.

(1) If a [~~local~~] special district provides more than one commodity, service, or facility, the district may bill for the fees and charges for all commodities, services, and facilities in a single bill.

(2) Regardless of the number of commodities, services, or facilities furnished by a [~~local~~] special district, the [~~local~~] special district may suspend furnishing any commodity, service, or facility to a customer if the customer fails to pay all fees and charges when due.

(3) (a) Notwithstanding Subsection (2) and except as provided in Subsection (3)(b), a [~~local~~] special district may not suspend furnishing any commodity, service, or facility to a customer if discontinuance of the service is requested by a private third party, including an individual, a private business, or a nonprofit organization, that is not the customer.

(b) (i) An owner of land or the owner's agent may request that service be temporarily discontinued for maintenance-related activities.

(ii) An owner of land or the owner's agent may not request temporary discontinuance of service under Subsection (3)(b)(i) if the request is for the purpose of debt collection, eviction, or any other unlawful purpose.

Section 137. Section 17B-1-902 is amended to read:

17B-1-902. Lien for past due service fees -- Notice -- Partial payment allocation.

(1) (a) A [~~local~~] special district may hold a lien on a customer's property for past due fees for commodities, services, or facilities that the district has provided to the customer's property by certifying, subject to Subsection (3), to the treasurer of the county in which the customer's property is located the amount of past due fees, including, subject to Section 17B-1-902.1, applicable interest and administrative costs.

(b) (i) Upon certification under Subsection (1)(a), the past due fees, and if applicable, interest and administrative costs, become a political subdivision lien that is a nonrecurring tax notice charge, as those terms are defined in Section 11-60-102, on the customer's property to which the commodities, services, or facilities were provided in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority.

(ii) A lien described in this Subsection (1) has the same priority as, but is separate and distinct from, a property tax lien.

(2) (a) If a [~~local~~] special district certifies past due fees under Subsection (1)(a), the treasurer of the county shall provide a notice, in accordance with this Subsection (2), to the owner of the property for which the [~~local~~] special district has incurred the past due fees.

(b) In providing the notice required in Subsection (2)(a), the treasurer of the county shall:

(i) include the amount of past due fees that a [~~local~~] special district has certified on or before July 15 of the current year;

(ii) provide contact information, including a phone number, for the property owner to contact the [~~local~~] special district to obtain more information regarding the amount described in Subsection (2)(b)(i); and

(iii) notify the property owner that:

(A) if the amount described in Subsection (2)(b)(i) is not paid in full by September 15 of the current year, any unpaid amount will be included on the property tax notice required by Section 59-2-1317; and

(B) the failure to pay the amount described in Subsection (2)(b)(i) has resulted in a lien on the property in accordance with Subsection (1)(b).

(c) The treasurer of the county shall provide the notice required by this Subsection (2) to a property owner on or before August 1.

(3) (a) If a [~~local~~] special district certifies an unpaid amount in accordance with Subsection (1)(a), the county treasurer shall include the unpaid amount on a property tax notice issued in accordance with Section 59-2-1317.

(b) If an unpaid fee, administrative cost, or interest is included on a property tax notice in accordance with Subsection (3)(a), the county treasurer shall on the property tax notice:

(i) clearly state that the unpaid fee, administrative cost, or interest is for a service provided by the [~~local~~] special district; and

(ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax, fee, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317.

(4) A lien under Subsection (1) is not valid if the [~~local~~] special district makes certification under Subsection (1)(a) after the filing for record of a document conveying title of the customer's property to a new owner.

(5) Nothing in this section may be construed to:

(a) waive or release the customer's obligation to pay fees that the district has imposed;

(b) preclude the certification of a lien under Subsection (1) with respect to past due fees for commodities, services, or facilities provided after the date that title to the property is transferred to a new owner; or

(c) nullify or terminate a valid lien.

(6) After all amounts owing under a lien established as provided in this section have been paid, the [~~local~~] special district shall file for record in the county recorder's office a release of the lien.

Section 138. Section 17B-1-902.1 is amended to read:

17B-1-902.1. Interest -- Collection of administrative costs.

(1) (a) A [~~local~~] special district may charge interest on a past due fee or past due charge.

(b) If a [~~local~~] special district charges interest as described in Subsection (1)(b), the [~~local~~] special district shall calculate the interest rate for a calendar year:

(i) based on the federal short-term rate determined by the secretary of the treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter; and

(ii) as simple interest at the rate of eighteen percentage points above the federal short-term rate.

(c) If a [~~local~~] special district charges interest on a past due fee collected by the [~~local~~] special district, regardless of whether the fee is certified, the [~~local~~] special district may charge the interest monthly but may not compound the interest more frequently than annually.

(2) (a) A [~~local~~] special district may charge and collect only one of the following:

(i) a one-time penalty charge not to exceed 8% for a past-due fee; or

(ii) an administrative cost for some or all of the following:

(A) the collection cost of a past due fee or charge;

(B) reasonable attorney fees actually incurred for collection and foreclosure costs, if applicable; and

(C) any other cost.

(b) A [~~local~~] special district may not charge interest on an administrative cost.

Section 139. Section 17B-1-903 is amended to read:

17B-1-903. Authority to require written application for water or sewer service and to terminate for failure to pay -- Limitations.

(1) A [~~local~~] special district that owns or controls a system for furnishing water or providing sewer service or both may:

(a) before furnishing water or providing sewer service to a property, require the property owner or an authorized agent to submit a written application, signed by the owner or an authorized agent, agreeing to pay for all water furnished or sewer service provided to the property, whether occupied by the owner or by a tenant or other occupant, according to the rules and regulations adopted by the [~~local~~] special district; and

(b) if a customer fails to pay for water furnished or sewer service provided to the customer's property, discontinue furnishing water or providing sewer service to the property until all amounts for water furnished or sewer service provided are paid, subject to Subsection (2).

(2) Unless a valid lien has been established as provided in Section 17B-1-902, has not been satisfied, and has not been terminated by a sale as provided in Section 17B-1-902, a [~~local~~] special district may not:

(a) use a customer's failure to pay for water furnished or sewer service provided to the customer's property as a basis for not furnishing water or providing sewer service to the property after ownership of the property is transferred to a subsequent owner; or

(b) require an owner to pay for water that was furnished or sewer service that was provided to the property before the owner's ownership.

Section 140. Section 17B-1-904 is amended to read:

17B-1-904. Collection of service fees.

(1) As used in this section:

(a) "Collection costs" means an amount, not to exceed $20, to reimburse a [~~local~~] special district for expenses associated with its efforts to collect past due service fees from a customer.

(b) "Customer" means the owner of real property to which a [~~local~~] special district has provided a service for which the [~~local~~] special district charges a service fee.

(c) "Damages" means an amount equal to the greater of:

(i) $100; and

(ii) triple the past due service fees.

(d) "Default date" means the date on which payment for service fees becomes past due.

(e) "Past due service fees" means service fees that on or after the default date have not been paid.

(f) "Prelitigation damages" means an amount that is equal to the greater of:

(i) $50; and

(ii) triple the past due service fees.

(g) "Service fee" means an amount charged by a [~~local~~] special district to a customer for a service, including furnishing water, providing sewer service, and providing garbage collection service, that the district provides to the customer's property.

(2) A customer is liable to a [~~local~~] special district for past due service fees and collection costs if:

(a) the customer has not paid service fees before the default date;

(b) the [~~local~~] special district mails the customer notice as provided in Subsection (4); and

(c) the past due service fees remain unpaid 15 days after the [~~local~~] special district has mailed notice.

(3) If a customer has not paid the [~~local~~] special district the past due service fees and collection costs within 30 days after the [~~local~~] special district mails notice, the [~~local~~] special district may make an offer to the customer that the [~~local~~] special district will forego filing a civil action under Subsection (5) if the customer pays the [~~local~~] special district an amount that:

(a) consists of the past due service fees, collection costs, prelitigation damages, and, if the [~~local~~] special district retains an attorney to recover the past due service fees, a reasonable attorney fee not to exceed $50; and

(b) if the customer's property is residential, may not exceed $100.

(4) (a) Each notice under Subsection (2)(b) shall:

(i) be in writing;

(ii) be mailed to the customer by the United States mail, postage prepaid;

(iii) notify the customer that:

(A) if the past due service fees are not paid within 15 days after the day on which the [~~local~~] special district mailed notice, the customer is liable for the past due service fees and collection costs; and

(B) the [~~local~~] special district may file civil action if the customer does not pay to the [~~local~~] special district the past due service fees and collection costs within 30 calendar days from the day on which the [~~local~~] special district mailed notice; and

(iv) be in substantially the following form:

Date:_____

To: _____

Service address: _____

Account or invoice number(s): _____

Date(s) of service: _____

Amount past due: _____

You are hereby notified that water or sewer service fees (or both) owed by you are in default. In accordance with Section 17B-1-902, Utah Code Annotated, if you do not pay the past due amount within 15 days from the day on which this notice was mailed to you, you are liable for the past due amount together with collection costs of $20.

You are further notified that if you do not pay the past due amount and the $20 collection costs within 30 calendar days from the day on which this notice was mailed to you, an appropriate civil legal action may be filed against you for the past due amount, interest, court costs, attorney fees, and damages in an amount equal to the greater of $100 or triple the past due amounts, but the combined total of all these amounts may not exceed $200 if your property is residential.

(Signed)

_____

Name of [~~local~~] special district

_____

Address of [~~local~~] special district

Telephone number of [~~local~~] special district

(b) Written notice under this section is conclusively presumed to have been given if the notice is:

(i) properly deposited in the United States mail, postage prepaid, by certified or registered mail, return receipt requested; and

(ii) addressed to the customer at the customer's:

(A) address as it appears in the records of the [~~local~~] special district; or

(B) last-known address.

(5) (a) A [~~local~~] special district may file a civil action against the customer if the customer fails to pay the past due service fees and collection costs within 30 calendar days from the date on which the [~~local~~] special district mailed notice under Subsection (2)(b).

(b) (i) In a civil action under this Subsection (5), a customer is liable to the [~~local~~] special district for an amount that:

(A) consists of past due service fees, collection costs, interest, court costs, a reasonable attorney fee, and damages; and

(B) if the customer's property is residential, may not exceed $200.

(ii) Notwithstanding Subsection (5)(b)(i), a court may, upon a finding of good cause, waive interest, court costs, the attorney fee, and damages, or any combination of them.

(c) If a [~~local~~] special district files a civil action under this Subsection (5) before 31 calendar days after the day on which the [~~local~~] special district mailed notice under Subsection (2)(b), a customer may not be held liable for an amount in excess of past due service fees.

(d) A [~~local~~] special district may not file a civil action under this Subsection (5) unless the customer has failed to pay the past due service fees and collection costs within 30 days from the day on which the [~~local~~] special district mailed notice under Subsection (2)(b).

(6) (a) All amounts charged or collected as prelitigation damages or as damages shall be paid to and be the property of the [~~local~~] special district that furnished water or provided sewer service and may not be retained by a person who is not that [~~local~~] special district.

(b) A [~~local~~] special district may not contract for a person to retain any amounts charged or collected as prelitigation damages or as damages.

(7) This section may not be construed to limit a [~~local~~] special district from obtaining relief to which it may be entitled under other applicable statute or cause of action.

Section 141. Section 17B-1-905 is amended to read:

17B-1-905. Right of entry on premises of water user.

A person authorized by a [~~local~~] special district that provides a service from a water system or sewer system may enter upon a premise furnished with or provided that water service or sewer service to:

(1) examine an apparatus related to or used by the water system or sewer system;

(2) examine the amount of water used or wastewater discharged by the water system or sewer system and the manner of use or discharge; or

(3) make a necessary shutoff for vacancy, delinquency, or a violation of a [~~local~~] special district rule or regulation relating to the water service or sewer service.

Section 142. Section 17B-1-906 is amended to read:

17B-1-906. Extraterritorial supply of surplus.

If a [~~local~~] special district runs a surplus product or surplus capacity of a service that the [~~local~~] special district is authorized to provide under Section 17B-1-202, the [~~local~~] special district may sell or deliver the product or service to others beyond the [~~local~~] special district boundaries.

Section 143. Section 17B-1-1001 is amended to read:

Part 10. Special District Property Tax Levy

17B-1-1001. Provisions applicable to property tax levy.

(1) Each [~~local~~] special district that levies and collects property taxes shall levy and collect them according to the provisions of Title 59, Chapter 2, Property Tax Act.

(2) As used in this section:

(a) "Appointed board of trustees" means a board of trustees of a [~~local~~] special district that includes a member who is appointed to the board of trustees in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(5)(h), or any of the applicable provisions in [~~Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts~~] Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts.

(b) "Elected board of trustees" means a board of trustees of a [~~local~~] special district that consists entirely of members who are elected to the board of trustees in accordance with Subsection (4), Section 17B-1-306, or any of the applicable provisions in [~~Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts~~] Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts.

(3) (a) For a taxable year beginning on or after January 1, 2018, a [~~local~~] special district may not levy or collect property tax revenue that exceeds the certified tax rate unless:

(i) to the extent that the revenue from the property tax was pledged before January 1, 2018, the [~~local~~] special district pledges the property tax revenue to pay for bonds or other obligations of the [~~local~~] special district; or

(ii) the proposed tax or increase in the property tax rate has been approved by:

(A) an elected board of trustees;

(B) subject to Subsection (3)(b), an appointed board of trustees;

(C) a majority of the registered voters within the [~~local~~] special district who vote in an election held for that purpose on a date specified in Section 20A-1-204;

(D) the legislative body of the appointing authority; or

(E) the legislative body of:

(I) a majority of the municipalities partially or completely included within the boundary of the specified [~~local~~] special district; or

(II) the county in which the specified [~~local~~] special district is located, if the county has some or all of its unincorporated area included within the boundary of the specified [~~local~~] special district.

(b) For a [~~local~~] special district with an appointed board of trustees, each appointed member of the board of trustees shall comply with the trustee reporting requirements described in Section 17B-1-1003 before the [~~local~~] special district may impose a property tax levy that exceeds the certified tax rate.

(4) (a) Notwithstanding provisions to the contrary in [~~Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts~~] Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts, and subject to Subsection (4)(b), members of the board of trustees of a [~~local~~] special district shall be elected, if:

(i) two-thirds of all members of the board of trustees of the [~~local~~] special district vote in favor of changing to an elected board of trustees; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board of trustees.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) Subsections (2), (3), and (4) do not apply to:

(a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

(b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; or

(c) a [~~local~~] special district in which:

(i) the board of trustees consists solely of:

(A) land owners or the land owners' agents; or

(B) as described in Subsection 17B-1-302(3), land owners or the land owners' agents or officers; and

(ii) there are no residents within the [~~local~~] special district at the time a property tax is levied.

Section 144. Section 17B-1-1002 is amended to read:

17B-1-1002. Limit on special district property tax levy -- Exclusions.

(1) The rate at which a [~~local~~] special district levies a property tax for district operation and maintenance expenses on the taxable value of taxable property within the district may not exceed:

(a) .0008, for a basic [~~local~~] special district;

(b) .0004, for a cemetery maintenance district;

(c) .0004, for a drainage district;

(d) .0008, for a fire protection district;

(e) .0008, for an improvement district;

(f) .0005, for a metropolitan water district;

(g) .0004, for a mosquito abatement district;

(h) .0004, for a public transit district;

(i) (i) .0023, for a service area that:

(A) is located in a county of the first or second class; and

(B) (I) provides fire protection, paramedic, and emergency services; or

(II) subject to Subsection (3), provides law enforcement services; or

(ii) .0014, for each other service area;

(j) the rates provided in Section 17B-2a-1006, for a water conservancy district; or

(k) .0008 for a municipal services district.

(2) Property taxes levied by a [~~local~~] special district are excluded from the limit applicable to that district under Subsection (1) if the taxes are:

(a) levied under Section 17B-1-1103 by a [~~local~~] special district, other than a water conservancy district, to pay principal of and interest on general obligation bonds issued by the district;

(b) levied to pay debt and interest owed to the United States; or

(c) levied to pay assessments or other amounts due to a water users association or other public cooperative or private entity from which the district procures water.

(3) A service area described in Subsection (1)(i)(i)(B)(II) may not collect a tax described in Subsection (1)(i)(i) if a municipality or a county having a right to appoint a member to the board of trustees of the service area under Subsection 17B-2a-905(2) assesses on or after November 30 in the year in which the tax is first collected and each subsequent year that the tax is collected:

(a) a generally assessed fee imposed under Section 17B-1-643 for law enforcement services; or

(b) any other generally assessed fee for law enforcement services.

Section 145. Section 17B-1-1003 is amended to read:

17B-1-1003. Trustee reporting requirement.

(1) As used in this section:

(a) "Appointed board of trustees" means a board of trustees of a [~~local~~] special district that includes a member who is appointed to the board of trustees in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(5)(h), or any of the applicable provisions in [~~Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts~~] Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts.

(b) "Legislative entity" means:

(i) the member's appointing authority, if the appointing authority is a legislative body; or

(ii) the member's nominating entity, if the appointing authority is not a legislative body.

(c) (i) "Member" means an individual who is appointed to a board of trustees for a [~~local~~] special district in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(5)(h), or any of the applicable provisions in [~~Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts~~] Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts.

(ii) "Member" includes a member of the board of trustees who holds an elected position with a municipality, county, or another [~~local~~] special district that is partially or completely included within the boundaries of the [~~local~~] special district.

(d) "Nominating entity" means the legislative body that submits nominees for appointment to the board of trustees to an appointing authority.

(e) "Property tax increase" means a property tax levy that exceeds the certified tax rate for the taxable year.

(2) (a) If a [~~local~~] special district board of trustees adopts a tentative budget that includes a property tax increase, each member shall report to the member's legislative entity on the property tax increase.

(b) (i) The [~~local~~] special district shall request that each of the legislative entities that appoint or nominate a member to the [~~local~~] special district's board of trustees hear the report required by Subsection (2)(a) at a public meeting of each legislative entity.

(ii) The request to make a report may be made by:

(A) the member appointed or nominated by the legislative entity; or

(B) another member of the board of trustees.

(c) The member appointed or nominated by the legislative entity shall make the report required by Subsection (2)(a) at a public meeting that:

(i) complies with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) includes the report as a separate agenda item; and

(iii) is held within 40 days after the day on which the legislative entity receives a request to hear the report.

(d) (i) If the legislative entity does not have a scheduled meeting within 40 days after the day on which the legislative entity receives a request to hear the report required by Subsection (2)(a), the legislative entity shall schedule a meeting for that purpose.

(ii) If the legislative entity fails to hear the report at a public meeting that meets the criteria described in Subsection (2)(c), the trustee reporting requirements under this section shall be considered satisfied.

(3) (a) A report on a property tax increase at a legislative entity's public meeting shall include:

(i) a statement that the [~~local~~] special district intends to levy a property tax at a rate that exceeds the certified tax rate for the taxable year;

(ii) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate;

(iii) the approximate percentage increase in ad valorem tax revenue for the [~~local~~] special district based on the proposed property tax increase; and

(iv) any other information requested by the legislative entity.

(b) The legislative entity shall allow time during the meeting for comment from the legislative entity and members of the public on the property tax increase.

(4) (a) If more than one member is appointed to the board of trustees by the same legislative entity, a majority of the members appointed or nominated by the legislative entity shall be present to provide the report required by Subsection (2) and described in Subsection (3).

(b) The chair of the board of trustees shall appoint another member of the board of trustees to provide the report described in Subsection (3) to the legislative entity if:

(i) the member appointed or nominated by the legislative entity is unable or unwilling to provide the report at a public meeting that meets the requirements of Subsection (3)(a); and

(ii) the absence of the member appointed or nominated by the legislative entity results in:

(A) no member who was appointed or nominated by the legislative entity being present to provide the report; or

(B) an inability to comply with Subsection (4)(a).

(5) A [~~local~~] special district board of trustees may approve a property tax increase only after the conditions of this section have been satisfied or considered satisfied for each member of the board of trustees.

Section 146. Section 17B-1-1101 is amended to read:

Part 11. Special District Bonds

17B-1-1101. Provisions applicable to a special district's issuance of bonds.

Subject to the provisions of this part:

(1) each [~~local~~] special district that issues bonds shall:

(a) issue them as provided in, as applicable:

(i) Title 11, Chapter 14, Local Government Bonding Act; or

(ii) Title 11, Chapter 42, Assessment Area Act; and

(b) receive the benefits of Title 11, Chapter 30, Utah Bond Validation Act; and

(2) each [~~local~~] special district that issues refunding bonds shall issue them as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

Section 147. Section 17B-1-1102 is amended to read:

17B-1-1102. General obligation bonds.

(1) Except as provided in Subsections (3) and (7), if a district intends to issue general obligation bonds, the district shall first obtain the approval of district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) General obligation bonds shall be secured by a pledge of the full faith and credit of the district, subject to, for a water conservancy district, the property tax levy limits of Section 17B-2a-1006.

(3) A district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.

(4) (a) A [~~local~~] special district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

(i) .05, for a basic [~~local~~] special district, except as provided in Subsection (7);

(ii) .004, for a cemetery maintenance district;

(iii) .002, for a drainage district;

(iv) .004, for a fire protection district;

(v) .024, for an improvement district;

(vi) .1, for an irrigation district;

(vii) .1, for a metropolitan water district;

(viii) .0004, for a mosquito abatement district;

(ix) .03, for a public transit district;

(x) .12, for a service area; or

(xi) .05 for a municipal services district.

(b) Bonds or other obligations of a [~~local~~] special district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).

(5) A district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution, Article XIV, Section 4.

(6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a [~~local~~] special district that participates in the agreement creating the administrative or legal entity.

(7) (a) As used in this Subsection (7), "property owner district" means a [~~local~~] special district whose board members are elected by property owners, as provided in Subsection 17B-1-1402(1)(b).

(b) A property owner district may issue a general obligation bond with the consent of:

(i) the owners of all property within the district; and

(ii) all registered voters, if any, within the boundary of the district.

(c) A property owner district may use proceeds from a bond issued under this Subsection (7) to fund:

(i) the acquisition and construction of a system or improvement authorized in the district's creation resolution; and

(ii) a connection outside the boundary of the district between systems or improvements within the boundary of the district.

(d) The consent under Subsection (7)(b) is sufficient for any requirement necessary for the issuance of a general obligation bond.

(e) A general obligation bond issued under this Subsection (7):

(i) shall mature no later than 40 years after the date of issuance; and

(ii) is not subject to the limit under Subsection (4)(a)(i).

(f) (i) A property owner district may not issue a general obligation bond under this Subsection (7) if the issuance will cause the outstanding principal amount of all the district's general obligation bonds to exceed one-half of the market value of all real property within the district.

(ii) Market value under Subsection (7)(f)(i) shall:

(A) be based on the value that the real property will have after all improvements financed by the general obligation bonds are constructed; and

(B) be determined by appraisal by an appraiser who is a member of the Appraisal Institute.

(g) With respect to a general obligation bond issued under this Subsection (7), the board of a property owner district may, by resolution, delegate to one or more officers of the district, the authority to:

(i) approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(ii) approve and execute a document relating to the issuance of the bond; and

(iii) approve a contract related to the acquisition and construction of an improvement, facility, or property to be financed with proceeds from the bond.

(h) (i) A person may commence a lawsuit or other proceeding to contest the legality of the issuance of a general obligation bond issued under this Subsection (7) or any provision relating to the security or payment of the bond if the lawsuit or other proceeding is commenced within 30 days after the publication of:

(A) the resolution authorizing the issuance of the general obligation bond; or

(B) a notice of the bond issuance containing substantially the items required under Subsection 11-14-316(2).

(ii) Following the period described in Subsection (7)(h)(i), no person may bring a lawsuit or other proceeding to contest for any reason the regularity, formality, or legality of a general obligation bond issued under this Subsection (7).

(i) (i) A property owner district that charges and collects an impact fee or other fee on real property at the time the real property is sold may proportionally pay down a general obligation bond issued under this Subsection (7) from the money collected from the impact fee or other fee.

(ii) A property owner district that proportionally pays down a general obligation bond under Subsection (7)(i)(i) shall reduce the property tax rate on the parcel of real property on which the district charged and collected an impact fee or other charge, to reflect the amount of outstanding principal of a general obligation bond issued under this Subsection (7) that was paid down and is attributable to that parcel.

(j) If a property owner fails to pay a property tax that the property owner district imposes in connection with a general obligation bond issued under this Subsection (7), the district may impose a property tax penalty at an annual rate of .07, in addition to any other penalty allowed by law.

Section 148. Section 17B-1-1103 is amended to read:

17B-1-1103. Levy to pay for general obligation bonds.

(1) (a) If a district has issued general obligation bonds, or expects to have debt service payments due on general obligation bonds during the current year, the district's board of trustees may make an annual levy of ad valorem property taxes in order to:

(i) pay the principal of and interest on the general obligation bonds;

(ii) establish a sinking fund for defaults and future debt service on the general obligation bonds; and

(iii) establish a reserve to secure payment of the general obligation bonds.

(b) A levy under Subsection (1)(a) is:

(i) for a water conservancy district, subject to the limit stated in Section 17B-2a-1006; and

(ii) for each other [~~local~~] special district, without limitation as to rate or amount.

(2) (a) Each district that levies a tax under Subsection (1) shall:

(i) levy the tax as a separate and special levy for the specific purposes stated in Subsection (1); and

(ii) apply the proceeds from the levy solely for the purpose of paying the principal of and interest on the general obligation bonds, even though the proceeds may be used to establish or replenish a sinking fund under Subsection (1)(a)(ii) or a reserve under Subsection (1)(a)(iii).

(b) A levy under Subsection (2)(a) is not subject to a priority in favor of a district obligation in existence at the time the bonds were issued.

Section 149. Section 17B-1-1104 is amended to read:

17B-1-1104. Pledge of revenues to pay for bonds.

Bonds may be payable from and secured by the pledge of all or any specified part of:

(1) the revenues to be derived by the special district from providing its services and from the operation of its facilities and other properties;

(2) sales and use taxes, property taxes, and other taxes;

(3) federal, state, or local grants;

(4) in the case of special assessment bonds, the special assessments pledged to repay the special assessment bonds; and

(5) other money legally available to the district.

Section 150. Section 17B-1-1105 is amended to read:

17B-1-1105. Revenue bonds -- Requirement to impose rates and charges to cover revenue bonds -- Authority to make agreements and covenants to provide for bond repayment.

(1) A [~~local~~] special district intending to issue revenue bonds may, but is not required to, submit to district voters for their approval the issuance of the revenue bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) Each [~~local~~] special district that has issued revenue bonds shall impose rates and charges for the services or commodities it provides fully sufficient, along with other sources of district revenues, to carry out all undertakings of the district with respect to its revenue bonds.

(3) A [~~local~~] special district that issues revenue bonds may:

(a) agree to pay operation and maintenance expenses of the district from the proceeds of the ad valorem taxes authorized in Subsection 17B-1-103(2)(g); and

(b) for the benefit of bondholders, enter into covenants that:

(i) are permitted by Title 11, Chapter 14, Local Government Bonding Act; and

(ii) provide for other pertinent matters that the board of trustees considers proper to assure the marketability of the bonds.

Section 151. Section 17B-1-1107 is amended to read:

17B-1-1107. Ratification of previously issued bonds and previously entered contracts.

All bonds issued or contracts entered into by a [~~local~~] special district before April 30, 2007 are ratified, validated, and confirmed and declared to be valid and legally binding obligations of the district in accordance with their terms.

Section 152. Section 17B-1-1201 is amended to read:

Part 12. Special District Validation Proceedings

17B-1-1201. Definitions.

As used in this part:

(1) "Eligible function" means:

(a) a power conferred on a [~~local~~] special district under this title;

(b) a tax or assessment levied by a [~~local~~] special district;

(c) an act or proceeding that a [~~local~~] special district:

(i) has taken; or

(ii) contemplates taking; or

(d) a district contract, whether already executed or to be executed in the future, including a contract for the acquisition, construction, maintenance, or operation of works for the district.

(2) "Validation order" means a court order adjudicating the validity of an eligible function.

(3) "Validation petition" means a petition requesting a validation order.

(4) "Validation proceedings" means judicial proceedings occurring in district court pursuant to a validation petition.

Section 153. Section 17B-1-1202 is amended to read:

17B-1-1202. Authority to file a validation petition -- Petition requirements -- Amending or supplementing a validation petition.

(1) The board of trustees of a [~~local~~] special district may at any time file a validation petition.

(2) Each validation petition shall:

(a) describe the eligible function for which a validation order is sought;

(b) set forth:

(i) the facts upon which the validity of the eligible function is founded; and

(ii) any other information or allegations necessary to a determination of the validation petition;

(c) be verified by the chair of the board of trustees; and

(d) be filed in the district court of the county in which the district's principal office is located.

(3) A [~~local~~] special district may amend or supplement a validation petition:

(a) at any time before the hearing under Section 17B-1-1203; or

(b) after the hearing under Section 17B-1-1203, with permission of the court.

Section 154. Section 17B-1-1204 is amended to read:

17B-1-1204. Notice of the hearing on a validation petition -- Amended or supplemented validation petition.

(1) Upon the entry of an order under Section 17B-1-1203 setting a hearing on a validation petition, the [~~local~~] special district that filed the petition shall post notice:

(a) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks immediately before the hearing; and

(b) in the [~~local~~] special district's principal office at least 21 days before the date set for the hearing.

(2) Each notice under Subsection (1) shall:

(a) state the date, time, and place of the hearing on the validation petition;

(b) include a general description of the contents of the validation petition; and

(c) if applicable, state the location where a complete copy of a contract that is the subject of the validation petition may be examined.

(3) If a district amends or supplements a validation petition under Subsection 17B-1-1202(3) after publishing and posting notice as required under Subsection (1), the district is not required to publish or post notice again unless required by the court.

Section 155. Section 17B-1-1207 is amended to read:

17B-1-1207. Findings, conclusions, and judgment -- Costs -- Effect of judgment -- Appeal.

(1) After the hearing under Section 17B-1-1203 on a validation petition, the district court shall:

(a) make and enter written findings of fact and conclusions of law; and

(b) render a judgment as warranted.

(2) A district court may apportion costs among the parties as the court determines appropriate.

(3) A district court judgment adjudicating matters raised by a validation petition:

(a) is binding and conclusive as to the [~~local~~] special district and all other parties to the validation proceedings; and

(b) constitutes a permanent injunction against any action or proceeding to contest any matter adjudicated in the validation proceedings.

(4) (a) Each appeal of a final judgment in validation proceedings shall be filed with the Supreme Court.

(b) An appeal of a final judgment in validation proceedings may be filed only by a party to the validation proceedings.

(c) The appellate court hearing an appeal under this section shall expedite the hearing of the appeal.

Section 156. Section 17B-1-1301 is amended to read:

Part 13. Dissolution of a Special District

17B-1-1301. Definitions.

For purposes of this part:

(1) "Active" means, with respect to a [~~local~~] special district, that the district is not inactive.

(2) "Administrative body" means:

(a) if the [~~local~~] special district proposed to be dissolved has a duly constituted board of trustees in sufficient numbers to form a quorum, the board of trustees; or

(b) except as provided in Subsection (2)(a):

(i) for a [~~local~~] special district located entirely within a single municipality, the legislative body of that municipality;

(ii) for a [~~local~~] special district located in multiple municipalities within the same county or at least partly within the unincorporated area of a county, the legislative body of that county; or

(iii) for a [~~local~~] special district located within multiple counties, the legislative body of the county whose boundaries include more of the [~~local~~] special district than is included within the boundaries of any other county.

(3) "Clerk" means:

(a) the board of trustees if the board is also the administrative body under Subsection (2)(a);

(b) the clerk or recorder of the municipality whose legislative body is the administrative body under Subsection (2)(b)(i); or

(c) the clerk of the county whose legislative body is the administrative body under Subsection (2)(b)(ii) or (iii).

(4) "Inactive" means, with respect to a [~~local~~] special district, that during the preceding three years the district has not:

(a) provided any service or otherwise operated;

(b) received property taxes or user or other fees; and

(c) expended any funds.

Section 157. Section 17B-1-1302 is amended to read:

17B-1-1302. Special district dissolution.

A [~~local~~] special district may be dissolved as provided in this part.

Section 158. Section 17B-1-1303 is amended to read:

17B-1-1303. Initiation of dissolution process.

The process to dissolve a [~~local~~] special district may be initiated by:

(1) for an inactive [~~local~~] special district:

(a) (i) for a [~~local~~] special district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector, a petition signed by the owners of 25% of the acre-feet of water allotted to the land within the [~~local~~] special district; or

(ii) for all other districts:

(A) a petition signed by the owners of private real property that:

(I) is located within the [~~local~~] special district proposed to be dissolved;

(II) covers at least 25% of the private land area within the [~~local~~] special district; and

(III) is equal in assessed value to at least 25% of the assessed value of all private real property within the [~~local~~] special district; or

(B) a petition signed by registered voters residing within the [~~local~~] special district proposed to be dissolved equal in number to at least 25% of the number of votes cast in the district for the office of governor at the last regular general election before the filing of the petition; or

(b) a resolution adopted by the administrative body; and

(2) for an active [~~local~~] special district, a petition signed by:

(a) for a [~~local~~] special district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector, the owners of 33% of the acre-feet of water allotted to the land within the [~~local~~] special district;

(b) for a [~~local~~] special district created to acquire or assess a groundwater right for the development and execution of a groundwater management plan in coordination with the state engineer in accordance with Section 73-5-15, the owners of groundwater rights that:

(i) are diverted within the district; and

(ii) cover at least 33% of the total amount of groundwater diverted in accordance with the groundwater rights within the district as a whole; or

(c) for all other districts:

(i) the owners of private real property that:

(A) is located within the [~~local~~] special district proposed to be dissolved;

(B) covers at least 33% of the private land area within the [~~local~~] special district; and

(C) is equal in assessed value to at least 25% of the assessed value of all private real property within the [~~local~~] special district; or

(ii) 33% of registered voters residing within the [~~local~~] special district proposed to be dissolved.

Section 159. Section 17B-1-1304 is amended to read:

17B-1-1304. Petition requirements.

(1) Each petition under Subsection 17B-1-1303(1)(a) or (2) shall:

(a) indicate the typed or printed name and current residence address of each owner of acre-feet of water, property owner, or registered voter signing the petition;

(b) if it is a petition signed by the owners of acre-feet of water or property owners, indicate the address of the property as to which the owner is signing;

(c) designate up to three signers of the petition as sponsors, one of whom shall be designated the contact sponsor, with the mailing address and telephone number of each; and

(d) be filed with the clerk.

(2) A signer of a petition to dissolve a [~~local~~] special district may withdraw, or, once withdrawn, reinstate the signer's signature at any time until 30 days after the public hearing under Section 17B-1-1306.

Section 160. Section 17B-1-1305 is amended to read:

17B-1-1305. Petition certification.

(1) Within 30 days after the filing of a petition under Subsection 17B-1-1303(1)(a) or (2), the clerk shall:

(a) with the assistance of officers of the county in which the [~~local~~] special district is located from whom the clerk requests assistance, determine whether the petition meets the requirements of Section 17B-1-1303 and Subsection 17B-1-1304(1); and

(b) (i) if the clerk determines that the petition complies with the requirements, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the clerk determines that the petition fails to comply with any of the requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2) (a) If the clerk rejects a petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (2)(a).

(3) The clerk shall process an amended petition filed under Subsection (2)(a) in the same manner as an original petition under Subsection (1).

Section 161. Section 17B-1-1306 is amended to read:

17B-1-1306. Public hearing.

(1) For each petition certified under Section 17B-1-1305 and each resolution that an administrative body adopts under Subsection 17B-1-1303(1)(b), the administrative body shall hold a public hearing on the proposed dissolution.

(2) The administrative body shall hold a public hearing under Subsection (1):

(a) no later than 45 days after certification of the petition under Section 17B-1-1305 or adoption of a resolution under Subsection 17B-1-1303(1)(b), as the case may be;

(b) within the [~~local~~] special district proposed to be dissolved;

(c) on a weekday evening other than a holiday beginning no earlier than 6 p.m.; and

(d) for the purpose of allowing:

(i) the administrative body to explain the process the administrative body will follow to study and prepare the proposed dissolution;

(ii) the public to ask questions and obtain further information about the proposed dissolution and issues raised by it; and

(iii) any interested person to address the administrative body concerning the proposed dissolution.

(3) A quorum of the administrative body shall be present throughout each public hearing under this section.

Section 162. Section 17B-1-1307 is amended to read:

17B-1-1307. Notice of public hearing and of dissolution.

(1) Before holding a public hearing required under Section 17B-1-1306, the administrative body shall:

(a) post notice of the public hearing and of the proposed dissolution:

(i) on the Utah Public Notice Website created in Section 63A-16-601, for 30 days before the public hearing; and

(ii) in at least four conspicuous places within the [~~local~~] special district proposed to be dissolved, no less than five and no more than 30 days before the public hearing; or

(b) mail a notice to each owner of property located within the [~~local~~] special district and to each registered voter residing within the [~~local~~] special district.

(2) Each notice required under Subsection (1) shall:

(a) identify the [~~local~~] special district proposed to be dissolved and the service it was created to provide; and

(b) state the date, time, and location of the public hearing.

Section 163. Section 17B-1-1308 is amended to read:

17B-1-1308. Second public hearing -- Dissolution resolution -- Limitations on dissolution.

(1) (a) Within 180 days after the day on which the administrative body holds the public hearing described in Section 17B-1-1306, the administrative body shall hold a second public hearing to:

(i) publicly explain the result of the study and preparation described in Subsection 17B-1-1306(2)(d)(i);

(ii) describe whether the proposed dissolution meets each criterion described in Subsection (2); and

(iii) adopt a resolution in accordance with Subsection (1)(b) or (c).

(b) Subject to Subsection (2), after a proposed dissolution petition has been certified under Section 17B-1-1305, the administrative body shall adopt a resolution:

(i) certifying that the proposed dissolution satisfies the criteria described in Subsection (2); and

(ii) (A) for an inactive [~~local~~] special district, approving the dissolution of the [~~local~~] special district; or

(B) for an active [~~local~~] special district, initiating the dissolution election described in Section 17B-1-1309.

(c) Subject to Subsection (2), for a proposed dissolution of an inactive district that an administrative body initiates by adopting a resolution under Subsection 17B-1-1303(1)(b), the administrative body may adopt a resolution:

(i) certifying that the proposed dissolution satisfies the criteria described in Subsection (2); and

(ii) approving the dissolution of the inactive [~~local~~] special district.

(2) The administrative body may not adopt a resolution under Subsection (1) unless:

(a) any outstanding debt of the [~~local~~] special district is:

(i) satisfied and discharged in connection with the dissolution; or

(ii) assumed by another governmental entity with the consent of all the holders of that debt and all the holders of other debts of the [~~local~~] special district;

(b) for a [~~local~~] special district that has provided service during the preceding three years or undertaken planning or other activity preparatory to providing service:

(i) another entity has committed to:

(A) provide the same service to the area being served or proposed to be served by the [~~local~~] special district; and

(B) purchase, at fair market value, the assets of the [~~local~~] special district that are required to provide the service; and

(ii) all who are to receive the service have consented to the service being provided by the other entity; and

(c) all outstanding contracts to which the [~~local~~] special district is a party are resolved through mutual termination or the assignment of the [~~local~~] special district's rights, duties, privileges, and responsibilities to another entity with the consent of the other parties to the contract.

Section 164. Section 17B-1-1309 is amended to read:

17B-1-1309. Election to dissolve an active special district.

(1) When an administrative body adopts a resolution to initiate a dissolution election under Subsection 17B-1-1308(1)(b)(ii), an election shall be held on the question of whether the [~~local~~] special district should be dissolved by:

(a) if the [~~local~~] special district proposed to be dissolved is located entirely within a single county, the [~~local~~] special district clerk, in cooperation with the county clerk; or

(b) if the [~~local~~] special district proposed to be dissolved is located within more than one county, in cooperation with the [~~local~~] special district clerk:

(i) the clerk of each county where part of the [~~local~~] special district is located in more than one municipality or in an unincorporated area within the same county;

(ii) the clerk or recorder of each municipality where part of the [~~local~~] special district is not located in another municipality or in an unincorporated area within the same county; and

(iii) the clerk of each county where part of the [~~local~~] special district is located only in an unincorporated area within the county.

(2) Each election under Subsection (1) shall be held at the next special or regular general election that is more than 60 days after the day on which the administrative body adopts a resolution in accordance with Section 17B-1-1308.

(3) (a) If the [~~local~~] special district proposed to be dissolved is located in more than one county, the [~~local~~] special district clerk shall coordinate with the officials described in Subsection (1)(b) to ensure that the election is held on the same date and in a consistent manner in each jurisdiction.

(b) The clerk of each county and the clerk or recorder of each municipality involved in an election under Subsection (1) shall cooperate with the [~~local~~] special district clerk in holding the election.

(4) If the [~~local~~] special district proposed to be dissolved is an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act:

(a) the electors shall consist of the landowners whose land has allotments of water through the district; and

(b) each elector may cast one vote for each acre-foot or fraction of an acre-foot of water allotted to the land the elector owns within the district.

(5) If the [~~local~~] special district proposed to be dissolved is a district created to acquire or assess a groundwater right for the development and execution of a groundwater management plan in accordance with Section 73-5-15:

(a) the electors shall consist of the owners of groundwater rights within the district; and

(b) each elector may cast one vote for each acre-foot or fraction of an acre-foot of groundwater that is within the district and reflected in the elector's water right.

(6) If the [~~local~~] special district proposed to be dissolved is a basic [~~local~~] special district, except for a district described in Subsection (5), and if the area of the basic [~~local~~] special district contains less than one residential unit per 50 acres of land at the time of the filing of a petition described in Subsection 17B-1-1303(2):

(a) the electors shall consist of the owners of privately owned real property within a basic [~~local~~] special district under [~~Title 17B, Chapter 1, Part 14, Basic Local District~~] Title 17B, Chapter 1, Part 14, Basic Special District; and

(b) each elector may cast one vote for each acre or fraction of an acre of land that the elector owns within the district.

(7) Except as otherwise provided in this part, Title 20A, Election Code, governs each election under Subsection (1).

Section 165. Section 17B-1-1310 is amended to read:

17B-1-1310. Notice to lieutenant governor -- Recording requirements -- Distribution of remaining assets.

(1) The administrative body, shall file with the lieutenant governor a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3):

(a) within 30 days after the day on which the administrative body adopts a resolution approving the dissolution of an inactive [~~local~~] special district; or

(b) within 30 days after the day on which a majority of the voters within an active [~~local~~] special district approve the dissolution of the [~~local~~] special district in an election described in Subsection 17B-1-1309(2).

(2) Upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5, the administrative body shall:

(a) if the [~~local~~] special district was located within the boundary of a single county, submit to the recorder of that county:

(i) the original:

(A) notice of an impending boundary action; and

(B) certificate of dissolution; and

(ii) a certified copy of the resolution that the administrative body adopts under Subsection 17B-1-1308(1); or

(b) if the [~~local~~] special district was located within the boundaries of more than a single county:

(i) submit to the recorder of one of those counties:

(A) the original notice of an impending boundary action and certificate of dissolution; and

(B) if applicable, a certified copy of the resolution that the administrative body adopts under Subsection 17B-1-1308(1); and

(ii) submit to the recorder of each other county:

(A) a certified copy of the notice of an impending boundary action and certificate of dissolution; and

(B) if applicable, a certified copy of the resolution that the administrative body adopts under Subsection 17B-1-1308(1).

(3) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the [~~local~~] special district is dissolved.

(4) (a) After the dissolution of a [~~local~~] special district under this part, the administrative body shall use any assets of the [~~local~~] special district remaining after paying all debts and other obligations of the [~~local~~] special district to pay costs associated with the dissolution process.

(b) If the administrative body is not the board of trustees of the dissolved [~~local~~] special district, the administrative body shall pay any costs of the dissolution process remaining after exhausting the remaining assets of the [~~local~~] special district as described in Subsection (4)(a).

(c) If the administrative body is the board of trustees of the dissolved [~~local~~] special district, each entity that has committed to provide a service that the dissolved [~~local~~] special district previously provided, as described in Subsection 17B-1-1308(2)(b), shall pay, in the same proportion that the services the entity commits to provide bear to all of the services the [~~local~~] special district provided, any costs of the dissolution process remaining after exhausting the remaining assets of the dissolved [~~local~~] special district described in Subsection (4)(a).

(5) (a) The administrative body shall distribute any assets of the [~~local~~] special district that remain after the payment of debts, obligations, and costs under Subsection (4) in the following order of priority:

(i) if there is a readily identifiable connection between the remaining assets and a financial burden borne by the real property owners in the dissolved [~~local~~] special district, proportionately to those real property owners;

(ii) if there is a readily identifiable connection between the remaining assets and a financial burden borne by the recipients of a service that the dissolved [~~local~~] special district provided, proportionately to those recipients; and

(iii) subject to Subsection (6), to each entity that has committed to provide a service that the dissolved [~~local~~] special district previously provided, as described in Subsection 17B-1-1309(1)(b)(ii), in the same proportion that the services the entity commits to provide bear to all of the services the [~~local~~] special district provided.

(6) An entity that receives cash reserves of the dissolved [~~local~~] special district under Subsection (5)(a)(iii) may not use the cash reserves:

(a) in any way other than for the purpose the [~~local~~] special district originally intended; or

(b) in any area other than within the area that the dissolved [~~local~~] special district previously served.

Section 166. Section 17B-1-1401 is amended to read:

Part 14. Basic Special District

17B-1-1401. Status of and provisions applicable to a basic special district.

A basic [~~local~~] special district:

(1) operates under, is subject to, and has the powers set forth in this chapter; and

(2) is not subject to [~~Chapter 2a, Provisions Applicable to Different Types of Local Districts~~] Chapter 2a, Provisions Applicable to Different Types of Special Districts.

Section 167. Section 17B-1-1402 is amended to read:

17B-1-1402. Board of trustees of a basic special district.

(1) As specified in a petition under Subsection 17B-1-203(1)(a) or (b) or a resolution under Subsection 17B-1-203(1)(d) or (e), and except as provided in Subsection (2), the members of a board of trustees of a basic [~~local~~] special district may be:

(a) (i) elected by registered voters; or

(ii) appointed by the responsible body, as defined in Section 17B-1-201; or

(b) if the area of the [~~local~~] special district contains less than one residential dwelling unit per 50 acres of land at the time the resolution is adopted or the petition is filed, elected by the owners of real property within the [~~local~~] special district based on:

(i) the amount of acreage owned by property owners;

(ii) the assessed value of property owned by property owners; or

(iii) water rights:

(A) relating to the real property within the [~~local~~] special district;

(B) that the real property owner:

(I) owns; or

(II) has transferred to the [~~local~~] special district.

(2) As specified in a groundwater right owner petition under Subsection 17B-1-203(1)(c) or a resolution under Subsection 17B-1-203(1)(d) or (e), the members of a board of trustees of a basic [~~local~~] special district created to manage groundwater rights the district acquires or assesses under Section 17B-1-202 shall be:

(a) subject to Section 17B-1-104.5, elected by the owners of groundwater rights that are diverted within the [~~local~~] special district;

(b) appointed by the responsible body, as defined in Section 17B-1-201; or

(c) elected or appointed as provided in Subsection (3).

(3) A petition under Subsection 17B-1-203(1)(a) or (b) and a resolution under Subsection 17B-1-203(1)(d) or (e) may provide for a transition

from one or more methods of election or appointment under Subsection (1) or (2) to one or more other methods of election or appointment based upon milestones or events that the petition or resolution identifies.

Section 168. Section 17B-1-1403 is amended to read:

17B-1-1403. Prohibition against creating new basic special districts.

A person may not create a basic [~~local~~] special district on or after May 12, 2020.

Section 169. Section 17B-2a-102 is amended to read:

CHAPTER 2A. PROVISIONS APPLICABLE TO DIFFERENT TYPES OF SPECIAL DISTRICTS

17B-2a-102. Provisions applicable to cemetery maintenance districts.

(1) Each cemetery maintenance district is governed by and has the powers stated in:

(a) this part; and

(b) [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to cemetery maintenance districts.

(3) A cemetery maintenance district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

(5) A cemetery maintenance district shall comply with the applicable provisions of Title 8, Cemeteries.

Section 170. Section 17B-2a-104 is amended to read:

17B-2a-104. Cemetery maintenance district bonding authority.

A cemetery maintenance district may issue bonds as provided in and subject to [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district.

Section 171. Section 17B-2a-203 is amended to read:

17B-2a-203. Provisions applicable to drainage districts.

(1) Each drainage district is governed by and has the powers stated in:

(a) this part; and

(b) [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to drainage districts.

(3) A drainage district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Section 172. Section 17B-2a-205 is amended to read:

17B-2a-205. Additional drainage district powers.

In addition to the powers conferred on a drainage district under Section 17B-1-103, a drainage district may:

(1) enter upon land for the purpose of examining the land or making a survey;

(2) locate a necessary drainage canal with any necessary branches on land that the district's board of trustees considers best;

(3) issue bonds as provided in and subject to [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;

(4) after the payment or tender of compensation allowed, go upon land to construct proposed works, and thereafter enter upon that land to maintain or repair the works;

(5) appropriate water for useful and beneficial purposes;

(6) regulate and control, for the benefit of landholders within the district, all water developed, appropriated, or owned by the district;

(7) appropriate, use, purchase, develop, sell, and convey water and water rights in the same manner and for the same use and purposes as a private person;

(8) widen, straighten, deepen, enlarge, or remove any obstruction or rubbish from any watercourse, whether inside or outside the district; and

(9) if necessary, straighten a watercourse by cutting a new channel upon land not already containing the watercourse, subject to the landowner receiving compensation for the land occupied by the new channel and for any damages, as provided under the law of eminent domain.

Section 173. Section 17B-2a-209 is amended to read:

17B-2a-209. State land treated the same as private land -- Consent needed to affect school and institutional trust land -- Owner of state land has same rights as owner of private land.

(1) Subject to Subsection (2), a drainage district may treat state land the same as private land with respect to the drainage of land for agricultural purposes.

(2) A drainage district may not affect school or institutional trust land under this part or [~~Chapter~~

~~1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, without the consent of the director of the School and Institutional Trust Lands Administration acting in accordance with Sections 53C-1-102 and 53C-1-303.

(3) The state and each person holding unpatented state land under entries or contracts of purchase from the state have all the rights, privileges, and benefits under this part and [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, that a private owner of that land would have.

Section 174. Section 17B-2a-303 is amended to read:

17B-2a-303. Provisions applicable to fire protection districts.

(1) Each fire protection district is governed by and has the powers stated in:

(a) this part; and

(b) [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to fire protection districts.

(3) A fire protection district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Section 175. Section 17B-2a-304 is amended to read:

17B-2a-304. Additional fire protection district power.

In addition to the powers conferred on a fire protection district under Section 17B-1-103, a fire protection district may issue bonds as provided in and subject to [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district.

Section 176. Section 17B-2a-402 is amended to read:

17B-2a-402. Provisions applicable to improvement districts.

(1) Each improvement district is governed by and has the powers stated in:

(a) this part; and

(b) [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to improvement districts.

(3) An improvement district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Section 177. Section 17B-2a-403 is amended to read:

17B-2a-403. Additional improvement district powers.

(1) In addition to the powers conferred on an improvement district under Section 17B-1-103, an improvement district may:

(a) acquire through construction, purchase, gift, or condemnation, or any combination of these methods, and operate all or any part of a system for:

(i) the supply, treatment, and distribution of water;

(ii) the collection, treatment, and disposition of sewage;

(iii) the collection, retention, and disposition of storm and flood waters;

(iv) the generation, distribution, and sale of electricity, subject to Section 17B-2a-406; and

(v) the transmission of natural or manufactured gas if:

(A) the system is connected to a gas plant, as defined in Section 54-2-1, of a gas corporation, as defined in Section 54-2-1, that is regulated under Section 54-4-1;

(B) the system is to be used to facilitate gas utility service within the district; and

(C) the gas utility service was not available within the district before the acquisition of the system;

(b) issue bonds in accordance with [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the improvement district;

(c) appropriate or acquire water or water rights inside or outside the improvement district's boundaries;

(d) sell water or other services to consumers residing outside the improvement district's boundaries;

(e) enter into a contract with a gas corporation that is regulated under Section 54-4-1 to:

(i) provide for the operation or maintenance of all or part of a system for the transmission of natural or manufactured gas; or

(ii) lease or sell all or a portion of a system described in Subsection (1)(e)(i) to a gas corporation;

(f) enter into a contract with a person for:

(i) the purchase or sale of water or electricity;

(ii) the use of any facility owned by the person; or

(iii) the purpose of handling the person's industrial and commercial waste and sewage;

(g) require pretreatment of industrial and commercial waste and sewage; and

(h) impose a penalty or surcharge against a public entity or other person with which the improvement district has entered into a contract for the construction, acquisition, or operation of all or a part of a system for the collection, treatment, and disposal of sewage, if the public entity or other person fails to comply with the provisions of the contract.

(2) The new gas utility service under Subsection (1)(a)(v)(B) shall be provided by a gas corporation regulated under Section 54-4-1 and not by the district.

(3) An improvement district may not begin to provide sewer service to an area where sewer service is already provided by an existing sewage collection system operated by a municipality or other political subdivision unless the municipality or other political subdivision gives its written consent.

(4) An improvement district authorized to operate all or any part of a system for the collection, treatment, or disposition of sewage may acquire, construct, or operate a resource recovery project in accordance with Section 19-6-508.

Section 178. Section 17B-2a-407 is enacted to read:

17B-2a-407. Nonfunctioning improvement district -- Replacing board of trustees.

(1) As used in this section:

(a) "Applicable certificate" means the same as that term is defined in Subsection 67-1a-6.5(1)(a).

(b) (i) "Non-functioning improvement district" means an improvement district:

(A) for which the lieutenant governor issues an applicable certificate on or after July 1, 2022, but before October 15, 2023;

(B) for which the legislative body of a county elected to be the board of trustees of the district under Subsection 17B-2a-404(3)(a); and

(C) (I) for which the responsible body has not, within 100 days after the day on which the lieutenant governor issued the applicable certificate, complied with the recording requirements described in Subsection 17B-1-215(2); or

(II) whose board of trustees has not, within 100 days after the day on which the lieutenant governor issued the applicable certificate, held a meeting as the board of trustees of the improvement district, that was noticed and held in accordance with the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

(ii) "Non-functioning improvement district" does not include an improvement district that has emerged from non-functioning status under Subsection (6)(c)(ii).

(2) (a) The board of trustees of a non-functioning improvement district may not, after the 100-day period described in Subsection (1)(b)(i)(C)(I), take any action as the board of trustees or on behalf of the non-functioning improvement district.

(b) Any action taken in violation of Subsection (2)(a) is void.

(3) (a) An owner of land located within the boundaries of a non-functioning improvement district may file with the lieutenant governor a request to replace the board of trustees with a new board of trustees.

(b) A new board of trustees described in Subsection (3)(a) shall comprise three individuals who are:

(i) owners of land located within the boundaries of the improvement district; or

(ii) agents of owners of land located within the boundaries of the improvement district.

(4) A request described in Subsection (3) shall include:

(a) the name and mailing address of the land owner who files the request;

(b) the name of the improvement district;

(c) a copy of the certificate of incorporation for the improvement district;

(d) written consent to the request from each owner of land located within the boundaries of the improvement district; and

(e) the names and mailing addresses of three individuals who will serve as the board of trustees of the improvement district until a new board of trustees is organized under Subsection (9).

(5) Within 14 days after the day on which the lieutenant governor receives a request described in Subsections (3) and (4), the lieutenant governor shall:

(a) determine whether:

(i) the district is a non-functioning improvement district;

(ii) the request complies with Subsection (4); and

(b) if the lieutenant governor determines that the requirements described in Subsection (5)(a) are met, grant the request by issuing a certificate of replacement described in Subsection (6).

(6) A certificate of replacement shall:

(a) state the name of the improvement district;

(b) reference the certificate of incorporation for the improvement district;

(c) declare that, upon issuance of the certificate:

(i) the existing board of trustees for the improvement district is dissolved and replaced by an interim board of trustees consisting of the three individuals described in Subsection (4)(e); and

(ii) the improvement district is removed from nonfunctioning status and is, beginning at that point in time, a functioning improvement district.

(7) The interim board of trustees described in Subsection (6)(c)(i) shall record, in the recorder's office for a county in which all or a portion of the improvement district exists:

(a) the original of the certificate of replacement; and

(b) the original or a copy of:

(i) the items described in Subsections 17B-1-215(2)(a)(i)(A), (B), and (C); and

(ii) if applicable, a copy of each resolution adopted under Subsection 17B-1-213(5).

(8) Until a new board of trustees is organized under Subsection (9):

(a) the interim board of trustees has the full authority of a board of trustees of an improvement district; and

(b) a majority of the owners of land in the improvement district:

(i) may appoint an individual described in Subsection (3)(b) to fill a vacancy on the interim board of trustees; and

(ii) shall file written notification of the appointment of an individual described in Subsection (8)(b)(i) with the lieutenant governor.

(9) Within 90 days after the day on which at least 20 persons own land within the improvement district, the interim board of trustees described in Subsection (6)(c)(i) shall dissolve and be replaced by a board of trustees described in Subsections 17B-1-302(1) through (3)(a), except that:

(a) the board of trustees shall comprise three members, appointed by the lieutenant governor, who are owners of property in the district, agents of an owner of property in the district, or residents of the district;

(b) Subsections 17B-1-302(3)(c) through (6) and Section 17B-2a-404 do not apply to the improvement district; and

(c) a member of the legislative body of the county may not serve as a member of the board of trustees.

Section 179. Section 17B-2a-502 is amended to read:

17B-2a-502. Provisions applicable to irrigation districts.

(1) Each irrigation district is governed by and has the powers stated in:

(a) this part; and

(b) [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to irrigation districts.

(3) An irrigation district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Section 180. Section 17B-2a-503 is amended to read:

17B-2a-503. Additional irrigation district powers -- No authority to levy property tax.

(1) In addition to the powers conferred on an irrigation district under Section 17B-1-103, an irrigation district may:

(a) issue bonds as provided in and subject to [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;

(b) purchase stock of an irrigation, canal, or reservoir company;

(c) enter upon any land in the district to make a survey and to locate and construct a canal and any necessary lateral;

(d) convey water rights or other district property to the United States as partial or full consideration under a contract with the United States;

(e) pursuant to a contract with the United States, lease or rent water to private land, an entryman, or a municipality in the neighborhood of the district;

(f) if authorized under a contract with the United States, collect money on behalf of the United States in connection with a federal reclamation project and assume the incident duties and liabilities;

(g) acquire water from inside or outside the state;

(h) subject to Subsection (2), lease, rent, or sell water not needed by the owners of land within the district:

(i) to a municipality, corporation, association, or individual inside or outside the district;

(ii) for irrigation or any other beneficial use; and

(iii) at a price and on terms that the board considers appropriate; and

(i) repair a break in a reservoir or canal or remedy any other district disaster.

(2) (a) The term of a lease or rental agreement under Subsection (1)(h) may not exceed five years.

(b) A vested or prescriptive right to the use of water may not attach to the land because of a lease or rental of water under Subsection (1)(h).

(3) Notwithstanding Subsection 17B-1-103(2)(g), an irrigation district may not levy a property tax.

Section 181. Section 17B-2a-602 is amended to read:

17B-2a-602. Provisions applicable to metropolitan water districts.

(1) Each metropolitan water district is governed by and has the powers stated in:

(a) this part; and

(b) [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to metropolitan water districts.

(3) A metropolitan water district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

(5) Before September 30, 2019, a metropolitan water district shall submit a written report to the Revenue and Taxation Interim Committee that describes, for the metropolitan water district's fiscal year that ended in 2018, the percentage and amount of revenue in the metropolitan water district from:

(a) property taxes;

(b) water rates; and

(c) all other sources.

Section 182. Section 17B-2a-603 is amended to read:

17B-2a-603. Additional metropolitan water district powers.

In addition to the powers conferred on a metropolitan water district under Section 17B-1-103, a metropolitan water district may:

(1) acquire or lease any real or personal property or acquire any interest in real or personal property, as provided in Subsections 17B-1-103(2)(a) and (b), whether inside or outside the district or inside or outside the state;

(2) encumber real or personal property or an interest in real or personal property that the district owns;

(3) acquire or construct works, facilities, and improvements, as provided in Subsection 17B-1-103(2)(d), whether inside or outside the district or inside or outside the state;

(4) acquire water, works, water rights, and sources of water necessary or convenient to the full exercise of the district's powers, whether the water, works, water rights, or sources of water are inside or outside the district or inside or outside the state, and encumber, transfer an interest in, or dispose of water, works, water rights, and sources of water;

(5) develop, store, and transport water;

(6) provide, sell, lease, and deliver water inside or outside the district for any lawful beneficial use;

(7) issue bonds as provided in and subject to [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district; and

(8) subscribe for, purchase, lease, or otherwise acquire stock in a canal company, irrigation company, water company, or water users association, for the purpose of acquiring the right to use water or water infrastructure.

Section 183. Section 17B-2a-702 is amended to read:

17B-2a-702. Provisions applicable to mosquito abatement districts.

(1) Each mosquito abatement district is governed by and has the powers stated in:

(a) this part; and

(b) [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to mosquito abatement districts.

(3) A mosquito abatement district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Section 184. Section 17B-2a-703 is amended to read:

17B-2a-703. Additional mosquito abatement district powers.

In addition to the powers conferred on a mosquito abatement district under Section 17B-1-103, a mosquito abatement district may:

(1) take all necessary and proper steps for the extermination of mosquitos, flies, crickets, grasshoppers, and other insects:

(a) within the district; or

(b) outside the district, if lands inside the district are benefitted;

(2) abate as nuisances all stagnant pools of water and other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects anywhere inside or outside the state from which mosquitos migrate into the district;

(3) enter upon territory referred to in Subsections (1) and (2) in order to inspect and examine the territory and to remove from the territory, without notice, stagnant water or other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects;

(4) issue bonds as provided in and subject to [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;

(5) make a contract to indemnify or compensate an owner of land or other property for injury or damage that the exercise of district powers necessarily causes or arising out of the use, taking, or damage of property for a district purpose; and

(6) in addition to the accumulated fund balance allowed under Section 17B-1-612, establish a

reserve fund, not to exceed the greater of 25% of the district's annual operating budget or $50,000, to pay for extraordinary abatement measures, including a vector-borne public health emergency.

Section 185. Section 17B-2a-802 is amended to read:

17B-2a-802. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(3) (a) "Chief executive officer" means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(5) "Department" means the Department of Transportation created in Section 72-1-201.

(6) "Executive director" means a person appointed by the board of trustees of a large public transit district to serve as executive director.

(7) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(8) "Fixed guideway capital development" means the same as that term is defined in Section 72-1-102.

(9) (a) "General manager" means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

(10) "Large public transit district" means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on the most recent official census or census estimate of the United States Census Bureau; and

(b) two or more counties.

(11) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

(12) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(13) "Multicounty district" means a public transit district located in more than one county.

(14) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

(15) (a) "Public transit" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.

(b) "Public transit" does not include transportation services provided by:

(i) chartered bus;

(ii) sightseeing bus;

(iii) taxi;

(iv) school bus service;

(v) courtesy shuttle service for patrons of one or more specific establishments; or

(vi) intra-terminal or intra-facility shuttle services.

(16) "Public transit district" means a [~~local~~] special district that provides public transit services.

(17) "Small public transit district" means any public transit district that is not a large public transit district.

(18) "Station area plan" means a plan developed and adopted by a municipality in accordance with Section 10-9a-403.1.

(19) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(20) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

(21) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a large public transit district.

(22) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a large public transit district.

Section 186. Section 17B-2a-803 is amended to read:

17B-2a-803. Provisions applicable to public transit districts.

(1) (a) Each public transit district is governed by and has the powers stated in:

(i) this part; and

(ii) except as provided in Subsection (1)(b), [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts.

(b) (i) Except for Sections 17B-1-301, 17B-1-311, and 17B-1-313, the following provisions do not apply to public transit districts:

(A) Chapter 1, Part 3, Board of Trustees; and

(B) Section 17B-2a-905.

(ii) A public transit district is not subject to [~~Chapter 1, Part 6, Fiscal Procedures for Local Districts~~] Chapter 1, Part 6, Fiscal Procedures for Special Districts.

(2) This part applies only to public transit districts.

(3) A public transit district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

(5) The provisions of Subsection 53-3-202(3)(b) do not apply to a motor vehicle owned in whole or in part by a public transit district.

Section 187. Section 17B-2a-804 is amended to read:

17B-2a-804. Additional public transit district powers.

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) subject to Section 72-1-202 pertaining to fixed guideway capital development within a large public transit district, acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) subject to Subsection 17B-2a-808.1(5), issue bonds as provided in and subject to [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

(n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or transit-supportive developments;

(o) subject to Subsections (2) and (3), establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented developments or transit-supportive developments; and

(p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a transit-oriented development or a transit-supportive development in connection with project area development as defined in Section 17C-1-102 by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the development of areas under Subsection (1)(p) that have been approved by the board of trustees, and in the manners described in Subsection (1)(p).

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) (i) For transit-oriented development projects, a public transit district shall adopt transit-oriented development policies and guidelines that include provisions on affordable housing.

(ii) For transit-supportive development projects, a public transit district shall work with the metropolitan planning organization and city and county governments where the project is located to collaboratively seek to create joint plans for the areas within one-half mile of transit stations, including plans for affordable housing.

(d) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) For any transit-oriented development or transit-supportive development authorized in this section, the public transit district shall:

(a) perform a cost-benefit analysis of the monetary investment and expenditures of the development, including effect on:

(i) service and ridership;

(ii) regional plans made by the metropolitan planning agency;

(iii) the local economy;

(iv) the environment and air quality;

(v) affordable housing; and

(vi) integration with other modes of transportation;

(b) provide evidence to the public of a quantifiable positive return on investment, including improvements to public transit service; and

(c) coordinate with the Department of Transportation in accordance with Section 72-1-202 pertaining to fixed guideway capital development and associated parking facilities within a station area plan for a transit oriented development within a large public transit district.

(4) For any fixed guideway capital development project with oversight by the Department of Transportation as described in Section 72-1-202, a large public transit district shall coordinate with the Department of Transportation in all aspects of the project, including planning, project development, outreach, programming, environmental studies and impact statements, impacts on public transit operations, and construction.

(5) A public transit district may participate in a transit-oriented development only if:

(a) for a transit-oriented development involving a municipality:

(i) the relevant municipality has developed and adopted a station area plan; and

(ii) the municipality is in compliance with Sections 10-9a-403 and 10-9a-408 regarding the inclusion of moderate income housing in the general plan and the required reporting requirements; or

(b) for a transit-oriented development involving property in an unincorporated area of a county, the county is in compliance with Sections 17-27a-403 and 17-27a-408 regarding inclusion of moderate income housing in the general plan and required reporting requirements.

(6) A public transit district may be funded from any combination of federal, state, local, or private funds.

(7) A public transit district may not acquire property by eminent domain.

Section 188. Section 17B-2a-817 is amended to read:

17B-2a-817. Voter approval required for property tax levy.

Notwithstanding the provisions of Section 17B-1-1001 and in addition to a property tax under Section 17B-1-1103 to pay general obligation bonds of the district, a public transit district may levy a property tax, as provided in and subject to [~~Chapter 1, Part 10, Local District Property Tax Levy~~] Chapter 1, Part 10, Special District Property Tax Levy, if:

(1) the district first submits the proposal to levy the property tax to voters within the district; and

(2) a majority of voters within the district voting on the proposal vote in favor of the tax at an election held for that purpose on a date specified in Section 20A-1-204.

Section 189. Section 17B-2a-902 is amended to read:

17B-2a-902. Provisions applicable to service areas.

(1) Each service area is governed by and has the powers stated in:

(a) this part; and

(b) except as provided in Subsection (5), [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to service areas.

(3) A service area is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

(5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:

(i) law enforcement services;

(ii) fire protection services;

(iii) 911 ambulance or paramedic services as defined in Section 26-8a-102 that are provided under a contract in accordance with Section 26-8a-405.2; or

(iv) emergency services.

(b) Subsection (5)(a) does not apply to:

(i) a fee charged or collected on an individual basis rather than a general basis;

(ii) a non-911 service as defined in Section 26-8a-102 that is provided under a contract in accordance with Section 26-8a-405.2;

(iii) an impact fee charged or collected for a public safety facility as defined in Section 11-36a-102; or

(iv) a service area that includes within the boundary of the service area a county of the fifth or sixth class.

Section 190. Section 17B-2a-903 is amended to read:

17B-2a-903. Additional service area powers -- Property tax limitation for service area providing law enforcement service.

(1) In addition to the powers conferred on a service area under Section 17B-1-103, a service area:

(a) may issue bonds as provided in and subject to [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;

(b) that, until April 30, 2007, was a regional service area, may provide park, recreation, or parkway services, or any combination of those services; and

(c) may, with the consent of the county in which the service area is located, provide planning and zoning service.

(2) A service area that provides law enforcement service may not levy a property tax or increase its certified tax rate, as defined in Section 59-2-924, without the prior approval of:

(a) (i) the legislative body of each municipality that is partly or entirely within the boundary of the service area; and

(ii) the legislative body of the county with an unincorporated area within the boundary of the service area; or

(b) (i) a majority of the legislative bodies of all municipalities that are partly or entirely within the boundary of the service area; and

(ii) two-thirds of the legislative body of the county with an unincorporated area within the boundary of the service area.

Section 191. Section 17B-2a-904 is amended to read:

17B-2a-904. Regional service areas to become service areas -- Change from regional service area to service area not to affect rights, obligations, board makeup, or property of former regional service area.

(1) Each regional service area, created and operating under the law in effect before April 30, 2007, becomes on that date a service area, governed by and subject to [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and this part.

(2) The change of an entity from a regional service area to a service area under Subsection (1) does not affect:

(a) the entity's basic structure and operations or its nature as a body corporate and politic and a political subdivision of the state;

(b) the ability of the entity to provide the service that the entity:

(i) was authorized to provide before the change; and

(ii) provided before the change;

(c) the validity of the actions taken, bonds issued, or contracts or other obligations entered into by the entity before the change;

(d) the ability of the entity to continue to impose and collect taxes, fees, and other charges for the service it provides;

(e) the makeup of the board of trustees;

(f) the entity's ownership of property acquired before the change; or

(g) any other powers, rights, or obligations that the entity had before the change, except as modified by this part.

Section 192. Section 17B-2a-907 is amended to read:

17B-2a-907. Adding a new service within a service area.

A service area may begin to provide within the boundaries of the service area a service that it had not previously provided by using the procedures set forth in [~~Chapter 1, Part 2, Creation of a Local District~~] Chapter 1, Part 2, Creation of Special District, for the creation of a service area as though a new service area were being created to provide that service.

Section 193. Section 17B-2a-1003 is amended to read:

17B-2a-1003. Provisions applicable to water conservancy districts.

(1) Each water conservancy district is governed by and has the powers stated in:

(a) this part; and

(b) [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to water conservancy districts.

(3) A water conservancy district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in [~~Chapter 1, Provisions Applicable to All Local Districts~~] Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

(5) Before September 30, 2019, a water conservancy district shall submit a written report to the Revenue and Taxation Interim Committee that describes, for the water conservancy district's fiscal year that ended in 2018, the percentage and amount of revenue in the water conservancy district from:

(a) property taxes;

(b) water rates; and

(c) all other sources.

Section 194. Section 17B-2a-1004 is amended to read:

17B-2a-1004. Additional water conservancy district powers -- Limitations on water conservancy districts.

(1) In addition to the powers conferred on a water conservancy district under Section 17B-1-103, a water conservancy district may:

(a) issue bonds as provided in and subject to [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;

(b) acquire or lease any real or personal property or acquire any interest in real or personal property, as provided in Subsections 17B-1-103(2)(a) and (b), whether inside or outside the district;

(c) acquire or construct works, facilities, or improvements, as provided in Subsection 17B-1-103(2)(d), whether inside or outside the district;

(d) acquire water, works, water rights, and sources of water necessary or convenient to the full exercise of the district's powers, whether the water, works, water rights, or sources of water are inside or outside the district, and encumber, sell, lease, transfer an interest in, or dispose of water, works, water rights, and sources of water;

(e) fix rates and terms for the sale, lease, or other disposal of water;

(f) acquire rights to the use of water from works constructed or operated by the district or constructed or operated pursuant to a contract to which the district is a party, and sell rights to the use of water from those works;

(g) levy assessments against lands within the district to which water is allotted on the basis of:

(i) a uniform district-wide value per acre foot of irrigation water; or

(ii) a uniform unit-wide value per acre foot of irrigation water, if the board divides the district into units and fixes a different value per acre foot of water in the respective units;

(h) fix rates for the sale, lease, or other disposal of water, other than irrigation water, at rates that are equitable, though not necessarily equal or uniform, for like classes of service;

(i) adopt and modify plans and specifications for the works for which the district was organized;

(j) investigate and promote water conservation and development;

(k) appropriate and otherwise acquire water and water rights inside or outside the state;

(l) develop, store, treat, and transport water;

(m) acquire stock in canal companies, water companies, and water users associations;

(n) acquire, construct, operate, or maintain works for the irrigation of land;

(o) subject to Subsection (2), sell water and water services to individual customers and charge sufficient rates for the water and water services supplied;

(p) own property for district purposes within the boundaries of a municipality; and

(q) coordinate water resource planning among public entities.

(2) (a) A water conservancy district and another political subdivision of the state may contract with each other, and a water conservancy district may contract with one or more public entities and private persons, for:

(i) the joint operation or use of works owned by any party to the contract; or

(ii) the sale, purchase, lease, exchange, or loan of water, water rights, works, or related services.

(b) An agreement under Subsection (2)(a) may provide for the joint use of works owned by one of the contracting parties if the agreement provides for reasonable compensation.

(c) A statutory requirement that a district supply water to its own residents on a priority basis does not apply to a contract under Subsection (2)(a).

(d) An agreement under Subsection (2)(a) may include terms that the parties determine, including:

(i) a term of years specified by the contract;

(ii) a requirement that the purchasing party make specified payments, without regard to actual taking or use;

(iii) a requirement that the purchasing party pay user charges, charges for the availability of water or water facilities, or other charges for capital costs, debt service, operating and maintenance costs, and the maintenance of reasonable reserves, whether or not the related water, water rights, or facilities are acquired, completed, operable, or operating, and notwithstanding the suspension, interruption, interference, reduction, or curtailment of water or services for any reason;

(iv) provisions for one or more parties to acquire an undivided ownership interest in, or a contractual right to the capacity, output, or services of, joint water facilities, and establishing:

(A) the methods for financing the costs of acquisition, construction, and operation of the joint facilities;

(B) the method for allocating the costs of acquisition, construction, and operation of the facilities among the parties consistent with their respective interests in or rights to the facilities;

(C) a management committee comprised of representatives of the parties, which may be responsible for the acquisition, construction, and operation of the facilities as the parties determine; and

(D) the remedies upon a default by any party in the performance of its obligations under the contract, which may include a provision obligating or enabling the other parties to succeed to all or a portion of the ownership interest or contractual rights and obligations of the defaulting party; and

(v) provisions that a purchasing party make payments from:

(A) general or other funds of the purchasing party;

(B) the proceeds of assessments levied under this part;

(C) the proceeds of impact fees imposed by any party under Title 11, Chapter 36a, Impact Fees Act;

(D) revenues from the operation of the water system of a party receiving water or services under the contract;

(E) proceeds of any revenue-sharing arrangement between the parties, including amounts payable as a percentage of revenues or net revenues of the water system of a party receiving water or services under the contract; and

(F) any combination of the sources of payment listed in Subsections (2)(d)(v)(A) through (E).

(3) (a) A water conservancy district may enter into a contract with another state or a political subdivision of another state for the joint construction, operation, or ownership of a water facility.

(b) Water from any source in the state may be appropriated and used for beneficial purposes within another state only as provided in Title 73, Chapter 3a, Water Exports.

(4) (a) Except as provided in Subsection (4)(b), a water conservancy district may not sell water to a customer located within a municipality for domestic or culinary use without the consent of the municipality.

(b) Subsection (4)(a) does not apply if:

(i) the property of a customer to whom a water conservancy district sells water was, at the time the district began selling water to the customer, within an unincorporated area of a county; and

(ii) after the district begins selling water to the customer, the property becomes part of a municipality through municipal incorporation or annexation.

(5) A water conservancy district may not carry or transport water in transmountain diversion if title to the water was acquired by a municipality by eminent domain.

(6) A water conservancy district may not be required to obtain a franchise for the acquisition, ownership, operation, or maintenance of property.

(7) A water conservancy district may not acquire by eminent domain title to or beneficial use of vested water rights for transmountain diversion.

Section 195. Section 17B-2a-1007 is amended to read:

17B-2a-1007. Contract assessments.

(1) As used in this section:

(a) "Assessed land" means:

(i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or

(ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.

(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

(c) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district;

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.

(d) "Petitioner" means a private petitioner or a public petitioner.

(e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.

(g) "Public petitioner" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(h) "Public water user" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that enters into a water contract with the district.

(i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:

(i) land owned by the private water user; or

(ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.

(j) "Water user" means a private water user or a public water user.

(2) A water conservancy district may levy a contract assessment as provided in this section.

(3) (a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.

(b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.

(c) Each petition under this Subsection (3) shall include:

(i) the petitioner's name;

(ii) the quantity of water the petitioner desires to purchase or otherwise acquire;

(iii) a description of the land upon which the water will be used;

(iv) the price to be paid for the water;

(v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;

(vi) whether payment will be made in cash or annual installments;

(vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and

(viii) an agreement that the petitioner is bound by the provisions of this part and the rules and regulations of the water conservancy district board of trustees.

(4) (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:

(i) post notice of the petition and of the hearing required under Subsection (4)(a)(ii) on the Utah

Public Notice Website, created in Section 63A-16-601, for at least two successive weeks immediately before the date of the hearing; and

(ii) hold a public hearing on the petition.

(b) Each notice under Subsection (4)(a)(i) shall:

(i) state that a petition has been filed and that the district is considering levying a contract assessment; and

(ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

(c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:

(A) allow any interested person to appear and explain why the petition should not be granted; and

(B) consider each written objection to the granting of the petition that the board receives before or at the hearing.

(ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.

(d) (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.

(ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.

(5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:

(a) deny the petition; or

(b) grant the petition, if the board considers granting the petition to be in the best interests of the district.

(6) The board of a water conservancy district that grants a petition under this section may:

(a) make an allotment of water for the benefit of assessed land;

(b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;

(c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and

(d) levy a contract assessment on assessed land.

(7) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and

(ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment.

(b) Upon the recording of the resolution, ordinance, or order, in accordance with Subsection (7)(a)(i):

(i) the contract assessment associated with allotting water to the assessed land under the water contract becomes a political subdivision lien, as that term is defined in Section 11-60-102, on the assessed land, in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority, as of the effective date of the resolution, ordinance, or order; and

(ii) (A) the board of trustees of the water conservancy district shall certify the amount of the assessment to the county treasurer; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

(c) (i) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.

(ii) If the amount of a contract assessment levied under this section is not paid in full in a given year:

(A) by September 15, the governing body of the water conservancy district that levies the contract assessment shall certify any unpaid amount to the treasurer of the county in which the property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

(8) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and

(ii) post a notice:

(A) on the Utah Public Notice Website, created in Section 63A-16-601, for at least the two consecutive weeks before the public hearing; and

(B) that contains a general description of the assessed land, the amount of the contract assessment, and the time and place of the public hearing under Subsection (8)(a)(i).

(b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to the assessment, stating the grounds for the objection.

(c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.

(ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:

(A) shall enter a written order, stating its decision; and

(B) may modify the assessment.

(d) (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(ii)(A).

(ii) Each petition under Subsection (8)(d)(i) shall:

(A) be filed within 30 days after the board enters its written order;

(B) state specifically the part of the board's order for which review is sought; and

(C) be accompanied by a bond with good and sufficient security in an amount not exceeding $200, as determined by the court clerk.

(iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.

(iv) The court shall act as quickly as possible after a petition is filed.

(v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.

(e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.

(9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007, under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.

(10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.

Section 196. Section 17B-2a-1102 is amended to read:

17B-2a-1102. Definitions.

As used in this part:

(1) "Municipal services" means one or more of the services identified in Section 17-34-1, 17-36-3, or 17B-1-202.

(2) "Metro township" means:

(a) a metro township for which the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district; or

(b) a metro township that subsequently joins a municipal services district.

Section 197. Section 17B-2a-1104 is amended to read:

17B-2a-1104. Additional municipal services district powers.

In addition to the powers conferred on a municipal services district under Section 17B-1-103, a municipal services district may:

(1) notwithstanding Subsection 17B-1-202(3), provide no more than six municipal services;

(2) assist a municipality or a county located within a municipal services district by providing staffing and administrative services, including:

(a) human resources staffing and services;

(b) finance and budgeting staffing and services; and

(c) information technology staffing and services; and

(3) issue bonds as provided in and subject to [~~Chapter 1, Part 11, Local District Bonds~~] Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district.

Section 198. Section 17B-2a-1106 is amended to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) Notwithstanding any other provision of law regarding the membership of a [~~local~~] special district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (2)(b), a member of that municipality's governing body;

(ii) one member of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members is not required to be an odd number.

(b) A member described in Subsection (2)(a)(i) shall be:

(i) for a municipality other than a metro township, designated by the municipal legislative body; and

(ii) for a metro township, the mayor of the metro township or, during any period of time when the mayor is absent, unable, or refuses to act, the mayor pro tempore that the metro township council elects in accordance with Subsection 10-3b-503(4).

(3) For a board of trustees described in Subsection (2), each board member's vote is weighted using the proportion of the municipal services district population that resides:

(a) for each member described in Subsection (2)(a)(i), within that member's municipality; and

(b) for the member described in Subsection (2)(a)(ii), within the unincorporated county.

(4) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(5) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(6) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Section 199. Section 17C-1-102 is amended to read:

17C-1-102. Definitions.

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

(2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan or an implementation plan as defined in Section 17C-1-1001, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development or agency-wide project development as defined in Section 17C-1-1001;

(c) a contribution, loan, grant, or other financial assistance from any public or private source;

(d) project area incremental revenue as defined in Section 17C-1-1001; or

(e) property tax revenue as defined in Section 17C-1-1001.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan

that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

(11) "Board" means the governing body of an agency, as described in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(15) "Community" means a county or municipality.

(16) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(17) "Community legislative body" means the legislative body of the community that created the agency.

(18) "Community reinvestment project area plan" means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(19) "Contest" means to file a written complaint in the district court of the county in which the agency is located.

(20) "Development impediment" means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(21) "Development impediment hearing" means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) "Development impediment study" means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) "Economic development project area plan" means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) "Fair share ratio" means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) "Family" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

(27) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) "Housing allocation" means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) "Housing fund" means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

(30) (a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35) (a) " Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) " Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

(36) "Major transit investment corridor" means the same as that term is defined in Section 10-9a-103.

(37) "Marginal value" means the difference between actual taxable value and base taxable value.

(38) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(39) "Municipality" means a city, town, or metro township as defined in Section 10-2a-403.

(40) "Participant" means one or more persons that enter into a participation agreement with an agency.

(41) "Participation agreement" means a written agreement between a person and an agency that:

(a) includes a description of:

(i) the project area development that the person will undertake;

(ii) the amount of project area funds the person may receive; and

(iii) the terms and conditions under which the person may receive project area funds; and

(b) is approved by resolution of the board.

(42) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

(43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.

(44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

(45) "Private," with respect to real property, means property not owned by a public entity or any other governmental entity.

(46) "Project area" means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.

(47) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

(a) for an urban renewal project area, Section 17C-2-201;

(b) for an economic development project area, Section 17C-3-201;

(c) for a community development project area, Section 17C-4-204; or

(d) for a community reinvestment project area, Section 17C-5-302.

(48) "Project area development" means activity within a project area that, as determined by the board, encourages, promotes, or provides

development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating a development impediment or the causes of a development impediment;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection (48) outside of a project area that the board determines to be a benefit to the project area.

(49) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

(50) "Project area funds collection period" means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

(51) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective date, guides and controls the project area development.

(52) (a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

(53) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, [~~local~~] special district, special service district, community reinvestment agency, or interlocal cooperation entity.

(54) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(55) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

(56) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

(57) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (57)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(58) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) a development impediment exists within the survey area.

(59) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

(60) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(61) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(62) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(63) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

(64) "Unincorporated" means not within a municipality.

(65) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 200. Section 17C-1-409 is amended to read:

17C-1-409. Allowable uses of agency funds.

(1) (a) An agency may use agency funds:

(i) for any purpose authorized under this title;

(ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;

(iii) subject to Section 11-41-103, to pay for, including financing or refinancing, all or part of:

(A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;

(B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;

(C) an incentive or other consideration paid to a participant under a participation agreement;

(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under [~~Title 17B, Chapter 2a, Part 8, Public Transit District Act~~] Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area;

(v) subject to Subsection (5), to transfer funds to a community that created the agency; or

(vi) subject to Subsection (1)(f), for agency-wide project development under Part 10, Agency Taxing Authority.

(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.

(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:

(A) the board approves; and

(B) the community legislative body approves.

(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.

(iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for [~~Local~~] Special Districts.

(e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(f) Before an agency may use project area funds for agency-wide project development, as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity committee or each taxing entity party to an interlocal agreement with the agency.

(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Retail Facility Incentive Payments Act.

(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.

(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.

(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.

(4) Notwithstanding any other provision of this title, an agency may not use project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001, to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection 59-12-205(5).

Section 201. Section 17D-1-102 is amended to read:

17D-1-102. Definitions.

As used in this chapter:

(1) "Adequate protests" means written protests timely filed by:

(a) the owners of private real property that:

(i) is located within the applicable area;

(ii) covers at least 25% of the total private land area within the applicable area; and

(iii) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(b) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution or filing of the petition.

(2) "Applicable area" means:

(a) for a proposal to create a special service district, the area included within the proposed special service district;

(b) for a proposal to annex an area to an existing special service district, the area proposed to be annexed;

(c) for a proposal to add a service to the service or services provided by a special service district, the area included within the special service district; and

(d) for a proposal to consolidate special service districts, the area included within each special service district proposed to be consolidated.

(3) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a special service district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(4) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the county or municipality that created the special service district that issues the bond; and

(B) on taxable property within the special service district; and

(ii) in excess of the ad valorem property taxes for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(5) "Governing body" means:

(a) the legislative body of the county or municipality that creates the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board created under Section 17D-1-301; or

(b) the administrative control board of the special service district, to the extent that the county or municipal legislative body has delegated authority to an administrative control board created under Section 17D-1-301.

(6) "Guaranteed bonds" means bonds:

(a) issued by a special service district; and

(b) the debt service of which is guaranteed by one or more taxpayers owning property within the special service district.

[~~(7) "Local district" has the same meaning as defined in Section 17B-1-102.~~]

[~~(8)~~] (7) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the ad valorem property taxes of the county or municipality that created the special service district; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

[~~(9)~~] (8) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

[~~(10)~~] (9) "Special assessment bond" means a bond payable from special assessments.

(10) "Special district" has the same meaning as that term is defined in Section 17B-1-102.

(11) "Special service district" means a limited purpose local government entity, as described in Section 17D-1-103, that:

(a) is created under authority of the Utah Constitution Article XI, Section 7; and

(b) operates under, is subject to, and has the powers set forth in this chapter.

(12) "Tax and revenue anticipation bond" means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

Section 202. Section 17D-1-103 is amended to read:

17D-1-103. Special service district status, powers, and duties -- Registration as a limited purpose entity -- Limitation on districts providing jail service.

(1) A special service district:

(a) is:

(i) a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates it;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A special service district may:

(a) exercise the power of eminent domain possessed by the county or municipality that creates the special service district;

(b) enter into a contract that the governing authority considers desirable to carry out special service district functions, including a contract:

(i) with the United States or an agency of the United States, the state, an institution of higher education, a county, a municipality, a school district, a [~~local~~] special district, another special service district, or any other political subdivision of the state; or

(ii) that includes provisions concerning the use, operation, and maintenance of special service district facilities and the collection of fees or charges with respect to commodities, services, or facilities that the district provides;

(c) acquire or construct facilities;

(d) acquire real or personal property, or an interest in real or personal property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service district, and own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

(e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the special service district's property or assets, including water and water rights;

(f) mortgage, pledge, or otherwise encumber all or any part of the special service district's property or assets, including water and water rights;

(g) enter into a contract with respect to the use, operation, or maintenance of all or any part of the special service district's property or assets, including water and water rights;

(h) accept a government grant or loan and comply with the conditions of the grant or loan;

(i) use an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district, subject to reimbursement as provided in Subsection (4);

(j) employ one or more officers, employees, or agents, including one or more engineers, accountants, attorneys, or financial consultants, and establish their compensation;

(k) designate an assessment area and levy an assessment as provided in Title 11, Chapter 42, Assessment Area Act;

(l) contract with a franchised, certificated public utility for the construction and operation of an electrical service distribution system within the special service district;

(m) borrow money and incur indebtedness;

(n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of acquiring, constructing, and equipping any of the facilities required for the services the special service district is authorized to provide, including:

(i) bonds payable in whole or in part from taxes levied on the taxable property in the special service district;

(ii) bonds payable from revenues derived from the operation of revenue-producing facilities of the special service district;

(iii) bonds payable from both taxes and revenues;

(iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property in the special service district;

(v) tax anticipation notes;

(vi) bond anticipation notes;

(vii) refunding bonds;

(viii) special assessment bonds; and

(ix) bonds payable in whole or in part from mineral lease payments as provided in Section 11-14-308;

(o) except as provided in Subsection (5), impose fees or charges or both for commodities, services, or facilities that the special service district provides;

(p) provide to an area outside the special service district's boundary, whether inside or outside the state, a service that the special service district is authorized to provide within its boundary, if the governing body makes a finding that there is a public benefit to providing the service to the area outside the special service district's boundary;

(q) provide other services that the governing body determines will more effectively carry out the purposes of the special service district; and

(r) adopt an official seal for the special service district.

(3) (a) Each special service district shall register and maintain the special service district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A special service district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(4) Each special service district that uses an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district shall reimburse the county or municipality a reasonable amount for what the special service district uses.

(5) (a) A special service district that provides jail service as provided in Subsection 17D-1-201(10) may not impose a fee or charge for the service it provides.

(b) Subsection (5)(a) may not be construed to limit a special service district that provides jail service from:

(i) entering into a contract with the federal government, the state, or a political subdivision of the state to provide jail service for compensation; or

(ii) receiving compensation for jail service it provides under a contract described in Subsection (5)(b)(i).

Section 203. Section 17D-1-106 is amended to read:

17D-1-106. Special service districts subject to other provisions.

(1) A special service district is, to the same extent as if it were a [~~local~~] special district, subject to and governed by:

(a) (i) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-111, 17B-1-113, 17B-1-116, 17B-1-118, 17B-1-119, 17B-1-120, 17B-1-121, 17B-1-304, 17B-1-307, 17B-1-310, 17B-1-311, 17B-1-312, 17B-1-313, and 17B-1-314; and

(ii) Sections 17B-1-305 and 17B-1-306, to the extent that a county legislative body or a municipal legislative body, as applicable, has delegated authority to an administrative control board with elected members, under Section 17D-1-301.

(b) Subsections:

(i) 17B-1-301(3) and (4); and

(ii) 17B-1-303(1), (2)(a) and (b), (3), (4), (5), (6), (7), and (9);

(c) Section 20A-1-512;

(d) [~~Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts~~] Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts;

(e) [~~Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports~~] Title 17B, Chapter 1, Part 7, Special District Budgets and Audit Reports;

(f) [~~Title 17B, Chapter 1, Part 8, Local District Personnel Management~~] Title 17B, Chapter 1, Part 8, Special District Personnel Management; and

(g) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

(2) For purposes of applying the provisions listed in Subsection (1) to a special service district, each

reference in those provisions to the [~~local~~] special district board of trustees means the governing body.

Section 204. Section 17D-1-202 is amended to read:

17D-1-202. Limitations on the creation of a special service district.

(1) Subject to Subsection (2), the boundary of a proposed special service district may include all or part of the area within the boundary of the county or municipality that creates the special service district.

(2) (a) The boundary of a proposed special service district may not include an area included within the boundary of an existing special service district that provides the same service that the proposed special service district is proposed to provide.

(b) The boundary of a proposed special service district may not include an area included within the boundary of an existing [~~local~~] special district that provides the same service that the proposed special service district is proposed to provide, unless the [~~local~~] special district consents.

(c) A proposed special service district may not include land that will not be benefitted by the service that the special service district is proposed to provide, unless the owner of the nonbenefitted land consents to the inclusion.

(d) A county may not create a special service district that includes some or all of the area within a municipality unless the legislative body of that municipality adopts a resolution or ordinance consenting to the inclusion.

(3) All areas included within a special service district need not be contiguous.

Section 205. Section 17D-1-303 is amended to read:

17D-1-303. Election or appointment of administrative control board members.

(1) Except as provided in Subsection (5), a county or municipal legislative body that creates an administrative control board may provide for board members to be elected or appointed, or for some members to be elected and some appointed.

(2) Except as provided in Subsection (3), each member of an administrative control board shall be elected or appointed as provided for the election or appointment, respectively, of a member of a board of trustees of a [~~local~~] special district under Title 17B, Chapter 1, Part 3, Board of Trustees.

(3) A municipality or improvement district under Title 17B, Chapter 2a, Part 4, Improvement District Act, may appoint one member to represent it on an administrative control board created for a special service district if:

(a) the special service district was created by a county;

(b) the municipality or improvement district:

(i) provides the same service as the special service district; or

(ii) provided the same service as the special service district:

(A) prior to the creation of the special service district, if all or part of the municipality or improvement district was then included in the special service district; or

(B) prior to all or part of the municipality or improvement district being annexed into the special service district; and

(c) the special service district includes some or all of the area included within the municipality or improvement district.

(4) An institution of higher education for which a special service district provides commodities, services, or facilities may appoint the number of members of an administrative control board of that special service district that are equal in number to at least 1/3 of the total number of board members.

(5) With respect to an administrative control board created for a special service district created by a county of the first class to provide jail service as provided in Subsection 17D-1-201(10), the county legislative body shall appoint:

(a) three members from a list of at least six recommendations from the county sheriff;

(b) three members from a list of at least six recommendations from municipalities within the county; and

(c) three members from a list of at least six recommendations from the county executive.

Section 206. Section 17D-1-305 is amended to read:

17D-1-305. Compensation for administrative control board members.

An administrative control board member may receive compensation and reimbursement of expenses as provided in Section 17B-1-307 to the same extent as if the member were a member of a board of trustees of a [~~local~~] special district.

Section 207. Section 17D-1-401 is amended to read:

17D-1-401. Annexing an area or adding a service to an existing special service district.

(1) Except as provided in Subsections (3) and (4), a county or municipal legislative body acting as the governing body of the special service district may, as provided in this part:

(a) annex an area to an existing special service district to provide to that area a service that the special service district is authorized to provide;

(b) add a service under Section 17D-1-201 within the area of an existing special service district that the special service district is not already authorized to provide; or

(c) both annex an area under Subsection (1)(a) and add a service under Subsection (1)(b).

(2) Except for Section 17D-1-209, the provisions of Part 2, Creating a Special Service District, apply to and govern the process of annexing an area to an existing special service district or adding a service that the special service district is not already authorized to provide, to the same extent as if the annexation or addition were the creation of a special service district.

(3) A county or municipal legislative body may not:

(a) annex an area to an existing special service district if a [~~local~~] special district provides to that area the same service that the special service district is proposed to provide to the area, unless the [~~local~~] special district consents to the annexation; or

(b) add a service within the area of an existing special service district if a [~~local~~] special district provides to that area the same service that is proposed to be added, unless the [~~local~~] special district consents to the addition.

(4) A county or municipal legislative body may not annex an area to an existing special service district or add a service within the area of an existing special service district if the creation of a special service district including that area or providing that service would not be allowed under Part 2, Creating a Special Service District.

(5) A county or municipal legislative body may not annex an area to an existing special service district or add a service within the area of an existing special service district if the area is located within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, unless the county or municipal legislative body has first obtained the authority's approval.

Section 208. Section 17D-1-601 is amended to read:

17D-1-601. Adoption of a resolution to approve withdrawal, dissolution, discontinuance of a service, or reorganization.

Subject to and as provided in this part, the legislative body of the county or municipality that created a special service district may by resolution:

(1) approve the withdrawal of an area from the special service district if the legislative body determines that the area should not or cannot be provided the service that the special service district provides;

(2) approve the dissolution of the special service district if the legislative body determines that the special service district is no longer needed for the purposes for which it was created;

(3) discontinue a service that the special service district provides; or

(4) reorganize the special service district as a [~~local~~] special district.

Section 209. Section 17D-1-603 is amended to read:

17D-1-603. Notice and plat to lieutenant governor -- Recording requirements.

(1) If a county or municipal legislative body adopts a resolution approving the withdrawal of an area from a special service district, the dissolution of a special service district, or the reorganization of a special service district as a [~~local~~] special district, the county or municipal legislative body, as the case may be, shall:

(a) within 30 days after adopting the resolution, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) in the case of a withdrawal, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of withdrawal, dissolution, or incorporation, as the case may be, under Section 67-1a-6.5, submit to the recorder of the county in which the special service district is located:

(i) the original notice of an impending boundary action;

(ii) the original certificate of withdrawal or dissolution, as the case may be;

(iii) in the case of a withdrawal, the original approved final local entity plat; and

(iv) a certified copy of the resolution approving the withdrawal, dissolution, or incorporation.

(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5, the area to be withdrawn that is the subject of the legislative body's resolution is withdrawn from the special service district.

(b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the special service district is dissolved.

(3) (a) Upon the lieutenant governor's issuance of a certificate of incorporation as provided in Section 67-1a-6.5, the special service district is:

(i) reorganized and incorporated as a [~~local~~] special district subject to the provisions of [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts;

(ii) subject to Subsection (3)(b), if the special service district is reorganized as a [~~local~~] special district described in and subject to [~~Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts~~] Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts, the applicable part of that chapter; and

(iii) no longer a special service district.

(b) A special service district reorganized as a [~~local~~] special district is a basic [~~local~~] special district as provided in [~~Title 17B, Chapter 1, Part 14, Basic Local District~~] Title 17B, Chapter 1, Part 14, Basic Special District, unless the resolution adopted in accordance with Subsection 17D-1-604(5):

(i) specifies that the reorganized [~~local~~] special district is a different type of [~~local~~] special district other than a basic [~~local~~] special district; and

(ii) states the type of that [~~local~~] special district, including the governing part in [~~Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts~~] Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts.

Section 210. Section 17D-1-604 is amended to read:

17D-1-604. Reorganization as a special district.

(1) The legislative body of a county or municipality that has created a special service district may reorganize the special service district as a [~~local~~] special district in accordance with this section.

(2) The process to reorganize a special service district as a [~~local~~] special district is initiated if the legislative body of the county or municipality that originally created the special service district adopts a resolution that:

(a) indicates the legislative body's intent to reorganize the special service district as a [~~local~~] special district; and

(b) complies with the requirements of Subsection (3).

(3) A resolution to initiate reorganization described in Subsection (2) shall:

(a) state the name of the special service district that is proposed to be reorganized as a [~~local~~] special district;

(b) generally describe the boundaries of the special service district, whether or not those boundaries coincide with the boundaries of the creating county or municipality; and

(c) specify each service that the special service district is authorized to provide.

(4) After adopting the resolution described in Subsection (3), the legislative body of the county or municipality that created the special service district shall hold a public hearing following the notice requirements of Section 17D-1-205 applicable to the creation of a special service district, with changes as appropriate for the reorganization of the special service district as a [~~local~~] special district.

(5) (a) At or following the public hearing, the county or municipal legislative body shall:

(i) subject to Subsection (5)(b), adopt a resolution approving the reorganization of the special service district as a [~~local~~] special district; or

(ii) abandon the reorganization.

(b) A resolution approving reorganization shall:

(i) state the name of the special service district that is being reorganized as a [~~local~~] special district;

(ii) state the name of the [~~local~~] special district in accordance with Subsection (7);

(iii) subject to Subsection (5)(c), describe the boundaries of the [~~local~~] special district;

(iv) subject to Subsection (8)(a), specify the service or services to be provided by the [~~local~~] special district;

(v) state:

(A) whether the [~~local~~] special district is a different type of [~~local~~] special district other than a basic [~~local~~] special district; and

(B) if the reorganized [~~local~~] special district is not a basic [~~local~~] special district, the type of [~~local~~] special district, including the governing part in [~~Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts~~] Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts;

(vi) state whether the [~~local~~] special district is to be governed by an appointed or an elected board of trustees, or a combination of appointed and elected trustees, in accordance with Title 17B, Chapter 1, Part 3, Board of Trustees;

(vii) state whether an administrative control board established for the special service district that is being reorganized as a [~~local~~] special district will serve as the first board of trustees of the [~~local~~] special district; and

(viii) contain additional provisions as necessary.

(c) The boundaries of the [~~local~~] special district shall reflect the boundaries of the reorganized special service district.

(6) A county may not reorganize a special service district as a [~~local~~] special district to include some or all of the area within a municipality unless the legislative body of the municipality adopts a resolution or ordinance consenting to the reorganization.

(7) The name of the [~~local~~] special district:

(a) shall comply with Subsection 17-50-103(2)(a); and

(b) may not include the phrase "special service district."

(8) A [~~local~~] special district created under this section may not provide:

(a) (i) at the time of reorganization, a service that it could not have provided as the special service district prior to reorganization; or

(ii) after reorganization, an additional service listed in Section 17B-1-202, unless the [~~local~~] special district adds the service in accordance with the provisions of [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B,

Chapter 1, Provisions Applicable to All Special Districts; and

(b) more than four of the services listed in Section 17B-1-202 at any time.

(9) After the lieutenant governor issues, in accordance with Section 67-1a-6.5, a certificate of incorporation for a [~~local~~] special district created under this section, the [~~local~~] special district:

(a) is:

(i) a body corporate and politic with perpetual succession;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state as provided in Section 17B-1-103; and

(b) may, subject to Subsection (8), provide a service that:

(i) the special service district was authorized to provide before reorganization; and

(ii) the [~~local~~] special district is authorized to provide under the resolution adopted in accordance with Subsection (5).

(10) An action taken, a bond issued, or a contract or other obligation entered into by the reorganized special service district before reorganization is a valid action, bond issuance, contract, or other obligation of the [~~local~~] special district.

(11) A [~~local~~] special district created under this section:

(a) may impose and collect taxes, fees, and other charges for services provided in accordance with applicable law;

(b) shall own all property acquired by the special service district before reorganization; and

(c) shall have a power, right, or obligation that the reorganized special service district had before the reorganization, unless otherwise provided by law.

Section 211. Section 17D-2-102 is amended to read:

17D-2-102. Definitions.

As used in this chapter:

(1) "Authority board" means the board of directors of a local building authority, as described in Section 17D-2-203.

(2) "Bond" includes a bond, note, or other instrument issued under this chapter evidencing an indebtedness of a local building authority.

(3) "Creating local entity" means the local entity that creates or created the local building authority.

(4) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a school district, the local school board for the school district;

(c) for a [~~local~~] special district, the [~~local~~] special district's board of trustees; and

(d) for a special service district, the special service district's governing body, as defined in Section 17D-1-102.

(5) "Local building authority":

(a) means a nonprofit corporation that is:

(i) created as provided in Section 17D-2-201;

(ii) described in Section 17D-2-103; and

(iii) subject to and governed by the provisions of this chapter; and

(b) includes a nonprofit corporation created as a municipal building authority before May 5, 2008 under the law then in effect.

[~~(6) "Local district" has the same meaning as provided in Section 17B-1-102.~~]

[~~(7)~~] (6) "Local entity" means a county, city, town, school district, [~~local~~] special district, or special service district.

[~~(8)~~] (7) "Mortgage" means any instrument under which property may be encumbered as security for an obligation, including a mortgage, trust deed, indenture, pledge, assignment, security agreement, and financing statement.

[~~(9)~~] (8) "Project" means an improvement, facility, property, or appurtenance to property that a local entity is permitted under law to own or acquire, whether located inside or outside the local entity's boundary, including:

(a) a public building or other structure of any kind; and

(b) a joint or partial interest in the improvement, facility, property, or appurtenance to property.

[~~(10)~~] (9) "Project costs":

(a) means all costs incurred in the development of a project; and

(b) includes:

(i) organizational and incorporation fees, including filing, legal, and financial advisor fees;

(ii) the cost of a site for the project;

(iii) the cost of equipment and furnishings for the project;

(iv) the cost of planning and designing the project, including architectural, planning, engineering, legal, and fiscal advisor fees;

(v) contractor fees associated with the project;

(vi) the cost of issuing local building authority bonds to finance the project, including printing costs, document preparation costs, filing fees, recording fees, legal and other professional fees, underwriting costs, bond discount costs, any premium on the bonds, and any fees required to be paid to retire outstanding bonds;

(vii) interest on local building authority bonds issued to finance the project;

(viii) carrying costs;

(ix) interest estimated to accrue on local building authority bonds during the period of construction of the project and for 12 months after;

(x) any amount the governing body finds necessary to establish one or more reserve funds;

(xi) any amount the governing body finds necessary to provide working capital for the project;

(xii) all costs of transferring title of the project to the creating local entity;

(xiii) all costs of dissolving the local building authority; and

(xiv) all other reasonable costs associated with the project.

(10) "Special district" means the same as that term is defined in Section 17B-1-102.

(11) "Special service district" [~~has the same meaning as provided~~] means the same as that term is defined in Section 17D-1-102.

Section 212. Section 17D-2-108 is amended to read:

17D-2-108. Other statutory provisions.

(1) This chapter is supplemental to existing laws relating to a local entity's acquisition, use, maintenance, management, or operation of a project.

(2) Except as provided in this chapter, a local entity or local building authority that complies with the provisions of this chapter need not comply with any other statutory provision concerning the acquisition, construction, use, or maintenance of a project, including:

(a) a statute relating to public bidding; and

(b) Title 63G, Chapter 6a, Utah Procurement Code.

(3) A local building authority is, to the same extent as if it were a [~~local~~] special district, subject to and governed by:

(a) [~~Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts~~] Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts;

(b) [~~Title 17B, Chapter 1, Part 8, Local District Personnel Management~~] Title 17B, Chapter 1, Part 8, Special District Personnel Management; and

(c) Section 17B-1-108.

Section 213. Section 17D-3-105 is amended to read:

17D-3-105. Conservation districts subject to other provisions.

(1) Subject to Subsection (3), a conservation district is, to the same extent as if it were a [~~local~~] special district, subject to and governed by:

(a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-113, 17B-1-116, 17B-1-121, 17B-1-307, 17B-1-311, 17B-1-313, and 17B-1-314;

(b) [~~Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts~~] Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts;

(c) [~~Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports~~] Title 17B, Chapter 1, Part 7, Special District Budgets and Audit Reports;

(d) [~~Title 17B, Chapter 1, Part 8, Local District Personnel Management~~] Title 17B, Chapter 1, Part 8, Special District Personnel Management; and

(e) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

(2) For purposes of applying the provisions listed in Subsection (1) to a conservation district, each reference in those provisions to the [~~local~~] special district board of trustees means the board of supervisors described in Section 17D-3-301.

(3) A conservation district may not exercise taxing authority.

Section 214. Section 17D-4-102 is amended to read:

17D-4-102. Definitions.

As used in this chapter:

(1) "Board" means the board of trustees of a public infrastructure district.

(2) "Creating entity" means the county, municipality, or development authority that approves the creation of a public infrastructure district.

(3) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201; or

(c) the military installation development authority created in Section 63H-1-201.

(4) "District applicant" means the person proposing the creation of a public infrastructure district.

(5) "Division" means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(6) "Governing document" means the document governing a public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of

[~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts, and this chapter.

(7) (a) "Limited tax bond" means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by a public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section 17D-4-303 for any fiscal year, except as provided in Subsection 17D-4-301(8).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(8) "Public infrastructure and improvements" means:

(a) the same as that term is defined in Section 11-58-102, for a public infrastructure district created by the Utah Inland Port Authority created in Section 11-58-201; and

(b) the same as that term is defined in Section 63H-1-102, for a public infrastructure district created by the military installation development authority created in Section 63H-1-201.

Section 215. Section 17D-4-103 is amended to read:

17D-4-103. Provisions applicable to public infrastructure districts.

(1) Each public infrastructure district is governed by and has the powers stated in:

(a) this chapter; and

(b) [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts.

(2) This chapter applies only to a public infrastructure district.

(3) Except as modified or exempted by this chapter, a public infrastructure district is, to the same extent as if the public infrastructure district were a [~~local~~] special district, subject to the provisions in:

(a) [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts; and

(b) Title 20A, Election Code.

(4) If there is a conflict between a provision in [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts, and a provision in this chapter, the provision in this chapter supersedes the conflicting provision in [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts.

(5) The annexation of an unincorporated area by a municipality or the adjustment of a boundary shared by more than one municipality does not affect the boundaries of a public infrastructure district.

Section 216. Section 17D-4-201 is amended to read:

17D-4-201. Creation -- Annexation or withdrawal of property.

(1) (a) Except as provided in Subsection (1)(b), Subsection (2), and in addition to the provisions regarding creation of a [~~local~~] special district in [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts, a public infrastructure district may not be created unless:

(i) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(b) Notwithstanding [~~Title 17B, Chapter 1, Part 2, Creation of a Local District~~] Title 17B, Chapter 1, Part 2, Creation of a Special District, and any other provision of this chapter, the development authority may adopt a resolution creating a public infrastructure district as a subsidiary of the development authority if all owners of surface property proposed to be included within the public infrastructure district consent in writing to the creation of the public infrastructure district.

(2) (a) The following do not apply to the creation of a public infrastructure district:

(i) Section 17B-1-203;

(ii) Section 17B-1-204;

(iii) Subsection 17B-1-208(2);

(iv) Section 17B-1-212; or

(v) Section 17B-1-214.

(b) The protest period described in Section 17B-1-213 may be waived in whole or in part with the consent of:

(i) 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) 100% of the surface property owners within the applicable area approving the creation of the public infrastructure district.

(c) If the protest period is waived under Subsection (2)(b), a resolution approving the

creation of the public infrastructure district may be adopted in accordance with Subsection 17B-1-213(5).

(d) A petition meeting the requirements of Subsection (1):

(i) may be certified under Section 17B-1-209; and

(ii) shall be filed with the lieutenant governor in accordance with Subsection 17B-1-215(1)(b)(iii).

(3) (a) Notwithstanding Title 17B, Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the annexation; or

(B) adoption of a resolution of the board to annex the area, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to annex an area outside of the boundaries of the public infrastructure district without future consent of the creating entity;

(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the annexation into the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed, demonstrating the surface property owners' consent to the annexation into the public infrastructure district.

(b) Within 30 days of meeting the requirements of Subsection (3)(a), the board shall file with the lieutenant governor:

(i) a copy of a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(4) (a) Notwithstanding Title 17B, Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the withdrawal; or

(B) adoption of a resolution of the board to withdraw the property, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to withdraw property from the public infrastructure district without further consent from the creating entity;

(ii) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the withdrawal from the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn, demonstrating that the surface property owners consent to the withdrawal from the public infrastructure district.

(b) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

(c) Upon meeting the requirements of Subsections (4)(a) and (b), the board shall comply with the requirements of Section 17B-1-512.

(5) A creating entity may impose limitations on the powers of a public infrastructure district through the governing document.

(6) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection (6)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity, by the state, or by any municipality, county, or other political subdivision.

(ii) Notwithstanding Subsection (6)(b)(i) and Section 17B-1-216, the governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (6)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (6)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

(7) A creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

(8) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

Section 217. Section 17D-4-203 is amended to read:

17D-4-203. Public infrastructure district powers.

A public infrastructure district shall have all of the authority conferred upon a [~~local~~] special district under Section 17B-1-103, and in addition a public infrastructure district may:

(1) issue negotiable bonds to pay:

(a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(b) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;

(c) public improvements related to the provision of housing;

(d) capital costs related to public transportation; and

(e) for a public infrastructure district created by a development authority, the cost of acquiring or financing public infrastructure and improvements;

(2) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

(3) acquire completed or partially completed improvements for fair market value as reasonably determined by:

(a) the board;

(b) the creating entity, if required in the governing document; or

(c) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;

(4) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and

(5) for a public infrastructure district created by a development authority:

(a) (i) operate and maintain public infrastructure and improvements the district acquires or finances; and

(ii) use fees, assessments, or taxes to pay for the operation and maintenance of those public infrastructure and improvements; and

(b) issue bonds under Title 11, Chapter 42, Assessment Area Act.

Section 218. Section 17D-4-204 is amended to read:

17D-4-204. Relation to other local entities.

(1) Notwithstanding the creation of a public infrastructure district, the creating entity and any other public entity, as applicable, retains all of the entity's authority over all zoning, planning, design specifications and approvals, and permitting within the public infrastructure district.

(2) The inclusion of property within the boundaries of a public infrastructure district does not preclude the inclusion of the property within any other [~~local~~] special district.

(3) (a) All infrastructure that is connected to another public entity's system:

(i) belongs to that public entity, regardless of inclusion within the boundaries of a public infrastructure district, unless the public infrastructure district and the public entity otherwise agree; and

(ii) shall comply with the design, inspection requirements, and other standards of the public entity.

(b) A public infrastructure district shall convey or transfer the infrastructure described in Subsection

(3)(a) free of liens or financial encumbrances to the public entity at no cost to the public entity.

Section 219. Section 17D-4-301 is amended to read:

17D-4-301. Public infrastructure district bonds.

(1) (a) Subject to Subsection (1)(b), a public infrastructure district may issue negotiable bonds for the purposes described in Section 17D-4-203, as provided in, as applicable:

(i) Title 11, Chapter 14, Local Government Bonding Act;

(ii) Title 11, Chapter 27, Utah Refunding Bond Act;

(iii) Title 11, Chapter 42, Assessment Area Act; and

(iv) this section.

(b) A public infrastructure district created by a bonding political subdivision, as defined in Section 63C-25-101, may not issue bonds under this part unless the board first:

(i) adopts a parameters resolution for the bonds that sets forth:

(A) the maximum:

(I) amount of bonds;

(II) term; and

(III) interest rate; and

(B) the expected security for the bonds; and

(ii) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(2) A public infrastructure district bond:

(a) shall mature within 40 years of the date of issuance; and

(b) may not be secured by any improvement or facility paid for by the public infrastructure district.

(3) (a) A public infrastructure district may issue a limited tax bond, in the same manner as a general obligation bond:

(i) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district and 100% of the registered voters, if any, within the boundaries of the proposed public infrastructure district; or

(ii) upon approval of a majority of the registered voters within the boundaries of the public infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (3)(a):

(i) is not subject to the limitation on a general obligation bond described in Subsection [~~17B-1-1102(4)(a)(xii)~~] 17B-1-1102(4); and

(ii) is subject to a limitation, if any, on the principal amount of indebtedness as described in the governing document.

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public infrastructure district may only issue limited tax bonds in denominations of not less than $500,000, and in integral multiples above $500,000 of not less than $1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public infrastructure district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or

(B) the most recent market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).

(iii) A general obligation bond resulting from a conversion of a limited tax bond under this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in Subsection 17B-1-1102(4)(a)(xii).

(e) A public infrastructure district that levies a property tax for payment of debt service on a limited tax bond issued under this section is not required to comply with the notice and hearing requirements of Section 59-2-919 unless the rate exceeds the rate established in:

(i) Section 17D-4-303, except as provided in Subsection (8);

(ii) the governing document; or

(iii) the documents relating to the issuance of the limited tax bond.

(4) There is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.

(5) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

(6) The board may, by resolution, delegate to one or more officers of the public infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(b) approve and execute any document relating to the issuance of a bond; and

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

(7) (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) publication of the resolution authorizing the bond; or

(ii) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).

(b) After the 30-day period described in Subsection (7)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

(8) (a) In the event of any statutory change in the methodology of assessment or collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection (8)(a) may exceed the limit described in Section 17D-4-303.

(c) The public infrastructure district may charge the rate increase described in Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

(9) No later than 60 days after the closing of any bonds by a public infrastructure district created by a bonding political subdivision, as defined in Section 63C-25-101, the public infrastructure district shall report the bond issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-101.

Section 220. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on ballots and tabulates the results.

(3) (a) "Ballot" means the storage medium, including a paper, mechanical, or electronic storage medium, that records an individual voter's vote.

(b) "Ballot" does not include a record to tally multiple votes.

(4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(5) "Bind," "binding," or "bound" means securing more than one piece of paper together using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.

(6) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(7) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(8) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(9) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(10) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(11) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(12) "Convention" means the political party convention at which party officers and delegates are selected.

(13) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(14) "Counting judge" means a poll worker designated to count the ballots during election day.

(15) "Counting room" means a suitable and convenient private place or room for use by the poll workers and counting judges to count ballots.

(16) "County officers" means those county officers that are required by law to be elected.

(17) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for voting by mail, military-overseas voting, or emergency voting; or

(ii) any early voting or early voting period as provided under Chapter 3a, Part 6, Early Voting.

(18) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a [~~local~~] special district office in accordance with Subsection 20A-1-206(3)(b)(ii).

(19) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a [~~local~~] special district election.

(20) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(21) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(22) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(23) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the [~~local~~] special district clerk or chief executive officer for:

(i) a [~~local~~] special district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(24) "Election official" means any election officer, election judge, or poll worker.

(25) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(26) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(27) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(28) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

(29) "Judicial office" means the office filled by any judicial officer.

(30) "Judicial officer" means any justice or judge of a court of record or any county court judge.

[~~(31) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.~~]

[~~(32) "Local district officers" means those local district board members that are required by law to be elected.~~]

[~~(33)~~] (31) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a [~~local~~] special district election, and a bond election.

[~~(34)~~] (32) "Local political subdivision" means a county, a municipality, a [~~local~~] special district, or a local school district.

[~~(35)~~] (33) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

[~~(36)~~] (34) "Manual ballot" means a paper document produced by an election officer on which an individual records an individual's vote by directly placing a mark on the paper document using a pen or other marking instrument.

[~~(37)~~] (35) "Mechanical ballot" means a record, including a paper record, electronic record, or mechanical record, that:

(a) is created via electronic or mechanical means; and

(b) records an individual voter's vote cast via a method other than an individual directly placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

[~~(38)~~] (36) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

[~~(39)~~] (37) "Municipal general election" means the election held in municipalities and, as applicable, [~~local~~] special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

[~~(40)~~] (38) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

[~~(41)~~] (39) "Municipal office" means an elective office in a municipality.

[~~(42)~~] (40) "Municipal officers" means those municipal officers that are required by law to be elected.

[~~(43)~~] (41) "Municipal primary election" means an election held to nominate candidates for municipal office.

[~~(44)~~] (42) "Municipality" means a city, town, or metro township.

[~~(45)~~] (43) "Official ballot" means the ballots distributed by the election officer for voters to record their votes.

[~~(46)~~] (44) "Official endorsement" means the information on the ballot that identifies:

(a) the ballot as an official ballot;

(b) the date of the election; and

(c) (i) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(ii) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii).

[~~(47)~~] (45) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

[~~(48)~~] (46) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

[~~(49)~~] (47) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

[~~(50)~~] (48) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

[~~(51)~~] (49) "Polling place" means a building where voting is conducted.

[~~(52)~~] (50) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

[~~(53)~~] (51) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

[~~(54)~~] (52) "Primary convention" means the political party conventions held during the year of the regular general election.

[~~(55)~~] (53) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

[~~(56)~~] (54) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

[~~(57)~~] (55) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

[~~(58)~~] (56) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

[~~(59)~~] (57) (a) "Public figure" means an individual who, due to the individual being considered for, holding, or having held a position of prominence in a

public or private capacity, or due to the individual's celebrity status, has an increased risk to the individual's safety.

(b) "Public figure" does not include an individual:

(i) elected to public office; or

(ii) appointed to fill a vacancy in an elected public office.

[~~(60)~~] (58) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the individual was elected.

[~~(61)~~] (59) "Receiving judge" means the poll worker that checks the voter's name in the official register at a polling place and provides the voter with a ballot.

[~~(62)~~] (60) "Registration form" means a form by which an individual may register to vote under this title.

[~~(63)~~] (61) "Regular ballot" means a ballot that is not a provisional ballot.

[~~(64)~~] (62) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

[~~(65)~~] (63) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

[~~(66)~~] (64) "Resident" means a person who resides within a specific voting precinct in Utah.

[~~(67)~~] (65) "Return envelope" means the envelope, described in Subsection 20A-3a-202(4), provided to a voter with a manual ballot:

(a) into which the voter places the manual ballot after the voter has voted the manual ballot in order to preserve the secrecy of the voter's vote; and

(b) that includes the voter affidavit and a place for the voter's signature.

[~~(68)~~] (66) "Sample ballot" means a mock ballot similar in form to the official ballot, published as provided in Section 20A-5-405.

(67) "Special district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(68) "Special district officers" means those special district board members who are required by law to be elected.

(69) "Special election" means an election held as authorized by Section 20A-1-203.

(70) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(71) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(72) "Tabulation system" means a device or system designed for the sole purpose of tabulating votes cast by voters at an election.

(73) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(74) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(75) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(76) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (76)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(77) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(78) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:

(a) mailing the ballot to the location designated in the mailing; or

(b) depositing the ballot in a ballot drop box designated by the election officer.

(79) "Voter" means an individual who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(80) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(81) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(82) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting enclosure or curtain; or

(b) a voting device that is free standing.

(83) "Voting device" means any device provided by an election officer for a voter to vote a mechanical ballot.

(84) "Voting precinct" means the smallest geographical voting unit, established under Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

(85) "Watcher" means an individual who complies with the requirements described in Section 20A-3a-801 to become a watcher for an election.

(86) "Write-in ballot" means a ballot containing any write-in votes.

(87) "Write-in vote" means a vote cast for an individual, whose name is not printed on the ballot, in accordance with the procedures established in this title.

Section 221. Section 20A-1-201 is amended to read:

20A-1-201. Date and purpose of regular general elections.

(1) A regular general election shall be held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year.

(2) At the regular general election, the voters shall:

(a) choose persons to serve the terms established by law for the following offices:

(i) electors of President and Vice President of the United States;

(ii) United States Senators;

(iii) Representatives to the United States Congress;

(iv) governor, lieutenant governor, attorney general, state treasurer, and state auditor;

(v) senators and representatives to the Utah Legislature;

(vi) county officers;

(vii) State School Board members;

(viii) local school board members;

(ix) except as provided in Subsection (3), [~~local~~] special district officers, as applicable; and

(x) any elected judicial officers; and

(b) approve or reject:

(i) any proposed amendments to the Utah Constitution that have qualified for the ballot under procedures established in the Utah Code;

(ii) any proposed initiatives or referenda that have qualified for the ballot under procedures established in the Utah Code; and

(iii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

(3) This section:

(a) applies to a special service district for which the county legislative body or the municipal legislative body, as applicable, has delegated authority for the special service district to an administrative control board; and

(b) does not apply to a special service district for which the county legislative body or the municipal legislative body, as applicable, has not delegated authority for the special service district to an administrative control board.

Section 222. Section 20A-1-202 is amended to read:

20A-1-202. Date and purpose of municipal general election.

(1) Except as provided in Section 20A-1-206, a municipal general election shall be held in municipalities, and [~~local~~] special districts as applicable, on the first Tuesday after the first Monday in November of each odd-numbered year.

(2) At the municipal general election, the voters shall:

(a) (i) choose persons to serve as municipal officers; and

(ii) for a [~~local~~] special district that holds an election during an odd-numbered year, choose persons to serve as [~~local~~] special district officers; and

(b) approve or reject:

(i) any proposed initiatives or referenda that have qualified for the ballot as provided by law; and

(ii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

Section 223. Section 20A-1-206 is amended to read:

20A-1-206. Cancellation of local election or local race -- Municipalities -- Special districts -- Notice.

(1) As used in this section:

(a) "Contested race" means a race in a general election where the number of candidates, including any eligible write-in candidates, exceeds the number of offices to be filled in the race.

(b) "Election" means an event, run by an election officer, that includes one or more races for public office or one or more ballot propositions.

(c) (i) "Race" means a contest between candidates to obtain the number of votes necessary to take a particular public office.

(ii) "Race," as the term relates to a contest for an at-large position, includes all open positions for the same at-large office.

(iii) "Race," as the term relates to a contest for a municipal council position that is not an at-large position, includes only the contest to represent a particular district on the council.

(2) A municipal legislative body may cancel a local election if:

(a) the ballot for the local election will not include any contested races or ballot propositions; and

(b) the municipal legislative body passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the election and certifies that:

(i) the ballot for the election would not include any contested races or ballot propositions; and

(ii) the candidates who qualified for the ballot are considered elected.

(3) A municipal legislative body may cancel a race in a local election if:

(a) the ballot for the race will not include any contested races or ballot propositions; and

(b) the municipal legislative body passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the race and certifies that:

(i) the ballot for the race would not include any contested races or ballot propositions; and

(ii) the candidate for the race is considered elected.

(4) A municipal legislative body that cancels a local election in accordance with Subsection (2) shall give notice that the election is cancelled by:

(a) subject to Subsection (8), providing notice to the lieutenant governor's office to be posted on the Statewide Electronic Voter Information Website described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election;

(b) if the municipality has a public website, posting notice on the municipality's public website for 15 days before the day of the scheduled election;

(c) if the elected officials or departments of the municipality regularly publish a printed or electronic newsletter or other periodical, publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election;

(d) (i) publishing notice at least twice in a newspaper of general circulation in the municipality before the day of the scheduled election;

(ii) at least 10 days before the day of the scheduled election, posting one notice, and at least one additional notice per 2,000 population within the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 notices; or

(iii) at least 10 days before the day of the scheduled election, mailing notice to each registered voter in the municipality; and

(e) posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for at least 10 days before the day of the scheduled election.

(5) A [~~local~~] special district board may cancel a local election if:

(a) the ballot for the local election will not include any contested races or ballot propositions; and

(b) the [~~local~~] special district board passes, no later than 20 days before the day of the scheduled

election, a resolution that cancels the election and certifies that:

(i) the ballot for the election would not include any contested races or ballot propositions; and

(ii) the candidates who qualified for the ballot are considered elected.

(6) A [~~local~~] special district board may cancel a [~~local~~] special district race if:

(a) the race is uncontested; and

(b) the [~~local~~] special district board passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the race and certifies that the candidate who qualified for the ballot for that race is considered elected.

(7) A [~~local~~] special district that cancels a local election in accordance with Subsection (5) shall provide notice that the election is cancelled:

(a) subject to Subsection (8), by posting notice on the Statewide Electronic Voter Information Website described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election;

(b) if the [~~local~~] special district has a public website, by posting notice on the [~~local~~] special district's public website for 15 days before the day of the scheduled election;

(c) if the [~~local~~] special district publishes a newsletter or other periodical, by publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election;

(d) (i) by publishing notice at least twice in a newspaper of general circulation in the [~~local~~] special district before the scheduled election;

(ii) at least 10 days before the day of the scheduled election, by posting one notice, and at least one additional notice per 2,000 population of the [~~local~~] special district, in places within the [~~local~~] special district that are most likely to give notice to the voters in the [~~local~~] special district, subject to a maximum of 10 notices; or

(iii) at least 10 days before the day of the scheduled election, by mailing notice to each registered voter in the [~~local~~] special district; and

(e) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for at least 10 days before the day of the scheduled election.

(8) A municipal legislative body that posts a notice in accordance with Subsection (4)(a) or a [~~local~~] special district that posts a notice in accordance with Subsection (7)(a) is not liable for a notice that fails to post due to technical or other error by the publisher of the Statewide Electronic Voter Information Website.

Section 224. Section 20A-1-512 is amended to read:

20A-1-512. Midterm vacancies on special district boards.

(1) (a) When a vacancy occurs on any [~~local~~] special district board for any reason, the following shall appoint a replacement to serve out the unexpired term in accordance with this section:

(i) the [~~local~~] special district board, if the person vacating the position was elected; or

(ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position.

(b) Except as provided in Subsection (1)(c) or (d), before acting to fill the vacancy, the [~~local~~] special district board or appointing authority shall:

(i) give public notice of the vacancy at least two weeks before the [~~local~~] special district board or appointing authority meets to fill the vacancy by:

(A) if there is a newspaper of general circulation, as that term is defined in Section 45-1-201, within the district, publishing the notice in the newspaper of general circulation;

(B) posting the notice in three public places within the [~~local~~] special district; and

(C) posting on the Utah Public Notice Website created under Section 63A-16-601; and

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the individual to whom an individual who is interested in an appointment to fill the vacancy may submit the individual's name for consideration; and

(C) any submission deadline.

(c) An appointing authority is not subject to Subsection (1)(b) if:

(i) the appointing authority appoints one of the appointing authority's own members; and

(ii) that member meets all applicable statutory board member qualifications.

(d) When a vacancy occurs on the board of a water conservancy district located in more than one county:

(i) the board shall give notice of the vacancy to the county legislative bodies that nominated the vacating trustee as provided in Section 17B-2a-1005;

(ii) the county legislative bodies described in Subsection (1)(d)(i) shall collectively compile a list of three nominees to fill the vacancy; and

(iii) the governor shall, with the advice and consent of the Senate, appoint an individual to fill the vacancy from nominees submitted as provided in Subsection 17B-2a-1005(2)(c).

(2) If the [~~local~~] special district board fails to appoint an individual to complete an elected board member's term within 90 days, the legislative body of the county or municipality that created the [~~local~~] special district shall fill the vacancy in accordance with the procedure for a [~~local~~] special district described in Subsection (1)(b).

Section 225. Section 20A-1-513 is amended to read:

20A-1-513. Temporary absence in elected office of a political subdivision for military service.

(1) As used in this section:

(a) "Armed forces" means the same as that term is defined in Section 68-3-12.5, and includes:

(i) the National Guard; and

(ii) the national guard and armed forces reserves.

(b) (i) "Elected official" is a person who holds an office of a political subdivision that is required by law to be filled by an election.

(ii) "Elected official" includes a person who is appointed to fill a vacancy in an office described in Subsection (1)(b)(i).

(c) (i) "Military leave" means the temporary absence from an office:

(A) by an elected official called to active, full-time duty in the armed forces; and

(B) for a period of time that exceeds 30 days and does not exceed 400 days.

(ii) "Military leave" includes the time a person on leave, as described in Subsection (1)(c)(i), spends for:

(A) out processing;

(B) an administrative delay;

(C) accrued leave; and

(D) on rest and recuperation leave program of the armed forces.

(d) "Political subdivision's governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district;

(iii) for a local school district, the local school board;

(iv) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body that governs the affairs of the political subdivision.

(e) "Temporary replacement" means the person appointed by the political subdivision's governing body in accordance with this section to exercise the powers and duties of the office of the elected official who takes military leave.

(2) An elected official creates a vacancy in the elected official's office if the elected official is called to active, full-time duty in the armed forces in accordance with Title 10, U.S.C.A. unless the elected official takes military leave as provided by this section.

(3) (a) An elected official who is called to active, full-time duty in the armed forces in a status other than in accordance with Title 10, U.S.C.A. shall notify the political subdivision's governing body of the elected official's orders not later than five days after receipt of orders.

(b) The elected official described in Subsection (3)(a) may:

(i) continue to carry out the official's duties if possible while on active, full-time duty; or

(ii) take military leave if the elected official submits to the political subdivision's governing body written notice of the intent to take military leave and the expected duration of the military leave.

(4) (a) An elected official who chooses to continue to carry out the official's duties while on active, full-time duty shall, within 10 days after arrival at the official's place of deployment, confirm in writing to the political subdivision's governing body that the official has the ability to carry out the official's duties.

(b) If no confirmation is received by the political subdivision within the time period described in Subsection (4)(a), the elected official shall be placed in a military leave status and a temporary replacement appointed in accordance with Subsection (6).

(5) An elected official's military leave:

(a) begins the later of:

(i) the day after the day on which the elected official notifies the political subdivision's governing body of the intent to take military leave;

(ii) day 11 after the elected official's deployment if no confirmation is received in accordance with Subsection (4)(a); or

(iii) the day on which the elected official begins active, full-time duty in the armed forces; and

(b) ends the sooner of:

(i) the expiration of the elected official's term of office; or

(ii) the day on which the elected official ends active, full-time duty in the armed forces.

(6) A temporary replacement shall:

(a) meet the qualifications required to hold the office; and

(b) be appointed:

(i) in the same manner as provided by this part for a midterm vacancy if a registered political party

nominated the elected official who takes military leave as a candidate for the office; or

(ii) by the political subdivision's governing body after submitting an application in accordance with Subsection (8)(b) if a registered political party did not nominate the elected official who takes military leave as a candidate for office.

(7) (a) A temporary replacement shall exercise the powers and duties of the office for which the temporary replacement is appointed for the duration of the elected official's military leave.

(b) An elected official may not exercise the powers or duties of the office while on military leave.

(c) If a temporary replacement is not appointed as required by Subsection (6)(b), no person may exercise the powers and duties of the elected official's office during the elected official's military leave.

(8) The political subdivision's governing body shall establish:

(a) the distribution of the emoluments of the office between the elected official and the temporary replacement; and

(b) an application form and the date and time before which a person shall submit the application to be considered by the political subdivision's governing body for appointment as a temporary replacement.

Section 226. Section 20A-2-101 is amended to read:

20A-2-101. Eligibility for registration.

(1) Except as provided in Subsection (2), an individual may register to vote in an election who:

(a) is a citizen of the United States;

(b) has been a resident of Utah for at least the 30 days immediately before the election;

(c) will be:

(i) at least 18 years of age on the day of the election; or

(ii) if the election is a regular primary election, a municipal primary election, or a presidential primary election:

(A) 17 years of age on or before the day of the regular primary election, municipal primary election, or presidential primary election; and

(B) 18 years of age on or before the day of the general election that immediately follows the regular primary election, municipal primary election, or presidential primary election; and

(d) currently resides within the voting district or precinct in which the individual applies to register to vote.

(2) (a) (i) An individual who is involuntarily confined or incarcerated in a jail, prison, or other facility within a voting precinct is not a resident of that voting precinct and may not register to vote in that voting precinct unless the individual was a resident of that voting precinct before the confinement or incarceration.

(ii) An individual who is involuntarily confined or incarcerated in a jail or prison is a resident of the voting precinct in which the individual resided before the confinement or incarceration.

(b) An individual who has been convicted of a felony or a misdemeanor for an offense under this title may not register to vote or remain registered to vote unless the individual's right to vote has been restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(c) An individual whose right to vote has been restored, as provided in Section 20A-2-101.3 or 20A-2-101.5, is eligible to register to vote.

(3) An individual who is eligible to vote and who resides within the geographic boundaries of the entity in which the election is held may register to vote in a:

(a) regular general election;

(b) regular primary election;

(c) municipal general election;

(d) municipal primary election;

(e) statewide special election;

(f) local special election;

(g) [~~local~~] special district election;

(h) bond election; and

(i) presidential primary election.

Section 227. Section 20A-3a-102 is amended to read:

20A-3a-102. Residency and age requirements of voters.

(1) An individual may vote in any regular general election or statewide special election if that individual has registered to vote in accordance with Chapter 2, Voter Registration.

(2) An individual may vote in the presidential primary election or a regular primary election if:

(a) that individual has registered to vote in accordance with Chapter 2, Voter Registration; and

(b) that individual's political party affiliation, or unaffiliated status, allows the person to vote in the election.

(3) An individual may vote in a municipal general election, municipal primary election, local special election, [~~local~~] special district election, and bond election if that individual:

(a) has registered to vote in accordance with Chapter 2, Voter Registration; and

(b) is a resident of a voting district or precinct within the local entity that is holding the election.

Section 228. Section 20A-3a-104 is amended to read:

20A-3a-104. Voting by secret ballot.

All voting at each regular and municipal general election, at each statewide or local special election, at each primary election, at each [~~local~~] special district election, and at each bond election shall be by secret ballot.

Section 229. Section 20A-3a-501 is amended to read:

20A-3a-501. Prohibited conduct at polling place -- Other prohibited activities.

(1) As used in this section:

(a) "electioneering" includes any oral, printed, or written attempt to persuade persons to refrain from voting or to vote for or vote against any candidate or issue; and

(b) "polling place" means the physical place where ballots are cast and includes the physical place where a ballot drop box is located.

(2) (a) An individual may not, within a polling place or in any public area within 150 feet of the building where a polling place is located:

(i) do any electioneering;

(ii) circulate cards or handbills of any kind;

(iii) solicit signatures to any kind of petition; or

(iv) engage in any practice that interferes with the freedom of voters to vote or disrupts the administration of the polling place.

(b) A county, municipality, school district, or [~~local~~] special district may not prohibit electioneering that occurs more than 150 feet from the building where a polling place is located, but may regulate the place and manner of that electioneering to protect the public safety.

(3) (a) An individual may not obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

(b) A sheriff, deputy sheriff, or municipal law enforcement officer shall prevent the obstruction of the entrance to a polling place and may arrest an individual creating an obstruction.

(4) An individual may not solicit any voter to show the voter's ballot.

(5) (a) An individual may not knowingly possess or control another individual's voted manual ballot, unless:

(i) the individual is an election official or postal worker acting in the capacity of an election official or postal worker;

(ii) the individual possesses or controls the voted ballot in accordance with Section 20A-3a-301, relating to emergency ballots;

(iii) the possession or control is authorized in order to deliver a military-overseas ballot in accordance with Chapter 16, Uniform Military and Overseas Voters Act;

(iv) subject to Section 20A-3a-208, the individual is authorized by a voter to possess or control the voter's voted ballot if the voter needs assistance delivering the ballot due to the voter's age, illness, or disability; or

(v) the individual resides in the same household as the voter.

(b) A violation of Subsection (5)(a) does not invalidate the ballot.

(6) An individual who violates any provision of this section is, in addition to the penalties described in Subsections 20A-1-609(2) and (3), guilty of a class A misdemeanor.

(7) A political subdivision may not prohibit political signs that are located more than 150 feet away from a polling place, but may regulate their placement to protect public safety.

Section 230. Section 20A-3a-605 is amended to read:

20A-3a-605. Exemptions from early voting.

(1) (a) This part does not apply to an election of a board member of a [~~local~~] special district.

(b) Notwithstanding Subsection (1)(a), a [~~local~~] special district may, in the [~~local~~] special district's discretion, provide early voting in accordance with this part for election of a board member.

(2) Notwithstanding the requirements of Section 20A-3a-601, a municipality of the fifth class or a town as described in Section 10-2-301 may provide early voting as provided under this part for:

(a) a municipal primary election; or

(b) a municipal general election.

(3) A municipality is not required to conduct early voting for the election.

Section 231. Section 20A-4-301 is amended to read:

20A-4-301. Board of canvassers.

(1) (a) Each county legislative body is the board of county canvassers for:

(i) the county; and

(ii) each [~~local~~] special district whose election is conducted by the county if:

(A) the election relates to the creation of the [~~local~~] special district;

(B) the county legislative body serves as the governing body of the [~~local~~] special district; or

(C) there is no duly constituted governing body of the [~~local~~] special district.

(b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that is no sooner than seven days after the election and no later than 14 days after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county

canvassers, the remaining members shall replace the absent member by appointing in the order named:

(i) the county treasurer;

(ii) the county assessor; or

(iii) the county sheriff.

(d) Attendance of the number of persons equal to a simple majority of the county legislative body, but not less than three persons, shall constitute a quorum for conducting the canvass.

(e) The county clerk is the clerk of the board of county canvassers.

(2) (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body:

(i) for canvassing of returns from a municipal general election, no sooner than seven days after the election and no later than 14 days after the election; or

(ii) for canvassing of returns from a municipal primary election, no sooner than seven days after the election and no later than 14 days after the election.

(c) Attendance of a simple majority of the municipal legislative body shall constitute a quorum for conducting the canvass.

(3) (a) The legislative body of the entity authorizing a bond election is the board of canvassers for each bond election.

(b) The board of canvassers for the bond election shall comply with the canvassing procedures and requirements of Section 11-14-207.

(c) Attendance of a simple majority of the legislative body of the entity authorizing a bond election shall constitute a quorum for conducting the canvass.

Section 232. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction; or

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each [~~local~~] special district election to the [~~local~~] special district clerk.

(2) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each ballot-counting phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) the number of ballots that were rejected; and

(h) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that it is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2):

(a) (i) by publishing notice at least once in a newspaper of general circulation within the jurisdiction;

(ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing notice to each residence within the jurisdiction;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for one week; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for one week.

(6) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, [~~local~~] special district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 233. Section 20A-4-305 is amended to read:

20A-4-305. Delivery of checked official register to county clerk after canvass.

Within 10 days after the canvass of a November municipal election, [~~local~~] special district election, bond election, or special election, the clerk or recorder shall transmit the checked official register to the county clerk.

Section 234. Section 20A-4-401 is amended to read:

20A-4-401. Recounts -- Procedure.

(1) (a) This section does not apply to a race conducted by instant runoff voting under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(b) Except as provided in Subsection (1)(c), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast for all candidates in the race, that losing candidate may file a request for a recount in accordance with Subsection (1)(d).

(c) For a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, that losing candidate may file a request for a recount in accordance with Subsection (1)(d).

(d) A candidate who files a request for a recount under Subsection (1) (b) or (c) shall file the request:

(i) for a municipal primary election, with the municipal clerk, before 5 p.m. within three days after the canvass; or

(ii) for all other elections, before 5 p.m. within seven days after the canvass with:

(A) the municipal clerk, if the election is a municipal general election;

(B) the [~~local~~] special district clerk, if the election is a [~~local~~] special district election;

(C) the county clerk, for races voted on entirely within a single county; or

(D) the lieutenant governor, for statewide races and multicounty races.

(e) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that race;

(iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots;

(iv) for a race where only one candidate may win, declare elected the candidate who receives the highest number of votes on the recount; and

(v) for a race where multiple candidates may win, declare elected the applicable number of candidates who receive the highest number of votes on the recount.

(2) (a) Except as provided in Subsection (2)(b), for a ballot proposition or a bond proposition, if the proposition passes or fails by a margin that is equal to or less than .25% of the total votes cast for or against the proposition, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount before 5 p.m. within seven days after the day of the canvass with the person described in Subsection (2)(c).

(b) For a ballot proposition or a bond proposition where the total of all votes cast for or against the proposition is 400 or less, if the difference between the number of votes cast for the proposition and the number of votes cast against the proposition is one vote, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount before 5 p.m. within seven days after the day of the canvass with the person described in Subsection (2)(c).

(c) The 10 voters who file a request for a recount under Subsection (2)(a) or (b) shall file the request with:

(i) the municipal clerk, if the election is a municipal election;

(ii) the [~~local~~] special district clerk, if the election is a [~~local~~] special district election;

(iii) the county clerk, for propositions voted on entirely within a single county; or

(iv) the lieutenant governor, for statewide propositions and multicounty propositions.

(d) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that ballot proposition or bond proposition;

(iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots; and

(iv) declare the ballot proposition or bond proposition to have "passed" or "failed" based upon the results of the recount.

(e) Proponents and opponents of the ballot proposition or bond proposition may designate representatives to witness the recount.

(f) The voters requesting the recount shall pay the costs of the recount.

(3) Costs incurred by recount under Subsection (1) may not be assessed against the person requesting the recount.

(4) (a) Upon completion of the recount, the election officer shall immediately convene the board of canvassers.

(b) The board of canvassers shall:

(i) canvass the election returns for the race or proposition that was the subject of the recount; and

(ii) with the assistance of the election officer, prepare and sign the report required by Section 20A-4-304 or 20A-4-306.

(c) If the recount is for a statewide or multicounty race or for a statewide proposition, the board of county canvassers shall prepare and transmit a separate report to the lieutenant governor as required by Subsection 20A-4-304(7).

(d) The canvassers' report prepared as provided in this Subsection (4) is the official result of the race or proposition that is the subject of the recount.

Section 235. Section 20A-5-302 is amended to read:

20A-5-302. Automated voting system.

(1) (a) Any county or municipal legislative body or [~~local~~] special district board may:

(i) adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon any automated voting system that meets the requirements of this section; and

(ii) use that system in any election, in all or a part of the voting precincts within its boundaries, or in combination with manual ballots.

(b) Nothing in this title shall be construed to require the use of electronic voting devices in local special elections, municipal primary elections, or municipal general elections.

(2) Each automated voting system shall:

(a) provide for voting in secrecy, except in the case of voters who have received assistance as authorized by Section 20A-3a-208;

(b) permit each voter at any election to:

(i) vote for all persons and offices for whom and for which that voter is lawfully entitled to vote;

(ii) vote for as many persons for an office as that voter is entitled to vote; and

(iii) vote for or against any ballot proposition upon which that voter is entitled to vote;

(c) permit each voter, at presidential elections, by one mark, to vote for the candidates of that party for president, vice president, and for their presidential electors;

(d) at elections other than primary elections, permit each voter to vote for the nominees of one or more parties and for independent candidates;

(e) at primary elections:

(i) permit each voter to vote for candidates of the political party of the voter's choice; and

(ii) reject any votes cast for candidates of another party;

(f) prevent the voter from voting for the same person more than once for the same office;

(g) provide the opportunity for each voter to change the ballot and to correct any error before the voter casts the ballot in compliance with the Help America Vote Act of 2002, Pub. L. No. 107-252;

(h) include automatic tabulating equipment that rejects choices recorded on a voter's ballot if the number of the voter's recorded choices is greater than the number which the voter is entitled to vote for the office or on the measure;

(i) be of durable construction, suitably designed so that it may be used safely, efficiently, and accurately in the conduct of elections and counting ballots;

(j) when properly operated, record correctly and count accurately each vote cast;

(k) for voting equipment certified after January 1, 2005, produce a permanent paper record that:

(i) shall be available as an official record for any recount or election contest conducted with respect to an election where the voting equipment is used;

(ii) (A) shall be available for the voter's inspection prior to the voter leaving the polling place; and

(B) shall permit the voter to inspect the record of the voter's selections independently only if reasonably practicable commercial methods permitting independent inspection are available at the time of certification of the voting equipment by the lieutenant governor;

(iii) shall include, at a minimum, human readable printing that shows a record of the voter's selections;

(iv) may also include machine readable printing which may be the same as the human readable printing; and

(v) allows a watcher to observe the election process to ensure the integrity of the election process; and

(l) meet the requirements of Section 20A-5-802.

(3) For the purposes of a recount or an election contest, if the permanent paper record contains a conflict or inconsistency between the human readable printing and the machine readable printing, the human readable printing shall supercede the machine readable printing when determining the intent of the voter.

(4) Notwithstanding any other provisions of this section, the election officers shall ensure that the ballots to be counted by means of electronic or electromechanical devices are of a size, layout, texture, and printed in a type of ink or combination of inks that will be suitable for use in the counting devices in which they are intended to be placed.

Section 236. Section 20A-5-400.5 is amended to read:

20A-5-400.5. Election officer for bond and leeway elections.

(1) When a voted leeway or bond election is held on the regular general election date, the county clerk shall serve as the provider election officer to conduct that election.

(2) (a) When a voted leeway or bond election is held on the municipal general election date or any other election date permitted for special elections under Section 20A-1-204, and the local political subdivision calling the election is entirely within the boundaries of the unincorporated county, the county clerk shall serve as the provider election officer to conduct that election subject to Subsection (3).

(b) When a voted leeway or bond election is held on the municipal general election date or any other election date permitted for special elections under Section 20A-1-204, and the local political subdivision calling the election is entirely within the boundaries of a municipality, the municipal clerk for that municipality shall, except as provided in Subsection (3), serve as the provider election officer to conduct that election.

(c) When a voted leeway or bond election is held on the municipal general election date or any other election date permitted for special elections under Section 20A-1-204, and the local political subdivision calling the election extends beyond the boundaries of a single municipality:

(i) except as provided in Subsection (3), the municipal clerk shall serve as the provider election officer to conduct the election for those portions of the local political subdivision where the municipal general election or other election is being held; and

(ii) except as provided in Subsection (3), the county clerk shall serve as the provider election officer to conduct the election for the unincorporated county and for those portions of any municipality where no municipal general election or other election is being held.

(3) When a voted leeway or bond election is held on a date when no other election, other than another voted leeway or bond election, is being held in the entire area comprising the local political subdivision calling the voted leeway or bond election:

(a) the clerk or chief executive officer of a [~~local~~] special district or the business administrator or superintendent of the school district, as applicable, shall serve as the election officer to conduct the bond election for those portions of the local political subdivision in which no other election, other than another voted leeway or bond election, is being held, unless the [~~local~~] special district or school district has contracted with a provider election officer; and

(b) the county clerk, municipal clerk, or both, as determined by the local political subdivision holding the bond election, shall serve as the provider election officer to conduct the bond election for those portions of the local political subdivision in

which another election, other than another voted leeway or bond election, is being held.

(4) A provider election officer required by this section to conduct an election for a local political subdivision shall comply with Section 20A-5-400.1.

Section 237. Section 20A-5-401 is amended to read:

20A-5-401. Official register -- Preparation -- Contents.

(1) (a) Before the registration days for each regular general, municipal general, regular primary, municipal primary, or presidential primary election, each county clerk shall prepare an official register of all voters that will participate in the election.

(b) The county clerk shall ensure that the official register is prepared and contains the following for each registered voter:

(i) name;

(ii) party affiliation;

(iii) an entry field for a voter challenge, including the name of the individual making the challenge and the grounds for the challenge;

(iv) election name and date;

(v) date of birth;

(vi) place of current residence;

(vii) street address of current residence;

(viii) zip code;

(ix) identification and provisional ballot information as required under Subsection (1)(d); and

(x) space for the voter to sign the voter's name for the election.

(c) When preparing the official register for the presidential primary election, the county clerk shall include:

(i) an entry field to record the name of the political party whose ballot the voter voted; and

(ii) an entry field for the poll worker to record changes in the voter's party affiliation.

(d) When preparing the official register for any regular general election, municipal general election, statewide special election, local special election, regular primary election, municipal primary election, [~~local~~] special district election, or election for federal office, the county clerk shall include:

(i) an entry field for the poll worker to record the type of identification provided by the voter;

(ii) a space for the poll worker to record the provisional envelope ballot number for voters who receive a provisional ballot; and

(iii) a space for the poll worker to record the type of identification that was provided by voters who receive a provisional ballot.

(2) (a) (i) For regular and municipal elections, primary elections, regular municipal elections, [~~local~~] special district elections, and bond elections, the county clerk shall make an official register only for voting precincts affected by the primary, municipal, [~~local~~] special district, or bond election.

(ii) If a polling place to be used in a bond election serves both voters residing in the local political subdivision calling the bond election and voters residing outside of that local political subdivision, the official register shall designate whether each voter resides in or outside of the local political subdivision.

(iii) Each county clerk, with the assistance of the clerk of each affected [~~local~~] special district, shall provide a detailed map or an indication on the registration list or other means to enable a poll worker to determine the voters entitled to vote at an election of [~~local~~] special district officers.

(b) Municipalities shall pay the costs of making the official register for municipal elections.

Section 238. Section 20A-5-403 is amended to read:

20A-5-403. Polling places -- Booths -- Ballot boxes -- Inspections -- Arrangements.

(1) Except as provided in Section 20A-7-609.5, each election officer shall:

(a) designate polling places for each voting precinct in the jurisdiction; and

(b) obtain the approval of the county or municipal legislative body or [~~local~~] special district governing board for those polling places.

(2) (a) For each polling place, the election officer shall provide:

(i) an American flag;

(ii) a sufficient number of voting booths or compartments;

(iii) the voting devices, voting booths, ballots, ballot boxes, and any other records and supplies necessary to enable a voter to vote;

(iv) the constitutional amendment cards required by Part 1, Election Notices and Instructions;

(v) the instructions required by Section 20A-5-102; and

(vi) a sign, to be prominently displayed in the polling place, indicating that valid voter identification is required for every voter before the voter may vote and listing the forms of identification that constitute valid voter identification.

(b) Each election officer shall ensure that:

(i) each voting booth is at a convenient height for writing, and is arranged so that the voter can

prepare the voter's ballot screened from observation;

(ii) there are a sufficient number of voting booths or voting devices to accommodate the voters at that polling place; and

(iii) there is at least one voting booth or voting device that is configured to accommodate persons with disabilities.

(c) Each county clerk shall provide a ballot box for each polling place that is large enough to properly receive and hold the ballots to be cast.

(3) (a) All polling places shall be physically inspected by each county clerk to ensure access by a person with a disability.

(b) Any issues concerning inaccessibility to polling places by a person with a disability discovered during the inspections referred to in Subsection (3)(a) or reported to the county clerk shall be:

(i) forwarded to the Office of the Lieutenant Governor; and

(ii) within six months of the time of the complaint, the issue of inaccessibility shall be either:

(A) remedied at the particular location by the county clerk;

(B) the county clerk shall designate an alternative accessible location for the particular precinct; or

(C) if no practical solution can be identified, file with the Office of the Lieutenant Governor a written explanation identifying the reasons compliance cannot reasonably be met.

(4) (a) The municipality in which the election is held shall pay the cost of conducting each municipal election, including the cost of printing and supplies.

(b) (i) Costs assessed by a county clerk to a municipality under this section may not exceed the actual costs incurred by the county clerk.

(ii) The actual costs shall include:

(A) costs of or rental fees associated with the use of election equipment and supplies; and

(B) reasonable and necessary administrative costs.

(5) The county clerk shall make detailed entries of all proceedings had under this chapter.

(6) (a) Each county clerk shall, to the extent possible, ensure that the amount of time that an individual waits in line before the individual can vote at a polling place in the county does not exceed 30 minutes.

(b) The lieutenant governor may require a county clerk to submit a line management plan before the next election if an individual waits in line at a polling place in the county longer than 30 minutes before the individual can vote.

(c) The lieutenant governor may consider extenuating circumstances in deciding whether to require the county clerk to submit a plan described in Subsection (6)(b).

(d) The lieutenant governor shall review each plan submitted under Subsection (6)(b) and consult with the county clerk submitting the plan to ensure, to the extent possible, that the amount of time an individual waits in line before the individual can vote at a polling place in the county does not exceed 30 minutes.

Section 239. Section 20A-5-407 is amended to read:

20A-5-407. Election officer to provide ballot boxes.

(1) Except as provided in Subsection (3), an election officer shall:

(a) provide one ballot box with a lock and key for each polling place; and

(b) deliver the ballot boxes, locks, and keys to the polling place before the polls open.

(2) An election officer for a municipality or [~~local~~] special district may obtain ballot boxes from the county clerk's office.

(3) If locks and keys are unavailable, the election officer shall ensure that the ballot box lid is secured by tape.

Section 240. Section 20A-5-601 is amended to read:

20A-5-601. Appointment of poll workers in elections where candidates are distinguished by registered political parties.

(1) (a) This section governs appointment of poll workers in elections where candidates are distinguished by registered political parties.

(b) On or before March 1 of each even-numbered year, an election officer shall provide to the county chair of each registered political party a list of the number of poll workers that the party must nominate for each polling place.

(c) On or before April 1 of each even-numbered year, the county chair and secretary of each registered political party shall file a list with the election officer containing the names of individuals in the county who are willing to serve as poll workers, who are qualified to serve as poll workers in accordance with this section, and who are competent and trustworthy.

(d) The county chair and secretary shall submit names equal in number to the number required by the election officer, plus one.

(2) Each election officer shall provide for the appointment of individuals to serve as poll workers at each election.

(3) (a) For each election, each election officer shall provide for the appointment of at least three registered voters, or one individual who is 16 or 17 years old and two registered voters, one of whom is

at least 21 years old, from the list to serve as poll workers.

(b) An election officer may appoint additional poll workers, as needed.

(4) For each set of three poll workers appointed for a polling place for an election, the election officer shall ensure that:

(a) two poll workers are appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the jurisdiction holding the election at the last regular general election before the appointment of the poll workers; and

(b) one poll worker is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the county, city, or [~~local~~] special district, as applicable, at the last regular general election before the appointment of the poll workers.

(5) The election officer shall provide for the appointment of any qualified county voter as a poll worker when:

(a) a political party fails to file the poll worker list by the filing deadline; or

(b) the list is incomplete.

(6) A registered voter of the county may serve as a poll worker at any polling place in the county, municipality, or district, as applicable.

(7) An election officer may not appoint a candidate's parent, sibling, spouse, child, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law to serve as a poll worker in a polling place where the candidate appears on the ballot.

(8) The election officer shall fill all poll worker vacancies.

(9) If a conflict arises over the right to certify the poll worker lists for any political party, the election officer may decide between conflicting lists, but may only select names from a properly submitted list.

(10) The clerk shall establish compensation for poll workers.

(11) The election officer may appoint additional poll workers to serve in the polling place as needed.

Section 241. Section 20A-5-602 is amended to read:

20A-5-602. Appointment of poll workers in elections where candidates are not distinguished by registered political parties.

(1) (a) This section governs appointment of poll workers in elections where candidates are not distinguished by registered political parties.

(b) An election officer shall appoint the poll worker at least 15 days before the date of the local election.

(2) (a) The election officer shall appoint, or provide for the appointment of, at least three poll workers as follows:

(i) three registered voters; or

(ii) two registered voters, one of whom is at least 21 years old, and one individual who is 16 or 17 years old.

(b) The election officer may appoint additional poll workers to serve in the polling place as needed.

(3) The election officer may not appoint any candidate's parent, sibling, spouse, child, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law to serve as a poll worker at a polling place where the candidate appears on the ballot.

(4) (a) The clerk shall compensate poll workers for their services.

(b) The clerk of a municipality or [~~local~~] special district may not compensate poll workers at a rate higher than that paid by the county to the county's poll workers.

Section 242. Section 20A-9-101 is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

(i) justice or judge of court of record or not of record;

(ii) presidential elector;

(iii) any political party offices; and

(iv) municipal or [~~local~~] special district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the officeholder is selected by voters entirely within one county.

(b) "County office" does not mean:

(i) the office of justice or judge of any court of record or not of record;

(ii) the office of presidential elector;

(iii) any political party offices;

(iv) any municipal or [~~local~~] special district offices; and

(v) the office of United States Senator and United States Representative.

(5) "Electronic candidate qualification process" means:

(a) as it relates to a registered political party that is not a qualified political party, the process for gathering signatures electronically to seek the nomination of a registered political party, described in:

(i) Section 20A-9-403;

(ii) Section 20A-9-405, except Subsections 20A-9-405(3) and (5); and

(iii) Section 20A-21-201; and

(b) as it relates to a qualified political party, the process, for gathering signatures electronically to seek the nomination of a registered political party, described in:

(i) Section 20A-9-405, except Subsections 20A-9-405(3) and (5);

(ii) Section 20A-9-408; and

(iii) Section 20A-21-201.

(6) "Federal office" means an elective office for United States Senator and United States Representative.

(7) "Filing officer" means:

(a) the lieutenant governor, for:

(i) the office of United States Senator and United States Representative; and

(ii) all constitutional offices;

(b) for the office of a state senator or state representative, the lieutenant governor or the applicable clerk described in Subsection (7)(c) or (d);

(c) the county clerk, for county offices and local school district offices;

(d) the county clerk in the filer's county of residence, for multicounty offices;

(e) the city or town clerk, for municipal offices; or

(f) the [~~local~~] special district clerk, for [~~local~~] special district offices.

[~~(8) "Local district office" means an elected office in a local district.~~]

[~~(9)~~] (8) "Local government office" includes county offices, municipal offices, and [~~local~~] special district offices and other elective offices selected by the voters from a political division entirely within one county.

[~~(10)~~] (9) "Manual candidate qualification process" means the process for gathering signatures to seek the nomination of a registered political party, using paper signature packets that a signer physically signs.

[~~(11)~~] (10) (a) "Multicounty office" means an elective office where the officeholder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

(i) a county office;

(ii) a federal office;

(iii) the office of justice or judge of any court of record or not of record;

(iv) the office of presidential elector;

(v) any political party offices; or

(vi) any municipal or [~~local~~] special district offices.

[~~(12)~~] (11) "Municipal office" means an elective office in a municipality.

[~~(13)~~] (12) (a) "Political division" means a geographic unit from which an officeholder is elected and that an officeholder represents.

(b) "Political division" includes a county, a city, a town, a [~~local~~] special district, a school district, a legislative district, and a county prosecution district.

[~~(14)~~] (13) "Qualified political party" means a registered political party that:

(a) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

(b) does not hold the registered political party's convention before the fourth Saturday in March of an even-numbered year;

(c) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

(d) (i) if the registered political party is a continuing political party, no later than 5 p.m. on the first Monday of October of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to

nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.

[~~(15)~~] (14) "Signature," as it relates to a petition for a candidate to seek the nomination of a registered political party, means:

(a) when using the manual candidate qualification process, a holographic signature collected physically on a nomination petition described in Subsection 20A-9-405(3); or

(b) when using the electronic candidate qualification process:

(i) an electronic signature collected under Subsection 20A-21-201(6)(c)(ii)(A); or

(ii) a holographic signature collected electronically under Subsection 20A-21-201(6)(c)(ii)(B).

(15) "Special district office" means an elected office in a special district.

Section 243. Section 20A-9-503 is amended to read:

20A-9-503. Certificate of nomination -- Filing -- Fees.

(1) Except as provided in Subsection (1)(b), after the certificate of nomination has been certified, executed, and acknowledged by the county clerk, the candidate shall:

(a) (i) file the petition in person with the lieutenant governor, if the office the candidate seeks is a constitutional office or a federal office, or the county clerk, if the office the candidate seeks is a county office, during the declaration of candidacy filing period described in Section 20A-9-201.5; and

(ii) pay the filing fee; or

(b) not later than the close of normal office hours on June 15 of any odd-numbered year:

(i) file the petition in person with the municipal clerk, if the candidate seeks an office in a city or town, or the [~~local~~] special district clerk, if the candidate seeks an office in a [~~local~~] special district; and

(ii) pay the filing fee.

(2) (a) The provisions of this Subsection (2) do not apply to an individual who files a declaration of candidacy for president of the United States.

(b) Subject to Subsections (4)(c) and 20A-9-502(2), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the filing officer; and

(iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

(3) (a) At the time of filing, and before accepting the petition, the filing officer shall read the constitutional and statutory requirements for candidacy to the candidate.

(b) If the candidate states that the candidate does not meet the requirements, the filing officer may not accept the petition.

(4) (a) An individual filing a certificate of nomination for president or vice president of the United States under this section shall pay a filing fee of $500.

(b) Notwithstanding Subsection (1), an individual filing a certificate of nomination for president or vice president of the United States:

(i) may file the certificate of nomination during the declaration of candidacy filing period described in Section 20A-9-201.5; and

(ii) may use a designated agent to file the certificate of nomination.

(c) An agent designated under Subsection (2) or described in Subsection (4)(b)(ii) may not sign the certificate of nomination form.

Section 244. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) (a) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(b) "Address" does not include a post office box.

(2) "Agent of a reporting entity" means:

(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive

contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business;

(iii) goods or services provided for the benefit of a political entity at less than fair market value that are not authorized by or coordinated with the political entity; or

(iv) data or information described in Subsection (24)(b).

(7) "Coordinated with" means that goods or services provided for the benefit of a political entity are provided:

(a) with the political entity's prior knowledge, if the political entity does not object;

(b) by agreement with the political entity;

(c) in coordination with the political entity; or

(d) using official logos, slogans, and similar elements belonging to a political entity.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the goods or services acquired by the expenditure; and

(iii) the date the expenditure was made.

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of $10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee;

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value; or

(vii) an independent expenditure, as defined in Section 20A-11-1702.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city, town, or metro township.

(21) "Incorporation election" means the election conducted under Section 10-2a-210 or 10-2a-404.

(22) "Incorporation petition" means a petition described in Section 10-2a-208.

(23) "Individual" means a natural person.

(24) (a) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(b) "In-kind contribution" does not include survey results, voter lists, voter contact information, demographic data, voting trend data, or other information that:

(i) is not commissioned for the benefit of a particular candidate or officeholder; and

(ii) is offered at no cost to a candidate or officeholder.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Loan" means any of the following provided by a person that benefits a filing entity if the person expects repayment or reimbursement:

(a) an expenditure made using any form of payment;

(b) money or funds received by the filing entity;

(c) the provision of a good or service with an agreement or understanding that payment or reimbursement will be delayed; or

(d) use of any line of credit.

(29) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(30) "Officeholder" means a person who holds a public office.

(31) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(32) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(33) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(34) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(35) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(36) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (36)(a), where the person:

(i) has already been paid, with money or other consideration;

(ii) expects to be paid in the future, with money or other consideration; or

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(37) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(38) "Political entity" means a candidate, a political party, a political action committee, or a political issues committee.

(39) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging or supporting a single ballot proposition, ordinance, or other governmental

action by a county, city, town, ~~[local]~~ special district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection (39)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging or supporting the ballot proposition, ordinance, or other governmental action from a person other than an individual in the group; and

(E) do not expend a total of more than $5,000 for the purpose described in Subsection (39)(b)(vi)(A).

(40) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(41) (a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(42) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election; or

(b) judge standing for retention at any election.

(43) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(44) "Primary election" means any regular primary election held under the election laws.

(45) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(46) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the

leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(47) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(48) "Receipts" means contributions and public service assistance.

(49) "Registered lobbyist" means a person licensed under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(50) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(51) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(52) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(53) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(54) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(55) "School board office" means the office of state school board.

(56) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(57) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(58) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(59) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(60) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 245. Section 20A-11-1202 is amended to read:

20A-11-1202. Definitions.

As used in this part:

(1) "Applicable election officer" means:

(a) a county clerk, if the email relates only to a local election; or

(b) the lieutenant governor, if the email relates to an election other than a local election.

(2) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection.

(3) "Campaign contribution" means any of the following when done for a political purpose or to advocate for or against a ballot proposition:

(a) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to a filing entity;

(b) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to a filing entity;

(c) any transfer of funds from another reporting entity to a filing entity;

(d) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(e) remuneration from:

(i) any organization or the organization's directly affiliated organization that has a registered lobbyist; or

(ii) any agency or subdivision of the state, including a school district; or

(f) an in-kind contribution.

(4) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation agency that receives its revenues from conduct of its commercial operations.

(b) "Commercial interlocal cooperation agency" does not mean an interlocal cooperation agency that receives some or all of its revenues from:

(i) government appropriations;

(ii) taxes;

(iii) government fees imposed for regulatory or revenue raising purposes; or

(iv) interest earned on public funds or other returns on investment of public funds.

(5) "Expenditure" means:

(a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(c) a transfer of funds between a public entity and a candidate's personal campaign committee;

(d) a transfer of funds between a public entity and a political issues committee; or

(e) goods or services provided to or for the benefit of a candidate, a candidate's personal campaign committee, or a political issues committee for political purposes at less than fair market value.

(6) "Filing entity" means the same as that term is defined in Section 20A-11-101.

(7) "Governmental interlocal cooperation agency" means an interlocal cooperation agency that receives some or all of its revenues from:

(a) government appropriations;

(b) taxes;

(c) government fees imposed for regulatory or revenue raising purposes; or

(d) interest earned on public funds or other returns on investment of public funds.

(8) "Influence" means to campaign or advocate for or against a ballot proposition.

(9) "Interlocal cooperation agency" means an entity created by interlocal agreement under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(10) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.~~]

[~~(11)~~] (10) "Political purposes" means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate for public office at any caucus, political convention, primary, or election; or

(b) judge standing for retention at any election.

[~~(12)~~] (11) "Proposed initiative" means an initiative proposed in an application filed under Section 20A-7-202 or 20A-7-502.

[~~(13)~~] (12) "Proposed referendum" means a referendum proposed in an application filed under Section 20A-7-302 or 20A-7-602.

[~~(14)~~] (13) (a) "Public entity" includes the state, each state agency, each county, municipality, school district, [~~local~~] special district, governmental interlocal cooperation agency, and each administrative subunit of each of them.

(b) "Public entity" does not include a commercial interlocal cooperation agency.

(c) "Public entity" includes local health departments created under Title 26, Chapter 1, Department of Health Organization.

[~~(15)~~] (14) (a) "Public funds" means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.

(b) "Public funds" does not include money donated to a public entity by a person or entity.

[~~(16)~~] (15) (a) "Public official" means an elected or appointed member of government with authority to make or determine public policy.

(b) "Public official" includes the person or group that:

(i) has supervisory authority over the personnel and affairs of a public entity; and

(ii) approves the expenditure of funds for the public entity.

[~~(17)~~] (16) "Reporting entity" means the same as that term is defined in Section 20A-11-101.

(17) (a) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(b) "Special district" includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(18) (a) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "State agency" includes the legislative branch, the Utah Board of Higher Education, each institution of higher education board of trustees, and each higher education institution.

Section 246. Section 20A-17-103 is amended to read:

20A-17-103. Posting political signs on public property.

(1) As used in this section:

(a) "Local government entity" means:

(i) a county, municipality, or other political subdivision;

(ii) a [~~local~~] special district, as defined in Section 17B-1-102;

(iii) a special service district, as defined in Section 17D-1-102;

(iv) a local building authority, as defined in Section 17D-2-102;

(v) a conservation district, as defined in Section 17D-3-102;

(vi) an independent entity, as defined in Section 63E-1-102;

(vii) a public corporation, as defined in Section 63E-1-102;

(viii) a public transit district, organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(ix) a school district;

(x) a public school, including a charter school or other publicly funded school;

(xi) a state institution of higher education;

(xii) an entity that expends public funds; and

(xiii) each office, agency, or other division of an entity described in Subsections (1)(a)(i) through (xii).

(b) "Political sign" means any sign or document that advocates:

(i) the election or defeat of a candidate for public office; or

(ii) the approval or defeat of a ballot proposition.

(c) (i) "Public property" means any real property, building, or structure owned or leased by a local government entity.

(ii) "Public property" does not include any real property, building, or structure during a period of time that the real property, building, or structure is rented out by a government entity to a private party for a meeting, convention, or similar event.

(2) A local government entity, a local government officer, a local government employee, or another person with authority or control over public property that posts or permits a person to post a political sign on public property:

(a) shall permit any other person to post a political sign on the public property, subject to the same requirements and restrictions imposed on all other political signs permitted to be posted on the public property; and

(b) may not impose a requirement or restriction on the posting of a political sign if the requirement or restriction is not politically neutral and content neutral.

Section 247. Repealer.

This bill repeals:

Section 17B-1-101, Title.

Section 17B-2a-101, Title.

Section 248. Effective date -- Retrospective operation.

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

(2) Section 17B-1-218, enacted by this bill, has retrospective operation to January 1, 2023.

Section 249. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 77, Local District Revisions, does not pass.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on May 3, 2023, replace "local district" with "special district" in any new language added to the Utah Code by legislation passed during the 2023 General Session.

CHAPTER 16
H. B. 77
Passed February 14, 2023
Approved February 27, 2023
Effective February 27, 2023

LOCAL DISTRICT REVISIONS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill is one of two bills that, together change the name of "local district" to "special district" throughout the Utah Code.

Highlighted Provisions:

This bill:

- replaces the term "local district" with the term "special district" throughout the Utah Code; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

8-5-5, as last amended by Laws of Utah 2007, Chapter 329
10-2-401, as last amended by Laws of Utah 2021, Chapter 112
10-2-403, as last amended by Laws of Utah 2021, Chapter 112
10-2-406, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-412, as last amended by Laws of Utah 2007, Chapter 329
10-2-413, as last amended by Laws of Utah 2019, Chapter 255
10-2-414, as last amended by Laws of Utah 2021, Chapter 112
10-2-418, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-419, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-425, as last amended by Laws of Utah 2019, Chapter 159
10-2-428, as last amended by Laws of Utah 2008, Chapter 360
10-2a-205, as last amended by Laws of Utah 2019, Chapter 165
10-2a-210, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-404, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-3c-102, as enacted by Laws of Utah 2015, Chapter 352
10-9a-103, as last amended by Laws of Utah 2022, Chapters 355, 406
10-9a-305, as last amended by Laws of Utah 2021, Chapter 35
10-9a-529, as last amended by Laws of Utah 2021, Chapter 385
11-2-1, as last amended by Laws of Utah 2007, Chapter 329
11-13-103, as last amended by Laws of Utah 2020, Chapter 381
11-13a-102, as enacted by Laws of Utah 2017, Chapter 441
11-14-102, as last amended by Laws of Utah 2016, Chapter 176
11-14a-1, as last amended by Laws of Utah 2021, Chapter 355
11-27-2, as last amended by Laws of Utah 2020, Chapter 365
11-30-2, as last amended by Laws of Utah 2010, Chapter 378
11-31-2, as last amended by Laws of Utah 2016, Chapter 350
11-32-2, as last amended by Laws of Utah 2016, Chapter 350
11-34-1, as last amended by Laws of Utah 2016, Chapter 350
11-36a-102, as last amended by Laws of Utah 2022, Chapter 237
11-36a-203, as enacted by Laws of Utah 2011, Chapter 47
11-36a-502, as enacted by Laws of Utah 2011, Chapter 47
11-36a-504, as last amended by Laws of Utah 2021, Chapters 84, 345
11-39-101, as last amended by Laws of Utah 2018, Chapter 103
11-39-107, as last amended by Laws of Utah 2014, Chapter 196
11-40-101, as last amended by Laws of Utah 2008, Chapter 360
11-41-102, as last amended by Laws of Utah 2022, Chapter 307
11-42-102, as last amended by Laws of Utah 2021, Chapters 314, 415
11-42a-102, as last amended by Laws of Utah 2021, Chapter 280
11-43-102, as last amended by Laws of Utah 2008, Chapter 360
11-47-102, as enacted by Laws of Utah 2011, Chapter 45
11-48-101.5, as enacted by Laws of Utah 2021, Chapter 265
11-48-103, as enacted by Laws of Utah 2021, Chapter 265
11-50-102, as last amended by Laws of Utah 2016, Chapter 350
11-52-102, as last amended by Laws of Utah 2016, Chapter 350
11-54-102, as last amended by Laws of Utah 2019, Chapter 136
11-55-102, as enacted by Laws of Utah 2017, Chapter 70
11-57-102, as enacted by Laws of Utah 2017, Chapter 354
11-58-102, as last amended by Laws of Utah 2022, Chapter 82
11-58-205, as last amended by Laws of Utah 2022, Chapter 82
11-59-102, as last amended by Laws of Utah 2022, Chapter 237
11-59-204, as last amended by Laws of Utah 2021, Chapter 415

11-60-102, as enacted by Laws of Utah 2018, Chapter 197
11-61-102, as enacted by Laws of Utah 2018, Chapter 188
11-65-101, as enacted by Laws of Utah 2022, Chapter 59
13-8-5, as last amended by Laws of Utah 2017, Chapter 373
14-1-18, as last amended by Laws of Utah 2016, Chapter 350
15-7-2, as last amended by Laws of Utah 2016, Chapter 350
19-3-301, as last amended by Laws of Utah 2021, Chapter 184
19-4-111, as last amended by Laws of Utah 2013, Chapter 321
19-6-508, as enacted by Laws of Utah 2016, Chapters 273, 346
26-8a-102, as last amended by Laws of Utah 2022, Chapters 255, 351 and 404
26-8a-405.2, as last amended by Laws of Utah 2011, Chapter 297
26-8a-603, as enacted by Laws of Utah 2022, Chapter 347
26-18-21, as last amended by Laws of Utah 2019, Chapter 393
31A-23a-501, as last amended by Laws of Utah 2021, Chapter 252
34-30-14, as last amended by Laws of Utah 2007, Chapter 329
34-32-1.1, as last amended by Laws of Utah 2012, Chapter 369
34-41-101, as last amended by Laws of Utah 2021, Chapter 345
34-52-102, as last amended by Laws of Utah 2019, Chapter 371
35A-1-102, as last amended by Laws of Utah 2018, Chapters 415, 427
36-11-102, as last amended by Laws of Utah 2022, Chapter 125
36-11-201, as last amended by Laws of Utah 2022, Chapter 125
36-11-304, as last amended by Laws of Utah 2022, Chapter 125
36-12-13, as last amended by Laws of Utah 2021, Chapters 254, 421
38-1b-102, as last amended by Laws of Utah 2022, Chapter 415
38-9-102, as renumbered and amended by Laws of Utah 2014, Chapter 114
45-1-101, as last amended by Laws of Utah 2021, Chapters 84, 345
49-11-102, as last amended by Laws of Utah 2020, Chapter 365
49-11-205, as enacted by Laws of Utah 2019, Chapter 31
51-4-2, as last amended by Laws of Utah 2017, Chapter 64
51-7-3, as last amended by Laws of Utah 2017, Chapter 338
52-4-203, as last amended by Laws of Utah 2022, Chapter 402
52-8-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
53-2a-203, as last amended by Laws of Utah 2021, Chapter 437
53-2a-302, as last amended by Laws of Utah 2019, Chapter 349
53-2a-305, as renumbered and amended by Laws of Utah 2013, Chapter 295
53-2a-602, as last amended by Laws of Utah 2016, Chapters 83, 134
53-2a-605, as last amended by Laws of Utah 2015, Chapter 265
53-2a-1301, as enacted by Laws of Utah 2019, Chapter 306
53-3-207, as last amended by Laws of Utah 2022, Chapter 158
53-5-708, as last amended by Laws of Utah 2013, Chapters 298, 445
53-7-104, as last amended by Laws of Utah 2010, Chapter 310
53-21-101, as enacted by Laws of Utah 2022, Chapter 114
53B-16-104, as last amended by Laws of Utah 2007, Chapter 329
53B-28-402, as last amended by Laws of Utah 2021, Chapter 187
53G-3-204, as last amended by Laws of Utah 2021, Chapters 84, 162 and 345
53G-4-402, as last amended by Laws of Utah 2021, Chapters 84, 262, 324, and 345
54-3-28, as last amended by Laws of Utah 2021, Chapters 162, 345 and 382
54-14-103, as last amended by Laws of Utah 2009, Chapter 316
57-8-27, as last amended by Laws of Utah 2016, Chapter 255
59-2-102, as last amended by Laws of Utah 2022, Chapter 239
59-2-511, as last amended by Laws of Utah 2007, Chapter 329
59-2-919, as last amended by Laws of Utah 2021, Chapters 84, 345
59-2-924.2, as last amended by Laws of Utah 2022, Chapter 451
59-2-1101, as last amended by Laws of Utah 2022, Chapter 235
59-2-1317, as last amended by Laws of Utah 2022, Chapter 463
59-2-1710, as enacted by Laws of Utah 2012, Chapter 197
63A-5b-901, as last amended by Laws of Utah 2022, Chapter 421
63A-5b-1102, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-9-101, as last amended by Laws of Utah 2021, Chapter 344
63A-9-401, as last amended by Laws of Utah 2022, Chapter 169
63A-15-102, as renumbered and amended by Laws of Utah 2018, Chapter 461
63A-15-201, as last amended by Laws of Utah 2022, Chapter 125
63C-24-102, as enacted by Laws of Utah 2021, Chapter 155
63E-1-102, as last amended by Laws of Utah 2022, Chapters 44, 63
63G-2-103, as last amended by Laws of Utah 2021, Chapters 211, 283

63G-2-305, as last amended by Laws of Utah 2022, Chapters 11, 109, 198, 201, 303, 335, 388, 391, and 415
63G-6a-103, as last amended by Laws of Utah 2022, Chapters 421, 422
63G-6a-118, as enacted by Laws of Utah 2020, Chapter 257
63G-6a-202, as last amended by Laws of Utah 2021, Chapter 344
63G-6a-2402, as last amended by Laws of Utah 2017, Chapter 181
63G-7-102, as last amended by Laws of Utah 2022, Chapter 346
63G-7-401, as last amended by Laws of Utah 2021, Chapter 326
63G-9-201, as last amended by Laws of Utah 2016, Chapter 350
63G-12-102, as last amended by Laws of Utah 2022, Chapter 430
63G-22-102, as last amended by Laws of Utah 2021, Chapter 345
63G-26-102, as enacted by Laws of Utah 2020, Chapter 393
63H-1-102, as last amended by Laws of Utah 2022, Chapters 82, 274
63H-1-202, as last amended by Laws of Utah 2022, Chapters 274, 463
63I-5-102, as last amended by Laws of Utah 2020, Chapter 365
63J-1-220, as last amended by Laws of Utah 2021, Chapter 382
63J-4-102, as last amended by Laws of Utah 2021, Chapter 382
63J-4-801, as enacted by Laws of Utah 2021, First Special Session, Chapter 4
63L-4-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
63L-5-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
63L-11-102, as renumbered and amended by Laws of Utah 2021, Chapter 382
63M-5-103, as renumbered and amended by Laws of Utah 2008, Chapter 382
65A-8-203, as last amended by Laws of Utah 2021, Chapter 97
67-1a-6.5, as last amended by Laws of Utah 2021, Chapters 162, 345
67-1a-15, as last amended by Laws of Utah 2020, Chapter 30
67-1b-102, as enacted by Laws of Utah 2021, Chapter 394
67-3-1, as last amended by Laws of Utah 2022, Chapter 307
67-3-12, as last amended by Laws of Utah 2022, Chapters 169, 205 and 274
67-3-13, as enacted by Laws of Utah 2021, Chapter 155
67-11-2, as last amended by Laws of Utah 2007, Chapters 306, 329
67-21-2, as last amended by Laws of Utah 2022, Chapter 174
71-8-1, as last amended by Laws of Utah 2018, Chapter 39
71-10-1, as last amended by Laws of Utah 2016, Chapter 230
72-2-201, as last amended by Laws of Utah 2021, Chapters 121, 411
72-14-304, as enacted by Laws of Utah 2018, Chapter 40
73-2-1 (Superseded 05/03/23), as last amended by Laws of Utah 2022, Chapters 75, 225
73-2-1 (Effective 05/03/23), as last amended by Laws of Utah 2022, Chapters 75, 225 and 311
73-5-15, as last amended by Laws of Utah 2012, Chapter 97
73-10-21, as last amended by Laws of Utah 2008, Chapter 360
76-1-101.5, as renumbered and amended by Laws of Utah 2022, Chapter 181
77-23d-102, as enacted by Laws of Utah 2015, Chapter 447
77-38-601, as enacted by Laws of Utah 2022, Chapter 215
78B-2-216, as last amended by Laws of Utah 2014, Chapter 377
78B-4-509, as last amended by Laws of Utah 2020, Chapter 125
78B-6-2301, as enacted by Laws of Utah 2022, Chapter 428

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

Section 1. Section 8-5-5 is amended to read:

8-5-5. Proceeds of resale of lots.

The proceeds from the subsequent resale of any lot or parcel, title to which has been revested in the municipality or cemetery maintenance district under Section 8-5-2 or 8-5-6, less the costs and expenses incurred in the proceeding, shall become part of the permanent care and improvement fund of the municipality or cemetery maintenance district, subject to subsequent disposition under Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, or [~~Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts~~] Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts.

Section 2. Section 10-2-401 is amended to read:

10-2-401. Definitions -- Property owner provisions.

(1) As used in this part:

(a) "Affected entity" means:

(i) a county of the first or second class in whose unincorporated area the area proposed for annexation is located;

(ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the area proposed for annexation is located, if the area includes residents or commercial or industrial development;

(iii) a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, whose boundary includes any part of an area proposed for annexation;

(iv) a school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation; and

(v) a municipality whose boundaries are within 1/2 mile of an area proposed for annexation.

(b) "Annexation petition" means a petition under Section 10-2-403 proposing the annexation to a municipality of a contiguous, unincorporated area that is contiguous to the municipality.

(c) "Commission" means a boundary commission established under Section 10-2-409 for the county in which the property that is proposed for annexation is located.

(d) "Expansion area" means the unincorporated area that is identified in an annexation policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in the future.

(e) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.

(f) "Mining protection area" means the same as that term is defined in Section 17-41-101.

(g) "Municipal selection committee" means a committee in each county composed of the mayor of each municipality within that county.

(h) "Planning advisory area" means the same as that term is defined in Section 17-27a-306.

(i) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, a municipality, a school district, a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision or governmental entity of the state.

(j) "Rural real property" means the same as that term is defined in Section 17B-2a-1107.

(k) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

(l) "Unincorporated peninsula" means an unincorporated area:

(i) that is part of a larger unincorporated area;

(ii) that extends from the rest of the unincorporated area of which it is a part;

(iii) that is surrounded by land that is within a municipality, except where the area connects to and extends from the rest of the unincorporated area of which it is a part; and

(iv) whose width, at any point where a straight line may be drawn from a place where it borders a municipality to another place where it borders a municipality, is no more than 25% of the boundary of the area where it borders a municipality.

(m) "Urban development" means:

(i) a housing development with more than 15 residential units and an average density greater than one residential unit per acre; or

(ii) a commercial or industrial development for which cost projections exceed $750,000 for all phases.

(2) For purposes of this part:

(a) the owner of real property shall be:

(i) except as provided in Subsection (2)(a)(ii), the record title owner according to the records of the county recorder on the date of the filing of the petition or protest; or

(ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and

(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest:

(a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and

(ii) the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.

Section 3. Section 10-2-403 is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a

municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1), the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

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

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section 17-23-20, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

• There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

• If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes a cross-county annexation, as defined in Section 10-2-402.5, be accompanied by a copy of the resolution described in Subsection 10-2-402.5(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing [~~local~~] special districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(7) A property owner who signs an annexation petition may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 4. Section 10-2-406 is amended to read:

10-2-406. Notice of certification -- Providing notice of petition.

(1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall provide notice:

(a) within the area proposed for annexation and the unincorporated area within 1/2 mile of the area proposed for annexation, no later than 10 days after the day on which the municipal legislative body receives the notice of certification:

(i) by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) by mailing the notice to each residence within, and to each owner of real property located within, the combined area;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;

(c) within 20 days after the day on which the municipal legislative body receives the notice of certification, by mailing written notice to each affected entity; and

(d) if the municipality has a website, by posting notice on the municipality's website for the period of time described in Subsection (1)(b).

(2) The notice described in Subsection (1) shall:

(a) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;

(b) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);

(c) describe the area proposed for annexation in the annexation petition;

(d) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;

(e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;

(f) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;

(g) state that the area proposed for annexation to the municipality will also automatically be annexed to a [~~local~~] special district providing fire protection, paramedic, and emergency services or a [~~local~~] special district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the proposed annexing municipality is entirely within the boundaries of a [~~local~~] special district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the area proposed to be annexed to the municipality is not already within the boundaries of the [~~local~~] special district; and

(h) state that the area proposed for annexation to the municipality will be automatically withdrawn from a [~~local~~] special district providing fire protection, paramedic, and emergency services or a [~~local~~] special district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:

(i) the petition proposes the annexation of an area that is within the boundaries of a [~~local~~] special district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the proposed annexing municipality is not within the boundaries of the [~~local~~] special district.

(3) (a) The statement required by Subsection (2)(e) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.

(b) In addition to the requirements under Subsection (2), a notice under Subsection (1) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Section 5. Section 10-2-412 is amended to read:

10-2-412. Boundary commission authority -- Expenses -- Records.

(1) The boundary commission for each county shall hear and decide, according to the provisions of this part, each protest filed under Section 10-2-407, with respect to an area that is located within that county.

(2) A boundary commission may:

(a) adopt and enforce rules of procedure for the orderly and fair conduct of its proceedings;

(b) authorize a member of the commission to administer oaths if necessary in the performance of the commission's duties;

(c) employ staff personnel and professional or consulting services reasonably necessary to enable the commission to carry out its duties; and

(d) incur reasonable and necessary expenses to enable the commission to carry out its duties.

(3) The legislative body of each county shall, with respect to the boundary commission in that county:

(a) furnish the commission necessary quarters, equipment, and supplies;

(b) pay necessary operating expenses incurred by the commission; and

(c) reimburse the reasonable and necessary expenses incurred by each member appointed under Subsection 10-2-409(2)(a)(iii) or (b)(iii), unless otherwise provided by interlocal agreement.

(4) Each county or municipal legislative body shall reimburse the reasonable and necessary expenses incurred by a commission member who is an elected county or municipal officer, respectively.

(5) Records, information, and other relevant materials necessary to enable the commission to carry out its duties shall, upon request by the commission, be furnished to the boundary commission by the personnel, employees, and officers of:

(a) for a proposed annexation of an area located in a county of the first class:

(i) each county, [~~local~~] special district, and special service district whose boundaries include an area that is the subject of a protest under the commission's consideration; and

(ii) each municipality whose boundaries may be affected by action of the boundary commission; or

(b) for a proposed annexation of an area located in a specified county, each affected entity:

(i) whose boundaries include any part of the area proposed for annexation; or

(ii) that may be affected by action of the boundary commission.

Section 6. Section 10-2-413 is amended to read:

10-2-413. Feasibility consultant -- Feasibility study -- Modifications to feasibility study.

(1) (a) For a proposed annexation of an area located in a county of the first class, unless a proposed annexing municipality denies an annexation petition under Subsection 10-2-407(5)(a)(i) and except as provided in Subsection (1)(b), the commission shall choose and engage a feasibility consultant within 45 days of:

(i) the commission's receipt of a protest under Section 10-2-407, if the commission had been created before the filing of the protest; or

(ii) the commission's creation, if the commission is created after the filing of a protest.

(b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study with respect to a petition that proposes the annexation of an area that:

(i) is undeveloped; and

(ii) covers an area that is equivalent to less than 5% of the total land mass of all private real property within the municipality.

(2) The commission shall require the feasibility consultant to:

(a) complete a feasibility study on the proposed annexation and submit written results of the study to the commission no later than 75 days after the feasibility consultant is engaged to conduct the study;

(b) submit with the full written results of the feasibility study a summary of the results no longer than a page in length; and

(c) attend the public hearing under Subsection 10-2-415(1) and present the feasibility study results and respond to questions at that hearing.

(3) (a) Subject to Subsection (4), the feasibility study shall consider:

(i) the population and population density within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(ii) the geography, geology, and topography of and natural boundaries within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(iii) whether the proposed annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;

(iv) whether the proposed annexation will hinder or prevent a future and more logical and beneficial annexation or a future logical and beneficial incorporation;

(v) the fiscal impact of the proposed annexation on the remaining unincorporated area, other municipalities, [~~local~~] special districts, special service districts, school districts, and other governmental entities;

(vi) current and five-year projections of demographics and economic base in the area proposed for annexation and surrounding unincorporated area, including household size and income, commercial and industrial development, and public facilities;

(vii) projected growth in the area proposed for annexation and the surrounding unincorporated area during the next five years;

(viii) the present and five-year projections of the cost of governmental services in the area proposed for annexation;

(ix) the present and five-year projected revenue to the proposed annexing municipality from the area proposed for annexation;

(x) the projected impact the annexation will have over the following five years on the amount of taxes that property owners within the area proposed for annexation, the proposed annexing municipality, and the remaining unincorporated county will pay;

(xi) past expansion in terms of population and construction in the area proposed for annexation and the surrounding unincorporated area;

(xii) the extension during the past 10 years of the boundaries of each other municipality near the area proposed for annexation, the willingness of the other municipality to annex the area proposed for annexation, and the probability that another municipality would annex some or all of the area proposed for annexation during the next five years if the annexation did not occur;

(xiii) the history, culture, and social aspects of the area proposed for annexation and surrounding area;

(xiv) the method of providing and the entity that has provided municipal-type services in the past to the area proposed for incorporation and the

feasibility of municipal-type services being provided by the proposed annexing municipality; and

(xv) the effect on each school district whose boundaries include part or all of the area proposed for annexation or the proposed annexing municipality.

(b) For purposes of Subsection (3)(a)(ix), the feasibility consultant shall assume ad valorem property tax rates on residential property within the area proposed for annexation at the same level that residential property within the proposed annexing municipality would be without the annexation.

(c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the level and quality of governmental services that will be provided to the area proposed for annexation in the future is essentially comparable to the level and quality of governmental services being provided within the proposed annexing municipality at the time of the feasibility study.

(4) (a) Except as provided in Subsection (4)(b), the commission may modify the depth of study of and detail given to the items listed in Subsection (3)(a) by the feasibility consultant in conducting the feasibility study depending upon:

(i) the size of the area proposed for annexation;

(ii) the size of the proposed annexing municipality;

(iii) the extent to which the area proposed for annexation is developed;

(iv) the degree to which the area proposed for annexation is expected to develop and the type of development expected; and

(v) the number and type of protests filed against the proposed annexation.

(b) Notwithstanding Subsection (4)(a), the commission may not modify the requirement that the feasibility consultant provide a full and complete analysis of the items listed in Subsections (3)(a)(viii), (ix), and (xv).

(5) If the results of the feasibility study do not meet the requirements of Subsection 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations as to how the boundaries of the area proposed for annexation may be altered so that the requirements of Subsection 10-2-416(3) may be met.

(6) (a) Except as provided in Subsection (6)(b), the feasibility consultant fees and expenses shall be shared equally by the proposed annexing municipality and each entity or group under Subsection 10-2-407(1) that files a protest.

(b) (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners under Subsection 10-2-407(1)(c), the county in which the area proposed for annexation shall pay the owners' share of the feasibility consultant's fees and expenses.

(ii) Notwithstanding Subsection (6)(b)(i), if both the county and the property owners file a protest, the county and the proposed annexing municipality shall equally share the property owners' share of the feasibility consultant's fees and expenses.

Section 7. Section 10-2-414 is amended to read:

10-2-414. Modified annexation petition -- Supplemental feasibility study.

(1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of an area located in a county of the first class do not meet the requirements of Subsection 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility consultant's submission of the results of the study, file with the city recorder or town clerk of the proposed annexing municipality a modified annexation petition altering the boundaries of the proposed annexation.

(ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the sponsors of the annexation petition shall deliver or mail a copy of the modified annexation petition to the clerk of the county in which the area proposed for annexation is located.

(b) Each modified annexation petition under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-403(3) and (4).

(2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified annexation petition, the city recorder or town clerk, as the case may be, shall follow the same procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and (3)(a) for an original annexation petition.

(b) If the city recorder or town clerk certifies the modified annexation petition under Subsection 10-2-405(2)(c)(i), the city recorder or town clerk, as the case may be, shall send written notice of the certification to:

(i) the commission;

(ii) each entity that filed a protest to the annexation petition; and

(iii) if a protest was filed under Subsection 10-2-407(1)(c), the contact person.

(c) (i) If the modified annexation petition proposes the annexation of an area that includes part or all of a [~~local~~] special district, special service district, or school district that was not included in the area proposed for annexation in the original petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the board of the [~~local~~] special district, special service district, or school district.

(ii) If the area proposed for annexation in the modified annexation petition is within 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the area proposed for annexation in the original annexation petition, the city recorder or town clerk, as the case may be, shall

also send notice of the certification of the modified annexation petition to the legislative body of that municipality.

(3) Within 10 days of the commission's receipt of the notice under Subsection (2)(b), the commission shall engage the feasibility consultant that conducted the feasibility study to supplement the feasibility study to take into account the information in the modified annexation petition that was not included in the original annexation petition.

(4) The commission shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the commission no later than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility study.

Section 8. Section 10-2-418 is amended to read:

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

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

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

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

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

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

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

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

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

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

(iii) the area consists of:

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

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

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

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

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

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

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

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

(4) (a) This Subsection (4) applies only to an annexation within a county of the first class.

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

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

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

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

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

"Notice: If this written consent is used to proceed with an annexation of your property in accordance

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

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

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

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

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

(6) A legislative body described in Subsection (5) shall provide notice of a public hearing described in Subsection (5)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the municipality and the area proposed for annexation, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

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

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;

(c) by sending written notice to:

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

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

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

(7) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection (6):

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

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

(iii) describes the area proposed for annexation; and

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

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

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

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

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

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

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

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

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

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

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

(c) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in

Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

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

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

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

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

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

(A) existing development in the area;

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

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

(iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

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

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

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

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

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

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

Section 9. Section 10-2-419 is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall provide notice of a public hearing described in Subsection (2)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;

(c) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection (3)(d); and

(ii) the Utah State Developmental Center Board, created under Section 62A-5-202.5, if any state-owned real property described in this Subsection (3)(d) is associated with the Utah State Developmental Center; and

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

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

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

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection (3)(d);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a [~~local~~] special district providing fire protection, paramedic, and emergency services or a [~~local~~] special district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a [~~local~~] special district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the [~~local~~] special district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a [~~local~~] special district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a [~~local~~] special district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the [~~local~~] special district.

(5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(c)(i) or (ii).

(6) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

(7) (a) An ordinance adopted under Subsection (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 10. Section 10-2-425 is amended to read:

10-2-425. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

(1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404, shall:,

(a) within 60 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

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

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment, the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

(ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;

(B) submit to the recorder of each other county a certified copy of the documents listed in Subsection (1)(b)(ii)(A); and

(C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections (1)(b)(ii)(A) and (B); and

(c) concurrently with Subsection (1)(b):

(i) send notice of the annexation or boundary adjustment to each affected entity; and

(ii) in accordance with Section 26-8a-414, file with the Department of Health:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and

(B) a copy of the approved final local entity plat.

(2) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a [~~local~~] special district under Section 17B-1-416 or an automatic withdrawal from a [~~local~~] special district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the [~~local~~] special district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

(3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).

(4) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection (1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection (1) are met before that January 1; and

(b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

(5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:

(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and

(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).

(6) (a) As used in this Subsection (6):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 11. Section 10-2-428 is amended to read:

10-2-428. Neither annexation nor boundary adjustment has an effect on the boundaries of most special districts or special service districts.

Except as provided in Section 17B-1-416 and Subsection 17B-1-502(2), the annexation of an unincorporated area by a municipality or the adjustment of a boundary shared by municipalities does not affect the boundaries of a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts,~~] Title 17B,

Limited Purpose Local Government Entities - Special Districts,or a special service district under Title 17D, Chapter 1, Special Service District Act.

Section 12. Section 10-2a-205 is amended to read:

10-2a-205. Feasibility study -- Feasibility study consultant -- Qualifications for proceeding with incorporation.

(1) Within 90 days after the day on which the lieutenant governor receives a request that the lieutenant governor certifies under Subsection 10-2a-204(1)(b)(i), the lieutenant governor shall engage a feasibility consultant selected, in accordance with Subsection (2), to conduct a feasibility study.

(2) (a) The lieutenant governor shall select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(b) The lieutenant governor shall ensure that a feasibility consultant selected under Subsection (2)(a):

(i) has expertise in the processes and economics of local government; and

(ii) is not affiliated with:

(A) a sponsor of the feasibility study request to which the feasibility study relates; or

(B) the county in which the proposed municipality is located.

(3) The lieutenant governor shall require the feasibility consultant to:

(a) submit a draft of the feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection (4)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;

(b) allow each person to whom the consultant provides a draft under Subsection (3)(a) to review and provide comment on the draft;

(c) submit a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study:

(i) the lieutenant governor;

(ii) the county legislative body of the county in which the incorporation is proposed;

(iii) the contact sponsor; and

(iv) each person to whom the consultant provided a draft under Subsection (3)(a); and

(d) attend the public hearings described in Section 10-2a-207 to present the feasibility study results and respond to questions from the public.

(4) (a) The feasibility consultant shall ensure that the feasibility study includes:

(i) an analysis of the population and population density within the area proposed for incorporation and the surrounding area;

(ii) the current and projected five-year demographics and tax base within the boundaries of the proposed municipality and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) subject to Subsection (4)(b), the current and five-year projected cost of providing municipal services to the proposed municipality, including administrative costs;

(iv) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed municipality;

(v) an analysis of the risks and opportunities that might affect the actual costs described in Subsection (4)(a)(iii) or revenues described in Subsection (4)(a)(iv) of the newly incorporated municipality;

(vi) an analysis of new revenue sources that may be available to the newly incorporated municipality that are not available before the area incorporates, including an analysis of the amount of revenues the municipality might obtain from those revenue sources;

(vii) the projected tax burden per household of any new taxes that may be levied within the proposed municipality within five years after incorporation;

(viii) the fiscal impact of the municipality's incorporation on unincorporated areas, other municipalities, [~~local~~] special districts, special service districts, and other governmental entities in the county; and

(ix) if the lieutenant governor excludes property from the proposed municipality under Section 10-2a-203, an update to the map and legal description described in Subsection 10-2a-202(1)(e).

(b) (i) For purposes of Subsection (4)(a)(iii), the feasibility consultant shall assume the proposed municipality will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the area of the proposed municipality at the time the feasibility consultant conducts the feasibility study.

(ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:

(A) the amount it would cost the proposed municipality to provide the municipal service for the first five years after the municipality's incorporation; and

(B) the current municipal service provider's present and five-year projected cost of providing the municipal service.

(iii) In calculating costs under Subsection (4)(a)(iii), the feasibility consultant shall account for inflation and anticipated growth.

(c) In conducting the feasibility study, the feasibility consultant shall consult with the following before submitting a draft of the feasibility study under Subsection (3)(a):

(i) if the proposed municipality will include lands owned by the United States federal government, the entity within the United States federal government that has jurisdiction over the land;

(ii) if the proposed municipality will include lands owned by the state, the entity within state government that has jurisdiction over the land;

(iii) each entity that provides a municipal service to a portion of the proposed municipality; and

(iv) any other special service district that provides services to a portion of the proposed municipality.

(5) If the five-year projected revenues calculated under Subsection (4)(a)(iv) exceed the five-year projected costs calculated under Subsection (4)(a)(iii) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(6) (a) Except as provided in Subsection (6)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-206, show that the average annual amount of revenue calculated under Subsection (4)(a)(iv) does not exceed the average annual cost calculated under Subsection (4)(a)(iii) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.

(b) The process to incorporate an area described in Subsection (6)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed incorporation demonstrates compliance with Subsection (6)(a).

(7) If the results of the feasibility study or revised feasibility study do not comply with Subsection (6), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study, make recommendations regarding how the boundaries of the proposed municipality may be altered to comply with Subsection (6).

(8) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.

Section 13. Section 10-2a-210 is amended to read:

10-2a-210. Incorporation election -- Notice of election -- Voter information pamphlet.

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall provide notice of the election:

(a) (i) by publishing notice in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks before the election;

(ii) at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated, subject to a maximum of 10 notices; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the election;

(c) if the proposed municipality has a website, by posting notice on the proposed municipality's website for three weeks before the day of the election; and

(d) by posting notice on the county's website for three weeks before the day of the election.

(3) (a) The notice required by Subsection (2) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(b), the feasibility study summary described in Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) Instead of including the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in the area proposed to be incorporated may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

(4) (a) In addition to the notice required under Subsection (2), the county clerk shall publish and distribute, before the incorporation election is held, a voter information pamphlet:

(i) in accordance with the procedures and requirements of Section 20A-7-402;

(ii) in consultation with the lieutenant governor; and

(iii) in a manner that the county clerk determines is adequate, subject to Subsections (4)(a)(i) and (ii).

(b) The voter information pamphlet described in Subsection (4)(a):

(i) shall inform the public of the proposed incorporation; and

(ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.

(5) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who [~~resides~~] is a resident, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(6) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 14. Section 10-2a-404 is amended to read:

10-2a-404. Election.

(1) (a) Notwithstanding Section 20A-1-203, a county of the first class shall hold a local special election on November 3, 2015, on the following ballot propositions:

(i) for registered voters residing within a planning township:

(A) whether the planning township shall be incorporated as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district; and

(ii) for registered voters residing within an unincorporated island, whether the island should maintain its unincorporated status or be annexed into an eligible city.

(b) (i) A metro township incorporated under this part shall be governed by the five-member council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government.

(ii) A city or town incorporated under this part shall be governed by the five-member council form of government as defined in Section 10-3b-102.

(2) Unless a person is a registered voter who [~~resides~~] is a resident, as defined in Section 20A-1-102, within the boundaries of a planning township or an unincorporated island, the person may not vote on the proposed incorporation or annexation.

(3) The county clerk shall post notice of the election on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the election.

(4) The notice required by Subsection (3) shall contain:

(a) for residents of a planning township:

(i) a statement that the voters will vote:

(A) to incorporate as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district;

(ii) if applicable under Subsection 10-2a-405(5), a map showing the alteration to the planning township boundaries that would be effective upon incorporation;

(iii) a statement that if the residents of the planning township elect to incorporate:

(A) as a metro township, the metro township shall be governed by a five-member metro township council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government; or

(B) as a city or town, the city or town shall be governed by the five-member council form of government as defined in Section 10-3b-102; and

(iv) a statement of the date and time of the election and the location of polling places;

(b) for residents of an unincorporated island:

(i) a statement that the voters will vote either to be annexed into an eligible city or maintain unincorporated status; and

(ii) a statement of the eligible city, as determined by the county legislative body in accordance with Section 10-2a-405, the unincorporated island may elect to be annexed by; and

(c) a statement of the date and time of the election and the location of polling places.

(5) (a) In addition to the notice required under Subsection (3), the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the planning township or unincorporated island that are most likely to give notice of the election to the voters of the proposed incorporation or annexation, subject to a maximum of 10 notices.

(b) The clerk shall post the notices under Subsection (5)(a) at least seven days before the election under Subsection (1).

(6) (a) In a planning township, if a majority of those casting votes within the planning township vote to:

(i) incorporate as a city or town, the planning township shall incorporate as a city or town, respectively; or

(ii) incorporate as a metro township, the planning township shall incorporate as a metro township.

(b) If a majority of those casting votes within the planning township vote to incorporate as a metro township, and a majority of those casting votes vote to include the metro township in a municipal services district and limit the metro township's municipal powers, the metro township shall be included in a municipal services district and have limited municipal powers.

(c) In an unincorporated island, if a majority of those casting a vote within the selected unincorporated island vote to:

(i) be annexed by the eligible city, the area shall be annexed by the eligible city; or

(ii) remain an unincorporated area, the area shall remain unincorporated.

(7) The county shall, in consultation with interested parties, prepare and provide information on an annexation or incorporation subject to this part and an election held in accordance with this section.

Section 15. Section 10-3c-102 is amended to read:

10-3c-102. Definitions.

As used in this chapter:

(1) "Municipal services district" means a [~~local~~] special district created in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act.

(2) "Metro township" means a metro township incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015.

Section 16. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, [~~local~~] special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be

compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

(ii) a therapeutic school.

(15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(21) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(25) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(29) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(30) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

(32) "Land use permit" means a permit issued by a land use authority.

(33) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(34) "Legislative body" means the municipal council.

[~~(35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.~~]

[~~(36)~~] (35) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

[~~(37)~~] (36) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(38)~~] (37) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(39)~~] (38) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[~~(40)~~] (39) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

[~~(41)~~] (40) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

[~~(42)~~] (41) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(43)~~] (42) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

[~~(44)~~] (43) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(45)~~] (44) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

[~~(46)~~] (45) "Parcel" means any real property that is not a lot.

[~~(47)~~] (46) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(48)~~] (47) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(49)~~] (48) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

[~~(50)~~] (49) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

[~~(51)~~] (50) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(52)~~] (51) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, [~~local~~] special district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(53)~~] (52) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(54)~~] (53) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(55)~~] (54) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(56)~~] (55) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(57)~~] (56) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[~~(58)~~] (57) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[~~(59)~~] (58) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(60)~~] (59) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(61)~~] (60) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(61) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(62) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(64) "State" includes any department, division, or agency of the state.

(65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(67) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(68) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(69) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(71) "Unincorporated" means the area outside of the incorporated area of a city or town.

(72) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 17. Section 10-9a-305 is amended to read:

10-9a-305. Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, [~~local~~] special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.

(b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a municipality may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project

unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a municipal building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor;

(B) approved by:

(I) a municipal building inspector; or

(II) (Aa) for a school district, a school district building inspector from that school district; or

(Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and

(C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a municipality.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

(d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a municipal official with authority to issue the certificate, if the school district or charter school used a municipal building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 10-9a-510;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 10-9a-304; or

(b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Section 18. Section 10-9a-529 is amended to read:

10-9a-529. Specified public utility located in a municipal utility easement.

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in Subsections [~~10-9a-103(41)(a)~~] 10-9a-103(40)(a) through (e).

Section 19. Section 11-2-1 is amended to read:

11-2-1. Local authorities may designate and acquire property for playgrounds and recreational facilities.

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

Section 20. Section 11-13-103 is amended to read:

11-13-103. Definitions.

As used in this chapter:

(1) (a) "Additional project capacity" means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) "Additional project capacity" does not mean or include replacement project capacity.

(2) "Board" means the Permanent Community Impact Fund Board created by Section 35A-8-304, and its successors.

(3) "Candidate" means one or more of:

(a) the state;

(b) a county, municipality, school district, [~~local~~] special district, special service district, or other political subdivision of the state; and

(c) a prosecution district.

(4) "Commercial project entity" means a project entity, defined in Subsection (18), that:

(a) has no taxing authority; and

(b) is not supported in whole or in part by and does not expend or disburse tax revenues.

(5) "Direct impacts" means an increase in the need for public facilities or services that is attributable to the project or facilities providing additional project capacity, except impacts resulting from the construction or operation of a facility that is:

(a) owned by an owner other than the owner of the project or of the facilities providing additional project capacity; and

(b) used to furnish fuel, construction, or operation materials for use in the project.

(6) "Electric interlocal entity" means an interlocal entity described in Subsection 11-13-203(3).

(7) "Energy services interlocal entity" means an interlocal entity that is described in Subsection 11-13-203(4).

(8) (a) "Estimated electric requirements," when used with respect to a qualified energy services interlocal entity, includes any of the following that meets the requirements of Subsection (8)(b):

(i) generation capacity;

(ii) generation output; or

(iii) an electric energy production facility.

(b) An item listed in Subsection (8)(a) is included in "estimated electric requirements" if it is needed by the qualified energy services interlocal entity to perform the qualified energy services interlocal entity's contractual or legal obligations to any of its members.

(9) (a) "Facilities providing replacement project capacity" means facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed to provide replacement project capacity.

(b) "Facilities providing replacement project capacity" includes facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed:

(i) to support and facilitate the construction, reconstruction, conversion, repowering, installation, financing, operation, management, or use of replacement project capacity; or

(ii) for the distribution of power generated from existing capacity or replacement project capacity to facilities located on real property in which the project entity that owns the project has an ownership, leasehold, right-of-way, or permitted interest.

(10) "Governing authority" means a governing board or joint administrator.

(11) (a) "Governing board" means the body established in reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

(b) "Governing board" includes a board of directors described in an agreement, as amended, that creates a project entity.

(c) "Governing board" does not include a board as defined in Subsection (2).

(12) "Interlocal entity" means:

(a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or

(b) a separate legal or administrative entity created under Section 11-13-205.

(13) "Joint administrator" means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.

(14) "Joint or cooperative undertaking" means an undertaking described in Section 11-13-207 that is not conducted by an interlocal entity.

(15) "Member" means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.

(16) "Out-of-state public agency" means a public agency as defined in Subsection (19)(c), (d), or (e).

(17) (a) "Project":

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

(ii) includes fuel facilities, fuel production facilities, fuel transportation facilities, energy storage facilities, or water facilities that are:

(A) owned by that Utah interlocal entity or electric interlocal entity; and

(B) required for the generation and transmission facility.

(b) "Project" includes a project entity's ownership interest in:

(i) facilities that provide additional project capacity;

(ii) facilities providing replacement project capacity;

(iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project; and

(iv) a Utah interlocal energy hub, as defined in Section 11-13-602.

(18) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns a project as defined in this section.

(19) "Public agency" means:

(a) a city, town, county, school district, [~~local~~] special district, special service district, an interlocal entity, or other political subdivision of the state;

(b) the state or any department, division, or agency of the state;

(c) any agency of the United States;

(d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the law of the other state or the District of Columbia; or

(e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(20) "Qualified energy services interlocal entity" means an energy services interlocal entity that at

the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

(21) "Replacement project capacity" means electric generating capacity or transmission capacity that:

(a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and

(b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected with the site of a project, regardless of whether:

(i) the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project existing before installation of the capacity replacing existing capacity;

(ii) the capacity replacing existing capacity is owned by the project entity that is the owner of the project, a segment established by the project entity, or a person with whom the project entity or a segment established by the project entity has contracted; or

(iii) the facility that provides the capacity replacing existing capacity is constructed, reconstructed, converted, repowered, acquired, leased, used, or installed before or after any actual or anticipated reduction or modification to existing capacity of the project.

(22) "Transportation reinvestment zone" means an area created by two or more public agencies by interlocal agreement to capture increased property or sales tax revenue generated by a transportation infrastructure project as described in Section 11-13-227.

(23) "Utah interlocal entity":

(a) means an interlocal entity described in Subsection 11-13-203(2); and

(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

(24) "Utah public agency" means a public agency under Subsection (19)(a) or (b).

Section 21. Section 11-13a-102 is amended to read:

11-13a-102. Definitions.

As used in this chapter:

(1) "Controlling interest" means that one or more governmental entities collectively represent a majority of the board's voting power as outlined in the nonprofit corporation's governing documents.

(2) (a) "Governing board" means the body that governs a governmental nonprofit corporation.

(b) "Governing board" includes a board of directors.

(3) "Governmental entity" means the state, a county, a municipality, a [~~local~~] special district, a special service district, a school district, a state institution of higher education, or any other political subdivision or administrative unit of the state.

(4) (a) "Governmental nonprofit corporation" means:

(i) a nonprofit corporation that is wholly owned or wholly controlled by one or more governmental entities, unless the nonprofit corporation receives no operating funding or other financial support from any governmental entity; or

(ii) a nonprofit corporation in which one or more governmental entities exercise a controlling interest and:

(A) that exercises taxing authority;

(B) that imposes a mandatory fee for association or participation with the nonprofit corporation where that association or participation is mandated by law; or

(C) that receives a majority of the nonprofit corporation's operating funding from one or more governmental entities under the nonprofit corporation's governing documents, except where voluntary membership fees, dues, or assessments compose the operating funding.

(b) "Governmental nonprofit corporation" does not include a water company, as that term is defined in Section 16-4-102, unless the water company is wholly owned by one or more governmental entities.

(5) "Municipality" means a city, town, or metro township.

Section 22. Section 11-14-102 is amended to read:

11-14-102. Definitions.

For the purpose of this chapter:

(1) "Bond" means any bond authorized to be issued under this chapter, including municipal bonds.

(2) "Election results" has the same meaning as defined in Section 20A-1-102.

(3) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, or town;

(b) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or

(ii) the administrative control board, if one has been established under Section 17D-1-301 and the

power to issue bonds not payable from taxes has been delegated to the administrative control board.

[~~(4) "Local district" means a district operating under Title 17B, Limited Purpose Local Government Entities - Local Districts.~~]

[~~(5)~~] (4) (a) "Local political subdivision" means a county, city, town, metro township, school district, [~~local~~] special district, or special service district.

(b) "Local political subdivision" does not include the state and its institutions.

(5) "Special district" means a district operating under Title 17B, Limited Purpose Local Government Entities - Special Districts.

Section 23. Section 11-14a-1 is amended to read:

11-14a-1. Notice of debt issuance.

(1) For purposes of this chapter:

(a) (i) "Debt" includes bonds, lease purchase agreements, certificates of participation, and contracts with municipal building authorities.

(ii) "Debt" does not include tax and revenue anticipation notes or refunding bonds.

(b) (i) "Local government entity" means a county, city, town, school district, [~~local~~] special district, or special service district.

(ii) "Local government entity" does not mean an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act that has assets over $10,000,000.

(c) "New debt resolution" means a resolution authorizing the issuance of debt wholly or partially to fund a rejected project.

(d) "Rejected Project" means a project for which a local government entity sought voter approval for general obligation bond financing and failed to receive that approval.

(2) Unless a local government entity complies with the requirements of this section, it may not adopt a new debt resolution.

(3) (a) Before adopting a new debt resolution, a local government entity shall:

(i) advertise the local government entity's intent to issue debt by posting a notice of that intent on the Utah Public Notice Website created in Section 63A-16-601, for the two weeks before the meeting at which the resolution will be considered; or

(ii) include notice of its intent to issue debt in a bill or other mailing sent to at least 95% of the residents of the local government entity.

(b) The local government entity shall ensure that the notice:

(i) except for website publication, is at least as large as the bill or other mailing that it accompanies;

(ii) is entitled, in type size no smaller than 24 point, "Intent to Issue Debt"; and

(iii) contains the information required by Subsection (3)(c).

(c) The local government entity shall ensure that the advertisement or notice described in Subsection (3)(a):

(i) identifies the local government entity;

(ii) states that the entity will meet on a day, time, and place identified in the advertisement or notice to hear public comments regarding a resolution authorizing the issuance of debt by the entity and to explain to the public the reasons for the issuance of debt;

(iii) contains:

(A) the name of the entity that will issue the debt;

(B) the purpose of the debt; and

(C) that type of debt and the maximum principal amount that may be issued;

(iv) invites all concerned citizens to attend the public hearing; and

(v) states that some or all of the proposed debt would fund a project whose general obligation bond financing was rejected by the voters.

(4) (a) The resolution considered at the hearing shall identify:

(i) the type of debt proposed to be issued;

(ii) the maximum principal amount that might be issued;

(iii) the interest rate;

(iv) the term of the debt; and

(v) how the debt will be repaid.

(b) (i) Except as provided in Subsection (4)(b)(ii), the resolution considered at the hearing need not be in final form and need not be adopted or rejected at the meeting at which the public hearing is held.

(ii) The local government entity may not, in the final resolution, increase the maximum principal amount of debt contained in the notice and discussed at the hearing.

(c) The local government entity may adopt, amend and adopt, or reject the resolution at a later meeting without recomplying with the published notice requirements of this section.

Section 24. Section 11-27-2 is amended to read:

11-27-2. Definitions.

As used in this chapter:

(1) "Advance refunding bonds" means refunding bonds issued for the purpose of refunding outstanding bonds in advance of their maturity.

(2) "Assessments" means a special tax levied against property within a special improvement district to pay all or a portion of the costs of making improvements in the district.

(3) "Bond" means any revenue bond, general obligation bond, tax increment bond, special

improvement bond, local building authority bond, or refunding bond.

(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(5) "Governing body" means the council, commission, county legislative body, board of directors, board of trustees, board of education, board of higher education, or other legislative body of a public body designated in this chapter that is vested with the legislative powers of the public body, and, with respect to the state, the State Bonding Commission created by Section 63B-1-201.

(6) "Government obligations" means:

(a) direct obligations of the United States of America, or other securities, the principal of and interest on which are unconditionally guaranteed by the United States of America; or

(b) obligations of any state, territory, or possession of the United States, or of any of the political subdivisions of any state, territory, or possession of the United States, or of the District of Columbia described in Section 103(a), Internal Revenue Code of 1986.

(7) "Issuer" means the public body issuing any bond or bonds.

(8) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any municipal or quasi-municipal corporation, political subdivision, agency, school district, [~~local~~] special district, special service district, or other governmental entity now or hereafter existing under the laws of the state.

(9) "Refunding bonds" means bonds issued under the authority of this chapter for the purpose of refunding outstanding bonds.

(10) "Resolution" means a resolution of the governing body of a public body taking formal action under this chapter.

(11) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or other obligation for the payment of money issued by a public body or any predecessor of any public body and that is payable from designated revenues not derived from ad valorem taxes or from a special fund composed of revenues not derived from ad valorem taxes, but excluding all of the following:

(a) any obligation constituting an indebtedness within the meaning of any applicable constitutional or statutory debt limitation;

(b) any obligation issued in anticipation of the collection of taxes, where the entire issue matures not later than one year from the date of the issue; and

(c) any special improvement bond.

(12) "Special improvement bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body or any predecessor of any public body that is payable from assessments levied on benefitted property and from any special improvement guaranty fund.

(13) "Special improvement guaranty fund" means any special improvement guaranty fund established under Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities; Title 11, Chapter 42, Assessment Area Act; or any predecessor or similar statute.

(14) "Tax increment bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body issued under authority of Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

Section 25. Section 11-30-2 is amended to read:

11-30-2. Definitions.

As used in this chapter:

(1) "Attorney general" means the attorney general of the state or one of his assistants.

(2) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(3) "County attorney" means the county attorney of a county or one of his assistants.

(4) "Lease" means any lease agreement, lease purchase agreement, and installment purchase agreement, and any certificate of interest or participation in any of the foregoing. Reference in this chapter to issuance of bonds includes execution and delivery of leases.

(5) "Person" means any person, association, corporation, or other entity.

(6) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any county, municipality, quasi-municipal corporation, school district, [~~local~~] special district, special service district, political subdivision, or other governmental entity existing under the laws of the state, whether or not possessed of any taxing power. With respect to leases, public body, as used in this chapter, refers to the public body which is the lessee, or is otherwise the obligor with respect to payment under any such leases.

(7) "Refunding bonds" means any bonds that are issued to refund outstanding bonds, including both refunding bonds and advance refunding bonds.

(8) "State" means the state of Utah.

(9) "Validity" means any matter relating to the legality and validity of the bonds and the security therefor, including, without limitation, the legality and validity of:

(a) a public body's authority to issue and deliver the bonds;

(b) any ordinance, resolution, or statute granting the public body authority to issue and deliver the bonds;

(c) all proceedings, elections, if any, and any other actions taken or to be taken in connection with the issuance, sale, or delivery of the bonds;

(d) the purpose, location, or manner of the expenditure of funds;

(e) the organization or boundaries of the public body;

(f) any assessments, taxes, rates, rentals, fees, charges, or tolls levied or that may be levied in connection with the bonds;

(g) any lien, proceeding, or other remedy for the collection of those assessments, taxes, rates, rentals, fees, charges, or tolls;

(h) any contract or lease executed or to be executed in connection with the bonds;

(i) the pledge of any taxes, revenues, receipts, rentals, or property, or encumbrance thereon or security interest therein to secure the bonds; and

(j) any covenants or provisions contained in or to be contained in the bonds. If any deed, will, statute, resolution, ordinance, lease, indenture, contract, franchise, or other instrument may have an effect on any of the aforementioned, validity also means a declaration of the validity and legality thereof and of rights, status, or other legal relations arising therefrom.

Section 26. Section 11-31-2 is amended to read:

11-31-2. Definitions.

As used in this chapter:

(1) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(2) "Legislative body" means, with respect to any action to be taken by a public body with respect to bonds, the board, commission, council, agency, or other similar body authorized by law to take legislative action on behalf of the public body, and in the case of the state, the Legislature, the state treasurer, the commission created under Section 63B-1-201, and any other entities the Legislature designates.

(3) "Public body" means the state and any public department, public agency, or other public entity existing under the laws of the state, including, without limitation, any agency, authority, instrumentality, or institution of the state, and any county, city, town, municipal corporation, quasi-municipal corporation, state university or college, school district, special service district, [~~local~~] special district, separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, community reinvestment agency, and any other political subdivision, public authority, public agency, or public trust existing under the laws of the state.

Section 27. Section 11-32-2 is amended to read:

11-32-2. Definitions.

As used in this chapter:

(1) "Assignment agreement" means the agreement, security agreement, indenture, or other documentation by which the county transfers the delinquent tax receivables to the authority in consideration of the amounts paid by the authority under the assignment agreement, as provided in this chapter.

(2) "Bonds" means any bonds, notes, or other evidence of indebtedness of the financing authority issued under this chapter.

(3) "Delinquent tax receivables" means those ad valorem tangible property taxes levied within any county, for any year, which remain unpaid and owing the participant members within the county, as of January 15 of the following year, plus any interest and penalties accruing or assessed to them.

(4) "Financing authority" or "authority" means a nonprofit corporation organized under this chapter by a county on behalf of the participant members within the county as the financing authority for the participant members solely for the purpose of financing the assignment of the delinquent tax receivables of the participant members for which it was created.

(5) "Governing body" means the council, commission, county legislative body, board of education, board of trustees, or any other governing entity of a public body in which the legislative powers of the public body are vested.

(6) "Participant members" means those public bodies, including the county, the governing bodies of which approve the creation of an authority as provided in Section 11-32-3 and on whose behalf the authority acts.

(7) "Public body" means any city, town, county, school district, special service district, [~~local~~] special district, community reinvestment agency, or any other entity entitled to receive ad valorem property taxes, existing under the laws of the state.

Section 28. Section 11-34-1 is amended to read:

11-34-1. Definitions.

As used in this chapter:

(1) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(2) "Public body" means the state and any public department, public agency, or other public entity existing under the laws of the state, including, without limitation, any agency, authority, instrumentality, or institution of the state, and any county, city, town, municipal corporation, quasi-municipal corporation, state university or college, school district, special service district, [~~local~~] special district, separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, community reinvestment agency, and any other political subdivision, public authority, public agency, or public trust existing under the laws of this state.

Section 29. Section 11-36a-102 is amended to read:

11-36a-102. Definitions.

As used in this chapter:

(1) (a) "Affected entity" means each county, municipality, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, [~~local~~] special district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a [~~local~~] special district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Expense for overhead" means a cost that a local political subdivision or private entity:

(a) incurs in connection with:

(i) developing an impact fee facilities plan;

(ii) developing an impact fee analysis; or

(iii) imposing an impact fee, including any related overhead expenses; and

(b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.

(8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, [~~local~~] special district, special service district, or private entity.

(9) (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

(10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.

(11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

(12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(13) (a) "Local political subdivision" means a county, a municipality, a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority, created in Section 11-59-201.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.

(14) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

(15) (a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

(16) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

(17) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water rights and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;

(e) roadway facilities;

(f) parks, recreation facilities, open space, and trails;

(g) public safety facilities;

(h) environmental mitigation as provided in Section 11-36a-205; or

(i) municipal natural gas facilities.

(18) (a) "Public safety facility" means:

(i) a building constructed or leased to house police, fire, or other public safety entities; or

(ii) a fire suppression vehicle costing in excess of $500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(19) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

(ii) are not funded by the state or federal government.

(c) "Roadway facilities" does not mean federal or state roadways.

(20) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

(21) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(22) (a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

Section 30. Section 11-36a-203 is amended to read:

11-36a-203. Private entity assessment of impact fees -- Charges for water rights, physical infrastructure -- Notice -- Audit.

(1) A private entity:

(a) shall comply with the requirements of this chapter before imposing an impact fee; and

(b) except as otherwise specified in this chapter, is subject to the same requirements of this chapter as a local political subdivision.

(2) A private entity may only impose a charge for water rights or physical infrastructure necessary to provide water or sewer facilities by imposing an impact fee.

(3) Where notice and hearing requirements are specified, a private entity shall comply with the notice and hearing requirements for [~~local~~] special districts.

(4) A private entity that assesses an impact fee under this chapter is subject to the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 31. Section 11-36a-502 is amended to read:

11-36a-502. Notice to adopt or amend an impact fee facilities plan.

(1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather than include an impact fee facilities element in the general plan in accordance with Section 11-36a-301, the local political subdivision shall, before adopting or amending the impact fee facilities plan:

(a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;

(b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;

(c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and

(d) hold a public hearing to hear public comment on the plan or amendment.

(2) With respect to the public notice required under Subsection (1)(a):

(a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

(b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2); and

(c) each [~~local~~] special district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

(3) Nothing contained in this section or Section 11-36a-503 may be construed to require involvement by a planning commission in the impact fee facilities planning process.

Section 32. Section 11-36a-504 is amended to read:

11-36a-504. Notice of intent to adopt impact fee enactment -- Hearing -- Protections.

(1) Before adopting an impact fee enactment:

(a) a municipality legislative body shall:

(i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use regulation;

(b) a county legislative body shall:

(i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use regulation;

(c) a [~~local~~] special district or special service district shall:

(i) comply with the notice and hearing requirements of Section 17B-1-111; and

(ii) receive the protections of Section 17B-1-111;

(d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:

(i) make a copy of the impact fee enactment available to the public; and

(ii) post notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, on the Utah Public Notice Website created under Section 63A-16-601; and

(e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.

(2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Section 33. Section 11-39-101 is amended to read:

11-39-101. Definitions.

As used in this chapter:

(1) "Bid limit" means:

(a) for a building improvement:

(i) for the year 2003, $40,000; and

(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year; and

(b) for a public works project:

(i) for the year 2003, $125,000; and

(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.

(2) "Building improvement":

(a) means the construction or repair of a public building or structure; and

(b) does not include construction or repair at an international airport.

(3) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) (a) "Design-build project" means a building improvement or public works project for which both the design and construction are provided for in a single contract with a contractor or combination of contractors capable of providing design-build services.

(b) "Design-build project" does not include a building improvement or public works project:

(i) that a local entity undertakes under contract with a construction manager that guarantees the contract price and is at risk for any amount over the contract price; and

(ii) each component of which is competitively bid.

(5) "Design-build services" means the engineering, architectural, and other services necessary to formulate and implement a design-build project, including the actual construction of the project.

(6) "Emergency repairs" means a building improvement or public works project undertaken on an expedited basis to:

(a) eliminate an imminent risk of damage to or loss of public or private property;

(b) remedy a condition that poses an immediate physical danger; or

(c) reduce a substantial, imminent risk of interruption of an essential public service.

(7) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district; and

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

[~~(8) "Local district" has the same meaning as defined in Section 17B-1-102.~~]

[~~(9)~~] (8) "Local entity" means a county, city, town, metro township, [~~local~~] special district, or special service district.

[~~(10)~~] (9) "Lowest responsive responsible bidder" means a prime contractor who:

(a) has submitted a bid in compliance with the invitation to bid and within the requirements of the plans and specifications for the building improvement or public works project;

(b) is the lowest bidder that satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements;

(c) has furnished a bid bond or equivalent in money as a condition to the award of a prime contract; and

(d) furnishes a payment and performance bond as required by law.

[~~(11)~~] (10) "Procurement code" means the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

[~~(12)~~] (11) "Public works project":

(a) means the construction of:

(i) a park or recreational facility; or

(ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control; and

(b) does not include:

(i) the replacement or repair of existing infrastructure on private property;

(ii) construction commenced before June 1, 2003; and

(iii) construction or repair at an international airport.

(12) "Special district" means the same as that term is defined in Section 17B-1-102.

(13) "Special service district" has the same meaning as defined in Section 17D-1-102.

Section 34. Section 11-39-107 is amended to read:

11-39-107. Procurement code.

(1) This chapter may not be construed to:

(a) prohibit a county or municipal legislative body from adopting the procedures of the procurement code; or

(b) limit the application of the procurement code to a [~~local~~] special district or special service district.

(2) A local entity may adopt procedures for the following construction contracting methods:

(a) construction manager/general contractor, as defined in Section 63G-6a-103;

(b) a method that requires that the local entity draft a plan, specifications, and an estimate for the building improvement or public works project; or

(c) design-build, as defined in Section 63G-6a-103, if the local entity consults with a professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or an architect licensed under Title 58, Chapter 3a, Architects Licensing Act, who has design-build experience and is employed by or under contract with the local entity.

(3) (a) In seeking bids and awarding a contract for a building improvement or public works project, a county or a municipal legislative body may elect to follow the provisions of the procurement code, as the county or municipal legislative body considers appropriate under the circumstances, for specification preparation, source selection, or contract formation.

(b) A county or municipal legislative body's election to adopt the procedures of the procurement code may not excuse the county or municipality, respectively, from complying with the requirements to award a contract for work in excess of the bid limit and to publish notice of the intent to award.

(c) An election under Subsection (3)(a) may be made on a case-by-case basis, unless the county or municipality has previously adopted the procurement code.

(d) The county or municipal legislative body shall:

(i) make each election under Subsection (3)(a) in an open meeting; and

(ii) specify in its action the portions of the procurement code to be followed.

(4) If the estimated cost of the building improvement or public works project proposed by a [~~local~~] special district or special service district exceeds the bid limit, the governing body of the [~~local~~] special district or special service district may, if it determines to proceed with the building improvement or public works project, use the competitive procurement procedures of the procurement code in place of the comparable provisions of this chapter.

Section 35. Section 11-40-101 is amended to read:

11-40-101. Definitions.

As used in this chapter:

(1) "Applicant" means a person who seeks employment with a public water utility, either as an employee or as an independent contractor, and who, after employment, would, in the judgment of the public water utility, be in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility.

(2) "Division" means the Criminal Investigation and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(3) "Independent contractor":

(a) means an engineer, contractor, consultant, or supplier who designs, constructs, operates, maintains, repairs, replaces, or provides water treatment or conveyance facilities or equipment, or

related control or security facilities or equipment, to the public water utility; and

(b) includes the employees and agents of the engineer, contractor, consultant, or supplier.

(4) "Person seeking access" means a person who seeks access to a public water utility's public water system or publicly owned treatment works and who, after obtaining access, would, in the judgment of the public water utility, be in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility.

(5) "Publicly owned treatment works" has the same meaning as defined in Section 19-5-102.

(6) "Public water system" has the same meaning as defined in Section 19-4-102.

(7) "Public water utility" means a county, city, town, [~~local~~] special district under [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or other political subdivision of the state that operates publicly owned treatment works or a public water system.

Section 36. Section 11-41-102 is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a public entity and a person.

(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.

(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.

(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(6) "General plan" means the same as that term is defined in Section 23-21-.5.

(7) "Mixed-use development" means development with mixed land uses, including housing.

(8) "Moderate income housing plan" means the moderate income housing plan element of a general plan.

(9) "Office" means the Governor's Office of Economic Opportunity.

(10) "Political subdivision" means any county, city, town, metro township, school district, [~~local~~] special district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.

(11) "Public entity" means:

(a) a political subdivision;

(b) a state agency as defined in Section 63J-1-220;

(c) a higher education institution as defined in Section 53B-1-201;

(d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(12) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) a property tax levy.

(13) "Public infrastructure" means:

(a) a public facility as defined in Section 11-36a-102; or

(b) public infrastructure included as part of an infrastructure master plan related to a general plan.

(14) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(15) (a) "Retail facility incentive payment" means a payment of public funds:

(i) to a person by a public entity;

(ii) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

(iii) in the form of:

(A) a payment;

(B) a rebate;

(C) a refund;

(D) a subsidy; or

(E) any other similar incentive, award, or offset.

(b) "Retail facility incentive payment" does not include a payment of public funds for:

(i) the development, construction, renovation, or operation of:

(A) public infrastructure; or

(B) a structured parking facility;

(ii) the demolition of an existing facility;

(iii) assistance under a state or local:

(A) main street program; or

(B) historic preservation program;

(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;

(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;

(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or

(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.

(16) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(17) (a) "Small business" means a business entity that:

(i) has fewer than 30 full-time equivalent employees; and

(ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;

(ii) a dealer, as defined in Section 41-1a-102; or

(iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 37. Section 11-42-102 is amended to read:

11-42-102. Definitions.

(1) As used in this chapter:

(a) "Adequate protests" means, for all proposed assessment areas except sewer assessment areas, timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

(i) protests relating to:

(A) property that has been deleted from a proposed assessment area; or

(B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) industrial;

(iv) manufacturing;

(v) governmental;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes real property that:

(i) is used as or held for dwelling purposes; and

(ii) contains more than four rental units.

(14) "Connection fee" means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) "Contract price" means:

(a) the cost of acquiring an improvement, if the improvement is acquired; or

(b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

(16) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(18) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201; or

(b) the military installation development authority created in Section 63H-1-201.

(19) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

(a) sponsoring festivals and markets;

(b) promoting business investment or activities;

(c) helping to coordinate public and private actions; and

(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

(20) "Environmental remediation activity" means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.

(21) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

(22) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(d) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102;

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102; and

(f) for a public infrastructure district, the board of the public infrastructure district as defined in Section 17D-4-102.

(23) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.

(24) "Improved property" means property upon which a residential, commercial, or other building has been built.

(25) "Improvement":

(a) (i) means a publicly owned infrastructure, facility, system, or environmental remediation activity that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection (25)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a [~~local~~] special district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

(26) "Improvement revenues":

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

(27) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

(28) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(29) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

(30) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

[~~(31) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.~~]

[~~(32)~~] (31) "Local entity" means:

(a) a county, city, town, special service district, or [~~local~~] special district;

(b) an interlocal entity as defined in Section 11-13-103;

(c) the military installation development authority, created in Section 63H-1-201;

(d) a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, including a public infrastructure district created by a development authority;

(e) the Utah Inland Port Authority, created in Section 11-58-201; or

(f) any other political subdivision of the state.

[~~(33)~~] (32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

[~~(34)~~] (33) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

[~~(35)~~] (34) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

[~~(36)~~] (35) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

[~~(37)~~] (36) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

[~~(38)~~] (37) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

[~~(39)~~] (38) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

[~~(40)~~] (39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

[~~(41)~~] (40) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

[~~(42)~~] (41) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

[~~(43)~~] (42) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

[~~(44)~~] (43) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

[~~(45)~~] (44) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

[~~(46)~~] (45) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

[~~(47)~~] (46) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

[~~(48)~~] (47) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

[~~(49)~~] (48) "Service" means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

[~~(50)~~] (49) (a) "Sewer assessment area" means an assessment area that has as the assessment area's primary purpose the financing and funding of public improvements to provide sewer service where there is, in the opinion of the local board of health, substantial evidence of septic system failure in the defined area due to inadequate soils, high water table, or other factors proven to cause failure.

(b) "Sewer assessment area" does not include property otherwise located within the assessment area:

(i) on which an approved conventional or advanced wastewater system has been installed during the previous five calendar years;

(ii) for which the local health department has inspected the system described in Subsection [~~(50)~~] (49)(b)(i) to ensure that the system is functioning properly; and

(iii) for which the property owner opts out of the proposed assessment area for the earlier of a period of 10 calendar years or until failure of the system described in Subsection [~~(50)~~] (49)(b)(i).

(50) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts

(51) "Special service district" means the same as that term is defined in Section 17D-1-102.

(52) "Unassessed benefitted government property" means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

(53) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

(54) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 38. Section 11-42a-102 is amended to read:

11-42a-102. Definitions.

(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(2) (a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a renewable energy system, or an electric vehicle charging infrastructure.

(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.

(3) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.

(4) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.

(5) "Bond" means an assessment bond and a refunding assessment bond.

(6) (a) "Commercial or industrial real property" means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) agricultural;

(iv) industrial;

(v) manufacturing;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes:

(i) private real property that is used as or held for dwelling purposes and contains:

(A) more than four rental units; or

(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and

(ii) real property owned by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) the Utah Inland Port Authority, created in Section 11-58-201.

(7) "Contract price" means:

(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or

(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.

(8) "C-PACE" means commercial property assessed clean energy.

(9) "C-PACE district" means the statewide authority established in Section 11-42a-106 to implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.

(10) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle.

(11) "Energy assessment area" means an area:

(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;

(b) containing only the commercial or industrial real property of owners who have voluntarily consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.

(12) "Energy assessment bond" means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

(13) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

(14) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(15) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(16) "Energy efficiency upgrade" means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections (16)(b)(i) through (xv).

(17) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district;

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

(18) "Improvement" means a publicly or privately owned energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

(19) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

(20) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(21) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

[~~(22) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.~~]

[~~(23)~~] (22) (a) "Local entity" means:

(i) a county, city, town, or metro township;

(ii) a special service district, a [~~local~~] special district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority, created in Section 63H-1-201;

(v) the Utah Inland Port Authority, created in Section 11-58-201; or

(vi) any political subdivision of the state.

(b) "Local entity" includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;

(ii) the levying of an assessment; and

(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

[~~(24)~~] (23) "Local entity obligations" means energy assessment bonds and refunding assessment bonds that a local entity issues.

[~~(25)~~] (24) "OED" means the Office of Energy Development created in Section 79-6-401.

[~~(26)~~] (25) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

[~~(27)~~] (26) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;

(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;

(c) publishing and mailing costs;

(d) costs of levying an assessment;

(e) recording costs; and

(f) all other incidental costs.

[~~(28)~~] (27) "Parameters resolution" means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

[~~(29)~~] (28) "Prior bonds" means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

[~~(30)~~] (29) "Prior energy assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

[~~(31)~~] (30) "Prior energy assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

[~~(32)~~] (31) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

[~~(33)~~] (32) "Public electrical utility" means a large-scale electric utility as that term is defined in Section 54-2-1.

[~~(34)~~] (33) "Qualifying electric vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas;

(c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and

(d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection [~~(34)(c)~~] (33)(c).

[~~(35)~~] (34) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas or propane;

(c) has a battery capacity that meets or exceeds the battery capacity described in Subsection 30D(b)(3), Internal Revenue Code; and

(d) is fueled by a combination of electricity and:

(i) diesel fuel;

(ii) gasoline; or

(iii) a mixture of gasoline and ethanol.

[~~(36)~~] (35) "Reduced payment obligation" means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

[~~(37)~~] (36) "Refunding assessment bond" means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

[~~(38)~~] (37) (a) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:

(i) produces energy from renewable resources, including:

(A) a photovoltaic system;

(B) a solar thermal system;

(C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a microhydro system;

(F) a biofuel system; or

(G) any other renewable source system that the governing body of the local entity approves;

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or

(iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection [~~(38)(a)(i)~~] (37)(a)(i) or (ii).

(b) "Renewable energy system" does not include a system described in Subsection (38)(a)(i) if the

system provides energy to property outside the energy assessment area, unless the system:

(i) (A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.

(38) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(39) "Special service district" means the same as that term is defined in Section 17D-1-102.

(40) "State interlocal entity" means:

(a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, towns, or metro townships that collectively represent at least a majority of the state's population; or

(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

(41) "Third-party lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.

Section 39. Section 11-43-102 is amended to read:

11-43-102. Memorials by political subdivisions.

(1) As used in this section:

(a) "Political subdivision" means any county, city, town, or school district.

(b) "Political subdivision" does not [~~mean~~] include a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) A political subdivision may authorize the use or donation of the political subdivision's land for the purpose of maintaining, erecting, or contributing to the erection or maintenance of a memorial to commemorate those individuals who have:

(a) participated in or have given their lives in any of the one or more wars or military conflicts in which the United States of America has been a participant; or

(b) given their lives in association with public service on behalf of the state or the political subdivision, including firefighters, peace officers, highway patrol officers, or other public servants.

(3) The use or donation of a political subdivision's land in relation to a memorial described in Subsection (2) may include:

(a) using or appropriating public funds for the purchase, development, improvement, or maintenance of public land on which a memorial is located or established;

(b) using or appropriating public funds for the erection, improvement, or maintenance of a memorial;

(c) donating or selling public land for use in relation to a memorial; or

(d) authorizing the use of a political subdivision's land for a memorial that is funded or maintained in part or in full by another public or private entity.

(4) The political subdivision may specify the form, placement, and design of a memorial that is subject to this section.

Section 40. Section 11-47-102 is amended to read:

11-47-102. Definitions.

For purposes of this chapter, "elected official" means each person elected to a county office, municipal office, school board or school district office, [~~local~~] special district office, or special service district office, but does not include judges.

Section 41. Section 11-48-101.5 is amended to read:

11-48-101.5. Definitions.

As used in this chapter:

(1) (a) "911 ambulance services" means ambulance services rendered in response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance services" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under Title 26, Chapter 8a, Utah Emergency Medical Services System Act.

(2) "Municipality" means a city, town, or metro township.

(3) "Political subdivision" means a county, city, town, [~~local~~] special district, or [~~special~~] service district.

Section 42. Section 11-48-103 is amended to read:

11-48-103. Provision of 911 ambulance services in municipalities and counties.

(1) The governing body of each municipality and county shall, subject to Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers, ensure at least a minimum level of 911 ambulance services are provided:

(a) within the territorial limits of the municipality or county;

(b) by a ground ambulance provider, licensed by the Department of Health under Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers; and

(c) in accordance with rules established by the State Emergency Medical Services Committee under Subsection 26-8a-104(8).

(2) A municipality or county may:

(a) subject to Subsection (3), maintain and support 911 ambulance services for the municipality's or county's own jurisdiction; or

(b) contract to:

(i) provide 911 ambulance services to any county, municipal corporation, [~~local~~] special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(ii) receive 911 ambulance services from any county, municipal corporation, [~~local~~] special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(iii) jointly provide 911 ambulance services with any county, municipal corporation, [~~local~~] special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or

(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, [~~local~~] special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

(3) (a) A municipality or county that maintains and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the Department of Health under Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers.

(b) Subsections 26-8a-405 through 26-8a-405.3 do not apply to a license described in Subsection (3)(a).

Section 43. Section 11-50-102 is amended to read:

11-50-102. Definitions.

As used in this chapter:

(1) "Annual financial report" means a comprehensive annual financial report or similar financial report required by Section 51-2a-201.

(2) "Chief administrative officer" means the chief administrative officer designated in accordance with Section 11-50-202.

(3) "Chief financial officer" means the chief financial officer designated in accordance with Section 11-50-202.

(4) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or

(ii) the administrative control board, if one has been established under Section 17D-1-301.

(5) (a) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, [~~local~~] special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(b) Notwithstanding Subsection (5)(a), "political subdivision" does not mean a project entity, as defined in Section 11-13-103.

Section 44. Section 11-52-102 is amended to read:

11-52-102. Definitions.

As used in this chapter:

(1) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(2) "Political subdivision" means:

(a) a county, as defined in Section 17-50-101;

(b) a municipality, as defined in Section 10-1-104;

(c) a [~~local~~] special district, as defined in Section 17B-1-102;

(d) a special service district, as defined in Section 17D-1-102;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(g) a local building authority, as defined in Section 17D-2-102; or

(h) a conservation district, as defined in Section 17D-3-102.

(3) "Single audit" has the same meaning as defined in 31 U.S.C. Sec. 7501.

Section 45. Section 11-54-102 is amended to read:

11-54-102. Definitions.

As used in this chapter:

(1) "Buyback purchaser" means a person who buys a procurement item from the local government entity to which the person previously sold the procurement item.

(2) "Excess repurchase amount" means the difference between:

(a) the amount a buyback purchaser pays to a local government entity to purchase a procurement item that the buyback purchaser previously sold to the local government entity; and

(b) the amount the local government entity paid to the buyback purchaser to purchase the procurement item.

(3) "Local government entity" means a county, city, town, metro township, [~~local~~] special district, special service district, community reinvestment agency, conservation district, or school district that is not subject to Title 63G, Chapter 6a, Utah Procurement Code.

(4) "Procurement item" means the same as that term is defined in Section 63G-6a-103.

Section 46. Section 11-55-102 is amended to read:

11-55-102. Definitions.

As used in this chapter:

(1) "Board" means the same as that term is defined in Section 63A-3-106.

(2) "Board member" means the same as that term is defined in Section 63A-3-106.

(3) "Municipality" means the same as that term is defined in Section 10-1-104.

(4) "Political subdivision" means a county, municipality, school district, limited purpose local government entity described in [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental subdivision or public corporation.

Section 47. Section 11-57-102 is amended to read:

11-57-102. Definitions.

As used in this chapter:

(1) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by a political subdivision.

(2) "Officer" means a person who is elected or appointed to an office or position within a political subdivision.

(3) (a) "Personal use expenditure" means an expenditure made without the authority of law that:

(i) is not directly related to the performance of an activity as an officer or employee of a political subdivision;

(ii) primarily furthers a personal interest of an officer or employee of a political subdivision or the family, a friend, or an associate of an officer or employee of a political subdivision; and

(iii) would constitute taxable income under federal law.

(b) "Personal use expenditure" does not include:

(i) a de minimis or incidental expenditure;

(ii) a monthly vehicle allowance; or

(iii) a government vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including an allowance for personal use as provided by a written policy of the political subdivision.

(4) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, [~~local~~] special district, special service district, entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(5) "Public funds" means the same as that term is defined in Section 51-7-3.

Section 48. Section 11-58-102 is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Subsection 11-58-601(5), the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the

property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (6)(a).

(7) "Development project" means a project for the development of land within a project area.

(8) "Inland port" means one or more sites that:

(a) contain multimodal facilities, intermodal facilities, or other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(9) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (8);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (8); or

(d) that depends upon the presence of the inland port for the viability of the use.

(10) "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.

(11) "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

(12) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(3) who does not have the power to vote on matters of authority business.

(13) "Project area" means:

(a) the authority jurisdictional land; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(14) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(15) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(16) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(17) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(18) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, [~~local~~] special district, special service district, interlocal cooperation entity, community

reinvestment agency, or other political subdivision of the state, including the authority.

(19) "Public infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) an inland port; and

(iv) infrastructure, improvements, facilities, or buildings that:

(A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to the applicable county or municipal design and safety standards for public infrastructure.

(20) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(21) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(22) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(23) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 49. Section 11-58-205 is amended to read:

11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Disclosure by nonauthority governing body member.

(1) Except as otherwise provided in this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) (a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

(i) determined by the municipality; and

(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

(6) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(7) (a) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(8) (a) As used in this Subsection (8):

(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.

(ii) "Nonauthority governing body member" means a member of the board or other body that has

authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town, metro township, [~~local~~] special district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (8)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (8), if that date is later than the period described in Subsection (8)(d)(i).

(e) A written disclosure submitted under this Subsection (8) is a public record.

(9) No later than December 31, 2022, a primary municipality, as defined in Section 11-58-601, shall enter into an agreement with the authority under which the primary municipality agrees to facilitate the efficient processing of land use applications, as defined in Section 10-9a-103, relating to authority jurisdictional land within the primary municipality, including providing for at least one full-time employee as a single point of contact for the processing of those land use applications.

Section 50. Section 11-59-102 is amended to read:

11-59-102. Definitions.

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(5) "Point of the mountain state land" means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.

(6) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, [~~local~~] special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(7) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities; and

(iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

(8) "Taxing entity" means the same as that term is defined in Section 59-2-102.

Section 51. Section 11-59-204 is amended to read:

11-59-204. Applicability of other law -- Coordination with municipality.

(1) The authority and the point of the mountain state land are not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(b) the jurisdiction of a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:

(i) some or all of the point of the mountain state land is, on May 8, 2018, included within the boundary of a [~~local~~] special district or special service district; and

(ii) the authority elects to receive service from the [~~local~~] special district or special service district for the point of the mountain state land that is included within the boundary of the [~~local~~] special district or special service district, respectively.

(2) In formulating and implementing a development plan for the point of the mountain state land, the authority shall consult with officials of the municipality within which the point of the mountain state land is located on planning and zoning matters.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) Nothing in this chapter may be construed to remove the point of the mountain state land from the service area of the municipality in which the point of the mountain state land is located, for purposes of water, sewer, and other similar municipal services currently being provided.

(5) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act, except that for an electronic meeting of the authority board that otherwise complies with Section 52-4-207, the authority board:

(a) is not required to establish an anchor location; and

(b) may convene and conduct the meeting without the written determination otherwise required under Subsection 52-4-207(4).

Section 52. Section 11-60-102 is amended to read:

11-60-102. Definitions.

As used in this chapter:

(1) "Direct charge" means a charge, fee, assessment, or amount, other than a property tax, that a political subdivision charges to a property owner.

(2) "Nonrecurring tax notice charge" means a tax notice charge that a political subdivision certifies to the county treasurer on a one-time or case-by-case basis rather than regularly over multiple calendar years.

(3) "Notice of lien" means a notice that:

(a) a political subdivision records in the office of the recorder of the county in which a property that is the subject of a nonrecurring tax notice charge is located; and

(b) describes the nature and amount of the nonrecurring tax notice charge and whether the political subdivision intends to certify the charge to the county treasurer under statutory authority that allows the treasurer to place the charge on the property tax notice described in Section 59-2-1317.

(4) "Political subdivision" means:

(a) a county, as that term is defined in Section 17-50-101;

(b) a municipality, as that term is defined in Section 10-1-104;

(c) a [~~local~~] special district, as that term is defined in Section 17B-1-102;

(d) a special service district, as that term is defined in Section 17D-1-102;

(e) an interlocal entity, as that term is defined in Section 11-13-103;

(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(g) a local building authority, as that term is defined in Section 17D-2-102;

(h) a conservation district, as that term is defined in Section 17D-3-102; or

(i) a local entity, as that term is defined in Sections 11-42-102 and 11-42a-102.

(5) "Political subdivision lien" means a lien that a statute expressly authorizes a political subdivision to hold and record, including a direct charge that constitutes, according to an express statutory provision, a lien.

(6) "Property tax" means a tax imposed on real property under Title 59, Chapter 2, Property Tax Act, Title 59, Chapter 3, Tax Equivalent Property Act, or Title 59, Chapter 4, Privilege Tax.

(7) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.

(8) "Tax sale" means the tax sale described in Title 59, Chapter 2, Part 13, Collection of Taxes.

Section 53. Section 11-61-102 is amended to read:

11-61-102. Definitions.

As used in this chapter:

(1) "Expressive activity" means:

(a) peacefully assembling, protesting, or speaking;

(b) distributing literature;

(c) carrying a sign; or

(d) signature gathering or circulating a petition.

(2) "Generally applicable time, place, and manner restriction" means a content-neutral ordinance, policy, practice, or other action that:

(a) by its clear language and intent, restricts or infringes on expressive activity;

(b) applies generally to any person; and

(c) is not an individually applicable time, place, and manner restriction.

(3) (a) "Individually applicable time, place, and manner restriction" means a content-neutral policy, practice, or other action:

(i) that restricts or infringes on expressive activity; and

(ii) that a political subdivision applies:

(A) on a case-by-case basis;

(B) to a specifically identified person or group of persons; and

(C) regarding a specifically identified place and time.

(b) "Individually applicable time, place, and manner restriction" includes a restriction placed on expressive activity as a condition to obtain a permit.

(4) (a) "Political subdivision" means a county, city, town, or metro township.

(b) "Political subdivision" does not mean:

(i) a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(ii) a special service district under Title 17D, Chapter 1, Special Service District Act; or

(iii) a school district under Title 53G, Chapter 3, School District Creation and Change.

(5) (a) "Public building" means a building or permanent structure that is:

(i) owned, leased, or occupied by a political subdivision or a subunit of a political subdivision;

(ii) open to public access in whole or in part; and

(iii) used for public education or political subdivision activities.

(b) "Public building" does not mean:

(i) a building owned or leased by a political subdivision or a subunit of a political subdivision:

(A) that is closed to public access;

(B) where state or federal law restricts expressive activity; or

(C) when the building is used by a person, in whole or in part, for a private function; or

(ii) a public school.

(6) (a) "Public grounds" means the area outside a public building that is a traditional public forum where members of the public may safely gather to engage in expressive activity.

(b) "Public grounds" includes sidewalks, streets, and parks.

(c) "Public grounds" does not include the interior of a public building.

Section 54. Section 11-65-101 is amended to read:

11-65-101. Definitions.

As used in this chapter:

(1) "Adjacent political subdivision" means a political subdivision of the state with a boundary that abuts the lake authority boundary or includes lake authority land.

(2) "Board" means the lake authority's governing body, created in Section 11-65-301.

(3) "Lake authority" means the Utah Lake Authority, created in Section 11-65-201.

(4) "Lake authority boundary" means the boundary:

(a) defined by recorded boundary settlement agreements between private landowners and the Division of Forestry, Fire, and State Lands; and

(b) that separates privately owned land from Utah Lake sovereign land.

(5) "Lake authority land" means land on the lake side of the lake authority boundary.

(6) "Management" means work to coordinate and facilitate the improvement of Utah Lake, including work to enhance the long-term viability and health of Utah Lake and to produce economic, aesthetic,

recreational, environmental, and other benefits for the state, consistent with the strategies, policies, and objectives described in this chapter.

(7) "Management plan" means a plan to conceptualize, design, facilitate, coordinate, encourage, and bring about the management of the lake authority land to achieve the policies and objectives described in Section 11-65-203.

(8) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-65-302(6) who does not have the power to vote on matters of lake authority business.

(9) "Project area" means an area that is identified in a project area plan as the area where the management described in the project area plan will occur.

(10) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area.

(11) "Project area plan" means a written plan that, after the plan's effective date, manages activity within a project area within the scope of a management plan.

(12) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, [~~local~~] special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.

(13) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service; and

(ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(14) "Sovereign land" means land:

(a) lying below the ordinary high water mark of a navigable body of water at the date of statehood; and

(b) owned by the state by virtue of the state's sovereignty.

(15) "Utah Lake" includes all waters of Utah Lake and all land, whether or not submerged under water, within the lake authority boundary.

(16) "Voting member" means an individual appointed as a member of the board under Subsection 11-65-302(2).

Section 55. Section 13-8-5 is amended to read:

13-8-5. Definitions -- Limitation on retention proceeds withheld -- Deposit in interest-bearing escrow account -- Release of proceeds -- Payment to subcontractors -- Penalty -- No waiver.

(1) As used in this section:

(a) (i) "Construction contract" means a written agreement between the parties relative to the design, construction, alteration, repair, or maintenance of a building, structure, highway, appurtenance, appliance, or other improvements to real property, including moving, demolition, and excavating for nonresidential commercial or industrial construction projects.

(ii) If the construction contract is for construction of a project that is part residential and part nonresidential, this section applies only to that portion of the construction project that is nonresidential as determined pro rata based on the percentage of the total square footage of the project that is nonresidential.

(b) "Construction lender" means any person, including a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any other financial institution that advances money to a borrower for the purpose of making alterations or improvements to real property. A construction lender does not include a person or entity who is acting in the capacity of contractor, original contractor, or subcontractor.

(c) "Construction project" means an improvement to real property that is the subject of a construction contract.

(d) "Contractor" means a person who, for compensation other than wages as an employee, undertakes any work in a construction trade, as defined in Section 58-55-102 and includes:

(i) any person engaged as a maintenance person who regularly engages in activities set forth in Section 58-55-102 as a construction trade; or

(ii) a construction manager who performs management and counseling services on a construction project for a fee.

(e) "Original contractor" means the same as that term is defined in Section 38-1a-102.

(f) "Owner" means the person who holds any legal or equitable title or interest in property. Owner does not include a construction lender unless the construction lender has an ownership interest in the property other than solely as a construction lender.

(g) "Public agency" means any state agency or a county, city, town, school district, [~~local~~] special district, special service district, or other political subdivision of the state that enters into a construction contract for an improvement of public property.

(h) "Retention payment" means release of retention proceeds as defined in Subsection (1)(i).

(i) "Retention proceeds" means money earned by a contractor or subcontractor but retained by the owner or public agency pursuant to the terms of a construction contract to guarantee payment or performance by the contractor or subcontractor of the construction contract.

(j) "Subcontractor" means the same as that term is defined in Section 38-1a-102.

(2) (a) This section is applicable to all construction contracts relating to construction work or improvements entered into on or after July 1, 1999, between:

(i) an owner or public agency and an original contractor;

(ii) an original contractor and a subcontractor; and

(iii) subcontractors under a contract described in Subsection (2)(a)(i) or (ii).

(b) This section does not apply to a construction lender.

(3) (a) Notwithstanding Section 58-55-603, the retention proceeds withheld and retained from any payment due under the terms of the construction contract may not exceed 5% of the payment:

(i) by the owner or public agency to the original contractor;

(ii) by the original contractor to any subcontractor; or

(iii) by a subcontractor.

(b) The total retention proceeds withheld may not exceed 5% of the total construction price.

(c) The percentage of the retention proceeds withheld and retained pursuant to a construction contract between the original contractor and a subcontractor or between subcontractors shall be the same retention percentage as between the owner and the original contractor if:

(i) the retention percentage in the original construction contract between an owner and the original contractor is less than 5%; or

(ii) after the original construction contract is executed but before completion of the construction contract the retention percentage is reduced to less than 5%.

(4) (a) If any payment on a contract with a private contractor, firm, or corporation to do work for an owner or public agency is retained or withheld by the owner or the public agency, as retention proceeds, it shall be placed in an interest-bearing account and accounted for separately from other amounts paid under the contract.

(b) The interest accrued under Subsection (4)(a) shall be:

(i) for the benefit of the contractor and subcontractors; and

(ii) paid after the project is completed and accepted by the owner or the public agency.

(c) The contractor shall ensure that any interest accrued on the retainage is distributed by the contractor to subcontractors on a pro rata basis.

(d) Retention proceeds and accrued interest retained by an owner or public agency:

(i) are considered to be in a constructive trust for the benefit of the contractor and subcontractors who have earned the proceeds; and

(ii) are not subject to assignment, encumbrance, attachment, garnishment, or execution levy for the debt of any person holding the retention proceeds and accrued interest.

(5) Any retention proceeds retained or withheld pursuant to this section and any accrued interest shall be released pursuant to a billing statement from the contractor within 45 days from the later of:

(a) the date the owner or public agency receives the billing statement from the contractor;

(b) the date that a certificate of occupancy or final acceptance notice is issued to:

(i) the original contractor who obtained the building permit from the building inspector or public agency;

(ii) the owner or architect; or

(iii) the public agency;

(c) the date that a public agency or building inspector that has the authority to issue a certificate of occupancy does not issue the certificate but permits partial or complete occupancy or use of a construction project; or

(d) the date the contractor accepts the final pay quantities.

(6) If only partial occupancy of a construction project is permitted, any retention proceeds withheld and retained pursuant to this section and any accrued interest shall be partially released within 45 days under the same conditions as provided in Subsection (5) in direct proportion to the value of the part of the construction project occupied or used.

(7) The billing statement from the contractor as provided in Subsection (5)(a) shall include documentation of lien releases or waivers.

(8) (a) Notwithstanding Subsection (3):

(i) if a contractor or subcontractor is in default or breach of the terms and conditions of the construction contract documents, plans, or specifications governing construction of the project, the owner or public agency may withhold from

payment for as long as reasonably necessary an amount necessary to cure the breach or default of the contractor or subcontractor; or

(ii) if a project or a portion of the project has been substantially completed, the owner or public agency may retain until completion up to twice the fair market value of the work of the original contractor or of any subcontractor that has not been completed:

(A) in accordance with the construction contract documents, plans, and specifications; or

(B) in the absence of plans and specifications, to generally accepted craft standards.

(b) An owner or public agency that refuses payment under Subsection (8)(a) shall describe in writing within 45 days of withholding such amounts what portion of the work was not completed according to the standards specified in Subsection (8)(a).

(9) (a) Except as provided in Subsection (9)(b), an original contractor or subcontractor who receives retention proceeds shall pay each of its subcontractors from whom retention has been withheld each subcontractor's share of the retention received within 10 days from the day that all or any portion of the retention proceeds is received:

(i) by the original contractor from the owner or public agency; or

(ii) by the subcontractor from:

(A) the original contractor; or

(B) a subcontractor.

(b) Notwithstanding Subsection (9)(a), if a retention payment received by the original contractor is specifically designated for a particular subcontractor, payment of the retention shall be made to the designated subcontractor.

(10) (a) In any action for the collection of the retained proceeds withheld and retained in violation of this section, the successful party is entitled to:

(i) attorney fees; and

(ii) other allowable costs.

(b) (i) Any owner, public agency, original contractor, or subcontractor who knowingly and wrongfully withholds a retention shall be subject to a charge of 2% per month on the improperly withheld amount, in addition to any interest otherwise due.

(ii) The charge described in Subsection (10)(b)(i) shall be paid to the contractor or subcontractor from whom the retention proceeds have been wrongfully withheld.

(11) A party to a construction contract may not require any other party to waive any provision of this section.

Section 56. Section 14-1-18 is amended to read:

14-1-18. Definitions -- Application of Procurement Code to payment and performance bonds.

(1) (a) For purposes of this chapter, "political subdivision" means any county, city, town, school district, [~~local~~] special district, special service district, community reinvestment agency, public corporation, institution of higher education of the state, public agency of any political subdivision, and, to the extent provided by law, any other entity which expends public funds for construction.

(b) For purposes of applying Section 63G-6a-1103 to a political subdivision, "state" includes "political subdivision."

(2) Notwithstanding any provision of Title 63G, Chapter 6a, Utah Procurement Code, to the contrary, Section 63G-6a-1103 applies to all contracts for the construction, alteration, or repair of any public building or public work of the state or a political subdivision of the state.

Section 57. Section 15-7-2 is amended to read:

15-7-2. Definitions.

As used in this chapter:

(1) "Authorized officer" means any individual required or permitted by any law or by the issuing public entity to execute on behalf of the public entity, a certificated registered public obligation or a writing relating to an uncertificated registered public obligation.

(2) "Certificated registered public obligation" means a registered public obligation which is represented by an instrument.

(3) "Code" means the Internal Revenue Code of 1954.

(4) "Facsimile seal" means the reproduction by engraving, imprinting, stamping, or other means of the seal of the issuer, official, or official body.

(5) "Facsimile signature" means the reproduction by engraving, imprinting, stamping, or other means of a manual signature.

(6) "Financial intermediary" means a bank, broker, clearing corporation or other person, or the nominee of any of them, which in the ordinary course of its business maintains registered public obligation accounts for its customers.

(7) "Issuer" means a public entity which issues an obligation.

(8) "Obligation" means an agreement by a public entity to pay principal and any interest on the obligation, whether in the form of a contract to repay borrowed money, a lease, an installment purchase agreement, or otherwise, and includes a share, participation, or other interest in any such agreement.

(9) "Official" or "official body" means the person or group of persons that is empowered to provide for

the original issuance of an obligation of the issuer, by defining the obligation and its terms, conditions, and other incidents, or to perform duties with respect to a registered public obligation and any successor of such person or group of persons.

(10) "Official actions" means the actions by statute, order, ordinance, resolution, contract, or other authorized means by which the issuer provides for issuance of a registered public obligation.

(11) "Public entity" means any entity, department, or agency which is empowered under the laws of one or more states, territories, possessions of the United States or the District of Columbia, including this state, to issue obligations any interest with respect to which may, under any provision of law, be provided an exemption from the income tax referred to in the Code. The term "public entity" includes, without limitation, this state, an entity deriving powers from and acting pursuant to a state constitution or legislative act, a county, city, town, a municipal corporation, a quasi-municipal corporation, a state university or college, a school district, a special service district, a [~~local~~] special district, a separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, a community reinvestment agency, any other political subdivision, a public authority or public agency, a public trust, a nonprofit corporation, or other organizations.

(12) "Registered public obligation" means an obligation issued by a public entity which is issued pursuant to a system of registration.

(13) "System of registration" and its variants means a plan that provides:

(a) with respect to a certificated registered public obligation, that:

(i) the certificated registered public obligation specifies a person entitled to the registered public obligation and the rights it represents; and

(ii) transfer of the certificated registered public obligation and the rights it represents may be registered upon books maintained for that purpose by or on behalf of the issuer; and

(b) with respect to an uncertificated registered public obligation, that:

(i) books maintained by or on behalf of the issuer for the purpose of registration of the transfer of a registered public obligation specify a person entitled to the registered public obligation and the rights evidenced by it; and

(ii) transfer of the uncertificated registered public obligation and the rights evidenced by it be registered upon such books.

(14) "Uncertificated registered public obligation" means a registered public obligation which is not represented by an instrument.

Section 58. Section 19-3-301 is amended to read:

19-3-301. Restrictions on nuclear waste placement in state.

(1) The placement, including transfer, storage, decay in storage, treatment, or disposal, within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste is prohibited.

(2) Notwithstanding Subsection (1) the governor, after consultation with the county executive and county legislative body of the affected county and with concurrence of the Legislature, may specifically approve the placement as provided in this part, but only if:

(a) (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A. 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste; and

(ii) the authority of the federal Nuclear Regulatory Commission to grant a license under Subsection (2)(a)(i) is clearly upheld by a final judgment of a court of competent jurisdiction; or

(b) an agency of the federal government is transporting the waste, and all state and federal requirements to proceed with the transportation have been met.

(3) The requirement for the approval of a final court of competent jurisdiction shall be met in all of the following categories, in order for a state license proceeding regarding waste to begin:

(a) transfer or transportation, by rail, truck, or other mechanisms;

(b) storage, including any temporary storage at a site away from the generating reactor;

(c) decay in storage;

(d) treatment; and

(e) disposal.

(4) (a) Upon satisfaction of the requirements of Subsection (2)(a), for each category listed in Subsection (3), or satisfaction of the requirements under Subsection (2)(b), the governor, with the concurrence of the attorney general, shall certify in writing to the executive director of the Department of Environmental Quality that all of the requirements have been met, and that any necessary state licensing processes may begin.

(b) Separate certification under this Subsection (4) shall be given for each category in Subsection (3).

(5) (a) The department shall make, by rule, a determination of the dollar amount of the health and economic costs expected to result from a reasonably foreseeable accidental release of waste involving a transfer facility or storage facility, or during transportation of waste, within the exterior boundaries of the state. The department may initiate rulemaking under this Subsection (5)(a) on or after March 15, 2001.

(b) (i) The department shall also determine the dollar amount currently available to cover the costs as determined in Subsection (5)(a):

(A) under nuclear industry self-insurance;

(B) under federal insurance requirements; and

(C) in federal money.

(ii) The department may not include any calculations of federal money that may be appropriated in the future in determining the amount under Subsection (5)(b)(i).

(c) The department shall use the information compiled under Subsections (5)(a) and (b) to determine the amount of unfunded potential liability in the event of a release of waste from a storage or transfer facility, or a release during the transportation of waste.

(6) (a) State agencies may not, for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste, enter into any contracts or any other agreements prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application proceeding for a storage facility or transfer facility.

(b) Political subdivisions of the state may not enter into any contracts or any other agreements for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste.

(c) This Subsection (6) does not prohibit a state agency from exercising the regulatory authority granted to it by law.

(7) (a) Notwithstanding any other provision of law, any political subdivision may not be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to the satisfaction of the conditions in Subsection (4). These political subdivisions include:

(i) a cooperative;

(ii) a [~~local~~] special district authorized by [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(iii) a special service district under Title 17D, Chapter 1, Special Service District Act;

(iv) a limited purpose local governmental entity authorized by Title 17, Counties;

(v) any joint power agreement authorized by Title 11, Cities, Counties, and Local Taxing Units; and

(vi) the formation of a municipality, or any authority of a municipality authorized by Title 10, Utah Municipal Code.

(b) (i) Subsection (7)(a) shall be strictly interpreted. Any political subdivision authorized and formed under the laws of the state on or after March 15, 2001, which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility is formed in violation of Subsection (7)(a).

(ii) If the conditions of Subsection (7)(b)(i) apply, the persons who formed the political subdivision are considered to have knowingly violated a provision of this part, and the penalties of Section 19-3-312 apply.

(8) (a) An organization may not be formed for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.

(b) A foreign organization may not be registered to do business in the state for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.

(c) The prohibitions of Subsections (8)(a) and (b) shall be strictly applied, and:

(i) the formation of a new organization or registration of a foreign organization within the state, any of whose purposes are to provide goods, services, or municipal-type services to a storage facility or transfer facility may not be licensed or registered in the state, and the local or foreign organization is void and does not have authority to operate within the state;

(ii) any organization which is formed or registered on or after March 15, 2001, and which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility has been formed or registered in violation of Subsection (8)(a) or (b) respectively; and

(iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the organization or the principals of the foreign organization, are considered to have knowingly violated a provision of this part, and are subject to the penalties in Section 19-3-312.

(9) (a) (i) Any contract or agreement to provide any goods, services, or municipal-type services to any organization engaging in, or attempting to engage in the placement of high-level nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility within the state are declared to be against the greater public interest, health, and welfare of the state, by promoting an activity which has the great potential to cause extreme public harm.

(ii) These contracts or agreements under Subsection (9)(a)(i), whether formal or informal, are declared to be void from inception, agreement, or execution as against public policy.

(b) (i) Any contract or other agreement to provide goods, services, or municipal-type services to storage or transfer facilities may not be executed within the state.

(ii) Any contract or other agreement, existing or executed on or after March 15, 2001, is considered void from the time of agreement or execution.

(10) (a) All contracts and agreements under Subsection (10)(b) are assessed an annual transaction fee of 75% of the gross value of the contract to the party providing the goods, services, or municipal-type services to the storage facility or transfer facility or transportation entity. The fee shall be assessed per calendar year, and is payable on a prorated basis on or before the last day of each month in accordance with rules established under Subsection (10)(d), and as follows:

(i) 25% of the gross value of the contract to the department; and

(ii) 50% of the gross value of the contract to the Department of Cultural and Community Engagement, to be used by the Utah Division of Indian Affairs as provided in Subsection (11).

(b) Contracts and agreements subject to the fee under Subsection (10)(a) are those contracts and agreements to provide goods, services, or municipal-type services to a storage or transfer facility, or to any organization engaged in the transportation of high-level nuclear waste or greater than class C radioactive waste to a transfer facility or storage facility, and which:

(i) are in existence on March 15, 2001; or

(ii) become effective notwithstanding Subsection (9)(a).

(c) Any governmental agency which regulates the charges to consumers for services provided by utilities or other organizations shall require the regulated utility or organization to include the fees under Subsection (10)(a) in the rates charged to the purchaser of the goods, services, or municipal-type services affected by Subsection (10)(b).

(d) (i) The department, in consultation with the State Tax Commission, shall establish rules for the valuation of the contracts and assessment and collection of the fees, and other rules as necessary to determine the amount of and collection of the fee under Subsection (10)(a). The department may initiate rulemaking under this Subsection (10)(d)(i) on or after March 15, 2001.

(ii) Persons and organizations holding contracts affected by Subsection (10)(b) shall make a good faith estimate of the fee under Subsection (10)(a) for calendar year 2001, and remit that amount to the department on or before July 31, 2001.

(11) (a) The portion of the fees imposed under Subsection (10) which is to be paid to the Department of Cultural and Community Engagement for use by the Utah Division of Indian Affairs shall be used for establishment of a statewide community and economic development program for the tribes of Native American people within the exterior boundaries of the state who have by tribal procedure established a position rejecting siting of any nuclear waste facility on their reservation lands.

(b) The program under Subsection (11)(a) shall include:

(i) educational services and facilities;

(ii) health care services and facilities;

(iii) programs of economic development;

(iv) utilities;

(v) sewer;

(vi) street lighting;

(vii) roads and other infrastructure; and

(viii) oversight and staff support for the program.

(12) It is the intent of the Legislature that this part does not prohibit or interfere with a person's exercise of the rights under the First Amendment to the Constitution of the United States or under Utah Constitution Article I, Sec. 15, by an organization attempting to site a storage facility or transfer facility within the borders of the state for the placement of high-level nuclear waste or greater than class C radioactive waste.

Section 59. Section 19-4-111 is amended to read:

19-4-111. Fluoride added to or removed from water -- Election or shareholder vote required.

(1) As used in this section:

(a) "Corporate public water system" means a public water system that is owned by a corporation engaged in distributing water only to its shareholders.

(b) "Corporation" is as defined in Section 16-4-102.

(c) "Fluoride" means a chemical compound that contains the fluoride ion and is used to fluoridate drinking water, including:

(i) fluorosilicic acid;

(ii) sodium fluorosilicate; or

(iii) sodium fluoride.

(d) "Fluoride supplier" means a person who:

(i) manufactures, distributes, or packages or repackages fluoride;

(ii) is NSF/ANSI Standard 60 certified;

(iii) has evidence of the person's NSF/ANSI Standard 60 certification displayed on the website of a certification body accredited by the International Accreditation Forum, including:

(A) NSF;

(B) the Underwriter Laboratory; or

(C) the Water Quality Association; and

(iv) provides fluoride in compliance with applicable NSF/ANSI Standard 60 certification requirements.

(e) "Removal" means ceasing to add fluoride to a public water supply, the addition having been previously approved by the voters of a political subdivision.

(2) (a) Except as provided in Subsection (7) or Subsection 19-4-104(1)(a)(i), public water supplies, whether state, county, municipal, or district, may not have fluoride added to or removed from the water supply without the approval of a majority of voters in an election in the area affected.

(b) An election shall be held:

(i) upon the filing of an initiative petition requesting the action in accordance with state law governing initiative petitions;

(ii) in the case of a municipal, [~~local~~] special district, special service district, or county water system that is functionally separate from any other water system, upon the passage of a resolution by the legislative body or [~~local~~] special district or special service district board representing the affected voters, submitting the question to the affected voters at a municipal general election; or

(iii) in a county of the first or second class, upon the passage of a resolution by the county legislative body to place an opinion question relating to all public water systems within the county, except as provided in Subsection (3), on the ballot at a general election.

(3) If a majority of voters on an opinion question under Subsection (2)(b)(iii) approve the addition of fluoride to or the removal of fluoride from the public water supplies within the county, the local health departments shall require the addition of fluoride to or the removal of fluoride from all public water supplies within that county other than those systems:

(a) that are functionally separate from any other public water systems in that county; and

(b) where a majority of the voters served by the public water system voted against the addition or removal of fluoride on the opinion question under Subsection (2)(b)(iii).

(4) Nothing contained in this section prohibits the addition of chlorine or other water purifying agents.

(5) Any political subdivision that, prior to November 2, 1976, decided to and was adding fluoride to the drinking water is considered to have complied with Subsection (2).

(6) In an election held pursuant to Subsection (2)(b)(i), (ii), or (iii), where a majority of the voters approve the addition of fluoride to or the removal of fluoride from the public water supplies, no election to consider adding fluoride to or removing fluoride from the public water supplies shall be held for a period of four years from the date of approval by the majority of voters beginning with elections held in November 2000.

(7) (a) A supplier may not add fluoride to or remove fluoride from a corporate public water system unless the majority of the votes cast by the shareholders of the corporate public water system authorize the supplier to add or remove the fluoride.

(b) If a corporate public water system's shareholders do not vote to add fluoride under Subsection (7)(a), the supplier shall annually provide notice to a person who receives water from the corporate public water system of the average amount of fluoride in the water.

(c) A vote of the corporate public water system's shareholders under Subsection (7)(a) does not require a supplier of another public water system, including a public water system that provides water to the corporate public water system, to add fluoride to or remove fluoride from the public water system.

(8) If a local health department requires a public water system to add fluoride to public drinking water supplies under Subsection (3), the public water system shall fluoridate the public drinking water supplies with fluoride manufactured, distributed, packaged, and, if applicable, repackaged by a fluoride supplier who has provided copies of the original, dated documents used to obtain and maintain NSF/ANSI Standard 60 certification to:

(a) the local health department that oversees the public water system; and

(b) the division.

(9) A public water system described in Subsection (8) shall obtain, for each quantity of fluoride acquired to fluoridate public drinking water supplies, a batch-specific certificate of analysis that represents the complete composition of the formulation of the undiluted raw fluoride substance, in percent or parts by weight, for each chemical and contaminant in the batch.

(10) A local health department shall:

(a) order the temporary removal of fluoride from a public water system within the boundaries of the local health department if the public water system:

(i) violates Subsection (8) or (9); or

(ii) is unable to fluoridate public drinking water supplies in accordance with Subsections (8) and (9); and

(b) review and maintain the certification documents submitted to the local health department under Subsection (8).

(11) A public water system described in Subsection (8) shall:

(a) review and maintain certificates of analysis obtained under Subsection (9); and

(b) upon request of a member of the public, provide a copy of a certificate of analysis obtained under Subsection (9) to the member of the public.

(12) A local health department may order the temporary removal of fluoride from a public water system within the boundaries of the local health department if the public water system violates a provision of Subsection (11).

(13) If a local health department orders the removal of fluoride from a public water system under Subsection (10)(a) or (12), the local health department shall:

(a) issue a public notice regarding the temporary removal of fluoride from the public water system; and

(b) when the public water system demonstrates its ability to fluoridate in accordance with Subsections (8), (9), and (11), revoke the removal requirement.

(14) The division shall review and maintain the certification documents submitted to the division under Subsection (8).

Section 60. Section 19-6-508 is amended to read:

19-6-508. Resource recovery project operated by an improvement district.

(1) As used in this section, "resource recovery project" means a project that consists of facilities for the handling, treatment and processing through anaerobic digestion, and resource recovery, of solid waste consisting primarily of organic matter.

(2) An improvement district authorized to operate all or any part of a system for the collection, treatment, or disposition of sewage under Section 17B-2a-403 may own, acquire, construct, or operate a resource recovery project in accordance with this section.

(3) An improvement district described in Subsection (2) may:

(a) (i) own, acquire, construct, or operate a resource recovery project independently; or

(ii) subject to Subsection (4), enter into a short- or long-term agreement for the ownership, acquisition, construction, management, or operation of a resource recovery project with:

(A) a public agency, as defined in Section 11-13-103;

(B) a private person; or

(C) a combination of persons listed in Subsections (3)(a)(ii)(A) and (B);

(b) accept and disburse money from a federal or state grant or any other source for the acquisition, construction, operation, maintenance, or improvement of a resource recovery project;

(c) contract for the lease or purchase of land, a facility, or a vehicle for the operation of a resource recovery project;

(d) establish one or more policies for the operation of a resource recovery project, including:

(i) the hours of operation;

(ii) the character and kind of waste accepted by the resource recovery project; and

(iii) any policy necessary to ensure the safety of the resource recovery project personnel;

(e) sell or contract for the sale of usable material, energy, fuel, or heat separated, extracted, recycled, or recovered from solid waste that consists primarily of organic matter in a resource recovery project;

(f) issue a bond in accordance with [~~Title 17B, Chapter 1, Part 11, Local District Bonds~~] Title 17B, Chapter 1, Part 11, Special District Bonds;

(g) issue an industrial development revenue bond in accordance with Title 11, Chapter 17, Utah Industrial Facilities and Development Act, to pay the costs of financing a project, as defined in Section 11-17-2, that consists of a resource recovery project;

(h) agree to construct and operate a resource recovery project that manages the solid waste of a public entity or a private person, in accordance with one or more contracts and other arrangements described in a proceeding according to which a bond is issued; and

(i) contract for and accept solid waste that consists primarily of organic matter at a resource recovery project regardless of whether the solid waste is generated inside or outside the boundaries of the improvement district.

(4) (a) An agreement described in Subsection (3)(a)(ii) shall:

(i) contain provisions that the improvement district's board determines are in the best interests of the improvement district, including provisions that address:

(A) the purposes of the agreement;

(B) the duration of the agreement;

(C) the method of appointing or employing necessary personnel;

(D) the method of financing the resource recovery project, including the apportionment of costs of construction and operation;

(E) the ownership interest of each owner in the resource recovery project and other property used in connection with the resource recovery project;

(F) the procedures for the disposition of property when the agreement expires or is terminated, or when the resource recovery project ceases operation for any reason;

(G) any agreement of the parties prohibiting or restricting the alienation or partition of the undivided interests of an owner in the resource recovery project;

(H) the construction and repair of the resource recovery project, including, if the parties agree, a determination that one of the parties may construct or repair the resource recovery project as agent for all parties to the agreement;

(I) the administration, operation, and maintenance of the resource recovery project, including, if the parties agree, a determination that one of the parties may administer, operate, and maintain the resource recovery project as agent for all parties to the agreement;

(J) the creation of a committee of representatives of the parties to the agreement, including the committee's powers;

(K) if the parties agree, a provision that if any party defaults in the performance or discharge of the party's obligations under the agreement, the other parties may perform or assume, pro rata or otherwise, the obligations of the defaulting party and may, if the defaulting party fails to remedy the default, succeed to or require the disposition of the rights and interests of the defaulting party in the resource recovery project;

(L) provisions for indemnification of construction, operation, and administration agents for completing construction, handling emergencies, and allocating output of the resource recovery project among the parties to the agreement according to the ownership interests of the parties;

(M) methods for amending and terminating the agreement; and

(N) any other matter determined by the parties to the agreement to be necessary; and

(ii) provide for an equitable method of allocating operation, repair, and maintenance costs of the resource recovery project.

(b) A provision under Subsection (4)(a)(i)(G) is not subject to any law restricting covenants against alienation or partition.

(c) An improvement district's ownership interest in a resource recovery project may not be less than the proportion of money or the value of property supplied by the improvement district for the acquisition and construction of the resource recovery project.

Section 61. Section 26-8a-102 is amended to read:

26-8a-102. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302;

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(5) "Committee" means the State Emergency Medical Services Committee created by Section 26B-1-204.

(6) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26-21-2.

(7) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

(8) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

(9) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 26-8a-302.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

(10) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

(11) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (11)(a) through (c).

(12) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

(13) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(14) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(15) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

(16) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(17) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(18) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26-8a-305; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26-8a-303.

(19) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(20) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.

(21) "Political subdivision" means:

(a) a city, town, or metro township;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a [~~local~~] special district created under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

(22) "Trauma" means an injury requiring immediate medical or surgical intervention.

(23) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

(24) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

(25) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

(26) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 62. Section 26-8a-405.2 is amended to read:

26-8a-405.2. Selection of provider -- Request for competitive sealed proposal -- Public convenience and necessity.

(1) (a) A political subdivision may contract with an applicant approved under Section 26-8a-404 to provide services for the geographic service area that is approved by the department in accordance with Subsection (2), if:

(i) the political subdivision complies with the provisions of this section and Section 26-8a-405.3 if the contract is for 911 ambulance or paramedic services; or

(ii) the political subdivision complies with Sections 26-8a-405.3 and 26-8a-405.4, if the contract is for non-911 services.

(b) (i) The provisions of this section and Sections 26-8a-405.1, 26-8a-405.3, and 26-8a-405.4 do not require a political subdivision to issue a request for proposal for ambulance or paramedic services or non-911 services.

(ii) If a political subdivision does not contract with an applicant in accordance with this section and Section 26-8a-405.3, the provisions of Sections 26-8a-406 through 26-8a-409 apply to the issuance of a license for ambulance or paramedic services in the geographic service area that is within the boundaries of the political subdivision.

(iii) If a political subdivision does not contract with an applicant in accordance with this section, Section 26-8a-405.3 and Section 26-8a-405.4, a license for the non-911 services in the geographic service area that is within the boundaries of the political subdivision may be issued:

(A) under the public convenience and necessity provisions of Sections 26-8a-406 through 26-8a-409; or

(B) by a request for proposal issued by the department under Section 26-8a-405.5.

(c) (i) For purposes of this Subsection (1)(c):

(A) "Fire district" means a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, that:

(I) is located in a county of the first or second class; and

(II) provides fire protection, paramedic, and emergency services.

(B) "Participating municipality" means a city or town whose area is partly or entirely included within a county service area or fire district.

(C) "Participating county" means a county whose unincorporated area is partly or entirely included within a fire district.

(ii) A participating municipality or participating county may as provided in this section and Section 26-8a-405.3, contract with a provider for 911 ambulance or paramedic service.

(iii) If the participating municipality or participating county contracts with a provider for services under this section and Section 26-8a-405.3:

(A) the fire district is not obligated to provide the services that are included in the contract between the participating municipality or the participating county and the provider;

(B) the fire district may impose taxes and obligations within the fire district in the same manner as if the participating municipality or participating county were receiving all services offered by the fire district; and

(C) the participating municipality's and participating county's obligations to the fire district are not diminished.

(2) (a) The political subdivision shall submit the request for proposal and the exclusive geographic service area to be included in a request for proposal issued under Subsections (1)(a)(i) or (ii) to the department for approval prior to issuing the request for proposal. The department shall approve the request for proposal and the exclusive geographic service area:

(i) unless the geographic service area creates an orphaned area; and

(ii) in accordance with Subsections (2)(b) and (c).

(b) The exclusive geographic service area may:

(i) include the entire geographic service area that is within the political subdivision's boundaries;

(ii) include islands within or adjacent to other peripheral areas not included in the political subdivision that governs the geographic service area; or

(iii) exclude portions of the geographic service area within the political subdivision's boundaries if another political subdivision or licensed provider agrees to include the excluded area within their license.

(c) The proposed geographic service area for 911 ambulance or paramedic service shall demonstrate that non-911 ambulance or paramedic service will be provided in the geographic service area, either by the current provider, the applicant, or some other method acceptable to the department. The department may consider the effect of the proposed geographic service area on the costs to the non-911 provider and that provider's ability to provide only non-911 services in the proposed area.

Section 63. Section 26-8a-603 is amended to read:

26-8a-603. Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

(1) As used in this section:

(a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(b) "Local government entity" means a political subdivision that:

(i) is licensed as a ground ambulance provider under Part 4, Ambulance and Paramedic Providers; and

(ii) as of January 1, 2022, does not offer health insurance benefits to volunteer emergency medical service personnel.

(c) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

(d) "Political subdivision" means a county, a municipality, a limited purpose government entity described in [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(e) "Qualifying association" means an association that represents two or more political subdivisions in the state.

(2) The Volunteer Emergency Medical Service Personnel Health Insurance Program shall promote recruitment and retention of volunteer emergency medical service personnel by making health insurance available to volunteer emergency medical service personnel.

(3) The department shall contract with a qualifying association to create, implement, and administer the Volunteer Emergency Medical Service Personnel Health Insurance Program described in this section.

(4) Participation in the program is limited to emergency medical service personnel who:

(a) are licensed under Section 26-8a-302 and are able to perform all necessary functions associated with the license;

(b) provide emergency medical services under the direction of a local governmental entity:

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period;

(ii) within a county of the third, fourth, fifth, or sixth class; and

(iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106;

(c) are not eligible for a health benefit plan through an employer or a spouse's employer;

(d) are not eligible for medical coverage under a government sponsored healthcare program; and

(e) reside in the state.

(5) (a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) Benefits available to program participants under PEHP are limited to health insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

(iii) if the program participant is no longer eligible for benefits, terminates on the last day of the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(6) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design and eligibility for the program.

(b) The department shall convene an advisory board:

(i) to advise the department on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 64. Section 26-18-21 is amended to read:

26-18-21. Medicaid intergovernmental transfer report -- Approval requirements.

(1) As used in this section:

(a) (i) "Intergovernmental transfer" means the transfer of public funds from:

(A) a local government entity to another nonfederal governmental entity; or

(B) from a nonfederal, government owned health care facility regulated under Chapter 21, Health Care Facility Licensing and Inspection Act, to another nonfederal governmental entity.

(ii) "Intergovernmental transfer" does not include:

(A) the transfer of public funds from one state agency to another state agency; or

(B) a transfer of funds from the University of Utah Hospitals and Clinics.

(b) (i) "Intergovernmental transfer program" means a federally approved reimbursement program or category that is authorized by the Medicaid state plan or waiver authority for intergovernmental transfers.

(ii) "Intergovernmental transfer program" does not include the addition of a provider to an existing intergovernmental transfer program.

(c) "Local government entity" means a county, city, town, special service district, [~~local~~] special district, or local education agency as that term is defined in Section 63J-5-102.

(d) "Non-state government entity" means a hospital authority, hospital district, health care district, special service district, county, or city.

(2) (a) An entity that receives federal Medicaid dollars from the department as a result of an intergovernmental transfer shall, on or before August 1, 2017, and on or before August 1 each year thereafter, provide the department with:

(i) information regarding the payments funded with the intergovernmental transfer as authorized by and consistent with state and federal law;

(ii) information regarding the entity's ability to repay federal funds, to the extent required by the department in the contract for the intergovernmental transfer; and

(iii) other information reasonably related to the intergovernmental transfer that may be required by the department in the contract for the intergovernmental transfer.

(b) On or before October 15, 2017, and on or before October 15 each subsequent year, the department shall prepare a report for the Executive Appropriations Committee that includes:

(i) the amount of each intergovernmental transfer under Subsection (2)(a);

(ii) a summary of changes to CMS regulations and practices that are known by the department regarding federal funds related to an intergovernmental transfer program; and

(iii) other information the department gathers about the intergovernmental transfer under Subsection (2)(a).

(3) The department shall not create a new intergovernmental transfer program after July 1, 2017, unless the department reports to the Executive Appropriations Committee, in accordance with Section 63J-5-206, before submitting the new intergovernmental transfer program for federal approval. The report shall include information required by Subsection 63J-5-102(1)(d) and the analysis required in Subsections (2)(a) and (b).

(4) (a) The department shall enter into new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contracts and contract amendments adding new nursing care facilities and new non-state government entity operators in accordance with this Subsection (4).

(b) (i) If the nursing care facility expects to receive less than $1,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit

program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility.

(ii) If the nursing care facility expects to receive between $1,000,000 and $10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility after receiving the approval of the Executive Appropriations Committee.

(iii) If the nursing care facility expects to receive more than $10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department may not approve the application without obtaining approval from the Legislature and the governor.

(c) A non-state government entity may not participate in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program unless the non-state government entity is a special service district, county, or city that operates a hospital or holds a license under Chapter 21, Health Care Facility Licensing and Inspection Act.

(d) Each non-state government entity that participates in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program shall certify to the department that:

(i) the non-state government entity is a local government entity that is able to make an intergovernmental transfer under applicable state and federal law;

(ii) the non-state government entity has sufficient public funds or other permissible sources of seed funding that comply with the requirements in 42 C.F.R. Part 433, Subpart B;

(iii) the funds received from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program are:

(A) for each nursing care facility, available for patient care until the end of the non-state government entity's fiscal year; and

(B) used exclusively for operating expenses for nursing care facility operations, patient care, capital expenses, rent, royalties, and other operating expenses; and

(iv) the non-state government entity has completed all licensing, enrollment, and other forms and documents required by federal and state law to register a change of ownership with the department and with CMS.

(5) The department shall add a nursing care facility to an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract if:

(a) the nursing care facility is managed by or affiliated with the same non-state government entity that also manages one or more nursing care facilities that are included in an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract; and

(b) the non-state government entity makes the certification described in Subsection (4)(d)(ii).

(6) The department may not increase the percentage of the administrative fee paid by a non-state government entity to the department under the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program.

(7) The department may not condition participation in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program on:

(a) a requirement that the department be allowed to direct or determine the types of patients that a non-state government entity will treat or the course of treatment for a patient in a non-state government nursing care facility; or

(b) a requirement that a non-state government entity or nursing care facility post a bond, purchase insurance, or create a reserve account of any kind.

(8) The non-state government entity shall have the primary responsibility for ensuring compliance with Subsection (4)(d)(ii).

(9) (a) The department may not enter into a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract before January 1, 2019.

(b) Subsection (9)(a) does not apply to:

(i) a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018; or

(ii) a nursing care facility that is operated or managed by the same company as a nursing care facility that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018.

Section 65. Section 31A-23a-501 is amended to read:

31A-23a-501. Licensee compensation.

(1) As used in this section:

(a) "Commission compensation" includes funds paid to or credited for the benefit of a licensee from:

(i) commission amounts deducted from insurance premiums on insurance sold by or placed through the licensee;

(ii) commission amounts received from an insurer or another licensee as a result of the sale or placement of insurance; or

(iii) overrides, bonuses, contingent bonuses, or contingent commissions received from an insurer or another licensee as a result of the sale or placement of insurance.

(b) (i) "Compensation from an insurer or third party administrator" means commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration:

(A) whether or not payable pursuant to a written agreement; and

(B) received from:

(I) an insurer; or

(II) a third party to the transaction for the sale or placement of insurance.

(ii) "Compensation from an insurer or third party administrator" does not mean compensation from a customer that is:

(A) a fee or pass-through costs as provided in Subsection (1)(e); or

(B) a fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner by administrative rule.

(c) (i) "Customer" means:

(A) the person signing the application or submission for insurance; or

(B) the authorized representative of the insured actually negotiating the placement of insurance with the producer.

(ii) "Customer" does not mean a person who is a participant or beneficiary of:

(A) an employee benefit plan; or

(B) a group or blanket insurance policy or group annuity contract sold, solicited, or negotiated by the producer or affiliate.

(d) (i) "Noncommission compensation" includes all funds paid to or credited for the benefit of a licensee other than commission compensation.

(ii) "Noncommission compensation" does not include charges for pass-through costs incurred by the licensee in connection with obtaining, placing, or servicing an insurance policy.

(e) "Pass-through costs" include:

(i) costs for copying documents to be submitted to the insurer; and

(ii) bank costs for processing cash or credit card payments.

(2) (a) Except as provided in Subsection (3), a licensee may receive from an insured or from a person purchasing an insurance policy, noncommission compensation.

(b) Noncommission compensation shall be:

(i) limited to actual or reasonable expenses incurred for services; and

(ii) uniformly applied to all insureds or prospective insureds in a class or classes of business or for a specific service or services.

(c) The following additional noncommission compensation is authorized:

(i) compensation a surety bond's principal debtor pays, under procedures approved by a rule or order of the commissioner, to a producer of a compensation corporate surety for an extra service;

(ii) compensation an insurance producer receives for services performed for an insured in connection with a claim adjustment, if the producer:

(A) does not receive and is not promised compensation for aiding in the claim adjustment before the claim occurs; and

(B) is also licensed as a public adjuster in accordance with Section 31A-26-203;

(iii) compensation a consultant receives as a consulting fee, if the consultant complies with the requirements under Section 31A-23a-401; and

(iv) a compensation arrangement that the commissioner approves after finding that the arrangement:

(A) does not violate Section 31A-23a-401; and

(B) is not harmful to the public.

(d) All accounting records relating to noncommission compensation shall be maintained in a manner that facilitates an audit.

(3) (a) A surplus lines producer may receive noncommission compensation when acting as a producer for the insured in a surplus lines transaction, if:

(i) the producer and the insured have agreed on the producer's noncommission compensation; and

(ii) the producer has disclosed to the insured the existence and source of any other compensation that accrues to the producer as a result of the transaction.

(b) The disclosure required by this Subsection (3) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify:

(A) the amount of any known noncommission compensation;

(B) the type and amount, if known, of any potential and contingent noncommission compensation; and

(C) the existence and source of any other compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

(4) (a) For purposes of this Subsection (4):

(i) "Large customer" means an employer who, with respect to a calendar year and to a plan year:

(A) employed an average of at least 100 eligible employees on each business day during the preceding calendar year; and

(B) employs at least two employees on the first day of the plan year.

(ii) "Producer" includes:

(A) a producer;

(B) an affiliate of a producer; or

(C) a consultant.

(b) A producer may not accept or receive any compensation from an insurer or third party administrator for the initial placement of a health benefit plan, other than a hospital confinement indemnity policy, unless prior to a large customer's initial purchase of the health benefit plan the producer discloses in writing to the large customer that the producer will receive compensation from the insurer or third party administrator for the placement of insurance, including the amount or type of compensation known to the producer at the time of the disclosure.

(c) A producer shall:

(i) obtain the large customer's signed acknowledgment that the disclosure under Subsection (4)(b) was made to the large customer; or

(ii) (A) sign a statement that the disclosure required by Subsection (4)(b) was made to the large customer; and

(B) keep the signed statement on file in the producer's office while the health benefit plan placed with the large customer is in force.

(d) A licensee who collects or receives any part of the compensation from an insurer or third party administrator in a manner that facilitates an audit shall, while the health benefit plan placed with the large customer is in force, maintain a copy of:

(i) the signed acknowledgment described in Subsection (4)(c)(i); or

(ii) the signed statement described in Subsection (4)(c)(ii).

(e) Subsection (4)(c) does not apply to:

(i) a person licensed as a producer who acts only as an intermediary between an insurer and the customer's producer, including a managing general agent; or

(ii) the placement of insurance in a secondary or residual market.

(f) (i) A producer shall provide to a large customer listed in this Subsection (4)(f) an annual accounting, as defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of all amounts the producer receives in commission compensation from an insurer or third party administrator as a result of the sale or placement of a health benefit plan to a large customer that is:

(A) the state;

(B) a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including the State Board of Education and its instrumentalities, an institution of higher education and its branches, a school district and its instrumentalities, a vocational and technical school, and an entity arising out of a consolidation agreement between entities described under this Subsection (4)(f)(i)(B);

(C) a county, city, town, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities – Local Districts~~] Title 17B, Limited Purpose Local Government Entities – Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by an interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state; or

(D) a quasi-public corporation, that has the same meaning as defined in Section 63E-1-102.

(ii) The department shall pattern the annual accounting required by this Subsection (4)(f) on the insurance related information on Internal Revenue Service Form 5500 and its relevant attachments.

(g) At the request of the department, a producer shall provide the department a copy of:

(i) a disclosure required by this Subsection (4); or

(ii) an Internal Revenue Service Form 5500 and its relevant attachments.

(5) This section does not alter the right of any licensee to recover from an insured the amount of any premium due for insurance effected by or through that licensee or to charge a reasonable rate of interest upon past-due accounts.

(6) This section does not apply to bail bond producers or bail enforcement agents as defined in Section 31A-35-102.

(7) A licensee may not receive noncommission compensation from an insurer, insured, or enrollee for providing a service or engaging in an act that is required to be provided or performed in order to receive commission compensation, except for the surplus lines transactions that do not receive commissions.

Section 66. Section 34-30-14 is amended to read:

34-30-14. Public works -- Wages.

(1) For purposes of this section:

(a) "Political subdivision" means a county, city, town, school district, [~~local~~] special district, special service district, public corporation, institution of

higher education of the state, public agency of any political subdivision, or other entity that expends public funds for construction, maintenance, repair or improvement of public works.

(b) "Public works" or "public works project" means a building, road, street, sewer, storm drain, water system, irrigation system, reclamation project, or other facility owned or to be contracted for by the state or a political subdivision, and that is to be paid for in whole or in part with tax revenue paid by residents of the state.

(2) (a) Except as provided in Subsection (2)(b) or as required by federal or state law, the state or any political subdivision that contracts for the construction, maintenance, repair, or improvement of public works may not require that a contractor, subcontractor, or material supplier or carrier engaged in the construction, maintenance, repair, or improvement of public works pay its employees:

(i) a predetermined amount of wages or wage rate; or

(ii) a type, amount, or rate of employee benefits.

(b) Subsection (2)(a) does not apply when federal law requires the payment of prevailing or minimum wages to persons working on projects funded in whole or in part by federal funds.

(3) The state or any political subdivision that contracts for the construction, maintenance, repair, or improvement of public works may not require that a contractor, subcontractor, or material supplier or carrier engaged in the construction, maintenance, repair or improvement of public works execute or otherwise become a party to any project labor agreement, collective bargaining agreement, prehire agreement, or any other agreement with employees, their representatives, or any labor organization as a condition of bidding, negotiating, being awarded, or performing work on a public works project.

(4) This section applies to any contract executed after May 1, 1995.

Section 67. Section 34-32-1.1 is amended to read:

34-32-1.1. Prohibiting public employers from making payroll deductions for political purposes.

(1) As used in this section:

(a) (i) "Labor organization" means a lawful organization of any kind that is composed, in whole or in part, of employees and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of employment.

(ii) Except as provided in Subsection (1)(a)(iii), "labor organization" includes each employee association and union for public employees.

(iii) "Labor organization" does not include organizations governed by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151 et seq.

(b) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for public office at any caucus, political convention, primary, or election.

(c) "Public employee" means a person employed by:

(i) the state of Utah or any administrative subunit of the state;

(ii) a state institution of higher education; or

(iii) a municipal corporation, a county, a municipality, a school district, a [~~local~~] special district, a special service district, or any other political subdivision of the state.

(d) "Public employer" means an employer that is:

(i) the state of Utah or any administrative subunit of the state;

(ii) a state institution of higher education; or

(iii) a municipal corporation, a county, a municipality, a school district, a [~~local~~] special district, a special service district, or any other political subdivision of the state.

(e) "Union dues" means dues, fees, assessments, or other money required as a condition of membership or participation in a labor organization.

(2) A public employer may not deduct from the wages of its employees any amounts to be paid to:

(a) a candidate as defined in Section 20A-11-101;

(b) a personal campaign committee as defined in Section 20A-11-101;

(c) a political action committee as defined in Section 20A-11-101;

(d) a political issues committee as defined in Section 20A-11-101;

(e) a registered political party as defined in Section 20A-11-101;

(f) a political fund as defined in Section 20A-11-1402; or

(g) any entity established by a labor organization to solicit, collect, or distribute money primarily for political purposes as defined in this chapter.

(3) The attorney general may bring an action to require a public employer to comply with the requirements of this section.

Section 68. Section 34-41-101 is amended to read:

34-41-101. Definitions.

As used in this chapter:

(1) "Drug" means any substance recognized as a drug in the United States Pharmacopeia, the National Formulary, the Homeopathic

Pharmacopeia, or other drug compendia, including Title 58, Chapter 37, Utah Controlled Substances Act, or supplement to any of those compendia.

(2) "Drug testing" means the scientific analysis for the presence of drugs or their metabolites in the human body in accordance with the definitions and terms of this chapter.

(3) "Local governmental employee" means any person or officer in the service of a local governmental entity or state institution of higher education for compensation.

(4) (a) "Local governmental entity" means any political subdivision of Utah including any county, municipality, local school district, [~~local~~] special district, special service district, or any administrative subdivision of those entities.

(b) "Local governmental entity" does not mean Utah state government or its administrative subdivisions provided for in Sections 63A-17-1001 through 63A-17-1006.

(5) "Periodic testing" means preselected and preannounced drug testing of employees or volunteers conducted on a regular schedule.

(6) "Prospective employee" means any person who has made a written or oral application to become an employee of a local governmental entity or a state institution of higher education.

(7) "Random testing" means the unannounced drug testing of an employee or volunteer who was selected for testing by using a method uninfluenced by any personal characteristics other than job category.

(8) "Reasonable suspicion for drug testing" means an articulated belief based on the recorded specific facts and reasonable inferences drawn from those facts that a local government employee or volunteer is in violation of the drug-free workplace policy.

(9) "Rehabilitation testing" means unannounced but preselected drug testing done as part of a program of counseling, education, and treatment of an employee or volunteer in conjunction with the drug-free workplace policy.

(10) "Safety sensitive position" means any local governmental or state institution of higher education position involving duties which directly affects the safety of governmental employees, the general public, or positions where there is access to controlled substances, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, during the course of performing job duties.

(11) "Sample" means urine, blood, breath, saliva, or hair.

(12) "State institution of higher education" means the institution as defined in Section 53B-3-102.

(13) "Volunteer" means any person who donates services as authorized by the local governmental entity or state institution of higher education without pay or other compensation except expenses actually and reasonably incurred.

Section 69. Section 34-52-102 is amended to read:

34-52-102. Definitions.

As used in this chapter:

(1) "Applicant" means an individual who provides information to a public or private employer for the purpose of obtaining employment.

(2) (a) "Criminal conviction" means a verdict or finding of guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.

(b) "Criminal conviction" does not include an expunged criminal conviction.

(3) (a) "Private employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(b) "Private employer" does not include a public employer.

(4) "Public employer" means an employer that is:

(a) the state or any administrative subunit of the state, including a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of state government;

(b) a state institution of higher education; or

(c) a municipal corporation, county, municipality, school district, [~~local~~] special district, special service district, or other political subdivision of the state.

Section 70. Section 35A-1-102 is amended to read:

35A-1-102. Definitions.

Unless otherwise specified, as used in this title:

(1) "Client" means an individual who the department has determined to be eligible for services or benefits under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(2) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(3) "Economic service area" means an economic service area established in accordance with Chapter 2, Economic Service Areas.

(4) "Employment assistance" means services or benefits provided by the department under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(5) "Employment center" is a location in an economic service area where the services provided

by an economic service area under Section 35A-2-201 may be accessed by a client.

(6) "Employment counselor" means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Economic Service Areas.

(7) "Employment plan" means a written agreement between the department and a client that describes:

(a) the relationship between the department and the client;

(b) the obligations of the department and the client; and

(c) the result if an obligation is not fulfilled by the department or the client.

(8) "Executive director" means the executive director of the department appointed under Section 35A-1-201.

(9) "Government entity" means the state or any county, municipality, [~~local~~] special district, special service district, or other political subdivision or administrative unit of the state, a state institution of higher education as defined in Section 53B-2-101, or a local education agency as defined in Section 53G-7-401.

(10) "Public assistance" means:

(a) services or benefits provided under Chapter 3, Employment Support Act;

(b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

(c) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act;

(d) SNAP benefits; and

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the federal Food Stamp Program.

(12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or privilege available under SNAP.

(13) "Stabilization" means addressing the basic living, family care, and social or psychological needs of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.

(14) "Vulnerable populations" means children or adults with a life situation that substantially affects that individual's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

Section 71. Section 36-11-102 is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means an event, a tour, or a meeting:

(a) (i) to which a legislator or another nonexecutive branch public official is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives or another nonexecutive branch public official; or

(B) the president of the Senate, if the public official is a member of the Senate or another nonexecutive branch public official; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(4) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

(5) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to social security deductions, including a payment in excess of the maximum amount subject to deduction under social security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(6) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(7) "Education action" means:

(a) a resolution, policy, or other official action for consideration by a board of education;

(b) a nomination or appointment by an education official or a board of education;

(c) a vote on an administrative action taken by a vote of a board of education;

(d) an adjudicative proceeding over which an education official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(8) "Education official" means:

(a) a member of a board of education;

(b) an individual appointed to or employed in a position under a board of education, if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts resolutions or policies or drafts or makes rules;

(iii) determines rates or fees;

(iv) makes decisions relating to an education budget or the expenditure of public money; or

(v) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (8)(a) or (b).

(9) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(10) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(11) (a) "Expenditure" means any of the items listed in this Subsection (11)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (11)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution:

(A) reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, Section 10-3-208, Section 17-16-6.5, or any applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1); or

(B) lawfully given to a person that is not required to report the contribution under a law or ordinance described in Subsection (11)(b)(ii)(A);

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection (11)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than $10, and the aggregate daily expenditures do not exceed $10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections (11)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(viii) a plaque, commendation, or award that:

(A) is presented in public; and

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(ix) a gift that:

(A) is an item that is not consumable and not perishable;

(B) a public official, other than a local official or an education official, accepts on behalf of the state;

(C) the public official promptly remits to the state;

(D) a property administrator does not reject under Section 63G-23-103;

(E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and

(F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;

(x) any of the following with a cash value not exceeding $30:

(A) a publication; or

(B) a commemorative item;

(xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit a contribution that is reportable under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, 2 U.S.C. Sec. 434, Section 10-3-208, Section 17-16-6.5, or an applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1);

(B) to solicit a campaign contribution that a person is not required to report under a law or ordinance described in Subsection (11)(b)(xi)(A); or

(C) charitable solicitation, as defined in Section 13-22-2;

(xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xiii) sponsorship of an approved activity;

(xiv) notwithstanding Subsection (11)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity;

(B) that is widely attended and related to a governmental duty of a public official;

(C) for a local official, that is sponsored by an organization that represents only local governments, including the Utah Association of Counties, the Utah League of Cities and Towns, or the Utah Association of Special Districts; or

(D) for an education official, that is sponsored by a public school, a charter school, or an organization that represents only public schools or charter schools, including the Utah Association of Public Charter Schools, the Utah School Boards Association, or the Utah School Superintendents Association; or

(xv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to:

(A) for a public official who is not a local official or an education official, the state; or

(B) for a public official who is a local official or an education official, the local government or board of education to which the public official belongs.

(12) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(13) (a) "Foreign agent" means an individual who engages in lobbying under contract with a foreign government.

(b) "Foreign agent" does not include an individual who is recognized by the United States Department of State as a duly accredited diplomatic or consular officer of a foreign government, including a duly accredited honorary consul.

(14) "Foreign government" means a government other than the government of:

(a) the United States;

(b) a state within the United States;

(c) a territory or possession of the United States; or

(d) a political subdivision of the United States.

(15) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (15)(a)(i) or (ii), when acting in the capacity of the position; or

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(16) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(17) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(18) "Lobbying" means communicating with a public official for the purpose of influencing a legislative action, executive action, local action, or education action.

(19) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature, a local government, a board of education, or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative action, executive action, local action, or education action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature, an agency of the executive branch of state government, a board of education, the governing body of a local government, a committee of a local government, or a committee of a board of education, solely for the purpose of testifying in support of or in opposition to legislative action, executive action, local action, or education action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(20) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and government officers, who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(21) "Local action" means:

(a) an ordinance or resolution for consideration by a local government;

(b) a nomination or appointment by a local official or a local government;

(c) a vote on an administrative action taken by a vote of a local government's legislative body;

(d) an adjudicative proceeding over which a local official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(22) "Local government" means:

(a) a county, city, town, or metro township;

(b) a [~~local~~] special district governed by [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

(23) "Local official" means:

(a) an elected member of a local government;

(b) an individual appointed to or employed in a position in a local government if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts ordinances or resolutions or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (23)(a) or (b).

(24) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(25) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(26) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(27) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions;

(b) an immediate family member of a person described in Subsection (27)(a);

(c) a local official; or

(d) an education official.

(28) "Public official type" means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(v) a local official, including a description of the type of local government for which the individual is a local official; or

(vi) an education official, including a description of the type of board of education for which the individual is an education official; or

(b) an immediate family member of an individual described in Subsection (27)(a), (c), or (d).

(29) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(30) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(31) "Relative" means:

(a) a spouse;

(b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin; or

(c) a spouse of an individual described in Subsection (31)(b).

(32) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

Section 72. Section 36-11-201 is amended to read:

36-11-201. Lobbyist, principal, and government officer financial reporting requirements -- Prohibition for related person to make expenditures.

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), a lobbyist shall file financial reports with the lieutenant governor on or before the due dates specified in Subsection (2).

(ii) A lobbyist who has not made an expenditure during a quarterly reporting period is not required to file a quarterly financial report for that quarterly reporting period.

(iii) A lobbyist who is not required to file any quarterly reports under this section for a calendar year shall, on or before January 10 of the following year, file a financial report listing the amount of the expenditures for the entire preceding year as "none."

(b) Except as provided in Subsection (1)(c), a government officer or principal that makes an expenditure during any of the quarterly reporting periods under Subsection (2)(a) shall file a financial report with the lieutenant governor on or before the date that a report for that quarter is due.

(c) (i) As used in this Subsection (1)(c), "same local government type" means:

(A) for a county government, the same county government or another county government;

(B) for a municipal government, the same municipal government or another municipal government;

(C) for a board of education, the same board of education;

(D) for a local school board described in Title 53G, Chapter 4, School Districts, the same local school board or another local school board;

(E) for a [~~local~~] special district, the same [~~local~~] special district or another [~~local~~] special district or a special service district;

(F) for a special service district, the same special service district or another special service district or a [~~local~~] special district; or

(G) for a participant in an interlocal agreement, another participant in the same interlocal agreement.

(ii) A local official or an education official is not required, under this section, to report an expenditure made by the local official or education official to another local official or education official of the same local government type as the local official or education official making the expenditure.

(2) (a) A financial report is due quarterly on the following dates:

(i) April 10, for the period of January 1 through March 31;

(ii) July 10, for the period of April 1 through June 30;

(iii) October 10, for the period of July 1 through September 30; and

(iv) January 10, for the period of October 1 through December 31 of the previous year.

(b) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday, the report is due on the next succeeding business day.

(c) A financial report is timely filed if it is filed electronically before the close of regular office hours on or before the due date.

(3) A financial report shall contain:

(a) the total amount of expenditures made to benefit any public official during the quarterly reporting period;

(b) the total amount of expenditures made, by the type of public official, during the quarterly reporting period;

(c) for the financial report due on January 10:

(i) the total amount of expenditures made to benefit any public official during the last calendar year; and

(ii) the total amount of expenditures made, by the type of public official, during the last calendar year;

(d) a disclosure of each expenditure made during the quarterly reporting period to reimburse or pay for travel or lodging for a public official, including:

(i) each travel destination and each lodging location;

(ii) the name of each public official who benefitted from the expenditure on travel or lodging;

(iii) the public official type of each public official named;

(iv) for each public official named, a listing of the amount and purpose of each expenditure made for travel or lodging; and

(v) the total amount of expenditures listed under Subsection (3)(d)(iv);

(e) a disclosure of aggregate daily expenditures greater than $10 made during the quarterly reporting period including:

(i) the date and purpose of the expenditure;

(ii) the location of the expenditure;

(iii) the name of any public official benefitted by the expenditure;

(iv) the type of the public official benefitted by the expenditure; and

(v) the total monetary worth of the benefit that the expenditure conferred on any public official;

(f) for each public official who was employed by the lobbyist, principal, or government officer, a list that provides:

(i) the name of the public official; and

(ii) the nature of the employment with the public official;

(g) each bill or resolution, by number and short title, on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official;

(h) a description of each executive action on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official;

(i) a description of each local action or education action regarding which the lobbyist, principal, or government officer made an expenditure to a local official or education official;

(j) the general purposes, interests, and nature of the entities that the lobbyist, principal, or government officer filing the report represents; and

(k) for a lobbyist, a certification that the information provided in the report is true, accurate, and complete to the lobbyist's best knowledge and belief.

(4) A related person may not, while assisting a lobbyist, principal, or government officer in lobbying, make an expenditure that benefits a public official under circumstances that would otherwise fall within the disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal, or government officer.

(5) The lieutenant governor shall:

(a) (i) develop a preprinted form for a financial report required by this section; and

(ii) make copies of the form available to a lobbyist, principal, or government officer who requests a form; and

(b) provide a reporting system that allows a lobbyist, principal, or government officer to submit a financial report required by this chapter via the Internet.

(6) (a) A lobbyist and a principal shall continue to file a financial report required by this section until the lobbyist or principal files a statement with the lieutenant governor that:

(i) (A) for a lobbyist, states that the lobbyist has ceased lobbying activities; or

(B) for a principal, states that the principal no longer employs an individual as a lobbyist;

(ii) in the case of a lobbyist, states that the lobbyist is surrendering the lobbyist's license;

(iii) contains a listing, as required by this section, of all previously unreported expenditures that have been made through the date of the statement; and

(iv) states that the lobbyist or principal will not make any additional expenditure that is not disclosed on the statement unless the lobbyist or principal complies with the disclosure and licensing requirements of this chapter.

(b) Except as provided in Subsection (1)(a)(ii), a lobbyist or principal that is required to file a financial report under this section is required to file the report quarterly until the lobbyist or principal files the statement required by Subsection (6)(a).

Section 73. Section 36-11-304 is amended to read:

36-11-304. Expenditures over certain amounts prohibited -- Exceptions.

(1) Except as provided in Subsection (2) or (3), a lobbyist, principal, or government officer may not make or offer to make aggregate daily expenditures that exceed:

(a) for food or beverage, the food reimbursement rate; or

(b) $10 for expenditures other than food or beverage.

(2) A lobbyist, principal, or government officer may make aggregate daily expenditures that exceed the limits described in Subsection (1):

(a) for the following items, if the expenditure is reported in accordance with Section 36-11-201:

(i) food;

(ii) beverage;

(iii) travel;

(iv) lodging; or

(v) admission to or attendance at a tour or meeting that is not an approved activity; or

(b) if the expenditure is made for a purpose solely unrelated to the public official's position as a public official.

(3) (a) As used in this Subsection (3), "same local government type" means:

(i) for a county government, the same county government or another county government;

(ii) for a municipal government, the same municipal government or another municipal government;

(iii) for a board of education, the same board of education;

(iv) for a local school board described in Title 53G, Chapter 4, School Districts, the same local school board or another local school board;

(v) for a [~~local~~] special district, the same [~~local~~] special district or another [~~local~~] special district or a special service district;

(vi) for a special service district, the same special service district or another special service district or a [~~local~~] special district; or

(vii) for a participant in an interlocal agreement, another participant in the same interlocal agreement.

(b) This section does not apply to an expenditure made by a local official or an education official to another local official or education official of the same local government type as the local official or education official making the expenditure.

Section 74. Section 36-12-13 is amended to read:

36-12-13. Office of the Legislative Fiscal Analyst established -- Powers, functions, and duties -- Qualifications.

(1) There is established an Office of the Legislative Fiscal Analyst as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of the Legislative Fiscal Analyst under the supervision of the fiscal analyst are:

(a) (i) to estimate general revenue collections, including comparisons of:

(A) current estimates for each major tax type to long-term trends for that tax type;

(B) current estimates for federal fund receipts to long-term federal fund trends; and

(C) current estimates for tax collections and federal fund receipts to long-term trends deflated for the inflationary effects of debt monetization; and

(ii) to report the analysis required under Subsection (2)(a)(i) to the Legislature's Executive Appropriations Committee before each annual general session of the Legislature;

(b) to analyze in detail the state budget before the convening of each legislative session and make recommendations to the Legislature on each item or program appearing in the budget, including:

(i) funding for and performance of programs, acquisitions, and services currently undertaken by state government to determine whether each department, agency, institution, or program should:

(A) continue at its current level of expenditure;

(B) continue at a different level of expenditure; or

(C) be terminated; and

(ii) increases or decreases to spending authority and other resource allocations for the current and future fiscal years;

(c) to prepare on all proposed bills fiscal estimates that reflect:

(i) potential state government revenue impacts;

(ii) anticipated state government expenditure changes;

(iii) anticipated expenditure changes for county, municipal, [~~local~~] special district, or special service district governments; and

(iv) anticipated direct expenditure by Utah residents and businesses, including the unit cost, number of units, and total cost to all impacted residents and businesses;

(d) to indicate whether each proposed bill will impact the regulatory burden for Utah residents or businesses, and if so:

(i) whether the impact increases or decreases the regulatory burden; and

(ii) whether the change in burden is high, medium, or low;

(e) beginning in 2017 and repeating every three years after 2017, to prepare the following cycle of analyses of long-term fiscal sustainability:

(i) in year one, the joint revenue volatility report required under Section 63J-1-205;

(ii) in year two, a long-term budget for programs appropriated from major funds and tax types; and

(iii) in year three, a budget stress test comparing estimated future revenue to and expenditure from major funds and tax types under various potential economic conditions;

(f) to report instances in which the administration may be failing to carry out the expressed intent of the Legislature;

(g) to propose and analyze statutory changes for more effective operational economies or more effective administration;

(h) to prepare, before each annual general session of the Legislature, a summary showing the current status of the following as compared to the past nine fiscal years:

(i) debt;

(ii) long-term liabilities;

(iii) contingent liabilities;

(iv) General Fund borrowing;

(v) reserves;

(vi) fund and nonlapsing balances; and

(vii) cash funded capital investments;

(i) to make recommendations for addressing the items described in Subsection (2)(h) in the upcoming annual general session of the Legislature;

(j) to prepare, after each session of the Legislature, a summary showing the effect of the final legislative program on the financial condition of the state;

(k) to conduct organizational and management improvement studies in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule;

(l) to prepare and deliver upon request of any interim committee or the Legislative Management Committee, reports on the finances of the state and on anticipated or proposed requests for appropriations;

(m) to recommend areas for research studies by the executive department or the interim committees;

(n) to appoint and develop a professional staff within budget limitations;

(o) to prepare and submit the annual budget request for the office;

(p) to develop a taxpayer receipt:

(i) available to taxpayers through a website; and

(ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's tax dollars are expended for government purposes; and

(q) to publish or provide other information on taxation and government expenditures that may be accessed by the public.

(3) The legislative fiscal analyst shall have a master's degree in public administration, political science, economics, accounting, or the equivalent in academic or practical experience.

(4) In carrying out the duties provided for in this section, the legislative fiscal analyst may obtain access to all records, documents, and reports necessary to the scope of the legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

(5) The Office of the Legislative Fiscal Analyst shall provide any information the State Board of Education reports in accordance with Subsection 53E-3-507(7) to:

(a) the chief sponsor of the proposed bill; and

(b) upon request, any legislator.

Section 75. Section 38-1b-102 is amended to read:

38-1b-102. Definitions.

As used in this chapter:

(1) "Alternate means" means the same as that term is defined in Section 38-1a-102.

(2) "Construction project" means the same as that term is defined in Section 38-1a-102.

(3) "Construction work" means the same as that term is defined in Section 38-1a-102.

(4) "Designated agent" means the same as that term is defined in Section 38-1a-102.

(5) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(6) "Government project" means a construction project undertaken by or for:

(a) the state, including a department, division, or other agency of the state; or

(b) a county, city, town, school district, [~~local~~] special district, special service district, community reinvestment agency, or other political subdivision of the state.

(7) "Government project-identifying information" means:

(a) the lot or parcel number of each lot included in the project property that has a lot or parcel number; or

(b) the unique project number assigned by the designated agent.

(8) "Original contractor" means the same as that term is defined in Section 38-1a-102.

(9) "Owner" means the same as that term is defined in Section 38-1a-102.

(10) "Owner-builder" means the same as that term is defined in Section 38-1a-102.

(11) "Private project" means a construction project that is not a government project.

(12) "Project property" means the same as that term is defined in Section 38-1a-102.

(13) "Registry" means the same as that term is defined in Section 38-1a-102.

Section 76. Section 38-9-102 is amended to read:

38-9-102. Definitions.

As used in this chapter:

(1) "Affected person" means:

(a) a person who is a record interest holder of the real property that is the subject of a recorded nonconsensual common law document; or

(b) the person against whom a recorded nonconsensual common law document purports to reflect or establish a claim or obligation.

(2) "Document sponsor" means a person who, personally or through a designee, signs or submits for recording a document that is, or is alleged to be, a nonconsensual common law document.

(3) "Interest holder" means a person who holds or possesses a present, lawful property interest in certain real property, including an owner, title holder, mortgagee, trustee, or beneficial owner.

(4) "Lien claimant" means a person claiming an interest in real property who offers a document for recording or filing with any county recorder in the state asserting a lien, or notice of interest, or other claim of interest in certain real property.

(5) "Nonconsensual common law document" means a document that is submitted to a county recorder's office for recording against public official property that:

(a) purports to create a lien or encumbrance on or a notice of interest in the real property;

(b) at the time the document is recorded, is not:

(i) expressly authorized by this chapter or a state or federal statute;

(ii) authorized by or contained in an order or judgment of a court of competent jurisdiction; or

(iii) signed by or expressly authorized by a document signed by the owner of the real property; and

(c) is submitted in relation to the public official's status or capacity as a public official.

(6) "Owner" means a person who has a vested ownership interest in real property.

(7) "Political subdivision" means a county, city, town, school district, special improvement or taxing district, [~~local~~] special district, special service district, or other governmental subdivision or public corporation.

(8) "Public official" means:

(a) a current or former:

(i) member of the Legislature;

(ii) member of Congress;

(iii) judge;

(iv) member of law enforcement;

(v) corrections officer;

(vi) active member of the Utah State Bar; or

(vii) member of the Board of Pardons and Parole;

(b) an individual currently or previously appointed or elected to an elected position in:

(i) the executive branch of state or federal government; or

(ii) a political subdivision;

(c) an individual currently or previously appointed to or employed in a position in a political subdivision, or state or federal government that:

(i) is a policymaking position; or

(ii) involves:

(A) purchasing or contracting decisions;

(B) drafting legislation or making rules;

(C) determining rates or fees; or

(D) making adjudicative decisions; or

(d) an immediate family member of a person described in Subsections (8)(a) through (c).

(9) "Public official property" means real property that has at least one record interest holder who is a public official.

(10) (a) "Record interest holder" means a person who holds or possesses a present, lawful property interest in real property, including an owner, titleholder, mortgagee, trustee, or beneficial owner, and whose name and interest in that real property appears in the county recorder's records for the county in which the property is located.

(b) "Record interest holder" includes any grantor in the chain of the title in real property.

(11) "Record owner" means an owner whose name and ownership interest in certain real property is recorded or filed in the county recorder's records for the county in which the property is located.

(12) "Wrongful lien" means any document that purports to create a lien, notice of interest, or encumbrance on an owner's interest in certain real property and at the time it is recorded is not:

(a) expressly authorized by this chapter or another state or federal statute;

(b) authorized by or contained in an order or judgment of a court of competent jurisdiction in the state; or

(c) signed by or authorized pursuant to a document signed by the owner of the real property.

Section 77. Section 45-1-101 is amended to read:

45-1-101. Legal notice publication requirements.

(1) As used in this section:

(a) "Average advertisement rate" means:

(i) in determining a rate for publication on the public legal notice website or in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class, a newspaper's gross advertising revenue for the preceding calendar quarter divided by the gross column-inch space used in the newspaper for advertising for the previous calendar quarter; or

(ii) in determining a rate for publication in a newspaper that primarily distributes publications in a county of the first or second class, a newspaper's average rate for all qualifying advertising segments for the preceding calendar quarter for an advertisement:

(A) published in the same section of the newspaper as the legal notice; and

(B) of the same column-inch space as the legal notice.

(b) "Column-inch space" means a unit of space that is one standard column wide by one inch high.

(c) "Gross advertising revenue" means the total revenue obtained by a newspaper from all of its qualifying advertising segments.

(d) (i) "Legal notice" means:

(A) a communication required to be made public by a state statute or state agency rule; or

(B) a notice required for judicial proceedings or by judicial decision.

(ii) "Legal notice" does not include:

(A) a public notice published by a public body in accordance with the provisions of Sections 52-4-202 and 63A-16-601; or

(B) a notice of delinquency in the payment of property taxes described in Section 59-2-1332.5.

[~~(e) "Local district" is as defined in Section 17B-1-102.~~]

[~~(f)~~] (e) "Public legal notice website" means the website described in Subsection (2)(b) for the purpose of publishing a legal notice online.

[~~(g)~~] (f) (i) "Qualifying advertising segment" means, except as provided in Subsection [~~(1)(g)(ii)~~] (1)(f)(ii), a category of print advertising sold by a newspaper, including classified advertising, line advertising, and display advertising.

(ii) "Qualifying advertising segment" does not include legal notice advertising.

(g) "Special district" means the same as that term is defined in Section 17B-1-102.

(h) "Special service district" [~~is as~~] means the same as that term is defined in Section 17D-1-102.

(2) Except as provided in Subsections (8) and (9), notwithstanding any other legal notice provision established by law, a person required by law to publish legal notice shall publish the notice:

(a) (i) as required by the statute establishing the legal notice requirement; or

(ii) by serving legal notice, by certified mail or in person, directly on all parties for whom the statute establishing the legal notice requirement requires legal notice, if:

(A) the direct service of legal notice does not replace publication in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class;

(B) the statute clearly identifies the parties;

(C) the person can prove that the person has identified all parties for whom notice is required; and

(D) the person keeps a record of the service for at least two years; and

(b) on a public legal notice website established by the combined efforts of Utah's newspapers that collectively distribute newspapers to the majority of newspaper subscribers in the state.

(3) The public legal notice website shall:

(a) be available for viewing and searching by the general public, free of charge; and

(b) accept legal notice posting from any newspaper in the state.

(4) A person that publishes legal notice as required under Subsection (2) is not relieved from complying with an otherwise applicable requirement under Title 52, Chapter 4, Open and Public Meetings Act.

(5) If legal notice is required by law and one option for complying with the requirement is publication in a newspaper, or if a [~~local~~] special district or a special service district publishes legal notice in a newspaper, the newspaper:

(a) may not charge more for publication than the newspaper's average advertisement rate; and

(b) shall publish the legal notice on the public legal notice website at no additional cost.

(6) If legal notice is not required by law, if legal notice is required by law and the person providing legal notice, in accordance with the requirements of law, chooses not to publish the legal notice in a newspaper, or if a [~~local~~] special district or a special service district with an annual operating budget of less than $250,000 chooses to publish a legal notice on the public notice website without publishing the complete notice in the newspaper, a newspaper:

(a) may not charge more than an amount equal to 15% of the newspaper's average advertisement rate for publishing five column lines in the newspaper to publish legal notice on the public legal notice website;

(b) may not require that the legal notice be published in the newspaper; and

(c) at the request of the person publishing on the legal notice website, shall publish in the newspaper up to five column lines, at no additional charge, that briefly describe the legal notice and provide the web address where the full public legal notice can be found.

(7) If a newspaper offers to publish the type of legal notice described in Subsection (5), it may not refuse to publish the type of legal notice described in Subsection (6).

(8) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a [~~local~~] special district or a special service district with an annual operating budget of $250,000 or more, the [~~local~~] special district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the [~~local~~] special district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the legal public notice website as described in Subsection (5).

(9) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a [~~local~~] special district or a special service district with an annual operating budget of less than $250,000, the [~~local~~] special district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the [~~local~~] special district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the public legal notice website as described in Subsection (5); or

(c) publishing the legal notice on the public legal notice website as described in Subsection (6).

Section 78. Section 49-11-102 is amended to read:

49-11-102. Definitions.

As used in this title:

(1) (a) "Active member" means a member who:

(i) is employed by a participating employer and accruing service credit; or

(ii) within the previous 120 days:

(A) has been employed by a participating employer; and

(B) accrued service credit.

(b) "Active member" does not include a retiree.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables as recommended by the actuary and adopted by the executive director, including regular interest.

(3) "Actuarial interest rate" means the interest rate as recommended by the actuary and adopted by the board upon which the funding of system costs and benefits are computed.

(4) (a) "Agency" means:

(i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;

(ii) a county, municipality, school district, [~~local~~] special district, or special service district;

(iii) a state college or university; or

(iv) any other participating employer.

(b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).

(5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

(6) "Alternate payee" means a member's former spouse or family member eligible to receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

(7) "Amortization rate" means the board certified percent of salary required to amortize the unfunded actuarial accrued liability in accordance with policies established by the board upon the advice of the actuary.

(8) "Annuity" means monthly payments derived from member contributions.

(9) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is designated in the participating employer's charter, creation document, or similar document, and:

(a) who earns $500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407 for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

(10) (a) "At-will employee" means a person who is employed by a participating employer and:

(i) who is not entitled to merit or civil service protection and is generally considered exempt from a participating employer's merit or career service personnel systems;

(ii) whose on-going employment status is entirely at the discretion of the person's employer; or

(iii) who may be terminated without cause by a designated supervisor, manager, or director.

(b) "At-will employee" does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer's merit system, civil service protection system, or career service personnel systems, policies, or plans.

(11) "Beneficiary" means any person entitled to receive a payment under this title through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

(12) "Board" means the Utah State Retirement Board established under Section 49-11-202.

(13) "Board member" means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

(14) "Board of Higher Education" or "Utah Board of Higher Education" means the Utah Board of Higher Education described in Section 53B-1-402.

(15) "Certified contribution rate" means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(16) "Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

(17) "Council member" means a person serving on the Membership Council established under Section 49-11-205.

(18) "Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

(19) "Current service" means covered service under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters' Retirement Act;

(f) Chapter 17, Judges' Contributory Retirement Act;

(g) Chapter 18, Judges' Noncontributory Retirement Act;

(h) Chapter 19, Utah Governors' and Legislators' Retirement Act;

(i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(20) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

(a) years of service;

(b) final average monthly salary; or

(c) a retirement multiplier.

(21) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(22) "Educational institution" means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

(a) the State Board of Education and its instrumentalities;

(b) any institution of higher education and its branches;

(c) any school district and its instrumentalities;

(d) any vocational and technical school; and

(e) any entity arising out of a consolidation agreement between entities described under this Subsection (22).

(23) "Elected official":

(a) means a person elected to a state office, county office, municipal office, school board or school district office, [~~local~~] special district office, or special service district office;

(b) includes a person who is appointed to serve an unexpired term of office described under Subsection (23)(a); and

(c) does not include a judge or justice who is subject to a retention election under Section 20A-12-201.

(24) (a) "Employer" means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

(b) "Employer" may also include an agency financed in whole or in part by public funds.

(25) "Exempt employee" means an employee working for a participating employer:

(a) who is not eligible for service credit under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and

(b) for whom a participating employer is not required to pay contributions or nonelective contributions.

(26) "Final average monthly salary" means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

(27) "Fund" means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(28) (a) "Inactive member" means a member who has not been employed by a participating employer for a period of at least 120 days.

(b) "Inactive member" does not include retirees.

(29) (a) "Initially entering" means hired, appointed, or elected for the first time, in current service as a member with any participating employer.

(b) "Initially entering" does not include a person who has any prior service credit on file with the office.

(c) "Initially entering" includes an employee of a participating employer, except for an employee that is not eligible under a system or plan under this title, who:

(i) does not have any prior service credit on file with the office;

(ii) is covered by a retirement plan other than a retirement plan created under this title; and

(iii) moves to a position with a participating employer that is covered by this title.

(30) "Institution of higher education" means an institution described in Section 53B-1-102.

(31) (a) "Member" means a person, except a retiree, with contributions on deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act, or with a terminated system.

(b) "Member" also includes leased employees within the meaning of Section 414(n)(2) of the

Internal Revenue Code, if the employees have contributions on deposit with the office. If leased employees constitute less than 20% of the participating employer's work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, "member" does not include leased employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

(32) "Member contributions" means the sum of the contributions paid to a system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a system, and which are made by:

(a) the member; and

(b) the participating employer on the member's behalf under Section 414(h) of the Internal Revenue Code.

(33) "Nonelective contribution" means an amount contributed by a participating employer into a participant's defined contribution account.

(34) "Normal cost rate":

(a) means the percent of salary that is necessary for a retirement system that is fully funded to maintain its fully funded status; and

(b) is determined by the actuary based on the assumed rate of return established by the board.

(35) "Office" means the Utah State Retirement Office.

(36) "Participant" means an individual with voluntary deferrals or nonelective contributions on deposit with the defined contribution plans administered under this title.

(37) "Participating employer" means a participating employer, as defined by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

(38) "Part-time appointed board member" means a person:

(a) who is appointed to serve as a member of a board, commission, council, committee, or panel of a participating employer; and

(b) whose service as a part-time appointed board member does not qualify as a regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

(39) "Pension" means monthly payments derived from participating employer contributions.

(40) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

(41) (a) "Political subdivision" means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

(b) "Political subdivision" includes [~~local~~] special districts, special service districts, or authorities created by the Legislature or by local governments, including the office.

(c) "Political subdivision" does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

(42) "Program" means the Public Employees' Insurance Program created under Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees' Long-Term Disability program created under Chapter 21, Public Employees' Long-Term Disability Act.

(43) "Public funds" means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions.

(44) "Qualified defined contribution plan" means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

(45) "Refund interest" means the amount accrued on member contributions at a rate adopted by the board.

(46) "Retiree" means an individual who has qualified for an allowance under this title.

(47) "Retirement" means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

(48) "Retirement date" means the date selected by the member on which the member's retirement becomes effective with the office.

(49) "Retirement related contribution":

(a) means any employer payment to any type of retirement plan or program made on behalf of an employee; and

(b) does not include Social Security payments or Social Security substitute payments made on behalf of an employee.

(50) "Service credit" means:

(a) the period during which an employee is employed and compensated by a participating employer and meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are paid to the office; and

(b) periods of time otherwise purchasable under this title.

(51) "Surviving spouse" means:

(a) the lawful spouse who has been married to a member for at least six months immediately before the death date of the member; or

(b) a former lawful spouse of a member with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612.

(52) "System" means the individual retirement systems created by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

(53) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

(54) "Tier I" means a system or plan under this title for which:

(a) an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011; or

(b) a governor or legislator who initially enters office before July 1, 2011.

(55) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I system or plan for an employee, governor, legislator, or full-time elected official who does not have Tier I service credit in a system or plan under this title:

(i) if the employee initially enters regular full-time employment on or after July 1, 2011; or

(ii) if the governor, legislator, or full-time elected official initially enters office on or after July 1, 2011.

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

(56) "Unfunded actuarial accrued liability" or "UAAL":

(a) is determined by the system's actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

(57) "Voluntary deferrals" means an amount contributed by a participant into that participant's defined contribution account.

Section 79. Section 49-11-205 is amended to read:

49-11-205. Membership Council established -- Members -- Chair -- Duties -- Expenses and per diem.

(1) There is established a Membership Council to perform the duties under Subsection (5).

(2) The Membership Council shall be composed of 15 council members selected as follows:

(a) three council members shall be school employees selected by the governing board of an association representative of a majority of school employees who are members of a system administered by the board;

(b) one council member shall be a classified school employee selected by the governing board of the association representative of a majority of classified school employees who are members of a system administered by the board;

(c) two council members shall be public employees selected by the governing board of the association representative of a majority of the public employees who are members of a system administered by the board;

(d) one council member shall be a municipal officer or employee selected by the governing board of the association representative of a majority of the municipalities who participate in a system administered by the board;

(e) one council member shall be a county officer or employee selected by the governing board of the association representative of a majority of counties who participate in a system administered by the board;

(f) one council member shall be a representative of members of the Judges' Noncontributory Retirement System selected by the Judicial Council;

(g) one council member shall be a representative of members of the Public Safety Retirement Systems selected by the governing board of the

association representative of the majority of peace officers who are members of the Public Safety Retirement Systems;

(h) one council member shall be a representative of members of the Firefighters' Retirement System selected by the governing board of the association representative of the majority of paid professional firefighters who are members of the Firefighters' Retirement System;

(i) one council member shall be a retiree selected by the governing board of the association representing the largest number of retirees, who are not public education retirees, from the Public Employees' Contributory, Public Employees' Noncontributory, and New Public Employees' Tier II Contributory Retirement Systems;

(j) one council member shall be a retiree selected by the governing board of the association representing the largest number of public education retirees;

(k) one council member shall be a school business official selected by the governing board of the association representative of a majority of the school business officials from public education employers who participate in a system administered by the board; and

(l) one council member shall be a special district officer or employee selected by the governing board of the association representing the largest number of special service districts and [~~local~~] special districts who participate in a system administered by the board.

(3) (a) Each entity granted authority to select council members under Subsection (2) may also revoke the selection at any time.

(b) Each term on the council shall be for a period of four years, subject to Subsection (3)(a).

(c) Each term begins on July 1 and expires on June 30.

(d) When a vacancy occurs on the council for any reason, the replacement shall be selected for the remainder of the unexpired term.

(4) The council shall annually designate one council member as chair.

(5) The council shall:

(a) recommend to the board and to the Legislature benefits and policies for members of any system or plan administered by the board;

(b) recommend procedures and practices to improve the administration of the systems and plans and the public employee relations responsibilities of the board and office;

(c) examine the record of all decisions affecting retirement benefits made by a hearing officer under Section 49-11-613;

(d) submit nominations to the board for the position of executive director if that position is vacant;

(e) advise and counsel with the board and the director on policies affecting members of the various systems administered by the office; and

(f) perform other duties assigned to it by the board.

(6) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 80. Section 51-4-2 is amended to read:

51-4-2. Deposits by political subdivisions.

(1) As used in this section:

(a) "Officer" means each:

(i) county treasurer, county auditor, county assessor, county clerk, clerk of the district court, city treasurer, city clerk, justice court judge; and

(ii) other officer of a political subdivision.

(b) "Political subdivision" means a county, city, town, school district, [~~local~~] special district, and special service district.

(2) (a) Each officer shall deposit all public funds daily, if practicable, but no later than once every three banking days.

(b) Each officer shall deposit all public funds only in qualified depositories unless the public funds need to be deposited in a bank outside Utah in order to provide for:

(i) payment of maturing bonds or other evidences of indebtedness; or

(ii) payment of the interest on bonds or other evidences of indebtedness.

(3) (a) (i) Each officer shall require all checks to be made payable to the office of the officer receiving funds or to the political subdivision's treasurer.

(ii) An officer may not accept a check unless it is made payable to the office of the officer receiving funds or to the political subdivision's treasurer.

(b) Each officer shall deposit all money the officer collects into an account controlled by the political subdivision's treasurer.

(4) (a) Except as provided in Subsection (4)(b) and unless a shorter time for depositing funds is otherwise required by law, each political subdivision that has collected funds that are due to the state or to another political subdivision of the state shall, on or before the tenth day of each month, pay all of those funds that were receipted during the last month:

(i) to a qualified depository for the credit of the appropriate public treasurer; or

(ii) to the appropriate public treasurer.

(b) Property tax collections shall be apportioned and paid according to Section 59-2-1365.

Section 81. Section 51-7-3 is amended to read:

51-7-3. Definitions.

As used in this chapter:

(1) "Agent" means "agent" as defined in Section 61-1-13.

(2) "Certified dealer" means:

(a) a primary reporting dealer recognized by the Federal Reserve Bank of New York who is certified by the director as having met the applicable criteria of council rule; or

(b) a broker dealer who:

(i) has and maintains an office and a resident registered principal in the state;

(ii) meets the capital requirements established by council rules;

(iii) meets the requirements for good standing established by council rule; and

(iv) is certified by the director as meeting quality criteria established by council rule.

(3) "Certified investment adviser" means a federal covered adviser, as defined in Section 61-1-13, or an investment adviser, as defined in Section 61-1-13, who is certified by the director as having met the applicable criteria of council rule.

(4) "Commissioner" means the commissioner of financial institutions.

(5) "Council" means the State Money Management Council created by Section 51-7-16.

(6) "Covered bond" means a publicly placed debt security issued by a bank, other regulated financial institution, or a subsidiary of either that is secured by a pool of loans that remain on the balance sheet of the issuer or its subsidiary.

(7) "Director" means the director of the Utah State Division of Securities of the Department of Commerce.

(8) (a) "Endowment funds" means gifts, devises, or bequests of property of any kind donated to a higher education institution from any source.

(b) "Endowment funds" does not mean money used for the general operation of a higher education institution that is received by the higher education institution from:

(i) state appropriations;

(ii) federal contracts;

(iii) federal grants;

(iv) private research grants; and

(v) tuition and fees collected from students.

(9) "First tier commercial paper" means commercial paper rated by at least two nationally recognized statistical rating organizations in the highest short-term rating category.

(10) "Funds functioning as endowments" means funds, regardless of source, whose corpus is intended to be held in perpetuity by formal institutional designation according to the institution's policy for designating those funds.

(11) "GASB" or "Governmental Accounting Standards Board" means the Governmental Accounting Standards Board that is responsible for accounting standards used by public entities.

(12) "Hard put" means an unconditional sell-back provision or a redemption provision applicable at issue to a note or bond, allowing holders to sell their holdings back to the issuer or to an equal or higher-rated third party provider at specific intervals and specific prices determined at the time of issuance.

(13) "Higher education institution" means the institutions specified in Section 53B-1-102.

(14) "Investment adviser representative" is as defined in Section 61-1-13.

(15) (a) "Investment agreement" means any written agreement that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate.

(b) "Investment agreement" includes any agreement to supply investments on one or more future dates.

(16) "Local government" means a county, municipality, school district, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(17) "Market value" means market value as defined in the Master Repurchase Agreement.

(18) "Master Repurchase Agreement" means the current standard Master Repurchase Agreement approved by the Public Securities Association or by any successor organization.

(19) "Maximum amount" means, with respect to qualified depositories, the total amount of:

(a) deposits in excess of the federal deposit insurance limit; and

(b) nonqualifying repurchase agreements.

(20) "Money market mutual fund" means an open-end managed investment fund:

(a) that complies with the diversification, quality, and maturity requirements of Rule 2a-7 or any successor rule of the Securities and Exchange Commission applicable to money market mutual funds; and

(b) that assesses no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated.

(21) "Nationally recognized statistical rating organization" means an organization that has been designated as a nationally recognized statistical rating organization by the Securities and Exchange Commission's Division of Market Regulation.

(22) "Nonqualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a qualified depository arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers that is:

(a) evidenced by a safekeeping receipt issued by the qualified depository;

(b) included in the depository's maximum amount of public funds; and

(c) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(23) "Operating funds" means current balances and other funds that are to be disbursed for operation of the state government or any of its boards, commissions, institutions, departments, divisions, agencies, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(24) "Permanent funds" means funds whose principal may not be expended, the earnings from which are to be used for purposes designated by law.

(25) "Permitted depository" means any out-of-state financial institution that meets quality criteria established by rule of the council.

(26) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(27) (a) "Public money" means "public funds."

(b) "Public money," as used in Article VII, Sec. 15, Utah Constitution, means the same as "state funds."

(28) "Public treasurer" includes the state treasurer and the official of any state board, commission, institution, department, division, agency, or other similar instrumentality, or of any county, city, school district, charter school, political subdivision, or other public body who has the responsibility for the safekeeping and investment of any public funds.

(29) "Qualified depository" means a Utah depository institution or an out-of-state depository institution, as those terms are defined in Section 7-1-103, that is authorized to conduct business in this state under Section 7-1-702 or Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, whose deposits are insured by an agency of the federal government and that has been certified by the commissioner of financial institutions as having met the requirements established under this chapter and the rules of the council to be eligible to receive deposits of public funds.

(30) "Qualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a financial institution or government securities dealer acting as principal arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers only if purchased securities are:

(a) delivered to the public treasurer's safekeeping agent or custodian as contemplated by Section 7 of the Master Repurchase Agreement; and

(b) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(31) "Reciprocal deposits" means deposits that are initially deposited into a qualified depository and are then redeposited through a deposit account registry service:

(a) in one or more FDIC-insured depository institutions in amounts up to the relevant FDIC-insured deposit limit for a depositor in each depository institution; and

(b) in exchange for reciprocal FDIC-insured deposits made through the deposit account registry service to the qualified depository.

(32) "Securities division" means Utah's Division of Securities created within the Department of Commerce by Section 13-1-2.

(33) "State funds" means:

(a) public money raised by operation of law for the support and operation of the state government; and

(b) all other money, funds, and accounts, regardless of the source from which the money, funds, or accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities.

Section 82. Section 52-4-203 is amended to read:

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) (a) Written minutes of an open meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) the substance of all matters proposed, discussed, or decided by the public body which may

include a summary of comments made by members of the public body;

(iv) a record, by individual member, of each vote taken by the public body;

(v) the name of each person who:

(A) is not a member of the public body; and

(B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

(c) A public body that has members who were elected to the public body shall satisfy the requirement described in Subsection (2)(a)(iv) by recording each vote:

(i) in list format;

(ii) by category for each action taken by a member, including yes votes, no votes, and absent members; and

(iii) by each member's name.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Electronic information" means information presented or provided in an electronic format.

(iii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.

(iv) "Specified local public body" means a legislative body of a county, city, town, or metro township.

(v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

(vi) "State website" means the Utah Public Notice Website created under Section 63A-16-601.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

(e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;

(B) make the approved minutes and public materials available to the public at the public body's primary office; and

(C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and

(iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.

(f) A specified local public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(g) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); or

(B) comply with Subsections (4)(e)(ii)(B) and (C) and post to the state website a link to a website on which the approved minutes and any public materials distributed at the meeting are posted; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are $50,000 or less.

Section 83. Section 52-8-102 is amended to read:

52-8-102. Definitions.

As used in this chapter:

(1) "Attribution" means to be responsible for the truth, correctness, and accuracy of a report.

(2) "Chief executive officer" means:

(a) the governor, for the state;

(b) the chair of the county commission or the county executive, for a county; and

(c) the mayor, for a municipality, or if governed under a council-manager form of government, the chair of the council.

(3) "Government entity" includes the state, its agencies and institutions, each county, municipality, school district, [~~local~~] special district, and special service district in Utah.

(4) "Promotional literature" means reports whose primary or secondary purpose is to provide nonresidents with information about the government entity that produced the report.

(5) (a) "Report" means each account, statement, record of proceedings, summary of activities, and other written or printed document required by statute that is prepared or produced by a government entity that is distributed to the public.

(b) "Report" does not mean written or printed documents whose primary purpose is to provide biographical information about government officials.

Section 84. Section 53-2a-203 is amended to read:

53-2a-203. Definitions.

As used in this part:

(1) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor for a municipality operating under all forms of municipal government except the council-manager form of government; or

(ii) the city manager for a municipality operating under the council-manager form of government;

(b) for a county:

(i) the chair of the county commission for a county operating under the county commission or expanded county commission form of government;

(ii) the county executive officer for a county operating under the county-executive council form of government; or

(iii) the county manager for a county operating under the council-manager form of government;

(c) for a special service district:

(i) the chief executive officer of the county or municipality that created the special service district if authority has not been delegated to an administrative control board as provided in Section 17D-1-301;

(ii) the chair of the administrative control board to which authority has been delegated as provided in Section 17D-1-301; or

(iii) the general manager or other officer or employee to whom authority has been delegated by the governing body of the special service district as provided in Section 17D-1-301; or

(d) for a [~~local~~] special district:

(i) the chair of the board of trustees selected as provided in Section 17B-1-309; or

(ii) the general manager or other officer or employee to whom authority has been delegated by the board of trustees.

(2) "Executive action" means any of the following actions by the governor during a state of emergency:

(a) an order, a rule, or a regulation made by the governor as described in Section 53-2a-209;

(b) an action by the governor to suspend or modify a statute as described in Subsection 53-2a-204(1)(j); or

(c) an action by the governor to suspend the enforcement of a statute as described in Subsection 53-2a-209(4).

(3) "Exigent circumstances" means a significant change in circumstances following the expiration of a state of emergency declared in accordance with this chapter that:

(a) substantially increases the threat to public safety or health relative to the circumstances in existence when the state of emergency expired;

(b) poses an imminent threat to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the state of emergency expired.

(4) "Legislative emergency response committee" means the Legislative Emergency Response Committee created in Section 53-2a-218.

(5) "Local emergency" means a condition in any municipality or county of the state which requires that emergency assistance be provided by the affected municipality or county or another political subdivision to save lives and protect property within its jurisdiction in response to a disaster, or to avoid or reduce the threat of a disaster.

(6) "Long-term state of emergency" means a state of emergency:

(a) that lasts longer than 30 days; or

(b) declared to respond to exigent circumstances as described in Subsection 53-2a-206(3).

(7) "Political subdivision" means a municipality, county, special service district, or [~~local~~] special district.

Section 85. Section 53-2a-302 is amended to read:

53-2a-302. Definitions.

As used in this part:

(1) "Emergency responder":

(a) means a person in the public or private sector:

(i) who has special skills, qualification, training, knowledge, or experience, whether or not possessing a license, certificate, permit, or other official recognition for the skills, qualification, training, knowledge, or experience, that would benefit a participating political subdivision in responding to a locally declared emergency or in an authorized drill or exercise; and

(ii) whom a participating political subdivision requests or authorizes to assist in responding to a locally declared emergency or in an authorized drill or exercise; and

(b) includes:

(i) a law enforcement officer;

(ii) a firefighter;

(iii) an emergency medical services worker;

(iv) a physician, physician assistant, nurse, or other public health worker;

(v) an emergency management official;

(vi) a public works worker;

(vii) a building inspector;

(viii) an architect, engineer, or other design professional; or

(ix) a person with specialized equipment operations skills or training or with any other skills needed to provide aid in a declared emergency.

(2) "Participating political subdivision" means each county, municipality, public safety district, and public safety interlocal entity that has not adopted a resolution under Section 53-2a-306 withdrawing itself from the statewide mutual aid system.

(3) "Public safety district" means a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, that provides public safety service.

(4) "Public safety interlocal entity" means an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act, that provides public safety service.

(5) "Public safety service" means a service provided to the public to protect life and property and includes fire protection, police protection, emergency medical service, and hazardous material response service.

(6) "Requesting political subdivision" means a participating political subdivision that requests emergency assistance under Section 53-2a-207 from one or more other participating political subdivisions.

(7) "Responding political subdivision" means a participating political subdivision that responds to a request under Section 53-2a-307 from a requesting political subdivision.

(8) "State" means the state of Utah.

(9) "Statewide mutual aid system" or "system" means the aggregate of all participating political subdivisions and the state.

Section 86. Section 53-2a-305 is amended to read:

53-2a-305. Agreements not affected by this part.

Nothing in this part may be construed:

(1) to limit the state, a county, municipality, [~~local~~] special district, special service district, or interlocal entity from entering into an agreement allowed by law for public safety and related purposes; or

(2) to affect an agreement to which the state, a county, municipality, [~~local~~] special district, special service district, or interlocal entity is a party.

Section 87. Section 53-2a-602 is amended to read:

53-2a-602. Definitions.

(1) Unless otherwise defined in this section, the terms that are used in this part mean the same as those terms are defined in Part 1, Emergency Management Act.

(2) As used in this part:

(a) "Agent of the state" means any representative of a state agency, local agency, or non-profit entity that agrees to provide support to a requesting intrastate or interstate government entity that has declared an emergency or disaster and has requested assistance through the division.

(b) "Declared disaster" means one or more events:

(i) within the state;

(ii) that occur within a limited period of time;

(iii) that involve:

(A) a significant number of persons being at risk of bodily harm, sickness, or death; or

(B) a significant portion of real property at risk of loss;

(iv) that are sudden in nature and generally occur less frequently than every three years; and

(v) that results in:

(A) the president of the United States declaring an emergency or major disaster in the state;

(B) the governor declaring a state of emergency under [~~Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act~~] Part 2 Disaster Response and Recovery Act; or

(C) the chief executive officer of a local government declaring a local emergency under Part 2, Disaster Response and Recovery Act.

(c) "Disaster recovery account" means the State Disaster Recovery Restricted Account created in Section 53-2a-603.

(d) (i) "Emergency disaster services" means:

(A) evacuation;

(B) shelter;

(C) medical triage;

(D) emergency transportation;

(E) repair of infrastructure;

(F) safety services, including fencing or roadblocks;

(G) sandbagging;

(H) debris removal;

(I) temporary bridges;

(J) procurement and distribution of food, water, or ice;

(K) procurement and deployment of generators;

(L) rescue or recovery;

(M) emergency protective measures; or

(N) services similar to those described in Subsections (2)(d)(i)(A) through (M), as defined by the division by rule, that are generally required in response to a declared disaster.

(ii) "Emergency disaster services" does not include:

(A) emergency preparedness; or

(B) notwithstanding whether or not a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund.

(e) "Emergency preparedness" means the following done for the purpose of being prepared for an emergency as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the purchase of equipment;

(ii) the training of personnel; or

(iii) the obtaining of a certification.

(f) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district; and

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

[~~(g) "Local district" means the same as that term is defined in Section 17B-1-102.~~]

[~~(h)~~] (g) "Local fund" means a local government disaster fund created in accordance with Section 53-2a-605.

[~~(i)~~] (h) "Local government" means:

(i) a county;

(ii) a city or town; or

(iii) a [~~local~~] special district or special service district that:

(A) operates a water system;

(B) provides transportation service;

(C) provides, operates, and maintains correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;

(D) provides consolidated 911 and emergency dispatch service;

(E) operates an airport; or

(F) operates a sewage system.

(i) "Special district" means the same as that term is defined in Section 17B-1-102.

(j) "Special fund" means a fund other than a general fund of a local government that is created for a special purpose established under the uniform system of budgeting, accounting, and reporting.

(k) "Special service district" means the same as that term is defined in Section 17D-1-102.

(l) "State's prime interest rate" means the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold.

Section 88. Section 53-2a-605 is amended to read:

53-2a-605. Local government disaster funds.

(1) (a) Subject to this section and notwithstanding anything to the contrary contained in Title 10, Utah Municipal Code, or Title 17, Counties, [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Chapter 1, Special Service District Act, the governing body of a local government may create and maintain by ordinance a special fund known as a local government disaster fund.

(b) The local fund shall consist of:

(i) subject to the limitations of this section, money transferred to it in accordance with Subsection (2);

(ii) any other public or private money received by the local government that is:

(A) given to the local government for purposes consistent with this section; and

(B) deposited into the local fund at the request of:

(I) the governing body of the local government; or

(II) the person giving the money; and

(iii) interest or income realized from the local fund.

(c) Interest or income realized from the local fund shall be deposited into the local fund.

(d) Money in a local fund may be:

(i) deposited or invested as provided in Section 51-7-11; or

(ii) transferred by the local government treasurer to the state treasurer under Section 51-7-5 for the state treasurer's management and control under Title 51, Chapter 7, State Money Management Act.

(e) (i) The money in a local fund may accumulate from year to year until the local government governing body determines to spend any money in the local fund for one or more of the purposes specified in Subsection (3).

(ii) Money in a local fund at the end of a fiscal year:

(A) shall remain in the local fund for future use; and

(B) may not be transferred to any other fund or used for any other purpose.

(2) The amounts transferred to a local fund may not exceed 10% of the total estimated revenues of the local government for the current fiscal period that are not restricted or otherwise obligated.

(3) Money in the fund may only be used to fund the services and activities of the local government creating the local fund in response to:

(a) a declared disaster within the boundaries of the local government;

(b) the aftermath of the disaster that gave rise to a declared disaster within the boundaries of the local government; and

(c) subject to Subsection (5), emergency preparedness.

(4) (a) A local fund is subject to this part and:

(i) in the case of a town, Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, except that:

(A) in addition to the funds listed in Section 10-5-106, the mayor shall prepare a budget for the local fund;

(B) Section 10-5-119 addressing termination of special funds does not apply to a local fund; and

(C) the council of the town may not authorize an interfund loan under Section 10-5-120 from the local fund;

(ii) in the case of a city, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, except that:

(A) in addition to the funds listed in Section 10-6-109, the mayor shall prepare a budget for the local fund;

(B) Section 10-6-131 addressing termination of special funds does not apply to a local fund; and

(C) the governing body of the city may not authorize an interfund loan under Section 10-6-132 from the local fund; and

(iii) in the case of a county, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, except that:

(A) Section 17-36-29 addressing termination of special funds does not apply to a local fund; and

(B) the governing body of the county may not authorize an interfund loan under Section 17-36-30 from the local fund;

(iv) in the case of a [~~local~~] special district or special service district, [~~Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts~~] Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, except that:

(A) Section 17B-1-625, addressing termination of a special fund, does not apply to a local fund; and

(B) the governing body of the [~~local~~] special district or special service district may not authorize an interfund loan under Section 17B-1-626 from the local fund; and

(v) in the case of an interlocal entity, Title 11, Chapter 13, Part 5, Fiscal Procedures for Interlocal Entities, except for the following provisions:

(A) Section 11-13-522 addressing termination of a special fund does not apply to a local fund; and

(B) the governing board of the interlocal entity may not authorize an interfund loan under Section 11-13-523 from the local fund.

(b) Notwithstanding Subsection (4)(a), transfers of money to a local fund or the accumulation of money in a local fund do not affect any limits on fund balances, net assets, or the accumulation of retained earnings in any of the following of a local government:

(i) a general fund;

(ii) an enterprise fund;

(iii) an internal service fund; or

(iv) any other fund.

(5) (a) A local government may not expend during a fiscal year more than 10% of the money budgeted to be deposited into a local fund during that fiscal year for emergency preparedness.

(b) The amount described in Subsection (5)(a) shall be determined before the adoption of the tentative budget.

Section 89. Section 53-2a-1301 is amended to read:

53-2a-1301. Definitions.

As used in the part:

(1) "Account" means the Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

(2) "Affected community" means a community directly affected by an ongoing or recent disaster.

(3) "Chief executive officer" means the same as that term is defined in Section 53-2a-203.

(4) "Community" means a county, municipality, [~~local~~] special district, or special service district.

(5) "Costs not recoverable" include:

(a) the county threshold; and

(b) costs covered by insurance or federal government grants, including funding provided to the state by FEMA's Public Assistance grant program described in 44 C.F.R. Chapter 1, Subchapter D, Part 206.

(6) "County threshold" means, for each county, the countywide per capita indicator established by FEMA for the state, multiplied by the population of the county as determined by the division.

(7) "Disaster recovery" means action taken to remove debris, implement life-saving emergency protective measures, or repair, replace, or restore facilities in response to a disaster.

(8) "Disaster recovery grant" means money granted to an affected community for disaster recovery that amounts to not more than 75% of the difference between the cost of disaster recovery, as determined by the division after reviewing the official damage assessment, and costs not recoverable.

(9) "FEMA" means the Federal Emergency Management Agency.

(10) "Post hazard mitigation" means action taken, after a natural disaster, to reduce or eliminate risk to people or property that may occur as a result of the long-term effects of the natural disaster or a subsequent natural disaster, including action to prevent damage caused by flooding, earthquake, dam failure, wildfire, landslide, severe weather, drought, and problem soil.

(11) "Post hazard mitigation grant" means money granted to a community for post hazard mitigation that amounts to not more than 75% of the costs deemed necessary by the division to complete the post hazard mitigation.

(12) "Official damage assessment" means a financial assessment of the damage to an affected community, caused by a disaster, that is conducted under the direction of the governing body of the affected community, in accordance with the rules described in Section 53-2a-1305.

Section 90. Section 53-3-207 is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "Driving privilege" means the privilege granted under this chapter to drive a motor vehicle.

(b) "Governmental entity" means the state or a political subdivision of the state.

(c) "Health care professional" means:

(i) a licensed physician, physician assistant, nurse practitioner, or mental health therapist; or

(ii) any other licensed health care professional the division designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Political subdivision" means any county, city, town, school district, public transit district, community reinvestment agency, special improvement or taxing district, [~~local~~] special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(e) "Invisible condition" means a physical or mental condition that may interfere with an individual's ability to communicate with a law enforcement officer, including:

(i) a communication impediment;

(ii) hearing loss;

(iii) blindness or a visual impairment;

(iv) autism spectrum disorder;

(v) a drug allergy;

(vi) Alzheimer's disease or dementia;

(vii) post-traumatic stress disorder;

(viii) traumatic brain injury;

(ix) schizophrenia;

(x) epilepsy;

(xi) a developmental disability;

(xii) Down syndrome;

(xiii) diabetes;

(xiv) a heart condition; or

(xv) any other condition approved by the department.

(f) "Invisible condition identification symbol" means a symbol or alphanumeric code that indicates that an individual is an individual with an invisible condition.

(g) "State" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every individual privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege card indicating the type or class of motor vehicle the individual may drive.

(b) An individual may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the individual;

(vi) a photograph or other facsimile of the individual's signature;

(vii) an indication whether the individual intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the individual states that the individual is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205 and provides verification that the individual was granted an honorable or general discharge from the United States Armed Forces, an indication that the individual is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to an individual younger than 21 years old on a portrait-style format as required in Subsection (7)(b) is not required to include an indication that the individual is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the individual's social security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) The size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) The division shall include or affix an invisible condition identification symbol on an individual's regular license certificate, limited-term license certificate, or driving privilege card if the individual, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) signs a waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on the individual's driving record or the Utah Criminal Justice Information System under this chapter; and

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's regular license certificate, limited-term license certificate, or driving privilege card or the individual's information in the Utah Criminal Justice Information System.

(b) As part of the form described in Subsection (4)(a), the department shall advise the individual that by submitting the signed waiver, the individual consents to the release of the individual's medical information to any person described in Subsections (4)(a)(iii)(A) through (C), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's regular license certificate, limited-term license certificate, or driving privilege card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued regular license certificate, limited-term license certificate, or driving privilege card, require the individual to provide subsequent written verification described in Subsection (4)(a)(ii) to include the invisible condition identification symbol on the individual's renewed or extended regular license certificate, limited-term license certificate, or driving privilege card.

(d) The inclusion of an invisible condition identification symbol on an individual's license certificate, limited-term license certificate, or driving privilege card in accordance with Subsection (4)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

(e) For each individual issued a regular license certificate, limited-term license certificate, or driving privilege card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

(f) Except as provided in this section, the division may not release the information described in Subsection (4)(e).

(g) Within 30 days after the day on which the division receives an individual's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection (4)(e); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(5) As provided in Section 63G-2-302, the information described in Subsection (4)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(6) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the individual to drive a motor vehicle while the division is completing the division's investigation to determine whether the individual is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection (6) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the individual's immediate possession while driving a motor vehicle, and the temporary regular license certificate or temporary limited-term license certificate is invalid when the individual's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which the temporary regular license certificate or temporary limited-term license certificate is not valid as a temporary license.

(d) (i) Except as provided in Subsection (6)(d)(ii), the division may not issue a temporary driving privilege card or other temporary permit to an applicant for a driving privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

(7) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any individual younger than 21 years old by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to an individual younger than 21 years old by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 21 years old.

(8) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

(a) that the limited-term license certificate is temporary; and

(b) the limited-term license certificate's expiration date.

(9) (a) The division shall only issue a driving privilege card to an individual whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

(i) use of a format, color, font, or other means; and

(ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(10) The provisions of Subsection (7)(b) do not apply to a learner permit, temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

(11) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(12) (a) A governmental entity may not accept a driving privilege card as proof of personal identification.

(b) A driving privilege card may not be used as a document providing proof of an individual's age for any government required purpose.

(13) An individual who violates Subsection (2)(b) is guilty of an infraction.

(14) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Section 91. Section 53-5-708 is amended to read:

53-5-708. Permit -- Names private.

(1) (a) The bureau shall maintain a record in its office of any permit issued under this part.

(b) Notwithstanding the requirements of Subsection 63G-2-301(2)(b), the names, addresses, telephone numbers, dates of birth, and Social Security numbers of persons receiving permits are protected records under Subsection 63G-2-305(11).

(c) Notwithstanding Section 63G-2-206, a person may not share any of the information listed in Subsection (1)(b) with any office, department, division, or other agency of the federal government unless:

(i) the disclosure is necessary to conduct a criminal background check on the individual who is the subject of the information;

(ii) the disclosure of information is made pursuant to a court order directly associated with an active investigation or prosecution of the individual who is the subject of the information;

(iii) the disclosure is made to a criminal justice agency in a criminal investigation or prosecution;

(iv) the disclosure is made by a law enforcement agency within the state to another law enforcement agency in the state or in another state in connection with an investigation, including a preliminary investigation, or a prosecution of the individual who is the subject of the information;

(v) the disclosure is made by a law enforcement agency within the state to an employee of a federal law enforcement agency in the course of a combined law enforcement effort involving the law enforcement agency within the state and the federal law enforcement agency; or

(vi) the disclosure is made in response to a routine request that a federal law enforcement officer makes to obtain information on an individual whom the federal law enforcement officer detains, including for a traffic stop, or questions because of the individual's suspected violation of state law.

(d) A person is guilty of a class A misdemeanor if the person knowingly:

(i) discloses information listed in Subsection (1)(b) in violation of the provisions under Title 63G, Chapter 2, Government Records Access and Management Act, applicable to protected records; or

(ii) shares information in violation of Subsection (1)(c).

(e) (i) As used in this Subsection (1)(e), "governmental agency" means:

(A) the state or any department, division, agency, or other instrumentality of the state; or

(B) a political subdivision of the state, including a county, city, town, school district, [~~local~~] special district, and special service district.

(ii) A governmental agency may not compel or attempt to compel an individual who has been issued a concealed firearm permit to divulge whether the individual:

(A) has been issued a concealed firearm permit; or

(B) is carrying a concealed firearm.

(iii) Subsection (1)(e)(ii) does not apply to a law enforcement officer.

(2) The bureau shall immediately file a copy of each permit it issues under this part.

Section 92. Section 53-7-104 is amended to read:

53-7-104. Enforcement of state fire code and rules -- Division of authority and responsibility.

(1) The authority and responsibility for enforcing the state fire code and rules made under this chapter is divided as provided in this section.

(2) The fire officers of any city or county shall enforce the state fire code and rules of the state fire marshal in their respective areas.

(3) The state fire marshal may enforce the state fire code and rules in:

(a) areas outside of corporate cities, fire protection districts, and other [~~local~~] special districts or special service districts organized for fire protection purposes;

(b) state-owned property, school district owned property, and privately owned property used for schools located within corporate cities and county fire protection districts, asylums, mental hospitals, hospitals, sanitariums, homes for the aged, residential health-care facilities, children's homes or institutions, or similar institutional type occupancy of any capacity; and

(c) corporate cities, counties, fire protection districts, and special service districts organized for fire protection purposes upon receiving a request from the chief fire official or the local governing body.

Section 93. Section 53-21-101 is amended to read:

53-21-101. Definitions.

As used in this chapter:

(1) "Crime scene investigator technician" means an individual employed by a law enforcement agency to collect and analyze evidence from crime scenes and crime-related incidents.

(2) "Department" means the Department of Public Safety.

(3) "First responder" means:

(a) a law enforcement officer, as defined in Section 53-13-103;

(b) an emergency medical technician, as defined in Section 26-8c-102;

(c) an advanced emergency medical technician, as defined in Section 26-8c-102;

(d) a paramedic, as defined in Section 26-8c-102;

(e) a firefighter, as defined in Section 34A-3-113;

(f) a dispatcher, as defined in Section 53-6-102;

(g) a correctional officer, as defined in Section 53-13-104;

(h) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(i) a search and rescue worker under the supervision of a local sheriff;

(j) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

(k) a crime scene investigator technician; or

(l) a wildland firefighter.

(4) "First responder agency" means a [~~local~~] special district, municipality, interlocal entity, or other political subdivision that employs a first responder to provide fire protection, paramedic, law enforcement, or emergency services.

(5) "Mental health resources" means:

(a) an assessment to determine appropriate mental health treatment that is performed by a mental health therapist;

(b) outpatient mental health treatment provided by a mental health therapist; or

(c) peer support services provided by a peer support specialist who is qualified to provide peer support services under Subsection 62A-15-103(2)(h).

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Plan" means a plan to implement or expand a program that provides mental health resources to first responders for which the division awards a grant under this chapter.

Section 94. Section 53B-16-104 is amended to read:

53B-16-104. Restrictions on higher education entities bidding on architect or engineering services in public procurement projects.

(1) As used in this section:

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

(b) "Government entity" means a state agency, an institution of higher education, a county, a municipality, a local school district, a [~~local~~] special district, or a special service district.

(2) When a government entity elects to obtain architect or engineering services by using a

competitive procurement process and has provided public notice of its competitive procurement process:

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

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

(3) (a) Subject to the prohibition contained in Subsection (3)(b), an employee of a higher education entity may, in a private capacity, submit a proposal in response to the competitive procurement process.

(b) An employee of a higher education entity may not use any supplies, materials, or other resources owned by, or any persons matriculating at, attending, or employed by, the higher education entity in:

(i) preparing a response to the competitive procurement process; or

(ii) completing any work, assignment, or contract awarded to the employee resulting from that competitive procurement process.

Section 95. Section 53B-28-402 is amended to read:

53B-28-402. Campus safety study -- Report to Legislature.

(1) As used in this section:

(a) "Campus law enforcement" means a unit of an institution that provides public safety services.

(b) (i) "Institution" means an institution of higher education described in Section 53B-2-101.

(ii) "Institution" includes an institution's campus law enforcement.

[~~(c) "Local district" means the same as that term is defined in Section 17B-1-102.~~]

[~~(d)~~] (c) "Local law enforcement" means a state or local law enforcement agency other than campus law enforcement.

[~~(e)~~] (d) "Public safety services" means police services, security services, dispatch services, emergency services, or other similar services.

[~~(f)~~] (e) "Sexual violence" means the same as that term is defined in Section 53B-28-301.

(f) "Special district" means the same as that term is defined in Section 17B-1-102.

(g) "Special service district" means the same as that term is defined in Section 17D-1-102.

(h) "Student" means the same as that term is defined in Section 53B-28-301.

(i) "Student organization" means the same as that term is defined in Section 53B-28-401.

(2) The board shall:

(a) study issues related to providing public safety services on institution campuses, including:

(i) policies and practices for hiring, supervision, and firing of campus law enforcement officers;

(ii) training of campus law enforcement in responding to incidents of sexual violence or other crimes reported by or involving a student, including training related to lethality or similar assessments;

(iii) how campus law enforcement and local law enforcement respond to reports of incidents of sexual violence or other crimes reported by or involving a student, including supportive measures for victims and disciplinary actions for perpetrators;

(iv) training provided to faculty, staff, students, and student organizations on campus safety and prevention of sexual violence;

(v) roles, responsibilities, jurisdiction, and authority of local law enforcement and campus law enforcement, including authority based on:

(A) the type of public safety services provided; or

(B) geographic boundaries;

(vi) how an institution and local law enforcement coordinate to respond to on-campus and off-campus incidents requiring public safety services, including:

(A) legal requirements or restrictions affecting coordination;

(B) agreements, practices, or procedures governing coordination between an institution and local law enforcement, including mutual support, sharing information, or dispatch management; and

(C) any issues that may affect the timeliness of a response to an on-campus or off-campus incident reported by or involving a student;

(vii) infrastructure, staffing, and equipment considerations that impact the effectiveness of campus law enforcement or local law enforcement responses to an on-campus or off-campus incident reported by or involving a student;

(viii) the benefits and disadvantages of an institution employing campus law enforcement compared to local law enforcement providing public safety services on an institution campus;

(ix) an institution's compliance with federal and state crime statistic reporting requirements;

(x) how an institution informs faculty, staff, and students about a crime or emergency on campus;

(xi) national best practices for providing public safety services on institution campuses, including differences in best practices based on the size, infrastructure, location, and other relevant characteristics of a college or university; and

(xii) any other issue the board determines is relevant to the study;

(b) make recommendations for providing public safety services on institution campuses statewide;

(c) produce a final report of the study described in this section, including the recommendations described in Subsection (2)(b); and

(d) in accordance with Section 68-3-14, present the final report described in Subsection (2)(c) to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee at or before the committees' November 2021 meetings.

(3) In carrying out the board's duties under this section, the board may coordinate with individuals and organizations with knowledge, expertise, or experience related to the board's duties under this section, including:

(a) the [~~Utah~~] Department of Health;

(b) the Utah Office for Victims of Crime;

(c) the Utah Council on Victims of Crime;

(d) institutions;

(e) local law enforcement;

(f) [~~local~~] special districts or special service districts that provide 911 and emergency dispatch service; and

(g) community and other non-governmental organizations.

Section 96. Section 53G-3-204 is amended to read:

53G-3-204. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) "Affected entity" means each county, municipality, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, [~~local~~] special district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a school district located in a county of the first or second class prepares a long-range plan regarding the school district's facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of the school district's intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Utah Geospatial Resource Center created in Section 63A-16-505;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) placed on the Utah Public Notice Website created under Section 63A-16-601;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the school district has one, and the name and telephone number of an individual where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each school district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of the school district's intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the school district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a school district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after the school district's acquisition of the real property.

Section 97. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the [~~local~~] special districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

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

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63A-16-601; and

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(24) A local school board shall:

(a) make curriculum that the school district uses readily accessible and available for a parent to view;

(b) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (24)(a); and

(c) include on the school district's website information about how to access the information described in Subsection (24)(a).

Section 98. Section 54-3-28 is amended to read:

54-3-28. Notice required of certain public utilities before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district, school district,

interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of expected uses of land under a proposed long-range plan or under proposed amendments to a long-range plan; or

(B) that has filed with the specified public utility a copy of the general or long-range plan of the county, municipality, [~~local~~] special district, special service district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the specified public utility that is required under Subsection (2) to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a specified public utility prepares a long-range plan regarding the specified public utility's facilities proposed for the future in a county of the first or second class or amends an already existing long-range plan, the specified public utility shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of the specified public utility's intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2) shall:

(i) indicate that the specified public utility intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) each affected entity;

(C) the Utah Geospatial Resource Center created in Section 63A-16-505;

(D) each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) the state planning coordinator appointed under Section 63J-4-401;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the specified public utility to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the specified public utility has one, and the name and telephone number of an individual where more information can be obtained concerning the specified public utility's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each specified public utility intending to acquire real property in a county of the first or second class for the purpose of expanding the specified public utility's infrastructure or other facilities used for providing the services that the specified public utility is authorized to provide shall provide written notice, as provided in this Subsection (3), of the specified public utility's intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the specified public utility intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the specified public utility previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a specified public utility is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the specified public utility shall provide the notice specified in Subsection (3)(a) as soon as practicable after the specified public utility's acquisition of the real property.

Section 99. Section 54-14-103 is amended to read:

54-14-103. Definitions.

As used in this chapter:

(1) "Actual excess cost" means the difference in cost between:

(a) the standard cost of a facility; and

(b) the actual cost of the facility, including any necessary right-of-way, as determined in accordance with Section 54-14-203.

(2) "Board" means the Utility Facility Review Board.

(3) "Commencement of construction of a facility" includes the project design and the ordering of materials necessary to construct the facility.

(4) "Estimated excess cost" means any material difference in estimated cost between the costs of a facility, including any necessary right-of-way, if constructed in accordance with the requirements of a local government and the standard cost of the facility.

(5) (a) "Facility" means a transmission line, a substation, a gas pipeline, a tap, a measuring device, or a treatment device.

(b) "Facility" includes a high voltage power line route as defined in Section 54-18-102.

(6) (a) "Gas pipeline" means equipment, material, and structures used to transport gas to the public utility's customers, including:

(i) pipe;

(ii) a compressor;

(iii) a pressure regulator;

(iv) a support structure; and

(v) any other equipment or structure used to transport or facilitate transportation of gas through a pipe.

(b) "Gas pipeline" does not include a service line.

(7) "Local government":

(a) means a city or town as defined in Section 10-1-104 or a county; or

(b) may refer to one or more of the local governments in whose jurisdiction a facility is located if a facility is proposed to be located in more than one local government jurisdiction.

(8) "Pay" includes, in reference to a local government paying the actual excess cost of a facility, payment by:

(a) a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(b) a special service district under Title 17D, Chapter 1, Special Service District Act; or

(c) a private entity other than the public utility pursuant to a regulation or decision of the local government.

(9) (a) "Standard cost" means the estimated cost of a facility, including any necessary right-of-way, if constructed in accordance with:

(i) the public utility's normal practices; and

(ii) zoning, subdivision, and building code regulations of a local government, including siting, setback, screening, and landscaping requirements:

(A) imposed on similar land uses in the same zone; and

(B) that do not impair the ability of the public utility to provide service to its customers in a safe, reliable, adequate, and efficient manner.

(b) With respect to a transmission line, "standard cost" is the cost of any overhead line constructed in accordance with the public utility's normal practices.

(c) With respect to a facility of a gas corporation, "standard cost" is the cost of constructing the facility in accordance with the public utility's normal practices.

(10) (a) "Substation" means a separate space within which electric supply equipment is located for the purpose of switching, regulating, transforming, or otherwise modifying the characteristics of electricity, including:

(i) electrical equipment such as transformers, circuit breakers, voltage regulating equipment, buses, switches, capacitor banks, reactors, protection and control equipment, and other related equipment;

(ii) the site at which the equipment is located, any foundations, support structures, buildings, or driveways necessary to locate, operate, and maintain the equipment at the site; and

(iii) the structure intended to restrict access to the equipment to qualified persons.

(b) "Substation" does not include a distribution pole-mounted or pad-mounted transformer that is used for the final transformation of power to the voltage level utilized by the customer.

(11) (a) "Transmission line" means an electrical line, including structures, equipment, plant, or fixtures associated with the electrical line, operated at a nominal voltage of 34,000 volts or above.

(b) "Transmission line" includes, for purposes of Title 54, Chapter 18, Siting of High Voltage Power Line Act, an electrical line as described in Subsection (11)(a) operated at a nominal voltage of 230 kilovolts or more.

Section 100. Section 57-8-27 is amended to read:

57-8-27. Separate taxation.

(1) Each unit and its percentage of undivided interest in the common or community areas and facilities shall be considered to be a parcel and shall be subject to separate assessment and taxation by each assessing unit, [~~local~~] special district, and special service district for all types of taxes authorized by law, including ad valorem levies and

special assessments. Neither the building or buildings, the property, nor any of the common areas and facilities may be considered a parcel.

(2) In the event any of the interests in real property made subject to this chapter by the declaration are leasehold interests, if the lease creating these interests is of record in the office of the county recorder, if the balance of the term remaining under the lease is at least 40 years at the time the leasehold interest is made subject to this chapter, if units are situated or are to be situated on or within the real property covered by the lease, and if the lease provides that the lessee shall pay all taxes and assessments imposed by governmental authority, then until 10 years prior to the date that the leasehold is to expire or until the lease is terminated, whichever first occurs, all taxes and assessments on the real property covered by the lease shall be levied against the owner of the lessee's interest. If the owner of the reversion under the lease has executed the declaration and condominium plat, until 10 years prior to the date that the leasehold is to expire, or until the lease is terminated, whichever first occurs, all taxes and assessments on the real property covered by the lease shall be separately levied against the unit owners having an interest in the lease, with each unit owner for taxation purposes being considered the owner of a parcel consisting of his undivided condominium interest in the fee of the real property affected by the lease.

(3) No forfeiture or sale of the improvements or the property as a whole for delinquent real estate taxes, special assessments, or charges shall divest or in anywise affect the title to an individual unit if the real estate taxes or duly levied share of the assessments and charges on the individual unit are currently paid.

(4) Any exemption from taxes that may exist on real property or the ownership of the property may not be denied by virtue of the submission of the property to this chapter.

(5) Timeshare interests and timeshare estates, as defined in Section 57-19-2, may not be separately taxed but shall be valued, assessed, and taxed at the unit level. The value of timeshare interests and timeshare estates, for purposes of ad valorem taxation, shall be determined by valuing the real property interest associated with the timeshare interest or timeshare estate, exclusive of the value of any intangible property and rights associated with the acquisition, operation, ownership, and use of the timeshare interest or timeshare estate, including the fees and costs associated with the sale of timeshare interests and timeshare estates that exceed those fees and costs normally incurred in the sale of other similar properties, the fees and costs associated with the operation, ownership, and use of timeshare interests and timeshare estates, vacation exchange rights, vacation conveniences and services, club memberships, and any other intangible rights and benefits available to a timeshare unit owner. Nothing in this section shall be construed as requiring the assessment of any real property interest associated with a timeshare interest or timeshare estate at less than its fair market value. Notice of assessment, delinquency, sale, or any other purpose required by law is considered sufficient for all purposes if the notice is given to the management committee.

Section 101. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter:

(1) (a) "Acquisition cost" means any cost required to put an item of tangible personal property into service.

(b) "Acquisition cost" includes:

(i) the purchase price of a new or used item;

(ii) the cost of freight, shipping, loading at origin, unloading at destination, crating, skidding, or any other applicable cost of shipping;

(iii) the cost of installation, engineering, rigging, erection, or assembly, including foundations, pilings, utility connections, or similar costs; and

(iv) sales and use taxes.

(2) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(3) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(4) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(5) "Aircraft" means the same as that term is defined in Section 72-10-102.

(6) (a) Except as provided in Subsection (6)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(7) "Assessment roll" or "assessment book" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a

computerized file as a consolidated record or as multiple records by type, classification, or categories.

(8) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(9) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (9), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (9), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(10) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) $5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13) (a) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(b) For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (19)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, the [~~local~~] special district's board of trustees;

(c) for a school district, the local board of education;

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301; or

(e) for a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, the public infrastructure district's board of trustees.

(18) (a) Except as provided in Subsection (18)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (18)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (18)(a); and

(B) installed solely to serve the operation of the item described in Subsection (18)(a); and

(ii) an item described in Subsection (18)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(19) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(20) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

(21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

(22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(25) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(28) "Personal property" includes:

(a) every class of property as defined in Subsection (29) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(29) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(30) (a) "Public utility" means:

(i) the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(ii) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(b) "Public utility" does not include the operating property of a telecommunications service provider.

(31) (a) Subject to Subsection (31)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (31) and Subsection (34).

(32) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(33) (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(34) (a) "Residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) "Residential property" includes:

(i) except as provided in Subsection (34)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) if the county assessor determines that the property will be used for residential purposes as a primary residence:

(A) property under construction; or

(B) unoccupied property.

(c) "Residential property" does not include property used for transient residential use.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (31) and this Subsection (34).

(35) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(36) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (10)(c) as county-assessed commercial vehicles.

(37) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

(38) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(39) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

(42) "Telecommunications service provider" means the same as that term is defined in Section 59-12-102.

Section 102. Section 59-2-511 is amended to read:

59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including:

(i) a county;

(ii) a city;

(iii) a town;

(iv) a school district;

(v) a [~~local~~] special district; or

(vi) a special service district; or

(d) an entity created by the state or the United States, including:

(i) an agency;

(ii) a board;

(iii) a bureau;

(iv) a commission;

(v) a committee;

(vi) a department;

(vii) a division;

(viii) an institution;

(ix) an instrumentality; or

(x) an office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) prior to the governmental entity acquiring the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

(A) money; or

(B) other consideration.

(3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.

(ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) (I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or

(II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an

amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage that is used in conjunction with the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues generated by the payment:

(i) to the taxing entities in which the land is located; and

(ii) in the same proportion as the revenue from real property taxes is distributed.

(4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:

(a) the land is not subject to the rollback tax imposed by this part; and

(b) the governmental entity acquiring the land is not required to make an in lieu fee payment under Subsection (3)(b).

(5) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until the following are paid to the county treasurer:

(a) any tax due under this part;

(b) any one-time in lieu fee payment due under this part; and

(c) any interest due under this part.

Section 103. Section 59-2-919 is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63A-16-601.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A)

shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a [~~local~~] special district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a [~~local~~] special district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section 104. Section 59-2-924.2 is amended to read:

59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.

(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.

(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, or 72-10-110.5 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section

59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, or 72-10-110.5 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).

(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).

(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales and use tax imposed under Section 59-12-402.

(5) (a) This Subsection (5) applies to each county that:

(i) establishes a countywide special service district under Title 17D, Chapter 1, Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6) (a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Bb) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(Ii) for a participating county, in the unincorporated area of the county; and

(IIii) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(d).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(d).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of each annexing county and each annexing municipality shall be decreased by an amount equal to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

(7) (a) The base taxable value as defined in Section 17C-1-102 shall be reduced for any year to the extent necessary to provide a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value as defined in Section 17C-1-102 shall be increased in any year to the extent necessary to provide a community reinvestment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value as defined in Section 17C-1-102 is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, [~~local~~] special district, or special service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

(8) (a) For the calendar year beginning on January 1, 2014, the calculation of a county assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3; and

(ii) the difference in the amount of revenue a taxing entity receives from or contributes to the Property Tax Valuation Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection (8)(a).

Section 105. Section 59-2-1101 is amended to read:

59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) (i) "Educational purposes" means purposes carried on by an educational organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national

governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in this Subsection (1)(b)(ii).

(c) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(i) religious purposes;

(ii) charitable purposes; or

(iii) educational purposes.

(d) (i) "Farm machinery and equipment" means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(e) "Gift to the community" means:

(i) the lessening of a government burden; or

(ii) (A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

(f) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(g) (i) "Nonprofit entity" means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity's assets are distributable only for exempt purposes under state law or to the government for a public purpose; and

(C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) "Nonprofit entity" includes an entity:

(A) if the entity is treated as a disregarded entity for federal income tax purposes and wholly owned by, and controlled under the direction of, a nonprofit entity; and

(B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.

(h) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed Forces Exemptions .

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) [~~local~~] special districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(A) religious purposes;

(B) charitable purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational; and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

(8) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(9) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 106. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a [~~local~~] special district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17D-4-304; and

(I) if applicable, an annual payment to the Military Installation Development Authority or an entity designated by the authority in accordance with Section 63H-1-501;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

(xi) the date on which the taxes and tax notice charges are delinquent;

(xii) the penalty imposed on delinquent taxes and tax notice charges;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xiv) other information specifically authorized to be included on the notice under this chapter; and

(xv) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in

Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due [~~local~~] special district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

Section 107. Section 59-2-1710 is amended to read:

59-2-1710. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including a county, city, town, school district, [~~local~~] special district, or special service district; or

(d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.

(3) (a) Land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.

(ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall make a one-time in lieu fee payment to the county treasurer of the county in which the land is located:

(A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or

(B) if the land remaining after the acquisition by the governmental entity is less than two acres, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues collected from the payment:

(i) to the taxing entities in which the land is located; and

(ii) in the same proportion as the revenue from real property taxes is distributed.

(4) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.

Section 108. Section 63A-5b-901 is amended to read:

63A-5b-901. Definitions.

As used in this part:

(1) "Applicant" means a person who submits a timely, qualified proposal to the division.

(2) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.

(3) "Division-owned property" means real property, including an interest in real property, to which the division holds title, regardless of who occupies or uses the real property.

(4) "Local government entity" means a county, city, town, metro township, [~~local~~] special district, special service district, community development and renewal agency, conservation district, school district, or other political subdivision of the state.

(5) "Primary state agency" means a state agency for which the division holds title to real property that the state agency occupies or uses, as provided in Subsection 63A-5b-303(1)(a)(iv).

(6) "Private party" means a person who is not a state agency, local government entity, or public purpose nonprofit entity.

(7) "Public purpose nonprofit entity" means a corporation, association, organization, or entity that:

(a) is located within the state;

(b) is not a state agency or local government entity;

(c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(d) operates to fulfill a public purpose.

(8) "Qualified proposal" means a written proposal that:

(a) meets the criteria established by the division by rule under Section 63A-5b-903;

(b) if submitted by a local government entity or public purpose nonprofit entity, explains the public purpose for which the local government entity or public purpose nonprofit entity seeks a transfer of ownership or lease of the vacant division-owned property; and

(c) the director determines will, if accepted and implemented, provide a material benefit to the state.

(9) "Secondary state agency" means a state agency:

(a) that is authorized to hold title to real property that the state agency occupies or uses, as provided in Section 63A-5b-304; and

(b) for which the division does not hold title to real property that the state agency occupies or uses.

(10) "State agency" means a department, division, office, entity, agency, or other unit of state government.

(11) "Transfer of ownership" includes a transfer of the ownership of vacant division-owned property that occurs as part of an exchange of the vacant division-owned property for another property.

(12) "Vacant division-owned property" means division-owned property that:

(a) a primary state agency is not occupying or using; and

(b) the director has determined should be made available for:

(i) use or occupancy by a primary state agency; or

(ii) a transfer of ownership or lease to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.

(13) "Written proposal" means a brief statement in writing that explains:

(a) the proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property; and

(b) how the state will benefit from the proposed use or occupancy, transfer of ownership, or lease.

Section 109. Section 63A-5b-1102 is amended to read:

63A-5b-1102. Memorials by the state or state agencies.

(1) As used in this section:

(a) "Authorizing agency" means an agency that holds title to state land.

(b) "Authorizing agency" does not mean a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) The Legislature, the governor, or an authorizing agency may authorize the use or donation of state land for the purpose of maintaining, erecting, or contributing to the erection or maintenance of a memorial to commemorate individuals who have:

(a) participated in or have given their lives in any of the one or more wars or military conflicts in which the United States of America has been a participant; or

(b) given their lives in association with public service on behalf of the state, including firefighters, peace officers, highway patrol officers, or other public servants.

(3) The use or donation of state land in relation to a memorial described in Subsection (2) may include:

(a) using or appropriating public funds for the purchase, development, improvement, or maintenance of state land on which a memorial is located or established;

(b) using or appropriating public funds for the erection, improvement, or maintenance of a memorial;

(c) donating or selling state land for use in relation to a memorial; or

(d) authorizing the use of state land for a memorial that is funded or maintained in part or in full by another public or private entity.

(4) The Legislature, the governor, or an authorizing agency may specify the form, placement, and design of a memorial that is subject to this section if the Legislature, the governor, or the authorizing agency holds title to, has authority over, or donates the land on which a memorial is established.

(5) A memorial within the definition of a capital development project, as defined in Section 63A-5b-401, is required to be approved as provided for in Section 63A-5b-402.

(6) Nothing in this section may be construed as a prohibition of a memorial, including a memorial for a purpose not covered by this section, that:

(a) is erected within the approval requirements in effect at the time of the memorial's erection; or

(b) may be duly authorized through other legal means.

Section 110. Section 63A-9-101 is amended to read:

63A-9-101. Definitions.

As used in this part:

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the State Board of Education and each higher education institution described in Section 53B-1-102.

(c) "Agency" includes the legislative and judicial branches.

(2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

(3) "Director" means the director of the division.

(4) "Division" means the Division of Fleet Operations created by this chapter.

(5) "Executive director" means the executive director of the Department of Government Operations.

(6) "Local agency" means:

(a) a county;

(b) a municipality;

(c) a school district;

(d) a [~~local~~] special district;

(e) a special service district;

(f) an interlocal entity as defined under Section 11-13-103; or

(g) any other political subdivision of the state, including a local commission, board, or other governmental entity that is vested with the authority to make decisions regarding the public's business.

(7) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

(b) "Motor vehicle" includes vehicles used for construction and other nontransportation purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Section 111. Section 63A-9-401 is amended to read:

63A-9-401. Division -- Duties.

(1) The division shall:

(a) perform all administrative duties and functions related to management of state vehicles;

(b) coordinate all purchases of state vehicles;

(c) establish one or more fleet automation and information systems for state vehicles;

(d) make rules establishing requirements for:

(i) maintenance operations for state vehicles;

(ii) use requirements for state vehicles;

(iii) fleet safety and loss prevention programs;

(iv) preventative maintenance programs;

(v) procurement of state vehicles, including:

(A) vehicle standards;

(B) alternative fuel vehicle requirements;

(C) short-term lease programs;

(D) equipment installation; and

(E) warranty recovery programs;

(vi) fuel management programs;

(vii) cost management programs;

(viii) business and personal use practices, including commute standards;

(ix) cost recovery and billing procedures;

(x) disposal of state vehicles;

(xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;

(xii) standard use and rate structures for state vehicles; and

(xiii) insurance and risk management requirements;

(e) establish a parts inventory;

(f) create and administer a fuel dispensing services program that meets the requirements of Subsection (2);

(g) emphasize customer service when dealing with agencies and agency employees;

(h) conduct an annual audit of all state vehicles for compliance with division requirements;

(i) before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(ii) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504; and

(j) conduct an annual market analysis of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.

(2) The division shall operate a fuel dispensing services program in a manner that:

(a) reduces the risk of environmental damage and subsequent liability for leaks involving state-owned underground storage tanks;

(b) eliminates fuel site duplication and reduces overall costs associated with fuel dispensing;

(c) provides efficient fuel management and efficient and accurate accounting of fuel-related expenses;

(d) where practicable, privatizes portions of the state's fuel dispensing system;

(e) provides central planning for fuel contingencies;

(f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;

(g) where practicable, uses alternative sources of energy; and

(h) provides safe, accessible fuel supplies in an emergency.

(3) The division shall:

(a) ensure that the state and each of its agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;

(b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks;

(c) by no later than June 30, 2025, ensure that an underground storage tank qualifies for a rebate, provided under Subsection 19-6-410.5(5)(d), of a portion of the environmental assurance fee described in Subsection 19-6-410.5(4), if the underground storage tank is owned by:

(i) the state;

(ii) a state agency; or

(iii) a county, municipality, school district, [~~local~~] special district, special service district, or federal agency that has subscribed to the fuel dispensing service provided by the division under Subsection (6)(b);

(d) report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than:

(i) November 30, 2020, on the status of the requirements of Subsection (3)(c); and

(ii) November 30, 2024, on whether:

(A) the requirements of Subsection (3)(c) have been met; and

(B) additional funding is needed to accomplish the requirements of Subsection (3)(c); and

(e) ensure that counties, municipalities, school districts, [~~local~~] special districts, and special service districts subscribing to services provided by the division sign a contract that:

(i) establishes the duties and responsibilities of the parties;

(ii) establishes the cost for the services; and

(iii) defines the liability of the parties.

(4) In fulfilling the requirements of Subsection (3)(c), the division may give priority to underground storage tanks owned by the state or a state agency under Subsections (3)(c)(i) and (ii).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of the Division of Fleet Operations:

(i) may make rules governing fuel dispensing; and

(ii) shall make rules establishing standards and procedures for purchasing the most economically appropriate size and type of vehicle for the purposes and driving conditions for which the vehicle will be used, including procedures for granting exceptions to the standards by the executive director of the Department of Government Operations.

(b) Rules made under Subsection (5)(a)(ii):

(i) shall designate a standard vehicle size and type that shall be designated as the statewide

standard vehicle for fleet expansion and vehicle replacement;

(ii) may designate different standard vehicle size and types based on defined categories of vehicle use;

(iii) may, when determining a standard vehicle size and type for a specific category of vehicle use, consider the following factors affecting the vehicle class:

(A) size requirements;

(B) economic savings;

(C) fuel efficiency;

(D) driving and use requirements;

(E) safety;

(F) maintenance requirements;

(G) resale value; and

(H) the requirements of Section 63A-9-403; and

(iv) shall require agencies that request a vehicle size and type that is different from the standard vehicle size and type to:

(A) submit a written request for a nonstandard vehicle to the division that contains the following:

(I) the make and model of the vehicle requested, including acceptable alternate vehicle makes and models as applicable;

(II) the reasons justifying the need for a nonstandard vehicle size or type;

(III) the date of the request; and

(IV) the name and signature of the person making the request; and

(B) obtain the division's written approval for the nonstandard vehicle.

(6) (a) (i) Each state agency and each higher education institution shall subscribe to the fuel dispensing services provided by the division.

(ii) A state agency may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by the division.

(b) Counties, municipalities, school districts, [~~local~~] special districts, special service districts, and federal agencies may subscribe to the fuel dispensing services provided by the division if:

(i) the county or municipal legislative body, the school district, or the [~~local~~] special district or special service district board recommends that the county, municipality, school district, [~~local~~] special district, or special service district subscribe to the fuel dispensing services of the division; and

(ii) the division approves participation in the program by that government unit.

(7) The director, with the approval of the executive director, may delegate functions to institutions of higher education, by contract or other means authorized by law, if:

(a) the agency or institution of higher education has requested the authority;

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities; and

(c) the delegation of authority is in the best interest of the state and the function delegated is accomplished according to provisions contained in law or rule.

Section 112. Section 63A-15-102 is amended to read:

63A-15-102. Definitions.

(1) "Commission" means the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.

(2) "Complainant" means a person who files a complaint in accordance with Section 63A-15-501.

(3) "Ethics violation" means a violation of:

(a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(b) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(4) "Local political subdivision ethics commission" means an ethics commission established by a political subdivision within the political subdivision or with another political subdivision by interlocal agreement in accordance with Section 63A-15-103.

(5) "Political subdivision" means a county, municipality, school district, community reinvestment agency, [~~local~~] special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building authority, or any other governmental subdivision or public corporation.

(6) (a) "Political subdivision employee" means a person who is:

(i) (A) in a municipality, employed as a city manager or non-elected chief executive on a full or part-time basis; or

(B) employed as the non-elected chief executive by a political subdivision other than a municipality on a full or part-time basis; and

(ii) subject to:

(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision employee" does not include:

(i) a person who is a political subdivision officer;

(ii) an employee of a state entity; or

(iii) a legislative employee as defined in Section 67-16-3.

(7) "Political subdivision governing body" means:

(a) for a county, the county legislative body as defined in Section 68-3-12.5;

(b) for a municipality, the council of the city or town;

(c) for a school district, the local board of education described in Section 53G-4-201;

(d) for a community reinvestment agency, the agency board described in Section 17C-1-203;

(e) for a [~~local~~] special district, the board of trustees described in Section 17B-1-301;

(f) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(g) for an entity created by an interlocal agreement, the governing body of an interlocal entity, as defined in Section 11-13-103;

(h) for a local building authority, the governing body, as defined in Section 17D-2-102, that creates the local building authority; or

(i) for any other governmental subdivision or public corporation, the board or other body authorized to make executive and management decisions for the subdivision or public corporation.

(8) (a) "Political subdivision officer" means a person elected in a political subdivision who is subject to:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision officer" does not include:

(i) a person elected or appointed to a state entity;

(ii) the governor;

(iii) the lieutenant governor;

(iv) a member or member-elect of either house of the Legislature; or

(v) a member of Utah's congressional delegation.

(9) "Respondent" means a person who files a response in accordance with Section 63A-15-604.

Section 113. Section 63A-15-201 is amended to read:

63A-15-201. Commission established -- Membership.

(1) There is established a Political Subdivisions Ethics Review Commission.

(2) The commission is composed of seven individuals, each of whom is registered to vote in this state and appointed by the governor with the advice and consent of the Senate, as follows:

(a) one member who has served, but no longer serves, as a judge of a court of record in this state;

(b) one member who has served as a mayor or municipal council member no more recently than four years before the date of appointment;

(c) one member who has served as a member of a local board of education no more recently than four years before the date of appointment;

(d) two members who are lay persons; and

(e) two members, each of whom is one of the following:

(i) a municipal mayor no more recently than four years before the date of appointment;

(ii) a municipal council member no more recently than four years before the date of appointment;

(iii) a county mayor no more recently than four years before the date of appointment;

(iv) a county commissioner no more recently than four years before the date of appointment;

(v) a special service district administrative control board member no more recently than four years before the date of appointment;

(vi) a [~~local~~] special district board of trustees member no more recently than four years before the date of appointment; or

(vii) a judge who has served, but no longer serves, as a judge of a court of record in this state.

(3) (a) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(i) a political subdivision officer;

(ii) a political subdivision employee;

(iii) an agency head as defined in Section 67-16-3;

(iv) a lobbyist as defined in Section 36-11-102; or

(v) a principal as defined in Section 36-11-102.

(b) In addition to the seven members described in Subsection (2), the governor shall, with the advice and consent of the Senate, appoint one individual as an alternate member of the commission who:

(i) may be a lay person;

(ii) shall be registered to vote in the state; and

(iii) complies with the requirements described in Subsection (3)(a).

(c) The alternate member described in Subsection (3)(b):

(i) shall serve as a member of the commission in the place of one of the seven members described in Subsection (2) if that member is temporarily unable or unavailable to participate in a commission function or is disqualified under Section 63A-15-303; and

(ii) may not cast a vote on the commission unless the alternate member is serving in the capacity described in Subsection (3)(c)(i).

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, a member described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b) (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).

(ii) For the purposes of this section, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the governor.

(e) The governor shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this section.

(f) (i) If a commission member is accused of wrongdoing in a complaint, or if a commission member has a conflict of interest in relation to a matter before the commission:

(A) the alternate member described in Subsection (3)(b) shall serve in the member's place for the purposes of reviewing the complaint; or

(B) if the alternate member has already taken the place of another commission member or is otherwise not available, the commission shall appoint another individual to temporarily serve in the member's place for the purposes of reviewing the complaint.

(ii) An individual appointed by the commission under Subsection (4)(f)(i)(B):

(A) is not required to be confirmed by the Senate;

(B) may be a lay person;

(C) shall be registered to vote in the state; and

(D) shall comply with Subsection (3)(a).

(5) (a) Except as provided in Subsection (5)(b)(i), a member of the commission may not receive compensation or benefits for the member's service.

(b) (i) A member may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member may decline to receive per diem and expenses for the member's service.

(6) The commission members shall, by a majority vote, elect a commission chair from among the commission members.

Section 114. Section 63C-24-102 is amended to read:

63C-24-102. Definitions.

As used in this chapter:

(1) "Commission" means the Personal Privacy Oversight Commission created in Section 63C-24-201.

(2) (a) "Government entity" means the state, a county, a municipality, a higher education institution, a [~~local~~] special district, a special service district, a school district, an independent entity, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity.

(b) "Government entity" includes an agent of an entity described in Subsection (2)(a).

(3) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(4) (a) "Personal data" means any information relating to an identified or identifiable individual.

(b) "Personal data" includes personally identifying information.

(5) (a) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(b) "Privacy practice" includes:

(i) a technology use related to personal data; and

(ii) policies related to the protection, storage, sharing, and retention of personal data.

Section 115. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

(i) independent state agency; or

(ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Beef Council, created by Section 4-21-103;

(ii) Utah Dairy Commission created by Section 4-22-103;

(iii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

(iv) Utah Housing Corporation created by Section 63H-8-201;

(v) Utah State Fair Corporation created by Section 63H-6-103;

(vi) Utah State Retirement Office created by Section 49-11-201;

(vii) School and Institutional Trust Lands Administration created by Section 53C-1-201;

(viii) School and Institutional Trust Fund Office created by Section 53D-1-201;

(ix) Utah Communications Authority created by Section 63H-7a-201;

(x) Utah Capital Investment Corporation created by Section 63N-6-301; and

(xi) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state, which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 116. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, [~~local~~] special district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity,

provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child pornography, as defined by Section 76-5b-103;

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; or

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(25) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(26) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(27) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(28) "State archivist" means the director of the state archives.

(29) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 117. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental

entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's

supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a); and

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding.

Section 118. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(7) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(8) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(9) "Chief procurement officer" means the individual appointed under Section 63A-2-102.

(10) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(11) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(12) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(13) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(14) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(15) "Contract" means an agreement for a procurement.

(16) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(17) "Contractor" means a person who is awarded a contract with a procurement unit.

(18) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(19) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(20) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(21) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(22) "Days" means calendar days, unless expressly provided otherwise.

(23) "Definite quantity contract" means a fixed price contract that provides for a specified amount

of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(24) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(25) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(26) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(27) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(28) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(29) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(30) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(31) (a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

(32) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(33) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(34) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(35) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(36) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

(37) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(38) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a [~~local~~] special district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(39) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (39)(a).

(40) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(41) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(42) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(43) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(44) "Local building authority" means the same as that term is defined in Section 17D-2-102.

[~~(45) "Local district" means the same as that term is defined in Section 17B-1-102.~~]

[~~(46)~~] (45) "Local government procurement unit" means:

(a) a county, municipality, or project entity, and each office of the county, municipality, or project entity, unless:

(i) the county or municipality adopts a procurement code by ordinance; or

(ii) the project entity adopts a procurement code through the process described in Section 11-13-316;

(b) (i) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; and

(ii) a project entity that has adopted this entire chapter through the process described in Subsection 11-13-316; or

(c) a county, municipality, or project entity, and each office of the county, municipality, or project entity that has adopted a portion of this chapter to the extent that:

(i) a term in the ordinance is used in the adopted chapter; or

(ii) a term in the ordinance is used in the language a project entity adopts in its procurement code through the process described in Section 11-13-316.

[~~(47)~~] (46) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

[~~(48)~~] (47) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

[~~(49)~~] (48) "Municipality" means a city, town, or metro township.

[~~(50)~~] (49) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (50)(a).

[~~(51)~~] (50) "Offeror" means a person who submits a proposal in response to a request for proposals.

[~~(52)~~] (51) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

[~~(53)~~] (52) "Procure" means to acquire a procurement item through a procurement.

[~~(54)~~] (53) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

[~~(55)~~] (54) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

[~~(56)~~] (55) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

(p) (i) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(ii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iii) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee; or

(iv) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this

chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

[~~(57)~~] (56) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a [~~local~~] special district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district; and

(xi) a public corporation; and

(b) except for a project entity, to the extent that a project entity is subject to this chapter as described in Section 11-13-316, does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(58)~~] (57) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

[~~(59)~~] (58) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division .

[~~(60)~~] (59) "Public corporation" means the same as that term is defined in Section 63E-1-102.

[~~(61)~~] (60) "Project entity" means the same as that term is defined in Section 11-13-103.

[~~(62)~~] (61) "Public entity" means the state or any other government entity within the state that expends public funds.

[~~(63)~~] (62) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

[~~(64)~~] (63) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

[~~(65)~~] (64) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

[~~(66)~~] (65) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

[~~(67)~~] (66) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

[~~(68)~~] (67) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

[~~(69)~~] (68) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

[~~(70)~~] (69) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

[~~(71)~~] (70) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

[~~(72)~~] (71) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential

procurement, including all other documents attached to that document or incorporated in that document by reference.

[~~(73)~~] (72) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[~~(74)~~] (73) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

[~~(75)~~] (74) "Responsive" means conforming in all material respects to the requirements of a solicitation.

[~~(76)~~] (75) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

[~~(77)~~] (76) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the facilities division, the facilities division;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a [~~local~~] special district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the [~~local~~] special district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

[~~(78)~~] (77) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

[~~(79)~~] (78) "Small purchase process" means the procurement process described in Section 63G-6a-506.

[~~(80)~~] (79) "Sole source contract" means a contract resulting from a sole source procurement.

[~~(81)~~] (80) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

[~~(82)~~] (81) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

[~~(83)~~] (82) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(83) "Special district" means the same as that term is defined in Section 17B-1-102.

(84) "Special service district" means the same as that term is defined in Section 17D-1-102.

(85) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(86) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(87) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(88) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(89) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(90) "Technology" means the same as "information technology," as defined in Section 63A-16-102.

(91) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(92) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(93) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(94) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 119. Section 63G-6a-118 is amended to read:

63G-6a-118. Adoption of rule relating to the procurement of design professional services.

Each of the following shall adopt a rule relating to the procurement of design professional services, not inconsistent with the provisions of Part 15, Design Professional Services:

(1) an educational procurement unit;

(2) a conservation district;

(3) a local building authority;

(4) a [~~local~~] special district;

(5) a special service district; and

(6) a public corporation.

Section 120. Section 63G-6a-202 is amended to read:

63G-6a-202. Creation of Utah State Procurement Policy Board.

(1) There is created the Utah State Procurement Policy Board.

(2) The board consists of up to 15 members as follows:

(a) two representatives of state institutions of higher education, appointed by the Utah Board of Higher Education;

(b) a representative of the Department of Human Services, appointed by the executive director of that department;

(c) a representative of the Department of Transportation, appointed by the executive director of that department;

(d) two representatives of school districts, appointed by the State Board of Education;

(e) a representative of the Division of Facilities Construction and Management, appointed by the director of that division;

(f) one representative of a county, appointed by the Utah Association of Counties;

(g) one representative of a city or town, appointed by the Utah League of Cities and Towns;

(h) two representatives of [~~local~~] special districts or special service districts, appointed by the Utah Association of Special Districts;

(i) the director of the Division of Technology Services or the executive director's designee;

(j) the chief procurement officer or the chief procurement officer's designee; and

(k) two representatives of state agencies, other than a state agency already represented on the board, appointed by the executive director of the Department of Government Operations, with the approval of the executive director of the state agency that employs the employee.

(3) Members of the board shall be knowledgeable and experienced in, and have supervisory responsibility for, procurement in their official positions.

(4) A board member may serve as long as the member meets the description in Subsection (2) unless removed by the person or entity with the authority to appoint the board member.

(5) (a) The board shall:

(i) adopt rules of procedure for conducting its business; and

(ii) elect a chair to serve for one year.

(b) The chair of the board shall be selected by a majority of the members of the board and may be elected to succeeding terms.

(c) The chief procurement officer shall designate an employee of the division to serve as the nonvoting secretary to the policy board.

(6) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 121. Section 63G-6a-2402 is amended to read:

63G-6a-2402. Definitions.

As used in this part:

(1) "Contract administration professional":

(a) means an individual who:

(i) is:

(A) directly under contract with a procurement unit; or

(B) employed by a person under contract with a procurement unit; and

(ii) has responsibility in:

(A) developing a solicitation or grant, or conducting the procurement process; or

(B) supervising or overseeing the administration or management of a contract or grant; and

(b) does not include an employee of the procurement unit.

(2) "Contribution":

(a) means a voluntary gift or donation of money, service, or anything else of value, to a public entity for the public entity's use and not for the primary use of an individual employed by the public entity; and

(b) includes:

(i) a philanthropic donation;

(ii) admission to a seminar, vendor fair, charitable event, fundraising event, or similar event that relates to the function of the public entity;

(iii) the purchase of a booth or other display space at an event sponsored by the public entity or a group of which the public entity is a member; and

(iv) the sponsorship of an event that is organized by the public entity.

(3) "Family member" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(4) "Governing body" means an administrative, advisory, executive, or legislative body of a public entity.

(5) "Gratuity":

(a) means anything of value given:

(i) without anything provided in exchange; or

(ii) in excess of the market value of that which is provided in exchange;

(b) includes:

(i) a gift or favor;

(ii) money;

(iii) a loan at an interest rate below the market rate or with terms that are more advantageous to the borrower than terms offered generally on the market;

(iv) anything of value provided with an award, other than a certificate, plaque, or trophy;

(v) employment;

(vi) admission to an event;

(vii) a meal, lodging, or travel;

(viii) entertainment for which a charge is normally made; and

(ix) a raffle, drawing for a prize, or lottery; and

(c) does not include:

(i) an item, including a meal in association with a training seminar, that is:

(A) included in a contract or grant; or

(B) provided in the proper performance of a requirement of a contract or grant;

(ii) an item requested to evaluate properly the award of a contract or grant;

(iii) a rebate, coupon, discount, airline travel award, dividend, or other offering included in the price of a procurement item;

(iv) a meal provided by an organization or association, including a professional or educational association, an association of vendors, or an association composed of public agencies or public entities, that does not, as an organization or association, respond to solicitations;

(v) a product sample submitted to a public entity to assist the public entity to evaluate a solicitation;

(vi) a political campaign contribution;

(vii) an item generally available to the public; or

(viii) anything of value that one public agency provides to another public agency.

(6) "Hospitality gift":

(a) means a token gift of minimal value, including a pen, pencil, stationery, toy, pin, trinket, snack, beverage, or appetizer, given for promotional or hospitality purposes; and

(b) does not include money, a meal, admission to an event for which a charge is normally made, entertainment for which a charge is normally made, travel, or lodging.

(7) "Kickback":

(a) means a negotiated bribe provided in connection with a procurement or the administration of a contract or grant; and

(b) does not include anything listed in Subsection (5)(c).

(8) "Procurement" has the same meaning as defined in Section 63G-6a-103, but also includes the awarding of a grant.

(9) "Procurement professional":

(a) means an individual who is an employee, and not an independent contractor, of a procurement unit, and who, by title or primary responsibility:

(i) has procurement decision making authority; and

(ii) is assigned to be engaged in, or is engaged in:

(A) the procurement process; or

(B) the process of administering a contract or grant, including enforcing contract or grant compliance, approving contract or grant payments, or approving contract or grant change orders or amendments; and

(b) excludes:

(i) any individual who, by title or primary responsibility, does not have procurement decision making authority;

(ii) an individual holding an elective office;

(iii) a member of a governing body;

(iv) a chief executive of a public entity or a chief assistant or deputy of the chief executive, if the chief executive, chief assistant, or deputy, respectively, has a variety of duties and responsibilities beyond the management of the procurement process or the contract or grant administration process;

(v) the superintendent, business administrator, principal, or vice principal of a school district or charter school, or the chief assistant or deputy of the superintendent, business administrator, principal, or vice principal;

(vi) a university or college president, vice president, business administrator, or dean;

(vii) a chief executive of a [~~local~~] special district, as defined in Section 17B-1-102, a special service district, as defined in Section 17D-1-102, or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act;

(viii) an employee of a public entity with:

(A) an annual budget of $1,000,000 or less; or

(B) no more than four full-time employees; and

(ix) an executive director or director of an executive branch procurement unit who:

(A) by title or primary responsibility, does not have procurement decision making authority; and

(B) is not assigned to engage in, and is not engaged in, the procurement process.

(10) "Public agency" has the same meaning as defined in Section 11-13-103, but also includes all officials, employees, and official representatives of a public agency, as defined in Section 11-13-103.

Section 122. Section 63G-7-102 is amended to read:

63G-7-102. Definitions.

As used in this chapter:

(1) "Arises out of or in connection with, or results from," when used to describe the relationship between conduct or a condition and an injury, means that:

(a) there is some causal relationship between the conduct or condition and the injury;

(b) the causal relationship is more than any causal connection but less than proximate cause; and

(c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.

(2) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.

(3) (a) "Employee" includes:

(i) a governmental entity's officers, employees, servants, trustees, or commissioners;

(ii) a member of a governing body;

(iii) a member of a government entity board;

(iv) a member of a government entity commission;

(v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section 67-5b-102;

(vi) a student holding a license issued by the State Board of Education;

(vii) an educational aide;

(viii) a student engaged in an internship under Section 53B-16-402 or 53G-7-902;

(ix) a volunteer, as defined in Section 67-20-2; and

(x) a tutor.

(b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or not the individual holding that position receives compensation.

(c) "Employee" does not include an independent contractor.

(4) "Governmental entity" means:

(a) the state and its political subdivisions; and

(b) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(5) (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.

(b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) "Governmental function" includes a governmental entity's failure to act.

(6) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person's agent.

(7) "Personal injury" means an injury of any kind other than property damage.

(8) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, [~~local~~] special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(10) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.

(11) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's conduct will probably result in injury.

Section 123. Section 63G-7-401 is amended to read:

63G-7-401. When a claim arises -- Notice of claim requirements -- Governmental entity statement -- Limits on challenging validity or timeliness of notice of claim.

(1) (a) Except as provided in Subsection (1)(b), a claim arises when the statute of limitations that would apply if the claim were against a private person begins to run.

(b) The statute of limitations does not begin to run until a claimant knew, or with the exercise of reasonable diligence should have known:

(i) that the claimant had a claim against the governmental entity or the governmental entity's employee; and

(ii) the identity of the governmental entity or the name of the employee.

(c) The burden to prove the exercise of reasonable diligence is upon the claimant.

(2) Any person having a claim against a governmental entity, or against the governmental entity's employee for an act or omission occurring during the performance of the employee's duties, within the scope of employment, or under color of authority shall file a written notice of claim with the entity before maintaining an action, regardless of whether or not the function giving rise to the claim is characterized as governmental.

(3) (a) The notice of claim shall set forth:

(i) a brief statement of the facts;

(ii) the nature of the claim asserted;

(iii) the damages incurred by the claimant so far as the damages are known; and

(iv) if the claim is being pursued against a governmental employee individually as provided in Subsection 63G-7-202(3)(c), the name of the employee.

(b) The notice of claim shall be:

(i) signed by the person making the claim or that person's agent, attorney, parent, or legal guardian, using any form of signature recognized by law as binding; and

(ii) delivered, transmitted, or sent, as provided in Subsection (3)(c), to the office of:

(A) the city or town clerk, when the claim is against an incorporated city or town;

(B) the county clerk, when the claim is against a county;

(C) the superintendent or business administrator of the board, when the claim is against a school district or board of education;

(D) the presiding officer or secretary or clerk of the board, when the claim is against a [~~local~~] special district or special service district;

(E) the attorney general, when the claim is against the state;

(F) a member of the governing board, the executive director, or executive secretary, when the claim is against any other public board, commission, or body; or

(G) the agent authorized by a governmental entity to receive the notice of claim by the governmental entity under Subsection (5)(e).

(c) A notice of claim shall be:

(i) delivered by hand to the physical address provided under Subsection (5)(a)(iii)(A);

(ii) transmitted by mail to the physical address provided under Subsection (5)(a)(iii)(A), according to the requirements of Section 68-3-8.5; or

(iii) sent by electronic mail to the email address provided under Subsection (5)(a)(iii)(B).

(d) A claimant who submits a notice of claim by electronic mail under Subsection (3)(c)(iii) shall contemporaneously send a copy of the notice of claim by electronic mail to the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, who represents the governmental entity.

(4) (a) If an injury that may reasonably be expected to result in a claim against a governmental entity is sustained by a claimant who is under the age of majority or mentally incompetent, that governmental entity may file a request with the court for the appointment of a guardian ad litem for the potential claimant.

(b) If a guardian ad litem is appointed, the time for filing a claim under Section 63G-7-402 begins when the order appointing the guardian ad litem is issued.

(5) (a) A governmental entity subject to suit under this chapter shall file a statement with the Division of Corporations and Commercial Code within the Department of Commerce containing:

(i) the name and address of the governmental entity;

(ii) the office or agent designated to receive a notice of claim; and

(iii) (A) the physical address to which a notice of claim is to be delivered by hand or transmitted by mail, for a notice of claim that a claimant chooses to hand deliver or transmit by mail; and

(B) the email address to which a notice of claim is to be sent, for a notice of claim that a claimant chooses to send by email, and the email address of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, who represents the governmental entity.

(b) A governmental entity shall update the governmental entity's statement as necessary to ensure that the information is accurate.

(c) The Division of Corporations and Commercial Code shall develop a form for governmental entities to complete that provides the information required by Subsection (5)(a).

(d) (i) A newly incorporated municipality shall file the statement required by Subsection (5)(a) promptly after the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5.

(ii) A newly incorporated [~~local~~] special district shall file the statement required by Subsection (5)(a) at the time that the written notice is filed with the lieutenant governor under Section 17B-1-215.

(e) A governmental entity may, in the governmental entity's statement, identify an agent

authorized to accept notices of claim on behalf of the governmental entity.

(6) The Division of Corporations and Commercial Code shall:

(a) maintain an index of the statements required by this section arranged both alphabetically by entity and by county of operation; and

(b) make the indices available to the public both electronically and via hard copy.

(7) A governmental entity may not challenge the validity of a notice of claim on the grounds that it was not directed and delivered to the proper office or agent if the error is caused by the governmental entity's failure to file or update the statement required by Subsection (5).

(8) A governmental entity may not challenge the timeliness, under Section 63G-7-402, of a notice of claim if:

(a) (i) the claimant files a notice of claim with the governmental entity:

(A) in accordance with the requirements of this section; and

(B) within 30 days after the expiration of the time for filing a notice of claim under Section 63G-7-402;

(ii) the claimant demonstrates that the claimant previously filed a notice of claim:

(A) in accordance with the requirements of this section;

(B) with an incorrect governmental entity;

(C) in the good faith belief that the claimant was filing the notice of claim with the correct governmental entity;

(D) within the time for filing a notice of claim under Section 63G-7-402; and

(E) no earlier than 30 days before the expiration of the time for filing a notice of claim under Section 63G-7-402; and

(iii) the claimant submits with the notice of claim:

(A) a copy of the previous notice of claim that was filed with a governmental entity other than the correct governmental entity; and

(B) proof of the date the previous notice of claim was filed; or

(b) (i) the claimant delivers by hand, transmits by mail, or sends by email a notice of claim:

(A) to an elected official or executive officer of the correct governmental entity but not to the correct office under Subsection (3)(b)(ii); and

(B) that otherwise meets the requirements of Subsection (3); and

(ii) (A) the claimant contemporaneously sends a hard copy or electronic copy of the notice of claim to the office of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, representing the correct governmental entity; or

(B) the governmental entity does not, within 60 days after the claimant delivers the notice of claim under Subsection (8)(b)(i), provide written notification to the claimant of the delivery defect and of the identity of the correct office to which the claimant is required to deliver the notice of claim.

Section 124. Section 63G-9-201 is amended to read:

63G-9-201. Members -- Functions.

(1) As used in this chapter:

(a) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, [~~local~~] special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(b) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, college, university, Children's Justice Center, or other instrumentality of the state.

(2) The governor, the state auditor, and the attorney general shall constitute a Board of Examiners, with power to examine all claims against the state or a political subdivision, for the payment of which funds appropriated by the Legislature or derived from any other source are not available.

(3) No claim against the state or a political subdivision, for the payment of which specifically designated funds are required to be appropriated by the Legislature shall be passed upon by the Legislature without having been considered and acted upon by the Board of Examiners.

(4) The governor shall be the president, and the state auditor shall be the secretary of the board, and in the absence of either an officer pro tempore may be elected from among the members of the board.

Section 125. Section 63G-12-102 is amended to read:

63G-12-102. Definitions.

As used in this chapter:

(1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a federally qualified high deductible health plan.

(2) "Department" means the Department of Public Safety created in Section 53-1-103.

(3) "Employee" means an individual employed by an employer under a contract for hire.

(4) "Employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(5) "E-verify program" means the electronic verification of the work authorization program of

the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a, known as the e-verify program.

(6) "Family member" means for an undocumented individual:

(a) a member of the undocumented individual's immediate family;

(b) the undocumented individual's grandparent;

(c) the undocumented individual's sibling;

(d) the undocumented individual's grandchild;

(e) the undocumented individual's nephew;

(f) the undocumented individual's niece;

(g) a spouse of an individual described in this Subsection (6); or

(h) an individual who is similar to one listed in this Subsection (6).

(7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security or an equivalent program designated by the Department of Homeland Security.

(8) "Guest worker" means an undocumented individual who holds a guest worker permit.

(9) "Guest worker permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-205.

(10) "Immediate family" means for an undocumented individual:

(a) the undocumented individual's spouse; or

(b) a child of the undocumented individual if the child is:

(i) under 21 years old; and

(ii) unmarried.

(11) "Immediate family permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-206.

(12) "Permit" means a permit issued under Part 2, Guest Worker Program, and includes:

(a) a guest worker permit; and

(b) an immediate family permit.

(13) "Permit holder" means an undocumented individual who holds a permit.

(14) "Private employer" means an employer who is not the federal government or a public employer.

(15) "Program" means the Guest Worker Program described in Section 63G-12-201.

(16) "Program start date" means the day on which the department is required to implement the program under Subsection 63G-12-202(3).

(17) "Public employer" means an employer that is:

(a) the state of Utah or any administrative subunit of the state;

(b) a state institution of higher education, as defined in Section 53B-3-102;

(c) a political subdivision of the state including a county, city, town, school district, [~~local~~] special district, or special service district; or

(d) an administrative subunit of a political subdivision.

(18) "Relevant contact information" means the following for an undocumented individual:

(a) the undocumented individual's name;

(b) the undocumented individual's residential address;

(c) the undocumented individual's residential telephone number;

(d) the undocumented individual's personal email address;

(e) the name of the person with whom the undocumented individual has a contract for hire;

(f) the name of the contact person for the person listed in Subsection (18)(e);

(g) the address of the person listed in Subsection (18)(e);

(h) the telephone number for the person listed in Subsection (18)(e);

(i) the names of the undocumented individual's immediate family members;

(j) the names of the family members who reside with the undocumented individual; and

(k) any other information required by the department by rule made in accordance with Chapter 3, Utah Administrative Rulemaking Act.

(19) "Restricted account" means the Immigration Act Restricted Account created in Section 63G-12-103.

(20) "Serious felony" means a felony under:

(a) Title 76, Chapter 5, Offenses Against the Individual;

(b) Title 76, Chapter 5b, Sexual Exploitation Act;

(c) Title 76, Chapter 6, Offenses Against Property;

(d) Title 76, Chapter 7, Offenses Against the Family;

(e) Title 76, Chapter 8, Offenses Against the Administration of Government;

(f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and

(g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.

(21) (a) "Status verification system" means an electronic system operated by the federal

government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision for a purpose authorized under this section.

(b) "Status verification system" includes:

(i) the e-verify program;

(ii) an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

(iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social Security Administration; or

(iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).

(22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

(23) "Undocumented individual" means an individual who:

(a) lives or works in the state; and

(b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101 et seq. with regard to presence in the United States.

(24) "U-verify program" means the verification procedure developed by the department in accordance with Section 63G-12-210.

Section 126. Section 63G-22-102 is amended to read:

63G-22-102. Definitions.

As used in this chapter:

(1) "Political subdivision" means:

(a) a county;

(b) a municipality, as defined in Section 10-1-104;

(c) a [~~local~~] special district;

(d) a special service district;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community reinvestment agency;

(g) a local building authority; or

(h) a conservation district.

(2) (a) "Public employee" means any individual employed by or volunteering for a state agency or a political subdivision who is not a public official.

(b) "Public employee" does not include an individual employed by or volunteering for a taxed interlocal entity.

(3) (a) "Public official" means:

(i) an appointed official or an elected official as those terms are defined in Section 63A-17-502; or

(ii) an individual elected or appointed to a county office, municipal office, school board or school district office, [~~local~~] special district office, or special service district office.

(b) "Public official" does not include an appointed or elected official of a taxed interlocal entity.

(4) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

(5) "Taxed interlocal entity" means the same as that term is defined in Section 11-13-602.

Section 127. Section 63G-26-102 is amended to read:

63G-26-102. Definitions.

As used in this chapter:

(1) "Personal information" means a record or other compilation of data that identifies a person as a donor to an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code.

(2) "Public agency" means a state or local government entity, including:

(a) a department, division, agency, office, commission, board, or other government organization;

(b) a political subdivision, including a county, city, town, metro township, [~~local~~] special district, or special service district;

(c) a public school, school district, charter school, or public higher education institution; or

(d) a judicial or quasi-judicial body.

Section 128. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) "Develop" means to engage in development.

(6) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, maintenance, operation, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(7) "Development project" means a project to develop land within a project area.

(8) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(9) "Included municipality" means a municipality, some or all of which is included within a project area.

(10) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(11) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(12) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(13) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(14) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(15) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(a)(ii)(B); and

(c) receives as dedicated tax collections.

(16) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(17) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(18) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(19) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(20) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (20)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is $1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(21) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(22) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including the authority or a county, city, town, school district, [~~local~~] special district, special service district, or interlocal cooperation entity.

(23) (a) " Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public, the authority, the military, or military-related entities; and

(ii) (A) are publicly owned by the military, the authority, a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, or another public entity;

(B) are owned by a utility; or

(C) are publicly maintained or operated by the military, the authority, or another public entity.

(b) "Public infrastructure and improvements" also means infrastructure, improvements, facilities, or buildings that:

(i) are privately owned; and

(ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.

(c) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, tunnels, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(24) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(25) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(26) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(27) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(28) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(29) "Transient room tax" means a tax under Section 59-12-352.

Section 129. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.

(b) "Subsidiary board" means the governing body of a subsidiary.

(2) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) (a) The definitions in Section 57-8-3 apply to this Subsection (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for $1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(6) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7) (a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

(i) notwithstanding Section 52-4-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

(A) the board chair, for the authority board; or

(B) the subsidiary board chair, for a subsidiary board;

(ii) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and

(iii) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:

(A) is not required to establish an anchor location; and

(B) may convene and conduct the meeting without the written determination otherwise required under Subsection 52-4-207(4).

(b) Except as provided in Subsection (7)(c), the authority is not required to physically post notice notwithstanding any other provision of law.

(c) The authority shall physically post notice in accordance with Subsection 52-4-202(3)(a)(i).

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G-2-701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

(C) the authority board member appointed by the speaker of the House of Representatives; and

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the State Records Committee is not a party; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.

(10) (a) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

(c) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).

(ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(11) (a) Terms defined in Section 57-11-2 apply to this Subsection (11).

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:

(i) (A) has a development review committee using at least one professional planner;

(B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

(C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and

(ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).

(12) (a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution, Article IV, Section 10.

(b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.

Section 130. Section 63I-5-102 is amended to read:

63I-5-102. Definitions.

As used in this chapter:

(1) "Agency governing board" is any board or commission that has policy making and oversight responsibility over the agency, including the authority to appoint and remove the agency director.

(2) "Agency head" means a cabinet officer, an elected official, an executive director, or a board or commission vested with responsibility to administer or make policy for a state agency.

(3) "Agency internal audit director" or "audit director" means the person who:

(a) directs the internal audit program for the state agency; and

(b) is appointed by the audit committee or, if no audit committee has been established, by the agency head.

(4) "Appointing authority" means:

(a) the governor, for state agencies other than the State Tax Commission;

(b) the Judicial Council, for judicial branch agencies;

(c) the Utah Board of Higher Education, for higher education entities;

(d) the State Board of Education, for entities administered by the State Board of Education; or

(e) the four tax commissioners, for the State Tax Commission.

(5) "Audit committee" means a standing committee composed of members who:

(a) are appointed by an appointing authority;

(b) (i) do not have administrative responsibilities within the agency; and

(ii) are not an agency contractor or other service provider; and

(c) have the expertise to provide effective oversight of and advice about internal audit activities and services.

(6) "Audit plan" means a prioritized list of audits to be performed by an internal audit program within a specified period of time.

(7) "Higher education entity" means the Utah Board of Higher Education, an institution of higher education board of trustees, or each higher education institution.

(8) "Internal audit" means an independent appraisal activity established within a state agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the agency.

(9) "Internal audit program" means an audit function that:

(a) is conducted by an agency, division, bureau, or office, independent of the agency, division, bureau, or office operations;

(b) objectively evaluates the effectiveness of agency, division, bureau, or office governance, risk management, internal controls, and the efficiency of operations; and

(c) is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) The Government Auditing Standards, issued by the Comptroller General of the United States.

(10) "Judicial branch agency" means each administrative entity of the judicial branch.

(11) (a) "State agency" means:

(i) each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state; or

(ii) each state public education entity.

(b) "State agency" does not mean:

(i) a legislative branch agency;

(ii) an independent state agency as defined in Section 63E-1-102;

(iii) a county, municipality, school district, [~~local~~] special district, or special service district; or

(iv) any administrative subdivision of a county, municipality, school district, [~~local~~] special district, or special service district.

Section 131. Section 63J-1-220 is amended to read:

63J-1-220. Reporting related to pass through money distributed by state agencies.

(1) As used in this section:

(a) "Local government entity" means a county, municipality, school district, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(b) (i) "Pass through funding" means money appropriated by the Legislature to a state agency that is intended to be passed through the state agency to one or more:

(A) local government entities;

(B) private organizations, including not-for-profit organizations; or

(C) persons in the form of a loan or grant.

(ii) "Pass through funding" may be:

(A) general funds, dedicated credits, or any combination of state funding sources; and

(B) ongoing or one-time.

(c) "Recipient entity" means a local government entity or private entity, including a nonprofit entity, that receives money by way of pass through funding from a state agency.

(d) "State agency" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state.

(e) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fees or tax revenues.

(ii) "State money" does not include contributions or donations received by a state agency.

(2) A state agency may not provide a recipient entity state money through pass through funding unless:

(a) the state agency enters into a written agreement with the recipient entity; and

(b) the written agreement described in Subsection (2)(a) requires the recipient entity to provide the state agency:

(i) a written description and an itemized report at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(ii) a final written itemized report when all the state money is spent.

(3) A state agency shall provide to the Governor's Office of Planning and Budget a copy of a written description or itemized report received by the state agency under Subsection (2).

(4) Notwithstanding Subsection (2), a state agency is not required to comply with this section to the extent that the pass through funding is issued:

(a) under a competitive award process;

(b) in accordance with a formula enacted in statute;

(c) in accordance with a state program under parameters in statute or rule that guides the distribution of the pass through funding; or

(d) under the authority of the Minimum School Program, as defined in Section 53F-2-102.

Section 132. Section 63J-4-102 is amended to read:

63J-4-102. Definitions.

As used in this chapter:

(1) "Executive director" means the chief administrative officer of the office, appointed under Section 63J-4-202.

(2) "Office" means the Governor's Office of Planning and Budget created in Section 63J-4-201.

(3) "Planning coordinator" means the individual appointed as the planning coordinator under Section 63J-4-401.

(4) "Political subdivision" means:

(a) a county, municipality, [~~local~~] special district, special service district, school district, or interlocal entity, as defined in Section 11-13-103; or

(b) an administrative subunit of an entity listed in Subsection (4)(a).

Section 133. Section 63J-4-801 is amended to read:

63J-4-801. Definitions.

As used in this part:

(1) "American Rescue Plan Act" means the American Rescue Plan Act, Pub. L. 117-2.

(2) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

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

(4) "Grant program" means the COVID-19 Local Assistance Matching Grant Program established in Section 63J-4-802.

(5) "Local government" means a county, city, town, metro township, [~~local~~] special district, or special service district.

(6) "Review committee" means the COVID-19 Local Assistance Matching Grant Program Review Committee established in Section 63J-4-803.

Section 134. Section 63L-4-102 is amended to read:

63L-4-102. Definitions.

As used in this chapter:

(1) "Constitutional taking issues" means actions involving the physical taking or exaction of private real property by a political subdivision that might require compensation to a private real property owner because of:

(a) the Fifth or Fourteenth Amendment of the Constitution of the United States;

(b) Article I, Section 22 of the Utah Constitution; or

(c) any recent court rulings governing the physical taking or exaction of private real property by a government entity.

(2) "Political subdivision" means a county, municipality, [~~local~~] special district, special service district, school district, or other local government entity.

Section 135. Section 63L-5-102 is amended to read:

63L-5-102. Definitions.

As used in this chapter:

(1) "Free exercise of religion" means an act or refusal to act that is substantially motivated by sincere religious belief, whether or not the act or refusal is compulsory or central to a larger system of religious belief, and includes the use, building, or conversion of real property for the purpose of religious exercise.

(2) "Government entity" means the state, a county, a municipality, a higher education institution, a [~~local~~] special district, a special service district, any other political subdivision of the state, or any administrative subunit of any of them.

(3) "Land use regulation" means any state or local law or ordinance, whether statutory or otherwise, that limits or restricts a person's use or development of land or a structure affixed to land.

(4) "Person" means any individual, partnership, corporation, or other legal entity that owns an interest in real property.

Section 136. Section 63L-11-102 is amended to read:

63L-11-102. Definitions.

As used in this chapter:

(1) "Coordinating committee" means the committee created in Section 63L-11-401.

(2) "Executive director" means the public lands policy executive director appointed under Section 63L-11-201.

(3) "Office" means the Public Lands Policy Coordinating Office created in Section 63L-11-201.

(4) "Political subdivision" means:

(a) a county, municipality, [~~local~~] special district, special service district, school district, or interlocal entity, as defined in Section 11-13-103; or

(b) an administrative subunit of an entity listed in Subsection (4)(a).

Section 137. Section 63M-5-103 is amended to read:

63M-5-103. Definitions.

As used in this chapter:

(1) "Commencement of construction" means any clearing of land, excavation, or construction but does not include preliminary site review, including soil tests, topographical surveys, exploratory drilling, boring or mining, or other preliminary tests.

(2) "Developer" means any person engaged or to be engaged in industrial development or the development or utilization of natural resources in this state through a natural resource or industrial facility, including owners, contract purchases of owners, and persons who, as a lessee or under an agreement, are engaged or to be engaged in industrial development or the development or utilization of natural resources in this state through a natural resource or industrial facility.

(3) "Major developer" means any developer whose proposed new or additional natural resource facility or industrial facility is projected:

(a) To employ more than 500 people; or

(b) To cause the population of an affected unit of local government to increase by more than 5%, the increase to include the primary work force of the facility and their dependents and the work force and dependents attributable to commercial and public service employment created by the presence of the facility.

(4) "Natural resource facility" or "industrial facility" means any land, structure, building, plant, mine, road, installation, excavation, machinery, equipment, or device, or any addition to, reconstruction, replacement, or improvement of, land or an existing structure, building, plant, mine, road, installation, excavation, machinery, or device reasonably used, erected, constructed, acquired, or installed by any person, if a substantial purpose of or result of the use, erection, construction, acquisition, rental, lease, or installation is related to industrial development or the development or utilization of the natural resources in this state.

(5) "Person" includes any individual, firm, co-partnership, joint venture, corporation, estate, trust, business trust, syndicate, or any group or combination acting as a unit.

(6) "Unit of local government" means any county, municipality, school district, [~~local~~] special district, special service district, or any other political subdivision of the state.

Section 138. Section 65A-8-203 is amended to read:

65A-8-203. Cooperative fire protection agreements with counties, cities, towns, or special service districts.

(1) As used in this section:

(a) "Eligible entity" means:

(i) a county, a municipality, or a special service district, [~~local~~] special district, or service area with:

(A) wildland fire suppression responsibility as described in Section 11-7-1; and

(B) wildland fire suppression cost responsibility and taxing authority for a specific geographic jurisdiction; or

(ii) upon approval by the director, a political subdivision established by a county, municipality, special service district, [~~local~~] special district, or service area that is responsible for:

(A) providing wildland fire suppression services; and

(B) paying for the cost of wildland fire suppression services.

(b) "Fire service provider" means a public or private entity that fulfills the duties of Subsection 11-7-1(1).

(2) (a) The governing body of any eligible entity may enter into a cooperative agreement with the division to receive financial and wildfire management cooperation and assistance from the division, as described in this part.

(b) A cooperative agreement shall last for a term of no more than five years and be renewable if the eligible entity continues to meet the requirements of this chapter.

(3) (a) An eligible entity may not receive financial cooperation or financial assistance under Subsection (2)(a) until a cooperative agreement is executed by the eligible entity and the division.

(b) The state shall assume an eligible entity's cost of suppressing catastrophic wildfire as defined in the cooperative agreement if the eligible entity has entered into, and is in full compliance with, a cooperative agreement with the division, as described in this section.

(c) A county or municipality that is not covered by a cooperative agreement with the division, as described in this section, shall be responsible for wildland fire costs within the county or municipality's jurisdiction, as described in Section 65A-8-203.2.

(4) In order to enter into a cooperative agreement with the division, the eligible entity shall:

(a) if the eligible entity is a county, adopt and enforce on unincorporated land a wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission;

(b) require that the fire department or equivalent fire service provider under contract with, or delegated by, the eligible entity on unincorporated land meet minimum standards for wildland fire training, certification, and suppression equipment based upon nationally accepted standards as specified by the division;

(c) invest in prevention, preparedness, and mitigation efforts, as agreed to with the division, that will reduce the eligible entity's risk of catastrophic wildfire;

(d) file with the division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs;

(e) return the financial statement described in Subsection (6), signed by the chief executive of the eligible entity, to the division on or before the date set by the division; and

(f) if the eligible entity is a county, have a designated fire warden as described in Section 65A-8-209.1.

(5) (a) The state forester may execute a cooperative agreement with the eligible entity.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the:

(i) cooperative agreements described in this section;

(ii) manner in which an eligible entity shall provide proof of compliance with Subsection (4);

(iii) manner by which the division may revoke a cooperative agreement if an eligible entity ceases to meet the requirements described in this section;

(iv) accounting system for determining suppression costs;

(v) manner in which the division shall determine the eligible entity's participation commitment; and

(vi) manner in which an eligible entity may appeal a division determination.

(6) (a) The division shall send a financial statement to each eligible entity participating in a cooperative agreement that details the eligible entity's participation commitment for the coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to under Subsection (4)(c).

(b) Each eligible entity participating in a cooperative agreement shall:

(i) have the chief executive of the eligible entity sign the financial statement, or the legislative body of the eligible entity approve the financial statement by resolution, confirming the eligible entity's participation for the upcoming year; and

(ii) return the financial statement to the division, on or before a date set by the division.

(c) A financial statement shall be effective for one calendar year, beginning on the date set by the division, as described in Subsection (6)(b).

(7) (a) An eligible entity may revoke a cooperative agreement before the end of the cooperative agreement's term by:

(i) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or

(ii) failing to sign and return its annual financial statement, as described in Subsection (6)(b), unless the director grants an extension.

(b) An eligible entity may not revoke a cooperative agreement before the end of the term of a signed annual financial statement, as described in Subsection (6)(c).

(8) The division shall develop and maintain a wildfire risk assessment mapping tool that is online and publicly accessible.

(9) By no later than the 2021 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee, the division shall report on the eligible entities' adherence to and implementation of their participation commitment under this chapter.

Section 139. Section 67-1a-6.5 is amended to read:

67-1a-6.5. Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.

(1) As used in this section:

(a) "Applicable certificate" means:

(i) for the impending incorporation of a city, town, [~~local~~] special district, conservation district, or incorporation of a [~~local~~] special district from a reorganized special service district, a certificate of incorporation;

(ii) for the impending creation of a county, school district, special service district, community reinvestment agency, or interlocal entity, a certificate of creation;

(iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;

(iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;

(v) for the impending consolidation of multiple local entities, a certificate of consolidation;

(vi) for the impending division of a local entity into multiple local entities, a certificate of division;

(vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and

(viii) for the impending dissolution of a local entity, a certificate of dissolution.

(b) "Approved final local entity plat" means a final local entity plat, as defined in Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by the county surveyor.

(c) "Approving authority" has the same meaning as defined in Section 17-23-20.

(d) "Boundary action" has the same meaning as defined in Section 17-23-20.

(e) "Center" means the Utah Geospatial Resource Center created under Section 63A-16-505.

(f) "Community reinvestment agency" has the same meaning as defined in Section 17C-1-102.

(g) "Conservation district" has the same meaning as defined in Section 17D-3-102.

(h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

[~~(i) "Local district" has the same meaning as defined in Section 17B-1-102.~~]

[~~(j)~~] (i) "Local entity" means a county, city, town, school district, [~~local~~] special district, community reinvestment agency, special service district, conservation district, or interlocal entity.

[~~(k)~~] (j) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.

(k) "Special district" means the same as that term is defined in Section 17B-1-102.

(l) "Special service district" [~~has the same meaning as~~] means the same as that term is defined in Section 17D-1-102.

(2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:

(a) (i) issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and

(B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;

(ii) send the applicable certificate to the local entity's approving authority;

(iii) return the original of the approved final local entity plat to the local entity's approving authority;

(iv) send a copy of the applicable certificate and approved final local entity plat to:

(A) the State Tax Commission;

(B) the center; and

(C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and

(v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:

(A) the incorporation or creation of a new local entity;

(B) the consolidation of multiple local entities;

(C) the division of a local entity into multiple local entities; or

(D) the dissolution of a local entity; or

(b) (i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action does not meet the requirements of Subsection (3); or

(B) the notice of an impending boundary action is:

(I) not accompanied by an approved final local entity plat; or

(II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section 17-23-20; and

(ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.

(3) Each notice of an impending boundary action shall:

(a) be directed to the lieutenant governor;

(b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;

(c) describe the type of boundary action for which an applicable certificate is sought;

(d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and

(e) (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or

(ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.

(4) The lieutenant governor may require the approving authority to submit a paper or electronic

copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.

(5) (a) The lieutenant governor shall:

(i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity plat, applicable certificate, and other document that the lieutenant governor receives or generates under this section;

(ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;

(iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a paper copy; and

(iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.

(b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).

Section 140. Section 67-1a-15 is amended to read:

67-1a-15. Local government and limited purpose entity registry.

(1) As used in this section:

(a) "Entity" means a limited purpose entity or a local government entity.

(b) (i) "Limited purpose entity" means a legal entity that:

(A) performs a single governmental function or limited governmental functions; and

(B) is not a state executive branch agency, a state legislative office, or within the judicial branch.

(ii) "Limited purpose entity" includes:

(A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section 62A-3-101;

(B) charter schools created under Title 53G, Chapter 5, Charter Schools;

(C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

(D) conservation districts, as that term is defined in Section 17D-3-102;

(E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

(F) housing authorities, as that term is defined in Section 35A-8-401;

(G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;

(H) interlocal entities, as that term is defined in Section 11-13-103;

(I) local building authorities, as that term is defined in Section 17D-2-102;

(J) [~~local~~] special districts, as that term is defined in Section 17B-1-102;

(K) local health departments, as that term is defined in Section 26A-1-102;

(L) local mental health authorities, as that term is defined in Section 62A-15-102;

(M) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;

(N) school districts under Title 53G, Chapter 3, School District Creation and Change;

(O) special service districts, as that term is defined in Section 17D-1-102; and

(P) substance abuse authorities, as that term is defined in Section 62A-15-102.

(c) "Local government and limited purpose entity registry" or "registry" means the registry of local government entities and limited purpose entities created under this section.

(d) "Local government entity" means:

(i) a county, as that term is defined in Section 17-50-101; and

(ii) a municipality, as that term is defined in Section 10-1-104.

(e) "Notice of failure to register" means the notice the lieutenant governor sends, in accordance with Subsection (7)(a), to an entity that does not register.

(f) "Notice of failure to renew" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (7)(b).

(g) "Notice of noncompliance" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (6)(c).

(h) "Notice of non-registration" means the notice the lieutenant governor sends to an entity and the state auditor, in accordance with Subsection (9).

(i) "Notice of registration or renewal" means the notice the lieutenant governor sends, in accordance with Subsection (6)(b)(i).

(j) "Registered entity" means an entity with a valid registration as described in Subsection (8).

(2) The lieutenant governor shall:

(a) create a registry of each local government entity and limited purpose entity within the state that:

(i) contains the information described in Subsection (4); and

(ii) is accessible on the lieutenant governor's website or otherwise publicly available; and

(b) establish fees for registration and renewal, in accordance with Section 63J-1-504, based on and

to directly offset the cost of creating, administering, and maintaining the registry.

(3) Each local government entity and limited purpose entity shall:

(a) on or before July 1, 2019, register with the lieutenant governor as described in Subsection (4);

(b) on or before one year after the day on which the lieutenant governor issues the notice of registration or renewal, annually renew the entity's registration in accordance with Subsection (5); and

(c) on or before 30 days after the day on which any of the information described in Subsection (4) changes, send notice of the changes to the lieutenant governor.

(4) Each entity shall include the following information in the entity's registration submission:

(a) the resolution or other legal or formal document creating the entity or, if the resolution or other legal or formal document creating the entity cannot be located, conclusive proof of the entity's lawful creation;

(b) if the entity has geographic boundaries, a map or plat identifying the current geographic boundaries of the entity, or if it is impossible or unreasonably expensive to create a map or plat, a metes and bounds description, or another legal description that identifies the current boundaries of the entity;

(c) the entity's name;

(d) the entity's type of local government entity or limited purpose entity;

(e) the entity's governmental function;

(f) the entity's website, physical address, and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;

(g) (i) names, email addresses, and phone numbers of the members of the entity's governing board or commission, managing officers, or other similar managers and the method by which the members or officers are appointed, elected, or otherwise designated;

(ii) the date of the most recent appointment or election of each entity governing board or commission member; and

(iii) the date of the anticipated end of each entity governing board or commission member's term;

(h) the entity's sources of revenue; and

(i) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.

(5) Each entity shall include the following information in the entity's renewal submission:

(a) identify and update any incorrect or outdated information the entity previously submitted during registration under Subsection (4); or

(b) certify that the information the entity previously submitted during registration under Subsection (4) is correct without change.

(6) Within 30 days of receiving an entity's registration or renewal submission, the lieutenant governor shall:

(a) review the submission to determine compliance with Subsection (4) or (5);

(b) if the lieutenant governor determines that the entity's submission complies with Subsection (4) or (5):

(i) send a notice of registration or renewal that includes the information that the entity submitted under Subsection (4) or (5) to:

(A) the registering or renewing entity;

(B) each county in which the entity operates, either in whole or in part, or where the entity's geographic boundaries overlap or are contained within the boundaries of the county;

(C) the Division of Archives and Records Service; and

(D) the Office of the Utah State Auditor; and

(ii) publish the information from the submission on the registry, except any email address or phone number that is personal information as defined in Section 63G-2-303; and

(c) if the lieutenant governor determines that the entity's submission does not comply with Subsection (4) or (5) or is otherwise inaccurate or deficient, send a notice of noncompliance to the registering or renewing entity that:

(i) identifies each deficiency in the entity's submission with the corresponding statutory requirement;

(ii) establishes a deadline to cure the entity's noncompliance that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of noncompliance; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (6)(c)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(7) (a) If the lieutenant governor identifies an entity that does not make a registration submission in accordance with Subsection (4) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to register to the registered entity that:

(i) identifies the statutorily required registration deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to register that is the first business day that is at least 10 calendar days after the day on which the lieutenant governor sends the notice of failure to register; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(a)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(b) If a registered entity does not make a renewal submission in accordance with Subsection (5) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to renew to the registered entity that:

(i) identifies the renewal deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to renew that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of failure to renew; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(b)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(8) An entity's registration is valid:

(a) if the entity makes a registration or renewal submission in accordance with the deadlines described in Subsection (3);

(b) during the period the lieutenant governor establishes in the notice of noncompliance or notice of failure to renew during which the entity may cure the identified registration deficiencies; and

(c) for one year beginning on the day the lieutenant governor issues the notice of registration or renewal.

(9) (a) The lieutenant governor shall send a notice of non-registration to the Office of the Utah State Auditor if an entity fails to:

(i) cure the entity's noncompliance by the deadline the lieutenant governor establishes in the notice of noncompliance;

(ii) register by the deadline the lieutenant governor establishes in the notice of failure to register; or

(iii) cure the entity's failure to renew by the deadline the lieutenant governor establishes in the notice of failure to renew.

(b) The lieutenant governor shall ensure that the notice of non-registration:

(i) includes a copy of the notice of noncompliance, the notice of failure to register, or the notice of failure to renew; and

(ii) requests that the state auditor withhold state allocated funds or the disbursement of property taxes and prohibit the entity from accessing money held by the state or money held in an account of a financial institution, in accordance with Subsections 67-3-1(7)(i) and 67-3-1(10).

(10) The lieutenant governor may extend a deadline under this section if an entity notifies the lieutenant governor, before the deadline to be extended, of the existence of an extenuating circumstance that is outside the control of the entity.

(11) (a) An entity is not required to renew submission of a registration under this section if an entity provides a record of dissolution.

(b) The lieutenant governor shall include in the registry an entity's record of dissolution and indicate on the registry that the entity is dissolved.

Section 141. Section 67-1b-102 is amended to read:

67-1b-102. Definitions.

As used in this chapter:

(1) "Board of canvassers" means the state board of canvassers created in Section 20A-4-306.

(2) (a) "Executive branch" means:

(i) the governor, the governor's staff, and the governor's appointed advisors;

(ii) the lieutenant governor and lieutenant governor's staff;

(iii) cabinet level officials;

(iv) except as provided in Subsection (2)(b), an agency, board, department, division, committee, commission, council, office, or other administrative subunit of the executive branch of state government;

(v) except as provided in Subsection (2)(b), a cabinet officer, elected official, executive director, or board or commission vested with:

(A) policy making and oversight responsibility for a state executive branch agency; or

(B) authority to appoint and remove the director of a state executive branch agency;

(vi) executive ministerial officers;

(vii) each gubernatorial appointee to a state board, committee, commission, council, or authority;

(viii) each executive branch management position, as defined in Section 67-1-1.5;

(ix) each executive branch policy position, as defined in Section 67-1-1.5; and

(x) the military forces of the state.

(b) "Executive branch" does not include:

(i) the legislative branch;

(ii) the judicial branch;

(iii) the State Board of Education;

(iv) the Utah Board of Higher Education;

(v) institutions of higher education;

(vi) independent entities as defined in Section 63E-1-102;

(vii) elective constitutional offices of the executive department, including the state auditor, the state treasurer, and the attorney general;

(viii) a county, municipality, school district, [~~local~~] special district, or special service district; or

(ix) an administrative subdivision of a county, municipality, school district, [~~local~~] special district, or special service district.

(3) "Governor-elect" means, during a transition period, an individual whom the board of canvassers determines to be the successful candidate for governor after a general election for the office of governor, if that successful candidate is an individual other than the incumbent governor.

(4) "Governor-elect's staff" means:

(a) an individual that a governor-elect intends to nominate as a department head;

(b) an individual that a governor-elect intends to appoint to a key position in the executive branch;

(c) an individual hired by a governor-elect under Subsection 67-1b-105(1)(c); and

(d) any other individual expressly engaged by the governor-elect to assist with the governor-elect's transition into the office of governor.

(5) "Governor's Office of Planning and Budget" means the office created in Section 63J-4-201.

(6) "Incoming gubernatorial administration" means a governor-elect, a governor-elect's staff, a lieutenant governor-elect, and a lieutenant governor-elect's staff.

(7) "Lieutenant governor-elect" means, during a transition period, an individual whom the board of canvassers determines to be the successful candidate for lieutenant governor after a general election for the office of lieutenant governor, if that successful candidate is an individual other than the incumbent lieutenant governor.

(8) "Lieutenant governor-elect's staff" means:

(a) an individual hired by a lieutenant governor-elect under Subsection 67-1b-105(1)(c); and

(b) any other individual expressly engaged by the lieutenant governor-elect to assist with the lieutenant governor-elect's transition into the office of lieutenant governor.

(9) "Office of the Legislative Fiscal Analyst" means the office created in Section 36-12-13.

(10) "Record" means the same as that term is defined in Section 63G-2-103.

(11) "Transition period" means the period of time beginning the day after the meeting of the board of canvassers under Section 20A-4-306 in a year in which the board of canvassers determines that the successful candidate for governor is an individual other than the incumbent governor, and ending on the first Monday of the next January.

Section 142. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among [~~local~~] special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for [~~Local~~] Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for [~~local~~] special districts under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist [~~local~~] special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific [~~local~~] special districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) The state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

Section 143. Section 67-3-12 is amended to read:

67-3-12. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) As used in this section:

(a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(iv) a special service district under Title 17D, Chapter 1, Special Service District Act;

(v) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(vi) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(vii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(viii) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (vii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through (vii) under the governmental accounting standards issued by the Governmental Accounting Standards Board; or

(ix) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(d) (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

(f) "Public financial information" means each record that is required under this section or by rule made by the Office of the State Auditor under Subsection (9) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.

(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) a state institution of higher education as defined in Section 53B-3-102;

(vi) the Utah Educational Savings Plan created in Section 53B-8a-103;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

(x) a URS-participating employer.

(h) (i) "URS-participating employer" means an entity that:

(A) is a participating employer, as that term is defined in Section 49-11-102; and

(B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).

(ii) "URS-participating employer" does not include:

(A) the Utah State Retirement Office created in Section 49-11-201;

(B) an insurer that is subject to the disclosure requirements of Section 31A-4-113; or

(C) a withdrawing entity.

(i) (i) "Withdrawing entity" means:

(A) an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records;

(B) until the date determined under Subsection 49-11-626(2)(a), a public employees' association that provides the notice of intent described in Subsection 49-11-626(2)(b); and

(C) beginning on the date determined under Subsection 49-11-626(2)(a), a public employees' association that makes an election described in Subsection 49-11-626(3).

(ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.

(2) The state auditor shall establish and maintain a public finance website in accordance with this section.

(3) The website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, participating local entities, and URS-participating employers, using the website; and

(ii) link to websites administered by participating local entities, independent entities, or URS-participating employers that do not use the website for the purpose of providing public financial information as required by this section and by rule made under Subsection (9);

(b) allow a person that has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the website;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made in accordance with Subsection (9);

(e) have a unique and simplified website address;

(f) be guided by the principles described in Subsection 63A-16-202(2);

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule made under Subsection (9); and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(4) The state auditor shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities; and

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

(7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

(8) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Section 144. Section 67-3-13 is amended to read:

67-3-13. State privacy officer.

(1) As used in this section:

(a) "Designated government entity" means a government entity that is not a state agency.

(b) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(c) (i) "Government entity" means the state, a county, a municipality, a higher education institution, a [~~local~~] special district, a special service district, a school district, an independent entity, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity.

(ii) "Government entity" includes an agent of an entity described in Subsection (1)(c)(i).

(d) (i) "Personal data" means any information relating to an identified or identifiable individual.

(ii) "Personal data" includes personally identifying information.

(e) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(ii) "Privacy practice" includes:

(A) a technology use related to personal data; and

(B) policies related to the protection, storage, sharing, and retention of personal data.

(f) (i) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(A) a department;

(B) a commission;

(C) a board;

(D) a council;

(E) an institution;

(F) an officer;

(G) a corporation;

(H) a fund;

(I) a division;

(J) an office;

(K) a committee;

(L) an authority;

(M) a laboratory;

(N) a library;

(O) a bureau;

(P) a panel;

(Q) another administrative unit of the state; or

(R) an agent of an entity described in Subsections (A) through (Q).

(ii) "State agency" does not include:

(A) the legislative branch;

(B) the judicial branch;

(C) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(D) an independent entity.

(2) The state privacy officer shall:

(a) when completing the duties of this Subsection (2), focus on the privacy practices of designated government entities;

(b) compile information about government privacy practices of designated government entities;

(c) make public and maintain information about government privacy practices on the state auditor's website;

(d) provide designated government entities with educational and training materials developed by the Personal Privacy Oversight Commission established in Section 63C-24-201 that include the information described in Subsection 63C-24-202(1)(b);

(e) implement a process to analyze and respond to requests from individuals for the state privacy officer to review a designated government entity's privacy practice;

(f) identify annually which designated government entities' privacy practices pose the greatest risk to individual privacy and prioritize those privacy practices for review;

(g) review each year, in as timely a manner as possible, the privacy practices that the privacy officer identifies under Subsection (2)(e) or (2)(f) as posing the greatest risk to individuals' privacy;

(h) when reviewing a designated government entity's privacy practice under Subsection (2)(g), analyze:

(i) details about the technology or the policy and the technology's or the policy's application;

(ii) information about the type of data being used;

(iii) information about how the data is obtained, stored, shared, secured, and disposed;

(iv) information about with which persons the designated government entity shares the information;

(v) information about whether an individual can or should be able to opt out of the retention and sharing of the individual's data;

(vi) information about how the designated government entity de-identifies or anonymizes data;

(vii) a determination about the existence of alternative technology or improved practices to protect privacy; and

(viii) a finding of whether the designated government entity's current privacy practice adequately protects individual privacy; and

(i) after completing a review described in Subsections (2)(g) and (h), determine:

(i) each designated government entity's use of personal data, including the designated government entity's practices regarding data:

(A) acquisition;

(B) storage;

(C) disposal;

(D) protection; and

(E) sharing;

(ii) the adequacy of the designated government entity's practices in each of the areas described in Subsection (2)(i)(i); and

(iii) for each of the areas described in Subsection (2)(i)(i) that the state privacy officer determines to require reform, provide recommendations for reform to the designated government entity and the legislative body charged with regulating the designated government entity.

(3) (a) The legislative body charged with regulating a designated government entity that receives a recommendation described in Subsection (2)(i)(iii) shall hold a public hearing on the proposed reforms:

(i) with a quorum of the legislative body present; and

(ii) within 90 days after the day on which the legislative body receives the recommendation.

(b) (i) The legislative body shall provide notice of the hearing described in Subsection (3)(a).

(ii) Notice of the public hearing and the recommendations to be discussed shall be posted on:

(A) the Utah Public Notice Website created in Section 63A-16-601 for 30 days before the day on which the legislative body will hold the public hearing; and

(B) the website of the designated government entity that received a recommendation, if the designated government entity has a website, for 30 days before the day on which the legislative body will hold the public hearing.

(iii) Each notice required under Subsection (3)(b)(i) shall:

(A) identify the recommendations to be discussed; and

(B) state the date, time, and location of the public hearing.

(c) During the hearing described in Subsection (3)(a), the legislative body shall:

(i) provide the public the opportunity to ask questions and obtain further information about the recommendations; and

(ii) provide any interested person an opportunity to address the legislative body with concerns about the recommendations.

(d) At the conclusion of the hearing, the legislative body shall determine whether the legislative body shall adopt reforms to address the recommendations and any concerns raised during the public hearing.

(4) (a) Except as provided in Subsection (4)(b), if the government operations privacy officer described in Section 67-1-17 is not conducting reviews of the privacy practices of state agencies, the state privacy officer may review the privacy practices of a state agency in accordance with the processes described in this section.

(b) Subsection (3) does not apply to a state agency.

(5) The state privacy officer shall:

(a) quarterly report, to the Personal Privacy Oversight Commission:

(i) recommendations for privacy practices for the commission to review; and

(ii) the information provided in Subsection (2)(i); and

(b) annually, on or before October 1, report to the Judiciary Interim Committee:

(i) the results of any reviews described in Subsection (2)(g), if any reviews have been completed;

(ii) reforms, to the extent that the state privacy officer is aware of any reforms, that the designated government entity made in response to any reviews described in Subsection (2)(g);

(iii) the information described in Subsection (2)(i); and

(iv) recommendations for legislation based on any results of a review described in Subsection (2)(g).

Section 145. Section 67-11-2 is amended to read:

67-11-2. Definitions.

For the purposes of this chapter:

(1) "Employee" includes an elective or appointive officer or employee of a state or political subdivision thereof.

(2) "Employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except:

(a) service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the Social Security Act;

(b) service which under the Social Security Act may not be included in an agreement between the state and federal security administrator entered into under this chapter;

(c) services of an emergency nature, service in any class or classes of positions the compensation for which is on a fee basis:

(i) performed by employees of the state; or

(ii) if so provided in the plan submitted under Section 67-11-5, by a political subdivision of the state, by an employee of such subdivision;

(d) services performed by students employed by a public school, college, or university at which they are enrolled and which they are attending on a full-time basis;

(e) part-time services performed by election workers, i.e., judges of election and registrars; or

(f) services performed by voluntary firemen, except when such services are prescheduled for a specific period of duty.

(3) "Federal Insurance Contributions Act" means Chapter 21 of the Internal Revenue Code as such Code may be amended.

(4) "Federal security administrator" includes any individual to whom the federal security administrator has delegated any of his functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions.

(5) "Political subdivision" includes:

(a) an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues or associations [~~thereof, but only if such~~] of the instrumentality, if:

(i) the instrumentality is a juristic entity [~~which~~] that is legally separate and distinct from the state or subdivision; and [~~only if its~~]

(ii) the instrumentality's employees are not [~~by virtue of their relation to such juristic entity~~], due to their relation to the instrumentality, employees of the state or subdivision[~~. The term shall include local~~]; and

(b) special districts, special service districts, or authorities created by the Legislature or local governments [~~such as, but not limited to,~~], including mosquito abatement districts, sewer or water districts, and libraries.

(6) "Sick pay" means payments made to employees on account of sickness or accident disability under a sick leave plan of the type outlined in 42 U.S.C. Secs. 409(a)(2) and (3) of the Social Security Act.

(7) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as such act has been and may from time to time be amended.

(8) "State agency" means the Division of Finance, referred to herein as the state agency.

(9) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include "sick pay" as that term is defined in this section and shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

Section 146. Section 67-21-2 is amended to read:

67-21-2. Definitions.

As used in this chapter:

(1) "Abuse of authority" means an arbitrary or capricious exercise of power that:

(a) adversely affects the employment rights of another; or

(b) results in personal gain to the person exercising the authority or to another person.

(2) "Communicate" means a verbal, written, broadcast, or other communicated report.

(3) "Damages" means general and special damages for injury or loss caused by each violation of this chapter.

(4) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.

(5) (a) "Employer" means the public body or public entity that employs the employee.

(b) "Employer" includes an agent of an employer.

(6) "Good faith" means that an employee acts with:

(a) subjective good faith; and

(b) the objective good faith of a reasonable employee.

(7) "Gross mismanagement" means action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the public entity or public body that employs, or is managed or controlled by, the person.

(8) "Judicial employee" means an employee of the judicial branch of state government.

(9) "Legislative employee" means an employee of the legislative branch of state government.

(10) "Political subdivision employee" means an employee of a political subdivision of the state.

(11) "Public body" means any of the following:

(a) a state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution, or any other body in the executive branch of state government;

(b) an agency, board, commission, council, institution member, or employee of the legislative branch of state government;

(c) a county, city, town, regional governing body, council, school district, [~~local~~] special district, special service district, or municipal corporation, board, department, commission, council, agency, or any member or employee of them;

(d) any other body that is created by state or local authority, or that is primarily funded by or through state or local authority, or any member or employee of that body;

(e) a law enforcement agency or any member or employee of a law enforcement agency; and

(f) the judiciary and any member or employee of the judiciary.

(12) "Public entity" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

(13) "Public entity employee" means an employee of a public entity.

(14) "Retaliatory action" means the same as that term is defined in Section 67-19a-101.

(15) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.

(16) "Unethical conduct" means conduct that violates a provision of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Section 147. Section 71-8-1 is amended to read:

71-8-1. Definitions -- Veterans Affairs.

As used in this title:

(1) "Contractor" means a person who is or may be awarded a government entity contract.

(2) "Council" means the Veterans Advisory Council.

(3) "Department" means the Department of Veterans and Military Affairs.

(4) "Executive director" means the executive director of the Department of Veterans and Military Affairs.

(5) "Government entity" means the state and any county, municipality, [~~local~~] special district, special service district, and any other political subdivision or administrative unit of the state, including state institutions of education.

(6) "Specialist" means a full-time employee of a government entity who is tasked with responding to, and assisting, veterans who are employed by the entity or come to the entity for assistance.

(7) "Veteran" has the same meaning as defined in Section 68-3-12.5.

Section 148. Section 71-10-1 is amended to read:

71-10-1. Definitions.

As used in this chapter:

(1) "Active duty" means active military duty and does not include active duty for training, initial active duty for training, or inactive duty for training.

(2) "Government entity" means the state, any county, municipality, [~~local~~] special district, special service district, or any other political subdivision or administrative unit of the state, including state institutions of education.

(3) "Preference eligible" means:

(a) any individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who

served in a campaign or expedition for which a campaign medal has been authorized and who has been separated under honorable conditions;

(b) a veteran with a disability, regardless of the percentage of disability;

(c) the spouse or unmarried widow or widower of a veteran;

(d) a purple heart recipient; or

(e) a retired member of the armed forces.

(4) "Veteran" means the same as that term is defined in Section 68-3-12.5.

(5) "Veteran with a disability" means an individual who has:

(a) been separated or retired from the armed forces under honorable conditions; and

(b) established the existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the federal Department of Veterans Affairs or a military department.

Section 149. Section 72-2-201 is amended to read:

72-2-201. Definitions.

As used in this part:

(1) "Fund" means the State Infrastructure Bank Fund created under Section 72-2-202.

(2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects or publicly owned infrastructure projects, including:

(a) capital reserves and other security for bond or debt instrument financing; or

(b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.

(3) "Infrastructure loan" means a loan of fund money to finance a transportation project or publicly owned infrastructure project.

(4) "Public entity" means a state agency, county, municipality, [~~local~~] special district, special service district, an intergovernmental entity organized under state law, or the military installation development authority created in Section 63H-1-201.

(5) "Publicly owned infrastructure project" means a project to improve sewer or water infrastructure that is owned by a public entity.

(6) "Transportation project":

(a) means a project:

(i) to improve a state or local highway;

(ii) to improve a public transportation facility or nonmotorized transportation facility;

(iii) to construct or improve parking facilities;

(iv) that is subject to a transportation reinvestment zone agreement pursuant to Section 11-13-227 if the state is party to the agreement; or

(v) that is part of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing; and

(c) may only include a project if the project is part of:

(i) the statewide long range plan;

(ii) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(iii) a local government general plan or economic development initiative.

Section 150. Section 72-14-304 is amended to read:

72-14-304. Unlawful operation of unmanned aircraft near prison facilities -- Penalties.

(1) An individual may not operate an unmanned aircraft system:

(a) to carry or drop any item to or inside the property of a correctional facility; or

(b) in a manner that interferes with the operations or security of a correctional facility.

(2) (a) A violation of Subsection (1)(a) is a third degree felony.

(b) A violation of Subsection (1)(b) is a class B misdemeanor.

(3) An operator of an unmanned aircraft system does not violate Subsection (1) if the operator is:

(a) an employee or contractor working on behalf of a mosquito abatement district created pursuant to [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(b) acting in the course and scope of the operator's employment.

Section 151. Section 73-2-1 (Superseded 05/03/23) is amended to read:

73-2-1 (Superseded 05/03/23). State engineer -- Term -- Powers and duties -- Qualification for duties.

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3) (a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties;

(g) the duty of water; and

(h) standards for written plans of a public water supplier that may be presented as evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights; or

(h) the form and content of applications and related documents, maps, and reports.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of surface and underground waters;

(c) enable the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40-acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8) (a) The state engineer may establish water distribution systems and define the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

(9) The state engineer may conduct studies of current and novel uses of water in the state.

(10) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the depth of a water production well exempt the water production well from regulation under this title or rules made under this title related to the:

(a) drilling, constructing, deepening, repairing, renovating, cleaning, developing, testing, disinfecting, or abandonment of a water production well; or

(b) installation or repair of a pump for a water production well.

Section 152. Section 73-2-1 (Effective 05/03/23) is amended to read:

73-2-1 (Effective 05/03/23). State engineer -- Term -- Powers and duties -- Qualification for duties.

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3) (a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties;

(g) the duty of water; and

(h) standards for written plans of a public water supplier that may be presented as evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights;

(h) preferences of water rights under Section 73-3-21.5; or

(i) the form and content of applications and related documents, maps, and reports.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of surface and underground waters;

(c) enable the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40-acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8) (a) The state engineer may establish water distribution systems and define the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

(9) The state engineer may conduct studies of current and novel uses of water in the state.

(10) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the depth of a water production well exempt the water production well from regulation under this title or rules made under this title related to the:

(a) drilling, constructing, deepening, repairing, renovating, cleaning, developing, testing, disinfecting, or abandonment of a water production well; or

(b) installation or repair of a pump for a water production well.

Section 153. Section 73-5-15 is amended to read:

73-5-15. Groundwater management plan.

(1) As used in this section:

(a) "Critical management area" means a groundwater basin in which the groundwater withdrawals consistently exceed the safe yield.

(b) "Safe yield" means the amount of groundwater that can be withdrawn from a groundwater basin over a period of time without exceeding the long-term recharge of the basin or unreasonably affecting the basin's physical and chemical integrity.

(2) (a) The state engineer may regulate groundwater withdrawals within a specific groundwater basin by adopting a groundwater management plan in accordance with this section for any groundwater basin or aquifer or combination of hydrologically connected groundwater basins or aquifers.

(b) The objectives of a groundwater management plan are to:

(i) limit groundwater withdrawals to safe yield;

(ii) protect the physical integrity of the aquifer; and

(iii) protect water quality.

(c) The state engineer shall adopt a groundwater management plan for a groundwater basin if more than one-third of the water right owners in the groundwater basin request that the state engineer adopt a groundwater management plan.

(3) (a) In developing a groundwater management plan, the state engineer may consider:

(i) the hydrology of the groundwater basin;

(ii) the physical characteristics of the groundwater basin;

(iii) the relationship between surface water and groundwater, including whether the groundwater should be managed in conjunction with hydrologically connected surface waters;

(iv) the conjunctive management of water rights to facilitate and coordinate the lease, purchase, or voluntary use of water rights subject to the groundwater management plan;

(v) the geographic spacing and location of groundwater withdrawals;

(vi) water quality;

(vii) local well interference; and

(viii) other relevant factors.

(b) The state engineer shall base the provisions of a groundwater management plan on the principles of prior appropriation.

(c) (i) The state engineer shall use the best available scientific method to determine safe yield.

(ii) As hydrologic conditions change or additional information becomes available, safe yield determinations made by the state engineer may be revised by following the procedures listed in Subsection (5).

(4) (a) (i) Except as provided in Subsection (4)(b), the withdrawal of water from a groundwater basin shall be limited to the basin's safe yield.

(ii) Before limiting withdrawals in a groundwater basin to safe yield, the state engineer shall:

(A) determine the groundwater basin's safe yield; and

(B) adopt a groundwater management plan for the groundwater basin.

(iii) If the state engineer determines that groundwater withdrawals in a groundwater basin exceed the safe yield, the state engineer shall regulate groundwater rights in that groundwater basin based on the priority date of the water rights under the groundwater management plan, unless a voluntary arrangement exists under Subsection (4)(c) that requires a different distribution.

(iv) A groundwater management plan shall include a list of each groundwater right in the proposed groundwater management area known to the state engineer identifying the water right holder, the land to which the groundwater right is appurtenant, and any identification number the state engineer uses in the administration of water rights.

(b) When adopting a groundwater management plan for a critical management area, the state engineer shall, based on economic and other impacts to an individual water user or a local community caused by the implementation of safe yield limits on withdrawals, allow gradual implementation of the groundwater management plan.

(c) (i) In consultation with the state engineer, water users in a groundwater basin may agree to participate in a voluntary arrangement for managing withdrawals at any time, either before or after a determination that groundwater withdrawals exceed the groundwater basin's safe yield.

(ii) A voluntary arrangement under Subsection (4)(c)(i) shall be consistent with other law.

(iii) The adoption of a voluntary arrangement under this Subsection (4)(c) by less than all of the water users in a groundwater basin does not affect the rights of water users who do not agree to the voluntary arrangement.

(5) To adopt a groundwater management plan, the state engineer shall:

(a) give notice as specified in Subsection (7) at least 30 days before the first public meeting held in accordance with Subsection (5)(b):

(i) that the state engineer proposes to adopt a groundwater management plan;

(ii) describing generally the land area proposed to be included in the groundwater management plan; and

(iii) stating the location, date, and time of each public meeting to be held in accordance with Subsection (5)(b);

(b) hold one or more public meetings in the geographic area proposed to be included within the groundwater management plan to:

(i) address the need for a groundwater management plan;

(ii) present any data, studies, or reports that the state engineer intends to consider in preparing the groundwater management plan;

(iii) address safe yield and any other subject that may be included in the groundwater management plan;

(iv) outline the estimated administrative costs, if any, that groundwater users are likely to incur if the plan is adopted; and

(v) receive any public comments and other information presented at the public meeting, including comments from any of the entities listed in Subsection (7)(a)(iii);

(c) receive and consider written comments concerning the proposed groundwater management plan from any person for a period determined by the state engineer of not less than 60 days after the day on which the notice required by Subsection (5)(a) is given;

(d) (i) at least 60 days prior to final adoption of the groundwater management plan, publish notice:

(A) that a draft of the groundwater management plan has been proposed; and

(B) specifying where a copy of the draft plan may be reviewed; and

(ii) promptly provide a copy of the draft plan in printed or electronic form to each of the entities listed in Subsection (7)(a)(iii) that makes written request for a copy; and

(e) provide notice of the adoption of the groundwater management plan.

(6) A groundwater management plan shall become effective on the date notice of adoption is completed under Subsection (7), or on a later date if specified in the plan.

(7) (a) A notice required by this section shall be:

(i) published:

(A) once a week for two successive weeks in a newspaper of general circulation in each county that encompasses a portion of the land area proposed to be included within the groundwater management plan; and

(B) in accordance with Section 45-1-101 for two weeks;

(ii) published conspicuously on the state engineer's website; and

(iii) mailed to each of the following that has within its boundaries a portion of the land area to be included within the proposed groundwater management plan:

(A) county;

(B) incorporated city or town;

(C) a [~~local~~] special district created to acquire or assess a groundwater right under [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts;

(D) improvement district under Title 17B, Chapter 2a, Part 4, Improvement District Act;

(E) service area, under Title 17B, Chapter 2a, Part 9, Service Area Act;

(F) drainage district, under Title 17B, Chapter 2a, Part 2, Drainage District Act;

(G) irrigation district, under Title 17B, Chapter 2a, Part 5, Irrigation District Act;

(H) metropolitan water district, under Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

(I) special service district providing water, sewer, drainage, or flood control services, under Title 17D, Chapter 1, Special Service District Act;

(J) water conservancy district, under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; and

(K) conservation district, under Title 17D, Chapter 3, Conservation District Act.

(b) A notice required by this section is effective upon substantial compliance with Subsections (7)(a)(i) through (iii).

(8) A groundwater management plan may be amended in the same manner as a groundwater management plan may be adopted under this section.

(9) The existence of a groundwater management plan does not preclude any otherwise eligible person from filing any application or challenging any decision made by the state engineer within the affected groundwater basin.

(10) (a) A person aggrieved by a groundwater management plan may challenge any aspect of the groundwater management plan by filing a complaint within 60 days after the adoption of the groundwater management plan in the district court for any county in which the groundwater basin is found.

(b) Notwithstanding Subsection (9), a person may challenge the components of a groundwater management plan only in the manner provided by Subsection (10)(a).

(c) An action brought under this Subsection (10) is reviewed de novo by the district court.

(d) A person challenging a groundwater management plan under this Subsection (10) shall join the state engineer as a defendant in the action challenging the groundwater management plan.

(e) (i) Within 30 days after the day on which a person files an action challenging any aspect of a groundwater management plan under Subsection (10)(a), the person filing the action shall publish notice of the action:

(A) in a newspaper of general circulation in the county in which the district court is located; and

(B) in accordance with Section 45-1-101 for two weeks.

(ii) The notice required by Subsection (10)(e)(i)(A) shall be published once a week for two consecutive weeks.

(iii) The notice required by Subsection (10)(e)(i) shall:

(A) identify the groundwater management plan the person is challenging;

(B) identify the case number assigned by the district court;

(C) state that a person affected by the groundwater management plan may petition the district court to intervene in the action challenging the groundwater management plan; and

(D) list the address for the clerk of the district court in which the action is filed.

(iv) (A) Any person affected by the groundwater management plan may petition to intervene in the action within 60 days after the day on which notice is last published under Subsections (10)(e)(i) and (ii).

(B) The district court's treatment of a petition to intervene under this Subsection (10)(e)(iv) is governed by the Utah Rules of Civil Procedure.

(v) A district court in which an action is brought under Subsection (10)(a) shall consolidate all actions brought under that subsection and include in the consolidated action any person whose petition to intervene is granted.

(11) A groundwater management plan adopted or amended in accordance with this section is exempt from the requirements in Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) (a) Recharge and recovery projects permitted under Chapter 3b, Groundwater Recharge and Recovery Act, are exempted from this section.

(b) In a critical management area, the artificial recharge of a groundwater basin that uses surface water naturally tributary to the groundwater basin by a [~~local~~] special district created under Subsection 17B-1-202(1)(a)(xiii), in accordance with Chapter 3b, Groundwater Recharge and Recovery Act, constitutes a beneficial use of the water under Section 73-1-3 if:

(i) the recharge is done during the time the area is designated as a critical management area;

(ii) the recharge is done with a valid recharge permit;

(iii) the recharged water is not recovered under a recovery permit; and

(iv) the recharged water is used to replenish the groundwater basin.

(13) Nothing in this section may be interpreted to require the development, implementation, or consideration of a groundwater management plan as a prerequisite or condition to the exercise of the state engineer's enforcement powers under other law, including powers granted under Section 73-2-25.

(14) A groundwater management plan adopted in accordance with this section may not apply to the dewatering of a mine.

(15) (a) A groundwater management plan adopted by the state engineer before May 1, 2006, remains in force and has the same legal effect as it had on the day on which it was adopted by the state engineer.

(b) If a groundwater management plan that existed before May 1, 2006, is amended on or after May 1, 2006, the amendment is subject to this section's provisions.

Section 154. Section 73-10-21 is amended to read:

73-10-21. Loans for water systems -- Eligible projects.

This chapter shall apply to all eligible projects of incorporated cities and towns, [~~local~~] special districts under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, assessment areas under Title 11, Chapter 42, Assessment Area Act, and special service districts under Title 17D, Chapter 1, Special Service District Act. Eligible projects are those for the acquisition, improvement, or construction of water systems used for the production, supply, transmission, storage, distribution, or treatment of water for cities, towns, metropolitan water districts, water conservancy districts, improvement districts, special improvement districts, or special service districts, or the improvement or extension of such systems.

Section 155. Section 76-1-101.5 is amended to read:

76-1-101.5. Definitions.

Unless otherwise provided, as used in this title:

(1) "Act" means a voluntary bodily movement and includes speech.

(2) "Actor" means a person whose criminal responsibility is in issue in a criminal action.

(3) "Affinity" means a relationship by marriage.

(4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(5) "Conduct" means an act or omission.

(6) "Consanguinity" means a relationship by blood to the first or second degree, including an individual's parent, grandparent, sibling, child, aunt, uncle, niece, or nephew.

(7) "Dangerous weapon" means:

(a) any item capable of causing death or serious bodily injury; or

(b) a facsimile or representation of the item, if:

(i) the actor's use or apparent intended use of the item leads the victim to reasonably believe the item is likely to cause death or serious bodily injury; or

(ii) the actor represents to the victim verbally or in any other manner that the actor is in control of such an item.

(8) "Grievous sexual offense" means:

(a) rape, Section 76-5-402;

(b) rape of a child, Section 76-5-402.1;

(c) object rape, Section 76-5-402.2;

(d) object rape of a child, Section 76-5-402.3;

(e) forcible sodomy, Subsection 76-5-403(2);

(f) sodomy on a child, Section 76-5-403.1;

(g) aggravated sexual abuse of a child, Section 76-5-404.3;

(h) aggravated sexual assault, Section 76-5-405;

(i) any felony attempt to commit an offense described in Subsections (8)(a) through (h); or

(j) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (8)(a) through (i).

(9) "Offense" means a violation of any penal statute of this state.

(10) "Omission" means a failure to act when there is a legal duty to act and the actor is capable of acting.

(11) "Person" means an individual, public or private corporation, government, partnership, or unincorporated association.

(12) "Possess" means to have physical possession of or to exercise dominion or control over tangible property.

(13) "Public entity" means:

(a) the state, or an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of the state;

(b) a political subdivision of the state, including a county, municipality, interlocal entity, [~~local~~] special district, special service district, school district, or school board;

(c) an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of a political subdivision of the state; or

(d) another entity that:

(i) performs a public function; and

(ii) is authorized to hold, spend, transfer, disburse, use, or receive public money.

(14) (a) "Public money" or "public funds" means money, funds, or accounts, regardless of the source from which they are derived, that:

(i) are owned, held, or administered by an entity described in Subsections (13)(a) through (c); or

(ii) are in the possession of an entity described in Subsection (13)(d)(i) for the purpose of performing a public function.

(b) "Public money" or "public funds" includes money, funds, or accounts described in Subsection (14)(a) after the money, funds, or accounts are transferred by a public entity to an independent contractor of the public entity.

(c) "Public money" or "public funds" remains public money or public funds while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

(15) "Public officer" means:

(a) an elected official of a public entity;

(b) an individual appointed to, or serving an unexpired term of, an elected official of a public entity;

(c) a judge of a court of record or not of record, including justice court judges; or

(d) a member of the Board of Pardons and Parole.

(16) (a) "Public servant" means:

(i) a public officer;

(ii) an appointed official, employee, consultant, or independent contractor of a public entity; or

(iii) a person hired or paid by a public entity to perform a government function.

(b) Public servant includes a person described in Subsection (16)(a) upon the person's election, appointment, contracting, or other selection, regardless of whether the person has begun to officially occupy the position of a public servant.

(17) "Serious bodily injury" means bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.

(18) "Substantial bodily injury" means bodily injury, not amounting to serious bodily injury, that creates or causes protracted physical pain, temporary disfigurement, or temporary loss or impairment of the function of any bodily member or organ.

(19) "Writing" or "written" includes any handwriting, typewriting, printing, electronic storage or transmission, or any other method of recording information or fixing information in a form capable of being preserved.

Section 156. Section 77-23d-102 is amended to read:

77-23d-102. Definitions.

As used in this chapter:

(1) "Government entity" means the state, a county, a municipality, a higher education

institution, a [~~local~~] special district, a special service district, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency.

(2) "Imaging surveillance device" means a device that uses radar, sonar, infrared, or other remote sensing or detection technology used by the individual operating the device to obtain information, not otherwise directly observable, about individuals, items, or activities within a closed structure.

(3) "Target" means a person or a structure upon which a government entity intentionally collects or attempts to collect information using an imaging surveillance device.

Section 157. Section 77-38-601 is amended to read:

77-38-601. Definitions.

As used in this part:

(1) "Abuse" means any of the following:

(a) "abuse" as that term is defined in Section 76-5-111 or 80-1-102; or

(b) "child abuse" as that term is defined in Section 76-5-109.

(2) "Actual address" means the residential street address of the program participant that is stated in a program participant's application for enrollment or on a notice of a change of address under Section 77-38-610.

(3) "Assailant" means an individual who commits or threatens to commit abuse, human trafficking, domestic violence, stalking, or a sexual offense against an applicant for the program or a minor or incapacitated individual residing with an applicant for the program.

(4) "Assigned address" means an address designated by the commission and assigned to a program participant.

(5) "Authorization card" means a card issued by the commission that identifies a program participant as enrolled in the program with the program participant's assigned address and the date on which the program participant will no longer be enrolled in the program.

(6) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(7) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(8) "Human trafficking" means a human trafficking offense under Section 76-5-308.

(9) "Incapacitated individual" means an individual who is incapacitated, as defined in Section 75-1-201.

(10) (a) "Mail" means first class letters or flats delivered by the United States Postal Service, including priority, express, and certified mail.

(b) "Mail" does not include a package, parcel, periodical, or catalogue, unless the package, parcel, periodical, or catalogue is clearly identifiable as:

(i) being sent by a federal, state, or local agency or another government entity; or

(ii) a pharmaceutical or medical item.

(11) "Minor" means an individual who is younger than 18 years old.

(12) "Notification form" means a form issued by the commission that a program participant may send to a person demonstrating that the program participant is enrolled in the program.

(13) "Program" means the Address Confidentiality Program created in Section 77-38-602.

(14) "Program assistant" means an individual designated by the commission under Section 77-38-604 to assist an applicant or program participant.

(15) "Program participant" means an individual who is enrolled under Section 77-38-606 by the commission to participate in the program.

(16) "Record" means the same as that term is defined in Section 63G-2-103.

(17) "Sexual offense" means:

(a) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or

(b) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual Exploitation.

(18) "Stalking" means the same as that term is defined in Section 76-5-106.5.

(19) "State or local government entity" means a county, municipality, higher education institution, [~~local~~] special district, special service district, or any other political subdivision of the state or an administrative subunit of the executive, legislative, or judicial branch of this state, including:

(a) a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission; or

(b) an individual acting or purporting to act for or on behalf of a state or local entity, including an elected or appointed public official.

(20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or sexual assault.

Section 158. Section 78B-2-216 is amended to read:

78B-2-216. Adverse possession of certain real property.

(1) As used in this section:

(a) "Government entity" means a town, city, county, metropolitan water district, or [~~local~~] special district.

(b) "Water facility" means any improvement or structure used, or intended to be used, to divert, convey, store, measure, or treat water.

(2) Except as provided in Subsection (3), a person may not acquire by adverse possession, prescriptive use, or acquiescence any right in or title to any real property:

(a) held by a government entity; and

(b) designated for any present or future public use, including:

(i) a street;

(ii) a lane;

(iii) an avenue;

(iv) an alley;

(v) a park;

(vi) a public square;

(vii) a water facility; or

(viii) a water conveyance right-of-way or water conveyance corridor.

(3) Notwithstanding Subsection (2) and subject to Subsection (4), a person may acquire title if:

(a) a government entity sold, disposed of, or conveyed the right in, or title to, the real property to a purchaser for valuable consideration; and

(b) the purchaser or the purchaser's grantees or successors in interest have been in exclusive, continuous, and adverse possession of the real property for at least seven consecutive years after the day on which the real property was sold, disposed of, or conveyed as described in Subsection (3)(a).

(4) A person who acquires title under Subsection (3) is subject to all other applicable provisions of law.

Section 159. Section 78B-4-509 is amended to read:

78B-4-509. Inherent risks of certain recreational activities -- Claim barred against county or municipality -- No effect on duty or liability of person participating in recreational activity or other person.

(1) As used in this section:

(a) "Inherent risks" means any danger, condition, and potential for personal injury or property damage that is an integral and natural part of participating in a recreational activity.

(b) "Municipality" means the same as that term is defined in Section 10-1-104.

(c) "Person" means:

(i) an individual, regardless of age, maturity, ability, capability, or experience; and

(ii) a corporation, partnership, limited liability company, or any other form of business enterprise.

(d) "Recreational activity" includes a rodeo, an equestrian activity, skateboarding, skydiving, para gliding, hang gliding, roller skating, ice skating, fishing, hiking, walking, running, jogging, bike riding, scooter riding, or in-line skating on property:

(i) owned, leased, or rented by, or otherwise made available to:

(A) with respect to a claim against a county, the county; and

(B) with respect to a claim against a municipality, the municipality; and

(ii) intended for the specific use in question.

(2) Notwithstanding Sections 78B-5-817 through 78B-5-823, no person may make a claim against or recover from any of the following entities for personal injury or property damage resulting from any of the inherent risks of participating in a recreational activity:

(a) a county, municipality, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act; or

(b) the owner of property that is leased, rented, or otherwise made available to a county, municipality, [~~local~~] special district, or special service district for the purpose of providing or operating a recreational activity.

(3) (a) Nothing in this section may be construed to relieve a person participating in a recreational activity from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.

(b) Nothing in this section may be construed to relieve any other person from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.

Section 160. Section 78B-6-2301 is amended to read:

78B-6-2301. Definitions.

As used in this part:

(1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy issued, enacted, or required by a local or state governmental entity.

(2) "Firearm" means the same as that term is defined in Section 53-5a-102.

(3) "Legislative firearm preemption" means the preemption provided for in Sections 53-5a-102 and 76-10-500.

(4) "Local or state governmental entity" means:

(a) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including the Utah Board of Higher Education, each institution of higher education, and the boards of trustees of each higher education institution; or

(b) a county, city, town, metro township, [~~local~~] special district, local education agency, public school, school district, charter school, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

Section 161. Effective date.

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

Section 162. Revisor instructions.

(1) The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 22, Local District Amendments, does not pass.

(2) The Legislature intends that, if this bill and H.B. 22, Local District Amendments, both pass, the Office of Legislative Research and General Counsel, when enrolling H.B. 22, Local District Amendments, replace "certificate of incorporation" with "applicable certificate" in Subsections 17B-2a-407(4)(c) and (6)(b).

CHAPTER 17
H. B. 119
Passed February 13, 2023
Approved February 27, 2023
Effective February 27, 2023

CHARITABLE ORGANIZATION REGISTRATIONAMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:
This bill addresses charitable organization registration requirements.

Highlighted Provisions:
This bill:
- creates and modifies definitions;
- provides that an entity's application for a public grant is not a charitable solicitation;
- exempts certain federal income tax exempt charitable organizations from registering as a charitable organization in Utah; and
- makes technical changes.

Monies Appropriated in this Bill:
None

Other Special Clauses:
This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
13-22-2, as last amended by Laws of Utah 2018, Chapter 267
13-22-8, as last amended by Laws of Utah 2018, Chapters 267 and 415

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

Section 1. Section 13-22-2 is amended to read:

13-22-2. Definitions.

As used in this chapter:

(1) "Chapter" means a chapter, branch, area, office, or similar affiliate of a charitable organization.

(2) (a) "Charitable organization" or "organization" means any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

(i) who is or holds itself out to be:

(A) a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

(B) for the benefit of a public safety, law enforcement, or firefighter fraternal association; or

(C) established for any charitable purpose;

(ii) who solicits or obtains contributions solicited from the public for a charitable purpose; or

(iii) in any manner employs a charitable appeal as the basis of any solicitation or employs an appeal that reasonably suggests or implies that there is a charitable purpose to any solicitation.

(b) "Charitable organization" includes a chapter or a person who solicits contributions within the state for a charitable organization.

(3) "Charitable purpose" means any benevolent, educational, philanthropic, humane, patriotic, religious, eleemosynary, social welfare or advocacy, public health, environmental, conservation, civic, or other charitable objective or for the benefit of a public safety, law enforcement, or firefighter fraternal association.

(4) "Charitable sales promotion" means an advertising or sales campaign, conducted by a commercial co-venturer, which represents that the purchase or use of goods or services offered by the commercial co-venturer will benefit, in whole or in part, a charitable organization or purpose.

(5) (a) "Charitable solicitation" or "solicitation" means any request, directly or indirectly, for money, credit, property, financial assistance, or any other thing of value on the plea or representation that it will be used for a charitable purpose.

(b) "Charitable solicitation" or "solicitation" includes:

(i) any of the following done, or purporting to be done, for a charitable purpose:

(A) any oral or written request, including any request by telephone, radio, television, or other advertising or communications media;

(B) the distribution, circulation, or posting of any handbill, written advertisement, or publication; or

(C) an application or other request for a [~~grant~~] a private grant or, if made by an individual, a public grant; or

(ii) the sale of, offer or attempt to sell, or request of donations in exchange for any advertisement, membership, subscription, or other article in connection with which any appeal is made for any charitable purpose, or the use of the name of any charitable organization or movement as an inducement or reason for making any purchase donation, or, in connection with any sale or donation, stating or implying that the whole or any part of the proceeds of any sale or donation will go to or be donated to any charitable purpose.

(c) "Charitable solicitation" or "solicitation" does not include an entity's application or other request for a public grant.

(6) "Commercial co-venturer" means a person who for profit is regularly and primarily engaged in trade or commerce other than in connection with soliciting for a charitable organization or purpose.

(7) (a) "Contribution" means the pledge or grant for a charitable purpose of any money or property of any kind, including any of the following:

(i) a gift, subscription, loan, advance, or deposit of money or anything of value;

(ii) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for charitable purposes; or

(iii) fees, dues, or assessments paid by members, when membership is conferred solely as consideration for making a contribution.

(b) "Contribution" does not include:

(i) money loaned to a charitable organization by a financial institution in the ordinary course of business; or

(ii) fees, dues, or assessments paid by members when membership is not conferred solely as consideration for making a contribution.

(8) "Contributor" means a donor, pledgor, purchaser, or other person who makes a contribution.

(9) "Director" means the director of the Division of Consumer Protection.

(10) "Division" means the Division of Consumer Protection of the Department of Commerce.

(11) "Material fact" means information that a person of ordinary intelligence and prudence would consider relevant in deciding whether or not to make a contribution in response to a charitable solicitation.

(12) (a) "Professional fund raiser" means a person who:

(i) for compensation or any other consideration, for or on behalf of a charitable organization or any other person:

(A) solicits contributions; or

(B) promotes or sponsors the solicitation of contributions;

(ii) (A) for compensation or any other consideration, plans, manages, counsels, consults, or prepares material for, or with respect to, the solicitation of contributions for a charitable organization or any other person; and

(B) at any time has custody of a contribution for the charitable organization;

(iii) engages in, or represents being independently engaged in, the business of soliciting contributions for a charitable organization;

(iv) manages, supervises, or trains any solicitor whether as an employee or otherwise; or

(v) uses a vending device or vending device decal for financial or other consideration that implies a solicitation of contributions or donations for any charitable organization or charitable purposes.

(b) "Professional fund raiser" does not include:

(i) an individual acting in the individual's capacity as a bona fide officer, director, volunteer, or full-time employee of a charitable organization;

(ii) an attorney, investment counselor, or banker who, in the conduct of that person's profession, advises a client regarding legal, investment, or financial advice; or

(iii) a person who tangentially prepares materials, including a person who:

(A) makes copies;

(B) cuts or folds flyers; or

(C) creates a graphic design or other artwork without providing strategic or campaign-related input.

(13) (a) "Professional fund raising counsel or consultant" means a person who:

(i) for compensation or any other consideration, plans, manages, counsels, consults, or prepares material for, or with respect to, the solicitation of contributions for a charitable organization or any other person;

(ii) does not solicit contributions;

(iii) does not at any time have custody of a contribution from solicitation; and

(iv) does not employ, procure, or engage any compensated person to solicit or receive contributions.

(b) "Professional fund raising counsel or consultant" does not include:

(i) an individual acting in the individual's capacity as a bona fide officer, director, volunteer, or full-time employee of a charitable organization;

(ii) an attorney, investment counselor, or banker who, in the conduct of that person's profession, advises a client regarding legal, investment, or financial advice; or

(iii) a person who tangentially prepares materials, including a person who:

(A) makes copies;

(B) cuts or folds flyers; or

(C) creates a graphic design or other artwork without providing strategic or campaign-related input.

(14) "Public grant" means the same as the term "grant" is defined in Section 63G-6a-103.

[~~(14)~~] (15) (a) "Vending device" means a container used by a charitable organization or professional fund raiser, for the purpose of collecting a charitable solicitation, contribution, or donation whether or not the device offers a product or item in return for the contribution or donation.

(b) "Vending device" includes machines, boxes, jars, wishing wells, barrels, or any other container.

[~~(15)~~] (16) "Vending device decal" means any decal, tag, or similar designation material that is attached to a vending device, whether or not used or placed by a charitable organization or professional fund raiser, that would indicate that all or a portion of the proceeds from the purchase of items from the vending device will go to a specific charitable organization.

Section 2. Section 13-22-8 is amended to read:

13-22-8. Exemptions.

(1) Section 13-22-5 does not apply to:

(a) a bona fide religious, ecclesiastical, or denominational organization if:

(i) the solicitation is made for a church, missionary, religious, or humanitarian purpose; and

(ii) the organization is either:

(A) a lawfully organized corporation, institution, society, church, or established physical place of worship, at which nonprofit religious services and activities are regularly conducted and carried on;

(B) a bona fide religious group:

(I) that does not maintain specific places of worship;

(II) that is not subject to federal income tax; and

(III) that is not required to file an IRS Form 990 under any circumstance; or

(C) a separate group or corporation that is an integral part of an institution that is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported by funds solicited outside the group's or corporation's own membership or congregation;

(b) a solicitation by a broadcast media owned or operated by an educational institution or governmental entity, or any entity organized solely for the support of that broadcast media;

(c) subject to Subsection 13-22-21(1), an individual soliciting a contribution for the relief or benefit of another individual, who is specified by name at the time of the solicitation, if:

(i) all contributions are turned over to the named beneficiary after deducting actual expenses necessary for the cost of solicitation, if any; and

(ii) all individuals that carry out any fund-raising function for the benefit of the named individual are unpaid, directly or indirectly, for services rendered;

(d) a political party authorized to transact the political party's affairs within this state and any candidate and campaign worker of the political party if the content and manner of any solicitation make clear that the solicitation is for the benefit of the political party or candidate;

(e) a political action committee or group soliciting funds relating to issues or candidates on the ballot if the committee or group is required to file financial information with a federal or state election commission;

(f) (i) a public school;

(ii) a public institution of higher learning;

(iii) a school accredited by an accreditation body recognized within the state or the United States;

(iv) an institution of higher learning accredited by an accreditation body recognized within the state or the United States;

(v) an organization within, and authorized by, an entity described in Subsections (1)(f)(i) through (iv); or

(vi) a parent organization, teacher organization, or student organization authorized by an entity described in Subsection (1)(f)(i) or (iii) if:

(A) the parent organization, teacher organization, or student organization is a branch of, or is affiliated with, a central organization;

(B) the parent organization, teacher organization, or student organization is subject to the central organization's general control and supervision;

(C) the central organization holds a United States Internal Revenue Service group tax exemption that covers the parent organization, teacher organization, or student organization; and

(D) the central organization is registered with the division under this chapter;

(g) a public or higher education foundation established under Title 53E, Public Education System -- State Administration, Title 53G, Public Education System -- Local Administration, or Title 53B, State System of Higher Education;

(h) a television station, radio station, or newspaper of general circulation that donates air time or print space for no consideration as part of a cooperative solicitation effort on behalf of a charitable organization, whether or not that organization is required to register under this chapter;

(i) a volunteer fire department, rescue squad, or local civil defense organization whose financial oversight is under the control of a local governmental entity;

(j) any governmental unit of any state or the United States;

(k) any corporation:

(i) established by an act of the United States Congress; and

(ii) that is required by federal law to submit an annual report:

(A) on the activities of the corporation, including an itemized report of all receipts and expenditures of the corporation; and

(B) to the United States Secretary of Defense to be:

(I) audited; and

(II) submitted to the United States Congress;

[~~(l) a solicitation by an applicant for a grant offered by a state agency if:~~]

[~~(i) the terms of the grant provide that the state agency monitors a grant recipient to ensure that grant funds are used in accordance with the grant's purpose; and~~]

[~~(ii) the sum of the amount available to the applicant under grants offered by a state agency that the applicant applies for in a calendar year is less than or equal to $1,500;~~]

[~~(m)~~] (l) a chapter of a charitable organization or a person who solicits contributions for a charitable organization, if the charitable organization is registered with the division pursuant to Section 13-22-5 or is exempt from registration under this section, and:

(i) all contributions solicited by the chapter or person are delivered directly to the control of the charitable organization; or

(ii) (A) the charitable organization holds a United States Internal Revenue Service group tax exemption that covers the chapter;

(B) the charitable organization provides a list of its chapters to the division with its registration or renewal of registration;

(C) the chapter is on the list provided under Subsection [~~(1)(m)(ii)(B)~~] (1)(l)(ii)(B);

(D) the chapter maintains the information required under Section 13-22-15 and provides the information to the division upon request; and

(E) solicitations by the chapter or the person are limited to the collection of membership-related fees, dues, or assessments from new and existing members;

[~~(n)~~] (m) a solicitation in an obituary; [~~or~~]

[~~(o)~~] (n) a solicitation made exclusively to a family member of the individual making the solicitation[~~.~~]; or

(o) an organization that holds federal income tax exempt status in accordance with 26 U.S.C. Sec. 501(c)(6).

(2) An organization claiming an exemption under this section bears the burden of proving the organization's eligibility for, or the applicability of, the exemption claimed.

(3) An organization exempt from registration [~~pursuant to~~] under this section that makes a material change in the organization's legal status, officers, address, or similar changes shall file a report informing the division of the organization's current legal status, business address, business phone, officers, and primary contact person within 30 days [~~of~~] after the day on which the change is made.

(4) The division may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) require an organization that is exempt from registration under this section to:

(i) file a notice of claim of exemption; and

(ii) file a renewal of a notice of claim of exemption;

(b) prescribe the contents of a notice of claim of exemption and a renewal of a notice of claim of exemption; and

(c) require a filing fee for a notice of claim of exemption and a renewal of a notice of claim of exemption as determined under Section 63J-1-504.

Section 3. Effective date.

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

CHAPTER 18
H. B. 146
Passed February 14, 2023
Approved February 27, 2023
Effective February 27, 2023

SEX OFFENDER RESTRICTED AREA AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends the restrictions placed on an offender who is on the Sex and Kidnap Offender Registry.

Highlighted Provisions:

This bill:

- restricts an offender on the Sex and Kidnap Offender Registry from entering a homeowners' association, condominium project, or apartment complex swimming pool, park, or playground; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

77-27-21.7, as last amended by Laws of Utah 2020, Chapter 206

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

Section 1. Section 77-27-21.7 is amended to read:

77-27-21.7. Sex offender restrictions.

(1) As used in this section:

(a) "Condominium project" means the same as that term is defined in Section 57-8-3.

(b) "Minor" means an individual who is less than 18 years old[~~;~~].

[~~(b)~~] (c) (i) "Protected area" means the premises occupied by:

(A) [~~any~~] a licensed day care or preschool facility;

(B) a public swimming pool [~~that is open to the public~~] or a swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex;

(C) a public or private primary or secondary school that is not on the grounds of a correctional facility;

(D) a community park that is open to the public or a park maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex;

(E) a [~~playground that is open to the public~~] public playground or a playground maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex, including those areas designed to provide [~~children~~] minors with space, recreational equipment, or other amenities intended to allow [~~children~~] minors to engage in physical activity; and

(F) except as provided in Subsection [~~(1)(b)(ii),~~] (1)(c)(ii), an area that is 1,000 feet or less from the residence of a victim of the sex offender if the sex offender is subject to a victim requested restriction.

(ii) "Protected area" does not include:

(A) the area described in Subsection [~~(1)(b)(i)(F) if:~~] (1)(c)(i)(F) if

[~~(A)~~] the victim is a member of the immediate family of the sex offender[~~;~~] and

[~~(B)~~] the terms of the sex offender's agreement of probation or parole allow the sex offender to reside in the same residence as the victim;

(B) a park, playground, or swimming pool located on the property of a residential home;

(C) a park or swimming pool that prohibits minors at all times from using the park or swimming pool; or

(D) a park or swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex established for residents 55 years old or older if no minors are present at the park or swimming pool at the time the sex offender is present at the park or swimming pool.

[~~(c)~~] (d) "Sex offender" means an adult or juvenile who is required to register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, due to a conviction for [~~any~~] an offense that is committed against a person younger than 18 years old.

(2) For purposes of Subsection [~~(1)(b)(i)(F)~~] (1)(c)(i)(F), a sex offender is subject to a victim requested restriction if:

(a) the sex offender is on probation or parole for an offense that requires the offender to register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(b) the victim or the victim's parent or guardian advises the Department of Corrections that the victim elects to restrict the sex offender from the area and authorizes the Department of Corrections to advise the sex offender of the area where the victim resides; and

(c) the Department of Corrections notifies the sex offender in writing that the sex offender is prohibited from being in the area described in Subsection [~~(1)(b)(i)(F)~~] (1)(c)(i)(F) and provides a description of the location of the protected area to the sex offender.

(3) A sex offender may not:

(a) be in a protected area except:

(i) when the sex offender must be in a protected area to perform the sex offender's parental responsibilities;

(ii) (A) when the protected area is a public or private primary or secondary school; and

(B) the school is open and being used for a public activity other than a school-related function that involves a minor; or

(iii) (A) if the protected area is a licensed day care or preschool facility located within a building that is open to the public for purposes other than the operation of the day care or preschool facility; and

(B) the sex offender does not enter a part of the building that is occupied by the day care or preschool facility; or

(b) serve as an athletic coach, manager, or trainer for [~~any~~] a sports team of which a minor who is less than 18 years old is a member.

(4) A sex offender who violates this section is guilty of a class A misdemeanor.

Section 2. Effective date.

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

CHAPTER 19
H. B. 59
Passed February 21, 2023
Approved March 1, 2023
Effective March 1, 2023

FIRST RESPONDER MENTAL HEALTH AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill concerns mental health services for first responders and spouses of first responders.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- requires the Department of Health and Human Services to reimburse certain expenses incurred by volunteers who provide critical incident stress management services to emergency service workers;
- broadens the scope of individuals who are considered to be eligible for mental health services;
- modifies the entities that are included as first responder agencies;
- modifies provisions regarding mental health services for retired first responders;
- adds spouses of retired first responders and certain other first responders to the list of those who qualify for mental health services;
- provides that mental health services shall be provided on a regular and continuing basis;
- requires the Department of Public Safety to provide certain information about the mental health resources grant program;
- adds a dispatch executive director to the list of those who may designate a member of a peer support team;
- allows a public safety answering point to create a peer support team; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-8a-206, as last amended by Laws of Utah 2021, Chapter 208
53-21-101, as enacted by Laws of Utah 2022, Chapter 114
53-21-102, as enacted by Laws of Utah 2022, Chapter 114
53-21-103, as enacted by Laws of Utah 2022, Chapter 114
78B-5-902, as last amended by Laws of Utah 2022, Chapter 255
78B-5-903, as last amended by Laws of Utah 2022, Chapter 255

REPEALS:

78B-5-901, as last amended by Laws of Utah 2021, Chapter 208

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

Section 1. Section 26-8a-206 is amended to read:

26-8a-206. Personnel stress management program.

(1) The department shall develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services.

(2) This program shall include:

(a) ongoing training for agencies providing emergency services and counseling program volunteers;

(b) critical incident stress debriefing for personnel at no cost to the emergency provider; and

(c) advising the department on training requirements for licensure as a behavioral emergency services technician.

(3) The department shall reimburse reasonable actual expenses, including mileage, incurred by a volunteer during the course of the volunteer's provision of critical incident stress services under this section.

Section 2. Section 53-21-101 is amended to read:

53-21-101. Definitions.

As used in this chapter:

(1) "Crime scene investigator technician" means an individual employed by a law enforcement agency to collect and analyze evidence from crime scenes and crime-related incidents.

(2) "Department" means the Department of Public Safety.

(3) "First responder" means:

(a) a law enforcement officer, as defined in Section 53-13-103;

(b) an emergency medical technician, as defined in Section 26-8c-102;

(c) an advanced emergency medical technician, as defined in Section 26-8c-102;

(d) a paramedic, as defined in Section 26-8c-102;

(e) a firefighter, as defined in Section 34A-3-113;

(f) a dispatcher, as defined in Section 53-6-102;

(g) a correctional officer, as defined in Section 53-13-104;

(h) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(i) a search and rescue worker under the supervision of a local sheriff;

(j) a forensic interviewer or victim advocate employed by a children's justice center established in accordance with Section 67-5b-102;

[~~(j)~~] (k) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

[~~(k)~~] (l) a crime scene investigator technician; [~~or~~]

[~~(l)~~] (m) a wildland firefighter; or

(n) an investigator or prosecutor of cases involving sexual crimes against children.

(4) "First responder agency" means:

(a) a local district, municipality, interlocal entity, or other political subdivision that employs a first responder to provide fire protection, paramedic, law enforcement, or emergency services; or

(b) a certified private law enforcement agency as defined in Section 53-19-102.

(5) "Mental health resources" means:

(a) an assessment to determine appropriate mental health treatment that is performed by a mental health therapist;

(b) outpatient mental health treatment provided by a mental health therapist; or

(c) peer support services provided by a peer support specialist who is qualified to provide peer support services under Subsection 62A-15-103(2)(h).

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Plan" means a plan to implement or expand a program that provides mental health resources to first responders for which the division awards a grant under this chapter.

(8) "Retired" means the status of an individual who has become eligible, applies for, and may receive an allowance under Title 49, Utah State Retirement and Insurance Benefit Act.

(9) "Separated" means the status of an individual who has separated from employment as a first responder from a first responder agency as a result of a critical incident involving the first responder.

Section 3. Section 53-21-102 is amended to read:

53-21-102. Mental health services -- Requirement to provide --- Confidentiality.

(1) Every first responder agency within the state shall provide or make available mental health resources to:

(a) all first responders;

(b) the spouse and children of first responders;

(c) surviving spouses of first responders whose death is classified as a line-of-duty death under Title 49, Utah State Retirement and Insurance Benefit Act; [~~and~~]

(d) retired or separated first responders [~~who have retired from the agency~~] for at least three years from the date that the retired or separated first responder requests mental health resources; and

(e) spouses of retired or separated first responders for a least three years from the date that the spouse of the retired or separated first responder requests mental health resources.

(2) All access by first responders and their families to mental health resources shall be kept confidential.

Section 4. Section 53-21-103 is amended to read:

53-21-103. Grants to first responder agencies -- Rulemaking.

(1) The department may award grants to first responder agencies to provide mental health resources in response to a:

(a) request for proposal;

(b) request for qualifications; or

(c) program description that meets the criteria in Subsection (2).

(2) The request for proposal, request for qualifications, or program description received by the department shall require mental health providers contracted or employed by the first responder agency to have training and experience in working with first responders and provide, at a minimum, the following services:

(a) regular periodic screenings for all employees within the first responder agency;

(b) assessments and availability to mental health services for personnel directly involved in a critical incident within 12 hours of the incident; and

(c) regular and continuing access to the mental health program for:

(i) spouses and children of first responders; [~~and~~]

(ii) first responders who have retired or separated from the agency; and

(iii) spouses of first responders who have retired or separated from the agency.

(3) An application from a first responder agency for a grant under this chapter shall provide the following details:

(a) a proposed plan to provide mental health resources to first responders in the first responder agency;

(b) the number of first responders to be served by the proposed plan;

(c) how the proposed plan will ensure timely and effective provision of mental health resources to first responders in the first responder agency;

(d) the cost of the proposed plan; and

(e) the sustainability of the proposed plan.

(4) In evaluating a project proposal for a grant under this section, the department shall consider:

(a) the extent to which the first responders that will be served by the proposed plan are likely to benefit from the proposed plan;

(b) the cost of the proposed plan; and

(c) the viability of the proposed plan.

(5) A first responder agency may not apply for a grant to fund a program already in place. However, a request for proposal to fund an expansion of an already existing program shall, in addition to the requirements of Subsection (4), provide:

(a) the scope and cost of the agency's current program;

(b) the number of additional first responders the expansion will serve; and

(c) whether the expansion will provide services under Subsection (2) that the current program does not provide.

(6) The department shall prioritize grant funding for:

(a) counties of the 3rd, 4th, 5th, and 6th class;

(b) cities of the 3rd, 4th, and 5th class; and

(c) towns.

(7) The department may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to[~~: (a) set parameters for services for retirees; and (b)~~] administer this chapter.

(8) The department shall:

(a) notify entities that may be eligible for a grant under this section about the grant program; and

(b) on or before October 1, 2023, provide a report to the Law Enforcement and Criminal Justice Interim Committee that describes:

(i) the number of entities that have been notified by the department about the grant program under this section; and

(ii) the number of grant applications that the department has received.

Section 5. Section 78B-5-902 is amended to read:

78B-5-902. Definitions.

As used in this part:

(1) "Behavioral emergency services technician" means an individual who is licensed under Section 26-8a-302 as:

(a) a behavioral emergency services technician; or

(b) an advanced behavioral emergency services technician.

(2) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting between a law enforcement officer, firefighter, emergency medical service provider, or rescue provider and a peer support team member.

[~~(2) "Behavioral emergency services technician" means an individual who is licensed under Section 26-8a-302 as:~~]

[~~(a) a behavioral emergency services technician; or~~]

[~~(b) an advanced behavioral emergency services technician.~~]

(3) "Emergency medical service provider or rescue unit peer support team member" means [~~a person~~] an individual who is:

(a) an emergency medical service provider as defined in Section 26-8a-102, a regular or volunteer member of a rescue unit acting as an emergency responder as defined in Section 53-2a-502, or another [~~person~~] individual who has been trained in peer support skills; and

(b) designated by the chief executive of an emergency medical service agency or the chief of a rescue unit as a member of an emergency medical service provider's peer support team or as a member of a rescue unit's peer support team.

(4) "Law enforcement or firefighter peer support team member" means [~~a person~~] an individual who is:

(a) a peace officer, [~~law enforcement~~] dispatcher as defined in Section 53-6-102, civilian employee, or volunteer member of a law enforcement agency, a regular or volunteer member of a fire department, or another [~~person~~] individual who has been trained in peer support skills; and

(b) designated by the commissioner of the Department of Public Safety, the executive director of the Department of Corrections, a sheriff, a police chief, a dispatch executive director, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

(5) "Public safety answering point peer support team member" means an individual who is:

(a) employed by a public safety answering point as defined in Section 63H-7a-103; and

(b) designated by the chief executive of a public safety answering point as a member of a public safety answering point's peer support team.

[~~(5)~~] (6) "Trained" means a person who has successfully completed a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the Department of Health and Human Services, as applicable.

Section 6. Section 78B-5-903 is amended to read:

78B-5-903. Creation -- Training -- Communications -- Exclusions.

(1) A law enforcement agency, fire department, emergency medical service agency, [~~or~~] rescue unit, or public safety answering point:

(a) may create a peer support team; and

(b) if a peer support team is created, shall develop guidelines for the peer support team and its members.

(2) A peer support team member shall complete a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the Department of Health and Human Services, as applicable.

(3) In accordance with the Utah Rules of Evidence, a peer support team member may refuse to disclose communications made by [~~a person~~] an individual participating in peer support services, including group therapy sessions.

(4) Subsection (3) applies only to communications made during individual interactions conducted by a peer support team member who is:

(a) acting in the member's capacity as:

(i) a law enforcement or firefighter peer support team member [~~or~~];

(ii) an emergency medical service provider or rescue unit peer support team member; or

(iii) a public safety answering point peer support team member; and

(b) functioning within the written peer support guidelines that are in effect for the member's respective law enforcement agency, fire department, emergency medical service agency, [~~or~~] rescue unit, or public safety answering point.

(5) This part does not apply if:

(a) a [~~law enforcement or firefighter peer support team member or emergency medical service provider or rescue unit~~] peer support team member was a witness or a party to the incident that prompted the delivery of peer support services;

(b) information received by a peer support team member is indicative of actual or suspected child abuse, or actual or suspected child neglect;

(c) the [~~person~~] individual receiving peer support is a clear and immediate danger to the [~~person's~~] individual's self or others;

(d) communication to a peer support team member establishes reasonable cause for the peer support team member to believe that the [~~person~~] individual receiving peer support services is mentally or emotionally unfit for duty; or

(e) communication to the peer support team member provides evidence that the [~~person~~] individual who is receiving the peer support services has committed a crime, plans to commit a crime, or intends to conceal a crime.

Section 7. Repealer.

This bill repeals:

Section 78B-5-901, Public safety peer counseling and behavioral emergency services technicians.

Section 8. Effective date.

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

CHAPTER 20
S. B. 44
Passed February 10, 2023
Approved March 1, 2023
Effective March 1, 2023
(Exception clause)

READING SOFTWARE AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill clarifies that an existing requirement for demonstrating a certain statistical effect does not apply to reading software and converts a grant program into an enrollment-based distribution.

Highlighted Provisions:

This bill:

- clarifies that an existing requirement for demonstrating a certain statistical effect does not apply to reading software;
- amends a grant program for reading software to an enrollment-based distribution;
- repeals an obsolete survey requirement; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-4-307, as last amended by Laws of Utah 2022, Chapter 285
53F-4-203, as last amended by Laws of Utah 2020, Chapter 324
53G-11-303, as last amended by Laws of Utah 2022, Chapter 285

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

Section 1. Section 53E-4-307 is amended to read:

53E-4-307. Benchmark assessments in reading -- Report to parent.

(1) As used in this section:

(a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(b) "Diagnostic assessment" means an assessment that measures key literacy skills, including phonemic awareness, sound-symbol recognition, alphabet knowledge, decoding and encoding skills, and comprehension, to determine a student's specific strengths and weaknesses in a skill area.

(c) "Evidence-based" means the same as that term is defined in Section 53G-11-303.

(d) "Evidence-informed" means the same as that term is defined in Section 53G-11-303.

(2) The state board shall approve a benchmark assessment for use statewide by school districts and charter schools to assess the reading competency of students in grades 1 through 6 as provided by this section.

(3) A school district or charter school shall:

(a) administer benchmark assessments to students in grades 1, 2, and 3 at the beginning, middle, and end of the school year using the benchmark assessment approved by the state board; and

(b) after administering a benchmark assessment, report the results to a student's parent.

(4) (a) If a benchmark assessment or supplemental reading assessment indicates a student lacks competency in a reading skill, or is lagging behind other students in the student's grade in acquiring a reading skill, the school district or charter school shall:

[~~(a)~~] (i) administer diagnostic assessments to the student;

[~~(b)~~] (ii) using data from the diagnostic assessment, provide specific, focused, and individualized intervention or tutoring to develop the reading skill;

[~~(c)~~] (iii) administer formative assessments and progress monitoring at recommended levels for the benchmark assessment to measure the success of the focused intervention;

[~~(d)~~] (iv) inform the student's parent of activities that the parent may engage in with the student to assist the student in improving reading proficiency;

[~~(e)~~] (v) provide information to the parent regarding appropriate interventions available to the student outside of the regular school day that may include tutoring, before and after school programs, or summer school; and

[~~(f)~~] (vi) provide instructional materials that are evidence-informed for core instruction and evidence-based for intervention and supplemental instruction.

(b) Nothing in this section or in Section 53F-4-203 or 53G-11-303 requires a reading software product to demonstrate the statistically significant effect size described in Subsection 53G-11-303(1)(a) in order to be used as an instructional material described in Subsection (4)(a)(vi).

(5) (a) In accordance with Section 53F-4-201 and except as provided in Subsection (5)(b), the state board shall contract with one or more educational technology providers for a benchmark assessment system for reading for students in kindergarten through grade 6.

(b) If revenue is insufficient for the benchmark assessment system for the grades described in Subsection (5)(a), the state board shall first prioritize funding a benchmark assessment for students in kindergarten through grade 3.

Section 2. Section 53F-4-203 is amended to read:

53F-4-203. Early interactive reading software -- Independent evaluator.

(1) [~~(a)~~] Subject to legislative appropriations, the state board shall [~~select and contract with one or more technology providers, through a request for proposals process, to provide early interactive reading software for literacy instruction and assessments~~] distribute funds to public schools based on enrollment for students in kindergarten through grade 3 to purchase personalized interactive reading software.

[~~(b) By August 1 of each year, the state board shall distribute licenses for early interactive reading software described in Subsection (1)(a) to the school districts and charter schools of LEA governing boards that apply for the licenses.~~]

[~~(c) Except as provided in state board rule, a school district or charter school that received a license described in Subsection (1)(b) during the prior year shall be given first priority to receive an equivalent license during the current year.~~]

[~~(d) Licenses distributed to school districts and charter schools in addition to the licenses described in Subsection (1)(c) shall be distributed through a competitive process.~~]

(2) A public school that receives [~~a license~~] funds described in Subsection [~~(1)(b)~~] (1) shall use the [~~license~~] funds for a student in kindergarten or grade 1, 2, or 3:

(a) for intervention for the student if the student is reading below grade level; or

(b) for advancement beyond grade level for the student if the student is reading at or above grade level.

(3) (a) On or before August 1 of each year, the state board shall select and contract with an independent evaluator, through a request for proposals process, to act as an independent contractor to evaluate early interactive reading software provided under this section.

(b) The state board shall ensure that a contract with an independent evaluator requires the independent evaluator to:

(i) evaluate a student's learning gains as a result of using early interactive reading software provided under Subsection (1);

(ii) for the evaluation under Subsection (3)(b)(i), use an assessment that is not developed by a provider of early interactive reading software; and

(iii) determine the extent to which a public school uses the early interactive reading software.

(c) The state board and the independent evaluator selected under Subsection (3)(a) shall submit a report on the results of the evaluation in accordance with Section 53E-1-201.

(4) [~~The state board~~] An LEA may acquire an analytical software program that:

(a) monitors, for an individual school, early intervention interactive reading software use and the associated impact on student performance; and

(b) analyzes the information gathered under Subsection (4)(a) to prescribe individual school usage time to maximize the beneficial impact on student performance.

(5) The state board:

(a) may use up to 4% of the appropriation provided under Subsection [~~(1)(a)~~] (1):

[~~(a)~~] (i) to contract with an independent evaluator selected under Subsection (3)(a); and

[~~(b)~~] (ii) for administrative costs associated with this section[~~.~~]; and

(b) shall distribute at least 96% of funds under this section to LEAs in accordance with Subsection (1).

(6) Nothing in this section or in Section 53E-4-307 or 53G-11-303 requires a reading software product to demonstrate the statistically significant effect size described in Subsection 53G-11-303(1)(a) in order to be used as an instructional material.

Section 3. Section 53G-11-303 is amended to read:

53G-11-303. Professional learning standards.

(1) As used in this section:

(a) "Evidence-based" means that a strategy, not including reading software, demonstrates a statistically significant effect, of at least a 0.40 effect size, on improving student outcomes based on:

(i) strong evidence from at least one well-designed and well-implemented experimental study, as the state board further defines; or

(ii) moderate evidence from at least one well-designed and well-implemented quasi-experimental study, as the state board further defines.

(b) "Evidence-informed" means that a strategy:

(i) is developed using high-quality research outside of a controlled setting in the given field, as the state board further defines; and

(ii) includes strategies and activities with a strong scientific basis for use, as the state board further defines.

(c) "Professional learning" means a comprehensive, sustained, and evidence-based approach to improving teachers' and principals' effectiveness in raising student achievement.

(2) A school district or charter school shall implement high quality professional learning that meets the following standards:

(a) professional learning occurs within learning communities committed to continuous improvement, individual and collective responsibility, and goal alignment;

(b) professional learning requires skillful leaders who develop capacity, advocate, and create support systems, for professional learning;

(c) professional learning requires prioritizing, monitoring, and coordinating resources for educator learning;

(d) professional learning uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning;

(e) professional learning integrates theories, research, and models of human learning to achieve its intended outcomes;

(f) professional learning applies research on change and sustains support for implementation of professional learning for long-term change;

(g) professional learning aligns its outcomes with:

(i) performance standards for teachers and school administrators as described in rules of the state board; and

(ii) performance standards for students as described in the core standards for Utah public schools adopted by the state board pursuant to Section 53E-4-202;

(h) professional learning:

(i) incorporates the use of technology in the design, implementation, and evaluation of high quality professional learning practices; and

(ii) includes targeted professional learning on the use of technology devices to enhance the teaching and learning environment and the integration of technology in content delivery; and

(i) professional learning uses evidence-informed core materials and evidence-based instructional practices and intervention materials.

(3) School districts and charter schools shall use money appropriated by the Legislature for professional learning or federal grant money awarded for professional learning to implement professional learning that meets the standards specified in Subsection (2).

(4) The state board, ULEAD, as that term is defined in Section 53E-10-701, and the Center for the School of the Future, established in Section 53B-18-801, shall jointly, in collaboration with an independent university-based research center, develop and maintain a repository of evidence-based practice and evidence-informed intervention materials to support school districts and charter schools in meeting the standards described in Subsection (2).

[~~(5) (a) In the fall of 2014, the state board, through the state superintendent, and in collaboration with an independent consultant acquired through a competitive bid process, shall conduct a statewide survey of school districts and charter schools to:~~]

[~~(i) determine the current state of professional learning for educators as aligned with the standards specified in Subsection (2);~~]

[~~(ii) determine the effectiveness of current professional learning practices; and~~]

[~~(iii) identify resources to implement professional learning as described in Subsection (2).~~]

[~~(b) The state board shall select a consultant from bidders who have demonstrated successful experience in conducting a statewide analysis of professional learning.~~]

[~~(c) (i) Annually in the fall, beginning in 2015 through 2020, the state board, through the state superintendent, in conjunction with school districts and charter schools, shall gather and use data to determine the impact of professional learning efforts and resources.~~]

[~~(ii) Data used to determine the impact of professional learning efforts and resources under Subsection (5)(c)(i) shall include:~~]

[~~(A) student achievement data;~~]

[~~(B) educator evaluation data; and~~]

[~~(C) survey data.~~]

Section 4. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) Section 53F-4-203 takes effect on July 1, 2023.

CHAPTER 21
S. B. 136
Passed March 2, 2023
Approved March 3, 2023
Effective March 3, 2023

LEGISLATIVE OFFICES AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends provisions governing staff offices of the Utah Legislature.

Highlighted Provisions:

This bill:

- clarifies the authority of the legislative auditor general over a project entity, a taxed interlocal entity, the Utah Data Research Center, and an independent corporation;
- directs the Office of Legislative Research and General Counsel to return enrolled bills to the Senate or House of Representatives;
- amends certain duties and powers of the Office of Legislative Research and General Counsel;
- prohibits the Office of Legislative Research and General Counsel from providing services to an individual who is not qualified to serve or is expelled from the House of Representatives or Senate unless the services are approved by the Legislative Management Committee;
- modifies certain duties and powers of the legislative auditor general and the Office of the Legislative Auditor General;
- authorizes the legislative auditor general to issue a subpoena to financial institutions and other entities;
- modifies the professional qualifications an individual must have to act as the legislative auditor general;
- authorizes the Office of the Legislative Auditor General to conduct systemic performance audits of certain executive branch entities and local education agencies;
- amends criminal provisions related to interference with a legislative audit;
- clarifies issuers of legislative subpoenas;
- authorizes service of a legislative subpoena by electronic transmission;
- requires a public body that holds a closed meeting provide, upon request, the Office of the Legislative Auditor General certain information;
- amends tax penalty provisions to clarify permitted access to certain information by the Office of the Legislative Auditor General;
- repeals sunset provisions that have expired; and
- makes other clarifying corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

11-13-316, as last amended by Laws of Utah 2022, Chapter 422
11-13-603, as last amended by Laws of Utah 2022, Chapter 422
36-3-306, as renumbered and amended by Laws of Utah 2020, Chapter 383
36-12-12, as last amended by Laws of Utah 2003, Chapter 92
36-12-15, as last amended by Laws of Utah 2021, Chapter 421
36-12-15.1, as last amended by Laws of Utah 2021, Chapter 331
36-14-2, as last amended by Laws of Utah 2014, Chapter 339
36-14-4, as enacted by Laws of Utah 1989, Chapter 174
36-14-5, as last amended by Laws of Utah 2013, First Special Session, Chapter 1
52-4-206, as last amended by Laws of Utah 2018, Chapter 425
53B-7-708, as enacted by Laws of Utah 2017, Chapter 365
53B-33-301, as renumbered and amended by Laws of Utah 2022, Chapter 461
59-1-403, as last amended by Laws of Utah 2022, Chapter 447
59-1-404, as last amended by Laws of Utah 2021, Chapter 367
63E-2-104, as last amended by Laws of Utah 2003, Chapter 8
63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370, and 409
68-3-13, as enacted by Laws of Utah 1989, Chapter 16

Utah Code Sections Affected by Coordination Clause:

36-12-12, as last amended by Laws of Utah 2003, Chapter 92

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

Section 1. Section 11-13-316 is amended to read:

11-13-316. Project entity oversight.

(1) Notwithstanding any other provision of law, a project entity is a political subdivision that[~~: (a)~~] is subject to the authority of the legislative auditor general pursuant to Utah Constitution, Article VI, Section 33, [~~is subject to the authority of the legislative auditor to conduct audits of any funds, functions, and accounts in any political subdivision of this state;~~] and Section 36-12-15.

[~~(b) is subject to the requirement to provide the Office of the Legislative Auditor General with all records, documents, and reports necessary for the legislative auditor general or the office to fulfill the duties described in Subsection (1)(a).~~]

[~~(2) Subsection (1) takes precedence over Section 36-12-15.~~]

[~~(3)~~] (2) A project entity shall comply with Title 63G, Chapter 6a, Utah Procurement Code, unless the governing board of the project entity

adopts policies for procurement that enable the project entity to efficiently fulfill the project entity's responsibilities under the project entity's organization agreement.

[~~(4)~~] (3) If a project entity does not adopt policies for procurement under Subsection [~~(3)~~] (2), then for purposes of Title 63G, Chapter 6a, Utah Procurement Code:

(a) the project entity is a local government procurement unit, as defined in Section 63G-6a-103; and

(b) the governing board is a procurement official, as defined in Section 63G-6a-103.

[~~(5)~~] (4) A project entity shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

Section 2. Section 11-13-603 is amended to read:

11-13-603. Taxed interlocal entity.

(1) Except for purposes of an audit, examination, investigation, or review by the [~~Office of the Legislative Auditor General~~] legislative auditor general as described in Subsection (8) and notwithstanding any other provision of law:

(a) the use of an asset by a taxed interlocal entity does not constitute the use of a public asset;

(b) a taxed interlocal entity's use of an asset that was a public asset before the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset;

(c) an official of a project entity is not a public treasurer; and

(d) a taxed interlocal entity's governing board shall determine and direct the use of an asset by the taxed interlocal entity.

(2) (a) A taxed interlocal entity that is not a project entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) A project entity is subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code, to the extent described in Section 11-13-316.

(3) (a) A taxed interlocal entity is not a participating local entity as defined in Section 67-3-12.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including:

(A) the taxed interlocal entity's statement of net position as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; or

(B) financial statements that are equivalent to the financial statements described in Subsection (3)(b)(i)(A) and, at the time the financial statements were created, were in compliance with generally accepted accounting principles that are applicable to taxed interlocal entities; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsection (3)(b) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing board the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (3)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (3)(b)(i) or (ii) does not constitute public financial information as defined in Section 67-3-12.

(4) (a) A taxed interlocal entity's governing board is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(5) Notwithstanding any other provision of law, a taxed interlocal entity is not subject to the following provisions:

(a) Part 4, Governance;

(b) Part 5, Fiscal Procedures for Interlocal Entities;

(c) Subsection 11-13-204(1)(a)(i) or (ii)(J);

(d) Subsection 11-13-206(1)(f);

(e) Subsection 11-13-218(5)(a);

(f) Section 11-13-225;

(g) Section 11-13-226; or

(h) Section 53-2a-605.

(6) (a) In addition to having the powers described in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.

(b) Nothing in Part 4, Governance, or Part 5, Fiscal Procedures for Interlocal Entities, may be construed to limit the power or authority of a taxed interlocal entity.

(7) (a) A governmental law enacted after May 12, 2015, and on or before November 10, 2021, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity that is a project entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the taxed

interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon a taxed interlocal entity."

(b) A governmental law enacted after May 12, 2015, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity that is an energy services interlocal entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the energy services interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon an energy services interlocal entity."

(c) Sections 11-13-601 through 11-13-608 constitute an exception to Subsections (7)(a) and (7)(b) and are applicable to and binding upon a taxed interlocal entity.

(8) [~~(a)~~] Notwithstanding any other provision of law, a taxed interlocal entity that is a project entity is a political subdivision that[~~: (i)~~] is subject to the authority of the legislative auditor general pursuant to Utah Constitution, Article VI, Section 33, [~~is subject to the authority of the legislative auditor to conduct audits of any funds, functions, and accounts in any political subdivision of this state;~~] and Section 36-12-15.

[~~(ii) is subject to the requirement to provide the Office of the Legislative Auditor General with all records, documents, and reports necessary of the legislative auditor general or the office to fulfill the duties described in Subsection (8)(a)(i).~~]

[~~(b) Subsection (8)(a) takes precedence over Section 36-12-15.~~]

Section 3. Section 36-3-306 is amended to read:

36-3-306. Enrolling of bills.

All bills ordered enrolled by the Legislature shall be delivered to the Office of Legislative Research and General Counsel, who shall without delay enroll the bills and return them to [~~the secretary of~~] the Senate or [~~chief clerk of~~] the House of Representatives.

Section 4. Section 36-12-12 is amended to read:

36-12-12. Office of Legislative Research and General Counsel established -- Powers, functions, and duties -- Organization of office -- Selection of director and general counsel.

(1) There is established an Office of Legislative Research and General Counsel as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of Legislative Research and General Counsel under the supervision of the director shall be:

(a) to provide research and legal staff assistance to all standing, special, and interim committees as follows:

(i) to assist each committee chairman in planning the work of the committee;

(ii) to prepare and present research and legal information in accordance with committee instructions or instructions of the committee chairman;

(iii) to prepare progress reports of committee work when requested; and

(iv) to prepare a final committee report in accordance with committee instructions, that includes relevant research information, committee policy recommendations, and recommended legislation;

(b) to collect and examine the acts and official reports of any state and report their contents to any committee or member of the Legislature;

(c) to provide research and legal analysis services to any interim committee, legislative standing committee, or individual legislator on actual or proposed legislation or subjects of general legislative concern;

(d) to maintain a legislative research library that provides analytical, statistical, legal, and descriptive data relative to current and potential governmental and legislative subjects;

(e) (i) to exercise under the direction of the general counsel the constitutional authority provided in Utah Constitution, Article VI, [~~Sec.~~] Section 32, [~~Utah Constitution,~~] in serving as legal counsel to the Legislature, majority and minority leadership of the House or Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the Legislature's staff offices, or any of the legislative staff; and

(ii) to represent the Legislature, majority and minority leadership of the House of Representatives or Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the Legislature's staff offices, or any of the legislative staff in cases and controversies before courts and administrative agencies and tribunals;

(f) to prepare and assist in the preparation of legislative bills, resolutions, memorials, amendments, and other documents or instruments required in the legislative process and, under the direction of the general counsel, give advice and counsel regarding them to the Legislature, majority and minority leadership of the House of Representatives or Senate, any of its members or members-elect, any of its committees or subcommittees, or the legislative staff;

(g) under the direction of the general counsel[~~,~~]:

(i) to review, examine, and correct any technical errors [~~and approve legislation that has passed both houses in order to enroll the legislation and prepare the laws for publication~~] when:

(A) preparing legislation that passed both houses to enroll the legislation and prepare the laws for publication; or

(B) maintaining the accuracy of the electronic code database; and

(ii) to deliver enrolled legislation to the House of Representatives and the Senate for submission to the governor for gubernatorial action;

(h) to keep on file records concerning all legislation and proceedings of the Legislature with respect to legislation referred to in Subsection (2)(g);

(i) to prepare the laws for publication;

(j) (i) to maintain an electronic record organized by title, chapter, part, and section that contains the Utah Code that is currently in effect and that will take effect in the future; and

(ii) to modify the electronic record required by Subsection (2)(j)(i) based upon changes to the Utah Code or to correct technical errors;

[~~(i)~~] (k) to formulate recommendations for the revision, clarification, classification, arrangement, codification, annotation, and indexing of Utah statutes, and to develop proposed legislation to effectuate the recommendations;

[~~(j)~~] (l) to appoint and develop a professional staff within budget limitations; and

[~~(k)~~] (m) to prepare and submit the annual budget request for the Office of Legislative Research and General Counsel.

(3) (a) If, under Utah Constitution, Article VI, Section 10, the House of Representatives or Senate determines that an individual is not qualified to serve in the House of Representatives or Senate, or expels an individual from the respective chamber, but the individual continues to hold his or her elected legislative office, the Office of Legislative Research and General Counsel may not provide legislative staff services, including legal services, to the individual.

(b) Notwithstanding Subsection (3)(a), the Office of Legislative Research and General Counsel may provide legal services for an individual described in Subsection (3)(a) if the legal services are approved by the Legislative Management Committee described in Section 36-12-7.

[~~(3)~~] (4) The statutory authorization of the Office of Legislative Research and General Counsel to correct technical errors provided in Subsection (2)(g), to prepare the laws for publication in Subsection (2)(i), and to modify the electronic record to correct technical errors under Subsection (2)(j)(ii) includes:

(a) adopting a uniform system of punctuation, capitalization, numbering, and wording for enrolled legislation and the Laws of Utah;

(b) eliminating duplication and the repeal of laws directly or by implication, including renumbering when necessary;

(c) correcting defective or inconsistent [~~section and paragraph~~] title, chapter, part, section, and subsection structure in the arrangement of the subject matter of existing statutes;

(d) eliminating [~~all~~] obsolete and redundant words;

(e) correcting:

(i) obvious typographical and grammatical errors; and

(ii) other obvious inconsistencies, including those involving punctuation, capitalization, cross references, numbering, and wording;

(f) inserting or changing the boldface to more accurately reflect the substance of each section, part, chapter, or title; [~~and~~]

(g) merging or determining priority of any amendments, enactments, or repealers to the same code provisions that are passed by the Legislature;

(h) renumbering and rearranging of a title, chapter, part, section, or provisions of a section;

(i) transferring sections or dividing sections to assign separate sections numbers to distinct subject matters;

(j) modifying cross references to agree with renamed or renumbered titles, chapters, parts, or sections;

(k) substituting the proper section or chapter number for the terms "this act," "this bill," or similar terms;

(l) substituting the proper calendar date in the database and in the Laws of Utah;

(m) modifying the highlighted provisions of legislation to correct an inconsistency between the highlighted provisions and the enacted provisions of the legislation;

(n) correcting the names of agencies, departments, and similar units of government;

(o) rearranging any misplaced statutory material, incorporating any omitted statutory material, and correcting other obvious errors of addition or omission;

(p) correcting or incorporating a special clause that was publicly available on the Legislature's website but is errantly omitted, modified, or retained during the legislative process due to obvious technological or human error, including:

(i) a severability clause;

(ii) an effective date clause;

(iii) a retrospective operation clause;

(iv) an uncodified repeal date clause;

(v) a revisor instruction clause; or

(vi) a coordination clause;

(q) correcting the incorporation of an amendment due to obvious technological or human error; and

(r) alphabetizing definition sections.

[~~(4)~~] (5) In carrying out the duties provided for in this section, the director of the Office of Legislative Research and General Counsel may obtain access to all records, documents, and reports necessary to the scope of the director's duties according to the procedures contained in [~~Title 36, Chapter 14, Legislative Subpoena Powers~~] Chapter 14, Legislative Subpoena Powers.

[~~(5)~~] (6) In organizing the management of the Office of Legislative Research and General Counsel, the Legislative Management Committee may either:

(a) select a person to serve as both the director of the office and as general counsel. In such case, the director of the office shall be a lawyer admitted to practice in Utah and shall have practical management experience or equivalent academic training; or

(b) select a person to serve as director of the office who would have general supervisory authority and select another person to serve as the legislative general counsel within the office. In such case, the director of the office shall have a master's degree in public or business administration, economics, or the equivalent in academic or practical experience and the legislative general counsel shall be a lawyer admitted to practice in Utah.

Section 5. Section 36-12-15 is amended to read:

36-12-15. Office of the Legislative Auditor General established -- Qualifications -- Powers, functions, and duties -- Reporting -- Criminal penalty -- Employment.

(1) As used in this section:

(a) "Entity" means:

(i) a government organization; or

(ii) a receiving organization.

(b) "Government organization" means:

(i) a state branch, department, or agency; or

(ii) a political subdivision, including a county, municipality, local district, special service district, school district, interlocal entity as defined in Section 11-13-103, or any other local government unit.

(c) "Receiving organization" means an organization that receives public funds that is not a government organization.

(2) There is created [~~an~~] the Office of the Legislative Auditor General as a permanent staff office for the Legislature.

[~~(2)~~] (3) The legislative auditor general shall be a licensed certified public accountant or certified internal auditor with at least [~~five~~] seven years of experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

[~~(3)~~] (4) The legislative auditor general shall appoint and develop a professional staff within budget limitations.

[~~(4)~~] (5) [~~(a)~~] The Office of the Legislative Auditor General shall exercise the constitutional authority provided in Utah Constitution, Article VI, [~~Sec.~~] Section 33[~~, Utah Constitution~~].

[~~(b)~~] (6) Under the direction of the legislative auditor general, the [~~office~~] Office of the Legislative Auditor General shall:

[~~(i)~~] (a) conduct comprehensive and special purpose audits, examinations, [~~and~~] investigations, or reviews of [~~any entity that receives public funds,~~] entity funds, functions, and accounts;

[~~(ii)~~] (b) prepare and submit a written report on each audit, examination, investigation, or review to the [~~Legislative Management Committee, the audit subcommittee,~~] Audit Subcommittee created in Section 36-12-8 and make the report available to all members of the Legislature within 75 days after the audit [~~or~~], examination, investigation, or review is completed; [~~and~~]

[~~(iii)~~] (c) monitor [~~and~~], conduct a risk assessment of, or audit any efficiency evaluations that the legislative auditor general determines necessary, in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule[~~.~~];

(d) create, manage, and report to the Audit Subcommittee a list of high risk programs and operations that:

(i) threaten public funds or programs;

(ii) are vulnerable to inefficiency, waste, fraud, abuse, or mismanagement; or

(iii) require transformation;

(e) monitor and report to the Audit Subcommittee the health of a government organization's internal audit functions;

(f) make recommendations to increase the independence and value added of internal audit functions throughout the state;

(g) implement a process to track, monitor, and report whether the subject of an audit has implemented recommendations made in the audit report;

(h) establish, train, and maintain individuals within the office to conduct investigations and represent themselves as lawful investigators on behalf of the office;

(i) establish policies, procedures, methods, and standards of audit work and investigations for the office and staff;

(j) prepare and submit each audit and investigative report independent of any influence external of the office, including the content of the report, the conclusions reached in the report, and the manner of disclosing the legislative auditor general's findings;

(k) prepare and submit the annual budget request for the office; and

(l) perform other duties as prescribed by the Legislature.

[~~(5)~~] (7) [~~The~~] In conducting an audit, examination, investigation, or review of [~~any entity that receives public funds may include a~~] an entity, the Office of the Legislative Auditor General may include a determination of any or all of the following:

(a) the honesty and integrity of [~~all~~] any of the entity's fiscal affairs;

(b) the accuracy and reliability of the entity's [~~financial~~] internal control systems and specific financial statements and reports;

(c) whether or not the entity's financial controls are adequate and effective to properly record and safeguard [~~its~~] the entity's acquisition, custody, use, and accounting of public funds;

(d) whether [~~or not~~] the entity's administrators have [~~faithfully adhered to~~] complied with legislative intent;

(e) whether [~~or not~~] the entity's operations have been conducted in an efficient, effective, and cost efficient manner;

(f) whether [~~or not~~] the entity's programs have been effective in accomplishing intended objectives; and

(g) whether [~~or not~~] the entity's management control and information systems are adequate and effective.

[~~(6) The Office of the Legislative Auditor General:~~]

[~~(a) (i) shall, notwithstanding any other provision of law, have access to all records, documents, and reports of any entity that receives public funds that are necessary to the scope of the duties of the legislative auditor general or the office; and~~]

[~~(ii) may issue a subpoena to obtain access as provided in Subsection (6)(a)(i) using the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers;~~]

[~~(b) establish policies, procedures, methods, and standards of audit work for the office and staff;~~]

[~~(c) prepare and submit each audit report without interference from any source relative to the content of the report, the conclusions reached in the report, or the manner of disclosing the results of the legislative auditor general's findings; and~~]

[~~(d) prepare and submit the annual budget request for the office.~~]

[~~(7)~~] (8) (a) If requested by the Office of the Legislative Auditor General, each entity that the legislative auditor general is authorized to audit under Utah Constitution, Article VI, Section 33, or this section shall, notwithstanding any other provision of law except as provided in Subsection (8)(b), provide the office with access to information, materials, or resources the office determines are necessary to conduct an audit, examination, investigation, or review, including:

(i) the following in the possession or custody of the entity in the format identified by the office:

(A) a record, document, and report; and

(B) films, tapes, recordings, and electronically stored information;

(ii) entity personnel; and

(iii) each official or unofficial recording of formal or informal meetings or conversations to which the entity has access.

(b) To the extent compliance would violate federal law, the requirements of Subsection (8)(a) do not apply.

(9) (a) In carrying out the duties provided for in this section and under Utah Constitution, Article VI, Section 33, the legislative auditor general may issue a subpoena to access information, materials, or resources in accordance with Chapter 14, Legislative Subpoena Powers.

(b) The legislative auditor general may issue a subpoena, as described in Subsection (9)(a), to a financial institution or any other entity to obtain information as part of an investigation of fraud, waste, or abuse, including any suspected malfeasance, misfeasance, or nonfeasance involving public funds.

(10) To preserve the professional integrity and independence of the office:

(a) no legislator or public official may urge the appointment of any person to the office; and

(b) the legislative auditor general may not be appointed to serve on any board, authority, commission, or other agency of the state during the legislative auditor general's term as legislative auditor general.

[~~(8)~~] (11) (a) The following records in the custody or control of the legislative auditor general [~~shall be~~] are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

[~~(a)~~] (i) [~~Records that would~~] records and audit work papers that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the legislative auditor general through other documents or evidence, and the records relating to the allegation are not relied upon by the legislative auditor general in preparing a final audit report[~~.~~];

[~~(b)~~] (ii) [~~Records~~] records and audit workpapers [~~to the extent they~~] that would disclose the identity of a person who, during the course of a legislative audit, communicated the existence of [~~any~~]:

(A) unethical behavior;

(B) waste of public funds, property, or [~~manpower,~~] personnel; or

(C) a violation or suspected violation of a United States, Utah state, or political subdivision law, rule, ordinance, or regulation [~~adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was~~], if the person disclosed on the condition that the identity of the person be protected[~~.~~];

[~~(c)~~] (iii) [~~Prior to the time that~~] before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of [~~a governmental~~] an entity for [~~their~~] review, response, or information[~~.~~];

[~~(d)~~] (iv) [~~Records~~] records that would disclose:

(A) an outline;

(B) all or part of [~~any~~] an audit survey [~~plans~~], audit risk assessment plan, or audit program[~~.~~]; or

(C) other procedural documents necessary to fulfill the duties of the office; and

[~~(e)~~] (v) [~~Requests~~] requests for audits, if disclosure would risk circumvention of an audit.

[~~(f) The provisions of Subsections (8)(a), (b), and (c) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.~~]

(b) The provisions of Subsection (11)(a) do not prohibit the disclosure of records or information to a government prosecutor or peace officer if those records or information relate to a violation of the law by an entity or entity employee.

(c) A record, as defined in Section 63G-2-103, created by the Office of the Legislative Auditor General in a closed meeting held in accordance with Section 52-4-205:

(i) is a protected record, as defined in Section 63G-2-103;

(ii) to the extent the record contains information:

(A) described in Section 63G-2-302, is a private record; or

(B) described in Section 63G-2-304, is a controlled record; and

(iii) may not be reclassified by the office.

[~~(g)~~] (d) The provisions of this section do not limit the authority otherwise given to the legislative auditor general to maintain the private, controlled, or protected record status of a shared record in the legislative auditor general's possession or classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

[~~(9)~~] (12) The legislative auditor general shall:

(a) be available to the Legislature and to the Legislature's committees for consultation on matters relevant to areas of the legislative auditor general's professional competence;

(b) conduct special audits as requested by the [~~Legislative Management Committee~~] Audit Subcommittee;

(c) report immediately [~~in writing to the Legislative Management Committee through its audit subcommittee~~] to the Audit Subcommittee any apparent violation of penal statutes disclosed by the audit of [~~a state agency~~] an entity and furnish to the [~~Legislative Management Committee~~] Audit Subcommittee all information relative to the apparent violation;

(d) report immediately [~~in writing to the Legislative Management Committee through its audit subcommittee~~] to the Audit Subcommittee any apparent instances of malfeasance or nonfeasance by [~~a state~~] an entity officer or employee disclosed by the audit of [~~a state agency~~] an entity; and

(e) make any recommendations to the [~~Legislative Management Committee through its audit subcommittee~~] Audit Subcommittee with respect to the alteration or improvement of the accounting system used by [~~any~~] an entity [~~that receives public funds~~].

[~~(10)~~] (13) If the legislative auditor general conducts an audit of [~~a state agency~~] an entity that has previously been audited and finds that the [~~state agency~~] entity has not implemented a recommendation made by the legislative auditor general in a previous audit, the legislative auditor general shall, upon release of the audit:

(a) report immediately [~~in writing to the Legislative Management Committee through its audit subcommittee~~] to the Audit Subcommittee that the [~~state agency~~] entity has not implemented that recommendation; and

(b) shall report, as soon as possible, that the [~~state agency~~] entity has not implemented that recommendation to [~~a meeting of~~] an appropriate legislative committee designated by the [~~audit subcommittee of the Legislative Management Committee~~] Audit Subcommittee.

[~~(11) (a) Prior to each annual general session, the legislative auditor general shall prepare a summary of the audits conducted and of actions taken based upon them during the preceding year.~~]

[~~(b) This report shall also set forth any items and recommendations that are important for consideration in the forthcoming session, together with a brief statement or rationale for each item or recommendation.~~]

[~~(c) The legislative auditor general shall deliver the report to the Legislature and to the appropriate committees of the Legislature.~~]

(14) Before each annual general session, the legislative auditor general shall:

(a) prepare an annual report that:

(i) summarizes the audits, examinations, investigations, and reviews conducted by the office since the last annual report; and

(ii) evaluate and report the degree to which an entity that has been the subject of an audit has implemented the audit recommendations;

(b) include in the report any items and recommendations that the legislative auditor general believes the Legislature should consider in the annual general session; and

(c) deliver the report to the Legislature and to the appropriate committees of the Legislature.

[~~(12) (a) No person or entity may:~~]

[~~(i) interfere with a legislative audit, examination, or review of any entity conducted by the office; or~~]

[~~(ii) interfere with the office relative to the content of the report, the conclusions reached in the report, or the manner of disclosing the results and findings of the office.~~]

[~~(b) Any person or entity that violates the provisions of this Subsection (12) is guilty of a class B misdemeanor.~~]

[~~(13)~~] (15) (a) If the chief officer of an entity has actual knowledge or reasonable cause to believe that there is misappropriation of the entity's public funds or assets, or another entity officer has actual knowledge or reasonable cause to believe that the chief officer is misappropriating the entity's public funds or assets, the chief officer or, alternatively, the other entity officer, shall immediately notify, in writing:

(i) the Office of the Legislative Auditor General;

(ii) the attorney general, county attorney, or district attorney; and

(iii) (A) for a state government organization, the chief executive officer;

(B) for a political subdivision government organization, the legislative body or governing board; or

(C) for a receiving organization, the governing board or chief executive officer unless the chief executive officer is believed to be misappropriating the funds or assets, in which case the next highest officer of the receiving organization.

(b) As described in Subsection (15)(a), the entity chief officer or, if applicable, another entity officer, is subject to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act.

(c) If the Office of the Legislative Auditor General receives a notification under Subsection (15)(a) or other information of misappropriation of public funds or assets of an entity, the office shall inform the Audit Subcommittee.

(d) The attorney general, county attorney, or district attorney shall notify, in writing, the Office of the Legislative Auditor General whether the attorney general, county attorney, or district attorney pursued criminal or civil sanctions in the matter.

(16) (a) An actor commits interference with a legislative audit if the actor uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with:

(i) a legislative audit, examination, investigation, or review of an entity conducted by the Office of the Legislative Auditor General; or

(ii) the Office of the Legislative Auditor General's decisions relating to:

(A) the content of the office's report;

(B) the conclusions reached in the office's report; or

(C) the manner of disclosing the results and findings of the office.

(b) A violation of Subsection (16)(a) is a class B misdemeanor.

(17) (a) Beginning July 1, 2020, the Office of the Legislative Auditor General may require any current employee, or any applicant for employment, to submit to a fingerprint-based local, regional, and criminal history background check as an ongoing condition of employment.

(b) An employee or applicant for employment shall provide a completed fingerprint card to the office upon request.

(c) The [~~office~~] Office of the Legislative Auditor General shall require that an individual required to submit to a background check under this [~~subsection~~] Subsection (17) also provide a signed waiver on a form provided by the office that meets the requirements of Subsection 53-10-108(4).

[~~(c)~~] (d) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the office shall submit to the Bureau of Criminal Identification:

(i) the employee's or applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(ii) a request for all information received as a result of the local, regional, and nationwide background check.

Section 6. Section 36-12-15.1 is amended to read:

36-12-15.1. Systemic performance audits.

(1) As used in this section, "entity" means:

(a) an entity in the executive branch that receives an ongoing line item appropriation in an appropriations act; and

(b) any local education agency, as defined in Section 53E-1-102, that receives public funds.

(2) (a) Each year, subject to the availability of work capacity and the discretion of the [~~Legislative~~] Audit [~~Committee~~] Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General may, in addition to other audits performed by the office, perform:

(i) [~~an~~] a systemic performance audit of one or more executive branch [~~entity's appropriations~~] entities; and

(ii) [~~an~~] a systemic performance audit of one or more local education [~~agency's appropriations~~] agencies.

(b) An audit performed [~~pursuant to~~] under Subsection (2)(a) shall, as is appropriate for each individual audit:

(i) evaluate the extent to which the entity has efficiently and effectively used the appropriation by identifying:

(A) the entity's appropriation history;

(B) the entity's spending and efficiency history; and

(C) historic trends in the entity's operational performance effectiveness;

(ii) evaluate whether the entity's size and operation are commensurate with the entity's spending history;

(iii) evaluate whether the entity is diligent in its stewardship of [~~state~~] resources;

(iv) provide [~~an in-depth analysis review~~] a systemic performance audit of the entity's operations performance improvements;

(v) if possible, incorporate the audit methodology of other audits performed by the Office of the Legislative Auditor General; and

(vi) be conducted according to the process established for the Audit Subcommittee [~~created in Section 36-12-8~~].

(c) After releasing an audit report [~~pursuant to~~] under Subsection (2)(a), the Audit Subcommittee shall make the audit report available to:

(i) each member of the Senate and the House of Representatives; and

(ii) the governor or the governor's designee.

(d) The Office of the Legislative Auditor General shall:

(i) summarize the findings of an audit described in Subsection (2)(a) [~~in:~~]; and

[~~(i) a unique section of the legislative auditor general's annual report; and~~]

[~~(ii) a format that the legislative fiscal analyst may use in preparation of the annual appropriations no later than 30 days before the day on which the Legislature convenes~~]

(ii) provide a copy of each audit report and the annual report to the legislative fiscal analyst and director of the Office of Legislative Research and General Counsel as soon as each report is completed.

(3) The Office of the Legislative Auditor General [~~shall~~] may consult with the [~~legislative fiscal analyst~~] Office of the Legislative Fiscal Analyst or the Office of Legislative Research and General Counsel in preparing the summary required by Subsection (2)(d).

(4) The Legislature, in evaluating an entity's request for an increase in its base budget, shall:

(a) review the audit report required by this section and any relevant audits; and

(b) consider the entity's request for an increase in its base budget in light of the entity's prior history of savings and efficiencies as evidenced by the audit report required by this section.

Section 7. Section 36-14-2 is amended to read:

36-14-2. Issuers.

(1) Any of the following persons is an issuer, who may issue legislative subpoenas by following the procedures set forth in this chapter:

(a) the speaker of the House of Representatives;

(b) the president of the Senate;

(c) a chair of any legislative standing committee;

(d) a chair of any legislative interim committee;

(e) a chair of any special committee established by the Legislative Management Committee, the speaker of the House of Representatives, or the president of the Senate;

(f) a chair of any subcommittee of the Legislative Management Committee;

(g) a chair of a special investigative committee;

(h) a chair of a Senate or House Ethics Committee;

(i) a chair of the Executive Appropriations Committee as created in JR3-2-401;

(j) a chair of an appropriations subcommittee as created in JR3-2-302;

(k) the director of the Office of Legislative Research and General Counsel;

(l) the legislative auditor general;

(m) the [~~director of the Office of Legislative Fiscal Analyst~~] legislative fiscal analyst; and

(n) the legislative general counsel.

(2) A legislative body, a legislative office, an issuer, or a legislative staff member designated by an issuer may:

(a) administer an oath or affirmation; and

(b) take evidence, including testimony.

Section 8. Section 36-14-4 is amended to read:

36-14-4. Service.

Legislative subpoenas may be served:

(1) within the state, by the sheriff of the county where service is made, or by his deputy, or by any other person 18 years old or older who is not a member of the entity issuing the subpoena;

(2) in another state or United States territory, by the sheriff of the county where the service is made, or by his deputy, or by a United States marshal or his deputy;

(3) in a foreign country:

(a) by following the procedures prescribed by the law of the foreign country;

(b) upon an individual, by any person 18 years old or older who is not a member of the entity delivering the subpoena to him personally, and upon a corporation or partnership or association, by any person 18 years old or older who is not a member of the entity delivering the subpoena to an officer, a managing or general agent of the corporation, partnership, or association; or

(c) by any form of mail requiring a signed receipt, to be addressed and dispatched by the legislative general counsel to the party to be served[~~.~~]; or

(4) by electronic transmission requiring acknowledgment of receipt.

Section 9. Section 36-14-5 is amended to read:

36-14-5. Legislative subpoenas -- Enforcement.

(1) If any person disobeys or fails to comply with a legislative subpoena, or if a person appears pursuant to a subpoena and refuses to testify to a matter upon which the person may be lawfully interrogated, that person is in contempt of the Legislature.

(2) (a) When the subject of a legislative subpoena disobeys or fails to comply with the legislative subpoena, or if a person appears pursuant to a subpoena and refuses to testify to a matter upon which the person may be lawfully interrogated, the issuer may:

(i) file a motion for an order to compel obedience to the subpoena with the district court;

(ii) file, with the district court, a motion for an order to show cause why the penalties established in Title 78B, Chapter 6, Part 3, Contempt, should not be imposed upon the person named in the subpoena for contempt of the Legislature; or

(iii) pursue other remedies against persons in contempt of the Legislature.

(b) (i) Upon receipt of a motion under this subsection, the court shall expedite the hearing and decision on the motion.

(ii) A court may:

(A) order the person named in the subpoena to comply with the subpoena; and

(B) impose any penalties authorized by Title 78B, Chapter 6, Part 3, Contempt, upon the person named in the subpoena for contempt [~~of the Legislature~~].

(3) (a) If a legislative subpoena requires the production of accounts, books, papers, documents, electronically stored information, or tangible things, the person or entity to whom [~~it~~] the subpoena is directed may petition a district court to quash or modify the subpoena at or before the time specified in the subpoena for compliance.

(b) An issuer may respond to a motion to quash or modify the subpoena by pursuing any remedy authorized by Subsection (2).

(c) If the court finds that a legislative subpoena requiring the production of accounts, books, papers, documents, electronically stored information, or tangible things is unreasonable or oppressive, the court may quash or modify the subpoena.

(4) Nothing in this section prevents an issuer from seeking an extraordinary writ to remedy contempt of the Legislature.

(5) Any party aggrieved by a decision of a court under this section may appeal that action directly to the Utah Supreme Court.

Section 10. Section 52-4-206 is amended to read:

52-4-206. Record of closed meetings.

(1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:

(a) shall make a recording of the closed portion of the meeting; and

(b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.

(2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.

(3) The recording and any minutes of a closed meeting shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent; and

(c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

(4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(5) A recording, transcript, report, and written minutes of a closed meeting are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records:

(a) may be disclosed under a court order only as provided under Section 52-4-304[~~.~~]; and

(b) shall be disclosed, upon request, to the Office of the Legislative Auditor General under Section 36-12-15.

(6) If a public body closes a meeting exclusively for the purposes described under Subsection 52-4-205(1)(a), (1)(f), or (2):

(a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a),(1)(f), or (2); and

(b) the provisions of Subsection (1) of this section do not apply.

Section 11. Section 53B-7-708 is amended to read:

53B-7-708. Legislative audit.

(1) Subject to prioritization of the Audit Subcommittee, the Office of the Legislative Auditor General established under Section 36-12-15 shall in any fiscal year:

(a) conduct an audit of money appropriated for performance funding; and

(b) prepare and submit a written report for an audit described in this section in accordance with [~~Subsection 36-12-15(4)(b)(ii)~~] Section 36-12-15.

(2) An audit described in this section shall include:

(a) an evaluation of the implementation of performance funding; and

(b) the use of performance funding.

Section 12. Section 53B-33-301 is amended to read:

53B-33-301. Data research program.

(1) The center shall establish a data research program for the purpose of analyzing data that is:

(a) collected over time;

(b) aggregated from multiple sources; and

(c) connected and de-identified.

(2) The center may, in order to establish the data research program described in Subsection (1):

(a) acquire property or equipment in order to store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or

(b) contract with a private entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or with a state government entity to:

(i) store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or

(ii) utilize existing aggregated, connected, and de-identified data maintained by a state government entity.

(3) A participating entity shall contribute data to the data research program described in Subsection (1) within guidelines established by the center.

(4) The center may only release data maintained by the center in accordance with the procedures described in this chapter.

(5) The center shall:

(a) as directed by the board, serve as a repository in the state of data from institutions of higher education;

(b) collaborate with the board and the State Board of Education to coordinate access to the unique student identifier of a public education student who later attends an institution of higher education in accordance with Sections 53B-1-109 and 53E-4-308;

(c) develop, establish, and maintain programs that promote access to data from institutions of higher education;

(d) identify initiatives that leverage education data that will improve a state citizen's ability to:

(i) access services at an institution of higher education; or

(ii) graduate with a postsecondary certificate or degree; and

(e) perform all other duties provided in this chapter.

(6) The director shall identify the resources necessary to successfully implement initiatives described in Subsection (5)(d), in accordance with Section 53B-7-101.

(7) The center may:

(a) employ staff necessary to carry out the center's duties;

(b) purchase, own, create, or maintain equipment necessary to:

(i) collect data from the participating entities;

(ii) connect and de-identify data collected by the center;

(iii) store connected and de-identified data; or

(iv) conduct research on data stored or obtained by the center; or

(c) contract with a private entity, another state or federal entity, or a political subdivision of the state to carry out the center's duties as provided in this chapter.

(8) The data research program is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The center:

(a) shall, upon request by the Office of the Legislative Auditor General, provide access to all records, data, and other materials in possession of the center; and

(b) is otherwise subject to the authority of the legislative auditor general in accordance with Utah Constitution, Article VI, Section 33, and Section 36-12-15.

Section 13. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township; or

(ii) the military installation development authority created in Section 63H-1-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the

environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or

the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 14. Section 59-1-404 is amended to read:

59-1-404. Definitions -- Confidentiality of commercial information obtained from a property taxpayer or derived from the commercial information -- Rulemaking authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of signed explanation by employer -- Penalty.

(1) As used in this section:

(a) "Appraiser" means an individual who holds an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act and includes an individual associated with an appraiser who assists the appraiser in preparing an appraisal.

(b) "Appraisal" is as defined in Section 61-2g-102.

(c) (i) "Commercial information" means:

(A) information of a commercial nature obtained from a property taxpayer regarding the property taxpayer's property; or

(B) information derived from the information described in this Subsection (1)(c)(i).

(ii) (A) "Commercial information" does not include information regarding a property taxpayer's property if the information is intended for public use.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(c)(ii)(A), the commission may by rule prescribe the circumstances under which information is intended for public use.

(d) "Consultation service" is as defined in Section 61-2g-102.

(e) "Locally assessed property" means property that is assessed by a county assessor in accordance with Chapter 2, Part 3, County Assessment.

(f) "Property taxpayer" means a person that:

(i) is a property owner; or

(ii) has in effect a contract with a property owner to:

(A) make filings on behalf of the property owner;

(B) process appeals on behalf of the property owner; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.

(g) "Property taxpayer's property" means property with respect to which a property taxpayer:

(i) owns the property;

(ii) makes filings relating to the property;

(iii) processes appeals relating to the property; or

(iv) pays a tax under Chapter 2, Property Tax Act, on the property.

(h) "Protected commercial information" means commercial information that:

(i) identifies a specific property taxpayer; or

(ii) would reasonably lead to the identity of a specific property taxpayer.

(2) An individual listed under Subsection 59-1-403(2)(a) may not disclose commercial information:

(a) obtained in the course of performing any duty that the individual listed under Subsection 59-1-403(2)(a) performs under Chapter 2, Property Tax Act; or

(b) relating to an action or proceeding:

(i) with respect to a tax imposed on property in accordance with Chapter 2, Property Tax Act; and

(ii) that is filed in accordance with:

(A) this chapter;

(B) Chapter 2, Property Tax Act; or

(C) this chapter and Chapter 2, Property Tax Act.

(3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403(2)(a) may disclose the following information:

(i) the assessed value of property;

(ii) the tax rate imposed on property;

(iii) a legal description of property;

(iv) the physical description or characteristics of property, including a street address or parcel number for the property;

(v) the square footage or acreage of property;

(vi) the square footage of improvements on property;

(vii) the name of a property taxpayer;

(viii) the mailing address of a property taxpayer;

(ix) the amount of a property tax:

(A) assessed on property;

(B) due on property;

(C) collected on property;

(D) abated on property; or

(E) deferred on property;

(x) the amount of the following relating to property taxes due on property:

(A) interest;

(B) costs; or

(C) other charges;

(xi) the tax status of property, including:

(A) an exemption;

(B) a property classification;

(C) a bankruptcy filing; or

(D) whether the property is the subject of an action or proceeding under this title;

(xii) information relating to a tax sale of property; or

(xiii) information relating to single-family residential property.

(b) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403(2)(a) shall disclose, upon request, the information described in Subsection 59-2-1007(9).

(c) (i) Subject to Subsection (3)(c)(ii), a person may receive the information described in Subsection (3)(a) or (b) in written format.

(ii) The following may charge a reasonable fee to cover the actual cost of providing the information described in Subsection (3)(a) or (b) in written format:

(A) the commission;

(B) a county;

(C) a city; or

(D) a town.

(4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an individual listed under Subsection 59-1-403(2)(a) shall disclose commercial information:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding:

(A) under this title;

(B) under another law under which a property taxpayer is required to disclose commercial information; or

(C) to which the commission is a party;

(iii) on behalf of any party to any action or proceeding under this title if the commercial information is directly involved in the action or proceeding; or

(iv) if the requirements of Subsection (4)(b) are met, that is:

(A) relevant to an action or proceeding:

(I) filed in accordance with this title; and

(II) involving property; or

(B) in preparation for an action or proceeding involving property.

(b) Commercial information shall be disclosed in accordance with Subsection (4)(a)(iv):

(i) if the commercial information is obtained from:

(A) a real estate agent if the real estate agent is not a property taxpayer of the property that is the subject of the action or proceeding;

(B) an appraiser if the appraiser:

(I) is not a property taxpayer of the property that is the subject of the action or proceeding; and

(II) did not receive the commercial information pursuant to Subsection (8);

(C) a property manager if the property manager is not a property taxpayer of the property that is the subject of the action or proceeding; or

(D) a property taxpayer other than a property taxpayer of the property that is the subject of the action or proceeding;

(ii) regardless of whether the commercial information is disclosed in more than one action or proceeding; and

(iii) (A) if a county board of equalization conducts the action or proceeding, the county board of equalization takes action to provide that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section;

(B) if the commission conducts the action or proceeding, the commission enters a protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, makes rules specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section; or

(C) if a court of competent jurisdiction conducts the action or proceeding, the court enters a protective order specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section.

(c) Notwithstanding Subsection (4)(a), a court may require the production of, and may admit in evidence, commercial information that is specifically pertinent to the action or proceeding.

(5) Notwithstanding Subsection (2), this section does not prohibit:

(a) the following from receiving a copy of any commercial information relating to the basis for assessing a tax that is charged to a property taxpayer:

(i) the property taxpayer;

(ii) a duly authorized representative of the property taxpayer;

(iii) a person that has in effect a contract with the property taxpayer to:

(A) make filings on behalf of the property taxpayer;

(B) process appeals on behalf of the property taxpayer; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;

(iv) a property taxpayer that purchases property from another property taxpayer; or

(v) a person that the property taxpayer designates in writing as being authorized to receive the commercial information;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of a particular property taxpayer's commercial information; or

(c) the inspection by the attorney general or other legal representative of the state or a legal representative of a political subdivision of the state of the commercial information of a property taxpayer:

(i) that brings action to set aside or review a tax or property valuation based on the commercial information;

(ii) against which an action or proceeding is contemplated or has been instituted under this title; or

(iii) against which the state or a political subdivision of the state has an unsatisfied money judgment.

(6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish standards authorizing an individual listed under Subsection 59-1-403(2)(a) to disclose commercial information:

(a) (i) in a published decision; or

(ii) in carrying out official duties; and

(b) if that individual listed under Subsection 59-1-403(2)(a) consults with the property taxpayer that provided the commercial information.

(7) Notwithstanding Subsection (2):

(a) an individual listed under Subsection 59-1-403(2)(a) may share commercial information with the following:

(i) another individual listed in Subsection 59-1-403(2)(a)(i) or (ii); or

(ii) a representative, agent, clerk, or other officer or employee of a county as required to fulfill an obligation created by Chapter 2, Property Tax Act;

(b) an individual listed under Subsection 59-1-403(2)(a) may perform the following to fulfill an obligation created by Chapter 2, Property Tax Act:

(i) publish notice;

(ii) provide notice; or

(iii) file a lien; or

(c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share commercial information gathered from returns and other

written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, if these political subdivisions or the federal government grant substantially similar privileges to this state.

(8) Notwithstanding Subsection (2):

(a) subject to the limitations in this section, an individual described in Subsection 59-1-403(2)(a) may share the following commercial information with an appraiser:

(i) the sales price of locally assessed property and the related financing terms;

(ii) capitalization rates and related rates and ratios related to the valuation of locally assessed property; and

(iii) income and expense information related to the valuation of locally assessed property; and

(b) except as provided in Subsection (4), an appraiser who receives commercial information:

(i) may disclose the commercial information:

(A) to an individual described in Subsection 59-1-403(2)(a);

(B) to an appraiser;

(C) in an appraisal if protected commercial information is removed to protect its confidential nature; or

(D) in performing a consultation service if protected commercial information is not disclosed; and

(ii) may not use the commercial information:

(A) for a purpose other than to prepare an appraisal or perform a consultation service; or

(B) for a purpose intended to be, or which could reasonably be foreseen to be, anti-competitive to a property taxpayer.

(9) (a) The commission shall:

(i) prepare a written explanation of this section; and

(ii) make the written explanation described in Subsection (9)(a)(i) available to the public.

(b) An employer of a person described in Subsection 59-1-403(2)(a) shall:

(i) provide the written explanation described in Subsection (9)(a)(i) to each person described in Subsection 59-1-403(2)(a) who is reasonably likely to receive commercial information;

(ii) require each person who receives a written explanation in accordance with Subsection (9)(b)(i) to:

(A) read the written explanation; and

(B) sign the written explanation; and

(iii) retain each written explanation that is signed in accordance with Subsection (9)(b)(ii) for a time period:

(A) beginning on the day on which a person signs the written explanation in accordance with Subsection (9)(b)(ii); and

(B) ending six years after the day on which the employment of the person described in Subsection (9)(b)(iii)(A) by the employer terminates.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define "employer."

(10) (a) An individual described in Subsection (1)(a) or 59-1-403(2)(a), or an individual that violates a protective order or similar limitation entered pursuant to Subsection (4)(b)(iii), is guilty of a class A misdemeanor if that person:

(i) intentionally discloses commercial information in violation of this section; and

(ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this section.

(b) If the individual described in Subsection (10)(a) is an officer or employee of the state or a county and is convicted of violating this section, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall forfeit any certification or license received under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

(d) If the individual described in Subsection (10)(a) is an individual associated with an appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited from becoming licensed or certified under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

(11) Notwithstanding Subsection (10), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization:

(a) an individual does not violate a protective order or similar limitation entered in accordance with Subsection (4)(b)(iii); and

(b) an individual described in Subsection (1)(a) or 59-1-403(2)(a):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to the penalties described in Subsections (10)(b) through (d).

Section 15. Section 63E-2-104 is amended to read:

63E-2-104. Legislative review.

(1) Each independent corporation is subject to:

(a) review by the Retirement and Independent Entities Committee in accordance with Chapter 1, Independent Entities Act; and

(b) the authority of the legislative auditor general in accordance with Utah Constitution, Article VI, Section 33, and Section 36-12-15.

[~~(2) Notwithstanding Section 36-12-15, the Office of Legislative Auditor General may conduct comprehensive and special purpose audits, examinations, and reviews of any independent corporation.~~]

[~~(3)~~] (2) Each independent corporation shall report, as requested, to the committee on matters related to audits.

Section 16. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

[~~(1) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.~~]

[~~(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~]

[~~(2)~~] (1) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(3)~~] (2) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(4)~~] (3) Section 53B-8-114 is repealed July 1, 2024.

[~~(5)~~] (4) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(6)~~] (5) Section 53B-10-101 is repealed on July 1, 2027.

[~~(7)~~] (6) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(8)~~] (7) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(9)~~] (8) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(10)~~] (9) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(11)~~] (10) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(12)~~] (11) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~] (12) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(14)~~] (13) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(15)~~] (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(16)~~] (15) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(17)~~] (16) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.~~]

[~~(19) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.~~]

[~~(20) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.~~]

[~~(21)~~] (17) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (18) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (19) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (20) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (21) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under [~~Subsection 36-12-12(3)~~] Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 17. Section 68-3-13 is amended to read:

68-3-13. Printing boldface in numbered bills -- Purpose -- Effect -- Power of Office of Legislative Research and General Counsel to change.

A short summary of each section, part, chapter, or title, called boldface, may be printed in numbered bills introduced in the Legislature. This boldface is not law; it is intended only to highlight the content of each section, part, chapter, or title for legislators. Inaccurate boldface is not a basis for invalidating legislation. The Office of Legislative Research and General Counsel is authorized in Section 36-12-12 to change the boldface [~~in the enrolling process~~] so that it more accurately reflects the substance of each section, part, chapter, or title.

Section 18. Effective date.

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

Section 19. Coordinating S.B. 136 with H.B. 414 -- Substantive and technical amendments.

If this S.B. 136 and H.B. 414, Records Management Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) omitting Subsection 36-12-12(2)(h) enacted by H.B. 414; and

(2) amending Subsection 36-12-12(2)(j) in S.B. 136 to read:

"(j) (i) to maintain, exercise control over, and act as the repository and custodian of the official copy and database of the Utah Code, organized by title, chapter, part, and section; and

(ii) to keep the Utah Code database current, including updating the database to reflect:

(A) any duly enacted legislation making changes, including future changes, to the Utah Code; and

(B) any corrections of technical errors;".

CHAPTER 22
S. B. 185
Passed March 1, 2023
Approved March 8, 2023
Effective March 8, 2023

TRANSPORTATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provisions related to active transportation, local option sales taxes, the Department of Transportation, and other transportation items.

Highlighted Provisions:

This bill:

- creates the Active Transportation Investment Fund within the Transportation Investment Fund of 2005 to be used to develop active transportation infrastructure;
- amends provisions related to the responsibilities of the executive director and deputy directors of the Department of Transportation;
- amends provisions related to the account for the road usage charge;
- requires a report from the Department of Transportation to the Transportation Commission regarding the status of certain transportation construction projects;
- makes various technical amendments to clarify duties of the Department of Transportation related to public transit capital development;
- requires the Department of Transportation to create an account within the State Infrastructure Bank for loans for certain types of development;
- amends preemption provisions related to permitting of vertiports; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

17B-2a-806, as last amended by Laws of Utah 2022, Chapter 69
41-1a-226, as last amended by Laws of Utah 2022, Chapter 259
41-1a-401, as last amended by Laws of Utah 2022, Chapter 259
41-1a-422, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, 255, 259, 335, 451, and 456
41-1a-1206, as last amended by Laws of Utah 2022, Chapters 56, 259
41-6a-1642, as last amended by Laws of Utah 2022, Chapters 160, 259
41-21-1, as last amended by Laws of Utah 2022, Chapter 259
59-12-103, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433
72-1-102, as last amended by Laws of Utah 2022, Chapter 69
72-1-202, as last amended by Laws of Utah 2022, Chapter 69
72-1-203, as last amended by Laws of Utah 2019, Chapter 479
72-1-213.2, as last amended by Laws of Utah 2022, Chapter 259
72-1-304, as last amended by Laws of Utah 2022, Chapter 406
72-1-305, as last amended by Laws of Utah 2018, Chapter 424
72-2-106, as last amended by Laws of Utah 2017, Chapters 144, 234
72-2-107, as last amended by Laws of Utah 2020, Chapter 377
72-2-123, as last amended by Laws of Utah 2008, Chapter 382
72-2-124, as last amended by Laws of Utah 2022, Chapters 69, 259 and 406
72-2-202, as last amended by Laws of Utah 2022, Chapter 463
72-5-102, as last amended by Laws of Utah 2021, Chapter 222
72-5-114, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-6-112.5, as last amended by Laws of Utah 2019, Chapter 43
72-14-103, as last amended by Laws of Utah 2022, Chapter 99
72-16-102, as last amended by Laws of Utah 2020, Chapter 423

Utah Code Sections Affected by Coordination Clause:

72-14-103, as last amended by Laws of Utah 2022, Chapter 99

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

Section 1. Section 17B-2a-806 is amended to read:

17B-2a-806. Authority of the state or an agency of the state with respect to a public transit district -- Counties and municipalities authorized to provide funds to public transit district -- Equitable allocation of resources within the public transit district.

(1) The state or an agency of the state may:

(a) make public contributions to a public transit district as in the judgment of the Legislature or governing board of the agency are necessary or proper; [~~or~~]

(b) authorize a public transit district to perform, or aid and assist a public transit district in performing, an activity that the state or agency is authorized by law to perform[~~.~~]; or

(c) perform any action that the state agency is authorized by law to perform for the benefit of a public transit district.

(2) (a) A county or municipality involved in the establishment and operation of a public transit district may provide funds necessary for the operation and maintenance of the district.

(b) A county's use of property tax funds to establish and operate a public transit district

within any part of the county is a county purpose under Section 17-53-220.

(3) (a) To allocate resources and funds for development and operation of a public transit district, whether received under this section or from other sources, and subject to Section 72-1-202 pertaining to fixed guideway capital development within a large public transit district, a public transit district may:

(i) give priority to public transit services that feed rail fixed guideway services; and

(ii) allocate funds according to population distribution within the public transit district.

(b) The comptroller of a public transit district shall report the criteria and data supporting the allocation of resources and funds in the statement required in Section 17B-2a-812.

Section 2. Section 41-1a-226 is amended to read:

41-1a-226. Vintage vehicle -- Signed statement -- Registration.

(1) The owner of a vintage vehicle who applies for registration under this part shall provide a signed statement that the vintage vehicle:

(a) is owned and operated for the purposes described in Section 41-21-1; and

(b) is safe to operate on the highways of this state as described in Section 41-21-4.

(2) For a vintage vehicle with a model year of [~~1980~~] 1982 or older, the signed statement described in Subsection (1) is in lieu of an emissions inspection, from which a vintage vehicle is exempt under Subsection 41-6a-1642(4).

(3) Before registration of a vintage vehicle that has a model year of [~~1981~~] 1983 or newer, an owner shall:

(a) obtain a certificate of emissions inspection as provided in Section 41-6a-1642; or

(b) provide proof of vehicle insurance coverage for the vintage vehicle that is a type specific to a vehicle collector.

Section 3. Section 41-1a-401 is amended to read:

41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.

(1) (a) Except as provided in Subsection (1)(c), the division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer;

(ii) one decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle;

(iii) one decal for a camper, in lieu of a license plate, which shall be attached in plain sight to the rear of the camper; and

(iv) two identical license plates for every other vehicle.

(b) The license plate or decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or decal is issued or used upon any other vehicle than the registered vehicle.

(c) (i) Notwithstanding Subsections (1)(a) and (b) and except as provided in Subsection (1)(c)(ii), the division, upon registering a motor vehicle that has been sold, traded, or the ownership of which has been otherwise released, shall transfer the license plate issued to the person applying to register the vehicle if:

(A) the previous registered owner has included the license plate as part of the sale, trade, or ownership release; and

(B) the person applying to register the vehicle applies to transfer the license plate to the new registered owner of the vehicle.

(ii) The division may not transfer a personalized or special group license plate to a new registered owner under this Subsection (1)(c) if the new registered owner does not meet the qualification or eligibility requirements for that personalized or special group license plate under Sections 41-1a-410 through 41-1a-422.

(2) The division may receive applications for registration renewal, renew registration, and issue new license plates or decals at any time prior to the expiration of registration.

(3) (a) (i) Except as provided in Subsection (3)(a)(iii), all license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(ii) Except as provided in Subsection (3)(a)(iii), for a historical support special group license plate created under this part, the division shall procure reflective material to satisfy the requirement under Subsection (3)(a)(i) as soon as such material is available at a reasonable cost.

(iii) Notwithstanding the reflectivity requirement described in Subsection (3)(a)(i), the division may manufacture and issue a historical support special group license plate without a fully reflective plate face if:

(A) the historical special group license plate is requested for a vintage vehicle that has a model year of [~~1980~~] 1982 or older; and

(B) the division has manufacturing equipment and technology available to produce the plate in small quantities.

(b) The division shall prescribe all license plate material specifications and establish and implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

(5) A violation of this section is an infraction.

Section 4. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Outdoor Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Outdoor Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 80-2-502 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(EE) the Latino Community Support Restricted Account created in Section 13-1-16;

(FF) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101;

(GG) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Uniform School Fund;

(HH) the Governor's Suicide Prevention Fund created in Section 62A-15-1103 to support the Live On suicide prevention campaign administered by the Division of Integrated Healthcare; or

(II) the State Park Fees Restricted Account created in Section 79-4-402 to support the Division of State Parks' dark sky initiative.

(ii) (A) For a veterans special group license plate described in Subsection (4) or 41-1a-421(1)(a)(v), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), an applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(ii) An applicant for a historical special group license plate is not required to make a donation to the Utah State Historical Society if the historical special group license plate is for a vintage vehicle that has a model year of [~~1980~~] 1982 or older.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months before registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 5. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) $46.00 for each motorcycle;

(b) $44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) $31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) $28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) $53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) $69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) $69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(g) $45 for each vintage vehicle that has a model year of [~~1981~~] 1983 or newer;

(h) in addition to the fee described in Subsection (1)(b):

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) Each motor vehicle not described in this Subsection (1)(h) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $21.75 for each hybrid electric motor vehicle; and

(iii) $56.50 for each plug-in hybrid electric motor vehicle; and

(i) in addition to the fee described in Subsection (1)(g), for a vintage vehicle that has a model year of [~~1981~~] 1983 or newer, 50 cents.

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) $34.50 for each motorcycle; and

(ii) $33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) each motor vehicle not described in this Subsection (2)(b) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $16.50 for each hybrid electric motor vehicle; and

(iii) $43.50 for each plug-in hybrid electric motor vehicle.

(3) (a) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (2)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual

percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2024, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(ii) and (iii) and (2)(b)(ii) and (iii) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(b) The amounts calculated as described in Subsection (3)(a) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that has a model year of [~~1980~~] 1982 or older is $40.

(b) A vintage vehicle that has a model year of [~~1980~~] 1982 or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of $130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than $200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 6. Section 41-6a-1642 is amended to read:

41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(iv) Volkswagen Golf Sportwagen, model year 2015;

(v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

(vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

(iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

(v) Audi A8, model years 2014, 2015, and 2016;

(vi) Audi A8L, model years 2014, 2015, and 2016;

(vii) Audi Q5, model years 2014, 2015, and 2016; and

(viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1:

(i) if the vintage vehicle has a model year of [~~1980~~] 1982 or older; or

(ii) for a vintage vehicle that has a model year of [~~1981~~] 1983 or newer, if the owner provides proof of vehicle insurance that is a type specific to a vehicle collector;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(g) a motorcycle as defined in Section 41-1a-102;

(h) an electric motor vehicle as defined in Section 41-1a-102; and

(i) a motor vehicle with a model year of 1967 or older.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(f) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

(a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(i) a model year of 2007 or newer;

(ii) a gross vehicle weight rating of 14,000 pounds or less; and

(iii) a model year that is five years old or older; and

(b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(i) with a gross vehicle weight rating of 14,000 pounds or less;

(ii) that has a model year of 1998 or newer; and

(iii) that has a model year that is five years old or older.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in regulations or ordinances made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13) (a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

(14) (a) If a county has reason to believe that a vehicle owner has provided an address as required in Section 41-1a-209 to register or attempt to register a motor vehicle in a county other than the county of the bona fide residence of the owner in order to avoid an emissions inspection required under this section, the county may investigate and gather evidence to determine whether the vehicle owner has used a false address or an address other than the vehicle owner's bona fide residence or place of business.

(b) If a county conducts an investigation as described in Subsection (14)(a) and determines that the vehicle owner has used a false or improper address in an effort to avoid an emissions inspection as required in this section, the county may impose a civil penalty of $1,000.

Section 7. Section 41-21-1 is amended to read:

41-21-1. Definitions.

(1) "Autocycle" means the same as that term is defined in Section 53-3-102.

(2) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(3) (a) "Street rod" means a motor vehicle or motorcycle that:

(i) (A) was manufactured in 1948 or before; or

(B) (I) was manufactured after 1948 to resemble a vehicle that was manufactured in 1948 or before; and

(II) (Aa) has been altered from the manufacturer's original design; or

(Bb) has a body constructed from non-original materials; and

(ii) is primarily a collector's item that is used for:

(A) club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional transportation; and

(F) other similar uses.

(b) "Street rod" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(4) (a) "Vintage travel trailer" means a travel trailer, camping trailer, or fifth wheel trailer that is:

(i) 30 years old or older, from the current year; and

(ii) primarily a collector's item that is used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional recreational or vacation use; and

(F) other similar uses.

(b) "Vintage travel trailer" does not include a travel trailer, camping trailer, or fifth wheel trailer that is used for the general, daily transportation of persons or property.

(5) (a) "Vintage vehicle" means a motor vehicle or motorcycle that:

(i) is 30 years old or older from the current year;

(ii) displays:

(A) a unique vehicle type special group license plate issued in accordance with Section 41-1a-418; or

(B) for a vehicle that has a model year of [~~1980~~] 1982 or older, a historical support special group plate; and

(iii) is primarily a collector's item that is used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional transportation; and

(F) other similar uses.

(b) "Vintage vehicle" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(c) "Vintage vehicle" includes a:

(i) street rod; and

(ii) vintage travel trailer.

Section 8. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of

taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(e)(i)(A)(I).

(i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(e)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the

Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through (D).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (7)(b)(iv)(E) into

the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant revenue.

(c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through (D);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(ii) As used in this Subsection (8)(d), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(vi).

(vi) The commission shall annually deposit the amount described in Subsection (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(vii) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(e).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

(15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(e)(i)(A)(I).

Section 9. Section 72-1-102 is amended to read:

72-1-102. Definitions.

As used in this title:

(1) "Circulator alley" means a publicly owned passageway:

(a) with a right-of-way width of 20 feet or greater;

(b) located within a master planned community;

(c) established by the city having jurisdictional authority as part of the street network for traffic circulation that may also be used for:

(i) garbage collection;

(ii) access to residential garages; or

(iii) access rear entrances to a commercial establishment; and

(d) constructed with a bituminous or concrete pavement surface.

(2) "Commission" means the Transportation Commission created under Section 72-1-301.

(3) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

(4) "Department" means the Department of Transportation created in Section 72-1-201.

(5) "Executive director" means the executive director of the department appointed under Section 72-1-202.

(6) "Farm tractor" has the meaning set forth in Section 41-1a-102.

(7) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(8) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(9) (a) "Fixed guideway capital development" means a project to construct or reconstruct a public transit fixed guideway facility that will add capacity to a fixed guideway public transit facility.

(b) "Fixed guideway capital development" includes:

(i) a project to strategically double track commuter rail lines; and

(ii) a project to develop and construct public transit facilities and related infrastructure pertaining to the Point of the Mountain State Land Authority created in Section 11-59-201.

(10) "Greenfield" means the same as that term is defined in Section 17C-1-102.

[~~(10)~~] (11) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

[~~(11)~~] (12) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.

[~~(12)~~] (13) "Housing and transit reinvestment zone" means the same as that term is defined in Section 63N-3-602.

[~~(13)~~] (14) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

[~~(14)~~] (15) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

[~~(15)~~] (16) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(16)~~] (17) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(17)~~] (18) "Master planned community" means a land use development:

(a) designated by the city as a master planned community; and

(b) comprised of a single development agreement for a development larger than 500 acres.

[~~(18)~~] (19) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

[~~(19)~~] (20) "Municipality" has the same meaning set forth in Section 10-1-104.

[~~(20)~~] (21) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

[~~(21)~~] (22) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) "Port-of-entry" includes inspection and checking stations and weigh stations.

[~~(22)~~] (23) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

[~~(23)~~] (24) "Public transit" means the same as that term is defined in Section 17B-2a-802.

[~~(24)~~] (25) "Public transit facility" means a fixed guideway, transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

[~~(25)~~] (26) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to [~~a highway~~] state transportation purposes.

[~~(26)~~] (27) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

[~~(27)~~] (28) "Semitrailer" has the meaning set forth in Section 41-1a-102.

[~~(28)~~] (29) "SR" means state route and has the same meaning as state highway as defined in this section.

[~~(29)~~] (30) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

[~~(30)~~] (31) "State transportation purposes" has the meaning set forth in Section 72-5-102.

[~~(31)~~] (32) "State transportation systems" means all streets, alleys, roads, highways, pathways, and thoroughfares of any kind, including connected structures, airports, aerial corridor infrastructure, spaceports, public transit facilities, and all other modes and forms of conveyance used by the public.

[~~(32)~~] (33) "Trailer" has the meaning set forth in Section 41-1a-102.

[~~(33)~~] (34) "Transportation reinvestment zone" means a transportation reinvestment zone created pursuant to Section 11-13-227.

[~~(34)~~] (35) "Truck tractor" has the meaning set forth in Section 41-1a-102.

[~~(35)~~] (36) "UDOT" means the Utah Department of Transportation.

[~~(36)~~] (37) "Vehicle" has the same meaning set forth in Section 41-1a-102.

Section 10. Section 72-1-202 is amended to read:

72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.

(1) (a) The governor, with the advice and consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.

(b) The executive director shall be a registered professional engineer and qualified executive with technical and administrative experience and training appropriate for the position.

(c) The executive director shall remain in office until a successor is appointed.

(d) The executive director may be removed by the governor.

(2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:

(a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;

(b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;

(c) have the responsibility for the oversight and supervision of[~~:~~]

[~~(i)~~] any transportation project for which state funds are expended; [~~and~~]

[~~(ii) any fixed guideway capital development project within the boundaries of a large public transit district for which any state funds are expended;~~]

(d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;

(e) receive a salary, to be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business;

(f) purchase all equipment, services, and supplies necessary to achieve the department's functions, powers, duties, rights, and responsibilities delegated under Section 72-1-201;

(g) have the responsibility to determine whether a purchase from, contribution to, or other participation with a public entity or association of public entities in a pooled fund program to acquire, develop, or share information, data, reports, or other services related to the department's mission are procurement items under Title 63G, Chapter 6a, Utah Procurement Code;

(h) have responsibility for administrative supervision of the Comptroller Division, the Internal Audit Division, and the Communications Division; and

(i) appoint assistants, to serve at the discretion of the executive director, to administer the divisions of the department.

(3) The executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the Division of Human Resource Management.

[~~(4) (a) For a fixed guideway capital development project within the boundaries of a large public transit district for which state funds are expended, responsibilities of the executive director include:~~]

[~~(i) project development for a fixed guideway capital development project in a large public transit district;~~]

[~~(ii) oversight and coordination of planning, including:~~]

[~~(A) development of statewide strategic initiatives for planning across all modes of transportation;~~]

[~~(B) coordination with metropolitan planning organizations;~~]

[~~(C) coordination with a large public transit district, including planning, project development, outreach, programming, environmental studies and impact statements, construction, and impacts on public transit operations; and~~]

[~~(D) corridor and area planning;~~]

[~~(iii) programming and prioritization of fixed guideway capital development projects;~~]

[~~(iv) fulfilling requirements for environmental studies and impact statements; and~~]

[~~(v) resource investment, including identification, development, and oversight of public-private partnership opportunities.~~]

[~~(5) (a) Before October 31, 2022, the department shall submit to the Transportation Interim Committee a written plan for the department to assume management of all fixed guideway capital development projects within a large public transit district for which state funds are expended.~~]

[~~(b) The department shall consult with a large public transit district and relevant metropolitan planning organizations in developing the plan described in Subsection (5)(a).~~]

[~~(c) The Transportation Interim Committee shall consider the plan submitted by the department as described in Subsection (5)(a) and make recommendations to the Legislature before December 1, 2022.~~]

Section 11. Section 72-1-203 is amended to read:

72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.

(1) The executive director shall appoint [~~two~~] the following deputy directors, who shall serve at the discretion of the executive director[~~.~~]:

(a) the deputy director of engineering and operation, who shall be a registered professional engineer in the state, and who shall be the chief engineer of the department; and

(b) the deputy director of planning and investment.

[~~(2) (a) The deputy director of engineering and operations shall be a registered professional engineer in the state and is the chief engineer of the department.~~]

[~~(b) The deputy director of engineering and operations shall assist the executive director with areas of responsibility that may include:~~]

[~~(i) project development, including statewide standards for project design and construction, right-of-way, materials, testing, structures, and construction;~~]

[~~(ii) oversight of the management of the region offices described in Section 72-1-205;~~]

[~~(iii) operations and traffic management;~~]

[~~(iv) oversight of operations of motor carriers and ports;~~]

[~~(v) transportation systems safety;~~]

[~~(vi) aeronautical operations; and~~]

[~~(vii) equipment for department engineering and maintenance functions.~~]

[~~(c) The deputy director of planning and investment shall assist the executive director with areas of responsibility that may include:~~]

[~~(i) oversight and coordination of planning, including:~~]

[~~(A) development of statewide strategic initiatives for planning across all modes of transportation;~~]

[~~(B) coordination with metropolitan planning organizations and local governments; and~~]

[~~(C) corridor and area planning;~~]

[~~(ii) asset management;~~]

[~~(iii) programming and prioritization of transportation projects;~~]

[~~(iv) fulfilling requirements for environmental studies and impact statements;~~]

[~~(v) resource investment, including identification, development, and oversight of public-private partnership opportunities;~~]

[~~(vi) data analytics services to the department;~~]

[~~(vii) corridor preservation;~~]

[~~(viii) employee development;~~]

[~~(ix) maintenance planning; and~~]

[~~(x) oversight and facilitation of the negotiations and integration of public transit providers described in Section 17B-2a-827.~~]

(2) As assigned by the executive director, the deputy directors described in Subsection (1) may assist the executive director with the following departmental responsibilities:

(a) project development, including statewide standards for project design and construction, right-of-way, materials, testing, structures, and construction;

(b) oversight of the management of the region offices described in Section 72-1-205;

(c) operations and traffic management;

(d) oversight of operations of motor carriers and ports;

(e) transportation systems safety;

(f) aeronautical operations;

(g) equipment for department engineering and maintenance functions;

(h) oversight and coordination of planning, including:

(i) development of statewide strategic initiatives for planning across all modes of transportation;

(ii) coordination with metropolitan planning organizations and local governments;

(iii) coordination with a large public transit district, including planning, project development, outreach, programming, environmental studies and impact statements, construction, and impacts on public transit operations; and

(iv) corridor and area planning;

(i) asset management;

(j) programming and prioritization of transportation projects;

(k) fulfilling requirements for environmental studies and impact statements;

(l) resource investment, including identification, development, and oversight of public-private partnership opportunities;

(m) data analytics services to the department;

(n) corridor preservation;

(o) employee development;

(p) maintenance planning;

(q) oversight and facilitation of the negotiations and integration of public transit providers described in Section 17B-2a-827;

(r) oversight and supervision of any fixed guideway capital development project within the boundaries of a large public transit district for

which any state funds are expended, including those responsibilities described in Subsections (2)(a), (h), (j), (k), and (l); and

(s) other departmental responsibilities as determined by the executive director.

(3) The executive director shall ensure that the same deputy director does not oversee or supervise both the fixed guideway capital development responsibilities described in Subsection (2)(r) and the department's fixed guideway rail safety responsibilities, including the responsibilities described in Section 72-1-214.

Section 12. Section 72-1-213.2 is amended to read:

72-1-213.2. Road Usage Charge Program Special Revenue Fund -- Revenue.

(1) There is created [~~a~~] an expendable special revenue fund within the Transportation Fund known as the "Road Usage Charge Program Special Revenue Fund."

(2) (a) The fund shall be funded from the following sources:

(i) revenue collected by the department under Section 72-1-213.1;

(ii) appropriations made to the fund by the Legislature;

(iii) contributions from other public and private sources for deposit into the fund;

(iv) interest earnings on cash balances; and

(v) money collected for repayments and interest on fund money.

(b) If the revenue derived from the sources described in Subsection (2)(a) is insufficient to cover the costs of administering the road usage charge program, subject to Subsection 72-2-107(1), the department may transfer into the fund revenue deposited into the Transportation Fund from the fee described in Subsections 41-1a-1206(1)(h) and (2)(b) in an amount sufficient to enable the department to administer the road usage charge program.

(3) (a) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Road Usage Charge Program Special Revenue Fund.

(b) Revenue in the Road Usage Charge Program Special Revenue Fund is nonlapsing.

(4) [~~Upon appropriation by the Legislature, the~~] The department may use revenue deposited into the Road Usage Charge Program Special Revenue Fund:

(a) to cover the costs of administering the program; and

(b) for [~~state transportation purposes~~] the purposes described in Subsection (5).

(5) If revenue collected by the department under Section 72-1-213.1 in a fiscal year is sufficient to cover all costs related to administering the road usage charge program in that fiscal year, the department shall deposit any excess revenue collected by the department under Section 72-1-213.1 from the Road Usage Charge Program Special Revenue Fund into the Transportation Fund for appropriation and apportionment in accordance with Section 72-2-107.

Section 13. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects [~~that:~~] described in Section 72-2-124;

[~~(A) mitigate traffic congestion on the state highway system; and~~]

[~~(B) are part of an active transportation plan approved by the department;~~]

(iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission:

(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802; and

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(b) When prioritizing a transportation project that increases capacity, the commission may give priority consideration to projects that are:

(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

(A) the state is a participant in the transportation reinvestment zone; or

(B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system; or

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(c) If the department receives a notice of prioritization for a municipality as described in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection 17-27a-408(5), the commission may, during the fiscal year specified in the notice, give priority consideration to transportation projects that are within the boundaries of the municipality or the unincorporated areas of the county.

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 14. Section 72-1-305 is amended to read:

72-1-305. Project selection using the written prioritization process -- Public comment -- Report.

(1) Except as provided in Subsection (4), in determining priorities and funding levels of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new transportation capacity projects, the commission shall use the weighted criteria system adopted in the written prioritization process under Section 72-1-304.

(2) Prior to finalizing priorities and funding levels of projects in the state transportation system, the commission shall conduct public hearings at locations around the state and accept public comments on:

(a) the written prioritization process;

(b) the merits of new transportation capacity projects that will be prioritized under this section; and

(c) the merits of new transportation capacity projects as recommended by a consensus of local elected officials participating in a metropolitan planning organization as defined in Section 72-1-208.5.

(3) The commission shall make the weighted criteria system ranking for each project publicly available prior to the public hearings held under Subsection (2).

(4) (a) If the commission prioritizes a project over another project with a higher rank under the

weighted criteria system, the commission shall identify the change and accept public comment at a hearing held under this section on the merits of prioritizing the project above higher ranked projects.

(b) The commission shall make the reasons for the prioritization under Subsection (4)(a) publicly available.

(5) (a) The executive director or the executive director's designee shall report annually to the governor and a committee designated by the Legislative Management Committee no later than the last day of October:

(i) the projects prioritized under this section during the year prior to the report; and

(ii) the status and progress of all projects prioritized under this section.

(b) Annually, before any funds are programmed and allocated from the Transit Transportation Investment Fund created in Section 72-2-124 for each fiscal year, the executive director or the executive director's designee, along with the executive director of a large public transit district as described in Section 17B-2a-802, shall report to the governor and a committee designated by the Legislative Management Committee no later than the last day of October:

(i) the public transit projects prioritized under this section during the year prior to the report; and

(ii) the status and progress of all public transit projects prioritized under this section.

(6) The department shall annually report to the Transportation Commission on the status of new capacity transportation projects, including projects that were funded by the Legislature in an appropriations act.

[~~(6) (a) The department may not delay a new transportation capacity project that was funded by the Legislature in an appropriations act to a different fiscal year than programmed by the commission due to an unavoidable shortfall in revenues unless the project delays are prioritized and approved by the Transportation Commission.~~]

[~~(b) The Transportation Commission shall prioritize and approve any new transportation capacity project delays for projects that were funded by the Legislature in an appropriations act due to an unavoidable shortfall in revenues.~~]

Section 15. Section 72-2-106 is amended to read:

72-2-106. Appropriation and transfers from Transportation Fund.

(1) On and after July 1, 1981, there is appropriated from the Transportation Fund to the use of the department an amount equal to two-elevenths of the taxes collected from the motor fuel tax and the special fuel tax, exclusive of the formula amount appropriated for class B and class C roads, to be used for highway rehabilitation.

(2) For a fiscal year beginning on or after July 1, 2016, the Division of Finance shall annually transfer an amount equal to the amount of revenue generated by a tax imposed on motor and special fuel that is sold, used, or received for sale or used in this state at a rate of 1.8 cents per gallon to the Transportation Investment Fund of 2005 created by Section 72-2-124.

(3) For a fiscal year beginning on or after July 1, 2019, the Division of Finance shall annually transfer to the Transportation Investment Fund of 2005 created by Section 72-2-124 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(4) For purposes of the calculation described in Subsection 59-12-103(7)(c), the Division of Finance shall notify the State Tax Commission of the amount of any transfer made under Subsections (2) and (3).

Section 16. Section 72-2-107 is amended to read:

72-2-107. Appropriation from Transportation Fund -- Apportionment for class B and class C roads.

(1) There is appropriated to the department from the Transportation Fund annually an amount equal to 30% of an amount which the director of finance shall compute in the following manner: The total revenue deposited into the Transportation Fund during the fiscal year from state highway-user taxes and fees, minus those amounts appropriated or transferred from the Transportation Fund during the same fiscal year to:

(a) the Department of Public Safety;

(b) the State Tax Commission;

(c) the Division of Finance;

(d) the Utah Travel Council;

(e) except as provided in Section 72-1-213.2, the road usage charge program created in Section 72-1-213.1; and

(f) any other amounts appropriated or transferred for any other state agencies not a part of the department.

(2) (a) Except as provided in Subsections (2)(b) and (c), all of the money appropriated in Subsection (1) shall be apportioned among counties and municipalities for class B and class C roads as provided in this title.

(b) The department shall annually transfer $500,000 of the amount calculated under Subsection (1) to the State Park Access Highways Improvement Program created in Section 72-3-207.

(c) Administrative costs of the department to administer class B and class C roads shall be paid from funds calculated under Subsection (1).

(3) Each quarter of every year the department shall make the necessary accounting entries to

transfer the money appropriated under this section for class B and class C roads.

(4) The funds appropriated for class B and class C roads shall be expended under the direction of the department as the Legislature shall provide.

Section 17. Section 72-2-123 is amended to read:

72-2-123. Rules adopting guidelines -- Partnering to finance state highway capacity improvements -- Partnering proposals.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission, in consultation with representatives of local government, shall make rules adopting guidelines for partnering with counties and municipalities for their help to finance state highway improvement projects through:

(a) local matching dollars; [~~or~~]

(b) agreements regarding new revenue a county or municipality expects will be generated as a result of the construction of a state highway improvement project; or

[~~(b)~~] (c) other local participation methods.

(2) The guidelines described in Subsection (1) shall encourage partnering to help finance state highway improvement projects and provide for:

(a) the consideration of factors relevant to a decision to make a program adjustment including the potential to:

(i) extend department resources to other needed projects;

(ii) alleviate significant existing or future congestion or hazards to the traveling public; and

(iii) address a need that is widely recognized by the public, elected officials, and transportation planners;

(b) a process for submitting, evaluating, and hearing partnering proposals; and

(c) [~~keeping~~] the creation of a public record of each proposal from initial submission to final disposition.

(3) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules.

Section 18. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) two lanes on U-111 from Herriman Parkway to 11800 South;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality during the fiscal year specified in the notice.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county during the fiscal year specified in the notice.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) private contributions; and

(v) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the [~~Legislature may appropriate~~] commission may prioritize money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304; or

[~~(ii) for development of the oversight plan described in Section 72-1-202(5); or~~]

[~~(iii)~~] (ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility.

(e) (i) The [~~Legislature~~] commission may only [~~appropriate~~] prioritize money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

(11) (a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature; and

(iii) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The executive director may only use fund money to pay the costs needed for:

(i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or paved nonmotorized trail projects that:

(A) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(B) serve a regional purpose; and

(C) are part of an active transportation plan approved by the department or the plan described in Subsection (11)(d)(ii);

(ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails that serve a regional purpose; and

(iii) the administration of the fund, including staff and overhead costs.

Section 19. Section 72-2-202 is amended to read:

72-2-202. State Infrastructure Bank Fund -- Creation -- Use of money.

(1) There is created a revolving loan fund entitled the State Infrastructure Bank Fund.

(2) (a) The fund consists of money generated from the following revenue sources:

(i) appropriations made to the fund by the Legislature;

(ii) federal money and grants that are deposited [~~in~~] into the fund;

(iii) money transferred to the fund by the commission from other money available to the department;

(iv) state grants that are deposited [~~in~~] into the fund;

(v) contributions or grants from any other private or public sources for deposit into the fund; and

(vi) subject to Subsection (2)(b), all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.

(b) When a loan from the fund is repaid, the department may request and the Legislature may transfer from the fund to the source from which the money originated an amount equal to the repaid loan.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Money in the fund shall be used by the department, as prioritized by the commission, only to:

(a) provide infrastructure loans or infrastructure assistance; and

(b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects and publicly owned infrastructure projects, and obtaining repayments of infrastructure loans or infrastructure assistance.

(5) (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.

(b) The department shall establish a separate account in the fund for infrastructure loans for publicly owned infrastructure projects in greenfield areas that are located no less than one mile from an existing municipal or county:

(i) water supply;

(ii) water distribution facility; or

(iii) wastewater facility.

(c) Prioritization of infrastructure loans described in Subsection (5)(b) shall follow the same process as described in Section 72-2-203.

[~~(b)~~] (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.

(6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

(7) Before July 1, 2022, the department shall transfer the loan described in Subsection 63B-27-101(3)(a)(i) from the State Infrastructure Bank Fund to the military development infrastructure revolving loan fund created in Section 63A-3-402.

Section 20. Section 72-5-102 is amended to read:

72-5-102. Definitions.

As used in this part, "state transportation purposes" includes:

(1) highway, public transit facility, and transportation rights-of-way, including those necessary within cities and towns;

(2) the construction, reconstruction, relocation, improvement, maintenance, and mitigation from the effects of these activities on state highways and other transportation facilities, including parking facilities, under the control of the department;

(3) limited access facilities, including rights of access, air, light, and view and frontage and service roads to highways;

(4) adequate drainage in connection with any highway, cut, fill, or channel change and the maintenance of any highway, cut, fill, or channel change;

(5) weighing stations, shops, offices, storage buildings and yards, and road maintenance or construction sites;

(6) road material sites, sites for the manufacture of road materials, and access roads to the sites;

(7) the maintenance of an unobstructed view of any portion of a highway to promote the safety of the traveling public;

(8) the placement of traffic signals, directional signs, and other signs, fences, curbs, barriers, and obstructions for the convenience of the traveling public;

(9) the construction and maintenance of storm sewers, sidewalks, and highway illumination;

(10) the construction and maintenance of livestock highways;

(11) the construction and maintenance of roadside rest areas adjacent to or near any highway; and

(12) the mitigation of impacts from transportation projects.

Section 21. Section 72-5-114 is amended to read:

72-5-114. Property acquired in advance of construction -- Lease or rental.

(1) (a) The department may acquire real property or interests or improvements in real property in advance of the actual construction, reconstruction, or improvement of highways or public transit facilities in order to save on acquisition costs or avoid the payment of excessive damages.

(b) The real property or interests or improvements in real property may be leased or rented by the department in a manner, for a period of time, and for a sum determined by the department to be in the best interest of the state.

(2) (a) The department may employ private agencies to manage rental properties when it is more economical and in the best interests of the state.

(b) All money received for leases and rentals, after deducting any portion to which the federal government may be entitled, shall be deposited with the state treasurer and credited to the Transportation Fund.

Section 22. Section 72-6-112.5 is amended to read:

72-6-112.5. Definitions -- Nighttime highway construction noise -- Exemptions -- Permits.

(1) As used in this section:

(a) "Commuter rail" means the same as that term is defined in Section 63N-3-602.

[~~(a)~~] (b) (i) "Front row receptor" means a noise-sensitive residential receptor that is:

(A) immediately adjacent to a transportation facility; or

(B) within 800 feet of a transportation facility that is within a commercial or industrialized area.

(ii) "Front row receptor" includes a residence that is contiguous to a property immediately adjacent to a transportation facility in a residential area.

[~~(b)~~] (c) "Nighttime [~~highway~~] construction" means highway or public transit facility construction occurring between the hours of 10:00 p.m. and 7:00 a.m.

[~~(c)~~] (d) "Nuisance" means the same as that term is defined in Section 78B-6-1101.

[~~(d)~~] (e) (i) "Permitted activities" means activities occurring between the hours of 7:00 p.m. and 7:00 a.m. that are related to and necessary for nighttime [~~highway~~] construction, whether occurring at the construction site or at a gravel pit or other site for production of raw materials, and includes:

(A) loading and unloading of trucks;

(B) asphalt mixing and hauling; and

(C) concrete mixing and hauling.

(ii) "Permitted activities" does not include:

(A) blasting; or

(B) crushing.

[~~(2) A state highway construction project conducted on a road where the normal posted speed limit is 55 miles per hour or greater is exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority.~~]

(2) The following projects are exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority:

(a) a state highway construction project conducted on a road where the normal posted speed limit is 55 miles per hour or greater; or

(b) a commuter rail construction project.

(3) [~~A state highway construction project conducted on a road where the normal posted speed limit is less than 55 miles per hour is~~] Except for a project described in Subsection (2), a state highway or a public transit facility construction project is exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority if the department:

(a) provides reasonable written notice at least 48 hours in advance of any required nighttime [~~highway~~] construction to each residential dwelling located within front row receptors of the activity;

(b) determines a net community, including traveler community, benefit exists to conduct nighttime highway construction after considering the following:

(i) public health;

(ii) project completion time;

(iii) air quality;

(iv) traffic;

(v) economics;

(vi) safety; and

(vii) local jurisdiction concerns; and

(c) institutes best management noise reduction practices, as determined by the department, for front row receptors, in consultation with local government or the local jurisdictional authority for all nighttime [~~highway~~] construction, which may include:

(i) equipment maintenance;

(ii) noise shielding;

(iii) scheduling the most noise intrusive activities during the day; and

(iv) other noise mitigation methods.

(4) (a) Subject to Subsection (2) or (3), a state highway project or public transit facility construction shall secure required noise permits from the local jurisdictional authority to conduct nighttime [~~highway~~] construction.

(b) To the extent practical, the department shall coordinate with the local jurisdictional authority during the pre-construction phase of a project to address noise exemption conditions.

(5) A local jurisdictional authority shall issue a nighttime [~~highway~~] construction permit limited to permitted activities if:

(a) the applicant provides evidence that the permitted activities are directly related to and necessary for a nighttime [~~highway~~] construction project for which the department has obtained a noise permit from a local jurisdictional authority pursuant to Subsection (4); and

(b) the local jurisdictional authority determines that any nuisance that may be caused by the nighttime [~~highway~~] construction may be reasonably mitigated.

(6) A local jurisdictional authority shall issue a nighttime [~~highway~~] construction noise permit without additional requirements to the department at the request of the department or the department's designated project agent if the requirements of [~~Subsections (2) and~~] Subsection (2) or (3) are met.

(7) (a) A local jurisdictional authority may request adjustments to a nighttime [~~highway~~] construction permit to mitigate unreasonable noise disturbances caused by nighttime [~~highway~~] construction or permitted activities.

(b) If adjustments are requested as described in Subsection (7)(a), the nighttime [~~highway~~] construction permit holder shall use best management noise reduction practices to mitigate unreasonable noise disturbances.

(8) (a) For the exemption provided in Subsection (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing procedures:

(i) for a local jurisdictional authority or local government to appeal the decision of the department to conduct nighttime [~~highway~~] construction [~~on roads where the normal posted speed limit is less than 55 miles per hour~~]; and

(ii) for the local jurisdictional authority to request that the department enforce the terms of a noise permit.

(b) After review and upon receiving a written notice from a local jurisdictional authority that the conditions for the noise exemption permit are not met, the department shall take corrective action to ensure nighttime [~~highway~~] construction activities meet requirements of the local permit.

Section 23. Section 72-14-103 is amended to read:

72-14-103. Preemption of local ordinance.

(1) A political subdivision of the state, or an entity within a political subdivision of the state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft or the private use of an advanced air mobility system, unless:

(a) authorized by this chapter; or

(b) the political subdivision or entity is an airport operator that enacts the law, rule, or ordinance to govern:

(i) the operation of an unmanned aircraft or an advanced air mobility system within the geographic boundaries of the airport over which the airport operator has authority; or

(ii) the takeoff or landing of an unmanned aircraft or an aircraft operated as part of an advanced air mobility system at the airport over which the airport operator has authority.

(2) (a) A political subdivision may not create a monopoly by entering into an agreement to grant or permit an exclusive right to one or more vertiport owners as the only vertiport owners or operators within the boundary of the political subdivision.

(b) Subsection (2)(a) does not preclude a political subdivision from granting a permit or right to a vertiport owner or operator if only one owner or operator applies for a permit in that political subdivision.

(3) Notwithstanding Subsection (2), if a political subdivision issues a permit to a vertiport owner or operator, unless the vertiport owner, operator, or facility receives any public money, the vertiport owner or operator may exclude other users from using the owner's or operator's vertiport.

[~~(2)~~] (4) This chapter supersedes any law, ordinance, or rule enacted by a political subdivision of the state before July 1, [~~2017~~] 2022.

Section 24. Section 72-16-102 is amended to read:

72-16-102. Definitions.

As used in this chapter:

(1) "Account" means the Amusement Ride Safety Restricted Account created in Section 72-16-204.

(2) (a) "Amusement park" means a permanent indoor or outdoor facility or park where one or more amusement rides are available for use by the general public.

(b) "Amusement park" does not include a traveling show, carnival, or public fairground.

(3) (a) "Amusement ride" means a device or combination of devices or elements that carries or conveys one or more riders along, around, or over a fixed or restricted route or course or allows the riders to steer or guide the device within an established area for the purpose of giving the riders amusement, pleasure, thrills, or excitement.

(b) "Amusement ride" does not include:

(i) a coin-operated ride that:

(A) is manually, mechanically, or electrically operated;

(B) is customarily placed in a public location; and

(C) does not normally require the supervision or services of an operator;

(ii) nonmechanized playground equipment, including a swing, seesaw, stationary spring-mounted animal feature, rider-propelled merry-go-round, climber, playground slide, trampoline, or physical fitness device;

(iii) an inflatable device;

(iv) a water-based recreational attraction where complete or partial immersion is intended, including a water slide, wave pool, or water park;

(v) a challenge, exercise, or obstacle course;

(vi) a passenger ropeway as defined in Section 72-11-102;

(vii) a device or attraction that involves one or more live animals;

(viii) a tractor ride or wagon ride; [~~or~~]

(ix) motion seats in a movie theater for which the manufacturer does not require a restraint[~~.~~]; or

(x) a zip line.

(4) "Committee" means the Utah Amusement Ride Safety Committee created in Section 72-16-201.

(5) "Director" means the director of the committee, hired under Section 72-16-202.

(6) "Mobile amusement ride" means an amusement ride that is:

(a) designed or adapted to be moved from one location to another;

(b) not fixed at a single location; and

(c) relocated at least once each calendar year.

(7) "Operator" means the individual who controls the starting, stopping, or speed of an amusement ride.

(8) "Owner-operator" means the person who has control over and responsibility for the maintenance, setup, and operation of an amusement ride.

(9) "Permanent amusement ride" means an amusement ride that is not a mobile amusement ride.

(10) "Qualified safety inspector" means an individual who holds a valid qualified safety inspector certification.

(11) "Qualified safety inspector certification" means a certification issued by the director under Section 72-16-303.

(12) "Reportable serious injury" means an injury to a rider that:

(a) occurs when there is a failure or malfunction of an amusement ride; and

(b) results in death, dismemberment, permanent disfigurement, permanent loss of the use of a body organ, member, function, or system, or a compound fracture.

(13) "Safety inspection certification" means a written document that:

(a) is signed by a qualified safety inspector certifying that:

(i) the qualified safety inspector performed an in-person inspection of an amusement ride to check compliance with the safety standards described in Section 72-16-304 and established by rule; and

(ii) at the time the qualified safety inspector performed the in-person inspection, the amusement ride:

(A) was set up for use by the general public; and

(B) satisfied the safety standards described in Section 72-16-304 and established by rule; and

(b) includes the date on which the qualified safety inspector performed the in-person inspection.

(14) "Serious injury" means an injury to a rider that:

(a) occurs when there is a failure or malfunction of an amusement ride; and

(b) requires immediate admission to a hospital and overnight hospitalization and observation by a licensed physician.

Section 25. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) If approved by two-thirds of all the members elected to each house, the amendments to Section 72-16-102 in this bill take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 26. Coordinating S.B. 185 with S.B. 24 and S.B. 161 -- Substantive and technical amendments.

If this S.B. 185 and S.B. 24, Advanced Air Mobility Amendments, and S.B. 161, Advanced Air Mobility Revisions, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, amend Section 72-14-103, being renumbered to Section 72-10-701 in S.B. 24, to read:

"(1) As used in this section, "advanced air mobility business" means a business that operates an unmanned aircraft system or an advanced air mobility system for a commercial purpose that is required to obtain a certificate pursuant to 14 C.F.R. Part 107 or 135.

[~~(1)~~] (2) A political subdivision of the state, or an entity within a political subdivision of the state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft or the private use of an advanced air mobility system, unless:

(a) authorized by this chapter; or

(b) the political subdivision or entity is an airport operator that enacts the law, rule, or ordinance to govern:

(i) the operation of an unmanned aircraft or an advanced air mobility system within the geographic boundaries of the airport over which the airport operator has authority; or

(ii) the takeoff or landing of an unmanned aircraft or an aircraft operated as part of an advanced air mobility system at the airport over which the airport operator has authority.

(3) (a) Subject to the provisions of this chapter, a political subdivision may require an advanced air mobility business to obtain a business license if the advanced air mobility business does not hold a current business license in good standing from another political subdivision in the state.

(b) A political subdivision may only charge a licensing fee to an advanced air mobility business in an amount that reimburses the political subdivision for the actual cost of processing the business license.

(4) A political subdivision may not require an advanced air mobility business to:

(a) obtain a separate business license beyond the initial business license described in Subsection (3)(a);

(b) pay a fee other than the fee for the initial business license described in Subsection (3); or

(c) pay a fee for each employee the advanced air mobility business employs.

(5) A political subdivision shall provide a reasonable accommodation to an advanced air mobility business with regard to any regulation or restriction on the size of the business.

(6) A political subdivision shall recognize as valid within the political subdivision the business license of an advanced air mobility business obtained in another political subdivision within the state, if the business license is current and in good standing.

(7) (a) A political subdivision may not create a monopoly by entering into an agreement to grant or permit an exclusive right to one or more vertiport owners as the only vertiport owners or operators within the boundary of the political subdivision.

(b) Subsection (7)(a) does not preclude a political subdivision from granting a permit or right to a vertiport owner or operator if only one owner or operator applies for a permit in that political subdivision.

(8) Notwithstanding Subsection (7), if a political subdivision issues a permit to a vertiport owner or operator, unless the vertiport owner, operator, or facility receives any public money, the vertiport owner or operator may exclude other users from using the owner's or operator's vertiport.

[~~(2)~~] (9) This chapter supersedes any law, ordinance, or rule enacted by a political subdivision of the state before July 1, [~~2017~~] 2022.".

CHAPTER 23
S. B. 288
Passed March 1, 2023
Approved March 9, 2023
Effective March 9, 2023

UTILITY BILL ASSISTANCE PROGRAM

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill creates the Utility Bill Assistance Program (program).

Highlighted Provisions:

This bill:

- creates the program which is to be administered by the Division of Public Utilities (division);
- authorizes the division to disburse money allocated to the program to large-scale electricity and natural gas utility companies to provide bill credits for customers who meet income requirements;
- requires a large-scale utility company to obtain approval from the Public Service Commission to participate in the program and to report to the Public Service Commission on the program's use; and
- requires the division to report to the Public Utilities, Energy, and Technology Interim Committee on the status of the program.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Public Utility Restricted Account as a one-time appropriation:
  - from Nonlapsing Balances -- Department of Commerce -- Commerce General Regulation, One-time, $4,700,000;
- to Public Utility Restricted Account as a one-time appropriation:
  - from Nonlapsing Balances -- Department of Commerce -- Public Utilities Professional and Technical Services, One-time, $2,400,000;
- to Public Utility Restricted Account as a one-time appropriation:
  - from Nonlapsing Balances -- Department of Commerce -- Office of Consumer Services Professional and Technical Services, One-time, $4,200,000;
- to Public Utility Restricted Account as a one-time appropriation:
  - from Nonlapsing Balances -- Public Service Commission, One-time, $867,000; and
- to Department of Commerce -- Utility Bill Assistance Program:
  - from General Fund Restricted -- Public Utility Restricted Account, One-time, $12,167,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

54-5-1.5, as last amended by Laws of Utah 2018, Chapter 469

ENACTS:

54-4-42, Utah Code Annotated 1953

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

Section 1. Section 54-4-42 is enacted to read:

54-4-42. Utility Bill Assistance Program.

(1) As used in this section:

(a) "Division" means the Division of Public Utilities established in Section 54-4a-1.

(b) "Eligible customer" means the same as that term is defined in Section 54-7-13.6.

(c) "Existing credit" refers to bill payment assistance provided under Section 54-7-13.6.

(d) "Large-scale utility" means a large-scale electric utility or a large-scale natural gas utility.

(e) "Program" means the Utility Bill Assistance Program created in this section.

(2) (a) There is created in the Department of Commerce the Utility Bill Assistance Program that shall be administered by the division.

(b) The purpose of the program is to provide credits to eligible customers to use against utility service balances.

(3) A large-scale utility may request approval for a tariff that authorizes the large-scale utility to provide credits to eligible customers from funds available to the program.

(4) The commission shall approve a large-scale utility's tariff request described in Subsection (3) if:

(a) the commission finds the tariff to be in the public interest; and

(b) the tariff does not result in increased costs to the large-scale utility's customers.

(5) The division shall allocate available funds in accordance with a commission-approved tariff of a large-scale utility.

(6) A large-scale utility that receives an allocation under Subsection (5) shall provide credits from funds received under this program to eligible customers to use against utility service balances.

(7) (a) A credit provided under the program shall be in addition to any existing credit the eligible customer receives.

(b) If a large-scale utility provides an existing credit on a monthly basis, the large-scale utility shall only provide a credit under this section if the eligible customer has a utility service balance after application of an existing credit.

(8) A large-scale utility with an approved tariff under Subsection (4) shall report to the commission semi-annually concerning:

(a) amounts expended since the program's inception or the previous report;

(b) amounts remaining to fund credits; and

(c) verification of customer eligibility.

(9) The division shall report to the Public Utilities, Energy, and Technology Interim Committee concerning the status of the program before November 30 of each year for which credits are provided.

(10) The commission and the division may review records in the possession of a large-scale utility concerning the credits provided in accordance with this section.

(11) The division may administer the program as long as funds appropriated for the program remain.

Section 2. Section 54-5-1.5 is amended to read:

54-5-1.5. Special regulation fee -- Supplemental Levy Committee -- Supplemental fee -- Fee for electrical cooperatives.

(1) (a) A special fee to defray the cost of regulation is imposed upon all public utilities subject to the jurisdiction of the Public Service Commission.

(b) The special fee is in addition to any charge now assessed, levied, or required by law.

(2) (a) The executive director of the Department of Commerce shall determine the special fee for the Department of Commerce.

(b) The chair of the Public Service Commission shall determine the special fee for the Public Service Commission.

(c) The fee shall be assessed as a uniform percentage of the gross operating revenue for the preceding calendar year derived from each public utility's business and operations during that period within this state, excluding income derived from interstate business. Gross operating revenue shall not include income to a wholesale electric cooperative derived from the sale of power to a rural electric cooperative which resells that power within the state.

(3) (a) The executive director of the Department of Commerce shall notify each public utility subject to the provisions of this chapter of the amount of the fee.

(b) The fee is due and payable on or before July 1 of each year.

(4) (a) There is created a restricted account within the General Fund known as the Public Utility Regulatory Restricted Account.

(b) Notwithstanding Subsection 13-1-2(3)(c), the Department of Commerce shall deposit a fee assessed under this section into the Public Utility Regulatory Restricted Account.

(c) Within appropriations by the Legislature:

(i) the Department of Commerce may use the funds in the Public Utility Regulatory Restricted Account to administer:

(A) the Division of Public Utilities; and

(B) the Office of Consumer Services; [~~and~~]

(ii) the Public Service Commission may use the funds in the Public Utility Regulatory Restricted Account to administer the Public Service Commission[~~.~~]; and

(iii) the Division of Public Utilities may use the funds in the Public Utility Regulatory Restricted Account to administer the Utility Bill Assistance Program created under Section 54-4-42.

(d) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any balance in the Public Utility Regulatory Restricted Account in excess of $3,000,000.

(5) (a) The Legislature intends that the public utilities provide all of the funds for the administration, support, and maintenance of:

(i) the Public Service Commission;

(ii) state agencies within the Department of Commerce involved in the regulation of public utilities; and

(iii) expenditures by the attorney general for utility regulation.

(b) Notwithstanding Subsection (5)(a), the fee imposed by Subsection (1) shall not exceed the greater of:

(i) (A) for a public utility other than an electrical cooperative, .3% of the public utility's gross operating revenues for the preceding calendar year; or

(B) for an electrical cooperative, .15% of the electrical cooperative's gross operating revenues for the preceding calendar year; or

(ii) $50.

(6) (a) There is created a Supplemental Levy Committee to levy additional assessments on public utilities when unanticipated costs of regulation occur in any fiscal year.

(b) The Supplemental Levy Committee shall consist of:

(i) one member selected by the executive director of the Department of Commerce;

(ii) one member selected by the chairman of the Public Service Commission;

(iii) two members selected by the three public utilities that paid the largest percent of the current regulatory fee; and

(iv) one member selected by the four appointed members.

(c) (i) The members of the Supplemental Levy Committee shall be selected within 10 working days after the executive director of the Department of

Commerce gives written notice to the Public Service Commission and the public utilities that a supplemental levy committee is needed.

(ii) If the members of the Supplemental Levy Committee have not been appointed within the time prescribed, the governor shall appoint the members of the Supplemental Levy Committee.

(d) (i) During any state fiscal year, the Supplemental Levy Committee, by a majority vote and subject to audit by the state auditor, may impose a supplemental fee on the regulated utilities for the purpose of defraying any increased cost of regulation.

(ii) The supplemental fee imposed upon the utilities shall equal a percentage of their gross operating revenue for the preceding calendar year.

(iii) The aggregate of all fees, including any supplemental fees assessed, shall not exceed .3% of the gross operating revenue of the utilities assessed for the preceding calendar year.

(iv) Payment of the supplemental fee is due within 30 days after receipt of the assessment.

(v) The utility may, within 10 days after receipt of assessment, request a hearing before the Public Service Commission if it questions the need for, or the reasonableness of, the supplemental fee.

(e) (i) Any supplemental fee collected to defray the cost of regulation shall be transferred to the state treasurer as a departmental collection.

(ii) Supplemental fees are excess collections, credited according to the procedures of Section 63J-1-105.

(iii) Charges billed to the Department of Commerce by any other state department, institution, or agency for services rendered in connection with regulation of a utility shall be credited by the state treasurer from the special or supplemental fees collected to the appropriations account of the entity providing that service according to the procedures provided in Title 63J, Chapter 1, Budgetary Procedures Act.

(7) (a) For purposes of this section, "electrical cooperative" means:

(i) a distribution electrical cooperative; or

(ii) a wholesale electrical cooperative.

(b) Subject to Subsection (7)(c), if the regulation of one or more electrical cooperatives causes unanticipated costs of regulation in a fiscal year, the commission may impose a supplemental fee on the one or more electrical cooperatives in this state responsible for the increased cost of regulation.

(c) The aggregate of all fees imposed under this section on an electrical cooperative in a calendar year shall not exceed the greater of:

(i) .3% of the electrical cooperative's gross operating revenues for the preceding calendar year; or

(ii) $50.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022. These are additions to amounts previously appropriated for fiscal year 2023.

Subsection (3)(a). Operating and Capital Budgets.

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

ITEM 1

To Department of Commerce — Utility Bill Assistance Program

From General Fund Restricted — Public Utility Restricted Acct., One-time 12,167,000

Schedule of Programs:

Utility Bill Assistance Program 12,167,000

Subsection (3)(b). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 2

To General Fund Restricted -- Public Utility Restricted Account

From Nonlapsing Balances -- Department of Commerce -- Commerce General Regulation 4,700,000

From Nonlapsing Balances -- Department of Commerce -- Public Utilities

Professional and Technical Services 2,400,000

From Nonlapsing Balances -- Department of Commerce -- Office of

Consumer Services Professional and Technical Services 4,200,000

From Nonlapsing Balances -- Public Service Commission 867,000

Schedule of Programs:

General Fund Restricted — Public Utility Restricted Account, One-time 12,167,000

Section 4. Effective date.

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

CHAPTER 24
S. B. 296
Passed March 1, 2023
Approved March 9, 2023
Effective March 9, 2023

PERFORMANCE REPORTING AND EFFICIENCY PROCESS AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies the government performance reporting and efficiency process.

Highlighted Provisions:

This bill:

- increases the threshold for a funding item that requires a performance measure;
- requires the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst to compile and provide to executive agencies a list of funding items passed each session;
- clarifies the process for finalizing an executive agency's proposed performance measures;
- modifies the requirements of the efficiency improvement process;
- clarifies the role of the legislative auditor general in the review and response to an efficiency evaluation; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63J-1-902, as enacted by Laws of Utah 2021, Chapter 421
63J-1-903, as enacted by Laws of Utah 2021, Chapter 421
63J-1-904, as enacted by Laws of Utah 2021, Chapter 421

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

Section 1. Section 63J-1-902 is amended to read:

63J-1-902. Definitions.

As used in this part:

(1) "Appropriated entity" means any entity that receives state funds.

(2) (a) "Funding item" means an increase to an agency's state funding that:

[~~(a)~~] (i) is [~~$10,000~~] $50,000 or more; and

[~~(b)~~] (ii) results from action during a legislative session.

(b) "Funding item" does not include:

(i) a technical budget adjustment;

(ii) restoration of a recent reduction;

(iii) a standardized adjustment, including an internal service fund increase or compensation increase; or

(iv) any increase that the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst agree is similar to an increase described in Subsections (2)(b)(i) through (iii).

(3) "Performance measure" means a program objective, effectiveness measure, program size indicator, or other related measure.

(4) "Product or service" means an appropriated entity's final output or outcome.

(5) "Government process" means a set of functions and procedures by which an appropriated entity creates a product or service.

Section 2. Section 63J-1-903 is amended to read:

63J-1-903. Performance measure and funding item reporting.

(1) The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst may develop an information system to collect, track, and publish agency performance measures.

(2) Each executive department agency shall:

(a) in consultation with the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst, develop performance measures to include in an appropriations act for each fiscal year; and

(b) on or before [~~October 1~~] August 15 of each calendar year, provide to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst:

(i) any recommendations for legislative changes for the next fiscal year to the agency's previously adopted performance measures or targets; and

(ii) a report of the final status of the agency's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

(3) Each judicial department agency shall:

(a) develop performance measures to include in an appropriations act for each fiscal year; and

(b) annually submit to the Office of the Legislative Fiscal Analyst a report that contains:

(i) any recommendations for legislative changes for the next fiscal year to the agency's previously adopted performance measures; and

(ii) the final status of the agency's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

(4) Within 21 days after the day on which the Legislature adjourns a legislative session sine die, the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall:

(a) create a list of funding items passed during the legislative session;

(b) from the list described in Subsection (4)(a), identify in a sublist each funding item that increases state funding by $500,000 or more from state funds; and

(c) provide the lists described in this subsection to each executive department agency.

[~~(4)~~] (5) [~~For each funding item, the~~] Each executive department agency shall provide to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst:

(a) for each funding item on the list described in Subsection (4)(b), within 60 days after the day on which the Legislature adjourns a legislative session sine die:

(i) one or more proposed performance measures [~~developed in consultation with the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst~~]; and

(ii) a target for each performance measure described in Subsection [~~(4)(a)(i); and~~] (5)(a)(i); and

(b) for each funding item on the list described in Subsection (4)(a), on or before August 15 of each year after the close of the fiscal year in which the funding item was first funded, a report that includes:

(i) the status of each performance measure relative to the measure's target as described in Subsection [~~(4)(a)~~] (5)(a), if applicable;

(ii) the actual amount the agency spent, if any, on the funding item; and

(iii) (A) the month and year in which the agency implemented the program or project associated with the funding item; or

(B) if the program or project associated with the funding item is not fully implemented, the month and year in which the agency anticipates fully implementing the program or project associated with the funding item.

(6) (a) After an executive department agency provides proposed performance measures in accordance with Subsection (5)(a), the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall review the proposed performance measures and, if necessary, coordinate with the executive department agency to modify and finalize the performance measures.

(b) The Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the executive department agency shall finalize each proposed performance measure before July 1.

(7) The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst may jointly request that an executive department agency provide the report required under Subsection (5)(b) in a different fiscal year than the fiscal year in which the funding item was first funded or in multiple fiscal years.

(8) The Governor's Office of Planning and Budget shall:

(a) review at least 20% of the performance measures described in Subsection (2) annually; and

(b) ensure that the Governor's Office of Planning and Budget reviews each performance measure described in Subsection (2) at least once every five years.

(9) The Office of the Legislative Fiscal Analyst shall review the performance measures described in Subsection (2) on a schedule that aligns with the appropriations subcommittee's applicable accountable budget process described in legislative rule.

[~~(5)~~] (10) (a) The Office of the Legislative Fiscal Analyst shall report the relevant performance measure information described in this section to the Executive Appropriations Committee and the appropriations subcommittees, as appropriate.

(b) The Governor's Office of Planning and Budget shall report the relevant performance measure information described in this section to the governor.

Section 3. Section 63J-1-904 is amended to read:

63J-1-904. Efficiency improvement process.

(1) [~~By May 1, 2022, the~~] The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall jointly [~~establish~~] operate a process that identifies and prioritizes government processes to target for efficiency improvements.

(2) The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall ensure that the efficiency improvement process described in Subsection (1) addresses the following:

(a) the roles of the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst throughout the efficiency improvement process;

[~~(b) how to collaborate with an appropriated entity in the development of the appropriated entity's performance measures under Section 63J-1-903;~~]

[~~(c) how to evaluate the results of an appropriated entity's performance measures, including identifying which performance measures that an appropriated entity may want to retain, modify, or discontinue;~~]

[~~(d)~~] (b) the process by which an appropriated entity's government process is selected for an efficiency evaluation;

[~~(e)~~] (c) the criteria and methodology used for an efficiency evaluation;

[~~(f)~~] (d) whether to provide any rewards or incentives for an appropriated entity to implement recommendations from an efficiency evaluation;

[~~(g)~~] (e) whether to create a formal or informal committee that advises the efficiency improvement process; and

[~~(h)~~] (f) the process by which the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst notify the Office of the Legislative Auditor General when an efficiency evaluation is completed.

[~~(3) (a) The Office of the Legislative Auditor General shall independently review the results of each efficiency evaluation conducted under this section.~~]

[~~(b) If, based on the review described in Subsection (3)(a), the Office of the Legislative Auditor General determines further review is necessary, the Office of the Legislative Auditor General shall:~~]

[~~(i) conduct a risk assessment; and~~]

[~~(ii) provide the results of the risk assessment to the Audit Subcommittee created in Section 36-12-8.~~]

(3) The Office of the Legislative Auditor General shall:

(a) independently review the results of each efficiency evaluation conducted under this section, including whether the executive department agency implemented any recommendations from the efficiency evaluation;

(b) provide a copy of the findings from the review to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst; and

(c) report the findings from the review to the Legislative Management Committee.

(4) (a) Following an independent review under Subsection (3), the Office of the Legislative Auditor General may conduct initial survey work at the discretion of the legislative auditor general.

(b) If, based on the initial survey work described in Subsection (4)(a), the legislative auditor general determines further review is necessary, the legislative auditor general shall recommend to the Audit Subcommittee created in Section 36-12-8 that the Office of the Legislative Auditor General conduct an in-depth audit of the appropriated entity.

[~~(4)~~] (5) [~~Beginning in 2021 and each calendar year thereafter~~] Each calendar year before December 31, the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall[~~, before December 31,~~] report to the governor and the Legislative Management Committee, respectively, regarding the status of the efficiency improvement process and recommended changes, if any.

[~~(5)~~] (6) The efficiency improvement process described in this section does not apply to a legislative department government process.

Section 4. Effective date.

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

CHAPTER 25
H. B. 11
Passed January 31, 2023
Approved March 13, 2023
Effective May 3, 2023

VOLUNTEER GOVERNMENT WORKERS AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends provisions of the Volunteer Government Workers Act.

Highlighted Provisions:

This bill:

- defines terms; and
- amends the definition of a volunteer to describe the fees, expenses, and other benefits that may be provided to a volunteer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-3-113, last amended by Laws of Utah 2022, Chapter 346

67-20-2, last amended by Laws of Utah 2022, Chapters 346, 347 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 347

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

Section 1. Section 34A-3-113 is amended to read:

34A-3-113. Presumption of workers' compensation benefits for firefighters.

(1) As used in this section:

(a) (i) "Firefighter" means a member, including a volunteer member, as described in Subsection [~~67-20-2(7)(b)(ii)~~] 67-20-2(10)(b)(ii), or a member paid on call, of a fire department or other organization that provides fire suppression and other fire-related service who is responsible for or is in a capacity that includes responsibility for the extinguishment of fires.

(ii) "Firefighter" does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

(b) "Presumptive cancer" means one or more of the following cancers:

(i) pharynx;

(ii) esophagus;

(iii) lung; and

(iv) mesothelioma.

(2) If a firefighter who contracts a presumptive cancer meets the requirements of Subsection (3), there is a rebuttable presumption that:

(a) the presumptive cancer was contracted arising out of and in the course of employment; and

(b) the presumptive cancer was not contracted by a willful act of the firefighter.

(3) To be entitled to the rebuttable presumption described in Subsection (2):

(a) during the time of employment as a firefighter, the firefighter undergoes annual physical examinations;

(b) the firefighter shall have been employed as a firefighter for eight years or more and regularly responded to firefighting or emergency calls within the eight-year period; and

(c) if a firefighter has used tobacco, the firefighter provides documentation from a physician that indicates that the firefighter has not used tobacco for the eight years preceding reporting the presumptive cancer to the employer or division.

(4) A presumption established under this section may be rebutted by a preponderance of the evidence.

(5) If a firefighter who contracts a presumptive cancer is employed as a firefighter by more than one employer and qualifies for the presumption under Subsection (2), and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to risk of the presumptive cancer are liable under this chapter pursuant to Section 34A-3-105.

(6) A cause of action subject to the presumption under this section is considered to arise on the date after May 12, 2015, that the employee:

(a) suffers disability from the occupational disease;

(b) knows, or in the exercise of reasonable diligence should have known, that the occupational disease is caused by employment; and

(c) files a claim as provided in Section 34A-3-108.

Section 2. Section 67-20-2 is amended to read:

67-20-2. Definitions.

As used in this chapter:

(1) "Agency" means:

(a) a department, institution, office, college, university, authority, division, board, bureau, commission, council, or other agency of the state;

(b) a county, city, town, school district, or special improvement or taxing district; or

(c) any other political subdivision.

(2) "Compensatory service worker" means a person who performs a public service with or without compensation for an agency as a condition or part of the person's:

(a) incarceration;

(b) plea;

(c) sentence;

(d) diversion;

(e) probation; or

(f) parole.

(3) "Emergency medical service volunteer" means an individual who:

(a) provides services as a volunteer under the supervision of a supervising agency or government officer; and

(b) at the time the individual provides the services described in Subsection (3)(a), is:

(i) an emergency medical technician volunteer, a paramedic volunteer, an ambulance volunteer, a volunteer firefighter, or another volunteer provider of emergency medical services; and

(ii) acting in the capacity of a volunteer described in Subsection (3)(b)(i).

(4) "FLSA aggregate amount" means, except as otherwise required by the United States Department of Labor, the aggregate amount of nominal fees that a supervising agency may pay a volunteer, generally not exceeding 20% of the total compensation that the supervising agency would pay a full-time employee providing the same services as the volunteer.

[~~(4)~~] (5) "IRS aggregate amount" means the fixed or determinable income aggregate amount described in 26 C.F.R. Sec. 1.6041-1(a)(1)(i)(A).

(6) "Nominal fee" means a fee described in 29 C.F.R. Sec. 553.106(e).

(7) "Reasonable benefits" includes, in accordance with 29 C.F.R. Sec. 553.106, liability insurance, health insurance, life insurance, disability insurance, workers' compensation, a pension plan, a length of service award, personal property tax relief, and utility bill discounts or credits.

[~~(5)~~] (8) (a) "Volunteer" means an individual who donates service without pay or other compensation except the following, as approved by the supervising agency:

(i) expenses actually and reasonably incurred;

(ii) a stipend for future higher education expenses, awarded from the National Service Trust under 45 C.F.R. Secs. 2526.10 and 2527.10;

(iii) costs for attending classes, conferences, or association meetings related to services provided by a volunteer, including:

(A) tuition;

(B) costs for books, supplies, or other training materials; and

(C) travel, housing, and meals, in accordance with travel policies of the supervising agency;

[~~(iii)~~] (iv) a [~~stipend,~~] nominal fee below the FLSA aggregate amount for a volunteer described in 29 C.F.R. Sec. 553.106, or a stipend below the IRS aggregate amount for all other volunteers, for:

(A) emergency volunteers, including emergency medical service volunteers, volunteer safety officers, and volunteer search and rescue team members; or

(B) non-emergency volunteers, including senior program volunteers and community event volunteers;

(v) as it relates to a volunteer described in 29 C.F.R. Sec. 553.106, reasonable benefits;

[~~(iv)~~] (vi) (A) health benefits provided through the supervising agency; or

(B) for a volunteer who participates in the Volunteer Emergency Medical Service Personnel Health Insurance Program described in Section 26-8a-603, health insurance provided through the program[.];

[~~(v)~~] (vii) passthrough stipends or other compensation provided to volunteers through a federal or state program, including Americorp Seniors volunteers, consistent with 42 U.S.C. Sec. 5058;

[~~(vi)~~] (viii) stipends or other compensation, below the IRS aggregate amount, provided to volunteers from any person;

[~~(vii)~~] (ix) uniforms, identification, personal protective equipment, or safety equipment used by a volunteer only while volunteering for the supervising [~~entity~~] agency;

[~~(viii)~~] (x) a nonpecuniary item not exceeding $50 in value;

[~~(ix)~~] (xi) nonpecuniary items, below the IRS aggregate amount, donated to the supervising agency with the express intent of benefitting a volunteer; [~~or~~]

[~~(x)~~] (xii) [~~meals or~~] gifts, not exceeding $50 in value, provided as part of a volunteers appreciation event by the [~~volunteering~~] supervising agency[.]; or

(xiii) meals, not exceeding a value of $50 per person based on anticipated attendance, provided to a volunteer by the supervising agency:

(A) as part of a volunteer appreciation event; or

(B) while the volunteer is engaged in providing volunteer service.

(b) "Volunteer" does not include:

(i) a person participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter; or

(ii) a compensatory service worker.

(c) "Volunteer" includes a juror or potential juror appearing in response to a summons for a trial jury or grand jury.

[~~(6)~~] (9) "Volunteer facilitator" means a business or nonprofit organization that, from individuals who have a relationship with the business or nonprofit organization, such as membership or employment, provides volunteers to an agency or facilitates volunteers volunteering with an agency.

[~~(7)~~] (10) "Volunteer safety officer" means an individual who:

(a) provides services as a volunteer under the supervision of an agency; and

(b) at the time the individual provides the services to the supervising agency described in Subsection [~~(7)(a)~~] (10)(a), the individual is:

(i) exercising peace officer authority as provided in Section 53-13-102; or

(ii) if the supervising agency described in Subsection [~~(7)(a)~~] (10)(a) is a fire department:

(A) on the rolls of the supervising agency as a firefighter;

(B) not regularly employed as a firefighter by the supervising agency; and

(C) acting in a capacity that includes the responsibility for the extinguishment of fire.

[~~(8)~~] (11) "Volunteer search and rescue team member" means an individual who:

(a) provides services as a volunteer under the supervision of a county sheriff; and

(b) at the time the individual provides the services to the county sheriff described in Subsection [~~(8)(a)~~] (11)(a), is:

(i) certified as a member of the county sheriff's search and rescue team; and

(ii) acting in the capacity of a member of the search and rescue team of the supervising county sheriff.

CHAPTER 26
H. B. 12
Passed February 2, 2023
Approved March 13, 2023
Effective May 3, 2023

DEPARTMENT OF COMMERCE ELECTRONIC PAYMENT FEES

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to revenue collected by the Department of Commerce.

Highlighted Provisions:

This bill:

- allows the Department of Commerce (department) to collect a fee to defray the costs of electronic payments;
- creates the Commerce Electronic Payment Fee Restricted Account (restricted account);
- requires the department to deposit electronic payment fees into the restricted account; and
- provides that appropriations from the restricted account are nonlapsing.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Commerce as an ongoing appropriation:
  - from the Commerce Service Account, ($800,000).
  - from the Commerce Electronic Payment Fee Restricted Account, $800,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-1-2, as last amended by Laws of Utah 2022, Chapter 415

63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451

ENACTS:

13-1-17, Utah Code Annotated 1953

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

Section 1. Section 13-1-2 is amended to read:

13-1-2. Creation and functions of department -- Divisions created -- Fees -- Commerce Service Account.

(1) (a) There is created the Department of Commerce.

(b) The department shall:

(i) execute and administer state laws regulating business activities and occupations affecting the public interest; and

(ii) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(A) under this title;

(B) by the department; or

(C) by an agency or division within the department.

(2) Within the department the following divisions are created:

(a) the Division of Professional Licensing;

(b) the Division of Real Estate;

(c) the Division of Securities;

(d) the Division of Public Utilities;

(e) the Division of Consumer Protection; and

(f) the Division of Corporations and Commercial Code.

(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section 63J-1-504.

(b) The department shall submit each fee established in this manner to the Legislature for the Legislature's approval as part of the department's annual appropriations request.

(c) (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."

(ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by each division and by the department.

(iii) The undesignated account balance may not exceed $1,000,000 at the end of each fiscal year.

(iv) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any undesignated funds in the account that exceed the amount necessary to maintain the undesignated account balance at $1,000,000.

(d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.

(4) (a) As used in this Subsection (4):

(i) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(ii) "Fund" means the Single Sign-On Expendable Special Revenue Fund, created in Subsection (4)(c).

(iii) "Renewal fee" means a fee that the Division of Corporations and Commercial Code, established in Section 13-1a-1, is authorized or required to charge a business entity in connection with the business entity's periodic renewal of the business entity's status with the Division of Corporations and Commercial Code.

(iv) "Single sign-on fee" means a fee described in Subsection (4)(b) to pay for the establishment and maintenance of the single sign-on business portal.

(v) "Single sign-on business portal" means the same as that term is defined in Section 63A-16-802.

(b) (i) The schedule of fees adopted by the department under Subsection (3) shall include a single sign-on fee, not to exceed $5, as part of a renewal fee.

(ii) The department shall deposit all single sign-on fee revenue into the fund.

(c) (i) There is created the Single Sign-On Expendable Special Revenue Fund.

(ii) The fund consists of:

(A) money that the department collects from the single sign-on fee; and

(B) money that the Legislature appropriates to the fund.

(d) The department shall use the money in the fund to pay for costs:

(i) to design, create, operate, and maintain the single sign-on business portal; and

(ii) incurred by:

(A) the Department of Technology Services, created in Section 63A-16-103; or

(B) a third-party vendor working under a contract with the Department of Technology Services.

(e) The department shall report on fund revenues and expenditures to the Public Utilities, Energy, and Technology Interim Committee of the Legislature annually and at any other time requested by the committee.

(5) (a) As used in this Subsection (5):

(i) "Costs of electronic payments" means:

(A) any charge, discount fee, or processing fee that a credit card company or processing agent charges to process an electronic payment; or

(B) the costs associated with the purchase of equipment necessary for processing electronic payments.

(ii) "Electronic payment" means any form of payment processed through electronic means, including a credit card, debit card, or automatic clearinghouse transaction.

(iii) "Electronic payment fee" means the fee the department adopts in accordance with this Subsection (5) to defray the costs of electronic payments.

(b) As part of the schedule of fees described in Subsection (3)(a), the department shall establish an electronic payment fee.

(c) The department:

(i) may collect an electronic payment fee from each person who applies for or renews a license or registration issued by the department or a division of the department; and

(ii) shall deposit into the Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17 each electronic payment fee the department collects.

(d) The electronic payment fee described in this Subsection (5) is not subject to Subsection 63J-1-105(3) or (4).

(e) (i) If the department imposes an electronic payment fee, the department shall collect the electronic payment fee from each person described in Subsection (5)(c)(i) regardless of whether the person makes an electronic payment.

(ii) The department is not required to separately identify an electronic payment charged to a person described in Subsection (5)(c)(i).

Section 2. Section 13-1-17 is enacted to read:

13-1-17. Commerce Electronic Payment Fee Restricted Account.

(1) As used in this section:

(a) "Account" means the Commerce Electronic Payment Fee Restricted Account created in this section.

(b) "Costs of electronic payments" means the same as that term is defined in Section 13-1-2.

(c) "Department" means the Department of Commerce.

(d) "Electronic payment" means the same as that term is defined in Section 13-1-2.

(e) "Electronic payment fee" means the same as that term is defined in Section 13-1-2.

(2) There is created in the General Fund a restricted account known as the "Commerce Electronic Payment Fee Restricted Account."

(3) The account consists of money that the department collects as an electronic payment fee in accordance with Section 13-1-2.

(4) Upon appropriation, the department may use money in the account to cover the costs of electronic payments.

(5) In accordance with Section 63J-1-602.1, appropriations made to the department from the account are nonlapsing.

Section 3. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Technology Development Restricted Account created in Section 31A-3-104.

(18) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(19) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(20) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(21) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(22) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(23) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(24) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(34) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

(35) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(36) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(37) The DNA Specimen Restricted Account created in Section 53-10-407.

(38) The Canine Body Armor Restricted Account created in Section 53-16-201.

(39) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(40) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(41) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(42) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(44) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(47) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(48) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(49) The Relative Value Study Restricted Account created in Section 59-9-105.

(50) The Cigarette Tax Restricted Account created in Section 59-14-204.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(52) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(53) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

(54) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302.

(55) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

(56) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.

(57) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(58) The Immigration Act Restricted Account created in Section 63G-12-103.

(59) Money received by the military installation development authority, as provided in Section 63H-1-504.

(60) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(61) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(62) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(63) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(64) The Motion Picture Incentive Account created in Section 63N-8-103.

(65) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(66) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(67) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

(78) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(79) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature

appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Department of Commerce -- Commerce General Regulation

From the Commerce Service Account	($800,000)
From the Commerce Electronic Payment Fee Restricted Account	$800,000

CHAPTER 27
H. B. 13
Passed January 31, 2023
Approved March 13, 2023
Effective May 3, 2023

GOVERNOR'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill addresses the Governor's Committee on Employment of People with Disabilities.

Highlighted Provisions:

This bill:

- extends the sunset date of the Governor's Committee on Employment of People with Disabilities from 2023 to 2028; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-235, as last amended by Laws of Utah 2022, Chapters 25, 36, 118, and 362

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

Section 1. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates: Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

[~~(3) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.~~]

[~~(4)~~] (3) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2032.

[~~(5)~~] (4) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, [~~2023~~] 2028.

[~~(6)~~] (5) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

[~~(7)~~] (6) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

[~~(8)~~] (7) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

CHAPTER 28
H. B. 14
Passed February 2, 2023
Approved March 13, 2023
Effective May 3, 2023

INSURANCE COMMISSIONER AUTHORITY SUNSET AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill extends the sunset date for provisions authorizing the insurance commissioner to coordinate with other entities regarding certain insurance regulations.

Highlighted Provisions:

This bill:

- extends the sunset date for provisions authorizing the insurance commissioner to:
  - adopt an agreement with certain entities within or outside the state to address certain insurance regulations; and
  - negotiate an interstate compact to address issuance of certain insurance certificates of authority; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-231, as last amended by Laws of Utah 2019, Chapter 136

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

Section 1. Section 63I-1-231 is amended to read:

63I-1-231. Repeal dates: Title 31A.

[~~(1)~~] Section 31A-2-217, Coordination with other states, is repealed July 1, [~~2023~~] 2033.

[~~(2) Section 31A-22-615.5 is repealed July 1, 2022.~~]

CHAPTER 29
H. B. 15
Passed February 2, 2023
Approved March 13, 2023
Effective May 3, 2023

BOARD OF CREDIT UNION ADVISORS SUNSET AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the repeal date of the Board of Credit Union Advisors.

Highlighted Provisions:

This bill:

- sunsets the Board of Credit Union Advisors in 2033.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-207, as last amended by Laws of Utah 2022, Chapter 20

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

Section 1. Section 63I-1-207 is amended to read:

63I-1-207. Repeal dates: Title 7.

(1) Section 7-1-203, which creates the Board of Financial Institutions, is repealed July 1, 2031.

(2) Section 7-3-40, which creates the Board of Bank Advisors, is repealed July 1, 2032.

(3) Section 7-9-43, which creates the Board of Credit Union Advisors, is repealed July 1, [~~2023~~] 2033.

CHAPTER 30
H. B. 17
Passed February 6, 2023
Approved March 13, 2023
Effective May 3, 2023

UTAH PROFESSIONAL PRACTICES ADVISORY COMMISSION SUNSET EXTENSION

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill extends the repeal date for the Utah Professional Practices Advisory Commission.

Highlighted Provisions:

This bill:

- extends the repeal date for the Utah Professional Practices Advisory Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2022, Chapters 10, 30, 31, 172, 173, 194, 218, 224, 229, 236, 254, 274, and 414

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

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(7) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(10) Subsection 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(11) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(12) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, [~~2023~~] 2033.

(14) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(15) Section 53F-5-203 is repealed July 1, 2024.

(16) Section 53F-5-213 is repealed July 1, 2023.

(17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(19) Section 53F-5-219, which creates the Local INnovations Civics Education Pilot Program, is repealed on July 1, 2025.

(20) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(21) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(22) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2027.

(23) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

(24) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

CHAPTER 31
H. B. 18
Passed February 3, 2023
Approved March 13, 2023
Effective January 1, 2024
(Exception Clause)

ONLINE DATING SAFETY AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill concerns online dating service safety requirements.

Highlighted Provisions:

This bill:

- defines terms;
- requires certain safety notifications and disclosures by an online dating service provider;
- provides enforcement procedures and a penalty for a violation of the notifications and disclosures; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Effective 12/31/23), as last amended by Laws of Utah 2022, Chapters 201, 462

ENACTS:

13-63-101, Utah Code Annotated 1953
13-63-102, Utah Code Annotated 1953
13-63-103, Utah Code Annotated 1953
13-63-104, Utah Code Annotated 1953
13-63-105, Utah Code Annotated 1953
13-63-106, Utah Code Annotated 1953

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

Section 1. Section 13-2-1 (Effective 12/31/23) is amended to read:

13-2-1 (Effective 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act;

(w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]

(x) Chapter 61, Utah Consumer Privacy Act[~~.~~]; and

(y) Chapter 63, Online Dating Safety Act.

Section 2. Section 13-63-101 is enacted to read:

CHAPTER 63 (CODIFIED AS CHAPTER 67). ONLINE DATING SAFETY ACT

13-63-101 (Codified as 13-67-101). Definitions.

As used in this chapter:

(1) "Banned member" means a member whose account or profile is the subject of a fraud ban.

(2) "Criminal background screening" means a name search for an individual's criminal conviction and is conducted by searching:

(a) available and regularly updated government public record databases that in the aggregate provide national coverage for criminal conviction records; or

(b) a regularly updated database with national coverage of criminal conviction records and sexual offender registries maintained by a private vendor.

(3) (a) "Criminal conviction" means a conviction for a crime in this state, another state, or under federal law.

(b) "Criminal conviction" includes an offense that would require registration under Title 77, Chapter 41, Sex and Kidnap Offender Registry, or under a similar law in a different jurisdiction.

(4) "Division" means the Division of Consumer Protection in the Department of Commerce.

(5) "Fraud ban" means the expulsion of a member from an online dating service because, in the judgment of the online dating service provider, there is a significant risk the member will attempt to obtain money from another member through fraudulent means.

(6) "Member" means an individual who submits to an online dating service provider the information required by the online dating service provider to access the online dating service provider's online dating service.

(7) "Online dating service" means a product or service that is:

(a) conducted through a website or a mobile application; and

(b) primarily marketed and intended to offer a member access to dating or romantic relationships with another member by arranging or facilitating the social introduction of members.

(8) "Online dating service provider" means a person predominately engaged in the business of offering an online dating service.

(9) "Utah member" means a member who provides a Utah billing address or zip code when registering with an online dating service provider.

Section 3. Section 13-63-102 is enacted to read:

13-63-102 (Codified as 13-67-102). Applicability of chapter.

This chapter does not apply to an Internet service provider serving as an intermediary for a transmission of an electronic message between members of an online dating service provider.

Section 4. Section 13-63-103 is enacted to read:

13-63-103 (Codified as 13-67-103). Criminal background screening disclosures.

(1) An online dating service provider that offers services to residents of this state and does not conduct a criminal background screening on each member shall, before permitting a Utah member to communicate through the online dating service provider with another member, clearly and conspicuously disclose to the Utah member that the online dating service provider does not conduct a criminal background screening on each member.

(2) An online dating service provider that offers services to residents of this state and conducts a criminal background screening on each member shall, before permitting a Utah member to communicate through the provider with another member, clearly and conspicuously:

(a) disclose to the Utah member that the online dating service provider conducts a criminal background screening on each member; and

(b) include on the online dating service provider's website or mobile application:

(i) a statement of whether the online dating service provider excludes from the online dating service provider's online dating service an individual who is identified as having a criminal conviction; and

(ii) a statement that a criminal background screening:

(A) may be inaccurate or incomplete;

(B) may give a member a false sense of security; and

(C) may be circumvented by an individual who has a criminal history.

Section 5. Section 13-63-104 is enacted to read:

13-63-104 (Codified as 13-67-104.) Safety awareness disclosures.

(1) An online dating service provider that offers services to residents of this state shall clearly and conspicuously provide a safety awareness notification to all Utah members that includes a list of safety measures reasonably designed to increase awareness of safer online dating practices and clear guidelines and resources for reporting crimes committed by an online dating service member.

(2) (a) A safety awareness notification described in Subsection (1) shall:

(i) have a heading or headings substantially similar to:

(A) "Online Dating Safety Awareness";

(B) "Protecting Yourself from Sexual Assault and Dating Violence"; and

(C) "Protecting Yourself from Financial Crimes"; and

(ii) include information relevant to member safety awareness, including the following or substantially similar information, which may be revised or updated to reflect current information and best safety practices:

(A) a notice that engaging in sexual conduct without the other person's consent is a criminal act and subject to prosecution;

(B) an advisory that getting to know an individual through an online dating service may be risky and a member should follow safety precautions when sharing information or meeting in person;

(C) an advisory that a member should avoid sharing the member's last name, email address, home address, phone number, place of work, social security number, details of the member's daily

routine, or other identifying information in the member's dating profile or initial email messages or communications;

(D) an advisory that a member should stop communicating with an individual who pressures the member for personal or financial information or attempts to trick the member into revealing personal or financial information;

(E) an advisory that a member should not send money to an individual the member meets on an online dating service, especially by wire transfer, even if the individual claims to be experiencing an emergency;

(F) an advisory that if a member decides to meet another member in person, the member should tell someone in the member's family or a friend where the member is going and when the member is planning to return;

(G) an advisory that a member should provide the member's own transportation to and from an in-person date and meet in a public place with many people around;

(H) an advisory that an individual may provide false information in a dating profile;

(I) a notice that a member should block and report to the online dating service a member whose behavior is suspicious, offensive, harassing, threatening, fraudulent, or involves a request for money or an attempt to sell a product or service;

(J) a request that if a member is the victim or survivor of sexual or intimate partner violence or a financial crime through someone the member met on the online dating service, the member should report the incident to the online dating service and to law enforcement;

(K) a notice that if a member is the victim or survivor of sexual or intimate partner violence or a financial crime through someone the member met on the online dating service, the member is not to blame and may seek support through national or local hotlines and services; and

(L) an advisory that reporting criminal activity by another member may help prevent a perpetrator of a rape, assault, or financial crime from hurting or continuing to hurt others, and may be necessary for an online dating service to take responsive action against the member who perpetrated the crime.

(b) (i) An online dating service provider shall provide a clear and conspicuous method for a Utah member to contact the online dating service provider to report a member who engages in an act of sexual or intimate partner violence, a financial crime, or other misconduct.

(ii) An online dating service provider shall include the information described in Subsection (2)(b)(i) in the safety awareness notification described in Subsection (1).

(3) An online dating service provider that provides the notification required under this section shall give the notification at the time a Utah member registers with the online dating service provider and by way of a link on the online dating service provider's main website or mobile application.

Section 6. Section 13-63-105 is enacted to read:

13-63-105 (Codified as 13-67-105). Fraud ban notification.

(1) An online dating service provider shall provide to a Utah member a fraud ban notification if the Utah member has received and responded to a message from a banned member.

(2) A fraud ban notification under Subsection (1) shall include:

(a) to the extent permitted by law, the banned member's username, identification number, or other profile identifier;

(b) a statement that the banned member may have been using a false identity or attempting to defraud members;

(c) a statement that a member should not send money or personal financial information to another member; and

(d) an online link to information regarding ways to avoid online fraud or being defrauded by a member of an online dating service.

(3) A fraud ban notification under Subsection (1) shall be:

(a) clear and conspicuous;

(b) sent by email, text message, or other appropriate means of communication consented to by the Utah member; and

(c) (i) except as provided in Subsection (3)(c)(ii), sent within 24 hours after a fraud ban is initiated against a banned member; or

(ii) sent within three days after the day on which a fraud ban is initiated against a banned member if, in the judgment of the online dating service provider, the circumstances require the fraud ban notification be sent after the 24-hour period.

(4) Except as provided in Section 13-63-106, an online dating service provider or an online dating service provider's employees and agents who are acting in good faith and in compliance with this section are not liable to a person based on:

(a) the means of communication used to issue a fraud ban notification to a Utah member under this section;

(b) the timing of a fraud ban notification sent to a Utah member under this section; or

(c) the disclosure of information in a fraud ban notification under this section, including:

(i) information that a member is a banned member or the subject of a fraud ban;

(ii) the banned member's username, identification number, or other profile identifier; or

(iii) the reason that the online dating service provider initiated the fraud ban of the banned member.

Section 7. Section 13-63-106 is enacted to read:

13-63-106 (Codified as 13-67-106). Violation -- Enforcement -- Limitations.

(1) (a) The division may enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.

(b) In addition to the division's enforcement powers under Subsection (1)(a), a municipal, county, or state prosecuting authority may enforce this chapter through a civil action if the prosecuting authority is screening or prosecuting a criminal matter based on sexual or intimate partner violence or a financial crime perpetrated against a Utah member by an individual the Utah member met on an online dating service.

(2) (a) An online dating service provider that violates this chapter is, in addition to any other penalties established by law, liable for:

(i) a civil penalty not to exceed $250 for each Utah member at the time of the violation; and

(ii) filing fees and reasonable attorney fees.

(b) A court shall enjoin an online dating service provider who violates this chapter from an additional violation of this chapter.

(3) This chapter does not:

(a) provide a basis for or create a private right of action; or

(b) diminish or adversely affect protections for an online dating service provider under 47 U.S.C. Sec. 230.

Section 8. Effective date.

This bill takes effect on January 1, 2024 with the exception of 13–2–1 which takes effect on 12/31/2023.

CHAPTER 32
H. B. 20
Passed February 2, 2023
Approved March 13, 2023
Effective May 3, 2023

COLLECTION AGENCY AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill repeals certain provisions related to collection agencies.

Highlighted Provisions:

This bill:

- repeals provisions related to collection agencies that:
  - require collection agencies to register with the Division of Corporations and Commercial Code;
  - govern certain bond requirements for collection agencies;
  - require certain records related to registrations and bonds;
  - relate to violations and penalties of title provisions;
  - govern assignments of debts involving collection agencies; and
  - require certain registration forms and registration fees for collection agencies.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

REPEALS:

12-1-1, as last amended by Laws of Utah 1999, Chapter 235
12-1-2, as last amended by Laws of Utah 1993, Chapter 213
12-1-3, as last amended by Laws of Utah 1984, Chapter 66
12-1-5, as last amended by Laws of Utah 1999, Chapter 235
12-1-6, as last amended by Laws of Utah 1993, Chapter 213
12-1-7, as last amended by Laws of Utah 2009, Chapter 297
12-1-8, as last amended by Laws of Utah 1998, Chapter 171
12-1-9, as enacted by Laws of Utah 1990, Chapter 111
12-1-10, as last amended by Laws of Utah 2009, Chapter 183

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

Section 9. Repealer.

This bill repeals:

Section 12-1-1, Registration and bond required.

Section 12-1-2, Amount of bond -- Conditions -- Right of action.

Section 12-1-3, Term of bond -- Limitation of action.

Section 12-1-5, Record of registrations and bonds -- Right of inspection.

Section 12-1-6, Violation of title -- Penalty.

Section 12-1-7, Exceptions.

Section 12-1-8, Designating and limiting activities as to assignments.

Section 12-1-9, Information void if no bond filed by collection agency.

Section 12-1-10, Applications -- Fees.

CHAPTER 33
H. B. 26
Passed March 1, 2023
Approved March 13, 2023
Effective January 1, 2024

LICENSE PLATE AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies provisions related to standard issue license plates and special group license plates.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions regarding standard license plates;
- creates the sponsored special group license plate program and changes the process to establish a new special group license plate;
- provides for continuation of special group license plates that were created by a legislative act;
- establishes eligibility criteria for different categories of sponsored special group license plates;
- allows a county to exempt a motor vehicle from an emissions inspection under certain circumstances;
- creates a restricted account to administer existing fees related to license plates and vehicle registration;
- repeals certain restricted accounts and other provisions related to license plate issuance and administration; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

9-8-207, as last amended by Laws of Utah 2018, Chapter 260
26-18b-101, as last amended by Laws of Utah 2021, Chapter 378
26-54-102, as last amended by Laws of Utah 2019, Chapter 405
41-1a-102, as last amended by Laws of Utah 2022, Chapters 92, 180
41-1a-222, as last amended by Laws of Utah 2017, Chapter 24
41-1a-226, as last amended by Laws of Utah 2022, Chapter 259
41-1a-401, as last amended by Laws of Utah 2022, Chapter 259
41-1a-416, as last amended by Laws of Utah 2008, Chapter 382
41-1a-419, as last amended by Laws of Utah 2018, Chapter 260
41-1a-1201, as last amended by Laws of Utah 2022, Chapter 259
41-1a-1204, as last amended by Laws of Utah 2012, Chapter 397
41-1a-1206, as last amended by Laws of Utah 2022, Chapters 56, 259
41-1a-1211, as last amended by Laws of Utah 2015, Chapter 119
41-1a-1212, as last amended by Laws of Utah 2014, Chapters 61, 237 and 237
41-1a-1218, as last amended by Laws of Utah 2012, Chapter 397
41-1a-1222, as last amended by Laws of Utah 2021, Chapter 420
41-1a-1305, as last amended by Laws of Utah 2020, Chapter 74
41-6a-1642, as last amended by Laws of Utah 2022, Chapters 160, 259
53-8-214, as enacted by Laws of Utah 2017, Chapter 406
59-10-1319, as last amended by Laws of Utah 2020, Chapter 322
62A-15-1103, as last amended by Laws of Utah 2022, Chapters 19, 149
63G-26-103, as enacted by Laws of Utah 2020, Chapter 393
63I-1-241, as last amended by Laws of Utah 2022, Chapters 68, 92, 104, and 110
63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472
63I-2-204, as last amended by Laws of Utah 2022, Chapters 67, 68
63I-2-209, as last amended by Laws of Utah 2021, Chapter 380
63I-2-213, as last amended by Laws of Utah 2022, Chapter 400
63I-2-219, as last amended by Laws of Utah 2022, Chapter 95
63I-2-223, as last amended by Laws of Utah 2012, Chapter 369
63I-2-226, as last amended by Laws of Utah 2022, Chapters 255, 365
63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370, and 409
63I-2-261, as last amended by Laws of Utah 2013, Chapter 278
63I-2-263, as last amended by Laws of Utah 2022, Chapters 63, 209, 240, 242, 264, 354, and 435
63I-2-272, as last amended by Laws of Utah 2022, Chapters 56, 83 and 259
63I-2-278, as last amended by Laws of Utah 2022, Chapter 470
63I-2-279, as last amended by Laws of Utah 2022, Chapter 68
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154
71-8-2, as last amended by Laws of Utah 2020, Chapter 409
71-8-4, as last amended by Laws of Utah 2018, Chapter 39

79-4-402, as last amended by Laws of Utah 2022, Chapter 48
79-7-203, as last amended by Laws of Utah 2022, Chapter 68
79-7-303, as renumbered and amended by Laws of Utah 2022, Chapter 68

ENACTS:
41-1a-122, Utah Code Annotated 1953
41-1a-1601, Utah Code Annotated 1953
41-1a-1602, Utah Code Annotated 1953
41-1a-1603, Utah Code Annotated 1953
41-1a-1604, Utah Code Annotated 1953
41-1a-1605, Utah Code Annotated 1953
41-1a-1606, Utah Code Annotated 1953
41-1a-1607, Utah Code Annotated 1953
41-1a-1608, Utah Code Annotated 1953
41-1a-1609, Utah Code Annotated 1953
41-1a-1610, Utah Code Annotated 1953
63I-2-280, Utah Code Annotated 1953

REPEALS AND REENACTS:
41-1a-402, as last amended by Laws of Utah 2018, Chapters 20, 262
41-1a-418, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, and 451

REPEALS:
41-1a-421, as last amended by Laws of Utah 2018, Chapter 39
41-1a-422, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, 255, 259, 335, 451, and 456

Utah Code Sections Affected by Coordination Clause:
41-22-19, as last amended by Laws of Utah 2022, Chapters 68 and 143

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

Section 1. Section 9-8-207 is amended to read:

9-8-207. Historical society -- Donations -- Accounting.

(1) (a) There is created the Utah State Historical Society.

(b) The society may:

(i) solicit memberships from persons interested in the work of the society and charge dues for memberships commensurate with the advantages of membership and the needs of the society; and

(ii) receive gifts, donations, bequests, devises, and endowments of money or property, which shall then become the property of the state of Utah.

(2) [~~(a)~~] If the donor directs that money or property donated under Subsection (1)(b)(ii) be used in a specified manner, then the division shall use it in accordance with these directions. Otherwise, all donated money and the proceeds from donated property, together with the charges realized from society memberships, shall be deposited in the General Fund as restricted revenue of the society.

[~~(b) Funds received from donations to the society under Section 41-1a-422 shall be deposited into the General Fund as a dedicated credit to achieve the mission and purpose of the society.~~]

(3) The division shall keep a correct account of funds and property received, held, or disbursed by the society, and shall make reports to the governor as in the case of other state institutions.

Section 2. Section 26-18b-101 is amended to read:

26-18b-101. Allyson Gamble Organ Donation Contribution Fund created.

(1) (a) There is created an expendable special revenue fund known as the Allyson Gamble Organ Donation Contribution Fund.

(b) The Allyson Gamble Organ Donation Contribution Fund shall consist of:

(i) private contributions;

(ii) donations or grants from public or private entities;

(iii) voluntary donations collected under Sections 41-1a-230.5 and 53-3-214.7; and

[~~(iv) contributions deposited into the account in accordance with Section 41-1a-422; and~~]

[~~(v)~~] (iv) interest and earnings on fund money.

(c) The cost of administering the Allyson Gamble Organ Donation Contribution Fund shall be paid from money in the fund.

(2) The Department of Health shall:

(a) administer the funds deposited in the Allyson Gamble Organ Donation Contribution Fund; and

(b) select qualified organizations and distribute the funds in the Allyson Gamble Organ Donation Contribution Fund in accordance with Subsection (3).

(3) (a) The funds in the Allyson Gamble Organ Donation Contribution Fund may be distributed to a selected organization that:

(i) promotes and supports organ donation;

(ii) assists in maintaining and operating a statewide organ donation registry; and

(iii) provides donor awareness education.

(b) An organization that meets the criteria of Subsections (3)(a)(i) through (iii) may apply to the Department of Health, in a manner prescribed by the department, to receive a portion of the money contained in the Allyson Gamble Organ Donation Contribution Fund.

(4) The Department of Health may expend funds in the account to pay the costs of administering the fund and issuing or reordering the Donate Life support special group license plate and decals.

Section 3. Section 26-54-102 is amended to read:

26-54-102. Spinal Cord and Brain Injury Rehabilitation Fund -- Creation -- Administration -- Uses.

(1) As used in this section, a "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:

(a) provides rehabilitation services to individuals in the state:

(i) who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating; and

(ii) who require post-acute care;

(b) employs licensed therapy clinicians;

(c) has at least five years experience operating a post-acute care rehabilitation clinic in the state; and

(d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

(2) There is created an expendable special revenue fund known as the "Spinal Cord and Brain Injury Rehabilitation Fund."

(3) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(b) a portion of the impound fee as designated in Section 41-6a-1406;

(c) the fees collected by the Motor Vehicle Division under Subsections [~~41-1a-1201(9)~~] 41-1a-1201(8) and 41-22-8(3); and

(d) amounts appropriated by the Legislature.

(4) The fund shall be administered by the executive director of the department, in consultation with the advisory committee created in Section 26-54-103.

(5) Fund money shall be used to:

(a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide rehabilitation services to individuals who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating, including:

(i) physical, occupational, and speech therapy; and

(ii) equipment for use in the qualified charitable clinic; and

(b) pay for operating expenses of the advisory committee created by Section 26-54-103, including the advisory committee's staff.

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

41-1a-102. Definitions.

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

(a) an electric motor vehicle;

(b) a hybrid electric motor vehicle;

(c) a plug-in hybrid electric motor vehicle; or

(d) a motor vehicle powered exclusively by a fuel other than:

(i) motor fuel;

(ii) diesel fuel;

(iii) natural gas; or

(iv) propane.

(7) "Amateur radio operator" means a person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Automated driving system" means the same as that term is defined in Section 41-26-102.1.

(10) "Branded title" means a title certificate that is labeled:

(a) rebuilt and restored to operation;

(b) flooded and restored to operation; or

(c) not restored to operation.

(11) "Camper" means a structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(12) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(13) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(14) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

(a) as a carrier for hire, compensation, or profit; or

(b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(15) "Commission" means the State Tax Commission.

(16) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(17) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(18) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(19) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(20) "Dynamic driving task" means the same as that term is defined in Section 41-26-102.1.

(21) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(22) "Essential parts" means the integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter the vehicle's appearance, model, type, or mode of operation.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(24) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and any other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(25) "Fleet" means one or more commercial vehicles.

(26) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(27) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(28) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(29) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(30) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(31) "Implement of husbandry" means a vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(32) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If a fleet is composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(33) "Interstate vehicle" means a commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(34) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(35) "Lienholder" means a person with a security interest in particular property.

(36) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(37) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(38) "Military vehicle" means a vehicle of any size or weight that was manufactured for use by armed forces and that is maintained in a condition that represents the vehicle's military design and markings regardless of current ownership or use.

(39) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(40) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(41) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include:

(i) an off-highway vehicle; or

(ii) a motor assisted scooter as defined in Section 41-6a-102.

(42) "Motorboat" means the same as that term is defined in Section 73-18-2.

(43) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(44) "Natural gas" means a fuel of which the primary constituent is methane.

(45) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains a vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(46) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(47) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(48) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(49) (a) "Operate" means:

(i) to navigate a vessel; or

(ii) collectively, the activities performed in order to perform the entire dynamic driving task for a given motor vehicle by:

(A) a human driver as defined in Section 41-26-102.1; or

(B) an engaged automated driving system.

(b) "Operate" includes testing of an automated driving system.

(50) "Original issue license plate" means a license plate that is of a format and type issued by the state in the same year as the model year of a vehicle that is a model year 1973 or older.

[~~(50)~~] (51) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

[~~(51)~~] (52) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

[~~(52)~~] (53) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

[~~(53)~~] (54) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

[~~(54)~~] (55) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes a motor vehicle with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

[~~(55)~~] (56) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the

capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

[~~(56)~~] (57) "Pneumatic tire" means a tire in which compressed air is designed to support the load.

[~~(57)~~] (58) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

[~~(58)~~] (59) "Public garage" means a building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

[~~(59)~~] (60) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

[~~(60)~~] (61) "Reconstructed vehicle" means a vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

[~~(61)~~] (62) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

[~~(62)~~] (63) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

(64) "Registration decal" means the decal issued by the division that is evidence of compliance with the division's registration requirements.

[~~(63)~~] (65) (a) "Registration year" means a 12 consecutive month period commencing with the completion of the applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

[~~(64)~~] (66) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

[~~(65)~~] (67) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

[~~(66)~~] (68) "Road tractor" means a motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

[~~(67)~~] (69) "Sailboat" means the same as that term is defined in Section 73-18-2.

[~~(68)~~] (70) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

[~~(69)~~] (71) "Semitrailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

[~~(70)~~] (72) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418 or Part 16, Sponsored Special Group License Plates.

[~~(71)~~] (73) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection [~~(71)~~] (73)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

[~~(72)~~] (74) (a) "Special mobile equipment" means a vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

[~~(73)~~] (75) "Specially constructed vehicle" means a vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

(76) (a) "Standard license plate" means a license plate for general issue described in Subsection 41-1a-402(1).

(b) "Standard license plate" includes a license plate for general issue that the division issues before January 1, 2024.

[~~(74)~~] (77) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission pursuant to Subsection 41-1a-1101(5).

(78) "Symbol decal" means the decal that is designed to represent a special group and displayed on a special group license plate.

[~~(75)~~] (79) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[~~(76)~~] (80) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[~~(77)~~] (81) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(78)~~] (82) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(79)~~] (83) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[~~(80)~~] (84) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[~~(81)~~] (85) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

[~~(82)~~] (86) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[~~(83)~~] (87) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[~~(84)~~] (88) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[~~(85)~~] (89) "Vessel" means the same as that term is defined in Section 73-18-2.

[~~(86)~~] (90) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[~~(87)~~] (91) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[~~(88)~~] (92) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 5. Section 41-1a-122 is enacted to read:

41-1a-122. License Plate Restricted Account.

(1) As used in this section, "account" means the License Plate Restricted Account created by this section.

(2) There is created within the General Fund a restricted account known as the License Plate Restricted Account.

(3) (a) The account shall be funded from the fees described in Subsection 41-1a-1201(3).

(b) The fees described in Subsection (3)(a) shall be paid to the division, which shall deposit them in the account.

(4) The Legislature shall appropriate the funds in the account to the commission to cover the costs of issuing license plates and decals.

(5) In accordance with Section 63J-1-602.1, appropriations made to the division from the account are nonlapsing.

Section 6. Section 41-1a-222 is amended to read:

41-1a-222. Application for multiyear registration -- Payment of taxes -- Penalties.

(1) The owner of any intrastate fleet of commercial vehicles which is based in the state may apply to the commission for registration in accordance with this section.

(a) The application shall be made on a form prescribed by the commission.

(b) Upon payment of required fees and meeting other requirements prescribed by the commission, the division shall issue, to each vehicle for which application has been made, a multiyear license plate and registration card.

(i) The [~~license plate~~] registration decal and the registration card shall bear an expiration date fixed by the division and are valid until ownership of the vehicle to which they are issued is transferred by

the applicant or until the expiration date, whichever comes first.

(ii) An annual renewal application must be made by the owner if registration identification has been issued on an annual installment fee basis and the required fees must be paid on an annual basis.

(iii) License plates and registration cards issued pursuant to this section are valid for an eight-year period, commencing with the year of initial application in this state.

(c) When application for registration or renewal is made on an installment payment basis, the applicant shall submit acceptable evidence of a surety bond in a form, and with a surety, approved by the commission and in an amount equal to the total annual fees required for all vehicles registered to the applicant in accordance with this section.

(2) Each vehicle registered as part of a fleet of commercial vehicles must be titled in the name of the fleet.

(3) Each owner who registers fleets pursuant to this section shall pay the taxes or in lieu fees otherwise due pursuant to:

(a) Section 41-1a-206;

(b) Section 41-1a-207;

(c) Subsection 41-1a-301(12);

(d) Section 59-2-405.1;

(e) Section 59-2-405.2; or

(f) Section 59-2-405.3.

(4) An owner who fails to comply with the provisions of this section is subject to the penalties in Section 41-1a-1301 and, if the commission so determines, will result in the loss of the privileges granted in this section.

Section 7. Section 41-1a-226 is amended to read:

41-1a-226. Vintage vehicle -- Signed statement -- Registration.

(1) The owner of a vintage vehicle who applies for registration under this part shall provide a signed statement that the vintage vehicle:

(a) is owned and operated for the purposes described in Section 41-21-1; and

(b) is safe to operate on the highways of this state as described in Section 41-21-4.

(2) For a vintage vehicle with a model year of 1980 or older, the signed statement described in Subsection (1) and in Subsection 41-6a-1642(15) is in lieu of an emissions inspection, from which a vintage vehicle is exempt under Subsection 41-6a-1642(4).

(3) Before registration of a vintage vehicle that has a model year of 1981 or newer, an owner shall:

(a) obtain a certificate of emissions inspection as provided in Section 41-6a-1642; or

(b) provide proof of vehicle insurance coverage for the vintage vehicle that is a type specific to a vehicle collector.

Section 8. Section 41-1a-401 is amended to read:

41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.

(1) (a) Except as provided in Subsection (1)(c), the division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer;

(ii) one registration decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle;

(iii) one registration decal for a camper, in lieu of a license plate, which shall be attached in plain sight to the rear of the camper; and

(iv) two identical license plates for every other vehicle.

(b) The license plate or registration decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or registration decal is issued or used upon any other vehicle than the registered vehicle.

(c) (i) Notwithstanding Subsections (1)(a) and (b) and except as provided in Subsection (1)(c)(ii), the division, upon registering a motor vehicle that has been sold, traded, or the ownership of which has been otherwise released, shall transfer the license plate issued to the person applying to register the vehicle if:

(A) the previous registered owner has included the license plate as part of the sale, trade, or ownership release; and

(B) the person applying to register the vehicle applies to transfer the license plate to the new registered owner of the vehicle.

(ii) The division may not transfer a personalized or special group license plate to a new registered owner under this Subsection (1)(c) if the new registered owner does not meet the qualification or eligibility requirements for that personalized or special group license plate under [~~Sections 41-1a-410 through 41-1a-422~~] this part or Part 16, Special Group License Plates.

(2) The division may receive applications for registration renewal, renew registration, and issue new license plates or registration decals at any time prior to the expiration of registration.

(3) (a) (i) Except as provided in Subsection (3)(a)(iii), all license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(ii) Except as provided in Subsection (3)(a)(iii), for a historical support special group license plate

created under this part, the division shall procure reflective material to satisfy the requirement under Subsection (3)(a)(i) as soon as such material is available at a reasonable cost.

(iii) Notwithstanding the reflectivity requirement described in Subsection (3)(a)(i), the division may manufacture and issue a historical support special group license plate without a fully reflective plate face if:

(A) the historical special group license plate is requested for a vintage vehicle that has a model year of 1980 or older; and

(B) the division has manufacturing equipment and technology available to produce the plate in small quantities.

(b) The division shall prescribe all license plate material specifications and establish and implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

(5) A violation of this section is an infraction.

Section 9. Section 41-1a-402 is repealed and reenacted to read:

41-1a-402. Standard license plates -- Required colors, numerals, and letters -- Expiration.

(1) (a) Upon registering a vehicle, the division shall issue to the owner a standard license plate described in Subsection (1)(b) unless the division issues to the owner:

(i) a special group license plate in accordance with Section 41-1a-418; or

(ii) an apportioned vehicle license plate in accordance with Section 41-1a-301.

(b) The division may offer up to four standard license plate options at one time, each with a different design as follows:

(i) two designs that incorporate one or more elements that represent the state's economy or geography;

(ii) one design that represents the state's values or culture; and

(iii) one design that commemorates a current event relevant to the state or a significant anniversary of a historic event relevant to the state.

(c) The division shall offer:

(i) each design described in Subsection (1)(b)(i) or (ii) for at least a 10-year period; and

(ii) each design described in Subsection (1)(b)(iii) for no more than a five-year period.

(d) The division may not offer more than four standard license plate designs at any one time.

(2) Before the division may offer a design described in Subsection (1)(b), the division shall:

(a) consult with the Utah Department of Cultural and Community Engagement regarding the proposed design;

(b) identify which current standard license plate design will be replaced by the proposed design;

(c) submit the proposed design to the governor for approval; and

(d) if the governor approves the design pursuant to Subsection (2)(c), submit to the Transportation Interim Committee a request for the Legislature to approve the proposed design by concurrent resolution.

(3) The division may issue a new standard license plate design only if:

(a) the Legislature has by concurrent resolution approved the standard license plate design; and

(b) sufficient funds are appropriated for the initial costs of production.

(4) (a) Except as provided in Subsection (4)(b), the division may not order or produce a standard license plate that is discontinued under this section.

(b) The division may issue a discontinued standard license plate until the division exhausts the discontinued standard license plate's remaining stock.

(5) Each license plate shall have displayed on it:

(a) the registration number assigned to the vehicle for which the license plate is issued;

(b) the name of the state; and

(c) unless exempted by Section 41-1a-301 or 41-1a-407, a registration decal showing the date of expiration displayed in accordance with Subsection (8).

(6) If registration is extended by affixing a registration decal to the license plate, the expiration date of the registration decal governs the expiration date of the license plate.

(7) (a) Except as provided under Subsection 41-1a-215(2) and Section 41-1a-216, license plates shall be renewed annually.

(b) (i) The division shall issue the vehicle owner a month registration decal and a year registration decal upon the vehicle's first registration with the division.

(ii) The division shall issue the vehicle owner only a year registration decal upon subsequent renewals of registration to validate registration renewal.

(8) Except as otherwise provided by rule:

(a) the month registration decal issued in accordance with Subsection (7) shall be displayed on the license plate in the left position; and

(b) the year registration decal issued in accordance with Subsection (7) shall be displayed on the license plate in the right position.

(9) The current year registration decal issued in accordance with Subsection (7) shall be placed over or in place of the previous year registration decal.

(10) If a license plate, month registration decal, or year registration decal is lost or destroyed, a replacement shall be issued upon application and payment of the fees required under Section 41-1a-1211 or 41-1a-1212.

(11) (a) A violation of this section is an infraction.

(b) A court shall waive a fine for a violation under this section if:

(i) the registration for the vehicle was current at the time of the citation; and

(ii) the person to whom the citation was issued provides, within 21 business days, evidence that the license plate and registration decals are properly displayed in compliance with this section.

(12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regarding the placement and positioning of registration decals on license plates issued by the division.

Section 10. Section 41-1a-416 is amended to read:

41-1a-416. Original issue license plates -- Alternative stickers -- Rulemaking.

(1) The owner of a motor vehicle that is a model year 1973 or older may apply to the division for permission to display an original issue license plate [~~of a format and type issued by the state in the same year as the model year of the vehicle~~].

(2) [~~The owner of a motor vehicle who desires to display original issue license plates instead of license plates issued under Section 41-1a-401 shall:~~] An owner described in Subsection (1) shall:

(a) complete an application on a form provided by the division;

[~~(b) supply and submit the original license plates that the owner desires to display to the division for approval; and~~]

(b) supply and submit to the division for approval the original issue license plate that the owner intends to display on the motor vehicle; and

(c) pay the fees prescribed in Sections 41-1a-1206 and 41-1a-1211.

(3) [~~The division, prior to approval of an application under this section,~~] Before approving an application described in this section, the division shall determine that the original issue license [~~plates~~] plate:

(a) [~~are~~] is of a format and type issued by the state for use on a motor vehicle [~~in this state~~];

(b) [~~have~~] has numbers and characters that are unique and do not conflict with existing license plate series in this state;

(c) [~~are~~] is legible, durable, and otherwise in a condition that serves the purposes of this chapter[~~, except that original issue license plates are exempt from the provision of Section 41-1a-401 regarding reflectorization and Section 41-1a-403 regarding legibility from 100 feet~~]; and

(d) [~~are~~] is from the same year of issue as the model year of the motor vehicle on which [~~they are~~] the original issue license plate is to be displayed.

(4) (a) [~~An~~] Except as provided in this section, the owner of a motor vehicle displaying original issue license plates approved under this section is not exempt from any [~~other requirement of this chapter except as specified under this section.~~] requirement described in this chapter.

(b) An original issue license plate approved under this section is exempt from:

(i) the provisions of Section 41-1a-401 regarding reflectorization; and

(ii) Section 41-1a-403.

[~~(5) (a) An owner of a motor vehicle currently registered in this state whose original issue license plates are not approved by the division because of the requirement in Subsection (3)(b) may apply to the division for a sticker to allow the temporary display of the original issue license plates if:~~]

[~~(i) the plates otherwise comply with this section;~~]

[~~(ii) the plates are only displayed when the motor vehicle is used for participating in motor vehicle club activities, exhibitions, tours, parades, and similar activities and are not used for general daily transportation;~~]

[~~(iii) the license plates and registration issued under this chapter for normal use of the motor vehicle on the highways of this state are kept in the motor vehicle and shown to a peace officer on request; and~~]

[~~(iv) the sticker issued by the division under this subsection is properly affixed to the face of the original issue license plate.~~]

[~~(b) The sticker issued under this section shall be the size and form customarily furnished by the division.~~]

[~~(6)~~] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules for the implementation of this section.

Section 11. Section 41-1a-418 is repealed and reenacted to read:

41-1a-418. Authorized special group license plates.

(1) In accordance with this chapter, the division shall issue to an eligible applicant a special group license plate in one of the following categories:

(a) a disability special group license plate issued in accordance with Section 41-1a-420;

(b) a special group license plate issued for a:

(i) vintage vehicle;

(ii) farm truck; or

(iii) special group license plate described in Section 41-1a-1602.

(2) The division may not issue a new type of special group license plate or symbol decal unless the division receives:

(a) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plate or symbol decal; or

(b) a legislative appropriation for the start-up fee described in Subsection (2)(a).

(3) Notwithstanding other provisions of this chapter, the division may not require a contribution as defined in Section 41-1a-1601 for a special group license plate described in Subsection (1)(a) or (b).

Section 12. Section 41-1a-419 is amended to read:

41-1a-419. Plate design -- Vintage vehicle certification and registration -- Personalized special group license plates -- Rulemaking.

(1) [~~(a) The design and maximum number of numerals or characters on special group license plates shall be determined by the division in accordance with the requirements under Subsection (1)(b).~~]

(a) In accordance with Subsection (1)(b), the division shall determine the design and number of numerals or characters on a special group license plate.

(b) (i) Except as provided in Subsection (1)(b)(ii), each special group license plate shall display:

(A) the word Utah;

(B) the name or identifying slogan of the special group;

(C) a symbol decal not exceeding two positions in size representing the special group; and

(D) the combination of letters, numbers, or both uniquely identifying the registered vehicle.

(ii) The division, in consultation with the Utah State Historical Society, shall design the historical support special group license plate, which shall:

(A) have a black background;

(B) have white characters; and

(C) display the word Utah.

(2) (a) The division shall, after consultation with a representative designated by the [~~special group~~] sponsoring organization as defined in Section 41-1a-1601, specify the word or words comprising the special group name and the symbol decal to be displayed upon the special group license [~~plates~~] plate.

(b) A special group license plate symbol decal may not be redesigned:

(i) unless the division receives a redesign fee established by the division under Section 63J-1-504; and

(ii) more frequently than every five years.

(c) [~~(i) Except as provided in Subsection (2)(c)(ii), a~~] A special group license plate symbol decal may not be reordered unless the division receives a symbol decal reorder fee established by the division [~~under~~] in accordance with Section 63J-1-504.

[~~(ii) A recognition special group license plate symbol decal for a currently employed, volunteer, or retired firefighter issued in accordance with Subsection 41-1a-418(1)(d)(v) that is reordered on or after July 1, 2007, but on or before June 30, 2008, is exempt from the symbol decal reorder fee authorized under Subsection (2)(c)(i).~~]

(3) The license plates issued for horseless carriages prior to July 1, 1992, are valid without renewal as long as the vehicle is owned by the registered owner and the license plates may not be recalled by the division.

[~~(4) A person who meets the criteria established under Sections 41-1a-418 through 41-1a-422 for issuance of special group license plates may make application in the same manner provided in Sections 41-1a-410 and 41-1a-411 for personalized special group license plates.~~]

(4) Subject to Subsection 41-1a-411(4)(a), a person who meets the requirements described in this part or Part 16, Sponsored Special Group License Plates, for a special group license plate may, apply for a personalized special group license plate in accordance with Sections 41-1a-410 and 41-1a-411.

(5) [~~The~~] Subject to this chapter, the commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish qualifying criteria for persons to receive, renew, or surrender special group license plates; and

(b) establish the [~~maximum~~] number of numerals or characters for special group license plates.

Section 13. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (5), (6), (7), and (8), [~~and (9)~~] and Sections [~~41-1a-422,~~]

41-1a-1220, 41-1a-1221, [~~and~~] 41-1a-1223, and 41-1a-1603, all fees collected under this part shall be deposited into the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), [~~and~~] (7), and (9), and Section 41-1a-1212 [~~may be used by the commission to cover the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.~~] shall be deposited into the License Plate Restricted Account created in Section 41-1a-122.

[~~(4) In accordance with Section 63J-1-602.2, all funds available to the commission for the purchase and distribution of license plates and decals are nonlapsing.~~]

[~~(5)~~] (4) (a) Except as provided in Subsections (3) and [~~(5)(b)~~] (4)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(c) Fifty cents of the registration fee imposed under Subsection 41-1a-1206(1)(i) for each vintage vehicle that has a model year of 1981 or newer may be used by the commission to cover the costs incurred in enforcing and administering this part.

[~~(6)~~] (5) (a) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited into the Transportation Investment Fund of 2005 created under Section 72-2-124:

(i) $30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), (4), and (7);

(ii) $21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) $2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) $23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) $24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); and

(vi) $1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) $23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) $23 of each registration fee collected under Subsection 41-1a-1206(2)(a)(ii).

[~~(7)~~] (6) (a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

[~~(8)~~] (7) (a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

[~~(9)~~] (8) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited into the Spinal Cord and Brain Injury Rehabilitation Fund created in Section 26-54-102.

Section 14. Section 41-1a-1204 is amended to read:

41-1a-1204. Automobile driver education fee -- Amount -- When paid -- Exception.

(1) Each year there is levied and shall be paid to the commission the automobile driver education fee.

(2) (a) Except as provided in Subsections (2)(b) and (c), the fee is $2.50 upon each motor vehicle to be registered for a one-year registration period.

(b) The fee is $2.00 upon each motor vehicle to be registered under Section 41-1a-215.5 for a six-month registration period.

(c) The following registrations are exempt from the fee in Subsection (2)(a) or (b):

(i) a motorcycle registration; and

(ii) a registration of a vehicle with a Purple Heart special group license plate issued [~~in accordance with Section 41-1a-421.~~]:

(A) on or before December 31, 2023; or

(B) in accordance with Part 16, Sponsored Special Group License Plates.

Section 15. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination

of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) $46.00 for each motorcycle;

(b) $44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) $31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) $28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) $53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) $69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) $69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(g) $45 for each vintage vehicle that has a model year of 1981 or newer;

(h) in addition to the fee described in Subsection (1)(b):

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) Each motor vehicle not described in this Subsection (1)(h) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $21.75 for each hybrid electric motor vehicle; and

(iii) $56.50 for each plug-in hybrid electric motor vehicle; and

(i) in addition to the fee described in Subsection (1)(g), for a vintage vehicle that has a model year of 1981 or newer, 50 cents.

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) $34.50 for each motorcycle; and

(ii) $33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) each motor vehicle not described in this Subsection (2)(b) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $16.50 for each hybrid electric motor vehicle; and

(iii) $43.50 for each plug-in hybrid electric motor vehicle.

(3) (a) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (2)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2024, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(ii) and (iii) and (2)(b)(ii) and (iii) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(b) The amounts calculated as described in Subsection (3)(a) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that has a model year of 1980 or older is $40.

(b) A vintage vehicle that has a model year of 1980 or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued [~~in accordance with Section 41-1a-421~~] on or before December 31, 2023, or issued in accordance with Part 16, Sponsored Special Group License Plates, is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of $130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than $200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 16. Section 41-1a-1211 is amended to read:

41-1a-1211. License plate fees -- Application fees for issuance and renewal of personalized and special group license plates -- Replacement fee for license plates -- Postage fees.

(1) (a) Except as provided in Subsections (11), (12), (13), and (14), a license plate fee established in accordance with Section 63J-1-504 shall be paid to the division for the issuance of any new license plate under Part 4, License Plates and Registration Indicia.

(b) The license plate fee shall be deposited as follows:

(i) $1 in the Transportation Fund; and

(ii) the remainder of the fee charged under Subsection (1)(a) into the License Plate Restricted Account, as provided in Section 41-1a-1201.

(2) An applicant for original issuance of personalized license plates issued under Section 41-1a-410 shall pay a $50 per set license plate application fee in addition to the fee required in Subsection (1).

(3) Beginning July 1, 2003, a person who applies for a special group license plate shall pay a $5 fee for the original set of license plates in addition to the fee required under Subsection (1).

(4) An applicant for original issuance of personalized special group license plates shall pay the license plate application fees required in Subsection (2) in addition to the license plate fees and license plate application fees established under Subsections (1) and (3).

(5) An applicant for renewal of personalized license plates issued under Section 41-1a-410 shall pay a $10 per set application fee.

(6) (a) The division may charge a fee established under Section 63J-1-504 to recover the costs for the replacement of any license plate issued under Part 4, License Plates and Registration Indicia.

(b) The license plate fee shall be deposited as follows:

(i) $1 in the Transportation Fund; and

(ii) the remainder of the fee charged under Subsection (6)(a) into the License Plate Restricted Account, as provided in Section 41-1a-1201.

(7) (a) The division may charge a fee established under Section 63J-1-504 to recover [~~its~~] the division's costs for the replacement of [~~decals~~] a symbol decal issued under Section 41-1a-418.

(b) The fee described in Subsection (7)(a) shall be deposited into the License Plate Restricted Account as described in Section 41-1a-1201.

(8) The division may charge a fee established under Section 63J-1-504 to recover the cost of issuing stickers under Section 41-1a-416.

(9) In addition to any other fees required by this section, the division shall assess a fee established under Section 63J-1-504 to cover postage expenses if new or replacement license plates are mailed to the applicant.

(10) The fees required under this section are separate from and in addition to registration fees required under Section 41-1a-1206.

(11) (a) An applicant for a license plate issued under Section 41-1a-407 is not subject to the license plate fee under Subsection (1).

(b) An applicant for a Purple Heart special group license plate issued [~~in accordance with Section 41-1a-421~~] on or before December 31, 2023, or issued in accordance with Part 16, Sponsored Special Group License Plates, is exempt from the fees under Subsections (1), (3), and (7).

(12) A person is exempt from the fee under Subsection (1) or (6) if the person:

(a) was issued a clean fuel special group license plate in accordance with Section 41-1a-418 prior to the effective date of rules made by the Department of Transportation under Subsection 41-6a-702(5)(b);

(b) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b), is no longer eligible for a clean fuel special group license plate under the rules made by the Department of Transportation; and

(c) upon renewal or reissuance, is required to replace the clean fuel special group license plate with a new license plate.

[~~(13) Until June 30, 2011, a person is exempt from the license plate fee under Subsection (1) or (6) if the person:~~]

[~~(a) was issued a firefighter recognition special group license plate in accordance with Section 41-1a-418 prior to July 1, 2009;~~]

[~~(b) upon renewal of the person's vehicle registration on or after July 1, 2009, is not a contributor to the Firefighter Support Restricted Account as required under Section 41-1a-418; and~~]

[~~(c) is required to replace the firefighter special group license plate with a new license plate in accordance with Section 41-1a-418.~~]

[~~(14) A person is not subject to the license plate fee under Subsection (1) if the person presents official documentation that the person is a recipient of the Purple Heart Award issued:~~]

[~~(a) by a recognized association representing peace officers who:~~]

[~~(i) receives a salary from a federal, state, county, or municipal government or any subdivision of the state; and~~]

[~~(ii) works in the state; or~~]

[~~(b) in accordance with Subsection 41-1a-421(2).~~]

(13) An individual is exempt from the license plate fee under Subsection (1) if the individual presents official documentation that the individual is a recipient of the Purple Heart Award in one of the following forms:

(a) official documentation issued by a recognized association representing peace officers who:

(i) receive a salary from a federal, state, county, or municipal government or any other subdivision of the state; and

(ii) work in the state;

(b) a membership card in the Military Order of the Purple Heart; or

(c) an original or certificate in lieu of the applicant's military discharge form, DD-214, issued by the National Personnel Records Center.

Section 17. Section 41-1a-1212 is amended to read:

41-1a-1212. Fee for replacement of license plate decals.

(1) A fee established in accordance with Section 63J-1-504 shall be paid to the division for the replacement of a license plate registration decal required by Section 41-1a-402 or a registration decal required by Section 41-1a-401.

(2) The fee described in Subsection (1) shall be deposited into the License Plate Restricted Account created in Section 41-1a-122.

Section 18. Section 41-1a-1218 is amended to read:

41-1a-1218. Uninsured motorist identification fee for tracking motor vehicle insurance -- Exemption -- Deposit.

(1) (a) Except as provided in Subsections (1)(b) and (c), at the time application is made for registration or renewal of registration of a motor vehicle under this chapter, the applicant shall pay an uninsured motorist identification fee of $1 on each motor vehicle.

(b) Except as provided in Subsection (1)(c), at the time application is made for registration or renewal of registration of a motor vehicle for a six-month registration period under Section 41-1a-215.5, the applicant shall pay an uninsured motorist identification fee of 75 cents on each motor vehicle.

(c) The following are exempt from the fee required under Subsection (1)(a) or (b):

(i) a commercial vehicle registered as part of a fleet under Section 41-1a-222 or Section 41-1a-301;

(ii) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3); and

(iii) a motor vehicle with a Purple Heart special group license plate issued [~~in accordance with Section 41-1a-421.~~]:

(A) on or before December 31, 2023; or

(B) in accordance with Part 16, Sponsored Special Group License Plates.

(2) The revenue generated under this section shall be deposited in the Uninsured Motorist Identification Restricted Account created in Section 41-12a-806.

Section 19. Section 41-1a-1222 is amended to read:

41-1a-1222. Local option highway construction and transportation corridor preservation fee -- Exemptions -- Deposit -- Transfer -- County ordinance -- Notice.

(1) As used in this section:

(a) "Metro township" means the same as that term is defined in Section 10-2a-403.

(b) "Unincorporated" means the same as that term is defined in Section 10-1-104.

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), a county legislative body may impose a local option highway construction and

transportation corridor preservation fee of up to $10 on each motor vehicle registration within the county.

(ii) A county legislative body may impose a local option highway construction and transportation corridor preservation fee of up to $7.75 on each motor vehicle registration for a six-month registration period under Section 41-1a-215.5 within the county.

(iii) A fee imposed under Subsection (2)(a)(i) or (ii) shall be set in whole dollar increments.

(b) If imposed under Subsection (2)(a), at the time application is made for registration or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local option highway construction and transportation corridor preservation fee established by the county legislative body.

(c) The following are exempt from the fee required under Subsection (2)(a):

(i) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3);

(ii) a commercial vehicle with an apportioned registration under Section 41-1a-301; and

(iii) a motor vehicle with a Purple Heart special group license plate issued [~~in accordance with Section 41-1a-421.~~]:

(A) on or before December 31, 2023; or

(B) in accordance with Part 16, Sponsored Special Group License Plates.

(3) (a) Except as provided in Subsection (3)(b), the revenue generated under this section shall be:

(i) deposited in the Local Highway and Transportation Corridor Preservation Fund created in Section 72-2-117.5;

(ii) credited to the county from which it is generated; and

(iii) used and distributed in accordance with Section 72-2-117.5.

(b) The revenue generated by a fee imposed under this section in a county of the first class shall be deposited or transferred as follows:

(i) 50% of the revenue shall be:

(A) deposited in the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) used in accordance with Section 72-2-121;

(ii) 30% of the revenue shall be deposited, credited, and used as provided in Subsection (3)(a); and

(iii) 20% of the revenue shall be transferred to the legislative body of a county of the first class.

(4) Beginning in a fiscal year beginning on or after July 1, 2023, and for 15 years thereafter, the legislative body of the county of the first class shall annually transfer, from the revenue transferred to the legislative body of a county of the first class as described in Subsection (3)(b)(iii):

(a) $300,000 to Kearns township; and

(b) $225,000 to Magna township.

(5) To impose or change the amount of a fee under this section, the county legislative body shall pass an ordinance:

(a) approving the fee;

(b) setting the amount of the fee; and

(c) providing an effective date for the fee as provided in Subsection (6).

(6) (a) If a county legislative body enacts, changes, or repeals a fee under this section, the enactment, change, or repeal shall take effect on July 1 if the commission receives notice meeting the requirements of Subsection (6)(b) from the county prior to April 1.

(b) The notice described in Subsection (6)(a) shall:

(i) state that the county will enact, change, or repeal a fee under this part;

(ii) include a copy of the ordinance imposing the fee; and

(iii) if the county enacts or changes the fee under this section, state the amount of the fee.

Section 20. Section 41-1a-1305 is amended to read:

41-1a-1305. License plate and registration card violations -- Class C misdemeanor.

It is a class C misdemeanor:

(1) to break, injure, interfere with, or remove from any vehicle any seal, lock, or device on it for holding or displaying any license plate or registration card attached for denoting registration and identity of the vehicle;

(2) to remove from any registered vehicle the license plate or registration card issued or attached to it for its registration;

(3) to place or display any license plate or registration card upon any other vehicle than the one for which it was issued by the division;

(4) to use or permit the use or display of any license plate, registration card, or permit upon or in the operation of any vehicle other than that for which it was issued;

(5) to operate upon any highway of this state any vehicle required by law to be registered without having the license plate or plates securely attached, except that the registration card issued by the division to all trailers and semitrailers shall be carried in the towing vehicle;

(6) for any weighmaster to knowingly make any false entry in his record of weights of vehicles subject to registration or to knowingly report to the commission or division any false information regarding the weights;

(7) for any inspector, officer, agent, employee, or other person performing any of the functions required for the registration or operation of vehicles subject to registration, to do, permit, cause, connive at, or permit to be done any act with the intent, or knowledge that the probable effect of the act would be to injure any person, deprive him of his property, or to injure or defraud the state with respect to its revenues relating to title or registration of vehicles;

(8) for any person to combine or conspire with another to do, attempt to do, or cause or allow any of the acts in this chapter classified as a misdemeanor;

(9) to operate any motor vehicle with a camper mounted on it upon any highway without displaying a current registration decal in clear sight upon the rear of the camper, issued by the county assessor of the county in which the camper has situs for taxation;

(10) to manufacture, use, display, or sell any facsimile or reproduction of any license plate issued by the division or any article that would appear to be a substitute for a license plate; or

(11) to fail to return to the division any registration card, license plate or plates, registration decal, permit, or title that has been canceled, suspended, voided, or revoked.

Section 21. Section 41-1a-1601 is enacted to read:

41-1a-1601. Definitions.

As used in this part:

(1) "Applicant" means a registered owner who submits an application to obtain or renew a sponsored special group license plate in accordance with this part.

(2) (a) "Charitable purpose" means:

(i) relief of the poor, the distressed, or the underprivileged;

(ii) advancement of religion;

(iii) advancement of education or science;

(iv) erecting or maintaining a public building, monument, or work;

(v) reducing the burdens of government;

(vi) reducing neighborhood tensions;

(vii) eliminating prejudice and discrimination;

(viii) defending human rights and civil rights secured by law; or

(ix) combating community deterioration and juvenile delinquency.

(b) "Charitable purpose" does not include providing, encouraging, or paying for the costs of obtaining an abortion.

(3) "Collegiate special group license plate" means a sponsored special group license plate issued to a contributor to an institution.

(4) "Contributor" means an applicant who contributes the required contribution to a sponsoring organization for a sponsored special group license plate.

(5) (a) "Existing special group license plate" means a special group license plate that the division issues before January 1, 2024.

(b) "Existing special group license plate" does not include a special group license plate described in Subsection 41-1a-418(1)(a) or (b).

(6) "Existing state agency recognition special group license plate" means an existing special group license plate issued to a registered owner who:

(a) has a special license that supports or furthers a government purpose;

(b) has received an honor that supports or furthers a government purpose;

(c) has achieved an accomplishment that supports or furthers a government purpose; or

(d) holds an elected office.

(7) "Institution" means:

(a) a state institution of higher education as defined in Section 53B-3-102; or

(b) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(8) (a) "Private nonprofit organization" means a private nonprofit organization that:

(i) qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(ii) has a charitable purpose.

(b) "Private nonprofit organization" does not include an organization that provides, encourages, or pays for the costs of obtaining an abortion.

(9) "Private nonprofit special group license plate" means a sponsored special group license plate issued to a contributor to a private nonprofit organization.

(10) "Required contribution" means:

(a) the minimum annual contribution amount established under Subsection 41-1a-1603(4)(a)(iii); or

(b) if the sponsoring organization establishes a minimum annual contribution amount in accordance with Subsection 41-1a-1603(4)(b) that is greater than the minimum required contribution amount established under Subsection 41-1a-1603(4)(a)(iii), the amount the sponsoring organization establishes.

(11) "Special group license plate" means:

(a) a collegiate special group license plate;

(b) a private nonprofit special group license plate;

(c) a sponsored special group license plate;

(d) a state agency recognition special group license plate; or

(e) a state agency support special group license plate.

(12) "Sponsored special group license plate" means a license plate:

(a) designed for and associated with a sponsoring organization; and

(b) issued to an applicant in accordance with this part.

(13) "Sponsoring organization" means an institution, a private nonprofit organization, or a state agency that is or seeks to be associated with a sponsored special group license plate created under this part.

(14) "State agency recognition special group license plate" means a sponsored special group license plate issued to an applicant who:

(a) has a special license that supports or furthers a government purpose;

(b) has received an honor that supports or furthers a government purpose;

(c) has achieved an accomplishment that supports or furthers a government purpose; or

(d) holds an elected office.

(15) (a) "State agency support special group license plate" means:

(i) a sponsored special group license plate issued to a contributor to a state agency to support a specific state agency program; or

(ii) an existing special group license plate issued for a special interest vehicle.

(b) "State agency support special group license plate" includes a cancer support license plate created by an act of the Legislature before December 31, 2022.

Section 22. Section 41-1a-1602 is enacted to read:

41-1a-1602. Sponsored special group license plate program.

(1) The division shall establish and administer a sponsored special group license plate program as described in this part.

(2) The division shall issue to an applicant who satisfies the requirements of this part one of the following:

(a) a collegiate special group license plate;

(b) a private nonprofit special group license plate;

(c) a state agency support special group license plate; or

(d) a state agency recognition special group license plate.

Section 23. Section 41-1a-1603 is enacted to read:

41-1a-1603. Application requirements -- Fees -- Contributions -- Rulemaking.

(1) An applicant for a sponsored special group license plate shall submit to the division:

(a) in a form and manner that the division prescribes, a complete application;

(b) payment of the fee for the issuance of the sponsored special group license plate established under Subsection (4)(a)(i);

(c) the required contribution for the sponsored special group license plate, unless the applicant previously paid the required contribution as part of a preorder application described in Subsection (4); and

(d) if the sponsoring organization elects to require verification as described in Section 41-1a-1604, a verification form obtained from the sponsoring organization.

(2) An applicant who owns a vehicle with the sponsoring organization's sponsored special group license plate shall submit to the division the required contribution to renew the sponsored special group license plate.

(3) (a) An applicant who wishes to obtain a new type of sponsored special group license plate may preorder the new type of sponsored special group license plate by:

(i) submitting to the sponsoring organization associated with the new type of sponsored special group license plate a complete preorder form created by the division; and

(ii) making the required contribution to the sponsoring organization.

(b) After the division approves the sponsoring organization's request for the new type of sponsored special group license plate under Section 41-1a-1604, an applicant who submitted a preorder in accordance with Subsection (3)(a) may apply for the sponsored special group license plate in accordance with Subsection (1).

(4) (a) The division shall, in accordance with Section 63J-1-504, establish:

(i) the fee to charge an applicant for the division's costs of issuing or renewing a sponsored special group license plate or symbol decal;

(ii) the fee to charge a sponsoring organization for the division's costs of designing and administering a new type of sponsored special group license plate; and

(iii) subject to Subsection (4)(b), in an amount equal to at least $25, the minimum annual contribution amount an applicant is required to make to obtain or renew the sponsoring organization's sponsored special group license plate.

(b) A fee paid in accordance with Subsection (4)(a)(i) or (ii) shall be deposited into the License

Plate Restricted Account created in Subsection 41-1a-122.

(c) A sponsoring organization may establish a required contribution amount for the sponsoring organization's sponsored special group license plate that is greater than the amount established by the division under Subsection (4)(a)(iii).

(5) An applicant's contribution is a voluntary contribution for funding the sponsoring organization's activities and not a motor vehicle registration fee.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to establish and administer the sponsored special group license plate program.

Section 24. Section 41-1a-1604 is enacted to read:

41-1a-1604. New sponsored special group license plates -- Eligibility criteria.

(1) If a sponsoring organization satisfies the requirements of this part, the division shall approve an application for a new type of sponsored special group license plate and issue the sponsored special group license plate in accordance with this part.

(2) Subject to the other provisions of this part, a sponsoring organization requesting a new type of sponsored special group license plate shall submit to the division, in a form and manner the division prescribes:

(a) a complete application requesting the new type of sponsored special group license plate that includes:

(i) information about the sponsoring organization the division needs to process the request;

(ii) contact information for an individual representing the sponsoring organization;

(iii) if the sponsoring organization establishes a required contribution amount under Subsection 41-1a-1603(4)(b) that is greater than the minimum required contribution amount established under Subsection 41-1a-1603(4)(a)(iii), the amount of the required contribution;

(iv) account information to allow the division to disburse funds from required contributions the division collects through the sponsored special group license plate program to the sponsoring organization;

(v) a link to a functional website described in Subsection (7); and

(vi) if the sponsoring organization requires an applicant to submit a verification form described in Subsection (8)(b)(i), a statement indicating that a verification form is required;

(b) at least 500 complete preorder applications for the new type of sponsored special group license plate, including verification that each preorder application included the required contribution;

(c) the fee for the cost of designing and administering the new type of sponsored special group license plate established under Subsection 41-1a-1603(4)(a)(ii); and

(d) if the new type of sponsored special group license plate is a private nonprofit special group license plate:

(i) a copy of the Internal Revenue Service letter approving the sponsoring organization's Section 501(c)(3) status;

(ii) an affidavit signed under penalty of perjury declaring that the sponsoring organization has a charitable purpose; and

(iii) an indication of the private nonprofit organization's charitable purpose.

(3) If an application under Subsection (2) is for a special group license plate that was discontinued in accordance with this part, each registered vehicle with the discontinued special group license plate is considered a complete preorder application for the purposes of Subsection (2)(b).

(4) The division:

(a) may share data collected under Subsection (2)(d)(iii) with the Legislature and the state auditor;

(b) may not use the information in Subsection (2)(d)(iii) in deciding whether to approve the sponsoring organization's application; and

(c) is not required to evaluate the accuracy or veracity of information the private nonprofit organization provides under Subsection (2)(d).

(5) Except as otherwise provided in this part, the division may not begin design work on or issue a new type of sponsored special group license plate unless the sponsoring organization satisfies the requirements of Subsection (2).

(6) A sponsoring organization that is a state agency may request a state agency recognition special group license plate without meeting the minimum preorder requirements of Subsection (2)(b) if:

(a) the governor certifies that there is a legitimate government operations purpose for issuing the state agency recognition special group license plate; and

(b) through appropriation or any other source, funds are available to cover the start-up and administrative costs of the state agency recognition special group license plate.

(7) A sponsoring organization of a sponsored special group license plate issued in accordance with this part shall maintain a functional website that:

(a) explains how the sponsoring organization will use the required contributions in accordance with this part;

(b) if applicable, makes available the sponsoring organization's most recent Internal Revenue Service Form 990; and

(c) provides instructions for how to obtain a verification form if the sponsoring organization elects to require verification in accordance with Subsection (8).

(8) (a) A sponsoring organization may establish eligibility requirements for the sponsoring organization's sponsored special group license plate.

(b) If a sponsoring organization establishes eligibility requirements under this subsection, the sponsoring organization shall:

(i) inform the division that a verification form is required as part of an application for the sponsoring organization's sponsored special group license plate;

(ii) establish a process for providing a verification form to an applicant; and

(iii) provide a verification form prescribed by the division to an applicant who satisfies the sponsoring organization's eligibility requirements.

(9) The division shall begin issuing the new type of sponsored special group license plate no later than six months after the day on which the division receives the items described in Subsection (2).

(10) The division may:

(a) consider a request for a sponsored special group license plate for two or more military branches as a request for a single type of sponsored special group license plate for the purposes of meeting the eligibility criteria described in this section; and

(b) charge an appropriate fee for ordering multiple symbol decals for each military branch.

Section 25. Section 41-1a-1605 is enacted to read:

41-1a-1605. Collegiate special group license plates.

(1) A sponsoring organization that is an institution shall only use funds received through the sponsored special group license plate program for the institution's academic scholarships.

(2) The state auditor may audit each institution to verify that the money an institution collects from contributors is used only for academic scholarships.

Section 26. Section 41-1a-1606 is enacted to read:

41-1a-1606. Private nonprofit special group license plates.

(1) A sponsoring organization that is a private nonprofit organization shall:

(a) only use funds received through the sponsored special group license plate program for the charitable purpose described in the private nonprofit organization's application submitted to the division under Section 41-1a-1603; and

(b) may not use funds received through the sponsored special group license plate program to pay the private nonprofit organization's employee salaries or benefits, administrative costs, or fundraising expenses.

(2) A private nonprofit organization may collect a contributor's personal information for the purposes of future fundraising and any required reporting, if the private nonprofit organization requires a verification form described in Section 41-1a-1604.

(3) The state auditor may audit each private nonprofit organization to verify that the money the private nonprofit organization collects from contributors is used for the private nonprofit organization's charitable purpose in accordance with this part.

Section 27. Section 41-1a-1607 is enacted to read:

41-1a-1607. State agency special group license plates.

A sponsoring organization that is a state agency:

(1) shall only use funds received through the sponsored special group license plate program for the implementation or administration of the state agency's designated program; and

(2) may not direct funds received through the sponsored special group license plate program to a nongovernmental entity.

Section 28. Section 41-1a-1608 is enacted to read:

41-1a-1608. Review -- Discontinuance.

(1) The division shall annually review each sponsored special group license plate to determine the number of registered vehicles with each type of sponsored special group license plate during the preceding calendar year.

(2) (a) The division shall discontinue a type of sponsored special group license plate if for three consecutive calendar years, the division's annual review shows that fewer than 500 registered vehicles have that type of sponsored special group license plate.

(b) The division shall discontinue a sponsored special group license plate under Subsection (2)(a) beginning January 1 of the calendar year following the year of the third annual review.

(3) If the division discontinues a type of sponsored special group license plate in accordance with this section, the division may not reinstate the sponsored special group license plate unless the sponsoring organization submits a request for the discontinued sponsored special group license plate in the same manner as a request for a new type of sponsored special group license plate under Section 41-1a-1604.

(4) (a) A registered owner to whom the division issued an existing special group license plate or a sponsored special group license plate that the division discontinues in accordance with this section may continue to display the license plate upon renewing the motor vehicle's registration.

(b) A registered owner described in Subsection (4)(a) is not required to pay a required contribution

to the sponsoring organization associated with the sponsored special group license plate.

(5) The division may not transfer to a new registered owner a special group license plate that is discontinued under this part.

(6) Subsection (2) does not apply to a state agency recognition special group license plate that is an existing special group license plate.

Section 29. Section 41-1a-1609 is enacted to read:

41-1a-1609. Transition of special group license plates created by legislative acts.

(1) Subject to Subsections (2) and (3), the division shall continue to distribute a special group license plate created by an act of the Legislature.

(2) The procedure described in Section 41-1a-1608 regarding discontinuance of a special group license plate applies to a special group license plate created by an act of the Legislature.

(3) (a) Notwithstanding Subsections (1) and (2), an existing recognition special group license plate that is an honorary consul designated by the United States Department of State is discontinued.

(b) A person with an existing recognition special group license plate that is an honorary consul designated by the United States Department of State shall return the honorary consul recognition special group license plate to the division and may not display the honorary consul special group license plate.

(c) Upon renewal of the vehicle registration related to a vehicle with an honorary consul recognition special group license plate, the division shall issue a new license plate to replace the honorary consul special group license plate.

Section 30. Section 41-1a-1610 is enacted to read:

41-1a-1610. Sponsored Special Group License Plate Fund.

(1) As used in this section, "fund" means the Sponsored Special Group License Plate Fund created in Subsection (2).

(2) There is created an expendable special revenue fund known as the "Sponsored Special Group License Plate Fund."

(3) The fund consists of all required contributions the division collects under this part.

(4) The division shall, at least annually, disburse to each sponsoring organization any money, less any fees or actual administrative costs associated with issuing a sponsoring organization's sponsored special group license plate, from the fund.

Section 31. Section 41-6a-1642 is amended to read:

41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(iv) Volkswagen Golf Sportwagen, model year 2015;

(v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

(vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

(iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

(v) Audi A8, model years 2014, 2015, and 2016;

(vi) Audi A8L, model years 2014, 2015, and 2016;

(vii) Audi Q5, model years 2014, 2015, and 2016; and

(viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1:

(i) if the vintage vehicle has a model year of 1980 or older; or

(ii) for a vintage vehicle that has a model year of 1981 or newer, if the owner provides proof of vehicle insurance that is a type specific to a vehicle collector;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(g) a motorcycle as defined in Section 41-1a-102;

(h) an electric motor vehicle as defined in Section 41-1a-102; and

(i) a motor vehicle with a model year of 1967 or older.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(f) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

(a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(i) a model year of 2007 or newer;

(ii) a gross vehicle weight rating of 14,000 pounds or less; and

(iii) a model year that is five years old or older; and

(b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(i) with a gross vehicle weight rating of 14,000 pounds or less;

(ii) that has a model year of 1998 or newer; and

(iii) that has a model year that is five years old or older.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in regulations or ordinances made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13) (a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

(14) (a) If a county has reason to believe that a vehicle owner has provided an address as required in Section 41-1a-209 to register or attempt to register a motor vehicle in a county other than the county of the bona fide residence of the owner in order to avoid an emissions inspection required under this section, the county may investigate and gather evidence to determine whether the vehicle owner has used a false address or an address other than the vehicle owner's bona fide residence or place of business.

(b) If a county conducts an investigation as described in Subsection (14)(a) and determines that the vehicle owner has used a false or improper address in an effort to avoid an emissions inspection as required in this section, the county may impose a civil penalty of $1,000.

(15) A county legislative body described in Subsection (1) may exempt a motor vehicle from an emissions inspection if:

(a) the motor vehicle is 30 years old or older;

(b) the county determines that the motor vehicle was driven less than 1,500 miles during the preceding 12-month period; and

(c) the owner provides to the county legislative body a statement signed by the owner that states the motor vehicle:

(i) is primarily a collector's item used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours; or

(D) parades; or

(ii) is only used for occasional transportation.

Section 32. Section 53-8-214 is amended to read:

53-8-214. Creation of the Motor Vehicle Safety Impact Restricted Account.

(1) There is created a restricted account within the General Fund known as the Motor Vehicle Safety Impact Restricted Account.

(2) The account includes:

(a) deposits made to the restricted account from registration fees as described in Subsection [~~41-1a-1201(8);~~] 41-1a-1201(7);

(b) donations or deposits made to the account; and

(c) any interest earned on the account.

(3) Upon appropriation, the division may use funds in the account to improve motor vehicle safety, mitigate impacts, and enforce safety provisions, including the following:

(a) hiring new Highway Patrol troopers;

(b) payment of overtime for Highway Patrol troopers; and

(c) acquisition of equipment to improve motor vehicle safety impacts and enforcement.

(4) The division shall annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee to justify expenditures and use of funds in the account.

Section 33. Section 59-10-1319 is amended to read:

59-10-1319. Contribution to Clean Air Fund.

(1) (a) There is created an expendable special revenue fund known as the "Clean Air Fund."

(b) The fund shall consist of all amounts deposited into the fund in accordance with Subsection (2).

(2) (a) Except as provided in Section 59-10-1304, for a taxable year beginning on or after January 1, 2017, a resident or nonresident individual who files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this section to be:

(i) deposited into the Clean Air Fund; and

(ii) expended as provided in Subsection (3).

(b) The fund shall also consist of amounts deposited into the fund through:

[~~(i) contributions deposited into the account in accordance with Section 41-1a-422;~~]

[~~(ii)~~] (i) private contributions; and

[~~(iii)~~] (ii) donations or grants from public or private entities.

(3) (a) At least once each year, the commission shall disburse from the Clean Air Fund all money deposited into the fund since the last disbursement.

(b) The commission shall disburse money under Subsection (3)(a) to the Division of Air Quality for the purpose of:

(i) providing money for grants to individuals or organizations in the state to fund activities intended to improve air quality in the state;

(ii) enhancing programs designed to educate the public about the importance of air quality to the health, well-being, and livelihood of individuals in the state; and

(iii) pay the costs of issuing or reordering Clean Air Support special group license plate decals.

Section 34. Section 62A-15-1103 is amended to read:

62A-15-1103. Governor's Suicide Prevention Fund.

(1) There is created an expendable special revenue fund known as the Governor's Suicide Prevention Fund.

(2) The fund shall consist of donations [~~described in Section 41-1a-422~~], gifts, grants, and bequests of real property or personal property made to the fund.

(3) A donor to the fund may designate a specific purpose for the use of the donor's donation, if the designated purpose is described in Subsection (4).

(4) (a) Subject to Subsection (3), money in the fund shall be used for the following activities:

(i) efforts to directly improve mental health crisis response;

(ii) efforts that directly reduce risk factors associated with suicide; and

(iii) efforts that directly enhance known protective factors associated with suicide reduction.

(b) Efforts described in Subsections (4)(a)(ii) and (iii) include the components of the state suicide prevention program described in Subsection 62A-15-1101(3).

(5) The division shall establish a grant application and review process for the expenditure of money from the fund.

(6) The grant application and review process shall describe:

(a) requirements to complete a grant application;

(b) requirements to receive funding;

(c) criteria for the approval of a grant application;

(d) standards for evaluating the effectiveness of a project proposed in a grant application; and

(e) support offered by the division to complete a grant application.

(7) The division shall:

(a) review a grant application for completeness;

(b) make a recommendation to the governor or the governor's designee regarding a grant application;

(c) send a grant application to the governor or the governor's designee for evaluation and approval or rejection;

(d) inform a grant applicant of the governor or the governor's designee's determination regarding the grant application; and

(e) direct the fund administrator to release funding for grant applications approved by the governor or the governor's designee.

(8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited into the fund.

(9) Money in the fund may not be used for the Office of the Governor's administrative expenses that are normally provided for by legislative appropriation.

(10) The governor or the governor's designee may authorize the expenditure of fund money in accordance with this section.

(11) The governor shall make an annual report to the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.

Section 35. Section 63G-26-103 is amended to read:

63G-26-103. Protection of personal information.

(1) Except as provided in Subsections (2), (3), and (5), a public agency may not:

(a) require an individual to provide the public agency with personal information or otherwise compel the release of personal information;

(b) require an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code to provide the public agency with personal information or compel the entity to release personal information;

(c) release, publicize, or otherwise publicly disclose personal information in possession of a public agency; or

(d) request or require a current or prospective contractor or grantee of the public agency to provide the public agency with a list of entities exempt from federal income tax under Section 501(c) of the Internal Revenue Code to which the contractor or grantee has provided financial or nonfinancial support.

(2) Subsection (1) does not apply to:

(a) a disclosure of personal information required under Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, or any other legal requirement relating to reporting campaign contributions, campaign expenditures, lobbying disclosures, or lobbying expenditures;

(b) a disclosure of personal information expressly required by law;

(c) a disclosure of personal information voluntarily made:

(i) as part of public comment or in a public meeting; or

(ii) in another manner that is publicly accessible;

(d) a disclosure of personal information pursuant to a warrant or court order issued by a court of competent jurisdiction;

(e) a lawful request for discovery of personal information in litigation or a criminal proceeding;

(f) the use of personal information in a legal proceeding;

(g) a public agency sharing personal information with another public agency in accordance with the requirements of law; or

(h) a nonprofit created under Title 11, Chapter 13a, Governmental Nonprofit Corporations Act.

(3) Subsections (1)(a), (b), and (d) do not apply to:

(a) administration or enforcement of Title 13, Chapter 11, Utah Consumer Sales Practices Act, or Title 13, Chapter 22, Charitable Solicitations Act;

(b) the request or use of personal information necessary to the State Tax Commission's administration of tax or motor vehicle laws; or

(c) access to personal information by the Office of the Legislative Auditor General or the state auditor's office to conduct an audit.

(4) A court shall consider whether to:

(a) limit a request for discovery of personal information; or

(b) issue a protective order in relation to the disclosure of personal information obtained or used in relation to a legal proceeding.

(5) Subsection (1) does not apply to disclosure of a contributor[~~, as defined in Section 41-1a-422,~~] to a sponsoring organization [~~described in Subsection 41-1a-422(3).~~], as those terms are defined in Section 41-1a-1601.

Section 36. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection [~~41-1a-1201(9),~~] 41-1a-1201(8), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2027:

(a) Subsection 41-6a-102(31) that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection 41-6a-1406(6)(c)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1)(a), which authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

Section 37. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.~~]

[~~(18)~~] (17) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19)~~] (18) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.

[~~(20)~~] (19) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21)~~] (20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(22)~~] (21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(23)~~] (22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(24)~~] (23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~] (24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~] (25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~] (26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~] (27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~] (28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~] (29) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~] (30) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~] (31) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 38. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates: Title 4.

(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, 2027.

(2) Title 4, Chapter 42, Utah Intracurricular Student Organization Support for Agricultural Education and Leadership, is repealed on July 1, 2024.

[~~(2)~~] (3) Section 4-46-104, Transition, is repealed July 1, 2024.

Section 39. Section 63I-2-209 is amended to read:

63I-2-209. Repeal dates: Title 9.

(1) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2024.

(2) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is repealed June 30, 2021.

(3) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural Exchange Restricted Account Act, is repealed on July 1, 2024.

(4) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted Account Act, is repealed on July 1, 2024.

(5) Title 9, Chapter 19, National Professional Men's Soccer Team Support of Building Communities Restricted Account Act, is repealed on July 1, 2024.

Section 40. Section 63I-2-213 is amended to read:

63I-2-213. Repeal dates: Title 13.

(1) Section 13-1-16 is repealed on July 1, 2024.

(2) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

Section 41. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates: Title 19.

(1) Section 19-1-109 is repealed on July 1, 2024.

[~~(1)~~] (2) Subsections 19-2-109.2(2) through (10), related to the Compliance Advisory Panel, are repealed July 1, 2023.

[~~(2)~~] (3) Section 19-2a-102.5, addressing a study and recommendations for a diesel emission reduction program, is repealed July 1, 2024.

Section 42. Section 63I-2-223 is amended to read:

63I-2-223. Repeal dates: Title 23.

Section 23-14-13.5 is repealed on July 1, 2024.

Section 43. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Title 26 through 26B.

(1) Subsection 26-2-12.6(3), relating to the report for birth certificate fees, is repealed December 31, 2022.

(2) Subsection 26-7-8(3) is repealed January 1, 2027.

(3) Section 26-8a-107 is repealed July 1, 2024.

(4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

(5) Section 26-8a-211 is repealed July 1, 2023.

(6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(7) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

(8) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

(9) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(10) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(11) Section 26-21a-302 is repealed on July 1, 2024.

(12) Section 26-21a-304 is repealed on July 1, 2024.

[~~(11)~~] (13) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

[~~(12)~~] (14) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(15) Section 26-58-102 is repealed on July 1, 2024.

[~~(13)~~] (16) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

[~~(14)~~] (17) Subsection 26-61-202(5) is repealed January 1, 2022.

[~~(15)~~] (18) Subsection 26B-1-204(2)(f), relating to the Air Ambulance Committee, is repealed July 1, 2024.

(19) Section 26B-1-302 is repealed on July 1, 2024.

Section 44. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118 is repealed on July 1, 2024.

(2) Section 53-1-120 is repealed on July 1, 2024.

(3) Section 53-7-109 is repealed on July 1, 2024.

[~~(1)~~] (4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(2)~~] (5) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(3)~~] (6) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(4)~~] (7) Section 53B-8-114 is repealed July 1, 2024.

[~~(5)~~] (8) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(6)~~] (9) Section 53B-10-101 is repealed on July 1, 2027.

[~~(7)~~] (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(8)~~] (11) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(9)~~] (12) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(10)~~] (13) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(11)~~] (14) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(12)~~] (15) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~] (16) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(14)~~] (17) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(15)~~] (18) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(16)~~] (19) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(17)~~] (20) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (21) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

[~~(19)~~] (22) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

[~~(20)~~] (23) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

[~~(21)~~] (24) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (25) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (26) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (27) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(28) Section 53F-9-401 is repealed on July 1, 2024.

(29) Section 53F-9-403 is repealed on July 1, 2024.

[~~(25)~~] (30) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 45. Section 63I-2-261 is amended to read:

63I-2-261. Repeal dates: Title 61.

Section 61-2-204 is repealed on July 1, 2024.

Section 46. Section 63I-2-263 is amended to read:

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

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Subsection 63A-17-304(1)(c) is repealed July 1, 2022.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) Section 63G-1-502 is repealed July 1, 2022.

(6) The following sections regarding the World War II Memorial Commission are repealed July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

[~~(7) Title 63H, Chapter 5, Utah State Railroad Museum Authority, is repealed on July 1, 2022.~~]

[~~(8)~~] (7) Section 63H-7a-303 is repealed July 1, 2024.

[~~(9)~~] (8) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(10)~~] (9) Subsection 63J-1-602.2(44), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

[~~(11)~~] (10) Sections 63M-7-213 and 63M-7-213.5 are repealed January 1, 2023.

[~~(12)~~] (11) Section 63M-7-217 is repealed July 1, 2022.

[~~(13)~~] (12) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(14)~~] (13) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 47. Section 63I-2-272 is amended to read:

63I-2-272. Repeal dates: Title 72.

(1) Subsections 72-1-213.1(13)(a) and (b), related to the road usage charge rate and road usage charge cap, are repealed January 1, 2033.

(2) Section 72-1-216.1 is repealed January 1, 2023.

(3) Section 72-2-127 is repealed on July 1, 2024.

(4) Section 72-2-130 is repealed on July 1, 2024.

[~~(3)~~] (5) Section 72-4-105.1 is repealed on January 1, 2024.

Section 48. Section 63I-2-278 is amended to read:

63I-2-278. Repeal dates: Title 78A and Title 78B.

(1) Section 78A-2-804 is repealed on July 1, 2024.

[~~(1)~~] (2) If Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is not in effect before January 1, 2031, Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is repealed January 1, 2031.

[~~(2)~~] (3) Sections 78B-12-301 and 78B-12-302 are repealed on January 1, 2025.

Section 49. Section 63I-2-279 is amended to read:

63I-2-279. Repeal dates: Title 79.

(1) Section 79-2-206, Transition, is repealed July 1, 2024.

(2) Title 79, Chapter 6, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

(3) Section 79-7-303 is repealed on July 1, 2024.

Section 50. Section 63I-2-280 is enacted to read:

63I-2-280. Repeal dates: Title 80.

Section 80-2-502 is repealed on July 1, 2024.

Section 51. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

[~~(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.~~]

[~~(2)~~] (1) The Native American Repatriation Restricted Account created in Section 9-9-407.

[~~(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.~~]

[~~(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.~~]

[~~(5)~~] (2) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

[~~(6)~~] (3) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

[~~(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.~~]

[~~(8) The Clean Air Support Restricted Account created in Section 19-1-109.~~]

[~~(9)~~] (4) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

[~~(10)~~] (5) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

[~~(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.~~]

[~~(12)~~] (6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

[~~(13)~~] (7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

[~~(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.~~]

[~~(15)~~] (8) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

[~~(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.~~]

[~~(17)~~] (9) The Technology Development Restricted Account created in Section 31A-3-104.

[~~(18)~~] (10) The Criminal Background Check Restricted Account created in Section 31A-3-105.

[~~(19)~~] (11) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

[~~(20)~~] (12) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

[~~(21)~~] (13) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

[~~(22)~~] (14) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

[~~(23)~~] (15) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

[~~(24)~~] (16) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

[~~(25)~~] (17) The School Readiness Restricted Account created in Section 35A-15-203.

[~~(26)~~] (18) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

[~~(27)~~] (19) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

[~~(28)~~] (20) The Oil and Gas Conservation Account created in Section 40-6-14.5.

[~~(29)~~] (21) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

[~~(30)~~] (22) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(23) The License Plate Restricted Account created by Section 41-1a-122 to the Motor Vehicle Division.

[~~(31)~~] (24) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[~~(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.~~]

[~~(33)~~] (25) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[~~(34)~~] (26) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

[~~(35)~~] (27) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[~~(36)~~] (28) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~(37)~~] (29) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(38)~~] (30) The Canine Body Armor Restricted Account created in Section 53-16-201.

[~~(39)~~] (31) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(40)~~] (32) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(41)~~] (33) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(42)~~] (34) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(43)~~] (35) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(44)~~] (36) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(45)~~] (37) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(46)~~] (38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(47)~~] (39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~(48)~~] (40) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(49)~~] (41) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(50)~~] (42) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(51)~~] (43) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(52)~~] (44) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(53)~~] (45) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

[~~(54) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302.~~]

[~~(55)~~] (46) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

[~~(56) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.~~]

[~~(57)~~] (47) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(58)~~] (48) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(59)~~] (49) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(60)~~] (50) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[~~(61)~~] (51) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(62)~~] (52) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(63)~~] (53) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(64)~~] (54) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(65)~~] (55) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[~~(66)~~] (56) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(67)~~] (57) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(68)~~] (58) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(69)~~] (59) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(70)~~] (60) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(71)~~] (61) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(72)~~] (62) Fees for certificate of admission created under Section 78A-9-102.

[~~(73)~~] (63) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(74)~~] (64) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(75)~~] (65) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

[~~(76)~~] (66) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(77) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.~~]

[~~(78)~~] (67) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 52. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The Emergency Medical Services Grant Program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

(15) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(17) The Utah National Guard, created in [~~Title 39, Militia and Armories~~] Title 39A, National Guard and Militia Act.

[~~(18) The State Tax Commission under Section 41-1a-1201 for the:~~]

[~~(a) purchase and distribution of license plates and decals; and~~]

[~~(b) administration and enforcement of motor vehicle registration requirements.~~]

[~~(19)~~] (18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(20)~~] (19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(21)~~] (20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(22)~~] (21) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

[~~(23)~~] (22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

[~~(24)~~] (23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

[~~(25)~~] (24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[~~(26)~~] (25) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

[~~(27)~~] (26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(28)~~] (27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

[~~(29)~~] (28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[~~(30)~~] (29) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[~~(31)~~] (30) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(32)~~] (31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

[~~(33)~~] (32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(34)~~] (33) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(35)~~] (34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(36)~~] (35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(37)~~] (36) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(38)~~] (37) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(39)~~] (38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(40)~~] (39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(41)~~] (40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(42)~~] (41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

[~~(43)~~] (42) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 53. Section 71-8-2 is amended to read:

71-8-2. Department of Veterans and Military Affairs created -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the Veterans Advisory Council, who is subject to Senate confirmation.

(a) The executive director shall be an individual who:

(i) has served on active duty in the armed forces for more than 180 consecutive days;

(ii) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(iv) was separated or retired under honorable conditions.

(b) Any veteran or veterans group may submit names to the council for consideration.

(3) The department shall:

(a) conduct and supervise all veteran activities as provided in this title;

[~~(b) determine which campaign or combat theater awards are eligible for a special group license plate in accordance with Section 41-1a-418;~~]

[~~(c) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it;~~]

[~~(d) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;~~]

[~~(e)~~] (b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title; and

[~~(f)~~] (c) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(4) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (4)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(d) A grant may be awarded by the department only after consultation with the Veterans Advisory Council.

(5) Nothing in this chapter shall be construed as altering or preempting the provisions of [~~Title 39, Militia and Armories~~] Title 39A, National Guard and Militia Act, as specifically related to the Utah National Guard.

Section 54. Section 71-8-4 is amended to read:

71-8-4. Veterans Advisory Council -- Membership -- Duties and responsibilities -- Per diem and travel expenses.

(1) There is created a Veterans Advisory Council whose purpose is to advise the executive director of the Department of Veterans and Military Affairs on issues relating to veterans.

(2) The council shall consist of the following 14 members:

(a) 11 voting members to serve four-year terms:

(i) seven veterans at large appointed by the governor;

(ii) the commander or the commander's designee, whose terms shall last for as long as they hold that office, from each of the following organizations:

(A) Veterans of Foreign Wars;

(B) American Legion; and

(C) Disabled American Veterans; and

(iii) a representative from the Office of the Governor; and

(b) three nonvoting members:

(i) the executive director of the Department of Veterans and Military Affairs;

(ii) the director of the VA Health Care System or his designee; and

(iii) the director of the VA Benefits Administration Regional Office in Salt Lake City, or his designee.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the governor shall appoint each new or reappointed member to a four-year term commencing on July 1.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the members appointed by the governor are appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term within 60 days of receiving notice.

(5) Members appointed by the governor may not serve more than three consecutive terms.

(6) (a) Any veterans group or veteran may provide the executive director with a list of recommendations for members on the council.

(b) The executive director shall provide the governor with the list of recommendations for members to be appointed to the council.

(c) The governor shall make final appointments to the council by June 30 of any year in which appointments are to be made under this chapter.

(7) The council shall elect a chair and vice chair from among the council members every two years. The chair and vice chair shall each be an individual who:

(a) has served on active duty in the armed forces for more than 180 consecutive days;

(b) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(c) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(d) was separated or retired under honorable conditions.

(8) (a) The council shall meet at least once every quarter.

(b) The executive director of the Department of Veterans and Military Affairs may convene additional meetings, as necessary.

(9) The department shall provide staff to the council.

(10) Six voting members are a quorum for the transaction of business.

(11) The council shall:

(a) solicit input concerning veterans issues from veterans' groups throughout the state;

(b) report issues received to the executive director of the Department of Veterans and Military Affairs and make recommendations concerning them;

(c) keep abreast of federal developments that affect veterans locally and advise the executive director of them;

(d) approve, by a majority vote, the use of money generated from veterans license plates under Section [~~41-1a-422~~] 41-1a-1603 for veterans programs; and

(e) assist the director in developing guidelines and qualifications for:

(i) participation by donors and recipients in the Veterans Assistance Registry created in Section 71-12-101; and

(ii) developing a process for providing contact information between qualified donors and recipients.

(12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 55. Section 79-4-402 is amended to read:

79-4-402. State Park Fees Restricted Account.

(1) There is created within the General Fund a restricted account known as the State Park Fees Restricted Account.

(2) (a) Except as provided in Subsection (2)(b), the account shall consist of revenue from:

[~~(i) contributions deposited into the account in accordance with Section 41-1a-422;~~]

[~~(ii)~~] (i) all charges allowed under Section 79-4-2~~0~~3;

[~~(iii)~~] (ii) proceeds from the sale or disposal of buffalo under Subsection 79-4-1001(2)(b); and

[~~(iv)~~] (iii) civil damages collected under Section 76-6-2~~0~~6.2.

(b) The account shall not include revenue the division receives under Section 79-4-403 and Subsection 79-4-1001(2)(a).

(3) The division shall use funds in this account for the purposes described in Section 79-4-203.

Section 56. Section 79-7-203 is amended to read:

79-7-203. Powers and duties of division.

(1) As used in this section, "real property" includes land under water, upland, and all other property commonly or legally defined as real property.

(2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon the Division of Wildlife Resources by law on property controlled by the division with reference to fish and game.

(3) For purposes of property controlled by the division, the division shall permit multiple uses of the property for purposes such as grazing, fishing, hunting, camping, mining, and the development and use of water and other natural resources.

(4) (a) The division may acquire real and personal property in the name of the state by legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.

(b) In acquiring real or personal property, the credit of the state may not be pledged without the consent of the Legislature.

(5) (a) Before acquiring any real property, the division shall notify the county legislative body of the county where the property is situated of the division's intention to acquire the property.

(b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.

(6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.

(7) The division shall acquire property by eminent domain in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The division may make charges for special services and use of facilities, the income from which is available for recreation purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

(9) (a) The division may lease or rent concessions of lawful kinds and nature on property to persons, partnerships, and corporations for a valuable consideration after notifying the commission.

(b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

(11) (a) The division shall coordinate with and annually report to the following regarding land acquisition and development and grants administered under this chapter or Chapter 8, Outdoor Recreation Grants:

(i) the Division of State Parks; and

(ii) the Office of Rural Development.

(b) The report required under Subsection (11)(a) shall be in writing, made public, and include a description and the amount of any grant awarded under this chapter or Chapter 8, Outdoor Recreation Grants.

(12) The division shall:

(a) coordinate outdoor recreation policy, management, and promotion:

(i) among state and federal agencies and local government entities in the state;

(ii) with the Public Lands Policy Coordinating Office created in Section 63L-11-201, if public land is involved; and

(iii) on at least a quarterly basis, with the executive director and the executive director of the Governor's Office of Economic Opportunity;

(b) in cooperation with the Governor's Office of Economic Opportunity, promote economic development in the state by:

(i) coordinating with outdoor recreation stakeholders;

(ii) improving recreational opportunities; and

(iii) recruiting outdoor recreation business;

(c) promote all forms of outdoor recreation, including motorized and nonmotorized outdoor recreation;

(d) recommend to the governor and Legislature policies and initiatives to enhance recreational amenities and experiences in the state and help implement those policies and initiatives;

(e) in performing the division's duties, seek to ensure safe and adequate access to outdoor recreation for all user groups and for all forms of recreation;

(f) develop data regarding the impacts of outdoor recreation in the state; and

(g) promote the health and social benefits of outdoor recreation, especially to young people.

(13) By following Title 63J, Chapter 5, Federal Funds Procedures Act, the division may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.

[~~(14) The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section 79-7-303.~~]

Section 57. Section 79-7-303 is amended to read:

79-7-303. Zion National Park Support Programs Restricted Account.

(1) There is created within the General Fund the "Zion National Park Support Programs Restricted Account."

(2) The Zion National Park Support Programs Restricted Account shall be funded by:

[~~(a) contributions deposited into the Zion National Park Support Programs Restricted Account in accordance with Section 41-1a-422;~~]

[~~(b)~~] (a) private contributions; or

[~~(c)~~] (b) donations or grants from public or private entities.

(3) The Legislature shall appropriate money in the Zion National Park Support Programs Restricted Account to the division.

(4) The division may expend up to 10% of the money appropriated under Subsection (3) to administer account distributions in accordance with Subsections (5) and (6).

(5) The division shall distribute contributions to one or more organizations that:

(a) are exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(b) operate under a written agreement with the National Park Service to provide interpretive, educational, and research activities for the benefit of Zion National Park;

(c) produce and distribute educational and promotional materials on Zion National Park;

(d) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and

(e) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.

(6) (a) An organization described in Subsection (5) may apply to the division to receive a distribution in accordance with Subsection (5).

(b) An organization that receives a distribution from the division in accordance with Subsection (5) shall expend the distribution only to:

(i) produce and distribute educational and promotional materials on Zion National Park;

(ii) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and

(iii) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after notifying the commission, the division may make rules providing procedures and requirements for an organization to apply to the division to receive a distribution under Subsection (5).

Section 58. Repealer.

This bill repeals:

Section 41-1a-421, Honor special group license plates -- Personal identity requirements.

Section 41-1a-422, Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

Section 59. Effective date.

This bill takes effect on January 1, 2024.

Section 60. Coordinating H.B. 26 with H.B. 55 -- Substantive and technical amendments.

If this H.B. 26 and H.B. 55, Off-highway Vehicle Registration Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication on January 1, 2024, by amending Subsection 41-22-19(5)(c) in H.B. 55 to read:

"(c) The Motor Vehicle Division shall deposit the fee described in Subsection (5)(a) into the License Plate Restricted Account created under Section 41-1a-122.".

CHAPTER 34
H. B. 31
Passed February 9, 2023
Approved March 13, 2023
Effective July 1, 2023

WILDLIFE RESOURCES RECODIFICATION CROSS REFERENCES

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses cross references related to the recodification of Title 23, Wildlife Resources Code of Utah.

Highlighted Provisions:

This bill:

- changes relevant cross references; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

4-14-102, as last amended by Laws of Utah 2018, Chapter 457
4-23-106, as last amended by Laws of Utah 2020, Chapter 311
4-34-108, as enacted by Laws of Utah 2022, Chapter 53
4-37-103, as last amended by Laws of Utah 2017, Chapter 412
4-37-108, as last amended by Laws of Utah 2017, Chapter 412
4-37-111, as last amended by Laws of Utah 2017, Chapter 412
4-37-204, as last amended by Laws of Utah 2022, Chapter 79
4-39-401, as last amended by Laws of Utah 2018, Chapter 355
4-46-103, as enacted by Laws of Utah 2022, Chapter 68
4-46-401, as enacted by Laws of Utah 2022, Chapter 68
10-2-403, as last amended by Laws of Utah 2021, Chapter 112
11-3-10, as last amended by Laws of Utah 1993, Chapter 234
11-41-102, as last amended by Laws of Utah 2022, Chapter 307
11-46-302, as enacted by Laws of Utah 2011, Chapter 130
11-51a-201, as enacted by Laws of Utah 2015, Chapter 419
11-65-206, as enacted by Laws of Utah 2022, Chapter 59
17-27a-401, as last amended by Laws of Utah 2022, Chapters 282, 406
24-4-115, as last amended by Laws of Utah 2022, Chapter 179
41-1a-422, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, 255, 259, 335, 451, and 456
51-9-402, as last amended by Laws of Utah 2020, Chapter 230
53-2a-208, as last amended by Laws of Utah 2022, Chapter 39
53-2a-1102, as last amended by Laws of Utah 2022, Chapters 68, 73
53-7-221, as last amended by Laws of Utah 2018, Chapter 189
53-13-103, as last amended by Laws of Utah 2021, Chapter 349
57-14-202, as last amended by Laws of Utah 2021, Chapter 41
57-14-204, as last amended by Laws of Utah 2022, Chapter 68
58-79-102, as last amended by Laws of Utah 2020, Chapters 316, 376
59-2-301.5, as enacted by Laws of Utah 2013, Chapter 96
63A-16-803, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-512, as renumbered and amended by Laws of Utah 2021, Chapter 344
63G-7-201, as last amended by Laws of Utah 2021, Chapter 352
63G-21-201, as last amended by Laws of Utah 2022, Chapter 419
63I-1-223, as last amended by Laws of Utah 2020, Chapters 154, 232
63I-2-223, as last amended by Laws of Utah 2012, Chapter 369
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154
63L-7-106, as enacted by Laws of Utah 2014, Chapter 323
63L-8-303, as enacted by Laws of Utah 2016, Chapter 317
63L-8-304, as last amended by Laws of Utah 2017, Chapter 451
72-9-501, as last amended by Laws of Utah 2021, Chapter 239
73-3-30, as last amended by Laws of Utah 2022, Chapter 43
73-18-26, as last amended by Laws of Utah 2020, Chapter 195
73-29-102, as enacted by Laws of Utah 2010, Chapter 410
73-30-201, as last amended by Laws of Utah 2020, Chapter 352
76-9-301, as last amended by Laws of Utah 2021, Chapter 57
76-10-504, as last amended by Laws of Utah 2021, Chapter 12
76-10-508, as last amended by Laws of Utah 2019, Chapter 39
76-10-508.1, as last amended by Laws of Utah 2019, Chapter 39
76-10-1602, as last amended by Laws of Utah 2022, Chapters 181, 185

77-20-204, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-23-104, as last amended by Laws of Utah 2001, Chapter 168
78A-5-110, as last amended by Laws of Utah 2022, Chapter 68
78A-7-106, as last amended by Laws of Utah 2022, Chapters 155, 318
78A-7-120, as last amended by Laws of Utah 2022, Chapters 68, 89
78B-6-501, as last amended by Laws of Utah 2021, Chapter 41
79-1-104, as enacted by Laws of Utah 2022, Chapter 68
79-2-102, as enacted by Laws of Utah 2009, Chapter 344
79-2-201, as last amended by Laws of Utah 2022, Chapter 68
79-2-601, as enacted by Laws of Utah 2022, Chapter 51

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

Section 1. Section 4-14-102 is amended to read:

4-14-102. Definitions.

As used in this chapter:

(1) "Active ingredient" means an ingredient that:

(a) prevents, destroys, repels, controls, or mitigates pests; or

(b) acts as a plant regulator, defoliant, or desiccant.

(2) "Adulterated pesticide" means a pesticide with a strength or purity that is below the standard of quality expressed on the label under which the pesticide is offered for sale.

(3) "Animal" means all vertebrate or invertebrate species.

(4) "Beneficial insect" means an insect that is:

(a) an effective pollinator of plants;

(b) a parasite or predator of pests; or

(c) otherwise beneficial.

(5) "Certified applicator" means an individual who is licensed by the department to apply:

(a) a restricted use pesticide; or

(b) a general use pesticide for hire or in exchange for compensation.

(6) "Certified qualified applicator" means a certified applicator who is eligible to act as a qualifying party.

(7) "Defoliant" means a substance or mixture intended to cause leaves or foliage to drop from a plant, with or without causing abscission.

(8) "Desiccant" means a substance or mixture intended to artificially accelerate the drying of plant or animal tissue.

(9) "Distribute" means to offer for sale, sell, barter, ship, deliver for shipment, receive, deliver, or offer to deliver pesticides in this state.

(10) "Environment" means all living plants and animals, water, air, land, and the interrelationships that exist between them.

(11) (a) "Equipment" means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power to apply a pesticide.

(b) "Equipment" does not mean any pressurized hand-sized household apparatus used to apply a pesticide or any equipment or contrivance used to apply a pesticide that is dependent solely upon energy expelled by the person making the pesticide application.

(12) "EPA" means the United States Environmental Protection Agency.

(13) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act.

(14) (a) "Fungus" means a nonchlorophyll-bearing thallophyte or a nonchlorophyll-bearing plant of an order lower than mosses and liverworts, including rust, smut, mildew, mold, yeast, and bacteria.

(b) "Fungus" does not include fungus existing on or in:

(i) a living person or other animal; or

(ii) processed food, beverages, or pharmaceuticals.

(15) "Herbicide" means a substance that is toxic to plants and is used to control or eliminate unwanted vegetation.

(16) "Insect" means an invertebrate animal generally having a more or less obviously segmented body:

(a) usually belonging to the Class Insecta, comprising six-legged, usually winged forms, including beetles, bugs, bees, and flies; and

(b) allied classes of arthropods that are wingless usually having more than six legs, including spiders, mites, ticks, centipedes, and wood lice.

(17) "Label" means any written, printed, or graphic matter on, or attached to, a pesticide or a container or wrapper of a pesticide.

(18) (a) "Labeling" means all labels and all other written, printed, or graphic matter:

(i) accompanying a pesticide or equipment; or

(ii) to which reference is made on the label or in literature accompanying a pesticide or equipment.

(b) "Labeling" does not include any written, printed, or graphic matter created by the EPA, the United States Departments of Agriculture or Interior, the United States Department of Health, Education, and Welfare, state experimental stations, state agricultural colleges, and other federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(19) "Land" means land, water, air, and plants, animals, structures, buildings, contrivances, and machinery appurtenant or situated thereon, whether fixed or mobile, including any used for transportation.

(20) "Misbranded" means any label or labeling that is false or misleading or that does not strictly comport with the label and labeling requirements set forth in Section 4-14-104.

(21) "Misuse" means use of any pesticide in a manner inconsistent with the pesticide's label or labeling.

(22) "Nematode" means invertebrate animals of the Phylum Nemathelminthes and Class Nematoda, including unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, also known as nemas or eelworms.

(23) "Ornamental and turf pest control" means the use of a pesticide to control ornamental and turf pests in the maintenance and protection of ornamental trees, shrubs, flowers, or turf.

(24) (a) "Pest" means:

(i) any insect, rodent, nematode, fungus, weed; or

(ii) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganism that is injurious to health or to the environment or that the department declares to be a pest.

(b) "Pest" does not include:

(i) viruses, bacteria, or other microorganisms on or in a living person or other living animal; or

(ii) protected wildlife species identified in Section [~~23-13-2~~] 23A-1-101 that are regulated by the Division of Wildlife Resources in accordance with Sections [~~23-14-1 through 23-14-3~~] 23A-2-102, 23A-2-201, 23A-2-301, 23A-2-302, and 23A-2-303.

(25) "Pesticide" means any:

(a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, or other form of plant or animal life that is normally considered to be a pest or that the commissioner declares to be a pest;

(b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;

(c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide to aid the pesticide's application or effect; and

(d) any other substance designated by the department by rule.

(26) "Pesticide applicator" is a person who:

(a) applies or supervises the application of a pesticide; and

(b) is required by this chapter to have a license.

(27) (a) "Pesticide applicator business" means an entity that:

(i) is authorized to do business in this state; and

(ii) offers pesticide application services.

(b) "Pesticide applicator business" does not include an individual licensed agricultural applicator who may work for hire.

(28) "Pesticide dealer" means any person who distributes restricted use pesticides.

(29) (a) "Plant regulator" means any substance or mixture intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation, or otherwise alter the behavior of ornamental or crop plants.

(b) "Plant regulator" does not include plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(30) "Qualifying party" means a certified qualified applicator who is the owner or employee of a pesticide applicator business and who is registered with the department as the individual responsible for ensuring the training, equipping, and supervision of all pesticide applicators who work for the pesticide applicator business.

(31) "Restricted use pesticide" means:

(a) a pesticide, including a highly toxic pesticide, that is a serious hazard to beneficial insects, animals, or land; or

(b) any pesticide or pesticide use restricted by the administrator of EPA or by the commissioner.

(32) "Spot treatment" means the limited application of an herbicide to an area that is no more than 5% of the potential treatment area or one-twentieth of an acre, whichever is smaller, using equipment that is designed to contain no more than five gallons of mixture.

(33) "Weed" means any plant that grows where not wanted.

(34) "Wildlife" means all living things that are neither human, domesticated, nor pests.

Section 2. Section 4-23-106 is amended to read:

4-23-106. Department to issue licenses and permits -- Department to issue aircraft use permits -- Aerial hunting.

(1) The department is responsible for the issuance of permits and licenses for the purposes of the federal Fish and Wildlife Act of 1956.

(2) A private person may not use an aircraft for the prevention of damage without first obtaining a use permit from the department.

(3) The department may issue an annual permit for aerial hunting to a private person for the

protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, if the person shows that the person or the person's designated pilot, along with the aircraft to be used in the aerial hunting, are licensed and qualified in accordance with the requirements of the department set by rule.

(4) The department may predicate the issuance or retention of a permit for aerial hunting upon the permittee's full and prompt disclosure of information as the department may request for submission pursuant to rules made by the department.

(5) The department shall collect an annual fee, set in accordance with Section 63J-1-504, from a person who has an aircraft for which a permit is issued or renewed under this section.

(6) Aerial hunting activity under a permit issued by the department is restricted to:

(a) (i) private lands that are owned or managed by the permittee;

(ii) state grazing allotments where the permittee is permitted by the state or the State Institutional Trust Lands Administration to graze livestock; or

(iii) federal grazing allotments where the permittee is permitted by the United States Bureau of Land Management or United States Forest Service to graze livestock; and

(b) only during the time period for which the private land owner has provided written permission for the aerial hunting.

(7) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to carry out the purpose of this section.

(8) The issuance of an aerial hunting permit or license under this section does not authorize the holder to use aircraft to hunt, pursue, shoot, wound, kill, trap, capture, or collect protected wildlife, as defined in Section [~~23-13-2~~] 23A-1-101, unless also authorized by the Division of Wildlife Resources under Section [~~23-20-12~~] 23A-5-315.

Section 3. Section 4-34-108 is amended to read:

4-34-108. Donation of wild game meat.

(1) As used in this section:

(a) "Big game" means the same as that term is defined in Section [~~23-13-2~~] 23A-1-101.

(b) "Custom meat processor" means a person who processes meat but is exempt from licensure under Section 4-32-106 as a licensed meat establishment.

(c) "Department" means the Department of Agriculture and Food.

(2) Wild game, including big game, lawfully taken by a licensed hunter may be donated to a nonprofit charitable organization to feed individuals in need.

(3) Donated wild game meat shall meet the following conditions:

(a) come from an animal in apparent good health before harvest of the animal;

(b) come from an animal with intact intestines;

(c) be field-dressed immediately after harvest of the animal and be handled in a manner in keeping with generally accepted wild game handling procedures;

(d) be processed by a custom meat processor as soon as possible after harvest of the animal;

(e) be clearly marked as "not for sale";

(f) be clearly marked as "donated wild game meat" in letters not less than [~~three-eights~~] three-eighths of an inch in height; and

(g) may not come from a road-kill animal and a road-kill animal may not be donated under this section.

(4) (a) A donor or custom meat processor of the wild game meat being donated shall advise the nonprofit charitable organization receiving the donated wild game meat that the donated wild game meat should be thoroughly cooked before human consumption.

(b) Before serving donated wild game meat, the nonprofit charitable organization shall prominently post a sign indicating:

(i) that the donated wild game meat is donated wild game meat;

(ii) the type of meat processing used; and

(iii) that the meat has not been inspected.

(5) The Department of Natural Resources may donate wild game meat in the Department of Natural Resources' possession if this section is followed.

(6) A person may not buy, sell, or offer for sale or barter donated wild game meat.

(7) The department may examine, sample, seize, or condemn donated wild game meat if the department has reason to believe that the donated wild game meat is unwholesome under Chapter 5, Utah Wholesome Food Act.

Section 4. Section 4-37-103 is amended to read:

4-37-103. Definitions.

As used in this chapter:

(1) "Aquaculture" means the controlled cultivation of aquatic animals.

(2) (a) (i) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture.

(ii) "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility.

(b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified

to drain to, different drainages, are considered separate aquaculture facilities regardless of ownership.

(3) (a) "Aquatic animal" means a member of any species of fish, mollusk, crustacean, or amphibian.

(b) "Aquatic animal" includes a gamete of any species listed in Subsection (3)(a).

(4) "Fee fishing facility" means a body of water used for holding or rearing fish for the purpose of providing fishing for a fee or for pecuniary consideration or advantage.

(5) "Natural flowing stream" means the same as that term is defined in Section [~~23-13-2~~] 23A-1-101.

(6) "Natural lake" means the same as that term is defined in Section [~~23-13-2~~] 23A-1-101.

(7) "Private fish pond" means the same as that term is defined in Section [~~23-13-2~~] 23A-1-101.

(8) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture by the Division of Wildlife Resources, U.S. Fish and Wildlife Service, a mosquito abatement district, or an institution of higher education.

(9) "Public fishery resource" means fish produced in public aquaculture facilities and wild and free ranging populations of fish in the surface waters of the state.

(10) "Reservoir constructed on a natural stream channel" means the same as that term is defined in Section [~~23-13-2~~] 23A-1-101.

(11) "Short-term fishing event" means the same as that term is defined in Section [~~23-13-2~~] 23A-1-101.

Section 5. Section 4-37-108 is amended to read:

4-37-108. Prohibited activities.

(1) Except as provided in this chapter, in the rules of the department made pursuant to Section 4-37-109, rules of the Fish Health Policy Board made pursuant to Section 4-37-503, or in the rules of the Wildlife Board governing species of aquatic animals which may be imported into, possessed, transported, or released within the state, a person may not:

(a) acquire, import, or possess aquatic animals intended for use in an aquaculture or fee fishing facility;

(b) transport aquatic animals to or from an aquaculture or fee fishing facility;

(c) stock or propagate aquatic animals in an aquaculture or fee fishing facility;

(d) harvest, transfer, or sell aquatic animals from an aquaculture or fee fishing facility; or

(e) release aquatic animals into the waters of the state.

(2) If a person commits an act in violation of Subsection (1) and that same act constitutes wanton destruction of protected wildlife as provided in Section [~~23-20-4~~] 23A-5-311, the person is guilty of a violation of Section[~~-23-20-4~~] 23A-5-311.

Section 6. Section 4-37-111 is amended to read:

4-37-111. Prohibited sites.

(1) Except as provided in Subsection (2), an aquaculture facility or a fee fishing facility may not be developed on:

(a) a natural lake;

(b) a natural flowing stream; or

(c) a reservoir constructed on a natural stream channel.

(2) The Division of Wildlife Resources may authorize an aquaculture facility, public aquaculture facility, or fee fishing facility on a natural lake or reservoir constructed on a natural stream channel upon inspecting and determining:

(a) the facility and inlet source of the facility neither contain wild game fish nor are likely to support such species in the future;

(b) the facility and the facility's intended use will not jeopardize conservation of aquatic wildlife or lead to the privatization or commercialization of aquatic wildlife;

(c) the facility is properly screened as provided in Subsection [~~23-15-10(3)(c)~~] 23A-9-203(3)(c) and otherwise in compliance with the requirements of this title, rules of the Wildlife Board, and applicable law; and

(d) the facility is not vulnerable to flood or high water events capable of compromising the facility's inlet or outlet screens and allowing escapement of privately owned fish into waters of the state.

(3) Any authorization issued by the Division of Wildlife Resources under Subsection (2) shall be in the form of a certificate of registration.

Section 7. Section 4-37-204 is amended to read:

4-37-204. Sale of aquatic animals from aquaculture facilities.

(1) (a) Except as provided by Subsection (1)(c) and subject to Subsection (1)(b), a person holding a license for an aquaculture facility may take an aquatic animal as approved on the license from the facility at any time and offer the aquatic animal for sale.

(b) A live aquatic animal may be sold within Utah only to a person who:

(i) has been issued a license to possess the aquatic animal; or

(ii) is eligible to receive the aquatic animal without a certificate of registration under Wildlife Board rules.

(c) A person who owns or operates an aquaculture facility may sell live aquatic animals if the person:

(i) obtains a health approval number for the aquaculture facility;

(ii) inspects the pond or holding facility to verify that the pond or facility is in compliance with Subsections [~~23-15-10(2)~~] 23A-9-203(2) and (3)(c); and

(iii) stocks the species and reproductive capability of aquatic animals authorized by the Wildlife Board in accordance with Section [~~23-15-10~~] 23A-9-203 for stocking in the area where the pond or holding facility is located.

(2) An aquatic animal sold or transferred by the owner or operator of an aquaculture facility shall be accompanied by the seller's receipt that contains the following information:

(a) date of transaction;

(b) name, address, license number, and health approval number;

(c) number and weight of aquatic animal by:

(i) species; and

(ii) reproductive capability; and

(d) name and address of the receiver.

(3) (a) A person holding a license for an aquaculture facility shall submit to the department an annual report of each sale of live aquatic animals or each transfer of live aquatic animals in Utah. The department shall forward the report to the Division of Wildlife Resources. The department or Division of Wildlife Resources may request copies of receipts from an aquaculture facility.

(b) The report shall contain the following information:

(i) name, address, and license number of the seller or supplier;

(ii) number and weight of aquatic animals by species and reproductive capacity;

(iii) date of sale or transfer; and

(iv) name, address, phone number, and license number of the receiver.

(4) Geographic coordinates of the stocking location shall be provided if the receiver is eligible to stock the aquatic animal without a certificate of registration under Wildlife Board rules.

(5) A report required by Subsection (3) shall be submitted before:

(a) a license is renewed or a subsequent license is issued; or

(b) a health approval number is issued.

Section 8. Section 4-39-401 is amended to read:

4-39-401. Escape of domesticated elk -- Liability.

(1) The owner shall try to capture domesticated elk that escape.

(2) The escape of a domesticated elk shall be reported immediately to the domestic elk program manager, who shall notify the Division of Wildlife Resources.

(3) If the domesticated elk is not recovered within 72 hours of the escape, the department, in conjunction with the Division of Wildlife Resources, shall take whatever action is necessary to resolve the problem.

(4) The owner shall reimburse the state or a state agency for any reasonable recapture costs incurred in the recapture or destruction of an escaped domesticated elk.

(5) An escaped domesticated elk taken by a licensed hunter in a manner that complies with the provisions of [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, and the rules of the Wildlife Board shall be considered a legal taking and neither the licensed hunter, the state, nor a state agency shall be liable to the owner for the killing.

(6) The owner shall be responsible for containing the domesticated elk to ensure that there is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk is protected.

Section 9. Section 4-46-103 is amended to read:

4-46-103. Application of chapter to wildlife issues.

This chapter may not be construed or applied to supersede or interfere with the powers and duties of the Division of Wildlife Resources or the Wildlife Board under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, over:

(1) conservation and management of protected wildlife within the state;

(2) a program or initiative to restore and conserve habitat for fish and wildlife; or

(3) acquisition, ownership, management, and control of real property or a real property interest, including a leasehold estate, an easement, a right-of-way, or a conservation easement.

Section 10. Section 4-46-401 is amended to read:

4-46-401. Division of Conservation created -- Director.

(1) Within the department there is created the Division of Conservation.

(2) (a) The director is the executive and administrative head of the division.

(b) The director shall administer this part subject to the administration and general supervision of the commissioner.

(3) The division shall coordinate state conservation efforts by:

(a) staffing the board created in Section 4-46-201;

(b) coordinating with a conservation district in accordance with Section 4-46-402;

(c) coordinating with an agency or division within the department, the Department of Natural Resources, other state agencies, counties, cities, towns, local land trust entities, and federal agencies;

(d) facilitating obtaining federal funds in addition to state funds used for state conservation efforts;

(e) monitoring and providing for the management of conservation easements on state lands, including coordination with the Division of Wildlife Resources in the Division of Wildlife Resources' administration of Section [~~23-14-14.2~~] 23A-3-204; and

(f) implementing rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 4-46-403.

(4) The division may cooperate with, or enter into agreements with, other agencies of this state and federal agencies in the administration and enforcement of this chapter.

Section 11. Section 10-2-403 is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1), the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality).''; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

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

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production area created under [~~Title 23, Chapter 28, Migratory Bird Production Area~~] Title 23A, Chapter 13, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section 17-23-20, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

• There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

• If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes a cross-county annexation, as defined in Section 10-2-402.5, be accompanied by a copy of the resolution described in Subsection 10-2-402.5(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(7) A property owner who signs an annexation petition may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 12. Section 11-3-10 is amended to read:

11-3-10. Exemptions -- Limitation on chapter.

(1) This chapter does not apply to class A, class B, and class C explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit for destinations outside of Utah.

(2) This chapter does not supersede Section [~~23-13-7~~] 23A-2-208, regarding use of fireworks

and explosives by the Division of Wildlife Resources and federal game agents.

(3) Provided that the display operators are properly licensed as required by Section 53-7-223, municipalities and counties for the unincorporated areas within the county may conduct, permit, or regulate:

(a) exhibitions of display fireworks; or

(b) pyrotechnic displays held inside public buildings.

Section 13. Section 11-41-102 is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a public entity and a person.

(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.

(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.

(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(6) "General plan" means the same as that term is defined in Section [~~23-21-.5~~] 23A-6-101.

(7) "Mixed-use development" means development with mixed land uses, including housing.

(8) "Moderate income housing plan" means the moderate income housing plan element of a general plan.

(9) "Office" means the Governor's Office of Economic Opportunity.

(10) "Political subdivision" means any county, city, town, metro township, school district, local district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.

(11) "Public entity" means:

(a) a political subdivision;

(b) a state agency as defined in Section 63J-1-220;

(c) a higher education institution as defined in Section 53B-1-201;

(d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(12) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) a property tax levy.

(13) "Public infrastructure" means:

(a) a public facility as defined in Section 11-36a-102; or

(b) public infrastructure included as part of an infrastructure master plan related to a general plan.

(14) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(15) (a) "Retail facility incentive payment" means a payment of public funds:

(i) to a person by a public entity;

(ii) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

(iii) in the form of:

(A) a payment;

(B) a rebate;

(C) a refund;

(D) a subsidy; or

(E) any other similar incentive, award, or offset.

(b) "Retail facility incentive payment" does not include a payment of public funds for:

(i) the development, construction, renovation, or operation of:

(A) public infrastructure; or

(B) a structured parking facility;

(ii) the demolition of an existing facility;

(iii) assistance under a state or local:

(A) main street program; or

(B) historic preservation program;

(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;

(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;

(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or

(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.

(16) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(17) (a) "Small business" means a business entity that:

(i) has fewer than 30 full-time equivalent employees; and

(ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;

(ii) a dealer, as defined in Section 41-1a-102; or

(iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 14. Section 11-46-302 is amended to read:

11-46-302. Definitions.

In addition to the definitions in Sections 11-46-102 and 11-46-202, as used in this part:

(1) "Community cat" means a feral or free-roaming cat that is without visibly discernable or microchip owner identification of any kind, and has been sterilized, vaccinated, and ear-tipped.

(2) "Community cat caretaker" means any person other than an owner who provides food, water, or shelter to a community cat or community cat colony.

(3) "Community cat colony" means a group of cats that congregate together. Although not every cat in a colony may be a community cat, any cats owned by individuals that congregate with a colony are considered part of it.

(4) "Community cat program" means a program pursuant to which feral cats are sterilized, vaccinated against rabies, ear-tipped, and returned to the location where they congregate.

(5) "Ear-tipping" means removing approximately a quarter-inch off the tip of a cat's left ear while the cat is anesthetized for sterilization.

(6) "Feral" has the same meaning as in Section [~~23-13-2~~] 23A-1-101.

(7) "Sponsor" means any person or organization that traps feral cats, sterilizes, vaccinates against rabies, and ear-tips them before returning them to the location where they were trapped. A sponsor may be any animal humane society, non-profit organization, animal rescue, adoption organization, or a designated community cat caretaker that also maintains written records on community cats.

Section 15. Section 11-51a-201 is amended to read:

11-51a-201. Limitation.

Nothing in this chapter limits:

(1) the authority of the state to manage and protect wildlife under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act; or

(2) the power of a municipality under Section 10-8-60.

Section 16. Section 11-65-206 is amended to read:

11-65-206. Applicability of other law -- Cooperation of state and local governments -- Authority of other agencies not affected -- Attorney general to provide legal services.

(1) The lake authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(2) A department, division, or other agency of the state and a political subdivision of the state is encouraged, upon the board's request, to cooperate with the lake authority to provide the support, information, or other assistance reasonably necessary to help the lake authority fulfill the lake authority's duties and responsibilities under this chapter.

(3) Nothing in this chapter may be construed to affect or impair:

(a) the authority of the Department of Environmental Quality, created in Section 19-1-104, to regulate under Title 19, Environmental Quality Code, consistent with the purposes of this chapter; or

(b) the authority of the Division of Wildlife Resources, created in Section [~~23-14-1~~] 23A-2-201, to regulate under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, consistent with the purposes of this chapter.

(4) In accordance with Utah Constitution, Article XVII, Section 1, nothing in this chapter may be construed to override, supersede, interfere with, or modify:

(a) any water right in the state;

(b) the operation of a water facility or project; or

(c) the role or authority of the state engineer.

(5) (a) Except as otherwise explicitly provided, nothing in this chapter may be construed to authorize the lake authority to interfere with or take the place of another governmental entity in that entity's process of considering an application or

request for a license, permit, or other regulatory or governmental permission for an action relating to water of Utah Lake or land within the lake authority boundary.

(b) The lake authority shall respect and, if applicable and within the lake authority's powers, implement a license, permit, or other regulatory or governmental permission described in Subsection (5)(a).

(6) Nothing in this chapter may be construed to allow the authority to:

(a) consider an application for the disposal of land within the lake authority boundary under Title 65A, Chapter 15, Utah Lake Restoration Act; or

(b) issue bonding or other financing for a project under Title 65A, Chapter 15, Utah Lake Restoration Act.

(7) The attorney general shall provide legal services to the board.

Section 17. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, a county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(i) an official map.

(3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).

(ii) On or before October 1, 2022, a specified county, as defined in Section 17-27a-408, with a general plan that does not comply with Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

(b) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(c) The resource management plan described in Subsection (3)(b) shall address:

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

(vii) noxious weeds;

(viii) forest management;

(ix) water rights;

(x) ditches and canals;

(xi) water quality and hydrology;

(xii) flood plains and river terraces;

(xiii) wetlands;

(xiv) riparian areas;

(xv) predator control;

(xvi) wildlife;

(xvii) fisheries;

(xviii) recreation and tourism;

(xix) energy resources;

(xx) mineral resources;

(xxi) cultural, historical, geological, and paleontological resources;

(xxii) wilderness;

(xxiii) wild and scenic rivers;

(xxiv) threatened, endangered, and sensitive species;

(xxv) land access;

(xxvi) law enforcement;

(xxvii) economic considerations; and

(xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

(i) establish findings pertaining to the item;

(ii) establish defined objectives; and

(iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.

(4) (a) (i) The general plan shall include specific provisions related to an area within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303.

(ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(A) the information identified in Section 19-3-305;

(B) information supported by credible studies that demonstrates that Subsection 19-3-307(2) has been satisfied; and

(C) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act.

(9) On or before December 31, 2025, a county that has a general plan that does not include a water use and preservation element that complies with Section 17-27a-403 shall amend the county's general plan to comply with Section 17-27a-403.

Section 18. Section 24-4-115 is amended to read:

24-4-115. Disposition and allocation of forfeited property.

(1) If a court finds that property is forfeited under this chapter, the court shall order the property forfeited to the state.

(2) (a) If the property is not currency, the agency shall authorize a public or otherwise commercially reasonable sale of that property if the property is not required by law to be destroyed and is not harmful to the public.

(b) If the property forfeited is an alcoholic product as defined in Section 32B-1-102, the property shall be disposed of as follows:

(i) an alcoholic product shall be sold if the alcoholic product is:

(A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious substance or liquid; and

(B) otherwise in saleable condition; or

(ii) an alcoholic product and the alcoholic product's package shall be destroyed if the alcoholic product is impure, adulterated, or otherwise unfit for sale.

(c) If the property forfeited is a cigarette or other tobacco product as defined in Section 59-14-102, the property shall be destroyed, except that the lawful holder of the trademark rights in the cigarette or tobacco product brand is permitted to inspect the cigarette before the destruction of the cigarette or tobacco product.

(d) The proceeds of the sale of forfeited property shall remain segregated from other property, equipment, or assets of the agency until transferred in accordance with this chapter.

(3) Before transferring currency and the proceeds or revenue from the sale of the property in accordance with this chapter, the agency shall:

(a) deduct the agency's direct costs, expense of reporting under Section 24-4-118, and expense of obtaining and maintaining the property pending a forfeiture proceeding; and

(b) if the prosecuting agency that employed the prosecuting attorney has met the requirements of Subsection 24-4-119(3), pay the prosecuting attorney the legal costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of the forfeited property in attorney fees.

(4) If the forfeiture arises from a violation relating to wildlife resources, the agency shall deposit any remaining currency and the proceeds or revenue from the sale of the property into the Wildlife Resources Account created in Section [~~23-14-13~~] 23A-3-201.

(5) The agency shall transfer any remaining currency, the proceeds, or revenue from the sale of the property to the commission and deposited into the account.

Section 19. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section [~~23-14-13~~] 23A-3-201, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Outdoor Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Outdoor Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 80-2-502 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section [~~23-14-13.5~~]

23A-3-203, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(EE) the Latino Community Support Restricted Account created in Section 13-1-16;

(FF) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101;

(GG) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Uniform School Fund;

(HH) the Governor's Suicide Prevention Fund created in Section 62A-15-1103 to support the Live On suicide prevention campaign administered by the Division of Integrated Healthcare; or

(II) the State Park Fees Restricted Account created in Section 79-4-402 to support the Division of State Parks' dark sky initiative.

(ii) (A) For a veterans special group license plate described in Subsection (4) or 41-1a-421(1)(a)(v), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), an applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(ii) An applicant for a historical special group license plate is not required to make a donation to the Utah State Historical Society if the historical special group license plate is for a vintage vehicle that has a model year of 1980 or older.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months before registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 20. Section 51-9-402 is amended to read:

51-9-402. Division of collected money retained by state treasurer and local governmental collecting entity.

(1) The amount of the surcharge imposed under this part by courts of record shall be collected before any fine and deposited with the state treasurer.

(2) The amount of the surcharge and the amount of criminal fines, penalties, and forfeitures imposed under this part by courts not of record shall be collected concurrently.

(a) As money is collected on criminal fines, penalties, and forfeitures subject to the 90% surcharge, the money shall be divided pro rata so that the local governmental collecting entity retains 53% of the collected money and the state retains 47% of the collected money.

(b) As money is collected on criminal fines, penalties, and forfeitures subject to the 35% surcharge, the money shall be divided pro rata so that the local governmental collecting entity retains 74% of the collected money and the state retains 26% of the collected money.

(c) The court shall deposit with the state treasurer the surcharge portion of all money as it is collected.

(3) Courts of record, courts not of record, and administrative traffic proceedings shall collect financial information to determine:

(a) the total number of cases in which:

(i) a final judgment has been rendered;

(ii) surcharges and fines are paid by partial or installment payment; and

(iii) the judgment is fulfilled by an alternative method upon the court's order; and

(b) the total dollar amounts of surcharges owed to the state and fines owed to the state and county or municipality, including:

(i) waived surcharges;

(ii) uncollected surcharges; and

(iii) collected surcharges.

(4) The courts of record, courts not of record, and administrative traffic proceedings shall report all collected financial information monthly to the Administrative Office of the Courts. The collected information shall be categorized by cases subject to the 90% and 35% surcharge.

(5) The provisions of this section and Section 51-9-401 may not impact the distribution and allocation of fines and forfeitures imposed in accordance with Sections [~~23-14-13~~] 23A-3-201, 78A-5-110, and 78A-7-120.

Section 21. Section 53-2a-208 is amended to read:

53-2a-208. Local emergency -- Declarations -- Termination of a local emergency.

(1) (a) Except as provided in Subsection (1)(b), a chief executive officer of a municipality or county may declare by proclamation a state of emergency if the chief executive officer finds:

(i) a disaster has occurred or the occurrence or threat of a disaster is imminent in an area of the municipality or county; and

(ii) the municipality or county requires additional assistance to supplement the response and recovery efforts of the municipality or county.

(b) A chief executive officer of a municipality may not declare by proclamation a state of emergency in response to an epidemic or a pandemic.

(2) A declaration of a local emergency:

(a) constitutes an official recognition that a disaster situation exists within the affected municipality or county;

(b) provides a legal basis for requesting and obtaining mutual aid or disaster assistance from other political subdivisions or from the state or federal government;

(c) activates the response and recovery aspects of any and all applicable local disaster emergency plans; and

(d) authorizes the furnishing of aid and assistance in relation to the proclamation.

(3) A local emergency proclamation issued under this section shall state:

(a) the nature of the local emergency;

(b) the area or areas that are affected or threatened; and

(c) the conditions which caused the emergency.

(4) The emergency declaration process within the state shall be as follows:

(a) a city, town, or metro township shall declare to the county;

(b) a county shall declare to the state;

(c) the state shall declare to the federal government; and

(d) a tribe, as defined in Section [~~23-13-12.5~~] 23A-1-202, shall declare as determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sec. 5121 et seq.

(5) Nothing in this part affects:

(a) the governor's authority to declare a state of emergency under Section 53-2a-206; or

(b) the duties, requests, reimbursements, or other actions taken by a political subdivision participating in the state-wide mutual aid system pursuant to Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

(6) (a) Except as provided in Subsection (6)(b), a state of emergency described in Subsection (1) expires the earlier of:

(i) the day on which the chief executive officer finds that:

(A) the threat or danger has passed;

(B) the disaster reduced to the extent that emergency conditions no longer exist; or

(C) the municipality or county no longer requires state government assistance to supplement the response and recovery efforts of the municipality or county;

(ii) 30 days after the day on which the chief executive officer declares the state of emergency; or

(iii) the day on which the legislative body of the municipality or county terminates the state of emergency by majority vote.

(b) (i) (A) The legislative body of a municipality may at any time terminate by majority vote a state of emergency declared by the chief executive officer of the municipality.

(B) The legislative body of a county may at any time terminate by majority vote a state of emergency declared by the chief executive officer of the county.

(ii) The legislative body of a municipality or county may by majority vote extend a state of emergency for a time period stated in the motion.

(iii) If the legislative body of a municipality or county extends a state of emergency in accordance with this subsection, the state of emergency expires on the date designated by the legislative body in the motion.

(iv) An action by a legislative body of a municipality or county to terminate a state of emergency as described in this Subsection (6)(b) is not subject to veto by the relevant chief executive officer.

(c) Except as provided in Subsection (7), after a state of emergency expires in accordance with this Subsection (6), the chief executive officer may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency.

(7) (a) After a state of emergency expires in accordance with Subsection (6), the chief executive officer may declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, if the chief executive officer finds that exigent circumstances exist.

(b) A state of emergency declared in accordance with Subsection (7)(a) expires in accordance with Subsections (6)(a) and (b).

(c) After a state of emergency declared in accordance with Subsection (7)(a) expires, the chief executive officer may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, regardless of whether exigent circumstances exist.

Section 22. Section 53-2a-1102 is amended to read:

53-2a-1102. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses" means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections [~~23-19-42~~] 23A-4-209, 41-22-34, and 73-18-24;

(iii) money deposited under Subsection 59-12-103(14);

(iv) contributions deposited in accordance with Section 41-1a-230.7; and

(v) appropriations made to the program by the Legislature.

(b) Money received from the revenue sources in Subsections (3)(a)(i), (ii), and (iv), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the program.

(c) Ten percent of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be used solely to promote the assistance card program.

(d) Funding for the program is nonlapsing.

(4) Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

(b) defining the procedures of counties to submit expenses and be reimbursed;

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

(i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the Division of Outdoor Recreation, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection 63J-1-504(7).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section [~~23-19-42~~] 23A-4-209, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:

(a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or

(b) the rescuing county finds that the participant intentionally created a situation resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be used to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections [~~23-19-42~~] 23A-4-209, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the Division of Outdoor Recreation regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

Section 23. Section 53-7-221 is amended to read:

53-7-221. Exceptions from Utah Fireworks Act.

(1) Sections 53-7-220 through 53-7-225 do not apply to class A, class B, and class C explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit for destinations outside of Utah.

(2) Sections 53-7-220 through 53-7-225 do not supersede Section [~~23-13-7~~] 23A-2-208, regarding use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

(3) Section 53-7-225 does not supersede Section 65A-8-212 regarding the authority of the state forester to close hazardous areas.

Section 24. Section 53-13-103 is amended to read:

53-13-103. Law enforcement officer.

(1) (a) "Law enforcement officer" means a sworn and certified peace officer:

(i) who is an employee of a law enforcement agency; and

(ii) whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" includes the following:

(i) a sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all persons specified in Sections [~~23-20-1.5~~] 23A-5-202 and 79-4-501;

(iv) a police officer employed by a state institution of higher education;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) investigators for the Department of Insurance, Fraud Division;

(vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(viii) employees of the Department of Natural Resources designated as peace officers by law;

(ix) school district police officers as designated by the board of education for the school district;

(x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(xi) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xii) members of a law enforcement agency established by a private college or university if the agency is certified by the commissioner under Title 53, Chapter 19, Certification of Private Law Enforcement Agency;

(xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiv) transit police officers designated under Section 17B-2a-822.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement

officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections – State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 25. Section 57-14-202 is amended to read:

57-14-202. Use of private land without charge -- Effect.

(1) Except as provided in Subsection 57-14-204(1), an owner of land who either directly or indirectly invites or permits without charge, or for a nominal fee of no more than $1 per year, any person to use the owner's land for any recreational purpose, or an owner of a public access area open to public recreational access under Title 73, Chapter 29, Public Waters Access Act, does not:

(a) make any representation or extend any assurance that the land is safe for any purpose;

(b) confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed;

(c) assume responsibility for or incur liability for any injury to persons or property caused by an act or omission of the person or any other person who enters upon the land; or

(d) owe any duty to curtail the owner's use of the land during its use for recreational purposes.

(2) The limitations of liability provided in this part apply to the owner of land designated as a migratory bird production area under [~~Title 23, Chapter 28, Migratory Bird Production Area~~] Title 23A, Chapter 13, Migratory Bird Production Area, that is owned and operated for any purpose allowed under [~~Title 23, Chapter 28, Migratory Bird Production Area~~] Title 23A, Chapter 13, Migratory Bird Production Area, if:

(a) the owner allows a guest of the owner or, if the owner has shareholders, members, or partners, a guest of a shareholder, member, or partner of the owner to engage in an activity with a recreational purpose on that land; and

(b) the guest is not charged.

Section 26. Section 57-14-204 is amended to read:

57-14-204. Liability not limited where willful or malicious conduct involved or admission fee charged.

(1) Nothing in this part limits any liability that otherwise exists for:

(a) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity;

(b) deliberate, willful, or malicious injury to persons or property; or

(c) an injury suffered where the owner of land charges a person to enter or go on the land or use the land for any recreational purpose.

(2) For purposes of Subsection (1)(c), if the land is leased to the state or a subdivision of the state, any consideration received by the owner for the lease is not a charge within the meaning of this section.

(3) Any person who hunts upon a cooperative wildlife management unit, as authorized by [~~Title 23, Chapter 23, Cooperative Wildlife Management Units~~] Title 23A, Chapter 7, Cooperative Wildlife Management Units, is not considered to have paid a fee within the meaning of this section.

(4) Owners of a dam or reservoir who allow recreational use of the dam or reservoir and its surrounding area and do not themselves charge a fee for that use, are considered not to have charged for that use within the meaning of Subsection (1)(c), even if the user pays a fee to the Division of State Parks or the Division of Outdoor Recreation for the use of the services and facilities at that dam or reservoir.

(5) The state or a subdivision of the state that owns property purchased for a railway corridor is considered not to have charged for use of the railway corridor within the meaning of Subsection (1)(c), even if the user pays a fee for travel on a privately owned rail car that crosses or travels over the railway corridor of the state or a subdivision of the state:

(a) allows recreational use of the railway corridor and its surrounding area; and

(b) does not charge a fee for that use.

Section 27. Section 58-79-102 is amended to read:

58-79-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Compensation" means anything of economic value in excess of $100 that is paid, loaned, granted, given, donated, or transferred to a hunting guide or outfitter for or in consideration of personal services, materials, or property.

(2) "Hunting" means to locate, pursue, chase, catch, capture, trap, or kill wildlife.

(3) "Hunting guide" means an individual who:

(a) offers or provides hunting guide services on public lands for compensation; and

(b) is retained for compensation by an outfitter.

(4) "Hunting guide services" means to guide, lead, or assist an individual in hunting wildlife.

(5) "Outfitter" means an individual who offers or provides outfitting or hunting guide services for compensation to another individual for hunting wildlife on public lands.

(6) (a) "Outfitting services" means providing, for hunting wildlife on public lands:

(i) transportation of people, equipment, supplies, or wildlife to or from a location;

(ii) packing, protecting, or supervising services; or

(iii) hunting guide services.

(b) "Outfitting services" does not include activities undertaken by the Division of Wildlife Resources or its employees, associates, volunteers, contractors, or agents under authority granted in [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act.

(7) (a) "Public lands" means any lands owned by the United States, the state, or a political subdivision or independent entity of the state that are open to the public for purposes of engaging in a wildlife related activity.

(b) "Public lands" does not include lands owned by the United States, the state, or a political subdivision or independent entity of the state that are included in a cooperative wildlife management unit under Subsection [~~23-23-7(5)~~] 23A-7-204(5) so long as the guiding and outfitting services furnished by the cooperative wildlife management unit are limited to hunting species of wildlife specifically authorized by the Division of Wildlife Resources in the unit's management plan.

(8) "Wildlife" means cougar, bear, and big game animals as defined in Subsection [~~23-13-2(6)~~] 23A-1-101(6).

Section 28. Section 59-2-301.5 is amended to read:

59-2-301.5. Definitions -- Assessment of property if threatened or endangered species is present.

(1) As used in this section:

(a) "Endangered" is as defined in Section [~~23-13-2~~] 23A-1-101.

(b) "Threatened" is as defined in Section [~~23-13-2~~] 23A-1-101.

(2) In assessing the fair market value of property, a county assessor shall consider as part of the determination of fair market value whether a threatened or endangered species is present on any portion of the property, including any impacts the presence of the threatened or endangered species has on:

(a) the functionality of the property;

(b) the ability to use the property; and

(c) property rights.

(3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

Section 29. Section 63A-16-803 is amended to read:

63A-16-803. Single sign-on citizen portal -- Creation.

(1) The division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:

(a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The division shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:

(a) access and submit an application for:

(i) medical and support programs including:

(A) a medical assistance program administered under Title 26, Chapter 18, Medical Assistance Act, including Medicaid;

(B) the Children's Health Insurance Program under Title 26, Chapter 40, Utah Children's Health Insurance Act;

(C) the Primary Care Network as defined in Section 26-18-416; and

(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;

(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;

(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;

(iv) employment with a state agency;

(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;

(vi) a birth or death certificate under Title 26, Chapter 2, Utah Vital Statistics Act; and

(vii) a hunting or fishing license under [~~Title 23, Chapter 19, Licenses, Permits, and Tags~~] Title 23A, Chapter 4, Licenses, Permits, Certificates of Registration, and Tags;

(b) access the individual's:

(i) transcripts from an institution of higher education described in Section 53B-2-101; and

(ii) immunization records maintained by the Utah Department of Health;

(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration, with the Motor Vehicle Division of the State Tax Commission;

(d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income Tax Act, beginning December 1, 2020;

(e) access information about positions available for employment with the state; and

(f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4).

(3) The division shall develop the single sign-on citizen portal using an open platform that:

(a) facilitates participation in the portal by a state entity;

(b) allows for optional participation in the portal by a political subdivision of the state; and

(c) contains a link to the State Tax Commission website.

(4) In developing the single sign-on citizen portal, the department shall consult with:

(a) each state executive branch agency that administers a program, provides a service, or manages applicable information described in Subsection (2);

(b) the Utah League of Cities and Towns;

(c) the Utah Association of Counties; and

(d) other appropriate state executive branch agencies.

(5) The division shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.

Section 30. Section 63A-17-512 is amended to read:

63A-17-512. Leave of absence with pay for employees with a disability who are covered under other civil service systems.

(1) As used in this section:

(a) "Eligible officer" means a person who qualifies for a benefit under this section.

(b) (i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes of this state.

(ii) "Law enforcement officer" specifically includes the following:

(A) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(B) all persons specified in Sections ~~[23-20-1.5]~~ 23A-5-202 and 79-4-501;

(C) investigators for the Motor Vehicle Enforcement Division;

(D) special agents or investigators employed by the attorney general;

(E) employees of the Department of Natural Resources designated as peace officers by law;

(F) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division; and

(G) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993.

(c) "State correctional officer" means a correctional officer as defined in Section 53-13-104 who is employed by the Department of Corrections.

(2) (a) A law enforcement officer or state correctional officer who is injured in the course of employment shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits during the period the employee has a temporary disability.

(b) The benefit provided under Subsection (2)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(3) (a) A law enforcement officer or state correctional officer who has a total disability as defined in Section 49-21-102, shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits until the officer is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act, or reaches the retirement age of 62 years, whichever occurs first, if:

(i) the disability is a result of an injury sustained while in the lawful discharge of the officer's duties; and

(ii) the injury is the result of:

(A) a criminal act upon the officer; or

(B) an aircraft, vehicle, or vessel accident and the officer was not negligent in causing the accident.

(b) The benefit provided under Subsection (3)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(4) (a) The agency shall reduce or require the reimbursement of the monthly benefit provided under this section by any amount received by, or payable to, the eligible officer for the same period of time during which the eligible officer is entitled to receive a monthly disability benefit under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing policies and procedures for the reductions required under Subsection (4)(a).

Section 31. Section 63G-7-201 is amended to read:

63G-7-201. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity;

(v) an activity of wildlife, as defined in Section [~~23-13-2~~] 23A-1-101, that arises during the use of a public or private road; or

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-101.

Section 32. Section 63G-21-201 is amended to read:

63G-21-201. Limited authorization to provide state services at post office locations.

(1) If allowed by federal law, a designated agency may negotiate and enter into an agreement with USPS that allows USPS to provide one or more state services at one or more post office locations within the state.

(2) The designated agency shall ensure that the agreement described in Subsection (1) includes:

(a) the term of the agreement, which may not extend beyond July 1, 2028;

(b) provisions to ensure the security of state data and resources;

(c) provisions to provide training to USPS employees on how to provide each state service in the agreement;

(d) except as provided in Subsection (2)(e), provisions authorizing compensation to USPS for at least 100% of attributable costs of all property and services that USPS provides under the agreement; and

(e) if the agreement is between USPS and the Division of Wildlife Resources to sell fishing, hunting, or trapping licenses, provisions requiring compliance with [~~Section 23-19-15~~] Sections 23A-4-501 and 23A-4-502 regarding wildlife license agents, including remuneration for services rendered.

(3) After one or more designated agencies enter into an agreement described in Subsection (1), the Governor's Office of Economic Opportunity shall create a marketing campaign to advertise and promote the availability of state services at each selected USPS location.

Section 33. Section 63I-1-223 is amended to read:

63I-1-223. Repeal dates: Title 23A.

(1) Section [~~23-14-2.5~~] 23A-2-302, which creates the Wildlife Board Nominating Committee, is repealed July 1, 2023.

(2) Section [~~23-14-2.6~~] 23A-2-303, which creates regional advisory councils for the Wildlife Board, is repealed July 1, 2023.

Section 34. Section 63I-2-223 is amended to read:

63I-2-223. Repeal dates: Title 23A.

Section 35. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section [~~23-14-13.5~~] 23A-3-203.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Technology Development Restricted Account created in Section 31A-3-104.

(18) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(19) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(20) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(21) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(22) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(23) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(24) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(34) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

(35) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(36) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(37) The DNA Specimen Restricted Account created in Section 53-10-407.

(38) The Canine Body Armor Restricted Account created in Section 53-16-201.

(39) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(40) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(41) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(42) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(44) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(47) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(48) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(49) The Relative Value Study Restricted Account created in Section 59-9-105.

(50) The Cigarette Tax Restricted Account created in Section 59-14-204.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(52) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(53) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

(54) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302.

(55) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

(56) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.

(57) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(58) The Immigration Act Restricted Account created in Section 63G-12-103.

(59) Money received by the military installation development authority, as provided in Section 63H-1-504.

(60) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(61) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(62) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(63) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(64) The Motion Picture Incentive Account created in Section 63N-8-103.

(65) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(66) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(67) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

(78) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 36. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

[~~(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.~~]

[~~(8)~~] (7) The Emergency Medical Services Grant Program in Section 26-8a-207.

[~~(9)~~] (8) The primary care grant program created in Section 26-10b-102.

[~~(10)~~] (9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

[~~(11)~~] (10) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

[~~(12)~~] (11) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

[~~(13)~~] (12) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

[~~(14)~~] (13) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

[~~(15)~~] (14) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

[~~(16)~~] (15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[~~(17)~~] (16) The Utah National Guard, created in Title 39, Militia and Armories.

[~~(18)~~] (17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

[~~(19)~~] (18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(20)~~] (19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(21)~~] (20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(22)~~] (21) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

[~~(23)~~] (22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

[~~(24)~~] (23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

[~~(25)~~] (24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[~~(26)~~] (25) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

[~~(27)~~] (26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(28)~~] (27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

[~~(29)~~] (28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[~~(30)~~] (29) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[~~(31)~~] (30) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(32)~~] (31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

[~~(33)~~] (32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(34)~~] (33) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(35)~~] (34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(36)~~] (35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(37)~~] (36) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(38)~~] (37) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(39)~~] (38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(40)~~] (39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(41)~~] (40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(42)~~] (41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

[~~(43)~~] (42) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 37. Section 63L-7-106 is amended to read:

63L-7-106. Use of protected wilderness areas.

(1) Except as otherwise provided in this chapter, each agency administering any area designated as a protected wilderness area shall be responsible for preserving the wilderness character of the area and shall administer such area for the purposes for which it may have been established to preserve its wilderness character.

(2) Except as specifically provided in this chapter, and subject to valid existing rights, there shall be:

(a) no commercial enterprise and no permanent road within any protected wilderness area designated by this chapter; and

(b) no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation with any such area except as necessary to meet minimum requirements for the administration of the area for the purpose of this chapter, including measures required in emergencies involving the health and safety of persons within the area.

(3) Except as otherwise provided in this chapter, a protected wilderness area shall be devoted to the public purposes of:

(a) recreation, including hunting, trapping, and fishing;

(b) conservation; and

(c) scenic, scientific, educational, and historical use.

(4) Commercial services may be performed within a protected wilderness area to the extent necessary to support the activities described in Subsection (3).

(5) Within an area designated as a protected wilderness area by this chapter:

(a) subject to the rules established by DNR, the use of a motor vehicle, aircraft, or motorboat is authorized where:

(i) the use of a motor vehicle, aircraft, or motorboat is already established;

(ii) the motor vehicle, aircraft, or motorboat is used by the Division of Wildlife Resources in furtherance of its wildlife management responsibilities, as described in [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act; or

(iii) the use of a motor vehicle, aircraft, or motorboat is necessary for emergency services or law enforcement purposes; and

(b) measures may be taken, under the direction of the director of the Division of Forestry, Fire, and State Lands, as necessary to manage fire, insects, habitat, and diseases.

(6) Nothing in this chapter shall prevent, within a designated protected wilderness area, any activity, including prospecting, if the activity is conducted in a manner compatible with the preservation of the wilderness environment, subject to such conditions as the executive director of DNR considers desirable.

(7) The executive director of DNR shall develop and conduct surveys of wilderness areas:

(a) on a planned, recurring basis;

(b) in a manner consistent with wildlife management and preservation principles;

(c) in order to determine the mineral values, if any, that may be present in wilderness areas; and

(d) make a completed survey available to the public, the governor, and the Legislature.

(8) Notwithstanding any other provision of this chapter, until midnight December 31, 2034:

(a) state laws pertaining to mining and mineral leasing shall, to the extent applicable before May 13, 2014, extend to wilderness areas designated under this chapter, subject to reasonable regulation governing ingress and egress as may be prescribed by the executive director of DNR, consistent with the use of the land for:

(i) mineral location and development;

(ii) exploration, drilling, and production; and

(iii) use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including the use of mechanized ground or air equipment when necessary, if restoration of the disturbed land is practicable and performed as soon as the land has served its purpose; and

(b) mining locations lying within the boundaries of a protected wilderness area that existed as of the date of acquisition shall be held and used solely for mining or processing operations, and uses that are reasonably related to an underlying mining or processing operation.

(9) Any newly issued mineral lease, permit, or license for land within a wilderness area shall contain stipulations, as may be determined by the executive director of DNR in consultation with the

director of the Division of Oil, Gas, and Mining, for the protection of the wilderness character of the land, consistent with the use of the land for the purpose for which it is leased, permitted, or licensed.

(10) Subject to valid rights then existing, effective January 1, 2015, the minerals in all lands designated by this chapter as wilderness areas are withdrawn from disposition under all laws pertaining to mineral leasing.

(11) Mineral leases shall not be permitted within protected wilderness areas.

(12) The governor may, within protected wilderness areas, authorize:

(a) prospecting for water resources;

(b) the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in developing water resources, including road construction and essential maintenance; and

(c) subject to Subsection (13), the grazing of livestock, if the practice of grazing livestock was established as of the effective date of this chapter.

(13) The commissioner of the Department of Agriculture and Food may make regulations as necessary to govern the grazing of livestock on a protected wilderness area.

Section 38. Section 63L-8-303 is amended to read:

63L-8-303. Management of use, occupancy, and development of public land.

(1) As used in this section, "casual" means activity that:

(a) occurs irregularly; and

(b) is non-commercial.

(2) (a) Except as provided in Subsection (2)(b), the director shall manage the public land under principles of multiple use and sustained yield, in accordance with land use plans developed by the DLM.

(b) Where a tract of public land has been dedicated to a specific use according to a provision of law, legal encumbrance, or contractual obligation, it shall be managed in accordance with those provisions.

(3) (a) The director shall, subject to Subsection (3)(b) and other applicable law, authorize use of the public land through land use authorizations.

(b) The director may permit state departments, agencies, and local governments to use, occupy, and develop public land through rights-of-way or other cooperative agreements.

(c) The director may authorize use of the land through specific programs, such as:

(i) the collection of firewood, nuts, or the casual gathering of other organic products;

(ii) camping or other casual use;

(iii) rockhounding, building stone, or the gathering of other rock products; or

(iv) other casual uses.

(d) The programs described in Subsection (3)(c) may require the issuance of a permit and collection of a reasonable fee, if necessary.

(e) Nothing in this chapter shall be construed as:

(i) authorizing the director to:

(A) require permits to hunt and fish on public land and adjacent water beyond those approved by the Wildlife Board pursuant to [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act; or

(B) to close public land or areas of public land to hunting, fishing, or trapping, except as provided in Subsection (3)(f); or

(ii) enlarging or diminishing the responsibility and authority of the Wildlife Board or Division of Wildlife Resources for management of fish and resident wildlife on public land pursuant to [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act.

(f) The director may designate areas of public land where, and establish periods when, no hunting will be permitted on public land for reasons of public safety, administration, or compliance with provisions of applicable law.

(4) Subject to Subsection (5), the director shall insert in any land use authorization providing for the use, occupancy, or development of the public land, a provision authorizing revocation or suspension, after notice and hearing, of the authorization upon a final administrative finding of a violation of any term or condition of the authorization.

(5) (a) The director may immediately revoke or suspend a land use authorization if, after notice and administrative hearing, there is an administrative finding that the holder violated a term or condition of the authorization.

(b) If a holder of an authorization rectifies the violation that formed the basis of the director's suspension under Subsection (5)(a), the director may terminate the suspension.

(6) The director may order an immediate temporary suspension before a hearing or final administrative finding if the director determines that a suspension is necessary to protect:

(a) health or safety; or

(b) the environment.

(7) Use of public land pursuant to a general authorization under this section shall be limited to areas where the use is consistent with the applicable land use plans prepared pursuant to Section 63L-8-202.

(8) A general authorization for the use of public land shall be subject to:

(a) a requirement that the using party shall be responsible for any necessary cleanup and decontamination of the land used; and

(b) terms and conditions, including restrictions on use of off-road or all-terrain vehicles, as the director deems appropriate.

(9) A general authorization issued pursuant to this section:

(a) may not be for a term exceeding five years; and

(b) shall be revoked in whole or in part, as the director finds necessary, upon a determination by the director that:

(i) there has been a failure to comply with its terms and conditions; or

(ii) activities permitted by the authorization have had, or might have, a significant adverse impact on the resources or values of the affected lands.

(10) Each specific use of a particular area of public land pursuant to a general authorization under this section is subject to:

(a) specific authorization by the director; and

(b) appropriate terms and conditions, as described in this section.

(11) An authorization under this section may not authorize the construction of permanent structures or facilities on the public land.

(12) No one may use or occupy public land without appropriate authorization.

Section 39. Section 63L-8-304 is amended to read:

63L-8-304. Enforcement authority.

(1) The director shall issue rules as necessary to implement the provisions of this chapter with respect to the management, use, and protection of the public land and property located on the public land.

(2) At the request of the director, the attorney general may institute a civil action in a district court for an injunction or other appropriate remedy to prevent any person from utilizing public land in violation of this chapter or rules issued by the director under this chapter.

(3) The use, occupancy, or development of any portion of the public land contrary to any rule issued by the DLM in accordance with this chapter, and without proper authorization, is unlawful and prohibited.

(4) (a) The locally elected county sheriff is the primary law enforcement authority with jurisdiction on public land to enforce:

(i) all the laws of this state; and

(ii) this chapter and rules issued by the director pursuant to Subsection (1).

(b) The governor may utilize the Department of Public Safety for the purposes of assisting the county sheriff in enforcing:

(i) all the laws of this state and this chapter; and

(ii) rules issued by the director pursuant to Subsection (1).

(c) Conservation officers employed by the Division of Wildlife Resources have authority to enforce the laws and regulations under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, for the sake of any protected wildlife.

(d) A conservation officer shall work cooperatively with the locally elected county sheriff to enforce the laws and regulations under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, for the sake of protected wildlife.

(e) Nothing herein shall be construed as enlarging or diminishing the responsibility or authority of a state certified peace officer in performing the officer's duties on public land.

Section 40. Section 72-9-501 is amended to read:

72-9-501. Construction, operation, and maintenance of ports-of-entry by the department -- Function of ports-of-entry -- Checking and citation powers of port-of-entry agents.

(1) (a) The department shall construct ports-of-entry for the purpose of checking motor carriers, drivers, vehicles, and vehicle loads for compliance with state and federal laws including laws relating to:

(i) driver qualifications;

(ii) Title 53, Chapter 3, Part 4, Uniform Commercial Driver License Act;

(iii) vehicle registration;

(iv) fuel tax payment;

(v) vehicle size, weight, and load;

(vi) security or insurance;

(vii) this chapter;

(viii) hazardous material as defined under 49 U.S.C. Sec. 5102; and

(ix) safety.

(b) The ports-of-entry shall be located on state highways at sites determined by the department.

(2) (a) The ports-of-entry shall be operated and maintained by the department.

(b) A port-of-entry agent or a peace officer may check, inspect, or test drivers, vehicles, and vehicle loads for compliance with state and federal laws specified in Subsection (1).

(3) (a) A port-of-entry agent or a peace officer, in whose presence an offense described in this section is committed, may:

(i) issue and deliver a misdemeanor or infraction citation under Section 77-7-18;

(ii) request and administer chemical tests to determine blood alcohol concentration in compliance with Section 41-6a-515;

(iii) place a driver out-of-service in accordance with Section 53-3-417; and

(iv) serve a driver with notice of the Driver License Division of the Department of Public Safety's intention to disqualify the driver's privilege to drive a commercial motor vehicle in accordance with Section 53-3-418.

(b) This section does not grant actual arrest powers as defined in Section 77-7-1 to a port-of-entry agent who is not a peace officer or special function officer designated under Title 53, Chapter 13, Peace Officer Classifications.

(4) (a) A port-of-entry agent, a peace officer, or the Division of Wildlife Resources may inspect, detain, or quarantine a conveyance or equipment in accordance with Sections [~~23-27-301~~] 23A-10-301 and [~~23-27-302~~] 23A-10-302.

(b) The department is not responsible for decontaminating a conveyance or equipment detained or quarantined.

(c) The Division of Wildlife Resources may decontaminate, as defined in Section [~~23-27-102~~] 23A-10-101, a conveyance or equipment at the port-of-entry if authorized by the department.

Section 41. Section 73-3-30 is amended to read:

73-3-30. Change application for an instream flow.

(1) As used in this section:

(a) "Division" means the Division of Wildlife Resources created in Section [~~23-14-1~~] 23A-2-201, the Division of State Parks created in Section 79-4-201, or the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.

(b) "Person entitled to the use of water" means the same as that term is defined in Section 73-3-3.

(c) "Sovereign lands" means the same as that term is defined in Section 65A-1-1.

(d) "Wildlife" means species of animals, including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, that are protected or regulated by a statute, law, regulation, ordinance, or administrative rule.

(2) (a) Pursuant to Section 73-3-3, a division may file a permanent change application, a fixed time change application, or a temporary change application, or a person entitled to the use of water may file a fixed time change application or a temporary change application, to provide water within the state for:

(i) an instream flow within a specified section of a natural or altered stream; or

(ii) use on sovereign lands.

(b) The state engineer may not approve a change application filed under this section unless the proposed instream flow or use on sovereign lands will contribute to:

(i) the propagation or maintenance of wildlife;

(ii) the management of state parks; or

(iii) the reasonable preservation or enhancement of the natural aquatic environment.

(c) A division may file a change application on:

(i) a perfected water right:

(A) presently owned by the division;

(B) purchased by the division for the purpose of providing water for an instream flow or use on sovereign lands, through funding provided for that purpose by legislative appropriation; or

(C) secured by lease, agreement, gift, exchange, or contribution; or

(ii) an appurtenant water right acquired with the acquisition of real property by the division.

(d) A division may:

(i) purchase a water right for the purposes described in Subsection (2)(a) only with funds specifically appropriated by the Legislature for water rights purchases; or

(ii) accept a donated water right without legislative approval.

(e) A division may not acquire water rights by eminent domain for an instream flow, use on sovereign lands, or for any other purpose.

(3) (a) A person entitled to the use of water shall obtain a division director's approval of the proposed change before filing a fixed time change application or a temporary change application with the state engineer.

(b) By approving a proposed fixed time change application or temporary change application, a division director attests that the water that is the subject of the application can be used consistent with the statutory mandates of the director's division.

(4) In addition to the requirements of Section 73-3-3, an application authorized by this section shall include:

(a) a legal description of:

(i) the segment of the natural or altered stream that will be the place of use for an instream flow; or

(ii) the location where the water will be used on sovereign lands; and

(b) appropriate studies, reports, or other information required by the state engineer demonstrating:

(i) the projected benefits to the public resulting from the change; and

(ii) the necessity for the proposed instream flow or use on sovereign lands.

(5) A person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow or use on sovereign lands.

(6) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.

(7) A physical structure or physical diversion from the stream is not required to implement a change under this section.

(8) An approved change application described in this section does not create a right of access across private property or allow any infringement of a private property right.

Section 42. Section 73-18-26 is amended to read:

73-18-26. Resident aquatic invasive species fee -- Amount -- Deposit.

(1) In addition to the registration fee imposed under Section 73-18-7, there is imposed an annual resident aquatic invasive species fee of $10 on a motorboat or sailboat required to be registered under Section 73-18-7.

(2) The fee imposed under Subsection (1) shall be deposited into the Aquatic Invasive Species Interdiction Account created in Section [~~23-27-305~~] 23A-3-211.

Section 43. Section 73-29-102 is amended to read:

73-29-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Wildlife Resources.

(2) "Floating access" means the right to access public water flowing over private property for floating and fishing while floating upon the water.

(3) "Impounded wetlands" means a wetland or wetland pond that is formed or the level of which is controlled by a dike, berm, or headgate that retains or manages the flow or depth of water, including connecting channels.

(4) "Navigable water" means a water course that in its natural state without the aid of artificial means is useful for commerce and has a useful capacity as a public highway of transportation.

(5) "Private property to which access is restricted" means privately owned real property:

(a) that is cultivated land, as defined in Section [~~23-20-14~~] 23A-5-317;

(b) that is:

(i) properly posted, as defined in Section [~~23-20-14~~] 23A-5-317;

(ii) posted as described in Subsection 76-6-206(2)(b)(iii); or

(iii) posted as described in Subsection 76-6-206.3(2)(c);

(c) that is fenced or enclosed as described in:

(i) Subsection 76-6-206(2)(b)(ii); or

(ii) Subsection 76-6-206.3(2)(b); or

(d) that the owner or a person authorized to act on the owner's behalf has requested a person to leave as provided by:

(i) Section [~~23-20-14~~] 23A-5-317;

(ii) Subsection 76-6-206(2)(b)(i); or

(iii) Subsection 76-6-206.3(2)(a).

(6) "Public access area" means the limited part of privately owned property that:

(a) lies beneath or within three feet of a public water or that is the most direct, least invasive, and closest means of portage around an obstruction in a public water; and

(b) is open to public recreational access under Section 73-29-203; and

(c) can be accessed from an adjoining public assess area or public right-of-way.

(7) "Public recreational access" means the right to engage in recreational access established in accordance with Section 73-29-203.

(8) (a) "Public water" means water:

(i) described in Section 73-1-1; and

(ii) flowing or collecting on the surface:

(A) within a natural or realigned channel; or

(B) in a natural lake, pond, or reservoir on a natural or realigned channel.

(b) "Public water" does not include water flowing or collecting:

(i) on impounded wetland;

(ii) on a migratory bird production area, as defined in Section [~~23-28-102~~] 23A-13-101;

(iii) on private property in a manmade:

(A) irrigation canal;

(B) irrigation ditch; or

(C) impoundment or reservoir constructed outside of a natural or realigned channel; or

(iv) on a jurisdictional wetland described in 33 C.F.R. 328.3.

(9) (a) "Recreational access" means to use a public water and to touch a public access area incidental to the use of the public water for:

(i) floating;

(ii) fishing; or

(iii) waterfowl hunting conducted:

(A) in compliance with applicable law or rule, including Sections [~~23-20-8~~] 23A-5-314, 73-29-203, and 76-10-508; and

(B) so that the individual who engages in the waterfowl hunting shoots a firearm only while

within a public access area and no closer than 600 feet of any dwelling.

(b) "Recreational access" does not include:

(i) hunting, except as provided in Subsection (9)(a)(iii);

(ii) wading without engaging in activity described in Subsection (9)(a); or

(iii) any other activity.

Section 44. Section 73-30-201 is amended to read:

73-30-201. Advisory council created -- Staffing -- Per diem and travel expenses.

(1) There is created an advisory council known as the "Great Salt Lake Advisory Council" consisting of 11 members listed in Subsection (2).

(2) (a) The governor shall appoint the following members, with the advice and consent of the Senate:

(i) one representative of industry representing the extractive industry;

(ii) one representative of industry representing aquaculture;

(iii) one representative of conservation interests;

(iv) one representative of a migratory bird protection area as defined in Section [~~23-28-102~~] 23A-13-101;

(v) one representative who is an elected official from municipal government, or the elected official's designee;

(vi) five representatives who are elected officials from county government, or the elected official's designee, one each representing:

(A) Box Elder County;

(B) Davis County;

(C) Salt Lake County;

(D) Tooele County; and

(E) Weber County; and

(vii) one representative of a publicly owned treatment works.

(3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year term.

(b) Notwithstanding Subsection (3)(a), at the time of appointment or reappointment, the governor shall adjust the length of terms of voting members to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(d) A member shall hold office until the member's successor is appointed and qualified.

(4) The council shall determine:

(a) the time and place of meetings; and

(b) any other procedural matter not specified in this chapter.

(5) (a) Attendance of six members at a meeting of the council constitutes a quorum.

(b) A vote of the majority of the members present at a meeting when a quorum is present constitutes an action of the council.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(7) The Department of Natural Resources and the Department of Environmental Quality shall coordinate and provide necessary staff assistance to the council.

Section 45. Section 76-9-301 is amended to read:

76-9-301. Cruelty to animals.

(1) As used in this section:

(a) (i) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) "Abandon" does not include returning wildlife to its natural habitat.

(b) (i) "Animal" means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) "Animal" does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. Sec. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the

conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section [~~23-13-2~~] 23A-1-101, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) "Companion animal" means an animal that is a domestic dog or a domestic cat.

(d) "Custody" means ownership, possession, or control over an animal.

(e) "Legal privilege" means an act that:

(i) is authorized by state law, including [~~Division of Wildlife Resources rules~~] rules under Title 23A, Wildlife Resources Act; and

(ii) is not in violation of a local ordinance.

(f) "Livestock" means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102;

(iii) a livestock guardian dog, as defined in Section 76-6-111; or

(iv) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) "Necessary food, water, care, or shelter" means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

(h) "Torture" means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the person's custody;

(b) abandons an animal in the person's custody;

(c) injures an animal;

(d) causes any animal, not including a dog or game fowl, to fight with another animal of like kind for amusement or gain; or

(e) causes any animal, including a dog or game fowl, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; and

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Section 46. Section 76-10-504 is amended to read:

76-10-504. Carrying concealed firearm -- Penalties.

(1) Except as provided in Sections 76-10-503 and 76-10-523 and in Subsections (2), (3), and (4), a person who carries a concealed firearm, as defined in Section 76-10-501, including an unloaded firearm on his or her person or one that is readily accessible for immediate use which is not securely encased, as defined in this part, in or on a place other than the person's residence, property, a vehicle in the person's lawful possession, or a vehicle, with the consent of the individual who is lawfully in possession of the vehicle, or business under the person's control is guilty of a class B misdemeanor.

(2) A person who carries a concealed firearm that is a loaded firearm in violation of Subsection (1) is guilty of a class A misdemeanor.

(3) A person who carries concealed an unlawfully possessed short barreled shotgun or a short barreled rifle is guilty of a second degree felony.

(4) If the concealed firearm is used in the commission of a violent felony as defined in Section 76-3-203.5, and the person is a party to the offense, the person is guilty of a second degree felony.

(5) Nothing in Subsection (1) or (2) prohibits a person engaged in the lawful taking of protected or unprotected wildlife as defined in [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, from carrying a concealed firearm as long as the taking of wildlife does not occur:

(a) within the limits of a municipality in violation of that municipality's ordinances; or

(b) upon the highways of the state as defined in Section 41-6a-102.

Section 47. Section 76-10-508 is amended to read:

76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of specified items -- Penalties.

(1) (a) An individual may not discharge a dangerous weapon or firearm:

(i) from an automobile or other vehicle;

(ii) from, upon, or across a highway;

(iii) at a road sign placed upon a highway of the state;

(iv) at communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;

(v) at railroad equipment or facilities including a sign or signal;

(vi) within a Utah State Park building, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or

(vii) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

(A) a house, dwelling, or any other building; or

(B) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

(b) It is a defense to any charge for violating this section that the individual being accused had actual permission of the owner or person in charge of the property at the time in question.

(2) A violation of any provision of Subsection (1) is a class B misdemeanor.

(3) In addition to any other penalties, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(4) This section does not apply to an individual who:

(a) discharges a firearm when that individual is in lawful defense of self or others;

(b) is performing official duties as provided in Section [~~23-20-1.5~~] 23A-5-202 and Subsections 76-10-523(1)(a) through (f) and as otherwise provided by law; or

(c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (4)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Section 48. Section 76-10-508.1 is amended to read:

76-10-508.1. Felony discharge of a firearm -- Penalties.

(1) Except as provided under Subsection (2) or (3), an individual who discharges a firearm is guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years if:

(a) the actor discharges a firearm in the direction of one or more individuals, knowing or having reason to believe that any individual may be endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another or with intent to damage a habitable structure as defined in Section 76-6-101, discharges a firearm in the direction of any individual or habitable structure; or

(c) the actor, with intent to intimidate or harass another, discharges a firearm in the direction of any vehicle.

(2) A violation of Subsection (1) that causes bodily injury to any individual is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.

(3) A violation of Subsection (1) that causes serious bodily injury to any individual is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to an individual:

(a) who discharges a firearm when that individual is in lawful defense of self or others;

(b) who is performing official duties as provided in Section [~~23-20-1.5~~] 23A-5-202 or Subsections 76-10-523(1)(a) through (f) or as otherwise authorized by law; or

(c) who discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Section 49. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business

trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of ~~[Title 23, Wildlife Resources Code of Utah, or Section 23-20-4;]~~ Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a threat of terrorism, Section 76-5-107.3;

(l) a criminal homicide offense, as described in Section 76-5-201;

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human trafficking of a child, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor or aggravated sexual exploitation of a minor, Sections 76-5b-201 and 76-5b-201.1;

(p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

(q) causing a catastrophe, Section 76-6-105;

(r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

(s) burglary of a vehicle, Section 76-6-204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

(u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

(v) theft, Section 76-6-404;

(w) theft by deception, Section 76-6-405;

(x) theft by extortion, Section 76-6-406;

(y) receiving stolen property, Section 76-6-408;

(z) theft of services, Section 76-6-409;

(aa) forgery, Section 76-6-501;

(bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and 76-6-506.6;

(cc) deceptive business practices, Section 76-6-507;

(dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;

(ee) bribery of a labor official, Section 76-6-509;

(ff) defrauding creditors, Section 76-6-511;

(gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;

(hh) unlawful dealing with property by fiduciary, Section 76-6-513;

(ii) bribery or threat to influence contest, Section 76-6-514;

(jj) making a false credit report, Section 76-6-517;

(kk) criminal simulation, Section 76-6-518;

(ll) criminal usury, Section 76-6-520;

(mm) fraudulent insurance act, Section 76-6-521;

(nn) retail theft, Section 76-6-602;

(oo) computer crimes, Section 76-6-703;

(pp) identity fraud, Section 76-6-1102;

(qq) mortgage fraud, Section 76-6-1203;

(rr) sale of a child, Section 76-7-203;

(ss) bribery to influence official or political actions, Section 76-8-103;

(tt) threats to influence official or political action, Section 76-8-104;

(uu) receiving bribe or bribery by public servant, Section 76-8-105;

(vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

(ww) official misconduct, Sections 76-8-201 and 76-8-202;

(xx) obstruction of justice, Section 76-8-306;

(yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;

(zz) false or inconsistent material statements, Section 76-8-502;

(aaa) false or inconsistent statements, Section 76-8-503;

(bbb) written false statements, Section 76-8-504;

(ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(fff) tampering with evidence, Section 76-8-510.5;

(ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist Disclosure and Regulation Act;

(hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;

(iii) unemployment insurance fraud, Section 76-8-1301;

(jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;

(lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;

(mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

(ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(cccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 50. Section 77-20-204 is amended to read:

77-20-204. Bail commissioner authority to release an individual from jail on monetary bail.

(1) As used in this section, "eligible felony offense" means a third degree felony violation under:

(a) Section [~~23-19-15~~] 23A-4-501 or 23A-4-502;

(b) Section [~~23-20-4~~] 23A-5-311;

(c) Section [~~23-20-4.7~~] 23A-5-313;

(d) Title 76, Chapter 6, Part 4, Theft;

(e) Title 76, Chapter 6, Part 5, Fraud;

(f) Title 76, Chapter 6, Part 6, Retail Theft;

(g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

(h) Title 76, Chapter 6, Part 8, Library Theft;

(i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

(j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

(k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

(m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

(n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

(o) Title 76, Chapter 6a, Pyramid Scheme Act;

(p) Title 76, Chapter 7, Offenses Against the Family;

(q) Title 76, Chapter 7a, Abortion Prohibition;

(r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(s) Title 76, Chapter 9, Part 3, Cruelty to Animals;

(t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(u) Title 76, Chapter 9, Part 5, Libel; or

(v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

(2) Except as provided in Subsection (7)(a), a bail commissioner may fix a financial condition for an individual if:

(a) (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;

(ii) the individual is arrested for, or charged with:

(A) a misdemeanor offense under state law; or

(B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;

(iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(iv) law enforcement has not submitted a probable cause statement to a magistrate; or

(b) (i) the individual is arrested for, or charged with, an eligible felony offense;

(ii) the individual is not on pretrial release for a separate criminal offense;

(iii) the individual is not on probation or parole;

(iv) the primary risk posed by the individual is the risk of failure to appear;

(v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(vi) law enforcement has not submitted a probable cause statement to a magistrate.

(3) A bail commissioner may not fix a financial condition at a monetary amount that exceeds:

(a) $5,000 for an eligible felony offense;

(b) $1,950 for a class A misdemeanor offense;

(c) $680 for a class B misdemeanor offense;

(d) $340 for a class C misdemeanor offense;

(e) $150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or

(f) $80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.

(4) If an individual is arrested for more than one offense, and the bail commissioner fixes a financial condition for release:

(a) the bail commissioner shall fix the financial condition at a single monetary amount; and

(b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the highest level of offense for which the individual is arrested.

(5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a financial condition fixed by a bail commissioner in accordance with this section.

(6) If a bail commissioner fixes a financial condition for an individual, law enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after the bail commissioner fixes the financial condition.

(7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:

(a) a bail commissioner may not fix or modify a financial condition for an individual; and

(b) if a bail commissioner fixed a financial condition for the individual before the magistrate's review, the individual may no longer be released on the financial condition.

(8) Nothing in this section prohibits a court and a county from entering into an agreement regarding release.

Section 51. Section 77-23-104 is amended to read:

77-23-104. Written plan -- Approval of magistrate.

(1) An administrative traffic checkpoint may be established and operated upon written authority of a magistrate.

(2) A magistrate may issue written authority to establish and operate an administrative traffic checkpoint if:

(a) a command level officer submits to the magistrate a written plan signed by the command level officer describing:

(i) the location of the checkpoint including geographical and topographical information;

(ii) the date, time, and duration of the checkpoint;

(iii) the sequence of traffic to be stopped;

(iv) the purpose of the checkpoint, including the inspection or inquiry to be conducted;

(v) the minimum number of personnel to be employed in operating the checkpoint, including the rank of the officer or officers in charge at the scene;

(vi) the configuration and location of signs, barriers, and other means of informing approaching motorists that they must stop and directing them to the place to stop;

(vii) any advance notice to the public at large of the establishment of the checkpoint; and

(viii) the instructions to be given to the enforcement officers operating the checkpoint;

(b) the magistrate makes an independent judicial determination that the plan appropriately:

(i) minimizes the length of time the motorist will be delayed;

(ii) minimizes the intrusion of the inspection or inquiry;

(iii) minimizes the fear and anxiety the motorist will experience;

(iv) minimizes the degree of discretion to be exercised by the individual enforcement officers operating the checkpoint; and

(v) maximizes the safety of the motorist and the enforcement officers; and

(c) the administrative traffic checkpoint has the primary purpose of inspecting, verifying, or detecting:

(i) drivers that may be under the influence of alcohol or drugs;

(ii) license plates, registration certificates, insurance certificates, or driver licenses;

(iii) violations of [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act; or

(iv) other circumstances that are specifically distinguishable by the magistrate from a general interest in crime control.

(3) Upon determination by the magistrate that the plan meets the requirements of Subsection (2), the magistrate shall sign the authorization and issue it to the command level officer, retaining a copy for the court's file.

(4) A copy of the plan and signed authorization shall be issued to the checkpoint command level officer participating in the operation of the checkpoint.

(5) Any enforcement officer participating in the operation of the checkpoint shall conform [~~his~~] the enforcement officer's activities as nearly as practicable to the procedures outlined in the plan.

(6) The checkpoint command level officer shall be available to exhibit a copy of the plan and signed authorization to any motorist who has been stopped at the checkpoint upon request of the motorist.

Section 52. Section 78A-5-110 is amended to read:

78A-5-110. Allocation of district court fees and forfeitures.

(1) Except as provided in this section, district court fines and forfeitures collected for violation of state statutes shall be paid to the state treasurer.

(2) Fines and forfeitures collected by the court for violation of a state statute or county or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the state treasurer and 1/2 to the treasurer of the state or local governmental entity which prosecutes or which would prosecute the violation.

(3) (a) Fines and forfeitures collected for violations of [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, shall be paid to the state treasurer.

(b) For violations of [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, the state treasurer shall allocate 85% to the Division of Wildlife Resources and 15% to the General Fund.

(c) For violations of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, the state treasurer shall allocate 85% to the Division of Outdoor Recreation and 15% to the General Fund.

(4) (a) The state treasurer shall allocate fines and forfeitures collected for a violation of Section 72-7-404 or 72-7-406, less fees established by the Judicial Council, to the Department of Transportation for use on class B and class C roads.

(b) Fees established by the Judicial Council shall be deposited in the state General Fund.

(c) Money allocated for class B and class C roads is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

(5) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

(i) 60% to the state treasurer to be deposited into the Transportation Fund; and

(ii) 40% in accordance with Subsection (2).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

(i) 50% to the state treasurer to be deposited into the Transportation Fund; and

(ii) 50% in accordance with Subsection (2).

(6) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 40% to the treasurer of the state or local governmental entity that prosecutes or that would prosecute the violation, and 40% to the General Fund.

(7) Fines and forfeitures collected for any violations not specified in this chapter or otherwise provided for by law shall be paid to the state treasurer.

(8) Fees collected in connection with civil actions filed in the district court shall be paid to the state treasurer.

(9) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Section 53. Section 78A-7-106 is amended to read:

78A-7-106. Jurisdiction.

(1) (a) Except for an offense for which the district court has original jurisdiction under Subsection 78A-5-102(8) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(ii) class B and C misdemeanor and infraction violations of:

(A) [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act;

(B) Title 41, Chapter 1a, Motor Vehicle Act;

(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(E) Title 41, Chapter 22, Off-highway Vehicles;

(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(H) Title 73, Chapter 18b, Water Safety; and

(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(2) Except for an offense for which the district court has exclusive jurisdiction under Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.

(b) An offense is committed within the territorial jurisdiction of a justice court if:

(i) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(ii) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(iv) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(vi) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(B) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

(C) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(D) the offense is committed on or near the boundary of the court's jurisdiction;

(vii) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(viii) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

(6) (a) As used in this Subsection (6), "domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.

(c) If a justice court receives a notice of transfer from the prosecuting attorney or the defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action to the district court.

Section 54. Section 78A-7-120 is amended to read:

78A-7-120. Disposition of fines.

(1) (a) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted as follows:

(i) 50% to the treasurer of the local government responsible for the court; and

(ii) 50% to the treasurer of the local government which prosecutes or which would prosecute the violation.

(b) An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, and related to justice courts may alter the ratio described in Subsection (1)(a) if the parties agree.

(2) (a) For violation of [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the local government responsible for the justice court.

(b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Outdoor Recreation and 15% to the general fund of the local government responsible for the justice court.

(c) Fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310 shall be remitted:

(i) 20% to the school district or private school that owns or contracts for the use of the school bus; and

(ii) 80% in accordance with Subsection (1).

(3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer and deposited into the General Fund.

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and allocated to the Department of Transportation for class B and class C roads.

(5) Revenue allocated for class B and class C roads pursuant to Subsection (4) or Subsection (7) is supplemental to the money appropriated under

Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

(6) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

(i) 60% to the state treasurer to be deposited into the Transportation Fund; and

(ii) 40% in accordance with Subsection (1).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

(i) 50% to the state treasurer to be deposited into the Transportation Fund; and

(ii) 50% in accordance with Subsection (1).

(7) (a) Revenue from traffic fines may not exceed 25% of a local government's total general fund revenue for a fiscal year.

(b) No later than 30 days after the day on which a local government's fiscal year ends, a local government that receives traffic fine revenue shall:

(i) for the immediately preceding fiscal year, determine the amount of traffic fine revenue that exceeds the amount described in Subsection (7)(a); and

(ii) transfer the amount calculated under Subsection (7)(b)(i) to the state treasurer to be allocated to the Department of Transportation for class B and class C roads.

Section 55. Section 78B-6-501 is amended to read:

78B-6-501. Eminent domain -- Uses for which right may be exercised -- Limitations on eminent domain.

(1) As used in this section, "century farm" means real property that is:

(a) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(b) owned or held by the same family for a continuous period of 100 years or more.

(2) Except as provided in Subsections (3) and (4) and subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:

(a) all public uses authorized by the federal government;

(b) public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature;

(c) (i) public buildings and grounds for the use of any county, city, town, or board of education;

(ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;

(iii) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;

(iv) bicycle paths and sidewalks adjacent to paved roads;

(v) roads, byroads, streets, and alleys for public vehicular use, including for access to a development; and

(vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;

(d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;

(e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of minerals in solution;

(f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

(ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals in solution;

(iii) mill dams;

(iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine, prepare, maintain, and operate underground natural gas storage facilities;

(v) solar evaporation ponds and other facilities for the recovery of minerals in solution; and

(vi) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter;

(g) byroads leading from a highway to:

(i) a residence; or

(ii) a farm;

(h) telecommunications, electric light and electric power lines, sites for electric light and power plants, or sites for the transmission of broadcast signals from a station licensed by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that provides emergency broadcast services;

(i) sewage service for:

(i) a city, a town, or any settlement of not fewer than 10 families;

(ii) a public building belonging to the state; or

(iii) a college or university;

(j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;

(k) cemeteries and public parks; and

(l) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.

(3) The right of eminent domain may not be exercised on behalf of the following uses:

(a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway;

(b) (i) a public park whose primary purpose is:

(A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

(B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use; or

(ii) a public park established on real property that is:

(A) a century farm; and

(B) located in a county of the first class.

(4) (a) The right of eminent domain may not be exercised within a migratory bird production area created on or before December 31, 2020, under [~~Title 23, Chapter 28, Migratory Bird Production Area~~] Title 23A, Chapter 13, Migratory Bird Production Area, except as follows:

(i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory bird production area located in a county of the first class only for the purpose of installing buried power lines;

(ii) an electric utility may condemn land within a migratory bird production area in a county other than a county of the first class to install:

(A) buried power lines; or

(B) a new overhead transmission line that is parallel to and abutting an existing overhead transmission line or collocated within an existing overhead transmission line right of way; or

(iii) the Department of Transportation may exercise eminent domain for the purpose of the construction of the West Davis Highway.

(b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the electric utility shall demonstrate that:

(i) the proposed condemnation would not have an unreasonable adverse effect on the preservation, use, and enhancement of the migratory bird production area; and

(ii) there is no reasonable alternative to constructing the power line within the boundaries of a migratory bird production area.

Section 56. Section 79-1-104 is amended to read:

79-1-104. Application of title to wildlife issues.

(1) The following may not be construed or applied to supersede or interfere with the powers and duties of the Division of Wildlife Resources or the Wildlife Board under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, over the activities described in Subsection (2):

(a) Chapter 4, State Parks;

(b) Chapter 5, Recreational Trails;

(c) Chapter 7, Outdoor Recreation Act; and

(d) Chapter 8, Outdoor Recreation Grants.

(2) Subsection (1) applies to the powers and duties of the Division of Wildlife Resources or the Wildlife Board over:

(a) conservation and management of protected wildlife within the state;

(b) a program or initiative to restore and conserve habitat for fish and wildlife; or

(c) acquisition, ownership, management, and control of real property or a real property interest, including a leasehold estate, an easement, a right-of-way, or a conservation easement.

Section 57. Section 79-2-102 is amended to read:

79-2-102. Definitions.

As used in this chapter:

(1) "Conservation officer" is as defined in Section [~~23-13-2~~] 23A-1-101.

(2) "Species protection" means an action to protect a plant or animal species identified as:

(a) sensitive by the state; or

(b) threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(3) "Volunteer" means a person who donates a service to the department or a division of the department without pay or other compensation.

Section 58. Section 79-2-201 is amended to read:

79-2-201. Department of Natural Resources created.

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(c) Board of State Parks, created in Section 79-4-301;

(d) Office of Energy Development, created in Section 79-6-401;

(e) Wildlife Board, created in Section [~~23-14-2~~] 23A-2-301;

(f) Board of the Utah Geological Survey, created in Section 79-3-301;

(g) Water Development Coordinating Council, created in Section 73-10c-3;

(h) Division of Water Rights, created in Section 73-2-1.1;

(i) Division of Water Resources, created in Section 73-10-18;

(j) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

(k) Division of Oil, Gas, and Mining, created in Section 40-6-15;

(l) Division of State Parks, created in Section 79-4-201;

(m) Division of Outdoor Recreation, created in Section 79-7-201;

(n) Division of Wildlife Resources, created in Section [~~23-14-1~~] 23A-2-201;

(o) Utah Geological Survey, created in Section 79-3-201;

(p) Heritage Trees Advisory Committee, created in Section 65A-8-306;

(q) Utah Outdoor Recreation Infrastructure Advisory Committee, created in Section 79-7-206;

(r) (i) an advisory council that includes in the advisory council's duties advising on state boating policy, authorized by Section 73-18-3.5; or

(ii) an advisory council that includes in the advisory council's duties advising on off-highway vehicle use, authorized by Section 41-22-10;

(s) Wildlife Board Nominating Committee, created in Section [~~23-14-2.5~~] 23A-2-302;

(t) Wildlife Regional Advisory Councils, created in Section [~~23-14-2.6~~] 23A-2-303;

(u) Utah Watersheds Council, created in Section 73-10g-304;

(v) Utah Natural Resources Legacy Fund Board, created in Section [~~23-31-202~~] 23A-3-305; and

(w) Public Lands Policy Coordinating Office created in Section 63L-11-201.

Section 59. Section 79-2-601 is amended to read:

79-2-601. Definitions.

As used in this part:

(1) "Administrative costs" means the costs of administering the initiative, including costs for staffing, rent, data processing, legal, finance, accounting, travel, maintenance, and office supplies.

(2) "Director" means the director of the initiative who is appointed under Section 79-2-602.

(3) "Division" means the Division of Wildlife Resources created in Section [~~23-14-1~~] 23A-2-201.

(4) "Initiative" means the Watershed Restoration Initiative created in Section 79-2-602.

(5) "Restoration" means to assist the recovery of ecosystems and ecosystem services that have been mismanaged, degraded, or destroyed.

(6) "Watershed" means the geographical surface area that drains water into a stream, river, or other body of water.

Section 60. Effective date.

This bill takes effect on July 1, 2023.

Section 61. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 30, Wildlife Resources Code Recodification, does not pass.

CHAPTER 35
H. B. 34
Passed February 2, 2023
Approved March 13, 2023
Effective May 3, 2023

BOARDS AND COMMISSIONS AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill amends provisions relating to boards and commissions.

Highlighted Provisions:

This bill:

- addresses reporting requirements relating to an executive board; and
- requires an interim committee to review, for potential repeal, an executive board that fails to comply with the five-year reporting requirement for an executive board.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-1-2.5, as last amended by Laws of Utah 2021, Chapters 84, 345

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

Section 1. Section 67-1-2.5 is amended to read:

67-1-2.5. Executive boards -- Database -- Governor's review of new boards.

(1) As used in this section:

(a) "Administrator" means the boards and commissions administrator designated under Subsection (3).

(b) "Executive board" means an executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body:

(i) with a defined limited membership;

(ii) that is created by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government; and

(iii) that is created to operate for more than six months.

(2) (a) Except as provided in Subsection (2)(c), before August 1 of the calendar year following the year in which a new executive board is created in statute, the governor shall:

(i) review the executive board to evaluate:

(A) whether the executive board accomplishes a substantial governmental interest; and

(B) whether it is necessary for the executive board to remain in statute;

(ii) in the governor's review described in Subsection (2)(a)(i), consider:

(A) the funding required for the executive board;

(B) the staffing resources required for the executive board;

(C) the time members of the executive board are required to commit to serve on the executive board; and

(D) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction; and

(iii) submit a report to the Government Operations Interim Committee recommending that the Legislature:

(A) repeal the executive board;

(B) add a sunset provision or future repeal date to the executive board;

(C) make other changes to make the executive board more efficient; or

(D) make no changes to the executive board.

(b) In conducting the evaluation described in Subsection (2)(a), the governor shall give deference to:

(i) reducing the size of government; and

(ii) making governmental programs more efficient and effective.

(c) The governor is not required to conduct the review or submit the report described in Subsection (2)(a) for an executive board that is scheduled for repeal under Title 63I, Chapter 1, Legislative Oversight and Sunset Act, or Title 63I, Chapter 2, Repeal Dates by Title Act.

(3) (a) The governor shall designate a board and commissions administrator from the governor's staff to maintain a computerized database containing information about all executive boards.

(b) The administrator shall ensure that the database contains:

(i) the name of each executive board;

(ii) the current statutory or constitutional authority for the creation of the executive board;

(iii) the sunset date on which each executive board's statutory authority expires;

(iv) the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

(v) the name, address, gender, telephone number, and county of each individual currently serving on the executive board, along with a notation of all vacant or unfilled positions;

(vi) the title of the position held by the person who appointed each member of the executive board;

(vii) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;

(viii) whether members appointed to the executive board require the advice and consent of the Senate;

(ix) the organization, interest group, profession, local government entity, or geographic area that an individual appointed to an executive board represents, if any;

(x) the party affiliation of an individual appointed to an executive board, if the statute or executive order creating the position requires representation from political parties;

(xi) whether each executive board is a policy board or an advisory board;

(xii) whether the executive board has or exercises rulemaking authority, or is a rulemaking board as defined in Section 63G-24-102; and

(xiii) any compensation and expense reimbursement that members of the executive board are authorized to receive.

(4) The administrator shall ensure the governor's website includes:

(a) the information contained in the database, except for an individual's:

(i) physical address;

(ii) email address; and

(iii) telephone number;

(b) a portal, accessible on each executive board's web page within the governor's website, through which a member of the public may provide input on:

(i) an individual appointed to serve on the executive board; or

(ii) a sitting member of the executive board;

(c) each report the administrator receives under Subsection (5); and

(d) the summary report described in Subsection (6).

(5) (a) Before August 1, once every five years, beginning in calendar year 2024, each executive board shall prepare and submit to the administrator a report that includes:

(i) the name of the executive board;

(ii) a description of the executive board's official function and purpose;

(iii) a description of the actions taken by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

(iv) recommendations on whether any statutory, rule, or other changes are needed to make the executive board more effective; and

(v) an indication of whether the executive board should continue to exist.

(b) The administrator shall compile and post the reports described in Subsection (5)(a) to the governor's website before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a).

(6) (a) Before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a), the administrator shall prepare a report that includes:

(i) as of July 1 of that year, the total number of executive boards that exist;

(ii) a summary of the reports submitted to the administrator under Subsection (5), including:

(A) a list of each executive board that submitted a report under Subsection (5);

(B) a list of each executive board that [~~did not~~] failed to timely submit a report under Subsection (5);

(C) an indication of any recommendations made under Subsection (5)(a)(iv); and

(D) a list of any executive boards that indicated under Subsection (5)(a)(v) that the executive board should no longer exist; and

(iii) a list of each executive board, identified and reported by the Division of Archives and Record Services under Section 63A-16-601, that did not post a notice of a public meeting on the Utah Public Notice Website during the previous fiscal year.

(b) On or before September 1 of a calendar year in which the administrator prepares a report described in Subsection (6)(a), in accordance with Section 68-3-14, the administrator shall submit the report to:

(i) the president of the Senate;

(ii) the speaker of the House of Representatives; and

(iii) the Government Operations Interim Committee.

(c) (i) Within 60 days after the day on which an executive board fails to timely submit a report under Subsection (5), a legislative interim committee shall conduct a review to determine whether to recommend repeal of the executive board.

(ii) The Office of Legislative Research and General Counsel shall notify the chairs of an interim committee whose subject area most closely relates to an executive board described in Subsection (6)(c)(i) of:

(A) the name of the board;

(B) information regarding the function of the board; and

(C) the deadline by which the interim committee is required to conduct a review described in Subsection (6)(c)(i).

(iii) If there is not an interim committee with a subject area relating to the executive board, or if the interim committee described in Subsection (6)(c)(ii) is unable to timely conduct the review described in Subsection (6)(c), the Government Operations Interim Committee shall conduct the review.

(iv) If an interim committee recommends that an executive board described in Subsection (6)(c)(i) be repealed, the Office of Legislative Research and General Counsel shall draft a bill repealing the executive board.

CHAPTER 36
H. B. 35
Passed February 2, 2023
Approved March 13, 2023
Effective May 3, 2023
(Exception clause)

UNFAIR PRACTICES ACT AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill repeals the Unfair Practices Act.

Highlighted Provisions:

This bill:

- repeals the Unfair Practices Act;
- amends provisions related to the Unfair Practices Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Superseded 12/31/23), as last amended by Laws of Utah 2022, Chapters 201
13-2-1 (Effective 12/31/23), as last amended by Laws of Utah 2022, Chapters 201 and 462
41-3-201, as last amended by Laws of Utah 2018, Chapter 387
59-14-509, as enacted by Laws of Utah 2009, Chapter 341
59-14-608, as enacted by Laws of Utah 2005, Chapter 204
59-14-808, as enacted by Laws of Utah 2020, Chapter 347

REPEALS:

13-5-1, Utah Code Annotated 1953
13-5-2, Utah Code Annotated 1953
13-5-2.5, as last amended by Laws of Utah 1987, Chapter 161
13-5-3, as last amended by Laws of Utah 2010, Chapter 378
13-5-4, Utah Code Annotated 1953
13-5-5, Utah Code Annotated 1953
13-5-6, Utah Code Annotated 1953
13-5-8, as last amended by Laws of Utah 1993, Chapter 4
13-5-9, as last amended by Laws of Utah 2008, Chapter 351
13-5-10, Utah Code Annotated 1953
13-5-11, Utah Code Annotated 1953
13-5-12, as last amended by Laws of Utah 2010, Chapter 378
13-5-13, Utah Code Annotated 1953
13-5-14, as last amended by Laws of Utah 1983, Chapter 58
13-5-15, as last amended by Laws of Utah 1983, Chapter 58
13-5-16, as last amended by Laws of Utah 2010, Chapter 378
13-5-17, Utah Code Annotated 1953
13-5-18, Utah Code Annotated 1953

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

Section 1. Section 13-2-1 (Superseded 12/31/23) is amended to read:

13-2-1 (Superseded 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

[~~(a) Chapter 5, Unfair Practices Act;~~]

[~~(b)~~] (a) Chapter 10a, Music Licensing Practices Act;

[~~(c)~~] (b) Chapter 11, Utah Consumer Sales Practices Act;

[~~(d)~~] (c) Chapter 15, Business Opportunity Disclosure Act;

[~~(e)~~] (d) Chapter 20, New Motor Vehicle Warranties Act;

[~~(f)~~] (e) Chapter 21, Credit Services Organizations Act;

[~~(g)~~] (f) Chapter 22, Charitable Solicitations Act;

[~~(h)~~] (g) Chapter 23, Health Spa Services Protection Act;

[~~(i)~~] (h) Chapter 25a, Telephone and Facsimile Solicitation Act;

[~~(j)~~] (i) Chapter 26, Telephone Fraud Prevention Act;

[~~(k)~~] (j) Chapter 28, Prize Notices Regulation Act;

[~~(l)~~] (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

[~~(m)~~] (l) Chapter 34, Utah Postsecondary Proprietary School Act;

[~~(n)~~] (m) Chapter 34a, Utah Postsecondary School State Authorization Act;

[~~(o)~~] (n) Chapter 41, Price Controls During Emergencies Act;

[~~(p)~~] (o) Chapter 42, Uniform Debt-Management Services Act;

[~~(q)~~] (p) Chapter 49, Immigration Consultants Registration Act;

[~~(r)~~] (q) Chapter 51, Transportation Network Company Registration Act;

[~~(s)~~] (r) Chapter 52, Residential Solar Energy Disclosure Act;

[~~(t)~~] (s) Chapter 53, Residential, Vocational and Life Skills Program Act;

[~~(u)~~] (t) Chapter 54, Ticket Website Sales Act;

[~~(v)~~] (u) Chapter 56, Ticket Transferability Act; and

[~~(w)~~] (v) Chapter 57, Maintenance Funding Practices Act.

Section 2. Section 13-2-1 (Effective 12/31/23) is amended to read:

13-2-1 (Effective 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

[~~(a) Chapter 5, Unfair Practices Act;~~]

[~~(b)~~] (a) Chapter 10a, Music Licensing Practices Act;

[~~(c)~~] (b) Chapter 11, Utah Consumer Sales Practices Act;

[~~(d)~~] (c) Chapter 15, Business Opportunity Disclosure Act;

[~~(e)~~] (d) Chapter 20, New Motor Vehicle Warranties Act;

[~~(f)~~] (e) Chapter 21, Credit Services Organizations Act;

[~~(g)~~] (f) Chapter 22, Charitable Solicitations Act;

[~~(h)~~] (g) Chapter 23, Health Spa Services Protection Act;

[~~(i)~~] (h) Chapter 25a, Telephone and Facsimile Solicitation Act;

[~~(j)~~] (i) Chapter 26, Telephone Fraud Prevention Act;

[~~(k)~~] (j) Chapter 28, Prize Notices Regulation Act;

[~~(l)~~] (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

[~~(m)~~] (l) Chapter 34, Utah Postsecondary Proprietary School Act;

[~~(n)~~] (m) Chapter 34a, Utah Postsecondary School State Authorization Act;

[~~(o)~~] (n) Chapter 41, Price Controls During Emergencies Act;

[~~(p)~~] (o) Chapter 42, Uniform Debt-Management Services Act;

[~~(q)~~] (p) Chapter 49, Immigration Consultants Registration Act;

[~~(r)~~] (q) Chapter 51, Transportation Network Company Registration Act;

[~~(s)~~] (r) Chapter 52, Residential Solar Energy Disclosure Act;

[~~(t)~~] (s) Chapter 53, Residential, Vocational and Life Skills Program Act;

[~~(u)~~] (t) Chapter 54, Ticket Website Sales Act;

[~~(v)~~] (u) Chapter 56, Ticket Transferability Act;

[~~(w)~~] (v) Chapter 57, Maintenance Funding Practices Act; and

[~~(x)~~] (w) Chapter 61, Utah Consumer Privacy Act.

Section 3. Section 41-3-201 is amended to read:

41-3-201. Licenses required -- Restitution -- Education.

(1) As used in this section, "new applicant" means a person who is applying for a license that the person has not been issued during the previous licensing year.

(2) A person may not act as any of the following without having procured a license issued by the administrator:

(a) a dealer;

(b) salvage vehicle buyer;

(c) salesperson;

(d) manufacturer;

(e) transporter;

(f) dismantler;

(g) distributor;

(h) factory branch and representative;

(i) distributor branch and representative;

(j) crusher;

(k) remanufacturer; or

(l) body shop.

(3) (a) Except as provided in Subsection (3)(c), a person may not bid on or purchase a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction unless the person is a licensed salvage vehicle buyer.

(b) Except as provided in Subsection (3)(c), a person may not offer for sale, sell, or exchange a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction except to a licensed salvage vehicle buyer.

(c) A person may offer for sale, sell, or exchange a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction:

(i) to an out-of-state or out-of-country purchaser not licensed under this section, but that is authorized to do business in the domestic or foreign jurisdiction in which the person is domiciled or registered to do business;

(ii) subject to the restrictions in Subsection (3)(d), to an in-state purchaser not licensed under this section that:

(A) has a valid business license in Utah; and

(B) has a Utah sales tax license; and

(iii) to a crusher.

(d) (i) An operator of a motor vehicle auction shall verify that an in-state purchaser not licensed under this section has the licenses required in Subsection (3)(c)(ii).

(ii) An operator of a motor vehicle auction may only offer for sale, sell, or exchange five vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction in any 12-month period to an in-state purchaser that does not have a salvage vehicle buyer license issued in accordance with Subsection 41-3-202(17).

(iii) The five vehicle limitation under this Subsection (3)(d) applies to each Utah sales tax license and not to each person with the authority to use a sales tax license.

(iv) An operator of a motor vehicle auction may not sell a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a purchaser otherwise allowed to purchase a vehicle under Subsection (3)(c)(ii).

(e) For a vehicle with a salvage certificate purchased under Subsection (3)(c)(ii), an operator of a motor vehicle auction shall:

(i) (A) until Subsection (3)(e)(i)(B) applies, make application for a salvage certificate of title on behalf of the Utah purchaser within seven days of the purchase if the purchaser does not have a salvage vehicle buyer license, dealer license, body shop license, or dismantler license issued in accordance with Section 41-3-202; or

(B) beginning on or after the date that the Motor Vehicle Division has implemented the Motor Vehicle Division's GenTax system, make application electronically, in a form and time period approved by the Motor Vehicle Division, for a salvage certificate of title to be issued in the name of the purchaser;

(ii) give to the purchaser a disclosure printed on a separate piece of paper that states:

"THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE BUYER EVERY TIME THIS VEHICLE IS RESOLD WITH A SALVAGE CERTIFICATE

Vehicle Identification Number (VIN)

Year: Make: Model:

SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE CERTIFICATE OF TITLE.

_____

Signature of Purchaser Date"; and

(iii) if applicable, provide evidence to the Motor Vehicle Division of:

(A) payment of sales taxes on taxable sales in accordance with Section 41-1a-510;

(B) the identification number inspection required under Section 41-1a-511; and

(C) the odometer disclosure statement required under Section 41-1a-902.

(f) The Motor Vehicle Division shall include a link to the disclosure statement described in Subsection (3)(e)(ii) on its website.

(g) The commission may impose an administrative entrance fee established in accordance with the procedures and requirements of Section 63J-1-504 not to exceed $10 on a person not holding a license described in Subsection (3)(e)(i) that enters the physical premises of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an auction.

(h) A vehicle sold at or through a motor vehicle auction to an out-of-state purchaser with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has been certificated out-of-state.

(4) (a) An operator of a motor vehicle auction shall keep a record of the sale of each salvage vehicle.

(b) A record described under Subsection (4)(a) shall contain:

(i) the purchaser's name and address; and

(ii) the year, make, and vehicle identification number for each salvage vehicle sold.

(c) An operator of a motor vehicle auction shall:

(i) provide the record described in Subsection (4)(a) electronically in a method approved by the division to the division within two business days of the completion of the motor vehicle auction;

(ii) retain the record described in this Subsection (4) for five years from the date of sale; and

(iii) make a record described in this Subsection (4) available for inspection by the division at the location of the motor vehicle auction during normal business hours.

(5) (a) An operator of a motor vehicle auction shall store a salvage vehicle sold at auction in a secure facility until the salvage vehicle is claimed as provided in this section.

(b) Beginning at the time of purchase and until the salvage vehicle is claimed, the motor vehicle auction operator may collect a daily storage fee for the secure storage of each salvage vehicle sold at auction.

(c) Except as provided in Subsection (5)(d), before releasing possession of a salvage vehicle purchased at a motor vehicle auction to a person not licensed under this part or certified as a tow truck operator under Title 72, Chapter 9, Part 6, Tow Truck Provisions, and if the person claiming the vehicle is a person other than the purchaser of the vehicle, the

motor vehicle auction operator shall create a record that shall contain:

(i) the name and address, as verified by government issued identification, of the person claiming the vehicle;

(ii) the year, make, and vehicle identification number of the claimed vehicle;

(iii) a written statement from the person claiming the vehicle indicating the location where the salvage vehicle will be delivered; and

(iv) verification that the claimant has authorization from the purchaser to claim the vehicle.

(d) If the salvage vehicle is claimed by a transporter or a tow truck operator, the transporter or the tow truck operator shall submit to the motor vehicle auction operator a written record on any release forms indicating the location where the salvage vehicle will be delivered if delivered within the state.

(e) An operator of a motor vehicle auction shall:

(i) retain the record described in Subsection (5)(c) for five years from the date of sale; and

(ii) make the record available for inspection by the division at the location of the motor vehicle auction during normal business hours.

(6) (a) If applicable, an operator of a motor vehicle auction shall comply with the reporting requirements of the National Motor Vehicle Title Information System overseen by the United States Department of Justice if the person sells a vehicle with a salvage certificate to an in-state purchaser under Subsection (3)(c)(ii).

(b) The Motor Vehicle Division shall include a link to the National Motor Vehicle Title Information System on its website.

(7) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person that is an out-of-country buyer shall:

(i) stamp on the face of the title so as not to obscure the name, date, or mileage statement the words "FOR EXPORT ONLY" in all capital, black letters; and

(ii) stamp in each unused reassignment space on the back of the title the words "FOR EXPORT ONLY."

(b) The words "FOR EXPORT ONLY" shall be:

(i) at least two inches wide; and

(ii) clearly legible.

(8) A dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop shall obtain a supplemental license, in accordance with Section 41-3-201.7 for each additional place of business maintained by the licensee.

(9) (a) A person who has been convicted of any law relating to motor vehicle commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a salvage or nonrepairable certificate unless full restitution regarding those convictions has been made.

(b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (9)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or salvage certificate under Subsection (9)(a).

(10) (a) The division may not issue a license to a new applicant for a new or used motor vehicle dealer license, a direct-sale manufacturer license, a new or used motorcycle dealer license, or a small trailer dealer license unless the new applicant completes an eight-hour orientation class approved by the division that includes education on motor vehicle laws and rules.

(b) The approved costs of the orientation class shall be paid by the new applicant.

(c) The class shall be completed by the new applicant and the applicant's partners, corporate officers, bond indemnitors, and managers.

(d) (i) The division shall approve:

(A) providers of the orientation class; and

(B) costs of the orientation class.

(ii) A provider of an orientation class shall submit the orientation class curriculum to the division for approval prior to teaching the orientation class.

(iii) A provider of an orientation class shall include in the orientation materials:

(A) ethics training;

(B) motor vehicle title and registration processes;

[~~(C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;~~]

[~~(D)~~] (C) Department of Insurance requirements relating to motor vehicles;

[~~(E)~~] (D) Department of Public Safety requirements relating to motor vehicles;

[~~(F)~~] (E) federal requirements related to motor vehicles as determined by the division; and

[~~(G)~~] (F) any required disclosure compliance forms as determined by the division.

(11) A person or purchaser described in Subsection (3)(c)(ii):

(a) may not purchase more than five salvage vehicles with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 in any 12-month period;

(b) may not, without first complying with Section 41-1a-705, offer for sale, sell, or exchange more than two vehicles with a salvage certificate as defined in Section 41-1a-1001 in any 12-month

period to a person not licensed under this section; and

(c) may not, without first complying with Section 41-1a-705, offer for sale, sell, or exchange a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a person not licensed under this section.

(12) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (11)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or salvage certificate under Subsection (11)(a).

Section 4. Section 59-14-509 is amended to read:

59-14-509. Restrictions on mail order or Internet sales.

(1) For purposes of this section:

(a) "Distributor" means a person, wherever residing or located, who:

(i) is licensed in this state to purchase non-taxed tobacco products; and

(ii) stores, sells, or otherwise disposes of tobacco products.

(b) "Licensed person" is as defined in Subsection 59-14-409(1).

(c) "Order or purchase" includes:

(i) by mail or delivery service;

(ii) through the Internet or computer network;

(iii) by telephone; or

(iv) through some other electronic method.

(d) "Retailer" means any person who sells tobacco products to consumers for personal consumption.

(2) A person, distributor, manufacturer, or retailer shall not:

(a) cause tobacco products or cigarettes as defined in Section 59-22-202 to be ordered or purchased by anyone other than a licensed person; or

(b) knowingly provide substantial assistance to a person who violates this section.

(3) (a) Each order or purchase of a tobacco product or cigarettes as defined in Section 59-22-202 in violation of Subsection (2) shall constitute a separate violation under this section.

(b) In addition to the penalties in Subsection (4), a person who violates this section is subject to:

(i) a civil penalty in an amount not to exceed $5,000 for each violation of this section;

(ii) an injunction to restrain a threatened or actual violation of this section; and

(iii) recovery by the state for:

(A) the costs of investigation;

(B) the cost of expert witness fees;

(C) the cost of the action; and

(D) reasonable attorney's fees.

(4) [~~A~~] If a person [~~who~~] knowingly violates this section [~~has engaged in an unfair and deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act, and~~], the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the General Fund.

Section 5. Section 59-14-608 is amended to read:

59-14-608. License revocation and penalties.

(1) (a) The commission may revoke or suspend the license of a stamping agent in the manner provided in Section 59-14-202 if the commission determines that the stamping agent has violated Sections 59-14-604, 59-14-606, or other rule adopted under the provisions of this part.

(b) The penalty imposed under Subsection (1)(a) is in addition to or in lieu of any other civil or criminal remedy provided by law.

(c) Each stamp affixed and each sale or offer to sell cigarettes in violation of Section 59-14-604, or other rule adopted under the provisions of this part, shall constitute a separate violation.

(d) For each violation under Subsection (1)(c), the commissioner may, in addition to the penalty imposed by Subsection (1)(a), impose a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes or $5,000.

(2) (a) Any cigarettes that have been sold, offered for sale, or possessed for sale, in this state, or imported for personal consumption in this state, in violation of Section 59-14-604 are:

(i) contraband under Section 59-14-213; and

(ii) subject to seizure and forfeiture as provided in Section 59-14-213.

(b) Cigarettes seized and forfeited under the provisions of this section shall be destroyed and not resold.

(3) (a) The commission may seek an injunction to:

(i) restrain a threatened or actual violation of this part by a stamping agent; or

(ii) to compel the stamping agent to comply with this part.

(b) In any action brought pursuant to this section, the state is entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees.

[~~(4) A person who violates Section 59-14-604 engages in an unfair and deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act.~~]

Section 6. Section 59-14-808 is amended to read:

59-14-808. Restrictions on mail order or Internet sales.

(1) For purposes of this section:

(a) "Distributor" means a person, wherever residing or located, who:

(i) is licensed in this state to purchase a non-taxed nicotine product or a non-taxed electronic cigarette product; and

(ii) stores, sells, or otherwise disposes of a nicotine product or an electronic cigarette product.

(b) "Licensed person" means the same as that term is defined in Section 59-14-409.

(c) "Order or purchase" includes:

(i) by mail or delivery service;

(ii) through the Internet or computer network;

(iii) by telephone; or

(iv) through some other electronic method.

(d) "Retailer" means any person who sells a nicotine product or an electronic cigarette product to consumers for personal consumption.

(2) A person, distributor, manufacturer, or retailer shall not:

(a) cause a nicotine product or an electronic cigarette product to be ordered or purchased by anyone other than a licensed person; or

(b) knowingly provide substantial assistance to a person who violates this section.

(3) (a) Each order or purchase of a nicotine product or an electronic cigarette product in violation of Subsection (2) constitutes a separate violation under this section.

(b) In addition to the penalties in Subsection (4), a person who violates this section is subject to:

(i) a civil penalty in an amount not to exceed $5,000 for each violation of this section;

(ii) an injunction to restrain a threatened or actual violation of this section; and

(iii) recovery by the state for:

(A) the costs of investigation;

(B) the cost of expert witness fees;

(C) the cost of the action; and

(D) reasonable attorney's fees.

(4) [~~A~~] If a person [~~who~~] knowingly violates this section, [~~has engaged in an unfair and deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act, and~~] the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the General Fund.

Section 7. Repealer.

This bill repeals:

Section 13-5-1, Short title.

Section 13-5-2, "Person" defined.

Section 13-5-2.5, Procedure to prevent unfair competition.

Section 13-5-3, Unlawful discriminations -- Burden of proof -- Taking or offering commissions -- Payments for benefit of customers -- Discrimination among purchasers -- Inducing discriminations.

Section 13-5-4, Return of net earnings or surplus by cooperatives to members.

Section 13-5-5, "Commerce" defined.

Section 13-5-6, Liability of agents.

Section 13-5-8, Advertising goods not prepared to supply.

Section 13-5-9, Limitation on quantity of article or product sold or offered for sale to any one customer.

Section 13-5-10, Cost -- Purchase price at forced sales.

Section 13-5-11, Proceedings -- Local cost surveys as evidence.

Section 13-5-12, Sales exempt from chapter.

Section 13-5-13, Contracts in violation declared illegal.

Section 13-5-14, Injunctive relief -- Damages -- Immunity.

Section 13-5-15, Penalty for violation of chapter.

Section 13-5-16, Separability clause.

Section 13-5-17, Policy of act.

Section 13-5-18, Cost -- Separate entities of business.

Section 8. Effective date.

This bill takes effect on May 3, 2023, except that the amendments to Section 13-2-1 (Effective 12/31/23) take effect on December 31, 2023.

CHAPTER 37
H. B. 41
Passed February 9, 2023
Approved March 13, 2023
Effective May 3, 2023

UTAH RETIREMENT SYSTEMS REVISIONS

Chief Sponsor: Walt Brooks
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends the Utah State Retirement and Insurance Benefit Act (the Act).

Highlighted Provisions:

This bill:

- authorizes the docketing of an abstract of a final administrative order with the court for purposes of creating a lien and other collection remedies against a person who owes money under the Act;
- clarifies whose decision triggers the time period for a person to request a review of a decision related to a benefit, right, obligation, or employment right under the Act;
- updates terminology to reflect defined terms;
- creates review and compliance requirements for an individual receiving a long-term disability benefit; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-11-613, as last amended by Laws of Utah 2021, Chapter 193
49-11-613.5, as last amended by Laws of Utah 2021, Chapter 193
49-14-201, as last amended by Laws of Utah 2022, Chapter 171
49-16-102, as last amended by Laws of Utah 2022, Chapter 171
49-16-701, as last amended by Laws of Utah 2011, Chapter 439
49-21-402, as last amended by Laws of Utah 2019, Chapter 349
49-21-406, as last amended by Laws of Utah 2019, Chapter 349
49-23-301, as last amended by Laws of Utah 2020, Chapter 437
49-23-601, as last amended by Laws of Utah 2012, Chapter 298

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

Section 1. Section 49-11-613 is amended to read:

49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board reconsideration -- Judicial review -- Docketing abstract of final administrative order.

(1) (a) A member, retiree, participant, alternative payee, covered individual, employer, participating employer, and covered employer shall inform themselves of their benefits, rights, obligations, and employment rights under this title.

(b) Subject to Subsection (8), any dispute regarding a benefit, right, obligation, or employment right under this title is subject to the procedures provided under this section.

(c) (i) A person who disputes a benefit, right, obligation, or employment right under this title shall request a ruling by the executive director who may delegate the decision to the deputy director.

(ii) A request for a ruling to the executive director under this section shall constitute the initiation of an action for purposes of the limitations periods described in Section 49-11-613.5.

(d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any benefit, right, obligation, or employment right under this title may request a review of that claim by a hearing officer within the time period described in Section 49-11-613.5.

(e) (i) The executive director, on behalf of the board, may request that the hearing officer review a dispute regarding any benefit, right, obligation, or employment right under this title by filing a notice of board action and providing notice to all affected parties in accordance with rules adopted by the board.

(ii) The filing of a notice of board action shall constitute the initiation of an action for purposes of the limitations periods described in Section 49-11-613.5.

(2) The hearing officer shall:

(a) be hired by the executive director after consultation with the board;

(b) follow and enforce the procedures and requirements of:

(i) this title;

(ii) the rules adopted by the board in accordance with Subsection [~~(9)~~] (10); and

(iii) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title or the rules adopted by the board in accordance with Subsection [~~(9)~~] (10);

(c) hear and determine all facts relevant to a decision, including facts pertaining to applications for benefits under any system, plan, or program under this title and all matters pertaining to the administration of the office; and

(d) make conclusions of law in determining the person's rights under any system, plan, or program under this title and matters pertaining to the administration of the office.

(3) The board shall review and approve or deny all decisions of the hearing officer in accordance with rules adopted by the board in accordance with Subsection [~~(9)~~] (10).

(4) The moving party in any proceeding brought under this section shall bear the burden of proof.

(5) A party may file an application for reconsideration by the board upon any of the following grounds:

(a) that the board acted in excess of the board's powers;

(b) that the order or the award was procured by fraud;

(c) that the evidence does not justify the determination of the hearing officer; or

(d) that the party has discovered new material evidence that could not, with reasonable diligence, have been discovered or procured prior to the hearing.

(6) The board shall affirm, reverse, or modify the decision of the hearing officer, or remand the application to the hearing officer for further consideration.

(7) A party aggrieved by the board's final decision under Subsection (6) may obtain judicial review by complying with the procedures and requirements of:

(a) this title;

(b) rules adopted by the board in accordance with Subsection [~~(9)~~] (10); and

(c) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title or the rules adopted by the board in accordance with Subsection [~~(9)~~] (10).

(8) The program shall provide an appeals process for medical claims that complies with federal law.

(9) (a) (i) Any interested party may file, in a district court of any county in the state, an abstract of a final administrative order approved by the board in accordance with this section.

(ii) Upon receiving the filing of an abstract, the clerk of the district court shall:

(A) docket the abstract; and

(B) note the date of the abstract's receipt on the abstract and in the docket.

(b) (i) From the day on which an interested party files the abstract with a district court, the final administrative order approved by the board is a lien upon the real property of the obligor situated in that county.

(ii) Unless satisfied, the lien is for a period of eight years after the day on which the board approves the final administrative order.

(c) The final administrative order approved by the board fixing the liability of the obligor has the same effect as any other money judgment entered by a district court.

(d) (i) Except as provided in Subsection (9)(d)(ii), an attachment, a garnishment, or an execution on a judgment included in or accruing under a final administrative order approved by the board and filed and docketed in accordance with Subsection (9)(a) has the same manner and same effect as an attachment, a garnishment, or an execution on a judgment of a district court.

(ii) A writ of garnishment on earnings continues to operate, and to require the garnishee to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval, until the office or a court releases the writ of garnishment in writing.

(e) The lien and enforcement remedies provided by this section are in addition to any other lien or remedy provided by law.

(f) A party may bring an action upon a final administrative order approved by the board within eight years after the day on which the board approves the final administrative order.

(g) A final administrative order may be renewed administratively by complying with the procedures and requirements provided in rule adopted by the board in accordance with Subsection (10).

[~~(9)~~] (10) (a) The board shall make rules to implement this section and to establish procedures and requirements for adjudicative proceedings.

(b) The rules shall be substantially similar to or incorporate provisions of the Utah Rules of Civil Procedure, the Utah Rules of Evidence, and Title 63G, Chapter 4, Administrative Procedures Act.

Section 2. Section 49-11-613.5 is amended to read:

49-11-613.5. Limitation of actions -- Cause of action.

(1) (a) Subject to the procedures provided in Section 49-11-613 and except as provided in Subsection (3), [~~an~~] a party may bring an action regarding a benefit, right, obligation, or employment right brought under this title [~~may be commenced only~~] within four years [~~of~~] after the day on which the cause of action accrues.

(b) A person who is dissatisfied with an executive director's ruling under Section 49-11-613 and who seeks a review of that claim by a hearing officer shall file a request for board action within 30 days [~~of~~] after the day on which the [~~hearing officer~~] executive director issues the ruling.

(2) (a) A cause of action accrues under this title and the limitation period in this section runs from the day on which the aggrieved party became aware, or through the exercise of reasonable diligence should have become aware, of the facts giving rise to the cause of action, including when:

(i) a benefit, right, or employment right is or should have been granted;

(ii) a payment is or should have been made; or

(iii) an obligation is or should have been performed.

(b) If a claim involves a retirement service credit issue under this title:

(i) a cause of action specifically accrues at the time the requisite retirement contributions relating to that retirement service credit are paid or should have been paid to the office; and

(ii) the person is deemed to be on notice of the payment or nonpayment of those retirement contributions.

(3) If an aggrieved party fails to discover the facts giving rise to the cause of action due to misrepresentation, fraud, intentional nondisclosure, or other affirmative steps to conceal the cause of action, a limitation period prescribed in this section does not begin to run until the aggrieved party actually discovers the existence of the cause of action.

(4) The person claiming a benefit, right, obligation, or employment right arising under this title has the burden of bringing the action within the period prescribed in this section.

(5) Nothing in this section relieves a member, retiree, participant, alternative payee, covered individual, employer, participating employer, or covered employer of the obligations under this title.

(6) The office is not required to bring a claim on behalf of a member, retiree, participant, alternative payee, covered individual, employer, participating employer, or covered employer.

(7) (a) A limitation period provided in this section does not apply to actions for which a specific limit is otherwise specified in this title or by contract, including master policies or other insurance contracts.

(b) For actions arising under this title, this section supersedes any applicable limitation period provided in Title 78B, Chapter 2, Statutes of Limitations.

Section 3. Section 49-14-201 is amended to read:

49-14-201. System membership -- Eligibility.

(1) Except as provided in Section 49-15-201, a public safety service employee of a participating employer participating in this system is eligible for service credit in this system at the earliest of:

(a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the public safety service employee was employed by the participating employer on that date; or

(c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system before July 1, 1989.

(iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this

system during the period for which service credit is to be granted.

(5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(7) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.

(8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system before July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(9) An employee who is reassigned to the Division of Technology Services or to the Division of Human Resource Management, and who was a member of this system, is entitled to remain a member of this system.

(10) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (10)(a), the office and the Peace Officer Standards and Training Council shall consider whether or not the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(11) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (10) in making the subcommittee's recommendation.

(12) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(13) Except as provided under Subsection (14), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(14) (a) A public safety service employee employed by an airport police department, which elects to cover the airport police department's public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (13), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (14)(a):

(i) shall be made at the time the employer elects to move the employer's public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

(15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover the participating employer's dispatchers under this system.

(b) A participating employer's election to cover the participating employer's dispatchers under this system under Subsection (15)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (15)(b), is not eligible for service credit in this system.

(16) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 4. Section 49-16-102 is amended to read:

49-16-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable as gross income received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) (a) "Disability" means the complete inability, due to objective medical impairment, whether physical or mental, to perform firefighter service.

(b) "Disability" does not include the inability to meet an employer's required standards or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined under Subsection (2)(a).

(3) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(b), (c), and (d).

(b) Except as provided in Subsection (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection [~~(3)(a)~~] (3)(b) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(d) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (13).

(4) (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department; or

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

(5) (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter.

(b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.

(6) (a) "Line-of-duty death or disability" means a death or disability resulting from:

(i) external force, violence, or disease directly resulting from firefighter service; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.

(b) "Line-of-duty death or disability" does not include a death or disability that:

(i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) occurs when the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death or disability; or

(iv) occurs in a manner other than as described in Subsection (6)(a).

(c) "Line-of-duty death or disability" includes the death or disability of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.

(7) "Objective medical impairment" means an impairment resulting from an injury or illness that is diagnosed by a physician or physician assistant and that is based on accepted objective medical tests or findings rather than subjective complaints.

(8) "Participating employer" means an employer that meets the participation requirements of Section 49-16-201.

(9) "Regularly constituted fire department" means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.

(10) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(11) "System" means the Firefighters' Retirement System created under this chapter.

(12) (a) "Volunteer firefighter" means any individual who is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.

(b) "Volunteer firefighter" does not include an individual who volunteers assistance but does not meet the requirements of Subsection (12)(a).

(13) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.

Section 5. Section 49-16-701 is amended to read:

49-16-701. Volunteer firefighters eligible for line-of-duty death and disability benefits in Division A -- Computation of benefit.

(1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty disability benefits provided for firefighters enrolled in Division A, subject to Sections 49-16-602 and 49-16-603.

(2) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death or disability shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(3) Each volunteer fire department shall maintain a current roll of all volunteer firefighters [~~which~~] that meet the requirements of Subsection [~~49-16-102(11)~~] 49-16-102(12) to determine eligibility for this benefit.

Section 6. Section 49-21-402 is amended to read:

49-21-402. Reduction or reimbursement of benefit -- Circumstances -- Application for other benefits required.

(1) A monthly disability benefit may be reduced, suspended, or terminated unless:

(a) the eligible employee [~~is under the~~] participates in ongoing care and treatment [~~of a physician or physician assistant other than the eligible employee; and~~] in accordance with Subsection 49-21-406(3) or (4); and

(b) the eligible employee provides the information and documentation requested by the office.

(2) (a) The monthly disability benefit shall be reduced or reimbursed by any amount received by, or payable to, the eligible employee for the same injury or illness that is the basis for the monthly disability benefit from the following sources:

(i) workers' compensation indemnity benefits, regardless of whether the amount is received as an ongoing monthly benefit, as a lump sum, or in a settlement with a workers' compensation indemnity carrier;

(ii) any money received by judgment, legal action, or settlement from a third party liable to the employee for the monthly disability benefit;

(iii) automobile no-fault, medical payments, or similar insurance payments;

(iv) any money received by a judgment, settlement, or other payment as a result of a claim against an employer; or

(v) annual leave or similar lump-sum payments.

(b) The monthly disability benefit shall be reduced or reimbursed by any amount received by, or payable to, the eligible employee for the same period of time during which the eligible employee is entitled to receive a monthly disability benefit from the following sources:

(i) social security disability benefits, including all benefits received by the eligible employee, the eligible employee's spouse, and the eligible employee's children as determined by the Social Security Administration;

(ii) unemployment compensation benefits;

(iii) sick leave benefits; or

(iv) compensation received for employment, including self-employment, except for eligible amounts from approved rehabilitative employment in accordance with Section 49-21-406.

(3) The monthly disability benefit shall be reduced by any amount in excess of one-third of the eligible employee's regular monthly salary received by, or payable to, the eligible employee from the following sources for the same period of time during which the eligible employee is entitled to receive a monthly disability benefit:

(a) any retirement payment earned through or provided by public or private employment; and

(b) any disability benefit, other than social security or workers' compensation indemnity benefits, resulting from the disability for which benefits are being received under this chapter.

(4) After the date of disability, cost-of-living increases to any of the benefits listed in Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability benefit.

(5) Any amounts payable to the eligible employee from one or more of the sources under Subsection (2) are considered as amounts received whether or not the amounts were actually received by the eligible employee.

(6) (a) An eligible employee shall first apply for all disability benefits from governmental entities under Subsection (2) to which the eligible employee is or may be entitled, and provide to the office evidence of the applications.

(b) If the eligible employee fails to make application under this Subsection (6), the monthly disability benefit shall be suspended.

(7) During a period of total disability, an eligible employee has an affirmative duty to keep the program informed regarding:

(a) the award or receipt of an amount from a source that could result in the monthly disability benefit being reduced or reimbursed under this section within 10 days of the award or receipt of the amount; and

(b) any employment, including self-employment, of the eligible employee and the compensation for that employment within 10 days of beginning the employment or a material change in the compensation from that employment.

(8) The program shall use commercially reasonable means to collect any amounts of overpayments and reimbursements.

(9) (a) If the program is unable to reduce or obtain reimbursement for the required amount from the monthly disability benefit for any reason, the employee will have received an overpayment of monthly disability benefits.

(b) If an eligible employee receives an overpayment of monthly disability benefits, the eligible employee shall repay to the office the amount of the overpayment, plus interest as determined by the program, within 30 days from the date the overpayment is received by:

(i) the eligible employee; or

(ii) a third party related to the eligible employee.

(c) The executive director may waive the interest on an overpayment of monthly disability benefits under Subsection (9)(b) if good cause is shown for the delay in repayment of the overpayment of monthly disability benefits.

Section 7. Section 49-21-406 is amended to read:

49-21-406. Rehabilitative employment -- Interview by disability specialist -- Maintaining eligibility -- Additional treatment and care.

(1) (a) If an eligible employee, during a period of total disability for which the monthly disability benefit is payable, engages in approved rehabilitative employment, the monthly disability benefit otherwise payable shall be reduced:

(i) by an amount equal to 50% of the income to which the eligible employee is entitled for the employment during the month; and

(ii) so that the combined amount received from the rehabilitative employment and the monthly disability payment does not exceed 100% of the eligible employee's monthly salary prior to the employee's disability.

(b) This rehabilitative benefit is payable for up to two years or to the end of the maximum benefit period, whichever occurs first.

(2) (a) The office shall review an eligible employee's total disability at least one time each year.

(b) [~~Each~~] The office shall interview each eligible employee receiving a monthly disability benefit [~~shall be interviewed by the office~~].

[~~(b)~~] (c) The office may refer the eligible employee to a rehabilitative or vocational specialist for a review of the eligible employee's condition and a written rehabilitation plan and return to work assistance.

(3) If an eligible employee receiving a monthly disability benefit fails to participate in an office-approved rehabilitation program within the limitations set forth by a physician or physician assistant, the monthly disability benefit may be reduced, suspended, or terminated.

(4) The office may, as a condition of paying a monthly disability benefit, require that the eligible employee receive medical care and treatment if that treatment is reasonable or usual according to current medical practices.

Section 8. Section 49-23-301 is amended to read:

49-23-301. Contributions.

(1) Participating employers and members shall pay the certified contribution rates to the office to maintain the defined benefit portion of this system on a financially and actuarially sound basis in accordance with Subsection (2).

(2) (a) A participating employer shall pay up to 14% of compensation toward the certified contribution rate to the office for the defined benefit portion of this system.

(b) Except as provided in Subsection (2)(c), a member shall pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds the percent of compensation paid by the participating employer under Subsection (2)(a).

(c) A participating employer may elect to pay all or part of the required member contribution under Subsection (2)(b) on behalf of the member as an employer pick up under 26 U.S.C. Sec. 414(h)(2), in addition to the required participating employer contribution under Subsection (2)(a).

(d) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) A member contribution is credited by the office to the account of the individual member.

(b) This amount, together with refund interest, is held in trust for the payment of benefits to the member or the member's beneficiaries.

(c) A member contribution is vested and nonforfeitable.

(4) (a) Each member is considered to consent to payroll deductions of member contributions.

(b) The payment of compensation less these payroll deductions is considered full payment for services rendered by the member.

(5) Except as provided under Subsection (6), benefits provided under the defined benefit portion of the Tier II hybrid retirement system created under this part:

(a) may not be increased unless the actuarial funded ratios of all systems under this title reach 100%; and

(b) may be decreased only in accordance with the provisions of Section 49-23-309.

(6) (a) The Legislature authorizes increases to the death benefit provided to a Tier II public safety service employee or firefighter member's surviving spouse effective on May 12, 2015, and July 1, 2020, as provided in Section 49-23-503.

(b) (i) The Legislature authorizes an increase to the multiplier for the calculation of the retirement allowance provided to a member of the New Public Safety and Firefighter Tier II hybrid retirement system effective July 1, 2020, as provided in Section 49-23-304.

(ii) The requirements of Section [~~49-22-310~~] 49-23-309 do not apply to the benefit adjustment described in this Subsection (6)(b).

Section 9. Section 49-23-601 is amended to read:

49-23-601. Long-term disability coverage.

(1) A participating employer shall cover a public safety service employee who initially enters employment on or after July 1, 2011, under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program.

(2) (a) A participating employer shall cover a firefighter service employee who initially enters employment on or after July 1, 2011, under Chapter 21, Public Employees' Long-Term Disability Act.

(b) In accordance with this section, a participating employer shall provide long-term disability benefit coverage for a volunteer firefighter as provided under Section 49-16-701.

(c) The office shall ensure that the cost of the long-term disability benefit coverage provided under Subsections (2)(a) and (b) is funded with revenue received under Section 49-11-901.5.

CHAPTER 38
H. B. 42
Passed February 17, 2023
Approved March 13, 2023
Effective May 3, 2023

TECHNOLOGY COMMERCIALIZATION AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill enacts provisions relating to technology commercialization.

Highlighted Provisions:

This bill:

- enacts the Utah Innovation Lab Act;
- defines terms;
- creates the Utah Innovation Lab (innovation lab) and provides for the innovation lab's powers and purposes;
- establishes a board to govern the innovation lab and provides for the board membership, terms, and responsibilities, and provides certain limits on board members;
- requires the innovation lab to organize and administer the Utah innovation fund for the purpose of investing in businesses developed in the state through technology commercialization;
- provides for the Utah innovation fund's powers and purposes; and
- requires the innovation lab to comply with certain audit and reporting requirements.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Governor's Office of Economic Opportunity -- Utah Innovation Lab, as a one-time appropriation:
  - from General Fund Restricted -- Utah Capital Investment Restricted Account, $15,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63N-20-101, Utah Code Annotated 1953
63N-20-201, Utah Code Annotated 1953
63N-20-202, Utah Code Annotated 1953
63N-20-203, Utah Code Annotated 1953
63N-20-301, Utah Code Annotated 1953
63N-20-401, Utah Code Annotated 1953
63N-20-402, Utah Code Annotated 1953

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

Section 1. Section 63N-20-101 is enacted to read:

CHAPTER 20 (CODIFIED AS CHAPTER 21). UTAH INNOVATION LAB ACT

Part 1. General Provisions

63N-20-101 (Codified as 63N-21-101). Definitions.

As used in this chapter:

(1) "Board" means the board of directors of the innovation lab, as described in Section 63N-20-202.

(2) "Innovation lab" means the Utah Innovation Lab created in Section 63N-20-201.

(3) "Qualified business" means a business entity that:

(a) is established to commercialize a technology, product, or service developed through a technology commercialization program at a public or private institution of higher education in the state; and

(b) maintains the business's principal business operations in the state.

(4) "Qualified investment" means any distribution or payment of funds to a qualified business from the Utah innovation fund, including:

(a) a direct investment of capital in a qualified business for the purchase of shares of stock;

(b) a secured loan or revolving line of credit to a qualified business; or

(c) a financial grant to a qualified business.

(5) "Utah innovation fund" means a limited liability company organized under Section 63N-20-301.

Section 2. Section 63N-20-201 is enacted to read:

Part 2. Utah Innovation Lab

63N-20-201 (Codified as 63N-21-201. Creation of Utah Innovation Lab -- Status and applicability of other law -- Powers and purposes -- Dissolution.

(1) There is created the Utah Innovation Lab.

(2) The innovation lab is:

(a) an independent, nonprofit, quasi-public corporation as defined in Section 63E-1-102; and

(b) subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) The innovation lab shall organize and administer the Utah innovation fund.

(4) The innovation lab may:

(a) engage consultants and legal counsel;

(b) invest and expend funds;

(c) enter into contracts;

(d) insure against loss;

(e) receive private donations to be used by the Utah innovation fund for qualified investments;

(f) hire employees;

(g) charge a fee on assets under management in the Utah innovation fund to pay for reasonable and

necessary costs of the innovation lab, including the costs of the annual audit required under Section 63N-20-402; and

(h) perform any other act necessary to carry out the purposes of the innovation lab.

(5) The innovation lab may not:

(a) issue debt or borrow funds;

(b) exercise governmental functions;

(c) have members; or

(d) pledge the credit or taxing power of the state or any political subdivision of the state.

(6) The innovation lab shall be liquidated and dissolved upon the dissolution of the Utah innovation fund.

Section 3. Section 63N-20-202 is enacted to read:

63N-20-202 (Codified as 63N-21-202). Board of directors -- Membership -- Limitations.

(1) The innovation lab shall be governed by a board of directors which shall manage and conduct the business and affairs of the innovation lab.

(2) The board shall consist of seven voting members as follows:

(a) one individual who represents technology commercialization initiatives within the Utah system of higher education, appointed by the commissioner of higher education, or the individual's designee;

(b) one individual who leads technology commercialization efforts at the University of Utah, appointed by the president of the University of Utah, or the individual's designee;

(c) one individual who leads technology commercialization efforts at Utah State University, appointed by the president of Utah State University, or the individual's designee;

(d) the chief executive officer of World Trade Center Utah, or the chief executive officer's designee; and

(e) three representatives of private industry, appointed by the members described in Subsections (2)(a) through (d).

(3) (a) A member described in Subsection (2)(e):

(i) shall serve a term of two years; and

(ii) may serve more than one term.

(b) If a vacancy occurs for a member described in Subsection (2)(e), the members described in Subsections (2)(a) through (d) shall appoint a replacement to serve the remainder of the member's term.

(4) (a) The board may appoint up to two additional nonvoting members to provide industry and technical expertise.

(b) A member of the board appointed under Subsection (4)(a) serves at the pleasure of the board and may be removed and replaced at any time, with or without cause.

(5) The board shall elect a chair from the board's members, who shall serve a two-year term.

(6) (a) A majority of the members of the board constitutes a quorum of the board.

(b) The action by a majority of the members of a quorum constitutes the action of the board.

(7) A member of the board:

(a) is subject to any restrictions on conflicts of interest specified in the organizational documents of the innovation lab;

(b) shall annually disclose any private equity interests to the innovation lab;

(c) may not participate in a vote by the board related to a qualified investment by the Utah innovation fund, if the member has an interest in the qualified investment; and

(d) may not receive compensation or benefits for the member's service.

Section 4. Section 63N-20-203 is enacted to read:

63N-20-203 (Codified as 63N-21-203). Board duties and powers.

(1) The board shall:

(a) manage and conduct the business and affairs of the innovation lab and determine all questions of innovation lab policy;

(b) consistent with this chapter, establish policies, procedures, and strategies for the administration of the Utah innovation fund, including eligibility criteria, application requirements, performance metrics, and reporting requirements for a qualified business to receive a qualified investment from the Utah innovation fund; and

(c) approve any decision of the Utah innovation fund to make a qualified investment.

(2) The board may establish independent committees for the purpose of assisting the board in an advisory role.

Section 5. Section 63N-20-301 is enacted to read:

Part 3. Utah Innovation Fund

63N-20-301 (Codified as 63N-21-301). Organization of Utah innovation fund -- Powers and purposes -- Use of investment proceeds.

(1) (a) The innovation lab shall organize, and be the sole member and manager of, the Utah innovation fund.

(b) The Utah innovation fund shall be organized as a limited liability company.

(c) The Utah innovation fund may:

(i) engage consultants and legal counsel;

(ii) invest and expend funds;

(iii) enter into contracts;

(iv) insure against loss;

(v) hire employees; and

(vi) perform any other act necessary to carry out the purposes of the Utah innovation fund.

(2) The Utah innovation fund shall, subject to board approval, make qualified investments in a manner and for the following purposes:

(a) to advance innovative technologies developed in Utah;

(b) to strengthen Utah's economy and facilitate job creation;

(c) to help qualified businesses gain access to capital;

(d) to attract entrepreneurs and innovation to Utah;

(e) to facilitate the commercialization of technologies discovered, advanced, or developed at state institutions of higher education;

(f) to advance the competitiveness of Utah businesses in the global economy;

(g) to ensure that the Utah innovation fund remains financially self-sustaining; and

(h) to encourage other investors to invest in qualified businesses alongside the Utah innovation fund.

(3) The Utah innovation fund shall hold and manage qualified investments made by the Utah innovation fund and the proceeds of those qualified investments.

Section 6. Section 63N-20-401 is enacted to read:

Part 4. Reporting and Audit Requirements

63N-20-401 (Codified as 63N-21-401). Annual report.

(1) On or before September 1 of each year, the innovation lab shall publish an annual report of the activities conducted by the Utah innovation fund and submit, in accordance with Section 68-3-14, the written report to:

(a) the governor;

(b) the Business, Economic Development, and Labor Appropriations Subcommittee;

(c) the Economic Development and Workforce Services Interim Committee; and

(d) the Retirement and Independent Entities Interim Committee.

(2) The annual report shall:

(a) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

(b) include a copy of the annual audit required under Section 63N-20-402;

(c) describe the policies adopted by the board under Subsection 63N-20-203(1)(b);

(d) include detailed information regarding:

(i) the name and location of each qualified business that received capital from the Utah innovation fund;

(ii) the amount of each qualified investment made by the Utah innovation fund;

(iii) the aggregate amount of capital provided to qualified businesses;

(iv) realized gains from qualified investments and any realized losses; and

(v) unrealized gains and any unrealized losses based on the net present value of ongoing qualified investments;

(e) include detailed information regarding the innovation lab's yearly expenditures, including:

(i) administrative, operating, and financing expenses; and

(ii) aggregate compensation information for full-time and part-time employees, including benefit and travel expenses;

(f) include detailed information regarding all funding sources for administrative, operating, and financing expenses, including any fees charged by the innovation lab to the Utah innovation fund under Subsection 63N-20-201(4)(g); and

(g) include an explanation of the Utah innovation fund's progress in achieving the purposes described in Subsection 63N-20-301(2).

Section 7. Section 63N-20-402 is enacted to read:

63N-20-402 (Codified as 63N-21-402). Annual audit.

(1) Each calendar year, an audit of the activities of the Utah innovation fund shall be conducted by:

(a) the state auditor; or

(b) an independent auditor engaged by the state auditor.

(2) An independent auditor described in Subsection (1)(b) may not have a business, contractual, or other connection to the innovation lab or the Utah innovation fund.

(3) The annual audit shall:

(a) include a valuation of the assets owned by the Utah innovation fund as of the end of the reporting year, using market-standard techniques for assets typically held by early stage private investment and venture capital funds;

(b) include an opinion regarding the accuracy of the information provided in the annual report described in Section 63N-20-401; and

(c) on or before September 1, be delivered to:

(i) the innovation lab; and

(ii) the state treasurer.

(4) The innovation lab shall pay the costs associated with the annual audit.

Section 8. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office of Economic Opportunity -- Utah Innovation Lab

From General Fund Restricted — Utah Capital Investment Corporation Restricted Account, One-time	15,000,000

Schedule of Programs:

Utah Innovation Lab	15,000,000

The Legislature intends that appropriations provided under this item be used to implement Title 63N, Chapter 20, Utah Innovation Lab Act, and shall not lapse at the close of fiscal year 2024.

CHAPTER 39
H. B. 44
Passed February 3, 2023
Approved March 13, 2023
Effective May 3, 2023

TRANSPORTATION CORRIDOR FUNDING AMENDMENTS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to transportation corridor preservation funds.

Highlighted Provisions:

This bill:

- allows the Department of Transportation to use certain corridor preservation funds to cover staff costs to administer the fund;
- extends the time horizon for use of the funds from 30 years to 40 years; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-2-117, as last amended by Laws of Utah 2012, Chapter 121
72-5-403, as last amended by Laws of Utah 2022, Chapter 259

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

Section 1. Section 72-2-117 is amended to read:

72-2-117. Marda Dillree Corridor Preservation Fund -- Distribution -- Repayment -- Rulemaking.

(1) There is created the Marda Dillree Corridor Preservation Fund within the Transportation Fund.

(2) The fund shall be funded from the following sources:

(a) motor vehicle rental tax imposed under Section 59-12-1201;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) interest earnings on cash balances;

(e) all money collected for repayments and interest on fund money;

(f) all money collected from rents and sales of real property acquired with fund money; and

(g) proceeds from general obligation bonds, revenue bonds, or other obligations as authorized by Title 63B, Bonds.

(3) (a) The commission shall authorize the expenditure of fund money to allow the department to acquire real property or any interests in real property for state, county, and municipal transportation corridors subject to:

(i) money available in the fund;

(ii) rules made under Subsection (6); and

(iii) Subsection (8).

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(4) Administrative costs for transportation corridor preservation shall be paid from the fund.

(5) (a) The department:

[~~(a)~~] (i) may apply to the commission under this section for money from the Marda Dillree Corridor Preservation Fund for a specified transportation corridor project, including for county and municipal projects; and

[~~(b)~~] (ii) shall repay the fund money authorized for the project to the fund as required under Subsection (6).

(b) The department may request and the commission may approve the expenditure of money from the fund to pay the costs of staff and overhead costs to administer the fund.

(6) The commission shall:

(a) administer the Marda Dillree Corridor Preservation Fund to:

(i) preserve transportation corridors;

(ii) promote long-term statewide transportation planning;

(iii) save on acquisition costs; and

(iv) promote the best interests of the state in a manner which minimizes impact on prime agricultural land;

(b) prioritize fund money based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project; and

(v) the cost-effectiveness of the preservation projects;

(c) designate high priority corridor preservation projects in cooperation with a metropolitan planning organization;

(d) administer the program for the purposes provided in this section;

(e) prioritize fund money in accordance with this section; and

(f) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(i) the procedures for the awarding of fund money;

(ii) the procedures for the department to apply for transportation corridor preservation money for projects; and

(iii) repayment conditions of the money to the fund from the specified project funds.

(7) (a) The proceeds from any bonds or other obligations secured by revenues of the Marda Dillree Corridor Preservation Fund shall be used for:

(i) the acquisition of real property in hardship cases; and

(ii) any of the purposes authorized for funds in the Marda Dillree Corridor Preservation Fund under this section.

(b) The commission shall pledge the necessary part of the revenues of the Marda Dillree Corridor Preservation Fund to the payment of principal of and interest on the bonds or other obligations.

(8) (a) The department may not apply for money under this section unless the highway authority has an access management policy or ordinance in effect that meets the requirements under Subsection (8)(b).

(b) The access management policy or ordinance shall:

(i) be for the purpose of balancing the need for reasonable access to land uses with the need to preserve the smooth flow of traffic on the highway system in terms of safety, capacity, and speed; and

(ii) include provisions:

(A) limiting the number of conflict points at driveway locations;

(B) separating conflict areas;

(C) reducing the interference of through traffic;

(D) spacing at-grade signalized intersections; and

(E) providing for adequate on-site circulation and storage.

(c) The department shall develop a model access management policy or ordinance that meets the requirements of this Subsection (8) for the benefit of a county or municipality under this section.

(9) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing a corridor preservation advisory council.

(b) The corridor preservation advisory council shall:

(i) assist with and help coordinate the corridor preservation efforts of the department and local governments;

(ii) provide recommendations and priorities concerning corridor preservation and the use of fund money to the department and to the commission; and

(iii) include members designated by each metropolitan planning organization in the state to represent local governments that are involved with corridor preservation through official maps and planning.

Section 2. Section 72-5-403 is amended to read:

72-5-403. Transportation corridor preservation powers.

(1) The department, counties, and municipalities may:

(a) act in cooperation with one another and other government entities to promote planning for and enhance the preservation of transportation corridors and to more effectively use the money available in the Marda Dillree Corridor Preservation Fund created in Section 72-2-117;

(b) undertake transportation corridor planning, review, and preservation processes; and

(c) acquire fee simple rights and other rights of less than fee simple, including easement and development rights, or the rights to limit development, including rights in alternative transportation corridors, and to make these acquisitions up to a projected [~~30~~] 40 years in advance of using those rights in actual transportation facility construction.

(2) In addition to the powers described under Subsection (1), counties and municipalities may:

(a) limit development for transportation corridor preservation by land use regulation and by official maps; and

(b) by ordinance prescribe procedures for approving limited development in transportation corridors until the time transportation facility construction begins.

(3) (a) The department shall identify and the commission shall approve transportation corridors as high priority transportation corridors for transportation corridor preservation.

(b) The department shall notify a county or municipality if the county or municipality has land within its boundaries that is located within the boundaries of a high priority transportation corridor.

(c) The department may, on a voluntary basis, acquire private property rights within the boundaries of a high priority transportation corridor for which a notification has been received in accordance with Section 10-9a-206 or 17-27a-206.

CHAPTER 40
H. B. 49
Passed February 3, 2023
Approved March 13, 2023
Effective May 3, 2023

MOTOR VEHICLE SAFETY INSPECTION ADVISORYCOUNCIL AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill repeals the Motor Vehicle Safety Inspection Advisory Council.

Highlighted Provisions:

This bill:

- repeals the Motor Vehicle Safety Inspection Advisory Council; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-1-104, as last amended by Laws of Utah 2013, Chapter 295
53-8-202, as last amended by Laws of Utah 2005, Chapter 2
53-8-204, as last amended by Laws of Utah 2012, Chapter 356

REPEALS:

53-8-201, as enacted by Laws of Utah 1993, Chapter 234
53-8-203, as last amended by Laws of Utah 2016, Chapter 302

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

Section 1. Section 53-1-104 is amended to read:

53-1-104. Boards, bureaus, councils, divisions, and offices.

(1) The following are the policymaking boards within the department:

(a) the Driver License Medical Advisory Board, created in Section 53-3-303;

(b) the Concealed Firearm Review Board, created in Section 53-5-703;

(c) the Utah Fire Prevention Board, created in Section 53-7-203;

(d) the Liquified Petroleum Gas Board, created in Section 53-7-304; and

(e) the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.

(2) The [~~following are the councils~~] Peace Officer Standards and Training Council, created in Section 53-6-106, is within the department.[~~:~~]

[~~(a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and~~]

[~~(b) the Motor Vehicle Safety Inspection Advisory Council, created in Section 53-8-203.~~]

(3) The following are the divisions within the department:

(a) the Administrative Services Division, created in Section 53-1-203;

(b) the Management Information Services Division, created in Section 53-1-303;

(c) the Division of Emergency Management, created in Section 53-2a-103;

(d) the Driver License Division, created in Section 53-3-103;

(e) the Criminal Investigations and Technical Services Division, created in Section 53-10-103;

(f) the Peace Officer Standards and Training Division, created in Section 53-6-103;

(g) the State Fire Marshal Division, created in Section 53-7-103; and

(h) the Utah Highway Patrol Division, created in Section 53-8-103.

(4) The Office of Executive Protection is created in Section 53-1-112.

(5) The following are the bureaus within the department:

(a) the Bureau of Criminal Identification, created in Section 53-10-201;

(b) the State Bureau of Investigation, created in Section 53-10-301;

(c) the Bureau of Forensic Services, created in Section 53-10-401; and

(d) the Bureau of Communications, created in Section 53-10-501.

Section 2. Section 53-8-202 is amended to read:

53-8-202. Definitions.

[~~(1)~~] The definitions in Section 41-6a-102 apply to this part.

[~~(2) As used in this part, "council" means the Motor Vehicle Safety Inspection Advisory Council created in Section 53-8-203.~~]

Section 3. Section 53-8-204 is amended to read:

53-8-204. Division duties -- Official inspection stations -- Permits -- Fees -- Suspension or revocation -- Utah-based interstate commercial motor carriers.

(1) The division shall:

(a) conduct examinations of every safety inspection station permit applicant and safety inspector certificate applicant to determine whether the applicant is properly equipped and qualified to make safety inspections;

(b) issue safety inspection station permits and safety inspector certificates to qualified applicants;

(c) establish application, renewal, and reapplication fees in accordance with Section 63J-1-504 for safety inspection station permits and safety inspector certificates;

(d) provide instructions and all necessary forms, including safety inspection certificates, to safety inspection stations for the inspection of motor vehicles and the issuance of the safety inspection certificates;

(e) investigate complaints regarding safety inspection stations and safety inspectors;

(f) compile and publish all applicable safety inspection laws, rules, instructions, and standards and distribute them to all safety inspection stations and provide updates to the compiled laws, rules, instructions, and standards as needed; and

(g) establish a fee in accordance with Section 63J-1-504 to cover the cost of compiling and publishing the safety inspection laws, rules, instructions, and standards and any updates[~~; and~~].

[~~(h) assist the council in conducting its meetings and hearings.~~]

(2) (a) Receipts from the fees established in accordance with Subsection (1)(g) are fixed collections to be used by the division for the expenses of the Utah Highway Patrol incurred under Subsection (1)(g).

(b) Funds received in excess of the expenses under Subsection (1)(g) shall be deposited in the Transportation Fund.

(3) The division may:

(a) before issuing a safety inspection permit, require an applicant, other than a fleet station or government station, to file a bond that will provide a guarantee that the applicant safety inspection station will make compensation for any damage to a motor vehicle during an inspection or adjustment due to negligence on the part of an applicant or the applicant's employees;

(b) establish procedures governing the issuance of safety inspection certificates to Utah-based interstate commercial motor carriers;

(c) suspend, revoke, or refuse renewal of any safety inspection station permit issued when the division finds that the safety inspection station is not:

(i) properly equipped; or

(ii) complying with rules made by the division; and

(d) suspend, revoke, or refuse renewal of any safety inspection station permit or safety inspector certificate issued when the station or inspector has violated any safety inspection law or rule.

(4) The division shall maintain a record of safety inspection station permits and safety inspector certificates issued, suspended, revoked, or refused renewal under Subsection (3)(c).

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

(a) setting minimum standards covering the design, construction, condition, and operation of motor vehicle equipment for safely operating a motor vehicle on the highway;

(b) establishing motor vehicle safety inspection procedures to ensure a motor vehicle can be operated safely;

(c) establishing safety inspection station building, equipment, and personnel requirements necessary to qualify to perform safety inspections;

(d) establishing age, training, examination, and renewal requirements to qualify for a safety inspector certificate;

(e) establishing program guidelines for a school district that elects to implement a safety inspection apprenticeship program for high school students;

(f) establishing requirements:

(i) designed to protect consumers from unwanted or unneeded repairs or adjustments;

(ii) for maintaining safety inspection records;

(iii) for providing reports to the division; and

(iv) for maintaining and protecting safety inspection certificates;

(g) establishing procedures for a motor vehicle that fails a safety inspection;

(h) setting bonding amounts for safety inspection stations if bonds are required under Subsection (3)(a); and

(i) establishing procedures for a safety inspection station to follow if the station is going out of business.

(6) The rules of the division:

(a) shall conform as nearly as practical to federal motor vehicle safety standards including 49 C.F.R. Parts 393, 396, 396 Appendix G, and Federal Motor Vehicle Safety Standards 205; and

(b) may incorporate by reference, in whole or in part, the federal standards under Subsection (6)(a) and nationally recognized and readily available standards and codes on motor vehicle safety.

Section 4. Repealer.

This bill repeals:

Section 53-8-201, Short title.

Section 53-8-203, Council created -- Members -- Term -- Meetings -- Duties.

CHAPTER 41
H. B. 51
Passed March 2, 2023
Approved March 13, 2023
Effective March 31, 2024

RAILROAD RIGHT OF WAY AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill enacts provisions related to improvements within railroad right of ways.

Highlighted Provisions:

This bill:

- defines terms; and
- authorizes a government entity to assess a railroad for any portion of the cost of a public infrastructure improvement, if:
  - the improvement is partially or wholly within the railroad's right of way;
  - the improvement provides a benefit to the railroad; and
  - the assessment is proportionate to the railroad's benefit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

ENACTS:

56-1-39, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

56-1-39, Utah Code Annotated 1953

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

Section 1. Section 56-1-39 is enacted to read:

56-1-39. Assessment for right of way infrastructure improvements.

(1) As used in this section:

(a) "Benefit" includes enhanced property value, enhanced safety or efficiency, reduced costs, and liability avoidance.

(b) "Government entity" means the state or a county, city, town, metro township, local district, or special service district.

(c) (i) "Railroad" means a rail carrier that is a Class I railroad, as classified by the federal Surface Transportation Board.

(ii) "Railroad" does not include a rail carrier that is:

(A) exempt from assessment under 49 U.S.C. Sec. 24301; or

(B) owned by a government entity.

(d) (i) "Right of way infrastructure improvement" means construction, reconstruction, repair, or maintenance of public infrastructure that:

(A) is paid for by a government entity; and

(B) is partially or wholly within a railroad's right of way or crosses over a railroad's right of way.

(ii) "Right of way infrastructure improvement" includes any component of construction, reconstruction, repair, or maintenance of public infrastructure, including:

(A) any environmental impact study, environmental mitigation, or environmental project management; and

(B) any required or requested review by a non-governmental entity.

(e) "Public infrastructure" means any of the following improvements:

(i) a system or line for water, sewer, drainage, electrical, or telecommunications;

(ii) a street, road, curb, gutter, sidewalk, walkway, or bridge;

(iii) signage or signaling related to an improvement described in Subsection (1)(e)(i) or (ii);

(iv) an environmental improvement; or

(v) any other improvement similar to the improvements described in Subsections (1)(e)(i) through (iv).

(2) A government entity may, to the extent allowed under federal law, assess a railroad for any portion of the cost of a right of way infrastructure improvement, including any cost attributable to delay, if:

(a) the government entity determines that the right of way infrastructure improvement provides a benefit to the railroad;

(b) the amount of the assessment is proportionate to the benefit the railroad receives, as determined by the government entity; and

(c) the government entity uses the assessment to pay for or as reimbursement for the cost of the right of way infrastructure improvement and not for the general support of the government entity.

(3) (a) If two or more government entities have authority under this section to assess a railroad for the same right of way infrastructure improvement, the Department of Transportation shall:

(i) determine the amount of each government entity's assessment in accordance with Subsection (2);

(ii) assess the railroad for the total of all amounts described in Subsection (3)(a)(i); and

(iii) distribute the collected assessments to each government entity.

(b) The total amount of an assessment under this Subsection (3) may not exceed the amount described in Subsection (2)(b).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to establish a process for implementing the provisions of this Subsection (3).

Section 2. Effective date.

This bill takes effect on March 31, 2024.

Section 3. Coordinating H.B. 51 with H.B. 63 -- Changing terminology.

If this H.B. 51 and H.B. 63, Office of Rail Safety, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the terminology in Subsection 56-1-39(3)(a) in this H.B. 51 from "Department of Transportation" to "Office of Rail Safety created in Section 72-17-101.".

CHAPTER 42
H. B. 63
Passed March 1, 2023
Approved March 13, 2023
Effective March 31, 2024

OFFICE OF RAIL SAFETY

Chief Sponsor: Mike Schultz
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill creates the Office of Rail Safety within the Department of Transportation.

Highlighted Provisions:

This bill:

- creates the Office of Rail Safety;
- requires application and a request for certification with the Federal Railroad Administration;
- upon certification, requires the Office of Rail Safety to assume the inspection and investigation functions in certain aspects of the railroad operations;
- allows the Office of Rail Safety to regulate and monitor time limits on the blocking of railroad-highway grade crossings;
- requires railroads to pay a fee to cover the costs of the inspections;
- grants rulemaking power to the Department of Transportation to make rules related to the implementation of the Office of Rail Safety and employee safety standards related to walkways and clearances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:
72-1-203, as last amended by Laws of Utah 2019, Chapter 479

ENACTS:
72-17-101, Utah Code Annotated 1953
72-17-102, Utah Code Annotated 1953
72-17-103, Utah Code Annotated 1953
72-17-104, Utah Code Annotated 1953
72-17-105, Utah Code Annotated 1953
72-17-106, Utah Code Annotated 1953
72-17-107, Utah Code Annotated 1953
72-17-108, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:
72-7-102, Utah Code Annotated 1953
72-7-601, Utah Code Annotated 1953
72-7-602, Utah Code Annotated 1953
72-17-201, Utah Code Annotated 1953
72-17-202, Utah Code Annotated 1953

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

Section 1. Section 72-1-203 is amended to read:

72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.

(1) The executive director shall appoint two deputy directors, who shall serve at the discretion of the executive director.

(2) (a) The deputy director of engineering and operations shall be a registered professional engineer in the state and is the chief engineer of the department.

(b) The deputy director of engineering and operations shall assist the executive director with areas of responsibility that may include:

(i) project development, including statewide standards for project design and construction, right-of-way, materials, testing, structures, and construction;

(ii) oversight of the management of the region offices described in Section 72-1-205;

(iii) operations and traffic management;

(iv) oversight of operations of motor carriers and ports;

(v) oversight and enforcement of railroad safety requirements as described in Chapter 17, Office of Rail Safety;

[~~(v)~~] (vi) transportation systems safety;

[~~(vi)~~] (vii) aeronautical operations; and

[~~(vii)~~] (viii) equipment for department engineering and maintenance functions.

(c) The deputy director of planning and investment shall assist the executive director with areas of responsibility that may include:

(i) oversight and coordination of planning, including:

(A) development of statewide strategic initiatives for planning across all modes of transportation;

(B) coordination with metropolitan planning organizations and local governments; and

(C) corridor and area planning;

(ii) asset management;

(iii) programming and prioritization of transportation projects;

(iv) fulfilling requirements for environmental studies and impact statements;

(v) resource investment, including identification, development, and oversight of public-private partnership opportunities;

(vi) data analytics services to the department;

(vii) corridor preservation;

(viii) employee development;

(ix) maintenance planning; and

(x) oversight and facilitation of the negotiations and integration of public transit providers described in Section 17B-2a-827.

Section 2. Section 72-17-101 is enacted to read:

CHAPTER 17. RAIL SAFETY

Part 1. Office of Rail Safety

72-17-101. Office of Rail Safety -- Creation -- Applicability.

(1) In accordance with 49 C.F.R. Part 212, State Safety Participation Regulations, there is created within the department an Office of Rail Safety.

(2) As described in 49 C.F.R. Secs. 212.105 and 212.107, to organize the Office of Rail Safety, the executive director shall:

(a) enter into an agreement with the Federal Railroad Administration to participate in inspection and investigation activities; and

(b) obtain certification from the Federal Railroad Administration to undertake inspection and investigative responsibilities and duties.

(3) In establishing the Office of Rail Safety in accordance with the duties described in 49 C.F.R. Part 212, the department may hire personnel and establish the duties of the office in phases.

(4) This chapter applies to:

(a) a class I railroad; and

(b) commuter rail.

Section 3. Section 72-17-102 is enacted to read:

72-17-102. Definitions.

As used in this chapter:

(1) "Class I railroad" means the same as that term is defined in 49 U.S.C. Sec. 20102.

(2) "Commuter rail" means the same as that term is defined in Section 63N-3-602.

(3) "Federal Railroad Administration" means the Federal Railroad Administration created in 49 U.S.C. Sec. 103.

(4) "Office" means the Office of Rail Safety created in accordance with Section 72-17-101.

(5) "Railroad" means the same as that term is defined in 49 C.F.R. Sec. 200.3.

Section 4. Section 72-17-103 is enacted to read:

72-17-103. Duties of the Office of Rail Safety.

(1) In accordance with 49 C.F.R. Part 212, and the authorization granted from the Federal Railroad Administration, the office shall perform the inspection, compliance, and enforcement duties in the following areas:

(a) grade crossings;

(b) hazardous materials;

(c) motive power and equipment;

(d) operating practices;

(e) signal and train control; and

(f) track.

(2) As part of the responsibilities described in Subsection (1), the office shall:

(a) inspect and investigate railroad rights-of-way, facilities, equipment, and operations of railroads in this state;

(b) notify a railroad of any violation or lack of compliance with applicable state and federal laws, rules, regulations, orders, and directives;

(c) enforce applicable state and federal laws, rules, regulations, orders, and directives relating to the transportation by rail of persons or commodities; and

(d) issue orders to require compliance with state and federal laws, rules, regulations, orders, and directives.

(3) The office shall employ a sufficient number of federally certified inspectors and staff to ensure that railroad equipment, facilities, and tracks are inspected as frequently as reasonably required to ensure compliance and safety as required under state and federal law.

(4) (a) The office shall investigate railroad practices related to the length of time a railroad blocks a highway-railroad grade crossing.

(b) Upon petition of a political subdivision, or upon the office's own motion, the office may:

(i) conduct an investigation of the conditions related to a grade crossing; and

(ii) if necessary, conduct a hearing, make findings, and issue an order to determine whether highway-railroad crossing blocking practices of the railroad are reasonable.

(c) (i) The office shall examine and inspect the physical condition of all railroad facilities in this state to ensure compliance with safety requirements.

(ii) As part of the inspection and examination of railroad facilities and crossings, the office shall include an examination and inspection of:

(A) the condition of railroad facilities and crossing infrastructure;

(B) whether expansion of grade crossing infrastructure or other changes are justified based on the traffic and safety conditions; and

(C) other safety considerations required by federal law.

(d) If the office determines that a railroad's highway-railroad crossing blocking practices are unreasonable, the office shall:

(i) request the Federal Railroad Administration take enforcement actions pursuant to 49 C.F.R. Sec. 212.115; and

(ii) notify the Surface Transportation Board defined in 49 U.S.C. Sec. 10102 of the unsafe and unreasonable practices.

(e) If the office finds a violation of safety requirements as described in this section or in federal law, and the office requests an enforcement action and Federal Railroad Administration does not take enforcement action as described in 49 C.F.R. Sec. 212.115, the office may seek a civil penalty not less than $500 and no more than $10,000 for each offense.

(5) (a) The office shall examine and inspect the physical condition of all railroad facilities in this state to ensure compliance with safety requirements.

(b) If an inspector determines that a railroad facility is noncompliant, the office shall provide written notice to the railroad.

(c) If a railroad receives a notice described in Subsection (5)(b), the railroad shall remedy the condition or practice within 30 days of the date of the notice.

(d) If after 30 days from the date of the notice the railroad has not remedied the condition or practice to the office's satisfaction, the office may set the matter for hearing.

(e) After a hearing described in Subsection (5)(d), if the office determines that the condition or practice is noncompliant and the railroad has not made reasonable efforts to remedy the condition or practice, the office may issue an order requiring the railroad to:

(i) eliminate or remedy the unsafe or unlawful condition or practice; or

(ii) make any necessary repairs, alterations, or other changes to the relevant condition or practice to ensure compliance with state and federal law.

(f) In addition to any order issued under Subsection (5)(e), after a hearing described in Subsection (5)(d), if the office determines that the condition or practice is noncompliant and the railroad has not made reasonable efforts to remedy the condition or practice, and the condition or practice is so hazardous as to place a railroad employee or the public in immediate danger, the office may issue an order requiring the railroad:

(i) after 48 hours' written notice to the railroad, issue an order prohibiting:

(A) the unsafe or unlawful practice; or

(B) the use of the facility until completion of the necessary repair, alteration, or other necessary changes; and

(ii) pay a civil penalty of not more than $10,000 per violation or per day of violation of state or federal law, or a rule made in accordance with Subsection (6) or Section 72-17-107.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules necessary to:

(a) establish the Office of Rail Safety as required in this part;

(b) establish and enforce rules regarding safe and reasonable procedures and standards regarding the blocking of grade crossings, which standards and limits shall be commensurate with reasonable requirements of train and vehicular traffic operations;

(c) enforce this part and relevant state and federal law related to this part; and

(d) administer the Office of Rail Safety as described in this part.

Section 5. Section 72-17-104 is enacted to read:

72-17-104. Federal Railroad Administration Grant Program.

After reaching an agreement with and receiving the certification from the Federal Railroad Administration as described in Section 72-17-101, the office may apply for Railroad Safety Grants as often as permitted by the Federal Railroad Administration.

Section 6. Section 72-17-105 is enacted to read:

72-17-105. Establishment of administrative fees -- Payment -- Expenditures.

(1) (a) The office shall annually determine a fee to be paid by each railroad that operated within the state and is subject to the jurisdiction of the office on a pro rata basis as described in Subsection (2).

(b) The office and the department shall establish the annual fee to produce a total amount not less than the amount required to regulate railroads and carry out the duties described in this part.

(c) The office shall use the revenue generated by the fees paid by each railroad for the investigation and enforcement activities of the office as authorized under this part.

(2) (a) For grade crossings inspections and services, the office shall establish and each railroad shall pay a fee based on:

(i) as of January 1 of each year, the number of crossings the railroad operates within this state that cross a highway, whether at grade, by overhead structure, or subway; and

(ii) the frequency of use of each crossing the railroad operates, including:

(A) the frequency of train operation at the crossing; and

(B) the frequency of highway traffic at the crossing.

(b) For hazardous materials related inspections and services, the office shall establish and each railroad shall pay a fee based on the tonnage of hazardous materials transported in this state during a given year.

(c) For motive power and equipment related inspections and services, the office shall establish and each railroad shall pay a fee based on the number of motive power units and other equipment units operated by the railroad in this state.

(d) For track related inspections and services, the office shall establish and each railroad shall pay a fee based on the number of miles of track owned or operated by the railroad within this state.

(e) For signal and train control inspections and services, as well as operating practices inspections and services, the office shall establish and each railroad shall pay a fee based on gross operating revenue of each railroad generated within this state.

(f) (i) For inspection services related to commuter rail, notwithstanding any other agreement, a county or municipality with commuter rail service provided by a public transit district may request local option transit sales tax in accordance with Section 59-12-2206 and spend local option transit sales tax in the amount requested by the office.

(ii) A county or municipality that requests local option transit sales tax as described in Subsection (2)(f)(i) may transmit to the office the funds requested under Subsection (2)(f)(i) and transmitted to the county or municipality under Subsection 59-12-2206(5)(b).

(iii) A county or municipality that requests local option transit sales tax as described in Subsection (2)(f)(i) may not request more local option transit sales tax than is necessary to carry out the safety inspection and functions under this chapter.

(iv) The office is not required to charge or collect a fee related to inspections of commuter rail.

(3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to establish each of the fee amounts described in Subsection (2):

(i) according to the data described in Subsection (2); and

(ii) to collect an amount sufficient to cover the budget and costs to administer the duties of the office.

(b) The department shall annually adjust the fees established in accordance with Subsection (3)(a) to account for inflation and other budgetary factors.

(4) Each railroad that operates within this state shall pay to the office the fees described and established by the office.

Section 7. Section 72-17-106 is enacted to read:

72-17-106. Office of Rail Safety Account.

(1) There is created an expendable special revenue fund called the Office of Rail Safety Account.

(2) The account shall be funded by:

(a) deposits into the account by the Legislature;

(b) fees collected pursuant to Section 72-17-105; and

(c) other deposits or donations into the account.

(3) The office shall provide a detailed budget to account for the office's expenditures related to the enforcement of this part, including:

(a) salaries, per diem, and travel expenses of employees performing the duties described in this part;

(b) expenditures for clerical and support staff directly associated with the duties described in this part;

(c) expenditures for legal staff who pursue and administer complaints and compliance issues related to this part; and

(d) reasonable overhead costs related to Subsections (3)(a) through (c).

(4) The office, in performing the duties under this part:

(a) shall limit the expenditure of funds to the total amount of fees collected from the railroads as described in this section; and

(b) may not expend funds from other sources accessible to the department.

Section 8. Section 72-17-107 is enacted to read:

72-17-107. Rulemaking regarding railroad clearances and walkways.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to establish safety standards related to:

(1) walkways adjacent to railroad track;

(2) clearances of structures and other obstructions near railroad track;

(3) the safety of office personnel conducting inspections in accordance with this part;

(4) railroad infrastructure and work spaces for railroad workers;

(5) signage related to railroad worker safety; and

(6) other safety standards as the department finds necessary.

Section 9. Section 72-17-108 is enacted to read:

72-17-108. Agreements to indemnify in a railroad contract.

(1) As used in this section:

(a) "Railroad contract" means a contract or agreement between:

(i) a railroad; and

(ii) another person that could be subject to a civil penalty or fine issued pursuant to this chapter.

(b) "Indemnification provision" means a covenant, promise, agreement, or understanding

in, in connection with, or collateral to a railroad contract that requires the person to insure, hold harmless, indemnify, or defend the railroad against liability, if:

(i) the damages arise out of a civil penalty issued pursuant to this chapter; and

(ii) the damages are caused by or resulting from the fault of the railroad or the railroad's agents or employees.

(2) Except as provided in Subsection (3), an indemnification provision in a railroad contract is against public policy and is void and unenforceable.

(3) If an indemnification provision is included in a railroad contract, in any action for damages described in Subsection (1)(b)(i), the railroad may seek indemnification from another party to a railroad contract pro rata based on the proportional share of fault of each party, if:

(a) the damages are caused in part by the party other than the railroad;

(b) the cause of the damages arose at a time when the party other than the railroad was operating pursuant to the railroad contract.

(4) This section may not be construed to impair a contract in existence before May 3, 2023.

Section 10. Effective date.

This bill takes effect on March 31, 2024.

Section 11. Coordinating H.B. 63 with H.B. 232 -- Substantive and technical amendments.

If this H.B. 63 and H.B. 232, Railroad Crossing Maintenance Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) renumbering Title 72, Chapter 7, Part 6, Regulation of Highway-Railroad Grade Crossings, in H.B. 232 to be Title 72, Chapter 17, Part 2, Regulation of Highway-Railroad Grade Crossings;

(2) renumbering Section 72-7-601 in H.B. 232 to be Section 72-17-201;

(3) renumbering Section 72-7-602 in H.B. 232 to be Section 72-17-202; and

(4) replacing the language "Section 72-7-602" with "Section 72-17-202" in Section 72-7-102.

CHAPTER 43
H. B. 65
Passed February 10, 2023
Approved March 13, 2023
Effective May 3, 2023

DIVISION OF TECHNOLOGY SERVICES AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies provisions relating to the Division of Technology Services.

Highlighted Provisions:

This bill:

- defines terms;
- modifies and clarifies duties of the Division of Technology Services in relation to procurement, contract management, and security assessment; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-16-104, as last amended by Laws of Utah 2022, Chapter 169
63A-16-201, as last amended by Laws of Utah 2022, Chapter 169
63A-16-205, as last amended by Laws of Utah 2022, Chapter 169
63G-6a-303, as last amended by Laws of Utah 2022, Chapter 421

RENUMBERS AND AMENDS:

63G-6a-109.5, (Renumbered from 63A-16-204, as renumbered and amended by Laws of Utah 2021, Chapter 344)

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

Section 1. Section 63A-16-104 is amended to read:

63A-16-104. Duties of division.

The division shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) [~~at least once every odd-numbered year~~] once every three years:

(a) conduct an information technology security assessment via an independent third party:

(i) to evaluate the adequacy of the division's and the executive branch agencies' data and information technology system security standards [~~through an independent third party assessment~~]; and

(ii) that will be completed over a period that does not exceed two years; and

(b) communicate the results of the [~~independent third party~~] assessment described in Subsection (4)(a) to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) [~~oversee the expanded use and implementation of~~] subject to Subsection 63G-6a-109.5(9):

(a) advise executive branch agencies on project and contract management principles as they relate to information technology projects within the executive branch; and

(b) approve the acquisition of technology services and products by executive branch agencies as required under Section 63G-6a-109.5;

[~~(6) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;~~]

[~~(7)~~] (6) work toward building stronger partnering relationships with providers;

[~~(8)~~] (7) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

[~~(9)~~] (8) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

[~~(10)~~] (9) determine and implement statewide efforts to standardize data elements;

[~~(11)~~] (10) coordinate with executive branch agencies to provide basic website standards for agencies that address common design standards and navigation standards, including:

(a) accessibility for individuals with disabilities in accordance with:

(i) the standards of 29 U.S.C. Sec. 794d; and

(ii) Section 63A-16-209;

(b) consistency with standardized government security standards;

(c) designing around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs, and behaviors, and continual testing of the website, web-based form, web-based application, or digital service to ensure that user needs are addressed;

(d) providing users of the website, web-based form, web-based application, or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; and

(e) full functionality and usability on common mobile devices;

[~~(12)~~] (11) consider, when making a purchase for an information system, cloud computing options, including any security benefits, privacy, data retention risks, and cost savings associated with cloud computing options;

[~~(13)~~] (12) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Government Operations Interim Committee in accordance with Section 63A-16-201 on a semiannual basis regarding the status of information technology projects;

[~~(14)~~] (13) assist the Governor's Office of Planning and Budget with the development of information technology budgets for agencies;

[~~(15)~~] (14) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this chapter;

(b) by the department; or

(c) by the division;

[~~(16)~~] (15) provide support to executive branch agencies for the information technology assets and functions that are unique to the agency and are mission critical functions of the agency;

[~~(17)~~] (16) provide in-house information technology staff support to executive branch agencies;

[~~(18)~~] (17) establish a committee composed of agency user groups to coordinate division services with agency needs;

[~~(19)~~] (18) assist executive branch agencies in complying with the requirements of any rule made by the chief information officer;

[~~(20)~~] (19) develop and implement an effective enterprise architecture governance model for the executive branch;

[~~(21)~~] (20) provide oversight of information technology projects that impact statewide information technology services, assets, or functions of state government to:

(a) control costs;

(b) ensure business value to a project;

(c) maximize resources;

(d) ensure the uniform application of best practices; and

(e) avoid duplication of resources;

[~~(22)~~] (21) develop a method of accountability to agencies for services provided by the department through service agreements with the agencies;

[~~(23)~~] (22) serve as a project manager for enterprise architecture, including management of applications, standards, and procurement of enterprise architecture;

[~~(24)~~] (23) coordinate the development and implementation of advanced state telecommunication systems;

[~~(25)~~] (24) provide services, including technical assistance:

(a) to executive branch agencies and subscribers to the services; and

(b) related to information technology or telecommunications;

[~~(26)~~] (25) establish telecommunication system specifications and standards for use by:

(a) one or more executive branch agencies; or

(b) one or more entities that subscribe to the telecommunication systems in accordance with Section 63A-16-302;

[~~(27)~~] (26) coordinate state telecommunication planning, in cooperation with:

(a) state telecommunication users;

(b) executive branch agencies; and

(c) other subscribers to the state's telecommunication systems;

[~~(28)~~] (27) cooperate with the federal government, other state entities, counties, and municipalities in the development, implementation, and maintenance of:

(a) (i) governmental information technology; or

(ii) governmental telecommunication systems; and

(b) (i) as part of a cooperative organization; or

(ii) through means other than a cooperative organization;

[~~(29)~~] (28) establish, operate, manage, and maintain:

(a) one or more state data centers; and

(b) one or more regional computer centers;

[~~(30)~~] (29) design, implement, and manage all state-owned, leased, or rented land, mobile, or radio telecommunication systems that are used in the delivery of services for state government or the state's political subdivisions;

[~~(31)~~] (30) in accordance with the executive branch strategic plan, implement minimum standards to be used by the division for purposes of compatibility of procedures, programming languages, codes, and media that facilitate the exchange of information within and among telecommunication systems;

[~~(32)~~] (31) establish standards for the information technology needs of a collection of executive branch agencies or programs that share common characteristics relative to the types of stakeholders the agencies or programs serve, including:

(a) project management;

(b) application development; and

(c) subject to Subsections (5) and 63G-6a-109.5(9), procurement;

[~~(33)~~] (32) provide oversight of information technology standards that impact multiple executive branch agency information technology services, assets, or functions to:

(a) control costs;

(b) ensure business value to a project;

(c) maximize resources;

(d) ensure the uniform application of best practices; and

(e) avoid duplication of resources; and

[~~(34)~~] (33) establish a system of accountability to user agencies through the use of service agreements.

Section 2. Section 63A-16-201 is amended to read:

63A-16-201. Chief information officer -- Appointment -- Powers -- Reporting.

(1) The director of the division shall serve as the state's chief information officer.

(2) The chief information officer shall:

(a) advise the governor on information technology policy; and

(b) perform those duties given the chief information officer by statute.

(3) (a) The chief information officer shall report annually to:

(i) the governor; and

(ii) the Government Operations Interim Committee.

(b) The report required under Subsection (3)(a) shall:

(i) summarize the state's current and projected use of information technology;

(ii) summarize the executive branch strategic plan including a description of major changes in the executive branch strategic plan;

(iii) provide a brief description of each state agency's information technology plan;

(iv) include the status of information technology projects described in Subsection [~~63A-16-104(11)~~] 63A-16-104(10);

(v) include the performance report described in Section 63A-16-211; and

(vi) include the expenditure of the funds provided for electronic technology, equipment, and hardware.

Section 3. Section 63A-16-205 is amended to read:

63A-16-205. Rulemaking -- Policies.

(1) (a) Except as provided in Subsection (2), the chief information officer shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) [~~provide~~] establish standards that impose requirements on executive branch agencies [~~that:(A) are~~] related to the security of the statewide area network; [~~and~~]

[~~(B)~~] (ii) establish standards for when an agency must obtain approval before obtaining items [~~listed~~] described in Subsection [~~63A-16-204(1)~~] 63G-6a-109.5(2);

[~~(ii)~~] (iii) specify the detail and format required in an agency information technology plan submitted in accordance with Section 63A-16-203;

[~~(iii)~~] (iv) [~~provide for~~] establish standards related to the privacy policies of websites operated by or on behalf of an executive branch agency;

[~~(iv)~~] (v) [~~provide~~] subject to Subsection 63G-6a-109.5(9), establish standards for the acquisition, licensing, and sale of computer software;

[~~(v)~~] (vi) specify the requirements for the project plan and business case analysis required [~~by Section 63A-16-204~~] under Section 63G-6a-109.5;

[~~(vi)~~] (vii) provide for project oversight of agency technology projects when required [~~by Section 63A-16-204~~] under Section 63G-6a-109.5;

[~~(vii)~~] (viii) establish, in accordance with Subsection [~~63A-16-204(2)~~] 63G-6a-109.5(3), the implementation of the needs assessment for information technology purchases;

[~~(viii)~~] (ix) establish telecommunications standards and specifications in accordance with Subsection [~~63A-16-104(26)~~] 63G-6a-109.5(25); and

[~~(ix)~~] (x) establish standards for accessibility of information technology by individuals with

disabilities in accordance with Section 63A-16-209.

(b) The rulemaking authority granted by [~~this~~] Subsection (1)(a) is in addition to any other rulemaking authority granted under this chapter.

(2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines procedures to be followed by the chief information officer in facilitating the implementation of this title by executive branch agencies if the policy:

(i) is consistent with the executive branch strategic plan; and

(ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

(b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may not take effect until 30 days after the day on which the chief information officer submits the policy to:

(A) the governor; and

(B) all cabinet level officials.

(ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials may review and comment on a policy submitted under Subsection (2)(b)(i).

(3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the chief information officer may adopt a security procedure to be followed by executive branch agencies to protect the statewide area network if:

(i) broad communication of the security procedure would create a significant potential for increasing the vulnerability of the statewide area network to breach or attack; and

(ii) after consultation with the chief information officer, the governor agrees that broad communication of the security procedure would create a significant potential increase in the vulnerability of the statewide area network to breach or attack.

(b) A security procedure described in Subsection (3)(a) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) The chief information officer shall provide a copy of the security procedure as a protected record to:

(i) the chief justice of the Utah Supreme Court for the judicial branch;

(ii) the speaker of the House of Representatives and the president of the Senate for the legislative branch;

(iii) the chair of the Utah Board of Higher Education; and

(iv) the chair of the State Board of Education.

Section 4. Section 63G-6a-109.5, which is renumbered from Section 63A-16-204 is renumbered and amended to read:

[~~63A-16-204~~]. 63G-6a-109.5. Approval of acquisitions of information technology.

(1) As used in this section:

(a) "Chief information officer" means the director of the Division of Technology Services, created in Section 63A-16-103.

(b) "Department" means the Department of Government Operations, created in Section 63A-1-104.

[~~(1)~~] (2) (a) In accordance with Subsection [~~(2)~~] (3), the chief information officer shall approve the acquisition by an executive branch agency of:

(i) information technology equipment;

(ii) telecommunications equipment;

(iii) software;

(iv) services related to the items [~~listed~~] described in Subsections [~~(1)(a)(i)~~] (2)(a)(i) through (iii); and

(v) data acquisition.

(b) The chief information officer may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities in accordance with this section.

(c) Where practical, efficient, and economically beneficial, the chief information officer shall use existing private and public information technology or telecommunication resources.

(d) In accordance with Section 63A-16-206, the chief information officer may recommend coordination of acquisitions between two or more executive branch agencies if the coordination is in the best interests of the state.

[~~(d)~~] (e) [~~Notwithstanding another provision of this section, an~~] An acquisition [~~authorized by~~] approved under this section shall comply with rules made by the applicable rulemaking authority under [~~Title 63G,~~] Chapter 6a, Utah Procurement Code.

[~~(2)~~] (3) Before [~~negotiating~~] a conducting procurement unit negotiates a purchase, lease, or rental under Subsection [~~(1)~~] (2) for an amount that exceeds the value established by the chief information officer by rule made in accordance with Section 63A-16-205, the chief information officer shall:

(a) conduct an analysis of the needs of executive branch agencies and subscribers of services and the ability of the proposed information technology or telecommunications services or supplies to meet those needs; and

(b) for purchases, leases, or rentals not covered by an existing statewide contract, certify in writing to the chief procurement officer in the Division of Purchasing and General Services that:

(i) the analysis required in Subsection [~~(2)(a)~~] (3)(a) was completed; and

(ii) based on the analysis, the proposed purchase, lease, rental, or master contract of services, products, or supplies is practical, efficient, and economically beneficial to the state and the executive branch agency or subscriber of services.

[~~(3)~~] (4) [~~In approving an acquisition described in Subsections (1) and (2), the~~] The chief information officer shall approve an acquisition described in Subsection (2) or (3) if the acquisition complies with:

[~~(a) establish by administrative rule, in accordance with Section 63A-16-205, standards under which an agency must obtain approval from the chief information officer before acquiring the items listed in Subsections (1) and (2);~~]

[~~(b) for those acquisitions requiring approval, determine whether the acquisition is in compliance with:~~]

(a) the applicable rules and policies described in Section 63A-16-205;

[~~(i)~~] (b) the executive branch strategic plan;

[~~(ii)~~] (c) the applicable agency information technology plan;

[~~(iii)~~] (d) the budget for the executive branch agency or department as adopted by the Legislature;

[~~(iv)~~] (e) [~~Title 63G,~~] Chapter 6a, Utah Procurement Code; and

[~~(v)~~] (f) the information technology accessibility standards described in Section 63A-16-209[~~; and~~].

[~~(c) in accordance with Section 63A-16-206, require coordination of acquisitions between two or more executive branch agencies if it is in the best interests of the state.~~]

[~~(4)~~] (5) Each executive branch agency shall provide the chief information officer with complete access to all information technology records, documents, and reports:

(a) at the request of the chief information officer; and

(b) related to the executive branch agency's acquisition of [~~any item listed~~] an item described in Subsection [~~(1)~~] (2).

[~~(5)~~] (6) (a) In accordance with administrative rules established by the [~~department~~] chief information officer under Section 63A-16-205, an executive branch agency and the department may not initiate a new technology project unless the technology project is described in a formal project plan and a business case analysis is approved by the chief information officer and the highest ranking executive branch agency official.

(b) The project plan and business case analysis required [~~by~~] under this Subsection [~~(5)~~] (6) shall include:

(i) a statement of work to be done and existing work to be modified or displaced;

(ii) the total cost of the system development and conversion effort, including system analysis and programming costs, establishment of master files, testing, documentation, special equipment cost, and all other costs, including overhead;

(iii) the savings or added operating costs that will result after conversion;

(iv) a description of the other advantages or reasons that justify the work;

(v) the source of funding of the work, including ongoing costs;

(vi) a description of the project's consistency with budget submissions and planning components of budgets; and

(vii) a statement regarding whether the work is within the scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(c) The chief information officer shall determine the required form of the project plan and business case analysis described in this Subsection [~~(5)~~] (6).

[~~(6)~~] (7) [~~The~~] Subject to Subsection (9), the chief information officer and the Division of Purchasing and General Services within the department shall work cooperatively to establish procedures under which the chief information officer shall monitor and approve acquisitions [~~as provided in~~] under this section.

(8) In addition to the requirement that the chief information officer approve the acquisitions described in Subsections (2) and (3), the Division of Technology Services shall, subject to Subsection (9), assist and support executive branch agencies in the acquisition of all technology services and products.

(9) In relation to the acquisition of technology services or products:

(a) the requirement of approval by the chief information officer, as described in this section, and the assistance and support of the Division of Technology Services described in Subsection (8), do not make the chief information officer, the department, or the Division of Technology Services responsible to manage the contract or fund the procurement;

(b) contract management is the responsibility of the conducting procurement unit; and

(c) funding of the procurement is the responsibility of the executive branch agency acquiring the technology services or products.

Section 5. Section 63G-6a-303 is amended to read:

63G-6a-303. Role, duties, and authority of chief procurement officer.

(1) The chief procurement officer:

(a) is the director of the division;

(b) serves as the central procurement officer of the state;

(c) serves as a voting member of the board; and

(d) serves as the protest officer for a protest relating to a procurement of an executive branch procurement, except an executive branch procurement unit designated under Subsection 63G-6a-103(38)(b), (c), (d), or (e) as an independent procurement unit, or a state cooperative contract procurement, unless the chief procurement officer designates another to serve as protest officer, as authorized in this chapter.

(2) Except as otherwise provided in this chapter, the chief procurement officer shall:

(a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;

(b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;

(c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;

(d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;

(e) manage the division's electronic procurement system;

(f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;

(g) make procurement training available to procurement units and persons who do business with procurement units;

(h) provide exemplary customer service and continually improve the division's procurement operations;

(i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter; and

(j) ensure that any training described in this Subsection (2) complies with [~~Title 63G,~~] Chapter 22, State Training and Certification Requirements.

(3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief procurement officer, except as otherwise provided in this chapter:

(a) shall:

(i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;

(ii) prepare and issue standard specifications for procurement items;

(iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(iv) in accordance with Section [~~63A-16-204~~] 63G-6a-109.5, coordinate with the Division of Technology Services, created in Section 63A-16-103, with respect to the procurement of information technology services by an executive branch procurement unit;

(v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;

(vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and

(b) may:

(i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;

(ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;

(iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;

(iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105(7), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and

(v) remove an individual from the procurement process or contract administration for:

(A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;

(B) having a bias or the appearance of bias for or against a person responding to a solicitation or for or against a contractor;

(C) making an inconsistent or unexplainable score for a solicitation response;

(D) having inappropriate contact or communication with a person responding to a solicitation;

(E) socializing inappropriately with a person responding to a solicitation or with a contractor;

(F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or

(G) any other violation of a law, rule, or policy.

(4) The chief procurement officer may not delegate to an individual outside the division the chief procurement officer's authority over a procurement described in Subsection (3)(a)(iv).

(5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this chapter.

(6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit, except to the extent that an executive branch procurement unit is designated under Subsection 63G-6a-103(38)(b), (c), (d), or (e) as an independent procurement unit, to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.

CHAPTER 44
H. B. 67
Passed February 6, 2023
Approved March 13, 2023
Effective May 3, 2023

TITLE 71A - VETERANS AND MILITARY AFFAIRS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill restructures, reorganizes, and rewrites provisions of Title 71, Veterans, creates Title 71A, Veterans and Military Affairs, and makes conforming changes.

Highlighted Provisions:

This bill:

- restructures, reorganizes, and rewrites some of the provisions of Title 71, Veterans, and creates Title 71A, Veterans and Military Affairs;
- outlines the new title as follows:
  - Chapter 1, Veterans and Military Affairs;
  - Chapter 2, Veterans Preference;
  - Chapter 3, Veterans Service Organizations Assistance Contracts;
  - Chapter 4, Veterans Benefits Application Assistance Act;
  - Chapter 5, Veterans Assistance Registry;
  - Chapter 6, State Veterans Nursing Home;
  - Chapter 7, Veterans Memorials and Cemeteries; and
  - Chapter 8, Employees in Military Service;
- provides definitions;
- removes outdated language;
- standardizes the term "service member";
- removes requirement that the Veterans Advisory Council be consulted on the awarding of grants;
- removes the requirement that deputy directors be veterans;
- clarifies eligibility for veterans preference;
- clarifies job retention for public officers called to serve in the armed forces; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-10, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
30-3-10.1, as last amended by Laws of Utah 2017, Chapter 224
30-3-10.4, as last amended by Laws of Utah 2019, Chapter 188
30-3-10.8, as last amended by Laws of Utah 2017, Chapter 224
34-50-102, as last amended by Laws of Utah 2016, Chapter 230
34-50-103, as last amended by Laws of Utah 2020, Chapter 333
39A-3-202, as renumbered and amended by Laws of Utah 2022, Chapter 373
53B-8-102, as last amended by Laws of Utah 2020, Chapter 37
53G-6-306, as last amended by Laws of Utah 2022, Chapter 464
53G-6-402, as last amended by Laws of Utah 2022, Chapters 378 and 464
53G-6-502, as last amended by Laws of Utah 2022, Chapter 352
59-2-1903, as enacted by Laws of Utah 2019, Chapter 453
59-10-103, as last amended by Laws of Utah 2021, Chapter 367
76-5-102.4, as last amended by Laws of Utah 2022, Chapters 181 and 373
78A-5-302, as last amended by Laws of Utah 2021, Chapter 93
78B-20-102, as last amended by Laws of Utah 2017, Chapter 224
78B-20-107, as enacted by Laws of Utah 2016, Chapter 292

ENACTS:

71A-1-201, Utah Code Annotated 1953
71A-1-202, Utah Code Annotated 1953
71A-1-302, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

71A-1-101, (Renumbered from 71-8-1, as last amended by Laws of Utah 2018, Chapter 39)
71A-1-301, (Renumbered from 71-8-4, as last amended by Laws of Utah 2018, Chapter 39)
71A-2-101, (Renumbered from 71-10-1, as last amended by Laws of Utah 2016, Chapter 230)
71A-2-102, (Renumbered from 71-10-2, as last amended by Laws of Utah 2018, Chapter 39)
71A-2-103, (Renumbered from 71-10-3, as last amended by Laws of Utah 2018, Chapter 148)
71A-3-101, (Renumbered from 71-9-1, as last amended by Laws of Utah 2018, Chapter 39)
71A-3-102, (Renumbered from 71-9-2, as last amended by Laws of Utah 2018, Chapter 39)
71A-3-103, (Renumbered from 71-9-5, as enacted by Laws of Utah 1981, Chapter 282)
71A-4-101, (Renumbered from 71-13-102, as last amended by Laws of Utah 2018, Chapter 39)
71A-4-102, (Renumbered from 71-13-103, as enacted by Laws of Utah 2015, Chapter 123)
71A-4-103, (Renumbered from 71-13-104, as enacted by Laws of Utah 2015, Chapter 123)
71A-4-104, (Renumbered from 71-13-105, as last amended by Laws of Utah 2018, Chapter 39)

71A-4-105, (Renumbered from 71-13-106, as enacted by Laws of Utah 2015, Chapter 123)
71A-5-101, (Renumbered from 71-12-102, as last amended by Laws of Utah 2018, Chapter 39)
71A-5-102, (Renumbered from 71-12-103, as last amended by Laws of Utah 2018, Chapter 39)
71A-5-103, (Renumbered from 71-12-104, as enacted by Laws of Utah 2014, Chapter 91)
71A-6-101, (Renumbered from 71-11-2, as last amended by Laws of Utah 2018, Chapter 39)
71A-6-102, (Renumbered from 71-11-3, as last amended by Laws of Utah 2018, Chapter 39)
71A-6-103, (Renumbered from 71-11-5, as last amended by Laws of Utah 2018, Chapter 39)
71A-6-104, (Renumbered from 71-11-6, as last amended by Laws of Utah 2016, Chapter 230)
71A-6-105, (Renumbered from 71-11-7, as last amended by Laws of Utah 2018, Chapter 39)
71A-6-106, (Renumbered from 71-11-8, as last amended by Laws of Utah 2018, Chapter 39)
71A-6-107, (Renumbered from 71-11-9, as last amended by Laws of Utah 2005, First Special Session, Chapter 7)
71A-6-108, (Renumbered from 71-11-10, as last amended by Laws of Utah 2007, Chapter 173)
71A-7-101, (Renumbered from 71-2-1, Utah Code Annotated 1953)
71A-7-102, (Renumbered from 71-2-2, as last amended by Laws of Utah 2001, Chapter 30)
71A-7-103, (Renumbered from 71-2-3, as last amended by Laws of Utah 1993, Chapter 227)
71A-7-201, (Renumbered from 71-7-1, as enacted by Laws of Utah 1961, Chapter 21)
71A-7-202, (Renumbered from 71-7-2, as last amended by Laws of Utah 2018, Chapter 39)
71A-7-203, (Renumbered from 71-7-5, as last amended by Laws of Utah 2018, Chapter 39)
71A-7-301, (Renumbered from 71-7-3, as last amended by Laws of Utah 2020, Chapter 154)
71A-8-101, (Renumbered from 39-3-1, as repealed and reenacted by Laws of Utah 1991, Chapter 65)
71A-8-102, (Renumbered from 39-3-2, as last amended by Laws of Utah 2003, Chapter 217)
71A-8-103, (Renumbered from 39-1-64, as enacted by Laws of Utah 2004, Chapter 82)
71A-8-104, (Renumbered from 39-7-118, as enacted by Laws of Utah 1997, Chapter 306)

REPEALS:
39-1-36, as last amended by Laws of Utah 1989, Chapter 15
71-3-1, as last amended by Laws of Utah 2018, Chapter 39
71-8-2, as last amended by Laws of Utah 2020, Chapter 409
71-8-3, as last amended by Laws of Utah 2018, Chapter 39
71-8-5, as last amended by Laws of Utah 2018, Chapter 39
71-8-6, as last amended by Laws of Utah 2018, Chapter 39
71-8-7, as last amended by Laws of Utah 2018, Chapter 39
71-8-8, as enacted by Laws of Utah 2013, Chapter 308
71-11-1, as last amended by Laws of Utah 2018, Chapter 39
71-11-4, as last amended by Laws of Utah 2018, Chapter 39
71-12-101, as last amended by Laws of Utah 2018, Chapter 39
71-13-101, as enacted by Laws of Utah 2015, Chapter 123

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

Section 1. Section 30-3-10 is amended to read:

30-3-10. Custody of a child -- Custody factors.

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;

(h) the parent's reasons for having relinquished custody or parent-time in the past;

(i) duration and depth of desire for custody or parent-time;

(j) the parent's religious compatibility with the child;

(k) the parent's financial responsibility;

(l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;

(m) who has been the primary caretaker of the child;

(n) previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community;

(o) the relative benefit of keeping siblings together;

(p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;

(q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and

(r) any other factor the court finds relevant.

(3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;

(b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(4) (a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(5) (a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(b) (i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent-time otherwise.

(ii) The desires of a child 14 years [~~of age~~] old or older shall be given added weight, but is not the single controlling factor.

(c) (i) If an interview with a child is conducted by the court pursuant to Subsection (5)(b), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

(6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

(8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(9) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are [~~servicemembers,~~] service members and the [~~servicemember~~] service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(10) In considering the past conduct and demonstrated moral standards of each party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, Title 26, Chapter 61a, Utah Medical Cannabis Act, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

(b) discriminate against a parent because of the parent's status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

(iii) medical cannabis courier agent, as that term is defined in Section 26-61a-102; or

(iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 2. Section 30-3-10.1 is amended to read:

30-3-10.1. Definitions -- Joint legal custody -- Joint physical custody.

As used in this chapter:

(1) (a) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child.

(b) "Custodial responsibility" includes physical custody, legal custody, parenting time, right to access, visitation, and authority to grant limited contact with a child.

(2) "Joint legal custody":

(a) means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified;

(b) may include an award of exclusive authority by the court to one parent to make specific decisions;

(c) does not affect the physical custody of the child except as specified in the order of joint legal custody;

(d) is not based on awarding equal or nearly equal periods of physical custody of and access to the child to each of the parents, as the best interest of the child often requires that a primary physical residence for the child be designated; and

(e) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.

(3) "Joint physical custody":

(a) means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support;

(b) can mean equal or nearly equal periods of physical custody of and access to the child by each of the parents, as required to meet the best interest of the child;

(c) may require that a primary physical residence for the child be designated; and

(d) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.

(4) "[~~Servicemember~~] Service member" means a member of a uniformed service.

(5) "Uniformed service" means:

(a) active and reserve components of the United States Armed Forces;

(b) the United States Merchant Marine;

(c) the commissioned corps of the United States Public Health Service;

(d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(e) the [~~national guard~~] National Guard of a state.

Section 3. Section 30-3-10.4 is amended to read:

30-3-10.4. Modification or termination of order.

(1) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that the circumstances of the child or one or both parents or joint legal or physical custodians have materially and substantially changed since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child; and

(c) (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 30-3-10.3(7); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 30-3-10.2(5) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

(2) (a) In determining whether the best interest of a child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).

(b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:

(i) a material and substantial change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the child is thriving, happy, and well-adjusted.

(3) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Subsection 30-3-10(3). The court may modify the terms and conditions of the existing order in accordance with Subsection 30-3-10(8) and may order the parents to file a parenting plan in accordance with this chapter.

(4) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

(5) If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

(6) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are [~~servicemembers~~] service members, and the [~~servicemember~~] service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

Section 4. Section 30-3-10.8 is amended to read:

30-3-10.8. Parenting plan -- Filing -- Modifications.

(1) In any proceeding under this chapter, including actions for paternity, a party requesting joint custody, joint legal or physical custody, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan at the time of the filing of their original petition or at the time of filing their answer or counterclaim.

(2) In proceedings for a modification of custody provisions or modification of a parenting plan, a proposed parenting plan shall be filed and served with the petition to modify, or the answer or counterclaim to the petition to modify.

(3) A party who files a proposed parenting plan in compliance with this section may move the court for an order of default to adopt the plan if the other party fails to file a proposed parenting plan as required by this section.

(4) Either party may file and serve an amended proposed parenting plan according to the rules for amending pleadings.

(5) The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(6) Both parents may submit a parenting plan which has been agreed upon. A verified statement, signed by both parents, shall be attached.

(7) If the parents file inconsistent parenting plans, the court may appoint a guardian ad litem to represent the best interests of the child, who may, if necessary, file a separate parenting plan reflecting the best interests of the child.

(8) When one or both parents are [~~a servicemember~~] service members, the parenting plan shall be consistent with Subsection 30-3-10.9(10). If after a parenting plan is adopted, one or both parents become [~~servicemembers~~] service members, as soon as practical, the parents shall amend the existing parenting plan to comply with Subsection 30-3-10.9(10).

Section 5. Section 34-50-102 is amended to read:

34-50-102. Definitions.

As used in this chapter:

(1) "Department" means the [~~same as that term is defined in Section 71-11-2~~] Department of Veterans and Military Affairs, created in Section 71A-1-201.

(2) "Discharge document" means a document received by a [~~servicemember~~] service member upon separation from military service, including:

(a) a DD 214, United States Department of Defense Certificate of Release or Discharge from Active Duty;

(b) a DD 256, United States Department of Defense Honorable Discharge Certificate;

(c) a DD 257, United States General Discharge Certificate; or

(d) an NGB 22, Utah National Guard Certificate of Release or Discharge.

(3) "Preference eligible" means the same as that term is defined in Section [~~71-10-1~~] 71A-2-101.

(4) "Private employer" means the same as that term is defined in Section 63G-12-102.

(5) "Service member" means a currently serving member of the armed forces.

[~~(5)~~] (6) "Veteran" means the same as that term is defined in Section 68-3-12.5.

Section 6. Section 34-50-103 is amended to read:

34-50-103. Voluntary veterans preference employment policy -- Private employment -- Antidiscrimination requirements.

(1) A private sector employer may create a veterans employment preference policy [~~that may also apply to a veteran's spouse~~].

(2) [~~The~~] A veterans employment preference policy shall be:

(a) in writing; and

(b) applied uniformly to employment decisions regarding hiring, promotion, or retention including during a reduction in force.

(3) A private employer may require a [~~veteran~~] preference eligible individual to submit a discharge document form or proof of current service in the armed forces to be eligible for the preference. If the applicant is the spouse of a veteran or service member, the employer may require that the spouse submit the veteran's discharge document or proof of current service in the armed forces.

(4) A private employer's veterans employment preference policy shall be publicly posted by the employer at the place of employment or on the Internet if the employer has a website or uses the Internet to advertise employment opportunities.

Section 7. Section 39A-3-202 is amended to read:

39A-3-202. Pay and care of soldiers and airmen disabled while on state active duty.

(1) (a) Before a [~~servicemember~~] service member may be considered disabled in accordance with this section, the Adjutant General shall determine whether the [~~servicemember's~~] service member's illness, injury, or disease was contracted or occurred through the fault or negligence of the [~~servicemember~~] service member. If the [~~servicemember~~] service member is determined to be at fault for an injury or developed a disability through his or her own negligent actions, the [~~servicemember~~] service member is not entitled to any care, pension, or benefit in accordance with this section.

(b) Notwithstanding Subsection (1)(a) the [~~servicemember~~] service member may be eligible for benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

(2) A member of the Utah National Guard or Utah State Defense Force who is disabled through illness, injury, or disease contracted or incurred while on state active duty or while reasonably proceeding to or returning from duty is eligible to receive workers' compensation benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act.

(3) (a) If the disability temporarily incapacitates the [~~servicemember~~] service member from pursuing the [~~servicemember's~~] service member's usual business or occupation, the [~~servicemember~~] service member is eligible to receive workers' compensation benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

(b) For the duration of the [~~servicemember's~~] service member's inability to pursue a business or occupation, the adjutant general shall provide compensation so that the total compensation, including the disability compensation received under Subsection (3)(a) is commensurate with the injured service member's lost pay. The adjutant general shall consider lost civilian and military pay in the compensation.

(4) A [~~servicemember~~] service member who is permanently disabled, shall receive pensions and benefits from the state that individuals under like circumstances in the Armed Forces of the United States receive from the United States.

(5) If a [~~servicemember~~] service member dies as a result of an injury, illness, or disease contracted or incurred while on state active duty or while reasonably proceeding to or returning from active duty, the surviving spouse, minor children, or dependent parents of the [~~servicemember~~] service member shall receive compensation as directed in Section 39A-3-203.

(6) Costs incurred by reason of this section shall be paid out of the funds available to the Utah National Guard.

(7) The adjutant general, with the approval of the governor, shall make and publish regulations to implement this section.

(8) Nothing in this section shall in any way limit or condition any other payment to a [~~servicemember~~] service member that the law allows.

Section 8. Section 53B-8-102 is amended to read:

53B-8-102. Definitions -- Resident student status -- Exceptions.

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to post-secondary educational benefits under Title 38 U.S.C., Veterans' Benefits.

(b) "Immediate family member" means an individual's spouse or dependent child.

(c) "Military [~~servicemember~~] service member" means an individual who:

(i) is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) is a member of a reserve component of the United States Armed Forces assigned in Utah;

(iii) is a member of the Utah National Guard; or

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.

(d) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.

(e) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military [~~servicemember~~] service member, if the military [~~servicemember~~] service member provides:

(i) the military [~~servicemember's~~] service member's current United States military identification card; and

(ii) (A) a statement from the military [~~servicemember's~~] service member's current commander, or equivalent, stating that the military [~~servicemember~~] service member is assigned in Utah; or

(B) evidence that the military [~~servicemember~~] service member is domiciled in Utah, as described in Subsection (9)(a);

(b) a military [~~servicemember's~~] service member's immediate family member, if the military [~~servicemember's~~] service member's immediate family member provides:

(i) (A) the military [~~servicemember's~~] service member's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii) (A) a statement from the military [~~servicemember's~~] service member's current commander, or equivalent, stating that the military [~~servicemember~~] service member is assigned in Utah; or

(B) evidence that the military [~~servicemember~~] service member is domiciled in Utah, as described in Subsection (9)(a);

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii); or

(e) an eligible person who provides:

(i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;

(ii) a signed written declaration that the eligible person will use the G.I. Bill benefits; and

(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).

(9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the military [~~servicemember's~~] service member's or military [~~servicemember's~~] service member's spouse's name, filed as a resident in accordance with Section 59-10-502; or

(v) proof that the military [~~servicemember~~] service member or military [~~servicemember's~~] service member's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

(b) Aliens who are present in the United States on visitor, student, or other visas which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted immigrant or permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years [~~of age~~] old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years [~~of age~~] old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(18) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

Section 9. Section 53G-6-306 is amended to read:

53G-6-306. Permitting attendance by nonresident of the state -- Tuition.

(1) As used in this section:

(a) "Armed forces" means the same as that term is defined in Section 68-3-12.5.

(b) "Eligible student" means a student who is a dependent child of a member of uniformed services who is:

(i) (A) relocating to the state and does not reside in the state during an LEA's enrollment period; or

(B) relocating out of the state during the school year; and

(ii) on permanent change of station orders.

(c) "Nonresident child" means a child residing outside the state.

(d) "Provisional enrollment" means enrollment in a public school by an eligible student:

(i) before the eligible student relocates to the state; or

(ii) after the eligible student's parent relocates out of the state, but before the eligible student relocates out of the state.

(e) "Uniformed services" means:

(i) the same as that term is defined in Section 68-3-12.5;

(ii) the reserve components of the armed forces; and

(iii) the national guard of a state.

(2) (a) An LEA may permit a nonresident child to attend school within the district, giving priority to a child of a military [~~servicemember~~] service member, as that term is defined in Section 53B-8-102.

(b) With the exception of a child enrolled under Section 53G-6-707, a nonresident child is not included for the purpose of apportionment of state funds.

(3) (a) An LEA shall charge a nonresident child who enrolls in a school within the LEA tuition in an amount at least equal to the per capita cost of the school program in which the nonresident child enrolls unless the LEA, in open meeting, determines to waive the charge for that nonresident child in whole or in part.

(b) The official minutes of the meeting described in Subsection (3)(a) shall reflect the LEA's determination to waive the charge described in Subsection (3)(a).

(4) (a) Notwithstanding anything to the contrary in Subsection (3), an LEA shall allow an eligible student to:

(i) provisionally enroll in a public school in the LEA at the same time and in the same manner as individuals who reside in the state; or

(ii) provisionally enroll in virtual education options that the LEA provides in the same manner as an individual residing in the state.

(b) An LEA may not require proof of residency from an eligible student at the time the eligible student applies to enroll in a public school in the LEA.

(c) An LEA shall require proof of residence within 10 days after the eligible student's first day of residence in the state.

Section 10. Section 53G-6-402 is amended to read:

53G-6-402. Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.

(1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the state board for each student who resides in the district and, as provided in this section through Section 53G-6-407 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district, giving priority to a child of a military [~~servicemember~~] service member, as that term is defined in 53B-8-102.

(2) (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.

(b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

(3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.

(4) (a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district's schools.

(b) Those procedures shall provide, as a minimum, for:

(i) distribution to interested parties of information about the school or school district and how to apply for admission;

(ii) use of standard application forms prescribed by the state board;

(iii) (A) submission of applications from November 15 through the first Friday in February by those seeking admission during the early enrollment period for the following year; or

(B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53G-6-401(1)(b);

(iv) submission of applications by those seeking admission during the late enrollment period;

(v) written notification to the student's parent of acceptance or rejection of an application:

(A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;

(B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; and

(C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year;

(vi) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and

(vii) written notification to the parents of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53G-6-401(1)(b) if:

(A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be implemented in the next school year.

(c) (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:

(A) school construction or remodeling;

(B) drawing or revision of school boundaries; or

(C) other circumstances beyond the control of the local school board.

(ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.

(5) A school district may charge a one-time $5 processing fee, to be paid at the time of application.

(6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:

(a) the student graduates;

(b) the student is no longer a Utah resident;

(c) the student is suspended or expelled from school; or

(d) except for a student described in Subsection (6)(e), the district determines that enrollment within the school will exceed the school's open enrollment threshold; or

(e) for a child of a military [~~servicemember~~] service member, as that term is defined in Section 53B-8-102, who moves from temporary to permanent housing outside of the relevant school district boundaries following a permanent change of station:

(i) in kindergarten through grade 10, the student completes the current school year; or

(ii) in grades 11 and 12, the student graduates.

(7) (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.

(b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.

(8) The parent of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in:

(a) the district of residence; or

(b) another nonresident district.

(9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10) (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.

(b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.

(c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

(a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and

(b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part or Part 3, School District Residency, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. Section 675.

Section 11. Section 53G-6-502 is amended to read:

53G-6-502. Eligible students.

(1) As used in this section:

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

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

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

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

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

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

(3) (a) A charter school shall enroll:

(i) a foster child residing in the same residence as an individual who is enrolled in the charter school; and

(ii) an eligible student other than a child described in Subsection (3)(a)(i) who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications described in Subsection (3)(a)(ii) exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select students on a random basis, except as provided in Subsections (4) through (8).

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

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

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

(c) a sibling of an individual who was previously or is presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;

(f) a student articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board;

(g) an individual seeking enrollment in a charter school if:

(i) the individual's sibling is a student enrolled in a charter school; and

(ii) the charter school where the individual is seeking enrollment has an articulation agreement with the charter school where the sibling is enrolled that the State Charter School Board approves;

(h) a student who resides within up to a two-mile radius of the charter school and whose school of residence is at capacity;

(i) a child of a military [~~servicemember~~] service member as defined in Section 53B-8-102; or

(j) for the 2022-2023 school year, a student who withdraws from the charter school to attend an online school or home school for the 2020-2021 or 2021-2022 school years due to the COVID-19 emergency.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(h), a charter school that is approved by the state board after May 13, 2014, and is located in a high growth area as defined in Section 53G-6-504 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53G-6-504(7)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight the charter school's lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) migrant students;

(e) neglected or delinquent students; and

(f) homeless students.

(9) A charter school may not discriminate in the charter school's admission policies or practices on the same basis as other public schools may not discriminate in admission policies and practices.

Section 12. Section 59-2-1903 is amended to read:

59-2-1903. Veteran armed forces exemption -- Amount.

(1) As used in this section, "eligible property" means property owned by a veteran claimant that is:

(a) the veteran claimant's primary residence; or

(b) tangible personal property that:

(i) is held exclusively for personal use; and

(ii) is not used in a trade or business.

(2) In accordance with this part, the amount of taxable value of eligible property described in Subsection (3) or (4) is exempt from taxation if the eligible property is owned by a veteran claimant.

(3) (a) Except as provided in Subsection (4) and in accordance with this Subsection (3), the amount of taxable value of eligible property that is exempt under Subsection (2) is equal to the percentage of disability described in the statement of disability multiplied by the adjusted taxable value limit.

(b) The amount of an exemption calculated under Subsection (3)(a) may not exceed the taxable value of the eligible property.

(c) A county shall consider a veteran with a disability to have a 100% disability, regardless of the percentage of disability described on the statement of disability, if the United States Department of Veterans Affairs certifies the veteran in the classification of individual unemployability.

(d) A county may not allow an exemption claimed under this section if the percentage of disability listed on the statement of disability is less than 10%.

(4) The amount of taxable value of eligible property that is exempt under Subsection (2) is equal to the total taxable value of the veteran claimant's eligible property if the property is owned by:

(a) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty;

(b) a minor orphan of a veteran who was killed in action or died in the line of duty; or

(c) the unmarried surviving spouse or minor orphan of a deceased veteran with a disability:

(i) who served in the military service of the United States or the state prior to January 1, 1921; and

(ii) whose percentage of disability described in the statement of disability is 10% or more.

(5) For purposes of this section and Section 59-2-1904, an individual who received an honorable or general discharge from military service of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces:

(a) is presumed to be a citizen of the United States; and

(b) may not be required to provide additional proof of citizenship to establish that the individual is a citizen of the United States.

(6) The Department of Veterans and Military Affairs created in Section [~~71-8-2~~] 71A-1-201 shall, through an informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act, resolve each dispute arising under this section concerning an individual's status as a veteran with a disability.

Section 13. Section 59-10-103 is amended to read:

59-10-103. Definitions.

(1) As used in this chapter:

(a) (i) "Adjusted gross income":

(A) for a resident or nonresident individual, means the same as that term is defined in Section 62, Internal Revenue Code; or

(B) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(ii) "Adjusted gross income" does not include:

(A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a) (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a similar paycheck protection loan that is authorized by the federal government, provided in response to COVID-19, forgiven if the borrower meets the expenditure requirements, and exempt from federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed; or

(B) an amount that an individual receives in accordance with Section 6428, Internal Revenue Code, or an amount that an individual receives that is authorized by the federal government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in advance of the filing of the individual's 2020 federal income tax return, and exempt from federal income tax.

(b) "Corporation" includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(c) "COVID-19" means:

(i) the severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(d) "Distributable net income" means the same as that term is defined in Section 643, Internal Revenue Code.

(e) "Employee" means the same as that term is defined in Section 59-10-401.

(f) "Employer" means the same as that term is defined in Section 59-10-401.

(g) "Federal taxable income":

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

(h) "Fiduciary" means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;

(iv) an administrator;

(v) a receiver;

(vi) a conservator; or

(vii) any person acting in any fiduciary capacity for any individual.

(i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

(k) "Individual" means a natural person and includes aliens and minors.

(l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust.

(m) "Military service" means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.

(n) "Nonresident individual" means an individual who is not a resident of this state.

(o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.

(p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:

(A) through or by means of which any business, financial operation, or venture is carried on; and

(B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.

(ii) "Partnership" does not include any organization not included under the definition of "partnership" in Section 761, Internal Revenue Code.

(iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization described in Subsection (1)(p)(i).

(q) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(r) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(s) "Qualified nongrantor charitable lead trust" means a trust:

(i) that is irrevocable;

(ii) that has a trust term measured by:

(A) a fixed term of years; or

(B) the life of a person living on the day on which the trust is created;

(iii) under which:

(A) a portion of the value of the trust assets is distributed during the trust term:

(I) to an organization described in Section 170(c), Internal Revenue Code; and

(II) as a guaranteed annuity interest or a unitrust interest; and

(B) assets remaining in the trust at the termination of the trust term are distributed to a beneficiary:

(I) designated in the trust; and

(II) that is not an organization described in Section 170(c), Internal Revenue Code;

(iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue Code; and

(v) under which the grantor of the trust is not treated as the owner of any portion of the trust for federal income tax purposes.

(t) "Resident individual" means an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state.

(u) "Resident estate" or "resident trust" means the same as that term is defined in Section 75-7-103.

(v) "[~~Servicemember~~] Service member" means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.

(w) "State income tax percentage for a nonresident estate or trust" means a percentage equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after making the adjustments required by:

(i) Section 59-10-202;

(ii) Section 59-10-207;

(iii) Section 59-10-209.1; or

(iv) Section 59-10-210.

(x) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's state taxable income for the taxable year divided by the difference between:

(i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross income for that taxable year, after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115; and

(ii) if the nonresident individual described in Subsection (1)(x)(i) is a [~~servicemember~~] service member, the compensation the [~~servicemember~~] service member receives for military service if the [~~servicemember~~] service member is serving in compliance with military orders.

(y) "State income tax percentage for a part-year resident individual" means, for a taxable year, a fraction:

(i) the numerator of which is the sum of:

(A) subject to Section 59-10-1404.5, for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) for the time period during the taxable year that the part-year resident individual is a nonresident, an amount calculated by:

(I) determining the part-year resident individual's adjusted gross income for that time period, after making the:

(Aa) additions and subtractions required by Section 59-10-114; and

(Bb) adjustments required by Section 59-10-115; and

(II) calculating the portion of the amount determined under Subsection (1)(y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and

(ii) the denominator of which is the difference between:

(A) the part-year resident individual's total adjusted gross income for that taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) if the part-year resident individual is a [~~servicemember~~] service member, any compensation the [~~servicemember~~] service member receives for military service during the portion of the taxable year that the [~~servicemember~~] service member is a nonresident if the [~~servicemember~~] service member is serving in compliance with military orders.

(z) "Taxable income" or "state taxable income":

(i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's adjusted gross income after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115;

(ii) for a nonresident individual, is an amount calculated by:

(A) determining the nonresident individual's adjusted gross income for the taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) calculating the portion of the amount determined under Subsection (1)(z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

(iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

(iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

(aa) "Taxpayer" means any of the following that has income subject in whole or part to the tax imposed by this chapter:

(i) an individual;

(ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through entity or a pass-through entity taxpayer;

(iii) a pass-through entity; or

(iv) a pass-through entity taxpayer.

(bb) "Trust term" means a time period:

(i) beginning on the day on which a qualified nongrantor charitable lead trust is created; and

(ii) ending on the day on which the qualified nongrantor charitable lead trust described in Subsection (1)(bb)(i) terminates.

(cc) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and Ouray Reservation in:

(i) Hagen v. Utah, 510 U.S. 399 (1994); and

(ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

(dd) "Unadjusted income" means an amount equal to the difference between:

(i) the total income required to be reported by a resident or nonresident estate or trust on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(ii) the sum of the following:

(A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

(I) for administering the resident or nonresident estate or trust; and

(II) that the resident or nonresident estate or trust deducts as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(B) the income distribution deduction that a resident or nonresident estate or trust deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(C) the amount that a resident or nonresident estate or trust deducts as a deduction for estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(D) the amount that a resident or nonresident estate or trust deducts as a personal exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year.

(ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(ff) "Ute tribal member" means an individual who is enrolled as a member of the Ute Indian Tribe of the Uintah and Ouray Reservation.

(gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

(hh) "Wages" means the same as that term is defined in Section 59-10-401.

(2) (a) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required.

(b) Any reference to the Internal Revenue Code or to the laws of the United States shall mean the Internal Revenue Code or other provisions of the laws of the United States relating to federal income taxes that are in effect for the taxable year.

(c) Any reference to a specific section of the Internal Revenue Code or other provision of the laws of the United States relating to federal income taxes shall include any corresponding or comparable provisions of the Internal Revenue Code as amended, redesignated, or reenacted.

Section 14. Section 71A-1-101, which is renumbered from Section 71-8-1 is renumbered and amended to read:

TITLE 71A. VETERANS AND MILITARY AFFAIRS

CHAPTER 1. VETERANS AND MILITARY AFFAIRS

Part 1. General Provisions

[~~71-8-1~~]. 71A-1-101. Veterans and Military Affairs -- Definitions.

As used in this title:

(1) "Armed forces" means the same as that term is defined in Section 68-3-12.5.

(2) "Contractor" means a person who is or may be awarded a government entity contract.

[~~(2)~~] (3) "Council" means the Veterans Advisory Council.

[~~(3)~~] (4) "Department" means the Department of Veterans and Military Affairs.

[~~(4)~~] (5) "Executive director" means the executive director of the Department of Veterans and Military Affairs.

[~~(5)~~] (6) "Government entity" means the state and any county, municipality, local district, special service district, and any other political subdivision or administrative unit of the state, including state institutions of education.

(7) "Service member" means a currently serving member of the armed forces.

[~~(6) "Specialist" means a full-time employee of a government entity who is tasked with responding to, and assisting, veterans who are employed by the entity or come to the entity for assistance.~~]

[~~(7)~~] (8) "Uniformed services" means the same as that term is defined in Section 68-3-12.5.

(9) "VA" means the United States Department of Veterans Affairs.

(10) "Veteran" [~~has~~] means the same [~~meaning~~] as that term is defined in Section 68-3-12.5.

(11) "Veterans service organization" means an organization or individual accredited by the VA Office of General Counsel or recognized by the department whose purpose is to serve service members and veterans, their spouses, surviving spouses, and children.

Section 15. Section 71A-1-201 is enacted to read:

Part 2. Department of Veterans and Military Affairs

71A-1-201. Department of Veterans and Military Affairs -- Creation -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department who is subject to Senate confirmation.

(3) The executive director shall be a veteran.

(4) The department shall:

(a) conduct and supervise all veteran and military affairs activities as provided in this title;

(b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title;

(c) in accordance with Section 41-1a-418:

(i) determine which campaign or combat theater awards are eligible for a special group license plate;

(ii) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it; and

(iii) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(d) maintain liaison with local, state, and federal veterans agencies and with Utah veterans organizations;

(e) provide current information to veterans, service members, their surviving spouses and family members, and Utah veterans and military organizations on benefits they are entitled to;

(f) assist veterans, service members, and their families in applying for benefits and services;

(g) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;

(h) create and administer a veterans assistance registry in accordance with Chapter 5, Veterans Assistance Registry, with recommendations from the council, that provides contact information to the qualified donors of materials and labor for certain qualified recipients;

(i) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;

(j) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the Utah National Guard; and

(k) develop and maintain relationships with military-related organizations in Utah.

(5) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (4)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(6) Nothing in this chapter shall be construed as altering or preempting any provisions of Title 39A, National Guard and Militia Act, as specifically related to the Utah National Guard.

Section 16. Section 71A-1-202 is enacted to read:

71A-1-202. Department of Veterans and Military Affairs -- Executive director -- Responsibilities.

(1) The executive director is the chief administrative officer of the department.

(2) The executive director is responsible for:

(a) the administration and supervision of the department;

(b) the coordination of policies and program activities conducted through the department;

(c) the development and approval of the proposed budget of the department;

(d) preparing an annual report for presentation not later than November 30 of each year to the Government Operations Interim Committee which covers:

(i) services provided to veterans, service members, and their families;

(ii) services provided by third parties through the Veterans Assistance Registry;

(iii) coordination of veterans services by government entities with the department; and

(iv) the status of military missions within the state;

(e) advising the governor on matters pertaining to veterans and military affairs throughout the state, including active duty service members, reserve duty service members, veterans, and their families;

(f) developing, coordinating, and maintaining relationships with Utah's congressional delegation and appropriate federal agencies; and

(g) entering into grants, contracts, agreements, and interagency transfers necessary to support the department's programs.

(3) The executive director may appoint deputy directors to assist the executive director in carrying out the department's responsibilities.

Section 17. Section 71A-1-301, which is renumbered from Section 71-8-4 is renumbered and amended to read:

Part 3. Veterans Advisory Council

[~~71-8-4~~]. 71A-1-301. Veterans Advisory Council -- Membership -- Duties and responsibilities -- Per diem and travel expenses.

(1) There is created a Veterans Advisory Council whose purpose is to advise the executive director of the Department of Veterans and Military Affairs on issues relating to veterans.

(2) The council shall consist of the following 14 members:

(a) 11 voting members to serve four-year terms:

(i) seven veterans at large appointed by the governor;

(ii) the commander or the commander's designee, whose terms shall last for as long as [~~they hold~~] the commander holds that office, from each of the following organizations:

(A) Veterans of Foreign Wars;

(B) American Legion; and

(C) Disabled American Veterans; and

(iii) a representative from the Office of the Governor; and

(b) three nonvoting members:

(i) the executive director [~~of the Department of Veterans and Military Affairs~~];

(ii) the director of the VA Health Care System or [~~his~~] the director's designee; and

(iii) the director of the VA Benefits Administration Regional Office in Salt Lake City, or [~~his~~] the director's designee.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the governor shall appoint each new or reappointed member to a four-year term commencing on July 1.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the members appointed by the governor are appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term within 60 days of receiving notice.

(5) Members appointed by the governor may not serve more than three consecutive terms.

(6) (a) Any veterans group or veteran may provide the executive director with a list of recommendations for members on the council.

(b) The executive director shall provide the governor with the list of recommendations for members to be appointed to the council.

(c) The governor shall make final appointments to the council by June 30 of any year in which appointments are to be made under this chapter.

(7) The council shall elect a chair and vice chair from among the council members every two years. The chair and vice chair shall each be [~~an individual who:~~] a veteran.

[~~(a) has served on active duty in the armed forces for more than 180 consecutive days;~~]

[~~(b) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or~~]

[~~(c) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and~~]

[~~(d) was separated or retired under honorable conditions.~~]

(8) (a) The council shall meet at least once every quarter.

(b) The executive director [~~of the Department of Veterans and Military Affairs~~] may convene additional meetings, as necessary.

(9) The department shall provide staff to the council.

(10) Six voting members are a quorum for the transaction of business.

[~~(11) The council shall:~~]

[~~(a) solicit input concerning veterans issues from veterans' groups throughout the state;~~]

[~~(b) report issues received to the executive director of the Department of Veterans and Military Affairs and make recommendations concerning them;~~]

[~~(c) keep abreast of federal developments that affect veterans locally and advise the executive director of them;~~]

[~~(d) approve, by a majority vote, the use of money generated from veterans license plates under Section 41-1a-422 for veterans programs; and~~]

[~~(e) assist the director in developing guidelines and qualifications for:~~]

[~~(i) participation by donors and recipients in the Veterans Assistance Registry created in Section 71-12-101; and~~]

[~~(ii) developing a process for providing contact information between qualified donors and recipients.~~]

[~~(12)~~] (11) A member may not receive compensation or benefits for the member's service,

but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 18. Section 71A-1-302 is enacted to read:

71A-1-302. Veterans Advisory Council -- Duties and responsibilities.

The council shall:

(1) solicit input concerning veterans issues from veterans groups throughout the state;

(2) report issues received to the executive director and make recommendations concerning them;

(3) keep abreast of federal developments that affect veterans locally and advise the executive director of them;

(4) approve, by a majority vote, the use of money generated from veterans license plates under Section 41-1a-422 for veterans programs; and

(5) assist the director in developing guidelines and qualifications for:

(a) participation by donors and recipients in the Veterans Assistance Registry created in Section 71A-5-102; and

(b) the process for providing contact information between qualified donors and recipients.

Section 19. Section 71A-2-101, which is renumbered from Section 71-10-1 is renumbered and amended to read:

CHAPTER 2. VETERANS PREFERENCE

[~~71-10-1~~]. 71A-2-101. Veterans preference -- Definitions.

(1) As used in this chapter:

[~~(1) "Active duty" means active military duty and does not include active duty for training, initial active duty for training, or inactive duty for training.~~]

[~~(2)~~] (a) "Government entity" means the state, any county, municipality, local district, special service district, or any other political subdivision or administrative unit of the state, including state institutions of education.

(b) "Individual with a disability" means a veteran or service member who has established the existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a public statute administered by the VA or a military department.

[~~(3)~~] (c) "Preference eligible" means:

[~~(a)~~] (i) any individual who [~~has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized and who has been separated under honorable conditions~~] is a veteran or service member;

[~~(b)~~] (ii) [~~a veteran~~] an individual with a disability, regardless of the percentage of disability;

[~~(c)~~] (iii) the spouse or [~~unmarried widow or widower~~] surviving spouse of a veteran;

[~~(d)~~] (iv) a purple heart recipient; or

[~~(e)~~] (v) a retired member of the armed forces.

[~~(4) "Veteran" means the same as that term is defined in Section 68-3-12.5.~~]

[~~(5) "Veteran with a disability" means an individual who has:~~]

[~~(a) been separated or retired from the armed forces under honorable conditions; and~~]

[~~(b) established the existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the federal Department of Veterans Affairs or a military department.~~]

(2) Terms defined in Section 71A-1-101 apply to this chapter.

Section 20. Section 71A-2-102, which is renumbered from Section 71-10-2 is renumbered and amended to read:

[~~71-10-2~~]. 71A-2-102. Veterans preference.

(1) Each government entity shall grant a veterans preference upon initial [~~hiring~~] application to each preference eligible [~~veteran or preference eligible spouse~~] individual according to the procedures and requirements of this chapter.

(2) The personnel or human resource officer of any government entity shall add to the score of a preference eligible who receives a passing score on an examination, or any rating or ranking mechanism used in selecting an individual for any career service position with the government entity:

(a) 5% of the total possible score, if the preference eligible is a veteran or service member;

(b) 10% of the total possible score, if the preference eligible is a veteran or service member with a disability or a purple heart recipient; or

(c) in the case of a preference eligible spouse[~~, widow, or widower~~] or surviving spouse, the same percentage the qualifying veteran or service member is, or would have been, entitled to.

(3) A preference eligible who applies for a position that does not require an examination, or where examination results are other than a numeric score, shall be given preference in interviewing [~~and hiring~~] for the position.

(4) Preference eligibility shall be added to a minimum of one step in the process.

(5) The granting of a veterans preference by a government entity in accordance with this chapter is not a violation of:

(a) Title 34A, Chapter 5, Utah Antidiscrimination Act; or

(b) any other state or local equal employment opportunity law.

Section 21. Section 71A-2-103, which is renumbered from Section 71-10-3 is renumbered and amended to read:

[~~71-10-3~~]. 71A-2-103. Veterans preference -- Willful failure to give preference a misdemeanor.

(1) [~~Any officers, agents, or representatives~~] An officer, agent, or representative of a government entity who is charged with employment of people [~~and who~~] may not willfully [~~fails~~] fail to give preference as provided in this chapter.

(2) Willful failure to extend veterans preference to an applicant is [~~guilty of~~] a class B misdemeanor.

Section 22. Section 71A-3-101, which is renumbered from Section 71-9-1 is renumbered and amended to read:

CHAPTER 3. VETERANS SERVICE ORGANIZATIONS ASSISTANCE CONTRACTS

[~~71-9-1~~]. 71A-3-101. Veterans service organizations assistance contracts -- Contract to provide assistance to service members, veterans and their spouses, surviving spouses, and children.

The [~~Department of Veterans and Military Affairs~~] department is authorized to contract with [~~the American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars of the United States, as~~] a veterans service organization organized in this state[~~,~~] to provide, especially in the outlying areas of the state, assistance to service members, veterans, their [~~widows~~] spouses, surviving spouses, and children as follows:

(1) [~~to~~] disseminate information regarding all laws applicable [~~to veterans, their widows, and children~~] in the preparation, presentation, and prosecution of claims against the United States arising by reason of service in the [~~military, naval, or air services~~] uniformed services;

(2) [~~to~~] assist [~~veterans, their widows, and children~~] in the establishment of all rights and the procurement of all benefits which may accrue to [~~them~~] eligible individuals under the laws of this state or of the United States;

(3) [~~to~~] cooperate with any and all agencies and instrumentalities of this state or of the United States having to do with [~~the~~] employment or reemployment [~~of veterans~~];

(4) [~~to~~] cooperate with any and all agencies and instrumentalities of this state or of the United States and make a representative and information available on a rotating basis in the outlying areas of the state;

(5) [~~to~~] assist [~~veterans~~] eligible individuals in obtaining [~~such~~] any preference for employment [~~as may be~~] authorized by the laws of this state or of the United States; and

(6) [~~to~~] assist [~~veterans, their widows, and children~~] eligible individuals in obtaining emergency relief, and [~~to that end~~] cooperate with [~~such~~] any agencies and instrumentalities of this state or of the United States [~~as have been or may be~~] established for the purpose of extending emergency relief.

Section 23. Section 71A-3-102, which is renumbered from Section 71-9-2 is renumbered and amended to read:

[~~71-9-2~~]. 71A-3-102. Veterans service organizations assistance contracts -- Contracts subject to appropriation of funds.

Any contract entered into under Section [~~71-9-1~~] 71A-3-101 shall expressly state that it is subject to the appropriation of sufficient funds by the Legislature to carry out its terms and that the decision of the executive director [~~of the Department of Veterans and Military Affairs~~] as to whether an appropriation is sufficient to carry out the terms of the contract is conclusive.

Section 24. Section 71A-3-103, which is renumbered from Section 71-9-5 is renumbered and amended to read:

[~~71-9-5~~]. 71A-3-103. Veterans service organizations assistance contracts -- Attorney general to represent state concerning contracts.

The attorney general shall represent the state in all proceedings involving any contract entered into under [~~section 71-9-1~~] Section 71A-3-101, and shall [~~render~~] provide any legal assistance necessary in carrying out the provisions of that section.

Section 25. Section 71A-4-101, which is renumbered from Section 71-13-102 is renumbered and amended to read:

CHAPTER 4. VETERANS BENEFITS APPLICATION ASSISTANCE ACT

[~~71-13-102~~]. 71A-4-101. Veterans Benefits Application Assistance Act -- Definitions.

(1) As used in this chapter:

[~~(1)~~] (a) "Accredited" means a veterans service organization representative, agent, or attorney to whom authority has been granted by the VA to provide assistance to claimants in the preparation, presentation, and prosecution of claims for VA benefits.

[~~(2)~~] (b) "Assistance" means an accredited individual providing claimant-specific recommendations or preparing or submitting an application for VA benefits on behalf of a claimant.

[~~(3)~~] (c) "Certify" means to submit in writing to a veteran or the veteran's dependents certain disclosure forms provided by the department.

[~~(4)~~] (d) "Claimant" means a person who has filed or has expressed to a service organization representative, agent, or attorney an intention to file a written application for determination of entitlement to benefits provided under United States Code, Title 38, and implementing directives.

[~~(5) "Department" means the Department of Veterans and Military Affairs.~~]

[~~(6) "Executive director" means the executive director of the Department of Veterans and Military Affairs.~~]

[~~(7)~~] (e) "Non-compliant referral" means referring a veteran's or a veteran's dependent's original claim for veteran benefits for assistance to an individual who is in violation of the provisions of this chapter.

[~~(8)~~] (f) "Referring entity" means an individual, business, or organization licensed in this state who refers or assists a veteran or a veteran's dependents for assistance with an original claim for veteran benefits.

[~~(9) "VA" means the United States Department of Veterans Affairs.~~]

[~~(10)~~] (g) "VA benefits" means any payment, service, commodity, function, or status entitlement which is determined under laws administered by the VA pertaining to veterans, dependents, and survivors as well as other potential beneficiaries under United States Code, Title 38.

[~~(11)~~] (h) "Veteran" includes all eligible dependents.

(2) Terms defined in Section 71A-1-101 apply to this chapter.

Section 26. Section 71A-4-102, which is renumbered from Section 71-13-103 is renumbered and amended to read:

[~~71-13-103~~]. 71A-4-102. Veterans Benefits Application Assistance Act -- Disclosure requirement for assisting a claimant.

(1) Each [~~person~~] individual offering to assist veterans in applying for benefits shall:

(a) be accredited, in compliance with the provisions of C.F.R., Title 38, Pensions, Bonuses, and Veterans' Relief, or, if under the supervision of an accredited attorney meet the provisions of C.F.R., Title 38, pertaining to authorized claim representation under an attorney; and

(b) disclose in writing, in a format approved by the department that the claimant can retain, the federal laws, regulations, and rules governing assistance for VA benefits.

(2) The disclosure required by Subsection (1)(b) shall specifically include:

(a) the individual's:

(i) name;

[~~(b)~~] (ii) [~~the individual's~~] business address;

[~~(c)~~] (iii) [~~the individual's~~] business phone number; and

[~~(d)~~] (iv) the [~~individual's~~] registration number from the VA;

[~~(e)~~] (b) a statement of the claimant's rights regarding the assistance for VA benefits, including that there is no charge to the claimant or a member of the claimant's family for assistance with the initial benefits application; and

[~~(f)~~] (c) a statement that if, as a result of the individual providing assistance for a claim, income is accrued to the assisting individual from the sale of a product or other services to the claimant, the income is both justified and reasonable as compared with income from similar products and services available in the state.

(3) No provisions of the form may be struck out or designated as nonapplicable.

(4) Disclosure forms, when completed, shall be:

(a) signed by both the individual providing assistance and the claimant; and

(b) retained for three years by the assisting individual.

(5) Copies of the disclosure form shall be provided to:

(a) the veteran on the day the form is completed and signed; and

(b) the department within five working days.

Section 27. Section 71A-4-103, which is renumbered from Section 71-13-104 is renumbered and amended to read:

[~~71-13-104~~]. 71A-4-103. Veterans Benefits Application Assistance Act -- Education requirements.

(1) All individuals and attorneys providing assistance to a veteran shall complete three hours of qualifying education as specified in 38 C.F.R. 14.629(b) during the first 12 month period following the date of initial accreditation[~~; and~~].

(2) [~~an~~] An additional three hours of qualifying continuing education shall be completed every two years following the initial 12-month period.

Section 28. Section 71A-4-104, which is renumbered from Section 71-13-105 is renumbered and amended to read:

[~~71-13-105~~]. 71A-4-104. Veterans Benefits Application Assistance Act -- Department responsibilities -- Notification -- Assistance -- Complaints -- Claimant responsibilities.

(1) The [~~Department of Veterans and Military Affairs~~] department shall notify in writing each veteran for whom the department has contact information that any individual or business offering

to assist veterans in applying for benefits shall disclose in writing to the veteran the following:

(a) 38 C.F.R. 14.629 and 38 C.F.R. 14.630 require that any individual providing assistance be accredited by the VA;

(b) federal law restricts charging a veteran a fee for assisting in the initial application for VA benefits; and

(c) the department's website has a list with contact information of VA accredited claim representatives.

(2) Beginning July 1, 2015, and every three years after the department shall:

(a) notify the Insurance Department regarding the federal law governing assistance for VA benefits, and the Insurance Department shall notify all individual producers and consultants licensed by the Insurance Department at the time of initial licensing and upon license renewal of those same federal laws governing assistance for VA benefits;

(b) contact the Utah State Bar regarding federal law governing legal assistance for claimants applying for benefits and request that the association provide continuing legal education on federal laws governing assistance; and

(c) notify the Department of Health and Human Services regarding federal law governing the assistance for claimants applying for benefits, and require the Department of Health [~~shall~~] and Human Services to notify all assisted living and nursing care facilities of those federal laws.

(3) The executive director may establish procedures for processing complaints related to assistance regarding a claim for VA benefits.

(4) For violations by accredited or non-accredited individuals who offer assistance with VA benefits, the executive director may audit selected assisting individuals and referring entities for compliance with this chapter and federal laws which govern the provision of assistance to claimants.

Section 29. Section 71A-4-105, which is renumbered from Section 71-13-106 is renumbered and amended to read:

[~~71-13-106~~]. 71A-4-105. Veterans Benefits Application Assistance Act -- Exempt organizations.

Accredited representatives of the following organizations are exempt from the provisions of this chapter:

(1) American Legion;

(2) Veterans of Foreign Wars;

(3) Disabled American Veterans;

(4) Vietnam Veterans of America;

(5) American Veterans (AMVET);

(6) Military Order of the Purple Heart; and

(7) other VA recognized service organizations or individuals as determined by the executive director.

Section 30. Section 71A-5-101, which is renumbered from Section 71-12-102 is renumbered and amended to read:

CHAPTER 5. VETERANS ASSISTANCE REGISTRY

[~~71-12-102~~]. 71A-5-101. Veterans Assistance Registry -- Definitions.

(1) As used in this chapter:

[~~(1) "Council" means the Veterans Advisory Council as created in Section 71-8-4.~~]

[~~(2) "Department" means the Department of Veterans and Military Affairs as created in Section 71-8-2.~~]

[~~(3)~~] (a) "Donor" means an individual or entity that provides material goods, services, or labor without charge to veterans in accordance with this chapter.

[~~(4)~~] (b) "Recipient" means a veteran as defined in Section 68-3-12.5, or a veteran's dependent spouse and children.

(2) Terms defined in Section 71A-1-101 apply to this chapter.

Section 31. Section 71A-5-102, which is renumbered from Section 71-12-103 is renumbered and amended to read:

[~~71-12-103~~]. 71A-5-102. Veterans Assistance Registry.

(1) There is created within the department a Veterans Assistance Registry.

(2) The intent of the registry is to provide contact information to qualified donors of material goods, services, and labor for qualified recipients in need of specific goods, services, or labor.

(3) The department shall, in consultation with the council:

(a) create a database of donors and recipients;

(b) develop an electronic link on the department's website to the database of donors and recipients;

(c) insure that information provided by donors and recipients is only used for the intended purpose as specified in Subsection (2) and not made public;

(d) provide instructions online for donors and recipients to use in registering for the registry;

(e) publicize through both local and nationwide veterans service organizations and the [~~United States Department of Veterans Affairs~~] VA the availability of the registry; and

(f) track usage of and report annually on the registry program in accordance with Section [~~71-8-3~~] 71A-1-202.

Section 32. Section 71A-5-103, which is renumbered from Section 71-12-104 is renumbered and amended to read:

[~~71-12-104~~]. 71A-5-103. Immunity for use of registry.

A donor who provides material goods, services, or labor for registry recipients is considered to be acting on behalf of the department in accordance with the provisions of Title 63G, Chapter 8, Part 2, Immunity for Voluntary Services.

Section 33. Section 71A-6-101, which is renumbered from Section 71-11-2 is renumbered and amended to read:

CHAPTER 6. STATE VETERANS NURSING HOME

[~~71-11-2~~]. 71A-6-101. State Veterans Nursing Home -- Definitions.

(1) As used in this chapter:

[~~(1)~~] (a) "Administrator" means a [~~Veterans Nursing Home Administrator~~] state veterans nursing home administrator selected in accordance with Section [~~71-11-5~~] 71A-6-103.

[~~(2)~~] (b) "Board" means any [~~Veterans Nursing Home Advisory Board~~] state veterans nursing home advisory board.

(c) "Home" means any state veterans nursing home.

[~~(3) "Department" means the Department of Veterans and Military Affairs created in Section 71-8-2.~~]

[~~(4) "Executive director" means the executive director of the Department of Veterans and Military Affairs.~~]

[~~(5) "Home" means any Utah Veterans Nursing Home.~~]

[~~(6) "Veteran" means the same as that term is defined in Section 68-3-12.5.~~]

(2) Terms defined in Section 71A-1-101 apply to this chapter.

Section 34. Section 71A-6-102, which is renumbered from Section 71-11-3 is renumbered and amended to read:

[~~71-11-3~~]. 71A-6-102. State Veterans Nursing Home -- Establishment and construction -- Compliance with federal requirements.

(1) The department shall [~~administer~~] be responsible for the administration and operation of state veterans nursing homes established by the Legislature, which may include contracting with a private health care provider to operate and manage each home.

(2) Each home shall:

(a) have at least an 80-bed capacity;

(b) be designed and constructed consistent with the requirements for federal funding under 38 U.S.C. Sec. 8131 et seq.; and

(c) be operated consistent with the requirements for per diem payments from the [~~United States Department of Veterans Affairs~~] VA under 38 U.S.C. Sec. 1741 et seq.

Section 35. Section 71A-6-103, which is renumbered from Section 71-11-5 is renumbered and amended to read:

[~~71-11-5~~]. 71A-6-103. State veterans nursing home -- Operation of homes -- Rulemaking authority -- Selection of administrator.

(1) The department shall, subject to the approval of the executive director:

(a) establish appropriate criteria for the admission and discharge of residents for each home, subject to the requirements in Section [~~71-11-6~~] 71A-6-104 and criteria set by the [~~United States Department of Veterans Affairs~~] VA;

(b) establish a schedule of charges for each home in cases where residents have available resources;

(c) establish standards for the operation of the homes not inconsistent with standards set by the [~~United States Department of Veterans Affairs~~] VA;

(d) make rules to implement this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(e) ensure that the homes are licensed in accordance with Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and 38 U.S.C. Sec. 1742(a).

(2) The department shall[~~, after reviewing recommendations of the board,~~]:

(a) appoint an administrator for each home; or

(b) approve the individual selected by the contract health care provider as the administrator at each home.

Section 36. Section 71A-6-104, which is renumbered from Section 71-11-6 is renumbered and amended to read:

[~~71-11-6~~]. 71A-6-104. State veterans nursing home -- Eligibility -- Admission requirements.

(1) Application for admission shall be made separately to each nursing home administrator.

(2) Veterans and their spouses or surviving spouses who are residents of Utah or who demonstrate intent to establish residency in Utah within six months of applying for admission, meet federal eligibility requirements, and are in need of nursing home care may be admitted to any home.

(3) Preference shall be given to veterans who are without adequate means of support and unable, due to wounds, disease, old age, or infirmity, to properly maintain themselves.

Section 37. Section 71A-6-105, which is renumbered from Section 71-11-7 is renumbered and amended to read:

[~~71-11-7~~]. 71A-6-105. Veterans nursing home -- Advisory boards.

(1) Each home shall have a nursing home advisory board to act as a liaison between the residents, members of the public, and the administration of the home.

(2) Each board shall consist of at least seven, but no more than 11, members appointed as follows by the executive director:

(a) one appointee of the Resident Council of the specific veterans nursing home;

(b) three veterans from the geographic area in which the veterans nursing home is located;

(c) one medical professional experienced in veteran nursing home quality of care issues;

(d) three at-large members with an interest in the success of veterans nursing homes; and

(e) one member each from:

(i) the American Legion;

(ii) Disabled American Veterans; and

(iii) the Veterans of Foreign Wars.

(3) (a) (i) Members shall serve [~~for~~] four-year terms.

(ii) Except as required by Subsection (3)(b), as terms of current board members expire, the executive director shall appoint each new or reappointed member to a four-year term beginning on July 1.

(b) The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The executive director shall make final appointments to the board by June 30 of any year in which appointments are to be made under this chapter.

(4) Vacancies not including the Resident Council representative shall be filled by the executive director within 60 days of receiving notice of a vacancy, but only for the unexpired term of the vacated member.

(5) Members may not serve more than two consecutive terms.

(6) Each board shall elect a chair annually from among its members at its first meeting after July 1.

(7) Each board shall meet at least quarterly.

(8) A majority of the members of the board present constitute a quorum for the transaction of business.

(9) Each board shall provide copies of all minutes of each meeting to the [~~Department of Veterans and Military Affairs~~] department within 14 days of approval.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 38. Section 71A-6-106, which is renumbered from Section 71-11-8 is renumbered and amended to read:

[~~71-11-8~~]. 71A-6-106. State Veterans Nursing Home Fund.

(1) There is created an expendable special revenue fund entitled the "Utah State Veterans Nursing Home Fund" to be administered by the department for the benefit of each home and its residents.

(2) All cash donations, gifts, or bequests shall be deposited in the fund and used according to the wishes of the donor.

(3) All funds received by the homes from federal or state agencies, individual insurance reimbursement, or cash payments shall be deposited in the fund.

(4) Funds received that are designated for a specific home shall be accounted for separately within the fund.

Section 39. Section 71A-6-107, which is renumbered from Section 71-11-9 is renumbered and amended to read:

[~~71-11-9~~]. 71A-6-107. State veterans nursing home -- Disposition of deceased resident's property.

(1) (a) All money or other personal property of a resident held by a home that is left on the premises of the home shall, upon the death of the resident, be held in trust to be paid or delivered to the spouse, children, grandchildren, or parent of the resident upon the presentation of proof of relationship.

(b) Any funds of a deceased resident may be disbursed for the payment of funeral expenses or any obligation owed to the home.

(2) Property owned by a deceased resident of the home who dies without heirs or next-of-kin not disposed of by will shall become the property of the home and deposited in the fund, subject to the right of any heir to reclaim the property within five years after the resident's death upon the presentation of proof of relationship.

Section 40. Section 71A-6-108, which is renumbered from Section 71-11-10 is renumbered and amended to read:

[~~71-11-10~~]. 71A-6-108. State veterans nursing home -- Hobby promotion -- Sales of articles manufactured by residents -- Proceeds to residents.

(1) Each home shall promote hobbies designed to improve the general welfare and mental condition of the residents.

(2) The home may provide limited funds to initiate a hobby program, but shall limit the program to those hobbies that, in its judgment, will be self sustaining.

(3) The department may enter into contracts with federal or state agencies or private concerns for the receipt of articles manufactured by residents of the homes.

(4) Proceeds generated by hobbies shall be used to pay for materials. Any excess proceeds shall be paid to the individual veterans who produced the articles.

Section 41. Section 71A-7-101, which is renumbered from Section 71-2-1 is renumbered and amended to read:

CHAPTER 7. VETERANS MEMORIALS AND CEMETERIES

Part 1. Memorials

[~~71-2-1~~]. 71A-7-101. Memorials by cities and towns.

(1) The boards of city commissioners, city councils, and town boards, respectively, may appropriate from any fund of the city or town available for general purposes [~~such sums as they may deem~~] amounts considered expedient for the purpose of erecting or contributing to the erection of[~~,~~] a memorial to commemorate the achievements of [~~soldiers, sailors and marines~~] uniformed service members and veterans of the state [~~of Utah in the Great World War, where such memorial is erected~~] within their respective cities or towns.

(2) The city commissioners, city council, or town board may, when authorized by the qualified electors of [~~such~~] the city or town, issue general obligation bonds [~~of such city or town~~] and devote the proceeds [~~of the same~~] to the erection of [~~such memorial~~] memorials.

Section 42. Section 71A-7-102, which is renumbered from Section 71-2-2 is renumbered and amended to read:

[~~71-2-2~~]. 71A-7-102. Memorials by counties.

(1) The county legislative body of the several counties may [~~erect~~] raise and maintain, appropriate money for, and contribute to the [~~erection~~] building and maintenance of, memorials to the memory of veterans of [~~the several~~] any wars in which the United States of America participated.

(2) Memorials may be in the form of grave adornments, public buildings, monuments, recreational areas and facilities, parks, and public places[~~; provided, that no~~].

(3) A county legislative body may not erect and maintain, assist in, or contribute to, the erection or maintenance of any memorial which is outside of the boundaries of the county.

Section 43. Section 71A-7-103, which is renumbered from Section 71-2-3 is renumbered and amended to read:

[~~71-2-3~~]. 71A-7-103. County tax for memorials.

[~~For the raising of funds with which to carry out the provisions of the next preceding section, and for such use only, the~~] The county legislative body may levy and collect an annual tax upon [~~the~~] property [~~situate~~] situated within the county to raise funds for memorials under this part.

Section 44. Section 71A-7-201, which is renumbered from Section 71-7-1 is renumbered and amended to read:

Part 2. Veteran Burials

[~~71-7-1~~]. 71A-7-201. Veteran burials -- Veterans not to be buried in ground used for paupers.

The body of [~~a person~~] an individual who dies while in the military service of the United States of America during any period of war, police action, or other period of national emergency, or the body of any veteran of the military service of the United States of America who served during any war, police action, or other period of national emergency, [~~shall~~] may not be buried in any portion of any cemetery or burial ground used for the burial of paupers.

Section 45. Section 71A-7-202, which is renumbered from Section 71-7-2 is renumbered and amended to read:

[~~71-7-2~~]. 71A-7-202. Veteran burials -- Political subdivisions may provide proper burial sites.

[~~For the purpose of giving effect to this act, cities~~] Municipalities, towns, counties, or other political subdivisions of the state [~~of Utah~~] may grant burial sites to chartered veterans organizations without financial consideration [~~therefor,~~] or may provide a proper site for the burial of any persons covered by this [~~act~~] chapter without financial consideration.

Section 46. Section 71A-7-203, which is renumbered from Section 71-7-5 is renumbered and amended to read:

[~~71-7-5~~]. 71A-7-203. Veteran burials -- Veterans Remains Organization -- Funeral service establishments -- Liability -- State agency -- Responsibilities.

(1) As used in this section:

(a) "Remains facility" means the same as a funeral service establishment defined in Section 58-9-102.

(b) "Status information" means a veteran or a veteran's dependent's name, date of birth, place of birth, date of death, Social Security number, military service number, branch of service, and military rank on date of death.

(c) "Veterans Remains Organization" means an entity recognized and authorized by the United States Veterans Administration and the National

Personnel Records Center to verify and inter the unclaimed cremated remains of United States military veterans or a veteran's dependents.

(2) A veterans remains organization may contact a remains facility for the purpose of identifying any unclaimed cremated remains of a military veteran or a veteran's dependent.

(a) Upon contact with the remains facility, the organization shall:

(i) provide identifying documentation to the remains facility; and

(ii) with the permission of the remains facility, inventory any unclaimed cremated remains in order to identify any remains of a veteran or a veteran's dependent.

(b) The organization shall contact the National Personnel Records Center to determine if any of the unclaimed cremated remains are:

(i) a veteran's or a veteran's dependent's remains; and

(ii) eligible for interment benefits.

(c) The organization shall claim any unclaimed cremated remains from a remains facility upon providing the facility with proof that the remains are those of a veteran or a veteran's dependent and are eligible for interment benefits.

(d) The organization shall make arrangements to inter the remains.

(3) A remains facility:

(a) may allow a veterans remains organization, upon presentation of identification, to inventory unclaimed cremated remains;

(b) shall provide all status information in the remains facility's possession to a veterans remains organization;

(c) shall release any unclaimed cremated remains to a veterans remains organization upon presentation of documentation that the remains are of a veteran or a veteran's dependent who is eligible for burial in a state or national cemetery; and

(d) is not subject to civil liability for release of status information or release of the unclaimed cremated remains following the presentation of documentation indicating the remains are those of a veteran or a veteran's dependent and eligible for interment benefits.

(4) The [~~Department of Veterans and Military Affairs~~] department shall, upon presentation of documentation that certain cremated remains in the possession of a veterans remains organization are those of a veteran or a veteran's dependent and eligible for interment benefits:

(a) authorize the interment of the cremated remains in a state veterans cemetery; and

(b) provide assistance to the veterans remains organization in the interment process.

Section 47. Section 71A-7-301, which is renumbered from Section 71-7-3 is renumbered and amended to read:

Part 3. Veterans Cemeteries

[~~71-7-3~~]. 71A-7-301. Veterans cemeteries -- Development, operation, and maintenance -- Responsibilities of Department -- Costs.

(1) The [~~Department of Veterans and Military Affairs~~] department shall develop, operate, and maintain [~~a~~] veterans [~~cemetery and memorial park~~] cemeteries.

(2) To help pay the costs of developing, constructing, operating, and maintaining [~~a~~] veterans [~~cemetery and memorial park~~] cemeteries, the [~~Department of Veterans and Military Affairs~~] department may:

(a) [~~by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act,~~] receive federal funds[~~, and may~~] by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act;

(b) receive state funds, contributions from veterans organizations, and other private donations; and

[~~(b)~~] (c) charge fees for at least the cost of the burial of a veteran's spouse and any other persons, [~~whom~~] who the department determines [~~are~~] is eligible to be buried in a veterans cemetery established by the state.

[~~(3) "Veteran" has the same meaning as defined in Section 68-3-12.5.~~]

Section 48. Section 71A-8-101, which is renumbered from Section 39-3-1 is renumbered and amended to read:

CHAPTER 8. EMPLOYEES IN MILITARY SERVICE

[~~39-3-1~~]. 71A-8-101. Public officers and employees in military service -- Not to be prejudiced thereby -- Refusal to reinstate -- Procedure -- Motion -- Hearing and determination.

(1) As used in this chapter, "public officer" means the same as that term is defined in Section 67-16-3.

(2) A [~~public employee,~~] public officer[~~, or legislative employee, as defined in Section 67-16-3,~~] who enters state or federal active service in any branch of the armed forces of this state or of the United States shall be granted a leave of absence not to exceed five years during that service.

[~~(2)~~] (3) (a) A person entitled to a leave of absence under this section shall be restored to the same position, or to a position equivalent to the same position, which the person held immediately prior to the commencement of active military service.

(b) A request for restoration of employment under this section must be submitted within 40 days after release from active service.

(c) Restoration of employment shall be made within 20 days after submission of the request to the employer.

(d) A person returning from active military service may not, without cause, be discharged or subjected to reduction of compensation for a period of one year following a return to employment under this section.

[~~(3)~~] (4) A person returning to employment under this section:

(a) shall retain all personal, sick, and other leave to which the person was entitled immediately prior to the commencement of active military service;

(b) shall receive and earn benefits and compensation at a level not less than that to which the person would have been entitled had the officer or employee not been absent due to active military service; and

(c) may not be prejudiced, by the preservice employer or that employer's successor in interest, as to employment, appointment, reappointment, reemployment, or promotion by reason of the employee's active military service.

[~~(4)~~] (5) (a) [~~No public employee,~~] A public officer[~~, or legislative employee~~] may not be required to resign from, vacate, or forfeit a governmental office or position as a consequence of entering into active military service.

(b) A person in active military service is not considered to be holding an office or position of trust or employment under the United States government for purposes of determining whether that person is disqualified or prohibited from retaining a position or serving as a [~~public employee,~~] public officer[~~, or legislative employee~~].

(c) Nothing in this section shall serve to extend a period of employment or term of office beyond that to which the affected person was elected or appointed. A person who is a legislator or public officer for a specific term by virtue of election or appointment is entitled to a leave of absence under this section for a period not to exceed the applicable term.

[~~(5)~~] (6) A person denied restoration of employment or benefits given under this [~~section~~] chapter may petition the district court of the county in which the person resides, or in which the denial occurs, to require the public employer to comply with the provisions of this section without delay. Fees or court costs may not be assessed against the petitioner. The court shall order a speedy hearing in the case and advance it on the calendar so far as reasonably possible. If the court determines that the petitioner is entitled to relief, the court shall order all appropriate relief, to include compensation for loss of wages and benefits and an award of attorneys' fees and costs.

Section 49. Section 71A-8-102, which is renumbered from Section 39-3-2 is renumbered and amended to read:

[~~39-3-2~~]. 71A-8-102. Employees in military service -- Government employees in United States armed forces or National Guard -- Pay allowance for time spent on duty -- Deduction of vacation time prohibited.

(1) All state employees who are members of the organized reserve of the United States armed forces, including the National Guard of this state, shall be allowed full pay for all time not in excess of 15 days per year spent [~~on duty at annual encampment or rifle competition or other duties in connection with the reserve training and instruction~~] fulfilling the service requirements of the armed forces of the United States, including the National Guard of this state. This leave shall be in addition to any annual vacation leave with pay to which an employee may be entitled.

(2) County and municipal employees who are members of the organized reserve of the United States armed forces, including the National Guard of this state, may be allowed up to full pay for all time not in excess of 15 days per year spent [~~on duty at annual encampment or rifle competition or other duties in connection with the reserve training and instruction~~] fulfilling the service requirements of the armed forces of the United States, including the National Guard of this state. This leave is at the discretion of the employing county or municipality and, if granted, shall be in addition to annual vacation leave with pay.

(3) The governor, counties, and municipal agencies may adopt ordinances, exceptions, rules, or policies that:

(a) provide more than 15 days of paid military leave;

(b) provide for differential pay that compensates the difference, if any, between the service member's civilian pay and military pay, not to include allowances; and

(c) extend health, dental, vision, disability, and life insurance benefits to members of the National Guard and reserves activated for more than 30 days.

Section 50. Section 71A-8-103, which is renumbered from Section 39-1-64 is renumbered and amended to read:

[~~39-1-64~~]. 71A-8-103. Employees in military service -- Extension of licenses for members of National Guard and reservists ordered to active duty.

(1) As used in this section, "license" means any license issued under:

(a) Title 58, Occupations and Professions; and

(b) Section 26-8a-302.

(2) Any license held by a member of the National Guard or reserve component of the armed forces

that expires while the member is on state or federal active duty shall be extended until 90 days after the member is discharged from active duty status.

(3) The licensing agency shall renew a license extended under Subsection (2) until the next date that the license expires or for the period that the license is normally issued, at no cost to the member of the National Guard or reserve component of the armed forces if all of the following conditions are met:

(a) the National Guard member or reservist requests renewal of the license within 90 days after being discharged;

(b) the National Guard member or reservist provides the licensing agency with a copy of the member's or reservist's official orders calling the member or reservist to active duty, and official orders discharging the member or reservist from active duty; and

(c) the National Guard member or reservist meets all the requirements necessary for the renewal of the license, except the member or reservist need not meet the requirements, if any, that relate to continuing education or training.

(4) The provisions of this section do not apply to:

(a) regularly scheduled annual training;

(b) in-state active National Guard and reserve orders; or

(c) orders that do not require the service member to relocate outside of this state.

Section 51. Section 71A-8-104, which is renumbered from Section 39-7-118 is renumbered and amended to read:

~~[39-7-118]~~. 71A-8-104. Employees in military service -- Professional liability protection for certain persons ordered to active duty in the armed forces.

(1) This section applies to a person who:

(a) is ordered to state or federal military service, other than training; and

(b) immediately before receiving the order to military service:

(i) was engaged in the furnishing of health-care services or other services determined by rule to be professional services; and

(ii) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to the service member during the period of the service member's active duty unless the premiums are paid for coverage for that period.

(2) Coverage of a person referred to in Subsection (1) by a professional liability insurance policy shall be suspended by the insurance carrier in accordance with Subsection (3) upon receipt of a written request by the service member.

(3) A professional liability insurance carrier:

(a) may not require that premiums be paid by or on behalf of a service member for any professional liability insurance coverage suspended pursuant to Subsection (2); and

(b) shall refund any amount paid for coverage for the period of the suspension or, upon the election of the service member, apply the amount for the payment of any premium becoming due upon the reinstatement of the coverage.

(4) A professional liability insurance carrier is not liable with respect to any claim that is based on professional conduct, including any failure to take any action in a professional capacity of a person that occurs during a period of suspension of that person's professional liability insurance under this section. For the purposes of the preceding sentence, a claim based upon the failure of a professional to make adequate provision for patients to be cared for during the period of the professional's military service is considered an action or failure to take action before the beginning of the period of suspension of professional liability insurance under this section, except in a case in which professional services were provided after the date of the beginning of the period.

(5) (a) Professional liability insurance coverage suspended in the case of any service member pursuant to Subsection (2) shall be reinstated by the insurance carrier on the date on which the service member transmits to the insurance carrier a written request for reinstatement.

(b) The request of a service member for reinstatement shall be effective only if the service member transmits the request to the insurance carrier within 30 days after the date on which the service member's military service is terminated. The insurance carrier shall notify the person of the due date for payment of the insurance premium. The premium shall be paid by the person within 30 days after receipt of the notice.

(6) The period for which professional liability insurance coverage shall be reinstated for a service member under this section may not be less than the balance of the period for which coverage would have continued under the policy if the coverage had not been suspended.

(7) An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any service member for the minimum period of the reinstatement of coverage required under Subsection (5) to an amount greater than the amount chargeable for the coverage for the period before the suspension, except to the extent of any general increase in the premium amounts charged by that carrier for the same professional liability coverage for other persons similarly covered by the same insurance during the period of the suspension.

(8) This section does not:

(a) require a suspension of professional liability insurance coverage for any person who is not a person referred to in Subsection (1) and who is covered by the same professional liability insurance as a person referred to in Subsection (1); or

(b) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

(9) A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a person whose professional liability insurance coverage has been suspended under Subsection (2) shall be stayed until the end of the period of the suspension if:

(a) the action was commenced during the period or suspension;

(b) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

(c) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of the person.

Section 52. Section 76-5-102.4 is amended to read:

76-5-102.4. Assault against peace officer or a military service member in uniform -- Penalties.

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

(i) "Assault" means an offense under Section 76-5-102.

(ii) "Military [~~servicemember~~] service member in uniform" means:

(A) a member of any branch of the United States military who is wearing a uniform as authorized by the member's branch of service; or

(B) a member of the National Guard serving as provided in Section 39A-3-103.

(iii) "Peace officer" means:

(A) a law enforcement officer certified under Section 53-13-103;

(B) a correctional officer under Section 53-13-104;

(C) a special function officer under Section 53-13-105; or

(D) a federal officer under Section 53-13-106.

(iv) "Threat of violence" means an offense under Section 76-5-107.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits assault against a peace officer if:

(i) the actor commits an assault or threat of violence against a peace officer, with knowledge that the peace officer is a peace officer; and

(ii) at the time of the assault or threat of violence, the peace officer was acting within the scope of authority as a peace officer.

(b) An actor commits an assault or threat of violence against a military [~~servicemember~~] service member in uniform if:

(i) the actor commits an assault or threat of violence against a military [~~servicemember~~] service member in uniform; and

(ii) at the time of the assault or threat of violence, the [~~servicemember~~] service member was on orders and acting within the scope of authority granted to the military [~~servicemember~~] service member in uniform.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:

(i) has been previously convicted of a class A misdemeanor or a felony violation of this section; or

(ii) causes substantial bodily injury.

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second degree felony if the actor uses:

(i) a dangerous weapon; or

(ii) other means or force likely to produce death or serious bodily injury.

(4) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech, the right of assembly, or any other recognized rights secured by the [~~Constitution or laws of Utah or by the Constitution or laws of the United States~~] Utah Constitution or laws, or by the United States Constitution or federal law.

(5) An actor who violates this section shall serve, in jail or another correctional facility, a minimum of:

(a) 90 consecutive days for a second offense; and

(b) 180 consecutive days for each subsequent offense.

(6) The court may suspend the imposition or execution of the sentence required under Subsection (5) if the court finds that the interests of justice would be best served by the suspension and the court makes specific findings concerning the disposition on the record.

Section 53. Section 78A-5-302 is amended to read:

78A-5-302. Definitions.

As used in this part:

(1) "Defendant" means a veteran charged with a criminal offense.

(2) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(3) (a) "Participant agreement" means the record, required by Subsection 78A-5-304(1), of the policies and procedures of a veterans treatment court and any specific terms and conditions applicable to the defendant.

(b) "Participant agreement" includes a modification under Section 78A-5-310.

(4) "Record," except as otherwise provided in Subsection 78A-5-307(1)(c), means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(5) "[~~Servicemember~~] Service member" means:

(a) a member of the active or reserve components of the armed forces as defined in Section 68-3-12.5; or

(b) a member of the National Guard of the United States.

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

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

(7) "Veteran" means a former [~~servicemember~~] service member who qualifies for health care benefits from the Veterans Administration.

(8) "Veterans treatment court" means a veterans treatment court program administered under this part by a court of this state.

Section 54. Section 78B-20-102 is amended to read:

78B-20-102. Definitions.

As used in this chapter:

(1) "Adult" means an individual who has attained 18 years [~~of age~~] old or is an emancipated minor.

(2) (a) "Caretaking authority" means the right to live with and care for a child on a day-to-day basis.

(b) "Caretaking authority" includes physical custody, parent-time, right to access, and visitation.

(3) "Child" means:

(a) an unemancipated individual who has not attained 18 years [~~of age~~] old; or

(b) an adult son or daughter by birth or adoption, or under law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.

(4) "Court" means a tribunal, including an administrative agency, authorized under the law of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.

(5) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child. The term includes physical custody, legal custody, parent-time, right to access, visitation, and authority to grant limited contact with a child.

(6) "Decision-making authority" means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. The term does not include the power to make decisions that necessarily accompany a grant of caretaking authority.

(7) "Deploying parent" means a [~~servicemember~~] service member who is deployed or has been notified of impending deployment and is:

(a) a parent of a child under the law of this state other than this chapter; or

(b) an individual who has custodial responsibility for a child under the law of this state other than this chapter.

(8) "Deployment" means the movement or mobilization of a [~~servicemember~~] service member for more than 90 days but less than 18 months pursuant to uniformed service orders that:

(a) are designated as unaccompanied;

(b) do not authorize dependent travel; or

(c) otherwise do not permit the movement of family members to the location to which the [~~servicemember~~] service member is deployed.

(9) "Family care plan" means a formal written contingency plan mandated by regulation of the various departments and components of the uniformed service that requires certain [~~servicemember~~] service member parents of minor children to plan in advance for the smooth, rapid transfer of parental responsibilities to designees during the absence of the [~~servicemember~~] service member due to death, incapacity, short-term absences, long-term absences, including deployments, or noncombatant evacuation operations.

(10) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child, or an individual recognized to be in a familial relationship with a child under the law of this state other than this chapter.

(11) (a) "Limited contact" means the authority of a nonparent to visit a child for a limited time.

(b) "Limited contact" includes authority to take the child to a place other than the residence of the child.

(12) "Nonparent" means an individual other than a deploying parent or other parent.

(13) "Other parent" means an individual who, in common with a deploying parent, is:

(a) a parent of a child under the law of this state other than this chapter; or

(b) an individual who has custodial responsibility for a child under the law of this state other than this chapter.

(14) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) "Return from deployment" means the conclusion of a [~~servicemember's~~] service member's deployment as specified in uniformed service orders.

(16) "[~~Servicemember~~] Service member" means a member of a uniformed service.

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

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

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

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

(19) "Uniformed service" means:

(a) active and reserve components of the United States armed forces;

(b) the United States Merchant Marine;

(c) the commissioned corps of the United States Public Health Service;

(d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(e) the [~~national guard~~] National Guard of a state.

Section 55. Section 78B-20-107 is amended to read:

78B-20-107. General consideration in custody proceeding of parent's military service.

In a proceeding for custodial responsibility of a child of a [~~servicemember~~] service member, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interest of the child but may consider any significant impact on the best interest of the child of the parent's past or possible future deployment.

Section 56. Repealer.

This bill repeals:

Section 39-1-36, Reserve member of armed forces -- Leave of absence from employment -- Liability of employers.

Section 71-3-1, Use of armories by veterans organizations permitted.

Section 71-8-2, Department of Veterans and Military Affairs created -- Appointment of executive director -- Department responsibilities.

Section 71-8-3, Duties of executive director -- Services to veterans.

Section 71-8-5, Veterans services coordinator qualifications -- Duties.

Section 71-8-6, Government entity participation.

Section 71-8-7, Government entity veterans affairs specialist -- Duties -- Training.

Section 71-8-8, Entity that provides no services -- Referral to department.

Section 71-11-1, Title.

Section 71-11-4, Administration by department.

Section 71-12-101, Title.

Section 71-13-101, Title.

CHAPTER 45
H. B. 69
Passed March 1, 2023
Approved March 13, 2023
Effective May 3, 2023

ELECTION MODIFICATIONS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill modifies provisions of the Election Code.

Highlighted Provisions:

This bill:

- authorizes a municipal clerk and the lieutenant governor to receive a voter registration form;
- for a voter that changes party affiliation or becomes unaffiliated from a political party, modifies the day the voter can vote in a regular primary or presidential primary election;
- establishes consistent deadlines for various election-related notices;
- modifies the frequency of the lieutenant governor's audit report of the voter registration database;
- modifies the requirements for a printed ballot for municipal primary elections;
- eliminates the requirement to include a ballot proposition insert with an official ballot if the information appearing on the insert is printed on the ballot;
- defines the term "filing officer" to include a state school board;
- specifies the time the filing period begins for a declaration of candidacy;
- requires an election official to notify an opposing candidate and voters when a candidate for elective office is disqualified or withdraws;
- requires a filing officer to notify a candidate if the candidate fails to make a conflict-of-interest disclosure; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill includes a coordination clause.

Utah Code Sections Affected:

AMENDS:

10-3-208, as last amended by Laws of Utah 2022, Chapter 151
17-16-6.5, as last amended by Laws of Utah 2019, Chapter 74
20A-2-102.5, as last amended by Laws of Utah 2020, Chapter 31
20A-2-107, as last amended by Laws of Utah 2022, Chapter 170
20A-2-107.5, as last amended by Laws of Utah 2021, Chapter 430
20A-3a-604, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
20A-4-104, as last amended by Laws of Utah 2022, Chapter 380
20A-5-101, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
20A-5-403.5, as last amended by Laws of Utah 2022, Chapter 156
20A-5-405, as last amended by Laws of Utah 2022, Chapter 170
20A-5-901, as enacted by Laws of Utah 2022, Chapter 156
20A-6-401, as last amended by Laws of Utah 2020, Chapter 31
20A-7-209, as last amended by Laws of Utah 2022, Chapter 251
20A-7-210, as last amended by Laws of Utah 2019, Chapter 275
20A-7-308, as last amended by Laws of Utah 2022, Chapter 251
20A-7-508, as last amended by Laws of Utah 2022, Chapter 251
20A-7-608, as last amended by Laws of Utah 2022, Chapter 251
20A-9-101, as last amended by Laws of Utah 2022, Chapters 13, 325
20A-9-201.5, as enacted by Laws of Utah 2022, Chapter 13
20A-11-206, as last amended by Laws of Utah 2021, Chapter 20
20A-11-305, as last amended by Laws of Utah 2021, Chapter 20
20A-11-1305, as last amended by Laws of Utah 2020, Chapters 22, 31
20A-11-1603, as last amended by Laws of Utah 2021, Chapter 20

ENACTS:

20A-9-207, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

20A-7-209, as last amended by Laws of Utah 2022, Chapter 251
20A-7-508, as last amended by Laws of Utah 2022, Chapter 251

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

Section 1. Section 10-3-208 is amended to read:

10-3-208. Campaign finance disclosure in municipal election.

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:

(a) "Agent of a candidate" means:

(i) a person acting on behalf of a candidate at the direction of the reporting entity;

(ii) a person employed by a candidate in the candidate's capacity as a candidate;

(iii) the personal campaign committee of a candidate;

(iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or

(v) a political consultant of a candidate.

(b) "Anonymous contribution limit" means for each calendar year:

(i) $50; or

(ii) an amount less than $50 that is specified in an ordinance of the municipality.

(c) (i) "Candidate" means a person who:

(A) files a declaration of candidacy for municipal office; or

(B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

(d) (i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

(B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;

(C) any transfer of funds from another reporting entity to the candidate;

(D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;

(E) a loan made by a candidate deposited to the candidate's own campaign; and

(F) an in-kind contribution.

(ii) "Contribution" does not include:

(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

(C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

(e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

(i) with the candidate's prior knowledge, if the candidate does not object;

(ii) by agreement with the candidate;

(iii) in coordination with the candidate; or

(iv) using official logos, slogans, and similar elements belonging to a candidate.

(f) (i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:

(A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a);

(B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;

(E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or

(F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.

(ii) "Expenditure" does not include:

(A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

(B) money lent to a candidate by a financial institution in the ordinary course of business.

(g) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.

(h) (i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

(ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i), where the person:

(A) has already been paid, with money or other consideration;

(B) expects to be paid in the future, with money or other consideration; or

(C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.

(i) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal office at any caucus, political convention, or election.

(j) "Reporting entity" means:

(i) a candidate;

(ii) a committee appointed by a candidate to act for the candidate;

(iii) a person who holds an elected municipal office;

(iv) a party committee as defined in Section 20A-11-101;

(v) a political action committee as defined in Section 20A-11-101;

(vi) a political issues committee as defined in Section 20A-11-101;

(vii) a corporation as defined in Section 20A-11-101; or

(viii) a labor organization as defined in Section 20A-11-1501.

(2) (a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3) through (7).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).

(c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3) through (7).

(3) Each candidate:

(a) shall deposit a contribution in a separate campaign account in a financial institution; and

(b) may not deposit or mingle any campaign contributions received into a personal or business account.

(4) (a) In a year in which a municipal primary is held, each candidate who will participate in the municipal primary shall file a campaign finance statement with the municipal clerk or recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).

(b) Each candidate who is not eliminated at a municipal primary election shall file a campaign finance statement with the municipal clerk or recorder no later than:

(i) 28 days before the day on which the municipal general election is held;

(ii) seven days before the day on which the municipal general election is held; and

(iii) 30 days after the day on which the municipal general election is held.

(c) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement within 30 days after the day on which the municipal primary election is held.

(5) If a municipality does not conduct a primary election for a race, each candidate who will participate in that race shall file a campaign finance statement with the municipal clerk or recorder no later than:

(a) 28 days before the day on which the municipal general election is held;

(b) seven days before the day on which the municipal general election is held; and

(c) 30 days after the day on which the municipal general election is held.

(6) Each campaign finance statement described in Subsection (4) or (5) shall:

(a) except as provided in Subsection (6)(b):

(i) report all of the candidate's itemized and total:

(A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and

(B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and

(ii) identify:

(A) for each contribution, the amount of the contribution and the name of the donor, if known; and

(B) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

(b) report the total amount of all contributions and expenditures if the candidate receives $500 or less in contributions and spends $500 or less on the candidate's campaign.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the anonymous contribution limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8) (a) A municipality may, by ordinance:

(i) provide an anonymous contribution limit less than $50;

(ii) require greater disclosure of contributions or expenditures than is required in this section; and

(iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.

(b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (8)(a) if:

(i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (9).

(9) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 35 days before each municipal general election, notify the candidate in writing of:

(a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;

(b) the dates when the candidate's campaign finance statement is required to be filed; and

(c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.

(10) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

(11) (a) If a candidate fails to timely file a campaign finance statement required under Subsection (4) or (5), the municipal clerk or recorder:

(i) may send an electronic notice to the candidate that states:

(A) that the candidate failed to timely file the campaign finance statement; and

(B) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified; and

(ii) may impose a fine of $50 on the candidate.

(b) The municipal clerk or recorder shall disqualify a candidate and inform the appropriate election official that the candidate is disqualified if the candidate fails to file a campaign finance statement described in Subsection (4) or (5) within 24 hours after the deadline for filing the report.

(c) If a candidate is disqualified under Subsection (11)(b)[~~, the election official:~~], the election official:

[~~(i) (A) shall, if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or~~]

[~~(B) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and~~]

[~~(ii) may not count any votes for that candidate.~~]

(i) shall:

(A) notify every opposing candidate for the municipal office that the candidate is disqualified;

(B) send an email notification to each voter who is eligible to vote in the municipal election office race for whom the election official has an email address informing the voter that the candidate is disqualified and that votes cast for the candidate will not be counted;

(C) post notice of the disqualification on a public website; and

(D) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; and

(ii) may not count any votes for that candidate.

(12) An election official may fulfill the requirements described in Subsection (11)(c)(i) in relation to a mailed ballot, including a military overseas ballot, by including with the ballot a written notice:

(a) informing the voter that the candidate is disqualified; or

(b) directing the voter to a public website to inform the voter whether a candidate on the ballot is disqualified.

[~~(d)~~] (13) Notwithstanding Subsection (11)(b), a candidate who timely files each campaign finance statement required under Subsection (4) or (5) is not disqualified if:

[~~(i)~~] (a) the statement details accurately and completely the information required under Subsection (6), except for inadvertent omissions or insignificant errors or inaccuracies; and

[~~(ii)~~] (b) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

[~~(e)~~] (14) A candidate for municipal office who is disqualified under Subsection (11)(b) shall file with the municipal clerk or recorder a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

[~~(12)~~] (15) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

[~~(13)~~] (16) (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection [~~(13)(a),~~] (16)(a), the court may award costs and attorney fees to the prevailing party.

Section 2. Section 17-16-6.5 is amended to read:

17-16-6.5. Campaign financial disclosure in county elections.

(1) (a) A county shall adopt an ordinance establishing campaign finance disclosure requirements for:

(i) candidates for county office; and

(ii) candidates for local school board office who reside in that county.

(b) The ordinance required by Subsection (1)(a) shall include:

(i) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;

(iii) a requirement that the financial reports identify:

(A) for each contribution, the name of the donor of the contribution, if known, and the amount of the contribution; and

(B) for each expenditure, the name of the recipient and the amount of the expenditure;

(iv) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account in a financial institution;

(v) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account; and

(vi) a requirement that a candidate for county office who receives a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:

(A) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(B) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(c) (i) As used in this Subsection (1)(c), "account" means an account in a financial institution:

(A) that is not described in Subsection (1)(b)(iv); and

(B) into which or from which a person who, as a candidate for an office, other than a county office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(ii) The ordinance required by Subsection (1)(a) shall include a requirement that a candidate for county office or local school board office include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an account:

(A) since the last financial report was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through (8).

(3) A candidate for elective office in a county or local school board office:

(a) shall deposit a contribution in a separate campaign account in a financial institution; and

(b) may not deposit or mingle any contributions received into a personal or business account.

(4) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:

(a) seven days before the date of the regular general election, reporting each contribution and each expenditure as of 10 days before the date of the regular general election; and

(b) no later than 30 days after the date of the regular general election.

(5) (a) The statement filed seven days before the regular general election shall include:

(i) a list of each contribution received by the candidate, and the name of the donor, if known; and

(ii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the regular general election shall include:

(i) a list of each contribution received after the cutoff date for the statement filed seven days before the election, and the name of the donor; and

(ii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (3)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person filed a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person filed a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection (4) or (5):

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(9) Any person who fails to comply with this section is guilty of an infraction.

(10) (a) Counties may, by ordinance, enact requirements that:

(i) require greater disclosure of campaign contributions and expenditures; and

(ii) impose additional penalties.

(b) The requirements described in Subsection (10)(a) apply to a local school board office candidate who resides in that county.

(11) If a candidate fails to file an interim report due before the election, the county clerk:

(a) may send an electronic notice to the candidate and the political party of which the candidate is a member, if any, that states:

(i) that the candidate failed to timely file the report; and

(ii) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified and the political party will not be permitted to replace the candidate; and

(b) impose a fine of $100 on the candidate.

(12) (a) The county clerk shall disqualify a candidate and inform the appropriate election officials that the candidate is disqualified if the candidate fails to file an interim report described in Subsection (11) within 24 hours after the deadline for filing the report.

(b) The political party of a candidate who is disqualified under Subsection (12)(a) may not replace the candidate.

(c) A candidate who is disqualified under Subsection (12)(a) shall file with the county clerk a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

(13) If a candidate is disqualified under Subsection (12)(a) [~~the election official:~~], the election official:

[~~(a) (i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or~~]

[~~(ii) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and~~]

[~~(b) may not count any votes for that candidate.~~]

(a) shall:

(i) notify every opposing candidate for the county office that the candidate is disqualified;

(ii) send an email notification to each voter who is eligible to vote in the county election office race for whom the election official has an email address informing the voter that the candidate is disqualified and that votes cast for the candidate will not be counted;

(iii) post notice of the disqualification on the county's website; and

(iv) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; and

(b) may not count any votes for that candidate.

(14) An election official may fulfill the requirement described in Subsection (13)(a) in relation to [~~an~~] [~~absentee voter~~] a mailed ballot,

including a military or overseas [~~absentee voter~~] ballot, by including with the [~~absentee~~] ballot a written notice directing the voter to [~~a public~~] the county's website [~~that will~~] to inform the voter whether a candidate on the ballot is disqualified.

(15) A candidate is not disqualified if:

(a) the candidate files the interim reports described in Subsection (11) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(16) (a) A report is considered timely filed if:

(i) the report is received in the county clerk's office no later than midnight, Mountain Time, at the end of the day on which the report is due;

(ii) the report is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a report is due, the county clerk shall permit a candidate to file the report via email or another electronic means designated by the county clerk.

(17) (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection (17)(a), the court shall award costs and attorney fees to the prevailing party.

(18) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the county's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

Section 3. Section 20A-2-102.5 is amended to read:

20A-2-102.5. Voter registration deadline.

(1) Except as otherwise provided in Chapter 16, Uniform Military and Overseas Voters Act, an individual who fails to timely submit a correctly completed voter registration form may not vote in the election.

(2) The voter registration deadline is as follows:

(a) the voter registration must be received by the county clerk, the municipal clerk, or the lieutenant governor no later than 5 p.m. 11 calendar days before the date of the election, if the individual registers to vote:

(i) at the office of the county clerk, in accordance with Section 20A-2-201;

(ii) by mail, in accordance with Section 20A-2-202;

(iii) via an application for a driver license, in accordance with Section 20A-2-204;

(iv) via a public assistance agency or a discretionary voter registration agency, in accordance with Section 20A-2-205; or

(v) via electronic registration, in accordance with Section 20A-2-206;

(b) before the polls close on the last day of early voting, described in Section 20A-3a-601, if the individual registers by casting a provisional ballot at an early voting location in accordance with Section 20A-2-207; or

(c) before polls close on the date of the election, if the individual registers to vote on the date of the election by casting a provisional ballot, in accordance with Section 20A-2-207.

Section 4. Section 20A-2-107 is amended to read:

20A-2-107. Designating or changing party affiliation -- Times permitted.

(1) The county clerk shall:

(a) except as provided in Subsection (3) or [~~20A-2-107.5(1)(c)~~] 20A-2-107.5(1)(b), record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(b) if no political party affiliation is designated by the voter on the voter registration form:

(i) except as provided in Subsection (1)(b)(ii), record the voter's party affiliation as the party that the voter designated the last time that the voter designated a party on a voter registration form, unless the voter more recently registered as "unaffiliated"; or

(ii) record the voter's party affiliation as "unaffiliated" if the voter:

(A) did not previously designate a party;

(B) most recently designated the voter's party affiliation as "unaffiliated"; or

(C) did not previously register.

(2) (a) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of this Subsection (2).

(b) A registered voter may designate or change the voter's political party affiliation by filing a signed form with the county clerk that identifies the registered political party with which the voter chooses to affiliate.

(c) Except as provided in Subsection (2)(d), a signed form designating or changing a voter's political party affiliation takes effect when the county clerk receives the signed form.

(d) In an even-numbered year, a form described in Subsection (2)(c) received by the county clerk after March 31 takes effect on the day after the statewide canvass for that year's regular primary election if the form changes a registered voter's affiliation with one political party to affiliate with another political party.

(e) Any part of a form described in Subsection (2)(d), other than the voter's designation or change of political party affiliation, takes effect when the county clerk receives the signed form.

(f) For purposes of Subsection (2)(d), a signed form described in Subsection (2)(c) is received by the county clerk on or before March 31 if:

(i) the individual submits the form in person at the county clerk's office no later than 5 p.m. on the last business day before April 1;

(ii) the individual submits the form electronically through the system described in Section 20A-2-206, at or before 11:59 p.m. on March 31; or

(iii) the individual's form is clearly postmarked on or before March 31.

(g) Subsection (2)(d) does not apply to the party affiliation designated by a voter on the voter registration form if:

(i) the voter has not previously been registered to vote in the state; or

(ii) the voter's most recent party affiliation was changed to "unaffiliated" by a county clerk under Subsection (3).

(3) If the most recent party affiliation designated by a voter is for a political party that is no longer a registered political party, the county clerk shall:

(a) change the voter's party affiliation to "unaffiliated"; and

(b) notify the voter electronically or by mail:

(i) that the voter's affiliation has been changed to "unaffiliated" because the most recent party affiliation designated by the voter is for a political party that is no longer a registered political party; and

(ii) of the methods and deadlines for changing the voter's party affiliation.

Section 5. Section 20A-2-107.5 is amended to read:

20A-2-107.5. Designating or changing party affiliation -- Regular primary election and presidential primary election.

(1) At any regular primary election or presidential primary election:

[~~(a) each county clerk shall provide change of party affiliation forms to the poll workers for each voting precinct within the county;~~]

[~~(b) except as provided in Subsection (1)(c), a registered voter who is classified as "unaffiliated" may affiliate with a political party by completing the form and giving it to the poll worker; and~~]

[~~(c) for an unaffiliated voter who was affiliated with a political party at any time between April 1 and the date of the regular primary election, a form described in Subsection (1)(a) takes effect on the day after the regular primary election.~~]

(a) a registered voter who is classified as "unaffiliated" may affiliate with a political party by completing a change of party affiliation form or voter registration form and submitting the form to the county clerk or a poll worker; and

(b) the party affiliation of a voter who changes party affiliation, or who becomes unaffiliated from a political party, at any time between April 1 and the date of the regular primary election, takes effect on the day after the statewide canvass for the regular primary election.

(2) An unaffiliated voter who affiliates with a political party [~~as provided in~~] under Subsection [~~(1)(b)~~] (1)(a) may vote in that party's primary election.

Section 6. Section 20A-3a-604 is amended to read:

20A-3a-604. Notice of time and place of early voting.

(1) Except as provided in Section 20A-1-308 or Subsection 20A-3a-603(2), the election officer shall, at least [~~19~~] 28 days before the date of the election, provide notice of the dates, times, and locations of early voting:

(a) (i) by publishing notice in at least one issue of a newspaper of general circulation in the county;

(ii) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents in the county, subject to a maximum of 10 notices; or

(iii) by mailing notice to each registered voter in the county;

(b) by posting notice at each early voting polling place;

(c) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for [~~19~~] 28 days before the day of the election; and

(d) by posting notice on the county's website for [~~19~~] 28 days before the day of the election.

(2) Instead of specifying all dates, times, and locations of early voting, a notice required under Subsection (1) may specify the following sources where a voter may view or obtain a copy of all dates, times, and locations of early voting:

(a) the county's website;

(b) the physical address of the county's offices; and

(c) a mailing address and telephone number.

(3) The election officer shall include in the notice described in Subsection (1):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

Section 7. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall provide public notice of the time and place of the test:

(i) (A) by publishing notice at least [~~48 hours~~] 10 days before the test in a newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used;

(B) at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction, subject to a maximum of 10 notices; or

(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the test; and

(iii) if the county, municipality, or jurisdiction has a website, by posting notice on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) (a) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(i) make a true replication of the ballot with an identifying serial number;

(ii) substitute the replicated ballot for the damaged or defective ballot;

(iii) label the replicated ballot "replicated"; and

(iv) record the replicated ballot's serial number on the damaged or defective ballot.

(b) The lieutenant governor shall provide to each election officer a standard form on which the election officer shall maintain a log of all replicated ballots, that includes, for each ballot:

(i) the serial number described in Subsection (3)(a);

(ii) the identification of the individuals who replicated the ballot;

(iii) the reason for the replication; and

(iv) any other information required by the lieutenant governor.

(c) An election officer shall:

(i) maintain the log described in Subsection (3)(b) in a complete and legible manner, as ballots are replicated;

(ii) at the end of each day during which one or more ballots are replicated, make an electronic copy of the log; and

(iii) keep each electronic copy made under Subsection (3)(c)(ii) for at least 22 months.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

(6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(7) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 8. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall provide notice, in accordance with Subsection (3):

(i) by posting notice in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county;

(ii) (A) by publishing notice in a newspaper of general circulation in the county;

(B) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county, subject to a maximum of 10 notices; or

(C) by mailing notice to each registered voter in the county;

(iii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the election; and

(iv) by posting notice on the county's website for seven days before the day of the election.

(b) The county clerk shall prepare an affidavit of the posting under Subsection (2)(a)(i), showing a copy of the notice and the places where the notice was posted.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(f) the qualifications for persons to vote in the election.

(5) The election officer shall provide the notice described in Subsection (4):

(a) (i) by publishing the notice in a newspaper of general circulation in the jurisdiction to which the election pertains, at least [~~two~~] five days before the day of the election;

(ii) at least [~~two~~] five days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing the notice to each registered voter who resides in the jurisdiction to which the election pertains at least five days before the day of the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for [~~two~~] five days before the day of the election; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for [~~two~~] five days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 9. Section 20A-5-403.5 is amended to read:

20A-5-403.5. Ballot drop boxes.

(1) An election officer:

(a) shall designate at least one ballot drop box in each municipality and reservation located in the jurisdiction to which the election relates;

(b) may designate additional ballot drop boxes for the election officer's jurisdiction;

(c) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction;

(d) shall provide 24-hour video surveillance of each unattended ballot drop box; and

(e) shall post a sign on or near each unattended ballot drop box indicating that the ballot drop box is under 24-hour video surveillance.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least [~~19~~] 28 days before the date of the election, provide notice of the location of each ballot drop box designated under Subsection (1):

(a) (i) by publishing notice in at least one issue of a newspaper of general circulation in the jurisdiction holding the election;

(ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction holding the election, in places within the jurisdiction that are most likely to give notice to the residents in the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing notice to each registered voter in the jurisdiction holding the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for [~~19~~] 28 days before the day of the election; and

(c) by posting notice on the jurisdiction's website for [~~19~~] 28 days before the day of the election.

(3) Instead of including the location of ballot drop boxes, a notice required under Subsection (2) may specify the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

(7) (a) At least two poll workers must be present when a poll worker collects ballots from a ballot drop box and delivers the ballots to the location where the ballots will be opened and counted.

(b) An election officer shall ensure that the chain of custody of ballots placed in a ballot box are recorded and tracked from the time the ballots are removed from the ballot box until the ballots are delivered to the location where the ballots will be opened and counted.

Section 10. Section 20A-5-405 is amended to read:

20A-5-405. Election officer to provide ballots.

(1) An election officer shall:

(a) provide ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the election officer in the manner provided by law to be included on each ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be included on each ballot;

(d) ensure that the ballots are prepared and in the possession of the election officer [~~before commencement of voting~~] at least seven days before the commencement of early voting as described in Section 20A-3a-601;

(e) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the ballots;

(f) no later than 45 days before the day of the election, make sample ballots available for inspection, in the same form as official ballots and that contain the same information as official ballots, by:

(i) posting a copy of the sample ballot in the election officer's office;

(ii) sending a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor;

(iii) (A) posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction, subject to a maximum of 10 notices; or

(B) mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) posting a copy of the sample ballot on the Utah Public Notice Website, created in Section 63A-16-601; and

(v) if the jurisdiction has a website, posting a copy of the sample ballot on the jurisdiction's website;

(g) deliver a copy of the sample ballot to poll workers for each polling place and direct the poll workers to post the sample ballot as required by Section 20A-5-102; and

(h) print and deliver, at the expense of the jurisdiction conducting the election, enough ballots, sample ballots, and instructions to meet the voting demands of the qualified voters in each voting precinct.

(2) Instead of posting the entire sample ballot under Subsection (1)(f)(iii)(A), the election officer may post a statement that:

(a) is entitled, "sample ballot";

(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction's offices; and

(iii) a mailing address and telephone number.

(3) (a) Each election officer shall, without delay, correct any error discovered in any ballot, if the correction can be made without interfering with the timely distribution of the ballots.

(b) (i) If the election officer discovers an error or omission in a manual ballot, and it is not possible to correct the error or omission, the election officer shall direct the poll workers to make the necessary corrections on the manual ballots before the ballots are distributed.

(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.

(4) (a) If the election officer refuses or fails to correct an error or omission in a ballot, a candidate or a candidate's agent may file a verified petition with the district court asserting that:

(i) an error or omission has occurred in:

(A) the publication of the name or description of a candidate;

(B) the preparation or display of an electronic ballot; or

(C) the posting of sample ballots or the printing of official manual ballots; and

(ii) the election officer has failed to correct or provide for the correction of the error or omission.

(b) The district court shall issue an order requiring correction of any error in a ballot or an order to show cause why the error should not be corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct or provide for the correction of the error or omission.

(c) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the day on which the district court enters the decision.

Section 11. Section 20A-5-901 is amended to read:

20A-5-901. Voter registration audit.

(1) The lieutenant governor shall, on at least an annual basis, conduct an audit of the voter registration database.

(2) The audit shall include:

(a) a random selection of at least .02% of the active registered voters statewide; and

(b) at least one active registered voter from each county.

(3) For each voter selected for the audit, the auditor shall:

(a) verify that the voter is eligible for registration;

(b) verify that the voter's registration information is accurate and supported by the documentation on file;

(c) verify that there is a signature on file for the voter;

(d) check for duplicate voter registrations; and

(e) search available resources to determine whether the voter is deceased.

(4) The audit report shall identify areas of concern or training needed in response to the audit findings.

(5) The lieutenant governor shall:

(a) share the audit results with the county clerks and verify that the county clerks address the concerns and fulfill the training identified under Subsection (4); and

(b) beginning in 2023, report [~~biannually~~] biennially to the Government Operations Interim Committee on the results of the audits conducted under this section.

Section 12. Section 20A-6-401 is amended to read:

20A-6-401. Ballots for municipal primary elections.

(1) Each election officer shall ensure that:

(a) the following endorsements are printed in 18 point bold type:

(i) "Official Primary Ballot for ____ (City, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight point type;

(b) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(c) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10 point bold type that states: "To vote for a candidate, mark the space following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(d) after the rules, the designation of the office for which the candidates seek nomination is printed [~~flush with the left-hand margin~~] and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" are printed [~~to extend to the extreme right of the column~~] in 10-point bold type, followed by a hair-line rule;

(e) after the hair-line rule, the names of the candidates are printed in heavy face type between

lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates; and

(g) the candidate groups are separated from each other by one light and one heavy line or rule.

(2) A municipal primary ballot may not contain any space for write-in votes.

Section 13. Section 20A-7-209 is amended to read:

20A-7-209. Short title and summary of initiative -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) On or before June 5 before the regular general election, the lieutenant governor shall deliver a copy of all of the proposed laws that have qualified for the ballot to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each state initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(ii) prepare for each initiative:

(A) an impartial short title, not exceeding 25 words, that generally describes the subject of the initiative; and

(B) an impartial summary of the contents of the measure, not exceeding 125 words; and

(iii) return each petition, short title, and summary to the lieutenant governor on or before June 26.

(b) The short title and summary may be distinct from the title of the proposed law attached to the initiative petition.

(c) If the initiative proposes a tax increase, the Office of Legislative Research and General Counsel shall include the following statement, in bold, in the summary:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(d) [~~For~~] Subject to Subsection (4), for each state initiative, the official ballot shall show, in the following order:

(i) the number of the initiative, determined in accordance with Section 20A-6-107;

(ii) the short title; [~~and~~]

(iii) except as provided in Subsection (2)(e):

(A) the summary;

(B) the text of the proposed law; and

(C) a link to a location on the lieutenant governor's website where a voter may review additional information relating to each initiative, including the information described in Subsection 20A-7-202(2), the fiscal impact estimate described in Section 20A-7-202.5, as updated under Section 20A-7-204.1, and the arguments relating to the initiative that are included in the voter information pamphlet; and

[~~(iii)~~] (iv) the initial fiscal impact estimate prepared under Section 20A-7-202.5, as updated under Section 20A-7-204.1.

(e) [~~For each ballot that includes an initiative or referendum~~] Unless the information described in Subsection (2)(d)(iii) is shown on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative [~~and referendum~~] on the ballot and a link to a location on the lieutenant governor's website where a voter may review the additional information [~~relating to each initiative or referendum, including:~~] described in Subsection (2)(d)(iii)(C).

[~~(i) for an initiative, the information described in Subsection 20A-7-202(2), the fiscal impact estimate described in Section 20A-7-202.5, as updated, and the arguments relating to the initiative that are included in the voter information pamphlet; or~~]

[~~(ii) for a referendum, the information described in Subsection 20A-7-302(2) and the arguments relating to the referendum that are included in the voter information pamphlet.~~]

(f) Unless the information described in Subsection (2)(d)(iii) for all initiatives on the ballot, and the information described in Subsection 20A-7-308(2)(c)(iii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot."

[~~(f) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."~~]

(3) On or before June 27, the lieutenant governor shall mail a copy of the short title and summary to any sponsor of the petition.

(4) (a) (i) At least three of the sponsors of the petition may, on or before July 6, challenge the wording of the short title and summary prepared by the Office of Legislative Research and General Counsel to the appropriate court.

(ii) After receipt of the challenge, the court shall direct the lieutenant governor to send notice of the challenge to:

(A) any person or group that has filed an argument for or against the measure that is the subject of the challenge; or

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the individual designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the short title prepared by the Office of Legislative Research and General Counsel is an impartial description of the contents of the initiative.

(ii) The court may not revise the wording of the short title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the short title is false or biased.

(iii) There is a presumption that the summary prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the initiative.

(iv) The court may not revise the wording of the summary unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the summary is false or biased.

(c) The court shall:

(i) examine the short title and summary;

(ii) hear arguments; and

(iii) enter an order consistent with the requirements of this section.

(d) The lieutenant governor shall, in accordance with the court's order, certify the short title and summary to the county clerks for inclusion in the ballot [~~and~~] or ballot proposition insert, as required by this section.

Section 14. Section 20A-7-210 is amended to read:

20A-7-210. Form of ballot -- Manner of voting.

(1) A county clerk shall ensure that the information described in Subsection 20A-7-209(2)(d) is presented, [~~in the order~~] as required, upon the official ballot with, immediately adjacent to the information, the words "For" and "Against," each word presented with an adjacent square in which the voter may indicate the voter's vote.

(2) A voter desiring to vote in favor of enacting the law proposed by the initiative petition shall mark the square adjacent to the word "For," and a voter desiring to vote against enacting the law proposed by the initiative petition shall mark the square adjacent to the word "Against."

Section 15. Section 20A-7-308 is amended to read:

20A-7-308. Short title and summary of referendum -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) Whenever a referendum petition is declared sufficient for submission to a vote of the people, the lieutenant governor shall deliver a copy of the petition and the proposed law to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each state referendum that qualifies for the ballot "Proposition Number __" and assign a number to the referendum in accordance with Section 20A-6-107;

(ii) prepare for each referendum:

(A) an impartial short title, not exceeding 25 words, that generally describes the measure; and

(B) an impartial summary of the contents of the measure, not exceeding 125 words; and

(iii) submit the short title and summary to the lieutenant governor within 15 days after the day on which the Office of Legislative Research and General Counsel receives the petition under Subsection (1).

(b) The short title and summary may be distinct from the title of the law that is the subject of the petition.

(c) [~~For~~] Subject to Subjection (4), for each state referendum, the official ballot shall show, in the following order:

(i) the number of the referendum, determined in accordance with Section 20A-6-107; [~~and~~]

(ii) the short title [~~described in this section.~~]; and

(iii) except as provided in Subsection (2)(d):

(A) the summary;

(B) a copy of the law; and

(C) a link to a location on the lieutenant governor's website where a voter may review additional information relating to each referendum, including the information described in Subsection 20A-7-302(2) and the arguments relating to the referendum that are included in the voter information pamphlet.

(d) [~~For each ballot that includes an initiative or referendum~~] Unless the information described in Subsection (2)(c)(iii) is shown on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each [~~initiative and~~] referendum on the ballot and a link to a location on the lieutenant governor's website where a voter may review the additional information [~~relating to each initiative or referendum, including:~~] described in Subsection (2)(c)(iii)(C).

[~~(i) for an initiative, the information described in Subsection 20A-7-202(2), the fiscal impact estimate described in Section 20A-7-202.5, as updated, and the arguments relating to the initiative that are included in the voter information pamphlet; or~~]

[~~(ii) for a referendum, the information described in Subsection 20A-7-302(2) and the arguments relating to the referendum that are included in the voter information pamphlet.~~]

(e) Unless the information described in Subsection 20A-7-209(2)(d)(iii) for all initiatives on the ballot, and the information described in Subsection (2)(c)(iii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot."

[~~(e) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."~~]

(3) Immediately after the Office of Legislative Research and General Counsel submits the short title and summary to the lieutenant governor, the lieutenant governor shall mail or email a copy of the short title and summary to any of the sponsors of the petition.

(4) (a) (i) At least three of the sponsors of the petition may, within 15 days after the day on which the lieutenant governor mails the short title and summary, challenge the wording of the short title and summary prepared by the Office of Legislative Research and General Counsel to the appropriate court.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the appeal to:

(A) any person or group that has filed an argument for or against the measure that is the subject of the challenge; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the referendum.

(b) (i) There is a presumption that the short title prepared by the Office of Legislative Research and General Counsel is an impartial description of the contents of the referendum.

(ii) The court may not revise the wording of the short title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the short title is false or biased.

(iii) There is a presumption that the summary prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the measure.

(iv) The court may not revise the wording of the summary unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the summary is false or biased.

(c) The court shall:

(i) examine the short title and summary;

(ii) hear arguments; and

(iii) enter an order consistent with the requirements of this section.

(d) The lieutenant governor shall, in accordance with the court's order, certify the short title and summary to the county clerks for inclusion in the ballot or ballot proposition insert, as required by this section.

Section 16. Section 20A-7-508 is amended to read:

20A-7-508. Short title and summary of initiative -- Duties of local clerk and local attorney.

(1) Upon receipt of an initiative petition, the local clerk shall deliver a copy of the petition and the proposed law to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(b) prepare for the initiative:

(i) an impartial short title, not exceeding 25 words, that generally describes the subject of the initiative; and

(ii) an impartial summary of the contents of the measure, not exceeding 125 words;

(c) file the proposed short title, summary, and the numbered initiative titles with the local clerk within 20 days after the day on which an eligible voter submits the initiative petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed short title and summary to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the initiative petition was circulated.

(3) (a) The short title and summary may be distinct from the title of the proposed law attached to the initiative petition.

(b) In preparing a short title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial description of the subject of the initiative.

(c) In preparing a summary, the local attorney shall, to the best of the local attorney's ability, give a true and impartial summary of the contents of the measure.

(d) The short title and summary may not intentionally be an argument, or likely to create prejudice, for or against the measure.

(e) If the initiative proposes a tax increase, the local attorney shall include the following statement, in bold, in the summary:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(4) (a) Within five calendar days after the date the local attorney files a proposed short title and summary under Subsection (2)(c), the local legislative body for the jurisdiction where the initiative petition was circulated and the sponsors of the petition may file written comments in response to the proposed short title and summary with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final short title and summary that meets the requirements of Subsection (3); and

(iii) return the petition and file the short title and summary with the local clerk.

(c) Subject to Subsection (6)[~~:~~], for each county or municipal initiative, the following shall be printed on the official ballot:

(i) the short title[~~, as determined by the local attorney, shall be printed on the official ballot~~]; and

(ii) except as provided in Subsection (4)(d):

(A) the summary;

(B) a copy of the proposed law; and

(C) a link to a location on the election officer's website where a voter may review additional information relating to each initiative, including the information described in Subsection 20A-7-502(2), the fiscal impact estimate described in Section 20A-7-502.5, as updated, and the arguments relating to the initiative that are included in the local voter information pamphlet.

[~~(ii)~~] (d) [~~for each ballot that includes an initiative or referendum,~~] Unless the information described in Subsection (4)(c)(ii) is printed on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative [~~and referendum~~] on the ballot and a link to a location on the election officer's website where a voter may review the additional information [~~relating to each initiative or referendum, including:~~] described in Subsection (4)(c)(ii)(C).

[~~(A) for an initiative, the information described in Subsection 20A-7-502(2), the fiscal impact estimate described in Section 20A-7-502.5, as updated, and the arguments relating to the initiative that are included in the local voter information pamphlet; or~~]

[~~(B) for a referendum, the information described in Subsection 20A-7-602(2) and the arguments relating to the referendum that are included in the local voter information pamphlet.~~]

(e) Unless the information described in Subsection (4)(c)(ii) for all initiatives on the ballot, and the information described in Subsection 20A-7-608(4)(c)(ii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot."

[~~(d) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."~~]

(5) Immediately after the local attorney files a copy of the short title and summary with the local clerk, the local clerk shall serve a copy of the short title and summary by mail upon the sponsors of the petition and the local legislative body for the jurisdiction where the initiative petition was circulated.

(6) (a) If the short title or summary furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the appropriate court by:

(i) at least three sponsors of the initiative petition; or

(ii) a majority of the local legislative body for the jurisdiction where the initiative petition was circulated.

(b) The court:

(i) shall examine the short title and summary and consider arguments; and

(ii) enter an order consistent with the requirements of this section.

(c) The local clerk shall include the short title and summary in the ballot or ballot proposition insert, as required by this section.

Section 17. Section 20A-7-608 is amended to read:

20A-7-608. Short title and summary of referendum -- Duties of local clerk and local attorney.

(1) Upon receipt of a referendum petition, the local clerk shall deliver a copy of the petition and the proposed law to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal referendum that qualifies for the ballot "Proposition Number __" and give the referendum a number assigned in accordance with Section 20A-6-107;

(b) prepare for the referendum:

(i) an impartial short title, not exceeding 25 words, that generally describes the subject of the measure; and

(ii) an impartial summary of the contents of the measure, not exceeding 125 words;

(c) file the proposed short title, summary, and the numbered referendum title with the local clerk within 20 days after the day on which an eligible voter submits the referendum petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed short title and summary to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the referendum petition was circulated.

(3) (a) The short title and summary may be distinct from the title of the law that is the subject of the petition.

(b) In preparing a short title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial description of the subject of the measure.

(c) In preparing a summary, the local attorney shall, to the best of the local attorney's ability, give a true and impartial summary of the contents of the measure.

(d) The short title and summary may not intentionally be an argument, or likely to create prejudice, for or against the measure.

(4) (a) Within five calendar days after the day on which the local attorney files a proposed short title and summary under Subsection (2)(c), the local legislative body for the jurisdiction where the referendum petition was circulated and the sponsors of the petition may file written comments in response to the proposed short title and summary with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final short title and summary that meets the requirements of Subsection (3); and

(iii) return the petition and file the short title and summary with the local clerk.

(c) Subject to Subsection (6)[~~:~~], for each county or municipal referendum, the following shall be printed on the official ballot:

(i) the short title[~~, as determined by the local attorney, shall be printed on the official ballot~~]; and

(ii) except as provided in Subsection (4)(d):

(A) the summary;

(B) a copy of the ordinance, resolution, or written description of the local law; and

(C) a link to a location on the election officer's website where a voter may review additional information relating to each referendum, including the information described in Subsection 20A-7-602(2) and the arguments relating to the referendum that are included in the local voter information pamphlet.

[~~(ii)~~] (d) [~~for each ballot that includes an initiative or referendum~~] Unless the information described in Subsection (4)(c)(ii) is printed on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each [~~initiative and~~] referendum on the ballot and a link to a location on the election officer's website where a voter may review the additional information [~~relating to each initiative or referendum, including:~~] described in Subsection (4)(c)(ii)(C).

[~~(A) for an initiative, the information described in Subsection 20A-7-502(2), the fiscal impact estimate described in Section 20A-7-502.5, as updated, and the arguments relating to the initiative that are included in the local voter information pamphlet; or~~]

[~~(B) for a referendum, the information described in Subsection 20A-7-602(2) and the arguments relating to the referendum that are included in the local voter information pamphlet.~~]

(e) Unless the information described in Subsection 20A-7-508(4)(c)(ii) for all initiatives on the ballot, and the information described in Subsection (4)(c)(ii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot."

[~~(d) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."~~]

(5) Immediately after the local attorney files a copy of the short title and summary with the local clerk, the local clerk shall serve a copy of the short title and summary by mail upon the sponsors of the petition and the local legislative body for the jurisdiction where the referendum petition was circulated.

(6) (a) If the short title or summary furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the appropriate court by:

(i) at least three sponsors of the referendum petition; or

(ii) a majority of the local legislative body for the jurisdiction where the referendum petition was circulated.

(b) The court:

(i) shall examine the short title and summary and consider the arguments; and

(ii) enter an order consistent with the requirements of this section.

(c) The local clerk shall include the short title and summary in the ballot or ballot proposition insert, as required by this section.

Section 18. Section 20A-9-101 is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

(i) justice or judge of court of record or not of record;

(ii) presidential elector;

(iii) any political party offices; and

(iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the officeholder is selected by voters entirely within one county.

(b) "County office" does not mean:

(i) the office of justice or judge of any court of record or not of record;

(ii) the office of presidential elector;

(iii) any political party offices;

(iv) any municipal or local district offices; and

(v) the office of United States Senator and United States Representative.

(5) "Electronic candidate qualification process" means:

(a) as it relates to a registered political party that is not a qualified political party, the process for gathering signatures electronically to seek the nomination of a registered political party, described in:

(i) Section 20A-9-403;

(ii) Section 20A-9-405, except Subsections 20A-9-405(3) and (5); and

(iii) Section 20A-21-201; and

(b) as it relates to a qualified political party, the process, for gathering signatures electronically to seek the nomination of a registered political party, described in:

(i) Section 20A-9-405, except Subsections 20A-9-405(3) and (5);

(ii) Section 20A-9-408; and

(iii) Section 20A-21-201.

(6) "Federal office" means an elective office for United States Senator and United States Representative.

(7) "Filing officer" means:

(a) the lieutenant governor, for:

(i) the office of United States Senator and United States Representative; and

(ii) all constitutional offices;

(b) for the office of a state senator, [~~or~~] state representative, or state school board, the lieutenant governor or the applicable clerk described in Subsection (7)(c) or (d);

(c) the county clerk, for county offices and local school district offices;

(d) the county clerk in the filer's county of residence, for multicounty offices;

(e) the city or town clerk, for municipal offices; or

(f) the local district clerk, for local district offices.

(8) "Local district office" means an elected office in a local district.

(9) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

(10) "Manual candidate qualification process" means the process for gathering signatures to seek the nomination of a registered political party, using paper signature packets that a signer physically signs.

(11) (a) "Multicounty office" means an elective office where the officeholder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

(i) a county office;

(ii) a federal office;

(iii) the office of justice or judge of any court of record or not of record;

(iv) the office of presidential elector;

(v) any political party offices; or

(vi) any municipal or local district offices.

(12) "Municipal office" means an elective office in a municipality.

(13) (a) "Political division" means a geographic unit from which an officeholder is elected and that an officeholder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(14) "Qualified political party" means a registered political party that:

(a) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

(b) does not hold the registered political party's convention before the fourth Saturday in March of an even-numbered year;

(c) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

(d) (i) if the registered political party is a continuing political party, no later than 5 p.m. on the first Monday of October of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.

(15) "Signature," as it relates to a petition for a candidate to seek the nomination of a registered political party, means:

(a) when using the manual candidate qualification process, a holographic signature collected physically on a nomination petition described in Subsection 20A-9-405(3); or

(b) when using the electronic candidate qualification process:

(i) an electronic signature collected under Subsection 20A-21-201(6)(c)(ii)(A); or

(ii) a holographic signature collected electronically under Subsection 20A-21-201(6)(c)(ii)(B).

Section 19. Section 20A-9-201.5 is amended to read:

20A-9-201.5. Declaration of candidacy filing period for a qualified political party.

(1) In 2022, for a qualified political party, the filing period to file a declaration of candidacy for an elective office that is to be filled at the next regular general election begins at 8 a.m. on February 28, 2022, and ends at 5 p.m. on March 4, 2022.

(2) Beginning on January 1, 2024, for a qualified political party, the filing period to file a declaration of candidacy for an elective office that is to be filled at the next regular general election:

(a) begins at 8:00 a.m. on the later of:

(i) January 2 of the year in which the next regular general election is held; or

(ii) if January 2 is [~~on a weekend~~] not a business day, the first business day after January 2; and

(b) ends at 5 p.m. on the fourth business day after the day on which the filing period begins.

Section 20. Section 20A-9-207 is enacted to read:

20A-9-207. Withdrawal of candidacy -- Notice.

As used in this section:

(1) "Public office" means the offices of governor, lieutenant governor, attorney general, state auditor, state treasurer, state senator, state representative, state school board, or an elective office of a local political subdivision.

(2) "Public office candidate" means a person who files a declaration of candidacy for a public office.

(3) If a public office candidate withdraws as a candidate, the election officer shall:

(a) notify every opposing candidate for the public office that the public office candidate has withdrawn;

(b) send an email notification to each voter who is eligible to vote in the public office race for whom the election officer has an email address informing the voter that the public office candidate has withdrawn and that votes cast for the public office candidate will not be counted;

(c) post notice of the withdrawal on a public website; and

(d) if practicable, remove the public office candidate's name from the ballot.

(4) An election officer may fulfill the requirement described in Subsection (3) in relation to a mailed

ballot, including a military or overseas ballot, by including with the ballot a written notice:

(a) informing the voter that the candidate has withdraw; or

(b) directing the voter to a public website to inform the voter whether a candidate on the ballot has withdrawn.

Section 21. Section 20A-11-206 is amended to read:

20A-11-206. State office candidate -- Failure to file reports -- Penalties.

(1) A state office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a state office candidate fails to file an interim report described in Subsections 20A-11-204(2)(b) through (d), the lieutenant governor may send an electronic notice to the state office candidate and the political party of which the state office candidate is a member, if any, that states:

(a) that the state office candidate failed to timely file the report; and

(b) that, if the state office candidate fails to file the report within 24 hours after the deadline for filing the report, the state office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a state office candidate and inform the county clerk and other appropriate election officials that the state office candidate is disqualified if the state office candidate fails to file an interim report described in Subsections 20A-11-204(2)(b) through (d) within 24 hours after the deadline for filing the report.

(b) The political party of a state office candidate who is disqualified under Subsection (3)(a) may not replace the state office candidate.

(4) [~~(a)~~] If a state office candidate is disqualified under Subsection (3)(a), the election [~~official~~] officer shall:

[~~(i)~~] (a) [~~remove the state office candidate's name from the ballot; or~~] notify every opposing candidate for the state office that the state office candidate is disqualified;

[~~(ii)~~] (b) [~~if removing the state office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the state office candidate has been disqualified and that votes cast for the state office candidate will not be counted.~~] send an email notification to each voter who is eligible to vote in the state office race for whom the lieutenant governor has an email address informing the voter that the state office candidate is disqualified and that votes cast for the state office candidate will not be counted;

(c) post notice of the disqualification on the lieutenant governor's website; and

(d) if practicable, remove the state office candidate's name from the ballot.

[~~(b)~~] (5) An election [~~official~~] officer may fulfill the requirement described in Subsection [~~(4)(a)~~] (4) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to [~~a public website that will inform the voter~~] the lieutenant governor's website to inform the voter whether a candidate on the ballot is disqualified.

[~~(5)~~] (6) A state office candidate is not disqualified if:

(a) the state office candidate timely files the reports described in Subsections 20A-11-204(2)(b) through (d) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection [~~(5)(b)~~] (6)(b) are corrected in an amended report or the next scheduled report.

[~~(6)~~] (7) (a) Within 60 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each state office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any state office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the state office candidate of the violation or written complaint and direct the state office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a state office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor described in this Subsection [~~(6)~~] (7).

(ii) Each state office candidate who violates Subsection [~~(6)(c)(i)~~] (7)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection [~~(6)(c)(i)~~] (7)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection [~~(6)(c)(ii)~~] (7)(c)(ii), the lieutenant governor shall impose a civil fine of $100 against a state office candidate who violates Subsection [~~(6)(c)(i)~~] (7)(c)(i).

Section 22. Section 20A-11-305 is amended to read:

20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.

(1) A legislative office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a legislative office candidate fails to file an interim report described in Subsections 20A-11-303(2)(b) through (d), the lieutenant governor may send an electronic notice to the legislative office candidate and the political party of which the legislative office candidate is a member, if any, that states:

(a) that the legislative office candidate failed to timely file the report; and

(b) that, if the legislative office candidate fails to file the report within 24 hours after the deadline for filing the report, the legislative office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a legislative office candidate and inform the county clerk and other appropriate election officials that the legislative office candidate is disqualified if the legislative office candidate fails to file an interim report described in Subsections 20A-11-303(2)(b) through (d) within 24 hours after the deadline for filing the report.

(b) The political party of a legislative office candidate who is disqualified under Subsection (3)(a) may not replace the legislative office candidate.

(4) [~~(a)~~] If a legislative office candidate is disqualified under Subsection (3)(a), the election officer shall:

[~~(i)~~] (a) [~~remove the legislative office candidate's name from the ballot; or~~] notify every opposing candidate for the legislative office that the legislative office candidate is disqualified;

[~~(ii)~~] (b) [~~if removing the legislative office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the legislative office candidate has been disqualified and that votes cast for the legislative office candidate will not be counted.~~] send an email notification to each voter who is eligible to vote in the legislative office race for whom the election officer has an email address informing the voter that the legislative office candidate is disqualified and that votes cast for the legislative office candidate will not be counted;

(c) post notice of the disqualification on the election officer's website; and

(d) if practicable, remove the legislative office candidate's name from the ballot.

[~~(b)~~] (5) An election [~~official~~] officer may fulfill the requirement described in Subsection [~~(4)(a)~~] (4) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to [~~a public website that will inform the voter~~] the election officer's website to inform the voter whether a candidate on the ballot is disqualified.

[~~(5)~~] (6) A legislative office candidate is not disqualified if:

(a) the legislative office candidate files the reports described in Subsections 20A-11-303(2)(b) through (d) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection [~~(5)(b)~~] (6)(b) are corrected in an amended report or the next scheduled report.

[~~(6)~~] (7) (a) Within 60 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each legislative office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any legislative office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the legislative office candidate of the violation or written complaint and direct the legislative office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a legislative office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor described in this Subsection [~~(6)~~] (7).

(ii) Each legislative office candidate who violates Subsection [~~(6)(c)(i)~~] (7)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection [~~(6)(c)(i)~~] (7)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection [~~(6)(c)(ii)~~] (7)(c)(ii), the lieutenant governor shall impose a civil fine of $100 against a legislative office candidate who violates Subsection [~~(6)(c)(i)~~] (7)(c)(i).

Section 23. Section 20A-11-1305 is amended to read:

20A-11-1305. School board office candidate -- Failure to file statement -- Penalties.

(1) A school board office candidate who fails to file a financial statement by the deadline is subject to a

fine imposed in accordance with Section 20A-11-1005.

(2) If a school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv), the lieutenant governor may send an electronic notice to the school board office candidate and the political party of which the school board office candidate is a member, if any, that states:

(a) that the school board office candidate failed to timely file the report; and

(b) that, if the school board office candidate fails to file the report within 24 hours after the deadline for filing the report, the school board office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a school board office candidate and inform the county clerk and other appropriate election officials that the school board office candidate is disqualified if the school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv) within 24 hours after the deadline for filing the report.

(b) The political party of a school board office candidate who is disqualified under Subsection (3)(a) may not replace the school board office candidate.

(4) [~~(a)~~] If a school board office candidate is disqualified under Subsection (3)(a), the election officer shall:

[~~(i)~~] (a) [~~remove the school board office candidate's name from the ballot; or~~] notify every opposing candidate for the school board office that the school board office candidate is disqualified;

[~~(ii)~~] (b) [~~if removing the school board office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the school board office candidate has been disqualified and that votes cast for the school board office candidate will not be counted.~~] send an email notification to each voter who is eligible to vote in the school board office race for whom the election officer has an email address informing the voter that the school board office candidate is disqualified and that votes cast for the school board office candidate will not be counted;

(c) post notice of the disqualification on the election officer's website; and

(d) if practicable, remove the school board office candidate's name from the ballot.

[~~(b)~~] (5) An election officer may fulfill the requirement described in Subsection [~~(4)(a)~~] (4) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to [~~a public website that will inform the voter~~] the election officer's website to inform the voter whether a candidate on the ballot is disqualified.

[~~(5)~~] (6) A school board office candidate is not disqualified if:

(a) the school board office candidate files the reports described in Subsections 20A-11-1303 (1)(c)(i) through (iv) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection [~~(5)(b)~~] (6)(b) are corrected in an amended report or the next scheduled report.

[~~(6)~~] (7) (a) Within 60 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each school board office candidate who is required to file a summary report has filed the report; and

(ii) each summary report contains the information required by this part.

(b) If it appears that a school board office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the school board office candidate of the violation or written complaint and direct the school board office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a school board office candidate to fail to file or amend a summary report within seven days after receiving the notice described in Subsection [~~(6)(b)~~] (7)(b) from the lieutenant governor.

(ii) Each school board office candidate who violates Subsection [~~(6)(c)(i)~~] (7)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection [~~(6)(c)(i)~~] (7)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection [~~(6)(c)(ii)~~] (7)(c)(ii), the lieutenant governor shall impose a civil fine of $100 against a school board office candidate who violates Subsection [~~(6)(c)(i)~~] (7)(c)(i).

Section 24. Section 20A-11-1603 is amended to read:

20A-11-1603. Conflict of interest disclosure -- Required when filing for candidacy -- Public availability.

(1) (a) Except as provided in Subsection [~~(1)(b)~~] (1)(c), candidates seeking the following offices shall make a complete conflict of interest disclosure on the website at the time of filing a declaration of candidacy:

(i) state constitutional officer;

(ii) state legislator; or

(iii) State Board of Education member.

(b) A candidate who fails to comply with Subsection (1)(a) shall make a complete conflict of interest disclosure on the website no later than 5:00 p.m. on January 10.

[~~(b)~~] (c) A candidate is not required to comply with Subsection (1)(a) if the candidate:

(i) currently holds the office for which the candidate is seeking reelection;

(ii) already, that same year, filed the conflict of interest disclosure for the office described in Subsection [~~(1)(b)(i)~~] (1)(c)(i), in accordance Section 20A-11-1604; and

(iii) at the time the candidate files the declaration of candidacy, indicates, in writing, that the conflict of interest disclosure described in Subsection [~~(1)(b)(ii)~~] (1)(c)(ii) is updated and accurate as of the date of filing the declaration of candidacy.

(2) Except as provided in Subsection [~~(1)(b)~~] (1)(c), a filing officer:

(a) shall provide electronic notice to a candidate who fails to comply with Subsection (1)(a) that the candidate must make a complete conflict of interest disclosure on the website no later than the deadline described in Subsection (1)(b); and

(b) may not accept a declaration of candidacy for an office listed in Subsection (1)(a) until the candidate makes a complete conflict of interest disclosure on the website.

(3) The conflict of interest disclosure described in Subsection (1)(a) shall contain the same requirements and shall be in the same format as the conflict of interest disclosure described in Section 20A-11-1604.

(4) The lieutenant governor shall make the complete conflict of interest disclosure made by each candidate available for public inspection on the website.

Section 25. Coordinating H.B. 69 with H.B. 38 -- Substantive and technical amendments.

If this H.B. 69 and H.B. 38, Initiative and Referendum Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) in H.B. 69 Subsection 20A-7-209(2)(d)(iii)(C), replace "the fiscal impact estimate" with "the initial fiscal impact statement"; and

(2) in H.B. 69 Subsection 20A-7-508(4)(c)(ii)(C), replace "the fiscal impact estimate" with "the initial fiscal impact and legal statement".

CHAPTER 46
H. B. 73
Passed February 13, 2023
Approved March 13, 2023
Effective May 3, 2023

MUNICIPAL OFFICE MODIFICATIONS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions related to filling a vacancy in a municipal office

Highlighted Provisions:

This bill:

- defines terms;
- modifies notice requirements;
- modifies the procedure for filling vacancies in certain circumstances;
- authorizes a member of a municipal legislative body whose resignation creates a vacancy in the municipal legislative body to, with certain exceptions, vote for the member's replacement;
- prohibits a member of a legislative body from rescinding a resignation;
- prohibits a member of a legislative body from voting for oneself to fill a vacancy in the municipal legislative body; and
- makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-507, as last amended by Laws of Utah 2014, Chapter 338
20A-1-510, as last amended by Laws of Utah 2017, Chapter 91

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

Section 1. Section 10-3-507 is amended to read:

10-3-507. Minimum vote required.

(1) The minimum number of yes votes required to pass any ordinance or resolution, or to take any action by the council, unless otherwise prescribed by law, is a majority of the voting members of the council, regardless of absence or vacancy.

(2) (a) Any ordinance, resolution, or motion of the council having fewer favorable votes than required in this section is defeated and invalid.

(b) Notwithstanding Subsection (2)(a), a council meeting may be adjourned to a specific time by a majority vote of the council even though the majority vote is less than that required in this section.

(3) If a vacancy exists in one or more council seats, a majority of the council members [~~presently occupying council seats, regardless of number,~~] may vote to fill the vacancy as provided under Section 20A-1-510.

Section 2. Section 20A-1-510 is amended to read:

20A-1-510. Midterm vacancies in municipal offices.

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

(i) "Vacancy," subject to Subsection (1)(a)(ii), means the same as that term is defined in Section 20A-1-102.

(ii) "Vacancy," if due to resignation, occurs on the effective date of the resignation.

[~~(a)~~] (b) Except as otherwise provided in [~~Subsection (2)~~] this section, if any vacancy occurs in the office of municipal executive or member of a municipal legislative body, the municipal legislative body shall, within 30 calendar days after the day on which the vacancy occurs, appoint a registered voter in the municipality who meets the qualifications for office described in Section 10-3-301 to fill the unexpired term of the vacated office.

[~~(b)~~]

(c) Before acting to fill the vacancy, the municipal legislative body shall:

(i) give public notice of the vacancy at least [~~two weeks~~] 14 calendar days before the day on which the municipal legislative body meets to fill the vacancy;

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the person to whom an individual interested in being appointed to fill the vacancy may submit the interested individual's name for consideration; and

(C) the deadline for submitting an interested individual's name; and

(iii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

[~~(c) (i) If, for any reason, the municipal legislative body does not fill the vacancy within 30 days after the day on which the vacancy occurs, the municipal legislative body shall fill the vacancy from among the names that have been submitted.~~]

[~~(ii) The two individuals having the highest number of votes of the municipal legislative body after a first vote is taken shall appear before the municipal legislative body and the municipal legislative body shall vote again.~~]

[~~(iii) If neither candidate receives a majority vote of the municipal legislative body at that time, the vacancy shall be filled by lot in the presence of the municipal legislative body.~~]

(d) (i) The municipal legislative body shall take an initial vote to fill the vacancy from among the names of the candidates interviewed under Subsection (1)(c)(iii).

(ii) (A) If no candidate receives a majority vote of the municipal legislative body in the initial vote described in Subsection (1)(d)(i), the two candidates that received the most votes in the initial vote, as determined by the tie-breaking procedures described in Subsections (1)(d)(ii)(B) through (D) if necessary, shall be placed before the municipal legislative body for a second vote to fill the vacancy.

(B) If the initial vote results in a tie for second place, the candidates tied for second place shall be reduced to one by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (2)(d)(ii)(A) shall be between the candidate that received the most votes in the initial vote and the candidate that wins the coin toss described in this Subsection (1)(d)(ii)(B).

(C) If the initial vote results in a tie among three or more candidates for first place, the candidates tied for first place shall be reduced to two by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the two candidates that remain after the coin toss described in this Subsection (1)(d)(ii)(C).

(D) A coin toss required under this Subsection (1)(d) shall be conducted by the municipal clerk or recorder in the presence of the municipal legislative body.

(iii) If, in the second vote described in Subsection (1)(d)(ii)(A), neither candidate receives a majority vote of the municipal legislative body, the vacancy shall be determined by a coin toss between the two candidates in accordance with Subsection (1)(d)(ii)(D).

(e) If the municipal legislative body does not timely comply with Subsections (1)(b) through (d), the municipal clerk or recorder shall immediately notify the lieutenant governor.

(f) After receiving notice that a municipal legislative body has failed to timely comply with Subsections (1)(b) through (d), the lieutenant governor shall:

(i) notify the municipal legislative body of the violation; and

(ii) direct the municipal legislative body to, within 30 calendar days after the day on which the lieutenant governor provides the notice described in this Subsection (1)(f), appoint an eligible individual to fill the vacancy in accordance with Subsections (1)(c) and (d).

(g) If the municipality fails to timely comply with a directive described in Subsection (1)(f):

(i) the lieutenant governor shall notify the governor of the municipality's failure to fill the vacancy; and

(ii) the governor shall, within 45 days after the day on which the governor receives the notice described in Subsection (1)(g)(i), provide public notice soliciting candidates to fill the vacancy in accordance with Subsection (1)(c) and appoint an individual to fill the vacancy.

(2) (a) A vacancy in the office of municipal executive or member of a municipal legislative body shall be filled by an interim appointment, followed by an election to fill a two-year term, if:

(i) the vacancy occurs, or a letter of resignation is received, by the municipal executive at least 14 days before the deadline for filing for election in an odd-numbered year; and

(ii) two years of the vacated term will remain after the first Monday of January following the next municipal election.

(b) In appointing an interim replacement, the municipal legislative body shall:

(i) comply with the notice requirements of this section; and

(ii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

(3) (a) In a municipality operating under the council-mayor form of government, as defined in Section 10-3b-102:

(i) the council may appoint an individual to fill a vacancy in the office of mayor before the effective date of the mayor's resignation by making the effective date of the appointment the same as the effective date of the mayor's resignation; and

(ii) if a vacancy in the office of mayor occurs before the effective date of an appointment under Subsection (1) or (2) to fill the vacancy, the [~~council chair~~] remaining council members, by majority vote, shall appoint a council member to serve as acting mayor during the time between the creation of the vacancy and the effective date of the appointment to fill the vacancy.

(b) [~~While~~] A council member serving as acting mayor under Subsection (3)(a)(ii)[~~, the council chair~~] continues to:

(i) act as a council member; and

(ii) vote at council meetings.

(4) (a) (i) For a vacancy of a member of a municipal legislative body as described in this section, the municipal legislative body member whose resignation creates the vacancy on the municipal legislative body may:

(A) interview an individual whose name is submitted for consideration under Subsection (1)(c)(iii) or (2)(b)(ii); and

(B) vote on the appointment of an individual to fill the vacancy.

(ii) Notwithstanding Subsection (4)(a)(i), a member of a legislative body who is removed from office in accordance with state law may not cast a vote under Subsection (4)(a)(i).

(b) A member of a municipal legislative body who submits his or her resignation to the municipal legislative body may not rescind the resignation.

(c) A member of a municipal legislative body may not vote on an appointment under this section for himself or herself to fill a vacancy in the municipal legislative body.

(5) In a municipality operating under the six-member council form of government or the council-manager form of government, defined in Subsection 10-3b-103(7), if the voting members of the city council reach a tie vote on a matter of filling a vacancy, the mayor may vote to break the tie.

(6) In a municipality operating under the council-mayor form of government, the mayor may not:

(a) participate in the vote to fill a vacancy;

(b) veto a decision of the council to fill a vacancy; or

(c) vote in the case of a tie.

(7) A mayor whose resignation from the municipal legislative body is due to election or appointment as mayor may, in the case of a tie, participate in the vote under this section.

(8) A municipal legislative body may, consistent with the provisions of state law, adopt procedures governing the appointment, interview, and voting process for filling vacancies in municipal offices.

CHAPTER 47
H. B. 74
Passed February 2, 2023
Approved March 13, 2023
Effective May 3, 2023

UTAH MARRIAGE COMMISSION AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends provisions related to funding for the Utah Marriage Commission.

Highlighted Provisions:

This bill:

- repeals the sunset date for nonlapsing dedicated credits accrued to the Utah Marriage Commission; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472

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

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

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

[~~(18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.~~]

[~~(19)~~] (18) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.

[~~(20)~~] (19) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21)~~] (20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(22)~~] (21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(23)~~] (22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(24)~~] (23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~] (24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~] (25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~] (26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~] (27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~] (28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~] (29) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~] (30) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~] (31) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

CHAPTER 48
H. B. 93
Passed February 13, 2023
Approved March 13, 2023
Effective May 3, 2023

OUTDOOR RECREATION MODIFICATIONS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends provisions related to outdoor recreation grant programs.

Highlighted Provisions:

This bill:

- increases the amount that may be used each fiscal year for the Recreation Restoration Infrastructure Grant Program;
- amends the types of entities that are eligible to receive an infrastructure grant through the Outdoor Recreational Infrastructure Grant Program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-8-202, as last amended by Laws of Utah 2022, Chapter 68
79-8-402, as renumbered and amended by Laws of Utah 2022, Chapter 68

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

Section 1. Section 79-8-202 is amended to read:

79-8-202. Creation of grant program.

(1) (a) There is created the "Recreation Restoration Infrastructure Grant Program" administered by the division.

(b) Subject to Subsection (1)(c), [~~5% percent~~] 15% of the unencumbered amount in the Outdoor Recreation Infrastructure Account, created in Section 79-8-106, at the beginning of each fiscal year may be used for the grant program.

(c) The percentage outlined in Subsection (1)(b) may be increased or decreased at the beginning of a fiscal year if approved by the executive director after consultation with the director and the advisory committee.

(2) The division may seek to accomplish the following objectives in administering the grant program:

(a) rehabilitate or restore high priority trails for both motorized and nonmotorized uses;

(b) rehabilitate or restore high demand recreation areas on public lands; and

(c) encourage the public land entities to engage with volunteer groups to aid with portions of needed trail work.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules, after consulting with the advisory committee, establishing the eligibility and reporting criteria for an entity to receive a recreation restoration infrastructure grant, including:

(a) the form and process of submitting annual project proposals to the division for a recreation restoration infrastructure grant;

(b) which entities are eligible to apply for a recreation restoration infrastructure grant;

(c) specific categories of recreation restoration projects that are eligible for a recreation restoration infrastructure grant;

(d) the method and formula for determining recreation restoration infrastructure grant amounts; and

(e) the reporting requirements of a recipient of a recreation restoration infrastructure grant.

Section 2. Section 79-8-402 is amended to read:

79-8-402. Rulemaking and requirements for awarding an infrastructure grant.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after consultation with the advisory committee, the division shall make rules establishing the eligibility and reporting criteria for an entity to receive an infrastructure grant, including:

(a) the form and process of submitting an application to the division for an infrastructure grant;

(b) which entities are eligible to apply for an infrastructure grant;

(c) specific categories of recreational infrastructure projects that are eligible for an infrastructure grant;

(d) the method and formula for determining grant amounts; and

(e) the reporting requirements of grant recipients.

(2) In determining the award of an infrastructure grant, the division may prioritize a recreational infrastructure project that will serve an underserved community.

(3) An infrastructure grant may only be awarded by the executive director after consultation with the director and the advisory committee.

(4) [~~The following entities~~] A for-profit entity may not receive an infrastructure grant under this part[~~:~~].

[~~(a) a federal government entity;~~]

[~~(b) a state agency; and~~]

[~~(c) a for-profit entity.~~]

(5) An infrastructure grant may only be awarded under this part:

(a) for a recreational infrastructure project that is accessible to the general public; and

(b) subject to Subsections (6) and (7), if the grant recipient agrees to provide matching funds having a value:

(i) equal to or greater than the amount of the infrastructure grant; or

(ii) established in accordance with rules made by the division, after consultation with the advisory committee, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) Up to 50% of the grant recipient match described in Subsection (5)(b) may be provided through an in-kind contribution by the grant recipient, if:

(a) approved by the executive director after consultation with the director and the advisory committee; and

(b) the in-kind donation does not include real property.

(7) An infrastructure grant may not be awarded under this part if the grant, or the grant recipient match described in Subsection (5)(b), will be used for the purchase of real property or for the purchase or transfer of a conservation easement.

CHAPTER 49
H. B. 98
Passed February 10, 2023
Approved March 13, 2023
Effective May 3, 2023

PROCESS SERVER AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends the qualifications for process servers.

Highlighted Provisions:

This bill:

- allows certain special function officers to serve court documents when the use of force is authorized or when a breach of the peace is imminent or likely; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-8-302, as last amended by Laws of Utah 2018, Chapter 298

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

Section 1. Section 78B-8-302 is amended to read:

78B-8-302. Process servers.

(1) [~~Complaints, summonses, and subpoenas~~] A complaint, a summons, or a subpoena may be served by a person who is:

(a) 18 years [~~of age~~] old or older at the time of service; and

(b) not a party to the action or a party's attorney.

(2) Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:

(a) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;

(b) a sheriff or appointed deputy sheriff employed by a county of the state;

(c) a constable, or the constable's deputy, serving in compliance with applicable law;

(d) an investigator employed by the state and authorized by law to serve civil process; and

(e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.

(3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

(4) While serving process, a private investigator shall:

(a) have on the investigator's person a visible form of credentials and identification identifying:

(i) the investigator's name;

(ii) that the investigator is a licensed private investigator; and

(iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;

(b) verbally communicate to the person being served that the investigator is acting as a process server; and

(c) print on the first page of each document served:

(i) the investigator's name and identification number as a private investigator; and

(ii) the address and phone number for the investigator's place of business.

(5) Any service under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances, may only be served by:

(a) a law enforcement officer, as defined in Section 53-13-103; or

(b) a special function officer, as defined in Section 53-13-105, who is:

(i) employed as an appointed deputy sheriff by a county of the state; or

[~~(b)~~] (ii) a constable[~~, as listed in Subsection 53-13-105(1)(b)(ii)~~].

(6) The following may not serve process issued by a court:

(a) a person convicted of a felony violation of an offense listed in Subsection 77-41-102(17); or

(b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a protective order.

(7) A person serving process shall:

(a) legibly document the date and time of service on the front page of the document being served;

(b) legibly print the process server's name, address, and telephone number on the return of service;

(c) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;

(d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

(e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

CHAPTER 50
H. B. 102
Passed February 13, 2023
Approved March 13, 2023
Effective May 3, 2023

HIGHER EDUCATION RESIDENCY AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Daniel McCay
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Gay Lynn Bennion
Kera Birkeland
Bridger Bolinder
Jefferson S. Burton
Kay J. Christofferson
Tyler Clancy
Jennifer Dailey-Provost
Steve Eliason
Joseph Elison
Brett Garner
Stephanie Gricius
Matthew H. Gwynn
Katy Hall
Jon Hawkins
Sahara Hayes
Sandra Hollins
Ken Ivory
Colin W. Jack
Tim Jimenez
Marsha Judkins
Jason B. Kyle
Trevor Lee
Rosemary T. Lesser
Anthony E. Loubet
Steven J. Lund
A. Cory Maloy
Ashlee Matthews
Carol S. Moss
Jefferson Moss
Doug Owens
Karen M. Peterson
Candice B. Pierucci
Susan Pulsipher
Judy Weeks Rohner
Angela Romero
Robert M. Spendlove
Jeffrey D. Stenquist
Andrew Stoddard
Mark A. Strong
Mark A. Wheatley
Stephen L. Whyte

LONG TITLE

General Description:

This bill amends higher education residency provisions.

Highlighted Provisions:

This bill:

- requires an institution within the state system of higher education to grant residency status to an individual who is not a citizen of the United States but has been granted or has applied for certain immigration status.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-8-102, as last amended by Laws of Utah 2020, Chapter 37

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

Section 1. Section 53B-8-102 is amended to read:

53B-8-102. Definitions -- Resident student status -- Exceptions.

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to post-secondary educational benefits under Title 38 U.S.C., Veterans' Benefits.

(b) "Immediate family member" means an individual's spouse or dependent child.

(c) "Military servicemember" means an individual who:

(i) is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) is a member of a reserve component of the United States Armed Forces assigned in Utah;

(iii) is a member of the Utah National Guard; or

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.

(d) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.

(e) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military servicemember, if the military servicemember provides:

(i) the military servicemember's current United States military identification card; and

(ii) (A) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah; or

(B) evidence that the military servicemember is domiciled in Utah, as described in Subsection (9)(a);

(b) a military servicemember's immediate family member, if the military servicemember's immediate family member provides:

(i) (A) the military servicemember's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii) (A) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah; or

(B) evidence that the military servicemember is domiciled in Utah, as described in Subsection (9)(a);

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii); or

(e) an eligible person who provides:

(i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;

(ii) a signed written declaration that the eligible person will use the G.I. Bill benefits; and

(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).

(f) an alien who provides:

(i) evidence that the alien is a special immigrant visa recipient;

(ii) evidence that the alien has been granted refugee status, humanitarian parole, temporary protected status, or asylum; or

(iii) evidence that the alien has submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States immigration law.

(9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the military servicemember's or military servicemember's spouse's name, filed as a resident in accordance with Section 59-10-502; or

(v) proof that the military servicemember or military servicemember's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

(b) Aliens who are present in the United States on visitor, student, or other visas not listed in Subsection (8)(f) or (9)(c), which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted [~~immigrant or~~] or have applied for permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years [~~of age~~] old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(18) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

CHAPTER 51
H. B. 113
Passed February 22, 2023
Approved March 13, 2023
Effective May 3, 2023

MOTOR VEHICLE INSURANCE REVISIONS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill increases minimum coverage limits on liability coverage for a motor vehicle insurance policy.

Highlighted Provisions:

This bill:

- increases minimum coverage limits for a motor vehicle insurance policy for liability for bodily injury, death, or property damage caused by an accident, beginning at a future date;
- provides an exception to the increase in coverage limits for a self-insured, private rental fleet; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-304, as last amended by Laws of Utah 2008, Chapter 371

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

Section 1. Section 31A-22-304 is amended to read:

31A-22-304. Motor vehicle liability policy minimum limits.

(1) [~~Policies~~] A policy issued or renewed on or before December 31, 2024, containing motor vehicle liability coverage may not limit the insurer's liability under that coverage below the following:

[~~(1)~~] (a) (i) $25,000 because of liability for bodily injury to or death of one person, arising out of the use of a motor vehicle in any one accident;

[~~(b)~~] (ii) subject to the limit for one person in Subsection (1)(a)(i), in the amount of $65,000 because of liability for bodily injury to or death of two or more persons arising out of the use of a motor vehicle in any one accident; and

[~~(c)~~] (iii) in the amount of $15,000 because of liability for injury to, or destruction of, property of others arising out of the use of a motor vehicle in any one accident; or

[~~(2)~~] (b) $80,000 in any one accident whether arising from bodily injury to or the death of others, or from destruction of, or damage to, the property of others.

(2) Subject to Subsection (3), a policy issued or renewed on or after January 1, 2025, containing motor vehicle liability coverage may not limit the insurer's liability under that coverage below the following:

(a) (i) $30,000 because of liability for bodily injury to or death of one person, arising out of the use of a motor vehicle in any one accident;

(ii) subject to the limit for one person in Subsection (2)(a)(i), in the amount of $65,000 because of liability for bodily injury to or death of two or more persons arising out of the use of a motor vehicle in any one accident; and

(iii) in the amount of $25,000 because of liability for injury to, or destruction of, property of others arising out of the use of a motor vehicle in any one accident; or

(b) $90,000 in any one accident whether arising from bodily injury to or the death of others, or from destruction of, or damage to, the property of others.

(3) Notwithstanding Subsection (2), for a policy for a self-insured, private rental fleet, the policy containing motor vehicle liability coverage may not limit the insurer's liability under that coverage below the following:

(a) (i) $25,000 because of liability for bodily injury to or death of one person, arising out of the use of a motor vehicle in any one accident;

(ii) subject to the limit for one person in Subsection (3)(a)(i), in the amount of $65,000 because of liability for bodily injury to or death of two or more persons arising out of the use of a motor vehicle in any one accident; and

(iii) in the amount of $15,000 because of liability for injury to, or destruction of, property of others arising out of the use of a motor vehicle in any one accident; or

(b) $80,000 in any one accident whether arising from bodily injury to or the death of others, or from destruction of, or damage to, the property of others.

CHAPTER 52
H. B. 116
Passed March 1, 2023
Approved March 13, 2023
Effective July 1, 2023

INTERGENERATIONAL POVERTY SOLUTION

Chief Sponsor: Norman K Thurston
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill creates the Education Savings Incentive Program.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Education Savings Incentive Program (the program), including:
  - providing a process for an individual identified by the Department of Workforce Services as experiencing intergenerational poverty to receive a state match of deposits into certain 529 savings accounts;
  - providing for the sharing of information between the Department of Workforce Services, the Utah Educational Savings Plan, and the State Tax Commission; and
  - requiring the Department of Workforce Services and the Utah Educational Savings Plan to provide information about the program to the Legislature through the department's annual report; and
- sets a termination date for the program but requires legislative review before the termination date to determine whether the Legislature should extend the program.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Income Tax Fund Restricted -- Education Savings Incentive Restricted Account, as an ongoing appropriation:
  - from Income Tax Fund, $870,800;
- to Income Tax Fund Restricted -- Education Savings Incentive Restricted Account, as a one-time appropriation:
  - from Income Tax Fund, $6,900;
- to Department of Workforce Services -- Administration, as an ongoing appropriation:
  - from Income Tax Fund Restricted -- Education Savings Incentive Restricted Account, $870,800; and
- to Department of Workforce Services -- Operations and Policy, as a one-time appropriation:
  - from Income Tax Fund Restricted -- Education Savings Incentive Restricted Account, $6,900.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-1-403, as last amended by Laws of Utah 2022, Chapter 447
63I-1-235, as last amended by Laws of Utah 2022, Chapters 25, 36, 118, and 362
63I-1-253, as last amended by Laws of Utah 2022, Chapters 10, 30, 31, 172, 173, 194, 218, 224, 229, 236, 254, 274, and 414
63I-1-259, as last amended by Laws of Utah 2022, Chapter 218

ENACTS:

35A-9-601, Utah Code Annotated 1953
35A-9-602, Utah Code Annotated 1953
35A-9-603, Utah Code Annotated 1953
35A-9-604, Utah Code Annotated 1953
35A-9-605, Utah Code Annotated 1953
35A-9-606, Utah Code Annotated 1953
53B-8a-301, Utah Code Annotated 1953
53B-8a-302, Utah Code Annotated 1953
53B-8a-303, Utah Code Annotated 1953

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

Section 1. Section 35A-9-601 is enacted to read:

Part 6. Education Savings Incentive Program

35A-9-601. Definitions.

As used in this part:

(1) "529 savings account" means a tax-advantaged method of saving for higher education costs that:

(a) meets the requirements of Section 529, Internal Revenue Code; and

(b) is managed by the plan.

(2) "Beneficiary" means the individual designated:

(a) in a 529 savings account agreement between a person, an estate, or a trust and the plan; and

(b) to benefit from the amount saved in a 529 savings account.

(3) "Commission" means the State Tax Commission.

(4) "Deposit" means the payment of money from a source other than a match.

(5) "Eligible 529 savings account" means a 529 savings account for which:

(a) a qualifying individual is the account owner; and

(b) a qualifying individual or a minor dependent of a qualifying individual is a beneficiary.

(6) "Federal earned income tax credit" means the federal earned income tax credit:

(a) described in Section 32, Internal Revenue Code; and

(b) that a qualifying individual claims and is eligible to claim on the federal income tax return for the taxable year.

(7) "Match" means the monetary amount described in Subsection 35A-9-603(2).

(8) "Minor dependent" means an individual under 19 years old for whom a qualifying individual can claim a tax credit under Section 24, Internal Revenue Code, on the qualifying individual's federal income tax return for the taxable year.

(9) "Plan" means the Utah Educational Savings Plan created in Section 53B-8a-103.

(10) "Program" means the Education Savings Incentive Program created in Section 35A-9-603.

(11) "Qualifying individual" means an individual who the department identifies as experiencing intergenerational poverty and who has not been disqualified from participating in the program for overclaiming a match in a previous year.

Section 2. Section 35A-9-602 is enacted to read:

35A-9-602. Education Savings Incentive Restricted Account.

(1) There is created a restricted account within the Income Tax Fund to be known as the Education Savings Incentive Restricted Account.

(2) The department shall administer the restricted account for the purposes described in this part.

(3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited into the restricted account.

(4) The restricted account shall be funded by:

(a) appropriations made to the account by the Legislature; and

(b) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(5) Subject to appropriation, the department:

(a) shall use restricted account money for the program; and

(b) may use a portion of the restricted account money for administration of the program.

Section 3. Section 35A-9-603 is enacted to read:

35A-9-603. Education Savings Incentive Program.

(1) (a) There is created the Education Savings Incentive Program to provide an annual monetary match to eligible 529 savings accounts.

(b) The program is established within the higher education system.

(c) The department shall implement the program as early as is practicable, but the department shall begin accepting applications for the program no later than January 1, 2024.

(2) (a) For each qualifying individual that meets the requirements of Subsection (3), the state shall match, during a calendar year, the amount of a deposit into one or more of the qualifying individual's eligible 529 savings accounts up to $300.

(b) The amount in Subsection (2)(a) is the maximum match amount per family per calendar year.

(c) (i) Except as provided in Subsections (2)(c)(ii) and (iii), the match rate is $1 for each $1 deposit.

(ii) In a fiscal year where the balance of money in the restricted account is insufficient to sustain a $1 for each $1 deposit match rate, the department shall reduce the amount of each match proportionately.

(iii) (A) Subject to Subsection (2)(c)(iii)(B), in a fiscal year when the balance of the money in the restricted account exceeds the amount needed for a $1 for each $1 deposit match rate, the department shall increase the amount of each match proportionately.

(B) If a qualifying individual's proportionate share under Subsection (2)(c)(iii)(A) is greater than the amount allowed under Subsections (2)(a) and (b), the qualifying individual shall receive the amount allowed under Subsections (2)(a) and (b).

(3) To participate in the program, a qualifying individual shall:

(a) apply with the department in accordance with Section 35A-9-604;

(b) claim and receive a federal earned income tax credit on the qualifying individual's federal income tax return for the previous taxable year; and

(c) during the calendar year for which the qualifying individual applies to participate in the program, be the account owner of one or more eligible 529 savings accounts into which a deposit was made.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing:

(a) administration of the program; and

(b) after consulting with the plan, additional information to request in the application for the program.

Section 4. Section 35A-9-604 is enacted to read:

35A-9-604. Application for program.

(1) The department shall provide to each qualifying individual:

(a) notice of the program;

(b) information about the benefits of participating in the program;

(c) information explaining that participation in the program requires that the qualifying individual:

(i) apply for the program in accordance with this section;

(ii) be eligible for and claim a federal earned income tax credit for the taxable year before the year in which the qualifying individual applies for the program;

(iii) own one or more eligible 529 savings accounts into which a deposit is made during the same year for which the qualifying individual applies for the program; and

(iv) sign an information release;

(d) information about how to claim a federal earned income tax credit;

(e) information about how to open an eligible 529 savings account; and

(f) information about how to apply for the program.

(2) (a) To participate in the program, a qualifying individual shall complete annually an online application that includes:

(i) a means for a qualifying individual to sign the information release described in Subsection (2)(b);

(ii) a statement that the qualifying individual claimed a federal earned income tax credit for the previous taxable year;

(iii) the name of the account owner, the name of the beneficiary, and the account number of any of the qualifying individual's eligible 529 savings accounts;

(iv) the amount of deposit into one or more of the qualifying individual's eligible 529 savings accounts during the calendar year in which the application is made;

(v) the allocation of the match among the qualifying individual's eligible 529 savings accounts; and

(vi) any other information required by the department, the plan, or the commission to administer the program.

(b) The department, the plan, and the commission shall develop an information release that directs and allows:

(i) the department to report to the plan:

(A) the name and identifying information of the qualifying individual;

(B) contact information for the qualifying individual; and

(C) the name of the account owner, the name of the beneficiary, and the account number of any eligible 529 savings account;

(ii) the plan to report to the department:

(A) the account number, name of the account owner, and the name of the beneficiary for each eligible 529 savings account into which a deposit was made during the calendar year; and

(B) the amount of deposit made into each eligible 529 savings account for the calendar year;

(iii) the department to disclose to the commission, if the plan lists the qualifying individual on the report described in Section 53B-8a-302, the name and identifying information of the qualifying individual; and

(iv) the commission to disclose to the department, whether the qualifying individual claimed a federal earned income tax credit on the qualifying individual's federal income tax return for a taxable year.

(3) (a) The department shall provide to the plan the information described in Subsection (2)(b)(i) for each qualifying individual that the department determines completes the application requirements described in Subsection (2).

(b) The department shall provide the information described in Subsection (3)(a):

(i) in a single report; and

(ii) with information about which calendar year the department requests a report under Section 53B-8a-302.

(4) (a) The department may provide to the commission the information described in Subsection (2)(b)(iii) for each qualifying individual that the plan lists on the report described in Section 53B-8a-302.

(b) The department shall provide the information described in Subsection (4)(a):

(i) in a single report; and

(ii) with information about which calendar year the department requires a disclosure under Subsection 59-1-403(4)(aa).

(5) The department, the plan, and the commission shall provide for the security and maintenance of confidentiality of any information shared under an information release.

(6) (a) The department shall determine whether an applicant for the program:

(i) is a qualifying individual; and

(ii) meets the program requirements described in this section.

(b) An applicant may not appeal the department's determination that the applicant is not a qualifying individual.

(c) An applicant may reapply if the department later identifies the applicant as a qualifying individual.

Section 5. Section 35A-9-605 is enacted to read:

35A-9-605. Payment of match.

(1) Subject to the other provisions of this section, the department shall transfer money appropriated from the Education Savings Incentive Restricted Account to the plan in the amount of each qualifying individual's match.

(2) The department shall send with the transfer described in Subsection (1), for each qualifying individual that is receiving a match:

(a) the amount of the match for the qualifying individual;

(b) the qualifying individual's allocation of the match among eligible 529 savings accounts; and

(c) for each eligible 529 savings account into which the qualifying individual allocates the match:

(i) the name of the qualifying individual who is the account owner;

(ii) the name of the beneficiary; and

(iii) the account number.

Section 6. Section 35A-9-606 is enacted to read:

35A-9-606. Reporting to the department -- Annual report.

(1) On or before September 1, the plan shall submit to the department the aggregate average balance in eligible 529 savings accounts during the previous calendar year.

(2) The department shall include in the annual report required by Section 35A-1-109 the following information for the previous calendar year:

(a) the number of qualifying individuals to whom the department provides notice of the program;

(b) the number of applications for the program;

(c) the number of applications for the program from qualifying individuals;

(d) the number of qualifying individuals participating in the program;

(e) the number of eligible 529 savings accounts that receive a match;

(f) the total dollar amount provided as a match; and

(g) the aggregate average balance in eligible 529 savings accounts as reported by the plan.

Section 7. Section 53B-8a-301 is enacted to read:

Part 3. Education Savings Incentive Program

53B-8a-301. Definitions.

As used in this part:

(1) "529 savings account" means the same as that term is defined in Section 35A-9-601.

(2) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(3) "Match" means the same as that term is defined in Section 35A-9-601.

(4) "Qualifying individual" means the same as that term is defined in Section 35A-9-601, except that the term is limited to individuals for whom the department sends information in accordance with Subsection 35A-9-604(3).

Section 8. Section 53B-8a-302 is enacted to read:

53B-8a-302. Report of information to Department of Workforce Services.

Within 30 days of receiving the report described in Subsection 35A-9-604(3), the plan shall provide an electronic report to the department that lists:

(1) the total amount of deposits:

(a) during the calendar year for which the department makes the request; and

(b) for each 529 savings account of which a qualifying individual is an account owner; and

(2) the account number and the name of the beneficiary for each 529 savings account:

(a) into which a deposit was made; and

(b) for which a qualifying individual is an account owner.

Section 9. Section 53B-8a-303 is enacted to read:

53B-8a-303. Deposit of match.

(1) The plan shall deposit a match from the Education Savings Incentive Restricted Account, created in Section 35A-9-602, into a 529 savings account in accordance with the provisions of Section 35A-9-605.

(2) If, upon receiving a transfer described in Subsection (1), the plan determines that the 529 savings account into which the plan is to deposit the match has been closed, the plan shall return the match to the department.

(3) The plan shall send the department an electronic receipt of the match deposits.

Section 10. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township; or

(ii) the military installation development authority created in Section 63H-1-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance

with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage

Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 11. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates: Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

(3) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.

(4) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2032.

(5) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(5)~~] (6) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2023.

[~~(6)~~] (7) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

[~~(7)~~] (8) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

[~~(8)~~] (9) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

Section 12. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(6)~~] (7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(7)~~] (8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(8)~~] (9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~] (10) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(10)~~] (11) Subsection 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(11)~~] (12) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(12)~~] (13) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(13)~~] (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(14)~~] (15) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(15)~~] (16) Section 53F-5-203 is repealed July 1, 2024.

[~~(16)~~] (17) Section 53F-5-213 is repealed July 1, 2023.

[~~(17)~~] (18) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(18)~~] (19) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(19)~~] (20) Section 53F-5-219, which creates the Local [~~INnovations~~] Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(20)~~] (21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(21)~~] (22) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(22)~~] (23) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2027.

[~~(23)~~] (24) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24)~~] (25) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 13. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates: Title 59.

(1) Section 59-1-213.1 is repealed May 9, 2024.

(2) Section 59-1-213.2 is repealed May 9, 2024.

(3) Subsection 59-1-403(4)(aa), which authorizes the State Tax Commission to inform the Department of Workforce Services whether an individual claimed a federal earned income tax credit, is repealed July 1, 2029.

[~~(3)~~] (4) Subsection 59-1-405(1)(g) is repealed May 9, 2024.

[~~(4)~~] (5) Subsection 59-1-405(2)(b) is repealed May 9, 2024.

[~~(5)~~] (6) Section 59-7-618.1 is repealed July 1, 2029.

[~~(6)~~] (7) Section 59-9-102.5 is repealed December 31, 2030.

[~~(7)~~] (8) Section 59-10-1033.1 is repealed July 1, 2029.

Section 14. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024.

Subsection 14(a). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To Income Tax Fund Restricted -- Education Savings Incentive Restricted Account

From Income Tax Fund	870,800
From Income Tax Fund, One-time	6,900
Schedule of Programs:	
Income Tax Fund Restricted — Education Savings Incentive Restricted Account	877,700

Subsection 14(b). Operating and Capital Budgets.

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

ITEM 2

To Department of Workforce Services -- Administration

From Income Tax Fund Restricted -- Education Savings

Incentive Restricted Account	870,800
Schedule of Programs:	
Administrative Support	870,800

The Legislature intends that the Department of Workforce Services use this appropriation to provide matching funds for and to pay for personnel costs to administer the Education Savings Incentive Program.

ITEM 3

To Department of Workforce Services -- Operations and Policy

From Income Tax Fund Restricted -- Education Savings

Incentive Restricted Account, One-time	6,900
Schedule of Programs:	
Operations and Policy	6,900

The Legislature intends that the Department of Workforce Services use this appropriation for system development expenses to administer the Education Savings Incentive Program.

Section 15. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 53
H. B. 127
Passed March 3, 2023
Approved March 13, 2023
Effective May 1, 2023

REAUTHORIZATION OF ADMINISTRATIVE RULES

Chief Sponsor: Kera Birkeland
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill provides legislative action regarding administrative rules.

Highlighted Provisions:

This bill:

- reauthorizes all state agency administrative rules except for the rules specifically listed in this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Rules reauthorization.

All rules of Utah state agencies are reauthorized except:

(1) (a) Subsection (3) of R156-60-102, Mental Health Professional Practice Act Rule -- Definitions; and

(b) Subsection (2) of R156-60-502, Unprofessional Conduct; and

(2) (a) Subsection (3) of R156-61-102, Psychologist Licensing Act Rule -- Definitions; and

(b) Subsection (23) of R156-61-502, Unprofessional Conduct.

Section 2. Effective date.

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

(1) unless the governor vetoes the bill, the later of May 1, 2023, approval by the governor, or, without the governor's approval, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(2) if the governor vetoes the bill and the Legislature overrides the veto, the later of May 1, 2023 or the date of veto override.

CHAPTER 54
H. B. 134
Passed February 16, 2023
Approved March 13, 2023
Effective May 3, 2023

CHARTER SCHOOL CLOSING REQUIREMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses treatment of assets of a charter school.

Highlighted Provisions:

This bill:

- addresses when payments may be made from the Charter School Closure Reserve Account;
- modifies language related to a charter school authorizer and the closure of a charter school;
- amends provisions related to how charter school assets are treated when a charter school is closed; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-9-307, as last amended by Laws of Utah 2022, Chapter 456
53G-5-501, as last amended by Laws of Utah 2020, Chapters 192, 408
53G-5-504, as last amended by Laws of Utah 2021, Chapters 84, 345

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

Section 1. Section 53F-9-307 is amended to read:

53F-9-307. Charter School Closure Reserve Account.

(1) As used in this section:

(a) "Account" means the Charter School Closure Reserve Account created in this section.

(b) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

(2) There is created within the Income Tax Fund a special revenue fund known as the "Charter School Closure Reserve Account."

(3) The account consists of:

(a) appropriations of the Legislature;

(b) amounts deposited into the account in accordance with this section; and

(c) interest earned on money in the account.

(4) (a) The account shall earn interest.

(b) Interest earned on the account shall be deposited into the account.

(5) (a) In a fiscal year that begins on or after July 1, 2021, a charter school shall annually contribute to the account $2 per student enrolled in the charter school until the account balance reaches $3,000,000.

(b) (i) Beginning with the fiscal year following the first fiscal year in which the account balance reaches $3,000,000, except as provided in Subsections (5)(b)(ii) and (iii), in any fiscal year in which the account balance is less than $3,000,000, a charter school shall contribute to the account a prorated amount, not to exceed $2 per student enrolled in a charter school, in accordance with Subsection (6).

(ii) Except as provided in Subsection (5)(b)(iii), if no funds have been withdrawn from the account due to a charter school closure, in a fiscal year that begins on or after July 1, 2024, in which the account balance is less than $2,500,000, a charter school shall contribute to the account a prorated amount, not to exceed $2 per student enrolled in a charter school, in accordance with Subsection (6).

(iii) If no funds have been withdrawn from the account due to a charter school closure, in a fiscal year that begins on or after July 1, 2026, in which the account balance is less than $2,000,000, a charter school shall contribute to the account a prorated amount, not to exceed $2 per student enrolled in a charter school, in accordance with Subsection (6).

(c) The state board shall ensure that the total contribution from charter schools described in Subsection (5)(b) equals the lesser of:

(i) (A) in a fiscal year after the first fiscal year in which the account balance reaches $3,000,000, an amount sufficient to maintain an account balance of $3,000,000;

(B) in a fiscal year that begins on or after July 1, 2024, if no funds have been withdrawn from the account due to charter school closure, an amount sufficient to maintain an account balance of $2,500,000; or

(C) in a fiscal year that begins on or after July 1, 2026, if no funds have been withdrawn from the account due to charter school closure, an amount sufficient to maintain an account balance of $2,000,000; and

(ii) $2 per student enrolled in a charter school.

(6) The state board of education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(a) calculating the amounts described in Subsections (5)(b) and (c);

(b) a process for collecting charter school contributions to the account described in this section; and

(c) a process for depositing charter school contributions to the account described in this section into the account.

(7) Money in the account may only be used upon closure of a charter school that closes on or after January 1, 2021:

(a) to pay debts that the charter school owes to:

(i) the state board; or

(ii) the state or federal government;

(b) after the charter school has made other reasonable attempts to resolve debts the charter school owes to:

(i) the state board; or

(ii) the state or federal government; and

(c) after a charter school liquidates [~~all of~~] the charter school's assets remaining after:

(i) the charter school's liabilities and obligations are paid under Subsection 53G-5-504(7); and

(ii) the charter school authorizer assigns assets to a public school under Subsection 53G-5-504(7)(c).

(8) Money in the account may not be used to pay bond debt.

(9) The state board, in partnership with a charter school authorizer:

(a) may authorize the use of money in the account, subject to the restrictions described in Subsections (7) and (8); and

(b) before authorizing the use of funds in the account as described in Subsection (9)(a), shall investigate all reasonable alternatives for a charter school to pay debt that the charter school owes to:

(i) the state board; and

(ii) the state or federal government.

Section 2. Section 53G-5-501 is amended to read:

53G-5-501. Noncompliance -- Rulemaking.

(1) If a charter school is found to be out of compliance with the requirements of Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53G-5-503(4):

(a) the charter school governing board; and

(b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(2) (a) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:

(i) subject to the requirements of Subsection (4), take one or more of the following actions:

(A) remove a charter school director or finance officer;

(B) remove a charter school governing board member;

(C) appoint an interim director, mentor, or finance officer to work with the charter school; or

(D) appoint a governing board member;

(ii) subject to the requirements of Section 53G-5-503, terminate the school's charter agreement; or

(iii) transfer operation and control of the charter school to a high performing charter school, as defined in Subsection 53G-5-502(1), including reconstituting the governing board to effectuate the transfer.

(b) The authorizer may prohibit the charter school governing board from removing an appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the appointment.

(3) The costs of an interim director, mentor, or finance officer appointed under Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director, mentor, or finance officer is working.

(4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsection (2)(a)(i) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

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

(a) specifying the timeline for remedying deficiencies under Subsection (1); and

(b) ensuring the compliance of a charter school with its approved charter agreement.

(6) (a) An authorizer may petition the district court where a charter school is located or incorporated to appoint a receiver, and the district court may appoint a receiver if the authorizer establishes that the charter school:

(i) is subject to closure under Section 53G-5-503; and

(ii) (A) has disposed, or there is a demonstrated risk that the charter school will dispose, of the charter school's assets in violation of Subsection 53G-5-403(4); or

(B) cannot, or there is a demonstrated risk that the charter school will not, make repayment of amounts owed to the federal government or the state.

(b) The court shall describe the powers and duties of the receiver in the court's appointing order, and may amend the order from time to time.

(c) Among other duties ordered by the court, the receiver shall:

(i) ensure the protection of the charter school's assets;

(ii) preserve money owed to creditors; and

(iii) if requested by the authorizer, carry out charter school closure procedures described in Section 53G-5-504, and state board rules, as directed by the authorizer.

(d) If the authorizer does not request, or the court does not appoint, a receiver:

(i) the authorizer may reconstitute the governing board of a charter school; or

(ii) if a new governing board cannot be reconstituted, the authorizer shall complete the closure procedures described in Section 53G-5-504, including liquidation and assignment of assets, and payment of [~~debt~~] liabilities and obligations in accordance with [~~state board rule, as described in Section~~] Subsection 53G-5-504(7) and state board rule.

(e) For a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the consent of the Utah Charter School Finance Authority before the authorizer takes the following actions:

(i) petitions a district court to appoint a receiver, as described in Subsection (6)(a);

(ii) reconstitutes the governing board, as described in Subsection (6)(d)(i); or

(iii) carries out closure procedures, as described in Subsection (6)(d)(ii).

Section 3. Section 53G-5-504 is amended to read:

53G-5-504. Charter school closure.

(1) As used in this section, "receiving charter school" means a charter school that an authorizer permits under Subsection [~~(13)(a)~~] (12)(a), to accept enrollment applications from students of a closing charter school.

(2) If a charter school is closed for any reason, including the termination of a charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

(3) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection 53G-5-503(2)(c);

(b) when the state board takes final action described in Subsection 53G-5-503(2)(d)(ii); or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

(4) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

(A) if the charter school made the decision to close, the charter school's authorizer;

(B) the State Charter School Board;

(C) if the state board did not make the decision to close, the state board;

(D) parents of students enrolled at the charter school;

(E) the charter school's creditors;

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

(H) other entities that may have a claim to the charter school's assets;

(I) the school district in which the charter school is located and other charter schools located in that school district; and

(J) any other person that the charter school determines to be appropriate; and

(ii) post notice of the decision on the Utah Public Notice Website, created in Section 63A-16-601.

(b) The notice described in Subsection (4)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

(5) No later than 10 days after the day on which a decision to close a charter school is made, the closing charter school shall:

(a) designate a custodian for the protection of student files and school business records;

(b) designate a base of operation that will be maintained throughout the charter school closing, including:

(i) an office;

(ii) hours of operation;

(iii) operational telephone service with voice messaging stating the hours of operation; and

(iv) a designated individual to respond to questions or requests during the hours of operation;

(c) assure that the charter school will maintain private insurance coverage or risk management coverage for covered claims that arise before closure, throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;

(d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;

(e) inventory all assets of the charter school; and

(f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

(6) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (5).

(7) (a) Unless a different order is determined by a bankruptcy court under 11 U.S.C. Sec. 1001 et seq., a closing charter school shall distribute the assets of the closing charter school in the following order:

(i) return assets donated by a private donor to the private donor if:

(A) the assets were donated for a specific purpose;

(B) the private donor restricted use of the assets to only that specific purpose; and

(C) the closing charter school has assets that have not been used for the specific purpose;

(ii) distribute assets to satisfy outstanding payroll obligations for employees of the closing charter school;

(iii) distribute assets to creditors of the closing charter school; and

(iv) distribute assets to satisfy any outstanding liability or obligation to the state board, state, or federal government.

(b) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged consistent with Subsection (7)(a), to the closing charter school's authorizer.

[~~(b)~~] (c) [~~The~~] Upon receipt of the assets under Subsection (7)(b), the closing charter school's authorizer shall:

(i) liquidate assets at fair market value; or

(ii) assign the assets to another public school.

[~~(8)~~] (d) The closing charter school's authorizer shall oversee liquidation of assets and payment of [~~debt~~] liabilities and obligations in accordance with this section, Sections 53F-9-307 and 53G-5-501, and state board rule.

[~~(9)~~] (8) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the state board, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.

[~~(10)~~] (9) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

[~~(11)~~] (10) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules that:

(a) provide additional closure procedures for charter schools; and

(b) establish a charter school closure process.

[~~(12)~~] (11) (a) Upon termination of the charter school's charter agreement:

(i) notwithstanding provisions to the contrary in Title 16, Chapter 6a, Part 14, Dissolution, the nonprofit corporation under which the charter school is organized and managed may be unilaterally dissolved by the authorizer; and

(ii) the net assets of the charter school shall revert to the authorizer as described in Subsection (7).

(b) The charter school and the authorizer shall mutually agree in writing on the effective date and time of the dissolution described in Subsection [~~(12)(a)~~] (11)(a).

(c) The effective date and time of dissolution described in Subsection [~~(12)(b)~~] (11)(b) may not exceed five years after the date of the termination of the charter agreement.

[~~(13)~~] (12) Notwithstanding the provisions of Chapter 6, Part 5, Charter School Enrollment:

(a) an authorizer may permit a specified number of students from a closing charter school to be enrolled in another charter school, if the receiving charter school:

(i) (A) is authorized by the same authorizer as the closing charter school; or

(B) is authorized by a different authorizer and the authorizer of the receiving charter school approves the increase in enrollment; and

(ii) agrees to accept enrollment applications from students of the closing charter school;

(b) a receiving charter school shall give new enrollment preference to applications from students of the closing charter school in the first school year in which the closing charter school is not operational; and

(c) a receiving charter school's enrollment capacity is increased by the number of students enrolled in the receiving charter school from the closing charter school under this Subsection [~~(13)~~] (12).

[~~(14)~~] (13) A member of the governing board or staff of the receiving charter school that is also a member of the governing board of the receiving charter school's authorizer, shall recuse himself or herself from a decision regarding the enrollment of students from a closing charter school as described in Subsection [~~(13)~~] (12).

CHAPTER 55
H. B. 157
Passed February 15, 2023
Approved March 13, 2023
Effective May 3, 2023

COUNTY OFFICE CONSOLIDATION AMENDMENTS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill amends the requirements for a county legislative body related to consolidation or separation of county offices.

Highlighted Provisions:

This bill:

- changes the deadline for a county legislative body to enact an ordinance that consolidates or separates county offices.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-16-3, as last amended by Laws of Utah 2006, Chapter 3

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

Section 1. Section 17-16-3 is amended to read:

17-16-3. Consolidation of offices.

(1) A county legislative body may, unless prohibited by Subsection (2), pass an ordinance that:

(a) consolidates county offices and establishes the duties of those consolidated offices;

(b) separates any previously consolidated offices and reconsolidates them; or

(c) separates any previously consolidated offices without reconsolidating them.

(2) A county legislative body may not:

(a) consolidate the offices of county commissioner, county council member, or county treasurer with the office of county auditor;

(b) consolidate the office of county executive with the office of county auditor, unless a referendum approving that consolidation passes; or

(c) consolidate the offices of county commissioner, county council member, county executive, county assessor, or county auditor with the office of county treasurer.

(3) Each county legislative body shall ensure that any ordinance consolidating or separating county offices:

(a) is enacted before the [~~February~~] November 1 of the year before the year in which county officers are elected; and

(b) takes effect on the first Monday in January after the year in which county officers are elected.

(4) (a) Each county legislative body shall:

(i) enact an ordinance by February 1, 2010, separating any county offices that are prohibited from consolidation by this section; and

(ii) publish, by February 15, 2010, a notice once in a newspaper of general circulation in the county identifying the county offices that will be filled in the November 2010 election.

(b) (i) If a county legislative body has, by February 1, 2006, enacted an ordinance, in compliance with this Subsection (4) then in effect, separating county offices that are prohibited from consolidation by this section, the county legislative body may repeal that ordinance.

(ii) If a county legislative body has published notice in a newspaper identifying the county offices that will be filled in the November 2006 election, and that notice, because of a repeal of an ordinance under Subsection (4)(b)(i), is incorrect, the county legislative body shall publish notice once in a newspaper of general circulation in the county indicating that the previous notice was incorrect and correctly identifying the county offices that will be filled in the November 2006 election.

CHAPTER 56
H. B. 162
Passed February 22, 2023
Approved March 13, 2023
Effective May 3, 2023

VOTER ACCESSIBILITY AMENDMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill makes changes to the Election Code relating to voting accessibility.

Highlighted Provisions:

This bill:

- requires an election officer to provide an accessible voting option for a voter with a disability;
- requires the director of elections to make rules regarding identity verification for individuals who are unable to sign their name consistently due to a disability;
- requires that election notices include instructions on how a voter with a disability may obtain information on voting in an accessible manner; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

20A-3a-202, as last amended by Laws of Utah 2022, Chapters 18, 121 and 156
20A-3a-401, as last amended by Laws of Utah 2022, Chapter 392
20A-5-101, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

Utah Code Sections Affected by Coordination Clause:

20A-3a-401, as last amended by Laws of Utah 2022, Chapter 392

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

Section 1. Section 20A-3a-202 is amended to read:

20A-3a-202. Conducting election by mail.

(1) (a) Except as otherwise provided for an election conducted entirely by mail under Section 20A-7-609.5, an election officer shall administer an election primarily by mail, in accordance with this section.

(b) An individual who did not provide valid voter identification at the time the voter registered to vote shall provide valid voter identification before voting.

(2) An election officer who administers an election:

(a) shall in accordance with Subsection (3), no sooner than 21 days before election day and no later than seven days before election day, mail to each active voter within a voting precinct:

(i) a manual ballot;

(ii) a return envelope;

(iii) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(iv) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote or a website address where the voter may view this information;

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling place or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the ballot, the voter will be unable to vote in that election because there will be no polling place for the voting precinct on the day of the election; and

(vi) [~~after May 1, 2022,~~] instructions on how a voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5;

(b) may not mail a ballot under this section to:

(i) an inactive voter, unless the inactive voter requests a manual ballot; or

(ii) a voter whom the election officer is prohibited from sending a ballot under Subsection (10)(c)(ii); [~~and~~]

(c) shall, on the outside of the envelope in which the election officer mails the ballot, include instructions for returning the ballot if the individual to whom the election officer mails the ballot does not live at the address to which the ballot is sent[~~.~~];

(d) shall provide a method of accessible voting to a voter with a disability who is not able to vote by mail; and

(e) shall include, on the election officer's website and with each ballot mailed, instructions regarding how a voter described in Subsection (2)(d) may vote.

(3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail the manual ballot to the address:

(i) provided at the time of registration; or

(ii) if, at or after the time of registration, the voter files an alternate address request form described in Subsection (3)(b), the alternate address indicated on the form.

(b) The lieutenant governor shall make available to voters an alternate address request form that permits a voter to request that the election officer mail the voter's ballot to a location other than the voter's residence.

(c) A voter shall provide the completed alternate address request form to the election officer no later than 11 days before the day of the election.

(4) The return envelope shall include:

(a) the name, official title, and post office address of the election officer on the front of the envelope;

(b) a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected;

(c) a printed affidavit in substantially the following form:

"County of ____State of ____

I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct in ____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon currently incarcerated for commission of a felony.

_____

Signature of Voter"; and

(d) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.

(5) If the election officer determines that the voter is required to show valid voter identification, the election officer may:

(a) mail a ballot to the voter;

(b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot; and

(c) provide instructions to the voter on how the voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

(6) An election officer who administers an election shall:

(a) (i) before the election, obtain the signatures of each voter qualified to vote in the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(7) Upon receipt of a returned ballot, the election officer shall review and process the ballot under Section 20A-3a-401.

(8) A county that administers an election:

(a) shall provide at least one election day voting center in accordance with [~~Chapter 3a, Part 7, Election Day Voting Center~~] Part 7, Election Day Voting Center, and at least one additional election day voting center for every 5,000 active voters in the county who have requested to not receive a ballot by mail;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-3a-601, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604;

(d) is not required to pay return postage for a ballot; and

(e) is subject to an audit conducted under Subsection (9).

(9) (a) The lieutenant governor shall:

(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and

(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection (9)(a)(i).

(b) The lieutenant governor shall post the results of an audit conducted under this Subsection (9) on the lieutenant governor's website.

(10) (a) An individual may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection (10)(a) to the election officer before 5 p.m. no later than 60 days before an election if the individual does not wish to receive a ballot by mail in that election.

(c) An election officer who receives a request from an individual under Subsection (10)(a):

(i) shall remove the individual's name from the list of voters who will receive a ballot by mail; and

(ii) may not send the individual a ballot by mail for:

(A) the next election, if the individual submits the request described in Subsection (10)(a) before the deadline described in Subsection (10)(b); or

(B) an election after the election described in Subsection (10)(c)(ii)(A).

(d) An individual who submits a request under Subsection (10)(a) may resume the individual's receipt of a ballot by mail by submitting a written request to the election officer.

Section 2. Section 20A-3a-401 is amended to read:

20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice.

(1) This section governs ballots returned by mail or via a ballot drop box.

(2) (a) Poll workers shall open return envelopes containing manual ballots that are in the custody of the poll workers in accordance with [~~Subsection (2)(b)~~] this section.

(b) The poll workers shall, first, compare the signature of the voter on the affidavit of the return envelope to the signature of the voter in the voter registration records.

(3) After complying with Subsection (2), the poll workers shall determine whether:

(a) the signatures correspond;

(b) the affidavit is sufficient;

(c) the voter is registered to vote in the correct precinct;

(d) the voter's right to vote the ballot has been challenged;

(e) the voter has already voted in the election;

(f) the voter is required to provide valid voter identification; and

(g) if the voter is required to provide valid voter identification, whether the voter has provided valid voter identification.

(4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll workers determine that:

(i) (A) the signatures correspond; or

(B) if the signatures do not correspond and the voter qualifies for application of the alternative identification verification rules described in Subsection (10), the voter's identity is verified in accordance with the rules described in Subsection (10);

(ii) the affidavit is sufficient;

(iii) the voter is registered to vote in the correct precinct;

(iv) the voter's right to vote the ballot has not been challenged;

(v) the voter has not already voted in the election; and

(vi) for a voter required to provide valid voter identification, that the voter has provided valid voter identification.

(b) If the poll workers make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not destroy the affidavit on the return envelope;

(ii) ensure that the ballot does not unfold and is not otherwise examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

(c) If the poll workers do not make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) disallow the vote;

(ii) without opening the return envelope, mark across the face of the return envelope:

(A) "Rejected as defective"; or

(B) "Rejected as not a registered voter"; and

(iii) place the return envelope, unopened, with the other rejected return envelopes.

(5) (a) If the poll workers reject an individual's ballot because the poll workers determine that the signature on the return envelope does not match the individual's signature in the voter registration records, the election officer shall contact the individual in accordance with Subsection (7) by mail, email, text message, or phone, and inform the individual:

(i) that the individual's signature is in question;

(ii) how the individual may resolve the issue; and

(iii) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(b).

(b) An affidavit described in Subsection (5)(a)(iii) shall include:

(i) an attestation that the individual voted the ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit; [~~and~~]

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes[~~.~~]; and

(v) a check box accompanied by language in substantially the following form:

"I am a voter with a qualifying disability under the Americans with Disabilities Act that impacts my ability to sign my name consistently. I can provide appropriate documentation upon request. To discuss accommodations, I can be contacted at _____".

(c) In order for an individual described in Subsection (5)(a) to have the individual's ballot

counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the election officer.

(d) An election officer who receives a signed affidavit under Subsection (5)(c) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-109; [~~and~~]

(ii) if the election officer receives the affidavit no later than 5 p.m. three days before the day on which the canvass begins, count the individual's ballot[~~.~~]; and

(iii) if the check box described in Subsection (5)(b)(v) is checked, comply with the rules described in Subsection (10).

(6) If the poll workers reject an individual's ballot for any reason, other than the reason described in Subsection (5)(a), the election officer shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.

(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:

(a) if the election officer rejects the ballot before election day:

(i) one business day after the day on which the election officer rejects the ballot, if the election officer gives the notice by email or text message; or

(ii) two business days after the day on which the election officer rejects the ballot, if the election officer gives the notice by postal mail or phone;

(b) seven days after election day if the election officer rejects the ballot on election day; or

(c) seven days after the canvass if the election officer rejects the ballot after election day and before the end of the canvass.

(8) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless:

(a) the election officer receives a signed affidavit from the individual under Subsection (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's identity; and

(b) the affidavit described in Subsection (8)(a) is received, or the confirmation described in Subsection (8)(a) occurs, no later than 5 p.m. three days before the day on which the canvass begins.

(9) The election officer shall retain and preserve the return envelopes in the manner provided by law for the retention and preservation of ballots voted at that election.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12131 through 12165, the director of elections, within the Office of the Lieutenant Governor, shall make rules that provide for alternative means of verifying the identity of an individual who checks the box described in Subsection (5)(b)(v).

Section 3. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall provide notice, in accordance with Subsection (3):

(i) by posting notice in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county;

(ii) (A) by publishing notice in a newspaper of general circulation in the county;

(B) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county, subject to a maximum of 10 notices; or

(C) by mailing notice to each registered voter in the county;

(iii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the election; and

(iv) by posting notice on the county's website for seven days before the day of the election.

(b) The county clerk shall prepare an affidavit of the posting under Subsection (2)(a)(i), showing a copy of the notice and the places where the notice was posted.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; [~~and~~]

(f) the qualifications for persons to vote in the election[~~.~~]; and

(g) instructions regarding how an individual with a disability, who is not able to vote a manual ballot by mail, may obtain information on voting in an accessible manner.

(5) The election officer shall provide the notice described in Subsection (4):

(a) (i) by publishing the notice in a newspaper of general circulation in the jurisdiction to which the election pertains, at least two days before the day of the election;

(ii) at least two days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing the notice to each registered voter who resides in the jurisdiction to which the election pertains at least five days before the day of the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two days before the day of the election; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for two days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 4. Coordinating H.B. 162 with H.B. 37 and H.B. 448 -- Substantive and technical amendments.

If this H.B. 162 and H.B. 448, Election Changes, both pass and become law, and H.B. 37, Voter Signature Verification Amendments, does not pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, as follows:

(1) the changes to Subsection 20A-3a-401(4)(a) in H.B. 448 supersede the changes to Subsection 20A-3a-401(4)(a) in H.B. 162;

(2) the changes to Subsection 20A-3a-401(5)(d)(iii) in H.B. 448 supersede the changes to Subsection 20A-3a-401(5)(d)(iii) in H.B. 162; and

(3) enacted Subsection 20A-3a-401(10) in H.B. 162 does not take effect.

CHAPTER 57
H. B. 179
Passed February 10, 2023
Approved March 13, 2023
Effective May 3, 2023

FOUNDERS AND CONSTITUTION RECOGNITION

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses the recognition of the country's founders and the United States Constitution.

Highlighted Provisions:

This bill:

- designates the month of September as American Founders Month; and
- describes the purpose of Constitution Day.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-401, as last amended by Laws of Utah 2022, Chapter 14

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

Section 1. Section 63G-1-401 is amended to read:

63G-1-401. Commemorative periods.

(1) The following days shall be commemorated annually:

(a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history;

(b) Day of Remembrance for Incarceration of Japanese Americans, on February 19, in remembrance of the incarceration of Japanese Americans during World War II;

(c) Utah State Flag Day, on March 9;

(d) Vietnam Veterans Recognition Day, on March 29;

(e) Utah Railroad Workers Day, on May 10;

(f) Dandy-Walker Syndrome Awareness Day, on May 11;

(g) Armed Forces Day, on the third Saturday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

(h) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;

(i) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;

(j) Navajo Code Talker Day, on August 14;

(k) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

(i) encourage individuals to make child safety a priority;

(ii) remember the importance of continued efforts to reunite missing children with their families; and

(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;

(l) Constitution Day, on September 17, to invite all Utah adults and Utah school children to read directly from the United States Constitution and other primary sources, and for students to be taught principles from the United States Constitution that include federalism, checks and balances, separation of powers, popular sovereignty, limited government, and the necessary and proper, commerce, and supremacy clauses;

(m) POW/MIA Recognition Day, on the third Friday in September;

(n) Victims of Communism Memorial Day, on November 7;

(o) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

(p) Bill of Rights Day, on December 15.

(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(g) and (m).

(3) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(4) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(5) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(6) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(9) The month of September shall be commemorated annually as American Founders and Constitution Month to:

(a) encourage all civic, fraternal, and religious organizations, and public and private educational institutions, to recognize and observe this occasion through appropriate programs, teaching, meetings, services, or celebrations in which state, county, and local governmental officials are invited to participate; and

(b) invite all Utah school children to read directly from the United States Constitution and other primary sources, and to be taught principles from the United States Constitution that include federalism, checks and balances, separation of powers, popular sovereignty, limited government, and the necessary and proper, commerce, and supremacy clauses.

[~~(9)~~] (10) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

[~~(10)~~] (11) The month of October shall be commemorated annually as Italian-American Heritage Month.

[~~(11)~~] (12) The month of November shall be commemorated annually as American Indian Heritage Month.

[~~(12)~~] (13) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

(a) educate the public about avalanche awareness and safety;

(b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and

(c) honor Utah residents who have lost their lives in avalanches, including those who lost their lives working to prevent avalanches.

CHAPTER 58
H. B. 181
Passed March 1, 2023
Approved March 13, 2023
Effective May 3, 2023

OFFENDER EMPLOYMENT AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill establishes provisions related to a web portal that will connect individuals with criminal histories to available job opportunities.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Workforce Services to create and maintain a web portal through which:
  - a business in this state, including a state or local entity, may post job opportunities available to individuals with criminal histories and related employment information; and
  - an individual with a criminal history may access job opportunities and related information;
- requires the Division of Human Resource Management to:
  - provide information and guidance to state agencies encouraging the hiring of individuals with criminal histories;
  - ensure that state agency job opportunities available to individuals with criminal histories are included in the web portal; and
  - report on the information and guidance to the Law Enforcement and Criminal Justice Interim Committee;
- requires the Department of Corrections to ensure that an offender has access to the web portal prior to release from incarceration; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
64-13-10.6, as enacted by Laws of Utah 2015, Chapter 412

ENACTS:
35A-2-204, Utah Code Annotated 1953
63A-17-808, Utah Code Annotated 1953

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

Section 1. Section 35A-2-204 is enacted to read:

35A-2-204. Job opportunity portal for individuals with criminal histories.

(1) As used in this section, "web portal" means an Internet webpage that can be accessed by a person who enters the person's unique user information in order to access secure information.

(2) The department shall, in consultation with the entities described in Subsection (4), design, create, and maintain a web portal through which a person may access data described in Subsection (3), as agreed upon by the entities described in Subsection (4).

(3) The department shall ensure the web portal allows:

(a) a business in this state, including a state or local entity, to:

(i) post a job opportunity that may be available for an individual with a criminal history;

(ii) review a resume or profile information for a job opportunity that is submitted by an individual with a criminal history; and

(iii) review information regarding incentives for hiring an individual with a criminal history; and

(b) an individual with a criminal history in this state to:

(i) review a job opportunity posted within the web portal;

(ii) apply for a job opportunity posted within the web portal; and

(iii) obtain information regarding:

(A) resume creation;

(B) interviewing skills; and

(C) other job-seeking skills.

(4) In developing the web portal described in Subsection (2), the department shall consult with:

(a) the Department of Corrections;

(b) the Division of Human Resource Management; and

(c) the business community that is likely to use the web portal.

(5) The department shall ensure that the web portal described in Subsection (2) is fully operational no later than July 1, 2024.

Section 2. Section 63A-17-808 is enacted to read:

63A-17-808 (Codified as 63A-17-809). Guidance and data collection regarding employment of individuals with criminal histories.

(1) The division shall:

(a) provide information and guidance to agencies encouraging the hiring of individuals with criminal histories, including:

(i) skills developed during incarceration through the Division of Correctional Industries and any other relevant program; and

(ii) guidelines to determine whether an applicant's conviction, disclosed in accordance with Section 34-52-201, is a job-related conviction; and

(b) ensure that agency job opportunities available to individuals with criminal histories are included in the web portal.

(2) On or before October 1, 2024, the division shall provide a written report to the Law Enforcement and Criminal Justice Interim Committee describing the efforts described in Subsection (1).

Section 3. Section 64-13-10.6 is amended to read:

64-13-10.6. Transition and reentry of inmates at termination of incarceration.

(1) The department shall evaluate the case action plan and update the case action plan as necessary to prepare for the offender's transition from incarceration to release, including:

(a) establishing the supervision level and program needs, based on the offender's criminal risk factors;

(b) identifying barriers to the offender's ability to obtain housing, food, clothing, and transportation;

(c) identifying community-based treatment resources that are reasonably accessible to the offender; [~~and~~]

(d) establishing the initial supervision procedures and strategy for the offender's parole officer[~~.~~]; and

(e) ensuring that the offender has access to the web portal described in Section 35A-2-204 a minimum of 30 days before the offender's anticipated release date.

(2) The department shall notify the Board of Pardons and Parole not fewer than 30 days prior to an offender's release of:

(a) the offender's case action plan; and

(b) any specific conditions of parole necessary to better facilitate transition to the community.

CHAPTER 59
H. B. 183
Passed February 14, 2023
Approved March 13, 2023
Effective July 1, 2023

FIREFIGHTER RETIREMENT REVISIONS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill authorizes coverage of certified or licensed emergency medical service personnel in the firefighter retirement systems.

Highlighted Provisions:

This bill:

- modifies definitions related to the firefighter retirement systems;
- authorizes participating employers to elect to cover certified or licensed emergency medical service personnel who the participating employer employs under the firefighter retirement systems;
- provides which years of service are eligible for credit in the firefighter retirement systems; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-16-102, as last amended by Laws of Utah 2022, Chapter 171
49-16-201, as last amended by Laws of Utah 2015, Chapter 254
49-16-701, as last amended by Laws of Utah 2011, Chapter 439
49-23-102, as last amended by Laws of Utah 2022, Chapter 171
49-23-201, as last amended by Laws of Utah 2022, Chapter 171
49-23-503, as last amended by Laws of Utah 2020, Chapter 437

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

Section 1. Section 49-16-102 is amended to read:

49-16-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable as gross income received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) (a) "Disability" means the complete inability, due to objective medical impairment, whether physical or mental, to perform firefighter service.

(b) "Disability" does not include the inability to meet an employer's required standards or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined under Subsection (2)(a).

(3) "Emergency medical service personnel" means an individual who:

(a) is:

(i) a paramedic;

(ii) an advanced emergency medical services technician; or

(iii) an emergency medical services technician;

(b) is required to be licensed or certified under Section 26-8a-302; and

(c) has a primary job duty to provide emergency medical services as a first responder.

[~~(3)~~] (4) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections [~~(3)(b)~~] (4)(b), (c), and (d).

(b) Except as provided in Subsection [~~(3)(c)~~] (4)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(c) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection [~~(3)(a)~~] (4)(b) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(d) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection [~~(13)~~] (14).

[~~(4)~~] (5) (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department; [~~or~~]

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal[~~.~~]; or

(iii) an emergency medical service personnel.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

[~~(5)~~] (6) (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter.

(b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.

[~~(6)~~] (7) (a) "Line-of-duty death or disability" means a death or disability resulting from:

(i) external force, violence, or disease directly resulting from firefighter service; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.

(b) "Line-of-duty death or disability" does not include a death or disability that:

(i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) occurs when the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death or disability; or

(iv) occurs in a manner other than as described in Subsection [~~(6)(a)~~] (7)(a).

(c) "Line-of-duty death or disability" includes the death or disability of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.

[~~(7)~~] (8) "Objective medical impairment" means an impairment resulting from an injury or illness that is diagnosed by a physician or physician assistant and that is based on accepted objective medical tests or findings rather than subjective complaints.

[~~(8)~~] (9) "Participating employer" means an employer that meets the participation requirements of Section 49-16-201.

[~~(9)~~] (10) "Regularly constituted fire department" means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.

[~~(10)~~] (11) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

[~~(11)~~] (12) "System" means the Firefighters' Retirement System created under this chapter.

[~~(12)~~] (13) (a) "Volunteer firefighter" means any individual who is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.

(b) "Volunteer firefighter" does not include an individual who volunteers assistance but does not meet the requirements of Subsection [~~(12)(a)~~] (13)(a).

[~~(13)~~] (14) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.

Section 2. Section 49-16-201 is amended to read:

49-16-201. System membership -- Eligibility.

(1) A firefighter service employee who performs firefighter service for an employer participating in this system is eligible for service credit in this system upon the earliest of:

(a) July 1, 1971, if the firefighter service employee was employed by the participating employer on July 1, 1971, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the firefighter service employee was employed by the participating employer on that date; or

(c) the date the firefighter service employee is hired to perform firefighter services for a participating employer, if the firefighter:

(i) initially enters employment before July 1, 2011; or

(ii) has service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll the dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) (a) A person hired by a regularly constituted fire department on or after July 1, 1971, who does not perform firefighter service is not eligible for service credit in this system.

(b) The nonfirefighter service employee shall become a member of the system for which the nonfirefighter service employee qualifies for service credit.

(c) The service credit exclusion under this Subsection (3) may not be interpreted to prohibit the assignment of a firefighter with a disability or partial disability to a nonfirefighter service position.

(d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for service credit in this system.

(4) An allowance or other benefit may not be granted under this system that is based upon the same service for benefits received under some other system.

(5) Service as a volunteer firefighter is not eligible for service credit in this system.

(6) An employer is eligible to participate in this system if the employer:

(a) maintains a regularly constituted fire department; [~~or~~]

(b) is the Department of Public Safety created in Section 53-1-103 that employs the state fire marshal appointed under Section 53-7-103[~~.~~]; or

(c) employs emergency medical service personnel and meets the requirements of Subsections (7) and (8).

(7) (a) Subject to Subsection (9), beginning July 1, 2023, a firefighter service employee who is an emergency medical service personnel employed by a participating employer shall be eligible for service credit in this system if the emergency medical service personnel's participating employer chooses to cover the participating employer's emergency medical service personnel under this system.

(b) (i) A participating employer's election under Subsection (7)(a) to cover the participating employer's emergency medical service personnel under this system is irrevocable.

(ii) A participating employer shall document an election under Subsection (7)(a) by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) (i) An emergency medical service personnel's service before July 1, 2023, is not eligible for service credit in this system.

(ii) For an emergency medical service personnel employed by a participating employer, the emergency medical service personnel's service before the date the participating employer adopts a resolution described in Subsection (7)(b)(ii) is not eligible for service credit in this system.

(8) (a) The fire chief, or if there is not a fire chief for the participating employer, the emergency services director, shall verify that an individual meets the definition of emergency medical service personnel.

(b) Each participating employer participating in this system that employs emergency medical service personnel shall submit annually to the office a schedule indicating which emergency medical service personnel positions are covered under this system under this chapter.

[~~(7)~~] (9) Beginning July 1, 2011, a person who is initially entering employment with a participating employer and who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board may not participate in this system.

Section 3. Section 49-16-701 is amended to read:

49-16-701. Volunteer firefighters eligible for line-of-duty death and disability benefits in Division A -- Computation of benefit.

(1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty disability benefits provided for firefighters enrolled in Division A, subject to Sections 49-16-602 and 49-16-603.

(2) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death or disability shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(3) Each volunteer fire department shall maintain a current roll of all volunteer firefighters [~~which~~] that meet the requirements of Subsection [~~49-16-102(11)~~] 49-16-102(13) to determine eligibility for this benefit.

Section 4. Section 49-23-102 is amended to read:

49-23-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee or a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee or firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payment covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(3) "Dispatcher" means the same as that term is defined in Section 53-6-102.

(4) "Emergency medical service personnel" means an individual who:

(a) is:

(i) a paramedic;

(ii) an advanced emergency medical services technician; or

(iii) an emergency medical services technician;

(b) is required to be licensed or certified under Section 26-8a-302; and

(c) has a primary job duty to provide emergency medical services as a first responder.

[~~(4)~~] (5) (a) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections [~~(4)(b)~~] (5)(b), (c), (d), (e), and (f).

(b) Except as provided in Subsection [~~(4)(c)~~] (5)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection [~~(4)(b)~~] (5)(b) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(d) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(e) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(f) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection [~~(14)~~] (15).

[~~(5)~~] (6) (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department;

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal; [~~or~~]

(iii) a firefighter service employee who is:

(A) hired on or after July 1, 2021;

(B) trained in firefighter techniques;

(C) assigned to a position of hazardous duty; and

(D) employed by the state as a participating employer[.]; or

(iv) an emergency medical service personnel.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

[~~(6)~~] (7) (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter.

(b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.

[~~(7)~~] (8) (a) "Line-of-duty death" means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service or firefighter service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service or firefighter service employee.

(b) "Line-of-duty death" does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service or firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection [~~(7)(a)~~] (8)(a).

[~~(8)~~] (9) "Participating employer" means an employer that meets the participation requirements of:

(a) Sections 49-14-201 and 49-14-202;

(b) Sections 49-15-201 and 49-15-202;

(c) Sections 49-16-201 and 49-16-202; or

(d) Sections 49-23-201 and 49-23-202.

[~~(9)~~] (10) (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a law enforcement officer in accordance with Section 53-13-103;

(ii) a correctional officer in accordance with Section 53-13-104;

(iii) a special function officer approved in accordance with Sections 49-15-201 and 53-13-105;

(iv) a dispatcher who is certified in accordance with Section 53-6-303;

(v) a full-time member of the Board of Pardons and Parole created under Section 77-27-2;

(vi) the commissioner of the Department of Public Safety; or

(vii) the executive director of the Department of Corrections.

(b) Except for a position described in Subsection [~~(9)(a)(iv)~~] (10)(a)(iv), (v), (vi), or (vii), "public safety service" also requires that, in the course of employment, the employee's life or personal safety is at risk.

[~~(10)~~] (11) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.

[~~(11)~~] (12) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

[~~(12)~~] (13) "System" means the New Public Safety and Firefighter Tier II Contributory Retirement System created under this chapter.

[~~(13)~~] (14) (a) "Volunteer firefighter" means any individual who is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection [~~(13)(a)~~] (14)(a) is not a volunteer firefighter for purposes of this chapter.

[~~(14)~~] (15) "Years of service credit" means:

(a) a period, consisting of 12 full months as determined by the board; or

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter.

Section 5. Section 49-23-201 is amended to read:

49-23-201. System membership -- Eligibility.

(1) ~~[Beginning]~~ Except as provided in Subsections (3) and (4), beginning July 1, 2011, a participating employer that employs public safety service employees or firefighter service employees shall participate in this system.

(2) (a) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contributions plan established by Part 4, Tier II Defined Contribution Plan.

(b) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter:

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a public safety service employee or firefighter service employee initially entering employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the public safety service employee or firefighter service employee shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

(3) (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover the participating employer's dispatchers under this system.

(b) A participating employer's election to cover the participating employer's dispatchers under this system under Subsection (3)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (3)(b), is not eligible for service credit in this system.

(4) An employer is eligible to participate in this system if the employer employs emergency medical service personnel and meets the requirements of Subsections (5) and (6).

(5) (a) Beginning July 1, 2023, a firefighter service employee who is an emergency medical service personnel employed by a participating employer shall be eligible for service credit in this system if the emergency medical service personnel's participating employer elects to cover the participating employer's emergency service personnel under this system.

(b) (i) A participating employer's election under Subsection (5)(a) to cover the participating employer's emergency medical service personnel under this system is irrevocable.

(ii) A participating employer shall document an election under Subsection (5)(a) by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) (i) An emergency medical service personnel's service before July 1, 2023, is not eligible for service credit in this system.

(ii) For an emergency medical service personnel employed by a participating employer, the emergency medical service personnel's service before the date the participating employer adopts a resolution described in Subsection (5)(b)(ii) is not eligible for service credit in this system.

(6) (a) The fire chief, or if there is not a fire chief for the participating employer, the emergency services director, shall verify that an individual meets the definition of emergency medical service personnel.

(b) (i) Each participating employer participating in this system that employs emergency medical service personnel shall submit annually to the office a schedule indicating which emergency medical service personnel positions are covered under this system under this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this section.

[~~(4)~~] (7) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of

public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.

Section 6. Section 49-23-503 is amended to read:

49-23-503. Death of active member in line of duty -- Payment of benefits.

If an active member of this system dies, benefits are payable as follows:

(1) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the surviving spouse shall receive:

(i) a lump sum equal to six months of the active member's final average salary; and

(ii) the greater of:

(A) an allowance equal to 30% of the member's final average monthly salary; or

(B) an allowance equal to 2% of the member's final average monthly salary multiplied by the years of service credit accrued by the member.

(b) If the member has accrued 20 or more years of public safety service or firefighter service credit, the member shall be considered to have retired with an Option One allowance calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse shall receive the allowance that would have been payable to the member.

(2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this section if the death results from external force, violence, or disease directly resulting from firefighter service.

(b) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(c) Each volunteer fire department shall maintain a current roll of all volunteer firefighters [~~which~~] that meet the requirements of Subsection [~~49-23-102~~(13)] 49-23-102(14) to determine the eligibility for this benefit.

(3) (a) If the death is classified as a line-of-duty death by the office, death benefits are payable under this section and the surviving spouse is not eligible for benefits under Section 49-23-502.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable in accordance with Section 49-23-502.

(4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 7. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 60
H. B. 185
Passed February 24, 2023
Approved March 13, 2023
Effective May 3, 2023

PUBLIC EDUCATION ENROLLMENT OPTIONS AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses public education enrollment options.

Highlighted Provisions:

This bill:

- defines terms;
- allows a local education agency to provide a home-centered, school-supported enrollment option allowing students to complete a portion of the students' course work from home;
- establishes certain requirements for local education agencies that provide a home-centered, school-supported enrollment option;
- prohibits home school students from participating in a home-centered, school-supported enrollment option; and
- clarifies the effect of student participation in a home-centered, school-supported enrollment option on statewide assessment requirements and certain public education funding.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-6-710, Utah Code Annotated 1953

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

Section 1. Section 53G-6-710 is enacted to read:

53G-6-710. Home-centered, school-supported enrollment option.

(1) As used in this section:

(a) "Home-centered, school-supported enrollment option" means an enrollment option for an LEA that allows participating students to:

(i) complete the course work for one or more courses or subject areas from home during part of the school day; and

(ii) attend in-person instruction for the remainder of the school day.

(b) "Local education agency" or "LEA" means a school district or charter school.

(c) "Participating student" means a student who is:

(i) enrolled in an LEA; and

(ii) approved to participate in a home-centered, school-supported enrollment option provided by the LEA.

(2) (a) An LEA may provide a home-centered, school-supported enrollment option.

(b) An LEA that provides a home-centered, school-supported enrollment option shall:

(i) establish standards and requirements for student participation;

(ii) provide the instructional materials to be used by a participating student;

(iii) provide a participating student's parent with resources the LEA considers appropriate to assist in parent involvement with student learning;

(iv) develop assessments to measure a participating student's academic progress;

(v) administer the assessments described in Subsection (2)(b)(iv) to a participating student, subject to Subsection 53G-6-803(9); and

(vi) monitor compliance with the standards and requirements established under Subsection (2)(b)(i).

(3) A student who attends a home school pursuant to Section 53G-6-204 is not eligible to participate in a home-centered, school-supported enrollment option.

(4) A participating student is subject to a statewide assessment, as defined in Section 53E-4-301, to the same extent as a student who is not participating.

(5) A student's participation in a home-centered, school-supported enrollment option provided by an LEA does not reduce or otherwise affect enrollment count for purposes of computing the LEA's Minimum School Program funds under Title 53F, Chapter 2, State Funding -- Minimum School Program.

CHAPTER 61
H. B. 186
Passed March 2, 2023
Approved March 13, 2023
Effective May 3, 2023

STATE LAND PURCHASE RESTRICTIONS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Michael K. McKell
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Stewart E. Barlow
Kera Birkeland
Bridger Bolinder
Walt Brooks
Jefferson S. Burton
Kay J. Christofferson
Tyler Clancy
Joseph Elison
Matthew H. Gwynn
Katy Hall
Jon Hawkins
Ken Ivory
Tim Jimenez
Michael L. Kohler
Jason B. Kyle
Trevor Lee
Karianne Lisonbee
Anthony E. Loubet
Steven J. Lund
Phil Lyman
Jefferson Moss
Mike Schultz
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
Ryan D. Wilcox

LONG TITLE

General Description:

This bill enacts the Restrictions on Foreign Acquisitions of Land Act.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a restricted foreign entity from acquiring an interest in land;
- requires a restricted foreign entity to alienate certain interests in land; and
- provides that certain interests in land escheat to the state after a specified time.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63L-13-101, Utah Code Annotated 1953
63L-13-201, Utah Code Annotated 1953
63L-13-202, Utah Code Annotated 1953

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

Section 1. Section 63L-13-101 is enacted to read:

CHAPTER 13. RESTRICTIONS ON FOREIGN ACQUISITIONS OF LAND ACT

Part 1. General Provisions

63L-13-101. Definitions.

As used in this chapter:

(1) "Interest in land" means any right, title, lien, claim, interest, or estate with respect to land.

(2) (a) "Land" means all real property within the state.

(b) "Land" includes:

(i) agricultural land, as defined in Section 4-46-102;

(ii) land owned or controlled by a political subdivision;

(iii) land owned or controlled by a school district;

(iv) non-federal land, as defined in Section 9-9-402;

(v) private land;

(vi) public land;

(vii) state land, as defined in Subsection 9-9-402(14)(a);

(viii) waters of the state, as defined in Subsection 19-5-102(23)(a); and

(ix) subsurface land.

(c) "Land" does not include real property that is owned, controlled, or held in trust by the federal government.

(3) "Restricted foreign entity" means:

(a) a company that the United States Secretary of Defense is required to identify and report as a military company under Section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283;

(b) an affiliate, subsidiary, or holding company of a company described in Subsection (3)(a);

(c) a country with a commercial or defense industrial base of which a company described in Subsection (3)(a) or (b) is a part;

(d) a state, province, region, prefecture, subdivision, or municipality of a country described in Subsection (3)(c); and

(e) an agency, bureau, committee, or department of a country described in Subsection (3)(c).

Section 2. Section 63L-13-201 is enacted to read:

Part 2. Interests in Land

63L-13-201. Acquisition of land prohibited -- Exceptions.

(1) Subject to Subsection (2) and Section 63L-13-202, a restricted foreign entity may not acquire an interest in land in this state.

(2) Subsection (1) does not apply to an interest in land that a restricted foreign entity acquired before May 3, 2023:

(a) by purchase, grant, gift, donation, devise, or bequest;

(b) as security for the repayment of a debt; or

(c) as a party to a contract for the transfer or conveyance of an interest in land to the restricted foreign entity.

(3) A deed or other written instrument, other than in probate, purporting to convey an interest in land to a restricted foreign entity in violation of Subsection (1) is invalid.

Section 3. Section 63L-13-202 is enacted to read:

63L-13-202. Alienate within five years -- Escheat.

(1) A restricted foreign entity that acquires an interest in land on or after May 3, 2023, by grant, gift, donation, devise, or bequest shall alienate the interest within five years after the date of acquisition.

(2) If a restricted foreign entity fails to alienate an interest in land in accordance with Subsection (1), the interest escheats to the state.

CHAPTER 62
H. B. 187
Passed February 21, 2023
Approved March 13, 2023
Effective May 3, 2023

VETERINARY PRACTICE AMENDMENTS

Chief Sponsor: Michael L. Kohler
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill adds an exemption to the requirement for licensure under the Veterinary Practice Act.

Highlighted Provisions:

This bill:

- exempts certain individuals who test a bovine for pregnancy from the requirement to be licensed under the Veterinary Practice Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-28-307, as last amended by Laws of Utah 2021, Chapter 240

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

Section 1. Section 58-28-307 is amended to read:

58-28-307. Exemptions from chapter.

In addition to the exemptions from licensure in Section 58-1-307 this chapter does not apply to:

(1) an individual who practices veterinary medicine, surgery, or dentistry upon any animal owned by the individual, and the employee of that individual when the practice is upon an animal owned by the employee's employer, and incidental to employment, except:

(a) this exemption does not apply to an individual, or the individual's employee, when the ownership of an animal was acquired for the purpose of circumventing this chapter; and

(b) this exemption does not apply to the administration, dispensing, or prescribing of a prescription drug, or nonprescription drug intended for off label use, unless the administration, dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient relationship;

(2) an individual who as a student at a veterinary college approved by the board engages in the practice of veterinary medicine, surgery, and dentistry as part of the individual's academic training and under the direct supervision and control of a licensed veterinarian, if that practice is during the last two years of the college course of instruction and does not exceed an 18-month duration;

(3) a veterinarian who is an officer or employee of the government of the United States, or the state, or its political subdivisions, and technicians under the veterinarian's supervision, while engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

(4) an individual while engaged in the vaccination of poultry, pullorum testing, typhoid testing of poultry, and related poultry disease control activity;

(5) an individual who is engaged in bona fide and legitimate medical, dental, pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or dentistry is directly related to, and a necessary part of, that research;

(6) a veterinarian licensed under the laws of another state rendering professional services in association with licensed veterinarians of this state for a period not to exceed 90 days;

(7) a registered pharmacist of this state engaged in the sale of veterinary supplies, instruments, and medicines, if the sale is at the registered pharmacist's regular place of business;

(8) an individual in this state engaged in the sale of veterinary supplies, instruments, and medicines, except prescription drugs which must be sold in compliance with state and federal regulations, if the supplies, instruments, and medicines are sold in original packages bearing adequate identification and directions for application and administration and the sale is made in the regular course of, and at the regular place of business;

(9) an individual rendering emergency first aid to animals in those areas where a licensed veterinarian is not available, and if suspicious reportable diseases are reported immediately to the state veterinarian;

(10) an individual performing or teaching nonsurgical bovine artificial insemination;

(11) an individual affiliated with an institution of higher education who teaches nonsurgical bovine embryo transfer or any technician trained by or approved by an institution of higher education who performs nonsurgical bovine embryo transfer, but only if any prescription drug used in the procedure is prescribed and administered under the direction of a veterinarian licensed to practice in Utah;

(12) (a) the practice of animal chiropractic by a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, who has been certified by the American Veterinary Chiropractic Association for performing chiropractic on an animal;

(b) upon written referral by a licensed veterinarian, the practice of animal physical therapy by a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act, who has completed at least 100 hours of animal physical therapy training, including quadruped anatomy and hands-on training, approved by the division;

(c) upon written referral by a licensed veterinarian, the practice of animal massage

therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act, who has completed at least 60 hours of animal massage therapy training, including quadruped anatomy and hands-on training, approved by the division; and

(d) upon written referral by a licensed veterinarian, the practice of acupuncture by an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act, who has completed a course of study on animal acupuncture approved by the division;

(13) unlicensed assistive personnel performing duties appropriately delegated to the unlicensed assistive personnel in accordance with Section 58-28-502;

(14) an animal shelter employee who is:

(a) (i) acting under the indirect supervision of a licensed veterinarian; and

(ii) performing animal euthanasia in the course and scope of employment; and

(b) acting under the indirect supervision of a veterinarian who is under contract with the animal shelter, administering a rabies vaccine to a shelter animal in accordance with the Compendium of Animal Rabies Prevention and Control;

(15) an individual providing appropriate training for animals; however, this exception does not include diagnosing any medical condition, or prescribing or dispensing any prescription drugs or therapeutics; [~~and~~]

(16) an individual who performs teeth floating if the individual:

(a) has a valid certification from the International Association of Equine Dentistry, or an equivalent certification designated by division rule made in collaboration with the board, to perform teeth floating; [~~and~~]

(b) administers or uses a sedative drug only if the individual is under the direct supervision of a veterinarian in accordance with Subsection 58-28-502(2)(a)(iv)[~~.~~]; and

(17) an individual testing a bovine for pregnancy if the individual has:

(a) obtained a masters degree or higher in animal reproductive physiology; and

(b) completed at least eight hours of continuing education on animal reproductive physiology within the previous two-year period.

CHAPTER 63
H. B. 194
Passed February 17, 2023
Approved March 13, 2023
Effective July 1, 2023

MOTOR VEHICLE DEALER REQUIREMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill prohibits a motor vehicle dealer from charging a fee or charge in addition to the negotiated purchase price as a condition of the sale.

Highlighted Provisions:

This bill:

- prohibits a motor vehicle dealer from requiring a purchaser to pay, as a condition of the sale, a fee or charge in addition to the negotiated purchase, other than:
  - certain fees required by state or federal law;
  - a dealer documentary service fee; and
  - certain increases in price imposed by a manufacturer for semi-tractors with a gross vehicle weight rating over 14,000 pounds;
- specifies the civil penalties for a violation;
- requires a motor vehicle dealer to provide and execute a transaction disclosure form;
- requires the State Tax Commission to create the transaction disclosure form; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-3-102, as last amended by Laws of Utah 2022, Chapter 455
41-3-103, as last amended by Laws of Utah 2022, Chapter 455
41-3-211, as enacted by Laws of Utah 2010, Chapter 342
41-3-702, as last amended by Laws of Utah 2019, Chapter 424

ENACTS:

41-3-401.6, Utah Code Annotated 1953

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

Section 1. Section 41-3-102 is amended to read:

41-3-102. Definitions.

As used in this chapter:

(1) "Administrator" means the motor vehicle enforcement administrator.

(2) "Agent" means a person other than a holder of any dealer's or salesperson's license issued under this chapter, who for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

(3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

(4) "Authorized service center" means an entity that:

(a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;

(b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for sale, or offers for sale or exchange; and

(c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.

(5) "Board" means the advisory board created in Section 41-3-106.

(6) "Body shop" means a person engaged in rebuilding, restoring, repairing, or painting the body of motor vehicles for compensation.

(7) "Commission" means the State Tax Commission.

(8) "Crusher" means a person who crushes or shreds motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

(9) (a) "Dealer" means a person:

(i) whose business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and

(ii) who sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.

(b) "Dealer" includes a representative or consignee of any dealer.

(10) "Direct-sale manufacturer" means a person:

(a) that is both a manufacturer and a dealer;

(b) that is:

(i) an electric vehicle manufacturer; or

(ii) a low-volume manufacturer;

(c) that is not a franchise holder;

(d) that is domiciled in the United States; and

(e) whose chief officers direct, control, and coordinate the person's activities as a direct-sale manufacturer from a physical location in the United States.

(11) "Direct-sale manufacturer salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either

directly, indirectly, regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer who employs the individual.

(12) (a) "Dismantler" means a person engaged in the business of dismantling motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, for the resale of parts or for salvage.

(b) "Dismantler" includes a person who dismantles three or more motor vehicles in any 12-month period.

(13) "Distributor" means a person who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or distributes new motor vehicles to dealers or who maintains distributor representatives.

(14) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(15) "Distributor representative" means a person and each officer and employee of the person engaged as a representative of a distributor or distributor branch of motor vehicles to make or promote the sale of the distributor or the distributor branch's motor vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the distributor branch.

(16) "Division" means the Motor Vehicle Enforcement Division created in Section 41-3-104.

(17) "Electric vehicle manufacturer" means a person that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line-make that are:

(a) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;

(b) (i) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(ii) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(c) manufactured by the person.

(18) "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or supervises the factory branch's representatives.

(19) "Factory representative" means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.

(20) "Fleet transaction" means a licensee's sale of one or more motor vehicles to a manufacturer-approved current fleet customer under the manufacturer's fleet program.

[~~(20)~~] (21) (a) "Franchise" means a contract or agreement between a dealer and a manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(b) "Franchise" includes a contract or agreement described in Subsection [~~(20)(a)~~] (21)(a) regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

[~~(21)~~] (22) (a) "Franchise holder" means a manufacturer who:

(i) previously had a franchised dealer in the United States;

(ii) currently has a franchised dealer in the United States;

(iii) is a successor to another manufacturer who previously had or currently has a franchised dealer in the United States;

(iv) is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;

(v) is under legal or common ownership, or practical control, with another manufacturer who previously had or currently has a franchised dealer in the United States; or

(vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer who previously had or currently has a franchised dealer in the United States.

(b) "Franchise holder" does not include a manufacturer described in Subsection [~~(21)(a),~~] (22)(a), if at all times during the franchised dealer's existence, the manufacturer had legal or practical common ownership or common control with the franchised dealer.

[~~(22)~~] (23) "Low-volume manufacturer" means a manufacturer who:

(a) in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line make that are:

(i) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(ii) manufactured by the person; and

(b) constructs no more than 325 new motor vehicles in any 12-month period.

[~~(23)~~] (24) "Line-make" means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer.

[~~(24)~~] (25) "Manufacturer" means a person engaged in the business of constructing or

assembling new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement or certificate of origin, or a person who constructs three or more new motor vehicles in any 12-month period.

[~~(25)~~] (26) "Material owner" means a person who possesses, directly or indirectly, the power to direct, or cause the direction of, the management, policies, or activities of another person:

(a) through ownership of voting securities;

(b) by contract or credit arrangement; or

(c) in another way not described in Subsections [~~(25)(a)~~] (26)(a) and (b).

[~~(26)~~] (27) (a) "Motor vehicle" means a vehicle that is:

(i) self-propelled;

(ii) a trailer;

(iii) a travel trailer;

(iv) a semitrailer;

(v) an off-highway vehicle; or

(vi) a small trailer.

(b) "Motor vehicle" does not include:

(i) mobile homes as defined in Section 41-1a-102;

(ii) trailers of 750 pounds or less unladen weight;

(iii) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product; and

(iv) park model recreational vehicles as defined in Section 41-1a-102.

[~~(27)~~] (28) "Motorcycle" means the same as that term is defined in Section 41-1a-102.

[~~(28)~~] (29) "New motor vehicle" means a motor vehicle that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.

[~~(29)~~] (30) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

[~~(30)~~] (31) "Pawnbroker" means a person whose business is to lend money on security of personal property deposited with him.

[~~(31)~~] (32) (a) "Principal place of business" means a site or location in this state:

(i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;

(ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and

(iii) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.

(b) "Principal place of business" means, with respect to a direct-sale manufacturer, the direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection [~~(31)(a).~~] (32)(a).

[~~(32)~~] (33) "Remanufacturer" means a person who reconstructs used motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

[~~(33)~~] (34) "Salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

[~~(34)~~] (35) "Semitrailer" means the same as that term is defined in Section 41-1a-102.

[~~(35)~~] (36) "Showroom" means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer's business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.

[~~(36)~~] (37) "Small trailer" means a trailer that has an unladen weight of:

(a) more than 750 pounds; and

(b) less than 2,000 pounds.

[~~(37)~~] (38) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

[~~(38)~~] (39) "Special equipment dealer" means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

[~~(39)~~] (40) "Trailer" means the same as that term is defined in Section 41-1a-102.

[~~(40)~~] (41) "Transporter" means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

[~~(41)~~] (42) "Travel trailer" means the same as that term is defined in Section 41-1a-102.

[~~(42)~~] (43) "Used motor vehicle" means a vehicle that:

(a) has been titled and registered to a purchaser other than a dealer; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

[~~(43)~~] (44) "Wholesale motor vehicle auction" means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any other jurisdiction.

Section 2. Section 41-3-103 is amended to read:

41-3-103. Exceptions to "dealer" definition -- Dealer licensed in other state -- Direct-sale manufacturer -- Direct-sale manufacturer salesperson.

Under this chapter:

(1) (a) An insurance company, bank, finance company, company registered as a title lender under Title 7, Chapter 24, Title Lending Registration Act, company registered as a check casher or deferred deposit lender under Title 7, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act, public utility company, commission impound yard, federal or state governmental agency, or any political subdivision of any of them or any other person coming into possession of a motor vehicle as an incident to its regular business, that sells the motor vehicle under contractual rights that it may have in the motor vehicle is not considered a dealer.

(b) A person who sells or exchanges only those motor vehicles that the person has owned for over 12 months is not considered a dealer.

(2) (a) A person engaged in leasing motor vehicles is not considered as coming into possession of the motor vehicles incident to the person's regular business.

(b) A pawnbroker engaged in selling, exchanging, or pawning motor vehicles is considered as coming into possession of the motor vehicles incident to the person's regular business and must be licensed as a used motor vehicle dealer.

(3) A person currently licensed as a dealer or salesperson by another state or country and not currently under license suspension or revocation by the administrator may only sell motor vehicles in this state to licensed dealers, dismantlers, or manufacturers, and only at their places of business.

(4) Except as otherwise expressly provided:

(a) a direct-sale manufacturer is subject to the same provisions under this chapter as a new motor vehicle dealer; and

(b) a direct-sale manufacturer salesperson is subject to the same provisions under this chapter as a salesperson.

(5) Notwithstanding any provision of this chapter to the contrary, a direct-sale manufacturer:

(a) may, without a franchise, sell, display for sale, or offer for sale or exchange a motor vehicle:

(i) [~~described in Subsection 41-3-102(17)~~] if the direct-sale manufacturer is an electric vehicle manufacturer; or

(ii) [~~described in Subsection 41-3-102(23)~~] if the direct-sale manufacturer is a low-volume manufacturer; and

(b) may not sell, display for sale, or offer for sale or exchange a new motor vehicle that is not of the same line-make the direct-sale manufacturer manufactures.

Section 3. Section 41-3-211 is amended to read:

41-3-211. Unlawful acts or practices.

(1) A licensee may not knowingly or intentionally engage in any of the following unlawful acts or practices:

(a) provide a financial institution or person being contacted to provide financing for the purchase of a motor vehicle, a motor vehicle contract of sale, document of sale, contract, request for proposal, or other document that does not accurately state:

(i) the terms of the motor vehicle purchase; or

(ii) if the vehicle is a rebuilt vehicle;

(b) sell a motor vehicle to a purchaser that is subject to financing that is not the motor vehicle described in a motor vehicle contract of sale, document of sale, contract, request for proposal, or other document as of the time the contract of sale, document of sale, contract, request for proposal, or other document provided to the financial institution or person providing financing; [~~or~~]

(c) make payments on any loan or lease on a motor vehicle subject to a loan or lease that is subject to the payoff requirements of Subsection 41-3-402(1)[~~.~~]; or

(d) except as provided in Subsection (3), require a purchaser to pay as a condition of the sale:

(i) an amount higher than the negotiated purchase price; or

(ii) any fee or charge in addition to the negotiated purchase price.

(2) The provisions of Subsection (1)(c) do not prohibit a dealer from making one or more loan or lease payments for a motor vehicle if making the payments is:

(a) stated in writing in a motor vehicle contract of sale, document of sale, contract, request for proposal, or other document; or

(b) stated in the notice to the lienholder of the trade-in of the vehicle as required by Subsection 41-3-402(5).

(3) Subsection (1)(d) does not prohibit a licensee from charging any of the following in addition to the negotiated purchase price detailed on the transaction disclosure form required pursuant to Section 41-3-401.6:

(a) a temporary permit fee pursuant to Section 41-1a-211;

(b) a fee required in Chapter 1a, Part 5, Titling Requirement;

(c) motor vehicle registration fees required under this title;

(d) a dealer documentary service fee as described in rules made in accordance with Sections 41-3-301 and 41-3-302;

(e) sales and use taxes as required by Title 59, Chapter 12, Sales and Use Tax Act;

(f) for the purchase of a semi-tractor with a gross vehicle weight rating of over 14,000 pounds, an increase to the negotiated purchase price paid by the licensee that is imposed by the manufacturer after the negotiated purchase price is determined by the licensee and the purchaser; or

(g) any other tax or fee required by federal or state law to be paid by the purchaser of a motor vehicle.

[~~(3)~~] (4) (a) [~~A~~] Except as provided in Subsection (4)(b), a person who violates the provisions of this section is subject to the penalties provided in Section 41-3-701 and Subsection 41-3-702(1)(a).

(b) A person who violates Subsection (1)(d) is subject to the penalties provided in Subsection 41-3-702(1)(c).

(5) (a) Subsection (1)(d) does not apply to a sale at auction and does not prohibit a licensee who conducts an auction from charging the winning bidder fees related to the auction or other vehicle-related services.

(b) Subsection (1)(d) does not apply to the sale of motor vehicles in a fleet transaction.

Section 4. Section 41-3-401.6 is enacted to read:

41-3-401.6. Transaction disclosure form.

(1) (a) Before a sale is finalized, a licensee shall provide the transaction disclosure form described in Subsection (3).

(b) The licensee and the purchaser shall each execute the transaction disclosure form to memorialize the negotiated terms and prices of the sale.

(c) The licensee shall provide the purchaser a copy of the transaction disclosure form.

(2) The commission shall create the transaction disclosure form as described in Subsection (3).

(3) The transaction disclosure form shall include:

(a) the negotiated sale price of the vehicle;

(b) the negotiated value of the trade-in vehicle, if applicable;

(c) an itemized list of the following legally required taxes and fees:

(i) a temporary permit fee pursuant to Section 41-1a-211;

(ii) a fee required in Chapter 1a, Part 5, Titling Requirement;

(iii) motor vehicle registration fees required under this title;

(iv) a dealer documentary service fee as described in rules made in accordance with Sections 41-3-301 and 41-3-302;

(v) sales and use taxes required by Title 59, Chapter 12, Sales and Use Tax Act; and

(vi) any other taxes or fees required by federal or state law to be paid by the purchaser of a motor vehicle;

(d) the subtotal of the amounts described in Subsections (3)(a) through (c);

(e) any other optional charges as negotiated by the licensee and purchaser; and

(f) the total amount for which the licensee agrees to seek arrangements for financing, if applicable.

(4) A transaction disclosure form described in this section is not required for a sale at auction or a fleet transaction.

Section 5. Section 41-3-702 is amended to read:

41-3-702. Civil penalty for violation.

(1) The following are civil violations under this chapter and are in addition to criminal violations under this chapter:

(a) Level I:

(i) failing to display business license;

(ii) failing to surrender license of salesperson because of termination, suspension, or revocation;

(iii) failing to maintain a separation from nonrelated motor vehicle businesses at licensed locations;

(iv) issuing a temporary permit improperly;

(v) failing to maintain records;

(vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without licensing the motor vehicle;

(vii) special plate violation;

(viii) failing to maintain a sign at a principal place of business; or

(ix) failing to store a salvage vehicle purchased at a motor vehicle auction in a secure location until the purchaser or a transporter has provided the proper documentation to take possession of the salvage vehicle.

(b) Level II:

(i) failing to report sale;

(ii) dismantling without a permit;

(iii) manufacturing without meeting construction or vehicle identification number standards;

(iv) withholding customer license plates;

(v) selling a motor vehicle on consecutive days of Saturday and Sunday; or

(vi) failing to record and report the sale of a salvage vehicle at a motor vehicle auction as described in Section 41-3-201.

(c) Level III:

(i) operating without a principal place of business;

(ii) selling a new motor vehicle as a dealer who is not a direct-sale manufacturer without holding the franchise;

(iii) crushing a motor vehicle without proper evidence of ownership;

(iv) selling from an unlicensed location;

(v) altering a temporary permit;

(vi) refusal to furnish copies of records;

(vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;

(viii) advertising violation;

(ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act;

(x) encouraging or conspiring with unlicensed persons to solicit for prospective purchasers; [~~or~~]

(xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or outboard motor in violation of Section 41-1a-705[~~.~~]; or

(xii) a violation of Subsection 41-3-211(1)(d).

(2) (a) The schedule of civil penalties for violations of Subsection (1) is:

(i) Level I: $25 for the first offense, $100 for the second offense, and $250 for the third and subsequent offenses;

(ii) Level II: $100 for the first offense, $250 for the second offense, and $1,000 for the third and subsequent offenses; and

(iii) Level III: $250 for the first offense, $1,000 for the second offense, and $5,000 for the third and subsequent offenses.

(b) When determining under this section if an offense is a second or subsequent offense, only prior offenses committed within the 12 months before the commission of the current offense may be considered.

(3) Knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without disclosing that the salvage vehicle has been repaired or rebuilt is a civil violation in addition to a criminal violation under Section 41-1a-1008.

(4) The civil penalty for a violation under Subsection (3) is:

(a) not less than $1,000, or treble the actual damages caused by the person, whichever is greater; and

(b) reasonable attorney fees and costs of the action.

(5) A civil action may be maintained by a purchaser or by the administrator.

Section 6. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 64
H. B. 200
Passed February 10, 2023
Approved March 13, 2023
Effective May 3, 2023

MOTOR VEHICLE REGISTRATION REVISIONS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to registration of an off-highway vehicle to allow the transport of an off-highway vehicle that is not registered.

Highlighted Provisions:

This bill:

- amends provisions related to registration of an off-highway vehicle to allow the transport of an off-highway vehicle that is not registered.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-22-3, as last amended by Laws of Utah 2022, Chapter 143

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

Section 1. Section 41-22-3 is amended to read:

41-22-3. Registration of vehicles -- Application -- Issuance of sticker and card -- Proof of property tax payment -- Records.

(1) (a) Unless exempted under Section 41-22-9, a person may not operate [~~or transport~~] or place and an owner may not give another person permission to operate [~~or transport~~] or place any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

(b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used [~~or transported~~] on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

(c) Unless specifically provided in this chapter, the division shall administer license plates, decals, and registration of off-highway vehicles in accordance with Chapter 1a, Motor Vehicle Act.

(2) (a) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.

(b) An owner of an off-highway vehicle may apply for automatic registration renewal as described in Section 41-1a-216.

(3) Each application for registration of an off-highway vehicle shall be accompanied by:

(a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;

(b) the past registration card; or

(c) the fee for a duplicate.

(4) (a) (i) Beginning on January 1, 2023, except as provided in Subsection (4)(e), the first time an off-highway vehicle is registered, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(ii) If an off-highway vehicle has been registered previously in this state but has not been issued an off-highway vehicle license plate, beginning on January 1, 2023, upon application for registration renewal, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(b) Upon each annual registration, the Motor Vehicle Division shall issue a registration decal and a registration card for each off-highway vehicle registered.

(c) The off-highway vehicle license plate:

(i) shall contain a unique five-digit number to identify the off-highway vehicle for which it is issued;

(ii) shall be affixed to the rear of the off-highway vehicle for which it is issued in a plainly visible and upright position as prescribed by rule of the division under Section 41-22-5.1;

(iii) shall be maintained free of foreign materials and in a condition to be clearly legible;

(iv) shall be a distinct tan color with black lettering to identify the license plate as an off-highway vehicle license plate;

(v) shall have a location to attach the registration decal; and

(vi) may not be a personalized license plate or a special group license plate.

(d) At all times, a registration card shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

(e) An off-highway vehicle that is a motorcycle is:

(i) not required to obtain or display an off-highway vehicle license plate; and

(ii) required to obtain and display an off-highway vehicle registration sticker.

(5) (a) Except as provided by Subsection (5)(c), an applicant for a registration card and registration decal shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(c) An off-highway vehicle for which an off-highway implement of husbandry sticker has been issued in accordance with Section 41-22-5.5 is:

(i) exempt from the requirement under this Subsection (5);

(ii) not required to obtain or purchase an off-highway vehicle license plate; and

(iii) required to obtain and display an off-highway vehicle registration sticker.

(6) (a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

(7) A violation of this section is an infraction.

CHAPTER 65
H. B. 206
Passed February 16, 2023
Approved March 13, 2023
Effective May 3, 2023

AIRPORT LAND USE AMENDMENTS

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

LONG TITLE

General Description:

This bill amends provisions related to land use requirements near an airport influence area.

Highlighted Provisions:

This bill:

- amends definitions related to airport influence areas and airport overlay zones;
- encourages a political subdivision to adopt land use regulations that protect airports, including:
  - adopting airport overlay zones;
  - notifying of airport impacts; and
  - granting of avigation easements;
- amends provisions related to governing law in the event of a conflict between land use regulations related to airport overlay zones;
- amends provisions related to the acquisition of an avigation easement or similar rights;
- repeals sections of code related to zoning and land use related to airports; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-501, as last amended by Laws of Utah 2021, Chapter 60
17-27a-501, as last amended by Laws of Utah 2021, Chapter 60
72-10-401, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-402, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-403, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-404, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-413, as renumbered and amended by Laws of Utah 1998, Chapter 270

REPEALS:

72-10-405, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-406, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-407, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-408, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-409, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-410, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-411, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-10-412, as last amended by Laws of Utah 2018, Chapter 148
72-10-414, as renumbered and amended by Laws of Utah 1998, Chapter 270

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

Section 1. Section 10-9a-501 is amended to read:

10-9a-501. Enactment of land use regulation, land use decision, or development agreement.

(1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.

(2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.

(b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.

(3) A legislative body shall ensure that a land use regulation is consistent with the purposes set forth in this chapter.

(4) (a) A legislative body shall adopt a land use regulation to:

(i) create or amend a zoning district under Subsection 10-9a-503(1)(a); and

(ii) designate general uses allowed in each zoning district.

(b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection (4)(a), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.

(5) A municipality may not adopt a land use regulation, development agreement, or land use decision that restricts the type of crop that may be grown in an area that is:

(a) zoned agricultural; or

(b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(6) A municipal land use regulation pertaining to an airport or an airport influence area, as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4, Airport Zoning Act.

Section 2. Section 17-27a-501 is amended to read:

17-27a-501. Enactment of land use regulation.

(1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.

(2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.

(b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.

(3) A land use regulation shall be consistent with the purposes set forth in this chapter.

(4) (a) A legislative body shall adopt a land use regulation to:

(i) create or amend a zoning district under Subsection 17-27a-503(1)(a); and

(ii) designate general uses allowed in each zoning district.

(b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection (4)(a), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.

(5) A county may not adopt a land use regulation, development agreement, or land use decision that restricts the type of crop that may be grown in an area that is:

(a) zoned agricultural; or

(b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(6) A county land use regulation pertaining to an airport or an airport influence area, as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4, Airport Zoning Act.

Section 3. Section 72-10-401 is amended to read:

72-10-401. Definitions.

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

(1) "Airport" means any publicly used area of land or water [~~designed and set aside~~] that is used, or intended to be used, for the landing and [~~taking-off~~] take-off of aircraft and utilized or to be utilized in the interest of the public for these purposes.

[~~(2) "Airport hazard" means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to the landing or taking-off of aircraft.~~]

[~~(3) "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this part.~~]

(2) "Airport hazard" means any structure, tree, object of natural growth, or use of land that potentially obstructs or otherwise impacts the safe and efficient utilization of the navigable airspace required for the flight of aircraft in landing or take-off at an airport.

(3) "Airport influence area" means land located within 5,000 feet of an airport runway.

(4) "Airport overlay zone" means a secondary zoning district designed to protect the public health, safety, and welfare near an airport that:

(a) applies land use regulation in addition to the primary zoning district land use regulation of property used as an airport and property within an airport influence area;

(b) may extend beyond the airport influence area;

(c) ensures airport utility as a public asset;

(d) protects property owner land values near an airport through compatible land use regulations as recommended by the Federal Aviation Administration; and

(e) protects aircraft occupant safety through protection of navigable airspace.

(5) "Avigation easement" means an easement permitting unimpeded aircraft flights over property subject to the easement and includes the right:

(a) to create or increase noise or other effects that may result from the lawful operation of aircraft; and

(b) to prohibit or remove any obstruction to such overflight.

(6) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

[~~(4)~~] (7) "Political subdivision" means any municipality, city, town, or county.

[~~(5)~~] (8) "Structure" means any object constructed or installed by man, including buildings, towers, smokestacks, and overhead transmission lines.

[~~(6)~~] (9) "Tree" means any object of natural growth.

Section 4. Section 72-10-402 is amended to read:

72-10-402. Declaration with respect to airport hazards.

The Legislature finds that:

(1) an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity;

(2) an obstruction of the type that reduces the size of the area available for the landing, taking-off, and maneuvering of aircraft tends to destroy or impair the utility of the airport and the public investment in the airport;

(3) the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question;

(4) it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented;

(5) this should be accomplished, to the extent legally possible, by exercise of the police power, without compensation; [~~and~~]

(6) both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests in land[.]; and

(7) the establishment of an airport overlay zone best prevents the creation or establishment of an airport hazard, and promotes the public health, safety, and general welfare.

Section 5. Section 72-10-403 is amended to read:

72-10-403. Airport zoning regulations.

[~~(1) (a) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area within its territorial limits may adopt, administer, and enforce, under the police power and in the manner and upon the conditions prescribed in this part, airport zoning regulations for the airport hazard area.~~]

[~~(b) The regulations may divide the area into zones, and, within the zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.~~]

[~~(2) (a) If an airport is owned or controlled by a political subdivision and any airport hazard area appertaining to the airport is located outside the territorial limits of the political subdivision, the political subdivision owning or controlling the airport and the political subdivision within which the airport hazard area is located may, by ordinance or resolution duly adopted, create a joint airport zoning board.~~]

[~~(b) The board shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by Subsection (1) in the political subdivision within which the area is located.~~]

[~~(c) Each joint board shall have as members two representatives appointed by each political subdivision participating in its creation and in addition a chair elected by a majority of the appointed members.~~]

(1) In order to prevent the creation or establishment of airport hazards, each political subdivision located within an airport influence area, shall adopt, administer, and enforce land use regulations for the airport influence area, including an airport overlay zone, under the police power and in the manner and upon the conditions prescribed:

(a) in this part;

(b) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; and

(c) Title 17, Chapter 27a, County Land Use Development, and Management Act.

(2) (a) Each political subdivision located within an airport influence area shall notify a person building on or developing land in an airport influence area, in writing, of aircraft overflights and associated noise.

(b) To promote the safe and efficient operation of the airport, a political subdivision located within an airport influence area:

(i) shall:

(A) adopt an airport overlay zone conforming to the requirements of this chapter and 14 C.F.R. Part 77; and

(B) require any proposed development within an airport influence area to conform with 14 C.F.R. Part 77; and

(ii) may, as a condition to granting a building permit, subdivision plat, or a requested zoning change within an airport influence area, require a person building or developing land to grant or sell to the airport owner, at appraised fair market value, an avigation easement.

(3) If a political subdivision located within an airport influence area fails to adopt an airport overlay zone by December 31, 2024, then the following requirements shall apply in an airport influence area:

(a) each political subdivision located within an airport influence area shall notify a person building on or developing land within an airport influence area, in writing, of aircraft overflights and associated noise;

(b) as a condition to granting a building permit, subdivision plat, or a requested zoning change within an airport influence area, require the person building or developing land to grant or sell to the airport owner, at appraised fair market value, an avigation easement; and

(c) require a person building or developing land within an airport influence area conform to the requirements of this chapter and 14 C.F.R. Part 77.

Section 6. Section 72-10-404 is amended to read:

72-10-404. Zoning ordinances -- Governing law in event of conflict.

[~~(1) In the event that a political subdivision has adopted or adopts a comprehensive zoning ordinance regulating the height of buildings, any airport zoning regulations applicable to the same area or a portion of the area may be incorporated in and made a part of comprehensive zoning regulations, and be administered and enforced in connection with the comprehensive zoning regulations. (2)~~] In the event of conflict between any airport [~~zoning~~] land use regulations adopted under this part and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, [~~and whether the other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision,~~

~~the more stringent limitation or requirement~~] the airport overlay zone requirement shall govern and prevail.

Section 7. Section 72-10-413 is amended to read:

72-10-413. Purchase or condemnation of air rights or navigation easements.

A political subdivision [~~within which the property or nonconforming use is located or the political subdivision~~] owning the airport [~~or~~], whether or not the airport is located within the territorial limits of the political subdivision, or a political subdivision that is served by [~~it~~] the airport may acquire, by purchase, grant, or condemnation in the manner provided by the law under which political subdivisions are authorized to acquire real property for public purposes, an air right, [~~navigation~~] an avigation easement, or other estate or interest in the property or nonconforming structure or use in question if:

(1) it is desired to remove, lower, or otherwise terminate a nonconforming structure or use;

(2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport [~~zoning~~] land use regulations under this part; or

(3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations.

Section 8. Repealer.

This bill repeals:

Section 72-10-405, Airport zoning regulations -- Adoption and amendment -- Airport zoning commission -- Powers and duties.

Section 72-10-406, Airport zoning regulations -- Validity, limitations, and restrictions.

Section 72-10-407, Permit for new or changed structures or uses -- Nonconforming structures -- Airport hazards -- Application to board of adjustment for variance -- Allowance of variance -- Conditioning permit or variance.

Section 72-10-408, Appeals to board of adjustment -- Procedure -- Stay of proceedings -- Hearing and judgment.

Section 72-10-409, Airport zoning regulations -- Administration and enforcement.

Section 72-10-410, Board of adjustment -- Powers -- Appointment and membership of board -- Hearings and decisions by board -- Meetings -- Adoption of rules.

Section 72-10-411, Appeals to district courts -- Procedure -- Findings, judgment, and costs -- Regulations invalid as to one structure or parcel of land.

Section 72-10-412, Violations of chapter or rulings -- Misdemeanor -- Remedies of political subdivisions.

Section 72-10-414, Exchange of private property near federal airports.

CHAPTER 66
H. B. 232
Passed February 24, 2023
Approved March 13, 2023
Effective May 3, 2023

RAILROAD CROSSING MAINTENANCE AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to railroad and highway crossings and repeals sections of code related to railroad crossings.

Highlighted Provisions:

This bill:

- repeals statutory provisions in the Public Utilities code related to the Public Service Commission's oversight of the responsibilities of railroads and highway authorities at grade crossings;
- establishes a process for the Department of Transportation to oversee grade crossings, including assigning responsibilities and costs among highway authorities and railroads;
- maintains jurisdiction of the Public Service Commission over dispute resolution between a highway authority and a railroad; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-4-1, as last amended by Laws of Utah 2022, Chapter 314
54-4-14, as last amended by Laws of Utah 2022, Chapter 314
72-7-102, as last amended by Laws of Utah 2018, Chapters 283, 403

ENACTS:

72-7-601, Utah Code Annotated 1953
72-7-602, Utah Code Annotated 1953

REPEALS:

54-4-15, as last amended by Laws of Utah 2022, Chapter 314
54-4-15.1, as last amended by Laws of Utah 1975, First Special Session, Chapter 9
54-4-15.2, as last amended by Laws of Utah 2011, Chapter 342
54-4-15.3, as last amended by Laws of Utah 1975, First Special Session, Chapter 9
54-4-15.4, as last amended by Laws of Utah 1975, First Special Session, Chapter 9

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

Section 1. Section 54-4-1 is amended to read:

54-4-1. General jurisdiction.

The commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in this state, and to supervise all of the business of every such public utility in this state, and to do all things, whether herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of such power and jurisdiction; provided, however, that the Department of Transportation shall have jurisdiction over safety functions of public utilities as granted [~~by Subsections 54-4-15(1) through (3) and~~] in Title 72, Transportation Code.

Section 2. Section 54-4-14 is amended to read:

54-4-14. Safety regulation.

The commission shall have power, by general or special orders, rules or regulations, or otherwise, to require every public utility to construct, maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances including interlocking and other protective devices at grade crossings or junctions, and block or other system of signaling, and to establish uniform or other standards of construction and equipment, and to require the performance of any other acts which the health or safety of its employees, passengers, customers or the public may demand, provided, however, that the department of transportation shall have jurisdiction over safety functions of public utilities as granted [~~by Subsections 54-4-15(1) through (3) and~~] in Title 72, Transportation Code.

Section 3. Section 72-7-102 is amended to read:

72-7-102. Excavations, structures, or objects prohibited within right-of-way except in accordance with law -- Permit and fee requirements -- Rulemaking -- Penalty for violation.

(1) As used in this section, "management costs" means the reasonable, direct, and actual costs a highway authority incurs in exercising authority over the highways under the highway authority's jurisdiction.

(2) Except as provided in Subsection (3) and Section [~~54-4-15~~] 72-7-602, a person may not:

(a) dig or excavate, within the right-of-way of any state highway, county road, or city street; or

(b) place, construct, or maintain any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or character within the right-of-way.

(3) (a) (i) A highway authority having jurisdiction over the right-of-way may allow excavating, installation of utilities and other facilities or access under rules made by the highway authority and in compliance with federal, state, and local law as applicable.

(ii) Notwithstanding Subsection (3)(a)(i), a highway authority may not allow excavating, installation of utilities and other facilities, or access to any portion of a state highway, including portions thereof within a municipality, without the prior written approval of the department. The department may, by written agreement with a municipality, waive the requirement of its approval for certain types and categories of excavations, installations, and access.

(b) (i) The rules may require a permit for any excavation or installation and may require a surety bond or other security.

(ii) The application for a permit for excavation or installation on a state highway shall be accompanied by a fee established under Subsection (4)(f).

(iii) The permit may be revoked and the surety bond or other security may be forfeited for cause.

(iv) Any portion of the right-of-way disturbed by a project permitted under this section shall be repaired using construction standards established by the highway authority with jurisdiction over the disturbed portion of the right-of-way.

(c) (i) For a portion of a state highway right-of-way for which a municipality has jurisdiction, and upon request of the municipality, the department shall grant permission for the municipality to issue permits within the state highway right-of-way, provided that:

(A) the municipality gives the department seven calendar days to review and provide comments on the permit; and

(B) upon the request of the department, the municipality incorporates changes to the permit as jointly agreed upon by the municipality and the department.

(ii) If the department fails to provide a response as described in Subsection (3)(c)(i) within seven calendar days, the municipality may issue the permit.

(4) (a) Except as provided in Section 72-7-108 with respect to the department concerning the interstate highway system, a highway authority may require compensation from a utility service provider for access to the right-of-way of a highway only as provided in this section.

(b) A highway authority may recover from a utility service provider, only those management costs caused by the utility service provider's activities in the right-of-way of a highway under the jurisdiction of the highway authority.

(c) (i) A highway authority shall impose a fee or other compensation under this Subsection (4) on a competitively neutral basis.

(ii) (A) If a highway authority's management costs cannot be attributed to only one entity, the highway authority shall allocate the management costs among all privately owned and government agencies using the highway right-of-way for utility service purposes, including the highway authority itself.

(B) The allocation shall reflect proportionately the management costs incurred by the highway authority as a result of the various utility uses of the highway.

(d) A highway authority may not use the compensation authority granted under this Subsection (4) as a basis for generating revenue for the highway authority that is in addition to the highway authority's management costs.

(e) (i) A utility service provider that is assessed management costs or a franchise fee by a highway authority is entitled to recover those management costs.

(ii) If the highway authority that assesses the management costs or franchise fees is a political subdivision of the state and the utility service provider serves customers within the boundaries of that highway authority, the management costs may be recovered from those customers.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall adopt a schedule of fees to be assessed for management costs incurred in connection with issuing and administering a permit on a state highway under this section.

(g) In addition to the requirements of this Subsection (4), a telecommunications tax or fee imposed by a municipality on a telecommunications provider, as defined in Section 10-1-402, is subject to Section 10-1-406.

(5) Permit fees collected by the department under this section shall be deposited with the state treasurer and credited to the Transportation Fund.

(6) Nothing in this section shall affect the authority of a municipality under:

(a) Section 10-1-203 or 10-1-203.5;

(b) Section 11-26-201;

(c) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(d) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(7) A person who violates the provisions of Subsection (2) is guilty of a class B misdemeanor.

Section 4. Section 72-7-601 is enacted to read:

Part 6 (Codified as "Part 4"). Regulation of Highway-Railroad Grade Crossings

72-7-601 (Codified as 72-17-201). Definitions.

As used in this part:

(1) "Highway-railroad grade crossing" means:

(a) an intersection where a railroad track crosses a highway at the same level; or

(b) an intersection where the railroad track of a railroad entity crosses the railroad track of another railroad entity at the same level.

(2) "Public Service Commission" means the Public Service Commission of Utah created in Section 54-1-1.

(3) "Railroad entity" means an entity, a company, a person, or a public transit provider that owns, controls, operates, or manages a railroad.

Section 5. Section 72-7-602 is enacted to read:

72-7-602 (Codified as 72-17-202). Regulation of highway-railroad grade crossings.

(1) A railroad entity may not construct a new highway-railroad grade crossing without first obtaining written authorization from the department.

(2) Subject to Subsection (4), the department may:

(a) determine and prescribe:

(i) the specific location of each highway-railroad grade crossing in the state; and

(ii) the terms of installation, operation, maintenance, use, and protection of each highway-railroad grade crossing in the state;

(b) alter or abolish any highway-railroad grade crossing upon such terms and conditions as the department prescribes;

(c) restrict the use of any highway-railroad grade crossing to certain types of traffic in the interest of public safety;

(d) when practicable, as determined by the department, require a separation of grades at any existing highway-railroad grade crossing in the state, and prescribe the terms of any separation of grades at an existing highway-railroad grade crossing; and

(e) allocate responsibilities, including costs, for the alteration, abolition, or separation of any highway-railroad grade crossing in the state between each affected railroad entity and highway authority.

(3) (a) The department shall allocate maintenance responsibilities, including costs, for each highway-railroad grade crossing in the state, including the maintenance of related safety devices and crossing materials, between each railroad entity and highway authority affected by the highway-railroad grade crossing.

(b) The department may base the allocation of maintenance responsibilities, including costs, on ownership and control of the right-of-way, crossing materials, signals and devices, or other factors the department determines are appropriate to protect public safety.

(c) If a railroad entity or a highway authority disagrees with the department's allocation of maintenance responsibilities, including costs, for a specific highway-railroad grade crossing:

(i) the railroad entity or highway authority may provide a written request to the department for a review of the allocation describing reasons for modification of the allocation; and

(ii) the department:

(A) shall conduct a review of the allocation; and

(B) at the department's discretion, may modify the allocation.

(d) Unless the department provides prior written approval, responsibility for the costs of maintenance at a highway-railroad grade crossing as allocated by the department may not be modified or waived by agreement between a railroad entity and a local highway authority.

(e) Unless the department enters into a written agreement with a railroad entity stating otherwise, the relevant railroad entity is responsible for using railroad employees to perform the physical maintenance and labor at a highway-railroad grade crossing and shall comply with Code of Federal Regulations, Title 49, Transportation.

(4) (a) The department may require or authorize the construction of a new highway-railroad grade crossing or the improvement of an existing highway-railroad grade crossing if:

(i) the new or improved highway-railroad grade crossing is to be funded solely by non-federal funds; and

(ii) the department determines, after consultation with any affected railroad entities and highway authorities, that the new or improved highway-railroad grade crossing will improve the safety of the public in accordance with requirements established by the department to determine the need, design, and impacts of the new or improved highway-railroad grade crossing.

(b) The railroad entity affected by the new or improved highway-railroad grade crossing shall timely enter into a written agreement with the department regarding the design and installation of the new or improved highway-railroad grade crossing.

(c) If a railroad entity does not make reasonable efforts to participate in determining the need, design, and impacts of a new or improved crossing, does not timely enter into an agreement with the department, or fails to timely provide a design and install improvements as described in an agreement, the department may impose and the railroad shall pay a penalty consistent with Section 54-7-25.

(5) A railroad entity affected by a new or improved highway-railroad grade crossing may not require up-front payment of costs as a condition for the railroad entity's review, approval, or inspection of a new or improved highway-railroad grade crossing.

(6) If the department determines that public convenience and necessity demand the

establishment, creation, or construction of a crossing of a street or highway over, under, or upon the tracks or lines of any public utility, the department may by order, decision, rule, or decree require the establishment, construction, or creation of such crossing, and such crossing shall thereupon become a public highway and crossing.

(7) (a) The Public Service Commission retains exclusive jurisdiction for the resolution of any dispute upon petition by any person aggrieved by any action of the department pursuant to this section, except as provided under Subsection (7)(b).

(b) If a petition is filed by a person or entity engaged in a subject activity, as defined in Section 19-3-318, the Public Service Commission's decision under Subsection (7)(a) regarding resolution of a dispute requires the concurrence of the governor and the Legislature in order to take effect.

(c) The department may:

(i) direct commencement of an action as provided for in Section 54-7-24 in the name of the state to stop or prevent a violation of a department order issued to protect public safety by a railroad entity; and

(ii) petition the Public Service Commission to assess and bring an action as provided for in Section 54-7-21 to recover penalties for failure of a railroad entity to comply with a final order of the department issued pursuant to the department's authority under this section.

Section 6. Repealer.

This bill repeals:

Section 54-4-15, Establishment and regulation of grade crossings.

Section 54-4-15.1, Signals or devices at grade crossings -- Duty to provide.

Section 54-4-15.2, Signals or devices at grade crossings -- Funds for payment of costs.

Section 54-4-15.3, Signals or devices at grade crossings -- Apportionment of costs.

Section 54-4-15.4, Signals or devices at grade crossings -- Provision of costs.

CHAPTER 67
H. B. 235
Passed March 3, 2023
Approved March 13, 2023
Effective January 1, 2024

ACCESSIBLE PARKING SPACES AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses parking privileges for persons with disabilities.

Highlighted Provisions:

This bill:

- requires the Motor Vehicle Division to include a statement on removable windshield placards describing certain prohibitions;
- requires the State Tax Commission to establish standards for the statement in rule; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-420, as last amended by Laws of Utah 2019, Chapter 349

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

Section 1. Section 41-1a-420 is amended to read:

41-1a-420. Disability special group license plates -- Application and qualifications -- Rulemaking.

(1) As used in this section:

(a) "Advanced practice registered nurse" means a person licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

(b) "Nurse practitioner" means an advanced practice registered nurse specializing as a nurse practitioner.

(c) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(d) "Physician assistant" means an individual licensed to practice as a physician assistant in the state under Title 58, Chapter 70a, Utah Physician Assistant Act.

(e) "Temporary wheelchair user placard" means a removable windshield placard that is issued to a qualifying person, as provided in this section, who has a walking disability that is not permanent.

(f) "Walking disability" means a physical disability that requires the use of a walking-assistive device or wheelchair or similar low-powered motorized or mechanically propelled vehicle that is designed to specifically assist a person who has a limited or impaired ability to walk.

(g) "Wheelchair user placard" means a removable windshield placard that is issued to a qualifying person, as provided in this section, who has a walking disability.

(2) (a) The division shall issue a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard to an applicant who is either:

(i) a qualifying person with a disability; or

(ii) the registered owner of a vehicle that an organization uses primarily for the transportation of persons with disabilities that limit or impair the ability to walk.

(b) The division shall issue a temporary wheelchair user placard or a wheelchair user placard to an applicant who is either:

(i) a qualifying person with a walking disability; or

(ii) the registered owner of a vehicle that an organization uses primarily for the transportation of persons with walking disabilities.

(c) The division shall require that an applicant under Subsection (2)(b) certifies that the person travels in a vehicle equipped with a wheelchair lift or a vehicle carrying the person's walking-assistive device or wheelchair and requires a van accessible parking space.

(3) (a) The person with a disability shall ensure that the initial application contains the certification of a physician, physician assistant, or nurse practitioner that:

(i) the applicant meets the definition of a person with a disability that limits or impairs the ability to walk as defined in the federal Uniform System for Parking for Persons with Disabilities, 23 C.F.R. Ch. II, Subch. B, Pt. 1235.2 (1991);

(ii) if the person is applying for a temporary wheelchair user placard or a wheelchair user placard, the applicant has a walking disability; and

(iii) specifies the period of time that the physician, physician assistant, or nurse practitioner determines the applicant will have the disability, not to exceed six months in the case of a temporary disability or a temporary walking disability.

(b) The division shall issue a disability special group license plate, a removable windshield placard, or a wheelchair user placard, as applicable, to a person with a permanent disability.

(c) The issuance of a person with a disability special group license plate does not preclude the issuance to the same applicant of a removable windshield placard or wheelchair user placard.

(d) (i) On request of an applicant with a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard, the division shall issue one additional placard.

(ii) On request of a qualified applicant with a disability special group license plate, the division shall issue up to two temporary wheelchair user placards or two wheelchair user placards.

(iii) On request of a qualified applicant with a temporary wheelchair user placard or a wheelchair user placard, the division shall issue one additional placard.

(e) The division shall ensure that a temporary wheelchair user placard and a wheelchair user placard have the following visible features:

(i) a large "W" next to the internationally recognized disabled persons symbol; and

(ii) the words "Wheelchair User" printed on a portion of the placard.

(f) The division shall ensure that the following statement is included on a removable windshield placard issued on or after January 1, 2024: "Under state law, a disability placard may only be used by, or for the transportation of, the person to whom the disability placard is issued. A person who misuses another person's disability placard for parking privileges is guilty of a class C misdemeanor."

[~~(f)~~] (g) A disability special group license plate, temporary removable windshield placard, or removable windshield placard may be used to allow one motorcycle to share a parking space reserved for persons with a disability if:

(i) the person with a disability:

(A) is using a motorcycle; and

(B) displays on the motorcycle a disability special group license plate, temporary removable windshield placard, or a removable windshield placard;

(ii) the person who shares the parking space assists the person with a disability with the parking accommodation; and

(iii) the parking space is sufficient size to accommodate both motorcycles without interfering with other parking spaces or traffic movement.

(4) (a) When a vehicle is parked in a parking space reserved for persons with disabilities, a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard shall be displayed so that the placard is visible from the front of the vehicle.

(b) If a motorcycle is being used, the temporary removable windshield placard or removable windshield placard shall be displayed in plain sight on or near the handle bars of the motorcycle.

(5) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish qualifying criteria for persons to receive, renew, or surrender a disability special group license plate, a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard in accordance with this section;

(b) establish the maximum number of numerals or characters for a disability special group license plate;

(c) require all temporary removable windshield placards, removable windshield placards, temporary wheelchair user placards, and wheelchair user placards to include:

(i) an identification number;

(ii) an expiration date not to exceed:

(A) six months for a temporary removable windshield placard; and

(B) two years for a removable windshield placard; and

(iii) the seal or other identifying mark of the division[~~.~~]; and

(d) establish standards for the statement required in Subsection (3)(f).

(6) The commission shall insert the following on motor vehicle registration certificates:

"State law prohibits persons who do not lawfully possess a disability placard or disability special group license plate from parking in an accessible parking space designated for persons with disabilities. Persons who possess a disability placard or disability special group license plate are discouraged from parking in an accessible parking space designated as van accessible unless they have a temporary wheelchair user placard or a wheelchair user placard."

Section 2. Effective date.

This bill takes effect on January 1, 2024.

CHAPTER 68
H. B. 238
Passed February 8, 2023
Approved March 13, 2023
Effective May 3, 2023

POLITICAL PARTY PUBLIC MEETING FACILITIES AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends the use of public meeting buildings by political parties to include public institutions of higher education.

Highlighted Provisions:

This bill:

- amends the use of public meeting buildings by political parties to include public institutions of higher education.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-8-101, as last amended by Laws of Utah 2012, Chapter 292
20A-8-404, as last amended by Laws of Utah 2019, Chapter 255

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

Section 1. Section 20A-8-101 is amended to read:

20A-8-101. Definitions.

As used in this chapter:

(1) "Continuing political party" means an organization of voters that:

(a) participated in the last regular general election; and

(b) in at least one of the last two regular general elections, polled a total vote for any of its candidates for any office equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives in the same regular general election.

(2) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the county political party, are members of the registered political party.

(3) "Newly registered political party" means a statewide organization of voters that has complied with the petition and organizing procedures of this chapter to become a registered political party.

(4) "Public institution of higher education" means the same as that term is defined in Section 53B-16-301.

[~~(4)~~] (5) "Registered political party" means an organization of voters that:

(a) (i) participated in the last regular general election; and

(ii) in at least one of the last two regular general elections, polled a total vote for any of its candidates for any office equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives in the same regular general election; or

(b) has complied with the petition and organizing procedures of this chapter.

[~~(5)~~] (6) "State political party" means, for each registered political party, all of the persons in Utah who, under definitions established by the state political party, are members of the registered political party.

Section 2. Section 20A-8-404 is amended to read:

20A-8-404. Use of public meeting buildings by political parties.

(1) The legislative body of a county, municipality, [~~or~~] school district, or public institution of higher education shall make all meeting facilities in buildings under its control available to registered political parties, without discrimination, to be used for political party activities if:

(a) the political party requests the use of the meeting facility before 5 p.m. no later than 30 calendar days before the day on which the use by the political party will take place; and

(b) the meeting facility is not already scheduled for another purpose at the time of the proposed use.

(2) Subject to the requirements of Subsection (3), when a legislative body makes a meeting facility available under Subsection (1), it may establish terms and conditions for use of that meeting facility.

(3) The charge imposed for the use of a meeting facility described in Subsection (1) by a registered political party may not exceed the actual cost of:

(a) custodial services for cleaning the meeting facility after the use by the political party; and

(b) any service requested by the political party and provided by the meeting facility.

(4) An entity described in Subsection (1) shall, to the extent possible, avoid scheduling an event in a government building for the same evening as an announced party caucus meeting.

(5) This section does not apply to a publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

CHAPTER 69
H. B. 245
Passed February 17, 2023
Approved March 13, 2023
Effective May 3, 2023

UNINSURED MOTORIST AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to underinsured motorist coverage.

Highlighted Provisions:

This bill:

- amends provisions related to the commencement of an action related to an underinsured motorist claim; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-305, as last amended by Laws of Utah 2022, Chapter 163
31A-22-305.3, as last amended by Laws of Utah 2022, Chapters 163, 198

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

Section 1. Section 31A-22-305 is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

(c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after

January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least $25,000 per person and $500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by the workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by any benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years old who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a)[~~, (b), and~~] through (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(l) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed $2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection [~~(10)(m),~~] (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections [~~(9)(a), (b), and~~] (9)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment

made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) (A) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed.

(B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(11) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for uninsured motorist coverage shall be commenced within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

Section 2. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover

damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) $10,000 for one person in any one accident; and

(ii) at least $20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may recover underinsured motorist benefits under any one other policy in which they are described as a covered person.

(ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(iii) (A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iv) A covered person's recovery under any available policies may not exceed the full amount of damages.

(v) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.

(vi) The primary and the secondary coverage may not be set off against the other.

(vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(viii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by a workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person younger than 18 years old who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for underinsured motorist coverage shall be commenced within four years after the inception of loss.

(b) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the settlement check representing the last liability policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (8).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means; or

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(r) may not exceed $2,500 unless Subsection (9)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist

benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the

underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections [~~(8)(a), (b), and~~] (8)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

CHAPTER 70
H. B. 249
Passed March 1, 2023
Approved March 13, 2023
Effective May 3, 2023

EDUCATION RELATED AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Michael K. McKell
Cosponsors: Cheryl K. Acton
Dan N. Johnson
Karianne Lisonbee
Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses parental engagement in the education arena.

Highlighted Provisions:

This bill:

- addresses a parent's access to and submission of education records;
- grants rulemaking authority;
- directs the state board to create record tracking interoperability for education records in the information management system under certain circumstances;
- requires the state board to create a parent portal that provides information outlined in statute, including school comparison information;
- requires notification of the parent portal;
- provides for the appointment of a parent engagement specialist, including providing for the specialist's duties; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-518, as last amended by Laws of Utah 2022, Chapter 266
53G-6-805, as enacted by Laws of Utah 2022, Chapter 343

ENACTS:

53G-6-806, Utah Code Annotated 1953
53G-6-807, Utah Code Annotated 1953

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

Section 1. Section 53E-3-518 is amended to read:

53E-3-518. Utah school information management system -- Local education agency requirements.

(1) As used in this section:

(a) "LEA data system" or "LEA's data system" means a data system that:

(i) is developed, selected, or relied upon by an LEA; and

(ii) the LEA uses to collect data or submit data to the state board related to:

(A) student information;

(B) educator information;

(C) financial information; or

(D) other information requested by the state board.

(b) "LEA financial information system" or "LEA's financial information system" means an LEA data system used for financial information.

(c) "Parent" means the same as that term is defined in Section 53G-6-201.

[~~(c)~~] (d) "Utah school information management system" or "information management system" means the state board's data collection and reporting system described in this section.

[~~(d)~~] (e) "User" means an individual who has authorized access to the information management system.

(2) On or before July 1, 2024, the state board shall have in place an information management system that meets the requirements described in this section.

(3) The state board shall ensure that the information management system:

(a) interfaces with an LEA's data systems that meet the requirements described in Subsection (6);

(b) serves as the mechanism for the state board to collect and report on all data that LEAs submit to the state board related to:

(i) student information;

(ii) educator information;

(iii) financial information; and

(iv) other information requested by the state board;

(c) includes a web-based user interface through which a user may:

(i) enter data;

(ii) view data; and

(iii) generate customizable reports;

(d) includes a data warehouse and other hardware or software necessary to store or process data submitted by an LEA;

(e) provides for data privacy, including by complying with Title 53E, Chapter 9, Student Privacy and Data Protection;

(f) restricts user access based on each user's role; and

(g) meets requirements related to a student achievement backpack described in Section 53E-3-511.

(4) The state board shall establish the restrictions on user access described in Subsection (3)(f).

(5) (a) The state board shall make rules that establish the required capabilities for an LEA financial information system.

(b) In establishing the required capabilities for an LEA financial information system, the state board shall consider metrics and capabilities requested by the state treasurer or state auditor.

(6) (a) On or before July 1, 2024, an LEA shall ensure that:

(i) all of the LEA's data systems:

(A) meet the data standards established by the state board in accordance with Section 53E-3-501;

(B) are fully compatible with the state board's information management system; and

(C) meet specification standards determined by the state board; and

(ii) the LEA's financial information system meets the requirements described in Subsection (5).

(b) An LEA shall ensure that an LEA data system purchased or developed on or after May 14, 2019, will be compatible with the information management system when the information management system is fully operational.

(7) (a) Subject to appropriations and Subsection (7)(b), the state board may use an appropriation under this section to help an LEA meet the requirements in the rules described in Subsection (5) by:

(i) providing to the LEA funding for implementation and sustainment of the LEA financial information system, either through:

(A) awarding a grant to the LEA; or

(B) providing a reimbursement to the LEA; or

(ii) in accordance with Title 63G, Chapter 6a, Utah Procurement Code, procuring a financial information system on behalf of an LEA for the LEA to use as the LEA's financial information system.

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

(i) how an LEA may apply to the state board for the assistance described in Subsection (7)(a); and

(ii) criteria for the state board to provide the assistance to an LEA.

(8) (a) Beginning July 1, 2024, the state board may take action against an LEA that is out of compliance with a requirement described in Subsection (6) until the LEA complies with the requirement.

(b) An action described in Subsection (8)(a) may include the state board withholding funds from the LEA.

(9) (a) For purposes of this Subsection (9), "education record" means the same as that term is defined in 20 U.S.C. Sec. 1232g.

(b) The state board shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a procedure under which:

(i) a parent may submit information as part of the education records for the parent's student;

(ii) the information submitted by the parent is maintained as part of the education records for the parent's student;

(iii) information submitted by the parent and maintained as part of the education records for the parent's student may be removed at the request of the parent; and

(iv) a parent has access only to the education records of the parent's student in accordance with Subsection (9)(d).

(c) The rules made under this Subsection (9) shall allow a parent to submit or remove information submitted by the parent under this Subsection (9) at least annually, including at the time of:

(i) registering a student in a school; or

(ii) changing the school in which a student attends.

(d) Subject to the federal Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g, and related regulations, the state board shall provide a parent access to an education record concerning the parent's student.

(e) The state board shall create in the information management system a record tracking interoperability of education records described in this Subsection (9) when a student is transitioning between schools or between LEAs.

Section 2. Section 53G-6-805 is amended to read:

53G-6-805. Parental right to school comparison.

(1) Parents have the right to compare public school performance in a given area.

(2) The state board shall provide an online tool that allows parents to:

(a) search for public schools within a given radius of a specific location or within the boundaries of a public school district; and

(b) view a side-by-side comparison of data related to the public schools in the area described in Subsection (2)(a), including the indicators required in Subsection 53E-5-211(1).

(3) The state board shall include the information provided under this section in the parent portal required under Section 53G-6-806.

Section 3. Section 53G-6-806 is enacted to read:

53G-6-806. Parent portal.

(1) As used in this section:

(a) "Parent portal" means the posting the state board is required to provide under this section.

(b) "School" means a public elementary or secondary school, including a charter school.

(2) (a) The state board shall post information that allows a parent of a student enrolled in a school to:

(i) access an LEA's policies required by Sections 53G-9-203 and 53G-9-605;

(ii) be informed of resources and steps to follow when a student has been the subject, perpetrator, or bystander of bullying, cyber-bullying, hazing, retaliation, or abusive conduct such as:

(A) resources for the student, including short-term mental health services;

(B) options for the student to make changes to the student's educational environment;

(C) options for alternative school enrollment;

(D) options for differentiated start or stop times;

(E) options for differentiated exit and entrance locations; and

(F) the designated employee for an LEA who addresses incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct;

(iii) be informed of the steps and resources for filing a grievance with a school or LEA regarding bullying, cyber-bullying, hazing, or retaliation;

(iv) be informed of the steps and resources for seeking accommodations under the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq;

(v) be informed of the steps and resources for seeking accommodations under state or federal law regarding religious accommodations;

(vi) be informed of the steps and resources for filing a grievance for an alleged violation of state or federal law, including:

(A) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d-2000d-4;

(B) Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681-1688;

(C) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 794; and

(D) Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12131-12165;

(vii) receive information about constitutional rights and freedoms afforded to families in public education;

(viii) be informed of how to access an internal audit hotline if established by the state board; and

(ix) be informed of services for military families.

(b) In addition to the information required under Subsection (2)(a), the state board:

(i) shall include in the parent portal the comparison tool created under Section 53G-6-805; and

(ii) may include in the parent portal other information that the state board determines is helpful to parents.

(3) (a) The state board shall post the parent portal at a location that is easily located by a parent.

(b) The state board shall update the parent portal at least annually.

(4) An LEA shall annually notify each of the following of how to access the parent portal:

(a) a parent of a student; and

(b) a teacher, principal, or other professional staff within the LEA.

Section 4. Section 53G-6-807 is enacted to read:

53G-6-807. Parent engagement specialist.

(1) (a) The state superintendent shall appoint an individual as a parent engagement specialist after:

(i) posting the position publicly; and

(ii) reviewing and consulting with the state board leadership about the appointment.

(b) The individual appointed under this section shall preferably have experience:

(i) working to constructively engage parents in guiding the parents' student's education;

(ii) understanding research on education outcomes; and

(iii) understanding laws pertaining to parental rights in education.

(2) The parent engagement specialist shall respond to parent communications directed to the state board by:

(a) maintaining and revising on behalf of the state board the parent portal required by Section 53G-6-806;

(b) responding to questions and complaints to the state board regarding parent rights and opportunities within the state's education system; and

(c) helping parents to navigate available complaint processes provided through the state board, at the LEA level, or at the public school level.

(3) The parent engagement specialist shall provide guidance and outreach to LEAs and public schools across the state by:

(a) providing training and materials to LEAs and public schools regarding successful parent engagement strategies; and

(b) sharing research on parent engagement practices shown to contribute to student attendance and success.

(4) In performing the parent engagement specialist's activities, the parent engagement specialist shall comply with Section 53E-2-201.

CHAPTER 71
H. B. 253
Passed March 3, 2023
Approved March 13, 2023
Effective May 3, 2023

FEDERALISM COMMISSION AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill amends provisions regarding the Federalism Commission.

Highlighted Provisions:

This bill:

- requires the Federalism Commission to provide an annual report to each interim committee;
- allows the Federalism Commission to notify an interim committee of a federal law or action that implicates the principles of federalism or state sovereignty; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-4a-303, as last amended by Laws of Utah 2022, Chapter 320

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

Section 1. Section 63C-4a-303 is amended to read:

63C-4a-303. Federalism Commission to evaluate federal law -- Curriculum on federalism.

(1) (a) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

(i) as agreed by a majority of the commission;

(ii) submitted to the commission by a council member; or

(iii) reported to the commission in accordance with Subsection (1)(b).

(b) (i) To assist the commission in the evaluation of federal law as required in this section and Section 63C-4a-304, the commission may contract with a third party that is a Utah institution of higher education to monitor federal law for possible implications on the principles of federalism.

(ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i) shall:

(A) monitor federal law for possible implications on the principles of federalism and state sovereignty; and

(B) report to the commission any law or action by the federal government that may implicate the principles of federalism or state sovereignty.

(c) (i) As used in this Subsection (1)(c), "interim committee" means the same as that term is defined in Section 36-12-1.

(ii) The commission shall provide an annual report to each interim committee concerning any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(iii) The commission may notify the appropriate interim committee of any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair or the commission may:

(a) request from a United States senator or representative elected from the state:

(i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b) (i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity;

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy; or

(d) give written notice of an evaluation and the conclusions of the commission to any other relevant entity.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.

(6) The commission shall keep a current list on the Legislature's website of:

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission or the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

(7) (a) The commission shall develop curriculum for a seminar on the principles of federalism.

(b) The curriculum under Subsection (7)(a) shall be available to the general public and include:

[~~(a)~~] (i) fundamental principles of federalism;

[~~(b)~~] (ii) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

[~~(c)~~] (iii) the history and practical implementation of the Tenth Amendment to the United States Constitution;

[~~(d)~~] (iv) the authority and limits on the authority of the federal government as found in the United States Constitution;

[~~(e)~~] (v) the relationship between the state and federal governments;

[~~(f)~~] (vi) methods of evaluating a federal law in the context of the principles of federalism;

[~~(g)~~] (vii) how and when challenges should be made to a federal law or regulation on the basis of federalism;

[~~(h)~~] (viii) the separate and independent powers of the state that serve as a check on the federal government;

[~~(i)~~] (ix) first amendment rights and freedoms contained therein; and

[~~(j)~~] (x) any other issues relating to federalism the commission considers necessary.

(8) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.

(9) The commission shall submit a report on or before November 30 of each year to the Government Operations Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee that:

(a) describes any action taken by the commission under Section 63C-4a-303; and

(b) includes any proposed legislation the commission recommends.

CHAPTER 72
H. B. 257
Passed February 21, 2023
Approved March 13, 2023
Effective May 3, 2023

GREENBELT PROPERTY AMENDMENTS

Chief Sponsor: Jason Kyle
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies provisions of the Utah Farmland Assessment Act.

Highlighted Provisions:

This bill:

- requires a county or commission to waive the acreage requirement for agricultural assessment if the assessed property fails to meet the acreage requirement because of a qualified utility or governmental entity exercising eminent domain or threatening eminent domain; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-503, as last amended by Laws of Utah 2013, Chapter 322

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

Section 1. Section 59-2-503 is amended to read:

59-2-503. Qualifications for agricultural use assessment.

(1) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(a) is not less than five contiguous acres in area, except that land may be assessed on the basis of the value that the land has for agricultural use:

(i) if:

(A) the land is devoted to agricultural use in conjunction with other eligible acreage; and

(B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have identical legal ownership; or

(ii) as provided under [~~Subsection~~] Subsections (4) and (5); and

(b) except as provided in Subsection [~~(5)~~] (6) or [~~(6)~~] (7):

(i) is actively devoted to agricultural use; and

(ii) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed under this part.

(2) In determining whether land is actively devoted to agricultural use, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(a) production levels reported in the current publication of the Utah Agricultural Statistics;

(b) current crop budgets developed and published by Utah State University; and

(c) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Land may be assessed on the basis of the land's agricultural value if the land:

(a) is subject to the privilege tax imposed by Section 59-4-101;

(b) is owned by the state or any of the state's political subdivisions; and

(c) meets the requirements of Subsection (1).

(4) Notwithstanding Subsection (1)(a), the commission or a county board of equalization may grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that[~~: (i)~~] 80% or more of the owner's, purchaser's, or lessee's income is derived from agricultural products produced on the property in question[~~; or~~].

[~~(ii) (A) the failure to meet the acreage requirement arose solely as a result of an acquisition by a governmental entity by:~~]

[~~(I) eminent domain; or~~]

[~~(II) the threat or imminence of an eminent domain proceeding;~~]

[~~(B) the land is actively devoted to agricultural use; and~~]

[~~(C) no change occurs in the ownership of the land.~~]

(5) Notwithstanding Subsection (1)(a), the commission or a county board of equalization shall grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that:

(i) the failure to meet the acreage requirement arose solely as a result of an acquisition by a public utility or a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding; and

(ii) the land is actively devoted to agricultural use.

[~~(5)~~] (6) (a) The commission or a county board of equalization may grant a waiver of the requirement that the land is actively devoted to agricultural use for the tax year for which the land is being assessed under this part upon:

(i) appeal by the owner; and

(ii) submission of proof that:

(A) the land was assessed on the basis of agricultural use for at least two years immediately preceding that tax year; and

(B) the failure to meet the agricultural production requirements for that tax year was due to no fault or act of the owner, purchaser, or lessee.

(b) As used in Subsection [~~(5)(a)~~] (6)(a), "fault" does not include:

(i) intentional planting of crops or trees which, because of the maturation period, do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use; or

(ii) implementation of a bona fide range improvement program, crop rotation program, or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use.

[~~(6)~~] (7) Land that otherwise qualifies for assessment under this part qualifies for assessment under this part in the first year the land resumes being actively devoted to agricultural use if:

(a) the land becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral; and

(b) the land qualified for assessment under this part in the year immediately preceding the year the land became ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral.

[~~(7)~~] (8) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the value that the land has for agricultural use does not lose that qualification by becoming subject to a forest stewardship plan developed under Section 65A-8a-106 under which the land is subject to a temporary period of limited use or nonuse.

CHAPTER 73
H. B. 267
Passed February 14, 2023
Approved March 13, 2023
Effective May 3, 2023

STATE PURCHASING DIRECTOR DUTIES

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions relating to the duties of the state purchasing director.

Highlighted Provisions:

This bill:

- modifies the duties of the state purchasing director relating to the operation, management, and maintenance of the surplus property program;
- authorizes the state purchasing director to establish a contract administration service; and
- repeals language relating to the state purchasing director's authority to establish microfilming, duplicating, printing, and addressograph services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-2-103, as last amended by Laws of Utah 2022, Chapter 169

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

Section 1. Section 63A-2-103 is amended to read:

63A-2-103. Duties and authority of purchasing director -- State agency requirements -- Rate schedule.

(1) The purchasing director:

(a) shall operate, manage, and maintain:

(i) a central mailing service; and

(ii) an electronic central store system for procuring goods and services;

(b) shall[~~, except when a state surplus property contractor administers the surplus property program,~~] operate, manage, and maintain the surplus property program; and

[~~(c) shall, when a state surplus property contractor administers the surplus property program, oversee the state surplus property contractor's administration of the surplus property program in accordance with Part 4, Surplus Property Services; and~~]

[~~(d)~~] (c) may establish [~~microfilming, duplicating, printing, addressograph, and~~]:

(i) a contract administration service, including contract performance surveys; and

(ii) other central services.

(2) (a) Each state agency shall:

(i) subscribe to all of the services described in Subsection (1)(a), unless the director delegates the director's authority to a state agency under Section 63A-2-104[.]; and

(ii) complete contract performance surveys as requested by the purchasing director under Subsection (1)(c)(i).

(b) An institution of higher education, the State Board of Education, a school district, or a political subdivision of the state may subscribe to one or more of the services described in Subsection (1)(a).

(3) (a) The purchasing director shall:

(i) prescribe a schedule of rates to be charged for all services provided by the division after the purchasing director:

(A) submits the proposed rates for services provided by the division's internal service fund to the Rate Committee established in Section 63A-1-114; and

(B) obtains the approval of the Legislature, as required by Section 63J-1-410;

(ii) ensure that the rates are approximately equal to the cost of providing the services; and

(iii) annually conduct a market analysis of rates.

(b) A market analysis under Subsection (3)(a)(iii) shall include a comparison of the division's rates with the rates of other public or private sector providers if comparable services and rates are reasonably available.

CHAPTER 74
H. B. 278
Passed March 1, 2023
Approved March 13, 2023
Effective July 1, 2023

FIRST RESPONDER MENTAL HEALTH SERVICES GRANT PROGRAM

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill creates the First Responder Mental Health Services Grant Program to be administered by the Utah Board of Higher Education.

Highlighted Provisions:

This bill:

- creates the First Responder Mental Health Services Grant Program to be administered by the Utah Board of Higher Education to provide grants for specific individuals who are studying at certain educational institutions to become mental health therapists.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
53B-8-117, Utah Code Annotated 1953

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

Section 1. Section 53B-8-117 is enacted to read:

53B-8-117. First Responder Mental Health Services Grant Program.

(1) This section creates the First Responder Mental Health Services Grant Program.

(2) Subject to legislative appropriations and Subsection (6), the board shall award a grant to an applicant who:

(a) is a full-time employee or a retiree, as that term is defined in Section 49-11-102, who is an active member of or has qualified for an allowance under the requirements of:

(i) Title 49, Chapter 14, Public Safety Contributory Retirement Act;

(ii) Title 49, Chapter 15, Public Safety Noncontributory Retirement Act;

(iii) Title 49, Chapter 16, Firefighters' Retirement Act; or

(iv) Title 49, Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act; and

(b) is seeking a post-secondary degree or certification to become a mental health therapist, as that term is defined in Section 58-60-102, within the state system of higher education, described in Section 53B-1-102.

(3) (a) Subject to Subsection (3)(b), the board may award a qualified applicant up to the cost of tuition and fees.

(b) A grant award under Subsection (3)(a) is limited to:

(i) a maximum of $6,000 each academic year; and

(ii) a maximum of four academic years.

(4) The board shall design the program to ensure that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

(5) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving grant applications and supporting documentation; and

(ii) establish the application process and an appeal process for the First Responder Mental Health Services Grant Program.

(b) The board shall include a disclosure on all applications and related materials that the amount of the awarded grants may be subject to funding or be reduced, in accordance with Subsection (6).

(6) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Income Tax Fund to the board for the costs associated with the First Responder Mental Health Services Grant Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the First Responder Mental Health Services Grant Program, the board may:

(i) reduce the amount of a grant; or

(ii) distribute grants on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

Section 2. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 75
H. B. 280
Passed February 28, 2023
Approved March 13, 2023
Effective May 3, 2023

LOCAL GOVERNMENT CONSTRUCTION PROJECT BID NOTICE

Chief Sponsor: Doug Owens
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies a provision relating to notice requirements for bids for a local government construction project.

Highlighted Provisions:

This bill:

- eliminates a requirement that a local government entity post notice of a bid on a building improvement or public works project in five public places;
- requires notice of the bid to be posted on the state procurement notice website; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

11-39-103, as last amended by Laws of Utah 2021, Chapter 355

Utah Code Sections Affected by Coordination Clause:

11-39-103, as last amended by Laws of Utah 2021, Chapter 355

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

Section 1. Section 11-39-103 is amended to read:

11-39-103. Requirements for undertaking a building improvement or public works project -- Request for bids -- Authority to reject bids.

(1) If the estimated cost of the building improvement or public works project exceeds the bid limit, the local entity shall, if it determines to proceed with the building improvement or public works project:

(a) request bids for completion of the building improvement or public works project by posting notice, at least five days before opening the bids, on:

[~~(i) posting notice at least five days before opening the bids in at least five public places in the local entity and leaving the notice posted for at least three days; and~~]

[~~(ii) posting notice on~~] (i) the Utah Public Notice Website created in Section 63A-16-601[~~, at least five days before opening the bids~~]; and

(ii) a state website that is:

(A) owned or managed by or provided under contract with the division; and

(B) established for the purpose of posting public procurement notices; and

(b) except as provided in Subsection (3), enter into a contract for the completion of the building improvement or public works project with:

(i) the lowest responsive responsible bidder; or

(ii) for a design-build project formulated by a local entity, a responsible bidder that:

(A) offers design-build services; and

(B) satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements for a design-build project.

(2) (a) Each notice under Subsection (1)(a) shall indicate that the local entity may reject any or all bids submitted.

(b) (i) The cost of a building improvement or public works project may not be divided to avoid:

(A) exceeding the bid limit; and

(B) subjecting the local entity to the requirements of this section.

(ii) Notwithstanding Subsection (2)(b)(i), a local entity may divide the cost of a building improvement or public works project that would, without dividing, exceed the bid limit if the local entity complies with the requirements of this section with respect to each part of the building improvement or public works project that results from dividing the cost.

(3) (a) The local entity may reject any or all bids submitted.

(b) If the local entity rejects all bids submitted but still intends to undertake the building improvement or public works project, the local entity shall again request bids by following the procedure provided in Subsection (1)(a).

(c) If, after twice requesting bids by following the procedure provided in Subsection (1)(a), the local entity determines that no satisfactory bid has been submitted, the governing body may undertake the building improvement or public works project as it considers appropriate.

Section 2. Coordinating H.B. 280 with S.B. 43 -- Substantive and technical amendments.

If this H.B. 280 and S.B. 43, Public Notice Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, by amending Subsection 11-39-103(1)(a) to read:

"(a) request bids for completion of the building improvement or public works project by:

(i) [~~posting~~] providing notice for the local entity, as a class A notice under Section 63G-28-102, except the notice described in Subsection 63G-28-102(1)(c), for at least five days before opening the bids [~~in at least five public places in the local entity and leaving the notice posted for at least three days~~]; and

[~~(ii) posting notice on the Utah Public Notice Website created in Section 63A-16-601, at least five days before opening the bids; and~~]

(ii) at least five days before opening the bids, posting notice on a state website that is:

(A) owned or managed by or provided under contract with the division; and

(B) established for the purpose of posting public procurement notices; and".

CHAPTER 76
H. B. 281
Passed March 1, 2023
Approved March 13, 2023
Effective May 3, 2023

SOCIAL CREDIT SCORE AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Michael K. McKell
Cosponsors: Melissa G. Ballard
Kera Birkeland
Bridger Bolinder
Walt Brooks
Tyler Clancy
Stephanie Gricius
Ken Ivory
Colin W. Jack
Tim Jimenez
Quinn Kotter
Michael J. Petersen
Thomas W. Peterson
Judy Weeks Rohner
Rex P. Shipp

LONG TITLE

General Description:

This bill addresses social credit scores.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Division of Consumer Protection to establish a system that allows a consumer to report a financial institution's or company's use of a social credit score;
- prohibits a governmental entity from using, enforcing, providing data for use in, or otherwise participating in the creation or use of a system that, based on a social credit score, discriminates against, advocates for, or causes adverse or preferential treatment of a person;
- provides rulemaking authority; and
- creates reporting requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
13-2-10, Utah Code Annotated 1953
63G-28-101, Utah Code Annotated 1953
63G-28-201, Utah Code Annotated 1953

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

Section 1. Section 13-2-10 is enacted to read:

13-2-10. Social credit score reporting system -- Rulemaking -- Referral to other agencies.

(1) As used in this section:

(a) "Division" means the Division of Consumer Protection.

(b) "Financial institution" means the same as that term is defined in Section 7-1-103.

(c) "Social credit score" means the same as that term is defined in Section 63G-28-101.

(2) The division shall:

(a) establish and operate a system to receive consumer reports regarding a financial institution's or company's use or creation of a social credit score; and

(b) before November 1 of each year, submit a written report to the Business and Labor Interim Committee that summarizes the reports received during the immediately preceding year that indicate a financial institution or company used a social credit score to discriminate against, advocate for, or cause adverse or preferential treatment of a person.

(3) The division may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish and operate the system described in Subsection (2); and

(b) as appropriate, refer a consumer who provides a report through the system described in Subsection (2) to the Department of Financial Institutions or another agency for investigation of the report or other action.

Section 2. Section 63G-28-101 is enacted to read:

CHAPTER 28. SOCIAL CREDIT SCORE PROHIBITION ACT

Part 1. General Provisions

63G-28-101. Definitions.

(1) (a) "Governmental entity" means:

(i) the state;

(ii) a county, city, town, metro township, school district, local district, special service district, or other political subdivision of the state; or

(iii) an independent entity.

(b) "Governmental entity" includes an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of an entity described in Subsection (1)(a).

(2) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(3) "Members of a person's social network" means the people a person authorizes to be part of the person's social media communications and network.

(4) (a) "Social credit score" means a numeric, alphanumeric, or alphabetic value or other categorization assigned to a person based on:

(i) the person's:

(A) compliance or noncompliance with government guidance;

(B) social media post;

(C) participation or membership in a lawful club, association, or union;

(D) political affiliation; or

(E) employment industry or employer; or

(ii) the identity of the members of the person's social network.

(b) "Social credit score" does not include:

(i) a consumer report as defined in 15 U.S.C. Sec. 1681a;

(ii) compliance or noncompliance with statute, administrative rule, or other law; or

(iii) a numeric, alphanumeric, or alphabetic value or other categorization assigned to a person for:

(A) purposes of education, training, or job performance assessment;

(B) purposes of a contest or competition;

(C) purposes of hiring a prospective employee or independent contractor;

(D) purposes of issuance or taking an action against a professional license, certification, registration, or permit;

(E) purposes of a professional or tax audit; or

(F) use by a financial institution or an affiliate of a financial institution regulated under Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. Sec. 6801 et seq., to determine risk of loss, impairment, or default.

Section 3. Section 63G-28-201 is enacted to read:

Part 2. Prohibitions

63G-28-201. Social credit score prohibition.

A governmental entity may not use, enforce, provide data for use in, or otherwise participate in the creation or use of a system that, based on a social credit score, discriminates against, advocates for, or causes adverse or preferential treatment of a person.

CHAPTER 77
H. B. 289
Passed February 28, 2023
Approved March 13, 2023
Effective May 3, 2023

BLOCKCHAIN PROVIDER REGISTRATION

Chief Sponsor: Trevor Lee
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill creates the Noncustodial Blockchain Registry.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Noncustodial Blockchain Registry (registry) within the Utah Office of Regulatory Relief (office);
- describes registry application, renewal, and removal requirements;
- requires the office to issue a certificate of registration after placing an applicant on the registry;
- provides administrative rulemaking authority; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63N-16-401, Utah Code Annotated 1953
63N-16-402, Utah Code Annotated 1953
63N-16-403, Utah Code Annotated 1953

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

Section 1. Section 63N-16-401 is enacted to read:
Part 4. Noncustodial Blockchain Registry

63N-16-401. Definitions.

(1) "Blockchain company" means an entity that uses blockchain technology to facilitate financial transactions between users.

(2) "Noncustodial blockchain company" means a blockchain company that does not have possession or control of a user's private key.

(3) "Private key" means the same as that term is defined in Section 13-62-101.

(4) "Registry" means the Noncustodial Blockchain Registry described in Section 63N-16-402.

(5) "User" means a person who engages in a financial transaction through a blockchain company.

Section 2. Section 63N-16-402 is enacted to read:

63N-16-402. Noncustodial Blockchain Registry -- Contents -- Rulemaking.

(1) The regulatory relief office shall maintain a Noncustodial Blockchain Registry that lists noncustodial blockchain companies conducting business in the state.

(2) For each registered noncustodial blockchain company, the regulatory relief office shall include on the registry:

(a) the name of the noncustodial blockchain company; and

(b) the noncustodial blockchain company's authorized agents in the state, if any.

(3) The regulatory relief office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the registry.

Section 3. Section 63N-16-403 is enacted to read:

63N-16-403. Registry application -- Certificate -- Renewal -- Removal -- Notice.

(1) (a) Subject to Subsection (1)(b), an applicant for placement on the registry shall provide to the regulatory relief office:

(i) an application in a form prescribed by the regulatory relief office; and

(ii) a fee established by the regulatory relief office in accordance with Section 63J-1-504.

(b) The application shall include:

(i) a place for the name of the applicant, including any trade name used by the applicant in the conduct of the applicant's business;

(ii) a place for a description of the activities conducted by the applicant in the state;

(iii) a place for the applicant to list the applicant's:

(A) authorized agents in the state, if any; and

(B) website URL;

(iv) a description of general noncustodial blockchain company activities;

(v) a place for the applicant to acknowledge that the applicant is a noncustodial blockchain company; and

(vi) a statement notifying the applicant that the applicant may be removed from the registry if the applicant:

(A) ceases to operate as a noncustodial blockchain company; or

(B) engages in unlawful activity.

(2) (a) Upon receipt of the application and fee described in Subsection (1), the regulatory relief office shall:

(i) place the applicant on the registry; and

(ii) issue a certificate of registration to the applicant.

(b) A noncustodial blockchain company's registration expires one year after the day on which the noncustodial blockchain company is placed on the registry.

(c) A noncustodial blockchain company may renew the noncustodial blockchain company's registration by providing to the regulatory relief office:

(i) a renewal application in a form prescribed by the regulatory relief office; and

(ii) a renewal fee established by the regulatory relief office in accordance with Section 63J-1-504.

(3) A registered noncustodial blockchain company:

(a) shall immediately provide written notice to the regulatory relief office upon ceasing to operate as a noncustodial blockchain company; and

(b) may request removal from the registry in writing.

(4) The regulatory relief office shall remove a registered noncustodial blockchain company from the registry if:

(a) the noncustodial blockchain company's registration expires without renewal;

(b) the noncustodial blockchain company provides the notice or request described in Subsection (3); or

(c) the regulatory relief office knows or has reason to know the noncustodial blockchain company is engaging in unlawful activity.

CHAPTER 78
H. B. 320
Passed February 24, 2023
Approved March 13, 2023
Effective May 3, 2023

SALE OF DAIRY AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to the sale of raw milk products.

Highlighted Provisions:

This bill:

- amends the definition of "raw milk product" for provisions regulating the sale of raw milk products.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-3-503, as last amended by Laws of Utah 2020, Chapter 422

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

Section 1. Section 4-3-503 is amended to read:

4-3-503. Sale of raw milk products -- Suspension of producer's permit -- Severability not permitted.

(1) As used in this section:

(a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.

(b) "Raw milk product" means [~~raw milk, cream produced from raw milk, and butter~~] any product produced from raw milk.

(c) "Self-owned retail store" means a retail store:

(i) of which the producer owns at least 51% of the value of the real property and tangible personal property used in the operations of the retail store; or

(ii) for which the producer has the power to vote at least 51% of any class of voting shares or ownership interest in the business entity that operates the retail store.

(2) Except as provided in Subsection (5), a raw milk product may be manufactured, distributed, sold, delivered, held, stored, or offered for sale if:

(a) the producer obtains a permit from the department to produce the raw milk product under Subsection 4-3-301(6);

(b) the sale and delivery of the raw milk product is made upon the premises where the raw milk product is produced, except as provided by Subsection (3);

(c) the raw milk product is sold to consumers for household use and not for resale;

(d) the raw milk product is bottled or packaged under sanitary conditions and in sanitary containers on the premises where the raw milk product is produced;

(e) the raw milk product is labeled "raw milk product" and meets the labeling requirements under 21 C.F.R. Parts 101 and 131 and rules established by the department;

(f) the raw milk used to produce the raw milk product is:

(i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being drawn from the animal;

(ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the animal; and

(iii) maintained at 41 degrees Fahrenheit or a lower temperature until the raw milk is delivered to the consumer or used to produce the raw milk product;

(g) the bacterial count of the raw milk used to produce the raw milk product does not exceed 20,000 colony forming units per milliliter;

(h) the coliform count of the raw milk used to produce the raw milk product does not exceed 10 colony forming units per milliliter;

(i) the production of the raw milk product conforms to departmental rules for the production of grade A milk products;

(j) the dairy animals on the premises are:

(i) permanently and individually identifiable; and

(ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and

(k) any person on the premises performing any work in connection with the production, bottling, packaging, handling, or sale of the raw milk product is free from communicable disease.

(3) A producer may distribute, sell, deliver, hold, store, or offer for sale a raw milk product at a self-owned retail store, that is properly staffed, or from a mobile unit where the raw milk product is maintained through mechanical refrigeration at 41 degrees Fahrenheit or a lower temperature, if, in addition to the requirements of Subsection (2), the producer:

(a) transports the raw milk product from the premises where the raw milk product is produced to the self-owned retail store in a refrigerated truck where the raw milk product is maintained at 41 degrees Fahrenheit or a lower temperature;

(b) retains ownership of the raw milk product until it is sold to the final consumer, including

transporting the raw milk product from the premises where the raw milk product is produced to the self-owned retail store without any:

(i) intervening storage;

(ii) change of ownership; or

(iii) loss of physical control;

(c) stores the raw milk product at 41 degrees Fahrenheit or a lower temperature in a display case equipped with a properly calibrated thermometer at the self-owned retail store;

(d) places a sign above each display case that contains a raw milk product at the self-owned retail store that:

(i) is prominent;

(ii) is easily readable by a consumer;

(iii) reads in print that is no smaller than .5 inch in bold type, "This milk product is raw and unpasteurized. Please keep refrigerated."; and

(iv) meets any other requirement established by the department by rule;

(e) labels the raw milk product with:

(i) a date, no more than nine days after the raw milk product is produced, by which the raw milk product should be sold;

(ii) the statement "Raw milk products, no matter how carefully produced, may be unsafe.";

(iii) handling instructions to preserve quality and avoid contamination or spoilage;

(iv) a specific colored label as determined by the department by rule; and

(v) any other information required by rule;

(f) refrains from offering the raw milk product for sale until:

(i) the department or a third party certified by the department tests each batch of raw milk used to produce a raw milk product for standard plate count and coliform count; and

(ii) the test results meet the minimum standards established for those tests;

(g) (i) maintains a database of the raw milk product sales; and

(ii) makes the database available to the Department of Health and Human Services during the self-owned retail store's business hours for purposes of epidemiological investigation;

(h) ensures that the plant and retail store complies with Chapter 5, Utah Wholesome Food Act, and the rules governing food establishments enacted under Section 4-5-301; and

(i) complies with the applicable rules adopted as authorized by this chapter.

(4) A producer may distribute, sell, deliver, hold, store, or offer for sale a raw milk product and pasteurized milk at the same self-owned retail store if:

(a) the self-owned retail store is properly staffed; and

(b) the producer:

(i) meets the requirements of Subsections (2) and (3);

(ii) operates the self-owned retail store on the same property where the raw milk product is produced; and

(iii) maintains separate, labeled, refrigerated display cases for raw milk products and pasteurized milk.

(5) A producer may, without meeting the requirements of Subsection (2), sell up to 120 gallons of raw milk per month if:

(a) the sale is directly to an end consumer, for household use and not for resale;

(b) the sale and delivery of the raw milk is made upon the premises where the raw milk is produced;

(c) the producer labels the raw milk with:

(i) the producer's name and address;

(ii) a date, no more than nine days after the raw milk is produced, by which the raw milk should be sold;

(iii) the statement "This raw milk has not been licensed or inspected by the state of Utah. Raw milk, no matter how carefully produced, may be unsafe."; and

(iv) handling instructions to preserve quality and avoid contamination or spoilage;

(d) the raw milk is:

(i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being drawn from the animal; and

(ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the animal;

(e) the producer conducts a monthly test ensuring the coliform count of the raw milk does not exceed 10 colony-forming units per milliliter;

(f) the dairy animals on the producer's premises are free of tuberculosis, brucellosis, and other diseases carried through milk;

(g) the producer maintains records of tests and sales for a minimum of two years; and

(h) the producer notifies the department of the producer's intent to sell raw milk pursuant to this Subsection (5) and includes in the notification the producer's name and address.

(6) A person who conducts a test required by Subsection (3) shall send a copy of the test results to the department as soon as the test results are available.

(7) (a) The department shall adopt rules, as authorized by Section 4-3-201, governing the sale of raw milk products at a self-owned retail store.

(b) The rules adopted by the department shall include rules regarding:

(i) permits;

(ii) building and premises requirements;

(iii) sanitation and operating requirements, including bulk milk tanks requirements;

(iv) additional tests;

(v) frequency of inspections, including random cooler checks;

(vi) recordkeeping; and

(vii) packaging and labeling.

(c) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the standards of identity for a raw milk product.

(d) (i) The department shall establish and collect a fee for the tests and inspections required by this section and by rule in accordance with Section 63J-1-504.

(ii) Notwithstanding Section 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this section.

(8) (a) The department shall suspend a permit issued under Section 4-3-301 if:

(i) two out of four consecutive samples or two samples in a 30-day period violate sample limits established under this section; or

(ii) a producer violates this section or a rule adopted as authorized by this section.

(b) The department may reissue a permit that has been suspended under Subsection (8)(a) if the producer has complied with all of the requirements of this section and rules adopted as authorized by this section.

(9) (a) If any subsection of this section or the application of any subsection to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of the section may not be given effect without the invalid subsection or application.

(b) The provisions of this section may not be severed.

(10) Nothing in this chapter shall be construed to impede the Department of Health and Human Services or the Department of Agriculture and Food in investigation of foodborne illness.

(11) The department shall issue a cease and desist order to a producer linked to a foodborne illness and shall stop sale of a raw milk product currently being sold.

(12) The order shall remain in effect until the department verifies that the producer:

(a) adheres to this section; and

(b) has three consecutive clean tests of the raw milk product.

(13) In addition to Subsections (11) and (12), if a producer's raw milk product has been linked to a foodborne illness outbreak, and the department finds that the producer has violated the applicable provisions of this section, the department may impose upon the producer the following administrative penalties:

(a) upon the first violation, a penalty of no more than $300;

(b) upon a second violation, a penalty of no more than $750; and

(c) upon a third or subsequent violation a penalty of no more than $1,500.

CHAPTER 79
H. B. 327
Passed March 1, 2023
Approved March 13, 2023
Effective May 3, 2023

POLLINATOR PILOT PROGRAM AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses a sunset date.

Highlighted Provisions:

This bill:

- extends the sunset date for the Pollinator Pilot Program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-204, as last amended by Laws of Utah 2022, Chapter 84

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

Section 1. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates: Title 4.

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, 2023.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, [~~2024~~] 2026.

(3) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, 2026.

(4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

(5) Section 4-20-103, which creates the Utah Grazing Improvement Program Advisory Board, is repealed July 1, 2032.

(6) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, 2024.

(7) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

(8) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.

(9) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

CHAPTER 80
H. B. 328
Passed March 3, 2023
Approved March 13, 2023
Effective May 3, 2023

ASBESTOS LITIGATION AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses asbestos litigation.

Highlighted Provisions:

This bill:

- defines terms;
- recodifies Title 78B, Chapter 6, Part 20, Asbestos Bankruptcy Trust Claims Transparency Act, to Title 78B, Chapter 6, Part 24, Asbestos Litigation Requirements;
- requires certain disclosures after a complaint is filed in an asbestos action;
- addresses the dismissal of an action for failure to comply with a disclosure requirement;
- requires a prima facie showing of certain evidence in an asbestos action alleging a nonmalignant condition;
- establishes requirements for prima facie evidence in an asbestos action alleging a nonmalignant condition, including the disclosure of evidence at trial or to a jury;
- addresses the dismissal of an asbestos action when a plaintiff fails to make a prima facie showing;
- addresses the accrual of an asbestos action alleging a nonmalignant condition; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-6-2402, Utah Code Annotated 1953
78B-6-2403, Utah Code Annotated 1953
78B-6-2404, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

78B-6-2401, (Renumbered from 78B-6-2003, as last amended by Laws of Utah 2018, Chapter 39)
78B-6-2405, (Renumbered from 78B-6-2004, as enacted by Laws of Utah 2016, Chapter 385)
78B-6-2406, (Renumbered from 78B-6-2007, as enacted by Laws of Utah 2016, Chapter 385)
78B-6-2407, (Renumbered from 78B-6-2005, as enacted by Laws of Utah 2016, Chapter 385)
78B-6-2408, (Renumbered from 78B-6-2009, as enacted by Laws of Utah 2016, Chapter 385)

REPEALS:

78B-6-2001, as enacted by Laws of Utah 2016, Chapter 385
78B-6-2002, as enacted by Laws of Utah 2016, Chapter 385
78B-6-2006, as enacted by Laws of Utah 2016, Chapter 385
78B-6-2008, as enacted by Laws of Utah 2016, Chapter 385
78B-6-2010, as enacted by Laws of Utah 2016, Chapter 385

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

Section 1. Section 78B-6-2401, which is renumbered from Section 78B-6-2003 is renumbered and amended to read:

Part 24. Asbestos Litigation Requirements

[~~78B-6-2003~~]. 78B-6-2401. Definitions.

As used in this part:

(1) "AMA guides" means the edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment in effect at the time of the performance of an examination or test on an exposed individual.

[~~(1)~~] (2) "Asbestos" means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, asbestiform winchite, asbestiform richterite, asbestiform amphibole minerals, and any of these minerals that have been chemically treated or altered, including all minerals defined as asbestos in 29 C.F.R. Sec. 1910 at the time the asbestos action is filed.

(3) "Asbestosis" means bilateral diffuse interstitial fibrosis of the lungs caused by the inhalation of asbestos fibers.

[~~(2)~~] (4) (a) "Asbestos action" means a claim for damages or other civil or equitable relief presented in a civil action resulting from, based on, or related to:

(i) the health effects of exposure to asbestos, including:

(A) loss of consortium;

(B) wrongful death;

(C) mental or emotional injury;

(D) risk or fear of disease or other injury; and

(E) costs of medical monitoring or surveillance; and

(ii) any other derivative claim made by or on behalf of [~~a person~~] an individual exposed to asbestos or a representative, spouse, parent, child, or other relative of that [~~person~~] individual.

(b) "Asbestos action" does not include a claim for workers' compensation or veterans benefits.

[~~(3)~~] (5) "Asbestos trust" means a:

(a) government-approved or court-approved trust that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(b) qualified settlement fund that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(c) compensation fund or claims facility created as a result of an administrative or legal action that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(d) court-approved bankruptcy that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products; or

(e) plan of reorganization or trust pursuant to 11 U.S.C. Sec. 524(g) or 11 U.S.C. Sec. 1121(a) or other applicable provision of law that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products.

(6) "ATS testing standards" means the official technical statements from the American Thoracic Society for pulmonary function testing in effect at the time of the performance of an examination or test on an exposed individual.

(7) "Board-certified physician in internal medicine" means a licensed physician who is certified by the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine.

(8) "Board-certified physician in occupational medicine" means a licensed physician who is certified in the specialty of:

(a) occupational medicine by the American Board of Preventative Medicine; or

(b) occupational and environmental medicine by the American Osteopathic Board of Preventative Medicine.

(9) "Board-certified physician in pathology" means a licensed physician:

(a) who holds primary certification in anatomic pathology or clinical pathology from the American Board of Pathology or the American Osteopathic Board of Pathology; and

(b) whose professional practice is principally in the field of pathology involving regular evaluation of pathology materials obtained from surgical or postmortem specimens.

(10) "Board-certified physician in pulmonary medicine" means a licensed physician who is certified in the specialty of pulmonary medicine by the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine.

(11) "Certified B reader" means a physician who is certified as a B reader by the National Institute for Occupational Safety and Health.

(12) "Chest x-ray" means a chest film taken in accordance with applicable state and federal laws and taken in the posterior-anterior view.

(13) "Exposed individual" means an individual whose exposure to asbestos is the basis for the asbestos action.

(14) "FEV1" means the maximal volume of air expelled in the first second during performance of spirometry.

(15) "FEV1/FVC ratio" means the ratio that is calculated from FEV1 divided by FVC.

(16) "FVC" means the maximal volume of air expired with maximum effort from a position of full inspiration.

(17) "ILO system" means the system for the classification of chest x-rays provided in the International Labour Office's Guidelines for the Use of ILO International Classification of Radiographs of Pneumoconioses in effect at the time of the performance of an examination or test on an exposed individual.

(18) "Law firm" means a person that employs a lawyer.

(19) "Lawyer" means an individual who is authorized to provide legal services in any state or territory of the United States.

(20) (a) "Nonmalignant condition" means a condition that may be caused by asbestos other than a diagnosed cancer.

(b) "Nonmalignant condition" does not include asbestos-related lung cancer accompanied by asbestosis.

(21) "Pathological evidence of asbestosis" means a statement by a board-certified physician in pathology that more than one representative section of lung tissue demonstrates a pattern of peribronchiolar or parenchymal scarring in the presence of characteristic asbestos bodies and there is no other more likely explanation for the presence of the fibrosis.

[~~(4)~~] (22) "Plaintiff" means:

(a) the person bringing the asbestos action, including a personal representative if the asbestos action is brought by an estate; or

(b) a conservator or next friend if the asbestos action is brought on behalf of a minor or legally incapacitated individual.

(23) "Plethysmography" means the test for determining lung volume in which the exposed individual is enclosed in a chamber equipped to measure pressure, flow, or volume change.

(24) "Predicted lower limit of normal" means the fifth percentile of healthy populations based on age, height, and gender as referenced in the AMA guides.

(25) "Pulmonary function testing" means spirometry, lung volume testing, and diffusion capacity testing, including appropriate measurements, quality control data, and graphs, that are performed in accordance with the methods of calibration and techniques provided in the AMA guides and the ATS testing standards in effect at

the time of the performance of a test on an exposed individual.

(26) "Qualified physician" means a licensed physician who:

(a) is a board-certified physician in internal medicine, a board-certified physician in occupational medicine, a board-certified physician in pathology, or a board-certified physician in pulmonary medicine, as is appropriate to the diagnostic specialty in question;

(b) (i) conducted a physical examination of the exposed individual and took a detailed occupational, exposure, medical, smoking, and social history from the exposed individual; or

(ii) if the exposed individual is deceased, reviewed the pathology material and took a detailed history from the individual most knowledgeable about the information forming the basis of the asbestos action;

(c) (i) treated the exposed individual and had a physician-patient relationship with the exposed individual at the time of the physical examination; or

(ii) if the licensed physician is a board-certified physician in pathology, examined tissue samples or pathological slides of the exposed individual;

(d) prepared or directly supervised the preparation and final review of a medical report under this part; and

(e) has not relied on any examinations, tests, radiographs, reports, or opinions of a doctor, clinic, laboratory, or testing company that performed an examination, test, radiograph, or screening of the exposed individual in violation of a law, regulation, licensing requirement, or medical ethics requirement of the state in which the examination, test, radiograph, or screening of the exposed individual was conducted.

(27) "Radiological evidence of asbestosis" means a quality 1 or 2 chest x-ray showing bilateral small, irregular opacities, classified by width as s, t, or u, that occur primarily in the lower lung zones graded by a certified B reader as at least 1/0 on the ILO system.

(28) "Radiological evidence of diffuse bilateral pleural thickening" means a quality 1 or 2 chest x-ray showing diffuse bilateral pleural thickening of at least b2 on the ILO system and blunting of at least one costophrenic angle as classified by a certified B reader.

(29) "Spirometry" means a test of air capacity of the lung through a spirometer that measures the volume of air inspired and expired.

(30) "Supporting test results" means a report by a certified B reader, x-ray examinations, diagnostic imaging of the chest, pathology reports, pulmonary function testing, and other tests, which are reviewed by the diagnosing physician or qualified physician in reaching the physician's conclusions.

(31) "Sworn declaration" means the same as that term is defined in Section 78B-18a-102.

(32) "Timed gas dilution" means a method for measuring total lung capacity in which the individual breaths into a spirometer containing a known concentration of an inert and insoluble gas for a specific time and the concentration of that inert and insoluble gas in the lung is compared to the concentration of that type of gas in the spirometer.

(33) "Total lung capacity" means the volume of gas contained in the lungs at the end of the maximal inspiration.

[~~(5)~~] (34) "Trust claims materials" means a final executed proof of claim and all other documents and information related to a claim against an asbestos trust, including:

(a) claims forms and supplementary materials;

(b) affidavits;

(c) depositions and trial testimony;

(d) work history;

(e) medical and health records;

(f) documents reflecting the status of a claim against an asbestos trust; and

(g) all documents relating to the settlement of the trust claim if the trust claim has settled.

[~~(6)~~] (35) "Trust governance documents" means all documents that relate to eligibility and payment levels, including:

(a) claims payment matrices; and

(b) trust distribution procedures or plans for reorganization for an asbestos trust.

[~~(7)~~] (36) " Veterans benefits" means a program for benefits in connection with military service administered by the United States Department of Veterans Affairs under United States Code, Title 38, Veterans Benefits.

[~~(8)~~] (37) (a) "Workers' compensation" means a program administered by the United States or a state to provide benefits, funded by a responsible employer or the employer's insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries.

(b) "Workers' compensation" includes the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Sec. 901 et seq., and Federal Employees' Compensation Act, 5 U.S.C. Sec. 8101 et seq.

(c) "Workers' compensation" does not include the Federal Employers' Liability Act, 45 U.S.C. Sec. 51 et seq.

Section 2. Section 78B-6-2402 is enacted to read:

78B-6-2402. Required disclosures by plaintiff within 21 days of filing asbestos action.

(1) Within 21 days after the day on which the first answer is filed in response to the plaintiff's complaint in an asbestos action, the plaintiff shall provide all parties with a sworn declaration stating the evidence providing the basis for each claim against each defendant, including:

(a) the name, address, date of birth, marital status, occupation, smoking history, and current and past employers and worksites of the exposed individual;

(b) the name and address of each individual who is knowledgeable about each exposure to asbestos and the exposed individual's relationship to that individual;

(c) the manufacturer or seller and the specific name of each asbestos-containing product, including any brand or trade name of that product, to which the exposed individual was exposed to asbestos or the other individual was exposed to asbestos if the exposed individual's exposure to asbestos was through another individual;

(d) the specific sites and the location at the sites that establish the direct connection between the exposed individual, or the other individual if the exposed individual's exposure to asbestos was through another individual, and each defendant;

(e) the beginning and ending dates of each exposure and the frequency of each exposure for the exposed individual or the other individual if the exposed individual's exposure to asbestos was through another individual;

(f) the condition that is alleged to have been caused by exposure to asbestos; and

(g) any supporting documentation relating to the information required under this Subsection (1).

(2) The sworn declaration under Subsection (1) is in addition to the disclosures required under Sections 78B-6-2403 and 78B-6-2405.

(3) Except as provided in Subsection (4), on a motion by a defendant in an asbestos action, the court shall dismiss a plaintiff's asbestos claim without prejudice:

(a) against a defendant if the defendant's asbestos-containing product or site is not specifically identified in the sworn declaration under Subsection (1); or

(b) against all defendants if the plaintiff fails to comply with Subsection (1).

(4) The court may not dismiss a plaintiff's asbestos claim under Subsection (3) upon a showing of good cause by the plaintiff.

Section 3. Section 78B-6-2403 is enacted to read:

78B-6-2403. Requirements for asbestos action alleging nonmalignant condition -- Evidence.

(1) Within 90 days after the day on which the plaintiff files the complaint in an asbestos action alleging a nonmalignant condition, the plaintiff shall file a detailed narrative medical report and diagnosis, signed under oath by a qualified physician and accompanied by supporting test results, constituting prima facie evidence that the exposed individual has a physical impairment for which exposure to asbestos was a substantial contributing factor.

(2) A defendant shall have a reasonable opportunity before trial to challenge the adequacy of the prima facie evidence required under this section.

(3) A court shall dismiss an asbestos action without prejudice upon a finding that the plaintiff failed to make the prima facie showing required by this section.

(4) To make a prima facie showing under Subsection (1), the detailed narrative medical report and diagnosis shall include:

(a) (i) radiological evidence of asbestosis or pathological evidence of asbestosis;

(ii) radiological evidence of diffuse bilateral pleural thickening; or

(iii) a high-resolution computed tomography scan showing evidence of asbestosis or diffuse pleural thickening;

(b) a detailed occupational and exposure history from the exposed individual, or the individual most knowledgeable about the exposed individual's exposure to asbestos if the exposed individual is deceased, that includes:

(i) the exposed individual's principal places of employment;

(ii) the exposed individual's exposure to airborne contaminants; and

(iii) whether the exposed individual's principal places of employment involved any exposure to airborne contaminants, including asbestos fibers or other disease-causing dusts or fumes that may cause a physical impairment and the nature, duration, and level of that exposure;

(c) a detailed medical, social, and smoking history from the exposed individual, or the individual most knowledgeable about the exposed individual's exposure to asbestos if the exposed individual is deceased, that includes a thorough review of the past and present medical problems of the exposed individual and the likely cause of the medical problems;

(d) evidence verifying that at least 15 years have passed between the exposed individual's date of first exposure to asbestos and the date of diagnosis;

(e) evidence that the exposed individual has a permanent respiratory impairment rating of at least class 2 as defined by and evaluated in accordance with the AMA guides;

(f) evidence that asbestosis or diffuse bilateral pleural thickening, rather than chronic obstructive pulmonary disease, is a substantial factor to the

exposed individual's physical impairment based on a determination that the exposed individual has:

(i) FVC below the predicted lower limit of normal and a FEV1/FVC ratio, using actual values, equal to or above the predicted lower limit of normal;

(ii) total lung capacity, by plethysmography or timed gas dilution, below the predicted lower limit of normal; or

(iii) a chest x-ray showing bilateral small, irregular opacities, classified by width as s, t, or u, and graded by a certified B reader as at least 2/1 on the ILO system; and

(g) a statement from the qualified physician that exposure to asbestos was a substantial contributing factor to the exposed individual's physical impairment and was likely not the result of any other cause.

(5) A statement by the qualified physician that the exposed individual's physical impairment is consistent with, or compatible with, an exposure to asbestos, or words to that effect, does not satisfy the requirements under Subsection (4)(g).

(6) Evidence relating to the prima facie showing under this section:

(a) shall comply with the quality controls, equipment requirements, methods of calibration, and techniques provided in the AMA guides and ATS testing standards;

(b) may not be based on testing or examination that violates a law, regulation, licensing requirement, or medical ethics requirement of the state in which the test or examination was conducted;

(c) may not be obtained under the condition that the plaintiff retains the services of the lawyer or law firm sponsoring the examination, test, or screening;

(d) does not create a presumption that the exposed individual has an asbestos-related injury or impairment; and

(e) is not conclusive as to the liability of any defendant.

(7) A party in an asbestos action may not offer evidence at trial regarding, and the jury may not be informed of:

(a) the grant or denial of a motion to dismiss an asbestos action under this section; or

(b) the requirements of a prima facie showing under this section.

(8) (a) Except as provided in Subsection (8)(b), a plaintiff may not commence discovery against any defendant in an asbestos action until a court enters an order determining that the plaintiff has established a prima facie showing under this section.

(b) The parties to an asbestos action may conduct discovery in regard to establishing or challenging a prima facie showing under this section.

Section 4. Section 78B-6-2404 is enacted to read:

78B-6-2404. Accrual of action alleging nonmalignant condition.

Notwithstanding the requirements of Section 78B-2-117, the statute of limitations for an asbestos action alleging a nonmalignant condition that is not time barred on or before May 3, 2023, may not begin to run until the earlier of the day on which:

(1) the exposed individual is diagnosed with a physical impairment that meets the prima facie evidence requirements of Section 78B-6-2403;

(2) the exposed individual discovered facts that would have led a reasonable individual to obtain a diagnosis with respect to the existence of a physical impairment from exposure to asbestos that would have met the prima facie evidence requirements of Section 78B-6-2403; or

(3) the exposed individual dies.

Section 5. Section 78B-6-2405, which is renumbered from Section 78B-6-2004 is renumbered and amended to read:

[~~78B-6-2004~~]. 78B-6-2405. Required disclosures by plaintiff in asbestos action within 120 days of trial.

(1) For each asbestos action filed in this state, the plaintiff shall provide all parties with a sworn [~~statement~~] declaration identifying all asbestos trust claims that have been filed by the plaintiff or by anyone on the plaintiff's behalf, including claims with respect to asbestos-related conditions other than those that are the basis for the asbestos action or that potentially could be filed by the plaintiff against an asbestos trust.

[~~(a)~~] (2) The sworn [~~statement~~] declaration shall be provided no later than 120 days prior to the date set for trial for the asbestos action.

[~~(b)~~] (3) For each asbestos trust claim or potential asbestos trust claim identified in the sworn [~~statement, the statement~~] declaration, the sworn declaration shall include:

(a) the name, address and contact information for the asbestos trust[~~,~~];

(b) the amount claimed or to be claimed by the plaintiff[~~,~~];

(c) the date the plaintiff filed the claim[~~,~~];

(d) the disposition of the claim; and

(e) whether there has been a request to defer, delay, suspend, or toll the claim.

[~~(c)~~] (4) The sworn [~~statement~~] declaration shall include an attestation from the plaintiff, under penalties of perjury, that the sworn [~~statement~~] declaration is complete and based on a good faith investigation of all potential claims against asbestos trusts.

[~~(2)~~] (5) The plaintiff shall make available to all parties all trust claims materials for each asbestos trust claim that has been filed by the plaintiff or by

anyone on the plaintiff's behalf against an asbestos trust, including any asbestos-related disease.

[~~(3)~~] (6) The plaintiff shall supplement the information and materials provided pursuant to this section within 90 days after the day on which the plaintiff files an additional asbestos trust claim, supplements an existing asbestos trust claim, or receives additional information or materials related to any claim or potential claim against an asbestos trust.

[~~(4)~~] (7) Failure by the plaintiff to make available to all parties all trust claims materials as required by this part shall constitute grounds for the court to extend the trial date in an asbestos action.

(8) (a) A court shall stay an asbestos action if the court finds that the plaintiff has failed to make the disclosures required by this section within the time period described in Subsection (2).

(b) If a plaintiff identifies a potential asbestos trust claim in the disclosures required by this section, the court may stay the asbestos action until the plaintiff files the asbestos trust claim and provides all parties with all trust claims materials for the asbestos trust claim.

Section 6. Section 78B-6-2406, which is renumbered from Section 78B-6-2007 is renumbered and amended to read:

[~~78B-6-2007~~]. 78B-6-2406. Identification of additional or alternative asbestos trusts by defendant before trial.

(1) Not less than 90 days before trial, if a defendant identifies an asbestos trust claim not previously identified by the plaintiff that the defendant reasonably believes the plaintiff can file, the defendant shall meet and confer with the plaintiff to discuss why the defendant believes the plaintiff has an additional asbestos trust claim.

(2) The defendant may move the court for an order to require the plaintiff to file the asbestos trust claim after the meeting under Subsection (1).

(3) The defendant shall produce or describe the documentation [~~it~~] that the defendant possesses or is aware of in support of the motion under Subsection (2).

[~~(2)~~] (4) Within 10 days [~~of receiving~~] after the day on which the plaintiff receives the defendant's motion under Subsection [~~(1)~~] (2), the plaintiff shall[~~,~~] for each asbestos trust claim identified by the defendant[~~, do one of the following~~]:

(a) file the asbestos trust claim;

(b) file a written response with the court setting forth the reasons why there is insufficient evidence for the plaintiff to file the asbestos trust claim; or

(c) file a written response with the court requesting a determination that the plaintiff's expenses or [~~attorney's~~] the plaintiff's attorney fees and expenses to prepare and file the asbestos trust claim identified in the defendant's motion exceed the plaintiff's reasonably anticipated recovery from the trust.

[~~(3)~~] (5) (a) If the court determines that there is a sufficient basis for the plaintiff to file the asbestos trust claim identified by the defendant, the court shall:

(i) order the plaintiff to file the asbestos trust claim; and [~~shall~~]

(ii) stay the asbestos action until the plaintiff files the asbestos trust claim and provides all parties with all trust claims materials no later than 30 days before trial.

(b) If the court determines that the plaintiff's expenses or [~~attorney's~~] the plaintiff's attorney fees and expenses to prepare and file the asbestos trust claim identified in the defendant's motion exceed the plaintiff's reasonably anticipated recovery from the asbestos trust, the court shall stay the asbestos action until the plaintiff files with the court and provides all parties with a verified statement of the plaintiff's history of exposure, usage, or other connection to asbestos covered by the asbestos trust.

Section 7. Section 78B-6-2407, which is renumbered from Section 78B-6-2005 is renumbered and amended to read:

[~~78B-6-2005~~]. 78B-6-2407. Discovery of materials and documents for asbestos trust claim -- Use of asbestos trust materials.

(1) Trust claims materials and trust governance documents are presumed to be relevant and authentic and are admissible in evidence.

(2) Claims of privilege may not apply to any trust claims materials or trust governance documents.

[~~(2)~~] (3) A defendant in an asbestos action may seek discovery from an asbestos trust.

(4) The plaintiff may not claim privilege or confidentiality to bar discovery and shall provide consent or other expression of permission that may be required by the asbestos trust to release information and materials sought by a defendant.

(5) If a plaintiff proceeds to trial in an asbestos action before an asbestos trust claim is resolved, the filing of the asbestos trust claim may be considered as relevant and admissible evidence.

Section 8. Section 78B-6-2408, which is renumbered from Section 78B-6-2009 is renumbered and amended to read:

[~~78B-6-2009~~]. 78B-6-2408. Failure to provide information -- Sanctions.

A plaintiff who fails to provide all of the information required under [~~this part~~] Section 78B-6-2405, 78B-6-2406, or 78B-6-2407, is subject to sanctions as provided in the Utah Rules of Civil Procedure and any other relief for the defendants that the court considers just and proper.

Section 9. Repealer.

This bill repeals:

CHAPTER 81
H. B. 340
Passed March 3, 2023
Approved March 13, 2023
Effective January 1, 2024

TRAILER REGISTRATION REQUIREMENTS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill exempts from the vehicle registration requirement certain single-axle trailers.

Highlighted Provisions:

This bill:

- amends a provision related to trailers that are exempt from vehicle registration requirements to include a single-axle trailer unless the single-axle trailer is:
  - a commercial vehicle;
  - a trailer designed, used, and maintained for hire; or
  - a travel trailer, camping trailer, or fifth wheel trailer with an unladen weight more than 750 pounds; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-202, as last amended by Laws of Utah 2019, Chapters 251, 459

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

Section 1. Section 41-1a-202 is amended to read:

41-1a-202. Definitions -- Vehicles exempt from registration -- Registration of vehicles after establishing residency.

(1) In this section:

(a) "Domicile" means the place:

(i) where an individual has a fixed permanent home and principal establishment;

(ii) to which the individual if absent, intends to return; and

(iii) in which the individual and his family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

(b) (i) "Resident" means any of the following:

(A) an individual who:

(I) has established a domicile in this state;

(II) regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(III) engages in a trade, profession, or occupation in this state or who accepts employment in other than seasonal work in this state and who does not commute into the state;

(IV) declares himself to be a resident of this state for the purpose of obtaining a driver license or motor vehicle registration; or

(V) declares himself a resident of Utah to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees; or

(B) any individual, partnership, limited liability company, firm, corporation, association, or other entity that:

(I) maintains a main office, branch office, or warehouse facility in this state and that bases and operates a motor vehicle in this state; or

(II) operates a motor vehicle in intrastate transportation for other than seasonal work.

(ii) "Resident" does not include any of the following:

(A) a member of the military temporarily stationed in Utah;

(B) an out-of-state student, as classified by the institution of higher education, enrolled with the equivalent of seven or more quarter hours, regardless of whether the student engages in a trade, profession, or occupation in this state or accepts employment in this state; and

(C) an individual domiciled in another state or a foreign country that:

(I) is engaged in public, charitable, educational, or religious services for a government agency or an organization that qualifies for tax-exempt status under Internal Revenue Code Section 501(c)(3);

(II) is not compensated for services rendered other than expense reimbursements; and

(III) is temporarily in Utah for a period not to exceed 24 months.

(iii) Notwithstanding Subsections (1)(b)(i) and (ii), "resident" includes the owner of a vehicle equipped with an automated driving system as defined in Section 41-26-102.1 if the vehicle is physically present in the state for more than 30 consecutive days in a calendar year.

(2) (a) Registration under this chapter is not required for any:

(i) vehicle registered in another state and owned by a nonresident of the state or operating under a temporary registration permit issued by the division or a dealer authorized by this chapter, driven or moved upon a highway in conformance with the provisions of this chapter relating to manufacturers, transporters, dealers, lien holders, or interstate vehicles;

(ii) vehicle driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

(iii) implement of husbandry, whether of a type otherwise subject to registration or not, that is only incidentally operated or moved upon a highway;

(iv) special mobile equipment;

(v) vehicle owned or leased by the federal government;

(vi) motor vehicle not designed, used, or maintained for the transportation of passengers for hire or for the transportation of property if the motor vehicle is registered in another state and is owned and operated by a nonresident of this state;

(vii) vehicle or combination of vehicles designed, used, or maintained for the transportation of persons for hire or for the transportation of property if the vehicle or combination of vehicles is registered in another state and is owned and operated by a nonresident of this state and if the vehicle or combination of vehicles has a gross laden weight of 26,000 pounds or less;

(viii) trailer of 750 pounds or less unladen weight and not designed, used, and maintained for hire for the transportation of property or person;

(ix) single-axle trailer unless that trailer is:

(A) a commercial vehicle;

(B) a trailer designed, used, and maintained for hire for the transportation of property or person; or

(C) a travel trailer, camping trailer, or fifth wheel trailer of 750 pounds or more laden weight;

[~~(ix)~~] (x) manufactured home or mobile home;

[~~(x)~~] (xi) off-highway vehicle currently registered under Section 41-22-3 if the off-highway vehicle is:

(A) being towed;

(B) operated on a street or highway designated as open to off-highway vehicle use; or

(C) operated in the manner prescribed in Subsections 41-22-10.3(1) through (3);

[~~(xi)~~] (xii) off-highway implement of husbandry operated in the manner prescribed in Subsections 41-22-5.5(3) through (5);

[~~(xii)~~] (xiii) modular and prebuilt homes conforming to the uniform building code and presently regulated by the United States Department of Housing and Urban Development that are not constructed on a permanent chassis;

[~~(xiii)~~] (xiv) electric assisted bicycle defined under Section 41-6a-102;

[~~(xiv)~~] (xv) motor assisted scooter defined under Section 41-6a-102; or

[~~(xv)~~] (xvi) electric personal assistive mobility device defined under Section 41-6a-102.

(b) For purposes of an implement of husbandry as described in Subsection (2)(a)(iii), incidental operation on a highway includes operation that is:

(i) transportation of raw agricultural materials or other agricultural related operations; and

(ii) limited to 100 miles round trip on a highway.

(3) Unless otherwise exempted under Subsection (2), registration under this chapter is required for any motor vehicle, combination of vehicles, trailer, semitrailer, or vintage vehicle within 60 days of the owner establishing residency in this state.

(4) A motor vehicle that is registered under Section 41-3-306 is exempt from the registration requirements of this part for the time period that the registration under Section 41-3-306 is valid.

(5) A vehicle that has been issued a nonrepairable certificate may not be registered under this chapter.

Section 2. Effective date.

This bill takes effect on January 1, 2024.

CHAPTER 82
H. B. 341
Passed March 2, 2023
Approved March 13, 2023
Effective May 3, 2023

ELECTRONIC STAMP DESIGNATION

Chief Sponsor: Bridger Bolinder
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses the purchase of an electronic duck stamp.

Highlighted Provisions:

This bill:

- authorizes the Division of Wildlife Resources (division) to provide for the purchase of an electronic duck stamp on the division's website;
- requires the payment of a fee for the purchase of an electronic duck stamp on the division's website; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-14-18, as last amended by Laws of Utah 2021, Chapter 57

ENACTS:

23-19-50, Utah Code Annotated 1953

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

Section 1. Section 23-14-18 is amended to read:

23-14-18. Establishment of seasons, locations, limits, and regulations by the Wildlife Board.

(1) To provide an adequate and flexible system of protection, propagation, introduction, increase, control, harvest, management, and conservation of protected wildlife in this state and to provide for the use and development of protected wildlife for public recreation and food supply while maintaining a sustainable population of protected wildlife, the Wildlife Board shall determine the circumstances, time, location, means, and the amounts, and numbers of protected wildlife which may be taken.

(2) The Wildlife Board shall, except as otherwise specified in this code:

(a) fix seasons and shorten, extend, or close seasons on any species of protected wildlife in any locality, or in the entire state, if the board finds that the action is necessary to effectuate proper wildlife management and control;

(b) close or open areas to fishing, trapping, or hunting;

(c) establish refuges and preserves;

(d) regulate and prescribe the means by which protected wildlife may be taken;

(e) regulate the transportation and storage of protected wildlife, or their parts, within the boundaries of the state and the shipment or transportation out of the state;

(f) establish or change bag limits and possession limits;

(g) prescribe safety measures and establish other regulations as may be considered necessary in the interest of wildlife conservation and the safety and welfare of hunters, trappers, fishermen, landowners, and the public;

(h) (i) prescribe when licenses, permits, tags, and certificates of registration shall be required and procedures for their issuance and use; and

(ii) establish forms and fees for licenses, permits, tags, and certificates of registration; and

(i) prescribe rules and regulations as it may consider necessary to control the use and harvest of protected wildlife by private associations, clubs, partnerships, or corporations, provided the rules and regulations do not preclude the landowner from personally controlling trespass upon the owner's properties nor from charging a fee to trespass for purposes of hunting or fishing.

(3) The Wildlife Board may allow a season on protected wildlife to commence on any day of the week except Sunday.

(4) (a) The Wildlife Board shall establish fees for licenses, permits, tags, and certificates of registration in accordance with Section 63J-1-504.

(b) The Wildlife Board may adjust the amount for an electronic duck stamp fee as provided in Section 23-19-50.

(5) The Wildlife Board may not issue a license, permit, tag, or certificate of registration as a reward for an individual's assistance with a prosecution for violation of Section 76-6-111.

Section 2. Section 23-19-50 is enacted to read:

23-19-50. Electronic duck stamp -- Fee.

(1) As used in this section, "duck stamp" means the migratory bird hunting and conservation stamp described in 16 U.S.C. Sec. 718a.

(2) The division may provide for the purchase of an electronic duck stamp by an individual on the division's website, as authorized by 16 U.S.C. Sec. 718p.

(3) Except as described in Subsection (5), there is imposed a $30 electronic duck stamp fee for an electronic duck stamp purchased on the division's website.

(4) The division shall deposit the electronic duck stamp fee collected under Subsection (3) into the Wildlife Resources Account created in Section 23-14-13.

(5) (a) Notwithstanding the fee amount described in Subsection (3), the Wildlife Board may increase

or decrease the electronic duck stamp fee to an amount that is no less than the amount the division is required to submit to the secretary of the interior under 16 U.S.C. 718r.

(b) An adjustment made by the Wildlife Board under Subsection (5)(a) takes effect when confirmed in the legislative fee schedule adopted in the general session of the Legislature immediately following the adjustment.

CHAPTER 83
H. B. 353
Passed February 27, 2023
Approved March 13, 2023
Effective May 3, 2023

SALES TAX RETURN REQUIREMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends the requirement to obtain a sales and use tax license.

Highlighted Provisions:

This bill:

- makes technical changes; and
- modifies who may be required to obtain a sales and use tax license.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-106, as last amended by Laws of Utah 2021, Chapter 16

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

Section 1. Section 59-12-106 is amended to read:

59-12-106. Definitions -- Sales and use tax license requirements -- Penalty -- Application process and requirements -- No fee -- Bonds -- Presumption of taxability -- Exemption certificates -- Exemption certificate license number to accompany contract bids.

(1) As used in this section:

(a) "Applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section.

(b) "Application" means an application for a license under this section.

(c) "Fiduciary of the applicant" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Fiduciary of the licensee" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) "License" means a license under this section.

(f) "Licensee" means a person that is licensed under this section by the commission.

(g) "Special event" means an event that lasts six months or less where taxable sales occur.

(2) (a) It is unlawful for any person required to collect a tax under this chapter to engage in business within the state without first having obtained a license to do so.

(b) The license described in Subsection (2)(a):

(i) shall be granted and issued by the commission;

(ii) is not assignable;

(iii) is valid only for the person in whose name the license is issued;

(iv) is valid until:

(A) the person described in Subsection (2)(b)(iii):

(I) ceases to do business; or

(II) changes that person's business address; or

(B) the license is revoked by the commission; and

(v) subject to Subsection (2)(d), shall be granted by the commission only upon an application that:

(A) states the name and address of the applicant; and

(B) provides other information the commission may require.

(c) At the time an applicant makes an application under Subsection (2)(b)(v), the commission shall notify the applicant of the responsibilities and liability of a business owner successor under Section 59-12-112.

(d) The commission shall review an application and determine whether the applicant:

(i) meets the requirements of this section to be issued a license; and

(ii) is required to post a bond with the commission in accordance with Subsections (2)(e) and (f) before the applicant may be issued a license.

(e) (i) Except as provided in Subsection (2)(e)(iii), an applicant shall post a bond with the commission before the commission may issue the applicant a license if:

(A) a license under this section was revoked for a delinquency under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) there is a delinquency in paying a tax under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter.

(ii) If the commission determines it is necessary to ensure compliance with this chapter, the commission may require a licensee to:

(A) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (2)(f); or

(B) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.

(iii) The commission may waive the bond requirement described in Subsection (2)(e)(i), if the applicant is in compliance with a payment agreement that:

(A) relates to the delinquency; and

(B) is approved by the commission.

(f) (i) A bond required by Subsection (2)(e) shall be:

(A) executed by:

(I) for an applicant, the applicant as principal, with a corporate surety; or

(II) for a licensee, the licensee as principal, with a corporate surety; and

(B) payable to the commission conditioned upon the faithful performance of all of the requirements of this chapter including:

(I) the payment of any tax under this chapter;

(II) the payment of any:

(Aa) penalty as provided in Section 59-1-401; or

(Bb) interest as provided in Section 59-1-402; or

(III) any other obligation of the:

(Aa) applicant under this chapter; or

(Bb) licensee under this chapter.

(ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the amount of a bond required by Subsection (2)(e) on the basis of:

(A) commission estimates of:

(I) an applicant's tax liability under this chapter; or

(II) a licensee's tax liability under this chapter; and

(B) any amount of a delinquency described in Subsection (2)(f)(iii).

(iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection (2)(f)(ii)(B):

(A) for an applicant, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; or

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; and

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) for a licensee, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the licensee;

(Bb) a fiduciary of the licensee; or

(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the licensee;

(Bb) a fiduciary of the licensee; and

(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter.

(iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection (2)(e) may not:

(A) be less than $25,000; or

(B) exceed $500,000.

(g) Subject to Subsection (2)(h), if business is transacted at two or more separate places by one person, a separate license for each place of business is required.

(h) A license is not required for any person [~~that is~~]:

(i) engaged exclusively in the business of selling commodities that are exempt from taxation under this chapter; or

(ii) exempt from collecting sales and use tax under Section 59-12-104 and the place of business is a special event.

(i) If a person is not required to obtain a license under Subsection (2)(h), a political subdivision, as defined in Subsection 63A-15-102(5), may not require the person to obtain a license as a prerequisite to obtaining a business license or any other right to conduct business.

[~~(i)~~] (j) (i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provisions of this chapter.

(ii) A license may not be issued to a licensee described in [~~Subsection (2)(i)(i)~~] Subsection (2)(j)(i) until the licensee has complied with the requirements of this chapter, including:

(A) paying any:

(I) tax due under this chapter;

(II) penalty as provided in Section 59-1-401; or

(III) interest as provided in Section 59-1-402; and

(B) posting a bond in accordance with Subsections (2)(e) and (f).

[~~(j)~~] (k) Any person required to collect a tax under this chapter within this state without having secured a license to do so is guilty of a criminal violation as provided in Section 59-1-401.

[~~(k)~~] (l) A license shall be issued to the person by the commission without a license fee.

[~~(l)~~] (m) (i) The commission shall include on an application for a temporary sales tax license and special event sales tax return the following statement:

"You are not required to complete or return this form or to collect sales and use tax if you are not regularly engaged in the business of selling the items you are offering at this event or all of the items that you are selling at this event are exempt from sales and use tax under Section 59-12-104."

(ii) The notice described in [~~Subsection (2)(l)(i)~~] Subsection (2)(m)(i) shall be in bold font no smaller than the font of the main content and shall appear at the top of the application form.

(3) (a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for delivery in this state is sold for storage, use, or other consumption in this state unless the person selling the property, item, or service has taken from the purchaser an exemption certificate:

(i) bearing the name and address of the purchaser; and

(ii) providing that the property, item, or service was exempted under Section 59-12-104.

(b) An exemption certificate described in Subsection (3)(a):

(i) shall contain information as prescribed by the commission; and

(ii) if a paper exemption certificate is used, shall be signed by the purchaser.

(c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable to collect a tax under this chapter if the seller or certified service provider obtains within 90 days after a transaction is complete:

(A) an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) the information required by Subsections (3)(a) and (b).

(ii) A seller or certified service provider that does not obtain the exemption certificate or information described in Subsection (3)(c)(i) with respect to a transaction is allowed 120 days after the commission requests the seller or certified service provider to substantiate the exemption to:

(A) establish that the transaction is not subject to taxation under this chapter by a means other than providing an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the information

required by Subsections (3)(a) and (b), taken in good faith.

(iii) For purposes of Subsection (3)(c)(ii)(B), an exemption certificate is taken in good faith if the exemption certificate claims an exemption that:

(A) was allowed by statute on the date of the transaction in the jurisdiction of the location of the transaction;

(B) could be applicable to that transaction; and

(C) is reasonable for the purchaser's type of business.

(d) Except as provided in Subsection (3)(e), a seller or certified service provider that takes an exemption certificate from a purchaser in accordance with this Subsection (3) with respect to a transaction is not liable to collect a tax under this chapter on that transaction.

(e) Subsection (3)(d) does not apply to a seller or certified service provider if the commission establishes through an audit that the seller or certified service provider:

(i) knew or had reason to know at the time the purchaser provided the seller or certified service provider the information described in Subsection (3)(a) or (b) that the information related to the exemption claimed was materially false; or

(ii) otherwise knowingly participated in activity intended to purposefully evade the tax due on the transaction.

(f) (i) Subject to Subsection (3)(f)(ii) and except as provided in Subsection (3)(f)(iii), if there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission may not require the seller or certified service provider to:

(A) renew an exemption certificate;

(B) update an exemption certificate; or

(C) update a data element of an exemption certificate.

(ii) For purposes of Subsection (3)(f)(i), a recurring business relationship exists if no more than a 12-month period elapses between transactions between a seller or certified service provider and a purchaser.

(iii) If there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission shall require an exemption certificate the seller or certified service provider takes from the purchaser to meet the requirements of Subsections (3)(a) and (b).

(4) A person filing a contract bid with the state or a political subdivision of the state for the sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1) shall include with the bid the number of the license issued to that person under Subsection (2).

CHAPTER 84
H. B. 355
Passed March 1, 2023
Approved March 13, 2023
Effective May 3, 2023

UTAH DATA RESEARCH CENTER AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends the Utah Data Research Advisory Board.

Highlighted Provisions:

This bill:

- adds the Department of Commerce to the Utah Data Research Advisory Board as a participating entity and advisory board member.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-33-101, as renumbered and amended by Laws of Utah 2022, Chapter 461
53B-33-202, as renumbered and amended by Laws of Utah 2022, Chapter 461
53B-33-304, as renumbered and amended by Laws of Utah 2022, Chapter 461

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

Section 1. Section 53B-33-101 is amended to read:

53B-33-101. Definitions.

As used in this chapter:

(1) "Advisory board" means the Utah Data Research Advisory Board created in Section [~~53B-33-203~~] 53B-33-202.

(2) "Center" means the Utah Data Research Center created in Section 53B-33-201.

(3) "Data" means any information about a person stored in a physical or electronic record.

(4) "Data research program" means the data maintained by the center in accordance with Section 53B-33-301.

(5) "De-identified data" means data about a person that cannot, without additional information, identify the person to another person or machine.

(6) "Director" means the director of the Utah Data Research Center created in Section 53B-33-201.

(7) "Institution of higher education" means an institution of higher education described in Section 53B-1-102.

(8) "Participating entity" means:

(a) the State Board of Education, which includes the director as defined in Section 53E-10-701;

(b) the board;

(c) the Department of Workforce Services; [~~and~~]

(d) the Department of Health and Human Services[~~.~~]; and

(e) the Department of Commerce.

(9) "Unique student identifier" means the same as that term is defined in Section 53E-4-308.

Section 2. Section 53B-33-202 is amended to read:

53B-33-202. Utah Data Research Advisory Board -- Composition -- Appointment.

(1) There is created the Utah Data Research Advisory Board.

(2) The advisory board is composed of the following members:

(a) the state superintendent of the State Board of Education or the state superintendent's designee;

(b) the commissioner or the commissioner's designee;

(c) the executive director of the Department of Workforce Services or the executive director's designee; [~~and~~]

(d) the executive director of the Department of Health and Human Services or the executive director's designee[~~.~~]; and

(e) the executive director of the Department of Commerce or the executive director's designee.

(3) The commissioner shall serve as chair.

(4) A member of the advisory board:

(a) except to the extent a member's service on the advisory board is related to the member's duties outside of the advisory board, may not receive compensation or benefits for the member's service; and

(b) may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 3. Section 53B-33-304 is amended to read:

53B-33-304. Reporting.

(1) The center shall report to the Education Interim Committee and Business and Labor Interim Committee:

(a) before July 1 of each year regarding the center's:

(i) research and services priorities for the year;

(ii) completed research from the previous year; and

(iii) activities and accomplishments in the previous year; and

(b) before December 1 of each year, the center's ongoing data research and services priority list described in Subsection 53B-33-302(2).

(2) The Education Interim Committee shall provide the center ongoing input regarding the center's activities and data research priorities.

CHAPTER 85
H. B. 357
Passed March 1, 2023
Approved March 13, 2023
Effective January 1, 2024
(Exception clause)

DECENTRALIZED AUTONOMOUS ORGANIZATIONS AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill allows a decentralized autonomous organization that has not registered as a for-profit corporate entity or a non-profit entity to be treated as the legal equivalent of a domestic limited liability company.

Highlighted Provisions:

This bill:

- enacts the Decentralized Autonomous Organization Act;
- defines terms under the act;
- establishes the requirements of a decentralized autonomous organization to be recognized by the state;
- establishes the purposes for which a decentralized autonomous organization may be formed; and
- establishes the membership requirements and rights of members of decentralized autonomous organizations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

48-5-101, Utah Code Annotated 1953
48-5-102, Utah Code Annotated 1953
48-5-103, Utah Code Annotated 1953
48-5-104, Utah Code Annotated 1953
48-5-105, Utah Code Annotated 1953
48-5-106, Utah Code Annotated 1953
48-5-107, Utah Code Annotated 1953
48-5-108, Utah Code Annotated 1953
48-5-109, Utah Code Annotated 1953
48-5-201, Utah Code Annotated 1953
48-5-202, Utah Code Annotated 1953
48-5-203, Utah Code Annotated 1953
48-5-204, Utah Code Annotated 1953
48-5-301, Utah Code Annotated 1953
48-5-302, Utah Code Annotated 1953
48-5-303, Utah Code Annotated 1953
48-5-304, Utah Code Annotated 1953
48-5-305, Utah Code Annotated 1953
48-5-306, Utah Code Annotated 1953
48-5-307, Utah Code Annotated 1953
48-5-401, Utah Code Annotated 1953
48-5-402, Utah Code Annotated 1953
48-5-403, Utah Code Annotated 1953
48-5-404, Utah Code Annotated 1953
48-5-405, Utah Code Annotated 1953
48-5-406, Utah Code Annotated 1953

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

Section 1. Section 48-5-101 is enacted to read:

CHAPTER 5. DECENTRALIZED AUTONOMOUS ORGANIZATION ACT

Part 1. General Provisions

48-5-101. Definitions.

As used in this chapter:

(1) "Administrator" means a person that is appointed in a manner specified in the by-laws to make decisions for specific, predefined operations of the decentralized autonomous organization.

(2) "Asset" means an item of value, whether on-chain or off-chain.

(3) "By-laws" means the procedural rules and regulations that govern a decentralized autonomous organization and the interaction of the decentralized autonomous organization's members and participants.

(4) "Cryptographic proof" means a mathematical proof that verifies that a message has not been tampered with or altered in any way and can be verified by a person that has access to the original message and the proof.

(5) "Decentralized" means that decision-making is distributed among multiple persons.

(6) "Decentralized autonomous organization" means an organization:

(a) created by one or more smart contracts;

(b) that implements rules enabling individuals to coordinate for decentralized governance of an organization; and

(c) that is an entity formed under this chapter.

(7) (a) "Developer" means a person involved in the development or maintenance of a decentralized autonomous organization.

(b) "Developer" includes a person that provides:

(i) software code; or

(ii) design, business, legal, or ancillary support.

(8) (a) "Dispute resolution mechanism" means an on-chain alternative dispute resolution system that enables persons to resolve disputes arising out of a decentralized autonomous organization.

(b) "Dispute resolution mechanism" includes:

(i) arbitration;

(ii) expert determination; or

(iii) an on-chain alternative court system.

(9) "Division" means the Division of Corporations and Commercial Code.

(10) "Failure event" means an error in the decentralized autonomous organization's software code or an exploit that:

(a) renders the decentralized autonomous organization inoperative; or

(b) fundamentally changes the expected operation of the decentralized autonomous organization.

(11) "Graphical user interface" means a publicly accessible interface through which a person interacts with computer software through visual indicator representations.

(12) "Hard fork" means a blockchain software upgrade that is not compatible with previous versions of the blockchain software and requires all users to upgrade to the latest version of the blockchain software.

(13) "Legal representative" means an individual appointed in the manner specified in the by-laws of a decentralized autonomous organization to perform procedural functions off-chain on behalf of a decentralized autonomous organization.

(14) "Majority chain" means the version of the blockchain accepted by more than half of the blockchain's validators following a hard fork.

(15) "Meeting" means a synchronous or asynchronous event for the purpose of discussing and acting upon decentralized autonomous organization related matters by members or participants.

(16) (a) "Member" means a person who has governance rights in a decentralized autonomous organization.

(b) "Member" does not include an individual that has involuntarily received a token with governance rights, unless that person has chosen to participate in governance by undertaking a governance behavior, on-chain or off-chain, for the decentralized autonomous organization.

(17) "Minority chain" means the version of the chain that is not the majority chain following a hard fork.

(18) "Off-chain" means any action that is not on-chain.

(19) "On-chain" means any action that is recorded and verified on a blockchain.

(20) "On-chain contribution" refers to any token segregated and locked in one of the decentralized autonomous organization's smart contracts for the purpose of member buy-in to the decentralized autonomous organization and the provision of withdrawable capital.

(21) "Organizer" means a person that submits the certificate of filing as required in Section 48-5-201.

(22) "Participant" means a person that:

(a) is not a member of a decentralized autonomous organization; and

(b) holds or interacts with a token of a decentralized autonomous organization.

(23) "Permissionless blockchain" means a publicly distributed ledger that allows a person to transact and produce blocks in accordance with the blockchain protocol, in which the validity of the block is independent of the identity of the user.

(24) "Public address" means a unique, durable identifier that an individual can transact with on a permissionless blockchain.

(25) "Public forum" means a freely accessible online environment that is commonly used for the exercise of speech and public debate.

(26) "Public signal" means a declaration authorized by the decentralized autonomous organization in a public forum.

(27) "Quality assurance" means a security review of the software code of the decentralized autonomous organization in accordance with industry standards.

(28) "Redeem" means to exchange a token for the value that the token represents.

(29) "Smart contract" means software code that:

(a) is deployed on a permissionless blockchain;

(b) consists of a set of predefined instructions executed in a distributed manner by the nodes of an underlying blockchain network; and

(c) produces a change on the blockchain network.

(30) "Token" means a record on a permissionless blockchain that represents an asset, participation right, or other entitlement.

(31) "Transaction" means a new entry in a permissionless blockchain, including the recording of a change in ownership of an asset or participation in a decentralized autonomous organization.

Section 2. Section 48-5-102 is enacted to read:

48-5-102. Governing document hierarchy -- Governing law.

A decentralized autonomous organization shall be governed by the following, listed in order of primacy:

(1) this act;

(2) the by-laws of the decentralized autonomous organization;

(3) if this act and a decentralized autonomous organization's by-laws are silent, the provisions of Chapter 3a, Utah Revised Uniform Limited Liability Company Act; and

(4) principles of law and equity.

Section 3. Section 48-5-103 is enacted to read:

48-5-103. Powers of the division.

(1) (a) The division may make, amend, or rescind a rule, form, or order when necessary to carry out this chapter.

(b) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The division may by rule:

(a) provide the form and content of a registration requirement required under this chapter;

(b) provide the method of determining whether formation requirements described in Section 48-5-201 have been met and when to issue a certificate of organization; and

(c) identify industry standards for determining whether the decentralized autonomous organization has undergone security review for quality assurance.

Section 4. Section 48-5-104 is enacted to read:

48-5-104. Legal personality.

A decentralized autonomous organization that meets the requirements of this act:

(1) shall be deemed a legal entity separate and distinct from the decentralized autonomous organization's members;

(2) has the capacity to sue and be sued in the decentralized autonomous organization's own name and the power to do all things necessary or convenient to carry on the decentralized autonomous organization's activities and affairs;

(3) shall meet the decentralized autonomous organization's liabilities through the decentralized autonomous organization's assets;

(4) may have any lawful purpose; and

(5) has perpetual duration.

Section 5. Section 48-5-105 is enacted to read:

48-5-105. Permitted names.

(1) (a) The name of a limited liability decentralized autonomous organization shall contain the words limited liability decentralized autonomous organization or limited decentralized autonomous organization or the abbreviation L.L.D., LLD, L.D., or LD.

(b) Limited may be abbreviated as Ltd., and decentralized autonomous organization may be abbreviated as DAO.

(2) Except as authorized by Subsection (3), the name of a decentralized autonomous organization shall be distinguishable as defined in Subsection (4) upon the records of the division from:

(a) the actual name, reserved name, or fictitious or assumed name of any entity registered with the division; or

(b) any tradename, trademark, or service mark registered with the division.

(3) (a) A decentralized autonomous organization may apply to the division for approval to reserve a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (2).

(b) The division shall approve the name for which the decentralized autonomous organization applies under Subsection (3)(a) if:

(i) the other person with a name that is not distinguishable from the name under which the applicant desires to file:

(A) consents to the filing in writing; and

(B) files a form approved by the division to change the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name in this state.

(4) A name is distinguishable from other names, trademarks, and service marks registered with the division if the name contains one or more different words, letters, or numerals from other names upon the division's records.

(5) The following differences are not distinguishing:

(a) the term:

(i) decentralized autonomous organization;

(ii) DAO;

(iii) limited liability decentralized autonomous organization;

(iv) L.L.D. or L.L.DAO; or

(v) L.D. or L.DAO;

(b) an abbreviation of a word listed in Subsection (5)(a);

(c) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";

(d) differences in punctuation and special characters;

(e) differences in capitalization; or

(f) differences in singular and plural forms of words.

(6) The division may not approve for filing a name that implies that a decentralized autonomous organization is an agency of this state or any of the state's political subdivisions, if the decentralized autonomous organization is not actually such a legally established agency or subdivision.

(7) The authorization to reserve or register a decentralized autonomous organization name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

(8) The name of a decentralized autonomous organization may not contain:

(a) the term:

(i) association;

(ii) corporation;

(iii) incorporated;

(iv) partnership;

(v) limited liability company;

(vi) limited partnership; or

(vii) L.P.;

(b) any word or abbreviation that is of like import to the terms listed in Subsection (8)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) Olympic;

(ii) Olympiad; or

(iii) Citius Altius Fortius;

(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114, the terms:

(i) university;

(ii) college; or

(iii) institute or institution; or

(e) the number sequence 911.

(9) A person, other than a decentralized autonomous organization formed under this chapter or another decentralized autonomous organization that is authorized to transact business in this state, may not use in the person's name in this state the term:

(a) limited liability decentralized autonomous organization;

(b) limited decentralized autonomous organization;

(c) L.L.DAO or L.L.D; or

(d) L.DAO or L.D.

Section 6. Section 48-5-106 is enacted to read:

48-5-106. Registered agent.

Each decentralized autonomous organization shall designate a registered agent in this state in accordance with Subsection 16-17-203(1) and maintain a registered agent in the state.

Section 7. Section 48-5-107 is enacted to read:

48-5-107. Fees.

Unless otherwise provided by statute, the division shall charge and collect a fee for services established by the division in accordance with Section 63J-1-504 including fees:

(1) for issuing a certified copy of any document, instrument, or paper relating to a decentralized autonomous organization; and

(2) for affixing the seal to a certified copy described in Subsection (1).

Section 8. Section 48-5-108 is enacted to read:

48-5-108. Certificates issued by the division.

(1) Any person may apply to the division for:

(a) a certificate of existence for a decentralized autonomous organization; or

(b) a certificate that sets forth any facts of record in the division.

(2) A certificate of existence or certificate of authorization sets forth:

(a) the decentralized autonomous organization's name;

(b) that the decentralized autonomous organization is recognized under the law of this state;

(c) the date of the decentralized autonomous organization's formation;

(d) that articles of dissolution have not been filed by the division; and

(e) other facts of record in the division that may be requested by the applicant.

(3) Subject to any qualification stated in the certificate, a certificate issued by the division may be relied upon as conclusive evidence of the facts set forth in the certificate.

Section 9. Section 48-5-109 is enacted to read:

48-5-109. Electronic documents.

(1) Subject to Section 48-5-107, the division shall by rule permit a writing required or permitted to be filed with the division under this chapter:

(a) to be delivered, mailed, or filed:

(i) in an electronic medium; or

(ii) by electronic transmission; or

(b) to be signed by photographic, electronic, or other means prescribed by rule, except that a writing signed in an electronic medium shall be signed by electronic signature in accordance with Title 46, Chapter 4, Uniform Electronic Transactions Act.

(2) The division may by rule provide for any writing required or permitted to be prepared, delivered, or mailed by the division under this chapter to be prepared, delivered, or mailed:

(a) in an electronic medium; or

(b) by electronic transmission.

Section 10. Section 48-5-201 is enacted to read:

Part 2. Formation

48-5-201. Formation requirements.

(1) (a) One or more persons may act as organizers to form a decentralized autonomous organization by delivering to the division for filing a certificate of organization.

(b) At least one of the organizers of a decentralized autonomous organization shall be an individual.

(2) (a) A certificate of organization shall provide:

(i) the name of the decentralized autonomous organization, which shall comply with Section 48-3a-108;

(ii) the name of an organizer that is an individual;

(iii) the street and mailing address of the organizer described in Subsection (2)(a)(ii);

(iv) the name and address of the legal representative; and

(v) the information required by Subsection 16-17-203(1).

(b) An organizer may request that the information provided in Subsections (2)(a)(ii) and (iii) is redacted by the division before any public disclosure of the filing.

(3) A decentralized autonomous organization shall submit evidence to the division that the decentralized autonomous organization has complied with the following requirements:

(a) the decentralized autonomous organization is deployed on a permissionless blockchain;

(b) the decentralized autonomous organization has a unique public address through which an individual can review and monitor the decentralized autonomous organization's transactions;

(c) the software code of the decentralized autonomous organization is available in a public forum for any person to review;

(d) the software code of the decentralized autonomous organization has undergone quality assurance;

(e) the decentralized autonomous organization has a graphical user interface that:

(i) allows a person to read the value of the key variables of the decentralized autonomous organization's smart contracts;

(ii) allows a person to monitor all transactions originating from, or addressed to, the decentralized autonomous organization's smart contracts;

(iii) specifies the restrictions on a member's ability to redeem tokens;

(iv) makes available the decentralized autonomous organization's by-laws; and

(v) displays the mechanism to contact the administrator of the decentralized autonomous organization;

(f) the governance system of the decentralized autonomous organization is decentralized;

(g) the decentralized autonomous organization has at least one member;

(h) (i) there is a publicly specified communication mechanism that allows a person to contact the registered agent of the decentralized autonomous organization and provide legally recognized service; and

(ii) a member or administrator of the decentralized autonomous organization is able to access the contents of this communication mechanism; and

(i) the decentralized autonomous organization describes or provides a dispute resolution mechanism that is:

(i) binding on the decentralized autonomous organization, the members, and participants of the decentralized autonomous organization; and

(ii) able to resolve disputes with third parties capable of settlement by alternative dispute resolution.

(4) Notwithstanding the requirements of Subsection (3)(e)(iv), a decentralized autonomous organization may redact sensitive information from the by-laws before making the by-laws available, if those redactions are necessary to protect the privacy of individual members or participants in the decentralized autonomous organization.

(5) A decentralized autonomous organization is formed when the decentralized autonomous organization's certificate of organization becomes effective and the decentralized autonomous organization submits the evidence required in Subsection (3).

(6) Upon formation, the decentralized autonomous organization shall have limited liability, subject to the provisions of Section 48-5-202.

(7) A decentralized autonomous organization may request a certificate of organization from the division to signify that the decentralized autonomous organization has complied with the requirements for legal personality under this act.

Section 11. Section 48-5-202 is enacted to read:

48-5-202. Limited liability.

(1) Except as set forth in Subsections (2) and (3), a member:

(a) may only be liable for the on-chain contributions that the member has committed to the decentralized autonomous organization;

(b) may not be held personally liable for any excess liability after the decentralized autonomous organization's assets have been exhausted;

(c) may not be held personally liable for any obligation incurred by the decentralized autonomous organization; and

(d) may not be held personally liable, in the member's capacity as a member, for the wrongful act or omission of any other member of the decentralized autonomous organization.

(2) If a decentralized autonomous organization refuses to comply with an enforceable judgment, order, or award entered against the decentralized autonomous organization, the members who voted against compliance may be liable for any monetary payments ordered in the judgment, order, or award in proportion to the member's share of governance rights in the decentralized autonomous organization.

(3) Subsections (1) and (2) do not affect the personal liability of a member in tort for a member's own wrongful act or omission.

Section 12. Section 48-5-203 is enacted to read:

48-5-203. By-laws.

(1) A decentralized autonomous organization shall adopt by-laws that establish internal organization and procedures for the decentralized autonomous organization.

(2) The by-laws shall be set out in plain terms.

(3) The by-laws of a decentralized autonomous organization may contain any provision for managing the entity and regulating the affairs of the decentralized autonomous organization that is not inconsistent with law.

Section 13. Section 48-5-204 is enacted to read:

48-5-204. Annual report to the division.

(1) A decentralized autonomous organization shall deliver to the division for filing an annual report that states:

(a) the name of the decentralized autonomous organization; and

(b) the information required by Subsection 16-17-203(1).

(2) Information in the annual report must be current as of the date the report is signed by the decentralized autonomous organization.

(3) Every 12 months after the decentralized autonomous organization has been issued a certificate of organization, the decentralized autonomous organization shall submit the annual report described in Subsection (1) to the division.

Section 14. Section 48-5-301 is enacted to read:

Part 3. Members

48-5-301. Classes of participation rights -- Membership.

(1) A decentralized autonomous organization's by-laws may create multiple classes of member participation rights.

(2) Where the decentralized autonomous organization has tokens providing governance powers to the token holder, the token holder shall be considered a member of the decentralized autonomous organization:

(a) from the time the ownership of the tokens is established to be in the possession of an address; or

(b) from the time when ownership is first acknowledged by the token holder through an on-chain interaction with the decentralized autonomous organization.

(3) This section does not apply in the event of a hard fork.

Section 15. Section 48-5-302 is enacted to read:

48-5-302. Voting rights.

(1) The by-laws shall set out the distribution of voting rights for the classes of member participation rights in a decentralized autonomous organization.

(2) The method by which these voting rights are computed and distributed shall be set out in the by-laws.

Section 16. Section 48-5-303 is enacted to read:

48-5-303. Proxies.

(1) A member may be represented by a proxy.

(2) The by-laws of a decentralized autonomous organization may establish the requirements for representation by proxy.

(3) A proxy may exercise all rights of a member.

Section 17. Section 48-5-304 is enacted to read:

48-5-304. Minority rights protection.

The decentralized autonomous organization shall state in the by-laws whether the decentralized autonomous organization provides minority rights protection.

Section 18. Section 48-5-305 is enacted to read:

48-5-305. Administrators.

(1) Unless mandated in the decentralized autonomous organization's by-laws, a decentralized autonomous organization is not required to have an administrator, including a board of directors or a trustee.

(2) In the absence of a provision requiring administrators, all the powers and tasks of an administrator shall be vested in the decentralized autonomous organization members as a class.

(3) The voting mechanism for nominating and appointing an administrator shall be set out in the decentralized autonomous organization's by-laws.

Section 19. Section 48-5-306 is enacted to read:

48-5-306. Legal representation.

(1) A decentralized autonomous organization shall retain a legal representative to undertake tasks that cannot be achieved on-chain.

(2) Legal representation of the decentralized autonomous organization shall be carried out by the legal representative in the manner provided in the by-laws, as evidenced by an authorization displayed on a public forum, and verifiable by cryptographic proof.

(3) The legal representative may undertake and execute any and all acts and contracts included within the scope of such authorization.

(4) The legal representative may not be required to reside in Utah.

(5) A legal representative may not be personally liable for acts performed on behalf of the decentralized autonomous organization.

Section 20. Section 48-5-307 is enacted to read:

48-5-307. No implicit fiduciary status.

A developer, member, participant, or legal representative of a decentralized autonomous organization may not be imputed to have fiduciary duties towards each other or third parties solely on account of their role, unless the developer, member, participant, or legal representative:

(1) explicitly holds themselves out as a fiduciary; or

(2) stipulates to assume a fiduciary status as provided in the decentralized autonomous organization's by-laws.

Section 21. Section 48-5-401 is enacted to read:

Part 4. Miscellaneous Provisions

48-5-401. Asset subscription and payment.

(1) No minimum capital requirements may apply to a decentralized autonomous organization recognized by this act.

(2) If the decentralized autonomous organization wishes to maintain a minimum amount of capital, the by-laws of the decentralized autonomous organization shall specify the rules for subscription and payment.

(3) The by-laws shall provide the rules for exiting the decentralized autonomous organization that address the consequences of voluntary and involuntary member and participant exit on subscriptions and payments made by the member or participant.

(4) No member may compel the dissolution of the decentralized autonomous organization for failure to return the member's on-chain contribution.

Section 22. Section 48-5-402 is enacted to read:

48-5-402. Meetings.

(1) A decentralized autonomous organization may hold meetings as provided in the decentralized autonomous organization's by-laws.

(2) Unless explicitly specified in the by-laws, meetings are not required to be in person.

(3) If the by-laws include a meeting requirement, the by-laws shall include an explicit and transparent mechanism of giving notice of meetings to administrators, members, or participants, and a defined time period for deliberating upon proposals submitted by an administrator, member, or participant.

(4) Notice of any required meeting shall be communicated through a graphical user interface.

(5) The quorum and majority requirements for meetings of a decentralized autonomous organization's administrators, members, or participants shall be specified in the by-laws.

Section 23. Section 48-5-403 is enacted to read:

48-5-403. Contentious forks in the underlying blockchain.

(1) Except as provided in this section, in the event of a hard fork in the underlying permissionless blockchain:

(a) the legal representation of the decentralized autonomous organization remains on the majority chain; and

(b) any off-chain assets shall belong to the decentralized autonomous organization on the majority chain.

(2) (a) A decentralized autonomous organization may choose to maintain legal presence on a

minority chain if the decentralized autonomous organization expresses an intent to do so by public signal.

(b) If the decentralized autonomous organization expresses an intent by public signal to maintain legal presence on a minority chain, any off-chain assets shall belong to the decentralized autonomous organization on the selected minority chain.

(3) The decentralized autonomous organization may liquidate the decentralized autonomous organization's on-chain assets after a hard fork to move those assets to the chosen chain.

(4) The decentralized autonomous organization may split into multiple legal entities after a hard fork, each on a separate chain, after public signal of an intent to do so, provided there is a definitive distribution of off-chain assets between the majority and minority chain.

Section 24. Section 48-5-404 is enacted to read:

48-5-404. Restructuring.

(1) When a decentralized autonomous organization is restructured, whether through modification, upgrade, or migration, the decentralized autonomous organization's legal personality and limited liability is retained only to the extent that:

(a) the new software code of the decentralized autonomous organization fulfills all the formation requirements of Section 48-5-201; and

(b) where the decentralized autonomous organization has to be associated with a new unique public address, proper notice is provided by way of public signal.

(2) A decentralized autonomous organization that is restructured in compliance with Subsection (1) inherits the rights and obligations of the original decentralized autonomous organization as a successor.

Section 25. Section 48-5-405 is enacted to read:

48-5-405. Failure event.

(1) In the case of a failure event, legal personality and limited liability are maintained to the extent necessary to protect decentralized autonomous organization members and participants from personal liability.

(2) A failure event may trigger liability on the person deploying or upgrading the decentralized autonomous organization if that person:

(a) acted in bad faith; or

(b) engaged in gross negligence.

Section 26. Section 48-5-406 is enacted to read:

48-5-406. Taxation.

(1) If a decentralized autonomous organization recognized by this act is eligible to elect to be classified as a corporation for federal tax purposes, and the decentralized autonomous organization makes that election, the decentralized autonomous organization shall be subject to the provisions of Title 59, Chapter 7, Corporate Franchise and Income Taxes.

(2) (a) Unless the decentralized autonomous organization makes the election described in Subsection (1), a decentralized autonomous organization recognized by this act shall be classified as a partnership for tax purposes and subject to the provisions of Title 59, Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayer Act.

(b) For purposes of taxation, a decentralized autonomous organization shall allocate the distributive share of income, gain, loss, deduction, and credit derived from the decentralized autonomous organization's activities, to each member of the decentralized autonomous organization in proportion to the member's membership interest in the entity.

Section 27. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2024.

(2) Section 48-5-406 takes effect for a taxable year beginning on or after January 1, 2024.

CHAPTER 86
H. B. 360
Passed March 1, 2023
Approved March 13, 2023
Effective May 3, 2023

UNCLAIMED PROPERTY AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies the confidentiality provisions applicable to certain information in an income tax return.

Highlighted Provisions:

This bill:

- allows the State Tax Commission to provide the unclaimed property administrator certain information from income tax returns for the purpose of returning property to its owner.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-403, as last amended by Laws of Utah 2022, Chapter 447

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

Section 1. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township; or

(ii) the military installation development authority created in Section 63H-1-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) (i) As used in this Subsection (4)(aa), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii) (A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(aa).

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

CHAPTER 87
H. B. 362
Passed March 1, 2023
Approved March 13, 2023
Effective March 13, 2023

CRIMINAL JUSTICE DATA MANAGEMENT TASK FORCE SUNSET EXTENSION

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill extends the Criminal Justice Data Management Task Force by several years.

Highlighted Provisions:

This bill:

- extends the Criminal Justice Data Management Task Force by several years;
- updates certain reporting deadlines; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

36-29-111, as enacted by Laws of Utah 2022, Chapter 437

63I-2-236, as last amended by Laws of Utah 2022, Chapters 97, 141, 363, 437, and 458

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

Section 1. Section 36-29-111 is amended to read:

36-29-111. Criminal Justice Data Management Task Force.

(1) As used in this section, "task force" means the Criminal Justice Data Management Task Force created in this section.

(2) There is created the Criminal Justice Data Management Task Force consisting of the following members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(c) representatives from the following organizations as requested by the executive director of the State Commission on Criminal and Juvenile Justice:

(i) the State Commission on Criminal and Juvenile Justice;

(ii) the Office of the Utah Attorney General;

(iii) the Judicial Council;

(iv) the Statewide Association of Prosecutors;

(v) the Department of Corrections;

(vi) the Department of Public Safety;

(vii) the Utah League of Cities and Towns;

(viii) the Utah Association of Counties;

(ix) the Utah Chiefs of Police Association;

(x) the Utah Sheriffs Association;

(xi) the Board of Pardons and Parole;

(xii) a representative from a bail bond agency; and

(xiii) any other organizations or groups as recommended by the executive director of the Commission on Criminal and Juvenile Justice.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force present at a meeting constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The State Commission on Criminal and Juvenile Justice shall provide staff support to the task force.

(7) The task force shall review the state's current criminal justice data collection requirements and make recommendations regarding:

(a) possible ways to connect the various records systems used throughout the state so that data can be shared between criminal justice agencies and with policymakers;

(b) ways to automate the collection, storage, and dissemination of the data;

(c) standardizing the format of data collection and retention; and

(d) the collection of data not already required related to criminal justice.

(8) On or before November 30[~~, 2022,~~] of each year that the task force is in effect, the task force shall provide a report, including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Legislative Management Committee.

(9) The task force is repealed [~~April 30, 2023~~] July 1, 2025.

Section 2. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates: Title 36.

(1) Section 36-12-8.2 is repealed July 1, 2023.

(2) Section 36-29-107.5 is repealed on November 30, 2023.

(3) Section 36-29-109 is repealed on November 30, 2027.

(4) Section 36-29-110 is repealed on November 30, 2024.

(5) Section 36-29-111 is repealed [~~April 30, 2023~~] July 1, 2025.

(6) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

(7) Title 36, Chapter 29, Part 3, Mental Illness Psychotherapy Drug Task Force, is repealed December 31, 2023.

Section 3. Effective date.

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

CHAPTER 88
H. B. 364
Passed March 2, 2023
Approved March 13, 2023
Effective March 13, 2023

HOUSING AFFORDABILITY AMENDMENTS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions relating to affordable housing and the provision of services related to affordable housing.

Highlighted Provisions:

This bill:

- modifies provisions related to the moderate income housing reporting requirements for certain cities and counties;
- allows a city or county to appeal the Housing and Community Development Division's determination of noncompliance in relation to city and county moderate income housing reports;
- establishes an appeal board to hear and decide appeals in relation to city and county moderate income housing reports;
- requires the Department of Workforce Services to report annually on expenditures authorized by the Utah Housing Preservation Fund;
- allows for state low-income housing tax credits to be allocated, by pass-through, to certain business entities;
- increases the aggregate annual amount of state low-income housing tax credits that may be allocated in certain years;
- allows a taxpayer to claim a state low-income housing tax credit before final certification from the Utah Housing Corporation in certain circumstances;
- requires the Legislature to conduct reviews of the aggregate annual amount of state low-income housing tax credits that the Utah Housing Corporation is authorized to allocate and has allocated; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

10-9a-401, as last amended by Laws of Utah 2022, Chapters 282, 406
10-9a-403, as last amended by Laws of Utah 2022, Chapters 282, 406 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 406
10-9a-408, as last amended by Laws of Utah 2022, Chapter 406
17-27a-401, as last amended by Laws of Utah 2022, Chapters 282, 406
17-27a-403, as last amended by Laws of Utah 2022, Chapters 282, 406
17-27a-408, as last amended by Laws of Utah 2022, Chapter 406
59-7-607, as last amended by Laws of Utah 2020, Chapter 241
59-9-108, as enacted by Laws of Utah 2020, Chapter 241
59-10-1010, as last amended by Laws of Utah 2020, Chapter 241
63J-4-802, as last amended by Laws of Utah 2022, Chapter 406
72-1-304, as last amended by Laws of Utah 2022, Chapter 406
72-2-124, as last amended by Laws of Utah 2022, Chapters 69, 259 and 406

ENACTS:

35A-8-2401, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

10-9a-408, Utah Code Annotated 1953
17-27a-408, Utah Code Annotated 1953

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

Section 1. Section 10-9a-401 is amended to read:

10-9a-401. General plan required -- Content.

(1) To accomplish the purposes of this chapter, a municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of

services or facilities provided by an affected entity; and

(j) an official map.

(3) (a) The general plan of a specified municipality, as defined in Section 10-9a-408, shall include a moderate income housing element that meets the requirements of Subsection 10-9a-403(2)(a)(iii).

[~~(b) On or before October 1, 2022, a specified municipality, as defined in Section 10-9a-408, with a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a)~~]

(b) (i) This Subsection (3)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.

(ii) As of January 1, if a municipality described in Subsection (3)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality as defined in Section 10-9a-408, the municipality shall amend the municipality's general plan to comply with Subsection (3)(a) on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

(4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 2. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) except for a city of the fifth class or a town, is coordinated to integrate the land use element with the water use and preservation element; and

(D) except for a city of the fifth class or a town, accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) [~~for a specified municipality as defined in Section 10-9a-408,~~] a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the municipality during the next five years;

(B) [~~selects~~] for a town, may include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii) [~~for implementation, including one additional moderate income housing strategy as provided in Subsection (2)(b)(iv) for a specified municipality that has a fixed guideway public transit station~~];

(C) for a specified municipality, as defined in Section 10-9a-408, that does not have a fixed guideway public transit station, shall include a

recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii);

(D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed guideway public transit station, shall include a recommendation to implement five or more of the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall be the moderate income housing strategy described in Subsection (2)(b)(iii)(V), and one shall be a moderate income housing strategy described in Subsection (2)(b)(iii)(G), (H), or (Q); and

[~~(C)~~] (E) [~~includes~~] for a specified municipality, as defined in Section 10-9a-408, shall include an implementation plan as provided in Subsection (2)(c); and

(iv) except for a city of the fifth class or a town, a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for [~~other municipalities~~] a specified municipality as defined in Section 10-9a-408, shall include, a recommendation to implement [~~three or more of the following~~] the required number of any of the following moderate income housing strategies as specified in Subsection (2)(a)(iii):

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under

Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) develop and adopt a station area plan in accordance with Section 10-9a-403.1;

(W) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

(X) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; and

[~~(iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement:~~]

[~~(A) the strategy described in Subsection (2)(b)(iii)(V); and~~]

[~~(B) a strategy described in Subsection (2)(b)(iii)(G), (H), or (Q).~~]

(iv) shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(iii).

(c) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall [~~establish~~] recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.

(ii) The timeline described in Subsection (2)(c)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and

(B) provide flexibility for the municipality to make adjustments as needed.

(d) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(e) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the municipality's region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider:

(A) applicable regional water conservation goals recommended by the Division of Water Resources; and

(B) if Section 73-10-32 requires the municipality to adopt a water conservation plan pursuant to Section 73-10-32, the municipality's water conservation plan;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the municipality; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the municipality's land use ordinances and include a recommendation for

changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(vi) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(vii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption

of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 3. Section 10-9a-408 is amended to read:

10-9a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-9a-403(2)(c).

(c) [~~"Moderate income housing report" or "report"~~] "Initial report" or "initial moderate income housing report" means the one-time report described in Subsection [~~(2)(a)~~] (2).

(d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403(2)(b)(iii).

(e) "Report" means an initial report or a subsequent progress report.

[~~(e)~~] (f) "Specified municipality" means:

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; or

(iii) a metro township with a population of 5,000 or more.

(g) "Subsequent progress report" means the annual report described in Subsection (3).

(2) (a) [~~Beginning in 2022, on or before October 1 of each calendar year, the~~] The legislative body of a specified municipality shall [~~annually submit a written moderate income housing report~~] submit an initial report to the division.

[~~(b) The moderate income housing report submitted in 2022 shall include:~~]

(b) (i) This Subsection (2)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.

(ii) As of January 1, if a municipality described in Subsection (2)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality, the municipality shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

(c) The initial report shall:

(i) [~~a description of~~] identify each moderate income housing strategy selected by the specified municipality for continued, ongoing, or one-time implementation, restating the exact language used to describe the moderate income housing strategy in Subsection 10-9a-403(2)(b)(iii); and

(ii) include an implementation plan.

[~~(c)~~] (3) (a) [~~The moderate income housing report submitted in each calendar year after 2022~~] After the division approves a specified municipality's initial report under this section, the specified municipality shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified municipality is required to submit the initial report.

(b) The subsequent progress report shall include:

[~~(i) the information required under Subsection (2)(b);~~]

[~~(ii)~~] (i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous [~~fiscal year~~] 12-month period to implement the moderate income housing strategies [~~selected by the specified municipality~~] identified in the initial report for implementation;

[~~(iii)~~] (ii) a description of each land use regulation or land use decision made by the specified municipality during the previous [~~fiscal year~~] 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;

[~~(iv)~~] (iii) a description of any barriers encountered by the specified municipality in the previous [~~fiscal year~~] 12-month period in implementing the moderate income housing strategies;

[~~(v)~~] (iv) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

[~~(vi)~~] (v) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

[~~(vii)~~] (vi) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified municipality under Subsection (3)(b)(i),

the specified municipality may include an ongoing action taken by the specified municipality prior to the 12-month reporting period applicable to the subsequent progress report if the specified municipality:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified municipality's implementation plan.

(d) [~~The moderate income housing~~] A specified municipality's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before [~~July~~] May 1 of the year in which the report is required.

[~~(3)~~] (4) Within 90 days after the day on which the division receives a specified municipality's [~~moderate income housing~~] report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection [~~(4)~~] (5), review the report to determine compliance with [~~Subsection (2)~~] this section.

[~~(4)~~] (5) (a) [~~The report described in Subsection (2)(b) complies with Subsection (2) if~~] An initial report does not comply with this section unless the report:

(i) includes the information required under Subsection [~~(2)(b)~~] (2)(c);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and

(iii) is in a form approved by the division.

(b) [~~The report described in Subsection (2)(c) complies with Subsection (2) if~~] A subsequent progress report does not comply with this section unless the report:

[~~(i) includes the information required under Subsection (2)(c);~~]

[~~(ii)~~] (i) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) [~~four~~] subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;

[~~(iii)~~] (ii) is in a form approved by the division; and

[~~(iv)~~] (iii) provides sufficient information for the division to:

(A) assess the specified municipality's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified municipality's implementation plan;

(C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies; [~~and~~]

(D) identify how the market has responded to the specified municipality's selected moderate income housing strategies[~~.~~]; and

(E) identify any barriers encountered by the specified municipality in implementing the selected moderate income housing strategies.

[~~(5)~~] (6) (a) A specified municipality qualifies for priority consideration under this Subsection [~~(5)~~] (6) if the specified municipality's [~~moderate income housing~~] report:

(i) complies with [~~Subsection (2)~~] this section; and

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

(b) The [~~following apply to~~] Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the boundaries of a specified municipality described in Subsection [~~(5)(a) during the fiscal year immediately following the fiscal year in which the report is required.~~] (6)(a) until the Department of Transportation receives notice from the division under Subsection (6)(e).

[~~(i) the Transportation Commission may give priority consideration to transportation projects located within the boundaries of the specified municipality in accordance with Subsection 72-1-304(3)(c); and~~]

[~~(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).~~]

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection [~~(5)~~] (6), the division shall send a notice of prioritization to the legislative body of the specified municipality[~~,~~] and the Department of Transportation[~~, and the Governor's Office of Planning and Budget~~].

(d) The notice described in Subsection [~~(5)(c)~~] (6)(c) shall:

(i) name the specified municipality that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration; and

[~~(iii) specify the fiscal year during which the specified municipality qualifies for priority consideration; and~~]

[~~(iv)~~] (iii) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the specified municipality no longer qualifies for priority consideration under this Subsection (6).

[~~(6)~~] (7) (a) If the division, after reviewing a specified municipality's [~~moderate income housing~~] report, determines that the report does not comply with [~~Subsection (2)~~] this section, the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) A specified municipality that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

[~~(b)~~] (c) The notice described in Subsection [~~(6)(a)~~] (7)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified municipality has an opportunity to [~~cure the deficiencies~~]:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of compliance is sent; [~~and~~] or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to [~~cure the deficiencies within 90 days after the day on which the notice is sent~~] take action under Subsection (7)(c)(ii) will result in the specified municipality's ineligibility for funds under Subsection [~~(7)~~] (9).

(d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified municipality to make a legislative change, the specified municipality may cure the deficiency by making that legislative change within the 90-day cure period.

(e) (i) If a specified municipality submits to the division a corrected report in accordance with Subsection (7)(b)(i) and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified municipality within 30 days after the day on which the corrected report is submitted.

(ii) A specified municipality that receives a second notice of noncompliance may submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection (7)(e)(i) shall:

(A) state that the specified municipality has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the specified municipality's ineligibility for funds under Subsection (9).

(8) (a) A specified municipality that receives a notice of noncompliance under Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah League of Cities and Towns;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement

under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified municipality is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

[~~(7)~~] (9) (a) A specified municipality is ineligible for funds under this Subsection [~~(7) if the specified municipality~~] (9) if:

(i) the specified municipality fails to submit a [~~moderate income housing~~] report to the division; [~~or~~]

(ii) [~~fails to cure the deficiencies in the specified municipality's moderate income housing report~~] after submitting a report to the division, the division determines that the report does not comply with this section and the specified municipality fails to:

(A) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) request an appeal of the division's determination of noncompliance within [~~90~~] 10 days after the day on which the [~~division sent to the specified municipality a~~] notice of noncompliance [~~under Subsection (6).~~] is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously-submitted report, the division determines that the corrected report does not comply with this section and the specified municipality fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified municipality described in Subsection [~~(7)(a) during the fiscal year immediately following the fiscal year in which the report is required~~] (9)(a) until the division provides notice under Subsection (9)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5); and

(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection [~~(7)~~] (9), the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection [~~(7)(c)~~] (9)(c) shall:

(i) name the specified municipality that is ineligible for funds;

(ii) describe the funds for which the specified municipality is ineligible to receive; and

[~~(iii) specify the fiscal year during which the specified municipality is ineligible for funds; and~~]

[~~(iv)~~] (iii) state the basis for the division's determination that the specified municipality is ineligible for funds.

(e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified municipality.

[~~(8)~~] (10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 4. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, a county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(i) an official map.

(3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).

~~[(ii) On or before October 1, 2022, a specified county, as defined in Section 17-27a-408, with a general plan that does not comply with Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).]~~

(ii) (A) This Subsection (3)(a)(ii) applies to a county that does not qualify as a specified county as of January 1, 2023.

(B) As of January 1, if a county described in Subsection (3)(a)(ii)(A) changes from one class to another or grows in population to qualify as a specified county as defined in Section 17-27a-408, the county shall amend the county's general plan to comply with Subsection (3)(a)(i) on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(iii) A county described in Subsection (3)(a)(ii)(B) shall send a copy of the county's amended general plan to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member.

(b) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(c) The resource management plan described in Subsection (3)(b) shall address:

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

(vii) noxious weeds;

(viii) forest management;

(ix) water rights;

(x) ditches and canals;

(xi) water quality and hydrology;

(xii) flood plains and river terraces;

(xiii) wetlands;

(xiv) riparian areas;

(xv) predator control;

(xvi) wildlife;

(xvii) fisheries;

(xviii) recreation and tourism;

(xix) energy resources;

(xx) mineral resources;

(xxi) cultural, historical, geological, and paleontological resources;

(xxii) wilderness;

(xxiii) wild and scenic rivers;

(xxiv) threatened, endangered, and sensitive species;

(xxv) land access;

(xxvi) law enforcement;

(xxvii) economic considerations; and

(xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

(i) establish findings pertaining to the item;

(ii) establish defined objectives; and

(iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.

(4) (a) (i) The general plan shall include specific provisions related to an area within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303.

(ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(A) the information identified in Section 19-3-305;

(B) information supported by credible studies that demonstrates that Subsection 19-3-307(2) has been satisfied; and

(C) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating

that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23, Wildlife Resources Code of Utah.

(9) On or before December 31, 2025, a county that has a general plan that does not include a water use and preservation element that complies with Section 17-27a-403 shall amend the county's general plan to comply with Section 17-27a-403.

Section 5. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) is coordinated to integrate the land use element with the water use and preservation element; and

(D) accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(ii) for implementation;

(C) includes an implementation plan as provided in Subsection (2)(e);

(iv) a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3); and

(v) a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

(W) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing.

(iii) If a specified county, as defined in Section 17-27a-408, has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).

(iv) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(ii).

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(e) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall [~~establish a~~] recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation.

(ii) The timeline described in Subsection (2)(e)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and

(B) provide flexibility for the county to make adjustments as needed.

(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the county; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately

account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(vi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 6. Section 17-27a-408 is amended to read:

17-27a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan as provided in Subsection [~~10-9a-403(2)(c)~~] 17-27a-403(2)(e).

(c) [~~"Moderate income housing report" or "report"~~] "Initial report" means the one-time moderate income housing report described in Subsection [~~(2)(a)~~] (2).

(d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).

(e) "Report" means an initial report or a subsequent report.

[~~(e)~~] (f) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

(g) "Subsequent progress report" means the annual moderate income housing report described in Subsection (3).

(2) (a) [~~Beginning in 2022, on or before October 1 of each calendar year, the~~] The legislative body of a specified county shall annually submit [~~a written moderate income housing~~] an initial report to the division.

(b) (i) This Subsection (2)(b) applies to a county that is not a specified county as of January 1, 2023.

(ii) As of January 1, if a county described in Subsection (2)(b)(i) changes from one class to another or grows in population to qualify as a specified county, the county shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

[~~(b) The moderate income housing report submitted in 2022 shall include:~~]

(c) The initial report shall:

(i) [~~a description of~~] identify each moderate income housing strategy selected by the specified county for continued, ongoing, or one-time implementation, using the exact language used to describe the moderate income housing strategy in Subsection 17-27a-403(2)(b)(ii); and

(ii) include an implementation plan.

[~~(c)~~] (3) (a) [~~The moderate income housing report submitted in each calendar year after 2022~~] After the division approves a specified county's initial report under this section, the specified county shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified county is required to submit the initial report.

(b) The subsequent progress report shall include:

[~~(i) the information required under Subsection (2)(b);~~]

[~~(ii)~~] (i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the specified county during the previous [~~fiscal year~~] 12-month period to implement the moderate income housing strategies [~~selected by the specified county~~] identified in the initial report for implementation;

[~~(iii)~~] (ii) a description of each land use regulation or land use decision made by the specified county during the previous [~~fiscal year~~] 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

[~~(iv)~~] (iii) a description of any barriers encountered by the specified county in the previous [~~fiscal year~~] 12-month period in implementing the moderate income housing strategies; [~~and~~]

[~~(v)~~] (iv) information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

[~~(vi)~~] (v) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; [~~and~~]

[~~(vii)~~] (vi) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified county under Subsection (3)(b)(i), the specified county may include an ongoing action taken by the specified county prior to the 12-month reporting period applicable to the subsequent progress report if the specified county:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified county's implementation plan.

(d) [~~The moderate income housing~~] A specified county's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before [~~July~~] May 1 of the year in which the report is required.

[~~(3)~~] (4) Within 90 days after the day on which the division receives a specified county's [~~moderate income housing~~] report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection [~~(4)~~] (5), review the report to determine compliance with [~~Subsection (2)~~] this section.

[~~(4)~~] (5) (a) [~~The report described in Subsection (2)(b) complies with Subsection (2) if~~] An initial report does not comply with this section unless the report:

(i) includes the information required under Subsection [~~(2)(b)~~] (2)(c);

(ii) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies; and

(iii) is in a form approved by the division.

(b) [~~The report described in Subsection (2)(c) complies with Subsection (2) if~~] A subsequent

progress report does not comply with this section unless the report:

[~~(i) includes the information required under Subsection (2)(c);~~]

[~~(ii)~~] (i) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies;

[~~(iii)~~] (ii) is in a form approved by the division; and

[~~(iv)~~] (iii) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified county's implementation plan;

(C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies; [~~and~~]

(D) identify how the market has responded to the specified county's selected moderate income housing strategies[~~.~~]; and

(E) identify any barriers encountered by the specified county in implementing the selected moderate income housing strategies.

(c) (i) This Subsection (5)(c) applies to a specified county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a specified county described in Subsection (5)(c)(i) does not comply with this section unless the report demonstrates to the division that the specified county:

(A) made plans to implement the moderate income housing strategy described in Subsection 17-27a-403(2)(b)(ii)(Q); and

(B) is in compliance with Subsection 63N-3-603(8).

[~~(5)~~] (6) (a) A specified county qualifies for priority consideration under this Subsection [~~(5)~~] (6) if the specified county's [~~moderate income housing~~] report:

(i) complies with [~~Subsection (2)~~] this section; and

(ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.

(b) The [~~following apply to~~] Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the unincorporated areas of a specified county described in Subsection [~~(5)(a) during the fiscal year immediately following the fiscal year in which the report is required.~~] (6)(a) until the Department of Transportation receives notice from the division under Subsection (6)(e).

[~~(i) the Transportation Commission may give priority consideration to transportation projects located within the unincorporated areas of the specified county in accordance with Subsection 72-1-304(3)(c); and~~]

[~~(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).~~]

(c) Upon determining that a specified county qualifies for priority consideration under this Subsection [~~(5)~~] (6), the division shall send a notice of prioritization to the legislative body of the specified county[~~,~~] and the Department of Transportation[~~, and the Governor's Office of Planning and Budget~~].

(d) The notice described in Subsection [~~(5)(c)~~] (6)(c) shall:

(i) name the specified county that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified county qualifies to receive priority consideration; and

[~~(iii) specify the fiscal year during which the specified county qualifies for priority consideration; and~~]

[~~(iv)~~] (iii) state the basis for the division's determination that the specified county qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the specified county no longer qualifies for priority consideration under this Subsection (6).

[~~(6)~~] (7) (a) If the division, after reviewing a specified county's [~~moderate income housing~~] report, determines that the report does not comply with [~~Subsection (2)~~] this section, the division shall send a notice of noncompliance to the legislative body of the specified county.

(b) A specified county that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

[~~(b)~~] (c) The notice described in Subsection [~~(6)(a)~~] (7)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified county has an opportunity to [~~cure the deficiencies~~]:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; [~~and~~] or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to [~~cure the deficiencies within 90 days after the day on which the notice is sent~~] take action under Subsection (7)(c)(ii) will result in the specified county's ineligibility for funds under Subsection [~~(7)~~] (9).

(d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified county to make a legislative change, the specified county may cure the deficiency by making that legislative change within the 90-day cure period.

(e) (i) If a specified county submits to the division a corrected report in accordance with Subsection (7)(b)(i), and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified county.

(ii) A specified county that receives a second notice of noncompliance may request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection (7)(e)(i) shall:

(A) state that the specified county has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the specified county's ineligibility for funds under Subsection (9).

(8) (a) A specified county that receives a notice of noncompliance under Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah Association of Counties;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified county is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

[~~(7)~~] (9) (a) A specified county is ineligible for funds under this Subsection [~~(7) if the specified county~~] (9) if:

(i) the specified county fails to submit a [~~moderate income housing~~] report to the division; [~~or~~]

(ii) [~~fails to cure the deficiencies in the specified county's moderate income housing report~~] after submitting a report to the division, the division determines that the report does not comply with this section and the specified county fails to:

(A) cure each deficiency in the report within 90 days after the day on which the [~~division sent to the specified county a~~] notice of noncompliance [~~under Subsection (6)~~] is sent; or

(B) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously-submitted report, the division determines that the corrected report does not comply with this section and the specified county fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified county described in Subsection [~~(7)(a) during the fiscal year immediately following the fiscal year in which the report is required~~] (9)(a) until the division provides notice under Subsection (9)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72-2-124(6); and

(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).

(c) Upon determining that a specified county is ineligible for funds under this Subsection [~~(7)~~] (9), the division shall send a notice of ineligibility to the legislative body of the specified county, the

Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection [~~(7)(c)~~] (9)(c) shall:

(i) name the specified county that is ineligible for funds;

(ii) describe the funds for which the specified county is ineligible to receive; and

[~~(iii) specify the fiscal year during which the specified county is ineligible for funds; and~~]

[~~(iv)~~] (iii) state the basis for the division's determination that the specified county is ineligible for funds.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified county.

[~~(8)~~] (10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 7. Section 35A-8-2401 is enacted to read:

Part 24. Miscellaneous

35A-8-2401. Accounting for expenditures authorized by the Utah Housing Preservation Fund.

(1) This section applies to funds appropriated by the Legislature to the department for pass-through to the Utah Housing Preservation Fund.

(2) The department shall include in the annual written report described in Section 35A-1-109 a report accounting for the expenditures authorized by the Utah Housing Preservation Fund.

Section 8. Section 59-7-607 is amended to read:

59-7-607. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the [~~Utah Housing Corporation~~] corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers [~~that have been issued a special low-income housing tax credit certificate~~]; and

(ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers [~~that have been issued a special low-income housing tax credit certificate~~].

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Corporation" means the Utah Housing Corporation created in Section 63H-8-201.

[~~(c)~~] (d) [~~"Credit period" means the "credit period" as~~] Except as provided in Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1), Internal Revenue Code.

[~~(d)~~] (e) [~~(i)~~] "Designated reporter" means, as selected by a housing sponsor, the housing sponsor [~~itself~~] or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the [~~Utah Housing Corporation~~] commission regarding the [~~assignment~~] allocation of tax credits under this section.

[~~(ii) Before the Utah Housing Corporation may issue an allocation certificate to a housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's designated reporter to the Utah Housing Corporation.~~]

[~~(iii) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate to a qualified taxpayer, a designated reporter shall provide the information described in Subsection (6) to the Utah Housing Corporation.~~]

[~~(e)~~] (f) "Federal low-income housing tax credit" means the federal tax credit described in Section 42, Internal Revenue Code.

[~~(f)~~] (g) "Housing sponsor" means an entity that owns a qualified development.

(h) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(ii) The determination of whether a pass-through entity taxpayer is considered a partner, member, or shareholder of a pass-through entity shall be made in accordance with applicable state law governing the pass-through entity.

[~~(g)~~] (j) "Qualified allocation plan" means a qualified allocation plan adopted by the [~~Utah Housing Corporation~~] corporation in accordance with Section 42(m), Internal Revenue Code.

[~~(h)~~] (k) "Qualified development" means a "qualified low-income housing project":

(i) as defined in Section 42(g)(1), Internal Revenue Code; and

(ii) that is located in the state.

[~~(i)~~] (l) (i) "Qualified taxpayer" means a person that:

(A) owns a direct interest or an indirect interest, through one or more pass-through entities, in a qualified development; and

(B) meets the requirements to claim a tax credit under this section.

(ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit under this section is passed through by a pass-through entity.

[~~(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor as determined by the governing documents of the housing sponsor.~~]

[~~(j) (i) "Special low-income housing tax credit certificate" means a certificate:~~]

[~~(A) in a form prescribed by the commission;~~]

[~~(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year in accordance with this section; and~~]

[~~(C) that specifies the amount of the tax credit a qualified taxpayer may claim under this section.~~]

[~~(ii) The Utah Housing Corporation may only issue one or more special low-income housing tax credit certificates if the aggregate specified amount on all special low-income housing tax credit certificates issued in relation to a qualified development does not exceed the aggregate amount of tax credit awarded to the qualified development and issued to a housing sponsor in an allocation certificate.~~]

(2) (a) [~~For taxable years beginning on or after January 1, 1995, a qualified taxpayer who has been issued a special low-income housing tax credit certificate by the Utah Housing Corporation may claim~~] A qualified taxpayer may claim a nonrefundable tax credit under this section against taxes otherwise due under this chapter, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.

(b) The tax credit shall be in an amount equal to the tax credit amount specified on the [~~special low-income housing tax credit~~] allocation certificate that the [~~Utah Housing Corporation~~] corporation issues to a [~~qualified taxpayer~~] housing sponsor under this section.

(c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the [~~Utah Housing Corporation~~] corporation may allocate for each year of the credit period [~~described in Section 42(f), Internal Revenue Code,~~] pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For a calendar year beginning on or after January 1, 2017, but beginning on or before December 31, 2022, the aggregate annual tax credit that the [~~Utah Housing Corporation~~] corporation may allocate for each year of the credit period [~~described in Section 42(f), Internal Revenue Code,~~] pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 34.5 cents; and

(B) the population of Utah.

(iii) For a calendar year beginning on or after January 1, 2023, but beginning on or before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-10-1010 is $10,000,000.

(iv) For a calendar year beginning on or after January 1, 2029, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-10-1010 is the amount described in Subsection (2)(c)(ii).

[~~(iii)~~] (v) For purposes of this [~~section~~] Subsection (2)(c), the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity may allocate a tax credit under this section to one or more of the pass-through entity's pass-through entity taxpayers in any manner agreed upon, regardless of whether:

(A) the pass-through entity taxpayer is eligible to claim any portion of a federal low-income housing tax credit for the qualified development;

(B) the allocation of the tax credit has substantial economic effect within the meaning of Section 704(b), Internal Revenue Code; or

(C) the pass-through entity taxpayer is considered a partner for federal income tax purposes.

(ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the pass-through entity is:

(A) acquired on or before December 31 of the tax year to which the tax credit relates; and

(B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.

(e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity, including the pass-through entity taxpayer's interest in the tax credit associated with the ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax credit so long as the assignee's ownership interest in the pass-through entity is:

(i) acquired on or before December 31 of the tax year to which the tax credit relates; and

(ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.

(3) (a) The [~~Utah Housing Corporation~~] corporation shall determine criteria and procedures

for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the [~~Utah Housing Corporation's~~] corporation's qualified allocation plan.

(b) The [~~Utah Housing Corporation~~] corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in a qualified development;

(ii) the level of area median income being served by a qualified development;

(iii) the need for the tax credit for the economic feasibility of a qualified development; and

(iv) the extended period for which a qualified development commits to remain as affordable housing.

(4) Any housing sponsor may apply to the [~~Utah Housing Corporation~~] corporation for a tax credit allocation under this section.

(5) (a) (i) The [~~Utah Housing Corporation~~] corporation shall determine the amount of the tax credit to allocate to a qualified development in accordance with the qualified allocation plan [~~of the Utah Housing Corporation~~].

(ii) (A) Before the allocation certificate is issued to the housing sponsor, the corporation shall send to the housing sponsor written notice of the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development.

(B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development for each year of the credit period and state that allocation of the tax credit is contingent upon the issuance of an allocation certificate.

[~~(b)~~] (iii) [~~(i) The Utah Housing Corporation~~] Upon approving a final cost certification in accordance with the qualified allocation plan, the corporation shall issue an allocation certificate to [~~a~~] the housing sponsor as evidence of the allocation.

[~~(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the tax credit allocated to a qualified development as determined by the Utah Housing Corporation.~~]

[~~(c)~~] (iv) The amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit awarded to a qualified development.

(b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the corporation for a tax credit under this section and an allocation certificate is not yet issued, a qualified taxpayer may claim a tax credit based upon the corporation's preliminary determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

(ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is different than the amount specified in the allocation certificate.

(c) The amount of tax credit that may be claimed in the first year of the credit period may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

(d) On or before January 31 of each year, the corporation shall provide to the commission in a form prescribed by the commission a report that describes each allocation certificate that the corporation issued during the previous calendar year.

(6) (a) A housing sponsor shall provide to the commission identification of the housing sponsor's designated reporter.

(b) [~~Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form prescribed by the Utah Housing Corporation~~] For each tax year in which a tax credit is claimed under this section, the designated reporter shall provide to the commission in a form prescribed by the commission:

[~~(a)~~] (i) a list of each qualified taxpayer that has been [~~assigned~~] allocated a portion of the tax credit awarded in [~~an~~] the allocation certificate for that tax year;

[~~(b)~~] (ii) [~~for each qualified taxpayer described in Subsection (6)(a),~~] the amount of tax credit that has been [~~assigned~~] allocated to each qualified taxpayer described in Subsection (6)(b)(i) for that tax year; and

[~~(c)~~] (iii) [~~an aggregate list of the tax credit amount assigned related to a qualified development demonstrating that the aggregate annual amount of the tax credits assigned does not exceed the aggregate annual tax credit awarded in the allocation certificate~~] any other information, as prescribed by the commission, to demonstrate that the aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate annual tax credit amount specified in the allocation certificate.

[~~(7) The Utah Housing Corporation shall provide a special low-income housing tax credit certificate to a qualified taxpayer if:~~]

[~~(a) a designated reporter has provided the information regarding the qualified taxpayer as described in Subsection (6); and~~]

[~~(b) the Utah Housing Corporation has verified that the aggregate tax credit amount assigned with respect to a qualified development does not exceed the total tax credit awarded in the allocation certificate.~~]

[~~(8)~~] (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a qualified development is required to recapture a portion of any federal low-income housing tax credit, then each qualified taxpayer that has been allocated a portion of a tax credit under this section shall also be required to recapture a portion of [~~any state tax credits authorized by this section~~] the tax credit under this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

(iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credit as described in this Subsection [~~(8)(b).~~] (7)(b).

[~~(9)~~] (8) (a) Any tax credits returned to the [~~Utah Housing Corporation~~] corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the [~~Utah Housing Corporation~~] corporation in any year may be carried over for allocation in subsequent years.

[~~(10)~~] (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection [~~(10)(a)~~] (9)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

[~~(11) (a) A qualified taxpayer may assign a special low-income housing tax credit certificate received under Subsection (7) to another person if the qualified taxpayer provides written notice to the Utah Housing Corporation, in a form established by the Utah Housing Corporation, that includes:~~]

[~~(i) the qualified taxpayer's written certification or other proof that the qualified taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income housing tax credit certificate; and~~]

[~~(ii) contact information for the person to whom the special low-income housing tax credit certificate is to be assigned.~~]

[~~(b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah Housing Corporation shall issue an assigned special low-income housing tax credit certificate to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's special low-income housing tax credit minus any state recapture amount under Subsection (8)(b).~~]

[~~(c) A person who is assigned a special low-income housing tax credit certificate in accordance with this Subsection (11) may claim the tax credit as if:~~]

[~~(i) the person had met the requirements of this section to claim the tax credit, if the person files a return under this chapter, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers; or~~]

[~~(ii) the person had met the requirements of Section 59-10-1010 to claim the tax credit under Section 59-10-1010, if the person files a return under Chapter 10, Individual Income Tax Act.~~]

[~~(12)~~] (10) Any tax credit taken in this section may be subject to an annual audit by the commission.

[~~(13)~~] (11) The [~~Utah Housing Corporation~~] corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee [~~which shall include at least~~] that includes:

(a) the purpose and effectiveness of the tax credits; [~~and~~]

(b) any recommendations for legislative changes to the aggregate tax credit amount that the corporation is authorized to allocate each year under Subsection (2)(c); and

[~~(b)~~] (c) the benefits of the tax credits to the state.

[~~(14)~~] (12) The commission may, in consultation with the [~~Utah Housing Corporation~~] corporation, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation Interim Committee shall conduct a review of the aggregate tax credit amount that the corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

(b) In a review under this Subsection (13), the Revenue and Taxation Interim Committee shall:

(i) study any recommendations provided by the corporation under Subsection (11)(b); and

(ii) if the Revenue and Taxation Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

Section 9. Section 59-9-108 is amended to read:

59-9-108. Utah low-income housing tax credit.

(1) As used in this section[~~:~~], "qualified taxpayer" means:

(a) for a person claiming a tax credit under Section 59-7-607, the same as that term is defined in Section 59-7-607; or

(b) for a person claiming a tax credit under Section 59-10-1010, the same as that term is defined in Section 59-10-1010.

[~~(a) "Qualified taxpayer" means the same as that term is defined in Section 59-7-607.~~]

[~~(b) "Special low-income housing tax credit certificate" means the same as that term is defined in Section 59-7-607.~~]

(2) A person may claim a nonrefundable tax credit against a tax liability under this section if:

(a) the person is a qualified taxpayer who has been issued [~~a special low-income housing tax credit~~] an allocation certificate by the Utah Housing Corporation under Section 59-7-607 or 59-10-1010, and the qualified taxpayer does not claim the tax credit under [~~Title 59, Chapter 7, Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or under Title 59, Chapter 10, Individual Income Tax Act~~] Chapter 7, Corporate Franchise and Income Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 10, Individual Income Tax Act; or

(b) the person has been [~~assigned a special~~] allocated a low-income housing tax credit in accordance with [~~Subsection 59-7-607(11) or Subsection 59-10-1010(11)~~] Section 59-7-607 or 59-10-1010, and the person does not claim the tax credit under [~~Title 59, Chapter 7, Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or under Title 59, Chapter 10, Individual Income Tax Act~~] Chapter 7, Corporate Franchise and Income Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 10, Individual Income Tax Act.

(3) (a) If a tax credit is not claimed by a qualified taxpayer or by a person who has been [~~assigned a special~~] allocated a low-income housing tax credit in the year in which the credit is earned because the tax credit is more than the tax liability owed, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax liability.

(b) Carryover tax credits under Subsection (3)(a) shall be applied against tax liability:

(i) before the application of tax credits earned in the current year; and

(ii) on a first-earned, first-used basis.

(4) The commission may, in consultation with the Utah Housing Corporation, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 10. Section 59-10-1010 is amended to read:

59-10-1010. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the [~~Utah Housing Corporation~~] corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers [~~that have been issued a special low-income housing tax credit certificate~~]; and

(ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers [~~that have been issued a special low-income housing tax credit certificate~~].

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Corporation" means the Utah Housing Corporation created in Section 63H-8-201.

[~~(c)~~] (d) [~~"Credit period" means the "credit period" as~~] Except as provided in Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1), Internal Revenue Code.

[~~(d)~~] (e) [~~(i)~~] "Designated reporter" means, as selected by a housing sponsor, the housing sponsor [~~itself~~] or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the [~~Utah Housing Corporation~~] commission regarding the [~~assignment~~] allocation of tax credits under this section.

[~~(ii) Before the Utah Housing Corporation may issue an allocation certificate to a housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's designated reporter to the Utah Housing Corporation.~~]

[~~(iii) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate to a qualified taxpayer, a designated reporter shall provide the information described in Subsection (6) to the Utah Housing Corporation.~~]

[~~(e)~~] (f) "Federal low-income housing credit" means the federal low-income housing credit described in Section 42, Internal Revenue Code.

[~~(f)~~] (g) "Housing sponsor" means an entity that owns a qualified development.

(h) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(i) (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(ii) The determination of whether a pass-through entity taxpayer is considered a partner, member, or shareholder of a pass-through entity shall be made in accordance with applicable state law governing the pass-through entity.

[~~(g)~~] (j) "Qualified allocation plan" means a qualified allocation plan adopted by the [~~Utah Housing Corporation~~] corporation in accordance with Section 42(m), Internal Revenue Code.

[~~(h)~~] (k) "Qualified development" means a "qualified low-income housing project":

(i) as defined in Section 42(g)(1), Internal Revenue Code; and

(ii) that is located in the state.

[~~(i)~~] (l) (i) "Qualified taxpayer" means a claimant, estate, or trust that:

(A) owns a direct or indirect interest, through one or more pass-through entities, in a qualified development; and

(B) meets the requirements to claim a tax credit under this section.

(ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit under this section is passed through by a pass-through entity.

[~~(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor as determined by the governing documents of the housing sponsor.~~]

[~~(j) (i) "Special low-income housing tax credit certificate" means a certificate:~~]

[~~(A) in a form prescribed by the commission;~~]

[~~(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year in accordance with this section; and~~]

[~~(C) that specifies the amount of the tax credit a qualified taxpayer may claim under this section.~~]

[~~(ii) The Utah Housing Corporation may only issue one or more special low-income housing tax credit certificates if the aggregate specified amount on all special low-income housing tax credit certificates issued in relation to a qualified development does not exceed the aggregate amount of tax credit awarded to a qualified development and issued to a housing sponsor in an allocation certificate.~~]

(2) (a) [~~For taxable years beginning on or after January 1, 1995, a qualified taxpayer who has been issued a special low-income housing tax credit certificate by the Utah Housing Corporation~~] A qualified taxpayer may claim a nonrefundable tax credit under this section against taxes otherwise due under this chapter.

(b) The tax credit shall be in an amount equal to the tax credit amount specified on the [~~special low-income housing tax credit~~] allocation certificate that the [~~Utah Housing Corporation~~] corporation issues to a [~~qualified taxpayer~~] housing sponsor under this section.

(c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the [~~Utah Housing Corporation~~] corporation may allocate for each year of the credit period [~~described in Section 42(f), Internal Revenue Code,~~] pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For a calendar year beginning on or after January 1, 2017, but beginning on or before December 31, 2022, the aggregate annual tax credit that the [~~Utah Housing Corporation~~] corporation may allocate for each year of the credit period [~~described in Section 42(f), Internal Revenue Code,~~] pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 34.5 cents; and

(B) the population of Utah.

(iii) For a calendar year beginning on or after January 1, 2023, but beginning on or before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is $10,000,000.

(iv) For a calendar year beginning on or after January 1, 2029, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is the amount described in Subsection (2)(c)(ii).

[~~(iii)~~] (v) For purposes of this [~~section~~] Subsection (2)(c), the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(d) (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity may allocate a tax credit under this section to one or more of the pass-through entity's pass-through entity taxpayers in any manner agreed upon, regardless of whether:

(A) the pass-through entity taxpayer is eligible to claim any portion of a federal low-income housing tax credit for the qualified development;

(B) the allocation of the tax credit has substantial economic effect within the meaning of Section 704(b), Internal Revenue Code; or

(C) the pass-through entity taxpayer is considered a partner for federal income tax purposes.

(ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the pass-through entity is:

(A) acquired on or before December 31 of the tax year to which the tax credit relates; and

(B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.

(e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity, including the pass-through entity taxpayer's interest in the tax credit associated with the ownership interest, the

assignee shall be considered a qualified taxpayer and may claim the tax credit so long as the assignee's ownership interest in the pass-through entity is:

(i) acquired on or before December 31 of the tax year to which the tax credit relates; and

(ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.

(3) (a) The [~~Utah Housing Corporation~~] corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the [~~Utah Housing Corporation's~~] corporation's qualified allocation plan.

(b) The [~~Utah Housing Corporation~~] corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in a qualified development;

(ii) the level of area median income being served by a qualified development;

(iii) the need for the tax credit for the economic feasibility of a qualified development; and

(iv) the extended period for which a qualified development commits to remain as affordable housing.

(4) Any housing sponsor may apply to the [~~Utah Housing Corporation~~] corporation for a tax credit allocation under this section.

(5) (a) (i) The [~~Utah Housing Corporation~~] corporation shall determine the amount of the tax credit to allocate to a qualified development in accordance with the qualified allocation plan [~~of the Utah Housing Corporation~~].

(ii) (A) Before the allocation certificate is issued to the housing sponsor, the corporation shall send to the housing sponsor written notice of the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development.

(B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development for each year of the credit period and state that allocation of the tax credit is contingent upon the issuance of an allocation certificate.

[~~(b)~~] (iii) [~~(i) The Utah Housing Corporation~~] Upon approving a final cost certification in accordance with the qualified allocation plan, the corporation shall issue an allocation certificate to [~~a~~] the housing sponsor as evidence of the allocation.

[~~(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the tax credit allocated to a qualified development as determined by the Utah Housing Corporation.~~]

[~~(c)~~] (iv) The amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing credit awarded to a qualified development.

(b) (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the corporation for a tax credit under this section and an allocation certificate is not yet issued, a qualified taxpayer may claim a tax credit based upon the corporation's preliminary determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

(ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is different than the amount specified in the allocation certificate.

(c) The amount of tax credit that may be claimed in the first year of the credit period may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

(d) On or before January 31 of each year, the corporation shall provide to the commission in a form prescribed by the commission a report that describes each allocation certificate that the corporation issued during the previous calendar year.

(6) (a) A housing sponsor shall provide to the commission identification of the housing sponsor's designated reporter.

(b) [~~Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form prescribed by the Utah Housing Corporation~~] For each tax year in which a tax credit is claimed under this section, the designated reporter shall provide to the commission in a form prescribed by the commission:

[~~(a)~~] (i) a list of each qualified taxpayer that has been [~~assigned~~] allocated a portion of the tax credit awarded in [~~an~~] the allocation certificate for that tax year;

[~~(b)~~] (ii) [~~for each qualified taxpayer described in Subsection (6)(a),~~] the amount of tax credit that has been [~~assigned~~] allocated to each qualified taxpayer described in Subsection (6)(b)(i) for that tax year; and

[~~(c)~~] (iii) [~~an aggregate list of the tax credit amount assigned related to a qualified development demonstrating that the aggregate annual amount of the tax credits assigned does not exceed the aggregate annual tax credit awarded in the allocation certificate~~] any other information, as prescribed by the commission, to demonstrate that the aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate annual tax credit amount specified in the allocation certificate.

[~~(7) The Utah Housing Corporation shall provide a special low-income housing tax credit certificate to a qualified taxpayer if:~~]

[~~(a) a designated reporter has provided the information regarding the qualified taxpayer as described in Subsection (6); and~~]

[~~(b) the Utah Housing Corporation has verified that the aggregate tax credit amount assigned with respect to a qualified development does not exceed the total tax credit awarded in the allocation certificate.~~]

[~~(8)~~] (7) (a) All elections made by a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a qualified taxpayer is required to recapture a portion of any federal low-income housing credit, the qualified taxpayer that has been allocated a portion of a tax credit under this section shall also be required to recapture a portion of [~~any state tax credits authorized by this section~~] the tax credit under this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.

(iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credits as described in this Subsection [~~(8)(b)~~] (7)(b).

[~~(9)~~] (8) (a) Any tax credits returned to the [~~Utah Housing Corporation~~] corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the [~~Utah Housing Corporation~~] corporation in any year may be carried over for allocation in subsequent years.

[~~(10)~~] (9) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection [~~(10)(a)~~] (9)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

[~~(11) (a) A qualified taxpayer may assign a special low-income housing tax credit certificate received under Subsection (7) to another person if the qualified taxpayer provides written notice to the Utah Housing Corporation, in a form established by the Utah Housing Corporation, that includes:~~]

[~~(i) the qualified taxpayer's written certification or other proof that the qualified taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income housing tax credit certificate; and~~]

[~~(ii) contact information for the person to whom the special low-income housing tax credit certificate is to be assigned.~~]

[~~(b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah Housing Corporation shall issue an assigned special low-income housing tax credit certificate to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's special low-income housing tax credit minus any state recapture amount under Subsection (8)(b).~~]

[~~(c) A person who is assigned a special low-income housing tax credit certificate in accordance with this Subsection (11) may claim the tax credit as if:~~]

[~~(i) the person had met the requirements of this section to claim the tax credit, if the person files a return under this chapter; or~~]

[~~(ii) the person had met the requirements of Section 59-7-607 to claim the tax credit under Section 59-7-607, if the person files a return under Chapter 7, Corporate Franchise and Income Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.~~]

[~~(12)~~] (10) Any tax credit taken in this section may be subject to an annual audit by the commission.

[~~(13)~~] (11) The [~~Utah Housing Corporation~~] corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee [~~which shall include at least~~] that includes:

(a) the purpose and effectiveness of the tax credits; [~~and~~]

(b) any recommendations for legislative changes to the aggregate tax credit amount that the corporation is authorized to allocate each year under Subsection (2)(c); and

[~~(b)~~] (c) the benefits of the tax credits to the state.

[~~(14)~~] (12) The commission may, in consultation with the [~~Utah Housing Corporation~~] corporation, promulgate rules to implement this section.

(13) (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation Interim Committee shall conduct a review of the aggregate tax credit amount that the corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

(b) In a review under this Subsection (13), the Revenue and Taxation Interim Committee shall:

(i) study any recommendations provided by the corporation under Subsection (11)(b); and

(ii) if the Revenue and Taxation Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

Section 11. Section 63J-4-802 is amended to read:

63J-4-802. Creation of COVID-19 Local Assistance Matching Grant Program -- Eligibility -- Duties of the office.

(1) There is established a grant program known as COVID-19 Local Assistance Matching Grant Program that is administered by the office.

(2) The office shall award financial grants to local governments that meet the qualifications described in Subsection (3) to provide support for:

(a) projects or services that address the economic impacts of the COVID-19 emergency on housing insecurity, lack of affordable housing, or homelessness;

(b) costs incurred in addressing public health challenges resulting from the COVID-19 emergency;

(c) necessary investments in water and sewer infrastructure; or

(d) any other purpose authorized under the American Rescue Plan Act.

(3) To be eligible for a grant under this part, a local government shall:

(a) provide matching funds in an amount determined by the office; and

(b) certify that the local government will spend grant funds:

(i) on a purpose described in Subsection (2);

(ii) within the time period determined by the office; and

(iii) in accordance with the American Rescue Plan Act.

(4) As soon as is practicable, but on or before September 15, 2021, the office shall, with recommendations from the review committee, establish:

(a) procedures for applying for and awarding grants under this part, using an online grants management system that:

(i) manages each grant throughout the duration of the grant;

(ii) allows for:

(A) online submission of grant applications; and

(B) auditing and reporting for a local government that receives grant funds; and

(iii) generates reports containing information about each grant;

(b) criteria for awarding grants; and

(c) reporting requirements for grant recipients.

(5) Subject to appropriation, the office shall award grant funds on a competitive basis until December 31, 2024.

[~~(6) If the office receives a notice of prioritization for a municipality as described in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection 17-27a-408(5), the office may prioritize the awarding of a financial grant under this section to the municipality or county during the fiscal year specified in the notice.~~]

[~~(7) If the office receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), or a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the office may not award a financial grant under this section to the municipality or county during the fiscal year specified in the notice.~~]

[~~(8)~~] (6) Before November 30 of each year, ending November 30, 2025, the office shall submit a report to the Executive Appropriations Committee that includes:

(a) a summary of the procedures, criteria, and requirements established under Subsection (4);

(b) a summary of the recommendations of the review committee under Section 63J-4-803;

(c) the number of applications submitted under the grant program during the previous year;

(d) the number of grants awarded under the grant program during the previous year;

(e) the aggregate amount of grant funds awarded under the grant program during the previous year; and

(f) any other information the office considers relevant to evaluating the success of the grant program.

[~~(9)~~] (7) The office may use funds appropriated by the Legislature for the grant program to pay for administrative costs.

Section 12. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects that:

(A) mitigate traffic congestion on the state highway system; and

(B) are part of an active transportation plan approved by the department;

(iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission:

(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802; and

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(b) When prioritizing a transportation project that increases capacity, the commission may give priority consideration to projects that are:

(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

(A) the state is a participant in the transportation reinvestment zone; or

(B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system; or

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(c) If the department receives a notice of prioritization for a municipality as described in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection 17-27a-408(5), the commission may[~~, during the fiscal year specified in the notice,~~] give priority consideration to transportation projects that are within the boundaries of the municipality or the unincorporated areas of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that the municipality or county no longer qualifies for prioritization under this Subsection (3)(c).

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 13. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) two lanes on U-111 from Herriman Parkway to 11800 South;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality [~~during the fiscal year specified in the notice~~] until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county [~~during the fiscal year specified in the notice~~] until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) private contributions; and

(v) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;

(ii) for development of the oversight plan described in Section 72-1-202(5); or

(iii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

Section 14. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) If approved by two-thirds of all the members elected to each house, the actions affecting the following sections take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override:

(a) Section 10-9a-401;

(b) Section 10-9a-403;

(c) Section 10-9a-408;

(d) Section 17-27a-401;

(e) Section 17-27a-403; and

(f) Section 17-27a-408.

Section 15. Retrospective operation.

The changes to Sections 59-7-607, 59-9-108, and 59-10-1010 in this bill have retrospective operation for a taxable year beginning on or after January 1, 2023.

Section 16. Coordinating H.B. 364 with S.B. 174 -- Superseding amendments.

If this H.B. 364 and S.B. 174, Local Land Use and Development Revisions, both pass and become law, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication, it is the intent of the Legislature that:

(1) the amendments to Subsection 10-9a-408(5) in this bill supersede the amendments to Subsection 10-9a-408(5) in S.B. 174; and

(2) the amendments to Subsection 17-27a-408(5) in this bill supersede the amendments to Subsection 17-27a-408(5) in S.B. 174.

CHAPTER 89
H. B. 365
Passed March 3, 2023
Approved March 13, 2023
Effective May 3, 2023

VOTER AFFILIATION AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses voting in primary elections, and changing party affiliation, for an election held in an even-numbered year.

Highlighted Provisions:

This bill:

- defines terms;
- amends the deadline by which a voter may change the voter's political party affiliation for an election held in an even-numbered year;
- prohibits voting in the primary elections of multiple registered political parties for the same election; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

20A-2-107, as last amended by Laws of Utah 2022, Chapter 170

REPEALS AND REENACTS:

20A-2-107.5, as last amended by Laws of Utah 2021, Chapter 430

Utah Code Sections Affected by Coordination Clause:

20A-2-107, as last amended by Laws of Utah 2022, Chapter 170

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

Section 1. Section 20A-2-107 is amended to read:

20A-2-107. Designating or changing party affiliation -- Times permitted.

(1) As used in this section, "change of affiliation deadline" means:

(a) for an election held in an even-numbered year in which a presidential election will be held, the day after the declaration of candidacy deadline described in Subsection 20A-9-201.5(2)(b); or

(b) for an election held in an even-numbered year in which a presidential election will not be held, April 1.

[~~(1)~~] (2) The county clerk shall:

(a) except as provided in Subsection [~~(3)~~] (6) or [~~20A-2-107.5(1)(c)~~] 20A-2-107.5(3), record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(b) if no political party affiliation is designated by the voter on the voter registration form:

(i) except as provided in Subsection [~~(1)(b)(ii)~~] (2)(b)(ii), record the voter's party affiliation as the party that the voter designated the last time that the voter designated a party on a voter registration form, unless the voter more recently registered as "unaffiliated"; or

(ii) record the voter's party affiliation as "unaffiliated" if the voter:

(A) did not previously designate a party;

(B) most recently designated the voter's party affiliation as "unaffiliated"; or

(C) did not previously register.

[~~(2)~~] (3) (a) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of this Subsection [~~(2)~~] (3).

(b) A registered voter may designate or change the voter's political party affiliation by filing with the county clerk, the municipal clerk, or the lieutenant governor a voter registration form or another signed form [~~with the county clerk~~] that identifies the registered political party with which the voter chooses to affiliate.

(c) Except as provided in Subsection [~~(2)(d)~~] (3)(d), a voter registration form or another signed form designating or changing a voter's political party affiliation takes effect when the county clerk receives the signed form.

(d) The party affiliation of a voter who changes party affiliation, or who becomes unaffiliated from a political party, at any time on or after the change of affiliation deadline and on or before the date of the regular primary election, takes effect the day after the statewide canvass for the regular primary election.

[~~(d) In an even-numbered year, a form described in Subsection (2)(c) received by the county clerk after March 31 takes effect on the day after that year's regular primary election if the form changes a registered voter's affiliation with one political party to affiliate with another political party.~~]

[~~(e) Any part of a form described in Subsection (2)(d), other than the voter's designation or change of political party affiliation, takes effect when the county clerk receives the signed form.~~]

[~~(f)~~] (4) For purposes of Subsection [~~(2)(d), a signed~~] (3)(d), a form described in Subsection [~~(2)(c)~~] (3)(c) is received by the county clerk [~~on or before March 31~~] before the change of affiliation deadline if:

[~~(i)~~] (a) the individual submits the form in person at the county clerk's office no later than 5 p.m. on the [~~last business day before April 1~~] day before the change of affiliation deadline;

[~~(ii)~~] (b) the individual submits the form electronically through the system described in Section 20A-2-206, at or before 11:59 p.m. [~~on March 31~~] before the day of the change of affiliation deadline; or

[~~(iii)~~] (c) the individual's form is clearly postmarked [~~on or before March 31~~] before the change of affiliation deadline.

[~~(g)~~] (5) Subsection [~~(2)(d)~~] (3)(d) does not apply to the party affiliation designated by a voter on [~~the~~] a voter registration form if:

[~~(i)~~] (a) the voter has not previously been registered to vote in the state; or

[~~(ii)~~] (b) the voter's most recent party affiliation was changed to "unaffiliated" by a county clerk under Subsection [~~(3)~~] (6).

[~~(3)~~] (6) If the most recent party affiliation designated by a voter is for a political party that is no longer a registered political party, the county clerk shall:

(a) change the voter's party affiliation to "unaffiliated"; and

(b) notify the voter electronically or by mail:

(i) that the voter's affiliation has been changed to "unaffiliated" because the most recent party affiliation designated by the voter is for a political party that is no longer a registered political party; and

(ii) of the methods and deadlines for changing the voter's party affiliation.

Section 2. Section 20A-2-107.5 is repealed and reenacted to read:

20A-2-107.5. Designating or changing party affiliation -- Regular primary election and presidential primary election -- Voting in primaries of multiple parties prohibited.

(1) As used in this section, "change of affiliation deadline" means the same as that term is defined in Subsection 20A-2-107(1).

(2) Except as provided in Subsection (3), a registered voter who is classified as "unaffiliated" may, at a regular primary election or a presidential primary election:

(a) affiliate with a political party by completing a change of party affiliation form or voter registration form and submitting the form to the county clerk or a poll worker; and

(b) vote in that party's primary election.

(3) The party affiliation of a voter who changes party affiliation, or who becomes unaffiliated from a political party, at any time on or after the change of affiliation deadline and on or before the date of the regular primary election, takes effect the day after the statewide canvass for the regular primary election.

(4) (a) A voter who votes in the presidential primary election of a registered political party may not, for the same election, vote in the presidential primary election of another registered political party.

(b) A voter who votes in the regular primary election of a registered political party may not, for the same election, vote in the regular primary election of another registered political party.

Section 3. Coordinating H.B. 365 with H.B. 69 -- Substantive and technical amendments.

If this H.B. 365 and H.B. 69, Election Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) by amending Subsection 20A-2-107(1)(a) as follows:

"[~~(1)~~] (2) The county clerk shall:

(a) except as provided in Subsection[~~(3)~~](6) or [~~2A-2-107.5(1)(c)~~] 20A-2-107.5(3), record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or"; and

(2) the changes to Section 20A-2-107.5 in H.B. 365 supersede the changes to Subsection 20A-2-107.5 in H.B. 69.

CHAPTER 90
H. B. 376
Passed February 24, 2023
Approved March 13, 2023
Effective May 3, 2023

COSMETOLOGIST REGULATION MODIFICATIONS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill enacts provisions related to local government regulation of cosmetology.

Highlighted Provisions:

This bill:

- prohibits a county, municipality, or local health department from:
  - requiring a license or permit to engage in certain cosmetology practices without compensation; and
  - regulating where a person engages in certain cosmetology practices without compensation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26A-1-114, as last amended by Laws of Utah 2022, Chapters 39, 415 and 430

ENACTS:

11-68-101, Utah Code Annotated 1953

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

Section 1. Section 11-68-101 is enacted to read:

CHAPTER 68 (CODIFIED AS CHAPTER 69). COSMETOLOGY PRACTICES REGULATION

11-68-101 (Codified as 11-69-101). Business license exemption for certain uncompensated cosmetology practices.

(1) As used in this section, "local government entity" means a county or municipality.

(2) A local government entity may not:

(a) require a person to obtain a business license or permit from the local government entity to engage in a practice described in Subsection 58-11a-304(5); or

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by requiring the person to engage in the practice at a specific location or at a particular type of facility or location.

Section 2. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26, Chapter 15a, Food Safety Manager Certification Act, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health [~~or~~] and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d) (i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9) (a) During a public health emergency declared under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

(12) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

CHAPTER 91
H. B. 381
Passed March 3, 2023
Approved March 13, 2023
Effective May 3, 2023

STATE FINANCE REVIEW COMMISSION AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies provisions related to the State Finance Review Commission and bonding requirements.

Highlighted Provisions:

This bill:

- modifies definitions;
- requires that any entity with bonding authority obtain the approval of the State Finance Review Commission before entering into certain concessionaire agreements; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-25-101, as enacted by Laws of Utah 2022, Chapter 207 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 207
63C-25-202, as enacted by Laws of Utah 2022, Chapter 207
63N-13-302, as last amended by Laws of Utah 2022, Chapter 240
63N-13-306, as last amended by Laws of Utah 2022, Chapters 207, 240

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

Section 1. Section 63C-25-101 is amended to read:

63C-25-101. Definitions.

As used in this chapter:

(1) "Authority" means the same as that term is defined in Section 63B-1-303.

(2) "Bond" means the same as that term is defined in Section 63B-1-101.

(3) (a) "Bonding government entity" means the state or any entity that is authorized to issue bonds under any provision of state law.

(b) "Bonding government entity" includes:

(i) a bonding political subdivision; and

(ii) a public infrastructure district that is authorized to issue bonds either directly, or through the authority of a bonding political subdivision or other governmental entity.

[~~(3)~~] (4) "Bonding political subdivision" means:

(a) the Utah Inland Port Authority, created in Section 11-58-201;

(b) the Military Installation Development Authority, created in Section 63H-1-201;

(c) the Point of the Mountain State Land Authority, created in Section 11-59-201; or

(d) the Utah Lake Authority, created in Section 11-65-201.

[~~(4)~~] (5) "Commission" means the State Finance Review Commission created in Section 63C-25-201.

[~~(5)~~] (6) "Concessionaire" means a person who:

(a) operates, finances, maintains, or constructs a government facility under a contract with a bonding political subdivision; and

(b) is not a bonding [~~political subdivision~~] government entity.

(7) "Concessionaire contract" means a contract:

(a) between a bonding government entity and a concessionaire for the operation, finance, maintenance, or construction of a government facility;

(b) that authorizes the concessionaire to operate the government facility for a term of five years or longer, including any extension of the contract; and

(c) in which all or some of the annual source of payment to the concessionaire comes from state funds provided to the bonding government entity.

[~~(6)~~] (8) "Creating entity" means the same as that term is defined in Section 17D-4-102.

[~~(7)~~] (9) "Government facility" means infrastructure, improvements, or a building that:

(a) costs more than $5,000,000 to construct; and

(b) has a useful life greater than five years.

[~~(8)~~] (10) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(9)~~] (11) "Loan entity" means the board, person, unit, or agency with legal responsibility for making a loan from a revolving loan fund.

[~~(10)~~] (12) "Obligation" means the same as that term is defined in Section 63B-1-303.

[~~(11)~~] (13) "Parameters resolution" means a resolution of a bonding [~~political subdivision, or public infrastructure district created by a bonding political subdivision,~~] government entity that sets forth for proposed bonds:

(a) the maximum:

(i) amount of bonds;

(ii) term; and

(iii) interest rate; and

(b) the expected security for the bonds.

[~~(12)~~] (14) "Public infrastructure district" means a public infrastructure district created under Title 17D, Chapter 4, Public Infrastructure District Act.

[~~(13) "Public-private partnership" means a contract:~~]

[~~(a) between a bonding political subdivision and a concessionaire for the operation, finance, maintenance, or construction of a government facility;~~]

[~~(b) that authorizes the concessionaire to operate the government facility for a term of five years or longer, including any extension of the contract; and~~]

[~~(c) in which all or some of the annual source of payment to the concessionaire comes from state funds provided to the bonding political subdivision.~~]

[~~(14)~~] (15) "Revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in [~~Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act~~] Title 19, Chapter 1, Part 4, Clean Fuels and Emission Reduction Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank Fund, created in Section 19-6-409;

(j) the School Building Revolving Account, created in Section 53F-9-206;

(k) the State Infrastructure Bank Fund, created in Section 72-2-202;

(l) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

(m) the Navajo Revitalization Fund, created in Section 35A-8-1704;

(n) the Energy Efficiency Fund, created in Section 11-45-201;

(o) the Brownfields Fund, created in Section 19-8-120;

(p) the following enterprise revolving loan funds created in Section 63A-3-402:

(i) the inland port infrastructure revolving loan fund;

(ii) the point of the mountain infrastructure revolving loan fund; or

(iii) the military development infrastructure revolving loan fund; and

(q) any other revolving loan fund created in statute where the borrower from the revolving loan fund is a public non-profit entity or political subdivision, including a fund listed in Section 63A-3-205, from which a loan entity is authorized to make a loan.

[~~(15)~~] (16) (a) "State funds" means an appropriation by the Legislature identified as coming from the General Fund or Education Fund.

(b) "State funds" does not include:

(i) a revolving loan fund; or

(ii) revenues received by a bonding political subdivision from:

(A) a tax levied by the bonding political subdivision;

(B) a fee assessed by the bonding political subdivision; or

(C) operation of the bonding political subdivision's government facility.

Section 2. Section 63C-25-202 is amended to read:

63C-25-202. Powers and duties.

(1) The commission shall annually review a report provided in accordance with Section 63B-1-305 or 63B-1a-102.

(2) (a) A loan entity other than a loan entity described in Subsection (2)(b) shall no later than January 1 of each year submit information on each revolving loan fund from which the loan entity made a loan in the previous fiscal year, including information identifying new and ongoing loan recipients, the terms of each loan, loan repayment, and any other information regarding a revolving loan fund requested by the commission.

(b) If a loan entity is:

(i) the Utah Inland Port Authority, the loan entity shall submit the information in accordance with Section 11-58-106 and any other information regarding a revolving loan fund requested by the commission;

(ii) the Point of the Mountain State Land Authority, the loan entity shall submit the information in accordance with Section 11-59-104 and any other information regarding a revolving loan fund requested by the commission; or

(iii) the Military Installation Development Authority, the loan entity shall submit the information in accordance with Section 63H-1-104 and any other information regarding a revolving loan fund requested by the commission.

(c) The commission may annually review and provide feedback for the following:

(i) each loan entity for compliance with state law authorizing and regulating the revolving loan fund,

including, as applicable, Title 11, Chapter 14, Local Government Bonding Act;

(ii) each loan entity's revolving loan fund policies and practices, including policies and practices for approving and setting the terms of a loan; and

(iii) each borrower of funds from a revolving loan fund for accurate and timely reporting by the borrower to the appropriate debt repository.

(3) (a) The commission shall review and may approve a bond before a large public transit district may issue a bond.

(b) The commission may not approve issuance of a bond described in Subsection (3)(a) unless the execution and terms of the bond comply with state law.

(c) If, after review, the commission approves a bond described in Subsection (3)(a), the large public transit district:

(i) may not change before issuing the bond the terms of the bond that were reviewed by the commission if the change is outside the approved parameters and intended purposes; and

(ii) is under no obligation to issue the bond.

(d) A member of the commission who approves a bond under Subsection (3)(a) or reviews a parameters resolution under Subsection (4)(a) is not liable personally on the bond.

(e) The approval of a bond under Subsection (3)(a) or review under Subsection (4)(a) of a parameters resolution by the commission:

(i) is not an obligation of the state; and

(ii) is not an act that:

(A) lends the state's credit; or

(B) constitutes indebtedness within the meaning of any constitutional or statutory debt limitation.

(4) (a) The commission shall review and, at the commission's discretion, may make recommendations regarding a parameters resolution before:

(i) a bonding political subdivision may issue a bond; or

(ii) a public infrastructure district may issue a bond, if the creating entity of the public infrastructure district is a bonding political subdivision.

(b) The commission shall conduct the review under Subsection (4)(a) and forward any recommendations to the bonding political subdivision or public infrastructure district no later than 45 days after the day on which the commission receives the bonding political subdivision's or public infrastructure district's parameters resolution.

(c) Notwithstanding Subsection (4)(a), if the commission fails to review a parameters resolution or forward recommendations, if any, in the timeframe described in Subsection (4)(b), the bonding political subdivision or public infrastructure district, respectively, may proceed with the bond without review by the commission.

(d) After review by the commission under Subsection (4)(a), the bonding political subdivision or public infrastructure district:

(i) shall consider recommendations by the commission; and

(ii) may proceed with the bond but is under no obligation to issue the bond.

(5) The commission shall provide training and other information on debt management, lending and borrowing best practices, and compliance with state law to the authority, a bonding political subdivision, a large public transit district, and a loan entity.

(6) (a) [~~If a public-private partnership contemplates payments from state funds, the commission shall review and may approve the public-private partnership before a bonding political subdivision may enter into the public-private partnership.~~] Before a bonding government entity may enter into a concessionaire contract, the commission shall review and approve the concessionaire contract.

(b) If, after review, the commission approves the [~~public-private partnership described in Subsection (6)(a)~~] concessionaire contract, the bonding [~~political subdivision~~] government entity:

(i) may not change the terms of the [~~public-private partnership~~] concessionaire contract if the change is outside [~~the~~] of:

(A) any applicable approved parameters [~~and~~] of the concessionaire contract; or

(B) the intended purposes of the concessionaire contract; and

(ii) is under no obligation to enter into the [~~public-private partnership~~] concessionaire contract.

Section 3. Section 63N-13-302 is amended to read:

63N-13-302. Definitions.

As used in this part:

(1) "Bonding government entity" means the same as that term is defined in Section 63C-25-101.

(2) "Concessionaire contract" means the same as that term is defined in Section 63C-25-101.

(3) "Facilitator" means:

(a) the office, if the office chooses to perform itself the functions and responsibilities described in Section 63N-13-304; or

(b) a person engaged by the office to perform the functions and responsibilities described in Section 63N-13-304, if the office chooses to have those functions and responsibilities performed by a person other than the office.

[~~(2)~~] (4) "Government entity" means:

(a) the state or any department, division, agency, or other instrumentality of the state; or

(b) a political subdivision of the state.

[~~(3)~~] (5) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

Section 4. Section 63N-13-306 is amended to read:

63N-13-306. Limits on application of this part -- Concessionaire contract.

(1) Nothing in this part:

(a) requires a government entity to use the facilitator to explore the possibility of filling a public need through a public-private partnership; or

(b) limits the ability of a government entity to directly:

(i) solicit a public-private partnership; or

(ii) respond to a private person exploring an investment opportunity in a public project through a public-private partnership.

[~~(2) (a) As used in this Subsection (2):~~]

[~~(i) "Bonding political subdivision" means the same as that term is defined in Section 63C-25-101.~~]

[~~(ii) "Public-private partnership" means the same as that term is defined in Section 63C-25-101.~~]

[~~(b)~~] (2) A facilitator shall inform a bonding [~~political subdivision~~] government entity that is contemplating entering into a [~~public-private partnership~~] concessionaire contract that the bonding [~~political subdivision~~] government entity may not enter into the [~~public-private partnership~~] concessionaire contract unless the bonding [~~political subdivision~~] government entity first receives approval from the State Finance Review Commission in accordance with Section 63C-25-202.

(3) A government entity anticipating the possibility of entering into a public-private partnership or a concessionaire contract is encouraged to consult with and take advantage of the expertise of the facilitator as the government entity determines:

(a) whether to enter into the public-private partnership or the concessionaire contract; and

(b) the best way to structure the public-private partnership or the concessionaire contract.

CHAPTER 92
H. B. 392
Passed March 2, 2023
Approved March 13, 2023
Effective July 1, 2023

RURAL COUNTY HEALTH CARE FACILITIES TAX AMENDMENTS

Chief Sponsor: Joseph Elison
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions related to the rural county health care facilities tax.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies that a third, fourth, fifth, or sixth class county may use revenue from a rural county health care facilities tax to fund rural emergency medical services;
- allows certain second class counties to impose a rural county health care facilities tax within all or a portion of the county to fund emergency medical services;
- establishes requirements for a second class county to impose a rural county health care facilities tax within a portion of that county; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-801, as last amended by Laws of Utah 2014, Chapter 50
59-12-802, as last amended by Laws of Utah 2020, Chapter 427

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

Section 1. Section 59-12-801 is amended to read:

59-12-801. Definitions.

As used in this part:

(1) "Affected area" means the portion of a county in which a tax is imposed under Subsection 59-12-802(4).

[~~(1)~~] (2) "Emergency medical services" [~~is as~~] means the same as that term is defined in Section 26-8a-102.

[~~(2)~~] (3) "Federally qualified health center" [~~is as~~] means the same as that term is defined in 42 U.S.C. Sec. 1395x.

[~~(3)~~] (4) "Freestanding urgent care center" means a facility that provides outpatient health care service:

(a) on an as-needed basis, without an appointment;

(b) to the public;

(c) for the diagnosis and treatment of a medical condition if that medical condition does not require hospitalization or emergency intervention for a life threatening or potentially permanently disabling condition; and

(d) including one or more of the following services:

(i) a medical history physical examination;

(ii) an assessment of health status; or

(iii) treatment:

(A) for a variety of medical conditions; and

(B) that is commonly offered in a physician's office.

(5) "Municipality" means a city or town.

[~~(4)~~] (6) "Nursing care facility" [~~is as~~] means the same as that term is defined in Section 26-21-2.

(7) "Political subdivision" means a county, municipality, local district, or special service district.

[~~(5)~~] (8) "Rural city hospital" means a hospital owned by a city that is located within a third, fourth, fifth, or sixth class county.

[~~(6)~~] (9) "Rural county health care facility" means a:

(a) rural county hospital; or

(b) rural county nursing care facility.

[~~(7)~~] (10) "Rural county hospital" means a hospital owned by a county that is:

(a) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

[~~(8)~~] (11) "Rural county nursing care facility" means a nursing care facility owned by:

(a) a county that is:

(i) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(ii) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau; or

(b) a special service district if the special service district is:

(i) created for the purpose of operating the nursing care facility; and

(ii) within a county that is:

(A) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(B) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

[~~(9)~~] (12) "Rural emergency medical services" means emergency medical services that are provided by a county that is:

(a) a [~~fifth~~] third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

[~~(10)~~] (13) "Rural health clinic" [~~is as~~] means the same as that term is defined in 42 U.S.C. Sec. 1395x.

Section 2. Section 59-12-802 is amended to read:

59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of [~~a county of the third, fourth, fifth, or sixth class~~] the following counties may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county:

(i) a county of the third, fourth, fifth, or sixth class; or

(ii) a county of the second class that has:

(A) a national park within or partially within the county's boundaries; and

(B) two or more state parks within or partially within the county's boundaries.

(b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:

(i) for a county described in Subsection (1)(a)(i):

[~~(i)~~] (A) rural emergency medical services in that county;

[~~(ii)~~] (B) federally qualified health centers in that county;

[~~(iii)~~] (C) freestanding urgent care centers in that county;

[~~(iv)~~] (D) rural county health care facilities in that county;

[~~(v)~~] (E) rural health clinics in that county; or

[~~(vi)~~] (F) a combination of Subsections (1)(b)(i)(A) through [~~(v).~~] (E); and

(ii) for a county described in Subsection (1)(a)(ii), emergency medical services that are provided by a political subdivision within that county, subject to Subsection (4)(c).

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) [~~Before~~] Except as provided in Subsection (4)(b), before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) for a county described in Subsection (1)(a)(i):

[~~(a)~~] (i) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)(b)(i) within that county;

[~~(b)~~] (ii) the acquisition of land for a center, clinic, or facility described in Subsection (1)(b)(i) within that county;

[~~(c)~~] (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility described in Subsection (1)(b)(i) within that county; or

[~~(d)~~] (iv) rural emergency medical services within that county[~~.~~]; and

(b) for a county described in Subsection (1)(a)(ii), emergency medical services that are provided by a political subdivision within that county, subject to Subsection (4)(c).

(4) (a) A county described in Subsection (1)(a)(ii) may impose a tax under this section within a portion of the county if the affected area includes:

(i) the entire unincorporated area of the county; and

(ii) the entire boundaries of any municipality located within the affected area.

(b) Before a county described in Subsection (1)(a)(ii) may impose a tax under this section within a portion of the county, the county legislative body shall obtain approval to impose the tax from a majority of:

(i) the members of the county's legislative body;

(ii) the county's registered voters within the affected area voting on the imposition of the tax, in an election conducted according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act; and

(iii) (A) the members of the legislative body of each municipality located within the affected area; or

(B) the members of the governing body of a special service district established under Title 17D, Chapter 1, Special Service District Act, to provide emergency medical services within the affected area.

(c) A county described in Subsection (1)(a)(ii) that imposes a tax under this section within a portion of the county in accordance with this Subsection (4) may use the money collected from the tax to fund emergency medical services that are provided by a political subdivision within the affected area.

[~~(4)~~] (5) (a) A tax under this section shall be:

(i) except as provided in Subsection [~~(4)(b)~~] (5)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (6).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

[~~(5)~~] (6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 93
H. B. 400
Passed March 1, 2023
Approved March 13, 2023
Effective May 3, 2023

SCHOOL ABSENTEEISM AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Ann Millner
Cosponsors: Cheryl K. Acton
Melissa G. Ballard
Joel K. Briscoe
Marsha Judkins
Karen M. Peterson
Mike Schultz
Ryan D. Wilcox

LONG TITLE

General Description:

This bill enacts provisions relating to school absenteeism and student behavior.

Highlighted Provisions:

This bill:

- directs local education agencies to include certain evidence-based strategies for children as part of their efforts to reduce student absenteeism;
- enacts new duties for the State Board of Education with respect to addressing chronic absenteeism prevention and intervention; and
- amends the responsibilities of the Division of Juvenile Justice and Youth Services to require the use of evidence-informed and research-informed interventions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
53G-6-206, as last amended by Laws of Utah 2021, Chapter 262
53G-9-802, as last amended by Laws of Utah 2022, Chapter 337
80-5-401, as renumbered and amended by Laws of Utah 2021, Chapter 261

ENACTS:
53G-9-804, Utah Code Annotated 1953

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

Section 1. Section 53G-6-206 is amended to read:

53G-6-206. Duties of a local school board, charter school governing board, or school district in promoting regular attendance -- Parental involvement -- Liability not imposed -- Report to state board.

(1) (a) As used in this section, "intervention" means a series of non-punitive and increasingly frequent and individualized activities that are designed to:

(i) create a trusting relationship between teachers, students, and parents;

(ii) improve attendance;

(iii) improve academic outcomes; and

(iv) reduce negative behavior referrals.

(b) "Intervention" includes:

(i) mentorship programs;

(ii) family connection to community resources;

(iii) academic support through small group or individualized tutoring or similar methods; and

(iv) teaching executive function skills, including:

(A) planning;

(B) goal setting;

(C) understanding and following multi-step directions; and

(D) self-regulation.

[~~(1)~~] (2) (a) Subject to Subsection [~~(1)(b)~~] (2)(b), a local school board, charter school governing board, or school district shall make efforts to [~~resolve the school attendance problems of~~] promote regular attendance and resolve school absenteeism and truancy issues for each school-age child who is, or should be, enrolled in the school district or charter school.

(b) A school-age child exempt from school attendance under Section 53G-6-204 or 53G-6-702, or a school-age child who is enrolled in a regularly established private school or part-time school, is not considered to be a school-age child who is or should be enrolled in a school district or charter school under Subsection [~~(1)(a)~~] (2)(a).

[~~(2)~~] (3) The efforts described in Subsection [~~(1)~~] (2) shall include, as reasonably feasible:

(a) counseling of the school-age child by school authorities;

(b) (i) issuing a notice of truancy to the school-age child in accordance with Section 53G-6-203; or

(ii) issuing a notice of compulsory education violation to the school-age child's parent in accordance with Section 53G-6-202;

(c) making any necessary adjustment to the curriculum and schedule to meet special needs of the school-age child;

(d) considering alternatives proposed by the school-age child's parent;

(e) monitoring school attendance of the school-age child;

(f) voluntary participation in truancy mediation, if available; and

(g) providing the school-age child's parent, upon request, with a list of resources available to assist the parent in resolving the school-age child's attendance problems.

[~~(3)~~] (4) In addition to the efforts described in Subsection [~~(2)~~] (3), the local school board, charter

school governing board, or school district may enlist the assistance of community and law enforcement agencies and organizations for early intervention services as appropriate and reasonably feasible in accordance with Section 53G-8-211.

[~~(4)~~] (5) This section does not impose civil liability on boards of education, local school boards, charter school governing boards, school districts, or their employees.

[~~(5)~~] (6) Proceedings initiated under this part do not obligate or preclude action by the Division of Child and Family Services under Section 53G-6-210.

[~~(6)~~] (7) Each LEA shall annually report the following data separately to the state board:

(a) absences with a valid excuse; and

(b) absences without a valid excuse.

Section 2. Section 53G-9-802 is amended to read:

53G-9-802. Dropout prevention and recovery -- Flexible enrollment options -- Contracting -- Reporting.

(1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and recovery services to a designated student, including:

(i) engaging with or attempting to recover a designated student;

(ii) developing a learning plan, in consultation with a designated student, to identify:

(A) barriers to regular school attendance and achievement;

(B) an attainment goal; and

(C) a means for achieving the attainment goal through enrollment in one or more of the programs described in Subsection (2);

(iii) monitoring a designated student's progress toward reaching the designated student's attainment goal; and

(iv) providing tiered interventions for a designated student who is not making progress toward reaching the student's attainment goal.

(b) An LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a):

(i) throughout the calendar year; and

(ii) except as provided in Subsection (1)(c)(i), for each designated student who becomes a designated student while enrolled in the LEA.

(c) (i) A designated student's school district of residence shall provide dropout recovery services if the designated student:

(A) was enrolled in a charter school that does not include grade 12; and

(B) becomes a designated student in the summer after the student completes academic instruction at the charter school through the maximum grade level the charter school is eligible to serve under the charter school's charter agreement as described in Section 53G-5-303.

(ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include grade 12 shall notify each of the charter school's student's district of residence, as determined under Section 53G-6-302, when the student completes academic instruction at the charter school as described in Subsection (1)(c)(i)(B).

(iii) The notification described in Subsection (1)(c)(ii) shall include the student's name, contact information, and student identification number.

(2) (a) An LEA shall provide flexible enrollment options for a designated student that:

(i) are tailored to the designated student's learning plan developed under Subsection (1)(a)(ii); and

(ii) include two or more of the following:

(A) enrollment in the LEA in a traditional program;

(B) enrollment in the LEA in a nontraditional program;

(C) enrollment in a program offered by a private provider that has entered into a contract with the LEA to provide educational services; or

(D) enrollment in a program offered by another LEA.

(b) A designated student may enroll in:

(i) a program offered by the LEA under Subsection (2)(a), in accordance with this public education code, rules established by the state board, and policies established by the LEA; or

(ii) the Statewide Online Education Program, in accordance with Title 53F, Chapter 4, Part 5, Statewide Online Education Program.

(c) An LEA shall make the LEA's best effort to accommodate a designated student's choice of enrollment under Subsection (2)(b).

(3) Beginning with the 2017-18 school year and except as provided in Subsection (5), an LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a), for any school year in which the LEA meets the following criteria:

(a) the LEA's graduation rate is lower than the statewide graduation rate; and

(b) (i) the LEA's graduation rate has not increased by at least 1% on average over the previous three school years; or

(ii) during the previous calendar year, at least 10% of the LEA's designated students have not:

(A) reached the students' attainment goals; or

(B) made a year's worth of progress toward the students' attainment goals.

(4) To provide the dropout and recovery services described in Subsection (1)(a), an LEA [~~may~~] shall do at least one of the following:

(a) contract with a third party; [~~or~~]

(b) use another program that is evidence-based as defined in Section 53G-11-303; or

[~~(b)~~] (c) create a dropout prevention and recovery services plan that is evidence-informed as defined in Section 53G-11-303.

(5) An LEA is not subject to the requirement described in Subsection (3) if:

(a) the LEA is in the LEA's first three years of operation;

(b) the LEA's average graduation rate for the previous three years is higher than the average statewide graduation rate for the previous three years;

(c) the LEA is a special school as that term is used in 34 C.F.R. 300.115; or

(d) the quotient of the total number of an LEA's graduating students plus 10, divided by the total number of students in an LEA's graduating class, is equal to or greater than the statewide graduation rate.

(6) If an LEA described in Subsection (3) contracts with a third party, the LEA shall ensure that:

(a) a third party with whom the LEA enters into a contract under Subsection (4) has a demonstrated record of effectiveness engaging with and recovering designated students; and

(b) a contract with a third party requires the third party to:

(i) provide the services described in Subsection (1)(a); and

(ii) regularly report progress to the LEA.

(7) An LEA shall annually submit a report to the state board on dropout prevention and recovery services provided under this section, including:

(a) the methods the LEA or third party uses to engage with or attempt to recover designated students under Subsection (1)(a)(i);

(b) the number of designated students who enroll in a program described in Subsection (2) as a result of the efforts described in Subsection (7)(a);

(c) the number of designated students who reach the designated students' attainment goals identified under Subsection (1)(a)(ii)(B); and

(d) funding allocated to provide dropout prevention and recovery services.

(8) The state board shall:

(a) ensure that an LEA described in Subsection (3) contracts with a third party or creates a dropout prevention and recovery services plan to provide dropout prevention and recovery services in accordance with Subsections (3), (4), and (6); and

(b) report on the provisions of this section in accordance with Section 53E-1-203, including a summary of the reports submitted under Subsection (7).

Section 3. Section 53G-9-804 is enacted to read:

53G-9-804. Duties of the State Board of Education.

(1) The state board shall:

(a) adopt rules that require a local school board or charter school governing board to enact chronic absenteeism prevention and intervention policies that shall:

(i) include provisions that reflect the individual school district's or charter school's unique needs or circumstances; and

(ii) adopt evidence- or research-informed absenteeism and dropout prevention interventions;

(b) support, train, and inform LEAs regarding evidence-informed or research-based models to reduce dropout and chronic absenteeism;

(c) provide guidance to LEAs on interventions and supports available from the Division of Juvenile Justice and Youth Services; and

(d) provide other technical assistance to LEAs around analysis of attendance data.

(2) The rules described in Subsection (1) may require a local school board or charter school governing board to publicize the policies enacted by the local school board or charter school governing board in accordance with the rules described in Subsection (1) through school websites, handbooks, letters to parents, or other reasonable means of communication.

(3) The state board may consult with appropriate stakeholders, including:

(a) parents;

(b) youth;

(c) LEAs;

(d) human services agencies; or

(e) others as the state board develops, enacts, and administers the rules described in Subsection (1).

Section 4. Section 80-5-401 is amended to read:

80-5-401. Youth services for prevention and early intervention -- Program standards -- Program services.

(1) The division shall establish and operate prevention and early intervention youth services programs which shall include evidence-informed and research-informed interventions to:

(a) help youth and families avoid entry into the juvenile justice system; and

(b) improve attendance and academic achievement.

(2) The division shall adopt statewide policies and procedures, including minimum standards for the

organization and operation of youth services programs.

(3) The division shall establish housing, programs, and procedures to ensure that minors who are receiving services under this section and who are not committed to the division are served separately from minors who are committed to the division.

(4) The division may enter into contracts with state and local governmental entities and private providers to provide the youth services.

(5) The division shall establish and administer juvenile receiving centers and other programs to provide temporary custody, care, risk-needs assessments, evaluations, and control for nonadjudicated and adjudicated minors placed with the division.

(6) The division shall prioritize use of evidence-based juvenile justice programs and practices.

CHAPTER 94
H. B. 405
Passed March 1, 2023
Approved March 13, 2023
Effective May 3, 2023

SCHOOL BUS OWNER REQUIREMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill amends a provision related to exceptions for an owner's or operator's security requirement.

Highlighted Provisions:

This bill:

- amends an exception to an owner's and operator's security requirement to include organizations in a local education agency (LEA); and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-12a-301, as last amended by Laws of Utah 2016, Chapter 356

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

Section 1. Section 41-12a-301 is amended to read:

41-12a-301. Definitions -- Requirement of owner's or operator's security -- Exceptions.

(1) As used in this section:

(a) [~~"highway" has the same meaning as provided~~] "Highway" means the same as that term is defined in Section 41-1a-102[~~; and~~].

(b) "Local education agency" or "LEA" means the same as that term is defined in Section 53E-1-102.

[~~(b)~~] (c) [~~"quasi-public road or parking area" has the same meaning as provided~~] "Quasi-public road or parking area" means the same as that term is defined in Section 41-6a-214.

(2) Except as provided in Subsection (5):

(a) every resident owner of a motor vehicle shall maintain owner's or operator's security in effect at any time that the motor vehicle is operated on a highway or on a quasi-public road or parking area within the state; and

(b) every nonresident owner of a motor vehicle that has been physically present in this state for:

(i) 90 or fewer days during the preceding 365 days shall maintain the type and amount of owner's or operator's security required in his place of residence, in effect continuously throughout the period the motor vehicle remains within Utah; or

(ii) more than 90 days during the preceding 365 days shall thereafter maintain owner's or operator's security in effect continuously throughout the period the motor vehicle remains within Utah.

(3) (a) Except as provided in Subsection (5), the state and all of its political subdivisions and their respective departments, institutions, or agencies shall maintain owner's or operator's security in effect continuously for their motor vehicles.

(b) Any other state is considered a nonresident owner of its motor vehicles and is subject to Subsection (2)(b).

(4) The United States, any political subdivision of it, or any of its agencies may maintain owner's or operator's security in effect for their motor vehicles.

(5) Owner's or operator's security is not required for any of the following:

(a) off-highway vehicles registered under Section 41-22-3 when operated either:

(i) on a highway designated as open for off-highway vehicle use; or

(ii) in the manner prescribed by Subsections 41-22-10.3(1) through (3);

(b) off-highway implements of husbandry operated in the manner prescribed by Subsections 41-22-5.5(3) through (5);

(c) electric assisted bicycles as defined under Section 41-6a-102;

(d) motor assisted scooters as defined under Section 41-6a-102;

(e) electric personal assistive mobility devices as defined under Section 41-6a-102; or

(f) [~~a school district~~] an LEA, for a school bus that the [~~school district~~] LEA authorizes a state entity or political subdivision of the state to use.

(6) If [~~a school district~~] an LEA authorizes a state entity or political subdivision of the state to use a school bus:

(a) the state entity or political subdivision shall maintain owner's or operator's security during the term of the school bus use in an amount that is greater than or equal to any governmental immunity liability limit;

(b) the state entity or the political subdivision shall indemnify and defend the [~~school district~~] LEA for any claim that arises from the school bus use including a claim directed at the [~~school district~~] LEA, unless the claim arises from the sole negligence of the [~~school district~~] LEA; and

(c) if the school district maintains owner's or operator's security for the school bus during the term of school bus use, the owner's and operator's security maintained by the state entity or political subdivision of the state is primary to the owner's and operator's security maintained by the [~~school district~~] LEA.

CHAPTER 95
H. B. 409
Passed February 27, 2023
Approved March 13, 2023
Effective May 3, 2023

STATE CONSTRUCTION AND FIRE CODES AMENDMENTS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill repeals and amends construction and fire codes under Title 15A, State Construction and Fire Codes Act.

Highlighted Provisions:

This bill:

- repeals Tall Wood Buildings of Mass Timber Construction Incorporated as Part of State Construction Code;
- adopts the 2021 edition of the International Fire Code, with amendments; and
- adopts and amends certain National Fire Protection Association codes and standards.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

15A-2-101, as last amended by Laws of Utah 2020, Chapter 43
15A-2-102, as last amended by Laws of Utah 2020, Chapters 43, 441
15A-2-104, as last amended by Laws of Utah 2016, Chapter 249
15A-5-103, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
15A-5-202, as last amended by Laws of Utah 2022, Chapter 28
15A-5-202.5, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 4
15A-5-203, as last amended by Laws of Utah 2022, Chapter 350
15A-5-204, as last amended by Laws of Utah 2019, Chapter 103
15A-5-205, as last amended by Laws of Utah 2019, Chapter 103
15A-5-205.5, as last amended by Laws of Utah 2019, Chapter 103
15A-5-205.6, as enacted by Laws of Utah 2018, Chapter 228
15A-5-206, as last amended by Laws of Utah 2019, Chapter 103
15A-5-302, as last amended by Laws of Utah 2022, Chapter 28
15A-5-304, as last amended by Laws of Utah 2019, Chapter 103

REPEALS:

15A-2a-101, as enacted by Laws of Utah 2020, Chapter 43
15A-2a-102, as enacted by Laws of Utah 2020, Chapter 43
15A-2a-201, as enacted by Laws of Utah 2020, Chapter 43
15A-2a-202, as enacted by Laws of Utah 2020, Chapter 43
15A-2a-203, as enacted by Laws of Utah 2020, Chapter 43
15A-2a-204, as enacted by Laws of Utah 2020, Chapter 43
15A-2a-301, as enacted by Laws of Utah 2020, Chapter 43
15A-2a-302, as enacted by Laws of Utah 2020, Chapter 43
15A-2a-401, as enacted by Laws of Utah 2020, Chapter 43

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

Section 1. Section 15A-2-101 is amended to read:

15A-2-101. Title -- Adoption of code.

(1) This chapter is known as the "Adoption of State Construction Code."

(2) In accordance with Chapter 1, Part 2, State Construction Code Administration Act, the Legislature repeals the State Construction Code in effect on July 1, 2010, and adopts the following as the State Construction Code:

(a) this chapter;

[~~(b) Chapter 2a, Tall Wood Buildings of Mass Timber Construction Incorporated as Part of State Construction Code;~~]

[~~(c)~~] (b) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code;

[~~(d)~~] (c) Chapter 4, Local Amendments Incorporated as Part of State Construction Code; and

[~~(e)~~] (d) Chapter 6, Additional Construction Requirements.

Section 2. Section 15A-2-102 is amended to read:

15A-2-102. Definitions.

As used in this chapter, [~~Chapter 2a, Tall Wood Buildings of Mass Timber Construction Incorporated as Part of State Construction Code,~~] Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code:

(1) "HUD Code" means the Federal Manufactured Housing Construction and Safety Standards Act, as issued by the Department of Housing and Urban Development and published in 24 C.F.R. Parts 3280 and 3282 (as revised April 1, 1990).

(2) "IBC" means the edition of the International Building Code adopted under Section 15A-2-103.

(3) "IEBC" means the edition of the International Existing Building Code adopted under Section 15A-2-103.

(4) "IECC" means the edition of the International Energy Conservation Code adopted under Section 15A-2-103.

(5) "IFGC" means the edition of the International Fuel Gas Code adopted under Section 15A-2-103.

(6) "IMC" means the edition of the International Mechanical Code adopted under Section 15A-2-103.

(7) "IPC" means the edition of the International Plumbing Code adopted under Section 15A-2-103.

(8) "IRC" means the edition of the International Residential Code adopted under Section 15A-2-103.

(9) "ISPSC" means the edition of the International Swimming Pool and Spa Code adopted under Section 15A-2-103.

(10) "NEC" means the edition of the National Electrical Code adopted under Section 15A-2-103.

(11) "UWUI" means the edition of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103.

Section 3. Section 15A-2-104 is amended to read:

15A-2-104. Installation standards for manufactured housing.

(1) The following are the installation standards for manufactured housing for new installations or for existing manufactured or mobile homes that are subject to relocation, building alteration, remodeling, or rehabilitation in the state:

(a) The manufacturer's installation instruction for the model being installed is the primary standard.

(b) If the manufacturer's installation instruction for the model being installed is not available or is incomplete, the following standards apply:

(i) Appendix E of the 2015 edition of the IRC, as issued by the International Code Council for installations defined in Section AE101 of Appendix E; or

(ii) if an installation is beyond the scope of the [~~2015~~] 2021 edition of the IRC as defined in Section AE101 of Appendix E, the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association.

(c) A manufacturer, dealer, or homeowner is permitted to design for unusual installation of a manufactured home not provided for in the manufacturer's standard installation instruction, Appendix E of the [~~2015~~] 2021 edition of the IRC, or the 2005 edition of the NFPA 225, if the design is approved in writing by a professional engineer or architect licensed in Utah.

(d) For a mobile home built before June 15, 1976, the mobile home shall also comply with the additional installation and safety requirements specified in Chapter 3, Part 8, Statewide Amendments to International Existing Building Code.

(2) Pursuant to the HUD Code Section 604(d), a manufactured home may be installed in the state that does not meet the local snow load requirements as specified in Chapter 3, Part 2, Statewide Amendments to International Residential Code, except that the manufactured home shall have a protective structure built over the home that meets the IRC and the snow load requirements under Chapter 3, Part 2, Statewide Amendments to International Residential Code.

Section 4. Section 15A-5-103 is amended to read:

15A-5-103. Nationally recognized codes incorporated by reference.

The following codes are incorporated by reference into the State Fire Code:

(1) the International Fire Code, [~~2018~~] 2021 edition, excluding appendices, as issued by the International Code Council, Inc., except as amended by Part 2, Statewide Amendments and Additions to International Fire Code Incorporated as Part of State Fire Code;

[~~(2) National Fire Protection Association, NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2017 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code;~~]

[~~(3) National Fire Protection Association, NFPA 1403, Standard on Live Fire Training Evolutions, 2012 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code; and~~]

[~~(4)~~] (2) National Fire Protection Association, NFPA 1, Chapter 38, Marijuana Growing, Processing, and Extraction Facilities, 2018 edition[.];

(3) National Fire Protection Association, NFPA 54, National Fuel Gas Code, 2021 edition; and

(4) National Fire Protection Association, NFPA 58, Liquefied Petroleum Gas Code, 2023 edition.

Section 5. Section 15A-5-202 is amended to read:

15A-5-202. Amendments and additions to IFC related to administration, permits, definitions, and general and emergency planning.

(1) For IFC, Chapter 1, Scope and Administration:

(a) IFC, Chapter 1, Section 102.5, is deleted and rewritten as follows:

"102.5 Application of residential code.

If a structure is designed and constructed in accordance with the International Residential Code, the provisions of this code apply only as follows:

1. The construction and design provisions of this code apply only to premises identification, fire apparatus access, fire hydrants and water supplies, and construction permits required by Section 105.7.

2. This code does not supercede the land use, subdivision, or development standards established by a local jurisdiction.

3. The administrative, operational, and maintenance provisions of this code apply."

(b) IFC, Chapter 1, Section 102.9, is deleted and rewritten as follows:

"102.9 Matters not provided for.

Requirements that are essential for the public safety of an existing or proposed activity, building or structure, or for the safety of the occupants thereof, which are not specifically provided for by this code, shall be determined by the fire code official on an emergency basis if:

(a) the facts known to the fire code official show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the fire code official.

102.9.1 Limitation of emergency order.

In issuing its emergency order, the fire code official shall:

(a) limit the order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare; and

(b) give immediate notice to the persons who are required to comply with the order, that includes a brief statement of the reasons for the fire code official's order.

101.9.2 Right to appeal emergency order.

If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the party shall have a right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section 109."

(c) IFC, Chapter 1, Section [~~105.4.1~~] 106.1, Submittals, is amended to add the following after the last sentence:

"Fire sprinkler system layout [~~may~~] shall be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Water-Based System Layout. Fire alarm system layout [~~may~~] shall be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems."

(d) IFC, Chapter 1, Section [~~105.6.16~~] 105.5.18, Flammable and combustible liquids, is amended to add the following section: "12. The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ."

(e) [~~A new~~] In IFC, Chapter 1, Section [~~109.1.1, Application of residential code,~~] 102.5, a new subsection 3. is added as follows:

[~~"109.1.1 Application of residential code.~~]

"3. For development regulated by a local jurisdiction's land use authority, the fire code official's interpretation of this code is subject to the advisory opinion process described in Utah Code, Section 13-43-205, and to a land use appeal authority appointed under Utah Code, Section 10-9a-701 or 17-27a-701."

(f) In IFC, Chapter 1, Section [~~109~~] 111, a new Section [~~109.4~~] 111.5, Notice of right to appeal, is added as follows: "At the time a fire code official makes an order, decision, or determination that relates to the application or interpretation of this chapter, the fire code official shall inform the person affected by the order, decision, or determination of the person's right to appeal under this section. Upon request, the fire code official shall provide a person affected by an order, decision, or determination that relates to the application or interpretation of this chapter a written notice that describes the person's right to appeal under this section."

[~~(g) IFC, Chapter 1, Section 110.3, Notice of violation, is deleted and rewritten as follows:~~]

[~~"110.3 Notice of violation.~~]

[~~If the fire code official determines that a building, premises, vehicle, storage facility, or outdoor area is in violation of this code or other pertinent laws or ordinances, the fire code official is authorized to prepare a written notice of violation that describes the conditions deemed unsafe and, absent immediate compliance, specifies a time for reinspection."~~]

(2) For IFC, Chapter 2, Definitions:

(a) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Department of Health where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code, R432-13, Freestanding Ambulatory Surgical Center Construction Rule."

(b) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Assisted Living Facility, Residential Treatment and Support. "ASSISTED LIVING FACILITY[~~. See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility.~~"], RESIDENTIAL TREATMENT AND SUPPORT: A residential facility that provides a group living environment for four or more residents licensed by the Department of Health and Human Services and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of

achieving mobility sufficient to exit the facility without the physical assistance of another person.

ASSISTED LIVING FACILITY, TYPE I. A residential facility licensed by the Department of Health and Human Services that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person.

ASSISTED LIVING FACILITY, TYPE II. A residential facility licensed by the Department of Health and Human Services that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person.

Subcategories are:

ASSISTED LIVING FACILITY, LIMITED CAPACITY: A Type I or Type II assisted living facility having two to five residents.

ASSISTED LIVING FACILITY, SMALL: A Type I or Type II assisted living facility having six to sixteen residents.

ASSISTED LIVING FACILITY, LARGE: A Type I or Type II assisted living facility having more than sixteen residents."

(c) IFC, Chapter 2, Section 202, General Definitions, [~~FOSTER CARE FACILITIES is amended as follows: The word "Foster" is changed to the word "Child."~~] the definition for Child Care Facility is added as follows: "CHILD CARE FACILITY: A facility where care and supervision is provided for four or more children for less than 24 hours a day and for direct or indirect compensation in place of care ordinarily provided in their home."

(d) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Group E, day care facilities, is [~~amended as follows~~] deleted and replaced with the following:

"Group E, Child Care Facilities. This group includes buildings and structures or portions thereof occupied by four or more children 2 years of age or older who receive educational, supervision, child care services or personal care services for fewer than 24 hours per day. See Section 429, Day Care, for special requirements for day care.

Within Places of Religious Worship. Rooms and spaces within places of religious worship providing such day care during religious functions shall be classified as part of the primary occupancy.

Four or Fewer Children. A facility having four or fewer children receiving such day care shall be classified as part of the primary occupancy.

Four or Fewer Children in a Dwelling Unit. A facility such as the above within a dwelling unit and having four or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

Child Day Care - Residential Child Care Certificate or a License. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in the International Building Code, Sections 310.3 and 310.4, or shall comply with the International Residential Code, Section R101.2.

Child Care Centers. Each of the following areas may be classified as accessory occupancies, if the area complies with the International Building Code, Section 508.2:

1. Hourly child care center, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers;

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs; and

4. Commercial preschools, as described in Utah Administrative Code, R381-40, Commercial Preschool Programs."

[~~(i) On line three delete the word "five" and replace it with the word "four"; and~~]

[~~(ii) On line four after the word "supervision" add the words "child care centers."~~]

[~~(e) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Five or fewer children, is amended as follows: The word "five" is deleted and replaced with the word "four" in both places.~~]

[~~(f) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Five or fewer children in a dwelling unit, is amended as follows: The word "five" is deleted and replaced with the word "four" in both places.~~]

[~~(g) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, a new section is added as follows: "Child day care -- residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Residential Group R-3, or shall comply with the International Residential Code in accordance with Section R101.2."~~]

[~~(h) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, a new section is added as follows: "Child care centers. Each of the following areas may be classified as accessory occupancies:~~]

[~~1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;~~]

[~~2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and~~]

[~~3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs."~~]

[~~(i)~~] (e) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, is amended as follows: [~~Insert "Type I" in front of the words "Assisted living facilities".~~] In the list of items under "This group shall include," the words "Type-I Large and Type-II Small, see the International Building Code, Section 308.2.5" are added after "Assisted living facilities."

[~~(j)~~] (f) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, Five or fewer persons receiving custodial care is amended as follows: On line four after "International Residential Code" the rest of the section is deleted.

[~~(k)~~] (g) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-2, is [~~amended as follows:~~] deleted and replaced with the following:

[~~(i) On line three delete the word "five" and insert the word "three";~~]

[~~(ii) On line six the word "foster" is deleted and replaced with the word "child"; and~~]

[~~(iii) On line 10, after the words "Psychiatric hospitals", add the following to the list: "both intermediate nursing care and skilled nursing care facilities, ambulatory surgical centers with five or more operating rooms, and Type II assisted living facilities. Type II assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility".~~]

"Institutional Group I-2. Institutional Group I-2 occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than four persons who are incapable of self-preservation. This group shall include, but not be limited to the following:

Assisted living facilities, Type-II Large, see Section 308.3.3

Child care facilities

Foster care facilities

Detoxification facilities

Hospitals

Nursing homes (both intermediate care facilities and skilled nursing facilities)

Psychiatric hospitals"

[~~(l)~~] (h) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group [~~I-4, day care facilities, Classification as Group E, is amended as follows:~~] I-2, a new section is added as follows:

"Assisted Living Facilities. A Type I, Large assisted living facility is classified as occupancy Group I-1, Condition 1. A Type II, Small assisted living facility is classified as occupancy Group I-1, Condition 2. See Section 202 for definitions."

[~~(i) On line two delete the word "five" and replace it with the word "four"; and~~]

[~~(ii) On line three delete the words "2 1/2 years or less of age" and replace with the words "under the age of two".~~]

[~~(m)~~] (i) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-4, day care facilities, [~~Five or fewer occupants receiving care in a dwelling unit, is amended as follows: On lines one and three the word "five" is deleted and replaced with the word "four".~~] Classification as Group E, Five or fewer persons receiving care, and Five or fewer occupants receiving care in a dwelling unit are deleted and replaced with the following:

"Classification as Group E. A child day care facility that provides care for five or more but not more than 100 children under two years of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as a Group E. See the International Building Code, Section 429 for special requirements for Day Care.

Four or Fewer Persons Receiving Care. A facility having four or fewer persons receiving custodial care shall be classified as part of the primary occupancy. See the International Building Code, Section 429, for special requirements for Day Care.

Four or Fewer Persons Receiving Care in a Dwelling Unit. A facility such as the above within a dwelling unit and having four or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. See the International Building Code, Section 429, for special requirements for Day Care."

[~~(n)~~] (j) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, [~~the words "and single family dwellings complying with the IRC" are added after the word "Residential Group R-3 occupancies".~~] is deleted and replaced with the following:

"Residential Group R-3. Residential Group R-3 occupancies and single family dwellings complying with the International Residential Code where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, or I occupancies, including:

Assisted Living Facilities, Type-I, limited capacity, see Section 310.5.3

Buildings that do not contain more than two dwellings

Care facilities, other than child care, that provide accommodations for five or fewer persons receiving care

Congregate living facilities (nontransient) with 16 or fewer occupants

Boarding houses (nontransient)

Convents

Dormitories

Fraternities and sororities

Monasteries

Congregate living facilities (transient) with 10 or fewer occupants

Boarding houses (transient)

Lodging houses (transient) with five or fewer guest rooms and 10 or fewer occupants"

[~~(o)~~] (k) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, Care facilities within a dwelling, [~~is amended as follows: On line three after the word "dwelling" insert "other than child care".~~] is deleted and replaced with the following: "Care Facilities within a Dwelling. Care facilities, other than child care, for five or fewer persons receiving care that are within a single family dwelling are permitted to comply with the International Residential Code. See the International Building Code, Section 429, for special requirements for Child Day Care."

[~~(p)~~] (l) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, a new section is added as follows: "Child Care. Areas used for child care purposes may be located in a residential dwelling unit when all of the following conditions are met:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board;

2. Use is approved by the Department of Health under the authority of Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:

1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or

1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and

1.3 Compliance with all zoning regulations of the local regulator."

[~~(q) IFC, Chapter 2, Section 202, General Definitions, RECORD DRAWINGS, is amended as follows: Delete the words "a fire alarm system" and replace them with "any fire protection system".~~]

[~~(r) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Residential Treatment/Support Assisted Living Facility. "RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides a group living environment for four or more residents licensed by the Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person."~~]

[~~(s) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Type I Assisted Living Facility. "TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories are:~~]

[~~Limited Capacity: two to five residents;~~]

[~~Small: six to sixteen residents; and~~]

[~~Large: over sixteen residents."~~]

[~~(t) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Type II Assisted Living Facility. "TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides an array of coordinated supportive personal and health care services to two or more residents who are:~~]

[~~A. Physically disabled but able to direct his or her own care; or~~]

[~~B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:~~]

[~~Limited Capacity: two to five residents;~~]

[~~Small: six to sixteen residents; and~~]

[~~Large: over sixteen residents."~~]

(m) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, a new section is added as follows:

"Assisted Living Facilities. Type I assisted living facilities with two to five residents are Limited Capacity facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the International Residential Code. See Section 202 for definitions."

(n) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-4, the words "Type II Limited Capacity and Type I Small, see R-4 Assisted Living Facility Occupancy Groups" are added after the words "Assisted Living Facilities."

(o) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-4, a new section is added as follows: "Group R-4 - Assisted Living Facility Occupancy Groups. The following occupancy groups shall apply to Assisted Living Facilities:

Type II Assisted Living Facilities with two to five residents are Limited Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy.

Type I assisted living facilities with six to sixteen residents are Small Facilities classified as Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

Section 6. Section 15A-5-202.5 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) In IFC, Chapter 4, the following new Sections are added:

"401.3.1.1 Special Education Classrooms. Special education classrooms may shelter in place, or delay

evacuation when all of the following conditions are met:

401.3.1.1.1 There is no visible flame or evidence of products of combustion (smoke).

401.3.1.1.2 The building is completely protected by an approved fire sprinkler system.

401.3.1.1.3 The building is completely protected by an approved fire alarm system.

401.3.1.1.4 The classroom has a minimum of one approved exit that discharges directly to the exterior.

401.3.1.1.5 The classroom has been approved to shelter in place by the fire code official."

(b) In IFC, Chapter 4, Section 401.3.3, Delayed notification, a new exception is added:

"Exception: Group E Occupancies. Teachers may delay evacuation upon fire alarm activation for up to 60 seconds when all of the following conditions are met:

A. There is no visible flame or evidence of products of combustion (smoke).

B. The building is protected throughout by an approved fire sprinkler system.

C. The building is protected throughout by an approved fire alarm system.

D. Students are in the safe zone of the room lined up and prepared for immediate evacuation."

(c) IFC, Chapter 4, Section [~~403.10.2.1~~] 403.9.2.1, College and university buildings, is deleted and replaced with the following:

[~~"403.10.2.1~~] "403.9.2.1 College and university buildings and fraternity and sorority houses.

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

[~~(b)~~] (ii) Group R-2 college and university buildings, including fraternity and sorority houses, shall comply with Sections [~~403.10.2.1.1 and 403.10.2.1.2~~] 403.9.2.1.1 and 403.9.2.1.2."

[~~(b)~~] (d) IFC, Chapter 4, Section [~~405.2, Table 405.2~~] 405.3, Table 405.3, is amended to add the following footnotes:

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

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

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

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

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

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

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

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

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

Section 7. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: "An authority having jurisdiction over a structure built in accordance with the requirements of the

International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(4)(a) and Utah Administrative Code, R652-122-1300, Minimum Standards for County Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;

(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or

(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of unsprinkled homes in the subdivision that are no larger than 10,000 square feet.

(vi) Exception: A single family dwelling does not require a fire sprinkler system if the dwelling:

(A) is located outside the wildland urban interface;

(B) is built in a one-lot subdivision; and

(C) has 50 feet of defensible space on all sides that limits the propensity of fire spreading from the dwelling to another property."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows:

""07.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the requirements described in Section 501.5."

(e) In IFC, Chapter 5, Section 507.5.1, here required, a new exception is added: "3. One interior and one detached accessory dwelling unit on a single residential lot."

[~~(e)~~] (f) [~~In~~] IFC, Chapter 5, Section 510.1, Emergency responder [~~radio~~] communication coverage in new buildings, is amended by adding: "When required by the fire code official," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) [~~In~~] IFC, Chapter 6, Section [~~606.7~~] 604.6.1, Elevator key location, is deleted and rewritten as follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key."

(b) [~~In~~] IFC, Chapter 6, Section [~~607.1~~] 606.1, General, is amended as follows: On line three, after the word "Code", add the words "and NFPA 96".

(c) [~~In~~] IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that term is defined in Utah Code, Section 26-15c-102, for which the operator obtains a permit in accordance with Utah Code, Title 26, Chapter 15c, Microenterprise Home Kitchen Act."

(3) For IFC, Chapter 7, Fire and Smoke Protection Features, IFC, Chapter 7, Section 705.2, is amended to add the following: "Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms' doors with a rating of 20 minutes or less only."

Section 8. Section 15A-5-204 is amended to read:

15A-5-204. Amendments and additions to IFC related to fire protection and life safety systems.

For IFC, Chapter 9, Fire Protection and Life Safety Systems:

[~~(1) IFC, Chapter 9, Section 901.2, Construction documents, is amended to add the following at the end of the section: "The code official has the authority to request record drawings ("as builts") to verify any modifications to the previously approved construction documents."~~]

[~~(2)~~] (1) IFC, Chapter 9, Section [~~901.4.6~~] 901.4.7, Pump and riser room size, is deleted and replaced with the following:[~~"Pump and Riser Room Size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working space around the stationary equipment. Clearances around equipment shall be in accordance with manufacturer requirements and not less than the following minimum elements:~~]

[~~901.4.6.1 A minimum clear and unobstructed distance of 12 inches shall be provided from the installed equipment to the elements of permanent construction.~~]

[~~901.4.6.2 A minimum clear and unobstructed distance of 12 inches shall be provided between all other installed equipment and appliances.~~]

[~~901.4.6.3 A clear and unobstructed width of 36 inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly.~~]

[~~901.4.6.4 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36 inches, and openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 34 inches and a clear height of the door opening shall not be less than 80 inches.~~]

[~~901.4.6.5 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72 inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68 inches and a clear height of the door opening shall not be less than 80 inches.~~"]

"901.4.7 Pump and Riser Room Size.

901.4.7.1 Fire pump rooms and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working room around the stationary equipment. Clearances around equipment to elements of permanent construction, including other installed equipment and appliances, shall be sufficient to allow inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly and not less than the following minimum elements:

901.4.7.1.1 A minimum clear and unobstructed distance of 12 inches shall be provided from the installed equipment to the elements of permanent construction.

901.4.7.1.2 A minimum clear and unobstructed distance of 12 inches shall be provided between all other installed equipment and appliances.

901.4.7.1.3 A clear and unobstructed width of 36 inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire resistance-rated assembly.

901.4.7.2 Fire Pump Room. Fire pumps and controllers shall be provided with ready access. Fire pump rooms shall be provided with doors and an unobstructed passageway large enough to allow for the removal of the largest piece of equipment. The passageway shall have a clear width not less than 72 inches. Openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the fire pump room and the opening providing a clear width of not less than 68 inches and a clear height of the door opening shall not be less than 80 inches. The door shall be permitted to be locked provided that the key is available at all times and located in a Key Box in accordance with IFC, Section 506.

901.4.7.3 Automatic Sprinkler Riser Room. Automatic sprinkler system risers shall be provided with ready access. Automatic sprinkler system riser rooms shall be provided with doors and an unobstructed passageway large enough to allow for the removal of the largest piece of equipment. The passageway shall have a clear width not less than 36 inches. Openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the riser room and the opening providing a clear width of not less than 32 inches and a clear height of the door opening shall not be less than 80 inches. The door shall be permitted to be locked provided that the key is available at all times and located in a Key Box in accordance with IFC, Section 506.

901.4.7.4 Marking on Access Doors. Access doors for automatic sprinkler system riser rooms and fire pump rooms shall be labeled with an approved sign. The lettering shall be in contrasting color to the background. Letters shall have a minimum height of 2 inches (51 mm) with a minimum stroke of 3/8 inch (10 mm).

901.4.7.5 Environment. Automatic sprinkler system riser rooms and fire pump rooms shall be maintained at a temperature of not less than 40 degrees F (4 degrees C). Heating units shall be permanently installed.

902.6 Lighting. Permanently installed artificial illumination shall be provided in the automatic sprinkler system riser rooms and fire pump rooms."

[~~(3)~~] (2) IFC, Chapter 9, Section 903.2.1.2, Group A-2, is amended to add the following subsection: "4. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used."

[~~(4)~~] (3) IFC, Chapter 9, Section 903.2.2, Ambulatory care facilities, is amended as follows: On line two delete the words "entire floor" and

replace with the word "building" and delete the last paragraph.

[~~(5)~~] (4) IFC, Chapter 9, Section 903.2.4, Group F-1, Subsection 2, is deleted and rewritten as follows: "A Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access."

[~~(6)~~] (5) IFC, Chapter 9, Section 903.2.7, Group M, Subsection 2, is deleted and rewritten as follows: "A Group M fire area is located more than three stories above the lowest level of fire department vehicle access."

[~~(7)~~] (6) IFC, Chapter 9, Section 903.2.8 Group R, including all subsections, is deleted and rewritten as follows:

"903.2.8 Group R.

An automatic sprinkler system installed in accordance with Section 903.3 shall be proved throughout all buildings with a Group R fire area.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for One- and Two-Family Dwellings.

2. Single story Group R-1 occupancies with fire areas not more than 2,000 square feet that contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction.

3. Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system."

[~~(8)~~] (7) IFC, Chapter 9, Section 903.2.9, Group S-1, Subsection 2, is deleted and rewritten as follows: "A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access."

(8) IFC, Chapter 9, Section 903.3.1.2, NFPA 13R sprinkler systems, Subsections 2 and 3, are deleted and rewritten as follows:

"2. The floor level of the highest story is 40 feet (12192 mm) or less above the lowest level of fire department vehicle access.

3. The floor level of the lowest story is 40 feet (12192 mm) or less below the lowest level of fire department vehicle access."

(9) IFC, Chapter 9, Section 903.3.1.2.3, Attics, is amended by adding the following: "Exception: Sprinkler protection in attics is not required in buildings that are not required to be sprinklered by another section of this code."

(10) IFC, Chapter 9, Section 903.3.5, Water supplies, is amended as follows: On line six, after the word "Code", add "and as amended in the State Construction Code".

(11) IFC, Chapter 9, Section 903.5, Testing and maintenance, is amended to add the following subsection: "903.5.1 Tag and Information. A tag shall be attached to the riser indicating the date the antifreeze solution was tested. The tag shall also indicate the type and concentration of antifreeze solution by volume with which the system is filled, the name of the contractor that tested the antifreeze solution, the contractor's license number, and a warning to test the concentration of the antifreeze solutions at yearly intervals."

[~~(12) IFC, Chapter 9, Section 904.12, Commercial cooking systems, is deleted and rewritten as follows: "The automatic fire extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions." The exception in Section 904.12 is not deleted and shall remain as currently written in the IFC.~~]

[~~(13) IFC, Chapter 9, Section 904.12.3, Carbon dioxide systems, and Section 904.12.3.1, Ventilation system, are deleted and rewritten as follows:~~]

[~~"904.12.3 existing automatic fire extinguishing systems used for commercial cooking.~~]

[~~Existing automatic fire extinguishing systems used for commercial cooking that use dry chemical are prohibited and shall be removed from service.~~]

[~~904.12.3.1 UL300 listed and labeled existing wet chemical fire extinguishing system.~~]

[~~Existing wet chemical fire extinguishing systems used for commercial cooking that are not UL300 listed and labeled are prohibited and shall be either removed or upgraded to a UL300 listed and labeled system."~~]

[~~(14) IFC, Chapter 9, Section 904.12.4, Special provisions for automatic sprinkler systems, is amended to add the following subsection: " 904.12.4.2 Existing automatic fire sprinkler systems protecting commercial cooking equipment, hood, and exhaust systems that generate appreciable depth of cooking oils shall be replaced with a UL300 system that is listed and labeled for the intended application."~~]

[~~(15)~~] (12) IFC, Chapter 9, Section [~~904.12.5.2~~] 904.13.5.2, Extinguishing system service, is amended to add the following: "Exception: Automatic fire extinguishing systems located in occupancies where usage is limited and less than six consecutive months may be serviced annually if the annual service is conducted immediately before the period of usage, and approval is received from the AHJ."

[~~(16)~~] (13) IFC, Chapter 9, Section 905.3.9 is a new subsection as follows: "Open Parking Garages.

Open parking garages shall be equipped with an approved Class I manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured from the approved fire department vehicle access. Class I manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection.

Exception: Open parking garages equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1."

[~~(17) IFC, Chapter 9, Section 905.8, Dry Standpipes, Exception is deleted and rewritten as follows: "Where subject to freezing conditions and approved by the fire code official."~~]

[~~(18)~~] (14) IFC, Chapter 9, Section 905.12, Existing buildings, is deleted.

[~~(19)~~] (15) In IFC, Chapter 9, Section 906.1, Exception 2 is amended as follows: on line three after the word "6," delete the remainder of the paragraph.

[~~(20)~~] (16) IFC, Chapter 9, Section 907.2.3 Group E:

(a) [~~The first sentence is deleted and rewritten as follows: "A manual fire alarm system that initiates the occupant notification signal using an emergency voice/alarm communication system that meets the requirements of Section 907.5.2.2, or a manual fire alarm system that initiates an audible and visual occupant notification signal that meets the requirements of Sections 907.4.2.1 and 907.5.2.3, and is installed in accordance with Section 907.6, and with rules made by the Utah Fire Prevention Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall be installed in Group E occupancies."~~] 907.2.3 Group E is deleted and rewritten as follows: "A manual fire alarm system that initiates the occupant notification signal using an emergency voice/alarm communication system that meets the requirements of Section 907.5.2.2, or a manual fire alarm system that initiates an approved audible and visual occupant notification signal that meets the requirements of Sections 907.5.2.1, 907.5.2.1.1, 907.5.2.1.2, and 907.5.2.3, and is installed in accordance with Section 907.6, and with rules made by the Utah Fire Prevention Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall be installed in Group E occupancies. Where automatic fire sprinkler systems or smoke detectors are installed, the fire sprinkler systems and smoke detectors shall be connected to the building fire alarm system."

(b) Exception 2, delete entirely and the remaining exceptions are renumbered.

(c) Exception number 4.2, [~~on line five, delete the words, "emergency voice/alarm communication system" and replace with "fire alarm."~~] is deleted and rewritten as follows: "The fire alarm system will activate on sprinkler water flow."

(d) New Sections 907.2.3.1 through 907.2.3.7 are added as follows:

"907.2.3.1 Automatic detection devices that detect smoke shall be installed throughout all corridors and spaces open to the corridor at the maximum prescribed spacing of thirty feet on center and no more than fifteen feet from the walls or smoke detectors shall be installed as required in NFPA, Standard 72, Section 17.7.

907.2.3.2 Where structures are not protected or are partially protected with an automatic fire sprinkler system, approved automatic smoke detectors shall be installed in accordance with the complete coverage requirements of NFPA, Standard 72.

907.2.3.3 An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses.

907.2.3.4 The main panel shall be located in a normally attended area such as the main office or lobby. Location of the Main Panel other than as stated above, shall require the review and authorization of the State Fire Marshal Division. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both visual and audible indication of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.

907.2.3.5 All system wiring shall be as follows:

(A) The initiating device circuits shall be designated and installed Class A as defined in NFPA Standard 72.

(B) The notification appliance circuits shall be designated, and installed Class A as defined in NFPA Standard 72.

(C) Signaling line circuits shall be designated and installed Class A loop as defined in NFPA Standard 72.

907.2.3.6 Fan Shutdown shall be as follows:

(A) Fan shut down shall be as required in the International Mechanical Code, Chapter 6, Section 606.

(B) Duct detectors required by the International Mechanical Code shall be interconnected and compatible with the fire alarm system."

(17) In IFC, Chapter 9, a new Section 907.5.2.3.4 is added as follows: "907.5.2.3.4 Special Education Classrooms. Visible and audible alarm notification appliances in Special Education classrooms may be replaced with a solid red light when approved by the fire code official."

[~~(21)~~] (18) IFC, Chapter 9, Section 907.8, Inspection, testing, and maintenance, is amended to add the following sentences at the end of the section: "Increases in nuisance alarms shall require

the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ."

[~~(22)~~] (19) IFC, Chapter 9, [~~Section 915, Carbon Monoxide Detection, is deleted and rewritten as follows:~~] Section 915.2.3, Group E occupancies and Exception is deleted and replaced with the following:

[~~"915. Carbon Monoxide Detection.~~]

[~~915.1 Where required.~~]

[~~Group I-1, I-2, I-4, and R occupancies located in a building containing a fuel-burning appliance or in a building that has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 or UL 2075 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. An open parking garage, as defined in Chapter 2, or an enclosed parking garage, ventilated in accordance with Section 404 of the International Mechanical Code, shall not be considered an attached garage. A minimum of one carbon monoxide alarm shall be installed on each habitable level.~~]

[~~915.2 Interconnection.~~]

[~~Where more than one carbon monoxide alarm is required to be installed within Group I-1, I-2, I-4, or R occupancies, the carbon monoxide alarm shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.~~]

[~~915.3 Power source.~~]

[~~In new construction, required carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Carbon monoxide alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Carbon monoxide alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.~~]

[~~Exceptions.~~]

[~~1. Carbon monoxide alarms are not required to be equipped with battery backup where they are connected to an emergency electrical system.~~]

[~~2. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure. Unless there is an attic, crawl space, or basement available that could provide access for hard wiring, without the removal of interior finishes.~~]

[~~915.4 Group E.~~]

[~~A carbon monoxide detection system shall be installed in new buildings that contain Group E occupancies in accordance with this section. A carbon monoxide detection system shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 11, Section 1103.9.~~]

[~~915.4.1 Where required.~~]

[~~In Group E occupancies, a carbon monoxide detection system shall be provided where a fuel-burning appliance, a fuel-burning fireplace, or a fuel-burning forced air furnace is present.~~]

[~~915.4.2 Detection equipment.~~]

[~~Each carbon monoxide detection system shall be installed in accordance with NFPA 720 and the manufacturer's instructions, and be listed, for single station detectors, as complying with UL 2034, and for system detectors, as complying with UL 2075.~~]

[~~915.4.3 Combination detectors.~~]

[~~A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed in accordance with UL 2075 and UL 268.~~]

[~~915.4.4 Power source.~~]

[~~Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source. If primary power is interrupted, each carbon monoxide detection system shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than that required for over-current protection.~~]

[~~915.4.5 Maintenance.~~]

[~~Each carbon monoxide detection system shall be maintained in accordance with NFPA 720. A carbon monoxide detection system that becomes inoperable or begins to produce end-of-life signals shall be replaced.~~"]

"915.2.3 Group E Occupancies. Carbon monoxide detectors shall be installed in the following areas within Group E occupancies:

(1) Boiler rooms, furnace rooms, and similar rooms, or in adjacent areas where carbon monoxide is likely to spread. (The installation of carbon monoxide detectors in boiler rooms and furnace rooms may cause a false alarm problem. Locating these detectors in adjacent spaces where the carbon monoxide is likely to spread may be a better option.)

(2) Home economics rooms with gas appliances.

(3) School kitchens with gas appliances. (Commercial kitchens).

(4) Arts rooms and other areas with a gas kiln or open flame.

(5) Gas roof top units, and other carbon monoxide producing HVAC units, one per zone. (The zone shall be the area covered by the HVAC unit.)

(6) In areas with gas wall units.

(7) In areas with a gas water heater or boiler.

(8) Areas with a forge or foundry.

(9) Metal shop or auto shop areas or in adjacent areas where carbon monoxide is likely to spread. (The installation of carbon monoxide detectors in metal shop or auto shop areas may cause a false alarm problem. Locating these detectors in adjacent spaces, i.e. class rooms or corridors, where the carbon monoxide is likely to spread from these spaces may be a better option.)

(10) Labs with open flame.

(11) HVAC units drawing outside air that could be contaminated with carbon monoxide.

(12) Other areas with an open flame or fuel fired appliance.

(F) 915.2.3.1 Carbon monoxide alarm signals shall be automatically transmitted to an onsite location that is staffed by school personnel.

Exception: Carbon monoxide alarm signals shall not be required to be automatically transmitted to an onsite location that is staffed by school personnel in Group E occupancies with an occupant load of 30 or less."

(20) In IFC, Chapter 9, a new Section 915.7 is added as follows:

"915.7 Carbon Monoxide Systems in Group E Occupancies. Carbon monoxide systems may be part of a fire alarm system or standalone system.

915.7.1 Power and Wiring.

915.7.1.1 Power. Carbon monoxide detection systems shall require a primary and secondary power source.

915.7.1.2 Wiring. Class "A" wiring is required when the carbon monoxide system is part of, or connected to, a fire alarm system. Standalone carbon monoxide detection systems may use Class "B" wiring. All wiring shall be Class "A" or "B".

915.7.2 Equipment Shut Down. Equipment and appliances that are producing carbon monoxide shall shut down automatically in the zone involved upon carbon monoxide system activation.

915.7.3 Notification.

915.7.3.1 Local Alarm. Each occupied space shall sound an audible alarm when detecting carbon monoxide at a level in excess of 70 ppm for one hour.

915.7.3.2 General Alarm. A blue strobe, visual alarm, is required in a normally occupied location, similar to the administrative offices, when carbon monoxide is detected in the facility in excess of 70 ppm for one hour.

915.7.3.2.1 The general alarm shall require a manual reset following an alarm activation.

915.7.3.3 Digital Notification. Portable carbon monoxide detectors, with digital read out indicating parts per million of carbon monoxide, in a space to determine the level of hazard in a given space.

915.7.4 Monitoring. System monitoring is not required. If the system is monitored, the signal should be a supervisory signal indicating carbon monoxide.

915.7.5 Inspection.

915.7.5.1 The carbon monoxide detection system shall be tested in the presence of a Deputy or Special Deputy of the State Fire Marshal Division. The Deputy shall require "spot testing" of the system and its components.

915.7.5.2 Before requesting final inspection and approval, the installing contractor shall test each component of the system and issue a statement of compliance, in writing, to the State Fire Marshal Division that the carbon monoxide detection system has been installed in accordance with approved plans and has been tested in accordance with the manufacturer's specifications, and the appropriate installation standard.

915.7.5.3 Systems shall be tagged with the State approved tag for fire alarm systems, upon final approval and shall be inspected and tagged annually by an individual certified as a Master Fire Alarm Technician, by the State Fire Marshal Division.

915.7.6 Evacuation. The affected area within Group E Occupancies shall be evacuated when carbon monoxide is detected at a level in excess of 70 ppm for one hour in that area."

Section 9. Section 15A-5-205 is amended to read:

15A-5-205. Amendments and additions to IFC related to means of egress and special processes and uses.

[~~(1) In IFC, Chapter 10, Section 1008.2.1, Illumination level under normal power, delete exception.~~]

[~~(2) In IFC, Chapter 10, Section 1010.1.9, Door operations, a new exception is added as follows: "Exception: Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.6 Exception 5."~~]

[~~(3) In IFC, Chapter 10, Section 1010.1.9.2, Hardware height, "Exception:" is deleted and replaced with "Exceptions: 1."~~]

[~~(4) In IFC, Chapter 10, Section 1010.1.9.2, Hardware height, Exception 2 is added as follows: "2. Group E occupancies for purposes of a lockdown or a lockdown drill may have one lock below 34 inches in accordance with Section 1010.1.9.6 Exception 5."~~]

[~~(5) In IFC, Chapter 10, Section 1010.1.9.4, Locks and latches, Item 7 is added after the existing Item 6~~

~~as follows: " 7. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.6 Exception 5."~~]

[~~(6) In IFC, Chapter 10, Section 1010.1.9.5, Bolt locks, Exception 6 is added after the existing Exception 5 as follows: "6. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.6 Exception 5." (7) In IFC, Chapter 10, Section 1010.1.9.6, Unlatching, Exception 5 is added after the existing Exception 4 as follows: "5. Group E occupancies may have a second lock on classrooms for purposes of a lockdown or lockdown drill, if:~~]

[~~5.1 The application of the lock is approved by the code official.~~]

[~~5.2 The unlatching of any door or leaf does not require more than two operations.~~]

[~~5.3 The lock can be released from the opposite side of the door on which it is installed.~~]

[~~5.4 The lock is only applied during lockdown or during a lockdown drill.~~]

[~~5.5 The lock complies with all other state and federal regulations, including the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq."~~]

[~~(8)~~] (1) IFC, Chapter 10, Section [~~1010.1.9.7~~] 1010.2.14, Controlled egress doors in Groups I-1 and I-2, after existing Item 8 add Item 9 as follows: "9. The secure area or unit with special egress locks shall be located at the level of exit discharge in Type V construction."

[~~(9)~~] (2) [~~In~~] IFC, Chapter 10, Section [~~1010.1.9.8.1~~] 1010.2.13.1, Delayed egress locking system, Item 9 is added after the existing Item 8 as follows: "9. The secure area or unit with delayed egress locks shall be located at the level of exit discharge in Type V construction."

[~~(10)~~] (3) [~~In~~] IFC, Chapter 10, Section [BE] 1011.5.2, Riser height and tread depth, Exception 3 is deleted and replaced with the following: "3. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm)."

[~~(11)~~] (4) IFC, Chapter 10, Section [BE] 1011.11, Handrails, is amended to add the following exception: " [~~5.~~] 6. In occupancies in Group R-3, as applicable in Section 1014 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 1014, handrails shall be provided on at least one side of stairways consisting of four or more risers."

[~~(12) IFC, Chapter 10, Section 1013.5, Internally illuminated exit signs, delete and rewrite the last sentence to read "Exit signs shall be illuminated at all times, including when the building is not fully occupied."~~]

[~~(13) IFC, Chapter 10, Section 1025, Luminous Egress Path Markings, is deleted.~~]

[~~(14) IFC, Chapter 10, Section 1029.15, Seat stability, delete Exception 2 and renumber exceptions.~~]

[~~(15)~~] (5) IFC, Chapter 10, Section [~~1031.2.1~~] 1032.2.1, Security devices and egress locks, is amended to add the following: On line three, after the word "fire", add the words "and building."

Section 10. Section 15A-5-205.5 is amended to read:

15A-5-205.5. Amendments to Chapters 11 and 12 of IFC.

(1) For IFC, Chapter 11, Construction Requirements for Existing Buildings:

(a) [~~In~~] IFC, Chapter 11, Section 1103.2, Emergency Responder [~~Radio~~] Communication Coverage in Existing Buildings, is amended as follows: On line two after the title, the following is added: "When required by the fire code official".

(b) IFC, Chapter 11, Section 1103.5.1, Group A-2, is deleted and replaced with the following:

"1103.5.1 Group A-2. An automatic fire sprinkler system shall be provided throughout existing Group A-2 occupancies where indoor pyrotechnics are used."

(c) IFC, Chapter 11, Section 1103.6, Standpipes, is deleted.

(d) [~~In~~] IFC, Chapter 11, 1103.7, Fire Alarm Systems, is deleted and rewritten as follows: "1103.7, Fire Alarm Systems[.]. The following shall have an approved fire alarm system installed in accordance with Utah Administrative Code, R710-4, Buildings Under the Jurisdiction of the [~~State~~] Utah Fire Prevention Board:

1. a building with an occupant load of 300 or more persons that is owned or operated by the state;

2. a building with an occupant load of 300 or more persons that is owned or operated by an institution of higher education; and

3. a building with an occupant load of 50 or more persons that is owned or operated by a school district, private school, or charter school.

Exception: the requirements of this section do not apply to a building designated as an Institutional Group I (as defined in IFC 202) occupancy."

(e) IFC, Chapter 11, 1103.7.1 Group E, 1103.7.2 Group I-1, 1103.7.3 Group I-2, 1103.7.4 Group I-3, 1103.7.5 Group R-1, 1103.7.5.1 Group R-1 hotel and motel manual fire alarm system, 1103.7.5.1.1 Group R-1 hotel and motel automatic smoke

detection system, 1103.7.5.2 Group R-1 boarding and rooming houses manual fire alarm system, 1103.7.5.2.1 Group R-1 boarding and rooming houses automatic smoke detection system, 1103.7.6 Group R-2 are deleted.

(f) IFC, Chapter 11, Section 1103.5.4, High-rise buildings, is amended as follows: On line two, delete "not been adopted" and replace with "been adopted."

[~~(f)~~] (g) IFC, Chapter 11, Section 1103.9, Carbon monoxide alarms, is deleted and rewritten as follows:

"1103.9 Carbon Monoxide Detection.

Existing Groups E, I-1, I-2, I-4, and R occupancies shall be equipped with carbon monoxide detection in accordance with Section 915."

(2) For IFC, Chapter 12, Energy Systems:

(a) Delete the section title[~~"1204.2.1~~] "1205.2.1 Solar photovoltaic systems for Group R-3 buildings" and replace with the section title[~~"1204.2.1~~] "1205.2.1 Solar photovoltaic systems for Group R-3 and buildings constructed in accordance with IRC."

(b) Section [~~1204.2.1~~] 1205.2.1, Solar photovoltaic systems for Group R-3 buildings, Exception 1 is deleted, Exception 2 is renumbered to 1 and a second exception is added as follows: "2. Reduction in pathways and clear access width are permitted where a rational approach has been used and the reduction is warranted and approved by the Fire Code Official."

(c) Section [~~1204.3.1~~] 1205.3.1 Perimeter pathways, and [~~1204.3.2~~] 1205.3.2 Interior pathways, are deleted and rewritten as follows: "1204.3.1 Perimeter pathways. There shall be a minimum three foot wide (914 mm) clear perimeter around the edges of the roof. The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:

1. The pathway shall be over areas capable of supporting the live load of fire fighters accessing the roof.

2. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting the live load of fire fighters accessing the roof.

3. Smoke and heat vents required by Section 910.2.1 or 910.2.2 shall be provided with a clear pathway width of not less than three feet (914 mm) to the vents.

4. Access to roof area required by Section 504.3 or 1011.12 shall be provided with a clear pathway width of not less than three feet (914 mm) around access opening and at least three feet (914 mm) clear pathway to parapet or roof edge."

(d) Section [~~1204.3.3~~] 1205.3.3, Smoke ventilation, is deleted and rewritten as follows:[~~"1204.3.2~~] "1205.3.2, Smoke ventilation. The solar installation shall be designed to meet the following requirements:

1. Arrays shall be no greater than 150 feet (45720 mm) by 150 feet (45720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.

2. Smoke ventilation options between array sections shall be one of the following:

2.1 A pathway six feet (1829 mm) or greater in width.

2.2 A pathway three feet (914 mm) or greater in width and bordering roof skylights or smoke and heat vents when required by Section 910.2.1 or Section 910.2.2.

2.3 Smoke and heat vents designed for remote operation using devices that can be connected to the vent by mechanical, electrical, or any other suitable means, protected as necessary to remain operable for the design period. Controls for remote operation shall be located in a control panel, clearly identified and located in an approved location.[~~"~~]

3. Where gravity-operated dropout smoke and heat vents occur, a pathway three feet (914 mm) or greater in width on not fewer than one side."

Section 11. Section 15A-5-205.6 is amended to read:

15A-5-205.6. Amendments and additions to Chapter 33 of IFC.

(1) IFC, Chapter 33, Section [~~3310.1~~] 3311.1, Required access, is deleted and rewritten as follows:

[~~"3310.1~~] "3311.1 Required access.

[~~3310.1.1~~] 3311.1.1 Approved vehicle access. Approved vehicle access for fire fighting shall be provided as described in Chapter 5 of this code to all construction or demolition sites.

[~~3310.1.2~~] 3311.1.2 Fire department connections. Vehicle access shall be provided to within 100 feet of temporary or permanent fire department connections.

[~~3310.1.3~~] 3311.1.3 Type of access. Vehicle access shall be provided by either temporary or permanent roads.

[~~3310.1.3.1~~] 3311.3.1 Temporary road requirements. Temporary roads shall be constructed with a minimum of site specific required structural fill for permanent roads and road base, or other approved material complying with local standards.

[~~3310.1.3.2~~] 3311.3.2 Reports. Compaction reports may be required. An engineer's review and certification of a temporary fire department access road is not required.

[~~3310.1.3.3~~] 3311.3.3 Local jurisdictions. If an improvement completion assurance has been posted in accordance with Section 10-9a-604.5, a

local jurisdiction may not require permanent roads, or asphalt or concrete on temporary roads, before final approval of the structure served by the road.

[~~3310.1.4~~] 3311.1.4 Maintenance. Temporary roads shall be maintained until permanent fire apparatus access roads are available.

[~~3310.1.5~~] 3311.1.5 Time line. Temporary or permanent fire department access roads shall be functional before construction above the foundation begins and before an appreciable amount of combustible construction materials are on site."

(2) IFC, Chapter 33, Section [~~3310.2~~] 3311.2, Key boxes, is deleted.

Section 12. Section 15A-5-206 is amended to read:

15A-5-206. Amendments and additions to IFC related to hazardous materials, explosives, fireworks, and flammable and combustible liquids.

(1) For IFC, Hazardous Materials – General Provisions, Chapter 50, Table 5003.1.1(1), Maximum Allowable Quantity per Control Area of Hazardous Materials Posing a Physical Hazard, apply footnote d to Explosives, Storage, Solid Pounds.

(2) [~~For~~] IFC, Explosives and Fireworks, IFC, Chapter 56, Section 5601.1.3, Fireworks, Exception 4 is amended to add the following sentence at the end of the exception: "The use of fireworks for display and retail sales is allowed as set forth in Utah Code, Title 53, Chapter 7, Utah Fire Prevention and Safety Act, Sections 53-7-220 through 53-7-225; Utah Code, Title 11, Chapter 3, County and Municipal Fireworks Act; Utah Administrative Code, R710-2; and the State Fire Code."

(3) For IFC, Chapter 57, Flammable and Combustible Liquids:

(a) IFC, Chapter 57, Section 5701.4, Permits, is amended to add the following at the end of the section: "The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality, and a copy shall be given to the AHJ."

(b) IFC, Chapter 57, Section 5706.1, General, is amended to add the following special operation: "8. Sites approved by the AHJ".

(c) IFC, Chapter 57, Section 5706.2, Storage and dispensing of flammable and combustible liquids on farms and construction sites, is amended to add the following: On line five, after the words "borrow pits", add the words "and sites approved by the AHJ".

(4) For IFC, Chapter 61, Liquefied Petroleum Gas:

(a) IFC, Chapter 61, Section 6101.2, Permits, is amended as follows: On line two, after the word[~~"105.7"~~] "105.6", add "and the adopted LP Gas rules".

(b) IFC, Chapter 61, Section 6103.1, General, is deleted and rewritten as follows: "General. LP Gas equipment shall be installed in accordance with NFPA 54, NFPA 58, the adopted LP Gas rules, and the International Fuel Gas Code, except as otherwise provided in this chapter."

(c) IFC, Chapter 61, Section 6104.3, Location of LP-Gas Containers, Table 6104.3, Location of LP-Gas Containers, amends column heading "Minimum Separation Between LP-Gas Containers and Buildings, Public Ways or Lot Lines of Adjoining Property" and footnote "g" by deleting and replacing with the following: "Minimum separation between LP-Gas containers and buildings, or lot lines of adjoining property that can be built on."

[~~(c)~~] (d) Chapter 61, Section 6109.12, Location of storage outside of buildings, is amended as follows: In Table 6109.12, Doorway or opening to a building with two or more means of egress, with regard to quantities 720 or less and 721 -- 2,500, the currently stated "5" is deleted and replaced with "10".

[~~(d)~~] (e) IFC, Chapter 61, Section 6109.15.1, Automated cylinder exchange stations, is amended as follows: Item # 4 is deleted[.] and replaced with the following: "Item #4 Electrical equipment inside of a cabinet storing cylinders, including but not limited to electronics associated with vending operations, shall comply with requirements for Class I, Division 2, equipment in accordance with NFPA 70."

[~~(e)~~] (f) IFC, Chapter 61, Section 6110.1, [~~Temporarily out of service~~] Removed from service, is amended as follows: On line two, after the word "discontinued", add the words "for more than one year or longer as allowed by the AHJ,".

(g) IFC, Chapter 61, Section 6110.2, Removal from site is deleted.

Section 13. Section 15A-5-302 is amended to read:

15A-5-302. Amendments and additions to NFPA related to National Fire Alarm and Signaling Code.

For NFPA 72, National Fire Alarm and Signaling Code, [~~2016~~] 2019 edition:

[~~(1) NFPA 72, Chapter 2, Section 2.2, NFPA Publications, is amended to add the following NFPA standard: "NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection, 2016 edition."~~]

[~~(2)~~] (1) NFPA 72, Chapter 10, Section 10.5.1, System Designer, Subsection 10.5.1.3(2), is deleted and rewritten as follows: "Certification by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems."

[~~(3) NFPA 72, Chapter 10, Section 10.5.2, System Installer, Subsection 10.5.2.3(2), is deleted and rewritten as follows: "Certification by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems."~~]

[~~(4)~~] (2) NFPA 72, Chapter 10, Section 10.5.3, Inspection, Testing, and [~~Maintenance~~] Service Personnel, Subsection 10.5.3.1, Inspection Personnel, is deleted and rewritten as follows:

"Service personnel shall be qualified and experienced in the inspection, testing, and maintenance of fire alarm systems. Qualified personnel shall meet the certification requirements stated in rule made by the [~~State~~] Utah Fire Prevention Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act."

[~~(5)~~] (3) NFPA 72, Chapter 10, Section 10.12, Fire Alarm Signal Deactivation, Subsection [~~10.13.2~~] 10.12.2, is amended to add the following sentence: "When approved by the AHJ, the audible notification appliances may be deactivated during the investigation mode to prevent unauthorized reentry into the building."

[~~(6) In NFPA 72, Chapter 23, Section 23.8.5.9, Signal Initiation -- Fire Pump, Subsection 23.8.5.9.3 is added as follows: "Automatic fire pumps shall be supervised in accordance with NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection, and the AHJ."~~]

[~~(7) NFPA 72, Chapter 26, Section 26.3.4, Indication of Central Station Service, Subsection 26.3.4.7 is amended as follows: On line two, after the word "notified", insert the words "without delay" and delete the words, "within 30 calendar days".~~]

Section 14. Section 15A-5-304 is amended to read:

15A-5-304. Amendments and additions to NFPA related to Automatic Fire Sprinklers Systems.

(1) NFPA 13, Installation of Sprinkler Systems, [~~2016~~] 2019 edition.

(a) NFPA 13, Chapter [~~8, Section 15.22, System Subdivision~~] 16, Section 16.9.11, Floor Control Valve Assemblies, Subsection 16.9.11.5, is deleted and rewritten as follows:

[~~"8.15.22~~] "16.9.11.5, System Subdivision – Floor/Zone Control Valves.

Individual floor/zone control valves shall be used at the riser at each floor for connections to piping serving floor areas in excess of 5,000 square feet."

(b) NFPA 13, Chapter 8, Section [~~8.17.1.1~~] 16.11.2.1, Local Waterflow Alarms, is amended by adding a new subsection as follows:

[~~"8.17.1.1.1~~] "16.11.2.1.1 Single Tenant Occupancies.

[~~An~~] When a fire alarm system is not required by IFC, Section 907.2, an approved audible/visual waterflow alarm (horn/strobe) shall be provided in the interior of the building, in a normally occupied location, to alert the occupants of the fire sprinkler system activation."

(c) NFPA 13, Chapter 8, Section [~~8.17.1.1~~] 16.11.2.1, Local Waterflow Alarms, is amended by adding a new subsection as follows:

[~~"8.17.1.1.2~~] "16.11.2.1.2 Multi-Tenant Occupancies.

[~~An~~] When a fire alarm system is not required by IFC, Section 907.2, an approved audible/visual waterflow alarm (horn/strobe) shall be provided in the interior of each tenant space, in a normally occupied location, to alert the occupants of the fire sprinkler system activation."

(d) NFPA 13, Chapter 8, Section [~~8.17.1.1~~] 16.11.2.1, Local Waterflow Alarms, is amended by adding a new subsection as follows:

[~~"8.17.1.1.3~~] "16.11.2.1.3 Exterior Waterflow Alarm.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided on the exterior of the building in a location approved by the AHJ."

(2) NFPA 13D, Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, [~~2013~~] 2019 edition.

(a) NFPA 13D, Chapter 7, Section 7.6, Alarms, is amended by adding a new subsection as follows:

"7.6.1 Exterior Waterflow Alarm.

When an alarm initiating device is included, an approved audible/visual waterflow alarm (horn/strobe) shall be provided on the exterior of the building in a location approved by the AHJ."

(b) NFPA 13D, Chapter 7, Section 7.6, Alarms, is amended by adding a new subsection as follows:

"7.6.2 Interior Alarm.

When an alarm initiating device is included, an interior fire alarm notification appliance is also required to sound throughout the dwelling. An approved audible sprinkler flow alarm to alert the occupants of the dwelling in a normally occupied location when the flow switch is activated must be provided."

(3) NFPA, Standard 13R, Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, [~~2013~~] 2019 edition.

(a) NFPA 13R, Chapter 6, Section 6.8, Valves, is amended by adding a new subsection as follows:

[~~"6.8.9~~] "6.8.11 Floor/Zone Control Valves.

Individual floor/zone control valves shall be used at the riser at each floor for connections to piping serving floor areas in excess of 5,000 square feet or arranged in a manner acceptable to the AHJ."

(b) NFPA 13R, Chapter 6, Section 16, Alarms, is amended by adding a new subsection as follows:

"6.16.1.1 Local Waterflow Alarms.

[~~An approved audible/visual waterflow alarm (horn/strobe)~~] When a fire alarm system is not required by IFC, Section 907.2, an approved notification appliance indicating waterflow shall be

provided in the interior of each residential unit/tenant space, in a normally occupied location, to alert the occupants of the fire sprinkler system activation."

(c) NFPA 13R, Chapter 6, Section 16, Alarms, is amended by adding a new subsection as follows:

"6.16.1.2 Exterior Waterflow Alarm.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided on the exterior of the building in a location approved by the AHJ."

(4) NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, 2020 edition.

NFPA 25, Section 5.3.4.4.1, the first line is deleted and replaced with the following:

"For system antifreeze installed prior to July 1, 2023, listed antifreeze shall not be required, where all of the following conditions are met:"

(5) NFPA 72, National Fire Alarm and Signaling Code, 2019 edition.

NFPA 72, a new Section 18.1.1.1 is added as follows:

"The fire code official may modify the requirements of this chapter in areas of educational occupancies used exclusively for special education students."

Section 15. Repealer.

This bill repeals:

Section 15A-2a-101, Title.

Section 15A-2a-102, Definitions.

Section 15A-2a-201, Amendments to Chapter 4 of IBC.

Section 15A-2a-202, Amendments to Chapter 5 of IBC.

Section 15A-2a-203, Amendments to Chapter 6 of IBC.

Section 15A-2a-204, Amendments to Chapter 7 of IBC.

Section 15A-2a-301, Amendments to Chapter 7 of IFC.

Section 15A-2a-302, Amendments to Chapters 9 and 33 of IFC.

Section 15A-2a-401, Reference Standards.

CHAPTER 96
H. B. 416
Passed March 2, 2023
Approved March 13, 2023
Effective May 3, 2023

TRANSIENT ROOM TAX AMENDMENTS

Chief Sponsor: Phil Lyman
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends repeal dates.

Highlighted Provisions:

This bill:

- expedites the repeal dates of certain subsections under Sections 17-31-2 and 17-31-5.5.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-217, as last amended by Laws of Utah 2021, Chapters 91, 376

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

Section 1. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates: Title 17.

(1) Title 17, Chapter 21a, Part 3, Administration and Standards, which creates the Utah Electronic Recording Commission, is repealed July 1, 2022.

(2) In relation to Section 17-31-2, on July 1, [~~2026~~] 2023:

(a) Subsection 17-31-2(1)(g), which defines "economic diversification activity," is repealed;

(b) Subsection 17-31-2(2)(a)(iii), relating to establishing and promoting an economic diversification activity, is repealed;

(c) Subsection 17-31-2(7)(b)(i) is amended to read:

"(i) for a purpose described in Subsection (2)(a) and subject to the limitation described in Subsection (7)(d), the greater of:"; and

(d) Subsection 17-31-2(7)(d)(ii), relating to a limitation on the expenditure of revenue for an economic diversification activity, is repealed.

(3) Subsection 17-31-5.5(2)(a)(i)(E), relating to economic diversification activity, is repealed July 1, [~~2026~~] 2023.

CHAPTER 97
S. B. 115
Passed February 28, 2023
Approved March 13, 2023
Effective March 13, 2023

NOTICE OF TAX SALE REQUIREMENTS

Chief Sponsor: Keith Grover
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill modifies the notice requirements for a tax sale.

Highlighted Provisions:

This bill:

- makes changes to how a county auditor in a county of the first class provides notice of a tax sale;
- allows a county auditor in a county of the first class to provide notice of a tax sale by publishing notice on the county auditor's or county's website; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-1351, as last amended by Laws of Utah 2022, Chapter 15

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

Section 1. Section 59-2-1351 is amended to read:

59-2-1351. Sales by county -- Notice of tax sale -- Entries on record.

(1) (a) Upon receiving the tax sale listing from the county treasurer, the county auditor shall select a date for the tax sale for all real property:

(i) on which a tax or tax notice charge delinquency exists;

(ii) that was not previously redeemed; and

(iii) upon which the period of redemption is expiring in the nearest tax sale.

(b) The county auditor shall conduct the tax sale in May or June of the current year.

(c) The tax sale may occur:

(i) at the front door of the county courthouse in the county where the real property is located; or

(ii) through an electronic process if:

(A) the tax sale occurs in the same format as a tax sale would occur at the front door of the county courthouse except that participation is through an electronic means;

(B) members of the public are able to observe and participate, including making bids and payment arrangements, in the tax sale; and

(C) the county auditor includes information about how the public may access the tax sale through the electronic process with the description of the place of the tax sale in the notice provided in accordance with Subsections (2) and (3).

[~~(2) The county auditor shall provide notice of the tax sale as follows:~~]

[~~(a) send by certified and first class mail, or by first class mail and another shipping service that includes tracking and delivery confirmation, to the last-known recorded owner, the occupant of any improved property, and all other interests of record, as of the preceding March 15, at the last-known addresses; and~~]

[~~(b) publish:~~]

[~~(i) four times in a newspaper published and having general circulation in the county, once in each of four successive weeks immediately preceding the date of sale; and~~]

[~~(ii) in accordance with Section 45-1-101 for four weeks immediately preceding the date of sale; and~~]

[~~(c) if no newspaper is published in the county, post in five public places in the county, as determined by the auditor, at least 25 but no more than 30 days before the date of sale.~~]

[~~(3)~~] (2) The county auditor shall provide notice of the tax sale by sending notice by certified and first class mail, or by first class mail and another shipping service that includes tracking and delivery confirmation, to the last known address of each of the following persons:

(a) the last known recorded owner;

(b) the occupant of any improved property; and

(c) other interests of record as of the preceding March 15.

(3) In addition to the mailing requirements described in Subsection (2):

(a) a county auditor in a county of the first class shall provide notice by:

(i) publishing notice on the county auditor's website, or if the county auditor does not have a separate website from the county, on the county's website, at least four weeks before the date of sale; and

(ii) advertising the date of the tax sale and the web address for the notice described in Subsection (3)(a)(i) in a newspaper published and having general circulation in the county at least four weeks before the date of the sale; or

(b) a county auditor in a county of the second, third, fourth, fifth, or sixth class shall provide notice by:

(i) (A) publishing notice four times in a newspaper published and having general circulation in the county, once in each of the four successive weeks immediately preceding the date of sale; or

(B) if no newspaper is published in the county, posting in five public places in the county, as determined by the county auditor, at least 25 but no more than 30 days before the date of sale; and

(ii) publishing notice in accordance with Section 45-1-101 for four weeks immediately preceding the date of sale.

(4) The notice shall be in substantially the following form:

NOTICE OF TAX SALE

Notice is hereby given that on _____(month\day\year), at __ o'clock __. m., at [the physical or electronic address of the tax sale], I will offer for sale at public auction and sell to the highest bidder for cash, under the provisions of Section 59-2-1351.1, the following described real property located in the county and now delinquent and subject to tax sale. A bid for less than the total amount of taxes, tax notice charges, interest, penalty, and administrative costs which are a charge upon the real estate will not be accepted.

(Here describe the real estate)

IN WITNESS WHEREOF I have hereunto set my hand and official seal on _____(month\day\year).

_____

County Auditor

_____

County

[~~(4)~~] (5) (a) The notice sent in accordance with Subsection [~~(2)(a)~~] (2) shall include:

(i) the name and [~~last-known~~] last known address of the [~~last-known~~] last known recorded owner of the property to be sold;

(ii) the parcel, serial, or account number of the delinquent property; and

(iii) the legal description of the delinquent property.

(b) The notice published [~~in a newspaper in accordance with Subsection (2)(b) shall include:~~] in accordance with Subsection (3)(a) or (b) shall include:

(i) the name and [~~last-known~~] last known address of the [~~last-known~~] last known recorded owner of each parcel of property to be sold; and

(ii) the street address or the parcel, serial, or account number of the delinquent parcels.

Section 2. Effective date.

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

CHAPTER 98
H. B. 16
Passed March 3, 2023
Approved March 14, 2023
Effective July 1, 2023

BLOCK GRANT FUNDING FOR PREVENTION PROGRAMS IN PUBLIC EDUCATION

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill establishes block grant funding for the implementation of comprehensive prevention programs in local education agencies.

Highlighted Provisions:

This bill:

- defines terms;
- establishes block grant funding for the implementation of comprehensive prevention programs in local education agencies (LEAs);
- requires the State Board of Education (State Board) to:
  - make rules to establish and administer the grant application process; and
  - provide LEAs with certain resources and support;
- provides for the allowable uses of the block grant funding;
- allows LEAs to:
  - choose to implement a comprehensive prevention plan with block grant funding or implement individual prevention plans with existing funding restrictions; and
  - submit one comprehensive report instead of individually required reports if the LEA implements a comprehensive prevention plan;
- amends existing prevention programs to accommodate the opportunity for block grant funding;
- authorizes the use of certain excess funds in the Underage Drinking and Substance Abuse Prevention Program Restricted Account for distribution through block grant funding; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53E-3-522, as enacted by Laws of Utah 2020, Chapter 230
53F-2-410, as repealed and reenacted by Laws of Utah 2021, Chapter 319
53F-2-415, as last amended by Laws of Utah 2022, Chapter 409
53F-9-304, as last amended by Laws of Utah 2022, Chapters 447, 456
53G-9-702, as last amended by Laws of Utah 2021, Chapter 105
53G-10-407, as enacted by Laws of Utah 2020, Chapter 161
59-14-807, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

ENACTS:

53F-2-525, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53F-2-410, as repealed and reenacted by Laws of Utah 2021, Chapter 319
53F-2-525, Utah Code Annotated 1953

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

Section 1. Section 53E-3-522 is amended to read:

53E-3-522. Substance abuse prevention in public school programs.

[~~The~~] Except as provided in Section 53F-2-525, the state board shall provide for:

(1) substance abuse prevention and education;

(2) substance abuse prevention training for teachers and administrators; and

(3) district and school programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

Section 2. Section 53F-2-410 is amended to read:

53F-2-410. Gang prevention and intervention program.

Subject to legislative appropriations and except as provided in Section 53F-2-525, the state board shall distribute money for a gang prevention and intervention program:

(1) that is designed to help students at risk for gang involvement stay in school; and

(2) to school districts and charter schools through a request for proposals process.

Section 3. Section 53F-2-415 is amended to read:

53F-2-415. Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking.

(1) As used in this section:

(a) "Qualifying personnel" means a school counselor or other counselor, school psychologist or other psychologist, school social worker or other social worker, or school nurse who:

(i) is licensed; and

(ii) collaborates with educators and a student's parent on:

(A) early identification and intervention of the student's academic and mental health needs; and

(B) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

(b) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide in a school targeted school-based mental health support, including clinical services and trauma-informed care, through:

(i) employing qualifying personnel; or

(ii) entering into contracts for services provided by qualifying personnel, including telehealth services.

(b) (i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school culture, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3):

(a) based on the formula described in Subsection (2)(b); and

(b) if the state board approves the LEA's plan before April 1, 2020, in an amount of money that the LEA equally matches using local money, unrestricted state money, or money distributed to the LEA under Section 53G-7-1303.

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to:

(a) employ qualifying personnel; or

(b) enter into contracts for services provided by qualified personnel, including telehealth services.

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

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position, the LEA's reason for discontinuing the position; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to:

(a) 2% of an appropriation under this section for costs related to the administration of the provisions of this section; and

(b) $1,500,000 in nonlapsing balances from fiscal year 2022 for the purposes described in this section to provide scholarships for up to four years to certain LEA employees, as defined by the state board, for education and training to become a school social worker, a school psychologist, or other school-based mental health worker.

(10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:

(a) the SafeUT Crisis Line described in Section 53B-17-1202; or

(b) (i) youth suicide prevention programs described in Section 53G-9-702[.]; or

(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.

Section 4. Section 53F-2-525 is enacted to read:

53F-2-525. Block grant funding for prevention programs in public education.

(1) As used in this section, "comprehensive prevention plan" means an LEA's plan:

(a) to implement evidence-based early-intervention and prevention practices tailored to achieve outcomes and mitigate risk factors in a manner consistent with the following programs:

(i) substance abuse prevention programs described in Section 53E-3-522;

(ii) gang prevention and intervention programs described in Section 53F-2-410;

(iii) youth suicide prevention programs described in Section 53G-9-702; and

(iv) positive behavior plans described in Section 53G-10-407;

(b) that includes:

(i) information on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment; and

(ii) resiliency building skills; and

(c) that an LEA designs in collaboration with the state board, as described in Subsection (4)(a)(i), and with input from parents, students, educators, and student support staff within the LEA.

(2) Subject to legislative appropriations, the state board shall distribute block grant funding to LEAs for use in accordance with Subsection (5)(b)(iii) to implement a comprehensive prevention plan that the state board approves in accordance with Subsection (3).

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

(a) establish an application process that allows an LEA to:

(i) articulate the approach and rationale underlying the LEA's comprehensive prevention plan;

(ii) demonstrate the LEA's specific prevention needs;

(iii) provide data that supports the substance and cost of the LEA's comprehensive prevention plan;

(iv) outline the ways in which the LEA will use the block grant funding in a united prevention effort to achieve the outcomes that the individual programs described in Subsection (1) target; and

(v) identify the specific outcomes described in Subsection (3)(a)(iv) by which the LEA will measure the success of the comprehensive prevention plan; and

(b) establish additional grant application conditions.

(4) The state board shall:

(a) (i) provide guidance to each LEA that is preparing a prevention block grant funding application on the design and implementation of the LEA's comprehensive prevention program;

(ii) review each prevention block grant funding application for compliance and eligibility; and

(iii) provide to each LEA that receives block grant funding:

(A) technical assistance that is tailored to the LEA's specified prevention needs; and

(B) targeted professional learning opportunities in evidence-based prevention practices;

(b) evaluate and prioritize block grant funding applications under this section and individual funding needs for LEAs that choose to seek out funding for individual prevention programs, as described in Subsection (5)(a), as the state board deems necessary to ensure the effectiveness of statewide prevention efforts.

(5) (a) An LEA may seek block grant funding under this section or segregated funding for the individual programs described in Subsection (1), based on the LEA governing board's determination of specific prevention needs within the LEA.

(b) Notwithstanding any other provision of law or state board rule, an LEA that receives block grant funding under this section:

(i) shall submit to the state board a report that:

(A) accounts for the LEA's use of the block grant funding; and

(B) provides data points, including the measurement of the specified outcomes described in Subsection (3)(a)(v), that demonstrate the effectiveness of the LEA's comprehensive prevention plan;

(ii) is not required to submit to the state board an individual report for each program described in Subsection (1); and

(iii) may use block grant funding to:

(A) implement the state board-approved comprehensive prevention plan;

(B) carry out the prevention-focused parent seminars described in Subsection 53G-9-703(2); and

(C) other evidence-based prevention practices that the state board authorizes.

Section 5. Section 53F-9-304 is amended to read:

53F-9-304. Underage Drinking and Substance Abuse Prevention Program Restricted Account.

(1) As used in this section, "account" means the Underage Drinking and Substance Abuse Prevention Program Restricted Account created in this section.

(2) There is created within the Income Tax Fund a restricted account known as the "Underage Drinking and Substance Abuse Prevention Program Restricted Account."

(3) (a) Before the Department of Alcoholic Beverage Services deposits any portion of the markup collected under Section 32B-2-304 into the Liquor Control Fund in accordance with Section 32B-2-301, the Department of Alcoholic Beverage Services shall deposit into the account:

(i) for the fiscal year that begins July 1, 2017, $1,750,000; or

(ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the amount that

the Department of Alcoholic Beverage Services deposited into the account during the preceding fiscal year increased or decreased by a percentage equal to the percentage difference between the Consumer Price Index for the second preceding calendar year and the Consumer Price Index for the preceding calendar year.

(b) For purposes of this Subsection (3), the Department of Alcoholic Beverage Services shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

(4) The account shall be funded:

(a) in accordance with Subsection (3);

(b) by appropriations made to the account by the Legislature; and

(c) by interest earned on money in the account.

(5) (a) [~~The~~] Except as provided in Subsection (5)(b), the state board shall use money in the account for the Underage Drinking and Substance Abuse Prevention Program described in Section 53G-10-406.

(b) If excess funds remain in the restricted account at the end of a given fiscal year after the use described in Subsection (5)(a), the state board may distribute the excess funds in the subsequent fiscal year through the block grant funding for public education prevention programs described in Section 53F-2-525.

Section 6. Section 53G-9-702 is amended to read:

53G-9-702. Youth suicide prevention programs -- State board to develop model programs.

(1) As used in the section:

(a) "Elementary grades" means:

(i) kindergarten through grade 5; and

(ii) if the associated middle or junior high school does not include grade 6, grade 6.

(b) "Intervention" means an effort to prevent a student from attempting suicide.

(c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Public education suicide prevention coordinator" means an individual designated by the state board as described in Subsection (4).

(f) "Secondary grades" means:

(i) grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, grade 6.

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) In collaboration with the public education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program, which, in collaboration with the training, programs, and initiatives described in Section 53G-9-607, shall include programs and training to address:

(a) for elementary grades and secondary grades:

(i) life-affirming education, including on the concepts of resiliency, healthy habits, self-care, problem solving, and conflict resolution;

(ii) methods of strengthening the family; and

(iii) methods of strengthening a youth's relationships in the school and community; and

(b) for secondary grades:

(i) prevention of youth suicide;

(ii) decreasing the risk of suicide among youth who are:

(A) not accepted by family for any reason, including lesbian, gay, bisexual, transgender, or questioning youth; or

(B) suffer from bullying;

(iii) youth suicide intervention; and

(iv) postvention for family, students, and faculty.

(3) Each school district and charter school shall ensure that the youth suicide prevention program described in Subsection (2):

(a) considers appropriate coordination with the following prevention programs:

(i) the prevention of bullying and cyber-bullying, as those terms are defined in Section 53G-9-601; and

(ii) the prevention of underage drinking of alcohol and substance abuse under Section 53G-10-406; and

(b) includes provisions to ensure that the school district or charter school promptly communicates with the parent or guardian of a student in accordance with Section 53G-9-604.

(4) The state board shall:

(a) designate a public education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsections (2)(a) and (b).

(5) The public education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools; and

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator.

(6) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

(7) (a) Subject to legislative appropriation and except as provided in Section 53F-2-525, the state board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The state board shall ensure that an LEA's allocation of funds from the board's distribution of money under Subsection (7)(a) provides an amount equal to at least $1,000 per school.

(c) (i) A school shall use money allocated to the school under Subsection (7)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

(8) An LEA may not charge indirect costs to the program.

Section 7. Section 53G-10-407 is amended to read:

53G-10-407. Positive behaviors plan -- Positive behaviors specialist stipend -- Reports.

(1) As used in this section:

(a) "Positive behaviors plan" means a plan to address the causes of student use of tobacco, alcohol, electronic cigarette products, and other controlled substances through promoting positive behaviors.

(b) "Positive behaviors specialist" means an individual designated to administer a positive behaviors plan.

(2) (a) A school principal shall:

(i) create a positive behaviors plan based on the input of students, parents, and staff; and

(ii) submit the positive behaviors plan to the LEA governing board for approval.

(b) A positive behaviors plan shall address issues including peer pressure, mental health, and creating meaningful relationships.

(c) A positive behaviors plan may include programs, clubs, service opportunities, and pro-social activities.

(3) Each LEA shall designate one or more employees as a positive behaviors specialist for each school to administer the positive behaviors plan.

(4) (a) [~~The~~] Except as provided in Section 53F-2-525, the state board shall distribute annually to each school:

(i) $3,000 as a stipend for the positive behaviors specialists; and

(ii) $1,000 to administer the positive behaviors plan.

(b) Notwithstanding Subsection (4)(a), if funding is insufficient to cover the costs associated with stipends, the state board may reduce the amount of the stipend.

(5) (a) A positive behaviors specialist shall annually submit a written report to the LEA governing board detailing how the positive behaviors plan was implemented in the prior year.

(b) [~~An~~] Except as provided in Subsection 53F-2-525(5), an LEA governing board shall submit an annual report to the state board confirming that each school under the governing board's jurisdiction has an approved positive behaviors plan.

Section 8. Section 59-14-807 is amended to read:

59-14-807. Electronic Cigarette Substance and Nicotine Product Tax Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account consists of:

(a) revenues collected from the tax imposed by Section 59-14-804; and

(b) amounts appropriated by the Legislature.

(3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account:

(a) $2,000,000 which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116;

(b) $2,000,000 to the Department of Health for statewide cessation programs and prevention education;

(c) $1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine

products, and other illegal controlled substances to minors;

(d) $3,000,000 which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116;

(e) $5,084,200 to the State Board of Education for school-based prevention programs; and

(f) $2,000,000 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television.

(4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26-57-103;

(ii) the labeling requirement described in Section 26-57-104; and

(iii) the penalty provisions described in Section 26-62-305.

(b) The Department of Health shall use the money received in accordance with Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26-7-10.

(c) The local health departments shall use the money received in accordance with Subsection (3)(d) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection (3)(e) to distribute to local education agencies to pay for:

(i) (A) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

[~~(ii)~~] (B) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

[~~(iii)~~] (C) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b)[~~.~~]; or

(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.

(5) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account after the distribution described in Subsection (3) may only be used for programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

Section 9. Effective date.

This bill takes effect on July 1, 2023.

Section 10. Coordinating H.B. 16 with H.B. 304 -- Superseding technical and substantive amendments.

If this H.B. 16 and H.B. 304, Juvenile Justice Revisions, both pass and become law, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) the amendments to Section 53F-2-410 in H.B. 304 supersede the amendments to Section 53F-2-410 in this bill; and

(2) Subsection 53F-2-525(1)(a) shall read:

"(a) to implement evidence-based early-intervention and prevention practices tailored to achieve outcomes and mitigate risk factors in a manner consistent with the following programs:

(i) substance abuse prevention programs described in Section 53E-3-522;

(ii) youth suicide prevention programs described in Section 53G-9-702; and

(iii) positive behavior plans described in Section 53G-10-407;".

CHAPTER 99
H. B. 19
Passed February 24, 2023
Approved March 14, 2023
Effective May 3, 2023

RAPE CRISIS CENTER MODIFICATIONS

Chief Sponsor: Angela Romero
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill amends definitions relating to rape crisis centers and sexual assault counselors.

Highlighted Provisions:

This bill:

- amends definitions relating to rape crisis centers and sexual assault counselors; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-906, as renumbered and amended by Laws of Utah 2022, Chapter 430
77-38-203, as renumbered and amended by Laws of Utah 2008, Chapter 3
77-38-204, as last amended by Laws of Utah 2022, Chapter 335

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

Section 1. Section 53-10-906 is amended to read:

53-10-906. Victim notification of rights -- Notification of law enforcement.

(1) Collecting facility personnel who conduct sexual assault examinations shall inform each victim of a sexual assault of:

(a) available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric conditions;

(b) available crisis intervention or other mental health services provided;

(c) the option to receive prophylactic medication to prevent sexually transmitted infections and pregnancy;

(d) the right to determine:

(i) whether to provide a personal statement about the sexual assault to law enforcement; and

(ii) if law enforcement should have access to any paperwork from the forensic examination; and

(e) the victim's rights as provided in Section 77-37-3.

(2) The collecting facility shall notify law enforcement as soon as practicable if the victim of a sexual assault decides to interview and discuss the assault with law enforcement.

(3) If a victim of a sexual assault declines to provide a personal statement about the sexual assault to law enforcement, the collecting facility shall provide a written notice to the victim that contains the following information:

(a) where the sexual assault kit will be stored;

(b) notice that the victim may choose to contact law enforcement any time after declining to provide a personal statement;

(c) the name, phone number, and email address of the law enforcement agency having jurisdiction; and

(d) the name and phone number of a local rape crisis and services center.

Section 2. Section 77-38-203 is amended to read:

77-38-203. Definitions.

As used in this part:

(1) "Confidential communication" means information given to a sexual assault counselor by a victim and includes reports or working papers made in the course of the counseling relationship.

(2) (a) "Rape crisis and services center" means [~~any office, institution, or center assisting~~] a nonprofit entity that assists victims of sexual assault and [~~their families which offers~~] victims' families by offering sexual assault crisis intervention[~~, medical, and legal services,~~] and counseling through a sexual assault counselor.

(b) "Rape crisis and services center" does not include a qualified institutional victim services provider as defined in Section 53B-28-201.

(3) "Sexual assault counselor" means [~~a person~~] an individual who:

(a) is employed by or volunteers at a rape crisis and services center [~~who~~];

(b) has a minimum of 40 hours of training in counseling and assisting victims of sexual assault; and

(c) [~~who~~] is under the supervision of the director or designee of a rape crisis and services center.

(4) "Victim" means [~~a person~~] an individual who has experienced a sexual assault of whatever nature including incest and rape and requests counseling or assistance regarding the mental, physical, and emotional consequences of the sexual assault.

Section 3. Section 77-38-204 is amended to read:

77-38-204. Disclosure of confidential communications.

[~~Notwithstanding Title 53B, Chapter 28, Part 2, Confidential Communications for Institutional Advocacy Services Act, the~~] The confidential communication between a victim and a sexual

assault counselor is available to a third person only when:

(1) the victim is a minor and the counselor believes it is in the best interest of the victim to disclose the confidential communication to the victim's parents;

(2) the victim is a minor and the minor's parents or guardian have consented to disclosure of the confidential communication to a third party based upon representations made by the counselor that it is in the best interest of the minor victim to make such disclosure;

(3) the victim is not a minor, has given consent, and the counselor believes the disclosure is necessary to accomplish the desired result of counseling; or

(4) the counselor has an obligation under Title 80, Chapter 2, Child Welfare Services, or Title 80, Chapter 2a, Removal and Protective Custody of a Child, to report information transmitted in the confidential communication.

CHAPTER 100
H. B. 21
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

OPEN AND PUBLIC MEETINGS ACT AMENDMENTS

Chief Sponsor: Joel K. Briscoe
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act relating to public comment requirements and electronic meetings for certain public bodies.

Highlighted Provisions:

This bill:

- requires a local school board holding an open meeting to allow a reasonable opportunity for the public to provide verbal comments at the meeting, subject to certain exceptions;
- requires a local school board to adopt a written policy allowing public comment in a public meeting;
- permits a public body of a local district or special service district to convene and conduct an electronic meeting in certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-59-204, as last amended by Laws of Utah 2021, Chapter 415
17B-1-302, as last amended by Laws of Utah 2022, Chapter 381
17D-1-102, as last amended by Laws of Utah 2014, Chapter 377
17D-1-304, as last amended by Laws of Utah 2014, Chapter 377
52-4-202, as last amended by Laws of Utah 2021, Chapters 84, 345
52-4-207, as last amended by Laws of Utah 2022, Chapters 24, 402
63H-1-202, as last amended by Laws of Utah 2022, Chapters 274, 463

ENACTS:

17D-1-307, Utah Code Annotated 1953
52-4-201.3, Utah Code Annotated 1953

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

Section 1. Section 11-59-204 is amended to read:

11-59-204. Applicability of other law -- Coordination with municipality.

(1) The authority and the point of the mountain state land are not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(b) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:

(i) some or all of the point of the mountain state land is, on May 8, 2018, included within the boundary of a local district or special service district; and

(ii) the authority elects to receive service from the local district or special service district for the point of the mountain state land that is included within the boundary of the local district or special service district, respectively.

(2) In formulating and implementing a development plan for the point of the mountain state land, the authority shall consult with officials of the municipality within which the point of the mountain state land is located on planning and zoning matters.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) Nothing in this chapter may be construed to remove the point of the mountain state land from the service area of the municipality in which the point of the mountain state land is located, for purposes of water, sewer, and other similar municipal services currently being provided.

(5) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act, except that for an electronic meeting of the authority board that otherwise complies with Section 52-4-207, the authority board:

(a) is not required to establish an anchor location; and

(b) may convene and conduct the meeting without the [~~written~~] determination otherwise required under [~~Subsection 52-4-207(4)~~] Subsection 52-4-207(5)(a)(i).

Section 2. Section 17B-1-302 is amended to read:

17B-1-302. Board member qualifications -- Number of board members.

(1) Except as provided in Section 17B-2a-905, each member of a local district board of trustees shall be:

(a) a registered voter at the location of the member's residence; and

(b) except as otherwise provided in Subsection (2) or (3), a resident within:

(i) the boundaries of the local district; and

(ii) if applicable, the boundaries of the division of the local district from which the member is elected or appointed.

(2) (a) As used in this Subsection (2):

(i) "Proportional number" means the number of members of a board of trustees that bears, as close

as mathematically possible, the same proportion to all members of the board that the number of seasonally occupied homes bears to all residences within the district that receive service from the district.

(ii) "Seasonally occupied home" means a single-family residence:

(A) that is located within the local district;

(B) that receives service from the local district; and

(C) [~~whose owner does not reside permanently at the residence but may occupy the residence on a temporary or seasonal basis~~] whose owner occupies the residence on a temporary or seasonal basis, rather than as the principal place of residence as defined in Section 20A-2-105.

(b) If over 50% of the residences within a local district that receive service from the local district are seasonally occupied homes, the requirement under Subsection (1)(b) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land[~~, that~~]:

(i) that receives, or intends to receive, service from the district; and

(ii) that is located within the local district and, if applicable, the division from which the member is elected.

(3) (a) For a board of trustees member in a basic local district, or in any other type of local district that is located solely within a county of the fourth, fifth, or sixth class, that has within the district's boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under Subsection (1)(b) may be replaced by the requirement that the member be:

(i) a resident within the boundaries of the local district[~~, or that the member~~]; or

(ii) [~~be~~] an owner of land, or an agent or officer of the owner of land, within the local district that receives, or intends to receive, service from the district [~~or an agent or officer of the owner~~].

(b) A member of the board of trustees of a service area described in Subsection 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is not subject to the requirements described in Subsection (1)(b) if the elected official was elected at large by the voters of the county.

(c) Notwithstanding Subsection (1)(b) and except as provided in Subsection (3)(d), the county legislative body may appoint to the local district board one of the county legislative body's own members, regardless of whether the member resides within the boundaries described in Subsection (1)(b), if:

(i) the county legislative body satisfies the procedures to fill a vacancy described in:

(A) for the appointment of a new board member, Subsections 17B-1-304(2) and (3); or

(B) for an appointment to fill a midterm vacancy, Subsection 20A-1-512(1)(a)(ii) or Subsection 20A-1-512(2);

(ii) fewer qualified candidates timely file to be considered for appointment to the local district board than are necessary to fill the board;

(iii) the county legislative body appoints each of the qualified candidates who timely filed to be considered for appointment to the board; and

(iv) the county legislative body appoints a member of the body to the local district board, in accordance with Subsection 17B-1-304(6) or Subsection 20A-1-512(1)(c), who was:

(A) elected at large by the voters of the county;

(B) elected from a division of the county that includes more than 50% of the geographic area of the local district; or

(C) if the local district is divided into divisions under Section 17B-1-306.5, elected from a division of the county that includes more than 50% of the geographic area of the division of the local district in which there is a board vacancy.

(d) If it is necessary to reconstitute the board of trustees of a local district located solely within a county of the fourth, fifth, or sixth class because the term of a majority of the members of the board has expired without new trustees having been elected or appointed as required by law, even if sufficient qualified candidates timely file to be considered for a vacancy on the board, the county legislative body may appoint to the local district board no more than one of the county legislative body's own members who does not satisfy the requirements of Subsection (1).

(4) (a) Except as otherwise provided by statute, the number of members of each board of trustees of a local district that has nine or fewer members shall have an odd number of members that is no fewer than three.

(b) If a board of trustees of a local district has more than nine members, the number of members may be odd or even.

(5) For a newly created local district, the number of members of the initial board of trustees shall be the number specified:

(a) for a local district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b), or (c), in the petition; or

(b) for a local district whose creation was initiated by a resolution under Subsection 17B-1-203(1)(d) or (e), in the resolution.

(6) (a) For an existing local district, the number of members of the board of trustees may be changed by a two-thirds vote of the board of trustees.

(b) No change in the number of members of a board of trustees under Subsection (6)(a) may:

(i) violate Subsection (4); or

(ii) serve to shorten the term of any member of the board.

Section 3. Section 17D-1-102 is amended to read:

17D-1-102. Definitions.

As used in this chapter:

(1) "Adequate protests" means written protests timely filed by:

(a) the owners of private real property that:

(i) is located within the applicable area;

(ii) covers at least 25% of the total private land area within the applicable area; and

(iii) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(b) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution or filing of the petition.

(2) "Applicable area" means:

(a) for a proposal to create a special service district, the area included within the proposed special service district;

(b) for a proposal to annex an area to an existing special service district, the area proposed to be annexed;

(c) for a proposal to add a service to the service or services provided by a special service district, the area included within the special service district; and

(d) for a proposal to consolidate special service districts, the area included within each special service district proposed to be consolidated.

(3) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a special service district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(4) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the county or municipality that created the special service district that issues the bond; and

(B) on taxable property within the special service district; and

(ii) in excess of the ad valorem property taxes for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(5) "Governing body" means:

(a) the legislative body of the county or municipality that creates the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board created under Section 17D-1-301; or

(b) the administrative control board of the special service district, to the extent that the county or municipal legislative body has delegated authority to an administrative control board created under Section 17D-1-301.

(6) "Guaranteed bonds" means bonds:

(a) issued by a special service district; and

(b) the debt service of which is guaranteed by one or more taxpayers owning property within the special service district.

(7) "Local district" has the same meaning as defined in Section 17B-1-102.

(8) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the ad valorem property taxes of the county or municipality that created the special service district; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Seasonally occupied home" means a single-family residence:

(a) that is located within the special service district;

(b) that receives service from the special service district; and

(c) whose owner occupies the residence on a temporary or seasonal basis, rather than as the principal place of residence as defined in Section 20A-2-105.

[~~(9)~~] (10) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

[~~(10)~~] (11) "Special assessment bond" means a bond payable from special assessments.

[~~(11)~~] (12) "Special service district" means a limited purpose local government entity, as described in Section 17D-1-103, that:

(a) is created under authority of the Utah Constitution Article XI, Section 7; and

(b) operates under, is subject to, and has the powers set forth in this chapter.

[~~(12)~~] (13) "Tax and revenue anticipation bond" means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

Section 4. Section 17D-1-304 is amended to read:

17D-1-304. Qualifications of administrative control board members -- Term of office.

(1) (a) Except as provided in Subsection (1)(b), each member of an administrative control board shall be:

(i) a registered voter within the special service district;

(ii) an officer or employee of the county or municipality that created the special service district; or

(iii) [~~if over 50% of the residences within a special service district are seasonally occupied homes, as defined in Section 17B-1-302, an owner of land, or an agent or officer of an owner of land, that receives services from the special service district and is located within the special service district, provided that the number of members appointed under this Subsection (1)(a)(iii) comprises less than a quorum of the board.~~] an owner of land, or an agent or officer of the owner of land, located within the special service district that receives, or intends to receive, service from the special service district, if:

(A) at least 60% of the residences within the special service district are seasonally occupied homes; or

(B) more than 50%, but less than 60%, of the residences within the special service district are seasonally occupied homes, if the number of members appointed under this Subsection (1)(a)(iii)(B) comprises less than a quorum of the board.

(b) Subsection (1)(a) does not apply if:

(i) at least 90% of the owners of real property within the special service district are not registered voters within the special service district; or

(ii) the member is appointed under Subsection 17D-1-303(3) or (4).

(2) (a) Except as provided in Subsection (2)(b), the term of each member of an administrative control board is four years.

(b) The term of as close as possible to half of the initial members of an administrative control board, chosen by lot, is two years.

Section 5. Section 17D-1-307 is enacted to read:

17D-1-307. Meetings of administrative control board.

(1) (a) Each meeting of the administrative control board shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) Subject to Subsection (2), an administrative control board shall:

(i) adopt rules of order and procedure to govern a public meeting of the administrative control board;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (1)(b)(i); and

(iii) make the rules of order and procedure described in Subsection (1)(b)(i) available to the public:

(A) at each meeting of the administrative control board; and

(B) if the special service district has a public website, on the website.

(2) Subsection (1)(b) does not affect the administrative control board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Section 6. Section 52-4-201.3 is enacted to read:

52-4-201.3. Local school boards -- Public comment.

(1) As used in this section, "local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

(2) (a) A local school board holding a meeting that is open to the public under Section 52-4-201 shall allow a reasonable opportunity for the public to provide verbal comments that are germane to the authority of the local school board.

(b) Subsection (2)(a) does not apply to a meeting that is:

(i) a work session; or

(ii) an emergency meeting as described in Subsection 52-4-202(5).

(3) No later than July 1, 2023, a local school board shall adopt a written policy that provides a reasonable opportunity for the public to provide both verbal and written comments in a meeting of the local school board that:

(a) is open to the public; and

(b) is not a meeting described in Subsection (2)(b).

(4) The written policy described in Subsection (3) may limit public verbal and written comments to topics that are germane to the authority of the local school board.

Section 7. Section 52-4-202 is amended to read:

52-4-202. Public notice of meetings -- Emergency meetings.

(1) (a) (i) A public body shall give not less than 24 hours' public notice of each meeting.

(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.

(b) The public notice required under Subsection (1)(a) shall include the meeting:

(i) agenda;

(ii) date;

(iii) time; and

(iv) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) A public body or specified body satisfies a requirement for public notice by:

(i) posting written notice:

(A) except for an electronic meeting held without an anchor location under [~~Subsection 52-4-207(4)~~] Subsection 52-4-207(5), at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and

(B) on the Utah Public Notice Website created under Section 63A-16-601; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63A-16-601(4)(d).

(c) A public body whose limited resources make compliance with Subsection (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.

(4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body or specified body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

(7) Except as provided in this section, this chapter does not apply to a specified body.

Section 8. Section 52-4-207 is amended to read:

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) A resolution, rule, or ordinance described in Subsection (2)(a) that governs an electronic meeting [~~held after December 31, 2022,~~] shall establish the conditions under which a remote member is included in calculating a quorum.

(c) A resolution, rule, or ordinance described in Subsection (2)(a) may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability;

(v) if the public body is statutorily authorized to allow a member of the public body to act by proxy, establish the conditions under which a member may vote or take other action by proxy; or

(vi) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes and conducts an electronic meeting shall:

(a) give public notice of the electronic meeting in accordance with Section 52-4-202;

(b) except for an electronic meeting described in Subsection (5), post written notice of the electronic meeting at the anchor location; and

(c) except as otherwise provided in a rule of the Legislature applicable to the public body, at least 24 hours before the electronic meeting is scheduled to begin, provide each member of the public body a description of how to electronically connect to the meeting.

(4) (a) Except as provided in Subsection (5), a public body that convenes and conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public to attend the open portions of the meeting.

(b) A public body that convenes and conducts an electronic meeting may provide means by which members of the public [~~who are not physically present at the anchor location~~] may attend the meeting remotely by electronic means.

(5) Subsection (4)(a) does not apply to an electronic meeting if:

(a) (i) the chair of the public body determines that:

(A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present or who would otherwise be present at the anchor location; or

(B) the location where the public body would normally meet has been ordered closed to the public for health or safety reasons; and

(ii) the public notice for the meeting includes:

(A) a statement describing the chair's determination under Subsection (5)(a)(i);

(B) a summary of the facts upon which the chair's determination is based; and

(C) information on how a member of the public may attend the meeting remotely by electronic means; [~~or~~]

(b) (i) during the course of the electronic meeting, the chair:

(A) determines that continuing to conduct the electronic meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present at the anchor location; and

(B) announces during the electronic meeting the chair's determination under Subsection (5)(b)(i)(A) and states a summary of the facts upon which the determination is made; and

(ii) in convening the electronic meeting, the public body has provided means by which members of the public who are not physically present at the anchor location may attend the electronic meeting remotely by electronic means[~~.~~];

(c) (i) the public body is a local district board of trustees established under Title 17B, Chapter 1, Part 3, Board of Trustees;

(ii) the board of trustees' membership consists of:

(A) at least two members who are elected or appointed to the board as owners of land, or as an agent or officer of the owners of land, under the criteria described in Subsection 17B-1-302(2)(b); or

(B) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17B-1-302(3)(a)(ii);

(iii) the public notice required under Subsection 52-4-202(3)(a)(i)(B) for the electronic meeting includes information on how a member of the public may attend the meeting remotely by electronic means; and

(iv) the board of trustees allows members of the public attending the meeting by remote electronic means to participate in the meeting; or

(d) (i) the public body is a special service district administrative control board established under Title 17D, Chapter 1, Part 3, Administrative Control Board;

(ii) the administrative control board's membership consists of:

(A) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17D-1-304(1)(a)(iii)(A) or (B), as applicable; or

(B) members that qualify for election or appointment to the board because the owners of real property in the special service district meet or exceed the threshold percentage described in Subsection 17D-1-304(1)(b)(i);

(iii) the public notice required under Subsection 52-4-202(3)(a)(i)(B) for the electronic meeting

includes information on how a member of the public may attend the meeting remotely by electronic means; and

(iv) the administrative control board allows members of the public attending the meeting by remote electronic means to participate in the meeting.

(6) A determination under Subsection (5)(a)(i) expires 30 days after the day on which the chair of the public body makes the determination.

(7) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

(8) Unless a public body adopts a resolution, rule, or ordinance described in Subsection (2)(c)(v), a public body that is conducting an electronic meeting may not allow a member to vote or otherwise act by proxy.

(9) Except for a unanimous vote, a public body that is conducting an electronic meeting shall take all votes by roll call.

Section 9. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.

(b) "Subsidiary board" means the governing body of a subsidiary.

(2) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) (a) The definitions in Section 57-8-3 apply to this Subsection (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for $1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(6) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7) (a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

(i) notwithstanding Section 52-4-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

(A) the board chair, for the authority board; or

(B) the subsidiary board chair, for a subsidiary board;

(ii) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and

(iii) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:

(A) is not required to establish an anchor location; and

(B) may convene and conduct the meeting without the [~~written~~] determination otherwise

required under [~~Subsection 52-4-207(4)~~] Subsection 52-4-207(5)(a)(i).

(b) Except as provided in Subsection (7)(c), the authority is not required to physically post notice notwithstanding any other provision of law.

(c) The authority shall physically post notice in accordance with Subsection 52-4-202(3)(a)(i).

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G-2-701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

(C) the authority board member appointed by the speaker of the House of Representatives; and

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the State Records Committee is not a party; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.

(10) (a) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

(c) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).

(ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(11) (a) Terms defined in Section 57-11-2 apply to this Subsection (11).

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:

(i) (A) has a development review committee using at least one professional planner;

(B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

(C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and

(ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).

(12) (a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution Article IV, Section 10.

(b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.

CHAPTER 101
H. B. 25
Passed February 1, 2023
Approved March 14, 2023
Effective May 3, 2023

MURDERED AND MISSING INDIGENOUS WOMEN AND GIRLS TASK FORCE SUNSET EXTENSION

Chief Sponsor: Angela Romero
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends provisions related to the Murdered and Missing Indigenous Women and Girls Task Force.

Highlighted Provisions:

This bill:

- changes the name of the Murdered and Missing Indigenous Women and Girls Task Force (task force) to the Murdered and Missing Indigenous Relatives Task Force; and
- extends from November 30, 2023, to November 30, 2024:
  - the repeal date for the task force; and
  - the deadline for the required report from the task force to the Law Enforcement and Criminal Justice Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-29-107.5, as enacted by Laws of Utah 2021, Chapter 250
63I-2-236, as last amended by Laws of Utah 2022, Chapters 97, 141, 363, 437, and 458

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

Section 1. Section 36-29-107.5 is amended to read:

36-29-107.5. Murdered and Missing Indigenous Relatives Task Force -- Creation -- Membership -- Quorum -- Compensation -- Staff -- Vacancies -- Duties -- Interim report.

(1) As used in this section, "task force" means the Murdered and Missing Indigenous [~~Women and Girls~~] Relatives Task Force created in Subsection (2).

(2) There is created the Murdered and Missing Indigenous [~~Women and Girls~~] Relatives Task Force consisting of the following nine members:

(a) one member of the Senate appointed by the president of the Senate;

(b) one member of the House of Representatives appointed by the speaker of the House of Representatives;

(c) the following three members, appointed jointly by the president of the Senate and the speaker of the House of Representatives:

(i) a member of a nonprofit organization primarily serving Utah's Native American community;

(ii) a representative of a Utah Native American tribe; and

(iii) a representative of a victim advocate organization serving Utah's Native American population;

(d) the director of the Division of Indian Affairs, or the director's designee;

(e) the executive director of the Department of Human Services, or the executive director's designee;

(f) the attorney general, or the attorney general's designee; and

(g) the commissioner of public safety for the Department of Public Safety, or the commissioner's designee.

(3) A vacancy in a position appointed under Subsection (2)(a), (b), or (c) shall be filled by appointing a replacement member in the same manner as the member creating the vacancy was appointed under Subsection (2)(a), (b), or (c).

(4) (a) The member of the Senate appointed under Subsection (2)(a) is a cochair of the task force.

(b) The member of the House of Representatives appointed under Subsection (2)(b) is a cochair of the task force.

(5) (a) A quorum consists of five members.

(b) The action of a majority of a quorum constitutes an action of the task force.

(6) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation or benefits for the member's service associated with the task force; and

(ii) may receive per diem and travel expenses incurred as a member of the task force at the rates the Division of Finance establishes in accordance with:

(A) Sections 63A-3-106 and 63A-3-107; and

(B) rules the Division of Finance makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of Sections 63A-3-106 and 63A-3-107.

(7) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(8) The task force shall:

(a) conduct appropriate consultations with tribal governments on the scope and nature of the issues regarding murdered and missing indigenous women and girls;

(b) develop model protocols and procedures to apply to new and unsolved cases of murdered or missing indigenous women and girls, including the best practices for:

(i) improving the way law enforcement investigators and prosecutors respond to the high volume of the cases, and to the investigative challenges that might be presented in cases involving female victims;

(ii) collecting and sharing data among various jurisdictions and law enforcement agencies; and

(iii) better use of existing criminal databases;

(c) seek input from multi-disciplinary and multi-jurisdictional persons, including representatives from tribal law enforcement and federal agencies, about how to review cold cases involving murdered and missing indigenous women and girls; and

(d) address the need for greater clarity concerning roles, authorities, and jurisdiction throughout the lifecycle of cases involving murdered and missing indigenous women and girls, by discussing:

(i) best practices in cases involving murdered and missing indigenous women and girls, including best practices related to communication with affected families from initiation of an investigation through case resolution or closure; and

(ii) education and outreach campaigns for communities that are most affected by crime resulting in murdered and missing indigenous women and girls, to identify and reduce the crime.

(9) (a) On or before November 30, [~~2023~~] 2024, the task force shall provide a report to the Law Enforcement and Criminal Justice Interim Committee.

(b) The report described in Subsection (9)(a) shall include a summary of the task force's findings under Subsection (8) and recommendations for improvements in the criminal justice and social service systems for preventing and addressing crimes involving murdered and missing indigenous women and girls in the state.

Section 2. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates: Title 36.

(1) Section 36-12-8.2 is repealed July 1, 2023.

(2) Section 36-29-107.5 is repealed on November 30, [~~2023~~] 2024.

(3) Section 36-29-109 is repealed on November 30, 2027.

(4) Section 36-29-110 is repealed on November 30, 2024.

(5) Section 36-29-111 is repealed April 30, 2023.

(6) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

(7) Title 36, Chapter 29, Part 3, Mental Illness Psychotherapy Drug Task Force, is repealed December 31, 2023.

CHAPTER 102
H. B. 28
Passed February 2, 2023
Approved March 14, 2023
Effective May 3, 2023

ARSON AMENDMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends the definition of "habitable structure."

Highlighted Provisions:

This bill:

- amends the definition of "habitable structure"; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-101, as last amended by Laws of Utah 2011, Chapter 340

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

Section 1. Section 76-6-101 is amended to read:

76-6-101. Definitions.

(1) For purposes of this chapter:

(a) "Fire" means a flame, heat source capable of combustion, or material capable of combustion that is caused, set, or maintained by a person for any purpose.

(b) "Habitable structure" means [~~any building, vehicle, trailer, railway car, aircraft, or watercraft~~] a structure that has the apparent purpose of or is used for lodging or assembling persons or conducting business whether a person is actually present or not.

(c) "Property" means:

(i) any form of real property or tangible personal property which is capable of being damaged or destroyed and includes a habitable structure; and

(ii) the property of another, if anyone other than the actor has a possessory or proprietary interest in any portion of the property.

(d) "Value" means:

(i) the market value of the property, if totally destroyed, at the time and place of the offense, or where cost of replacement exceeds the market value; or

(ii) where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense.

(2) If the property damaged has a value that cannot be ascertained by the criteria set forth in Subsection (1)(d), the property shall be considered to have a value less than $500.

CHAPTER 103
H. B. 30
Passed February 9, 2023
Approved March 14, 2023
Effective July 1, 2023

WILDLIFE RESOURCES CODE RECODIFICATION

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill recodifies Title 23, Wildlife Resources Code of Utah.

Highlighted Provisions:

This bill:

- addresses definitions;
- reorders provisions;
- removes outdated language;
- clarifies rulemaking authority;
- addresses compensation of employees;
- clarifies delegation to employees of use of fireworks;
- makes consistent references to nominations by nominating committee;
- clarifies delegation to employees related to issuing duplicates;
- addresses references to criminal penalty provisions;
- addresses cross references;
- clarifies review by regional advisory councils of cooperative wildlife management units; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

ENACTS:

23A-1-103, Utah Code Annotated 1953
23A-2-101, Utah Code Annotated 1953
23A-3-101, Utah Code Annotated 1953
23A-4-101, Utah Code Annotated 1953
23A-4-502, Utah Code Annotated 1953
23A-4-1104, Utah Code Annotated 1953
23A-4-1105, Utah Code Annotated 1953
23A-4-1107, Utah Code Annotated 1953
23A-5-101, Utah Code Annotated 1953
23A-5-306, Utah Code Annotated 1953
23A-8-101, Utah Code Annotated 1953
23A-9-101, Utah Code Annotated 1953
23A-12-101, Utah Code Annotated 1953
23A-14-101, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

23A-1-101, (Renumbered from 23-13-2, as last amended by Laws of Utah 2019, Chapter 125)
23A-1-102, (Renumbered from 23-13-3, as last amended by Laws of Utah 1992, Chapter 27)
23A-1-201, (Renumbered from 23-13-8, as last amended by Laws of Utah 1986, Chapter 76)
23A-1-202, (Renumbered from 23-13-12.5, as last amended by Laws of Utah 2002, Chapter 70)
23A-1-203, (Renumbered from 23-13-15, as enacted by Laws of Utah 1973, Chapter 33)
23A-1-204, (Renumbered from 23-13-17, as last amended by Laws of Utah 2011, Chapter 297)
23A-1-205, (Renumbered from 23-20-9, as last amended by Laws of Utah 2011, Chapter 297)
23A-2-102, (Renumbered from 23-14-3, as last amended by Laws of Utah 2020, Chapter 154)
23A-2-201, (Renumbered from 23-14-1, as last amended by Laws of Utah 1995,
Chapter 211)
23A-2-202, (Renumbered from 23-14-7, as last amended by Laws of Utah 1995, Chapter 56)
23A-2-203, (Renumbered from 23-14-8, as last amended by Laws of Utah 1995, Chapter 211)
23A-2-204, (Renumbered from 23-14-10, as last amended by Laws of Utah 1989, Chapter 22)
23A-2-205, (Renumbered from 23-14-12, as enacted by Laws of Utah 1971, Chapter 46)
23A-2-206, (Renumbered from 23-15-2, as last amended by Laws of Utah 2011, Chapter 297)
23A-2-207, (Renumbered from 23-13-6, as last amended by Laws of Utah 2021, Chapter 109)
23A-2-208, (Renumbered from 23-13-7, as last amended by Laws of Utah 1986, Chapter 76)
23A-2-209, (Renumbered from 23-14-21, as last amended by Laws of Utah 2021, Chapter 382)
23A-2-301, (Renumbered from 23-14-2, as last amended by Laws of Utah 2020, Chapters 352 and 373)
23A-2-302, (Renumbered from 23-14-2.5, as last amended by Laws of Utah 2003, Chapter 36)
23A-2-303, (Renumbered from 23-14-2.6, as last amended by Laws of Utah 2010, Chapters 286 and 324)
23A-2-304, (Renumbered from 23-14-19, as last amended by Laws of Utah 1995, Chapter 211)
23A-2-305, (Renumbered from 23-14-18, as last amended by Laws of Utah 2021, Chapter 57)
23A-2-401, (Renumbered from 23-22-1, as last amended by Laws of Utah 2011, Chapter 297)
23A-2-402, (Renumbered from 23-22-2, as last amended by Laws of Utah 2010, Chapter 324)

23A-2-403, (Renumbered from 23-22-3, as last amended by Laws of Utah 2011, Chapter 297)
23A-2-501, (Renumbered from 23-25-2, as last amended by Laws of Utah 2015, Chapter 258)
23A-2-502, (Renumbered from 23-25-3, as enacted by Laws of Utah 1992, Chapter 260)
23A-2-503, (Renumbered from 23-25-4, as enacted by Laws of Utah 1992, Chapter 260)
23A-2-504, (Renumbered from 23-25-5, as enacted by Laws of Utah 1992, Chapter 260)
23A-2-505, (Renumbered from 23-25-6, as enacted by Laws of Utah 1992, Chapter 260)
23A-2-506, (Renumbered from 23-25-7, as enacted by Laws of Utah 1992, Chapter 260)
23A-2-507, (Renumbered from 23-25-8, as enacted by Laws of Utah 1992, Chapter 260)
23A-2-508, (Renumbered from 23-25-9, as enacted by Laws of Utah 1992, Chapter 260)
23A-2-509, (Renumbered from 23-25-10, as last amended by Laws of Utah 1993, Chapter 4)
23A-2-510, (Renumbered from 23-25-11, as enacted by Laws of Utah 1992, Chapter 260)
23A-2-511, (Renumbered from 23-25-13, as enacted by Laws of Utah 1992, Chapter 260)
23A-3-201, (Renumbered from 23-14-13, as last amended by Laws of Utah 2015, Chapter 30)
23A-3-202, (Renumbered from 23-14-14, as enacted by Laws of Utah 1971, Chapter 46)
23A-3-203, (Renumbered from 23-14-13.5, as enacted by Laws of Utah 2017, Chapter 383)
23A-3-204, (Renumbered from 23-14-14.2, as last amended by Laws of Utah 2022, Chapter 68)
23A-3-205, (Renumbered from 23-13-20, as enacted by Laws of Utah 2022, Chapter 37)
23A-3-206, (Renumbered from 23-14-14.3, as enacted by Laws of Utah 2022,
Chapter 53)
23A-3-207, (Renumbered from 23-19-43, as last amended by Laws of Utah 2000, Chapter 195)
23A-3-208, (Renumbered from 23-19-47, as last amended by Laws of Utah 2007, Chapter 187)
23A-3-209, (Renumbered from 23-19-48, as enacted by Laws of Utah 2012, Chapter 142)
23A-3-210, (Renumbered from 23-15-14, as last amended by Laws of Utah 2001, Chapter 22)
23A-3-211, (Renumbered from 23-27-305, as enacted by Laws of Utah 2020, Chapter 195)
23A-3-212, (Renumbered from 23-30-103, as enacted by Laws of Utah 2012, Chapter 143)
23A-3-213, (Renumbered from 23-19-17.7, as enacted by Laws of Utah 1984, Chapter 30)
23A-3-301, (Renumbered from 23-31-102, as enacted by Laws of Utah 2020, Chapter 190)
23A-3-302, (Renumbered from 23-31-103, as enacted by Laws of Utah 2020, Chapter 190)
23A-3-303, (Renumbered from 23-31-104, as enacted by Laws of Utah 2020, Chapter 190)
23A-3-304, (Renumbered from 23-31-201, as enacted by Laws of Utah 2020, Chapter 190)
23A-3-305, (Renumbered from 23-31-202, as enacted by Laws of Utah 2020, Chapter 190)
23A-3-306, (Renumbered from 23-31-203, as enacted by Laws of Utah 2020, Chapter 190)
23A-4-201, (Renumbered from 23-19-1, as last amended by Laws of Utah 2017, Chapter 104)
23A-4-202, (Renumbered from 23-19-2, as last amended by Laws of Utah 2019, Chapter 125)
23A-4-203, (Renumbered from 23-19-3, as last amended by Laws of Utah 1995, Chapter 211)
23A-4-204, (Renumbered from 23-19-4, as last amended by Laws of Utah 2007, Chapter 136)
23A-4-205, (Renumbered from 23-19-7, as last amended by Laws of Utah 2014, Chapter 21)
23A-4-206, (Renumbered from 23-19-8, as last amended by Laws of Utah 2019, Chapter 125)
23A-4-207, (Renumbered from 23-19-38, as last amended by Laws of Utah 2019, Chapter 349)
23A-4-208, (Renumbered from 23-19-10, as last amended by Laws of Utah 2005, Chapter 117)
23A-4-209, (Renumbered from 23-19-42, as last amended by Laws of Utah 2013, Chapter 295)
23A-4-210, (Renumbered from 23-19-45, as enacted by Laws of Utah 1997, Chapter 179)
23A-4-301, (Renumbered from 23-19-38.2, as last amended by Laws of Utah 2011, Chapter 297)
23A-4-302, (Renumbered from 23-19-38.3, as last amended by Laws of Utah 2019, Chapter 135)
23A-4-303, (Renumbered from 23-19-14, as last amended by Laws of Utah 2018, Chapter 39)

23A-4-304, (Renumbered from 23-19-14.5, as last amended by Laws of Utah 2015, Chapter 25)
23A-4-305, (Renumbered from 23-19-36, as last amended by Laws of Utah 2019, Chapter 349)
23A-4-306, (Renumbered from 23-19-39, as last amended by Laws of Utah 1999, Chapter 128)
23A-4-401, (Renumbered from 23-19-17, as last amended by Laws of Utah 2007, Chapter 187)
23A-4-402, (Renumbered from 23-19-17.5, as last amended by Laws of Utah 2017, Chapter 46)
23A-4-501, (Renumbered from 23-19-15, as last amended by Laws of Utah 2017, Chapter 46)
23A-4-503, (Renumbered from 23-19-16, as last amended by Laws of Utah 2000, Chapter 195)
23A-4-601, (Renumbered from 23-19-21, as last amended by Laws of Utah 2014, Chapter 21)
23A-4-602, (Renumbered from 23-19-35, as last amended by Laws of Utah 1980, Chapter 28)
23A-4-701, (Renumbered from 23-19-14.6, as last amended by Laws of Utah 2016, Chapter 258)
23A-4-702, (Renumbered from 23-19-49, as enacted by Laws of Utah 2022, Chapter 102)
23A-4-703, (Renumbered from 23-19-22, as last amended by Laws of Utah 2016, Chapter 258)
23A-4-704, (Renumbered from 23-19-22.5, as last amended by Laws of Utah 2007, Chapter 187)
23A-4-705, (Renumbered from 23-19-22.6, as last amended by Laws of Utah 2007, Chapter 187)
23A-4-706, (Renumbered from 23-19-24, as last amended by Laws of Utah 2007, Chapter 187)
23A-4-707, (Renumbered from 23-19-26, as last amended by Laws of Utah 2007, Chapter 187)
23A-4-708, (Renumbered from 23-20-20, as last amended by Laws of Utah 2011, Chapter 297)
23A-4-709, (Renumbered from 23-20-30, as last amended by Laws of Utah 2020, Chapter 135)
23A-4-801, (Renumbered from 23-19-34.5, as last amended by Laws of Utah 2010, Chapter 256)
23A-4-802, (Renumbered from 23-19-34.7, as last amended by Laws of Utah 2010, Chapter 256)
23A-4-901, (Renumbered from 23-19-27, as last amended by Laws of Utah 2001, Chapter 22)
23A-4-902, (Renumbered from 23-19-31, as last amended by Laws of Utah 1980, Chapter 28)
23A-4-903, (Renumbered from 23-19-32, as last amended by Laws of Utah 1980, Chapter 28)
23A-4-904, (Renumbered from 23-19-33, as last amended by Laws of Utah 1980, Chapter 28)
23A-4-905, (Renumbered from 23-18-5, as last amended by Laws of Utah 2011, Chapter 297)
23A-4-1001, (Renumbered from 23-19-11, as last amended by Laws of Utah 2022, Chapter 57)
23A-4-1002, (Renumbered from 23-19-11.1, as last amended by Laws of Utah 2017, Chapter 46)
23A-4-1003, (Renumbered from 23-19-12, as last amended by Laws of Utah 2022, Chapter 57)
23A-4-1004, (Renumbered from 23-19-12.7, as enacted by Laws of Utah 1998, Chapter 166)
23A-4-1005, (Renumbered from 23-19-11.5, as last amended by Laws of Utah 2017, Chapter 46)
23A-4-1006, (Renumbered from 23-19-12.5, as enacted by Laws of Utah 1995, Chapter 120)
23A-4-1007, (Renumbered from 23-19-13, as last amended by Laws of Utah 1995, Chapter 120)
23A-4-1101, (Renumbered from 23-19-5, as last amended by Laws of Utah 2007, Chapter 136)
23A-4-1102, (Renumbered from 23-19-5.5, as last amended by Laws of Utah 2022, Chapter 58)
23A-4-1103, (Renumbered from 23-19-6, as last amended by Laws of Utah 1979, Chapter 90)
23A-4-1106, (Renumbered from 23-19-9, as last amended by Laws of Utah 2021, Chapter 57)
23A-4-1108, (Renumbered from 23-19-9.1, as enacted by Laws of Utah 1997, Chapter 232)
23A-4-1109, (Renumbered from 23-19-9.5, as last amended by Laws of Utah 1995, Chapter 211)
23A-5-201, (Renumbered from 23-20-1, as last amended by Laws of Utah 2013, Chapter 394)
23A-5-202, (Renumbered from 23-20-1.5, as last amended by Laws of Utah 1998, Chapter 282)
23A-5-203, (Renumbered from 23-20-2, as enacted by Laws of Utah 1971, Chapter 46)
23A-5-204, (Renumbered from 23-20-10, as last amended by Laws of Utah 2019, Chapter 125)
23A-5-205, (Renumbered from 23-20-16, as last amended by Laws of Utah 1998, Chapter 282)
23A-5-206, (Renumbered from 23-20-28, as last amended by Laws of Utah 2011, Chapter 297)

23A-5-207, (Renumbered from 23-20-25, as last amended by Laws of Utah 1994, Chapter 208)
23A-5-301, (Renumbered from 23-13-11, as last amended by Laws of Utah 2009, Chapter 347)
23A-5-302, (Renumbered from 23-13-4, as enacted by Laws of Utah 1971, Chapter 46)
23A-5-303, (Renumbered from 23-13-5, as last amended by Laws of Utah 1973, Chapter 33)
23A-5-304, (Renumbered from 23-13-13, as last amended by Laws of Utah 1975, Chapter 60)
23A-5-305, (Renumbered from 23-13-14, as last amended by Laws of Utah 2017, Chapter 129)
23A-5-307, (Renumbered from 23-13-18, as last amended by Laws of Utah 2021, Chapter 177)
23A-5-308, (Renumbered from 23-13-19, as last amended by Laws of Utah 2017, Chapter 345)
23A-5-309, (Renumbered from 23-20-3, as last amended by Laws of Utah 2009, Chapter 347)
23A-5-310, (Renumbered from 23-20-3.5, as enacted by Laws of Utah 2000, Chapter 5)
23A-5-311, (Renumbered from 23-20-4, as last amended by Laws of Utah 2009, Chapter 250)
23A-5-312, (Renumbered from 23-20-4.5, as last amended by Laws of Utah 2009, Chapter 250)
23A-5-313, (Renumbered from 23-20-4.7, as enacted by Laws of Utah 2010, Chapter 52)
23A-5-314, (Renumbered from 23-20-8, as last amended by Laws of Utah 2013, Chapter 282)
23A-5-315, (Renumbered from 23-20-12, as last amended by Laws of Utah 2011, Chapter 366)
23A-5-316, (Renumbered from 23-20-13, as last amended by Laws of Utah 1995, Chapters 23 and 211)
23A-5-317, (Renumbered from 23-20-14, as last amended by Laws of Utah 2022, Chapter 87)
23A-5-318, (Renumbered from 23-20-15, as enacted by Laws of Utah 1971, Chapter 46)
23A-5-319, (Renumbered from 23-20-18, as last amended by Laws of Utah 1975, Chapter 60)
23A-5-320, (Renumbered from 23-20-19, as last amended by Laws of Utah 1975, Chapter 60)
23A-5-321, (Renumbered from 23-20-29, as last amended by Laws of Utah 2011, Chapter 297)
23A-5-322, (Renumbered from 23-20-29.5, as enacted by Laws of Utah 1994, Chapter 87)
23A-6-101, (Renumbered from 23-21-.5, as last amended by Laws of Utah 2019, Chapter 141)
23A-6-201, (Renumbered from 23-21-1, as enacted by Laws of Utah 1971, Chapter 46)
23A-6-202, (Renumbered from 23-21-1.5, as last amended by Laws of Utah 2009, Chapter 388)
23A-6-203, (Renumbered from 23-21-2, as last amended by Laws of Utah 2011, Chapter 297)
23A-6-204, (Renumbered from 23-21-6, as last amended by Laws of Utah 1993, Chapter 227)
23A-6-301, (Renumbered from 23-21-2.1, as enacted by Laws of Utah 1998, Chapter 218)
23A-6-302, (Renumbered from 23-21-2.2, as enacted by Laws of Utah 1998, Chapter 218)
23A-6-303, (Renumbered from 23-21-2.3, as last amended by Laws of Utah 2021, Chapter 382)
23A-6-304, (Renumbered from 23-21-2.4, as enacted by Laws of Utah 1998, Chapter 218)
23A-6-305, (Renumbered from 23-21-2.5, as enacted by Laws of Utah 1998, Chapter 218)
23A-6-401, (Renumbered from 23-21-2.6, as enacted by Laws of Utah 2022, Chapter 52)
23A-6-402, (Renumbered from 23-21-4, as last amended by Laws of Utah 2000, Chapter 156)
23A-6-403, (Renumbered from 23-21-5, as last amended by Laws of Utah 2019, Chapter 141)
23A-6-404, (Renumbered from 23-21-7, as enacted by Laws of Utah 2009, Chapter 347)
23A-7-101, (Renumbered from 23-23-2, as last amended by Laws of Utah 2005, Chapter 112)
23A-7-102, (Renumbered from 23-23-3, as last amended by Laws of Utah 2005, Chapter 112)
23A-7-103, (Renumbered from 23-23-1, as last amended by Laws of Utah 1997, Chapter 258)
23A-7-201, (Renumbered from 23-23-4, as last amended by Laws of Utah 1997, Chapter 258)
23A-7-202, (Renumbered from 23-23-5, as last amended by Laws of Utah 1997, Chapter 258)
23A-7-203, (Renumbered from 23-23-6, as repealed and reenacted by Laws of Utah 1997, Chapter 258)
23A-7-204, (Renumbered from 23-23-7, as last amended by Laws of Utah 2005, Chapter 112)

23A-7-205, (Renumbered from 23-23-7.5, as enacted by Laws of Utah 1997, Chapter 258)
23A-7-206, (Renumbered from 23-23-8, as last amended by Laws of Utah 1997, Chapter 258)
23A-7-207, (Renumbered from 23-23-9, as last amended by Laws of Utah 1997, Chapter 258)
23A-7-208, (Renumbered from 23-23-10, as last amended by Laws of Utah 2000, Chapter 44)
23A-7-209, (Renumbered from 23-23-11, as last amended by Laws of Utah 2011, Chapter 297)
23A-7-210, (Renumbered from 23-23-12, as enacted by Laws of Utah 1988, Chapter 158)
23A-7-211, (Renumbered from 23-23-13, as enacted by Laws of Utah 1988, Chapter 158)
23A-7-212, (Renumbered from 23-23-14, as last amended by Laws of Utah 2013, Chapter 212)
23A-8-201, (Renumbered from 23-24-1, as last amended by Laws of Utah 2017, Chapter 345)
23A-8-202, (Renumbered from 23-24-2, as enacted by Laws of Utah 2020, Chapter 100)
23A-8-203, (Renumbered from 23-18-4, as enacted by Laws of Utah 1971, Chapter 46)
23A-8-301, (Renumbered from 23-17-4, as last amended by Laws of Utah 2011, Chapter 297)
23A-8-302, (Renumbered from 23-17-5.1, as enacted by Laws of Utah 2013, Chapter 375)
23A-8-401, (Renumbered from 23-16-2, as enacted by Laws of Utah 1971, Chapter 46)
23A-8-402, (Renumbered from 23-16-3, as last amended by Laws of Utah 2022, Chapter 45)
23A-8-403, (Renumbered from 23-16-3.1, as last amended by Laws of Utah 2022, Chapter 45)
23A-8-404, (Renumbered from 23-16-3.2, as last amended by Laws of Utah 2022, Chapter 45)
23A-8-405, (Renumbered from 23-16-4, as last amended by Laws of Utah 2022, Chapter 45)
23A-9-201, (Renumbered from 23-15-4, as last amended by Laws of Utah 2018, Chapter 148)
23A-9-202, (Renumbered from 23-15-5, as enacted by Laws of Utah 1971, Chapter 46)
23A-9-203, (Renumbered from 23-15-10, as last amended by Laws of Utah 2017, Chapter 412)
23A-9-204, (Renumbered from 23-15-13, as last amended by Laws of Utah 1997, Chapter 82)
23A-9-301, (Renumbered from 23-15-3, as last amended by Laws of Utah 1983, Chapter 347)
23A-9-302, (Renumbered from 23-15-6, as enacted by Laws of Utah 1971, Chapter 46)
23A-9-303, (Renumbered from 23-15-7, as enacted by Laws of Utah 1971, Chapter 46)
23A-9-304, (Renumbered from 23-15-8, as last amended by Laws of Utah 1994, Chapter 153)
23A-9-305, (Renumbered from 23-15-9, as last amended by Laws of Utah 2011, Chapter 297)
23A-10-101, (Renumbered from 23-27-102, as last amended by Laws of Utah 2020, Chapter 195)
23A-10-201, (Renumbered from 23-27-201, as last amended by Laws of Utah 2014, Chapter 274)
23A-10-202, (Renumbered from 23-27-202, as enacted by Laws of Utah 2008, Chapter 284)
23A-10-301, (Renumbered from 23-27-301, as last amended by Laws of Utah 2020, Chapter 195)
23A-10-302, (Renumbered from 23-27-302, as enacted by Laws of Utah 2008, Chapter 284)
23A-10-303, (Renumbered from 23-27-303, as enacted by Laws of Utah 2008, Chapter 284)
23A-10-304, (Renumbered from 23-27-304, as enacted by Laws of Utah 2020, Chapter 195)
23A-10-305, (Renumbered from 23-27-306, as enacted by Laws of Utah 2020, Chapter 195)
23A-10-401, (Renumbered from 23-27-401, as enacted by Laws of Utah 2008, Chapter 284)
23A-10-501, (Renumbered from 23-27-501, as enacted by Laws of Utah 2021, Chapter 248)
23A-11-101, (Renumbered from 23-16-1.1, as last amended by Laws of Utah 2022, Chapter 45)
23A-11-201, (Renumbered from 23-16-5, as last amended by Laws of Utah 2022, Chapter 294)
23A-11-202, (Renumbered from 23-16-6, as last amended by Laws of Utah 2008, Chapter 239)
23A-11-203, (Renumbered from 23-16-11, as enacted by Laws of Utah 2021, Chapter 177)
23A-11-204, (Renumbered from 23-20-33, as enacted by Laws of Utah 2022, Chapter 45)
23A-11-205, (Renumbered from 23-20-31, as last amended by Laws of Utah 2011, Chapter 297)
23A-11-301, (Renumbered from 23-16-7, as last amended by Laws of Utah 1995, Chapter 211)

23A-11-302, (Renumbered from 23-16-10, as enacted by Laws of Utah 2020, Chapter 15)
23A-11-401, (Renumbered from 23-30-102, as enacted by Laws of Utah 2012, Chapter 143)
23A-11-402, (Renumbered from 23-30-104, as enacted by Laws of Utah 2012, Chapter 143)
23A-12-201, (Renumbered from 23-17-5.2, as enacted by Laws of Utah 2013, Chapter 375)
23A-12-202, (Renumbered from 23-17-6, as last amended by Laws of Utah 2015, Chapter 200)
23A-12-203, (Renumbered from 23-17-7, as enacted by Laws of Utah 1971, Chapter 46)
23A-12-204, (Renumbered from 23-17-8, as last amended by Laws of Utah 2011, Chapter 297)
23A-12-205, (Renumbered from 23-17-9, as enacted by Laws of Utah 1971, Chapter 46)
23A-12-301, (Renumbered from 23-32-102, as enacted by Laws of Utah 2021, Chapter 177)
23A-12-302, (Renumbered from 23-32-103, as enacted by Laws of Utah 2021, Chapter 177)
23A-12-303, (Renumbered from 23-32-104, as enacted by Laws of Utah 2021, Chapter 177)
23A-13-101, (Renumbered from 23-28-102, as enacted by Laws of Utah 2009, Chapter 273)
23A-13-201, (Renumbered from 23-28-201, as last amended by Laws of Utah 2021, Chapter 41)
23A-13-202, (Renumbered from 23-28-202, as last amended by Laws of Utah 2021, Chapter 41)
23A-13-301, (Renumbered from 23-28-301, as enacted by Laws of Utah 2009, Chapter 273)
23A-13-302, (Renumbered from 23-28-302, as last amended by Laws of Utah 2021, Chapter 41)
23A-13-303, (Renumbered from 23-28-303, as last amended by Laws of Utah 2019, Chapter 81)
23A-13-304, (Renumbered from 23-28-304, as enacted by Laws of Utah 2009, Chapter 273)
23A-13-305, (Renumbered from 23-28-305, as enacted by Laws of Utah 2009, Chapter 273)
23A-14-201, (Renumbered from 23-18-2, as last amended by Laws of Utah 1986, Chapter 76)
23A-14-202, (Renumbered from 23-18-3, as enacted by Laws of Utah 1971, Chapter 46)
23A-14-203, (Renumbered from 23-18-6, as enacted by Laws of Utah 1993, Chapter 264)
23A-15-101, (Renumbered from 23-29-102, as enacted by Laws of Utah 2010, Chapter 20)
23A-15-102, (Renumbered from 23-29-103, as enacted by Laws of Utah 2010, Chapter 20)
23A-15-201, (Renumbered from 23-29-201, as enacted by Laws of Utah 2010, Chapter 20)
23A-15-202, (Renumbered from 23-29-202, as enacted by Laws of Utah 2010, Chapter 20)

REPEALS:
23-13-1, as last amended by Laws of Utah 2007, Chapter 306
23-13-16, as enacted by Laws of Utah 1992, Chapter 261
23-14-2.1, as last amended by Laws of Utah 2008, Chapter 382
23-14-11, as last amended by Laws of Utah 1984, Chapter 67
23-14-16, as last amended by Laws of Utah 1992, Chapter 30
23-17-5, as enacted by Laws of Utah 1971, Chapter 46
23-20-23, as enacted by Laws of Utah 1971, Chapter 46
23-21a-1, as enacted by Laws of Utah 1977, Chapter 103
23-21a-2, as enacted by Laws of Utah 1977, Chapter 103
23-21a-3, as enacted by Laws of Utah 1977, Chapter 103
23-21a-4, as enacted by Laws of Utah 1977, Chapter 103
23-21a-5, as enacted by Laws of Utah 1977, Chapter 103
23-21a-6, as enacted by Laws of Utah 1977, Chapter 103
23-25-1, as enacted by Laws of Utah 1992, Chapter 260
23-25-12, as enacted by Laws of Utah 1992, Chapter 260
23-27-101, as enacted by Laws of Utah 2008, Chapter 284
23-28-101, as enacted by Laws of Utah 2009, Chapter 273
23-29-101, as enacted by Laws of Utah 2010, Chapter 20
23-30-101, as enacted by Laws of Utah 2012, Chapter 143
23-31-101, as enacted by Laws of Utah 2020, Chapter 190
23-32-101, as enacted by Laws of Utah 2021, Chapter 177

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

Section 1. Section 23A-1-101, which is renumbered from Section 23-13-2 is renumbered and amended to read:

TITLE 23A. WILDLIFE RESOURCES ACT

CHAPTER 1. GENERAL PROVISIONS

Part 1. General Provisions

[~~23-13-2~~]. 23A-1-101. Definitions.

As used in this title:

(1) "Activity regulated under this title" means an act, attempted act, or activity prohibited or regulated under this title or the rules[~~,~~] and proclamations promulgated under this title pertaining to protected wildlife including:

(a) fishing;

(b) hunting;

(c) trapping;

(d) taking;

(e) permitting [~~any~~] a dog, falcon, or other domesticated animal to take;

(f) transporting;

(g) possessing;

(h) selling;

(i) wasting;

(j) importing;

(k) exporting;

(l) rearing;

(m) keeping;

(n) using as a commercial venture; and

(o) releasing to the wild.

(2) "Aquaculture facility" means the same as that term is defined in Section 4-37-103.

(3) "Aquatic animal" means the same as that term is defined in Section 4-37-103.

(4) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or amphibians.

(5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

(6) "Big game" means species of hoofed protected wildlife.

(7) "Carcass" means the dead body of an animal or [~~its~~] the animal's parts.

(8) "Certificate of registration" means a paper-based or electronic document issued under this title, or [~~any~~] a rule or proclamation of the Wildlife Board granting authority to engage in activities not covered by a license, permit, or tag.

(9) "Closed season" means the period of time during which the taking of protected wildlife is prohibited.

(10) "Conservation officer" means a full-time, permanent employee of the [~~Division of Wildlife Resources~~] division who is POST certified as a peace or a special function officer.

(11) "Dedicated hunter program" means a program that provides:

(a) expanded hunting opportunities;

(b) opportunities to participate in projects that are beneficial to wildlife; and

(c) education in hunter ethics and wildlife management principles.

(12) "Department" means the Department of Natural Resources.

(13) "Director" means the director of the division appointed under Section 23A-2-202.

[~~(12)~~] (14) "Division" means the Division of Wildlife Resources.

[~~(13) (a) "Domicile"~~] (15) Subject to Section 23A-1-103, "domicile" means the place:

[~~(i)~~] (a) where an individual has a fixed permanent home and principal establishment;

[~~(ii)~~] (b) to which the individual if absent, intends to return; and

[~~(iii)~~] (c) in which the individual, and the individual's family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

[~~(b) To create a new domicile an individual shall:~~]

[~~(i) abandon the old domicile; and~~]

[~~(ii) be able to prove that a new domicile has been established.~~]

[~~(14)~~] (16) "Endangered" means wildlife designated as endangered according to Section 3 of the federal Endangered Species Act of 1973.

(17) "Executive director" means the executive director of the Department of Natural Resources.

[~~(15)~~] (18) "Fee fishing facility" means the same as that term is defined in Section 4-37-103.

[~~(16)~~] (19) "Feral" means an animal that is normally domesticated but has reverted to the wild.

[~~(17)~~] (20) "Fishing" means to take fish or crayfish by any means.

[~~(18)~~] (21) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and Castoridae families, except coyote and cougar.

[~~(19)~~] (22) "Game" means wildlife normally pursued, caught, or taken by sporting means for human use.

[~~(20) "Guide" means a person who receives compensation or advertises services for assisting another person to take protected wildlife, including the provision of food, shelter, or transportation, or any combination of these.~~]

[~~(21) "Guide's agent" means a person who is employed by a guide to assist another person to take protected wildlife.~~]

[~~(22)~~] (23) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any means.

(24) "Hunting guide" means the same as that term is defined in Section 58-79-102.

[~~(23)~~] (25) "Intimidate or harass" means to physically interfere with or impede, hinder, or diminish the efforts of an officer in the performance of the officer's duty.

[~~(24)~~] (26) (a) "Natural flowing stream" means a topographic low where water collects and perennially or intermittently flows with a perceptible current in a channel formed exclusively by forces of nature.

(b) "Natural flowing stream" includes perennial or intermittent water flows in a:

(i) realigned or modified channel that replaces the historic, natural flowing stream channel; and

(ii) dredged natural flowing stream channel.

(c) "Natural flowing stream" does not include a human-made ditch, canal, pipeline, or other water delivery system that diverts and conveys water to an approved place of use pursuant to a certificated water right.

[~~(25)~~] (27) (a) "Natural lake" means a perennial or intermittent body of water that collects on the surface of the earth exclusively through the forces of nature and without human assistance.

(b) "Natural lake" does not mean a lake where [~~all~~] the surface water sources supplying the body of water originate from groundwater springs no more than 100 yards upstream.

(28) "Nominating committee" means the Wildlife Board Nominating Committee created in Section 23A-2-302.

[~~(26)~~] (29) "Nonresident" means a person who does not qualify as a resident.

[~~(27)~~] (30) "Open season" means the period of time during which protected wildlife may be legally taken.

(31) "Outfitter" means the same as that term is defined in Section 58-79-102.

[~~(28)~~] (32) "Pecuniary gain" means the acquisition of money or something of monetary value.

[~~(29)~~] (33) "Permit" means a paper-based or electronic document[~~, including a stamp,~~] that grants authority to engage in specified activities under this title or a rule or proclamation of the Wildlife Board.

[~~(30)~~] (34) "Person" means an individual, association, partnership, government agency, corporation, or an agent of the [~~foregoing~~] individual, association, partnership, government agency, or corporation.

(35) "Pollute water" means to introduce into waters within the state matter or thermal energy that:

(a) exceeds state water quality standards; or

(b) could harm protected wildlife.

[~~(31)~~] (36) "Possession" means actual or constructive possession.

[~~(32)~~] (37) "Possession limit" means the number of bag limits one individual may legally possess.

[~~(33)~~] (38) (a) "Private fish pond" means a pond, reservoir, or other body of water, including a fish culture system, located on privately owned land where privately owned fish:

(i) are propagated or kept for a private noncommercial purpose; and

(ii) may be taken without a fishing license.

(b) "Private fish pond" does not include:

(i) an aquaculture facility[~~,~~];

(ii) a fee fishing facility[~~,~~];

(iii) a short-term fishing event[~~,~~]; or

(iv) private stocking.

[~~(34) (a)~~] (39) "Private stocking" means an authorized release of privately owned, live fish in the waters of the state not eligible as:

(a) a private fish pond under Section [~~23-15-10~~] 23A-9-203; or

(b) an aquaculture facility or fee fishing facility under Title 4, Chapter 37, Aquaculture Act.

[~~(b) Fish released under private stocking become the property of the state and subject to the fishing regulations set forth in this title and the rules and proclamations of the Wildlife Board.~~]

[~~(35)~~] (40) "Private wildlife farm" means an enclosed place where privately owned birds or furbearers are propagated or kept and that restricts the birds or furbearers from:

(a) commingling with wild birds or furbearers; and

(b) escaping into the wild.

[~~(36)~~] (41) "Proclamation" means the publication that is:

(a) used to convey a statute, rule, policy, or pertinent information [~~as it relates~~] related to wildlife[~~.~~]; and

(b) issued in accordance with a rule made by the Wildlife Board under this title.

[~~(37)~~] (42) (a) "Protected aquatic wildlife" means aquatic wildlife [~~as defined in Subsection (3),~~] except as provided in Subsection [~~(37)~~] (42)(b).

(b) "Protected aquatic wildlife" does not include aquatic insects.

[~~(38)~~] (43) (a) "Protected wildlife" means wildlife [~~as defined in Subsection (54)~~], except as provided in Subsection [~~(38)~~] (43)(b).

(b) "Protected wildlife" does not include:

(i) coyote[~~,~~];

(ii) field mouse[~~,~~];

(iii) gopher[~~,~~];

(iv) ground squirrel[~~,~~];

(v) jack rabbit[~~,~~];

(vi) muskrat[~~, and~~]; or

(vii) raccoon.

(44) "Regional advisory council" means a council created under Section 23A-2-303.

[~~(39)~~] (45) "Released to the wild" means to be turned loose from confinement.

[~~(40)~~] (46) (a) "Reservoir constructed on a natural stream channel" means a body of water collected and stored on the course of a natural flowing stream by impounding the stream through excavation or diking.

(b) "Reservoir constructed on a natural stream channel" does not mean an impoundment on a natural flowing stream where all surface water sources supplying the impoundment originate from groundwater springs no more than 100 yards upstream.

[~~(41) (a) "Resident"~~] (47) Subject to Section 23A-1-103, "resident" means a person who:

[~~(i)~~] (a) has been domiciled in the state for six consecutive months immediately preceding the purchase of a license; and

[~~(ii)~~] (b) does not claim residency for hunting, fishing, or trapping in [~~any other~~] another state or country.

[~~(b) A Utah resident retains Utah residency if that person leaves this state:~~]

[~~(i) to serve in the armed forces of the United States or for religious or educational purposes; and~~]

[~~(ii) the person complies with Subsection (41)(a)(ii).~~]

[~~(c) (i) A member of the armed forces of the United States and dependents are residents for the purposes of this chapter as of the date the member reports for duty under assigned orders in the state if the member:~~]

[~~(A) is not on temporary duty in this state; and~~]

[~~(B) complies with Subsection (41)(a)(ii).~~]

[~~(ii) A copy of the assignment orders shall be presented to a wildlife division office to verify the member's qualification as a resident.~~]

[~~(d) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:~~]

[~~(i) has been present in this state for 60 consecutive days immediately preceding the purchase of the license; and~~]

[~~(ii) complies with Subsection (41)(a)(ii).~~]

[~~(e) A Utah resident license is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.~~]

[~~(f) An absentee landowner paying property tax on land in Utah does not qualify as a resident.~~]

[~~(42)~~] (48) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging, or trading.

[~~(43) (a)~~] (49) "Short-term fishing event" means an event when:

(a) privately acquired fish are held or confined for a period not to exceed 10 days for the purpose of providing fishing or recreational opportunity; and [~~where~~]

(b) no fee is charged as a requirement to fish.

[~~(b) A fishing license is not required to take fish at a short-term fishing event.~~]

[~~(44)~~] (50) "Small game" means species of protected wildlife:

(a) commonly pursued for sporting purposes;

(b) not classified as big game, aquatic wildlife, or furbearers; and

(c) excluding turkey, cougar, and bear.

[~~(45)~~] (51) "Spoiled" means impairment of the flesh of wildlife that renders the flesh unfit for human consumption.

[~~(46)~~] (52) "Spotlighting" means throwing or casting the rays of [~~any~~] a spotlight, headlight, or other artificial light on [~~any~~] a highway or in [~~any~~] a field, woodland, or forest while having in possession a weapon by which protected wildlife may be killed.

[~~(47)~~] (53) "Tag" means a card, label, or other paper-based or electronic means of identification used to document harvest of protected wildlife.

[~~(48)~~] (54) "Take" means to:

(a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill [~~any~~] protected wildlife; or

(b) attempt [~~any~~] an action referred to in Subsection [~~(48)~~] (54)(a).

[~~(49)~~] (55) "Threatened" means wildlife designated as [~~such~~] threatened pursuant to Section 3 of the federal Endangered Species Act of 1973.

[~~(50)~~] (56) "Trapping" means taking protected wildlife with a trapping device.

[~~(51)~~] (57) "Trophy animal" means an animal described as follows:

(a) deer - a buck with an outside antler measurement of 24 inches or greater;

(b) elk - a bull with six points on at least one side;

(c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

(d) moose - a bull with at least one antler exceeding five inches in length;

(e) mountain goat – a male or female;

(f) pronghorn antelope – a buck with horns exceeding 14 inches; or

(g) bison – a bull.

(58) "Upland game" means pheasant, quail, partridge, grouse, ptarmigan, mourning dove, band-tailed pigeon, turkey, cottontail rabbit, or snowshoe hare.

[~~(52)~~] (59) "Waste" means to:

(a) abandon protected wildlife [~~or to~~]; or

(b) allow protected wildlife to spoil or to be used in a manner not normally associated with the protected wildlife's beneficial use.

[~~(53) "Water pollution" means the introduction of matter or thermal energy to waters within this state that:~~]

[~~(a) exceeds state water quality standards; or~~]

[~~(b) could be harmful to protected wildlife.~~]

[~~(54)~~] (60) "Wildlife" means:

(a) crustaceans, including brine shrimp and crayfish;

(b) mollusks; and

(c) vertebrate animals living in nature, except feral animals.

(61) "Wildlife Board" means the board created in Section 23A-2-301.

Section 2. Section 23A-1-102, which is renumbered from Section 23-13-3 is renumbered and amended to read:

[~~23-13-3~~]. 23A-1-102. Wildlife declared property of the state.

[~~All wildlife~~] (1) Wildlife existing within this state, not held by private ownership and legally acquired, is the property of the state.

(2) Fish released under private stocking become the property of the state and subject to the fishing regulations set forth in this title or a rule or proclamation of the Wildlife Board.

Section 3. Section 23A-1-103 is enacted to read:

23A-1-103. Domicile or residency.

(1) To create a new domicile an individual shall:

(a) abandon the old domicile; and

(b) be able to prove that a new domicile has been established.

(2) A Utah resident retains Utah residency if that person leaves this state:

(a) to serve in the armed forces of the United States or for religious or educational purposes; and

(b) the person complies with Subsection 23A-1-101(47)(b).

(3) (a) A member of the armed forces of the United States and dependents are residents for the purposes of this title as of the date the member reports for duty under assigned orders in the state if the member:

(i) is not on temporary duty in this state; and

(ii) complies with Subsection 23A-1-101(47)(b).

(b) A member shall present a copy of the assignment orders to a division office to verify the member's qualification as a resident.

(4) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this title if the student:

(a) has been present in this state for 60 consecutive days immediately preceding the purchase of the license; and

(b) complies with Subsection 23A-1-101(47)(b).

(5) A Utah resident license is invalid if a resident license for hunting, fishing, or trapping is purchased in another state or country.

(6) An absentee landowner paying property tax on land in Utah does not qualify as a resident.

Section 4. Section 23A-1-201, which is renumbered from Section 23-13-8 is renumbered and amended to read:

Part 2. Miscellaneous

[~~23-13-8~~]. 23A-1-201. Private wildlife farms.

(1) [~~Any~~] (a) Subject to the requirements of this section, a person may:

(i) establish and maintain a private wildlife [~~farms~~] farm for propagating, rearing, and keeping furbearers or birds classified as protected wildlife [~~and may~~]; and

(ii) sell or dispose of wildlife reared upon [~~such farms~~] the private wildlife farm, except that disposal may not include release to the wild without first securing written permission from the Wildlife Board.

(b) Before establishing [~~such~~] a private wildlife farm, a person shall obtain written authorization from the [~~Division of Wildlife Resources~~] division in accordance with rules established by the Wildlife Board[~~. Any wildlife which~~] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) Wildlife that escapes from a private wildlife [~~farms~~] farm becomes the property of the state.

(2) This section does not:

(a) apply to a private fur [~~farms~~] farm established and maintained for rearing domesticated, privately owned mink or chinchilla [~~which~~] that were not acquired as wild animals from [~~any~~] a state or country[~~, nor does it~~]; or

(b) provide for the propagating, rearing, and keeping of [~~any~~] a protected wildlife other than [~~those~~] a wildlife specified in this section.

Section 5. Section 23A-1-202, which is renumbered from Section 23-13-12.5 is renumbered and amended to read:

[~~23-13-12.5~~]. 23A-1-202. Agreement with a tribe.

(1) As used in this section, "tribe" means a federally recognized:

(a) Indian tribe; or

(b) Indian band.

(2) (a) Subject to the requirements of this section, the governor may enter into an agreement with a tribe to settle a dispute between the state and the tribe concerning a hunting, fishing, or trapping right claim that is:

(i) based on:

(A) a treaty;

(B) an aboriginal right; or

(C) other recognized federal right; and

(ii) on lands located within the state.

(b) Except as provided in Subsection (2)(c), an agreement permitted under Subsection (2)(a) may not exempt [~~any~~] a person from the requirements of this title.

(c) An agreement permitted under Subsection (2)(a) may exempt or partially exempt a tribe that is a party to the agreement or a member of that tribe from:

(i) Section [~~23-16-5~~] 23A-11-201, placing a limit of one of any species of big game during a license year;

(ii) Section [~~23-16-6~~] 23A-11-202, commencement date of the general deer season;

(iii) a hunter or furharvester education requirement under Chapter [~~19~~] 4, Licenses, Permits, Certificates of Registration, and Tags;

(iv) an age restriction under Chapter [~~19~~] 4, Licenses, Permits, Certificates of Registration, and Tags;

(v) paying a fee required under this title to obtain a hunting, fishing, or trapping license or permit;

(vi) obtaining a license or permit required under this title to hunt, trap, or fish; or

(vii) complying with a rule or proclamation of the Wildlife Board if the exemption is not inconsistent with this title.

(d) An agreement permitted under Subsection (2)(a) shall:

(i) be in writing;

(ii) be signed by:

(A) the governor; and

(B) the governing body of the tribe that:

(I) is designated by the tribe; and

(II) may bind the tribe to the terms of the agreement;

(iii) be conditioned on obtaining any approval required by federal law;

(iv) state the effective date of the agreement;

(v) provide that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute for which an exemption is not authorized under this section; and

(vi) include any accommodation made by the tribe that:

(A) is agreed to by the tribe;

(B) is reasonably related to the agreement; and

(C) concerns the management and use of wildlife resources or habitat.

(e) [~~Prior to~~] Before executing an agreement under this Subsection (2), the governor shall consult with:

(i) the division; and

(ii) the chair of the Wildlife Board [~~created in Section 23-14-2~~].

(f) At least 30 days before the agreement under this Subsection (2) is executed, the governor or the governor's designee shall provide a copy of the agreement in the form that the agreement will be executed to:

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

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

Section 6. Section 23A-1-203, which is renumbered from Section 23-13-15 is renumbered and amended to read:

[~~23-13-15~~]. 23A-1-203. Utah State Hunting and Fishing Day.

In recognition of the substantial and continued contribution by hunters and fishermen toward the sound management of wildlife in Utah, the fourth Saturday of September of each year is [~~hereby established~~] known as "Utah State Hunting and Fishing Day."

Section 7. Section 23A-1-204, which is renumbered from Section 23-13-17 is renumbered and amended to read:

[~~23-13-17~~]. 23A-1-204. Spotlighting of coyote, red fox, striped skunk, and raccoon -- County ordinances -- Permits.

(1) For purposes of a county ordinance enacted pursuant to this section, "motor vehicle" means the same as that term is defined in Section 41-6a-102.

[~~(1)~~] (2) Spotlighting may be used to hunt coyote, red fox, striped skunk, or raccoon [~~where~~] when allowed by a county ordinance enacted pursuant to this section.

[~~(2)~~] (3) The ordinance shall provide that:

(a) [~~any~~] a hunter shall carry the artificial light used to spotlight coyote, red fox, striped skunk, or raccoon [~~shall be carried by the hunter~~];

(b) a motor vehicle headlight or light attached to or powered by a motor vehicle may not be used to spotlight the [~~animal~~] coyote, red fox, striped skunk, or raccoon; and

(c) while hunting with the use of an artificial light, the hunter may not occupy or operate [~~any~~] a motor vehicle.

[~~(3) For purposes of the county ordinance, "motor vehicle" shall have the meaning as defined in Section 41-6a-102.~~]

(4) The ordinance may specify:

(a) the time of day and seasons when spotlighting is permitted;

(b) areas closed or open to spotlighting within the unincorporated area of the county;

(c) safety zones within which spotlighting is prohibited;

(d) the weapons permitted; and

(e) penalties for violation of the ordinance.

(5) (a) A county may restrict the number of hunters engaging in spotlighting by requiring a permit to spotlight and issuing a limited number of permits.

(b) (i) A county may charge a fee [~~may be charged~~] for a spotlighting permit.

[~~(ii) Any permit fee shall be established by the county ordinance.~~]

(ii) A county ordinance shall establish the permit fee.

(iii) [~~Revenues~~] A county shall remit revenue generated by the permit fee [~~shall be remitted to the Division of Wildlife Resources~~] to the division for deposit into the Wildlife Resources Account, except the Wildlife Board may allow [~~any~~] a county that enacts an ordinance pursuant to this section to retain a reasonable amount to pay for the costs of administering and enforcing the ordinance[~~, provided this~~] if the use of the permit revenues does not affect federal funds received by the state under Wildlife Restoration Act, 16 U.S.C. Sec. 669 et seq., [~~Wildlife Restoration Act~~] and Sport Fish Restoration Act, 16 U.S.C. Sec. 777 et seq.[~~, Sport Fish Restoration Act.~~]

(6) A county may require [~~hunters~~] a hunter to notify the county sheriff of the time and place [~~they~~] the hunter will be engaged in spotlighting.

(7) The requirement that a county enact an ordinance [~~shall be enacted~~] before a person may use spotlighting to hunt coyote, red fox, striped skunk, or raccoon does not apply to:

(a) a person or the person's agent who is lawfully acting to protect the person's crops or domestic animals from predation by those animals; or

(b) an animal damage control agent acting in the agent's official capacity under a memorandum of agreement with the division.

Section 8. Section 23A-1-205, which is renumbered from Section 23-20-9 is renumbered and amended to read:

[~~23-20-9~~]. 23A-1-205. Donating protected wildlife.

(1) A person may only donate protected wildlife or [~~their~~] wildlife parts to another person at:

(a) the residence of the donor;

(b) the residence of the person receiving protected wildlife or [~~their~~] the wildlife parts;

(c) a meat locker;

(d) a storage plant;

(e) a meat processing facility; or

(f) a location authorized by the Wildlife Board in rule, proclamation, or order.

(2) A written statement of donation shall be kept with the protected wildlife or parts showing:

(a) the number and species of protected wildlife or parts donated;

(b) the date of donation;

(c) the license or permit number of the donor; and

(d) the signature of the donor.

(3) Notwithstanding Subsections (1) and (2), a person may donate the hide of a big game animal to another person or organization at any place without a donation slip.

Section 9. Section 23A-2-101 is enacted to read:

CHAPTER 2. ADMINISTRATION

Part 1. General Provisions

23A-2-101. Definitions.

Reserved.

Section 10. Section 23A-2-102, which is renumbered from Section 23-14-3 is renumbered and amended to read:

[~~23-14-3~~]. 23A-2-102. Powers of division to determine facts -- Policymaking powers of Wildlife Board.

(1) The [~~Division of Wildlife Resources~~] division may determine the facts relevant to the wildlife resources of this state.

(2) (a) Upon a determination of [~~these~~] the facts, the Wildlife Board shall establish the policies best designed to accomplish the purposes and fulfill the intent of [~~all~~] the laws pertaining to wildlife and the preservation, protection, conservation, perpetuation, introduction, and management of wildlife.

(b) In establishing policy, the Wildlife Board shall:

(i) recognize that wildlife and [~~its~~] the wildlife's habitat are an essential part of a healthy, productive environment;

(ii) recognize the impact of wildlife on humans, human economic activities, private property rights, and local economies;

(iii) seek to balance the habitat requirements of wildlife with the social and economic activities of [~~man~~] humans;

(iv) recognize the social and economic values of wildlife, including fishing, hunting, and other uses; and

(v) seek to maintain wildlife on a sustainable basis.

(c) (i) The Wildlife Board shall consider the recommendations of the regional advisory councils established in Section [~~23-14-2.6~~] 23A-2-303.

(ii) If a regional advisory council recommends a position or action to the Wildlife Board, and the Wildlife Board rejects the recommendation, the Wildlife Board shall provide a written explanation to the regional advisory council recommending the opposing position.

(3) [~~No~~] An authority conferred upon the Wildlife Board by this title [~~shall~~] may not supersede the administrative authority of the executive director [~~of the Department of Natural Resources~~] or the director [~~of the Division of Wildlife Resources~~].

Section 11. Section 23A-2-201, which is renumbered from Section 23-14-1 is renumbered and amended to read:

Part 2. Division and Director

[~~23-14-1~~]. 23A-2-201. Division of Wildlife Resources -- Limits on authority of political subdivisions -- Adjudicative proceedings -- Official seal.

(1) (a) There is created the Division of Wildlife Resources within the Department of Natural Resources under the administration and general supervision of the executive director [~~of the Department of Natural Resources~~].

(b) The [~~Division of Wildlife Resources~~] division is the wildlife authority for Utah and is vested with the functions, powers, duties, rights, and responsibilities provided in this title and other law.

(2) (a) Subject to the broad policymaking authority of the Wildlife Board, the [~~Division of Wildlife Resources~~] division shall protect, propagate, manage, conserve, and distribute protected wildlife throughout the state.

(b) The [~~Division of Wildlife Resources is appointed as~~] division is the trustee and custodian of protected wildlife and may initiate civil proceedings, in addition to criminal proceedings provided for in this title, to:

(i) recover damages;

(ii) compel performance;

(iii) compel substitution;

(iv) restrain or enjoin;

(v) initiate any other appropriate action; and

(vi) seek [~~any~~] appropriate remedies in [~~its~~] the division's capacity as trustee and custodian.

(3) (a) If a political subdivision of the state adopts [~~ordinances or regulations~~] an ordinance or regulation concerning hunting, fishing, or trapping that [~~conflict~~] conflicts with this title or rules [~~promulgated~~] made pursuant to this title, state law [~~shall prevail~~] prevails.

(b) [~~Communities~~] A community may close areas to hunting for safety reasons after confirmation by the Wildlife Board.

(4) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in the division's adjudicative proceedings.

(5) The division shall adopt an official seal and file an impression and a description of the official seal with the Division of Archives.

Section 12. Section 23A-2-202, which is renumbered from Section 23-14-7 is renumbered and amended to read:

[~~23-14-7~~]. 23A-2-202. Director of the division -- Qualifications.

(1) The director shall:

(a) be the executive and administrative head of the [~~Division of Wildlife Resources~~] division; and

(b) have demonstrated ability in management and administration and experience in the protection, conservation, restoration, and management of wildlife resources.

(2) The director may not hold [~~any other~~] another public office or be involved in a political party or organization.

Section 13. Section 23A-2-203, which is renumbered from Section 23-14-8 is renumbered and amended to read:

[~~23-14-8~~]. 23A-2-203. Director powers.

The director [~~of the Division of Wildlife Resources~~], under administrative supervision of the executive director [~~of the Department of Natural Resources, shall have~~], has:

(1) executive authority and control of the [~~Division of Wildlife Resources~~] division so that policies of the Wildlife Board are carried out in accordance with the laws of this state;

(2) authority over [~~all~~] personnel matters;

(3) full control of [~~all~~] property acquired and held for the purposes specified in this title; and

(4) authority to declare emergency closed or open seasons in the interest of the wildlife resources of the state.

Section 14. Section 23A-2-204, which is renumbered from Section 23-14-10 is renumbered and amended to read:

[~~23-14-10~~]. 23A-2-204. Compensation of division employees -- Travel expenses of director and employees.

[~~Employees of the Division of Wildlife Resources shall receive such~~] An employee of the division shall receive the compensation [~~as~~] the director [~~shall~~

~~determine~~] determines within limits established for state employees by [~~the Division of Finance~~] Title 63A, Chapter 17, Utah State Personnel Management Act. In addition to salaries provided for within this title, the director and employees of the [~~Division of Wildlife Resources~~] division are entitled to receive travel expenses as provided in the rules established by the Division of Finance.

Section 15. Section 23A-2-205, which is renumbered from Section 23-14-12 is renumbered and amended to read:

[~~23-14-12~~]. 23A-2-205. Oaths administered by director.

The director [~~of wildlife resources shall have the power to~~] may administer oaths for [~~all~~] the purposes required in the discharge of [~~his~~] the director's duties.

Section 16. Section 23A-2-206, which is renumbered from Section 23-15-2 is renumbered and amended to read:

[~~23-15-2~~]. 23A-2-206. Jurisdiction of division over public or private land and waters.

[~~All wildlife~~] Wildlife within this state, including wildlife on public or private land or in public or private waters within this state, [~~shall fall~~] is within the jurisdiction of the [~~Division of Wildlife Resources~~] division.

Section 17. Section 23A-2-207, which is renumbered from Section 23-13-6 is renumbered and amended to read:

[~~23-13-6~~]. 23A-2-207. Taking of wildlife by division.

(1) Subject to the other provisions of this section, the division may take wildlife of any kind from any place and in any manner for purposes considered by the director [~~of the division~~] to be in the interest of wildlife conservation.

(2) The division shall deliver notice to an affected landowner or an agent of an affected landowner, either in writing or orally, before the taking of wildlife on privately owned land under this section. The division may take the wildlife immediately after or at a time reasonably required for the taking after delivering notice.

(3) The notice requirements in Subsection (2) do not apply in a situation when there is a threat to public safety or exigent circumstances exist.

Section 18. Section 23A-2-208, which is renumbered from Section 23-13-7 is renumbered and amended to read:

[~~23-13-7~~]. 23A-2-208. Use of fireworks and explosives by division employees and certain federal game agents.

Notwithstanding any other provision of law, [~~employees of the Division of Wildlife Resources and federal game agents~~] the following may, without obtaining a permit, use fireworks and explosives to rally, drive, or otherwise disperse concentrations of wildlife as may be necessary to protect property or wildlife resources:

(1) an employee of the division designated by the director; or

(2) a federal game agent charged with the duty of managing wildlife resources [~~may, without obtaining a permit, use fireworks and explosives to rally, drive, or otherwise disperse concentrations of wildlife as may be necessary to protect property or wildlife resources~~].

Section 19. Section 23A-2-209, which is renumbered from Section 23-14-21 is renumbered and amended to read:

[~~23-14-21~~]. 23A-2-209. Transplants of big game, turkeys, wolves, or sensitive species.

(1) The division may transplant big game, turkeys, wolves, or sensitive species only in accordance with:

(a) (i) a list of sites for the transplant of a particular species that is prepared and adopted in accordance with Subsections (2) through (5);

[~~(b)~~] (ii) a species management plan, such as a deer or elk management plan adopted under Section [~~23-16-7~~] 23A-11-301 or a recovery plan for a threatened or endangered species, provided that:

[~~(i)~~] (A) the plan identifies sites for the transplant of the species or the lands or waters the species are expected to occupy; and

[~~(ii)~~] (B) the public has had an opportunity to comment and make recommendations on the plan; [~~or~~] and

(iii) the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.; or

[~~(c)~~] (b) a legal agreement between the state and a tribal government that identifies potential transplants[~~; and~~]

[~~(d) the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq~~].

(2) The division shall:

(a) consult with the landowner in determining the suitability of a site for the transplant of a species;

(b) prepare a list of proposed sites for the transplant of species; and

(c) provide notification of proposed sites for the transplant of species to:

(i) local government officials having jurisdiction over areas that may be affected by a transplant; and

(ii) the Resource Development Coordinating Committee created in Section 63L-11-401.

(3) After receiving comments from local government officials and the Resource Development Coordinating Committee, the division shall submit the list of proposed transplant sites, or a revised list, to regional advisory councils

for the one or more regions that may be affected by the transplants of species.

(4) [~~Each~~] A regional advisory council reviewing a list of proposed sites for the transplant of species may submit recommendations to the Wildlife Board.

(5) The Wildlife Board shall approve, modify, or reject [~~each~~] a proposal for the transplant of a species.

(6) [~~Each~~] A list of proposed transplant sites approved by the Wildlife Board shall have a termination date after which a transplant may not occur.

Section 20. Section 23A-2-301, which is renumbered from Section 23-14-2 is renumbered and amended to read:

Part 3. Wildlife Board and Regional Councils

[~~23-14-2~~]. 23A-2-301. Wildlife Board created.

(1) There is created a Wildlife Board [~~which shall consist~~] that consists of seven members appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) In addition to the requirements of Section 79-2-203, the members of the [~~board~~] Wildlife Board shall have expertise or experience in at least one of the following areas:

(i) wildlife management or biology;

(ii) habitat management, including range or aquatic;

(iii) business, including knowledge of private land issues; and

(iv) economics, including knowledge of recreational wildlife uses.

(b) [~~Each~~] At least one member of the Wildlife Board shall represent each of the areas of expertise under Subsection (2)(a) [~~shall be represented by at least one member of the Wildlife Board~~].

(3) (a) The governor shall select [~~each~~] a board member from a list of nominees submitted by the nominating committee pursuant to Section [~~23-14-2.5~~] 23A-2-302.

(b) No more than two members shall be from a single wildlife region described in Subsection [~~23-14-2.6~~] 23A-2-303(1).

(c) The governor may request an additional list of at least two nominees from the nominating committee if the initial list of nominees for a given position is unacceptable.

(d) (i) If the governor fails to appoint a board member within 60 days after receipt of the initial or additional list, the nominating committee shall make an interim appointment by majority vote.

(ii) The interim board member shall serve until the matter is resolved by the nominating committee and the governor or until the board member is replaced pursuant to this chapter.

(4) (a) Except as required by Subsection (4)(b), as terms of current board members expire, the governor shall appoint [~~each~~] a new member or reappointed member to a six-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that:

(i) the terms of board members are staggered so that approximately one-third of the [~~board~~] Wildlife Board is appointed every two years; and

(ii) members serving from the same region have staggered terms.

(c) If a vacancy occurs, the nominating committee shall submit at least two names, as provided in Subsection [~~23-14-2.5~~] 23A-2-302(4), to the governor and the governor shall appoint a replacement for the unexpired term.

(d) [~~Board members~~] A board member may serve only one term unless the board member:

(i) [~~the member~~] is among the first board members appointed to serve four years or less; or

(ii) [~~the member~~] filled a vacancy under Subsection (4)(c) for four years or less.

(5) (a) The [~~board~~] Wildlife Board shall elect a chair and a vice chair from [~~its~~] the Wildlife Board's membership.

(b) Four members of the [~~board shall constitute~~] Wildlife Board constitutes a quorum.

(c) The director [~~of the Division of Wildlife Resources~~] shall act as secretary to the [~~board~~] Wildlife Board, but is not a voting member of the [~~board~~] Wildlife Board.

(6) (a) The Wildlife Board shall hold a sufficient number of public meetings each year to expeditiously conduct [~~its~~] the Wildlife Board's business.

(b) Meetings may be called by the chair upon five days notice or upon shorter notice in emergency situations.

(c) Meetings may be held at the Salt Lake City office of the [~~Division of Wildlife Resources~~] division or elsewhere as determined by the Wildlife Board.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(8) (a) [~~The members~~] A member of the Wildlife Board shall complete an orientation course to assist [~~them~~] the member in the performance of the duties of [~~their~~] the member's office.

(b) The [~~Department of Natural Resources~~] department shall provide the course required under Subsection (8)(a).

(9) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 21. Section 23A-2-302, which is renumbered from Section 23-14-2.5 is renumbered and amended to read:

[~~23-14-2.5~~]. 23A-2-302. Wildlife Board Nominating Committee created.

(1) There is created a Wildlife Board Nominating Committee [~~which shall consist~~] that consists of 11 members.

(2) The governor shall appoint members to the nominating committee as follows:

(a) three members shall be appointed from a list of at least two nominees per position submitted by the agriculture industry;

(b) three members shall be appointed from a list of at least two nominees per position submitted by sportsmen groups;

(c) two members shall be appointed from a list of at least two nominees per position submitted by nonconsumptive wildlife interests;

(d) one member shall be appointed from a list of at least two nominees submitted by federal land management agencies;

(e) one local elected official shall be appointed from a list of at least two nominees submitted by the Utah Association of Counties; and

(f) one range management specialist shall be appointed from a list of at least two nominees submitted jointly by the Utah Chapter, Society of Range Management and the Utah Chapter, The Wildlife Society.

(3) [~~Each~~] A wildlife region described in Subsection [~~23-14-2.6~~] 23A-2-303(1) shall be represented by at least one member [~~and no~~]. A wildlife region may not be represented by more than three members.

(4) The nominating committee shall nominate at least two, but not more than four, candidates for each position or vacancy [~~which~~] that occurs on the [~~board~~] Wildlife Board.

(5) (a) Except as required by Subsection (5)(b), as terms of current [~~board~~] nominating committee members expire, the governor shall appoint [~~each~~] a new or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that:

(i) the terms of [~~board~~] nominating committee members are staggered so that approximately half of the [~~board~~] nominating committee is appointed every two years; and

(ii) members from the same wildlife region serve staggered terms.

(c) If a vacancy occurs for any reason, the governor shall appoint a replacement in the same manner that the position was originally filled to serve the remainder of the unexpired term.

(6) The nominating committee shall select a chair and vice chair from [~~its~~] the nominating committee's membership.

(7) Six members shall constitute a quorum.

(8) A member of the nominating committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 22. Section 23A-2-303, which is renumbered from Section 23-14-2.6 is renumbered and amended to read:

[~~23-14-2.6~~]. 23A-2-303. Regional advisory councils created.

(1) There are created five regional advisory councils [~~which shall~~] that consist of 12 to 15 members each from the wildlife region whose boundaries are established for administrative purposes by the division.

(2) The members shall include individuals who represent the following groups and interests:

(a) agriculture;

(b) sportsmen;

(c) nonconsumptive wildlife;

(d) locally elected public officials;

(e) federal land agencies; and

(f) the public at large.

(3) The executive director [~~of the Department of Natural Resources~~], in consultation with the director [~~of the Division of Wildlife Resources~~], shall select the members from a list of nominees submitted by the respective interest group or agency.

(4) The regional advisory councils shall:

(a) hear broad input, including recommendations, biological data, and information regarding the effects of wildlife;

(b) gather information from staff, the public, and government agencies; and

(c) make recommendations to the Wildlife Board in an advisory capacity.

(5) (a) Except as required by Subsection (5)(b), [~~each~~] a member shall serve a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the executive director shall, at

the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) The councils shall determine:

(a) the time and place of meetings; and

(b) [~~any other~~] a procedural matter not specified in this chapter.

(8) Members of the councils shall complete an orientation course [~~as provided~~] described in Subsection [~~23-14-2~~] 23A-2-301(8).

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 23. Section 23A-2-304, which is renumbered from Section 23-14-19 is renumbered and amended to read:

[~~23-14-19~~]. 23A-2-304. Rules, proclamations, and orders of the Wildlife Board -- Judicial notice of proclamations.

(1) The Wildlife Board shall exercise [~~its~~] the Wildlife Board's powers by making rules and issuing proclamations and orders pursuant to this [~~code~~] title.

(2) A court shall take judicial notice of a proclamation published under the authority of this title.

Section 24. Section 23A-2-305, which is renumbered from Section 23-14-18 is renumbered and amended to read:

[~~23-14-18~~]. 23A-2-305. Establishment of seasons, locations, limits, and regulations by the Wildlife Board.

(1) To provide an adequate and flexible system of protection, propagation, introduction, increase, control, harvest, management, and conservation of protected wildlife in this state and to provide for the use and development of protected wildlife for public recreation and food supply while maintaining a sustainable population of protected wildlife, the Wildlife Board shall determine the circumstances, time, location, means, and the amounts[~~,~~] and numbers of protected wildlife [~~which~~] that may be taken.

(2) The Wildlife Board shall, except as otherwise specified in this [~~code~~] title:

(a) fix seasons and shorten, extend, or close seasons on any species of protected wildlife in any locality, or in the entire state, if the [~~board~~] Wildlife Board finds that the action is necessary to effectuate proper wildlife management and control;

(b) close or open areas to fishing, trapping, or hunting;

(c) establish refuges and preserves;

(d) regulate and prescribe the means by which protected wildlife may be taken;

(e) regulate the transportation and storage of protected wildlife, or [~~their~~] the wildlife parts, within the boundaries of the state and the shipment or transportation out of the state;

(f) establish or change bag limits and possession limits;

(g) prescribe safety measures and establish other regulations as may be considered necessary in the interest of wildlife conservation and the safety and welfare of hunters, trappers, fishermen, landowners, and the public;

(h) (i) prescribe when [~~licenses, permits, tags, and certificates of registration shall be~~] a license, permit, tag, or certificate of registration is required and procedures for their issuance and use; and

(ii) establish forms and fees for [~~licenses, permits, tags, and certificates of registration~~] a license, permit, tag, or certificate of registration; and

(i) [~~prescribe rules and regulations as it~~] make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as the Wildlife Board may consider necessary to control the use and harvest of protected wildlife by private associations, clubs, partnerships, or corporations, provided the rules [~~and regulations~~] do not preclude the landowner from personally controlling trespass upon the owner's properties nor from charging a fee to trespass for purposes of hunting or fishing.

(3) The Wildlife Board may allow a season on protected wildlife to commence on any day of the week except Sunday.

(4) The Wildlife Board shall establish fees for licenses, permits, tags, and certificates of registration in accordance with Section 63J-1-504.

(5) The Wildlife Board may not issue a license, permit, tag, or certificate of registration as a reward for an individual's assistance with a prosecution for violation of Section 76-6-111.

Section 25. Section 23A-2-401, which is renumbered from Section 23-22-1 is renumbered and amended to read:

Part 4. Cooperative and Reciprocal Agreements

[~~23-22-1~~]. 23A-2-401. Cooperative agreements and programs authorized.

(1) The [~~Division of Wildlife Resources~~] division may enter into cooperative agreements and programs with other state agencies, federal agencies, states, educational institutions, municipalities, counties, corporations, organized

clubs, landowners, associations, and individuals for purposes of wildlife conservation.

(2) Cooperative agreements that are policy in nature shall be:

(a) approved by the executive director [~~of the Department of Natural Resources~~]; and

(b) reviewed by the Wildlife Board.

Section 26. Section 23A-2-402, which is renumbered from Section 23-22-2 is renumbered and amended to read:

[~~23-22-2~~]. 23A-2-402. Acceptance of Acts of Congress.

(1) The state assents to [~~the provisions of~~] the Wildlife Restoration Act, 16 U.S.C. Sec. 669 et seq., [~~Wildlife Restoration Act~~] and the Sport Fish Restoration Act, 16 U.S.C. 777 et seq.[~~, Sport Fish Restoration Act.~~]

(2) The division shall conduct and establish cooperative fish and wildlife restoration projects as provided by the acts specified in Subsection (1) and rules [~~promulgated~~] made under those acts.

(3) The following revenues received by the state may not be used for any purpose other than the administration of the division:

(a) revenue from the sale of [~~any~~] a license, permit, tag, [~~stamp,~~] or certificate of registration that conveys to a person the privilege to take wildlife for sport or recreation, less reasonable vendor fees;

(b) revenue from the sale, lease, rental, or other granting of rights of real or personal property acquired with revenue specified in Subsection (3)(a);

(c) interest, dividends, or other income earned on revenue specified in Subsection (3)(a) or (b); and

(d) federal aid project reimbursements to the extent that revenue specified in Subsection (3)(a) or (b) originally funded the project for which the reimbursement is being made.

Section 27. Section 23A-2-403, which is renumbered from Section 23-22-3 is renumbered and amended to read:

[~~23-22-3~~]. 23A-2-403. Reciprocal agreements with other states.

(1) The Wildlife Board [~~is authorized to~~] may enter into reciprocal agreements with other states to:

(a) license and regulate fishing, hunting, and related activities; and

(b) promote and implement wildlife management programs.

(2) Reciprocal agreements shall be approved by the executive director [~~of the Department of Natural Resources~~].

Section 28. Section 23A-2-501, which is renumbered from Section 23-25-2 is renumbered and amended to read:

Part 5. Wildlife Violator Compact

[~~23-25-2~~]. 23A-2-501. Adoption and text of compact.

(1) The participating states find that:

(a) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(b) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, ordinances, and administrative rules relating to the management of the resources.

(c) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of the natural resources.

(d) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(e) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(f) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.

(g) Usually, a person who is cited for a wildlife violation in a state other than his home state:

(i) is required to post collateral or bond to secure appearance for a trial at a later date; or

(ii) is taken directly into custody until collateral or bond is posted; or

(iii) is taken directly to court for an immediate appearance.

(h) The purpose of the enforcement practices set forth in Subsection (1)(g) is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on his way after receiving the citation, could return to his home state and disregard his duty under the terms of the citation.

(i) In most instances, a person receiving a wildlife citation in his home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on his way after agreeing or being instructed to comply with the terms of the citation.

(j) The practices described in Subsection (1)(g) cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and is compelled to remain in custody until some alternative arrangement is made.

(k) The enforcement practices described in Subsection (1)(g) consume an undue amount of enforcement time.

(2) It is the policy of the participating states to:

(a) promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to the management of wildlife resources in their respective states;

(b) recognize the suspension of wildlife license privileges of a person whose license privileges have been suspended by a participating state and treat the suspension as if it had occurred in their state;

(c) allow a violator, except as provided in Subsection [~~23-25-~~4] 23A-2-503(2), to accept a wildlife citation and, without delay, proceed on his way, whether or not the violator is a resident of the state in which the citation was issued, provided that the violator's home state is a party to this compact;

(d) report to the appropriate participating state, as provided in the compact manual, a conviction recorded against a person whose home state was not the issuing state;

(e) allow the home state to recognize and treat convictions recorded against its residents, which convictions occurred in a participating state, as though they had occurred in the home state;

(f) extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another state;

(g) maximize effective use of law enforcement personnel and information; and

(h) assist court systems in the efficient disposition of wildlife violations.

Section 29. Section 23A-2-502, which is renumbered from Section 23-25-3 is renumbered and amended to read:

[~~23-25-3~~]. 23A-2-502. Definitions.

As used in this compact:

(1) "Citation" means a summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation which contains an order requiring the person to respond.

(2) "Collateral" means cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(3) "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges.

(4) "Conviction" means a conviction, including any court conviction, for an offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule. This conviction shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed the offense, the payment of a penalty assessment, a plea of nolo contendere and the imposition of a deferred or suspended sentence by the court.

(5) "Court" means a court of law, including magistrate's court and the justice of the peace court.

(6) "Home state" means the state of primary residence of a person.

(7) "Issuing state" means the participating state which issues a wildlife citation to the violator.

(8) "License" means a license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.

(9) "Licensing authority" means the department or division within each participating state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(10) "Participating state" means any state which enacts legislation to become a member of this wildlife compact.

(11) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of the citation.

(12) "State" means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and the other countries.

(13) "Suspension" means a revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(14) "Wildlife" means species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purpose of this compact shall be based on local law.

(15) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management and use of wildlife resources.

(16) "Wildlife officer" means an individual authorized by a participating state to issue a citation for a wildlife violation.

(17) "Wildlife violation" means a cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted for the management and use of wildlife resources.

Section 30. Section 23A-2-503, which is renumbered from Section 23-25-4 is renumbered and amended to read:

[~~23-25-4~~]. 23A-2-503. Procedures for issuing state.

(1) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to a person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require the person to post collateral to secure appearance, subject to the exceptions under Subsection (2), if the officer receives the recognizance of the person that he will comply with the terms of the citation.

(2) Personal recognizance is acceptable:

(a) if not prohibited by local law or the compact manual; and

(b) if the violator provides adequate proof of identification to the wildlife officer.

(3) (a) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued.

(b) The report shall be made in accordance with procedures specified by the issuing state and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home state.

(4) Upon receipt of the report of a conviction or noncompliance pursuant to Subsection (3)(b), the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and with the content as prescribed in the compact manual.

Section 31. Section 23A-2-504, which is renumbered from Section 23-25-5 is renumbered and amended to read:

[~~23-25-5~~]. 23A-2-504. Procedure for home state.

(1) (a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the term of a citation, the licensing authority of the home state shall:

(i) notify the violator;

(ii) initiate a suspension action in accordance with the home state's suspension procedures; and

(iii) suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority.

(b) Due process safeguards will be accorded.

(2) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter the conviction as though it occurred in the home state for the purposes of the suspension of license privileges.

(3) The licensing authority of the home state shall:

(a) maintain a record of actions taken; and

(b) make reports to issuing states as provided in the compact manual.

Section 32. Section 23A-2-505, which is renumbered from Section 23-25-6 is renumbered and amended to read:

[~~23-25-6~~]. 23A-2-505. Reciprocal recognition of suspension.

(1) All participating states shall recognize the suspension of license privileges of a person by the participating state as though the violation resulting in the suspension:

(a) had occurred in their state; and

(b) could have been the basis of the suspension of license privileges in their state.

(2) Each participating state shall communicate suspension information to other participating states in the form and with the content as contained in the compact manual.

Section 33. Section 23A-2-506, which is renumbered from Section 23-25-7 is renumbered and amended to read:

[~~23-25-7~~]. 23A-2-506. Applicability of other laws.

Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any participating state to apply any of its laws relating to license privileges to a person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

Section 34. Section 23A-2-507, which is renumbered from Section 23-25-8 is renumbered and amended to read:

[~~23-25-8~~]. 23A-2-507. Compact administrator procedures.

(1) (a) A Board of Compact Administrators is established to:

(i) administer the provisions of this compact; and

(ii) serve as a governing body for the resolution of all matters relating to the operation of this compact.

(b) The board shall be composed of one representative from each of the participating states to be known as the compact administrator.

(c) The compact administrator shall be appointed by the head of the licensing authority of each participating state and shall serve and be subject to removal in accordance with the laws of the state he represents.

(d) A compact administrator may provide for the discharge of his duties and the performance of his function as a board member by an alternate.

(e) An alternate shall not be entitled to serve unless written notification of his identity has been given to the board.

(2) (a) Each member of the board of compact administrators shall be entitled to one vote.

(b) An action of the board shall not be binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor thereof.

(c) Action by the board shall be only at a meeting at which a majority of the participating states are represented.

(3) The board shall elect annually from its membership a chairman and vice-chairman.

(4) The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(5) The board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the donations and grants.

(6) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, or any private nonprofit organization or institution.

(7) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted to board action shall be contained in a compact manual.

Section 35. Section 23A-2-508, which is renumbered from Section 23-25-9 is renumbered and amended to read:

[~~23-25-9~~]. 23A-2-508. Entry into compact and withdrawal.

(1) This compact shall become effective at the time it is adopted in substantially similar form by two or more states.

(2) (a) Entry into the compact shall be made by resolution of ratification by the authorized officials of the applying state and submitted to the chairman of the board.

(b) The resolution shall substantially be in the form and content as provided in the compact manual and shall include the following:

(i) a citation of the authority from which the state is empowered to become a party to this compact;

(ii) an agreement of compliance with the terms and provisions of this compact; and

(iii) an agreement that compact entry is with all states participating in the compact and with all additional states legally becoming a party to the compact.

(c) The effective date of entry shall be specified by the applying state but shall not be less than 60 days after notice has been given:

(i) by the chairman of the board of the compact administrators; or

(ii) by the secretary of the board to each participating state that the resolution from the applying state has been received.

(3) A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal shall not become effective until 90 days after the notice of withdrawal is given. No withdrawal of any state shall affect the validity of this compact as to the remaining participating states.

Section 36. Section 23A-2-509, which is renumbered from Section 23-25-10 is renumbered and amended to read:

[~~23-25-10~~]. 23A-2-509. Amendments to the compact.

(1) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the Board of Compact Administrators and shall be initiated by one or more participating states.

(2) Adoption of an amendment shall require endorsement by all participating states and shall become effective 30 days after the date of the last endorsement.

(3) Failure of a participating state to respond to the compact chairman within 120 days after receipt of a proposed amendment shall constitute endorsement thereof.

Section 37. Section 23A-2-510, which is renumbered from Section 23-25-11 is renumbered and amended to read:

[~~23-25-11~~]. 23A-2-510. Construction and severability.

(1) This compact shall be liberally construed so as to effectuate the purposes stated herein.

(2) The provisions of this compact shall be severable and if a phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of a participating state or of the United States, or the applicability thereof to a government, agency, individual, or circumstance is held invalid, the validity of the remainder of this compact shall not be affected thereby.

(3) If this compact is held contrary to the constitution of a participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected regarding all severable matters.

Section 38. Section 23A-2-511, which is renumbered from Section 23-25-13 is renumbered and amended to read:

[~~23-25-13~~]. 23A-2-511. Licensing authority -- Administrator -- Expenses.

(1) The Division of Wildlife Resources is designated as the licensing authority in this state for the purpose of the compact.

(2) The director of the Division of Wildlife Resources shall furnish to the appropriate authorities of the participating states any information or documents reasonably necessary to facilitate the administration of the compact.

(3) The compact administrator provided for in Section [~~23-25-8~~] 23A-2-507, "Wildlife Violator Compact," shall not be entitled to any additional compensation for his service as the administrator but shall be entitled to expenses incurred in connection with his duties and responsibilities as administrator in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

Section 39. Section 23A-3-101 is enacted to read:

CHAPTER 3. FUNDS AND ACCOUNTS

Part 1. General Provisions

23A-3-101. Definitions.

Reserved.

Section 40. Section 23A-3-201, which is renumbered from Section 23-14-13 is renumbered and amended to read:

Part 2. Funds and Accounts in General

[~~23-14-13~~]. 23A-3-201. Wildlife Resources Account -- Unexpected fund balances converted to General Fund account.

(1) There is created a restricted account within the General Fund known as the "Wildlife Resources Account."

(2) The following money shall be deposited into the Wildlife Resources Account:

(a) revenue from the sale of licenses, permits, tags, and certificates of registration issued under this title or a rule or proclamation of the Wildlife Board, except as otherwise provided by this title;

(b) revenue from the sale, lease, rental, or other granting of rights of real or personal property acquired with revenue specified in Subsection (2)(a);

(c) revenue from fines and forfeitures for violations of this title or [~~any~~] a rule, proclamation, or order of the Wildlife Board, minus court costs not to exceed the schedule adopted by the Judicial Council;

(d) [~~funds~~] money appropriated from the General Fund by the Legislature pursuant to Section [~~23-19-39~~] 23A-4-306;

(e) other money received by the division under [~~any provision of~~] this title, except as otherwise provided by this title; and

(f) interest, dividends, or other income earned on account money.

(3) Money in the Wildlife Resources Account shall be used for the administration of this title.

(4) The state auditor and director of the Division of Finance shall, at the close of the fiscal year, convert into the Wildlife Resources Account the unexpended balances of the Wildlife Resources Account not legally obligated by contract or appropriated by the Wildlife Board for capital outlay projects or other programs that may extend beyond the close of the fiscal year.

Section 41. Section 23A-3-202, which is renumbered from Section 23-14-14 is renumbered and amended to read:

[~~23-14-14~~]. 23A-3-202. Grants or gifts accepted by division -- Special account.

The [~~Division of Wildlife Resources is authorized to~~] division may accept grants or gifts of money, property, water rights or other endowments that [~~will~~] benefit the wildlife resources of the state. [~~Money~~] The division shall place money as received [~~shall be placed~~] in a special account to be used for specific use as indicated by the grantor.

Section 42. Section 23A-3-203, which is renumbered from Section 23-14-13.5 is renumbered and amended to read:

[~~23-14-13.5~~]. 23A-3-203. Support for State-Owned Shooting Ranges Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Support for State-Owned Shooting Ranges Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the [~~account~~] Support for State-Owned Shooting Ranges Restricted Account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the division shall distribute [~~funds~~] money in the [~~account~~] Support for State-Owned Shooting Ranges Restricted Account to facilitate construction of new firearm shooting ranges, and operation and maintenance of existing ranges, that are:

(a) built on land owned or leased by the state;

(b) owned by the division; and

(c) operated by the division or the division's contractors.

(4) The division shall only expend the [~~funds~~] Support for State-Owned Shooting Ranges Restricted Account to:

(a) construct, operate, and maintain firearm shooting ranges described in Subsection (3); and

(b) pay the costs of issuing or reordering Support the 2nd Amendment and State-Owned Shooting Ranges support special group license plate decals.

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Section 43. Section 23A-3-204, which is renumbered from Section 23-14-14.2 is renumbered and amended to read:

[~~23-14-14.2~~]. 23A-3-204. Wildlife Resources Conservation Easement Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Wildlife Resources Conservation Easement Account."

(2) The Wildlife Resources Conservation Easement Account consists of:

(a) grants from private foundations;

(b) grants from local governments, the state, or the federal government;

(c) grants from the Land Conservation Board created under Section 4-46-201;

(d) donations from landowners for monitoring and managing conservation easements;

(e) donations from any other person; and

(f) interest on account money.

(3) Upon appropriation by the Legislature, the [~~Division of Wildlife Resources~~] division shall use money from the [~~account~~] Wildlife Resources Conservation Easement Account to monitor and manage conservation easements held by the division.

(4) The division may not receive or expend donations from the [~~account~~] Wildlife Resources Conservation Easement Account to acquire conservation easements.

Section 44. Section 23A-3-205, which is renumbered from Section 23-13-20 is renumbered and amended to read:

[~~23-13-20~~]. 23A-3-205. Wildlife Conservation Fund.

(1) As used in this section:

(a) "Fund" means the Wildlife Conservation Fund created by this section.

(b) "Wildlife conservation permit program" means a program under which the division issues permit opportunities to be sold by a conservation organization for auction to the highest bidder at a fund-raising event.

(c) "Wildlife exposition program" means a program under which the division allocates permits to a drawing administered by a selected conservation organization as part of a regional or national exposition for the purpose of generating revenue to fund wildlife conservation activities in Utah.

(2) There is created an expendable special revenue fund known as the "Wildlife Conservation Fund."

(3) The fund consists of:

(a) wildlife conservation permit program revenue transferred to the division pursuant to rules, made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) wildlife exposition program revenue transferred to the division pursuant to rules, made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) money appropriated to the fund by the Legislature;

(d) contributions, grants, gifts, transfers, bequests, and donations to the fund accepted by the division and specifically directed to the fund; and

(e) interest and earnings on the fund.

(4) (a) The fund shall earn interest and other earnings.

(b) The interest and earnings described in Subsection (4)(a) shall be deposited into the fund.

(5) (a) The division shall use proceeds in the fund to carry out the purposes of the wildlife conservation permit program or wildlife exposition program.

(b) Deposits into and expenditures from the fund shall specifically identify the wildlife conservation permit program or wildlife exposition program to which the deposits and expenditures apply.

(c) The division shall make expenditures from the fund consistent with the rules governing the applicable program.

(6) The division shall annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee regarding:

(a) the amount of money in the fund [~~from~~];

(b) the sources of money [~~for~~] in the fund; and

(c) how the money is expended.

Section 45. Section 23A-3-206, which is renumbered from Section 23-14-14.3 is renumbered and amended to read:

[~~23-14-14.3~~]. 23A-3-206. Donations related to donation of wild game meat -- Wild Game Meat Donation Fund.

(1) As used in this section:

[~~(a) "Division" means the Division of Wildlife Resources.~~]

[~~(b)~~] (a) "Fund" means the expendable special revenue fund created in this section.

[~~(c)~~] (b) "Nonprofit charitable organization" means the same as that term is defined in Section 4-34-102.

[~~(d)~~] (c) "Wild game" means the same as that term is defined in Section 4-32-105.

(2) There is created an expendable special revenue fund known as the "Wild Game Meat Donation Fund."

(3) The fund consists of:

(a) donations made to the division for the purpose of addressing the processing of wild game meat that is donated in accordance with Section 4-34-108 to a nonprofit charitable organization to feed individuals in need;

(b) appropriations from the Legislature; and

(c) interest and earnings on the fund.

(4) The state treasurer shall invest the money in the fund according to Title 51, Chapter 7, State Money Management Act, except that the state treasurer shall deposit in the fund interest or other earnings derived from those investments [~~shall be deposited into the fund~~].

(5) The division may use money in the fund only to address the processing of wild game meat that is donated in accordance with Section 4-34-108 to a nonprofit charitable organization to feed individuals in need.

(6) The division shall coordinate with the Department of Agriculture and Food to implement this section.

Section 46. Section 23A-3-207, which is renumbered from Section 23-19-43 is renumbered and amended to read:

[~~23-19-43~~]. 23A-3-207. Wildlife Habitat Account.

(1) There is created a restricted account within the General Fund known as the "Wildlife Habitat Account."

(2) The contents of the [~~account~~] Wildlife Habitat Account shall consist of:

(a) revenue from the sale of licenses, permits, [~~stamps,~~] and certificates of registration[~~, and Wildlife Heritage certificates~~] as provided in Section [~~23-19-47~~] 23A-3-208;

(b) money donated to the division for a purpose specified in Subsection (6); and

(c) interest and earnings on account money.

(3) [~~Revenue~~] The division shall use the revenue from the sale of licenses, permits, [~~stamps,~~] and certificates of registration[~~, and Wildlife Heritage certificates~~] that is deposited to the account pursuant to Section [~~23-19-47 shall be used by the division~~] 23A-3-208, after appropriation by the Legislature, as provided in Subsections (4) through (6).

(4) (a) [~~Each~~] The division shall allocate in a fiscal year up to $70,000 or 4% of the annual deposits to the [~~account~~] Wildlife Habitat Account, whichever amount is greater, [~~shall be allocated~~] for the development, restoration, and preservation of wetlands that are beneficial to waterfowl.

(b) Up to 20% of the money allocated to waterfowl projects may be appropriated by the Legislature for use by a nonprofit conservation organization for wetland development projects within the state that benefit waterfowl.

(5) (a) [~~Each~~] The division shall allocate in a fiscal year up to $230,000 or 12% of the annual deposits to the [~~account~~] Wildlife Habitat Account, whichever amount is greater, [~~shall be allocated~~] to upland game projects as follows:

(i) the control of predators;

(ii) the development, improvement, restoration, or maintenance of critical habitat through the establishment of landowner incentives, cooperative programs, or other means;

(iii) the acquisition or preservation of critical habitat;

(iv) landowner habitat education and assistance programs;

(v) public access to private lands; and

(vi) upland game transplant and reintroduction programs.

[~~(b) As used in this section "upland game" means pheasant, quail, chukar, partridge, sage grouse, sharp-tailed grouse, Hungarian partridge, ruffed grouse, blue grouse, ptarmigan, mourning dove, band-tailed pigeon, turkey, cottontail rabbit, or snowshoe hare.~~]

[~~(c)~~] (b) Money allocated to upland game may not be used for the acquisition, development, improvement, restoration, or maintenance of habitat within commercial hunting areas.

[~~(d)~~] (c) No more than 5% of the money allocated to upland game may be used for landowner habitat education programs.

[~~(e)~~] (d) The division shall use money allocated to upland game [~~shall be used~~] for programs and activities relating to upland game species based generally upon the proportion of average annual hunter participation for each species.

[~~(f)~~] (e) Projects for which free public access is assured shall receive first priority for funding from money allocated to upland game.

[~~(g)~~] (f) Projects for which public access is assured shall receive second priority for funding from money allocated to upland game.

(6) The division shall use remaining money in the [~~account shall be used~~] Wildlife Habitat Account for the following purposes:

(a) the enhancement, acquisition, preservation, protection, and management of aquatic and terrestrial wildlife habitat; and

(b) to improve access for fishing and hunting.

(7) The division shall seek the advice and recommendations of the Habitat Council, created

by the division, regarding the expenditure of account money.

(8) Donations of money deposited into the [~~account~~] Wildlife Habitat Account and interest earned on that money shall be expended:

(a) as directed by the donor; and

(b) without being appropriated by the Legislature.

Section 47. Section 23A-3-208, which is renumbered from Section 23-19-47 is renumbered and amended to read:

[~~23-19-47~~]. 23A-3-208. Portion of revenue from license, permit, and certificate of registration fees deposited into Wildlife Habitat Account.

(1) Fifty cents of the fee charged for [~~any of the following licenses or stamps~~] a one-day fishing license shall be deposited in the Wildlife Habitat Account created in Section [~~23-19-43:~~] 23A-3-207.

[~~(a) a one-day fishing license; or~~]

[~~(b) a one-day fishing stamp.~~]

(2) Three dollars and fifty cents of the fee charged for any of the following licenses or permits shall be deposited in the Wildlife Habitat Account created in Section [~~23-19-43~~] 23A-3-207:

(a) a fishing license, except any one-day fishing license;

(b) a hunting license;

(c) a combination license;

(d) a furbearer license; or

(e) a fishing permit[~~, except any fish stamp~~].

(3) Four dollars and seventy-five cents of the fee charged for any of the following certificates of registration[~~, permits, or Wildlife Heritage certificates~~] or permits shall be deposited in the Wildlife Habitat Account created in Section [~~23-19-43~~] 23A-3-207:

(a) a certificate of registration for the dedicated hunter program, except a certificate of registration issued to a lifetime licensee;

(b) a big game permit;

(c) a bear permit;

(d) a cougar permit;

(e) a turkey permit; or

(f) a muskrat permit[~~; or~~]

[~~(g) a Wildlife Heritage certificate~~].

Section 48. Section 23A-3-209, which is renumbered from Section 23-19-48 is renumbered and amended to read:

[~~23-19-48~~]. 23A-3-209. Predator Control Restricted Account.

(1) There is created a restricted account within the General Fund known as the "Predator Control Restricted Account."

(2) The [~~restricted account~~] Predator Control Restricted Account includes:

(a) deposits made to the [~~restricted account~~] Predator Control Restricted Account from fees established on hunting permits in accordance with Section [~~23-19-22~~] 23A-4-703; and

(b) [~~any other amount~~] other amounts deposited in the [~~restricted account~~] Predator Control Restricted Account from donations or appropriations.

(3) [~~Money from the restricted account shall be used by the~~] The division shall use money from the Predator Control Restricted Account to fund a predator control program to control populations of predatory animals that endanger the health of nonpredatory wildlife populations in the state, consistent with the policies of the Wildlife Board.

Section 49. Section 23A-3-210, which is renumbered from Section 23-15-14 is renumbered and amended to read:

[~~23-15-14~~]. 23A-3-210. State Fish Hatchery Maintenance Account.

(1) There is created a restricted account within the General Fund known as the "State Fish Hatchery Maintenance Account."

(2) The following money shall be deposited into the [~~account~~] State Fish Hatchery Maintenance Account:

(a) $2.00 of [~~each~~] a fishing license fee or combination license fee; and

(b) interest and earnings on account money.

(3) [~~Money in the account shall be used by the~~] The division, after appropriation by the Legislature, shall use money in the State Fish Hatchery Maintenance Account for major repairs or replacement of facilities and equipment at fish hatcheries owned and operated by the division for the production and distribution of fish to enhance sport fishing opportunities in the state.

Section 50. Section 23A-3-211, which is renumbered from Section 23-27-305 is renumbered and amended to read:

[~~23-27-305~~]. 23A-3-211. Aquatic Invasive Species Interdiction Account.

(1) There is created within the General Fund a restricted account known as the "Aquatic Invasive Species Interdiction Account."

(2) The [~~restricted account~~] Aquatic Invasive Species Interdiction Account shall consist of:

(a) nonresident aquatic invasive species fees collected under Section [~~23-27-304~~] 23A-10-304;

(b) resident aquatic invasive species fees collected under Section 73-18-26; and

(c) [~~any other amount~~] other amounts deposited in the [~~restricted account~~] Aquatic Invasive Species

Interdiction Account from donations, appropriations, contractual agreements, and accrued interest.

(3) Upon appropriation, the division shall use the fees collected under [~~Sections 23-27-305~~] this section and Section 73-18-26 and deposited in the Aquatic Invasive Species Account to fund aquatic invasive species prevention and containment efforts.

Section 51. Section 23A-3-212, which is renumbered from Section 23-30-103 is renumbered and amended to read:

[~~23-30-103~~]. 23A-3-212. Mule Deer Protection Account.

(1) There is created a restricted account within the General Fund known as the "Mule Deer Protection Restricted Account."

(a) The [~~restricted account~~] Mule Deer Protection Restricted Account shall consist of:

(i) appropriations made by the Legislature; and

(ii) grants or donations from:

(A) the federal government;

(B) a state agency;

(C) a local government; or

(D) a person.

(b) The division shall administer the [~~restricted account~~] Mule Deer Protection Restricted Account.

(2) Subject to appropriation, the division may expend money in the [~~restricted account~~] Mule Deer Protection Restricted Account on:

(a) a program established by rule under Subsection [~~23-30-104~~] 23A-11-402(1);

(b) a contract for targeted predator control described in Subsection [~~23-30-104~~] 23A-11-402(3)(a);

(c) predator control education and training related to mule deer protection described in Subsection [~~23-30-104~~] 23A-11-402(3)(b); and

(d) administration costs incurred to carry out [~~the requirements of this chapter~~] Chapter 11, Part 4, Mule Deer Protection.

Section 52. Section 23A-3-213, which is renumbered from Section 23-19-17.7 is renumbered and amended to read:

[~~23-19-17.7~~]. 23A-3-213. Wildlife Resources Trust Account.

(1) There is created within the General Fund a restricted account to be known as the "Wildlife Resources Trust Account[~~. All fees~~]." Fees received from the sale of lifetime licenses shall be deposited in that account.

(2) [~~All interest~~] Interest earned by investments of the funds in the Wildlife Resources Trust Account shall, on July 1 of each year, be deposited in the Wildlife Resources Account created in Section [~~23-14-13~~] 23A-3-201.

(3) Money in the Wildlife Resources Trust Account is subject to the restriction in Section [~~23-22-2~~] 23A-2-402 that no money paid to the state for hunting and fishing license fees shall be diverted for any other purpose than the enhancement of wildlife by the [~~Division of Wildlife Resources~~] division.

Section 53. Section 23A-3-301, which is renumbered from Section 23-31-102 is renumbered and amended to read:

Part 3. Utah Natural Resources Legacy Fund

[~~23-31-102~~]. 23A-3-301. Definitions.

As used in this [~~chapter~~] part:

(1) "Board" means the Utah Natural Resources Legacy Fund Board created in Section [~~23-31-202~~] 23A-3-305.

[~~(2) "Department" means the Department of Natural Resources.~~]

[~~(3)~~] (2) "Legacy fund" means the Utah Natural Resources Legacy Fund created in Section [~~23-31-201~~] 23A-3-304.

Section 54. Section 23A-3-302, which is renumbered from Section 23-31-103 is renumbered and amended to read:

[~~23-31-103~~]. 23A-3-302. Application to mineral estates.

This [~~chapter~~] part does not change law regarding:

(1) the primacy of a mineral estate;

(2) limiting access to a mineral estate; or

(3) limiting development of a mineral estate.

Section 55. Section 23A-3-303, which is renumbered from Section 23-31-104 is renumbered and amended to read:

[~~23-31-104~~]. 23A-3-303. Reporting.

The division shall annually report to the governor and the Natural Resources, Agriculture, and Environment Interim Committee on or before September 1 with respect to:

(1) federal grants, state appropriations, and other contributions, grants, gifts, transfers, bequests, and donations received and credited to the legacy fund during the preceding fiscal year; and

(2) expenditures from the legacy fund under Section [~~23-31-203~~] 23A-3-306.

Section 56. Section 23A-3-304, which is renumbered from Section 23-31-201 is renumbered and amended to read:

[~~23-31-201~~]. 23A-3-304. Utah Natural Resources Legacy Fund.

(1) There is created an expendable special revenue fund known as the "Utah Natural Resources Legacy Fund."

(2) The legacy fund consists of:

(a) appropriations to the legacy fund by the Legislature;

(b) federal grants accepted by the department or a division of the department and specifically directed to the legacy fund; and

(c) contributions, grants, gifts, transfers, bequests, and donations to the legacy fund accepted by the department and specifically directed to the legacy fund.

(3) (a) The [~~account~~] legacy fund shall earn interest.

(b) The interest described in Subsection (3)(a) shall be deposited into the [~~account~~] legacy fund.

Section 57. Section 23A-3-305, which is renumbered from Section 23-31-202 is renumbered and amended to read:

[~~23-31-202~~]. 23A-3-305. Utah Natural Resources Legacy Fund Board.

(1) Subject to Subsection (12), there is created within the department the Utah Natural Resources Legacy Fund Board that consists of eight members as follows:

(a) the following voting members:

(i) two members representing the agriculture industry, appointed by the commissioner of the Department of Agriculture and Food;

(ii) one member representing a non-government entity that has as a primary purpose conserving non-game wildlife and habitat, appointed by the director [~~of the Division of Wildlife Resources~~];

(iii) one member representing hunting, fishing, and trapping interests in Utah, appointed by the director [~~of the Division of Wildlife Resources~~];

(iv) one member representing mineral extraction and development interests, appointed by the director of the Division of Oil, Gas, and Mining;

(v) one member representing water development and distribution interests, appointed by the executive director [~~of the department~~]; and

(vi) one at-large member, appointed by the executive director [~~of the department~~]; and

(b) the director [~~of the division~~] as a nonvoting member.

(2) A voting member of the board shall be appointed for a three-year term.

(3) Notwithstanding Subsection (2), terms of board members are staggered as follows so that approximately one-third of the board is appointed every year:

(a) the initial individuals appointed under Subsections (1)(a)(i) and (ii) shall be appointed for three-year terms;

(b) the initial individuals appointed under Subsections (1)(a)(iii) and (iv) shall be appointed for two-year terms; and

(c) the initial individuals appointed under Subsections (1)(a)(v) and (vi) shall be appointed for one-year terms.

(4) An individual may be appointed to more than one term.

(5) When a vacancy occurs in the membership for any reason, an individual shall be appointed in accordance with Subsection (1) to replace the member for the unexpired term.

(6) The board shall elect one member to serve as chair of the board.

(7) The board shall meet regularly as called by the chair.

(8) Four voting members constitute a quorum.

(9) An action by the majority of voting members present when a quorum is present is an action of the board.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(11) The division shall staff the board.

(12) The board is not created and may not begin operation until the legacy fund described in Section [~~23-31-201~~] 23A-3-304 holds at least $200,000.

Section 58. Section 23A-3-306, which is renumbered from Section 23-31-203 is renumbered and amended to read:

[~~23-31-203~~]. 23A-3-306. Uses of legacy fund.

(1) Each year, when the board creates a budget, the board shall allocate:

(a) 40% of the budget:

(i) for staff and expenses to administer the legacy fund under this [~~chapter~~] part;

(ii) to conduct research, monitoring, and management actions that benefit non-game species; or

(iii) to otherwise reduce the likelihood of future species listings under the Endangered Species Act, 16 U.S.C. Sec. 1531 et seq.; and

(b) 60% of the budget to fund the following projects that provide the following landscape level conservation benefits:

(i) preserving open spaces, wildlife habitat, and critical agricultural lands;

(ii) providing perpetual access for hunting, fishing, or trapping;

(iii) addressing and mitigating impacts detrimental to wildlife habitat, the environment, and the multiple use of renewable natural resources attributable to residential, mineral, and industrial development; or

(iv) preserving a viable agricultural industry.

(2) (a) The board shall make recommendations to the division regarding expenditures from the legacy fund for the purposes described in Subsection (1)(b).

(b) The division shall consider the board's recommendations in approving an expenditure from the legacy fund under Subsection (1) and, if the division rejects the board's recommendation, the director [~~of the division~~] shall provide the board with a written explanation of the reason for the rejection.

(3) In performing the actions described in Subsection (1)(b), the division shall comply with [~~the requirements described in Section 23-21-1.5~~] Section 23A-6-202.

(4) This section does not give the division the power of eminent domain.

(5) The division may not use assets from the legacy fund for litigation.

(6) Money in the legacy fund may not be used to develop or implement a habitat conservation plan required under federal law unless the federal government pays for at least one-third of the habitat conservation plan costs.

Section 59. Section 23A-4-101 is enacted to read:

CHAPTER 4. LICENSES, PERMITS, CERTIFICATES OF REGISTRATION, AND TAGS

Part 1. General Provisions

23A-4-101. Definitions.

Reserved.

Section 60. Section 23A-4-201, which is renumbered from Section 23-19-1 is renumbered and amended to read:

Part 2. Basic Requirements

[~~23-19-1~~]. 23A-4-201. Possession of licenses, certificates of registration, permits, and tags required -- Nonassignability -- Exceptions -- Nature of licenses, permits, or tags issued by the division.

(1) Except as provided in Subsection (5), a person may not take, hunt, fish, or seine protected wildlife or sell, trade, or barter protected wildlife or wildlife parts unless the person:

(a) procures the necessary licenses, certificates of registration, permits, or tags required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation [~~issued in accordance with a rule made by the Wildlife Board under this title~~]; and

(b) carries in the person's possession while engaging in the activities described in Subsection (1) the license, certificate of registration, permit, or tag required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation [~~issued in accordance with a rule made by the Wildlife Board under this title~~].

(2) Except as provided in Subsection (3) a person may not:

(a) lend, transfer, sell, give, or assign:

(i) a license, certificate of registration, permit, or tag belonging to the person; or

(ii) a right granted by a license, certificate of registration, permit, or tag; or

(b) use or attempt to use a license, certificate of registration, permit, or tag of another person.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may, by rule, make exceptions to the prohibitions described in Subsection (2) to:

(a) transport wildlife;

(b) allow a person to take protected wildlife for another person if:

(i) the person possessing the license, certificate of registration, permit, or tag has a permanent physical impairment due to a congenital or acquired injury or disease; and

(ii) the injury or disease described in Subsection (3)(b)(i) results in the person having a disability that renders the person physically unable to use a legal hunting weapon or fishing device;

(c) allow a resident minor under 18 years [~~of age~~] old to use the resident or nonresident hunting permit of another person if:

(i) the resident minor is otherwise legally eligible to hunt; and

(ii) the permit holder:

(A) receives no form of compensation or remuneration for allowing the minor to use the permit;

(B) obtains the division's prior written approval to allow the minor to use the permit; and

(C) accompanies the minor, for the purposes of advising and assisting during the hunt, at a distance where the permit holder can communicate with the minor, in person, by voice or visual signals; or

(d) subject to the requirements of Subsection (4), transfer to another person a certificate of registration to harvest brine shrimp and brine shrimp eggs, if the certificate is transferred in connection with the sale or transfer of the brine shrimp harvest operation or harvesting equipment.

(4) A person may transfer a certificate of registration to harvest brine shrimp and brine shrimp eggs if:

(a) the person submits to the division an application to transfer the certificate on a form provided by the division;

(b) the proposed transferee meets [~~all~~] the requirements necessary to obtain an original certificate of registration; and

(c) the division approves the transfer of the certificate.

(5) A person is not required to obtain a license, certificate of registration, permit, or tag to:

(a) fish on a free fishing day that the Wildlife Board may establish each year by rule made by the Wildlife Board under this title or by an order or proclamation [~~issued in accordance with a rule made by the Wildlife Board under this title~~];

(b) fish at a private fish pond operated in accordance with Section [~~23-15-10; or~~] 23A-9-203;

(c) hunt birds on a commercial hunting area that the owner or operator is authorized to propagate, keep, and release for shooting in accordance with a certificate of registration issued under Section [~~23-17-6.~~] 23A-12-202; or

(d) take fish at a short-term fishing event.

(6) (a) A license, permit, tag, or certificate of registration issued under this title, or the rules of the Wildlife Board issued pursuant to [~~authority granted by~~] this title, to take protected wildlife is:

(i) a privilege; and

(ii) not a right or property for any purpose.

(b) A point or other form of credit issued to, or accumulated by, a person under procedures established by the Wildlife Board in rule to improve the likelihood of obtaining a hunting permit in a division-administered drawing:

(i) may not be transferred, sold, or assigned to another person; and

(ii) is not a right or property for any purpose.

Section 61. Section 23A-4-202, which is renumbered from Section 23-19-2 is renumbered and amended to read:

[~~23-19-2~~]. 23A-4-202. License, permit, and certificate forms prescribed by Wildlife Board.

(1) The Wildlife Board shall prescribe the form of a license, permit, or certificate of registration to be used for hunting, fishing, trapping, seining, and dealing in furs.

(2) A license, permit, or certificate of registration may be paper-based or in electronic format pursuant to the rules [~~established~~] made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) A license issued pursuant to Section [~~23-19-36~~] 23A-4-305 shall be designated as such by a code number and may not contain a reference to the licensee's disability.

Section 62. Section 23A-4-203, which is renumbered from Section 23-19-3 is renumbered and amended to read:

[~~23-19-3~~]. 23A-4-203. Tag as supplement to licenses and permits.

The division may issue, [~~as supplements to appropriate licenses and permits, special tags~~] as a supplement to the appropriate license or permit, a tag for protected wildlife, as determined by the Wildlife Board.

Section 63. Section 23A-4-204, which is renumbered from Section 23-19-4 is renumbered and amended to read:

[~~23-19-4~~]. 23A-4-204. Alien's and nonresident peace officer's ability to obtain licenses and certificates.

(1) An alien resident of [~~the State of~~] Utah may purchase a hunting, fishing, trapping, seining, and fur dealer [~~licenses and certificates of registration~~] license or certificate of registration upon the same terms as a resident citizen.

(2) [~~All nonresident aliens~~] A nonresident alien may purchase a hunting, fishing, trapping, seining, [~~and~~] or fur dealer [~~licenses and certificates~~] license or certificate of registration upon the same terms as nonresident citizens.

(3) Notwithstanding Subsection [~~23-19-5~~] 23A-4-1101(1)(b), a nonresident may purchase a hunting, fishing, trapping, seining, and fur dealer license [~~and~~] or certificate of registration upon the same terms as a resident citizen if the person is:

(a) employed by the state as a peace officer, as classified by Title 53, Chapter 13, Peace Officer Classifications; and

(b) required to live outside the state as a condition of the person's employment.

Section 64. Section 23A-4-205, which is renumbered from Section 23-19-7 is renumbered and amended to read:

[~~23-19-7~~]. 23A-4-205. Expiration date of licenses, permits, and certificates of registration.

(1) The Wildlife Board shall establish the term and expiration date for a license, permit, [~~and~~] or certificate of registration issued under this title.

(2) The division shall indicate the term and expiration date established under Subsection (1) on [~~each~~] a license, permit, [~~and~~] or certificate of registration.

Section 65. Section 23A-4-206, which is renumbered from Section 23-19-8 is renumbered and amended to read:

[~~23-19-8~~]. 23A-4-206. Signature on documents -- Considered under oath -- Prohibition on use of unsigned documents.

(1) A person's signature on a license, permit, tag, or certificate of registration is certification of that person's eligibility to use the license, permit, tag, or certificate of registration for the purpose intended by this title.

(2) [~~The~~] A signature described in Subsection (1) need not be notarized but shall be considered to be made under oath.

(3) A signature may be an electronic signature if allowed by rule made by the Wildlife Board in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3)~~] (4) A person may not use an unsigned license, permit, tag, or certificate of registration.

Section 66. Section 23A-4-207, which is renumbered from Section 23-19-38 is renumbered and amended to read:

[~~23-19-38~~]. 23A-4-207. Sales of licenses, certificates, or permits final -- Exceptions -- Reallocation of surrendered permits.

(1) [~~Sales of all licenses, certificates, or permits are final, and no refunds may be made by the division~~] A sale of a license, permit, or certificate is final, and the division may not refund money except as provided in Subsections (2) and (3) or Section 23A-4-301.

(2) The division may refund the amount of [~~the~~] a license, certificate, or permit if:

(a) the division or the Wildlife Board discontinues the activity for which the license, certificate, or permit was obtained;

(b) the division determines that [~~it~~] the division has erroneously collected a fee;

(c) (i) the person to whom the license, certificate, or permit is issued becomes ill or suffers an injury that precludes the person from using the license, certificate, or permit;

(ii) the person furnishes verification of illness or injury from a physician or physician assistant;

(iii) the person does not actually use the license, certificate, or permit; and

(iv) the license, certificate, or permit is surrendered before the end of the season for which the permit was issued; or

(d) the person to whom the license, certificate, or permit is issued dies [~~prior to~~] before the person being able to use the license, certificate, or permit.

(3) The Wildlife Board may establish additional exceptions [~~in rule~~] to the refund prohibitions in Subsection (1) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The [~~division~~] director may reallocate surrendered permits in accordance with rules [~~adopted~~] made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 67. Section 23A-4-208, which is renumbered from Section 23-19-10 is renumbered and amended to read:

[~~23-19-10~~]. 23A-4-208. Duplicate license, permit, tag, or certificate of registration.

If an unexpired license, permit, tag, or certificate of registration issued under [~~the provisions of this code~~] this title is destroyed, lost, or stolen, the [~~Division of Wildlife Resources and its~~] division, a person designated by the director, or the division's authorized license agents may issue a duplicate license, permit, tag, or certificate of registration in accordance with the rules set and fees determined by the Wildlife Board.

Section 68. Section 23A-4-209, which is renumbered from Section 23-19-42 is renumbered and amended to read:

[~~23-19-42~~]. 23A-4-209. Search and rescue surcharge.

(1) In addition to the fees imposed under this [~~chapter~~] title, there is imposed a 25 cent surcharge on [~~each~~] a fishing, hunting, or combination license.

(2) [~~This~~] The surcharge imposed under Subsection (1) shall be deposited in the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created under Section [~~53-2a-1101~~] 53-2a-1102.

Section 69. Section 23A-4-210, which is renumbered from Section 23-19-45 is renumbered and amended to read:

[~~23-19-45~~]. 23A-4-210. Fees and certificates of registration to harvest brine shrimp eggs.

[~~(1)~~] The Wildlife Board may not impose [~~fees~~] a fee to harvest brine shrimp eggs other than a certificate of registration [~~fees~~] fee.

[~~(2) Each person holding certificates of registration for the harvesting of brine shrimp eggs in the 1996-97 harvesting season may obtain the same number of certificates of registration for the 1997-98 and 1998-99 harvesting seasons upon payment of the required fee.~~]

Section 70. Section 23A-4-301, which is renumbered from Section 23-19-38.2 is renumbered and amended to read:

Part 3. Special Circumstances

[~~23-19-38.2~~]. 23A-4-301. Refunds for armed forces or public health or safety organization members.

(1) A member of the United States Armed Forces or public health or public safety organization who is mobilized or deployed on order in the interest of national defense or emergency and is precluded from using a purchased license, certificate, tag, or permit, may, as provided in Subsection (2):

(a) receive a refund from the division; and

(b) if the person has drawn a permit, have [~~all~~] the opportunities to draw that permit in a future draw reinstated.

(2) To qualify, the person or a legal representative shall:

(a) notify the division within a reasonable amount of time that the person is applying for a refund;

(b) surrender the license, certificate, tag, or permit to the division; and

(c) furnish satisfactory proof to the division that the person:

(i) is a member of:

(A) the United States Armed Forces;

(B) a public health organization; or

(C) a public safety organization; and

(ii) was precluded from using the license, certificate, tag, or permit as a result of being called to active duty.

(3) The Wildlife Board may [~~adopt~~] make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section including allowing retroactive refund to September 11, 2001.

Section 71. Section 23A-4-302, which is renumbered from Section 23-19-38.3 is renumbered and amended to read:

[~~23-19-38.3~~]. 23A-4-302. Licenses for disabled veterans.

(1) The [~~division~~] Wildlife Board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under which a veteran with a disability may receive a hunting, fishing, or combination license free or at a reduced price.

(2) In making rules under this section, the [~~division~~] Wildlife Board shall:

(a) use the same guidelines for disability as the United States Department of Veterans Affairs; and

(b) provide at a minimum a reduction under this section of 25% of the full fee.

Section 72. Section 23A-4-303, which is renumbered from Section 23-19-14 is renumbered and amended to read:

[~~23-19-14~~]. 23A-4-303. Persons residing in certain institutions may fish without license.

(1) The [~~Division of Wildlife Resources~~] division shall permit a person to fish without a license if:

(a) (i) the person resides in:

(A) the Utah State Developmental Center in American Fork;

(B) the state hospital;

(C) a veterans hospital;

(D) a veterans nursing home;

(E) a mental health center;

(F) an intermediate care facility for people with an intellectual disability;

(G) a group home licensed by the Department of Human Services and operated under contract with the Division of Services for People with Disabilities;

(H) a group home or other community-based placement licensed by the Department of Human Services and operated under contract with the Division of Juvenile Justice Services;

(I) a private residential facility for at-risk youth licensed by the Department of Human Services; or

(J) another similar institution approved by the division; or

(ii) the person is a youth who participates in a work camp operated by the Division of Juvenile Justice Services;

(b) the person is properly supervised by a representative of the institution described in Subsection (1)(a); and

(c) the institution described in Subsection (1)(a) obtains from the division a certificate of registration that specifies:

(i) the date and place where the person will fish; and

(ii) the name of the institution's representative who will supervise the person fishing.

(2) The institution described in Subsection (1) shall apply for the certificate of registration at least 10 days before the fishing outing.

(3) (a) An institution that receives a certificate of registration authorizing at-risk youth to fish shall provide instruction to the youth on fishing laws and regulations.

(b) The division shall provide educational materials to the institution to assist [~~it~~] the institution in complying with Subsection (3)(a).

Section 73. Section 23A-4-304, which is renumbered from Section 23-19-14.5 is renumbered and amended to read:

[~~23-19-14.5~~]. 23A-4-304. Persons participating in youth organization or school activity may fish without license.

(1) As used in this section:

(a) "School" means an elementary school or a secondary school that:

(i) is a public or private school located in the state; and

(ii) provides student instruction for one or more years of kindergarten through grade 9.

(b) "Youth organization" means a local Utah chapter of:

(i) the Boy Scouts of America;

(ii) the Girls Scouts of the USA; or

(iii) an organization that:

(A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code; and

(B) promotes character building through outdoor activities.

(2) The [~~Division of Wildlife Resources~~] division shall permit a person to fish without a license during a youth organization or school activity if:

(a) the person is:

(i) (A) a member of the youth organization; or

(B) a student enrolled in the school; and

(ii) younger than 16 years old;

(b) the fishing is in compliance with [~~all~~] the fishing statutes and rules;

(c) the activity is part of a recreational or instructional program of the youth organization or school; and

(d) an adult leader of the activity obtains from the youth organization or school:

(i) a valid tour permit; or

(ii) documentation that specifies:

(A) the date and place of the fishing activity;

(B) the name of the adult leader that will supervise the fishing; and

(C) that the activity is officially sanctioned or authorized by the youth organization or school.

(3) (a) The adult leader shall:

(i) possess a valid Utah fishing or combination license; and

(ii) instruct the activity participants on fishing statutes and rules.

(b) The division shall provide educational materials on [~~its~~] the division's website to assist the adult leader in complying with Subsection (3)(a).

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board shall adopt rules specifying the form of the documentation required under Subsection (2)(d)(ii).

Section 74. Section 23A-4-305, which is renumbered from Section 23-19-36 is renumbered and amended to read:

[~~23-19-36~~]. 23A-4-305. Persons with a physical or intellectual disability, terminally ill persons, and children in the custody of the state may fish for free.

(1) A resident who is blind, has paraplegia, or has another permanent disability so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities, may receive a free license to fish upon furnishing satisfactory proof of this fact to the [~~Division of Wildlife Resources~~] division.

(2) A resident who has an intellectual disability and is not eligible under Section [~~23-19-14~~] 23A-4-303 to fish without a license may receive a free license to fish upon furnishing verification from a physician or physician assistant that the person has an intellectual disability.

(3) A resident who is terminally ill, and has less than five years to live, may receive a free license to fish:

(a) upon furnishing verification from a physician or physician assistant; and

(b) if the resident qualifies for assistance under [~~any~~] a low income public assistance program administered by a state agency.

(4) A child placed in the custody of the state by a court order may receive a free fishing license upon furnishing verification of custody to the [~~Division of Wildlife Resources~~] division.

Section 75. Section 23A-4-306, which is renumbered from Section 23-19-39 is renumbered and amended to read:

[~~23-19-39~~]. 23A-4-306. Additional appropriation.

The division each year shall request the Legislature to appropriate from the General Fund in [~~the~~] an appropriations act, for deposit in the Wildlife Resources Restricted Account, a sum equal to the total of the fees, as determined by the previous year's license sales, that would have otherwise been collected for fishing licenses had full fees been paid by those 65 years [~~of age~~] old or older or those who received free fishing privileges under [~~the provisions of Section 23-19-14 or 23-19-36~~] Section 23A-4-303 or 23A-4-305.

Section 76. Section 23A-4-401, which is renumbered from Section 23-19-17 is renumbered and amended to read:

Part 4. Combined or Lifetime Licenses

[~~23-19-17~~]. 23A-4-401. Resident fishing and hunting license -- Use of fee.

(1) A resident, after paying the fee established by the Wildlife Board, may obtain, as provided by the Wildlife Board's rules, a combination license to:

(a) fish;

(b) hunt for small game; and

(c) apply for or obtain a big game, cougar, bear, or turkey hunting permit.

(2) Up to $1 of the combination license fee may be used for the hunter education program for any of the following:

(a) instructor and student training;

(b) assisting local organizations with development;

(c) maintenance of existing facilities; or

(d) operation and maintenance of the hunter education program.

(3) (a) Up to 50 cents of the combination license fee may be used for the upland game program to:

(i) acquire pen-raised birds; or

(ii) capture and transplant upland game species.

(b) The combination license fee revenue designated for the upland game program by Subsection (3)(a) is in addition to [~~any~~] combination license fee revenue that may be used for the upland game program as provided by Sections [~~23-19-43 and 23-19-47~~] 23A-3-207 and 23A-3-208.

Section 77. Section 23A-4-402, which is renumbered from Section 23-19-17.5 is renumbered and amended to read:

[~~23-19-17.5~~]. 23A-4-402. Lifetime hunting and fishing licenses.

(1) [~~Lifetime licensees~~] A lifetime licensee who is born after December 31, 1965, shall complete the hunter education requirements under Section [~~23-19-11~~] 23A-4-1001 before engaging in hunting.

(2) A lifetime license [~~shall remain~~] remains valid if the residency of the lifetime licensee changes to another state or country.

(3) (a) A lifetime license may be used in lieu of a hunting or fishing license.

(b) Each year, a lifetime licensee is entitled to receive without charge a permit and tag of the lifetime licensee's choice for one of the following general season deer hunts:

(i) archery;

(ii) rifle; or

(iii) muzzleloader.

(c) A lifetime licensee is subject to each requirement for special hunting and fishing permits and tags, except as provided in Subsections (3)(a) and (b).

(4) The Wildlife Board may [~~adopt~~] make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out [~~the provisions of~~] this section.

Section 78. Section 23A-4-501, which is renumbered from Section 23-19-15 is renumbered and amended to read:

Part 5. License Agents

[~~23-19-15~~]. 23A-4-501. Wildlife license agents.

(1) The director [~~of the division~~] may designate wildlife license agents to sell licenses, permits, and tags.

(2) [~~Wildlife license agents~~] A wildlife license agent may:

(a) sell [~~licenses, permits, and tags to all eligible applicants, except those licenses, permits, and tags~~] a license, permit, or tag to an eligible applicant, except for a license, permit, or tag specified in Subsection [~~23-19-16~~] 23A-4-503(2) which may be sold only by the division; and

(b) collect a fee for [~~each~~] a license, permit, or tag sold.

(3) A wildlife license agent shall receive:

(a) for [~~any~~] a wildlife license, permit, or tag having a fee equal to $10 or less [~~and~~] but greater than $1, 50 cents for [~~each~~] a wildlife license, permit, or tag sold; and

(b) for [~~any~~] a wildlife license, permit, or tag having a fee greater than $10, 5% of the fee.

(4) The division may require a wildlife license [~~agents~~] agent to obtain a bond in a reasonable amount.

(5) (a) As directed by the division, [~~each~~] a wildlife license agent shall:

(i) report [~~all~~] the wildlife license agent's sales to the division; and

(ii) submit [~~all of~~] to the division the fees obtained from the sale of licenses, permits, and tags less the remuneration provided in Subsection (3).

(b) If a wildlife license agent fails to pay the amount due, the division may assess a penalty of 20% of the amount due. [~~All delinquent payments~~] A delinquent payment shall bear interest at the rate of 1% per month. If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total amount due together with interest.

(c) [~~All fees~~] Fees, except the remuneration provided in Subsection (3), shall:

(i) be kept separate from the private [~~funds~~] money of the wildlife license agents; and

(ii) belong to the state.

(6) A wildlife license agent may not intentionally:

(a) fail to date or misdate a license, permit, or tag;

(b) issue a hunting license or permit to an individual until that individual furnishes proof of successful completion of a division-approved hunter education course as provided in Section [~~23-19-11~~] 23A-4-1001; or

(c) issue a furbearer license to an individual until that individual furnishes proof of successful completion of a division-approved furharvester education course as provided in Section [~~23-19-11.5~~] 23A-4-1005.

[~~(7) (a) Except as provided in Subsections (7)(b) and (c), a violation of this section is a class B misdemeanor.~~]

[~~(b) A violation of this section is a class A misdemeanor if the aggregate amount required under Subsection (5)(a):~~]

[~~(i) is at least $1,000, but less than $10,000;~~]

[~~(ii) is not submitted for one or more months; and~~]

[~~(iii) remains uncollectable.~~]

[~~(c) A violation of this section is a felony of the third degree if the aggregate amount required under Subsection (5)(a):~~]

[~~(i) is $10,000 or more;~~]

[~~(ii) is not submitted for one or more months; and~~]

[~~(iii) remains uncollectable.~~]

[~~(8) Violation of any provision of this section may be cause for revocation of the wildlife license agent authorization.~~]

Section 79. Section 23A-4-502 is enacted to read:

23A-4-502. Violations by a wildlife license agent -- Criminal penalty.

(1) A person is guilty of an unlawful act if the actor:

(a) fails to take an action required by Section 23A-4-501; or

(b) takes an action prohibited by Section 23A-4-501.

(2) (a) Except as provided in Subsections (2)(b) and (c), a violation of Subsection (1) is a class B misdemeanor.

(b) A violation of Subsection (1) is a class A misdemeanor if the aggregate amount required under Subsection 23A-4-501(5)(a):

(i) is at least $1,000, but less than $10,000;

(ii) is not submitted for one or more months; and

(iii) remains uncollectable.

(c) A violation of Subsection (1) is a felony of the third degree if the aggregate amount required under Subsection 23A-4-501(5)(a):

(i) is $10,000 or more;

(ii) is not submitted for one or more months; and

(iii) remains uncollectable.

(3) A violation of Subsection (1) may be cause for revocation of the wildlife license agent authorization.

Section 80. Section 23A-4-503, which is renumbered from Section 23-19-16 is renumbered and amended to read:

[~~23-19-16~~]. 23A-4-503. Licenses obtained from agents of division.

(1) [~~Licenses~~] A person may obtain a license provided for in [~~Sections 23-19-17 through 23-19-27 may be obtained~~] the following sections from the division or one of [~~its~~] the division's authorized wildlife license agents:

(a) Section 23A-4-401;

(b) Section 23A-4-601;

(c) Sections 23A-4-703 through 23A-4-707; and

(d) Section 23A-4-901.

(2) [~~Licenses~~] A person may obtain a license provided for in [~~Sections 23-19-17.5, 23-19-34.7, and 23-19-36 may be obtained~~] Section 23A-4-305, 23A-4-402, or 23A-4-802 only from the division.

Section 81. Section 23A-4-601, which is renumbered from Section 23-19-21 is renumbered and amended to read:

Part 6. Fishing

[~~23-19-21~~]. 23A-4-601. Fishing license.

(1) A person 12 years [~~of age~~] old or older shall purchase a fishing license before engaging in a regulated fishing activity.

(2) Upon paying the fee prescribed by the Wildlife Board, a person may obtain a license to fish and engage in a regulated fishing activity in accordance with the rules, proclamations, and orders of the Wildlife Board.

(3) A person under 12 years [~~of age~~] old may fish without a license in accordance with the rules, proclamations, and orders of the Wildlife Board.

Section 82. Section 23A-4-602, which is renumbered from Section 23-19-35 is renumbered and amended to read:

[~~23-19-35~~]. 23A-4-602. Seining registration.

[~~Any~~] A person, upon application to the Wildlife Board, may be registered to seine.

Section 83. Section 23A-4-701, which is renumbered from Section 23-19-14.6 is renumbered and amended to read:

Part 7. Hunting

[~~23-19-14.6~~]. 23A-4-701. Trial hunting authorization.

(1) Upon application, the division may issue a trial hunting authorization to an individual who:

(a) is 11 years [~~of age~~] old or older at the time of application;

(b) is eligible under state and federal law to possess a firearm and archery equipment; and

(c) (i) was born after 1965; and

(ii) has not completed a division approved hunter education course.

(2) Notwithstanding [~~the requirements of Section 23-19-11~~] Section 23A-4-1001, an individual who [~~has obtained~~] obtains a trial hunting authorization under Subsection (1) may obtain:

(a) a hunting license under [~~Sections 23-19-17, 23-19-24, and 23-19-26~~] Section 23A-4-401, 23A-4-706, or 23A-4-707; or

(b) a hunting permit authorized by the Wildlife Board under Subsection (4).

(3) An individual who [~~has obtained~~] obtains a hunting license or permit with a trial hunting authorization under Subsection (2) may use the license or permit if the individual is:

(a) 12 years [~~of age~~] old or older; and

(b) accompanied, as defined in Subsection [~~23-20-20~~] 23A-4-708(1), in the field while hunting by an individual who:

(i) is 21 years [~~of age~~] old or older;

(ii) is eligible under state and federal law to possess a firearm and archery equipment;

(iii) possesses a current Utah hunting or combination license;

(iv) has satisfied applicable hunter education requirements under this chapter; and

(v) possesses the written consent of the holder's parent or legal guardian, if accompanying a holder of a trial hunting authorization who is under 18 years [~~of age~~] old.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules to:

(a) designate the types of hunting permits under Subsection (2) that may be obtained with a trial hunting authorization;

(b) establish the term of a trial hunting authorization;

(c) establish the number of years a person may obtain a trial hunting authorization;

(d) prescribe the number of individuals using a trial hunting authorization that an individual may accompany in the field under Subsection (3) at a single time;

(e) establish the application process for an individual to obtain a trial hunting authorization; and

(f) administer and enforce [~~the provisions of~~] this section.

Section 84. Section 23A-4-702, which is renumbered from Section 23-19-49 is renumbered and amended to read:

[~~23-19-49~~]. 23A-4-702. Air rifle hunting.

(1) As used in this section[~~: (a) "Division" means the Division of Wildlife Resources.(b) "Pre-charged~~], "pre-charged pneumatic air rifle" means a rifle that fires a single projectile with compressed air released from a chamber:

[~~(i)~~] (a) built into the rifle; and

[~~(ii)~~] (b) pressurized at a minimum of 2,000 pounds per square inch from an external high compression device or source, such as a hand pump, compressor, or scuba tank.

(2) (a) An individual shall obtain a permit issued under this section before using a pre-charged pneumatic air rifle to hunt a species of wildlife designated by the Wildlife Board.

(b) The Wildlife Board shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate which species of wildlife may be hunted with the use of a pre-charged pneumatic air rifle.

(3) The division shall review the funding available for the regulation of hunting with pre-charged pneumatic air rifles and report the division's findings to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November 2024 interim committee meeting.

Section 85. Section 23A-4-703, which is renumbered from Section 23-19-22 is renumbered and amended to read:

[~~23-19-22~~]. 23A-4-703. Big game hunting permit.

(1) A person who is at least 12 years old[~~, upon paying the big game hunting permit fee established by the Wildlife Board, paying the fee established by Subsection (4), and possessing a valid hunting or combination license,~~] may apply for or obtain a permit to hunt big game as provided by [~~rules and proclamations~~] a rule or proclamation of the Wildlife Board[~~.~~] upon:

(a) paying the big game hunting permit fee established by the Wildlife Board;

(b) paying the fee established by Subsection (4); and

(c) possessing a valid hunting or combination license.

(2) (a) A person who is 11 years old may apply for or obtain a big game hunting permit consistent with the requirements of Subsection (1) if that person's 12th birthday falls within the calendar year for which the permit is issued.

(b) A person may not use a permit to hunt big game before the person's 12th birthday.

(3) [~~One~~] The division shall use one dollar of [~~each~~] a big game permit fee collected from a resident [~~shall be used~~] for the hunter education program as provided in Section [~~23-19-17~~] 23A-4-401.

(4) There is established a fee in the amount of $5 added to [~~each~~] a permit under this section to be deposited in the Predator Control Restricted Account.

Section 86. Section 23A-4-704, which is renumbered from Section 23-19-22.5 is renumbered and amended to read:

[~~23-19-22.5~~]. 23A-4-704. Cougar or bear hunting permit.

(1) A person 12 years [~~of age~~] old or older[~~, upon paying the cougar or bear hunting permit fee established by the Wildlife Board and possessing a valid hunting or combination license,~~] may apply for or obtain a permit to take cougar or bear as provided by [~~rules and proclamations~~] a rule or proclamation of the Wildlife Board[~~.~~] upon:

(a) paying the cougar or bear hunting permit fee established by the Wildlife Board; and

(b) possessing a valid hunting or combination license.

(2) A person 11 years [~~of age~~] old may apply for or obtain a cougar or bear hunting permit consistent with the requirements of Subsection (1) if that person's 12th birthday falls within the calendar year in which the permit is issued.

(3) [~~One~~] The division shall use one dollar of [~~each~~] a cougar or bear permit fee collected from a

resident [~~shall be used~~] for the hunter education program.

Section 87. Section 23A-4-705, which is renumbered from Section 23-19-22.6 is renumbered and amended to read:

[~~23-19-22.6~~]. 23A-4-705. Turkey hunting permit -- Use of fee.

(1) [~~A person, upon paying the turkey permit fee established by the Wildlife Board and possessing a valid hunting or combination license,~~] A person may apply for or obtain a permit to take turkey as provided by [~~rules and proclamations~~] a rule or proclamation of the Wildlife Board[~~.~~] upon:

(a) paying the turkey permit fee established by the Wildlife Board; and

(b) possessing a valid hunting or combination license.

(2) [~~One~~] The division shall use one dollar of [~~each~~] a turkey permit fee collected from a resident [~~shall be used~~] for the hunter education program.

Section 88. Section 23A-4-706, which is renumbered from Section 23-19-24 is renumbered and amended to read:

[~~23-19-24~~]. 23A-4-706. Resident hunting license -- Use of fee.

(1) A resident[~~, after paying the fee established by the Wildlife Board,~~] may obtain a hunting license after paying the fee established by the Wildlife Board.

(2) A hunting license authorizes the licensee to, according to this title and the Wildlife Board's rules and proclamations:

(a) take small game; and

(b) apply for or obtain a big game, cougar, bear, or turkey hunting permit.

(3) Up to $1 of the hunting license fee may be used for the hunter education program.

(4) (a) Up to 50 cents of the hunting license fee may be used for the upland game program to:

(i) acquire pen-raised birds; or

(ii) capture and transplant upland game species.

(b) The hunting license fee revenue designated for the upland game program by Subsection (4)(a) is in addition to [~~any~~] hunting license fee revenue that may be used for the upland game program as provided by Sections [~~23-19-43 and 23-19-47~~] 23A-3-207 and 23A-3-208.

Section 89. Section 23A-4-707, which is renumbered from Section 23-19-26 is renumbered and amended to read:

[~~23-19-26~~]. 23A-4-707. Nonresident hunting license -- Use of fee.

(1) A nonresident[~~, after paying the fee established by the Wildlife Board,~~] may obtain a hunting license after paying the fee established by the Wildlife Board.

(2) A hunting license authorizes the licensee to, according to this title and the Wildlife Board's rules and proclamations:

(a) take small game; and

(b) apply for or obtain a big game, cougar, bear, or turkey hunting permit.

(3) (a) Up to 50 cents of the hunting license fee may be used for the upland game program to:

(i) acquire pen-raised birds; or

(ii) capture and transplant upland game species.

(b) The hunting license fee revenue designated for the upland game program by Subsection (3)(a) is in addition to [~~any~~] hunting license fee revenue that may be used for the upland game program as provided by Sections [~~23-19-43 and 23-19-47~~] 23A-3-207 and 23A-3-208.

Section 90. Section 23A-4-708, which is renumbered from Section 23-20-20 is renumbered and amended to read:

[~~23-20-20~~]. 23A-4-708. Children accompanied by adults while hunting with weapon.

(1) As used in this section:

(a) "Accompanied" means at a distance within which visual and verbal communication is maintained for the purposes of advising and assisting.

(b) (i) "Electronic device" means a mechanism powered by electricity that allows communication between two or more people.

(ii) "Electronic device" includes a mobile telephone or two-way radio.

(c) "Verbal communication" means the conveyance of information through speech that does not involve an electronic device.

(2) A person younger than 14 years old who is hunting with [~~any~~] a weapon shall be accompanied by:

(a) the person's parent or legal guardian; or

(b) a responsible person who is at least 21 years old and who is approved by the person's parent or guardian.

(3) A person younger than 16 years old who is hunting big game with [~~any~~] a weapon shall be accompanied by:

(a) the person's parent or legal guardian; or

(b) a responsible person who is at least 21 years old and who is approved by the person's parent or guardian.

(4) A person who is at least 14 years old but younger than 16 years old shall be accompanied by a person who is at least 21 years old while hunting wildlife, other than big game, with [~~any~~] a weapon.

Section 91. Section 23A-4-709, which is renumbered from Section 23-20-30 is renumbered and amended to read:

[~~23-20-30~~]. 23A-4-709. Tagging requirements.

(1) The Wildlife Board may make rules that require the carcass of certain species of protected wildlife to be tagged.

(2) Except as provided by the Wildlife Board by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a hunter shall tag the carcass of [~~any~~] a species of protected wildlife required to be tagged [~~shall be tagged~~] before the carcass is moved from or the hunter leaves the site of kill.

(3) To tag a carcass, a person shall:

(a) (i) completely detach the tag from the license or permit;

(ii) completely remove the appropriate notches to correspond with:

(A) the date the animal was taken; and

(B) the sex of the animal; and

(iii) attach the tag to the carcass so that the tag remains securely fastened and visible; or

(b) complete an electronic tagging certification according to standards approved by the Wildlife Board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A person may not:

(a) remove more than one notch indicating date or sex; or

(b) tag more than one carcass using the same tag.

Section 92. Section 23A-4-801, which is renumbered from Section 23-19-34.5 is renumbered and amended to read:

Part 8. Falconry

[~~23-19-34.5~~]. 23A-4-801. Falconry certificate of registration -- Residents 12 or older may obtain certificate of registration -- License for falconry meet for nonresidents -- Wildlife Board approval required for falconry meet -- Hunting license required to take protected game.

(1) A resident 12 years [~~of age~~] old or older[~~, upon application to the division,~~] may obtain a certificate of registration to hold falcons and engage in the sport of falconry on nongame wildlife species upon application to the division.

(2) A nonresident entering Utah to participate in the sport of falconry at an organized meet shall obtain a license as provided in Section [~~23-19-34.7~~] 23A-4-802.

(3) Organizers of a falconry meet shall apply to and receive approval from the Wildlife Board [~~in order~~] to conduct an organized falconry meet.

(4) (a) [~~Any~~] A person engaging in the sport of falconry on protected small game species shall possess, in addition to the falconry certificate of registration, a hunting license.

(b) [~~Any~~] A nonresident who has been issued a license pursuant to Section [~~23-19-34.7~~] 23A-4-802 is not required to possess a hunting license [~~in order~~] to take small game during the five-day period of the license.

Section 93. Section 23A-4-802, which is renumbered from Section 23-19-34.7 is renumbered and amended to read:

[~~23-19-34.7~~]. 23A-4-802. Nonresident falconry meet license.

(1) A nonresident 12 years [~~of age~~] old or older may participate in a falconry meet in this state upon payment of a fee prescribed by the Wildlife Board.

(2) (a) A nonresident falconry meet license is valid only for five consecutive days, the dates to be designated on the license.

(b) The holder of the license may engage in the sport of falconry on nongame wildlife species and small game species[~~,~~] during the specified five-day period.

Section 94. Section 23A-4-901, which is renumbered from Section 23-19-27 is renumbered and amended to read:

Part 9. Furbearer License or Registration

[~~23-19-27~~]. 23A-4-901. Furbearer license -- Resident or nonresident.

A resident or nonresident[~~, upon payment of the fee prescribed by the Wildlife Board,~~] may receive a license to take furbearers upon payment of the fee prescribed by the Wildlife Board.

Section 95. Section 23A-4-902, which is renumbered from Section 23-19-31 is renumbered and amended to read:

[~~23-19-31~~]. 23A-4-902. Resident fur dealer registration.

A resident[~~, upon application to the Wildlife Board,~~] may be registered as a fur dealer upon application to the Wildlife Board.

Section 96. Section 23A-4-903, which is renumbered from Section 23-19-32 is renumbered and amended to read:

[~~23-19-32~~]. 23A-4-903. Nonresident fur dealer registration.

A nonresident[~~, upon application to the wildlife board,~~] may be registered as a fur dealer upon application to the Wildlife Board.

Section 97. Section 23A-4-904, which is renumbered from Section 23-19-33 is renumbered and amended to read:

[~~23-19-33~~]. 23A-4-904. Registration of fur dealer's agent.

[~~Any~~] A person who is employed by a fur dealer as a fur buyer in the field[~~, upon application to the Wildlife Board,~~] may be registered as a fur dealer's agent upon application to the Wildlife Board.

Section 98. Section 23A-4-905, which is renumbered from Section 23-18-5 is renumbered and amended to read:

[~~23-18-5~~]. 23A-4-905. Fur dealer and fur dealer's agent -- Certificates of registration required -- Receipts required.

(1) (a) [~~Any~~] A person engaging in, carrying on, or conducting, wholly or in part, the business of buying, selling, trading, or dealing, within the state, in the skins or pelts of furbearing mammals [~~shall be deemed~~] is considered a fur dealer within the meaning of this [~~code. All fur dealers~~] title.

(b) A fur dealer shall secure a fur dealer certificate of registration from the [~~Division of Wildlife Resources, but no~~] division, except a certificate of registration [~~shall be~~] is not required for:

(i) a licensed trapper or fur farmer selling skins or pelts [~~which~~] that the licensed trapper or fur farmer has lawfully taken[~~,~~] or raised[~~, nor for any~~]; or

(ii) a person who is not a fur dealer and who purchases [~~any such~~] skins or pelts described in Subsection (1)(b)(i) exclusively for the person's own use and not for sale.

(2) [~~Any~~] (a) A person who is employed by a resident or nonresident fur dealer as a fur buyer, in the field, is [~~deemed~~] considered a fur dealer's agent.

[~~Application~~] (b) The fur dealer employing an agent shall apply for a fur dealer's agent certificate of registration [~~shall be made by the fur dealer employing the agent, and no~~], and an agent certificate of registration [~~shall~~] may not be issued until the necessary fur dealer certificate of registration has been first secured by the employer of the agent.

(3) [~~Receipts shall be issued by the~~] The vendor shall issue a receipt to the vendee whenever the skins or pelts of furbearing mammals change ownership by virtue of sale, exchange, barter, or gift[~~; and both~~]. Both the vendor and vendee shall produce [~~this~~] the receipt or evidence of legal transaction upon request by the [~~Division of Wildlife Resources~~] division or other person authorized to enforce [~~the provisions of this code~~] this title.

Section 99. Section 23A-4-1001, which is renumbered from Section 23-19-11 is renumbered and amended to read:

Part 10. Education

[~~23-19-11~~]. 23A-4-1001. Hunter education required.

(1) (a) Except as provided in Section [~~23-19-14.6~~] 23A-4-701, an individual born after December 31, 1965, may not acquire or possess a hunting license or permit unless the individual has successfully completed a division-approved hunter education course.

(b) A division-approved hunter education course shall include education concerning the importance of gates and fences used in agriculture and how to properly close a gate.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules establishing:

(a) criteria and standards for approving a hunter education course, including a course offered in another state or country; and

(b) procedures for verifying and documenting that an individual seeking a hunting license or permit has successfully completed a division-approved hunter education course.

[~~(3) (a) It is unlawful for an individual to obtain, attempt to obtain, or possess a hunting license or permit in violation of the hunter education requirements in Subsection (1).~~]

[~~(b) A hunting license or permit obtained or possessed in violation of this section is invalid.~~]

Section 100. Section 23A-4-1002, which is renumbered from Section 23-19-11.1 is renumbered and amended to read:

[~~23-19-11.1~~]. 23A-4-1002. Hunter education practical shooting test -- Exemptions.

(1) Except as provided in Subsection (2), the Wildlife Board may require that the division-approved hunter education course required by Section [~~23-19-11~~] 23A-4-1001 include a practical shooting test.

(2) A member of the United States Armed Forces, including the Utah National Guard, is exempt from a practical shooting test that may be required under Subsection (1) if the member has passed firearms training in the United States Armed Forces or Utah National Guard.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules establishing firearms test verification requirements.

Section 101. Section 23A-4-1003, which is renumbered from Section 23-19-12 is renumbered and amended to read:

[~~23-19-12~~]. 23A-4-1003. Instruction in hunter education -- Issuance of certificate of competency.

(1) The [~~Division of Wildlife Resources~~] division shall provide for [~~individuals~~] an individual interested in obtaining an instructor's certificate in hunter education a course of instruction in:

(a) the safe handling of firearms;

(b) conservation;

(c) hunting ethics;

(d) information required by Subsection [~~23-19-11~~] 23A-4-1001(1)(b); and

(e) related subject matter.

(2) A certified instructor may, on a voluntary basis, give instruction in the course of hunter education, as established by the [~~Division of~~

~~Wildlife Resources~~] division, to eligible persons [~~who, upon the successful completion of the course, shall be issued~~]. The division shall issue a certificate of competency in hunter education upon the successful completion of the course.

Section 102. Section 23A-4-1004, which is renumbered from Section 23-19-12.7 is renumbered and amended to read:

[~~23-19-12.7~~]. 23A-4-1004. Instruction in bow hunter education -- Issuance of certificate of completion.

(1) The division shall establish criteria for a bow hunter education course, which may be offered by [~~any~~] an entity that meets the division's criteria.

(2) The bow hunter education course shall include instruction in:

(a) the safe use of bow hunting equipment;

(b) fundamentals of bow hunting;

(c) shooting and hunting techniques; and

(d) hunter ethics.

(3) The division shall issue a certificate of completion to a participant upon successful completion of a bow hunter education course which meets the requirements of this section and criteria established by the division.

Section 103. Section 23A-4-1005, which is renumbered from Section 23-19-11.5 is renumbered and amended to read:

[~~23-19-11.5~~]. 23A-4-1005. Proof of furharvester education required.

(1) A resident born after December 31, 1984, may not acquire or possess a furbearer license unless the individual has successfully completed a division-approved furharvester education course.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules establishing:

(a) criteria and standards for approving a furharvester education course, including a course offered in another state or country; and

(b) procedures for verifying and documenting that an individual seeking a furbearer license has successfully completed a division-approved furharvester education course.

[~~(3) (a) It is unlawful for an individual to obtain, attempt to obtain, or possess a furbearer license in violation of the furharvester education requirements in Subsection (1).~~]

[~~(b) A furbearer license or permit obtained or possessed in violation of this section is invalid.~~]

Section 104. Section 23A-4-1006, which is renumbered from Section 23-19-12.5 is renumbered and amended to read:

[~~23-19-12.5~~]. 23A-4-1006. Instruction in furharvester education -- Issuance of certificate of completion.

(1) The division shall provide a course of instruction in safe and responsible trapping, including instruction in:

(a) the use of trapping devices;

(b) trapping laws;

(c) trapping ethics;

(d) techniques in safely releasing nontarget animals;

(e) firearms safety;

(f) wildlife management;

(g) proper catch handling;

(h) trapper health and safety; and

(i) ethics relating to the avoidance of conflicts with other public land users and private landowners.

(2) (a) [~~Certified instructors will~~] A certified instructor may, on a voluntary basis, give instruction in the course of furharvester education, as established by the division.

(b) Upon the successful completion of the course, [~~each~~] the division shall issue to the participant in the furharvester education course [~~shall be issued~~] a certificate of completion in furharvester education.

Section 105. Section 23A-4-1007, which is renumbered from Section 23-19-13 is renumbered and amended to read:

[~~23-19-13~~]. 23A-4-1007. Hunter and furharvester education training -- Fee.

The Wildlife Board shall establish the fees to be assessed for obtaining instruction in hunter education and furharvester education.

Section 106. Section 23A-4-1101, which is renumbered from Section 23-19-5 is renumbered and amended to read:

Part 11. Violations and Enforcement

[~~23-19-5~~]. 23A-4-1101. Fraud, deceit, or misrepresentation in obtaining a license, permit, tag, or certificate of registration -- Criminal penalty.

(1) [~~It is unlawful for~~] A person may not:

(a) [~~any person to~~] obtain or attempt to obtain a license, permit, tag, or certificate of registration by fraud, deceit, or misrepresentation;

(b) if a nonresident [~~to~~], purchase a resident license; and

(c) if a resident [~~to~~], purchase a nonresident license.

[~~(2) Any license, permit, tag, or certificate of registration obtained in violation of Subsection (1) is invalid.~~]

[~~(3) Any~~] (2) A person violating Subsection (1) is guilty of a class B misdemeanor.

(3) A license, permit, certificate of registration, or tag obtained in violation of Subsection (1) is invalid.

(4) A fraudulent claim of residency in another state or country does not exempt a person from the definition of resident in Section [~~23-13-2~~] 23A-1-101.

Section 107. Section 23A-4-1102, which is renumbered from Section 23-19-5.5 is renumbered and amended to read:

[~~23-19-5.5~~]. 23A-4-1102. Issuance of license, permit, or tag prohibited for failure to pay child support.

(1) As used in this section:

(a) "Child support" means the same as that term is defined in Section 62A-11-401.

(b) "Delinquent on a child support obligation" means that:

(i) an individual owes at least $2,500 on an arrearage obligation of child support based on an administrative or judicial order;

(ii) the individual has not obtained a judicial order staying enforcement of the individual's obligation on the amount in arrears; and

(iii) the office has obtained a statutory judgment lien pursuant to Section 62A-11-312.5.

(c) "Office" means the Office of Recovery Services created in Section 62A-11-102.

(d) "Wildlife license agent" means a person authorized under Section [~~23-19-15~~] 23A-4-501 to sell a license, permit, or tag in accordance with this chapter.

(2) (a) An individual who is delinquent on a child support obligation may not apply for, obtain, or attempt to obtain a license, permit, or tag required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation [~~issued in accordance with a rule made by the Wildlife Board under this title~~].

(b) (i) An individual who applies for, obtains, or attempts to obtain a license, permit, or tag in violation of Subsection (2)(a) violates Section [~~23-19-5~~] 23A-4-1101.

(ii) A license, permit, or tag obtained in violation of Subsection (2)(a) is invalid.

(iii) An individual who takes protected wildlife with an invalid license, permit, or tag violates Section [~~23-20-3~~] 23A-5-309.

(3) (a) The license, permit, and tag restrictions in Subsection (2)(a) remain effective until the office notifies the division that the individual who is delinquent on a child support obligation has:

(i) paid the delinquency in full; or

(ii) except as provided in Subsection (3)(d), complied for at least 12 consecutive months with a payment schedule entered into with the office.

(b) A payment schedule under Subsection (3)(a) shall provide that the individual:

(i) pay the current child support obligation in full each month; and

(ii) pays an additional amount as assessed by the office pursuant to Section 62A-11-320 towards the child support arrears.

(c) Except as provided in Subsection (3)(d), if an individual fails to comply with the payment schedule described in Subsection (3)(b), the office may notify the division and the individual is considered to be an individual who is delinquent on a child support obligation and cannot obtain a new license, permit, or tag without complying with this Subsection (3).

(d) If an individual fails to comply with the payment schedule described in Subsection (3)(b) for one month of the 12-month period because of a transition to new employment, the individual may obtain a license, permit, or tag and is considered in compliance with this Subsection (3) if the individual:

(i) provides the office with information regarding the individual's new employer within 30 days from the day on which the missed payment was due;

(ii) pays the missed payment within 30 days from the day on which the missed payment was due; and

(iii) complies with the payment schedule for all other payments owed for child support within the 12-month period.

(4) (a) The division or a wildlife license agent may not knowingly issue a license, permit, or tag under this title to an individual identified by the office as delinquent on a child support obligation until notified by the office that the individual has complied with Subsection (3).

(b) The division is not required to hold or reserve a license, permit, or tag opportunity withheld from an individual pursuant to Subsection (4)(a) for purposes of reissuance to that individual upon compliance with Subsection (3).

(c) The division may immediately reissue to another qualified person a license, permit, or tag opportunity withheld from an individual identified by the office as delinquent on a child support obligation pursuant to Subsection (4)(a).

(5) The office and division shall automate the process for the division or a wildlife license agent to be notified whether an individual is delinquent on a child support obligation or has complied with Subsection (3).

(6) The office is responsible to provide [~~any~~] administrative or judicial review required incident to the division issuing or denying a license, permit, or tag to an individual under Subsection (4).

(7) The denial or withholding of a license, permit, or tag under this section is not a suspension or revocation of license and permit privileges for purposes of:

(a) Section [~~23-19-9~~] 23A-4-1106;

(b) Subsection [~~23-20-4~~] 23A-5-311(1); and

(c) Section [~~23-25-6~~] 23A-2-505.

(8) This section does not modify a court action to withhold, suspend, or revoke a recreational license under Sections 62A-11-107 and 78B-6-315.

Section 108. Section 23A-4-1103, which is renumbered from Section 23-19-6 is renumbered and amended to read:

[~~23-19-6~~]. 23A-4-1103. Imitating or counterfeiting license unlawful -- Criminal penalty.

[~~It is unlawful to~~] (1) A person may not imitate or counterfeit [~~any~~] a license, permit, tag, or certificate of registration for the purpose of defrauding the state [~~of Utah~~] or for evading the purposes and provisions of this [~~code. Any~~] title.

(2) A person who violates [~~any provision of~~] this section is guilty of a class A misdemeanor.

Section 109. Section 23A-4-1104 is enacted to read:

23A-4-1104. Violation of hunter education requirements -- Criminal penalty.

(1) An individual may not obtain, attempt to obtain, or possess a hunting license or permit in violation of the hunter education requirements in Subsection 23A-4-1001(1).

(2) An individual who violates Subsection (1) is guilty of a class B misdemeanor.

(3) A hunting license or permit obtained or possessed in violation of Section 23A-4-1101 is invalid.

Section 110. Section 23A-4-1105 is enacted to read:

23A-4-1105. Violation of furharvester education requirements -- Criminal penalty.

(1) An individual may not obtain, attempt to obtain, or possess a furbearer license in violation of the furharvester education requirements in Subsection 23A-4-1005(1).

(2) An individual who violates Subsection (1) is guilty of a class B misdemeanor.

(3) A furbearer license or permit obtained or possessed in violation of this section is invalid.

Section 111. Section 23A-4-1106, which is renumbered from Section 23-19-9 is renumbered and amended to read:

[~~23-19-9~~]. 23A-4-1106. Suspension of license or permit privileges -- Suspension of certificates of registration.

(1) As used in this section:

(a) "License or permit privileges" means the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit issued by the division.

(b) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.

(2) A hearing officer, appointed by the division, may suspend a person's license or permit privileges if:

(a) in a court of law, the person:

(i) is convicted of:

(A) violating this title or a rule of the Wildlife Board;

(B) killing or injuring domestic livestock or a livestock guardian dog while engaged in an activity regulated under this title;

(C) violating Section 76-6-111; or

(D) violating Section 76-10-508 while engaged in an activity regulated under this title;

(ii) enters into a plea in abeyance agreement, in which the person pleads guilty or no contest to an offense listed in Subsection (2)(a)(i), and the plea is held in abeyance; or

(iii) is charged with committing an offense listed in Subsection (2)(a)(i), and the person enters into a diversion agreement which suspends the prosecution of the offense; and

(b) the hearing officer determines the person committed the offense intentionally, knowingly, or recklessly, as defined in Section 76-2-103.

(3) (a) The Wildlife Board shall make rules establishing guidelines that a hearing officer shall consider in determining:

(i) the type of license or permit privileges to suspend; and

(ii) the duration of the suspension.

(b) The Wildlife Board shall ensure that the guidelines established under Subsection (3)(a) are consistent with Subsections (4), (5), and (6).

(4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a person's license or permit privileges according to Subsection (2) for a period of time not to exceed:

(a) seven years for:

(i) a felony conviction;

(ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a felony, the prosecution of which is suspended pursuant to a diversion agreement;

(b) five years for:

(i) a class A misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class A misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement;

(c) three years for:

(i) a class B misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class B misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement; and

(d) one year for:

(i) a class C misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor, when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class C misdemeanor, the prosecution of which is suspended according to a diversion agreement.

(5) The hearing officer may double a suspension period established in Subsection (4) for offenses:

(a) committed in violation of an existing suspension or revocation order issued by the courts, division, or Wildlife Board; or

(b) involving the unlawful taking of a trophy animal, as defined in Section [~~23-13-2~~] 23A-1-101.

(6) (a) A hearing officer may suspend, according to Subsection (2), a person's license or permit privileges for a particular license or permit only once for each single criminal episode, as defined in Section 76-1-401.

(b) If a hearing officer addresses two or more single criminal episodes in a hearing, the suspension periods of [~~any~~] license or permit privileges of the same type suspended, according to Subsection (2), may run consecutively.

(c) If a hearing officer suspends, according to Subsection (2), license or permit privileges of the type that have been previously suspended by a court, a hearing officer, or the Wildlife Board and the suspension period has not expired, the suspension periods may run consecutively.

(7) (a) A hearing officer, appointed by the division, may suspend a person's privilege of applying for, purchasing, and exercising the benefits conferred by a certificate of registration if:

(i) the hearing officer determines the person intentionally, knowingly, or recklessly, as defined in Section 76-2-103, violated:

(A) this title;

(B) a rule or order of the Wildlife Board;

(C) the terms of a certificate of registration; or

(D) the terms of a certificate of registration application or agreement; or

(ii) the person, in a court of law:

(A) is convicted of an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration;

(B) pleads guilty or no contest to an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and the plea is held in abeyance in accordance with a plea in abeyance agreement; or

(C) is charged with an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and prosecution of the offense is suspended in accordance with a diversion agreement.

(b) [~~All certificates~~] A hearing officer shall suspend a certificate of registration for the harvesting of brine shrimp eggs, as defined in Section 59-23-3, [~~shall be suspended by a hearing officer,~~] if the hearing officer determines the holder of the [~~certificates~~] certificate of registration has violated Section 59-23-5.

(8) (a) The director shall appoint a qualified person as a hearing officer to perform the adjudicative functions provided in this section.

(b) The director may not appoint a division employee who investigates or enforces wildlife violations.

(9) (a) The courts may suspend, in criminal sentencing, a person's privilege to apply for, purchase, or exercise the benefits conferred by a license, permit, or certificate of registration.

(b) The courts shall promptly notify the division of [~~any~~] suspension orders or recommendations entered.

(c) The division, upon receiving notification of suspension from the courts, shall prohibit the person from applying for, purchasing, or exercising the benefits conferred by a license, permit, or certification of registration for the duration and of the type specified in the court order.

(d) The hearing officer shall consider [~~any~~] a recommendation made by a sentencing court concerning suspension before issuing a suspension order.

[~~(10) (a) A person may not apply for, purchase, possess, or attempt to exercise the benefits conferred by any permit, license, or certificate of registration specified in an order of suspension while that order is in effect.~~]

[~~(b) Any license possessed or obtained in violation of the order shall be considered invalid.~~]

[~~(c) A person who violates Subsection (10)(a) is guilty of a class B misdemeanor.~~]

[~~(11)~~] (10) Before suspension under this section, [~~a person shall be~~] the division shall give a person:

(a) [~~given~~] written notice of [~~any~~] action the division intends to take; and

(b) [~~provided with~~] an opportunity for a hearing.

[~~(12)~~] (11) (a) A person may file an appeal of a hearing officer's decision with the Wildlife Board.

(b) The Wildlife Board shall review the hearing officer's findings and conclusions and any written documentation submitted at the hearing.

(c) The Wildlife Board may:

(i) take no action;

(ii) vacate or remand the decision; or

(iii) amend the period or type of suspension.

[~~(13)~~] (12) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry privileges consistent with [~~Title 23, Chapter 25,~~] Chapter 2, Part 5, Wildlife Violator Compact.

[~~(14)~~] (13) The Wildlife Board may make rules to implement this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 112. Section 23A-4-1107 is enacted to read:

23A-4-1107. Violation of suspension -- Criminal penalty.

(1) A person may not apply for, purchase, possess, or attempt to exercise the benefits conferred by a permit, license, or certificate of registration specified in an order of suspension while that order is in effect.

(2) A person who violates Subsection (1) is guilty of a class B misdemeanor.

(3) A license possessed or obtained in violation of the order is invalid.

Section 113. Section 23A-4-1108, which is renumbered from Section 23-19-9.1 is renumbered and amended to read:

[~~23-19-9.1~~]. 23A-4-1108. Court-ordered action against a license.

The division shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this chapter if so ordered by a court.

Section 114. Section 23A-4-1109, which is renumbered from Section 23-19-9.5 is renumbered and amended to read:

[~~23-19-9.5~~]. 23A-4-1109. Warrant outstanding or failure to comply with citation -- Person not entitled to license, permit, tag, or certificate.

(1) A person may not purchase a license, permit, tag, or certificate of registration if:

(a) there is an outstanding Utah warrant against [~~him~~] the person for failure to appear in answer to a summons for a violation of:

(i) [~~a provision of~~] this title; or

(ii) a rule, proclamation, or order of the Wildlife Board; or

(b) [~~he has failed~~] the person fails to comply with a wildlife citation in a state which is a party to the Wildlife Violator Compact set forth in [~~Title 23, Chapter 25,~~] Chapter 2, Part 5, Wildlife Violator Compact.

(2) The division may allow a person referred to in Subsection (1) to purchase a license, permit, tag, or certificate of registration if satisfactory proof is given that:

(a) the warrant is no longer outstanding; or

(b) [~~he~~] the person has complied with the wildlife citation.

Section 115. Section 23A-5-101 is enacted to read:

CHAPTER 5. ENFORCEMENT AND VIOLATIONS

Part 1. General Provisions

23A-5-101. Definitions.

Reserved.

Section 116. Section 23A-5-201, which is renumbered from Section 23-20-1 is renumbered and amended to read:

Part 2. Enforcement

[~~23-20-1~~]. 23A-5-201. Enforcement authority of conservation officers -- Seizure and disposition of property.

(1) [~~Conservation officers~~] A conservation officer of the division shall enforce [~~the provisions of~~] this title with the same authority and following the same procedures as other law enforcement officers.

(2) (a) [~~Conservation officers~~] A conservation officer shall seize [~~any~~] protected wildlife illegally taken or held.

(b) (i) Upon determination of a defendant's guilt by the court[~~,~~]:

(A) the court shall confiscate the protected wildlife [~~shall be confiscated by the court and sold or otherwise disposed of by the division~~]; and

(B) the division shall sell or otherwise dispose of the protected wildlife.

(ii) Proceeds of [~~the sales~~] a sale under this section shall be deposited in the Wildlife Resources Account.

(iii) Migratory wildfowl may not be sold, but [~~shall be given~~] the division shall give the migratory wildfowl to a charitable institution [~~or used~~] for other charitable purposes.

(3) (a) [~~Conservation officers~~] A conservation officer may seize and impound a vehicle used for the unlawful taking or possessing of protected wildlife for any of the following purposes:

(i) to provide for the safekeeping of the vehicle, if the owner or operator is arrested;

(ii) to search the vehicle as provided in Subsection (2)(a) or as provided by a search warrant; or

(iii) to inspect the vehicle for evidence that protected wildlife was unlawfully taken or possessed.

(b) The division shall store [~~any~~] a seized vehicle in a public or private garage, state impound lot, or other secured storage facility.

(4) A seized vehicle shall be released to the owner no later than 30 days after the date the vehicle is seized, unless the vehicle was used for the unlawful taking or possessing of wildlife by a person who is charged with committing a felony under this title.

(5) (a) The owner of a seized vehicle is liable for the payment of any impound fee if the owner used the vehicle for the unlawful taking or possessing of wildlife and is found by a court to be guilty of a violation of this title.

(b) The owner of a seized vehicle is not liable for the payment of any impound fee or, if the fees have been paid, is entitled to reimbursement of the fees paid, if:

(i) no charges are filed or all charges are dropped [~~which~~] that involve the use of the vehicle for the unlawful taking or possessing of wildlife;

(ii) the person charged with using the vehicle for the unlawful taking or possessing of wildlife is found by a court to be not guilty; or

(iii) the owner did not consent to a use of the vehicle [~~which~~] that violates this chapter.

Section 117. Section 23A-5-202, which is renumbered from Section 23-20-1.5 is renumbered and amended to read:

[~~23-20-1.5~~]. 23A-5-202. Powers of law enforcement section.

(1) The chief and assistant chief of the law enforcement section, an enforcement [~~agents, and~~] agent, or conservation [~~officers~~] officer of the law enforcement section within the [~~Division of Wildlife Resources~~] division are vested with the powers of law enforcement officers throughout [~~all of~~] the counties of the state with exception of the power to serve civil process and:

(a) may serve criminal process, arrest, and prosecute [~~violators of any~~] a violator of a law of this state; and

(b) [~~shall have~~] has the same right as other law enforcement officers to require aid in executing [~~their~~] the duties.

(2) The powers and duties conferred by this section upon employees of the law enforcement section of the [~~Division of Wildlife Resources~~] division shall be supplementary to and in no way a limitation on the powers and duties of other law enforcement officers in the state.

Section 118. Section 23A-5-203, which is renumbered from Section 23-20-2 is renumbered and amended to read:

[~~23-20-2~~]. 23A-5-203. Special deputies -- Appointment -- Duties.

The director [~~of the Division of Wildlife Resources is authorized to~~] may appoint [~~persons~~] a person, on a temporary basis, as a special [~~deputies. These special deputies shall have the authority to enforce provisions of this code and all rules and regulations promulgated under this code.~~] deputy. A special deputy may enforce this title and rules made under this title.

Section 119. Section 23A-5-204, which is renumbered from Section 23-20-10 is renumbered and amended to read:

[~~23-20-10~~]. 23A-5-204. Butcher, locker, or storage plant to require proper tag or donation slip.

[~~It is unlawful for a~~] A butcher or owner or employee of a locker plant or storage plant [~~to~~] may not receive for processing or storage the carcass of [~~any~~] protected wildlife that by law or regulation is required to be tagged, unless the carcass is properly tagged or is accompanied with a valid donation slip.

Section 120. Section 23A-5-205, which is renumbered from Section 23-20-16 is renumbered and amended to read:

[~~23-20-16~~]. 23A-5-205. Enforcement -- Procedure.

In enforcing the misdemeanor or felony provisions of this [~~code~~] title, [~~the~~] a peace officer shall follow [~~the procedures and requirements of~~] Title 53, Chapter 13, Peace Officer Classifications.

Section 121. Section 23A-5-206, which is renumbered from Section 23-20-28 is renumbered and amended to read:

[~~23-20-28~~]. 23A-5-206. Search warrants.

(1) A search warrant may be issued by a magistrate to search for [~~any~~] property [~~which~~] that may constitute evidence of [~~any violation of the provisions of this code~~] a violation of this title, rules, [~~regulations,~~] or proclamations of the Wildlife Board upon an affidavit of [~~any~~] a person.

(2) The search warrant shall be directed to a conservation officer or a peace officer, directing the officer to search for evidence and to bring [~~it~~] the evidence before the magistrate.

(3) A search warrant may not be issued except upon probable cause supported by oath or affirmation, particularly describing the place, person, or thing to be searched for and the person or thing to be seized.

(4) The warrant shall be served in the daytime, unless there is reason to believe that the service of the search warrant is required immediately because a person may:

(a) flee the jurisdiction to avoid prosecution or discovery of a violation noted above;

(b) destroy or conceal evidence of the commission of [~~any~~] a violation; or

(c) injure another person or damage property.

(5) [~~The~~] Notwithstanding Subsection (4), a search warrant may be served at night if:

(a) there is reason to believe that a violation may occur at night; or

(b) the evidence of the violation may not be available to the officers serving the warrant during the day.

Section 122. Section 23A-5-207, which is renumbered from Section 23-20-25 is renumbered and amended to read:

[~~23-20-25~~]. 23A-5-207. Exhibition of license, permit, tag, or device required -- Criminal penalty.

(1) [~~Any~~] A person while engaged in [~~any~~] an activity regulated under this title, shall [~~be required upon demand of any~~] exhibit the following at the request of conservation officer or [~~any~~] other peace officer [~~to exhibit~~]:

(a) the required license, permit, or tag;

(b) [~~any~~] device or apparatus in that person's possession used for [~~any~~] an activity regulated under this title; or

(c) [~~any~~] wildlife in that person's possession.

(2) [~~Any~~] A conservation officer who has a reasonable belief that a person is engaged in [~~any~~] an activity regulated under this title may stop and temporarily detain that person [~~in order~~] to demand and inspect:

(a) the required license, permit, or tag;

(b) [~~any~~] a device or apparatus in that person's possession used for [~~any~~] an activity regulated under this title; or

(c) [~~any~~] wildlife in that person's possession.

(3) [~~Any~~] A person [~~who~~] is subject to the penalties of Section 23A-5-301 if the person fails to produce for examination to [~~an~~] a correction officer or other peace officer any of the required licenses, permits, tags, devices or apparatuses used for [~~any~~] an activity regulated under this title or [~~any~~] wildlife in that person's possession [~~is guilty of a class B misdemeanor~~].

Section 123. Section 23A-5-301, which is renumbered from Section 23-13-11 is renumbered and amended to read:

Part 3. Violations

[~~23-13-11~~]. 23A-5-301. Violations in general -- Criminal penalty -- Aiding or assisting violation.

(1) Except as otherwise provided in this title:

[~~(1)~~] (a) a violation of [~~any provision of~~] this title is a class B misdemeanor; and

[~~(2)~~] (b) a violation of [~~any~~] a rule of the Wildlife Board, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or proclamation of the Wildlife Board is an infraction.

(2) (a) A person may not aid or assist another person to violate this title or a rule made by the Wildlife Board under this title and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The penalty for violating this Subsection (2) is the same as for the provision or rule for which aid or assistance is given.

Section 124. Section 23A-5-302, which is renumbered from Section 23-13-4 is renumbered and amended to read:

[~~23-13-4~~]. 23A-5-302. Captivity of protected wildlife unlawful -- Criminal penalty.

[~~It is unlawful for any~~] (1) A person [~~to~~] may not hold in captivity at any time [~~any~~] protected wildlife except as provided by this [~~code~~] title or rules [~~and regulations of~~] made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

Section 125. Section 23A-5-303, which is renumbered from Section 23-13-5 is renumbered and amended to read:

[~~23-13-5~~]. 23A-5-303. Importation or exportation and release of wildlife unlawful -- Criminal penalty.

[~~It is unlawful for any~~] (1) A person [~~to~~] may not:

(a) import into or export from the state [~~of Utah~~ any] a species of live native or exotic wildlife; or [~~to~~]

(b) possess or release from captivity [~~any such~~] imported live wildlife [~~except as~~] described in Subsection (1)(a).

(2) Notwithstanding Subsection (1), a person may engage in an act described in Subsection (1) if:

(a) provided for in this [~~code~~] title or the rules [~~and regulations of~~] made by the Wildlife Board [~~without~~] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) the person first [~~securing~~] secures written permission from the division [~~of Wildlife Resources~~].

(3) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

Section 126. Section 23A-5-304, which is renumbered from Section 23-13-13 is renumbered and amended to read:

[~~23-13-13~~]. 23A-5-304. Commercialization of wildlife unlawful -- Criminal penalty.

[~~It shall be unlawful for any person to utilize~~] (1) A person may not use wildlife as a commercial venture for financial gain except as provided in this

[~~code~~] title or under rules [~~and regulations of~~] made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

Section 127. Section 23A-5-305, which is renumbered from Section 23-13-14 is renumbered and amended to read:

[~~23-13-14~~]. 23A-5-305. Release of wildlife unlawful -- Criminal penalty.

(1) (a) A person may not release or transplant a live terrestrial or aquatic wildlife into the wild:

(i) without a certificate of registration issued by the division authorizing the release; or

(ii) except as provided in this title and rules [~~and regulations established~~] made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The division may only authorize the transplanting of big game, turkeys, wolves, threatened or endangered species, or sensitive species as provided in Section [~~23-14-21~~] 23A-2-209.

(2) Except as provided in [~~Subsection (3)~~] Section 23A-5-306, a person who violates Subsection (1) is guilty of a class A misdemeanor.

[~~(3) A person who knowingly and without lawful authority imports, transports, or releases a live species of wildlife that the person knows is listed as threatened or endangered, or is a candidate to be listed under the Endangered Species Act, 16 U.S.C. Sec. 1531 et seq., with the intent to establish the presence of that species in an area of the state not currently known to be occupied by a reproducing population of that species is guilty of a third degree felony.~~]

Section 128. Section 23A-5-306 is enacted to read:

23A-5-306. Import, transport, or release of threatened or endangered species -- Criminal penalty.

(1) A person may not knowingly and without lawful authority import, transport, or release a live species of wildlife that the person knows is listed as threatened or endangered, or is a candidate to be listed under the Endangered Species Act, 16 U.S.C. Sec. 1531 et seq., with the intent to establish the presence of that species in an area of the state not currently known to be occupied by a reproducing population of that species.

(2) A person who violates Subsection (1) is guilty of a third degree felony.

Section 129. Section 23A-5-307, which is renumbered from Section 23-13-18 is renumbered and amended to read:

[~~23-13-18~~]. 23A-5-307. Use of a computer or other device to remotely hunt wildlife prohibited -- Trail cameras -- Criminal penalty.

(1) As used in this section, "trail camera" means a device that is not held or manually operated by a person and is used to capture images, video, or location data of wildlife using heat or motion to trigger the device.

[~~(1)~~] (2) A person may not use a computer or other device to remotely control the aiming and discharge of a firearm or other weapon for hunting an animal.

[~~(2)~~] (3) A person who violates Subsection (1) is guilty of a class A misdemeanor.

[~~(3) (a) As used in this Subsection (3), "trail camera" means a device that is not held or manually operated by a person and is used to capture images, video, or location data of wildlife using heat or motion to trigger the device.~~]

[~~(b)~~] (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board shall make rules regulating the use of trail cameras.

[~~(c)~~] (b) The division shall provide an annual report to the Natural Resources, Agriculture, and Environment Interim Committee regarding rules made or changed in accordance with this Subsection [~~(3)~~] (4).

(c) A person who violates rules made by the Wildlife Board under this Subsection (4) is subject to the penalty provided in Section 23A-5-301.

Section 130. Section 23A-5-308, which is renumbered from Section 23-13-19 is renumbered and amended to read:

[~~23-13-19~~]. 23A-5-308. Administering substances to protected wildlife prohibited -- Exceptions -- Criminal penalty.

(1) For purposes of this section:

(a) "Administer" means the application of a substance by any method, including:

(i) injection;

(ii) inhalation;

(iii) ingestion; or

(iv) absorption.

(b) "Agricultural producer" means a person who produces an agricultural product.

(c) "Agricultural product" means the same as that term is defined in Section 4-1-109.

(d) "Substance" means a chemical or organic substance that:

(i) pacifies;

(ii) sedates;

(iii) immobilizes;

(iv) harms;

(v) kills;

(vi) controls fertility; or

(vii) has an effect that is similar to an effect listed in Subsections (1)(d)(i) through (vi).

(2) Except as authorized by Subsection [~~(3)~~] (4) or a rule made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a person may not administer or attempt to administer a substance to protected wildlife.

(3) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

[~~(3)~~] (4) (a) A division employee or a person with written permission from the division may administer a substance to protected wildlife if that employee or person administers the substance to promote wildlife management and conservation.

(b) One or more of the following may administer a substance to protected wildlife that the person is authorized by this title, the Wildlife Board, or the division to possess:

(i) a licensed veterinarian;

(ii) an unlicensed assistive personnel, as defined in Section 58-28-102; or

(iii) a person who is following written instructions for veterinary care from a licensed veterinarian.

[~~(4) A~~] (5) Notwithstanding the other provisions of this section, a person is not liable under this section for administering a substance, notwithstanding the substance has an effect described in Subsection (1)(d) on protected wildlife, if:

(a) an agricultural producer administers the substance:

(i) for the sole purpose of producing an agricultural product and not for the purpose of affecting protected wildlife in a manner described in Subsection (1)(d);

(ii) consistent with generally accepted agricultural practices; and

(iii) in compliance with applicable local, state, and federal law; or

(b) the protected wildlife presents an immediate threat of death or serious bodily injury to a person.

Section 131. Section 23A-5-309, which is renumbered from Section 23-20-3 is renumbered and amended to read:

[~~23-20-3~~]. 23A-5-309. Taking, transporting, selling, or purchasing protected wildlife illegal except as authorized -- Criminal penalty.

(1) Except as provided in this title or a rule, proclamation, or order of the Wildlife Board, a person may not:

(a) take protected wildlife or [~~its~~] wildlife parts;

(b) collect, import, possess, transport, propagate, store, donate, transfer, or export protected wildlife or [~~its~~] wildlife parts;

(c) take, possess, sell, purchase, barter, donate, or trade protected wildlife or [~~its~~] wildlife parts without having previously procured the necessary licenses, permits, tags, federal stamps, certificates of registration, authorizations, and receipts required in this title or a rule, proclamation, or order of the Wildlife Board;

(d) take protected wildlife with [~~any~~] a weapon, ammunition, implement, tool, device, or any part of any of these not specifically authorized in this title or a rule, proclamation, or order of the Wildlife Board;

(e) possess while in pursuit of protected wildlife [~~any~~] a weapon, ammunition, implement, tool, device, or any part of any of these not specifically authorized in this title or a rule, proclamation, or order of the Wildlife Board;

(f) take protected wildlife using [~~any~~] a method, means, process, or practice not specifically authorized in this title or a rule, proclamation, or order of the Wildlife Board;

(g) take protected wildlife outside the season dates, location boundaries, and daily time frames established in rule, proclamation, or order of the Wildlife Board;

(h) take protected wildlife in excess of the bag and possession limits established in rule, proclamation, or order of the Wildlife Board;

(i) take protected wildlife in an area closed to hunting, trapping, or fishing by rule, proclamation, or order of the Wildlife Board, or by executive order of the [~~division~~] director pursuant to Subsection [~~23-14-8~~] 23A-2-203(4);

(j) practice falconry or capture, possess, or use birds in falconry;

(k) take [~~any~~] wildlife from an airplane or any other airborne vehicle or device or [~~any~~] a motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles;

(l) hold in captivity at any time any live protected wildlife;

(m) use or permit a dog or other domestic or trained animal to take protected wildlife;

(n) remove, damage, or destroy an occupied nest of protected wildlife;

(o) release captured or captive wildlife into the wild;

(p) use spotlighting to take protected wildlife;

(q) employ or use a means of concealment or camouflage while taking protected wildlife which is prohibited in this title or a rule, proclamation, or order of the Wildlife Board;

(r) possess or use bait or other attractant to take protected wildlife which is prohibited in this title or a rule, proclamation, or order of the Wildlife Board;

(s) use [~~any~~] a decoy or recorded or electronically amplified call which is prohibited in this title or a rule, proclamation, or order of the Wildlife Board to take protected wildlife;

(t) commercially harvest protected wildlife, including brine shrimp and brine shrimp eggs;

(u) [~~utilize~~] use protected wildlife for commercial purposes or financial gain as prohibited by Section 23A-5-304;

(v) enter, establish, or hold a contest or tournament involving the taking of protected wildlife;

(w) operate or participate in a commercial hunting area as described in Section [~~23-17-6~~] 23A-12-202; or

(x) operate or participate in a cooperative wildlife management unit as defined in Section [~~23-23-2~~] 23A-7-101.

(2) Possession of protected wildlife without a valid license, permit, tag, certificate of registration, bill of sale, or invoice is prima facie evidence that the protected wildlife was illegally taken and is illegally held in possession.

(3) A person is [~~guilty of a class B misdemeanor~~] subject to the penalty under Section 23A-5-301 if the person:

(a) violates [~~any provision of~~] Subsection (1); and

(b) does so with criminal negligence as defined in Subsection 76-2-103(4).

Section 132. Section 23A-5-310, which is renumbered from Section 23-20-3.5 is renumbered and amended to read:

[~~23-20-3.5~~]. 23A-5-310. Taking protected wildlife while trespassing -- Criminal penalty.

(1) A person may not take or permit [~~his~~] the person's dog to take, while in violation of Subsection [~~23-20-14~~] 23A-5-317(2):

(a) protected wildlife or [~~their~~] protected wildlife parts;

(b) an occupied nest of protected wildlife; or

(c) an egg of protected wildlife.

(2) A person [~~is guilty of a class B misdemeanor if he or she violates any provision of~~] who violates Subsection (1) is subject to the penalty provided in Section 23A-5-301.

Section 133. Section 23A-5-311, which is renumbered from Section 23-20-4 is renumbered and amended to read:

[~~23-20-4~~]. 23A-5-311. Wanton destruction of protected wildlife -- Criminal penalty.

(1) A person is guilty of wanton destruction of protected wildlife if that person:

(a) commits an act in violation of [~~Section 23-13-4, 23-13-5, 23-13-13, 23-15-6 through 23-15-9, 23-16-5, or Subsection 23-20-3(1);~~]:

(i) Section 23A-5-302;

(ii) Section 23A-5-304;

(iii) Sections 23A-9-302 through 23A-9-305;

(iv) Section 23A-11-201; or

(v) Subsection 23A-5-309(1);

(b) captures, injures, or destroys protected wildlife; and

(c) (i) does so with intentional, knowing, or reckless conduct as defined in Section 76-2-103;

(ii) intentionally abandons protected wildlife or a carcass;

(iii) commits the offense at night with the use of a weapon;

(iv) is under a court or division revocation of a license, tag, permit, or certificate of registration; or

(v) acts for pecuniary gain.

[~~(2) Subsection (1) does not apply to actions taken in accordance with:~~]

[~~(a) Title 4, Chapter 14, Utah Pesticide Control Act;~~]

[~~(b) Title 4, Chapter 23, Agricultural and Wildlife Damage Prevention Act; or~~]

[~~(c) Section 23-16-3.1.~~]

[~~(3)~~] (2) [~~Wanton~~] A person who commits wanton destruction of wildlife is [~~punishable~~] guilty of:

(a) [~~as~~] a third degree felony if:

(i) the aggregate value of the protected wildlife determined by the values in Subsection [~~(4)~~] (3) is more than $500; or

(ii) a trophy animal was captured, injured, or destroyed;

(b) [~~as~~] a class A misdemeanor if the aggregate value of the protected wildlife, determined by the values established in Subsection [~~(4)~~] (3) is more than $250, but does not exceed $500; and

(c) [~~as~~] a class B misdemeanor if the aggregate value of the protected wildlife determined by the values established in Subsection [~~(4)~~] (3) is $250 or less.

[~~(4)~~] (3) Regardless of the restitution amounts imposed under Subsection [~~23-20-4.5~~] 23A-5-312(2), the following values are assigned to protected wildlife for the purpose of determining the offense for wanton destruction of wildlife:

(a) $1,000 per animal for:

(i) bison;

(ii) bighorn sheep;

(iii) rocky mountain goat;

(iv) moose;

(v) bear;

(vi) peregrine falcon;

(vii) bald eagle; or

(viii) endangered species;

(b) $750 per animal for:

(i) elk; or

(ii) threatened species;

(c) $500 per animal for:

(i) cougar;

(ii) golden eagle;

(iii) river otter; or

(iv) gila monster;

(d) $400 per animal for:

(i) pronghorn antelope; or

(ii) deer;

(e) $350 per animal for bobcat;

(f) $100 per animal for:

(i) swan;

(ii) sandhill crane;

(iii) turkey;

(iv) pelican;

(v) loon;

(vi) egrets;

(vii) herons;

(viii) raptors, except those that are threatened or endangered;

(ix) Utah milk snake; or

(x) Utah mountain king snake;

(g) $35 per animal for furbearers, except:

(i) bobcat;

(ii) river otter; and

(iii) threatened or endangered species;

(h) $25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye, largemouth bass, smallmouth bass, and wiper;

(i) $15 per animal for game birds, except:

(i) turkey;

(ii) swan; and

(iii) sandhill crane;

(j) $10 per animal for game fish not listed in Subsection [~~(4)~~] (3)(h);

(k) $8 per pound dry weight of processed brine shrimp including eggs; and

(l) $5 per animal for protected wildlife not listed.

[~~(5)~~] (4) For purposes of sentencing for a [~~wildlife~~] violation under this section, a person who has been convicted of a third degree felony under Subsection [~~(3)~~] (2)(a) is not subject to the mandatory sentencing requirements prescribed in Subsection 76-3-203.8(4).

[~~(6)~~] (5) As part of a sentence imposed, the court shall impose a sentence of incarceration of not less than 20 consecutive days for a person convicted of a third degree felony under Subsection [~~(3)~~] (2)(a)(ii) who captured, injured, or destroyed a trophy animal for pecuniary gain.

[~~(7)~~] (6) If a person has already been convicted of a third degree felony under Subsection [~~(3)~~] (2)(a)(ii) once, each separate additional offense under Subsection [~~(3)~~] (2)(a)(ii) is punishable by, as part of a sentence imposed, a sentence of incarceration of not less than 20 consecutive days.

[~~(8)~~] (7) The court may not sentence a person subject to Subsection [~~(6) or (7)~~] (5) or (6) to less than 20 consecutive days of incarceration or suspend the imposition of the sentence unless the court finds mitigating circumstances justifying lesser punishment and makes that finding a part of the court record.

(8) Subsection (1) does not apply to actions taken in accordance with:

(a) Title 4, Chapter 14, Utah Pesticide Control Act;

(b) Title 4, Chapter 23, Agricultural and Wildlife Damage Prevention Act; or

(c) Section 23A-8-403.

Section 134. Section 23A-5-312, which is renumbered from Section 23-20-4.5 is renumbered and amended to read:

[~~23-20-4.5~~]. 23A-5-312. Restitution -- Disposition of money.

(1) When a person is adjudged guilty of illegal taking, illegal possession, or wanton destruction of protected wildlife, other than a trophy animal, the court may order the defendant to pay restitution:

(a) as set forth in Subsection (2); or

(b) in a greater or lesser amount than the amount established in Subsection (2).

(2) Suggested minimum restitution values for protected wildlife are as follows:

(a) $1,000 per animal for:

(i) bison;

(ii) bighorn sheep;

(iii) rocky mountain goat;

(iv) moose;

(v) bear;

(vi) peregrine falcon;

(vii) bald eagle; or

(viii) endangered species;

(b) $750 per animal for:

(i) elk; or

(ii) threatened species;

(c) $500 per animal for:

(i) golden eagle;

(ii) river otter; or

(iii) gila monster;

(d) $400 per animal for:

(i) pronghorn antelope; or

(ii) deer;

(e) $350 per animal for:

(i) cougar; or

(ii) bobcat;

(f) $100 per animal for:

(i) swan;

(ii) sandhill crane;

(iii) turkey;

(iv) pelican;

(v) loon;

(vi) egrets;

(vii) herons;

(viii) raptors, except those that are threatened or endangered;

(ix) Utah milk snake; or

(x) Utah mountain king snake;

(g) $35 per animal for furbearers, except:

(i) bobcat;

(ii) river otter; and

(iii) threatened or endangered species;

(h) $25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye, largemouth bass, smallmouth bass, and wiper;

(i) $15 per animal for game birds, except:

(i) turkey;

(ii) swan; and

(iii) sandhill crane;

(j) $10 per animal for game fish not listed in Subsection (2)(h);

(k) $8 per pound dry weight of processed brine shrimp including eggs; and

(l) $5 per animal for protected wildlife not listed.

(3) If the court finds that restitution is inappropriate or if the value imposed is less than the suggested minimum value as provided in Subsection (2), the court shall make the reasons for the decision part of the court record.

(4) (a) The court shall order a person convicted of a third degree felony under Subsection [~~23-20-4~~(3)(a)(ii)] 23A-5-311(2)(a)(ii) to pay restitution in accordance with Subsection (4)(b).

(b) The minimum restitution value for a trophy animal is as follows:

(i) $30,000 per animal for bighorn, desert, or rocky mountain sheep;

(ii) $8,000 per animal for deer;

(iii) $8,000 per animal for elk;

(iv) $6,000 per animal for moose or mountain goat;

(v) $6,000 per animal for bison; and

(vi) $2,000 per animal for pronghorn antelope.

(5) Restitution paid under Subsection (4) shall be remitted to the division and deposited in the Wildlife Resources Account.

(6) [~~Restitution money shall be used by the division~~] The division shall use restitution money for activities and programs to help stop poaching, including:

(a) educational programs on wildlife crime prevention;

(b) acquisition and development of wildlife crime detection equipment;

(c) operation and maintenance of anti-poaching projects; and

(d) wildlife law enforcement training.

(7) If restitution is required [~~it~~], restitution shall be in addition to:

(a) a fine or penalty imposed for a violation of [~~any provision of~~] this title; and

(b) a remedial action taken to revoke or suspend a person's license, permit, tag, or certificate of registration.

(8) A judgment imposed under this section constitutes a lien when recorded in the judgment docket and shall have the same effect and is subject to the same rules as a judgment for money in a civil action.

Section 135. Section 23A-5-313, which is renumbered from Section 23-20-4.7 is renumbered and amended to read:

[~~23-20-4.7~~]. 23A-5-313. Habitual wanton destruction of protected wildlife -- Criminal penalty.

(1) As used in this section, "convicted" includes a guilty adjudication, guilty plea, no contest plea, and guilty or no contest plea entered in a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance.

[~~(1)~~] (2) A person [~~is guilty of~~] commits habitual wanton destruction of protected wildlife if the person:

(a) takes a big game animal in violation of Section [~~23-20-4~~] 23A-5-311; and

(b) within seven years of the day on which the violation described in Subsection [~~(1)~~] (2)(a) occurs, has twice been convicted of taking a big game animal in violation of Section [~~23-20-4~~] 23A-5-311.

[~~(2) "Convicted," for purposes of this section, includes a guilty adjudication, guilty plea, no contest plea, and guilty or no contest plea entered in a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance.~~]

(3) [~~Habitual~~] A person who commits habitual wanton destruction of protected wildlife is guilty of a third degree felony.

Section 136. Section 23A-5-314, which is renumbered from Section 23-20-8 is renumbered and amended to read:

[~~23-20-8~~]. 23A-5-314. Waste of wildlife unlawful -- Criminal penalty.

(1) [~~Except~~] A person may not waste or permit to be wasted protected wildlife or a part of protected wildlife except as otherwise provided:

(a) in this title[~~, or~~];

(b) by rule made by the Wildlife Board under this title[~~,~~] and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(c) by an order or proclamation [~~issued in accordance with a rule made by the Wildlife Board under this title, a person may not waste or permit to be wasted protected wildlife or a part of protected wildlife~~].

(2) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

Section 137. Section 23A-5-315, which is renumbered from Section 23-20-12 is renumbered and amended to read:

[~~23-20-12~~]. 23A-5-315. Airplanes or terrestrial or aquatic vehicles -- Use in taking wildlife unlawful -- Exceptions -- Criminal penalty.

(1) [~~It is unlawful for any person to take any~~] A person may not take wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles, except as provided by this [~~code~~] title or in the rules [~~and regulations~~] made by of the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

[~~(2)~~] (3) Notwithstanding Subsection (1), the Wildlife Board may authorize an individual validly licensed to hunt [~~may be authorized~~], to hunt from a vehicle under terms and conditions specified by the Wildlife Board if the individual has:

(a) paraplegia; or

(b) a disability that permanently confines the individual to a wheelchair or the use of crutches.

Section 138. Section 23A-5-316, which is renumbered from Section 23-20-13 is renumbered and amended to read:

[~~23-20-13~~]. 23A-5-316. Signs or equipment -- Damage or destruction unlawful -- Criminal penalty.

(1) A person may not:

[~~(1)~~] (a) shoot at, shoot, deface, damage, remove, or destroy [~~any division signs or placards~~] a division sign or placard located in [~~any part of~~] this state; or

[~~(2)~~] (b) damage, destroy, remove, or cause to be damaged, destroyed, or removed [~~any~~] equipment or devices owned, controlled, or operated by the [~~Division of Wildlife Resources~~] division.

(2) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

Section 139. Section 23A-5-317, which is renumbered from Section 23-20-14 is renumbered and amended to read:

[~~23-20-14~~]. 23A-5-317. Posted property -- Hunting by permission -- Entry on private land while hunting or fishing -- Violations -- Penalty -- Prohibitions inapplicable to officers.

(1) As used in this section:

(a) "Cultivated land" means land that is readily identifiable as:

(i) land whose soil is loosened or broken up for the raising of crops;

(ii) land used for the raising of crops; or

(iii) pasturage which is artificially irrigated.

[~~(b) "Division" means the Division of Wildlife Resources.~~]

[~~(c)~~] (b) "Permission" means written authorization from the owner or person in charge to enter upon private land that is either cultivated or properly posted, and shall include:

(i) the signature of the owner or person in charge;

(ii) the name of the person being given permission;

(iii) the appropriate dates; and

(iv) a general description of the property.

[~~(d)~~] (c) "Properly posted" means that signs prohibiting trespass or bright yellow, bright orange, or fluorescent paint are clearly displayed:

(i) at [~~all~~] the corners, fishing streams crossing property lines, roads, gates, and rights-of-way entering the land; or

(ii) in a manner that would reasonably be expected to be seen by a person in the area.

(2) (a) While taking wildlife or engaging in wildlife related activities, a person may not:

(i) without permission, enter upon privately owned land that is cultivated or properly posted;

(ii) enter or remain on privately owned land if the person has notice to not enter or remain on the privately owned land; or

(iii) obstruct [~~any~~] an entrance or exit to private property.

(b) A person has notice to not enter or remain on privately owned land if:

(i) the person is directed to not enter or remain on the land by:

(A) the owner of the land;

(B) the owner's employee; or

(C) a person with apparent authority to act for the owner; or

(ii) the land is fenced or otherwise enclosed in a manner that a reasonable person would recognize as intended to exclude intruders.

(c) The division shall provide "hunting by permission cards" to a landowner upon the landowner's request.

(d) A person may not post:

(i) private property the person does not own or legally control; or

(ii) land that is open to the public as provided by Section [~~23-21-4~~] 23A-6-402.

(3) A person who violates Subsection (2)(a) or (d) is subject to the penalty provided in Section 23A-5-301 and liable for the civil damages described in Subsection (7).

[~~(3)~~] (4) (a) A person convicted of violating Subsection (2)(a) may have the person's license, tag, certificate of registration, or permit, relating to the activity engaged in at the time of the violation, revoked by a hearing officer.

(b) A hearing officer may construe [~~any~~] a subsequent conviction [~~which~~] that occurs within a five-year period as a flagrant violation and may prohibit the person from obtaining a new license, tag, certificate of registration, or permit for a period of up to five years.

[~~(4)~~] (5) Subsection (2)(a) does not apply to peace or conservation officers in the performance of their duties.

[~~(5)~~] (6) (a) The division shall provide information regarding owners' rights and [~~sportsmen's~~] duties:

(i) to anyone holding [~~licenses, certificates of registration, tags, or permits~~] a license, certificate of registration, tag, or permit to take wildlife; and

(ii) by using the public media and other sources.

(b) The Wildlife Board shall state restrictions in this section relating to trespassing [~~shall be stated in all~~] in the hunting and fishing proclamations issued by the Wildlife Board.

[~~(6) A person who violates Subsection (2)(a) or (d) is guilty of a class B misdemeanor and liable for the civil damages described in Subsection (7).~~]

(7) In addition to an order for restitution under Section 77-38b-205, a person who commits a violation of Subsection (2)(a) or (d) may also be liable for:

(a) the greater of:

[~~(a)~~] (i) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2)(a) or (d); or

(ii) $500[~~, whichever is greater~~]; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(8) Civil damages under Subsection (7) may be collected in a separate action by the property owner or the property owner's assignee.

Section 140. Section 23A-5-318, which is renumbered from Section 23-20-15 is renumbered and amended to read:

[~~23-20-15~~]. 23A-5-318. Destruction of signs or inclosure on private land unlawful -- Criminal penalty.

[~~It is unlawful for any person,~~]

(1) A person may not, without the consent of the owner or person in charge of [~~any~~] privately owned land[~~, to~~]:

(a) tear down, mutilate, or destroy [~~any~~] a sign, signboard, or other notice [~~which~~] that regulates trespassing for purposes of hunting, trapping, or fishing on this land; or [~~to, without such consent,~~]

(b) tear down, deface, or destroy [~~any~~]:

(i) a fence or other inclosure on [~~this~~] the privately owned land[~~, or any~~]; or

(ii) a gate or bars belonging to [~~any such~~] a fence or inclosure on the privately owned land.

(2) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

Section 141. Section 23A-5-319, which is renumbered from Section 23-20-18 is renumbered and amended to read:

[~~23-20-18~~]. 23A-5-319. Interference with, intimidation, or harassment of officer unlawful.

[~~It is unlawful for any person to~~]

(1) A person may not interfere with, intimidate, or harass a conservation officer or special deputy in the lawful performance of [~~his~~] the conservation officer's or special deputy's duty.

(2) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

Section 142. Section 23A-5-320, which is renumbered from Section 23-20-19 is renumbered and amended to read:

[~~23-20-19~~]. 23A-5-320. Failure to stop at roadblocks or checking stations unlawful.

[~~It is unlawful for any person to fail to stop at Division of Wildlife Resources road blocks or checking stations where~~]

(1) A person may not fail to stop at a division roadblock or checking station when a stop sign or red or blue light is displayed.

(2) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

Section 143. Section 23A-5-321, which is renumbered from Section 23-20-29 is renumbered and amended to read:

[~~23-20-29~~]. 23A-5-321. Interference with hunting prohibited -- Action to recover damages -- Exceptions -- Criminal penalty.

(1) A person [~~is guilty of a class B misdemeanor who intentionally interferes~~] may not interfere with the right of a person licensed and legally hunting under Chapter [~~19~~] 4, Licenses, Permits, Certificates of Registration, and Tags, to take wildlife by driving, harassing, or intentionally disturbing [~~any~~] a species of wildlife for the purpose of disrupting a legal hunt, trapping, or predator control.

(2) A person who violates this section is subject to the penalty provided in Section 23A-5-301.

[~~(2)~~] (3) [~~Any~~] A directly affected person or the state may bring an action to recover civil damages resulting from a violation of Subsection (1) or a restraining order to prevent a potential violation of Subsection (1).

[~~(3)~~] (4) This section does not apply to incidental interference with a hunt caused by lawful activities including ranching, mining, and recreation.

Section 144. Section 23A-5-322, which is renumbered from Section 23-20-29.5 is renumbered and amended to read:

[~~23-20-29.5~~]. 23A-5-322. Interference with hunters or hunting activity -- Criminal penalty.

A person who intentionally interferes with a person who is licensed and taking wildlife legally under [~~the provision of Title 23, Chapter 19~~] Chapter 4, Licenses, Permits, Certificates of Registration, and Tags, or disrupts an activity involving a legal hunt, trapping, falconry, or predator control may be charged with a violation under Section 76-9-102 if that interference or disruption constitutes a violation under Section 76-9-102.

Section 145. Section 23A-6-101, which is renumbered from Section 23-21-.5 is renumbered and amended to read:

CHAPTER 6. LANDS AND WATERS FOR WILDLIFE PURPOSES

Part 1. General Provisions

[~~23-21-.5~~]. 23A-6-101. Definitions.

As used in this chapter:

(1) (a) "General plan" means a document that a municipality or county adopts that sets forth general guidelines for proposed future development of the land within the municipality or county [~~and~~].

(b) "General plan" includes what is commonly referred to as a "master plan."

(2) "Management plan" means a document prepared in accordance with this chapter that describes how one or more tracts of land owned or managed by the [~~Division of Wildlife Resources~~] division are to be used.

[~~(3) "Regional advisory council" means a council created pursuant to Section 23-14-2.6.~~]

[~~(4)~~] (3) "Wildlife management area" means:

(a) a single tract of land owned or managed by the division; or

(b) two or more tracts of land owned or managed by the division that are within close proximity of each other and managed as a single unit.

Section 146. Section 23A-6-201, which is renumbered from Section 23-21-1 is renumbered and amended to read:

Part 2. Acquisition

[~~23-21-1~~]. 23A-6-201. Acquisition of lands, waters, and rights-of-way -- Authority of division.

The [~~Division of Wildlife Resources shall have the power to~~] division may acquire lands, waters, and rights-of-way by purchase, lease, agreement, gift, exchange, contribution, or any other lawful means, for authorized activities of the [~~Division of Wildlife Resources~~] division as outlined by this [~~code~~] title and the rules [~~and regulations of~~] made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 147. Section 23A-6-202, which is renumbered from Section 23-21-1.5 is renumbered and amended to read:

[~~23-21-1.5~~]. 23A-6-202. Acquisition of real property held in private ownership -- Published notice and governor's approval required.

(1) The [~~Division of Wildlife Resources~~] division may not acquire title to real property held in private ownership without first:

(a) publishing a notice of the proposed acquisition:

(i) in a newspaper of general circulation in the county in which the property is located; and

(ii) as required in Section 45-1-101; and

(b) obtaining the approval of the governor.

(2) [~~The requirements of~~] Subsection (1) [~~apply~~] applies whether title to real property held in private ownership is acquired through a purchase, donation, or other means.

(3) In the case of a proposed purchase of private property, the [~~notice may be published~~] division may publish notice after earnest money is paid.

(4) The published notice shall inform the public regarding:

(a) the proposed use of the [~~land~~] real property;

(b) any conditions on the acquisition of the [~~land~~] real property placed by donors, the federal

government, sellers, or others specifying how the [~~land must~~] real property is to be used;

(c) any changes to existing land uses that are anticipated; and

(d) the public comment submission process for comments on the proposed acquisition.

(5) The governor shall:

(a) submit a notification of the proposed acquisition to:

(i) the county executive of the county in which the real property is located;

(ii) the legislators of the legislative districts in which the [~~lands are~~] real property is located; and

(iii) the School and Institutional Trust Lands Administration; and

(b) invite those notified to submit [~~any~~] comments on the proposed acquisition.

(6) After considering comments on the proposed acquisition, the governor may:

(a) approve the acquisition in whole or in part; or

(b) disapprove the acquisition.

Section 148. Section 23A-6-203, which is renumbered from Section 23-21-2 is renumbered and amended to read:

[23-21-2]. 23A-6-203. Payments in lieu of property taxes on property purchased by division.

[~~Prior to~~] (1) Before the purchase of [~~any~~] real property held in private ownership, the [~~Division of Wildlife Resources~~] division shall:

(a) first submit the proposition to the county legislative body in a regular open public meeting in the county where the real property is located; and [~~shall~~]

(b) by contractual agreement with the county legislative body, approved by the executive director [~~of the Department of Natural Resources~~], agree to pay an amount of money in lieu of property taxes to the county.

(2) The division shall, by contractual agreement with the county legislative body in which [~~any~~] real property previously acquired from private ownership and now owned by the division is located, agree to pay annually an amount of money in lieu of wildlife resource fine money, previously paid to the county. [~~Payments~~]

(3) A payment provided for in this section [~~will~~] may not:

(a) exceed what the regularly assessed real property taxes would be if the [~~land~~] real property had remained in private ownership; and [~~these payments may not~~]

(b) include [~~any~~] an amount for buildings, installations, fixtures, improvements or personal property located upon the [~~land~~] real property or for those acquired, constructed, or placed by the division after [~~it~~] the division acquires the [~~land~~] real property.

Section 149. Section 23A-6-204, which is renumbered from Section 23-21-6 is renumbered and amended to read:

[~~23-21-6~~]. 23A-6-204. Acquisition of lands by United States for migratory bird refuges.

(1) (a) The [~~consent of the state of Utah is given~~] state consents to acquisition by the United States of [~~such~~] the areas of land or water in the state, as the United States may [~~deem~~] consider necessary, by and with the consent of the county legislative body of the county where the land or water are located and after approval of application, subject to the laws of the state [~~of Utah~~] for water rights, for the establishment and maintenance of migratory waterfowl refuges in accordance with and for the purpose of the [~~Act of Congress approved February 18, 1929, entitled "~~]Migratory Bird Conservation Act[~~"~~], 16 U.S.C. Sec. 715 to 715s, as amended, and [~~the Act of Congress approved March 16, 1935, entitled "~~]Migratory Bird Hunting Stamp Act,[~~"~~] 16 U.S.C. Sec. 718a to 718k, as amended[~~; and the same may be used by the United States~~].

(b) The United States may use the land or water described in this Subsection (1) as refuge for migratory birds, reserving[~~, however,~~] to the state [~~of Utah~~] jurisdiction, both civil and criminal, of persons upon the areas [~~so~~] acquired except so far as the punishment of offenses against the United States are concerned.

(2) (a) [~~Nothing in this section shall be~~] This section may not be construed to impose [~~under~~] upon the state or [~~any~~] an agency of [~~it any~~] the state an obligation to convey to the United States any interest in land or water owned or controlled by the state, except upon appropriate terms and for adequate consideration.

(b) The reservation to the state of coal and other minerals in lands sold by [~~it~~] the state within areas so established and easements retained by the state to prospect for, mine, and remove the same are declared to be subject to rules and regulations prescribed from time to time by the Secretary of the Interior for the occupation, use, operation, protection, and administration of these areas as refuges for migratory birds.

Section 150. Section 23A-6-301, which is renumbered from Section 23-21-2.1 is renumbered and amended to read:

Part 3. Management Plans

[~~23-21-2.1~~]. 23A-6-301. Management plans.

(1) The division shall prepare a management plan for each wildlife management area. Upon adoption of a management plan by the [~~division~~] director, the division shall manage the lands [~~shall be managed~~] within the wildlife management area in accordance with the management plan.

(2) [~~Each~~] A management plan shall include:

(a) a statement of the proposed or anticipated uses;

(b) a description of [~~any~~] management limitations or conditions covering the wildlife management area;

(c) an inventory of the existing conditions;

(d) a statement of the desired future condition of the wildlife management area;

(e) a list of strategies that may be implemented to achieve the desired future condition; and

(f) a description of any reallocation of forage, water, or other resource appurtenant to the land within the wildlife management area.

Section 151. Section 23A-6-302, which is renumbered from Section 23-21-2.2 is renumbered and amended to read:

[~~23-21-2.2~~]. 23A-6-302. Preparation of management plans -- Participation by interested persons and local and tribal governments -- Compatibility with local government plans and existing rights.

(1) The division shall invite persons who may have an interest in how the land in a wildlife management area is managed to participate in the management planning process.

(2) Those persons may include:

(a) persons who use, or may use, the land in a wildlife management area for:

(i) agriculture, mining, or other commercial pursuits;

(ii) hunting or fishing;

(iii) recreation; or

(iv) other uses;

(b) adjacent or nearby landowners or residents; or

(c) other interested parties.

(3) The division shall invite local government officials to participate in the management planning process.

(4) In preparing a management plan, the division shall seek to make land uses compatible with:

(a) local government general plans and zoning and land use ordinances; and

(b) existing rights of others within the wildlife management area.

(5) (a) If the land in a wildlife management area is located within or adjacent to tribal lands, the division shall invite tribal government officials to participate in the management planning process.

(b) Participation by tribal officials in the development of management plans for lands owned by the division does not waive the tribe's sovereignty.

Section 152. Section 23A-6-303, which is renumbered from Section 23-21-2.3 is renumbered and amended to read:

[~~23-21-2.3~~]. 23A-6-303. Review and adoption of management plans.

(1) The division shall submit [~~the~~] a draft management plan to the Resource Development Coordinating Committee created in Section 63L-11-401 and the Habitat Council created by the division for their review and recommendations.

(2) The division shall submit [~~the~~] a draft management plan and any recommendations received from the Resource Development Coordinating Committee and the Habitat Council to:

(a) the regional advisory council for the wildlife region in which the lands covered by the management plan are located; and

(b) the regional advisory council for [~~any~~] a wildlife region that may be affected by the management plan.

(3) [~~Each~~] A regional advisory council reviewing [~~the~~] a draft management plan may make recommendations to the [~~division~~] director.

(4) The [~~division director has authority to~~] director may adopt the management plan, adopt the management plan with amendments, or reject the management plan.

(5) (a) At the request of the [~~division~~] director or [~~any~~] a member of the Wildlife Board, the Wildlife Board may review a management plan to determine whether the plan is consistent with [~~board~~] Wildlife Board policies.

[~~(6)~~] (b) The [~~division~~] director may amend a management plan in accordance with recommendations made by the Wildlife Board.

Section 153. Section 23A-6-304, which is renumbered from Section 23-21-2.4 is renumbered and amended to read:

[~~23-21-2.4~~]. 23A-6-304. Procedure to revise a management plan.

(1) [~~Any~~] A person seeking a revision of a management plan may request the regional advisory council in the region where the land in a wildlife management area is located to consider the proposal to revise the management plan. The regional advisory council shall consider the proposal and advise the division.

(2) The process specified in Sections [~~23-21-2.2 and 23-21-2.3~~] 23A-6-302 and 23A-6-303 shall be used to revise a management plan.

Section 154. Section 23A-6-305, which is renumbered from Section 23-21-2.5 is renumbered and amended to read:

[~~23-21-2.5~~]. 23A-6-305. Change in land use where a management plan is not in effect -- Notification to affected persons -- Compatibility with local government plans.

(1) If a management plan has not been adopted by the [~~division~~] director for a tract of land owned by

the division, the division may not change [~~any~~] an existing right to use the land until the division notifies those who may be affected by the change and local government officials.

(2) When changing [~~any~~] an existing right to use the land, the division shall seek to make uses of division-owned land compatible with local government general plans and zoning and land use ordinances.

Section 155. Section 23A-6-401, which is renumbered from Section 23-21-2.6 is renumbered and amended to read:

Part 4. Use of Land

[~~23-21-2.6~~]. 23A-6-401. Target shooting prohibitions.

(1) As used in this section:

(a) "County sheriff" means the individual holding the office of county sheriff in the portion of a wildlife management area where target shooting will be, or is, prohibited under this section.

[~~(b) "Director" means the director of the Division of Wildlife Resources.~~]

[~~(c)~~] (b) "Extremely hazardous" means categorized as "extreme" under a nationally recognized standard for rating fire danger.

(2) Subject to Subsections (3) and (4), the division may prohibit the use of firearms for target shooting within all or part of a wildlife management area if the director finds, and the county sheriff agrees, that conditions in that portion of the wildlife management area are extremely hazardous.

(3) A prohibition under this section:

(a) shall undergo a formal review by the director and the county sheriff every 14 days;

(b) may not prohibit an individual from legally possessing a firearm or lawfully participating in a hunt; and

(c) may only remain in place for as long as extremely hazardous conditions exist in the area that is subject to the prohibition.

(4) The director and the county sheriff shall:

(a) via a written document, agree to the terms of a prohibition under this section, including:

(i) the exact area where target shooting is prohibited; and

(ii) the date when the prohibition becomes effective; and

(b) comply with Subsection (4)(a) at each formal review under Subsection (3)(a).

Section 156. Section 23A-6-402, which is renumbered from Section 23-21-4 is renumbered and amended to read:

[~~23-21-4~~]. 23A-6-402. Right of access to lands for hunting, trapping, or fishing reserved to public -- Exception.

(1) Except as provided in Section 65A-2-5, there is reserved to the public the right of access to [~~all~~] lands owned by the state, including those lands lying below the official government meander line or high water line of navigable waters, for the purpose of hunting, trapping, or fishing.

(2) When [~~any~~] a department or agency of the state leases or sells [~~any lands~~] land belonging to the state [~~of Utah~~] lying below the official government meander line or the high water line of the navigable waters within the state, the lease, contract of sale, or deed shall contain a provision that:

(a) the lands shall be open to the public for the purpose of hunting, trapping, or fishing during the lawful season, except as provided by Section 65A-2-5; and

(b) [~~no charge may be made by~~] the lessee, contractee, or grantee [~~to~~] may not charge [~~any~~] a person who desires to go upon the land for the purpose of hunting, trapping, or fishing.

(3) Lands referred to in this section shall be regulated or closed to hunting, trapping, or fishing as provided in this title for other lands and waters.

Section 157. Section 23A-6-403, which is renumbered from Section 23-21-5 is renumbered and amended to read:

[~~23-21-5~~]. 23A-6-403. State-owned lands authorized for use as wildlife management areas, fishing waters, and for other recreational activities.

(1) The Wildlife Board [~~is authorized to~~] may use any and all unsurveyed state-owned lands below the 1855 meander line of the Great Salt Lake within the following townships for the creation, operation, maintenance and management of wildlife management areas, fishing waters and other recreational activities:

Township 2 South, Range 5 West, S.L.B. and M.; Township 2 South, Range 4 West, S.L.B. and M.; Township 1 South, Range 5 West, S.L.B. and M.; Township 1 South, Range 4 West, S.L.B. and M.; Township 1 South, Range 3 West, S.L.B. and M.; Township 1 North, Range 3 West, S.L.B. and M.; Township 1 North, Range 2 West, S.L.B. and M.; Township 2 North, Range 3 West, S.L.B. and M.; Township 2 North, Range 2 West, S.L.B. and M.; Township 2 North, Range 1 West, S.L.B. and M.; Township 3 North, Range 3 West, S.L.B. and M.; Township 3 North, Range 2 West, S.L.B. and M.; Township 3 North, Range 1 West, S.L.B. and M.; Township 4 North, Range 3 West, S.L.B. and M.; Township 4 North, Range 2 West, S.L.B. and M.; Sections 1, 2, 11, 12, 13, 14, 23, and 24, Township 4 North, Range 4 West, S.L.B. and M.; Township 5 North, Range 3 West, S.L.B. and M.; Township 5 North, Range 4 West, S.L.B. and M.; Sections 1, 2, 3, 4, 11, and 12, Township 5 North, Range 5 West, S.L.B. and M.; Township 6 North, Range 5 West, S.L.B. and M.; Township 6 North, Range 4 West, S.L.B. and M.; Township 6 North, Range 3 West, S.L.B. and M.; Township 7 North, Range 5 West, S.L.B. and M.; Township 7 North, Range 4 West, S.L.B. and M.; Township 7 North, Range 3 West,

S.L.B. and M.; Township 7 North, Range 2 West, S.L.B. and M.; Township 8 North, Range 5 West, S.L.B. and M.; Township 8 North, Range 4 West, S.L.B. and M.; Township 8 North, Range 3 West, S.L.B. and M.; Township 8 North, Range 2 West, S.L.B. and M.; Township 9 North, Range 5 West, S.L.B. and M.; Township 9 North, Range 4 West, S.L.B. and M.; Township 11 North, Range 11 West, S.L.B. and M.; Township 11 North, Range 10 West, S.L.B. and M.; Township 11 North, Range 9 West, S.L.B. and M.; Township 11 North, Range 8 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 10 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 9 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 8 West, S.L.B. and M.

(2) (a) The Wildlife Board shall establish a wildlife management area known as the "Willard Spur Waterfowl Management Area" on the unsurveyed state-owned lands below the 1855 meander line of the Great Salt Lake in Sections 26, 35, 36 of Township 8 North, Range 4 West, S.L.B. and M.; Township 8 North, Range 3 West, S.L.B. and M.; Sections 1, 2, 11, 12 of Township 7 North, Range 4 West, S.L.B. and M.; Township 7 North, Range 3 West, S.L.B. and M.; Sections 20, 21, 29, 30, 31 of Township 8 North, Range 2 West, S.L.B. and M.[~~; excepting~~], except for the following:

(i) lands within the May 14, 2019, boundaries of the Bear River Migratory Bird Refuge;

(ii) lands within the May 14, 2019, boundaries of Harold Crane Waterfowl Management Area;

(iii) lands within the May 14, 2019, boundaries of Willard Bay Reservoir; and

(iv) lands within the May 14, 2019, boundaries of state mineral leases.

(b) The division shall execute a memorandum of understanding with the Division of Forestry, Fire, and State Lands recognizing the division's use of the state-owned lands described in Subsection (2)(a) as a wildlife management area.

(c) The division shall manage the state-owned lands described in Subsection (2)(a) as a wildlife management area and consistent with:

(i) the beneficial purposes identified in Subsection (2)(d); and

(ii) a management plan created consistent with the procedures in this chapter for a management plan.

(d) The division shall manage the Willard Spur Waterfowl Management Area for the following beneficial purposes:

(i) propagating and sustaining waterfowl, upland gamebirds, desirable mammals, shorebirds, and other migratory and nonmigratory birds that use the Great Salt Lake ecosystem and the Great Salt Lake ecosystem's surrounding wetlands;

(ii) preserving and enhancing the natural function, vegetation, and water flows under existing or acquired water rights to provide productive habitat for the species listed in Subsection (2)(d)(i);

(iii) providing recreational opportunity for traditional marsh-related activities, including hunting, fishing, trapping, and wildlife viewing; and

(iv) providing public access in the management area for purposes of hunting, fishing, trapping, and wildlife viewing, including access with airboats and other small watercraft.

(e) The division shall provide the habitat, recreational opportunities, and public access described in Subsection (2)(d) without construction or use of an impounding dike, impounding levee, or other impounding structure.

(f) Notwithstanding the purposes identified in Subsection (2)(d), the division may not prohibit year-round public airboat and small watercraft access in the management area except in selected areas during limited periods of time to protect habitat, nesting birds, or vulnerable wildlife.

Section 158. Section 23A-6-404, which is renumbered from Section 23-21-7 is renumbered and amended to read:

[~~23-21-7~~]. 23A-6-404. Unlawful uses and activities on division lands.

(1) Except as authorized by statute, rule, contractual agreement, special use permit, certificate of registration, or public notice, a person may not on division land:

(a) remove, extract, use, consume, or destroy [~~any~~] an improvement or cultural or historic resource;

(b) remove, extract, use, consume, or destroy [~~any~~] sand, gravel, cinder, ornamental rock, or other common mineral resource, or vegetation resource, except a person may collect for noncommercial uses up to 250 pounds per calendar year of common rock or gravel lying on the surface of the ground;

(c) allow livestock to graze;

(d) remove [~~any~~] a plant or portion of a plant for commercial gain purposes;

(e) enter, use, or occupy division land that is posted against entry, use, or occupancy;

(f) enter, use, or occupy division land as part of a group of more than 25 people, except a group may include up to 50 persons if the group consists of extended family members;

(g) enter, use, or occupy division land while engaged in or part of an organized event;

(h) use, occupy, destroy, move, or construct [~~any~~] a structure, including [~~fences, water control devices, roads, survey and section markers, or signs~~] a fence, water control device, road, survey and section marker, or sign;

(i) prohibit, prevent, or obstruct public entry on division lands when public entry is authorized by the division;

(j) attempt to manage or control division lands in a manner inconsistent with division management plans, rules, or policies;

(k) solicit, promote, negotiate, barter, sell, or trade [~~any~~] a product or service on, or obtained from, division lands for commercial gain;

(l) park a motor vehicle or trailer or camp for more than 14 consecutive days unless the area is posted for a different duration;

(m) light a fire without taking adequate precaution to prevent spreading of the fire or leave a fire unattended;

[~~(n) use fireworks, explosives, poisons, herbicides, insecticides, or pesticides;~~]

(n) use fireworks, an explosive, a poison, a herbicide, an insecticide, or a pesticide;

(o) use a motorized [~~vehicles~~] vehicle of any kind except as authorized by declaration, management plan, or posting; or

(p) use division lands for [~~any~~] a purpose that violates applicable land use restrictions imposed by statute, rule, or by the division.

(2) A person [~~or entity which~~] who unlawfully uses division lands is liable for damages in the amount of:

(a) the value of the resource removed, destroyed, or extracted;

(b) the amount of damage caused; and

(c) whichever is greater of:

(i) the value of [~~any~~] losses or expenses caused as a result of interference with authorized activities; or

(ii) the consideration which would have been charged by the division for use of the land during the period of trespass.

(3) This section does not apply to division employees or division volunteers while acting in the lawful performance of [~~their~~] the employees' or volunteers' duties.

(4) Except as otherwise provided by statute, the criminal penalty for a violation of [~~any provision of~~] this section is prescribed in Section [~~23-13-11~~] 23A-5-301.

Section 159. Section 23A-7-101, which is renumbered from Section 23-23-2 is renumbered and amended to read:

CHAPTER 7. COOPERATIVE WILDLIFE MANAGEMENT UNITS

Part 1. General Provisions

[~~23-23-2~~]. 23A-7-101. Definitions.

As used in this chapter:

(1) "Cooperative wildlife management unit" [~~or "unit"~~] means a generally contiguous area of land that is:

(a) open for hunting small game, waterfowl, cougar, turkey, or big game [~~which is~~]; and

(b) registered in accordance with this chapter and rules of the Wildlife Board.

(2) [~~(a)~~] "Cooperative wildlife management unit agent" means a person appointed by a landowner, landowner association, or landowner association operator to perform the functions described in Section [~~23-23-9~~] 23A-7-207.

[~~(b) For purposes of this chapter, a cooperative wildlife management unit agent may not:~~]

[~~(i) be appointed by the division or the state;~~]

[~~(ii) be an employee or agent of the division;~~]

[~~(iii) receive compensation from the division or the state to act as a cooperative wildlife management unit agent; or~~]

[~~(iv) act as a peace officer or perform any duties of a peace officer without qualifying as a peace officer under Title 53, Chapter 13, Peace Officer Classifications.~~]

(3) "Cooperative wildlife management unit authorization" means a card, label, ticket, or other identifying document authorizing the possessor to hunt small game or waterfowl in a cooperative wildlife management unit.

(4) "Cooperative wildlife management unit permit" means a permit authorizing the possessor to hunt cougar, turkey, or big game in a cooperative wildlife management unit.

[~~(5) "Division" means the Division of Wildlife Resources.~~]

[~~(6)~~] (5) "Landowner association" means a landowner or an organization of owners of private lands who operates a cooperative wildlife management unit.

[~~(7) (a)~~] (6) "Landowner association operator" means a person designated by a landowner association to operate the cooperative wildlife management unit.

[~~(b) For purposes of this chapter, a landowner association operator may not:~~]

[~~(i) be appointed by the division; or~~]

[~~(ii) be an employee or agent of the division.~~]

Section 160. Section 23A-7-102, which is renumbered from Section 23-23-3 is renumbered and amended to read:

[~~23-23-3~~]. 23A-7-102. Rulemaking authority of Wildlife Board.

The Wildlife Board [~~is authorized to~~] may make and enforce rules applicable to cooperative wildlife management units organized for the hunting of small game, waterfowl, cougar, turkey, or big game that in [~~its~~] the Wildlife Board's judgment are

necessary to administer and enforce [~~the provisions of~~] this chapter.

Section 161. Section 23A-7-103, which is renumbered from Section 23-23-1 is renumbered and amended to read:

[~~23-23-1~~]. 23A-7-103. Purposes of wildlife management units.

[~~Cooperative~~] A cooperative wildlife management [~~units are~~] unit is established to:

(1) provide income to landowners;

(2) create satisfying hunting opportunities;

(3) increase wildlife resources;

(4) provide adequate protection to landowners who open their lands for hunting; and

(5) provide access to public and private lands for hunting.

Section 162. Section 23A-7-201, which is renumbered from Section 23-23-4 is renumbered and amended to read:

Part 2. Requirements

[~~23-23-4~~]. 23A-7-201. Operation by landowner association.

(1) A landowner association shall operate a cooperative wildlife management unit as prescribed by this chapter and the rules of the Wildlife Board.

(2) For purposes of this chapter, a landowner association operator may not:

(a) be appointed by the division; or

(b) be an employee or agent of the division.

Section 163. Section 23A-7-202, which is renumbered from Section 23-23-5 is renumbered and amended to read:

[~~23-23-5~~]. 23A-7-202. Certificate of registration -- Renewal.

(1) A landowner association may not establish or operate a cooperative wildlife management unit without first obtaining a certificate of registration from the Wildlife Board.

(2) The Wildlife Board may renew annually certificates of registration if the landowner association has previously complied with this chapter and the rules of the Wildlife Board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 164. Section 23A-7-203, which is renumbered from Section 23-23-6 is renumbered and amended to read:

[~~23-23-6~~]. 23A-7-203. Season dates -- Boundaries -- Review by councils and Wildlife Board.

(1) The Wildlife Board shall establish season dates and boundaries for each cooperative wildlife management unit.

(2) Season dates may differ from general statewide season dates.

(3) At least every five years, the relevant regional advisory council and Wildlife Board shall review a cooperative wildlife management [~~units~~] unit containing public land [~~will be reviewed by the regional advisory councils and the Wildlife Board~~].

Section 165. Section 23A-7-204, which is renumbered from Section 23-23-7 is renumbered and amended to read:

[~~23-23-7~~]. 23A-7-204. Permits -- Acreage and lands that may be included -- Posting of boundaries.

(1) The division shall provide cooperative wildlife management unit authorizations for hunting small game or waterfowl to the cooperative wildlife management unit, free of charge.

(2) At least 50% of the cooperative wildlife management unit authorizations for hunting small game or waterfowl provided to a cooperative wildlife management unit shall be offered for sale to the general public at the times and places designated on the application for a certificate of registration.

(3) (a) [~~Cooperative~~] A cooperative wildlife management [~~units~~] unit organized for hunting small game or waterfowl shall consist of private land.

(b) At least 75% of the acreage within the boundaries of [~~each~~] a cooperative wildlife management unit organized for the hunting of small game or waterfowl shall be open to hunting by holders of valid authorizations.

(4) (a) The division may issue cooperative wildlife management unit permits for hunting cougar, turkey, or big game to permittees:

(i) qualifying through a public drawing; or

(ii) named by the cooperative wildlife management unit operator.

(b) The Wildlife Board may specify by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, those persons who are eligible to draw a cooperative wildlife management unit permit in a public drawing.

(5) (a) [~~Cooperative~~] A cooperative wildlife management [~~units~~] unit organized for hunting cougar, turkey, or big game shall consist of private land to the extent practicable. Public land may be included within a cooperative wildlife management unit if:

(i) the public land is completely surrounded by private land or is otherwise inaccessible to the general public;

(ii) including public land is necessary to establish a readily identifiable boundary; or

(iii) including public land is necessary to achieve cougar, turkey, or big game management objectives.

(b) If [~~any~~] public land is included within a cooperative wildlife management unit:

(i) the landowner association shall meet applicable federal or state land use requirements on the public land; and

(ii) the Wildlife Board shall increase the number of permits or hunting opportunities made available to the general public to reflect the proportion of public lands to private lands within the cooperative wildlife management unit.

(6) [~~Each~~] A landowner association shall:

(a) clearly post [~~all~~] the boundaries of the cooperative wildlife management unit by displaying signs containing information prescribed by rule of the Wildlife Board at the locations specified in Subsection [~~23-20-14(1)(d)~~] 23A-5-317(1)(c); and

(b) provide a written copy of [~~its~~] the landowner association's guidelines to each holder of an authorization or permit.

Section 166. Section 23A-7-205, which is renumbered from Section 23-23-7.5 is renumbered and amended to read:

[~~23-23-7.5~~]. 23A-7-205. Landowner association to provide comparable hunting opportunities.

A landowner association shall provide [~~each~~] a holder of an authorization or permit a comparable hunting opportunity in terms of hunting area and number of days.

Section 167. Section 23A-7-206, which is renumbered from Section 23-23-8 is renumbered and amended to read:

[~~23-23-8~~]. 23A-7-206. Compensation for damage -- Claims.

(1) A landowner participating in a cooperative wildlife management unit who incurs damages caused by a hunter on [~~his or her~~] the landowner's land may submit a claim and receive compensation for the claim from money received for cooperative wildlife management unit authorization or permit fees collected by the landowner association.

[~~(1) These claims shall:~~]

(2) The claims under Subsection (1) shall:

(a) be paid first and have priority over all other obligations of the landowner association;

(b) be reviewed, investigated, and paid by the landowner association; and

(c) not exceed annual revenues of a cooperative wildlife management unit.

[~~(2)~~] (3) A landowner participating in a cooperative wildlife management unit who incurs damages caused by a hunter on [~~his or her~~] the landowner's land may not hold the state liable for compensation.

Section 168. Section 23A-7-207, which is renumbered from Section 23-23-9 is renumbered and amended to read:

[~~23-23-9~~]. 23A-7-207. Agents -- Appointment -- Identification -- Refusal of entry by agent.

(1) A landowner association may appoint one or more cooperative wildlife management unit agents to protect private property of the cooperative wildlife management unit.

(2) [~~Each~~] A cooperative wildlife management unit agent shall wear or have in [~~his or her~~] the cooperative wildlife management unit agent's possession a form of identification prescribed by the Wildlife Board [~~which~~] that indicates [~~he or she~~] that the individual is a cooperative wildlife management unit agent.

(3) A cooperative wildlife management unit agent may refuse entry into private lands within a cooperative wildlife management unit to any person, except an owner of land within the cooperative wildlife management unit and [~~his or her~~] the landowner's employees, who:

(a) does not have in [~~his or her~~] the person's possession a cooperative wildlife management unit authorization or permit;

(b) endangers or has endangered human safety;

(c) damages or has damaged private property within a cooperative wildlife management unit; or

(d) fails or has failed to comply with reasonable rules of a landowner association.

(4) In performing the functions described in this section, a cooperative wildlife management unit agent shall comply with the relevant laws of this state.

(5) For purposes of this chapter, a cooperative wildlife management unit agent may not:

(a) be appointed by the division or the state;

(b) be an employee or agent of the division;

(c) receive compensation from the division or the state to act as a cooperative wildlife management unit agent; or

(d) act as a peace officer or perform the duties of a peace officer without qualifying as a peace officer under Title 53, Chapter 13, Peace Officer Classifications.

Section 169. Section 23A-7-208, which is renumbered from Section 23-23-10 is renumbered and amended to read:

[~~23-23-10~~]. 23A-7-208. Possession of permits and licenses by hunter -- Restrictions.

(1) A person may not hunt in a cooperative wildlife management unit without having in [~~his or her~~] the person's possession:

(a) a valid cooperative wildlife management unit authorization or permit or other permit as authorized by the [~~wildlife board~~] Wildlife Board; and

(b) the necessary hunting licenses[~~, tags, and stamps~~] and tags.

(2) A cooperative wildlife management unit authorization or permit:

(a) entitles the holder to hunt only in the cooperative wildlife management unit specified on the authorization or permit pursuant to rules and proclamations of the Wildlife Board and does not entitle the holder to hunt on any other private or public land; and

(b) constitutes written permission for trespass as required under Section [~~23-20-14~~] 23A-5-317.

Section 170. Section 23A-7-209, which is renumbered from Section 23-23-11 is renumbered and amended to read:

[~~23-23-11~~]. 23A-7-209. Failure to comply with rules and requirements.

A person shall leave private property within a cooperative wildlife management unit immediately, upon request of a landowner, landowner association operator, or cooperative wildlife management unit agent, if that person:

(1) does not have in that person's possession a cooperative wildlife management unit authorization or permit;

(2) endangers or has endangered human safety;

(3) damages or has damaged private property within a cooperative wildlife management unit; or

(4) fails or has failed to comply with reasonable rules of a landowner association.

Section 171. Section 23A-7-210, which is renumbered from Section 23-23-12 is renumbered and amended to read:

[~~23-23-12~~]. 23A-7-210. Damage or destruction of property.

A person on the land of another person may not intentionally damage, disarrange, or destroy that person's property.

Section 172. Section 23A-7-211, which is renumbered from Section 23-23-13 is renumbered and amended to read:

[~~23-23-13~~]. 23A-7-211. Violation of chapter -- Class B misdemeanor.

Any person who violates [~~any provision of~~] this chapter is guilty of a class B misdemeanor, unless another penalty is provided elsewhere in the laws of this state.

Section 173. Section 23A-7-212, which is renumbered from Section 23-23-14 is renumbered and amended to read:

[~~23-23-14~~]. 23A-7-212. Landowner protection under Landowner Liability Act.

[~~Landowners who participate in~~] A landowner who participates in a cooperative wildlife management [~~units shall have~~] unit has the full protection afforded under Title 57, Chapter 14, Limitations on Landowner Liability.

Section 174. Section 23A-8-101 is enacted to read:

CHAPTER 8. WILDLIFE DAMAGE

Part 1. General Provisions

23A-8-101. Definitions.

As used in this chapter:

(1) "72 hours" means a time period that begins with the hour a request for action is made pursuant to Section 23A-8-402 and ends 72 hours later with the exclusion of any hour that occurs on the day of a legal holiday that is on a Monday or Friday and listed in Section 63G-1-301.

(2) "Cultivated crops" means:

(a) annual or perennial crops harvested from or on cleared and planted land;

(b) perennial orchard trees on cleared and planted land;

(c) crop residues that have forage value for livestock; and

(d) pastures.

(3) "Depredation" means an act causing damage or death.

(4) "Depredation mitigation plan" means the plan described in Subsection 23A-8-402(2).

(5) "Growing season" means the portion of a year in which local conditions permit normal plant growth.

(6) "Livestock" means cattle, sheep, horses, goats, or turkeys.

(7) "Management unit" means a prescribed area of contiguous land designated by the division for the purpose of managing a species of big game animal.

(8) "Mitigation review panel" means the panel created under Section 23A-8-404.

(9) (a) For purposes of Part 2, Damage in General, "predator" means a mountain lion or bear.

(b) For purposes of Part 4, Damage by Big Game, "predator" means a cougar, bear, or coyote.

(10) For purposes of Section 23A-8-302, "turkey" means a wild, free-ranging turkey and does not include a privately owned or domestic turkey.

(11) "Wildlife Services Program" means a program of the United States Department of Agriculture that helps resolve conflicts with wildlife to protect agriculture, other property, and natural resources, and to safeguard human health and safety.

(12) "Wildlife specialist" means a United States Department of Agriculture, Wildlife Services specialist.

(13) (a) "Wolf" means the gray wolf Canis lupus.

(b) "Wolf" does not mean a wolf hybrid with a domestic dog.

Section 175. Section 23A-8-201, which is renumbered from Section 23-24-1 is

renumbered and amended to read:

Part 2. Damage in General

[~~23-24-1~~]. 23A-8-201. Procedure to obtain compensation for livestock damage done by bear, mountain lion, wolf, or eagle.

[~~(1) As used in this section:~~]

[~~(a) "Damage" means injury to or loss of livestock.~~]

[~~(b) "Division" means the Division of Wildlife Resources.~~]

[~~(c) "Livestock" means cattle, sheep, goats, or turkeys.~~]

[~~(d) (i) "Wolf" means the gray wolf Canis lupus.~~]

[~~(ii) "Wolf" does not mean a wolf hybrid with a domestic dog.~~]

[~~(2)~~] (1) (a) (i) Except as provided by Subsection [~~(2)~~] (1)(a)(ii), if livestock are damaged by a bear, mountain lion, wolf, or an eagle, the owner may receive compensation for the fair market value of the damage to the livestock.

(ii) The owner of livestock may not receive compensation if the livestock is damaged by a wolf within an area where a wolf is endangered or threatened under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531, et seq.

(b) To obtain [~~this~~] compensation under this section, the owner of the damaged livestock shall notify the division of the damage as soon as possible, but no later than four days after the damage to the livestock is discovered.

(c) The owner shall notify the division each time [~~any~~] damage to livestock is discovered.

[~~(3)~~] (2) The livestock owner shall file a proof of loss form, provided by the division, no later than 30 days after the original notification of damage to livestock was given to the division by the owner.

[~~(4)~~] (3) (a) (i) The division, with the assistance of the Department of Agriculture and Food shall:

(A) within 30 days after the owner files the proof of loss form, either accept or deny the claim for damages; and

(B) subject to Subsections [~~(4)~~] (3)(a)(ii) through [~~(4)~~] (3)(a)(iv), pay [~~all~~] the accepted claims to the extent money appropriated by the Legislature is available for this purpose.

(ii) Money appropriated from the Wildlife Resources Account may be used to provide compensation for only up to 50% of the fair market value of [~~any~~] damaged livestock.

(iii) Money appropriated from the Wildlife Resources Account may not be used to provide compensation for livestock damaged by an eagle or a wolf.

(iv) The division may not pay [~~any~~] an eagle damage claim until the division has paid all accepted mountain lion and bear livestock damage claims for the fiscal year.

(b) The division may not pay mountain lion, bear, wolf, or eagle damage claims to a livestock owner unless the owner has filed a completed livestock form and the appropriate fee as outlined in Section 4-23-107 for the immediately preceding and current year.

(c) (i) Unless the division denies a claim for the reason identified in Subsection [~~(4)~~] (3)(b), the owner may appeal the decision to a panel consisting of one person selected by the owner, one person selected by the division, and a third person selected by the first two panel members.

(ii) The panel shall decide whether the division should pay all of the claim, a portion of the claim, or none of the claim.

[~~(5)~~] (4) [~~By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~] The Wildlife Board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and enforce rules to administer and enforce this section.

Section 176. Section 23A-8-202, which is renumbered from Section 23-24-2 is renumbered and amended to read:

[~~23-24-2~~]. 23A-8-202. Livestock depredation by predators.

[~~(1) As used in this section:~~]

[~~(a) "Depredation" means an act causing damage or death.~~]

[~~(b) "Director" means the director of the Division of Wildlife Resources.~~]

[~~(c) "Division" means the Division of Wildlife Resources.~~]

[~~(d) "Livestock" means cattle, sheep, goats, horses, or turkeys.~~]

[~~(e) "Predator" means a mountain lion or bear.~~]

[~~(f) "Wildlife Board" means the board created in Section 23-14-2.~~]

[~~(g) "Wildlife Services Program" means a program of the United States Department of Agriculture that helps resolve conflicts with wildlife to protect agriculture, other property, and natural resources, and to safeguard human health and safety.~~]

[~~(h) "Wildlife specialist" means a United States Department of Agriculture, Wildlife Services specialist.~~]

[~~(2)~~] (1) If a predator harasses, chases, disturbs, harms, attacks, or kills livestock, within 96 hours of the act:

(a) in a depredation case, the livestock owner, an immediate family member, or an employee of the livestock owner on a regular payroll and not specifically hired to take a predator, may take predators subject to the requirements of this section;

(b) a landowner or livestock owner may notify the division of the depredation or human health and safety concerns, who may authorize a local hunter to take the offending predator or notify a wildlife specialist; or

(c) the livestock owner may notify a wildlife specialist of the depredation who may take the depredating predator.

[~~(3)~~] (2) A depredating predator may be taken at any time by a wildlife specialist, supervised by the Wildlife Services Program, while acting in the performance of the wildlife specialist's assigned duties and in accordance with procedures approved by the division.

[~~(4)~~] (3) (a) A depredating predator may be taken by an individual authorized in Subsection [~~(2)~~] (1)(a):

(i) with a weapon authorized by the division, pursuant to rules made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for taking the predator; or

(ii) only using snares:

(A) with written authorization from the director;

(B) subject to the conditions and restrictions set out in the written authorization; and

(C) if the division verifies that there has been a chronic depredation situation when numerous livestock have been killed by a predator as described in rule made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) An individual authorized in Subsection [~~(2)~~] (1)(a) to take depredating predators may take no more than two bears per incident.

[~~(5)~~] (4) (a) In accordance with Subsection [~~(5)~~] (4)(b), the division may issue a depredation permit to take a predator on specified private lands and public land grazing allotments with a chronic depredation situation when numerous livestock have been killed by predators.

(b) The division may:

(i) issue one or more depredation permits to an affected livestock owner or a designee of the affected livestock owner, provided that the livestock owner does not receive monetary consideration from the designee for the opportunity to use the depredation permit;

(ii) determine the legal weapons and methods of taking allowed; and

(iii) specify the area and season that the depredation permit is valid.

[~~(6)~~] (5) (a) A predator taken under Subsection [~~(2)~~] (1)(a) or [~~(5)~~] (4) remains the property of the state and shall be delivered to a division office or employee with 96 hours of the take.

(b) The division may issue a predatory damage permit to a person who has taken a depredating predator under Subsection [~~(2)~~] (1)(a) that authorizes the individual to keep the carcass.

(c) An individual who takes a predator under Subsection [~~(2)~~] (1)(a) or [~~(5)~~] (4) may acquire and use a limited entry permit or harvest objective permit in the same year.

(d) Notwithstanding Subsections [~~(6)~~] (5)(b) and (c), a person may retain no more than one predator carcass annually.

[~~(7)~~] (6) Money derived from the sale of a predator taken under this section shall be deposited into the Wildlife Resources Account created in Section [~~23-14-13~~] 23A-3-201.

[~~(8)~~] (7) Nothing in this section prohibits the division from permitting the removal of a bear causing damage to cultivated crops on cleared and planted land pursuant to rule made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(9)~~] (8) Nothing is this section prohibits receiving compensation for livestock damage done by a bear, mountain lion, wolf, or eagle in accordance with Section [~~23-24-1~~] 23A-8-201.

Section 177. Section 23A-8-203, which is renumbered from Section 23-18-4 is renumbered and amended to read:

[~~23-18-4~~]. 23A-8-203. Beaver damage -- Authorization to kill or trap.

[~~Whenever~~] (1) When it is apparent that beaver are doing damage to, or are a menace to, private property, [~~any~~] a landowner or tenant may request authorization to kill or trap the beaver [~~so involved, and the Wildlife Board is empowered to~~].

(2) The Wildlife Board may grant [~~such~~] authorization described in Subsection (1) under conditions prescribed by [~~it~~] the Wildlife Board.

Section 178. Section 23A-8-301, which is renumbered from Section 23-17-4 is renumbered and amended to read:

Part 3. Damage by Birds

[~~23-17-4~~]. 23A-8-301. Crop damage by pheasants -- Notice to division -- Damages for destroyed crops -- Limitations -- Appraisal.

[~~Whenever pheasants are damaging~~]

(1) When pheasants damage cultivated crops on cleared and planted land, the owner of [~~such~~] the cultivated crops shall immediately upon discovery of [~~such~~] the damage notify the [~~Division of Wildlife Resources. This notice shall be made~~] division both orally and in writing.

(2) Upon being notified of [~~such~~] the damage to cultivated crops, the [~~Division of Wildlife Resources~~] division shall, as far as possible, control [~~such~~] the damage.

(3) When pheasants damage or destroy cultivated crops on cleared and planted land, the division may pay to the crop owner for the actual damage not to exceed $200 yearly, if the owner notifies the division

of the damage within 48 hours after the damage is discovered.

(4) Subject to Subsection (5), the crop owner and the division shall make an appraisal of the damage as soon after notification as possible. If the crop owner and the division are unable to agree on the fair and equitable damage, they shall call upon a third party, consisting of one or more persons acquainted with the crops concerned and pheasants, to appraise the damage.

(5) If a provision of this section conflicts with the requirements of the federal Pittman-Robertson Act or the regulations issued under that act, the provisions relating to damage claims are void.

Section 179. Section 23A-8-302, which is renumbered from Section 23-17-5.1 is renumbered and amended to read:

[~~23-17-5.1~~]. 23A-8-302. Damage by turkeys.

[~~(1) As used in this section, "turkey" means a wild, free-ranging turkey and does not include a privately owned or domestic turkey.~~]

[~~(2)~~] (1) (a) If a turkey materially damages private property, the landowner or lessee of the property may:

(i) notify the division of the damage; and

(ii) request that the division take action to mitigate the damage.

(b) The landowner or lessee of the damaged property shall allow division staff reasonable access to the damaged property to verify and mitigate the damage.

[~~(3)~~] (2) (a) Within 72 hours after receiving a request for action under Subsection [~~(2)~~] (1)(a)(ii), the division shall investigate the damaged property and, if it appears that material damage by a turkey may continue, the division shall begin to:

(i) remove or drive off the turkeys causing the damage; or

(ii) implement a damage mitigation and prevention plan with the written approval of the landowner or lessee of the property.

(b) As part of a damage mitigation and prevention plan described in Subsection [~~(3)~~] (2)(a)(ii), the division may:

(i) schedule a depredation hunt;

(ii) issue a permit to the landowner or lessee to, during a general or special season hunt authorized by the Wildlife Board, take a turkey on the property;

(iii) allow the landowner or lessee to designate recipients who may obtain a mitigation permit to, during a general or special season hunt authorized by the Wildlife Board, take a turkey on the property;

(iv) use, or allow the landowner or lessee to use, a nonlethal method to drive off a turkey that causes damage to the property;

(v) capture and relocate, or allow the landowner or lessee to capture and relocate, a turkey that causes damage to the property; or

(vi) use, or authorize the landowner or lessee to use, a weapon or method otherwise prohibited to take a turkey under this title, if traditional weapons and methods are unsuitable for the location of the property due to local law or public safety concerns.

(c) If the division takes an action described in Subsection [~~(3)~~] (2)(b)(ii) or (iii), the division shall specify the number and sex of turkeys the landowner or lessee is authorized to take in accordance with Subsection [~~(3)~~] (2)(b)(ii) or (iii).

(d) If a landowner or lessee takes a turkey under Subsection [~~(3)~~] (2)(b)(ii), the division and the landowner or lessee shall jointly determine the number of turkeys the landowner or lessee may retain.

[~~(4)~~] (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules necessary to administer [~~the provisions of~~] this section.

Section 180. Section 23A-8-401, which is renumbered from Section 23-16-2 is renumbered and amended to read:

Part 4. Damage by Big Game

[~~23-16-2~~]. 23A-8-401. Removal of big game animals doing damage.

The director [~~of the division of Wildlife Resources~~] may authorize the removal of big game animals when [~~they~~] the big game animals are doing actual damage. [~~Animals so removed shall be sold or otherwise disposed of by the Division of Wildlife Resources, and any~~] The division shall sell or otherwise dispose of a big game animal removed pursuant to this section and money derived from the sale of these big game animals shall be placed in the Wildlife Resources Account.

Section 181. Section 23A-8-402, which is renumbered from Section 23-16-3 is renumbered and amended to read:

[~~23-16-3~~]. 23A-8-402. Damage to cultivated crops, livestock forage, fences, or irrigation equipment by big game animals -- Notice to division -- Depredation mitigation plan.

(1) (a) If on private land big game animals damage cultivated crops, livestock forage, fences, or irrigation equipment, the landowner or lessee shall immediately, upon discovery of the damage, request that the division take action to alleviate the depredation problem.

(b) The landowner or lessee shall allow division personnel reasonable access to the property sustaining damage to verify and alleviate the depredation problem.

(2) (a) Within 72 hours after receiving the request for action under Subsection (1)(a), the division shall investigate the situation, and if it appears that depredation by big game animals may continue, the division shall:

(i) remove the big game animals causing depredation; or

(ii) implement a depredation mitigation plan that is approved, in writing, by the landowner or lessee.

(b) A depredation mitigation plan may provide for any or all of the following:

(i) the scheduling of a depredation hunt;

(ii) issuing permits to the landowners or lessees, to take big game animals causing depredation during a general or special season hunt authorized by the Wildlife Board;

(iii) allowing landowners or lessees to designate recipients who may obtain a mitigation permit to take big game animals on the landowner's or lessee's land during a general or special season hunt authorized by the Wildlife Board; or

(iv) a description of how the division will assess and compensate the landowner or lessee under Section [~~23-16-4~~] 23A-8-405 for damage to cultivated crops, fences, or irrigation equipment.

(c) (i) The division shall specify the number and sex of the big game animals that may be taken pursuant to Subsections (2)(b)(ii) and (iii).

(ii) [~~Control efforts shall be directed~~] The division shall direct control efforts toward antlerless animals, if possible.

(d) [~~A~~] The director or the director's designee shall approve a permit issued for an antlered animal [~~shall be approved by the division director or the director's designee~~].

(e) The division and the landowner or lessee shall jointly determine the number of big game animals taken pursuant to Subsection (2)(b)(ii) of which the landowner or lessee may retain possession.

(f) In determining appropriate remedial action under this Subsection (2), the division shall consider:

(i) the extent of damage experienced or expected in a single growing season; and

(ii) [~~any~~] revenue the landowner derives from:

(A) participation in a cooperative wildlife management unit;

(B) use of landowner association permits;

(C) use of mitigation permits; and

(D) charging for hunter access.

(3) [~~Any~~] A landowner or lessee shall determine a fee for accessing the owner's or lessee's land [~~shall be determined by the landowner or lessee~~].

(4) (a) If the landowner or lessee who approved the depredation mitigation plan under Subsection (2)(a)(ii) subsequently determines that the plan is not acceptable, the landowner or lessee may revoke the landowner's or lessee's approval of the plan and again request that the division take action pursuant to Subsection (2)(a)(i).

(b) [~~A~~] The division shall consider a subsequent request for action provided under Subsection (4)(a) [~~shall be considered~~] to be a new request for purposes of the 72-hour time limit specified in Subsection (2)(a).

(5) (a) The division may enter into a conservation lease with the owner or lessee of private lands for a fee or other remuneration as compensation for depredation.

(b) [~~Any~~] A conservation lease entered into under this section shall provide that the claimant may not unreasonably restrict hunting on the land or passage through the land to access public lands for the purpose of hunting, if those actions are necessary to control or mitigate damage by big game animals.

Section 182. Section 23A-8-403, which is renumbered from Section 23-16-3.1 is renumbered and amended to read:

[~~23-16-3.1~~]. 23A-8-403. Landowner or lessee may kill big game animals.

(1) (a) A landowner or lessee may kill big game animals damaging [~~those~~] cultivated crops on private land if:

(i) it is necessary to protect cultivated crops;

(ii) 72 hours has expired since a request for action is given pursuant to Subsection [~~23-16-3~~] 23A-8-402(1)(a);

(iii) the landowner or lessee has provided or sent written notice of an intent to kill the big game animal to the nearest regional office of the division;

(iv) the landowner or lessee kills the big game animal within 90 days, or a longer period, if approved, in writing, by the division, after having requested that the division take action to prevent depredation under Subsection [~~23-16-3~~] 23A-8-402(1)(a); and

(v) the killing is not prohibited by Subsection (2)(a) or (3).

(b) Immediately after killing a big game animal under Subsection (1)(a), the landowner or lessee shall notify the division of the killing.

(c) The carcass of a big game animal killed under Subsection (1)(a) is the property of the division and the division shall dispose of the carcass.

(d) Money derived from the sale of big game animals killed shall be placed in the Wildlife Resources Account created in Section [~~23-14-13~~] 23A-3-201.

(e) A landowner or lessee who kills big game animals pursuant to this section shall:

(i) make reasonable effort to prevent the big game animals from wasting; and

(ii) provide the division reasonable access to the landowner's or lessee's land to retrieve and dispose of the big game animals.

(2) (a) The [~~division~~] director may prohibit the killing of big game animals under Subsection (1)(a)

if, within 72 hours after a landowner or lessee has requested that the division take action to remove depredating big game animals, the division:

(i) determines that the restitution value of the big game animal or animals, as established under Section [~~23-20-4.5~~] 23A-5-312, is more than twice the estimated value of the cultivated crops that have been or will be damaged or consumed within a single growing season;

(ii) determines that the prohibition is consistent with the management plan established under Section [~~23-16-7~~] 23A-11-301;

(iii) notifies the landowner or lessee of the prohibition; and

(iv) offers the landowner or lessee a depredation mitigation plan.

(b) A landowner or lessee who is offered a depredation mitigation plan may:

(i) accept the plan in writing; or

(ii) refuse to accept the plan and appeal the plan, in writing, to the [~~division~~] director.

(3) After a landowner or lessee has killed a big game animal under Subsection (1)(a), the [~~division~~] director may prohibit [~~any~~] further killing of big game animals if:

(a) the division takes the actions described in Subsections (2)(a)(i) through (iv); or

(b) the mitigation review panel reviews and approves the depredation mitigation plan.

Section 183. Section 23A-8-404, which is renumbered from Section 23-16-3.2 is renumbered and amended to read:

[~~23-16-3.2~~]. 23A-8-404. Mitigation review panel.

(1) A mitigation review panel may be convened to review:

(a) a depredation mitigation plan; or

(b) division action under Section [~~23-16-4~~] 23A-8-405.

(2) Membership of the mitigation review panel shall consist of:

(a) the [~~division~~] director or the director's designee;

(b) (i) the commissioner of the Department of Agriculture and Food or the commissioner's designee; or

(ii) a representative of agricultural interests appointed by the commissioner of the Department of Agriculture and Food; and

(c) a representative of Utah State University Extension Service appointed by the Vice President and Dean for University Extension.

(3) (a) The [~~division~~] director shall convene a mitigation review panel if:

(i) a landowner or lessee appeals a depredation mitigation plan under Subsection [~~23-16-3.1~~] 23A-8-403(2)(b)(ii);

(ii) the [~~division~~] director requests review of a depredation mitigation plan; or

(iii) the division receives a petition of an aggrieved party to a final division action under Section [~~23-16-4~~] 23A-8-405.

(b) Within five business days of an appeal under Subsection [~~23-16-3.1~~] 23A-8-403(2)(b)(ii) or a division request for review, the mitigation review panel shall review the depredation mitigation plan and approve or modify the plan.

(c) A mitigation review panel shall act on a petition described in Subsection (3)(a)(iii) in accordance with rules made by the Wildlife Board under Subsection [~~23-16-4~~] 23A-8-405(6).

(4) Judicial review of a mitigation review panel action under this section is governed by Title 63G, Chapter 4, Administrative Procedures Act.

Section 184. Section 23A-8-405, which is renumbered from Section 23-16-4 is renumbered and amended to read:

[~~23-16-4~~]. 23A-8-405. Compensation for damage to crops, fences, or irrigation equipment -- Limitations -- Appeals.

(1) The division may provide compensation to claimants for damage caused by big game animals to:

(a) cultivated crops on private land;

(b) fences on private land; or

(c) irrigation equipment on private land.

(2) To be eligible to receive compensation as provided in this section, the claimant shall:

(a) notify the division of the damage within 72 hours after the damage is discovered; and

(b) allow division personnel reasonable access to the property to verify and alleviate the depredation problem.

(3) (a) The [~~appraisal of the damage shall be made by the~~] claimant and the division shall make an appraisal of the damage as soon after notification as possible.

(b) In determining damage payment, the division and claimant shall consider:

(i) the extent of damage experienced; and

(ii) [~~any~~] revenue the landowner derives from:

(A) participation in a cooperative wildlife management unit;

(B) use of landowner association permits;

(C) use of mitigation permits; and

(D) charging for hunter access.

(c) The division and claimant may not include speculative damages or claims of future value in an appraisal or damage payment beyond the growing

season when the damage occurred under this section.

(d) In determining how to assess and compensate for damages to cultivated crops, the [~~division's determination shall be based~~] division shall base the division's determination on the:

(i) estimated number of big game animals that damaged or consumed cultivated crops;

(ii) estimated quantity of cultivated crops damaged or consumed by big game animals;

(iii) local market value of the cultivated crops that actually have been or will be damaged or consumed by big game animals;

(iv) replacement value of an equivalent aged tree for perennial orchard trees; and

(v) other documented costs directly incurred by the landowner or lessee because of damage to cultivated crops by big game animals.

(e) If the claimant and the division are unable to agree on a fair and equitable damage payment, the claimant and division shall designate a third party, consisting of one or more persons familiar with the crops, fences, or irrigation equipment and the type of big game animals doing the damage, to appraise the damage.

(4) (a) The total amount of compensation that may be provided by the division pursuant to this section and the total cost of fencing materials provided by the division to prevent crop damage may not exceed the legislative appropriation for fencing material and compensation for damaged crops, fences, and irrigation equipment.

(b) (i) A claim of $1,000 or less may be paid after appraisal of the damage as provided in Subsection (3), unless the claim brings the total amount of claims submitted by the claimant in the fiscal year to an amount in excess of $1,000.

(ii) A claim for damage to irrigation equipment may be paid after appraisal of the damage as provided in Subsection (3).

(c) (i) A claim in excess of $1,000, or claim that brings the total amount of claims submitted by the claimant in the fiscal year to an amount in excess of $1,000, shall be treated as follows:

(A) $1,000 may be paid pursuant to the conditions of this section; and

(B) the amount in excess of $1,000 may not be paid until the total amount of the approved claims of all the claimants and expenses for fencing materials for the fiscal year are determined.

(ii) If the total exceeds the amount appropriated by the Legislature pursuant to Subsection (4)(a), claims in excess of $1,000, or a claim that brings the total amount of a claimant's claims in a fiscal year to an amount in excess of $1,000, shall be prorated.

(5) The division may deny or limit compensation if the claimant:

(a) fails to exercise reasonable care and diligence to avoid the loss or minimize the damage;

(b) fails to provide the division reasonable access to the property;

(c) fails to allow the division to use reasonable mitigation tools to alleviate the damage;

(d) unreasonably restricts hunting on land under the claimant's control or passage through the land to access public lands for the purpose of hunting, after receiving written notification from the division of the necessity of allowing the hunting or access to control or mitigate damage by big game animals; or

(e) fails to provide supporting evidence of cultivated crop values and claimed costs to the division during the damage appraisal process.

(6) (a) The Wildlife Board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with Subsection (6)(d), specifying procedures for the appeal of division actions under this section.

(b) Upon the petition of an aggrieved party to a final division action, a mitigation review panel may review the action on the record and issue an order modifying or rescinding the division action.

(c) A mitigation review panel may appoint a third party designated under Subsection (3)(e) for purposes of taking evidence and making recommendations for an order of the mitigation review panel. The mitigation review panel shall consider the recommendations of the designated third party in making decisions.

(d) A mitigation review panel's review of final agency action and judicial review of final action by a mitigation review panel is governed by Title 63G, Chapter 4, Administrative Procedures Act.

Section 185. Section 23A-9-101 is enacted to read:

CHAPTER 9. AQUATIC WILDLIFE

Part 1. General Provisions

23A-9-101. Definitions.

Reserved.

Section 186. Section 23A-9-201, which is renumbered from Section 23-15-4 is renumbered and amended to read:

Part 2. Operations

[~~23-15-4~~]. 23A-9-201. Screens or other devices required -- Failure to install after notice a misdemeanor.

[~~It is unlawful for any person, company or corporation to take any~~]

(1) A person may not take water from the state streams, lakes, or reservoirs for power purposes, or for waterworks, without first furnishing and maintaining suitable screens or other devices to prevent fish from entering [~~such~~] the power plants, millraces, or waterworks system[~~; said~~].

(2) A screen or other [~~devices~~] device is to be built and maintained under the direction of the [~~board~~] Wildlife Board and at the expense of [~~said~~] the owner or [~~operators . The failure of any person, firm or corporation~~] operator.

(3) A person who fails to install a screen or device within 30 days after the Wildlife Board gives notice in writing [~~so to do has been given by the board is~~] to install the screen or device is guilty of a class B misdemeanor.

Section 187. Section 23A-9-202, which is renumbered from Section 23-15-5 is renumbered and amended to read:

[~~23-15-5~~]. 23A-9-202. Notice of intention to drain or divert waterway.

(1) [~~Any person, company or corporation~~] A person owning or controlling [~~any~~] an irrigation canal, ditch, reservoir, millrace, or other waterway leading from or into [~~any~~] a state waterway containing protected aquatic wildlife [~~who shall desire~~] shall provide the notice described in Subsection (2) if the person:

(a) desires to drain [~~any such waterway, or who shall intend~~] the waterway; or

(b) intends to divert sufficient water from [~~any~~] a state waterway endangering the protected aquatic wildlife [~~therein,~~] in the state waterway.

(2) If the conditions described in Subsection (1) are met, the person shall give five days' written notice to the [~~Division of Wildlife Resources prior to~~] division before the diversion except that under emergency conditions the person shall give reasonable notice [~~shall be given~~].

Section 188. Section 23A-9-203, which is renumbered from Section 23-15-10 is renumbered and amended to read:

[~~23-15-10~~]. 23A-9-203. Private fish pond.

(1) A private fish pond is not required to obtain a certificate of registration from the division to receive fish from an aquaculture facility if:

(a) the pond is properly screened as provided in Subsection (3)(c); and

(b) the fish species being stocked is authorized by this chapter or rules of the Wildlife Board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (2)(b), a private fish pond or a short-term fishing event may not be developed or held on:

(i) a natural lake;

(ii) a natural flowing stream; or

(iii) a reservoir constructed on a natural stream channel.

(b) The division may authorize a private fish pond on a natural lake or reservoir constructed on a natural stream channel upon inspecting and determining:

(i) the pond and inlet source of the pond neither contain wild game fish nor are likely to support [~~such species~~] wild game fish in the future;

(ii) the pond and the pond's intended use will not jeopardize conservation of aquatic wildlife populations or lead to the privatization or commercialization of aquatic wildlife;

(iii) the pond is properly screened as provided in Subsection (3)(c) and otherwise in compliance with the requirements of this title, rules of the Wildlife Board, and applicable law; and

(iv) the pond is not vulnerable to flood or high water events capable of compromising the pond's inlet or outlet screens allowing escapement of privately owned fish into waters of the state.

(c) [~~Any~~] An authorization issued by the division under Subsection (2)(b) shall be in the form of a certificate of registration.

(3) A person who owns or operates a private fish pond may receive a fish from an aquaculture facility if:

(a) the aquaculture facility has a health approval number required by Section 4-37-501;

(b) the species, strain, and reproductive capability of the fish is authorized by the Wildlife Board in accordance with Subsection (4) for stocking in the area where the private fish pond is located;

(c) the private fish pond is screened in accordance with the Wildlife Board's rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to prevent the fish from moving into or out of the private fish pond;

(d) the fish is not:

(i) released from the private fish pond; or

(ii) transported live to another location; and

(e) the person provides the aquaculture facility with a signed statement that the private fish pond is in compliance with this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules that:

(a) specify the screen requirements to prevent the movement of fish into or out of the private fish pond;

(b) specify the fish species that may not be stocked in a private fish pond located in the state;

(c) establish a location or region where a specified species, strain, and reproductive capability of fish may be stocked in a private fish pond; and

(d) specify procedures and requirements for authorizing development of a private fish pond, fee fishing facility, or aquaculture facility on a natural lake, natural flowing stream, or reservoir on a natural stream channel pursuant to Subsection (2) and Section 4-37-111.

(5) The division may inspect a private fish pond to verify compliance with this section and rules of the

Wildlife Board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 189. Section 23A-9-204, which is renumbered from Section 23-15-13 is renumbered and amended to read:

[~~23-15-13~~]. 23A-9-204. Operation of aquaculture and fee fishing facilities.

A person may engage in the following activities as provided by Title 4, Chapter 37, Aquaculture Act, and rules adopted under that chapter by the Department of Agriculture and Food and Wildlife Board:

(1) acquisition, importation, or possession of aquatic animals intended for use in an aquaculture or fee fishing facility;

(2) transportation of aquatic animals to or from an aquaculture facility or to a fee fishing facility;

(3) stocking or propagation of aquatic animals in an aquaculture or fee fishing facility; and

(4) harvest, transfer, or sale of aquatic animals from an aquaculture or fee fishing facility.

Section 190. Section 23A-9-301, which is renumbered from Section 23-15-3 is renumbered and amended to read:

Part 3. Prohibitions

[~~23-15-3~~]. 23A-9-301. Diversion of water prohibited -- Exception for flood control.

[~~Except in anticipation of and to provide for the carrying away and the safe disposal of natural storm and flood waters, no person may,~~]

(1) Except as provided in Subsection (2), a person may not, without existing rights, divert so much water from [~~any~~] a natural stream, lake, pond, or natural lake or pond, the natural storage content of which has been increased by the construction of a dam, that the diversion unduly endangers protected aquatic wildlife.

(2) A person may divert waters in a manner that would otherwise violate Subsection (1) in anticipation of and to provide for the carrying away and the safe disposal of natural storm and flood waters.

Section 191. Section 23A-9-302, which is renumbered from Section 23-15-6 is renumbered and amended to read:

[~~23-15-6~~]. 23A-9-302. Pollution of waters unlawful.

[~~It is unlawful for any person to pollute any waters deemed necessary by~~]

(1) A person may not pollute waters:

(a) the Wildlife Board considers necessary for wildlife purposes [~~or any waters~~]; or

(b) containing protected aquatic wildlife and stoneflies (Plecoptera), mayflies (Ephemoptera), dragonflies and damsel flies (Odonata), water bugs (Hemiptera), caddis flies (Trichoptera), spongilla flies (Neuroptera), and crustaceans. [~~Provided further that each~~]

(2) Each day of pollution [~~shall constitute~~] constitutes a separate offense.

Section 192. Section 23A-9-303, which is renumbered from Section 23-15-7 is renumbered and amended to read:

[~~23-15-7~~]. 23A-9-303. Taking protected aquatic wildlife or eggs unlawful except as authorized.

[~~It is unlawful for any person to take any~~] A person may not take protected aquatic wildlife or eggs of [~~same in any of~~] aquatic wildlife in the waters of this state, except as provided by this [~~code~~] title or the rules [~~and regulations~~] of the Wildlife Board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 193. Section 23A-9-304, which is renumbered from Section 23-15-8 is renumbered and amended to read:

[~~23-15-8~~]. 23A-9-304. Seining or selling aquatic wildlife unlawful except as authorized.

[~~It is unlawful for any person to~~] Except as prescribed by this title or rules of the Wildlife Board made in accordance with Title 63G, Chapter 3, Utah Administrative Procedures Act, a person may not seine:

(1) for any kind of protected aquatic wildlife in [~~any of~~] the waters of this state; or

(2) to sell protected aquatic wildlife [~~except as prescribed by this title or rules of the Wildlife Board~~].

Section 194. Section 23A-9-305, which is renumbered from Section 23-15-9 is renumbered and amended to read:

[~~23-15-9~~]. 23A-9-305. Possession or transportation of live aquatic wildlife unlawful except as authorized -- Exceptions.

(1) [~~It is unlawful for any person to~~] A person may not possess or transport live protected aquatic wildlife except as provided by this [~~code~~] title or the rules [~~and regulations~~] of the Wildlife Board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) This section does not apply to tropical and goldfish species intended for exhibition or commercial purposes. [~~Operators~~]

(3) An operator of a properly registered private fish pond may transport live aquatic wildlife specified by the Wildlife Board in the operator's certificate of registration.

Section 195. Section 23A-10-101, which is renumbered from Section 23-27-102 is renumbered and amended to read:

CHAPTER 10. AQUATIC INVASIVE SPECIES INTERDICTION

Part 1. General Provisions

[~~23-27-102~~]. 23A-10-101. Definitions.

As used in this chapter:

[~~(1) "Board" means the Wildlife Board.~~]

[~~(2)~~] (1) (a) "Conveyance" means a terrestrial or aquatic vehicle or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Conveyance" includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a container, a trailer, a live well, or a bilge area.

[~~(3)~~] (2) "Decontaminate" means to:

(a) drain and dry [~~all~~] non-treated water; and

(b) chemically or thermally treat in accordance with rule.

[~~(4) "Director" means the director of the division.~~]

[~~(5) "Division" means the Division of Wildlife Resources.~~]

[~~(6)~~] (3) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel, and Conrad's false mussel.

[~~(7)~~] (4) "Equipment" means an article, tool, implement, or device capable of carrying or containing:

(a) water; or

(b) a Dreissena mussel.

[~~(8) "Executive director" means the executive director of the Department of Natural Resources.~~]

[~~(9)~~] (5) "Facility" means a structure that is located within or adjacent to a water body.

[~~(10)~~] (6) "Infested water" means a geographic region, water body, facility, or water supply system within or outside the state that the [~~board~~] Wildlife Board identifies in rule as carrying or containing a Dreissena mussel.

[~~(11)~~] (7) "Vessel" means the same as that term is defined in Section 73-18-2.

[~~(12)~~] (8) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

[~~(13)~~] (9) (a) "Water supply system" means a system that treats, conveys, or distributes water for irrigation, industrial, waste water treatment, or culinary use.

(b) "Water supply system" includes a pump, canal, ditch, or pipeline.

(c) "Water supply system" does not include a water body.

Section 196. Section 23A-10-201, which is renumbered from Section 23-27-201 is renumbered and amended to read:

Part 2. Invasive Species Prohibited

[~~23-27-201~~]. 23A-10-201. Invasive species prohibited -- Administrative inspection authorized.

(1) Except as authorized in this title or a [~~board~~] Wildlife Board rule or order, a person may not:

(a) possess, import, export, ship, or transport a Dreissena mussel;

(b) release, place, plant, or cause to be released, placed, or planted a Dreissena mussel in a water body, facility, or water supply system; or

(c) transport a conveyance or equipment that has been in an infested water within the previous 30 days without decontaminating the conveyance or equipment.

(2) [~~A~~] Except as provided in Subsection (3), a person who violates Subsection (1):

(a) is strictly liable;

(b) is guilty of an infraction; and

(c) shall reimburse the state for [~~all~~] the costs associated with detaining, quarantining, and decontaminating the conveyance or equipment.

(3) A person who knowingly or intentionally violates Subsection (1) is guilty of a class A misdemeanor.

(4) A person may not proceed past or travel through an inspection station or administrative checkpoint, as described in Section [~~23-27-301~~] 23A-10-301, while transporting a conveyance during an inspection station's or administrative checkpoint's hours of operations without presenting the conveyance for inspection.

(5) A person who violates Subsection (4) is guilty of a class B misdemeanor.

Section 197. Section 23A-10-202, which is renumbered from Section 23-27-202 is renumbered and amended to read:

[~~23-27-202~~]. 23A-10-202. Reporting of invasive species required.

(1) A person who discovers a Dreissena mussel within this state or has reason to believe a Dreissena mussel may exist at a specific location shall immediately report the discovery to the division.

(2) A person who violates Subsection (1) is guilty of a class A misdemeanor.

Section 198. Section 23A-10-301, which is renumbered from Section 23-27-301 is

renumbered and amended to read:

Part 3. Enforcement

[~~23-27-301~~]. 23A-10-301. Division's power to prevent invasive species infestation.

To eradicate and prevent the infestation of a Dreissena mussel, the division may:

(1) (a) establish inspection stations located at or along:

(i) highways, as defined in Section 72-1-102;

(ii) ports of entry, if the Department of Transportation authorizes the division to use the port of entry; and

(iii) publicly accessible:

(A) boat ramps; and

(B) conveyance launch sites; and

(b) temporarily stop, detain, and inspect a conveyance or equipment that:

(i) the division reasonably believes is in violation of Section [~~23-27-201~~] 23A-10-201;

(ii) the division reasonably believes is in violation of Section [~~23-27-306~~] 23A-10-305;

(iii) is stopped at an inspection station; or

(iv) is stopped at an administrative checkpoint;

(2) conduct an administrative checkpoint in accordance with Section 77-23-104;

(3) detain and quarantine a conveyance or equipment as provided in Section [~~23-27-302~~] 23A-10-302;

(4) order a person to decontaminate a conveyance or equipment; and

(5) inspect the following that may contain a Dreissena mussel:

(a) a water body;

(b) a facility; and

(c) a water supply system.

Section 199. Section 23A-10-302, which is renumbered from Section 23-27-302 is renumbered and amended to read:

[~~23-27-302~~]. 23A-10-302. Conveyance or equipment detainment or quarantine.

(1) The division, a port-of-entry agent, or a peace officer may detain or quarantine a conveyance or equipment if:

(a) the division, agent, or peace officer:

(i) finds the conveyance or equipment contains a Dreissena mussel; or

(ii) reasonably believes that the person transporting the conveyance or equipment is in violation of Section [~~23-27-201~~] 23A-10-201; or

(b) the person transporting the conveyance or equipment refuses to submit to an inspection authorized by Section [~~23-27-301~~] 23A-10-301.

(2) The detainment or quarantine authorized by Subsection (1) may continue for:

(a) up to five days; or

(b) the period of time necessary to:

(i) decontaminate the conveyance or equipment; and

(ii) ensure that a Dreissena mussel is not living on or in the conveyance or equipment.

Section 200. Section 23A-10-303, which is renumbered from Section 23-27-303 is renumbered and amended to read:

[~~23-27-303~~]. 23A-10-303. Closing a water body, facility, or water supply system.

(1) Except as provided by Subsection (6), if the division detects or suspects a Dreissena mussel is present in a water body, a facility, or a water supply system, the director or the director's designee may, with the concurrence of the executive director, order:

(a) the water body, facility, or water supply system closed to a conveyance or equipment;

(b) restricted access by a conveyance or equipment to a water body, facility, or water supply system; or

(c) a conveyance or equipment that is removed from or introduced to the water body, facility, or water supply system to be inspected, quarantined, or decontaminated in a manner and for a duration necessary to detect and prevent the infestation of a Dreissena mussel.

(2) If a closure authorized by Subsection (1) lasts longer than seven days, the division shall:

(a) provide a written update to the operator of the water body, facility, or water supply system every 10 days on the division's effort to address the Dreissena infestation; and

(b) post the update on the division's website.

(3) (a) The [~~board~~] Wildlife Board shall develop procedures to ensure proper notification of a state, federal, or local agency that is affected by a Dreissena mussel infestation.

(b) The notification shall include:

(i) the reasons for the closure, quarantine, or restriction; and

(ii) methods for providing updated information to the agency.

(4) When deciding the scope, duration, level, and type of restriction or a quarantine or closure location, the director shall consult with the person with the jurisdiction, control, or management responsibility over the water body, facility, or water supply system to avoid or minimize disruption of economic and recreational activity.

(5) (a) A person that operates a water supply system shall cooperate with the division to implement a measure to:

(i) avoid infestation by a Dreissena mussel; and

(ii) control or eradicate a Dreissena mussel infestation that may occur in a water supply system.

(b) (i) If a Dreissena mussel is detected, the water supply system's operator, in cooperation with the division, shall prepare and implement a plan to control or eradicate a Dreissena mussel within the water supply system.

(ii) A plan required by Subsection (5)(b)(i) shall include a:

(A) method for determining the scope and extent of the infestation;

(B) method to control or eradicate the Dreissena mussel;

(C) method to decontaminate the water supply system containing the Dreissena mussel;

(D) systematic monitoring program to determine a change in the infestation; and

(E) requirement to update or revise the plan in conformity with a scientific advance in the method of controlling or eradicating a Dreissena mussel.

(6) (a) The division may not close or quarantine a water supply system if the operator has prepared and implemented a plan to control or eradicate a Dreissena mussel in accordance with Subsection (5).

(b) (i) The division may require the operator to update a plan.

(ii) If the operator fails to update or revise a plan, the division may close or quarantine the water supply system in accordance with this section.

Section 201. Section 23A-10-304, which is renumbered from Section 23-27-304 is renumbered and amended to read:

[~~23-27-304~~]. 23A-10-304. Aquatic invasive species fee.

(1) (a) Except as provided in Subsection (1)(b), there is imposed an annual nonresident aquatic invasive species fee of $20 on [~~each vessel in order~~] a vessel to launch or operate a vessel in waters of this state if:

(i) the vessel is owned by a nonresident; and

(ii) the vessel would otherwise be subject to registration requirements under Section 73-18-7 if the vessel were owned by a resident of this state.

(b) [~~The provisions of~~] Subsection (1)(a) [~~do~~] does not apply if the vessel is owned and operated by a state or federal government agency and the vessel is used within the course and scope of the duties of the agency.

(c) The division shall administer and collect the fee described in Subsection (1)(a), and the fee shall be deposited into the Aquatic Invasive Species Interdiction Account created in Section [~~23-27-305~~] 23A-3-211.

(2) Before launching a vessel on the waters of this state, a nonresident shall pay the aquatic invasive species fee as described in Subsection (1), and the vessel owner shall successfully complete an aquatic invasive species education course offered by the division.

(3) (a) The division shall study options and [~~feasability~~] feasibility of implementing an automated system capable of scanning, photographing, and providing real-time information regarding a conveyance's or equipment's last:

(i) [~~last~~] entry into a body of water; and

(ii) [~~last~~] decontamination.

(b) The study described in Subsection (3)(a) shall evaluate the system's capability of:

(i) operation with or without the use or supervision of personnel;

(ii) operation 24 hours per day;

(iii) capturing a state assigned number on a vessel or conveyance as described in Section 73-18-6;

(iv) preserving photographic evidence of:

(A) a conveyance's state assigned bow number;

(B) a conveyance's or equipment's entry into a body of water, including the global positioning system location of where the conveyance is photographed; and

(C) decontamination of the conveyance or equipment;

(v) identifying a conveyance or equipment not owned by a resident that is entering a body of water in this state; and

(vi) collecting the fee described in Subsection (1).

[~~(c) The division shall present a report of the study and findings described in Subsections (3)(a) and (b) to the Natural Resources, Agriculture, and Environment Interim Committee before November 30, 2020.~~]

[~~(d)~~] (c) Based on the findings of the study described in this Subsection (3), the division shall implement a pilot program to provide the services described in this Subsection (3) on or before May 1, 2021.

(4) The [~~board~~] Wildlife Board may increase fees assessed under Subsection (1), so long as:

(a) the fee for nonresidents described in Subsection (1) is no less than the resident fee described in Section 73-18-26; and

(b) the fee is confirmed in the legislative fee schedule.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~]

Wildlife Board may make rules establishing procedures for:

(a) proof of payment and other methods of verifying compliance with this section;

(b) special requirements applicable on interstate water bodies in this state; and

(c) other provisions necessary for the administration of the program.

Section 202. Section 23A-10-305, which is renumbered from Section 23-27-306 is renumbered and amended to read:

[~~23-27-306~~]. 23A-10-305. Removal of drain plug or similar device during transport.

(1) Before transporting a conveyance on a highway, as defined in Section 72-1-102, in the state, a person shall:

(a) remove the plugs and similar devices that prevent drainage of raw water systems on the conveyance; and

(b) to the extent feasible, drain [~~all~~] the water from live wells, bilges, ballast tanks, or similar compartments on the conveyance.

(2) A person who fails to comply with Subsection (1) is guilty of a class C misdemeanor.

Section 203. Section 23A-10-401, which is renumbered from Section 23-27-401 is renumbered and amended to read:

Part 4. Administration

[~~23-27-401~~]. 23A-10-401. Rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~] Wildlife Board may make rules that:

(1) establish the procedures and requirements for decontaminating a conveyance or equipment to prevent the introduction and infestation of a Dreissena mussel;

(2) establish the requirements necessary to provide proof that a conveyance or equipment is decontaminated;

(3) establish the notification procedures required in Section [~~23-27-303~~] 23A-10-303;

(4) identify the geographic area, water body, facility, or water supply system that is infested by Dreissena mussels;

(5) establish a procedure and protocol in cooperation with the Department of Transportation for stopping, inspecting, detaining, and decontaminating a conveyance or equipment at a port-of-entry in accordance with Section [~~23-27-301~~] 23A-10-301; and

(6) are necessary to administer and enforce [~~the provisions of~~] this chapter.

Section 204. Section 23A-10-501, which is renumbered from Section 23-27-501 is renumbered and amended to read:

Part 5. Statewide Aquatic Invasive Species Emergency Response Plan

[~~23-27-501~~]. 23A-10-501. Aquatic invasive species emergency response plan.

(1) As used in this section:

(a) "Committee" means the Natural Resources, Agriculture, and Environment Interim Committee.

(b) "Emergency response plan" means the statewide aquatic invasive species emergency response plan developed by the division in accordance with this part.

(2) The division shall develop a statewide aquatic invasive species emergency response plan to address the potential spread of aquatic invasive species throughout the state.

(3) In developing the emergency response plan, the division shall coordinate with public and private entities that may be necessary or helpful to remediating the potential spread of aquatic invasive species throughout the state.

(4) The emergency response plan shall:

(a) designate the division as the entity that [~~will coordinate~~] coordinates the implementation of the emergency response plan;

(b) provide for annual review of the emergency response plan by the division;

(c) provide that the emergency response plan may only be implemented if the division detects aquatic invasive species, including Dreissena mussels, at a water body, facility, or water supply system within the state; and

(d) define what constitutes a detection of aquatic invasive species at a water body, facility, or water supply system.

[~~(5) On or before August 1, 2021, the division shall submit to the committee the following:~~]

[~~(a) the emergency response plan;~~]

[~~(b) proposed legislation that may be necessary to effectuate the emergency response plan or to increase the effectiveness of the emergency response plan; and~~]

[~~(c) an analysis and estimate of the cost to implement the emergency response plan.~~]

[~~(6) After receiving the items described in Subsection (5), the committee may:~~]

[~~(a) recommend to the Legislature that the plan be implemented;~~]

[~~(b) return the plan to the division for further study and evaluation;~~]

[~~(c) draft legislation proposed or requested by the division; or~~]

[~~(d) take action to further the funding of the emergency response plan.~~]

[~~(7)~~] (5) If an event requires the implementation of the emergency response plan, the division shall report on that event and the implementation of the emergency response plan to the committee.

Section 205. Section 23A-11-101, which is renumbered from Section 23-16-1.1 is renumbered and amended to read:

CHAPTER 11. BIG GAME

Part 1. General Provisions

[~~23-16-1.1~~]. 23A-11-101. Definitions.

As used in this chapter:

[~~(1) "72 hours" means a time period that begins with the hour a request for action is made pursuant to Section 23-16-3 and ends 72 hours later with the exclusion of any hour that occurs on the day of a legal holiday that is on a Monday or Friday and listed in Section 63G-1-301.~~]

(1) "Big game" includes deer, elk, big horn sheep, moose, mountain goats, pronghorn, and bison.

(2) "Cultivated crops" means:

(a) annual or perennial crops harvested from or on cleared and planted land;

(b) perennial orchard trees on cleared and planted land;

(c) crop residues that have forage value for livestock; and

(d) pastures.

[~~(3) "Depredation mitigation plan" means the plan described in Subsection 23-16-3(2).~~]

[~~(4) "Growing season" means the portion of a year in which local conditions permit normal plant growth.~~]

[~~(5)~~] (3) "Management unit" means a prescribed area of contiguous land designated by the division for the purpose of managing a species of big game animal.

(4) "Predator" means a cougar, bear, or coyote.

[~~(6) "Mitigation review panel" means the panel created under Section 23-16-3.2.~~]

Section 206. Section 23A-11-201, which is renumbered from Section 23-16-5 is renumbered and amended to read:

Part 2. Limits on Hunting

[~~23-16-5~~]. 23A-11-201. Limit of one of species of big game during license year -- Invalid and forfeited permit or tag.

(1) A person may take only one of [~~any~~] a species of big game during a license year, regardless of how many licenses or permits the person obtains, except as otherwise provided by this title or [~~proclamations~~] a proclamation of the Wildlife Board.

(2) (a) If a person kills a big game animal in violation of this title, while attempting to exercise the benefits of a big game permit or big game tag, the big game permit or big game tag is invalid and the person shall forfeit the big game permit or big game tag to the division.

(b) This Subsection (2) does not apply if:

(i) a citation is issued for a rule violation described in Subsection (2)(a); or

(ii) a warning citation for a violation described in Subsection (2)(a) is issued.

(3) The division may grant a season extension to a valid, unfilled big game permit opportunity that was invalidated and forfeited under Subsection (2) if:

(a) the criminal charges associated with the big game permit forfeiture are dismissed, with prejudice, by action of the prosecutor or court, or acquittal of the charges at trial;

(b) the person issued the big game permit that is forfeited requests the division in writing within 60 days of a final action dismissing or acquitting that person of the criminal charges that led to the big game permit forfeiture;

(c) the season extension is granted for the same species and sex, hunt unit, and season dates associated with the forfeited big game permit, as established by the Wildlife Board in the hunt year of the extension; and

(d) the extension occurs in the first season immediately following dismissal of or acquittal on the criminal charges described in Subsection (3)(a).

Section 207. Section 23A-11-202, which is renumbered from Section 23-16-6 is renumbered and amended to read:

[~~23-16-6~~]. 23A-11-202. Commencement date of general rifle deer season.

The general rifle deer season may not commence each year before October 1.

Section 208. Section 23A-11-203, which is renumbered from Section 23-16-11 is renumbered and amended to read:

[~~23-16-11~~]. 23A-11-203. Big game baiting prohibited.

(1) As used in this section:

(a) (i) "Bait" means intentionally placing food or nutrient substances to manipulate the behavior of wildlife for the purpose of taking or attempting to take big game.

(ii) "Bait" does not include:

(A) the use of salt, mineral blocks, or other commonly used types of livestock supplements placed in the field by agricultural producers for normal agricultural purposes; or

(B) standing crops, natural vegetation, harvested croplands, or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation, or normal soil stabilization practice.

(b) "Baited area" means [~~all~~] land within a 50-yard radius of the site where bait is placed, including the site where bait is placed.

(2) Unless authorized by a certificate of registration, [~~it is unlawful to~~] a person may not:

(a) bait big game;

(b) take big game in a baited area; or

(c) take big game that has been lured to or is traveling from a baited area.

(3) The division may only issue a certificate of registration to allow for the baiting of big game if the division determines that baiting is necessary to:

(a) alleviate substantial big game depredation on cultivated crops [~~or to~~]; or

(b) facilitate the removal of deer causing property damage within cities or towns.

Section 209. Section 23A-11-204, which is renumbered from Section 23-20-33 is renumbered and amended to read:

[~~23-20-33~~]. 23A-11-204. Limitation on compensating people to locate big game animals.

(1) As used in this section:

(a) "Compensate" or "compensated" means anything of value in excess of $25 that is paid, loaned, given, granted, donated, or transferred to a person for or in consideration of locating or monitoring the location of big game animals.

(b) "Retain" or "retained" means a written or oral agreement for the delivery of outfitting services or hunting guide services between an outfitter or hunting guide and the recipient of those services.

(2) Except as provided in Subsections (3) and (4), a person may not compensate another person to locate or monitor the location of big game animals on public land in connection with or furtherance of taking a big game animal under this title.

(3) A person may compensate a registered outfitter or hunting guide[~~, as defined in Section 58-79-102,~~] to help the person locate and take a big game animal on public land if:

(a) the outfitter or hunting guide is registered and in good standing under Title 58, Chapter 79, Hunting Guides and Outfitters Registration Act;

(b) the person has retained the outfitter or hunting guide and is the recipient of the outfitting services and hunting guide services, as defined in Section 58-79-102;

(c) the person possesses the licenses and permits required to take a big game animal;

(d) the person retains and uses not more than one outfitter or hunting guide in connection with taking a big game animal; and

(e) the retained outfitter or hunting guide uses no more than one compensated individual in locating or monitoring the location of big game animals on public land.

(4) A registered outfitter or registered hunting guide in good standing may compensate another person to locate or monitor the location of big game animals on public land if:

(a) the outfitter or hunting guide has been retained by the recipient of the outfitting services or hunting guide services to assist the recipient take a big game animal on public land;

(b) the recipient possesses the licenses and permits required to take a big game animal;

(c) the recipient is not simultaneously using another outfitter or hunting guide to assist in taking the same species and sex of big game animal; and

(d) the outfitter or hunting guide compensates not more than one other individual to locate or monitor the location of big game animals in connection with assisting the recipient take a big game animal on public land.

(5) A violation of:

(a) this section constitutes an unlawful take under Section [~~23-20-3~~] 23A-5-309; and

(b) Subsection (4) constitutes unlawful conduct under Sections 58-1-501, 58-1-502, and 58-79-501.

Section 210. Section 23A-11-205, which is renumbered from Section 23-20-31 is renumbered and amended to read:

[~~23-20-31~~]. 23A-11-205. Requirement to wear hunter orange -- Exceptions.

(1) As used in this section:

(a) (i) "Centerfire rifle hunt" means a hunt for which a hunter may use a centerfire rifle, except as provided in Subsection (1)(a)(ii).

(ii) "Centerfire rifle hunt" does not include:

(A) a bighorn sheep hunt;

(B) a mountain goat hunt;

(C) a bison hunt;

(D) a moose hunt;

(E) a hunt requiring the hunter to possess a statewide conservation permit; or

(F) a hunt requiring the hunter to possess a statewide sportsman permit.

(b) "Statewide conservation permit" means a permit:

(i) issued by the division;

(ii) distributed through a nonprofit organization founded for the purpose of promoting wildlife conservation; and

(iii) valid:

(A) on open hunting units statewide; and

(B) for the species of big game and time period designated by the Wildlife Board.

(c) "Statewide sportsman permit" means a permit:

(i) issued by the division through a public draw; and

(ii) valid:

(A) on open hunting units statewide; and

(B) for the species of big game and time period designated by the Wildlife Board.

(2) (a) A person shall wear a minimum of 400 square inches of hunter orange material while hunting [~~any~~] a species of big game, except as provided in Subsection (3).

(b) [~~Hunter~~] A person shall wear hunter orange material [~~shall be worn~~] on the head, chest, and back.

(3) A person is not required to wear the hunter orange material described in Subsection (2):

(a) during the following types of hunts, unless a centerfire rifle hunt is in progress in the same area:

(i) archery;

(ii) muzzle-loader;

(iii) mountain goat;

(iv) bighorn sheep;

(v) bison; or

(vi) moose; or

(b) as provided by a rule of the Wildlife Board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 211. Section 23A-11-301, which is renumbered from Section 23-16-7 is renumbered and amended to read:

Part 3. Management

[~~23-16-7~~]. 23A-11-301. Deer and elk management plans -- Division to confer with others -- Target herd size objectives -- Reports.

(1) The [~~Division of Wildlife Resources~~] division shall:

(a) prepare a management plan for each deer and elk herd unit in the state; and

(b) submit the plans to the Wildlife Board for [~~their~~] the Wildlife Board's approval.

(2) Upon approval of a plan by the Wildlife Board, the division shall manage the herd unit [~~shall be managed~~] in accordance with the management plan.

(3) In preparing [~~the plans~~] a management plan, the division shall confer with federal and state land managers, private landowners, sportsmen, and ranchers.

(4) (a) [~~Each~~] A management plan shall establish target herd size objectives.

(b) In establishing target herd size objectives, the division and [~~board~~] Wildlife Board shall among other factors:

(i) consider available information on each unit's range carrying capacity and ownership; and

(ii) seek to balance relevant multiple uses for the range.

(5) Until a management plan for a herd unit is prepared in accordance with this section and approved by the [~~board~~] Wildlife Board, the division shall manage the herd unit [~~shall be managed~~] to maintain the herd size as range conditions and available data dictate.

[~~(6) (a) Management plans shall be prepared by the division and approved by the board by the following dates:~~]

[~~(i) May 1, 1994 for elk; and~~]

[~~(ii) May 1, 1996 for deer.~~]

[~~(b) The division shall make:~~]

[~~(i) an annual progress report on the management plans to the Energy, Natural Resources and Agriculture Interim Committee until the plans are completed; and~~]

[~~(ii) a final report to the committee:~~]

[~~(A) at the committee's May 1994 meeting for elk; and~~]

[~~(B) at the committee's May 1996 meeting for deer.~~]

[~~(7) The management plans may be revised as the division or board determines necessary. Any~~]

(6) The division or Wildlife Board may revise a management plan as the division or Wildlife Board determines necessary. A revised plan shall be prepared in accordance with Subsections (3) and (4).

Section 212. Section 23A-11-302, which is renumbered from Section 23-16-10 is renumbered and amended to read:

[~~23-16-10~~]. 23A-11-302. Big game protection -- Director authority.

(1) It is the policy of the state that big game animals are of great importance to the citizens of the state, the citizen's quality of life, and the long term sustainability of the herds for future generations.

[~~(2) As used in this section:~~]

[~~(a) "Big game" includes deer, elk, big horn sheep, moose, mountain goats, pronghorn, and bison.~~]

[~~(b) "Director" means the director of the Division of Wildlife Resources.~~]

[~~(c) "Management unit" means a prescribed area of contiguous land designated by the Division of Wildlife Resources for the purpose of managing a species of big game animal.~~]

[~~(d) "Predator" means a cougar, bear, and coyote.~~]

[~~(3)~~] (2) (a) Unless the condition described in Subsection [~~(3)~~] (2)(b) is determined, the director shall take immediate action to reduce the number of predators within a management unit when the big game population is under the established herd size objective for that management unit.

(b) Subsection [~~(3)~~] (2)(a) does not apply if the [~~Division of Wildlife Resources~~] division determines that predators are not significantly contributing to the big game population being under the herd size objective for the management unit.

[~~(4)~~] (3) Immediate action under Subsection [~~(3)~~] (2) includes any of the following management tools:

(a) increasing take permits or tags for cougar and bear until the herd size objective is met;

(b) allowing big game hunters to harvest predators with the appropriate permit during a big game hunting season, including issuing over-the-counter predator permits;

(c) professional trapping and predator control by the United States Department of Agriculture Wildlife Services, private contracts, and the general public, including aerial control measures; and

(d) other management tools as determined by the director.

[~~(5)~~] (4) The director shall annually give a status report on predator control measures implemented pursuant to this chapter and Chapter 8, Part 4, Damage by Big Game, to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Natural Resources, Agriculture, and Environment Interim Committee.

Section 213. Section 23A-11-401, which is renumbered from Section 23-30-102 is renumbered and amended to read:

Part 4. Mule Deer Protection

[~~23-30-102~~]. 23A-11-401. Definitions.

As used in this [~~chapter~~] part:

(1) "General predator control" means a predatory animal removal effort by the division to reduce predatory animal numbers for the benefit of mule deer.

(2) [~~"Predatory~~] Notwithstanding Section 23A-8-101, "predatory animal" means a coyote.

(3) "Targeted predator control" means a predatory animal removal effort by the division:

(a) to reduce predatory animal numbers in an area where mule deer predation occurs; and

(b) that focuses on specific locations and certain times.

Section 214. Section 23A-11-402, which is renumbered from Section 23-30-104 is renumbered and amended to read:

[~~23-30-104~~]. 23A-11-402. Rulemaking authority, coordination, and administration for predator control.

(1) The [~~division~~] Wildlife Board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish programs to accomplish targeted predator control or general predator control, including programs that offer incentives or compensation to participants who remove a predatory animal that is detrimental to mule deer production.

(2) The division shall:

(a) administer a program established under Subsection (1);

(b) coordinate with federal, state, and local governments, and private persons to accomplish the purposes of this [~~chapter~~] part; and

(c) coordinate with the Department of Agriculture and Food and the Agriculture and Wildlife Damage Prevention Board created in Section 4-23-104 to:

(i) minimize unnecessary duplication of predator control efforts; and

(ii) prevent interference between predator control programs administered under Title 4, Chapter 23, Agricultural and Wildlife Damage Prevention Act, and this [~~chapter~~] part.

(3) The division may:

(a) contract with a vendor that offers targeted predator control services; and

(b) prepare and distribute educational and training materials related to mule deer protection.

Section 215. Section 23A-12-101 is enacted to read:

CHAPTER 12. BIRDS IN GENERAL

Part 1. General Provisions

23A-12-101. Definitions.

Reserved.

Section 216. Section 23A-12-201, which is renumbered from Section 23-17-5.2 is renumbered and amended to read:

Part 2. Hunting of Birds

[~~23-17-5.2~~]. 23A-12-201. General season turkey hunts.

The Wildlife Board may establish two general season turkey hunts per year.

Section 217. Section 23A-12-202, which is renumbered from Section 23-17-6 is renumbered and amended to read:

[~~23-17-6~~]. 23A-12-202. Commercial hunting area -- Registration -- Requirements for hunters.

(1) (a) A person desiring to operate a commercial hunting area within the state to permit the releasing and shooting of pen-raised birds may apply to the Wildlife Board for authorization to do so.

(b) The Wildlife Board may issue the applicant a certificate of registration to operate a commercial hunting area in accordance with rules prescribed by the [~~board~~] Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) The Wildlife Board may determine the number of commercial hunting areas that may be established in each county of the state.

(2) (a) A certificate of registration issued under Subsection (1) shall specify the species of birds that the applicant may propagate, keep, and release for shooting on the area covered by the certificate of registration.

(b) The applicant may charge a fee for harvesting the birds specified under Subsection (2)(a).

(3) (a) A person hunting within the state on a commercial hunting area shall:

(i) (A) possess proof of passing a division-approved hunter education course, if the person was born after December 31, 1965; or

(B) possess a trial hunting authorization issued under Section [~~23-19-14.6~~] 23A-4-701;

(ii) comply with the accompaniment requirements of Sections [~~23-19-14.6 and 23-20-20~~] 23A-4-701 and 23A-4-708, if applicable; and

(iii) have the permission of the owner or operator of the commercial hunting area.

(b) The operator of a commercial hunting area shall verify that each hunter on the commercial hunting area meets the requirements of Subsection (3)(a)(i).

(4) Hunting on commercial hunting areas is permitted only during the commercial hunting area season prescribed by the Wildlife Board.

Section 218. Section 23A-12-203, which is renumbered from Section 23-17-7 is renumbered and amended to read:

[~~23-17-7~~]. 23A-12-203. Falconry authorized.

The Wildlife Board may authorize the practice of falconry within the state [~~of Utah~~] and the capturing and keeping in possession of birds to be used in the practice of falconry under rules [~~and regulations specified by it~~] made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 219. Section 23A-12-204, which is renumbered from Section 23-17-8 is renumbered and amended to read:

[~~23-17-8~~]. 23A-12-204. Dog field meets.

(1) [~~It is lawful within the state to hold dog field meets or trials~~] Subject to Subsection (2), a person may hold within the state a dog field meet or trial where dogs are permitted to work in exhibition or contest where the skill of dogs is demonstrated by locating or retrieving birds [~~which~~] that have been obtained from a legal source.

(2) Before [~~any~~] a meet or trial is held, [~~application shall be made~~] a person shall apply in writing to the [~~Division of Wildlife Resources~~] division, which may authorize the meet or trial under rules [~~and regulations promulgated~~] made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 220. Section 23A-12-205, which is renumbered from Section 23-17-9 is renumbered and amended to read:

[~~23-17-9~~]. 23A-12-205. Training of dogs -- Use of protected or privately owned wildlife.

The Wildlife Board may authorize the use of protected wildlife or privately owned wildlife for the training of dogs within the state [~~of Utah~~] under rules [~~and regulations it may promulgate~~] made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 221. Section 23A-12-301, which is renumbered from Section 23-32-102 is renumbered and amended to read:

Part 3. Waterfowl Management Areas Act

[~~23-32-102~~]. 23A-12-301. Definitions.

(1) The definitions in Section 58-79-102 apply to this [~~chapter~~] part.

(2) (a) As used in this [~~chapter~~] part, "waterfowl management area" means real property owned or managed by the [~~Division of Wildlife Resources~~] division that is:

(i) primarily used for the conservation, production, or recreational harvest of ducks, mergansers, geese, brant, swans, and other waterfowl; and

(ii) designated as a waterfowl management area by the Wildlife Board in accordance with Section [~~23-32-104~~] 23A-12-303.

(b) "Waterfowl management area" includes the Willard Spur Waterfowl Management Area and the Harold Crane Waterfowl Management Area described in Section [~~23-21-5~~] 23A-6-403.

Section 222. Section 23A-12-302, which is renumbered from Section 23-32-103 is renumbered and amended to read:

[~~23-32-103~~]. 23A-12-302. Prohibited activities.

(1) A commercial hunting guide or outfitter may not use a waterfowl management area for any of the following, unless the commercial hunting guide or outfitter has an annual permit, issued by the Wildlife Board pursuant to this [~~chapter~~] part, for the use:

(a) hunting guide services or outfitter services; or

(b) transportation of an individual to another area for the purpose of providing hunting guide services or outfitter services.

(2) An individual may not construct a permanent blind or other permanent structure that is used for hunting within the boundaries of a waterfowl management area.

Section 223. Section 23A-12-303, which is renumbered from Section 23-32-104 is renumbered and amended to read:

[~~23-32-104~~]. 23A-12-303. Rulemaking -- Notice.

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

(a) designating and establishing the boundaries of a waterfowl management area;

(b) governing the management and use of a waterfowl management area in accordance with [~~the provisions of this chapter~~] this part; and

(c) to create an annual permit process by which commercial hunting guides and outfitters may use waterfowl management areas in accordance with [~~the provisions of this chapter~~] this part.

(2) The annual permit process described in Subsection (1)(c) shall:

(a) preserve the opportunity for non-guided hunters to use waterfowl management areas; and

(b) require a permit holder to comply with safety standards established by the Wildlife Board.

(3) The division shall provide an annual report to the Natural Resources, Agriculture, and Environment Interim Committee regarding any rules made or changed in accordance with this [~~chapter~~] part.

(4) The Wildlife Board shall publish a map of the boundaries of each waterfowl management area.

(5) Nothing in this [~~chapter~~] part modifies or limits:

(a) [~~the provisions of Section 23-21-5~~] Section 23A-6-403, or the discretion of the division to manage waterfowl management areas for other beneficial purposes, including for the benefit of the public, shorebirds, waterfowl, and other protected wildlife; or

(b) the authority of the division, the director [~~of the division~~], or the Wildlife Board under [~~Title 23, Chapter 21~~] Chapter 6, Lands and Waters for Wildlife Purposes.

Section 224. Section 23A-13-101, which is renumbered from Section 23-28-102 is renumbered and amended to read:

CHAPTER 13. MIGRATORY BIRD PRODUCTION AREA

Part 1. General Provisions

[~~23-28-102~~]. 23A-13-101. Definitions.

As used in this chapter:

(1) "Migratory bird" [~~is as~~] means the same as that term is defined in 16 U.S.C. Sec. 715j.

(2) "Migratory bird production area" means an area of land that is:

(a) created under this chapter; and

(b) used according to the description in Subsections [~~23-28-201~~] 23A-13-201(1)(b)(iii)(A) [~~through~~] and (B).

Section 225. Section 23A-13-201, which is renumbered from Section 23-28-201 is renumbered and amended to read:

Part 2. Migratory Bird Production Area

[~~23-28-201~~]. 23A-13-201. Creation of a migratory bird production area.

(1) (a) On or before July 1, 2022, an owner or owners of at least 500 contiguous acres of land in an unincorporated area may dedicate the land as a migratory bird production area by filing a notice of dedication with the county recorder of the county in which the land is located.

(b) The notice of dedication shall contain:

(i) the legal description of the land included within the migratory bird production area;

(ii) the name of the owner or owners of the land included within the migratory bird production area; and

(iii) an affidavit signed by each landowner that all of the land, except as provided by Subsection (2), within the migratory bird production area is:

(A) actively managed for migratory bird:

(I) production;

(II) habitat; or

(III) hunting; and

(B) used for a purpose compatible with the purposes described in Subsection (1)(b)(iii)(A).

(c) A person who files a notice of dedication under this section shall give a copy of the notice of dedication within 10 days of its filing to the legislative body of the county in which the migratory bird production area is located.

(2) (a) The notice of dedication may designate land, the amount of which is less than 1% of the total acreage within a migratory bird production area, upon which the landowner may build a structure described in Subsection [~~23-28-302~~] 23A-13-302(1)(c).

(b) (i) An owner may build or maintain a road, dike, or water control structure within the migratory bird production area.

(ii) A road, dike, or water control structure is not considered a structure for purposes of Subsection (2)(a).

(3) (a) Within 30 days of the day on which the county legislative body receives a copy of the notice of dedication under Subsection (1)(c), the county legislative body may bring an action in district court to cancel or revise a migratory bird production area on the basis that an affidavit filed as part of the notice of dedication under Subsection (1)(b)(iii) is inaccurate.

(b) In bringing the action, the county legislative body shall specify the portion of the migratory bird production area and the affidavit subject to the action.

(c) In an action brought under this Subsection (3), the person who files an affidavit described in Subsection (3)(a) has the burden to prove by a preponderance of the evidence that the affidavit is accurate.

(d) If the court cancels or revises a migratory bird production area, the person who filed the original notice of dedication shall file a revision notice with the county recorder reflecting the court's order.

(4) In accordance with Section [~~23-28-202~~] 23A-13-202, a person may at any time add land to a migratory bird production area created under this section.

Section 226. Section 23A-13-202, which is renumbered from Section 23-28-202 is renumbered and amended to read:

[~~23-28-202~~]. 23A-13-202. Adding to or removing land from a migratory bird production area.

(1) Subject to the other provisions of this section, a landowner may file a revision notice with the county recorder of the county in which the migratory bird production area is located to add land to or remove land from a migratory bird production area.

(2) The revision notice shall contain:

(a) a legal description of the land added to or removed from the migratory bird production area; and

(b) the name of the owner or owners of the land added to or removed from the migratory bird production area.

(3) A person who files a revision notice under this section shall give a copy of the revision notice within 10 days of its filing to the legislative body of the county in which the migratory bird production area is located.

(4) If removing land from a migratory bird production area results in a migratory bird production area of less than 300 contiguous acres:

(a) the migratory bird production area ceases to exist; and

(b) the landowner shall:

(i) notify each landowner within the former migratory bird production area; and

(ii) file the revision notice required by this section for the entire migratory bird production area.

(5) A landowner may add land to a migratory bird production area only if:

(a) the land to be added is contiguous to the migratory bird production area; and

(b) all the landowners of the contiguous land to be added to the migratory bird production area consent to the contiguous land being added to the migratory bird production area.

(6) A landowner of a migratory bird production area may include an easement in the migratory bird production area if:

(a) the landowner owns the easement;

(b) the easement is on land that is contiguous to the migratory bird production area; and

(c) the owner of the land where the easement is located consents to the easement being included in the migratory bird production area.

Section 227. Section 23A-13-301, which is renumbered from Section 23-28-301 is renumbered and amended to read:

Part 3. Protections

[~~23-28-301~~]. 23A-13-301. Farmland Assessment Act.

(1) Creation of a migratory bird production area does not impair the ability of land within the migratory bird production area to qualify for the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(2) The eligibility of land for the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment Act, is determined exclusively by [~~the provisions of~~] that act, notwithstanding the land's location within a migratory bird production area.

Section 228. Section 23A-13-302, which is renumbered from Section 23-28-302 is renumbered and amended to read:

[~~23-28-302~~]. 23A-13-302. Limitations on local regulations.

(1) (a) A county within which a migratory bird production area is located shall encourage the continuity, development, and viability of the migratory bird production area.

(b) Except as otherwise specifically provided in this chapter, the purposes, uses, and activities of a migratory bird production area described in this chapter are afforded the highest priority of use status.

(c) A structure, improvement, or activity historically or customarily used in conjunction with

a migratory bird production area is considered a permitted use under the county's zoning law, ordinance, or regulation.

(2) A county within which a migratory bird production area is located may not:

(a) enact a law, ordinance, or regulation that unreasonably restricts an activity normally associated with the migratory bird production area;

(b) change the zoning designation of, or a zoning regulation applying to land within a migratory bird production area unless the county receives written approval for the change from all the landowners within the migratory bird production area; or

(c) enact a law, ordinance, or regulation concerning the use, operation, or discharge of a firearm on a migratory bird production area.

(3) For purposes of Subsection (2)(a), a law, ordinance, or regulation is unreasonable if it restricts or impairs the purposes, uses, and activities historically or customarily associated with a migratory bird production area.

Section 229. Section 23A-13-303, which is renumbered from Section 23-28-303 is renumbered and amended to read:

[~~23-28-303~~]. 23A-13-303. Nuisances.

(1) (a) A county shall exclude the activities described in Subsection (1)(b) from the definition of public nuisance in a county law or ordinance regulating a public nuisance.

(b) An activity or occurrence normally associated with a migratory bird production area is not a nuisance, including:

(i) hunting;

(ii) discharging a firearm;

(iii) improving habitat;

(iv) trapping;

(v) eradicating weeds;

(vi) discing;

(vii) planting;

(viii) impounding water;

(ix) raising a bird or other domestic animal;

(x) grazing;

(xi) an activity conducted in the normal course of an agricultural operation as defined in Section 4-44-102; and

(xii) an odor.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section 76-10-803, it is a complete defense if the action is:

(a) normally associated with a migratory bird production area;

(b) conducted within a migratory bird production area; and

(c) not in violation of [~~any~~] federal or state law.

(3) An owner of a new development located in whole or in part within 1,000 feet of a migratory bird production area shall provide the following notice on [~~any~~] a plat filed with the county recorder:

"Migratory Bird Production Area

This property is located in the vicinity of an established migratory bird production area in which hunting and activities related to the management and operation of land for the benefit of migratory birds have been afforded the highest priority use status. It can be anticipated that these uses and activities may now or in the future be conducted on land within the migratory bird production area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from activities normally associated with a migratory bird production area."

Section 230. Section 23A-13-304, which is renumbered from Section 23-28-304 is renumbered and amended to read:

[~~23-28-304~~]. 23A-13-304. Annexation restrictions.

A municipality may annex real property within a migratory bird production area as provided by Title 10, Chapter 2, Part 4, Annexation.

Section 231. Section 23A-13-305, which is renumbered from Section 23-28-305 is renumbered and amended to read:

[~~23-28-305~~]. 23A-13-305. Application of Water Quality Act.

A migratory bird production area is subject to Title 19, Chapter 5, Water Quality Act.

Section 232. Section 23A-14-101 is enacted to read:

CHAPTER 14. FURBEARERS

Part 1. General Provisions

23A-14-101. Definitions.

Reserved.

Section 233. Section 23A-14-201, which is renumbered from Section 23-18-2 is renumbered and amended to read:

Part 2. Taking of Furbearers

[~~23-18-2~~]. 23A-14-201. Taking of furbearers.

[~~Any~~] A person holding a furbearer license may take [~~furbearers~~] a furbearer in accordance with the rules [~~promulgated~~] made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 234. Section 23A-14-202, which is renumbered from Section 23-18-3 is renumbered and amended to read:

[~~23-18-3~~]. 23A-14-202. Trapping on lands controlled by division governed by Wildlife Board.

[~~All trapping~~] The Wildlife Board shall govern trapping on lands controlled by the [~~Division of Wildlife Resources shall be governed by the Wildlife Board~~] division.

Section 235. Section 23A-14-203, which is renumbered from Section 23-18-6 is renumbered and amended to read:

[~~23-18-6~~]. 23A-14-203. Taking red fox or striped skunk.

Red fox or striped skunk may be taken anytime without a license as provided by this title [~~or rules~~], a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or a proclamation of the Wildlife Board.

Section 236. Section 23A-15-101, which is renumbered from Section 23-29-102 is renumbered and amended to read:

CHAPTER 15. WOLF MANAGEMENT ACT

[~~23-29-102~~]. 23A-15-101. Definitions.

As used in this chapter:

(1) "Endangered Species Act" means the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

[~~(1)~~] (2) "Service" means the United States Fish and Wildlife Service.

[~~(2)~~] (3) "Wolf" means the species Canis lupus.

Section 237. Section 23A-15-102, which is renumbered from Section 23-29-103 is renumbered and amended to read:

[~~23-29-103~~]. 23A-15-102. Legislative findings and declarations.

(1) Section [~~23-14-1~~] 23A-2-201 appoints the division as trustee and custodian of protected wildlife in the state.

(2) The wolf [~~is~~] has been listed as endangered under the federal Endangered Species Act throughout the greater portion of the state.

(3) The service is the federal agency charged with responsibility to administer the Endangered Species Act.

(4) The service acknowledges that Utah is not critical to the recovery of wolves and that it does not intend to actively recover wolves in the state.

(5) The division prepared a wolf management plan outlining [~~its~~] the division's management objectives for the wolf in Utah when the wolf was delisted and removed from federal control.

(6) The wolf management plan prepared by the division was formally submitted to the service in 2007 for approval.

(7) The service has neither approved, denied, nor otherwise commented on the plan since receiving it in 2007.

(8) The state formally requested, in writing on multiple occasions, that the service delist the wolf throughout Utah, and the service has failed to acknowledge or otherwise respond to [~~any of~~] the requests.

(9) The state cannot adequately or effectively manage wolves on a pack level in the small area of the state where the species is currently delisted without significantly harming other vital state interests, including livestock and big game populations.

(10) It is the policy of the state to legally advocate and facilitate the delisting of wolves in Utah under the Endangered Species Act and to return wolf management authority to the state.

Section 238. Section 23A-15-201, which is renumbered from Section 23-29-201 is renumbered and amended to read:

Part 2. Wolf Management

[~~23-29-201~~]. 23A-15-201. Wolf management.

(1) The division shall contact the service upon discovering a wolf in [~~any~~] an area of the state where wolves are listed as threatened or endangered under the Endangered Species Act and request immediate removal of the animal from the state.

(2) The division shall manage wolves to prevent the establishment of a viable pack in all areas of the state where the wolf is not listed as threatened or endangered under the Endangered Species Act until the wolf is completely delisted under the act and removed from federal control in the entire state.

(3) Subsections (1) and (2) do not apply to wolves lawfully held in captivity and restrained.

Section 239. Section 23A-15-202, which is renumbered from Section 23-29-202 is renumbered and amended to read:

[~~23-29-202~~]. 23A-15-202. Rulemaking.

The [~~division~~] Wildlife Board may make administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to manage the wolf in accordance with this chapter.

Section 240. Repealer.

This bill repeals:

Section 23-13-1, Title.

Section 23-13-16, Judicial notice of proclamations.

Section 23-14-2.1, Procedures -- Adjudicative proceedings.

Section 23-14-11, Official seal of division.

Section 23-14-16, Unexpended fund balances converted to general fund account.

Section 23-17-5, Damages for destroyed crops -- Limitations -- Appraisal.

Section 23-20-23, Aiding or assisting violation unlawful.

Section 23-21a-1, Short title.

Section 23-21a-2, Legislative findings and policy.

Section 23-21a-3, State to condemn and purchase islands in Great Salt Lake -- Protection of American white pelican.

Section 23-21a-4, Payment of fair market value to landowners -- Impartial appraisal.

Section 23-21a-5, Mineral rights retained by landowners -- Oil discovery.

Section 23-21a-6, Nonlapsing appropriation for appraisal and purchase.

Section 23-25-1, Short title.

Section 23-25-12, Title.

Section 23-27-101, Title.

Section 23-28-101, Title.

Section 23-29-101, Title.

Section 23-30-101, Title.

Section 23-31-101, Title.

Section 23-32-101, Title.

Section 241. Effective date.

This bill takes effect on July 1, 2023.

Section 242. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 31, Wildlife Resources Recodification Cross References, does not pass.

CHAPTER 104
H. B. 32
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

PROVO CANYON RESOURCE MANAGEMENT PLAN

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill requires the Public Lands Policy Coordinating Office to assist a county with the preparation of a canyon resource management plan for Provo Canyon when requested by the county.

Highlighted Provisions:

This bill:

- defines terms;
- describes the requirements for a canyon resource management plan;
- allows the office to seek assistance from state entities or officials to prepare the plan;
- requires a state entity or official to provide reasonable assistance to the office, upon the office's request;
- allows the office to coordinate with stakeholders, including public and private landowners and land managers in political subdivisions; and
- establishes a sunset date for repeal.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472

ENACTS:

63L-11-204, Utah Code Annotated 1953

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

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

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.~~]

[~~(20)~~] (19) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21)~~] (20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(21) Section 63L-11-204, creating a canyon resource management plan for Provo Canyon, is repealed July 1, 2025.

(22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

[~~"~~](1) "Commission" means the Commission on Criminal and Juvenile Justice[~~."~~]; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

[~~"~~](2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

(26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

(30) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

(31) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

(32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 2. Section 63L-11-204 is enacted to read:

63L-11-204. Canyon resource management plan.

(1) As used in this section:

(a) "Canyon" means Provo Canyon, located within Utah County and Wasatch County.

(b) "County" means Utah County or Wasatch County.

(c) "Interlocal agreement" means an agreement made between one or more political subdivisions.

(d) "Office" means the Public Lands Policy Coordinating Office.

(e) "Plan" means a canyon resource management plan described in Subsection (2).

(f) "Political subdivision" means a county, city, town, local district, or special district.

(2) In accordance with this section:

(a) the office, upon request from a county or through an interlocal agreement, shall coordinate with the county to assist with the creation of a canyon resource management plan for the canyon; and

(b) the office may provide a portion of the funds necessary to create the plan as appropriated by the Legislature.

(3) The plan shall:

(a) inventory the recreation assets, resources, and opportunities in the canyon;

(b) identify risks to recreation and options to mitigate those risks;

(c) identify and prioritize the present and future recreational needs of the canyon; and

(d) for each need identified under Subsection (3)(c):

(i) establish defined objectives; and

(ii) outline general policies and guidelines for how the objectives described in Subsection (3)(d)(i) may be accomplished, including policies to incentivize stakeholders' participation in accomplishing the objectives.

(4) The county may prepare the plan in a format that may be used as a template for the creation of other canyon recreation and resource management plans.

(5) To prepare the plan the county may:

(a) utilize data and information prepared for the statewide resource management plan described in Section 63L-10-101, a county resource management plan described in Section 63L-11-203, a comprehensive plan for the outdoor recreation resources of the state described in Section 79-7-302, or other state or local plans or policies;

(b) request the reasonable assistance of an agency, department, division, institution, or official of the state; or

(c) coordinate with the canyon's stakeholders, including:

(i) political subdivisions whose geographic boundaries include or abut the canyon;

(ii) owners of private property or water rights in the canyon;

(iii) federal agencies that manage property in the canyon; or

(iv) any state agency, department, division, or institution that owns or manages land in the canyon.

(6) An agency, department, division, institution, or official of the state shall provide reasonable assistance to the office upon the office's request under Subsection (5)(b).

CHAPTER 105
H. B. 33
Passed February 10, 2023
Approved March 14, 2023
Effective May 3, 2023

WATER RELATED LIABILITY AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions concerning liability related to water facilities, streams, or rivers and related trails.

Highlighted Provisions:

This bill:

- makes conforming amendments addressing governmental immunity;
- clarifies language related to operators of a water facility;
- addresses liability of an owner or operator of a water facility, stream, or river along certain trails;
- codifies standard of care;
- addresses liability of an owner or operator of a water facility;
- addresses interference related to a water facility; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-7-201, as last amended by Laws of Utah 2021, Chapter 352
73-1-8, as last amended by Laws of Utah 2007, Chapter 357
73-1-14, as last amended by Laws of Utah 2022, Chapter 310

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

Section 1. Section 63G-7-201 is amended to read:

63G-7-201. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend,

or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a [~~pedestrian or equestrian~~] trail that is along a [~~ditch, canal~~] water facility, as defined in Section 73-1-8, stream, or river, regardless of ownership or operation of the [~~ditch, canal~~] water facility, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity;

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road; or

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-101.

Section 2. Section 73-1-8 is amended to read:

73-1-8. Duties of owners or operators -- Bridges and trails -- Liability.

(1) As used in this section:

(a) "Water facility" means a dam, pipeline, culvert, flume, conduit, ditch, head gate, canal, reservoir, spring box, well, meter, weir, valve, casing, cap, or other facility used for the diversion, transportation, distribution, measurement, collection, containment, or storage of irrigation water.

(b) "Water facility" does not mean a facility used primarily as part of a:

(i) public water system as defined in Section 19-4-102; or

(ii) residential irrigation system.

[~~(1)~~] (2) [~~The~~] An owner or operator of [~~any ditch, canal, flume or other watercourse~~] a water facility shall:

(a) maintain [~~it~~] the water facility to prevent waste of water [~~or~~], damage to [~~the property of others~~] property, or injury to others; and

(b) by bridge or otherwise, keep [~~it~~] the water facility in good repair where [~~it~~] the water facility

crosses [~~any~~] a public road or highway to prevent obstruction to travel or damage or overflow on the public road or highway.

[~~(2)~~] (3) [~~The provisions of Subsection (1)(b) do~~] Subsection (2)(b) does not apply where a governmental entity maintains or elects to maintain a bridge or other device to prevent obstruction to travel or damage or overflow on the public road or highway.

[~~(3)~~] (4) [~~An~~] In addition to immunity if the conditions of Title 57, Chapter 14, Limitations on Landowner Liability, are met, an owner or operator of a [~~ditch, canal~~] water facility, stream, or river, is immune from suit if:

(a) the damage or personal injury arises out of, is in connection with, or results from the use of a [~~pedestrian or equestrian~~] trail that is located along a [~~ditch, canal~~] water facility, stream, or river, regardless of ownership or operation of the [~~ditch, canal~~] water facility, stream, or river;

(b) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(c) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between the owner or operator of the trail right-of-way, or of the right-of-way where the trail is located, and the municipality or county where the trail is located; and

(d) the written agreement:

(i) contains a plan for operation and maintenance of the trail; and

(ii) provides that an owner or operator of the trail right-of-way, or of the right-of-way where the trail is located has, at minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from use of the trail.

(5) (a) The duty under Subsection (2) requires only reasonable and ordinary care and may not be construed to impose strict liability or to otherwise increase the liability of the owner or operator of a water facility.

(b) An owner or operator of a water facility is not liable for damage or injury caused by:

(i) the diversion or discharge of water or another substance into the water facility by a third party beyond the control of the owner or operator of the water facility, including control exercised by the owner's or operator's employees or agents;

(ii) any other act or omission of a third party that is beyond the control of the owner or operator of the water facility, including control exercised by the owner's or operator's employees or agents; or

(iii) an act of God, including fire, earthquake, storm, flash floods, or similar natural occurrences.

(6) This section may not be interpreted to impair a defense that an owner or operator of a water facility may assert in a civil action.

Section 3. Section 73-1-14 is amended to read:

73-1-14. Acts against water facilities or interfering with apportioning official -- Penalty and liability.

(1) As used in this section:

(a) "Connection to a water facility" includes:

(i) to introduce water or another substance into or take water from a water facility through a pipeline, flume, ditch, canal, trench, holding pond, or water collection structure;

(ii) to place or maintain a structure capable of introducing water or another substance directly into or of taking water from a water facility from a pipeline, flume, ditch, canal, trench, holding pond, or water collection structure; or

(iii) to cut into or breach a canal or ditch bank for the purpose of introducing water or another substance into or of taking water from the canal or ditch.

(b) "Interfere," for purposes of a water facility, means damage to or modification of the water facility that results in actual blockage or diversion of water, stormwater, wastewater, or sewage.

(c) "Knowingly" means the same as that term is defined in Section 76-2-103.

(d) "Water facility" means a dam, pipeline, culvert, fire hydrant, flume, conduit, ditch, head gate, canal, reservoir, storage tank, spring box, well, meter, weir, valve, casing, cap, or other facility used for the diversion, transportation, distribution, measurement, collection, containment, or storage of water, stormwater, wastewater, or sewage.

(2) Subject to Subsection (6), a person is guilty of a crime punishable under Section 73-2-27 if the person:

(a) knowingly makes a temporary or permanent connection to, or interferes with, a water facility without:

(i) first obtaining the written consent of the owner or operator of the water facility; or

(ii) having other lawful authority; or

(b) without lawful authority, knowingly interferes with an individual authorized to apportion water while in the discharge of the individual's duties.

(3) A person who commits an act defined as a crime under this section is also liable for damages, other relief, and reasonable costs and attorney fees as provided in Section 73-2-28, in a civil action brought by a person injured by that act.

(4) (a) A civil action under this section may be brought independent of a criminal action.

(b) Proof of the elements of a civil action under this section need only be made by a preponderance of the evidence.

(5) A person who complies with Title 54, Chapter 8a, Damage to Underground Utility Facilities, Section 73-1-7, or Section 73-1-15.5 may not be held criminally or civilly liable for actions allowed by those sections.

(6) (a) "Person" for purposes of this section does not include a government entity, including a political subdivision of the state.

(b) This section may not be interpreted to limit or impair a claim otherwise provided by law of a water facility owner or operator against a government entity.

CHAPTER 106
H. B. 37
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

VOTER SIGNATURE VERIFICATION AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses voter signature verification, voter accessibility, and related issues.

Highlighted Provisions:

This bill:

- provides guidance for determining when a signature submitted with a ballot corresponds to a signature in a voter registration record;
- establishes requirements for contacting a voter when the voter's ballot is rejected;
- establishes record-keeping and reporting requirements in relation to rejected ballots;
- requires an election officer to provide an accessible voting option for a voter with a disability;
- requires the director of elections to make rules regarding signature verification for individuals who are unable to sign their name consistently due to a disability;
- grants rulemaking authority to establish criteria, processes, and training in relation to signature comparison;
- requires that election notices include instructions for how a voter with a disability may obtain information on voting in an accessible manner;
- addresses the disclosure of certain information relating to a voter whose ballot is rejected;
- makes it unlawful for an election officer to willfully neglect, or act corruptly in discharging, the election officer's duty; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

20A-3a-202, as last amended by Laws of Utah 2022, Chapters 18, 121, and 156
20A-3a-401, as last amended by Laws of Utah 2022, Chapter 392 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 392
20A-5-101, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
20A-5-701, as last amended by Laws of Utah 2013, Chapter 253

Utah Code Sections Affected by Coordination Clause:

20A-3a-401, as last amended by Laws of Utah 2022, Chapter 392

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

Section 1. Section 20A-3a-202 is amended to read:

20A-3a-202. Conducting election by mail.

(1) (a) Except as otherwise provided for an election conducted entirely by mail under Section 20A-7-609.5, an election officer shall administer an election primarily by mail, in accordance with this section.

(b) An individual who did not provide valid voter identification at the time the voter registered to vote shall provide valid voter identification before voting.

(2) An election officer who administers an election:

(a) shall in accordance with Subsection (3), no sooner than 21 days before election day and no later than seven days before election day, mail to each active voter within a voting precinct:

(i) a manual ballot;

(ii) a return envelope;

(iii) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(iv) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote or a website address where the voter may view this information;

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling place or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the ballot, the voter will be unable to vote in that election because there will be no polling place for the voting precinct on the day of the election; and

(vi) [~~after May 1, 2022,~~] instructions on how a voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5;

(b) may not mail a ballot under this section to:

(i) an inactive voter, unless the inactive voter requests a manual ballot; or

(ii) a voter whom the election officer is prohibited from sending a ballot under Subsection (10)(c)(ii); [~~and~~]

(c) shall, on the outside of the envelope in which the election officer mails the ballot, include instructions for returning the ballot if the individual to whom the election officer mails the ballot does not live at the address to which the ballot is sent[~~.~~];

(d) shall provide a method of accessible voting to a voter with a disability who is not able to vote by mail; and

(e) shall include, on the election officer's website and with each ballot mailed, instructions regarding how a voter described in Subsection (2)(d) may vote.

(3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail the manual ballot to the address:

(i) provided at the time of registration; or

(ii) if, at or after the time of registration, the voter files an alternate address request form described in Subsection (3)(b), the alternate address indicated on the form.

(b) The lieutenant governor shall make available to voters an alternate address request form that permits a voter to request that the election officer mail the voter's ballot to a location other than the voter's residence.

(c) A voter shall provide the completed alternate address request form to the election officer no later than 11 days before the day of the election.

(4) The return envelope shall include:

(a) the name, official title, and post office address of the election officer on the front of the envelope;

(b) a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected;

(c) a printed affidavit in substantially the following form:

"County of ____State of ____

I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct in ____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon currently incarcerated for commission of a felony.

_____

Signature of Voter"; and

(d) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.

(5) If the election officer determines that the voter is required to show valid voter identification, the election officer may:

(a) mail a ballot to the voter;

(b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot; and

(c) provide instructions to the voter on how the voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

(6) An election officer who administers an election shall:

(a) (i) before the election, obtain the signatures of each voter qualified to vote in the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(7) Upon receipt of a returned ballot, the election officer shall review and process the ballot under Section 20A-3a-401.

(8) A county that administers an election:

(a) shall provide at least one election day voting center in accordance with [~~Chapter 3a, Part 7, Election Day Voting Center~~] Part 7, Election Day Voting Center, and at least one additional election day voting center for every 5,000 active voters in the county who have requested to not receive a ballot by mail;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-3a-601, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604;

(d) is not required to pay return postage for a ballot; and

(e) is subject to an audit conducted under Subsection (9).

(9) (a) The lieutenant governor shall:

(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and

(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection (9)(a)(i).

(b) The lieutenant governor shall post the results of an audit conducted under this Subsection (9) on the lieutenant governor's website.

(10) (a) An individual may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection (10)(a) to the election officer before 5 p.m. no later than 60 days before an election if the individual does not wish to receive a ballot by mail in that election.

(c) An election officer who receives a request from an individual under Subsection (10)(a):

(i) shall remove the individual's name from the list of voters who will receive a ballot by mail; and

(ii) may not send the individual a ballot by mail for:

(A) the next election, if the individual submits the request described in Subsection (10)(a) before the deadline described in Subsection (10)(b); or

(B) an election after the election described in Subsection (10)(c)(ii)(A).

(d) An individual who submits a request under Subsection (10)(a) may resume the individual's receipt of a ballot by mail by submitting a written request to the election officer.

Section 2. Section 20A-3a-401 is amended to read:

20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice.

(1) This section governs ballots returned by mail or via a ballot drop box.

(2) (a) Poll workers shall open return envelopes containing manual ballots that are in the custody of the poll workers in accordance with [~~Subsection (2)(b)~~] this section.

(b) The poll workers shall, first, compare the signature of the voter on the affidavit of the return envelope to the signature of the voter in the voter registration records.

(3) After complying with Subsection (2), the poll workers shall determine whether:

(a) the signatures correspond;

(b) the affidavit is sufficient;

(c) the voter is registered to vote in the correct precinct;

(d) the voter's right to vote the ballot has been challenged;

(e) the voter has already voted in the election;

(f) the voter is required to provide valid voter identification; and

(g) if the voter is required to provide valid voter identification, whether the voter has provided valid voter identification.

(4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll workers determine [~~that~~]:

[~~(i) the signatures correspond;~~]

(i) in accordance with the rules made under Subsection (11):

(A) that the signature on the affidavit of the return envelope is reasonably consistent with the individual's signature in the voter registration records; or

(B) for an individual who checks the box described in Subsection (5)(c)(v), that the signature is verified by alternative means;

(ii) that the affidavit is sufficient;

(iii) that the voter is registered to vote in the correct precinct;

(iv) that the voter's right to vote the ballot has not been challenged;

(v) that the voter has not already voted in the election; and

(vi) for a voter required to provide valid voter identification, that the voter has provided valid voter identification.

(b) If the poll workers make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not destroy the affidavit on the return envelope;

(ii) ensure that the ballot does not unfold and is not otherwise examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

(c) If the poll workers do not make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) disallow the vote;

(ii) without opening the return envelope, [~~mark across the face of the return envelope:~~] record the ballot as "rejected" and state the reason for the rejection; and

[~~(A) "Rejected as defective"; or~~]

[~~(B) "Rejected as not a registered voter"; and~~]

(iii) place the return envelope, unopened, with the other rejected return envelopes.

(5) (a) If the poll workers reject an individual's ballot because the poll workers determine, in accordance with rules made under Subsection (11), that the signature on the return envelope [~~does not match~~] is not reasonably consistent with the individual's signature in the voter registration records, the election officer shall:

(i) contact the individual in accordance with Subsection [~~(7) by mail, email, text message, or phone, and~~] (6); and

(ii) inform the individual:

[~~(i)~~] (A) that the individual's signature is in question;

[~~(ii)~~] (B) how the individual may resolve the issue; and

[~~(iii)~~] (C) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection [~~(5)(b)~~] (5)(c).

(b) The election officer shall ensure that the notice described in Subsection (5)(a) includes:

(i) when communicating the notice by mail, a printed copy of the affidavit described in Subsection (5)(c) and a courtesy reply envelope;

(ii) when communicating the notice electronically, a link to a copy of the affidavit described in Subsection (5)(c) or information on how to obtain a copy of the affidavit; or

(iii) when communicating the notice by phone, either during a direct conversation with the voter or in a voicemail, arrangements for the voter to receive a copy of the affidavit described in Subsection (5)(c), either in person from the clerk's office, by mail, or electronically.

[~~(b)~~] (c) An affidavit described in Subsection [~~(5)(a)(iii)~~] (5)(a)(ii)(C) shall include:

(i) an attestation that the individual voted the ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit; [~~and~~]

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes[~~.~~]; and

(v) a check box accompanied by language in substantially the following form: "I am a voter with a qualifying disability under the Americans with Disabilities Act that impacts my ability to sign my name consistently. I can provide appropriate documentation upon request. To discuss accommodations, I can be contacted at _____".

[~~(c)~~] (d) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection [~~(5)(b)~~] (5)(c) to the election officer.

[~~(d)~~] (e) An election officer who receives a signed affidavit under Subsection [~~(5)(c)~~] (5)(d) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-109; [~~and~~]

(ii) if the election officer receives the affidavit no later than 5 p.m. three days before the day on which the canvass begins, count the individual's ballot[~~.~~]; and

(iii) if the check box described in Subsection (5)(c)(v) is checked, comply with the rules described in Subsection (11)(c).

[~~(6) If the poll workers reject an individual's ballot for any reason, other than the reason described in Subsection (5)(a), the election officer shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.~~]

(6) (a) The election officer shall, within two business days after the day on which an individual's ballot is rejected, notify the individual of the rejection and the reason for the rejection, by phone, mail, email, or SMS text message, unless:

(i) the ballot is cured within one business day after the day on which the ballot is rejected; or

(ii) the ballot is rejected because the ballot is received late or for another reason that cannot be cured.

(b) If an individual's ballot is rejected for a reason described in Subsection (6)(a)(ii), the election officer shall notify the individual of the rejection and the reason for the rejection by phone, mail, email, or SMS text message, within the later of:

(i) 30 days after the day of the rejection; or

(ii) 30 days after the day of the election.

(c) The election officer may, when notifying an individual by phone under this Subsection (6), use auto-dial technology.

[~~(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:~~]

[~~(a) if the election officer rejects the ballot before election day:~~]

[~~(i) one business day after the day on which the election officer rejects the ballot, if the election officer gives the notice by email or text message; or~~]

[~~(ii) two business days after the day on which the election officer rejects the ballot, if the election officer gives the notice by postal mail or phone;~~]

[~~(b) seven days after election day if the election officer rejects the ballot on election day; or~~]

[~~(c) seven days after the canvass if the election officer rejects the ballot after election day and before the end of the canvass.~~]

[~~(8)~~] (7) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless:

(a) the election officer receives a signed affidavit from the individual under Subsection (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's identity; and

(b) the affidavit described in Subsection [~~(8)~~] (7)(a) is received, or the confirmation described in Subsection [~~(8)~~] (7)(a) occurs, no later than 5 p.m.

three days before the day on which the canvass begins.

[~~(9)~~] (8) The election officer shall retain and preserve the return envelopes in the manner provided by law for the retention and preservation of ballots voted at that election.

(9) (a) The election officer shall record the following in the database used to verify signatures:

(i) any initial rejection of a ballot under Subsection (4)(c), within one business day after the day on which the election officer rejects the ballot; and

(ii) any resolution of a rejection of a ballot under Subsection (7), within one business day after the day on which the ballot rejection is resolved.

(b) An election officer shall include, in the canvass report, a final report of the disposition of all rejected and resolved ballots, including, for ballots rejected, the following:

(i) the number of ballots rejected because the voter did not sign the voter's ballot; and

(ii) the number of ballots rejected because the voter's signatures on the ballot, and in records on file, do not correspond.

(10) Willful failure to comply with this section constitutes willful neglect of duty under Section 20A-5-701.

(11) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) criteria and processes for use by poll workers in determining if a signature corresponds with the signature on file for the voter under Subsections (3)(a) and (4)(a)(i)(A);

(b) training and certification requirements for election officers and employees of election officers regarding the criteria and processes described in Subsection (11)(a); and

(c) in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Secs. 12131 through 12165, an alternative means of verifying the identity of an individual who checks the box described in Subsection (5)(c)(v).

(12) If, in response to a request, and in accordance with the requirements of law, an election officer discloses the name or address of voters whose ballots have been rejected and not yet resolved, the election officer shall:

(a) make the disclosure within two business days after the day on which the request is made;

(b) respond to each request in the order the requests were made; and

(c) make each disclosure in a manner, and within a period of time, that does not reflect favoritism to one requestor over another.

Section 3. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall provide notice, in accordance with Subsection (3):

(i) by posting notice in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county;

(ii) (A) by publishing notice in a newspaper of general circulation in the county;

(B) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county, subject to a maximum of 10 notices; or

(C) by mailing notice to each registered voter in the county;

(iii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the election; and

(iv) by posting notice on the county's website for seven days before the day of the election.

(b) The county clerk shall prepare an affidavit of the posting under Subsection (2)(a)(i), showing a copy of the notice and the places where the notice was posted.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; [~~and~~]

(f) the qualifications for persons to vote in the election[~~.~~]; and

(g) instructions regarding how an individual with a disability, who is not able to vote a manual ballot by mail, may obtain information on voting in an accessible manner.

(5) The election officer shall provide the notice described in Subsection (4):

(a) (i) by publishing the notice in a newspaper of general circulation in the jurisdiction to which the election pertains, at least two days before the day of the election;

(ii) at least two days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing the notice to each registered voter who resides in the jurisdiction to which the election pertains at least five days before the day of the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two days before the day of the election; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for two days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 4. Section 20A-5-701 is amended to read:

20A-5-701. Willful neglect of duty or corrupt conduct -- Penalty.

(1) It is unlawful for [~~any~~] an election officer or poll worker to willfully neglect the election officer's or poll worker's duty or to willfully act corruptly in discharging the election officer's or poll worker's duty.

(2) [~~Any~~] An election officer or poll worker who violates this section is guilty of a third degree felony.

Section 5. Coordinating H.B. 37 with H.B. 162 and H.B. 448 -- Substantive and technical amendments.

(1) If this H.B. 37, H.B. 162, Voter Accessibility Amendments, and H.B. 448, Election Changes, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, as follows:

(a) the changes to Subsection 20A-3a-401(4)(a) in H.B. 37 supersede the changes to Subsection 20A-3a-401(4)(a) in H.B. 162 and H.B. 448;

(b) the changes to Subsection 20A-3a-401(5) in H.B. 37 supersede the changes to Subsection 20A-3a-401(5) in H.B. 162 and H.B. 448, except that, in Subsection 20A-3a-401(5)(e)(i) in H.B. 37, the reference to "Section 20A-2-109" will change to "Section 20A-2-502";

(c) enacted Subsection 20A-3a-401(10) in H.B. 162 does not take effect; and

(d) enacted Subsection 20A-3a-401(9) in H.B. 448 does not take effect.

(2) If this H.B. 37 and H.B. 162, Voter Accessibility Amendments, both pass and become law, but H.B. 448, Election Changes, does not pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, as follows:

(a) the changes to Subsection 20A-3a-401(4)(a) in H.B. 37 supersede the changes to Subsection 20A-3a-401(4)(a) in H.B. 162;

(b) the changes to Subsection 20A-3a-401(5)(e)(iii) in H.B. 37 supersede the changes to Subsection 20A-3a-401(5)(e)(iii) in H.B. 162; and

(c) enacted Subsection 20A-3a-401(10) in H.B. 162 does not take effect.

(3) If this H.B. 37 and H.B. 448, Election Changes, both pass and become law, but H.B. 162, Voter Accessibility Amendments, does not pass:

(a) the changes to Subsection 20A-3a-401(4)(a) in H.B. 37 supersede the changes to Subsection 20A-3a-401(4)(a) in H.B. 448;

(b) the changes to Subsection 20A-3a-401(5) in H.B. 37 supersede the changes to Subsection 20A-3a-401(5) in H.B. 448, except that, in

Subsection 20A-3a-401(5)(e)(i) in H.B. 37, the reference to "Section 20A-2-109" will change to "Section 20A-2-502"; and

(c) enacted Subsection 20A-3a-401(9) in H.B. 448 does not take effect.

CHAPTER 107
H. B. 38
Passed February 28, 2023
Approved March 14, 2023
Effective May 3, 2023

INITIATIVE AND REFERENDUM MODIFICATIONS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill amends provisions relating to initiatives and referenda.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions relating to initiatives and referenda to clarify provisions and requirements, to clarify who is responsible for certain requirements, and to use consistent terms;
- revises provisions relating to initiatives and referenda to create consistency;
- modifies and adds criminal provisions to create consistency;
- amends forms and procedures;
- provides and modifies deadlines for certain requirements;
- modifies requirements relating to public hearings held by sponsors in relation to a statewide initiative;
- modifies certain public notice requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

20A-7-101, as last amended by Laws of Utah 2022, Chapters 288, 325
20A-7-201, as last amended by Laws of Utah 2019, Chapter 217
20A-7-202, as last amended by Laws of Utah 2021, Chapter 140
20A-7-202.5, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
20A-7-202.7, as enacted by Laws of Utah 2021, Chapter 418
20A-7-203, as last amended by Laws of Utah 2022, Chapter 325
20A-7-204, as last amended by Laws of Utah 2022, Chapter 325
20A-7-204.1, as last amended by Laws of Utah 2021, Chapters 84, 345
20A-7-205, as last amended by Laws of Utah 2022, Chapter 325
20A-7-206, as last amended by Laws of Utah 2022, Chapter 325
20A-7-206.1, as enacted by Laws of Utah 2021, Chapter 140
20A-7-206.3, as last amended by Laws of Utah 2022, Chapter 325
20A-7-207, as last amended by Laws of Utah 2022, Chapter 325
20A-7-208, as last amended by Laws of Utah 2019, Chapter 275
20A-7-209, as last amended by Laws of Utah 2022, Chapter 251
20A-7-211, as last amended by Laws of Utah 2022, Chapter 18
20A-7-213, as last amended by Laws of Utah 2022, Chapter 325
20A-7-214, as last amended by Laws of Utah 2019, Chapter 275
20A-7-215, as enacted by Laws of Utah 2022, Chapter 325
20A-7-216, as enacted by Laws of Utah 2022, Chapter 325
20A-7-217, as enacted by Laws of Utah 2022, Chapter 325
20A-7-301, as last amended by Laws of Utah 2021, Chapter 140
20A-7-302, as last amended by Laws of Utah 2021, Chapter 140
20A-7-303, as last amended by Laws of Utah 2022, Chapter 325
20A-7-304, as last amended by Laws of Utah 2022, Chapter 325
20A-7-304.5, as last amended by Laws of Utah 2022, Chapter 325
20A-7-305, as last amended by Laws of Utah 2022, Chapter 325
20A-7-306, as last amended by Laws of Utah 2022, Chapter 325
20A-7-306.3, as last amended by Laws of Utah 2022, Chapter 325
20A-7-307, as last amended by Laws of Utah 2022, Chapters 274, 325
20A-7-308, as last amended by Laws of Utah 2022, Chapter 251
20A-7-309, as last amended by Laws of Utah 2021, Chapter 140
20A-7-310, as last amended by Laws of Utah 2020, Chapter 166
20A-7-311, as last amended by Laws of Utah 2021, Chapter 140
20A-7-312, as last amended by Laws of Utah 2022, Chapter 325
20A-7-313, as enacted by Laws of Utah 2022, Chapter 325
20A-7-314, as enacted by Laws of Utah 2022, Chapter 325
20A-7-315, as enacted by Laws of Utah 2022, Chapter 325
20A-7-501, as last amended by Laws of Utah 2019, Chapter 203
20A-7-502, as last amended by Laws of Utah 2021, Chapter 140
20A-7-502.5, as last amended by Laws of Utah 2019, Chapter 203
20A-7-502.6, as last amended by Laws of Utah 2022, Chapter 325
20A-7-502.7, as last amended by Laws of Utah 2022, Chapter 325
20A-7-503, as last amended by Laws of Utah 2022, Chapter 325
20A-7-504, as last amended by Laws of Utah 2022, Chapter 325

20A-7-505, as last amended by Laws of Utah 2022, Chapter 325
20A-7-506, as last amended by Laws of Utah 2022, Chapter 325
20A-7-506.3, as last amended by Laws of Utah 2022, Chapter 325
20A-7-507, as last amended by Laws of Utah 2022, Chapter 325
20A-7-508, as last amended by Laws of Utah 2022, Chapter 251
20A-7-510, as last amended by Laws of Utah 2021, Chapter 140
20A-7-512, as last amended by Laws of Utah 2022, Chapter 325
20A-7-513, as last amended by Laws of Utah 2019, Chapter 203
20A-7-514, as enacted by Laws of Utah 2022, Chapter 325
20A-7-515, as enacted by Laws of Utah 2022, Chapter 325
20A-7-516, as enacted by Laws of Utah 2022, Chapter 325
20A-7-601, as last amended by Laws of Utah 2022, Chapter 406
20A-7-602, as last amended by Laws of Utah 2021, Chapter 140
20A-7-602.5, as last amended by Laws of Utah 2019, Chapter 203
20A-7-602.7, as last amended by Laws of Utah 2022, Chapter 325
20A-7-602.8, as last amended by Laws of Utah 2022, Chapters 325, 406
20A-7-603, as last amended by Laws of Utah 2022, Chapter 325
20A-7-604, as last amended by Laws of Utah 2022, Chapter 325
20A-7-604.5, as last amended by Laws of Utah 2022, Chapter 325
20A-7-605, as last amended by Laws of Utah 2022, Chapter 325
20A-7-606, as last amended by Laws of Utah 2022, Chapter 325
20A-7-606.3, as last amended by Laws of Utah 2022, Chapter 325
20A-7-607, as last amended by Laws of Utah 2022, Chapters 274, 325
20A-7-608, as last amended by Laws of Utah 2022, Chapter 251
20A-7-609, as last amended by Laws of Utah 2014, Chapter 396
20A-7-610, as last amended by Laws of Utah 2021, Chapter 140
20A-7-611, as last amended by Laws of Utah 2022, Chapters 18, 325
20A-7-612, as last amended by Laws of Utah 2022, Chapter 325
20A-7-614, as enacted by Laws of Utah 2022, Chapter 325
20A-7-615, as enacted by Laws of Utah 2022, Chapter 325
20A-7-616, as enacted by Laws of Utah 2022, Chapter 325
20A-7-702, as last amended by Laws of Utah 2022, Chapter 11

Utah Code Sections Affected by Coordination Clause:

20A-7-204.1, as last amended by Laws of Utah 2021, Chapters 84 and 345

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

Section 1. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Approved device" means a device described in Subsection 20A-21-201(4) used to gather signatures for the electronic initiative process, the electronic referendum process, or the electronic candidate qualification process.

(2) "Budget officer" means:

(a) for a county, the person designated as finance officer as defined in Section 17-36-3;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(4);

(c) for a town, the town council; or

(d) for a metro township, the person described in Subsection (2)(a) for the county in which the metro township is located.

(3) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(4) "Circulation" means the process of submitting an initiative petition or a referendum petition to legal voters for their signature.

(5) "Electronic initiative process" means:

(a) as it relates to a statewide initiative, the process, described in Sections 20A-7-215 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local initiative, the process, described in Sections 20A-7-514 and 20A-21-201, for gathering signatures.

(6) "Electronic referendum process" means:

(a) as it relates to a statewide referendum, the process, described in Sections 20A-7-313 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local referendum, the process, described in Sections 20A-7-614 and 20A-21-201, for gathering signatures.

(7) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(8) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(9) "Initial fiscal impact [~~estimate~~] statement" means[~~:~~]

[~~(a)~~] a financial statement prepared under Section 20A-7-202.5 after the filing of [~~an~~] a statewide initiative application [~~for an initiative petition; or~~].

[~~(b)~~] (10) "Initial fiscal impact and legal statement" means a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for [~~an~~] a local initiative or a local referendum [~~petition~~].

[~~(10)~~] (11) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(12) "Initiative application" means:

(a) for a statewide initiative, an application described in Subsection 20A-7-202(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-202(2); or

(b) for a local initiative, an application described in Subsection 20A-7-502(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-502(2).

[~~(11)~~] (13) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(14) "Initiative petition":

(a) as it relates to a statewide initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-203(2)(a), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-203(2)(b);

(b) as it relates to a statewide initiative, using the electronic initiative process:

(i) means the form described in Subsections 20A-7-215(2) and (3), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-215(5)(b);

(c) as it relates to a local initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-503(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-503(2)(b); or

(d) as it relates to a local initiative, using the electronic initiative process:

(i) means the form described in Subsection 20A-7-514(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-514(4)(a).

[~~(12)~~] (15) (a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

[~~(13)~~] (16) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

[~~(14)~~] (17) "Legal voter" means [~~a person~~] an individual who is registered to vote in Utah.

[~~(15)~~] (18) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

[~~(16)~~] (19) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

[~~(17)~~] (20) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

[~~(18)~~] (21) (a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law;

(iv) a land use regulation, as defined in Section 10-9a-103; or

(v) other legislative action of a local legislative body.

(b) "Local law" does not include a land use decision, as defined in Section 10-9a-103.

[~~(19)~~] (22) "Local legislative body" means the legislative body of a county, city, town, or metro township.

[~~(20)~~] (23) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

[~~(21)~~] (24) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

[~~(22)~~] (25) "Manual initiative process" means the process for gathering signatures for an initiative using paper signature packets that a signer physically signs.

[~~(23)~~] (26) "Manual referendum process" means the process for gathering signatures for a referendum using paper signature packets that a signer physically signs.

[~~(24)~~] (27) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

[~~(25)~~] (28) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(29) "Referendum application" means:

(a) for a statewide referendum, an application described in Subsection 20A-7-302(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-302(2); or

(b) for a local referendum, an application described in Subsection 20A-7-602(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-602(2).

[~~(26)~~] (30) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(31) "Referendum petition" means:

(a) as it relates to a statewide referendum, using the manual referendum process, the form described in Subsection 20A-7-303(2)(a), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(b) as it relates to a statewide referendum, using the electronic referendum process, the form described in Subsection 20A-7-313(2), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(c) as it relates to a local referendum, using the manual referendum process, the form described in Subsection 20A-7-603(2)(a), petitioning for submission of a local law to legal voters for their approval or rejection; or

(d) as it relates to a local referendum, using the electronic referendum process, the form described in Subsection 20A-7-614(2), petitioning for submission of a local law to legal voters for their approval or rejection.

[~~(27)~~] (32) "Signature":

(a) for a statewide initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-215 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-203; and

(B) does not include an electronic signature;

(b) for a statewide referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-313 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-303; and

(B) does not include an electronic signature;

(c) for a local initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-514 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-503; and

(B) does not include an electronic signature; or

(d) for a local referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-614 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-603; and

(B) does not include an electronic signature.

[~~(28)~~] (33) "Signature sheets" means sheets in the form required by this chapter that are used under the manual initiative process or the manual referendum process to collect signatures in support of an initiative or referendum.

[~~(29)~~] (34) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

[~~(30)~~] (35) "Sponsors" means the legal voters who support the initiative or referendum and who sign the initiative application or referendum application [~~for petition copies~~].

[~~(31)~~] (36) (a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

[~~(32)~~] (37) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

[~~(33)~~] (38) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

[~~(34)~~] (39) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 2. Section 20A-7-201 is amended to read:

20A-7-201. Statewide initiatives -- Signature requirements -- Submission to the Legislature or to a vote of the people.

(1) (a) A person seeking to have an initiative submitted to the Legislature for approval or rejection shall, after filing an initiative application, obtain:

(i) legal signatures equal to 4% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 26 Utah State Senate districts, legal signatures equal to 4% of the number of active voters in that district on January 1 immediately following the last regular general election.

(b) If, at any time not less than 10 days before the beginning of the next annual general session of the Legislature, [~~immediately after the application is filed under Section 20A-7-202 and specified on the petition under Section 20A-7-203~~] the lieutenant governor declares [~~sufficient any~~] that an initiative petition [~~that~~] designated under Subsection 20A-7-202(2)(c)(i) for submission to the Legislature is signed by [~~enough~~] a sufficient number of voters to meet the requirements of [~~this~~] Subsection (1)(a), the lieutenant governor shall deliver a copy of the initiative petition, the text of the proposed law, and the cover sheet [~~required by~~] described in Subsection (1)(c) to the president of the Senate, the speaker of the House, and the director of the Office of Legislative Research and General Counsel.

(c) [~~In delivering a copy of the petition, the~~] The lieutenant governor shall [~~include~~] prepare a cover sheet for a petition declared sufficient under Subsection (1)(b) that contains:

(i) the number of active voters in the state on January 1 immediately following the last regular general election;

(ii) the number of active voters in each Utah State Senate district on January 1 immediately following the last regular general election;

(iii) the total number of certified signatures [~~received~~] obtained for the [~~submitted~~] initiative petition; and

(iv) the total number of certified signatures [~~received~~] obtained from each Utah State Senate district for the [~~submitted~~] initiative petition.

(2) (a) A person seeking to have an initiative submitted to a vote of the people for approval or rejection shall, after filing an initiative application, obtain:

(i) legal signatures equal to 8% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 26 Utah State Senate districts, legal signatures equal to 8% of the number of active voters in that district on January 1 immediately following the last regular general election.

(b) If an initiative petition meets the requirements of this part and the lieutenant governor declares that the initiative petition [~~to be~~] is signed by a sufficient number of voters to meet the requirements of Subsection (2)(a), the lieutenant governor shall submit the proposed law to a vote of the people at the next regular general election:

(i) immediately after the application is filed under Section 20A-7-202; and

(ii) specified on the petition under Section 20A-7-203.

(3) The lieutenant governor shall provide the following information to any interested person:

(a) the number of active voters in the state on January 1 immediately following the last regular general election; and

(b) for each Utah State Senate district, the number of active voters in that district on January 1 immediately following the last regular general election.

Section 3. Section 20A-7-202 is amended to read:

20A-7-202. Statewide initiative process -- Initiative application procedures -- Time to gather signatures -- Grounds for rejection.

(1) Individuals wishing to circulate an initiative petition shall file an initiative application with the lieutenant governor.

(2) The initiative application shall [~~contain~~] include:

(a) the name and residence address of at least five sponsors of the initiative petition;

(b) a statement indicating that each of the sponsors is registered to vote in Utah;

(c) a statement indicating whether the initiative will be presented to:

(i) the Legislature under Subsection 20A-7-201(1); or

(ii) a vote of the people under Subsection 20A-7-201(2);

[~~(c)~~] (d) the signature of each of the sponsors, attested to by a notary public;

[~~(d)~~] (e) a copy of the proposed law that includes, in the following order:

(i) the title of the proposed law, that clearly expresses the subject of the law;

(ii) a description of all proposed sources of funding for the costs associated with the proposed law, including the proposed percentage of total funding from each source; and

(iii) the text of the proposed law;

[~~(e)~~] (f) if the initiative [~~petition~~] proposes a tax increase, the following statement, "This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

[~~(f)~~] (g) a statement indicating whether persons gathering signatures for the initiative petition may be paid for gathering signatures.

(3) (a) An individual's status as a resident, under Subsection (2), is determined in accordance with Section 20A-2-105.

(b) The initiative application and the initiative application's contents are public when filed with the lieutenant governor.

(4) If the initiative petition fails to qualify for the ballot of the election described in Subsection 20A-7-201(2)(b), the sponsors shall:

(a) submit a new initiative application;

(b) obtain new signature sheets; and

(c) collect signatures again.

(5) The lieutenant governor shall reject [~~the~~] an initiative application or an initiative application addendum filed under Subsection [~~20A-7-204.1(5)~~] 20A-7-204.1(6) and not issue [~~circulation~~] signature sheets if:

(a) the proposed law:

[~~(a)~~] (i) [~~the law proposed by the initiative~~] is patently unconstitutional;

[~~(b)~~] (ii) [~~the law proposed by the initiative~~] is nonsensical;

[~~(c)~~] (iii) [~~the proposed law~~] could not become law if passed;

[~~(d)~~] (iv) [~~the proposed law~~] contains more than one subject as evaluated in accordance with Subsection (6); or

[~~(e) the subject of the proposed law is not clearly expressed in the law's title; or~~]

[~~(f)~~] (v) [~~the law proposed by the initiative~~] is identical or substantially similar to a law proposed by an initiative for which signatures were submitted to the county clerks and lieutenant governor for certification within two years preceding the date on which the initiative application for the new initiative is filed[~~.~~]; or

(b) the subject of the proposed law is not clearly expressed in the law's title.

(6) To evaluate whether the proposed law contains more than one subject under Subsection [~~(5)(d)~~] (5)(a)(iv), the lieutenant governor shall apply the same standard provided in Utah Constitution, Article VI, Section 22, which prohibits a bill from passing that contains more than one subject.

Section 4. Section 20A-7-202.5 is amended to read:

20A-7-202.5. Initial fiscal impact statement -- Preparation of statement -- Challenge to statement.

(1) Within three working days after the day on which the lieutenant governor receives an initiative application [~~for an initiative petition~~], the lieutenant governor shall submit a copy of the initiative application to the Office of the Legislative Fiscal Analyst.

(2) (a) The Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith initial fiscal impact [~~estimate of~~] statement for the proposed law [~~proposed by the initiative~~], not exceeding 100 words plus 100 words per revenue source created or impacted by the proposed law, that contains:

(i) a description of the total estimated fiscal impact of the proposed law over the time period or time periods determined by the Office of the Legislative Fiscal Analyst to be most useful in understanding the estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase taxes, decrease taxes, or impose a new tax, a dollar amount representing the total estimated increase or decrease for each type of tax affected under the proposed law, a dollar amount showing the estimated amount of a new tax, and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase a particular tax or tax rate, the tax percentage difference and the tax percentage increase for each tax or tax rate increased;

(iv) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

(v) a dollar amount representing the estimated cost or savings, if any, to state or local government entities under the proposed law;

(vi) if the proposed law would increase costs to state government, a listing of all sources of funding for the estimated costs; and

(vii) a concise description and analysis titled "Funding Source," not to exceed 100 words for each funding source, of the funding source information described in Subsection [~~20A-7-202(2)(d)(ii)~~] 20A-7-202(2)(e)(ii).

(b) If the proposed law is estimated to have no fiscal impact, the Office of the Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The Office of the Legislative Fiscal Analyst estimates that the law proposed by this initiative

would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(3) Within 25 calendar days after the day on which the lieutenant governor delivers a copy of the initiative application, the Office of the Legislative Fiscal Analyst shall:

(a) deliver a copy of the initial fiscal impact [~~estimate~~] statement to the lieutenant governor's office; and

(b) mail a copy of the initial fiscal impact [~~estimate~~] statement to the first five sponsors named in the initiative application.

(4) (a) (i) Three or more of the sponsors of the initiative petition may, within 20 calendar days after the day on which the Office of the Legislative Fiscal Analyst delivers the initial fiscal impact [~~estimate~~] statement to the lieutenant governor's office, file a petition with the appropriate court, alleging that the initial fiscal impact [~~estimate~~] statement, taken as a whole, is an inaccurate estimate of the fiscal impact of the initiative.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the petition filed with the court to:

(A) any person or group that has filed an argument with the lieutenant governor's office for or against the [~~measure~~] initiative that is the subject of the challenge; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the initial fiscal impact [~~estimate~~] statement prepared by the Office of the Legislative Fiscal Analyst is based upon reasonable assumptions, uses reasonable data, and applies accepted analytical methods to present the estimated fiscal impact of the initiative.

(ii) The court may not revise the contents of, or direct the revision of, the initial fiscal impact [~~estimate~~] statement unless the plaintiffs rebut the presumption by clear and convincing evidence that establishes that the initial fiscal [~~estimate~~] impact statement, taken as a whole, is an inaccurate statement of the estimated fiscal impact of the initiative.

(iii) The court may refer an issue related to the initial fiscal impact [~~estimate~~] statement to a master to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule 53.

(c) The court shall certify to the lieutenant governor a fiscal impact [~~estimate~~] statement for the [~~measure~~] initiative that meets the requirements of this section.

Section 5. Section 20A-7-202.7 is amended to read:

20A-7-202.7. Posting initiative information.

(1) Within one business day after the day on which the lieutenant governor receives the initial fiscal impact statement under Subsection 20A-7-202.5(3)(a), the lieutenant governor shall post the following information together in a conspicuous place on the lieutenant governor's website:

(a) the initiative application;

[~~(a)~~] (b) the initiative petition;

[~~(b)~~] (c) the [~~initiative~~] text of the proposed law;

[~~(c)~~] (d) the initial fiscal impact statement; and

[~~(d)~~] (e) information describing how an individual may remove the individual's signature from the [~~signature packet~~] initiative petition.

(2) The lieutenant governor shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the lieutenant governor's website until the initiative fails to qualify for the ballot or is passed or defeated at an election.

Section 6. Section 20A-7-203 is amended to read:

20A-7-203. Manual initiative process -- Form of initiative petition and signature sheets.

(1) This section applies only to the manual initiative process.

(2) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/ beginning on _____(month\day\year);

Each signer says:

I have personally signed this initiative petition;

The date next to my signature correctly reflects the date that I actually signed the initiative petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name.

NOTICE TO SIGNERS:

Public hearings to discuss this [~~petition~~] initiative were held at: (list dates and locations of public hearings.)".

(b) If the initiative [~~petition~~] proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (2)(a):

"This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(c) The sponsors of an initiative or an agent of the sponsors shall attach a copy of the proposed law to each initiative petition.

(3) Each initiative signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

(d) include a table immediately below the title of the initiative, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following statement, "By signing this initiative petition, you are stating that you have read and understand the law proposed by this initiative petition." in 12-point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include in the following order:

(i) the words "Fiscal Impact of" followed by the title of the initiative, in at least 12-point, bold type;

(ii) except as provided in Subsection (5), the initial fiscal impact [~~estimate's summary~~] statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A-7-202.5(2)(a), including any update in accordance with Subsection [~~20A-7-204.1(5)~~] 20A-7-204.1(6), in not less than 12-point type;

(iii) if the initiative [~~petition~~] proposes a tax increase, the following statement in 12-point, bold type:

"This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(iv) the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same [~~measure~~] initiative petition, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you

provide does not match your voter registration records."

(4) The final page of each initiative packet shall contain the following printed or typed statement:

Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this initiative packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law proposed by the initiative;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah.

Each individual who signed the initiative packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this [~~petition~~] initiative packet to encourage that individual to sign it.

_____
(Name) (Residence Address) (Date)

(5) If the initial fiscal impact [~~estimate~~] statement described in Subsection (3)(f)(ii), as updated in accordance with Subsection [~~20A-7-204.1(5)~~] 20A-7-204.1(6), exceeds 200 words, the Office of the Legislative Fiscal Analyst shall prepare a shorter summary statement, for the purpose of inclusion on [~~a~~] an initiative signature sheet, that does not exceed 200 words.

(6) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

(7) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A-2-105.

Section 7. Section 20A-7-204 is amended to read:

20A-7-204. Manual initiative process -- Circulation requirements -- Lieutenant governor to provide sponsors with materials.

(1) This section applies only to the manual initiative process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsection (3), circulate initiative packets that meet the form requirements of this part.

(3) The lieutenant governor shall [~~furnish to~~] provide the sponsors[~~:~~] with

[~~(a)~~] a copy of the initiative petition[~~,with any change submitted under Subsection 20A-7-204.1(5); and~~]

[~~(b)~~] and a signature sheet[~~.~~] within three days after the day on which the following conditions are fulfilled:

(a) the sponsors hold the final hearing required under Section 20A-7-204.1;

(b) the sponsors provide to the Office of the Lieutenant Governor the video tape, audio tape, or comprehensive minutes described in Subsection 20A-7-204.1(5) for each public hearing described in Section 20A-7-204.1;

(c) (i) the sponsors give written notice to the Office of the Lieutenant Governor that the sponsors waive the opportunity to change the text of the proposed law under Subsection 20A-7-204.1(6);

(ii) the deadline, described in Subsection 20A-7-204.1(6)(a), for changing the text of the proposed law passes without the sponsors filing an application addendum in accordance with Subsection 20A-7-204.1(6); or

(iii) if the sponsors file an application addendum in accordance with Subsection 20A-7-204.1(6), the Office of the Legislative Fiscal Analyst provides to the Office of the Lieutenant Governor:

(A) an updated initial fiscal impact statement, in accordance with Subsection 20A-7-204.1(6)(b); or

(B) a written notice indicating that no changes to the initial fiscal impact statement are necessary; and

(d) the sponsors sign an agreement, under Subsection (6)(a), with the Office of the Lieutenant Governor specifying the range of numbers that the sponsors will use to number the initiative packets.

(4) The sponsors of the [~~petition~~] initiative shall:

(a) arrange and pay for the printing of all [~~additional copies of the petition and signature sheets~~] documents that are part of the initiative packets; and

(b) ensure that the [~~copies of the petition and signature sheets~~] initiative packets and the documents described in Subsection (4)(a) meet the [~~form~~] requirements of this [~~section~~] part.

(5) (a) The sponsors or an agent of the sponsors may prepare the initiative packets for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create the initiative packets by binding a copy of the initiative petition with the text of the proposed law, including any modification made under Subsection 20A-7-204.1(6) and no more than 50 signature sheets together at the top in a manner that the initiative packets may be conveniently opened for signing.

(c) An initiative packet is not required to have a uniform number of signature sheets.

(6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number [~~signature~~] initiative packets; [~~and~~]

(ii) sign an agreement with the Office of the Lieutenant Governor, specifying the range of numbers that the sponsors will use to number the initiative packets; and

[~~(ii)~~] (iii) number each [~~signature~~] initiative packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number [~~a signature~~] an initiative packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit [~~a signature~~] an initiative packet that is not numbered in the manner directed by the lieutenant governor's office.

[~~(c) The lieutenant governor shall keep a record of the number range provided under Subsection (6)(a).~~]

Section 8. Section 20A-7-204.1 is amended to read:

20A-7-204.1. Public hearings to be held before initiative packets are circulated -- Changes to a proposed law or an initial fiscal impact statement.

(1) (a) After issuance of the initial fiscal impact [~~estimate~~] statement by the Office of the Legislative Fiscal Analyst and before circulating initiative [~~petitions~~] packets for signature statewide, sponsors of the initiative [~~petition~~] shall hold at least seven public hearings throughout Utah as follows:

(i) one in the Bear River region -- Box Elder, Cache, or Rich County;

(ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington County;

(iii) one in the Mountain region -- Summit, Utah, or Wasatch County;

(iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;

(v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;

(vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and

(vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber County.

(b) Of the seven public hearings, the sponsors of the initiative shall hold at least two of the public hearings in a first or second class county, but not in the same county.

(c) The sponsors may not hold a public hearing described in this section until the later of:

(i) one day after the day on which a sponsor receives a copy of the initial fiscal impact [~~estimate~~] statement under Subsection 20A-7-202.5(3)(b); or

(ii) if three or more sponsors file a petition for an action challenging the accuracy of the initial fiscal impact statement under Section 20A-7-202.5, the day after the day on which the action is final.

(2) The sponsors shall:

(a) before 5 p.m. at least [~~three~~] 10 calendar days before the date of the public hearing, provide written notice of the public hearing to:

(i) the lieutenant governor for posting on the state's website; and

(ii) each state senator, state representative, and county commission or county council member who is elected in whole or in part from the region where the public hearing will be held; and

(b) publish written notice of the public hearing, including the time, date, and location of the public hearing, in each county in the region where the public hearing will be held:

(i) (A) at least three calendar days before the day of the public hearing, in a newspaper of general circulation in the county;

(B) if there is no newspaper of general circulation in the county, at least three calendar days before the day of the public hearing, by posting one copy of the notice, and at least one additional copy of the notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents of the county; or

(C) at least seven days before the day of the public hearing, by mailing notice to each residence in the county; and

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601, for at least three calendar days before the day of the public hearing;~~]

(ii) in accordance with Section 45-1-101, for at least three calendar days before the day of the public hearing.

(3) The election officer for each county in the region where the public hearing is held shall ensure that written notice of the public hearing, including the time, date, and location of the public hearing, is published:

[~~(iii) in accordance with Section 45-1-101, for at least three calendar days before the day of the public hearing; and~~]

(a) on the Utah Public Notice Website created in Section 63A-16-601, for at least three calendar days before the day of the public hearing; and

[~~(iv)~~] (b) on the county's website for at least three calendar days before the day of the public hearing.

[~~(3)~~] (4) If the initiative [~~petition~~] proposes a tax increase, the written notice described in Subsection (2) shall include the following statement, in bold, in the same font and point size as the largest font and point size appearing in the notice:

"This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

[~~(4)~~] (5) (a) During the public hearing, the sponsors shall either:

(i) video tape or audio tape the public hearing [~~and, when the hearing is complete, deposit the complete audio or video tape of the meeting with the lieutenant governor~~]; or

(ii) take comprehensive minutes of the public hearing, detailing the names and titles of each speaker and summarizing each speaker's comments.

(b) The lieutenant governor shall make copies of the tapes or minutes available to the public.

(c) For each public hearing, the sponsors shall:

(i) during the entire time that the public hearing is held, post a copy of the initial fiscal impact statement in a conspicuous location at the entrance to the room where the sponsors hold the public hearing; and

(ii) place at least 50 copies of the initial fiscal impact statement, for distribution to public hearing attendees, in a conspicuous location at the entrance to the room where the sponsors hold the public hearing.

(d) Regardless of whether an individual is present to observe or speak at a public hearing:

(i) the sponsors may not end the public hearing until at least one hour after the public hearing begins; and

(ii) the sponsors shall provide at least one hour at the public hearing that is open for public comment.

[~~(5)~~] (6) (a) Before 5 p.m. within 14 days after the day on which the sponsors conduct the seventh public hearing described in Subsection (1)(a), and before circulating an initiative [~~petition~~] signature packet for signatures, the sponsors of the initiative [~~petition~~] may change the text of the proposed law if:

(i) a change to the text is:

(A) germane to the text of the proposed law filed with the lieutenant governor under Section 20A-7-202; and

(B) consistent with the requirements of Subsection 20A-7-202(5); and

(ii) each sponsor signs, attested to by a notary public, an application addendum to change the text of the proposed law.

(b) (i) Within three working days after the day on which the lieutenant governor receives an application addendum to change the text of the proposed law [~~in~~] for an initiative [~~petition~~], the lieutenant governor shall submit a copy of the application addendum to the Office of the Legislative Fiscal Analyst.

(ii) The Office of the Legislative Fiscal Analyst shall:

(A) update the initial fiscal impact [~~estimate~~] statement, by following the procedures and requirements of Section 20A-7-202.5 to reflect a change to the text of the proposed law[~~.~~]; or

(B) provide written notice to the Office of the Lieutenant Governor indicating that no changes to the initial fiscal impact statement are necessary.

Section 9. Section 20A-7-205 is amended to read:

20A-7-205. Manual initiative process -- Obtaining signatures -- Verification -- Removal of signature.

(1) This section applies only to the manual initiative process.

(2) A Utah voter may sign an initiative petition if the voter is a legal voter.

(3) (a) The sponsors shall ensure that the individual in whose presence each [~~signature sheet~~] initiative packet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each [~~signature sheet~~] initiative packet by completing the verification printed on the last page of each initiative packet; and

(iii) is informed that each signer is required to read and understand the law proposed by the initiative.

(b) An individual may not sign the verification printed on the last page of the initiative packet if the person signed a signature sheet in the initiative packet.

(4) (a) A voter who has signed an initiative petition may have the voter's signature removed from the initiative petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) for an initiative packet received by the county clerk before December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 90 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2); or

(ii) for an initiative packet received by the county clerk on or after December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2).

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection (4)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than the applicable deadline described in Subsection (4)(a).

(e) A person may only remove a signature from an initiative petition in accordance with this Subsection (4).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from an initiative petition, in accordance with Section 20A-7-206.3.

Section 10. Section 20A-7-206 is amended to read:

20A-7-206. Manual initiative process -- Submitting initiative packets -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) This section applies only to the manual initiative process.

(2) (a) The sponsors, or an agent of the sponsors, shall submit a signed and verified initiative packet to the county clerk of the county in which the initiative packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the initiative packet;

(ii) 316 days after the day on which the initiative application [~~for the initiative petition~~] is filed; or

(iii) the February 15 immediately before the next regular general election immediately after the initiative application is filed under Section 20A-7-202.

(b) A person may not submit an initiative packet after the deadline described in Subsection (2)(a).

(c) Before delivering [~~a~~] an initiative packet to the county clerk under Subsection (2), the sponsors shall send an email to each individual who provides a legible, valid email address on the form described in Subsection 20A-7-203(3)(d) that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature";

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(d) When the sponsors submit the final [~~signature~~] initiative packet to the county clerk, the sponsors shall submit to the county clerk the following written verification, completed and signed by each of the sponsors:

Verification of initiative sponsor

State of Utah, County of _____

I, _____, of _____, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative [~~petition~~] entitled _____;

I sent, or caused to be sent, to each individual who provided a legible, valid email address on [~~a signature~~] an initiative packet submitted to the county clerk in relation to the initiative [~~petition~~], the email described in Utah Code Subsection 20A-7-206(2)(c).

_____

(Name) (Residence Address) (Date)

(e) Signatures gathered for the initiative [~~petition~~] are not valid if the sponsors do not comply with this Subsection (2).

(3) The county clerk shall, within 21 days after the day on which the county clerk receives [~~the~~] an initiative packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the [~~petition~~] initiative packet whether each name is that of a registered voter;

(c) except as provided in Subsection (4), post the name, voter identification number, and date of signature of each registered voter certified under Subsection (3)(b) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(d) deliver the verified initiative packet to the lieutenant governor.

(4) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-205(4), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not

included in the posting described in Subsection (3)(c); and

(ii) remove the voter's signature from the [~~signature packets and signature packet~~] initiative petition and the signature totals.

(b) The county clerk shall comply with Subsection (4)(a) before the later of:

(i) the deadline described in Subsection (3); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-205(4).

(5) The county clerk may not certify a signature under Subsection (3):

(a) on an initiative packet that is not verified in accordance with Section 20A-7-205; or

(b) that does not have a date of signature next to the signature.

(6) A person may not retrieve an initiative packet from a county clerk, or make any alterations or corrections to an initiative packet, after the initiative packet is submitted to the county clerk.

Section 11. Section 20A-7-206.1 is amended to read:

20A-7-206.1. Provisions relating only to process for submitting an initiative to the Legislature for approval or rejection.

(1) This section relates only to the process, described in Subsection 20A-7-201(1), for submitting an initiative to the Legislature for approval or rejection.

(2) Notwithstanding Section 20A-7-205, in order to qualify an initiative petition for submission to the Legislature, the sponsors, or an agent of the sponsors, shall deliver each signed and verified initiative packet to the county clerk of the county in which the initiative packet was circulated before 5 p.m. no later than November 15 before the next annual general session of the Legislature immediately after the initiative application is filed under Section 20A-7-202.

(3) Notwithstanding Section 20A-7-205, no later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative for submission to the Legislature:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the [~~petition~~] initiative packet whether each name is that of a registered voter; and

(c) deliver the verified packets to the lieutenant governor.

(4) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(5) A person may not retrieve an initiative packet from a county clerk, or make any alterations or corrections to an initiative packet, after the initiative packet is submitted to the county clerk.

Section 12. Section 20A-7-206.3 is amended to read:

20A-7-206.3. Verification of petition signatures.

(1) As used in this section:

(a) "Substantially similar name" means:

(i) the given name [~~and~~], the surname [~~shown on the petition~~], or both, provided by the individual with the individual's petition signature, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) "Substantially similar name" does not include a name having an initial or a middle name [~~shown on the petition~~] provided by the individual with the individual's petition signature that does not match a different initial or middle name shown on the official register.

(2) In relation to an individual who signs an initiative petition with a holographic signature, the county clerk shall use the following procedures in determining whether a signer is a registered voter:

(a) if a signer's name and address [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid;

(b) if there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address [~~on the petition~~] provided by the individual with the individual's petition signature matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age [~~on the petition~~] provided by the individual with the individual's petition signature matches the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(c)(i); and

(d) if a signature is not declared valid under Subsection (2)(a), (b), or (c), the county clerk shall declare the signature to be invalid.

(3) In relation to an individual who, with a holographic signature, signs a statement to remove the individual's signature from an initiative petition, the county clerk shall use the following procedures in determining whether to remove a signature from [~~a~~] an initiative petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the initiative petition exactly match a name and address shown on the official register and the signer's [~~signature~~] signatures on both the statement and the initiative petition [~~appears~~] appear substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the initiative petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the initiative petition if:

(i) the address on the statement and the [~~petition matches~~] address provided by the individual with the individual's petition signature match the address of an individual on the official register with a substantially similar name; and

(ii) the signer's [~~signature~~] signatures on both the statement and the initiative petition [~~appears~~] appear substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the initiative petition if:

(i) the birth date or age on the statement and [~~petition~~] the birth date or age provided by the individual with the individual's petition signature match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's [~~signature~~] signatures on both the statement and the initiative petition [~~appears~~] appear substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the initiative petition.

Section 13. Section 20A-7-207 is amended to read:

20A-7-207. Evaluation by the lieutenant governor.

(1) In relation to the manual initiative process, when the lieutenant governor receives an initiative packet from a county clerk, the lieutenant governor shall record the number of the initiative packet received.

(2) The county clerk shall:

(a) in relation to the manual initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-206(3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor:

(A) for an initiative packet received by the county clerk before December 1, for at least 90 days; or

(B) for an initiative packet received by the county clerk on or after December 1, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-217(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor:

(A) for a signature received by the county clerk before December 1, for at least 90 days; or

(B) for a signature received by the county clerk on or after December 1, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The lieutenant governor:

(a) shall, except as provided in Subsection (3)(b), declare the initiative petition to be sufficient or insufficient on April 30 before the regular general election described in Subsection 20A-7-201(2)(b); or

(b) may declare the initiative petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual initiative process, the total of all valid signatures on timely and lawfully submitted [~~signature~~] initiative packets that have been certified by the county clerks, plus the number

of signatures on timely and lawfully submitted [~~signature~~] initiative packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-201;

(ii) in relation to the electronic initiative process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-201; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required under Section 20A-7-201, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the initiative petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-201 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the initiative petition the word "insufficient."

(c) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(5) After [~~a~~] an initiative petition is declared insufficient, a person may not submit additional signatures to qualify the [~~petition~~] initiative for the ballot.

(6) (a) If the lieutenant governor refuses to [~~accept and file~~] declare an initiative petition sufficient that a voter believes is legally sufficient, the voter may, no later than May 15, apply to the appropriate court for an [~~extraordinary writ to compel the lieutenant governor to accept and file~~] order finding the initiative petition legally sufficient.

(b) If the court determines that the initiative petition is legally sufficient, the lieutenant governor shall [~~file the petition, with a verified copy of the judgment attached to the petition,~~] mark the petition "sufficient" and consider the declaration of sufficiency effective as of the date on which the initiative petition [~~was originally offered for filing in~~] should have been declared sufficient by the lieutenant governor's office.

(c) If the court determines that [~~a~~] the initiative petition [~~filed~~] is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(7) [~~A~~] An initiative petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 14. Section 20A-7-208 is amended to read:

20A-7-208. Disposition of initiative petitions by the Legislature.

(1) (a) Except as provided in Subsection (1)(b), when the lieutenant governor delivers an initiative petition to the Legislature, the law proposed by that initiative petition shall be either enacted or rejected without change or amendment by the Legislature.

(b) The speaker of the House and the president of the Senate may direct legislative staff to make technical corrections authorized by Section 36-12-12.

(c) If any law proposed by an initiative petition is enacted by the Legislature, the law is subject to referendum the same as other laws.

(2) If any law proposed by [~~a~~] an initiative petition is not enacted by the Legislature, that proposed law shall be submitted to a vote of the people at the next regular general election if:

(a) sufficient additional signatures to the petition are first obtained to bring the total number of signatures up to the number required by Subsection 20A-7-201(2); and

(b) those additional signatures are verified, certified by the county clerks, and declared sufficient by the lieutenant governor as provided in this part.

Section 15. Section 20A-7-209 is amended to read:

20A-7-209. Short title and summary of initiative -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) On or before June 5 before the regular general election, the lieutenant governor shall deliver a copy of all of the proposed laws that have qualified for the ballot to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each [~~state~~] statewide initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(ii) prepare for each initiative:

(A) an impartial short title, not exceeding 25 words, that generally describes the subject of the initiative; and

(B) an impartial summary of the contents of the [~~measure~~] initiative, not exceeding 125 words; and

(iii) [~~return each petition,~~] provide each short title[~~,~~] and summary to the lieutenant governor on or before June 26.

(b) The short title and summary may be distinct from the title of the proposed law[~~, attached to the initiative petition~~].

(c) If the initiative proposes a tax increase, the Office of Legislative Research and General Counsel shall include the following statement, in bold, in the summary:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(d) For each [~~state~~] statewide initiative, the official ballot shall show, in the following order:

(i) the number of the initiative, determined in accordance with Section 20A-6-107;

(ii) the short title; and

(iii) the initial fiscal impact [~~estimate~~] statement prepared under Section 20A-7-202.5, as updated under Section 20A-7-204.1.

(e) For each ballot that includes an initiative or referendum, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative and referendum on the ballot and a link to a location on the lieutenant governor's website where a voter may review additional information relating to each initiative or referendum, including:

(i) for an initiative, the information described in Subsection 20A-7-202(2), the fiscal impact [~~estimate~~] statement described in Section 20A-7-202.5, as updated, and the arguments relating to the initiative that are included in the voter information pamphlet; or

(ii) for a referendum, the information described in Subsection 20A-7-302(2) and the arguments relating to the referendum that are included in the voter information pamphlet.

(f) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."

(3) On or before June 27, the lieutenant governor shall mail a copy of the short title and summary to any sponsor of the petition.

(4) (a) (i) At least three of the sponsors of the petition may, on or before July 6, challenge the wording of the short title and summary prepared by the Office of Legislative Research and General Counsel to the appropriate court.

(ii) After receipt of the challenge, the court shall direct the lieutenant governor to send notice of the challenge to:

(A) any person or group that has filed an argument for or against the [~~measure~~] initiative that is the subject of the challenge; or

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the individual designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the short title prepared by the Office of Legislative Research and General Counsel is an impartial description of the contents of the initiative.

(ii) The court may not revise the wording of the short title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the short title is false or biased.

(iii) There is a presumption that the summary prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the initiative.

(iv) The court may not revise the wording of the summary unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the summary is false or biased.

(c) The court shall:

(i) examine the short title and summary;

(ii) hear arguments; and

(iii) enter an order consistent with the requirements of this section.

(d) The lieutenant governor shall, in accordance with the court's order, certify the short title and summary to the county clerks for inclusion in the ballot and ballot proposition insert, as required by this section.

Section 16. Section 20A-7-211 is amended to read:

20A-7-211. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the state board of canvassers completes the canvass, the lieutenant governor shall certify to the governor the vote for and against the law proposed by the initiative petition.

(3) (a) The governor shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the state for and against each law proposed by an initiative petition; and

(ii) declares those laws proposed by an initiative petition that [~~were~~] are approved by majority vote to be in full force and effect on the date described in Subsection 20A-7-212(2).

(b) When the governor believes that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, the governor shall proclaim [~~that measure to be law~~] as law the initiative that receives the greatest number of affirmative votes, regardless of

the difference in the majorities which those [~~measures~~] initiatives receive.

(c) Within 10 days after the day of the governor's proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the governor to be superseded by another [~~measure~~] initiative approved at the same election may bring an action in the appropriate court to review the governor's decision.

(4) Within 10 days after the day on which the court issues an order in an action described in Subsection (3)(c), the governor shall:

(a) proclaim as law all [~~those measures~~] initiatives approved by the people [~~as law~~] that the court determines are not entirely in conflict; and

(b) of [~~all those measures~~] the initiatives approved by the people [~~as law~~] that the court determines to be entirely in conflict, proclaim as law, regardless of the difference in majorities, the law that receives the greatest number of affirmative votes, to be in full force and effect on the date described in Subsection 20A-7-212(2).

Section 17. Section 20A-7-213 is amended to read:

20A-7-213. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for [~~any person~~] an individual to:

(a) sign any name other than the [~~person's~~] individual's own to an initiative petition or a statement described in Subsection 20A-7-205(4) or 20A-7-216(4);

(b) knowingly sign the [~~person's~~] individual's name more than once for the same [~~measure~~] initiative at one election;

(c) knowingly indicate that [~~a person~~] an individual who signed an initiative petition signed the initiative petition on a date other than the date that the [~~person~~] individual signed the initiative petition;

(d) sign an initiative petition knowing the [~~person~~] individual is not a legal voter; or

(e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for [~~any person~~] an individual to sign the verification for an initiative packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9), knowing that:

(a) the [~~person~~] individual does not meet the residency requirements of Section 20A-2-105;

(b) the signature date associated with the [~~person's~~] individual's signature for the initiative petition is not the date that the [~~person~~] individual signed the initiative petition;

(c) the [~~person~~] individual has not witnessed the signatures of those [~~persons~~] individuals whose signatures the [~~person~~] individual collects or submits; or

(d) one or more individuals who signed the initiative petition are not registered to vote in Utah.

(3) It is unlawful for [~~any person~~] an individual to:

(a) pay [~~a person~~] an individual to sign an initiative petition;

(b) pay [~~a person~~] an individual to remove the [~~person's~~] individual's signature from an initiative petition;

(c) accept payment to sign an initiative petition; or

(d) accept payment to have the [~~person's~~] individual's name removed from an initiative petition.

(4) [~~Any person violating~~] A violation of this section is [~~guilty of~~] a class A misdemeanor.

Section 18. Section 20A-7-214 is amended to read:

20A-7-214. Fiscal review -- Repeal, amendment, or resubmission.

(1) No later than 60 days after the date of an election in which the voters approve an initiative [~~petition~~], the Office of the Legislative Fiscal Analyst shall:

(a) for each initiative approved by the voters, prepare a final fiscal impact statement, using current financial information and containing the information required by Subsection 20A-7-202.5(2); and

(b) deliver a copy of the final fiscal impact statement to:

(i) the president of the Senate;

(ii) the minority leader of the Senate;

(iii) the speaker of the House of Representatives;

(iv) the minority leader of the House of Representatives; and

(v) the first five sponsors listed on the initiative application.

(2) If the final fiscal impact statement exceeds the estimate in the initial fiscal impact [~~estimate~~] statement by 25% or more, the Legislature shall review the final fiscal impact statement and may, in any legislative session following the election in which the voters [~~approved~~] approve the initiative [~~petition~~]:

(a) repeal the law established by passage of the initiative;

(b) amend the law established by passage of the initiative; or

(c) pass a joint or concurrent resolution informing the voters that they may file an initiative petition to repeal the law enacted by [~~the~~] passage of the initiative.

Section 19. Section 20A-7-215 is amended to read:

20A-7-215. Electronic initiative process -- Form of initiative petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic initiative process.

(2) (a) The first screen presented on the approved device shall include the following statement:

"This INITIATIVE PETITION is addressed to the Honorable ____, Lieutenant Governor:

The citizens of Utah who sign this petition respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/beginning on _____(month\day\year)."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3) (a) The second screen presented on the approved device shall include the following statement:

"Public hearings to discuss this [~~petition~~] initiative were held at: (list dates and locations of public hearings.)".

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(4) (a) The third screen presented on the approved device shall include the title of proposed law, described in Subsection [~~20A-7-202(2)(d)(i)~~] 20A-7-202(2)(e)(i), followed by the entire text of the proposed law.

(b) An individual may not advance to the fourth screen until the individual clicks a link at the bottom of the third screen stating, "By clicking here, I attest that I have read and understand the entire text of the proposed law."

(5) Subsequent screens shall be presented on the device in the following order, with the individual viewing the device being required, before advancing to the next screen, to click a link at the bottom of the screen with the following statement: "By clicking here, I attest that I have read and understand the information presented on this screen.":

(a) a description of all proposed sources of funding for the costs associated with the proposed law, including the proposed percentage of total funding from each source;

(b) (i) if the initiative [~~petition~~] proposes a tax increase, the following statement, "This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; or

(ii) if the initiative [~~petition~~] does not propose a tax increase, the following statement, "This initiative [~~petition~~] does not propose a tax increase.";

(c) the initial fiscal impact [~~estimate's summary~~] statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A-7-202.5(2)(a), including any update in accordance with Subsection [~~20A-7-204.1(5)~~] 20A-7-204.1(6);

(d) a statement indicating whether persons gathering signatures for the initiative petition may be paid for gathering signatures; and

(e) the following statement, followed by links where the individual may click "yes" or "no":

"I have personally reviewed the entirety of each statement presented on this device;

I am personally signing this initiative petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same [~~measure~~] initiative petition, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

WARNING

Even if your voter registration record is classified as private, your name, voter identification number, and date of signature in relation to signing this initiative petition will be made public.

Do you wish to continue and sign this initiative petition?"

(6) (a) If the individual clicks "no" in response to the question described in Subsection (5)(e), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (5)(e), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the initiative petition through the signature process described in Section 20A-21-201.

Section 20. Section 20A-7-216 is amended to read:

20A-7-216. Electronic initiative process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic initiative process.

(2) A Utah voter may sign an initiative petition if the voter is a legal voter.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law proposed by the initiative.

(4) A voter who has signed an initiative petition may have the voter's signature removed from the initiative petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(a) for an electronic signature gathered before December 1:

(i) 30 days after the day on which the voter signs the signature removal statement; or

(ii) 90 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-217(4); or

(b) for an electronic signature gathered on or after December 1:

(i) 30 days after the day on which the voter signs the signature removal statement; or

(ii) 45 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-217(4).

(5) (a) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (5)(a)(iii).

(b) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a signature removal statement by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(d) A person may only remove an electronic signature from an initiative petition in accordance with this section.

(e) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from an initiative petition, in accordance with Section 20A-7-206.3.

Section 21. Section 20A-7-217 is amended to read:

20A-7-217. Electronic initiative process -- Collecting signatures -- Email notification -- Removal of signatures.

(1) This section applies only to the electronic initiative process.

(2) A signature-gatherer may not collect a signature after 5 p.m., the earlier of:

(a) 316 days after the day on which the initiative application [~~for the initiative petition~~] is filed; or

(b) the February 15 immediately before the next regular general election immediately after the initiative application is filed under Section 20A-7-202.

(3) The lieutenant governor shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the text of the law proposed by the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the initiative petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs [~~a~~] an initiative petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor.

(5) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-216(4), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the initiative petition and the initiative petition signature totals.

(b) The county clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-216(4).

Section 22. Section 20A-7-301 is amended to read:

20A-7-301. Referendum -- Signature requirements -- Submission to voters.

(1) (a) A person seeking to have a law passed by the Legislature submitted to a vote of the people shall, after filing a referendum application, obtain:

(i) legal signatures equal to 8% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 15 Senate districts, legal signatures equal to 8% of the number of active voters in that Senate district on January 1 immediately following the last regular general election.

(b) When the lieutenant governor declares that a referendum petition is signed by a sufficient [~~under this part~~] number of voters to meet the requirements of Subsection (1)(a), the governor shall issue an executive order that:

(i) directs that the referendum be submitted to the voters at the next regular general election; or

(ii) calls a special election according to the requirements of Section 20A-1-203 and directs that the referendum be submitted to the voters at that special election.

(2) When the lieutenant governor declares that a referendum petition [~~has been declared~~] is signed by a sufficient number of voters, the law that is the subject of the petition does not take effect unless and until it is approved by a vote of the people at a regular general election or a statewide special election.

(3) The lieutenant governor shall provide the following information to any interested person:

(a) the number of active voters in the state on January 1 immediately following the last regular general election; and

(b) for each county, the number of active voters in that Senate district on January 1 immediately following the last regular general election.

Section 23. Section 20A-7-302 is amended to read:

20A-7-302. Referendum process -- Application procedures.

(1) Individuals wishing to circulate a referendum petition shall file [~~an~~] a referendum application with the lieutenant governor before 5 p.m. within five calendar days after the day on which the legislative session at which the law passed ends.

(2) The referendum application shall [~~contain~~] include:

(a) the name and residence address of at least five sponsors of the referendum petition;

(b) a statement indicating that each of the sponsors is registered to vote in Utah;

(c) a statement indicating whether persons gathering signatures for the referendum petition may be paid for gathering signatures;

(d) the signature of each of the sponsors, attested to by a notary public; and

(e) a copy of the law that is the subject of the proposed referendum.

Section 24. Section 20A-7-303 is amended to read:

20A-7-303. Manual referendum process -- Form of referendum petition and signature sheets.

(1) This section applies only to the manual referendum process.

(2) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully order that Senate (or House) Bill No. ____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by the Legislature of the state of Utah during the ____ Session, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election;

Each signer says:

I have personally signed this referendum petition;

The date next to my signature correctly reflects the date that I actually signed the referendum petition;

I have personally reviewed the entire statement included with this referendum packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name.".

(b) The sponsors of a referendum or an agent of the sponsors shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(3) Each referendum signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the referendum printed below the horizontal line, in at least 14-point, bold type;

(d) include a table immediately below the title of the referendum, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words "By signing this referendum petition, you are stating that you have read and understand the law that this referendum petition seeks to overturn." in 12-point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same [~~measure~~] referendum petition, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each referendum packet shall contain the following printed or typed statement:

Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a Utah resident and am at least 18 years old;

All the names that appear in this referendum packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah.

Each individual who signed the referendum packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this [~~petition~~] referendum packet to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date).

(5) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

(6) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A-2-105.

Section 25. Section 20A-7-304 is amended to read:

20A-7-304. Manual referendum process -- Circulation requirements -- Lieutenant

governor to provide sponsors with materials.

(1) This section applies only to the manual referendum process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsection (3), circulate referendum packets that meet the form requirements of this part.

(3) The lieutenant governor shall [~~furnish to~~] provide the sponsors[~~:~~] with

[~~(a)~~] a copy of the referendum petition[~~;~~] and

[~~(b)~~] a signature sheet[~~.~~] within three days after the day on which the sponsors sign an agreement, under Subsection (6)(a), with the Office of the Lieutenant Governor specifying the range of numbers that the sponsors will use to number the referendum packets.

(4) The sponsors of the referendum petition shall:

(a) arrange and pay for the printing of [~~all additional copies of the petition and signature sheets~~] all documents that are part of the referendum packets; and

(b) ensure that the [~~copies of the petition and signature sheets~~] referendum packets and the documents described in Subsection (4)(a) meet the form requirements of this section.

(5) (a) The sponsors or an agent of the sponsors may prepare the referendum packets for circulation by creating multiple referendum packets.

(b) The sponsors or an agent of the sponsors shall create referendum packets by binding a copy of the referendum petition with the text of the law that is the subject of the referendum and no more than 50 signature sheets together at the top in a manner that the referendum packets may be conveniently opened for signing.

(c) A referendum packet is not required to have a uniform number of signature sheets.

(6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number [~~signature~~] referendum packets; [~~and~~]

(ii) sign an agreement with the Office of the Lieutenant Governor, specifying the range of numbers that the sponsor will use to number the referendum packets; and

[~~(ii)~~] (iii) number each [~~signature~~] referendum packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a [~~signature~~] referendum packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit a [~~signature~~] referendum packet that is not numbered in the manner directed by the lieutenant governor's office.

[~~(c) The lieutenant governor shall keep a record of the number range provided under Subsection (6)(a).~~]

Section 26. Section 20A-7-304.5 is amended to read:

20A-7-304.5. Posting referendum information.

(1) On the day on which the lieutenant governor complies with Subsection 20A-7-304(3), or provides the sponsors with access to the website defined in Section 20A-21-101, the lieutenant governor shall post the following information together in a conspicuous place on the lieutenant governor's website:

(a) the referendum petition;

(b) a copy of the law that is the subject of the referendum petition; and

(c) information describing how an individual may remove the individual's signature from the referendum petition.

(2) The lieutenant governor shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the lieutenant governor's website until the referendum fails to qualify for the ballot or is passed or defeated at an election.

Section 27. Section 20A-7-305 is amended to read:

20A-7-305. Manual referendum process -- Obtaining signatures -- Verification -- Removal of signature.

(1) This section applies only to the manual referendum process.

(2) A Utah voter may sign a referendum petition if the voter is a legal voter.

(3) (a) The sponsors shall ensure that the individual in whose presence each [~~signature sheet~~] referendum packet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each [~~signature sheet~~] referendum packet by completing the verification printed on the last page of each referendum packet; and

(iii) is informed that each signer is required to read and understand the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of the referendum packet if the person signed a signature sheet in the referendum packet.

(4) (a) A voter who has signed a referendum petition may have the voter's signature removed from the referendum petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-307(2).

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection (4)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-307(2).

(e) A person may only remove a signature from a referendum petition in accordance with this Subsection (4).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from a referendum petition, in accordance with Section 20A-7-306.3.

Section 28. Section 20A-7-306 is amended to read:

20A-7-306. Manual referendum process -- Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) This section applies only to the manual referendum process.

(2) (a) The sponsors, or an agent of the sponsors, shall submit a signed and verified referendum packet to the county clerk of the county in which the referendum packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the referendum packet; or

(ii) 40 days after the day on which the legislative session at which the law passed ends.

(b) A person may not submit a referendum packet after the deadline described in Subsection (2)(a).

(3) No later than 21 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-306.3;

(b) certify on the [~~petition~~] referendum packet whether each name is that of a registered voter;

(c) except as provided in Subsection (4), post the name, voter identification number, and date of signature of each registered voter certified under Subsection (3)(b) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(d) deliver the verified referendum packet to the lieutenant governor.

(4) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-305(4), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (3)(c); and

(ii) remove the voter's signature from the [~~signature packets and signature packet~~] referendum petition and the signature totals.

(b) The county clerk shall comply with Subsection (4)(a) before the later of:

(i) the deadline described in Subsection (3); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-305(4).

(5) The county clerk may not certify a signature under Subsection (3):

(a) on [~~an initiative~~] a referendum packet that is not verified in accordance with Section 20A-7-305; or

(b) that does not have a date of signature next to the signature.

(6) A person may not retrieve a referendum packet from a county clerk, or make any alterations or corrections to a referendum packet, after the referendum packet is submitted to the county clerk.

Section 29. Section 20A-7-306.3 is amended to read:

20A-7-306.3. Verification of petition signatures.

(1) As used in this section:

(a) "Substantially similar name" means:

(i) the given name [~~and~~], the surname [~~shown on the petition~~], or both, provided by the individual with the individual's petition signature contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname [~~shown on the petition~~] provided by the individual with the individual's petition

signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) "Substantially similar name" does not include a name having an initial or a middle name [~~shown on the petition~~] provided by the individual with the individual's petition signature that does not match a different initial or middle name shown on the official register.

(2) In relation to an individual who signs a referendum petition with a holographic signature, the county clerk shall use the following procedures in determining whether a signer is a registered voter:

(a) [~~When~~] if a signer's name and address [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid[~~.~~];

(b) [~~When~~] if there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address [~~on the petition~~] provided by the individual with the individual's petition signature matches the address of a person on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the person described in Subsection (2)(b)(i)[~~.~~];

(c) [~~When~~] if there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age [~~on the petition~~] provided by the individual with the individual's petition signature matches the birth date or age of a person on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the person described in Subsection (2)(c)(i)[~~.~~]; and

(d) [~~If~~] if a signature is not declared valid under Subsection (2)(a), (b), or (c), the county clerk shall declare the signature to be invalid.

(3) In relation to an individual who, with a holographic signature, signs a statement to remove the individual's signature from a referendum petition, the county clerk shall use the following procedures in determining whether to remove a signature from a referendum petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the referendum petition exactly match a name and address shown on the official register and the signer's [~~signature~~] signatures on both the statement and the referendum petition [~~appears~~] appear substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the referendum petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the referendum petition if:

(i) the address on the statement and the [~~petition matches~~] address provided by the individual with the individual's petition signature match the address of an individual on the official register with a substantially similar name; and

(ii) the signer's [~~signature~~] signatures on both the statement and the referendum petition [~~appears~~] appear substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the referendum petition if:

(i) the birth date or age on the statement and [~~petition~~] the birth date or age provided by the individual with the individual's petition signature match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's [~~signature~~] signatures on both the statement and the referendum petition [~~appears~~] appear substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the referendum petition.

Section 30. Section 20A-7-307 is amended to read:

20A-7-307. Evaluation by the lieutenant governor.

(1) In relation to the manual referendum process, when the lieutenant governor receives a referendum packet from a county clerk, the

lieutenant governor shall record the number of the referendum packet received.

(2) The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection [~~20A-7-306(2)(c)~~] 20A-7-306(3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-315(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The lieutenant governor:

(a) shall, except as provided in Subsection (3)(b), declare the referendum petition to be sufficient or insufficient 106 days after the end of the legislative session at which the law passed; or

(b) may declare the referendum petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted [~~signature~~] referendum packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted [~~signature~~] referendum packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301;

(ii) in relation to the electronic referendum process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required under Section 20A-7-301, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the referendum petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-301 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the referendum petition the word "insufficient."

(c) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(d) After a referendum petition is declared insufficient, a person may not submit additional signatures to qualify the [~~petition~~] referendum for the ballot.

(5) (a) If the lieutenant governor refuses to [~~accept and file~~] declare a referendum petition sufficient that a voter believes is legally sufficient, the voter may, no later than 10 days after the day on which the lieutenant governor declares the petition insufficient, apply to the appropriate court for [~~an extraordinary writ to compel the lieutenant governor to accept and file~~] an order finding the referendum petition legally sufficient.

(b) If the court determines that the referendum petition is legally sufficient, the lieutenant governor shall [~~file the petition, with a verified copy of the judgment attached to the referendum petition,~~] mark the referendum petition "sufficient" and consider the declaration of sufficiency effective as of the date on which the referendum petition [~~was originally offered for filing in~~] should have been declared sufficient by the lieutenant governor's office.

(c) If the court determines that a referendum petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(6) A referendum petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 31. Section 20A-7-308 is amended to read:

20A-7-308. Short title and summary of referendum -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) Whenever a referendum petition is declared sufficient for submission to a vote of the people, the lieutenant governor shall deliver a copy of the referendum petition and the [~~proposed law~~] law to which the referendum relates to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each [~~state~~] statewide referendum that qualifies for the ballot "Proposition Number __" and assign a number to the referendum in accordance with Section 20A-6-107;

(ii) prepare for each referendum:

(A) an impartial short title, not exceeding 25 words, that generally describes the [~~measure~~] law to which the referendum relates; and

(B) an impartial summary of the contents of the [~~measure~~] law to which the referendum relates, not exceeding 125 words; and

(iii) submit the short title and summary to the lieutenant governor within 15 days after the day on which the Office of Legislative Research and General Counsel receives the petition under Subsection (1).

(b) The short title and summary may be distinct from the title of the law that is the subject of the [~~petition~~] referendum.

(c) For each [~~state~~] statewide referendum, the official ballot shall show, in the following order:

(i) the number of the referendum, determined in accordance with Section 20A-6-107; and

(ii) the short title described in this section.

(d) For each ballot that includes an initiative or referendum, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative and referendum on the ballot and a link to a location on the lieutenant governor's website where a voter may review additional information relating to each initiative or referendum, including:

(i) for an initiative, the information described in Subsection 20A-7-202(2), the fiscal impact [~~estimate~~] statement described in Section 20A-7-202.5, as updated, and the arguments relating to the initiative that are included in the voter information pamphlet; or

(ii) for a referendum, the information described in Subsection 20A-7-302(2) and the arguments relating to the referendum that are included in the voter information pamphlet.

(e) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."

(3) Immediately after the Office of Legislative Research and General Counsel submits the short title and summary to the lieutenant governor, the lieutenant governor shall mail or email a copy of the short title and summary to any of the sponsors of the referendum petition.

(4) (a) (i) At least three of the sponsors of the referendum petition may, within 15 days after the day on which the lieutenant governor mails the short title and summary, challenge the wording of the short title and summary prepared by the Office of Legislative Research and General Counsel to the appropriate court.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the appeal to:

(A) any person or group that has filed an argument for or against the [~~measure that is the subject of the challenge~~] law to which the referendum relates; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the referendum.

(b) (i) There is a presumption that the short title prepared by the Office of Legislative Research and General Counsel is an impartial description of the contents of the referendum.

(ii) The court may not revise the wording of the short title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the short title is false or biased.

(iii) There is a presumption that the summary prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the [~~measure~~] law to which the referendum relates.

(iv) The court may not revise the wording of the summary unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the summary is false or biased.

(c) The court shall:

(i) examine the short title and summary;

(ii) hear arguments; and

(iii) enter an order consistent with the requirements of this section.

(d) The lieutenant governor shall, in accordance with the court's order, certify the short title and summary to the county clerks for inclusion in the ballot or ballot proposition insert, as required by this section.

Section 32. Section 20A-7-309 is amended to read:

20A-7-309. Form of ballot -- Manner of voting.

(1) A county clerk shall ensure that the number and ballot title certified by the lieutenant governor are presented upon the official ballot with, immediately adjacent to the number and ballot title, the words "For" and "Against," each word presented with an adjacent square in which a voter may indicate the voter's vote.

(2) (a) (i) A voter desiring to vote in favor of the law that is the subject of the referendum shall mark the square adjacent to the word "For."

(ii) The law that is the subject of the referendum takes effect if a majority of voters mark "For."

(b) (i) A voter desiring to vote against the law that is the subject of the referendum [~~petition~~] shall mark the square adjacent to the word "Against."

(ii) The law that is the subject of the referendum does not take effect if a majority of voters mark "Against."

Section 33. Section 20A-7-310 is amended to read:

20A-7-310. Return and canvass -- Conflicting measures.

(1) The votes on the law [~~proposed by~~] that is the subject of the referendum petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the state board of canvassers completes its canvass, the lieutenant governor shall certify to the governor the vote for and against the law [~~proposed by~~] that is the subject of the referendum petition.

(3) (a) The governor shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the state for and against each law [~~proposed by~~] that is the subject of a referendum petition; and

(ii) declares those laws [~~proposed by~~] that are the subject of a referendum petition that [~~were~~] are approved by majority vote to be in full force and effect as the law of Utah on the effective date described in Section 20A-7-311.

(b) When the governor [~~believes~~] determines that two [~~proposed~~] laws, or that parts of two [~~proposed~~] laws approved by the people at the same election are entirely in conflict, the governor shall proclaim [~~that measure~~] to be law the law that [~~has~~] received the greatest number of affirmative votes, regardless of the difference in the majorities which those [~~measures have~~] approved laws received.

(4) (a) Within 10 days after the [~~governor's~~] day on which the governor issues the proclamation described in Subsection (3), any qualified voter who signed the referendum petition [~~proposing~~] for the law that is declared by the governor to be superseded by another [~~measure~~] law approved at the same election may apply to the appropriate court to review the governor's decision.

(b) The court shall:

(i) consider the matter and decide whether the [~~proposed~~] approved laws are in conflict; and

(ii) enter an order consistent with the court's decision.

(5) Within 10 days after the day on which the court enters an order described in Subsection (4)(b)(ii), the governor shall:

(a) proclaim as law all those [~~measures~~] laws approved by the people [~~as law~~] that the court determines are not in conflict; and

(b) of all those [~~measures~~] laws approved by the people as law that the court determines to be in conflict, proclaim as law the one that receives the greatest number of affirmative votes, regardless of difference in majorities.

Section 34. Section 20A-7-311 is amended to read:

20A-7-311. Temporary stay -- Effective date -- Effect of repeal by Legislature.

(1) If, at the time during the counting period described in Section 20A-7-307, the lieutenant governor determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the lieutenant governor shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

(2) The temporary stay described in Subsection (1) remains in effect, regardless of whether a future count falls below the signature threshold, until the day on which:

(a) if the lieutenant governor declares the referendum petition insufficient, five days after the day on which the lieutenant governor declares the referendum petition insufficient; or

(b) if the lieutenant governor declares the referendum petition sufficient, the day on which governor issues the proclamation described in Section 20A-7-310.

(3) A [~~proposed~~] law submitted to the people by referendum [~~petition~~] that is approved by the voters at an election takes effect the later of:

(a) five days after the date of the official proclamation of the vote by the governor; or

(b) the effective date specified in the [~~proposed~~] approved law.

(4) If, after the lieutenant governor issues a temporary stay order under Subsection (1)(a), the lieutenant governor declares the referendum petition insufficient, the [~~proposed~~] law that is the subject of the referendum petition takes effect the later of:

(a) five days after the day on which the lieutenant governor declares the referendum petition insufficient; or

(b) the effective date specified in the [~~proposed~~] law that is the subject of the referendum petition.

(5) (a) The governor may not veto a law [~~adopted~~] approved by the people.

(b) The Legislature may amend any laws approved by the people at any legislative session after the people approve the law.

(6) If the Legislature repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.

Section 35. Section 20A-7-312 is amended to read:

20A-7-312. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any person to:

(a) sign any name other than the person's own to a referendum petition;

(b) knowingly sign the person's name more than once for the same [~~measure~~] referendum petition at one election;

(c) knowingly indicate that a person who signed a referendum petition signed the referendum petition on a date other than the date that the person signed the petition;

(d) sign a referendum petition knowing the person is not a legal voter; or

(e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any person to sign the verification for a referendum packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9) knowing that:

(a) the person does not meet the residency requirements of Section 20A-2-105;

(b) the signature date associated with the person's signature for the referendum petition is not the date that the person signed the referendum petition;

(c) the person has not witnessed the signatures of those persons whose signatures the person collects or submits; or

(d) one or more individuals who sign the referendum petition are not registered to vote in Utah.

(3) It is unlawful for any person to:

(a) pay a person to sign a referendum petition;

(b) pay a person to remove the person's signature from a referendum petition;

(c) accept payment to sign a referendum petition; or

(d) accept payment to have the person's name removed from a referendum petition.

(4) Any person violating this section is guilty of a class A misdemeanor.

Section 36. Section 20A-7-313 is amended to read:

20A-7-313. Electronic referendum process -- Form of referendum petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic referendum process.

(2) (a) The first screen presented on the approved device shall include the following statement:

"This REFERENDUM PETITION is addressed to the Honorable ____, Lieutenant Governor:

The citizens of Utah who sign this petition respectfully order that Senate (or House) Bill No.____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by the Legislature of the state of Utah during the ____ Session, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3) (a) The second screen presented on the approved device shall include the entire text of the law that is the subject of the referendum petition.

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the entire text of the law that is the subject of the referendum petition."

(4) (a) The third screen presented on the approved device shall include a statement indicating whether persons gathering signatures for the referendum petition may be paid for gathering signatures.

(b) An individual may not advance to the fourth screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(5) The fourth screen presented on the approved device shall include the following statement, followed by links where the individual may click "yes" or "no":

"I have personally reviewed the entirety of each statement presented on this device;

I am personally signing this referendum petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same [~~measure~~] referendum petition, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

WARNING

Even if your voter registration record is classified as private, your name, voter identification number, and date of signature in relation to signing this referendum petition will be made public.

Do you wish to continue and sign this referendum petition?"

(6) (a) If the individual clicks "no" in response to the question described in Subsection (5), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (5), the website, or

the application that accesses the website, shall take the signature-gatherer and the individual signing the referendum petition through the signature process described in Section 20A-21-201.

Section 37. Section 20A-7-314 is amended to read:

20A-7-314. Electronic referendum process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic referendum process.

(2) A Utah voter may sign a referendum petition if the voter is a legal voter.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law that is the subject of the referendum petition.

(4) A voter who has signed a referendum petition may have the voter's signature removed from the referendum petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(a) 30 days after the day on which the voter signs the statement requesting removal; or

(b) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-315(4).

(5) (a) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (5)(a)(iii).

(b) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a signature removal statement by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(d) A person may only remove an electronic signature from a referendum petition in accordance with this section.

(e) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from a referendum petition, in accordance with Section 20A-7-306.3.

Section 38. Section 20A-7-315 is amended to read:

20A-7-315. Electronic referendum process -- Collecting signatures -- Removal of signatures.

(1) This section applies only to the electronic referendum process.

(2) A signature-gatherer may not collect a signature after 5 p.m., 40 days after the day on which the legislative session at which the law passed ends.

(3) The lieutenant governor shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following referendum:

[insert title of [~~initiative~~] referendum]

To access a copy of the referendum petition, the law that is the subject of the referendum petition, and information on the deadline for removing your signature from the referendum petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs a referendum petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor.

(5) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-314(4), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the referendum petition and the [~~petition~~] signature totals.

(b) The county clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-314(4).

Section 39. Section 20A-7-501 is amended to read:

20A-7-501. Initiatives -- Signature requirements -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) An eligible voter seeking to have an initiative submitted to a local legislative body or to a vote of the people for approval or rejection shall, after filing an initiative application, obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 7.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 8.25% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 10% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 11.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(i) for a metro township with a population of 1,000 or more but less than 10,000, a city of the fifth class, or a county of the fifth class, 25% of the number of active voters in the metro township, city, or county; or

(j) for a metro township with a population of less than 1,000, a town, or a county of the sixth class, 35% of the number of active voters in the metro township, town, or county.

(3) If the total number of certified [~~names from each verified signature sheet~~] signatures collected for the initiative petition equals or exceeds the number of [~~names~~] signatures required by this section, the clerk or recorder shall deliver the proposed law to the local legislative body at the local legislative body's next meeting.

(4) (a) The local legislative body shall either adopt or reject the proposed law without change or amendment within 30 days after the day on which the local legislative body receives the proposed law under Subsection (3).

(b) The local legislative body may:

(i) adopt the proposed law and refer the proposed law to the people;

(ii) adopt the proposed law without referring the proposed law to the people; or

(iii) reject the proposed law.

(c) If the local legislative body adopts the proposed law but does not refer the proposed law to the people, the proposed law is subject to referendum as with other local laws.

(d) (i) If a county legislative body rejects a proposed law, or takes no action on a proposed law, the county clerk shall submit the proposed law to the voters of the county at the next regular general election immediately after the [~~petition~~] initiative application for the proposed law is filed under Section 20A-7-502.

(ii) If a local legislative body of a municipality rejects a proposed law, or takes no action on a proposed law, the municipal recorder or clerk shall

submit the proposed law to the voters of the municipality at the next municipal general election immediately after the [~~petition~~] initiative application is filed under Section 20A-7-502.

(e) (i) If a local legislative body rejects a proposed law, or takes no action on a proposed law, the local legislative body may adopt a competing local law.

(ii) The local legislative body shall prepare and adopt the competing local law within the 30-day period described in Subsection (4)(a).

(iii) If a local legislative body adopts a competing local law, the clerk or recorder shall refer the competing local law to the voters of the county or municipality at the same election at which the [~~initiative proposal~~] law proposed by initiative is submitted under Subsection (4)(d).

(f) If conflicting local laws are submitted to the people at the same election and two or more of the conflicting measures are approved by the people, the [~~measure~~] proposed law that receives the greatest number of affirmative votes shall control all conflicts.

Section 40. Section 20A-7-502 is amended to read:

20A-7-502. Local initiative process -- Application procedures.

(1) Individuals wishing to circulate an initiative petition shall file an initiative application with the local clerk.

(2) The initiative application shall [~~contain~~] include:

(a) the name and residence address of at least five sponsors of the initiative petition;

(b) a statement indicating that each of the sponsors is registered to vote in Utah;

(c) the signature of each of the sponsors, acknowledged by a notary public;

(d) a copy of the proposed law that includes:

(i) the title of the proposed law that clearly expresses the subject of the law;

(ii) a description of all proposed sources of funding for the costs associated with the proposed law, including the proposed percentage of total funding from each source; and

(iii) the text of the proposed law;

(e) if the initiative petition proposes a tax increase, the following statement, "This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(f) a statement indicating whether persons gathering signatures for the initiative petition may be paid for gathering signatures.

(3) A proposed law submitted under this section may not contain more than one subject to the same extent that a bill may not pass containing more than one subject as provided in Utah Constitution, Article VI, Section 22.

Section 41. Section 20A-7-502.5 is amended to read:

20A-7-502.5. Initial fiscal and legal impact statement -- Preparation of statement.

(1) Within three business days after the day on which the local clerk receives an initiative application [~~for an initiative petition~~], the local clerk shall submit a copy of the [~~proposed law~~] initiative application to the county, city, or town's budget officer.

(2) (a) The budget officer, together with legal counsel, shall prepare an unbiased, good faith [~~estimate of the~~] initial fiscal and legal impact [~~of~~] statement for the proposed law [~~proposed by the initiative~~] that contains:

(i) a dollar amount representing the total estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax affected under the proposed law and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase taxes, the tax percentage difference and the tax percentage increase;

(iv) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

(v) a listing of all sources of funding for the estimated costs associated with the proposed law showing each source of funding and the percentage of total funding provided from each source;

(vi) a dollar amount representing the estimated costs or savings, if any, to state and local government entities under the proposed law;

(vii) the proposed law's legal impact, including:

(A) any significant effects on a person's vested property rights;

(B) any significant effects on other laws or ordinances;

(C) any significant legal liability the city, county, or town may incur; and

(D) any other significant legal impact as determined by the budget officer and the legal counsel; and

(viii) a concise explanation, not exceeding 100 words, of the [~~above~~] information described in this Subsection (2)(a) and of the estimated fiscal impact, if any, under the proposed law.

(b) (i) If the proposed law is estimated to have no fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact and legal statement in substantially the following form:

"The (title of the local budget officer) estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(ii) If the proposed law is estimated to have a fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact [~~estimate~~] and legal statement in substantially the following form:

"The (title of the local budget officer) estimates that the law proposed by this initiative would result in a total fiscal expense/savings of $_____, which includes a (type of tax or taxes) tax increase/decrease of $_____ and a $_____ increase/decrease in public debt."

(iii) If the estimated fiscal impact of the proposed law is highly variable or is otherwise difficult to reasonably express in a summary statement, the local budget officer may include in the summary statement a brief explanation that identifies those factors affecting the variability or difficulty of the estimate.

(iv) If the proposed law would increase taxes, the local budget officer shall include a summary statement in the initial fiscal impact and legal statement in substantially the following form:

"This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(3) The budget officer shall prepare an unbiased, good faith estimate of the cost of printing and distributing information related to the initiative petition in the voter information pamphlet as required by Section 20A-7-402.

(4) Within 20 calendar days after the day on which the local clerk submits a copy of the proposed law under Subsection (1), the budget officer shall:

(a) deliver a copy of the initial fiscal impact [~~estimate, including the legal impact estimate,~~] and legal statement to the local clerk's office; and

(b) mail a copy of the initial fiscal impact [~~estimate, including the legal impact estimate,~~] and legal statement to the first three sponsors named in the initiative application.

Section 42. Section 20A-7-502.6 is amended to read:

20A-7-502.6. Posting initiative information.

(1) Within one business day after the day on which the local clerk's office receives the initial fiscal impact [~~estimate~~] and legal statement under Subsection 20A-7-502.5(4)(a), the local clerk shall post the following information together in a conspicuous place on the local clerk's website:

(a) the initiative application;

[~~(a)~~] (b) the initiative petition;

[~~(b)~~] (c) the [~~initiative~~] text of the proposed law;

[~~(c)~~] (d) the initial fiscal impact [~~estimate~~] and legal statement; and

[~~(d)~~] (e) information describing how an individual may remove the individual's signature from the [~~signature~~] initiative petition.

(2) The local clerk shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the local clerk's website until the initiative fails to qualify for the ballot or is passed or defeated at an election.

Section 43. Section 20A-7-502.7 is amended to read:

20A-7-502.7. Referability to voters.

(1) Within 20 days after the day on which an eligible voter files an initiative application [~~to circulate an initiative petition~~] under Section 20A-7-502, counsel for the county, city, town, or metro township to which the initiative pertains shall:

(a) review the proposed law [~~in~~] that is the subject of the initiative application to determine whether the law is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed law is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) A proposed law [~~in~~] that is the subject of an initiative application is legally referable to voters unless:

(a) the proposed law:

(i) is patently unconstitutional;

[~~(b)~~] (ii) [~~the proposed law~~] is nonsensical;

[~~(c)~~] (iii) [~~the proposed law~~] is administrative, rather than legislative, in nature;

[~~(d)~~] (iv) [~~the proposed law~~] could not become law if passed;

[~~(e)~~] (v) [~~the proposed law~~] contains more than one subject as evaluated in accordance with Subsection 20A-7-502(3); or

[~~(f) the subject of the proposed law is not clearly expressed in the law's title;~~]

[~~(g)~~] (b) [~~the proposed law~~] is identical or substantially similar to a legally referable proposed law sought by an initiative application submitted to the local clerk, under Section 20A-7-502, within two years before the day on which the initiative application for the current proposed [~~initiative~~] law is filed; [~~or~~]

(c) the subject of the proposed law is not clearly expressed in the law's title; or

[~~(h)~~] (d) the initiative application [~~for the proposed law~~] was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not:

(a) reject a proposed initiative as not legally referable to voters; or

(b) bring a legal action, other than to appeal a court decision, challenging a proposed initiative on the grounds that the proposed initiative is not legally referable to voters.

(4) If a county, city, town, or metro township rejects a proposed initiative, a sponsor of the proposed initiative may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), appeal the decision to:

(a) district court; or

(b) the Supreme Court, if the Supreme Court has original jurisdiction over the appeal.

(5) If, on appeal, the court determines that the law proposed [~~in~~] by the initiative [~~petition~~] application is legally referable to voters, the local clerk shall comply with Subsection 20A-7-504(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any appeal of the determination, is final.

Section 44. Section 20A-7-503 is amended to read:

20A-7-503. Manual initiative process -- Form of initiative petition and signature sheet.

(1) This section applies only to the manual initiative process.

(2) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to: the legislative body for its approval or rejection at its next meeting; and the legal voters of the county/city/town, if the legislative body rejects the proposed law or takes no action on it.

Each signer says:

I have personally signed this initiative petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name."

(b) If the initiative [~~petition~~] proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (2)(a):

"This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(c) The sponsors of an initiative or an agent of the sponsors shall attach a copy of the proposed law to each initiative petition.

(3) Each initiative signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

(d) include a table immediately below the title of the initiative, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words "By signing this initiative petition, you are stating that you have read and understand the law proposed by this initiative petition." in 12-point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include in the following order:

(i) the words "Fiscal and legal impact of" followed by the title of the initiative, in at least 12-point, bold type;

(ii) the summary statement in the initial fiscal impact [~~estimate's summary~~] and legal statement issued by the budget officer in accordance with Subsection 20A-7-502.5(2)(b) and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A-7-502.5(3), in not less than 12-point, bold type;

(iii) if the initiative [~~petition~~] proposes a tax increase, the following statement in 12-point, bold type:

"This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(iv) the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same [~~measure~~] initiative petition, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each initiative packet shall contain the following printed or typed statement:

"Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law proposed by the initiative;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah.

_____

(Name) (Residence Address) (Date)

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)".

(5) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

(6) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A-2-105.

Section 45. Section 20A-7-504 is amended to read:

20A-7-504. Manual initiative process -- Circulation requirements -- Local clerk to provide sponsors with materials.

(1) This section applies only to the manual initiative process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections (3) and 20A-7-401.5(4)(b), circulate initiative packets that meet the form requirements of this part.

(3) Within five days after the day on which a county, city, town, metro township, or court determines, in accordance with Section 20A-7-502.7, that a law proposed in an initiative petition is legally referable to voters, the local clerk shall [~~furnish~~] provide to the sponsors:

(a) a copy of the initiative petition; and

(b) a signature sheet.

(4) The sponsors of the [~~petition~~] initiative shall:

(a) arrange and pay for the printing of all [~~additional copies of the petition and signature sheets~~] documents that are part of the initiative packets; and

(b) ensure that the [~~copies of the petition and signature sheets~~] initiative packets and the documents described in Subsection (4)(a) meet the [~~form~~] requirements of this [~~section~~] part.

(5) (a) The sponsors or an agent of the sponsors may prepare the initiative packets for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create initiative packets by binding a copy of the initiative petition with the text of the proposed law and no more than 50 signature sheets together at the top in a manner that the initiative packets may be conveniently opened for signing.

(c) An initiative packet is not required to have a uniform number of signature sheets.

(d) The sponsors or an agent of the sponsors shall include, with each initiative packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number [~~signature~~] initiative packets; and

(ii) number each [~~signature~~] initiative packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number [~~a signature~~] an initiative packet in a manner not directed by the county clerk; or

(ii) circulate or submit [~~a signature~~] an initiative packet that is not numbered in the manner directed by the county clerk.

(c) The county clerk shall keep a record of the number range provided under Subsection (6)(a).

Section 46. Section 20A-7-505 is amended to read:

20A-7-505. Manual initiative process -- Obtaining signatures -- Verification -- Removal of signature.

(1) This section applies only to the manual initiative process.

(2) A Utah voter may sign a local initiative petition if the voter is a legal voter and resides in the local jurisdiction.

(3) (a) The sponsors shall ensure that the individual in whose presence each initiative signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each [~~signature sheet~~] initiative packet by completing the verification printed on the last page of each initiative packet; and

(iii) is informed that each signer is required to read and understand the law proposed by the initiative.

(b) An individual may not sign the verification printed on the last page of the initiative packet if the individual signed a signature sheet in the initiative packet.

(4) (a) A voter who has signed an initiative petition may have the voter's signature removed from the initiative petition by submitting a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-507(2);

(iii) 316 days after the day on which the initiative application is filed; or

(iv) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the initiative application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the initiative application is filed under Section 20A-7-502.

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection (4)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than the applicable deadline described in Subsection (4)(a).

(e) A person may only remove a signature from an initiative petition in accordance with this Subsection (4)[~~(a)~~].

(f) A county clerk shall analyze a signature, for purposes of removing a signature from an initiative petition, in accordance with Section 20A-7-506.3.

Section 47. Section 20A-7-506 is amended to read:

20A-7-506. Manual initiative process -- Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) This section applies only to the manual initiative process.

(2) (a) The sponsors, or an agent of the sponsors, shall submit a signed and verified initiative packet to the county clerk of the county in which the initiative packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the initiative packet;

(ii) 316 days after the day on which the initiative application is filed; or

(iii) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the initiative application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the initiative application is filed under Section 20A-7-502.

(b) A person may not submit an initiative packet after the deadline established in Subsection (2)(a).

(c) Before delivering [~~a~~] an initiative packet to the county clerk under Subsection (2), the sponsors shall send an email to each individual who provides a legible, valid email address on the form described in Subsection 20A-7-503(3)(d) that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact and legal statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the county clerk's website that includes the information referred to in the email]."

(d) When the sponsors submit the final [~~signature~~] initiative packet to the county clerk, the sponsors shall submit to the county clerk the following written verification, completed and signed by each of the sponsors:

"Verification of initiative sponsor

State of Utah, County of _____

I, _____, of _____, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled _____;

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature packet submitted to the county clerk in relation to the initiative petition, the email described in Utah Code Subsection 20A-7-506(2)(c).

_____

(Name) (Residence Address) (Date)".

(e) Signatures gathered for the initiative [~~petition~~] are not valid if the sponsors do not comply with this Subsection (2).

(3) The county clerk shall, within 21 days after the day on which the county clerk receives [~~the~~] an initiative packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-506.3;

(b) certify on the [~~petition~~] initiative packet whether each name is that of a registered voter;

(c) except as provided in Subsection (4), post the name, voter identification number, and date of signature of each registered voter certified under Subsection (3)(b) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(d) deliver the verified initiative packet to the local clerk.

(4) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-505(4), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (3)(c); and

(ii) remove the voter's signature from the [~~signature packets and signature packet~~] initiative petition and the signature totals.

(b) The county clerk shall comply with Subsection (4)(a) before the later of:

(i) the deadline described in Subsection (3); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-505(4).

(c) The local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection (3)(c) during the period of time described in Subsection 20A-7-507(3)(a).

(5) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section 20A-7-505.

(6) A person may not retrieve an initiative packet from a county clerk, or make any alterations or corrections to an initiative packet, after the initiative packet is submitted to the county clerk.

Section 48. Section 20A-7-506.3 is amended to read:

20A-7-506.3. Verification of petition signatures.

(1) As used in this section:

(a) "Substantially similar name" means:

(i) the given name [~~and~~], the surname [~~shown on the petition~~], or both, provided by the individual with the individual's petition signature contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) "Substantially similar name" does not mean a name having an initial or a middle name [~~shown on the petition~~] provided by the individual with the individual's petition signature that does not match a different initial or middle name shown on the official register.

(2) In relation to an individual who signs an initiative petition with a holographic signature, the county clerk shall use the following procedures in determining whether a signer is a registered voter:

(a) [~~When~~] if a signer's name and address [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid[~~.~~];

(b) [~~When~~] if there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address [~~on the petition~~] provided by the individual with the individual's petition signature matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(b)(i)[~~.~~];

(c) [~~When~~] if there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age [~~on the petition~~] provided by the individual with the individual's petition signature matches the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(c)(i)[~~.~~]; and

(d) [~~If~~] if a signature is not declared valid under Subsection (2)(a), (2)(b), or (2)(c), the county clerk shall declare the signature to be invalid.

(3) In relation to an individual who, with a holographic signature, signs a statement to remove the individual's signature from an initiative petition, the county clerk shall use the following procedures in determining whether to remove a signature from [~~a~~] an initiative petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the initiative petition exactly match a name and address shown on the official register and the signer's [~~signature~~] signatures on both the statement and the initiative petition [~~appears~~] appear substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the initiative petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the initiative petition if:

(i) the address on the statement and the [~~petition matches~~] address provided by the individual with the individual's petition signature match the address of an individual on the official register with a substantially similar name; and

(ii) the signer's [~~signature~~] signatures on both the statement and the initiative petition [~~appears~~] appear substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the initiative petition if:

(i) the birth date or age on the statement and [~~petition~~] the birth date or age provided by the individual with the individual's petition signature match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's [~~signature~~] signatures on both the statement and the initiative petition [~~appears~~] appear substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk

may not remove the signature from the initiative petition.

Section 49. Section 20A-7-507 is amended to read:

20A-7-507. Evaluation by the local clerk.

(1) In relation to the manual initiative process, when a local clerk receives an initiative packet from a county clerk, the local clerk shall record the number of the initiative packet received.

(2) The county clerk shall:

(a) in relation to the manual initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-506(3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 90 days; and

(ii) update on the local government's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-516(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 90 days; and

(ii) update on the local government's website the number of signatures certified as of the date of the update.

(3) The local clerk:

(a) shall, except as provided in Subsection (3)(b), declare the initiative petition to be sufficient or insufficient:

(i) in relation to the manual initiative process, no later than 21 days after the day of the applicable deadline described in Subsection 20A-7-506(2)(a); or

(ii) in relation to the electronic initiative process, no later than 21 days after the day of the applicable deadline described in Subsection 20A-7-516(2); or

(b) may declare the initiative petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual initiative process, the total of all valid signatures on timely and lawfully submitted [~~signature~~] initiative packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted [~~signature~~] initiative packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-501;

(ii) in relation to the electronic initiative process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-501; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required by Section 20A-7-501 and the requirements of this part are met, the local clerk shall mark upon the front of the initiative petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required by Section 20A-7-501 or a requirement of this part is not met, the local clerk shall mark upon the front of the initiative petition the word "insufficient."

(c) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(d) After [~~a~~] an initiative petition is declared insufficient, a person may not submit additional signatures to qualify the [~~petition~~] initiative for the ballot.

(5) If the local clerk finds the total number of certified signatures [~~from each verified signature sheet to~~] for the initiative petition to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures [~~appearing on~~] collected for the initiative petition in the presence of any sponsor.

(6) [~~A~~] An initiative petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 50. Section 20A-7-508 is amended to read:

20A-7-508. Short title and summary of initiative -- Duties of local clerk and local attorney.

(1) Upon receipt of an initiative petition, the local clerk shall deliver a copy of the initiative petition and the proposed law to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(b) prepare for [~~the~~] each initiative:

(i) an impartial short title, not exceeding 25 words, that generally describes the subject of the initiative; and

(ii) an impartial summary of the contents of the [~~measure~~] initiative, not exceeding 125 words;

(c) file the proposed short title, summary, and the numbered initiative titles with the local clerk within 20 days after the day on which an eligible voter submits the initiative petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed short title and summary to:

(i) the sponsors of the [~~petition~~] initiative; and

(ii) the local legislative body for the jurisdiction where the initiative petition was circulated.

(3) (a) The short title and summary may be distinct from the title of the proposed law [~~attached to the initiative petition~~].

(b) In preparing a short title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial description of the subject of the initiative.

(c) In preparing a summary, the local attorney shall, to the best of the local attorney's ability, give a true and impartial summary of the contents of the [~~measure~~] initiative.

(d) The short title and summary may not intentionally be an argument, or likely to create prejudice, for or against the [~~measure~~] initiative.

(e) If the initiative proposes a tax increase, the local attorney shall include the following statement, in bold, in the summary:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(4) (a) Within five calendar days after the date the local attorney files a proposed short title and summary under Subsection (2)(c), the local legislative body for the jurisdiction where the initiative petition was circulated and the sponsors of the [~~petition~~] initiative may file written comments in response to the proposed short title and summary with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final short title and summary that meets the requirements of Subsection (3); and

(iii) return the initiative petition and file the short title and summary with the local clerk.

(c) Subject to Subsection (6):

(i) the short title, as determined by the local attorney, shall be printed on the official ballot; and

(ii) for each ballot that includes an initiative or referendum, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative and referendum on the ballot and a link to a location on the election officer's website where a voter may review additional information relating to each initiative or referendum, including:

(A) for an initiative, the information described in Subsection 20A-7-502(2), the initial fiscal impact [~~estimate~~] and legal statement described in Section 20A-7-502.5, as updated, and the arguments relating to the initiative that are included in the local voter information pamphlet; or

(B) for a referendum, the information described in Subsection 20A-7-602(2) and the arguments relating to the referendum that are included in the local voter information pamphlet.

(d) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."

(5) Immediately after the local attorney files a copy of the short title and summary with the local clerk, the local clerk shall serve a copy of the short title and summary by mail upon the sponsors of the [~~petition~~] initiative and the local legislative body for the jurisdiction where the initiative petition was circulated.

(6) (a) If the short title or summary furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the appropriate court by:

(i) at least three sponsors of the initiative [~~petition~~]; or

(ii) a majority of the local legislative body for the jurisdiction where the initiative petition was circulated.

(b) The court:

(i) shall examine the short title and summary and consider arguments; and

(ii) enter an order consistent with the requirements of this section.

(c) The local clerk shall include the short title and summary in the ballot or ballot proposition insert, as required by this section.

Section 51. Section 20A-7-510 is amended to read:

20A-7-510. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the local board of canvassers completes the canvass, the local clerk shall certify to the local legislative body the vote for and against the law proposed by the initiative petition.

(3) (a) The local legislative body shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the local jurisdiction for and against each law proposed by an initiative petition; and

(ii) declares those laws proposed by an initiative petition that [~~were~~] are approved by majority vote

to be in full force and effect as the law of the local jurisdiction.

(b) When the local legislative body determines that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, the local legislative body shall proclaim [~~that measure to be~~] as law the initiative that received the greatest number of affirmative votes, regardless of the difference in the majorities which those [~~measures~~] initiatives have received.

(c) (i) Within 10 days after the day on which the local legislative body issues the proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the local legislative body to be superseded by another [~~measure~~] initiative approved at the same election may bring an action in the appropriate court to review the decision.

(ii) The court shall:

(A) consider the matter and decide whether the proposed laws are entirely in conflict; and

(B) issue an order, consistent with the court's decision, to the local legislative body.

(4) Within 10 days after the day on which the court enters an order under Subsection (3)(c)(ii), the local legislative body shall:

(a) proclaim as law all [~~measures~~] initiatives approved by the people that the court determines are not in conflict; and

(b) for the [~~measures~~] initiatives approved by the people as law that the court determines to be in conflict, proclaim as law the [~~measure~~] initiative that received the greatest number of affirmative votes, regardless of the difference in majorities.

Section 52. Section 20A-7-512 is amended to read:

20A-7-512. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any individual to:

(a) sign any name other than the individual's own name to [~~any~~] an initiative petition or a statement described in Subsection 20A-7-505(4) or 20A-7-515(4);

(b) knowingly sign the individual's name more than once for the same initiative at one election;

(c) knowingly indicate that an individual who signed an initiative petition signed the initiative petition on a date other than the date that the individual signed the initiative petition;

[~~(b)~~] (d) sign an initiative petition knowing the individual is not a legal voter; or

[~~(c)~~] (e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for [~~any~~] an individual to sign the verification for an initiative packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9), knowing that:

(a) the individual does not meet the residency requirements of Section 20A-2-105;

(b) the signature date associated with the individual's signature for the initiative petition is not the date that the individual signed the initiative petition;

[~~(b)~~] (c) the individual has not witnessed the signatures of the individuals whose signatures the individual collects or submits; or

[~~(c)~~] (d) one or more individuals who signed the initiative petition are not registered to vote in Utah.

(3) It is unlawful for an individual to:

(a) pay an individual to sign an initiative petition;

(b) pay an individual to remove the individual's signature from an initiative petition;

(c) accept payment to sign an initiative petition; or

(d) accept payment to have the individual's name removed from an initiative petition.

[~~(3)~~] (4) [~~An individual who violates this part is guilty of~~] A violation of this section is a class A misdemeanor.

Section 53. Section 20A-7-513 is amended to read:

20A-7-513. Fiscal review -- Repeal, amendment, or resubmission.

(1) No later than 60 days after the date of an election in which the voters approve an initiative [~~petition~~], the budget officer shall:

(a) for each initiative approved by the voters, prepare a final fiscal impact statement, using current financial information and containing the information required by Subsection 20A-7-502.5(2), except for the information required by Subsection 20A-7-502.5(2)(a)(vii); and

(b) deliver a copy of the final fiscal impact statement to:

(i) the local legislative body of the jurisdiction where the initiative was circulated;

(ii) the local clerk; and

(iii) the first three sponsors listed on the initiative application.

(2) If the final fiscal impact statement exceeds the estimate in the initial fiscal impact [~~estimate~~] and legal statement by 25% or more, the local legislative body shall review the final fiscal impact statement and may, by a majority vote:

(a) repeal the law established by passage of the initiative;

(b) amend the law established by the passage of the initiative; or

(c) pass a resolution informing the voters that they may file an initiative petition to repeal the law enacted by [~~the~~] passage of the initiative.

Section 54. Section 20A-7-514 is amended to read:

20A-7-514. Electronic initiative process -- Form of initiative petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic initiative process.

(2) (a) The first screen presented on the approved device shall include the following statement:

"This INITIATIVE PETITION is addressed to the Honorable ____, County Clerk/City Recorder/Town Clerk:

The citizens of Utah who sign this petition respectfully demand that the following proposed law be submitted to: the legislative body for its approval or rejection at its next meeting; and the legal voters of the county/city/town, if the legislative body rejects the proposed law or takes no action on it."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3) (a) The second screen presented on the approved device shall include the title of proposed law, described in Subsection 20A-7-502(2)(d)(i), followed by the entire text of the proposed law.

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the entire text of the proposed law."

(4) Subsequent screens shall be presented on the device in the following order, with the individual viewing the device being required, before advancing to the next screen, to click a link at the bottom of the screen with the following statement, "By clicking here, I attest that I have read and understand the information presented on this screen.":

(a) (i) if the initiative [~~petition~~] proposes a tax increase, the following statement, "This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; or

(ii) if the initiative [~~petition~~] does not propose a tax increase, the following statement, "This initiative [~~petition~~] does not propose a tax increase.";

(b) the [~~initial fiscal impact estimate's~~] summary statement from the initial fiscal impact and legal statement issued by the budget officer in accordance with Subsection 20A-7-502.5(2)(b) and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A-7-502.5(3);

(c) a statement indicating whether persons gathering signatures for the initiative petition may be paid for gathering signatures; and

(d) the following statement, followed by links where the individual may click "yes" or "no":

"I have personally reviewed the entirety of each statement presented on this device;

I am personally signing this petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same [~~measure~~] initiative petition, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

WARNING

Even if your voter registration record is classified as private, your name, voter identification number, and date of signature in relation to signing this initiative petition will be made public.

Do you wish to continue and sign this initiative petition?"

(5) (a) If the individual clicks "no" in response to the question described in Subsection (4)(d), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (4)(d), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the petition through the signature process described in Section 20A-21-201.

Section 55. Section 20A-7-515 is amended to read:

20A-7-515. Electronic initiative process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic initiative process.

(2) A Utah voter may sign a local initiative petition if the voter is a legal voter and resides in the local jurisdiction.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law proposed by the initiative.

(4) (a) A voter who has signed an initiative petition may have the voter's signature removed from the initiative petition by submitting to the

county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-516(4);

(iii) 316 days after the day on which the initiative application is filed; or

(iv) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the initiative application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the initiative application is filed under Section 20A-7-502.

(b) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (4)(b)(iii).

(c) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(d) A voter may not submit a signature removal statement by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(e) A person may only remove an electronic signature from an initiative petition in accordance with this section.

(f) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from an initiative petition, in accordance with Section 20A-7-506.3.

Section 56. Section 20A-7-516 is amended to read:

20A-7-516. Electronic initiative process -- Collecting signatures -- Email notification -- Removal of signatures.

(1) This section applies only to the electronic initiative process.

(2) A signature-gatherer may not collect a signature after 5 p.m., the earlier of:

(a) 316 days after the day on which the initiative application is filed; or

(b) (i) for a county initiative, April 15 immediately before the next regular general election immediately after the initiative application is filed under Section 20A-7-502; or

(ii) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the initiative application is filed under Section 20A-7-502.

(3) The local clerk shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the text of the law proposed by the initiative, the initial fiscal impact and legal statement, and information on the deadline for removing your signature from the initiative petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs [~~a~~] an initiative petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor.

(5) (a) If the local clerk timely receives a statement requesting signature removal under Subsection 20A-7-515(4), the local clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the initiative petition and the initiative petition signature totals.

(b) The local clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-515(4).

Section 57. Section 20A-7-601 is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws, subjurisdictional laws, and transit area land use laws -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Qualifying county" means a county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(c) "Qualifying transit area" means:

(i) a station area, as defined in Section 10-9a-403.1, for which the municipality with jurisdiction over the station area has satisfied the requirements of Subsection 10-9a-403.1(2)(a), as demonstrated by the adoption of a station area plan or resolution under Subsection 10-9a-403.1(2); or

(ii) a housing and transit reinvestment zone, as defined in Section 63N-3-602, created within a qualifying county.

(d) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(e) (i) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, town, or metro township.

(ii) "Subjurisdictional law" does not include a land use law.

(f) "Transit area land use law" means a land use law that relates to the use of land within a qualifying transit area.

(g) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) Except as provided in Subsections (3) through (5), an eligible voter seeking to have a local law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 7.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 8.25% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 10% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 11.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(i) for a metro township with a population of 1,000 or more but less than 10,000, a city of the fifth class, or a county of the fifth class, 25% of the number of active voters in the metro township, city, or county; or

(j) for a metro township with a population of less than 1,000, a town, or a county of the sixth class, 35% of the number of active voters in the metro township, town, or county.

(3) Except as provided in Subsection (4) or (5), an eligible voter seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county of the first, second, third, or fourth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a county of the fifth or sixth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(c) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 15% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 15% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 16% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 27.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 27.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(f) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 29% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 29% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a metro township with a population of 1,000 or more but less than 10,000, or a city of the fifth class, 35% of the number of active voters in the metro township or city; or

(h) for a metro township with a population of less than 1,000 or a town, 40% of the number of active voters in the metro township or town.

(4) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures of the residents in the subjurisdiction equal to:

(a) 10% of the number of active voters in the subjurisdiction if the number of active voters exceeds 25,000;

(b) 12–1/2% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 25,000 but is more than 10,000;

(c) 15% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 10,000 but is more than 2,500;

(d) 20% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 2,500 but is more than 500;

(e) 25% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 500 but is more than 250; and

(f) 30% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 250.

(5) An eligible voter seeking to have a transit area land use law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county:

(i) 20% of the number of active voters in the county; and

(ii) 21% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 20% of the number of active voters in the metro township or city; and

(ii) 20% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 20% of the number of active voters in the metro township or city; and

(ii) 21% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(d) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 34% of the number of active voters in the metro township or city; and

(ii) 34% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 36% of the number of active voters in the metro township or city; and

(ii) 36% of the number of active voters in at least 75% of the metro township's or city's voter participation areas; or

(f) for a metro township with a population less than 10,000, a city of the fifth class, or a town, 40% of

the number of active voters in the metro township, city, or town.

(6) Sponsors of any referendum petition challenging, under Subsection (2), (3), (4), or (5), any local law passed by a local legislative body shall file the application before 5 p.m. within seven days after the day on which the local law was passed.

(7) Nothing in this section authorizes a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 58. Section 20A-7-602 is amended to read:

20A-7-602. Local referendum process -- Application procedures.

(1) Individuals wishing to circulate a referendum petition shall file [~~an~~] a referendum application with the local clerk.

(2) The referendum application shall [~~contain~~] include:

(a) the name and residence address of at least five sponsors of the referendum petition;

(b) a statement indicating that each of the sponsors is registered to vote in Utah;

(c) a statement indicating whether persons gathering signatures for the referendum petition may be paid for gathering signatures;

(d) the signature of each of the sponsors, acknowledged by a notary public; and

(e) (i) if the referendum challenges an ordinance or resolution, [~~one copy of the law~~] a copy of the ordinance or resolution; or

(ii) if the referendum challenges a local law that is not an ordinance or resolution, a written description of the local law, including the result of the vote on the local law.

Section 59. Section 20A-7-602.5 is amended to read:

20A-7-602.5. Initial fiscal and legal impact statement -- Preparation of statement.

(1) Within three business days after the day on which the local clerk receives [~~an~~] a referendum application [~~for a referendum petition~~], the local clerk shall submit a copy of the referendum application to the county, city, or town's budget officer.

(2) (a) The budget officer, together with legal counsel, shall prepare an unbiased, good faith [~~estimate of the~~] initial fiscal and legal impact [~~of~~] statement for repealing the law the referendum proposes to repeal that contains:

(i) a dollar amount representing the total estimated fiscal impact of repealing the law;

(ii) if repealing the law would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax that would be impacted by the law's repeal and a dollar amount representing the total estimated increase or decrease in taxes that would result from the law's repeal;

(iii) if repealing the law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt that would result;

(iv) a listing of all sources of funding for the estimated costs that would be associated with the law's repeal, showing each source of funding and the percentage of total funding that would be provided from each source;

(v) a dollar amount representing the estimated costs or savings, if any, to state and local government entities if the law were repealed;

(vi) the legal impacts that would result from repealing the law, including:

(A) any significant effects on a person's vested property rights;

(B) any significant effects on other laws or ordinances;

(C) any significant legal liability the city, county, or town may incur; and

(D) any other significant legal impact as determined by the budget officer and the legal counsel; and

(vii) a concise explanation, not exceeding 100 words, of the [~~above~~] information described in this Subsection (2)(a) and of the estimated fiscal impact, if any, if the law were repealed.

(b) (i) If repealing the law would have no fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact and legal statement in substantially the following form:

"The (title of the local budget officer) estimates that repealing the law this referendum proposes to repeal would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(ii) If repealing the law is estimated to have a fiscal impact, the local budget officer shall include a summary statement in the initial fiscal and legal impact statement describing the fiscal impact.

(iii) If the estimated fiscal impact of repealing the law is highly variable or is otherwise difficult to reasonably express in a summary statement, the local budget officer may include in the summary statement a brief explanation that identifies those factors impacting the variability or difficulty of the estimate.

(3) Within 20 calendar days after the day on which the local clerk submits a copy of the application under Subsection (1), the budget officer shall:

(a) deliver a copy of the initial fiscal impact [~~estimate, including the legal impact estimate,~~] and legal statement to the local clerk's office; and

(b) [~~deliver~~] mail a copy of the initial fiscal impact [~~estimate, including the legal impact estimate,~~] and

legal statement to the first three sponsors named in the referendum application.

Section 60. Section 20A-7-602.7 is amended to read:

20A-7-602.7. Referability to voters of local law other than land use law.

(1) Within 20 days after the day on which an eligible voter files [~~an~~] a referendum application [~~to circulate a referendum petition~~] under Section 20A-7-602 for a local law other than a land use law, counsel for the county, city, town, or metro township to which the referendum pertains shall:

(a) review the referendum application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) For a local law other than a land use law, a proposed referendum is legally referable to voters unless:

(a) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(b) the proposed referendum challenges more than one law passed by the local legislative body; or

(c) the referendum application [~~for the proposed referendum~~] was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a local law other than a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If, under Subsection (1)(b)(ii), a county, city, town, or metro township rejects a proposed referendum concerning a local law other than a land use law, a sponsor of the proposed referendum may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on a challenge or appeal, the court determines that the proposed referendum described in Subsection (4) is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 61. Section 20A-7-602.8 is amended to read:

20A-7-602.8. Referability to voters of local land use law.

(1) Within 20 days after the day on which an eligible voter files [~~an~~] a referendum application [~~to circulate a referendum petition~~] under Section 20A-7-602 for a land use law, counsel for the county, city, town, or metro township to which the referendum pertains shall:

(a) review the referendum application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) (a) Subject to Subsection (2)(b), for a land use law, a proposed referendum is legally referable to voters unless:

(i) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(ii) the proposed referendum challenges a land use decision, rather than a land use regulation, as those terms are defined in Section 10-9a-103 or 17-27a-103;

(iii) the proposed referendum challenges more than one law passed by the local legislative body; or

(iv) the referendum application [~~for the proposed referendum~~] was not timely filed or does not comply with the requirements of this part.

(b) In addition to the limitations of Subsection (2)(a), a proposed referendum is not legally referable to voters for a transit area land use law, as defined in Section 20A-7-601, if the transit area land use law was passed by a two-thirds vote of the local legislative body.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If a county, city, town, or metro township rejects a proposed referendum concerning a land

use law, a sponsor of the proposed referendum may, within seven days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on challenge or appeal, the court determines that the proposed referendum is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 62. Section 20A-7-603 is amended to read:

20A-7-603. Manual referendum process -- Form of referendum petition and signature sheet.

(1) This section applies only to the manual referendum process.

(2) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully order that (description of local law or portion of local law being challenged), passed by the ____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on _____(month\day\year);

Each signer says:

I have personally signed this referendum petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name."

(b) The sponsors of a referendum or an agent of the sponsors shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(3) Each referendum signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the referendum printed below the horizontal line, in at least 14-point type;

(d) include a table immediately below the title of the referendum, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words, "By signing this referendum

petition, you are stating that you have read and understand the law that this referendum petition seeks to overturn." in 12-point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet or the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same [~~measure~~] referendum petition, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each referendum packet shall contain the following printed or typed statement:

"Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah.

_____

(Name) (Residence Address) (Date)

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this [~~petition~~]referendum packet to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)".

(5) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

(6) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A-2-105.

Section 63. Section 20A-7-604 is amended to read:

20A-7-604. Manual referendum process -- Circulation requirements -- Local clerk to provide sponsors with materials.

(1) This section applies only to the manual referendum process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections (3) and 20A-7-401.5(4)(b), circulate referendum packets that meet the form requirements of this part.

(3) Within five days after the day on which a county, city, town, metro township, or court determines, in accordance with Section 20A-7-602.7, that a proposed referendum is legally referable to voters, the local clerk shall [~~furnish to~~] provide the sponsors[~~:~~] with

[~~(a)~~] a copy of the referendum petition[~~; and (b)~~] and a signature sheet.

(4) The sponsors of the referendum petition shall:

(a) arrange and pay for the printing of all [~~additional copies of the petition and signature sheets~~] documents that are part of the referendum packets; and

(b) ensure that the [~~copies of the petition and signature sheets~~] referendum packets and the documents described in Subsection (4)(a) meet the form requirements of this section.

(5) (a) The sponsors or an agent of the sponsors may prepare the referendum packets for circulation by creating multiple referendum packets.

(b) The sponsors or an agent of the sponsors shall create referendum packets by binding a copy of the referendum petition with the text of the law that is the subject of the referendum and no more than 50 signature sheets together at the top in a manner that the referendum packets may be conveniently opened for signing.

(c) A referendum packet is not required to have a uniform number of signature sheets.

(d) The sponsors or an agent of the sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number [~~signature~~] referendum packets; [~~and~~]

(ii) sign an agreement with the local clerk, specifying the range of numbers that the sponsor will use to number the referendum packets; and

[~~(ii)~~] (iii) number each [~~signature~~] referendum packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a [~~signature~~] referendum packet in a manner not directed by the county clerk; or

(ii) circulate or submit a [~~signature~~] referendum packet that is not numbered in the manner directed by the county clerk.

[~~(c) The county clerk shall keep a record of the number range provided under Subsection (6)(a).~~]

Section 64. Section 20A-7-604.5 is amended to read:

20A-7-604.5. Posting referendum information.

(1) On the day on which the local clerk complies with Subsection 20A-7-604(3), or gives the sponsors access to the website defined in Section 20A-21-101, the local clerk shall post the following information together in a conspicuous place on the local clerk's website:

(a) the referendum petition;

(b) a copy of the law that is the subject of the referendum petition; and

(c) information describing how an individual may remove the individual's signature from the referendum petition.

(2) The local clerk shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the local clerk's website until the referendum fails to qualify for the ballot or is passed or defeated at an election.

Section 65. Section 20A-7-605 is amended to read:

20A-7-605. Manual referendum process -- Obtaining signatures -- Verification -- Removal of signature.

(1) This section applies only to the manual referendum process.

(2) A Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

(3) (a) The sponsors shall ensure that the individual in whose presence each [~~signature sheet~~] referendum packet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each [~~signature sheet~~] referendum packet by completing the verification printed on the last page of each referendum packet; and

(iii) is informed that each signer is required to read and understand the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of the referendum packet if the individual signed a signature sheet in the referendum packet.

(4) (a) A voter who has signed a referendum petition may have the voter's signature removed from the referendum petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection (4)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(e) A person may only remove a signature from a referendum petition in accordance with this Subsection (4).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from a referendum petition, in accordance with Section 20A-7-606.3.

Section 66. Section 20A-7-606 is amended to read:

20A-7-606. Manual referendum process -- Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) This section applies only to the manual referendum process.

(2) (a) The sponsors, or an agent of the sponsors, shall submit a signed and verified referendum

packet to the county clerk of the county in which the referendum packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the referendum packet; or

(ii) 45 days after the day on which the sponsors receive the items described in Subsection 20A-7-604(3) or from the local clerk.

(b) A person may not submit a referendum packet after the deadline described in Subsection (2)(a).

(3) No later than 21 days after the day on which a county clerk receives a verified referendum packet under Subsection (2)(a), the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-606.3;

(b) certify on the [~~petition~~] referendum packet whether each name is that of a registered voter;

(c) provide the name, voter identification number, and date of signature of each registered voter certified under Subsection (3)(b); and

(d) deliver the verified referendum packet to the local clerk.

(4) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-605(4), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection 20A-7-607(2)(a); and

(ii) remove the voter's signature from the [~~signature packets and signature packet~~] referendum petition and the signature totals.

(b) The county clerk shall comply with Subsection (4)(a) before the later of:

(i) the deadline described in Subsection (3); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-605(4).

(c) The local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection 20A-7-607(2)(a) during the period of time described in Subsection 20A-7-607(2)(a)(i).

(5) The county clerk may not certify a signature under Subsection (3):

(a) on a referendum packet that is not verified in accordance with Section 20A-7-605; or

(b) that does not have a date of signature next to the signature.

(6) A person may not retrieve a referendum packet from a county clerk, or make any alterations or corrections to a referendum packet, after the referendum packet is submitted to the county clerk.

Section 67. Section 20A-7-606.3 is amended to read:

20A-7-606.3. Verification of petition signatures.

(1) As used in this section:

(a) "Substantially similar name" means:

(i) the given name [~~and~~], the surname [~~shown on the petition~~], or both, provided by the individual with the individual's petition signature contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) "Substantially similar name" does not mean a name having an initial or a middle name [~~shown on the petition~~] provided by the individual with the individual's petition signature that does not match a different initial or middle name shown on the official register.

(2) In relation to an individual who signs a referendum petition with a holographic signature, the county clerk shall use the following procedures in determining whether a signer is a registered voter:

(a) [~~When~~] if a signer's name and address [~~shown on the petition~~] provided by the individual with the individual's petition signature exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid[~~.~~];

(b) [~~When~~] if there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address [~~on the petition~~] provided by the individual with the individual's petition signature matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter

registration database of the individual described in Subsection (2)(b)(i)[.];

(c) [When] if there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age [on the petition] provided by the individual with the individual's petition signature matches the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(c)(i)[.]; and

(d) [If] if a signature is not declared valid under Subsection (2)(a), (b), or (c), the county clerk shall declare the signature to be invalid.

(3) In relation to an individual who, with a holographic signature, signs a statement to remove the individual's signature from a referendum petition, the county clerk shall use the following procedures in determining whether to remove a signature from a referendum petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the referendum petition exactly match a name and address shown on the official register and the signer's [signature] signatures on both the statement and the referendum petition [appears] appear substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the referendum petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the referendum petition if:

(i) the address on the statement and the [petition matches] address provided by the individual with the individual's petition signature match the address of an individual on the official register with a substantially similar name; and

(ii) the signer's [signature] signatures on both the statement and the referendum petition [appears] appear substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the referendum petition if:

(i) the birth date or age on the statement and [petition] the birth date or age provided by the individual with the individual's petition signature match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's [signature] signatures on both the statement and the referendum petition [appears] appear substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the petition.

Section 68. Section 20A-7-607 is amended to read:

20A-7-607. Evaluation by the local clerk -- Determination of election for vote on referendum.

(1) In relation to the manual referendum process, when the local clerk receives a referendum packet from a county clerk, the local clerk shall record the number of the referendum packet received.

(2) The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-606(3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the local clerk's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-616(3) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The local clerk:

(a) shall, except as provided in Subsection (3)(b), declare the referendum petition to be sufficient or insufficient:

(i) in relation to the manual referendum process, no later than 111 days after the day of the deadline, described in Subsection 20A-7-606(2), to submit a referendum packet to the county clerk; or

(ii) in relation to the electronic referendum process, no later than 111 days after the day of the deadline, described in Subsection 20A-7-616(2), to collect a signature; or

(b) may declare the referendum petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted [signature] referendum packets that have been certified by the county clerk, plus the number of signatures on timely and lawfully submitted [signature] referendum packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601;

(ii) in relation to the electronic referendum process, the total of all timely and lawfully

submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (2) equals or exceeds the number of names required under Section 20A-7-601, and the requirements of this part are met, the local clerk shall mark upon the front of the referendum petition the word "sufficient."[~~;~~]

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-601 or a requirement of this part is not met, the local clerk shall mark upon the front of the referendum petition the word "insufficient."

(c) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(d) After a referendum petition is declared insufficient, a person may not submit additional signatures to qualify the [~~petition~~] referendum for the ballot.

(5) (a) If the local clerk refuses to [~~accept and file any~~] declare a referendum petition sufficient, any voter may, no later than 10 days after the day on which the local clerk declares the referendum petition insufficient, apply to [~~a~~] the appropriate court for an [~~extraordinary writ to compel the local clerk to do so within 10 days after the refusal~~] order finding the referendum petition legally sufficient.

(b) If the court determines that the referendum petition is legally sufficient, the local clerk shall [~~file the petition, with a verified copy of the judgment attached to the petition,~~] mark the referendum petition "sufficient" and consider the declaration of sufficiency effective as of the date on which the referendum petition [~~was originally offered for filing in~~] should have been declared sufficient by the local clerk's office.

(c) If the court determines that [~~any~~] a referendum petition filed is not legally sufficient, the court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that [~~measure~~] referendum on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by mail, certifying, printing, or mailing the ballot title and numbers of that [~~measure~~] referendum under Section 20A-7-609.5.

(6) A referendum petition determined to be sufficient in accordance with this section is qualified for the ballot.

(7) (a) Except as provided in Subsection (7)(b) or (c), if a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) The election officer may place a referendum described in Subsection (7)(a) on the ballot for a special, primary, or general election held during the year that the legislative action was taken if the following agree, in writing, on a timeline to place the referendum on that ballot:

(i) the local clerk;

(ii) the county clerk; and

(iii) the attorney for the county or municipality that took the legislative action.

(c) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for:

(i) the next general election; or

(ii) another election, if the following agree, in writing, on a timeline to place the referendum on that ballot:

(A) the affected owners, as defined in Section 10-9a-103 or 17-27a-103, as applicable;

(B) the local clerk;

(C) the county clerk; and

(D) the attorney for the county or municipality that took the legislative action.

Section 69. Section 20A-7-608 is amended to read:

20A-7-608. Short title and summary of referendum -- Duties of local clerk and local attorney.

(1) Upon receipt of a referendum petition, the local clerk shall deliver a copy of the referendum petition and the [~~proposed~~] law to which the referendum relates to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal referendum that qualifies for the ballot "Proposition Number __" and give the referendum a number assigned in accordance with Section 20A-6-107;

(b) prepare for the referendum:

(i) an impartial short title, not exceeding 25 words, that generally describes the subject of the [~~measure~~] law to which the referendum relates; and

(ii) an impartial summary of the contents of the [~~measure~~] law to which the referendum relates, not exceeding 125 words;

(c) file the proposed short title, summary, and the numbered referendum title with the local clerk within 20 days after the day on which an eligible voter submits the referendum petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed short title and summary to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the referendum petition was circulated.

(3) (a) The short title and summary may be distinct from the title of the law that is the subject of the referendum petition.

(b) In preparing a short title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial description of the subject of the [~~measure~~] referendum.

(c) In preparing a summary, the local attorney shall, to the best of the local attorney's ability, give a true and impartial summary of the contents of the [~~measure~~] referendum.

(d) The short title and summary may not intentionally be an argument, or likely to create prejudice, for or against the [~~measure~~] referendum.

(4) (a) Within five calendar days after the day on which the local attorney files a proposed short title and summary under Subsection (2)(c), the local legislative body for the jurisdiction where the referendum petition was circulated and the sponsors of the referendum petition may file written comments in response to the proposed short title and summary with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final short title and summary that meets the requirements of Subsection (3); and

(iii) return the referendum petition and file the short title and summary with the local clerk.

(c) Subject to Subsection (6):

(i) the short title, as determined by the local attorney, shall be printed on the official ballot; and

(ii) for each ballot that includes an initiative or referendum, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative and referendum on the ballot and a link to a location on the election officer's website where a voter may review additional information relating to each initiative or referendum, including:

(A) for an initiative, the information described in Subsection 20A-7-502(2), the initial fiscal impact [~~estimate~~] and legal statement described in Section 20A-7-502.5, as updated, and the arguments relating to the initiative that are included in the local voter information pamphlet; or

(B) for a referendum, the information described in Subsection 20A-7-602(2) and the arguments relating to the referendum that are included in the local voter information pamphlet.

(d) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."

(5) Immediately after the local attorney files a copy of the short title and summary with the local clerk, the local clerk shall serve a copy of the short title and summary by mail upon the sponsors of the referendum petition and the local legislative body for the jurisdiction where the referendum petition was circulated.

(6) (a) If the short title or summary [~~furnished~~] provided by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the appropriate court by:

(i) at least three sponsors of the referendum petition; or

(ii) a majority of the local legislative body for the jurisdiction where the referendum petition was circulated.

(b) The court:

(i) shall examine the short title and summary and consider the arguments; and

(ii) enter an order consistent with the requirements of this section.

(c) The local clerk shall include the short title and summary in the ballot or ballot proposition insert, as required by this section.

Section 70. Section 20A-7-609 is amended to read:

20A-7-609. Form of ballot -- Manner of voting.

(1) The local clerk shall ensure that the number and ballot title are presented upon the official ballot with, immediately adjacent to them, the words "For" and "Against," each word presented with an adjacent square in which the elector may indicate the elector's vote.

(2) (a) Except as provided in Subsection (2)(c)(i) or Section 20A-7-609.5, and unless the county legislative body calls a special election, the county clerk shall ensure that county referenda that have qualified for the ballot appear on the next regular general election ballot.

(b) Except as provided in Subsection (2)(c)(ii) or Section 20A-7-609.5, and unless the municipal legislative body calls a special election, the municipal recorder or clerk shall ensure that municipal referenda that have qualified for the ballot appear on the next regular municipal election ballot.

(c) (i) Except as provided in Section 20A-7-609.5, if a local law passes after January 30 of the year in which there is a regular general election, the county clerk shall ensure that a county referendum that has qualified for the ballot appears on the ballot at

the second regular general election immediately following the passage of the local law unless the county legislative body calls a special election.

(ii) Except as provided in Section 20A-7-609.5, if a local law passes after January 30 of the year in which there is a municipal general election, the municipal recorder or clerk shall ensure that a municipal referendum that has qualified for the ballot appears on the ballot at the second municipal general election immediately following the passage of the local law unless the municipal legislative body calls a special election.

(3) (a) (i) A voter desiring to vote in favor of the law that is the subject of the referendum shall mark the square adjacent to the word "For."

(ii) The law that is the subject of the referendum is effective if a majority of voters mark "For."

(b) (i) A voter desiring to vote against the law that is the subject of the referendum [~~petition~~] shall mark the square following the word "Against."

(ii) The law that is the subject of the referendum is not effective if a majority of voters mark "Against."

Section 71. Section 20A-7-610 is amended to read:

20A-7-610. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the [~~proposed~~] law that is the subject of the referendum petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the local board of canvassers completes the canvass, the local clerk shall certify to the local legislative body the vote for and against the [~~proposed~~] law that is the subject of the referendum petition.

(3) (a) The local legislative body shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the local jurisdiction for and against each [~~proposed~~] law that is the subject of a referendum petition; and

(ii) in accordance with Section 20A-7-611, declares those laws that are the subject of a referendum petition that [~~were~~] are approved by majority vote to be in full force and effect as the law of the local jurisdiction.

(b) When the local legislative body determines that two [~~proposed~~] laws, or that parts of two [~~proposed~~] laws approved by the people at the same election are entirely in conflict, the local legislative body shall proclaim [~~that measure~~] to be law the law that received the greatest number of affirmative votes, regardless of the difference in the majorities which those [~~measures have~~] approved laws received.

(4) (a) Within 10 days after the day on which the local legislative body issues the proclamation described in Subsection (3), any qualified voter residing in the jurisdiction for a law that is declared by the local legislative body to be superseded by another [~~measure~~] law approved at the same election may bring an action in the appropriate court to review the decision.

(b) The court shall:

(i) consider the matter and decide whether the [~~proposed~~] approved laws are entirely in conflict; and

(ii) issue an order, consistent with the court's decision, to the local legislative body.

(5) Within 10 days after the day on which the court enters an order under Subsection (4)(b)(ii), the local legislative body shall:

(a) proclaim as law all [~~measures~~] those laws approved by the people that the court determines are not in conflict; and

(b) [~~for the measures~~] of all those laws approved by the people as law that the court determines to be in conflict, proclaim as law the [~~measure that received~~] one that receives the greatest number of affirmative votes, regardless of the difference in majorities.

Section 72. Section 20A-7-611 is amended to read:

20A-7-611. Temporary stay -- Effective date -- Effect of repeal by local legislative body.

(1) Any [~~proposed~~] law submitted to the people by referendum petition that is rejected by the voters at any election is repealed as of the date of the election.

(2) If, at the time during the process described in Subsection 20A-7-607(2), the local clerk determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the local clerk shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

(3) The temporary stay described in Subsection (2) remains in effect, regardless of whether a future count falls below the signature threshold, until the day on which:

(a) if the local clerk declares the referendum petition insufficient, five days after the day on which the local clerk declares the referendum petition insufficient; or

(b) if the local clerk declares the referendum petition sufficient, the day on which the local legislative body issues the proclamation described in Section 20A-7-610.

(4) A [~~proposed~~] law submitted to the people by referendum [~~petition~~] that is approved by the voters at an election takes effect the later of:

(a) five days after the date of the official proclamation of the vote by the local legislative body; or

(b) the effective date specified in the [~~proposed~~] approved law.

(5) If, after the local clerk issues a temporary stay order under Subsection (2)(a), the local clerk declares the referendum petition insufficient, the [~~proposed~~] law that is the subject of the referendum petition takes effect the later of:

(a) five days after the day on which the local clerk declares the petition insufficient; or

(b) the effective date specified in the proposed law.

(6) (a) A law [~~adopted~~] approved by the people under this part is not subject to veto.

(b) The local legislative body may amend any laws approved by the people under this part after the people approve the law.

(7) If the local legislative body repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.

Section 73. Section 20A-7-612 is amended to read:

20A-7-612. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for an individual to:

(a) sign [~~any~~] a name other than the individual's own name to any referendum petition;

(b) knowingly sign the individual's name more than once for the same referendum at one election;

(c) knowingly indicate that an individual who signed a referendum petition signed the referendum petition on a date other than the date that the individual signed the referendum petition;

[~~(b)~~] (d) sign a referendum petition knowing that the individual is not a legal voter;

[~~(c)~~] (e) in connection with circulating a referendum petition, represent that a document is an official government document if the individual knows or has reason to know that the document is not an official government document; or

[~~(d)~~] (f) knowingly and willfully violate any provision of this part.

(2) It is unlawful for an individual to sign the verification for a referendum packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9), knowing that:

(a) the individual does not meet the residency requirements of Section 20A-2-105;

(b) the signature date associated with the individual's signature for the referendum petition is not the date that the individual signed the referendum petition;

[~~(b)~~] (c) the individual has not witnessed the signatures the individual collects or submits; or

[~~(c)~~] (d) one or more individuals whose signatures appear in the referendum packet is not registered to vote in Utah.

(3) It is unlawful for an individual to:

(a) pay an individual to sign a referendum petition;

(b) pay an individual to remove the individual's signature from a referendum petition;

(c) accept payment to sign a referendum petition; or

(d) accept payment to have the individual's name removed from a referendum petition.

[~~(3) An individual who violates this part is guilty of~~]

(4) A violation of this section is a class A misdemeanor.

[~~(4)~~] (5) The county attorney or municipal attorney shall prosecute any violation of this section.

Section 74. Section 20A-7-614 is amended to read:

20A-7-614. Electronic referendum process -- Form of referendum petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic referendum process.

(2) (a) The first screen presented on the approved device shall include the following statement:

"This REFERENDUM PETITION is addressed to the Honorable ____, County Clerk/City Recorder/Town Clerk:

The citizens of Utah who sign this petition respectfully order that (description of local law or portion of local law being challenged), passed by the ____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on _____(month\day\year)."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3) (a) The second screen presented on the approved device shall include the entire text of the law that is the subject of the referendum petition.

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the entire text of the law that is the subject of the referendum petition."

(4) (a) The third screen presented on the approved device shall include a statement indicating whether persons gathering signatures for the referendum petition may be paid for gathering signatures.

(b) An individual may not advance to the fourth screen until the individual clicks a link at the bottom of the third screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(5) The fourth screen presented on the approved device shall include the following statement, followed by links where the individual may click "yes" or "no":

"I have personally reviewed the entirety of each statement presented on this device;

I am personally signing this referendum petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same [~~measure~~] referendum petition, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

Do you wish to continue and sign this referendum petition?"

(6) (a) If the individual clicks "no" in response to the question described in Subsection (5), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (5), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the referendum petition through the signature process described in Section 20A-21-201.

Section 75. Section 20A-7-615 is amended to read:

20A-7-615. Electronic referendum process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic referendum process described in Section 20A-21-201.

(2) A Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law that is the subject of the referendum petition.

(4) (a) A voter who has signed a referendum petition may have the voter's signature removed from the referendum petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-616(3).

(b) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (4)(b)(iii).

(c) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(d) A voter may not submit a signature removal statement by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(e) A person may only remove an electronic signature from [~~an initiative~~] a referendum petition in accordance with this section.

(f) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from a referendum petition, in accordance with Section 20A-7-606.3.

Section 76. Section 20A-7-616 is amended to read:

20A-7-616. Electronic referendum process -- Collecting signatures -- Removal of signatures.

(1) This section applies only to the electronic referendum process.

(2) A signature-gatherer may not collect a signature after 5 p.m. 45 days after the day on which the first three sponsors receive notice, under Section 20A-7-602.7 or 20A-7-602.8, that the referendum is legally referable to voters.

(3) The local clerk shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following referendum:

[insert title of [~~initiative~~] referendum]

To access a copy of the referendum petition, the law that is the subject of the referendum petition, and information on the deadline for removing your signature from the referendum petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs a referendum petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days.

(5) (a) If the local clerk timely receives a statement requesting signature removal under Subsection 20A-7-615(4), the local clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the referendum petition and the [~~petition~~] signature totals.

(b) The local clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-615(4).

Section 77. Section 20A-7-702 is amended to read:

20A-7-702. Voter information pamphlet -- Form -- Contents.

The voter information pamphlet shall contain the following items in this order:

(1) a cover title page;

(2) an introduction to the pamphlet by the lieutenant governor;

(3) a table of contents;

(4) a list of all candidates for constitutional offices;

(5) a list of candidates for each legislative district;

(6) a 100-word statement of qualifications for each candidate for the office of governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate to the lieutenant governor's office before 5 p.m. on the first business day in August before the date of the election;

(7) information pertaining to all measures to be submitted to the voters, beginning a new page for each measure and containing, in the following order for each measure:

(a) a copy of the number and ballot title of the measure;

(b) the final vote cast by the Legislature on the measure if it is a measure submitted by the Legislature or by referendum;

(c) the impartial analysis of the measure prepared by the Office of Legislative Research and General Counsel;

(d) the arguments in favor of the measure, the rebuttal to the arguments in favor of the measure, the arguments against the measure, and the rebuttal to the arguments against the measure, with the name and title of the authors at the end of each argument or rebuttal;

(e) for each constitutional amendment, a complete copy of the text of the constitutional amendment, with all new language underlined, and all deleted language placed within brackets;

(f) for each initiative qualified for the ballot:

(i) a copy of the [~~measure~~] initiative as certified by the lieutenant governor and a copy of the initial fiscal impact [~~estimate~~] statement prepared according to Section 20A-7-202.5; and

(ii) if the initiative proposes a tax increase, the following statement in bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(g) for each referendum qualified for the ballot, a complete copy of the text of the law being submitted to the voters for their approval or rejection, with all new language underlined and all deleted language placed within brackets, as applicable;

(8) a description provided by the Judicial Performance Evaluation Commission of the selection and retention process for judges, including, in the following order:

(a) a description of the judicial selection process;

(b) a description of the judicial performance evaluation process;

(c) a description of the judicial retention election process;

(d) a list of the criteria of the judicial performance evaluation and the certification standards;

(e) the names of the judges standing for retention election; and

(f) for each judge:

(i) a list of the counties in which the judge is subject to retention election;

(ii) a short biography of professional qualifications and a recent photograph;

(iii) a narrative concerning the judge's performance;

(iv) for each certification standard under Section 78A-12-205, a statement identifying whether,

under Section 78A-12-205, the judge met the standard and, if not, the manner in which the judge failed to meet the standard;

(v) a statement that the Judicial Performance Evaluation Commission:

(A) has determined that the judge meets or exceeds minimum performance standards;

(B) has determined that the judge does not meet or exceed minimum performance standards; or

(C) has not made a determination regarding whether the judge meets or exceeds minimum performance standards;

(vi) any statement, described in Subsection 78A-12-206(3)(b), provided by a judge whom the Judicial Performance Evaluation Commission determines does not meet or exceed minimum performance standards;

(vii) in a bar graph, the average of responses to each survey category, displayed with an identification of the minimum acceptable score as set by Section 78A-12-205 and the average score of all judges of the same court level; and

(viii) a website address that contains the Judicial Performance Evaluation Commission's report on the judge's performance evaluation;

(9) for each judge, a statement provided by the Utah Supreme Court identifying the cumulative number of informal reprimands, when consented to by the judge in accordance with Title 78A, Chapter 11, Judicial Conduct Commission, formal reprimands, and all orders of censure and suspension issued by the Utah Supreme Court under Utah Constitution, Article VIII, Section 13, during the judge's current term and the immediately preceding term, and a detailed summary of the supporting reasons for each violation of the Code of Judicial Conduct that the judge has received;

(10) an explanation of ballot marking procedures prepared by the lieutenant governor, indicating the ballot marking procedure used by each county and explaining how to mark the ballot for each procedure;

(11) voter registration information, including information on how to obtain a ballot;

(12) a list of all county clerks' offices and phone numbers;

(13) the address of the Statewide Electronic Voter Information Website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(14) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(15) on the back cover page, a printed copy of the following statement signed by the lieutenant governor:

"I, _____ (print name), Lieutenant Governor of Utah, certify that the measures contained in this pamphlet will be submitted to the voters of Utah at the election to be held throughout the state on ____ (date of election), and that this pamphlet is complete and correct according to law.

SEAL

Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day of ____ (month), ____ (year)
(signed) _____
Lieutenant Governor".

Section 78. Coordinating H.B. 38 with S.B. 43 -- Substantive and technical amendments.

If this H.B. 38 and S.B. 43, Public Notice Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsections 20A-7-204.1(2) through (3) to read:

"(2) (a) The sponsors shall[~~:(a)~~], before 5 p.m. at least [~~three~~] 10 calendar days before the date of the public hearing, provide written notice of the public hearing [~~to:~~], including the date, time, and location of the public hearing:

(i) to the lieutenant governor [~~for posting on the state's website; and~~];

(ii) to the county clerk of each county in the region where the public hearing will be held;

[~~(ii)~~] (iii) each state senator, state representative, and county commission or county council member who is elected in whole or in part from the region where the public hearing will be held; and

[~~(b) publish written notice of the public hearing, including the time, date, and location of the public hearing, in each county in the region where the public hearing will be held:~~]

[~~(i) (A) at least three calendar days before the day of the public hearing, in a newspaper of general circulation in the county;~~]

[~~(B) if there is no newspaper of general circulation in the county, at least three calendar days before the day of the public hearing, by posting one copy of the notice, and at least one additional copy of the notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents of the county; or~~]

[~~(C) at least seven days before the day of the public hearing, by mailing notice to each residence in the county;~~]

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601, for at least three calendar days before the day of the public hearing;~~]

[~~(iii)~~] (iv) in accordance with Section 45-1-101, for at least three calendar days before the day of the public hearing[~~; and~~].

[~~(iv) on the county's website for at least three calendar days before the day of the public hearing.~~]

(b) The lieutenant governor shall post the notice described in Subsection (2)(a) on the lieutenant governor's website for at least three days before the day of the public hearing.

(c) The county clerk of each county in the region where the public hearing will be held:

(i) shall post the notice described in Subsection (2)(a) for the county, as a class A notice under Section 63G-28-102, for at least three days before the day of the public hearing; and

(ii) may bill the sponsors of the initiative for the cost of preparing, printing, and posting the notice described in Subsection (2)(c)(i).

[~~(3)~~] (4) If the initiative [~~petition~~] proposes a tax increase, the written notice described in Subsection (2) shall include the following statement, in bold, in the same font and point size as the largest font and point size appearing in the notice:

"This initiative [~~petition~~] seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."."

CHAPTER 108
H. B. 39
Passed February 16, 2023
Approved March 14, 2023
Effective May 3, 2023

STATE RESOURCE MANAGEMENT PLAN AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies provisions relating to the state resource management plan.

Highlighted Provisions:

This bill:

- adopts a state resource management plan to replace a previously adopted plan; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63L-10-103, as last amended by Laws of Utah 2022, Chapter 55

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

Section 1. Section 63L-10-103 is amended to read:

63L-10-103. Statewide resource management plan adopted.

(1) (a) The statewide resource management plan, dated [~~November 10, 2021~~] January 9, 2023, and on file with the office, is [~~hereby~~] adopted.

(b) The plan referred to in Subsection (1)(a) replaces and supersedes the plan dated November 10, 2021.

(2) The office shall, to the extent possible and as funding allows, monitor federal, state, and local government compliance with the plan.

(3) (a) If the office finds the need to modify the plan, the office shall notify the commission of the modification and the office's reasoning for the modification.

(b) The office shall coordinate with the commission to discuss policy direction and to draft any modifications to the plan.

[~~(c) A modification to the plan takes effect only after being approved by the Legislature.~~]

(4) (a) The commission may request additional information of the office regarding any modifications to the plan, as described in Subsection (3).

(b) The office shall promptly respond to any request for additional information, as described in Subsection (4)(a).

(c) The commission may make a recommendation that the Legislature approve a modification or disapprove a modification, or the commission may decline to take action.

(5) The office shall annually:

(a) prepare a report detailing [~~what changes, if any, are recommended~~] any modifications the office recommends for the plan and deliver the report to the commission before August 31; and

(b) report on the implementation of the plan at the federal, state, and local levels to the commission before August 31.

(6) (a) If the commission makes a recommendation that the Legislature approve a modification to the plan, the commission shall prepare a bill in anticipation of the annual general session of the Legislature [~~to implement the change~~] for approval of the modification.

(b) A modification to the plan does not take effect until approved by the Legislature.

CHAPTER 109
H. B. 43
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

DOMESTIC VIOLENCE MODIFICATIONS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses domestic violence.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Domestic Violence Data Task Force (task force) and describes the duties of the task force;
- includes a sunset date for the task force;
- requires the Department of Public Safety to staff the task force;
- removes provisions requiring the Department of Public Safety and the State Commission on Criminal and Juvenile Justice to collect certain domestic violence data; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, 472 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 153

78B-7-120, as enacted by Laws of Utah 2021, Chapter 180

ENACTS:

63C-29-101, Utah Code Annotated 1953
63C-29-201, Utah Code Annotated 1953
63C-29-202, Utah Code Annotated 1953

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

Section 1. Section 63C-29-101 is enacted to read:

CHAPTER 29. DOMESTIC VIOLENCE DATA TASK FORCE

Part 1. General Provisions

63C-29-101. Definitions.

As used in this part:

(1) "Cohabitant abuse protective order" means an order issued with or without notice to the respondent under Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.

(2) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

(3) "Lethality assessment" means an evidence-based assessment that is intended to identify a victim of domestic violence who is at a high risk of being killed by the perpetrator.

(4) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

(5) "Task force" means the Domestic Violence Data Task Force created in Section 63C-29-201.

(6) "Victim" means an individual who is a victim of domestic violence, as defined in Section 77-36-1.

Section 2. Section 63C-29-201 is enacted to read:

Part 2. Domestic Violence Data Task Force

63C-29-201. Domestic Violence Data Task Force -- Creation -- Members -- Compensation -- Quorum -- Staff.

(1) There is created the Domestic Violence Data Task Force to coordinate and make recommendations to the Legislature regarding the collection of domestic violence data in the state.

(2) The task force consists of the following members:

(a) the commissioner of public safety, or the commissioner's designee;

(b) the executive director of the Department of Corrections, or the executive director's designee;

(c) the chair of the Board of Pardons and Parole, or the chair's designee;

(d) the president of the Utah Chiefs of Police Association, or the president's designee;

(e) the president of the Utah Sheriffs' Association, or the president's designee;

(f) the executive director of the State Commission on Criminal and Juvenile Justice, or the director's designee;

(g) the director of the Division of Child and Family Services, or the director's designee;

(h) the director of the Utah Division of Indian Affairs, or the director's designee;

(i) the chief administrative officer of the Office of Homeless Services, or the officer's designee;

(j) one individual who provides violence and injury prevention services within the Department of Health and Human Services, appointed by the executive director of the Department of Health and Human Services;

(k) one individual who represents the Administrative Office of the Courts appointed by the state court administrator;

(l) one individual appointed jointly by the Utah League of Cities and Towns and the Utah Association of Counties;

(m) one individual who represents the Statewide Association of Prosecutors appointed by the association;

(n) one individual who represents the Utah Association of Criminal Defense Lawyers appointed by the association; and

(o) the following individuals appointed by the commissioner of public safety, or the commissioner's designee:

(i) one individual who represents a state domestic violence coalition, as defined in 45 C.F.R. Sec. 1370.2;

(ii) one criminal justice system advocate; and

(iii) one nongovernment organization victim advocate.

(3) The task force shall annually select one of the task force members to be the chair of the task force.

(4) If a vacancy occurs in the membership of the task force appointed under Subsection (2), the member shall be replaced in the same manner in which the original appointment was made.

(5) A task force member:

(a) may not receive compensation or benefits for the member's service on the task force; and

(b) may receive per diem and reimbursement for travel expenses that the task force member incurs as a task force member at the rates that the Division of Finance establishes under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(6) (a) A majority of the task force members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(7) The Department of Public Safety shall provide staff support to the task force.

Section 3. Section 63C-29-202 is enacted to read:

63C-29-202. Task force duties -- Reporting.

(1) The task force shall:

(a) gather information on:

(i) lethality assessments conducted in the state, including:

(A) the type of lethality assessments used by law enforcement agencies and other organizations that provide domestic violence services; and

(B) training and protocols implemented by law enforcement agencies and the organizations described in Subsection (1)(a)(i)(A) regarding the use of lethality assessments;

(ii) the data collection efforts implemented by law enforcement agencies and the organizations described in Subsection (1)(a)(i)(A);

(iii) the number of cohabitant abuse protective orders that, in the immediately preceding calendar year, were:

(A) issued;

(B) amended or dismissed before the date of expiration; or

(C) dismissed under Subsection 78B-7-605(1); and

(iv) the prevalence of domestic violence in the state and the prevalence of the following in domestic violence cases:

(A) stalking;

(B) strangulation;

(C) violence in the presence of children; and

(D) threats of suicide or homicide; and

(b) review and provide feedback on:

(i) lethality assessment training and protocols implemented by law enforcement agencies and the organizations described in Subsection (1)(a)(i)(A); and

(ii) the collection of domestic violence data in the state, including:

(A) the coordination between state, local, and not-for-profit agencies to collect data from lethality assessments and on the prevalence of domestic violence, including the number of voluntary commitments of firearms under Section 53-5c-201;

(B) efforts to standardize the format for collecting domestic violence and lethality assessment data from state, local, and not-for-profit agencies within federal confidentiality requirements; and

(C) the need for any additional data collection requirements or efforts.

(2) Before November 30 of each year the task force shall provide a written report to the Law Enforcement and Criminal Justice Interim Committee describing:

(a) the information gathered under Subsection (1)(a); and

(b) the feedback described in Subsection (1)(b).

Section 4. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

[~~(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:~~]

[~~(a) Section 63A-18-102 is repealed;~~]

[~~(b) Section 63A-18-201 is repealed; and~~]

[~~(c) Section 63A-18-202 is repealed.~~]

(4) Title 63A, Chapter 18, Utah Transparency Advisory Board, is repealed January 1, 2025.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

[~~(13)~~] (14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(14)~~] (15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(15)~~] (16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(16)~~] (17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.~~]

(18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.~~]

[~~(20)~~] (19) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21)~~] (20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(22)~~] (21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(23)~~] (22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(24)~~] (23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~] (24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~] (25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~] (26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~] (27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~] (28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~] (29) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~] (30) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~] (31) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 5. Section 78B-7-120 is amended to read:

78B-7-120. Law enforcement -- Training -- Domestic violence -- Lethality assessments.

(1) The Department of Public Safety shall:

(a) develop training in domestic violence responses and lethality assessment protocols[~~, which include the following~~] that includes information on:

[~~(a)~~] (i) recognizing the symptoms of domestic violence and trauma;

[~~(b)~~] (ii) an evidence-based assessment to identify victims of domestic violence who may be at a high risk of being killed by a perpetrator;

[~~(c)~~] (iii) lethality assessment protocols and interviewing techniques, including indicators of strangulation;

[~~(d)~~] (iv) responding to the needs and concerns of a victim of domestic violence;

[~~(e)~~] (v) delivering services to victims of domestic violence in a compassionate, sensitive, and professional manner; and

[~~(f)~~] (vi) understanding cultural perceptions and common myths of domestic violence[~~.~~];

(b) develop and offer an online training course in domestic violence issues to all certified law enforcement officers in the state; and

(c) develop specific training curriculums for the trainings described in Subsections (1)(a) and (b) that include:

(i) information on responding to domestic violence incidents, including trauma-informed and victim-centered interview techniques;

(ii) lethality assessment protocols which have been demonstrated to minimize retraumatizing victims; and

(iii) standards for report writing.

(2) The Peace Officer Standards and Training Division shall incorporate training in domestic violence issues into training offered to all individuals seeking certification as a peace officer.

[~~(2) The department shall develop and offer an online training course in domestic violence issues to all certified law enforcement officers in the state.~~]

[~~(3) Training in domestic violence issues shall be incorporated into training offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer.~~]

[~~(4) The department shall develop specific training curriculums that meet the requirements of this section, including:~~]

[~~(a) response to domestic violence incidents, including trauma-informed and victim-centered interview techniques;~~]

[~~(b) lethality assessment protocols which have been demonstrated to minimize retraumatizing victims; and~~]

[~~(c) standards for report writing.~~]

[~~(5) The Department of Public Safety, in partnership with the Division of Child and Family Services and the Commission on Criminal and Juvenile Justice, shall work to identify aggregate domestic violence data to include:~~]

[~~(a) lethality assessments;~~]

[~~(b) the prevalence of stalking;~~]

[~~(c) strangulation;~~]

[~~(d) violence in the presence of children; and~~]

[~~(e) threats of suicide or homicide.~~]

[~~(6) The Department of Public Safety, with support from the Commission on Criminal and Juvenile Justice and the Division of Child and Family Services shall provide recommendations to the Law Enforcement and Criminal Justice Interim Committee not later than July 31 of each year and in the commission's annual report required by Section 63M-7-205.~~]

CHAPTER 110
H. B. 45
Passed February 17, 2023
Approved March 14, 2023
Effective May 3, 2023

DOMESTICATED ELK PROGRAM AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill makes changes to the Domesticated Elk Act.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions related to:
  - the state veterinarian's powers related to the investigation, quarantine, and destruction of domesticated elk that may be infected with a disease spreading pathogen;
  - importing domesticated elk into the state; and
  - tracking imported domesticated elk;
- requires the Department of Agriculture and Food to study the importation of domesticated elk into the state, including from east of the 100 degree meridian; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-39-102, as last amended by Laws of Utah 2017, Chapter 345
4-39-107, as last amended by Laws of Utah 2017, Chapter 345
4-39-303, as enacted by Laws of Utah 1997, Chapter 302

ENACTS:

4-39-308, Utah Code Annotated 1953
4-39-503, Utah Code Annotated 1953

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

Section 1. Section 4-39-102 is amended to read:

4-39-102. Definitions.

As used in this chapter:

(1) (a) "Commingle" means maintaining animals in a manner in which physical contact among animals could occur.

(b) "Commingle" includes maintaining animals in the same pasture or enclosure.

(c) "Commingle" does not include holding animals:

(i) at a sale;

(ii) during transportation;

(iii) during artificial insemination; or

(iv) in other circumstances involving limited contact among animals for a short period of time.

[~~(1)~~] (2) "Domesticated elk" means elk of the genus and species cervus elaphus, held in captivity and domestically raised for commercial purposes.

[~~(2)~~] (3) (a) "Domesticated elk facility" means a facility where only domesticated elk are raised.

(b) "Domesticated elk facility" includes an elk ranch.

[~~(3)~~] (4) "Domesticated elk product" means any carcass, part of a carcass, hide, meat, meat food product, antlers, or any part of a domesticated elk.

(5) "Elk ranch" means a facility where domesticated elk are harvested through typical hunting methods.

(6) "Suspect domesticated elk" means a domesticated elk for which:

(a) the state veterinarian has determined that the following suggest that the domesticated elk may be infected with a disease spreading pathogen:

(i) unofficial test results;

(ii) laboratory evidence; or

(iii) clinical signs; and

(b) official laboratory results for a disease spreading pathogen:

(i) are inconclusive; or

(ii) have not been conducted.

Section 2. Section 4-39-107 is amended to read:

4-39-107. Powers of state veterinarian.

(1) The state veterinarian shall:

[~~(1)~~] (a) set up periodic or ongoing surveillance programs considered necessary for:

[~~(a)~~] (i) the recognition, control, monitoring, and elimination of infectious diseases and parasites; and

[~~(b)~~] (ii) monitoring genetic purity; and

[~~(2)~~] (b) quarantine or make any disposition of diseased animals that the state veterinarian considers necessary for the control or eradication of that disease.

(2) In carrying out the state veterinarian's duties under this section, the state veterinarian may impose reasonable restrictions, as determined by the department, on the transfer of domesticated elk to or from a domesticated elk herd for a limited time for the purpose of conducting a health risk assessment for the domesticated elk herd.

(3) Within 30 calendar days after the day on which the state veterinarian begins an animal disease traceability investigation for a domesticated elk herd, the state veterinarian shall

provide written notice to an owner of the domesticated elk facility of:

(a) the status of the animal disease traceability investigation, including any findings; and

(b) the owner's right to appeal.

(4) The state veterinarian may not:

(a) quarantine a domesticated elk facility unless a domesticated elk at the domesticated elk facility has, within the previous 60 months:

(i) tested positive for a disease spreading pathogen; or

(ii) commingled with a domesticated elk in a quarantined domesticated elk facility;

(b) continue a previously ordered domesticated elk facility quarantine if an animal disease traceability investigation finds that:

(i) a suspect domesticated elk was not commingled with a domesticated elk that tested positive for a disease spreading pathogen in the 60 months before the day on which the state veterinarian begins the investigation; or

(ii) no suspect domesticated elk resides at the domesticated elk facility; or

(c) restrict the movement of a domesticated elk in transport to an elk ranch or slaughter facility.

Section 3. Section 4-39-303 is amended to read:

4-39-303. Importation of domesticated elk.

(1) A person may not import domesticated elk into the state for use in domesticated elk facilities without first obtaining:

(a) an entry permit from the state veterinarian's office; and

(b) a domesticated elk facility license from the department.

(2) The entry permit shall include the following information and certificates:

(a) a health certificate with an indication of the current health status;

(b) proof of genetic purity as required in Section 4-39-301;

(c) the name and address of the consignor and consignee;

(d) proof that the elk are:

(i) tuberculosis [~~and brucellosis~~] free; or

(ii) enrolled in a tuberculosis herd monitoring accreditation program administered by the United State Department of Agriculture or the Canadian Food Inspection Agency;

(e) the origin of shipment;

(f) the final destination;

(g) the total number of animals in the shipment; and

(h) any other information required by the state veterinarian's office or the department.

(3) No domesticated elk will be allowed into the state that originates east of the 100 degree meridian, to prevent introduction of the meningeal worm.

(4) A person who imports domesticated elk into the state from an international herd:

(a) may only import domesticated elk:

(i) that are male; and

(ii) to an elk ranch for use in the elk ranch; and

(b) shall ensure that the domesticated elk are harvested in the same season in which the domesticated elk enter the state.

(5) For the purpose of enforcing Subsection (4), the department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the use of radio frequency identification tags to track male elk imported into the state from an international herd.

Section 4. Section 4-39-308 is enacted to read:

4-39-308. Study of importation of domesticated elk.

(1) As used in this section:

(a) "Committee" means the Natural Resources, Agriculture, and Environment Interim Committee.

(b) "Eastern importation" means the importation into the state of domesticated elk originating east of the 100 degree meridian.

(2) (a) The department shall conduct a study of domesticated elk importation.

(b) The department shall coordinate with the Division of Wildlife Resources and relevant stakeholders that have an interest in domesticated elk importation to conduct the study described in Subsection (2)(a).

(3) The study described in Subsection (2) shall:

(a) evaluate the risk to domesticated elk in the state of meningeal worm infection related to eastern importation;

(b) evaluate strategies to mitigate meningeal worm infection related to eastern importation, including:

(i) tracking;

(ii) testing;

(iii) vaccination; and

(iv) treatment;

(c) study avenues for importation of domesticated elk breeding stock other than eastern importation, including potential risks and strategies for mitigating risks; and

(d) include a study or evaluation of any other factors the department determines necessary to conduct the study described in Subsection (2).

(4) The study described in Subsection (2) may include:

(a) review of relevant literature; and

(b) surveys of other states' disease mitigation strategies and practices.

(5) (a) The department shall report to the committee on or before the committee's September 2023 interim committee meeting.

(b) The report described in Subsection (5)(a):

(i) shall include recommendations:

(A) for or against eastern import, including recommendations for how to implement eastern import, if any; and

(B) for importation of domesticated elk breeding stock, including recommendations for implementation and disease mitigation strategies; and

(ii) may include recommendations for legislation.

(6) If the committee decides to recommend legislative action based on the report and recommendations described in Subsection (5), the committee shall prepare legislation for consideration by the Legislature in the 2024 General Session.

Section 5. Section 4-39-503 is enacted to read:

4-39-503. Grounds for denial, suspension, or revocation of licenses for domestic elk facilities.

(1) The department shall deny, suspend, or revoke a license to operate a domestic elk facility if the licensee or applicant:

(a) fails, for two consecutive years, to:

(i) meet inventory requirements as required by the department;

(ii) submit chronic wasting disease test samples for at least 90% of mortalities over 12 months old;

(iii) notify the department that there are wild cervids inside a domestic elk farm or elk ranch;

(b) fails to present animals for identification at the request of the department or allow the department to have access to facility records; or

(c) violates the import requirements of Section 4-39-303.

(2) The department may deny, revoke, or suspend a license to operate a domestic elk facility if, after delivery of notice and an opportunity to correct, the licensee or applicant:

(a) provides:

(i) an unfinished application or incorrect application information; or

(ii) incorrect records or fails to maintain required records;

(b) fails to:

(i) notify the department of movement of elk onto or off of the facility;

(ii) identify elk as required;

(iii) notify the department concerning an escape of an animal from a domestic elk facility;

(iv) maintain a perimeter fence that prevents escape of domestic elk or ingress of wild cervids into the facility;

(v) participate with the department in a cooperative wild cervid removal program;

(vi) submit chronic wasting disease test samples for at least 90% of mortalities over 12 months old; or

(vii) have the minimum proper equipment necessary to safely and humanely handle animals in the facility;

(c) moves imported elk onto a facility without getting a Certificate of Veterinary Inspection that has an import permit number from the department;

(d) imports animals that are prohibited or controlled by the division; or

(e) handles animals in a manner that violates acceptable animal husbandry practices.

CHAPTER 111
H. B. 46
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

CRIMINAL CODE RECODIFICATION AND CROSS REFERENCES

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions in Title 76, Utah Criminal Code, by redrafting offense statutes into a new structure and clarifies existing law.

Highlighted Provisions:

This bill:

- reorders language into a standardized format and clarifies existing law, including the offenses in Title 76, Chapter 6, Offenses Against Property, and Chapter 6a, Pyramid Scheme Act;
- moves penalty enhancement statutes to part concerning penalty enhancements;
- for clarity, revises penalty provisions in several offenses in Title 76, Chapter 5, Offenses Against the Individual;
- for clarity, codifies names of offenses;
- reorganizes the offenses of criminal mischief and property damage or destruction by enacting property damage or destruction as a stand-alone statute;
- reorganizes the offense concerning defacement by graffiti;
- reorganizes the offenses of criminal trespass on agricultural land or range land and cutting, destroying, or rendering ineffective fencing of agricultural or range land by enacting cutting, destroying, or rendering ineffective fencing of agricultural or range land as a stand-alone statute;
- repeals stand-alone penalty statute for theft and incorporates penalty information into applicable statutes;
- renames the offense of wrongful appropriation to unauthorized possession of property;
- renames the offense of receiving stolen property to theft by receiving stolen property;
- reorganizes the offenses of forgery and producing or transferring false identification by enacting producing or transferring false identification as a stand-alone statute;
- clarifies application of law enforcement defense and forfeiture provisions as applied to fraud offenses;
- reorganizes the offenses of wrongful liens and fraudulent handling of recordable writings by enacting fraudulent handling of recordable writings as a stand-alone offense;
- reorganizes financial transaction card offenses by enacting separate stand-alone offenses;
- reorganizes computer crimes offenses by enacting separate stand-alone offenses;
- for clarity, revises names of offenses concerning library theft;
- reorganizes offenses concerning cultural sites protection by enacting separate stand-alone offenses and incorporating existing penalties into each offense;
- repeals the stand-alone penalty statute for violations by metal dealers and incorporates the penalty information into new offense sections enacted adjacent to the relevant statutory requirements;
- for clarity, reorganizes offenses concerning pyramid schemes; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-19-3, as last amended by Laws of Utah 2018, Chapter 433
24-1-102, as last amended by Laws of Utah 2022, Chapter 179
26-7-14, as last amended by Laws of Utah 2022, Chapter 430
26-20-9, as last amended by Laws of Utah 2007, Chapter 48
31A-23a-409, as last amended by Laws of Utah 2021, Chapter 252
31A-36-118, as last amended by Laws of Utah 2009, Chapter 355
35A-4-312.5, as last amended by Laws of Utah 2011, Chapter 57
41-1a-1314, as last amended by Laws of Utah 2005, Chapter 71
58-9-607, as last amended by Laws of Utah 2020, Chapter 251
58-9-613, as enacted by Laws of Utah 2018, Chapter 326
58-55-503, as last amended by Laws of Utah 2022, Chapter 415
63M-7-404, as last amended by Laws of Utah 2022, Chapters 115, 185 and 328
73-2-27, as last amended by Laws of Utah 2015, Chapters 245, 249
76-3-203.1, as last amended by Laws of Utah 2022, Chapter 185
76-3-203.3, as last amended by Laws of Utah 2020, Chapter 394
76-3-203.5, as last amended by Laws of Utah 2022, Chapters 181, 185 and 418
76-5-102.1, as enacted by Laws of Utah 2022, Chapter 116
76-5-207.5, as last amended by Laws of Utah 2022, Chapters 181, 426
76-5-208, as last amended by Laws of Utah 2022, Chapter 181
76-6-101, as last amended by Laws of Utah 2011, Chapter 340
76-6-102, as last amended by Laws of Utah 2022, Chapter 181
76-6-103, as last amended by Laws of Utah 1986, Chapter 59
76-6-104, as last amended by Laws of Utah 2010, Chapter 193
76-6-104.5, as last amended by Laws of Utah 2009, Chapter 320
76-6-105, as last amended by Laws of Utah 2002, Chapter 166

76-6-106, as last amended by Laws of Utah 2012, Chapter 135
76-6-107, as last amended by Laws of Utah 2019, Chapters 292, 494
76-6-107.5, as enacted by Laws of Utah 2019, Chapter 292
76-6-108, as last amended by Laws of Utah 2000, Chapter 54
76-6-111, as last amended by Laws of Utah 2021, Chapters 57, 260
76-6-112, as enacted by Laws of Utah 2012, Chapter 213
76-6-202, as last amended by Laws of Utah 2012, Chapter 303
76-6-203, as last amended by Laws of Utah 2022, Chapter 181
76-6-204, as enacted by Laws of Utah 1973, Chapter 196
76-6-204.5, as enacted by Laws of Utah 2008, Chapter 366
76-6-205, as enacted by Laws of Utah 1973, Chapter 196
76-6-206, as last amended by Laws of Utah 2022, Chapter 87
76-6-206.1, as enacted by Laws of Utah 1997, Chapter 223
76-6-206.2, as last amended by Laws of Utah 2021, Chapters 260, 280
76-6-206.3, as last amended by Laws of Utah 2022, Chapter 87
76-6-206.4, as enacted by Laws of Utah 2017, Chapter 287
76-6-301, as last amended by Laws of Utah 2004, Chapter 112
76-6-302, as last amended by Laws of Utah 2022, Chapter 181
76-6-403, as last amended by Laws of Utah 1974, Chapter 32
76-6-404, as enacted by Laws of Utah 1973, Chapter 196
76-6-404.5, as last amended by Laws of Utah 2001, Chapter 48
76-6-404.7, as enacted by Laws of Utah 2009, Chapter 328
76-6-405, as last amended by Laws of Utah 2012, Chapter 156
76-6-406, as last amended by Laws of Utah 2022, Chapter 164
76-6-407, as enacted by Laws of Utah 1973, Chapter 196
76-6-408, as last amended by Laws of Utah 2022, Chapter 201
76-6-409, as last amended by Laws of Utah 1994, Chapter 215
76-6-409.1, as last amended by Laws of Utah 1987, Chapter 38
76-6-409.3, as last amended by Laws of Utah 2010, Chapter 193
76-6-409.5, as last amended by Laws of Utah 1997, Chapter 78
76-6-409.6, as last amended by Laws of Utah 1997, Chapter 78
76-6-409.7, as last amended by Laws of Utah 1997, Chapter 78
76-6-409.8, as last amended by Laws of Utah 1997, Chapter 78
76-6-409.9, as last amended by Laws of Utah 1997, Chapter 78
76-6-409.10, as last amended by Laws of Utah 1996, Chapter 79
76-6-410, as enacted by Laws of Utah 1973, Chapter 196
76-6-410.5, as enacted by Laws of Utah 2001, Chapter 112
76-6-413, as enacted by Laws of Utah 1997, Chapter 119
76-6-501, as last amended by Laws of Utah 2016, Chapter 117
76-6-502, as last amended by Laws of Utah 2018, Chapter 221
76-6-503.5, as last amended by Laws of Utah 2014, Chapter 114
76-6-503.7, as enacted by Laws of Utah 2015, Chapter 228
76-6-504, as last amended by Laws of Utah 2005, Chapter 93
76-6-505, as last amended by Laws of Utah 2010, Chapter 193
76-6-506, as last amended by Laws of Utah 2010, Chapter 254
76-6-506.2, as last amended by Laws of Utah 2009, Chapter 166
76-6-506.3, as last amended by Laws of Utah 2018, Chapter 221
76-6-506.6, as enacted by Laws of Utah 1991, Chapter 60
76-6-506.7, as last amended by Laws of Utah 2015, Chapter 258
76-6-507, as last amended by Laws of Utah 1985, Chapter 157
76-6-508, as last amended by Laws of Utah 1991, Chapter 241
76-6-509, as enacted by Laws of Utah 1973, Chapter 196
76-6-510, as enacted by Laws of Utah 1973, Chapter 196
76-6-511, as last amended by Laws of Utah 1991, Chapter 241
76-6-512, as last amended by Laws of Utah 1997, Chapter 10
76-6-513, as last amended by Laws of Utah 2019, Chapter 211
76-6-514, as enacted by Laws of Utah 1973, Chapter 196
76-6-515, as enacted by Laws of Utah 1973, Chapter 196
76-6-516, as enacted by Laws of Utah 1973, Chapter 196
76-6-517, as enacted by Laws of Utah 1973, Chapter 196
76-6-518, as last amended by Laws of Utah 2010, Chapter 193
76-6-520, as enacted by Laws of Utah 1973, Chapter 196
76-6-521, as last amended by Laws of Utah 2022, Chapter 198
76-6-522, as last amended by Laws of Utah 1992, Chapter 1
76-6-523, as enacted by Laws of Utah 2009, Chapter 306
76-6-524, as last amended by Laws of Utah 2012, Chapter 278

76-6-601, as last amended by Laws of Utah 1998, Chapter 282
76-6-602, as enacted by Laws of Utah 1979, Chapter 78
76-6-608, as last amended by Laws of Utah 2010, Chapter 193
76-6-703, as last amended by Laws of Utah 2017, Chapters 462, 467
76-6-705, as last amended by Laws of Utah 2017, Chapter 462
76-6-801, as last amended by Laws of Utah 1987, Chapter 245
76-6-803, as last amended by Laws of Utah 1987, Chapter 245
76-6-803.30, as enacted by Laws of Utah 1987, Chapter 245
76-6-803.60, as enacted by Laws of Utah 1987, Chapter 245
76-6-803.90, as enacted by Laws of Utah 1987, Chapter 245
76-6-902, as last amended by Laws of Utah 2006, Chapter 111
76-6-1001, as last amended by Laws of Utah 2021, Chapter 329
76-6-1002, as last amended by Laws of Utah 2002, Chapter 166
76-6-1003, as last amended by Laws of Utah 2020, Chapter 223
76-6-1102, as last amended by Laws of Utah 2021, Chapter 260
76-6-1105, as last amended by Laws of Utah 2021, Chapter 260
76-6-1203, as enacted by Laws of Utah 2008, Chapter 370
76-6-1303, as last amended by Laws of Utah 2015, Chapter 258
76-6-1403, as last amended by Laws of Utah 2014, Chapter 261
76-6-1404, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-6-1405, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-6-1406, as last amended by Laws of Utah 2022, Chapter 201
76-6-1408, as last amended by Laws of Utah 2016, Chapter 316
76-6-1409, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-9-201, as last amended by Laws of Utah 2021, Chapter 152
76-10-204, as last amended by Laws of Utah 2002, Chapter 166
76-10-1302, as last amended by Laws of Utah 2022, Chapters 124, 181 and 185
76-10-1602, as last amended by Laws of Utah 2022, Chapters 181, 185
77-18-105, as last amended by Laws of Utah 2022, Chapters 115, 359
77-23a-8, as last amended by Laws of Utah 2022, Chapter 430
77-36-1.1, as last amended by Laws of Utah 2021, Chapter 213
77-42-105, as last amended by Laws of Utah 2016, Chapter 319
78B-3-108, as last amended by Laws of Utah 2022, Chapter 201
78B-9-104, as last amended by Laws of Utah 2022, Chapter 120
80-6-610, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-709, as last amended by Laws of Utah 2022, Chapter 155

ENACTS:
76-6-106.1, Utah Code Annotated 1953
76-6-206.5, Utah Code Annotated 1953
76-6-412.1, Utah Code Annotated 1953
76-6-501.5, Utah Code Annotated 1953
76-6-503.6, Utah Code Annotated 1953
76-6-506.8, Utah Code Annotated 1953
76-6-506.9, Utah Code Annotated 1953
76-6-703.1, Utah Code Annotated 1953
76-6-703.3, Utah Code Annotated 1953
76-6-703.5, Utah Code Annotated 1953
76-6-703.7, Utah Code Annotated 1953
76-6-902.1, Utah Code Annotated 1953
76-6-902.2, Utah Code Annotated 1953
76-6-1403.1, Utah Code Annotated 1953
76-6-1404.1, Utah Code Annotated 1953
76-6-1405.1, Utah Code Annotated 1953
76-6-1406.1, Utah Code Annotated 1953
76-6-1409.1, Utah Code Annotated 1953
76-6a-102, Utah Code Annotated 1953
76-6a-103, Utah Code Annotated 1953

REPEALS AND REENACTS:
76-6-1101, as enacted by Laws of Utah 2000, Chapter 57

RENUMBERS AND AMENDS:
76-3-203.15, (Renumbered from 76-6-109, as last amended by Laws of Utah 2000, Chapter 214)
76-3-203.16, (Renumbered from 76-6-110, as last amended by Laws of Utah 2021, Chapter 57)
76-3-410, (Renumbered from 76-6-107.1, as last amended by Laws of Utah 2021, Chapter 260)
76-6a-101, (Renumbered from 76-6a-2, as last amended by Laws of Utah 2006, Chapter 247)
76-6a-104, (Renumbered from 76-6a-6, as enacted by Laws of Utah 1983, Chapter 89)

REPEALS:
76-6-412, as last amended by Laws of Utah 2022, Chapter 201
76-6-506.5, as last amended by Laws of Utah 2010, Chapter 193
76-6-606, as last amended by Laws of Utah 2000, Chapter 236
76-6-701, as last amended by Laws of Utah 1986, Chapter 123
76-6-802, as last amended by Laws of Utah 1987, Chapter 245
76-6-804, as enacted by Laws of Utah 1981, Chapter 168
76-6-805, as enacted by Laws of Utah 1981, Chapter 168
76-6-903, as last amended by Laws of Utah 2013, Chapter 394
76-6-1004, as enacted by Laws of Utah 1998, Chapter 87

76-6-1201, as enacted by Laws of Utah 2008, Chapter 370
76-6-1204, as last amended by Laws of Utah 2010, Chapter 193
76-6-1301, as enacted by Laws of Utah 2012, Chapter 32
76-6-1401, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-6-1407, as last amended by Laws of Utah 2016, Chapter 316
76-6a-1, as enacted by Laws of Utah 1983, Chapter 89
76-6a-3, as last amended by Laws of Utah 2006, Chapter 247
76-6a-4, as last amended by Laws of Utah 2006, Chapter 247
76-6a-5, as enacted by Laws of Utah 1983, Chapter 89

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

Section 1. Section 13-19-3 is amended to read:

13-19-3. Violation an infraction.

Notwithstanding the penalty provisions of [~~Section 76-6-606~~] Title 76, Chapter 6, Part 6, Retail Theft, a violation of this chapter is an infraction.

Section 2. Section 24-1-102 is amended to read:

24-1-102. Definitions.

As used in this title:

(1) "Account" means the Criminal Forfeiture Restricted Account created in Section 24-4-116.

(2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not guilty.

(b) "Acquitted" does not include:

(i) a verdict of guilty on a lesser or reduced charge;

(ii) a plea of guilty to a lesser or reduced charge; or

(iii) dismissal of a charge as a result of a negotiated plea agreement.

(3) (a) "Agency" means an agency of this state or a political subdivision of this state.

(b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

(4) "Claimant" means:

(a) an owner of property as defined in this section;

(b) an interest holder as defined in this section; or

(c) an individual or entity who asserts a claim to any property seized for forfeiture under this title.

(5) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(6) "Complaint" means a civil or criminal complaint seeking the forfeiture of any real or personal property under this title.

(7) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, and storage functions.

(b) "Computer" includes any device that is used for the storage of digital or electronic files, flash memory, software, or other electronic information.

(c) "Computer" does not mean a computer server of an Internet or electronic service provider, or the service provider's employee, if used to comply with the requirements under 18 U.S.C. Sec. 2258A.

(8) "Constructive seizure" means a seizure of property where the property is left in the control of the owner and an agency posts the property with a notice of intent to seek forfeiture.

(9) (a) "Contraband" means any property, item, or substance that is unlawful to produce or to possess under state or federal law.

(b) "Contraband" includes:

(i) a controlled substance that is possessed, transferred, distributed, or offered for distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(ii) a computer that:

(A) contains or houses child pornography, or is used to create, download, transfer, upload to a storage account, or store any electronic or digital files containing child pornography; or

(B) contains the personal identifying information of another individual, as defined in [~~Subsection 76-6-1102(1)~~] Section 76-6-1101, whether that individual is alive or deceased, and the personal identifying information has been used to create false or fraudulent identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.

(10) "Forfeit" means to divest a claimant of an ownership interest in property seized under this title.

(11) "Innocent owner" means a claimant who:

(a) held an ownership interest in property at the time of the commission of an offense subjecting the property to forfeiture under this title, and:

(i) did not have actual knowledge of the offense subjecting the property to forfeiture; or

(ii) upon learning of the commission of the offense, took reasonable steps to prohibit the use of the property in the commission of the offense; or

(b) acquired an ownership interest in the property and had no knowledge that the commission of the offense subjecting the property to forfeiture under this title had occurred or that the property had been seized for forfeiture, and:

(i) acquired the property in a bona fide transaction for value;

(ii) was an individual, including a minor child, who acquired an interest in the property through probate or inheritance; or

(iii) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.

(12) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value.

(b) "Interest holder" does not mean a person:

(i) who holds property for the benefit of or as an agent or nominee for another person; or

(ii) who is not in substantial compliance with any statute requiring an interest in property to be:

(A) recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value; or

(B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for value.

(13) "Known address" means any address provided by a claimant to the peace officer or agency at the time the property is seized, or the claimant's most recent address on record with a governmental entity if no address was provided at the time of the seizure.

(14) "Legal costs" means the costs and expenses incurred by a party in a forfeiture action.

(15) "Legislative body" means:

(a) (i) the Legislature, county commission, county council, city commission, city council, or town council that has fiscal oversight and budgetary approval authority over an agency; or

(ii) the agency's governing political subdivision; or

(b) the lead governmental entity of a multijurisdictional task force, as designated in a memorandum of understanding executed by the agencies participating in the task force.

(16) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of individuals who are employed by or acting under the authority of different governmental entities, including federal, state, county, or municipal governments, or any combination of federal, state, county, or municipal agencies.

(17) "Owner" means an individual or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in real or personal property.

(18) "Peace officer" means an employee:

(a) of an agency;

(b) whose duties consist primarily of the prevention and detection of violations of laws of this state or a political subdivision of this state; and

(c) who is authorized by the agency to seize property under this title.

(19) (a) "Proceeds" means:

(i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense; or

(ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection (19)(a)(i).

(b) "Proceeds" includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose regarding property under Subsection (19)(a)(i).

(c) "Proceeds" is not limited to the net gain or profit realized from the offense that subjects the property to forfeiture.

(20) "Program" means the State Asset Forfeiture Grant Program created in Section 24-4-117.

(21) (a) "Property" means all property, whether real or personal, tangible or intangible.

(b) "Property" does not include contraband.

(22) "Prosecuting attorney" means:

(a) the attorney general and an assistant attorney general;

(b) a district attorney or deputy district attorney;

(c) a county attorney or assistant county attorney; and

(d) an attorney authorized to commence an action on behalf of the state under this title.

(23) "Public interest use" means a:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation of the property to a nonprofit charity registered with the state.

(24) "Real property" means land, including any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

Section 3. Section 26-7-14 is amended to read:

26-7-14. Study on violent incidents and fatalities involving substance abuse -- Report.

(1) As used in this section:

(a) "Drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance or alcohol was combined, that

results in an individual requiring medical assistance.

(b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(c) "Violent incident" means:

(i) aggravated assault as described in Section 76-5-103;

(ii) child abuse as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;

(iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

(iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(v) a burglary offense described in Sections 76-6-202 [~~through~~], 76-6-203, 76-6-204, and 76-6-204.5;

(vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;

(vii) a domestic violence offense, as defined in Section 77-36-1; and

(viii) any other violent offense, as determined by the department.

(2) In 2021 and continuing every other year, the department shall provide a report before October 1 to the Health and Human Services Interim Committee regarding the number of:

(a) violent incidents and fatalities that occurred in the state during the preceding calendar year that, at the time of occurrence, involved substance abuse;

(b) drug overdose events in the state during the preceding calendar year; and

(c) recommendations for legislation, if any, to prevent the occurrence of the events described in Subsections (2)(a) and (b).

(3) Before October 1, 2020, the department shall:

(a) determine what information is necessary to complete the report described in Subsection (2) and from which local, state, and federal agencies the information may be obtained;

(b) determine the cost of any research or data collection that is necessary to complete the report described in Subsection (2);

(c) make recommendations for legislation, if any, that is necessary to facilitate the research or data collection described in Subsection (3)(b), including recommendations for legislation to assist with information sharing between local, state, federal, and private entities and the department; and

(d) report the findings described in Subsections (3)(a) through (c) to the Health and Human Services Interim Committee.

(4) The department may contract with another state agency, private entity, or research institution to assist the department with the report described in Subsection (2).

Section 4. Section 26-20-9 is amended to read:

26-20-9. Criminal penalties.

(1) (a) Except as provided in Subsection (1)(b) the culpable mental state required for a criminal violation of this chapter is knowingly, intentionally, or recklessly as defined in Section 76-2-103.

(b) The culpable mental state required for a criminal violation of this chapter for kickbacks and bribes under Section 26-20-4 is knowingly and intentionally as defined in Section 76-2-103.

(2) The punishment for a criminal violation of any provision of this chapter, except as provided under Section 26-20-5, is determined by the cumulative value of the funds or other benefits received or claimed in the commission of all violations of a similar nature, and not by each separate violation.

(3) Punishment for criminal violation of this chapter, except as provided under Section 26-20-5, is [~~a felony of the second degree, felony of the third degree, class A misdemeanor, or class B misdemeanor based on the dollar amounts as prescribed by Subsection 76-6-412(1) for theft of property and services~~]:

(a) a second degree felony if the value of the property or service is or exceeds $5,000;

(b) a third degree felony if the value of the property or service is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value of the property or service is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value of the property or service is less than $500.

Section 5. Section 31A-23a-409 is amended to read:

31A-23a-409. Trust obligation for money collected.

(1) (a) Subject to Subsection (7), a licensee is a trustee for money that is paid to, received by, or collected by a licensee for forwarding to insurers or to insureds.

(b) (i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust funds with:

(A) the licensee's own money; or

(B) money held in any other capacity.

(ii) This Subsection (1)(b) does not apply to:

(A) amounts necessary to pay bank charges; and

(B) money paid by insureds and belonging in part to the licensee as a fee or commission.

(c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the fiduciary duties of a trustee with respect to money to be forwarded to insurers or insureds through the licensee.

(d) (i) Unless money is sent to the appropriate payee by the close of the next business day after their receipt, the licensee shall deposit them in an account authorized under Subsection (2).

(ii) Money deposited under this Subsection (1)(d) shall remain in an account authorized under Subsection (2) until sent to the appropriate payee.

(2) Money required to be deposited under Subsection (1) shall be deposited:

(a) [~~in~~] into a federally insured trust account in a depository institution, as defined in Section 7-1-103, which:

(i) has an office in this state, if the licensee depositing the money is a resident licensee;

(ii) has federal deposit insurance; and

(iii) is authorized by its primary regulator to engage in the trust business, as defined by Section 7-5-1, in this state; or

(b) [~~in~~] into some other account, that:

(i) the commissioner approves by rule or order; and

(ii) provides safety comparable to an account described in Subsection (2)(a).

(3) It is not a violation of Subsection (2)(a) if the amounts in the accounts exceed the amount of the federal insurance on the accounts.

(4) A trust account into which money is deposited may be interest bearing. The interest accrued on the account may be paid to the licensee, so long as the licensee otherwise complies with this section and with the contract with the insurer.

(5) A depository institution or other organization holding trust funds under this section may not offset or impound trust account funds against debts and obligations incurred by the licensee.

(6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any portion of the money held under Subsection (1) to the licensee's own use, is guilty of theft under Title 76, Chapter 6, Part 4, Theft. [~~Section 76-6-412 applies in determining the classification of the offense.~~] Sanctions under Section 31A-2-308 also apply.

(7) A nonresident licensee:

(a) shall comply with Subsection (1)(a) by complying with the trust account requirements of the nonresident licensee's home state; and

(b) is not required to comply with the other provisions of this section.

Section 6. Section 31A-36-118 is amended to read:

31A-36-118. Criminal penalties and restitution.

(1) A person subject to this chapter is subject to:

(a) Section 31A-2-308 for an administrative violation of this title;

(b) prosecution under [~~Section 76-6-412~~] Title 76, Chapter 6, Part 4, Theft, for [~~a~~] criminal activity involving a life settlement; or

(c) prosecution under Section 31A-31-103 for insurance fraud involving a life settlement.

(2) A person found to be in violation of this chapter may:

(a) be ordered to pay restitution to persons aggrieved by the violation;

(b) be ordered to pay a forfeiture;

(c) be imprisoned if found guilty of a criminal law by a court of competent jurisdiction; and

(d) be subject to a combination of the penalties described in this Subsection (2).

(3) Except for a fraudulent act committed by an owner, this section does not apply to the owner.

Section 7. Section 35A-4-312.5 is amended to read:

35A-4-312.5. Suspected misuse of personal identifying information.

(1) As used in this section:

(a) "Child identity protection plan" is a program operated by the attorney general that uses IRIS and allows the attorney general to enter into an agreement with a third party to transmit verified personal information of a person younger than 18 years of age through secured means to enable the protection of the person's Social Security number from misuse.

(b) "IRIS" means the Identity Theft Reporting Information System operated by the attorney general.

(c) "Personal identifying information" has the same meaning as defined in Section [~~76-6-1102~~] 76-6-1101.

(d) "Suspected misuse of personal identifying information" includes:

(i) a [~~Social Security~~] social security number under which wages are being reported by two or more individuals; or

(ii) a [~~Social Security~~] social security number of an individual under the age of 18 with reported wages exceeding $1,000 for a single reporting quarter.

(2) Notwithstanding Section 35A-4-312, if the department records disclose a suspected misuse of personal identifying information by an individual other than the purported owner of the information, or if a parent, guardian, or individual under the age of 18 is enrolling or has enrolled in the child identity protection plan, the department may:

(a) inform the purported owner of the information or, if the purported owner is a minor, the minor's parent or guardian, of the suspected misuse; and

(b) provide information of the suspected misuse to an appropriate law enforcement agency responsible for investigating an identity fraud violation.

Section 8. Section 41-1a-1314 is amended to read:

41-1a-1314. Unauthorized control for extended time.

(1) Except as provided in Subsection (3), it is a class A misdemeanor for a person to exercise unauthorized control over a motor vehicle that is not his own, without the consent of the owner or lawful custodian, and with the intent to temporarily deprive the owner or lawful custodian of possession of the motor vehicle.

(2) The consent of the owner or legal custodian of a motor vehicle to its control by the actor is not in any case presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the motor vehicle by the same or a different person.

(3) Violation of this section is a third degree felony if:

(a) the person does not return the motor vehicle to the owner or lawful custodian within 24 hours after the exercise of unlawful control; or

(b) regardless of the mental state or conduct of the person committing the offense:

(i) the motor vehicle is damaged in an amount of $500 or more;

(ii) the motor vehicle is used to commit a felony; or

(iii) the motor vehicle is damaged in any amount to facilitate entry into it or its operation.

(4) It is not a defense to Subsection (3)(a) that someone other than the person, or an agent of the person, returned the motor vehicle within 24 hours.

(5) A violation of this section is a lesser included offense of theft under Section 76-6-404, when the theft is of an operable motor vehicle under Subsection [~~76-6-412(1)(a)(ii)~~] 76-6-404(3)(a)(ii).

Section 9. Section 58-9-607 is amended to read:

58-9-607. Authorization to cremate -- Penalties for removal of items from human remains.

(1) Except as otherwise provided in this section and Section 58-9-619, a funeral service establishment may not cremate human remains until it has received:

(a) a cremation authorization form signed by an authorizing agent;

(b) a completed and executed burial transit permit or similar document, as provided by state law, indicating that human remains are to be cremated; and

(c) any other documentation required by the state, county, or municipality.

(2) (a) The cremation authorization form shall contain, at a minimum, the following information:

(i) the identity of the human remains and the time and date of death, including a signed declaration of visual identification of the deceased or refusal to visually identify the deceased;

(ii) the name of the funeral director and funeral service establishment that obtained the cremation authorization;

(iii) notification as to whether the death occurred from a disease declared by the department of health to be infectious, contagious, communicable, or dangerous to the public health;

(iv) the name of the authorizing agent and the relationship between the authorizing agent and the decedent;

(v) a representation that the authorizing agent has the right to authorize the cremation of the decedent and that the authorizing agent is not aware of any living person with a superior or equal priority right to that of the authorizing agent, except that if there is another living person with a superior or equal priority right, the form shall contain a representation that the authorizing agent has:

(A) made reasonable efforts to contact that person;

(B) been unable to do so; and

(C) no reason to believe that the person would object to the cremation of the decedent;

(vi) authorization for the funeral service establishment to cremate the human remains;

(vii) a representation that the human remains do not contain a pacemaker or other material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation;

(viii) the name of the person authorized to receive the cremated remains from the funeral service establishment;

(ix) the manner in which the final disposition of the cremated remains is to take place, if known;

(x) a listing of each item of value to be delivered to the funeral service establishment along with the human remains, and instructions as to how each item should be handled;

(xi) the signature of the authorizing agent, attesting to the accuracy of all representations contained on the authorization form;

(xii) if the cremation authorization form is being executed on a preneed basis, the form shall contain the disclosure required for preneed programs under this chapter; and

(xiii) except for a preneed cremation authorization, the signature of the funeral director of the funeral service establishment that obtained the cremation authorization.

(b) (i) The individual described in Subsection (2)(a)(xiii) shall execute the funeral authorization form as a witness and is not responsible for any of the representations made by the authorizing agent.

(ii) The funeral director or the funeral service establishment shall warrant to the crematory that the human remains delivered to the funeral service establishment have been positively identified as the decedent listed on the cremation authorization form by the authorizing agent or a designated representative of the authorizing agent.

(iii) The authorizing agent or the agent's designee may make the identification referred to in Subsection (2)(b)(ii) in person or by photograph.

(3) (a) Except as provided in Section 58-9-619, a funeral service establishment may not accept unidentified human remains for cremation.

(b) If a funeral service establishment takes custody of a cremation container subsequent to the human remains being placed within the container, it can rely on the identification made before the remains were placed in the container.

(c) The funeral service establishment shall place appropriate identification on the exterior of the cremation container based on the prior identification.

(4) (a) A person who removes or possesses dental gold or silver, jewelry, or mementos from human remains:

(i) with purpose to deprive another over control of the property is guilty of an offense and subject to the punishments provided in Section [~~76-6-412~~] 76-6-404;

(ii) with purpose to exercise unauthorized control and with intent to temporarily deprive another of control over the property is guilty of an offense and subject to the punishments provided in Section 76-6-404.5; and

(iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without specific written permission of the individual who has the right to control those remains is guilty of a class B misdemeanor.

(b) The fact that residue or any unavoidable dental gold or dental silver or other precious metals remain in a cremation chamber or other equipment or a container used in a prior cremation is not a violation of Subsection (4)(a).

Section 10. Section 58-9-613 is amended to read:

58-9-613. Authorization for alkaline hydrolysis -- Penalties for removal of items from human remains.

(1) Except as otherwise provided in this section, a funeral service establishment may not perform alkaline hydrolysis on human remains until the funeral service establishment has received:

(a) an alkaline hydrolysis authorization form signed by an authorizing agent;

(b) a completed and executed burial transit permit or similar document, as provided by state law, indicating that disposition of the human remains is to be by alkaline hydrolysis; and

(c) any other documentation required by the state, county, or municipality.

(2) (a) The alkaline hydrolysis authorization form shall contain, at a minimum, the following information:

(i) the identity of the human remains and the time and date of death, including a signed declaration of visual identification of the deceased or refusal to visually identify the deceased;

(ii) the name of the funeral director and funeral service establishment that obtained the alkaline hydrolysis authorization;

(iii) notification as to whether the death occurred from a disease declared by the Department of Health to be infectious, contagious, communicable, or dangerous to the public health;

(iv) the name of the authorizing agent and the relationship between the authorizing agent and the decedent;

(v) a representation that the authorizing agent has the right to authorize the disposition of the decedent by alkaline hydrolysis and that the authorizing agent is not aware of any living person with a superior or equal priority right to that of the authorizing agent, except that if there is another living person with a superior or equal priority right, the alkaline hydrolysis authorization form shall contain a representation that the authorizing agent has:

(A) made reasonable efforts to contact that person;

(B) been unable to do so; and

(C) no reason to believe that the person would object to the disposition of the decedent by alkaline hydrolysis;

(vi) authorization for the funeral service establishment to use alkaline hydrolysis for the disposition of the human remains;

(vii) the name of the person authorized to receive the human remains from the funeral service establishment;

(viii) the manner in which the final disposition of the human remains is to take place, if known;

(ix) a listing of each item of value to be delivered to the funeral service establishment along with the human remains, and instructions as to how each item should be handled;

(x) the signature of the authorizing agent, attesting to the accuracy of all representations contained on the alkaline hydrolysis authorization form;

(xi) if the alkaline hydrolysis authorization form is being executed on a preneed basis, the disclosure required for preneed programs under this chapter; and

(xii) except for a preneed alkaline hydrolysis authorization, the signature of the funeral director of the funeral service establishment that obtained the alkaline hydrolysis authorization.

(b) (i) The person referred to in Subsection (2)(a)(xii) shall execute the alkaline hydrolysis authorization form as a witness and is not responsible for any of the representations made by the authorizing agent.

(ii) The funeral director or the funeral service establishment shall warrant that the human remains delivered to the funeral service establishment have been positively identified by the authorizing agent or a designated representative of the authorizing agent as the decedent listed on the alkaline hydrolysis authorization form.

(iii) The authorizing agent or the agent's designee may make the identification referred to in Subsection (2)(b)(ii) in person or by photograph.

(3) (a) A funeral service establishment may not accept unidentified human remains for alkaline hydrolysis.

(b) If a funeral service establishment takes custody of an alkaline hydrolysis container subsequent to the human remains being placed within the container, the funeral service establishment can rely on the identification made before the remains were placed in the container.

(c) The funeral service establishment shall place appropriate identification on the exterior of the alkaline hydrolysis container based on the prior identification.

(4) (a) A person who removes or possesses dental gold or silver, jewelry, or mementos from human remains:

(i) with purpose to deprive another over control of the property is guilty of an offense and subject to the punishments provided in Section [~~76-6-412~~] 76-6-404;

(ii) with purpose to exercise unauthorized control and with intent to temporarily deprive another of control over the property is guilty of an offense and subject to the punishments provided in Section 76-6-404.5; and

(iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without specific written permission of the individual who has the right to control those remains is guilty of a class B misdemeanor.

(b) The fact that residue or any unavoidable dental gold or dental silver or other precious metals remain in alkaline hydrolysis equipment or a container used in a prior alkaline hydrolysis process is not a violation of Subsection (4)(a).

Section 11. Section 58-55-503 is amended to read:

58-55-503. Penalty for unlawful conduct -- Citations.

(1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (21), (22), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor.

(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

(2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft[~~, as classified in Section 76-6-412~~] under Section 76-6-404.

(3) Grounds for immediate suspension of a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

(4) (a) (i) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection 58-55-502(4)(a) or (11), Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) A person who is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection

(4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(e), (18), (20), (21), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2).

(iii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) (i) A citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) A citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) A citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d) (i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(f) The failure of an applicant for licensure to comply with a citation after the citation becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(h) (i) Except as provided in Subsections (4)(h)(ii) and (5), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to $1,000;

(B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to $2,000; and

(C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to $2,000 for each day of continued offense.

(ii) Except as provided in Subsection (5), if a person violates Subsection 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to $2,000;

(B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to $4,000; and

(C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to $4,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2); or

(B) (I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28), or Subsection 58-55-504(2); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24) two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24) for each individual is considered a separate violation.

(5) If a person violates Section 58-55-501, the division may not treat the violation as a subsequent violation of a previous violation if the violation occurs five years or more after the day on which the person committed the previous violation.

(6) If, after an investigation, the division determines that a person has committed multiple of the same type of violation of Section 58-55-501, the division may treat each violation as a separate violation of Section 58-55-501 and apply a penalty under this section to each violation.

(7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) In an action brought to collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

Section 12. Section 63M-7-404 is amended to read:

63M-7-404. Purpose -- Duties.

(1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

(i) respond to public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in criminal sentencing;

(iv) better define responsibility in criminal sentencing; and

(v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority;

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist individuals in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an individual's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet offender needs; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) For a situation described in Subsection (4)(a), the guidelines shall recommend that a court consider:

(i) the seriousness of any violation of the condition of probation;

(ii) the probationer's conduct while on probation; and

(iii) the probationer's criminal history.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) For a situation described in Subsection (5)(a), the guidelines shall recommend that the Board of Pardons and Parole consider:

(i) the seriousness of any violation of the condition of parole;

(ii) the individual's conduct while on parole; and

(iii) the individual's criminal history.

(6) The commission shall establish graduated and evidence-based processes to facilitate the prompt and effective response to an individual's progress in or violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections, or other supervision services provider, to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration, including:

(a) responses to be used when an individual violates a condition of probation or parole;

(b) responses to recognize positive behavior and progress related to an individual's case action plan;

(c) when a violation of a condition of probation or parole should be reported to the court or the Board of Pardons and Parole; and

(d) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

(8) (a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:

(i) nonjudicially adjusted;

(ii) placed on diversion;

(iii) placed on probation;

(iv) placed on community supervision;

(v) placed in an out-of-home placement; or

(vi) placed in a secure care facility.

(b) In establishing guidelines under this Subsection (8), the commission shall consider:

(i) the seriousness of the negative and positive behavior;

(ii) the juvenile's conduct post-adjudication; and

(iii) the delinquency history of the juvenile.

(c) The guidelines shall include:

(i) responses that are swift and certain;

(ii) a continuum of community-based options for juveniles living at home;

(iii) responses that target the individual's criminogenic risk and needs; and

(iv) incentives for compliance, including earned discharge credits.

(9) The commission shall establish and maintain supervision length guidelines in accordance with this section.

(10) (a) The commission shall create sentencing guidelines and supervision length guidelines for the following financial and property offenses for which a pecuniary loss to a victim may exceed $50,000:

(i) securities fraud, Sections 61-1-1 and 61-1-21;

(ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment adviser representative, Sections 61-1-3 and 61-1-21;

(iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;

(iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(v) arson, Section 76-6-102;

(vi) burglary, Section 76-6-202;

(vii) theft[~~, Section 76-6-412~~] under Title 76, Chapter 6, Part 4, Theft;

(viii) forgery, Section 76-6-501;

(ix) unlawful dealing of property by a fiduciary, Section 76-6-513;

(x) [~~fraudulent insurance act~~] insurance fraud, Section 76-6-521;

(xi) computer crimes, Section 76-6-703;

(xii) mortgage fraud, Sections 76-6-1203 and 76-6-1204;

(xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;

(xiv) communications fraud, Section 76-10-1801;

(xv) money laundering, Section 76-10-1904; and

(xvi) other offenses in the discretion of the commission.

(b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix with

proportionate escalating sanctions based on the amount of a victim's loss.

(c) On or before August 1, 2022, the commission shall publish for public comment the guidelines described in Subsection (10)(a).

(11) (a) Before January 1, 2023, the commission shall study the offenses of sexual exploitation of a minor and aggravated sexual exploitation of a minor under Sections 76-5b-201 and 76-5b-201.1.

(b) The commission shall update sentencing and release guidelines and juvenile disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection (11)(a), including the application of aggravating and mitigating factors specific to the offense.

Section 13. Section 73-2-27 is amended to read:

73-2-27. Criminal penalties.

(1) This section applies to offenses committed under:

(a) Section 73-1-14;

(b) Section 73-1-15;

(c) Section 73-2-20;

(d) Section 73-3-3;

(e) Section 73-3-26;

(f) Section 73-3-29;

(g) Section 73-5-9;

(h) Section 76-10-201;

(i) Section 76-10-202; and

(j) Section 76-10-203.

(2) Under circumstances not amounting to an offense with a greater penalty under Subsection [~~76-6-106(2)(b)(ii)~~] 76-6-106(2)(a)(ii) or Section 76-6-404, violation of a provision listed in Subsection (1) is punishable:

(a) as a felony of the third degree if:

(i) the value of the water diverted or property damaged or taken is $2,500 or greater; and

(ii) the person violating the provision has previously been convicted of violating the same provision;

(b) as a class A misdemeanor if:

(i) the value of the water diverted or property damaged or taken is $2,500 or greater; or

(ii) the person violating the provision has previously been convicted of violating the same provision; or

(c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.

Section 14. Section 76-3-203.1 is amended to read:

76-3-203.1. Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "In concert with three or more persons" means:

(i) the defendant was aided or encouraged by at least three other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; and

(B) participated as a party to any offense listed in Subsection (4), (5), or (6).

(c) "In concert with three or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person who commits any offense in accordance with this section is subject to an enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with three or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor; and

(ii) for a class A misdemeanor, as a third degree felony.

(b) The following offenses are subject to Subsection (4)(a):

(i) criminal mischief as [~~defined~~] described in Section 76-6-106; [~~and~~]

(ii) property damage or destruction as described in Section 76-6-106.1; and

[~~(ii)~~] (iii) defacement by graffiti as [~~defined~~] described in Section 76-6-107.

(5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony; and

(iii) for a third degree felony, as a second degree felony.

(b) The following offenses are subject to Subsection (5)(a):

(i) burglary, if committed in a dwelling as defined in Subsection [~~76-6-202(2)~~] 76-6-202(3)(b);

(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(iii) tampering with a witness or other violation of Section 76-8-508;

(iv) retaliation against a witness, victim, informant, or other violation of Section 76-8-508.3;

(v) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;

(vi) any weapons offense under Chapter 10, Part 5, Weapons; and

(vii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.

(6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony;

(iii) for a third degree felony, as a second degree felony; and

(iv) for a second degree felony, as a first degree felony.

(b) The following offenses are subject to Subsection (6)(a):

(i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;

(ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;

(iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;

(v) sexual exploitation of a minor as defined in Section 76-5b-201;

(vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;

(vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and

(viii) aggravated exploitation of prostitution under Section 76-10-1306.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

(8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Section 15. Section 76-3-203.3 is amended to read:

76-3-203.3. Penalty for hate crimes -- Civil rights violation.

As used in this section:

(1) "Primary offense" means those offenses provided in Subsection (4).

(2) (a) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is subject to Subsection (2)(b).

(b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and

(ii) a class B misdemeanor primary offense is a class A misdemeanor.

(3) "Intimidate or terrorize" means an act which causes the person to fear for his physical safety or damages the property of that person or another. The act must be accompanied with the intent to cause or has the effect of causing a person to reasonably fear to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

(4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

(a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107, and 76-5-108;

(b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104, and Subsection [~~76-6-106(2)(b)~~] 76-6-106(2)(a);

(c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

(d) any misdemeanor theft offense under Section 76-6-412;

(e) any offense of obstructing government operations under Sections 76-8-301, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, and 76-8-313;

(f) any offense of interfering or intending to interfere with activities of colleges and universities

under Title 76, Chapter 8, Part 7, Colleges and Universities;

(g) any misdemeanor offense against public order and decency as defined in Title 76, Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

(h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(i) any cruelty to animals offense under Section 76-9-301;

(j) any weapons offense under Section 76-10-506; or

(k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

(5) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

Section 16. Section 76-3-203.5 is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief, Chapter 6, Part 1, Property Destruction;

(B) assault by prisoner, Section 76-5-102.5;

(C) disarming a police officer, Section 76-5-102.8;

(D) aggravated assault, Section 76-5-103;

(E) aggravated assault by prisoner, Section 76-5-103.5;

(F) mayhem, Section 76-5-105;

(G) stalking, Subsection 76-5-106.5(2);

(H) threat of terrorism, Section 76-5-107.3;

(I) aggravated child abuse, Subsection 76-5-109.2(3)(a) or (b);

(J) commission of domestic violence in the presence of a child, Section 76-5-114;

(K) abuse or neglect of a child with a disability, Section 76-5-110;

(L) abuse or exploitation of a vulnerable adult, Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;

(M) endangerment of a child or vulnerable adult, Section 76-5-112.5;

(N) criminal homicide offenses under Chapter 5, Part 2, Criminal Homicide;

(O) kidnapping, child kidnapping, and aggravated kidnapping under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(P) rape, Section 76-5-402;

(Q) rape of a child, Section 76-5-402.1;

(R) object rape, Section 76-5-402.2;

(S) object rape of a child, Section 76-5-402.3;

(T) forcible sodomy, Section 76-5-403;

(U) sodomy on a child, Section 76-5-403.1;

(V) forcible sexual abuse, Section 76-5-404;

(W) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;

(X) aggravated sexual assault, Section 76-5-405;

(Y) sexual exploitation of a minor, Section 76-5b-201;

(Z) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

(AA) sexual exploitation of a vulnerable adult, Section 76-5b-202;

(BB) aggravated burglary and burglary of a dwelling under Chapter 6, Part 2, Burglary and Criminal Trespass;

(CC) aggravated robbery and robbery under Chapter 6, Part 3, Robbery;

(DD) theft by extortion under [~~Subsection 76-6-406(2)(a) or (b)~~] Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i) or (ii);

(EE) tampering with a witness under Subsection 76-8-508(1);

(FF) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(GG) tampering with a juror under Subsection 76-8-508.5(2)(c);

(HH) extortion to dismiss a criminal proceeding under Section 76-8-509 if by any threat or by use of force theft by extortion has been committed [~~pursuant to Subsections 76-6-406(2)(a), (b), and (i)~~] under Section 76-6-406 under the

circumstances described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);

(II) possession, use, or removal of explosive, chemical, or incendiary devices under Subsections 76-10-306(3) through (6);

(JJ) unlawful delivery of explosive, chemical, or incendiary devices under Section 76-10-307;

(KK) purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503;

(LL) unlawful discharge of a firearm under Section 76-10-508;

(MM) aggravated exploitation of prostitution under Subsection 76-10-1306(1)(a);

(NN) bus hijacking under Section 76-10-1504; and

(OO) discharging firearms and hurling missiles under Section 76-10-1505; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 17. Section 76-3-203.15, which is renumbered from Section 76-6-109 is renumbered and amended to read:

[~~76-6-109~~]. 76-3-203.15. Offenses committed against timber, mining, or agricultural industries -- Enhanced penalties.

(1) [~~A person~~] An actor who commits any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful management, cultivation, or harvesting of trees or timber, or the management or operations of agricultural or mining industries is subject to an enhanced penalty for the offense as provided below. [~~However, this section does not apply to action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.~~]

(2) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the complaint in misdemeanor cases or the information or indictment in felony cases notice that the defendant is subject to the enhanced penalties provided under this section.

(3) If the trier of fact finds beyond a reasonable doubt that the defendant committed any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful management, cultivation, or harvesting of trees or timber, or the management or operations of agricultural or mining industries, the penalties are enhanced as provided in this Subsection (3):

(a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less than $1,000, which is in addition to any term of imprisonment the court may impose;

(b) a class B misdemeanor is a Class A misdemeanor, with a fine of not less than $2,500, which is in addition to any term of imprisonment the court may impose;

(c) a class A misdemeanor is a third degree felony, with a fine of not less than $5,000, which is in addition to any term of imprisonment the court may impose;

(d) a third degree felony is a second degree felony, with a fine of not less than $7,500, which is in addition to any term of imprisonment the court may impose; and

(e) a second degree felony is subject to a fine of not less than $10,000, which is in addition to any term of imprisonment the court may impose.

(4) This section does not apply to action protected by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Sec. 151 et seq.

Section 18. Section 76-3-203.16, which is renumbered from Section 76-6-110 is renumbered and amended to read:

[~~76-6-110~~]. 76-3-203.16. Offenses committed against animal enterprises -- Definitions -- Enhanced penalties.

(1) As used in this section:

(a) "Animal enterprise" means a commercial or academic enterprise that:

(i) uses animals for food or fiber production;

(ii) is an agricultural operation, including a facility for the production of crops or livestock, or livestock products;

(iii) operates a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

(iv) any fair or similar event intended to advance agricultural arts and sciences.

(b) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

(c) "Property" includes any buildings, vehicles, animals, data, records, stables, livestock handling facilities, livestock watering troughs or other watering facilities, and fencing or other forms of enclosure.

(2) [~~(a)~~] A person who commits any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of any property owned by, used by, or in the possession of a lawful animal enterprise, is subject to an enhanced penalty under Subsection [~~(3)~~] (4).

[~~(b) Subsection (2)(a) does not apply to action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.~~]

[~~(c)~~] (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

[~~(3)~~] (4) If the trier of fact finds beyond a reasonable doubt that the defendant committed any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of any property owned by, used by, or in the possession of a lawful animal enterprise, the penalties are enhanced as provided in this Subsection [~~(3)~~] (4):

(a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less

than $1,000, which is in addition to any term of imprisonment the court may impose;

(b) a class B misdemeanor is a class A misdemeanor, with a fine of not less than $2,500, which is in addition to any term of imprisonment the court may impose;

(c) a class A misdemeanor is a third degree felony, with a fine of not less than $5,000, which is in addition to any term of imprisonment the court may impose;

(d) a third degree felony is a second degree felony, with a fine of not less than $7,500, which is in addition to any term of imprisonment the court may impose; and

(e) a second degree felony is subject to a fine of not less than $10,000, which is in addition to any term of imprisonment the court may impose.

(5) This section does not apply to action protected by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Sec. 151 et seq.

Section 19. Section 76-3-410, which is renumbered from Section 76-6-107.1 is renumbered and amended to read:

[~~76-6-107.1~~]. 76-3-410. Compensatory service -- Graffiti penalties.

(1) If an [~~offender uses~~] actor uses graffiti and is convicted under Section 76-6-106, 76-6-106.1, 76-6-107, or 76-6-206 for the use of graffiti, the court may, as a condition of probation under Subsection 77-18-105(6), order the [~~offender~~] actor to clean up graffiti of the [~~offender~~] actor and any other at a time and place within the jurisdiction of the court.

(a) For a first conviction or adjudication, the court may require the [~~offender~~] actor to clean up graffiti for not less than eight hours.

(b) For a second conviction or adjudication, the court may require the [~~offender~~] actor to clean up graffiti for not less than 16 hours.

(c) For a third conviction or adjudication, the court may require the [~~offender~~] actor to clean up graffiti for not less than 24 hours.

(2) The [~~offender~~] actor convicted under Section 76-6-106, 76-6-106.1, 76-6-206, or 76-6-107 shall be responsible for removal costs as determined under Section 76-6-107, unless waived by the court for good cause.

(3) The court may also require the [~~offender~~] actor to perform other alternative forms of restitution or repair to the damaged property in accordance with Subsection 77-18-105(6).

Section 20. Section 76-5-102.1 is amended to read:

76-5-102.1. Negligently operating a vehicle resulting in injury.

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

[~~(a)~~] (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

[~~(b)~~] (ii) "Drug" means the same as that term is defined in Section 76-5-207.

[~~(c)~~] (iii) "Negligent" or "negligence" means the same as that term is defined in Section 76-5-207.

[~~(d)~~] (iv) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits negligently operating a vehicle resulting in injury if the actor:

(a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and

(ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, a drug, or the combined influence of alcohol and a drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is:

(a) (i) a class A misdemeanor; or

(ii) a third degree felony if the bodily injury is serious bodily injury; and

(b) a separate offense for each victim suffering bodily injury as a result of the actor's violation of this section, regardless of whether the injuries arise from the same episode of driving.

(4) An actor is not guilty of negligently operating a vehicle resulting in injury under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5) (a) A judge imposing a sentence under this section may consider:

(i) the sentencing guidelines developed in accordance with Section 63M-7-404;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis under Section 41-6a-515 and the provisions for the admissibility of chemical test results under Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(2).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

Section 21. Section 76-5-207.5 is amended to read:

76-5-207.5. Automobile homicide involving a handheld wireless communication device while driving.

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

(i) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).

(ii) "Motor vehicle" means any self-propelled vehicle, including an automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.

(iii) "Negligent" means the failure to exercise the degree of care that a reasonable and prudent person exercises under similar circumstances.

(iv) "Wireless communication device" means the same as that term is defined in Section 41-6a-1716.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits automobile homicide if the actor:

(a) operates a moving motor vehicle[~~:~~] in a negligent manner;

[~~(i) (A) in a negligent manner; or~~]

[~~(B) in a criminally negligent manner; and~~]

[~~(ii)~~] (b) while using a wireless communication device in violation of Section 41-6a-1716; and

[~~(b)~~] (c) causes the death of another individual.

(3) (a) [~~A~~] Except as provided in Subsection (3)(b), a violation of Subsection [~~(2)(a)(i)(A)~~] (2) is a third degree felony.

(b) A violation of Subsection [~~(2)(a)(i)(B)~~] (2) is a second degree felony if the actor operated the moving motor vehicle in a criminally negligent manner.

Section 22. Section 76-5-208 is amended to read:

76-5-208. Child abuse homicide -- Penalties.

(1) (a) As used in this section, "child abuse" means an offense described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Unless a violation amounts to aggravated murder as described in Section 76-5-202, an actor commits child abuse homicide if:

(a) (i) the actor causes the death of another individual who is younger than 18 years old; and

(ii) the individual's death results from child abuse; and

(b) (i) the child abuse is done recklessly under Subsection 76-5-109.2(3)(b);

(ii) the child abuse is done with criminal negligence under Subsection 76-5-109.2(3)(c); or

(iii) under circumstances not amounting to the type of child abuse homicide described in Subsection (2)(b)(i), the child abuse is done intentionally, knowingly, recklessly, or with criminal negligence, under Subsection 76-5-109(3)(a), (b), or (c).

(3) (a) A violation of Subsection (2) under the circumstances described in Subsection (2)(b)(i) is a first degree felony.

(b) A violation of Subsection (2) under the circumstances described in Subsection (2)(b)(ii) or (iii) is a second degree felony.

Section 23. Section 76-6-101 is amended to read:

76-6-101. Definitions.

(1) [~~For purposes of this chapter~~] As used in this part:

(a) "Etching" means defacing, damaging, or destroying hard surfaces by means of an abrasive object, a knife, or an engraving device, or a chemical action which uses any caustic cream, gel, liquid, or solution.

(b) "Fire" means a flame, heat source capable of combustion, or material capable of combustion that is caused, set, or maintained by a person for any purpose.

(c) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching, painting, affixing, etching, or inscribing on the property of another regardless of the content or the nature of the material used in the commission of the act.

[~~(b)~~] (d) "Habitable structure" means any building, vehicle, trailer, railway car, aircraft, or watercraft used for lodging or assembling persons or conducting business whether a person is actually present or not.

[~~(c)~~] (e) "Property" means:

(i) any form of real property or tangible personal property which is capable of being damaged or destroyed and includes a habitable structure; and

(ii) the property of another, if anyone other than the actor has a possessory or proprietary interest in any portion of the property.

[~~(d)~~] (f) "Value" means:

(i) the market value of the property, if totally destroyed, at the time and place of the offense, or where cost of replacement exceeds the market value; or

(ii) where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense.

(2) Terms defined in Section 76-1-101.5 apply to this part.

[~~(2)~~] (3) If the property damaged has a value that cannot be ascertained by the criteria set forth in Subsection [~~(1)(d)~~] (1)(f), the property shall be considered to have a value less than $500.

Section 24. Section 76-6-102 is amended to read:

76-6-102. Arson.

(1) [~~A person is guilty of~~] Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits arson if, under circumstances not amounting to aggravated arson, the person by means of fire or explosives unlawfully and intentionally damages:

(a) any property with intention of defrauding an insurer; or

(b) the property of another.

[~~(2)~~] (3) (a) A violation of Subsection [~~(1)(a)~~] (2)(a) is a second degree felony.

[~~(3)~~] (b) A violation of Subsection [~~(1)(b)~~] (2)(b) is a second degree felony if:

[~~(a)~~] (i) the damage caused is or exceeds $5,000 in value;

[~~(b)~~] (ii) as a proximate result of the fire or explosion, any person not a participant in the offense suffers serious bodily injury as defined in Section 76-1-101.5;

[~~(c)~~] (iii) [~~(i)~~] (A) the damage caused is or exceeds $1,500 but is less than $5,000 in value; and

[~~(ii)~~] (B) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection [~~(1)(b)~~] (2)(b).

[~~(4)~~] (c) A violation of Subsection [~~(1)(b)~~] (2)(b) is a third degree felony if:

[~~(a)~~] (i) the damage caused is or exceeds $1,500 but is less than $5,000 in value;

[~~(b)~~] (ii) as a proximate result of the fire or explosion, any person not a participant in the offense suffers substantial bodily injury as defined in Section 76-1-101.5;

[~~(c)~~] (iii) the fire or explosion endangers human life; or

[~~(d)~~] (iv) [~~(i)~~] (A) the damage caused is or exceeds $500 but is less than $1,500 in value; and

[~~(ii)~~] (B) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection [~~(1)(b)~~] (2)(b).

[~~(5)~~] (d) A violation of Subsection [~~(1)(b)~~] (2)(b) is a class A misdemeanor if the damage caused:

[~~(a)~~] (i) is or exceeds $500 but is less than $1,500 in value; or

[~~(b)~~] (ii) [~~(i)~~] (A) is less than $500; and

[~~(ii)~~] (B) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection [~~(1)(b)~~] (2)(b).

[~~(6)~~] (e) A violation of Subsection [~~(1)(b)~~] (2)(b) is a class B misdemeanor if the damage caused is less than $500.

Section 25. Section 76-6-103 is amended to read:

76-6-103. Aggravated arson.

(1) [~~A person is guilty of~~] Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits aggravated arson if by means of fire or explosives [~~he~~] the actor intentionally and unlawfully damages:

(a) a habitable structure; or

(b) any structure or vehicle when any person not a participant in the offense is in the structure or vehicle.

[~~(2) Aggravated arson is a felony of the first degree.~~]

(3) A violation of Subsection (2) is a first degree felony.

Section 26. Section 76-6-104 is amended to read:

76-6-104. Reckless burning.

(1) [~~A person is guilty of~~] Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits reckless burning if the [~~person~~] actor:

(a) recklessly starts a fire or causes an explosion which endangers human life;

(b) having started a fire, whether recklessly or not, and knowing that it is spreading and will endanger the life or property of another, either fails to take reasonable measures to put out or control the fire or fails to give a prompt fire alarm;

(c) builds or maintains a fire without taking reasonable steps to remove all flammable materials surrounding the site of the fire as necessary to prevent the fire's spread or escape; or

(d) damages the property of another by reckless use of fire or causing an explosion.

[~~(2)~~] (3) (a) A violation of Subsection [~~(1)(a)~~] (2)(a) or (b) is a class A misdemeanor.

(b) A violation of Subsection [~~(1)(c)~~] (2)(c) is a class B misdemeanor.

(c) A violation of Subsection [~~(1)(d)~~] (2)(d) is:

(i) a class A misdemeanor if damage to property is or exceeds $1,500 in value;

(ii) a class B misdemeanor if the damage to property is or exceeds $500 but is less than $1,500 in value; and

(iii) a class C misdemeanor if the damage to property is or exceeds $150 but is less than $500 in value.

(d) Any other violation under Subsection [~~(1)(d)~~] (2)(d) is an infraction.

Section 27. Section 76-6-104.5 is amended to read:

76-6-104.5. Abandonment of a fire -- Penalties.

(1) [~~A person is guilty of abandoning~~] Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits abandonment of a fire if, under circumstances not amounting to the offense of arson, aggravated arson, or causing a catastrophe [~~under Title 76, Chapter 6, Part 1, Property Destruction, the person~~], the actor leaves a fire:

(a) without first completely extinguishing it; and

(b) with the intent to not return to the fire.

[~~(2) A person does not commit a violation of Subsection (1) if the person leaves a fire to report an uncontrolled fire.~~]

(3) A violation of Subsection [~~(1)~~] (2):

(a) is a class C misdemeanor if there is no property damage;

(b) is a class B misdemeanor if property damage is less than $1,000 in value; and

(c) is a class A misdemeanor if property damage is or exceeds $1,000 in value.

(4) An actor does not commit a violation of Subsection (2) if the actor leaves a fire to report an uncontrolled fire.

[~~(4)~~] (5) If a violation of Subsection [~~(1)~~] (2) involves a wildland fire, the [~~violator~~] actor is also liable for suppression costs under Section 65A-3-4.

[~~(5)~~] (6) A fire spreading or reigniting is prima facie evidence that the [~~person~~] actor did not completely extinguish the fire as required by Subsection [~~(1)(a)~~] (2)(a).

Section 28. Section 76-6-105 is amended to read:

76-6-105. Causing a catastrophe -- Penalties.

(1) [~~Any person is guilty of~~] Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits causing a catastrophe if the [~~person~~] actor causes widespread injury or damage to persons or property by:

(a) use of a weapon of mass destruction as defined in Section 76-10-401; or

(b) explosion, fire, flood, avalanche, collapse of a building, or other harmful or destructive force or substance that is not a weapon of mass destruction.

[~~(2)~~] (3) [~~Causing a catastrophe~~] A violation of Subsection (2) is:

(a) a first degree felony if the [~~person~~] actor causes the catastrophe knowingly and by the use of a weapon of mass destruction;

(b) a second degree felony if the [~~person~~] actor causes the catastrophe knowingly and by a means other than a weapon of mass destruction; and

(c) a class A misdemeanor if the [~~person~~] actor causes the catastrophe recklessly.

[~~(3)~~] (4) In addition to any other penalty authorized by law, a court shall order [~~any person~~] an actor convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Section 29. Section 76-6-106 is amended to read:

76-6-106. Criminal mischief.

(1) (a) As used in this section, "critical infrastructure" includes:

[~~(a)~~] (i) information and communication systems;

[~~(b)~~] (ii) financial and banking systems;

[~~(c)~~] (iii) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed guideways, or other transportation systems intended for the transportation of persons or property;

[~~(d)~~] (iv) any public utility service, including the power, energy, and water supply systems;

[~~(e)~~] (v) sewage and water treatment systems;

[~~(f)~~] (vi) health care facilities as listed in Section 26-21-2, and emergency fire, medical, and law enforcement response systems;

[~~(g)~~] (vii) public health facilities and systems;

[~~(h)~~] (viii) food distribution systems; and

[~~(i)~~] (ix) other government operations and services.

(b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) [~~A person~~] An actor commits criminal mischief if the [~~person~~] actor:

[~~(a) under circumstances not amounting to arson, damages or destroys property with the intention of defrauding an insurer;~~]

[~~(b)~~] (a) intentionally and unlawfully tampers with the property of another and as a result:

(i) recklessly endangers:

(A) human life; or

(B) human health or safety; or

(ii) recklessly causes or threatens a substantial interruption or impairment of any critical infrastructure; or

[~~(c) intentionally damages, defaces, or destroys the property of another; or~~]

[~~(d)~~] (b) recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing.

[~~(3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.~~]

[~~(ii)~~] (3) (a) A violation of Subsection [~~(2)(b)(i)(A)~~] (2)(a)(i)(A) is a class A misdemeanor.

[~~(iii)~~] (b) A violation of Subsection [~~(2)(b)(i)(B)~~] (2)(a)(i)(B) is a class B misdemeanor.

[~~(iv)~~] (c) A violation of Subsection [~~(2)(b)(ii)~~] (2)(a)(ii) is a second degree felony.

[~~(b)~~] (d) Any other violation of this section is a:

(i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $5,000 in value;

(ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $1,500 but is less than $5,000 in value;

(iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $500 but is less than $1,500 in value; and

(iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than $500 in value.

(4) In determining the value of damages under this section, or for computer crimes under Section 76-6-703, the value of any item, computer, computer network, computer property, computer services, software, or data includes the measurable value of the loss of use of the items and the measurable cost to replace or restore the items.

(5) In addition to any other penalty authorized by law, a court shall order [~~any person~~] an actor convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred in responding to a violation of Subsection [~~(2)(b)(ii)~~] (2)(a)(ii), unless the court states on the record the reasons why the reimbursement would be inappropriate.

Section 30. Section 76-6-106.1 is enacted to read:

76-6-106.1. Property damage or destruction.

(1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits property damage or destruction if the actor under circumstances not amounting to arson or criminal mischief:

(a) damages or destroys property with the intention of defrauding an insurer; or

(b) intentionally damages, defaces, or destroys the property of another.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), a violation of Subsection (2)(a) is a third degree felony.

(ii) A violation of Subsection (2)(a) is a second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $5,000.

(b) A violation of Subsection (2)(b) is a:

(i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $5,000 in value;

(ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $1,500 but is less than $5,000 in value;

(iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $500 but is less than $1,500 in value; and

(iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than $500 in value.

(4) In determining the value of damages under this section, or for computer crimes under Section

76-6-703, the value of any item, computer, computer network, computer property, computer services, software, or data includes the measurable value of the loss of use of the items and the measurable cost to replace or restore the items.

Section 31. Section 76-6-107 is amended to read:

76-6-107. Defacement by graffiti defined -- Penalties -- Removal costs -- Reimbursement liability -- Victim liability.

(1) (a) As used in this section[~~:~~], "victim" means the person whose property is defaced or damaged by the use of graffiti and who bears the expense for removal of the graffiti.

(b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits defacement by graffiti if the actor, without permission, defaces or damages the property of another by graffiti.

[~~(a) "Etching" means defacing, damaging, or destroying hard surfaces by means of a chemical action which uses any caustic cream, gel, liquid, or solution.~~]

[~~(b) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching, affixing, etching, or inscribing on the property of another regardless of the content or the nature of the material used in the commission of the act.~~]

[~~(c) "Victim" means the person whose property is defaced by graffiti and who bears the expense for removal of the graffiti.~~]

[~~(2) Except as provided in Section 76-6-107, graffiti is a:~~]

(3) A violation of Subsection (2) is a:

(a) second degree felony if the damage caused is in excess of $5,000;

(b) third degree felony if the damage caused is equal to or in excess of $1,000 but less than or equal to $5,000;

(c) class A misdemeanor if the damage caused is equal to or in excess of $300 but less than $1,000; and

(d) class B misdemeanor if the damage caused is less than $300.

[~~(3)~~] (4) Damages under Subsection [~~(2)~~] (3) include removal costs, repair costs, or replacement costs, whichever is less.

[~~(4)~~] (5) The court shall order an individual convicted under Subsection [~~(2)~~] (3) to pay restitution to the victim in an amount equal to the costs incurred by the victim as a result of the graffiti.

[~~(5)~~] (6) An additional amount of $1,000 in restitution shall be added to removal costs if the graffiti is positioned on an overpass or an underpass, requires that traffic be interfered with in order to remove it, or the entity responsible for the area in which the clean-up is to take place must provide assistance in order for the removal to take place safely.

[~~(6)~~] (7) An individual who voluntarily, at the individual's own expense, and with the consent of the property owner, removes graffiti for which the individual is responsible may be credited for the removal costs against restitution ordered by a court.

[~~(7)~~] (8) Before an authorized government agency may issue a citation or assess a fine to a victim for the victim's failure to remove graffiti from the victim's property, the agency shall:

(a) provide written notice to the victim alerting the victim of the graffiti;

(b) allow the victim one week after the day on which the agency provides written notice of the graffiti to remove the graffiti; and

(c) provide the victim with a list of resources available to assist the victim with removal of the graffiti.

[~~(8)~~] (9) (a) After receiving notification of graffiti under Subsection [~~(7)(a)~~] (8)(a), a victim who is unable to remove the graffiti due to physical or financial hardship may alert the agency that provided notice under Subsection [~~(7)(a)~~] (8)(a) of the hardship.

(b) If an authorized government agency finds a victim has demonstrated that the victim would experience significant hardship in removing the graffiti, the agency:

(i) may not issue a citation or assess a fee to the victim for failure to remove the graffiti; and

(ii) shall provide, or hire an outside entity to provide, the assistance necessary to remove the graffiti from the victim's property.

(c) An authorized government agency that provides, or hires an outside agency to provide, assistance under Subsection [~~(8)(b)(ii)~~] (9)(b)(ii), may request reimbursement from a restitution order, under Subsection [~~(4)~~] (5), against an individual who used graffiti to damage the property that the agency removed, or paid another to remove.

Section 32. Section 76-6-107.5 is amended to read:

76-6-107.5. Defacing by graffiti on public lands.

(1) (a) As used in this section[~~:~~], "public lands" means state or federally owned property that is held substantially in the property's natural state, including canyons, parks owned or managed by the state, national parks, land managed by the Bureau of Land Management, and other lands owned or maintained by a government entity for outdoor recreational use.

(b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

[~~(a) "Etching" means defacing, damaging, or destroying a hard surface by using a chemical, an abrasive object, a knife, or an engraving device.~~]

[~~(b) "Graffiti" means unauthorized printing, spraying, scratching, affixing, etching, or inscribing on property owned by the state regardless of the content or the nature of the material used in the commission of the act.~~]

[~~(c) "Public lands" means state or federally owned property that is held substantially in its natural state, including canyons, parks owned or managed by the state, national parks, land managed by the Bureau of Land Management, and other lands owned or maintained by a government entity for outdoor recreational use.~~]

(2) An [~~individual is guilty of~~] actor commits defacing by graffiti on public lands [~~vandalism if the individual~~] if the actor creates, or assists in creating, graffiti on any public lands or state-owned object permanently located on public lands.

(3) [~~An individual convicted under~~] A violation of Subsection (2) is [~~guilty of~~] a class B misdemeanor.

(4) If an [~~individual~~] actor is convicted of defacing by graffiti on public lands [~~vandalism~~], the court shall sentence the [~~individual~~] actor to a term of community service as follows:

(a) for a first conviction, the court shall sentence the [~~individual~~] actor to 100 hours of community service, to be completed within 90 days after the day on which the court issues the order;

(b) for a second conviction, the court shall sentence the [~~individual~~] actor to 200 hours of community service, to be completed within 180 days after the day on which the court issues the order; or

(c) for a third or subsequent conviction, the court shall sentence the [~~individual~~] actor to 300 hours of community service, to be completed within 270 days after the day on which the court issues the order.

(5) If an [~~individual~~] actor is enrolled in school or maintains full or part-time employment, the ordered community service may not be scheduled at a time the [~~individual~~] actor is scheduled to be in school or performing the individual's employment duties.

(6) A sentence of community service described in Subjection (4) shall, to the greatest extent possible, be for the benefit of public lands.

(7) If an [~~individual~~] actor is convicted of defacing by graffiti on public lands [~~vandalism~~], the court may impose a fine up to the full amount of the estimated cost to restore the damaged land, caused by the [~~individual~~] actor, to the land's original state.

(8) An [~~individual~~] actor who voluntarily, at the [~~individual's~~] actor's own expense, and with the consent of the property owner, removes graffiti for which the [~~individual~~] actor is responsible shall be credited for costs ordered by the court under Subsection (7).

Section 33. Section 76-6-108 is amended to read:

76-6-108. Damage to or interruption of a communication device -- Penalty.

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

[~~(a)~~] (i) "Communication device" means any device, including a telephone, cellular telephone, computer, or radio, which may be used in an attempt to summon police, fire, medical, or other emergency aid.

[~~(b)~~] (ii) "Emergency aid" means aid or assistance, including law enforcement, fire, or medical services, commonly summoned by persons concerned with imminent or actual:

[~~(i)~~] (A) jeopardy to any person's health or safety; or

[~~(ii)~~] (B) damage to any person's property.

(b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) [~~A person is guilty of~~] An actor commits damage to or interruption of a communication device if the actor attempts to prohibit or interrupt, or prohibits or interrupts, another person's use of a communication device when the other person is attempting to summon emergency aid or has communicated a desire to summon emergency aid, and in the process the actor:

(a) uses force, intimidation, or any other form of violence;

(b) destroys, disables, or damages a communication device; or

(c) commits any other act in an attempt to prohibit or interrupt the person's use of a communication device to summon emergency aid.

(3) [~~Damage to or interruption of a communication device~~] A violation of Subsection (2) is a class B misdemeanor.

Section 34. Section 76-6-111 is amended to read:

76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria -- Seizure and disposition of property.

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

[~~(a)~~] (i) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(b)~~] (ii) "Livestock" means a domestic animal or fur bearer raised or kept for profit or as an asset, including:

[~~(i)~~] (A) cattle;

[~~(ii)~~] (B) sheep;

[~~(iii)~~] (C) goats;

[~~(iv)~~] (D) swine;

[~~(v)~~] (E) horses;

[~~(vi)~~] (F) mules;

[~~(vii)~~] (G) poultry;

[~~(viii)~~] (H) domesticated elk as defined in Section 4-39-102; and

[~~(ix)~~] (I) livestock guardian dogs.

[~~(c)~~] (iii) "Livestock guardian dog" means a dog that is being used to live with and guard livestock, other than itself, from predators.

(b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) Unless authorized by Section 4-25-201, 4-25-202, 4-25-401, 4-39-401, or 18-1-3, [~~a person is guilty of~~] an actor commits wanton destruction of livestock if [~~that person~~] the actor:

(a) injures, physically alters, releases, or causes the death of livestock; and

(b) does so:

(i) intentionally or knowingly; and

(ii) without the permission of the owner of the livestock.

[~~(3) For purposes of this section, a livestock guardian dog is presumed to belong to an owner of the livestock with which the livestock guardian dog was living at the time of an alleged violation of Subsection (2).~~]

[~~(4)~~] (3) [~~Wanton destruction of livestock~~] A violation of Subsection (2) is [~~punishable as~~] a:

(a) class B misdemeanor if the aggregate value of the livestock is $250 or less;

(b) class A misdemeanor if the aggregate value of the livestock is more than $250, but does not exceed $750;

(c) third degree felony if the aggregate value of the livestock is more than $750, but does not exceed $5,000; and

(d) second degree felony if the aggregate value of the livestock is more than $5,000.

(4) For purposes of this section, a livestock guardian dog is presumed to belong to an owner of the livestock with which the livestock guardian dog was living at the time of an alleged violation of Subsection (2).

(5) When a court orders [~~a person~~] an actor who is convicted of wanton destruction of livestock to pay restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, the court shall consider the restitution guidelines in Subsection (6) when setting the amount of restitution under Section 77-38b-205.

(6) The minimum restitution value for cattle and sheep is the sum of the following, unless the court states on the record why it finds the sum to be inappropriate:

(a) the fair market value of the animal, using as a guide the market information obtained from the Department of Agriculture and Food created under Section 4-2-102; and

(b) 10 years times the average annual value of offspring, for which average annual value is determined using data obtained from the National Agricultural Statistics Service within the United States Department of Agriculture, for the most recent 10-year period available.

(7) A material, device, or vehicle used in violation of Subsection (2) is subject to forfeiture under the procedures and substantive protections established in Title 24, Forfeiture and Disposition of Property Act.

(8) A peace officer may seize a material, device, or vehicle used in violation of Subsection (2):

(a) upon notice and service of process issued by a court having jurisdiction over the property; or

(b) without notice and service of process if:

(i) the seizure is incident to an arrest under:

(A) a search warrant; or

(B) an inspection under an administrative inspection warrant;

(ii) the material, device, or vehicle has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(iii) the peace officer has probable cause to believe that the property has been used in violation of Subsection (2).

(9) (a) A material, device, or vehicle seized under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of a court or official having jurisdiction.

(b) A peace officer who seizes a material, device, or vehicle under this section may:

(i) place the property under seal;

(ii) remove the property to a place designated by the warrant under which it was seized; or

(iii) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Section 35. Section 76-6-112 is amended to read:

76-6-112. Agricultural operation interference -- Penalties.

(1) (a) As used in this section, "agricultural operation" means private property used for the production of livestock, poultry, livestock products, or poultry products.

(b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) [~~A person is guilty of~~] An actor commits agricultural operation interference if the [~~person~~] actor:

(a) without consent from the owner of the agricultural operation, or the owner's agent, knowingly or intentionally records an image of, or sound from, the agricultural operation by leaving a recording device on the agricultural operation;

(b) obtains access to an agricultural operation under false pretenses;

(c) (i) applies for employment at an agricultural operation with the intent to record an image of, or sound from, the agricultural operation;

(ii) knows, at the time that the [~~person~~] actor accepts employment at the agricultural operation, that the owner of the agricultural operation prohibits the employee from recording an image of, or sound from, the agricultural operation; and

(iii) while employed at, and while present on, the agricultural operation, records an image of, or sound from, the agricultural operation; or

(d) without consent from the owner of the operation or the owner's agent, knowingly or intentionally records an image of, or sound from, an agricultural operation while the person is committing criminal trespass, as described in Section 76-6-206, on the agricultural operation.

(3) (a) A [~~person who commits agricultural operation interference described in~~] violation of Subsection (2)(a) is [~~guilty of~~] a class A misdemeanor.

[~~(4)~~] (b) [~~A person who commits agricultural operation interference described in~~] A violation of Subsection (2)(b), (c), or (d) is [~~guilty of~~] a class B misdemeanor.

Section 36. Section 76-6-202 is amended to read:

76-6-202. Burglary.

(1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor [~~is guilty of~~] commits burglary [~~who~~] if the actor enters or remains unlawfully in a building or any portion of a building with intent to commit:

(a) a felony;

(b) theft;

(c) an assault on any person;

(d) lewdness, [~~a~~] in violation of Section 76-9-702;

(e) sexual battery, [~~a~~] in violation of Section 76-9-702.1;

(f) lewdness involving a child, in violation of Section 76-9-702.5; or

(g) voyeurism [~~under~~], in violation of Section 76-9-702.7.

[~~(2)~~] (3) (a) [~~Burglary~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony [~~unless it was committed in a dwelling, in which event it is a second degree felony~~].

(b) A violation of Subsection (2) is a second degree felony if the violation is committed in a dwelling.

[~~(3)~~] (4) A violation of this section is a separate offense from any of the offenses listed in Subsections [~~(1)(a) through (g)~~] (2)(a) through (g), and which may be committed by the actor while in the building.

Section 37. Section 76-6-203 is amended to read:

76-6-203. Aggravated burglary.

(1) [~~A person is guilty of~~] Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) An actor commits aggravated burglary if in attempting, committing, or fleeing from a burglary the actor or another participant in the crime:

(a) causes bodily injury to any person who is not a participant in the crime;

(b) uses or threatens the immediate use of a dangerous weapon against any person who is not a participant in the crime; or

(c) possesses or attempts to use any explosive or dangerous weapon.

[~~(2)~~] (3) [~~Aggravated burglary~~] A violation of Subsection (2) is a first degree felony.

[~~(3) As used in this section, "dangerous weapon" has the same definition as under Section 76-1-101.5.~~]

Section 38. Section 76-6-204 is amended to read:

76-6-204. Burglary of a vehicle -- Charge of other offense.

(1) [~~Any person who~~] Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) An actor commits burglary of a vehicle if the actor unlawfully enters any vehicle with intent to commit a felony or theft [~~is guilty of a burglary of a vehicle~~].

[~~(2)~~] (3) [~~Burglary of a vehicle~~] A violation of Subsection (2) is a class A misdemeanor.

[~~(3)~~] (4) A charge against [~~any person~~] an actor for a violation of Subsection [~~(1) shall~~] (2) does not preclude a charge for a commission of any other offense.

Section 39. Section 76-6-204.5 is amended to read:

76-6-204.5. Burglary of a railroad car -- Charge of other offenses.

(1) [~~Any person~~] Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) An actor commits burglary of a railroad car [~~when the person~~] if the actor breaks the lock or seal on any railroad car, with the intent to commit a felony or theft.

[~~(2)~~] (3) [~~Burglary of a railroad car~~] A violation of Subsection (2) is a third degree felony.

[~~(3)~~] (4) Charging a person for a violation of Subsection [~~(1)~~] (2) does not preclude charging the person for any other offense.

Section 40. Section 76-6-205 is amended to read:

76-6-205. Manufacture or possession of instrument for burglary or theft.

(1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) [~~Any person who~~] An actor commits manufacture or possession of an instrument for burglary or theft if the actor manufactures or possesses any instrument, tool, device, article, or other thing adapted, designed, or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that [~~some~~] another person intends to use the same in the commission of a burglary or theft [~~is guilty of~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 41. Section 76-6-206 is amended to read:

76-6-206. Criminal trespass.

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

[~~(a)~~] (i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

(ii) "Graffiti" means the same as that term is defined in Section 76-6-101.

[~~(b)~~] (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining on or over private property when:

[~~(i)~~] (A) the private property or any portion of the private property is not open to the public; and

[~~(ii)~~] (B) the person operating the unmanned aircraft is not otherwise authorized to fly the unmanned aircraft over the private property or any portion of the private property.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) [~~A person is guilty of~~] An actor commits criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction:

(a) the [~~person~~] actor enters or remains unlawfully on or causes an unmanned aircraft to enter and remain unlawfully over property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti [~~as defined in Section 76-6-107~~];

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether the [~~person's~~] actor's or unmanned aircraft's presence will cause fear for the safety of another;

(b) knowing the [~~person's~~] actor's or unmanned aircraft's entry or presence is unlawful, the [~~person~~] actor enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over property to which notice against entering is given by:

(i) personal communication to the [~~person~~] actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders; or

(c) the [~~person~~] actor enters a condominium unit in violation of Subsection 57-8-7(8).

(3) (a) [~~A~~] Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) or (b) is a class B misdemeanor [~~unless the violation is committed in a dwelling, in which event the violation is a class A misdemeanor~~].

(b) If a violation of Subsection (2)(a) or (b) is committed in a dwelling, the violation is a class A misdemeanor.

[~~(b)~~] (c) A violation of Subsection (2)(c) is an infraction.

(4) It is a defense to prosecution under this section that:

(a) the property was at the time open to the public; and

(b) the [~~actor~~] defendant complied with all lawful conditions imposed on access to or remaining on the property.

(5) In addition to an order for restitution under Section 77-38b-205, [~~a person~~] an actor who commits a violation of Subsection (2) may also be liable for:

(a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or $500, whichever is greater; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(6) Civil damages under Subsection (5) may be collected in a separate action by the property owner or the owner's assignee.

Section 42. Section 76-6-206.1 is amended to read:

76-6-206.1. Criminal trespass of abandoned or inactive mines.

(1) (a) For purposes of this section:

[~~(a)~~] (i) "Abandoned or inactive mine" means an underground mine which is no longer open for access or no longer under excavation and has been clearly marked as closed or protected from entry.

(ii) "Burglary" means an offense described in Section 76-6-202, 76-6-203, or 76-6-204.

[~~(b)~~] (iii) "Enter" means intrusion of the entire body.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) [~~A person is guilty of~~] An actor commits criminal trespass of an abandoned or inactive mine if, under circumstances not amounting to burglary [~~as defined in Section 76-6-202, 76-6-203, or 76-6-204~~], the actor:

(a) [~~the person~~] intentionally enters and remains unlawfully in the underground workings of an abandoned or inactive mine; or

(b) intentionally and without authority removes, destroys, or tampers with any warning sign, covering, fencing, or other method of protection from entry placed on, around, or over any mine shaft, mine portal, or other abandoned or inactive mining excavation property.

(3) (a) A violation of Subsection (2)(a) is a class B misdemeanor.

[~~(4)~~] (b) A violation of Subsection (2)(b) is a class A misdemeanor.

Section 43. Section 76-6-206.2 is amended to read:

76-6-206.2. Criminal trespass on state park lands.

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

[~~(a)~~] (i) "Authorization" means specific written permission by, or contractual agreement with, the Division of State Parks.

[~~(b)~~] (ii) "Criminal trespass" means the elements of the crime of criminal trespass, as set forth in Section 76-6-206.

[~~(c)~~] (iii) "Division" means the Division of State Parks created in Section 79-4-201.

[~~(d)~~] (iv) "State park lands" means all lands administered by the division.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) [~~A person is guilty of~~] An actor commits criminal trespass on state park lands and is liable for the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization, the [~~person~~] actor:

(a) constructs improvements or structures on state park lands;

(b) uses or occupies state park lands for more than 30 days after the cancellation or expiration of authorization;

(c) knowingly or intentionally uses state park lands for commercial gain;

(d) intentionally or knowingly grazes livestock on state park lands, except as provided in Section 72-3-112; or

(e) remains, after being ordered to leave by [~~someone~~] a person with actual authority to act for the division, or by a law enforcement officer.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(3)~~] (4) [~~A person is not guilty of~~] A person does not commit criminal trespass if that person enters onto state park lands:

(a) without first paying the required fee; and

(b) for the sole purpose of pursuing recreational activity.

[~~(4) A violation of Subsection (2) is a class B misdemeanor.~~]

(5) (a) In addition to an order for restitution under Section 77-38b-205, [~~a person~~] an actor who commits any act described in Subsection (2) may also be liable for civil damages in the amount of three times the value of:

[~~(a)~~] (i) damages resulting from a violation of Subsection (2);

[~~(b)~~] (ii) the water, mineral, vegetation, improvement, or structure on state park lands that is removed, destroyed, used, or consumed without authorization;

[~~(c)~~] (iii) the historical, prehistorical, archaeological, or paleontological resource on state park lands that is removed, destroyed, used, or consumed without authorization; or

[~~(d)~~] (iv) the consideration which would have been charged by the division for unauthorized use of the land and resources during the period of trespass.

[~~(6)~~] (b) Civil damages awarded under Subsection (5)(a):

(i) may be collected in a separate action by the division[~~,~~]; and

(ii) shall be deposited [~~in~~] into the State [~~Parks~~] Park Fees Restricted Account as established in Section 79-4-402.

Section 44. Section 76-6-206.3 is amended to read:

76-6-206.3. Criminal trespass on agricultural land or range land.

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

[~~(a)~~] (i) "Agricultural or range land" and "land" mean land as defined under Subsections [~~(1)(d) and (e)~~] (1)(a)(iv) and (v).

[~~(b)~~] (ii) "Authorization" means specific written permission by, or contractual agreement with, the owner or manager of the property.

[~~(c)~~] (iii) "Criminal trespass" means the elements of the crime of criminal trespass under Section 76-6-206.

[~~(d)~~] (iv) "Land in agricultural use" has the same meaning as in Section 59-2-502.

[~~(e)~~] (v) (A) "Range land" means privately owned land that is not fenced or divided into lots and that is generally unimproved. [~~This land~~]

(B) "Range land" includes land used for livestock.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) [~~A person is guilty of the class B misdemeanor criminal offense of~~] An actor commits criminal trespass on agricultural or range land and is liable for the civil damages under Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization or a right under state law, the [~~person~~] actor enters or remains on agricultural or range land regarding which notice prohibiting entry is given by:

(a) personal communication to the [~~person~~] actor by the owner of the land, an employee of the owner, or a person with apparent authority to act for the owner;

(b) fencing or other form of enclosure a reasonable person would recognize as intended to exclude intruders; or

(c) posted signs or markers that would reasonably be expected to be seen by persons in the area of the borders of the land.

[~~(3) A person is guilty of the class B misdemeanor criminal offense of cutting, destroying, or rendering ineffective the fencing of agricultural or range land if the person willfully cuts, destroys, or renders ineffective any fencing as described under Subsection (2)(b).~~]

[~~(4)~~] (3) A violation of Subsection (2) is a class B misdemeanor.

(4) In addition to an order for restitution under Section 77-38b-205, [~~a person~~] an actor who commits any violation of Subsection (2) [~~or (3)~~] may also be liable for:

(a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or $500, whichever is greater; [~~and~~]

(b) reasonable attorney fees not to exceed $250[~~,~~]; and

(c) court costs.

(5) Civil damages under Subsection (4) may be collected in a separate action by the owner of the agricultural or range land or the owner's assignee.

Section 45. Section 76-6-206.4 is amended to read:

76-6-206.4. Criminal trespass by long-term guest to a residence.

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

(i) "Burglary" means an offense described in Section 76-6-202, 76-6-203, or 76-6-204.

[~~(a)~~] (ii) "Long-term guest" means an individual who is not a tenant but who is given express or implied permission by the person who is the primary occupant of the residence or someone with apparent authority to act for the primary occupant to enter a portion of a residence or temporarily occupy a portion of a residence:

[~~(i)~~] (A) for a period of time longer than 48 hours; and

[~~(ii)~~] (B) without providing the owner or primary occupant of the residence compensation or entering into an agreement that the individual provide labor in lieu of providing the owner or primary occupant compensation for occupying the residence.

[~~(b)~~] (iii) "Residence" means an improvement to real property used or occupied as a primary or secondary dwelling.

[~~(c)~~] (iv) "Tenant" means a person who has the right to occupy a residence under a rental agreement or lease, or has a tenancy by operation of law.

[~~(2) A long-term guest is guilty of criminal trespass of a residence if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204, the long-term guest~~]

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) An actor commits criminal trespass of a residence if the actor:

(a) is a long-term guest; and

(b) in circumstances not amounting to burglary, remains in a residence after the [~~long-term guest~~] actor receives notice against remaining in the residence by personal communication to the [~~long-term guest~~] actor by the person who is the primary occupant of the residence or someone with apparent authority to act for the primary occupant.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) Before a law enforcement officer escorts an [~~individual~~] actor from a residence for a violation of [~~this section~~] Subsection (2), the law enforcement officer shall provide the [~~individual~~] actor a reasonable time for the [~~individual~~] actor to collect the [~~individual's~~] actor's personal belongings.

Section 46. Section 76-6-206.5 is enacted to read:

76-6-206.5. Cutting, destroying, or rendering ineffective fencing of agricultural or range land.

(1) Terms defined in Sections 76-1-101.5, 76-6-201, and 76-6-206.3 apply to this section.

(2) An actor commits cutting, destroying, or rendering ineffective the fencing of agricultural or range land if the person willfully cuts, destroys, or renders ineffective any fencing or other form of enclosure a reasonable person would recognize as intended to exclude intruders.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) In addition to an order for restitution under Section 77-38b-205, an actor who commits a violation of Subsection (2) may also be liable for:

(a) statutory damages in the amount of $500;

(b) reasonable attorney fees not to exceed $250; and

(c) court costs.

(5) Civil damages under Subsection (4) may be collected in a separate action by the owner of the agricultural or range land or the owner's assignee.

Section 47. Section 76-6-301 is amended to read:

76-6-301. Robbery.

(1) (a) [~~A person~~] As used in this section, an act is considered to be "in the course of committing a theft or unauthorized possession of property" if the act occurs:

(i) in the course of an attempt to commit theft or unauthorized possession of property;

(ii) in the commission of theft or unauthorized possession of property; or

(iii) in the immediate flight after the attempt or commission.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits robbery if the actor:

(a) [~~the person~~] unlawfully and intentionally takes or attempts to take personal property in the possession of [~~another~~] an individual from [~~his~~] the individual's person, or immediate presence, against [~~his~~] the individual's will, by means of force or fear, and with a purpose or intent to deprive the [~~person~~] individual permanently or temporarily of the personal property; or

(b) [~~the person~~] intentionally or knowingly uses force or fear of immediate force against [~~another~~] an individual in the course of committing a theft or [~~wrongful appropriation~~] unauthorized possession of property.

[~~(2) An act is considered to be "in the course of committing a theft or wrongful appropriation" if it occurs:~~]

[~~(a) in the course of an attempt to commit theft or wrongful appropriation;~~]

[~~(b) in the commission of theft or wrongful appropriation; or~~]

[~~(c) in the immediate flight after the attempt or commission.~~]

(3) [~~Robbery is a felony of the~~] A violation of Subsection (2) is a second degree felony.

Section 48. Section 76-6-302 is amended to read:

76-6-302. Aggravated robbery.

(1) (a) [~~A person~~] As used in this section, an act is considered to be "in the course of committing a robbery" if the act occurs in an attempt to commit, during the commission of, or in the immediate flight after the attempt or commission of a robbery.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated robbery if in the course of committing a robbery, [~~he~~] the actor:

(a) uses or threatens to use a dangerous weapon [~~as defined in Section 76-1-101.5~~];

(b) causes serious bodily injury [~~upon another~~] to another individual; or

(c) takes or attempts to take an operable motor vehicle.

(3) A violation of Subsection (2) is a first degree felony.

[~~(2) Aggravated robbery is a first degree felony.~~]

[~~(3) For the purposes of this part, an act shall be considered to be "in the course of committing a robbery" if it occurs in an attempt to commit, during the commission of, or in the immediate flight after the attempt or commission of a robbery.~~]

Section 49. Section 76-6-403 is amended to read:

76-6-403. Theft -- Evidence to support accusation.

Conduct denominated theft in this part constitutes a single offense embracing the separate offenses such as those heretofore known as larceny, larceny by trick, larceny by bailees, embezzlement, false pretense, extortion, blackmail, receiving stolen property. An accusation of theft may be supported by evidence that it was committed in any manner specified in [~~Sections 76-6-404 through 76-6-410~~] this part, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

Section 50. Section 76-6-404 is amended to read:

76-6-404. Theft -- Elements.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person~~] An actor commits theft if [~~he~~] the actor obtains or exercises unauthorized control over [~~the~~] another person's property [~~of another~~] with a purpose to deprive [~~him thereof~~] the person of the person's property.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is a catalytic converter as defined under Section 76-6-1402;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any

of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 51. Section 76-6-404.5 is amended to read:

76-6-404.5. Unauthorized possession of property.

(1) [~~A person~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits [~~wrongful appropriation~~] unauthorized possession of property if [~~he~~] the actor obtains or exercises unauthorized control over [~~the~~] another person's property [~~of another~~], without the consent of the property's owner or legal custodian, and with the intent to temporarily appropriate, possess, or use the property or to temporarily deprive the property's owner or legal custodian of possession of the property.

[~~(2) The consent of the owner or legal custodian of the property to its control by the actor is not presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the property by any person.~~]

[~~(3) Wrongful appropriation is punishable one degree lower than theft, as provided in Section 76-6-412, so that a violation which would have been:~~]

[~~(a) a second degree felony under Section 76-6-412 if it had been theft is a third degree felony if it is wrongful appropriation;~~]

[~~(b) a third degree felony under Section 76-6-412 if it had been theft is a class A misdemeanor if it is wrongful appropriation;~~]

[~~(c) a class A misdemeanor under Section 76-6-412 if it had been theft is a class B misdemeanor if it is wrongful appropriation; and~~]

[~~(d) a class B misdemeanor under Section 76-6-412 if it had been theft is a class C misdemeanor if it is wrongful appropriation.~~]

[~~(4)~~] (3) [~~Wrongful appropriation~~] A violation of Subsection (2) is:

(a) a third degree felony if:

(i) the value of the property is or exceeds $5,000;

(ii) the property is a firearm or an operable motor vehicle; or

(iii) the property is taken from the person of another;

(b) a class A misdemeanor if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is a catalytic converter as defined under Section 76-6-1402;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the unauthorized possession of property occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class B misdemeanor if:

(i) the value of the property is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the unauthorized possession of property occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class C misdemeanor if the value of the property is less than $500 and the unauthorized possession of property is not an offense under Subsection (3)(c).

(4) Unauthorized possession of property is a lesser included offense of the offense of theft under Section 76-6-404.

(5) The consent of the owner or legal custodian of the property to the property's control by the actor is not presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the property by any person.

Section 52. Section 76-6-404.7 is amended to read:

76-6-404.7. Theft of motor vehicle fuel.

(1) (a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid, matter, or substance that is used in an internal combustion engine for the generation of power.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~] An actor commits theft of motor vehicle fuel [~~who~~] if the actor:

(a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for retail sale when motor fuel has been dispensed into:

(i) the fuel tank of the motor vehicle; or

(ii) any other container that is then removed from the premises by means of the motor vehicle; and

(b) commits the act under Subsection (2)(a) with the intent to deprive the owner or operator of the premises of the motor vehicle fuel without making full payment for the fuel.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the motor vehicle fuel is or exceeds $5,000;

(b) a third degree felony if:

(i) the value of the motor vehicle fuel is or exceeds $1,500 but is less than $5,000; or

(ii) the value of the motor vehicle fuel is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

(iii) (A) the value of the motor vehicle fuel is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the motor vehicle fuel is or exceeds $500 but is less than $1,500;

(ii) (A) the value of the motor vehicle fuel is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the motor vehicle fuel is less than $500 and the theft is not an offense under Subsection (3)(c).

[~~(3)~~] (4) (a) In addition to the penalties [~~for theft under Section 76-6-412~~] described in Subsection (3), the sentencing court may order the suspension of the driver license of [~~a person~~] an actor convicted of theft of motor vehicle fuel.

(b) The suspension described in Subsection (4)(a) may not be for more than 90 days as provided in Section 53-3-220.

Section 53. Section 76-6-405 is amended to read:

76-6-405. Theft by deception.

(1) (a) As used in this section, "puffing" means an exaggerated commendation of wares or worth in a communication addressed to an individual, group, or the public.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) [~~A person~~] An actor commits theft by deception if the [~~person~~] actor obtains or exercises control over property of another person:

(i) by deception; and

(ii) with a purpose to deprive the other person of property.

(b) The deception described in Subsection (2)(a)(i) and the deprivation described in Subsection (2)(a)(ii) may occur at separate times.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000; or

(ii) property stolen is a firearm or an operable motor vehicle;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is a catalytic converter as defined under Section 76-6-1402;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

[~~(3)~~] (4) Theft by deception does not occur when there is only:

(a) falsity as to matters having no pecuniary significance; or

(b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

Section 54. Section 76-6-406 is amended to read:

76-6-406. Theft by extortion.

[~~(1) An actor is guilty of theft if the actor obtains or exercises control over the property of another person by extortion and with a purpose to deprive the person of the person's property.~~]

[~~(2)~~] (1) (a) As used in this section, extortion occurs when an actor threatens to:

[~~(a)~~] (i) cause physical harm in the future to the person threatened, [~~or~~] to any other person, or to property at any time;

[~~(b)~~] (ii) subject the person threatened or any other person to physical confinement or restraint;

[~~(c)~~] (iii) engage in other conduct constituting a crime;

[~~(d)~~] (iv) accuse any person of a crime or expose any person to hatred, contempt, or ridicule;

[~~(e)~~] (v) reveal any information sought to be concealed by the person threatened;

[~~(f)~~] (vi) testify [~~or~~], provide information, or withhold testimony or information with respect to a person's legal claim or defense;

[~~(g)~~] (vii) take action as an official against anyone or anything, or withhold official action, or cause such action or withholding;

[~~(h)~~] (viii) bring about or continue a strike, boycott, or other similar collective action to obtain property that is not demanded or received for the benefit of the group that the actor purports to represent; or

[~~(i)~~] (ix) do any other act which would not in itself substantially benefit the actor but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft by extortion if the actor obtains or exercises control over the property of another person by extortion and with a purpose to deprive the person of the person's property.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is a catalytic converter as defined under Section 76-6-1402;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

[~~(3)~~] (4) (a) A person who is adversely impacted by the conduct prohibited in Subsection [~~(1)~~] (2) may bring a civil action for equitable relief and damages.

(b) In accordance with Section 78B-2-305, a person who brings an action under Subsection [~~(3)(a)~~] (4)(a) shall commence the action within three years after the day on which the cause of action arises.

Section 55. Section 76-6-407 is amended to read:

76-6-407. Theft of lost, mislaid, or mistakenly delivered property.

[~~A person commits theft when:~~]

(1) [~~He~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the actor:

(a) obtains another person's property [~~of another which he~~] and knows the property to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return [~~it~~] the property to the owner; and

[~~(2)~~] (b) [~~He~~] has the purpose to deprive the owner of the property when [~~he~~] the actor obtains the property or at any time [~~prior to~~] before taking the

measures [~~designated in paragraph (1)~~] described in Subsection (2)(a).

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is a catalytic converter as defined under Section 76-6-1402;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 56. Section 76-6-408 is amended to read:

76-6-408. Theft by receiving stolen property -- Duties of pawnbrokers, secondhand businesses, coin dealers, and catalytic converter purchasers.

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

[~~(a)~~] (i) "Catalytic converter purchaser" means the same as that term is defined in Section 13-32a-102.

[~~(b)~~] (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.

[~~(c)~~] (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

[~~(d)~~] (iv) "Receives" means acquiring possession, control, title, or lending on the security of the property.

[~~(e)~~] (v) "Scrap metal processor" means the same as that term is defined in Section 76-6-1402.

[~~(f)~~] (vi) "Secondhand actor" means:

[~~(i)~~] (A) a pawnbroker;

[~~(ii)~~] (B) a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property; or

[~~(iii)~~] (C) an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person~~] An actor commits theft by receiving stolen property if the [~~person~~] actor receives, retains, or disposes of the property of another knowing that the property is stolen, or believing that the property is probably stolen, or who conceals, sells, withholds, or aids in concealing, selling, or withholding the property from the owner, knowing or believing the property to be stolen, intending to deprive the owner of the property.

(3) A violation of Subsection (2) is:

(a) a second degree felony if:

(i) the value of the property is or exceeds $5,000; or

(ii) the property is a firearm or an operable motor vehicle;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is a catalytic converter as defined under Section 76-6-1402;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property is or exceeds $500 but is less than $1,500; or

(ii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property is less than $500 and the theft is not an offense under Subsection (3)(c).

[~~(3)~~] (4) Except as provided in Subsection [~~(4)~~] (5), the knowledge or belief required under Subsection (2) is presumed in the case of an actor who:

(a) is found in possession or control of other property stolen on a separate occasion; or

(b) has received other stolen property within the year preceding the receiving offense charged.

[~~(4)~~] (5) (a) The knowledge or belief required under Subsection (2) may only be presumed of a secondhand actor if the secondhand actor does not substantially comply with the material requirements of Section 13-32a-104.

(b) The knowledge or belief required under Subsection (2) may only be presumed of a coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer does not substantially comply with the requirements of Section 13-32a-104.5.

(c) The knowledge or belief required under Subsection (2) may only be presumed of a catalytic converter purchaser if the catalytic converter purchaser does not substantially comply with the material requirements of Section 13-32a-104.7.

[~~(5)~~] (6) Unless acting as a catalytic converter purchaser, Subsection [~~(4)(c)~~] (5)(c) does not apply to a scrap metal processor.

[~~(6)~~] (7) This section does not preclude the admission of evidence in accordance with the Utah Rules of Evidence.

(8) An actor who violates Subsection (2) is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 57. Section 76-6-409 is amended to read:

76-6-409. Theft of service.

(1) (a) [~~A person~~] As used in this section, "service" includes:

(i) labor, professional service, a public utility or transportation service, restaurant, hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph service, steam, admission to entertainment, an exhibition, a sporting event, or other event for which a charge is made;

(ii) gas, electricity, water, sewer, or cable television service, only if the service is obtained by threat, force, or a form of deception not described in Section 76-6-409.3; and

(iii) telephone service, only if the service is obtained by threat, force, or a form of deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft [~~if he~~] of service if:

(a) the actor, by deception, threat, force, or another means designed to avoid due payment, obtains [~~services which he~~] a service that the actor knows [~~are~~] is available only for compensation [~~by deception, threat, force, or any other means designed to avoid the due payment for them.~~]; or

(b) the actor:

(i) has control over the disposition of another person's service; and

(ii) (A) diverts the other person's service to the benefit of the actor, knowing that the actor is not entitled to the service; or

(B) diverts the other person's service to the benefit of a third person, knowing that the third person is not entitled to the service.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the service is or exceeds $5,000;

(b) a third degree felony if:

(i) the value of the service is or exceeds $1,500 but is less than $5,000;

(ii) the value of the service is or exceeds $500 and the actor has been twice before convicted of any of

the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

(iii) (A) the value of the service is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the service stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of the service is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the service is less than $500 and the theft is not an offense under Subsection (3)(c).

[~~(2) A person commits theft if, having control over the disposition of services of another, to which he knows he is not entitled, he diverts the services to his own benefit or to the benefit of another who he knows is not entitled to them.~~]

[~~(3) In this section "services" includes, but is not limited to, labor, professional service, public utility and transportation services, restaurant, hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of equipment, tools, vehicles, or trailers for temporary use, telephone or telegraph service, steam, admission to entertainment, exhibitions, sporting events, or other events for which a charge is made.~~]

[~~(4) Under this section "services" includes gas, electricity, water, sewer, or cable television services, only if the services are obtained by threat, force, or a form of deception not described in Section 76-6-409.3.~~]

[~~(5) Under this section "services" includes telephone services only if the services are obtained by threat, force, or a form of deception not described in Sections 76-6-409.5 through 76-6-409.9.~~]

Section 58. Section 76-6-409.1 is amended to read:

76-6-409.1. Unlawful device for theft of service -- Seizure and destruction -- Civil actions for damages.

[~~(1) A person may not knowingly:~~]

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits unlawful device for theft of service if the actor:

(a) [~~make or possess any~~] makes or possesses an instrument, apparatus, equipment, or device for the use of, or for the purpose of, committing or attempting to commit theft under Section 76-6-409 or 76-6-409.3; or

(b) [~~sell, offer to sell, advertise, give, transport, or otherwise transfer to another any information,~~] sells, offers to sell, advertises, gives, transports, or otherwise transfers to another person:

(i) an instrument, apparatus, equipment, or device[~~,~~]; or

(ii) any information, plan, or instruction for obtaining, making, or assembling [~~the same~~] an instrument, apparatus, equipment, or device, with intent that [~~it~~] the instrument, apparatus, equipment, or device be used, or caused to be used, to commit or attempt to commit theft under Section 76-6-409 or 76-6-409.3.

[~~(2) (a) Any information, instrument, apparatus, equipment, or device, or information, plan, or instruction referred to in Subsection (1) may be seized pursuant to a court order, lawful search and seizure, lawful arrest, or other lawful process.~~]

[~~(b) Upon the conviction of any person for a violation of any provision of this section, any information, instrument, apparatus, equipment, device, plan, or instruction shall be destroyed as contraband by the sheriff of the county in which the person was convicted.~~]

(3) (a) [~~A person who violates any provision~~] A violation of Subsection [~~(1) or~~] (2) is [~~guilty of~~] a class A misdemeanor.

(b) Any instrument, apparatus, equipment, device, information, plan, or instruction referred to in Subsection (2) may be seized pursuant to a court order, lawful search and seizure, lawful arrest, or other lawful process.

(c) Upon the conviction of an actor for a violation of this section, the sheriff of the county in which the

actor was convicted shall destroy as contraband any instrument, apparatus, equipment, device, information, plan, or instruction.

(4) [~~Criminal prosecutions~~] A criminal prosecution under this section [~~do~~] does not affect any person's right of civil action for redress for damages suffered as a result of [~~any~~] a violation of this section.

Section 59. Section 76-6-409.3 is amended to read:

76-6-409.3. Theft of utility or cable television services -- Restitution -- Civil action for damages.

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

[~~(a)~~] (i) "Cable television service" means [~~any~~] an audio, video, or data service provided for payment by a cable television company over [~~its~~] the cable company's cable system facilities [~~for payment~~], but does not include the use of a satellite dish or antenna.

(ii) "Occupant" includes a person, including the owner, who occupies the whole or part of a building, whether alone or with others.

[~~(b)~~] (iii) "Owner" includes [~~any part-owner~~] a partial owner, joint owner, tenant in common, joint tenant, or tenant by the entirety of the whole or a part of [~~any~~] a building and the property on which [~~it~~] the building is located.

[~~(c)~~] (iv) "Person" means [~~any~~] an individual, firm, partnership, corporation, company, association, or other legal entity.

[~~(d)~~] (v) "Tenant [~~or occupant~~]" includes [~~any~~] a person, including the owner, who occupies the whole or part of any building, whether alone or with others.

[~~(e)~~] (vi) "Utility" means any public utility, [~~municipally-owned~~] municipally owned utility, or cooperative utility [~~which~~] that provides electricity, gas, water, or sewer, or any combination of [~~them~~] electricity, gas, water, or sewer, for sale to consumers.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~] An actor commits theft of a utility or cable television service if [~~the person commits any prohibited acts which make~~], with intent to avoid due payment to the utility or cable television company, the actor makes gas, electricity, water, sewer, or cable television available to a tenant or occupant, including [~~himself, with intent to avoid due payment to the utility or cable television company. Any person aiding and abetting in these prohibited acts is a party to the offense under Section 76-2-202. Prohibited acts include:~~] to the actor, by committing any of the following acts:

(a) connecting [~~any~~] a tube, pipe, wire, cable, or other instrument with any meter, device, or other instrument used for conducting gas, electricity, water, sewer, or cable television in a manner as permits the use of the gas, electricity, water, sewer, or cable television without [~~its~~] the gas, electricity, water, sewer, or cable television passing through a meter or other instrument recording the usage for billing;

(b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service, or making or maintaining any modification or alteration to any device installed with the authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by the company [~~which the person~~] that the actor is not authorized by the company to receive;

(c) reconnecting a gas, electricity, water, sewer, or cable television [~~connections~~] connection or otherwise restoring service when one or more of those utilities or cable service [~~have~~] has been lawfully disconnected or turned off by the provider of the utility or cable service;

(d) intentionally breaking, defacing, or causing to be broken or defaced [~~any~~] a seal, locking device, or other part of a metering device for recording usage of gas, electricity, water, or sewer service, or a security system for the recording device, or a cable television control device;

(e) removing a metering device designed to measure quantities of gas, electricity, water, or sewer service;

(f) transferring from one location to another location a metering device for measuring quantities of public utility services of gas, electricity, water, or sewer service;

(g) changing the indicated consumption, jamming the measuring device, bypassing the meter or measuring device with a jumper so that it does not indicate use or registers use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from the utility without [~~their~~] the gas, electricity, water, or sewer service passing through a metering device for measuring quantities of consumption for billing purposes;

(h) using a metering device belonging to the utility that has not been assigned to the location and installed by the utility;

(i) fabricating or using a device to pick or otherwise tamper with the locks used to deter utility service diversion, meter tampering, meter thefts, and unauthorized cable television service;

(j) assisting or instructing [~~any~~] a person in obtaining or attempting to obtain any cable television service without payment of all lawful compensation to the company providing the service;

(k) making or maintaining a connection or connections, whether physical, electrical, mechanical, acoustical, or by other means, with [~~any cables, wires, components, or other devices~~] a cable, wire, component, or other device used for the distribution of cable television services without authority from the cable television company; or

(l) possessing without authority any device or printed circuit board designed in whole or in part to

receive any cable television programming or [~~services~~] service offered for sale over a cable television system, unless the device or printed circuit board includes the use of a satellite dish or antenna, with the intent that the device or printed circuit be used for the reception of the cable television company's services without payment. [~~For purposes of this subsection, device or printed circuit board does not include the use of a satellite dish or antenna.~~]

(3) (a) A violation of Subsection (2), if the violation is a theft of a utility service, is:

(i) a second degree felony if:

(A) the value of the gas, electricity, water, or sewer service is or exceeds $5,000; or

(B) if the actor previously has been convicted of a violation of this section;

(ii) a third degree felony if the value of the gas, electricity, water, or sewer service is or exceeds $1,500 but is not more than $5,000;

(iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service is or exceeds $500 but is not more than $1,500; or

(iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service is less than $500.

(b) A violation of Subsection (2), if the violation is a theft of a cable television service, is:

(i) a second degree felony if the value of the service is or exceeds $5,000;

(ii) a third degree felony if:

(A) the value of the service is or exceeds $1,500 but is less than $5,000;

(B) the value of the service is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(I) any theft, any robbery, or any burglary with intent to commit theft;

(II) any offense under Part 5, Fraud; or

(III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II); or

(C) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(iii) a class A misdemeanor if:

(A) the value of the service stolen is or exceeds $500 but is less than $1,500; or

(B) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(iv) a class B misdemeanor if the value of the service is less than $500 and the theft is not an offense under Subsection (3)(b)(iii).

(c) (i) An actor who violates this section shall make restitution to the utility or cable television company for the value of the gas, electricity, water, sewer, or cable television service consumed in violation of this section plus all reasonable expenses and costs incurred on account of the violation of this section.

(ii) Reasonable expenses and costs include expenses and costs for investigation, disconnection, reconnection, service calls, employee time, and equipment use.

[~~(3)~~] (4) (a) The presence on property in the possession of [~~a person of any device~~] an actor of a device or alteration [~~which~~] that permits the diversion or use of utility or cable service to avoid the registration of the use by or on a meter installed by the utility or to otherwise avoid the recording of use of the service for payment or otherwise avoid payment gives rise to an inference that the [~~person~~] actor in possession of the property installed the device or caused the alteration if:

[~~(a)~~] (i) the presence of the device or alteration can be attributed only to a deliberate act in furtherance of an intent to avoid payment for utility or cable television service; and

[~~(b)~~] (ii) the [~~person~~] actor charged has received the direct benefit of the reduction of the cost of the utility or cable television service.

[~~(4) A person who violates this section is guilty of the offense of theft of utility or cable television service.~~]

[~~(a) In the case of theft of utility services, if the value of the gas, electricity, water, or sewer service:~~]

[~~(i) is less than $500, the offense is a class B misdemeanor;~~]

[~~(ii) is or exceeds $500 but is not more than $1,500, the offense is a class A misdemeanor;~~]

[~~(iii) is or exceeds $1,500 but is not more than $5,000, the offense is a third degree felony; and~~]

[~~(iv) is or exceeds $5,000 or if the offender has previously been convicted of a violation of this section, the offense is a second degree felony.~~]

[~~(b) In the case of theft of cable television services, the penalties are prescribed in Section 76-6-412.~~]

[~~(5) A person who violates this section shall make restitution to the utility or cable television company for the value of the gas, electricity, water, sewer, or cable television service consumed in violation of this section plus all reasonable expenses and costs incurred on account of the violation of this section.~~

~~Reasonable expenses and costs include expenses and costs for investigation, disconnection, reconnection, service calls, employee time, and equipment use.~~]

(b) An actor who aids or abets in a prohibited act is a party to the offense under Section 76-2-202.

[~~(6)~~] (5) (a) Criminal prosecution under this section does not affect the right of a utility or cable television company to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by this section.

[~~(7)~~] (b) This section does not abridge or alter any other right, action, or remedy otherwise available to a utility or cable television company.

Section 60. Section 76-6-409.5 is amended to read:

76-6-409.5. Definitions.

As used in this section and Sections 76-6-409.6 [~~through~~], 76-6-409.7, 76-6-409.8, 76-6-409.9, and 76-6-409.10:

(1) "Access device" means any telecommunication device including the telephone calling card number, electronic serial number, account number, mobile identification number, or personal identification number that can be used to obtain telephone service.

(2) "Clone cellular telephone" or "counterfeit cellular telephone" means a cellular telephone whose electronic serial number has been altered from the electronic serial number that was programmed in the telephone by the manufacturer by someone other than the manufacturer.

(3) "Cloning paraphernalia" means materials that, when possessed in combination, are capable of the creation of a cloned cellular telephone. These materials include scanners to intercept the electronic serial number and mobile identification number, cellular telephones, cables, EPROM chips, EPROM burners, software for programming the cloned telephone with a false electronic serial number and mobile identification number combination, a computer containing such software, and lists of electronic serial number and mobile identification number combinations.

(4) "Electronic serial number" means the unique number that:

(a) was programmed into a cellular telephone by its manufacturer;

(b) is transmitted by the cellular telephone; and

(c) is used by cellular telephone providers to validate radio transmissions to the system as having been made by an authorized device.

(5) "EPROM" or "Erasable programmable read-only memory" means an integrated circuit memory that can be programmed from an external source and erased, for reprogramming, by exposure to ultraviolet light.

(6) "Intercept" means to electronically capture, record, reveal, or otherwise access, the signals emitted or received during the operation of a cellular telephone without the consent of the sender or receiver, by means of any instrument, device or equipment.

(7) "Manufacture of an unlawful telecommunication device" means to produce or assemble an unlawful telecommunication device, or to modify, alter, program, or reprogram a telecommunication device to be capable of acquiring or facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider.

(8) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone carrier.

(9) "Possess" means to have physical possession or otherwise to exercise control over tangible property.

(10) "Sell" means to offer to, agree to offer to, or to sell, exchange, give, or dispose of an unlawful telecommunications device to another.

(11) "Telecommunication device" means:

(a) any type of instrument, device, machine, or equipment which is capable of transmitting or receiving telephonic, electronic, or radio communications; or

(b) any part of an instrument, device, machine, or equipment, or other computer circuit, computer chip, electronic mechanism, or other component, which is capable of facilitating the transmission or reception of telephonic or electronic communications within the radio spectrum allocated to cellular radio telephony.

(12) "Telecommunication service" includes any service provided for a charge or compensation to facilitate the origination, transmission, emission, or reception of signs, signals, writings, images, and sounds or intelligence of any nature by telephone, including cellular telephones, wire, radio, television optical or other electromagnetic system.

(13) "Telecommunication service provider" means any person or entity providing telecommunication service including a cellular telephone or paging company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or other equipment or telecommunication service.

(14) "Unlawful telecommunication device" means any telecommunication device that is capable of, or has been altered, modified, programmed, or reprogrammed, alone or in conjunction with another access device, so as to be capable of, acquiring or facilitating the acquisition of a telecommunication service without the consent of the telecommunication service provider. Unlawful devices include tumbler phones, counterfeit phones, tumbler microchips, counterfeit microchips, and other instruments capable of disguising their identity or location or of gaining access to a communications system operated by a telecommunication service provider.

Section 61. Section 76-6-409.6 is amended to read:

76-6-409.6. Use of telecommunication device to avoid lawful charge for service.

(1) [~~Any person who uses~~] Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

(2) An actor commits use of a telecommunication device to avoid lawful charge for service if the actor uses a telecommunication device:

(a) with the intent to avoid the payment of [~~any~~] a lawful charge for telecommunication service; or

(b) with the knowledge that [~~it~~] the use of the telecommunication device was to avoid the payment of [~~any~~] a lawful charge for telecommunication service [~~is guilty of:~~].

(3) (a) A violation of Subsection (2) is:

[~~(a)~~] (i) a class B misdemeanor, if the value of the telecommunication service is less than $300 or cannot be ascertained;

[~~(b)~~] (ii) a class A misdemeanor, if the value of the telecommunication service charge is or exceeds $300 but is not more than $1,000;

[~~(c)~~] (iii) a third degree felony, if the value of the telecommunication service is or exceeds $1,000 but is not more than $5,000; or

[~~(d)~~] (iv) a second degree felony, if:

[~~(i)~~] (A) the value of the telecommunication service is or exceeds $5,000; [~~or~~]

[~~(ii)~~] (B) the cloned cellular telephone was used to facilitate the commission of a felony[~~.~~]; or

(C) the actor previously has been convicted of a violation of this section.

(b) An actor who violates this section is subject to the restitution and civil action provisions described in Section 76-6-409.10.

[~~(2) Any person who has been convicted previously of an offense under this section is guilty of a second degree felony upon a second conviction and any subsequent conviction.~~]

Section 62. Section 76-6-409.7 is amended to read:

76-6-409.7. Possession of unlawful telecommunication device.

(1) [~~Any person who~~] Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

(2) An actor commits possession of unlawful telecommunication device if the actor knowingly possesses an unlawful telecommunication device [~~is guilty of a class B misdemeanor~~].

[~~(2)~~] (3) (a) [~~Any person who~~] Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is a class B misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third degree felony if the actor knowingly possesses five or more unlawful telecommunication devices in the same criminal episode [~~is guilty of a third degree felony~~].

[~~(3)~~] (c) [~~Any person is guilty of a~~] A violation of Subsection (2) is a second degree felony [~~who~~] if the actor:

[~~(a)~~] (i) knowingly and unlawfully possesses an instrument capable of intercepting electronic serial number and mobile identification number combinations under circumstances evidencing an intent to clone; or

[~~(b)~~] (ii) knowingly and unlawfully possesses cloning paraphernalia under circumstances evidencing an intent to clone.

(d) An actor who violates this section is subject to the restitution and civil action provisions described in Section 76-6-409.10.

Section 63. Section 76-6-409.8 is amended to read:

76-6-409.8. Sale of an unlawful telecommunication device.

(1) [~~Any person is guilty of a third degree felony who~~] Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

(2) An actor commits sale of unlawful telecommunication device if the actor intentionally sells an unlawful telecommunication device or material, including hardware, data, computer software, or other information or equipment, knowing that the purchaser or a third person intends to use such material in the manufacture of an unlawful telecommunication device.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

[~~(2)~~] (b) [~~If~~] A violation of Subsection (2) is a second degree felony if the offense [~~under this section~~] involves the intentional sale of five or more unlawful telecommunication devices within a six-month period[~~, the person committing the offense is guilty of a second degree felony~~].

(c) An actor who violates this section is subject to the restitution and civil action provisions described in Section 76-6-409.10.

Section 64. Section 76-6-409.9 is amended to read:

76-6-409.9. Manufacture of an unlawful telecommunication device.

(1) [~~Any person who~~] Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

(2) An actor commits manufacture of unlawful telecommunication device if the actor intentionally manufactures an unlawful telecommunication device [~~is guilty of a third degree felony~~].

[~~(2)~~] (3) (a) [~~If the offense under this section~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) is third degree felony.

(b) A violation of Subsection (2) is a second degree felony if the offense involves the intentional

manufacture of five or more unlawful telecommunication devices within a six-month period[~~, the person committing the offense is guilty of a second degree felony~~].

(c) An actor who violates this section is subject to the restitution and civil action provisions described in Section 76-6-409.10.

Section 65. Section 76-6-409.10 is amended to read:

76-6-409.10. Payment of restitution -- Civil action -- Other remedies retained.

(1) [~~A person~~] Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to this section.

(2) (a) (i) An actor who violates [~~Sections 76-6-409.5 through~~] Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9 shall make restitution to the telecommunication service provider for the value of the telecommunication service consumed in [~~violation of this section~~] the violation plus all reasonable expenses and costs incurred on account of the violation [~~of this section~~].

(ii) Reasonable expenses and costs include expenses and costs for investigation, service calls, employee time, and equipment use.

[~~(2)~~] (b) [~~Criminal~~] A criminal prosecution under [~~this section~~] Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9 does not affect the right of a telecommunication service provider to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by [~~this section~~] Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9.

(3) This section does not abridge or alter any other right, action, or remedy otherwise available to a telecommunication service provider.

Section 66. Section 76-6-410 is amended to read:

76-6-410. Theft by custodian of property pursuant to repair or rental agreement.

[~~A person is guilty of theft if:~~]

(1) [~~Having~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft by custodian of property pursuant to repair or rental agreement if:

(a) (i) the actor has custody of property pursuant to an agreement between [~~himself~~] the actor or another person and the property's owner [~~thereof whereby~~];

(ii) the actor or another person is to perform for compensation a specific service for the property's owner involving the maintenance, repair, or use of [~~such~~] the owner's property[~~, he~~]; and

(iii) the actor intentionally uses or operates [~~it~~] the owner's property, without the consent of the owner, for [~~his~~] the actor's own purposes in a manner constituting a gross deviation from the agreed purpose; or

[~~(2)~~] (b) (i) [~~Having~~] the actor has custody of any property pursuant to a rental or lease agreement [~~where it~~] in which the property is to be returned in a specified manner or at a specified time[~~,~~]; and

(ii) the actor intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000; or

(ii) property stolen is a firearm or an operable motor vehicle;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is a catalytic converter as defined under Section 76-6-1402;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500; or

(ii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 67. Section 76-6-410.5 is amended to read:

76-6-410.5. Theft of a rental vehicle.

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

[~~(a)~~] (i) "Motor vehicle" means a self-propelled vehicle that is intended primarily for use and operation on the highways.

[~~(b)~~] (ii) "Rental agreement" means [~~any~~] a written agreement stating the terms and conditions governing the use of a motor vehicle provided by a rental company.

[~~(c)~~] (iii) "Rental company" means [~~any~~] a person or organization in the business of providing motor vehicles to the public.

[~~(d)~~] (iv) "Renter" means [~~any~~] a person or organization obtaining the use of a motor vehicle from a rental company under the terms of a rental agreement.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A renter is guilty of~~] An actor commits theft of a rental vehicle if[~~,~~] the actor:

(a) is a renter; and

(b) without notice to and permission of the rental company, [~~the renter~~] knowingly fails without good cause to return the vehicle within 72 hours after the time established for the return in the rental agreement.

(3) A violation of Subsection (2) is a second degree felony.

[~~(3)~~] (4) If [~~the~~] a motor vehicle is not rented on a periodic tenancy basis, the rental company shall include the following information, legibly written, as part of the terms of the rental agreement:

(a) the date and time the motor vehicle is required to be returned; and

(b) the maximum penalties under state law if the motor vehicle is not returned within 72 hours from the date and time stated in compliance with Subsection [~~(3)(a)~~] (4)(a).

Section 68. Section 76-6-412.1 is enacted to read:

76-6-412.1. Civil remedy for animal theft.

In addition to a criminal penalty under this chapter, an actor who commits theft of a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, a fur-bearing animal raised for commercial purposes, or a livestock guardian dog, is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 69. Section 76-6-413 is amended to read:

76-6-413. Release of a fur-bearing animal -- Finding.

(1) [~~In any case not amounting to a felony of the second degree, any person who~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits release of a fur-bearing animal if the actor intentionally and without permission of the owner releases [~~any~~] a fur-bearing animal raised for commercial purposes [~~is guilty of a felony of the third degree~~].

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

(b) A violation of Subsection (2) is a second degree felony if the value of the property is or exceeds $5,000.

[~~(2)~~] (4) The Legislature finds that the release of a fur-bearing [~~animals~~] animal raised for commercial purposes subjects the [~~animals~~] animal to unnecessary suffering through deprivation of food and shelter and compromises [~~their~~] the animal's genetic integrity, thereby permanently depriving the owner of substantial value.

(5) An actor who violates Subsection (2) is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 70. Section 76-6-501 is amended to read:

76-6-501. Definitions -- Forgery.

(1) (a) As used in this [~~part~~] section:

[~~(a)~~] (i) "Authentication feature" means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified.

[~~(b)~~] (ii) "Document-making implement" means any implement, impression, template, computer file, computer disc, electronic device, computer hardware or software, or scanning, printing, or laminating equipment that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement.

[~~(c)~~] (iii) "False authentication feature" means an authentication feature that:

[~~(i)~~] (A) is genuine in origin but that, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

[~~(ii)~~] (B) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which the authentication feature is intended to be affixed or embedded by the issuing authority; or

[~~(iii)~~] (C) appears to be genuine, but is not.

[~~(d)~~] (iv) "False identification document" means a document of a type intended or commonly accepted for the purposes of identification of individuals, and that:

[~~(i)~~] (A) is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and

[~~(ii)~~] (B) appears to be issued by or under the authority of a governmental entity.

[~~(e)~~] (v) "Governmental entity" means the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization, or a quasi-governmental organization.

[~~(f)~~] (vi) "Identification document" means a document made or issued by or under the authority of a governmental entity, which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

[~~(g)~~] (vii) "Issuing authority" means:

[~~(i)~~] (A) any governmental entity that is authorized to issue identification documents, means of identification, or authentication features; or

[~~(ii)~~] (B) a business organization or financial institution or its agent that issues a financial transaction card as defined in Section 76-6-506.

[~~(h)~~] (viii) "Means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including:

[~~(i)~~] (A) name, social security number, date of birth, government issued driver license or identification number, alien registration number, government passport number, or employer or taxpayer identification number;

[~~(ii)~~] (B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; or

[~~(iii)~~] (C) unique electronic identification number, address, or routing code.

[~~(i)~~] (ix) "Personal identification card" means an identification document issued by a governmental entity solely for the purpose of identification of an individual.

[~~(j)~~] (x) "Produce" includes altering, authenticating, or assembling.

[~~(k)~~] (xi) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.

[~~(l)~~] (xii) "Traffic" means to:

[~~(i)~~] (A) transport, transfer, or otherwise dispose of an item to another, as consideration for anything of value; or

[~~(ii)~~] (B) make or obtain control of with intent to transport, transfer, or otherwise dispose of an item to another.

[~~(m)~~] (xiii) "Writing" includes printing, electronic storage or transmission, or any other method of recording valuable information including forms such as:

[~~(i)~~] (A) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any other symbols of value, right, privilege, or identification;

[~~(ii)~~] (B) a security, revenue stamp, or any other instrument or writing issued by a government or any agency; or

[~~(iii)~~] (C) a check, an issue of stocks, bonds, or any other instrument or writing representing an interest in or claim against property, or a pecuniary interest in or claim against any person or enterprise.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~] An actor commits forgery if, with purpose to defraud anyone, or with knowledge that the [~~person~~] actor is facilitating a fraud to be perpetrated by anyone, the [~~person~~] actor:

(a) alters any writing of another person without [~~his~~] the person's authority or utters the altered writing; or

(b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any writing so that the writing or the making, completion, execution, authentication, issuance, transference, publication, or utterance:

(i) purports to be the act of another person, whether the person is existent or nonexistent;

(ii) purports to be an act on behalf of another party with the authority of that other party; or

(iii) purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when an original did not exist.

(3) A violation of Subsection (2) is a third degree felony.

[~~(3)~~] (4) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs his own name to the writing if the actor does not have authority to make, complete, execute, authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the actor purports to act.

[~~(4) A person is guilty of producing or transferring any false identification document who:~~]

[~~(a) knowingly and without lawful authority produces, attempts, or conspires to produce an identification document, authentication feature, or a false identification document that is or appears to be issued by or under the authority of an issuing authority;~~]

[~~(b) transfers, or possesses with intent to transfer, an identification document, authentication feature, or a false identification document knowing that the document or feature was stolen or produced without lawful authority;~~]

[~~(c) produces, transfers, or possesses a document-making implement or authentication feature with the intent that the document-making implement or the authentication feature be used in the production of a false identification document or another document-making implement or authentication feature; or~~]

[~~(d) traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification.~~]

[~~(5) A person who violates:~~]

[~~(a) Subsection (2) is guilty of a third degree felony; and~~]

[~~(b) Subsection (4) is guilty of a second degree felony.~~]

[~~(6)~~] (5) This [~~part~~] section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

[~~(7)~~] (6) The forfeiture of property under this [~~part~~] section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

[~~(8)~~] (7) The court shall order, in addition to the penalty prescribed for any person convicted of a violation of this section, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, false transaction cards, document-making implements, or means of identification.

Section 71. Section 76-6-501.5 is enacted to read:

76-6-501.5. Producing or transferring false identification.

(1) Terms defined in Sections 76-1-101.5 and 76-6-501 apply to this section.

(2) An actor commits producing or transferring a false identification document if the actor:

(a) knowingly and without lawful authority produces, attempts, or conspires to produce an identification document, authentication feature, or a false identification document that is or appears to be issued by or under the authority of an issuing authority;

(b) transfers, or possesses with intent to transfer, an identification document, authentication feature, or a false identification document knowing that the document or feature was stolen or produced without lawful authority;

(c) produces, transfers, or possesses a document-making implement or authentication feature with the intent that the document-making implement or the authentication feature be used in the production of a false identification document or another document-making implement or authentication feature; or

(d) traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification.

(3) A violation of Subsection (2) is a second degree felony.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

(6) The court shall order, in addition to the penalty prescribed for a person convicted of a violation of this section, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, false transaction cards, document-making implements, or means of identification.

Section 72. Section 76-6-502 is amended to read:

76-6-502. Possession of forged writing or device for a forgery writing.

(1) (a) As used in this section[~~, "device"~~]:

(i) "Device" means any equipment, mechanism, material, or program.

(ii) "Writing" means the same as that term is defined in Section 76-6-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An [~~individual~~] actor who, with intent to defraud, knowingly possesses a writing[~~, as defined in Section 76-6-501,~~] that is a forgery under Section 76-6-501[~~,~~] or 76-6-501.5, or who with intent to defraud knowingly possesses a device for making a writing[~~, as defined in Section 76-6-501,~~] that is a forgery under Section [~~76-6-501, is guilty of a third degree felony.~~] 76-6-501 or 76-6-501.5, commits possession of a forged writing or device for making a forgery writing.

(3) A violation of Subsection (2) is a third degree felony.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 73. Section 76-6-503.5 is amended to read:

76-6-503.5. Wrongful liens.

(1) (a) [~~"Lien"~~] As used in this section, "lien" means:

[~~(a)~~] (i) an instrument or document filed pursuant to Section 70A-9a-516;

[~~(b)~~] (ii) a nonconsensual common law document as defined in Section 38-9-102;

[~~(c)~~] (iii) a wrongful lien as defined in Section 38-9-102; or

[~~(d)~~] (iv) any instrument or document that creates or purports to create a lien or encumbrance on an owner's interest in real or personal property or a claim on another's assets.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~] An actor commits the crime of wrongful lien if [~~that person~~] the actor knowingly makes, utters, records, or files a lien:

(a) having no objectively reasonable basis to believe [~~he~~] that the actor has a present and lawful property interest in the property or a claim on the assets; or

(b) if the [~~person~~] actor files the lien in violation of a civil wrongful lien injunction pursuant to Title 38, Chapter 9a, Wrongful Lien Injunctions.

(3) (a) [~~A violation of this section~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony [~~unless the person~~].

(b) If an actor has been previously convicted of an offense under this section[~~, in which case the violation~~] or Section 76-6-503.6, a violation of Subsection (2) is a second degree felony.

[~~(4) (a) Any person who with intent to deceive or injure anyone falsifies, destroys, removes, records, or conceals any will, deed, mortgage, security instrument, lien, or other writing for which the law provides public recording is guilty of fraudulent handling of recordable writings.~~]

[~~(b) A violation of Subsection (4)(a) is a third degree felony unless the person has been previously convicted of an offense under this section, in which case the violation is a second degree felony.~~]

[~~(5)~~] (4) This section does not prohibit prosecution for any act in violation of Section 76-8-414 or for any offense greater than an offense under this section.

(5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 74. Section 76-6-503.6 is enacted to read:

76-6-503.6. Fraudulent handling of recordable writings.

(1) Terms defined in Sections 76-1-101.5 and 76-6-503.5 apply to this section.

(2) An actor commits fraudulent handling of recordable writings if the actor:

(a) has intent to deceive or injure; and

(b) falsifies, destroys, removes, records, or conceals any will, deed, mortgage, security instrument, lien, or other writing for which the law provides public recording.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

(b) If an actor has been previously convicted of an offense under this section or Section 76-6-503.5, a violation of Subsection (2) is a second degree felony.

(4) This section does not prohibit prosecution for any act in violation of Section 76-8-414 or for any offense greater than an offense under this section.

(5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 75. Section 76-6-503.7 is amended to read:

76-6-503.7. Records filed with intent to harass or defraud.

[~~(1) No person shall cause a record to be communicated to the filing office, as defined in Section 70A-9a-513.5, for filing if:~~]

[~~(a) the person is not authorized to file the record under Section 70A-9a-509, 70A-9a-708, or 70A-9a-807;~~]

(1) (a) As used in this section, "filing office" means the same as that term is defined in Section 70A-9a-513.5.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits filing a record with intent to harass or defraud if:

(a) the actor causes a record to be communicated to the filing office for filing;

(b) the actor is not authorized to file the record under Section 70A-9a-509, 70A-9a-708, or 70A-9a-807;

[~~(b)~~] (c) the record is not related to an existing or anticipated transaction that is or will be governed by Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions; and

[~~(c)~~] (d) the record is filed knowingly or intentionally to:

(i) harass the person identified as the debtor in the record; or

(ii) defraud the person identified as the debtor in the record.

[~~(2)~~] (3) (a) [~~A person who violates~~] A violation of Subsections [~~(1)(a)~~] (2)(a), (b), (c), and [~~(c)(i) is guilty of~~] (d)(i) is a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

(b) [~~A person who violates~~] A violation of Subsections [~~(1)(a)~~] (2)(a), (b), (c), and [~~(c)(ii) is guilty of~~] (d)(ii) is a third degree felony.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 76. Section 76-6-504 is amended to read:

76-6-504. Tampering with records.

(1) (a) [~~Any person who,~~] As used in this section, "writing" means the same as that term is defined in Section 76-6-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits tampering with records if the actor:

(a) having no privilege to do so, knowingly falsifies, destroys, removes, or conceals any writing, other than the writings enumerated in Section 76-6-503.5 for which the law provides public recording or any record, public or private[~~,~~]; and

(b) executes an action described in Subsection (1)(a) with intent to:

(i) deceive or injure any person; or [~~to~~]

(ii) conceal any wrongdoing [~~is guilty of tampering with records~~].

[~~(2)~~] (3) [~~Tampering with records~~] A violation of Subsection (2) is a class B misdemeanor.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 77. Section 76-6-505 is amended to read:

76-6-505. Issuing a bad check or draft -- Presumption.

[~~(1) (a) Any person who~~]

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) (i) An actor commits issuing a bad check or draft if:

(A) the actor issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor, or rent[~~, knowing it~~];

(B) the actor knows the check or draft will not be paid by the drawee; and

(C) payment is refused by the drawee[~~, is guilty of issuing a bad check or draft~~].

[~~(b)~~] (ii) For purposes of this Subsection [~~(1), a person~~] (2)(a), an actor who issues a check or draft for which payment is refused by the drawee is presumed to know the check or draft would not be paid if [~~he~~] the actor had no account with the drawee at the time of issue.

[~~(2)~~] (b) [~~Any person who~~] An actor commits issuing a bad check or draft if:

(i) the actor issues or passes a check or draft for:

(A) the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value; or

(B) paying for any services, wages, salary, labor, or rent[~~,~~];

(ii) payment of [~~which~~] the check or draft is legally refused by the drawee[~~, is guilty of issuing a bad check or draft if he~~]; and

(iii) the actor fails to make good and actual payment to the payee in the amount of the refused check or draft within 14 days of [~~his~~] the actor receiving actual notice of the check or draft's nonpayment.

(3) [~~An offense of issuing a bad check or draft shall be~~] A violation of Subsection (2)(a) or (b) is punished as follows:

(a) [~~If~~] if the check or draft or series of checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is less than $500, the offense is a class B misdemeanor[~~.~~];

(b) [~~If~~] if the check or draft or checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is or exceeds $500 but is less than $1,500, the offense is a class A misdemeanor[~~.~~];

(c) [~~If~~] if the check or draft or checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is or exceeds $1,500 but is less than $5,000, the offense is a third degree felony [~~of the third degree.~~]; or

(d) [~~If~~] if the check or draft or checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is or

exceeds $5,000, the offense is a second degree felony.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 78. Section 76-6-506 is amended to read:

76-6-506. Financial transaction card offenses -- Definitions.

As used in [~~this part~~] Sections 76-6-506.2, 76-6-506.3, 76-6-506.6, 76-6-506.8, and 76-6-506.9:

(1) "Authorized credit card merchant" means a person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card by a card holder and to present valid credit card sales drafts to the issuer for payment.

(2) "Automated banking device" means any machine which, when properly activated by a financial transaction card or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.

(3) "Card holder" means any person or organization named on the face of a financial transaction card to whom or for whose benefit a financial transaction card is issued.

(4) "Credit card sales draft" means any sales slip, draft, or other written or electronic record of a sale of money, goods, services, or anything else of value made or purported to be made to or at the request of a card holder with a financial transaction card, financial transaction card credit number, or personal identification code, whether the record of the sale or purported sale is evidenced by a sales draft, voucher, or other similar document in writing or electronically recorded and transmitted.

(5) "Financial transaction card" means:

(a) any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in obtaining money, goods, services, or anything else of value on credit, or in certifying or guaranteeing to a person or business the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of the person or business; or

(b) any instrument or device used in providing the card holder access to a demand or time deposit account for the purpose of making deposits of money or checks in the account, or withdrawing funds from the account in the form of money, money orders, travelers' checks, or other form representing value, or transferring funds from any demand or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing in the credit card account.

(6) "Issuer" means a business organization or financial institution or its agent that issues a financial transaction card.

(7) "Personal identification code" means any numerical or alphabetical code assigned to a card holder by the issuer to permit the authorized electronic use of the holder's financial transaction card.

Section 79. Section 76-6-506.2 is amended to read:

76-6-506.2. Unlawful use of financial transaction card.

[~~It is unlawful for any person to:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

(2) An actor commits unlawful use of financial transaction card if the actor:

(a) knowingly [~~use a false, fictitious, altered, counterfeit,~~] uses a revoked, expired, stolen, or fraudulently obtained financial transaction card to obtain or attempt to obtain credit, goods, property, or services;

[~~(2)~~] (b) knowingly, with the intent to defraud, [~~use~~] uses a financial transaction card, credit number, personal identification code, or any other information contained on the card or in the account from which the card is issued, to obtain or attempt to obtain credit, goods, or services;

[~~(3)~~] (c) knowingly, with the intent to defraud, [~~use~~] uses a financial transaction card to willfully exceed an authorized credit line by $500 or more, or by 50% or more of the line of credit, whichever is greater; or

[~~(4) (a) knowingly, with the intent to defraud, make application for a financial transaction card to an issuer and make or cause to be made a false statement or report of the person's name, occupation, financial condition, assets, or personal identifying information; or~~]

[~~(b) willfully and substantially undervalue or understate any indebtedness for the purposes of influencing the issuer to issue the financial transaction card; or~~]

[~~(5)~~] (d) knowingly, with the intent to defraud, [~~present or cause~~] presents or causes to be presented to the issuer or an authorized credit card merchant, for payment or collection, any credit card sales draft, if:

[~~(a)~~] (i) the draft is counterfeit or fictitious;

[~~(b)~~] (ii) the purported sales evidenced by any credit card sales draft did not take place;

[~~(c)~~] (iii) the purported sale was not authorized by the card holder; or

[~~(d)~~] (iv) the items or services purported to be sold as evidenced by the credit card sales drafts are not delivered or rendered to the card holder or person intended to receive them.

(3) (a) A violation of Subsection (2) is:

(i) a class B misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is less than $500;

(ii) a class A misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(iii) a third degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds $1,500 but is less than $5,000; or

(iv) a second degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds $5,000.

(b) Multiple violations of Subsection (2)(a) may be aggregated into a single offense, and the degree of the offense is determined by the total value of all property, money, or things obtained or attempted to be obtained through the multiple violations.

(4) The court shall make appropriate findings in any prosecution under this section that the card holder did not commit the crime.

(5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 80. Section 76-6-506.3 is amended to read:

76-6-506.3. Unlawful acquisition, possession, or transfer of financial transaction card.

[~~(1) Under circumstances that do not constitute a violation of Subsection (2), an individual is guilty of a third degree felony who:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

(2) An actor commits unlawful acquisition, possession, or transfer of a financial transaction card if the actor:

(a) under circumstances that do not constitute a violation of Subsection (2)(b):

[~~(a)~~] (i) acquires a financial transaction card from another without the consent of the card holder or the issuer;

[~~(b)~~] (ii) receives a financial transaction card with intent to use the financial transaction card in violation of Section 76-6-506.2;

[~~(c)~~] (iii) sells or transfers a financial transaction card to a person with knowledge that the financial transaction card will be used in violation of Section 76-6-506.2;

[~~(d)~~] (iv) [~~(i)~~] (A) acquires a financial transaction card that the individual knows was lost, mislaid, stolen, or delivered under a mistake as to the identity or address of the card holder; and

[~~(ii)~~] (B) [~~(A)~~] (I) retains possession with intent to use the financial transaction card in violation of Section 76-6-506.2; or

[~~(B)~~] (II) sells or transfers the financial transaction card to a person with knowledge that the financial transaction card will be used in violation of Section 76-6-506.2; or

[~~(e)~~] (v) possesses, sells, or transfers any information necessary for the use of a financial transaction card, including the credit number of the card, the expiration date of the card, or the personal identification code related to the card:

[~~(i)~~] (A) [~~(A)~~] (I) without the consent of the card holder or the issuer; or

[~~(B)~~] (II) with knowledge that the information has been acquired without consent of the card holder or the issuer; and

[~~(ii)~~] (B) with intent to use the information in violation of Section 76-6-506.2[~~.~~]; or

[~~(2)~~] (b) [~~An individual is guilty of a second degree felony who~~] possesses, sells, or transfers any information necessary for the use of 100 or more financial transaction cards, including the credit number of a card, the expiration date of a card, or the personal identification code related to a card:

[~~(a)~~] (i) with intent to use the information in violation of Section 76-6-506.2; or

[~~(b)~~] (ii) with knowledge that the information will be used by another in violation of Section 76-6-506.2.

(3) (a) A violation of Subsection (2)(a) is a third degree felony.

(b) A violation of Subsection (2)(b) is a second degree felony.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 81. Section 76-6-506.6 is amended to read:

76-6-506.6. Financial transaction card offenses -- Unauthorized factoring of credit card sales drafts.

[~~It is unlawful for any person,~~]

(1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

(2) An actor commits an unauthorized factoring of credit card sales draft if the actor acts:

(a) knowingly, with intent to defraud[~~, acting~~];

(b) without the express authorization of the issuer[~~,~~]; and

(c) to employ, solicit, or otherwise cause an authorized credit card merchant, or for the authorized credit card merchant himself or herself, to present any credit card sales draft to the issuer:

(i) for payment pertaining to any sale or purported sale of goods or services [~~which was~~]; and

(ii) the sale or purported sale was not made by the authorized credit card merchant in the ordinary course of business.

(3) (a) A violation of Subsection (2) is:

(i) a class B misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is less than $500;

(ii) a class A misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(iii) a third degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds $1,500 but is less than $5,000; or

(iv) a second degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds $5,000.

(b) Multiple violations of Subsection (2) may be aggregated into a single offense, and the degree of the offense is determined by the total value of all property, money, or things obtained or attempted to be obtained through the multiple violations.

(4) The court shall make appropriate findings in any prosecution under this section that the card holder did not commit the crime.

(5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 82. Section 76-6-506.7 is amended to read:

76-6-506.7. Obtaining encoded information on a financial transaction card with the intent to defraud the issuer, holder, or merchant.

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

(i) "Card holder" means the same as that term is defined in Section 76-6-506.

[~~(a)~~] (ii) "Financial transaction card" or "card" means any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in:

[~~(i)~~] (A) obtaining money, goods, services, or anything else of value on credit; or

[~~(ii)~~] (B) certifying or guaranteeing to a merchant the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.

[~~(b)~~] (iii) [~~(i)~~] (A) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of the owner or operator.

[~~(ii)~~] (B) "Merchant" also means a person:

[~~(A)~~] (I) who receives from a card holder, or a third person the merchant believes to be the card holder, a financial transaction card or information from a financial transaction card, or what the merchant believes to be a financial transaction card or information from a card; and

[~~(B)~~] (II) who accepts the financial transaction card or information from a card under Subsection (1)(a)(ii)(B) as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.

[~~(c)~~] (iv) "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different financial transaction card.

[~~(d)~~] (v) "Scanning device" means a scanner, reader, or any other electronic device used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a financial transaction card.

[~~(2) (a) A person is guilty of a third degree felony who uses:~~]

(b) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

(2) An actor commits obtaining encoded information on a financial transaction card with the intent to defraud the issuer, holder, or merchant if the actor uses:

[~~(i)~~] (a) a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a financial transaction card:

(i) without the permission of the card holder; and

(ii) with intent to defraud the card holder, the issuer, or a merchant; or

[~~(ii)~~] (b) a reencoder to place information encoded on the magnetic strip or stripe of a financial

transaction card onto the magnetic strip or stripe of a different card:

(i) without the permission of the authorized user of the card from which the information is being reencoded; and

(ii) with the intent to defraud the card holder, the issuer, or a merchant.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

(b) [~~Any person~~] An actor who has been convicted previously of an offense under Subsection [~~(2)(a)~~] (2) is guilty of a second degree felony upon a second conviction and any subsequent conviction for the offense.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 83. Section 76-6-506.8 is enacted to read:

76-6-506.8. False application for financial transaction card.

(1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

(2) An actor commits false application for a card if the actor:

(a) knowingly, with the intent to defraud:

(i) makes application for a financial transaction card to an issuer; and

(ii) makes or causes to be made a false statement or report of the actor's name, occupation, financial condition, assets, or personal identifying information; or

(b) willfully and substantially undervalues or understates any indebtedness for the purposes of influencing the issuer to issue the financial transaction card.

(3) A violation of Subsection (2) is:

(a) a class B misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is less than $500;

(b) a class A misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(c) a third degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds $1,500 but is less than $5,000; or

(d) a second degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds $5,000.

(4) The court shall make appropriate findings in any prosecution under this section that the card holder did not commit the crime.

(5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 84. Section 76-6-506.9 is enacted to read:

76-6-506.9. Use of fraudulent financial transaction card.

(1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

(2) An actor commits fraudulent use of a financial transaction card if the actor knowingly uses a false, fictitious, altered, or counterfeit financial transaction card to obtain or attempt to obtain credit, goods, property, or services.

(3) (a) A violation of Subsection (2) is:

(i) a class B misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is less than $500;

(ii) a class A misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(iii) a third degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds $1,500 but is less than $5,000; or

(iv) a second degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds $5,000.

(b) Multiple violations of Subsection (2) may be aggregated into a single offense, and the degree of the offense is determined by the total value of all property, money, or things obtained or attempted to be obtained through the multiple violations.

(4) The court shall make appropriate findings in any prosecution under this section that the card holder did not commit the crime.

(5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 85. Section 76-6-507 is amended to read:

76-6-507. Deceptive business practices.

[~~(1) A person is guilty of a class B misdemeanor if, in the course of business, he:~~]

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

(i) "Adulterated" means varying from the standard of composition or quality prescribed, or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.

(ii) "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits deceptive business practices if the actor, in the course of business:

(a) uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;

(b) takes or attempts to take more than the represented quantity of any commodity or service when as buyer [~~he~~] the actor furnishes the weight or measure; or

(c) sells, offers, or exposes for sale adulterated or mislabeled commodities.

[~~(2) (a) "Adulterated" means varying from the standard of composition or quality prescribed, or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.~~]

[~~(b) "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.~~]

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) It is an affirmative defense to prosecution under this section that the defendant's conduct was not knowing or reckless.

(5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 86. Section 76-6-508 is amended to read:

76-6-508. Bribery of or receiving bribe by person in the business of selection, appraisal, or criticism of goods or services.

(1) [~~A person is guilty of a class A misdemeanor when,~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits bribery or receiving a bribe if the actor:

(a) without the consent of the employer or principal, and contrary to the interests of the employer or principal:

[~~(a)~~] (i) [~~he~~] confers, offers, or agrees to confer upon the employee, agent, or fiduciary of an employer or principal any benefit with the purpose of influencing the conduct of the employee, agent, or fiduciary in relating to his employer's or principal's affairs; or

[~~(b)~~] (ii) [~~he,~~] as an employee, agent, or fiduciary of an employer or principal, solicits, accepts, or agrees to accept any benefit from another upon an agreement or understanding that such benefit will influence [~~his~~] the actor's conduct in relation to [~~his~~] the actor's, employer's, or principal's affairs; [~~provided that this section does not apply to inducements made or accepted solely for the purpose of causing a change in employment by an employee, agent, or fiduciary.~~] or

[~~(2)~~] (b) (i) [~~A person is guilty of violation of this section if he holds himself~~] holds the actor's self out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of goods or services; and [~~he~~]

(ii) solicits, accepts, or agrees to accept any benefit to influence [~~his~~] the actor's selection, appraisal, or criticism.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) This section does not apply to inducements made or accepted solely for the purpose of causing a change in employment by an employee, agent, or fiduciary.

(5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 87. Section 76-6-509 is amended to read:

76-6-509. Bribery of a labor official.

(1) [~~Any person who~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits bribery of a labor official if the actor:

(a) offers, confers, or agrees to confer upon a labor official any benefit [~~with~~]; and

(b) has intent to influence [~~him~~] the labor official in respect to any of [~~his~~] the labor official's acts, decisions, or duties as a labor official [~~is guilty of bribery of a labor official~~].

[~~(2)~~] (3) [~~Bribery of a labor official is a~~] A violation of Subsection (2) is a third degree felony [~~of the third degree~~].

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 88. Section 76-6-510 is amended to read:

76-6-510. Receiving a bribe by a labor official.

(1) [~~Any labor official who~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) A labor official commits receiving a bribe by a labor official if the labor official solicits, accepts, or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will influence [~~him~~] the labor official in any of [~~his~~] the labor official's acts, decisions, or duties as a labor official [~~is guilty of bribe receiving by a labor official~~].

[~~(2)~~] (3) [~~Bribe receiving by a labor official is a~~] A violation of Subsection (2) is a third degree felony [~~of the third degree~~].

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 89. Section 76-6-511 is amended to read:

76-6-511. Defrauding of creditors.

[~~A person is guilty of a class A misdemeanor if:~~]

(1) [~~he~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits defrauding of creditors if the actor:

(a) destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with a purpose to hinder enforcement of that interest; or

[~~(2)~~] (b) knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of creditors[~~, he~~]:

[~~(a)~~] (i) destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or

[~~(b)~~] (ii) presents to any creditor or to an assignee for the benefit of creditors, orally or in writing, any statement relating to the debtor's estate, knowing that a material part of such statement is false.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 90. Section 76-6-512 is amended to read:

76-6-512. Acceptance of deposit by insolvent financial institution.

[~~A person is guilty of a felony of the third degree if:~~]

(1) (a) As used in this section, "financial institution" means the same as that term is defined in Section 7-1-103.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits acceptance of a deposit by an insolvent financial institution if:

(a) as an officer, manager, or other person participating in the direction of a financial institution, as defined in Section 7-1-103, [~~he~~] the actor receives or permits receipt of a deposit or other investment knowing that the institution is or is about to become unable, from any cause, to pay its obligations in the ordinary course of business; and

[~~(2)~~] (b) [~~he~~] the actor knows that the person making the payment to the institution is unaware of such present or prospective inability.

(3) A violation of Subsection (2) is a third degree felony.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 91. Section 76-6-513 is amended to read:

76-6-513. Unlawful dealing of property by a fiduciary.

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

[~~(a)~~] (i) "Fiduciary" means the same as that term is defined in Section 22-1-1.

[~~(b)~~] (ii) "Financial institution" means "depository institution" and "trust company" as defined in Section 7-1-103.

[~~(c)~~] (iii) "Governmental entity" is as defined in Section 63G-7-102.

[~~(d)~~] (iv) "Person" does not include a financial institution whose fiduciary functions are supervised by the Department of Financial Institutions or a federal regulatory agency.

[~~(e)~~] (v) "Property" means the same as that term is defined in Section 76-6-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~] An actor commits unlawfully dealing with property by a fiduciary if the [~~person~~] actor:

(a) deals with property:

(i) that has been entrusted to [~~him~~] the actor as a fiduciary, or property of a governmental entity, public money, or of a financial institution[~~,~~]; and

(ii) in a manner which:

(A) the [~~person~~] actor knows is a violation of the [~~person's~~] actor's duty; and [~~which~~]

(B) involves substantial risk of loss or detriment to the property owner or to a person for whose benefit the property was entrusted[~~. A violation of this Subsection (2) is punishable under Section 76-6-412.~~]; or

(b) acting as a fiduciary pledges:

(i) as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary; and

(ii) without permission of the owner of the property or some other authorized person.

(3) (a) [~~A person acting as a fiduciary is guilty of a violation of this subsection if, without permission of the owner of the property or some other person with authority to give permission, the person pledges as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary.~~] A violation of Subsection (2)(a) is:

(i) a second degree felony if the:

(A) value of the property is or exceeds $5,000; or

(B) property is stolen from the person of another;

(ii) a third degree felony if:

(A) the value of the property is or exceeds $1,500 but is less than $5,000;

(B) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(I) any theft, any robbery, or any burglary with intent to commit theft;

(II) any offense under Part 5, Fraud; or

(III) any attempt to commit any offense under Subsection (3)(a)(ii)(B)(I) or (II);

(C) the value of property is or exceeds $500 but is less than $1,500; or

(D) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(iii) a class A misdemeanor if:

(A) the value of the property stolen is or exceeds $500 but is less than $1,500; or

(B) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(iv) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(a)(iii)(B).

(b) [~~An offense under Subsection (3)(a) is punishable as:~~] A violation of Subsection (2)(b) is:

(i) a [~~felony of the~~] second degree felony if the value of the property wrongfully pledged is or exceeds $5,000;

(ii) a [~~felony of the~~] third degree felony if the value of the property wrongfully pledged is or exceeds $1,500 but is less than $5,000;

(iii) a class A misdemeanor if the value of the property is or exceeds $500, but is less than $1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent to commit theft, or unlawful dealing with property by a fiduciary; or

(iv) a class B misdemeanor if the value of the property is less than $500.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 92. Section 76-6-514 is amended to read:

76-6-514. Unlawful influence of a contest.

[~~A person is guilty of a felony of the third degree if:~~]

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits unlawful influence of a contest if the actor:

(a) [~~With~~] with a purpose to influence any participant or prospective participant not to give [~~his~~] the participant's or prospective participant's best efforts in a publicly exhibited contest, [~~he~~] confers or offers or agrees to confer any benefit upon or threatens any injury to a participant or prospective participant; [~~or~~]

[~~(2)~~] (b) [~~With~~] with a purpose to influence an official in a publicly exhibited contest to perform [~~his~~] the official's duties improperly, [~~he~~] confers or offers or agrees to confer any benefit upon or threatens any injury to such official; [~~or~~]

[~~(3)~~] (c) [~~With~~] with a purpose to influence the outcome of a publicly exhibited contest, [~~he~~] tampers with any person, animal, or thing contrary to the rules and usages purporting to govern the contest; or

[~~(4)~~] (d) [~~He~~] knowingly solicits, accepts, or agrees to accept any benefit, the giving of which would be criminal under Subsection [~~(1) or~~] (2)(a) or (b).

(3) A violation of Subsection (2) is a third degree felony.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 93. Section 76-6-515 is amended to read:

76-6-515. Using or making slugs.

[~~(1) A person is guilty of a class B misdemeanor if:~~]

[~~(a) With a purpose to defraud the supplier of property or a service offered or sold by means of a coin machine, he inserts, deposits, or uses a slug in that machine; or~~]

[~~(b) He makes, possesses, or disposes of a slug with the purpose of enabling a person to use it fraudulently in a coin machine.~~]

[~~(2)~~] (1) (a) As used in this section:

[~~(a)~~] (i) "Coin machine" means any mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination, or a token made for the purpose, and, in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.

[~~(b)~~] (ii) "Slug" means any object which, by virtue of its size, shape, or other quality, is capable of being inserted, deposited, or otherwise used in a coin machine as an improper substitute for a genuine coin, bill, or token.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits using or making slugs if the actor:

(a) with a purpose to defraud the supplier of property or a service offered or sold by means of a coin machine, inserts, deposits, or uses a slug in that machine; or

(b) makes, possesses, or disposes of a slug with the purpose of enabling a person to use it fraudulently in a coin machine.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 94. Section 76-6-516 is amended to read:

76-6-516. Fraudulent conveyance of marital real estate.

(1) [~~Any married man who~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits fraudulent conveyance of marital real estate if the actor:

(a) is married;

(b) falsely represents [~~himself~~] the actor as unmarried; and [~~under such representation~~]

(c) knowingly conveys or mortgages real estate [~~situate~~] situated in this state, without the assent or concurrence of [~~his wife~~] the actor's spouse when such consent or concurrence is necessary to relinquish [~~her~~] the spouse's inchoate statutory interest [~~therein, is guilty of a felony of the third degree~~].

(3) A violation of Subsection (2) is a third degree felony.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 95. Section 76-6-517 is amended to read:

76-6-517. Making a false credit report.

(1) [~~Any person who~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits making a false credit report if the actor knowingly makes a materially false or

misleading written statement to obtain property or credit for himself or another [~~is guilty of making a false credit report~~].

[~~(2)~~] (3) [~~Making a false credit report~~] A violation of Subsection (2) is a class A misdemeanor.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 96. Section 76-6-518 is amended to read:

76-6-518. Criminal simulation.

(1) [~~A person is guilty of~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits criminal simulation if, with intent to defraud another, the actor:

(a) [~~he~~] makes or alters an object in whole or in part so that it appears to have value because of age, antiquity, rarity, source, or authorship that it does not have;

(b) [~~he~~] sells, passes, or otherwise utters an object so made or altered;

(c) [~~he~~] possesses an object so made or altered with intent to sell, pass, or otherwise utter it; or

(d) [~~he~~] authenticates or certifies an object so made or altered as genuine or as different from what it is.

[~~(2)~~] (3) [~~Criminal simulation~~] A violation of Subsection (2) is punishable as follows:

(a) [~~If~~] if the value defrauded or intended to be defrauded is less than $500, the offense is a class B misdemeanor[~~.~~];

(b) [~~If~~] if the value defrauded or intended to be defrauded is or exceeds $500 but is less than $1,500, the offense is a class A misdemeanor[~~.~~];

(c) [~~If~~] if the value defrauded or intended to be defrauded is or exceeds $1,500 but is less than $5,000, the offense is a third degree felony [~~of the third degree.~~]; or

(d) [~~If~~] if the value defrauded or intended to be defrauded is or exceeds $5,000, the offense is a second degree felony [~~of the second degree~~].

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 97. Section 76-6-520 is amended to read:

76-6-520. Criminal usury.

(1) [~~A person is guilty of criminal usury when he~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits criminal usury if the actor knowingly engages in, or directly or indirectly provides financing for, the business of making loans at a higher rate of interest or consideration therefor than is authorized by law.

[~~(2)~~] (3) [~~Criminal usury is a felony of the third degree~~] A violation of Subsection (2) is a third degree felony.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 98. Section 76-6-521 is amended to read:

76-6-521. Insurance fraud.

(1) (a) [~~A person~~] As used in this section, "runner" means the same as that term is defined in Section 31A-31-102.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits a fraudulent insurance act if [~~that person~~] the actor with intent to deceive or defraud:

(a) presents or causes to be presented any oral or written statement or representation knowing that the statement or representation contains false or fraudulent information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract, as part of or in support of:

(i) obtaining an insurance policy the insurer would otherwise not issue on the basis of underwriting criteria applicable to the person;

(ii) a scheme or artifice to avoid paying the premium that an insurer charges on the basis of underwriting criteria applicable to the person; or

(iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;

(b) presents, or causes to be presented, any oral or written statement or representation:

(i) (A) as part of or in support of a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; or

(B) in connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and

(ii) knowing that the statement or representation contains false, incomplete, or fraudulent

information concerning any fact or thing material to the claim;

(c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;

(d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for professional services, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions;

(e) knowingly employs, uses, or acts as a runner [~~, as defined in Section 31A-31-102,~~] for the purpose of committing a fraudulent insurance act;

(f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent insurance act;

(g) knowingly supplies false or fraudulent material information in any document or statement required by the Department of Insurance; or

(h) knowingly fails to forward a premium to an insurer in violation of Section 31A-23a-411.1.

[~~(2)~~] (3) (a) A violation of Subsection [~~(1)(a)(i)~~] (2)(a)(i) is a class A misdemeanor.

(b) A violation of Subsections [~~(1)(a)(ii)~~] (2)(a)(ii) or [~~(1)(b)~~] (2)(b) through [~~(1)(h)~~] (2)(h) is [~~punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.~~]:

(i) a class B misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is less than $500;

(ii) a class A misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(iii) a third degree felony when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or

(iv) a second degree felony when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $5,000.

(c) A violation of Subsection [~~(1)(a)(iii)~~] (2)(a)(iii) is:

(i) [~~is~~] a class A misdemeanor if the value of the loss is less than $1,500 or unable to be determined; [~~or~~]

(ii) [~~if the value of the loss is $1,500 or more, is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.~~] a third degree felony when the value of the loss is or exceeds $1,500 but is less than $5,000; or

(iii) a second degree felony when the value of the loss is or exceeds $5,000.

[~~(3)~~] (4) A corporation or association is guilty of the offense of insurance fraud under the same conditions as those set forth in Section 76-2-204.

[~~(4)~~] (5) The determination of the degree of any offense under Subsections [~~(1)(a)(ii)~~] (2)(a)(ii) and [~~(1)(b)~~] (2)(b) through [~~(1)(h)~~] (2)(h) shall be measured by the total value of all property, money, or other things obtained or sought to be obtained by the fraudulent insurance act or acts described in Subsections [~~(1)(a)(ii)~~] (2)(a)(ii) and [~~(1)(b)~~] (2)(b) through [~~(1)(h)~~] (2)(h).

(6) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(7) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 99. Section 76-6-522 is amended to read:

76-6-522. Equity skimming of a vehicle.

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

(i) "Actor" means a broker, dealer, or a person in collusion with a dealer or broker.

[~~(a)~~] (ii) "Broker" means any person who, for compensation of any kind, arranges for the sale, lease, sublease, or transfer of a vehicle.

[~~(b)~~] (iii) "Dealer" means any person engaged in the business of selling, leasing, or exchanging vehicles for compensation of any kind.

[~~(c)~~] (iv) "Lease" means any grant of use or possession of a vehicle for consideration, with or without an option to buy.

[~~(d)~~] (v) "Security interest" means an interest in a vehicle that secures payment or performance of an obligation.

[~~(e)~~] (vi) "Transfer" means any delivery or conveyance of a vehicle to another from one person to another.

[~~(f)~~] (vii) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, or through the air or water, or over land and includes a manufactured home or mobile home as defined in Section 41-1a-102.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A dealer or broker or any other person in collusion with a dealer or broker is guilty of~~] An actor commits equity skimming of a vehicle if [~~he~~] the actor:

(a) (i) transfers or arranges the transfer of a vehicle for consideration or profit[~~, when he~~]; and

(ii) has not first obtained written authorization of the lessor or holder of the security interest; and

(b) knows or should have known the vehicle is subject to a lease or security interest[~~, without first obtaining written authorization of the lessor or holder of the security interest~~].

(3) [~~Equity skimming of a vehicle~~] A violation of Subsection (2) is a third degree felony.

(4) It is a defense to [~~the crime of equity skimming of a vehicle if the accused~~] a violation of Subsection (2) if the defendant proves by a preponderance of the evidence that the lease obligation or security interest has been satisfied within 30 days following the transfer of the vehicle.

(5) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(6) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 100. Section 76-6-523 is amended to read:

76-6-523. Obstruction of the leasing of real property for natural resource or agricultural production.

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

[~~(a)~~] (i) "Competitive process" includes public auction or other public competitive bidding process.

[~~(b)~~] (ii) "Natural resource or agricultural production" means:

[~~(i)~~] (A) the extraction or production of oil, gas, hydrocarbons, or other minerals;

[~~(ii)~~] (B) production for commercial purposes of crops, livestock, and livestock products, including grazing; or

[~~(iii)~~] (C) activities similar in purpose to those listed in Subsections [~~(1)(b)(i) and (ii)~~] (1)(a)(ii)(A) and (B).

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~] An actor commits obstruction of the leasing of real property for natural resource or agricultural production if the [~~person~~] actor:

(a) bids for a lease as part of a competitive process for the lease;

(b) does not intend to pay for the lease at the time the [~~person~~] actor makes the bid described in Subsection (2)(a); and

(c) does not pay the lessor in full for the lease as required by the lease agreement.

(3) [~~The offense of obstruction of the leasing of real property for natural resource or agricultural production~~] A violation of Subsection (2) is:

(a) a third degree felony; and

(b) subject to a minimum fine of not less than $7,500.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 101. Section 76-6-524 is amended to read:

76-6-524. Falsifying information for preconstruction lien purposes.

(1) [~~A person who knowingly falsifies~~] Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits falsifying information for the purpose of obtaining priority of a preconstruction lien if the actor knowingly falsifies information for the purpose of obtaining priority of a preconstruction lien under Title 38, Chapter 1a, Preconstruction and Construction Liens[~~, is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

Section 102. Section 76-6-601 is amended to read:

76-6-601. Definitions.

As used in this [~~chapter~~] part:

(1) "Merchandise" means any personal property displayed, held, or offered for sale by a merchant.

(2) "Merchant" means an owner or operator of any retail mercantile establishment where merchandise is displayed, held, or offered for sale and includes the merchant's employees, servants, or agents.

(3) "Minor" means any unmarried person under 18 years of age.

(4) "Peace officer" has the same meaning as provided in Title 53, Chapter 13, Peace Officer Classifications.

(5) "Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking lots or areas set aside for the benefit of those patrons of the retail mercantile establishment.

(6) "Retail mercantile establishment" means any place where merchandise is displayed, held, or offered for sale to the public.

(7) "Retail value" means the merchant's stated or advertised price of the merchandise.

(8) "Shopping cart" means those push carts of the types which are commonly provided by grocery stores, drug stores, or other mercantile establishments, or markets for the use of the public in transporting commodities in stores and markets from the store to a place outside the store.

(9) "Under-ring" means to cause the cash register or other sales recording device to reflect less than the retail value of the merchandise.

Section 103. Section 76-6-602 is amended to read:

76-6-602. Retail theft.

[~~A person commits the offense of retail theft when he knowingly:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

(2) An actor commits retail theft if the actor knowingly:

[~~(1)~~] (a) [~~Takes~~] takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment with the intention of:

(i) retaining [~~such~~] the merchandise; or [~~with the intention of~~]

(ii) depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of [~~such~~] the merchandise; [~~or~~]

[~~(2)~~] (b) (i) [~~Alters,~~] alters, transfers, or removes any label, price tag, marking, indicia of value, or any other markings which aid in determining value of any merchandise displayed, held, stored, or offered for sale, in a retail mercantile establishment; and

(ii) attempts to purchase [~~such~~] the merchandise described in Subsection (2)(b)(i) personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of [~~such~~] the merchandise; [~~or~~]

[~~(3)~~] (c) [~~Transfers~~] transfers any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment from the container in or on which [~~such~~] the merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of [~~such~~] the merchandise; [~~or~~]

[~~(4)~~] (d) [~~Under-rings~~] under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

[~~(5)~~] (e) [~~Removes~~] removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use, or benefit of [~~such~~] the shopping cart.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the merchandise or shopping cart is or exceeds $5,000;

(ii) merchandise stolen is a firearm or an operable motor vehicle; or

(b) a third degree felony if:

(i) the value of the merchandise is or exceeds $1,500 but is less than $5,000;

(ii) the merchandise is a catalytic converter as defined under Section 76-6-1402;

(iii) the value of the merchandise or shopping cart is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

(iv) (A) the value of merchandise or shopping cart is or exceeds $500 but is less than $1,500;

(B) the theft occurs in a retail mercantile establishment or on the premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the merchandise or shopping cart stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of merchandise or shopping cart is less than $500;

(B) the theft occurs in a retail mercantile establishment or premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the

current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the merchandise or shopping cart stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 104. Section 76-6-608 is amended to read:

76-6-608. Theft detection shielding devices prohibited.

(1) [~~A person may not~~] Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

(2) An actor commits the unlawful shielding of a theft detection device if the actor knowingly:

(a) [~~make or possess~~] makes or possesses any container or device used for, intended for use for, or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor, with the intent to commit a theft of merchandise;

(b) [~~sell, offer to sell, advertise, give, transport, or otherwise transfer~~] sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any container or device intended for use for or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor;

(c) [~~possess~~] possesses any tool or instrument designed to remove any theft detection device from any merchandise, with the intent to use the tool or instrument to remove any theft detection device from any merchandise without the permission of the merchant or the person owning or in possession of the merchandise; or

(d) intentionally [~~remove~~] removes a theft detection device from merchandise prior to purchase and without the permission of the merchant.

[~~(2)~~] (3) (a) A violation of Subsection (1)(a), (b), or (c) is a class A misdemeanor.

(b) A violation of Subsection [~~(1)(d)~~] (2)(d) is a:

(i) class B misdemeanor if the value of the merchandise from which the theft detection device is removed is less than $500; or

(ii) class A misdemeanor if the value of the merchandise from which the theft detection device is removed is or exceeds $500.

[~~(3)~~] (4) A violation of Subsection [~~(1)~~] (2) is a separate offense from any offense listed in [~~Title 76, Chapter 6, Part 4, Theft~~] Part 4, Theft, or Part 6, Retail Theft.

[~~(4)~~] (5) Criminal prosecutions under this section do not affect any person's right of civil action for redress for damages suffered as a result of any violation of this section.

Section 105. Section 76-6-703 is amended to read:

76-6-703. Unlawful computer technology access or action or denial of service attack.

[~~(1) It is unlawful for a person to:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits unlawful computer technology access or action or denial of service attack if the actor:

(a) without authorization, or in excess of the [~~person's~~] actor's authorization, [~~access or attempt~~] accesses or attempts to access computer technology if the access or attempt to access results in:

(i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure of computer technology;

(ii) interference with or interruption of:

(A) the lawful use of computer technology; or

(B) the transmission of data;

(iii) physical damage to or loss of real, personal, or commercial property;

(iv) audio, video, or other surveillance of another person; or

(v) economic loss to any person or entity;

(b) after accessing computer technology that the [~~person~~] actor is authorized to access, knowingly [~~take or attempt~~] takes or attempts to take unauthorized or unlawful action that results in:

(i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure of computer technology;

(ii) interference with or interruption of:

(A) the lawful use of computer technology; or

(B) the transmission of data;

(iii) physical damage to or loss of real, personal, or commercial property;

(iv) audio, video, or other surveillance of another person; or

(v) economic loss to any person or entity; or

(c) knowingly [~~engage~~] engages in a denial of service attack.

[~~(2) A person who violates Subsection (1) is guilty of:~~]

(3) A violation of Subsection (2) is:

(a) a class B misdemeanor [~~when~~] if:

(i) the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is less than $500; or

(ii) the information obtained is not confidential;

(b) a class A misdemeanor [~~when~~] if the economic loss or other loss or damage caused or the value of

the money, property, or benefit obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(c) a third degree felony [~~when~~] if:

(i) the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000;

(ii) the property or benefit obtained or sought to be obtained is a license or entitlement;

(iii) the damage is to the license or entitlement of another person;

(iv) the information obtained is confidential or identifying information; or

(v) in gaining access the actor breaches or breaks through a security system; or

(d) a second degree felony [~~when~~] if the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds $5,000[~~; or~~].

[~~(e) a third degree felony when:~~]

[~~(i) the property or benefit obtained or sought to be obtained is a license or entitlement;~~]

[~~(ii) the damage is to the license or entitlement of another person;~~]

[~~(iii) the information obtained is confidential or identifying information; or~~]

[~~(iv) in gaining access the person breaches or breaks through a security system.~~]

[~~(3) (a) A person who intentionally or knowingly and without authorization gains or attempts to gain access to a computer, computer network, computer property, or computer system under circumstances not otherwise constituting an offense under this section is guilty of a class B misdemeanor.~~]

[~~(b) Notwithstanding Subsection (3)(a), a retailer that uses an electronic product identification or tracking system, or other technology, to identify, track, or price goods is not guilty of a violation of Subsection (3)(a) if the equipment designed to read the electronic product identification or tracking system data and used by the retailer to identify, track, or price goods is located within the retailer's location.~~]

[~~(4) (a) A person who, with intent that electronic communication harassment occur, discloses or disseminates another person's identifying information with the expectation that others will further disseminate or use the person's identifying information is subject to the penalties outlined in Subsection (4)(b).~~]

[~~(b) If the disclosure or dissemination of another person's identifying information results in electronic communication harassment, as described in Section 76-9-201, of the person whose identifying information is disseminated, the person disseminating the information is guilty of:~~]

[~~(i) a class B misdemeanor if the person whose identifying information is disseminated is an adult; or~~]

[~~(ii) a class A misdemeanor if the person whose identifying information is disseminated is a minor.~~]

[~~(c) A second offense under Subsection (4)(b)(i) is a class A misdemeanor.~~]

[~~(d) A second offense under Subsection (4)(b)(ii), and a third or subsequent offense under this Subsection (4)(b), is a third degree felony.~~]

[~~(5) A person who uses or knowingly allows another person to use any computer, computer network, computer property, or computer system, program, or software to devise or execute any artifice or scheme to defraud or to obtain money, property, services, or other things of value by false pretenses, promises, or representations, is guilty of an offense based on the value of the money, property, services, or things of value, in the degree set forth in Subsection 76-10-1801(1).~~]

[~~(6) A person is guilty of a third degree felony if the person intentionally or knowingly, and without lawful authorization, interferes with or interrupts critical infrastructure.~~]

[~~(7)~~] (4) (a) It is an affirmative defense [~~to Subsection (1), (2), or (3) that a person~~] that the actor obtained access or attempted to obtain access:

[~~(a)~~] (i) in response to, and for the purpose of protecting against or investigating, a prior attempted or successful breach of security of computer technology whose security the [~~person~~] actor is authorized or entitled to protect, and the access attempted or obtained was no greater than reasonably necessary for that purpose; or

[~~(b)~~] (ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a search warrant.

(b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.

(c) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

[~~(8)~~] (5) (a) An interactive computer service is not guilty of violating this section if a person violates this section using the interactive computer service and the interactive computer service did not knowingly assist the person to commit the violation.

(b) A service provider is not guilty of violating this section for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network

management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

[~~(9) Subsections (4)(a) and (b) do not apply to a person who provides information in conjunction with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, or Title 67, Chapter 21, Utah Protection of Public Employees Act.~~]

[~~(10) In accordance with 47 U.S.C.A. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.~~]

[~~(11) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state or by the constitution or laws of the United States.~~]

Section 106. Section 76-6-703.1 is enacted to read:

76-6-703.1. Unlawful disclosure of personal information.

(1) (a) As used in this section, "electronic communication harassment" means an offense under Section 76-9-201.

(b) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits unlawful disclosure of personal information if:

(a) with intent that electronic communication harassment occur, the actor discloses or disseminates another person's identifying information with the expectation that others will further disseminate or use the person's identifying information; and

(b) the disclosure or dissemination of the other person's identifying information results in electronic communication harassment.

(3) (a) If the person whose identifying information is disseminated is an adult, a violation of Subsection (2) is:

(i) a class B misdemeanor on the first offense;

(ii) a class A misdemeanor on the second offense; or

(iii) a third degree felony on a third or subsequent offense.

(b) If the person whose identifying information is disseminated is a minor, a violation of Subsection (2) is:

(i) a class A misdemeanor on the first offense; or

(ii) a third degree felony on the second or subsequent offense.

(4) (a) This section does not apply to an actor who provides information in conjunction with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, or Title 67, Chapter 21, Utah Protection of Public Employees Act.

(b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.

(c) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

(5) (a) An interactive computer service is not guilty of violating this section if an actor violates this section using the interactive computer service and the interactive computer service did not knowingly assist the actor to commit the violation.

(b) A service provider is not guilty of violating this section for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section 107. Section 76-6-703.3 is enacted to read:

76-6-703.3. Unlawful use of technology to defraud.

(1) (a) As used in this section, "sensitive personal identifying information" means the same as that term is defined in Section 76-10-1801.

(b) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits unlawful use of technology to defraud if the actor uses or knowingly allows another person to use a computer, computer network, computer property, or computer system, program, or software to devise or execute any artifice or scheme to defraud or to obtain money, property, a service, or other thing of value by a false pretense, promise, or representation.

(3) A violation of Subsection (2) is:

(a) a class B misdemeanor if the value of the money, property, service, or thing obtained or sought to be obtained is less than $500;

(b) a class A misdemeanor if the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(c) a third degree felony if the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or

(d) a second degree felony if:

(i) the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds $5,000; or

(ii) the object or purpose of the artifice or scheme to defraud is the obtaining of sensitive personal identifying information, regardless of the value.

(4) (a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.

(b) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

(5) (a) An interactive computer service is not guilty of violating this section if a person violates this section using the interactive computer service and the interactive computer service did not knowingly assist the person to commit the violation.

(b) A service provider is not guilty of violating this section for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section 108. Section 76-6-703.5 is enacted to read:

76-6-703.5. Interference or interruption of critical infrastructure.

(1) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits interference or interruption of critical infrastructure if the actor intentionally or knowingly, and without lawful authorization, interferes with or interrupts critical infrastructure.

(3) A violation of Subsection (2) is a third degree felony.

(4) (a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.

(b) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

(5) (a) An interactive computer service is not guilty of violating this section if a person violates this section using the interactive computer service and the interactive computer service did not knowingly assist the person to commit the violation.

(b) A service provider is not guilty of violating this section for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section 109. Section 76-6-703.7 is enacted to read:

76-6-703.7. Unlawful computer access.

(1) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits unlawful computer access if:

(a) the actor intentionally or knowingly, and without authorization, gains or attempts to gain access to a computer, computer network, computer property, or computer system; and

(b) the circumstances of the violation of Subsection (2)(a) do not constitute an offense under Section 76-6-703, 76-6-703.1, 76-6-703.3, or 76-6-703.5.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) (a) Notwithstanding Subsection (2), a retailer that uses an electronic product identification or tracking system, or other technology, to identify,

track, or price goods is not guilty of a violation of this section if the equipment designed to read the electronic product identification or tracking system data and used by the retailer to identify, track, or price goods is located within the retailer's location.

(b) It is an affirmative defense to a violation under this section that the actor obtained access or attempted to obtain access:

(i) in response to, and for the purpose of protecting against or investigating, a prior attempted or successful breach of security of computer technology whose security the actor is authorized or entitled to protect, and the access attempted or obtained was no greater than reasonably necessary for that purpose; or

(ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a search warrant.

(c) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.

(d) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

(5) (a) An interactive computer service is not guilty of violating this section if an actor violates this section using the interactive computer service and the interactive computer service did not knowingly assist the actor to commit the violation.

(b) A service provider is not guilty of violating this section for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section 110. Section 76-6-705 is amended to read:

76-6-705. Reporting violations.

(1) Each person who has reason to believe that [~~the provisions~~] a provision of Section 76-6-703 [~~are being or have~~], 76-6-703.1, 76-6-703.3, 76-6-703.5, or 76-6-703.7 is being or has been violated shall report the suspected violation to:

(a) the attorney general, or county attorney, or, if within a prosecution district, the district attorney of the county or prosecution district in which part or all of the [~~violations~~] violation occurred; or

(b) a state or local law enforcement agency.

(2) Subsection (1) does not apply to the extent that the person is prohibited from reporting by a statutory or common law privilege.

Section 111. Section 76-6-801 is amended to read:

76-6-801. Library theft.

(1) (a) [~~A person is guilty of the crime of library theft when he~~] As used in this section:

(i) "Library" means:

(A) a public library;

(B) a library of an educational or historical society;

(C) a museum; or

(D) a repository of public records.

(ii) "Library materials" means a book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual materials in any format, electronic data processing records, artifacts, or other documentary, written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of a library.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits library theft if the actor:

(a) willfully, for the purpose of converting to personal use, and depriving the owner, conceals on [~~his~~] the actor's person or among [~~his~~] the actor's belongings library materials while on the premises of the library; or

(b) willfully and without authority removes library materials from the library building with the intention of converting them to [~~his~~] the actor's own use.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the library materials is or exceeds $5,000;

(b) a third degree felony if:

(i) the value of the library materials is or exceeds $1,500 but is less than $5,000;

(ii) the value of the library materials is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

(iii) (A) the value of the library materials is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the library prohibiting the offender from entering the property if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the library materials stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of the library materials is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the library materials stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

(4) (a) An actor who willfully conceals library materials on the actor's person or among the actor's belongings while on the premises of the library or in the library's immediate vicinity is prima facie presumed to have concealed library materials with the intention of converting the library materials to the actor's own use.

(b) If library materials are found concealed upon the actor's person or among the actor's belongings, or electronic security devices are activated by the actor's presence, it is prima facie evidence of willful concealment.

Section 112. Section 76-6-803 is amended to read:

76-6-803. Mutilation or damaging of library material.

(1) (a) [~~A person is guilty of the crime of library theft when he~~] As used in this section:

(i) "Library" means the same as that term is defined in Section 76-6-801.

(ii) "Library materials" means the same as that term is defined in Section 76-6-801.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor is guilty of mutilation or damage of library materials if the actor intentionally or recklessly writes upon, injures, defaces, tears, cuts, mutilates, destroys, or otherwise damages library materials.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the library materials is or exceeds $5,000;

(b) a third degree felony if:

(i) the value of the library materials is or exceeds $1,500 but is less than $5,000;

(ii) the value of the library materials is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

(iii) (A) the value of the library materials is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the library materials stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of the library materials is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the library if the library has complied with the

provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the library materials stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 113. Section 76-6-803.30 is amended to read:

76-6-803.30. Failure to return library material -- Written notice.

(1) (a) [~~A person is guilty of library theft when~~] As used in this section:

(i) "Library" means the same as that term is defined in Section 76-6-801.

(ii) "Library materials" means the same as that term is defined in Section 76-6-801.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor is guilty of failure to return library materials if the actor, having possession or having been in possession of library materials[~~, he~~]:

[~~(a)~~] (i) fails to return the materials within 30 days after receiving written notice demanding return of the materials; or

[~~(b)~~] (ii) if the materials are lost or destroyed, fails to pay the replacement value of the materials within 30 days after being notified.

[~~(2)~~] (b) Written notice is considered received upon the sworn affidavit of the person delivering the notice with a statement as to the date, place, and manner of delivery, or upon proof that the notice was mailed postage prepaid, via the United States Postal Service, to the current address listed for the person in the library records.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the library materials is or exceeds $5,000;

(b) a third degree felony if:

(i) the value of the library materials is or exceeds $1,500 but is less than $5,000;

(ii) the value of the library materials is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

(iii) (A) the value of the library materials is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the library materials stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of the library materials is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the library material stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 114. Section 76-6-803.60 is amended to read:

76-6-803.60. Detention of theft suspect by library employee -- Purposes.

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

(i) "Library" means the same as that term is defined in Section 76-6-801.

(ii) "Library materials" means the same as that term is defined in Section 76-6-801.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Any employee of the library who has probable cause to believe that a person has committed library theft may detain the person, on or off the premises of a library, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

(a) to make reasonable inquiry as to whether the person has in his possession concealed library materials;

(b) to request identification;

(c) to verify identification;

(d) to make a reasonable request of the person to place or keep in full view any library materials the individual may have removed, or which the employee has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, or for any other reasonable purpose;

(e) to inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer; or

(f) in the case of a minor, to inform a peace officer, the parents, guardian, or other private person interested in the welfare of the minor as soon as possible of this detention and to surrender custody of the minor to this person.

[~~(2)~~] (3) An employee may make a detention under this section off the library premises only if the detention is pursuant to an immediate pursuit of the person.

Section 115. Section 76-6-803.90 is amended to read:

76-6-803.90. Liability -- Defense -- Probable cause -- Reasonableness.

(1) (a) As used in this section, "library" means the same as that term is defined in Section 76-6-801.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass, or invasion of civil rights brought by any person detained by an employee of the library, it is a defense to the action that the employee of the library detaining the person had probable cause to believe that the person had committed library theft and that the employee acted reasonably under all circumstances.

Section 116. Section 76-6-902 is amended to read:

76-6-902. Antiquities alteration, removal, injury, or destruction.

(1) [~~It is unlawful for any person to intentionally alter, remove, injure, or destroy antiquities~~] Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.

(2) An actor commits antiquities alteration, removal, injury, or destruction if the actor:

(a) intentionally alters, removes, injures, or destroys antiquities from state lands or private lands without the landowner's consent[~~.~~]; or

(b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if:

(i) the violation is the actor's second or subsequent violation of this section, Section 76-6-902.1, or Section 76-6-902.2; or

(ii) the amount at issue, as calculated under Subsection (3)(c), exceeds $500.

(c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

(i) the commercial or archaeological value of the antiquities involved in the violation; and

(ii) the cost of the restoration and repair of the antiquities involved in the violation.

(d) An actor shall surrender to the landowner all articles and material discovered, collected, excavated, or offered for sale or exchange in violation of this section.

[~~(2) It is unlawful to intentionally reproduce, rework, or forge any antiquities or make any object, whether copies or not, or falsely label, describe, identify, or offer for sale or exchange any object with the intent to represent the object as original and genuine, nor may any person offer any object for sale or exchange that was collected or excavated in violation of this chapter.~~]

Section 117. Section 76-6-902.1 is enacted to read:

76-6-902.1. Unlawful creation, labeling, or sale of reproduction of antiquities.

(1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.

(2) An actor commits unlawful reproduction, labeling, or sale of reproduction of antiquities if the actor:

(a) with the intent to represent one or more objects as original and genuine antiquities, intentionally:

(i) reproduces, reworks, or forges antiquities; or

(ii) (A) makes an object, whether as a copy or not; or

(B) falsely labels, describes, identifies, or offers for sale or exchange an object; or

(b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if:

(i) the violation is the actor's second or subsequent violation of this section, Section 76-6-902, or Section 76-6-902.2; or

(ii) the amount at issue, as calculated under Subsection (3)(c), exceeds $500.

(c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

(i) the commercial or archaeological value of the antiquities involved in the violation; and

(ii) the cost of the restoration and repair of the antiquities involved in the violation.

(d) An actor shall surrender to the landowner all articles and material discovered, collected, excavated, or offered for sale or exchange in violation of this section.

Section 118. Section 76-6-902.2 is enacted to read:

76-6-902.2. Unlawful sale or exchange of antiquities.

(1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.

(2) An actor commits unlawful sale or exchange of antiquities if the actor:

(a) offers for sale or exchange an object that was collected or excavated in violation of Section 76-6-902; or

(b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if:

(i) the violation is the actor's second or subsequent violation of this section, Section 76-6-902, or Section 76-6-902.1; or

(ii) the amount at issue, as calculated under Subsection (3)(c), exceeds $500.

(c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

(i) the commercial or archaeological value of the antiquities involved in the violation; and

(ii) the cost of the restoration and repair of the antiquities involved in the violation.

(d) An actor shall surrender to the landowner all articles and material discovered, collected, excavated, or offered for sale or exchange in violation of this section.

Section 119. Section 76-6-1001 is amended to read:

76-6-1001. Definitions.

As used in this part:

(1) "Common mail carrier" means a person engaged in or transacting the business of collecting, transporting, or delivering mail, other than the United States Postal Service.

(2) "Key" means any instrument used by the postal service and postal customer, and which is designed to operate the lock on a mail receptacle.

(3) "Mail" means any letter, card, parcel, or other material, along with its contents, that:

(a) has postage affixed by the postal customer or postal service;

(b) has been accepted for delivery by the postal service;

(c) the postal customer leaves for collection by the postal service; or

(d) the postal service delivers to the postal customer.

(4) "Mail receptacle" means a mail box, post office box, rural box, or any place or area intended or used by postal customers or a postal service for the collection or delivery of mail.

(5) "Personal identifying information" means the same as that term is defined in Section [~~76-6-1102~~] 76-6-1101.

(6) "Postage" means a postal service stamp, permit imprint, meter strip, or other indication of either prepayment for postal service provided or authorization by the postal service for collection and delivery of mail.

(7) "Postal service" means the United States Postal Service or a private common mail carrier.

Section 120. Section 76-6-1002 is amended to read:

76-6-1002. Damage to mail receptacle.

(1) [~~A person commits the crime of~~] Terms defined in Sections 76-1-101.5 and 76-6-1001 apply to this section.

(2) An actor commits damage to a mail receptacle if the [~~person~~] actor knowingly damages the condition of a mail receptacle, including:

(a) taking, concealing, damaging, or destroying a key; or

(b) breaking open, tearing down, taking, damaging, or destroying a mail receptacle.

[~~(2)~~] (3) (a) [~~In determining the degree of an offense committed under Subsection (1), the penalty levels in Subsection 76-6-106(3)(b) apply.~~] A violation of Subsection (2) is a:

(i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $5,000 in value;

(ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $1,500 but is less than $5,000 in value;

(iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $500 but is less than $1,500 in value; and

(iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than $500 in value.

(b) If the act committed amounts to an offense subject to a greater penalty, [~~this subsection~~] Subsection (3)(a) does not prohibit prosecution and sentencing for the more serious offense.

(4) The following presumptions and defenses shall be applicable to this section:

(a) possession of property recently stolen, when no satisfactory explanation of such possession is made, is prima facie evidence that the actor in possession stole the property;

(b) it is no defense under this part that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this Subsection (4)(b) shall not include a security interest for the repayment of a debt or obligation; and

(c) it is a defense under this section that the actor:

(i) acted under an honest claim of right to the property or service involved;

(ii) acted in the honest belief that the actor had the right to obtain or exercise control over the property or service as the actor did; or

(iii) obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

Section 121. Section 76-6-1003 is amended to read:

76-6-1003. Mail theft.

(1) [~~A person commits the crime of~~] Terms defined in Sections 76-1-101.5 and 76-6-1001 apply to this section.

(2) An actor commits mail theft if the [~~person~~] actor:

(a) knowingly, and with the intent to deprive another:

(i) takes, destroys, hides, or embezzles mail; or

(ii) obtains any mail by fraud or deception; or

(b) buys, receives, conceals, or possesses mail and knows or reasonably should have known that the mail was unlawfully taken or obtained.

[~~(2)~~] (3) [~~Mail theft~~] A violation of Subsection (2) is:

(a) a third degree felony;

(b) a class A misdemeanor, if the mail has no monetary value and does not include the name of an individual; or

(c) a second degree felony, if the mail contains the personal identifying information of 10 or more individuals.

(4) The following presumptions and defenses shall be applicable to this section:

(a) possession of property recently stolen, when no satisfactory explanation of such possession is made, is prima facie evidence that the actor in possession stole the property;

(b) it is no defense under this section that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this Subsection (4)(b) shall not include a security interest for the repayment of a debt or obligation; and

(c) it is a defense under this section that:

(i) the actor acted under an honest claim of right to the property or service involved;

(ii) the actor acted in the honest belief that the actor had the right to obtain or exercise control over the property or service as the actor did;

(iii) the actor obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented;

(iv) the actor was unaware that the mail belonged to another person;

(v) the actor reasonably believed the actor was entitled to the mail or had a right to acquire or dispose of the mail as the actor did; or

(vi) the mail belonged to the actor's spouse, unless the parties were either legally separated or living in separate residences at the time of the alleged mail theft.

Section 122. Section 76-6-1101 is repealed and reenacted to read:

76-6-1101. Definitions.

(1) As used in this part:

(a) "Personal identifying information" may include:

(i) name;

(ii) birth date;

(iii) address;

(iv) telephone number;

(v) driver license number;

(vi) social security number;

(vii) place of employment;

(viii) employee identification numbers or other personal identification numbers;

(ix) mother's maiden name;

(x) electronic identification numbers;

(xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions Act;

(xii) any other numbers or information that can be used to access a person's financial resources or medical information, except for numbers or information that can be prosecuted as financial transaction card offenses under Sections 76-6-506, 76-6-506.2, 76-6-506.3, and 76-6-506.6; or

(xiii) a photograph or any other realistic likeness.

(b) "Restitution" means the same as that term is defined in Section 77-38b-102.

Section 123. Section 76-6-1102 is amended to read:

76-6-1102. Identity fraud.

[~~(1) As used in this part:~~]

[~~(a) "Personal identifying information" may include:~~]

[~~(i) name;~~]

[~~(ii) birth date;~~]

[~~(iii) address;~~]

[~~(iv) telephone number;~~]

[~~(v) drivers license number;~~]

[~~(vi) Social Security number;~~]

[~~(vii) place of employment;~~]

[~~(viii) employee identification numbers or other personal identification numbers;~~]

[~~(ix) mother's maiden name;~~]

[~~(x) electronic identification numbers;~~]

[~~(xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions Act;~~]

[~~(xii) any other numbers or information that can be used to access a person's financial resources or medical information, except for numbers or information that can be prosecuted as financial transaction card offenses under Sections 76-6-506 through 76-6-506.6; or~~]

[~~(xiii) a photograph or any other realistic likeness.~~]

[~~(b) "Restitution" means the same as that term is defined in Section 77-38b-102.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-6-1101 apply to this section.

(2) [~~(a) A person is guilty of identity fraud when that person~~] An actor commits identity fraud if the actor knowingly or intentionally uses, or attempts to use, the personal identifying information of another person, whether that person is alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain, credit, goods, services, employment, any other thing of value, or medical information.

[~~(b) It is not a defense to a violation of Subsection (2)(a) that the person did not know that the personal information belonged to another person.~~]

(3) [~~Identity fraud~~] A violation of Subsection (2) is:

(a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the credit, goods, services, employment, or any other thing of value is less than $5,000; or

(b) a second degree felony if:

(i) the value of the credit, goods, services, employment, or any other thing of value is or exceeds $5,000; or

(ii) the use described in Subsection [~~(2)(a)~~] (2) of personal identifying information results, directly or indirectly, in bodily injury to another person.

(4) (a) It is not a defense to a violation of Subsection (2) that the actor did not know that the personal information belonged to another person.

(b) Multiple violations of Subsection (2) may be aggregated into a single offense, and the degree of the offense is determined by the total value of all credit, goods, services, or any other thing of value used, or attempted to be used, through the multiple violations.

(5) (a) [~~When~~] If a defendant is convicted of a violation of this section, the court shall order the defendant to pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act.

[~~(6)~~] (b) Restitution under Subsection (5)(a) may include:

[~~(a)~~] (i) payment for any costs incurred, including attorney fees, lost wages, and replacement of checks; and

[~~(b)~~] (ii) the value of the victim's time incurred due to the offense:

[~~(i)~~] (A) in clearing the victim's credit history or credit rating;

[~~(ii)~~] (B) in any civil or administrative proceedings necessary to satisfy or resolve any debt, lien, or other obligation of the victim or imputed to the victim and arising from the offense; and

[~~(iii)~~] (C) in attempting to remedy any other intended or actual harm to the victim incurred as a result of the offense.

Section 124. Section 76-6-1105 is amended to read:

76-6-1105. Unlawful possession of another's identification documents.

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

[~~(a)~~] (i) [~~(i)~~] (A) "Identifying document" means:

[~~(A)~~] (I) a government issued document commonly used for identification;

[~~(B)~~] (II) a vehicle registration certificate; or

[~~(C)~~] (III) any other document, image, data file, or medium containing personal identifying information as defined in [~~Subsections 76-6-1102(1)(a)(ii) through (xiii)~~] Subsection 76-6-1101(1)(a).

[~~(ii)~~] (B) "Identifying document" includes:

[~~(A)~~] (I) a counterfeit identifying document; or

[~~(B)~~] (II) a document containing personal identifying information of a deceased individual.

[~~(b)~~] (ii) "Possess" means to have physical control or electronic access.

(b) Terms defined in Sections 76-1-101.5 and 76-6-1101 apply to this section.

(2) (a) Under circumstances that do not constitute a violation of Section [~~76-6-1102 or Section 76-6-502, an individual is guilty of a class A misdemeanor if the individual~~] 76-6-502 or

76-6-1102, an actor commits unlawful possession of another's identification documents if the actor:

(i) obtains or possesses an identifying document:

(A) with knowledge that the [~~individual~~] actor is not entitled to obtain or possess the identifying document; or

(B) with intent to deceive or defraud; or

(ii) assists another person in obtaining or possessing an identifying document:

(A) with knowledge that the person is not entitled to obtain or possess the identifying document; or

(B) with knowledge that the person intends to use the identifying document to deceive or defraud.

(b) Under circumstances that do not constitute a violation of Section [~~76-6-1102, an individual is guilty of a third degree felony if the individual~~] 76-6-502 or 76-6-1102, an actor commits unlawful possession of another's identification documents if the actor:

(i) obtains or possesses identifying documents of more than two, but fewer than 100, individuals:

(A) with knowledge that the individual is not entitled to obtain or possess the identifying documents; or

(B) with intent to deceive or defraud; or

(ii) assists another person in obtaining or possessing identifying documents of more than two, but fewer than 100, individuals:

(A) with knowledge that the person is not entitled to obtain or possess the multiple identifying documents; or

(B) with knowledge that the person intends to use the identifying documents to deceive or defraud.

(c) Under circumstances that do not constitute a violation of Section [~~76-6-1102, an individual is guilty of a second degree felony if the individual~~] 76-6-502 or 76-6-1102, an actor commits unlawful possession of another's identification documents if the actor:

(i) obtains or possesses identifying documents of 100 or more individuals:

(A) with knowledge that the individual is not entitled to obtain or possess the identifying documents; or

(B) with intent to deceive or defraud; or

(ii) assists another person in obtaining or possessing identifying documents of 100 or more individuals:

(A) with knowledge that the person is not entitled to obtain or possess the identifying documents; or

(B) with knowledge that the person intends to use the identifying documents to deceive or defraud.

(3) A violation of:

(a) Subsection (2)(a) is a class A misdemeanor;

(b) Subsection (2)(b) is a third degree felony; or

(c) Subsection (2)(c) is a second degree felony.

Section 125. Section 76-6-1203 is amended to read:

76-6-1203. Mortgage fraud.

(1) [~~A person commits the offense of~~] Terms defined in Sections 76-1-101.5 and 76-6-1202 apply to this section.

(2) An actor commits mortgage fraud if the [~~person~~] actor does any of the following with the intent to defraud:

[~~(1)~~] (a) knowingly makes any material misstatement, misrepresentation, or omission during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;

[~~(2)~~] (b) knowingly uses or facilitates the use of any material misstatement, misrepresentation, or omission, during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;

[~~(3)~~] (c) files or causes to be filed with any county recorder in Utah any document that the [~~person~~] actor knows contains a material misstatement, misrepresentation, or omission; or

[~~(4)~~] (d) receives any proceeds or any compensation in connection with a mortgage loan that the [~~person~~] actor knows resulted from a violation of this section.

(3) (a) Notwithstanding any other administrative, civil, or criminal penalties, a violation of Subsection (2) is a:

(i) class A misdemeanor if the value is or exceeds $500 but is less than $1,500;

(ii) third degree felony if the value is or exceeds $1,500 but is less than $5,000;

(iii) second degree felony if the value is or exceeds $5,000; and

(iv) second degree felony if the object or purpose of the commission of an act of mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the value.

(b) The determination of the degree of any offense under Subsection (3)(a) is measured by the total value of all property, money, or things obtained or sought to be obtained by a violation of Subsection (2), except as provided in Subsection (3)(a)(iv).

(4) Each residential or commercial property transaction offense under this section constitutes a separate violation.

Section 126. Section 76-6-1303 is amended to read:

76-6-1303. Possession, sale, or use of automated sales suppression device unlawful.

(1) [~~It is a third degree felony to~~] Terms defined in Sections 76-1-101.5 and 76-6-1302 apply to this section.

(2) An actor commits possession, sale, or use of an automated sales suppression device if the actor willfully or knowingly [~~sell, purchase, install, transfer, use, or possess~~] sells, purchases, installs, transfers, uses, or possesses in this state any automated sales suppression device or phantomware with the intent to defraud[~~, except that any second or subsequent violation of this Subsection (1) is a second degree felony~~].

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

(b) A second or subsequent violation of Subsection (2)(b) is a second degree felony.

[~~(2)~~] (c) Notwithstanding Section 76-3-301, any person convicted of violating Subsection [~~(1)~~] (2) may be fined not more than twice the amount of the applicable taxes that would otherwise be due, but for the use of the automated sales suppression device or phantomware.

[~~(3)~~] (d) Any person convicted of a violation of Subsection [~~(1)~~] (2):

[~~(a)~~] (i) is liable for all applicable taxes, penalties under Section 59-1-401, and interest under Section 59-1-402 that would otherwise be due, but for the use of the automated sales suppression device or phantomware to evade the payment of taxes; and

[~~(b)~~] (ii) shall disgorge all profits associated with the sale or use of an automated sales suppression device or phantomware.

(4) An automated sales suppression device and any device containing an automated sales suppression device is contraband and subject to forfeiture under Title 24, Forfeiture and Disposition of Property Act.

Section 127. Section 76-6-1403 is amended to read:

76-6-1403. Requirements for records of sale or purchases.

(1) Every dealer shall:

(a) require the information under Subsection (2) for each transaction of regulated metal, except under Subsection 76-6-1406(4); and

(b) maintain for each purchase of regulated metal the information required by this part in a written or electronic log, in the English language.

(2) The dealer shall require the following information of the seller and shall record the information as required under Subsection (1) for each purchase of regulated metal:

(a) a complete description of the regulated metal, including weight and metallic description, in accordance with scrap metal recycling industry standards;

(b) the full name and residence of each person selling the regulated metal;

(c) the vehicle type and license plate number, if applicable, of the vehicle transporting the regulated metal to the dealer;

(d) the price per pound and the amount paid for each type of regulated metal purchased by the dealer;

(e) the date, time, and place of the purchase;

(f) the type and the identifying number of the identification provided in Subsection (2)(g);

(g) a form of identification that is a valid United States federal or state-issued photo ID, which includes a driver license, a United States passport, a United States passport card, or a United States military identification card;

(h) the seller's signature on a certificate stating that [~~he~~] the seller has the legal right to sell the scrap metal or junk; and

(i) a digital photograph or still video of the seller, taken at the time of the sale, or a clearly legible photocopy of the seller's identification.

(3) No entry in the log may be erased, deleted, mutilated, or changed.

(4) The log and entries shall be open to inspection by the following officials having jurisdiction over the area in which the dealer does business during regular business hours:

(a) the county sheriff or deputies;

(b) any law enforcement agency; and

(c) any constable or other state, municipal, or county official in the county in which the dealer does business.

(5) A dealer shall make these records available for inspection by any law enforcement agency, upon request, at the dealer's place of business during the dealer's regular business hours.

(6) Log entries made under this section shall be maintained for not less than three years from date of entry.

(7) (a) The dealer may maintain the information required by Subsection (2) for repeat sellers who use the same vehicle to bring regulated metal for each transaction in a relational database that allows the dealer to enter an initial record of the seller's information and then relate subsequent transaction records to that initial information, except under Subsection (7)(b).

(b) The dealer shall obtain regarding each transaction with repeat sellers:

(i) a photograph of the seller; and

(ii) a signature from the seller.

(8) A dealer who violates this section is subject to the penalties described in Section 76-6-1403.1.

Section 128. Section 76-6-1403.1 is enacted to read:

76-6-1403.1. Unlawful conduct with respect to record of sale or purchase.

(1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.

(2) A dealer commits unlawful conduct with respect to record of sale or purchase if the dealer violates a requirement under Section 76-6-1403.

(3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.

(ii) A dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than $750.

(b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously has been convicted of a violation of this section or Section 76-6-1404.1, 76-6-1405.1, 76-6-1406.1, or 76-6-1409.1.

(ii) A dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than $2,500.

(4) (a) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in Section 76-6-1403 or this section.

(b) This section does not impair the authority of a county or municipality to revoke or deny a business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of Section 76-6-1403 or this section.

(c) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Section 129. Section 76-6-1404 is amended to read:

76-6-1404. Required notice to sellers of identification requirements.

(1) A dealer shall at all times maintain in a prominent place at the dealer's place of business, in open view to a seller of regulated metal, a clearly legible notice in not less than two-inch high lettering that contains the following language: "A PERSON ATTEMPTING TO SELL ANY REGULATED METAL MUST PROVIDE IDENTIFICATION AS REQUIRED BY STATE LAW."

(2) A dealer who violates this section is subject to the penalties described in Section 76-6-1404.1.

Section 130. Section 76-6-1404.1 is enacted to read:

76-6-1404.1. Unlawful failure to maintain required notice to sellers.

(1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.

(2) A dealer commits unlawful failure to maintain required notice to sellers if the dealer violates a requirement under Section 76-6-1404.

(3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.

(ii) A dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than $750.

(b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1405.1, 76-6-1406.1, or 76-6-1409.1.

(ii) A dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than $2,500.

(4) (a) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in Section 76-6-1404 or this section.

(b) This section does not impair the authority of a county or municipality to revoke or deny a business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of Section 76-6-1404 or this section.

(c) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Section 131. Section 76-6-1405 is amended to read:

76-6-1405. Qualifications to sell to dealer.

(1) A dealer may not purchase regulated metal from a person younger than 18 years [~~of age~~] old.

(2) If the person is unable to comply with all the identification requirements of Subsection 76-6-1403(2), the dealer may not conduct a transaction of regulated metal with that person.

(3) A dealer who violates this section is subject to the penalties described in Section 76-6-1405.1.

Section 132. Section 76-6-1405.1 is enacted to read:

76-6-1405.1. Unlawful failure to comply with qualifications to sell to dealer.

(1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.

(2) A dealer commits unlawful failure to comply with qualifications to sell to dealer if the dealer violates a requirement under Section 76-6-1405.

(3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.

(ii) A dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than $750.

(b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1404.1, 76-6-1406.1, or 76-6-1409.1.

(ii) A dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than $2,500.

(4) (a) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in Section 76-6-1405 or this section.

(b) This section does not impair the authority of a county or municipality to revoke or deny a business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of Section 76-6-1405 or this section.

(c) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Section 133. Section 76-6-1406 is amended to read:

76-6-1406. Restrictions on the purchase of regulated metal -- Exemption.

(1) A dealer may conduct purchase transactions involving regulated metal only between the hours of 6 a.m. and 7 p.m.

(2) Except when the dealer pays a government entity by check for regulated metal, the dealer may not purchase any of the following regulated metal without obtaining and keeping on file reasonable documentation that the seller is an employee, agent, or contractor of a governmental entity who is authorized to sell the item of regulated metal property on behalf of the governmental entity:

(a) a manhole cover or sewer grate;

(b) an electric light pole; or

(c) a guard rail.

(3) (a) A dealer may not purchase suspect metal without obtaining the information under Subsection (3)(b) identifying the owner of the suspect metal.

(b) The owner of the suspect metal shall provide in writing:

(i) the owner's telephone number;

(ii) the owner's business or residential address, which may not be a post box;

(iii) a copy of the owner's driver license; and

(iv) a signed statement that the person is the lawful owner of the suspect metal and authorizes the seller, identified by name, to sell the suspect metal.

(c) The dealer shall keep the identifying information provided in Subsection (3)(b) on file for not less than one year.

(4) Transactions with businesses that have an established account with the dealer are exempt from the requirements of Subsections (2) and (3) if the business holds a valid business license, and:

(a) (i) the dealer has on file a statement from the business identifying those employees authorized to sell all metals to the dealer; and

(ii) the dealer conducts regulated metal transactions only with those identified employees of the business and records the name of the employee when recording the transaction;

(b) the dealer has on file reasonable documentation from the business that any person verified as representing the business as an employee, and whom the dealer has verified is an employee, may sell regulated metal; or

(c) the dealer makes payment for regulated metal purchased from a person by issuing a check to the business employing the seller.

(5) If a dealer is a catalytic converter purchaser as defined in Section 13-32a-102, the dealer shall comply with the requirements in Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act.

(6) A dealer who violates this section is subject to the penalties described in Section 76-6-1406.1.

Section 134. Section 76-6-1406.1 is enacted to read:

76-6-1406.1. Unlawful failure to follow restrictions on the purchase of regulated metal.

(1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.

(2) A dealer commits unlawful failure to follow restrictions on the purchase of regulated metal if the dealer violates a requirement under Section 76-6-1406.

(3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.

(ii) A dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than $750.

(b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1404.1, 76-6-1405.1, or 76-6-1409.1.

(ii) A dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than $2,500.

(4) (a) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in Section 76-6-1406 or this section.

(b) This section does not impair the authority of a county or municipality to revoke or deny a business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of Section 76-6-1406 or this section.

(c) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Section 135. Section 76-6-1408 is amended to read:

76-6-1408. Falsification of seller's statement to dealer.

(1) [~~(a) Any seller who, in providing any information as required by this part in selling, offering, or attempting to sell regulated metal~~] Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.

(2) An actor commits falsification of seller's statement to dealer if the actor:

(a) sells, offers to sell, or attempts to sell regulated metal; and

(b) in providing information required by Section 76-6-1403, 76-6-1405, or 76-6-1406 willfully makes a false statement or provides any untrue information[~~, is guilty of a class B misdemeanor~~].

[~~(b) Any seller who is convicted of a class B misdemeanor under this section is subject to a mandatory fine of no less than $1,000.~~]

[~~(2)~~] (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(ii) An actor who is convicted of a class B misdemeanor under this section is subject to a mandatory fine of no less than $1,000.

(b) (i) A violation of Subsection [~~(1) that occurs after the defendant~~] (2) is a class A misdemeanor if the actor previously has been convicted of a violation of [~~Subsection (1) is a class A misdemeanor~~] this section.

[~~(b)~~] (ii) [~~Any seller~~] An actor who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than $2,500.

Section 136. Section 76-6-1409 is amended to read:

76-6-1409. Hold on stolen regulated metal property -- Hold notice.

(1) (a) If a law enforcement agency has reasonable cause to believe that items of regulated metal in the possession of a dealer are stolen, the law enforcement agency may issue a written hold notice.

(b) The hold notice described in Subsection (1)(a) shall:

[~~(a)~~] (i) identify those items of regulated metal alleged to be stolen and subject to hold; and

[~~(b)~~] (ii) inform the dealer of the restrictions imposed on the regulated metal property under Subsection (2).

(2) For 60 days after the date of receiving a hold notice, a dealer may not process or remove from the dealer's place of business any regulated metal identified in the hold notice, unless the property is released earlier by the law enforcement agency or by order of a court of competent jurisdiction.

(3) On the expiration of the hold notice period, the hold is automatically released, and the dealer may dispose of the regulated metal, unless otherwise directed by a court of competent jurisdiction.

(4) A dealer who violates this section is subject to the penalties described in Section 76-6-1409.1.

Section 137. Section 76-6-1409.1 is enacted to read:

76-6-1409.1. Unlawful violation of regulated metal hold requirement.

(1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.

(2) A dealer commits unlawful violation of regulated metal hold requirement if the dealer violates a requirement under Section 76-6-1409.

(3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.

(ii) A dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than $750.

(b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1404.1, 76-6-1405.1, or 76-6-1406.1.

(ii) A dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than $2,500.

(4) (a) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in Section 76-6-1409 or this section.

(b) This section does not impair the authority of a county or municipality to revoke or deny a business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the

revocation or denial of a business license or permit based on a violation of Section 76-6-1409 or this section.

(c) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Section 138. Section 76-6a-101, which is renumbered from Section 76-6a-2 is renumbered and amended to read:

[~~76-6a-2~~]. 76-6a-101. Definitions.

As used in this chapter:

(1) (a) (i) "Compensation" means money, money bonuses, overrides, prizes, or other real or personal property, tangible or intangible.

[~~(b)~~] (ii) "Compensation" does not include payment based on the sale of goods or services to anyone purchasing the goods or services for actual personal use or consumption.

[~~(2)~~] (b) "Consideration" does not include:

(i) payment for sales demonstration equipment [~~and~~] or materials furnished at cost for use in making sales and not for resale[~~,~~]; or

(ii) time or effort spent in selling or recruiting activities.

[~~(3)~~] (c) "Person" includes a business trust, estate, trust, joint venture, or any other legal or commercial entity.

[~~(4)~~] (d) "Pyramid scheme" means any sales device or plan under which a person gives consideration to another person in exchange for compensation or the right to receive compensation [~~which~~] that is derived primarily from the introduction of other persons into the sales device or plan rather than from the sale of goods, services, or other property.

(2) Terms defined in Section 76-1-101.5 apply to this part.

Section 139. Section 76-6a-102 is enacted to read:

76-6a-102. Conducting pyramid scheme -- Violation as deceptive consumer sales practice -- Prosecution of civil violation.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits the offense of conducting a pyramid scheme if the actor knowingly organizes, establishes, promotes, or administers a pyramid scheme.

(3) A violation of Subsection (2) is a third degree felony.

(4) It is not a defense to an action brought under this section that:

(a) the sales device or plan limits the number of persons who may be introduced into the sales device or plan;

(b) the sales device or plan includes additional conditions affecting eligibility for introduction into the sales device or plan or when compensation may be received from the sales device or plan; or

(c) a person receives property or services in addition to the compensation or right to receive compensation in connection with a pyramid scheme.

(5) The appropriate county attorney or district attorney has primary responsibility for investigating and prosecuting a criminal violation of this section.

(6) (a) A violation under this section constitutes a violation of Section 13-11-4.

(b) A criminal conviction under this section is prima facie evidence of a violation of Section 13-11-4.

(c) In addition to prosecution under this section, a violation of this section shall be civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah Consumer Sales Practices Act.

Section 140. Section 76-6a-103 is enacted to read:

76-6a-103. Participating in pyramid scheme -- Violation as deceptive consumer sales practice -- Prosecution of civil violation.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits the offense of participating in a pyramid scheme if the actor participates in a pyramid scheme only by receiving compensation for the introduction of another person into the pyramid scheme rather than from the sale of goods, services, or other property.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) It is not a defense to an action brought under this section that:

(a) the sales device or plan limits the number of persons who may be introduced into the sales device or plan;

(b) the sales device or plan includes additional conditions affecting eligibility for introduction into the sales device or plan or when compensation may be received from the sales device or plan; or

(c) a person receives property or services in addition to the compensation or right to receive compensation in connection with a pyramid scheme.

(5) The appropriate county attorney or district attorney has primary responsibility for investigating and prosecuting a criminal violation of this section.

(6) (a) A violation under this section constitutes a violation of Section 13-11-4.

(b) A criminal conviction under this section is prima facie evidence of a violation of Section 13-11-4.

(c) In addition to prosecution under this section, a violation of this section shall be civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah Consumer Sales Practices Act.

Section 141. Section 76-6a-104, which is renumbered from Section 76-6a-6 is renumbered and amended to read:

[~~76-6a-6~~]. 76-6a-104. Rights of person giving consideration in pyramid scheme.

(1) (a) Any person giving consideration in connection with a pyramid scheme may, notwithstanding any agreement to the contrary, declare [~~his~~] the person's giving of consideration and the related sale or contract for sale void, and may bring a court action to recover the consideration.

(b) In [~~the action~~] an action brought under Subsection (1)(a), the court shall, in addition to any judgment awarded to the plaintiff, require the defendant to pay to the plaintiff interest as provided in Section 15-1-4, reasonable attorneys' fees, and the costs of the action reduced by any compensation paid by the defendant to the plaintiff in connection with the pyramid scheme.

(2) (a) The rights, remedies, and penalties provided in this chapter are independent of and supplemental to each other and to any other right, remedy or penalty available in law or equity.

(b) Nothing contained in this chapter shall be construed to diminish or abrogate any other right, remedy or penalty.

Section 142. Section 76-9-201 is amended to read:

76-9-201. Electronic communication harassment -- Definitions -- Penalties.

(1) As used in this section:

(a) "Adult" means an individual 18 years [~~of age~~] old or older.

(b) "Electronic communication" means a communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text but does not include broadcast transmissions or similar communications that are not targeted at a specific individual.

(c) "Electronic communication device" includes a telephone, a facsimile machine, electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.

(d) "Minor" means an individual who is younger than 18 years [~~of age~~] old.

(e) "Personal identifying information" means the same as that term is defined in Section [~~76-6-1102~~] 76-6-1101.

(2) Except to the extent the person's conduct constitutes an offense under Section 76-9-203, a person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if with intent to intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of another, the person:

(a) (i) makes repeated contact by means of electronic communications, regardless of whether a conversation ensues; or

(ii) after the recipient has requested or informed the person not to contact the recipient, and the person repeatedly or continuously:

(A) contacts the electronic communication device of the recipient; or

(B) causes an electronic communication device of the recipient to ring or to receive other notification of attempted contact by means of electronic communication;

(b) makes contact by means of electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response;

(c) makes contact by means of electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person; or

(d) causes disruption, jamming, or overload of an electronic communication system through excessive message traffic or other means utilizing an electronic communication device.

(3) A person is guilty of electronic communication harassment if the person:

(a) electronically publishes, posts, or otherwise discloses personal identifying information of another individual in a public online site or forum with the intent to abuse, threaten, or disrupt the other individual's electronic communication and without the other individual's permission; or

(b) sends a communication by electronic mail, instant message, or other similar means, if:

(i) the communication references personal identifying information of another individual; [~~and~~]

(ii) the person sends the communication:

(A) without the individual's consent; and

(B) with the intent to cause a recipient of the communication to reasonably believe that the individual authorized or sent the communication; and

(iii) with the intent to:

(A) cause an individual physical, emotional, or economic injury or damage; or

(B) defraud an individual.

(4) (a) Electronic communication harassment is a class B misdemeanor.

(b) A second or subsequent offense of electronic communication harassment is a class A misdemeanor.

(5) (a) Except as provided under Subsection (5)(b), criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of an offense under this section.

(b) This section does not create a civil cause of action based on electronic communications made for legitimate business purposes.

Section 143. Section 76-10-204 is amended to read:

76-10-204. Damaging bridge, dam, canal, or other water-related structure.

(1) A person is guilty of a third degree felony who intentionally, knowingly, or recklessly commits an offense under Subsection (2) that does not amount to a violation of Subsection [~~76-6-106(2)(b)(ii)~~] 76-6-106(2)(a)(ii).

(2) Offenses referred to in Subsection (1) are when a person:

(a) cuts, breaks, damages, or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, to drain or reclaim any swamp and overflowed or marsh land, to conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town;

(b) makes or causes to be made any aperture in any dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure with intent to injure or destroy it; or

(c) draws up, cuts, or injures any piles fixed in the ground and used for securing any lake or river bank or walls or any dock, quay, jetty, or lock.

Section 144. Section 76-10-1302 is amended to read:

76-10-1302. Prostitution.

(1) An actor, except for a child under Section 76-10-1315, is guilty of prostitution if the actor engages in sexual activity with another individual for a fee, or the functional equivalent of a fee.

(2) (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, a violation of Subsection (1) is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an actor who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted under Section 76-10-1307, is guilty of a class A misdemeanor.

(3) A prosecutor may not prosecute an actor for a violation of Subsection (1) if the actor engages in a violation of Subsection (1) at or near the time the actor witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the actor reports the offense or attempt to law enforcement in good faith:

(a) assault, Section 76-5-102;

(b) aggravated assault, Section 76-5-103;

(c) mayhem, Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault under Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape, Section 76-5-402;

(g) rape of a child, Section 76-5-402.1;

(h) object rape, Section 76-5-402.2;

(i) object rape of a child, Section 76-5-402.3;

(j) forcible sodomy, Section 76-5-403;

(k) sodomy on a child, Section 76-5-403.1;

(l) forcible sexual abuse, Section 76-5-404;

(m) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;

(n) aggravated sexual assault, Section 76-5-405;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

(q) sexual exploitation of a vulnerable adult, Section 76-5b-202;

(r) aggravated burglary or burglary of a dwelling under Chapter 6, Part 2, Burglary and Criminal Trespass;

(s) aggravated robbery or robbery under Chapter 6, Part 3, Robbery; or

(t) theft by extortion under Section 76-6-406 under the circumstances described in Subsection [~~76-6-406(2)(a) or (b)~~] 76-6-406(1)(a)(i) or (ii).

Section 145. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate

continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources Code of Utah, or Section 23-20-4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a threat of terrorism, Section 76-5-107.3;

(l) a criminal homicide offense, as described in Section 76-5-201;

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human trafficking of a child, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor or aggravated sexual exploitation of a minor, Sections 76-5b-201 and 76-5b-201.1;

(p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

(q) causing a catastrophe, Section 76-6-105;

(r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

(s) burglary of a vehicle, Section 76-6-204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

(u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

(v) theft, Section 76-6-404;

(w) theft by deception, Section 76-6-405;

(x) theft by extortion, Section 76-6-406;

(y) receiving stolen property, Section 76-6-408;

(z) theft of services, Section 76-6-409;

(aa) forgery, Section 76-6-501;

(bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, [~~76-6-506.5,~~] and 76-6-506.6;

(cc) deceptive business practices, Section 76-6-507;

(dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;

(ee) bribery of a labor official, Section 76-6-509;

(ff) defrauding creditors, Section 76-6-511;

(gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;

(hh) unlawful dealing with property by fiduciary, Section 76-6-513;

(ii) bribery or threat to influence contest, Section 76-6-514;

(jj) making a false credit report, Section 76-6-517;

(kk) criminal simulation, Section 76-6-518;

(ll) criminal usury, Section 76-6-520;

(mm) [~~fraudulent insurance act~~] insurance fraud, Section 76-6-521;

(nn) retail theft, Section 76-6-602;

(oo) computer crimes, Section 76-6-703;

(pp) identity fraud, Section 76-6-1102;

(qq) mortgage fraud, Section 76-6-1203;

(rr) sale of a child, Section 76-7-203;

(ss) bribery to influence official or political actions, Section 76-8-103;

(tt) threats to influence official or political action, Section 76-8-104;

(uu) receiving bribe or bribery by public servant, Section 76-8-105;

(vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

(ww) official misconduct, Sections 76-8-201 and 76-8-202;

(xx) obstruction of justice, Section 76-8-306;

(yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;

(zz) false or inconsistent material statements, Section 76-8-502;

(aaa) false or inconsistent statements, Section 76-8-503;

(bbb) written false statements, Section 76-8-504;

(ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(fff) tampering with evidence, Section 76-8-510.5;

(ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act[~~, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist Disclosure and Regulation Act~~];

(hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;

(iii) unemployment insurance fraud, Section 76-8-1301;

(jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;

(lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;

(mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

(ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(cccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 146. Section 77-18-105 is amended to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of

probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the department;

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3) (a) The legal custody of all probationers under the supervision of the department is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4) (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(5) (a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.

(b) (i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:

(A) the agency has the capacity to supervise the individual; and

(B) the individual's supervision needs will be met by the agency.

(ii) A court may only order:

(A) the department to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or

(B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.

(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

(6) (a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section [~~76-6-107.1~~] 76-3-410;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the supervision length guidelines

established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation, the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements.

Section 147. Section 77-23a-8 is amended to read:

77-23a-8. Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

(a) any act:

(i) prohibited by the criminal provisions of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) punishable by a term of imprisonment of more than one year;

(b) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt, Section 76-4-101;

(B) conspiracy, Section 76-4-201;

(C) solicitation, Section 76-4-203; and

(ii) punishable by a term of imprisonment of more than one year;

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year, Section 76-5-107.3;

(e) (i) aggravated murder, Section 76-5-202;

(ii) murder, Section 76-5-203; or

(iii) manslaughter, Section 76-5-205;

(f) (i) kidnapping, Section 76-5-301;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302;

(iv) human trafficking, Section 76-5-308, 76-5-308.1, or 76-5-308.5, or human smuggling, Section 76-5-308.3; or

(v) aggravated human trafficking, Section 76-5-310, or aggravated human smuggling, Section 76-5-310.1;

(g) (i) arson, Section 76-6-102; or

(ii) aggravated arson, Section 76-6-103;

(h) (i) burglary, Section 76-6-202; or

(ii) aggravated burglary, Section 76-6-203;

(i) (i) robbery, Section 76-6-301; or

(ii) aggravated robbery, Section 76-6-302;

(j) an offense:

(i) of:

(A) theft, Section 76-6-404;

(B) theft by deception, Section 76-6-405; or

(C) theft by extortion, Section 76-6-406; and

(ii) punishable by a maximum term of imprisonment of more than one year;

(k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year, Section 76-6-408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-506.2, 76-6-506.3, 76-6-506.5, or 76-6-506.6;

(m) bribery of a labor official, Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-518;

(p) criminal usury, Section 76-6-520;

(q) [~~a fraudulent insurance act offense~~] insurance fraud punishable by a maximum term of imprisonment of more than one year, Section 76-6-521;

(r) a violation of Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year, Section 76-6-703;

(s) bribery to influence official or political actions, Section 76-8-103;

(t) misusing public money or public property, Section 76-8-402;

(u) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(v) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(w) tampering with a juror, retaliation against a juror, Section 76-8-508.5;

(x) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(y) obstruction of justice, Section 76-8-306;

(z) destruction of property to interfere with preparation for defense or war, Section 76-8-802;

(aa) an attempt to commit crimes of sabotage, Section 76-8-804;

(bb) conspiracy to commit crimes of sabotage, Section 76-8-805;

(cc) advocating criminal syndicalism or sabotage, Section 76-8-902;

(dd) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(ee) riot punishable by a maximum term of imprisonment of more than one year, Section 76-9-101;

(ff) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year, Section 76-9-301.1;

(gg) possession, use, or removal of an explosive, chemical, or incendiary device and parts, Section 76-10-306;

(hh) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device, Section 76-10-307;

(ii) exploiting prostitution, Section 76-10-1305;

(jj) aggravated exploitation of prostitution, Section 76-10-1306;

(kk) bus hijacking or assault with intent to commit hijacking, Section 76-10-1504;

(ll) discharging firearms and hurling missiles, Section 76-10-1505;

(mm) violations of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act, Section 76-10-1602;

(nn) communications fraud, Section 76-10-1801;

(oo) money laundering, Sections 76-10-1903 and 76-10-1904; or

(pp) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year, Section 76-10-1906.

Section 148. Section 77-36-1.1 is amended to read:

77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence offenses.

(1) As used in this section:

(a) (i) "Convicted" means a conviction by plea or verdict of a crime or offense.

(ii) "Convicted" includes:

(A) a plea of guilty or guilty and mentally ill;

(B) a plea of no contest; and

(C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(iii) "Convicted" does not include an adjudication in juvenile court.

[~~(b) "Criminal mischief offense" means commission or attempt to commit an offense under Section 76-6-106 by one cohabitant against another.~~]

[~~(c)~~] (b) "Offense against the person" means commission or attempt to commit an offense under Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal Homicide, Part 3, Kidnapping, Trafficking, and Smuggling, Part 4, Sexual Offenses, or Part 7, Genital Mutilation, by one cohabitant against another.

(c) "Property damage offense" means the commission or attempt to commit an offense under Section 76-6-106.1 by one cohabitant against another.

(d) "Qualifying domestic violence offense" means:

(i) a domestic violence offense in Utah; or

(ii) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.

(2) An individual who is convicted of a domestic violence offense is guilty of a class B misdemeanor if:

(a) the domestic violence offense described in this Subsection (2) is designated by law as a class C misdemeanor; and

(b) the individual commits or is convicted of the domestic violence offense described in this Subsection (2):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

(ii) within five years after the day on which the individual is convicted of a criminal mischief offense.

(3) An individual who is convicted of a domestic violence offense is guilty of a class A misdemeanor if:

(a) the domestic violence offense described in this Subsection (3) is designated by law as a class B misdemeanor; and

(b) the individual commits or is convicted of the domestic violence offense described in this Subsection (3):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

(ii) within five years after the day on which the individual is convicted of a criminal mischief offense.

(4) An individual who is convicted of a domestic violence offense is guilty of a third degree felony if:

(a) the domestic violence offense described in this Subsection (4) is designated by law as a class B misdemeanor offense against the person and the individual:

(i) (A) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; and

(B) is convicted of another qualifying domestic violence offense that is not a criminal mischief offense after the day on which the individual is convicted of the qualifying domestic violence offense described in Subsection (4)(a)(i)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4);

(ii) (A) commits or is convicted of the domestic violence offense described in this Subsection (4) within five years after the day on which the individual is convicted of a criminal mischief offense; and

(B) is convicted of another criminal mischief offense after the day on which the individual is convicted of the criminal mischief offense described in Subsection (4)(a)(ii)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4); or

(iii) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense and within five years after the day on which the individual is convicted of a criminal mischief offense; and

(b) (i) the domestic violence offense described in this Subsection (4) is designated by law as a class A misdemeanor; and

(ii) the individual commits or is convicted of the domestic violence offense described in this Subsection (4):

(A) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

(B) within five years after the day on which the individual is convicted of a criminal mischief offense.

Section 149. Section 77-42-105 is amended to read:

77-42-105. Registerable offenses.

A person shall be required to register with the Office of the Attorney General for a conviction of any of the following offenses as a second degree felony:

(1) Section 61-1-1 or Section 61-1-2, securities fraud;

(2) Section 76-6-405, theft by deception;

(3) Section 76-6-513, unlawful dealing of property by fiduciary;

(4) Section 76-6-521, [~~fraudulent~~] insurance fraud;

(5) Section 76-6-1203, mortgage fraud;

(6) Section 76-10-1801, communications fraud;

(7) Section 76-10-1903, money laundering; and

(8) Section 76-10-1603, pattern of unlawful activity, if at least one of the unlawful activities used to establish the pattern of unlawful activity is an offense listed in Subsections (1) through (7).

Section 150. Section 78B-3-108 is amended to read:

78B-3-108. Shoplifting -- Merchant's rights -- Civil liability for shoplifting by adult or minor -- Criminal conviction not a prerequisite for civil liability -- Written notice required for penalty demand.

(1) As used in this section:

(a) "Merchandise" has the same meaning as provided in Section 76-6-601.

(b) "Merchant" has the same meaning as provided in Section 76-6-601.

(c) "Minor" has the same meaning as provided in Section 76-6-601.

(d) "Premises" has the same meaning as "retail mercantile establishment" found in Section 76-6-601.

(2) (a) A merchant may request an individual on the merchant's premises to place or keep in full view any merchandise the individual may have removed, or which the merchant has reason to believe the individual may have removed, from its place of display or elsewhere, whether for examination, purchase, or for any other reasonable purpose.

(b) The merchant may not be criminally or civilly liable for having made the request.

(3) (a) A merchant who has reason to believe that an individual has committed any of the offenses listed in Subsection [~~76-6-412(1)(b)~~] 76-6-404(3)(b)(iii)(A), (B), or (C) and that the merchant can recover the merchandise by taking the individual into custody and detaining the individual may, for the purpose of attempting to recover the merchandise or for the purpose of informing a peace officer of the circumstances of the detention, take the individual into custody and detain the individual in a reasonable manner and for a reasonable length of time.

(b) Neither the merchant nor the merchant's employee may be criminally or civilly liable for false arrest, false imprisonment, slander, or unlawful detention or for any other type of claim or action unless the custody and detention are unreasonable under all the circumstances.

(4) (a) A merchant may prohibit an individual who has committed any of the offenses listed in Subsection [~~76-6-412(1)(b)~~] 76-6-404(3)(b)(iii) from reentering the premises on which the individual has committed the offense.

(b) The merchant shall give written notice of this prohibition to the individual under Subsection (4)(a). The notice may be served by:

(i) delivering a copy to the individual personally;

(ii) sending a copy through registered or certified mail addressed to the individual at the individual's residence or usual place of business;

(iii) leaving a copy with an individual of suitable age and discretion at either location under Subsection (4)(b)(ii) and mailing a copy to the individual at the individual's residence or place of business if the individual is absent from the residence or usual place of business; or

(iv) affixing a copy in a conspicuous place at the individual's residence or place of business.

(c) The individual serving the notice may authenticate service with the individual's signature, the method of service, and legibly documenting the date and time of service.

(5) An adult who commits any of the offenses listed in Subsection [~~76-6-412(1)(b)~~] 76-6-404(3)(b)(iii)(A), (B), or (C) is also liable in a civil action for:

(a) actual damages;

(b) a penalty to the merchant in the amount of the retail price of the merchandise not to exceed $1,000; and

(c) an additional penalty as determined by the court of not less than $100 nor more than $500, plus court costs and reasonable attorney fees.

(6) A minor who commits any of the offenses listed in Subsection [~~76-6-412(1)(b)~~] 76-6-404(3)(b)(iii)(A), (B), or (C) and the minor's parents or legal guardian are jointly and severally liable in a civil action to the merchant for:

(a) actual damages;

(b) a penalty to be remitted to the merchant in the amount of the retail price of the merchandise not to exceed $500 plus an additional penalty as determined by the court of not less than $50 nor more than $500; and

(c) court costs and reasonable attorney fees.

(7) A parent or guardian is not liable for damages under this section if the parent or guardian made a reasonable effort to restrain the wrongful taking and reported it to the merchant involved or to the law enforcement agency having primary jurisdiction once the parent or guardian knew of the

minor's unlawful act. A report is not required under this section if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the merchant involved.

(8) A conviction in a criminal action for any of the offenses listed in Subsection [~~76-6-412(1)(b)~~] 76-6-404(3)(b)(iii)(A), (B), or (C) is not a condition precedent to a civil action authorized under Subsection (5) or (6).

(9) (a) A merchant demanding payment of a penalty under Subsection (5) or (6) shall give written notice to the individual or individuals from whom the penalty is sought. The notice shall state:

"IMPORTANT NOTICE: The payment of any penalty demanded of you does not prevent criminal prosecution under a related criminal provision."

(b) This notice shall be boldly and conspicuously displayed, in at least the same size type as is used in the demand, and shall be sent with the demand for payment of the penalty described in Subsection (5) or (6).

(10) The provision of Section 78B-8-201 requiring that compensatory or general damages be awarded in order to award punitive damages does not prohibit an award of a penalty under Subsection (5) or (6) whether or not restitution has been paid to the merchant either prior to or as part of a civil action.

Section 151. Section 78B-9-104 is amended to read:

78B-9-104. Grounds for relief -- Retroactivity of rule.

(1) Unless precluded by Section 78B-9-106 or 78B-9-107, an individual who has been convicted and sentenced for a criminal offense may file an action in the district court of original jurisdiction for postconviction relief to vacate or modify the conviction or sentence upon the following grounds:

(a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;

(b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;

(c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;

(d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;

(e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:

(i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;

(ii) the material evidence is not merely cumulative of evidence that was known;

(iii) the material evidence is not merely impeachment evidence; and

(iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received;

(f) the petitioner can prove that:

(i) biological evidence, as that term is defined in Section 53-20-101, relevant to the petitioner's conviction was not preserved in accordance with Title 53, Chapter 20, Forensic Biological Evidence Preservation;

(ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested previously; or

(B) if the biological evidence described in Subsection (1)(f)(i) was tested previously, there is a material change in circumstance, including a scientific or technological advance, that would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i) would produce a favorable test result for the petitioner; and

(iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for purposes of the petitioner's action under this section, when viewed with all the other evidence, demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

(g) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:

(i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or

(ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted; or

(h) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:

(i) Section 58-37-8, possession of a controlled substance;

(ii) Section 76-10-1304, aiding prostitution;

(iii) Section 76-6-206, criminal trespass;

(iv) Section 76-6-413, theft;

(v) Section 76-6-502, possession of forged writing or device for writing;

(vi) [~~Sections 76-6-602 through 76-6-608, retail theft~~] any offense in Title 76, Chapter 6, Part 6, Retail Theft;

(vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;

(viii) Section 76-9-702, lewdness;

(ix) Section 76-10-1302, prostitution; or

(x) Section 76-10-1313, sexual solicitation.

(2) The court may not grant relief from a conviction or sentence unless in light of the facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing:

(a) the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome; or

(b) if the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgment of the fact finder.

(3) (a) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

(b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence, of this chapter may not be filed as part of a petition under this part, but shall be filed separately and in conformity with the provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Section 152. Section 80-6-610 is amended to read:

80-6-610. Property damage caused by a minor -- Liability of parent or guardian.

(1) A parent or guardian with legal custody of a minor is liable for damages sustained to property not to exceed $2,000 when:

(a) the minor intentionally damages, defaces, destroys, or takes the property of another;

(b) the minor recklessly or willfully shoots or propels a missile, or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing; or

(c) the minor intentionally and unlawfully tampers with the property of another and thereby recklessly endangers human life or recklessly causes or threatens a substantial interruption or impairment of any public utility service.

(2) A parent or guardian with legal custody of a minor is liable for damages sustained to property not to exceed $5,000 when the minor is adjudicated for an offense under Subsection (1):

(a) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(b) to gain recognition, acceptance, membership, or increased status with a criminal street gang.

(3) A juvenile court may make an order for restitution under Subsection (1) or (2) to be paid by the minor's parent or guardian if the minor is adjudicated for an offense.

(4) As used in this section, property damage described under Subsection (1)(a) or (c), or Subsection (2), includes graffiti, as defined in Section [~~76-6-107~~] 76-6-101.

(5) A court may waive part or all of the liability for damages under this section by the minor's parent or guardian if, after the minor is adjudicated, the court finds, upon the record:

(a) good cause; or

(b) the parent or guardian:

(i) made a reasonable effort to restrain the wrongful conduct; and

(ii) reported the conduct to the property owner involved or the law enforcement agency having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.

(6) A report is not required under Subsection (5)(b) from a parent or guardian if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the property owner involved.

(7) A conviction for criminal mischief under Section 76-6-106, property damage or destruction under Section 76-6-106.1, criminal trespass under Section 76-6-206, or an adjudication under Section 80-6-701 is not a condition precedent to a civil action authorized under Subsection (1) or (2).

(8) A parent or guardian is not liable under Subsection (1) or (2) if the parent or guardian made a reasonable effort to supervise and direct the minor, or, in the event the parent or guardian knew in advance of the possible taking, injury, or destruction by the minor, made a reasonable effort to restrain the minor.

Section 153. Section 80-6-709 is amended to read:

80-6-709. Payment of fines, fees, restitution, or other costs -- Community or compensatory service -- Property damage -- Unpaid balances.

(1) (a) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile court may order a minor to:

(i) pay a fine, fee, or other cost;

(ii) pay restitution in accordance with Section 80-6-710; or

(iii) complete community or compensatory service hours.

(b) (i) If the juvenile court orders the minor to pay restitution under Subsection (1)(a), a juvenile probation officer may permit the minor to complete a work program in lieu of paying part or all of the restitution by the juvenile court.

(ii) If the juvenile court orders the minor to complete community or compensatory service hours, a juvenile probation officer may permit the minor to complete a work program to help the minor complete the community or compensatory service hours.

(c) The juvenile court may, through a juvenile probation officer, encourage the development of nonresidential employment or a work program to enable a minor to fulfill the minor's obligations under Subsection (1)(a).

(d) Notwithstanding this section, a juvenile court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.

(2) If the juvenile court orders a minor to pay a fine, fee, restitution, or other cost, or to complete community or compensatory service hours, the juvenile court shall consider the dispositions collectively to ensure that an order:

(a) is reasonable;

(b) prioritizes restitution; and

(c) except for restitution as provided in Subsection 80-6-710(5)(c), takes into account the minor's ability to pay the fine, fee, or other cost within the presumptive period under Section 80-6-712 or Section 80-6-802 if the minor is ordered to secure care.

(3) (a) If the juvenile court orders a minor to pay a fine, fee, or other cost, or complete community or compensatory service hours, the cumulative order shall be limited per criminal episode as follows:

(i) for a minor under 16 years old at the time of adjudication, the juvenile court may impose up to $190 or up to 24 hours of community or compensatory service; and

(ii) for a minor 16 years old or older at the time of adjudication, the juvenile court may impose up to $280 or up to 36 hours of community or compensatory service.

(b) The cumulative order under Subsection (3)(a) does not include restitution.

(4) (a) If the juvenile court converts a fine, fee, or restitution amount to compensatory service hours, the rate of conversion shall be no less than the minimum wage.

(b) If the juvenile court orders a minor to complete community service, the presumptive service order shall include between five and 10 hours of service.

(c) If a minor completes an approved substance use disorder prevention or treatment program or other court-ordered condition, the minor may be credited with compensatory service hours for the completion of the program or condition by the juvenile court.

(5) (a) If a minor commits an offense involving the use of graffiti under Section 76-6-106, 76-6-106.1, or 76-6-206, the juvenile court may order the minor to clean up graffiti created by the minor or any other individual at a time and place within the jurisdiction of the juvenile court.

(b) The minor may complete the order of the juvenile court under Subsection (5)(a) in the presence and under the direct supervision of the minor's parent, guardian, or custodian.

(c) The minor's parent, guardian, or custodian shall report completion of the order to the juvenile court.

(d) The juvenile court may also require the minor to perform other alternative forms of restitution or repair to the damaged property in accordance with Section 80-6-710.

(6) (a) Except as provided in Subsection (6)(b), the juvenile court may issue orders necessary for the collection of restitution and fines ordered under this section, including garnishments, wage withholdings, and executions.

(b) The juvenile court may not issue an order under Subsection (6)(a) if the juvenile court orders a disposition that changes custody of a minor, including detention, secure care, or any other secure or nonsecure residential placement.

(7) Any information necessary to collect unpaid fines, fees, assessments, or restitution may be forwarded to employers, financial institutions, law enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing an order under this section.

(8) (a) If, before the entry of any order terminating the juvenile court's continuing jurisdiction over a minor's case, there remains an unpaid balance for any fine, fee, or restitution ordered by the juvenile court, the juvenile court shall:

(i) record all pertinent information for the unpaid balance in the minor's file; and

(ii) if there is an unpaid amount of restitution, record the amount of unpaid restitution as a civil judgment and list the victim, or the estate of the victim, as the judgment creditor in the civil judgment.

(b) The juvenile court may not transfer responsibility to collect unpaid fines, fees, surcharges, and restitution for a minor's case to the Office of State Debt Collection created in Section 63A-3-502.

Section 154. Repealer.

This bill repeals:

Section 76-6-412, Theft -- Classification of offenses -- Action for treble damages.

Section 76-6-506.5, Financial transaction card offenses -- Classification -- Multiple violations.

Section 76-6-606, Penalty.

Section 76-6-701, Computer Crimes Act -- Short title.

Section 76-6-802, Presumption of intent.

Section 76-6-804, "Book or other library materials" defined.

Section 76-6-805, Penalty.

Section 76-6-903, Penalties.

Section 76-6-1004, Presumptions and defenses.

Section 76-6-1201, Title.

Section 76-6-1204, Classification of offense.

Section 76-6-1301, Title.

Section 76-6-1401, Title.

Section 76-6-1407, Violation by dealer -- Penalty -- Local regulation not less stringent.

Section 76-6a-1, Short title.

Section 76-6a-3, Schemes prohibited -- Violation as deceptive consumer sales practice -- Prosecution of civil violations.

Section 76-6a-4, Operation as felony -- Participation as misdemeanor -- Investigation -- Prosecution.

Section 76-6a-5, Plan provisions not constituting defenses.

CHAPTER 112
H. B. 47
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

CRIMINAL CODE EVALUATION TASK FORCE SUNSET EXTENSION

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill extends the Criminal Code Evaluation Task Force by several years.

Highlighted Provisions:

This bill:

- extends the Criminal Code Evaluation Task Force by several years; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-29-108, as last amended by Laws of Utah 2022, Chapter 175
63I-1-236, as last amended by Laws of Utah 2022, Chapters 175, 247

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

Section 1. Section 36-29-108 is amended to read:

36-29-108. Criminal Code Evaluation Task Force.

(1) As used in this section, "task force" means the Criminal Code Evaluation Task Force created in this section.

(2) There is created the Criminal Code Evaluation Task Force consisting of the following 15 members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;

(c) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(d) the director of the Utah Sentencing Commission or the director's designee;

(e) one member appointed by the presiding officer of the Utah Judicial Council;

(f) one member of the Utah Prosecution Council appointed by the chair of the Utah Prosecution Council;

(g) the executive director of the [~~Utah~~] Department of Corrections or the executive director's designee;

(h) the commissioner of the [~~Utah~~] Department of Public Safety or the commissioner's designee;

(i) the director of the Utah Office for Victims of Crime or the director's designee;

(j) an individual who represents an association of criminal defense attorneys, appointed by the president of the Senate; and

(k) an individual who represents an association of victim advocates, appointed by the speaker of the House of Representatives.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(7) The task force shall review the state's criminal code and related statutes and make recommendations regarding:

(a) the proper classification of crimes by degrees of felony and misdemeanor;

(b) standardizing the format of criminal statutes; and

(c) other modifications related to the criminal code and related statutes.

(8) On or before November 30 of each year that the task force is in effect, the task force shall provide a report, including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Legislative Management Committee.

(9) The task force is repealed July 1, [~~2023~~] 2028.

Section 2. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates: Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

(2) Section 36-12-20 is repealed June 30, 2023.

(3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

(4) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1, [~~2023~~] 2028.

(5) [~~Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2022.~~]

CHAPTER 113
H. B. 50
Passed February 10, 2023
Approved March 14, 2023
Effective May 3, 2023

CRIMINAL FINANCIAL OBLIGATION AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions regarding financial obligations owed by a defendant as a result of a criminal sentence.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies the duties of the Office of State Debt Collection in regards to the settlement of an accounts receivable with a restitution amount;
- addresses fees and interest for an infraction;
- addresses restitution for a plea in abeyance;
- addresses a criminal accounts receivable in regards to probation;
- addresses a payment towards a civil judgment of restitution;
- amends provisions regarding the collection of information for restitution;
- amends provisions regarding an order for restitution;
- clarifies the effect and nature of a civil judgment of restitution and a civil accounts receivable;
- addresses a civil action or settlement for a defendant's criminal conduct;
- amends provisions regarding the disbursement of payments towards a criminal accounts receivable, a civil accounts receivable, and a civil judgment of restitution;
- amends provisions regarding an appeal from a justice court to a district court; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-3-502, as last amended by Laws of Utah 2022, Chapter 323
76-3-301, as last amended by Laws of Utah 2019, Chapter 291
77-2a-1, as last amended by Laws of Utah 2021, Chapter 260
77-2a-3, as last amended by Laws of Utah 2022, Chapter 116
77-18-108, as last amended by Laws of Utah 2022, Chapter 115
77-18-114, as last amended by Laws of Utah 2022, Chapters 323, 359
77-20-302, as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4
77-38b-102, as last amended by Laws of Utah 2022, Chapter 359
77-38b-201, as enacted by Laws of Utah 2021, Chapter 260
77-38b-205, as enacted by Laws of Utah 2021, Chapter 260
77-38b-301, as enacted by Laws of Utah 2021, Chapter 260
77-38b-303, as last amended by Laws of Utah 2022, Chapter 359
77-38b-304, as last amended by Laws of Utah 2022, Chapter 323
78A-7-118, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4

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

Section 1. Section 63A-3-502 is amended to read:

63A-3-502. Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with:

(a) the requirements of this chapter; and

(b) any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

(e) provide information, training, and technical assistance to each state agency on various collection-related topics;

(f) write an inclusive receivables management and collection manual for use by each state agency;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(j) identify any state agency that is not making satisfactory progress toward implementing

collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or the office's designee;

(o) be a real party in interest for:

(i) an account receivable referred to the office by any state agency; and

(ii) a civil judgment of restitution entered on a civil judgment docket by a court;

(p) allocate money collected for a judgment entered on the civil judgment docket under Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110;

(q) if a criminal accounts receivable is transferred to the office under Subsection 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts receivable;

(r) provide a debtor online access to the debtor's accounts receivable or criminal accounts receivable in accordance with Section 63A-3-502.5;

(s) establish a written policy for each of the following:

(i) the settling of an accounts receivable, including [~~that a restitution amount may be settled~~] any amount of restitution owed to a victim in a civil judgment of restitution if the victim approves of the settlement;

(ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if the debtor has a balance on another debt as part of an accounts receivable or criminal accounts receivable;

(iii) setting a payment deadline for settlement agreements and for obtaining an extension of a settlement agreement deadline; and

(iv) reducing administrative costs when a settlement has been reached;

(t) consult with a state agency on whether:

(i) the office may agree to a settlement for an amount that is less than the debtor's principal amount; and

(ii) the state agency may retain authority to negotiate a settlement with a debtor; and

(u) provide the terms and conditions of any payment arrangement that the debtor has made with a state agency or the office when:

(i) the payment arrangement is created; or

(ii) the debtor requests a copy of the terms and conditions.

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting the state's receivables;

(d) contract with private or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial declaration form described in Section 77-38b-204;

(g) collect interest and fees related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-504:

(i) a fee to cover the administrative costs of collection on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

(h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;

(j) for a case that is referred to the office or in which the office is a judgment creditor, file a motion or other document related to the office or the accounts receivable in that case, including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;

(k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record;

(m) enter into written agreements with other governmental agencies to obtain and share information for the purpose of collecting state accounts receivable; and

(n) collect accounts receivable for a political subdivision of the state if the political subdivision enters into an agreement or contract with the office under Title 11, Chapter 13, Interlocal Cooperation Act, for the office to collect the political subdivision's accounts receivable.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor under Subsection (4)(l):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any individual employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6) (a) The office shall collect a civil accounts receivable or a civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 77-18-114(1) or (2).

(b) The office may not assess:

(i) the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4; and

(ii) an interest charge on a criminal accounts receivable that is transferred to the office under Subsection 77-32b-103(2)(a)(ii).

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or the office's designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report the state's receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of the state agency's receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) All interest, fees, and other amounts authorized to be collected by the office under Subsection (4)(g):

(a) are penalties that may be charged by the office;

(b) do not require an order from a court for the office to assess or collect;

(c) are not compensation for actual pecuniary loss;

(d) for a civil accounts receivable:

(i) begin to accrue on the day on which the civil accounts receivable is entered on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) may be collected as part of the civil accounts receivable;

(e) for a civil judgment of restitution:

(i) begin to accrue on the day on which the civil judgment of restitution is entered on the civil judgment docket under Subsection 77-18-114(1); and

(ii) may be collected as part of the civil judgment of restitution;

(f) for all other accounts receivable:

(i) begin to accrue on the day on which the accounts receivable is transferred to the office, even if there is no court order on the day on which the accounts receivable is transferred; and

(ii) may be collected as part of the accounts receivable; and

(g) may be waived by:

(i) the office; or

(ii) if the interest, fee, or other amount is charged in error, the court.

Section 2. Section 76-3-301 is amended to read:

76-3-301. Fines of individuals.

(1) An individual convicted of an offense may be sentenced to pay a fine, not exceeding:

(a) $10,000 for a felony conviction of the first degree or second degree;

(b) $5,000 for a felony conviction of the third degree;

(c) $2,500 for a class A misdemeanor conviction;

(d) $1,000 for a class B misdemeanor conviction;

(e) $750 for a class C misdemeanor conviction or infraction conviction; and

(f) any greater amounts specifically authorized by statute.

(2) (a) An individual convicted of a misdemeanor or infraction and sentenced to pay a fine may not be charged by a court:

(i) notwithstanding Section 15-1-4, interest on the judgment that in the aggregate is more than 25% of the initial fine; or

(ii) that issues an order to show cause under Section 78B-6-317 for failure to pay the fine, interest that is more than 25% of the initial fine.

(b) An individual convicted only of an infraction and sentenced to pay a fine may not be charged:

(i) by the Office of State Debt Collection, late fees and interest that in the aggregate are more than 25% of the initial fine; or

(ii) by a third-party debt contractor of the Office of State Debt Collection, additional fees.

(3) Subsection (2) does not apply to a case that includes:

(a) victim restitution; or

(b) a felony conviction, even if that felony conviction is later reduced.

(4) This section does not apply to a corporation, association, partnership, government, or governmental instrumentality.

Section 3. Section 77-2a-1 is amended to read:

77-2a-1. Definitions.

As used in this chapter:

(1) "Criminal conduct" means the same as that term is defined in Section 77-38b-102.

[~~(1)~~] (2) "Pecuniary damages" means the same as that term is defined in Section 77-38b-102.

[~~(2)~~] (3) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.

[~~(3)~~] (4) "Plea in abeyance agreement" means an agreement entered into between the prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

[~~(4)~~] (5) "Restitution" means the same as that term is defined in Section 77-38b-102.

(6) "Victim" means the same as that term is defined in Section 77-38b-102.

Section 4. Section 77-2a-3 is amended to read:

77-2a-3. Manner of entry of plea -- Powers of court.

(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.

(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance agreement may be entered into without a personal appearance before a magistrate.

(2) A plea in abeyance agreement may provide that the court may, upon finding that the defendant has successfully completed the terms of the agreement:

(a) reduce the degree of the offense and enter judgment of conviction and impose sentence for a lower degree of offense; or

(b) allow withdrawal of defendant's plea and order the dismissal of the case.

(3) (a) Upon finding that a defendant has successfully completed the terms of a plea in abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as provided in the plea in abeyance agreement or as agreed to by all parties.

(b) Upon sentencing a defendant for any lesser offense in accordance with a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of the offense.

(4) The court may require the Department of Corrections to assist in the administration of the plea in abeyance agreement as if the defendant were on probation to the court under Section 77-18-105.

(5) The terms of a plea in abeyance agreement may include:

(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and which may not exceed in amount the maximum fine and surcharge which could have been imposed upon conviction and sentencing for the same offense;

(b) an order that the defendant pay the costs of any remedial or rehabilitative program required by the terms of the agreement; and

(c) an order that the defendant comply with any other conditions that could have been imposed as conditions of probation upon conviction and sentencing for the same offense.

[~~(6) (a) The terms of a plea in abeyance shall include an order for a specific amount of restitution~~

~~that the defendant will pay, as agreed to by the defendant and the prosecuting attorney, unless the prosecuting attorney certifies that:~~]

[~~(i) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and~~]

[~~(ii) the defendant does not owe any restitution.~~]

(6) [~~(b)~~] (a) The terms of a plea in abeyance shall include:

(i) a specific amount of restitution that the defendant will pay, as agreed to by the defendant and the prosecuting attorney;

(ii) a certification from the prosecuting attorney that:

(A) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and

(B) all victims, including the Utah Office for Victims of Crime, are not seeking restitution; or

(iii) an agreement between the parties that restitution will be determined by the court at a subsequent hearing in accordance with Section 77-38b-205.

(b) At a subsequent hearing described in Subsection (6)(a)(iii), the court shall order the defendant, as a modified term of the plea in abeyance, to pay restitution to all victims for the entire amount of pecuniary damages that are proximately caused by the criminal conduct of the defendant.

(c) The court shall collect, receive, process, and distribute payments for restitution to the victim, unless otherwise provided by law or by the plea in abeyance agreement.

[~~(c)~~] (d) If the defendant does not successfully complete the terms of the plea in abeyance, the court shall enter an order for restitution, in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act, upon entering a sentence for the defendant.

(7) (a) A court may not hold a plea in abeyance without the consent of both the prosecuting attorney and the defendant.

(b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

(8) No plea may be held in abeyance in any case involving:

(a) a sexual offense against [~~a victim~~] an individual who is under 14 years old; or

(b) a driving under the influence violation under Section 41-6a-502, 41-6a-502.5, 41-6a-517, 41-6a-520, 76-5-102.1, or 76-5-207.

Section 5. Section 77-18-108 is amended to read:

77-18-108. Termination, revocation, modification, or extension of probation -- Violation of probation -- Hearing on violation.

(1) (a) The department shall [~~notify the court and the prosecuting attorney, in writing~~] send a written notice to the court:

(i) when the department is [~~requesting~~] recommending termination of supervision for a defendant; or

(ii) before a defendant's supervision will be terminated by law.

(b) The [~~notification~~] written notice under this Subsection (1) shall include:

(i) a probation progress report[~~.~~]; and

(ii) if the department is responsible for the collection of the defendant's criminal accounts receivable, a summary of the criminal accounts receivable, including the amount of restitution ordered and the amount of restitution that has been paid.

(c) (i) Upon receipt of the written notice under Subsection (1)(a), the court shall:

(A) file the written notice on the docket; and

(B) provide notice to all parties in the criminal case.

(ii) A party shall have a reasonable opportunity to respond to the written notice under Subsection (1)(a).

[~~(c)~~] (d) If a defendant's probation is being terminated, and the defendant's criminal accounts receivable has an unpaid balance or there is any outstanding debt with the department, the department shall [~~notify~~] send a written notice to the Office of State Debt Collection [~~that the defendant's criminal accounts receivable has an unpaid balance or there is an outstanding debt with the department.~~] with a summary of the defendant's criminal accounts receivable, including the amount of restitution ordered and the amount of restitution that has been paid.

(2) (a) The court may modify the defendant's probation in accordance with the supervision length guidelines and the graduated and evidence-based responses and graduated incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(b) The court may not:

(i) extend the length of a defendant's probation, except upon:

(A) waiver of a hearing by the defendant; or

(B) a hearing and a finding by the court that the defendant has violated the terms of probation;

(ii) revoke a defendant's probation, except upon a hearing and a finding by the court that the terms of probation have been violated; or

(iii) terminate a defendant's probation before expiration of the probation period until the court:

(A) reviews the docket to determine whether the defendant owes a balance on the defendant's criminal accounts receivable; and

(B) enters a finding of whether the defendant owes restitution under Section 77-38b-205.

(c) The court may find under Subsection (2)(b)(iii)(B) that the defendant does not owe restitution if no request for restitution has been filed with the court.

(3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, alleging with particularity facts asserted to constitute violation of the terms of a defendant's probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of the defendant's probation is justified.

(b) (i) If the court determines there is probable cause, the court shall order that the defendant be served with:

(A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration; and

(B) an order to show cause as to why the defendant's probation should not be revoked, modified, or extended.

(ii) The order under Subsection (3)(b)(i)(B) shall:

(A) be served upon the defendant at least five days before the day on which the hearing is held;

(B) specify the time and place of the hearing; and

(C) inform the defendant of the right to be represented by counsel at the hearing, the right to have counsel appointed if the defendant is indigent, and the right to present evidence at the hearing.

(iii) The defendant shall show good cause for a continuance of the hearing.

(c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(d) (i) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(ii) If the affidavit, or unsworn written declaration, alleges that a defendant is delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall present evidence to establish, by a preponderance of the evidence, that the defendant:

(A) was aware of the defendant's obligation to pay the balance of the criminal accounts receivable;

(B) failed to pay on the balance of the criminal accounts receivable as ordered by the court; and

(C) had the ability to make a payment on the balance of the criminal accounts receivable if the defendant opposes an order to show cause, in writing, and presents evidence that the defendant was unable to make a payment on the balance of the criminal accounts receivable.

(e) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant, unless the court for good cause otherwise orders.

(f) At the hearing, the defendant may:

(i) call witnesses;

(ii) appear and speak in the defendant's own behalf; and

(iii) present evidence.

(g) (i) After the hearing, the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the terms of the defendant's probation, the court may order the defendant's probation terminated, revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(4) (a) (i) Except as provided in Subsection 77-18-105(7), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation that the defendant serves, in relation to the same sentence, may not exceed the defendant's maximum sentence.

(b) If the court orders a sanction for a defendant who violated terms of probation, the court may:

(i) order a period of incarceration that is consistent with the guidelines established by the Utah Sentencing Commission in accordance with Subsection 63M-7-404(4);

(ii) order a period of incarceration that deviates from the guidelines with an explanation for the deviation on the record;

(iii) order treatment services that are immediately available in the community for a defendant that needs substance abuse or mental health treatment, as determined by a screening and assessment;

(iv) execute the sentence previously imposed; or

(v) order any other appropriate sanction.

(c) If the defendant had, before the imposition of a term of incarceration or the execution of the previously imposed sentence under this section, served time in jail as a term of probation or due to a violation of probation, the time that the defendant served in jail constitutes service of time toward the sentence previously imposed.

(5) (a) Any time served by a defendant:

(i) outside of confinement after having been charged with a probation violation, and before a hearing to revoke probation, does not constitute service of time toward the total probation term, unless the defendant is exonerated at a hearing to revoke the defendant's probation;

(ii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation does not constitute service of time toward the total probation term, unless the defendant is exonerated at the hearing to revoke probation; or

(iii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated and evidence-based response imposed under the guidelines established by the Utah Sentencing Commission in accordance with Section 63M-7-404.

(b) The running of the probation period is tolled upon:

(i) the filing of a report with the court alleging a violation of the terms of the defendant's probation; or

(ii) the issuance of an order or a warrant under Subsection (3).

Section 6. Section 77-18-114 is amended to read:

77-18-114. Unpaid balance at termination of sentence -- Past due account -- Notice -- Account or judgment paid in full -- Effect of civil accounts receivable and civil judgment of restitution.

(1) When a defendant's sentence is terminated by law or by the decision of the court or the board:

(a) the board shall provide an accounting of the unpaid balance of the defendant's criminal accounts receivable to the court if the defendant was on parole or incarcerated at the time of termination; and

(b) except as provided in Subsection 77-18-118(1)(g), within 90 days after the day on which a defendant's sentence is terminated, the court shall:

(i) enter an order for a civil accounts receivable and a civil judgment of restitution for a defendant on the civil judgment docket;

(ii) transfer the responsibility of collecting the civil accounts receivable and the civil judgment of restitution to the Office of State Debt Collection; and

(iii) identify in the order under this Subsection (1):

(A) the Office of State Debt Collection as a judgment creditor for the civil accounts receivable and the civil judgment of restitution; and

(B) the victim as a judgment creditor for the civil judgment of restitution.

(2) If a criminal accounts receivable for the defendant is more than 90 days past due and the court has ordered that a defendant does not owe restitution to any victim, or the time period in Subsection 77-38b-205(5) has passed and the court has not ordered restitution, the court may:

(a) enter an order for a civil accounts receivable for the defendant on the civil judgment docket;

(b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as a judgment creditor for the civil accounts receivable; and

(c) transfer the responsibility of collecting the civil accounts receivable to the Office of State Debt Collection.

(3) An order for a criminal accounts receivable is no longer in effect after the court enters an order for a civil accounts receivable or a civil judgment of restitution under Subsection (1) or (2).

(4) The court shall provide notice to the Office of State Debt Collection and the prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the civil judgment of restitution.

(5) The Office of State Debt Collection shall notify the court when a civil judgment of restitution or a civil accounts receivable is satisfied.

(6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil accounts receivable on the civil judgment docket, or when restitution is recorded as an order for a civil judgment of restitution on the civil judgment docket, the order:

(a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

(b) may be collected by any means authorized by law for the collection of a civil judgment.

(7) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of restitution are not subject to the civil statutes of limitation and expire only upon payment in full.

(8) (a) If a defendant asserts that a payment was made to a victim or third party for a civil judgment of restitution, or enters into any other transaction that does not involve the Office of State Debt Collection, and the defendant asserts that the payment results in a credit towards the civil judgment of restitution for the defendant:

(i) the defendant shall provide notice to the Office of State Debt Collection and the prosecuting attorney within 30 days after the day on which the payment or other transaction is made; and

(ii) the payment may only be credited towards [~~the principal of~~] the civil judgment of restitution and does not affect any other amount owed to the Office of State Debt Collection under Section 63A-3-502.

(b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party from providing notice of a payment towards a civil judgment of restitution to the Office of State Debt Collection.

Section 7. Section 77-20-302 is amended to read:

77-20-302. Grounds for detaining defendant while appealing the defendant's conviction -- Conditions for release while on appeal.

(1) The court shall order that a defendant who has been found guilty of an offense in a court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the court finds:

(a) the appeal raises a substantial question of law or fact likely to result in:

(i) reversal;

(ii) an order for a new trial; or

(iii) a sentence that does not include a term of imprisonment in jail or prison;

(b) the appeal is not for the purpose of delay; and

(c) by clear and convincing evidence presented by the defendant, that the defendant:

(i) is not likely to flee the jurisdiction of the court if released; and

(ii) will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) (a) If the court makes a finding under Subsection (1) that justifies not detaining the defendant, the court shall order the release of the defendant, subject to only conditions of release that are reasonably available and necessary to reasonably ensure the appearance of the defendant as required and the safety of any other individual, property, and the community.

(b) The conditions under Subsection (2)(a) may include conditions described in Subsection 77-20-205(4).

(c) The court may, in the court's discretion, amend an order granting release to impose additional or different conditions of release.

(3) If the defendant is found guilty of an offense in a court not of record and files a timely notice of appeal in accordance with Subsection [~~78A-7-118(1)~~] 78A-7-118(2) for a trial de novo, the court shall stay all terms of a sentence, unless at the time of sentencing the judge finds by a preponderance of the evidence that the defendant poses a danger to another person or the community.

(4) If a stay is ordered, the court may order postconviction restrictions on the defendant's conduct as appropriate, including:

(a) continuation of any pretrial restrictions or orders;

(b) sentencing protective orders under Section 78B-7-804;

(c) drug and alcohol use;

(d) use of an ignition interlock; and

(e) posting appropriate monetary bail.

(5) The provisions of Subsections (3) and (4) do not apply to convictions for an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(6) Any stay authorized by Subsection (3) is lifted upon the dismissal of the appeal by the district court.

Section 8. Section 77-38b-102 is amended to read:

77-38b-102. Definitions.

As used in this chapter:

(1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(3) (a) "Conviction" means:

(i) a plea of:

(A) guilty;

(B) guilty with a mental illness; or

(C) no contest; or

(ii) a judgment of:

(A) guilty; or

(B) guilty with a mental illness.

(b) "Conviction" does not include:

(i) a plea in abeyance until a conviction is entered for the plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(4) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(5) "Criminal conduct" means:

(a) any misdemeanor or felony offense of which the defendant is convicted; or

(b) any other criminal behavior for which the defendant admits responsibility to the [~~sentencing~~] court with or without an admission of committing the criminal behavior.

(6) (a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, criminal conduct.

(b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80, Chapter 6, Juvenile Justice.

(7) "Department" means the Department of Corrections.

(8) "Diversion agreement" means an agreement entered into by the prosecuting attorney and the defendant that suspends criminal proceedings

before conviction on the condition that a defendant agree to participate in a rehabilitation program, pay restitution to the victim, or fulfill some other condition.

(9) "Office" means the Office of State Debt Collection created in Section 63A-3-502.

[~~(10) "Party" means the prosecuting attorney, the defendant, or the department involved in a prosecution.~~]

[~~(11)~~] (10) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

[~~(12)~~] (11) (a) "Pecuniary damages" means all demonstrable economic injury, losses, and expenses regardless of whether the economic injury, losses, and expenses have yet been incurred.

(b) "Pecuniary damages" does not include punitive damages or pain and suffering damages.

[~~(13)~~] (12) "Plea agreement" means an agreement entered between the prosecuting attorney and the defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

[~~(14)~~] (13) "Plea disposition" means an agreement entered into between the prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

[~~(15)~~] (14) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.

[~~(16)~~] (15) "Plea in abeyance agreement" means an agreement entered into between the prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

[~~(17)~~] (16) "Restitution" means the payment of pecuniary damages to a victim.

[~~(18)~~] (17) (a) "Victim" means any person who has suffered pecuniary damages that are proximately caused by the criminal conduct of the defendant.

(b) "Victim" includes:

(i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes a payment to, or on behalf of, a victim under Section 63M-7-519;

(ii) the estate of a deceased victim; and

(iii) a parent, spouse, intimate partner as defined in 18 U.S.C. Sec. 921, child, or sibling of a victim.

(c) "Victim" does not include a codefendant or accomplice.

Section 9. Section 77-38b-201 is amended to read:

77-38b-201. Law enforcement responsibility for collecting restitution information.

(1) A law enforcement agency investigating criminal conduct that would constitute a felony or a misdemeanor shall include [~~all~~] information about restitution for any potential victim in the investigative report or the citation, including information about[~~:~~] whether a claim for restitution may exist.

[~~(1) whether a claim for restitution exists;~~]

(2) A law enforcement agency shall also include in the investigative report:

(a) the basis for the claim for restitution; and

[~~(3)~~] (b) the estimated or actual amount of the claim for restitution.

Section 10. Section 77-38b-205 is amended to read:

77-38b-205. Order for restitution.

(1) (a) [~~(i)~~] If a defendant is convicted, as defined in Section 76-3-201, the court shall order a defendant, as part of the sentence imposed under Section 76-3-201, to pay restitution to all victims:

[~~(A)~~] (i) in accordance with the terms of any plea agreement in the case; or

[~~(B)~~] (ii) for the entire amount of pecuniary damages that are proximately caused to each victim by the criminal conduct of the defendant.

[~~(ii) In determining the amount of pecuniary damages under Subsection (1)(a)(i)(B), the court shall consider all relevant facts to establish an amount that fully compensates a victim for all pecuniary damages proximately caused by the criminal conduct of the defendant.~~]

[~~(iii) The court shall enter the determination of the amount of restitution under Subsection (1)(a)(ii) as a finding on the record.~~]

(b) If a court enters a plea in abeyance or a diversion agreement for a defendant that includes an agreement to pay restitution, the court shall order the defendant to pay restitution to all victims:

(i) in accordance with the terms of the plea in abeyance or the diversion agreement[~~.~~]; or

(ii) if the terms of the plea in abeyance include an agreement between the parties that restitution will be determined by the court as described in Section 77-2a-3, for the entire amount of pecuniary damages that are proximately caused to each victim by the criminal conduct of the defendant.

(c) In determining the amount of pecuniary damages under Subsection (1)(a)(ii) or (b)(ii), the court shall consider all relevant facts to establish an amount that fully compensates a victim for all pecuniary damages proximately caused by the criminal conduct of the defendant.

(d) The court shall enter the determination of the amount of restitution under Subsection (1)(a)(ii) or (b)(ii) as a finding on the record.

(2) [~~(a)~~] Upon an order for a defendant to pay restitution under Subsection (1), the court shall:

[~~(i)~~] (a) enter an order to establish a criminal accounts receivable as described in Section 77-32b-103; and

[~~(ii)~~] (b) establish a payment schedule for the criminal accounts receivable as described in Section 77-32b-103.

(3) If the defendant objects to [~~the order for restitution or the payment schedule~~] a request for restitution, the court shall allow the defendant to have a hearing on the issue, unless the issue is addressed at the sentencing hearing for the defendant.

(4) If a court does not enter an order for restitution at sentencing, the court shall schedule a hearing to enter an order for restitution, unless:

(a) the court finds as a matter of law that there is no victim in the case; or

(b) the prosecuting attorney certifies to the court, on the record, that:

(i) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and

(ii) all victims, including the Utah Office for Victims of Crime, are not seeking restitution.

[~~(4) (a) For a defendant who is sentenced after July 1, 2021, if no restitution is ordered at sentencing, the court shall schedule a hearing to determine restitution, unless the parties waive the hearing in accordance with Subsection (4)(b).~~]

[~~(b) The parties may only waive a hearing under Subsection (4)(a) if:~~]

[~~(i) the parties have stipulated to the amount of restitution owed; or~~]

[~~(ii) the prosecuting attorney certifies that the prosecuting attorney has consulted with the victim, including the Utah Office for Victims of Crime, and the defendant owes no restitution.~~]

[~~(c) The court may not enter an order for restitution without a statement from the prosecuting attorney that the prosecuting attorney has consulted with the victim, including the Utah Office for Victims of Crime.~~]

[~~(d) If the court does not enter an order for restitution in a hearing under Subsection (4)(a), the court shall:~~]

[~~(i) state, on the record, why the court did not enter an order for restitution; and~~]

[~~(ii) order a continuance of the hearing.~~]

(5) (a) A court shall enter an order for restitution in a defendant's case no later than the earlier of:

[~~(a)~~] (i) the termination of the defendant's sentence, including early termination of the defendant's sentence; or

[~~(b)~~] (ii) [~~(i)~~] (A) if the defendant is convicted and imprisoned for a first degree felony, within seven years after the day on which the court sentences the defendant for the first degree felony conviction; or

[~~(ii)~~] (B) except as provided in Subsection [~~(5)(b)(i)~~] (5)(a)(ii)(A), and if the defendant is convicted of a felony, within three years after the day on which the court sentences the defendant for the felony conviction[~~; and~~].

[~~(iii) if the defendant is convicted of a misdemeanor, within one year after the day on which the court sentences the defendant for the misdemeanor conviction.~~]

(b) A request for restitution that is made within the time period described in Subsection (5)(a) tolls the time for which the court must enter an order for restitution under Subsection (5)(a) but does not extend the term of the defendant's probation or period of incarceration.

(6) (a) If a court does not order restitution at sentencing or at a hearing described in Subsection (4), the prosecuting attorney or the victim may file a motion for restitution within the time periods described in Subsection (5).

(b) If the defendant receives notice and does not object to a motion for restitution, the court may order restitution without a hearing.

(c) If the defendant receives notice and objects to a motion for restitution, the court may schedule a hearing to determine whether restitution should be ordered if the prosecuting attorney or victim shows good cause.

[~~(6)~~] (7) [~~(a)~~] Upon a motion from the prosecuting attorney or the victim within the time periods described in Subsection (5), the court may modify an existing order of restitution, including the amount of pecuniary damages owed by the defendant in the order for restitution, if the prosecuting attorney or the victim shows good cause for modifying the order.

[~~(b) A motion under Subsection (6)(a) shall be brought within the time periods described in Subsection (5).~~]

Section 11. Section 77-38b-301 is amended to read:

77-38b-301. Entry of a civil judgment of restitution and civil accounts receivable -- Continuation of the criminal action -- Interest -- Delinquency.

(1) As used in this section, "civil judgment" means an order for:

(a) a civil judgment of restitution; or

(b) a civil accounts receivable.

(2) [~~(a)~~] If the court has entered a civil judgment on the civil judgment docket under Section 77-18-114, the civil judgment is enforceable under the Utah Rules of Civil Procedure.

[~~(b) (i) Notwithstanding Subsection (2)(a):~~]

[~~(A) a judgment is an obligation that arises out of the defendant's criminal case;~~]

[~~(B) civil enforcement of a judgment shall be construed as a continuation of the criminal action for which the judgment arises; and~~]

[~~(C) a judgment is criminal in nature.~~]

[~~(ii) Civil enforcement of a judgment does not divest a defendant of an obligation imposed in a criminal action as part of the defendant's punishment for an offense.~~]

(3) (a) Notwithstanding Sections 77-18-114, 78B-2-311, and 78B-5-202, a civil judgment shall expire only upon payment in full, including any applicable interest, collection fees, attorney fees, and liens that directly result from the civil judgment.

(b) Interest on a civil judgment may only accrue from the day on which the civil judgment is entered on the civil judgment docket by the court.

(c) This Subsection (3) applies to all civil judgments that are not paid in full on or before May 12, 2009.

(4) A civil judgment is considered entered on the civil judgment docket when the civil judgment appears on the civil judgment docket with:

(a) an amount owed by the defendant;

(b) the name of the defendant as the judgment debtor; and

(c) the name of the judgment creditors described in Subsections 77-18-114(1)(b)(iii) and (2)(b).

(5) If a civil judgment [~~of restitution~~] becomes delinquent, or is in default, and upon a motion from a judgment creditor, the court may order the defendant to appear and show cause why the defendant should not be held in contempt under Section 78B-6-317 for the delinquency or the default.

(6) Notwithstanding any other provision of law:

(a) a civil judgment is an obligation that arises out of a defendant's criminal case;

(b) a civil judgment is criminal in nature;

(c) the civil enforcement of a civil judgment shall be construed as a continuation of the criminal action for which the civil judgment arises; and

(d) the civil enforcement of a civil judgment does not divest a defendant of an obligation imposed as part of the defendant's punishment in a criminal action.

Section 12. Section 77-38b-303 is amended to read:

77-38b-303. Effect of civil action or settlement for criminal conduct -- Issue preclusion -- Crediting payments.

[~~(1) A provision under this part concerning restitution does not~~]

(1) As used in this section:

(a) "Civil settlement" or "settlement" means an agreement entered into between a victim and a defendant that settles all the claims that a victim may bring in a civil action against the defendant for the defendant's criminal conduct.

(b) "Civil settlement" or "settlement" does not include an agreement that settles a civil judgment of restitution or a civil accounts receivable for a defendant.

(2) Nothing in this chapter shall be construed to limit or impair the right of a [~~person injured by a defendant's criminal conduct~~] victim to sue and recover damages from the defendant in a civil action.

[~~(2)~~] (3) (a) A court's finding on the amount of restitution owed by a defendant under Subsection [~~77-38b-205(1)(a)(iii)~~] 77-38b-205(1)(d) may be used in a civil action pertaining to the defendant's liability to a victim as presumptive proof of the victim's pecuniary damages that are proximately caused by the defendant's criminal conduct.

(b) If a conviction in a criminal trial decides the issue of a defendant's liability for pecuniary damages suffered by a victim, the issue of the defendant's liability for pecuniary damages is conclusively determined as to the defendant if the issue is involved in a subsequent civil action.

(c) (i) Except as provided in Subsection [~~(2)(c)(ii)~~] (3)(c)(ii), if a defendant is convicted of a misdemeanor or felony offense, the defendant is precluded from subsequently denying the essential allegations of the offense in a subsequent civil action brought against the defendant for the criminal conduct underlying the offense.

(ii) Subsection [~~(2)(c)(i)~~] (3)(c)(i) does not apply if the offense is a class C misdemeanor under Title 41, Chapter 6a, Traffic Code, or the defendant entered a plea of no contest for the offense.

(4) If a civil action brought by a victim against a defendant results in a civil judgment for the defendant's criminal conduct or there is a civil settlement entered into between a victim and defendant for the defendant's criminal conduct, the civil judgment or settlement does not limit or preclude:

(a) the sentencing court from entering an order of restitution against the defendant in accordance with this chapter; or

(b) the civil enforcement of a civil judgment of restitution by the office or the victim.

[~~(3)~~] (5) (a) The sentencing court shall credit any payment [~~in favor of the~~] made to a victim in a civil action for the defendant's criminal conduct toward the amount of restitution owed by the defendant to the victim.

(b) In a civil action, a court shall credit any restitution paid by the defendant to a victim for the defendant's criminal conduct towards the victim against any judgment that is in favor of the victim for the civil action.

(c) If a victim receives payment from the defendant for the civil action, the victim shall

provide notice to the sentencing court and the court in the civil action of the payment within 30 days after the day on which the victim receives the payment.

[~~(d) Nothing in this section shall prevent a defendant from providing proof of payment to the court or the office.~~]

[~~(4)~~] (6) (a) If a victim prevails in a civil action against a defendant, the court shall award reasonable attorney fees and costs to the victim.

(b) If the defendant prevails in the civil action, the court shall award reasonable costs to the defendant if the court finds that the victim brought the civil action for an improper purpose, including to harass the defendant or to cause unnecessary delay or needless increase in the cost of litigation.

(7) (a) The sentencing court shall credit any payment made to a victim as part of a civil settlement toward the amount of restitution owed by the defendant to the victim if the sentencing court determines that the payment compensates the victim for pecuniary damages proximately caused by the defendant's criminal conduct.

(b) If a victim receives a payment from the defendant as part of a civil settlement, the victim shall provide notice to the sentencing court within 30 days after the day on which the victim receives the payment.

(8) Nothing in this section shall prevent a defendant from providing proof of payment to the court or the office.

Section 13. Section 77-38b-304 is amended to read:

77-38b-304. Priority of payment disbursement.

(1) The court, or the office, shall disburse a payment for restitution within 60 days after the day on which the payment is received from the defendant if:

(a) the victim has complied with Subsection 77-38b-203(2);

(b) if the defendant has tendered a negotiable instrument, funds from the financial institution are actually received; [~~and~~]

(c) the payment to the victim is at least [~~$5~~] $25, unless the payment is the final payment[~~.~~]; and

(d) there is no pending legal issue that would affect an order for restitution or the distribution of restitution.

(2) The court[~~, or the office,~~] shall disburse money collected from a defendant for a criminal accounts receivable in the following order of priority:

(a) first, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

(b) second, to the cost of obtaining a DNA specimen from the defendant as described in Subsection (4)(b);

(c) third, to any criminal fine or surcharge owed by the defendant;

(d) fourth, to the cost owed by the defendant for a reward described in Section 77-32b-104;

(e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization, and related transportation paid by a county correctional facility under Section 17-50-319; and

(f) sixth, to any other [~~cost~~] amount owed by the defendant.

(3) [~~Subject to Subsection (5), the office shall disburse~~] When the office collects money [~~collected~~] from a defendant for a criminal accounts receivable, a civil accounts receivable [~~and~~], or a civil judgment of restitution, the office shall disburse the money in the following order of priority:

(a) first, to any past due amount owed to the department for the monthly supervision fee under Subsection 64-13-21(6)(a);

(b) second, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

(c) third, to the cost of obtaining a DNA specimen from the defendant in accordance with Subsection (4)(b);

(d) fourth, to any criminal fine or surcharge owed by the defendant;

(e) fifth, to the cost owed by the defendant for a reward described in Section 77-32b-104;

(f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization and related transportation paid by a county correctional facility under Section 17-50-319; and

(g) seventh, to any other [~~cost~~] amount owed by the defendant.

(4) (a) [~~Subject to Subsection (5), if~~] If a defendant owes restitution to more than one person or government agency at the same time, the court, or the office, shall disburse a payment for restitution in the following order of priority:

(i) first, to the victim of the offense;

(ii) second, to the Utah Office for Victims of Crime;

(iii) third, any other government agency that has provided reimbursement to the victim as a result of the defendant's criminal conduct; and

(iv) fourth, any insurance company that has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(b) [~~Subject to Subsection (5), if~~] If a defendant is required under Section 53-10-404 to reimburse the department for the cost of obtaining the defendant's DNA specimen, the reimbursement for the cost of obtaining the defendant's DNA specimen is the next priority after restitution to the victim of the offense under Subsection (4)(a)(i).

(c) If a defendant is required to pay restitution to more than one victim, the court or the office shall

disburse a payment for restitution proportionally to each victim.

[~~(c) Subject to Subsection (5), if the defendant is required to pay restitution to more than one victim, restitution shall be disbursed to each victim according to the percentage of each victim's share of the total order for restitution.~~]

(5) [~~The~~] Notwithstanding the requirements for the disbursement of a payment under Subsection (3) or (4), the office shall disburse money collected from a defendant to a debt that is a part of a civil accounts receivable or civil judgment of restitution if:

(a) a defendant has provided a written request to the office to apply the payment to the debt; and

(b) (i) the payment will eliminate the entire balance of the debt, including any interest; or

(ii) after reaching a settlement, the payment amount will eliminate the entire agreed upon balance of the debt, including any interest.

(6) For a criminal accounts receivable, the department shall collect the current and past due amount owed by a defendant for the monthly supervision fee under Subsection 64-13-21(6)(a) until the court enters a civil accounts receivable on the civil judgment docket under Section 77-18-114.

(7) Notwithstanding any other provision of this section:

(a) the office may collect a fee, as described in Subsection 63A-3-502(4), from each payment for a criminal accounts receivable, a civil accounts receivable, or a civil judgment of restitution before disbursing the payment as described in this section; and

(b) the office shall apply any payment collected through garnishment to the case for which the garnishment was issued.

Section 14. Section 78A-7-118 is amended to read:

78A-7-118. Appeals from justice court -- Trial or hearing de novo in district court.

(1) As used in this section:

(a) "Restitution" means the same as that term is defined in Section 77-38b-102.

(b) "Victim" means the same as that term is defined in Section 77-38b-102.

[~~(1)~~] (2) In a criminal case, a defendant is entitled to a trial de novo in the district court only if the defendant files a notice of appeal within 28 days [~~of~~] after the day on which:

[~~(a) sentencing, except as provided in Subsection (4)(b); or~~]

[~~(b)~~] (a) except as provided in Subsection (5)(a)(ii), the justice court sentences the defendant; or

(b) the defendant enters a plea of guilty or no contest in the justice court that is held in abeyance.

[~~(2)~~] (3) Upon filing a proper notice of appeal, any term of a sentence imposed by the justice court [~~shall be~~] is stayed as provided for in Section 77-20-302 and the Utah Rules of Criminal Procedure.

[~~(3)~~] (4) If an appeal under Subsection [~~(1)~~] (2) is of a plea entered pursuant to negotiation with the prosecutor, and the defendant did not reserve the right to appeal as part of the plea negotiation, the negotiation is voided by the appeal.

[~~(4)~~] (5) (a) A defendant convicted and sentenced in the justice court is entitled to a hearing de novo in the district court [~~on the following matters, if the defendant files a notice of appeal within 28 days of~~] regarding:

[~~(a)~~] (i) an order revoking probation;

[~~(b)~~] (ii) [~~imposition of a sentence, following~~] a sentence after a determination that a defendant failed to fulfill the terms of a plea in abeyance agreement;

[~~(c)~~] (iii) an order denying a motion to withdraw a plea[~~,~~] if the plea is being held in abeyance and the motion to withdraw the plea is filed within 28 days [~~of the entry of the plea~~] after the day on which the plea is entered;

[~~(d)~~] (iv) [~~a postsentence order fixing total or court ordered~~] an order for restitution; or

[~~(e)~~] (v) an order denying expungement.

(b) A defendant seeking an appeal under Subsection (5)(a) shall file a notice of appeal within 28 days after the day on which the justice court enters the order or sentence.

(6) (a) A defendant who has entered into a plea in abeyance in the justice court is entitled to a hearing de novo in the district court on the determination by the justice court as to the amount of restitution owed by the defendant as a part of the plea in abeyance agreement.

(b) A defendant seeking an appeal under Subsection (6)(a) shall file a notice of appeal within 28 days after the day on which the justice court enters the order for restitution.

[~~(5) The~~]

(7) (a) A prosecutor is entitled to a hearing de novo in the district court [~~if an appeal is filed within 28 days of the court entering~~] regarding:

[~~(a)~~] (i) a final judgment of dismissal;

[~~(b)~~] (ii) an order arresting judgment;

[~~(c)~~] (iii) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

[~~(d)~~] (iv) a judgment holding invalid any part of a statute or ordinance;

[~~(e)~~] (v) a pretrial order excluding evidence[~~,~~] when the prosecutor certifies that exclusion of that evidence prevents continued prosecution of an infraction or class C misdemeanor;

[~~(f)~~] (vi) a pretrial order excluding evidence[~~,~~] when the prosecutor certifies that exclusion of that

evidence impairs continued prosecution of a class B misdemeanor;

[~~(g)~~] (vii) an order granting a motion to withdraw a plea of guilty or no contest; or

[~~(h) an order fixing total restitution at an amount less than requested by a crime victim; or~~]

[~~(i)~~] (viii) an order granting an expungement[~~,~~] if the expungement was opposed by the prosecution or a victim before the order was entered.

(b) A prosecutor seeking an appeal under Subsection (7)(a) shall file a notice of appeal within 28 days after the day on which the justice court enters the order or judgment.

(8) (a) A prosecutor or a victim is entitled to a restitution hearing de novo in the district court regarding restitution if:

(i) a request for restitution was made in the justice court; and

(ii) the justice court:

(A) failed to order the defendant to pay restitution to the victim; or

(B) ordered the defendant to pay restitution in an amount less than requested.

(b) A prosecutor or victim seeking an appeal under Subsection (8)(a) shall file a notice of appeal within 28 days after the day on which the justice court:

(i) failed to order the defendant to pay restitution; or

(ii) ordered the defendant to pay restitution in an amount less than requested.

[~~(6)~~] (9) Upon entering a decision in a hearing de novo, the district court shall remand the case to the justice court unless:

(a) the decision results in immediate dismissal of the case; or

(b) the hearing de novo was on a pretrial order and the parties and the district court agree to have the district court retain jurisdiction.

[~~(7)~~] (10) The district court shall retain jurisdiction over the case on trial de novo.

[~~(8)~~] (11) The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.

CHAPTER 114
H. B. 53
Passed February 2, 2023
Approved March 14, 2023
Effective May 3, 2023

PROTECTIVE ORDER AMENDMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill concerns pretrial protective orders, jail release agreements, and jail release court orders.

Highlighted Provisions:

This bill:

- amends the definitions of "jail release agreement" and "jail release court order";
- amends expiration provisions for certain pretrial protective orders;
- provides expiration provisions for certain pretrial protective orders; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-7-801, as last amended by Laws of Utah 2022, Chapter 430
78B-7-803, as last amended by Laws of Utah 2021, Chapter 159

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

Section 1. Section 78B-7-801 is amended to read:

78B-7-801. Definitions.

As used in this part:

(1) (a) "Jail release agreement" means a written agreement that is entered into by an individual who is arrested or issued a citation, regardless of whether the individual is booked into jail:

(i) under which the arrested or cited individual agrees to not engage in any of the following:

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(B) threatening or harassing the alleged victim; or

(C) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(ii) that specifies other conditions of release from jail or arrest.

(b) "Jail release agreement" includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section 80-6-201.

(2) "Jail release court order" means a written court order that:

(a) orders an arrested or cited individual not to engage in any of the following:

(i) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(ii) threatening or harassing the alleged victim; or

(iii) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(b) specifies other conditions of release from jail.

(3) "Minor" means the same as that term is defined in Section 80-1-102.

(4) "Offense against a child or vulnerable adult" means the commission or attempted commission of an offense described in:

(a) Section 76-5-109, child abuse;

(b) Section 76-5-109.2, aggravated child abuse;

(c) Section 76-5-109.3, child abandonment;

(d) Section 76-5-110, abuse or neglect of a child with a disability;

(e) Section 76-5-111, abuse of a vulnerable adult;

(f) Section 76-5-111.2, aggravated abuse of a vulnerable adult;

(g) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;

(h) Section 76-5-111.4, financial exploitation of a vulnerable adult;

(i) Section 76-5-114, commission of domestic violence in the presence of a child; or

(j) Section 76-9-702.1, sexual battery.

(5) "Qualifying offense" means:

(a) domestic violence;

(b) an offense against a child or vulnerable adult; or

(c) the commission or attempted commission of an offense described in Section 76-9-702.1 or Title 76, Chapter 5, Part 4, Sexual Offenses.

Section 2. Section 78B-7-803 is amended to read:

78B-7-803. Pretrial protective orders.

(1) (a) When an alleged perpetrator is charged with a crime involving a qualifying offense, the court shall, at the time of the alleged perpetrator's court appearance under Section 77-36-2.6:

(i) determine the necessity of imposing a pretrial protective order or other condition of pretrial release; and

(ii) state the court's findings and determination in writing.

(b) Except as provided in Subsection (4), in any criminal case, the court may, during any court hearing where the alleged perpetrator is present, issue a pretrial protective order, pending trial.

(2) A court may include any of the following provisions in a pretrial protective order:

(a) an order enjoining the alleged perpetrator from threatening to commit or committing acts of domestic violence or abuse against the victim and any designated family or household member;

(b) an order prohibiting the alleged perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order removing and excluding the alleged perpetrator from the victim's residence and the premises of the residence;

(d) an order requiring the alleged perpetrator to stay away from the victim's residence, school, or place of employment, and the premises of any of these, or any specified place frequented by the victim and any designated family member;

(e) an order for any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member;

(f) an order identifying and requiring an individual designated by the victim to communicate between the alleged perpetrator and the victim if and to the extent necessary for family related matters;

(g) an order requiring the alleged perpetrator to participate in an electronic or other type of monitoring program; and

(h) if the alleged victim and the alleged perpetrator share custody of one or more minor children, an order for indirect or limited contact to temporarily facilitate parent visitation with a minor child.

(3) If the court issues a pretrial protective order, the court shall determine whether to allow provisions for transfer of personal property to decrease the need for contact between the parties.

(4) A pretrial protective order issued under this section against an alleged perpetrator who is a minor expires on the earlier of:

(a) the day on which [~~the court issues an order against~~] the alleged perpetrator is served with an order issued under Section 78B-7-804 or 78B-7-805;

(b) [~~or otherwise~~] the day on which the court makes a disposition of the alleged perpetrator's case under Title 80, Chapter 6, Part 7, Adjudication and Disposition; or

[~~(b)~~] (c) the day on which the juvenile court terminates jurisdiction.

(5) A pretrial protective order issued under this section against an alleged perpetrator who is not a minor expires on the earliest of:

(a) the day on which the court dismisses the case;

(b) the day on which the court dismisses the pretrial protective order; or

(c) the day on which the alleged perpetrator is served with an order issued under Section 78B-7-804 or 78B-7-805.

CHAPTER 115
H. B. 60
Passed March 1, 2023
Approved March 14, 2023
Effective October 1, 2023

JUVENILE JUSTICE MODIFICATIONS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Luz Escamilla
Cosponsors: Dan N. Johnson
Karianne Lisonbee
Karen M. Peterson
Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- addresses the use of juvenile delinquency records by public and private employers;
- requires the State Board of Education to include information about dangerous weapons in an annual report on school discipline and law enforcement action;
- modifies a reporting requirement regarding a minor found with a dangerous weapon on school grounds;
- modifies the jurisdiction of the juvenile court;
- amends provisions related to the inspection of juvenile records when a minor who is 14 years old or older is charged with a felony offense;
- defines terms related to juvenile records;
- amends and clarifies provisions regarding the vacatur of an adjudication in the juvenile court;
- clarifies the release of certain juvenile records;
- amends provisions regarding a petition for expungement of a juvenile court record with an adjudication, including the notice and hearing requirements for the petition;
- allows for a petition for expungement of a juvenile court record consisting of nonjudicial adjustments;
- allows for a petition for expungement of a juvenile court record consisting of records of arrest, investigation, detention, and delinquency petitions;
- allows for a petition for expungement of records regarding a petition where the allegations of delinquency were found to be not true;
- allows for the automatic expungement of a successful nonjudicial adjustment completed on or after October 1, 2023;
- provides the requirements for expunging juvenile records;
- addresses the distribution of an expungement order;
- addresses agency duties regarding expungement orders;
- addresses records in the custody of the Board of Pardons and Parole, the Department of Corrections, or the Division of Child and Family Services;
- addresses the effect of an expungement order;
- provides that certain individuals may view or inspect expunged juvenile records;
- repeals statutes related to the expungement of juvenile records; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

34-52-201, as last amended by Laws of Utah 2022, Chapter 447
34-52-301, as enacted by Laws of Utah 2019, Chapter 371
53E-3-516, as last amended by Laws of Utah 2022, Chapter 399
53G-8-510, as renumbered and amended by Laws of Utah 2018, Chapter 3
62A-5-308, as last amended by Laws of Utah 2021, Chapter 261
77-38-14, as last amended by Laws of Utah 2021, Chapter 262
78A-6-103, as last amended by Laws of Utah 2022, Chapters 155, 335
78A-6-209, as last amended by Laws of Utah 2022, Chapters 335, 430
78A-6-358, as renumbered and amended by Laws of Utah 2021, Chapter 261
78B-6-105, as last amended by Laws of Utah 2021, Chapter 261
80-6-1001, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-1002, as last amended by Laws of Utah 2022, Chapter 334

ENACTS:

80-6-1004.1, Utah Code Annotated 1953
80-6-1004.2, Utah Code Annotated 1953
80-6-1004.3, Utah Code Annotated 1953
80-6-1004.4, Utah Code Annotated 1953
80-6-1004.5, Utah Code Annotated 1953
80-6-1006.1, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

80-6-1001.1, (Renumbered from 80-6-1003, as enacted by Laws of Utah 2021, Chapter 261)

REPEALS:

80-6-1004, as last amended by Laws of Utah 2022, Chapter 334
80-6-1005, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-1006, as renumbered and amended by Laws of Utah 2021, Chapter 261

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

Section 1. Section 34-52-201 is amended to read:

34-52-201. Public employer requirements.

(1) A public employer may not exclude an applicant from an initial interview because of a past criminal conviction or juvenile delinquency adjudication.

(2) A public employer excludes an applicant from an initial interview if the public employer:

(a) requires an applicant to disclose, on an employment application, a criminal conviction or juvenile delinquency adjudication;

(b) requires an applicant to disclose, before an initial interview, a criminal conviction or juvenile delinquency adjudication; or

(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction or juvenile delinquency adjudication.

(3) (a) A public employer may not make any inquiry related to an applicant's expunged criminal or juvenile delinquency history.

(b) An applicant seeking employment from a public employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.

(4) Subject to Subsections (1) through (3), nothing in this section prevents a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction or juvenile delinquency history during an initial interview or after an initial interview; or

(b) considering an applicant's conviction or juvenile delinquency history when making a hiring decision.

(5) Subsections (1) through (3) do not apply:

(a) to an applicant with a criminal conviction if federal, state, or local law, including corresponding administrative rules, requires the consideration of [~~an~~] the applicant's criminal conviction history;

(b) to a public employer that is a law enforcement agency;

(c) to a public employer that is part of the criminal or juvenile justice system;

(d) to a public employer seeking a nonemployee volunteer;

(e) to a public employer that works with children or vulnerable adults;

(f) to the Department of Alcoholic Beverage Services created in Section 32B-2-203;

(g) to the State Tax Commission;

(h) to a public employer whose primary purpose is performing financial or fiduciary functions; and

(i) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.

Section 2. Section 34-52-301 is amended to read:

34-52-301. Permitted applicant response regarding expunged criminal or juvenile delinquency history.

An applicant seeking employment from a private employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.

Section 3. Section 53E-3-516 is amended to read:

53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

(a) "Dangerous weapon" means the same as that term is defined in Section 53G-8-510.

[~~(a)~~] (b) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

[~~(b)~~] (c) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

[~~(c)~~] (d) "Minor" means the same as that term is defined in Section [~~53G-6-201~~] 80-1-102.

[~~(d)~~] (e) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

(i) a search and seizure by an SRO;

(ii) issuance of a criminal citation;

(iii) issuance of a ticket or summons;

(iv) filing a delinquency petition; or

(v) referral to a probation officer.

[~~(e)~~] (f) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

[~~(f)~~] (g) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

[~~(g)~~] (h) "[~~Student~~] School resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2023, the state board shall develop an annual report regarding the

following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities; [~~and~~]

(c) disciplinary actions[~~.~~]; and

(d) minors found in possession of a dangerous weapon.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

(i) the reason for the disciplinary action; and

(ii) the type of disciplinary action;

(d) the number of SROs employed; [~~and~~]

(e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation[~~.~~]; and

(f) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-sponsored activity.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) through (c):

(a) age;

(b) grade level;

(c) race;

(d) sex; and

(e) disability status.

(6) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(8) The state board shall provide the report described in Subsection (2) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year.

Section 4. Section 53G-8-510 is amended to read:

53G-8-510. Notification of dangerous weapons on school grounds -- Immunity from civil and criminal liability.

(1) As used in this section:

(a) "Dangerous weapon" means a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.

(b) "Minor" means the same as that term is defined in Section 80-1-102.

(c) "School employee" means an individual working in the individual's capacity as:

(i) a school teacher;

(ii) a school staff member;

(iii) a school administrator; or

(iv) an individual:

(A) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; and

(B) who works on a school campus.

(d) "School is in session" means the same as that term is defined in Section 53E-3-516.

(e) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.

(2) If a minor is found on school grounds when school is in session or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to, or known by, a school employee, the school employee shall notify the principal.

(3) After receiving a notification under Subsection (2), the principal shall notify:

(a) a law enforcement officer or agency; and

(b) school or district personnel if the principal determines that school or district personnel should be informed.

[~~(1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.~~]

[~~(2)~~] (4) A person who in good faith reports information under Subsection [~~(1)~~] (2) or (3) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

Section 5. Section 62A-5-308 is amended to read:

62A-5-308. Commitment -- Individual who is under 18 years old.

(1) The director of the division, or the director's designee, may commit an individual under 18 years old who has an intellectual disability or symptoms of an intellectual disability, to the division for observation, diagnosis, care, and treatment if that commitment is based on:

(a) an emergency commitment in accordance with Section 62A-5-311; or

(b) involuntary commitment in accordance with Section 62A-5-312.

(2) A proceeding for involuntary commitment under Subsection (1)(a) may be commenced by filing a written petition with the juvenile court under Section 62A-5-312.

(3) (a) A juvenile court has jurisdiction over the proceeding under Subsection (2) as described in Subsection [~~78A-6-103(2)(f)~~] 78A-6-103(2)(a)(vi).

(b) A juvenile court shall proceed with the written petition in the same manner and with the same authority as the district court.

(4) If an individual who is under 18 years old is committed to the custody of the Utah State Developmental Center by the juvenile court, the director or the director's designee shall give the juvenile court written notice of the intention to release the individual not fewer than five days before the day on which the individual is released.

Section 6. Section 77-38-14 is amended to read:

77-38-14. Notice of expungement petition -- Victim's right to object.

(1) (a) The Department of Corrections or the Juvenile Probation Department shall prepare a document explaining the right of a victim or a victim's representative to object to a petition for expungement under Section 77-40a-305 or [~~80-6-1004~~] 80-6-1004.1 and the procedures for obtaining notice of the petition.

(b) The department or division shall provide each trial court a copy of the document that has jurisdiction over delinquencies or criminal offenses subject to expungement.

(2) The prosecuting attorney in any case leading to a conviction, a charge dismissed in accordance with a plea in abeyance agreement, or an adjudication subject to expungement, shall provide a copy of the document to each person who would be entitled to notice of a petition for expungement under Sections 77-40a-305 and [~~80-6-1004~~] 80-6-1004.1.

Section 7. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

[~~(a)~~] (i) a child who is an abused child, neglected child, or dependent child;

[~~(b)~~] (ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

[~~(c)~~] (iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

[~~(d)~~] (iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

[~~(e)~~] (v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

[~~(f)~~] (vi) the treatment or commitment of a minor who has an intellectual disability;

[~~(g)~~] (vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

[~~(h)~~] (viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

[~~(i)~~] (ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

[~~(j)~~] (x) the treatment or commitment of a child with a mental illness;

[~~(k)~~] (xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

[~~(l)~~] (xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

[~~(m)~~] (xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

[~~(n)~~] (xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

[~~(o)~~] (xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of Juvenile Justice Services, the child has demonstrated that the child:

[~~(i)~~] (A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

[~~(ii)~~] (B) has run away from home; and

[~~(p)~~] (xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court[~~.~~];

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement; and

(c) the extension of a nonjudicial adjustment under Section 80-6-304.

(3) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701[~~,~~] for the juvenile court to exercise jurisdiction under Subsection [~~(2)(p)~~] (2)(a)(xvi), (b), or (c).

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(7) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 8. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and administrative hearings in accordance with Section 80-2-707;

(e) the Office of Licensing for the purpose of conducting a background check in accordance with Section 62A-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 26-8a-302, with the understanding that the Department of Health must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) (a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary for the minor.

(b) A juvenile court may close the records described in Subsection (4)(a) to the public if the juvenile court finds, on the record, that the records are closed for good cause.

[~~(4) If a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.~~]

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 9. Section 78A-6-358 is amended to read:

78A-6-358. Period of effect for a judgment, decree, or order by a juvenile court.

(1) A judgment, order, or decree of the juvenile court is no longer in effect after a minor is 21 years old, except:

(a) for an order of commitment to the Utah State Developmental Center or to the custody of the Division of Substance Abuse and Mental Health;

(b) for an adoption under Subsection [~~78A-6-103(2)(n)~~] 78A-6-103(2)(a)(xiv);

(c) for an order permanently terminating the rights of a parent, guardian, or custodian under Title 80, Chapter 4, Termination and Restoration of Parental Rights;

(d) for a permanent order of custody and guardianship under Subsection 80-3-405(2)(d);

(e) an order establishing paternity under Subsection 78A-6-104(1)(a)(i); and

(f) as provided in Subsection (2).

(2) If the juvenile court enters a judgment or order for a minor for whom the juvenile court has extended continuing jurisdiction over the minor's case until the minor is 25 years old under Section 80-6-605, the juvenile court's judgment or order is no longer in effect after the minor is 25 years old.

Section 10. Section 78B-6-105 is amended to read:

78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction over nonresidents -- Time for filing.

(1) An adoption proceeding shall be commenced by filing a petition in:

(a) the district court in the district where the prospective adoptive parent resides;

(b) if the prospective adoptive parent is not a resident of this state, the district court in the district where:

(i) the adoptee was born;

(ii) the adoptee resides on the day on which the petition is filed; or

(iii) a parent of the proposed adoptee resides on the day on which the petition is filed; or

(c) the juvenile court as provided in Subsection [~~78A-6-103(2)(n)~~] 78A-6-103(2)(a)(xiv) and Section 78A-6-350.

(2) All orders, decrees, agreements, and notices in an adoption proceeding shall be filed with the clerk of the court where the adoption proceeding is commenced under Subsection (1).

(3) A petition for adoption:

(a) may be filed before the birth of a child;

(b) may be filed before or after the adoptee is placed in the home of the petitioner for the purpose of adoption; and

(c) shall be filed no later than 30 days after the day on which the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:

(i) the time for filing has been extended by the court; or

(ii) the adoption is arranged by a child-placing agency in which case the agency may extend the filing time.

(4) (a) If a person whose consent for the adoption is required under Section 78B-6-120 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state shall confer jurisdiction on the court in proceedings under this chapter as to such absent person, provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

(b) The notice may not include the name of:

(i) a prospective adoptive parent; or

(ii) an unmarried mother without her consent.

(5) Service of notice described in Subsection (6) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.

(6) In the case of service outside the state, service completed not less than five days before the time set in the notice for appearance of the person served is sufficient to confer jurisdiction.

(7) Computation of periods of time not otherwise set forth in this section shall be made in accordance with the Utah Rules of Civil Procedure.

Section 11. Section 80-6-1001 is amended to read:

80-6-1001. Definitions.

As used in this part:

(1) "Abstract" means a copy or summary of a court's disposition.

(2) (a) "Agency" means a state, county, or local government entity that generates or maintains records [~~relating to a nonjudicial adjustment or an adjudication~~] for which expungement may be ordered under this part.

(b) "Agency" includes a local education agency, as defined in Section 53E-1-102, for purposes of this part.

(3) "Expunge" means to seal or otherwise restrict access to a record that is part of an individual's juvenile record and in the custody of the juvenile court or an agency.

(4) (a) "Juvenile record" means all records for all incidents of delinquency involving an individual that are in the custody of the juvenile court or an agency.

(b) "Juvenile record" does not include a record of an adjudication under Chapter 3, Abuse, Neglect, or Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

(5) "Petitioner" means an individual requesting an expungement or vacatur under this part.

[~~(3) "Expunge" means to seal or otherwise restrict access to an individual's record held by a court or an agency when the record relates to a nonjudicial adjustment or an adjudication of an offense in the juvenile court.~~]

Section 12. Section 80-6-1001.1, which is renumbered from Section 80-6-1003 is renumbered and amended to read:

[~~80-6-1003~~]. 80-6-1001.1. Court records -- Abstracts.

[~~(1) (a) Except as otherwise provided in this part, if a minor's juvenile record is expunged, and upon a court order, all photographs or records under Section 80-6-608 shall be destroyed by an agency.~~]

[~~(b) A record of a minor's fingerprints may not be destroyed by an agency.~~]

[~~(2)~~] (1) A court or agency with custody of an individual's record related to an offense that the individual is alleged to have committed, or an offense that the individual committed, before the individual was 18 years old may not disclose the record to a federal agency that is responsible for criminal justice research or proceedings unless the court or the agency is required to share the record under state or federal law.

[~~(3)~~] (2) An abstract of a [~~juvenile court~~] record for [~~an~~] a minor's adjudication of a traffic offense shall be submitted to the Department of Public Safety as provided in Section 53-3-218.

Section 13. Section 80-6-1002 is amended to read:

80-6-1002. Vacatur of an adjudication.

(1) [~~(a) An individual who has been adjudicated under this chapter may petition the juvenile court for vacatur of the individual's juvenile court records and any related records in the custody of an agency if the record relates to:~~]

[~~(i) an adjudication under Section 76-10-1302, 76-10-1304, or 76-10-1313; or~~]

[~~(ii) an adjudication that was based on an offense that the petitioner engaged in while subject to force, fraud, or coercion, as defined in Section 76-5-308.~~]

(a) An individual who has been adjudicated for an offense by the juvenile court may petition the juvenile court for vacatur of the adjudication if the adjudication was for a violation of:

(i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the human trafficking for labor while subject to force, fraud, or coercion;

(ii) Section 76-10-1302, prostitution;

(iii) Section 76-10-1304, aiding prostitution; or

(iv) Section 76-10-1313, sexual solicitation.

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any [~~documents~~] records related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the [~~county attorney or, if within a prosecution district, the district attorney~~] prosecuting attorney.

(2) (a) Upon the filing of a petition, the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the juvenile record:

(A) that a petition has been filed; and

(B) of the date of the hearing.

[~~(ii) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and~~]

[~~(iii) notify the county attorney or district attorney and the agency with records the petitioner is asking the juvenile court to vacate of the date of the hearing.~~]

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

[~~(ii) A victim shall receive notice of a petition for vacatur at least 30 days before the hearing if, before the entry of vacatur, the victim or, in the case of a child or an individual who is incapacitated or deceased, the victim's next of kin or authorized representative,~~]

(ii) At least 30 days before the day on which the hearing is scheduled, a victim shall receive notice of a petition for vacatur if, before the entry of vacatur, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(c) At the hearing, the petitioner, the prosecuting attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

[~~(3) (a) At the hearing the petitioner, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.~~]

[~~(b) (i)~~] (3) (a) In deciding whether to grant a petition for vacatur of an adjudication of an offense for human trafficking of labor described in Subsection (1)(a)(i), the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion[~~, as defined in Section 76-5-308,~~] at the time of the conduct giving rise to the adjudication.

[~~(ii) (A)~~] (b) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion[~~, as defined in Section 76-5-308~~] at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur of the adjudication.

[~~(B)~~] (c) If the juvenile court does not find sufficient evidence, the juvenile court shall deny vacatur of the adjudication.

[~~(iii)~~] (4) If the petition [~~is for vacatur of any adjudication under Section 76-10-1302, 76-10-1304, or 76-10-1313~~] seeks to vacate an adjudication of an offense described in Subsection (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the adjudication unless the petitioner acted as a purchaser of any sexual activity.

[~~(c) If vacatur is granted, the juvenile court shall order sealed all of the petitioner's records under the control of the juvenile court and any of the petitioner's records under the control of any other agency or official~~]

(5) (a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of an adjudication for an offense described in Subsection (1)(a), the juvenile court shall order expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System and the Licensing Information System.

(b) The juvenile court may not order expungement of any record in the petitioner's juvenile record that contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

[~~(4)~~] (6) (a) The petitioner shall be responsible for service of the vacatur and expungement order [~~of vacatur~~] to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or [~~sealing~~] expungement of the records in whole or in part, the agency or entity receiving the vacatur and expungement order shall only [~~vacate~~] expunge all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

(7) (a) Upon entry of a vacatur and expungement order under this section:

(i) the proceedings in the incident identified in the petition are considered never to have occurred; and

(ii) the petitioner may reply to an inquiry on the matter as though the proceedings never occurred.

(b) Upon petition, any record expunged under this section may only be released to or viewed by:

(i) the individual who is the subject of the record; or

(ii) a person named in the petition of vacatur.

[~~(5) (a) Upon the entry of vacatur, the proceedings in the incident identified in the petition shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter.~~]

[~~(b) Inspection of the records may thereafter only be permitted by the juvenile court upon petition by the individual who is the subject of the records, and only to persons named in the petition.~~]

[~~(6) The juvenile court may not vacate a juvenile court record if the record contains an adjudication of:~~]

[~~(a) Section 76-5-202, aggravated murder; or~~]

[~~(b) Section 76-5-203, murder.~~]

Section 14. Section 80-6-1004.1 is enacted to read:

80-6-1004.1. Petition to expunge adjudication -- Hearing and notice -- Waiver -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual was adjudicated for an offense in the juvenile court;

(b) the individual has reached 18 years old; and

(c) at least one year has passed from the day on which:

(i) the juvenile court's continuing jurisdiction was terminated; or

(ii) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive:

(a) the age requirement under Subsection (1)(b) for a petition; or

(b) the one-year requirement under Subsection (1)(c) for a petition.

(4) (a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:

(A) that the petition has been filed; and

(B) of the date of the hearing.

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1).

(ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.

(iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition and any statutes and rules applicable to the petition.

(c) At the hearing, the prosecuting attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(d) The juvenile court may waive the hearing for the petition if:

(i) (A) there is no victim; or

(B) if there is a victim, the victim agrees to the waiver; and

(ii) the prosecuting attorney agrees to the waiver.

(5) (a) Except as provided in Subsection (6), the juvenile court may grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in accordance with Subsection (5)(b).

(b) In deciding whether to grant a petition described in Subsection (1), the juvenile court shall consider:

(i) whether expungement of the petitioner's juvenile record is in the best interest of the petitioner;

(ii) the petitioner's response to programs and treatment;

(iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;

(iv) the petitioner's behavior subsequent to adjudication;

(v) the petitioner's reason for seeking expungement of the petitioner's juvenile record; and

(vi) if the petitioner is a restricted person under Subsection 76-10-503(1)(a)(iv) or (b)(ii):

(A) whether the offense for which the petitioner is a restricted person was committed with a weapon;

(B) whether expungement of the petitioner's juvenile record poses an unreasonable risk to public safety; and

(C) the amount of time that has passed since the adjudication of the offense for which the petitioner is a restricted person.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:

(a) the petitioner has been convicted of a violent felony within five years before the day on which the petition for expungement is filed;

(b) there are delinquency or criminal proceedings pending against the petitioner;

(c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an adjudication in the petitioner's juvenile record;

(d) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record; or

(e) the petitioner's juvenile record contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

Section 15. Section 80-6-1004.2 is enacted to read:

80-6-1004.2. Petition to expunge nonjudicial adjustment -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual's juvenile record consists solely of nonjudicial adjustments;

(b) the individual's juvenile record is not eligible for automatic expungement under Section 80-6-1004.5; and

(c) the individual has reached 18 years old.

(2) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a petition.

(3) Except as provided in Subsection (4), the juvenile court shall grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record.

(4) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:

(a) there are delinquency or criminal proceedings pending against the petitioner; or

(b) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record.

Section 16. Section 80-6-1004.3 is enacted to read:

80-6-1004.3. Petition to expunge arrest, investigation, detention, or delinquency petition -- Screening -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual's juvenile record consists solely of records of arrest, investigation, detention, or petitions that did not result in adjudication;

(b) the individual was not adjudicated for an offense in the juvenile court; and

(c) the individual has reached 18 years old.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a petition.

(4) (a) Upon the filing of a petition described in Subsection (1), the juvenile court shall notify the prosecuting attorney that the petition has been filed.

(b) Within 30 days after the day on which the notification is sent under Subsection (4)(a), the prosecuting attorney shall respond to the petition stating whether the petitioner meets the requirements for expungement under this section.

(5) Except as provided in Subsection (6), the juvenile court shall grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if each case identified in the petition:

(a) has been screened by the investigating law enforcement agency and the prosecuting attorney has determined that no charges will be filed against the individual;

(b) resulted in all charges in the case being dismissed with prejudice;

(c) resulted in all charges in the case being dismissed without prejudice or without condition and the prosecuting attorney consents to the expungement; or

(d) is barred from prosecution by the statute of limitations.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if there are delinquency or criminal proceedings pending against the petitioner.

Section 17. Section 80-6-1004.4 is enacted to read:

80-6-1004.4. Petition to expunge petition not found to be true -- Order.

(1) An individual may petition the juvenile court, at any time, for an order to expunge all records in the individual's juvenile record pertaining to an incident where a petition was filed if:

(a) the incident was presented to the juvenile court for adjudication based upon an admission, plea, or trial;

(b) the juvenile court did not find by beyond a reasonable doubt the allegations in the petition to be true;

(c) at least 30 days have passed since the day on which the juvenile court did not find the allegations in the petition to be true; and

(d) an appeal has not been filed for the petition within the 30-day period described in Subsection (1)(c).

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) The juvenile court shall grant a petition described in Subsection (1), without a hearing, and order expungement of any record in the petitioner's juvenile record pertaining to the incident.

Section 18. Section 80-6-1004.5 is enacted to read:

80-6-1004.5. Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.

(1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:

(a) the individual has reached 18 years old;

(b) the individual's juvenile record consists solely of nonjudicial adjustments;

(c) the individual has successfully completed each nonjudicial adjustment; and

(d) all nonjudicial adjustments were completed on or after October 1, 2023.

(2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for a violation of:

(a) Section 41-6a-502, driving under the influence;

(b) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(c) Section 76-5-206, negligent homicide;

(d) Section 76-9-702.1, sexual battery;

(e) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(f) Section 76-10-509, possession of a dangerous weapon by a minor.

(3) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2023:

(a) any nonjudicial adjustment in the individual's juvenile record is considered to never have occurred if:

(i) the individual has reached 18 years old;

(ii) the individual has satisfied restitution that was a condition of any nonjudicial adjustment in the individual's juvenile record; and

(iii) the nonjudicial adjustment was for an offense that is not an offense described in Subsection (2); and

(b) the individual may reply to any inquiry about the nonjudicial adjustment as though there never was a nonjudicial adjustment.

Section 19. Section 80-6-1006.1 is enacted to read:

80-6-1006.1. Exceptions to expungement order -- Distribution of expungement order -- Agency duties -- Effect of expungement -- Access to expunged record.

(1) This section applies to an expungement order under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.

(2) The juvenile court may not order:

(a) the Board of Pardons and Parole and the Department of Corrections to seal a record in the possession of the Board of Pardons and Parole or the Department of Corrections, except that the juvenile court may order the Board of Pardons and Parole and the Department of Corrections to restrict access to a record if the record is specifically identified in the expungement order as a record in the possession of the Board of Pardons and Parole or the Department of Corrections; or

(b) the Division of Child and Family Services to expunge a record in an individual's juvenile record that is contained in the Management Information System or the Licensing Information System unless:

(i) the record is unsupported; or

(ii) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to expunging the record.

(3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a copy of the expungement order to any affected agency or official identified in the juvenile record.

(b) An individual who is the subject of an expungement order may deliver copies of the expungement order to all agencies and officials affected by the expungement order.

(4) (a) Upon receipt of an expungement order, an agency shall:

(i) to avoid destruction or expungement of records in whole or in part, expunge only the references to the individual's name in the records relating to the individual's adjudication, nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is ordered; and

(ii) destroy all photographs and records created under Section 80-6-608, except that a record of a minor's fingerprints may not be destroyed by an agency.

(b) An agency that receives a copy of an expungement order shall mail an affidavit to the individual who is the subject of the expungement order, or the individual's attorney, that the agency has complied with the expungement order.

(5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the Department of Corrections:

(a) may not disclose records expunged in an expungement order unless required by law;

(b) are not required to destroy any photograph or record created under Section 80-6-608;

(c) may use an expunged record for purposes related to incarceration and supervision of an individual under the jurisdiction of the Board of Pardons and Parole, including for the purpose of making decisions about:

(i) the treatment and programming of the individual;

(ii) housing of the individual;

(iii) applicable guidelines regarding the individual; or

(iv) supervision conditions for the individual;

(d) are not prohibited from disclosing or sharing any information in an expunged record with another agency that uses the same record management system as the Board of Pardons and Parole or the Department of Corrections; and

(e) are not required to mail an affidavit under Subsection (4)(b).

(6) Upon entry of an expungement order:

(a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention for which the record is expunged is considered to have never occurred; and

(b) the individual, who is the subject of the expungement order, may reply to an inquiry on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention.

(7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject of the record.

Section 20. Repealer.

This bill repeals:

Section 80-6-1004, Requirements to apply to expunge an adjudication.

Section 80-6-1005, Nonjudicial adjustment expungement.

Section 80-6-1006, Effect of an expunged record -- Agency duties.

Section 21. Effective date.

This bill takes effect on October 1, 2023.

CHAPTER 116
H. B. 68
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

PETITION AMENDMENTS

Chief Sponsor: Judy Weeks Rohner
Senate Sponsor: Chris H. Wilson
Cosponsors: Cheryl K. Acton
Gay Lynn Bennion
Kera Birkeland
Jefferson S. Burton
Brett Garner
Marsha Judkins
Rosemary T. Lesser
Angela Romero
Raymond P. Ward
Christine F. Watkins

LONG TITLE

General Description:

This bill consolidates and amends provisions relating to multiple types of petitions.

Highlighted Provisions:

This bill:

- defines terms;
- merges into a single part in the Election Code provisions relating to the process of gathering signatures for, and removing signatures from, multiple types of petitions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

10-2-601, as last amended by Laws of Utah 1993, Chapter 227
10-2-701, as enacted by Laws of Utah 1981, Chapter 55
10-2a-208, as last amended by Laws of Utah 2019, Chapter 165
10-2a-209, as last amended by Laws of Utah 2019, Chapter 165
17-2-102, as enacted by Laws of Utah 2009, Chapter 350
17-2-103, as renumbered and amended by Laws of Utah 2009, Chapter 350
17-2-202, as enacted by Laws of Utah 2009, Chapter 350
17-2-203, as renumbered and amended by Laws of Utah 2009, Chapter 350
17-3-1, as last amended by Laws of Utah 2011, Chapter 297
17-11-2, as last amended by Laws of Utah 2011, Chapter 297
17-52a-303, as last amended by Laws of Utah 2020, Chapter 47
17-52a-505, as renumbered and amended by Laws of Utah 2018, Chapter 68
17B-1-205, as last amended by Laws of Utah 2011, Chapter 68
17B-1-209, as last amended by Laws of Utah 2011, Chapter 68
17B-1-506, as last amended by Laws of Utah 2011, Chapter 297
17B-1-507, as renumbered and amended by Laws of Utah 2007, Chapter 329
17B-1-1301, as renumbered and amended by Laws of Utah 2007, Chapter 329
17B-1-1305, as renumbered and amended by Laws of Utah 2007, Chapter 329
17D-2-502, as enacted by Laws of Utah 2008, Chapter 360
20A-7-101, as last amended by Laws of Utah 2022, Chapters 288, 325
20A-7-206.1, as enacted by Laws of Utah 2021, Chapter 140
20A-7-207, as last amended by Laws of Utah 2022, Chapter 325
20A-7-208, as last amended by Laws of Utah 2019, Chapter 275
20A-7-213, as last amended by Laws of Utah 2022, Chapter 325
20A-7-216, as enacted by Laws of Utah 2022, Chapter 325
20A-7-307, as last amended by Laws of Utah 2022, Chapters 274, 325
20A-7-314, as enacted by Laws of Utah 2022, Chapter 325
20A-7-401.5, as last amended by Laws of Utah 2021, Chapters 84, 140 and 345
20A-7-507, as last amended by Laws of Utah 2022, Chapter 325
20A-7-515, as enacted by Laws of Utah 2022, Chapter 325
20A-7-607, as last amended by Laws of Utah 2022, Chapters 274, 325
20A-7-613, as last amended by Laws of Utah 2022, Chapter 325
20A-7-615, as enacted by Laws of Utah 2022, Chapter 325
20A-8-103, as last amended by Laws of Utah 2019, Chapter 255
20A-9-203, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
20A-9-403, as last amended by Laws of Utah 2022, Chapter 325
20A-9-404, as last amended by Laws of Utah 2019, Chapters 142, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 142
20A-9-408, as last amended by Laws of Utah 2022, Chapters 13, 325
20A-9-502, as last amended by Laws of Utah 2022, Chapter 13
20A-11-802, as last amended by Laws of Utah 2019, Chapter 116
20A-15-103, as last amended by Laws of Utah 2019, Chapter 255
20A-21-201, as enacted by Laws of Utah 2022, Chapter 325
53G-3-301, as last amended by Laws of Utah 2019, Chapter 293
53G-3-401, as last amended by Laws of Utah 2019, Chapter 293
53G-3-501, as last amended by Laws of Utah 2019, Chapter 293

73-10d-4, as last amended by Laws of Utah 2005, Chapter 105

ENACTS:
20A-1-1001, Utah Code Annotated 1953
20A-1-1002, Utah Code Annotated 1953
20A-1-1003, Utah Code Annotated 1953
20A-7-105, Utah Code Annotated 1953

REPEALS:
20A-7-205, as last amended by Laws of Utah 2022, Chapter 325
20A-7-206, as last amended by Laws of Utah 2022, Chapter 325
20A-7-206.3, as last amended by Laws of Utah 2022, Chapter 325
20A-7-305, as last amended by Laws of Utah 2022, Chapter 325
20A-7-306, as last amended by Laws of Utah 2022, Chapter 325
20A-7-306.3, as last amended by Laws of Utah 2022, Chapter 325
20A-7-505, as last amended by Laws of Utah 2022, Chapter 325
20A-7-506, as last amended by Laws of Utah 2022, Chapter 325
20A-7-506.3, as last amended by Laws of Utah 2022, Chapter 325
20A-7-605, as last amended by Laws of Utah 2022, Chapter 325
20A-7-606, as last amended by Laws of Utah 2022, Chapter 325
20A-7-606.3, as last amended by Laws of Utah 2022, Chapter 325

Utah Code Sections Affected by Coordination Clause:
10-2a-208, as last amended by Laws of Utah 2019, Chapter 165
20A-1-1003, Utah Code Annotated 1953
20A-7-307, as last amended by Laws of Utah 2022, Chapters 274 and 325

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

Section 1. Section 10-2-601 is amended to read:

10-2-601. Consolidation of two or more municipalities -- Certification of petition signatures -- Removal of signature.

(1) The process for consolidating municipalities shall begin by filing with the county legislative bodies of the respective counties in which the municipalities are located:

[~~(1)~~] (a) resolutions passed by the governing bodies of the municipalities which state their intention and desire to form a consolidated municipality; or

[~~(2)~~] (b) petitions signed by at least 10% of the registered voters in each of the municipalities to be included with the boundaries of the consolidated municipality.

(2) (a) Within three business days after the day on which a county legislative body receives a petition under Subsection (1)(b), the county legislative body shall provide the petition to the county clerk.

(b) Within 14 days after the day on which a county clerk receives a petition from the county legislative body under Subsection (2)(a), the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (1)(b);

(ii) certify on the petition whether each name is that of a registered voter in one of the municipalities to be included within the boundaries of the consolidated municipality; and

(iii) deliver the certified petition to the county legislative body.

(3) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (3)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 2. Section 10-2-701 is amended to read:

10-2-701. Petition for disincorporation -- Validity -- Certification of petition signatures -- Removal of signature -- District court order for election.

(1) Disincorporation of a municipality shall be initiated upon petition.

(2) The petition shall bear signatures equal in number to 25% of all votes cast from the municipality at the last congressional election.

(3) No signature is valid, for purposes of this section, unless it is that of a registered voter who is a resident of the municipality proposed for disincorporation.

(4) The petition containing the specified number of signatures shall be filed with the county clerk for validation by that officer.

(5) Within 21 days after the day on which the county clerk receives a petition, the county clerk shall:

(a) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (2); and

(b) certify on the petition whether each name is that of a registered voter from the municipality.

(6) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is filed with the county clerk, submitting to the county clerk a

statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (6)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

(7) If the county clerk finds the petition valid, the clerk shall file the original with the district court and furnish a copy to the governing body of the municipality.

(8) The district court, upon determining that the petition comports with Section 10-2-701.5 and that it does not offend Section 10-2-710 and is otherwise complete, shall order that the question of dissolution be placed before the voters of the municipality.

Section 3. Section 10-2a-208 is amended to read:

10-2a-208. Incorporation petition -- Requirements and form -- Removal of signature.

(1) At any time within one year after the day on which the lieutenant governor completes the public hearings described in Section 10-2a-207, individuals within the proposed municipality may proceed with the incorporation process by circulating and submitting to the lieutenant governor an incorporation petition that, to be certified under Subsection 10-2a-209(1)(b)(i), is required to be signed by:

(a) 10% of all registered voters within the area proposed to be incorporated as a municipality, as of the date the petition is filed;

(b) if the petition proposes the incorporation of a city, and subject to Subsection [~~(4)~~] (5), 10% of all registered voters within 90% of the voting precincts within the area proposed to be incorporated as a city, as of the date the petition is filed; and

(c) the owners of private real property that:

(i) is located within the proposed municipality;

(ii) covers at least 10% of the total private land area within the proposed municipality; and

(iii) is equal in value to at least 7% of the value of all private real property within the proposed municipality.

(2) The petition sponsors shall ensure that the petition:

(a) includes the typed or printed name and current residence address of each voter that signs the petition;

(b) describes the area proposed to be incorporated as a municipality, as described in the feasibility study request or modified request that complies with Subsection 10-2a-205(6)(a);

(c) states the proposed name for the proposed municipality;

(d) designates five signers of the petition as petition sponsors, one of whom is designated as the contact sponsor, with the mailing address and telephone number of each;

(e) if the sponsors propose the incorporation of a city, states that the signers of the petition appoint the sponsors, if the incorporation measure passes, to represent the signers in:

(i) selecting the number of commission or council members the new city will have; and

(ii) drawing district boundaries for the election of council members, if the voters decide to elect council members by district;

(f) is accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed municipality; and

(g) substantially complies with and is circulated in the following form:

"PETITION FOR INCORPORATION OF (insert the proposed name of the proposed municipality)

To the Honorable Lieutenant Governor:

We, the undersigned registered voters within the area described in this petition, respectfully petition the lieutenant governor to direct the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a municipality. Each of the undersigned affirms that each has personally signed this petition and is a registered voter who resides within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a municipality is described as follows: (insert an accurate description of the area proposed to be incorporated)."

(3) A valid signature on a request described in Section 10-2a-202 or a modified request described in Section 10-2a-206 may not be used toward fulfilling the signature requirement described in Subsection (1):

(a) if the request notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for a petition for incorporation under this section; and

(b) unless the signer files with the lieutenant governor a written withdrawal of the signature before the petition is filed under this section with the lieutenant governor.

(4) (a) A voter who signs an incorporation petition may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is submitted to the lieutenant governor, submitting to the lieutenant

governor a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (4)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The lieutenant governor shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

[~~(4)~~] (5) (a) A signature does not qualify under Subsection (1)(b) if the signature is gathered from a voting precinct that:

(i) except in a proposed municipality that will be a city of the fifth class, is not located entirely within the boundaries of a proposed city; or

(ii) includes less than 50 registered voters.

(b) A voting precinct that is not located entirely within the boundaries of the proposed city does not qualify as a voting precinct under Subsection (1)(b).

Section 4. Section 10-2a-209 is amended to read:

10-2a-209. Processing of petition by lieutenant governor -- Certification or rejection -- Petition modification.

(1) Within 45 days after the day on which an incorporation petition is filed under Section 10-2a-208, the lieutenant governor shall:

(a) (i) use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter; and

(ii) with the assistance of other county officers of the county in which the incorporation is proposed, and from whom the lieutenant governor requests assistance, determine whether the petition complies with Section 10-2a-208; and

(b) (i) if the lieutenant governor determines that the petition complies with Section 10-2a-208, certify the petition and notify in writing the contact sponsor of the certification; or

(ii) if the lieutenant governor determines that the petition fails to comply with Section 10-2a-208, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) (a) If the lieutenant governor rejects a petition under Subsection (1)(b)(ii), the petition sponsors may correct the deficiencies for which the petition was rejected and refile the petition with the lieutenant governor.

(b) Notwithstanding the deadline described in Subsection 10-2a-208(1), the petition sponsors may file a modified petition under Subsection (2)(a) no later than 30 days after the day on which the lieutenant governor notifies the contact sponsor of rejection under Subsection (1)(b)(ii).

(c) A valid signature on an incorporation petition described in Section 10-2a-208 may be used toward fulfilling the signature requirement described in Subsection 10-2a-208(1) for a petition that is modified under Subsection (2)(a).

(3) (a) Within 20 days after the day on which the lieutenant governor receives a modified petition under Subsection (2)(a), the lieutenant governor shall review the modified petition in accordance with Subsection (1).

(b) The sponsors of an incorporation petition may not modify the petition more than once.

Section 5. Section 17-2-102 is amended to read:

17-2-102. Definitions.

As used in this part:

(1) "Consolidating county" means the county to which another county is joined or is proposed to be joined by consolidation under this part.

(2) "Legal voter" means an individual who is registered to vote in Utah.

[~~(2)~~] (3) "Originating county" means the county that is joined or proposed to be joined to another county by consolidation under this part.

Section 6. Section 17-2-103 is amended to read:

17-2-103. Consolidation of counties -- Petition -- Certification of petition signatures -- Removal of signature -- Election -- Ballot.

(1) If a majority of the legal voters of any county desire to have the county joined to and consolidated with an adjoining county, they may petition the county legislative body of the county in which they reside and the county legislative body of the adjoining county.

(2) Each petition under Subsection (1) shall be presented before the first Monday in June of any year.

(3) (a) Within three business days after the day on which a county legislative body receives a petition under Subsection (1), the county legislative body shall provide the petition to the county clerk.

(b) Within 14 days after the day on which a county clerk receives a petition from the county legislative body under Subsection (3)(a), the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (1);

(ii) certify on the petition whether each name is that of a registered voter in the county; and

(iii) deliver the certified petition to the county legislative body.

(4) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk,

submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (4)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

[~~(3)~~] (5) (a) If a petition under Subsection (1) is presented in a year during which a regular general election is held, the county legislative body of the originating county and the county legislative body of the consolidating county shall cause the proposition to be submitted to the legal voters of their respective counties at the next regular general election.

(b) If a petition under Subsection (1) is presented during a year in which there is no regular general election, the county legislative body of the originating county and the county legislative body of the consolidating county shall:

(i) call a special election to be held on the first Tuesday after the first Monday in November following the presentation of the petition; and

(ii) cause the proposition to be submitted to the legal voters of the respective counties on that day.

(c) Except as otherwise provided in this part, an election under this Subsection [~~(3)~~] (5) shall be held, the results canvassed, and returns made under the provisions of the general election laws of the state.

(d) The ballot to be used at an election under this Subsection [~~(3)~~] (5) shall be:

For combining ____ county with ____ county.

Against combining ____ county with ____ county.

Section 7. Section 17-2-202 is amended to read:

17-2-202. Definitions.

As used in this part:

(1) "Annexing county" means the county to which a portion of an adjoining county is annexed or proposed to be annexed as provided in this part.

(2) "Initiating county" means the county, from which a portion is annexed or proposed to be annexed to an adjoining county.

(3) "Legal voter" means an individual who is registered to vote in Utah.

Section 8. Section 17-2-203 is amended to read:

17-2-203. Annexation of portion of county to adjoining county -- Petition -- Certification of petition signatures -- Removal of signature -- Election -- Ballot.

(1) (a) Except as provided in Section 17-2-209, if a majority of the legal voters of any portion of any county, in number equal to a majority of the votes cast at the preceding general election within that portion of the county, desire to have the territory within which they reside included within the boundaries of an adjoining county, they may petition the county legislative body of the county in which they reside and the county legislative body of the adjoining county.

(b) Each petition under Subsection (1)(a) shall be presented before the first Monday in June of a year during which a general election is held.

(c) If a petition is presented under Subsection (1)(a), at the ensuing regular general election:

(i) the legislative body of the initiating county shall cause the proposition to be submitted to the legal voters residing in the initiating county; and

(ii) the legislative body of the annexing county shall cause the proposition to be submitted to the legal voters of the annexing county.

(2) (a) Within three business days after the day on which a county legislative body receives a petition under Subsection (1), the county legislative body shall provide the petition to the county clerk.

(b) Within 14 days after the day on which a county clerk receives a petition from the county legislative body under Subsection (2)(a), the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (1);

(ii) certify on the petition whether each name is that of a registered voter in the county; and

(iii) deliver the certified petition to the county legislative body.

(3) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (3)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

[~~(2)~~] (4) (a) Except as otherwise provided, the election provided in Subsection (1) shall be held, the results canvassed, and returns made under the provisions of the general election laws of the state.

(b) The ballot to be used shall be:

For annexing a portion of ____ county to ____ county.

Against annexing a portion of ____ county to ____ county.

Section 9. Section 17-3-1 is amended to read:

17-3-1. Creating a new county -- Petition -- Certification of petition signatures -- Removal of signature -- Election -- Ballots.

(1) Whenever any number of the [~~qualified electors~~] registered voters of any portion of any county desire to have the territory within which they reside created into a new county they may file a petition for the creation of a new county with the county legislative body of the county in which they reside.

(2) The petition shall be signed by at least one-fourth of the [~~qualified electors~~] registered voters as shown by the registration list of the last preceding general election, residing in that portion of the county to be created into a new county, and by not less than one-fourth of the [~~qualified electors~~] registered voters residing in the remaining portion of the county.

(3) The petition shall be presented on or before the first Monday in May of any year, and shall propose the name and define the boundaries of the new county.

(4) (a) Within three business days after the day on which a county legislative body receives a petition under Subsection (1), the county legislative body shall provide the petition to the county clerk.

(b) Within 14 days after the day on which a county clerk receives a petition from the county legislative body under Subsection (4)(a), the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (2);

(ii) certify on the petition whether each name is that of a registered voter in the county; and

(iii) deliver the certified petition to the county legislative body.

(5) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (5)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

(6) The county legislative body shall cause the proposition to be submitted to the legal voters residing in the county at a special election to be held according to the dates established in Section 20A-1-204, first causing 30 days' notice of the election to be given in the manner provided by law for giving notice of general elections.

(7) The election shall be held, the result canvassed, and returns made under the provisions of the general election laws.

(8) The form of ballot to be used at such election shall be:

For the creation of (supplying the name proposed) county.

Against the creation of (supplying the name proposed) county.

Section 10. Section 17-11-2 is amended to read:

17-11-2. Initiating petitions -- Certification of petition signatures -- Removal of signature -- Limitation.

(1) Whenever there is presented to the county legislative body of any county a petition signed by [~~qualified electors~~] registered voters of the county, in number equal to a majority of the votes cast at the preceding general election, praying for the submission of the question of the removal of the county seat, it shall be the duty of the county legislative body to submit the question of the removal at the next general election to the [~~qualified electors~~] registered voters of the county[~~; and the~~].

(2) (a) Within three business days after the day on which a county legislative body receives a petition under Subsection (1), the county legislative body shall provide the petition to the county clerk.

(b) Within 14 days after the day on which a county clerk receives a petition from the county legislative body under Subsection (2)(a), the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (1);

(ii) certify on the petition whether each name is that of a registered voter in the county; and

(iii) deliver the certified petition to the county legislative body.

(3) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (3)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's

signature from a petition after receiving a timely, valid statement requesting removal of the signature.

(4) The election shall be conducted and the returns canvassed in all respects as provided by law for the conducting of general elections and canvassing the returns.

(5) A proposition of removal of the county seat may not be submitted in the same county more than once in four years, or within four years after the day on which a proposition of removal of the county seat is submitted.

Section 11. Section 17-52a-303 is amended to read:

17-52a-303. Registered voter initiation of adoption of optional plan -- Certification of petition signatures -- Removal of signature -- Procedure.

(1) (a) Registered voters of a county may initiate the process of adopting an optional plan by filing with the county clerk a notice of intent to gather signatures for a petition:

(i) for the establishment of a study committee described in Section 17-52a-403; or

(ii) to adopt an optional plan that:

(A) accompanies the petition during the signature gathering process and accompanies the petition in the submission to the county clerk under Subsection (2)(b); and

(B) complies with the requirements described in Sections 17-52a-404 and 17-52a-405.

(b) A notice of intent described in Subsection (1)(a) shall:

(i) designate five sponsors for the petition;

(ii) designate a contact sponsor to serve as the primary contact for the petition sponsors;

(iii) list the mailing address and telephone number of each of the sponsors; and

(iv) be signed by each of the petition sponsors.

(c) Registered voters of a county may not file a notice of intent to gather signatures in bad faith.

(2) (a) The sponsors of a petition may circulate the petition after filing a notice of intent to gather signatures under Subsection (1).

(b) (i) Except as provided in Subsection (2)(b)(ii), the petition is valid if the petition contains the number of legal signatures required under Subsection 20A-7-501(2).

(ii) For a county of the fifth or sixth class, the petition is valid if the petition contains at least the number of legal signatures equal to 30% of the number of active voters, as defined in Section 20A-7-501, in the county.

(iii) The county clerk may not count a signature that was collected for the petition before the petition sponsors filed a notice of intent under Subsection (1)(a).

(iv) Notwithstanding any other provision of law, an individual may not sign a petition circulated under this section by electronic signature as defined in Section 20A-1-202.

(c) Except as provided in Subsection (4)(b)(ii), the sponsors of the petition shall submit the completed petition and any amended or supplemental petition described in Subsection (4) with the county clerk not more than 180 days after the day on which the sponsors file the notice described in Subsection (1).

(d) (i) Within 30 days after the day on which the sponsors submit a petition, the sponsors shall submit financial disclosures to the county clerk that include:

(A) a list of each contribution received by the sponsors and the name of the donor; and

(B) a list of each expenditure for purposes of furthering or sponsoring the petition and the recipient of each expenditure.

(ii) The county clerk shall publish the financial disclosures described in Subsection (2)(d)(i).

(iii) All sponsors of a petition shall date and sign each list described in Subsection (2)(d)(i).

(3) Within 30 days after the day on which the sponsors submit a petition under Subsection (2)(c) or an amended or supplemental petition under Subsection (4), the county clerk shall:

(a) (i) use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter; and

(ii) determine whether the petition or amended or supplemental petition has been signed by the required number of registered voters;

(b) (i) if the petition was signed by a sufficient number of registered voters:

(A) certify the petition;

(B) deliver the petition to the county legislative body and county executive; and

(C) notify the contact sponsor in writing of the certification; or

(ii) if the petition was not signed by a sufficient number of registered voters:

(A) reject the petition; and

(B) notify the county legislative body and the contact sponsor in writing of the rejection and the reasons for the rejection; and

(c) for a petition described in Subsection (1)(a)(ii), no later than 10 days after the day on which the county clerk certifies the petition under Subsection (3)(b)(i), the county clerk shall send a copy of the optional plan that accompanied the petition to the county attorney for review in accordance with Section 17-52a-406.

(4) The sponsors of a petition circulated under this section may submit supplemental signatures for the petition:

(a) if the county clerk rejects the petition under Subsection (3)(b)(ii); and

(b) before the earlier of:

(i) the deadline described in Subsection (2)(c); or

(ii) 20 days after the day on which the county clerk rejects the petition under Subsection (3)(b)(ii).

(5) With the unanimous approval of petition sponsors, a petition filed under this section may be withdrawn at any time within 90 days after the day on which the county clerk certifies the petition under Subsection (3)(b)(i) and no later than 45 days before an election under Section 17-52a-501 if the petition included a notification to petition signers, in conspicuous language and in a conspicuous location, that the petition sponsors are authorized to withdraw the petition.

(6) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the sponsors submit the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (6)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 12. Section 17-52a-505 is amended to read:

17-52a-505. Repeal of optional plan -- Certification of petition signatures -- Removal of signature.

(1) An optional plan that the voters in an election adopt under this chapter may be repealed as provided in this section.

(2) Registered voters of a county that has adopted an optional plan may initiate the process of repealing an optional plan by filing a petition for the repeal of the optional plan.

(3) (a) Registered voters of a county may not file a petition to repeal an optional plan sooner than four years or more than five years after the election of county officers under Section 17-52a-503.

(b) (i) If the registered voters file a petition to repeal an optional plan under this section, the petition is certified, and the optional plan is not repealed at an election described in Subsection [~~(8)~~] (9), the voters may not circulate or file a subsequent petition to repeal until at least four, and not more than five, years after the certification of the original petition.

(ii) If, after four years, the voters file a subsequent petition under Subsection (3)(b)(i), the voters:

(A) may not circulate or file another petition to repeal until at least four, and not more than five, years after certification of the subsequent petition; and

(B) shall wait an additional four, and not more than five, years after the date of certification of the previous petition for each petition filed thereafter.

(4) A petition described in Subsection (2) shall:

(a) be signed by registered voters residing in the county:

(i) equal in number to at least 15% of the total number of votes cast in each precinct described in Subsection (4)(a)(ii) for all candidates for president of the United States at the most recent election in which a president of the United States was elected; and

(ii) who represent at least 85% of the voting precincts located within the county;

(b) designate up to five of the petition signers as sponsors, designating one petition signer as the contact sponsor, with the mailing address and telephone number of each; and

(c) be filed in the office of the clerk of the county in which the petition signers reside.

(5) Within 30 days after the filing of a petition under Subsection (2) or an amended petition under Subsection (6), the county clerk shall:

(a) (i) use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter; and

(ii) determine whether the required number of voters have signed the petition or amended petition has been signed by the required number of registered voters; and

(b) (i) if a sufficient number of voters have signed the petition, certify the petition or amended petition and deliver it to the county legislative body, and notify in writing the contact sponsor of the certification; or

(ii) if a sufficient number of voters have not signed the petition, reject the petition or the amended petition and notify the county legislative body and the contact sponsor in writing of the rejection and the reasons for the rejection.

(6) If a county clerk rejects a petition or an amended petition under Subsection (5)(b)(ii), the petition may be amended or an amended petition may be further amended with additional signatures and refiled within 20 days of the date of rejection.

(7) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the sponsors file the

petition in the office of the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (7)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

[~~(7)~~] (8) If a county clerk certifies a petition under Subsection (2), the county legislative body shall hold an election on the proposal to repeal the optional plan at the next regular general election that is at least 60 days after the day on which the county clerk certifies the petition.

[~~(8)~~] (9) If, at an election held under Subsection [~~(7)~~] (8), a majority of voters voting on the proposal to repeal the optional plan vote in favor of repealing:

(a) the optional plan is repealed, effective January 1 of the year following the election of county officers under Subsection [~~(8)(c)~~] (9)(c);

(b) upon the effective date of the repeal under Subsection [~~(8)(a)~~] (9)(a), the form of government under which the county operates reverts to the form it had before the optional plan was adopted; and

(c) the county officers under the form of government to which the county reverts, who are different than the county officers under the repealed optional plan, shall be elected at the next regular general election following the election under Subsection [~~(7)~~] (8).

Section 13. Section 17B-1-205 is amended to read:

17B-1-205. Petition and request requirements -- Withdrawal of signature.

(1) Each petition and request shall:

(a) indicate the typed or printed name and current residence address of each property owner, groundwater right owner, or registered voter signing the petition;

(b) (i) if it is a property owner request or petition, indicate the address of the property as to which the owner is signing the request or petition; or

(ii) if it is a groundwater right owner request or petition, indicate the location of the diversion of the groundwater as to which the owner is signing the groundwater right owner request or petition;

(c) describe the entire area of the proposed local district;

(d) be accompanied by a map showing the boundaries of the entire proposed local district;

(e) specify the service proposed to be provided by the proposed local district;

(f) if the petition or request proposes the creation of a specialized local district, specify the type of specialized local district proposed to be created;

(g) for a proposed basic local district:

(i) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;

(ii) if one or more members will be elected, state the basis upon which each elected member will be elected; and

(iii) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;

(h) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; and

(i) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:

(i) the county legislative body;

(ii) appointed as provided in Section 17B-1-304; or

(iii) elected as provided in Section 17B-1-306;

(j) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(k) if the petition or request is a groundwater right owner petition or request proposing the creation of a local district to acquire a groundwater right under Section 17B-1-202, explain the anticipated method:

(i) of paying for the groundwater right acquisition; and

(ii) of addressing blowing dust created by the reduced use of water; and

(l) if the petition or request is a groundwater right owner petition or request proposing the creation of a local district to assess a groundwater right under Section 17B-1-202, explain the anticipated method:

(i) of assessing the groundwater right and securing payment of the assessment; and

(ii) of addressing blowing dust created by the reduced use of water.

(2) A signer of a request or petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the request or petition by filing a written withdrawal or reinstatement with:

(a) in the case of a request:

(i) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the

signer's property is located, if the request is a property owner request;

(ii) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's groundwater diversion point is located, if the request is a groundwater right owner request; or

(iii) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer resides, if the request is a registered voter request; or

(b) in the case of a petition, the responsible clerk.

(3) (a) A clerk of the county who receives a timely, valid written withdrawal or reinstatement from a signer of a registered voter request or registered voter petition shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove or reinstate the individual's signature.

(b) If a municipal clerk or recorder receives a timely, valid written withdrawal or reinstatement from a signer of a registered voter request or registered voter petition, the clerk of the municipality's county shall assist the municipal clerk or recorder with determining whether to remove or reinstate the individual's signature using the procedures described in Subsection 20A-1-1003(3).

Section 14. Section 17B-1-209 is amended to read:

17B-1-209. Petition certification -- Amended petition.

(1) No later than five days after the day on which a petition is filed, the responsible clerk shall mail a copy of the petition to the clerk of each other county and the clerk or recorder of each municipality in which any part of the proposed local district is located.

(2) (a) No later than 35 days after the day on which a petition is filed, the clerk of each county whose unincorporated area includes and the clerk or recorder of each municipality whose boundaries include part of the proposed local district shall:

(i) with the assistance of other county or municipal officers from whom the county clerk or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's respective county or municipality, whether the petition complies with the requirements of Subsection 17B-1-203(1)(a), (b), or (c), as the case may be, and Subsections 17B-1-208(2), (3), and (4); and

(ii) notify the responsible clerk in writing of the clerk or recorder's determination under Subsection (2)(a)(i).

(b) The responsible clerk may rely on the determinations of other county clerks or municipal clerks or recorders under Subsection (2)(a) in making the responsible clerk's determinations and certification or rejection under Subsection (3).

(3) (a) Within 45 days after the filing of a petition, the responsible clerk shall:

(i) determine whether the petition complies with Subsection 17B-1-203(1)(a), (b), or (c), as the case may be, Subsection 17B-1-205(1), and Section 17B-1-208; and

(ii) (A) if the responsible clerk determines that the petition complies with the applicable requirements:

(I) (Aa) certify the petition and deliver the certified petition to the responsible body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) for each petition described in Subsection (3)(b)(i), deliver a copy of the petition to the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed basic local district, with a notice indicating that the clerk has determined that the petition complies with applicable requirements; or

(B) if the responsible clerk determines that the petition fails to comply with any of the applicable requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(b) (i) A petition for which an election is not required under Subsection 17B-1-214(3) and that proposes the creation of a basic local district that has within its boundaries fewer than one residential dwelling unit per 10 acres of land may not be certified without the approval, by resolution, of the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed local district.

(ii) Before adopting a resolution giving its approval under Subsection (3)(b)(i), a county or municipal legislative body may hold one or more public hearings on the petition.

(iii) If a petition described in Subsection (3)(b)(i) is approved as provided in that subsection, the responsible clerk shall, within 10 days after its approval:

(A) certify the petition and deliver the certified petition to the responsible body; and

(B) mail or deliver written notification of the certification to the contact sponsor.

(4) Except for a petition described in Subsection (3)(b)(i), if the responsible clerk fails to certify or reject a petition within 45 days after its filing, the petition shall be considered to be certified.

(5) The responsible clerk shall certify or reject petitions in the order in which they are filed.

(6) (a) If the responsible clerk rejects a petition under Subsection (3)(a)(ii)(B), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (3)(a)(ii)(B) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (6)(a).

(c) If a petition is amended and refiled under Subsection (6)(a) after having been rejected by the responsible clerk under Subsection (3)(a)(ii)(B), the amended petition shall be considered as newly filed, and its processing priority shall be determined by the date on which it is refiled.

(7) The responsible clerk and each county clerk and municipal clerk or recorder shall:

(a) act in good faith in making the determinations under this section[.]; and

(b) with the assistance of the county clerk if necessary, and as applicable, use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter.

Section 15. Section 17B-1-506 is amended to read:

17B-1-506. Withdrawal petition requirements -- Removal of signature.

(1) Each petition under Section 17B-1-504 shall:

(a) indicate the typed or printed name and current address of each owner of acre-feet of water, property owner, registered voter, or authorized representative of the governing body signing the petition;

(b) separately group signatures by municipality and, in the case of unincorporated areas, by county;

(c) if it is a petition signed by the owners of land, the assessment of which is based on acre-feet of water, indicate the address of the property and the property tax identification parcel number of the property as to which the owner is signing the request;

(d) designate up to three signers of the petition as sponsors, or in the case of a petition filed under Subsection 17B-1-504(1)(a)(iv), designate a governmental representative as a sponsor, and in each case, designate one sponsor as the contact sponsor with the mailing address and telephone number of each;

(e) state the reasons for withdrawal; and

(f) when the petition is filed with the local district board of trustees, be accompanied by a map generally depicting the boundaries of the area proposed to be withdrawn and a legal description of the area proposed to be withdrawn.

(2) (a) The local district may prepare an itemized list of expenses, other than attorney expenses, that will necessarily be incurred by the local district in the withdrawal proceeding. The itemized list of expenses may be submitted to the contact sponsor. If the list of expenses is submitted to the contact sponsor within 21 days after receipt of the petition, the contact sponsor on behalf of the petitioners shall be required to pay the expenses to the local district within 90 days of receipt. Until funds to cover the expenses are delivered to the local district, the district will have no obligation to proceed with the withdrawal and the time limits on the district stated in this part will be tolled. If the expenses are not paid within the 90 days, or within 90 days from the conclusion of any arbitration under Subsection (2)(b), the petition requesting the withdrawal shall be considered to have been withdrawn.

(b) If there is no agreement between the board of trustees of the local district and the contact sponsor on the amount of expenses that will necessarily be incurred by the local district in the withdrawal proceeding, either the board of trustees or the contact sponsor may submit the matter to binding arbitration in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act; provided that, if the parties cannot agree upon an arbitrator and the rules and procedures that will control the arbitration, either party may pursue arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(3) (a) A signer of a petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the public hearing under Section 17B-1-508 by submitting a written statement requesting withdrawal or reinstatement with the board of trustees of the local district in which the area proposed to be withdrawn is located.

(b) A statement described in Subsection (3)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) As applicable and using the procedures described in Subsection 20A-1-1003(3), the county clerk shall assist the board of trustees to determine whether to remove or reinstate a registered voter's signature after the voter submits a timely, valid statement described in Subsection (3)(a).

(4) If it reasonably appears that, if the withdrawal which is the subject of a petition filed under Subsection 17B-1-504(1)(a)(i) or (ii) is granted, it will be necessary for a municipality to provide to the withdrawn area the service previously supplied by the local district, the board of trustees of the local district may, within 21 days after receiving the petition, notify the contact sponsor in writing that, before it will be considered by the board of trustees, the petition shall be presented to and approved by the governing body of the municipality as provided in Subsection 17B-1-504(1)(a)(iv) before it will be considered by the local district board of trustees. If the notice is timely given to the contact sponsor, the petition shall be considered to have been withdrawn until the municipality files a petition with the local district under Subsection 17B-1-504(1)(a)(iv).

(5) (a) After receiving the notice required by Subsection 17B-1-504(2), unless specifically allowed by law, a public entity may not make expenditures from public funds to support or oppose the gathering of signatures on a petition for withdrawal.

(b) Nothing in this section prohibits a public entity from providing factual information and analysis regarding a withdrawal petition to the public, so long as the information grants equal access to both the opponents and proponents of the petition for withdrawal.

(c) Nothing in this section prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's constitutional rights.

Section 16. Section 17B-1-507 is amended to read:

17B-1-507. Withdrawal petition certification -- Amended petition.

(1) Within 30 days after the filing of a petition under Sections 17B-1-504 and 17B-1-506, the board of trustees of the local district in which the area proposed to be withdrawn is located shall:

(a) (i) as necessary and with the assistance of the county clerk of the county in which the area proposed to be withdrawn is located, use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter; and

(ii) with the assistance of officers of the county in which the area proposed to be withdrawn is located, determine whether the petition meets the requirements of Sections 17B-1-504 and 17B-1-506; and

(b) (i) if the petition complies with the requirements set forth in Sections 17B-1-504 and 17B-1-506, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the petition fails to comply with any of the requirements set forth in Sections 17B-1-504 and 17B-1-506, reject the petition as insufficient and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2) (a) If the board rejects the petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled within 60 days after notice of the rejection.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement for an amended petition refiled under Subsection (2)(a).

(3) The board of trustees shall process an amended petition refiled under Subsection (2)(a) in the same manner as an original petition under Subsection (1). If an amended petition is rejected for failure to comply with the requirements of Sections 17B-1-504 and 17B-1-506, the board of trustees shall issue a final rejection of the petition for insufficiency and mail or deliver written notice of the final rejection to the contact sponsor.

(4) (a) A signer of a petition for which there has been a final rejection under Subsection (3) for insufficiency may seek judicial review of the board of trustees' final decision to reject the petition as insufficient.

(b) Judicial review under Subsection (4)(a) shall be initiated by filing an action in state district court in the county in which a majority of the area proposed to be withdrawn is located.

(c) The court in which an action is filed under this Subsection (4) may not overturn the board of trustees' decision to reject the petition unless the court finds that:

(i) the board of trustees' decision was arbitrary or capricious; or

(ii) the petition materially complies with the requirements set forth in Sections 17B-1-504 and 17B-1-506.

(d) The court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

Section 17. Section 17B-1-1301 is amended to read:

17B-1-1301. Definitions.

For purposes of this part:

(1) "Active" means, with respect to a local district, that the district is not inactive.

(2) "Administrative body" means:

(a) if the local district proposed to be dissolved has a duly constituted board of trustees in sufficient numbers to form a quorum, the board of trustees; or

(b) except as provided in Subsection (2)(a):

(i) for a local district located entirely within a single municipality, the legislative body of that municipality;

(ii) for a local district located in multiple municipalities within the same county or at least partly within the unincorporated area of a county, the legislative body of that county; or

(iii) for a local district located within multiple counties, the legislative body of the county whose boundaries include more of the local district than is included within the boundaries of any other county.

(3) "Clerk" means:

(a) the board of trustees if the board is also the administrative body under Subsection (2)(a);

(b) the clerk or recorder of the municipality whose legislative body is the administrative body under Subsection (2)(b)(i); or

(c) the clerk of the county whose legislative body is the administrative body under Subsection (2)(b)(ii) or (iii).

(4) "Inactive" means, with respect to a local district, that during the preceding three years the district has not:

(a) provided any service or otherwise operated;

(b) received property taxes or user or other fees; and

(c) expended any funds.

(5) "Registered voter petition" means a petition under Subsection 17B-1-1303(1)(a)(ii)(B) or 17B-1-1303(2)(c)(ii).

Section 18. Section 17B-1-1305 is amended to read:

17B-1-1305. Petition certification -- Withdrawal of signature.

(1) Within 30 days after the filing of a petition under Subsection 17B-1-1303(1)(a) or (2), the clerk shall:

(a) with the assistance of officers of the county in which the local district is located from whom the clerk requests assistance, determine whether the petition meets the requirements of Section 17B-1-1303 and Subsection 17B-1-1304(1); and

(b) (i) if the clerk determines that the petition complies with the requirements, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the clerk determines that the petition fails to comply with any of the requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2) For a registered voter petition, the county clerk shall determine or shall assist a board of trustees or municipal clerk or recorder with determining whether a signer is a registered voter using the procedures described in Section 20A-1-1002.

[~~(2)~~] (3) (a) If the clerk rejects a petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection [~~(2)(a)~~] (3)(a).

[~~(3)~~] (4) The clerk shall process an amended petition filed under Subsection [~~(2)(a)~~] (3)(a) in the same manner as an original petition under Subsection (1).

(5) (a) A signer of a petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the public hearing under Section 17B-1-1306 by submitting a written statement requesting withdrawal or reinstatement with the clerk.

(b) For a registered voter petition:

(i) a statement described in Subsection (5)(a) shall comply with the requirements described in Subsection 20A-1-1003(2); and

(ii) the county clerk shall determine or shall assist a board of trustees or municipal clerk or recorder with determining whether to remove or reinstate the signer's signature using the procedures described in Subsection 20A-1-1003(3).

Section 19. Section 17D-2-502 is amended to read:

17D-2-502. Required process for issuance of local building authority bonds -- Certification of petition signatures -- Removal of signature.

(1) A local building authority may not issue bonds unless the creating local entity's governing body approves the issuance and terms of the bonds.

(2) (a) Before issuing bonds, the authority board of a local building authority shall give public notice of the authority board's intent to issue bonds.

(b) (i) A local building authority may not issue bonds without the approval of the creating local entity's voters if, within 30 days after the notice under Subsection (2)(a) is given, a written petition requesting an election is filed with the local building authority, signed by at least 20% of the active voters, as defined in Section 20A-1-102, within the creating local entity.

(ii) Each election under Subsection (2)(b)(i) shall be held as provided in Title 11, Chapter 14, Local Government Bonding Act, in the same manner as an election for general obligation bonds issued by the creating local entity.

(3) (a) Within three business days after the day on which a local building authority receives a petition under Subsection (2)(b)(i), the local building authority shall provide the petition to the county clerk of the county in which the creating local entity is located.

(b) Within 14 days after the day on which a county clerk receives a petition from the local building authority under Subsection (3)(a), the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (2)(b)(i);

(ii) certify on the petition whether each name is that of an active voter within the creating local entity; and

(iii) deliver the certified petition to the local building authority.

(4) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the local building authority provides the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (4)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Section 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 20. Section 20A-1-1001 is enacted to read:

Part 10. Petitions

20A-1-1001. Definitions.

As used in this part:

(1) (a) "Clerk" means the lieutenant governor, a county clerk, municipal clerk, town clerk, city recorder, or municipal recorder.

(b) "Clerk" includes a board of trustees under Title 17B, Chapter 1, Provisions Applicable to All Local Districts.

(2) "Local petition" means:

(a) a manual or electronic local initiative petition described in Chapter 7, Part 5, Local Initiatives – Procedures; or

(b) a manual or electronic local referendum petition described in Chapter 7, Part 6, Local Referenda – Procedures.

(3) "Petition" means one of the following written requests, signed by registered voters, appealing to an authority with respect to a particular cause:

(a) a local petition;

(b) a petition to consolidate two or more municipalities under Section 10-2-601;

(c) a petition for disincorporation of a municipality under Section 10-2-701;

(d) a petition to incorporate a proposed municipality under Section 10-2a-208;

(e) a petition to consolidate adjoining counties under Section 17-2-103;

(f) a petition to annex a portion of a county to an adjoining county under Section 17-2-203;

(g) a petition for the creation of a new county under Section 17-3-1;

(h) a petition for the removal of a county seat under Section 17-11-2;

(i) a petition for the adoption of an optional plan under Section 17-52a-303;

(j) a petition for the repeal of an optional plan under Section 17-52a-505;

(k) a petition to create a local district under Section 17B-1-203;

(l) a petition to withdraw an area from a local district under Section 17B-1-504;

(m) a petition to dissolve a local district under Section 17B-1-1303;

(n) a petition for issuance of local building authority bonds under Section 17D-2-502;

(o) a petition to become a registered political party under Section 20A-8-103;

(p) a nomination petition for municipal office under Section 20A-9-203;

(q) a nomination petition for a regular primary election under Subsection 20A-9-403(3)(a) and Section 20A-9-405;

(r) a petition for a political party to qualify as a municipal political party under Section 20A-9-404;

(s) a petition for the nomination of a qualified political party under Section 20A-9-408;

(t) a nomination petition for a candidate not affiliated with a political party under Section 20A-9-502;

(u) a nomination petition to become a delegate to a ratification convention under Section 20A-15-103;

(v) a petition to create a new school district under Section 53G-3-301;

(w) a petition to consolidate school districts under Section 53G-3-401;

(x) a petition to transfer a portion of a school district to another district under Section 53G-3-501;

(y) a petition to determine whether a privatization project agreement should be approved under Section 73-10d-4; or

(z) a statewide petition.

(4) "Statewide petition" means:

(a) a manual or electronic statewide initiative petition described in Chapter 7, Part 2, Statewide Initiatives; or

(b) a manual or electronic statewide referendum petition described in Chapter 7, Part 3, Statewide Referenda.

(5) (a) "Substantially similar name" means:

(i) the given name, the surname, or both, provided by the individual with the individual's petition signature, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) "Substantially similar name" does not include a name having an initial or a middle name provided by the individual with the individual's petition signature that does not match a different initial or middle name shown on the official register.

Section 21. Section 20A-1-1002 is enacted to read:

20A-1-1002. Verification of voter registration.

(1) A clerk shall use the following procedures to determine whether a signer of a petition is a registered voter and to determine the address where the voter is registered to vote:

(a) if a signer's name and address provided by the individual with the individual's petition signature exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the clerk shall declare the signature valid for the district or jurisdiction in which the signer is registered to vote;

(b) if there is no exact match of an address and a name, the clerk shall declare the signature valid for the district or jurisdiction in which the signer is registered to vote, if:

(i) the address provided by the individual with the individual's petition signature matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (1)(b)(i);

(c) if there is no match of an address and a substantially similar name, the clerk shall declare the signature valid for the district or jurisdiction in which the signer is registered to vote if:

(i) the birth date or age provided by the individual with the individual's petition signature matches the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (1)(c)(i).

(2) If a signature is not declared valid under Subsection (1)(a), (b), or (c), the clerk shall declare the signature to be invalid.

Section 22. Section 20A-1-1003 is enacted to read:

20A-1-1003. Signature removal -- Statement required.

(1) A voter who signs a petition may have the voter's signature removed from the petition by submitting to the clerk a statement requesting that the voter's signature be removed.

(2) (a) (i) The statement described in Subsection (1) shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the voter's signature; and

(D) the date of the signature described in Subsection (2)(a)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(b) Except as provided in Subsection 20A-7-216(5)(c), 20A-7-314(5)(c), 20A-7-515(4)(d), or 20A-7-615(4)(d), a voter may not submit a statement described in Subsection (1) by email or other electronic means.

(c) In order for the signature to be removed, the clerk must receive the statement described in Subsection (1) no later than the deadline described in the provision of law governing the petition.

(d) A voter may only remove a signature from a petition in accordance with this section and the provision of law governing the petition.

(e) A clerk shall analyze a signature, for purposes of removing a signature from a petition, in accordance with Subsection (3).

(3) The clerk shall use the following procedures to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if the signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database, the clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the clerk shall remove the signature from the petition if:

(i) the address on the statement and the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and the petition match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the clerk may not remove the signature from the petition.

Section 23. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Approved device" means a device described in Subsection 20A-21-201(4) used to gather signatures for the electronic initiative process, the electronic referendum process, or the electronic candidate qualification process.

(2) "Budget officer" means:

(a) for a county, the person designated as finance officer as defined in Section 17-36-3;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(4);

(c) for a town, the town council; or

(d) for a metro township, the person described in Subsection (2)(a) for the county in which the metro township is located.

(3) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(4) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(5) "Electronic initiative process" means:

(a) as it relates to a statewide initiative, the process, described in Sections 20A-7-215 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local initiative, the process, described in Sections 20A-7-514 and 20A-21-201, for gathering signatures.

(6) "Electronic referendum process" means:

(a) as it relates to a statewide referendum, the process, described in Sections 20A-7-313 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local referendum, the process, described in Sections 20A-7-614 and 20A-21-201, for gathering signatures.

(7) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(8) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(9) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(10) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(11) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(12) (a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

(13) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

(14) "Legal voter" means a person who is registered to vote in Utah.

(15) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

(16) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(17) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(18) (a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law;

(iv) a land use regulation, as defined in Section 10-9a-103; or

(v) other legislative action of a local legislative body.

(b) "Local law" does not include a land use decision, as defined in Section 10-9a-103.

(19) "Local legislative body" means the legislative body of a county, city, town, or metro township.

(20) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(21) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(22) "Manual initiative process" means the process for gathering signatures for an initiative using paper signature packets that a signer physically signs.

(23) "Manual referendum process" means the process for gathering signatures for a referendum using paper signature packets that a signer physically signs.

(24) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(25) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(26) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(27) "Signature":

(a) for a statewide initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-215 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-203; and

(B) does not include an electronic signature;

(b) for a statewide referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-313 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-303; and

(B) does not include an electronic signature;

(c) for a local initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-514 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-503; and

(B) does not include an electronic signature; or

(d) for a local referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-614 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-603; and

(B) does not include an electronic signature.

(28) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

(29) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

(30) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(31) (a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

(32) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

(33) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

(34) "Verified" means acknowledged by the person circulating the petition as required in [~~Sections 20A-7-205 and 20A-7-305~~] Section 20A-7-105.

Section 24. Section 20A-7-105 is enacted to read:

20A-7-105. Manual petition processes -- Obtaining signatures -- Verification -- Submitting the petition -- Certification of signatures -- Transfer to lieutenant governor -- Removal of signature.

(1) This section applies only to the manual initiative process and the manual referendum process.

(2) As used in this section:

(a) "Local petition" means:

(i) a manual local initiative petition described in Part 5, Local Initiatives - Procedures; or

(ii) a manual local referendum petition described in Part 6, Local Referenda - Procedures.

(b) "Packet" means an initiative packet or referendum packet.

(c) "Petition" means a local petition or statewide petition.

(d) "Statewide petition" means:

(i) a manual statewide initiative petition described in Part 2, Statewide Initiatives; or

(ii) a manual statewide referendum petition described in Part 3, Statewide Referenda.

(3) (a) A Utah voter may sign a statewide petition if the voter is a legal voter.

(b) A Utah voter may sign a local petition if the voter:

(i) is a legal voter; and

(ii) resides in the local jurisdiction.

(4) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each signature sheet by completing the verification printed on the last page of each packet; and

(iii) is informed that each signer is required to read and understand:

(A) for an initiative petition, the law proposed by the initiative; or

(B) for a referendum petition, the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of a packet if the individual signed a signature sheet in the packet.

(5) (a) The sponsors, or an agent of the sponsors, shall submit a signed and verified packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) for a statewide initiative:

(A) 30 days after the day on which the first individual signs the initiative packet;

(B) 316 days after the day on which the application for the initiative petition is filed; or

(C) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202;

(ii) for a statewide referendum:

(A) 30 days after the day on which the first individual signs the referendum packet; or

(B) 40 days after the day on which the legislative session at which the law passed ends;

(iii) for a local initiative:

(A) 30 days after the day on which the first individual signs the initiative packet;

(B) 316 days after the day on which the application is filed;

(C) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a county initiative; or

(D) the April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a municipal initiative; or

(iv) for a local referendum:

(A) 30 days after the day on which the first individual signs the referendum packet; or

(B) 45 days after the day on which the sponsors receive the items described in Subsection 20A-7-604(3) from the local clerk.

(b) A person may not submit a packet after the applicable deadline described in Subsection (5)(a).

(c) Before delivering an initiative packet to the county clerk under this Subsection (5), the sponsors shall send an email to each individual who provides a legible, valid email address on the signature sheet that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's or county clerk's website that includes the information referred to in the email]."

(d) When the sponsors submit the last initiative packet to the county clerk, the sponsors shall submit to the county clerk:

(i) a list containing:

(A) the name and email address of each individual the sponsors sent, or caused to be sent, the email described in Subsection (5)(c); and

(B) the date the email was sent;

(ii) a copy of the email described in Subsection (5)(c); and

(iii) the following written verification, completed and signed by each of the sponsors:

"Verification of initiative sponsor State of Utah, County of _____I, _____, of _____, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled _____; and

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature sheet submitted to the county clerk in relation to the initiative petition, the email

described in Utah Code Subsection 20A-7-105(5)(c).

_____

(Name) (Residence Address) (Date)".

(e) Signatures gathered for an initiative petition are not valid if the sponsors do not comply with Subsection (5)(c) or (d).

(6) (a) Within 21 days after the day on which the county clerk receives the packet, the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether each signer is a legal voter and, as applicable, the jurisdiction where the signer is registered to vote;

(ii) for a statewide initiative or a statewide referendum:

(A) certify on the petition whether each name is that of a legal voter;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(ii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the lieutenant governor;

(iii) for a local initiative or a local referendum:

(A) certify on the petition whether each name is that of a legal voter who is registered in the jurisdiction to which the initiative or referendum relates;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(iii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the local clerk.

(b) For a local initiative or local referendum, the local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection (6)(a)(iii)(B):

(i) for a local initiative, during the period of time described in Subsection 20A-7-507(3)(a); or

(ii) for a local referendum, during the period of time described in Subsection 20A-7-607(2)(a)(i).

(7) The county clerk may not certify a signature under Subsection (6):

(a) on a packet that is not verified in accordance with Subsection (4); or

(b) that does not have a date of signature next to the signature.

(8) (a) A voter who signs a statewide initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) for an initiative packet received by the county clerk before December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 90 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2); or

(ii) for an initiative packet received by the county clerk on or after December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2).

(b) A voter who signs a statewide referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-307(2).

(c) A voter who signs a local initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-507(2);

(iii) 316 days after the day on which the application is filed; or

(iv) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(d) A voter who signs a local referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(e) A statement described in this Subsection (8) shall comply with the requirements described in Subsection 20A-1-1003(2).

(f) In order for the signature to be removed, the county clerk must receive the statement described in this Subsection (8) before 5 p.m. no later than the applicable deadline described in this Subsection (8).

(g) A county clerk shall analyze a signature, for purposes of removing a signature from a petition, in accordance with Subsection 20A-1-1003(3).

(9) (a) If the county clerk timely receives a statement requesting signature removal under Subsection (8) and determines that the signature should be removed from the petition under Subsection 20A-1-1003(3), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (6)(a)(ii)(B) or (iii)(B); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection (9)(a) before the later of:

(i) the deadline described in Subsection (6)(a); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection (8).

(10) A person may not retrieve a packet from a county clerk, or make any alterations or corrections to a packet, after the packet is submitted to the county clerk.

Section 25. Section 20A-7-206.1 is amended to read:

20A-7-206.1. Provisions relating only to process for submitting an initiative to the Legislature for approval or rejection.

(1) This section relates only to the process, described in Subsection 20A-7-201(1), for submitting an initiative to the Legislature for approval or rejection.

(2) Notwithstanding Section [~~20A-7-205~~] 20A-7-105, in order to qualify an initiative petition for submission to the Legislature, the sponsors, or an agent of the sponsors, shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.

(3) Notwithstanding Section [~~20A-7-205~~] 20A-7-105, no later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative for submission to the Legislature:

(a) determine whether each signer is a registered voter according to the requirements of Section [~~20A-7-206.3~~] 20A-7-105;

(b) certify on the petition whether each name is that of a registered voter; and

(c) deliver the verified packets to the lieutenant governor.

(4) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section [~~20A-7-205~~] 20A-7-105.

(5) A person may not retrieve an initiative packet from a county clerk, or make any alterations or corrections to an initiative packet, after the initiative packet is submitted to the county clerk.

Section 26. Section 20A-7-207 is amended to read:

20A-7-207. Evaluation by the lieutenant governor.

(1) In relation to the manual initiative process, when the lieutenant governor receives an initiative packet from a county clerk, the lieutenant governor shall record the number of the initiative packet received.

(2) The county clerk shall:

(a) in relation to the manual initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection [~~20A-7-206(3)(c)~~] 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor:

(A) for an initiative packet received by the county clerk before December 1, for at least 90 days; or

(B) for an initiative packet received by the county clerk on or after December 1, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-217(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor:

(A) for a signature received by the county clerk before December 1, for at least 90 days; or

(B) for a signature received by the county clerk on or after December 1, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The lieutenant governor:

(a) shall, except as provided in Subsection (3)(b), declare the petition to be sufficient or insufficient on April 30 before the regular general election described in Subsection 20A-7-201(2)(b); or

(b) may declare the petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual initiative process, the total of all valid signatures on timely and lawfully

submitted signature packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-201;

(ii) in relation to the electronic initiative process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-201; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required under Section 20A-7-201, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-201 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

(c) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(5) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

(6) (a) If the lieutenant governor refuses to accept and file an initiative petition that a voter believes is legally sufficient, the voter may, no later than May 15, apply to the appropriate court for an extraordinary writ to compel the lieutenant governor to accept and file the initiative petition.

(b) If the court determines that the initiative petition is legally sufficient, the lieutenant governor shall file the petition, with a verified copy of the judgment attached to the petition, as of the date on which the petition was originally offered for filing in the lieutenant governor's office.

(c) If the court determines that a petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(7) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 27. Section 20A-7-208 is amended to read:

20A-7-208. Disposition of initiative petitions by the Legislature.

(1) (a) Except as provided in Subsection (1)(b), when the lieutenant governor delivers an initiative petition to the Legislature, the law proposed by that initiative petition shall be either enacted or rejected without change or amendment by the Legislature.

(b) The speaker of the House and the president of the Senate may direct legislative staff to make technical corrections authorized by Section 36-12-12.

(c) If any law proposed by an initiative petition is enacted by the Legislature, the law is subject to referendum the same as other laws.

(2) If any law proposed by a petition is not enacted by the Legislature, that proposed law shall be submitted to a vote of the people at the next regular general election if:

(a) sufficient additional signatures to the petition are first obtained to bring the total number of signatures up to the number required by Subsection 20A-7-201(2); and

(b) those additional signatures are verified, certified by the county clerks, and declared sufficient by the lieutenant governor as provided in Section 20A-7-105 and this part.

Section 28. Section 20A-7-213 is amended to read:

20A-7-213. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any person to:

(a) sign any name other than the person's own to an initiative petition or a statement described in Subsection [~~20A-7-205(4)~~] 20A-7-105(8) or 20A-7-216(4);

(b) knowingly sign the person's name more than once for the same measure at one election;

(c) knowingly indicate that a person who signed an initiative petition signed the petition on a date other than the date that the person signed the petition;

(d) sign an initiative petition knowing the person is not a legal voter; or

(e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any person to sign the verification for an initiative packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9), knowing that:

(a) the person does not meet the residency requirements of Section 20A-2-105;

(b) the signature date associated with the person's signature for the initiative petition is not the date that the person signed the petition;

(c) the person has not witnessed the signatures of those persons whose signatures the person collects or submits; or

(d) one or more individuals who signed the initiative petition are not registered to vote in Utah.

(3) It is unlawful for any person to:

(a) pay a person to sign an initiative petition;

(b) pay a person to remove the person's signature from an initiative petition;

(c) accept payment to sign an initiative petition; or

(d) accept payment to have the person's name removed from an initiative petition.

(4) Any person violating this section is guilty of a class A misdemeanor.

Section 29. Section 20A-7-216 is amended to read:

20A-7-216. Electronic initiative process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic initiative process.

(2) A Utah voter may sign an initiative if the voter is a legal voter.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law proposed by the initiative.

(4) A voter who [~~has signed~~] signs an initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(a) for an electronic signature gathered before December 1:

(i) 30 days after the day on which the voter signs the signature removal statement; or

(ii) 90 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-217(4); or

(b) for an electronic signature gathered on or after December 1:

(i) 30 days after the day on which the voter signs the signature removal statement; or

(ii) 45 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-217(4).

(5) (a) The statement described in Subsection (4) shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (5)(a)(iii).

(b) To increase the likelihood of the voter's signature being identified and removed, the statement described in Subsection (4) may include the voter's birth date or age.

(c) A voter may not submit a signature removal statement described in Subsection (4) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(d) A person may only remove an electronic signature from an initiative petition in accordance with this section.

(e) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from an initiative petition, in accordance with [~~Section 20A-7-206.3~~] Subsection 20A-1-1003(3).

Section 30. Section 20A-7-307 is amended to read:

20A-7-307. Evaluation by the lieutenant governor.

(1) In relation to the manual referendum process, when the lieutenant governor receives a referendum packet from a county clerk, the lieutenant governor shall record the number of the referendum packet received.

(2) The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection [~~20A-7-306(2)(e)~~] 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-315(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The lieutenant governor:

(a) shall, except as provided in Subsection (3)(b), declare the petition to be sufficient or insufficient 106 days after the end of the legislative session at which the law passed; or

(b) may declare the petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted

signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301;

(ii) in relation to the electronic referendum process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required under Section 20A-7-301, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-301 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

(c) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(d) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

(5) (a) If the lieutenant governor refuses to accept and file a referendum that a voter believes is legally sufficient, the voter may, no later than 10 days after the day on which the lieutenant governor declares the petition insufficient, apply to the appropriate court for an extraordinary writ to compel the lieutenant governor to accept and file the referendum petition.

(b) If the court determines that the referendum petition is legally sufficient, the lieutenant governor shall file the petition, with a verified copy of the judgment attached to the referendum petition, as of the date on which the petition was originally offered for filing in the lieutenant governor's office.

(c) If the court determines that a petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(6) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 31. Section 20A-7-314 is amended to read:

20A-7-314. Electronic referendum process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic referendum process.

(2) A Utah voter may sign a referendum petition if the voter is a legal voter.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law that is the subject of the referendum petition.

(4) A voter who [~~has signed~~] signs a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(a) 30 days after the day on which the voter signs the statement requesting removal; or

(b) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-315(4).

(5) (a) The statement described in Subsection (4) shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (5)(a)(iii).

(b) To increase the likelihood of the voter's signature being identified and removed, the statement described in Subsection (4) may include the voter's birth date or age.

(c) A voter may not submit a signature removal statement described in Subsection (4) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(d) A person may only remove an electronic signature from a referendum petition in accordance with this section.

(e) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from a referendum petition, in accordance with [~~Section 20A-7-306.3~~] Subsection 20A-1-1003(3).

Section 32. Section 20A-7-401.5 is amended to read:

20A-7-401.5. Proposition information pamphlet.

(1) (a) (i) Within 15 days after the day on which an eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an

application to circulate a referendum petition under Section 20A-7-602:

(A) the sponsors of the proposed initiative or referendum may submit a written argument in favor of the proposed initiative or referendum to the election officer of the county or municipality to which the petition relates; and

(B) the county or municipality to which the application relates may submit a written argument in favor of, or against, the proposed initiative or referendum to the county's or municipality's election officer.

(ii) If a county or municipality submits more than one written argument under Subsection (1)(a)(i)(B), the election officer shall select one of the written arguments, giving preference to a written argument submitted by a member of a local legislative body if a majority of the local legislative body supports the written argument.

(b) Within one business day after the day on which an election officer receives an argument under Subsection (1)(a)(i)(A), the election officer shall provide a copy of the argument to the county or municipality described in Subsection (1)(a)(i)(B) or (1)(a)(ii), as applicable.

(c) Within one business day after the date on which an election officer receives an argument under Subsection (1)(a)(i)(B), the election officer shall provide a copy of the argument to the first three sponsors of the proposed initiative or referendum described in Subsection (1)(a)(i)(A).

(d) The sponsors of the proposed initiative or referendum may submit a revised version of the written argument described in Subsection (1)(a)(i)(A) to the election officer of the county or municipality to which the petition relates within 20 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(e) The author of a written argument described in Subsection (1)(a)(i)(B) submitted by a county or municipality may submit a revised version of the written argument to the county's or municipality's election officer within 20 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(2) (a) A written argument described in Subsection (1) may not exceed 500 words.

(b) Except as provided in Subsection (2)(c), a person may not modify a written argument described in Subsection (1)(d) or (e) after the written argument is submitted to the election officer.

(c) The election officer and the person that submits the written argument described in Subsection (1)(d) or (e) may jointly agree to modify the written argument to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with Subsection (2)(a).

(d) An election officer shall refuse to include a written argument in the proposition information pamphlet described in this section if the person who submits the argument:

(i) fails to negotiate, in good faith, to modify the argument in accordance with Subsection (2)(c); or

(ii) does not timely submit the written argument to the election officer.

(e) An election officer shall make a good faith effort to negotiate a modification described in Subsection (2)(c) in an expedited manner.

(3) An election officer who receives a written argument described in Subsection (1) shall prepare a proposition information pamphlet for publication that includes:

(a) a copy of the application for the proposed initiative or referendum;

(b) except as provided in Subsection (2)(d), immediately after the copy described in Subsection (3)(a), the argument prepared by the sponsors of the proposed initiative or referendum, if any;

(c) except as provided in Subsection (2)(d), immediately after the argument described in Subsection (3)(b), the argument prepared by the county or municipality, if any; and

(d) a copy of the initial fiscal impact statement and legal impact statement described in Section 20A-7-502.5 or 20A-7-602.5.

(4) (a) A proposition information pamphlet is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, until the earlier of when the election officer:

(i) complies with Subsection (4)(b); or

(ii) publishes the proposition information pamphlet under Subsection (5) or (6).

(b) Within 21 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502, or an application to circulate a referendum petition under Section 20A-7-602, the election officer shall provide a copy of the proposition information pamphlet to the sponsors of the initiative or referendum and each individual who submitted an argument included in the proposition information pamphlet.

(5) An election officer for a municipality shall publish the proposition information pamphlet as follows:

(a) within the later of 10 days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the

person that submitted the argument agree on the modification:

(i) by sending the proposition information pamphlet electronically to each individual in the municipality for whom the municipality has an email address, unless the individual has indicated that the municipality is prohibited from using the individual's email address for that purpose; and

(ii) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section 63A-16-601, and the home page of the municipality's website, if the municipality has a website, until:

(A) if the sponsors of the proposed initiative or referendum or an agent of the sponsors do not timely deliver any verified initiative packets [~~under Section 20A-7-506~~] or any verified referendum packets under Section [~~20A-7-606~~] 20A-7-105, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(B) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(C) the day after the date of the election at which the proposed initiative or referendum appears on the ballot; and

(b) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including an Internet address, where a resident may view the proposition information pamphlet, in the next mailing, for which the municipality has not begun preparation, that falls on or after the later of:

(i) 10 days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters; or

(ii) if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification.

(6) An election officer for a county shall, within the later of 10 days after the day on which the county or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification, publish the proposition information pamphlet as follows:

(a) by sending the proposition information pamphlet electronically to each individual in the county for whom the county has an email address obtained via voter registration; and

(b) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section 63A-16-601, and the home page of the county's website, until:

(i) if the sponsors of the proposed initiative or referendum or an agent of the sponsors do not timely deliver any verified initiative packets [~~under Section 20A-7-506~~] or any verified referendum packets under Section [~~20A-7-606~~] 20A-7-105, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(ii) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(iii) the day after the date of the election at which the proposed initiative or referendum appears on the ballot.

Section 33. Section 20A-7-507 is amended to read:

20A-7-507. Evaluation by the local clerk.

(1) In relation to the manual initiative process, when a local clerk receives an initiative packet from a county clerk, the local clerk shall record the number of the initiative packet received.

(2) The county clerk shall:

(a) in relation to the manual initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection [~~20A-7-506(3)(c)~~] 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 90 days; and

(ii) update on the local government's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-516(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 90 days; and

(ii) update on the local government's website the number of signatures certified as of the date of the update.

(3) The local clerk:

(a) shall, except as provided in Subsection (3)(b), declare the petition to be sufficient or insufficient:

(i) in relation to the manual initiative process, no later than 21 days after the day of the applicable deadline described in Subsection [~~20A-7-506(2)(a)~~] 20A-7-105(5)(a)(iii); or

(ii) in relation to the electronic initiative process, no later than 21 days after the day of the applicable deadline described in Subsection 20A-7-516(2); or

(b) may declare the petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual initiative process, the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-501;

(ii) in relation to the electronic initiative process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-501; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required by Section 20A-7-501 and the requirements of this part are met, the local clerk shall mark upon the front of the petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required by Section 20A-7-501 or a requirement of this part is not met, the local clerk shall mark upon the front of the petition the word "insufficient."

(c) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(d) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

(5) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the initiative petition in the presence of any sponsor.

(6) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 34. Section 20A-7-515 is amended to read:

20A-7-515. Electronic initiative process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic initiative process.

(2) A Utah voter may sign a local initiative petition if the voter is a legal voter and resides in the local jurisdiction.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law proposed by the initiative.

(4) (a) A voter who [~~has signed~~] signs an initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-516(4);

(iii) 316 days after the day on which the application is filed; or

(iv) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(b) The statement described in Subsection (4)(a) shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (4)(b)(iii).

(c) To increase the likelihood of the voter's signature being identified and removed, the statement described in Subsection (4)(a) may include the voter's birth date or age.

(d) A voter may not submit a signature removal statement described in Subsection (4)(a) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(e) A person may only remove an electronic signature from an initiative petition in accordance with this section.

(f) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from an initiative petition, in accordance with [~~Section 20A-7-506.3~~] Subsection 20A-1-1003(3).

Section 35. Section 20A-7-607 is amended to read:

20A-7-607. Evaluation by the local clerk -- Determination of election for vote on referendum.

(1) In relation to the manual referendum process, when the local clerk receives a referendum packet

from a county clerk, the local clerk shall record the number of the referendum packet received.

(2) The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection [~~20A-7-606(3)(c)~~] 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the local clerk's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-616(3) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The local clerk:

(a) shall, except as provided in Subsection (3)(b), declare the petition to be sufficient or insufficient:

(i) in relation to the manual referendum process, no later than 111 days after the day of the deadline, described in Subsection [~~20A-7-606(2)~~] 20A-7-105(5)(a)(iv), to submit a referendum packet to the county clerk; or

(ii) in relation to the electronic referendum process, no later than 111 days after the day of the deadline, described in Subsection 20A-7-616(2), to collect a signature; or

(b) may declare the petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerk, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601;

(ii) in relation to the electronic referendum process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection [~~(2)~~] (3) equals or exceeds the number of names required under Section 20A-7-601, and the requirements of this part are met, the local clerk shall mark upon the front of the petition the word "sufficient";

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-601 or a requirement of this part is not met, the local clerk shall mark upon the front of the petition the word "insufficient."

(c) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(d) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

(5) (a) If the local clerk refuses to accept and file any referendum petition, any voter may apply to a court for an extraordinary writ to compel the local clerk to do so within 10 days after the refusal.

(b) If the court determines that the referendum petition is legally sufficient, the local clerk shall file the petition, with a verified copy of the judgment attached to the petition, as of the date on which the petition was originally offered for filing in the local clerk's office.

(c) If the court determines that any petition filed is not legally sufficient, the court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that measure on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by mail, certifying, printing, or mailing the ballot title and numbers of that measure under Section 20A-7-609.5.

(6) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

(7) (a) Except as provided in Subsection (7)(b) or (c), if a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) The election officer may place a referendum described in Subsection (7)(a) on the ballot for a special, primary, or general election held during the year that the legislative action was taken if the following agree, in writing, on a timeline to place the referendum on that ballot:

(i) the local clerk;

(ii) the county clerk; and

(iii) the attorney for the county or municipality that took the legislative action.

(c) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for:

(i) the next general election; or

(ii) another election, if the following agree, in writing, on a timeline to place the referendum on that ballot:

(A) the affected owners, as defined in Section 10-9a-103 or 17-27a-103, as applicable;

(B) the local clerk;

(C) the county clerk; and

(D) the attorney for the county or municipality that took the legislative action.

Section 36. Section 20A-7-613 is amended to read:

20A-7-613. Property tax referendum petition.

(1) As used in this section, "certified tax rate" means the same as that term is defined in Section 59-2-924.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

(3) Notwithstanding Subsection [~~20A-7-606(2)~~] 20A-7-105(5)(a)(iv), the sponsors or an agent of the sponsors shall deliver a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(a) 30 days after the day on which the first individual signs the packet; or

(b) 40 days after the day on which the local clerk complies with Subsection 20A-7-604(3).

(4) Notwithstanding Subsections [~~20A-7-606(3) and (4)~~] 20A-7-105(6)(a) and (9), the county clerk shall take the actions required in Subsections [~~20A-7-606(3) and (4)~~] 20A-7-105(6)(a) and (9) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (3).

(5) The local clerk shall take the actions required by Section 20A-7-607 within two working days after:

(a) in relation to the manual referendum process, the day on which the local clerk receives the referendum packets from the county clerk; or

(b) in relation to the electronic referendum process, the deadline described in Subsection 20A-7-616(2).

(6) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(7) Notwithstanding Subsection 20A-7-609(2)(c), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(8) The election officer shall mail manual ballots on a referendum under this section the later of:

(a) the time provided in Section 20A-3a-202 or 20A-16-403; or

(b) the time that ballots are prepared for mailing under this section.

(9) Section 20A-7-402 does not apply to a referendum described in this section.

(10) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (10)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the taxing entity's legislative body, the certified tax rate for the taxing entity is the taxing entity's most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (10)(a)(ii), a taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(11) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity].".

(12) A taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(13) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (13)(a), the ballot title shall comply with Subsection (11).

(c) If an election officer includes on a ballot a referendum described in Subsection (13)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

Section 37. Section 20A-7-615 is amended to read:

20A-7-615. Electronic referendum process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic referendum process described in Section 20A-21-201.

(2) A Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law that is the subject of the referendum petition.

(4) (a) A voter who [~~has signed~~] signs a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-616(3).

(b) The statement described in Subsection (4)(a) shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (4)(b)(iii).

(c) To increase the likelihood of the voter's signature being identified and removed, the statement described in Subsection (4)(a) may include the voter's birth date or age.

(d) A voter may not submit a signature removal statement described in Subsection (4)(a) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(e) A person may only remove an electronic signature from an initiative petition in accordance with this section.

(f) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from a referendum petition, in accordance with [~~Section 20A-7-606.3~~] Subsection 20A-1-1003(3).

Section 38. Section 20A-8-103 is amended to read:

20A-8-103. Petition procedures -- Criminal penalty -- Removal of signature.

(1) As used in this section, the proposed name or emblem of a registered political party is "distinguishable" if a reasonable person of average intelligence will be able to perceive a difference between the proposed name or emblem and any name or emblem currently being used by another registered political party.

(2) To become a registered political party, an organization of registered voters that is not a continuing political party shall:

(a) circulate a petition seeking registered political party status beginning no earlier than the date of the statewide canvass held after the last regular general election and ending before 5 p.m. no later than November 30 of the year before the year in which the next regular general election will be held;

(b) file a petition with the lieutenant governor that is signed, with a holographic signature, by at least 2,000 registered voters before 5 p.m. no later than November 30 of the year in which a regular general election will be held; and

(c) file, with the petition described in Subsection (2)(b), a document certifying:

(i) the identity of one or more registered political parties whose members may vote for the organization's candidates;

(ii) whether unaffiliated voters may vote for the organization's candidates; and

(iii) whether, for the next election, the organization intends to nominate the organization's candidates in accordance with the provisions of Section 20A-9-406.

(3) The petition shall:

(a) be on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the name of the political party and the words "Political Party Registration Petition" printed directly below the horizontal line;

(d) contain the word "Warning" printed directly under the words described in Subsection (3)(c);

(e) contain, to the right of the word "Warning," the following statement printed in not less than eight-point, single leaded type:

"It is a class A misdemeanor for anyone to knowingly sign a political party registration petition signature sheet with any name other than the individual's own name or more than once for the same party or if the individual is not registered to vote in this state and does not intend to become registered to vote in this state before the petition is submitted to the lieutenant governor.";

(f) contain the following statement directly under the statement described in Subsection (3)(e):

"POLITICAL PARTY REGISTRATION PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, seek registered political party status for ____ (name);

Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or will register to vote in Utah before the petition is submitted to the lieutenant governor;

I am or desire to become a member of the political party; and

My street address is written correctly after my name.";

(g) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iii) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of Registered Voter";

(iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; and

(vi) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records.";

(h) have a final page bound to one or more signature sheets that are bound together that contains the following printed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by individuals who professed to be the individuals whose names appear on the signature sheets, and each individual signed the individual's name on the signature sheets in my presence;

I believe that each individual has printed and signed the individual's name and written the individual's street address correctly, and that each individual is registered to vote in Utah or will register to vote in Utah before the petition is submitted to the lieutenant governor.

_____

(Signature) (Residence Address) (Date)"; and

(i) be bound to a cover sheet that:

(i) identifies the political party's name, which may not exceed four words, and the emblem of the party;

(ii) states the process that the organization will follow to organize and adopt a constitution and bylaws; and

(iii) is signed by a filing officer, who agrees to receive communications on behalf of the organization.

(4) The filing officer described in Subsection (3)(i)(iii) shall ensure that the individual in whose presence each signature sheet is signed:

(a) is at least 18 years old;

(b) meets the residency requirements of Section 20A-2-105; and

(c) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(5) An individual may not sign the verification if the individual signed a signature sheet bound to the verification.

(6) The lieutenant governor shall:

(a) [~~determine whether the required number of voters appears on the petition;~~] use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter;

(b) review the proposed name and emblem to determine if they are "distinguishable" from the names and emblems of other registered political parties; and

(c) certify the lieutenant governor's findings to the filing officer described in Subsection (3)(i)(iii) within 30 days of the filing of the petition.

(7) (a) If the lieutenant governor determines that the petition meets the requirements of this section, and that the proposed name and emblem are distinguishable, the lieutenant governor shall authorize the filing officer described in Subsection (3)(i)(iii) to organize the prospective political party.

(b) If the lieutenant governor finds that the name, emblem, or both are not distinguishable from the names and emblems of other registered political parties, the lieutenant governor shall notify the filing officer that the filing officer has seven days to submit a new name or emblem to the lieutenant governor.

(8) A registered political party may not change its name or emblem during the regular general election cycle.

(9) (a) It is unlawful for an individual to:

(i) knowingly sign a political party registration petition:

(A) with any name other than the individual's own name;

(B) more than once for the same political party; or

(C) if the individual is not registered to vote in this state and does not intend to become registered to vote in this state before the petition is submitted to the lieutenant governor; or

(ii) sign the verification of a political party registration petition signature sheet if the individual:

(A) does not meet the residency requirements of Section 20A-2-105;

(B) has not witnessed the signing by those individuals whose names appear on the political party registration petition signature sheet; or

(C) knows that an individual whose signature appears on the political party registration petition signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) An individual who violates this Subsection (9) is guilty of a class A misdemeanor.

(10) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is filed with the lieutenant governor, submitting to the lieutenant governor a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (10)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The lieutenant governor shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 39. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections -- Nomination petition -- Removal of signature.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or [~~Title 20A,~~] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in [~~Title 20A,~~] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn and under penalty of perjury, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)."

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) (i) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) [~~Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.~~] With the assistance of the county clerk, and using the procedures described in Section 20A-1-1002, the municipal clerk shall determine whether the required number of signatures of registered voters appears on a nomination petition.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publicize a list of the names of the candidates as they will appear on the ballot:

(i) (A) by publishing the list in at least two successive publications of a newspaper of general circulation in the municipality;

(B) by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 lists; or

(C) by mailing the list to each registered voter in the municipality;

(ii) by posting the list on the Utah Public Notice Website, created in Section 63A-16-601, for seven days; and

(iii) if the municipality has a website, by posting the list on the municipality's website for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within 10 days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

(12) (a) A voter who signs a nomination petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is filed with the city recorder or municipal clerk, submitting to the municipal clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (12)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) With the assistance of the county clerk and using the procedures described in Subsection 20A-1-1003(3), the municipal clerk shall determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 40. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The regular primary election is held on the date specified in Section 20A-1-201.5. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members

may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a nomination petition that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) A candidate for elective office shall submit signatures for a nomination petition to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) or 20A-9-408(8) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd-numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd-numbered year.

(d) The filing officer shall:

(i) except as otherwise provided in Section 20A-21-201, verify signatures on nomination petitions in a transparent and orderly manner, no later than 14 days after the day on which a candidate submits the signatures to the filing officer;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than the deadline described in Subsection 20A-9-202(1)(b);

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; and

(v) except as otherwise provided in Section 20A-21-201[~~, utilize~~] and with the assistance of the county clerk as applicable, use the procedures described in Section [~~20A-7-206.3~~] 20A-1-1002 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, may make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) Before the deadline described in Subsection 20A-9-409(4)(c), the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary

election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June ____, _____(year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct ____ is ____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5) (a) A candidate who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If two or more candidates are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

(A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 41. Section 20A-9-404 is amended to read:

20A-9-404. Municipal primary elections.

(1) (a) Except as otherwise provided in this section or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, candidates for municipal office in all municipalities shall be nominated at a municipal primary election.

(b) Municipal primary elections shall be held:

(i) consistent with Section 20A-1-201.5, on the second Tuesday following the first Monday in the August before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(2) Except as otherwise provided in Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, if the number of candidates for a particular municipal office does not exceed twice the number of individuals needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3) (a) For purposes of this Subsection (3), "convention" means an organized assembly of voters or delegates.

(b) (i) By ordinance adopted before the May 1 that falls before a regular municipal election, any third, fourth, or fifth class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a municipal party convention or committee.

(ii) The municipal party convention or committee described in Subsection (3)(b)(i) shall be held on or before May 30 of an odd-numbered year.

(iii) Any primary election exemption ordinance adopted under this Subsection (3) remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not nominate more than one candidate for each of the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may not nominate an individual who has accepted the nomination of a different convention or committee.

(iii) A municipal party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

(d) (i) On or before May 31 of an odd-numbered year, a convention or committee shall prepare and submit to the filing officer a certificate of nomination for each individual nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each individual is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each individual nominated;

(B) designate in not more than five words the party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

(iii) A candidate nominated by a municipal party convention or committee shall file a declaration with the filing officer in accordance with Subsection 20A-9-203(3) that includes:

(A) the name of the municipal party or convention that nominated the candidate; and

(B) the office for which the convention or committee nominated the candidate.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention if the committee makes the nomination before the deadline for a write-in candidate to file a declaration of candidacy under Section 20A-9-601.

(f) The election ballot shall substantially comply with the form prescribed in Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate's name.

(4) (a) Any third, fourth, or fifth class city or a town may adopt an ordinance before the May 1 that falls before the regular municipal election that:

(i) exempts the city or town from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a municipal partisan convention method of nominating candidates as provided in this Subsection (4).

(b) (i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed, with a holographic signature, by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor was elected;

(B) is filed with the city recorder or town clerk before 5 p.m. no later than the day before the day on which the municipal party holds a convention to nominate a candidate under this Subsection (4);

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(iii) With the assistance of the county clerk, the city recorder or town clerk shall use the procedures described in Section 20A-1-1002 to determine whether each signer is a registered voter who is qualified to sign the petition.

(c) (i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no primary election for that office shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a municipal primary election.

(d) The clerk shall ensure that the partisan municipal primary ballot is similar to the ballot forms required by Section 20A-6-401 and, as applicable, Section 20A-6-401.1.

(e) After marking a municipal primary ballot, the voter shall deposit the ballot in the blank ballot box.

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

(5) (a) A voter who signs a petition under Subsection (4)(b)(ii) may have the voter's signature removed from the petition by, no later than three

business days after the day on which the petition is filed with the city recorder or town clerk, submitting to the city recorder or town clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (5)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) With the assistance of the county clerk and using the procedures described in Subsection 20A-1-1003(3), the city recorder or town clerk shall determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 42. Section 20A-9-408 is amended to read:

20A-9-408. Signature-gathering process to seek the nomination of a qualified political party -- Removal of signature.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) during the declaration of candidacy filing period described in Section 20A-9-201.5, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer during the declaration of candidacy filing period described in Section 20A-9-201.5; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) during the declaration of candidacy filing period described in Section 20A-9-201.5, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer during the declaration of candidacy filing period described in Section 20A-9-201.5; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, during the declaration of candidacy filing period described in Section 20A-9-201.5, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor that complies with

Subsection 20A-9-405(3), during the period beginning on the day on which the member files a notice of intent to gather signatures and ending at 5 p.m. 14 days before the day on which the qualified political party's convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

(vi) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) This Subsection (9) applies only to the manual candidate qualification process.

(b) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, using the manual candidate qualification process, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-105 and 20A-7-204 [~~and 20A-7-205~~]; and

(ii) submit the signatures to the election officer before 5 p.m. no later than 14 days before the day on which the qualified political party holds the party's convention to select candidates, for the elective office, for the qualified political party's nomination.

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), the election officer shall, no later than the earlier of 14 days after the day on which the election officer receives the signatures, or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(c)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) with the assistance of the county clerk as applicable, determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section [~~20A-7-206.3~~] 20A-1-1002, used to verify a signature on a petition; and

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet.

(d) (i) A registered voter who physically signs a form under Subsections (8) and (9)(b) may have the voter's signature removed from the form by, no later than three business days after the day on which the member submits the signature form to the election officer, submitting to the election officer a statement requesting that the voter's signature be removed.

(ii) A statement described in Subsection (9)(d)(i) shall comply with the requirements described in Subsection 20A-1-1003(2).

(iii) With the assistance of the county clerk as applicable, the election officer shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature after receiving a timely, valid statement requesting removal of the signature.

(10) (a) This Subsection (10) applies only to the electronic candidate qualification process.

(b) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall, before 5 p.m. no later than 14 days before the day on which the qualified political party holds the party's convention to select candidates, for the elective office, for the qualified political party's nomination, collect signatures electronically:

(i) in accordance with Section 20A-21-201; and

(ii) using progressive screens, in a format approved by the lieutenant governor, that complies with Subsection 20A-9-405(4).

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), the election officer shall, no later than the earlier of 14 days after the day on which the election officer receives the signatures, or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature to determine whether each individual is a resident of Utah and is at least 18 years old; and

(ii) submit the name of each individual described in Subsection (10)(c)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney.

(11) (a) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(b) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (11)(b)(i).

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), or Subsections (8) and (10)(b), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate, notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(d) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

Section 43. Section 20A-9-502 is amended to read:

20A-9-502. Certificate of nomination -- Contents -- Circulation -- Verification -- Criminal penalty -- Removal of petition signature.

(1) The candidate shall:

(a) prepare a certificate of nomination in substantially the following form:

"State of Utah, County of _____

I, _____, declare my intention of becoming an unaffiliated candidate for the political group designated as ____ for the office of ____. I do solemnly swear that I can qualify to hold that office both legally and constitutionally if selected, and that I reside at ____ Street, in the city of ____, county of ____, state of _____, zip code ____, phone ____, and that I am providing, or have provided, the required number of holographic signatures of registered voters required by law; that as a candidate at the next election I will not knowingly violate any election or campaign law; that, if filing via a designated agent for an office other than president of the United States, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot.

_____

Subscribed and sworn to before me this _____(month\day\year).

_____

Notary Public (or other officer

qualified to administer oaths)";

(b) bind signature sheets to the certificate that:

(i) are printed on sheets of paper 8–1/2 inches long and 11 inches wide;

(ii) are ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(iii) contain the name of the proposed candidate and the words "Unaffiliated Candidate Certificate of Nomination Petition" printed directly below the horizontal line;

(iv) contain the word "Warning" printed directly under the words described in Subsection (1)(b)(iii);

(v) contain, to the right of the word "Warning," the following statement printed in not less than eight–point, single leaded type:

"It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination signature sheet with any name other than the person's own name or more than once for the same candidate or if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures.";

(vi) contain the following statement directly under the statement described in Subsection (1)(b)(v):

"Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or intend to become registered to vote in Utah before the county clerk certifies my signature; and

My street address is written correctly after my name.";

(vii) contain horizontally ruled lines, 3/8 inch apart under the statement described in Subsection (1)(b)(vi); and

(viii) be vertically divided into columns as follows:

(A) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(B) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(C) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of Registered Voter";

(D) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

(E) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; and

(F) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records."; and

(c) bind a final page to one or more signature sheets that are bound together that contains, except as provided by Subsection (3), the following printed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the person's name on the signature sheets in my presence;

I believe that each has printed and signed the person's name and written the person's street address correctly, and that each signer is registered to vote in Utah or will register to vote in Utah before the county clerk certifies the signatures on the signature sheet.

_____

(Signature) (Residence Address) (Date)".

(2) An agent designated to file a certificate of nomination under Subsection 20A-9-503(2)(b) may not sign the form described in Subsection (1)(a).

(3) (a) The candidate shall circulate the nomination petition and ensure that the person in whose presence each signature sheet is signed:

(i) is at least 18 years old;

(ii) except as provided by Subsection (3)(b), meets the residency requirements of Section 20A-2-105; and

(iii) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(b) A person who is not a resident may sign the verification on a petition for an unaffiliated candidate for the office of president of the United States.

(c) A person may not sign the verification if the person signed a signature sheet bound to the verification.

(4) (a) It is unlawful for any person to:

(i) knowingly sign a certificate of nomination signature sheet:

(A) with any name other than the person's own name;

(B) more than once for the same candidate; or

(C) if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures; or

(ii) sign the verification of a certificate of nomination signature sheet if the person:

(A) except as provided by Subsection (3)(b), does not meet the residency requirements of Section 20A-2-105;

(B) has not witnessed the signing by those persons whose names appear on the certificate of nomination signature sheet; or

(C) knows that a person whose signature appears on the certificate of nomination signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) Any person violating this Subsection (4) is guilty of a class A misdemeanor.

(5) (a) The candidate shall submit the petition and signature sheets to the county clerk for certification when the petition has been completed by:

(i) at least 1,000 registered voters residing within the state when the nomination is for an office to be filled by the voters of the entire state; or

(ii) at least 300 registered voters residing within a political division or at least 5% of the registered voters residing within a political division, whichever is less, when the nomination is for an office to be filled by the voters of any political division smaller than the state.

(b) In reviewing the petition, the county clerk shall count and certify only those persons who signed the petition with a holographic signature who:

(i) are registered voters within the political division that the candidate seeks to represent; and

(ii) did not sign any other certificate of nomination for that office.

(c) The candidate may supplement or amend the certificate of nomination at any time on or before the filing deadline.

(d) The county clerk shall use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter who is qualified to sign the petition.

(6) (a) A voter who signs a nomination petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the candidate submits the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (6)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 44. Section 20A-11-802 is amended to read:

20A-11-802. Political issues committees -- Financial reporting.

(1) (a) Each registered political issues committee that has received political issues contributions totaling at least $750, or disbursed political issues expenditures totaling at least $750, during a calendar year, shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) seven days before the date of an incorporation election, if the political issues committee has received or expended funds to affect an incorporation;

(v) at least three days before the first public hearing held as required by Section 20A-7-204.1;

(vi) if the political issues committee has received or expended funds in relation to an initiative or referendum, five days before the deadline for the initiative or referendum sponsors to submit:

(A) the verified and certified initiative packets under Section [~~20A-7-206~~] 20A-7-105; or

(B) the signed and verified referendum packets under Section [~~20A-7-306~~] 20A-7-105;

(vii) on September 30; and

(viii) seven days before:

(A) the municipal general election; and

(B) the regular general election.

(b) The political issues committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) all contributions and expenditures as of five days before the required filing date of the financial statement, except for a financial statement filed on January 10.

(c) The political issues committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) That statement shall include:

(i) the name and address, if known, of any individual who makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(ii) the identification of any publicly identified class of individuals that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iii) the name and address, if known, of any political issues committee, group, or entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iv) the name and address of each reporting entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) except as provided in Subsection (2)(c), the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than $50 from the reporting political issues committee, and the amount of each political issues expenditure;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) the total amount of political issues contributions received and political issues expenditures disbursed by the reporting political issues committee;

(ix) a statement by the political issues committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial statement is accurate; and

(x) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

(C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Political issues contributions received by a political issues committee that have a value of $50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more political issues contributions from the same source that have an aggregate total of more than $50 may not be reported in the aggregate, but shall be reported separately.

(c) When reporting political issue expenditures made to circulators of initiative petitions, the political issues committee:

(i) need only report the amount paid to each initiative petition circulator; and

(ii) need not report the name or address of the circulator.

(3) (a) As used in this Subsection (3), "received" means:

(i) for a cash contribution, that the cash is given to a political issues committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) A political issues committee shall report each contribution to the lieutenant governor within 31 days after the contribution is received.

(4) A political issues committee may not expend a contribution for a political issues expenditure if the contribution:

(a) is cash or a negotiable instrument;

(b) exceeds $50; and

(c) is from an unknown source.

(5) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, a political issues committee shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Section 45. Section 20A-15-103 is amended to read:

20A-15-103. Delegates -- Candidacy -- Qualifications -- Nominating procedures -- Removal of petition signature.

(1) Candidates for the office of delegate to the ratification convention shall be citizens, residents of Utah, and at least 21 years old.

(2) Persons wishing to be delegates to the ratification convention shall:

(a) circulate a nominating petition meeting the requirements of this section; and

(b) obtain the signature of at least 100 registered voters.

(3) (a) A single nominating petition may nominate any number of candidates up to 21, the total number of delegates to be elected.

(b) Nominating petitions may not contain anything identifying a candidate's party or political affiliation.

(c) Each nominating petition shall contain a written statement signed by each nominee, indicating either that the candidate will:

(i) vote for ratification of the proposed amendment; or

(ii) vote against ratification of the proposed amendment.

(d) A nominating petition containing the names of more than one nominee may not contain the name of any nominee whose stated position in the nominating petition is inconsistent with that of any other nominee listed in the petition.

(4) (a) Candidates shall file their nominating petitions with the lieutenant governor before 5 p.m. no later than 40 days before the proclaimed date of the election.

(b) Within 10 days after the last day for filing the petitions, the lieutenant governor shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter;

[~~(i)~~] (ii) declare nominated the 21 nominees in favor of ratification and the 21 nominees against ratification whose nominating petitions have been signed by the largest number of registered voters;

[~~(ii)~~] (iii) decide any ties by lot drawn by the lieutenant governor; and

[~~(iii)~~] (iv) certify the nominated candidates of each group to the county clerk of each county within the state.

(5) (a) A voter who signs a nomination petition under this section may have the voter's signature removed from the petition by, no later than three business days after the last day for filing the petitions, submitting to the lieutenant governor a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (5)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The lieutenant governor shall use the procedures described in Subsection 20A-1-1003(3)

to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 46. Section 20A-21-201 is amended to read:

20A-21-201. Electronic signature gathering for an initiative, a referendum, or candidate qualification.

(1) (a) After filing a petition for a statewide initiative or a statewide referendum, and before gathering signatures, the sponsors shall, after consulting with the Office of the Lieutenant Governor, sign a form provided by the Office of the Lieutenant Governor indicating whether the sponsors will gather signatures manually or electronically.

(b) If the sponsors indicate, under Subsection (1)(a), that the sponsors will gather signatures electronically:

(i) in relation to a statewide initiative, signatures for that initiative:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-215, 20A-7-216, and 20A-7-217; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-204[~~, 20A-7-205, and 20A-7-206~~]; and

(ii) in relation to a statewide referendum, signatures for that referendum:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-313, 20A-7-314, and 20A-7-315; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-304[~~, 20A-7-305, and 20A-7-306~~].

(c) If the sponsors indicate, under Subsection (1)(a), that the sponsors will gather signatures manually:

(i) in relation to a statewide initiative, signatures for that initiative:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-204[~~, 20A-7-205, and 20A-7-206~~]; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-215, 20A-7-216, and 20A-7-217; and

(ii) in relation to a statewide referendum, signatures for that referendum:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-304[~~, 20A-7-305, and 20A-7-306~~]; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-313, 20A-7-314, and 20A-7-315.

(2) (a) After filing a petition for a local initiative or a local referendum, and before gathering signatures, the sponsors shall, after consulting with the local clerk's office, sign a form provided by the local clerk's office indicating whether the sponsors will gather signatures manually or electronically.

(b) If the sponsors indicate, under Subsection (2)(a), that the sponsors will gather signatures electronically:

(i) in relation to a local initiative, signatures for that initiative:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-514, 20A-7-515, and 20A-7-516; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-504[~~, 20A-7-505, and 20A-7-506~~]; and

(ii) in relation to a local referendum, signatures for that referendum:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-614, 20A-7-615, and 20A-7-616; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-604[~~, 20A-7-605, and 20A-7-606~~].

(c) If the sponsors indicate, under Subsection (2)(a), that the sponsors will gather signatures manually:

(i) in relation to a local initiative, signatures for that initiative:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-504[~~, 20A-7-505, and 20A-7-506~~]; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-514, 20A-7-515, and 20A-7-516; and

(ii) in relation to a local referendum, signatures for that referendum:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-604[~~, 20A-7-605, and 20A-7-606~~]; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-614, 20A-7-615, and 20A-7-616.

(3) (a) After a candidate files a notice of intent to gather signatures to qualify for a ballot, and before

gathering signatures, the candidate shall, after consulting with the election officer, sign a form provided by the election officer indicating whether the candidate will gather signatures manually or electronically.

(b) If a candidate indicates, under Subsection (3)(a), that the candidate will gather signatures electronically, signatures for the candidate:

(i) may only be gathered and submitted using the electronic candidate qualification process; and

(ii) may not be gathered or submitted using the manual candidate qualification process.

(c) If a candidate indicates, under Subsection (3)(a), that the candidate will gather signatures manually, signatures for the candidate:

(i) may only be gathered and submitted using the manual candidate qualification process; and

(ii) may not be gathered or submitted using the electronic candidate qualification process.

(4) To gather a signature electronically, a signature-gatherer shall:

(a) use a device provided by the signature-gatherer or a sponsor of the petition that:

(i) is approved by the lieutenant governor;

(ii) except as provided in Subsection (4)(a)(iii), does not store a signature or any other information relating to an individual signing the petition in any location other than the location used by the website to store the information;

(iii) does not, on the device, store a signature or any other information relating to an individual signing the petition except for the minimum time necessary to upload information to the website;

(iv) does not contain any applications, software, or data other than those approved by the lieutenant governor; and

(v) complies with cyber-security and other security protocols required by the lieutenant governor;

(b) use the approved device to securely access a website designated by the lieutenant governor, directly, or via an application designated by the lieutenant governor; and

(c) while connected to the website, present the approved device to an individual considering signing the petition and, while the signature-gatherer is in the physical presence of the individual:

(i) wait for the individual to reach each screen presented to the individual on the approved device; and

(ii) wait for the individual to advance to each subsequent screen by clicking on the acknowledgement at the bottom of the screen.

(5) Each screen shown on an approved device as part of the signature-gathering process shall appear as a continuous electronic document that, if the entire document does not appear on the screen at once, requires the individual viewing the screen to, before advancing to the next screen, scroll through the document until the individual reaches the end of the document.

(6) After advancing through each screen required for the petition, the signature process shall proceed as follows:

(a) except as provided in Subsection (6)(b):

(i) the individual desiring to sign the petition shall present the individual's driver license or state identification card to the signature-gatherer;

(ii) the signature-gatherer shall verify that the individual pictured on the driver license or state identification card is the individual signing the petition;

(iii) the signature-gatherer shall scan or enter the driver license number or state identification card number through the approved device; and

(iv) immediately after the signature-gatherer complies with Subsection (6)(a)(iii), the website shall determine whether the individual desiring to sign the petition is eligible to sign the petition;

(b) if the individual desiring to sign the petition is unable to provide a driver license or state identification card to the signature gatherer:

(i) the individual may present other valid voter identification;

(ii) if the valid voter identification contains a picture of the individual, the signature-gatherer shall verify that the individual pictured is the individual signing the petition;

(iii) if the valid voter identification does not contain a picture of the individual, the signature-gatherer shall, to the extent reasonably practicable, use the individual's address or other available means to determine whether the identification relates to the individual presenting the identification;

(iv) the signature-gatherer shall scan an image of the valid voter identification and immediately upload the image to the website; and

(v) the individual:

(A) shall enter the individual's address; and

(B) may, at the discretion of the individual, enter the individual's date of birth or age after the individual clicks on the screen acknowledging that they have read and understand the following statement, "Birth date or age information is not required, but may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before your signature is verified or if the information you provide does not match your voter registration records."; and

(c) after completing the process described in Subsection (6)(a) or (b), the screen shall:

(i) except for a petition to qualify a candidate for the ballot, give the individual signing the petition the opportunity to enter the individual's email address after the individual reads the following statement, "If you provide your email address, you may receive an email with additional information relating to the petition you are signing."; and

(ii) (A) if the website determines, under Subsection (6)(a)(iv), that the individual is eligible to sign the petition, permit the individual to enter the individual's name as the individual's electronic signature and, immediately after the signature-gather timely complies with Subsection (10), certify the signature; or

(B) if the individual provides valid voter identification under Subsection (6)(b), permit the individual to enter the individual's name as the individual's electronic signature.

(7) If an individual provides valid voter identification under Subsection (6)(b), the county clerk shall, within seven days after the day on which the individual submits the valid voter identification, certify the signature if:

(a) the individual is eligible to sign the petition;

(b) the identification provided matches the information on file; and

(c) the signature-gatherer timely complies with Subsection (10).

(8) For each signature submitted under this section, the website shall record:

(a) the information identifying the individual who signs;

(b) the date the signature was collected; and

(c) the name of the signature-gatherer.

(9) An individual who is a signature-gatherer may not sign a petition unless another individual acts as the signature-gatherer when the individual signs the petition.

(10) Except for a petition for a candidate to seek the nomination of a registered political party, each individual who gathers a signature under this section shall, within one business day after the day on which the individual gathers a signature, electronically sign and submit the following statement to the website:

"VERIFICATION OF SIGNATURE-GATHERER

State of Utah, County of ____

I, _____, of _____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the signatures that I collected on [Date signatures were gathered] were signed by individuals who professed to be the individuals whose signatures I gathered, and each of the individuals signed the petition in my presence;

I did not knowingly make a misrepresentation of fact concerning the law or proposed law to which the petition relates;

I believe that each individual has signed the individual's name and written the individual's residence correctly, that each signer has read and understands the law to which the petition relates, and that each signer is registered to vote in Utah;

Each signature correctly reflects the date on which the individual signed the petition; and

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it."

(11) Except for a petition for a candidate to seek the nomination of a registered political party:

(a) the county clerk may not certify a signature that is not timely verified in accordance with Subsection (10); and

(b) if a signature certified by a county clerk under Subsection (6)(c)(ii)(A) is not timely verified in accordance with Subsection (10), the county clerk shall:

(i) revoke the certification;

(ii) remove the signature from the posting described in Subsection 20A-7-217(4), 20A-7-315(3), 20A-7-516(4), or 20A-7-616(3); and

(iii) update the totals described in Subsections 20A-7-217(5)(a)(ii), 20A-7-315(5)(a)(ii), 20A-7-516(5)(a)(ii), and 20A-7-616(5)(a)(ii).

(12) For a petition for a candidate to seek the nomination of a registered political party, each individual who gathers a signature under this section shall, within one business day after the day on which the individual gathers a signature, electronically sign and submit the following statement to the lieutenant governor in the manner specified by the lieutenant governor:

"VERIFICATION OF SIGNATURE-GATHERER

State of Utah, County of ____

I, _____, of _____, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the signatures that I collected on [Date signatures were gathered] were signed by individuals who professed to be the individuals whose signatures I gathered, and each of the individuals signed the petition in my presence;

I believe that each individual has signed the individual's name and written the individual's residence correctly and that each signer is registered to vote in Utah; and

Each signature correctly reflects the date on which the individual signed the petition."

(13) For a petition for a candidate to seek the nomination of a registered political party, the election officer may not certify a signature that is not timely verified in accordance with Subsection (12).

Section 47. Section 53G-3-301 is amended to read:

53G-3-301. Creation of new school district -- Initiation of process -- Procedures to be followed.

(1) A new school district may be created from one or more existing school districts, as provided in this section.

(2) The process to create a new school district may be initiated:

(a) through a citizens' initiative petition;

(b) at the request of the local school board of the existing district or districts to be affected by the creation of the new district; or

(c) at the request of a city within the boundaries of the school district or at the request of interlocal agreement participants, pursuant to Section 53G-3-302.

(3) (a) An initiative petition submitted under Subsection (2)(a) shall be signed by [~~qualified electors~~] registered voters residing within the geographical boundaries of the proposed new school district in an amount equal to at least 15% of all votes cast within the geographic boundaries of the proposed new school district for all candidates for president of the United States at the last regular general election at which a president of the United States was elected.

(b) Each request or petition submitted under Subsection (2) shall:

(i) be filed with the clerk of each county in which any part of the proposed new school district is located;

(ii) indicate the typed or printed name and current residence address of each governing board member making a request, or registered voter signing a petition, as the case may be;

(iii) describe the proposed new school district boundaries; and

(iv) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each.

(c) The process described in Subsection (2)(a) may only be initiated once during any four-year period.

(d) A new district may not be formed under Subsection (2) if the student population of the proposed new district is less than 3,000 or the existing district's student population would be less than 3,000 because of the creation of the new school district.

(4) (a) (i) A signer of a petition described in Subsection (2)(a) may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the petition by filing a written [~~request~~] statement requesting for withdrawal or reinstatement with the county clerk no later than three business days after the day on which the petition is filed with the county clerk.

(ii) A statement described in Subsection (4)(a)(i) shall comply with the requirements described in Subsection 20A-1-1003(2).

(iii) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove or reinstate an individual's signature from a petition after receiving a timely, valid statement.

(b) For a petition described in Subsection (2)(a), the county clerk shall use the procedures described in Section 20A-1-1002 to determine whether the petition has been signed by the required number of registered voters residing within the geographical boundaries of the proposed new school district.

(5) Within 45 days after the day on which a petition described in Subsection (2)(a) is filed, or five business days after the day on which a request described in Subsection (2)(b) or (c) is filed, the clerk of each county with which the request or petition is filed shall:

(a) determine whether the request or petition complies with Subsections (2) and (3), as applicable; and

(b) (i) if the county clerk determines that the request or petition complies with the applicable requirements:

(A) certify the request or petition and deliver the certified request or petition to the county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the request or petition fails to comply with any of the applicable requirements, reject the request or petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(6) (a) If the county clerk fails to certify or reject a request or petition within the time specified in Subsection (5), the request or petition is considered to be certified.

(b) (i) If the county clerk rejects a request or petition, the person that submitted the request or petition may amend the request or petition to correct the deficiencies for which the request or petition was rejected, and refile the request or petition.

(ii) Subsection (3)(c) does not apply to a request or petition that is amended and refiled after having been rejected by a county clerk.

(c) If, on or before December 1, a county legislative body receives a request from a local school board under Subsection (2)(b) or a petition under Subsection (2)(a) that is certified by the county clerk:

(i) the county legislative body shall appoint an ad hoc advisory committee, as provided in Subsection (7), on or before January 1;

(ii) the ad hoc advisory committee shall submit its report and recommendations to the county legislative body, as provided in Subsection (7), on or before July 1; and

(iii) if the legislative body of each county with which a request or petition is filed approves a proposal to create a new district, each legislative body shall submit the proposal to the respective county clerk to be voted on by the electors of each existing district at the regular general or municipal general election held in November.

(7) (a) The legislative body of each county with which a request or petition is filed shall appoint an ad hoc advisory committee to review and make recommendations on a request for the creation of a new school district submitted under Subsection (2)(a) or (b).

(b) The advisory committee shall:

(i) seek input from:

(A) those requesting the creation of the new school district;

(B) the local school board and school personnel of each existing school district;

(C) those citizens residing within the geographical boundaries of each existing school district;

(D) the state board; and

(E) other interested parties;

(ii) review data and gather information on at least:

(A) the financial viability of the proposed new school district;

(B) the proposal's financial impact on each existing school district;

(C) the exact placement of school district boundaries; and

(D) the positive and negative effects of creating a new school district and whether the positive effects outweigh the negative if a new school district were to be created; and

(iii) make a report to the county legislative body in a public meeting on the committee's activities, together with a recommendation on whether to create a new school district.

(8) For a request or petition submitted under Subsection (2)(a) or (b):

(a) The county legislative body shall provide for a 45-day public comment period on the report and recommendation to begin on the day the report is given under Subsection (7)(b)(iii).

(b) Within 14 days after the end of the comment period, the legislative body of each county with which a request or petition is filed shall vote on the creation of the proposed new school district.

(c) The proposal is approved if a majority of the members of the legislative body of each county with which a request or petition is filed votes in favor of the proposal.

(d) If the proposal is approved, the legislative body of each county with which a request or petition is filed shall submit the proposal to the county clerk to be voted on:

(i) by the legal voters of each existing school district affected by the proposal;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and each remaining school district voting on the proposal vote in favor of the creation of the new district.

(f) Each county legislative body shall comply with the requirements of Section 53G-3-203.

(g) If a proposal submitted under Subsection (2)(a) or (b) to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.

(9) (a) If a proposal submitted under Subsection (2)(c) is certified under Subsection (5) or (6)(a), the legislative body of each county in which part of the proposed new school district is located shall submit the proposal to the respective clerk of each county to be voted on:

(i) by the legal voters residing within the proposed new school district boundaries;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(b) (i) If a majority of the legal voters within the proposed new school district boundaries voting on the proposal at an election under Subsection (9)(a) vote in favor of the creation of the new district:

(A) each county legislative body shall comply with the requirements of Section 53G-3-203; and

(B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the new district is created.

(ii) Notwithstanding the creation of a new district as provided in Subsection (9)(b)(i)(B):

(A) a new school district may not begin to provide educational services to the area within the new district until July 1 of the second calendar year following the local school board general election date described in Subsection 53G-3-302(3)(a)(i);

(B) a remaining district may not begin to provide educational services to the area within the remaining district until the time specified in Subsection (9)(b)(ii)(A); and

(C) each existing district shall continue, until the time specified in Subsection (9)(b)(ii)(A), to provide educational services within the entire area covered by the existing district.

Section 48. Section 53G-3-401 is amended to read:

53G-3-401. Consolidation of school districts -- Resolution by local school board members -- Petition by electors -- Certification of petition signatures -- Removal of signature -- Election.

(1) Two or more school districts may unite and form a single school district in one of the following ways:

(a) a majority of the members of each of the local school boards of the affected districts shall approve and present to the county legislative body of the affected counties a resolution to consolidate the districts. Once this is done, consolidation shall be established under this chapter; or

(b) a majority of the members of the local school board of each affected district, or 15% of the [~~qualified electors~~] registered voters in each of the affected districts, shall sign and present a petition to the county legislative body of each affected county. The question shall be voted upon at an election called for that purpose, which shall be the next general or municipal election. Consolidation shall occur if a majority of those voting on the question in each district favor consolidation.

(2) If a registered voter petition is presented to the county legislative body under Subsection (1)(b):

(a) within three business days after the day on which the county legislative body receives the petition, the county legislative body shall provide the petition to the county clerk; and

(b) within 14 days after the day on which a county clerk receives a petition from the county legislative body, the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (1)(b) for a registered voter petition;

(ii) certify on the petition whether each name is that of a registered voter in one of the affected districts; and

(iii) deliver the certified petition to the county legislative body.

(3) (a) A voter who signs a registered voter petition under Subsection (1)(b) may have the voter's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (3)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

[~~(2)~~] (4) The elections required under Subsection (1)(b) shall be conducted and the returns canvassed as provided by election laws.

Section 49. Section 53G-3-501 is amended to read:

53G-3-501. Transfer of a portion of a school district -- State board resolution -- Local school board petition -- Elector petition -- Certification of petition signatures -- Removal of signature -- Transfer election.

(1) Part of a school district may be transferred to another district in one of the following ways:

(a) presentation to the county legislative body of each of the affected counties of a resolution requesting the transfer, approved by at least four-fifths of the members of the local school board of each affected school district;

(b) presentation to the county legislative body of each affected county of a petition requesting that the [~~electors~~] voters vote on the transfer, signed by a majority of the members of the local school board of each affected school district; or

(c) presentation to the county legislative body of each affected county of a petition requesting that the [~~electors~~] voters vote on the transfer, signed by 15% of the [~~qualified electors~~] registered voters in each of the affected school districts within that county.

(2) (a) If an annexation of property by a city would result in its residents being served by more than one school district, then the presidents of the affected local school boards shall meet within 60 days prior to the effective date of the annexation to determine whether it would be advisable to adjust school district boundaries to permit all residents of the expanded city to be served by a single school district.

(b) Upon conclusion of the meeting, the local school board presidents shall prepare a recommendation for presentation to their respective local school boards as soon as reasonably possible.

(c) The local school boards may then initiate realignment proceedings under Subsection (1)(a) or (b).

(d) If a local school board rejects realignment under Subsection (1)(a) or (b), the other local school board may initiate the following procedures by majority vote within 60 days of the vote rejecting realignment:

(i) (A) within 30 days after a vote to initiate these procedures, each local school board shall appoint one member to a boundary review committee; or

(B) if the local school board becomes deadlocked in selecting the appointee under Subsection (2)(d)(i)(A), the local school board's chair shall make the appointment or serve as the appointee to the review committee.

(ii) The two local school board-appointed members of the committee shall meet and appoint a third member of the committee.

(iii) If the two local school board-appointed members are unable to agree on the appointment of a third member within 30 days after both are appointed, the state superintendent shall appoint the third member.

(iv) The committee shall meet as necessary to prepare recommendations concerning resolution of the realignment issue, and shall submit the recommendations to the affected local school boards within six months after the appointment of the third member of the committee.

(v) If a majority of the members of each local school board accepts the recommendation of the committee, or accepts the recommendation after amendment by the local school boards, then the accepted recommendation shall be implemented.

(vi) If the committee fails to submit its recommendation within the time allotted, or if one local school board rejects the recommendation, the affected local school boards may agree to extend the time for the committee to prepare an acceptable recommendation or either local school board may request the state board to resolve the question.

(vii) If the committee has submitted a recommendation which the state board finds to be reasonably supported by the evidence, the state board shall adopt the committee's recommendation.

(viii) The decision of the state board is final.

(3) If a registered voter petition is presented to the county legislative body under Subsection (1)(c):

(a) within three business days after the day on which the county legislative body receives the petition, the county legislative body shall provide the petition to the county clerk; and

(b) within 14 days after the day on which a county clerk receives a petition from the county legislative body, the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (1)(c) for a registered voter petition;

(ii) certify on the petition whether each name is that of a registered voter in one of the affected districts; and

(iii) deliver the certified petition to the county legislative body.

(4) (a) A voter who signs a registered voter petition under Subsection (1)(c) may have the voter's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (4)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

[~~(3)~~] (5) (a) The [~~electors~~] voters of each affected district shall vote on the transfer requested under Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general election.

(b) The election shall be conducted and the returns canvassed as provided by election law.

(c) A transfer is effected only if a majority of votes cast by the [~~electors~~] voters in both the proposed transferor district and in the proposed transferee district are in favor of the transfer.

Section 50. Section 73-10d-4 is amended to read:

73-10d-4. Notice of intention to enter privatization project -- Petition for election -- Certification of petition signatures -- Removal of signature -- Election procedures -- Powers of political subdivision -- Public bidding laws not to apply.

(1) The governing authority of any political subdivision considering entering into a privatization project agreement shall issue a notice of intention setting forth a brief summary of the agreement provisions and the time within which and place at which petitions may be filed requesting the calling of an election in the political subdivision to determine whether the agreement should be approved. The notice of intention shall specify the form of the petitions. If, within 30 days after the publication of the notice of intention, petitions are filed with the clerk, recorder, or similar officer of the political subdivision, signed by at least 5% of the [~~qualified electors~~] registered voters of the political subdivision (as certified by the county clerks of the respective counties within which the political subdivision is located pursuant to Subsections (7) and (8)) requesting an election be held to authorize the agreement, then the governing authority shall proceed to call and hold an election. If an adequate petition is not filed within 30 days, the governing authority may adopt a resolution so finding and may proceed to enter into the agreement.

(2) If, under Subsection (1), the governing authority of a political subdivision is required to call an election to authorize an agreement, the governing authority shall adopt a resolution directing that an election be held in the political subdivision for the purpose of determining whether the political subdivision may enter into the agreement. The resolution calling the election shall be adopted, notice of the election shall be given,

voting precincts shall be established, the election shall be held, voters' qualifications shall be determined, and the results shall be canvassed in the manner and subject to the conditions provided for in Title 11, Chapter 14, Local Government Bonding Act.

(3) A political subdivision may, upon approval of an agreement as provided by Subsections (1) and (2) and subject to the powers and rules of the supervising agency:

(a) supervise and regulate the construction, maintenance, ownership, and operation of all privatization projects within its jurisdiction or in which it has a contractual interest;

(b) contract, by entry into agreements with private owner/operators for the provision within its jurisdiction of the services of privatization projects;

(c) levy and collect taxes, as otherwise provided by law, and impose and collect assessments, fees, or charges for services provided by privatization projects, as appropriate, and, subject to any limitation imposed by the constitution, pledge, assign, or otherwise convey as security for the payment of its obligations under any agreements any revenues and receipts derived from any assessments, fees, or charges for services provided by privatization projects;

(d) require the private owner/operator to obtain any and all licenses as appropriate under federal, state, and local law and impose other requirements which are necessary or desirable to discharge the responsibility of the political subdivision to supervise and regulate the construction, maintenance, ownership, and operation of any privatization project;

(e) control the right to contract, maintain, own, and operate any privatization project and the services provided in connection with that project within its jurisdiction;

(f) purchase, lease, or otherwise acquire all or any part of a privatization project;

(g) with respect to the services of any privatization project, control the right to establish or regulate the rates paid by the users of the services within the jurisdiction of the political subdivision;

(h) agree that the sole and exclusive right to provide the services within its jurisdiction related to privatization projects be assumed by any private owner/operator;

(i) contract for the lease or purchase of land, facilities, equipment, and vehicles for the operation of privatization projects;

(j) lease, sell, or otherwise convey, as permitted by state and local law, but without any requirement of competitive public bidding, land, facilities, equipment, and vehicles, previously used in connection with privatization projects, to private owner/operators; and

(k) establish policies for the operation of any privatization project within its jurisdiction or with respect to which it has a contractual interest, including hours of operation, the character and kinds of services, and other rules necessary for the safety of operating personnel.

(4) Any political subdivision may enter into agreements with respect to privatization projects. Agreements may contain provisions relating to, without limitation, any matter provided for in this section or consistent with the purposes of this chapter.

(5) Any agreement entered into between a political subdivision and a private owner/operator for the provision of the services of a privatization project is considered an exercise of that political subdivision's business or proprietary power binding upon its succeeding governing authorities. Any agreement made by a political subdivision with a private owner/operator for payment for services provided or to be provided may not be construed to be an indebtedness or a lending of credit of the political subdivision within the meaning of any constitutional or statutory restriction.

(6) The provisions of the various laws of the state and the rules or ordinances of a political subdivision which would otherwise require public bidding in respect to any matter provided for in this chapter shall have no application to that matter.

(7) If a petition is presented to the clerk of a political subdivision under Subsection (1):

(a) as applicable, within three business days after the day on which the clerk receives the petition, the clerk shall provide the petition to the county clerk for the county in which the political subdivision is located; and

(b) within 14 days after the day on which a county clerk receives a petition under this section, the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (1) for a registered voter petition;

(ii) certify on the petition whether each name is that of a registered voter in the affected political subdivision; and

(iii) as applicable, deliver the certified petition to the governing authority of the affected political subdivision.

(8) (a) A voter who signs a petition under Subsection (1) may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is provided to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (8)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to

determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 51. Repealer.

This bill repeals:

Section 20A-7-205, Manual initiative process -- Obtaining signatures -- Verification -- Removal of signature.

Section 20A-7-206, Manual initiative process -- Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

Section 20A-7-206.3, Verification of petition signatures.

Section 20A-7-305, Manual referendum process -- Obtaining signatures -- Verification -- Removal of signature.

Section 20A-7-306, Manual referendum process -- Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

Section 20A-7-306.3, Verification of petition signatures.

Section 20A-7-505, Manual initiative process -- Obtaining signatures -- Verification -- Removal of signature.

Section 20A-7-506, Manual initiative process -- Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

Section 20A-7-506.3, Verification of petition signatures.

Section 20A-7-605, Manual referendum process -- Obtaining signatures -- Verification -- Removal of signature.

Section 20A-7-606, Manual referendum process -- Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

Section 20A-7-606.3, Verification of petition signatures.

Section 52. Coordinating H.B. 68 with S.B. 37 -- Substantive and technical amendments.

If this H.B. 68 and S.B. 37, Municipality Incorporation Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) by amending Subsection 10-2a-208(4)(a) in H.B. 68 to read:

"(4) (a) A voter who signs a petition for incorporation may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition for incorporation is submitted to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed."; and

(2) by amending Subsection 10-2a-208(4)(d) in H.B. 68 to read:

"(d) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition for incorporation after receiving a timely, valid statement requesting removal of the signature.".

Section 53. Coordinating H.B. 68 with H.B. 38 and H.B. 448 -- Substantive and technical amendments.

(1) If this H.B. 68 and H.B. 38, Initiative and Referendum Modifications, both pass and become law, and H.B. 448, Election Changes, does not pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(a) the amendments to Subsection 20A-7-307(2)(a)(i) in H.B. 68 supersede the amendments to Subsection 20A-7-307(2)(a)(i) in H.B. 38; and

(b) by amending Subsection 20A-1-1003(3) in H.B. 68 to read:

"(3) The clerk shall use the following procedures to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if the signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the signer's signatures on both the statement and the petition appear substantially similar to the signature on the statewide voter registration database, the clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the clerk shall remove the signature from the petition if:

(i) the address on the statement and the address provided by the individual with the individual's petition signature match the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signatures on both the statement and the petition appear substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and the birth date or age provided by the individual with the individual's petition signature match the birth date

or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signatures on both the statement and the petition appear substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the clerk may not remove the signature from the petition.";

(2) if this H.B. 68, H.B. 38, Initiative and Referendum Modifications, and H.B. 448, Election Changes, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(a) the amendments to Subsection 20A-7-307(2)(a)(i) in H.B. 68 supersede the amendments to Subsection 20A-7-307(2)(a)(i) in H.B. 38; and

(b) Subsection 20A-1-1003(3) in H.B. 68 is amended to read:

"(3) The clerk shall use the following procedures to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if the signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the individual's signature on the statement is reasonably consistent with the individual's signature on the statewide voter registration database, the clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the clerk shall remove the signature from the petition if:

(i) the address on the statement and the address provided by the individual with the individual's petition signature match the address of an individual on the official register with a substantially similar name; and

(ii) the individual's signature on the statement is reasonably consistent with the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and the birth date or age provided by the individual with the individual's petition signature match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the individual's signature on the statement is reasonably consistent with the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the clerk may not remove the signature from the petition."; and

(3) if this H.B. 68 and H.B. 448, Election Changes, both pass and become law and H.B. 38, Initiative and Referendum Modifications, does not pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 20A-1-1003(3) in H.B. 68 to read:

"(3) The clerk shall use the following procedures to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if the individual's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the individual's signature on the statement is reasonably consistent with the individual's signature on the statewide voter registration database, the clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the clerk shall remove the signature from the petition if:

(i) the address on the statement and the address provided by the individual with the individual's petition signature match the address of an individual on the official register with a substantially similar name; and

(ii) the individual's signature on the statement is reasonably consistent with the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and the birth date or age provided by the individual with the individual's petition signature match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the individual's signature on the statement is reasonably consistent with the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the clerk may not remove the signature from the petition.".

CHAPTER 117
H. B. 99
Passed February 17, 2023
Approved March 14, 2023
Effective May 3, 2023

SEX OFFENDER RESTRICTIONS AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill increases the penalty for repeat offenders of sex offender restrictions.

Highlighted Provisions:

This bill:

- increases the penalty for repeat offenders of sex offender restrictions; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-27-21.7, as last amended by Laws of Utah 2020, Chapter 206

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

Section 1. Section 77-27-21.7 is amended to read:

77-27-21.7. Sex offender restrictions.

(1) As used in this section:

(a) "Minor" means an individual who is [~~less~~] younger than 18 years old;

(b) (i) "Protected area" means the premises occupied by:

(A) any licensed day care or preschool facility;

(B) a swimming pool that is open to the public;

(C) a public or private primary or secondary school that is not on the grounds of a correctional facility;

(D) a community park that is open to the public;

(E) a playground that is open to the public, including those areas designed to provide children space, recreational equipment, or other amenities intended to allow children to engage in physical activity; and

(F) except as provided in Subsection (1)(b)(ii), an area that is 1,000 feet or less from the residence of a victim of the sex offender if the sex offender is subject to a victim requested restriction.

(ii) "Protected area" does not include the area described in Subsection (1)(b)(i)(F) if:

(A) the victim is a member of the immediate family of the sex offender; and

(B) the terms of the sex offender's agreement of probation or parole allow the sex offender to reside in the same residence as the victim.

(c) "Sex offender" means an adult or juvenile who is required to register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, due to a conviction for any offense that is committed against a person younger than 18 years old.

(2) For purposes of Subsection (1)(b)(i)(F), a sex offender is subject to a victim requested restriction if:

(a) the sex offender is on probation or parole for an offense that requires the offender to register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(b) the victim or the victim's parent or guardian advises the Department of Corrections that the victim elects to restrict the sex offender from the area and authorizes the Department of Corrections to advise the sex offender of the area where the victim resides; and

(c) the Department of Corrections notifies the sex offender in writing that the sex offender is prohibited from being in the area described in Subsection (1)(b)(i)(F) and provides a description of the location of the protected area to the sex offender.

(3) A sex offender may not:

(a) be in a protected area except:

(i) when the sex offender must be in a protected area to perform the sex offender's parental responsibilities;

(ii) (A) when the protected area is a public or private primary or secondary school; and

(B) the school is open and being used for a public activity other than a school-related function that involves a minor; or

(iii) (A) if the protected area is a licensed day care or preschool facility located within a building that is open to the public for purposes other than the operation of the day care or preschool facility; and

(B) the sex offender does not enter a part of the building that is occupied by the day care or preschool facility; or

(b) serve as an athletic coach, manager, or trainer for any sports team of which a minor who is [~~less~~] younger than 18 years old is a member.

(4) A sex offender who violates this section is guilty of [~~a class A misdemeanor.~~]:

(a) a class A misdemeanor; or

(b) if previously convicted of violating this section within the last ten years, a third degree felony.

CHAPTER 118
H. B. 108
Passed February 10, 2023
Approved March 14, 2023
Effective May 3, 2023

CHILD SEX DOLL PROHIBITION

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill enacts provisions relating to child sex dolls.

Highlighted Provisions:

This bill:

- defines terms; and
- makes it a crime to possess, purchase, or distribute a child sex doll.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
76-10-1236, Utah Code Annotated 1953
76-10-1237, Utah Code Annotated 1953

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

Section 1. Section 76-10-1236 is enacted to read:

76-10-1236. Possession of a child sex doll -- Penalties.

(1) As used in this section, "child sex doll" means:

(a) an anatomically correct doll, mannequin, or robot, with the features of, or with features that resemble those of, a minor; and

(b) is intended for use in sexual acts.

(2) An actor commits the offense of possession of a child sex doll if the actor knowingly or intentionally possesses a child sex doll.

(3) A violation of Subsection (2) is a class A misdemeanor, with a mandatory fine of not less than $2,500.

Section 2. Section 76-10-1237 is enacted to read:

76-10-1237. Distributing or purchasing a child sex doll -- Penalties.

(1) As used in this section:

(a) "Child sex doll" means the same as that term is defined in Section 76-10-1236.

(b) "Distribute" means to sell, or with or without consideration, offer to sell, advertise, provide, ship, deliver for shipment, offer to deliver for shipment, or transfer.

(2) An actor commits the offense of distributing or purchasing a child sex doll if the actor knowingly, intentionally, or recklessly distributes, purchases, or offers to purchase a child sex doll.

(3) A violation of Subsection (2) is a third degree felony, with a mandatory fine of not less than $10,000.

CHAPTER 119
H. B. 111
Passed February 17, 2023
Approved March 14, 2023
Effective May 3, 2023

INMATE TREATMENT AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill requires county and municipal jails to allow medication assisted treatment by a state-approved entity for inmates who were active clients prior to incarceration.

Highlighted Provisions:

This bill:

- defines terms;
- requires a county or municipal jail to allow the continuation of medication assisted treatment plans for inmates who were active clients prior to incarceration;
- provides that a county may pay for medications used for medication assisted treatment plans;
- provides that a jail may, at the discretion of the sheriff, store medications used for medication assisted treatment plans; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-58.5, as last amended by Laws of Utah 2010, Chapter 378
17-22-8, as last amended by Laws of Utah 2022, Chapter 123

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

Section 1. Section 10-8-58.5 is amended to read:

10-8-58.5. Contracting for management, maintenance, operation, or construction of jails.

(1) As used in this section, "medication assisted treatment plan" means a prescription plan to use buprenorphine, methadone, or naltrexone to treat substance use withdrawal symptoms or an opioid use disorder.

[~~(1)~~] (2) (a) The governing body of a city or town may contract with private contractors for management, maintenance, operation, and construction of city jails.

(b) The governing body may include a provision in the contract that requires that any jail facility meet any federal, state, or local standards for the construction of jails.

[~~(2)~~] (3) If the governing body contracts only for the management, maintenance, or operation of a jail, the governing body shall include provisions in the contract that:

(a) require the private contractor to post a performance bond in the amount set by the governing body;

(b) establish training standards that shall be met by jail personnel;

(c) require the private contractor to provide and fund training for jail personnel so that the personnel meet the standards established in the contract and any other federal, state, or local standards for the operation of jails and the treatment of jail prisoners;

(d) require the private contractor to indemnify the city or town for errors, omissions, defalcations, and other activities committed by the private contractor that result in liability to the city or town;

(e) require the private contractor to show evidence of liability insurance protecting the city or town and its officers, employees, and agents from liability arising from the construction, operation, or maintenance of the jail, in an amount not less than those specified in Title 63G, Chapter 7, Governmental Immunity Act of Utah;

(f) require the private contractor to:

(i) receive all prisoners committed to the jail by competent authority; [~~and~~]

(ii) provide them with necessary food, clothing, and bedding in the manner prescribed by the governing body; and

(iii) cooperate with medical personnel to continue a medication assisted treatment plan for an inmate if the inmate was an active client before arrest and commitment; and

(g) prohibit the use of inmates by the private contractor for private business purposes of any kind.

(4) A medication used for a medication assisted treatment plan under Subsection (3)(f)(iii):

(a) shall be administered to an inmate in accordance with the inmate's prescription under the direction of the sheriff;

(b) may be paid for by a county; and

(c) may be left or stored at a jail at the discretion of the sheriff.

[~~(3)~~] (5) A contractual provision requiring the private contractor to maintain liability insurance in an amount not less than the liability limits established by Title 63G, Chapter 7, Governmental Immunity Act of Utah, may not be construed as waiving the limitation on damages recoverable from a governmental entity or its employees established by that chapter.

Section 2. Section 17-22-8 is amended to read:

17-22-8. Care of prisoners -- Funding of services -- Private contractor.

(1) As used in this section, "medication assisted treatment plan" means a prescription plan to use

buprenorphine, methadone, or naltrexone to treat substance use withdrawal symptoms or an opioid use disorder.

[~~(1)~~] (2) Except as provided in Subsection [~~(5)~~] (7), a sheriff shall:

(a) receive each individual committed to jail by competent authority;

(b) provide each prisoner with necessary food, clothing, and bedding in the manner prescribed by the county legislative body;

(c) provide each prisoner medical care when:

(i) the prisoner's symptoms evidence a serious disease or injury;

(ii) the prisoner's disease or injury is curable or may be substantially alleviated; and

(iii) the potential for harm to the person by reason of delay or the denial of medical care would be substantial; [~~and~~]

(d) provide each prisoner, as part of the intake process, with the option of continuing any of the following medically prescribed methods of contraception:

(i) an oral contraceptive;

(ii) an injectable contraceptive;

(iii) a patch;

(iv) a vaginal ring; or

(v) an intrauterine device, if the prisoner was prescribed the intrauterine device because the prisoner experiences serious and persistent adverse effects when using the methods of contraception described in Subsections [~~(1)(d)(i)~~] (2)(d)(i) and (ii); and

(e) cooperate with medical personnel to continue a medication assisted treatment plan for an inmate if the inmate was an active client before arrest and commitment.

[~~(2)~~] (3) A sheriff may provide the generic form of a contraceptive described in Subsection [~~(1)(d)(i)~~] (2)(d)(i) or (ii).

[~~(3)~~] (4) A sheriff shall follow the provisions of Section 64-13-46 if a prisoner is pregnant and gives birth, including the reporting requirements in Subsection 64-13-45(2)(c).

[~~(4)~~] (5) (a) Except as provided in Section 17-22-10 and Subsection [~~(4)(b)~~] (5)(b), the expense incurred in providing the services required by this section to prisoners shall be paid from the county treasury[~~, except as provided in Section 17-22-10~~].

(b) The expense incurred in providing the services described in Subsection [~~(1)(d)~~] (2)(d) to prisoners shall be paid by the Department of Health and Human Services.

(6) A medication used for a medication assisted treatment plan under Subsection (2)(e):

(a) shall be administered to an inmate in accordance with the inmate's prescription under the direction of the sheriff;

(b) may be paid for by a county; and

(c) may be left or stored at a jail at the discretion of the sheriff.

[~~(5)~~] (7) If the county executive contracts with a private contractor to provide the services required by this section, the sheriff shall provide only those services required of the sheriff by the contract between the county and the private contractor.

CHAPTER 120
H. B. 112
Passed February 2, 2023
Approved March 14, 2023
Effective May 3, 2023

STATE FISH HATCHERY MAINTENANCE ACCOUNT AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses the State Fish Hatchery Maintenance Account.

Highlighted Provisions:

This bill:

- modifies the amount of money to be deposited into the State Fish Hatchery Maintenance Account; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-15-14, as last amended by Laws of Utah 2001, Chapter 22

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

Section 1. Section 23-15-14 is amended to read:

23-15-14 (Codified as 23A-3-210). State Fish Hatchery Maintenance Account -- Contents -- Use of account money.

(1) There is created a restricted account within the General Fund known as the "State Fish Hatchery Maintenance Account."

(2) The following money shall be deposited into the account:

(a) [~~$2.00~~] $4 of each fishing license fee or combination license fee; and

(b) interest and earnings on account money.

(3) Money in the account shall be used by the division, after appropriation by the Legislature, for major repairs or replacement of facilities and equipment at fish hatcheries owned and operated by the division for the production and distribution of fish to enhance sport fishing opportunities in the state.

CHAPTER 121
H. B. 114
Passed February 9, 2023
Approved March 14, 2023
Effective May 3, 2023

THEFT DEFENSE AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends the defenses available to those charged with theft.

Highlighted Provisions:

This bill:

- provides that it is not a defense to theft of livestock that the livestock is sick, injured, or a liability to the owner; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-402, as last amended by Laws of Utah 2021, Chapter 57

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

Section 1. Section 76-6-402 is amended to read:

76-6-402. Presumptions and defenses.

The following presumption shall be applicable to this part:

(1) Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.

(2) It is [~~no~~] not a defense under this part that the actor:

(a) [~~that the actor~~] has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, [~~provided an interest in property for purposes of this subsection shall not include~~] unless the interest is a security interest for the repayment of a debt or obligation[~~.~~]; or

(b) takes livestock, as defined in Section 76-6-110, from the owner because the livestock is sick, injured, or a liability to the owner.

(3) It is a defense under this part that the actor:

(a) [~~Acted~~] acted under an honest claim of right to the property or service involved; [~~or~~]

(b) [~~Acted~~] acted in the honest belief that [~~he~~] the actor had the right to obtain or exercise control over the property or service [~~as he did~~] in the manner the actor obtained or exercised control; or

(c) [~~Obtained~~] obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

(4) A livestock guardian dog is presumed to belong to an owner of the livestock with which the livestock guardian dog [~~was~~] is living at the time of an alleged violation of this part.

CHAPTER 122
H. B. 121
Passed February 24, 2023
Approved March 14, 2023
Effective May 3, 2023

WILDLIFE HABITAT ACCOUNT AMENDMENTS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to the Wildlife Habitat Account.

Highlighted Provisions:

This bill:

- addresses amounts that go to wetlands that are beneficial to waterfowl;
- addresses amounts that go to upland game projects; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-19-43, as last amended by Laws of Utah 2000, Chapter 195

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

Section 1. Section 23-19-43 is amended to read:

23-19-43 (Codified as 23A-3-207). Wildlife Habitat Account -- Contents -- Use of fund money.

(1) There is created a restricted account within the General Fund known as the "Wildlife Habitat Account."

(2) The contents of the account shall consist of:

(a) revenue from the sale of licenses, permits, stamps, certificates of registration, and Wildlife Heritage certificates as provided in Section 23-19-47;

(b) money donated to the division for a purpose specified in Subsection (6); and

(c) interest and earnings on account money.

(3) Revenue from the sale of licenses, permits, stamps, certificates of registration, and Wildlife Heritage certificates that is deposited to the account pursuant to Section 23-19-47 shall be used by the division, after appropriation by the Legislature, as provided in Subsections (4) through (6).

(4) (a) Each year up to $70,000 or [~~4%~~] 10% of the annual deposits to the account, whichever amount is greater, shall be allocated for the development, restoration, and preservation of wetlands that are beneficial to waterfowl.

(b) Up to 20% of the money allocated to waterfowl projects may be appropriated by the Legislature for use by a nonprofit conservation organization for wetland development projects within the state that benefit waterfowl.

(5) (a) Each year up to $230,000 or [~~12~~] 10% of the annual deposits to the account, whichever amount is greater, shall be allocated to upland game projects as follows:

(i) the control of predators;

(ii) the development, improvement, restoration, or maintenance of critical habitat through the establishment of landowner incentives, cooperative programs, or other means;

(iii) the acquisition or preservation of critical habitat;

(iv) landowner habitat education and assistance programs;

(v) public access to private lands; and

(vi) upland game transplant and reintroduction programs.

(b) As used in this section "upland game" means pheasant, quail, chukar, partridge, sage grouse, sharp-tailed grouse, Hungarian partridge, ruffed grouse, blue grouse, ptarmigan, mourning dove, band-tailed pigeon, turkey, cottontail rabbit, or snowshoe hare.

(c) Money allocated to upland game may not be used for the acquisition, development, improvement, restoration, or maintenance of habitat within commercial hunting areas.

(d) No more than 5% of the money allocated to upland game may be used for landowner habitat education programs.

(e) The money allocated to upland game shall be used for programs and activities relating to upland game species based generally upon the proportion of average annual hunter participation for each species.

(f) Projects for which free public access is assured shall receive first priority for funding from money allocated to upland game.

(g) Projects for which public access is assured shall receive second priority for funding from money allocated to upland game.

(6) The remaining money in the account shall be used for the following purposes:

(a) the enhancement, acquisition, preservation, protection, and management of aquatic and terrestrial wildlife habitat; and

(b) to improve access for fishing and hunting.

(7) The division shall seek the advice and recommendations of the Habitat Council, created by the division, regarding the expenditure of account money.

(8) Donations of money deposited into the account and interest earned on that money shall be expended:

(a) as directed by the donor; and

(b) without being appropriated by the Legislature.

CHAPTER 123
H. B. 122
Passed February 9, 2023
Approved March 14, 2023
Effective May 3, 2023

SEX OFFENDER REGISTRY AMENDMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends provisions related to individuals required to register for the sex offender registry.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies that juveniles committing qualifying offenses are still required to comply with registry requirements;
- adds attempt, solicitation, and conspiracy to commit certain human trafficking offenses to the offenses that qualify for the sex offender registry;
- clarifies that for purposes of determining a lifetime registration requirement for an offender under 21 years old, a sentencing court may determine at any time after a conviction that the offense did not involve force or coercion;
- enacts provisions related to juveniles transferred from the custody of the Division of Juvenile Justice Services to the Department of Corrections;
- specifies the number of days an offender may drive a particular car before that car's information must be reported;
- requires the Department of Corrections to maintain, but not publish, information on individuals who were under 18 years old when they committed a qualifying offense, unless the offender committed an offense requiring lifetime registration; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-209, as last amended by Laws of Utah 2021, Chapter 206
76-5-401, as last amended by Laws of Utah 2022, Chapter 181
76-5-401.1, as last amended by Laws of Utah 2022, Chapter 181
76-5-401.3, as last amended by Laws of Utah 2022, Chapter 181
76-9-702, as last amended by Laws of Utah 2022, Chapter 181
76-9-702.1, as last amended by Laws of Utah 2022, Chapter 181
77-41-102, as last amended by Laws of Utah 2022, Chapters 185, 430
77-41-103, as last amended by Laws of Utah 2018, Chapter 281
77-41-105, as last amended by Laws of Utah 2020, Chapter 108
77-41-106, as last amended by Laws of Utah 2022, Chapters 185, 430
77-41-107, as last amended by Laws of Utah 2019, Chapter 189
77-41-109, as last amended by Laws of Utah 2020, Chapter 237
77-41-110, as enacted by Laws of Utah 2012, Chapter 145 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 382
77-41-113, as last amended by Laws of Utah 2021, Chapters 206, 334 and 410 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 410
78B-8-302, as last amended by Laws of Utah 2018, Chapter 298
80-5-201, as last amended by Laws of Utah 2022, Chapter 155

ENACTS:

77-41-114, Utah Code Annotated 1953

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

Section 1. Section 76-3-209 is amended to read:

76-3-209. Limitation on sentencing for crimes committed by juveniles.

(1) As used in this section, "qualifying sexual offense" means:

(a) an offense described in Chapter 5, Part 4, Sexual Offenses;

(b) Section 76-9-702, lewdness;

(c) Section 76-9-702.1, sexual battery; or

(d) Section 76-9-702.5, lewdness involving a child.

(2) (a) This Subsection (2) only applies prospectively to an individual sentenced on or after May 10, 2016.

(b) Notwithstanding any provision of law, an individual may not be sentenced to life without parole if:

(i) the individual is convicted of a crime punishable by life without parole; and

(ii) at the time the individual committed the crime, the individual was less than 18 years old.

(c) The maximum punishment that may be imposed on an individual described in Subsection (2)(b) is an indeterminate prison term of not less than 25 years and that may be for life.

(3) Except as provided in Subsection (4), if an individual is convicted in district court of a qualifying sexual offense and, at the time of the offense, the individual was at least 14 years old, but under 18 years old:

[~~(a) the individual is not, based on the conviction, subject to the registration requirements described in Title 77, Chapter 41, Sex and Kidnap Offender Registry;~~]

[~~(b)~~] (a) the district court shall impose a sentence consistent with the disposition that would have been made in juvenile court; and

[~~(c)~~] (b) the district court may not impose incarceration unless the court enters specific written findings that incarceration is warranted based on a totality of the circumstances, taking into account:

(i) the time that elapsed after the individual committed the offense;

(ii) the age of the individual at the time of the offense;

(iii) the age of the victim at the time of the offense;

(iv) the criminal history of the individual after the individual committed the offense;

(v) any treatment assessments or validated risk tools; and

(vi) public safety concerns.

(4) Subsection (3) does not apply if:

(a) before the individual described in Subsection (3) is convicted of the qualifying sexual offense, the individual is convicted of a qualifying sexual offense that the individual committed when the individual was 18 years old or older; or

(b) the individual is convicted in district court, before the victim is 18 years old, of a violation of Section 76-5-405, aggravated sexual assault.

(5) If the district court imposes incarceration under Subsection [~~(3)(c)~~] (3)(b), the term of incarceration may not exceed:

(a) seven years for a violation of Section 76-5-405, aggravated sexual assault;

(b) except as provided in Subsection (5)(a), four years for a felony violation of Chapter 5, Part 4, Sexual Offenses; or

(c) the maximum sentence described in Section 76-3-204 for:

(i) a misdemeanor violation of Chapter 5, Part 4, Sexual Offenses;

(ii) a violation of Section 76-9-702, lewdness;

(iii) a violation of Section 76-9-702.1, sexual battery; or

(iv) a violation of Section 76-9-702.5, lewdness involving a child.

Section 2. Section 76-5-401 is amended to read:

76-5-401. Unlawful sexual activity with a minor -- Penalties -- Evidence of age raised by defendant -- Limitations.

(1) (a) As used in this section, "minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor 18 years old or older commits unlawful sexual activity with a minor if the actor:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of an individual and the mouth or anus of another individual; or

(iii) causes the penetration, however slight, of the genital or anal opening of the minor by a foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a)(ii).

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) (i) Notwithstanding Subsection (3)(a) or (c), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant is less than four years older than the minor at the time the sexual activity occurred, the offense is a class B misdemeanor.

(ii) An offense under Subsection (3)(b)(i) is not subject to registration under Subsection [~~77-41-102(17)(a)(vii).~~] 77-41-102(18)(a)(vii).

(c) (i) Notwithstanding Subsection (3)(a), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor.

(ii) An offense under Subsection (3)(c)(i) is not subject to registration under Subsection [~~77-41-102(17)(a)(vii).~~] 77-41-102(18)(a)(vii).

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76-5-402;

(b) object rape, in violation of Section 76-5-402.2;

(c) forcible sodomy, in violation of Section 76-5-403;

(d) aggravated sexual assault, in violation of Section 76-5-405; or

(e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

Section 3. Section 76-5-401.1 is amended to read:

76-5-401.1. Sexual abuse of a minor -- Penalties -- Limitations.

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

(i) "Indecent liberties" means:

(A) the actor touching another individual's genitals, anus, buttocks, pubic area, or female breast;

(B) causing any part of an individual's body to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;

(C) simulating or pretending to engage in sexual intercourse with another individual, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or

(D) causing an individual to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.

(ii) "Minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a minor if the actor:

(i) is four years or more older than the minor; and

(ii) with the intent to cause substantial emotional or bodily pain to any individual, or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;

(B) touches the breast of a female minor; or

(C) otherwise takes indecent liberties with the minor.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2)(a) is:

(a) a class A misdemeanor; and

(b) not subject to registration under Subsection [~~77-41-102(17)(a)(viii)~~] 77-41-102(18)(a)(viii) on a first offense if the offender was younger than 21 years old at the time of the offense.

(4) The offenses referred to in Subsection (2)(a) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) object rape, in violation of Section 76-5-402.2;

(d) forcible sodomy, in violation of Section 76-5-403;

(e) aggravated sexual assault, in violation of Section 76-5-405; or

(f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Section 4. Section 76-5-401.3 is amended to read:

76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.

(1) (a) As used in this section, "adolescent" means an individual in the transitional phase of human physical and psychological growth and development between childhood and adulthood who is 12 years old or older, but younger than 18 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful sexual activity if the actor:

(a) is an adolescent; and

(b) has sexual activity with another adolescent.

(3) A violation of Subsection (2) is a:

(a) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old;

(b) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(c) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(d) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(e) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;

(f) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(g) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

(h) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(4) The offenses referred to in Subsection (2) are:

(a) rape, in violation of Section 76-5-402;

(b) rape of a child, in violation of Section 76-5-402.1;

(c) object rape, in violation of Section 76-5-402.2;

(d) object rape of a child, in violation of Section 76-5-402.3;

(e) forcible sodomy, in violation of Section 76-5-403;

(f) sodomy on a child, in violation of Section 76-5-403.1;

(g) sexual abuse of a child, in violation of Section 76-5-404;

(h) aggravated sexual assault, in violation of Section 76-5-405;

(i) incest, in violation of Section 76-7-102; or

(j) an attempt to commit any offense listed in Subsections (4)(a) through (4)(i).

(5) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-304 or a referral to a youth court under Section 80-6-902.

(6) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

(7) An offense under this section is not subject to registration under Subsection [~~77-41-102(17)~~] 77-41-102(18).

Section 5. Section 76-9-702 is amended to read:

76-9-702. Lewdness.

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving state services under Section 76-5-413, custodial sexual misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years old or older:

(a) an act of sexual intercourse or sodomy;

(b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;

(c) masturbates; or

(d) any other act of lewdness.

(2) (a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).

(b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section 77-27-21.7;

(ii) the person has been previously convicted two or more times of violating Subsection (1); or

(iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5.

(c) (i) For purposes of this Subsection (2) and Subsection [~~77-41-102(17)~~] 77-41-102(18), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Section 6. Section 76-9-702.1 is amended to read:

76-9-702.1. Sexual battery.

(1) A person is guilty of sexual battery if the person, under circumstances not amounting to an offense under Subsection (2), intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the person touched.

(2) Offenses referred to in Subsection (1) are:

(a) rape, Section 76-5-402;

(b) rape of a child, Section 76-5-402.1;

(c) object rape, Section 76-5-402.2;

(d) object rape of a child, Section 76-5-402.3;

(e) forcible sodomy, Subsection 76-5-403(2);

(f) sodomy on a child, Section 76-5-403.1;

(g) forcible sexual abuse, Section 76-5-404;

(h) sexual abuse of a child, Section 76-5-404.1;

(i) aggravated sexual abuse of a child, Section 76-5-404.3;

(j) aggravated sexual assault, Section 76-5-405; and

(k) an attempt to commit any offense under this Subsection (2).

(3) Sexual battery is a class A misdemeanor.

(4) (a) For purposes of Subsection [~~77-41-102(17)~~] 77-41-102(18) only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(b) This Subsection (4) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Section 7. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) (a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

(b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

[~~(4)~~] (5) "Department" means the Department of Corrections.

[~~(5)~~] (6) "Division" means the Division of Juvenile Justice Services.

[~~(6)~~] (7) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

[~~(7)~~] (8) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

[~~(8)~~] (9) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

[~~(9)~~] (10) "Kidnap offender" means any individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) Subsection 76-5-301(2)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-308, human trafficking for labor;

(v) Section 76-5-308.3, human smuggling;

(vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years old;

(vii) Section 76-5-308.5, human trafficking of a child for labor;

(viii) Section 76-5-310, aggravated human trafficking;

(ix) Section 76-5-310.1, aggravated human smuggling;

(x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

(xi) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections [~~(9)(a)(i) through (iii);~~] (10)(a)(i) through (x);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection [~~(9)(a);~~] (10)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by any state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, who is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection [~~(9),~~] (10), or any substantially equivalent offense in another jurisdiction; or

(B) as a result of the conviction, who is required to register in the individual's state of residence;

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection [~~(9);~~] (10); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection [~~(9)(a);~~] (10)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense [~~and~~] if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday; [~~or~~]

(B) [~~if~~] the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605[~~,~~] and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

[~~(10)~~] (11) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

[~~(11)~~] (12) "Offender" means a kidnap offender as defined in Subsection [~~(9)~~] (10) or a sex offender as defined in Subsection [~~(17).~~] (18).

[~~(12)~~] (13) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

[~~(13)~~] (14) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

[~~(14)~~] (15) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

[~~(15)~~] (16) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

[~~(16)~~] (17) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

[~~(17)~~] (18) "Sex offender" means any individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

(iii) Section 76-5-308.1, human trafficking for sexual exploitation;

(iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);

(ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(x) Section 76-5-402, rape;

(xi) Section 76-5-402.1, rape of a child;

(xii) Section 76-5-402.2, object rape;

(xiii) Section 76-5-402.3, object rape of a child;

(xiv) a felony violation of Section 76-5-403, forcible sodomy;

(xv) Section 76-5-403.1, sodomy on a child;

(xvi) Section 76-5-404, forcible sexual abuse;

(xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child;

(xviii) Section 76-5-405, aggravated sexual assault;

(xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

(xx) Section 76-5b-201, sexual exploitation of a minor;

(xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

(xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

(xxiii) Section 76-7-102, incest;

(xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;

(xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

(xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxvii) Section 76-9-702.5, lewdness involving a child;

(xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(xxix) Section 76-10-1306, aggravated exploitation of prostitution; or

(xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection [~~(17)(a)~~] (18)(a);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection [~~(17)(a);~~] (18)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a sex offender in any other jurisdiction of original conviction;

(B) who is required to register as a sex offender by any state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection [~~(17)(a)~~] (18)(a), or any substantially equivalent offense in any jurisdiction; or

(B) who is, as a result of the conviction, required to register in the individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection [~~(17)(a);~~] (18)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection [~~(17)(a);~~] (18)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense [~~and~~] if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday; [~~or~~]

(B) [~~if~~] the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605[~~,~~] and the individual remains in the division's custody until 30 days before the individual's 25th birthday[~~.~~]; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

[~~(18)~~] (19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

[~~(19)~~] (20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 8. Section 77-41-103 is amended to read:

77-41-103. Department duties.

(1) The department, to assist in investigating kidnapping and sex-related crimes, and in apprehending offenders, shall:

(a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders and sex and kidnap offenses;

(b) make information listed in Subsection 77-41-110(4) available to the public; and

(c) share information provided by an offender under this chapter that may not be made available to the public under Subsection 77-41-110(4), but only:

(i) for the purposes under this chapter; or

(ii) in accordance with Section 63G-2-206.

(2) Any law enforcement agency shall, in the manner prescribed by the department, inform the department of:

(a) the receipt of a report or complaint of an offense listed in Subsection [~~77-41-102(9) or (17),~~] 77-41-102(10) or (18), within three business days; and

(b) the arrest of a person suspected of any of the offenses listed in Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18), within five business days.

(3) Upon convicting a person of any of the offenses listed in Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18), the convicting court shall within three business days forward a signed copy of the judgment and sentence to the Sex and Kidnap Offender Registry office within the Department of Corrections.

(4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a conviction for any offense listed in Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18), the court shall, within three business days, forward a signed copy of the order to

the Sex and Kidnap Offender Registry office within the Department of Corrections.

(5) The department may intervene in any matter, including a criminal action, where the matter purports to affect a person's lawfully entered registration requirement.

(6) The department shall:

(a) provide the following additional information when available:

(i) the crimes the offender has been convicted of or adjudicated delinquent for;

(ii) a description of the offender's primary and secondary targets; and

(iii) any other relevant identifying information as determined by the department;

(b) maintain the Sex Offender and Kidnap Offender Notification and Registration website; and

(c) ensure that the registration information collected regarding an offender's enrollment or employment at an educational institution is:

(i) (A) promptly made available to any law enforcement agency that has jurisdiction where the institution is located if the educational institution is an institution of higher education; or

(B) promptly made available to the district superintendent of the school district where the offender is employed if the educational institution is an institution of primary education; and

(ii) entered into the appropriate state records or data system.

Section 9. Section 77-41-105 is amended to read:

77-41-105. Registration of offenders -- Offender responsibilities.

(1) (a) An offender who enters this state from another jurisdiction is required to register under Subsection (3) and Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18).

(b) The offender shall register with the department within 10 days after the day on which the offender enters the state, regardless of the offender's length of stay.

(2) (a) An offender required to register under Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18) who is under supervision by the department shall register in person with Division of Adult Probation and Parole.

(b) An offender required to register under Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18) who is no longer under supervision by the department shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(3) (a) Except as provided in Subsections (3)(b), (c), and (4), an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register each year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is convicted in another jurisdiction of an offense listed in Subsection [~~77-41-102(9)(a) or (17)(a)~~] 77-41-102(10)(a) or (18)(a), a substantially similar offense, another offense that requires registration in the jurisdiction of conviction, or an offender who is ordered by a court of another jurisdiction to register as an offender shall:

(i) register for the time period, and in the frequency, required by the jurisdiction where the offender was convicted or ordered to register if:

(A) that jurisdiction's registration period or registration frequency requirement for the offense that the offender was convicted of is greater than the registration period required under Subsection (3)(a), or is more frequent than every six months; or

(B) that jurisdiction's court order requires registration for greater than the registration period required under Subsection (3)(a) or more frequently than every six months; or

(ii) register in accordance with the requirements of Subsection (3)(a), if the jurisdiction's registration period or frequency requirement for the offense that the offender was convicted of is less than the registration period required under Subsection (3)(a), or is less frequent than every six months.

(c) (i) An offender convicted as an adult of an offense listed in Section 77-41-106 shall, for the offender's lifetime, register each year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(ii) Except as provided in Subsection (3)(c)(iii), the registration requirement described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or altered during the offender's lifetime, unless a petition is granted under Section 77-41-112.

(iii) (A) If the sentencing court at any time after conviction determines that the offense does not involve force or coercion, lifetime registration under Subsection (3)(c)(i) does not apply to an offender who commits the offense when the offender is under 21 years of age.

(B) For an offense listed in Section 77-41-106, an offender who commits the offense when the offender is under 21 years of age shall register for the registration period required under Subsection

(3)(a), unless a petition is granted under Section 77-41-112.

(d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:

(i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(5) (a) Except as provided in Subsection (5)(b), in the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of Subsection (3).

(b) If the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the registration website.

(6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years subsequent to the registration period otherwise required under this chapter.

(7) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of a vehicle or vehicles the offender owns or [~~regularly~~] drives more than 12 times per year;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and a change of enrollment or employment status of the offender at an educational institution;

(o) the name, the telephone number, and the address of a place where the offender is employed or will be employed;

(p) the name, the telephone number, and the address of a place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's social security number.

(8) (a) An offender may change the offender's name in accordance with Title 42, Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.

(b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department at least 30 days before the day on which the hearing for the name change is held.

(c) The court shall provide a copy of the order granting the offender's name change to the department within 10 days after the day on which the court issues the order.

(d) If the court orders an offender's name changed, the department shall publish on the registration website the offender's former name, and the offender's changed name as an alias.

(9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including a bank, retirement, or investment account.

Section 10. Section 77-41-106 is amended to read:

77-41-106. Offenses requiring lifetime registration.

Offenses referred to in Subsection 77-41-105(3)(c)(i) are:

(1) any offense listed in Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18) if, at the time of the conviction, the offender has previously been convicted of an offense listed in Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18) or has previously been required to register as a sex offender for an offense committed as a juvenile;

(2) a conviction for any of the following offenses, including attempting, soliciting, or conspiring to commit any felony of:

(a) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of the victim;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403.1, sodomy on a child;

(g) Section 76-5-404.3, aggravated sexual abuse of a child; or

(h) Section 76-5-405, aggravated sexual assault;

(3) Section 76-5-308.1, human trafficking for sexual exploitation;

(4) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(5) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(6) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(7) Section 76-4-401, a felony violation of enticing a minor over the Internet;

(8) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent of the victim;

(9) Section 76-5-403, forcible sodomy;

(10) Section 76-5-404.1, sexual abuse of a child;

(11) Section 76-5b-201, sexual exploitation of a minor;

(12) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

(13) Subsection 76-5b-204(2)(b), aggravated sexual extortion; or

(14) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10, 2011.

Section 11. Section 77-41-107 is amended to read:

77-41-107. Penalties.

(1) An offender who knowingly fails to register under this chapter or provides false or incomplete information is guilty of:

(a) a third degree felony and shall be sentenced to serve a term of incarceration for not less than 30 days and also at least one year of probation if:

(i) the offender is required to register for a felony conviction or adjudicated delinquent for what would be a felony if the juvenile were an adult of an offense listed in Subsection [~~77-41-102(9)(a) or (17)(a)~~] 77-41-102(10)(a) or (18)(a); or

(ii) the offender is required to register for the offender's lifetime under Subsection 77-41-105(3)(c); or

(b) a class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than 30 days and also at least one year of probation if the offender is required to register for a misdemeanor conviction or is adjudicated delinquent for what would be a misdemeanor if the juvenile were an adult of an offense listed in Subsection [~~77-41-102(9)(a) or (17)(a)~~] 77-41-102(10)(a) or (18)(a).

(2) (a) Neither the court nor the Board of Pardons and Parole may release an individual who violates this chapter from serving the term required under Subsection (1).

(b) This Subsection (2) supersedes any other provision of the law contrary to this chapter.

(3) The offender shall register for an additional year for every year in which the offender does not comply with the registration requirements of this chapter.

Section 12. Section 77-41-109 is amended to read:

77-41-109. Miscellaneous provisions.

(1) (a) If an offender is to be temporarily sent on any assignment outside a secure facility in which the offender is confined on any assignment, including, without limitation, firefighting or disaster control, the official who has custody of the offender shall, within a reasonable time prior to removal from the secure facility, notify the local law enforcement agencies where the assignment is to be filled.

(b) This Subsection (1) does not apply to any person temporarily released under guard from the institution in which the person is confined.

(2) Notwithstanding Title 77, Chapter 40a, Expungement, a person convicted of any offense listed in Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18) is not relieved from the responsibility to register as required under this section, unless the offender is removed from the registry under Section 77-41-112 or Section 77-41-113.

Section 13. Section 77-41-110 is amended to read:

77-41-110. Sex offender and kidnap offender registry -- Department to maintain.

(1) The department shall maintain a Sex Offender and Kidnap Offender Notification and Registration website on the Internet, which shall contain a disclaimer informing the public:

(a) the information contained on the site is obtained from offenders and the department does not guarantee its accuracy or completeness;

(b) members of the public are not allowed to use the information to harass or threaten offenders or members of their families; and

(c) harassment, stalking, or threats against offenders or their families are prohibited and doing so may violate Utah criminal laws.

(2) The Sex Offender and Kidnap Offender Notification and Registration website shall be indexed by both the surname of the offender and by postal codes.

(3) The department shall construct the Sex Offender Notification and Registration website so that users, before accessing registry information, must indicate that they have read the disclaimer, understand it, and agree to comply with its terms.

(4) Except as provided in Subsection (5), the Sex Offender and Kidnap Offender Notification and Registration website shall include the following registry information:

(a) all names and aliases by which the offender is or has been known, but not including any online or Internet identifiers;

(b) the addresses of the offender's primary, secondary, and temporary residences;

(c) a physical description, including the offender's date of birth, height, weight, and eye and hair color;

(d) the make, model, color, year, and plate number of any vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a list of all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business;

(g) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student;

(h) a list of places where the offender works as a volunteer; and

(i) the crimes listed in Subsections [~~77-41-102(9) and (16)~~] 77-41-102(10) and (18) that the offender has been convicted of or for which the offender has been adjudicated delinquent in juvenile court.

(5) The department, its personnel, and any individual or entity acting at the request or upon the direction of the department are immune from civil liability for damages for good faith compliance with this chapter and will be presumed to have acted in good faith by reporting information.

(6) The department shall redact information that, if disclosed, could reasonably identify a victim.

Section 14. Section 77-41-113 is amended to read:

77-41-113. Removal for offenses or convictions for which registration is no longer required.

(1) The department shall automatically remove an individual who is currently on the Sex and Kidnap Offender Registry because of a conviction if:

(a) the only offense or offenses for which the individual is on the registry are listed in Subsection (2); or

(b) the department receives a formal notification or order from the court or the Board of Pardons and Parole that the conviction for the offense or offenses for which the individual is on the registry have been reversed, vacated, or pardoned.

(2) The offenses described in Subsection (1)(a) are:

(a) a class B or class C misdemeanor for enticing a minor, Section 76-4-401;

(b) kidnapping, based upon Subsection 76-5-301(2)(a) or (b);

(c) child kidnapping, Section 76-5-301.1, if the offender was the natural parent of the child victim;

(d) unlawful detention, Section 76-5-304;

(e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, Section 76-5-401; or

(f) sodomy, but not forcible sodomy, Section 76-5-403[~~; or~~].

[~~(g) unless the offender is an individual described in Subsection 77-41-102(9)(f) or (17)(f), an offense committed in Utah before the offender is 18 years old.~~]

(3) (a) The department shall notify an individual who has been removed from the registry in accordance with Subsection (1).

(b) The notice described in Subsection (3)(a) shall include a statement that the individual is no longer required to register as a sex offender.

(4) An individual who is currently on the Sex and Kidnap Offender Registry may submit a request to the department to be removed from the registry if the individual believes that the individual qualifies for removal under this section.

(5) The department, upon receipt of a request for removal from the registry shall:

(a) check the registry for the individual's current status;

(b) determine whether the individual qualifies for removal based upon this section; and

(c) notify the individual in writing of the department's determination and whether the individual:

(i) qualifies for removal from the registry; or

(ii) does not qualify for removal.

(6) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.

(7) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination. The department's determination is final and not subject to administrative review.

(8) Neither the department nor any employee may be civilly liable for a determination made in good faith in accordance with this section.

(9) The department shall provide a response to a request for removal within 30 days of receipt of the request. If the response cannot be provided within 30 days, the department shall notify the individual that the response may be delayed up to 30 additional days.

Section 15. Section 77-41-114 is enacted to read:

77-41-114. Registration for individuals under 18 years old at the time of the offense.

(1) Except for an offender who is subject to lifetime registration under Subsection 77-41-106(1), the department shall, if the offender was under 18 years old at the time of the offense, maintain, but not publish, the offender's information on the registration website for an offense listed in Subsection 77-41-102(10)(a), (e), or (f) or 77-41-102(18)(a), (e), or (f).

(2) (a) If, based on the information provided to the department by the sentencing court, prosecuting entity, offender, or offender's counsel, the department cannot determine if the offender is eligible for an exemption to publication on the registration website as described in Subsection (1), the department shall continue to publish the offender's information on the registration website.

(b) Information may be provided to the department at any time in order to clarify the offender's age at the time of the offense.

(c) This section does not prohibit the department from seeking or receiving information from individuals or entities other than those identified in Subsection (2)(a).

(3) This section applies to offenders with a registration requirement on or after May 3, 2023, regardless of when the offender was first required to register.

(4) An offender convicted after May 3, 2023, of an offense committed when the individual was under 18 years old, is not subject to registration requirements under this chapter unless the offender:

(a) is charged by criminal information in juvenile court under Section 80-6-503;

(b) is bound over to district court in accordance with Section 80-6-504; and

(c) is convicted of a qualifying offense described in Subsection 77-41-102(10)(a) or 77-41-102(18)(a).

Section 16. Section 78B-8-302 is amended to read:

78B-8-302. Process servers.

(1) Complaints, summonses, and subpoenas may be served by a person who is:

(a) 18 years [~~of age~~] old or older at the time of service; and

(b) not a party to the action or a party's attorney.

(2) Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:

(a) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;

(b) a sheriff or appointed deputy sheriff employed by a county of the state;

(c) a constable, or the constable's deputy, serving in compliance with applicable law;

(d) an investigator employed by the state and authorized by law to serve civil process; and

(e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.

(3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

(4) While serving process, a private investigator shall:

(a) have on the investigator's person a visible form of credentials and identification identifying:

(i) the investigator's name;

(ii) that the investigator is a licensed private investigator; and

(iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;

(b) verbally communicate to the person being served that the investigator is acting as a process server; and

(c) print on the first page of each document served:

(i) the investigator's name and identification number as a private investigator; and

(ii) the address and phone number for the investigator's place of business.

(5) Any service under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances, may only be served by:

(a) a law enforcement officer, as defined in Section 53-13-103; or

(b) a constable, as listed in Subsection 53-13-105(1)(b)(ii).

(6) The following may not serve process issued by a court:

(a) a person convicted of a felony violation of an offense listed in Subsection [~~77-41-102(17)~~] 77-41-102(18); or

(b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a protective order.

(7) A person serving process shall:

(a) legibly document the date and time of service on the front page of the document being served;

(b) legibly print the process server's name, address, and telephone number on the return of service;

(c) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;

(d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

(e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

Section 17. Section 80-5-201 is amended to read:

80-5-201. Division responsibilities.

(1) The division is responsible for all minors committed to the division by juvenile courts under Sections 80-6-703 and 80-6-705.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all minors committed to the division;

(b) establish and maintain all detention and secure care facilities and set minimum standards for all detention and secure care facilities;

(c) establish and operate prevention and early intervention youth services programs for nonadjudicated minors placed with the division;

(d) establish observation and assessment programs necessary to serve minors in a nonresidential setting under Subsection 80-6-706(1);

(e) place minors committed to the division under Section 80-6-703 in the most appropriate program for supervision and treatment;

(f) employ staff necessary to:

(i) supervise and control minors committed to the division for secure care or placement in the community;

(ii) supervise and coordinate treatment of minors committed to the division for placement in community-based programs; and

(iii) control and supervise adjudicated and nonadjudicated minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division;

(g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;

(h) establish and operate work programs for minors committed to the division by the juvenile court that:

(i) are not residential;

(ii) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

(iii) provide educational and prevocational programs in cooperation with the State Board of Education for minors placed in the program; and

(iv) provide counseling to minors;

(i) establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to minors who have committed an offense in this state or in any other state;

(j) provide regular training for secure care staff, detention staff, case management staff, and staff of the community-based programs;

(k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403;

(l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol;

(m) register an individual with the Department of Corrections who:

(i) is adjudicated for an offense listed in Subsection [~~77-41-102(17)(a)~~] 77-41-102(18)(a) or 77-43-102(2);

(ii) is committed to the division for secure care; and

(iii) (A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or

(B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday; and

(n) ensure that a program delivered to a minor under this section is an evidence-based program in accordance with Section 63M-7-208.

(3) (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to:

(i) locate and apprehend minors who have absconded from division custody;

(ii) transport minors taken into custody in accordance with division policy;

(iii) investigate cases; and

(iv) carry out other duties as assigned by the division.

(b) A special function officer may be:

(i) employed through a contract with the Department of Public Safety, or any law enforcement agency certified by the Peace Officer Standards and Training Division; or

(ii) directly hired by the division.

(4) In the event of an unauthorized leave from secure care, detention, a community-based program, a juvenile receiving center, a home, or any other designated placement of a minor, a division employee has the authority and duty to locate and apprehend the minor, or to initiate action with a local law enforcement agency for assistance.

(5) The division may proceed with an initial medical screening or assessment of a child admitted to a detention facility to ensure the safety of the child and others in the detention facility if the division makes a good faith effort to obtain consent for the screening or assessment from the child's parent or guardian.

CHAPTER 124
H. B. 139
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

SEX AND KIDNAP OFFENDER REGISTRY REQUIREMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends sex and kidnap offender registry requirements.

Highlighted Provisions:

This bill:

- amends sex and kidnap offender registry requirements for an offender who commits certain offenses in another state; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-41-105, as last amended by Laws of Utah 2020, Chapter 108
77-41-112, as last amended by Laws of Utah 2021, Chapters 262, 334 and 410 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 334

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

Section 1. Section 77-41-105 is amended to read:

77-41-105. Registration of offenders -- Offender responsibilities.

(1) (a) An offender who enters this state from another jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(9) or (17).

(b) The offender shall register with the department within 10 days after the day on which the offender enters the state, regardless of the offender's length of stay.

(2) (a) An offender required to register under Subsection 77-41-102(9) or (17) who is under supervision by the department shall register in person with Division of Adult Probation and Parole.

(b) An offender required to register under Subsection 77-41-102(9) or (17) who is no longer under supervision by the department shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(3) (a) Except as provided in Subsections (3)(b), (3)(c) [~~(c)~~], and (4), an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register each year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(9)(a) or (17)(a), a substantially similar offense, another offense that requires registration in the jurisdiction of conviction, or an offender who is ordered by a court of another jurisdiction to register as an offender shall[~~:~~]

[~~(i)~~] register for the time period[~~, and in the frequency,~~] required by the jurisdiction where the offender was convicted or ordered to register [~~if:~~].

[~~(A) that jurisdiction's registration period or registration frequency requirement for the offense that the offender was convicted of is greater than the registration period required under Subsection (3)(a), or is more frequent than every six months; or~~]

[~~(B) that jurisdiction's court order requires registration for greater than the registration period required under Subsection (3)(a) or more frequently than every six months; or~~]

[~~(ii) register in accordance with the requirements of Subsection (3)(a), if the jurisdiction's registration period or frequency requirement for the offense that the offender was convicted of is less than the registration period required under Subsection (3)(a), or is less frequent than every six months.~~]

(c) (i) An offender convicted as an adult of an offense listed in Section 77-41-106 shall, for the offender's lifetime, register each year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(ii) Except as provided in Subsection (3)(c)(iii), the registration requirement described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or altered during the offender's lifetime, unless a petition is granted under Section 77-41-112.

(iii) (A) If the sentencing court determines that the offense does not involve force or coercion, lifetime registration under Subsection (3)(c)(i) does not apply to an offender who commits the offense when the offender is under 21 years [~~of age~~] old.

(B) For an offense listed in Section 77-41-106, an offender who commits the offense when the offender is under 21 years [~~of age~~] old shall register for the registration period required under Subsection (3)(a), unless a petition is granted under Section 77-41-112.

(d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:

(i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(5) (a) Except as provided in Subsection (5)(b), in the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of Subsection (3).

(b) If the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the registration website.

(6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years subsequent to the registration period otherwise required under this chapter.

(7) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of a vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and a change of enrollment or employment status of the offender at an educational institution;

(o) the name, the telephone number, and the address of a place where the offender is employed or will be employed;

(p) the name, the telephone number, and the address of a place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's social security number.

(8) (a) An offender may change the offender's name in accordance with Title 42, Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.

(b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department at least 30 days before the day on which the hearing for the name change is held.

(c) The court shall provide a copy of the order granting the offender's name change to the department within 10 days after the day on which the court issues the order.

(d) If the court orders an offender's name changed, the department shall publish on the registration website the offender's former name, and the offender's changed name as an alias.

(9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including a bank, retirement, or investment account.

Section 2. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) An offender who is required to register with the Sex and Kidnap Offender Registry may petition the court for an order removing the offender from the Sex and Kidnap Offender Registry if:

(a) (i) the offender was convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense terminated;

(iii) the offense is the only offense for which the offender was required to register;

(iv) the offender has not been convicted of another offense, excluding a traffic offense, since the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; [~~or~~]

(b) (i) if the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; or

(c) (i) the offender is required to register in accordance with Subsection 77-41-105(3)(c);

(ii) at least 20 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender submits to an evidence-based risk assessment to the court, with the offender's petition, that:

(A) meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;

(B) is completed within the six months before the date on which the petition is filed; and

(C) describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) Section 76-4-401, enticing a minor, if the offense is a class A misdemeanor;

(b) Section 76-5-301, kidnapping;

(c) Section 76-5-304, unlawful detention, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) Section 76-5-401, unlawful sexual activity with a minor if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old, and at the time of the offense, the offender is not more than 15 years older than the victim; [~~or~~]

(g) Section 76-9-702.7, voyeurism, if the offense is a class A misdemeanor; or

(h) an offense for which an individual is required to register under Subsection 77-41-102(9)(c) or 77-41-102(17)(c), if the offense is not substantially equivalent to an offense described in Subsection 77-41-102(9)(a) or 77-41-102(17)(a).

(3) (a) (i) An offender seeking removal from the Sex and Kidnap Offender Registry under this

section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b) (i) The bureau shall perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility.

(ii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

(iii) The bureau shall request information from the department regarding whether the offender meets the requirements.

(iv) (A) Upon request from the bureau under Subsection (3)(b)(iii), the department shall issue a document on whether the offender meets the requirements described in Subsection (1)(a), (b), or (c), which shall be used by the bureau to determine if a certificate of eligibility is appropriate.

(B) The document from the department shall also include a statement regarding the offender's compliance with all registration requirements under this chapter.

(v) The bureau shall provide a copy of the document provided to the bureau under Subsection (3)(b)(iv) to the offender upon issuance of a certificate of eligibility.

(4) (a) (i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5) (a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

(b) Upon receipt of a petition for removal from the Sex and Kidnap Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the parent or guardian of the victim.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

(iii) any other information the office of the prosecutor feels the court should consider.

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6) (a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b) (i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.

(ii) When considering a petition filed under Subsection (1)(c), the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.

(iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:

(A) the nature and degree of violence involved in the offense that requires registration;

(B) the age and number of victims of the offense that requires registration;

(C) the age of the offender at the time of the offense that requires registration;

(D) the offender's performance while on supervision for the offense that requires registration;

(E) the offender's stability in employment and housing;

(F) the offender's community and personal support system;

(G) other criminal and relevant noncriminal behavior of the offender both before and after the offense that requires registration;

(H) the level of risk posed by the offender as evidenced by the evidence-based risk assessment described in Subsection (1)(c)(vi); and

(I) any other relevant factors.

(c) In determining whether removal is contrary to the interests of the public, the court may not consider removal unless the offender has substantially complied with all registration requirements under this chapter at all times.

(d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(e) (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the offender may not submit another petition for three years.

(ii) If the offender files a petition under Subsection (1)(c) and the court denies the petition, the offender may not submit another petition for eight years.

(7) The court shall notify the victim and the Sex and Kidnap Offender Registry office in the department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

(8) Except as provided in Subsection (9), an offender required to register under Subsection 77-41-105(3)(b) may petition for early removal from the registry under Subsection (1)(b) if the offender:

(a) meets the requirements of Subsections (1)(b)(ii) through (v);

(b) has resided in this state for at least 183 days in a year for two consecutive years; and

(c) intends to primarily reside in this state.

(9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition for early removal from the registry under Subsection (1)(c) if:

(a) the offense requiring the offender to register is substantially equivalent to an offense listed in Section 77-41-106;

(b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);

(c) the offender has resided in this state for at least 183 days in a year for two consecutive years; and

(d) the offender intends to primarily reside in this state.

CHAPTER 125
H. B. 143
Passed February 16, 2023
Approved March 14, 2023
Effective May 3, 2023

PARENTAL KIDNAPPING AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill enacts provisions relating to parental kidnapping.

Highlighted Provisions:

This bill:

- defines terms; and
- makes it a crime for a parent without visitation or custody rights to interfere with custody of a child.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
76-5-301.2, Utah Code Annotated 1953

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

Section 1. Section 76-5-301.2 is enacted to read:

76-5-301.2. Parental kidnapping.

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

(i) "Child" means an individual under 18 years old.

(ii) "Custody" means court-ordered physical custody of a child entered by a court.

(iii) "Parent" means an individual:

(A) recognized as a biological parent or adoptive parent; or

(B) that has established a parent-child relationship under Section 78B-15-201.

(iv) "Parent-time" means court-ordered parent-time or visitation entered by a court.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) A parent commits parental kidnapping of the parent's child if the parent:

(a) takes, entices, conceals, detains, or withholds the child from an individual entitled to custody of the child;

(b) intends to interfere with the custody of the child; and

(c) (i) has never had a right to physical custody of the child;

(ii) has never been granted parent-time with the child;

(iii) has had all rights to physical custody of the child terminated by a court; or

(iv) at the time of the parent's action under Subsection (2)(a), had parent-time with the child terminated or suspended by a court.

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if, during the course of parental kidnapping, the parent removes, causes the removal, or directs the removal of the child from the state.

(4) In addition to the affirmative defenses described in Section 76-5-305, it is an affirmative defense to the crime of parental kidnapping that:

(a) the parent acted under a reasonable belief that the action described in Subsection (2)(a) was:

(i) necessary to protect the child from imminent serious bodily injury, or death;

(ii) authorized by law; or

(iii) taken with the consent of:

(A) the individual entitled to custody of the child; or

(B) a custodian, guardian, caretaker, or other individual lawfully acting in place of the individual entitled to custody of the child; or

(b) (i) the parent acted under a reasonable belief that the action described in Subsection (2)(a) was necessary to protect the child from abuse, including sexual abuse; and

(ii) before taking the action described in Subsection (2)(a), the parent reports to law enforcement the parent's intention to engage in the action and the basis for the parent's belief described in Subsection (4)(b)(i).

CHAPTER 126
H. B. 150
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

EMERGENCY WATER SHORTAGES AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses emergency shortages of water declared by the governor.

Highlighted Provisions:

This bill:

- amends the powers of the Department of Agriculture and Food;
- provides for the use of money in the Agriculture Resource Development Fund for emergency water shortages loans;
- addresses governmental immunity;
- enacts the Water Preferences During Emergencies chapter, including:
  - defining terms;
  - providing for scope of the chapter;
  - outlining the process for declaring a temporary water shortage emergency;
  - addressing water use preferences under a temporary water shortage emergency;
  - providing for compensation related to water use preferences; and
  - addressing rulemaking by the Department of Agriculture and Food;
- repeals existing statutes related to water preferences and a study; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2024:

- to the Department of Agriculture and Food – Agriculture Resource Development Fund, as a one–time appropriation:
  - from the General Fund, $5,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4–2–103, as last amended by Laws of Utah 2022, Chapters 68, 79
4–18–105, as last amended by Laws of Utah 2022, Chapter 68
4–18–106, as last amended by Laws of Utah 2022, Chapter 79
63G–7–302, as last amended by Laws of Utah 2022, Chapter 388

ENACTS:

73–3d–101, Utah Code Annotated 1953
73–3d–102, Utah Code Annotated 1953
73–3d–201, Utah Code Annotated 1953
73–3d–202, Utah Code Annotated 1953
73–3d–301, Utah Code Annotated 1953
73–3d–302, Utah Code Annotated 1953
73–3d–401, Utah Code Annotated 1953
73–3d–402, Utah Code Annotated 1953
73–3d–403, Utah Code Annotated 1953

REPEALS:

73–3–21.3, as enacted by Laws of Utah 2022, Chapter 311
73–3–21.5, as enacted by Laws of Utah 2022, Chapter 311

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

Section 1. Section 4-2-103 is amended to read:

4-2-103. Functions, powers, and duties of department -- Fees for services -- Marketing orders -- Procedure -- Purchasing and auditing.

(1) The department shall:

(a) inquire into and promote the interests and products of agriculture and allied industries;

(b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;

(c) (i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and

(ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

(iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;

(f) administer and enforce all laws assigned to the department by the Legislature;

(g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;

(h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

(i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules necessary for the effective administration of the agricultural laws of the state;

(j) when necessary, make investigations, subpoena witnesses and records, conduct hearings,

issue orders, and make recommendations concerning matters related to agriculture;

(k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests;

(ii) establish and enforce quarantines;

(iii) issue and enforce orders and rules for the control and eradication of pests, wherever they may exist within the state; and

(iv) perform other duties relating to plants and plant products considered advisable and not contrary to law;

(l) inspect apiaries for diseases inimical to bees and beekeeping;

(m) take charge of any agricultural exhibit within the state, if considered necessary by the department, and award premiums at that exhibit;

(n) provide for the coordination of state conservation efforts, including by:

(i) assisting the Conservation Commission in the administration of Chapter 18, Conservation Commission Act;

(ii) implementing Chapter 46, Conservation Coordination Act, including entering into agreements with other state agencies; and

(iii) administering and disbursing money available to assist conservation districts in the state in the conservation of the state's soil and water resources;

(o) participate in the United States Department of Agriculture certified agricultural mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

(p) promote and support the multiple use of public lands;

(q) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an entity within the department; [~~and~~]

(r) in accordance with Title 73, Chapter 3d, Part 4, Compensation:

(i) conduct mediation or arbitration; and

(ii) assist in the issuance of loans by the Conservation Commission; and

[~~(r)~~] (s) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) A marketing order issued under Subsection (1)(e) may not take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) A board of control shall:

(A) ensure that proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account is annually audited by an accountant approved by the commissioner.

(4) Money collected by grain grading, as provided by Subsection (1)(g), shall be deposited into the General Fund as dedicated credits for the grain grading program.

(5) In fulfilling the department's duties in this chapter, the department may:

(a) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(b) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(c) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

(d) accept and administer grants from the federal government and from other sources, public or private; and

(e) fund grants using money appropriated by the Legislature or money received from any other source.

Section 2. Section 4-18-105 is amended to read:

4-18-105. Conservation Commission -- Functions and duties.

(1) The commission shall:

(a) facilitate the development and implementation of the strategies and programs necessary to:

(i) protect, conserve, use, and develop the soil, water, and air resources of the state; and

(ii) promote the protection, integrity, and restoration of land for agricultural and other beneficial purposes;

(b) disseminate information regarding districts' activities and programs;

(c) supervise the formation, reorganization, or dissolution of districts according to the requirements of Title 17D, Chapter 3, Conservation District Act;

(d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually the information required in Section 17D-3-103;

(e) approve and make loans for [~~agricultural~~] purposes listed in Section 4-18-106, through the loan advisory board described in Section 4-18-106, from the Agriculture Resource Development Fund;

(f) seek to obtain and administer federal or state money in accordance with applicable federal or state guidelines and make loans or grants from that money to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the preservation of soil, water, and air resources, or for a reason set forth in Section 4-18-108;

(g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies;

(h) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:

(i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;

(ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;

(iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;

(iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;

(v) meet the requirements of federal law related to water and air pollution in the exercise of the commission's powers and duties; and

(vi) establish administrative penalties relating to agricultural discharges as defined in Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm; and

(i) coordinate with the Division of Conservation created in Section 4-46-401.

(2) The commission may:

(a) employ, with the approval of the department, an administrator and necessary technical experts and employees;

(b) execute contracts or other instruments necessary to exercise the commission's powers;

(c) take necessary action to promote and enforce the purpose and findings of Section 4-18-102;

(d) sue and be sued; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).

Section 3. Section 4-18-106 is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Advisory board.

(1) As used in this section:

(a) "Disaster" means an extraordinary circumstance, including a flood, drought, or fire, that results in:

(i) the president of the United States declaring an emergency or major disaster in the state;

(ii) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(iii) the chief executive officer of a local government declaring a local emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

(b) "Fund" means the Agriculture Resource Development Fund created in this section.

[~~(b)~~] (c) "Local government" means the same as that term is defined in Section 53-2a-602.

(2) There is created a revolving loan fund known as the "Agriculture Resource Development Fund."

(3) The [~~Agriculture Resource Development Fund~~] fund shall consist of:

(a) money appropriated to the fund by the Legislature;

(b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;

(c) money received for the repayment of loans made from the fund;

(d) money from a preferential user to reimburse the commission for loans made from the fund in accordance with Title 73, Chapter 3d, Part 4, Compensation;

[~~(d)~~] (e) money made available to the state for agriculture resource development or for a temporary water shortage emergency, as defined in Section 73-3d-101, from any source; and

[~~(e)~~] (f) interest earned on the fund.

(4) The commission may make loans from the [~~Agriculture Resource Development Fund~~] fund for:

(a) a rangeland improvement and management project;

(b) a watershed protection or flood prevention project;

(c) a soil and water conservation project;

(d) a program designed to promote energy efficient farming practices;

(e) an improvement program for agriculture product storage or program designed to protect a crop or animal resource;

(f) a hydroponic or aquaponic system;

(g) a project or program to improve water quality;

(h) a project to address other environmental issues; [~~or~~]

(i) subject to Subsection (5), a disaster relief program designed to aid the sustainability of agriculture during and immediately following a disaster[~~.~~]; or

(j) subject to Subsection (6), authorized for temporary water shortage emergencies as provided in Title 73, Chapter 3d, Part 4, Compensation.

(5) (a) Loans made through a disaster relief program described in Subsection (4)(i) may not comprise more than 10% of the funds appropriated by the Legislature to the [~~Agriculture Resource Development Fund~~] fund.

(b) Notwithstanding Subsection (5)(a), the department may use [~~all~~] the money appropriated to the [~~Agriculture Resource Development Fund~~] fund by the Legislature or another source, without limitation, if the money is appropriated specifically for use in a disaster relief program.

(c) (i) Until December 31, 2024, the department is authorized to borrow up to $3,000,000 of General Fund appropriations from the Agricultural Water Optimization Account created in Section 73-10g-204 to be used in making loans through a disaster relief program described in Subsection (4)(i).

(ii) If the department borrows from the Agricultural Water Optimization Account under Subsection (5)(c)(i), the department shall deposit the repayment of principal and interest on loans made through a disaster relief program, regardless of the source of the funds used to make those loans, into the Agricultural Water Optimization Account, with preference over the repayment of any other source of funds, until the Agricultural Water Optimization Account is repaid in full.

(6) The commission may not have at one time an aggregate amount of loans made under Subsection (4)(j) that exceeds $5,000,000.

[~~(6)~~] (7) The commission may appoint an advisory board to:

(a) oversee the award process for loans, as described in this section;

(b) approve loans; and

(c) recommend policies and procedures for the [~~Agriculture Resource Development Fund~~] fund that are consistent with statute.

Section 4. Section 63G-7-302 is amended to read:

63G-7-302. Assessment of compensation and damages in an action for taking or damaging private property.

(1) [~~In any~~] Except as provided in Subsection (2), in an action brought under [~~the authority of~~] Utah Constitution, Article I, Section 22, [~~of the Utah Constitution~~] for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation, compensation and damages shall be assessed according to [~~the requirements of~~] Title 78B, Chapter 6, Part 5, Eminent Domain.

(2) In an action brought under Utah Constitution, Article I, Section 22, for the recovery of compensation for the interruption of water use in the case of a temporary water shortage emergency that results in the taking or damage of property for public uses without just compensation, compensation and damages shall be assessed in accordance with Title 73, Chapter 3d, Water Preferences During Emergencies.

Section 5. Section 73-3d-101 is enacted to read:

CHAPTER 3d. WATER PREFERENCES DURING EMERGENCIES

Part 1. General Provisions

73-3d-101. Definitions.

As used in this chapter:

(1) "Electric utility" means:

(a) a municipal electric utility, as defined in Section 10-19-102;

(b) an electric interlocal entity, as defined in Section 11-13-103;

(c) an energy services interlocal entity, as defined in Section 11-13-103;

(d) a project entity, as defined in Section 11-13-103;

(e) an electric improvement district, as defined in Section 17B-2a-406; or

(f) an electrical corporation, as defined in Section 54-2-1.

(2) "Military facility" means an installation, base, air field, camp, post, station, yard, center, or other facility owned, leased, or operated by, or under the jurisdiction of, the United States Department of Defense or the National Guard.

(3) "Person entitled to make a request" means:

(a) the holder of an approved but unperfected application to appropriate water;

(b) the record owner of a perfected water right; or

(c) a person who provides water using an approved but unperfected application or a perfected water right with the written authorization of a person described in Subsection (3)(a) or (b).

(4) "Temporary water shortage emergency" means an interruption of water delivery for which the governor may declare an emergency in accordance with Section 73-3d-201.

Section 6. Section 73-3d-102 is enacted to read:

73-3d-102. Scope of chapter.

(1) (a) The powers vested in the governor under this chapter are in addition to, and not in lieu of, any other emergency powers otherwise statutorily vested in the governor, including the power of the governor to authorize the use of water sources as necessary for fire suppression under Subsection 53-2a-204(1)(o).

(b) An executive order of the governor declaring a temporary water shortage emergency under this chapter is not a declaration of a state of emergency under Section 53-2a-206 and is not subject to Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act. To exercise an authority granted under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, related to a declaration of a state of emergency, the governor shall issue an executive order that is separate from an executive order declaring a temporary water shortage emergency.

(2) Nothing in this chapter modifies:

(a) the statutory duties of the state engineer under this title; or

(b) except as specifically provided in an executive order declaring a temporary water shortage emergency, Subsection 73-3-1(5)(a) or Section 73-3-21.1.

(3) Nothing in this chapter may be construed to extend or enlarge the powers of the governor except as specifically stated in this chapter.

Section 7. Section 73-3d-201 is enacted to read:

Part 2. Declaration of Temporary Water Shortage Emergency

73-3d-201. Declaration of a temporary water shortage emergency by the governor.

(1) (a) Subject to the requirements of this section, the governor may declare a temporary water shortage emergency by issuing an executive order if, on the governor's own initiative or at the request of a person entitled to make a request, the governor determines that an existing or imminent short-term interruption of water delivery in this state caused by manmade or natural causes other than drought:

(i) threatens:

(A) the availability or quality of an essential water supply or water supply infrastructure; or

(B) the operation of the economy; and

(ii) because of the threats described in Subsection (1)(a)(i), jeopardizes the peace, health, safety, or welfare of the people of this state.

(b) The governor may only issue the executive order declaring a temporary water shortage emergency described in Subsection (1)(a):

(i) with the advice and recommendation of the state engineer; and

(ii) in consultation with the emergency management administration committee created by Section 53-2a-105.

(c) An executive order issued under this Subsection (1) shall state with specificity:

(i) the nature of the interruption of water supply;

(ii) subject to Subsection (2), the time period for which the temporary water shortage emergency is declared;

(iii) a description of the geographic area that is subject to the executive order;

(iv) a list of the specific persons entitled to make a request who may exercise the preferential use of water under Section 73-3d-301 during the effective period of the temporary water shortage emergency; and

(v) the purposes outlined in Subsection 73-3d-301(1) for which a person who is described in Subsection (1)(c)(iv) may take the water subject to Section 73-3d-301.

(d) Before providing a recommendation to the governor under Subsection (1)(b)(i), the state engineer shall require a person entitled to make a request who is described in Subsection (1)(c)(iv) to provide a written statement describing how the person entitled to make a request has exhausted other reasonable means to acquire water.

(e) A person entitled to make a request who is described in Subsection (1)(c)(iv) may take water preferentially during a temporary water shortage emergency only for a purpose authorized by the executive order.

(f) (i) Within seven calendar days of the day on which the governor issues an executive order declaring a temporary water shortage emergency, the Legislative Management Committee shall:

(A) review the executive order;

(B) advise the governor on the declaration of a temporary water shortage emergency; and

(C) recommend to the Legislature whether the executive order should be kept as issued by the governor, extended, or terminated.

(ii) The failure of the Legislative Management Committee to meet as required by Subsection (1)(f)(i) does not affect the validity of the executive order declaring a temporary water shortage emergency.

(2) (a) The governor shall state in an executive order declaring a temporary water shortage emergency the time period for which the temporary water shortage emergency is declared, except that the governor may not declare a temporary water shortage emergency for longer than 30 days after the date the executive order is issued.

(b) The governor may terminate an executive order declaring a temporary water shortage emergency before the expiration of the time period stated in the executive order.

(c) An executive order declaring a temporary water emergency issued by the governor within 30 days of the expiration or termination of a prior executive order for the same emergency is considered an extension subject to Subsection (2)(e).

(d) The Legislature may extend the time period of an executive order declaring a temporary water shortage emergency by joint resolution, except that the Legislature may not extend a temporary water shortage emergency for longer than one year from the day on which the executive order declaring a temporary water shortage emergency is issued.

(e) An executive order declaring a temporary water shortage emergency may be renewed or extended only by joint resolution of the Legislature.

Section 8. Section 73-3d-202 is enacted to read:

73-3d-202. Existing agencies to be used in implementation.

The governor shall use, to the extent practicable, existing state boards, commissions, or agencies, or officers or employees for the purpose of carrying out this chapter.

Section 9. Section 73-3d-301 is enacted to read:

Part 3. Preferences Under a Temporary Water Shortage Emergency

73-3d-301. Preferences between persons using water.

(1) Notwithstanding Section 73-3-21.1, if the governor issues an executive order declaring a temporary water shortage emergency under this chapter:

(a) use of water is preferred over other water use during the time period of the temporary water shortage emergency under the executive order if the water is used in accordance with the executive order:

(i) for one or more of the following purposes, with preference exercised in the order listed:

(A) drinking;

(B) sanitation;

(C) fire suppression;

(D) commercial agriculture animal welfare needs; or

(E) generation of electricity; and

(ii) by one of the following:

(A) a public water supplier, as defined in Section 73-1-4;

(B) a military facility that was in operation on March 10, 2011;

(C) a commercial agriculture operation for purposes described in Subsection (1)(a)(i)(D); or

(D) an electric utility; and

(b) use of water for agricultural purposes, including irrigation, livestock watering, or food processing, is preferred over other rights, except as provided in Subsection (1)(a).

(2) A preference for fire suppression under Subsection (1) is in addition to the governor's authorization to use water sources as necessary for fire suppression under Subsection 53-2a-204(1)(o).

(3) The state engineer shall determine, consistent with the executive order declaring a temporary water shortage emergency, through a priority schedule, which water rights a person specified in the executive order as required by Subsection 73-3d-201(1)(c)(iv) may interrupt for purposes of this section.

(4) (a) A person entitled to make a request who uses water preferentially during a temporary water shortage emergency shall measure the water taken preferentially during the temporary water shortage emergency.

(b) A duty to measure under this Subsection (4) does not replace or modify any other duty to measure water under this title or rules made under this title.

Section 10. Section 73-3d-302 is enacted to read:

73-3d-302. Emergency planning by a person requesting the declaration of a temporary water shortage emergency.

A person entitled to make a request seeking a preference under Section 73-3d-301 by requesting that the governor declare a temporary water shortage emergency may exercise a preference under Section 73-3d-301 only if:

(1) (a) the person entitled to make a request adopts an emergency response plan before the declaration of a temporary water shortage emergency if the person entitled to make a request is a community water system, as defined in Section 19-4-102, serving a population of more than 3,300; or

(b) the governor includes a statement in the executive order that the person entitled to make a request is eligible to exercise a preference under Section 73-3d-301 notwithstanding that the person entitled to make a request who is described in Subsection (1)(a) has not adopted an emergency response plan before the declaration of a temporary water shortage emergency; or

(2) the person entitled to make a request is not described in Subsection (1)(a).

Section 11. Section 73-3d-401 is enacted to read:

Part 4. Compensation

73-3d-401. Definitions.

As used in this part:

(1) "Arbitration" means a private hearing before a neutral or panel of neutrals from the department who hear the evidence, consider the contentions of the parties, and enters a written award to resolve the issues presented.

(2) "Commission" means the Conservation Commission created in Section 4-18-104.

(3) "Consequential damages" means the losses or injuries from the exercise of a preference under this chapter that result in material losses to an interrupted user and that are reasonably foreseeable to someone familiar with the industry where use is being made of the water at the time the preference is exercised, including:

(a) loss of sales or operating revenue;

(b) damage to equipment; or

(c) damage to capital facilities or operational assets.

(4) "Department" means the Department of Agriculture and Food.

(5) "Fund" means the Agriculture Resource Development Fund created in Section 4-18-106.

(6) "Interrupted user" means a person whose beneficial use of water is interrupted by the preferential use of water under this chapter, and is:

(a) the holder or lessee of an approved application to appropriate water that is interrupted;

(b) the record or equitable holder or lessee of a perfected water right that is interrupted; or

(c) the owner, lessor, or lessee of a right to use water that is represented by shares of stock in a mutual water company whose water rights are interrupted.

(7) "Mediation" means a private forum in which one or more impartial persons from the department facilitate communication between the interrupted user and the preferential user to promote a mutually acceptable resolution or settlement.

(8) "Preferential user" means a person specified in the executive order declaring a temporary water shortage emergency who uses water preferentially during the temporary water shortage emergency.

Section 12. Section 73-3d-402 is enacted to read:

73-3d-402. Payment of compensation.

(1) (a) A preferential user shall pay an interrupted user an amount equal to the total of the following:

(i) the reasonable value of the water interrupted by the preferential use;

(ii) applicable crop losses;

(iii) other consequential damages incurred as a result of the interruption; and

(iv) interest on the amounts described in Subsections (1)(a)(i), (ii), and (iii) in the amount of 8% per annum.

(b) Interest described in Subsection (1)(a)(iv) shall start the day on which the preferential user first begins to take water preferentially.

(c) A preferential user shall pay an interrupted user the amount described in Subsection (1)(a) by the later of 30 days from the day on which:

(i) the preferential user stops diverting water preferentially under this chapter; or

(ii) mediation or arbitration under Subsection (2) is complete.

(d) (i) Once an interrupted user informs the preferential user of the amount owed under Subsection (1)(a), the preferential user has the burden of proof to prove, by a preponderance of the evidence, that an amount different from that asserted by the interrupted user is owed under Subsection (1)(a).

(ii) The burden of proof described in this Subsection (1)(d) applies throughout the process of paying compensation, including during mediation, arbitration, or a court action.

(2) (a) (i) If the interrupted user or the preferential user requests mediation, the department shall mediate a dispute over the application of this section.

(ii) If the interrupted user and the preferential user jointly request arbitration, the department shall arbitrate a dispute over the application of this section.

(b) In conducting mediation under this Subsection (2), Title 78B, Chapter 10, Utah Uniform Mediation Act, applies.

(c) (i) In conducting arbitration under this Subsection (2), the department shall follow the Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(ii) In applying Title 78B, Chapter 11, Utah Uniform Arbitration Act, the arbitrator and parties shall treat the matter as if:

(A) the arbitration was ordered by a court; and

(B) the department was appointed as arbitrator by the court.

(iii) For the purpose of an arbitration conducted under this section, if the dispute to be arbitrated is not already the subject of legal action, the district court having jurisdiction over the county where the preferential use of water involved in the dispute is located is the court referred to in Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(iv) Arbitration by the department is not necessary before bringing legal action to adjudicate a claim under this section. The lack of arbitration by the department does not constitute, and may not be

interpreted as constituting, a failure to exhaust available administrative remedies or as a bar to bringing legal action.

(v) Arbitration under this section is not subject to Title 63G, Chapter 4, Administrative Procedures Act, or Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

(vi) Within 30 days after an arbitrator issues a final award, any party to the arbitration may submit the dispute, the award, or any issue upon which the award is based, to the district court for review by trial de novo unless the parties agree in advance of arbitration that the arbitration is binding and that no de novo review may occur.

(3) (a) If the persons described in Subsection (2) participate in mediation or arbitration under Subsection (2), at the conclusion of the mediation or arbitration, the preferential user shall pay the interrupted user an amount equal to the lesser of:

(i) the amount of actual attorney fees incurred; or

(ii) $15,000.

(b) An interrupted user or preferential user may not seek mediation or arbitration by the Office of the Property Rights Ombudsman under Title 13, Chapter 43, Property Rights Ombudsman Act.

(4) In an action when the court is asked to determine the amount described in Subsection (1), the court shall award costs and reasonable attorney fees:

(a) to the interrupted user if the preferential user declines to participate in mediation or arbitration under Subsection (2);

(b) to the preferential user if the interrupted user declines to participate in mediation or arbitration under Subsection (2);

(c) to the interrupted user if the amount determined by the court is 85% or more of:

(i) the final amount offered by the interrupted user as part of the mediation described in Subsection (2)(a); or

(ii) the final amount determined by the department as a result of arbitration described in Subsection (2); and

(d) to the preferential user if the amount determined by the court is less than 85% of:

(i) the final amount offered by the interrupted user as part of the mediation described in Subsection (2)(a); or

(ii) the final amount determined by the department as a result of arbitration described in Subsection (2).

(5) (a) In accordance with this Subsection (5), an interrupted user may apply for one or more 0% interest loans from the commission to compensate the interrupted user while the interrupted user is waiting to be compensated by the preferential user under this section.

(b) Before the commission may make a loan under this Subsection (5) to an interrupted user, the interrupted user shall apply for the loan by:

(i) providing information sufficient to establish to the satisfaction of the commission:

(A) the basis by which the person is entitled to use of the water;

(B) the use of water that would have been made by the person without the interruption;

(C) the length of the interruption;

(D) a good faith estimate of the amount of water the person entitled to the use of water would otherwise have made;

(E) the losses and consequential damages incurred as a result of the interruption; and

(F) whether the interrupted user has previously received a loan under this Subsection (5) for the same interruption of water use;

(ii) agreeing in writing to repay the amount of a loan within 30 days of the day on which the interrupted user is paid in full by the preferential user; and

(iii) providing any other information required by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) Once the commission obtains a complete application under Subsection (5)(b), the commission shall determine whether the interrupted user is eligible for a loan and the amount to be loaned using reliable third-party market and producer information, when available, as close as possible to the beginning date of the water delivery interruption, except that a single loan may not exceed $150,000.

(ii) For agriculture commodities, the commission may determine unit prices and base adjustments by using:

(A) applicable United States Department of Agriculture crop pricing data sets;

(B) Utah State University Extension data sets; and

(C) publications, fact sheets, and enterprise budgets data sets published by a university.

(iii) For agriculture commodities, the commission may consider documents filed under Subsection (5)(b) to establish historical production records provided by the interrupted user.

(iv) For nonagricultural products or services, the commission may determine the loan amount using information from:

(A) other state agencies;

(B) federal agencies; and

(C) industry leaders within the state associated with the goods or service forgone by the interrupted user.

(v) For nonagricultural products or services, the commission shall determine the quantity of units of

nonagricultural good and services during the temporary water shortage emergency by using:

(A) industry standards, if available; or

(B) recent product or service records.

(d) The commission may issue a loan to an interrupted user only to the extent that there is money in the fund and the limit on outstanding loans from the fund under Subsection 4-18-106(6) has not been met. The commission shall issue loans from the fund in the order that an interrupted user submits a completed application for the loan.

(e) An interrupted user who receives a loan under this Subsection (5) shall repay the amount of the loan within 30 days of the day on which the interrupted user is paid in full by the preferential user.

(6) (a) If the department determines that the preferential user fails to comply with Subsection (1), the department may bring suit in a court of competent jurisdiction to require a preferential user to reimburse the fund for a loan issued under Subsection (5) that is based on the use of the water by the preferential user.

(b) If the department determines that an interrupted user fails to repay a loan in accordance with Subsection (5), the department may bring suit in a court of competent jurisdiction to require repayment of the loan.

(c) If the department prevails in an action brought under this Subsection (6), the department may recover amounts owed, court costs, and reasonable attorney fees.

(7) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, procedures to:

(a) request mediation or arbitration under this section;

(b) apply for a loan under Subsection (5);

(c) determine the amount to be loaned to an interrupted user under Subsection (5); and

(d) provide for the repayment of a loan issued under Subsection (5).

Section 13. Section 73-3d-403 is enacted to read:

73-3d-403. Security requirements.

(1) As a condition of participating in mediation or arbitration under Section 73-3d-402, a person specified in the executive order declaring a temporary water shortage emergency shall post with the department a corporate surety bond, irrevocable letter of credit, trust fund agreement, or any other security agreement considered reasonable in an amount not less than $100,000.

(2) The bond or other security posted shall be conditioned upon:

(a) the faithful performance in mediation or arbitration; and

(b) the payment of amounts owed under Section 73-3d-402.

(3) If the department determines that the conditions of Subsection (2) are not met, the commissioner of the department shall bring an action upon the bond or other security.

Section 14. Repealer.

This bill repeals:

Section 73-3-21.3, Study of preferences during temporary water shortage emergency.

Section 73-3-21.5, Preferences between appropriators.

Section 15. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Agriculture and Food - Agriculture Resource Development Fund

From General Fund, One-time	5,000,000
Schedule of Programs:	
Agriculture Resource Development Fund	5,000,000

CHAPTER 127
H. B. 154
Passed February 28, 2023
Approved March 14, 2023
Effective May 3, 2023

ENGLISH LANGUAGE LEARNER AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses funding and policy for English language learner instructional materials and support.

Highlighted Provisions:

This bill:

- requires the State Board of Education (state board) to allocate funding to local education agencies for instructional materials and licenses used for English language learner instruction and support; and
- requires the state board to provide to the Education Interim Committee a funding projection for annual and one-time costs associated with English language learner support.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-419, as enacted by Laws of Utah 2021, Chapter 439
53G-7-223, as enacted by Laws of Utah 2022, Chapter 354

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

Section 1. Section 53F-2-419 is amended to read:

53F-2-419. English language learner software.

(1) Subject to legislative appropriations, the state board shall:

(a) allocate the appropriation of funds under this section to an [~~LEAs~~] LEA for English language learner software and hardware instructional materials and licenses for English language learner instruction and support; and

(b) make the allocation described in Subsection (1)(a) [~~using a formula that provides:~~]

[~~(i) a base amount for each LEA that has English language learner students; and~~]

[~~(ii) a distribution of remaining funding~~] in proportion to the LEA's share of statewide English language learner students.

(2) An LEA shall use an allocation the LEA receives under Subsection (1) to select a vendor and pay for software licenses for software used for English language learner instruction.

Section 2. Section 53G-7-223 is amended to read:

53G-7-223. Policy supporting students learning English, parents, and families.

(1) An LEA shall adopt a policy addressing the LEA's communication and assistance to students learning English, their parents, and their families.

(2) The policy shall provide:

(a) guidance on the appropriate use of an interpreter and recommended interpreter qualifications, including certification or education-specific experience, for the following:

(i) classroom activities;

(ii) impromptu and scheduled office visits or phone calls;

(iii) enrollment or registration processes;

(iv) the IEP process;

(v) student educational and occupational planning processes;

(vi) fee waiver processes;

(vii) parent engagement activities;

(viii) student disciplinary meetings;

(ix) school community councils;

(x) school board meetings;

(xi) other school or LEA activities; and

(xii) other interactions between the parents of a student learning English and educational staff;

(b) guidance on the appropriate use of a translator or interpreter for the translation or interpretation of:

(i) registration or enrollment materials, including home language surveys and English learning program entrance and exit notifications;

(ii) assignments and accompanying materials;

(iii) report cards or other progress reports;

(iv) student discipline policies and procedures;

(v) grievance procedures and notices of rights and nondiscrimination;

(vi) parent or family handbooks; and

(vii) requests for parent permission; and

(c) any other guidance, including guidance on when oral interpretation is preferable to written translation, to improve instruction and assistance by teachers, counselors, and administrators to a student learning English and the student's parents and family.

(3) The state board shall provide to an LEA notification of LEA requirements described in this section, a model of the policy described in this section, and guidance and technical assistance

regarding existing requirements in relevant statute, administrative rule, and federal law.

(4) On or before July 1, 2023, the state board shall provide to the Education Interim Committee a funding projection for annual and one-time costs associated with an LEA's implementation of the policy described in this section.

CHAPTER 128
H. B. 156
Passed March 2, 2023
Approved March 14, 2023
Effective July 1, 2024

SEX AND KIDNAP OFFENDER REGISTRY AND CHILD ABUSE OFFENDER REGISTRY ADMINISTRATION AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Stephanie Pitcher
Cosponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses the administration of the Sex and Kidnap Offender Registry and the Child Abuse Offender Registry.

Highlighted Provisions:

This bill:

- moves the administration of the Sex and Kidnap Registry and the Child Abuse Offender Registry from the Department of Corrections to the Department of Public Safety; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

77-41-102, as last amended by Laws of Utah 2022, Chapters 185, 430
77-41-103, as last amended by Laws of Utah 2018, Chapter 281
77-41-104, as last amended by Laws of Utah 2019, Chapter 382
77-41-111, as enacted by Laws of Utah 2012, Chapter 145
77-41-112, as last amended by Laws of Utah 2021, Chapters 262, 334 and 410 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 334
77-43-102, as last amended by Laws of Utah 2022, Chapter 430
77-43-104, as enacted by Laws of Utah 2017, Chapter 282
77-43-109, as enacted by Laws of Utah 2017, Chapter 282

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

Section 1. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) "Department" means the Department of [~~Corrections~~] Public Safety.

(5) "Division" means the Division of Juvenile Justice Services.

(6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(9) "Kidnap offender" means any individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) Subsection 76-5-301(2)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-308, human trafficking for labor;

(v) Section 76-5-308.3, human smuggling;

(vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years old;

(vii) Section 76-5-308.5, human trafficking of a child for labor;

(viii) Section 76-5-310, aggravated human trafficking;

(ix) Section 76-5-310.1, aggravated human smuggling;

(x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

(xi) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through (iii);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a

crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by any state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, who is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction; or

(B) as a result of the conviction, who is required to register in the individual's state of residence;

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (9)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense and:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday; or

(B) if the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605, the individual remains in the division's custody until 30 days before the individual's 25th birthday.

(10) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection (17).

(12) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(13) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(14) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(15) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(16) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(17) "Sex offender" means any individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

(iii) Section 76-5-308.1, human trafficking for sexual exploitation;

(iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);

(ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(x) Section 76-5-402, rape;

(xi) Section 76-5-402.1, rape of a child;

(xii) Section 76-5-402.2, object rape;

(xiii) Section 76-5-402.3, object rape of a child;

(xiv) a felony violation of Section 76-5-403, forcible sodomy;

(xv) Section 76-5-403.1, sodomy on a child;

(xvi) Section 76-5-404, forcible sexual abuse;

(xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child;

(xviii) Section 76-5-405, aggravated sexual assault;

(xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

(xx) Section 76-5b-201, sexual exploitation of a minor;

(xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

(xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

(xxiii) Section 76-7-102, incest;

(xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;

(xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

(xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxvii) Section 76-9-702.5, lewdness involving a child;

(xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(xxix) Section 76-10-1306, aggravated exploitation of prostitution; or

(xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (17)(a);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (17)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a sex offender in any other jurisdiction of original conviction;

(B) who is required to register as a sex offender by any state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (17)(a), or any substantially equivalent offense in any jurisdiction; or

(B) who is, as a result of the conviction, required to register in the individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (17)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (17)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense and:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday; or

(B) if the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605, the individual remains in the division's custody until 30 days before the individual's 25th birthday.

(18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 2. Section 77-41-103 is amended to read:

77-41-103. Department duties.

(1) The department[~~, to assist in investigating kidnapping and sex-related crimes, and in apprehending offenders,~~] shall:

(a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders and sex and kidnap offenses;

(b) make information listed in Subsection 77-41-110(4) available to the public; and

(c) share information provided by an offender under this chapter that may not be made available to the public under Subsection 77-41-110(4), but only:

(i) for the purposes under this chapter; or

(ii) in accordance with Section 63G-2-206.

(2) Any law enforcement agency shall, in the manner prescribed by the department, inform the department of:

(a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(9) or (17), within three business days; and

(b) the arrest of a person suspected of any of the offenses listed in Subsection 77-41-102(9) or (17), within five business days.

(3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(9) or (17), the convicting court shall within three business days forward a signed copy of the judgment and sentence to the Sex and Kidnap Offender Registry office within the [~~Department of Corrections~~] department.

(4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a conviction for any offense listed in Subsection 77-41-102(9) or (17), the court shall, within three business days, forward a signed copy of the order to the Sex and Kidnap Offender Registry office within the [~~Department of Corrections~~] department.

(5) The department may intervene in any matter, including a criminal action, where the matter purports to affect a person's lawfully entered registration requirement.

(6) The department shall:

(a) provide the following additional information when available:

(i) the crimes the offender has been convicted of or adjudicated delinquent for;

(ii) a description of the offender's primary and secondary targets; and

(iii) any other relevant identifying information as determined by the department;

(b) maintain the Sex Offender and Kidnap Offender Notification and Registration website; and

(c) ensure that the registration information collected regarding an offender's enrollment or employment at an educational institution is:

(i) (A) promptly made available to any law enforcement agency that has jurisdiction where the institution is located if the educational institution is an institution of higher education; or

(B) promptly made available to the district superintendent of the school district where the offender is employed if the educational institution is an institution of primary education; and

(ii) entered into the appropriate state records or data system.

Section 3. Section 77-41-104 is amended to read:

77-41-104. Registration of offenders -- Department and agency requirements.

(1) The [~~department or an agent of the department~~] Department of Corrections shall register an offender in the custody of the [~~department~~] Department of Corrections as required under this chapter upon:

(a) placement on probation;

(b) commitment to a secure correctional facility operated by or under contract to the [~~department~~] Department of Corrections;

(c) release from confinement to parole status, termination or expiration of sentence, or escape;

(d) entrance to and release from any community-based residential program operated by or under contract to the [~~department~~] Department of Corrections; or

(e) termination of probation or parole.

(2) The sheriff of the county in which an offender is confined shall register an offender with the department, as required under this chapter, if the offender is not in the custody of the [~~department~~] Department of Corrections and is confined in a correctional facility not operated by or under contract to the [~~department~~] Department of Corrections upon:

(a) commitment to the correctional facility; and

(b) release from confinement.

(3) The division shall register an offender in the custody of the division with the department, as required under this chapter, before the offender's release from custody of the division.

(4) A state mental hospital shall register an offender committed to the state mental hospital with the department, as required under this chapter, upon the offender's admission and upon the offender's discharge.

(5) (a) (i) A municipal or county law enforcement agency shall register an offender who resides within the agency's jurisdiction and is not under the supervision of the Division of Adult Probation and Parole within the [~~department~~] Department of Corrections.

(ii) In order to conduct offender registration under this chapter, the agency shall ensure the agency staff responsible for registration:

(A) has received initial training by the department and has been certified by the department as qualified and authorized to conduct registrations and enter offender registration information into the registry database; and

(B) certify annually with the department.

(b) (i) When the department receives offender registration information regarding a change of an offender's primary residence location, the department shall within five days after the day on which the department receives the information electronically notify the law enforcement agencies that have jurisdiction over the area where:

(A) the residence that the offender is leaving is located; and

(B) the residence to which the offender is moving is located.

(ii) The department shall provide notification under this Subsection (5)(b) if the offender's change of address is between law enforcement agency jurisdictions, or is within one jurisdiction.

(c) The department shall make available to offenders required to register under this chapter the name of the agency, whether the agency is a local law enforcement agency or the department, that the offender should contact to register, the location for registering, and the requirements of registration.

(6) An agency in the state that registers an offender on probation, an offender who has been released from confinement to parole status or termination, or an offender whose sentence has expired shall inform the offender of the duty to comply with the continuing registration requirements of this chapter during the period of registration required in Subsection 77-41-105(3), including:

(a) notification to the state agencies in the states where the registrant presently resides and plans to reside when moving across state lines;

(b) verification of address at least every 60 days pursuant to a parole agreement for lifetime parolees; and

(c) notification to the out-of-state agency where the offender is living, regardless of whether the offender is a resident of that state.

(7) The department may make administrative rules necessary to implement this chapter, including:

(a) the method for dissemination of the information; and

(b) instructions to the public regarding the use of the information.

(8) The department shall redact information regarding the identity or location of a victim from information provided under Subsections 77-41-103(4) and 77-41-105(7).

(9) This chapter does not create or impose any duty on any person to request or obtain information regarding any offender from the department.

Section 4. Section 77-41-111 is amended to read:

77-41-111. Fees.

(1) Each offender required to register under Section 77-41-105 shall, in the month of the offender's birth:

(a) pay to the department an annual fee of $100 each year the offender is subject to the registration requirements of this chapter; and

(b) pay to the registering agency, if it is an agency other than the [~~Department of Corrections~~] department, an annual fee of not more than $25, which may be assessed by that agency for providing registration.

(2) Notwithstanding Subsection (1), an offender who is confined in a secure facility or in a state mental hospital is not required to pay the annual fee.

(3) The department shall deposit fees collected in accordance with this chapter in the General Fund as a dedicated credit, to be used by the department for maintaining the offender registry under this chapter and monitoring offender registration compliance, including the costs of:

(a) data entry;

(b) processing registration packets;

(c) updating registry information; and

(d) [~~ensuring offender compliance with registration requirements under this chapter; and~~] reporting an offender not in compliance with registration requirements to a law enforcement agency.

[~~(e) apprehending offenders who are in violation of the offender registration requirements under this chapter.~~]

Section 5. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) An offender who is required to register with the Sex and Kidnap Offender Registry may petition the court for an order removing the offender from the Sex and Kidnap Offender Registry if:

(a) (i) the offender was convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense terminated;

(iii) the offense is the only offense for which the offender was required to register;

(iv) the offender has not been convicted of another offense, excluding a traffic offense, since the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; or

(b) (i) if the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; or

(c) (i) the offender is required to register in accordance with Subsection 77-41-105(3)(c);

(ii) at least 20 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender submits to an evidence-based risk assessment to the court, with the offender's petition, that:

(A) meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;

(B) is completed within the six months before the date on which the petition is filed; and

(C) describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) Section 76-4-401, enticing a minor, if the offense is a class A misdemeanor;

(b) Section 76-5-301, kidnapping;

(c) Section 76-5-304, unlawful detention, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) Section 76-5-401, unlawful sexual activity with a minor if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old, and at the time of the offense, the offender is not more than 15 years older than the victim; or

(g) Section 76-9-702.7, voyeurism, if the offense is a class A misdemeanor.

(3) (a) (i) An offender seeking removal from the Sex and Kidnap Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b) (i) The bureau shall:

(A) perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility[.]; and

(B) request information from the Department of Corrections regarding whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), or (c)(ii), (c)(iv), (c)(v).

(ii) Upon request from the bureau under Subsection (3)(b)(i)(B), the Department of Corrections shall issue a document reflecting whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), or (c)(ii), (c)(iv), (c)(v).

[~~(ii)~~] (iii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

[~~(iii) The bureau shall request information from the department regarding whether the offender meets the requirements.~~]

[~~(iv) (A) Upon request from the bureau under Subsection (3)(b)(iii), the department shall issue a~~

~~document on whether the offender meets the requirements described in Subsection (1)(a), (b), or (c), which shall be used by the bureau to determine if a certificate of eligibility is appropriate.~~]

[~~(B) The document from the department shall also include a statement regarding the offender's compliance with all registration requirements under this chapter.~~]

[~~(v)~~] (iv) The bureau shall provide a copy of the document provided to the bureau under Subsection [~~(3)(b)(iv)~~] (3)(b)(ii) to the offender upon issuance of a certificate of eligibility.

(4) (a) (i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5) (a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

(b) Upon receipt of a petition for removal from the Sex and Kidnap Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the parent or guardian of the victim.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

(iii) any other information the office of the prosecutor feels the court should consider.

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6) (a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b) (i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.

(ii) When considering a petition filed under Subsection (1)(c), the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.

(iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:

(A) the nature and degree of violence involved in the offense that requires registration;

(B) the age and number of victims of the offense that requires registration;

(C) the age of the offender at the time of the offense that requires registration;

(D) the offender's performance while on supervision for the offense that requires registration;

(E) the offender's stability in employment and housing;

(F) the offender's community and personal support system;

(G) other criminal and relevant noncriminal behavior of the offender both before and after the offense that requires registration;

(H) the level of risk posed by the offender as evidenced by the evidence-based risk assessment described in Subsection (1)(c)(vi); and

(I) any other relevant factors.

(c) In determining whether removal is contrary to the interests of the public, the court may not consider removal unless the offender has substantially complied with all registration requirements under this chapter at all times.

(d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(e) (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the offender may not submit another petition for three years.

(ii) If the offender files a petition under Subsection (1)(c) and the court denies the petition, the offender may not submit another petition for eight years.

(7) The court shall notify the victim and the Sex and Kidnap Offender Registry office in the

department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

Section 6. Section 77-43-102 is amended to read:

77-43-102. Definitions.

As used in this chapter:

(1) "Business day" means a day on which state offices are open for regular business.

(2) "Child abuse offender" means any person who:

(a) has been convicted in this state of a felony violation of:

(i) Subsection 76-5-109.2(3)(a) or (b), aggravated child abuse;

(ii) Section 76-5-308.5, human trafficking of a child; or

(iii) attempting, soliciting, or conspiring to commit any felony offense listed in [~~Subsections~~] Subsection (2)(a)(i) or (ii);

(b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (2)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) is required to register as a child abuse offender in any other jurisdiction of original conviction, who is required to register as a child abuse offender by any state, federal, or military court, or who would be required to register as a child abuse offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(d) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (2)(a), or any substantially equivalent offense in another jurisdiction, or who, as a result of the conviction, is required to register in the person's state of residence;

(e) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (2)(a); or

(f) is adjudicated delinquent based on one or more offenses listed in Subsection (2)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days before the person's 21st birthday.

(3) "Correctional facility" means the same as that term is defined in Section 64-13-1.

(4) "Department" means the Department of [~~Corrections~~] Public Safety.

(5) "Division" means the Division of Juvenile Justice Services.

(6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States Armed Forces, Canada, the United Kingdom, Australia, or New Zealand.

(9) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(10) "Offender" means a child abuse offender as defined in Subsection (2).

(11) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, Social Security number, PIN number, or Internet passwords.

(12) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(13) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(14) "Registration website" means the Child Abuse Offender Notification and Registration website described in Section 77-43-108 and the information on the website.

(15) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or

more nights when not staying at the offender's primary residence.

(16) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(17) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 7. Section 77-43-104 is amended to read:

77-43-104. Registration of offenders -- Department and agency requirements.

(1) An offender in the custody of the [~~department~~] Department of Corrections shall be registered by [~~agents of~~] the [~~department~~] Department of Corrections upon:

(a) placement on probation;

(b) commitment to a secure correctional facility operated by or under contract to the department;

(c) release from confinement to parole status, termination or expiration of sentence, or escape;

(d) entrance to and release from any community-based residential program operated by or under contract to the department; or

(e) termination of probation or parole.

(2) An offender who is not in the custody of the [~~department~~] Department of Corrections and who is confined in a correctional facility not operated by or under contract to the [~~department~~] Department of Corrections shall be registered with the department by the sheriff of the county in which the offender is confined, upon:

(a) commitment to the correctional facility; and

(b) release from confinement.

(3) An offender in the custody of the division shall be registered with the department by the division prior to release from custody.

(4) An offender committed to a state mental hospital shall be registered with the department by the hospital upon admission and upon discharge.

(5) (a) (i) A municipal or county law enforcement agency shall register an offender who resides within the agency's jurisdiction and is not under the supervision of the Division of Adult Probation and Parole.

(ii) In order to conduct offender registration under this chapter, the agency shall ensure the agency staff responsible for registration:

(A) has received initial training by the department and has been certified as qualified and authorized to conduct registrations and enter offender registration information into the registry database; and

(B) certify annually with the department.

(b) (i) When the department receives offender registration information regarding a change of an offender's primary residence location, the department shall within five days electronically notify the law enforcement agencies that have jurisdiction over the area where:

(A) the residence that the offender is leaving is located; and

(B) the residence to which the offender is moving is located.

(ii) The department shall provide notification under this Subsection (5)(b) if the offender's change of address is between law enforcement agency jurisdictions, or is within one jurisdiction.

(c) The department shall make available to offenders required to register under this chapter the name of the agency, whether it is a local law enforcement agency or the department, that the offender should contact to register, the location for registering, and the requirements of registration.

(6) An agency in the state that registers an offender on probation, an offender who has been released from confinement to parole status or termination, or an offender whose sentence has expired shall inform the offender of the duty to comply with:

(a) the continuing registration requirements of this chapter during the period of registration required in Subsection 77-43-105(3), including:

(i) notification to the state agencies in the states where the registrant presently resides and plans to reside when moving across state lines;

(ii) verification of address at least every 60 days pursuant to a parole agreement for lifetime parolees; and

(iii) notification to the out-of-state agency where the offender is living, whether or not the offender is a resident of that state; and

(b) the identification card requirement under Section 53-3-806.5.

(7) The department may make administrative rules necessary to implement this chapter, including:

(a) training requirements for agency staff responsible for conducting offender registration;

(b) the method for dissemination of the information; and

(c) instructions to the public regarding the use of the information.

(8) Any information regarding the identity or location of a victim shall be redacted by the department from information provided under Subsections 77-43-103(4) and 77-43-105(8).

(9) This chapter does not create or impose any duty on any person to request or obtain information regarding any offender from the department.

Section 8. Section 77-43-109 is amended to read:

77-43-109. Fees.

(1) Each offender required to register under Section 77-43-105 shall, in the month of the offender's birth:

(a) pay to the department an annual fee of $100 each year the offender is subject to the registration requirements of this chapter; and

(b) pay to the registering agency, if it is an agency other than the [~~Department of Corrections~~] department, an annual fee of not more than $25, which may be assessed by that agency for providing registration.

(2) Notwithstanding Subsection (1), an offender who is confined in a secure facility or in a state mental hospital is not required to pay the annual fee.

(3) The department shall deposit fees collected in accordance with this chapter in the General Fund as a dedicated credit, to be used by the department for maintaining the offender registry under this chapter and monitoring offender registration compliance, including the costs of:

(a) data entry;

(b) processing registration packets;

(c) updating registry information; and

(d) [~~ensuring offender compliance with registration requirements under this chapter~~] reporting an offender not in compliance with registration requirements to a law enforcement agency.

Section 9. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 129
H. B. 161
Passed March 1, 2023
Approved March 14, 2023
Effective July 1, 2023

FOREIGN LANGUAGE EDUCATION FUNDING AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Michael K. McKell
Cosponsors: Cheryl K. Acton
Kera Birkeland
Jefferson S. Burton
Kay J. Christofferson
Tyler Clancy
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Mike Schultz
Rex P. Shipp
Robert M. Spendlove
Raymond P. Ward
Christine F. Watkins
Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions related to the funding of foreign language education.

Highlighted Provisions:

This bill:

- includes the state's dual language immersion program in the list of programs for which the Legislature determines the cost of annual enrollment growth and inflation increases;
- prohibits a local education agency that provides foreign language instruction from seeking or accepting funding support from a restricted foreign entity; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Minimum School Program – Related to Basic School Programs:
  - from the Uniform School Fund, $2,337,000; and
- to the University of Utah – Education and General, as an ongoing appropriation:
  - from the Income Tax Fund, $778,900.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-10-307, as last amended by Laws of Utah 2022, Chapter 383
53F-2-208, as last amended by Laws of Utah 2022, Chapter 1
53F-2-502, as last amended by Laws of Utah 2021, Chapter 251

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

Section 1. Section 53E-10-307 is amended to read:

53E-10-307. Concurrent enrollment courses for accelerated foreign language students.

(1) As used in this section:

(a) "Accelerated foreign language student" means an eligible student who has passed a world language Advanced Placement exam.

(b) "Blended learning delivery model" means an education delivery model in which a student learns, at least in part:

(i) through online learning with an element of student control over time, place, path, and pace; and

(ii) in the physical presence of an instructor.

(c) "State university" means an institution of higher education that offers courses leading to a bachelor's degree.

(2) The University of Utah shall partner with all state universities to develop, as part of the concurrent enrollment program described in this part, concurrent enrollment courses that:

(a) are age-appropriate foreign language courses for accelerated foreign language students;

(b) count toward a foreign language degree offered by an institution of higher education; and

(c) are delivered:

(i) using a blended learning delivery model; and

(ii) by an eligible instructor described in Subsection 53E-10-302(6)(a).

(3) Subject to budget constraints, in addition to the base increases described in Section 53F-2-208, the Legislature shall annually increase the money appropriated for concurrent enrollment courses for accelerated foreign language students in proportion to the percentage increase over the previous school year in the value of the weighted pupil unit.

Section 2. Section 53F-2-208 is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) concurrent enrollment courses for accelerated foreign language students described in Section 53E-10-307;

[~~(ii)~~] (iii) the Basic Program, described in [~~Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units)~~] Part 3, Basic Program (Weighted Pupil Units);

[~~(iii)~~] (iv) the Adult Education Program, described in Section 53F-2-401;

[~~(iv)~~] (v) state support of pupil transportation, described in Section 53F-2-402;

[~~(v)~~] (vi) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

[~~(vi)~~] (vii) the Concurrent Enrollment Program, described in Section 53F-2-409; [~~and~~]

[~~(vii)~~] (viii) the gang prevention and intervention program, described in Section 53F-2-410; and

(ix) dual language immersion, described in Section 53F-2-501; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

Section 3. Section 53F-2-502 is amended to read:

53F-2-502. Dual language immersion.

(1) As used in this section:

(a) "Dual language immersion" means an instructional setting in which a student receives a portion of instruction in English and a portion of instruction exclusively in a partner language.

(b) "Local education agency" or "LEA" means a school district or a charter school.

(c) "Participating LEA" means an LEA selected by the state board to receive a grant described in this section.

(d) "Partner language" means a language other than English in which instruction is provided in dual language immersion.

(e) "Restricted foreign entity" means the same as that term is defined in Section 53B-1-201.

(2) The state board shall:

(a) establish a dual language immersion program;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish:

(i) a grant program for an LEA to receive funding for dual language immersion;

(ii) the required qualifications for an LEA to be a participating LEA;

(iii) subject to this section, requirements of a participating LEA;

(iv) a proficiency assessment for each partner language; and

(v) a progression of how a school in a participating LEA adds grade levels in which the school offers dual language immersion; and

(c) subject to legislative appropriations:

(i) select participating LEAs; and

(ii) award to a participating LEA a grant to support dual language immersion in the LEA.

(3) A participating LEA shall:

(a) establish in a school a full-day dual language immersion instructional model that provides at least 50% of instruction exclusively in a partner language;

(b) in accordance with the state board rules described in Subsection (2)(b), add grades in which dual language immersion is provided in a school; and

(c) annually administer to each student in grades 3 through 8 who participates in dual language immersion an assessment described in Subsection (2)(b)(iv).

(4) The state board shall:

(a) provide support to a participating LEA, including by:

(i) offering professional learning for dual language immersion educators;

(ii) developing curriculum related to dual language immersion; or

(iii) providing instructional support for a partner language;

(b) conduct a program evaluation of the dual language immersion program established under Subsection (2)(a); and

(c) on or before November 1, 2019, report to the Education Interim Committee and the Public Education Appropriations Subcommittee on the results of the program evaluation described in Subsection (4)(b).

(5) The state board may, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with a third party to conduct the program evaluation described in Subsection (4)(b).

(6) Regardless of whether an LEA is a participating LEA or provides language instruction through another method, beginning July 1, 2024, an LEA may not seek or accept funding support from a restricted foreign entity or an entity that passes on funding support from a restricted foreign entity.

(7) Subject to budget constraints, in addition to the base increases described in Section 53F-2-208, the Legislature shall annually increase the money appropriated for dual language immersion in proportion to the percentage increase over the previous school year in the value of the weighted pupil unit.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Minimum School Program – Related to Basic School Programs

From Uniform School Fund	2,337,000
Schedule of Programs:	
Dual Immersion	2,337,000

ITEM 2

To University of Utah – Education and General

From Income Tax Fund	778,900
Schedule of Programs:	
Education and General	778,900

Section 5. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 130
H. B. 163
Passed February 22, 2023
Approved March 14, 2023
Effective July 1, 2023

PROTECTING STUDENT RELIGIOUS AND MORAL BELIEFS REGARDING ATHLETIC UNIFORM REQUIREMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Kirk A. Cullimore
Cosponsors: Cheryl K. Acton
Melissa G. Ballard
Kera Birkeland
Jefferson S. Burton
Kay J. Christofferson
Tyler Clancy
James Cobb
Paul A. Cutler
Jennifer Dailey-Provost
Stephanie Gricius
Katy Hall
Sahara Hayes
Ken Ivory
Tim Jimenez
Dan N. Johnson
Marsha Judkins
Jason Kyle
Karianne Lisonbee
Anthony E. Loubet
Steven J. Lund
Ashlee Matthews
Carol S. Moss
Michael J. Petersen
Karen M. Peterson
Susan Pulsipher
Judy Weeks Rohner
Mike Schultz
Rex P. Shipp
Robert M. Spendlove
Raymond P. Ward
Christine F. Watkins
Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses requirements for uniforms worn while participating in certain school athletic activities.

Highlighted Provisions:

This bill:

- defines terms;
- provides that certain associations and educational organizations may not prohibit a student athlete from wearing religious clothing, or other clothing consistent with the student athlete's beliefs, while participating in an athletic activity; and
- requires certain associations and educational organizations to provide the clothing described in the preceding paragraph if the association or educational organization requires that the clothing be a certain material, style, or color.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-7-801, as last amended by Laws of Utah 2019, Chapter 223

ENACTS:

53G-7-804, Utah Code Annotated 1953

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

Section 1. Section 53G-7-801 is amended to read:

53G-7-801. Definitions.

As used in this part:

(1) "Association" means an organization that governs or regulates a student's participation in an athletic activity.

(2) "Athletic activity" means physical education instruction or a sports event that is:

(a) sponsored or regulated by an association or educational organization; or

(b) authorized to take place in an association's or educational organization's facilities.

(3) "Athletic uniform" means clothing, headwear, shoes, or other items worn for participation in an athletic activity that are required to be:

(a) a specified style, length, material, or color;

(b) worn in a specified manner; or

(c) worn with or without other items of clothing or headwear.

(4) "Educational organization" means:

(a) the state board;

(b) an LEA; or

(c) a school sports team.

[~~(1)~~] (5) "Principal" includes the chief administrator of a school that does not have a principal.

[~~(2)~~] (6) "School" means a public school, including a charter school.

[~~(3)~~] (7) "School official" means the principal of a school or the local school board for a school district.

(8) "School sports team" means a team on which the student represents the student's school in competition against another school or in competition against other students within the same school.

[~~(4)~~] (9) "School uniform" means the same as that term is defined in Section 53G-7-501.

Section 2. Section 53G-7-804 is enacted to read:

53G-7-804. Requirements for uniforms for students participating in an athletic activity.

(1) An association or educational organization that requires a student to wear an athletic uniform for participation in an athletic activity may not prohibit the student from:

(a) wearing religious clothing with the athletic uniform; or

(b) wearing clothing under, or with, but not substantially covering, the athletic uniform to, consistent with the student's religious or moral beliefs, cover or conceal parts of the student's body that are not covered or concealed by the athletic uniform.

(2) (a) A student has the right to, while participating in a school-related athletic activity or an athletic activity using school facilities, wear clothing as described in Subsection (1).

(b) The prohibition described in Subsection (1) and the right described in Subsection (2)(a) apply regardless of whether the student wears, or is required to wear, an athletic uniform while participating in the athletic activity.

(3) If an association or educational organization places requirements on religious clothing or other clothing described in Subsection (1) or (2), other than the material, style, or color of the uniform itself, the association or organization:

(a) shall provide the clothing at the association's or educational organization's expense; and

(b) may not impose a requirement in relation to the clothing, including the material, color, style, or manner of wearing the clothing, that violates the student's religious or moral beliefs.

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 131
H. B. 169
Passed February 10, 2023
Approved March 14, 2023
Effective May 3, 2023

URBAN FARMING ASSESSMENT ACT AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies the Urban Farming Assessment Act.

Highlighted Provisions:

This bill:

- provides that a county may limit an authorization of urban farming to either cultivating crops or engaging in livestock production or may allow both; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-1714, as enacted by Laws of Utah 2018, Chapter 360

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

Section 1. Section 59-2-1714 is amended to read:

59-2-1714. County regulation.

(1) A county in this state may adopt an ordinance, authorizing residents of the county to:

[~~(1)~~] (a) participate in urban farming; and

[~~(2)~~] (b) utilize the provisions of this part [~~as described in this part~~].

(2) (a) In adopting the ordinance, a county may limit urban farming to:

(i) cultivating food or other marketable crop; or

(ii) engaging in livestock production, including grazing.

(b) If the county ordinance does not limit urban farming, the county authorizes urban farming by either cultivating food or other marketable crop or engaging in livestock production, including grazing.

CHAPTER 132
H. B. 174
Passed February 14, 2023
Approved March 14, 2023
Effective May 3, 2023

CONVICTION REDUCTION AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to the reduction of the degree of an offense for a conviction.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the requirements for reducing the degree of an offense for a conviction after the defendant is sentenced; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-402, as last amended by Laws of Utah 2021, Chapter 293

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

Section 1. Section 76-3-402 is amended to read:

76-3-402. Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section[~~, "lower"~~]:

(a) "Lower degree of offense" includes an offense for which:

[~~(a)~~] (i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

[~~(b)~~] (ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c) (i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section 62A-2-101;

(B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section 62A-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section 62A-2-101;

(E) a youth program, as that term is defined in Section 62A-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f) (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

(A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or

(B) the purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of

conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b) (i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

(iii) any input from a victim of the offense; and

(b) the court may consider:

(i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;

(ii) the defendant's criminal history;

(iii) the defendant's employment and community service history;

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

(8) (a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

(c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.

(9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

[~~(3) (a) Regardless of whether the defendant is committed to jail as a condition of probation or sentenced to prison, the court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense:~~]

[~~(i) after the defendant has been successfully discharged from probation or parole;~~]

[~~(ii) upon motion and notice to either party;~~]

[~~(iii) after reasonable effort has been made by the prosecuting attorney to provide notice to any victims;~~]

[~~(iv) after a hearing if requested by either party; and~~]

[~~(v) if the court finds entering a judgment of conviction for the lower degree of offense is in the interest of justice.~~]

[~~(b) In making the finding in Subsection (3)(a)(v), the court shall consider as a factor in favor of granting the reduction, after the defendant's conviction, whether the level of the offense has been reduced by law.~~]

[~~(c) In both the initial motion and at a requested hearing described in Subsection (3)(a), the moving party has the burden to provide evidence sufficient to demonstrate:~~]

[~~(i) that the defendant has been successfully discharged from probation or parole; and~~]

[~~(ii) that the reduction is in the interest of justice.~~]

[~~(4)~~] (10) (a) An offense may be reduced only one degree [~~under this section, whether the reduction is entered under Subsection (2) or (3)~~] under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

[~~(5)~~] (11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with Title 77, Chapter 40a, Expungement.

[~~(6)~~] (12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) [~~if~~] any unpaid balance remains on [~~court ordered~~] court-ordered restitution for the offense for which the reduction is sought.

[~~(7)~~] (13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

[~~(8)~~] (14) (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender until the registration requirements under Title 77, Chapter 41, Sex and Kidnap Offender Registry, have expired.

(b) An individual required to register as a sex offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender.

[~~(9)~~] (15) (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a child abuse offender until the registration requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have expired.

(b) An individual required to register as a child abuse offender for the individual's lifetime under Subsection 77-43-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a child abuse offender.

CHAPTER 133
H. B. 182
Passed February 17, 2023
Approved March 14, 2023
Effective July 1, 2023

INTERVENTIONS FOR READING DIFFICULTIES PROGRAM AMENDMENTS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill repeals the Interventions for Reading Difficulties Program.

Highlighted Provisions:

This bill:

- repeals the Interventions for Reading Difficulties Program;
- repeals a sunset date that the repeal renders obsolete; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2022, Chapters 10, 30, 31, 172, 173, 194, 218, 224, 229, 236, 254, 274, and 414

REPEALS:

53F-5-203, as last amended by Laws of Utah 2019, Chapters 166, 186 and 505

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

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(7) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(10) Subsection 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(11) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(12) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(14) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(15) Section 53F-5-203 is repealed July 1, 2024.~~]

[~~(16)~~] (15) Section 53F-5-213 is repealed July 1, 2023.

[~~(17)~~] (16) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(18)~~] (17) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(19)~~] (18) Section 53F-5-219, which creates the Local [~~INnovations~~] Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(20)~~] (19) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(21)~~] (20) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(22)~~] (21) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2027.

[~~(23)~~] (22) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24)~~] (23) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 2. Repealer.

This bill repeals:

Section 53F-5-203, Interventions for Reading Difficulties Program.

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 134
H. B. 184
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

VETERINARIAN EDUCATION LOAN REPAYMENT PROGRAM

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill creates the Veterinarian Education Loan Repayment Program.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Veterinarian Education Loan Repayment Program within the Department of Agriculture and Food;
- specifies the program's duties;
- specifies what a qualified veterinarian must do to be eligible for payment from the program;
- authorizes the use of program funding for certain program administration costs;
- requires annual reporting by the program;
- authorizes rulemaking to administer the program;
- designates program funding as nonlapsing; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Agriculture and Food Veterinarian Education Loan Repayment Program Veterinarian Education Loan Repayment Program as a one-time appropriation:
  - from the General Fund, One-time, $2,500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154

ENACTS:

4-2-901, Utah Code Annotated 1953
4-2-902, Utah Code Annotated 1953

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

Section 1. Section 4-2-901 is enacted to read:

4-2-901. Definitions.

As used in this part:

(1) "Animal shelter" means the same as that term is defined in Section 11-46-102.

(2) "Education loan" means a loan received for education at a domestic or foreign institution of higher education, including a school or college of veterinary medicine.

(3) "Education loan balance" includes charges for paying off the balance of the loan.

(4) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(5) "Loan" means a loan that is made directly by, insured by, or guaranteed under a government program of:

(a) a state;

(b) the United States; or

(c) a foreign government.

(6) "Maximum payment value" means the lesser of:

(a) the sum of a qualified veterinarian's education loan balances; or

(b) $100,000.

(7) "Program" means the Veterinarian Education Loan Repayment Program created in Section 4-2-902.

(8) "Qualified veterinarian" means a veterinarian who has practiced as a veterinarian for five or more consecutive years beginning on or after May 3, 2023:

(a) in an area of the state:

(i) designated by the United States Department of Agriculture as a veterinary shortage situation during at least one of the five years; or

(ii) that is Indian country;

(b) in an animal shelter within the state operated by:

(i) a county;

(ii) a municipality; or

(iii) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) in any area of the state as an employee of the department; or

(d) in any combination of the places described in Subsections (8)(a) through (c).

(9) "Veterinarian" means an individual licensed under Title 58, Chapter 28, Veterinary Practice Act.

Section 2. Section 4-2-902 is enacted to read:

4-2-902. Veterinarian Education Loan Repayment Program.

(1) There is created within the department the Veterinarian Education Loan Repayment Program.

(2) (a) Beginning July 1, 2028, the program shall on a first-come, first-served basis make payments toward a qualified veterinarian's education loan balances.

(b) A veterinarian is eligible for payments under Subsection (2)(a) if the veterinarian:

(i) applies as a qualified veterinarian for payment from the program; and

(ii) registers with the program at least five years before the day the veterinarian applies under Subsection (2)(b)(i) for payment.

(c) Payments made under Subsection (2)(a) shall:

(i) be made directly to one or more of the qualified veterinarian's lenders; and

(ii) as funding for the program permits, in total equal the maximum payment value.

(3) The department may use 2% or less of the amount appropriated for the program to pay for actual costs of administering the program.

(4) On or before October 1 each year, the department shall submit a report of the program's revenues, expenditures, and outcomes to the Natural Resources, Agriculture, and Environment Interim Committee and the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

(5) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules specifying how a veterinarian may register intent to apply for payment from the program.

Section 3. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The Emergency Medical Services Grant Program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

(15) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(30) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(31) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(32) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(34) The Traffic Noise Abatement Program created in Section 72-6-112.

(35) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(36) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(37) A state rehabilitative employment program, as provided in Section 78A-6-210.

(38) The Utah Geological Survey, as provided in Section 79-3-401.

(39) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(40) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(42) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(43) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

(44) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Agriculture and Food Veterinarian Education Loan Repayment Program

From General Fund, One-time	2,500,000
Schedule of Programs:	
Veterinarian Education Loan Repayment Program	2,500,000

CHAPTER 135
H. B. 189
Passed February 24, 2023
Approved March 14, 2023
Effective May 3, 2023

INTERNATIONAL BACCALAUREATE PROGRAM AMENDMENTS

Chief Sponsor: Carol S. Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill repeals appropriation limitations for International Baccalaureate programs.

Highlighted Provisions:

This bill:

- removes language limiting the State Board of Education's allocation of funds toward the International Baccalaureate program to align with other early college programs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-408.5, as last amended by Laws of Utah 2022, Chapter 383

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

Section 1. Section 53F-2-408.5 is amended to read:

53F-2-408.5. Early college programs.

(1) As used in this section:

(a) "Advanced Placement course" means a rigorous course developed by the College Board that:

(i) is developed by a committee composed of college faculty and Advanced Placement teachers and covers the breadth of information, skills, and assignments found in the corresponding college course; and

(ii) for which a student who performs well on an exam for the course may be:

(A) granted college credit; or

(B) given advanced standing at a college or university.

(b) "Eligible low income student" means a student who:

(i) takes an Advanced Placement course test;

(ii) has applied for an Advanced Placement course test fee reduction; and

(iii) qualifies for a free lunch or a lunch provided at a reduced cost.

(c) "International Baccalaureate program" means a program established by the International Baccalaureate Organization.

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

(i) a school district; or

(ii) a charter school.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish a formula to distribute money appropriated for the early college programs described in Subsection (2)(b).

(b) [~~Subject to Subsection (2)(c), the~~] The formula described in Subsection (2)(a) shall:

(i) include an allocation of money for the following early college programs:

(A) Advanced Placement courses; and

(B) International Baccalaureate programs; and

(ii) prioritize funding to:

(A) increase access to early college programs for groups of students who are underrepresented in early college programs; and

(B) cover the cost of each early college program test taken by a student experiencing socioeconomic disadvantage.

[~~(c) The state board may not allocate more that $100,000 of an appropriation under this section for International Baccalaureate programs.~~]

[~~(d)~~] (c) The state board shall consult with LEAs before making the rules described in Subsection (2)(a).

(3) (a) An LEA shall use money distributed under this section for the purposes described in Subsection (2)(b), prioritizing the cost of tests described in Subsection (2)(b)(ii)(B) before using the remainder of the money for other allowable uses.

(b) An LEA may charge the restricted rate for indirect costs in Advanced Placement and International Baccalaureate programs.

(4) The state board shall develop performance criteria to measure the effectiveness of the early college programs described in this section.

(5) If an LEA receives an allocation of less than $10,000 for the early college programs described in this section, the LEA may use the allocation as described in Section 53F-2-206.

CHAPTER 136
H. B. 190
Passed March 3, 2023
Approved March 14, 2023
Effective July 1, 2023

LOCAL EDUCATION AGENCY PERSONNELAMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill establishes additional mechanisms for growth opportunities for certain school employees.

Highlighted Provisions:

This bill:

- broadens the scope of the Grow Your Own Educator Pipeline Program to include individuals seeking education to become a school psychologist or school social worker; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-5-218, as last amended by Laws of Utah 2022, Chapter 476

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

Section 1. Section 53F-5-218 is amended to read:

53F-5-218. Grow Your Own Educator Pipeline Program.

(1) As used in this section:

(a) "Paraprofessional" means an individual who:

(i) works with students in an LEA as a paraprofessional or in a similar teaching assistant position; and

(ii) is not licensed to teach.

(b) "Program" means the Grow Your Own [~~Teacher and School Counselor~~] Pipeline Program that this section creates.

(c) "School counselor" means an educator who is:

(i) licensed as a school counselor in accordance with state board rule; and

(ii) assigned to provide direct and indirect services to students in accordance with a school counseling program model that the state board provides.

(d) "School counselor assistant" means a student who is:

(i) enrolled in an accredited bachelor's degree program in a related field; and

(ii) completing the student's practicum experience in a school counseling department under the supervision of a licensed school counselor.

(e) "School counselor intern" means a student who is:

(i) enrolled in an accredited school counselor master's degree program; and

(ii) completing the student's hours of a supervised counseling internship by applying appropriate school counseling techniques under the supervision of a licensed school counselor.

(f) "School psychologist" means an individual:

(i) whom the state board licenses to practice as a school psychologist; and

(ii) who is assigned to provide direct and indirect services to students within the relevant school or LEA seeking program grant funding.

(g) "School social worker" means an individual:

(i) whom the state board licenses as a school social worker; and

(ii) who is assigned to provide direct and indirect services to students within the relevant school or LEA seeking program grant funding.

[~~(f)~~] (h) "Teacher" means an educator who has an assignment to teach in a classroom.

(2) The Grow Your Own [~~Teacher and School Counselor~~] Educator Pipeline Program is a competitive grant program created to provide funding to LEAs to award scholarships to paraprofessionals, teachers, school counselor assistants, and school counselor interns within the LEA for education and training to become licensed teachers [~~or~~], licensed school counselors, licensed school psychologists, or licensed school social workers.

(3) The state board shall use money appropriated for the program to provide funding to LEAs that are awarded grants under the program to award scholarships to eligible candidates whom principals within the LEA nominate, in an amount that the state board determines.

(4) An LEA that participates in the program may select a candidate for a scholarship award if:

(a) the candidate is a resident of the state; and

(b) (i) for a paraprofessional:

(A) a school district or charter school has employed the candidate as a paraprofessional for at least one year before entering the program; or

(B) subject to Subsection (5), the candidate has experience outside the school district, charter school, or state that is equivalent to the experience described in Subsection (4)(b) (i)(A);

(ii) for a teacher, the candidate:

(A) was a paraprofessional who was awarded a scholarship;

(B) was offered employment as a teacher before the teacher completed the training to become a professionally licensed teacher; and

(C) is working as a teacher for the same LEA where the teacher previously worked as a paraprofessional and was awarded the scholarship[.];

(iii) for a school counselor assistant, the candidate:

(A) is enrolled in a bachelor's degree program in a related field; and

(B) demonstrates a commitment to continue the school counselor assistant's education after graduation in school counseling; [~~or~~]

(iv) for a school counselor intern, the candidate is enrolled in an accredited school counselor master's degree program accredited by:

(A) the Council for Accreditation of Counseling and Related Educational Programs; or

(B) another regionally recognized accrediting body that meets the state board's standards for school counselor education programs[.];

(v) for a school psychologist student, including a student, practicum student, or intern, the candidate is enrolled in a school psychology education specialist or doctorate program that the National Association of School Psychologists accredits; or

(vi) for a candidate studying to become a school social worker, including a student or practicum intern, the candidate is enrolled in a masters level social work program that the Council of Social Work Education accredits.

(5) The percentage of an LEA's paraprofessional scholarship recipients who are eligible for a scholarship using equivalent experience under Subsection (4)(b)(i)(B) may not exceed 20%.

(6) A scholarship award under the program may only be used for:

(a) tuition, books, fees, and certification tests for required coursework and licensure;

(b) stipends for mentors or school counselor assistants; and

(c) if the LEA pays 0.15 of a full-time equivalent and all employee benefits, payment of a 0.35 full-time equivalent for:

(i) a paraprofessional, up to one semester of student teaching; or

(ii) a school counselor assistant or school counselor intern, up to two semesters of practicum or internship hours.

(7) [~~A~~] An LEA shall ensure that a paraprofessional scholarship recipient [~~must be~~] is continuously employed as a paraprofessional by the paraprofessional's LEA while pursuing a degree using scholarship money under the program.

(8) The state board shall make rules in accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules regarding:

(a) grant and scholarship application procedures;

(b) procedures for distributing scholarship money;

(c) assignment and eligibility of qualified mentors;

(d) stipends for mentors or school counselor assistants;

(e) administrative costs for regional education service agencies, as that term is defined in Section 53G-4-410; and

(f) eligibility requirements for potential candidates for scholarships regarding the completion of the Free Application for Federal Student Aid and the acceptance of other grants, tuition or fee waivers, and scholarships offered to the candidate.

Section 2. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 137
H. B. 197
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

HIGHER EDUCATION FINANCIAL AID AMENDMENTS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill amends provisions related to higher education scholarships.

Highlighted Provisions:

This bill:

- amends the length of eligibility for promise grants;
- allows the Utah Board of Higher Education (board) to supplement funding with private contributions;
- allows the board to name a promise partner grant after a business that has funded the grant;
- extends promise partner grants to dependents of promise partner employees;
- amends board requirements to make rules for a business to become a promise partner;
- removes the requirement for an institution to evaluate a partner award recipient;
- allows Veterans Tuition Gap Program funds to be applied to education-related supplies and housing allowances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-13a-104, as repealed and reenacted by Laws of Utah 2022, Chapter 370
53B-13a-106, as renumbered and amended by Laws of Utah 2022, Chapter 370
53B-13b-104, as last amended by Laws of Utah 2020, Chapters 37, 196

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

Section 1. Section 53B-13a-104 is amended to read:

53B-13a-104. Promise grants.

(1) (a) As part of the Utah Promise Program and in accordance with this section, the board shall allocate available money to each institution to use to award promise grants to eligible students to pay the eligible student's cost of attendance.

(b) An eligible student may apply for a promise grant in accordance with procedures established by board rule.

(c) The amount of a promise grant to an eligible student may not exceed the amount equal to the difference between:

(i) the eligible student's cost of attendance; and

(ii) the total value of other financial aid that the eligible student receives toward the eligible student's cost of attendance.

(d) An eligible student may transfer a promise grant to one or more other institutions.

(2) In administering this section, the board shall use a packaging approach that ensures that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

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

(a) an application process;

(b) eligibility criteria, including:

(i) criteria related to academic achievement and enrollment status; and

(ii) a requirement that an applicant demonstrate completion of the Free Application for Federal Student Aid, unless the student or the student's parent opts out in accordance with board rule;

(c) how a student demonstrates financial need;

[~~(d) a process to defer a promise grant;~~]

[~~(e)~~] (d) a formula to determine the allocation of money to institutions in accordance with Subsection (1), taking into account:

(i) the cost of attendance for programs offered by institutions; and

(ii) the number of eligible students who attend each institution; and

[~~(f)~~] (e) a methodology for prioritizing award of promise grants based primarily on financial need.

[~~(4) After an institution awards a promise grant to an eligible student, the institution shall continue to award a promise grant to the eligible student:~~]

[~~(a) until the earlier of:~~]

[~~(i) two years after the eligible student first receives a promise grant; or~~]

[~~(ii) after the eligible student uses a promise grant to attend an institution for four semesters; and~~]

[~~(b) provided the eligible student continues to meet the eligibility criteria.~~]

(4) A student is eligible for a promise grant until the student:

(a) earns a first bachelor's degree; or

(b) completes 120 credit hours.

(5) The board or an institution may not represent to a recipient or a potential recipient of a promise grant that promise grants will remain available in perpetuity.

(6) (a) The board may require an institution to enter into a participation agreement before the institution may award promise grants.

(b) In a participation agreement, the board shall include a requirement that the institution:

(i) provide to the board information necessary to administer the promise grants;

(ii) comply with this section and board rules related to the promise grants;

(iii) submit reports related to the promise grants as required by board rule; and

(iv) cooperate in any review or financial audit related to the promise grants that the board determines necessary.

(7) (a) The board may use up to 2% of the money appropriated for promise grants for costs related to administering the promise grants.

(b) An institution may use up to 3% of the money the institution receives for promise grants for costs related to administering the promise grants.

(8) The board may supplement state appropriations for the program with private contributions.

Section 2. Section 53B-13a-106 is amended to read:

53B-13a-106. Utah promise partners.

(1) As part of the Utah Promise Program [~~and in consultation with the Talent Ready Utah Program created in Section 63N-1b-302~~], the board may select employers to be promise partners.

(2) The board may select an employer as a promise partner if the employer:

(a) applies to the board to be a promise partner; and

(b) meets other requirements established by the board in the rules described in Subsection [~~(5)~~] (6).

(3) An individual employed by, or who is a dependent of an employee of, a promise partner is eligible to receive a partner award if the individual:

(a) applies for a partner award;

(b) is admitted to and enrolled in an institution; and

[~~(c) meets requirements established by the promise partner related to a partner award; and~~]

[~~(d)~~] (c) maintains the eligibility requirements described in this Subsection (3) for the full length of time the individual receives the partner award.

(4) (a) Subject to legislative appropriations and Subsection (4)(b), the board shall award a partner award to an individual who meets the requirements described in Subsection (3).

(b) The board may:

(i) award a partner award for up to the portion of tuition and fees for a program at an institution that is not covered by [~~an employer reimbursement~~] a promise partnership described in Subsection [~~(5)(b)~~] (6)(a); and

(ii) prioritize awarding partner awards if an appropriation for partner awards is not sufficient to provide a partner award to each individual who is eligible under Subsection (3).

(c) The board may continue to award a partner award to a recipient who meets the requirements described in Subsection (3) until the [~~earliest of the following~~] earlier of:

(i) [~~two years after~~] four years after the day on which the individual initially receives a partner award;

(ii) when the recipient uses a partner award to attend an institution for [~~four~~] eight semesters; or

(iii) when the recipient completes an approved program.

[~~(iii) the recipient completes the requirements for an associate degree; or~~]

[~~(iv) if the recipient attends an institution that does not offer associate degrees, the recipient has 60 earned credit hours.~~]

(5) The board may name a specific promise grant after the donating business.

[~~(5)~~] (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(a) [~~requirements for an employer~~] a process for a business to seek and receive approval from the board [~~for the employer's employees to receive partner awards~~] to become a promise partner, including providing funds for tuition and fees to be distributed under the Utah Promise Program;

[~~(b) requirements related to an employer providing reimbursement to an employee who receives a partner award for a portion of the employee's tuition and fees;~~]

[~~(c)~~] (b) a process for an individual to apply for a partner award; and

[~~(d)~~] (c) criteria for the board to prioritize awarding partner awards to individuals[~~; and~~].

[~~(e) a requirement that an institution shall, for a recipient of a partner award:~~]

[~~(i) evaluate the recipient's knowledge, skills, and competencies acquired through formal or informal education outside the traditional postsecondary academic environment; and~~]

[~~(ii) award credit, as applicable, for the recipient's prior learning described in Subsection (5)(e)(i).~~]

[~~(6)~~] (7) The board may allow an individual to apply directly to the board for a partner award.

Section 3. Section 53B-13b-104 is amended to read:

53B-13b-104. Guidelines for administration of the program.

(1) The board shall use the guidelines in this section to develop policies to implement and administer the program.

(2) (a) The board shall allocate money appropriated for the program to institutions to provide grants for qualifying military veterans.

(b) The board may not use program money for administrative costs or overhead.

(c) An institution may not use more than 3% of its program money for administrative costs or overhead.

(d) Money returned to the board under Subsection (3)(b) shall be used for future allocations to institutions.

(3) (a) An institution shall award a program grant to a qualifying military veteran on an annual basis but distribute the money one quarter or semester at a time, with continuing awards contingent upon the qualifying military veteran maintaining satisfactory academic progress as defined by the institution in published policies or rules.

(b) At the conclusion of the academic year, money distributed to an institution that was not awarded to a qualifying military veteran or used for allowed administrative purposes shall be returned to the board.

(c) (i) To qualify for a program grant under this section, a military veteran shall demonstrate, in accordance with rules described in Subsection (3)(c)(ii), the completion of a Free Application for Federal Student Aid.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding the completion of the Free Application for Federal Student Aid described in Subsection (3)(c)(i), including:

(A) provisions for students or parents to opt out of the requirement due to financial ineligibility for any potential grant or other financial aid, personal privacy concerns, or other reasons the board specifies; and

(B) direction for applicants to financial aid advisors.

(4) A qualifying military veteran may receive a program grant until [~~the earlier of the following occurs~~]:

(a) the qualifying military veteran completes the requirements for a bachelor's degree; or

(b) [~~12 months from the time that~~] the qualifying military veteran receives [~~an initial program grant~~] the maximum award that the board sets.

(5) A qualifying military veteran who receives a program grant may [~~only~~] use the grant toward tuition, fees [~~and~~], books, education-related supplies, and a housing allowance at an institution of higher education in the state.

(6) The board may accept grants, gifts, bequests, and devises of real and personal property from any source for the purpose of awarding grants to qualifying military veterans in addition to those funded by the state.

CHAPTER 138
H. B. 199
Passed February 24, 2023
Approved March 14, 2023
Effective May 3, 2023

VOLUNTARY FIREARM SAFEKEEPING AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses the voluntary commitment of a firearm in cases of domestic violence.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a law enforcement agency that receives a firearm from the owner or the owner's cohabitant for safekeeping from returning the firearm to the owner if the owner:
  - is a restricted person; or
  - has been arrested and booked into jail on a class A misdemeanor or felony domestic violence offense, has had a court review the probable cause statement and determine that probable cause existed for the arrest, and is subject to a jail release agreement or a jail release court order;
- directs the Department of Public Safety to create a pamphlet detailing a domestic violence victim's rights to commit the perpetrator's firearm to a law enforcement agency under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5c-102, as last amended by Laws of Utah 2021, Chapter 166
53-5c-201, as last amended by Laws of Utah 2021, Chapter 137
77-36-2.1, as last amended by Laws of Utah 2020, Chapter 142

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

Section 1. Section 53-5c-102 is amended to read:

53-5c-102. Definitions.

As used in this [~~part~~] chapter:

(1) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) "Cohabitant" means [~~a person who is 21 years of age or older who resides in the same residence as the other party.~~] an individual who:

(a) is 18 years old or older;

(b) resides in the same home with another individual; and

(c) (i) is living as if a spouse of the individual;

(ii) is related by blood or marriage to the individual;

(iii) has one or more children in common with the individual; or

(iv) has an interest in the safety and well-being of the individual.

(3) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(3)~~] (4) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short barrel rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

[~~(4)~~] (5) "Illegal firearm" means a firearm the ownership or possession of which is prohibited under state or federal law.

(6) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(7) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

[~~(5)~~] (8) "Law enforcement agency" means a municipal or county police agency or an officer of that agency.

[~~(6)~~] (9) "Owner cohabitant" means a cohabitant who [~~owns, in whole or in part, a firearm~~]:

(a) is 18 years old or older; and

(b) owns a firearm.

[~~(7)~~] (10) "Public interest use" means:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation to a bona fide charity.

Section 2. Section 53-5c-201 is amended to read:

53-5c-201. Voluntary commitment of a firearm by cohabitant -- Law enforcement to hold firearm.

[~~(1) As used in this section:~~]

[~~(a) "Cohabitant" means any individual 18 years old or older residing in the home who:~~]

[~~(i) is living as if a spouse of the owner cohabitant;~~]

[~~(ii) is related by blood or marriage to the owner cohabitant;~~]

[~~(iii) has one or more children in common with the owner cohabitant; or~~]

[~~(iv) has an interest in the safety and well-being of the owner cohabitant.~~]

[~~(b) "Owner cohabitant" means an individual:~~]

[~~(i) in relation to a cohabitant as described in Subsection (1)(a); and~~]

[~~(ii) who owns a firearm.~~]

[~~(2)~~] (1) (a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law enforcement agency or request that a law enforcement officer receive a firearm for safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to:

(i) [~~himself or herself~~] a cohabitant;

(ii) the owner cohabitant; or

(iii) [~~any other person~~] another individual.

(b) [~~If~~] Except as provided in Subsection (2), if the owner of a firearm requests return of the firearm in person at the law enforcement agency's office, the law enforcement agency:

(i) may not hold the firearm under this section; and

(ii) shall return the firearm to the owner.

(2) A law enforcement agency may not return a firearm to an owner under Subsection (1)(b) if the owner of the firearm:

(a) is a restricted person under Section 76-10-503; or

(b) (i) has been arrested and booked into a county jail on a class A misdemeanor or felony domestic violence offense;

(ii) has had a court:

(A) review the probable cause statement detailing the incident leading to the owner's arrest; and

(B) determine that probable cause existed for the arrest; and

(iii) is subject to a jail release agreement or a jail release court order arising out of the domestic violence offense.

(3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

(a) record:

(i) the owner cohabitant's name, address, and phone number;

(ii) the firearm serial number and the make and model of each firearm committed; and

(iii) the date that the firearm was voluntarily committed;

(b) require the cohabitant to sign a document attesting that the cohabitant resides in the home;

(c) hold the firearm in safe custody [~~for~~]:

(i) for 60 days after the day on which the firearm is voluntarily committed; or

(ii) (A) for an owner described in Subsection (2)(b), during the time the jail release agreement or jail release court order is in effect; and

(B) for 60 days after the day on which the jail release agreement or jail release court order expires; and

(d) upon proof of identification, return the firearm to:

(i) (A) the owner cohabitant after the expiration of the 60-day period; or

(B) if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

(4) The law enforcement agency shall hold the firearm for an additional 60 days:

(a) if the initial 60-day period expires; and

(b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

(5) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.

(6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the application of this chapter immediately, if practicable, but no later than five days after immediately upon the:

(a) return of a firearm in accordance with Subsection (3)(d); or

(b) disposal of the firearm in accordance with Section 53-5c-202.

(7) Unless otherwise provided, the provisions of Title 77, Chapter 24a, Lost or Mislaid Personal Property, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.

(8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

(9) The department shall create a pamphlet to be distributed by a law enforcement officer under Section 77-36-2.1 that includes information about a cohabitant's or owner cohabitant's ability to have the owner cohabitant's firearm committed to a law enforcement agency for safekeeping in accordance with this section.

Section 3. Section 77-36-2.1 is amended to read:

77-36-2.1. Duties of law enforcement officers -- Notice to victims.

(1) A law enforcement officer who responds to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including:

(a) taking the action that, in the officer's discretion, is reasonably necessary to provide for

the safety of the victim and any family or household member;

(b) confiscating the weapon or weapons involved in the alleged domestic violence;

(c) making arrangements for the victim and any child to obtain emergency housing or shelter;

(d) providing protection while the victim removes essential personal effects;

(e) arrange, facilitate, or provide for the victim and any child to obtain medical treatment; [~~and~~]

(f) arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence, in accordance with Subsection (2)[~~.~~]; and

(g) providing the pamphlet created by the department under Section 53-5c-201 to the victim if the allegation of domestic violence:

(i) includes a threat of violence as described in Section 76-5-107;

(ii) results, or would result, in the owner cohabitant becoming a restricted person under Section 76-10-503; or

(iii) is accompanied by a completed lethality assessment that demonstrates the cohabitant is at high risk of being further victimized.

(2) (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective Orders.

(b) The written notice shall [~~also~~] include:

(i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled;

(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance; and

(iii) the information required to be provided to both parties in accordance with Subsections 78B-7-802(8) and (9).

(3) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a domestic violence protective order is not issued or once the domestic violence protective order is terminated.

CHAPTER 139
H. B. 201
Passed February 13, 2023
Approved March 14, 2023
Effective May 3, 2023

REVISOR'S TECHNICAL CORRECTIONS TO UTAH CODE

Chief Sponsor: Mike Schultz
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill makes technical changes to provisions of the Utah Code.

Highlighted Provisions:

This bill:

- modifies parts of the Utah Code to make technical corrections, including:
  - eliminating or correcting references involving repealed provisions;
  - eliminating redundant or obsolete language;
  - making minor wording changes;
  - updating cross-references; and
  - correcting numbering and other errors.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-419, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-9a-536, as enacted by Laws of Utah 2022, Chapter 230
11-42b-103, as enacted by Laws of Utah 2022, Chapter 376
11-59-202, as last amended by Laws of Utah 2022, Chapters 207, 237
17-27a-532, as enacted by Laws of Utah 2022, Chapter 230
17B-1-212, as last amended by Laws of Utah 2022, Chapter 381
17D-4-301, as last amended by Laws of Utah 2022, Chapter 207
19-2-104, as last amended by Laws of Utah 2020, Chapter 354
26-69-201, as enacted by Laws of Utah 2022, Chapter 224
26-69-402, as renumbered and amended by Laws of Utah 2022, Chapter 224
31A-22-657, as enacted by Laws of Utah 2022, Chapter 198
49-14-201, as last amended by Laws of Utah 2022, Chapter 171
49-16-102, as last amended by Laws of Utah 2022, Chapter 171
49-16-701, as last amended by Laws of Utah 2011, Chapter 439
49-23-601, as last amended by Laws of Utah 2012, Chapter 298
51-7-2, as last amended by Laws of Utah 2022, Chapters 186, 298
52-4-103, as last amended by Laws of Utah 2022, Chapter 422
57-8a-231, as enacted by Laws of Utah 2022, Chapter 230
58-60-112, as last amended by Laws of Utah 2022, Chapter 212
58-70b-302, as enacted by Laws of Utah 2022, Chapter 284
62A-2-101, as last amended by Laws of Utah 2022, Chapters 334, 468
63C-25-101, as enacted by Laws of Utah 2022, Chapter 207 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 207
63I-1-236, as last amended by Laws of Utah 2022, Chapters 175, 247
63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472
63I-1-267, as last amended by Laws of Utah 2022, Chapter 246
63I-2-217, as last amended by Laws of Utah 2022, Chapter 123
63I-2-226, as last amended by Laws of Utah 2022, Chapters 255, 365
63I-2-263, as last amended by Laws of Utah 2022, Chapters 63, 209, 240, 242, 264, 354, and 435
63I-2-267, as last amended by Laws of Utah 2021, Chapter 345
63I-2-279, as last amended by Laws of Utah 2022, Chapter 68
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154
63N-6-103, as last amended by Laws of Utah 2022, Chapter 298
71-8-2, as last amended by Laws of Utah 2020, Chapter 409
75-2a-103, as last amended by Laws of Utah 2022, Chapter 277
76-10-1602, as last amended by Laws of Utah 2022, Chapters 181, 185
78A-7-202, as last amended by Laws of Utah 2022, Chapter 276
78B-3-416, as last amended by Laws of Utah 2022, Chapters 212, 356
78B-3-450, as enacted by Laws of Utah 2022, Chapter 366
78B-3-454, as enacted by Laws of Utah 2022, Chapter 366
78B-6-850, as enacted by Laws of Utah 2022, Chapter 372
78B-7-1003, as enacted by Laws of Utah 2022, Chapter 270
80-2-501, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-503, as enacted by Laws of Utah 2022, Chapter 334
80-4-502, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-5-202, as last amended by Laws of Utah 2022, Chapters 132, 203
80-6-802, as last amended by Laws of Utah 2022, Chapter 155

RENUMBERS AND AMENDS:
9-23-203, (Renumbered from 63N-10-202, as renumbered and amended by Laws of Utah 2015, Chapter 283)

REPEALS:
62A-4a-210, as enacted by Laws of Utah 2014, Chapter 67
62A-4a-211, as enacted by Laws of Utah 2014, Chapter 67

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

Section 1. Section 9-23-203, which is renumbered from Section 63N-10-202 is renumbered and amended to read:

[~~63N-10-202~~]. 9-23-203. Commission powers and duties.

(1) The commission shall:

(a) purchase and use a seal;

(b) adopt rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) prepare all forms of contracts between sponsors, licensees, promoters, and contestants; and

(d) hold hearings relating to matters under its jurisdiction, including violations of this chapter or rules made under this chapter.

(2) The commission may subpoena witnesses, take evidence, and require the production of books, papers, documents, records, contracts, recordings, tapes, correspondence, or other information relevant to an investigation if the commission or its designee considers it necessary.

Section 2. Section 10-2-419 is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall provide notice of a public hearing described in Subsection (2)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;

(c) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection [~~(3)(d)~~] (3)(c); and

(ii) the Utah State Developmental Center Board, created under Section 62A-5-202.5, if any state-owned real property described in this Subsection [~~(3)(d)~~] (3)(c) is associated with the Utah State Developmental Center; and

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

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

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

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection [~~(3)(d)~~] (3)(c);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

(5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(c)(i) or (ii).

(6) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

(7) (a) An ordinance adopted under Subsection (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 3. Section 10-9a-536 is amended to read:

10-9a-536. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the municipality, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to municipal operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A municipality may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

Section 4. Section 11-42b-103 is amended to read:

11-42b-103. Petition to designate assessment area -- Requirements -- Management plan contents.

(1) The process for a specified county to designate an assessment area is initiated by the filing of a petition with the legislative body of the specified county.

(2) A petition under Subsection (1) shall:

(a) include a proposed management plan that:

(i) describes:

(A) the boundaries and duration of the proposed assessment area;

(B) each benefitted property proposed to be assessed;

(C) the total estimated amount of assessment to be levied against all benefitted properties for each year an assessment is levied;

(D) the method by which the proposed assessment is calculated;

(E) the beneficial activities to be paid by assessments for each year an assessment is levied;

(F) the total estimated amount of assessment to be expended on beneficial activities for each year an assessment is levied;

(G) the proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each owner of benefitted property to calculate the amount of the assessment to be levied against the owner's benefitted property;

(H) any proposed benefit zones as described in Subsection 11-42b-102(2)(b)(ii); and

(I) the interest, penalties, and costs or other requirements of the proposed assessment;

(ii) establishes procedures for collecting the proposed assessment;

(iii) requires the legislative body to contract with a third party administrator to implement the proposed beneficial activities within the assessment area; and

(iv) includes a statement regarding the right of a benefitted property to impose a surcharge on guests of the benefitted property as provided in Subsection 11-42b-102(4); and

(b) be signed by a qualified number of owners.

Section 5. Section 11-59-202 is amended to read:

11-59-202. Authority powers.

(1) The authority may:

(a) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;

(b) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-59-203;

(c) sue and be sued;

(d) enter into contracts generally, including a contract for the sharing of records under Section 63G-2-206;

(e) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(f) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(g) enter into a lease agreement on real or personal property, either as lessee or lessor;

(h) provide for the development of the point of the mountain state land under one or more contracts, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the point of the mountain state land;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(k) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(l) subject to Subsection (2), issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(m) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-59-304;

(n) transact other business and exercise all other powers provided for in this chapter;

(o) enter into a development agreement with a developer of some or all of the point of the mountain state land;

(p) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

(q) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(r) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land;

(s) enter into an agreement with the federal government or an agency of the federal government, as the board considers necessary or advisable, to enable or assist the authority to exercise its powers or fulfill its duties and responsibilities under this chapter;

(t) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the point of the mountain state land; and

(u) impose impact fees under Title 11, Chapter 36a, Impact Fees Act, and other fees related to development activities.

(2) The authority may not issue bonds under this part unless the board first:

(a) adopts a parameters resolution for the bonds that sets forth:

(i) the maximum:

(A) amount of bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section [~~63C-25-101~~] 63C-25-201.

(3) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 6. Section 17-27a-532 is amended to read:

17-27a-532. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the county, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to county operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A county may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

Section 7. Section 17B-1-212 is amended to read:

17B-1-212. Resolution indicating whether the requested service will be provided.

(1) (a) Within 60 days after the last hearing required under Section 17B-1-210 concerning a request, the legislative body of each county whose unincorporated area includes and the legislative body of each municipality whose boundaries include any part of the proposed local district shall adopt a resolution indicating whether the county or municipality will provide to the area of the proposed

local district within its boundaries the service proposed to be provided by the proposed local district.

(b) If a county or municipality adopts a resolution indicating that the county or municipality will provide the service proposed to be provided by the proposed local district under Subsection (1)(a), the resolution shall include a reasonable timeline for the county or municipality to begin providing the service.

(2) If the legislative body of a county or municipality fails to adopt a resolution within the time provided under Subsection (1), the county or municipal legislative body shall be considered to have declined to provide the service requested and to have consented to the creation of the local district.

(3) If the county or municipality adopts a resolution under Subsection (1) indicating that it will provide the requested service but does not, within 120 days after the adoption of that resolution, take substantial measures to provide the requested service, the county or municipal legislative body shall be considered to have declined to provide the requested service.

(4) Each county or municipality that adopts a resolution under Subsection (1) indicating that it will provide the requested service:

(a) shall diligently proceed to take all measures necessary to provide the service; and

(b) if the county or municipality fails to timely provide the requested service, the county or municipality will be considered to have declined to provide the service and the creation of the local district may proceed accordingly.

Section 8. Section 17D-4-301 is amended to read:

17D-4-301. Public infrastructure district bonds.

(1) (a) Subject to Subsection (1)(b), a public infrastructure district may issue negotiable bonds for the purposes described in Section 17D-4-203, as provided in, as applicable:

(i) Title 11, Chapter 14, Local Government Bonding Act;

(ii) Title 11, Chapter 27, Utah Refunding Bond Act;

(iii) Title 11, Chapter 42, Assessment Area Act; and

(iv) this section.

(b) A public infrastructure district created by a bonding political subdivision, as defined in Section 63C-25-101, may not issue bonds under this part unless the board first:

(i) adopts a parameters resolution for the bonds that sets forth:

(A) the maximum:

(I) amount of bonds;

(II) term; and

(III) interest rate; and

(B) the expected security for the bonds; and

(ii) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(2) A public infrastructure district bond:

(a) shall mature within 40 years of the date of issuance; and

(b) may not be secured by any improvement or facility paid for by the public infrastructure district.

(3) (a) A public infrastructure district may issue a limited tax bond, in the same manner as a general obligation bond:

(i) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district and 100% of the registered voters, if any, within the boundaries of the proposed public infrastructure district; or

(ii) upon approval of a majority of the registered voters within the boundaries of the public infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (3)(a):

(i) is not subject to the limitation on a general obligation bond described in Subsection 17B-1-1102(4)(a)(xii); and

(ii) is subject to a limitation, if any, on the principal amount of indebtedness as described in the governing document.

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public infrastructure district may only issue limited tax bonds in denominations of not less than $500,000, and in integral multiples above $500,000 of not less than $1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public infrastructure district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or

(B) the most recent market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).

(iii) A general obligation bond resulting from a conversion of a limited tax bond under this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in Subsection 17B-1-1102(4)(a)(xii).

(e) A public infrastructure district that levies a property tax for payment of debt service on a limited tax bond issued under this section is not required to comply with the notice and hearing requirements of Section 59-2-919 unless the rate exceeds the rate established in:

(i) Section 17D-4-303, except as provided in Subsection (8);

(ii) the governing document; or

(iii) the documents relating to the issuance of the limited tax bond.

(4) There is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.

(5) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

(6) The board may, by resolution, delegate to one or more officers of the public infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(b) approve and execute any document relating to the issuance of a bond; and

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

(7) (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) publication of the resolution authorizing the bond; or

(ii) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).

(b) After the 30-day period described in Subsection (7)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

(8) (a) In the event of any statutory change in the methodology of assessment or collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection (8)(a) may exceed the limit described in Section 17D-4-303.

(c) The public infrastructure district may charge the rate increase described in Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

(9) No later than 60 days after the closing of any bonds by a public infrastructure district created by a bonding political subdivision, as defined in Section 63C-25-101, the public infrastructure district shall report the bond issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section [~~63C-25-101~~] 63C-25-201.

Section 9. Section 19-2-104 is amended to read:

19-2-104. Powers of board.

(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source;

(b) establishing air quality standards;

(c) requiring persons engaged in operations that result in air pollution to:

(i) install, maintain, and use emission monitoring devices, as the board finds necessary;

(ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air pollutant; and

(iii) provide access to records relating to emissions which cause or contribute to air pollution;

(d) (i) implementing:

(A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(B) 40 C.F.R. Part 763, Asbestos; and

(C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants, Subpart M, National Emission Standard for Asbestos; and

(ii) reviewing and approving asbestos management plans submitted by local education agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(e) establishing a requirement for a diesel emission opacity inspection and maintenance program for diesel-powered motor vehicles;

(f) implementing an operating permit program as required by and in conformity with Titles IV and V of the federal Clean Air Act Amendments of 1990;

(g) establishing requirements for county emissions inspection and maintenance programs after obtaining agreement from the counties that would be affected by the requirements;

(h) with the approval of the governor, implementing in air quality nonattainment areas employer-based trip reduction programs applicable to businesses having more than 100 employees at a single location and applicable to federal, state, and local governments to the extent necessary to attain and maintain ambient air quality standards consistent with the state implementation plan and federal requirements under the standards set forth in Subsection (2);

(i) implementing lead-based paint training, certification, and performance requirements in accordance with 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406; and

(j) to implement the requirements of Section 19-2-107.5.

(2) When implementing Subsection (1)(h) the board shall take into consideration:

(a) the impact of the business on overall air quality; and

(b) the need of the business to use automobiles in order to carry out its business purposes.

(3) (a) The board may:

(i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or matter in, the administration of this chapter;

(ii) recommend that the director:

(A) issue orders necessary to enforce the provisions of this chapter;

(B) enforce the orders by appropriate administrative and judicial proceedings;

(C) institute judicial proceedings to secure compliance with this chapter; or

(D) advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, the federal government, or interested persons or groups; and

(iii) establish certification requirements for asbestos project monitors, which shall provide for experience-based certification of a person who:

(A) receives relevant asbestos training, as defined by rule; and

(B) has acquired a minimum of 1,000 hours of asbestos project monitoring related work experience.

(b) The board shall:

(i) to ensure compliance with applicable statutes and regulations:

(A) review a settlement negotiated by the director in accordance with Subsection 19-2-107(2)(b)(viii) that requires a civil penalty of $25,000 or more; and

(B) approve or disapprove the settlement;

(ii) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(iii) meet the requirements of federal air pollution laws;

(iv) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish work practice and certification requirements for persons who:

(A) contract for hire to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections if:

(I) the contract work is done on a site other than a residential property with four or fewer units; or

(II) the contract work is done on a residential property with four or fewer units where a tested sample contained greater than 1% of asbestos;

(B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general public has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard Emergency Response Act of 1986;

(C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

(D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

(v) establish certification requirements for a person required under 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be accredited as an inspector, management planner, abatement project designer, asbestos abatement contractor and supervisor, or an asbestos abatement worker;

(vi) establish certification requirements for a person required under 15 U.S.C. 2601 et seq., Toxic Control Act, Subchapter IV - Lead Exposure Reduction, to be accredited as an inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust sampling technician; and

(vii) assist the State Board of Education in adopting school bus idling reduction standards and

implementing an idling reduction program in accordance with Section 41-6a-1308.

(4) A rule adopted under this chapter shall be consistent with provisions of federal laws, if any, relating to control of motor vehicles or motor vehicle emissions.

(5) Nothing in this chapter authorizes the board to require installation of or payment for any monitoring equipment by the owner or operator of a source if the owner or operator has installed or is operating monitoring equipment that is equivalent to equipment which the board would require under this section.

(6) (a) The board may not require testing for asbestos or related materials on a residential property with four or fewer units, unless:

(i) the property's construction was completed before January 1, 1981; or

(ii) the testing is for:

(A) a sprayed-on or painted on ceiling treatment that contained or may contain asbestos fiber;

(B) asbestos cement siding or roofing materials;

(C) resilient flooring products including vinyl asbestos tile, sheet vinyl products, resilient flooring backing material, whether attached or unattached, and mastic;

(D) thermal-system insulation or tape on a duct or furnace; or

(E) vermiculite type insulation materials.

(b) A residential property with four or fewer units is subject to an abatement rule made under Subsection (1) or (3)(b)(iv) if:

(i) a sample from the property is tested for asbestos; and

(ii) the sample contains asbestos measuring greater than 1%.

(7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-2-107 or 19-2-108:

(a) a permit;

(b) a license;

(c) a registration;

(d) a certification; or

(e) another administrative authorization made by the director.

(8) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

(9) Notwithstanding Subsection (7), the board may exercise all authority granted to the board by a federally enforceable state implementation plan.

Section 10. Section 26-69-201 is amended to read:

26-69-201. Utah Health Workforce Advisory Council creation and membership.

(1) There is created within the department the Utah Health Workforce Advisory Council.

(2) The council shall be comprised of at least 14 but not more than 19 members.

(3) The following are members of the council:

(a) the executive director or that individual's designee;

(b) the executive director of the Department of Workforce Services or that individual's designee;

(c) the commissioner of higher education of the Utah System of Higher Education or that individual's designee;

(d) the state superintendent of the State Board of Education or that individual's designee;

(e) the executive director of the Department of Commerce or that individual's designee;

(f) the director of the Division of Multicultural Affairs or that individual's designee;

(g) the director of the Utah Substance Use and Mental Health Advisory Council or that individual's designee;

(h) the chair of the Utah Indian Health Advisory Board; and

(i) the chair of the Utah Medical Education Council created in Section 26-69-402.

(4) The executive director shall appoint at least five but not more than ten additional members that represent diverse perspectives regarding Utah's health workforce.

(5) (a) A member appointed by the executive director under Subsection (4) shall serve a four-year term.

(b) Notwithstanding Subsection (5)(a) for the initial appointments of members described in Subsection (4) the executive director shall appoint at least three but not more than five members to a two-year appointment to ensure that approximately half of the members appointed by the executive director rotate every two years.

(6) The executive director or the executive director's designee shall chair the council.

Section 11. Section 26-69-402 is amended to read:

26-69-402. Utah Medical Education Council.

(1) (a) There is created the Utah Medical Education Council, which is a subcommittee of the Utah Health Workforce Advisory Council.

(b) The membership of UMEC shall consist of the following appointed by the governor:

(i) the dean of the school of medicine at the University of Utah;

(ii) an individual who represents graduate medical education at the University of Utah;

(iii) an individual from each institution, other than the University of Utah, that sponsors an accredited clinical education program;

(iv) an individual from the health care insurance industry; and

(v) (A) three members of the general public who are not employed by or affiliated with any institution that offers, sponsors, or finances health care or medical education; and

(B) if the number of individuals appointed under Subsection (1)(b)(iii) is more than two, the governor may appoint an additional member of the public under this Subsection (1)(b)(v) for each individual the governor appoints under Subsection (1)(b)(iii) beyond two.

(2) Except as provided in Subsections (1)(b)(i) and (ii), no two [~~council~~] UMEC members may be employed by or affiliated with the same:

(a) institution of higher education;

(b) state agency outside of higher education; or

(c) private entity.

(3) The dean of the school of medicine at the University of Utah:

(a) shall chair UMEC;

(b) may not be counted in determining the existence of a quorum; and

(c) may only cast a vote on a matter before the council if the vote of the other council members results in a tied vote.

(4) UMEC shall annually elect a vice chair from UMEC's members.

(5) (a) Consistent with Subsection (6)(b), a majority of the members constitute a quorum.

(b) The action of a majority of a quorum is the action of UMEC.

(6) (a) Except as provided in Subsection (6)(b), members are appointed to four-year terms of office.

(b) Notwithstanding Subsection (6)(a), the governor shall, at the time of the initial appointment, adjust the length of terms to ensure that the terms of [~~council~~] UMEC members are staggered so that approximately half of the members are appointed every two years.

(c) If a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term in the same manner as the original appointment was made.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(8) The council shall provide staff for UMEC.

Section 12. Section 31A-22-657 is amended to read:

31A-22-657. Application of health insurance mandates.

(1) As used in this section:

(a) "Cost-sharing mandate" means a statutory requirement limiting a cost-sharing requirement.

[~~(a)~~] (b) "Cost-sharing requirement" means a copayment, coinsurance, or deductible required by or on behalf of an enrollee in order to receive a benefit under a qualified high-deductible health plan.

[~~(b)~~] (c) "Health savings account" means the same as that term is defined in 26 U.S.C. Sec. 223(d)(1).

[~~(c)~~] (d) "Qualified high-deductible health plan" means a high-deductible health plan as defined in 26 U.S.C. Sec. 223(c)(2)(A) that is used in conjunction with a health savings account.

[~~(d) "Cost-sharing mandate" means a statutory requirement limiting a cost-sharing requirement.~~]

(2) (a) Except as provided in Subsection (2)(b), if under federal law, a cost-sharing mandate would result in an enrollee becoming ineligible for a health savings account, the cost-sharing mandate applies only to the enrollee's qualified high-deductible health plan after the enrollee satisfies the enrollee's health plan deductible.

(b) Subsection (2)(a) does not apply to an item or service that is preventive care under 26 U.S.C. Sec. 223(c)(2)(C).

Section 13. Section 49-14-201 is amended to read:

49-14-201. System membership -- Eligibility.

(1) Except as provided in Section 49-15-201, a public safety service employee of a participating employer participating in this system is eligible for service credit in this system at the earliest of:

(a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the public safety service employee was employed by the participating employer on that date; or

(c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system before July 1, 1989.

(iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(7) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.

(8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system before July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(9) An employee who is reassigned to the Division of Technology Services or to the Division of Human Resource Management, and who was a member of this system, is entitled to remain a member of this system.

(10) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (10)(a), the office and the Peace Officer Standards and Training Council shall consider whether or not the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(11) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (10) in making the subcommittee's recommendation.

(12) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(13) Except as provided under Subsection (14), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(14) (a) A public safety service employee employed by an airport police department, which elects to cover the airport police department's public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (13), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (14)(a):

(i) shall be made at the time the employer elects to move the employer's public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

(15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover the participating employer's dispatchers under this system.

(b) A participating employer's election to cover the participating employer's dispatchers under this system under Subsection (15)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (15)(b), is not eligible for service credit in this system.

(16) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 14. Section 49-16-102 is amended to read:

49-16-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable as gross income received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) (a) "Disability" means the complete inability, due to objective medical impairment, whether physical or mental, to perform firefighter service.

(b) "Disability" does not include the inability to meet an employer's required standards or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined under Subsection (2)(a).

(3) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(b), (c), and (d).

(b) Except as provided in Subsection (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the

previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(c) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection [~~(3)(a)~~] (3)(b) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(d) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (13).

(4) (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department; or

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

(5) (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter.

(b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.

(6) (a) "Line-of-duty death or disability" means a death or disability resulting from:

(i) external force, violence, or disease directly resulting from firefighter service; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.

(b) "Line-of-duty death or disability" does not include a death or disability that:

(i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) occurs when the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death or disability; or

(iv) occurs in a manner other than as described in Subsection (6)(a).

(c) "Line-of-duty death or disability" includes the death or disability of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.

(7) "Objective medical impairment" means an impairment resulting from an injury or illness that is diagnosed by a physician or physician assistant and that is based on accepted objective medical tests or findings rather than subjective complaints.

(8) "Participating employer" means an employer that meets the participation requirements of Section 49-16-201.

(9) "Regularly constituted fire department" means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.

(10) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(11) "System" means the Firefighters' Retirement System created under this chapter.

(12) (a) "Volunteer firefighter" means any individual who is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.

(b) "Volunteer firefighter" does not include an individual who volunteers assistance but does not meet the requirements of Subsection (12)(a).

(13) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.

Section 15. Section 49-16-701 is amended to read:

49-16-701. Volunteer firefighters eligible for line-of-duty death and disability

benefits in Division A -- Computation of benefit.

(1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty disability benefits provided for firefighters enrolled in Division A, subject to Sections 49-16-602 and 49-16-603.

(2) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death or disability shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(3) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection [~~49-16-102(11)~~] 49-16-102(12) to determine eligibility for this benefit.

Section 16. Section 49-23-601 is amended to read:

49-23-601. Long-term disability coverage.

(1) A participating employer shall cover a public safety service employee who initially enters employment on or after July 1, 2011, under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program.

(2) (a) A participating employer shall cover a firefighter employee who initially enters employment on or after July 1, 2011, under Chapter 21, Public Employees' Long-Term Disability Act.

(b) In accordance with this section, a participating employer shall provide long-term disability benefit coverage for a volunteer firefighter as provided under Section 49-16-701.

(c) The office shall ensure that the cost of the long-term disability benefit coverage provided under Subsections (2)(a) and (b) is funded with revenue received under Section 49-11-901.5.

Section 17. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

The following funds are exempt from this chapter:

(1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(2) funds of the Utah State Retirement Board;

(3) funds of the Utah Housing Corporation;

(4) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section [~~53B-7-801~~] 53B-7-802;

(5) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(6) the State Post-Retirement Benefits Trust Fund;

(7) the funds of the Utah Educational Savings Plan;

(8) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(9) the funds in the Navajo Trust Fund;

(10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(11) the funds in the Employers' Reinsurance Fund;

(12) the funds in the Uninsured Employers' Fund;

(13) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 62A-5-206.7;

(14) the funds in the Risk Management Fund created in Section 63A-4-201; and

(15) the Utah fund of funds created in Section 63N-6-401.

Section 18. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) (a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

(a) electronic mail;

(b) instant messaging;

(c) electronic chat;

(d) text messaging, as that term is defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or [~~specific~~] specified body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering;

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or

(iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:

(A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or

(B) the conversation pertains only to day-to-day management and operation of the public transit district.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;

(iii) the Utah Independent Redistricting Commission; and

(iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity; or

(v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

(10) "Public statement" means a statement made in the ordinary course of business of the public body

with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii) or (9)(c)(v).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 19. Section 57-8a-231 is amended to read:

57-8a-231. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) An association may not enact or enforce a governing document that prohibits, or has the effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the association including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to the association's operations;

(B) imposes minimum or maximum vegetative coverage; or

(C) restricts or prohibits the use of specific plant materials.

(b) An association may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

Section 20. Section 58-60-112 is amended to read:

58-60-112. Reporting of unprofessional or unlawful conduct -- Immunity from liability -- Reporting conduct of court-appointed therapist.

(1) Upon learning of an act of unlawful or unprofessional conduct as defined in Section 58-60-102 by a person licensed under this chapter or an individual not licensed under this chapter and engaged in acts or practices regulated under this chapter, that results in disciplinary action by a licensed health care facility, professional practice group, or professional society, or that results in a significant adverse impact upon the public health, safety, or welfare, the following shall report the conduct in writing to the division within 10 days after learning of the disciplinary action or the conduct unless the individual or person knows it has been reported:

(a) a licensed health care facility or organization in which an individual licensed under this chapter engages in practice;

(b) an individual licensed under this chapter; and

(c) a professional society or organization whose membership is individuals licensed under this chapter and which has the authority to discipline or expel a member for acts of unprofessional or unlawful conduct.

(2) Any individual reporting acts of unprofessional or unlawful conduct by an individual licensed under this chapter is immune from liability arising out of the disclosure to the extent the individual furnishes the information in good faith and without malice.

(3) (a) As [~~defined~~] used in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

(A) Title 30, Chapter 3, Divorce;

(B) Title 30, Chapter 4, Separate Maintenance;

(C) Title 30, Chapter 5, Grandparents;

(D) Title 30, Chapter 5a, Custody and Visitation for Individuals Other than Parents Act;

(E) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(F) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act; or

(G) Title 78B, Chapter 15, Utah Uniform Parentage Act.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a report against the court-appointed therapist for unlawful or unprofessional conduct during the pendency of the domestic case, unless:

(i) the party has requested that the court release the court-appointed therapist from the appointment; and

(ii) the court finds good cause to release the court-appointed therapist from the appointment.

Section 21. Section 58-70b-302 is amended to read:

58-70b-302. Qualifications for licensure.

Each applicant for licensure as an anesthesiologist assistant under this chapter shall:

(1) submit an application on a form established by the division;

(2) pay a fee determined by the division under Section 63J-1-504;

(3) provide satisfactory documentation of having graduated from a program certified by the Commission on Accreditation of Allied Health Education Programs or the commission's successor organization;

(4) within 12 months of completing the training under Subsection (3), pass the certification exam offered by the National Commission for Certification of Anesthesiologist Assistants; and

(5) have the certification described in Subsection (4) at the time of the application and maintain the certification throughout the term of the license.

Section 22. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this chapter.

(4) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (38)(a); or

(B) provides the treatment or services described in Subsection (38)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection (38)(a) on a limited basis if:

(A) the treatment or services described in Subsection (38)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (38)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (38)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Child" means an individual under 18 years old.

(7) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(8) "Child-placing agency" means a person that engages in child placing.

(9) "Client" means an individual who receives or has received services from a licensee.

(10) (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(11) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(12) "Department" means the Department of Human Services.

(13) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(14) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

(16) "Director" means the director of the office.

(17) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(18) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(19) "Elder adult" means a person 65 years old or older.

(20) "Executive director" means the executive director of the department.

(21) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

(22) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(23) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(24) "Health insurer" means the same as that term is defined in Section [~~31A-22-615.5~~] 31A-22-634.

(25) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

(26) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(27) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(28) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(29) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

(30) "Licensee" means an individual or a human services program licensed by the office.

(31) "Local government" means a city, town, metro township, or county.

(32) "Minor" means child.

(33) "Office" means the Office of Licensing within the Department of Human Services.

(34) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

(35) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(36) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(37) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

(38) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to their recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which

applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(39) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(40) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(41) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(42) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

(43) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

(44) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(45) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 62A-15-1202.

(46) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (46)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

(47) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

(48) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(49) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(50) (a) "Youth program" means a program designed to provide behavioral, substance abuse, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for its services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of its services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

(51) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 23. Section 63C-25-101 is amended to read:

63C-25-101. Definitions.

As used in this chapter:

(1) "Authority" means the same as that term is defined in Section 63B-1-303.

(2) "Bond" means the same as that term is defined in Section 63B-1-101.

(3) "Bonding political subdivision" means:

(a) the Utah Inland Port Authority, created in Section 11-58-201;

(b) the Military Installation Development Authority, created in Section 63H-1-201;

(c) the Point of the Mountain State Land Authority, created in Section 11-59-201; or

(d) the Utah Lake Authority, created in Section 11-65-201.

(4) "Commission" means the State Finance Review Commission created in Section 63C-25-201.

(5) "Concessionaire" means a person who:

(a) operates, finances, maintains, or constructs a government facility under a contract with a bonding political subdivision; and

(b) is not a bonding political subdivision.

(6) "Creating entity" means the same as that term is defined in Section 17D-4-102.

(7) "Government facility" means infrastructure, improvements, or a building that:

(a) costs more than $5,000,000 to construct; and

(b) has a useful life greater than five years.

(8) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(9) "Loan entity" means the board, person, unit, or agency with legal responsibility for making a loan from a revolving loan fund.

(10) "Obligation" means the same as that term is defined in Section 63B-1-303.

(11) "Parameters resolution" means a resolution of a bonding political subdivision, or public infrastructure district created by a bonding political subdivision, that sets forth for proposed bonds:

(a) the maximum:

(i) amount of bonds;

(ii) term; and

(iii) interest rate; and

(b) the expected security for the bonds.

(12) "Public infrastructure district" means a public infrastructure district created under

Title 17D, Chapter 4, Public Infrastructure District Act.

(13) "Public-private partnership" means a contract:

(a) between a bonding political subdivision and a concessionaire for the operation, finance, maintenance, or construction of a government facility;

(b) that authorizes the concessionaire to operate the government facility for a term of five years or longer, including any extension of the contract; and

(c) in which all or some of the annual source of payment to the concessionaire comes from state funds provided to the bonding political subdivision.

(14) "Revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in [~~Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act~~] Title 19, Chapter 1, Part 4, Clean Fuels and Emission Reduction Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank Fund, created in Section 19-6-409;

(j) the School Building Revolving Account, created in Section 53F-9-206;

(k) the State Infrastructure Bank Fund, created in Section 72-2-202;

(l) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

(m) the Navajo Revitalization Fund, created in Section 35A-8-1704;

(n) the Energy Efficiency Fund, created in Section 11-45-201;

(o) the Brownfields Fund, created in Section 19-8-120;

(p) the following enterprise revolving loan funds created in Section 63A-3-402:

(i) the inland port infrastructure revolving loan fund;

(ii) the point of the mountain infrastructure revolving loan fund; or

(iii) the military development infrastructure revolving loan fund; and

(q) any other revolving loan fund created in statute where the borrower from the revolving loan fund is a public non-profit entity or political subdivision, including a fund listed in Section 63A-3-205, from which a loan entity is authorized to make a loan.

(15) (a) "State funds" means an appropriation by the Legislature identified as coming from the General Fund or Education Fund.

(b) "State funds" does not include:

(i) a revolving loan fund; or

(ii) revenues received by a bonding political subdivision from:

(A) a tax levied by the bonding political subdivision;

(B) a fee assessed by the bonding political subdivision; or

(C) operation of the bonding political subdivision's government facility.

Section 24. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates: Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

(2) Section 36-12-20 is repealed June 30, 2023.

(3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

(4) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1, 2023.

[~~(5) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2022.~~]

Section 25. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.~~]

[~~(18)~~] (17) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.~~]

[~~(20)~~] (18) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21)~~] (19) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(22)~~] (20) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(23)~~] (21) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(24)~~] (22) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~] (23) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~] (24) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~] (25) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~] (26) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~] (27) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~] (28) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~] (29) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~] (30) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 26. Section 63I-1-267 is amended to read:

63I-1-267. Repeal dates: Title 67.

(1) Section 67-1-8.1, which creates the Executive Residence Commission, is repealed July 1, 2027.

(2) Section 67-1-15 is repealed December 31, 2027.

(3) Section 67-3-11 is repealed July 1, 2024.

(4) Title 67, Chapter 5a, Utah Prosecution Council, is repealed July 1, 2027.

[~~(5) Section 67-5b-105, which creates local advisory boards for the Children's Justice Center Program, is repealed July 1, 2021.~~]

Section 27. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates: Title 17.

[~~(1) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022. (2)~~] On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.

[~~(3) On June 1, 2022:~~]

[~~(a) Section 17-52a-104 is repealed;~~]

[~~(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and~~]

[~~(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.~~]

Section 28. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Title 26 through 26B.

[~~(1) Subsection 26-2-12.6(3), relating to the report for birth certificate fees, is repealed December 31, 2022.~~]

[~~(2)~~] (1) Subsection 26-7-8(3) is repealed January 1, 2027.

[~~(3)~~] (2) Section 26-8a-107 is repealed July 1, 2024.

[~~(4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.~~]

[~~(5)~~] (3) Section 26-8a-211 is repealed July 1, 2023.

[~~(6)~~] (4) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(7) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.~~]

[~~(8) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.~~]

[~~(9)~~] (5) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(10)~~] (6) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(11) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.~~]

[~~(12)~~] (7) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(13) Subsection 26-61-202(4)(b) is repealed January 1, 2022.~~]

[~~(14) Subsection 26-61-202(5) is repealed January 1, 2022.~~]

[~~(15)~~] (8) Subsection 26B-1-204(2)(f), relating to the Air Ambulance Committee, is repealed July 1, 2024.

Section 29. Section 63I-2-263 is amended to read:

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

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

[~~(3) Subsection 63A-17-304(1)(c) is repealed July 1, 2022.~~]

(3) Section 63A-17-806 is repealed June 30, 2023.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) Section 63G-1-502 is repealed July 1, 2022.

(6) The following sections regarding the World War II Memorial Commission are repealed July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(7) Title 63H, Chapter 5, Utah State Railroad Museum Authority, is repealed on July 1, 2022.

(8) Section 63H-7a-303 is repealed July 1, 2024.

(9) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

(10) Subsection 63J-1-602.2(44), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

(11) Sections 63M-7-213 and 63M-7-213.5 are repealed January 1, 2023.

(12) Section 63M-7-217 is repealed July 1, 2022.

(13) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(14) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 30. Section 63I-2-267 is amended to read:

63I-2-267. Repeal dates: Title 67.

[~~Section 63A-17-806 is repealed June 30, 2023.~~]

Section 31. Section 63I-2-279 is amended to read:

63I-2-279. Repeal dates: Title 79.

[~~(1)~~] Section 79-2-206, Transition, is repealed July 1, 2024.

[~~(2) Title 79, Chapter 6, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.~~]

Section 32. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The Emergency Medical Services Grant Program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

(15) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(17) The Utah National Guard, created in [~~Title 39, Militia and Armories~~] Title 39A, National Guard and Militia Act.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(30) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(31) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(32) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(34) The Traffic Noise Abatement Program created in Section 72-6-112.

(35) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(36) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(37) A state rehabilitative employment program, as provided in Section 78A-6-210.

(38) The Utah Geological Survey, as provided in Section 79-3-401.

(39) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(40) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(42) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(43) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 33. Section 63N-6-103 is amended to read:

63N-6-103. Definitions.

As used in this [~~part~~] chapter:

(1) "Board" means the board of directors of the corporation.

(2) "Corporation" means the Utah Capital Investment Corporation created under Section 63N-6-301.

(3) "Restricted account" means the Utah Capital Investment Restricted Account created in Section 63N-6-204.

(4) "Utah fund of funds" means a limited liability company established under Section 63N-6-401.

Section 34. Section 71-8-2 is amended to read:

71-8-2. Department of Veterans and Military Affairs created -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the Veterans Advisory Council, who is subject to Senate confirmation.

(a) The executive director shall be an individual who:

(i) has served on active duty in the armed forces for more than 180 consecutive days;

(ii) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(iv) was separated or retired under honorable conditions.

(b) Any veteran or veterans group may submit names to the council for consideration.

(3) The department shall:

(a) conduct and supervise all veteran activities as provided in this title;

(b) determine which campaign or combat theater awards are eligible for a special group license plate in accordance with Section 41-1a-418;

(c) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it;

(d) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title; and

(f) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(4) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (4)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(d) A grant may be awarded by the department only after consultation with the Veterans Advisory Council.

(5) Nothing in this chapter shall be construed as altering or preempting the provisions of [~~Title 39, Militia and Armories~~] Title 39A, National Guard and Militia Act, as specifically related to the Utah National Guard.

Section 35. Section 75-2a-103 is amended to read:

75-2a-103. Definitions.

As used in this chapter:

(1) "Adult" means an individual who is:

(a) at least 18 years [~~of age~~] old; or

(b) an emancipated minor.

(2) "Advance health care directive":

(a) includes:

(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or

(ii) an expression of preferences about health care decisions;

(b) may take one of the following forms:

(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or

(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and

(c) does not include a POLST order.

(3) "Agent" means an adult designated in an advance health care directive to make health care decisions for the declarant.

(4) "APRN" means an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)(e);

(b) an independent practitioner;

(c) acting under a consultation and referral plan with a physician; and

(d) acting within the scope of practice for that individual, as provided by law, rule, and specialized certification and training in that individual's area of practice.

(5) "Best interest" means that the benefits to the person resulting from a treatment outweigh the burdens to the person resulting from the treatment, taking into account:

(a) the effect of the treatment on the physical, emotional, and cognitive functions of the person;

(b) the degree of physical pain or discomfort caused to the person by the treatment or the withholding or withdrawal of treatment;

(c) the degree to which the person's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the person by subjecting the person to humiliation and dependency;

(d) the effect of the treatment on the life expectancy of the person;

(e) the prognosis of the person for recovery with and without the treatment;

(f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and

(g) the religious beliefs and basic values of the person receiving treatment, to the extent these may assist the decision maker in determining the best interest.

(6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular person as agent.

(7) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.

(8) "Default surrogate" means the adult who may make decisions for an individual when either:

(a) an agent or guardian has not been appointed; or

(b) an agent is not able, available, or willing to make decisions for an adult.

(9) "Emergency medical services provider" means a person that is licensed, designated, or certified under Title 26, Chapter 8a, Utah Emergency Medical Services System Act.

(10) "Generally accepted health care standards":

(a) is defined only for the purpose of:

(i) this chapter and does not define the standard of care for any other purpose under Utah law; and

(ii) enabling health care providers to interpret the statutory form set forth in Section 75-2a-117; and

(b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:

(i) will not prevent or reduce the deterioration in the health or functional status of an individual;

(ii) will not prevent the impending death of an individual; or

(iii) will impose more burden on the individual than any expected benefit to the [~~person~~] individual.

(11) "Health care" means any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

(12) "Health care decision":

(a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;

(b) includes:

(i) selection and discharge of a health care provider and a health care facility;

(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and

(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and

(c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.

(13) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:

(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;

(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and

(c) the ability to communicate a decision.

(14) "Health care facility" means:

(a) a health care facility as defined in Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and

(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.

(15) "Health care provider" means the same as that term is defined in Section 78B-3-403, except that "health care provider" does not include an emergency medical services provider.

(16) (a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping an individual comfortable.

(17) "Minor" means an individual who:

(a) is under 18 years old; and

(b) is not an emancipated minor.

(18) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

(19) "Physician assistant" means an individual licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(20) "POLST order" means an order, on a form designated by the Department of Health under Section 75-2a-106, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.

(21) "Reasonably available" means:

(a) readily able to be contacted without undue effort; and

(b) willing and able to act in a timely manner considering the urgency of the circumstances.

(22) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the

capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections (22)(a) through (c) are unknown, the best interest of the adult.

(23) "Surrogate" means a health care decision maker who is:

(a) an appointed agent;

(b) a default surrogate under the provisions of Section 75-2a-108; or

(c) a guardian.

Section 36. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources Code of Utah, or Section 23-20-4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a threat of terrorism, Section 76-5-107.3;

(l) a criminal homicide offense, as described in Section 76-5-201;

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human trafficking of a child, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor or aggravated sexual exploitation of a minor, Sections 76-5b-201 and 76-5b-201.1;

(p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

(q) causing a catastrophe, Section 76-6-105;

(r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

(s) burglary of a vehicle, Section 76-6-204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

(u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

(v) theft, Section 76-6-404;

(w) theft by deception, Section 76-6-405;

(x) theft by extortion, Section 76-6-406;

(y) receiving stolen property, Section 76-6-408;

(z) theft of services, Section 76-6-409;

(aa) forgery, Section 76-6-501;

(bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and 76-6-506.6;

(cc) deceptive business practices, Section 76-6-507;

(dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;

(ee) bribery of a labor official, Section 76-6-509;

(ff) defrauding creditors, Section 76-6-511;

(gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;

(hh) unlawful dealing with property by fiduciary, Section 76-6-513;

(ii) bribery or threat to influence contest, Section 76-6-514;

(jj) making a false credit report, Section 76-6-517;

(kk) criminal simulation, Section 76-6-518;

(ll) criminal usury, Section 76-6-520;

(mm) fraudulent insurance act, Section 76-6-521;

(nn) retail theft, Section 76-6-602;

(oo) computer crimes, Section 76-6-703;

(pp) identity fraud, Section 76-6-1102;

(qq) mortgage fraud, Section 76-6-1203;

(rr) sale of a child, Section 76-7-203;

(ss) bribery to influence official or political actions, Section 76-8-103;

(tt) threats to influence official or political action, Section 76-8-104;

(uu) receiving bribe or bribery by public servant, Section 76-8-105;

(vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

(ww) official misconduct, Sections 76-8-201 and 76-8-202;

(xx) obstruction of justice, Section 76-8-306;

(yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;

(zz) false or inconsistent material statements, Section 76-8-502;

(aaa) false or inconsistent statements, Section 76-8-503;

(bbb) written false statements, Section 76-8-504;

(ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(fff) tampering with evidence, Section 76-8-510.5;

(ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code[~~,~~] or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act[~~, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist Disclosure and Regulation Act~~];

(hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;

(iii) unemployment insurance fraud, Section 76-8-1301;

(jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;

(lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;

(mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

(ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(cccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 37. Section 78A-7-202 is amended to read:

78A-7-202. Justice court judges to be appointed -- Procedure.

(1) As used in this section:

(a) "Local government executive" means:

(i) for a county:

(A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;

(B) the county executive in a county operating under the county executive-council form of county government; and

(C) the county manager in a county operating under the council-manager form of county government;

(ii) for a city or town:

(A) the mayor of the city or town; or

(B) the city manager, in the council-manager form of government described in Subsection 10-3b-103(7); and

(iii) for a metro township, the chair of the metro township council.

(b) "Local legislative body" means:

(i) for a county, the county commission or county council; and

(ii) for a city or town, the council of the city or town.

(2) (a) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position.

(b) The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.

(c) Membership of the justice court nominating commission shall be as follows:

(i) one member appointed by:

(A) the county commission if the county has a county commission form of government; or

(B) the county executive if the county has an executive-council form of government;

(ii) one member appointed by the municipalities in the counties as follows:

(A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or

(B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality and the chairs of each metro township in the county;

(iii) one member appointed by the county bar association; and

(iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.

(d) (i) If there is no county bar association, the member in Subsection (2)(c)(iii) shall be appointed by the regional bar association.

(ii) If no regional bar association exists, the state bar association shall make the appointment.

(e) Members appointed under Subsections (2)(c)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

(f) (i) Except as provided in Subsection [~~(2)(d)(ii)~~] (2)(f)(ii), the nominating commission shall submit at least three names to the appointing authority of the jurisdiction expected to be served by the judge.

(ii) If there are fewer than three applicants for a justice court vacancy, the nominating commission shall submit all qualified applicants to the appointing authority of the jurisdiction expected to be served by the judge.

(iii) The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

(g) (i) The state court administrator shall provide staff to the commission.

(ii) The Judicial Council shall establish rules and procedures for the conduct of the commission.

(3) (a) A judicial vacancy for a justice court shall be announced:

(i) as an employment opportunity on the Utah Courts' website;

(ii) in an email to the members of the Utah State Bar; and

(iii) on the Utah Public Notice Website, created in Section 63A-16-601.

(b) A judicial vacancy for a justice court may also be advertised through other appropriate means.

(4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.

(5) (a) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council.

(b) Upon completion of the orientation seminar described in Subsection (5)(a), the Judicial Council shall certify the justice court judge as qualified to hold office.

(6) (a) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council.

(b) A justice court judge may not perform judicial duties until certified by the Judicial Council.

Section 38. Section 78B-3-416 is amended to read:

78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.

(1) (a) The division shall provide a hearing panel in alleged medical liability cases against health care providers as defined in Section 78B-3-403, except dentists or dental care providers.

(b) (i) The division shall establish procedures for prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care.

(ii) The division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78B-3-416 through 78B-3-420.

(c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing litigation.

(d) Proceedings conducted under authority of this section are confidential, privileged, and immune from civil process.

(e) The division may not provide more than one hearing panel for each alleged medical liability case against a health care provider.

(2) (a) The party initiating a medical liability action shall file a request for prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action. The request shall be mailed to all health care providers named in the notice and request.

(3) (a) As [~~defined~~] used in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

(A) Title 30, Chapter 3, Divorce;

(B) Title 30, Chapter 4, Separate Maintenance;

(C) Title 30, Chapter 5, Grandparents;

(D) Title 30, Chapter 5a, Custody and Visitation for Individuals Other than Parents Act;

(E) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(F) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act; or

(G) Title 78B, Chapter 15, Utah Uniform Parentage Act.

(iii) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a request for a prelitigation panel review for a malpractice action against the court-appointed therapist during the pendency of the domestic case, unless:

(i) the party has requested that the court release the court-appointed therapist from appointment; and

(ii) the court finds good cause to release the court-appointed therapist from the appointment.

(c) If a party is prohibited from filing a request for a prelitigation panel review under Subsection (3)(b), the applicable statute of limitations tolls until the earlier of:

(i) the court releasing the court-appointed therapist from appointment as described in Subsection (3)(b); or

(ii) the court entering a final order in the domestic case.

(4) (a) The filing of a request for prelitigation panel review under this section tolls the applicable statute of limitations until the later of:

(i) 60 days following the division's issuance of:

(A) an opinion by the prelitigation panel; or

(B) a certificate of compliance under Section 78B-3-418; or

(ii) the expiration of the time for holding a hearing under Subsection (4)(b)(ii).

(b) The division shall:

(i) send any opinion issued by the panel to all parties by regular mail; and

(ii) complete a prelitigation hearing under this section within:

(A) 180 days after the filing of the request for prelitigation panel review; or

(B) any longer period as agreed upon in writing by all parties to the review.

(c) If the prelitigation hearing has not been completed within the time limits established in Subsection (4)(b)(ii), the claimant shall:

(i) file an affidavit of merit under the provisions of Section 78B-3-423; or

(ii) file an affidavit with the division within 180 days of the request for pre-litigation review, in accordance with Subsection (4)(d), alleging that the respondent has failed to reasonably cooperate in scheduling the hearing.

(d) If the claimant files an affidavit under Subsection (4)(c)(ii):

(i) within 15 days of the filing of the affidavit under Subsection (4)(c)(ii), the division shall determine whether either the respondent or the claimant failed to reasonably cooperate in the scheduling of a pre-litigation hearing; and

(ii) (A) if the determination is that the respondent failed to reasonably cooperate in the scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418; or

(B) if the division makes a determination other than the determination in Subsection (4)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B-3-423, within 30 days of the determination of the division under this Subsection (4).

(e) (i) The claimant and any respondent may agree by written stipulation that no useful purpose would be served by convening a prelitigation panel under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the stipulating respondent, and stating that the claimant has complied with all conditions precedent to the commencement of litigation regarding the claim.

(5) The division shall provide for and appoint an appropriate panel or panels to hear complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of medical liability. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel hearings;

(b) (i) one or more members who are licensed health care providers listed under Section 78B-3-403, who are practicing and knowledgeable in the same specialty as the proposed defendant, and who are appointed by the division in accordance with Subsection (6); or

(ii) in claims against only a health care facility or the facility's employees, one member who is an individual currently serving in a health care facility administration position directly related to health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel hearings.

(6) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a medical liability prelitigation panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee whom the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000.

(d) A licensee whom the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections (6)(c) and (d) shall be deposited into the Physicians Education Fund created in Section 58-67a-1.

(f) The director of the division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.

(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

(7) Each person selected as a panel member shall certify, under oath, that he has no bias or conflict of interest with respect to any matter under consideration.

(8) A member of the prelitigation hearing panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(9) (a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

Section 39. Section 78B-3-450 is amended to read:

78B-3-450. Definitions.

As used in this part:

(1) "Adverse event" means an injury or suspected injury that is associated with a health care process rather than an underlying condition of a patient or a disease.

(2) "Affected party" means:

(a) a patient; and

(b) any representative of a patient.

(3) "Communication" means any written or oral communication created for or during a medical candor process.

(4) "Governmental entity" means the same as that term is defined in Section 63G-7-102.

(5) "Health care" means the same as that term is defined in Section 78B-3-403.

(6) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(7) "Malpractice action against a health care provider" means the same as that term is defined in Section 78B-3-403.

(8) "Medical candor process" means the process described in Section 78B-3-451.

(9) "Patient" means the same as that term is defined in Section 78B-3-403.

(10) "Public employee" means the same as the term "employee" as defined in Section 63G-7-102.

(11) (a) Except as provided in Subsection (11)(c), "representative" means the same as that term is defined in Section 78B-3-403.

(b) "Representative" includes:

(i) a parent of a child regardless of whether the parent is the custodial or noncustodial parent;

(ii) a legal guardian of a child;

(iii) a person designated to make decisions on behalf of a patient under a power of attorney, an advanced health care directive, or a similar legal document;

(iv) a default surrogate as defined in Section 75-2a-108; and

(v) if the patient is deceased, the personal representative of the patient's estate or the patient's heirs as defined in Sections 75-1-201 and 78B-3-105.

(c) "Representative" does not include a parent of a child if the parent's parental rights have been terminated by a court.

(12) "State" means the same as that term is defined in Section 63G-7-102.

Section 40. Section 78B-3-454 is amended to read:

78B-3-454. Confidentiality and effect of medical candor process -- Recording of medical candor process -- Exception for deidentified information or data.

(1) Except as provided in Subsections (2), (3), and (4), all communications, materials, and information in any form specifically created for or during a medical candor process, including the findings or conclusions of the investigation and any offer of compensation, are confidential and privileged in any administrative, judicial, or arbitration proceeding.

(2) Any communication, material, or information in any form that is made or provided in the ordinary course of business, including a medical record or a business record, that is otherwise discoverable or admissible and is not specifically created for or during a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(3) (a) Any information that is required to be documented in a patient's medical record under state or federal law is not privileged by the use or disclosure of the information during a medical candor process.

(b) Information described in Subsection (3)(a) does not include an individual's mental impressions, conclusions, or opinions that are formed outside the course and scope of the patient's care and treatment and are used or disclosed in a medical candor process.

(4) (a) Any communication, material, or information in any form that is provided to an affected party before the affected party's written agreement to participate in a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(b) Any communication, material, or information described in Subsection (4)(a) does not include a written notice described in Section 78B-3-452.

(5) A communication or offer of compensation made in preparation for or during a medical candor process does not constitute an admission of liability.

(6) Nothing in this part alters or limits the confidential, privileged, or protected nature of communications, information, memoranda, work product, documents, and other materials under other provisions of law.

(7) (a) Notwithstanding Section 77-23a-4, a party to a medical candor process may not record any communication without the mutual consent of all parties to the medical candor process.

(b) A recording made without mutual consent of all parties to the medical candor process may not be used for any purpose.

(8) (a) Notwithstanding any other provision of law, any communication, material, or information created for or during a medical candor process:

(i) is not subject to reporting requirements by a health care provider; and

(ii) does not create a reporting requirement for a health care provider.

(b) If there are reporting requirements independent of, and supported by, information or evidence other than any communication, material, or information created for or during a medical candor process, the reporting shall proceed as if there were no communication, material, or information created for or during the medical candor process.

(c) This Subsection (8) does not release an individual or a health care provider from complying with a reporting requirement.

(9) (a) A health care provider that participates in a medical candor process may provide deidentified information or data about the adverse [~~incident~~] event to an agency, company, or organization for the purpose of research, education, patient safety, quality of care, or performance improvement.

(b) Disclosure of deidentified information or data under Subsection (9)(a):

(i) does not constitute a waiver of a privilege or protection of any communication, material, or information created for or during a medical candor process as provided in this section or any other provision of law; and

(ii) is not a violation of the confidentiality requirements of this section.

Section 41. Section 78B-6-850 is amended to read:

78B-6-850. Definitions.

As used in this part:

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an unlawful detainer action.

(2) "Eviction" means a cause of action for unlawful detainer under Part 8, Forcible Entry and Detainer.

(3) "Expunge" means to seal or otherwise restrict access to records held by a court or an agency.

(4) "Petitioner" means any person petitioning for expungement of an eviction under this [~~section~~] part.

(5) (a) "Tenant screening agency" means a person that, for a fee, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating information for the purpose of furnishing a tenant screening report.

(b) "Tenant screening agency" does not include an owner as defined in Section 78B-6-801.

(6) "Tenant screening report" means any written, oral, or other communication prepared by a tenant screening agency that includes information about an individual's rental history for the purpose of serving as a factor in establishing the individual's eligibility for housing.

(7) "Unlawful detainer" means the same as that term is defined in Section 78B-6-801.

Section 42. Section 78B-7-1003 is amended to read:

78B-7-1003. Requirements for expungement of protective order or stalking injunction.

(1) (a) An individual against whom a civil order is sought may petition the court to expunge records of the civil order.

(b) A petition under Subsection (1) shall be filed in accordance with the Utah Rules of Civil Procedure.

(2) (a) The petitioner shall provide notice to the individual [~~whom~~] who filed the civil order against the petitioner in accordance with Rule 4 of the Utah Rules of Civil Procedure.

(b) The individual who filed the civil order against the petitioner:

(i) may file a written objection with the court within 30 days after the day on which the petition is received by the individual; and

(ii) if the individual files a written objection, provide a copy of the written objection to the petitioner.

(c) If the court receives a written objection to the petition for expungement of a civil order, the court shall:

(i) set a date for a hearing on the petition;

(ii) provide notice at least 30 days before the day on which the hearing is held to:

(A) all parties of the civil order; and

(B) any other person or agency that the court has reason to believe may have relevant information related to the expungement of the civil order.

(d) The petitioner may respond, in writing, to any written objection within 14 days after the day on which the written objection is received by the court.

(3) If no written objection is received within 60 days from the day on which the petition for expungement is filed under Subsection (1), the court may grant the expungement in accordance with Subsection (4) without a hearing.

(4) A court may expunge an ex parte civil protective order or an ex parte civil stalking injunction if:

(a) the ex parte civil protective order or the ex parte civil stalking injunction was issued but:

(i) the ex parte civil protective order or the ex parte civil stalking injunction is dismissed, dissolved, or expired upon a hearing by the court;

(ii) the court did not issue a civil protective order or a civil stalking injunction on the same circumstances for which the ex parte civil protective order or the ex parte civil stalking injunction was issued;

(iii) at least 30 days have passed from the day on which the ex parte civil protective order or the ex parte civil stalking injunction was issued;

(iv) the petitioner has not been arrested, charged, or convicted for violating the ex parte civil protective order or ex parte civil stalking injunction; and

(v) there are no criminal proceedings pending against the petitioner in the state; or

(b) (i) the individual who filed the ex parte civil protective order or the ex parte civil stalking injunction failed to appear for the hearing on the ex parte civil protective order or ex parte civil stalking injunction;

(ii) at least 30 days have passed from the day on which the hearing on the ex parte civil protective order or the ex parte civil stalking injunction was set to occur, including any continuance, postponement, or rescheduling of the hearing;

(iii) the petitioner has not been arrested, charged, or convicted for violating the ex parte civil protective order or ex parte civil stalking injunction; and

(iv) there are no criminal proceedings pending against the petitioner in the state.

(5) A court may expunge a civil protective order or a civil stalking injunction if:

(a) the civil protective order or the civil stalking injunction has been dismissed, dissolved, vacated, or expired;

(b) three years have passed from the day on which the civil protective order or the civil stalking injunction is dismissed, dissolved, vacated, or expired;

(c) the petitioner has not been arrested, charged, or convicted for violating the civil protective order or the civil stalking injunction; and

(d) there are no criminal proceedings pending against the petitioner in the state.

Section 43. Section 80-2-501 is amended to read:

80-2-501. Children's Account.

(1) There is created a restricted account within the General Fund known as the "Children's Account."

(2) The account shall be funded by:

(a) appropriations to the account by the Legislature;

(b) revenues received under Section 26-2-12.5; and

(c) transfers, grants, gifts, bequests, or any money made available from any source for the abuse and neglect prevention programs described in [~~Subsection 80-2-503(3)~~] Section 80-2-503.

(3) The Legislature shall appropriate money in the account to the division.

(4) (a) The director shall consult with the executive director of the department before using the funds in the account as described in this section.

(b) Except as provided in Subsection (5), the account may be used only to implement prevention programs described in Section 80-2-503, and may only be allocated to an entity that provides a one-to-one match, comprising a match from the community of at least 50% in cash and up to 50% in in-kind donations, which is 25% of the total funding received from the account.

(5) Upon recommendation of the executive director of the department and the council, the division may reduce or waive the match requirements described in Subsection (4) for an entity, if the division determines that imposing the requirements would prohibit or limit the provision of services needed in a particular geographic area.

Section 44. Section 80-2-503 is amended to read:

80-2-503. Division contracts for prevention and treatment of child abuse and neglect -- Requirements -- Public hearing -- Funding provided by contractor.

(1) (a) The Legislature finds that there is a need to assist private and public agencies in identifying and establishing community-based education, service, and treatment programs to prevent the occurrence and recurrence of abuse and neglect.

(b) It is the purpose of this section to provide a means to increase prevention and treatment programs designed to reduce the occurrence or recurrence of child abuse and neglect.

(2) The division shall contract with public or private nonprofit organizations, agencies, or schools, or with qualified individuals to establish voluntary community-based educational and service programs designed to reduce or prevent the occurrence or recurrence of abuse and neglect.

(3) (a) A program that the division contracts with under this section shall provide voluntary primary abuse and neglect prevention, and voluntary or court-ordered treatment services.

(b) A program described in Subsection (3)(a) includes:

(i) a program related to prenatal care, perinatal bonding, child growth and development, basic child care, care of children with special needs, and coping with family stress;

(ii) a program related to crisis care, aid to parents, abuse counseling, support groups for abusive or potentially abusive parents and abusive parents' children, and early identification of families where the potential for abuse and neglect exists;

(iii) a program clearly designed to prevent the occurrence or recurrence of abuse, neglect, sexual abuse, sexual exploitation, or medical or educational neglect;

(iv) a program that the division and council consider potentially effective in reducing the incidence of family problems leading to abuse or neglect; and

(v) a program designed to establish and assist community resources that prevent abuse and neglect.

(4) The division shall:

(a) consult with appropriate state agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed education and service programs for the prevention and treatment of abuse and neglect;

(b) develop policies to determine whether a program will be discontinued or receive continuous funding;

(c) facilitate the exchange of information between and among groups concerned with families and children;

(d) establish flexible fees and fee schedules based on the recipient's ability to pay for part or all of the costs of service received;

(e) before awarding a contract for an abuse or neglect prevention or treatment program or service:

(i) conduct a public hearing to receive public comment on the program or service and ensure the council conducted a public hearing on the program or service in accordance with Subsection (6);

(ii) if the program or service is intended for presentation in public schools, receive evidence that the program or service is approved by the local board of education of each school district that will be utilizing the program or service, or under the direction of the local board of education, the state superintendent; and

(iii) consider need, diversity of geographic locations, the program's or services' coordination with or enhancement of existing services, and the program's or services' extensive use of volunteers;

(f) award a contract under this section for services to prevent abuse and neglect on the basis of probability of success, based in part on sound research data; and

(g) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to carry out the purposes of this section.

(5) The division may:

(a) require that 25% of the funding for a program contracted for under this section be provided by the contractor operating the program; and

(b) consider a contribution of materials, supplies, or physical facilities as all or part of the funding provided by the contractor under Subsection (5)(a).

(6) The council shall conduct a public hearing to receive public comment on the program or service before the division may enter into a contract under this section.

(7) A contract entered into under this section shall contain a provision for the evaluation of services provided under the contract.

(8) Contract funds awarded under this section for the treatment of victims of abuse or neglect are not a collateral source as defined in Section 63M-7-502.

Section 45. Section 80-4-502 is amended to read:

80-4-502. Safe relinquishment of a newborn child -- Termination of parental rights -- Affirmative defense.

(1) (a) A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with this part and retain complete anonymity, so long as the newborn child has not been subject to abuse or neglect.

(b) Safe relinquishment of a newborn child who has not otherwise been subject to abuse or neglect shall not, in and of itself, constitute neglect, and the newborn child may not be considered a neglected child so long as the relinquishment is carried out in substantial compliance with this part.

(2) (a) Personnel employed by a hospital shall accept a newborn child who is relinquished under this part, and may presume that the individual

relinquishing is the newborn child's parent or the parent's designee.

(b) The person receiving the newborn child may request information regarding the parent and newborn child's medical histories, and identifying information regarding the nonrelinquishing parent of the newborn child.

(c) If the newborn child's parent or the parent's designee provides the person receiving the newborn child with any of the information described in Subsection (2)(b) or any other personal items, the person shall provide the information or personal items to the division.

(d) Personnel employed by the hospital shall:

(i) provide any necessary medical care to the newborn child;

(ii) notify the division of receipt of the newborn child as soon as possible, but no later than 24 hours after receipt of the newborn child; and

(iii) prepare a birth certificate or foundling birth certificate if parentage is unknown for the newborn child and file the certificate with the Office of Vital Records and Statistics within the Department of Health.

(e) A hospital and personnel employed by a hospital are immune from any civil or criminal liability arising from accepting a newborn child if the personnel employed by the hospital substantially comply with the provisions of this part and medical treatment is administered according to standard medical practice.

(3) The division shall assume care and protective custody of the newborn child immediately upon notice from the hospital.

(4) So long as the division determines there is no abuse or neglect of the newborn child, neither the newborn child nor the child's parents are subject to:

(a) the investigation provisions contained in Section 80-2-701; or

(b) the provisions of Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(5) (a) Unless identifying information relating to the nonrelinquishing parent of the newborn child is provided, the division shall:

(i) work with local law enforcement and the Bureau of Criminal Identification within the Department of Public Safety in an effort to ensure that the newborn child has not been identified as a missing child;

(ii) immediately place or contract for placement of the newborn child in a potential adoptive home and, within 10 days after the day on which the child is received, file a petition for termination of parental rights in accordance with this chapter;

(iii) direct the Office of Vital Records and Statistics within the Department of Health to conduct a search for:

(A) a birth certificate for the newborn child; and

(B) unmarried biological fathers in the registry maintained by the Office of Vital Records and Statistics in accordance with Title 78B, Chapter 15, Part 4, Registry; and

(iv) provide notice to each potential father identified on the registry described in Subsection (5)(a)(iii) in accordance with Title 78B, Chapter 15, Part 4, Registry.

(b) (i) If no individual has affirmatively identified himself or herself within two weeks after the day on which notice under Subsection (5)(a)(iv) is complete and established paternity by scientific testing within as expeditious a time frame as practicable, a hearing on the petition for termination of parental rights shall be scheduled and notice provided in accordance with this chapter.

(ii) If a nonrelinquishing parent is not identified, relinquishment of a newborn child under this part is considered grounds for termination of parental rights of both the relinquishing and nonrelinquishing parents under Section 80-4-301.

(6) If at any time before the day on which the newborn child is adopted, the juvenile court finds it is in the best interest of the newborn child, the court shall deny the petition for termination of parental rights.

(7) The division shall provide for, or contract with a child-placing agency to provide for expeditious adoption of the newborn child.

(8) So long as the individual relinquishing a newborn child is the newborn child's parent or designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial compliance with this part is an affirmative defense to any potential criminal liability for abandonment or neglect relating to the relinquishment.

Section 46. Section 80-5-202 is amended to read:

80-5-202. Division rulemaking authority -- Reports on sexual assault.

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

(a) establish standards for the admission of a minor to detention;

(b) describe good behavior for which credit may be earned under Subsection 80-6-704(4);

(c) establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah, Chapter 330, resulting from the reduction in out-of-home placements for juvenile offenders with the division;

(d) establish policies and procedures regarding sexual assaults that occur in detention and secure care facilities; and

(e) establish the qualifications and conditions for services provided by the division under Section 80-6-809.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules:

(a) that govern the operation of prevention and early intervention programs, youth service programs, juvenile receiving centers, and other programs described in Section 80-5-401; and

(b) that govern the operation of detention and secure care facilities.

(3) A rule made by the division under Subsection (1)(a):

(a) may not permit secure detention based solely on the existence of multiple status offenses, misdemeanors, or infractions arising out of a single criminal episode; and

(b) shall prioritize use of home detention for a minor who might otherwise be held in secure detention.

(4) The rules described in Subsection (1)(d) shall:

(a) require education and training, including:

(i) providing to minors detained in secure care and detention facilities, at intake and periodically, easy-to-understand information, which is developed and approved by the division, on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling; and

(ii) providing training specific to sexual assault to division mental health professionals and all division employees who have direct contact with minors regarding treatment and methods of prevention and investigation;

(b) require reporting of any incident of sexual assault, including:

(i) ensuring the confidentiality of sexual assault reports from minors and the protection of minors who report sexual assault; and

(ii) prohibiting retaliation and disincentives for reporting sexual assault;

(c) require safety and care for minors who report sexual assault, including:

(i) providing, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure the minor's safety by separating the minor from the minor's assailant, if known;

(ii) providing acute trauma care for minors who report sexual assault, including treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted infections;

(iii) providing confidential mental health counseling for minors who report sexual assault, including:

(A) access to outside community groups or victim advocates that have expertise in sexual assault counseling; and

(B) enabling confidential communication between minors and community groups and victim advocates; and

(iv) monitoring minors who report sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault;

(d) require staff reporting of sexual assault and staff discipline for failure to report or for violating sexual assault policies, including:

(i) requiring all division employees to report any knowledge, suspicion, or information regarding an incident of sexual assault to the director or the director's designee;

(ii) requiring disciplinary action for a division employee who fails to report as required; and

(iii) requiring division employees to be subject to disciplinary sanctions up to and including termination for violating agency sexual assault policies, with termination the presumptive disciplinary sanction for division employees who have engaged in sexual assault, consistent with constitutional due process protections and state personnel laws and rules;

(e) require that any report of an incident of sexual assault be referred to the Division of Child and Family Services or a law enforcement agency with jurisdiction over the detention or secure care facility in which the alleged sexual assault occurred; and

(f) require data collection and reporting of all incidents of sexual assault from each detention and secure care facility.

(5) The division shall annually report the data described in Section (4)(f) to the Law Enforcement and Criminal Justice Interim Committee.

Section 47. Section 80-6-802 is amended to read:

80-6-802. Commitment to secure care -- Rights of individuals in secure care.

(1) If a youth offender is ordered to secure care under Section 80-6-705, the youth offender shall remain in secure care until the youth offender is:

(a) 21 years old;

(b) paroled; or

(c) discharged.

(2) If a serious youth offender is ordered to secure care under Section 80-6-705, the serious youth offender shall remain in secure care until the serious youth offender is:

(a) 25 years old;

(b) paroled; or

(c) discharged.

(3) (a) Subject to Subsection (3)(b), a juvenile offender in secure care, or an individual housed in a secure care facility under Section 80-6-507, has the right to:

(i) phone the juvenile offender's or individual's parent, guardian, or [~~an~~] attorney; and

(ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.

(b) The division may:

(i) establish a schedule for which a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, may visit or phone a person described in Subsection (3)(a);

(ii) allow a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, to visit or call persons described in Subsection (3)(a) in special circumstances;

(iii) limit the number and length of calls and visits for a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, to persons described in Subsection (3)(a) on account of scheduling, facility, or personnel constraints; or

(iv) limit the juvenile offender's or individual's rights under Subsection (3)(a) if a compelling reason exists to limit the juvenile offender's or individual's rights.

(c) A juvenile offender in secure care, or an individual housed in a secure care facility under Section 80-6-507, shall be advised of the rights described in Subsection (3)(a).

Section 48. Repealer.

This bill repeals:

Section 62A-4a-210, Definitions.

Section 62A-4a-211, Division responsibilities -- Normalizing lives of children.

CHAPTER 140
H. B. 207
Passed February 16, 2023
Approved March 14, 2023
Effective May 3, 2023

COMPACT COMMISSION AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses state representatives on interstate compact commissions.

Highlighted Provisions:

This bill:

- addresses representation of the state related to compacts;
- amends provisions related to the Utah members of the Bear River Compact commission;
- amends provisions related to the Columbia Interstate Compact; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-10-3, as last amended by Laws of Utah 2021, Chapter 179
73-10-4, as last amended by Laws of Utah 2021, Chapter 179
73-10-18, as last amended by Laws of Utah 2021, Chapter 179
73-16-4, as last amended by Laws of Utah 2010, Chapter 286
73-19-9, as enacted by Laws of Utah 1963, Chapter 177

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

Section 1. Section 73-10-3 is amended to read:

73-10-3. Organization of board -- Interstate conferences -- Designation of representative -- Salary -- Compacts -- Ratification required.

(1) The board shall elect a chair and one or more vice-chairs who shall be members of the board, and shall establish the board's own rules of organization and procedure.

(2) The board, with the approval of the executive director of the Department of Natural Resources and the governor, shall designate a representative who may be one of the board's members to represent the state in [~~all~~] interstate conferences between the state and one or more sister states held for the purpose of entering into compacts between such states for the division of the waters of interstate rivers, lakes, or other sources of water supply, and to represent the state upon [~~all~~] commissions or other governing bodies provided for by any compacts that have been or may hereafter be entered into between the state and one or more sister states. A compact may not become binding upon the state until the compact is ratified and approved by the Utah State Legislature and the legislatures of other states that are parties to the compact.

(3) In acting as such representative of the state, the representative so acting shall act under the supervision of the governor, through the executive director of the Department of Natural Resources and of the Board of Water Resources. The director of the Division of Finance shall fix the salary to be paid to the representative while the representative is acting in this capacity.

(4) The designee of the Water Resource Board shall continue to represent the state as outlined in Subsections (2) and (3) on waters in the state except for:

(a) the Colorado River system which is governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act; or

(b) state representation under:

(i) the Bear River Compact as provided in Section 73-16-4; or

(ii) the Columbia Interstate Compact as provided in Section 73-19-9.

Section 2. Section 73-10-4 is amended to read:

73-10-4. Powers and duties of board.

(1) The board shall have the following powers and duties to:

(a) authorize studies, investigations, and plans for the full development, use, and promotion of the water and power resources of the state, including preliminary surveys, stream gauging, examinations, tests, and other estimates either separately or in consultation with federal, state and other agencies;

(b) enter into contracts subject to the provisions of this chapter for the construction of conservation projects that in the opinion of the board will conserve and use for the best advantage of the people of this state the water and power resources of the state, including projects beyond the boundaries of the state of Utah located on interstate waters when the benefit of such projects accrues to the citizens of the state;

(c) sue and be sued in accordance with applicable law;

(d) supervise in cooperation with the governor and the executive director of [~~natural resources all~~] the Department of Natural Resources, matters affecting interstate compact negotiations and the administration of the compacts affecting the waters of interstate rivers, lakes and other sources of supply, with the exception of:

(i) the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act; or

(ii) state representation under:

(A) the Bear River Compact as provided in Section 73-16-4; or

(B) the Columbia Interstate Compact as provided in Section 73-19-9;

(e) contract with federal and other agencies and with the National Water Resources Association and to make studies, investigations and recommendations and do all other things on behalf of the state for any purpose that relates to the development, conservation, protection and control of the water and power resources of the state;

(f) consult and advise with the Utah Water Users' Association and other organized water users' associations in the state;

(g) consider and make recommendations on behalf of the state of reclamation projects or other water development projects for construction by any agency of the state or United States and in so doing recommend the order in which projects shall be undertaken; or

(h) review, approve, and revoke an application to create a water bank under Chapter 31, Water Banking Act, collect an annual report, maintain the water banking website, and conduct any other function related to a water bank as described in Chapter 31, Water Banking Act.

(2) Nothing contained in this section shall be construed to impair or otherwise interfere with the authority of the state engineer granted by this title, except as specifically otherwise provided in this section.

Section 3. Section 73-10-18 is amended to read:

73-10-18. Division of Water Resources -- Creation -- Power and authority.

(1) There is created the Division of Water Resources, which shall be within the Department of Natural Resources under the administration and general supervision of the executive director of the Department of Natural Resources and under the policy direction of the Board of Water Resources.

(2) Except for the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act, or state representation under the Bear River Compact or Columbia Interstate Compact, the Division of Water Resources shall:

(a) be the water resource authority for the state; and

(b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah water and power board except those which are delegated to the board by this act and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law.

Section 4. Section 73-16-4 is amended to read:

73-16-4. Members of commission.

(1) There shall be three members of the Bear River Compact commission from the state [~~of Utah~~].

(2) (a) One member shall be the [~~interstate stream commissioner of Utah and he shall be chairman of~~] state engineer, who shall chair the Utah delegation.

(b) The Board of Water Resources shall appoint the other two commissioners from Utah [~~shall be appointed by the state water and power board~~]:

(i) after consultation with the state engineer;

(ii) after consultation with the director of the Division of Water Resources; and

(iii) with the consent of the governor[~~, and they~~].

(c) The two appointed members shall hold office at the pleasure of the [~~water and power board~~] Board of Water Resources and until their successors [~~shall have been~~] are appointed and qualified.

(3) (a) [~~Each~~] A member shall be a [~~bona fide~~] resident of the state [~~of Utah and one~~].

(b) One appointed member shall be a landowner and irrigator [~~actually~~] residing on and operating a farm within the lower division as defined by the compact [~~and one~~].

(c) One appointed member shall be a landowner and irrigator [~~actually~~] residing on and operating a farm within the upper division as defined by the compact.

(4) (a) The [~~Utah water and power board~~] Board of Water Resources may appoint two alternative members of the Bear River Compact commission:

(i) after consultation with the state engineer;

(ii) after consultation with the director of the Division of Water Resources; and

(iii) with the consent of the governor[~~,~~ appoint two alternate members of the Bear River commission].

[~~(a)~~] (b) One [~~such~~] alternate shall be a [~~bona fide~~] resident of the state [~~of Utah~~] and a landowner and irrigator [~~actually~~] residing on and operating a farm within the lower division as defined by the compact [~~and he shall be entitled to~~]. The alternate may act at all regular and special meetings of the Bear River Compact commission whenever the regular member of the Bear River Compact commission from this same area is unable to serve and act.

[~~(b)~~] (c) One [~~such~~] alternate shall be a [~~bona fide~~] resident of the state [~~of Utah~~] and shall be a landowner and irrigator [~~actually~~] residing on and operating a farm within the upper division as defined by the compact [~~and he shall be entitled to~~]. The alternate may act at all regular and special meetings of the Bear River Compact commission whenever the regular member of the Bear River Compact commission from this same area is unable to serve and act.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 5. Section 73-19-9 is amended to read:

73-19-9. Utah representative on Columbia Compact Commission.

The state engineer is the member of the Columbia Compact Commission [~~to represent the state of~~] who represents Utah [~~shall be the executive director of the Utah water and power board~~].

CHAPTER 141
H. B. 211
Passed February 16, 2023
Approved March 14, 2023
Effective May 3, 2023

REAL ESTATE AMENDMENTS

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

LONG TITLE

General Description:

This bill addresses provisions related to real estate transactions.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- provides that certain residential property service agreements are void;
- prohibits recording of a void residential property service agreement or related documents;
- if a void residential property service agreement is recorded, allows a person to recover damages caused by the recording;
- requires an appraisal management company to file certain forms with the Division of Real Estate (division);
- allows the division to suspend or revoke an appraisal management company's registration under certain circumstances;
- allows the division to take disciplinary action against a person licensed or required to be licensed by the division who enters into or records a void residential property service agreement;
- addresses real estate broker and sales agent commissions;
- clarifies provisions related to obtaining title to real property by adverse possession; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
61-2e-102, as last amended by Laws of Utah 2021, Chapter 259
61-2e-205, as last amended by Laws of Utah 2021, Chapter 259
61-2f-305, as enacted by Laws of Utah 2010, Chapter 379
61-2f-401, as last amended by Laws of Utah 2022, Chapter 204
78B-2-210, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:
57-30-101, Utah Code Annotated 1953
57-30-201, Utah Code Annotated 1953

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

Section 1. Section 57-30-101 is enacted to read:

CHAPTER 30. RESIDENTIAL PROPERTY SERVICE AGREEMENTS

Part 1. General Provisions

57-30-101. Definitions.

As used in this chapter:

(1) "Common interest community" means the same as that term is defined in Section 57-25-102.

(2) "Home warranty service contract" means the same as that term is defined in Section 31A-6a-101.

(3) "Record" means to submit a document to a county recorder for official placement in a public land record.

(4) (a) "Residential property service agreement" means, except as provided in Subsection (4)(b), an agreement to provide services in connection with:

(i) the purchase or sale of residential real estate; or

(ii) the maintenance of residential real estate in preparation for purchase or sale.

(b) "Residential property service agreement" does not include:

(i) a home warranty service agreement;

(ii) an insurance contract;

(iii) an agreement for an option to purchase or right of refusal;

(iv) a maintenance or repair agreement between an owner of real property within a common interest community and a homeowners' association or other similar organization; or

(v) an agreement to provide Internet or utility equipment or services.

(5) "Residential real estate" means real property located in the state that is:

(a) used primarily for a personal, family, or household purpose; and

(b) contains fewer than five dwelling units.

Section 2. Section 57-30-201 is enacted to read:

Part 2. Residential Property Service Agreements

57-30-201. Prohibited residential property service agreements -- Recording -- Damages -- Actual or constructive notice.

(1) (a) A residential property service agreement entered into after May 3, 2023, may not:

(i) allow the services to be provided under the agreement to begin more than one year after the day on which the residential property service agreement is signed by all parties;

(ii) indicate that the residential property service agreement:

(A) runs with the land;

(B) is binding on a future owner of an interest in the residential real estate that is the subject of the residential property service agreement; or

(C) creates a lien, encumbrance, or other real property security interest; or

(iii) allow for the assignment of the right to provide the services without notice to and agreement by the owner of the residential real estate that is the subject of the residential property service agreement.

(b) A residential property service agreement that violates Subsection (1)(a):

(i) is void; and

(ii) does not provide actual or constructive notice to a bona fide purchaser or creditor.

(2) (a) A person may not record or cause to be recorded:

(i) a void residential property service agreement; or

(ii) a notice or memorandum concerning a void residential property service agreement.

(b) If a document is recorded in violation of Subsection (2)(a), a party with an interest in the residential real estate that is the subject of the void residential property service agreement may file a petition with a court of competent jurisdiction to recover actual damages from the person who violated Subsection (2)(a).

(c) A document recorded in violation of Subsection (2)(a) may be a violation of Title 38, Chapter 9, Wrongful Lien Act.

Section 3. Section 61-2e-102 is amended to read:

61-2e-102. Definitions.

As used in this chapter:

(1) "Applicable appraisal standards" means:

(a) the Uniform Standards for Professional Appraisal Practice:

(i) published by the Appraisal Foundation; and

(ii) as adopted under Section 61-2g-403;

(b) Chapter 2g, Real Estate Appraiser Licensing and Certification Act; and

(c) rules made by the board under Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2) "Appraisal" means the same as that term is defined in Section 61-2g-102.

(3) "Appraisal foundation" means the same as that term is defined in Section 61-2g-102.

(4) "Appraisal management company" or "AMC" means a third party authorized by one of the following persons to broker an appraisal of a dwelling that is collateral for a residential mortgage loan:

(a) a creditor; or

(b) an underwriter of, or other principal in, a secondary mortgage market.

(5) "Appraisal management service" means:

(a) recruiting, selecting, or retaining an appraiser;

(b) contracting with an appraiser to perform a real estate appraisal activity for a client;

(c) managing the appraisal process, including one or more of the following administrative services:

(i) receiving an appraisal order or an appraisal report;

(ii) submitting a completed appraisal report to a client;

(iii) collecting a fee from a client for a service provided; or

(iv) paying an appraiser for a real estate appraisal activity; or

(d) reviewing or verifying the work of an appraiser.

(6) "Appraisal report" means the same as that term is defined in Section 61-2g-102.

(7) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(8) "Appraiser" means an individual who engages in a real estate appraisal activity.

(9) (a) "Appraiser panel" means a network, list, or roster of appraisers who are:

(i) licensed or certified in a state, territory, or the District of Columbia; and

(ii) approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company.

(b) "Appraiser panel" includes an appraiser whom the appraisal management company has:

(i) accepted for consideration for a future appraisal assignment:

(A) in a residential mortgage loan transaction; or

(B) for a secondary mortgage market participant in connection with a residential mortgage loan transaction; or

(ii) engaged to perform an appraisal:

(A) in a residential mortgage loan transaction; or

(B) for a secondary mortgage market participant in connection with a residential mortgage loan transaction.

(10) "Board" means the Real Estate Appraiser Licensing and Certification Board that is created in Section 61-2g-204.

(11) "Client" means a person that enters into an agreement with an appraisal management company for the performance of a real estate appraisal activity.

(12) "Concurrence" means that the entities that are given a concurring role must jointly agree before an action may be taken.

(13) "Controlling person" means:

(a) an owner, officer, or director of an entity seeking to offer appraisal management services;

(b) an individual employed, appointed, or authorized by an appraisal management company who has the authority to:

(i) enter into a contractual relationship with a client for the performance of an appraisal management service; and

(ii) enter into an agreement with an appraiser for the performance of a real estate appraisal activity; or

(c) a person who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(14) "Creditor" means:

(a) a person who regularly extends credit that, under a written agreement, is subject to a finance charge or is payable in more than four installments, not including any down payment; and

(b) a person to whom the obligation described in Subsection (14)(a) is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(15) "Director" means the director of the division.

(16) "Division" means the Division of Real Estate, created in Section 61-2-201, of the Department of Commerce.

(17) "Dwelling" means a residential structure that contains up to four units, regardless of whether the structure is attached to real property, including:

(a) an individual condominium unit;

(b) a cooperative unit;

(c) a mobile home; or

(d) a trailer, if the trailer is used as a residence.

(18) "Entity" means:

(a) a corporation;

(b) a partnership;

(c) a sole proprietorship;

(d) a limited liability company;

(e) another business entity; or

(f) a subsidiary or unit of an entity described in Subsections (18)(a) through (e).

(19) "Federally regulated appraisal management company" means an appraisal management company that is:

(a) owned and controlled by an insured depository institution, as defined in 12 U.S.C. Sec. 1813; and

(b) regulated by:

(i) the Office of the Comptroller of the Currency;

(ii) the Board of Governors of the Federal Reserve System; or

(iii) the Federal Deposit Insurance Corporation.

(20) "Independent contractor" means an appraiser whom an appraisal management company treats as an independent contractor for purposes of federal income taxation.

(21) "Person" means an individual or an entity.

(22) "Person who regularly extends credit" means a person who:

(a) extends credit, other than credit subject to the requirements of 12 C.F.R. Sec. 1026.32, to a person who has been extended credit for transactions secured by a dwelling more than five times in:

(i) the preceding calendar year; or

(ii) the current calendar year;

(b) originates two or more credit extensions that are subject to the requirements of 12 C.F.R. Sec. 1026.32; or

(c) originates through a mortgage broker a credit extension that is subject to the requirements of 12 C.F.R. Sec. 1026.32.

(23) "Real estate appraisal activity" means the same as that term is defined in Section 61-2g-102.

(24) "Residential mortgage loan" means the same as that term is defined in Section 61-2c-102.

(25) (a) "Secondary mortgage market participant" means:

(i) a guarantor or insurer of a mortgage-backed security; or

(ii) an underwriter or insurer of a mortgage-backed security.

(b) "Secondary mortgage market participant" includes an individual investor in a mortgage-backed security, if the investor is also the guarantor, insurer, underwriter, or issuer of the mortgage-backed security.

(26) "Territory" means any of the following United States territories:

(a) Guam;

(b) Northern Mariana Islands;

(c) Puerto Rico; or

(d) United States Virgin Islands.

Section 4. Section 61-2e-205 is amended to read:

61-2e-205. Division service fees -- National registry form and fees -- Suspension and revocation of registration -- Removal from national registry.

(1) The division, with the concurrence of the board, shall establish and collect fees, in accordance with Section 63J-1-504, for services the division renders to carry out this chapter.

(2) An appraisal management company registered under this chapter shall, on or before May 31 of each year, file with the division a national registry reporting form in the manner prescribed by the division.

[~~(2)~~] (3) [~~(a)~~] The division shall:

[~~(i)~~] (a) collect the annual national registry fee established by the Appraisal Subcommittee from:

[~~(A)~~] (i) each appraisal management company registered under this chapter; and

[~~(B)~~] (ii) each federally regulated appraisal management company; and

[~~(ii)~~] (b) transfer the fees collected under Subsection [~~(2)(a)~~] (3)(a) to the Appraisal Subcommittee on a monthly basis.

[~~(b)~~] (4) If an appraisal management company registered under this chapter fails to pay the annual national registry fee [~~established by the Appraisal Subcommittee~~] described in Subsection (3) or file the national registry reporting form in accordance with Subsection (2), the division may suspend or revoke the appraisal management company's registration.

[~~(3)~~] (5) If an appraisal management company pays a fee or cost to the division with a negotiable instrument or any other payment method that is not honored, the division:

(a) may void the transaction for which the payment is submitted;

(b) may reverse the transaction, if the division does not receive full payment of the applicable fee or cost; and

(c) shall suspend the appraisal management company's registration:

(i) beginning the day on which the payment is due; and

(ii) ending the day on which payment is made in full.

Section 5. Section 61-2f-305 is amended to read:

61-2f-305. Restrictions on commissions.

(1) Except as provided in Subsection (2), an associate broker or sales agent may not accept valuable consideration for the performance of an act specified in this chapter from a person except the principal broker with whom the associate broker or sales agent is affiliated.

(2) An associate broker or sales agent may receive valuable consideration for the performance of an act specified in this chapter from a person other than the principal broker with whom the associate broker or sales agent is affiliated if:

(a) the valuable consideration is paid with a payment instrument prepared by a title insurance agent; and

[~~(b) the title insurance agent provides the payment instrument to the principal broker;~~]

[~~(c)~~] (b) the title insurance agent complies with the written instructions of the principal broker:

(i) in preparing the payment instrument; and

(ii) delivering the payment instrument to the [~~principal broker; and~~] associate broker or sales agent.

[~~(d) the principal broker directly delivers the payment instrument to the associate broker or sales agent.~~]

(3) The commission, with the concurrence of the division, [~~shall~~] may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) defining what constitutes a "payment instrument" for purposes of this section; or

(b) the form and contents of the written instructions required by Subsection (2), including providing that the contents of the written instructions indicate that the payment instrument process is an assignment to the associate broker or sales agent by the principal broker of a portion of the consideration the title insurance agent is obligated to pay the principal broker.

Section 6. Section 61-2f-401 is amended to read:

61-2f-401. Grounds for disciplinary action.

The following acts are unlawful and grounds for disciplinary action for a person licensed or required to be licensed under this chapter:

(1) (a) making a substantial misrepresentation, including in a licensure statement;

(b) making an intentional misrepresentation;

(c) pursuing a continued and flagrant course of misrepresentation;

(d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

(e) making a false representation or promise of a character likely to influence, persuade, or induce;

(2) acting for more than one party in a transaction without the informed written consent of the parties;

(3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;

(b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or

(c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;

(4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;

(b) commingling money described in Subsection (4)(a) with the person's own money; or

(c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;

(5) paying or offering to pay valuable consideration to a person not licensed under this chapter, except that valuable consideration may be shared:

(a) with a principal broker of another jurisdiction; or

(b) as provided under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(ii) Title 16, Chapter 11, Professional Corporation Act; or

(iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405;

(6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

(7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;

(8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;

(9) failing to keep and make available for inspection by the division a record of each transaction, including:

(a) the names of buyers and sellers or lessees and lessors;

(b) the identification of real estate;

(c) the sale or rental price;

(d) money received in trust;

(e) agreements or instructions from buyers and sellers or lessees and lessors; and

(f) any other information required by rule;

(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase, sale, or rental is made for that person or for an undisclosed principal;

(11) regardless of whether the crime is related to the business of real estate:

(a) be convicted of:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(b) plead guilty or nolo contendere to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(c) enter into a plea in abeyance agreement in relation to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(12) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;

(13) in the case of a principal broker or a branch broker, failing to exercise active and reasonable supervision, as the commission may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, over the activities of the principal broker's or branch broker's licensed or unlicensed staff;

(14) violating or disregarding:

(a) this chapter;

(b) an order of the commission; or

(c) the rules adopted by the commission and the division;

(15) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;

(16) any other conduct which constitutes dishonest dealing;

(17) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or

(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

(18) failing to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce documents or records;

(19) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

(20) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;

(21) violating Title 57, Chapter 30, Residential Property Service Agreements;

[~~(21)~~] (22) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;

(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;

(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:

(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(ii) falsely representing or advertising that the licensee is acting on behalf of:

(A) a government agency;

(B) the person's lender or loan servicer; or

(C) a nonprofit or charitable institution; or

(d) recommending or participating in a foreclosure rescue that requires a person to:

(i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(ii) make a mortgage payment to a person other than the person's loan servicer; or

(iii) refrain from contacting the person's:

(A) lender;

(B) loan servicer;

(C) attorney;

(D) credit counselor; or

(E) housing counselor;

[~~(22)~~] (23) taking or removing from the premises of a main office or a branch office, or otherwise limiting a real estate brokerage's access to or control over, a record that:

(a) (i) the real estate brokerage's licensed staff, unlicensed staff, or affiliated independent contractor prepared; and

(ii) is related to the business of:

(A) the real estate brokerage; or

(B) an associate broker, a branch broker, or a sales agent of the real estate brokerage; or

(b) is related to the business administration of the real estate brokerage;

[~~(23)~~] (24) as a principal broker, placing a lien on real property, unless authorized by law;

[~~(24)~~] (25) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services; or

[~~(25)~~] (26) failing to timely disclose to a buyer or seller an affiliated business arrangement, as defined in Section 31A-23a-1001, in accordance with the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.

Section 7. Section 78B-2-210 is amended to read:

78B-2-210. Adverse possession -- Under written instrument or judgment.

(1) Property is considered to have been adversely held if a person in possession of the property, either personally or through another:

(a) (i) possesses a written document purporting to convey title; or

[~~(b)~~] (ii) possesses a decree or judgment from a court of competent jurisdiction conveying title; and

[~~(c)~~] (b) has occupied the property continuously for at least seven years.

(2) If the property consists of a tract divided into lots, the possession of one lot is not considered a possession of any other lot in the same tract.

CHAPTER 142
H. B. 217
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

SCHOOL ENERGY AND WATER REDUCTIONS

Chief Sponsor: Gay Lynn Bennion
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses grant money for energy and water reductions.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes the state board to issue grants related to energy and water reductions;
- provides for prioritizing certain projects;
- requires rulemaking;
- requires use of an evaluation panel;
- requires reporting; and
- provides a repeal date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370, and 409

ENACTS:

53F-5-220, Utah Code Annotated 1953

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

Section 1. Section 53F-5-220 is enacted to read:

53F-5-220 (Codified as 53F-5-221). Management of energy and water use pilot program.

(1) As used in this section:

(a) "Energy" means natural gas or electricity.

(b) "Great Salt Lake watershed" means the drainage area for the Great Salt Lake, the Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River watershed, and the West Desert watershed.

(c) "Rural school district or charter school" means a school district or charter school that is located within a county of the third, fourth, fifth, or sixth class.

(2) (a) On or after May 3, 2023, but before July 1, 2028, the state board may award a grant to a school district or charter school upon recommendation by the review panel created in Subsection (5) to implement a program to reduce the use of energy or water by a school district or charter school.

(b) When issuing a grant under this section, the state board shall prioritize outdoor water conservation projects.

(c) When issuing a grant under this section during the period beginning on May 3, 2023, and ending October 31, 2023, the state board shall prioritize, in the order the state board considers appropriate, a grant:

(i) to a rural school district or charter school;

(ii) to a school district or charter school that is located within the Great Salt Lake watershed; and

(iii) for an outdoor water conservation project.

(3) (a) Grant money may be used to pay for any of the following, provided the use is directly related to reducing the use of energy or water by the school district or charter school:

(i) computer equipment and peripherals;

(ii) software;

(iii) upgrades of existing computer equipment or software;

(iv) physical equipment used to deliver energy or water;

(v) upgrades of existing physical equipment used to deliver energy or water;

(vi) personnel to provide technical support or coordination and management;

(vii) staff or student management training;

(viii) recalibration of equipment for increased efficiency; or

(ix) another means of optimizing and measuring energy or water efficiency.

(b) Equipment or software purchased in compliance with Subsection (3)(a), when not in use to reduce energy or water, may be used for other purposes.

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

(a) establishing procedures for applying for and awarding a grant;

(b) establishing eligibility criteria;

(c) creating grant distribution thresholds;

(d) specifying how grant money is allocated among school districts and charter schools;

(e) requiring reporting of grant money expenditures and evidence showing that the grant money has been used to implement reduced use of energy or water; and

(f) establishing technology standards.

(5) The state board shall establish a review panel to consider grant applications under this section, which shall include in addition to a representative for the state board, representation from the Office of Energy Development, the Department of

Environmental Quality, the Division of Water Resources, and private energy providers.

(6) By no later than the 2027 November interim meeting of the following, the state board shall report on the effectiveness of grants issued under this section to the following:

(a) Education Interim Committee; and

(b) Natural Resources, Agriculture, and Environment Interim Committee.

Section 2. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-6-105.7 is repealed July 1, 2024.

(3) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(4) Section 53B-8-114 is repealed July 1, 2024.

(5) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(6) Section 53B-10-101 is repealed on July 1, 2027.

(7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(8) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(9) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(10) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

(11) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(12) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(13) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(14) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

(15) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(16) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

(17) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(18) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

(19) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

(20) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

(21) Section 53F-5-220, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(21)~~] (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (26) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

CHAPTER 143
H. B. 220
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

EMISSIONS REDUCTION AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses certain emissions.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Division of Air Quality (division) to conduct an inventory related to certain emissions;
- requires the division to complete an emissions reduction plan for certain emissions;
- requires the division to recommend state standards limiting halogen emissions;
- requires the division to publish the inventory, plan, and recommendations on the division's website; and
- requires the division to report on the inventory, plan, and recommendations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

19-2a-107, Utah Code Annotated 1953

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

Section 1. Section 19-2a-107 is enacted to read:

19-2a-107. Point source pollution of halogens -- Best available control technology plan -- Recommendations on standards.

(1) As used in this section:

(a) "Applicable geographic area" means the following counties:

(i) Box Elder County;

(ii) Davis County;

(iii) Salt Lake County;

(iv) Tooele County;

(v) Utah County; and

(vi) Weber County.

(b) "Division" means the Division of Air Quality created in Section 19-1-105.

(2) By no later than December 31, 2024, the division shall complete:

(a) an air emissions inventory of point sources in the applicable geographic area that emit halogens;

(b) a best available control technology emissions reduction plan to reduce the compounds of halogens in the applicable geographic area, with an implementation date of December 31, 2026; and

(c) recommendations for a state standard limiting halogen emissions.

(3) Upon completion, the division shall publish the air emissions inventory, the best available control technology emissions reduction plan, and the recommendations on standards required under Subsection (2) on the division's public website.

(4) The division shall report to the Natural Resources, Agriculture, and Environment Interim Committee regarding the status of the air emissions inventory, the best available control technology emissions reduction plan, and the recommendations for a standard:

(a) on or before the 2023 November interim committee meeting of the Natural Resources, Agriculture, and Environment Interim Committee; and

(b) on or before the 2024 November interim committee meeting of the Natural Resources, Agriculture, and Environment Interim Committee.

CHAPTER 144
H. B. 221
Passed February 10, 2023
Approved March 14, 2023
Effective May 3, 2023

FODDER PRODUCTION SYSTEMS GRANT PROGRAM

Chief Sponsor: Kera Birkeland
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses environmental improvement projects.

Highlighted Provisions:

This bill:

- defines terms; and
- expands the environmental improvement projects for which grants may be awarded.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-18-103, as last amended by Laws of Utah 2014, Chapter 383
4-18-106, as last amended by Laws of Utah 2022, Chapter 79
4-18-108, as last amended by Laws of Utah 2022, Chapter 79

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

Section 1. Section 4-18-103 is amended to read:

4-18-103. Definitions.

As used in this chapter:

(1) (a) "Agricultural discharge" means the release of agriculture water from the property of a farm, ranch, or feedlot that:

(i) pollutes a surface body of water, including a stream, lake, pond, marshland, watercourse, waterway, river, ditch, or other water conveyance system;

(ii) pollutes ground water; or

(iii) constitutes a significant nuisance to urban land.

(b) "Agricultural discharge" does not include:

(i) runoff from a farm, ranch, or feedlot, or the return flow of water from an irrigated field onto land that is not part of a body of water; or

(ii) a release of water from a farm, ranch, or feedlot into a normally dry water conveyance leading to an active body of water, if the release does not reach the water of a lake, pond, stream, marshland, river, or other active body of water.

(2) "Agricultural operation" means a farm, ranch, or animal feeding operation.

(3) "Agriculture water" means:

(a) water used by a farm, ranch, or feedlot for the production of food, fiber, or fuel;

(b) the return flow of water from irrigated agriculture; or

(c) agricultural storm water runoff.

(4) "Alternate" means a substitute for a district supervisor if the district supervisor cannot attend a meeting.

(5) (a) "Animal feeding operation" means a facility where animals, other than aquatic animals, are stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.

(b) "Animal feeding operation" does not include an operation where animals are in areas such as pastures or rangeland that sustain crops or forage growth during the normal growing season.

(6) "Best management practices" means practices, including management policies and the use of technology, used by each sector of agriculture in the production of food and fiber that are commonly accepted practices, or that are at least as effective as commonly accepted practices, and that:

(a) protect the environment;

(b) protect human health;

(c) ensure the humane treatment of animals; and

(d) promote the financial viability of agricultural production.

(7) "Certified agricultural operation" means an agricultural operation that is certified under the Utah Agriculture Certificate of Environmental Stewardship Program in accordance with Section 4-18-107.

(8) "Certified conservation planner" means a planner of a state conservation district, or other qualified planner, that is approved by the commission to certify an agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107.

(9) "Commission" means the Conservation Commission created in Section 4-18-104.

(10) "Comprehensive nutrient management plan" or "nutrient management plan" means a plan to properly store, handle, and spread manure and other agricultural byproducts to:

(a) protect the environment; and

(b) provide nutrients for the production of crops.

(11) "Coordinated resource management plan" means a plan of action created at a local level with broad participation of land owners, natural resource agencies, and interested stakeholders to protect or enhance the environment, human health, humane treatment of animals, and financial viability in the community.

(12) "District" or "conservation district" has the same meaning as "conservation district" as defined in Section 17D-3-102.

(13) "Fodder" means food for livestock.

(14) "Hydroponic" means a technique for growing plants without soil.

[~~(13)~~] (15) "Pollution" means a harmful human-made or human-induced alteration to the water of the state, including an alteration to the chemical, physical, biological, or radiological integrity of water that harms the water of the state.

[~~(14)~~] (16) "State technical standards" means a collection of best management practices that will protect the environment in a reasonable and economical manner for each sector of agriculture as required by this chapter.

[~~(15)~~] (17) "Sustainable agriculture" means agriculture production and practices that promote:

(a) the environmental responsibility of owners and operators of farms, ranches, and feedlots; and

(b) the profitability of owners and operators of farms, ranches, and feedlots.

Section 2. Section 4-18-106 is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Advisory board.

(1) As used in this section:

(a) "Disaster" means an extraordinary circumstance, including a flood, drought, or fire, that results in:

(i) the president of the United States declaring an emergency or major disaster in the state;

(ii) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(iii) the chief executive officer of a local government declaring a local emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

(b) "Local government" means the same as that term is defined in Section 53-2a-602.

(2) There is created a revolving loan fund known as the Agriculture Resource Development Fund.

(3) The Agriculture Resource Development Fund shall consist of:

(a) money appropriated to the fund by the Legislature;

(b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;

(c) money received for the repayment of loans made from the fund;

(d) money made available to the state for agriculture resource development from any source; and

(e) interest earned on the fund.

(4) The commission may make loans from the Agriculture Resource Development Fund for:

(a) a rangeland improvement and management project;

(b) a watershed protection or flood prevention project;

(c) a soil and water conservation project;

(d) a program designed to promote energy efficient farming practices;

(e) an improvement program for agriculture product storage or program designed to protect a crop or animal resource;

(f) a hydroponic or aquaponic system, including a hydroponic fodder production system;

(g) a project or program to improve water quality;

(h) a project to address other environmental issues; or

(i) subject to Subsection (5), a disaster relief program designed to aid the sustainability of agriculture during and immediately following a disaster.

(5) (a) Loans made through a disaster relief program described in Subsection (4)(i) may not comprise more than 10% of the funds appropriated by the Legislature to the Agriculture Resource Development Fund.

(b) Notwithstanding Subsection (5)(a), the department may use all money appropriated to the Agriculture Resource Development Fund by the Legislature or another source, without limitation, if the money is appropriated specifically for use in a disaster relief program.

(c) (i) Until December 31, 2024, the department is authorized to borrow up to $3,000,000 of General Fund appropriations from the Agricultural Water Optimization Account created in Section 73-10g-204 to be used in making loans through a disaster relief program described in Subsection (4)(i).

(ii) If the department borrows from the Agricultural Water Optimization Account under Subsection (5)(c)(i), the department shall deposit the repayment of principal and interest on loans made through a disaster relief program, regardless of the source of the funds used to make those loans, into the Agricultural Water Optimization Account, with preference over the repayment of any other source of funds, until the Agricultural Water Optimization Account is repaid in full.

(6) The commission may appoint an advisory board to:

(a) oversee the award process for loans, as described in this section;

(b) approve loans; and

(c) recommend policies and procedures for the Agriculture Resource Development Fund that are consistent with statute.

Section 3. Section 4-18-108 is amended to read:

4-18-108. Grants for environmental improvement projects -- Criteria for award -- Duties of commission.

(1) The commission may make a grant from the Agriculture Resource Development Fund, or from funds appropriated by the federal government, Legislature, or another entity, to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(a) control or eradication of noxious weeds and invasive plant species in cooperation and coordination with a local weed board;

(b) the costs of plans or projects to improve manure management, control surface water runoff, or address other environmental issues on a farm or ranch operation, including the costs of preparing or implementing a nutrient management plan;

(c) the improvement of water quality;

(d) the development of watershed plans;

(e) hydroponic fodder production; or

[~~(e)~~] (f) a program to address other environmental issues.

(2) (a) In awarding a grant, the commission shall consider the following criteria:

(i) the ability of the grantee to pay for the costs of proposed plans or projects;

(ii) the availability of:

(A) matching funds provided by the grantee or another source; or

(B) material, labor, or other items of value provided in lieu of money by the grantee or another source; and

(iii) the benefits that accrue to the general public by the awarding of a grant.

(b) The commission may establish by rule additional criteria for the awarding of a grant.

(3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(4) The commission may appoint an advisory board to:

(a) assist with the grant process;

(b) make recommendations to the commission regarding grants; and

(c) establish policies and procedures for awarding loans or grants.

CHAPTER 145
H. B. 224
Passed February 10, 2023
Approved March 14, 2023
Effective May 3, 2023

OUTDOOR RECREATION INITIATIVE

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill addresses coordinated investment in outdoor recreation infrastructure.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Recreation Coordinated Investment Initiative;
- grants rulemaking authority;
- requires reporting; and
- addresses funding of the initiative.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
79-7-501, Utah Code Annotated 1953
79-7-502, Utah Code Annotated 1953
79-7-503, Utah Code Annotated 1953

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

Section 1. Section 79-7-501 is enacted to read:

79-7-501. Definitions.

As used in this part:

(1) "Initiative" means the Recreation Coordinated Investment Initiative created in this part.

(2) "Outdoor recreation infrastructure" includes:

(a) a trail, trail head infrastructure, signage, and crossing infrastructure for both nonmotorized and motorized recreation;

(b) a campground or day-use recreation site;

(c) water recreation infrastructure, including a pier, dock, or boat ramp; and

(d) outdoor recreation facilities that are accessible to visitors with disabilities.

(3) "Public lands" includes local, state, and federal lands.

Section 2. Section 79-7-502 is enacted to read:

79-7-502. Recreation Coordinated Investment Initiative.

(1) There is created within the division an initiative known as the "Recreation Coordinated Investment Initiative."

(2) The initiative is to manage, maintain, expand, restore, and improve outdoor recreation infrastructure on public lands within the state, including building new or expanding existing outdoor recreation infrastructure to address increased usage and to minimize overcrowding or overuse.

(3) Consistent with this part, the division may enter into:

(a) a partnership agreement to accomplish the objectives listed in Subsection (2) for outdoor recreation infrastructure, such as a shared stewardship agreement, a challenge cost-share agreement, or other formal agreement; and

(b) a recreation management agreement to maintain outdoor recreation infrastructure, including motorized or nonmotorized trails, trail networks, or trails across multiple jurisdictions.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules, after notifying the commission, establishing procedures consistent with Subsections (2) and (5) for entering into an agreement described in Subsection (3).

(5) To accomplish the objectives listed in Subsection (2), the initiative shall develop and oversee a project proposal process to:

(a) develop statewide priorities that reflect eligibility criteria established under this section, including projects that:

(i) are of interest and benefit to recreation users;

(ii) offer the advantages and effectiveness of participation between state and other land management agencies;

(iii) would benefit local communities; and

(iv) can be completed in a timely manner; and

(b) address funding amounts allocated in the agreements described in Subsection (3).

(6) The director of the division shall designate staff with relevant expertise or experience to administer the initiative.

(7) (a) The initiative staff shall compile data and provide a performance report to the Natural Resources, Agriculture, and Environment Interim Committee on or before November 1 of each year.

(b) An annual performance report under this Subsection (7) shall include for a fiscal year:

(i) by source, the initiative's total annual resources, including partner funds;

(ii) the total amount of outdoor recreation infrastructure project areas that are benefited by the initiative during the fiscal year;

(iii) the total amount of trail miles that receive maintenance;

(iv) the total amount of state funding or in-kind resources that are used to leverage non-state partner resources; and

(v) other performance metrics that demonstrate the effectiveness of the initiative.

Section 3. Section 79-7-503 is enacted to read:

79-7-503. Funding of initiative.

The initiative is funded from the following sources:

(1) appropriations made to the initiative by the Legislature, including any appropriation from the Outdoor Adventure Infrastructure Restricted Account created in Section 51-9-902; and

(2) contributions, including in-kind assistance, from public and private sources, including a federal agency, state agency, local government, or private entity.

CHAPTER 146
H. B. 227
Passed February 16, 2023
Approved March 14, 2023
Effective May 3, 2023

HEMP AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to hemp.

Highlighted Provisions:

This bill:

- defines terms;
- modifies definitions;
- allows the Department of Agriculture and Food (department) to require the registration of non-cannabinoid hemp products;
- creates an industrial hemp producer registration process;
- prohibits the sale of a cannabinoid product that contains THC or a THC analog to an individual who is not at least 21 years old;
- allows a cannabinoid processor to produce products that may not be sold in the state;
- requires a warning label to be added to all cannabinoid products that are designed to be inhaled;
- expands the authority of the department to keep certain fines;
- authorizes rulemaking for the department:
  - to test a cannabinoid processor's cannabinoid at the processor's expense; and
  - to ban or limit the presence of a substance if the department receives a recommendation from the public health authority; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-41-102, as last amended by Laws of Utah 2022, Chapters 74, 290
4-41-103.1, as last amended by Laws of Utah 2022, Chapter 74
4-41-103.2, as last amended by Laws of Utah 2022, Chapter 74
4-41-103.3, as last amended by Laws of Utah 2022, Chapter 290
4-41-103.4, as last amended by Laws of Utah 2022, Chapter 290
4-41-104, as last amended by Laws of Utah 2022, Chapter 74
4-41-105, as last amended by Laws of Utah 2022, Chapters 74, 290 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 74
4-41-106, as last amended by Laws of Utah 2022, Chapter 74
4-41-402, as last amended by Laws of Utah 2022, Chapter 290
4-41-403, as last amended by Laws of Utah 2022, Chapter 74

ENACTS:

4-41-103.5, Utah Code Annotated 1953

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

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

4-41-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to human health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoids;

(f) toxins; or

(g) foreign matter.

(2) (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substances derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(3) "Cannabidiol" or "CBD" means the cannabinoid identified as CAS# 13956-29-1.

[~~(2)~~] (4) "Cannabidiolic acid" or "CBDA" means the cannabinoid identified as CAS# 1244-58-2.

(5) "Cannabinoid processor license" means a license that the department issues to a person for the purpose of processing a cannabinoid product.

[~~(3)~~] (6) "Cannabinoid product" means a product that:

(a) contains or is represented to contain one or more naturally occurring cannabinoids; [~~and~~]

(b) contains less than the cannabinoid product THC level, by dry weight; [~~and~~]

(c) [~~after December 1, 2022,~~] contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content[~~.~~]; and

(d) does not exceed a total of THC and any THC analog that is greater than:

(i) 5 milligrams per serving; and

(ii) 150 milligrams per package.

(7) "Cannabinoid product class" means a group of cannabinoid products that:

(a) have all ingredients in common; and

(b) are produced by or for the same company.

[~~(4)~~] (8) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.

[~~(5)~~] (9) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS# 1972-08-3, the primary psychotropic cannabinoid in cannabis.

[~~(6) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert one cannabinoid into another.~~]

[~~(7) "Dosage form" means the form in which a product is produced for individual dosage and that is not specified as unlawful in this chapter.~~]

[~~(8)~~] (10) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

[~~(9)~~] (11) "Industrial hemp laboratory permit" means a permit that the department issues to a laboratory qualified to test industrial hemp [~~under the state hemp production plan~~].

[~~(10)~~] (12) "Industrial hemp producer [~~license~~] registration" means a [~~license~~] registration that the department issues to a person for the purpose of processing industrial hemp or an industrial hemp product.

[~~(11)~~] (13) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells any viable industrial hemp [~~product~~] seed or cannabinoid product.

[~~(12)~~] (14) (a) "Industrial hemp product" means a product [~~derived from, or made by,~~] made by processing industrial hemp plants or industrial hemp parts.

(b) "Industrial hemp product" does not include cannabinoid material.

(15) "Key participant" means any of the following:

(a) a licensee;

(b) an operation manager;

(c) a site manager; or

(d) an employee who has access to any industrial hemp material with a THC concentration above 0.3%.

[~~(13) "Industrial hemp product class" means a group of cannabinoid products:~~]

[~~(a) that have all ingredients in common; and~~]

[~~(b) are produced by or for the same company.~~]

[~~(14) (a) "Key participant" means any person who has a financial interest in the business entity, including members of a limited liability company, a sole proprietor, partners in a partnership, and incorporators or directors of a corporation.~~]

[~~(b) "Key participant" includes an:~~]

[~~(i) individual at an executive level, including a chief executive officer, chief operating officer, or chief financial officer; and~~]

[~~(ii) operation manager, site manager, or any employee who may present a risk of diversion.~~]

[~~(15)~~] (16) "Laboratory permittee" means a person possessing an industrial hemp laboratory permit that the department issues under this chapter.

[~~(16)~~] (17) "Licensee" means a person possessing [~~an industrial hemp producer~~] a cannabinoid processor license that the department issues under this chapter.

[~~(17)~~] (18) "Non-compliant material" means:

(a) a hemp plant that does not comply with this chapter, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.

[~~(18)~~] (19) "Permittee" means a person possessing a permit that the department issues under this chapter.

[~~(19)~~] (20) "Person" means:

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

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

[~~(20)~~] (21) "Retailer permittee" means a person possessing an industrial hemp retailer permit that the department issues under this chapter.

[~~(21) "Synthetic cannabinoid" means any cannabinoid that:~~]

[~~(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and~~]

[~~(b) is not a derivative cannabinoid.~~]

(22) "Tetrahydrocannabinol" or "THC" means a delta-9-tetrahydrocannabinol, the cannabinoid identified as CAS# 1972-08-3.

(23) (a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or the naturally occurring acid forms of the following substances:

(i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;

(ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;

(iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(iv) cannabidivarol (CBDV), the cannabinoid identified as CAS# 24274-48-4;

(v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;

(vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;

(vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;

(viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;

(ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or

(x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0.

(24) "Total cannabidiol" or "total CBD" means the combined amounts of cannabidiol and cannabidiolic acid, calculated as "total CBD = CBD + (CBDA x 0.877)".

(25) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9-THC, tertrahydrocannabinolic acid, calculated as "total THC = delta-9-THC + (THCA x 0.877)".

Section 2. Section 4-41-103.1 is amended to read:

4-41-103.1. Authority to regulate production, sale, and testing of cannabinoid products and industrial hemp.

(1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish requirements for [~~an industrial hemp producer~~] a cannabinoid processor license to process [~~industrial hemp~~] cannabinoid products;

(b) establish requirements for an industrial hemp retailer permit to market or sell industrial hemp products; [~~and~~]

(c) establish the standards, methods, practices, and procedures a laboratory must use to qualify for a permit to test industrial hemp and [~~industrial hemp~~] cannabinoid products and to dispose of non-compliant material[.]; and

(d) establish requirements for registration of processors of non-cannabinoid industrial hemp products.

(2) The department shall maintain a list of each licensee and permittee.

Section 3. Section 4-41-103.2 is amended to read:

4-41-103.2. Cannabinoid processor license.

(1) The department or a licensee of the department may process [~~industrial hemp~~] a cannabinoid product.

(2) A person seeking [~~an industrial hemp producer~~] a cannabinoid processor license shall provide to the department:

(a) the legal description and global positioning coordinates sufficient for locating the facility the person uses to process industrial hemp; and

(b) written consent allowing a representative of the department and local law enforcement to enter all premises where the person processes or stores industrial hemp for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain [~~an industrial hemp producer~~] a cannabinoid processor license.

(4) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for [~~an industrial hemp producer~~] a cannabinoid processor license.

(5) A licensee may only market [~~industrial hemp~~] a cannabinoid product that the licensee [~~cultivates or~~] processes.

(6) (a) Each applicant for a license to process [~~industrial hemp~~] cannabinoid products shall submit to the department, at the time of application, from each key participant:

(i) a fingerprint card in a form acceptable to the Department of Public Safety;

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

(iii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(b) The Bureau of Criminal Identification shall:

(i) check the fingerprints the applicant submits under Subsection (6)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(iii) maintain a separate file of fingerprints that applicants submit under Subsection (6)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;

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

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

(c) The department shall:

(i) assess an individual who submits fingerprints under Subsection (6)(a) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (6)(c)(i) to the Bureau of Criminal Identification.

Section 4. Section 4-41-103.3 is amended to read:

4-41-103.3. Industrial hemp retailer permit.

(1) Except as provided in Subsection (4), a retailer permittee of the department may market or sell [~~industrial hemp products~~] a cannabinoid product or a viable industrial hemp seed.

(2) A person seeking an industrial hemp retailer permit shall provide to the department:

(a) the name of the person that is seeking to market or sell [~~an industrial hemp product~~] a cannabinoid product or a viable industrial hemp seed;

(b) the address of each location where [~~the industrial hemp product~~] a cannabinoid product or a viable industrial hemp seed will be sold; and

(c) written consent allowing a representative of the department to enter all premises where the person is selling [~~an industrial hemp product~~] a cannabinoid product or a viable industrial hemp seed for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp retailer permit.

(4) Any marketing for [~~an industrial hemp product~~] a cannabinoid product or a viable industrial hemp seed shall include a notice to consumers that the product is hemp and is not cannabis or medical cannabis, as those terms are defined in Section 26-61a-102.

Section 5. Section 4-41-103.4 is amended to read:

4-41-103.4. Industrial hemp laboratory permit.

(1) The department or a laboratory permittee of the department may test industrial hemp and [~~industrial hemp~~] cannabinoid products.

(2) The department or a laboratory permittee of the department may dispose of non-compliant material.

(3) A laboratory seeking an industrial hemp laboratory permit shall:

(a) demonstrate to the department that:

(i) the laboratory and laboratory staff possess the professional certifications required by department rule;

(ii) the laboratory has the ability to test industrial hemp and industrial hemp products using the standards, methods, practices, and procedures required by department rule;

(iii) the laboratory has the ability to meet the department's minimum standards of performance for detecting concentration levels of THC and any cannabinoid known to be present; and

(iv) the laboratory has a plan that complies with the department's rule for the safe disposal of non-compliant material; and

(b) provide to the department written consent allowing a representative of the department and local law enforcement to enter all premises where the laboratory tests, processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(4) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain a license under this chapter.

(5) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp laboratory permit.

Section 6. Section 4-41-103.5 is enacted to read:

4-41-103.5. Industrial hemp producer registration -- Limitation on industrial hemp product use.

(1) A person may produce an industrial hemp product if the person has registered with the department as an industrial hemp producer.

(2) A person seeking to register under Subsection (1) shall provide to the department:

(a) the name of the person that is seeking to produce an industrial hemp product;

(b) the address of each location where the industrial hemp product will be manufactured; and

(c) written consent allowing a representative of the department to enter any premise where the person is manufacturing industrial hemp product for:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) An industrial hemp product or byproduct may not be used for production of a cannabinoid product.

Section 7. Section 4-41-104 is amended to read:

4-41-104. Product registration required for distribution -- Application -- Fees -- Renewal.

(1) [~~An industrial hemp~~] A cannabinoid product class or cannabinoid product that is not registered with the department may not be distributed in this state.

(2) A person seeking registration for [~~an industrial hemp~~] a cannabinoid product class or cannabinoid product shall:

(a) apply to the department on forms provided by the department; and

(b) submit an annual registration fee, determined by the department pursuant to Subsection 4-2-103(2), for each [~~industrial hemp~~] cannabinoid product class or cannabinoid product the person intends to distribute in this state.

(3) The department may conduct tests, or require test results, to ensure that any claim made by an applicant about [~~an industrial hemp~~] a cannabinoid product class or cannabinoid product is accurate.

(4) Upon receipt by the department of a proper application and payment of the appropriate fee, as described in Subsection (2), the department shall issue a registration to the applicant allowing the applicant to distribute the registered [~~industrial hemp~~] cannabinoid product class or cannabinoid product in the state for one year from the date of the payment of the fee, subject to suspension or revocation for cause.

(5) The department shall mail, either through the postal service or electronically, forms for the renewal of a registration to a registrant at least 30 days before the day on which the registrant's registration expires.

Section 8. Section 4-41-105 is amended to read:

4-41-105. Unlawful acts.

(1) It is unlawful for a person to handle, process, or market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp without the appropriate license or permit issued by the department under this chapter.

(2) It is unlawful for any person to:

(a) distribute, sell, or market [~~an industrial hemp product or~~] a cannabinoid product that is:

(i) not registered with the department under Section 4-41-104; or

(ii) noncompliant material;

(b) transport into or out of the state extracted material or final product that contains 0.3% or more of total THC; [~~or~~]

(c) [~~produce, sell,~~] sell or use a cannabinoid product that is:

(i) added to a conventional food or beverage, as the department further defines in rules described in Section 4-41-403;

(ii) marketed or manufactured to be enticing to children, as further defined in rules described in Section 4-41-403; or

(iii) smokable flower[~~.~~]; or

(d) knowingly or intentionally sell or give a cannabinoid product that contains THC or a THC analog in the course of business to an individual who is not at least 21 years old.

(3) The department may seize and destroy non-compliant material.

(4) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

Section 9. Section 4-41-106 is amended to read:

4-41-106. Enforcement -- Fine -- Citation.

(1) If a person violates this part, the department may:

(a) revoke the person's license or permit;

(b) decline to renew the person's license or permit; or

(c) assess the person a civil penalty that the department establishes in accordance with Section 4-2-304.

(2) Except for a fine that the department assesses for an [~~unlicensed processor or unregistered product~~] unlicensed processor, an unregistered product, or the sale of a cannabinoid product to an individual younger than 21 years old, the department shall deposit a penalty imposed under this section into the General Fund.

(3) The department may take an action described in Subsection (4) if the department concludes, upon investigation, that a person has violated this chapter, a rule made under this chapter, or an order issued under this chapter.

(4) If the department makes the conclusion described in Subsection (3), the department shall:

(a) issue the person a written administrative citation;

(b) attempt to negotiate a stipulated settlement;

(c) seize, embargo, or destroy the industrial hemp batch or unregistered product;

(d) order the person to cease the violation; and

(e) if a stipulated settlement cannot be reached, conduct an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(5) The department may, for a person, other than an individual, that is subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person a fine of up to $5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department may not revoke [~~an industrial hemp producer's~~] a cannabinoid processor license, an industrial hemp retailer's permit, or an industrial hemp laboratory permit without first giving the person the opportunity to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(7) If, within 30 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

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

(a) refuse to issue or renew the person's [~~producer~~] processor license, retailer permit, or laboratory permit; or

(b) suspend, revoke, or place on probation the person's [~~producer~~] processor license, retailer permit, or laboratory permit.

Section 10. Section 4-41-402 is amended to read:

4-41-402. Cannabinoid sales and use authorized.

(1) The sale or use of a cannabinoid product is prohibited:

(a) except as provided in this chapter; or

(b) unless the United States Food and Drug Administration approves the product.

(2) The department shall keep a list of registered cannabinoid products that the department has determined, in accordance with Section 4-41-403, are safe for human consumption.

(3) (a) A person may sell or use a cannabinoid product that is in the list of registered cannabinoid products described in Subsection (2).

(b) An individual may use cannabidiol or a cannabidiol product that is not in the list of registered cannabinoid products described in Subsection (2) if:

(i) the individual purchased the product outside the state; and

(ii) the product's contents do not violate Title 58, Chapter 37, Utah Controlled Substances Act.

(4) Any marketing for a cannabinoid product shall include a notice to consumers that the product is hemp or CBD and is not cannabis or medical cannabis, as those terms are defined in Section 26-61a-102.

(5) A cannabinoid product that is designed to be inhaled shall include a warning on the label regarding the possible health effects of inhaling cannabinoid products.

Section 11. Section 4-41-403 is amended to read:

4-41-403. Standards for registration.

(1) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) to determine standards for a registered cannabinoid product, including standards for:

(A) testing to ensure the product is safe for human consumption; and

(B) accurate labeling;

(ii) governing an entity that manufactures cannabinoid products, including standards for health and safety;

(iii) to determine when and how a cannabinoid processor's cannabinoid must be tested by the department at the expense of the cannabinoid processor;

[~~(iii)~~] (iv) regarding what constitutes:

(A) a conventional food or beverage; and

(B) a product that is marketed or manufactured to be enticing to children; and

[~~(iv)~~] (v) regarding any other issue the department considers necessary for the safe production and sale of cannabinoid products.

(b) Notwithstanding Subsection (1)(a), the department may not prohibit a sugar coating on a cannabinoid product to mask the product's taste, subject to the limitations described in Subsection [~~(1)(a)(iii) or (iv)~~] (1)(a)(iv) or (v).

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to immediately ban or limit the presence of any substance in a cannabinoid product after receiving a recommendation to do so from a public health authority as defined in Section 26B-1-102.

[~~(2)~~] (3) The department shall set a fee for a registered cannabinoid product, in accordance with Section 4-2-103.

[~~(3)~~] (4) (a) A producer, manufacturer, or distributor of a cannabinoid product may pay the fee described in Subsection [~~(2)~~] (3).

(b) A cannabinoid product may not be registered with the department until the fee described in Subsection [~~(2)~~] (3) is paid.

[~~(4)~~] (5) The department shall set an administrative fine, larger than the fee described in Subsection [~~(2)~~] (3), for a person who sells a cannabinoid product that is not registered by the department.

CHAPTER 147
H. B. 231
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

LOW INCOME HOUSING PROPERTY TAX EXEMPTION

Chief Sponsor: Steve Eliason
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends the definitions related to property tax exemptions in the Property Tax Act.

Highlighted Provisions:

This bill:

- provides the circumstances under which a private owner of property used as permanent supportive housing qualifies as a "nonprofit entity" for purposes of the exclusive use property tax exemption.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1101, as last amended by Laws of Utah 2022, Chapter 235

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

Section 1. Section 59-2-1101 is amended to read:

59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) "Compliance period" means a period equal to 15 taxable years beginning with the first taxable year for which the taxpayer claims a tax credit under Section 42, Internal Revenue Code, or Section 59-7-607 or 59-10-1010.

[~~(b)~~] (c) (i) "Educational purposes" means purposes carried on by an educational organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in this Subsection [~~(1)(b)(ii)~~] (1)(c)(ii).

[~~(c)~~] (d) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(i) religious purposes;

(ii) charitable purposes; or

(iii) educational purposes.

[~~(d)~~] (e) (i) "Farm machinery and equipment" means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

[~~(e)~~] (f) "Gift to the community" means:

(i) the lessening of a government burden; or

(ii) (A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

[~~(f)~~] (g) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

[~~(g)~~] (h) (i) "Nonprofit entity" means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity's assets are distributable only for exempt purposes under state law or to the government for a public purpose; and

(C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) "Nonprofit entity" includes an entity:

(A) if the entity is treated as a disregarded entity for federal income tax purposes and wholly owned by, and controlled under the direction of, a nonprofit entity; and

(B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.

(iii) "Nonprofit entity" includes an entity that is not an entity described in Subsection (1)(h)(i) if the entity jointly owns a property that:

(A) is used for the purpose of providing permanent supportive housing;

(B) has an owner that is an entity described in Subsection (1)(h)(i) or that is a housing authority that operates the permanent supportive housing;

(C) has an owner that receives public funding from a federal, state, or local government entity to provide support services and rental subsidies to the permanent supportive housing;

(D) is intended to be transferred at or before the end of the compliance period to an entity described in Subsection (1)(h)(i) or a housing authority that will continue to operate the property as permanent supportive housing; and

(E) has been certified by the Utah Housing Corporation as meeting the requirements described in Subsections (1)(h)(iii)(A) through (D).

(i) "Permanent supportive housing" means a housing facility that:

(i) provides supportive services;

(ii) makes a 15-year commitment to provide rent subsidies to tenants of the housing facility when the housing facility is placed in service;

(iii) receives an allocation of federal low-income housing tax credits in accordance with 26 U.S.C. Sec. 42; and

(iv) leases each unit to a tenant:

(A) who, immediately before leasing the housing, was homeless as defined in 24 C.F.R. 583.5; and

(B) whose rent is capped at no more than 30% of the tenant's household income.

(j) "Supportive service" means a service that is an eligible cost under 24 C.F.R. 578.53.

[~~(h)~~] (k) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed Forces Exemptions .

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(A) religious purposes;

(B) charitable purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational; and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

(8) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(9) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2023.

CHAPTER 148
H. B. 234
Passed February 24, 2023
Approved March 14, 2023
Effective May 3, 2023

UNIVERSITY RECOGNITION FOR INTERNATIONAL BACCALAUREATE ACHIEVEMENT

Chief Sponsor: Carol S. Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill enacts and amends provisions related to credit for prior learning in higher education.

Highlighted Provisions:

This bill:

- defines terms;
- amends the Utah Board of Higher Education's (board) requirement for acceptance of credit for prior learning;
- requires institutions to award credit for International Baccalaureate programme subject scores under certain circumstances;
- requires the board to consult with the Utah Association of IB World Schools and school International Baccalaureate program coordinators to develop policies regarding standards for awarding International Baccalaureate programme credits; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-16-110, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 53B-16-110 is amended to read:

53B-16-110. Credit for prior learning -- Board plan and policies -- Reporting.

(1) As used in this section:

(a) "Credit for prior learning" means credit awarded by an institution to a student who demonstrates, through a prior learning assessment, that the student's prior learning meets college-level competencies.

(b) "Institution" means an institution of higher education described in Section 53B-1-102.

(c) "International Baccalaureate programme" means an International Baccalaureate Secondary Education programme course that:

(i) the International Baccalaureate establishes; and

(ii) (A) an International Baccalaureate diploma candidate takes;

(B) an International Baccalaureate career candidate takes; or

(C) an International Baccalaureate course student, who is not a candidate under Subsection (1)(c)(ii)(A) or (B), takes.

(d) "International Baccalaureate programme subject score" means the total points the International Baccalaureate awards to a student for an International Baccalaureate programme course based on fulfillment of all subject requirements, including the end-of-course examination and externally assessed coursework.

[~~(c)~~] (e) "Prior learning" means knowledge, skills, or competencies acquired through formal or informal education outside the traditional postsecondary academic environment.

[~~(d)~~] (f) "Prior learning assessment" means a method of evaluating or assessing an individual's prior learning.

(2) The board shall develop a plan for advising and communicating with students and the public about credit for prior learning.

(3) (a) The board shall establish policies that provide minimum standards for all institutions regarding:

(i) accepted forms of prior learning assessments;

(ii) awarding credit for prior learning;

(iii) transferability of credit for prior learning between institutions;

(iv) transcription of credit for prior learning;

(v) institutional procedures for maintaining transparency and consistency in awarding credit for prior learning;

(vi) communication to faculty, advisors, current students, and prospective students regarding standards and [~~cost~~] costs related to credit for prior learning and prior learning assessments;

(vii) required training of faculty and advisors on prior learning assessment standards and processes; and

(viii) portfolio-specific prior learning assessments.

(b) The board shall ensure that accepted forms of prior learning assessments described in Subsection (3)(a) include [~~at least the following~~]:

(i) program evaluations, completed by an institution, of noncollegiate programs or training courses to recognize proficiencies;

(ii) nationally recognized, standardized examinations, including:

(A) Advanced Placement examinations;

(B) College Level Exam Program general examinations;

(C) College Level Exam Program subject examinations; and

(D) DANTES Subject Standardized Tests;

(iii) International Baccalaureate programme subject scores;

[~~(iii)~~] (iv) customized examinations offered by an institution to verify an individual's learning achievement that may include course final examinations or other examinations that assess general disciplinary knowledge or skill;

[~~(iv)~~] (v) evaluations of corporate or military training; and

[~~(v)~~] (vi) assessments of individuals' portfolios.

(4) (a) The board shall establish minimum scores and maximum credit for each standardized examination described in Subsection (3)(b)(ii).

(b) An institution shall award credit to a student who demonstrates competency by passing a standardized examination described in Subsection (3)(b)(ii) unless the award of credit duplicates credit already awarded.

(5) For purposes of Subsection (3)(b)(iii) and beginning with the 2023-2024, school year, all institutions shall award credit to a student who receives an International Baccalaureate programme subject score of four or higher for an International Baccalaureate programme course unless the award of credit duplicates credit an institution already awarded.

(6) The board shall, through committees that the board authorizes, consult with the Utah Association of IB World Schools and school International Baccalaureate program coordinators to align International Baccalaureate programme subject scores with commonly numbered institution of higher education courses to satisfy general education requirements or major requirements.

[~~(5)~~] (7) The board shall:

(a) create and maintain a website that provides statewide information on prior learning assessments and credit for prior learning; and

(b) [~~identify a~~] maintain software or data [~~tool that will~~] tools to support the board in:

(i) implementing the plan described in Subsection (2); and

(ii) fulfilling the board's requirements described in Section 53B-16-105.

[~~(6) On or before the November 2019 interim meeting, the board shall report to the Education Interim Committee on:~~]

[~~(a) the plan described in Subsection (2);~~]

[~~(b) the policies described in Subsection (3); and~~]

[~~(c) the software or data tool described in Subsection (5).~~]

[~~(7) On or before May 1, 2020, an institution shall report to the board:~~]

[~~(a) steps the institution will take to:~~]

[~~(i) implement the plan described in Subsection (2) and the policies described in Subsection (3); and~~]

[~~(ii) communicate to students about credit for prior learning, including about the policies described in Subsection (3);~~]

[~~(b) a timeline for the steps described in Subsection (7)(a); and~~]

[~~(c) each form of prior learning assessment for which the institution provides credit for prior learning that is not described in Subsection (3)(b).~~]

(8) An institution shall annually report to the board on:

(a) each form of prior learning assessment for which the institution provides credit for prior learning; and

(b) the total amount of credit for prior learning the institution provides to students.

CHAPTER 149
H. B. 237
Passed February 10, 2023
Approved March 14, 2023
Effective May 3, 2023

HUNTING MENTOR AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies requirements for using a hunting permit.

Highlighted Provisions:

This bill:

- defines terms;
- creates a hunting mentor program;
- describes the circumstances under which a minor may use an adult's permit under the program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-19-1, as last amended by Laws of Utah 2017, Chapter 104

ENACTS:

23-19-50, Utah Code Annotated 1953

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

Section 1. Section 23-19-1 is amended to read:

23-19-1 (Codified as 23A-4-201). Possession of licenses, certificates of registration, permits, and tags required -- Nonassignability -- Exceptions -- Free fishing day -- Nature of licenses, permits, or tags issued by the division.

(1) Except as provided in Subsection (5), a person may not take, hunt, fish, or seine protected wildlife or sell, trade, or barter protected wildlife or wildlife parts unless the person:

(a) procures the necessary licenses, certificates of registration, permits, or tags required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation issued in accordance with a rule made by the Wildlife Board under this title; and

(b) carries in the person's possession while engaging in the activities described in Subsection (1) the license, certificate of registration, permit, or tag required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation issued in accordance with a rule made by the Wildlife Board under this title.

(2) Except as provided in Subsection (3) a person may not:

(a) lend, transfer, sell, give, or assign:

(i) a license, certificate of registration, permit, or tag belonging to the person; or

(ii) a right granted by a license, certificate of registration, permit, or tag; or

(b) use or attempt to use a license, certificate of registration, permit, or tag of another person.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may, by rule, make exceptions to the prohibitions described in Subsection (2) to:

(a) transport wildlife;

(b) allow a person to take protected wildlife for another person if:

(i) the person possessing the license, certificate of registration, permit, or tag has a permanent physical impairment due to a congenital or acquired injury or disease; and

(ii) the injury or disease described in Subsection (3)(b)(i) results in the person having a disability that renders the person physically unable to use a legal hunting weapon or fishing device;

(c) allow a resident or nonresident minor under 18 years of age to use the resident or nonresident hunting permit of another person [~~if:~~] in accordance with Section 23-19-50; or

[~~(i) the resident minor is otherwise legally eligible to hunt; and~~]

[~~(ii) the permit holder:~~]

[~~(A) receives no form of compensation or remuneration for allowing the minor to use the permit;~~]

[~~(B) obtains the division's prior written approval to allow the minor to use the permit; and~~]

[~~(C) accompanies the minor, for the purposes of advising and assisting during the hunt, at a distance where the permit holder can communicate with the minor, in person, by voice or visual signals; or~~]

(d) subject to the requirements of Subsection (4), transfer to another person a certificate of registration to harvest brine shrimp and brine shrimp eggs, if the certificate is transferred in connection with the sale or transfer of the brine shrimp harvest operation or harvesting equipment.

(4) A person may transfer a certificate of registration to harvest brine shrimp and brine shrimp eggs if:

(a) the person submits to the division an application to transfer the certificate on a form provided by the division;

(b) the proposed transferee meets all requirements necessary to obtain an original certificate of registration; and

(c) the division approves the transfer of the certificate.

(5) A person is not required to obtain a license, certificate of registration, permit, or tag to:

(a) fish on a free fishing day that the Wildlife Board may establish each year by rule made by the Wildlife Board under this title or by an order or proclamation issued in accordance with a rule made by the Wildlife Board under this title;

(b) fish at a private fish pond operated in accordance with Section 23-15-10; or

(c) hunt birds on a commercial hunting area that the owner or operator is authorized to propagate, keep, and release for shooting in accordance with a certificate of registration issued under Section 23-17-6.

(6) (a) A license, permit, tag, or certificate of registration issued under this title, or the rules of the Wildlife Board issued pursuant to authority granted by this title, to take protected wildlife is:

(i) a privilege; and

(ii) not a right or property for any purpose.

(b) A point or other form of credit issued to, or accumulated by, a person under procedures established by the Wildlife Board in rule to improve the likelihood of obtaining a hunting permit in a division-administered drawing:

(i) may not be transferred, sold, or assigned to another person; and

(ii) is not a right or property for any purpose.

Section 2. Section 23-19-50 is enacted to read:

23-19-50 (Codified as 23A-4-710). Hunting Mentor Program.

(1) As used in this section, "immediate family member" means a spouse, child, parent, sibling, grandparent, grandchild, parent-in-law, child-in-law, sibling-in-law, or stepchild.

(2) A resident or nonresident minor under 18 years old may use the hunting permit of another person if:

(a) the permit holder:

(i) receives no form of compensation or remuneration for allowing the minor to use the permit;

(ii) obtains the division's prior written approval to allow the minor to use the permit; and

(iii) accompanies the minor, for the purposes of advising and assisting during the hunt, at a distance where the permit holder can communicate with the minor, in person, by voice or visual signals; and

(b) the minor is otherwise legally eligible to hunt.

(3) If the permit holder dies before the hunt authorized by the permit described in this section, the minor may use the permit if the minor is:

(a) an immediate family member of the permit holder; and

(b) accompanied by an adult immediate family member while using the permit.

(4) This section does not convey any property interest.

(5) The Wildlife Board shall issue a permit in accordance with this chapter.

CHAPTER 150
H. B. 244
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

UTAH VICTIM SERVICES COMMISSION AND VICTIM SERVICES

Chief Sponsor: Ken Ivory
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses the Utah Victim Services Commission and victim services.

Highlighted Provisions:

This bill:

- modifies the membership of the State Commission on Criminal and Juvenile Justice, the Utah Substance Use and Mental Health Advisory Council, the Utah Council on Victims of Crime, and the Domestic Violence Offender Treatment Board;
- creates the Victim Services Restricted Account;
- addresses the funding and distribution of the Victim Services Restricted Account;
- creates the Utah Victim Services Commission (commission);
- addresses membership, appointment, terms, and vacancies for the commission;
- addresses expenses for members of the commission;
- addresses the procedure and structure of the commission, including the appointment of a chair, the election of a vice chair, and the establishment of subcommittees;
- provides the duties of the commission, including the duties of the commission in regard to the Victim Services Restricted Account;
- addresses staffing of the commission;
- allows the commission to contract with a third party for certain services; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Governor's Office – State Commission on Criminal and Juvenile Justice – Utah Victim Services Commission, as an ongoing appropriation:
  - from the General Fund, $550,000; and
- to Governor's Office – State Commission on Criminal and Juvenile Justice – Utah Victim Services Commission, as a one-time appropriation:
  - from the General Fund, $500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
63M-7-202, as last amended by Laws of Utah 2020, Chapter 354
63M-7-301, as last amended by Laws of Utah 2022, Chapter 255
63M-7-601, as last amended by Laws of Utah 2021, Chapter 172
63M-7-702, as enacted by Laws of Utah 2022, Chapter 145

ENACTS:
63M-7-219, Utah Code Annotated 1953
63M-7-801, Utah Code Annotated 1953
63M-7-802, Utah Code Annotated 1953
63M-7-803, Utah Code Annotated 1953
63M-7-804, Utah Code Annotated 1953
63M-7-805, Utah Code Annotated 1953

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

Section 1. Section 63M-7-202 is amended to read:

63M-7-202. Composition -- Appointments -- Ex officio members -- Terms -- United States Attorney as nonvoting member.

(1) The [~~commission on criminal and juvenile justice shall be composed of 25~~] State Commission on Criminal and Juvenile Justice is composed of 26 voting members as follows:

(a) the chief justice of the supreme court, as the presiding officer of the judicial council, or a judge designated by the chief justice;

(b) the state court administrator or the state court administrator's designee;

(c) the executive director of the Department of Corrections or the executive director's designee;

(d) the executive director of the [~~Department of Human Services~~] Department of Health and Human Services or the executive director's designee;

(e) the commissioner of the Department of Public Safety or the commissioner's designee;

(f) the attorney general or an attorney designated by the attorney general;

(g) the president of the chiefs of police association or a chief of police designated by the association's president;

(h) the president of the sheriffs' association or a sheriff designated by the association's president;

(i) the chair of the Board of Pardons and Parole or a member of the Board of Pardons and Parole designated by the chair;

(j) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing Commission designated by the chair;

(k) the chair of the Utah Substance Use and Mental Health Advisory Council or a member of the Utah Substance Use and Mental Health Advisory Council designated by the chair;

(l) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of Juvenile Justice designated by the chair;

(m) the chair of the Utah Victim Services Commission or a member of the Utah Victim Services Commission designated by the chair;

[~~(m)~~] (n) the chair of the Utah Council on Victims of Crime or a member of the Utah Council on Victims of Crime designated by the chair;

[~~(n)~~] (o) the executive director of the Salt Lake Legal Defender Association or an attorney designated by the executive director;

[~~(o)~~] (p) the chair of the Utah Indigent Defense Commission or a member of the Indigent Defense Commission designated by the chair;

[~~(p)~~] (q) the Salt Lake County District Attorney or an attorney designated by the district attorney; and

[~~(q)~~] (r) the following members designated to serve four-year terms:

(i) a juvenile court judge, appointed by the chief justice, as presiding officer of the Judicial Council;

(ii) a representative of the statewide association of public attorneys designated by the association's officers;

(iii) one member of the House of Representatives who is appointed by the speaker of the House of Representatives; and

(iv) one member of the Senate who is appointed by the president of the Senate.

(2) The governor shall appoint the remaining five members to four-year staggered terms as follows:

(a) one criminal defense attorney appointed from a list of three nominees submitted by the Utah State Bar Association;

(b) one attorney who primarily represents juveniles in delinquency matters appointed from a list of three nominees submitted by the Utah Bar Association;

(c) one representative of public education;

(d) one citizen representative; and

(e) a representative from a local faith who has experience with the criminal justice system.

(3) In addition to the members designated under Subsections (1) and (2), the United States Attorney for the district of Utah or an attorney designated by the United States Attorney may serve as a nonvoting member.

(4) In appointing the members under Subsection (2), the governor shall take into account the geographical makeup of the commission.

Section 2. Section 63M-7-219 is enacted to read:

63M-7-219. Victim Services Restricted Account -- Funding -- Uses.

(1) There is created in the General Fund a restricted account known as the "Victim Services Restricted Account."

(2) The Victim Services Restricted Account is funded by:

(a) money appropriated to the account by the Legislature;

(b) gifts, donations, or grants from private entities or individuals; and

(c) interest earned on money in the account.

(3) Subject to appropriation, the Legislature shall use the funds in the Victim Services Restricted Account to fund services for victims, including using funds for:

(a) services provided by Children's Justice Centers;

(b) services for sexual assault and domestic violence victims;

(c) services recommended by the Utah Victim Services Commission under Section 63M-7-804; or

(d) any administrative costs associated with implementing victim services.

Section 3. Section 63M-7-301 is amended to read:

63M-7-301. Definitions -- Creation of council -- Membership -- Terms.

(1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) one elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of Integrated Healthcare or the director's designee;

(e) the state superintendent of public instruction or the superintendent's designee;

(f) the executive director of the Department of Health and Human Services or the executive director's designee;

(g) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

(n) the state court administrator or the state court administrator's designee;

(o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) one prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

(t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection 62A-15-1101(2);

(u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

(v) the chair of the Utah Victim Services Commission or the chair's designee;

[~~(v)~~] (w) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

[~~(w)~~] (x) in addition to the voting members described in Subsections (2)(a) through [~~(v)~~] (w), the following voting members appointed by a majority of the members described in Subsections (2)(a) through [~~(v)~~] (w) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;

(iv) one resident of the state who represents prevention professionals;

(v) one resident of the state who represents treatment professionals;

(vi) one resident of the state who represents the physical health care field;

(vii) one resident of the state who is a criminal defense attorney;

(viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;

(ix) one resident of the state who represents local law enforcement agencies;

(x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and

(xi) one resident of the state who is certified by the Division of Integrated Healthcare as a peer support specialist as described in Subsection 62A-15-103(2)(h).

(3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the council.

Section 4. Section 63M-7-601 is amended to read:

63M-7-601. Creation -- Members -- Chair.

(1) There is created within the governor's office the Utah Council on Victims of Crime.

(2) The council [~~shall be~~] is composed of [~~27~~] 28 voting members as follows:

(a) a representative of the State Commission on Criminal and Juvenile Justice appointed by the executive director;

(b) a representative of the Department of Corrections appointed by the executive director;

(c) a representative of the Board of Pardons and Parole appointed by the chair;

(d) a representative of the Department of Public Safety appointed by the commissioner;

(e) a representative of the Division of Juvenile Justice Services appointed by the director;

(f) a representative of the Utah Office for Victims of Crime appointed by the director;

(g) a representative of the Office of the Attorney General appointed by the attorney general;

(h) a representative of the United States Attorney for the district of Utah appointed by the United States Attorney;

(i) a representative of Utah's Native American community appointed by the director of the Division of Indian Affairs after input from federally recognized tribes in Utah;

(j) a professional or volunteer working in the area of violence against women and families appointed by the governor;

(k) a representative of the [~~Department of Health's~~] Department of Health and Human Services Violence and Injury Prevention Program appointed by the program's manager;

(l) the chair of each judicial district's victims' rights committee;

(m) a representative of the Statewide Association of Public Attorneys appointed by that association;

(n) a representative of the Utah Chiefs of Police Association appointed by the president of that association;

(o) a representative of the Utah Sheriffs' Association appointed by the president of that association;

(p) a representative of a Children's Justice Center appointed by the attorney general;

(q) the director of the Division of Child and Family Services or that individual's designee; [~~and~~]

(r) the chair of the Utah Victim Services Commission or the chair's designee; and

[~~(r)~~] (s) the following members appointed by the members in Subsections (2)(a) through [~~(2)(q)~~] (2)(r) to serve four-year terms:

(i) an individual who engages in community based advocacy;

(ii) a citizen representative; and

(iii) a citizen representative who has been a victim of crime.

(3) The council shall annually elect:

(a) one member to serve as chair;

(b) one member to serve as vice-chair; and

(c) one member to serve as treasurer.

Section 5. Section 63M-7-702 is amended to read:

63M-7-702. Domestic Violence Offender Treatment Board -- Creation -- Membership -- Quorum -- Per diem -- Staff support -- Meetings.

(1) There is created within the commission the Domestic Violence Offender Treatment Board consisting of the following members:

(a) the executive director of the Department of Corrections, or the executive director's designee;

(b) the executive director of the Department of Health and Human Services, or the executive director's designee;

(c) one individual who represents a state program that focuses on prevention of injury and domestic violence appointed by the executive director of the Department of Health and Human Services;

(d) the commissioner of public safety for the Department of Public Safety, or the commissioner's designee;

(e) the chair of the Utah Victim Services Commission or the chair's designee;

[~~(e)~~] (f) the director of the Utah Office for Victims of Crime, or the director's designee;

[~~(f)~~] (g) the chair of the Board of Pardons and Parole, or the chair's designee;

[~~(g)~~] (h) the director of the Division of Juvenile Justice Services, or the director's designee;

[~~(h)~~] (i) one individual who represents the Administrative Office of the Courts appointed by the state court administrator; and

[~~(i)~~] (j) ten individuals appointed by the executive director of the commission, including:

(i) the following four individuals licensed under Title 58, Chapter 60, Mental Health Professional Practice Act:

(A) a clinical social worker;

(B) a marriage and family therapist;

(C) a professional counselor; and

(D) a psychologist;

(ii) one individual who represents an association of criminal defense attorneys;

(iii) one criminal defense attorney who primarily represents indigent criminal defendants;

(iv) one individual who represents an association of prosecuting attorneys;

(v) one individual who represents law enforcement;

(vi) one individual who represents an association of criminal justice victim advocates; and

(vii) one individual who represents a nonprofit organization that provides domestic violence victim advocate services.

(2) (a) A member may not serve on the board for more than eight consecutive years.

(b) If a vacancy occurs in the membership of the board appointed under Subsection (1), the member shall be replaced in the same manner in which the original appointment was made.

(c) A member of the board serves until the member's successor is appointed.

(3) The members of the board shall vote on a chair and co-chair of the board to serve for two years.

(4) (a) A majority of the board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the board.

(5) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall provide staff support to the board.

(7) The board shall meet at least quarterly on a date the board sets.

Section 6. Section 63M-7-801 is enacted to read:

Part 8. Utah Victim Services Commission

63M-7-801 (Codified as 63M-7-901). Definitions.

As used in this part:

(1) "Commission" means the Utah Victim Services Commission.

(2) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

(3) "Member" means a member of the Utah Victim Services Commission.

(4) "State domestic violence coalition" means the same as that term is defined in 45 C.F.R. Sec. 1370.2.

(5) "State sexual assault coalition" means the same as that term is defined in 34 U.S.C. Sec. 12291.

(6) "Tribal coalition" means the same as that term is defined in 34 U.S.C. Sec. 12291.

(7) "Victim Services Restricted Account" means the account created in Section 63M-7-219.

Section 7. Section 63M-7-802 is enacted to read:

63M-7-802. Creation -- Membership -- Terms -- Vacancies -- Expenses.

(1) There is created the Utah Victim Services Commission within the State Commission on Criminal and Juvenile Justice.

(2) The commission is composed of the following members:

(a) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(b) the director of the Utah Office for Victims of Crime or the director's designee;

(c) the executive director of the Department of Health and Human Services or the executive director's designee;

(d) the executive director of the Department of Corrections or the executive director's designee;

(e) the director of the Division of Multicultural Affairs or the director's designee;

(f) the executive director of the state sexual assault coalition for this state or the executive director's designee;

(g) the executive director of the state domestic violence coalition for this state or the executive director's designee;

(h) the executive director of the tribal coalition for this state or the executive director's designee;

(i) the director of the Children's Justice Center Program in the Office of the Attorney General or the director's designee;

(j) the chair of the Children's Justice Center Standing Committee or the chair's designee;

(k) the attorney general or the attorney general's designee;

(l) the commissioner of the Department of Public Safety or the commissioner's designee;

(m) a criminal justice system based advocate, appointed by the governor with the advice and consent of the Senate;

(n) a prosecuting attorney, appointed by the governor with the advice and consent of the Senate;

(o) a criminal defense attorney, appointed by the governor with the advice and consent of the Senate;

(p) a law enforcement representative from the Utah Sheriffs Association or Utah Chiefs of Police Association, appointed by the governor with the advice and consent of the Senate;

(q) an individual who is a victim of crime, appointed by the governor with the advice and consent of the Senate;

(r) an individual who is a current or former representative from the House of Representatives or has experience or expertise with the legislative process, appointed by the speaker of the House of Representatives; and

(s) an individual who is a current or former senator from the Senate or has experience or expertise with the legislative process, appointed by the president of the Senate.

(3) (a) A member appointed under Subsections (2)(m) through (s) shall serve a four-year term.

(b) A member appointed to serve a four-year term is eligible for reappointment.

(4) When a vacancy occurs in the membership of the commission for any reason, the replacement shall be appointed by the applicable appointing authority for the remainder of the unexpired term of the original appointment.

(5) Except as otherwise provided in Subsection (5), a member may not receive compensation for the member's service but may receive per diem and reimbursement for travel expenses incurred as a member at the rates established by:

(a) Section 63A-3-106;

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

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

(6) A member may not receive per diem or reimbursement for travel expenses under Subsection (5) if the member is being paid by a governmental entity while performing the member's service on the commission.

Section 8. Section 63M-7-803 is enacted to read:

63M-7-803. Chair and vice chair -- Procedure -- Subcommittees.

(1) (a) Except as provided in Subsection (1)(b), the governor shall appoint, with the advice and consent of the Senate, a chair from among the membership of the commission.

(b) A member who is a legislator may not be appointed as the chair of the commission.

(c) The chair of the commission shall serve a two-year term.

(2) (a) The members of the commission shall elect a vice chair from among the membership of the commission.

(b) The vice chair of the commission shall serve a two-year term.

(c) A member who is a legislator may not be elected as the vice chair of the commission.

(3) (a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

(4) The commission shall meet quarterly or more frequently as determined necessary by the chair.

(5) The commission shall establish:

(a) a subcommittee focused on domestic violence that is co-chaired by:

(i) the executive director of the state domestic violence coalition for this state or the executive director's designee; and

(ii) the executive director of the tribal coalition for this state or the executive director's designee;

(b) a subcommittee focused on rape and sexual assault that is co-chaired by:

(i) the executive director of the state sexual assault coalition for this state or the executive director's designee; and

(ii) the executive director of the tribal coalition for this state or the executive director's designee;

(c) a subcommittee focused on child abuse that is chaired by the chair of the Children's Justice Center Standing Committee or the chair's designee;

(d) a subcommittee focused on multicultural communities with distinct victimization issues that is chaired by the director of Division of Multicultural Affairs or the director's designee; and

(e) any other subcommittee as needed to assist the commission in accomplishing the duties of the commission, including an executive subcommittee.

(6) Except as otherwise provided in Subsection (5), the commission may:

(a) appoint to a subcommittee any member of the commission or any other individual with subject-matter expertise that is relevant to a subcommittee's focus and purpose;

(b) appoint the chair of any subcommittee; and

(c) establish the focus and purpose of a subcommittee.

Section 9. Section 63M-7-804 is enacted to read:

63M-7-804. Duties of the commission -- Report.

(1) The commission shall, in partnership with state agencies and organizations, including the Children's Justice Center Program, the Utah Office for Victims of Crime, the Utah Council on Victims of Crime, and the Division of Child and Family Services:

(a) review and assess the duties and practices of the State Commission on Criminal and Juvenile Justice regarding services and criminal justice policies pertaining to victims;

(b) encourage and facilitate the development and coordination of trauma-informed services for crime victims throughout the state;

(c) encourage and foster public and private partnerships for the purpose of:

(i) assessing needs for crime victim services throughout the state;

(ii) developing crime victim services and resources throughout the state; and

(iii) coordinating crime victim services and resources throughout the state;

(d) generate unity for ongoing efforts to reduce and eliminate the impact of crime on victims through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(e) recommend and support the creation, dissemination, and implementation of statewide policies and plans to address crimes, including domestic violence, sexual violence, child abuse, and driving under the influence of drugs and alcohol;

(f) develop a systematic process and clearinghouse for the collection and dissemination of data on domestic violence and sexual violence;

(g) collect information on statewide funding for crime victim services and prevention efforts, including the sources, disbursement, and outcomes of statewide funding for crime victim services and prevention efforts;

(h) consider recommendations from any subcommittee of the commission; and

(i) make recommendations regarding:

(i) the duties and practices of the State Commission on Criminal and Juvenile Justice to ensure that:

(A) crime victims are a vital part of the criminal justice system of the state;

(B) all crime victims and witnesses are treated with dignity, respect, courtesy, and sensitivity; and

(C) the rights of crime victims and witnesses are honored and protected by law in a manner no less vigorous than protections afforded to criminal defendants; and

(ii) statewide funding for crime victim services and prevention efforts.

(2) The commission may recommend to the Legislature the services to be funded by the Victim Services Restricted Account.

(3) The commission shall report the commission's recommendations annually to the State Commission on Criminal and Juvenile Justice, the governor, the Judicial Council, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Health and Human Services Interim Committee, the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee.

(4) When taking an action or making a recommendation, the commission shall respect that a state agency is bound to follow state law and may have duties or responsibilities imposed by state law.

Section 10. Section 63M-7-805 is enacted to read:

63M-7-805 (Codified as 63M-7-905). Staff -- Contract with third party.

(1) The State Commission on Criminal and Juvenile Justice shall provide staff to the commission and to any subcommittee of the commission.

(2) The commission may contract with a third party to assist the commission with reviewing and providing recommendations on:

(a) the best practices and policies for crime victim services;

(b) the structure and membership of the commission;

(c) the purpose and duties of the commission, including any overlapping duties that the commission has with another state office, board, or commission;

(d) the funding for crime victim services in this state, including the need for funding, the management of state funds for crime victim services, and the implementation of accountability and performance measures; and

(e) any other issue related to the duties of the commission that the third party may provide assistance.

Section 11. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office – State Commission on Criminal and Juvenile Justice

From General Fund 550,000

Schedule of Programs:

Utah Victim Services Commission 550,000

The Legislature intends that the State Commission on Criminal and Juvenile Justice use the funds appropriated under this item to staff the Utah Victims Services Commission.

ITEM 2

To Governor's Office – State Commission on Criminal and Juvenile Justice

From General Fund, One-time 500,000

Schedule of Programs:

Utah Victim Services Commission 500,000

The Legislature intends that the Utah Victim Services Commission use funds appropriated under this item to hire a third party to assist the Utah Victim Services Commission in accordance with Subsection 63M-7-805(2).

CHAPTER 151
H. B. 246
Passed February 17, 2023
Approved March 14, 2023
Effective May 3, 2023

BOARD OF PARDONS AND PAROLE AMENDMENTS

Chief Sponsor: Judy Weeks Rohner
Senate Sponsor: Jacob L. Anderegg
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Walt Brooks
Kay J. Christofferson
Tyler Clancy
Jon Hawkins
Sandra Hollins
Dan N. Johnson
Marsha Judkins
Michael L. Kohler
Trevor Lee
Rosemary T. Lesser
Karen M. Peterson
Christine F. Watkins

LONG TITLE

General Description:

This bill modifies the responsibilities of the Board of Pardons and Parole.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Board of Pardons and Parole to prioritize public safety when making a decision about an offender;
- enacts reporting requirements; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-27-5, as last amended by Laws of Utah 2021, Chapters 21, 246 and 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 260

ENACTS:

77-27-32, Utah Code Annotated 1953

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

Section 1. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions an offender's conviction may be pardoned or commuted.

(b) The Board of Pardons and Parole shall determine by majority decision when and under what conditions an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

(i) be released upon parole;

(ii) have a fine or forfeiture remitted;

(iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

(iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

(v) have the offender's sentence terminated.

(c) The board shall prioritize public safety when making a determination under Subsection (1)(a) or (1)(b).

[~~(c)~~] (d) (i) The board may sit together or in panels to conduct hearings.

(ii) The chair shall appoint members to the panels in any combination and in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board.

(iii) The chair may participate on any panel and when doing so is chair of the panel.

(iv) The chair of the board may designate the chair for any other panel.

[~~(d)~~] (e) (i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

(A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

(B) release the offender on parole; or

(C) commute, pardon, or terminate an offender's sentence.

(ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

[~~(e)~~] (f) A commutation or pardon may be granted only after a full hearing before the board.

(2) (a) In the case of any hearings, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d) (i) Notice to the victim or the victim's representative shall include information provided

in Section 77-27-9.5, and any related rules made by the board under that section.

(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.

(3) (a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) the modification of an offender's payment schedule for restitution; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

(c) Pursuant to Subsection 63G-2-103(22)(b)(xi), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

(4) (a) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment.

(b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole.

(c) At the next session of the board, the board:

(i) shall continue or terminate the respite or reprieve; or

(ii) may commute the punishment or pardon the offense as provided.

(d) In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at the Legislature's next session.

(e) The Legislature shall pardon or commute the sentence or direct the sentence's execution.

(5) (a) In determining when, where, and under what conditions an offender serving a sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's criminal accounts receivable remitted, or have the offender's sentence commuted or terminated, the board shall:

(i) consider whether the offender has made restitution ordered by the court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the offender's sentence;

(ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making determinations under this Subsection (5);

(iii) consider information provided by the Department of Corrections regarding an offender's individual case action plan; and

(iv) review an offender's status within 60 days after the day on which the board receives notice from the Department of Corrections that the offender has completed all of the offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.

(b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.

(7) For an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

Section 2. Section 77-27-32 is enacted to read:

77-27-32. Reporting requirements.

(1) The board shall publicly display metrics on the board's website, including:

(a) a measure of recidivism;

(b) a measure of time under board jurisdiction;

(c) a measure of prison releases by category;

(d) a measure of parole revocations;

(e) a measure of alignment of board decisions with the guidelines established by the Sentencing Commission under Section 63M-7-404; and

(f) a measure of the aggregate reasons for departing from the guidelines described in Subsection (1)(e).

(2) On or before September 30 of each year, the board shall submit to the commission and the Law Enforcement and Criminal Justice Interim Committee a report for the previous fiscal year that summarizes the metrics in Subsection (1).

CHAPTER 152
H. B. 259
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

SUICIDE PREVENTION IN CORRECTIONAL FACILITIES

Chief Sponsor: Carol S. Moss
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses suicide prevention in county jails.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the Department of Public Safety to administer the Suicide Deterrence Grant Program to provide suicide barriers in county jails.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

17-22-34, Utah Code Annotated 1953

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

Section 1. Section 17-22-34 is enacted to read:

17-22-34. Suicide Deterrence Grant Program -- Rulemaking.

(1) As used in this section:

(a) "Department" means the Department of Public Safety.

(b) "Grant" means a grant awarded under this section.

(c) "Program" means the Suicide Deterrence Grant Program created in this section.

(d) "Suicide barrier" means a barrier installed on an upper level of a building to prevent an individual from falling.

(2) (a) There is created within the department the Suicide Deterrence Grant Program.

(b) The purpose of the program is to award grants to county jails for materials to construct and install suicide barriers.

(3) (a) A county jail that submits a proposal for a grant to the department shall include in the proposal:

(i) a statement describing the need for suicide barriers in the county jail;

(ii) the amount and type of material to be used in constructing the suicide barriers;

(iii) a plan for installation of the suicide barriers;

(iv) any funding sources in addition to the grant for the proposal;

(v) any existing or planned partnerships between the county jail and another entity to implement the proposal; and

(vi) other information the department determines necessary to evaluate the proposal.

(b) When evaluating a proposal for a grant, the department shall consider:

(i) the likelihood the proposal will accomplish the purpose described in Subsection (2);

(ii) the cost of the proposal;

(iii) the extent to which additional funding sources or existing or planned partnerships may benefit the proposal; and

(iv) the viability and sustainability of the proposal.

(4) Subject to Subsection (3), the department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:

(a) eligibility criteria for a grant;

(b) the form and process for submitting a proposal to the department for a grant;

(c) the method and formula for determining a grant amount; and

(d) reporting requirements for a grant recipient.

CHAPTER 153
H. B. 261
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

FIRE RELATED AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses efforts to prevent and prepare for fires.

Highlighted Provisions:

This bill:

- addresses prescribed fires, pile burns, and nonfull suppression events on private land;
- provides for transfers to the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund;
- modifies procedures related to closed fire seasons;
- addresses when burning is allowed, including addressing when permits are required, notice requirements, criminal penalties, and liability;
- addresses the Wildland Fire Suppression Fund;
- enacts provisions related to wildland-urban interface fire prevention, preparedness, and mitigation including:
  - defining terms;
  - creating a funding mechanism;
  - permitting the division to create criteria related to a community wildfire preparedness plan; and
  - requiring actions related to a community wildfire preparedness plan;
- addresses rulemaking by the division;
- repeals outdated language; and
- makes technical and conforming amendments.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund, as a one-time appropriation:
  - from the Mineral Bonus Account, One-time, $2,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2a-105, as renumbered and amended by Laws of Utah 2020, Chapter 57
63I-2-265, as last amended by Laws of Utah 2022, Chapter 219
63J-1-314, as last amended by Laws of Utah 2017, Chapter 210
65A-8-204, as last amended by Laws of Utah 2021, Chapter 97
65A-8-211, as last amended by Laws of Utah 2016, Chapter 174
65A-8-213, as enacted by Laws of Utah 2019, Chapter 118

ENACTS:

65A-8-215, Utah Code Annotated 1953

REPEALS:

65A-8-214, as enacted by Laws of Utah 2022, Chapter 219

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

Section 1. Section 19-2a-105 is amended to read:

19-2a-105. Prescribed fires, pile burns, and nonfull suppression events.

(1) As used in this section:

(a) "Board" means the Air Quality Board.

(b) "Burn plan" means the plan required for each fire application ignited by a land manager.

(c) "Burn window" means the period of time during which the prescribed fire is scheduled for ignition.

(d) "Director" means the director of the division.

(e) "Division" means the Division of Air Quality created in Section 19-1-105.

(f) "Exceptional event" means one or more prescribed burning or pile burning events and the resulting emissions that affect air quality in such a way that there exists a clear causal relationship between the specific event and the monitored exceedance or violation.

(g) "Land manager" means a person who administers, directs, oversees, or controls the use of public or private land, including the application of fire to the land.

(h) "Large prescribed fire" means a fire that a land manager ignites to meet a specific objective, including a resource benefit that covers 20 acres or more per burn.

(i) "Large prescribed pile fire" means a fire that a land manager ignites to meet a specific objective, including a resource benefit, that exceeds 30,000 cubic feet per day.

(j) "Nonfull suppression event" means a naturally ignited wildland fire for which a land manager secures less than full suppression to accomplish a specific prestated resource management objective in a predefined geographic area.

(k) "Pile burning" means a fire or fires that a land manager ignites for fuel mitigation designed to reduce the risk of catastrophic fire, improve ecological health, and prevent dangerous wildfires by burning piled or scattered leaves, pine needles, downed trees, natural woody debris, thick vegetation, or similar organic material left behind after logging or other forest treatments.

(l) "Prescribed burning" means the planned and controlled burning of plant material in order to minimize the risk of catastrophic wildfire or to meet specific land management objectives.

(m) "Wildland" means an area in which development is essentially nonexistent other than the existence of a pipeline, power line, road,

railroad, or other transportation or conveyance facility or one or more structures that are widely scattered.

(2) (a) The division may not permit a land manager to conduct a large prescribed fire or large prescribed pile fire if the land manager does not comply with the rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) In the rules made by the board under this Subsection (2), the board shall require the land manager to:

(i) describe the use of a state, county, or municipal resource in the large prescribed fire or large prescribed pile fire;

(ii) provide the division the burn plan for a large prescribed fire or large prescribed pile fire by no later than one week before the day of the burn window; and

(iii) notify the division of a nonfull suppression event once a fire becomes a nonfull suppression event.

(3) The director shall approve a prescribed burning or pile burning in wildland areas and the prescribed burning or pile burning may be conducted under the following conditions:

(a) the United States National Weather Service clearing index in the area of the burn is 500 or greater;

(b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director approves a prescribed burning or pile burning after the land manager demonstrates to the director that the planned prescribed burning or pile burning will:

(i) not cause an exceedance of a national ambient air quality standard outside the wildland area;

(ii) minimize the long range transport of smoke; and

(iii) protect visibility in mandatory federal class 1 areas; or

(c) the United States National Weather Service clearing index in the burn area is less than 500 and the prescribed burning or pile burning may cause an exceedance of a national ambient air quality standard outside the wildland area if the land manager demonstrates to the director that the prescribed burning or pile burning fuel conditions are optimal to:

(i) protect safety of the public and fire staff;

(ii) minimize the risk of catastrophic fire;

(iii) achieve necessary watershed and ecological conditions; and

(iv) establish, restore, or maintain a sustainable and resilient wildland ecosystem or to preserve endangered or threatened species through a program of prescribed burning or pile burning.

(4) The director shall approve a prescribed burning or pile burning to reduce hazardous fuels for public safety in areas not defined as wildland and the prescribed burning or pile burning may be conducted under the following conditions:

(a) the United States National Weather Service clearing index in the area of the burn is 500 or greater; or

(b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director approves a prescribed burning or pile burning after the land manager:

(i) provides a demonstration that includes an assessment of the impact to local receptors;

(ii) implements measures to notify residents; and

(iii) minimizes residents exposure to smoke.

(5) The director shall approve a prescribed burning or pile burning for resource management purposes in areas not defined as wildland and the prescribed burning or pile burning may be conducted under the following conditions:

(a) the United States National Weather Service clearing index in the area of the burn is 500 or greater; or

(b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director approves a prescribed burning or pile burning after the land manager demonstrates that the planned prescribed burning or pile burning will:

(i) not cause an exceedance of a national ambient air quality standard;

(ii) minimize the long range transport of smoke; and

(iii) protect visibility in mandatory federal class 1 areas.

(6) The division shall make the necessary filings with the United States Environmental Protection Agency if a prescribed burning or pile burning approved by the director results in an exceptional event.

Section 2. Section 63I-2-265 is amended to read:

63I-2-265. Repeal dates: Title 65A.

[~~Section 65A-8-214, wildfire prevention and preparedness program and study, is repealed July 1, 2023.~~]

Section 3. Section 63J-1-314 is amended to read:

63J-1-314. Deposits related to the Wildland Fire Suppression Fund and the Disaster Recovery Funding Act -- Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund.

(1) As used in this section, "operating deficit" means that, at the end of the fiscal year, the

unassigned fund balance in the General Fund is less than zero.

(2) Except as provided under Subsections (3) and (4), at the end of each fiscal year, the Division of Finance shall, after the transfer of General Fund revenue surplus has been made to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section 63J-1-312, transfer:

(a) to the Wildland Fire Suppression Fund created in Section 65A-8-204 an amount equal to the lesser of:

(i) $4,000,000; or

(ii) an amount necessary to make the balance in the Wildland Fire Suppression Fund equal to $12,000,000; [~~and~~]

(b) if no money is transferred to the Wildland Fire Suppression Fund under Subsection (2)(a), to the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in Section 65A-8-215 an amount equal to the lesser of:

(i) $4,000,000; and

(ii) the amount necessary to make the balance in the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund equal to $12,000,000; and

[~~(b)~~] (c) an amount into the State Disaster Recovery Restricted Account, created in Section 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312, calculated by:

(i) determining the amount of General Fund revenue surplus after the transfer to the Medicaid Growth Reduction and Budget Stabilization Account under Section 63J-1-315, the General Fund Budget Reserve Account under Section 63J-1-312, and the transfer to the Wildland Fire Suppression Fund as described in Subsection (2)(a);

(ii) calculating an amount equal to the lesser of:

(A) 25% of the amount determined under Subsection [~~(2)(b)(i)~~] (2)(c)(i); or

(B) 6% of the total of the General Fund appropriation amount for the fiscal year in which the surplus occurs; and

(iii) adding to the amount calculated under Subsection [~~(2)(b)(ii)~~] (2)(c)(ii) an amount equal to the lesser of:

(A) 25% more of the amount described in Subsection [~~(2)(b)(i)~~] (2)(c)(i); or

(B) the amount necessary to replace, in accordance with this Subsection [~~(2)(b)(iii)~~] (2)(c)(iii), any amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal years before the fiscal year in which the surplus occurs if:

(I) a surplus exists; and

(II) the Legislature appropriates money from the State Disaster Recovery Restricted Account that is not replaced by appropriation or as provided in this Subsection [~~(2)(b)(iii)~~] (2)(c)(iii).

(3) (a) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the division shall reduce the transfer to the State Disaster Recovery Restricted Account by an amount necessary to eliminate the operating deficit, up to the full amount of the transfer.

(b) If, after reducing the transfer to the State Disaster Recovery Account to zero under Subsection (3)(a), the Division of Finance determines that an operating deficit still exists, the division shall reduce the transfer to the Wildland Fire Suppression Fund by an amount necessary to eliminate the operating deficit, up to the full amount of the transfer.

(4) Notwithstanding Subsection (2):

(a) for the period beginning July 1, 2015, and ending June 30, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 25% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection [~~(2)(b)(ii)~~] (2)(c)(ii); and

(b) on and after July 1, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 10% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection [~~(2)(b)~~] (2)(c).

Section 4. Section 65A-8-204 is amended to read:

65A-8-204. Wildland Fire Suppression Fund created.

(1) There is created an expendable special revenue fund known as the "Wildland Fire Suppression Fund."

(2) The [~~fund~~] Wildland Fire Suppression Fund shall be administered by the division to pay wildfire suppression costs on eligible lands, as wildfire suppression costs are defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including for an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203.

(3) Subject to Section 65A-8-213, the contents of the [~~fund~~] Wildland Fire Suppression Fund shall include:

(a) interest and earnings from the investment of fund money;

(b) money appropriated by the Legislature;

[~~(c) costs recovered from successful investigations;~~]

[~~(d)~~] (c) federal funds received by the division for wildfire management costs;

[~~(e)~~] (d) suppression costs billed to an eligible entity that does not participate in a cooperative agreement;

[~~(f)~~] (e) suppression costs paid to the division by another state agency;

[~~(g)~~] (f) costs recovered from settlements and civil or administrative actions related to wildfire suppression;

[~~(h)~~] (g) restitution payments ordered by a court following a criminal adjudication;

[~~(i)~~] (h) the balance of the fund as of July 1, 2016;

[~~(j)~~] (i) money deposited by the Division of Finance, pursuant to Section 59-21-2; and

[~~(k)~~] (j) money transferred by the Division of Finance, pursuant to Section 63J-1-314.

(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the [~~fund~~] Wildland Fire Suppression Fund.

Section 5. Section 65A-8-211 is amended to read:

65A-8-211. Closed fire season -- Notice -- Violations -- Red Flag Warnings -- Burning permits -- Personal liability -- Exemptions from burning permits.

(1) As used in this section:

(a) "Applicable public safety answering point" means a public safety answering point or dispatch center, as those terms are defined in Section 63H-7a-103, for the jurisdiction where a burning occurs.

(b) "Cultivated land" means land that is not enrolled in a conservation reserve program that is readily identifiable as:

(i) land whose soil is loosened or broken up for the raising of crops;

(ii) land used for the raising of crops; or

(iii) pasturage that is artificially irrigated.

(c) "Field" means land where grass, grain, stubble, or hay may be burned in accordance with this section.

(d) "Red Flag Warning" means a weather forecast issued by the National Weather Service on a publicly available website or notification system indicating that weather conditions associated with the outbreak of wildfires are occurring.

[~~(1)~~] (2) (a) The period from June 1 to October 31 of each year is a closed fire season throughout the state.

(b) The state forester may advance or extend the closed season wherever and whenever that action is necessary.

(c) [~~The~~] The state forester shall notify the public of the alteration of the closed season [~~is done~~] by posting the appropriate proclamation [~~in the courthouse of each county seat~~] on the division's website and on the Utah Public Notice Website, created in Section 63A-16-601, for at least seven days in advance of the date the change is effective.

[~~(2)~~] (3) During the closed fire season [~~it is~~], an individual is guilty of a class [~~B~~] C misdemeanor [~~to set~~] if the individual sets on fire, or [~~cause~~] causes to be set on fire[~~, any flammable material on any~~]:

(a) (i) a forest[~~,~~];

(ii) brush[~~,~~];

(iii) range[~~, grass, grain, stubble, or hay land~~];

(iv) a field;

(v) cultivated land; or

(vi) a debris pile; and

(b) without:

[~~(a)~~] (i) first securing a written permit from the state forester or a [~~designated~~] deputy designated by the state forester; [~~and~~]

[~~(b)~~] (ii) complying fully with [~~the terms and conditions prescribed by~~] the permit[~~.~~] described in Subsection (3)(b)(i); and

(iii) subject to Subsection (10), first notifying the state forester, the state forester's designee, or the applicable public safety answering point of the approximate time the burning will occur.

(4) During a period when a Red Flag Warning is issued, an individual is guilty of a class C misdemeanor if the individual sets on fire, or causes to be set on fire:

(a) (i) a forest;

(ii) brush;

(iii) range;

(iv) a field;

(v) cultivated land;

(vi) a fence line;

(vii) a canal; or

(viii) an irrigation ditch; and

(b) without:

(i) first securing a written permit from the state forester or a deputy designated by the state forester;

(ii) complying fully with the permit described in Subsection (4)(b)(i); and

(iii) subject to Subsection (10), first notifying the state forester, the state forester's designee, or the applicable public safety answering point of the approximate time the burning will occur.

[~~(3)~~] (5) [~~The county fire warden, or the county sheriff in a county that has not entered into a cooperative agreement as described in Section 65A-8-203,~~] The state forester or the state forester's designee shall issue burning permits using the form prescribed by the division.

[~~(4)~~] (6) (a) The burning permit does not relieve an individual from personal liability [~~due to neglect or incompetence~~] as a result of damage caused by the fire.

(b) A fire escaping control of the permittee that necessitates fire control action or does injury to the property of another is prima facie evidence that due care was not used in the burning and that the fire was not safe.

[~~(5)~~] (7) [~~The state forester, the state forester's designees, and the county sheriffs~~] The following may refuse, revoke, postpone, or cancel [~~permits when they find it~~] a permit if the person finds that it is necessary in the interest of public safety[~~,~~]:

(a) the state forester;

(b) a state forester's designee; or

(c) a county sheriff if there is no cooperative agreement with the division as described in Section 65A-8-203.

[~~(6)~~] (8) (a) [~~A~~] Except for during a Red Flag Warning as described in Subsection (4)(a), a burning permit is not required:

(i) for the burning within 10 feet of:

(A) fence lines on cultivated lands[~~,~~];

(B) the banks of canals[~~,~~]; or

(C) the banks of irrigation ditches; and

(ii) if:

[~~(i)~~] (A) the burning does not pose a threat to forest, range, or watershed lands;

[~~(ii)~~] (B) due care is used in the control of the burning; and

[~~(iii)~~] (C) [~~the individual notifies the nearest fire department of the approximate time the burning will occur~~] subject to Subsection (10), the individual notifies the state forester, the state forester's designee, or the applicable public safety answering point of the approximate time the burning will occur.

(b) [~~Failure~~] For a burning with or without a permit, an individual is guilty of a class C misdemeanor if the individual fails to notify, subject to Subsection (10), the [~~nearest fire department~~] state forester, the state forester's designee, or the applicable safety answering point of [~~the~~] a burning as required by this section [~~is a class B misdemeanor~~].

[~~(7)~~] (9) A burning conducted in accordance with Subsection [~~(6)~~] (8) is not a reckless burning under Section 76-6-104 unless the fire escapes control and requires fire control action.

(10) (a) The state forester or state forester's designee shall annually determine the notification process for a jurisdiction after receiving approval from the following for the jurisdiction:

(i) the applicable municipal chief, county fire warden, or state forester's designee; and

(ii) the governing body of the one or more applicable public safety answering points.

(b) On June 1 of each year, beginning with June 1, 2023, the state forester or state forester's designee shall publish for each jurisdiction the notification process adopted under Subsection (10)(a) on the division's website and on the Utah Public Notice Website created in Section 63A-16-601.

(c) If the state forester or state forester's designee cannot determine the notification process for a jurisdiction, a person is required to notify the applicable public safety answering point.

Section 6. Section 65A-8-213 is amended to read:

65A-8-213. Creation of the Wildland Fire Preparedness Grants Fund -- Awarding of grants -- Rulemaking.

(1) (a) There is created an expendable special revenue fund known as the "Wildland Fire Preparedness Grants Fund."

(b) The Wildland Fire Preparedness Grants Fund shall consist of:

(i) voluntary contributions received;

(ii) appropriations the Legislature makes to the Wildland Fire Preparedness Grants Fund;

(iii) 10% of the costs recovered annually related to wildfire suppression described in Subsections [~~65A-8-204(3)(g) and (h)~~] 65A-8-204(3)(f) and (g); and

(iv) interest or other earnings accrued in accordance with Subsection (1)(c)(ii).

(c) The state treasurer shall:

(i) invest the money in the Wildland Fire Preparedness Grants Fund described in Subsection (1)(a) following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from each investment described in Subsection (1)(c)(i) into the Wildland Fire Preparedness Grants Fund.

(2) (a) The state forester shall make one or more grants from the Wildland Fire Preparedness Grants Fund to one or more local fire departments or volunteer fire departments to assist in building capacity for the suppression of wildland fire.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing criteria for receiving a grant under this section.

Section 7. Section 65A-8-215 is enacted to read:

65A-8-215. Wildland-urban interface fire prevention, preparedness, and mitigation.

(1) As used in this section:

(a) "Prevention, preparedness, and mitigation fund" means the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in this section.

(b) "Suppression fund" means the Wildland Fire Suppression Fund created in Section 65A-8-204.

(c) "Wildland-urban interface" means the zone where structures and other human development meets, or intermingles with, undeveloped wildland.

(2) (a) There is created an expendable special revenue fund known as the "Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund."

(b) The prevention, preparedness, and mitigation fund shall consist of:

(i) interest and earnings from the investment of money from the prevention, preparedness, and mitigation fund;

(ii) money appropriated by the Legislature; and

(iii) money transferred to the prevention, preparedness, and mitigation fund under Section 63J-1-314.

(c) The division shall administer the prevention, preparedness, and mitigation fund to:

(i) pay costs of prevention and preparedness efforts on wildland-urban interface within the state, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs of an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203;

(ii) issue fire department assistance grants, which in the aggregate may not exceed 10% of the money in the prevention, preparedness, and mitigation fund each fiscal year; and

(iii) in cases of catastrophic need as determined by the state forester, pay costs that could be paid from the suppression fund under Section 65A-8-204.

(d) Disbursements from the prevention, preparedness, and mitigation fund may only be made upon written order of the state forester or the state forester's authorized representative.

(3) (a) The division may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish criteria for community wildfire preparedness plans addressing wildland-urban interface. The criteria shall require action that is:

(i) qualitative and quantitative; and

(ii) leads to reduced wildfire risk.

(b) An eligible entity, as defined in Section 65A-8-203, shall agree to implement prevention, preparedness, and mitigation actions identified in a community wildfire preparedness plan addressing wildland-urban interface that is approved by the division.

Section 8. Repealer.

This bill repeals:

Section 65A-8-214, Wildfire prevention and preparedness program -- Study.

Section 9. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund

From Mineral Bonus Account, One-time	2,000,000
Schedule of Programs:	
Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund	2,000,000

CHAPTER 154
H. B. 265
Passed February 27, 2023
Approved March 14, 2023
Effective May 3, 2023

SENTINEL LANDSCAPE AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill requires municipalities and counties to develop a compatible use plan to ensure proposed land uses within a certain distance of military land are compatible with military uses.

Highlighted Provisions:

This bill:

- defines terms;
- requires a municipality or county, in consultation with the Department of Veterans and Military Affairs, to develop a compatible use plan related to certain lands near military land;
- requires a municipality or county to notify the Department of Veterans and Military Affairs when the municipality or county receives a land use application relevant to military land;
- requires the Department of Veterans and Military Affairs to evaluate the proposed land use for compatibility with military operations on the military land; and
- grants rulemaking authority to the Department of Veterans and Military Affairs to make rules necessary to create a compatible use plan.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

71-8-2, as last amended by Laws of Utah 2020, Chapter 409

ENACTS:

10-9a-537, Utah Code Annotated 1953
17-27a-533, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

71A-1-201, Utah Code Annotated 1953

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

Section 1. Section 10-9a-537 is enacted to read:

10-9a-537. Land use compatibility with military use.

(1) As used in this section:

(a) "Department" means the Department of Veterans and Military Affairs.

(b) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(c) "Military land" means the following land or facilities:

(i) Camp Williams;

(ii) Hill Air Force Base;

(iii) Dugway Proving Ground;

(iv) Tooele Army Depot;

(v) Utah Test and Training Range;

(vi) Nephi Readiness Center;

(vii) Cedar City Alternate Flight Facility; or

(viii) Little Mountain Test Facility.

(2) (a) Except as provided in Subsection (2)(b), on or before July 1, 2025, for any area in a municipality within 5,000 feet of a boundary of military land, a municipality shall, in consultation with the department, develop and maintain a compatible use plan to ensure permitted uses and conditional uses relevant to the military land are compatible with the military operations on military land.

(b) A municipality that has a compatible use plan as of January 1, 2023, is not required to develop a new compatible use plan.

(3) If a municipality receives a land use application, other than an individual building permit, related to land within 5,000 feet of a boundary of military land, before the municipality may approve the land use application, the municipality shall notify the department in writing.

(4) If the department receives the notice described in Subsection (3), the executive director of the department shall:

(a) determine whether the proposed land use is compatible with the military use of the relevant military land; and

(b) within 90 days after the receipt of the notice described in Subsection (3), respond in writing to the municipality regarding the determination of compatibility described in Subsection (4)(a).

(5) If the department receives the notice described in Subsection (3) before the municipality has completed the compatible use plan as described in this section, the department shall consult with the municipality and representatives of the relevant military land to determine whether the use proposed in the land use application is a compatible use.

Section 2. Section 17-27a-533 is enacted to read:

17-27a-533. Land use compatibility with military use.

(1) As used in this section:

(a) "Department" means the Department of Veterans and Military Affairs.

(b) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(c) "Military land" means the following land or facilities:

(i) Camp Williams;

(ii) Hill Air Force Base;

(iii) Dugway Proving Ground;

(iv) Tooele Army Depot;

(v) Utah Test and Training Range;

(vi) Nephi Readiness Center;

(vii) Cedar City Alternate Flight Facility; or

(viii) Little Mountain Test Facility.

(2) (a) Except as provided in Subsection (2)(b), on or before July 1, 2025, for any area in a county within 5,000 feet of a boundary of military land, a county shall, in consultation with the department, develop and maintain a compatible use plan to ensure permitted uses and conditional uses relevant to the military land are compatible with the military operations on military land.

(b) A county that has a compatible use plan as of January 1, 2023, is not required to develop a new compatible use plan.

(3) If a county receives a land use application, other than an individual building permit, related to land within 5,000 feet of a boundary of military land, before the county may approve the land use application, the county shall notify the department in writing.

(4) If the department receives the notice described in Subsection (3), the executive director of the department shall:

(a) determine whether the proposed land use is compatible with the military use of the relevant military land; and

(b) within 90 days after the receipt of the notice described in Subsection (3), respond in writing to the county regarding the determination of compatibility described in Subsection (4)(a).

(5) If the department receives the notice described in Subsection (3) before the county has completed the compatible use plan as described in this section, the department shall consult with the county and representatives of the relevant military land to determine whether the use proposed in the land use application is a compatible use.

Section 3. Section 71-8-2 is amended to read:

71-8-2. Department of Veterans and Military Affairs created -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the Veterans Advisory Council, who is subject to Senate confirmation.

(a) The executive director shall be an individual who:

(i) has served on active duty in the armed forces for more than 180 consecutive days;

(ii) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; [~~or~~]

(iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(iv) was separated or retired under honorable conditions.

(b) Any veteran or veterans group may submit names to the council for consideration.

(3) The department shall:

(a) conduct and supervise all veteran activities as provided in this title;

(b) determine which campaign or combat theater awards are eligible for a special group license plate in accordance with Section 41-1a-418;

(c) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it;

(d) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title; [~~and~~]

(f) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department[~~.~~]; and

(g) consult with municipalities and counties regarding compatible use plans as described in Sections 10-9a-537 and 17-27a-533.

(4) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (4)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(d) A grant may be awarded by the department only after consultation with the Veterans Advisory Council.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to:

(a) the consultation with municipalities and counties regarding compatible use plans as required in Subsection (3)(g); and

(b) criteria to evaluate whether a proposed land use is compatible with military operations.

[~~(5)~~] (6) Nothing in this chapter shall be construed as altering or preempting the provisions of Title 39, Militia and Armories, as specifically related to the Utah National Guard.

Section 4. Coordinating H.B. 265 with H.B. 67 -- Substantive and technical amendments.

If this H.B. 265 and H.B. 67, Title 71A – Veterans and Military Affairs, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsections 71A-1-201(4) through (7) in H.B. 67 to read:

"(4) The department shall:

(a) conduct and supervise all veteran and military affairs activities as provided in this title;

(b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title;

(c) in accordance with Section 41-1a-418:

(i) determine which campaign or combat theater awards are eligible for a special group license plate;

(ii) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it; and

(iii) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(d) maintain liaison with local, state, and federal veterans agencies and with Utah veterans organizations;

(e) provide current information to veterans, service members, their surviving spouses and family members, and Utah veterans and military organizations on benefits they are entitled to;

(f) assist veterans, service members, and their families in applying for benefits and services;

(g) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;

(h) create and administer a veterans assistance registry in accordance with Chapter 5, Veterans Assistance Registry, with recommendations from the council, that provides contact information to the qualified donors of materials and labor for certain qualified recipients;

(i) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;

(j) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the Utah National Guard;

(k) develop and maintain relationships with military-related organizations in Utah; and

(l) consult with municipalities and counties regarding compatible use plans as described in Sections 10-9a-537 and 17-27a-533.

(5) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (5)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to:

(a) the consultation with municipalities and counties regarding compatible use plans as required in Subsection (4)(l); and

(b) criteria to evaluate whether a proposed land use is compatible with military operations.

(7) Nothing in this chapter shall be construed as altering or preempting any provisions of Title 39A, National Guard and Militia Act, as specifically related to the Utah National Guard.".

CHAPTER 155
H. B. 268
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

SEX OFFENSE AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Stephanie Pitcher
Cosponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses sex offense management and treatment.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Sex Offense Management Board;
- describes the duties of the Sex Offense Management Board;
- clarifies the process the Department of Corrections follows to establish standards for sex offender treatment;
- includes a sunset date; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472
64-13-25, as last amended by Laws of Utah 2015, Chapter 412
77-18-103, as last amended by Laws of Utah 2022, Chapter 115

ENACTS:

63M-7-801, Utah Code Annotated 1953
63M-7-802, Utah Code Annotated 1953
63M-7-803, Utah Code Annotated 1953

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

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

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(24) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July 1, 2026.

[~~(24)~~] (25) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~] (26) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~] (27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~] (28) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~] (29) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~] (30) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~] (31) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~] (32) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~] (33) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 2. Section 63M-7-801 is enacted to read:

Part 8. Sex Offense Management Board

63M-7-801. Definitions.

As used in this part:

(1) "Board" means the Sex Offense Management Board created in Section 63M-7-802.

(2) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(3) "Registry" means the registry established in Title 77, Chapter 41, Sex and Kidnap Offender Registry.

Section 3. Section 63M-7-802 is enacted to read:

63M-7-802. Sex Offense Management Board - Creation - Members appointment - Qualifications - Terms.

(1) There is created within the commission the Sex Offense Management Board consisting of the following members:

(a) the executive director of the Department of Corrections, or the executive director's designee;

(b) the commissioner of the Department of Public Safety, or the commissioner's designee;

(c) the attorney general, or the attorney general's designee;

(d) an officer with the adult probation and parole section of the Department of Corrections with experience supervising adults convicted of sex offenses, appointed by the executive director of the Department of Corrections;

(e) the executive director of the Department of Health and Human Services, or the executive director's designee;

(f) an individual who represents the Administrative Office of the Courts appointed by the state court administrator;

(g) the director of the Utah Office for Victims of Crime, or the director's designee;

(h) the director of the Division of Juvenile Justice Services, or the director's designee;

(i) the chair of the Board of Pardons and Parole, or the chair's designee; and

(j) nine individuals appointed by the executive director of the commission, including:

(i) the following two individuals licensed under Title 58, Chapter 60, Mental Health Professional Practices Act:

(A) an individual with experience in the treatment of adults convicted of sex offenses in the community;

(B) an individual with experience in the treatment of juveniles adjudicated of sex offenses in the community;

(ii) an individual who represents an association of criminal defense attorneys;

(iii) an individual who is a criminal defense attorney experienced in indigent criminal defense;

(iv) an individual who represents an association of prosecuting attorneys;

(v) an individual who represents law enforcement;

(vi) an individual who represents an association of criminal justice victim advocates;

(vii) an individual who is a clinical polygraph examiner experienced in providing polygraph examinations to individuals convicted of sex offenses; and

(viii) an individual who has been previously convicted of a sex offense and has successfully completed treatment and supervision for the offense.

(2) (a) A member described in Subsection (1)(j) shall serve a four-year term.

(b) If a vacancy occurs among a member described in Subsection (1)(j), the executive director of the commission may appoint a new individual to fill the remainder of the term.

(c) When a term of a member described in Subsection (1)(j) expires, the executive director of the commission shall appoint a new member or reappoint the member whose term has expired to a new four-year term.

(3) The members of the board shall vote on a chair and co-chair of the board from among the members described in Subsection (1) to serve a two-year term.

(4) A majority of the board constitutes a quorum.

(5) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall provide staff support to the board.

(7) The board shall meet at least six times per year on dates the board sets.

Section 4. Section 63M-7-803 is enacted to read:

63M-7-803. Board duties.

The board shall:

(1) review research regarding treatment, risk assessment, and supervision practices for individuals on the registry or individuals ordered to complete sex offense treatment;

(2) advise and make recommendations to other councils, boards, and offices within the commission regarding evidence-based:

(a) sentencing and treatment practices for individuals on the registry or individuals ordered to complete sex offense treatment to reduce recidivism and promote public safety;

(b) policies to promote public safety and protect victims of sex offenses; and

(c) practices related to the registry that promote public safety, account for risk, and protect the rights of individuals on the registry or individuals ordered to complete sex offense treatment; and

(3) advise and make recommendations to the Department of Corrections and the Department of Health and Human Services regarding:

(a) evidence-based standards for supervision of individuals on the registry or individuals ordered to complete sex offense treatment;

(b) evidence-based standards for training, certification, and evaluation of community treatment providers, polygraph examiners, evaluators, and other professionals who provide treatment and related services to individuals on the registry or individuals ordered to complete sex offense treatment; and

(c) implementation of the treatment standards and other duties described in Section 64-13-25 related to sex offenses.

Section 5. Section 64-13-25 is amended to read:

64-13-25. Standards for programs -- Audits.

(1) (a) To promote accountability and to ensure safe and professional operation of correctional programs, the department shall establish minimum standards for the organization and operation of [~~its~~] the department's programs, including collaborating with the Department of Health and Human Services to establish minimum standards for programs providing assistance for individuals involved in the criminal justice system.

[~~(a)~~] (b) (i) The department shall promulgate the standards [~~shall be promulgated~~] according to state rulemaking provisions.

(ii) Those standards that apply to offenders are exempt from the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iii) Offenders are not a class of persons under [~~that act.~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(b)~~] (c) [~~Standards~~] The standards shall provide for inquiring into and processing offender complaints.

[~~(c) (i)~~] (d) (i) The department shall establish minimum standards and qualifications for treatment programs provided in county jails to which persons committed to the state prison are placed by jail contract under Section 64-13e-103.

(ii) In establishing the standards and qualifications for the treatment programs, the department shall:

(A) consult and collaborate with the county sheriffs and the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health; and

(B) include programs demonstrated by recognized scientific research to reduce recidivism by addressing an offender's criminal risk factors as determined by a risk and needs assessment.

(iii) All jails contracting to house offenders committed to the state prison shall meet the minimum standards for treatment programs as established under this Subsection [~~(1)(c)~~] (1)(d).

[~~(d)~~]

[~~(i)~~] (e) (i) The department shall establish minimum standards [~~of treatment for sex offenders~~] for sex offense treatment, which shall include the requirements under Subsection 64-13-7.5(3) regarding licensure and competency.

(ii) The standards shall require the use of [~~the most current best practices demonstrated by recognized scientific research to address an offender's~~] evidence-based practices to address criminal risk factors as determined by validated assessments.

(iii) The department shall collaborate with the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health to develop and effectively distribute the standards to jails and to mental health professionals who desire to provide mental health treatment for sex offenders.

(iv) The department shall establish the standards by administrative rule [~~pursuant to~~] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(2) The department shall establish an audit for compliance with standards established under this section according to policies and procedures established by the department, for continued operation of correctional and treatment programs provided to offenders committed to the department's custody, including inmates housed in county jails by contract with the Department of Corrections.~~]

[~~(a) At least every three years, the department shall internally audit all programs for compliance with established standards.~~]

[~~(b) All financial statements and accounts of the department shall be reviewed during the audit. Written review shall be provided to the managers of the programs and the executive director of the department.~~]

[~~(c) The reports shall be classified as confidential internal working papers and access is available at the discretion of the executive director or the governor, or upon court order.~~]

[~~(3)~~] (2) (a) The department shall establish a certification [~~program~~] process for public and private providers of treatment for sex offenders on probation or parole that requires the providers' sex [~~offender~~] offense treatment practices meet the standards and practices established under Subsection [~~(1)(d) to reduce~~] (1)(e)(i) with the goal of reducing sex offender recidivism.

[~~(a)~~] (b) The department shall collaborate with the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health to develop, coordinate, and implement the certification [~~program~~] process.

[~~(b)~~] (c) The department shall base the certification [~~program shall be based~~] process on the standards under Subsection [~~(1)(d) and shall~~] (1)(e)(i) and require renewal of certification every two years.

[~~(c)~~] (d) All public and private providers of sex [~~offender~~] offense treatment, including those providing treatment to offenders housed in county jails by contract under Section 64-13e-103, shall comply with [~~these~~] the standards [~~on and after July 1, 2016,~~] in order to begin receiving or continue receiving payment from the department to provide sex [~~offender treatment on or after July 1, 2016~~] offense treatment.

[~~(d)~~] (e) The department shall establish the certification program by administrative rule [~~pursuant to~~] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) The department shall establish an audit process to ensure compliance with sex offense and substance use treatment standards established under this section in accordance with the department's policies and procedures.

(b) At least every three years, the department shall internally audit sex offense and substance use treatment programs for compliance with standards established under this section.

(c) The individuals undertaking the audit shall provide a written report to the managers of the programs audited and to the executive director of the department.

(d) The department's internal audit reports shall:

(i) be classified as confidential internal working papers; and

(ii) be accessible at the discretion of the executive director or the governor, or upon court order.

(4) The department:

(a) shall establish performance goals and outcome measurements for all programs that are subject to the minimum standards established under this section and [~~shall~~] collect data to analyze and evaluate whether the goals and measurements are attained[~~.~~];

[~~(a)~~] (b) [~~The department~~] shall collaborate with the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health to develop and coordinate the performance goals and outcome measurements, including recidivism rates and treatment success and failure rates[~~.~~];

[~~(b)~~] (c) [~~The department~~] may use [~~these~~] the data collected under Subsection (4)(b) to make

decisions on the use of funds to provide treatment for which standards are established under this section[~~.~~];

[~~(c)~~] (d) [~~The department~~] shall collaborate with the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health to track a subgroup of participants to determine if there is a net positive result from the use of treatment as an alternative to incarceration[~~.~~];

[~~(d)~~] (e) [~~The department~~] shall collaborate with the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health to evaluate the costs, including any additional costs, and the resources needed to attain the performance goals established for the use of treatment as an alternative to incarceration[~~.~~]; and

[~~(e)~~] (f) [~~The department~~] shall annually provide data collected under this Subsection (4) to the State Commission on Criminal and Juvenile Justice on or before August 31.

(5) The [~~commission~~] State Commission on Criminal and Juvenile Justice shall compile a written report of the findings based on the data collected under Subsection (4) and [~~shall~~] provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

Section 6. Section 77-18-103 is amended to read:

77-18-103. Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

(1) Before the imposition of a sentence, the court may:

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and

(b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

(2) If a presentence investigation report is required under the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:

(a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

(b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

(c) findings from any screening and any assessment of the defendant conducted under Section 77-18-104;

(d) recommendations for treatment for the defendant; and

(e) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.

(3) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.

(4) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:

(A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

(A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and

(B) provide the written finding to the Division of Adult Probation and Parole or the law enforcement agency.

(b) The Division of Adult Probation and Parole shall attach the written finding to the presentence investigation report as an addendum.

(c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

(5) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.

(6) (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.

(7) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;

(c) requested by the board;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection [~~64-13-25(3)~~] 64-13-25(2);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

(8) (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in open court on record and in the presence of the defendant.

CHAPTER 156
H. B. 269
Passed February 28, 2023
Approved March 14, 2023
Effective May 3, 2023

ELECTION AUDIT REQUIREMENTS

Chief Sponsor: Mike Schultz
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill requires and addresses a biennial audit of elections, conducted by the Office of the Legislative Auditor General (office).

Highlighted Provisions:

This bill:

- requires the office to conduct a biennial audit of elections and related processes throughout the state that includes regular primary elections and regular general elections;
- describes the conduct and scope of the audit;
- addresses the office's authority and access to records, facilities, and equipment to enable the office to conduct the audit;
- requires compliance by government officials and employees in relation to the audit;
- preserves the right to a secret ballot; and
- makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-4-102, as last amended by Laws of Utah 2022, Chapter 342
20A-4-106, as last amended by Laws of Utah 2020, Chapter 31
20A-4-202, as last amended by Laws of Utah 2022, Chapter 156

ENACTS:

36-12-15.2, Utah Code Annotated 1953

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

Section 1. Section 20A-4-102 is amended to read:

20A-4-102. Manual ballots cast at a polling place -- Counting manual ballots at polling place on day of election after polls close.

(1) (a) This section governs counting manual ballots on the day of an election, if:

(i) the ballots are cast at a polling place; and

(ii) the ballots are counted at the polling place after the polls close.

(b) Except as provided in Subsection (2) or a rule made under Subsection 20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.

(c) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:

(i) to the extent applicable, Section 20A-4-105; and

(ii) as applicable, for an instant runoff voting race under Part 6, Municipal Alternate Voting Methods Pilot Project, Subsections 20A-4-603(3) through (5).

(2) (a) First, the election judges shall count the number of ballots in the ballot box.

(b) (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.

(ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

(c) (i) If, after examining the official endorsements, there are still more ballots in the ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.

(ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.

(iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.

(d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.

(3) The judges shall:

(a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and

(b) seal that envelope or container.

(4) The judges shall:

(a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and

(b) seal that envelope or container.

(5) (a) In counting the votes, the election judges shall read and count each ballot separately.

(b) In regular primary elections the judges shall:

(i) count the number of ballots cast for each party;

(ii) place the ballots cast for each party in separate piles; and

(iii) count all the ballots for one party before beginning to count the ballots cast for other parties.

(6) (a) In all elections, the counting judges shall, except as provided in Part 6, Municipal Alternate

Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i):

(i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;

(ii) count each vote for each write-in candidate who has qualified by filing a declaration of candidacy under Section 20A-9-601;

(iii) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;

(iv) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;

(v) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and

(vi) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.

(b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.

(c) The judges shall certify to the accuracy and completeness of the tally list in the space provided on the tally list.

(d) When the judges have counted all of the voted ballots, they shall record the results on the total votes cast form.

(7) (a) [~~Only~~] Except as provided in Subsection (7)(b), only an election judge and a watcher may be present at the place where counting is conducted until the count is completed.

(b) An auditor conducting an audit described in Section 36-12-15.2 may be present at the place where counting is conducted, regardless of whether the count is completed.

Section 2. Section 20A-4-106 is amended to read:

20A-4-106. Manual ballots -- Sealing.

(1) After the official canvas of an election, the election officer shall store all election returns in containers that identify the containers' contents.

(2) After the ballots are stored under Subsection (1), the ballots may not be examined by anyone, except as follows:

(a) when examined during a recount conducted under the authority of Section 20A-4-401 or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project[~~.~~]; or

(b) an auditor conducting an audit described in Section 36-12-15.2 may examine the ballots:

(i) if the audit uncovers evidence that raises a substantial doubt regarding the accuracy of the results of an election, the auditor may examine the ballots until the later of:

(A) the end of the calendar year in which the election was held; or

(B) if the election is contested, when the contest is resolved; or

(ii) at any time via a subpoena or other legal process.

Section 3. Section 20A-4-202 is amended to read:

20A-4-202. Election officers -- Disposition of ballots -- Release of number of provisional ballots cast.

(1) Upon receipt of the election returns from the poll workers, the election officer shall:

(a) ensure that the poll workers have provided all of the ballots and election returns;

(b) inspect the ballots and election returns to ensure that they are sealed;

(c) for manual ballots, deposit and lock the ballots and election returns in a safe and secure place;

(d) for mechanical ballots:

(i) count the ballots; and

(ii) deposit and lock the ballots and election returns in a safe and secure place; and

(e) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.

(2) Each election officer shall:

(a) before 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;

(b) preserve ballots for 22 months after the election or until the time has expired during which the ballots could be used in an election contest;

(c) preserve all other official election returns for at least 22 months after an election; and

(d) after that time, destroy them without opening or examining them.

(3) (a) The election officer shall package and retain all tabulating cards and other materials used in the programming of the automatic tabulating equipment.

(b) The election officer:

(i) may access these tabulating cards and other materials;

(ii) may make copies of these materials and make changes to the copies;

(iii) may not alter or make changes to the materials themselves; and

(iv) within 22 months after the election in which they were used, may dispose of those materials or retain them.

(4) (a) If an election contest is begun within 12 months, the election officer shall, except as provided in Subsection (4)(c):

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) [~~When~~] Except as provided in Subsection (4)(c), when all election contests arising from an election are complete, the election officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in the election officer's custody without opening or examining them if the time for preserving them under this section has run.

(c) An auditor conducting an audit described in Section 36-12-15.2 may examine the ballots and election returns described in this Subsection (4).

(5) (a) Notwithstanding the provisions of this section, the legislative auditor general:

(i) may make and keep copies of ballots or election returns as part of a legislative audit; and

(ii) may not examine, make copies, or keep copies, of a ballot in a manner that identifies a ballot with the voter who casts the ballot.

(b) A copy described in Subsection (5)(a) is not a record, and not subject to disclosure, under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 4. Section 36-12-15.2 is enacted to read:

36-12-15.2. Elections audit.

(1) As used in this section, "office" means the Office of the Legislative Auditor General.

(2) In addition to other audits performed by the office, the office shall, each even-numbered year, in accordance with this section and under the direction of the Legislative Audit Subcommittee, conduct a comprehensive performance audit of the state's election system and controls.

(3) The audit may include the entire election process for the elections held in an even-numbered year, including:

(a) procedures and practices that occur before or after the beginning of the year to prepare for the elections; and

(b) procedures, practices, and standards relating to:

(i) voter registration;

(ii) candidate filing and selection;

(iii) the preparation, printing, distribution, handling, examining, counting, and all other handling of ballots; and

(iv) the entire election process, including the regular primary election, the regular general election, and the determination of election results.

(4) The audit extends to the functions of all persons involved in the election process, including the Office of the Lieutenant Governor, each county clerk's office, and each board of canvassers.

(5) At a minimum, the office shall conduct a survey to audit the work of the Office of the Lieutenant Governor and each county election office.

(6) Based on the results of the survey described in Subsection (5), the office shall conduct a more comprehensive audit of the jurisdictions or practices that, in the opinion of the office, present the highest risk.

(7) In addition to auditing the jurisdictions and practices described in Subsection (6), the office may audit any other jurisdictions or entities, or any practices or procedures, that the office determines necessary to ensure the success of a comprehensive performance audit of the election system.

(8) To conduct an audit described in this section, the office has the full authority described in Section 36-12-15, including:

(a) full access to closely observe, examine, and copy all records, documents, recordings, and other information the office determines to be useful in conducting an audit described in this section;

(b) full access to closely observe, examine, and copy ballots, ballot envelopes, vote tallies, canvassing records, and voter registration records;

(c) full access to closely observe and examine all facilities, storage areas, and equipment, and to closely observe, examine, or copy all materials, that the office determines to be useful in conducting an audit described in this section;

(d) full access to all staff, including full-time, part-time, and volunteer staff;

(e) full access to closely observe, examine, and copy all records and information relating to election audits that are conducted by the Office of the Lieutenant Governor, a county clerk, or any other person;

(f) the right to, within the scope of the audit, attend any meeting, including a closed meeting;

(g) the right to, within the scope of the audit, closely observe and examine any work or other process; and

(h) all other authority described in Section 36-12-15.

(9) As with any audit conducted under the authority described in Section 36-12-15, all officials and staff shall fully assist, and cooperate with, the office in conducting an audit described in this section.

(10) In conducting an audit described in this section, the office:

(a) shall preserve the right of a voter to a secret ballot;

(b) shall, when examining election returns, allow the election officer or a designee of the election officer to be present to ensure the chain of custody of the election returns; and

(c) may not, while votes are being counted, communicate in any manner, directly or indirectly, by word or sign, the progress of the vote, the current result of the vote count, or any other information about the vote count.

(11) An election officer, or an election officer's designee, who is present under Subsection (10)(b) may not interfere with the performance of the audit.

CHAPTER 157
H. B. 284
Passed March 1, 2023
Approved March 14, 2023
Effective July 1, 2024

PUBLIC LIBRARY BACKGROUND CHECK REQUIREMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill provides for criminal background checks of public library employees.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a public library from receiving state funds unless the library implements a policy providing for criminal background checks of prospective employees;
- provides for the scope, content, and dissemination of a library's criminal background check policy;
- provides for fiscal assistance to smaller counties and municipalities to conduct criminal background checks;
- requires the State Library Division to report annually to the Legislature regarding compliance with the criminal background check policy requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

9-7-101, as last amended by Laws of Utah 2019, Chapter 221
9-7-216, as last amended by Laws of Utah 2004, Chapter 193
9-7-217, as last amended by Laws of Utah 2014, Chapter 371

ENACTS:

9-7-218, Utah Code Annotated 1953

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

Section 1. Section 9-7-101 is amended to read:

9-7-101. Definitions.

As used in this chapter:

(1) "Board" means the State Library Board created in Section 9-7-204.

(2) "Division" means the State Library Division.

(3) "Internet policy" means the public library online access policy required in Section 9-7-215.

[~~(3)~~] (4) "Library board" means the library board of directors appointed locally as authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which the board is known locally.

[~~(4)~~] (5) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.

[~~(5) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section 9-7-215.~~]

(6) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.

(7) "State agency" means:

(a) the state; or

(b) an office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

(8) (a) "State publication" means a book, compilation, directory, document, contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register, rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or disc recording regardless of format or method of reproduction, issued or published by a state agency or political subdivision for distribution.

(b) "State publication" does not include correspondence, internal confidential publications, office memoranda, university press publications, or publications of the state historical society.

Section 2. Section 9-7-216 is amended to read:

9-7-216. Process and content standards for Internet policy.

(1) (a) Each library's Internet policy shall be developed under the direction of the library board, adopted in an open meeting, and have an effective date.

(b) The library board shall review the policy at least every three years[~~, and a footnote shall be added to the policy indicating the effective date of the last review~~].

[~~(b)~~] (c) (i) Notice of the availability of the policy shall be posted in a conspicuous place within the library for all patrons to observe.

(ii) The library board may issue any other public notice [~~it~~] the library board considers appropriate to inform the community about the policy.

(2) The Internet policy shall include the following information:

(a) [~~state~~] a statement indicating:

(i) that [~~it~~] the library restricts access to Internet or online sites that contain material described in Section 9-7-215; and

(ii) how the library board intends to meet the requirements of Section 9-7-215;

(b) [~~inform~~] a statement informing patrons that administrative procedures and guidelines for the staff to follow in enforcing the policy have been adopted and are available for review at the library; [~~and~~]

(c) [~~inform~~] a statement informing patrons that procedures for use by patrons and staff to handle complaints about the policy, [~~its~~] the policy's enforcement, or about observed patron behavior have been adopted and are available for review at the library[~~.~~]; and

(d) a footnote indicating the effective date of the last review of the policy under Subsection (1)(b).

Section 3. Section 9-7-217 is amended to read:

9-7-217. Reporting.

The division shall submit a report to the department regarding the compliance of library boards with the provisions of [~~Section~~] Sections 9-7-215 and 9-7-218 for inclusion in the annual written report described in Section 9-1-208.

Section 4. Section 9-7-218 is enacted to read:

9-7-218. Criminal background check policy required -- Scope and content -- Dissemination.

(1) As used in this section:

(a) "Minor" means an individual who is under 18 years old.

(b) "Public library" means a library established under Section 9-7-402 or 9-7-501.

(c) "Qualifying position" means any paid or unpaid employment position with a public library, including a volunteer position, that involves significant contact with minors, as determined by the public library's library board.

(d) "Qualifying prospective employee" means an individual who:

(i) is 18 years old or older; and

(ii) applies for a qualifying position with a public library.

(2) State funds may not be provided to a public library unless the public library implements a criminal background check policy that:

(a) meets the requirements of Subsection (3); and

(b) is adopted by:

(i) the library board in an open meeting; or

(ii) the county or city in which the public library is located.

(3) The criminal background check policy shall:

(a) identify each qualifying position with the public library;

(b) require each qualifying prospective employee to submit to a criminal background check as a condition of employment in a qualifying position;

(c) establish procedures for:

(i) gathering, submitting, and reviewing criminal background checks for qualifying prospective employees before making any offer of employment;

(ii) disqualifying a qualifying prospective employee from employment based on information received as a result of a criminal background check; and

(iii) allowing a qualifying prospective employee to respond to information received as a result of a criminal background check;

(d) ensure that a qualifying prospective employee who is disqualified from employment because of information obtained through a criminal background check receives:

(i) written notice of the reasons for the disqualification; and

(ii) an opportunity to respond to the reasons following the procedures established under Subsection (3)(c)(iii); and

(e) include an effective date that is stated in the criminal background check policy.

(4) (a) The criminal background check policy shall be distributed to qualifying prospective employees and posted in a prominent location in the public library.

(b) A criminal background check policy adopted by a library board shall be reviewed by the library board at least every three years.

(5) Within appropriations made by the Legislature for this purpose, the State Library Board shall reimburse a county of the fourth, fifth, or sixth class, and a city of the fourth, fifth, or sixth class, for the costs of conducting criminal background checks under this section.

Section 5. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 158
H. B. 297
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

VICTIM SERVICES AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions related to certain victims of sexual crimes including an abortion based upon rape or incest.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- provides that a person operating a sexual assault hotline service may, when applicable, provide a victim of sexual assault with information on how to access free emergency contraception and other services;
- requires the Department of Health and Human Services to provide to certain entities information about how a victim of sexual assault may access emergency contraception and other services;
- requires a law enforcement officer's annual training to include training on responses to sexual trauma and investigations of sexual assault and sexual abuse;
- establishes law enforcement agency policy, public information, and reporting requirements concerning sexual assault offenses and investigations;
- requires the State Commission on Criminal and Juvenile Justice (commission) to receive, compile, and publish data concerning sexual assault offenses;
- provides that a law enforcement agency not in compliance with sexual assault offense reporting requirements may not receive grants from the commission;
- provides for a victim reparation award for a victim of sexual assault who becomes pregnant from the sexual assault, health care for the victim during the duration of the victim's pregnancy and for the victim and the victim's child for one year after the child is born;
- restricts an abortion based upon rape or incest to a pregnancy in which the unborn child has not reached 18 weeks gestational age;
- amends verification and reporting procedures for abortions based upon rape or incest;
- requires the department to receive, compile, and create a report concerning certain information regarding abortions based upon rape or incest and provide the report to the Health and Human Services Interim Committee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Department of Public Safety – Peace Officer Standards and Training, as a One-time appropriation:
  - from the General Fund, One-time, $10,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-202, as last amended by Laws of Utah 2021, First Special Session, Chapter 1
53-10-908, as renumbered and amended by Laws of Utah 2022, Chapter 430
63A-16-1002, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390
63M-7-204, as last amended by Laws of Utah 2022, Chapter 187
63M-7-218, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390
63M-7-511, as last amended by Laws of Utah 2020, Chapter 149
76-7-302, as last amended by Laws of Utah 2022, Chapter 335
76-7-302.5, as enacted by Laws of Utah 2019, Chapter 208
76-7-313, as last amended by Laws of Utah 2019, Chapters 124, 208
76-7a-101, as last amended by Laws of Utah 2021, Chapter 262
76-7a-201, as enacted by Laws of Utah 2020, Chapter 279

ENACTS:

26-21b-202, Utah Code Annotated 1953
53-22-101, Utah Code Annotated 1953
53-22-102, Utah Code Annotated 1953
53-22-103, Utah Code Annotated 1953

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

Section 1. Section 26-21b-202 is enacted to read:

26-21b-202 (Codified as 26B-4-515). Sexual assault hotline service -- Emergency contraception access.

(1) As used in this section, "sexual assault hotline service" means a telephone hotline, online chat hotline, or similar method of communication that provides information or counseling services for a victim of sexual assault.

(2) A person who operates a sexual assault hotline service available to a resident of this state shall create and maintain a policy that encourages the sexual assault hotline service to provide, when applicable, a victim of sexual assault with information on how to access:

(a) free emergency contraception;

(b) law enforcement; and

(c) medical and mental health services.

(3) The department shall provide information about how a victim of sexual assault may access free emergency contraception and other medical and mental health services to:

(a) victims of sexual assault;

(b) sexual assault hotline services that are available to residents of this state; and

(c) other providers who provide sexual assault support services to victims of sexual assault in this state.

(4) The department may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of Subsection (3).

Section 2. Section 53-6-202 is amended to read:

53-6-202. Basic training course -- Completion required -- Annual training -- Prohibition from exercising powers -- Reinstatement.

(1) (a) The director shall:

(i) (A) suggest and prepare subject material; and

(B) schedule instructors for basic training courses; or

(ii) review the material and instructor choices submitted by a certified academy.

(b) The subject material, instructors, and schedules shall be approved or disapproved by a majority vote of the council.

(2) The materials shall be reviewed and approved by the council on or before July 1st of each year and may from time to time be changed or amended by majority vote of the council.

(3) The basic training in a certified academy:

(a) shall be appropriate for the basic training of peace officers in the techniques of law enforcement in the discretion of the director; and

(b) may not include the use of chokeholds, carotid restraints, or any act that impedes the breathing or circulation of blood likely to produce a loss of consciousness, as a valid method of restraint.

(4) (a) All peace officers shall satisfactorily complete the basic training course or the waiver process provided for in this chapter as well as annual certified training of not less than 40 hours as the director, with the advice and consent of the council, directs.

(b) A peace officer who fails to satisfactorily complete the annual training shall automatically be prohibited from exercising peace officer powers until any deficiency is made up.

(c) (i) Beginning July 1, 2021, the annual training shall include no less than 16 hours of training focused on mental health and other crisis intervention responses, arrest control, and de-escalation training.

(ii) Standards for the training shall be determined by each law enforcement agency or department and approved by the director or designee.

(iii) Each law enforcement agency or department shall include a breakdown of the 16 hours within the annual audit submitted to the division.

(5) Beginning July 1, 2021, the director shall ensure that annual training covers intervention responses for mental illnesses, autism spectrum disorder, and other neurological and developmental disorders.

(6) Beginning July 1, 2023, the director shall ensure that annual training covers at least one hour of training on responses to sexual traumas and investigations of sexual assault and sexual abuse in accordance with Section 53-10-908.

Section 3. Section 53-10-908 is amended to read:

53-10-908. Law enforcement -- Training -- Sexual assault, sexual abuse, and human trafficking.

(1) The department and the Utah Prosecution Council shall develop training in trauma-informed responses and investigations of sexual assault and sexual abuse, which include, but are not limited to, the following:

(a) recognizing the symptoms of trauma;

(b) understanding the impact of trauma on a victim;

(c) responding to the needs and concerns of a victim of sexual assault or sexual abuse;

(d) delivering services to victims of sexual assault or sexual abuse in a compassionate, sensitive, and nonjudgmental manner;

(e) understanding cultural perceptions and common myths of sexual assault and sexual abuse; and

(f) techniques of writing reports in accordance with Subsection (5).

(2) (a) [~~The~~] In accordance with Section 53-6-202, the department and the Utah Prosecution Council shall offer the training in Subsection (1) to all certified law enforcement officers in the state.

(b) The training for all law enforcement officers may be offered through an online course, developed by the department and the Utah Prosecution Council.

(3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer.

(4) (a) The department and the Utah Prosecution Council shall develop and offer an advanced training course for officers who investigate cases of sexual assault or sexual abuse.

(b) The advanced training course shall include:

(i) all criteria listed in Subsection (1); and

(ii) interviewing techniques in accordance with the curriculum standards in Subsection (5).

(5) The department shall consult with the Utah Prosecution Council to develop the specific training requirements of this section, including curriculum standards for report writing and response to sexual

assault and sexual abuse, including trauma-informed and victim-centered interview techniques, which have been demonstrated to minimize retraumatizing victims.

(6) The Office of the Attorney General shall develop and offer training for law enforcement officers in investigating human trafficking offenses.

(7) The training described in Subsection (6) shall be offered to all law enforcement officers in the state by July 1, 2020.

(8) The training described in Subsection (6) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer, in conjunction with the training described in Subsection (1), beginning July 1, 2021.

(9) The Office of the Attorney General, the department, and the Utah Prosecution Council shall consult with one another to provide the training described in Subsection (6) jointly with the training described in Subsection (1) as reasonably practicable.

Section 4. Section 53-22-101 is enacted to read:

CHAPTER 22. SEXUAL ASSAULT OFFENSE POLICY AND REPORTING REQUIREMENTS

53-22-101 (Codified as 53-24-101). Sexual assault offense policy and public information requirements for law enforcement agencies.

(1) (a) Beginning January 1, 2024, a law enforcement agency shall create and maintain a policy regarding the law enforcement agency's processes for handling sexual assault investigations.

(b) A policy described under Subsection (1)(a) shall include current best practices for handling sexual assault investigations, including:

(i) protocols and training on responses to sexual trauma;

(ii) emergency response procedures, including prompt contact with the victim and the preservation of evidence; and

(iii) referrals to sexual assault support services.

(c) A law enforcement agency shall publicly post on the law enforcement agency's website the policy described in Subsection (1)(a).

(2) Beginning January 1, 2024, a law enforcement agency shall create and publicly post on the law enforcement agency's website a guide for victims of sexual assault that includes:

(a) a description of the law enforcement agency's processes for handling sexual assault investigations;

(b) contact information for victims of sexual assault to obtain more information from the law enforcement agency; and

(c) referral information for sexual assault victim support services.

Section 5. Section 53-22-102 is enacted to read:

53-22-102 (Codified as 53-24-102). Sexual assault offense reporting requirements for law enforcement agencies.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Sexual assault offense" means:

(i) rape, Section 76-5-402;

(ii) rape of a child, Section 76-5-402.1;

(iii) object rape, Section 76-5-402.2;

(iv) object rape of a child, Section 76-5-402.3;

(v) forcible sodomy, Section 76-5-403;

(vi) sodomy on a child, Section 76-5-403.1;

(vii) forcible sexual abuse, Section 76-5-404;

(viii) sexual abuse of a child, Section 76-5-404.1;

(ix) aggravated sexual abuse of a child, Section 76-5-404.3;

(x) aggravated sexual assault, Section 76-5-405; or

(xi) sexual battery, Section 76-9-702.1.

(2) (a) Beginning January 1, 2025, a law enforcement agency shall annually, on or before April 30, submit a report to the commission for the previous calendar year containing the number of each type of sexual assault offense that:

(i) was reported to the law enforcement agency;

(ii) was investigated by a detective; and

(iii) was referred to a prosecutor for prosecution.

(b) A law enforcement agency shall:

(i) compile the report described in Subsection (2)(a) for each calendar year in the standardized format developed by the commission under Subsection (3); and

(ii) publicly post the information reported in Subsection (2)(a) on the law enforcement agency's website.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 6. Section 53-22-103 is enacted to read:

53-22-103 (Codified as 53-24-103). Exemption.

The provisions of this chapter do not apply to a law enforcement agency created under Section 41-3-104.

Section 7. Section 63A-16-1002 is amended to read:

63A-16-1002. Criminal justice database.

(1) The commission shall oversee the creation and management of a [~~Criminal Justice Database~~] criminal justice database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 24-4-118, forfeiture reporting requirements;

(e) Section 41-6a-511, courts to collect and maintain data;

(f) Section 53-22-102, sexual assault offense reporting requirements for law enforcement agencies;

[~~(f)~~] (g) Section 63M-7-214, law enforcement agency grant reporting;

[~~(g)~~] (h) Section 63M-7-216, prosecutorial data collection;

[~~(h)~~] (i) Section 64-13-21, supervision of sentenced offenders placed in community;

[~~(i)~~] (j) Section 64-13-25, standards for programs;

[~~(j)~~] (k) Section 64-13-45, department reporting requirements;

[~~(k)~~] (l) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

[~~(l)~~] (m) Section 77-7-8.5, use of tactical groups;

[~~(m)~~] (n) Section 77-20-103, release data requirements;

[~~(n)~~] (o) Section 77-22-2.5, court orders for criminal investigations;

[~~(o)~~] (p) Section 78A-2-109.5, court demographics reporting; and

[~~(p)~~] (q) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023.

Section 8. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 62A-15-103(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209;

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 62A-15-103(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 62A-15-103(2)(n) by each mental health or substance use treatment program; [~~and~~]

(y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees[~~.~~]; and

(z) receive, compile, and publish the data provided under Section 53-22-102 on the commission's website.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission,

representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 9. Section 63M-7-218 is amended to read:

63M-7-218. State grant requirements.

Beginning July 1, 2023, the commission may not award any grant of state funds to any entity subject to, and not in compliance with, the reporting requirements in Subsections 63A-16-1002(5)(a) through [~~(o)~~] (p).

Section 10. Section 63M-7-511 is amended to read:

63M-7-511. Compensable losses and amounts.

A reparations award under this part may be made if:

(1) the reparations officer finds the reparations claim satisfies the requirements for the reparations award under the provisions of this part and the rules of the board;

(2) money is available in the fund;

(3) the individual for whom the reparations award is to be paid is otherwise eligible under this part; and

(4) the reparations claim is for an allowable expense incurred by the victim, as follows:

(a) reasonable and necessary charges incurred for products, services, and accommodations;

(b) inpatient and outpatient medical treatment and physical therapy, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) mental health counseling that:

(i) is set forth in a mental health treatment plan that is approved before any payment is made by a reparations officer; and

(ii) qualifies within any further rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) actual loss of past earnings and anticipated loss of future earnings because of a death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the individual's weekly gross salary or wages or the maximum amount allowed under the state workers' compensation statute;

(e) care of minor children enabling a victim or spouse of a victim, but not both, to continue gainful employment at a rate per child per week as determined under rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(f) funeral and burial expenses for death caused by the criminally injurious conduct, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(g) loss of support to a dependent not otherwise compensated for a pecuniary loss for personal injury, for as long as the dependence would have existed had the victim survived, at a rate not to exceed 66-2/3% of the individual's weekly salary or wages or the maximum amount allowed under the state workers' compensation statute, whichever is less;

(h) personal property necessary and essential to the health or safety of the victim as defined by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; [~~and~~]

(i) medical examinations, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from Sections 63M-7-509, 63M-7-512, and 63M-7-513[~~.~~]; and

(j) for a victim of sexual assault who becomes pregnant from the sexual assault, health care:

(i) for the victim during the duration of the victim's pregnancy if the health care is related to or resulting from the sexual assault or the pregnancy; and

(ii) for the victim and the victim's child for one year after the day on which the victim's child is born.

Section 11. Section 76-7-302 is amended to read:

76-7-302. Circumstances under which abortion authorized.

(1) As used in this section, "viable" means that the unborn child has reached a stage of fetal development when the unborn child is potentially able to live outside the womb, as determined by the attending physician to a reasonable degree of medical certainty.

(2) An abortion may be performed in this state only by a physician.

(3) An abortion may be performed in this state only under the following circumstances:

(a) the unborn child is not viable; or

(b) the unborn child is viable, if:

(i) the abortion is necessary to avert:

(A) the death of the woman on whom the abortion is performed; or

(B) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(ii) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus:

(A) has a defect that is uniformly diagnosable and uniformly lethal; or

(B) has a severe brain abnormality that is uniformly diagnosable; or

(iii) (A) the unborn child has not reached 18 weeks gestational age and the woman is pregnant as a result of:

(I) rape, as described in Section 76-5-402;

(II) rape of a child, as described in Section 76-5-402.1; or

(III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; and

(B) before the abortion is performed, the physician who performs the abortion:

(I) verifies that the incident described in Subsection (3)(b)(iii)(A) has been reported to law enforcement; and

(II) if applicable, complies with the requirements of Section 80-2-602.

(4) An abortion may be performed only in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

(5) A physician who performs an abortion under Subsection (3)(b)(iii) shall:

(a) maintain an accurate record as to the manner in which the physician conducted the verification under Subsection (3)(b)(iii)(B)(I); and

(b) report the information described in Subsection (5)(a) to the department in accordance with Section 76-7-313.

Section 12. Section 76-7-302.5 is amended to read:

76-7-302.5. Circumstances under which abortion prohibited.

Notwithstanding any other provision of this part, a person may not perform or attempt to perform an abortion after the unborn child reaches 18 weeks gestational age unless the abortion is permissible for a reason described in Subsection 76-7-302(3)(b)(i) or (ii).

Section 13. Section 76-7-313 is amended to read:

76-7-313. Department's enforcement responsibility -- Physician's report to department -- Reporting.

(1) In order for the department to maintain necessary statistical information and ensure enforcement of the provisions of this part:

(a) any physician performing an abortion must obtain and record in writing:

(i) the age, marital status, and county of residence of the woman on whom the abortion was performed;

(ii) the number of previous abortions performed on the woman described in Subsection (1)(a)(i);

(iii) the hospital or other facility where the abortion was performed;

(iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;

(v) the pathological description of the unborn child;

(vi) the given gestational age of the unborn child;

(vii) the date the abortion was performed;

(viii) the measurements of the unborn child, if possible to ascertain;

(ix) if applicable, the information obtained under Subsection 76-7-302(5) or 76-7a-201(6); and

[~~(ix)~~] (x) the medical procedure used to abort the unborn child; and

(b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Each physician who performs an abortion shall provide the following to the department within 30 days after the day on which the abortion is performed:

(a) the information described in Subsection (1);

(b) a copy of the pathologist's report described in Section 76-7-309;

(c) an affidavit:

(i) indicating whether the required consent was obtained pursuant to Sections 76-7-305 and 76-7-305.5;

(ii) described in Subsection (3), if applicable; and

(iii) indicating whether at the time the physician performed the abortion, the physician had any knowledge that the pregnant woman sought the abortion solely because the unborn child had or may have had Down syndrome; and

(d) a certificate indicating:

(i) whether the unborn child was or was not viable, as defined in Subsection 76-7-302(1), at the time of the abortion;

(ii) whether the unborn child was older than 18 weeks gestational age at the time of the abortion; and

(iii) if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than 18 weeks gestational age at the time of the abortion, the reason for the abortion.

(3) If the information module or the address to the website is not provided to a pregnant woman, the physician who performs the abortion on the woman shall, within 10 days after the day on which the abortion is performed, provide to the department an affidavit that:

(a) specifies the information that was not provided to the woman; and

(b) states the reason that the information was not provided to the woman.

(4) All information supplied to the department shall be confidential and privileged pursuant to Title 26, Chapter 25, Confidential Information Release.

(5) The department shall pursue all administrative and legal remedies when the department determines that a physician or a

facility has not complied with the provisions of this part.

(6) (a) The department shall receive, compile, and create a report outlining the data provided under Subsection (1)(a)(ix).

(b) Annually on or before November 30, the department shall provide the report described in Subsection (6)(a) to the Health and Human Services Interim Committee.

Section 14. Section 76-7a-101 is amended to read:

76-7a-101. Definitions.

As used in this chapter:

(1) (a) "Abortion" means:

(i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;

(ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or

(iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II abortion clinic licensed by the state.

(3) "Department" means the Department of Health.

(4) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

(5) "Hospital" means:

(a) a general hospital licensed by the department; or

(b) a clinic or other medical facility to the extent the clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to a pregnant woman and an unborn child as would be provided for the particular medical procedure undertaken by a general hospital licensed by the department.

[~~(6) "Incest" means the same as that term is defined in Section 80-1-102.~~]

[~~(7)~~] (6) "Medical emergency" means a condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

[~~(8)~~] (7) "Physician" means:

(a) a medical doctor licensed to practice medicine and surgery in the state;

(b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

(c) a physician employed by the federal government who has qualifications similar to an individual described in Subsection [~~(8)(a)~~] (7)(a) or (b).

[~~(9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.~~]

[~~(10)~~] (8) (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

(iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Section 15. Section 76-7a-201 is amended to read:

76-7a-201. Abortion prohibition -- Exceptions -- Penalties.

(1) An abortion may be performed in this state only under the following circumstances:

(a) the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(b) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus:

(i) has a defect that is uniformly diagnosable and uniformly lethal; or

(ii) has a severe brain abnormality that is uniformly diagnosable; or

(c) (i) the unborn child has not reached 18 weeks gestational age and the woman is pregnant as a result of:

(A) rape, as described in Section 76-5-402;

(B) rape of a child, as described in Section 76-5-402.1; or

(C) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; and

(ii) before the abortion is performed, the physician who performs the abortion:

(A) verifies that the incident described in Subsection (1)(c)(i) has been reported to law enforcement; and

(B) if applicable, complies with requirements related to reporting suspicions of or known child abuse.

(2) An abortion may be performed only:

(a) by a physician; and

(b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

(3) A person who performs an abortion in violation of this section is guilty of a second degree felony.

(4) In addition to the penalty described in Subsection (3), the department may take appropriate corrective action against an abortion clinic, including revoking the abortion clinic's license, if a violation of this chapter occurs at the abortion clinic.

(5) The department shall report a physician's violation of any provision of this section to the state entity that regulates the licensing of a physician.

(6) A physician who performs an abortion under Subsection (1)(c) shall:

(a) maintain an accurate record as to the manner in which the physician conducted the verification under Subsection (1)(c)(ii)(A); and

(b) report the information described in Subsection (6)(a) to the department in accordance with Section 76-7-313.

Section 16. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Public Safety - Peace Officer Standards and Training

From General Fund, One-time 10,000

Schedule of Programs:

Peace Officer Standards and Training 10,000

The Legislature intends that:

(1) the appropriation under this item be used for the training program described in Subsections 53-6-202(6) and 53-10-908(2) of this bill; and

(2) under Section 63J-1-603, the one-time appropriation provided under this item not lapse at the close of fiscal year 2024 and the use of any nonlapsing funds is limited to the purposes described in Subsection (1) of this item.

CHAPTER 159
H. B. 299
Passed March 2, 2023
Approved March 14, 2023
Effective March 14, 2023

BOATING AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses boating, including financing water infrastructure related to boating.

Highlighted Provisions:

This bill:

- diverts a portion of the uniform fee on certain vessels to fund boating related grants;
- creates the Utah Boating Grant Account;
- provides for the administration of a grant program by the Office of Outdoor Recreation related to the Utah Boating Grant Account;
- addresses boating safety requirements; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-405.2, as last amended by Laws of Utah 2018, Chapters 166, 373
73-18-15.1, as last amended by Laws of Utah 2016, Chapter 303

ENACTS:

73-18-22.3, Utah Code Annotated 1953

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

Section 1. Section 59-2-405.2 is amended to read:

59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal property -- Distribution of revenues -- Rulemaking authority -- Determining the length of a vessel.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor vehicle that:

(A) is an:

(I) all-terrain type I vehicle as defined in Section 41-22-2;

(II) all-terrain type II vehicle as defined in Section 41-22-2; or

(III) all-terrain type III vehicle as defined in Section 41-22-2;

(B) is required to be registered in accordance with Title 41, Chapter 22, Off-highway Vehicles; and

(C) has:

(I) an engine with more than 150 cubic centimeters displacement;

(II) a motor that produces more than five horsepower; or

(III) an electric motor; and

(ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a snowmobile.

(b) "Camper" means a camper:

(i) as defined in Section 41-1a-102; and

(ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration.

(c) (i) "Canoe" means a vessel that:

(A) is long and narrow;

(B) has curved sides; and

(C) is tapered:

(I) to two pointed ends; or

(II) to one pointed end and is blunt on the other end; and

(ii) "canoe" includes:

(A) a collapsible inflatable canoe;

(B) a kayak;

(C) a racing shell;

(D) a rowing scull; or

(E) notwithstanding the definition of vessel in Subsection [~~(1)(bb),~~] (1)(cc), a canoe with an outboard motor.

(d) "Dealer" is as defined in Section 41-1a-102.

(e) "Jon boat" means a vessel that:

(i) has a square bow; and

(ii) has a flat bottom.

(f) "Motor vehicle" is as defined in Section 41-22-2.

(g) "Other motorcycle" means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation over unimproved terrain;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(h) (i) "Other trailer" means a portable vehicle without motive power that is primarily used:

(A) to transport tangible personal property; and

(B) for a purpose other than a commercial purpose; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a purpose other than a commercial purpose.

(i) "Outboard motor" is as defined in Section 41-1a-102.

(j) "Park model recreational vehicle" is as defined in Section 41-1a-102.

(k) "Personal watercraft" means a personal watercraft:

(i) as defined in Section 73-18-2; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(l) (i) "Pontoon" means a vessel that:

(A) is:

(I) supported by one or more floats; and

(II) propelled by either inboard or outboard power; and

(B) is not:

(I) a houseboat; or

(II) a collapsible inflatable vessel; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "houseboat."

(m) "Qualifying adjustment, exemption, or reduction" means an adjustment, exemption, or reduction:

(i) of all or a portion of a qualifying payment;

(ii) granted by a county during the refund period; and

(iii) received by a qualifying person.

(n) (i) "Qualifying payment" means the payment made:

(A) of a uniform statewide fee in accordance with this section:

(I) by a qualifying person;

(II) to a county; and

(III) during the refund period; and

(B) on an item of qualifying tangible personal property; and

(ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for an item of qualifying tangible personal property, the qualifying payment for that qualifying tangible personal property is equal to the difference between:

(A) the payment described in this Subsection (1)(n) for that item of qualifying tangible personal property; and

(B) the amount of the qualifying adjustment, exemption, or reduction.

(o) "Qualifying person" means a person that paid a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of qualifying tangible personal property.

(p) "Qualifying tangible personal property" means a:

(i) qualifying vehicle; or

(ii) qualifying watercraft.

(q) "Qualifying vehicle" means:

(i) an all-terrain vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(ii) an other motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iii) a small motor vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters; or

(v) a street motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters.

(r) "Qualifying watercraft" means a:

(i) canoe;

(ii) collapsible inflatable vessel;

(iii) jon boat;

(iv) pontoon;

(v) sailboat; or

(vi) utility boat.

(s) "Refund period" means the time period:

(i) beginning on January 1, 2006; and

(ii) ending on December 29, 2006.

(t) "Sailboat" means a sailboat as defined in Section 73-18-2.

(u) (i) "Small motor vehicle" means a motor vehicle that:

(A) is required to be registered in accordance with Title 41, Motor Vehicles; and

(B) has:

(I) an engine with 150 or less cubic centimeters displacement; or

(II) a motor that produces five or less horsepower; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may by rule develop a process for an owner of a motor vehicle to certify whether the motor vehicle has:

(A) an engine with 150 or less cubic centimeters displacement; or

(B) a motor that produces five or less horsepower.

(v) "Snowmobile" means a motor vehicle that:

(i) is a snowmobile as defined in Section 41-22-2;

(ii) is required to be registered in accordance with Title 41, Chapter 22, Off-highway Vehicles; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(w) "Street-legal all-terrain vehicle" means the same as that term is defined in Section 41-6a-102.

(x) "Street motorcycle" means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation on highways;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(y) "Tangible personal property owner" means a person that owns an item of qualifying tangible personal property.

(z) "Tent trailer" means a portable vehicle without motive power that:

(i) is constructed with collapsible side walls that:

(A) fold for towing by a motor vehicle; and

(B) unfold at a campsite;

(ii) is designed as a temporary dwelling for travel, recreational, or vacation use;

(iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iv) does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

(aa) (i) Except as provided in Subsection (1)(aa)(ii), "travel trailer" means a travel trailer:

(A) as defined in Section 41-1a-102; and

(B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(ii) notwithstanding Subsection (1)(aa)(i), "travel trailer" does not include:

(A) a camper; or

(B) a tent trailer.

(bb) (i) "Utility boat" means a vessel that:

(A) has:

(I) two or three bench seating;

(II) an outboard motor; and

(III) a hull made of aluminum, fiberglass, or wood; and

(B) does not have:

(I) decking;

(II) a permanent canopy; or

(III) a floor other than the hull; and

(ii) notwithstanding Subsection (1)(bb)(i), "utility boat" does not include a collapsible inflatable vessel.

(cc) "Vessel" means a vessel:

(i) as defined in Section 73-18-2, including an outboard motor of the vessel; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:

(i) exempt from the tax imposed by Section 59-2-103; and

(ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as provided in this section.

(b) The following tangible personal property applies to Subsection (2)(a) if that tangible personal property is required to be registered with the state:

(i) an all-terrain vehicle;

(ii) a camper;

(iii) an other motorcycle;

(iv) an other trailer;

(v) a personal watercraft;

(vi) a small motor vehicle;

(vii) a snowmobile;

(viii) a street motorcycle;

(ix) a tent trailer;

(x) a travel trailer;

(xi) a park model recreational vehicle; and

(xii) a vessel if that vessel is less than 31 feet in length as determined under Subsection [~~(6)~~] (8).

(3) Except as provided in Subsection (4) and for purposes of this section, the uniform statewide fees are:

(a) for a snowmobile:

Age of Snowmobile	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$20
6 or more years but less than 9 years	$30
3 or more years but less than 6 years	$35
Less than 3 years	$45

(b) for an all-terrain vehicle that is not a street-legal all-terrain vehicle or another motorcycle:

Age of All-Terrain Vehicle or Other Motorcycle Uniform Statewide Fee	Uniform Statewide Fee
12 or more years	$4
9 or more years but less than 12 years	$8
6 or more years but less than 9 years	$12
3 or more years but less than 6 years	$14
Less than 3 years	$18

(c) for a street-legal all-terrain vehicle:

Age of Street-Legal All-Terrain Vehicle	Uniform Statewide Fee
12 or more years	$4
9 or more years but less than 12 years	$14
6 or more years but less than 9 years	$20
3 or more years but less than 6 years	$28
Less than 3 years	$38

(d) for a camper or a tent trailer:

Age of Camper or Tent Trailer	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$25
6 or more years but less than 9 years	$35
3 or more years but less than 6 years	$50
Less than 3 years	$70

(e) for an other trailer:

Age of Other Trailer	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$15
6 or more years but less than 9 years	$20
3 or more years but less than 6 years	$25
Less than 3 years	$30

(f) for a personal watercraft:

Age of Personal Watercraft	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$25
6 or more years but less than 9 years	$35
3 or more years but less than 6 years	$45
Less than 3 years	$55

(g) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	$10
3 or more years but less than 6 years	$15
Less than 3 years	$25

(h) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$35
6 or more years but less than 9 years	$50
3 or more years but less than 6 years	$70
Less than 3 years	$95

(i) for a travel trailer or park model recreational vehicle:

Age of Travel Trailer or Park Model Recreational Vehicle	Uniform Statewide Fee
12 or more years	$20
9 or more years but less than 12 years	$65
6 or more years but less than 9 years	$90
3 or more years but less than 6 years	$135
Less than 3 years	$175

(j) $10 regardless of the age of the vessel if the vessel is:

(i) less than 15 feet in length;

(ii) a canoe;

(iii) a jon boat; or

(iv) a utility boat;

(k) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:

Length of Vessel	Uniform Statewide Fee
15 feet or more in length but less than 19 feet in length	$15
19 feet or more in length but less than 23 feet in length	$25
23 feet or more in length but less than 27 feet in length	$40
27 feet or more in length but less than 31 feet in length	$75

(l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$25
9 or more years but less than 12 years	$65
6 or more years but less than 9 years	$80
3 or more years but less than 6 years	$110
Less than 3 years	$150

(m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$50
9 or more years but less than 12 years	$120
6 or more years but less than 9 years	$175
3 or more years but less than 6 years	$220
Less than 3 years	$275

(n) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$100
9 or more years but less than 12 years	$180
6 or more years but less than 9 years	$240
3 or more years but less than 6 years	$310
Less than 3 years	$400

(o) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$120
9 or more years but less than 12 years	$250
6 or more years but less than 9 years	$350
3 or more years but less than 6 years	$500
Less than 3 years	$700

(4) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:

(a) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	$7.75
9 or more years but less than 12 years	$27
6 or more years but less than 9 years	$38.50
3 or more years but less than 6 years	$54
Less than 3 years	$73

(b) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	$7.75
3 or more years but less than 6 years	$11.50
Less than 3 years	$19.25

(5) Notwithstanding Section 59-2-407, tangible personal property subject to the uniform statewide fees imposed by this section that is brought into the state shall, as a condition of registration, be subject to the uniform statewide fees unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(6) (a) [~~The~~] Except as provided in Subsection (7), the revenues collected in each county from the uniform statewide fees imposed by this section shall be distributed by the county to each taxing entity in which each item of tangible personal property subject to the uniform statewide fees is located in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (6)(a) that receives revenues from the uniform statewide fees imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(7) The commission shall deposit 50% of the revenue collected from the statewide uniform fee on a vessel that is imposed under this section into the Utah Boating Grant Account created in Section 73-18-22.3. The remaining 50% is subject to the requirements of Subsection (6).

[~~(7)~~] (8) (a) For purposes of the uniform statewide fee imposed by this section, the length of a vessel shall be determined as provided in this Subsection [~~(7).~~] (8).

(b) (i) Except as provided in Subsection [~~(7)(b)(ii)~~] (8)(b)(ii), the length of a vessel shall be measured as follows:

(A) the length of a vessel shall be measured in a straight line; and

(B) the length of a vessel is equal to the distance between the bow of the vessel and the stern of the vessel.

(ii) Notwithstanding Subsection [~~(7)(b)(i)~~] (8)(b)(i), the length of a vessel may not include the length of:

(A) a swim deck;

(B) a ladder;

(C) an outboard motor; or

(D) an appurtenance or attachment similar to Subsections [~~(7)(b)(ii)(A)~~] (8)(b)(ii)(A) through (C) as determined by the commission by rule.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an appurtenance or attachment similar to Subsections [~~(7)(b)(ii)(A)~~] (8)(b)(ii)(A) through (C).

(c) The length of a vessel:

(i) (A) for a new vessel, is the length:

(I) listed on the manufacturer's statement of origin if the length of the vessel measured under Subsection [~~(7)(b)~~] (8)(b) is equal to the length of the vessel listed on the manufacturer's statement of origin; or

(II) listed on a form submitted to the commission by a dealer in accordance with Subsection [~~(7)(d)~~] (8)(d) if the length of the vessel measured under Subsection [~~(7)(b)~~] (8)(b) is not equal to the length of the vessel listed on the manufacturer's statement of origin; or

(B) for a vessel other than a new vessel, is the length:

(I) corresponding to the model number if the length of the vessel measured under Subsection [~~(7)(b)~~] (8)(b) is equal to the length of the vessel determined by reference to the model number; or

(II) listed on a form submitted to the commission by an owner of the vessel in accordance with Subsection [~~(7)(d)~~] (8)(d) if the length of the vessel measured under Subsection [~~(7)(b)~~] (8)(b) is not equal to the length of the vessel determined by reference to the model number; and

(ii) (A) is determined at the time of the:

(I) first registration as defined in Section 41-1a-102 that occurs on or after January 1, 2006; or

(II) first renewal of registration that occurs on or after January 1, 2006; and

(B) may be determined after the time described in Subsection [~~(7)(c)(ii)(A)~~] (8)(c)(ii)(A) only if the commission requests that a dealer or an owner submit a form to the commission in accordance with Subsection [~~(7)(d)~~] (8)(d).

(d) (i) A form under Subsection [~~(7)(c)~~] (8)(c) shall:

(A) be developed by the commission;

(B) be provided by the commission to:

(I) a dealer; or

(II) an owner of a vessel;

(C) provide for the reporting of the length of a vessel;

(D) be submitted to the commission at the time the length of the vessel is determined in accordance with Subsection [~~(7)(c)(ii);~~] (8)(c)(ii);

(E) be signed by:

(I) if the form is submitted by a dealer, that dealer; or

(II) if the form is submitted by an owner of the vessel, an owner of the vessel; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection [~~(7)(d)(i)(F)~~] (8)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A dealer or an owner that submits a form to the commission under Subsection [~~(7)(c)~~] (8)(c) is considered to have given the dealer's or owner's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection [~~(7)(d)(iii)(A)~~] (8)(d)(iii)(A) is a condition to the acceptance of any form.

[~~(8)~~] (9) (a) A county that collected a qualifying payment from a qualifying person during the refund period shall issue a refund to the qualifying person as described in Subsection [~~(8)(b)~~] (9)(b) if:

(i) the difference described in Subsection [~~(8)(b)~~] (9)(b) is $1 or more; and

(ii) the qualifying person submitted a form in accordance with Subsections [~~(8)(c)~~] (9)(c) and (d).

(b) The refund amount shall be calculated as follows:

(i) for a qualifying vehicle, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying vehicle during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying vehicle; and

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period; and

(ii) for a qualifying watercraft, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying watercraft during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying watercraft;

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period.

(c) Before the county issues a refund to the qualifying person in accordance with Subsection [~~(8)(a)~~] (9)(a) the qualifying person shall submit a form to the county to verify the qualifying person is entitled to the refund.

(d) (i) A form under Subsection [~~(8)(c) or (9)~~] (9)(c) or (10) shall:

(A) be developed by the commission;

(B) be provided by the commission to the counties;

(C) be provided by the county to the qualifying person or tangible personal property owner;

(D) provide for the reporting of the following:

(I) for a qualifying vehicle:

(Aa) the type of qualifying vehicle; and

(Bb) the amount of cubic centimeters displacement;

(II) for a qualifying watercraft:

(Aa) the length of the qualifying watercraft;

(Bb) the age of the qualifying watercraft; and

(Cc) the type of qualifying watercraft;

(E) be signed by the qualifying person or tangible personal property owner; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection [~~(8)(d)(i)(F)~~] (9)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A qualifying person or tangible personal property owner that submits a form to a county under Subsection [~~(8)(c) or (9)~~] (9)(c) or (10) is considered to have given the qualifying person's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection [~~(8)(d)(iii)(A)~~] (9)(d)(iii)(A) is a condition to the acceptance of any form.

(e) The county shall make changes to the commission's records with the information received by the county from the form submitted in accordance with Subsection [~~(8)(c)~~] (9)(c).

[~~(9)~~] (10) A county shall change its records regarding an item of qualifying tangible personal property if the tangible personal property owner submits a form to the county in accordance with Subsection [~~(8)(d)~~] (9)(d).

[~~(10)~~] (11) (a) For purposes of this Subsection [~~(10)~~] (11), "owner of tangible personal property" means a person that was required to pay a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of tangible personal property subject to the uniform statewide fees imposed by this section.

(b) A county that collected revenues from uniform statewide fees imposed by this section during the refund period shall notify an owner of tangible personal property:

(i) of the tangible personal property classification changes made to this section pursuant to Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1;

(ii) that the owner of tangible personal property may obtain and file a form to modify the county's records regarding the owner's tangible personal property; and

(iii) that the owner may be entitled to a refund pursuant to Subsection [~~(8)~~] (9).

Section 2. Section 73-18-15.1 is amended to read:

73-18-15.1. Vessel navigation and steering laws.

(1) The operator of a vessel shall maintain a proper lookout by sight and hearing at all times to avoid the risk of collision.

(2) When the operators of two motorboats approach each other where there is risk of collision, each operator shall alter course to the right and pass on the left side of the other.

(3) When the operators of two motorboats are crossing paths and are at risk of a collision, the operator of the vessel that has the other vessel on its right side shall keep out of the way and yield right-of-way if necessary.

(4) The operator of any vessel overtaking any other vessel shall keep out of the way of the vessel being overtaken.

(5) The operator of a vessel underway shall keep out of the way of a:

(a) vessel not under command;

(b) vessel restricted in its ability to maneuver;

(c) vessel engaged in fishing; and

(d) sailing vessel.

(6) If the operator of one of two vessels is to keep out of the way, the other vessel operator shall maintain his course and speed unless it becomes apparent the other vessel is not taking the appropriate action.

(7) In narrow channels an operator of a vessel underway shall keep to the right of the middle of the channel.

(8) The operator of a vessel shall proceed at a safe speed at all times so that the operator can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances or conditions.

(9) (a) When the operators of two sailboats are approaching one another so as to involve risk of collision, one of the operators shall keep out of the way of the other as follows:

(i) when each has the wind on a different side, the operator of the vessel that has the wind on the left side shall keep out of the way of the other;

(ii) when both have the wind on the same side, the operator of the vessel that is to the windward shall keep out of the way of the vessel that is to leeward; and

(iii) if the operator of a vessel with the wind on the left side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the left or on the right side, the operator shall keep out of way of the other vessel.

(b) For purposes of this Subsection (9), the windward side shall be the side opposite that on which the mainsail is carried.

(10) The operator of any vessel may not exceed a wakeless speed when within 150 feet of:

(a) another vessel;

(b) a person in or floating on the water;

(c) a water skier being towed by another boat;

(d) a water skier that had been towed behind the operator's vessel unless the skier is still surfing or riding in an upright stance on the wake created by the vessel;

(e) a water skier that had been towed behind another vessel and the skier is still surfing or riding in an upright stance on the wake created by the other vessel;

(f) a shore fisherman;

(g) a launching ramp;

(h) a dock; or

(i) a designated swimming area.

(11) The operator of a motorboat is responsible for any damage or injury caused by the wake produced by the operator's motorboat.

(12) (a) Except as provided in Subsection (12)(b) or (12)(c), the operator of a motorboat that is less than 65 feet in length may not exceed a wakeless speed while any person is riding upon the bow decking, gunwales, transom, seatbacks, or motor cover.

(b) Subsection (12)(a) does not apply if the motorboat is:

(i) between 16 feet and 65 feet in length; and

(ii) the motorboat is equipped with adequate rails or other safeguards to prevent a person from falling overboard.

(c) (i) As used in this Subsection (12)(c), "v-drive vessel" means a direct or v-drive vessel, and excludes a stern drive vessel, inboard-outboard vessel, outboard vessel, or reverse or forward drive vessel.

(ii) An individual may sit on a backward-facing stern seat of a v-drive vessel while an individual is behind the vessel if:

(A) the vessel is a v-drive vessel with the propeller underneath the vessel;

(B) the individual sitting in the seat is 16 years old or older;

(C) the vessel is operating at less than 15 miles per hour; and

(D) the vessel's engine is built on or after July 1, 2017, or the vessel has installed a surf pipe or other extended exhaust system that puts exhaust in the water while under power.

(13) If a person is riding upon the bow decking of a motorboat that does not have designed seating for passengers, the person shall straddle one of the upright supports of the bow rail and may not block the vision of the operator.

(14) The operator of a vessel may not tow a water skier or a person on another device:

(a) unless an onboard observer, who is at least eight years of age, is designated by the operator to watch the person being towed; or

(b) between sunset and sunrise.

(15) A person who violates this section is guilty of a class C misdemeanor.

Section 3. Section 73-18-22.3 is enacted to read:

73-18-22.3. Utah Boating Grant Account -- Grant program administered by the Division of Outdoor Recreation.

(1) There is created within the General Fund a restricted account known as the "Utah Boating Grant Account."

(2) The Utah Boating Grant Account shall consist of:

(a) revenue deposited into the Utah Boating Grant Account under Subsection 59-2-405.2(7) from the statewide uniform fee on a vessel that is less than 31 feet in length and required to be registered with the state;

(b) legislative appropriations;

(c) contributions, grants, gifts, transfers, bequests, and donations specifically directed to the Utah Boating Grant Account; and

(d) interest and earnings on the Utah Boating Grant Account.

(3) An entity eligible for a grant funded through the Utah Boating Grant Account is:

(a) a water conservancy district;

(b) a state agency;

(c) a county; or

(d) a municipality, as defined in Section 10-1-104.

(4) Subject to appropriation, money in the Utah Boating Grant Account may be used for:

(a) construction, repair, and replacement of a publicly owned boating facility, including a boat ramp, courtesy dock, or parking lot;

(b) resource protection of waterway shorelines to prevent or minimize erosion created by vessel wave action;

(c) drought access mitigation;

(d) alternative access development for non-motorized vessels to decrease conflicts, congestion, and safety concerns on existing motorboat access ramps;

(e) search and rescue equipment; and

(f) the payment of the administrative costs of the Division of Outdoor Recreation in administering a grant under this section.

(5) The Division of Outdoor Recreation shall administer the grants under this section pursuant to rules made, after notifying the Outdoor Adventure Commission, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The Division of Outdoor Recreation shall consult with the advisory committee described in Section 73-18-3.5 before issuing a grant under this section.

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2024.

(2) If approved by two-thirds of all the members elected to each house, the amendments to Section 73-18-15.1 take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 160
H. B. 302
Passed February 27, 2023
Approved March 14, 2023
Effective July 1, 2023

CULTURAL AND COMMUNITY ENGAGEMENT AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to the Department of Cultural and Community Engagement (department).

Highlighted Provisions:

This bill:

- defines terms;
- clarifies the duties of the department's State Library Division;
- requires certain agencies to provide information to the State Library Division for retention in the digital library;
- repeals the State Library Division's depository library program;
- modifies requirements related to public library Internet safety;
- renames the Division of State History within the department as the Utah Historical Society;
- repeals the Board of State History's duties in relation to the State Historic Preservation Office;
- establishes the Museum of Utah within the Utah Historical Society to promote Utah's history and culture;
- transfers certain department functions related to antiquities and historical preservation to the State Historic Preservation Office;
- expands the membership of the National Register Review Committee;
- modifies the membership and duties of the Utah Multicultural Commission;
- modifies the membership of the STEM Action Center Board;
- allows the Pete Suazo Utah Athletic Commission to impose broadcast revenue fees on promoters;
- repeals the Utah Main Street Program Advisory Committee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

9-7-101, as last amended by Laws of Utah 2019, Chapter 221
9-7-201, as renumbered and amended by Laws of Utah 1992, Chapter 241
9-7-203, as last amended by Laws of Utah 2017, Chapter 48
9-7-205, as last amended by Laws of Utah 2017, Chapter 48
9-7-207, as last amended by Laws of Utah 2006, Chapter 81
9-7-208, as repealed and reenacted by Laws of Utah 2006, Chapter 81
9-7-213, as last amended by Laws of Utah 2010, Chapter 378
9-7-215, as last amended by Laws of Utah 2017, Chapter 208
9-8-102, as last amended by Laws of Utah 2019, Chapter 221
9-8-201, as renumbered and amended by Laws of Utah 1992, Chapter 241
9-8-202, as last amended by Laws of Utah 2019, Chapter 221
9-8-203, as last amended by Laws of Utah 2018, Chapter 63
9-8-204, as last amended by Laws of Utah 2022, Chapter 369
9-8-205, as last amended by Laws of Utah 2022, Chapter 369
9-8-206, as last amended by Laws of Utah 2019, Chapter 221
9-8-207, as last amended by Laws of Utah 2018, Chapter 260
9-8-701, as last amended by Laws of Utah 2014, Chapter 166
9-8-704, as last amended by Laws of Utah 2014, Chapter 166
9-8-705, as last amended by Laws of Utah 2014, Chapter 166
9-8-707, as last amended by Laws of Utah 2014, Chapter 166
9-8-708, as last amended by Laws of Utah 2014, Chapter 166
9-9-402, as last amended by Laws of Utah 2019, Chapter 79
9-9-403, as last amended by Laws of Utah 2008, Chapter 114
9-9-405, as last amended by Laws of Utah 2019, Chapter 79
9-9-407, as last amended by Laws of Utah 2019, Chapter 79
9-9-408, as last amended by Laws of Utah 2021, Chapter 280
9-21-301, as enacted by Laws of Utah 2019, Chapter 221
9-21-302, as enacted by Laws of Utah 2019, Chapter 221
9-22-103, as last amended by Laws of Utah 2020, Chapter 365
9-23-304, as renumbered and amended by Laws of Utah 2022, Chapter 362
9-24-101, as renumbered and amended by Laws of Utah 2022, Chapter 362
9-24-102, as renumbered and amended by Laws of Utah 2022, Chapter 362
10-9a-534, as enacted by Laws of Utah 2021, First Special Session, Chapter 3
15A-2-103, as last amended by Laws of Utah 2021, Chapter 199
17-27a-530, as enacted by Laws of Utah 2021, First Special Session, Chapter 3
17C-2-103, as last amended by Laws of Utah 2019, Chapter 376

17C-2-104, as last amended by Laws of Utah 2006, Chapter 292 and renumbered and amended by Laws of Utah 2006, Chapter 359
17C-3-103, as last amended by Laws of Utah 2016, Chapter 350
17C-3-104, as enacted by Laws of Utah 2006, Chapter 359
17C-5-105, as last amended by Laws of Utah 2019, Chapter 376
17C-5-106, as enacted by Laws of Utah 2016, Chapter 350
53B-17-603, as last amended by Laws of Utah 2008, Chapter 382
53B-18-1002, as last amended by Laws of Utah 2021, Chapter 184
59-7-609, as enacted by Laws of Utah 1995, Chapter 42
59-10-1006, as renumbered and amended by Laws of Utah 2006, Chapter 223
63A-12-112, as enacted by Laws of Utah 2019, Chapter 254
63C-9-301, as last amended by Laws of Utah 2021, Chapters 382, 405
63C-9-601, as last amended by Laws of Utah 2020, Chapter 419
63L-11-202, as last amended by Laws of Utah 2021, Chapter 345 and renumbered and amended by Laws of Utah 2021, Chapter 382
63L-11-402, as last amended by Laws of Utah 2022, Chapter 68
67-1-8.1, as last amended by Laws of Utah 2021, Chapters 209, 344
76-9-704, as last amended by Laws of Utah 2007, Chapters 60, 231

ENACTS:
9-8-209, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
9-8a-101, (Renumbered from 9-8-901, as enacted by Laws of Utah 2022, Chapter 369)
9-8a-201, (Renumbered from 9-8-902, as enacted by Laws of Utah 2022, Chapter 369)
9-8a-202, (Renumbered from 9-8-903, as enacted by Laws of Utah 2022, Chapter 369)
9-8a-203, (Renumbered from 9-8-904, as enacted by Laws of Utah 2022, Chapter 369)
9-8a-204, (Renumbered from 9-8-905, as enacted by Laws of Utah 2022, Chapter 369)
9-8a-205, (Renumbered from 9-8-208, as enacted by Laws of Utah 2020, Chapter 179)
9-8a-301, (Renumbered from 9-8-301, as last amended by Laws of Utah 2014, Chapter 189)
9-8a-302, (Renumbered from 9-8-302, as last amended by Laws of Utah 2016, Chapter 348)
9-8a-304, (Renumbered from 9-8-304, as last amended by Laws of Utah 2007, Chapter 231)
9-8a-305, (Renumbered from 9-8-305, as last amended by Laws of Utah 2020, Chapter 154)
9-8a-306, (Renumbered from 9-8-306, as last amended by Laws of Utah 1995, Chapter 170)
9-8a-307, (Renumbered from 9-8-307, as last amended by Laws of Utah 2014, Chapter 189)
9-8a-308, (Renumbered from 9-8-308, as renumbered and amended by Laws of Utah 1992, Chapter 241)
9-8a-309, (Renumbered from 9-8-309, as last amended by Laws of Utah 2008, Chapter 382)
9-8a-401, (Renumbered from 9-8-401, as renumbered and amended by Laws of Utah 1992, Chapters 241, 286)
9-8a-402, (Renumbered from 9-8-402, as last amended by Laws of Utah 2019, Chapter 221)
9-8a-403, (Renumbered from 9-8-403, as renumbered and amended by Laws of Utah 1992, Chapter 241)
9-8a-404, (Renumbered from 9-8-404, as last amended by Laws of Utah 2020, Chapter 34)
9-8a-405, (Renumbered from 9-8-405, as last amended by Laws of Utah 2014, Chapter 189)
9-8a-502, (Renumbered from 9-8-502, as renumbered and amended by Laws of Utah 1992, Chapter 241)
9-8a-503, (Renumbered from 9-8-503, as renumbered and amended by Laws of Utah 1992, Chapter 241)
9-8a-504, (Renumbered from 9-8-504, as renumbered and amended by Laws of Utah 1992, Chapter 241)
9-8a-505, (Renumbered from 9-8-505, as renumbered and amended by Laws of Utah 1992, Chapter 241)
9-8a-506, (Renumbered from 9-8-506, as renumbered and amended by Laws of Utah 1992, Chapter 241)
9-23-203, (Renumbered from 63N-10-202, as renumbered and amended by Laws of Utah 2015, Chapter 283)

REPEALS:
9-7-209, as last amended by Laws of Utah 2006, Chapter 81
9-7-210, as last amended by Laws of Utah 1995, Chapter 32
9-8-501, as renumbered and amended by Laws of Utah 1992, Chapter 241
9-24-103, as renumbered and amended by Laws of Utah 2022, Chapter 362

Utah Code Sections Affected By Coordination Clause:
9-7-215, as last amended by Laws of Utah 2017, Chapter 208

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

Section 1. Section 9-7-101 is amended to read:

9-7-101. Definitions.

As used in this chapter:

(1) "Board" means the State Library Board created in Section 9-7-204.

(2) "Digital library" means the web-accessible digital library of state publications created under Section 9-7-208.

[~~(2)~~] (3) "Division" means the State Library Division.

(4) "Legislative publication" means:

(a) the Utah Code;

(b) the Laws of Utah; and

(c) a biennial version of the Utah Constitution after amendments that passed during the regular general election are incorporated into the Utah Constitution.

[~~(3)~~] (5) "Library board" means the library board of directors appointed locally as authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which the board is known locally.

[~~(4)~~] (6) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.

[~~(5)~~] (7) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section 9-7-215.

[~~(6)~~] (8) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.

[~~(7)~~] (9) (a) "State agency" means:

[~~(a)~~] (i) the state; or

[~~(b)~~] (ii) an office, department, [~~agency, authority, commission, board, institution, hospital, college, university,~~] division, or other agency or instrumentality of the state.

(b) "State agency" does not include:

(i) the Office of Legislative Research and General Counsel;

(ii) a political subdivision; or

(iii) a state institution of higher education.

(10) "State institution of higher education" means an institution described in Section 53B-2-101 or any other university or college that is established and maintained by the state.

[~~(8)~~] (11) (a) "State publication" means [~~a book, compilation, directory, document, contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register, rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or disc recording regardless of format or method of reproduction,~~] any information issued or published by a state agency [~~or political subdivision~~] for distribution.

(b) "State publication" includes a book, compilation, directory, map, fact sheet, newsletter, brochure, bulletin, journal, magazine, pamphlet, periodical, report, and electronic publication.

[~~(b)~~] (c) "State publication" does not include [~~correspondence, internal confidential publications, office memoranda, university press publications, or publications of the state historical society~~] public information, as that term is defined in Section 63A-16-601.

Section 2. Section 9-7-201 is amended to read:

9-7-201. State Library Division -- Creation -- Purpose.

(1) There is created within the department the State Library Division under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall be under the policy direction of the board.

(3) The division shall function as the library authority for [~~the state and is responsible for general library services, extension services, the preservation, distribution and exchange of state publications, legislative reference, and other services considered proper for a state library.~~]:

(a) general library services;

(b) mobile library services;

(c) providing for permanent public access to state publications; and

(d) other services considered proper for a state library.

Section 3. Section 9-7-203 is amended to read:

9-7-203. Division duties.

[~~The~~] Subject to the requirements of this part, the division shall:

(1) establish, operate, and maintain:

(a) a state publications collection[~~,~~];

(b) a digital library of state publications[~~,~~]; and

(c) a bibliographic control system[~~, and depositories as provided in this part~~];

(2) cooperate with:

(a) other state agencies to facilitate public access to government information through electronic networks or other means;

(b) other state or national libraries or library agencies; and

(c) the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;

(3) receive bequests, gifts, and endowments of money and deposit the funds with the state treasurer to be placed in the State Library Donation Fund, which funds shall be held for the purpose, if any, specifically directed by the donor; and

(4) receive bequests, gifts, and endowments of property to be held, used, or disposed of, as directed by the donor[~~,~~]:

(a) in accordance with the division's policies for collection development; and

(b) with the approval of the Division of Finance.

Section 4. Section 9-7-205 is amended to read:

9-7-205. Duties of board and director.

(1) The board shall:

(a) promote, develop, and organize a state library and make provisions for [~~its~~] the state library's housing;

(b) promote and develop library services throughout the state in cooperation with other state or municipal libraries, schools, or other agencies wherever practical;

(c) promote the establishment of district, regional, or multicounty libraries as conditions within particular areas of the state may require;

(d) supervise the books and materials of the state library and require the keeping of careful and complete records of the condition and affairs of the state library;

(e) establish policies for the administration of the division and for the control, distribution, and lending of books and materials to those libraries, institutions, groups, or individuals entitled to them under this chapter;

(f) serve as the agency of the state for the administration of state or federal funds that may be appropriated to further library development within the state;

(g) aid and provide general advisory assistance in the development of statewide school library service and encourage contractual and cooperative relations between school and public libraries;

(h) give assistance, advice, and counsel to all tax-supported libraries within the state and to all communities or persons proposing to establish a tax-supported library and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;

(i) furnish or contract for the furnishing of library or information service to state officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;

(j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind, visually impaired, persons with disabilities, and professional, occupational, and other groups;

(k) administer a [~~depository~~] state publications library program by collecting state publications, providing access to state publications through the digital library, and providing a bibliographic information system;

(l) require the collection of information and statistics necessary to the work of the state library and the distribution of findings and reports;

(m) make any report concerning the activities of the state library to the governor as the governor may require; and

(n) develop standards for public libraries.

(2) The director shall, under the policy direction of the board, carry out the responsibilities under Subsection (1).

Section 5. Section 9-7-207 is amended to read:

9-7-207. Deposit of state publications and legislative publications.

[~~(1) (a) Each state agency and political subdivision publishing a digital version of a state publication shall deposit a digital copy with the division.~~]

[~~(b) Each state agency and political subdivision shall deposit with the division copies of each state publication that it elects to publish in a physical format in the numbers specified by the state librarian.~~]

[~~(c) The division shall forward two copies of each state publication published in a physical format deposited with it by a state agency to the Library of Congress, one copy to the state archivist, at least one copy to each depository library, and retain two copies.~~]

[~~(2) Each state agency or political subdivision shall deposit with the division a digital copy of each audio and video publication or recording issued by it for bibliographic listing and retention in the digital library.~~]

[~~(3) Each state agency or political subdivision shall deposit with the division copies of audio and video publications or recordings issued by it in physical formats in the numbers specified by the state librarian for bibliographic listing and retention in the state library collection.~~]

[~~(4) (a) The division shall publish or make available to the public through electronic networks a list of state agency publications.~~]

[~~(b) The list shall be published periodically and distributed to depository libraries and the state archivist.~~]

[~~(5) Materials the division considers not to be of major public interest will be listed, but no copies will be required for deposit.~~]

(1) (a) A state agency shall submit to the division a digital copy of each state publication the state agency makes available to the public regardless of format for bibliographic listing and permanent retention in the digital library.

(b) A state agency may not remove a state publication that is posted to the state agency's public website until the state agency submits a digital copy of the state publication to the division under Subsection (1)(a).

(c) A state agency's submission of a state publication under Subsection (1)(a) constitutes the state agency's compliance with the requirement under Section 46-5-108 to ensure that the state publication is reasonably available for use by the public on a permanent basis.

(2) (a) In addition to the requirements of Subsection (1), a state agency that elects to publish a state publication in a physical format shall submit copies of the state publication to the division in the numbers specified by the state librarian.

(b) The division shall:

(i) forward one copy of each state publication described in Subsection (2)(a) to the state archivist; and

(ii) retain two copies of each state publication described in Subsection (2)(a) for the division's collection of state publications.

(3) The Office of Legislative Research and General Counsel shall submit to the division a digital copy of each legislative publication the Office of Legislative Research and General Counsel makes available to the public for permanent retention in the digital library.

(4) (a) A political subdivision or state institution of higher education may submit to the division a digital copy of any information the political subdivision or state institution of higher education makes available to the public.

(b) With respect to information submitted to the division by political subdivisions and state institutions of higher education, the division may select the information the division considers appropriate for permanent public access in the digital library.

Section 6. Section 9-7-208 is amended to read:

9-7-208. Digital library for permanent public access.

(1) The division shall manage and maintain an online, web-accessible digital library for state publications submitted to the division by state agencies under Subsection 9-7-207(1).

(2) The division shall provide for permanent public access to [~~the~~] state publications in the digital library.

(3) The digital library shall be accessible by agency, author, title, subject, keyword, text search, and such other means as provided by the division.

[~~(4) (a) Each state agency publishing a digital version of a state publication shall deposit a digital copy of the publication with the division.~~]

[~~(b) A state agency may not remove a state publication it posts to its public website until a copy is deposited into the digital library for permanent public access.~~]

(4) The division shall make state publications in the digital library available for download.

Section 7. Section 9-7-213 is amended to read:

9-7-213. Rulemaking.

The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement and administer the provisions of this chapter including:

(1) standards [~~which shall be met by libraries to obtain and retain a designation as a depository library~~] for submitting state publications to the division under Section 9-7-207;

(2) the method by which grants are made to individual libraries, but not including appropriations made directly to any other agency or institution;

(3) standards for the certification of public librarians; and

(4) standards for the public library online access policy required in Section 9-7-215.

Section 8. Section 9-7-215 is amended to read:

9-7-215. Internet and online access policy required.

(1) As used in this section:

(a) "Child pornography" is as defined in Section 76-5b-103.

(b) "Harmful to minors" is as defined in Section 76-10-1201.

(c) "Obscene" is as defined in 20 U.S.C. Sec. 9101.

(d) "Technology protection measure" means a technology that blocks or filters Internet access to visual depictions.

(2) State funds may not be provided to any public library that provides public access to the Internet unless the library:

(a) (i) has in place a policy of Internet safety for minors, including the operation of a technology protection measure:

(A) with respect to any computer or other device while connected to the Internet through a network provided by the library, including a wireless network; and

(B) that protects against access to visual depictions that are[~~:~~] child pornography, harmful to minors, or obscene; and

[~~(I) child pornography;~~]

[~~(II) harmful to minors; or~~]

[~~(III) obscene; and~~]

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(a)(i) during any use by a minor of a computer or other

device that is connected to the Internet through a network provided by the library, including a wireless network; and

(b) (i) has in place a policy of Internet safety, including the operation of a technology protection measure:

(A) with respect to any computer or other device while connected to the Internet through a network provided by the library, including a wireless network; and

(B) that protects against access to visual depictions that are[~~:~~] child pornography, harmful to minors, or obscene; and

[~~(I) child pornography; or~~]

[~~(II) obscene; and~~]

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(b)(i) during any use of a computer or other device that is connected to the Internet through a network provided by the library, including a wireless network.

(3) This section does not prohibit a public library from limiting Internet access or otherwise protecting against materials other than the materials specified in this section.

(4) An administrator, supervisor, or other representative of a public library may disable a technology protection measure described in Subsection (2):

(a) at the request of a library patron who is not a minor; and

(b) to enable access for research or other lawful purposes.

Section 9. Section 9-8-102 is amended to read:

9-8-102. Definitions.

As used in this chapter:

(1) "Board" means the Board of State History.

(2) "Director" means the director of the [~~Division of State History~~] Utah Historical Society.

[~~(3) "Division" means the Division of State History.~~]

[~~(4)~~] (3) "Documentary materials" means written or documentary information contained in published materials, manuscript collections, archival materials, photographs, sound recordings, motion pictures, and other written, visual, and aural materials, except government records.

[~~(5)~~] (4) "Historical artifacts" means objects produced or shaped by human efforts, a natural object deliberately selected and used by a human, an object of aesthetic interest, and any human-made objects produced, used, or valued by the historic peoples of Utah.

(5) "Museum of Utah" means the Museum of Utah created in Section 9-8-209.

(6) "Society" means the Utah [~~State~~] Historical Society created in Section [~~9-8-207~~] 9-8-201.

Section 10. Section 9-8-201 is amended to read:

Part 2. Utah Historical Society

9-8-201. Utah Historical Society -- Creation -- Purpose.

(1) There is created within the department the [~~Division of State History~~] Utah Historical Society under the administration and general supervision of the executive director or the designee of the executive director.

[~~(2) The division shall be under the policy direction of the board.~~]

[~~(3)~~] (2) The division, with the advisement of the board, shall be the authority of the state for state history and shall perform those duties set forth in statute.

Section 11. Section 9-8-202 is amended to read:

9-8-202. Appointment of director.

The executive director, in consultation with the board, shall appoint a director of the [~~division~~] society:

(1) to serve as the chief administrative officer of the [~~division~~] society; and

(2) who is experienced in administration and is qualified by education or training in the field of state history.

Section 12. Section 9-8-203 is amended to read:

9-8-203. Society duties.

(1) The [~~division~~] society shall:

(a) stimulate research, study, and activity in the field of Utah history and related history;

(b) maintain a specialized history library;

[~~(c) mark and preserve historic sites, areas, and remains;~~]

[~~(d)~~] (c) collect, preserve, and administer historical records relating to the history of Utah;

[~~(e)~~] (d) administer, collect, preserve, document, interpret, develop, and exhibit historical artifacts, documentary materials, and other objects relating to the history of Utah for educational and cultural purposes;

[~~(f)~~] (e) edit and publish historical records;

[~~(g)~~] (f) cooperate with local, state, and federal agencies and schools and museums to provide coordinated and organized activities for the collection, documentation, preservation, interpretation, and exhibition of historical artifacts related to the state;

[~~(h)~~] (g) promote, coordinate, and administer:

(i) Utah History Day at the Capitol designated under Section 63G-1-401; and

(ii) the Utah History Day program affiliated with National History Day, which includes a series of regional, state, and national activities and competitions for students from grades 4 through 12;

[~~(i)~~] (h) subject to legislative appropriations, provide grants and technical assistance as necessary and appropriate; [~~and~~]

(i) administer educational programs in partnership with public and private entities in the state; and

(j) comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in adjudicative proceedings.

(2) (a) The [~~division~~] society may acquire or produce reproductions of historical artifacts and documentary materials for educational and cultural use.

(b) The society may only deaccession an item described in Subsection (2)(a) in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An item that is to be deaccessioned in accordance with society rule is not state surplus property as that term is defined in Section 63A-2-101.5, and the society is not subject to the surplus property program described in Section 63A-2-401 for that item.

(3) To promote an appreciation of Utah history and to increase heritage tourism in the state, the [~~division~~] society shall:

(a) (i) create and maintain an inventory of all historic markers and monuments that are accessible to the public throughout the state;

(ii) enter into cooperative agreements with other groups and organizations to collect and maintain the information needed for the inventory;

(iii) encourage the use of volunteers to help collect the information and to maintain the inventory;

(iv) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens and tourists to visit the markers and monuments;

(v) work with public and private landowners, heritage organizations, and volunteer groups to help maintain, repair, and landscape around the markers and monuments; and

(vi) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others;

(b) (i) create and maintain an inventory of all active and inactive cemeteries throughout the state;

(ii) enter into cooperative agreements with local governments and other groups and organizations to collect and maintain the information needed for the inventory;

(iii) encourage the use of volunteers to help collect the information and to maintain the inventory;

(iv) encourage cemetery owners to create and maintain geographic information systems to record burial sites and encourage volunteers to do so for inactive and small historic cemeteries;

(v) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens to participate in the care and upkeep of historic cemeteries;

(vi) work with public and private cemeteries, heritage organizations, genealogical groups, and volunteer groups to help maintain, repair, and landscape cemeteries, grave sites, and tombstones; and

(vii) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others; and

(c) (i) create and maintain a computerized record of cemeteries and burial locations in a state-coordinated and publicly accessible information system;

(ii) gather information for the information system created and maintained under Subsection (3)(c)(i) and help maintain, repair, and landscape cemeteries, grave sites, and tombstones as described in Subsection (3)(b)(vi) by providing matching grants, upon approval by the board, to:

(A) municipal cemeteries;

(B) cemetery maintenance districts;

(C) endowment care cemeteries;

(D) private nonprofit cemeteries;

(E) genealogical associations; and

(F) other nonprofit groups with an interest in cemeteries; and

(iii) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for granting matching funds under Subsection (3)(c)(ii) to ensure that:

(A) professional standards are met; and

(B) projects are cost effective.

(4) This chapter may not be construed to authorize the [~~division~~] society to acquire by purchase any historical artifacts, documentary materials, or specimens that are restricted from sale by federal law or the laws of any state, territory, or foreign nation.

Section 13. Section 9-8-204 is amended to read:

9-8-204. Board of State History.

(1) There is created within the department the Board of State History.

(2) The board shall consist of 11 members appointed by the governor with the advice and

consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, who are persons with an interest in the subject matter of the [~~division's~~] society's responsibilities.

(3) (a) Except as required by Subsection (3)(b), the members shall be appointed for terms of four years and shall serve until their successors are appointed and qualified.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the consent of the Senate.

(5) A simple majority of the board constitutes a quorum for conducting board business.

(6) The governor shall select a chair and vice chair from the board members.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(8) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 14. Section 9-8-205 is amended to read:

9-8-205. Board duties and powers.

(1) The board shall:

[~~(a) with respect to the division:~~]

[~~(i)~~] (a) make policies to direct the [~~division~~] director in carrying out the director's duties;

[~~(ii)~~] (b) approve the [~~division's~~] society's rules; and

[~~(iii)~~] (c) [~~assist the division in development~~] make recommendations to the society for the development of programs consistent with this chapter[~~; and~~].

[~~(iv) review and approve, if appropriate, matching grants under Subsection 9-8-203(3)(c)(ii); and~~]

[~~(b) with respect to the State Historic Preservation Office created in Section 9-8-902:~~]

[~~(i) make policies to direct the state historic preservation officer in carrying out the officer's duties; and~~]

[~~(ii) assist the office in programs consistent with Part 9, State Historic Preservation Office.~~]

(2) The board may establish [~~advisory committees~~] subcommittees to assist the board, the office, and the [~~division~~] society in carrying out the responsibilities under this chapter.

Section 15. Section 9-8-206 is amended to read:

9-8-206. Historical magazine, books, documents, and microfilms -- Proceeds.

(1) The [~~division~~] society shall, under the direction of the board:

(a) compile and publish an historical magazine to be furnished to supporting members of the society in accordance with membership subscriptions or to be sold independently of membership; and

(b) publish and sell other books, documents, and microfilms at reasonable prices to be approved by the director.

(2) Proceeds from sales under this section shall be deposited into the General Fund as a dedicated credit.

Section 16. Section 9-8-207 is amended to read:

9-8-207. Donations -- Accounting.

[~~(1) (a) There is created the Utah State Historical Society.~~]

[~~(b)~~]

(1) The society may:

[~~(i)~~] (a) solicit memberships from persons interested in the work of the society and charge dues for memberships commensurate with the advantages of membership and the needs of the society; and

[~~(ii)~~] (b) receive gifts, donations, bequests, devises, and endowments of money or property, which shall then become the property of the state of Utah.

(2) (a) If the donor directs that money or property donated under Subsection [~~(1)(b)(ii)~~] (1)(b) be used in a specified manner, then the [~~division~~] society shall use [~~it~~] the money or property in accordance with [~~these~~] the specified directions.

(b) [~~Otherwise~~] Except as provided in Subsection (2)(a), all donated money and the proceeds from donated property, together with the charges realized from society memberships, shall be deposited in the General Fund as restricted revenue of the society.

[~~(b)~~] (c) Funds received from donations to the society under Section 41-1a-422 shall be deposited into the General Fund as a dedicated credit to achieve the mission and purpose of the society.

[~~(3) The division shall keep a correct account of funds and property received, held, or disbursed by the society, and shall make reports to the governor as in the case of other state institutions.~~]

Section 17. Section 9-8-209 is enacted to read:

9-8-209. Museum of Utah -- Creation -- Duties.

(1) There is created within the society the Museum of Utah under the administration and supervision of the director or the designee of the director.

(2) The Museum of Utah shall:

(a) function as an educational outlet for the society to educate the public on Utah history and culture;

(b) support the efforts of museums, historical organizations, and other cultural organizations in the state to promote and preserve Utah history and culture;

(c) serve as a repository of historical artifacts acquired by the department;

(d) stimulate research, study, and activity in the field of Utah history, museum studies, and related fields of study;

(e) exhibit collections to the public on a regular schedule;

(f) facilitate strategic partnerships to advance the development of museums, historical organizations, and other cultural organizations in the state; and

(g) establish and coordinate best practices among museum professionals and volunteers in the state.

Section 18. Section 9-8-701 is amended to read:

9-8-701. Definitions.

As used in this part:

[~~(1) "Board" means the Board of State History.~~]

[~~(2) "Division" means the Division of State History.~~]

[~~(3)~~] (1) "Endowment fund" means any history endowment fund created under this part by a qualifying organization.

[~~(4)~~] (2) "Qualifying organization" means any Utah nonprofit history organization or local government that qualifies under this chapter to create an endowment fund, receive state money into the endowment fund, match state money deposited into the endowment fund, and expend interest earned on the endowment fund.

Section 19. Section 9-8-704 is amended to read:

9-8-704. Society duties.

The [~~division~~] society shall, according to policy established by the board:

(1) allocate money from funds made available for that purpose to the endowment fund created by a qualifying organization under Section 9-8-703;

(2) determine the eligibility of each qualifying organization to receive money from funds made available for that purpose into the endowment fund of the qualifying organization;

(3) determine the matching amount each qualifying organization must raise in order to qualify to receive money from funds made available for that purpose;

(4) establish a date by which each qualifying organization must provide the qualifying organization's matching funds;

(5) verify that matching funds have been provided by each qualifying organization by the date determined in Subsection (4); and

(6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing criteria for determining the eligibility of qualifying organizations to receive money from funds made available for that purpose.

Section 20. Section 9-8-705 is amended to read:

9-8-705. Eligibility requirements of qualifying history organizations -- Allocation limitations -- Matching requirements.

(1) A qualifying organization may apply to receive money from funds made available for that purpose to be deposited into an endowment fund created under Section 9-8-703 if the qualifying organization has:

(a) received a grant from the [~~division~~] society during one of the three years immediately before making application for money under this Subsection (1); or

(b) not received a grant from the [~~division~~] society within the past three years, the qualifying organization may receive a grant upon approval by the [~~division~~] society according to policy of the board.

(2) (a) The maximum amount that may be allocated to each qualifying organization from funds made available for that purpose shall be determined by the [~~division~~] society in a format to be developed in consultation with the board.

(b) The minimum amount that may be allocated to each qualifying organization from funds made available for that purpose is $2,500.

(3) (a) After the [~~division~~] society determines that a qualifying organization is eligible to receive money from funds made available for that purpose and before any money is allocated to the qualifying organization from available funds, the qualifying organization shall match the amount qualified for by money raised and designated exclusively for that purpose.

(b) State money and in-kind contributions may not be used to match money from funds made available for that purpose.

(4) Endowment match money shall be based on a sliding scale as follows:

(a) amounts requested up to $20,000 shall be matched one-to-one;

(b) any additional amount requested that makes the aggregate amount requested exceed $20,000 but not exceed $50,000 shall be matched two-to-one; and

(c) any additional amount requested that makes the aggregate amount requested exceed $50,000 shall be matched three-to-one.

(5) (a) Qualifying organizations shall raise the matching amount by a date determined by the board.

(b) (i) Money from funds made available for that purpose shall be released to the qualifying organization upon verification by the [~~division~~] society that the matching money has been received on or before the date determined under Subsection (5)(a).

(ii) Verification of matching funds shall be made by a certified public accountant.

(c) Money from funds made available for that purpose shall be released to qualifying organizations with professional endowment management in increments of at least $2,500 as audited confirmation of matching funds is received by the board.

(d) Money from funds made available for that purpose shall be granted to each qualifying organization on the basis of the matching funds the qualifying organization has raised by the date determined under Subsection (5)(a).

Section 21. Section 9-8-707 is amended to read:

9-8-707. Spending restrictions -- Return of endowment.

(1) A qualifying organization that has received endowment money from funds made available for that purpose:

(a) may not expend the money or the required matching money in the endowment fund; and

(b) may expend the interest income earned on the money in the endowment fund.

(2) If a qualifying organization expends money in violation of Subsection (1), the qualifying organization shall return the amount of money allocated by the [~~division~~] society under this part to the Division of Finance.

Section 22. Section 9-8-708 is amended to read:

9-8-708. Federal match.

Funds allocated by the [~~division~~] society under this part to enable qualifying organizations to create their own endowment funds may be construed as a state match for any history funding from the federal government that may be provided.

Section 23. Section 9-8a-101, which is renumbered from Section 9-8-901 is renumbered and amended to read:

CHAPTER 8a. STATE HISTORIC PRESERVATION OFFICE

Part 1. General Provisions

[~~9-8-901~~]. 9-8a-101. Definitions.

As used in this [~~part and in Section 9-8-205~~] chapter:

(1) "Board" means the Board of State History created in Section 9-8-204.

(2) "Committee" means the National Register Review Committee created in Section [~~9-8-905~~] 9-8a-204.

(3) "Office" means the State Historic Preservation Office created in Section [~~9-8-902~~] 9-8a-201.

(4) "Officer" means the state historic preservation officer, appointed in accordance with Section [~~9-8-903~~] 9-8a-202.

Section 24. Section 9-8a-201, which is renumbered from Section 9-8-902 is renumbered and amended to read:

Part 2. State Historic Preservation Office

[~~9-8-902~~]. 9-8a-201. State Historic Preservation Office -- Creation -- Purpose.

(1) There is created within the department the State Historic Preservation Office under the administration and supervision of the executive director or the designee of the executive director.

(2) The office shall be under the policy direction of the board.

(3) The office shall be the authority in the state for state history preservation and shall perform those duties set forth in statute.

Section 25. Section 9-8a-202, which is renumbered from Section 9-8-903 is renumbered and amended to read:

[~~9-8-903~~]. 9-8a-202. Appointment of state historic preservation officer.

(1) In accordance with 36 C.F.R. Sec. 61.4, the governor shall appoint the state historic preservation officer.

(2) The officer shall administer:

(a) the office; and

(b) the state historic preservation program.

Section 26. Section 9-8a-203, which is renumbered from Section 9-8-904 is renumbered and amended to read:

[~~9-8-904~~]. 9-8a-203. Office duties.

The office shall:

(1) secure, for the present and future benefit of the state, the protection of archaeological resources and sites which are on state lands;

(2) foster increased cooperation and exchange of information between state authorities, the professional archaeological community, and private individuals;

(3) in cooperation with federal and state agencies, local governments, private organizations, and private individuals, direct and conduct a comprehensive statewide survey of historic properties;

(4) maintain an inventory of the properties described in Subsection (3);

(5) identify and nominate eligible property to the National Register of Historic Places;

(6) administer applications for listing historic property on the National Register of Historic Places;

(7) prepare and implement a comprehensive statewide historic preservation plan;

(8) administer the state program of federal assistance for historic preservation within the state;

(9) advise and assist, as appropriate, state agencies, federal agencies, and local governments in carrying out their historic preservation responsibilities;

(10) cooperate with federal agencies, state agencies, local agencies, private organizations, and individuals to ensure that historic property is taken into consideration at all levels of planning and development;

(11) provide, with respect to historic preservation:

(a) public information;

(b) education;

(c) training; and

(d) technical assistance;

(12) cooperate with local governments in the development of local historic preservation programs;

(13) consult with appropriate federal agencies with respect to:

(a) federal undertakings that may affect historic properties; and

(b) advising and assisting in the evaluation of proposals for rehabilitation projects that may qualify for federal assistance;

(14) perform other duties as designated under 54 U.S.C. Sec. 302303; and

(15) perform other duties as designated by the department and by statute.

Section 27. Section 9-8a-204, which is renumbered from Section 9-8-905 is renumbered and amended to read:

[~~9-8-905~~]. 9-8a-204. National Register Review Committee.

(1) There is created the National Register Review Committee.

(2) The committee shall be composed of [~~seven~~] nine members, at least [~~four~~] five of whom have professional experience in:

(a) history;

(b) prehistoric and historic archaeology;

(c) architectural history;

(d) architecture;

(e) folklore;

(f) cultural anthropology;

(g) museology, curation, or conservation;

(h) landscape architecture; or

(i) planning.

(3) To qualify as a member with professional experience in a discipline described in Subsection (2), a member shall meet the professional qualifications standards described in 36 C.F.R. Sec. 61.4.

(4) The committee shall serve as Utah's State Historic Preservation Review Board described in 36 C.F.R. Sec. 61.4.

(5) The officer and the director shall make the initial appointments to the committee.

(6) (a) Except as described in Subsections (6)(b) and (c), a member shall serve a term of four years.

(b) When making initial appointments to the committee, the director and the officer shall stagger the terms so that approximately half of the committee members serve an initial term of two years.

(c) When the term of a current member expires, a member shall be reappointed or a new member shall be appointed in accordance with Subsection (8).

(7) (a) When a vacancy occurs in the membership for any reason, a replacement shall be appointed in accordance with Subsection (8) for the unexpired term.

(b) A member whose term has expired may continue to serve until a replacement is appointed.

(8) The committee shall nominate a member to fill a vacancy described in Subsection (6)(c) or (7)(a), subject to the approval of the director and the officer.

(9) A member may serve more than one term, but may not serve more than three terms.

(10) A majority of the members of the committee is a quorum.

(11) A member may not receive compensation or benefits for the member's service.

(12) The committee shall meet at least one time per year.

(13) The committee shall elect a chair from the committee's members.

(14) The committee shall:

(a) review, evaluate, and comment on the eligibility of properties nominated to the National Register of Historic Places;

(b) review the documentation of nominated parties and recommended changes to the National Register of Historic Places nomination;

(c) bring to the attention of the office and the officer properties which may meet the National Register of Historic Places criteria for evaluation;

(d) recommend the removal of properties from the National Register of Historic Places;

(e) assist the officer and the office in statewide efforts to encourage public and private persons to identify, nominate, protect, enhance, and maintain the state's historic resources; and

(f) review the State Historic Preservation Plan prior to submission to the United States Department of the Interior.

Section 28. Section 9-8a-205, which is renumbered from Section 9-8-208 is renumbered and amended to read:

[~~9-8-208~~]. 9-8a-205. Cultural Site Stewardship Program -- Definitions -- Creation -- Objectives -- Administration -- Activities.

(1) As used in this section:

(a) (i) "Cultural site" means a significant archaeological or paleontological site in the state as determined by the [~~division~~] office.

(ii) "Cultural site" may include a:

(A) site as defined in Section [~~9-8-302~~] 9-8a-302; and

(B) site as defined in Section 79-3-102.

(b) "Stewardship program" means the Cultural Site Stewardship Program created in this section.

(c) "Vandalism" means to damage, destroy, or commit any other act that defaces or harms a cultural site without the consent of the owner or appropriate governmental agency, including inscribing, marking, etching, scratching, drawing, painting on, or affixing to the cultural resource a mark, figure, or design.

(2) There is created within the [~~division~~] office the Cultural Site Stewardship Program.

(3) The [~~division~~] office shall seek to accomplish the following objectives through administration of the stewardship program:

(a) protect cultural sites located in the state;

(b) increase public awareness of the significance and value of cultural sites and the damage done to cultural sites by vandalism;

(c) discourage vandalism and the unlawful sale and trade of archaeological artifacts and paleontological artifacts;

(d) support and encourage improved standards for investigating and researching cultural sites in the state;

(e) promote cooperation among governmental agencies, private landowners, Native American tribes, industry groups, and interested persons to protect cultural sites; and

(f) increase the inventory of cultural sites maintained in accordance with Subsections [~~9-8-304(2)(b)~~] 9-8a-304(2)(b) and 79-3-202(1)(m).

(4) The [~~division~~] office shall:

(a) maintain a position to oversee the operation of the stewardship program; and

(b) provide administrative services to the stewardship program.

(5) The [~~division~~] office shall select, train, and certify volunteers to participate in the stewardship program, based on rules made by the [~~division~~] office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) To accomplish the stewardship program's objectives, the [~~division~~] office shall:

(a) enter into agreements with the entities described in Subsection (3)(e) to promote the protection of cultural sites;

(b) establish a list of cultural sites suitable for monitoring, in cooperation with the entities described in Subsection (3)(e);

(c) schedule periodic monitoring activities by volunteers of each cultural site included on the list described in Subsection (6)(b), after obtaining approval of the landowner or manager;

(d) establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for reporting vandalism of a cultural site to the appropriate authority; and

(e) establish programs for educating members of the public about the significance and value of cultural sites and the loss to members of the public resulting from vandalism of cultural sites.

(7) The [~~division~~] office shall coordinate the activities of governmental agencies, private landowners, and Native American tribes, as necessary, to carry out the stewardship program.

(8) A volunteer participating in the stewardship program may not receive compensation, benefits, per diem allowance, or travel expenses for the volunteer's service.

(9) The [~~division~~] office may accept gifts, grants, donations, or contributions from any source to assist the division in the administration of the stewardship program.

(10) Nothing in this section may be construed to alter or affect the [~~division's~~] office's duties under Section [~~9-8-404~~] 9-8a-404.

Section 29. Section 9-8a-301, which is renumbered from Section 9-8-301 is

renumbered and amended to read:

Part 3. Antiquities

[~~9-8-301~~]. 9-8a-301. Purpose.

(1) The Legislature declares that the general public and the beneficiaries of the school and institutional land grants have an interest in the preservation and protection of the state's archaeological and anthropological resources and a right to the knowledge derived and gained from scientific study of those resources.

(2) (a) The Legislature finds that policies and procedures for the survey and excavation of archaeological resources from school and institutional trust lands are consistent with the school and institutional land grants, if these policies and procedures insure that primary consideration is given, on a site or project specific basis, to the purpose of support for the beneficiaries of the school and institutional land grants.

(b) The Legislature finds that the preservation, placement in a repository, curation, and exhibition of specimens found on school or institutional trust lands for scientific and educational purposes is consistent with the school and institutional land grants.

(c) The Legislature finds that the preservation and development of sites found on school or institutional trust lands for scientific or educational purposes, or the disposition of sites found on school or institutional trust lands, after consultation between the [~~division~~] office and the School and Institutional Trust Lands Administration to determine the appropriate level of data recovery or implementation of other appropriate preservation measures, for preservation, development, or economic purposes, is consistent with the school and institutional land grants.

(d) The Legislature declares that specimens found on lands owned or controlled by the state or its subdivisions may not be sold.

(3) The Legislature declares that the historical preservation purposes of this chapter must be kept in balance with the other uses of land and natural resources which benefit the health and welfare of the state's citizens.

(4) It is the purpose of this part and Part 4, Historic Sites, to provide that the survey, excavation, curation, study, and exhibition of the state's archaeological and anthropological resources be undertaken in a coordinated, professional, and organized manner for the general welfare of the public and beneficiaries alike.

Section 30. Section 9-8a-302, which is renumbered from Section 9-8-302 is renumbered and amended to read:

[~~9-8-302~~]. 9-8a-302. Definitions.

As used in this part and Part 4, Historic Sites:

(1) "Agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.

(2) "Ancient human remains" means all or part of the following that are historic or prehistoric:

(a) a physical individual; and

(b) any object on or attached to the physical individual that is placed on or attached to the physical individual as part of the death rite or ceremony of a culture.

(3) "Antiquities Section" means the Antiquities Section of the [~~Division of State History~~] office created in Section [~~9-8-304~~] 9-8a-304.

(4) "Archaeological resources" means all material remains and their associations, recoverable or discoverable through excavation or survey, that provide information pertaining to the historic or prehistoric peoples of the state.

(5) "Collection" means a specimen and the associated records documenting the specimen and [~~its~~] the specimen's recovery.

(6) "Curation" means management and care of collections according to standard professional museum practice, which may include inventorying, accessioning, labeling, cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original collections or reproductions, and providing access to and facilities for studying collections.

(7) "Curation facility" means the same as that term is defined in Section 53B-17-603.

[~~(8) "Division" means the Division of State History created in Section 9-8-201.~~]

[~~(9)~~] (8) "Excavate" means the recovery of archaeological resources.

[~~(10)~~] (9) "Historic property" means any prehistoric or historic district, site, building, structure, or specimen included in, or eligible for inclusion in, the National Register of Historic Places or the State Register.

[~~(11)~~] (10) "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[~~(12)~~] (11) "Museum" means the Utah Museum of Natural History.

[~~(13)~~] (12) (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands.

[~~(14)~~] (13) "Principal investigator" means the individual with overall administrative responsibility for the survey or excavation project authorized by the permit.

[~~(15)~~] (14) "Repository" means the same as that term is defined in Section 53B-17-603.

[~~(16)~~] (15) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

[~~(17)~~] (16) "Site" means any petroglyphs, pictographs, structural remains, or geographic location that is the source of archaeological resources or specimens.

[~~(18)~~] (17) "Specimen" means all man-made artifacts and remains of an archaeological or anthropological nature found on or below the surface of the earth, excluding structural remains.

[~~(19) "State historic preservation officer" means that position mentioned in 54 U.S.C. Sec. 302303, as amended.~~]

[~~(20)~~] (18) (a) "State land" means land owned by the state including the state's:

(i) legislative and judicial branches;

(ii) departments, divisions, agencies, boards, commissions, councils, and committees; and

(iii) institutions of higher education as defined under Section 53B-3-102.

(b) "State land" does not include:

(i) land owned by a political subdivision of the state;

(ii) land owned by a school district;

(iii) private land; or

(iv) school and institutional trust lands.

[~~(21)~~] (19) "Survey" means a surface investigation for archaeological resources that may include:

(a) insubstantial surface collection of archaeological resources; and

(b) limited subsurface testing that disturbs no more of a site than is necessary to determine the nature and extent of the archaeological resources or whether the site is a historic property.

Section 31. Section 9-8a-304, which is renumbered from Section 9-8-304 is renumbered and amended to read:

[~~9-8-304~~]. 9-8a-304. Antiquities Section created -- Duties.

(1) There is created within the [~~division~~] office the Antiquities Section.

(2) The Antiquities Section shall:

(a) promote research, study, and activities in the field of antiquities;

(b) assist with the marking, protection, and preservation of sites;

(c) assist with the collection, preservation, and administration of specimens until the specimens are placed in a repository or curation facility;

(d) provide advice on the protection and orderly development of archaeological resources, and in doing so confer with the Public Lands Policy Coordinating Office if requested;

(e) assist with the excavation, retrieval, and proper care of ancient human remains discovered on nonfederal lands in accordance with:

(i) Section [~~9-8-309~~] 9-8a-309;

(ii) Section 9-9-403;

(iii) Subsection 76-9-704(3); and

(iv) federal law;

(f) collect and administer site survey and excavation records;

(g) edit and publish antiquities records;

(h) inform the [~~state historic preservation~~] officer in writing about any request for advice or consultation from an agency or an agency's agent; and

(i) employ an archaeologist meeting the requirements of 36 C.F.R. 61.4.

(3) The Antiquities Section shall cooperate with local, state, and federal agencies and all interested persons to achieve the purposes of this part and Part 4, Historic Sites.

(4) Before performing the duties specified in Subsections (2)(a) through (e), the Antiquities Section shall obtain permission from the landowner.

Section 32. Section 9-8a-305, which is renumbered from Section 9-8-305 is renumbered and amended to read:

[~~9-8-305~~]. 9-8a-305. Permit required to survey or excavate on state lands -- Public Lands Policy Coordinating Office to issue permits and make rules -- Ownership of collections and resources -- Revocation or suspension of permits -- Criminal penalties.

(1) (a) Except as provided by Subsections (1)(d) and (3)(c), each principal investigator who wishes to survey or excavate on any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration shall obtain a survey or excavation permit from the Public Lands Policy Coordinating Office.

(b) A principal investigator who holds a valid permit under this section may allow other individuals to assist the principal investigator in a survey or excavation if the principal investigator ensures that all the individuals comply with the law, the rules, the permit, and the appropriate professional standards.

(c) A person, other than a principal investigator, may not survey or excavate on any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration unless the person works under the direction of a principal investigator who holds a valid permit.

(d) A permit obtained before July 1, 2006, shall continue until the permit terminates on its own terms.

(2) (a) To obtain a survey permit, a principal investigator shall:

(i) submit a permit application on a form furnished by the Public Lands Policy Coordinating Office;

(ii) except as provided in Subsection (2)(b), possess a graduate degree in anthropology, archaeology, or history;

(iii) have one year of full-time professional experience or equivalent specialized training in archaeological research, administration, or management; and

(iv) have one year of supervised field and analytical experience in Utah prehistoric or historic archaeology.

(b) In lieu of the graduate degree required by Subsection (2)(a)(ii), a principal investigator may submit evidence of training and experience equivalent to a graduate degree.

(c) Unless the permit is revoked or suspended, a survey permit is valid for the time period specified in the permit by the Public Lands Policy Coordinating Office, which may not exceed three years.

(3) (a) Except as provided by Subsection (3)(c), to obtain an excavation permit, a principal investigator shall, in addition to complying with Subsection (2)(a), submit:

(i) a research design to the Public Lands Policy Coordinating Office and the Antiquities Section that:

(A) states the questions to be addressed;

(B) states the reasons for conducting the work;

(C) defines the methods to be used;

(D) describes the analysis to be performed;

(E) outlines the expected results and the plan for reporting;

(F) evaluates expected contributions of the proposed work to archaeological or anthropological science; and

(G) estimates the cost and the time of the work that the principal investigator believes is necessary to provide the maximum amount of historic, scientific, archaeological, anthropological, and educational information; and

(ii) proof of permission from the landowner to enter the property for the purposes of the permit.

(b) An excavation permit is valid for the amount of time specified in the permit, unless the permit is revoked according to Subsection (9).

(c) The Public Lands Policy Coordinating Office may delegate to an agency the authority to issue excavation permits if the agency:

(i) requests the delegation; and

(ii) employs or has a long-term contract with a principal investigator with a valid survey permit.

(d) The Public Lands Policy Coordinating Office shall conduct an independent review of the delegation authorized by Subsection (3)(c) every three years and may revoke the delegation at any time without cause.

(4) The Public Lands Policy Coordinating Office shall:

(a) grant a survey permit to a principal investigator who meets the requirements of this section; and

(b) grant an excavation permit to a principal investigator after approving, in consultation with the Antiquities Section, the research design for the project.

(5) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Public Lands Policy Coordinating Office shall, after consulting with the Antiquities Section, make rules to:

(a) establish survey methodology;

(b) standardize report and data preparation and submission;

(c) require other permit application information that the Public Lands Policy Coordinating Office finds necessary, including proof of consultation with the appropriate Native American tribe;

(d) establish what training and experience is equivalent to a graduate degree;

(e) establish requirements for a person authorized by Subsection (1)(b) to assist the principal investigator;

(f) establish requirements for a principal investigator's employer, if applicable; and

(g) establish criteria that, if met, would allow the Public Lands Policy Coordinating Office to reinstate a suspended permit.

(6) Each principal investigator shall submit a summary report of the work for each project to the Antiquities Section in a form prescribed by a rule established under Subsection (5)(b), which shall include copies of all:

(a) site forms;

(b) data;

(c) maps;

(d) drawings;

(e) photographs; and

(f) descriptions of specimens.

(7) (a) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from lands owned or controlled by the state or its political subdivisions, other than school and institutional trust lands, without permission from the Antiquities Section, and prior consultation with the landowner and any other agencies managing other interests in the land.

(b) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from school and institutional trust lands without permission from the School and Institutional Trust Lands Administration, granted after consultation with the Antiquities Section.

(c) If a specimen, site, or portion of a site is placed in a repository or curation facility, a person may remove it by following the procedures established by the repository or curation facility.

(8) (a) Collections recovered from school and institutional trust lands are owned by the respective trust.

(b) Collections recovered from lands owned or controlled by the state or its subdivisions, other than school and institutional trust lands, are owned by the state.

(c) Within a reasonable time after the completion of fieldwork, each permit holder shall deposit all collections at the museum, a curation facility, or a repository.

(d) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated according to the rules made under the authority of Section 53B-17-603.

(9) (a) Upon complaint by an agency, the Public Lands Policy Coordinating Office shall investigate a principal investigator and the work conducted under a permit.

(b) By following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, the Public Lands Policy Coordinating Office may revoke or suspend a permit if the principal investigator fails to conduct a survey or excavation according to law, the rules enacted by the Public Lands Policy Coordinating Office, or permit provisions.

(10) (a) Any person violating this section is guilty of a class B misdemeanor.

(b) A person convicted of violating this section, or found to have violated the rules authorized by this section, shall, in addition to any other penalties imposed, forfeit all archaeological resources discovered by or through the person's efforts to the state or the respective trust.

(11) The [~~division~~] office may enter into memoranda of agreement to issue project numbers or to retain other data for federal lands or Native American lands within the state.

Section 33. Section 9-8a-306, which is renumbered from Section 9-8-306 is renumbered and amended to read:

[~~9-8-306~~]. 9-8a-306. Archaeological or anthropological landmarks.

(1) Sites of significance may be recommended to and approved by the board as state archaeological or anthropological landmarks. No privately owned site or site on school or institutional trust lands may be so designated without the written consent of the owner.

(2) A person may not excavate upon a privately owned designated landmark without a permit from the [~~division~~] office.

(3) Before any alteration is commenced on a designated landmark, three months' notice of intent to alter the site shall be [~~given the division~~] provided to the office.

Section 34. Section 9-8a-307, which is renumbered from Section 9-8-307 is renumbered and amended to read:

[~~9-8-307~~]. 9-8a-307. Report of discovery on state or private lands.

(1) Any person who discovers any archaeological resources on lands owned or controlled by the state or its subdivisions shall promptly report the discovery to the [~~division~~] office.

(2) Any person who discovers any archaeological resources on privately owned lands shall promptly report the discovery to the [~~division~~] office.

(3) Field investigations shall be discouraged except in accordance with this part and Part 4, Historic Sites.

(4) Nothing in this section may be construed to authorize any person to survey or excavate for archaeological resources.

Section 35. Section 9-8a-308, which is renumbered from Section 9-8-308 is renumbered and amended to read:

[~~9-8-308~~]. 9-8a-308. Forgery or false labeling of specimens unlawful.

It is unlawful to reproduce, rework, or forge any specimen or make any object, whether copied or not, or falsely label, describe, identify, or offer for sale or exchange any object, with intent to represent it as an original and genuine specimen. No person may offer for sale or other exchange any object with knowledge that it was collected or excavated in violation of this part.

Section 36. Section 9-8a-309, which is renumbered from Section 9-8-309 is renumbered and amended to read:

[~~9-8-309~~]. 9-8a-309. Ancient human remains on nonfederal lands that are not state lands.

(1) [~~(a) After April 30, 2007, if~~] If a person knows or has reason to know that the person discovered

ancient human remains on nonfederal land that is not state land:

[~~(i)~~] (a) the person shall:

[~~(A)~~] (i) cease activity in the area of the discovery until activity may be resumed in accordance with Subsection [~~(1)(d)~~] (1)(e);

[~~(B)~~] (ii) notify a local law enforcement agency in accordance with Section 76-9-704; and

[~~(C)~~] (iii) notify the person who owns or controls the nonfederal land, if that person is different than the person who discovers the ancient human remains; and

[~~(ii)~~] (b) the person who owns or controls the nonfederal land shall:

[~~(A)~~] (i) require that activity in the area of the discovery cease until activity may be resumed in accordance with Subsection [~~(1)(d)~~] (1)(e); and

[~~(B)~~] (ii) make a reasonable effort to protect the discovered ancient human remains before activity may be resumed in accordance with Subsection [~~(1)(d)~~] (1)(e).

[~~(b)~~] (c) (i) If the local law enforcement agency believes after being notified under this Subsection (1) that a person may have discovered ancient human remains, the local law enforcement agency shall contact the Antiquities Section.

(ii) The Antiquities Section shall:

(A) within two business days of the day on which the Antiquities Section is notified by local law enforcement, notify the landowner that the Antiquities Section may excavate and retrieve the human remains with the landowner's permission; and

(B) if the landowner gives the landowner's permission, excavate the human remains by no later than:

(I) five business days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1); or

(II) if extraordinary circumstances exist as provided in Subsection [~~(1)(c)~~] (1)(d), within the time period designated by the director not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1).

[~~(c)~~] (d) (i) The director may grant the Antiquities Section an extension of time for excavation and retrieval of ancient human remains not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1), if the director determines that extraordinary circumstances exist on the basis of objective criteria such as:

(A) the unusual scope of the ancient human remains;

(B) the complexity or difficulty of excavation or retrieval of the ancient human remains; or

(C) the landowner's concerns related to the excavation or retrieval of the ancient human remains.

(ii) If the landowner objects to the time period designated by the director, the landowner may appeal the decision to the executive director of the department in writing.

(iii) If the executive director receives an appeal from the landowner under this Subsection [~~(1)(c)~~] (1)(d), the executive director shall:

(A) decide on the appeal within two business days; and

(B) (I) uphold the decision of the director; or

(II) designate a shorter time period than the director designated for the excavation and retrieval of the ancient human remains.

(iv) An appeal under this Subsection [~~(1)(c)~~] (1)(d) may not be the cause for the delay of the excavation and retrieval of the ancient human remains.

(v) A decision and appeal under this Subsection [~~(1)(c)~~] (1)(d) is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

[~~(d)~~] (e) A person that owns or controls nonfederal land that is not state land may engage in or permit others to engage in activities in the area of the discovery without violating this part or Section 76-9-704 if once notified of the discovery of ancient human remains on the nonfederal land, the person:

(i) consents to the Antiquities Section excavating and retrieving the ancient human remains; and

(ii) engages in or permits others to engage in activities in the area of the discovery only after:

(A) the day on which the Antiquities Section removes the ancient human remains from the nonfederal land; or

(B) the time period described in Subsection [~~(1)(b)(ii)(B)~~] (1)(c)(ii)(B).

(2) A person that owns or controls nonfederal land that is not state land may not be required to pay any costs incurred by the state associated with the ancient human remains, including costs associated with the costs of the:

(a) discovery of ancient human remains;

(b) excavation or retrieval of ancient human remains; or

(c) determination of ownership or disposition of ancient human remains.

(3) For nonfederal land that is not state land, nothing in this section limits or prohibits the Antiquities Section and a person who owns or controls the nonfederal land from entering into an agreement addressing the ancient human remains that allows for different terms than those provided in this section.

(4) The ownership and control of ancient human remains that are the ancient human remains of a Native American shall be determined in accordance

with Chapter 9, Part 4, Native American Grave Protection and Repatriation Act:

(a) if the ancient human remains are in possession of the state;

(b) if the ancient human remains are not known to have been discovered on lands owned, controlled, or held in trust by the federal government; and

(c) regardless of when the ancient human remains are discovered.

(5) This section:

(a) does not apply to ancient human remains that are subject to the provisions and procedures of:

(i) federal law; or

(ii) Part 4, Historic Sites; and

(b) does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of the ancient human remains.

(6) The [~~division~~] office, Antiquities Section, or Division of Indian Affairs may not make rules that impose any requirement on a person who discovers ancient human remains or who owns or controls nonfederal land that is not state land on which ancient human remains are discovered that is not expressly provided for in this section.

Section 37. Section 9-8a-401, which is renumbered from Section 9-8-401 is renumbered and amended to read:

Part 4. Historic Sites

[~~9-8-401~~]. 9-8a-401. Purpose.

The Legislature determines and declares that the public has a vital interest in all antiquities, historic and prehistoric ruins, and historic sites, buildings, and objects which, when neglected, desecrated, destroyed or diminished in aesthetic value, result in an irreplaceable loss to the people of this state.

Section 38. Section 9-8a-402, which is renumbered from Section 9-8-402 is renumbered and amended to read:

[~~9-8-402~~]. 9-8a-402. Definitions -- Office duties.

(1) In addition to the definitions described in Section [~~9-8-302~~] 9-8a-302, as used in this part:

(a) "Effect" means an alteration to one or more characteristics of a historic property that qualify the historic property for inclusion in, or that make the historic property eligible for inclusion in, the National Register of Historic Places.

(b) "Historic property" means any historic or prehistoric district, site, building, structure, or object that is at least 50 years old and that is included in, or that is eligible for inclusion in, the National Register of Historic Places.

(c) "State register" means a register of cultural sites and localities, historic and prehistoric sites, and districts, buildings, and objects significant in Utah history.

(d) "Undertaking" means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a state agency, including a project, activity, or program:

(i) carried out by or on behalf of a state agency;

(ii) carried out with financial assistance from the state; or

(iii) that requires a state permit, license, or approval.

(2) The [~~division~~] office shall:

(a) constitute the historic preservation agency for this state;

(b) establish a state register for the orderly identification and recognition of the state's cultural resources; and

(c) provide for participation in the National Historic Preservation Program.

Section 39. Section 9-8a-403, which is renumbered from Section 9-8-403 is renumbered and amended to read:

[~~9-8-403~~]. 9-8a-403. Placement on State or National Register.

The board shall notify owners of sites, buildings, structures, or objects before placing those sites, buildings, structures, or objects on the State Register or nominating them to the National Register.

Section 40. Section 9-8a-404, which is renumbered from Section 9-8-404 is renumbered and amended to read:

[~~9-8-404~~]. 9-8a-404. Agency responsibilities -- State historic preservation officer to comment on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.

(1) (a) Before approving any undertaking, an agency shall:

(i) take into account the effect of the undertaking on any historic property; and

(ii) provide the state historic preservation officer with a written evaluation of the undertaking's effect on any historic property.

(b) The state historic preservation officer shall provide to the agency a written comment on the agency's determination of effect within 30 days after the day on which the state historic preservation officer receives a written evaluation described in Subsection (1)(a)(ii).

(c) If the written evaluation described in Subsection (1)(a)(ii) demonstrates that there is an adverse effect to a historic property, the agency shall enter into a formal written agreement with the state historic preservation officer describing how each adverse effect will be mitigated before the agency may expend state funds or provide financial assistance for the undertaking.

(d) The state historic preservation officer shall make available to the Public Lands Policy Coordinating Office a list of undertakings on which an agency or federal agency has requested the state historic preservation officer's or the Antiquities Section's advice or consultation.

(e) The Public Lands Policy Coordinating Office may request the joint analysis described in Subsections (2)(c) and (d) of any proposed undertaking on which the state historic preservation officer or Antiquities Section is providing advice or consultation.

(2) (a) If the state historic preservation officer does not concur with the agency's written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall inform the Public Lands Policy Coordinating Office of any objections.

(b) The Public Lands Policy Coordinating Office shall review the state historic preservation officer's objections and determine whether or not to initiate the joint analysis established in Subsections (2)(c) and (d) within 30 days after the day on which the state historic preservation officer informs the Public Lands Policy Coordinating Office of the objections.

(c) If the Public Lands Policy Coordinating Office determines further analysis is necessary, the Public Lands Policy Coordinating Office shall, jointly with the agency and the state historic preservation officer, analyze:

(i) the cost of the undertaking, excluding costs attributable to the identification, potential recovery, or excavation of historic properties;

(ii) the ownership of the land involved;

(iii) the likelihood of the presence and the nature and type of historical properties that may be affected by the expenditure or undertaking; and

(iv) clear and distinct alternatives for the identification, recovery, or excavation of historic properties, including ways to maximize the amount of information recovered and report that information at current standards of scientific rigor.

(d) The Public Lands Policy Coordinating Office, the agency, and the state historic preservation officer shall also consider as part of the joint analysis:

(i) the estimated costs of the alternatives in Subsection (2)(c)(iv) in total and as a percentage of the total cost of the undertaking; and

(ii) at least one plan for the identification, recovery, or excavation of historic properties that does not substantially increase the cost of the proposed undertaking.

(3) (a) (i) If the state historic preservation officer concurs with the agency's evaluation or if the Public Lands Policy Coordinating Office determines that the joint analysis is unnecessary, the state historic preservation officer shall, no later than 30 calendar days after receiving the agency's evaluation, provide formal comments on the agency's evaluation.

(ii) If a joint analysis is conducted, the state historic preservation officer shall provide formal comments on the agency's evaluation no later than 30 calendar days after the conclusion of the joint analysis.

(b) The state historic preservation officer shall ensure that the comments include the results of any joint analysis conducted under Subsection (2).

(c) If a joint analysis is not conducted, the state historic preservation officer's comments may include advice about ways to maximize the amount of historic, scientific, archaeological, anthropological, and educational information recovered, in addition to the physical recovery of artifacts and the reporting of archaeological information at current standards of scientific rigor.

Section 41. Section 9-8a-405, which is renumbered from Section 9-8-405 is renumbered and amended to read:

[~~9-8-405~~]. 9-8a-405. Federal funds -- Agreements on standards and procedures.

By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the [~~division~~] office may accept and administer federal funds provided under the provisions of the National Historic Preservation Act of 1966, the Land and Water Conservation Act as amended, and subsequent legislation directed toward the encouragement of historic preservation, and to enter into those agreements on professional standards and procedures required by participation in the National Historic Preservation Act of 1966 and the National Register Office.

Section 42. Section 9-8a-502, which is renumbered from Section 9-8-502 is renumbered and amended to read:

Part 5. Historical Preservation Act

[~~9-8-502~~]. 9-8a-502. Legislative finding.

The Legislature finds and declares that preservation and restoration of historically significant real property and structures as identified by the State Register of Historic Sites are in the public interest of the people of the state of Utah and should be promoted by the laws of this state.

Section 43. Section 9-8a-503, which is renumbered from Section 9-8-503 is renumbered and amended to read:

[~~9-8-503~~]. 9-8a-503. Preservation easement.

Any owner of a fee simple interest in real property may convey, and any other party entitled to own real property interests may accept, a preservation easement pertaining to the real property if the real property possesses historical value that will be enhanced or preserved by the terms of the easement regarding restoration or preservation of the real property.

Section 44. Section 9-8a-504, which is renumbered from Section 9-8-504 is renumbered and amended to read:

[~~9-8-504~~]. 9-8a-504. Preservation easement -- Subject to other laws.

Except as provided in this part, preservation easements are subject to the other laws of this state governing easements, generally. Any preservation easement may, with respect to the burdened land, entitle its owner to take certain action, to require certain action to be taken by the owner of the burdened land, or require that certain action not be taken by the owner of the burdened land, and under any such circumstances may be either appurtenant or in gross.

Section 45. Section 9-8a-505, which is renumbered from Section 9-8-505 is renumbered and amended to read:

[~~9-8-505~~]. 9-8a-505. Rule Against Perpetuities and Rule Restricting Unreasonable Restraints on Alienation not applicable.

The rule of property known as the Rule Against Perpetuities and the rule of property known as the Rule Restricting Unreasonable Restraints on Alienation may not be applied to defeat any of the provisions of this part or of any deed, lease, conveyance, covenant, easement, or other interest created or document executed in accordance with the provisions of this part.

Section 46. Section 9-8a-506, which is renumbered from Section 9-8-506 is renumbered and amended to read:

[~~9-8-506~~]. 9-8a-506. Charitable contribution for tax purposes.

Any conveyance of a preservation easement may be deemed a charitable contribution for tax purposes in accordance with the laws, rules, and regulations pertaining to charitable contributions of interests in real property.

Section 47. Section 9-9-402 is amended to read:

9-9-402. Definitions.

As used in this part:

(1) "Antiquities Section" means the Antiquities Section of the [~~Division of State History~~] State Historic Preservation Office.

(2) "Burial site" means a natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture individual human remains are deposited.

(3) "Cultural affiliation" means that there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between a present day Indian tribe and an identifiable earlier group.

(4) "Director" means the director of the Division of Indian Affairs.

(5) "Division" means the Division of Indian Affairs.

(6) "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) "Lineal descendant" means the genealogical descendant established by oral or written record.

(8) "Native American" means of or relating to a tribe, people, or culture that is indigenous to the United States.

(9) "Native American remains" means remains that are Native American.

(10) (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands as defined in Section 53C-1-103.

(11) "Partner agency" means an agency of the state or a tribal agency that participates in the remains repatriation process.

(12) "Remains" means all or part of a physical individual and objects on or attached to the physical individual that are placed there as part of the death rite or ceremony of a culture.

(13) "Review committee" means the Native American Remains Review Committee created by Section 9-9-405.

(14) (a) "State land" means land owned by the state including the state's:

(i) legislative and judicial branches;

(ii) departments, divisions, agencies, boards, commissions, councils, and committees; and

(iii) institutions of higher education as defined under Section 53B-3-102.

(b) "State land" does not include:

(i) land owned by a political subdivision of the state;

(ii) land owned by a school district;

(iii) private land; or

(iv) school and institutional trust lands as defined in Section 53C-1-103.

(15) "Tribal consultation" means the state and the tribes exchanging views and information, in

writing or in person, regarding implementing proposed state action under this part that has or may have substantial implications for tribes including impacts on:

(a) tribal cultural practices;

(b) tribal lands;

(c) tribal resources;

(d) access to traditional areas of tribal cultural or religious importance; or

(e) the consideration of the state's responsibilities to Indian tribes.

Section 48. Section 9-9-403 is amended to read:

9-9-403. Ownership and disposition of Native American remains.

(1) If Native American remains are discovered on nonfederal lands on or after April 30, 2007, the ownership or control of the Native American remains shall be determined in the following priority:

(a) first, in the lineal descendants of the Native American;

(b) second, if the lineal descendants cannot be ascertained, in the Indian tribe that:

(i) has the closest cultural affiliation with the Native American remains; and

(ii) states a claim for the Native American remains; or

(c) third:

(i) in the Indian tribe that is recognized as aboriginally occupying the area in which the Native American remains are discovered, if:

(A) cultural affiliation of the Native American remains cannot be reasonably ascertained;

(B) the land is recognized either by a final judgment of the Indian Claims Commission or through other evidence as the exclusive or joint aboriginal land of some Indian tribe; and

(C) that tribe states a claim for the Native American remains; or

(ii) in a different tribe if:

(A) it can be shown by a preponderance of the evidence that that different tribe has a stronger genetic or cultural relationship with the Native American remains; and

(B) that different tribe states a claim for the Native American remains.

(2) Subject to Subsection (7), Native American remains discovered on nonfederal lands that are not claimed under Subsection (1) shall be disposed of in accordance with rules made by the division:

(a) consistent with [~~Chapter 8, Part 3, Antiquities~~] Chapter 8a, Part 3, Antiquities; and

(b) in consultation with Native American groups, representatives of repositories, and the review committee established under Section 9-9-405.

(3) The intentional removal or excavation of Native American remains from state lands may be permitted only if:

(a) the Native American remains are excavated or removed pursuant to a permit issued under Section [~~9-8-305~~] 9-8a-305;

(b) the Native American remains are excavated or removed after consultation with and written consent of the owner of the state land; and

(c) the ownership or right of control of the disposition of the Native American remains is determined as provided in Subsections (1) and (2).

(4) (a) A person who knows or has reason to know that the person has discovered Native American remains on state lands after March 17, 1992, shall notify, in writing, the appropriate state agency having primary management authority over the lands as provided in [~~Chapter 8, Part 3, Antiquities~~] Chapter 8a, Part 3, Antiquities.

(b) If the discovery occurs in connection with construction, mining, logging, agriculture, or a related activity, the person shall:

(i) cease the activity in the area of the discovery;

(ii) make a reasonable effort to protect the Native American remains discovered before resuming the activity; and

(iii) provide notice of discovery to the appropriate state agency under Subsection (4)(a).

(c) Following notification under Subsections (4)(a) and (b) and upon certification by the head of the appropriate state agency that notification is received, the activity may resume after compliance with Section 76-9-704.

(5) (a) Scientific study of Native American remains may be carried out only with approval of the owner of the Native American remains as established in Subsections (1) and (2).

(b) (i) If ownership is unknown, study before identifying ownership is restricted to those sufficient to identify ownership.

(ii) Study to identify ownership shall be approved only in accordance with rules made by the division in consultation with the review committee.

(c) The Native American remains may not be retained longer than 90 days after the date of establishing ownership.

(6) (a) Ownership of Native American remains shall be determined in accordance with this Subsection (6) if:

(i) there are multiple claims of ownership under Subsection (1) of Native American remains; and

(ii) the division cannot clearly determine which claimant is the most appropriate claimant.

(b) If the conditions of Subsection (6)(a) are met, the appropriate state agency having primary

authority over the lands as provided in [~~Chapter 8, Part 3, Antiquities~~] Chapter 8a, Part 3, Antiquities, may retain the remains until:

(i) the multiple claimants for the Native American remains enter into an agreement concerning the disposition of the Native American remains;

(ii) the dispute is resolved through an administrative process:

(A) established by rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) that is exempt from Title 63G, Chapter 4, Administrative Procedures Act; or

(iii) after the administrative process described in Subsection (6)(b)(ii) is complete, the dispute is resolved by a court of competent jurisdiction.

(7) The division may not make rules that impose any requirement on a person who discovers Native American remains or owns or controls nonfederal land that is not state land on which Native American remains are discovered that is not expressly provided for in Section [~~9-8-309~~] 9-8a-309.

(8) For purposes of this part, if Native American remains are discovered on nonfederal land that is not state land, the Antiquities Section is considered the state agency having primary authority over the nonfederal land.

(9) This part does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of Native American remains.

Section 49. Section 9-9-405 is amended to read:

9-9-405. Review committee.

(1) There is created a Native American Remains Review Committee.

(2) (a) The review committee shall be composed of seven members as follows:

(i) four Tribal members shall be appointed by the director from nominations submitted by the elected officials of Indian Tribal Nations described in Subsection 9-9-104.5(2)(b); and

(ii) three shall be appointed by the director from nominations submitted by representatives of Utah's repositories.

(b) A member appointed under Subsection (2)(a)(i) shall have familiarity and experience with this part.

(c) (i) A member appointed under Subsection (2)(a)(i) serves at the will of the director, and if the member represents an Indian Tribal Nation, at the will of that Indian Tribal Nation. Removal of a member who represents an Indian Tribal Nation requires the joint decision of the director and the Indian Tribal Nation.

(ii) A member appointed under Subsection (2)(a)(ii) serves at the will of the director, and if the member represents a repository, at the will of the Division of State History. Removal of a member who represents a repository requires the joint decision of the director and the Division of State History.

(d) When a vacancy occurs in the membership for any reason, the director shall appoint a replacement in the same manner as the original appointment under Subsection (2)(a).

(e) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(f) The review committee shall designate one of its members as chair.

(3) The review committee shall:

(a) monitor the identification process conducted under Section 9-9-403 to ensure a fair and objective consideration and assessment of all available relevant information and evidence;

(b) review a finding relating to the following, subject to the rules made by the division under Subsection 9-9-403(6):

(i) the identity or cultural affiliation of Native American remains; or

(ii) the return of Native American remains;

(c) facilitate the resolution of a dispute among Indian Tribal Nations or lineal descendants and state agencies relating to the return of Native American remains, including convening the parties to the dispute if considered desirable;

(d) consult with Indian Tribal Nations on matters within the scope of the work of the review committee affecting these Indian Tribal Nations;

(e) consult with the division in the development of rules to carry out this part;

(f) perform other related functions as the division may assign to the review committee; and

(g) make recommendations, if appropriate, regarding care of Native American remains that are to be repatriated.

(4) A record or finding made by the review committee relating to the identity of or cultural affiliation of Native American remains and the return of Native American remains may be admissible in any action brought under this part.

(5) The appropriate state agency having primary authority over the lands as provided in [~~Chapter 8, Part 3, Antiquities~~] Chapter 8a, Part 3, Antiquities, shall ensure that the review committee has reasonable access to:

(a) Native American remains under review; and

(b) associated scientific and historical documents.

(6) The division shall provide reasonable administrative and staff support necessary for the deliberations of the review committee.

(7) The department shall include in the annual written report described in Section 9-1-208:

(a) a description of the progress made, and any barriers encountered, by the review committee in implementing this section during the previous year; and

(b) a review of the expenditures made from the Native American Repatriation Restricted Account.

Section 50. Section 9-9-407 is amended to read:

9-9-407. Native American Repatriation Restricted Account.

(1) There is created a restricted account within the General Fund known as the "Native American Repatriation Restricted Account."

(2) (a) The Native American Repatriation Restricted Account shall consist of appropriations from the Legislature.

(b) All interest earned on Native American Repatriation Restricted Account money shall be deposited into the Native American Repatriation Restricted Account.

(3) Subject to appropriation from the Legislature, the division may use the money in the Native American Repatriation Restricted Account as follows:

(a) for a grant issued in accordance with Subsection (6) to an Indian Tribe to pay the following costs of reburial of Native American remains:

(i) use of equipment;

(ii) labor for use of the equipment;

(iii) reseeding and vegetation efforts;

(iv) compliance with Section [~~9-8-404~~] 9-8a-404; and

(v) caskets;

(b) for tribal consultation, including:

(i) consultation time, drafting reports, taking detailed notes, communicating to the stakeholders, facilitating discussions, and traveling to individual tribal locations;

(ii) travel costs, including per diem and lodging costs, for:

(A) Utah tribal leaders and tribal cultural resource managers; and

(B) regional partner tribes;

(iii) meeting facilities for the division to host tribal consultations when the division determines that a state facility does not meet tribal consultation needs; and

(iv) costs for holding meetings under Subsection (3)(b)(iii); and

(c) for training tribal representatives, councils, and staff of a partner agency with repatriation responsibilities in the processes under Section [~~9-8-404~~] 9-8a-404 and rules made by the [~~Division of State History~~] State Historic Preservation Office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs for:

(i) lodging and transportation of employees of the department or a partner agency; or

(ii) travel grants issued in accordance with Subsection (6) for tribal representatives.

(4) If the balance in the Native American Repatriation Restricted Account exceeds $100,000 at the close of any fiscal year, the excess shall be transferred into the General Fund.

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

(6) To issue a grant under this section, the division shall:

(a) require that an Indian Tribe request the grant in writing and specify how the grant money will be expended; and

(b) enter into an agreement with the Indian Tribe to ensure that the grant money is expended in accordance with Subsection (3).

Section 51. Section 9-9-408 is amended to read:

9-9-408. Burial of ancient Native American remains in state parks.

(1) As used in this section:

(a) "Ancient Native American remains" means ancient human remains, as defined in Section [~~9-8-302~~] 9-8a-302, that are Native American remains, as defined in Section 9-9-402.

(b) "Antiquities Section" means the Antiquities Section of the [~~Division of State History~~] State Historic Preservation Office created in Section [~~9-8-304~~] 9-8a-304.

(2) (a) The division, the Antiquities Section, and the Division of State Parks shall cooperate in a study of the feasibility of burying ancient Native American remains in state parks.

(b) The study shall include:

(i) the process and criteria for determining which state parks would have land sufficient and appropriate to reserve a portion of the land for the burial of ancient Native American remains;

(ii) the process for burying the ancient Native American remains on the lands within state parks, including the responsibilities of state agencies and the assurance of cultural sensitivity;

(iii) how to keep a record of the locations in which specific ancient Native American remains are buried;

(iv) how to account for the costs of:

(A) burying the ancient Native American remains on lands found within state parks; and

(B) securing and maintaining burial sites in state parks; and

(v) any issues related to burying ancient Native American remains in state parks.

Section 52. Section 9-21-301 is amended to read:

9-21-301. Creation of commission -- Membership -- Rulemaking.

(1) There is created within the division the Utah Multicultural Commission.

(2) The commission shall consist of the following 13 members, appointed by the governor:

[~~(a) the lieutenant governor, who shall serve as chair of the commission; and~~]

[~~(b) at least 14 additional members appointed by the governor to two-year terms.~~]

(a) one individual who advises the governor on education issues;

(b) one individual who advises the governor on homelessness issues;

(c) one individual who advises the governor on legislative policy;

(d) one individual who advises the governor on criminal and juvenile justice issues;

(e) one individual who advises the governor on issues concerning families and children; and

(f) eight individuals who represent Utah's multicultural communities.

(3) (a) A member of the commission:

(i) shall serve for a term of two years; and

(ii) may not serve more than two terms.

(b) Notwithstanding [~~the requirements of~~] Subsection [~~(2)(b)~~] (3)(a)(i), the governor shall at the time of appointment adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) When a vacancy occurs in the membership, the governor shall appoint a replacement for the unexpired term.

[~~(4) The commission shall meet at least six times per year.~~]

[~~(5)~~] (4) A majority of the members of the commission constitutes a quorum of the commission at any meeting, and the action of the majority of members present is the action of the commission.

[~~(6) A member appointed by the governor may be reappointed for one or more additional terms.~~]

[~~(7) When a vacancy occurs in the membership, the governor shall appoint a replacement for the unexpired term.~~]

[~~(8)~~] (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

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

[~~(9)~~] (6) The department shall make rules establishing the membership, duties, and procedures of the commission in accordance with the requirements of:

(a) this chapter; and

(b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(10)~~] (7) The department shall provide administrative support to the commission.

Section 53. Section 9-21-302 is amended to read:

9-21-302. Commission duties.

(1) The commission shall:

[~~(1)~~] (a) cooperate with the division and state agencies to ensure [~~access to culturally competent programs and services that meet the needs of the state's multicultural communities;~~] the state's resources, services, and programs:

(i) advance the interests of the state's multicultural communities;

(ii) are properly communicated and delivered to the state's multicultural communities; and

(iii) promote a climate of inclusion in the state;

(b) develop and submit to the lieutenant governor an annual report that includes:

(i) a description of the needs, goals, and deliverables that will directly impact the most significant and urgent needs of the state's multicultural communities; and

(ii) recommendations on how the state should act to address the needs, goals, and deliverables described in Subsection (1)(b)(i); and

(c) convene an annual meeting to discuss issues affecting the state's multicultural communities in coordination with the governor, lieutenant governor, and relevant stakeholders.

[~~(2) make recommendations to the director regarding policies, practices, and procedures to ensure the proper delivery of state resources, services, and programs to the state's multicultural communities;~~]

[~~(3) cooperate with the division and state agencies to ensure proper outreach to the state's multicultural communities regarding state resources, services, and programs; and~~]

[~~(4) develop a strategic plan to identify needs, goals, and deliverables that will directly impact the most significant and urgent needs of the state's multicultural communities.~~]

(2) In carrying out the duties described in Subsection (1), the commission shall:

(a) consult with the lieutenant governor; and

(b) prioritize programs and efforts related to:

(i) employment;

(ii) education;

(iii) housing;

(iv) criminal and juvenile justice; or

(v) health and mental health, including suicide prevention.

Section 54. Section 9-22-103 is amended to read:

9-22-103. STEM Action Center Board creation -- Membership.

(1) There is created the STEM Action Center Board, composed of the following members:

(a) [~~six~~] seven private sector members who represent business, appointed by the governor;

(b) the state superintendent of public instruction or the state superintendent's designee;

(c) the commissioner of higher education or the commissioner's designee;

(d) one member appointed by the governor;

(e) a member of the State Board of Education, chosen by the chair of the State Board of Education;

(f) the executive director of the department or the executive director's designee; and

(g) the executive director of the Department of Workforce Services or the executive director's designee[~~; and~~].

[~~(h) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.~~]

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the STEM board requires a majority vote of a quorum.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(6) The governor shall select the chair of the STEM board to serve a two-year term.

(7) The executive director of the department or the executive director's designee shall serve as the vice chair of the STEM board.

Section 55. Section 9-23-203, which is renumbered from Section 63N-10-202 is renumbered and amended to read:

[~~63N-10-202~~]. 9-23-203. Commission powers and duties.

(1) The commission shall:

(a) purchase and use a seal;

(b) adopt rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) prepare all forms of contracts between sponsors, licensees, promoters, and contestants; and

(d) hold hearings relating to matters under its jurisdiction, including violations of this chapter or rules made under this chapter.

(2) The commission may subpoena witnesses, take evidence, and require the production of books, papers, documents, records, contracts, recordings, tapes, correspondence, or other information relevant to an investigation if the commission or its designee considers it necessary.

Section 56. Section 9-23-304 is amended to read:

9-23-304. Additional fees for promoter -- Dedicated credits -- Promotion of contests -- Annual exemption of showcase event.

(1) In addition to the payment of any other fees and money due under this chapter, [~~every~~] a promoter shall pay a license fee and, if applicable, a broadcast revenue fee determined by the commission and established in rule.

(2) [~~License fees~~] Fees collected by the commission under this [~~Subsection (2) from professional boxing contests or exhibitions~~] section shall be retained by the commission as a dedicated

credit to be used by the commission to award grants to organizations that promote amateur boxing in the state and cover commission expenses.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules:

(a) governing the manner in which applications for grants under Subsection (2) may be submitted to the commission; and

(b) establishing standards for awarding grants under Subsection (2) to organizations which promote amateur boxing in the state.

(4) (a) For the purpose of creating a greater interest in contests in the state, the commission may exempt from the payment of license fees under this section one contest or exhibition in each calendar year, intended as a showcase event.

(b) The commission shall select the contest or exhibition to be exempted based on factors which include:

(i) attraction of the optimum number of spectators;

(ii) costs of promoting and producing the contest or exhibition;

(iii) ticket pricing;

(iv) committed promotions and advertising of the contest or exhibition;

(v) rankings and quality of the contestants; and

(vi) committed television and other media coverage of the contest or exhibition.

Section 57. Section 9-24-101 is amended to read:

9-24-101. Definitions.

As used in this chapter:

[~~(1) "Advisory committee" means the Utah Main Street Advisory Committee created in Section 9-24-103.~~]

[~~(2)~~] (1) "Center" means the National Main Street Center.

[~~(3)~~] (2) "Program" means the Utah Main Street Program created in Section 9-24-102.

Section 58. Section 9-24-102 is amended to read:

9-24-102. Utah Main Street Program.

(1) The Utah Main Street Program is created within the department to provide resources for the revitalization of downtown or commercial district areas of municipalities in the state.

(2) To implement the program, the department may:

(a) become a member of the National Main Street Center and partner with the center to become the statewide coordinating program for participating municipalities in the state;

(b) establish criteria for the designation of one or more local main street programs administered by a county or municipality in the state;

[~~(c) consider the recommendations of the advisory committee in designating and implementing local main street programs;~~]

[~~(d)~~] (c) provide training and technical assistance to local governments, businesses, property owners, or other organizations that participate in designated local main street programs;

[~~(e)~~] (d) subject to appropriations from the Legislature or other funding, provide financial assistance to designated local main street programs; and

[~~(f)~~] (e) under the direction of the executive director, appoint full-time staff.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules establishing the eligibility and reporting criteria for a downtown area to receive a local main street program designation, including requirements for:

(a) local government support of the local main street program; and

(b) collecting data to measure economic development impact.

(4) The department shall include in the annual written report described in Section 9-1-208, a report of the program's operations and details of which municipalities have received:

(a) a local main street program designation; and

(b) financial support from the program.

Section 59. Section 10-9a-534 is amended to read:

10-9a-534. Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a one to two family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section [~~9-8-402~~] 9-8a-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; or

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the municipality to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 60. Section 15A-2-103 is amended to read:

15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the 2018 edition of the International Building Code, including Appendices C and J, issued by the International Code Council;

(b) the 2015 edition of the International Residential Code, issued by the International Code Council;

(c) Appendix Q of the 2018 edition of the International Residential Code, issued by the International Code Council;

(d) the 2018 edition of the International Plumbing Code, issued by the International Code Council;

(e) the 2018 edition of the International Mechanical Code, issued by the International Code Council;

(f) the 2018 edition of the International Fuel Gas Code, issued by the International Code Council;

(g) the 2020 edition of the National Electrical Code, issued by the National Fire Protection Association;

(h) the residential provisions of the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;

(i) the commercial provisions of the 2018 edition of the International Energy Conservation Code, issued by the International Code Council;

(j) the 2018 edition of the International Existing Building Code, issued by the International Code Council;

(k) subject to Subsection 15A-2-104(2), the HUD Code;

(l) subject to Subsection 15A-2-104(1), Appendix E of the 2015 edition of the International Residential Code, issued by the International Code Council;

(m) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association;

(n) subject to Subsection (3), for standards and guidelines pertaining to plaster on a historic property, as defined in Section [~~9-8-302~~] 9-8a-302, the U.S. Department of the Interior Secretary's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; and

(o) the residential provisions of the 2018 edition of the International Swimming Pool and Spa Code, issued by the International Code Council.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives

or amendments approved by the Utah Division of Forestry, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

(3) The standards and guidelines described in Subsection (1)(n) apply only if:

(a) the owner of the historic property receives a government tax subsidy based on the property's status as a historic property;

(b) the historic property is wholly or partially funded by public money; or

(c) the historic property is owned by a government entity.

Section 61. Section 17-27a-530 is amended to read:

17-27a-530. Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a county may not impose a requirement for a building design element on a one to two family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section [~~9-8-402~~] 9-8a-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; or

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the county to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 62. Section 17C-2-103 is amended to read:

17C-2-103. Urban renewal project area plan requirements.

(1) An agency shall ensure that each urban renewal project area plan and proposed project area plan:

(a) describes the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(b) contains a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the project area development;

(c) states the standards that will guide the project area development;

(d) shows how the purposes of this title will be attained by the project area development;

(e) is consistent with the general plan of the community in which the project area is located and show that the project area development will conform to the community's general plan;

(f) describes how the project area development will reduce or eliminate a development impediment in the project area;

(g) describes any specific project or projects that are the object of the proposed project area development;

(h) identifies how a participant will be selected to undertake the project area development and identify each participant currently involved in the project area development;

(i) states the reasons for the selection of the project area;

(j) describes the physical, social, and economic conditions existing in the project area;

(k) describes any tax incentives offered private entities for facilities located in the project area;

(l) includes the analysis described in Subsection (2);

(m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, states that the agency shall comply with Section [~~9-8-404~~] 9-8a-404 as though the agency were a state agency; and

(n) includes other information that the agency determines to be necessary or advisable.

(2) An agency shall ensure that each analysis under Subsection (1)(l) considers:

(a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(i) an evaluation of the reasonableness of the costs of the project area development;

(ii) efforts the agency or participant has made or will make to maximize private investment;

(iii) the rationale for use of tax increment, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount of tax increment that will be expended in undertaking project area development and the project area funds collection period; and

(b) the anticipated public benefit to be derived from the project area development, including:

(i) the beneficial influences upon the tax base of the community;

(ii) the associated business and economic activity likely to be stimulated; and

(iii) whether adoption of the project area plan is necessary and appropriate to reduce or eliminate a development impediment.

Section 63. Section 17C-2-104 is amended to read:

17C-2-104. Existing and historic buildings and uses in an urban renewal project area.

If any of the existing buildings or uses in an urban renewal project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, the agency shall comply with Section [~~9-8-404~~] 9-8a-404 as though the agency were a state agency.

Section 64. Section 17C-3-103 is amended to read:

17C-3-103. Economic development project area plan requirements.

(1) Each economic development project area plan and proposed project area plan shall:

(a) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the project area development;

(c) state the standards that will guide the project area development;

(d) show how the purposes of this title will be attained by the project area development;

(e) be consistent with the general plan of the community in which the project area is located and show that the project area development will conform to the community's general plan;

(f) describe how the project area development will create additional jobs;

(g) describe any specific project or projects that are the object of the proposed project area development;

(h) identify how a participant will be selected to undertake the project area development and identify each participant currently involved in the project area development;

(i) state the reasons for the selection of the project area;

(j) describe the physical, social, and economic conditions existing in the project area;

(k) describe any tax incentives offered private entities for facilities located in the project area;

(l) include an analysis, as provided in Subsection (2), of whether adoption of the project area plan is beneficial under a benefit analysis;

(m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Subsection [~~9-8-404(1)~~] 9-8a-404(1) as though the agency were a state agency; and

(n) include other information that the agency determines to be necessary or advisable.

(2) Each analysis under Subsection (1)(l) shall consider:

(a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(i) an evaluation of the reasonableness of the costs of project area development;

(ii) efforts the agency or participant has made or will make to maximize private investment;

(iii) the rationale for use of tax increment, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount of tax increment that will be expended in undertaking project area development and the length of time for which it will be expended; and

(b) the anticipated public benefit to be derived from the project area development, including:

(i) the beneficial influences upon the tax base of the community;

(ii) the associated business and economic activity likely to be stimulated; and

(iii) the number of jobs or employment anticipated to be generated or preserved.

Section 65. Section 17C-3-104 is amended to read:

17C-3-104. Existing and historic buildings and uses in an economic development project area.

If any of the existing buildings or uses in an economic development project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, the agency shall comply with Subsection [~~9-8-404(1)~~] 9-8a-404(1) as though the agency were a state agency.

Section 66. Section 17C-5-105 is amended to read:

17C-5-105. Community reinvestment project area plan requirements.

An agency shall ensure that each community reinvestment project area plan and proposed community reinvestment project area plan:

(1) subject to Section 17C-1-414, if applicable, includes a boundary description and a map of the community reinvestment project area;

(2) contains a general statement of the existing land uses, layout of principal streets, population densities, and building intensities of the community reinvestment project area and how each will be affected by project area development;

(3) states the standards that will guide project area development;

(4) shows how project area development will further purposes of this title;

(5) is consistent with the general plan of the community in which the community reinvestment project area is located and shows that project area development will conform to the community's general plan;

(6) if applicable, describes how project area development will eliminate or reduce a development impediment in the community reinvestment project area;

(7) describes any specific project area development that is the object of the community reinvestment project area plan;

(8) if applicable, explains how the agency plans to select a participant;

(9) states each reason the agency selected the community reinvestment project area;

(10) describes the physical, social, and economic conditions that exist in the community reinvestment project area;

(11) describes each type of financial assistance that the agency anticipates offering a participant;

(12) includes an analysis or description of the anticipated public benefit resulting from project area development, including benefits to the community's economic activity and tax base;

(13) if applicable, states that the agency shall comply with Section [~~9-8-404~~] 9-8a-404 as required under Section 17C-5-106;

(14) for a community reinvestment project area plan that an agency adopted before May 14, 2019, states whether the community reinvestment project area plan or proposed community reinvestment project area plan is subject to a taxing entity committee or an interlocal agreement; and

(15) includes other information that the agency determines to be necessary or advisable.

Section 67. Section 17C-5-106 is amended to read:

17C-5-106. Existing and historic buildings and uses in a community reinvestment project area.

An agency shall comply with Section [~~9-8-404~~] 9-8a-404 as though the agency is a state agency if:

(1) any of the existing buildings or uses in a community reinvestment project area are included in, or eligible for inclusion in, the National Register of Historic Places or the State Register; and

(2) the agency spends agency funds on the demolition or rehabilitation of existing buildings described in Subsection (1).

Section 68. Section 53B-17-603 is amended to read:

53B-17-603. Curation and deposit of specimens.

(1) For purposes of this section:

(a) "Collections" [~~is~~] means the same as that term is defined [~~as provided~~] in Section [~~9-8-302~~] 9-8a-302.

(b) "Curation facility" means:

(i) the museum;

(ii) an accredited facility meeting federal curation standards; or

(iii) an appropriate state park.

(c) "Museum" means the Utah Museum of Natural History.

(d) "Repository" means:

(i) a facility designated by the museum through memoranda of agreement; or

(ii) a place of reburial.

(e) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

(2) The museum shall make rules to ensure the adequate curation of all collections from lands owned or controlled by the state or its subdivisions. The rules shall:

(a) conform to, but not be limited by, federal curation policy;

(b) recognize that collections recovered from school and institutional trust lands are owned by the respective trust, and shall be made available for exhibition as the beneficiaries of the respective trust may request, subject to museum curation policy and the curation facility's budgetary priorities;

(c) recognize that any collections obtained in exchange for collections found on school and institutional trust lands shall be owned by the respective trust; and

(d) recognize that if, at its discretion, the curation facility makes and sells reproductions derived from collections found on school or institutional trust lands, any money obtained from these sales shall be given to the respective trust, but the curation facility may retain money sufficient to recover the direct costs of preparation for sale and a reasonable fee for handling the sale.

(3) (a) The museum may enter into memoranda of agreement with other repositories located in and outside the state to act as its designee for the curation of collections.

(b) In these memoranda, the museum may delegate some or all of its authority to curate.

(4) (a) All collections recovered from lands owned or controlled by the state or its subdivisions shall be deposited at the museum, a curation facility, or at a repository within a reasonable time after the completion of field work.

(b) The museum shall make rules establishing procedures for selection of the appropriate curation facility or repository.

(c) The rules shall consider:

(i) whether the permittee, authorized pursuant to Section [~~9-8-305~~] 9-8a-305, is a curation facility;

(ii) the appropriateness of reburial;

(iii) the proximity of the curation facility or repository to the point of origin of the collection;

(iv) the preference of the owner of the land on which the collection was found;

(v) the nature of the collection and the repository's or curation facility's ability and desire to curate the collection in question, and ability to maximize the scientific, educational, and cultural benefits for the people of the state and the school and institutional trusts;

(vi) selection of a second curation facility or repository, if the original repository or curation facility becomes unable to curate the collections under its care; and

(vii) establishment of an arbitration process for the resolution of disputes over the location of a curation facility or repository, which shall include an ultimate arbitration authority consisting of the landowner, the state archaeologist or paleontologist, and a representative from the governor's office.

(d) The repository or curation facility may charge a curation fee commensurate with the costs of maintaining those collections, except that a fee may not be charged to the respective trust for collections found on school or institutional trust lands.

(5) The repository or curation facility shall make specimens available through loans to museums and research institutions in and out of the state when, in the opinion of the repository or curation facility:

(a) the use of the specimens is appropriate; and

(b) arrangements are made for safe custodianship of the specimens.

(6) The museum shall comply with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding publication of its rules in the Utah State Bulletin and the Utah Administrative Code.

Section 69. Section 53B-18-1002 is amended to read:

53B-18-1002. Establishment of the center -- Purpose -- Duties and responsibilities.

(1) There is established the Mormon Pioneer Heritage Center in connection with Utah State University.

(2) The purpose of the center is to coordinate interdepartmental research and extension efforts in recreation, heritage tourism, and agricultural extension service and to enter into cooperative contracts with the United States Departments of Agriculture and the Interior, state, county, and city officers, public and private organizations, and individuals to enhance Mormon pioneer heritage.

(3) The center has the following duties and responsibilities:

(a) to support United States Congressional findings that the landscape, architecture, traditions, products, and events in the counties convey the heritage of pioneer settlements and their role in agricultural development;

(b) to coordinate with extension agents in the counties to assist in the enhancement of heritage businesses and the creation of heritage products;

(c) to foster a close working relationship with all levels of government, the private sector, residents, business interests, and local communities;

(d) to support United States Congressional findings that the historical, cultural, and natural heritage legacies of Mormon colonization and settlement are nationally significant;

(e) to encourage research and studies relative to the variety of heritage resources along the 250-mile Highway 89 corridor from Fairview to Kanab, Utah, and Highways 12 and 24, the All American Road, to the extent those resources demonstrate:

(i) the colonization of the western United States; and

(ii) the expansion of the United States as a major world power;

(f) to demonstrate that the great relocation to the western United States was facilitated by:

(i) the 1,400 mile trek from Illinois to the Great Salt Lake by the Mormon Pioneers; and

(ii) the subsequent colonization effort in Nevada, Utah, the southeast corner of Idaho, the southwest corner of Wyoming, large areas of southeastern Oregon, much of southern California, and areas along the eastern border of California; and

(g) to assist in interpretive efforts that demonstrate how the Boulder Loop, Capitol Reef National Park, Zion National Park, Bryce Canyon National Park, and the Highway 89 area convey the compelling story of how early settlers:

(i) interacted with Native Americans; and

(ii) established towns and cities in a harsh, yet spectacular, natural environment.

(4) The center, in collaboration with the United States Department of the Interior, the National Park Service, the United States Department of Agriculture, the United States Forest Service, the Department of Cultural and Community Engagement, the Utah [~~Division of State History~~] Historical Society, and the alliance and its intergovernmental local partners, shall:

(a) assist in empowering communities in the counties to conserve, preserve, and enhance the heritage of the communities while strengthening future economic opportunities;

(b) help conserve, interpret, and develop the historical, cultural, natural, and recreational resources within the counties; and

(c) expand, foster, and develop heritage businesses and products relating to the cultural heritage of the counties.

(5) The center, in collaboration with the United States Department of the Interior, the National Park Service, and with funding from the alliance, shall develop a heritage management plan.

Section 70. Section 59-7-609 is amended to read:

59-7-609. Historic preservation credit.

(1) (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to a taxpayer subject to Section 59-7-104, as a credit against the tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more than $10,000, incurred in connection with any residential certified historic building. When qualifying expenditures of more than $10,000 are incurred, the credit allowed by this section shall apply to the full amount of expenditures.

(b) All rehabilitation work to which the credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the taxpayer in order to preserve the historical qualities of the building.

(c) Any amount of credit remaining may be carried forward to each of the five taxable years following the qualified expenditures.

(d) The commission, in consultation with the [~~Division of State History~~] State Historic Preservation Office, shall promulgate rules to implement this section.

(2) As used in this section:

(a) "Certified historic building" means a building that is listed on the National Register of Historic Places within three years of taking the credit under this section or that is located in a National Register Historic District and the building has been designated by the [~~Division of State History~~] State Historic Preservation Office as being of significance to the district.

(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.

(ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

(A) the taxpayer's personal labor;

(B) cost of acquisition of the property;

(C) any expenditure attributable to the enlargement of an existing building;

(D) rehabilitation of a certified historic building without the approval required in Subsection (1)(b); or

(E) any expenditure attributable to landscaping and other site features, outbuildings, garages, and related features.

(c) "Residential" means a building used for residential use, either owner occupied or income producing.

Section 71. Section 59-10-1006 is amended to read:

59-10-1006. Historic preservation tax credit.

(1) (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to a claimant, estate, or trust, as a nonrefundable tax credit against the income tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more than $10,000, incurred in connection with any residential certified historic building. When qualifying expenditures of more than $10,000 are incurred, the tax credit allowed by this section shall apply to the full amount of expenditures.

(b) All rehabilitation work to which the tax credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the claimant, estate, or trust in order to preserve the historical qualities of the building.

(c) Any amount of tax credit remaining may be carried forward to each of the five taxable years following the qualified expenditures.

(d) The commission, in consultation with the [~~Division of State History~~] State Historic Preservation Office, shall promulgate rules to implement this section.

(2) As used in this section:

(a) "Certified historic building" means a building that is listed on the National Register of Historic Places within three years of taking the credit under this section or that is located in a National Register Historic District and the building has been designated by the [~~Division of State History~~] State Historic Preservation Office as being of significance to the district.

(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.

(ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

(A) a claimant's, estate's, or trust's personal labor;

(B) cost of acquisition of the property;

(C) any expenditure attributable to the enlargement of an existing building;

(D) rehabilitation of a certified historic building without the approval required in Subsection (1)(b); or

(E) any expenditure attributable to landscaping and other site features, outbuildings, garages, and related features.

(c) "Residential" means a building used for residential use, either owner occupied or income producing.

Section 72. Section 63A-12-112 is amended to read:

63A-12-112. Records Management Committee -- Creation -- Membership -- Administration.

(1) There is created the Records Management Committee composed of the following seven members:

(a) the director of the [~~Division of State History~~] Utah Historical Society or the director's designee;

(b) the director of the Division of Archives and Records Services or the director's designee; and

(c) five members appointed by the governor as follows:

(i) a member of the Utah State Bar who understands public records keeping under Title 63G, Chapter 2, Government Records Access and Management Act;

(ii) a member with experience in public finance;

(iii) an individual from the private sector whose principal professional responsibilities are to create or manage records;

(iv) a member representing political subdivisions, recommended by the Utah League of Cities and Towns; and

(v) a member representing the news media.

(2) (a) Except as provided in Subsection (2)(b), the governor shall appoint each member to a four-year term.

(b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of committee members' terms to ensure that the terms of members appointed by the governor are staggered so that approximately half of the committee members appointed by the governor are appointed every two years.

(c) Each appointed member of the committee is eligible for reappointment for one additional term.

(3) When a vacancy occurs in the membership of the committee for any reason, the applicable appointing authority shall appoint a replacement for the unexpired term.

(4) A member of the Records Management Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 73. Section 63C-9-301 is amended to read:

63C-9-301. Board powers -- Subcommittees.

(1) The board shall:

(a) except as provided in Subsection (2), exercise complete jurisdiction and stewardship over capitol hill facilities, capitol hill grounds, and the capitol hill complex;

(b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;

(c) before October 1 of each year, review and approve the executive director's annual budget request for submittal to the governor and Legislature;

(d) by October 1 of each year, prepare and submit a recommended budget request for the upcoming fiscal year for the capitol hill complex to:

(i) the governor, through the Governor's Office of Planning and Budget; and

(ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities, through the Office of the Legislative Fiscal Analyst;

(e) review and approve the executive director's:

(i) annual work plan;

(ii) long-range master plan for the capitol hill complex, capitol hill facilities, and capitol hill grounds; and

(iii) furnishings plan for placement and care of objects under the care of the board;

(f) approve all changes to the buildings and their grounds, including:

(i) restoration, remodeling, and rehabilitation projects;

(ii) usual maintenance program; and

(iii) any transfers or loans of objects under the board's care;

(g) define and identify all significant aspects of the capitol hill complex, capitol hill facilities, and capitol hill grounds, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) [~~Division of State History~~] Utah Historical Society;

(v) Office of Museum Services; and

(vi) Arts Council;

(h) inventory, define, and identify all significant contents of the buildings and all state-owned items of historical significance that were at one time in the buildings, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) [~~Division of State History~~] Utah Historical Society;

(v) Office of Museum Services; and

(vi) Arts Council;

(i) maintain archives relating to the construction and development of the buildings, the contents of the buildings and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Division of Archives and Records Service;

(j) comply with federal and state laws related to program and facility accessibility; and

(k) establish procedures for receiving, hearing, and deciding complaints or other issues raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use.

(2) (a) Notwithstanding Subsection (1)(a), the supervision and control of the legislative area, as defined in Section 36-5-1, is reserved to the Legislature; and

(b) the supervision and control of the governor's area, as defined in Section 67-1-16, is reserved to the governor.

(3) (a) The board shall make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A violation of a rule relating to the use of the capitol hill complex adopted by the board under the authority of this Subsection (3) is an infraction.

(c) If an act violating a rule under Subsection (3)(b) also amounts to an offense subject to a greater penalty under this title, Title 32B, Alcoholic Beverage Control Act, Title 41, Motor Vehicles, Title 76, Utah Criminal Code, or other provision of state law, Subsection (3)(b) does not prohibit prosecution and sentencing for the more serious offense.

(d) In addition to any punishment allowed under Subsections (3)(b) and (c), a person who violates a rule adopted by the board under the authority of this Subsection (3) is subject to a civil penalty not to exceed $2,500 for each violation, plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.

(e) The board may take any other legal action allowed by law.

(f) The board may not apply this section or rules adopted under the authority of this section in a manner that violates a person's rights under the Utah Constitution or the First Amendment to the United States Constitution, including the right of persons to peaceably assemble.

(g) The board shall send proposed rules under this section to the legislative general counsel and

the governor's general counsel for review and comment before the board adopts the rules.

(4) The board is exempt from the requirements of Title 63G, Chapter 6a, Utah Procurement Code, but shall adopt procurement rules substantially similar to the requirements of that chapter.

(5) The board shall name:

(a) the House Building, that is defined in Section 36-5-1, the "Rebecca D. Lockhart House Building"; and

(b) committee room 210 in the Senate Building, that is defined in Section 36-5-1, the "Allyson W. Gamble Committee Room".

(6) (a) The board may:

(i) establish subcommittees made up of board members and members of the public to assist and support the executive director in accomplishing the executive director's duties;

(ii) establish fees for the use of capitol hill facilities and capitol hill grounds;

(iii) assign and allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility;

(iv) contract with another state agency to provide services;

(v) delegate by specific motion of the board any authority granted to it by this section to the executive director;

(vi) in conjunction with Salt Lake City, expend money to improve or maintain public property contiguous to East Capitol Boulevard and capitol hill;

(vii) provide wireless Internet service to the public without a fee in any capitol hill facility; and

(viii) when necessary, consult with the:

(A) Division of Facilities Construction and Management;

(B) State Library Division;

(C) Division of Archives and Records Service;

(D) [~~Division of State History~~] Utah Historical Society;

(E) Office of Museum Services; and

(F) Arts Council.

(b) The board's provision of wireless Internet service under Subsection (6)(a)(vii) shall be discontinued in the legislative area if the president of the Senate and the speaker of the House of Representatives each submit a signed letter to the board indicating that the service is disruptive to the legislative process and is to be discontinued.

(c) If a budget subcommittee is established by the board, the following shall serve as ex officio, nonvoting members of the budget subcommittee:

(i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office of the Legislative Fiscal Analyst; and

(ii) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee, who shall be from the Governor's Office of Planning and Budget.

(d) If a preservation and maintenance subcommittee is established by the board, the board may, by majority vote, appoint one or each of the following to serve on the subcommittee as voting members of the subcommittee:

(i) an architect, who shall be selected from a list of three architects submitted by the American Institute of Architects; or

(ii) an engineer, who shall be selected from a list of three engineers submitted by the American Civil Engineers Council.

(e) If the board establishes any subcommittees, the board may, by majority vote, appoint up to two people who are not members of the board to serve, at the will of the board, as nonvoting members of a subcommittee.

(f) Members of each subcommittee shall, at the first meeting of each calendar year, select one individual to act as chair of the subcommittee for a one-year term.

(7) (a) The board, and the employees of the board, may not move the office of the governor, lieutenant governor, president of the Senate, speaker of the House of Representatives, or a member of the Legislature from the State Capitol unless the removal is approved by:

(i) the governor, in the case of the governor's office;

(ii) the lieutenant governor, in the case of the lieutenant governor's office;

(iii) the president of the Senate, in the case of the president's office or the office of a member of the Senate; or

(iv) the speaker of the House of Representatives, in the case of the speaker's office or the office of a member of the House.

(b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the members of the Legislature except as necessary to inventory or conserve items of historical significance owned by the state.

(c) The board and the employees of the board have no control over records and documents produced by or in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

(d) Except for items identified by the board as having historical significance, and except as provided in Subsection (7)(b), the board and the employees of the board have no control over moveable furnishings and equipment in the custody

of a state agency, official, or employee having an office in a building on the capitol hill complex.

Section 74. Section 63C-9-601 is amended to read:

63C-9-601. Responsibility for items.

Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this chapter are not subject to the custody or control of the State Library Board, the State Library Division, the Division of Archives and Records Service, the [~~Division of State History~~] Utah Historical Society, the Division of Arts and Museums, the arts collection committee of the State of Utah Alice Merrill Horne Art Collection, or any other state agency.

Section 75. Section 63L-11-202 is amended to read:

63L-11-202. Powers and duties of the office and executive director.

(1) The office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

(c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) develop public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy; and

(iv) partnering with state agencies and political subdivisions in an effort to:

(A) prepare coordinated public lands policies;

(B) develop consistency reviews and responses to public lands policies;

(C) develop management plans that relate to public lands policies; and

(D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions;

(e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) the Office of Rural Development created under Section 63N-4-102;

(iv) the coordinating committee;

(v) School and Institutional Trust Lands Administration created under Section 53C-1-201;

(vi) the committee created under Section 63A-16-507 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

(vii) the Constitutional Defense Council created under Section 63C-4a-202;

(f) perform the duties established in [~~Title 9, Chapter 8, Part 3, Antiquities, and Title 9, Chapter 8, Part 4, Historic Sites~~] Title 9, Chapter 8a, Part 3, Antiquities, and Title 9, Chapter 8a, Part 4, Historic Sites;

(g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;

(h) maintain information concerning grants made under Subsection (1)(j), if available;

(i) report annually, or more often if necessary or requested, concerning the office's activities and expenditures to:

(i) the Constitutional Defense Council; and

(ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;

(j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the executive director, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

(k) provide staff services to the Snake Valley Aquifer Advisory Council created in Section 63C-12-103;

(l) coordinate and direct the Snake Valley Aquifer Research Team created in Section 63C-12-107;

(m) conduct the public lands transfer study and economic analysis required by Section 63L-11-304; and

(n) fulfill the duties described in Section 63L-10-103.

(2) The executive director shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) in submitting the comment.

(3) The office may enter into an agreement with another state agency to provide information and services related to:

(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;

(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or

(c) any other matter within the office's responsibility.

(4) In fulfilling the duties under this part, the office shall consult, as necessary, with:

(a) the Department of Natural Resources;

(b) the Department of Agriculture and Food;

(c) the Department of Environmental Quality;

(d) other applicable state agencies;

(e) political subdivisions of the state;

(f) federal land management agencies; and

(g) elected officials.

Section 76. Section 63L-11-402 is amended to read:

63L-11-402. Membership -- Terms -- Chair -- Expenses.

(1) The Resource Development Coordinating Committee consists of the following 26 members:

(a) the state science advisor;

(b) a representative from the Department of Agriculture and Food appointed by the commissioner of the Department of Agriculture and Food;

(c) a representative from the Department of Cultural and Community Engagement appointed by the executive director of the Department of Cultural and Community Engagement;

(d) a representative from the Department of Environmental Quality appointed by the executive director of the Department of Environmental Quality;

(e) a representative from the Department of Natural Resources appointed by the executive director of the Department of Natural Resources;

(f) a representative from the Department of Transportation appointed by the executive director of the Department of Transportation;

(g) a representative from the Governor's Office of Economic Opportunity appointed by the director of the Governor's Office of Economic Opportunity;

(h) a representative from the Housing and Community Development Division appointed by the director of the Housing and Community Development Division;

(i) a representative from the [~~Division of State History~~] Utah Historical Society appointed by the director of the [~~Division of State History~~] Utah Historical Society;

(j) a representative from the Division of Air Quality appointed by the director of the Division of Air Quality;

(k) a representative from the Division of Drinking Water appointed by the director of the Division of Drinking Water;

(l) a representative from the Division of Environmental Response and Remediation appointed by the director of the Division of Environmental Response and Remediation;

(m) a representative from the Division of Waste Management and Radiation Control appointed by the director of the Division of Waste Management and Radiation Control;

(n) a representative from the Division of Water Quality appointed by the director of the Division of Water Quality;

(o) a representative from the Division of Oil, Gas, and Mining appointed by the director of the Division of Oil, Gas, and Mining;

(p) a representative from the Division of Parks appointed by the director of the Division of Parks;

(q) a representative from the Division of Outdoor Recreation appointed by the director of the Division of Outdoor Recreation;

(r) a representative from the Division of Forestry, Fire, and State Lands appointed by the director of the Division of Forestry, Fire, and State Lands;

(s) a representative from the Utah Geological Survey appointed by the director of the Utah Geological Survey;

(t) a representative from the Division of Water Resources appointed by the director of the Division of Water Resources;

(u) a representative from the Division of Water Rights appointed by the director of the Division of Water Rights;

(v) a representative from the Division of Wildlife Resources appointed by the director of the Division of Wildlife Resources;

(w) a representative from the School and Institutional Trust Lands Administration appointed by the director of the School and Institutional Trust Lands Administration;

(x) a representative from the Division of Facilities Construction and Management appointed by the director of the Division of Facilities Construction and Management;

(y) a representative from the Division of Emergency Management appointed by the director of the Division of Emergency Management; and

(z) a representative from the Division of Conservation, created under Section 4-46-401, appointed by the director of the Division of Conservation.

(2) (a) As particular issues require, the coordinating committee may, by majority vote of the members present, appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

(3) A chair shall be selected by a vote of 14 committee members with the concurrence of the executive director.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

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

Section 77. Section 67-1-8.1 is amended to read:

67-1-8.1. Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence.

(1) The Legislature finds and declares that:

(a) the state property known as the Thomas Kearns Mansion is a recognized state landmark possessing historical and architectural qualities that should be preserved; and

(b) the Thomas Kearns Mansion was the first building listed on the National Register of Historic Places in the state.

(2) As used in this section:

(a) "Executive residence" includes the:

(i) Thomas Kearns Mansion;

(ii) Carriage House building; and

(iii) grounds and landscaping surrounding the Thomas Kearns Mansion and the Carriage House building.

(b) "Commission" means the Executive Residence Commission established in this section.

(3) (a) An Executive Residence Commission is established to make recommendations to the Division of Facilities Construction and Management for the use, operation, maintenance, repair, rehabilitation, alteration, restoration, placement of art and monuments, or adoptive use of the executive residence.

(b) The commission shall meet at least once a year and make any recommendations to the Division of Facilities Construction and Management prior to August 1 of each year.

(4) The commission shall consist of nine voting members and one ex officio, nonvoting member representing the Governor's Mansion Foundation. The membership shall consist of:

(a) three private citizens appointed by the governor, who have demonstrated an interest in historical preservation;

(b) three additional private citizens appointed by the governor with the following background:

(i) an interior design professional with a background in historic spaces;

(ii) an architect with a background in historic preservation and restoration recommended by the Utah chapter of the American Institute of Architects; and

(iii) a landscape architect with a background and knowledge of historic properties recommended by the Utah chapter of the American Society of Landscape Architects;

(c) the director, or director's designee, of the Division of Art and Museums;

(d) the director, or director's designee, of the [~~Division of State History~~] Utah Historical Society; and

(e) the executive director, or executive director's designee, of the Department of Government Operations.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending on March 1.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(6) (a) The governor shall appoint a chair from among the membership of the commission.

(b) Six members of the commission shall constitute a quorum, and either the chair or two other members of the commission may call meetings of the commission.

(7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(9) The Division of Facilities Construction and Management shall provide the administrative support to the commission.

Section 78. Section 76-9-704 is amended to read:

76-9-704. Abuse or desecration of a dead human body -- Penalties.

(1) For purposes of this section, "dead human body" includes any part of a human body in any stage of decomposition, including ancient human remains as defined in Section [~~9-8-302~~] 9-8a-302.

(2) A person is guilty of abuse or desecration of a dead human body if the person intentionally and unlawfully:

(a) fails to report the finding of a dead human body to a local law enforcement agency;

(b) disturbs, moves, removes, conceals, or destroys a dead human body or any part of it;

(c) disinters a buried or otherwise interred dead human body, without authority of a court order;

(d) dismembers a dead human body to any extent, or damages or detaches any part or portion of a dead human body; or

(e) (i) commits or attempts to commit upon any dead human body any act of sexual penetration, regardless of the sex of the actor and of the dead human body; and

(ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of the dead human body.

(3) A person does not violate this section if when that person directs or carries out procedures regarding a dead human body, that person complies with:

(a) [~~Title 9, Chapter 8, Part 3, Antiquities~~] Title 9, Chapter 8a, Part 3, Antiquities;

(b) Title 26, Chapter 4, Utah Medical Examiner Act;

(c) Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;

(d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

(e) Title 58, Chapter 9, Funeral Services Licensing Act; or

(f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.

(4) (a) Failure to report the finding of a dead human body as required under Subsection (2)(a) is a class B misdemeanor.

(b) Abuse or desecration of a dead human body as described in Subsections (2)(b) through (e) is a third degree felony.

Section 79. Repealer.

This bill repeals:

Section 9-7-209, Depository libraries.

Section 9-7-210, Micrographics and other copying and transmission techniques.

Section 9-8-501, Short title.

Section 9-24-103, Main Street Program Advisory Committee -- Membership -- Duties.

Section 80. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2023.

(2) The changes affecting Section 63N-10-202 take effect on May 3, 2023.

Section 81. Coordinating H.B. 302 with S.B. 57 -- Substantive and technical amendments.

If this H.B. 302 and S.B. 57, Sexual Abuse Material Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication on July 1, 2023, by:

(1) amending Subsection 9-7-215(2)(a)(i)(B) to read:

"(B) that protects against access to visual depictions that are[~~:~~] child sexual abuse materials, harmful to minors, or obscene; and

[~~(I) child pornography;~~]

[~~(II) harmful to minors; or~~]

[~~(III) obscene; and~~]"; and

(2) amending Subsection 9-7-215(2)(b)(i)(B) to read:

"(B) that protects against access to visual depictions that are[~~:~~] child sexual abuse materials, harmful to minors, or obscene; and

[~~(I) child pornography; or~~]

[~~(II) obscene; and~~]".

CHAPTER 161
H. B. 304
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

JUVENILE JUSTICE REVISIONS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Michael S. Kennedy
Cosponsors: Cheryl K. Acton
Dan N. Johnson
Karen M. Peterson
Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- defines terms;
- requires the State Board of Education to provide a report on certain law enforcement and disciplinary actions on school grounds to the State Commission on Criminal and Juvenile Justice;
- creates a juvenile gang and other violent crime prevention and intervention program to be administered by the State Board of Education;
- modifies requirements related to referrals for offenses committed by minors on school property;
- requires a school to develop a reintegration plan for a minor alleged to have committed a violent felony offense or a weapons offense;
- amends the requirements for the criminal justice database;
- removes a repeal date relating to referrals for offenses committed by minors on school property;
- modifies the duties of the State Commission on Criminal and Juvenile Justice in regards to juvenile justice;
- makes it a crime for a minor to possess a machinegun firearm attachment;
- modifies the notification requirements to schools regarding a minor who committed, or is alleged to have committed, a violent felony offense or a weapons offense;
- enacts data collection and reporting requirements for the State Commission on Criminal and Juvenile Justice and the Administrative Office of the Courts in regards to offenses committed, or allegedly committed, by minors;
- clarifies provisions relating to a nonjudicial adjustment;
- modifies the eligibility requirements for a nonjudicial adjustment; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-516, as last amended by Laws of Utah 2022, Chapter 399
53E-9-305, as last amended by Laws of Utah 2021, Chapter 262
53F-2-208, as last amended by Laws of Utah 2022, Chapter 1
53G-6-203, as last amended by Laws of Utah 2021, Chapter 359
53G-8-211, as last amended by Laws of Utah 2021, Chapters 262, 359 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 359
53G-8-402, as last amended by Laws of Utah 2021, Chapter 262
53G-8-403, as renumbered and amended by Laws of Utah 2018, Chapter 3
63A-16-1001, as enacted by Laws of Utah 2022, Chapter 390
63A-16-1002, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390
63I-1-253, as last amended by Laws of Utah 2022, Chapters 10, 30, 31, 172, 173, 194, 218, 224, 229, 236, 254, 274, and 414
63M-7-208, as last amended by Laws of Utah 2021, Chapter 262
63M-7-218, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390
76-5-401.3, as last amended by Laws of Utah 2022, Chapter 181
76-10-501, as last amended by Laws of Utah 2015, Chapters 212, 406
76-10-509.4, as last amended by Laws of Utah 2013, Chapter 301
78A-5-102.5, as enacted by Laws of Utah 2022, Chapter 155
78A-6-103, as last amended by Laws of Utah 2022, Chapters 155, 335
78A-6-210, as last amended by Laws of Utah 2021, Chapter 261
80-6-103, as enacted by Laws of Utah 2021, Chapter 261
80-6-302, as last amended by Laws of Utah 2022, Chapter 155
80-6-303, as last amended by Laws of Utah 2022, Chapter 155
80-6-304, as last amended by Laws of Utah 2022, Chapter 430
80-6-305, as renumbered and amended by Laws of Utah 2021, Chapter 261

ENACTS:

53G-8-213, Utah Code Annotated 1953
80-6-104, Utah Code Annotated 1953
80-6-303.5, Utah Code Annotated 1953
80-6-304.5, Utah Code Annotated 1953

REPEALS AND REENACTS:

53F-2-410, as repealed and reenacted by Laws of Utah 2021, Chapter 319

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

Section 1. Section 53E-3-516 is amended to read:

53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

(a) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(b) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(c) "Minor" means the same as that term is defined in Section 53G-6-201.

(d) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

(i) a search and seizure by an SRO;

(ii) issuance of a criminal citation;

(iii) issuance of a ticket or summons;

(iv) filing a delinquency petition; or

(v) referral to a probation officer.

(e) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(g) [~~"Student~~] "School resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2023, the state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities; and

(c) disciplinary actions.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

(i) the reason for the disciplinary action; and

(ii) the type of disciplinary action;

(d) the number of SROs employed; and

(e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) through (c):

(a) age;

(b) grade level;

(c) race;

(d) sex; and

(e) disability status.

(6) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(8) The state board shall provide the report described in Subsection (2):

(a) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year[~~.~~]; and

(b) to the State Commission on Criminal and Juvenile Justice before July 1 of each year for incidents that occurred during the previous school year.

Section 2. Section 53E-9-305 is amended to read:

53E-9-305. Collecting student data -- Prohibition -- Student data collection notice -- Written consent.

(1) An education entity may not collect a student's:

(a) social security number; or

(b) except as required in Section 80-6-103, criminal record.

(2) Except as provided in Subsection (3), an education entity that collects student data shall, in accordance with this section, prepare and distribute to parents and students a student data collection notice statement that:

(a) is a prominent, stand-alone document;

(b) is annually updated and published on the education entity's website;

(c) states the student data that the education entity collects;

(d) states that the education entity will not collect the student data described in Subsection (1);

(e) states the student data described in Section 53E-9-308 that the education entity may not share without written consent;

(f) includes the following statement:

"The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";

(g) describes in general terms how the education entity stores and protects student data; and

(h) states a student's rights under this part.

(3) The state board may publicly post the state board's collection notice described in Subsection (2).

(4) An education entity may collect the necessary student data of a student if the education entity provides a student data collection notice to:

(a) the student, if the student is an adult student; or

(b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data if the education entity:

(a) provides, to an individual described in Subsection (4), a student data collection notice that includes a description of:

(i) the optional student data to be collected; and

(ii) how the education entity will use the optional student data; and

(b) obtains written consent to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric information if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information collection notice that is separate from a student data collection notice, which states:

(i) the biometric identifier or biometric information to be collected;

(ii) the purpose of collecting the biometric identifier or biometric information; and

(iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains written consent to collect the biometric identifier or biometric information from an individual described in Subsection (4).

(7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an evidence-based alternative intervention described in [~~Subsection 53G-8-211(3)~~] Section 53G-8-211 without written consent.

(8) Nothing in this section prohibits an education entity from including additional information related to student and parent privacy in the notice described in Subsection (2).

Section 3. Section 53F-2-208 is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units);

(iii) the Adult Education Program, described in Section 53F-2-401;

(iv) state support of pupil transportation, described in Section 53F-2-402;

(v) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vi) the Concurrent Enrollment Program, described in Section 53F-2-409; and

(vii) the [~~gang prevention and intervention~~] juvenile gang and other violent crime prevention and intervention program, described in Section 53F-2-410; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

Section 4. Section 53F-2-410 is repealed and reenacted to read:

53F-2-410. Juvenile gang and other violent crime prevention and intervention program -- Funding.

(1) Subject to appropriations by the Legislature, the state board shall:

(a) create a juvenile gang and other violent crime prevention and intervention program that is designed to help students at risk for violent criminal involvement stay in school; and

(b) distribute money under the program to school districts and charter schools through the distribution formula described in Subsection (2).

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

(a) establish a formula to distribute program funding to schools in school districts and charter schools that:

(i) uses the data reported to the state board under Section 80-6-104; and

(ii) prioritizes the schools in school districts and charter schools based on the prevalence of crimes committed by minors within the boundaries of each municipality where a school is located;

(b) annually adjust the distribution of program funding using the data reported to the state board under Section 80-6-104; and

(c) establish baseline performance standards that school districts or charter schools are required to meet in order to receive funding under the program.

(3) (a) A school district or a charter school seeking program funding shall submit a proposal to the state board that:

(i) describes how the school district or charter school intends to use the funds; and

(ii) provides data related to Subsection (2)(a)(ii).

(b) The state board shall allocate funding on a per student basis to prioritized school districts and charter schools that submit a successful proposal under Subsection (3)(a).

(4) The state board may not distribute funds to a school district or a charter school that fails to meet performance standards described in Subsection (2)(c).

(5) A school district or a charter school that is awarded funds under this section shall submit a report to the state board that includes details on:

(a) how the school district or the charter school used the funds; and

(b) the school district's, or the charter school's, compliance with the performance standards described in Subsection (2)(c).

Section 5. Section 53G-6-203 is amended to read:

53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school authorities.

(1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age child who is enrolled in a public school shall attend the public school in which the school-age child is enrolled.

(2) [~~Except during the period between the effective date of this bill and June 1, 2022,~~] In accordance with Section 53G-8-211, a local school board, charter school governing board, or school district may impose administrative penalties on a school-age child who is:

(a) in grade 7 or above, unless the school-age child is less than 12 years old; and

(b) truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue a notice of truancy in accordance with Subsection (4); and

(b) shall establish a procedure for a school-age child, or the school-age child's parents, to contest a notice of truancy.

(4) A notice of truancy described in Subsection (3):

(a) may not be issued until a school-age child has been truant at least five times during the school year;

(b) may not be issued to a school-age child who is less than 12 years old or in a grade below grade 7;

(c) may not be issued to a school-age child exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;

(d) shall direct the school-age child who receives the notice of truancy and the parent of the school-age child to:

(i) meet with school authorities to discuss the school-age child's truancies; and

(ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child; and

(e) shall be mailed to, or served on, the school-age child's parent.

(5) (a) Except as provided in Subsection (5)(b), nothing in this part prohibits a local school board, charter school governing board, or school district from taking action to resolve a truancy problem with a school-age child who has been truant fewer than five times, provided that the action does not conflict with the requirements of this part.

(b) A local school board, charter school governing board, or school district may not take punitive action to resolve a truancy problem with a school-age child during the period described in Subsection (2).

(6) Notwithstanding this section, during the period described in Subsection (2), a school administrator, designee of a school administrator, law enforcement officer acting as a school resource officer, or truancy specialist may not issue or otherwise enforce a notice of truancy.

Section 6. Section 53G-8-211 is amended to read:

53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the state board.

(b) "Habitual truant" means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is [~~less than~~] under 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii) (A) is truant at least 10 times during one school year; or

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

(c) "Minor" means the same as that term is defined in Section 80-1-102.

(d) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(e) "Prosecuting attorney" means the same as that term is defined in Subsections 80-1-102(58)(b) and (c).

(f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(g) "School administrator" means a principal of a school.

(h) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(j) "School-age child" means the same as that term is defined in Section 53G-6-201.

(k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(l) (i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense [~~at the school where the student is enrolled: (a)~~] on school property where the student is enrolled:

[~~(i)~~] (a) when school is in session; or

[~~(ii)~~] (b) during a school-sponsored activity[~~; or~~].

[~~(b) except during the period between March 17, 2021 and June 1, 2022, that is truancy.~~]

(3) If a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, the school administrator, the school administrator's designee, or a school resource officer may refer the minor:

(a) to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center, as defined in Section 80-5-102;

(iii) a youth court or comparable restorative justice program;

(iv) an evidence-based alternative intervention created and developed by the school or school district;

(v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services; or

(vi) a tobacco cessation or education program if the offense is a violation of Section 76-10-105; or

(b) for prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice Services if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).

(4) Except as provided in Subsection (5), if a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, a school administrator, the school administrator's designee, or a school resource officer may refer a minor to a law enforcement officer or agency or a court only if:

(a) the minor allegedly committed the same offense on school property on two previous occasions; and

(b) the minor was referred to an evidence-based alternative intervention, or to prevention or early intervention youth services, as described in Subsection (3) for both of the two previous offenses.

(5) If a minor is alleged to have committed a traffic offense that is an infraction, a school administrator, the school administrator's designee, or a school resource officer may refer the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the traffic offense.

[~~(3) (a) Except as provided in Subsections (3)(e) and (5), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy:~~]

[~~(i) a school district or school may not refer the minor to a law enforcement officer or agency or a court; and~~]

[~~(ii) a law enforcement officer or agency may not refer the minor to a prosecuting attorney or a court.~~]

[~~(b) Except as provided in Subsection (3)(e), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy, a school district, school, or law enforcement officer or agency may refer the minor to evidence-based alternative interventions, including:~~]

[~~(i) a mobile crisis outreach team;~~]

[~~(ii) a youth services center as defined in Section 80-5-102;~~]

[~~(iii) a youth court or comparable restorative justice program;~~]

[~~(iv) evidence-based interventions created and developed by the school or school district; and~~]

[~~(v) other evidence-based interventions that may be jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services.~~]

[~~(c)~~] (6) Notwithstanding Subsection [~~(3)(a)~~] (4), a school resource officer may:

[~~(i)~~] (a) investigate possible criminal offenses and conduct, including conducting probable cause searches;

[~~(ii)~~] (b) consult with school administration about the conduct of a minor enrolled in a school;

[~~(iii)~~] (c) transport a minor enrolled in a school to a location if the location is permitted by law;

[~~(iv)~~] (d) take temporary custody of a minor in accordance with Section 80-6-201; or

[~~(v)~~] (e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

[~~(d) Notwithstanding other provisions of this section, if a law enforcement officer has cause to believe a minor has committed an offense on school property when school is not in session and not during a school-sponsored activity, the law enforcement officer may refer the minor to:~~]

[~~(i) a prosecuting attorney or a court; or~~]

[~~(ii) evidence-based alternative interventions at the discretion of the law enforcement officer.~~]

[~~(e) If a minor is alleged to have committed a traffic offense that is an infraction, a school district,~~

~~a school, or a law enforcement officer or agency may refer the minor to a prosecuting attorney or a court for the traffic offense.~~]

[~~(4) A school district or school shall refer a minor for prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice Services for a class C misdemeanor committed on school property or for being a habitual truant if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(b).~~]

[~~(5) A school district or school may refer a minor to a court or a law enforcement officer or agency for an alleged class C misdemeanor committed on school property or for allegedly being a habitual truant if the minor:~~]

[~~(a) refuses to participate in an evidence-based alternative intervention under Subsection (3)(b); and~~]

[~~(b) fails to participate in prevention and early intervention youth services provided by the Division of Juvenile Justice Services under Subsection (4).~~]

[~~(6)~~] (7) (a) If a minor is referred to a court or a law enforcement officer or agency under Subsection [~~(5)~~] (4), the school or the school district shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection [~~(6)(a)~~] (7)(a) may not be a school resource officer.

(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) if the minor was referred to prevention or early intervention youth services under Subsection (3)(b), a report from the Division of Juvenile Justice Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection [~~(4)~~] (3)(b); and

(v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under Subsection [~~(5)~~] (4) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353, when the underlying offense is [~~a class C misdemeanor occurring on school property or habitual truancy~~] a status offense or infraction.

(e) If a minor is referred to a court under Subsection [~~(5)~~] (4), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

[~~(7)~~] (8) [~~If the alleged offense is a class B misdemeanor or a class A misdemeanor~~] If a minor is alleged to have committed an offense on school property that is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a [~~juvenile~~] court or to the evidence-based alternative interventions in Subsection [~~(3)(b)~~] (3)(a).

Section 7. Section 53G-8-213 is enacted to read:

53G-8-213. Reintegration plan for student alleged to have committed violent felony or weapon offense.

(1) As used in this section:

(a) "Multidisciplinary team" means the local education agency, the juvenile court, the Division of Juvenile Justice Services, a school resource officer if applicable, and any other relevant party that should be involved in a reintegration plan.

(b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) If a school district receives a notification from the juvenile court or a law enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile court for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the school shall develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent or guardian, within five days after the day on which the school receives a notification.

(3) The school may deny admission to the student until the school completes the reintegration plan under Subsection (2).

(4) The reintegration plan under Subsection (2) shall address:

(a) a behavioral intervention for the student;

(b) a short-term mental health or counseling service for the student; and

(c) an academic intervention for the student.

Section 8. Section 53G-8-402 is amended to read:

53G-8-402. Notification by juvenile court and law enforcement agencies.

[~~(1) Notifications received from the juvenile court or law enforcement agencies by the school district~~]

(1) A notification received by a school district from the juvenile court or a law enforcement agency under Section 80-6-103 [~~are~~] is governed by this part.

[~~(2) School districts may enter into agreements with law enforcement agencies for~~]

(2) A school district may enter into an agreement with a law enforcement agency regarding a notification under Subsection (1).

Section 9. Section 53G-8-403 is amended to read:

53G-8-403. Superintendent required to notify school.

(1) Within three days of receiving [~~the information~~] a notification from the juvenile court or a law enforcement agency under Section 80-6-103, the district superintendent shall notify the principal of the school the juvenile attends or last attended.

(2) Upon receipt of the information, the principal shall:

(a) make a notation in a secure file other than the student's permanent file; and

(b) if the student is still enrolled in the school, notify staff members who, in his opinion, should know of the adjudication.

(3) A person receiving information pursuant to this part may only disclose the information to other persons having both a right and a current need to know.

(4) Access to secure files shall be limited to persons authorized to receive information under this part.

Section 10. Section 63A-16-1001 is amended to read:

Part 10. Criminal and Juvenile Justice Database

63A-16-1001. Definitions.

As used in this part:

(1) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) "Criminal justice agency" means an agency or institution directly involved in the apprehension, prosecution, and incarceration of an individual involved in criminal activity, including law enforcement, correctional facilities, jails, courts, probation, and parole.

(3) "Database" means the [~~Criminal Justice Database~~] criminal and juvenile justice database created in this part.

(4) "Division" means the Division of Technology Services created in Section 63A-16-103.

Section 11. Section 63A-16-1002 is amended to read:

63A-16-1002. Criminal and juvenile justice database.

(1) The commission shall oversee the creation and management of a [~~Criminal Justice Database~~] criminal and juvenile justice database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 24-4-118, forfeiture reporting requirements;

(e) Section 41-6a-511, courts to collect and maintain data;

(f) Section 63M-7-214, law enforcement agency grant reporting;

(g) Section 63M-7-216, prosecutorial data collection;

(h) Section 64-13-21, supervision of sentenced offenders placed in community;

(i) Section 64-13-25, standards for programs;

(j) Section 64-13-45, department reporting requirements;

(k) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

(l) Section 77-7-8.5, use of tactical groups;

(m) Section 77-20-103, release data requirements;

(n) Section 77-22-2.5, court orders for criminal investigations;

(o) Section 78A-2-109.5, court demographics reporting;

(p) Section 80-6-104, data collection on offenses committed by minors; and

[~~(p)~~] (q) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023.

Section 12. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(7) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(10) [~~Subsection~~] Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(11) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(12) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(14) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(15) Section 53F-5-203 is repealed July 1, 2024.

(16) Section 53F-5-213 is repealed July 1, 2023.

(17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(19) Section 53F-5-219, which creates the Local [~~INnovations~~] Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(20) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(21) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(22) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2027.~~]

[~~(23)~~] (22) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24)~~] (23) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 13. Section 63M-7-208 is amended to read:

63M-7-208. Juvenile justice oversight -- Delegation -- Effective dates.

(1) The State Commission on Criminal and Juvenile Justice shall:

(a) support implementation and expansion of evidence-based juvenile justice programs and practices, including assistance regarding implementation fidelity, quality assurance, and ongoing evaluation;

(b) examine and make recommendations on the use of third-party entities or an intermediary organization to assist with implementation and to support the performance-based contracting system authorized in Subsection (1)(m);

(c) oversee the development of performance measures to track juvenile justice reforms, and

ensure early and ongoing stakeholder engagement in identifying the relevant performance measures;

(d) evaluate currently collected data elements throughout the juvenile justice system and contract reporting requirements to streamline reporting, reduce redundancies, eliminate inefficiencies, and ensure a focus on recidivism reduction;

(e) review averted costs from reductions in out-of-home placements for juvenile justice youth placed with the Division of Juvenile Justice Services and the Division of Child and Family Services, and make recommendations to prioritize the reinvestment and realignment of resources into community-based programs for youth living at home, including the following:

(i) statewide expansion of:

(A) juvenile receiving centers, as defined in Section 80-1-102;

(B) mobile crisis outreach teams, as defined in Section 62A-15-102;

(C) youth courts; and

(D) victim-offender mediation;

(ii) statewide implementation of nonresidential diagnostic assessment;

(iii) statewide availability of evidence-based programs and practices including cognitive behavioral and family therapy programs for minors assessed by a validated risk and needs assessment as moderate or high risk;

(iv) implementation and infrastructure to support the sustainability and fidelity of evidence-based juvenile justice programs, including resources for staffing, transportation, and flexible funds; and

(v) early intervention programs such as family strengthening programs, family wraparound services, and proven truancy interventions;

(f) assist the Administrative Office of the Courts in the development of a statewide sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's family to pay;

(g) analyze the alignment of resources and the roles and responsibilities of agencies, such as the operation of early intervention services, receiving centers, and diversion, and make recommendations to reallocate functions as appropriate, in accordance with Section 80-5-401;

(h) comply with the data collection and reporting requirements under Section 80-6-104;

[~~(h) ensure that data reporting is expanded and routinely review data in additional areas, including:~~]

[~~(i) referral and disposition data by judicial district;~~]

[~~(ii) data on the length of time minors spend in the juvenile justice system, including the total time spent under court jurisdiction, on community supervision, and in each out-of-home placement;~~]

[~~(iii) recidivism data for minors who are diverted to a nonjudicial adjustment under Section 80-6-304 and minors for whom dispositions are ordered under Section 80-6-701, including tracking minors into the adult corrections system;~~]

[~~(iv) change in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and~~]

[~~(v) dosage of programming;~~]

(i) develop a reasonable timeline within which all programming delivered to minors in the juvenile justice system must be evidence-based or consist of practices that are rated as effective for reducing recidivism by a standardized program evaluation tool;

(j) provide guidelines to be considered by the Administrative Office of the Courts and the Division of Juvenile Justice Services in developing tools considered by the Administrative Office of the Courts and the Division of Juvenile Justice Services in developing or selecting tools to be used for the evaluation of juvenile justice programs;

(k) develop a timeline to support improvements to juvenile justice programs to achieve reductions in recidivism and review reports from relevant state agencies on progress toward reaching that timeline;

(l) subject to Subsection (2), assist in the development of training for juvenile justice stakeholders, including educators, law enforcement officers, probation staff, judges, Division of Juvenile Justice Services staff, Division of Child and Family Services staff, and program providers;

(m) subject to Subsection (3), assist in the development of a performance-based contracting system, which shall be developed by the Administrative Office of the Courts and the Division of Juvenile Justice Services for contracted services in the community and contracted out-of-home placement providers;

(n) assist in the development of a validated detention risk assessment tool that [~~shall be~~] is developed or adopted and validated by the Administrative Office of the Courts and the Division of Juvenile Justice Services as provided in Section 80-5-203 [~~on and after July 1, 2018~~]; and

(o) annually issue and make public a report to the governor, president of the Senate, speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the progress of the reforms and any additional areas in need of review.

(2) Training described in Subsection (1)(l) should include instruction on evidence-based programs and principles of juvenile justice, such as risk, needs, responsivity, and fidelity, and shall be supplemented by the following topics:

(a) adolescent development;

(b) identifying and using local behavioral health resources;

(c) cross-cultural awareness;

[~~(c) implicit bias;~~]

[~~(d) cultural competency;~~]

[~~(e)~~] (d) graduated responses;

[~~(f)~~] (e) Utah juvenile justice system data and outcomes; and

[~~(g)~~] (f) gangs.

(3) The system described in Subsection (1)(m) shall provide incentives for:

(a) the use of evidence-based juvenile justice programs and practices rated as effective by the tools selected in accordance with Subsection (1)(j);

(b) the use of three-month timelines for program completion; and

(c) evidence-based programs and practices for minors living at home in rural areas.

(4) The State Commission on Criminal and Juvenile Justice may delegate the duties imposed under this section to a subcommittee or board established by the State Commission on Criminal and Juvenile Justice in accordance with Subsection 63M-7-204(2).

[~~(5) Subsections (1)(a) through (c) take effect August 1, 2017. The remainder of this section takes effect July 1, 2018.~~]

Section 14. Section 63M-7-218 is amended to read:

63M-7-218. State grant requirements.

Beginning July 1, 2023, the commission may not award any grant of state funds to any entity subject to, and not in compliance with, the reporting requirements in Subsections 63A-16-1002(5)(a) through [~~(o)~~] (p).

Section 15. Section 76-5-401.3 is amended to read:

76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.

(1) (a) As used in this section, "adolescent" means an individual in the transitional phase of human physical and psychological growth and development between childhood and adulthood who is 12 years old or older, but younger than 18 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful sexual activity if the actor:

(a) is an adolescent; and

(b) has sexual activity with another adolescent.

(3) A violation of Subsection (2) is a:

(a) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old;

(b) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(c) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(d) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(e) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;

(f) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(g) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

(h) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(4) The offenses referred to in Subsection (2) are:

(a) rape, in violation of Section 76-5-402;

(b) rape of a child, in violation of Section 76-5-402.1;

(c) object rape, in violation of Section 76-5-402.2;

(d) object rape of a child, in violation of Section 76-5-402.3;

(e) forcible sodomy, in violation of Section 76-5-403;

(f) sodomy on a child, in violation of Section 76-5-403.1;

(g) sexual abuse of a child, in violation of Section 76-5-404;

(h) aggravated sexual assault, in violation of Section 76-5-405;

(i) incest, in violation of Section 76-7-102; or

(j) an attempt to commit any offense listed in Subsections (4)(a) through (4)(i).

(5) An offense under this section is not eligible for a nonjudicial adjustment under Section [~~80-6-304~~] 80-6-303.5 or a referral to a youth court under Section 80-6-902.

(6) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

(7) An offense under this section is not subject to registration under Subsection 77-41-102(17).

Section 16. Section 76-10-501 is amended to read:

76-10-501. Definitions.

As used in this part:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; or

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(3) (a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

(ii) readily accessible for immediate use.

(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.

(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.

(5) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection (5)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

(C) bizarre; or

(ii) because of the firearm's association with an historical:

(A) figure;

(B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

(6) (a) "Dangerous weapon" means:

(i) a firearm; or

(ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

(i) the location and circumstances in which the object was used or possessed;

(ii) the primary purpose for which the object was made;

(iii) the character of the wound, if any, produced by the object's unlawful use;

(iv) the manner in which the object was unlawfully used;

(v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(vi) the lawful purposes for which the object may be used.

(c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.

(7) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(8) "Enter" means intrusion of the entire body.

(9) "Federal Firearms Licensee" means a person who:

(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held.

(10) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.

(11) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

(12) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

(13) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.

(14) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

(15) "Machinegun firearm attachment" means any part or combination of parts added to a semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.

[~~(15)~~] (16) "Prohibited area" means a place where it is unlawful to discharge a firearm.

[~~(16)~~] (17) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

[~~(17)~~] (18) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

[~~(18)~~] (19) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

[~~(19)~~] (20) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

[~~(20)~~] (21) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

[~~(21)~~] (22) "Shoulder arm" means a firearm that is designed to be fired while braced against the shoulder.

[~~(22)~~] (23) "Slug" means a single projectile discharged from a shotgun shell.

[~~(23)~~] (24) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

[~~(24)~~] (25) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 17. Section 76-10-509.4 is amended to read:

76-10-509.4. Prohibition of possession of certain weapons by minors.

(1) [~~A minor under 18 years of age~~] An individual who is under 18 years old may not possess a handgun.

(2) Except as provided by federal law, [~~a minor under 18 years of age~~] an individual who is under 18 years old may not possess the following:

(a) a short barreled rifle [~~or~~];

(b) a short barreled shotgun; [~~or~~]

[~~(b)~~] (c) a fully automatic weapon; or

(d) a machinegun firearm attachment.

(3) [~~Any person~~] An individual who violates Subsection (1) is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

(4) [~~Any person~~] An individual who violates Subsection (2) is guilty of a third degree felony.

Section 18. Section 78A-5-102.5 is amended to read:

78A-5-102.5. Jurisdiction of the district court over an offense committed by a

minor -- Exclusive jurisdiction of the district court -- Transfer to juvenile court.

(1) As used in this section:

(a) "Minor" means:

(i) an individual who is under 18 years old;

(ii) an individual who was under 18 years old at the time of the offense and is under 21 years old at the time of all court proceedings; or

(iii) an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense;

(B) who is under 21 years old at the time of all court proceedings; and

(C) who committed the felony offense and any separate offense on school property where the individual was enrolled when school was in session or during a school-sponsored activity, as defined in [~~Subsection 53G-8-211(1)(k)~~] Section 53G-8-211.

(b) "Qualifying offense" means:

(i) an offense described in Section 80-6-502 or 80-6-503; or

(ii) a felony offense if the felony offense is committed:

(A) by an individual who was 18 years old at the time of the offense and enrolled in high school; and

(B) on school property where the individual was enrolled when school was in session or during a school-sponsored activity, as defined in [~~Subsection 53G-8-211(1)(k)~~] Section 53G-8-211.

(c) "Separate offense" means any offense that is not a qualifying offense.

(2) The district court has original jurisdiction over an offense of aggravated murder, as described in Section 76-5-202, or murder, as described in Section 76-5-203, that is committed by an individual who is 16 or 17 years old at the time of the offense.

(3) The district court has subject matter jurisdiction over any offense for which the juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the offense to the district court in accordance with Section 80-6-504.

(4) Notwithstanding Sections 78A-6-103, 78A-6-103.5, and 78A-7-106, the district court has exclusive jurisdiction over any separate offense:

(a) committed by a minor; and

(b) arising from a single criminal episode containing a qualifying offense for which the district court has original jurisdiction.

(5) Except as provided in Subsections (6) and (7), if the district court has jurisdiction over a qualifying offense or a separate offense committed by a minor, the district court is not divested of jurisdiction over the offense when the minor is allowed to enter a plea to, or is found guilty of, a separate offense that is not the qualifying offense or separate offense listed in the criminal information.

(6) If a minor is charged with a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal after a trial:

(a) the jurisdiction of the district court over any separate offense is terminated; and

(b) the district court shall transfer the separate offense to the juvenile court for disposition in accordance with Title 80, Chapter 6, Part 7, Adjudication and Disposition.

(7) If a minor is charged with a qualifying offense and the qualifying offense results in a dismissal before a trial:

(a) the jurisdiction of the district court over any separate offense is terminated; and

(b) the district court shall transfer the separate offense to the juvenile court for adjudication and disposition in accordance with Title 80, Chapter 6, Part 7, Adjudication and Disposition.

Section 19. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in [~~Subsection 53G-8-211(1)(k)~~] Section 53G-8-211.

(2) The juvenile court has original jurisdiction over any proceeding concerning:

(a) a child who is an abused child, neglected child, or dependent child;

(b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(c) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(e) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(f) the treatment or commitment of a minor who has an intellectual disability;

(g) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(h) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(i) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(j) the treatment or commitment of a child with a mental illness;

(k) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(l) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(m) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(n) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(o) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of Juvenile Justice Services, the child has demonstrated that the child:

(i) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(ii) has run away from home; and

(p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court.

(3) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection (2)(p).

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(7) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 20. Section 78A-6-210 is amended to read:

78A-6-210. Fines -- Fees -- Deposit with state treasurer -- Restricted account.

(1) There is created a restricted account in the General Fund known as the "Nonjudicial Adjustment Account."

(2) (a) The account shall be funded from the financial penalty established under [~~Subsection 80-6-304(6)(a)~~] Section 80-6-304.

(b) The court shall deposit all money collected as a result of penalties assessed as part of the nonjudicial adjustment of a case into the account.

(c) The account shall be used to pay the expenses of juvenile compensatory service, victim restitution, and diversion programs.

(3) (a) Except under Subsection (3)(b) or (4) and as otherwise provided by law, the juvenile court shall pay all fines, fees, penalties, and forfeitures imposed and collected by the juvenile court to the state treasurer for deposit into the General Fund.

(b) No more than 50% of any fine or forfeiture collected may be paid to a state rehabilitative employment program for a minor adjudicated under Section 80-6-701 that provides for employment of the minor in the county of the minor's residence if:

(i) reimbursement for the minor's labor is paid to the victim of the offense or wrongful act committed by the minor;

(ii) the amount earned and paid is set by court order;

(iii) the minor is not paid more than the hourly minimum wage; and

(iv) no payments to victims are made without the minor's involvement in a rehabilitative work program.

(c) Fines withheld under Subsection (3)(b) and any private contributions to the rehabilitative

employment program are accounted for separately and are subject to audit at any time by the state auditor.

(d) (i) Funds withheld under Subsection (3)(b) and private contributions are nonlapsing.

(ii) The board shall establish policies for the use of the funds described in this Subsection (3)(d).

(4) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 80% to the General Fund.

(5) A state or local public officer may not charge a fee for the service of process in any proceedings initiated by a public agency.

Section 21. Section 80-6-103 is amended to read:

80-6-103. Notification to a school -- Civil and criminal liability.

(1) As used in this section:

(a) "School" means a school in a local education agency.

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

[~~(a)~~] (c) "School official" means:

(i) the school superintendent of the district in which the minor resides or attends school; or

(ii) if there is no school superintendent for the school, the principal of the school where the minor attends.

[~~(b)~~] (d) "Transferee school official" means:

(i) the school superintendent of the district in which the minor resides or attends school if the minor is admitted to home detention; or

(ii) if there is no school superintendent for the school, the principal of the school where the minor attends if the minor is admitted to home detention.

(2) A notification under this section is provided for a minor's supervision and student safety.

(3) (a) [~~(i)~~] If a minor is taken into temporary custody under Section 80-6-201[~~, or admitted to a detention facility under Section 80-6-205,~~] for a violent felony[~~,~~] or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official [~~as soon as practicable or as established under Subsection 53G-8-402(2)~~] within five days after the day on which the minor is taken into temporary custody.

[~~(ii)~~] (b) A notification under this [~~section~~] Subsection (3) shall only disclose:

[~~(A)~~] (i) the name of the minor;

[~~(B)~~] (ii) the offense for which the minor was taken into temporary custody or admitted to detention; and

[~~(C)~~] (iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.

[~~(b)~~] (4) After a detention hearing for a minor who is alleged to have committed a violent felony, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the juvenile court shall order [~~that~~] a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency [~~are notified~~] of the juvenile court's decision, including any disposition, order, or no-contact order.

[~~(4)~~] (5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order [~~that~~] a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency [~~are notified~~] that the minor has been admitted to home detention.

[~~(5)~~] (6) (a) If the juvenile court adjudicates a minor for an offense of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the [~~court shall order that~~] juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, [~~is notified~~] of the adjudication.

(b) A notification under [~~Subsection (5)(a)~~] this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.

(c) A notification under this section shall include:

(i) the name of the minor;

(ii) the offense for which the minor was adjudicated; and

(iii) if available, the name of the victim if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

[~~(6)~~] (7) If the juvenile court orders probation under Section 80-6-702, the juvenile court [~~may order that~~] shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official [~~are notified~~] of the juvenile court's order for probation.

[~~(7)~~] (8) (a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:

(i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

[~~(8)~~] (9) (a) A notification under this section shall be classified as a protected record under Section 63G-2-305.

(b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 22. Section 80-6-104 is enacted to read:

80-6-104. Data collection on offenses committed by minors -- Reporting requirement.

(1) As used in this section:

(a) "Firearm" means the same as that term is defined in Section 76-10-501.

(b) "Firearm-related offense" means a criminal offense involving a firearm.

(c) "School is in session" means the same as that term is defined in Section 53E-3-516.

(d) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.

(2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down by judicial district, for the preceding calendar year:

(a) the number of referrals to the juvenile court;

(b) the number of minors diverted to a nonjudicial adjustment;

(c) the number of minors that satisfy the conditions of a nonjudicial adjustment;

(d) the number of minors for whom a petition for an offense is filed in the juvenile court;

(e) the number of minors for whom an information is filed in the juvenile court;

(f) the number of minors bound over to the district court by the juvenile court;

(g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;

(h) the number of adjudications in the juvenile court for offenses committed by minors;

(i) the number of guilty pleas entered into by minors in the juvenile court;

(j) the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation; and

(k) for each minor charged in the juvenile court with a firearm-related offense:

(i) the minor's age at the time the offense was committed or allegedly committed;

(ii) the minor's zip code at the time that the offense was referred to the juvenile court;

(iii) whether the minor is a restricted person under Subsection 76-10-503(1)(a)(iv) or (1)(b)(ii);

(iv) the type of offense for which the minor is charged;

(v) the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court; and

(vi) if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.

(3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a case resulting from a firearm-related offense committed, or allegedly committed, by a minor when the minor is found in possession of a firearm while school is in session or during a school-sponsored activity.

(4) In collaboration with the Administrative Office of the Courts, the division, and other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the preceding calendar year on:

(a) the length of time that minors spend in the juvenile justice system, including the total amount of time minors spend under juvenile court jurisdiction, on community supervision, and in each out-of-home placement;

(b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for whom dispositions are ordered by the juvenile court, including tracking minors into the adult corrections system;

(c) changes in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and

(d) dosages of programming.

(5) On and before October 1 of each year, the State Commission on Criminal and Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee that includes:

(a) data collected by the State Commission on Criminal and Juvenile Justice under this section;

(b) data collected by the State Board of Education under Section 53E-3-516; and

(c) recommendations for legislative action with respect to the data described in this Subsection (5).

(6) Nothing in this section shall be construed to require the disclosure of information or data that is classified as controlled, private, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 23. Section 80-6-302 is amended to read:

80-6-302. Citation -- Procedure -- Time limits -- Failure to appear.

(1) A petition is not required to commence a proceeding against a minor for an adjudication of an alleged offense if a citation is issued for an offense for which the juvenile court has jurisdiction over and the offense listed in the citation is for:

(a) a violation of a wildlife law;

(b) a violation of a boating law;

(c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:

(i) for a traffic violation; or

(ii) designated as a citable offense by general order of the Board of Juvenile Court Judges;

(d) a class B misdemeanor or infraction for a traffic violation where the individual is 15 years old or younger at the time the offense was alleged to have occurred;

(e) an infraction or misdemeanor designated as a citable offense by a general order of the Board of Juvenile Court Judges; or

(f) a violation of Subsection 76-10-105(2).

(2) Except as provided in Subsection (6) and Section 80-6-301, a citation for an offense listed in Subsection (1) shall be submitted to the juvenile court within five days of issuance to a minor.

(3) A copy of the citation shall contain:

(a) the name and address of the juvenile court before which the minor may be required to appear;

(b) the name of the minor cited;

(c) the statute or local ordinance that the minor is alleged to have violated;

(d) a brief description of the offense charged;

(e) the date, time, and location at which the offense is alleged to have occurred;

(f) the date the citation was issued;

(g) the name and badge or identification number of the peace officer or public official who issued the citation;

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the minor into temporary custody as provided in Section 80-6-201;

(i) a statement that the minor and the minor's parent or guardian are to appear when notified by the juvenile court; and

(j) the signature of the minor and the minor's parent or guardian, if present, agreeing to appear at the juvenile court when notified by the court.

(4) A copy of the citation shall contain space for the following information to be entered if known:

(a) the minor's address;

(b) the minor's date of birth;

(c) the name and address of the child's custodial parent or guardian, if different from the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.

(5) A citation received by the juvenile court beyond the time designated in Subsection (2) shall include a written explanation for the delay.

(6) [~~A minor offense, as defined in Section 80-6-901,~~] An offense alleged to have been committed by an enrolled child on school property, or related to school attendance, may only be referred to the prosecuting attorney or the juvenile court in accordance with Section 53G-8-211.

(7) If a juvenile court receives a citation described in Subsection (1), a juvenile probation officer shall make a preliminary inquiry as to whether the minor is eligible for a nonjudicial adjustment in accordance with Subsection [~~80-6-304(5)~~] 80-6-303.5(4).

(8) (a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a prosecuting attorney may commence a proceeding against a minor, without filing a petition, for an adjudication of the offense in the citation only if:

(i) the minor is not eligible for, or does not complete, a nonjudicial adjustment [~~in accordance with Section 80-6-304~~]; and

(ii) the prosecuting attorney conducts an inquiry under Subsection (9).

(b) Except as provided in Subsection 80-6-305(2), a prosecuting attorney may not commence a proceeding against an individual for any offense listed in a citation alleged to have occurred before the individual was 12 years old.

(9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief, that:

(a) the charge listed in the citation is supported by probable cause;

(b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(c) the decision to charge is in the interests of justice.

(10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall appear at the juvenile court at a date and time established by the juvenile court.

(11) If a minor willfully fails to appear before the juvenile court for a proceeding under Subsection (8)(a), the juvenile court may:

(a) find the minor in contempt of court; and

(b) proceed against the minor as provided in Section 78A-6-353.

(12) If a proceeding is commenced under this section, the minor may remit a fine without a personal appearance before the juvenile court with the consent of:

(a) the juvenile court; and

(b) if the minor is a child, the parent or guardian of the child cited.

Section 24. Section 80-6-303 is amended to read:

80-6-303. Criminal proceedings involving minors -- Transfer to juvenile court -- Exception.

(1) (a) If while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that an individual being charged is under 21 years old and was younger than 18 years old at the time of committing the alleged offense, the district court or justice court shall transfer the case to the juvenile court with all the papers, documents, and transcripts of any testimony.

(b) (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense that is:

(A) filed in the district court in accordance with Section 80-6-502; or

(B) transferred to the district court in accordance with Section 80-6-504.

(ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an offense for which the justice court has original jurisdiction under Subsection 78A-7-106(2).

(2) (a) Except as provided in Subsection (2)(b), the district court or justice court making the transfer shall:

(i) order the individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court; or

(ii) release the individual to the custody of the individual's parent or guardian or other person legally responsible for the individual, to be brought before the juvenile court at a time designated by the juvenile court.

(b) If the alleged offense under Subsection (1) occurred before the individual was 12 years old:

(i) the district court or justice court making the transfer shall release the individual to the custody of the individual's parent or guardian, or other person legally responsible for the individual;

(ii) the juvenile court shall treat the transfer as a referral under Section 80-6-301; and

(iii) a juvenile probation officer shall make a preliminary inquiry to determine whether the individual is eligible for a nonjudicial adjustment in accordance with Section [~~80-6-304~~] 80-6-303.5.

(c) If the case is transferred to the juvenile court under this section, the juvenile court shall then proceed in accordance with this chapter.

(3) A district court or justice court does not have to transfer a case under Subsection (1) if the district court or justice court would have had jurisdiction over the case at the time the individual committed the offense in accordance with Sections 78A-5-102 and 78A-7-106.

Section 25. Section 80-6-303.5 is enacted to read:

80-6-303.5. Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial adjustment.

(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, a juvenile probation officer shall make a preliminary inquiry in accordance with this section to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(3) (a) The juvenile probation officer may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor shall:

(i) undergo a drug and alcohol screening;

(ii) if found appropriate by the screening, participate in an assessment; and

(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

(4) Except for an offense that is not eligible under Subsection (8), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if:

(a) the minor:

(i) is referred for an offense that is a misdemeanor, infraction, or status offense;

(ii) has no more than two prior adjudications; and

(iii) has no more than two prior unsuccessful nonjudicial adjustment attempts; or

(b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old.

(5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(7) Except for a referral that involves an offense described in Subsection (8), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria described in Subsection (4)(a).

(8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the referral involves:

(a) an offense alleged to have occurred when the minor was 12 years old or older that is:

(i) a felony offense; or

(ii) a misdemeanor violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-107, threat of violence;

(C) Section 76-5-107.1, threats against schools;

(D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(E) Section 76-5-206, negligent homicide;

(F) Section 76-9-702.1, sexual battery;

(G) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;

(H) Section 76-10-506, threatening with or using a dangerous weapon in fight or quarrel;

(I) Section 76-10-507, possession of a deadly weapon with criminal intent;

(J) Section 76-10-509, possession of a dangerous weapon by a minor; or

(K) Section 76-10-509.4, prohibition of possession of certain weapons by minors; or

(b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm.

(9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:

(a) the referral involves an offense described in Subsection (8); or

(b) the minor has a current suspended order for custody under Section 80-6-711.

Section 26. Section 80-6-304 is amended to read:

80-6-304. Nonjudicial adjustments.

[~~(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, a juvenile probation officer shall make a preliminary inquiry in accordance with Subsections (3), (4), and (5) to determine whether the minor is eligible to enter into a nonjudicial adjustment.~~]

[~~(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.~~]

[~~(3) (a) The juvenile probation officer may:~~]

[~~(i) conduct a validated risk and needs assessment; and~~]

[~~(ii) request that a prosecuting attorney review a referral in accordance with Subsection (9) if:~~]

[~~(A) the results of the validated risk and needs assessment indicate the minor is high risk; or~~]

[~~(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.~~]

[~~(b) If a minor violates Section 41-6a-502, the minor shall:~~]

[~~(i) undergo a drug and alcohol screening;~~]

[~~(ii) if found appropriate by the screening, participate in an assessment; and~~]

[~~(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.~~]

[~~(4) Except as provided in Subsection (5)(b), the juvenile probation officer shall request that a prosecuting attorney review a referral in accordance with Subsection (9) if:~~]

[~~(a) the referral involves:~~]

[~~(i) a felony offense; or~~]

[~~(ii) a violation of:~~]

[~~(A) Section 41-6a-502, driving under the influence;~~]

[~~(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;~~]

[~~(C) Section 76-5-206, negligent homicide;~~]

[~~(D) Section 76-9-702.1, sexual battery;~~]

[~~(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or~~]

[~~(F) Section 76-10-509, possession of a dangerous weapon by minor, but only if the dangerous weapon is a firearm;~~]

[~~(b) the minor has a current suspended order for custody under Section 80-6-711; or~~]

[~~(c) the referral involves an offense alleged to have occurred before an individual was 12 years old and the offense is a felony violation of:~~]

[~~(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;~~]

[~~(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;~~]

[~~(iii) Section 76-5-203, murder or attempted murder;~~]

[~~(iv) Section 76-5-302, aggravated kidnapping;~~]

[~~(v) Section 76-5-405, aggravated sexual assault;~~]

[~~(vi) Section 76-6-103, aggravated arson;~~]

[~~(vii) Section 76-6-203, aggravated burglary;~~]

[~~(viii) Section 76-6-302, aggravated robbery; or~~]

[~~(ix) Section 76-10-508.1, felony discharge of a firearm.~~]

[~~(5) (a) Except as provided in Subsections (3) and (4), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if the minor:~~]

[~~(i) is referred for an offense that is a misdemeanor, infraction, or status offense;~~]

[~~(ii) has no more than two prior adjudications; and~~]

[~~(iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.~~]

[~~(b) If the juvenile court receives a referral for an offense that is alleged to have occurred before an individual was 12 years old, the juvenile probation officer shall offer a nonjudicial adjustment to the individual, unless the referral includes an offense described in Subsection (4)(c).~~]

[~~(c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (5), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.~~]

[~~(ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (5), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.~~]

[~~(d) Except as provided in Subsection (4), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria provided in Subsection (5)(a).~~]

[~~(6)~~] (1) For a nonjudicial adjustment, the juvenile probation officer may require a minor to:

(a) pay a financial penalty of no more than $250 to the juvenile court, subject to the terms established under Subsection [~~(8)(c)~~] (4);

(b) pay restitution to any victim;

(c) complete community or compensatory service;

(d) attend counseling or treatment with an appropriate provider;

(e) attend substance abuse treatment or counseling;

(f) comply with specified restrictions on activities or associations;

(g) attend victim-offender mediation if requested by the victim; and

(h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.

[~~(7)~~] (2) (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with [~~Subsection (5)~~] Section 80-6-303.5, the juvenile probation officer shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(b) The victim shall be responsible to provide to the juvenile probation officer upon request:

(i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;

(ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(iii) proof of identification, including home and work address and telephone numbers.

(c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the juvenile probation officer determining restitution based on the best information available.

[~~(8) (a)~~] (3) The juvenile probation officer may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.

[~~(b)~~] (4) (a) The juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection [~~(6).~~] (1).

[~~(c)~~] (b) The juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection [~~(6)~~] (1) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208.

[~~(d)~~] (5) (a) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

[~~(e) (i)~~] (b) [~~Notwithstanding Subsection (8)(d), a~~] A juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection [~~(8)(d)~~] (5)(a):

(i) for a minor who is:

(A) offered a nonjudicial adjustment [~~under Subsection (5)(b)~~] for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, [~~or is~~] that the minor committed before the minor was 12 years old; or

(B) referred [~~under Subsection (9)(b)(ii)~~] to a prosecuting attorney for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old[~~, if~~]; and

(ii) the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

[~~(ii)~~] (c) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection [~~(8)(e)(i)~~] (5)(b), the judge may extend the nonjudicial adjustment until the minor completes the [~~treatment under this Subsection (8)(e)~~] specific treatment, but the judge may only grant each extension for 90 days at a time.

[~~(f)~~] (6) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

[~~(9) If a prosecuting attorney is requested to review a referral in accordance with Subsection (3) or (4), a minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment, or a minor is not offered or declines a nonjudicial adjustment in accordance with Subsection (5), the prosecuting attorney shall:~~]

[~~(a) review the case; and~~]

[~~(b) (i) dismiss the case;~~]

[~~(ii) refer the case back to the juvenile probation officer for a new attempt at nonjudicial adjustment; or~~]

[~~(iii) except as provided in Subsections (10)(b), (11), and 80-6-305(2), file a petition with the juvenile court.~~]

[~~(10) (a) A prosecuting attorney may file a petition only upon reasonable belief that:~~]

[~~(i) the charges are supported by probable cause;~~]

[~~(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and~~]

[~~(iii) the decision to charge is in the interests of justice.~~]

[~~(b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under Subsection (9)(b)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection (6) or conditions imposed through any other court diversion program.~~]

[~~(11) A prosecuting attorney may not file a petition against a minor unless:~~]

[~~(a) the prosecuting attorney has statutory authority to file the petition under Section 80-6-305; and~~]

[~~(b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (5);~~]

[~~(ii) the minor declines a nonjudicial adjustment;~~]

[~~(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;~~]

[~~(iv) the minor fails to respond to the juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or~~]

[~~(v) the prosecuting attorney is acting under Subsection (9).~~]

[~~(12) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is commenced against a minor under Section 80-6-302, the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment.~~]

Section 27. Section 80-6-304.5 is enacted to read:

80-6-304.5. Prosecutorial review of referral to juvenile court -- Filing a petition.

(1) A prosecuting attorney shall review a referral to the juvenile court for an offense committed by a minor if:

(a) the prosecuting attorney is requested to review the referral under Section 80-6-303.5;

(b) the minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment; or

(c) the minor is not offered or declines a nonjudicial adjustment.

(2) Upon review of a referral under Subsection (1), the prosecuting attorney shall:

(a) dismiss the referral;

(b) send the referral back to the juvenile probation officer for a new attempt at a nonjudicial adjustment if the minor's case is eligible for a nonjudicial adjustment under Section 80-6-303.5; or

(c) except as provided in Subsection (5), file a petition with the juvenile court.

(3) A prosecuting attorney may only file a petition under Subsection (2)(c) upon reasonable belief that:

(a) the charges are supported by probable cause;

(b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(c) the decision to charge is in the interests of justice.

(4) If a minor has substantially complied with the other conditions of a nonjudicial adjustment or conditions imposed through any other court diversion program, the minor's failure to pay a fine or fee as a condition of the nonjudicial adjustment or program may not serve as a basis for filing of a petition.

(5) A prosecuting attorney may not file a petition against a minor unless:

(a) the prosecuting attorney has statutory authority to file the petition under Section 80-6-305; and

(b) (i) the minor is not eligible for a nonjudicial adjustment under Section 80-6-303.5;

(ii) the minor declines a nonjudicial adjustment;

(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment; or

(iv) the minor fails to respond to the juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry.

(6) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is commenced against a minor under Section 80-6-302, the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment if the minor is eligible for a nonjudicial adjustment under Section 80-6-303.5.

Section 28. Section 80-6-305 is amended to read:

80-6-305. Petition for a delinquency proceeding -- Amending a petition -- Continuance.

(1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:

(a) Subsection (2);

(b) Section 80-6-302;

(c) Section 80-6-502; and

(d) Section 80-6-503.

(2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:

(a) the individual is alleged to have committed a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm; or

(b) an offer for a nonjudicial adjustment is made under Section [~~80-6-304~~] 80-6-303.5 and the minor:

(i) declines to accept the offer for the nonjudicial adjustment; or

(ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.

(3) A juvenile court may dismiss a petition under this section at any stage of the proceedings.

(4) (a) When evidence is presented during any proceeding in a minor's case that points to material facts not alleged in the petition, the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.

(b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.

(c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

CHAPTER 162
H. B. 305
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

CHILD ABUSER EDUCATION RESTRICTIONS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Chris H. Wilson
Cosponsors: Melissa G. Ballard
Jon Hawkins

LONG TITLE

General Description:

This bill prohibits an individual who has committed child abuse from the exempting the individual's child from required school attendance.

Highlighted Provisions:

This bill:

- prohibits an individual who has committed child abuse from exempting the individual's child from required school attendance; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-204, as last amended by Laws of Utah 2021, Chapter 359

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

Section 1. Section 53G-6-204 is amended to read:

53G-6-204. School-age children exempt from school attendance.

(1) (a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age child has completed grade 8; or

(ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age child has already completed the work required for graduation from high school;

(B) the school-age child is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age child over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

(2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or attempted felony offense of which an individual is convicted, or to which an individual pleads guilty or no contest, for conduct that constitutes any of the following:

(A) child abuse under Section 76-5-109;

(B) aggravated child abuse under Section 76-5-109.2;

(C) child abandonment under Section 76-5-109.3;

(D) commission of domestic violence in the presence of a child under Section 76-5-114;

(E) child abuse homicide under Section 76-5-208;

(F) child kidnapping under Section 76-5-301.1;

(G) human trafficking of a child under Section 76-5-308.5;

(H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;

(I) sexual exploitation of a minor under Section 76-5b-201;

(J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or

(K) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (2)(a)(i).

(ii) [~~A~~] Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a school-age child from attendance, if the school-age child's parent or legal guardian files a signed and notarized affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:

[~~(i)~~] (A) the school-age child will attend a home school; and

[~~(ii)~~] (B) the parent or legal guardian assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.

(iii) If a parent or legal guardian has been convicted of child abuse or if a court of competent jurisdiction has made a substantiated finding of child abuse against the parent or legal guardian:

(A) the parent or legal guardian may not assume responsibility for the education of a school-age child under Subsection (2)(a)(ii); and

(B) the local school board may not accept the affidavit described in Subsection (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to home school the child.

(iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit described in Subsection (2)(a)(ii).

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age child attends a home school; [~~and~~]

(ii) the school district where the affidavit was filed remains the school-age child's district of residence[~~.~~]; and

(iii) the parent or legal guardian who filed the signed and notarized affidavit has not been convicted of child abuse or been the subject of a substantiated finding of child abuse by a court of competent jurisdiction.

(c) A parent or legal guardian of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent or legal guardian of a school-age child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent or legal guardian, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent or legal guardian in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age child from attendance [~~as provided by~~] under this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age child from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age child's parent [~~pursuant to~~] or legal guardian under this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age child enrolls in a school within the school district;

(B) the school-age child's parent or legal guardian notifies the school district that the school-age child no longer attends a home school; or

(C) the school-age child's parent or legal guardian notifies the school district that the school-age child's school district of residence has changed.

(3) A parent or legal guardian who is eligible to file and files a signed and notarized affidavit [~~as provided in~~] under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4) (a) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or legal guardian of a child attending a home school.

(b) The exemptions in this section apply regardless of whether:

(i) a parent or legal guardian provides education instruction to the parent's or legal guardian's child alone or in cooperation with other parents or legal guardians similarly exempted under this section; or

(ii) the parent or legal guardian makes payment for educational services the parent's or legal guardian's child receives.

CHAPTER 163
H. B. 307
Passed February 28, 2023
Approved March 14, 2023
Effective July 1, 2023

UTAH WATER WAYS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill provides for the creation of a new nonprofit, statewide partnership addressing water.

Highlighted Provisions:

This bill:

- defines terms;
- directs oversight of the creation of a partnership and the state's role in that partnership;
- outlines powers and duties of the partnership;
- addresses the selection of an executive director and board of directors;
- requires reporting; and
- addresses role of water supply entities.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Natural Resources – Water Resources, as a one-time appropriation:
  - from the General Fund, One-time, $2,000,000; and
- to the Department of Natural Resources – Water Resources, as an ongoing appropriation:
  - from the General Fund, $1,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
79-2-407, Utah Code Annotated 1953

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

Section 1. Section 79-2-407 is enacted to read:

79-2-407 (Codified as 79-2-408). Utah Water Ways.

(1) As used in this section:

(a) "Partnership" means the nonprofit, statewide partnership described in Subsections (2) and (3).

(b) "Water supply entity" means an entity supplying either culinary or irrigation water to a water user.

(2) The department shall oversee:

(a) the creation of a nonprofit, statewide partnership in accordance with this section; and

(b) the state's participation in the partnership.

(3) The partnership shall:

(a) be known as "Utah Water Ways";

(b) have as core purposes to:

(i) facilitate coordination of efforts to optimize the use of water by:

(A) sponsoring policy discussions about the state's water supply;

(B) engaging the private sector to help support efforts to optimize the use of water and related activities;

(C) coordinating with the Department of Agriculture and Food and the Department of Environmental Quality on water related issues;

(D) maintaining communication among partners in the partnership;

(E) providing a line of communication from partners to state leaders; and

(F) promoting coordination of grants, rebate programs, or sponsorships that support the optimal use of water; and

(ii) encourage residents of the state to make changes to optimize the use of water and care for the state's water supply by:

(A) providing public education and public awareness campaigns and helping consolidate campaigns about the state's water supply, water quality, and water use; and

(B) providing residents of the state with tools to understand what can be done to optimize the use of water; and

(c) seek grants, gifts, donations, devises, and bequests.

(4) The board of directors for the partnership shall:

(a) consist of 13 individuals as follows:

(i) the executive director of the department, or the executive director's designee;

(ii) the director of the Division of Water Resources, or the director's designee;

(iii) the executive director of the Department of Environmental Quality, or the executive director's designee;

(iv) the commissioner of the Department of Agriculture and Food, or the commissioner's designee;

(v) a representative of rural Utah selected jointly by the governor, the speaker of the House of Representatives, and the president of the Senate;

(vi) the general managers for four water conservancy districts selected jointly by the governor, the speaker of the House of Representatives, and the president of the Senate; and

(vii) four members of the business community selected jointly by the governor, the speaker of the House of Representatives, and the president of the Senate;

(b) hire an executive director by August 1, 2023, who shall serve for an initial term of four years; and

(c) adopt policies concerning the board of directors' internal organization and procedures.

(5) The partnership may, consistent with this section, receive a grant, gift, donation, devise, or bequest.

(6) The partnership shall annually report to the Natural Resources, Agriculture, and Environment Interim Committee.

(7) Notwithstanding the creation of the partnership, a water supply entity may maintain an important role with water supply users to encourage the optimized use of water such as through localized messaging, rebate programs, or other activities.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources -- Water Resources

From General Fund	1,000,000
From General Fund, One-time	2,000,000
Schedule of Programs:	
Planning	3,000,000

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 164
H. B. 308
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

SCHOOL GRADING MODIFICATIONS

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LONG TITLE

General Description:

This bill amends provisions related to school overall ratings under the school accountability system.

Highlighted Provisions:

This bill:

- removes the requirement on the State Board of Education to use a letter grade to assign a school an overall rating;
- amends provisions related to school turnaround and leadership development that reference letter grades under the school accountability system; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-511, as last amended by Laws of Utah 2019, Chapter 186
53E-5-204, as last amended by Laws of Utah 2021, Chapter 346
53E-5-301, as last amended by Laws of Utah 2022, Chapter 473
53E-5-306, as last amended by Laws of Utah 2022, Chapter 473
53E-5-309, as last amended by Laws of Utah 2022, Chapter 473
53G-5-503, as last amended by Laws of Utah 2020, Chapters 192, 408

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

Section 1. Section 53E-3-511 is amended to read:

53E-3-511. Student Achievement Backpack -- Utah Student Record Store.

(1) As used in this section:

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

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

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

(b) "Statewide assessment" means the same as that term is defined in Section 53E-4-301.

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

(i) is in electronic format;

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

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

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

(i) managed by the state board;

(ii) cloud-based; and

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

(2) (a) The state board shall use the state board's robust, comprehensive data collection system, which collects longitudinal student transcript data from LEAs and the unique student identifiers as described in Section 53E-4-308, to allow the following to access a student's Student Achievement Backpack:

(i) the student's parent; and

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

(b) The state board shall ensure that a Student Achievement Backpack:

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

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

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

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

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

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

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

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

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

(4) The state board shall implement security measures to ensure that:

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

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

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

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

(a) student demographics;

(b) course grades;

(c) course history; and

(d) results of a statewide assessment.

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

(a) section attendance;

(b) the name of a student's teacher for classes or courses the student takes;

(c) teacher qualifications for a student's teacher, including years of experience, degree, license, and endorsement;

(d) results of statewide assessments;

(e) a student's writing sample that is written for a writing assessment administered pursuant to Section 53E-4-303;

(f) student growth scores on a statewide assessment, as applicable;

(g) a school's [~~grade assigned pursuant to~~] performance as reported in accordance with Chapter 5, Part 2, School Accountability System;

(h) results of benchmark assessments of reading administered pursuant to Section 53E-4-307; and

(i) a student's reading level at the end of grade 3.

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

Section 2. Section 53E-5-204 is amended to read:

53E-5-204. Measuring schools.

(1) [~~Except as provided in Subsection (3), and in~~] In accordance with this part, the state board shall annually [~~assign to each school an overall rating using an A through F letter grading scale where,~~] measure and report on each school, in accordance with the Every Student Succeeds Act, Public Law No. 114-95, based on the school's performance level on the indicators described in Subsection (2)[~~:~~].

[~~(a) an A grade represents an exemplary school;~~]

[~~(b) a B grade represents a commendable school;~~]

[~~(c) a C grade represents a typical school;~~]

[~~(d) a D grade represents a developing school; and~~]

[~~(e) an F grade represents a critical needs school.~~]

(2) [~~A school's overall rating~~] The state board shall base a school's reported performance described in Subsection (1) [~~shall be based~~] on the school's performance on the indicators described in:

(a) Section 53E-5-205, for an elementary school or a middle school; or

(b) Section 53E-5-206, for a high school.

[~~(3) For the 2017-2018, 2018-2019, 2019-2020, and 2020-2021 school years, the state board:~~]

[~~(a) shall evaluate a school based on the school's performance level on the indicators described in Subsection (2) and in accordance with this part; and~~]

[~~(b) is not required to assign a school an overall rating described in Subsection (1).~~]

Section 3. Section 53E-5-301 is amended to read:

53E-5-301. Definitions.

As used in this part:

(1) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.

(2) "Cohort" means all district schools and charter schools identified as:

(a) springboard schools based on school accountability results from the same school year; or

(b) elevate schools based on school accountability results from the same school year.

(3) "Continuous improvement expert" means a person identified by the state board under Section 53E-5-305.

(4) "Educator" means the same as that term is defined in Section 53E-6-102.

(5) "Elevate school" means a district school or charter school that:

(a) is not a Title I school;

(b) is implementing targeted support and improvement activities under 20 U.S.C. Sec. 6311; and

(c) has applied and been designated by the state board as an elevate school as described in Section 53E-5-302.1.

(6) "Final remedial year" means the second or third school year following the initial remedial year, as determined by the state board.

(7) "Initial remedial year" means the school year a district school or charter school is designated as a springboard school under Section 53E-5-302 or elevate school under Section 53E-5-302.1.

(8) "LEA governing board" means a local school board or charter school governing board.

(9) "School accountability system" means the school accountability system established in Part 2, School Accountability System.

[~~(10) "School grade" or "grade" means the letter grade assigned to a school as the school's overall rating under the school accountability system.~~]

[~~(11)~~] (10) "School improvement committee" means a committee established under:

(a) for a district school, Section 53E-5-303; or

(b) for a charter school, Section 53E-5-304.

[~~(12)~~] (11) "School improvement plan" means a plan described in:

(a) for a district school, Section 53E-5-303; or

(b) for a charter school, Section 53E-5-304.

[~~(13)~~] (12) "Springboard school" means a district school or charter school that has been designated a springboard school by the state board because the school:

(a) is not a Title I school; and

(b) when ranked according to the percentage of possible points the state board awards under Title 53E, Chapter 5, Part 2, School Accountability System, averaged over three school years is:

(i) one of the five lowest performing elementary, middle, or junior high schools statewide; or

(ii) one of the two lowest performing high schools statewide.

Section 4. Section 53E-5-306 is amended to read:

53E-5-306. Implications for failing to improve school performance.

(1) As used in this section, "high performing charter school" means [~~a charter school that:~~] the same as that term is defined in Section 53G-5-502.

[~~(a) satisfies all requirements of state law and state board rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~]

[~~(b) meets or exceeds standards for student achievement established by the charter school's charter school authorizer; and~~]

[~~(c) has received at least a B grade under the school accountability system in the previous two school years.~~]

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

(i) the final remedial year for a cohort;

(ii) exit criteria for a springboard school or elevate school;

(iii) criteria for granting a school an extension as described in Subsection (3); and

(iv) implications for a springboard school that does not meet exit criteria after the school's final remedial year or the last school year of the extension period described in Subsection (3).

(b) In establishing exit criteria for a springboard school, the state board shall:

(i) determine for each springboard school the number of points awarded under the school accountability system that represent a substantive improvement over the number of points awarded under the school accountability system in the school year immediately preceding the initial remedial year; and

(ii) establish a method to provide a target for each springboard school.

(c) The state board shall through a competitively awarded contract engage a third party with expertise in school accountability and assessments to verify the exit criteria adopted under Subsections (2)(a)(i) and (ii).

(3) (a) A springboard school may petition the state board for an extension to continue school improvement efforts for up to two years if the springboard school does not meet the exit criteria established by the state board as described in Subsection (2).

(b) A school that has been granted an extension under this Subsection (3) is eligible for continued funding under Section 53E-5-305.

(4) If a springboard school does not meet exit criteria after the school's final remedial year or the last school year of the extension period, the state board may intervene by:

(a) restructuring a district school, which may include:

(i) contract management; or

(ii) conversion to a charter school;

(b) restructuring a charter school by:

(i) terminating a school's charter agreement;

(ii) closing a charter school; or

(iii) transferring operation and control of the charter school to:

(A) a high performing charter school; or

(B) the school district in which the charter school is located; or

(c) other appropriate action as determined by the state board.

Section 5. Section 53E-5-309 is amended to read:

53E-5-309. School Leadership Development Program.

(1) As used in this section, "school leader" means a school principal or assistant principal.

(2) There is created the School Leadership Development Program to increase the supply of highly effective school leaders capable of:

(a) initiating, achieving, and sustaining school improvement efforts; and

(b) forming and sustaining community partnerships as described in Section 53F-5-402.

(3) The state board shall identify one or more providers, through a request for proposals process, to develop or provide leadership development training for school leaders that:

(a) may provide in-depth training in proven strategies to improve springboard schools and elevate schools;

(b) may emphasize hands-on and job-embedded learning;

(c) aligns with the state's leadership standards established by state board rule;

(d) reflects the needs of a school district or charter school where a school leader serves;

(e) may include training on using student achievement data to drive decisions;

(f) may develop skills in implementing and evaluating evidence-based instructional practices;

(g) may develop skills in leading collaborative school improvement structures, including professional learning communities; and

(h) includes instruction on forming and sustaining community partnerships as described in Section 53F-5-402.

(4) Subject to legislative appropriations, the state board shall provide incentive pay to a school leader who:

(a) completes leadership development training under this section; and

(b) agrees to work, for at least five years, in a school that [~~received an F grade or D grade~~] ranked in the lowest performing 20% of schools under the school accountability system in the school year previous to the first year the school leader:

(i) completes leadership development training; and

(ii) begins to work, or continues to work, in a school described in this Subsection (4)(b).

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

(a) eligibility criteria for a school leader to participate in the School Leadership Development Program;

(b) application procedures for the School Leadership Development Program;

(c) criteria for selecting school leaders from the application pool; and

(d) procedures for awarding incentive pay under Subsection (4).

Section 6. Section 53G-5-503 is amended to read:

53G-5-503. Termination of a charter agreement.

(1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter agreement for any of the following reasons:

(a) failure of the charter school to meet the requirements stated in the charter agreement;

(b) failure to meet generally accepted standards of fiscal management;

(c) (i) designation as a low performing school under Title 53E, Chapter 5, Part 3, School Improvement and Leadership Development; and

(ii) failure to improve the school's [~~grade~~] performance under the conditions described in Title 53E, Chapter 5, Part 3, School Improvement and Leadership Development;

(d) violation of requirements under this chapter or another law; or

(e) other good cause shown.

(2) (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the charter school governing board may request an informal hearing before the authorizer:

(i) the charter school governing board; and

(ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance

with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).

(c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the charter school governing board may appeal the decision to the state board.

(d) (i) The state board shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The state board's action is final action subject to judicial review.

(e) (i) If the authorizer proposes to terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

(A) the charter school governing board of the qualifying charter school; and

(B) the Utah Charter School Finance Authority.

(ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter agreement.

(3) An authorizer may not terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter agreement immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.

(6) If a charter agreement is terminated, the following entities may apply to the charter school's authorizer to assume operation of the school:

(a) the school district where the charter school is located;

(b) the charter school governing board of another charter school;

(c) a private management company; or

(d) the governing board of a nonprofit corporation.

(7) (a) If a charter agreement is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 6, Part 3, School District Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

CHAPTER 165
H. B. 309
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

COUNTY RECORDER AMENDMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill provides for the redaction of certain personal information from a copy of an originally recorded instrument.

Highlighted Provisions:

This bill:

- provides that an individual may request that a county recorder create a copy of an originally recorded instrument and redact the individual's personal information on the copy of the originally recorded instrument;
- provides that certain persons may access the originally recorded instrument that is not redacted; and
- authorizes county recorders to charge a $5 fee for each request to redact personal information from the copy of originally recorded instruments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-21-17, as last amended by Laws of Utah 2008, Chapter 382
17-21-18.5, as last amended by Laws of Utah 2022, Chapters 415, 450
17-21-19, as last amended by Laws of Utah 2008, Chapter 382

ENACTS:

17-21-12.5, Utah Code Annotated 1953

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

Section 1. Section 17-21-12.5 is enacted to read:

17-21-12.5. Redacting personal information.

(1) As used in this section, "personal information" means:

(a) a signature;

(b) the first five digits of a social security number; or

(c) the month and day of the month of a birth date.

(2) (a) An individual may request, in accordance with Subsection (3), to have the county recorder create a redacted version of a previously recorded instrument.

(b) The redacted version of a previously recorded instrument will, in accordance with this section, reflect redactions of the individual's personal information.

(3) A request under Subsection (2)(a) shall:

(a) be in writing;

(b) include payment of the fee under Subsection (6); and

(c) identify the location of the personal information in the county recorder's records by:

(i) entry number and page number; or

(ii) book and page number.

(4) If an individual makes a request in accordance with Subsection (3), the county recorder shall:

(a) create a copy of the originally recorded instrument of record for the purpose of creating a redacted version of the originally recorded instrument;

(b) on the copy of the originally recorded instrument created under Subsection (4)(a):

(i) redact the personal information, ensuring that the originally recorded instrument is not altered or changed;

(ii) indicate:

(A) the date and time that the redaction occurred; and

(B) that the originally recorded instrument remains on file with the county recorder's office; and

(c) make the redacted copy of the originally recorded instrument accessible and available for inspection.

(5) The county recorder shall produce or provide access to the originally recorded instrument of record if:

(a) the individual requesting a copy of the originally recorded instrument is:

(i) the individual whose personal information was redacted on the copy of the originally recorded instrument;

(ii) if the instrument is a trust deed, a beneficiary of the trust deed;

(iii) acting on behalf of a title company that has a valid business license issued by the state or a political subdivision of the state; or

(iv) an attorney that has a valid license from the Utah State Bar;

(b) the county recorder is responding to a valid subpoena;

(c) the county recorder is responding to a valid request under Title 63G, Chapter 2, Government Records Access and Management Act; or

(d) a court of competent jurisdiction orders the county recorder to produce the originally recorded instrument.

(6) The county recorder may charge a fee, in accordance with Section 17-21-18.5, for costs related to redacting personal information.

Section 2. Section 17-21-17 is amended to read:

17-21-17. Prohibited acts.

(1) (a) Upon acceptance of an instrument entitled to be recorded, the recorder may not:

[~~(a)~~] (i) record the instrument in any manner other than the manner required by this chapter; or

[~~(b)~~] (ii) alter, change, obliterate, or insert any new matter in any instrument of record.

(b) In accordance with Section 17-21-12.5, a county recorder may redact personal information from a copy of an originally recorded instrument.

(2) A recorder does not violate this section by:

(a) denying access to:

(i) an instrument of record that has been classified as private under Section 63G-2-302; [~~or~~]

(ii) a portion of an instrument of record that has been classified as private under Section 63G-2-302; or

(iii) subject to Section 17-21-12.5, an originally recorded instrument of record for which a redacted copy exists and is accessible under Section 17-21-12.5; or

(b) placing an endorsement, reference, or other note on a document in the course of the recorder's work.

Section 3. Section 17-21-18.5 is amended to read:

17-21-18.5. Fees of county recorder -- Electronic recording of instruments.

(1) The county recorder shall receive the following fees:

(a) for recording any instrument, not otherwise provided for, other than bonds of public officers, $40;

(b) for recording any instrument, including those provided for under Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, $40, and if an instrument contains more than 10 descriptions, $2 for each additional description;

(c) for recording mining location notices and affidavits of labor affecting mining claims, $40; [~~and~~]

(d) for an affidavit or proof of labor which contains more than 10 mining claims, $2 for each additional mining claim; and

(e) for redacting personal information pursuant to Section 17-21-12.5, $5.

(2) (a) Each county recorder shall record the mining rules of the several mining districts in each county without fee.

(b) Certified copies of these records shall be received in all tribunals and before all officers of this state as prima facie evidence of the rules.

(3) The county recorder shall receive the following fees:

(a) for copies of any record or document, a reasonable fee as determined by the county legislative body;

(b) for each certificate under seal, $5;

(c) for recording any plat, $50 for each sheet and $2 for each lot or unit designation;

(d) for taking and certifying acknowledgments, including seal, $5 for one name and $2 for each additional name;

(e) for recording any license issued by the Division of Professional Licensing, $40; and

(f) for recording a federal tax lien, $40, and for the discharge of the lien, $40.

(4) A county recorder may not charge more than one recording fee for each instrument, regardless of whether the instrument bears multiple descriptive titles or includes one or more attachments as part of the instrument.

(5) (a) Beginning on or before January 1, 2022, each county shall accept and provide for the electronic recording of instruments.

(b) Beginning on or before January 1, 2023, each county shall:

(i) provide for the electronic recording of a plat; and

(ii) accept an electronic document for the recording of a plat.

(6) The county may determine and collect a fee for all services not enumerated in this section.

(7) A county recorder may not be required to collect a fee for services that are unrelated to the county recorder's office.

Section 4. Section 17-21-19 is amended to read:

17-21-19. Records open to inspection -- Copies.

(1) [~~Unless otherwise classified as private under Section 63G-2-302, all~~] All instruments of record and all indexes required by this chapter are open to public inspection during office hours, except:

(a) those instruments classified as private under Section 63G-2-302; and

(b) those instruments with respect to which a redaction of personal information has occurred under Section 17-21-12.5, if the redacted copy of the instrument is open to public inspection during office hours.

(2) Upon payment of the applicable fee, a person may obtain copies of a public record.

CHAPTER 166
H. B. 314
Passed February 24, 2023
Approved March 14, 2023
Effective May 3, 2023

REMEDIES FOR VICTIMS OF DOMESTIC VIOLENCE AMENDMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to victims of domestic violence.

Highlighted Provisions:

This bill:

- defines terms;
- amends the requirements for terminating a rental agreement when a renter is a victim of domestic violence; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-22-5.1, as last amended by Laws of Utah 2020, Chapter 142
57-22-7, as last amended by Laws of Utah 2012, Chapter 289

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

Section 1. Section 57-22-5.1 is amended to read:

57-22-5.1. Crime victim's right to new locks -- Domestic violence victim's right to terminate rental agreement -- Limits an owner relating to assistance from public safety agency.

(1) As used in this section:

(a) (i) "Court order" means, except as provided in Subsection (1)(a)(ii):

(A) a civil protective order, as defined in Section 78B-7-102;

(B) a civil stalking injunction, as defined in Section 78B-7-102;

(C) a criminal protective order, as defined in Section 78B-7-102; or

(D) a criminal stalking injunction, as defined in Section 78B-7-102.

(ii) "Court order" does not include:

(A) an ex parte civil protective order, as defined in Section 78B-7-102; or

(B) an ex parte civil stalking injunction, as defined in Section 78B-7-102, for which a hearing is requested.

[~~(a)~~] (b) "Crime victim" means a victim of:

(i) domestic violence, as defined in Section 77-36-1;

(ii) stalking, as defined in Section 76-5-106.5;

(iii) a crime under Title 76, Chapter 5, Part 4, Sexual Offenses;

(iv) burglary or aggravated burglary under Section 76-6-202 or 76-6-203; or

(v) dating violence, as defined in Section 78B-7-102.

(c) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(d) "Financial obligation" means any rent, fees, damages, or other costs owed by a renter.

(e) (i) "Future obligations" means a renter's obligations under the rental agreement after the date on which the renter vacates the residential rental unit in accordance with Subsection (6).

(ii) "Future obligations" includes:

(A) the payment of rent and fees for the residential rental unit; and

(B) the right to occupy the residential rental unit.

[~~(b)~~] (f) "Public safety agency" means a governmental entity that provides fire protection, law enforcement, ambulance, medical, or similar service.

(g) "Victim of domestic violence" means the same as the term "victim" in Section 77-36-1.

(h) "Termination fee" means the equivalent of one month of rent under the rental agreement.

(2) An acceptable form of documentation of an act listed in Subsection (1) is:

(a) a protective order protecting the renter issued pursuant to Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, subsequent to a hearing of which the petitioner and respondent have been given notice under Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

(b) a copy of a police report documenting an act listed in Subsection (1).

(3) (a) A renter who is a crime victim may require the renter's owner to install a new lock to the renter's residential rental unit if the renter:

(i) provides the owner with an acceptable form of documentation of an act listed in Subsection (1); and

(ii) pays for the cost of installing the new lock.

(b) An owner may comply with Subsection (3)(a) by:

(i) rekeying the lock if the lock is in good working condition; or

(ii) changing the entire locking mechanism with a locking mechanism of equal or greater quality than the lock being replaced.

(c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the key that opens the new lock.

(d) Notwithstanding any rental agreement, an owner who installs a new lock under Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to the perpetrator of the act listed in Subsection (1).

(e) Notwithstanding Section 78B-6-814, if an owner refuses to provide a copy of the key under Subsection (3)(d) to a perpetrator who is not barred from the residential rental unit by a protective order but is a renter on the rental agreement, the perpetrator may file a petition with a court of competent jurisdiction within 30 days to:

(i) establish whether the perpetrator should be given a key and allowed access to the residential rental unit; or

(ii) whether the perpetrator should be relieved of further liability under the rental agreement because of the owner's exclusion of the perpetrator from the residential rental unit.

(f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further liability under the rental agreement if the perpetrator is found by the court to have committed the act upon which the landlord's exclusion of the perpetrator is based.

[~~(4) A renter who is a victim of domestic violence, as defined in Section 77-36-1, may terminate a rental agreement if the renter:~~]

[~~(a) is in compliance with:~~]

[~~(i) all provisions of Section 57-22-5; and~~]

[~~(ii) all obligations under the rental agreement;~~]

[~~(b) provides the owner:~~]

[~~(i) written notice of termination; and~~]

[~~(ii) a protective order protecting the renter from a domestic violence perpetrator or a copy of a police report documenting that the renter is a victim of domestic violence and did not participate in the violence; and~~]

[~~(c) no later than the date that the renter provides a notice of termination under Subsection (4)(b)(i), pays the owner the equivalent of 45 days' rent for the period beginning on the date that the renter provides the notice of termination.~~]

(4) A renter who is a victim of domestic violence may terminate all of the renter's future obligations under a rental agreement if the renter:

(a) except as provided in Subsection (5), is in compliance with all obligations under the rental agreement, including the requirements of Section 57-22-5;

(b) provides the owner with:

(i) a court order protecting the renter from a domestic violence perpetrator; or

(ii) a copy of a police report documenting that the renter is a victim of domestic violence and is not the predominant aggressor under Subsection 77-36-2.2(3);

(c) provides the owner with a written notice of termination that includes the date on which the renter intends to vacate the renter's residential rental unit; and

(d) pays the owner a termination fee on the later of the day on which:

(i) the renter provides the owner with a written notice of termination; or

(ii) the renter vacates the renter's residential rental unit.

(5) A renter may terminate all of the renter's future obligations under a rental agreement under Subsection (4) when the renter is not in compliance with the requirements of Subsection 57-22-5(1)(g) or (2) if:

(a) the renter provides evidence to the owner with the written notice of termination under Subsection (4)(c) establishing that:

(i) the noncompliance with Subsection 57-22-5(1)(g) or (2) occurred less than 30 days before the day on which the renter provided the written notice of termination to the owner; and

(ii) the noncompliance with Subsection 57-22-5(1)(g) or (2) is due to domestic violence;

(b) the renter is in compliance with all obligations of the rental agreement, except for the noncompliance described in Subsection (5)(a); and

(c) the renter complies with Subsections (4)(b), (c), and (d).

(6) If a renter provides an owner with a written notice of termination under Subsection (4)(c), the renter shall:

(a) vacate the renter's residential rental unit within 15 days after the day on which the written notice of termination is provided to the owner; and

(b) pay rent for any occupation of the residential rental unit during that 15-day time period.

(7) A renter may not terminate all of the renter's future obligations under a rental agreement under Subsection (4) after a notice of eviction is served on the renter.

(8) A renter who terminates all of the renter's future obligations under a rental agreement under Subsection (4) is liable for any financial obligation owed by the renter:

(a) before the renter provided the owner with the written notice of termination under Subsection (4)(c);

(b) for any noncompliance with Subsection 57-22-5(1)(g) or (2) as described in Subsection (5); and

(c) for any occupancy of the residential rental unit by the renter during the 15-day time period described in Subsection (6).

(9) The termination of a renter's future obligations under a rental agreement does not terminate the rental agreement for any other

person entitled under the rental agreement to occupy the residential rental unit.

[~~(5)~~] (10) An owner may not:

(a) impose a restriction on a renter's ability to request assistance from a public safety agency; or

(b) penalize or evict a renter because the renter makes reasonable requests for assistance from a public safety agency.

Section 2. Section 57-22-7 is amended to read:

57-22-7. Limitation on counties and municipalities.

(1) A county or municipality may not adopt an ordinance, resolution, or regulation that is inconsistent with this chapter.

(2) (a) Subsection (1) may not be construed to limit the ability of a county or municipality to enforce an applicable administrative remedy with respect to a residential rental unit for a violation of a county or municipal ordinance, subject to Subsection (2)(b).

(b) A county or municipality's enforcement of an administrative remedy may not have the effect of:

(i) modifying the time requirements of a corrective period, as defined in Section 57-22-6;

(ii) limiting or otherwise affecting a tenant's remedies under Section 57-22-6; or

(iii) modifying an owner's obligation under this chapter to a tenant relating to the habitability of a residential rental unit.

(3) A municipality with a good landlord program under Section 10-1-203.5 may not limit an owner's participation in the program or reduce program benefits to the owner because of renter or crime victim action that the owner is prohibited under Subsection [~~57-22-5.1(5)~~] 57-22-5.1(10) from restricting or penalizing.

CHAPTER 167
H. B. 318
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

PRIME PILOT PROGRAM AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends the PRIME Pilot Program.

Highlighted Provisions:

This bill:

- changes the PRIME Pilot Program to an ongoing program;
- clarifies the types of courses required for a student to earn the LAUNCH certificate or TRANSFORM certificate;
- requires the Utah Board of Higher Education to award a scholarship to a student who earns the TRANSFORM certificate;
- requires the state board to create a funding formula for LEAs that participate in the program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-10-309, as enacted by Laws of Utah 2020, Chapter 321

63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370, and 409

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

Section 1. Section 53E-10-309 is amended to read:

53E-10-309. LAUNCH certificate -- TRANSFORM certificate -- Utah PRIME Program.

(1) As used in this section:

[~~(a) "DISCOVER breadth certificate" means a certificate of completion awarded by the state board to an eligible student who meets the criteria described in this section.~~]

(a) "Eligible institution" means:

(i) a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Section 53B-2-101(1); or

(ii) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(b) "Industry certification" means a career and technical education certification awarded through validation of skills in cooperation with a business, trade association, or other industry group, in accordance with rules adopted by the state board under Section 53F-2-311.

(c) "Institutional certificate" means a career and technical education program completion certificate awarded by the state board, an institution of higher education, or a technical college.

(d) "LAUNCH certificate" means a certificate of completion awarded by the state board to an eligible student who meets the criteria described in this section.

(e) "Participating LEA" means an LEA that participates in the [~~pilot~~] program.

(f) [~~"Pilot program~~] "Program" means the Utah PRIME [~~pilot~~] program described in Subsection (7).

(g) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

(h) "Qualifying student" means an eligible student who meets the criteria for a LAUNCH certificate[~~, a DISCOVER breadth certificate,~~] or a TRANSFORM [~~general education~~] certificate[~~, or a TRANSFORM CTE institutional credential~~] as described in this section.

(i) "Technical college" means the same as that term is defined in 53B-1-101.5.

[~~(j) "TRANSFORM CTE institutional credential" means an institutional credential awarded to an eligible student who meets the criteria described in this section.~~]

[~~(k)~~] (j) "TRANSFORM [~~general education~~] certificate" means a certificate of completion established by the Utah Board of Higher Education in accordance with Section 53B-16-105.

(2) The state board shall award a LAUNCH certificate to an eligible student who:

(a) completes six concurrent enrollment credits;

(b) is awarded an industry certification or institutional certificate; and

(c) has on file a plan for college and career readiness.

[~~(3) The state board shall award a DISCOVER breadth certificate to an eligible student who completes one 3-credit course in each of the following categories through concurrent enrollment at an institution of higher education:~~]

[~~(a) arts;~~]

[~~(b) humanities;~~]

[~~(c) life sciences;~~]

[~~(d) social and behavioral sciences; and~~]

[~~(e) physical sciences.~~]

[~~(4)~~] (3) [~~An institution of higher education~~] The state board shall award a TRANSFORM [~~general education~~] certificate to an eligible student who:

(a) completes:

(i) the requirements established by the Utah Board of Higher Education in accordance with Section 53B-16-105[.] and in coordination with the state board; and

(ii) completes five general education courses, each from a different general education category, as designated for concurrent enrollment by the Utah Board of Higher Education; or

(b) completes a career and technical education program that is at least 300 hours or 6 courses.

(c) (i) Subject to appropriations by the Legislature, the Utah Board of Higher Education shall award to each student who earns a TRANSFORM certificate a $500 scholarship to be used at an eligible institution.

(ii) A student may earn the scholarship described in Subsection (4)(c) regardless of whether the student receives an Opportunity Scholarship award described in Section 53B-8-201.

[~~(5) The state board, an institution of higher education, or a technical college through which an eligible student takes career and technical education courses, shall award a TRANSFORM CTE institutional credential to an eligible student who completes a career and technical education program that is at least 900 hours or 30 credit hours.~~]

[~~(6)~~] (4) The Utah Board of Higher Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure that credits described in Subsections (2)[~~, (3), and (4)~~] and (3) earned by a qualifying student are transferable to institutions of higher education.

[~~(7)~~] (5) [~~(a)~~] In accordance with this section, and subject to appropriations by the Legislature for this purpose, the state board shall:

(a) administer [~~a two-year~~] the Utah PRIME [~~pilot~~] program[~~, beginning in the 2021-2022 school year,~~] to expand access to concurrent enrollment courses and career and technical education certificates by expanding digital delivery models for distance learning programs or funding enrollment in participating LEAs[.]; and

[~~(b) The state board shall:~~]

[~~(i)~~] (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

[~~(A)~~] (i) establish eligibility requirements for a participating LEA; [~~and~~]

[~~(B)~~] (ii) create an application process for LEAs to apply for the [~~pilot~~] program; and

(iii) create a funding formula for participating LEAs.

[~~(ii) select up to eight LEAs to be participating LEAs for the pilot program; and~~]

[~~(iii) distribute up to $100,000 in each year of the pilot program to a participating LEA to carry out the purposes of the pilot program.~~]

(c) A participating LEA shall offer concurrent enrollment courses, including career and technical education courses, that meet the requirements for the LAUNCH certificate[~~, DISCOVER breadth certificate,~~] and TRANSFORM [~~general education certificate, and TRANSFORM CTE institutional credential~~] certificate.

[~~(d) In 2022 and in 2023, on or before November 30, the state board shall deliver a report, in accordance with Section 53E-1-201, to the Education Interim Committee that:~~]

[~~(i) identifies the participating LEAs;~~]

[~~(ii) describes how pilot program appropriation money is used;~~]

[~~(iii) describes the effectiveness of the pilot program;~~]

[~~(iv) compares the demographics of students enrolled in the pilot program with the demographics of all students enrolled in participating LEAs; and~~]

[~~(v) includes the number of:~~]

[~~(A) concurrent enrollment courses offered by participating LEAs;~~]

[~~(B) students enrolled in concurrent enrollment courses at participating LEAs; and~~]

[~~(C) LAUNCH certificates, DISCOVER breadth certificates, TRANSFORM general education certificates, and TRANSFORM CTE institutional credentials awarded to students in participating LEAs.~~]

Section 2. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-6-105.7 is repealed July 1, 2024.

(3) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(4) Section 53B-8-114 is repealed July 1, 2024.

(5) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(6) Section 53B-10-101 is repealed on July 1, 2027.

(7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(8) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(9) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(10) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.~~]

[~~(11)~~] (10) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(12)~~] (11) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~] (12) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(14)~~] (13) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(15)~~] (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(16)~~] (15) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(17)~~] (16) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (17) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

[~~(19)~~] (18) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

[~~(20)~~] (19) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

[~~(21)~~] (20) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (21) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (22) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (23) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (24) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

CHAPTER 168
H. B. 319
Passed February 16, 2023
Approved March 14, 2023
Effective May 3, 2023

UINTAH BASIN AIR QUALITY RESEARCH PROJECT AMENDMENTS

Chief Sponsor: Scott H. Chew
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill repeals the sunset date for the Uintah Basin Air Quality Research Project.

Highlighted Provisions:

This bill:

- repeals the sunset date for the Uintah Basin Air Quality Research Project; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Utah State University – Bingham Entrepreneurship and Energy Research Center – Uintah Basin Air Quality Research Project as an ongoing appropriation:
  - from the General Fund Restricted -- Infrastructure and Economic Diversification Investment Account, $150,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370, and 409

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

Section 1. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-6-105.7 is repealed July 1, 2024.

(3) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(4) Section 53B-8-114 is repealed July 1, 2024.

(5) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(6) Section 53B-10-101 is repealed on July 1, 2027.

[~~(7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.~~]

[~~(8)~~] (7) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(9)~~] (8) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(10)~~] (9) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(11)~~] (10) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(12)~~] (11) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~] (12) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(14)~~] (13) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(15)~~] (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(16)~~] (15) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(17)~~] (16) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (17) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

[~~(19)~~] (18) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

[~~(20)~~] (19) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

[~~(21)~~] (20) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (21) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (22) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (23) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (24) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To Utah State University

From Infrastructure and Economic Diversification

Investment Account	150,000
Schedule of Programs:	
Utah State University - Uintah Basin Regional Campus	150,000

The Legislature intends that Utah State University shall use the money appropriated to Utah State University under this section to fund the Bingham Entrepreneurship and Energy Research Center for the purpose of conducting the Uintah Basin Air Quality Research Project as required by Section 53B-18-1401.

CHAPTER 169
H. B. 321
Passed February 22, 2023
Approved March 14, 2023
Effective May 3, 2023

MINERAL LEASE AMENDMENTS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies mineral lease application procedures.

Highlighted Provisions:

This bill:

- introduces an online option for the disclosure of a mineral lease application; and
- modifies the deadline for disclosing an application.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53C-2-407, as last amended by Laws of Utah 2016, Chapter 389

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

Section 1. Section 53C-2-407 is amended to read:

53C-2-407. Mineral lease application procedures.

(1) Lands that are not encumbered by a current mineral lease for the same resource, a withdrawal order, or other rule of the director prohibiting the lease of the lands, may be offered for lease as provided in this section or may, with board approval, be committed to another contractual arrangement under Subsection 53C-2-401(1)(d).

(2) (a) A notice of the land available for leasing shall be posted in the administration's office or on the administration's website.

(b) The notice shall:

(i) describe the land;

(ii) indicate what mineral interest in each tract is available for leasing; and

(iii) state the last date, which shall be no less than 15 days after the notice is posted, on which bids may be received.

(3) (a) Applications for the lease of lands filed in the administration's office or online before the closing date stated in the notice shall be considered to be filed simultaneously.

(b) The applications shall be:

(i) submitted in sealed envelopes or as required by the online bidding process; and

(ii) disclosed in the administration's office or online at 10 a.m. of the [~~first~~] second business day following the last day on which bids may be received.

(c) Leases shall be awarded to the highest responsible, qualified bidder, in terms of the bonus paid in addition to the first year's rental, who submitted a bid in the manner required.

(d) In cases of identical bids of successful bidders:

(i) the right to lease shall be determined by drawing or oral auction;

(ii) the determination of whether to award the lease by drawing or oral auction shall be made at the sole discretion of the director; and

(iii) the drawing or oral auction shall be held in public at the administration's office in a manner calculated to optimize the return to the trust land beneficiary.

(4) (a) At the discretion of the director, mineral leases may be offered at an oral public auction.

(b) The director may set a minimum bid for a public auction.

(5) The director may award a mineral lease without following the competitive bidding procedures specified in Subsections (3) and (4) or conducting an oral public auction, if the mineral lessee waives or relinquishes to the trust a prior mining claim, mineral lease, or other right which in the opinion of the director might otherwise:

(a) defeat or encumber the selection of newly acquired land, either for indemnity or other purposes, or the acquisition by the trust of any land; or

(b) cloud the title to any of those lands.

(6) Following the awarding of a lease to a successful bidder, deposits, except filing fees, made by unsuccessful bidders shall be returned to those bidders.

(7) (a) Subject to Section 53C-2-104, lands acquired through exchange or indemnity selection from the federal government shall be subject to the vested rights of unpatented mining claimants under the Mining Law of 1872, as amended, and other federal vested rights, both surface and minerals.

(b) Subsection (7)(a) does not prevent the director from negotiating the accommodation of vested rights through any method acceptable to the parties.

(8) The director may lease lands for which applications are filed or submitted online if:

(a) the director offers trust lands for lease for mineral purposes according to the procedures in Subsections (3) through (6) and the lands are not leased; or

(b) a period of time of not less than one year but less than three years has elapsed following:

(i) a revocation of a withdrawal; or

(ii) the date an existing mineral lease is canceled, relinquished, surrendered, or terminated.

CHAPTER 170
H. B. 324
Passed March 3, 2023
Approved March 14, 2023
Effective July 1, 2023

WORKPLACE VIOLENCE PROTECTIVE ORDERS AMENDMENTS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill creates a workplace violence protective order.

Highlighted Provisions:

This bill:

- defines terms;
- allows an employer to petition for a workplace violence protective order;
- requires an employer to notify certain individuals when seeking a workplace violence protective order;
- establishes relief a court may include as part of a workplace violence protective order;
- requires a court to take certain action after issuing a workplace violence protective order;
- establishes circumstances under which a court may modify or vacate a workplace violence protective order;
- requires a court to set a date for a hearing on a workplace violence protective order within a certain time period;
- establishes provisions related to the service, expiration, modification, and extension of a workplace violence protective order;
- provides a penalty for violating a workplace violence protective order;
- limits liability of an employer for seeking or failing to seek a workplace violence protective order; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
78B-7-102, as last amended by Laws of Utah 2022, Chapters 142, 430

ENACTS:
78B-7-1101, Utah Code Annotated 1953
78B-7-1102, Utah Code Annotated 1953
78B-7-1103, Utah Code Annotated 1953
78B-7-1104, Utah Code Annotated 1953
78B-7-1105, Utah Code Annotated 1953
78B-7-1106, Utah Code Annotated 1953
78B-7-1107, Utah Code Annotated 1953
78B-7-1108, Utah Code Annotated 1953
78B-7-1109, Utah Code Annotated 1953

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

Section 1. Section 78B-7-102 is amended to read:

78B-7-102. Definitions.

As used in this chapter:

(1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.

(2) "Affinity" means the same as that term is defined in Section 76-1-101.5.

(3) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders; [~~or~~]

(d) Part 6, Cohabitant Abuse Protective Orders[~~.~~]; or

(e) Part 11, Workplace Violence Protective Orders.

(4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.

(5) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;

(iv) has or had one or more children in common with the other party;

(v) is the biological parent of the other party's unborn child;

(vi) resides or has resided in the same residence as the other party; or

(vii) is or was in a consensual sexual relationship with the other party.

(b) "Cohabitant" does not include:

(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.

(6) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.

(7) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.

(8) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.

(9) "Court clerk" means a district court clerk.

(10) (a) "Dating partner" means an individual who:

(i) (A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7, Emancipation; or

(B) is 18 years old or older; and

(ii) is, or has been, in a dating relationship with the other party.

(b) "Dating partner" does not include an intimate partner.

(11) (a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:

(i) all relevant factors shall be considered, including:

(A) whether the parties developed interpersonal bonding above a mere casual fraternization;

(B) the length of the parties' relationship;

(C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;

(D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;

(E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and

(F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and

(ii) it is not necessary that all, or a particular number, of the factors described in Subsection (11)(c)(i) are found to support the existence of a dating relationship.

(12) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(13) "Ex parte civil protective order" means an order issued without notice to the respondent under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders; [~~or~~]

(d) Part 6, Cohabitant Abuse Protective Orders[~~.~~]; or

(e) Part 11, Workplace Violence Protective Orders.

(14) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to the respondent under Part 7, Civil Stalking Injunctions.

(15) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.

(16) "Household animal" means an animal that is tamed and kept as a pet.

(17) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

(18) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

(19) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace Officer Classifications.

(20) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.

(21) "Respondent" means the individual against whom enforcement of a protective order is sought.

(22) "Stalking" means the same as that term is defined in Section 76-5-106.5.

Section 2. Section 78B-7-1101 is enacted to read:

Part 11. Workplace Violence Protective Orders

78B-7-1101. Definitions.

As used in this part:

(1) "Employee" means an employee in the service of an employer for compensation.

(2) "Employer" means a person who employs an individual in this state.

(3) "Ex parte workplace violence protective order" means an order issued without notice to the respondent under this part.

(4) "Protective order" means:

(a) a workplace violence protective order; or

(b) an ex parte workplace violence protective order.

(5) "Workplace violence" means knowingly causing or threatening to cause bodily injury to, or significant damage to the property of, a person, if:

(a) the person is:

(i) an employer; or

(ii) an employee performing the employee's duties as an employee; and

(b) (i) the action would cause a reasonable person to feel terrorized, frightened, intimidated, or harassed; or

(ii) the threat:

(A) would cause a reasonable person to fear that the threat will be carried out; and

(B) if carried out, would cause a reasonable person to feel terrorized, frightened, intimidated, or harassed.

(6) "Workplace violence protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

Section 3. Section 78B-7-1102 is enacted to read:

78B-7-1102. Petition for a workplace violence protective order -- Notice to known targets of workplace violence.

(1) An employer may seek, or authorize an agent to seek, a protective order in accordance with this part, if the employer reasonably believes workplace violence has occurred against the employer or an employee of the employer.

(2) If an employer seeking a workplace violence protective order as described in Subsection (1) has knowledge that a specific individual is the target of workplace violence, the employer shall make a good faith effort to notify the targeted individual that the employer is seeking a workplace violence protective order.

Section 4. Section 78B-7-1103 is enacted to read:

78B-7-1103. Workplace violence protective orders -- Ex parte workplace violence protective orders -- Modification of orders -- Evidence in another lawsuit.

(1) If it appears from a petition for a protective order or a petition to modify an existing protective order that workplace violence has occurred, the court may:

(a) without notice, immediately issue an ex parte workplace violence protective order against the respondent or modify an existing workplace violence protective order ex parte, if necessary to protect the petitioner or any party named in the petition; or

(b) upon notice to the respondent, issue a workplace violence protective order or modify a workplace violence protective order after a hearing, regardless of whether the respondent appears.

(2) (a) The court may grant the following relief with or without notice or a hearing in a protective order or in a modification to a protective order:

(i) enjoin the respondent from committing workplace violence;

(ii) enjoin the respondent from threatening the petitioner or an employee of the petitioner while performing the employee's duties as an employee; or

(iii) subject to Subsection (2)(c), order that the respondent is excluded and shall stay away from the petitioner's workplace.

(b) Except as provided in Subsection (2)(a), a protective order may not restrict the respondent's communications.

(c) The court shall narrowly tailor an order described in Subsection (2)(a)(iii) to the location where the respondent caused or threatened to cause bodily injury to, or significant damage to property of, the petitioner or an employee of the petitioner.

(3) After the court issues a protective order, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) transmit electronically, by the end of the business day after the day on which the court issues the protective order, a copy of the protective order to the local law enforcement agency that the petitioner designates; and

(c) transmit a copy of the protective order in the same manner as described in Section 78B-7-113.

(4) The court may modify or vacate a protective order after notice and hearing, if the petitioner:

(a) (i) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure; and

(ii) appears before the court to give specific consent to the modification or vacation of the provisions of the protective order; or

(b) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

(5) The existence of a protective order may not be used as evidence of liability or damages in a lawsuit between the petitioner and the respondent regardless of whether the petitioner or respondent seeks to admit the facts underlying the protective order as evidence.

Section 5. Section 78B-7-1104 is enacted to read:

78B-7-1104. Hearings -- Expiration.

(1) (a) A court shall set a date for a hearing on the petition to be held within 21 days after the day on which the court issues an ex parte workplace violence protective order.

(b) If, at the hearing described in Subsection (1)(a), the court does not issue a workplace violence protective order, the ex parte workplace violence protective order expires on the day on which the hearing is held, unless the court extends the ex parte workplace violence protective order.

(c) Subject to Subsection (1)(d), a court may not extend an ex parte workplace violence protective

order beyond 21 days after the day on which the court issues the ex parte workplace violence protective order, unless:

(i) a party is unable to be present at the hearing for good cause, established by the party's sworn affidavit;

(ii) the respondent has not been served; or

(iii) exigent circumstances exist.

(d) If, at the hearing described in Subsection (1)(a), the court issues a workplace violence protective order, the ex parte workplace violence protective order remains in effect until service of process of the workplace violence protective order is completed.

(e) A workplace violence protective order issued after notice and a hearing remains in effect for a period the court determines, not to exceed 18 months after the day on which the court issues the order, unless the order is extended in accordance with Section 78B-7-1105.

(f) (i) If the hearing on the petition is heard by a commissioner, either the petitioner or respondent may file an objection within 10 calendar days after the day on which the commissioner enters the recommended order.

(ii) If a party files an objection as described in Subsection (1)(f)(i), the judge shall hold a hearing on the objection within 21 days after the day on which the party files the objection.

(2) (a) If a court denies a petition for an ex parte workplace violence protective order or a petition to modify a workplace violence protective order ex parte, the petitioner may, within five days after the day on which the court denies the petition, request a hearing.

(b) If the petitioner requests a hearing as described in Subsection (2)(a), the court shall:

(i) set a hearing to be held within 21 days after the day on which the petitioner makes the request; and

(ii) notify and serve the respondent.

Section 6. Section 78B-7-1105 is enacted to read:

78B-7-1105. Extension.

(1) A workplace violence protective order expires automatically, unless the petitioner:

(a) files a motion before the day on which the workplace violence protective order expires; and

(b) demonstrates that:

(i) there is a substantial likelihood that the petitioner an employee of the petitioner while performing the employee's duties as an employee; or

(ii) the respondent committed or was convicted of a violation of the workplace violence protective order that the petitioner requests be extended.

(2) (a) Subject to Subsection (2)(b), if a court grants a motion described in Subsection (1)(a), the court shall set a new date on which the workplace violence protective order expires.

(b) A court may not extend a workplace violence protective order for more than 18 months after the day on which the court issues the order for extension.

(3) After the day on which the court issues an extension of a workplace violence protective order, the court shall take the action described in Subsection 78B-7-1103(3).

(4) This part does not prohibit a petitioner from seeking another protective order after the day on which the petitioner's protective order expires.

Section 7. Section 78B-7-1106 is enacted to read:

78B-7-1106. Service of process.

(1) The county sheriff that receives an order from a court under Subsection 78B-7-1103(3) or 78B-7-1105(3), shall:

(a) provide expedited service for the protective order; and

(b) after the protective order is served, transmit verification of service of process to the statewide network described in Section 78B-7-113.

(2) This section does not prohibit another law enforcement agency from providing service of process if the law enforcement agency:

(a) has contact with the respondent; or

(b) determines that, under the circumstances, providing service of process on the respondent is in the best interest of the petitioner.

Section 8. Section 78B-7-1107 is enacted to read:

78B-7-1107. Penalties.

A violation of a protective order issued under this part is a class A misdemeanor.

Section 9. Section 78B-7-1108 is enacted to read:

78B-7-1108. Employer liability.

(1) An employer is immune from civil liability for:

(a) seeking a workplace violence protective order, if the employer acts in good faith in seeking the order; or

(b) failing to seek a workplace violence protective order.

(2) An employer's action or statement made under this part:

(a) is not an admission of any fact; and

(b) may be used for purposes of impeachment.

Section 10. Section 78B-7-1109 is enacted to read:

78B-7-1109. Limitations of part.

This part does not:

(1) modify the duty of an employer to provide a safe workplace for the employees of the employer;

(2) prohibit a person from engaging in constitutionally protected exercise of free speech, including non-threatening speech and speech involving labor disputes concerning organized labor; or

(3) prohibit a person from engaging in an activity that is part of a labor dispute.

Section 11. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 171
H. B. 330
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

CIVIL COMMITMENT AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies provisions relating to competency to stand trial.

Highlighted Provisions:

This bill:

- defines terms and modifies definitions;
- modifies procedures and requirements for finding a defendant incompetent to stand trial in a criminal proceeding, including provisions relating to:
  - the court in which a petition to determine competency may be filed;
  - the information and circumstances on which the forensic evaluation of a defendant may be based;
  - the number of forensic evaluators required to evaluate a defendant;
  - the court's findings regarding a defendant's competency; and
  - commitment of an incompetent defendant for restoration treatment; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-15-2, as last amended by Laws of Utah 2018, Chapter 147
77-15-3.5, as enacted by Laws of Utah 2018, Chapter 147
77-15-5, as last amended by Laws of Utah 2018, Chapter 147
77-15-6, as last amended by Laws of Utah 2018, Chapter 147

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

Section 1. Section 77-15-2 is amended to read:

77-15-2. Definitions.

As used in this chapter:

(1) "Competency evaluation" means an evaluation conducted by a forensic evaluator to determine if an individual is competent to stand trial.

(2) "Competent to stand trial" means that a defendant has:

(a) a rational and factual understanding of the criminal proceedings against the defendant and of the punishment specified for the offense charged; and

(b) the ability to consult with the defendant's legal counsel with a reasonable degree of rational understanding in order to assist in the defense.

(3) "Department" means the Department of Health and Human Services.

(4) "Forensic evaluator" means a licensed mental health professional who [~~is~~]:

(a) is not involved in the defendant's treatment; [~~and~~]

(b) is trained and qualified by the department to conduct a competency evaluation, a restoration screening, and a progress toward competency evaluation[~~.~~], based on knowledge, experience, or education relating to:

(i) intellectual functioning or psychopathology; and

(ii) the legal system and the rights of a defendant in a criminal trial; and

(c) if under contract with the department, demonstrates ongoing education and training relating to forensic mental health in accordance with rules established by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Incompetent to proceed" means that a defendant is not competent to stand trial[~~.~~] as a result of:

(a) mental illness; or

(b) intellectual disability.

(6) "Intellectual disability" means an intellectual disability as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(7) "Mental illness" means the same as that term is defined in Section 62A-15-602.

[~~(6)~~] (8) "Petition" means a petition to request a court to determine whether a defendant is competent to stand trial.

[~~(7)~~] (9) "Progress toward competency evaluation" means an evaluation to determine whether an individual who is receiving restoration treatment is:

(a) competent to stand trial;

(b) incompetent to proceed but has a substantial probability of becoming competent to stand trial in the foreseeable future; or

(c) incompetent to proceed and does not have a substantial probability of becoming competent to stand trial in the foreseeable future.

[~~(8) "Restoration screening" means an assessment of an individual determined to be~~

~~incompetent to stand trial for the purpose of determining the appropriate placement and restoration treatment for the individual.~~]

[~~(9)~~] (10) "Restoration treatment" means training and treatment that is:

(a) provided to an individual who is incompetent to proceed;

(b) tailored to the individual's particular impairment to competency; and

(c) limited to the purpose of restoring the individual to competency.

Section 2. Section 77-15-3.5 is amended to read:

77-15-3.5. Incompetent to proceed in misdemeanor cases.

(1) When a defendant charged with a misdemeanor [~~is~~] may be incompetent to proceed, [~~a~~] any petition [~~may~~] shall be filed in [~~the district court of the county where the charge is pending or where the defendant is confined~~] accordance with Section 77-15-3.

(2) If the most severe charge against a defendant is a misdemeanor and the defendant is adjudicated by a court as incompetent to proceed:

(a) the department shall provide restoration treatment to the defendant; and

(b) the court may refer the defendant to pretrial diversion services, upon agreement of the prosecution and defense counsel.

(3) Unless the prosecutor or another individual indicates that civil commitment proceedings will be initiated under Subsection 77-15-6(5)(c), a court shall release a defendant who is incompetent to proceed if:

(a) the most severe charge against the defendant is [~~no more severe than~~] a class B misdemeanor;

(b) more than 60 days have passed after the day on which the court adjudicated the defendant incompetent to proceed; and

(c) the defendant [~~has not been~~] is not restored to competency.

(4) The department shall provide restoration treatment to the defendant within the timeframe described in Subsection (3)(b).

[~~(4)~~] (5) [~~A~~] The court may, but is not required to, dismiss the charges against a defendant who was released under Subsection (3).

Section 3. Section 77-15-5 is amended to read:

77-15-5. Order for hearing -- Stay of other proceedings -- Examinations of defendant -- Scope of examination and report.

(1) A court in which criminal proceedings are pending shall stay all criminal proceedings, if:

(a) a petition is filed under Section 77-15-3 or 77-15-3.5; or

(b) the court raises the issue of the defendant's competency under Section 77-15-4.

(2) The court in which the petition described in Subsection (1)(a) is filed:

(a) shall inform the court in which criminal proceedings are pending of the petition, if the petition is not filed in the court in which criminal proceedings are pending;

(b) shall review the allegations of incompetency;

(c) may hold a limited hearing solely for the purpose of determining the sufficiency of the petition, if the court finds the petition is not clearly sufficient on its face;

(d) shall hold a hearing, if the petition is opposed by either party; and

(e) may not order an examination of the defendant or order a hearing on the mental condition of the defendant unless the court finds that the allegations in the petition raise a bona fide doubt as to the defendant's competency to stand trial[~~; and~~].

[~~(f) if~~] (3) (a) If the court finds that [~~the allegations raise~~] there is a bona fide doubt as to the defendant's competency to stand trial, the court shall order[~~:~~] the department to have one or two forensic evaluators complete a competency evaluation for the defendant in accordance with Subsection (3)(b) and provide a report to the court regarding the competency of the defendant to stand trial.

[~~(i) the department to have the defendant evaluated by one forensic evaluator, if:~~]

[~~(A) the most severe charge against the defendant is a misdemeanor; or~~]

[~~(B) the defendant is charged with a felony but is not charged with a capital felony, and the court determines, based upon the allegations in the petition, that a second competency evaluation is not necessary;~~]

[~~(ii) the department to have the defendant evaluated by two forensic evaluators, if:~~]

[~~(A) the defendant is charged with a capital felony; or~~]

[~~(B) the defendant is charged with a felony but is not charged with a capital felony, and the court determines, based upon the allegations in the petition, that a second competency evaluation is necessary; and~~]

[~~(iii) the defendant to be evaluated by an additional forensic evaluator, if requested by a party, who shall:~~]

[~~(A) select the additional forensic evaluator; and~~]

[~~(B) pay for the costs of the additional forensic evaluator.~~]

(b) The court shall order the department to have the defendant evaluated by one forensic evaluator unless:

(i) the defendant is charged with a capital felony; or

(ii) the defendant is charged with a felony that is not a capital felony, and the court determines, based on the allegations in the petition, that good cause exists to order two competency evaluations.

(c) (i) This section does not prohibit a party from seeking an additional forensic evaluator to conduct a competency evaluation of the defendant.

(ii) If a party seeks an additional competency evaluation under this Subsection (3)(c), the party shall:

(A) select the additional forensic evaluator; and

(B) pay the costs of the additional forensic evaluator.

(d) The stipulation by parties to a bona fide doubt as to the defendant's competency to stand trial alone may not take the place of a competency evaluation ordered under this Subsection (3).

[~~(3)~~] (4) (a) If the petition or other information sufficiently raises concerns that the defendant may have [~~intellectual or developmental disabilities~~] an intellectual disability, at least one forensic evaluator who is experienced in [~~intellectual or developmental disability~~] assessments of intellectual disabilities shall conduct a competency evaluation.

(b) The petitioner or other party, as directed by the court or requested by the department, shall provide to the forensic evaluator nonmedical information and materials relevant to a determination of the defendant's competency, including the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) For purposes of a competency evaluation, a [~~court may order that custodians~~] custodian of mental health records pertaining to the defendant [~~provide those records to a forensic evaluator without the need for consent of the defendant.~~], including the defendant's prior mental health evaluations or records relating to the defendant's substance use disorder, may provide the records to:

(i) with the defendant's consent, a forensic evaluator or the department on the department's request; or

(ii) a forensic evaluator by court order.

(d) A court order under Subsection (4)(c) shall include a protective order that expires 180 days after the day on which:

(i) the defendant is found guilty;

(ii) the defendant enters a guilty plea;

(iii) the court sentences the defendant; or

(iv) if the case is appealed, the day on which the final appeal is resolved.

(e) (i) Except as otherwise provided by law and in Subsections (4)(e)(ii) and (4)(f), the court shall order the forensic evaluator to destroy all records subject to the protective order within the 180 day period described in Subsection (4)(d).

(ii) A forensic evaluator is not required to destroy the records subject to the protective order if destroying the records is a violation of ethical standards to which the forensic evaluator is subject for occupational licensing.

(f) The court may extend the protective order described in Subsection (4)(d) if:

(i) the court finds the defendant incompetent to proceed without a substantial probability that the defendant will become competent in the foreseeable future;

(ii) the prosecutor or another individual indicates to the court that the prosecutor or other individual will seek civil commitment of the defendant under Section 77-15-6; and

(iii) the court orders the records be maintained and used only for the purposes of examining the defendant in connection with the petition for civil commitment.

[~~(d)~~] (g) An order for a competency evaluation may not contain an order for any other inquiry into the mental state of the defendant that is not described in this Subsection (4).

[~~(4)~~] (5) Pending a competency evaluation, unless the court or the department directs otherwise, the defendant shall be retained in the same custody or status that the defendant was in at the time the examination was ordered.

[~~(5)~~] (6) In the conduct of a competency evaluation[~~, a progress toward competency evaluation,~~] and in a report to the court, a forensic evaluator shall consider and address, in addition to any other factors determined to be relevant by the forensic evaluator:

(a) (i) the impact of the defendant's mental illness or intellectual disability on the defendant's present ability to:

[~~(i)~~] (A) rationally and factually understand the criminal proceedings against the defendant; and

[~~(ii)~~] (B) consult with the defendant's legal counsel with a reasonable degree of rational understanding in order to assist in the defense;

(b) in making the determinations described in Subsection (6)(a), the forensic evaluator shall consider, as applicable:

(i) the defendant's present ability to:

[~~(iii)~~] (A) understand the charges or allegations against the defendant;

[~~(iv)~~] (B) communicate facts, events, and states of mind;

[~~(v)~~] (C) understand the range of possible penalties associated with the charges or allegations against the defendant;

[~~(vi)~~] (D) engage in reasoned choice of legal strategies and options;

[~~(vii)~~] (E) understand the adversarial nature of the proceedings against the defendant;

[~~(viii)~~] (F) manifest behavior sufficient to allow the court to proceed; and

[~~(ix)~~] (G) testify relevantly, if applicable; and

[~~(b) the impact of the mental disorder or intellectual disability, if any, on the nature and quality of the defendant's relationship with counsel;~~]

[~~(c) if psychoactive medication is currently being administered:~~]

[~~(i) whether the medication is necessary to maintain the defendant's competency; and~~]

[~~(ii) whether the medication may have an effect on the defendant's demeanor, affect, and ability to participate in the proceedings; and~~]

[~~(d)~~] (c) whether the defendant is exhibiting false or exaggerated physical or psychological symptoms relevant to the defendant's capacity to stand trial.

[~~(6)~~] (7) [~~If the forensic evaluator's opinion is~~] Upon a determination that the defendant is incompetent to proceed, the forensic evaluator shall indicate in the report to the court:

(a) the factors that contribute to the defendant's incompetency, including the nature of the defendant's mental [~~disorder or intellectual or developmental disability~~] illness or intellectual disability, if any, and its relationship to the factors contributing to the defendant's incompetency; [~~and~~]

(b) whether there is a substantial probability that:

(i) restoration treatment may[~~, in the foreseeable future,~~] bring the defendant to competency to stand trial[~~, or that~~] in the foreseeable future; or

(ii) the defendant cannot become competent to stand trial in the foreseeable future[~~.~~];

(c) whether the defendant would benefit from restoration treatment; and

(d) if the forensic evaluator makes the determination under Subsection (7)(b)(i) or (7)(c), an explanation of the reason for the determination and a summary of the treatment provided to the defendant in the past.

[~~(7)~~] (8) (a) A forensic evaluator shall provide an initial report to the court and the prosecuting and defense attorneys within 30 days of the receipt of the court's order. The report shall inform the court of the examiner's opinion concerning the competency of the defendant to stand trial.

(b) (i) If the forensic evaluator is unable to complete the report in the time specified in Subsection [~~(7)(a)~~] (8)(a), the forensic evaluator shall give written notice to the court.

(ii) A forensic evaluator who provides the notice described in Subsection [~~(7)(b)(i)~~] (8)(b)(i) shall receive a 15-day extension, giving the forensic evaluator a total of 45 days after the day on which the forensic evaluator received the court's order to conduct a competency evaluation and file a report.

(iii) The court may further extend the deadline for completion of the evaluation and report if the court determines that there is good cause for the extension.

(iv) Upon receipt of an extension described in Subsection [~~(7)(b)(iii)~~] (8)(b)(iii), the forensic evaluator shall file the report as soon as reasonably possible.

[~~(8)~~] (9) Any written report submitted by a forensic evaluator shall:

(a) identify the case ordered for evaluation by the case number;

(b) describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each, the time spent by the forensic evaluator with the defendant for purposes of the examination, and the compensation to be paid to the evaluator for the report;

(c) state the forensic evaluator's clinical observations, findings, and opinions on each [~~issue referred for examination by the court, and indicate specifically those issues, if any, on which the forensic evaluator could not give an opinion~~] factor described in Subsection (6); and

(d) identify the sources of information used by the forensic evaluator and present the basis for the forensic evaluator's clinical findings and opinions.

[~~(9)~~] (10) (a) Any statement made by the defendant in the course of any competency examination, whether the examination is with or without the consent of the defendant, any testimony by a forensic evaluator based upon the statement, and any other fruits of the statement may not be admitted in evidence against the defendant in any criminal proceeding except on an issue respecting mental condition on which the defendant has introduced evidence[~~. The evidence may be admitted, however, where~~], unless the evidence is relevant to a determination of the defendant's competency.

(b) Before examining the defendant, the forensic evaluator shall specifically advise the defendant of the limits of confidentiality as provided under Subsection [~~(9)(a)~~] (10)(a).

[~~(10)~~] (11) (a) Upon receipt of the forensic evaluators' reports, the court shall set a date for a competency hearing. The hearing shall be held not less than [~~5~~] five and not more than 15 days after the day on which the court received the forensic evaluators' reports, unless for good cause the court sets a later date.

(b) Any person directed by the department to conduct the competency evaluation may be subpoenaed to testify at the hearing.

(c) The court may call any forensic evaluator to testify at the hearing who is not called by the parties. If the court calls a forensic evaluator, counsel for the parties may cross-examine the forensic evaluator.

(d) (i) If the forensic evaluators are in conflict as to the competency of the defendant, all forensic evaluators should be called to testify at the hearing if reasonably available.

(ii) A conflict in the opinions of the forensic evaluators does not require the appointment of an additional forensic evaluator unless the court [~~determines the appointment to be necessary~~] finds good cause for the appointment.

[~~(11)~~] (12) (a) (i) A defendant shall be presumed competent to stand trial unless the court, by a preponderance of the evidence, finds the defendant incompetent to proceed.

(ii) The burden of proof is upon the proponent of incompetency at the hearing.

(b) An adjudication of incompetent to proceed does not operate as an adjudication of incompetency to give informed consent for medical treatment or for any other purpose, unless specifically set forth in the court order.

[~~(12)~~] (13) In determining the defendant's competency to stand trial, the court shall consider the totality of the circumstances, which may include the testimony of lay witnesses, [~~in addition to the forensic evaluator's report, testimony, and studies~~] the forensic evaluator's testimony and report, the materials on which the report is based, and any other relevant considerations.

[~~(13)~~] (14) If the court finds the defendant incompetent to proceed:

(a) the court shall issue the order described in Subsection 77-15-6(1), which shall:

(i) include findings addressing each of the factors in Subsection [~~(5)(a)~~] (6)(a);

(ii) include a transportation order, if necessary;

(iii) be accompanied by the forensic evaluators' reports, any psychiatric, psychological, or social work reports submitted to the court relative to the mental condition of the defendant, and any other documents made available to the court by either the defense or the prosecution, pertaining to the defendant's current or past mental condition; and

(iv) be sent by the court to the department; and

(b) the prosecuting attorney shall provide to the department:

(i) the charging document and probable cause statement, if any;

(ii) arrest or incident reports prepared by law enforcement and pertaining to the charged offense; and

(iii) additional supporting documents.

[~~(14)~~] (15) The court may make any reasonable order to ensure compliance with this section.

[~~(15)~~] (16) Failure to comply with this section does not result in the dismissal of criminal charges.

Section 4. Section 77-15-6 is amended to read:

77-15-6. Commitment on finding of incompetency to stand trial -- Subsequent hearings -- Notice to prosecuting attorneys.

(1) (a) Except as provided in Subsection (5), if after a hearing a court finds a defendant to be incompetent to proceed, the court shall order the defendant committed to the department for restoration treatment.

(b) (i) [~~The~~] Except as provided in Subsection (1)(b)(ii), the court may recommend but may not order placement of [~~the~~] a defendant who is found incompetent to proceed.

(ii) The court may[~~, however,~~] order that the defendant be placed in a secure setting rather than a nonsecure setting.

(c) Following restoration screening, the department's designee shall designate and inform the court of the specific placement and restoration treatment program for the defendant.

[~~(c)~~] (d) Restoration treatment shall be of sufficient scope and duration to:

(i) restore the [~~individual~~] defendant to competency; or

(ii) determine whether the [~~individual~~] defendant can be restored to competency in the foreseeable future.

[~~(d)~~] (e) A defendant [~~whom~~] who a court determines is incompetent to proceed may not be held for restoration treatment longer than:

(i) the time reasonably necessary to determine [~~whether there is a substantial probability that the defendant will become competent to stand trial in the foreseeable future, or~~] that the defendant cannot become competent to stand trial in the foreseeable future; and

(ii) the maximum period of incarceration that the defendant could receive if the defendant were convicted of the most severe offense of the offenses charged.

(2) (a) A defendant who is receiving restoration treatment shall receive a progress toward competency evaluation, by:

(i) a forensic evaluator, designated by the department; and

(ii) an additional forensic evaluator, if requested by a party and paid for by the requesting party.

(b) A forensic evaluator shall complete a progress toward competency evaluation and submit a report within 90 days after the day on which the forensic evaluator receives the commitment order from the department. [~~If the forensic evaluator is unable to complete the report within 90 days, the forensic evaluator shall provide to the court and counsel a summary progress statement that informs the court that additional time is necessary to complete the report, in which case the examiner shall have up to an additional 45 days to provide the full report.~~]

(c) The report shall:

(i) assess whether the defendant is exhibiting false or exaggerated physical or psychological symptoms;

(ii) describe any diagnostic instruments, methods, and observations used by the [~~examiner~~] evaluator to make the determination;

(iii) describe the defendant's current mental illness or intellectual disability, if any;

[~~(iii)~~] (iv) state the forensic evaluator's opinion as to the effect of any false or exaggerated symptoms on the defendant's competency to stand trial;

[~~(iv)~~] (v) assess the facility's or program's capacity to provide appropriate restoration treatment for the defendant;

[~~(v)~~] (vi) assess the nature of restoration treatment provided to the defendant;

[~~(vi)~~] (vii) assess what progress the defendant has made toward competency restoration, with respect to the factors identified by the court in its initial order;

(viii) assess whether the defendant can reasonably be restored to competency in the foreseeable future given the restoration treatment currently being provided and the facility's or program's capacity to provide appropriate restoration treatment for the defendant; and

[~~(vii) describe the defendant's current level of intellectual or developmental disability and need for treatment, if any; and~~]

[~~(viii)~~] (ix) assess the likelihood of restoration to competency, the amount of time estimated to achieve competency, or the amount of time estimated to determine whether restoration to competency may be achieved.

(3) (a) The court on its own motion or upon motion by either party or the department may appoint an additional forensic evaluator to conduct a progress toward competency evaluation.

(b) If the court appoints an additional forensic evaluator upon motion of a party, that party shall pay the costs of the additional forensic evaluator.

(4) (a) Within 15 days after the day on which the court receives the forensic evaluator's report of the progress toward competency evaluation, the court shall hold a hearing to review the defendant's competency.

(b) At the hearing, the burden of proving that the defendant is competent to stand trial is on the proponent of competency.

(c) Following the hearing, the court shall determine by a preponderance of evidence whether the defendant is:

[~~(a)~~] (i) competent to stand trial;

[~~(b)~~] (ii) incompetent to proceed, with a substantial probability that the defendant may become competent in the foreseeable future; or

[~~(c)~~] (iii) incompetent to proceed, without a substantial probability that the defendant may become competent in the foreseeable future.

(5) (a) If at any time the court determines that the defendant is competent to stand trial, the court shall:

(i) proceed with the trial or other procedures as may be necessary to adjudicate the charges; and

(ii) order that the defendant be returned to the placement and status that the defendant was in at the time when the petition for the adjudication of competency was filed or raised by the court, unless the court determines that [~~a different~~] placement of the defendant in a less restrictive environment is more appropriate.

(b) If the court determines that the defendant is [~~not competent~~] incompetent to proceed [~~but that there is~~] with a substantial probability that the defendant may become competent in the foreseeable future, the court may order that the defendant remain committed to the department or the department's designee for the purpose of restoration treatment.

(c) (i) If the court determines that the defendant is incompetent to proceed [~~and that there is not~~] without a substantial probability that the defendant may become competent in the foreseeable future, the court shall order the defendant released from commitment to the department, unless the prosecutor or another individual informs the court that civil commitment proceedings pursuant to Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act, will be initiated.

(ii) [~~These~~] The commitment proceedings must be initiated by a petition filed within seven days after the day on which the court makes the determination described in Subsection [~~(4)(c)~~] (4)(c)(iii), unless the court finds that there is good cause to delay the initiation of the civil commitment proceedings.

(iii) The court may order the defendant to remain [~~in the commitment of~~] committed to the department until the civil commitment proceedings conclude.

(iv) If the defendant is civilly committed and admitted to a secure setting, the department shall [~~notify~~] provide notice to the court that adjudicated the defendant incompetent to proceed and to the prosecution agency that prosecuted the case at least [~~10~~] 60 days before any proposed release of the committed individual from the secure setting.

(6) If a court, under Subsection (5)(b), extends a defendant's commitment, the court shall schedule a competency review hearing for the earlier of:

(a) the department's best estimate of when the defendant may be restored to competency; or

(b) three months after the day on which the court determined under Subsection (5)(b) to extend the defendant's commitment.

(7) [~~If~~] Unless the defendant is charged with a crime listed in Subsection (8), if a defendant is [~~not competent~~] incompetent to proceed by the day of the competency review hearing that follows the extension of a defendant's commitment, [~~a~~] the court shall:

(a) [~~except for a defendant charged with crimes listed in Subsection (8), order a defendant~~] order the defendant be:

(i) released[~~; or (ii)~~] or temporarily detained pending civil commitment proceedings [~~under the same terms~~] as described in Subsection (5)(c); and

[~~(b)~~] (ii) terminate the defendant's commitment to the department for restoration treatment[~~.~~]; or

(b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment up to 45 additional days.

(8) If the defendant [~~has been~~] is charged with aggravated murder, murder, attempted murder, manslaughter, or a first degree felony and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the hearing held pursuant to Subsection (6), the court may extend the commitment for a period not to exceed [~~9~~] nine months for the purpose of restoration treatment, with a mandatory review hearing at the end of the [~~9-month~~] nine-month period.

(9) [~~If at the 9-month~~] Unless the defendant is charged with aggravated murder or murder, if, at the nine-month review hearing described in Subsection (8), the court determines that the defendant is [~~not competent~~] incompetent to proceed, the court shall:

(a) (i) order the defendant[~~, except for a defendant charged with aggravated murder or murder, to be:(i) released; or(ii)~~] be released or temporarily detained pending civil commitment proceedings [~~under the same terms~~] as provided in Subsection (5)(c); and

[~~(b)~~] (ii) terminate the defendant's commitment to the department for restoration treatment[~~.~~]; or

(b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment for up to 135 additional days.

(10) If the defendant [~~has been~~] is charged with aggravated murder or murder and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the [~~9-month~~] nine-month review hearing described in Subsection (8), the court may extend the commitment for a period not to exceed 24 months for the purpose of restoration treatment.

(11) If the court extends the defendant's commitment term under Subsection (10), the court shall hold a hearing no less frequently than at 12-month intervals following the extension for the purpose of determining the defendant's competency status.

(12) If, at the end of the 24-month commitment period described in Subsection (10), the court determines that the defendant is [~~not competent~~] incompetent to proceed, the court shall:

(a) (i) order the defendant [~~to be:(i) released; or (ii)~~] be released or temporarily detained pending civil commitment proceedings [~~under the same terms~~] as provided in Subsection (5)(c); and

[~~(b)~~] (ii) terminate the defendant's commitment to the department for restoration treatment[~~.~~]; or

(b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment for up to 12 additional months.

(13) (a) Neither release from a pretrial incompetency commitment under the provisions of this section nor civil commitment requires dismissal of criminal charges.

(b) The court may retain jurisdiction over the criminal case and may order periodic reviews.

(14) A defendant who is civilly committed pursuant to Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act, may still be adjudicated competent to stand trial under this chapter.

(15) (a) The remedy for a violation of the time periods specified in this section, other than those specified in Subsection (5)(c), (7), (9), or (12), shall be a motion to compel the hearing, or mandamus, but not release from detention or dismissal of the criminal charges.

(b) The remedy for a violation of the time periods specified in Subsection (5)(c), (7), (9), or (12), or is not dismissal of the criminal charges.

(16) In cases in which the treatment of the defendant is precluded by court order for a period of time, that time period may not be considered in computing time limitations under this section.

(17) (a) [~~At any time that~~] If, at any time, the defendant becomes competent to stand trial while the defendant is committed to the department, the clinical director of the [~~hospital~~] Utah State Hospital, the department, or the department's designee shall certify that fact to the court.

(b) The court shall conduct a competency review hearing:

(i) within 15 working days after the day on which the court receives the certification described in Subsection (17)(a); or

(ii) within 30 working days after the day on which the court receives the certification described in

Subsection (17)(a), if the court determines that more than 15 working days are necessary for good cause related to the defendant's competency.

(18) The court may order a hearing [~~or rehearing~~] at any time on [~~its~~] the court's own motion or upon recommendations of the clinical director of the [~~hospital~~] Utah State Hospital or other facility or the department.

(19) Notice of a hearing on competency to stand trial shall be given to the prosecuting attorney and all counsel of record. [~~If the hearing is held in the county where the defendant is confined, notice shall also be given to the prosecuting attorney for that county.~~]

CHAPTER 172
H. B. 335
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

ALTERNATIVE CONCURRENT ENROLLMENT OPTIONS FOR CAPACITY FLEXIBILITY

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to concurrent enrollment courses.

Highlighted Provisions:

This bill:

- amends provisions for approving a local education agency (LEA) employee as an eligible instructor;
- provides that an LEA may contract with a nondesignated institution of higher education to provide concurrent enrollment courses under certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-10-302, as last amended by Laws of Utah 2020, Chapters 220, 365
53E-10-303, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 53E-10-302 is amended to read:

53E-10-302. Concurrent enrollment program.

(1) The state board and the Utah Board of Higher Education shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

(i) toward high school graduation; and

(ii) at an institution of higher education;

(b) includes only a course that:

(i) leads to a degree or certificate offered by an institution of higher education; and

(ii) is one of the following:

(A) a general education course;

(B) a career and technical education course;

(C) a pre-major college level course;

(D) a foreign language concurrent enrollment course described in Section 53E-10-307; or

(E) an upper divisions course that the Utah Board of Higher Education approves under Subsection (3);

(c) requires that the instructor of a concurrent enrollment course is an eligible instructor; and

(d) is designed and implemented to take full advantage of the most current available education technology.

(2) The state board and the Utah Board of Higher Education shall coordinate to:

(a) establish a concurrent enrollment course approval process that ensures:

(i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and

(ii) learning outcomes for a concurrent enrollment course align with:

(A) core standards for Utah public schools adopted by the state board; and

(B) except for a foreign language concurrent enrollment course described in Section 53E-10-307 or an upper division course that the Utah Board of Higher Education approves under Subsection (3), an institution of higher education lower division course numbered at or above the 1000 level; and

(b) provide advising to an eligible student, including information on:

(i) general education requirements at institutions of higher education; and

(ii) how to choose concurrent enrollment courses to avoid duplication or excess credit hours.

(3) The Utah Board of Higher Education, after consulting with the state board, shall annually approve a prioritized list of upper division courses for which an institution of higher education may use concurrent enrollment money.

(4) After consultation with institution of higher education concurrent enrollment directors, the Utah Board of Higher Education shall:

(a) provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course; and

(b) [~~on or before July 1, 2019, establish~~] establish a policy that:

(i) determines which concurrent enrollment courses are career and technical education courses; and

(ii) creates a process for:

(A) an LEA to appeal an institution of higher education's decision under Subsection (7) if the institution of higher education does not approve an LEA employee as an eligible instructor; and

(B) an LEA or institution of higher education to determine whether an eligible instructor who

previously taught a concurrent enrollment course is no longer qualified to teach the concurrent enrollment course.

(5) To qualify for funds under Section 53F-2-409, an LEA and an institution of higher education shall:

(a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (4)(a);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and

(e) coordinate advising to eligible students.

(6) (a) An institution of higher education faculty member is an eligible instructor.

(b) An LEA employee is an eligible instructor if the LEA employee:

(i) is licensed under Chapter 6, Education Professional Licensure;

(ii) is supervised by an institution of higher education; and

(iii) (A) as described in Subsection (7), is approved as an eligible instructor by the institution of higher education that provides the concurrent enrollment course taught by the LEA employee;

(B) has an upper level mathematics credential issued by the state board;

(C) is approved as adjunct faculty by the institution of higher education that provides the concurrent enrollment course taught by the LEA employee; or

(D) teaches a concurrent enrollment course that the LEA employee taught during the 2018[~~-19~~] -2019 or 2019[~~-20~~] -2020 school year.

(7) An institution of higher education shall approve an LEA employee as an eligible instructor:

(a) for a career and technical education concurrent enrollment course, if the LEA employee has:

(i) a degree, certificate, or industry certification in the concurrent enrollment course's academic field; or

(ii) qualifying experience, as determined by the institution of higher education; or

(b) for a concurrent enrollment course other than a career and technical education course, if the LEA employee has:

(i) a master's degree or higher in the concurrent enrollment course's academic field;

(ii) (A) a master's degree or higher in any academic field; and

(B) at least 18 completed credit hours of graduate course work in an academic field that is relevant to the concurrent enrollment course; or

(iii) qualifying experience[~~, as determined by the institution of higher education.~~] as defined in Section 53E-10-301, including:

(A) the number of years of teaching experience;

(B) student performance on qualifying test scores or AP exams on courses that the LEA employee teaches;

(C) continuing education in a master's degree or higher in any academic field; or

(D) other criteria established by the institution of higher education.

(8) An institution of higher education shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.

Section 2. Section 53E-10-303 is amended to read:

53E-10-303. Designated institution of higher education -- Concurrent enrollment course right of first refusal.

(1) As used in this section, "designated institution of higher education" means an institution of higher education that is designated by the Utah Board of Higher Education to provide a course or program of study within a specific geographic region.

(2) To offer a concurrent enrollment course, an LEA shall contact the LEA's designated institution of higher education to request that the designated institution of higher education contract with the LEA to provide the concurrent enrollment course.

(3) [~~If~~] Except as provided in Subsection (4), if the LEA's designated institution of higher education chooses to offer the concurrent enrollment course, the LEA shall contract with the LEA's designated institution of higher education to provide the concurrent enrollment course.

(4) An LEA may contract with an institution of higher education that is not the LEA's designated institution of higher education to provide a concurrent enrollment course if the LEA's designated institution of higher education:

(a) chooses not to offer the concurrent enrollment course proposed by the LEA; [~~or~~]

(b) fails to respond to the LEA's request under Subsection (2) within 30 days after the day on which the LEA contacts the designated institution of higher education[~~.~~];

(c) uses instructional materials in a course that are sensitive materials, as defined in Section 53G-10-103, or that are materials otherwise

prohibited by state law or state board rule for use in kindergarten through grade 12; or

(d) (i) reaches the institution of higher education's enrolled student capacity for the concurrent enrollment course; and

(ii) prohibits an LEA with an eligible instructor, as described in Section 53E-10-302, from expanding the concurrent enrollment course to eligible students.

CHAPTER 173
H. B. 343
Passed February 28, 2023
Approved March 14, 2023
Effective May 3, 2023

GOVERNMENT RECORDS MODIFICATIONS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions relating to government records, including provisions relating to the Division of Archives and Records Service, the Government Records Access and Management Act, and a chief privacy officer.

Highlighted Provisions:

This bill:

- defines terms;
- permits the Division of Archives and Records Service to require a background check of employees and volunteers who have direct access to vulnerable records;
- modifies the duties of a records officer;
- grants rulemaking authority to the state archivist, the executive director of the Department of Government Operations, and other departments, in relation to government records and the provisions of this bill;
- requires executive branch agencies to:
  - make and maintain an inventory of records that contain personal identifying information; and
  - prepare and maintain a privacy annotation for each record series collected, maintained, or used by the executive branch agency that discloses whether the record series contains personal identifying information, describes the type of personal identifying information contained in the record series, and provides other information regarding the personal identifying information contained in the record series;
- requires the executive director of the Department of Government Operations to make rules for identifying personal identifying information, inventorying the information, and reporting regarding the information;
- modifies individual rights with respect to records that may be classified as private or controlled or that may contain personal identifying information;
- changes the title of the "government operations privacy officer" to the "chief privacy officer"; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-12-100.5, as last amended by Laws of Utah 2015, Chapter 322
63A-12-101, as last amended by Laws of Utah 2022, Chapter 169
63A-12-108, as renumbered and amended by Laws of Utah 2008, Chapter 382
63C-24-202, as enacted by Laws of Utah 2021, Chapter 155
63G-2-103, as last amended by Laws of Utah 2021, Chapters 211, 283
63G-2-107, as last amended by Laws of Utah 2016, Chapter 380
63G-2-201, as last amended by Laws of Utah 2019, Chapter 334
63G-2-204, as last amended by Laws of Utah 2021, Chapter 64
63G-2-307, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-2-601, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-2-604, as last amended by Laws of Utah 2019, Chapter 254
67-1-17, as enacted by Laws of Utah 2021, Chapter 155
67-3-13, as enacted by Laws of Utah 2021, Chapter 155
77-27-5, as last amended by Laws of Utah 2021, Chapters 21, 246 and 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 260

ENACTS:

63A-12-115, Utah Code Annotated 1953
63A-12-116, Utah Code Annotated 1953

REPEALS AND REENACTS:

63A-12-104, as last amended by Laws of Utah 2022, Chapter 169

REPEALS:

63A-12-100, as last amended by Laws of Utah 2021, Chapter 84

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

Section 1. Section 63A-12-100.5 is amended to read:

CHAPTER 12. DIVISION OF ARCHIVES AND RECORDS SERVICE AND MANAGEMENT OF GOVERNMENT RECORDS

63A-12-100.5. Definitions.

(1) Except as provided under Subsection (2), the definitions in Section 63G-2-103 apply to this chapter.

(2) As used in this chapter:

(a) [~~"division" or "state archives"~~] "Division" means the Division of Archives and Records Service[~~; and~~].

(b) (i) "Executive branch agency" means the same as that term is defined in Section 63A-16-102.

(ii) "Executive branch agency" includes a state agency, as defined in Subsection 67-1-17(1)(d).

(c) (i) "Personal identifying information" means information about an individual that:

(A) identifies, or can be used to identify, an individual;

(B) distinguishes an individual from one or more other individuals; or

(C) is, or can be, logically associated with other information or data, through technology or otherwise, to identify an individual or distinguish an individual from one or more other individuals.

(ii) "Personal identifying information" includes information identified as personal identifying information in accordance with the rules described in Section 63A-12-104.

(d) "Privacy annotation" means a summary, described in Subsection 63A-12-115(2) and rules made by the executive director under Subsection 63A-12-104(2), that, for each record series that an executive branch agency collects, maintains, or uses:

(i) discloses whether the record series contains personal identifying information; and

(ii) if the record series contains personal identifying information, includes the information described in Subsection 63A-12-115(2)(b).

[~~(b)~~] (e) [~~"record"~~] "Record" means:

(i) the same as that term is defined in Section 63G-2-103; or

(ii) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102, the release of which is governed by Section 77-37-4.

(f) "State archives" means the Division of Archives and Records Service.

(g) "Vulnerable adult" means the same as that term is defined in Section 62A-3-301.

(h) "Vulnerable record" means a record or data relating to:

(i) national security interests;

(ii) the care, custody, or control of a child;

(iii) a fiduciary trust over money;

(iv) health care of a child; or

(v) the following, in relation to a vulnerable adult:

(A) protection, health care, or other care; or

(B) the provision of food, shelter, clothing, assistance with an activity of daily living, or assistance with financial resource management.

Section 2. Section 63A-12-101 is amended to read:

63A-12-101. Division of Archives and Records Service created -- Duties.

(1) There is created the Division of Archives and Records Service within the department.

(2) The state archives shall:

(a) administer the state's archives and records management programs, including storage of records, central reformatting programs, and quality control;

(b) apply fair, efficient, and economical management methods to the collection, creation, use, maintenance, retention, preservation, disclosure, and disposal of records and documents;

(c) establish standards, procedures, and techniques for the effective management and physical care of records;

(d) conduct surveys of office operations and recommend improvements in current records management practices, including the use of space, equipment, automation, and supplies used in creating, maintaining, storing, and servicing records;

(e) establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, historical, legal, or fiscal value to warrant further retention;

(f) establish, maintain, and operate centralized reformatting lab facilities and quality control for the state;

(g) provide staff and support services to the Records Management Committee created in Section 63A-12-112 and the State Records Committee created in Section 63G-2-501;

(h) develop training programs to assist records officers and other interested officers and employees of governmental entities to administer this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(i) provide access to public records deposited in the archives;

(j) administer and maintain the Utah Public Notice Website established under Section 63A-16-601;

(k) provide assistance to any governmental entity in administering this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(l) prepare forms for use by all governmental entities for a person requesting access to a record; and

(m) if the department operates the Division of Archives and Records Service as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee.

(3) The state archives may:

(a) establish a report and directives management program; [~~and~~]

(b) establish a forms management program[~~.~~]; and

(c) in accordance with Section 63A-12-101, require that an individual undergo a background check if the individual:

(i) applies to be, or currently is, an employee or volunteer of the division; and

(ii) will have direct access to a vulnerable record in the capacity described in Subsection (3)(c)(i).

(4) The executive director may direct the state archives to administer other functions or services consistent with this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.

Section 3. Section 63A-12-104 is repealed and reenacted to read:

63A-12-104. Rulemaking authority.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the state archivist may, for an executive branch agency, make rules establishing procedures for the collection, storage, designation, classification, access, mediation for records access, and management of records under this chapter and Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) a department may make rules specifying at which level within the department the requirements described in this chapter will be undertaken.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall, in consultation with the state archivist and the chief privacy officer, make rules for an executive branch agency that establish:

(a) requirements for making an inventory of each record series that contains personal identifying information, including:

(i) information collected as part of the inventory;

(ii) regularly reviewing, updating, and maintaining the inventory; and

(iii) reporting the inventory to the chief privacy officer;

(b) a list of information, categories of information, or types of information expressly designated as personal identifying information, in accordance with the criteria described in Subsections 63A-12-100.5(2)(c)(i) through (iii);

(c) criteria, variables, and principles for determining whether information in a record series, not expressly designated under Subsection (2)(b), is personal identifying information;

(d) a list and description of categories or types of personal identifying information that are collected, maintained, or used by executive branch agencies; and

(e) requirements for the form, content, format, review, and update of a privacy annotation.

(3) The rules described in Subsection (2)(b) may incorporate, by reference, a data dictionary that a records officer appointed under Subsection 63A-12-103(2)(a) shall use in making the determination described in Subsection (2)(c).

Section 4. Section 63A-12-108 is amended to read:

63A-12-108. Inspection and summary of record series -- Data dictionary.

(1) [~~The state~~] State archives shall provide for public inspection of:

(a) the title and a summary description of each record series[~~.~~]; and

(b) for an executive branch agency, the privacy annotation of each record series.

(2) The department shall:

(a) post the data dictionary described in Subsection 63A-12-104(3) on the department's website; and

(b) maintain and update the data dictionary on a regular basis.

Section 5. Section 63A-12-115 is enacted to read:

63A-12-115. Privacy annotation for records series -- Requirements -- Content.

(1) (a) Before January 1, 2026, an executive branch agency shall, for each record series that the executive branch agency collects, maintains, or uses, evaluate the record series and make a privacy annotation that completely and accurately complies with Subsection (2) and the rules described in Subsection 63A-12-104(2)(e).

(b) Beginning on January 1, 2026, an executive branch agency may not collect, maintain, or use personal identifying information unless the record series for which the personal identifying information is collected, maintained, or used includes a privacy annotation that completely and accurately complies with Subsection (2) and the rules described in Subsection 63A-12-104(2)(e).

(2) A privacy annotation shall include the following:

(a) if the record series does not include personal identifying information, a statement indicating that the record series does not include personal identifying information;

(b) if the record series includes personal identifying information:

(i) an inventory of the personal identifying information included in the record series; and

(ii) for the personal identifying information described in Subsection (2)(b)(i):

(A) the purpose for which the executive branch agency collects, keeps, or uses the personal identifying information;

(B) a citation to the executive branch agency's legal authority for collecting, keeping, or using the personal identifying information; and

(C) any other information required by state archives by rule under Subsection 63A-12-104(2)(e).

Section 6. Section 63A-12-116 is enacted to read:

63A-12-116. Background check for individuals with direct access to a vulnerable record.

(1) If, under Subsection 63A-12-101(3)(c), state archives requires an individual to undergo a background check:

(a) the individual shall:

(i) submit to state archives, in a form designated by state archives, a fingerprint card and other information required by state archives for the background check; and

(ii) consent to a criminal background check by the Federal Bureau of Investigation, the Bureau of Criminal Identification, or any other state entity that performs criminal background checks; and

(b) state archives shall:

(i) submit the fingerprint card and information described in Subsection (1)(a)(i) to the Utah Bureau of Criminal Identification; and

(ii) pay all fees required to conduct the background check, including fees described in Subsection 53-10-108(15)(a) and fees required by the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall provide all results of a criminal background check described in this section to state archives, including results from state, regional, and nationwide background checks.

(3) State archives may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish procedures for requiring and conducting a background check under this section; and

(b) specify requirements for the information and fingerprint card required for a background check under this section.

Section 7. Section 63C-24-202 is amended to read:

63C-24-202. Commission duties.

(1) The commission shall:

(a) develop guiding standards and best practices with respect to government privacy practices;

(b) develop educational and training materials that include information about:

(i) the privacy implications and civil liberties concerns of the privacy practices of government entities;

(ii) best practices for government collection and retention policies regarding personal data; and

(iii) best practices for government personal data security standards; and

(c) review the privacy implications and civil liberties concerns of government privacy practices.

(2) The commission may:

(a) review specific government privacy practices as referred to the commission by the [~~government operations~~] chief privacy officer described in Section 67-1-17 or the state privacy officer described in Section 67-3-13; and

(b) develop recommendations for legislation regarding the guiding standards and best practices the commission has developed in accordance with Subsection (1)(a).

(3) Annually, on or before October 1, the commission shall report to the Judiciary Interim Committee:

(a) the results of any reviews the commission has conducted;

(b) the guiding standards and best practices described in Subsection (1)(a); and

(c) any recommendations for legislation the commission has developed in accordance with Subsection (2)(b).

Section 8. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an

individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.

(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.

[~~(18)~~] (20) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

[~~(19)~~] (21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

[~~(20)~~] (22) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

[~~(21)~~] (23) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

[~~(22)~~] (24) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's

personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child pornography, as defined by Section 76-5b-103;

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; or

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702.

[~~(23)~~] (25) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

[~~(24)~~] (26) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

[~~(25)~~] (27) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

[~~(26)~~] (28) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

[~~(27)~~] (29) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

[~~(28)~~] (30) "State archivist" means the director of the state archives.

[~~(29)~~] (31) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

[~~(30)~~] (32) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 9. Section 63G-2-107 is amended to read:

63G-2-107. Disclosure of records subject to federal law or other provisions of state law.

(1) (a) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.

(b) Except as provided in Subsection (2), this chapter applies to records described in Subsection (1)(a) to the extent that this chapter is not inconsistent with the statute, rule, or regulation.

[~~(1)~~] (2) [~~Notwithstanding Subsection 63G-2-201(6), this~~] Except as provided in Subsection (3), this chapter does not apply to a

record containing protected health information as defined in 45 C.F.R., Part 164, Standards for Privacy of Individually Identifiable Health Information, if the record is:

(a) controlled or maintained by a governmental entity; and

(b) governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information.

[~~(2)~~] (c) The disclosure of an education record as defined in the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99, that is controlled or maintained by a governmental entity shall be governed by the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

(3) This section does not exempt any record or record series from the provisions of Subsection 63G-2-601(1).

Section 10. Section 63G-2-201 is amended to read:

63G-2-201. Provisions relating to records -- Public records -- Private, controlled, protected, and other restricted records -- Disclosure and nondisclosure of records -- Certified copy of record -- Limits on obligation to respond to a record request.

(1) (a) Except as provided in Subsection (1)(b), a person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.

(b) A right under Subsection (1)(a) does not apply with respect to a record:

(i) a copy of which the governmental entity has already provided to the person;

(ii) that is the subject of a records request that the governmental entity is not required to fill under Subsection [~~(8)(e)~~] (7)(e); or

(iii) (A) that is accessible only by a computer or other electronic device owned or controlled by the governmental entity;

(B) that is part of an electronic file that also contains a record that is private, controlled, or protected; and

(C) that the governmental entity cannot readily segregate from the part of the electronic file that contains a private, controlled, or protected record.

(2) A record is public unless otherwise expressly provided by statute.

(3) The following records are not public:

(a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and

(b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305 may be classified private, controlled, or protected.

(5) (a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.

(b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:

(i) there is no interest in restricting access to the record; or

(ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.

(c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:

(i) the head of the governmental entity, or a designee, determines that the disclosure:

(A) is mutually beneficial to:

(I) the subject of the record;

(II) the governmental entity; and

(III) the public; and

(B) serves a public purpose related to:

(I) public safety; or

(II) consumer protection; and

(ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.

[~~(6) (a) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.~~]

[~~(b) This chapter applies to records described in Subsection (6)(a) insofar as this chapter is not inconsistent with the statute, rule, or regulation.~~]

[~~(7)~~] (6) A governmental entity shall provide a person with a certified copy of a record if:

(a) the person requesting the record has a right to inspect it;

(b) the person identifies the record with reasonable specificity; and

(c) the person pays the lawful fees.

[~~(8)~~] (7) In response to a request, a governmental entity is not required to:

(a) create a record;

(b) compile, format, manipulate, package, summarize, or tailor information;

(c) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;

(d) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; or

(e) fill a person's records request if:

(i) the record requested is:

(A) publicly accessible online; or

(B) included in a public publication or product produced by the governmental entity receiving the request; and

(ii) the governmental entity:

(A) specifies to the person requesting the record where the record is accessible online; or

(B) provides the person requesting the record with the public publication or product and specifies where the record can be found in the public publication or product.

[~~(9)~~] (8) (a) Although not required to do so, a governmental entity may, upon request from the person who submitted the records request, compile, format, manipulate, package, summarize, or tailor information or provide a record in a format, medium, or program not currently maintained by the governmental entity.

(b) In determining whether to fulfill a request described in Subsection [~~(9)(a)~~] (8)(a), a governmental entity may consider whether the governmental entity is able to fulfill the request without unreasonably interfering with the governmental entity's duties and responsibilities.

(c) A governmental entity may require a person who makes a request under Subsection [~~(9)(a)~~] (8)(a) to pay the governmental entity, in accordance with Section 63G-2-203, for providing the information or record as requested.

[~~(10)~~] (9) (a) Notwithstanding any other provision of this chapter, and subject to Subsection [~~(10)(b)~~] (9)(b), a governmental entity is not required to respond to, or provide a record in response to, a record request if the request is submitted by or in behalf of an individual who is confined in a jail or other correctional facility following the individual's conviction.

(b) Subsection [~~(10)(a)~~] (9)(a) does not apply to:

(i) the first five record requests submitted to the governmental entity by or in behalf of an individual described in Subsection [~~(10)(a)~~] (9)(a) during any calendar year requesting only a record that contains a specific reference to the individual; or

(ii) a record request that is submitted by an attorney of an individual described in Subsection [~~(10)(a)~~] (9)(a).

[~~(11)~~] (10) (a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:

(i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and

(ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.

(b) If the requirements of Subsection [~~(11)(a)~~] (10)(a) are met, the governmental entity may:

(i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or

(ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.

[~~(12)~~] (11) (a) A governmental entity that owns an intellectual property right and that offers the intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest.

(b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.

[~~(13)~~] (12) A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.

[~~(14)~~] (13) Subject to the requirements of Subsection [~~(8)~~] (7), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:

(a) the person making the request requests or states a preference for an electronic copy;

(b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and

(c) the electronic copy of the record:

(i) does not disclose other records that are exempt from disclosure; or

(ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.

[~~(15)~~] (14) In determining whether a record is properly classified as private under Subsection

63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals board, or court shall consider and weigh:

(a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and

(b) any public interests served by disclosure.

Section 11. Section 63G-2-204 is amended to read:

63G-2-204. Record request -- Response -- Time for responding.

(1) (a) A person making a request for a record shall submit to the governmental entity that retains the record a written request containing:

(i) the person's:

(A) name;

(B) mailing address;

(C) email address, if the person has an email address and is willing to accept communications by email relating to the person's records request; and

(D) daytime telephone number; and

(ii) a description of the record requested that identifies the record with reasonable specificity.

(b) (i) A single record request may not be submitted to multiple governmental entities.

(ii) Subsection (1)(b)(i) may not be construed to prevent a person from submitting a separate record request to each of multiple governmental entities, even if each of the separate requests seeks access to the same record.

(2) (a) In response to a request for a record, a governmental entity may not provide a record that it has received under Section 63G-2-206 as a shared record.

(b) If a governmental entity is prohibited from providing a record under Subsection (2)(a), the governmental entity shall:

(i) deny the records request; and

(ii) inform the person making the request of the identity of the governmental entity from which the shared record was received.

(3) A governmental entity may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall be directed.

(4) After receiving a request for a record, a governmental entity shall:

(a) review each request that seeks an expedited response and notify, within five business days after receiving the request, each requester that has not demonstrated that their record request benefits the public rather than the person that their response will not be expedited; and

(b) as soon as reasonably possible, but no later than 10 business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person:

(i) approve the request and provide a copy of the record;

(ii) deny the request in accordance with the procedures and requirements of Section 63G-2-205;

(iii) notify the requester that it does not maintain the record requested and provide, if known, the name and address of the governmental entity that does maintain the record; or

(iv) notify the requester that because of one of the extraordinary circumstances listed in Subsection (6), it cannot immediately approve or deny the request, and include with the notice:

(A) a description of the circumstances that constitute the extraordinary circumstances; and

(B) the date when the records will be available, consistent with the requirements of Subsection (7).

(5) Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

(6) The following circumstances constitute "extraordinary circumstances" that allow a governmental entity to delay approval or denial by an additional period of time as specified in Subsection (7) if the governmental entity determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Subsection (4):

(a) another governmental entity is using the record, in which case the originating governmental entity shall promptly request that the governmental entity currently in possession return the record;

(b) another governmental entity is using the record as part of an audit, and returning the record before the completion of the audit would impair the conduct of the audit;

(c) (i) the request is for a voluminous quantity of records or a record series containing a substantial number of records; or

(ii) the requester seeks a substantial number of records or records series in requests filed within five working days of each other;

(d) the governmental entity is currently processing a large number of records requests;

(e) the request requires the governmental entity to review a large number of records to locate the records requested;

(f) the decision to release a record involves legal issues that require the governmental entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;

(g) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or

(h) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

(7) If one of the extraordinary circumstances listed in Subsection (6) precludes approval or denial within the time specified in Subsection (4), the following time limits apply to the extraordinary circumstances:

(a) for claims under Subsection (6)(a), the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work;

(b) for claims under Subsection (6)(b), the originating governmental entity shall notify the requester when the record is available for inspection and copying;

(c) for claims under Subsections (6)(c), (d), and (e), the governmental entity shall:

(i) disclose the records that it has located which the requester is entitled to inspect;

(ii) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request;

(iii) complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible; and

(iv) for any person that does not establish a right to an expedited response as authorized by Subsection (4), a governmental entity may choose to:

(A) require the person to provide for copying of the records as provided in Subsection [~~63G-2-201(11)~~] 63G-2-201(10); or

(B) treat a request for multiple records as separate record requests, and respond sequentially to each request;

(d) for claims under Subsection (6)(f), the governmental entity shall either approve or deny the request within five business days after the response time specified for the original request has expired;

(e) for claims under Subsection (6)(g), the governmental entity shall fulfill the request within 15 business days from the date of the original request; or

(f) for claims under Subsection (6)(h), the governmental entity shall complete its programming and disclose the requested records as soon as reasonably possible.

(8) (a) If a request for access is submitted to an office of a governmental entity other than that specified by rule in accordance with Subsection (3), the office shall promptly forward the request to the appropriate office.

(b) If the request is forwarded promptly, the time limit for response begins when the request is received by the office specified by rule.

(9) If the governmental entity fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the record.

Section 12. Section 63G-2-307 is amended to read:

63G-2-307. Duty to evaluate records and make designations, classifications, and annotations.

(1) A governmental entity shall, for each record series that the governmental entity keeps, uses, or creates:

(a) evaluate all record series [~~that it uses or creates~~];

(b) designate [~~those~~] each record series as provided by this chapter and Title 63A, Chapter 12, Division of Archives and Records Service; and

(c) report [~~the designations of its record series~~] to the state archives:

(i) the designation described in Subsection (1)(b); and

(ii) if the governmental entity is an executive branch agency, as defined in Section 63A-12-100.5, the privacy annotation.

(2) A governmental entity may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested.

(3) A governmental entity may redesignate a record series or reclassify a record or record series, or information within a record at any time.

Section 13. Section 63G-2-601 is amended to read:

63G-2-601. Rights of individuals on whom data is maintained -- Classification and personal identifying information statement -- Notice to provider of information.

(1) (a) Each governmental entity shall file with the state archivist a statement explaining, for each record series collected, maintained, or used by the governmental entity, the purposes for which [~~a record series that is designated as private or controlled is collected and~~] each private or controlled record in the record series is collected, maintained, or used by that governmental entity.

(b) Each executive branch agency, as defined in Section 63A-12-100.5, shall file with the state archivist a statement explaining, for each record series collected, maintained, or used by the executive branch agency, the purposes for which the

personal identifying information in the record series is collected, maintained, or used by the executive branch agency.

[~~(b)~~] (c) The statement filed under Subsection (1)(a) or (b):

(i) shall, for each purpose described in Subsection (1)(a) or (b), identify the authority under which the governmental entity or executive branch agency collects the records or information included in the statement described in Subsection (1)(a) or (b); and

(ii) is a public record.

(2) (a) A governmental entity shall provide [~~notice of the following~~] the notice described in this Subsection (2) to a person that is asked to furnish information that could be classified as a private or controlled record[~~:~~].

(b) An executive branch agency, as defined in Section 63A-12-100.5, shall provide the notice described in this Subsection (2) to a person that is asked to furnish personal identifying information.

(c) The notice required under Subsection (2)(a) or (b) shall:

(i) identify the record series that includes the information described in Subsection (2)(a) or (b);

[~~(i)~~] (ii) state the reasons the person is asked to furnish the information;

[~~(ii)~~] (iii) state the intended uses of the information;

[~~(iii)~~] (iv) state the consequences for refusing to provide the information; and

[~~(iv)~~] (v) disclose the classes of persons and the governmental entities that currently:

(A) share the information with the governmental entity; or

(B) receive the information from the governmental entity on a regular or contractual basis.

[~~(b)~~] (d) The [~~notice shall be~~] governmental entity shall:

(i) [~~posted~~] post the notice required under this Subsection (2) in a prominent place at all locations where the governmental entity collects the information; or

(ii) [~~included~~] include the notice required under this Subsection (2) as part of the documents or forms that are used by the governmental entity to collect the information.

(3) Upon request, each governmental entity shall, in relation to the information described in Subsection (2)(a) or (b), as applicable, explain to a person:

(a) the reasons the person is asked to furnish information [~~that could be classified as a private or controlled record~~];

(b) the intended uses of the information [~~referred to in Subsection (3)(a)~~];

(c) the consequences for refusing to provide the information [~~referred to in Subsection (3)(a)~~]; and

(d) the reasons and circumstances under which the information [~~referred to in Subsection (3)(a)~~] may be shared with, or provided to, other persons or governmental entities.

(4) A governmental entity may use [~~private or controlled records~~] the information that the governmental entity is required to disclose under Subsection (2)(a) or (b) only for those purposes:

(a) given in the statement filed with the state archivist under Subsection (1); or

(b) for which another governmental entity may use the record under Section 63G-2-206.

Section 14. Section 63G-2-604 is amended to read:

63G-2-604. Retention and disposition of records.

(1) (a) Except for a governmental entity that is permitted to maintain the governmental entity's own retention schedules under Part 7, Applicability to Political Subdivisions, the Judiciary, and the Legislature, each governmental entity shall file with the Records Management Committee created in Section 63A-12-112 a proposed schedule for the retention and disposition of each type of material that is defined as a record under this chapter.

(b) After a retention schedule is reviewed and approved by the Records Management Committee under Subsection 63A-12-113(1)(b), the governmental entity shall maintain and destroy records in accordance with the retention schedule.

(c) If a governmental entity subject to the provisions of this section has not received an approved retention schedule from the Records Management Committee for a specific type of material that is [~~classified~~] defined as a record under this chapter, the [~~model~~] general retention schedule maintained by the state archivist shall govern the retention and destruction of that type of material.

(2) A retention schedule that is filed with or approved by the Records Management Committee under the requirements of this section is a public record.

Section 15. Section 67-1-17 is amended to read:

67-1-17. Chief privacy officer.

(1) As used in this section:

(a) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(b) (i) "Personal data" means any information relating to an identified or identifiable individual.

(ii) "Personal data" includes personally identifying information.

(c) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(ii) "Privacy practice" includes:

(A) a technology use related to personal data; and

(B) policies related to the protection, storage, sharing, and retention of personal data.

(d) (i) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(A) a department;

(B) a commission;

(C) a board;

(D) a council;

(E) an institution;

(F) an officer;

(G) a corporation;

(H) a fund;

(I) a division;

(J) an office;

(K) a committee;

(L) an authority;

(M) a laboratory;

(N) a library;

(O) a bureau;

(P) a panel;

(Q) another administrative unit of the state; or

(R) an agent of an entity described in Subsections (A) through (Q).

(ii) "State agency" does not include:

(A) the legislative branch;

(B) the judicial branch;

(C) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(D) an independent entity.

(2) The governor [~~may~~] shall, with the advice and consent of the Senate, appoint a [~~government operations~~] chief privacy officer.

(3) The [~~government operations~~] chief privacy officer shall:

(a) compile information about the privacy practices of state agencies;

(b) make public and maintain information about the privacy practices of state agencies on the governor's website;

(c) provide state agencies with educational and training materials developed by the Personal Privacy Oversight Commission established in Section 63C-24-201 that include the information described in Subsection 63C-24-202(1)(b);

(d) implement a process to analyze and respond to requests from individuals for the [~~government operations~~] chief privacy officer to review a state agency's privacy practice;

(e) identify annually which state agencies' privacy practices pose the greatest risk to individual privacy and prioritize those privacy practices for review;

(f) review each year, in as timely a manner as possible, the privacy practices that the [~~government operations~~] chief privacy officer identifies under Subsection (3)(d) or (e) as posing the greatest risk to individuals' privacy;

(g) when reviewing a state agency's privacy practice under Subsection (3)(f), analyze:

(i) details about the privacy practice;

(ii) information about the type of data being used;

(iii) information about how the data is obtained, shared, secured, stored, and disposed;

(iv) information about with which persons the state agency shares the information;

(v) information about whether an individual can or should be able to opt out of the retention and sharing of the individual's data;

(vi) information about how the state agency de-identifies or anonymizes data;

(vii) a determination about the existence of alternative technology or improved practices to protect privacy; and

(viii) a finding of whether the state agency's current privacy practice adequately protects individual privacy; and

(h) after completing a review described in Subsections (3)(f) and (g), determine:

(i) each state agency's use of personal data, including the state agency's practices regarding data:

(A) acquisition;

(B) storage;

(C) disposal;

(D) protection; and

(E) sharing;

(ii) the adequacy of the state agency's practices in each of the areas described in Subsection (3)(h)(i); and

(iii) for each of the areas described in Subsection (3)(h)(i) that the [~~government operations~~] chief privacy officer determines require reform, provide recommendations to the state agency for reform.

(4) The [~~government operations~~] chief privacy officer shall:

(a) quarterly report, to the Personal Privacy Oversight Commission:

(i) recommendations for privacy practices for the commission to review; and

(ii) the information described in Subsection (3)(h); and

(b) annually, on or before October 1, report to the Judiciary Interim Committee:

(i) the results of any reviews described in Subsection (3)(g), if any reviews have been completed;

(ii) reforms, to the extent that the [~~government operations~~] chief privacy officer is aware of any reforms, that the state agency made in response to any reviews described in Subsection (3)(g);

(iii) the information described in Subsection (3)(h); and

(iv) recommendations for legislation based on the results of any reviews described in Subsection (3)(g).

(5) The chief privacy officer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish requirements and standards for determining whether a state agency's privacy practice, in relation to the areas described in Subsection (3)(h)(i), is adequate or requires reform.

Section 16. Section 67-3-13 is amended to read:

67-3-13. State privacy officer.

(1) As used in this section:

(a) "Designated government entity" means a government entity that is not a state agency.

(b) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(c) (i) "Government entity" means the state, a county, a municipality, a higher education institution, a local district, a special service district, a school district, an independent entity, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity.

(ii) "Government entity" includes an agent of an entity described in Subsection (1)(c)(i).

(d) (i) "Personal data" means any information relating to an identified or identifiable individual.

(ii) "Personal data" includes personally identifying information.

(e) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(ii) "Privacy practice" includes:

(A) a technology use related to personal data; and

(B) policies related to the protection, storage, sharing, and retention of personal data.

(f) (i) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(A) a department;

(B) a commission;

(C) a board;

(D) a council;

(E) an institution;

(F) an officer;

(G) a corporation;

(H) a fund;

(I) a division;

(J) an office;

(K) a committee;

(L) an authority;

(M) a laboratory;

(N) a library;

(O) a bureau;

(P) a panel;

(Q) another administrative unit of the state; or

(R) an agent of an entity described in Subsections (A) through (Q).

(ii) "State agency" does not include:

(A) the legislative branch;

(B) the judicial branch;

(C) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(D) an independent entity.

(2) The state privacy officer shall:

(a) when completing the duties of this Subsection (2), focus on the privacy practices of designated government entities;

(b) compile information about government privacy practices of designated government entities;

(c) make public and maintain information about government privacy practices on the state auditor's website;

(d) provide designated government entities with educational and training materials developed by the Personal Privacy Oversight Commission established in Section 63C-24-201 that include the information described in Subsection 63C-24-202(1)(b);

(e) implement a process to analyze and respond to requests from individuals for the state privacy officer to review a designated government entity's privacy practice;

(f) identify annually which designated government entities' privacy practices pose the greatest risk to individual privacy and prioritize those privacy practices for review;

(g) review each year, in as timely a manner as possible, the privacy practices that the privacy officer identifies under Subsection (2)(e) or (2)(f) as posing the greatest risk to individuals' privacy;

(h) when reviewing a designated government entity's privacy practice under Subsection (2)(g), analyze:

(i) details about the technology or the policy and the technology's or the policy's application;

(ii) information about the type of data being used;

(iii) information about how the data is obtained, stored, shared, secured, and disposed;

(iv) information about with which persons the designated government entity shares the information;

(v) information about whether an individual can or should be able to opt out of the retention and sharing of the individual's data;

(vi) information about how the designated government entity de-identifies or anonymizes data;

(vii) a determination about the existence of alternative technology or improved practices to protect privacy; and

(viii) a finding of whether the designated government entity's current privacy practice adequately protects individual privacy; and

(i) after completing a review described in Subsections (2)(g) and (h), determine:

(i) each designated government entity's use of personal data, including the designated government entity's practices regarding data:

(A) acquisition;

(B) storage;

(C) disposal;

(D) protection; and

(E) sharing;

(ii) the adequacy of the designated government entity's practices in each of the areas described in Subsection (2)(i)(i); and

(iii) for each of the areas described in Subsection (2)(i)(i) that the state privacy officer determines to require reform, provide recommendations for reform to the designated government entity and the legislative body charged with regulating the designated government entity.

(3) (a) The legislative body charged with regulating a designated government entity that receives a recommendation described in Subsection (2)(i)(iii) shall hold a public hearing on the proposed reforms:

(i) with a quorum of the legislative body present; and

(ii) within 90 days after the day on which the legislative body receives the recommendation.

(b) (i) The legislative body shall provide notice of the hearing described in Subsection (3)(a).

(ii) Notice of the public hearing and the recommendations to be discussed shall be posted on:

(A) the Utah Public Notice Website created in Section 63A-16-601 for 30 days before the day on which the legislative body will hold the public hearing; and

(B) the website of the designated government entity that received a recommendation, if the designated government entity has a website, for 30 days before the day on which the legislative body will hold the public hearing.

(iii) Each notice required under Subsection (3)(b)(i) shall:

(A) identify the recommendations to be discussed; and

(B) state the date, time, and location of the public hearing.

(c) During the hearing described in Subsection (3)(a), the legislative body shall:

(i) provide the public the opportunity to ask questions and obtain further information about the recommendations; and

(ii) provide any interested person an opportunity to address the legislative body with concerns about the recommendations.

(d) At the conclusion of the hearing, the legislative body shall determine whether the legislative body shall adopt reforms to address the recommendations and any concerns raised during the public hearing.

(4) (a) Except as provided in Subsection (4)(b), if the [~~government operations~~] chief privacy officer described in Section 67-1-17 is not conducting reviews of the privacy practices of state agencies, the state privacy officer may review the privacy practices of a state agency in accordance with the processes described in this section.

(b) Subsection (3) does not apply to a state agency.

(5) The state privacy officer shall:

(a) quarterly report, to the Personal Privacy Oversight Commission:

(i) recommendations for privacy practices for the commission to review; and

(ii) the information provided in Subsection (2)(i); and

(b) annually, on or before October 1, report to the Judiciary Interim Committee:

(i) the results of any reviews described in Subsection (2)(g), if any reviews have been completed;

(ii) reforms, to the extent that the state privacy officer is aware of any reforms, that the designated government entity made in response to any reviews described in Subsection (2)(g);

(iii) the information described in Subsection (2)(i); and

(iv) recommendations for legislation based on any results of a review described in Subsection (2)(g).

Section 17. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions an offender's conviction may be pardoned or commuted.

(b) The Board of Pardons and Parole shall determine by majority decision when and under what conditions an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

(i) be released upon parole;

(ii) have a fine or forfeiture remitted;

(iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

(iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

(v) have the offender's sentence terminated.

(c) (i) The board may sit together or in panels to conduct hearings.

(ii) The chair shall appoint members to the panels in any combination and in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board.

(iii) The chair may participate on any panel and when doing so is chair of the panel.

(iv) The chair of the board may designate the chair for any other panel.

(d) (i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

(A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

(B) release the offender on parole; or

(C) commute, pardon, or terminate an offender's sentence.

(ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

(e) A commutation or pardon may be granted only after a full hearing before the board.

(2) (a) In the case of any hearings, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d) (i) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section.

(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.

(3) (a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) the modification of an offender's payment schedule for restitution; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

(c) Pursuant to Subsection [~~63G-2-103(22)(b)(xi)~~] 63G-2-103(24)(b)(xi), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

(4) (a) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment.

(b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole.

(c) At the next session of the board, the board:

(i) shall continue or terminate the respite or reprieve; or

(ii) may commute the punishment or pardon the offense as provided.

(d) In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at the Legislature's next session.

(e) The Legislature shall pardon or commute the sentence or direct the sentence's execution.

(5) (a) In determining when, where, and under what conditions an offender serving a sentence may be paroled or pardoned, have a fine or forfeiture

remitted, have the offender's criminal accounts receivable remitted, or have the offender's sentence commuted or terminated, the board shall:

(i) consider whether the offender has made restitution ordered by the court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the offender's sentence;

(ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making determinations under this Subsection (5);

(iii) consider information provided by the Department of Corrections regarding an offender's individual case action plan; and

(iv) review an offender's status within 60 days after the day on which the board receives notice from the Department of Corrections that the offender has completed all of the offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.

(b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.

(7) For an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

Section 18. Repealer.

This bill repeals:

Section 63A-12-100, Title.

CHAPTER 174
H. B. 345
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

LOCAL DISTRICT PROPERTY TAX AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends and enacts provisions related to property tax increases and bond issuances of certain local districts.

Highlighted Provisions:

This bill:

- defines terms;
- requires a member of a board of trustees of certain local districts to report contemplated property tax increases and certain bond issuances; and
- allows a legislative body to express the legislative body's sentiment regarding the local district's contemplated property tax increase or bond issuance.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-1003, as last amended by Laws of Utah 2019, Chapter 255

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

Section 1. Section 17B-1-1003 is amended to read:

17B-1-1003. Trustee reporting requirement.

(1) As used in this section:

(a) "Appointed board of trustees" means a board of trustees of a local district that includes a member who is appointed to the board of trustees in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(5)(h), or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(b) (i) "Bond issuance" means an issuance of a general obligation bond without an approving election under Section 17B-1-1102.

(ii) "Bond issuance" does not include the issuance of a general obligation bond to refund a general obligation bond that was previously approved by an election.

[~~(b)~~] (c) "Legislative entity" means:

(i) the member's appointing authority, if the appointing authority is a legislative body; or

(ii) the member's nominating entity, if the appointing authority is not a legislative body.

[~~(c)~~] (d) (i) "Member" means an individual who is appointed to a board of trustees for a local district in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(5)(h), or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(ii) "Member" includes a member of the board of trustees who holds an elected position with a municipality, county, or another local district that is partially or completely included within the boundaries of the local district.

[~~(d)~~] (e) "Nominating entity" means the legislative body that submits nominees for appointment to the board of trustees to an appointing authority.

[~~(e)~~] (f) (i) "Property tax increase" means a property tax levy that exceeds the certified tax rate for the taxable year.

(ii) "Property tax increase" does not include a property tax levy for a general obligation bond authorized in accordance with an election under Section 17B-1-1102.

(2) (a) If a local district board of trustees adopts a tentative budget that includes a property tax increase or bond issuance, each member shall report to the member's legislative entity on the property tax increase or bond issuance.

(b) (i) The local district shall request that each of the legislative entities that appoint or nominate a member to the local district's board of trustees hear the report required by Subsection (2)(a) at a public meeting of each legislative entity.

(ii) The request to make a report may be made by:

(A) the member appointed or nominated by the legislative entity; or

(B) another member of the board of trustees.

(c) The member appointed or nominated by the legislative entity shall make the report required by Subsection (2)(a) at a public meeting that:

(i) complies with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) includes the report as a separate agenda item; and

(iii) is held within 40 days after the day on which the legislative entity receives a request to hear the report.

(d) (i) If the legislative entity does not have a scheduled meeting within 40 days after the day on which the legislative entity receives a request to hear the report required by Subsection (2)(a), the legislative entity shall schedule a meeting for that purpose.

(ii) If the legislative entity fails to hear the report at a public meeting that meets the criteria described in Subsection (2)(c), the trustee reporting requirements under this section shall be considered satisfied.

(3) (a) A report on a contemplated property tax increase or bond issuance at a legislative entity's public meeting under Subsection (2)(c) shall include:

(i) a statement that the local district intends to levy a property tax at a rate that exceeds the certified tax rate for the taxable year;

(ii) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate;

(iii) the approximate percentage increase in ad valorem tax revenue for the local district based on the proposed property tax increase; and

(iv) any other information requested by the legislative entity.

(b) A report on a bond issuance at a legislative entity's public meeting under Subsection (2)(c) shall include an explanation, as applicable, of:

(i) the property tax impact, if any, of the bond issuance;

(ii) the expected debt service related to the bond issuance;

(iii) the purpose, remaining principal balance, and maturity date of any outstanding bonds of the issuer;

(iv) the funds other than property taxes available to pay debt service related to the bond issuance;

(v) the schedule of proposed expenditures of bond proceeds;

(vi) property values;

(vii) any additional considerations that the appointed board of trustees determines may be useful to explain the impact to citizens resulting from the bond issuance; and

(viii) any other information requested by the legislative entity.

[~~(b)~~] (c) [~~The~~] At a meeting under Subsection (2)(c), the legislative entity shall:

(i) allow time during the meeting for comment from the legislative entity and members of the public on the property tax increase[~~.~~] or bond issuance; and

(ii) express the legislative entity's sentiment regarding the contemplated property tax increase.

(4) (a) If more than one member is appointed to the board of trustees by the same legislative entity, a majority of the members appointed or nominated by the legislative entity shall be present to provide the report required by Subsection (2) and described in Subsection (3).

(b) The chair of the board of trustees shall appoint another member of the board of trustees to provide the report described in Subsection (3) to the legislative entity if:

(i) the member appointed or nominated by the legislative entity is unable or unwilling to provide the report at a public meeting that meets the requirements of Subsection (3)(a); and

(ii) the absence of the member appointed or nominated by the legislative entity results in:

(A) no member who was appointed or nominated by the legislative entity being present to provide the report; or

(B) an inability to comply with Subsection (4)(a).

(5) A local district board of trustees may approve a property tax increase only after the conditions of this section have been satisfied or considered satisfied for each member of the board of trustees.

CHAPTER 175
H. B. 347
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

BALLOT DROP BOX AMENDMENTS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill increases the criminal penalty relating to taking, carrying away, concealing, removing, or destroying a ballot drop box or the contents of a ballot drop box.

Highlighted Provisions:

This bill:

- increases the criminal penalty relating to taking, carrying away, concealing, removing, or destroying a ballot drop box or the contents of a ballot drop box.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-603, as last amended by Laws of Utah 2022, Chapter 156

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

Section 1. Section 20A-1-603 is amended to read:

20A-1-603. Fraud, interference, disturbance -- Tampering with ballots or records -- Penalties.

(1) (a) An individual may not fraudulently vote on the individual's behalf or on behalf of another, by:

(i) voting more than once at any one election, regardless of whether one of the elections is in a state or territory of the United States outside of Utah;

(ii) knowingly handing in two or more ballots folded together;

(iii) changing any ballot after the ballot is cast or deposited in the ballot box, or ballot drop box, or mailed;

(iv) adding or attempting to add any ballot or vote to those legally polled at any election by fraudulently introducing the ballot or vote into the ballot box or vote tally, either before or after the ballots have been counted;

(v) adding to or mixing or attempting to add or mix, other ballots with the ballots lawfully polled while those ballots are being counted or canvassed, or at any other time; or

(vi) voting in a voting district or precinct when the individual knew or should have known that the individual was not eligible for voter registration in that district or precinct, unless the individual is legally entitled to vote the ballot under Section 20A-4-107 or another provision of this title.

(b) A person may not fraudulently interfere with an election by:

(i) willfully tampering with, detaining, mutilating, or destroying any election returns;

(ii) in any manner, interfering with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, so as to prevent the election or canvass from being fairly held or lawfully conducted;

(iii) engaging in riotous conduct at any election, or interfering in any manner with any election official in the discharge of the election official's duties;

(iv) inducing any election officer, or officer whose duty it is to ascertain, announce, or declare the result of any election or to give or make any certificate, document, or evidence in relation to any election, to violate or refuse to comply with the election officer's duty or any law regulating the election officer's duty;

(v) taking, carrying away, concealing, removing, or destroying any ballot, pollbook, or other thing from a polling place, or from the possession of the person authorized by law to have the custody of that thing;

(vi) taking, carrying away, concealing, removing, or destroying a ballot drop box or the contents of a ballot drop box; or

(vii) aiding, counseling, providing, procuring, advising, or assisting any person to do any of the acts described in this section.

(2) In addition to the penalties established in Subsections 20A-1-609(2) and (3)[~~,~~]:

(a) a person who commits an offense under Subsection (1)(b)(vi), or who aids, counsels, provides, procures, advises, or assists a person to commit an offense under Subsection (1)(b)(vi), is guilty of a third degree felony; and

(b) a person who commits an offense under Subsection (1), other than an offense described in Subsection (2)(a), is guilty of a class A misdemeanor.

(3) The lieutenant governor shall take, and store for at least 22 months, a static copy of the official register made at the following times:

(a) the voter registration deadline described in Subsection 20A-2-102.5(2)(a);

(b) the day of the election; and

(c) the last day of the canvass.

CHAPTER 176
H. B. 349
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

WATER REUSE PROJECTS AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses water reuse projects.

Highlighted Provisions:

This bill:

- defines terms;
- addresses approval of water reuse projects, including providing that the director of the Division of Water Quality approves;
- prohibits approval of certain water reuse projects impacting the Great Salt Lake;
- authorizes rulemaking;
- creates exceptions;
- addresses water replacement plans;
- provides for investigation of water reuse impacts as part of the integrated assessment of the Great Salt Lake; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-5-104, as last amended by Laws of Utah 2020, Chapter 256
19-5-106, as last amended by Laws of Utah 2012, Chapter 360
73-3c-102, as enacted by Laws of Utah 2006, Chapter 179
73-3c-301, as last amended by Laws of Utah 2008, Chapter 382
73-3c-302, as last amended by Laws of Utah 2008, Chapter 382
73-3c-304, as enacted by Laws of Utah 2006, Chapter 179
73-10g-402, as enacted by Laws of Utah 2022, Chapter 81

ENACTS:

73-3c-103, Utah Code Annotated 1953

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

Section 1. Section 19-5-104 is amended to read:

19-5-104. Powers and duties of board.

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

(a) taking into account Subsection (6):

(i) implement the awarding of construction loans to political subdivisions and municipal authorities under Section 11-8-2, including:

(A) requirements pertaining to applications for a loan;

(B) requirements for determination of an eligible project;

(C) requirements for determination of the costs upon which a loan is based, which costs may include engineering, financial, legal, and administrative expenses necessary for the construction, reconstruction, and improvement of a sewage treatment plant, including a major interceptor, collection system, or other facility appurtenant to the plant;

(D) a priority schedule for awarding loans, in which the board may consider, in addition to water pollution control needs, any financial needs relevant, including per capita cost, in making a determination of priority; and

(E) requirements for determination of the amount of the loan;

(ii) implement the awarding of loans for nonpoint source projects pursuant to Section 73-10c-4.5;

(iii) set effluent limitations and standards subject to Section 19-5-116;

(iv) implement or effectuate the powers and duties of the board; and

(v) protect the public health for the design, construction, operation, and maintenance of underground wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies;

(b) govern inspection, monitoring, recordkeeping, and reporting requirements for underground injections and require permits for underground injections, to protect drinking water sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil, recognizing that underground injection endangers drinking water sources if:

(i) injection may result in the presence of a contaminant in underground water that supplies or can reasonably be expected to supply a public water system, as defined in Section 19-4-102; and

(ii) the presence of the contaminant may:

(A) result in the public water system not complying with any national primary drinking water standards; or

(B) otherwise adversely affect the health of persons;

(c) govern sewage sludge management, including permitting, inspecting, monitoring, recordkeeping, and reporting requirements; and

(d) notwithstanding Section 19-4-112, govern design and construction of irrigation systems that:

(i) convey sewage treatment facility effluent of human origin in pipelines under pressure, unless

contained in surface pipes wholly on private property and for agricultural purposes; and

(ii) are constructed after May 4, 1998.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall adopt and enforce rules and establish fees to cover the costs of:

(i) managing the certification and testing program; and

(ii) testing for certification of operators of treatment works and sewerage systems operated by political subdivisions.

(b) In establishing certification rules under Subsection (2)(a), the board shall:

(i) base the requirements for certification on the size, treatment process type, and complexity of the treatment works and sewerage systems operated by political subdivisions;

(ii) allow operators until three years after the date of adoption of the rules to obtain initial certification;

(iii) allow a new operator one year from the date the operator is hired by a treatment plant or sewerage system or three years after the date of adoption of the rules, whichever occurs later, to obtain certification;

(iv) issue certification upon application and without testing, at a grade level comparable to the grade of current certification to operators who are currently certified under the voluntary certification plan for wastewater works operators as recognized by the board; and

(v) issue a certification upon application and without testing that is valid only at the treatment works or sewerage system where that operator is currently employed if the operator:

(A) is in charge of and responsible for the treatment works or sewerage system on March 16, 1991;

(B) has been employed at least 10 years in the operation of that treatment works or sewerage system before March 16, 1991; and

(C) demonstrates to the board the operator's capability to operate the treatment works or sewerage system at which the operator is currently employed by providing employment history and references as required by the board.

(3) The board shall:

(a) develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;

(b) adopt, modify, or repeal standards of quality of the waters of the state and classify those waters according to their reasonable uses in the interest of the public under conditions the board may prescribe for the prevention, control, and abatement of pollution;

(c) give reasonable consideration in the exercise of its powers and duties to the economic impact of water pollution control on industry and agriculture;

(d) meet the requirements of federal law related to water pollution;

(e) establish and conduct a continuing planning process for control of water pollution, including the specification and implementation of maximum daily loads of pollutants;

[~~(f) (i) approve, approve in part, approve with conditions, or deny, in writing, an application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and~~]

[~~(ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act;~~]

[~~(g)~~] (f) (i) review total daily maximum load reports and recommendations for water quality end points and implementation strategies developed by the division before submission of the report, recommendation, or implementation strategy to the EPA;

(ii) disapprove, approve, or approve with conditions the staff total daily maximum load recommendations; and

(iii) provide suggestions for further consideration to the Division of Water Quality in the event a total daily maximum load strategy is rejected; and

[~~(h)~~] (g) to ensure compliance with applicable statutes and regulations:

(i) review a settlement negotiated by the director in accordance with Subsection 19-5-106(2)(k) that requires a civil penalty of $25,000 or more; and

(ii) approve or disapprove the settlement described in Subsection [~~(3)(h)(i).~~] (3)(g)(i).

(4) The board may:

(a) order the director to issue, modify, or revoke an order:

(i) prohibiting or abating discharges;

(ii) (A) requiring the construction of new treatment works or any parts of the new treatment works;

(B) requiring the modification, extension, or alteration of existing treatment works as specified by board rule or any parts of existing treatment works; or

(C) the adoption of other remedial measures to prevent, control, or abate pollution;

(iii) setting standards of water quality, classifying waters or evidencing any other determination by the board under this chapter; or

(iv) requiring compliance with this chapter and with rules made under this chapter;

(b) advise, consult, and cooperate with another agency of the state, the federal government, another state, an interstate agency, an affected group, an affected political subdivision, or affected industry to further the purposes of this chapter; or

(c) delegate the authority to issue an operating permit to a local health department.

(5) In performing the duties listed in Subsections (1) through (4), the board shall give priority to pollution that results in a hazard to the public health.

(6) The board shall take into consideration the availability of federal grants:

(a) in determining eligible project costs; and

(b) in establishing priorities pursuant to Subsection (1)(a)(i).

(7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-5-106:

(a) a permit;

(b) a license;

(c) a registration;

(d) a certification; or

(e) another administrative authorization made by the director.

(8) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

Section 2. Section 19-5-106 is amended to read:

19-5-106. Director -- Appointment -- Duties.

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) The director shall:

(a) develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;

(b) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;

(c) develop programs for the management of sewage sludge;

(d) subject to the provisions of this chapter, enforce rules made by the board through the issuance of orders, which orders may include:

(i) prohibiting or abating discharges of wastes into the waters of the state;

(ii) requiring the construction of new control facilities or any parts of them or the modification, extension, or alteration of existing control facilities or any parts of them, or the adoption of other remedial measures to prevent, control, or abate water pollution; or

(iii) prohibiting any other violation of this chapter or rules made under this chapter;

(e) review plans, specifications, or other data relative to pollution control systems or any part of the systems provided for in this chapter;

(f) issue construction or operating permits for the installation or modification of treatment works or any parts of the treatment works;

(g) after public notice and opportunity for public hearing, issue, continue in effect, renew, revoke, modify, or deny discharge permits under reasonable conditions the board may prescribe to:

(i) control the management of sewage sludge; or

(ii) prevent or control the discharge of pollutants, including effluent limitations for the discharge of wastes into the waters of the state;

(h) meet the requirements of federal law related to water pollution;

(i) under the direction of the executive director, represent the state in all matters pertaining to water pollution, including interstate compacts and other similar agreements;

(j) collect and disseminate information relating to water pollution and the prevention, control, and abatement of water pollution; [~~and~~]

(k) subject to Subsection [~~19-5-104(3)(h),~~] 19-5-104(3)(g), settle or compromise any civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter[~~.~~]; and

(l) (i) approve, approve in part, approve with conditions, or deny, in writing, an application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and

(ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act.

(3) The director may:

(a) employ full-time employees as necessary to carry out the provisions of this chapter;

(b) subject to the provisions of this chapter, authorize any employee or representative of the department to enter, at reasonable times and upon reasonable notice, in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible water pollution;

(c) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution and causes of water pollution as necessary for the discharge of duties assigned under this chapter, including the establishment of inventories of pollution sources;

(d) collect and disseminate information relating to water pollution and the prevention, control, and abatement of water pollution;

(e) subject to the provisions of this chapter, exercise all incidental powers necessary to carry out the purposes of this chapter, including certification

to any state or federal authorities for tax purposes only if the construction, installation, or acquisition of any facility, land, building, machinery, equipment, or any part of them conforms with this chapter;

(f) cooperate with any person in studies and research regarding water pollution and its control, abatement, and prevention;

(g) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution and causes of water pollution; or

(h) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the chairman of the board.

Section 3. Section 73-3c-102 is amended to read:

73-3c-102. Definitions.

As used in this chapter:

(1) "Director" means the director of the Division of Water Quality appointed under Section 19-5-106.

(2) "Domestic wastewater" or "sewage" means:

(a) a combination of the liquid or water-carried wastes from:

(i) structures with installed plumbing facilities; and

(ii) industrial establishments; and

(b) any groundwater, surface water, and storm water that is present with the waste.

(3) "Industrial facility" means a factory, mill, plant, mine, refinery, warehouse, or building or collection of buildings, including the land on which the facility is located, and the machinery and equipment located at or within the facility used in connection with the operation of the facility in an industrial business.

[~~(2)~~] (4) "POTW" means a publicly owned treatment works as defined by Section 19-5-102.

[~~(3)~~] (5) "Public agency" means a public agency as defined by Section 11-13-103 that:

(a) owns or operates a POTW;

(b) collects and transports domestic wastewater;

(c) holds legal title to a water right;

(d) is delegated the right to the beneficial use or reuse of water by the legal title holder of the water right;

(e) is a water supplier; or

(f) sells wholesale or retail water.

[~~(4)~~] (6) "Return flow requirement" means return flow required under a water right.

[~~(5)~~] (7) (a) "Reuse authorization contract" means a contract or contracts among:

(i) a public agency proposing a water reuse project;

(ii) the owner or operator of a POTW that treats domestic wastewater proposed for use in a reuse project;

(iii) the owner of a domestic wastewater collection or transportation system if the reuse project will divert domestic wastewater directly from that entity's collection or transportation system;

(iv) the legal title holder of the water right designated for use in the reuse project, unless the legal title holder of the water right has delegated to another the right to the beneficial use or reuse of the water;

(v) each water supplier not holding legal title to the water right designated for use in the reuse project that sells or delivers water under the water right designated for use in the reuse project;

(vi) each entity that will engage in the wholesale or retail sale of water from the water reuse project; and

(vii) the retail water supplier retailing water that will be replaced by reuse water supplied under the proposed reuse project.

(b) A reuse authorization contract shall:

(i) provide that a water supplier that is a party to the agreement consents to the use of reuse water under each water right, in which the water supplier has an interest, that is identified for use in the water reuse project; and

(ii) provide that any proposed water reuse project based on the contract shall be consistent with the underlying water right.

[~~(6)~~] (8) "Reuse water" means domestic wastewater treated to a standard acceptable under rules made by the Water Quality Board under Section 19-5-104.

[~~(7)~~] (9) (a) "Water reuse project" or "project" means a project for the reuse of domestic wastewater that requires approval by the [~~Water Quality Board in accordance with Section 19-5-104~~] director under Section 19-5-106 and the state engineer under Section 73-3c-302.

(b) "Water reuse project" or "project" does not include water reused at or by an industrial facility for operating or processing purposes.

[~~(8)~~] (10) "Water right" means:

(a) a right to use water evidenced by any means identified in Section 73-1-10; or

(b) a right to use water under an approved application:

(i) to appropriate;

(ii) for a change of use; or

(iii) for the exchange of water.

[~~(9)~~] (11) "Water supplier" means an entity engaged in the delivery of water for municipal purposes.

Section 4. Section 73-3c-103 is enacted to read:

73-3c-103. Water reuse projects and the Great Salt Lake -- Exception.

(1) Except as provided in Subsection (3) and notwithstanding the other provisions of this chapter, the director and the state engineer may not approve a water reuse project if the water related to the water reuse project would have otherwise been discharged into a tributary of the Great Salt Lake.

(2) The state engineer may, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, define what is a tributary of the Great Salt Lake.

(3) This section does not apply to:

(a) a water right owned by the federal government;

(b) a water reuse project to supply water to the Great Salt Lake;

(c) a water reuse project approved subject to a water replacement plan; or

(d) water reuse project applications filed with the director and the state engineer before November 1, 2023, including any future renewals required under Section 19-5-108 for the water reuse project that are submitted after November 1, 2023.

Section 5. Section 73-3c-301 is amended to read:

73-3c-301. Application to the director.

(1) (a) A public agency proposing a water reuse project shall apply to the [~~Water Quality Board created by Section 19-1-106~~] director.

(b) Before applying for approval by the director of a water reuse project, the public agency shall obtain conditional approval of the water reuse project by the state engineer under Section 73-3c-302.

(2) The Water Quality Board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the consideration and approval by the director of water reuse applications and administration of water reuse construction and operating permits.

(3) Rules [~~created~~] made under Subsection (2) shall require that water reuse meet standards and requirements for water quality set by the Water Quality Board in accordance with Title 19, Chapter 5, Water Quality Act.

(4) The [~~Water Quality Board~~] director shall issue a written decision for each water reuse application.

(5) The director may approve a water reuse project only after the state engineer has conditionally approved the water reuse project under Section 73-3c-302.

Section 6. Section 73-3c-302 is amended to read:

73-3c-302. Application to the state engineer.

(1) (a) A public agency proposing a water reuse project shall apply to the state engineer.

(b) The state engineer's approval of a water reuse project application filed under this section is conditioned on the approval of the director under Section 73-2c-301.

(2) An application for water reuse under Subsection (1) shall be made upon forms furnished by the state engineer and shall include:

(a) the name of the applicant;

(b) a description of the underlying water right;

(c) an evaluation of the underlying water right's diversion, depletion, and return flow requirements;

(d) the estimated quantity of water to be reused;

(e) the location of the POTW;

(f) the place, purpose, and extent of the proposed water reuse;

(g) an evaluation of depletion from the hydrologic system caused by the water reuse; and

(h) any other information consistent with this chapter that is requested by the state engineer.

(3) An application under Subsection (1) shall include a copy of a reuse authorization contract for water reuse proposed by a public agency for any underlying water right not owned by the public agency.

(4) In considering an application for water reuse, the state engineer shall comply with:

(a) Section 73-3-6;

(b) Section 73-3-7;

(c) Section 73-3-10; and

(d) Section 73-3-14.

(5) In determining whether a proposed water reuse is consistent with the underlying water right, the state engineer shall conclude that a proposed water reuse is consistent with the underlying water right if:

(a) the use of the reuse water does not enlarge the underlying water right; and

(b) any return flow requirement of the underlying water right is satisfied.

(6) (a) The state engineer shall approve a water reuse application if the state engineer concludes that the proposed water reuse:

(i) is consistent with the underlying water right[~~.~~]; and

(ii) for an application in which the water would have otherwise been discharged into a tributary of the Great Salt Lake, includes an adequate replacement plan provided by the applicant.

(b) The state engineer may:

(i) deny an application [~~for water reuse~~] if the proposed water reuse is inconsistent with the underlying water right; or

(ii) approve the application in part or with conditions to assure consistency with the underlying water right.

(7) (a) For an application in which the water would have otherwise been discharged into a tributary of the Great Salt Lake, the applicant shall submit a water replacement plan that provides an equivalent amount of water to the Great Salt Lake.

(b) The state engineer may:

(i) approve the application in part or with conditions to assure equivalent replacement of water to the Great Salt Lake; or

(ii) deny an application if the replacement plan cannot assure equivalent replacement of water to the Great Salt Lake.

[~~(7)~~] (8) A public agency with an approved reuse application shall submit a report, as directed by the state engineer, concerning the ongoing water reuse operation.

[~~(8)~~] (9) The state engineer may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this chapter.

Section 7. Section 73-3c-304 is amended to read:

73-3c-304. Change in point of discharge.

(1) The point of discharge of water from a POTW may be changed if the [~~Water Quality Board~~] director determines that a change is necessary:

(a) for treatment purposes;

(b) to enhance environmental quality;

(c) to protect public health, safety, or welfare; or

(d) to comply with:

(i) rules created by the Water Quality Board in accordance with Section 19-5-104; or

(ii) the POTW's discharge permit.

(2) Before changing the point of discharge from a POTW under Subsection (1), the [~~Water Quality Board~~] director shall consult with the state engineer.

Section 8. Section 73-10g-402 is amended to read:

73-10g-402. Development of an integrated water assessment.

(1) The division shall develop and implement an integrated surface and ground water assessment for the Great Salt Lake watershed.

(2) The integrated water assessment may in relationship with the Great Salt Lake watershed:

(a) provide an assessment of the amounts and quality of available water resources;

(b) assess and forecast the quantity of water available for human, agricultural, economic development, and environmental or instream uses, and ecological needs, including:

(i) current and future water supply and demand and the factors that influence availability;

(ii) long-term trends in water availability and the causes of those trends; and

(iii) seasonal and decadal forecasts of availability;

(c) investigate the potential benefits of forest management and watershed restoration in:

(i) improving snowpack retention;

(ii) increasing soil moisture;

(iii) sustaining river flows in low flow seasons;

(iv) mitigating wildfire risk; and

(v) improving water quality;

(d) coordinate an effort to:

(i) quantify the amount of water and water quality needed to sustain high priority ecological sites in rivers, riparian, wetland, and lake systems; and

(ii) incorporate the water demand into the water supply and demand model;

(e) identify and evaluate best management practices that may be used to provide a reliable water supply that:

(i) meet water quality objectives;

(ii) meet agriculture water objectives;

(iii) accommodate anticipated growth and economic development; and

(iv) provide adequate flow to sustain the Great Salt Lake, the Great Salt Lake's wetlands, and other ecological functions in the Great Salt Lake's watershed; [~~and~~]

(f) investigate the potential impacts of water reuse projects on the Great Salt Lake; and

[~~(f)~~] (g) address other matters identified in the work plan.

(3) The integrated water assessment shall include a water budget for the Great Salt Lake and the Great Salt Lake's associated wetlands, including water flows needed to maintain different lake levels under different scenarios, taking into consideration water quality, ecological needs, economic benefits, and public health benefits of the Great Salt Lake.

(4) In developing and implementing the integrated water assessment, the division shall:

(a) consult and coordinate with other state, local, regional, and federal governmental entities, water users, and other stakeholders; and

(b) coordinate with, and where appropriate, consider or incorporate other planning efforts, assessments, studies, or reports relevant to the Great Salt Lake watershed.

CHAPTER 177
H. B. 352
Passed February 24, 2023
Approved March 14, 2023
Effective May 3, 2023

LAW ENFORCEMENT DATA AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:
This bill concerns law enforcement data collection including measuring and reporting recidivism.

Highlighted Provisions:
This bill:
- defines terms;
- amends certain recidivism reporting requirements;
- establishes certain recidivism reporting standards;
- requires a criminal information to include certain data when reasonably available; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
13-53-111, as enacted by Laws of Utah 2022, Chapter 187
62A-15-103, as last amended by Laws of Utah 2022, Chapters 187, 255 and 415
64-13-1, as last amended by Laws of Utah 2021, Chapters 85, 246 and 260
64-13-6, as last amended by Laws of Utah 2022, Chapter 187
64-13g-102, as enacted by Laws of Utah 2022, Chapter 393
77-2-2.2, as renumbered and amended by Laws of Utah 2021, Chapter 260

ENACTS:
63M-7-102, Utah Code Annotated 1953

REPEALS:
63M-7-101, as enacted by Laws of Utah 2008, Chapter 382

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

Section 1. Section 13-53-111 is amended to read:

13-53-111. Recidivism reporting requirements.

(1) [~~A~~] On or before August 31 of each year, a residential, vocational and life skills program shall collect and report data on recidivism of participants[~~, including data on:~~] to the State Commission on Criminal and Juvenile Justice.

(2) The report described in Subsection (1) shall include the metrics and requirements described in Section 63M-7-102.

(3) The State Commission on Criminal and Juvenile Justice shall include the information provided under this section in the report described in Subsection 63M-7-204(1)(x).

[~~(a) participants who participate in the residential, vocational and life skills program while under the supervision of a criminal court or the Board of Pardons and Parole and are convicted of another offense while participating in the program or within two years after the day on which the program ends; and~~]

[~~(b) the type of services provided to, and employment of, the participants described in Subsection (1)(a).~~]

[~~(2) A residential, vocational and life skills program shall annually, on or before August 31, provide the data described in Subsection (1) to the State Commission on Criminal and Juvenile Justice, to be included in the report described in Subsection 63M-7-204(1)(x).~~]

Section 2. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) (a) The division shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance abuse, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse

authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Licensure of Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism[~~, including data on:~~] in accordance with the metrics and requirements described in Section 63M-7-102;

[~~(i) individuals who participate in a mental health or substance use treatment program while incarcerated and are convicted of another offense within two years after release from incarceration;~~]

[~~(ii) individuals who are ordered by a criminal court or the Board of Pardons and Parole to participate in a mental health or substance use treatment program and are convicted of another offense while participating in the treatment program or within two years after the day on which the treatment program ends;~~]

[~~(iii) the type of treatment provided to, and employment of, the individuals described in Subsections (2)(l)(i) and (ii); and~~]

[~~(iv) cost savings associated with recidivism reduction and the reduction in the number of inmates in the state;~~]

(m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

(p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance abuse treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 3. Section 63M-7-102 is enacted to read:

63M-7-102. Recidivism metrics -- Reporting.

(1) For purposes of this chapter:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Desistance" means an individual's abstinence from further criminal activity after a previous criminal conviction.

(c) "Intervention" means a program, sanction, supervision, or event that may impact recidivism.

(d) "Recidivism" means a return to criminal activity after a previous criminal conviction.

(e) "Recidivism standard metric" means the number of individuals who are returned to prison for a new conviction within the three years after the day on which the individuals were released from prison.

(2) (a) The commission, the Department of Corrections, and the Board of Pardons and Parole, when reporting data on statewide recidivism, shall include data reflecting the recidivism standard metric.

(b) (i) On or before August 1, 2024, the commission shall reevaluate the recidivism standard metric to determine whether new data streams allow for a broader definition, which may include criminal convictions that do not include prison time.

(ii) On or before November 1, 2024, the commission shall report to the Law Enforcement and Criminal Justice Interim Committee:

(A) the result of the reevaluation described in Subsection (2)(b)(i); and

(B) other recommendations regarding standardized recidivism metrics.

(3) A report on statewide criminal recidivism may also include other information reflecting available recidivism, intervention, or desistance data.

(4) A criminal justice institution, agency, or entity required to report adult recidivism data to the commission:

(a) shall include:

(i) a clear description of the eligible individuals, including:

(A) the criminal population being evaluated for recidivism; and

(B) the interventions that are being evaluated;

(ii) a clear description of the beginning and end of the evaluation period; and

(iii) a clear description of the events that are considered as a recidivism-triggering event; and

(b) may include supplementary data including:

(i) the length of time that elapsed before a recidivism-triggering event described in Subsection (4)(a)(iii) occurred;

(ii) the severity of a recidivism-triggering event described in Subsection (4)(a)(iii);

(iii) measures of personal well-being, education, employment, housing, health, family or social support, civic or community engagement, or legal involvement; or

(iv) other desistance metrics that may capture an individual's behavior following the individual's release from an intervention.

(5) Unless otherwise specified in statute:

(a) the evaluation period described in Subsection (4)(a)(ii) is three years; and

(b) a recidivism-triggering event under Subsection (4)(a)(iii) shall include:

(i) an arrest;

(ii) an admission to prison;

(iii) a criminal charge; or

(iv) a criminal conviction.

Section 4. Section 64-13-1 is amended to read:

64-13-1. Definitions.

As used in this chapter:

(1) "Behavioral health transition facility" means a nonsecure correctional facility operated by the department for the purpose of providing a therapeutic environment for offenders receiving mental health services.

(2) "Case action plan" means a document developed by the Department of Corrections that identifies:

(a) the program priorities for the treatment of the offender, including the criminal risk factors as determined by risk, needs, and responsivity assessments conducted by the department; and

(b) clearly defined completion requirements.

(3) "Community correctional center" means a nonsecure correctional facility operated by the department, but does not include a behavioral health transition facility for the purposes of Section 64-13f-103.

(4) "Correctional facility" means any facility operated to house offenders in a secure or nonsecure setting:

(a) by the department; or

(b) under a contract with the department.

(5) "Criminal risk factors" means an individual's characteristics and behaviors that:

(a) affect the individual's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in a reduced risk of criminal behavior.

(6) "Department" means the Department of Corrections.

(7) "Direct supervision" means a housing and supervision system that is designed to meet the goals described in Subsection 64-13-14(5) and has the elements described in Subsection 64-13-14(6).

(8) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in any correctional facility, or any situation that presents immediate danger to the safety, security, and control of the department.

(9) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(10) "Evidence-informed" means a program or practice that is based on research and the experience and expertise of the department.

(11) "Executive director" means the executive director of the Department of Corrections.

(12) "Inmate" means an individual who is:

(a) committed to the custody of the department; and

(b) housed at a correctional facility or at a county jail at the request of the department.

(13) "Offender" means an individual who has been convicted of a crime for which the individual may be committed to the custody of the department and is at least one of the following:

(a) committed to the custody of the department;

(b) on probation; or

(c) on parole.

(14) "Recidivism" means a return to criminal activity after a previous criminal conviction.

[~~(14)~~] (15) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(15)~~] (16) "Risk and needs assessment" means an actuarial tool validated on criminal offenders that determines:

(a) an individual's risk of reoffending; and

(b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

[~~(16)~~] (17) "Secure correctional facility" means any prison, penitentiary, or other institution operated by the department or under contract for the confinement of offenders, where force may be used to restrain an offender if the offender attempts to leave the institution without authorization.

Section 5. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i) (A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change; [~~and~~]

(n) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department[~~.~~]; and

(o) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102.

(2) The department may in the course of supervising probationers and parolees:

(a) respond in accordance with the graduated and evidence-based processes established by the Utah Sentencing Commission under Subsection 63M-7-404(6), to an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5) (a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time.

(6) (a) As used in this Subsection (6):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (6)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

Section 6. Section 64-13g-102 is amended to read:

64-13g-102. Adult Probation and Parole Employment Incentive Program.

(1) There is created the Adult Probation and Parole Employment Incentive Program.

(2) The department and the office shall implement the program in accordance with the requirements of this chapter.

(3) Beginning July 2026, and each July after 2026, the department shall calculate and report to the office, for the preceding fiscal year, for each region and statewide:

(a) the parole employment rate and the average length of employment of individuals on parole;

(b) the probation employment rate and average length of employment of individuals on felony probation;

(c) [~~the percentage of individuals on parole or felony probation who are convicted of a crime committed on or after the day on which the individuals began parole or felony probation~~] the recidivism percentage, using applicable recidivism metrics described in Subsections 63M-7-102(2) and (4);

(d) the number and percentage of individuals who successfully complete parole or felony probation;

(e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage described in Subsection (3)(c) relates, the estimated costs of incarceration savings to the state, based on the marginal cost of incarceration;

(f) the number of individuals who successfully complete parole and, during the entire six months before the day on which the individuals' parole ends, held eligible employment; and

(g) the number of individuals who successfully complete felony probation and, during the entire six months before the day on which the individuals' parole ended, held eligible employment.

(4) In addition to the information described in Subsection (3), the department shall report, for each region, the number and types of parole or probation programs that were created, replaced, or discontinued during the preceding fiscal year.

(5) After receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region:

(a) add the region's baseline parole employment rate and the region's baseline probation employment rate;

(b) add the region's parole employment rate and the region's probation employment rate;

(c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection (5)(b); and

(d) (i) if the rate difference described in Subsection (5)(c) is zero or less than zero, assign an employment incentive payment of zero to the region; or

(ii) except as provided in Subsection (7), if the rate difference described in Subsection (5)(c) is greater than zero, assign an employment incentive payment to the region by:

(A) multiplying the rate difference by the average daily population for that region; and

(B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by $2,500.

(6) In addition to the employment incentive payment described in Subsection (5), after receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region, multiply the sum of the numbers described in Subsections (3)(f) and (g) for the region by $2,500 to determine the end-of-supervision employment incentive payment for the region.

(7) The employment incentive payment, or end-of-supervision employment supervision payment, for a region is zero if the recidivism percentage for the region, described in Subsection (3)(c), represents an increase in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage for the region, described in Subsection (3)(c), relates.

(8) Upon determining an employment incentive payment for a region in accordance with Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the restricted account, of the incentive payment as follows:

(a) 15% of the payment may be used by the department for expenses related to administering the program; and

(b) 85% of the payment shall be used by the region to improve and expand supervision and rehabilitative services to individuals on parole or adult probation, including by:

(i) implementing and expanding evidence-based practices for risk and needs assessments for individuals;

(ii) implementing and expanding intermediate sanctions, including mandatory community service, home detention, day reporting, restorative justice programs, and furlough programs;

(iii) expanding the availability of evidence-based practices for rehabilitation programs, including drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs, and job training and other employment services;

(iv) hiring additional officers, contractors, or other personnel to implement evidence-based practices for rehabilitative and vocational programing;

(v) purchasing and adopting new technologies or equipment that are relevant to, and enhance, supervision, rehabilitation, or vocational training; or

(vi) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

(9) (a) The report described in Subsections (3) and (4) is a public record.

(b) The department shall maintain a complete and accurate accounting of the payment and use of funds under this section.

(c) If the money in the restricted account is insufficient to make the full employment incentive payments or the full end-of-supervision employment incentive payments, the office shall authorize the payments on a prorated basis.

Section 7. Section 77-2-2.2 is amended to read:

77-2-2.2. Signing and filing of information.

(1) The prosecuting attorney shall sign all informations.

(2) The prosecuting attorney may:

(a) sign the information in the presence of a magistrate; or

(b) present and file the information in the office of the clerk where the prosecution is commenced upon the signature of the prosecuting attorney.

(3) When reasonably available, the prosecuting attorney shall ensure that the information includes:

(a) the defendant's state identification number issued by the Bureau of Criminal Identification;

(b) the citation number associated with the case; and

(c) the offense tracking number associated with the case.

Section 8. Repealer.

This bill repeals:

Section 63M-7-101, Title.

CHAPTER 178
H. B. 358
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

COUNTY AUDITOR AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions relating to a county auditor.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies and modifies the duties of a county auditor;
- establishes that a county auditor in a county of the first class shall conduct services in accordance with generally accepted government auditing standards;
- establishes the title of county controller;
- clarifies and modifies a county auditor's duties and authority regarding a performance audit; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-19a-102, as last amended by Laws of Utah 2022, Chapter 288
17-19a-202, as enacted by Laws of Utah 2012, Chapter 17
17-19a-206, as enacted by Laws of Utah 2012, Chapter 17
17-19a-208, as enacted by Laws of Utah 2012, Chapter 17
17-19a-401, as enacted by Laws of Utah 2012, Chapter 17

REPEALS:

17-19a-101, as last amended by Laws of Utah 2022, Chapter 288

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

Section 1. Section 17-19a-102 is amended to read:

17-19a-102. Definitions.

As used in this chapter:

(1) "Account" or "accounting" means:

(a) the systematic recording, classification, or summarizing of a financial transaction or event; and

(b) the interpretation or presentation of the result of an action described in Subsection (1)(a).

(2) (a) "Accounting services" means the creation, modification, or deletion of transactions and records in a financial accounting system, including the preparation of a county's annual financial report.

(b) "Accounting services" does not include the creation of a purchase order.

(3) "Audit" or "auditing" means an examination that is a formal analysis of a county account or county financial record:

(a) to verify accuracy, completeness, or compliance with an internal control;

(b) to give a fair presentation of a county's financial status; and

(c) that conforms to the uniform classification of accounts established by the state auditor.

(4) "Book" means a financial record of the county, regardless of a record's format.

(5) (a) "Budget" or "budgeting" means the preparation or presentation of a proposed or tentative budget as provided in Chapter 36, Uniform Fiscal Procedures Act for Counties.

(b) "Budget" or "budgeting" includes:

(i) a revenue projection;

(ii) a budget request compilation; or

(iii) the performance of an activity described in Subsection (5)(b)(i) or (ii).

(6) (a) "Claim" means under the color of law:

(i) a demand presented for money or damages; or

(ii) a cause of action presented for money or damages.

(b) "Claim" does not mean a routine, uncontested, or regular payment, including a bill, purchase, or payroll.

(7) (a) "County auditor" means the county officer elected as the county auditor under Section 17-53-101.

(b) "County auditor" includes a person given the title of county controller under Subsection 17-19a-202(6).

(8) "County executive" means the elected chief executive officer of a county.

[~~(7)~~] (9) "Performance audit" means [~~a review and audit as described in Subsection 17-19a-206(3) of a county program, county operation, county management system, or county agency to:~~] an assessment of whether a county office, officer, department, division, court, or entity, or any related county program is:

(a) managing public resources and exercising authority in compliance with law and policy;

(b) achieving objectives and desired outcomes; and

(c) providing services effectively, efficiently, economically, ethically, and equitably.

[~~(a) review procedures, activities, or policies; and~~]

[~~(b) determine whether the county is achieving the best levels of economy, efficiency, effectiveness, and compliance.~~]

Section 2. Section 17-19a-202 is amended to read:

17-19a-202. Duties and services.

A county auditor shall perform:

(1) in accordance with Section 17-19a-205, an accounting duty or service described in this chapter or otherwise required by law;

(2) an auditing duty or service described in this chapter or otherwise required by law; and

(3) other duties as may be required by law.

(4) A county auditor may conduct, in relation to any county office, officer, department, division, court, or entity, as the county auditor deems necessary, the following duties and services:

(a) financial audits;

(b) attestation-level examinations, reviews, and agreed-upon procedures engagements or reviews of financial statements;

(c) subject to Section 17-9a-206, performance audits;

(d) subject to Section 17-19a-205, accounting services; and

(e) other duties as required by law.

(5) In a county of the first class, the county auditor shall conduct the services under Subsections (4)(a) through (c) in accordance with generally accepted government auditing standards.

(6) A county legislative body may change the title of county auditor to county controller for a county auditor's office that predominantly performs accounting services.

(7) The county auditor may not conduct the services described in Subsections (4)(a) through (c) with respect to the auditor's own office, accounts, or financial records.

(8) Nothing in this chapter limits a county legislative body's authority under Section 17-53-212 or a county executive's authority under Section 17-53-303.

Section 3. Section 17-19a-206 is amended to read:

17-19a-206. Performance audit services.

[~~(1) (a) A county auditor shall, under the direction and supervision of the county legislative body or county executive and subject to Subsections (1)(b) and (2), provide performance audit services for a county office, department, division, or other county entity.~~]

[~~(b) A county auditor may not conduct a performance audit of the auditor's own office.~~]

[~~(2) The county legislative body or county executive shall establish the goals and nature of a performance audit and related services.~~]

(1) In a county of the first class, the county auditor shall conduct a performance audit:

(a) as the county auditor deems appropriate, taking into account:

(i) the standards of the profession;

(ii) the county auditor's professional judgment; and

(iii) the county auditor's assessment of risk and materiality; or

(b) as requested and engaged by the county legislative body or county executive, in accordance with the following:

(i) the county legislative body or county executive shall establish the goals and nature of the performance audit;

(ii) the county auditor shall conduct the audit in a manner consistent with the county auditor's professional judgment and statutory duties; and

(iii) the county legislative body or county executive and the county auditor shall agree upon the prioritization and timing of the performance audit, with terms that are consistent with the county auditor's statutory duties and available resources.

(2) (a) In a county of the second through sixth class, the county auditor shall conduct a performance audit under the direction and supervision of the county legislative body or county executive.

(b) The county legislative body or county executive shall establish the goals and nature of a performance audit conducted under Subsection (2)(a).

(3) A performance audit conducted [~~in accordance with~~] under this section may include [~~a review and audit~~] an assessment of the following:

(a) the honesty and integrity of financial and other affairs;

(b) the accuracy and reliability of financial and management reports;

(c) the adequacy of financial controls to safeguard public funds;

(d) the management and staff adherence to statute, ordinance, policies, and legislative intent;

(e) the economy, efficiency, and effectiveness of operational performance;

(f) the accomplishment of intended objectives; and

(g) whether management, financial, and information systems are adequate and effective.

Section 4. Section 17-19a-208 is amended to read:

17-19a-208. Reporting -- State treasurer -- County legislative body.

(1) On or before the last day of each month, the [~~county auditor~~] county finance officer shall submit a report to the state treasurer regarding the collection, care, and disbursement of state money by the county during the preceding month.

(2) The county auditor and the county treasurer shall, as required by the county legislative body, make a joint report to the county executive and the county legislative body accounting for the financial condition of the county.

(3) If a county auditor determines that a county office, officer, department, division, court, or entity has not implemented a county auditor's prior recommendation in connection with a previous financial audit, performance audit, examination, or review, the county auditor shall notify the county legislative body that the entity has not implemented the recommendation.

Section 5. Section 17-19a-401 is amended to read:

17-19a-401. County auditor investigative powers -- Report of findings.

(1) (a) A county auditor:

(i) may conduct an investigation of an issue or action associated with or related to the auditor's statutory duties, including investigating a book or account of a county [~~officer, county office, or other county entity~~] office, officer, department, division, court, or entity; and

(ii) may not conduct an investigation of an issue or action that is not associated with or related to the auditor's statutory duties.

(b) A county officer, employee, or other county administrative entity shall grant the county auditor complete and free access to a book requested by the county auditor in accordance with Subsection (1)(a)(i).

(c) A county auditor, with the assistance of the county or district attorney, may:

(i) administer an oath or affirmation; or

(ii) issue an administrative subpoena for a witness or document necessary to the performance of the auditor's statutory duties.

(2) If the county auditor, after a complete investigation, finds that a book or account of a county [~~officer, office, or other county administrative entity~~] office, officer, department, division, court, or entity is not kept in accordance to law, or that an [~~officer, office, or other county administrative entity~~] office, officer, department, division, court, or entity has made an incorrect or improper financial report, the county auditor shall prepare a report of the auditor's findings and submit a copy of the report to the county executive.

(3) If a county auditor, after a complete investigation, finds that a justice court judge has not kept a book or account according to law, or that the justice court judge has made an incorrect or improper financial report, the auditor shall prepare a report of the auditor's findings and submit a copy of the report to the state court administrator, the county executive, and the county legislative body.

Section 6. Repealer.

This bill repeals:

Section 17-19a-101, Title and scope.

CHAPTER 179
H. B. 370
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

UTILITY INFRASTRUCTURE AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses the destruction of or tampering with a critical infrastructure facility.

Highlighted Provisions:

This bill:

- defines terms;
- removes interruption or impairment of certain critical infrastructure from the crime of criminal mischief;
- makes it a criminal offense to destroy, damage, or tamper with a critical infrastructure facility;
- makes it a criminal offense to impersonate a critical infrastructure facility officer or employee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-27, as last amended by Laws of Utah 2015, Chapters 245, 249
76-6-106, as last amended by Laws of Utah 2012, Chapter 135
76-10-204, as last amended by Laws of Utah 2002, Chapter 166

ENACTS:

76-6-106.3, Utah Code Annotated 1953
76-8-515, Utah Code Annotated 1953

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

Section 1. Section 73-2-27 is amended to read:

73-2-27. Criminal penalties.

(1) This section applies to offenses committed under:

(a) Section 73-1-14;

(b) Section 73-1-15;

(c) Section 73-2-20;

(d) Section 73-3-3;

(e) Section 73-3-26;

(f) Section 73-3-29;

(g) Section 73-5-9;

(h) Section 76-10-201;

(i) Section 76-10-202; and

(j) Section 76-10-203.

(2) Under circumstances not amounting to an offense with a greater penalty under Subsection 76-6-106(2)(b)(ii) [~~or~~], Section 76-6-106.3, or Section 76-6-404, violation of a provision listed in Subsection (1) is punishable:

(a) as a felony of the third degree if:

(i) the value of the water diverted or property damaged or taken is $2,500 or greater; and

(ii) the person violating the provision has previously been convicted of violating the same provision;

(b) as a class A misdemeanor if:

(i) the value of the water diverted or property damaged or taken is $2,500 or greater; or

(ii) the person violating the provision has previously been convicted of violating the same provision; or

(c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.

Section 2. Section 76-6-106 is amended to read:

76-6-106. Criminal mischief.

(1) (a) As used in this section, "critical infrastructure" includes:

[~~(a) information and communication systems;~~]

[~~(b)~~] (i) financial and banking systems;

[~~(c)~~] (ii) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed guideways, or other transportation systems intended for the transportation of persons or property;

[~~(d) any public utility service, including the power, energy, and water supply systems;~~]

[~~(e) sewage and water treatment systems;~~]

[~~(f)~~] (iii) health care facilities as listed in Section 26-21-2, and emergency fire, medical, and law enforcement response systems;

[~~(g)~~] (iv) public health facilities and systems;

[~~(h)~~] (v) food distribution systems; and

[~~(i)~~] (vi) other government operations and services.

(b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) A person commits criminal mischief if the person:

(a) under circumstances not amounting to arson, damages or destroys property with the intention of defrauding an insurer;

(b) intentionally and unlawfully tampers with the property of another and as a result:

(i) recklessly endangers:

(A) human life; or

(B) human health or safety; or

(ii) recklessly causes or threatens a substantial interruption or impairment of any critical infrastructure;

(c) intentionally damages, defaces, or destroys the property of another; or

(d) recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing.

(3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.

(ii) A violation of Subsection (2)(b)(i)(A) is a class A misdemeanor.

(iii) A violation of Subsection (2)(b)(i)(B) is a class B misdemeanor.

(iv) A violation of Subsection (2)(b)(ii) is a second degree felony.

(b) Any other violation of this section is a:

(i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $5,000 in value;

(ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $1,500 but is less than $5,000 in value;

(iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $500 but is less than $1,500 in value; and

(iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than $500 in value.

(4) In determining the value of damages under this section, or for computer crimes under Section 76-6-703, the value of any item, computer, computer network, computer property, computer services, software, or data includes the measurable value of the loss of use of the items and the measurable cost to replace or restore the items.

(5) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred in responding to a violation of Subsection (2)(b)(ii), unless the court states on the record the reasons why the reimbursement would be inappropriate.

Section 3. Section 76-6-106.3 is enacted to read:

76-6-106.3. Destruction or tampering with a critical infrastructure facility -- Penalty.

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

(i) "Critical infrastructure facility" means:

(A) a petroleum or alumina refinery;

(B) critical electric infrastructure, as defined in 18 C.F.R. Sec. 388.113, including an electrical power generating facility, substation, switching station, electrical control center, or electric power lines and associated equipment infrastructure;

(C) a chemical, polymer, or rubber manufacturing facility;

(D) a water facility as defined in Section 73-1-14, water intake structure, water storage facility, water treatment facility, wastewater treatment plant, wastewater pumping facility, or pump station;

(E) a natural gas compressor station;

(F) a liquid natural gas terminal or storage facility;

(G) a telecommunications switching, routing, or regeneration office or facility;

(H) wireless telecommunications infrastructure, including cell towers;

(I) telecommunications equipment, facilities, or infrastructure used for the transmission or distribution of a communications service;

(J) a port, railroad switching yard, railroad tracks, trucking terminal, or other freight transportation facility;

(K) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;

(L) a transmission facility used by a federally licensed radio or television station;

(M) a steelmaking facility that uses an electric arc furnace to make steel;

(N) a facility identified and regulated by the Chemical Facility Anti-Terrorism Standards program under 6 U.S.C. Sec. 622;

(O) a natural gas distribution utility facility, including natural gas distribution and transmission mains and services, pipeline interconnections, a city gate or town border station, metering station, meters, aboveground piping and facilities, a regulator station, and a natural gas storage facility;

(P) a crude oil or refined products production, storage, and distribution facility, including a wellhead and associated production and collection infrastructure, valve sites, pipeline interconnection, pump station, metering station, below or aboveground pipeline or piping, and truck loading or offloading facility;

(Q) a grain mill or processing facility;

(R) a generation, transmission, or distribution system of broadband Internet access; or

(S) an aboveground portion of an oil, gas, hazardous liquid or chemical production facility including the wellhead and associated production and collection infrastructure, pipeline, tank, railroad facility, or other storage facility that is enclosed by a physical barrier or is marked with signs prohibiting trespassing if the enclosures or signs are designed to exclude intruders.

(ii) "Critical infrastructure facility" includes a facility described in Subsection (1)(a)(i) that is:

(A) under construction; or

(B) operational.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor is guilty of destruction or tampering with a critical infrastructure facility if the actor, by physical, cyber, or other means, causes widespread injury or damage to persons or property by:

(a) destroying or substantially damaging:

(i) a critical infrastructure facility; or

(ii) a critical infrastructure facility's equipment; or

(b) substantially tampering with, inhibiting, or impeding the operation of a critical infrastructure facility.

(3) (a) A violation of Subsection (2) is a first degree felony if done intentionally or knowingly.

(b) A violation of Subsection (2) is a second degree felony if done recklessly.

Section 4. Section 76-8-515 is enacted to read:

76-8-515. Impersonation of a utility officer or employee.

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

(i) "Critical infrastructure facility" means the same as that term is defined in Section 76-6-106.3.

(ii) "Sabotage" means the same as that term is defined in Section 76-8-901.

(iii) "Terrorism" means the same as that term is defined in Section 53-2a-102.

(iv) "Utility" means a private or governmental entity operating a critical infrastructure facility.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits impersonation of a utility officer or employee if the actor, without authority from a utility:

(a) intends to lead an individual to believe that the actor is acting on behalf of the utility in an official capacity; and

(b) attempts to act on behalf of the utility.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor, while taking the action described in Subsection (2), intends to commit an act of terrorism or sabotage.

Section 5. Section 76-10-204 is amended to read:

76-10-204. Damaging bridge, dam, canal, or other water-related structure.

(1) A person is guilty of a third degree felony who intentionally, knowingly, or recklessly commits an offense under Subsection (2) that does not amount to a violation of Subsection 76-6-106(2)(b)(ii) or Section 76-6-106.3.

(2) Offenses referred to in Subsection (1) are when a person:

(a) cuts, breaks, damages, or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, to drain or reclaim any swamp and overflowed or marsh land, to conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town;

(b) makes or causes to be made any aperture in any dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure with intent to injure or destroy it; or

(c) draws up, cuts, or injures any piles fixed in the ground and used for securing any lake or river bank or walls or any dock, quay, jetty, or lock.

CHAPTER 180
H. B. 371
Passed February 27, 2023
Approved March 14, 2023
Effective May 3, 2023

WORKING FARM AND RANCH PROTECTION FUND

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to the management, regulation, conservation, and use of natural resources.

Highlighted Provisions:

This bill:

- defines terms;
- renames the LeRay McAllister Critical Land Conservation Program;
- establishes the LeRay McAllister Working Farm and Ranch Fund;
- addresses county use of rollback taxes; and
- addresses county use of rollback tax funds.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-46-102, as renumbered and amended by Laws of Utah 2022, Chapter 68
4-46-202, as renumbered and amended by Laws of Utah 2022, Chapter 68
4-46-301, as renumbered and amended by Laws of Utah 2022, Chapter 68
4-46-302, as renumbered and amended by Laws of Utah 2022, Chapter 68
4-46-303, as renumbered and amended by Laws of Utah 2022, Chapter 68
39A-8-104, as renumbered and amended by Laws of Utah 2022, Chapter 373
59-2-506, as last amended by Laws of Utah 2017, Chapter 319
59-2-511, as last amended by Laws of Utah 2007, Chapter 329
59-2-1705, as last amended by Laws of Utah 2017, Chapter 319
59-2-1710, as enacted by Laws of Utah 2012, Chapter 197
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154

ENACTS:

17-41-601, Utah Code Annotated 1953
17-41-602, Utah Code Annotated 1953

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

Section 1. Section 4-46-102 is amended to read:

4-46-102. Definitions.

As used in this chapter:

(1) "Agricultural land" [~~has the same meaning as~~] means "land in agricultural use," [~~under~~] as defined in Section 59-2-502.

(2) "Board" means the Land Conservation Board established in Section 4-46-201.

(3) "Conservation commission" means the Conservation Commission created in Section 4-18-104.

(4) "Conservation district" means a limited purpose local government entity created under Title 17D, Chapter 3, Conservation District Act.

(5) "Director" means the director of the Division of Conservation.

(6) "Division" means the Division of Conservation created in Section 4-46-401.

(7) "Fund" means the LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

[~~(7)~~] (8) "Land use authority" means:

(a) a land use authority, as defined in Section 10-9a-103, of a municipality; or

(b) a land use authority, as defined in Section 17-27a-103, of a county.

[~~(8)~~] (9) "Local entity" means a county, city, or town.

[~~(9)~~] (10) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in, or restoration of the land to, a predominantly natural, open, and undeveloped condition.

[~~(b) (i) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.~~]

[~~(ii)~~] (b) [~~The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of~~] "Open land" includes land described in Subsection (10)(a) that contains facilities, including trails, waterways, and grassy areas, that:

[~~(A)~~] (i) enhance the natural, scenic, or aesthetic qualities of the land; or

[~~(B)~~] (ii) facilitate the public's access to or use of the land for the enjoyment of the land's natural,

scenic, or aesthetic qualities and for compatible recreational activities.

(c) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activities.

[~~(10) "Program" means the LeRay McAllister Critical Land Conservation Program established in Section 4-46-301.~~]

(11) (a) "State conservation efforts" includes:

(i) efforts to optimize and preserve the uses of land for the benefit of the state's agricultural industry and natural resources; and

(ii) conservation of working landscapes that if conserved, preserves the state's agricultural industry and natural resources, such as working agricultural land.

(b) "State conservation efforts" does not include the purpose of opening private property to public access without the consent of the owner of the private property.

(12) (a) "Working agricultural land" means agricultural land for which an owner or producer engages in the activity of producing for commercial purposes crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products and the facilities, equipment, and property used to facilitate the activity.

(b) "Working agricultural land" includes an agricultural protection area established under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas.

Section 2. Section 4-46-202 is amended to read:

4-46-202. Board duties and powers -- No regulatory authority -- Criteria.

(1) The board shall:

(a) administer the [~~program~~] fund as provided in this chapter; and

(b) fulfill other responsibilities imposed on the board by the Legislature.

(2) The board may not exercise any regulatory authority.

(3) In carrying out the board's powers and duties under this chapter, the board shall adopt ranking criteria that is substantially similar to the ranking criteria used by the Agriculture Conservation Easement Program and Agriculture Land Easement as determined by the Natural Resources Conservation Service under the United States Department of Agriculture.

Section 3. Section 4-46-301 is amended to read:

Part 3. LeRay McAllister Working Farm and Ranch Fund

4-46-301. LeRay McAllister Working Farm and Ranch Fund.

(1) There is created a [~~program~~] restricted account within the General Fund entitled the "[~~LeRay McAllister Critical Land Conservation Program~~] LeRay McAllister Working Farm and Ranch Fund."

(2) [~~Funding for the program shall be a line item in the budget of the board. The line item shall be nonlapsing.~~] The restricted account shall consist of:

(a) appropriations by the Legislature;

(b) grants from federal or private sources; and

(c) interest and earnings from the account.

(3) The Land Conservation Board created in Section 4-46-201 may use appropriations from the fund in accordance with Section 4-46-302.

Section 4. Section 4-46-302 is amended to read:

4-46-302. Use of money in fund -- Criteria -- Administration.

(1) Subject to Subsection (2), the board may authorize the use of money in the [~~program~~] fund, by grant, to:

(a) a local entity;

(b) the Department of Natural Resources created under Section 79-2-201;

(c) an entity within the department; or

(d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code.

(2) (a) The money in the [~~program~~] fund shall be used for preserving or restoring open land and agricultural land.

(b) [~~(i)~~] Except as provided in Subsection [~~(2)(b)(ii)~~] (2)(c), money from the [~~program~~] fund:

(i) may be used to:

(A) establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act; or

(B) fund similar methods to preserve open land or agricultural land; and

(ii) may not be used to:

(A) purchase a fee interest in real property to preserve open land or agricultural land[~~, but may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land.~~]; or

(B) purchase additional property for the purpose of tax deferral.

[~~(ii)~~] (c) [~~Notwithstanding Subsection (2)(b)(i), money~~] Money from the [~~program~~] fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

[~~(A)~~] (i) the [~~parcel~~] property to be purchased is no more than 20 acres in size; and

[~~(B)~~] (ii) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.

[~~(iii)~~] (d) Eminent domain may not be used or threatened in connection with any purchase using money from the [~~program~~] fund.

[~~(iv)~~] (e) A parcel of land larger than 20 acres in size may not be divided [~~into separate parcels smaller than 20 acres each to meet the requirement of~~] to create one or more parcels that are smaller than 20 acres in order to comply with Subsection [~~(2)(b)(ii)~~] (2)(c)(i).

[~~(c)~~] (f) A local entity, department, or organization under Subsection (1) may not receive money from the [~~program~~] fund unless the local entity, department, or organization provides matching funds equal to or greater than the amount of money received from the [~~program~~] fund.

[~~(d)~~] (g) In granting money from the [~~program~~] fund, the board may impose conditions on the recipient as to how the money is to be spent.

[~~(e)~~] (h) The board shall give priority to:

(i) working agricultural land; and

(ii) after giving priority to working agricultural land under Subsection [~~(2)(e)(i)~~] (2)(h)(i), requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the [~~program~~] fund if the money is used for the protection of wildlife or watershed.

[~~(f)~~] (i) (i) The board may not make a grant from the [~~program~~] fund that exceeds $1,000,000 until after making a report to the Legislative Management Committee about the grant.

(ii) The Legislative Management Committee may make a recommendation to the board concerning the intended grant, but the recommendation is not binding on the board.

(3) In determining the amount and type of financial assistance to provide a local entity, department, or organization under Subsection (1) and subject to Subsection [~~(2)(f)~~] (2)(i), the board shall consider:

(a) the nature and amount of open land and agricultural land proposed to be preserved or restored;

(b) the qualities of the open land and agricultural land proposed to be preserved or restored;

(c) the cost effectiveness of the project to preserve or restore open land or agricultural land;

(d) the funds available;

(e) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;

(f) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;

(g) the effects on housing affordability and diversity; and

(h) whether the project protects against the loss of private property ownership.

(4) If a local entity, department, or organization under Subsection (1) seeks money from the [~~program~~] fund for a project whose purpose is to protect critical watershed, the board shall require that the needs and quality of that project be verified by the state engineer.

(5) An interest in real property purchased with money from the [~~program~~] fund shall be held and administered by the state or a local entity.

(6) (a) The board may not authorize the use of money under this section for a project unless the land use authority for the land in which the project is located consents to the project.

(b) To obtain consent to a project, the person who is seeking money from the [~~program~~] fund shall submit a request for consent to a project with the applicable land use authority. The land use authority may grant or deny consent. If the land use authority does not take action within 60 days from the day on which the request for consent is filed with the land use authority under this Subsection (6), the board shall treat the project as having the consent of the land use authority.

(c) An action of a land use authority under this Subsection (6) is not a land use decision subject to:

(i) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(ii) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

Section 5. Section 4-46-303 is amended to read:

4-46-303. Board to report annually.

The board shall submit an annual report to the Infrastructure and General Government and Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittees:

(1) specifying the amount of each disbursement from the [~~program~~] fund;

(2) identifying the recipient of each disbursement and describing the project for which money was disbursed; and

(3) detailing the conditions, if any, placed by the board on disbursements from the [~~program~~] fund.

Section 6. Section 17-41-601 is enacted to read:

Part 6. Open Land and Working Agricultural Land Use

17-41-601. Definitions.

As used in this part:

(1) "Agricultural land" means "land in agricultural use," as defined in Section 59-2-502.

(2) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in, or restoration of the land to, a predominantly natural, open, and undeveloped condition.

(b) "Open land" includes land described in Subsection (2)(a) that contains facilities, including trails, waterways, and grassy areas, that, in the judgment of the county legislative body:

(i) enhance the natural, scenic, or aesthetic qualities of the land; or

(ii) facilitate the public's access to, or use of, the land for the enjoyment of the land's natural, scenic, or aesthetic qualities and for compatible recreational activities.

(c) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities played on fields or courses, including baseball, tennis, soccer, golf, or other sporting or similar activities.

(3) "Public land county" means a county in which over 50% of the land area is publicly owned.

(4) "Rollback tax funds" means the rollback taxes paid to a county in accordance with Sections 59-2-506, 59-2-511, 59-2-1705, and 59-2-1710.

Section 7. Section 17-41-602 is enacted to read:

17-41-602. Use of money -- Criteria -- Administration.

(1) The county treasurer shall:

(a) pay rollback taxes in accordance with Sections 59-2-506, 59-2-511, 59-2-1705, and 59-2-1710; and

(b) deposit 20% of the rollback tax funds into an account or fund of the county set aside for preserving or restoring open land and agricultural land.

(2) The percentage of rollback tax funds described in Subsection (1)(b):

(a) may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land; and

(b) if the property to be purchased is in a public land county, may not be used to purchase a fee interest in real property to preserve open land or agricultural land, unless, the governmental entity purchasing the property contemporaneously transfers to the private ownership real property, in the same public land county, that is roughly equivalent in size to the property to be purchased.

(3) Eminent domain may not be used or threatened in connection with any purchase using the percentage of rollback tax funds described in Subsection (1)(b).

(4) The funds collected by the account or fund of the county may roll over from year-to-year.

Section 8. Section 39A-8-104 is amended to read:

39A-8-104. Committee responsibilities.

(1) The committee shall:

(a) identify lands to be included in the designated sentinel landscape;

(b) develop strategies and recommendations to encourage landowners within the sentinel landscape to voluntarily participate in and begin or continue land uses compatible with Camp Williams's military mission; and

(c) publish any policies and procedures as administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) In designating sentinel lands, the coordinating committee shall include all working or natural lands that the coordinating committee believes contribute to the long-term sustainability of the military missions conducted at Camp Williams.

(3) The committee shall determine the appropriate level of state resources required to adequately protect Camp Williams's military mission and may apply for grants from the [~~LeRay McAllister Critical Lands Conservation Program~~] LeRay McAllister Working Farm and Ranch Fund to aid in securing those resources.

(4) In determining lands to designate, the coordinating committee shall seek input from:

(a) the director of the Department of Defense Readiness and Environmental Protection Integration Program; and

(b) the director of the National Guard Bureau Army Compatible Use Buffer Program, as authorized under 10 U.S.C. Sec. 2684(a).

(5) The committee shall provide a written report of its activities if state funds are expended during the previous calendar year no later than July 31 annually to:

(a) the governor;

(b) the Government Operations Interim Committee; and

(c) the Executive Appropriations Committee.

Section 9. Section 59-2-506 is amended to read:

59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution.

(1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) $10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.

(b) The county treasurer shall pay the rollback tax collected under this section as follows:

(i) ~~[into the county treasury]~~ 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice described in this Subsection (5)(a).

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:

(i) the rollback tax; and

(ii) interest imposed in accordance with Subsection (7).

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed in accordance with Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county

assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-503 to be assessed under this part.

(10) Land that becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral is not subject to the rollback tax:

(a) (i) for the portion of the land required by a split estate mineral rights owner to extract a mineral if, after the split estate mineral rights owner exercises the right to extract a mineral, the portion of the property that remains in agricultural production still meets the acreage requirements of Section 59-2-503 for assessment under this part; or

(ii) for the entire acreage that would otherwise qualify for assessment under this part if, after the split estate mineral rights owner exercises the right to extract a mineral, the entire acreage that would otherwise qualify for assessment under this part no longer meets the acreage requirements of Section 59-2-503 for assessment under this part only due to the extraction of the mineral by the split estate mineral rights owner; and

(b) for the period of time that the property described in Subsection (10)(a) is ineligible for assessment under this part due to the extraction of a mineral by the split estate mineral rights owner.

Section 10. Section 59-2-511 is amended to read:

59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including:

(i) a county;

(ii) a city;

(iii) a town;

(iv) a school district;

(v) a local district; or

(vi) a special service district; or

(d) an entity created by the state or the United States, including:

(i) an agency;

(ii) a board;

(iii) a bureau;

(iv) a commission;

(v) a committee;

(vi) a department;

(vii) a division;

(viii) an institution;

(ix) an instrumentality; or

(x) an office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) prior to the governmental entity acquiring the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

(A) money; or

(B) other consideration.

(3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.

(ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) (I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or

(II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage that is used in conjunction with the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues generated by the payment as follows:

(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the taxing entities in which the land is located[~~; and~~].

[~~(ii) in the same proportion as the revenue from real property taxes is distributed.~~]

(4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:

(a) the land is not subject to the rollback tax imposed by this part; and

(b) the governmental entity acquiring the land is not required to make an in lieu fee payment under Subsection (3)(b).

(5) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until the following are paid to the county treasurer:

(a) any tax due under this part;

(b) any one-time in lieu fee payment due under this part; and

(c) any interest due under this part.

Section 11. Section 59-2-1705 is amended to read:

59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.

(1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) $10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.

(b) The county treasurer shall pay the rollback tax collected under this section as follows:

(i) [~~into the county treasury~~] 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after

the day on which the county assessor mails the notice described in this Subsection (5)(a).

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.

Section 12. Section 59-2-1710 is amended to read:

59-2-1710. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including a county, city, town, school district, local district, or special service district; or

(d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.

(3) (a) Land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.

(ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall make a one-time in lieu fee payment to the county treasurer of the county in which the land is located:

(A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or

(B) if the land remaining after the acquisition by the governmental entity is less than two acres, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues collected from the payment as follows:

(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the taxing entities in which the land is located[~~; and~~].

[~~(ii) in the same proportion as the revenue from real property taxes is distributed.~~]

(4) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.

Section 13. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The [~~LeRay McAllister Critical Land Conservation Program~~] LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The Emergency Medical Services Grant Program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

(15) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as

provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(30) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(31) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(32) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(34) The Traffic Noise Abatement Program created in Section 72-6-112.

(35) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(36) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(37) A state rehabilitative employment program, as provided in Section 78A-6-210.

(38) The Utah Geological Survey, as provided in Section 79-3-401.

(39) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(40) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(42) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(43) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

CHAPTER 181
H. B. 374
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

COUNTY SHERIFF AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill repeals provisions regarding a county sheriff's role and duties in interlocal agreements for law enforcement services, police local districts, and police interlocal entities.

Highlighted Provisions:

This bill:

- establishes a repeal date for provisions governing the content of interlocal agreements for law enforcement services involving a county; and
- establishes a repeal date for provisions governing the role of a sheriff in police local districts and police interlocal entities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-202, as last amended by Laws of Utah 2019, Chapter 197
63I-2-211, as last amended by Laws of Utah 2018, Chapters 337, 456
63I-2-217, as last amended by Laws of Utah 2022, Chapter 123

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

Section 1. Section 11-13-202 is amended to read:

11-13-202. Agreements for joint or cooperative undertaking, for providing or exchanging services, or for law enforcement services -- Effective date of agreement -- Public agencies may restrict their authority or exempt each other regarding permits and fees.

(1) Any two or more public agencies may enter into an agreement with one another under this chapter:

(a) for joint or cooperative action;

(b) to provide services that they are each authorized by statute to provide;

(c) to exchange services that they are each authorized by statute to provide;

(d) for a public agency to provide law enforcement services to one or more other public agencies, if the public agency providing law enforcement services under the interlocal agreement is authorized by law to provide those services, or to provide joint or cooperative law enforcement services between or among public agencies that are each authorized by law to provide those services;

(e) to create a transportation reinvestment zone as defined in Section 11-13-103; or

(f) to do anything else that they are each authorized by statute to do.

(2) An agreement under Subsection (1) does not take effect until each public agency that is a party to the agreement approves the agreement, as provided in Section 11-13-202.5.

(3) (a) In an agreement under Subsection (1), a public agency that is a party to the agreement may agree:

(i) to restrict its authority to issue permits to or assess fees from another public agency that is a party to the agreement; and

(ii) to exempt another public agency that is a party to the agreement from permit or fee requirements.

(b) A provision in an agreement under Subsection (1) whereby the parties agree as provided in Subsection (3)(a) is subject to all remedies provided by law and in the agreement, including injunction, mandamus, abatement, or other remedy to prevent, enjoin, abate, or enforce the provision.

(4) In an interlocal agreement between a county and one or more municipalities for law enforcement service within an area that includes some or all of the unincorporated area of the county, each county and municipality that is a party to the agreement shall ensure that the agreement requires:

(a) in a county of the second through sixth class, the county sheriff to provide or direct the law enforcement service provided under the agreement; or

(b) in a county of the first class, the chief executive for law enforcement services to be appointed to provide or direct the law enforcement service provided under the agreement.

(5) A peace officer employed by the interlocal entity, as defined in Section 11-13-103, as of May 3, 2023, who transfers to the county sheriff's office before July 1, 2025, retains the protections of Title 17, Chapter 30A, Part 3, Merit Officer Conditions of Employment.

Section 2. Section 63I-2-211 is amended to read:

63I-2-211. Repeal dates: Title 11.

(1) Subsection 11-13-202(4), requiring that counties and municipalities include certain contractual provisions in an interlocal agreement for law enforcement services between a county and one or more municipalities, is repealed July 1, 2025.

[~~(1)~~] (2) Subsections 11-13-302(2)(a)(i) and (2)(b)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(2)~~] (3) Section 11-13-310, the language that states "or 53F-2-301.5, as applicable," is repealed July 1, 2023.

[~~(3) Title 11, Chapter 53, Residential Property Reimbursement, is repealed on January 1, 2020.~~]

Section 3. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates: Title 17.

(1) On July 1, 2025:

(a) Subsection 17-22-2(1)(o), stating that a sheriff shall perform the sheriff's contractual duties under an interlocal agreement for law enforcement services, is repealed; and

(b) Subsection 17-22-2(3), establishing the role of a sheriff in a police interlocal entity or police local district, is repealed.

[~~(1) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.~~]

(2) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.

(3) On June 1, 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and

(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.

CHAPTER 182
H. B. 383
Passed February 28, 2023
Approved March 14, 2023
Effective May 3, 2023

INDIGENT DEFENSE AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to indigent defense.

Highlighted Provisions:

This bill:

- clarifies when a court may order indigent defense services and resources;
- amends provisions related to the Indigent Aggravated Murder Defense Fund; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-22-203, as last amended by Laws of Utah 2022, Chapter 281
78B-22-302, as enacted by Laws of Utah 2019, Chapter 326
78B-22-701, as last amended by Laws of Utah 2022, Chapters 281, 451
78B-22-702, as renumbered and amended by Laws of Utah 2019, Chapter 326
78B-22-703, as renumbered and amended by Laws of Utah 2019, Chapter 326
78B-22-704, as renumbered and amended by Laws of Utah 2019, Chapter 326

ENACTS:

78B-22-705, Utah Code Annotated 1953

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

Section 1. Section 78B-22-203 is amended to read:

78B-22-203. Order for indigent defense services.

(1) (a) A court shall appoint an indigent defense service provider who is employed by an indigent defense system or who has a contract with an indigent defense system to provide indigent defense services for an individual over whom the court has jurisdiction if:

(i) the individual is an indigent individual; and

(ii) the individual does not have private counsel.

(b) An indigent defense service provider appointed by the court under Subsection (1)(a) shall provide indigent defense services for the indigent individual in all court proceedings in the matter for which the indigent defense service provider is appointed.

(2) (a) Notwithstanding Subsection (1), the court may order that indigent defense services be provided by an indigent defense service provider who does not have a contract with an indigent defense system if the court finds by clear and convincing evidence that:

(i) all the contracted indigent defense service providers:

(A) have a conflict of interest; or

(B) do not have sufficient expertise to provide indigent defense services for the indigent individual; or

(ii) the indigent defense system does not have a contract with an indigent defense service provider for indigent defense services.

(b) A court may not order indigent defense services under Subsection (2)(a) unless the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(3) (a) A court may order reasonable indigent defense resources for an individual who has retained private counsel only if the court finds by clear and convincing evidence that:

(i) the individual is an indigent individual;

(ii) the individual would be prejudiced by the substitution of a contracted indigent defense service provider and the prejudice cannot be remedied;

(iii) at the time that private counsel was retained, the individual:

(A) entered into a written contract with private counsel; and

(B) had the ability to pay for indigent defense resources, but no longer has the ability to pay for the indigent defense resources in addition to the cost of private counsel;

(iv) there has been an unforeseen change in circumstances that requires indigent defense resources beyond the individual's ability to pay; and

(v) any representation under this Subsection (3)(a) is made in good faith and is not calculated to allow the individual or retained private counsel to avoid the requirements of this section.

(b) A court may not order indigent defense resources under Subsection (3)(a) until the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(c) At the hearing, the court shall conduct an in camera review of:

(i) the private counsel contract;

(ii) the costs or anticipated costs of the indigent defense resources; and

(iii) other relevant records.

(4) A court may only order the representation of an indigent individual by an indigent defense service provider in accordance with this section.

(5) A court may not order indigent defense resources be provided to an indigent individual, except as provided in:

(a) Subsection (3); or

(b) Section 78B-22-705.

[~~(4) Except as provided in this section, a court may not order indigent defense services.~~]

Section 2. Section 78B-22-302 is amended to read:

78B-22-302. Compensation for indigent defense services.

(1) An indigent defense system shall fund indigent defense services ordered by a court [~~in accordance with~~] under Section 78B-22-203.

(2) An indigent defense system shall ensure that there are adequate funds for indigent defense resources when a court orders indigent defense services under Section 78B-22-203.

Section 3. Section 78B-22-701 is amended to read:

78B-22-701. Establishment of Indigent Aggravated Murder Defense Fund -- Use of fund -- Compensation for indigent legal defense from fund.

(1) [~~For purposes of this part~~] As used in this part, "fund" means the Indigent Aggravated Murder Defense Fund.

(2) (a) There is established a custodial fund known as the "Indigent Aggravated Murder Defense Fund."

(b) The Division of Finance shall disburse money from the fund at the direction of the board and subject to this chapter.

(3) The fund consists of:

(a) money received from participating counties as provided in Sections 78B-22-702 and 78B-22-703;

(b) appropriations made to the fund by the Legislature as provided in Section 78B-22-703; and

(c) interest and earnings from the investment of fund money.

(4) The state treasurer shall invest fund money with the earnings and interest accruing to the fund.

(5) The fund shall be used to assist participating counties with [~~financial resources~~] expenses for indigent defense services, as provided in Subsection (6), to fulfill [~~their~~] the constitutional and statutory mandates for the provision of constitutionally effective defense for indigent individuals prosecuted for the violation of state laws in cases involving aggravated murder.

(6) Money allocated to or deposited [~~in this fund shall be~~] into the fund is used only:

(a) to reimburse participating counties for [~~expenditures made for an attorney appointed to represent~~] expenses incurred for indigent defense services provided to an indigent individual, other than a state inmate in a state prison, who is prosecuted for aggravated murder in a participating county; and

(b) for administrative costs pursuant to Section 78B-22-501.

Section 4. Section 78B-22-702 is amended to read:

78B-22-702. County participation.

(1) (a) A county may participate in the fund subject to the provisions of this chapter.

(b) A county that does not participate in the fund, or is not current in the county's assessments for the fund, is ineligible to receive money from the fund.

[~~(b)~~] (c) The board may revoke a county's participation in the fund if the county fails to pay the county's assessments when due.

(2) To participate in the fund, the legislative body of a county shall:

(a) adopt a resolution approving participation in the fund and committing that county to fulfill the assessment requirements as set forth in Subsection (3) and Section 78B-22-703; and

(b) submit a certified copy of that resolution together with an application to the board.

(3) By January 15 of each year, a participating county shall contribute to the fund an amount computed in accordance with Section 78B-22-703.

(4) A participating county may withdraw from participation in the fund upon:

(a) adoption by the county's legislative body of a resolution to withdraw; and

(b) notice to the board by January 1 of the year before withdrawal.

(5) A county withdrawing from participation in the fund, or whose participation in the fund has been revoked for failure to pay the county's assessments when due, shall forfeit the right to:

(a) any previously [~~payed~~] paid assessment;

(b) relief from the county's obligation to pay [~~its~~] the county's assessment during the period of [~~its~~] the county's participation in the fund; and

(c) any benefit from the fund, including reimbursement of costs that accrued after the last day of the period for which the county has paid [~~its~~] the county's assessment.

Section 5. Section 78B-22-703 is amended to read:

78B-22-703. County and state obligations.

(1) (a) Except as provided in Subsection (1)(b), a participating county shall pay into the fund annually an amount calculated by multiplying the average of the percent of [~~its~~] the county's population to the total population of all participating counties and of the percent [~~its~~] of the county's taxable value of the locally and centrally assessed property located within that county to the

total taxable value of the locally and centrally assessed property to all participating counties by the total fund assessment for that year to be paid by all participating counties as is determined by the board to be sufficient such that it is unlikely that a deficit will occur in the fund in any calendar year.

(b) The fund minimum [~~shall be~~] is equal to or greater than 50 cents per person of all counties participating.

(c) The amount paid by a participating county [~~pursuant to~~] under this Subsection (1) [~~shall be~~] is the total county obligation for payment of costs [~~pursuant to~~] in accordance with Section 78B-22-701.

(2) (a) A county that elects to initiate participation in the fund, or reestablish participation in the fund after participation was terminated, is required to make an equity payment in addition to the assessment required by Subsection (1).

(b) The equity payment [~~shall be~~] is determined by the board and represent what the county's equity in the fund would be if the county had made assessments into the fund for each of the previous two years.

(3) If the fund balance after contribution by the state and participating counties is insufficient to replenish the fund annually to at least $250,000, the board by a majority vote may terminate the fund.

(4) If the fund is terminated, the remaining money shall continue to be administered and disbursed in accordance with the provision of this chapter until exhausted, at which time the fund shall cease to exist.

(5) (a) If the fund runs a deficit during any calendar year, the state is responsible for the deficit.

(b) In the calendar year following a deficit year, the board shall increase the assessment required by Subsection (1) by an amount at least equal to the deficit of the previous year, which combined amount becomes the base assessment until another deficit year occurs.

(6) In a calendar year in which the fund runs a deficit, or is projected to run a deficit, the board shall request a supplemental appropriation to pay for the deficit from the Legislature in the following general session.

(7) The state shall pay any or all of the reasonable and necessary money for the deficit into the fund.

Section 6. Section 78B-22-704 is amended to read:

78B-22-704. Application and qualification for fund money.

(1) A participating county may apply to the board for benefits from the fund if that county has incurred, or reasonably anticipates incurring, expenses [~~in the defense of~~] for indigent defense services provided to an indigent individual for an offense involving aggravated murder.

(2) An application may not be made nor benefits provided from the fund for a case filed before September 1, 1998.

(3) [~~If~~] Except as provided in Subsection (4), if the application of a participating county is approved by the board, the board shall negotiate, enter into, and administer a contract [~~with counsel for the indigent individual and costs incurred for the defense of that indigent individual, including fees for counsel and reimbursement for indigent defense services incurred by an indigent defense service provider~~] for the cost of indigent defense services with an attorney or entity appointed to represent the indigent individual.

(4) The board shall pay an indigent defense service provider with a contract under Subsection (3) for indigent defense resources approved by a court under Section 78B-22-705.

[~~(4)~~] (5) A nonparticipating county is responsible for paying for indigent defense services in the nonparticipating county and is not eligible for any legislative relief.

Section 7. Section 78B-22-705 is enacted to read:

78B-22-705. Extraordinary expense -- Motion.

(1) If an indigent defense service provider is representing an indigent individual for an offense involving aggravated murder and the indigent defense service provider has a contract with the board under Section 78B-22-704, the indigent defense service provider may file an ex parte motion with the court for an order for the payment of indigent defense resources not covered by the contract between the indigent defense service provider and the board.

(2) (a) Except as provided in Subsection (2)(b), an indigent defense service provider shall file an ex parte motion under Subsection (1) before the cost for indigent defense resources is incurred.

(b) An indigent defense service provider may file an ex parte motion under Subsection (1) for a cost incurred for indigent defense resources on and after May 14, 2019, but before May 3, 2023.

(3) Upon an ex parte motion under this section, the court shall conduct an in camera review of:

(a) the indigent defense service provider's contract with the board;

(b) the cost, or the anticipated cost, of the indigent defense resources for which the indigent service provider seeks approval; and

(c) any other relevant record.

(4) The court may order the board to pay for indigent defense resources sought by the indigent defense service provider under this section.

CHAPTER 183
H. B. 384
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

OUTDOOR RECREATION INFRASTRUCTURE AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends the Outdoor Adventure Infrastructure Restricted Account and the makeup of the Outdoor Adventure Commission.

Highlighted Provisions:

This bill:

- amends the makeup of the Outdoor Adventure Commission;
- amends provisions relating to the Outdoor Adventure Infrastructure Restricted Account; and
- appropriates funds.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2024:

- to Department of Natural Resources – Division of State Parks – Capital:
  - from General Fund Restricted – Outdoor Adventure Infrastructure Restricted Account, $5,000,000;
- to Department of Natural Resources – Division of Outdoor Recreation – Capital:
  - from General Fund Restricted – Outdoor Adventure Infrastructure Restricted Account, $8,000,000; and
- to Department of Natural Resources – Division of Outdoor Recreation – Capital:
  - from General Fund Restricted – Outdoor Adventure Infrastructure Restricted Account, $19,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

51-9-902, as enacted by Laws of Utah 2022, Chapter 77
63C-21-201, as last amended by Laws of Utah 2022, Chapter 68
79-7-204, as enacted by Laws of Utah 2021, Chapter 280
79-8-103, as last amended by Laws of Utah 2022, Chapter 68
79-8-106, as last amended by Laws of Utah 2022, Chapters 68, 274

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

Section 1. Section 51-9-902 is amended to read:

51-9-902. Outdoor Adventure Infrastructure Restricted Account.

(1) As used in this section, "outdoor recreation infrastructure" means:

(a) an unpaved trail, trail head infrastructure, signage, or crossing infrastructure for recreation, regardless of whether the recreation is motorized or nonmotorized recreation;

(b) a campground or day-use recreation site;

(c) water recreation infrastructure, including a pier, dock, or boat ramp; or

(d) outdoor recreation facilities that are accessible to visitors with disabilities.

(2) There is created within the General Fund a restricted account known as the "Outdoor Adventure Infrastructure Restricted Account."

[~~(2)~~] (3) The account shall consist of:

(a) money deposited into the account under Subsection 59-12-103(16); and

(b) interest and earnings on money in the account.

[~~(3)~~] (4) Subject to appropriation from the Legislature, money from the account shall be used for:

(a) new construction of outdoor recreation infrastructure;

(b) upgrades of outdoor recreation infrastructure;

(c) the replacement of or structural improvements to outdoor recreation infrastructure;

(d) the acquisition of land, a right-of-way, or easement used in relationship to outdoor recreation infrastructure; or

(e) providing access from state highways, as defined in Section 72-1-102, to outdoor recreation infrastructure.

(5) For each fiscal year, beginning with fiscal year 2023-2024, the Division of Finance shall, subject to appropriation by the Legislature, distribute money from the Outdoor Adventure Infrastructure Restricted Account as follows:

(a) at least 15% to the Department of Natural Resources – Division of State Parks – Capital, to be expended using the department's existing prioritization process for capital projects in state parks described in Subsection (4);

(b) at least 22% to the Department of Natural Resources – Division of Outdoor Recreation – Capital, to be expended for competitive Recreation Restoration Infrastructure grants or Outdoor Recreational Infrastructure grants for outdoor recreation capital projects and related maintenance expenses, where maintenance expenses do not exceed 15% of the appropriation; and

(c) at least 53% to the Department of Natural Resources – Division of Outdoor Recreation – Capital, to be expended for larger outdoor recreation infrastructure projects as recommended to the Legislature by the Outdoor Adventure Commission described in Subsection (4).

[~~(4)~~] (6) If the Legislature appropriates money to the Department of Transportation from the

account, the Transportation Commission, created in Section 72-1-301, shall prioritize projects and determine funding levels in accordance with Subsection 72-1-303(1)(a) based on recommendations of the Department of Transportation.

Section 2. Section 63C-21-201 is amended to read:

63C-21-201. Outdoor Adventure Commission created.

(1) There is created the Outdoor Adventure Commission consisting of the following [~~14~~] 15 members:

(a) one member of the Senate, appointed by the president of the Senate;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the managing director of the Utah Office of Tourism, or the managing director's designee;

(d) the director of the Division of Outdoor Recreation, or the director's designee;

(e) the director of the School and Institutional Trust Lands Administration, or the director's designee;

(f) a designee of the Division of State Parks;

[~~(f) the coordinator of the Off-highway Vehicle Program within the Division of Outdoor Recreation;~~]

(g) a representative of the agriculture industry appointed jointly by the president of the Senate and the speaker of the House of Representatives;

(h) a representative of the natural resources development industry appointed jointly by the president of the Senate and the speaker of the House of Representatives;

[~~(i) one representative of the Utah League of Cities and Towns appointed by the Utah League of Cities and Towns;~~]

[~~(j)~~] (i) [~~one representative~~] two representatives of the Utah Association of Counties appointed by the Utah Association of Counties;

[~~(k)~~] (j) [~~one individual appointed jointly by~~] two representatives of the Utah League of Cities and Towns [~~and the Utah Association of Counties~~] appointed by the Utah League of Cities and Towns;

[~~(l)~~] (k) a representative of conservation interests appointed jointly by the president of the Senate and the speaker of the House of Representatives;

[~~(m)~~] (l) a representative of the outdoor recreation industry appointed jointly by the president of the Senate and the speaker of the House of Representatives; and

(m) a representative of the Department of Transportation.

[~~(n) the coordinator of the boating program within the Division of Outdoor Recreation.~~]

(2) The commission shall annually select one of the commission's members to be the chair of the commission.

(3) (a) If a vacancy occurs in the membership of the commission appointed under Subsection (1)(a) or (b), or Subsections (1)(g) through [~~(m)~~] (l), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member appointed under Subsections (1)(g) through [~~(m)~~] (l) shall serve a term of four years and until the member's successor is appointed and qualified.

(c) Notwithstanding the requirements of Subsection (3)(b), for members appointed under Subsections (1)(g) through [~~(m)~~] (l), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission members appointed under Subsections (1)(g) through [~~(m)~~] (l) are appointed every two years.

(d) An individual may be appointed to more than one term.

(4) (a) Eight commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2, Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

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

(6) The coordinator of the Off-highway Vehicle Program within the Division of Outdoor Recreation shall serve as a technical advisor to the commission.

(7) The coordinator of the boating program within the Division of Outdoor Recreation shall serve as a technical advisor to the commission.

[~~(6) The Department of Transportation shall serve as a technical advisor to the commission.~~]

[~~(7)~~] (8) The Division of Outdoor Recreation, created in Section 79-7-201, shall provide staff support to the commission.

Section 3. Section 79-7-204 is amended to read:

79-7-204. Division authorized to enter into contracts and agreements.

(1) The division, with the approval of the executive director and the governor, may enter into contracts and agreements with the United States, a United States agency, any other department or agency of the state, semipublic organizations, and with private individuals to:

(a) provide, improve [~~and~~] , maintain [~~recreational grounds and the areas administered by the division~~] , or coordinate motorized and nonmotorized recreation within the state; and

(b) secure labor, quarters, materials, services, or facilities according to procedures established by the Division of Finance.

(2) A department, agency, officer, or employee of the state shall give to the division the consultation and assistance that the division may reasonably request.

Section 4. Section 79-8-103 is amended to read:

79-8-103. Outdoor recreation grants.

To the extent money is available, the division shall administer outdoor recreation grants for the state, including grants that address:

(1) outdoor recreation in general;

(2) recreational trails;

(3) off-highway vehicle incentives;

(4) boat access and clean vessels;

(5) land, water, and conservation; [~~and~~]

(6) outdoor recreation programming; and

(7) maintenance projects related to the above allowable uses.

Section 5. Section 79-8-106 is amended to read:

79-8-106. Outdoor Recreation Infrastructure Account -- Uses -- Costs.

(1) There is created an expendable special revenue fund known as the "Outdoor Recreation Infrastructure Account," which the division shall use to fund:

(a) the Outdoor Recreational Infrastructure Grant Program created in Section 79-8-401; [~~and~~]

(b) the Recreation Restoration Infrastructure Grant Program created in Section 79-8-202; and

(c) the Utah Children's Outdoor Recreation and Education Grant Program created in Section 79-8-302.

(2) The account consists of:

(a) distributions to the account under Section 59-28-103;

(b) interest earned on the account;

(c) appropriations made by the Legislature;

(d) money from a cooperative agreement entered into with the United States Department of Agriculture or the United States Department of the Interior; and

(e) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The division shall, with the advice of the advisory committee, administer the account.

(4) The cost of administering the account shall be paid from money in the account.

(5) Interest accrued from investment of money in the account shall remain in the account.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources - Division of State Parks - Capital

From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 5,000,000

Schedule of Programs:

Renovation and Development 5,000,000

The Legislature intends that:

(1) the Division of State Parks use the money appropriated under this item for the purposes permitted under Title 51, Chapter 9, Part 9, Outdoor Adventure Infrastructure Restricted Account; and

(2) under Section 63J-1-603, appropriations provided under this section not lapse at the close of fiscal year 2024.

ITEM 2

To Department of Natural Resources - Division of Outdoor Recreation - Capital

From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 8,000,000

Schedule of Programs:

Recreation Capital 8,000,000

The Legislature intends that the Division of Outdoor Recreation use the money appropriated under this item:

(1) for the purposes permitted under Title 51, Chapter 9, Part 9, Outdoor Adventure Infrastructure Restricted Account;

(2) in accordance with existing grant programs that require a match by recipients of the grant; and

(3) by using no more than 15% of the money appropriated under this item for maintenance.

ITEM 3

To Department of Natural Resources – Division of Outdoor Recreation – Capital

From General Fund Restricted – Outdoor Adventure Infrastructure Restricted Account	19,000,000

Schedule of Programs:

Recreation Capital	19,000,000

The Legislature intends that:

(1) the Department of Natural Resources use the money appropriated under this item for larger capital projects as recommended to the Legislature by the Outdoor Adventure Commission; and

(2) the money appropriated under this item is nonlapsing.

CHAPTER 184
H. B. 385
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

MENTALLY ILL OFFENDERS AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill concerns offenders with a mental condition.

Highlighted Provisions:

This bill:

- defines and modifies terms;
- modifies when certain defendants are eligible for a criminal defense based on a mental condition;
- modifies when certain defendants may receive probation, supervised release, or a reduction to a lower category of offense under specified circumstances;
- changes "guilty with a mental illness" to "guilty with a mental condition";
- amends eligibility, procedures, and requirements concerning a plea of guilty with a mental condition;
- amends certain provisions concerning the sentencing and commitment of an offender with a mental condition; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

53-10-208.1, as last amended by Laws of Utah 2021, Chapter 159
53-10-403.5, as last amended by Laws of Utah 2020, Chapter 415
62A-15-610, as last amended by Laws of Utah 2011, Chapter 366
62A-15-623, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
62A-15-902, as last amended by Laws of Utah 2011, Chapter 366
76-2-305, as last amended by Laws of Utah 2016, Chapter 115
76-3-201, as repealed and reenacted by Laws of Utah 2021, Chapter 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261
76-3-406, as last amended by Laws of Utah 2022, Chapter 181
76-5-205.5, as last amended by Laws of Utah 2022, Chapter 181
76-5-303.5, as last amended by Laws of Utah 2022, Chapter 181
76-10-1311, as last amended by Laws of Utah 2008, Chapter 382
77-13-1, as last amended by Laws of Utah 2011, Chapter 366
77-16a-101, as last amended by Laws of Utah 2011, Chapter 366
77-16a-102, as last amended by Laws of Utah 2019, Chapter 312
77-16a-104, as last amended by Laws of Utah 2011, Chapter 366
77-16a-201, as last amended by Laws of Utah 2018, Chapter 334
77-16a-202, as last amended by Laws of Utah 2011, Chapter 366
77-16a-203, as last amended by Laws of Utah 2011, Chapter 366
77-16a-204, as last amended by Laws of Utah 2011, Chapter 366
77-16a-205, as last amended by Laws of Utah 2018, Chapter 334
77-16a-301, as last amended by Laws of Utah 2019, Chapter 312
77-16a-302, as last amended by Laws of Utah 2011, Chapter 366
77-16a-304, as last amended by Laws of Utah 2011, Chapter 366
77-16a-305, as last amended by Laws of Utah 1993, Chapter 285
77-16a-306, as last amended by Laws of Utah 2011, Chapter 366
77-27-2, as last amended by Laws of Utah 2021, Chapter 260
77-27-5.3, as last amended by Laws of Utah 2011, Chapter 366
77-27-10.5, as last amended by Laws of Utah 2011, Chapter 366
77-36-1.1, as last amended by Laws of Utah 2021, Chapter 213
77-38-302, as last amended by Laws of Utah 2020, Chapter 230
77-38b-102, as last amended by Laws of Utah 2022, Chapter 359
78A-2-302, as last amended by Laws of Utah 2022, Chapter 272
78B-7-901, as enacted by Laws of Utah 2020, Chapter 142
80-2-1004, as renumbered and amended by Laws of Utah 2022, Chapter 334

REPEALS AND REENACTS:

77-16a-103, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section 53-10-208.1 is amended to read:

53-10-208.1. Magistrates and court clerks to supply information.

(1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

(a) all dispositions of criminal matters, including:

(i) guilty pleas;

(ii) convictions;

(iii) dismissals;

(iv) acquittals;

(v) pleas held in abeyance;

(vi) judgments of not guilty by reason of insanity;

(vii) judgments of guilty with a mental [~~illness~~] condition;

(viii) finding of mental incompetence to stand trial; and

(ix) probations granted;

(b) orders of civil commitment under the terms of Section 62A-15-631;

(c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

(d) protective orders issued after notice and hearing, pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

(iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

(v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

(a) adjudicated as a mental defective; or

(b) involuntarily committed to a mental institution in accordance with Subsection 62A-15-631(16).

(3) The record described in Subsection (2) shall include:

(a) an agency record identifier;

(b) the individual's name, sex, race, and date of birth; and

(c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

Section 2. Section 53-10-403.5 is amended to read:

53-10-403.5. Definitions.

As used in Sections 53-10-403, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406:

(1) "Bureau" means the Bureau of Forensic Services.

(2) "Combined DNA Index System" or "CODIS" means the program operated by the Federal Bureau of Investigation to support criminal justice DNA databases and the software used to run the databases.

(3) "Conviction" means:

(a) a verdict or conviction;

(b) a plea of guilty or guilty [~~and mentally ill~~] with a mental condition;

(c) a plea of no contest; or

(d) the acceptance by the court of a plea in abeyance.

(4) "DNA" means deoxyribonucleic acid.

(5) "DNA specimen" or "specimen" means a biological sample of a person's saliva or blood, a biological sample from a crime scene, or a sample collected as part of an investigation.

(6) "Final judgment" means a judgment, including any supporting opinion, concerning which all appellate remedies have been exhausted or the time for appeal has expired.

(7) "Rapid DNA" means the fully automated process of developing a DNA profile.

(8) "Violent felony" means any offense under Section 76-3-203.5.

Section 3. Section 62A-15-610 is amended to read:

62A-15-610. Objectives of state hospital and other facilities -- Persons who may be admitted to state hospital.

(1) The objectives of the state hospital and other mental health facilities shall be to care for all persons within this state who are subject to the provisions of this chapter; and to furnish them with the proper attendance, medical treatment, seclusion, rest, restraint, amusement, occupation, and support that is conducive to their physical and mental well-being.

(2) Only the following persons may be admitted to the state hospital:

(a) persons 18 years [~~of age~~] old and older who meet the criteria necessary for commitment under this part and who have severe mental disorders for whom no appropriate, less restrictive treatment alternative is available;

(b) persons under 18 years [~~of age~~] old who meet the criteria necessary for commitment under Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, and for whom no less restrictive alternative is available;

(c) persons adjudicated and found to be guilty with a mental [~~illness under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness~~] condition under Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition;

(d) persons adjudicated and found to be not guilty by reason of insanity who are under a subsequent

commitment order because they have a mental illness and are a danger to themselves or others, under Section 77-16a-302;

(e) persons found incompetent to proceed under Section 77-15-6;

(f) persons who require an examination under Title 77, Utah Code of Criminal Procedure; and

(g) persons in the custody of the Department of Corrections, admitted in accordance with Section 62A-15-605.5, giving priority to those persons with severe mental disorders.

Section 4. Section 62A-15-623 is amended to read:

62A-15-623. Criminal's escape -- Penalty.

Any person committed to the state hospital under the provisions of Title 77, Chapter 15, Inquiry into Sanity of Defendant, or [~~Chapter 16a, Commitment and Treatment of Persons with a Mental Illness~~] Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, who escapes or leaves the state hospital without proper legal authority is guilty of a class A misdemeanor.

Section 5. Section 62A-15-902 is amended to read:

62A-15-902. Design and operation -- Security.

(1) The forensic mental health facility is a secure treatment facility.

(2) (a) The forensic mental health facility accommodates the following populations:

(i) prison inmates displaying mental illness, as defined in Section 62A-15-602, necessitating treatment in a secure mental health facility;

(ii) criminally adjudicated persons found guilty with a mental [~~illness~~] condition or guilty with a mental [~~illness~~] condition at the time of the offense undergoing evaluation for a mental [~~illness under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness~~] condition under Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition;

(iii) criminally adjudicated persons undergoing evaluation for competency or found guilty with a mental [~~illness~~] condition or guilty with a mental [~~illness~~] condition at the time of the offense under [~~Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness~~] Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, who also have an intellectual disability;

(iv) persons undergoing evaluation for competency or found by a court to be incompetent to proceed in accordance with Title 77, Chapter 15, Inquiry into Sanity of Defendant, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;

(v) persons who are civilly committed to the custody of a local mental health authority in accordance with Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities, and who may not be properly supervised by the Utah State Hospital because of a lack of necessary security, as determined by the superintendent or the superintendent's designee; and

(vi) persons ordered to commit themselves to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence pursuant to Title 77, Chapter 18, The Judgment.

(b) Placement of an offender in the forensic mental health facility under any category described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's status as established by the court at the time of adjudication.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing for the allocation of beds to the categories described in Subsection (2)(a).

(3) The department shall:

(a) own and operate the forensic mental health facility;

(b) provide and supervise administrative and clinical staff; and

(c) provide security staff who are trained as psychiatric technicians.

(4) Pursuant to Subsection 62A-15-603(3) the executive director shall designate individuals to perform security functions for the state hospital.

Section 6. Section 76-2-305 is amended to read:

76-2-305. Mental condition -- Use as a defense -- Influence of alcohol or other substance voluntarily consumed.

(1) As used in this section:

(a) (i) "Mental condition" means a mental illness or a mental disability that substantially impairs an individual's mental, emotional, or behavioral functioning.

(ii) "Mental condition" does not include a mental abnormality that is manifested solely by repeated criminal conduct, anti-social behavior, or a substance use disorder.

(b) "Mental disability" means an intellectual disability or a neurodevelopmental disorder as those terms are defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(c) "Mental illness" means the following mental disorders as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association:

(i) schizophrenia spectrum and other psychotic disorders; or

(ii) other serious mental health conditions with psychotic features.

[~~(1)~~] (2) (a) It is a defense to a prosecution under any statute or ordinance that the defendant, as a result of a mental [~~illness~~] condition, lacked the mental state required as an element of the offense charged.

(b) [~~Mental illness~~] A mental condition is not otherwise a defense, but may be evidence in mitigation of the penalty in a capital felony under Section 76-3-207 and may be evidence of special mitigation reducing the level of a criminal homicide or attempted criminal homicide offense under Section 76-5-205.5.

[~~(2)~~] (3) The defense defined in this section includes the defenses known as "insanity" and "diminished mental capacity."

[~~(3)~~] (4) A person who asserts a defense of insanity or diminished mental capacity, and who is under the influence of voluntarily consumed, injected, or ingested alcohol, controlled substances, or volatile substances at the time of the alleged offense is not excused from criminal responsibility on the basis of a mental [~~illness~~] condition if the alcohol or substance caused, triggered, or substantially contributed to the mental [~~illness~~] condition.

[~~(4) As used in this section:~~]

[~~(a) "Intellectual disability" means a significant subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior, and manifested prior to age 22.~~]

[~~(b) (i) "Mental illness" means a mental disease or defect that substantially impairs a person's mental, emotional, or behavioral functioning. A mental defect may be a congenital condition, the result of injury, or a residual effect of a physical or mental disease and includes, but is not limited to, intellectual disability.~~]

[~~(ii) "Mental illness" does not mean an abnormality manifested primarily by repeated criminal conduct.~~]

Section 7. Section 76-3-201 is amended to read:

76-3-201. Sentences or combination of sentences allowed -- Restitution and other costs -- Civil penalties.

(1) As used in this section:

(a) (i) "Convicted" means:

(A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a mental [~~illness~~] condition; or

(B) having received a judgment of guilty or a judgment of guilty with a mental [~~illness~~] condition.

(ii) "Convicted" does not include an adjudication of an offense under Section 80-6-701.

(b) "Restitution" means the same as that term is defined in Section 77-38b-102.

(2) Within the limits provided by this chapter, a court may sentence an individual convicted of an offense to any one of the following sentences, or combination of the following sentences:

(a) to pay a fine;

(b) to removal or disqualification from public or private office;

(c) except as otherwise provided by law, to probation in accordance with Section 77-18-105;

(d) to imprisonment;

(e) on or after April 27, 1992, to life in prison without parole; or

(f) to death.

(3) (a) This chapter does not deprive a court of authority conferred by law:

(i) to forfeit property;

(ii) to dissolve a corporation;

(iii) to suspend or cancel a license;

(iv) to permit removal of an individual from office;

(v) to cite for contempt; or

(vi) to impose any other civil penalty.

(b) A court may include a civil penalty in a sentence.

(4) In addition to any other sentence that a sentencing court may impose, the court shall order an individual to:

(a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act;

(b) subject to Subsection (5) and Section 77-32b-104, pay the cost of any government transportation if the individual was:

(i) transported, in accordance with a court order, from one county to another county within the state;

(ii) charged with a felony or a misdemeanor; and

(iii) convicted of an offense;

(c) subject to Section 77-32b-104, pay the cost expended by an appropriate governmental entity under Section 77-30-24 for the extradition of the individual if the individual:

(i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve pending criminal charges; and

(ii) is convicted of an offense in the county for which the individual is returned;

(d) subject to Subsection (6) and Subsections 77-32b-104(2), (3), and (4), pay the cost of medical care, treatment, hospitalization, and related transportation, as described in Section 17-50-319, that is provided by a county to the individual while the individual is in a county correctional facility before and after sentencing if:

(i) the individual is convicted of an offense that results in incarceration in the county correctional facility; and

(ii) (A) the individual is not a state prisoner housed in the county correctional facility through a contract with the Department of Corrections; or

(B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104 if the individual is a state probationary inmate or a state parole inmate; and

(e) pay any other cost that the court determines is appropriate under Section 77-32b-104.

(5) (a) The court may not order an individual to pay the costs of government transportation under Subsection (4)(b) if:

(i) the individual is charged with an infraction or a warrant is issued for an infraction on a subsequent failure to appear; or

(ii) the individual was not transported in accordance with a court order.

(b) (i) The cost of governmental transportation under Subsection (4)(b) shall be calculated according to the following schedule:

(A) $100 for up to 100 miles that an individual is transported;

(B) $200 for 100 miles to 200 miles that an individual is transported; and

(C) $350 for 200 miles or more that an individual is transported.

(ii) The schedule under Subsection (5)(b)(i) applies to each individual transported regardless of the number of individuals transported in a single trip.

(6) The cost of medical care under Subsection (4)(d) does not include expenses incurred by the county correctional facility in providing reasonable accommodation for an inmate qualifying as an individual with a disability as defined and covered by the Americans with Disabilities Act, 42 U.S.C. 12101 through 12213, including medical and mental health treatment for the inmate's disability.

Section 8. Section 76-3-406 is amended to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) Notwithstanding Sections 76-3-201 and 77-18-105 and [~~Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness~~] Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, except as provided in Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:

(a) Section 76-5-202, aggravated murder;

(b) Section 76-5-203, murder;

(c) Section 76-5-301.1, child kidnaping;

(d) Section 76-5-302, aggravated kidnaping;

(e) Section 76-5-402, rape, if the individual is sentenced under Subsection 76-5-402(3)(b), (3)(c), or (4);

(f) Section 76-5-402.1, rape of a child;

(g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection 76-5-402.2(3)(b), (3)(c), or (4);

(h) Section 76-5-402.3, object rape of a child;

(i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection 76-5-403(3)(b), (3)(c), or (4);

(j) Section 76-5-403.1, sodomy on a child;

(k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under Subsection 76-5-404(3)(b)(i) or (ii);

(l) Section 76-5-404.3, aggravated sexual abuse of a child;

(m) Section 76-5-405, aggravated sexual assault; or

(n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).

(2) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 9. Section 76-5-205.5 is amended to read:

76-5-205.5. Special mitigation for mental condition or provocation -- Burden of proof -- Charge reduction.

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

(i) (A) "Extreme emotional distress" means an overwhelming reaction of anger, shock, or grief that:

(I) causes the defendant to be incapable of reflection and restraint; and

(II) would cause an objectively reasonable person to be incapable of reflection and restraint.

(B) "Extreme emotional distress" does not include:

(I) a condition resulting from [~~mental illness~~] a mental condition; or

(II) distress that is substantially caused by the defendant's own conduct.

(ii) "Mental [~~illness~~] condition" means the same as that term is defined in Section 76-2-305.

(b) The terms defined in Section 76-1-101.5 apply to this section.

(2) Special mitigation exists when a defendant causes the death of another individual or attempts to cause the death of another individual:

(a) (i) under circumstances that are not legally justified, but the defendant acts under a delusion attributable to a mental [~~illness~~] condition;

(ii) the nature of the delusion is such that, if the facts existed as the defendant believed them to be in the delusional state, those facts would provide a legal justification for the defendant's conduct; and

(iii) the defendant's actions, in light of the delusion, are reasonable from the objective viewpoint of a reasonable person; or

(b) except as provided in Subsection (4), under the influence of extreme emotional distress that is predominantly caused by the victim's highly provoking act immediately preceding the defendant's actions.

(3) A defendant who is under the influence of voluntarily consumed, injected, or ingested alcohol, controlled substances, or volatile substances at the time of the alleged offense may not claim mitigation of the offense under Subsection (2)(a) on the basis of a mental [~~illness~~] condition if the alcohol or substance causes, triggers, or substantially contributes to the defendant's mental [~~illness~~] condition.

(4) A defendant may not claim special mitigation under Subsection (2)(b) if:

(a) the time period after the victim's highly provoking act and before the defendant's actions was long enough for an objectively reasonable person to have recovered from the extreme emotional distress;

(b) the defendant responded to the victim's highly provoking act by inflicting serious or substantial bodily injury on the victim over a prolonged period, or by inflicting torture on the victim, regardless of whether the victim was conscious during the infliction of serious or substantial bodily injury or torture; or

(c) the victim's highly provoking act, described in Subsection (2)(b), is comprised of words alone.

(5) If the trier of fact finds that the elements of aggravated murder, attempted aggravated murder, murder, or attempted murder are proven beyond a reasonable doubt, and also finds that the existence of special mitigation under this section is established by a preponderance of the evidence, the court shall enter a judgment of conviction in accordance with Subsection 76-5-202(3)(f)(i), 76-5-202(3)(f)(ii), 76-5-203(3)(b)(i), or 76-5-203(3)(b)(ii), respectively.

(6) If the issue of special mitigation is submitted to the trier of fact, the trier of fact shall return a special verdict at the same time as the general verdict, indicating whether it finds special mitigation.

(7) (a) If a jury is the trier of fact, a unanimous vote of the jury is required to find special mitigation under this section.

(b) If the jury unanimously finds that the elements of an offense described in Subsection (5) are proven beyond a reasonable doubt, and finds special mitigation by a unanimous vote, the jury shall return a general verdict finding the defendant guilty of the charged crime and a special verdict indicating special mitigation.

(c) If the jury unanimously finds that the elements of an offense described in Subsection (5) are proven beyond a reasonable doubt but finds by a unanimous vote that special mitigation is not established, or if the jury is unable to unanimously agree that special mitigation is established, the jury shall convict the defendant of the greater offense for which the prosecution proves all the elements beyond a reasonable doubt.

Section 10. Section 76-5-303.5 is amended to read:

76-5-303.5. Notification of conviction of custodial interference.

(1) As used in this section:

(a) (i) "Convicted" means a conviction by plea or verdict or adjudication in juvenile court of a crime or offense.

(ii) "Convicted" includes:

(A) a plea of guilty or guilty [~~and mentally ill~~] with a mental condition;

(B) a plea of no contest; and

(C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) If an individual is convicted of custodial interference under Section 76-5-303, the court shall notify the Driver License Division, created in Section 53-3-103, of the conviction, and whether the conviction is for:

(a) a class B misdemeanor, under Subsection 76-5-303(3)(a);

(b) a class A misdemeanor, under Subsection 76-5-303(3)(b); or

(c) a felony, under Subsection 76-5-303(3)(c).

Section 11. Section 76-10-1311 is amended to read:

76-10-1311. Mandatory testing -- Retention of offender medical file -- Civil liability.

(1) A person who has entered a plea of guilty, a plea of no contest, a plea of guilty [~~and mentally ill~~] with a mental condition, or been found guilty for violation of Section 76-10-1302, 76-10-1303, or 76-10-1313 shall be required to submit to a mandatory test to determine if the offender is an

HIV positive individual. The mandatory test shall be required and conducted prior to sentencing.

(2) If the mandatory test has not been conducted prior to sentencing, and the convicted offender is already confined in a county jail or state prison, such person shall be tested while in confinement.

(3) The local law enforcement agency shall cause the blood specimen of the offender as defined in Subsection (1) confined in county jail to be taken and tested.

(4) The Department of Corrections shall cause the blood specimen of the offender defined in Subsection (1) confined in any state prison to be taken and tested.

(5) The local law enforcement agency shall collect and retain in the offender's medical file the following data:

(a) the HIV infection test results;

(b) a copy of the written notice as provided in Section 76-10-1312;

(c) photographic identification; and

(d) fingerprint identification.

(6) The local law enforcement agency shall classify the medical file as a private record pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section 63G-2-304.

(7) The person tested shall be responsible for the costs of testing, unless the person is indigent. The costs will then be paid by the local law enforcement agency or the Department of Corrections from the General Fund.

(8) (a) The laboratory performing testing shall report test results to only designated officials in the Department of Corrections, the Department of Health, and the local law enforcement agency submitting the blood specimen.

(b) Each department or agency shall designate those officials by written policy.

(c) Designated officials may release information identifying an offender under Section 76-10-1302, 76-10-1303, or 76-10-1313 who has tested HIV positive as provided under Subsection 63G-2-202(1) and for purposes of prosecution pursuant to Section 76-10-1309.

(9) (a) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health who discloses the HIV test results under this section is not civilly liable except when disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202.

(b) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health who discloses the HIV test results under this section is not civilly or criminally liable, except when disclosure constitutes a knowing violation of Section 63G-2-801.

(10) When the medical file is released as provided in Section 63G-2-803, the local law enforcement agency, the Department of Corrections, or the Department of Health or its officers or employees are not liable for damages for release of the medical file.

Section 12. Section 77-13-1 is amended to read:

77-13-1. Kinds of pleas.

(1) There are five kinds of pleas to an indictment or information:

(a) not guilty;

(b) guilty;

(c) no contest;

(d) not guilty by reason of insanity; and

(e) guilty with a mental [~~illness~~] condition at the time of the offense.

(2) An alternative plea of not guilty or not guilty by reason of insanity may be entered.

Section 13. Section 77-16a-101 is amended to read:

CHAPTER 16a. COMMITMENT AND TREATMENT OF INDIVIDUALS WITH A MENTAL CONDITION

Part 1. Plea and Verdict of Guilty with a Mental Condition

77-16a-101. Definitions.

As used in this chapter:

(1) "Board" means the Board of Pardons and Parole established under Section 77-27-2.

(2) "Department" means the Department of Health and Human Services.

(3) "Executive director" means the executive director of the Department of Health and Human Services.

(4) "Forensic evaluator" means a licensed mental health professional who is:

(a) not involved in the defendant's treatment; and

(b) trained and qualified to conduct a guilty with a mental condition evaluation.

(5) "Mental condition" means the same as that term is defined in Section 76-2-305.

(6) "Mental disability" means the same as that term is defined in Section 76-2-305.

[~~(4)~~] (7) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, or organization that contracts with a local mental health authority.

(8) "Mental health supervision" includes regular and periodic activities including:

(a) the review of a defendant's assessment, diagnostic formulation, individual service plan development, and progress toward completion of care; and

(b) identification of barriers to a defendant's care, assistance in removing barriers to a defendant's care, continuation of services to a defendant, authorization of care for a defendant, and the observation of the delivery of clinical care to a defendant.

[~~(5)~~] (9) "Mental illness" [~~is as~~] means the same as that term is defined in Section 76-2-305.

[~~(6)~~] (10) "Offender with a mental [~~illness~~] condition" means an individual who has been adjudicated guilty with a mental [~~illness, including an individual who has an intellectual disability~~] condition.

(11) "Secure setting" means a jail, prison, or locked inpatient medical facility approved by the department.

[~~(7)~~] (12) "UDC" means the Department of Corrections.

Section 14. Section 77-16a-102 is amended to read:

77-16a-102. Jury instructions.

(1) If a defendant asserts a defense of not guilty by reason of insanity, the court shall instruct the jury that the jury may find the defendant:

(a) guilty;

(b) guilty with a mental [~~illness~~] condition at the time of the offense;

(c) guilty of a lesser offense;

(d) guilty of a lesser offense with a mental [~~illness~~] condition at the time of the offense;

(e) not guilty by reason of insanity; or

(f) not guilty.

(2) (a) When a defendant asserts a mental defense pursuant to Section 76-2-305 or asserts special mitigation reducing the level of an offense pursuant to Subsection 76-5-205.5(2)(a), or when the evidence raises the issue and either party requests the instruction, the court shall instruct the jury that if the jury finds a defendant guilty by proof beyond a reasonable doubt of a charged offense or lesser included offense, the jury shall also return a special verdict indicating whether the jury finds that the defendant had a mental [~~illness~~] condition at the time of the offense.

(b) If the jury finds the defendant guilty of the charged offense by proof beyond a reasonable doubt, and by special verdict finds the defendant had a mental [~~illness~~] condition at the time of the offense, the jury shall return the general verdict of "guilty with a mental [~~illness~~] condition at the time of the offense."

(c) If the jury finds the defendant guilty of a lesser offense by proof beyond a reasonable doubt, and by special verdict finds the defendant had a mental [~~illness~~] condition at the time of the offense, the jury shall return the general verdict of "guilty of a lesser offense with a mental [~~illness~~] condition at the time of the offense."

(d) If the jury finds the defendant guilty of the charged offense or a lesser included offense and does not find that the defendant had a mental [~~illness~~] condition at the time of the offense, the jury shall return a verdict of "guilty" of the offense, along with the special verdict form indicating that the jury did not find that the defendant had a mental [~~illness~~] condition at the time of the offense.

(e) The special verdict shall be returned by the jury at the same time as the general verdict, to indicate the basis for the jury's general verdict.

(3) (a) In determining whether a defendant should be found guilty with a mental [~~illness~~] condition at the time of the offense, the court shall instruct the jury that the standard of proof applicable to a finding of mental [~~illness~~] condition is by a preponderance of the evidence.

(b) The court shall also instruct the jury that the standard of preponderance of the evidence does not apply to the elements establishing a defendant's guilt, and that the proof of the elements establishing a defendant's guilt of an offense must be proven beyond a reasonable doubt.

(4) (a) When special mitigation based on extreme emotional distress is at issue pursuant to Subsection 76-5-205.5(2)(b), the jury shall, in addition to the jury's general verdict, return a special verdict.

(b) The special verdict shall be returned by the jury at the same time as the general verdict, to indicate the basis for the jury's general verdict.

Section 15. Section 77-16a-103 is repealed and reenacted to read:

77-16a-103. Plea of guilty with a mental condition-- Procedures -- Sentencing -- Reduction -- Costs.

(1) (a) (i) If a defendant wishes to enter a plea of guilty with a mental condition, the parties may stipulate as to:

(A) whether the defendant had a mental condition at the time of the commission of the offense; and

(B) whether the defendant could benefit from supervision or treatment.

(ii) If the parties stipulate as described in Subsection (1)(a)(i), the court shall enter findings consistent with the parties' stipulation if the stipulation is supported by sufficient evidence.

(b) If the parties do not stipulate to Subsection (1)(a)(i), the court shall hold a hearing and determine, by clear and convincing evidence:

(i) whether the defendant had a mental condition at the time of the commission of the offense; and

(ii) whether the defendant could benefit from supervision or treatment.

(c) After reviewing the stipulation described in Subsection (1)(a)(i) or conducting a hearing under Subsection (1)(b):

(i) if the court finds that the defendant had a mental condition at the time of the offense, the court

shall accept the defendant's plea of guilty with a mental condition; or

(ii) if the court finds that the defendant did not have a mental condition at the time of the offense, the court may not accept the defendant's plea of guilty with a mental condition.

(2) (a) If a defendant wishes to enter a plea of guilty with a mental condition for a felony offense and the parties do not stipulate to Subsection (1)(a)(i), before holding the hearing described in Subsection (1)(b), the court may order the defendant to submit to an examination, which may be conducted only by a forensic evaluator appointed by the department, to determine:

(i) whether the defendant had a mental condition at the time of the commission of the offense;

(ii) whether the defendant could benefit from supervision or treatment; or

(iii) whether the defendant currently is competent to enter a plea.

(b) (i) If a defendant wishes to enter a plea of guilty with a mental condition for a misdemeanor offense and the parties do not stipulate to Subsection (1)(a)(i), before holding the hearing described in Subsection (1)(b), the court may order the defendant to submit to an examination by a forensic evaluator.

(ii) Unless otherwise ordered by the court, the examination described in Subsection (2)(b)(i) shall determine:

(A) whether the defendant had a mental condition at the time of the commission of the offense;

(B) whether the defendant could benefit from supervision or treatment; or

(C) whether the defendant currently is competent to enter a plea.

(3) If a defendant relies on a private mental health evaluation in support of the defendant's plea of guilty with a mental condition and the parties do not stipulate to Subsection (1)(a)(i), upon the request of the prosecutor before the hearing described in Subsection (1)(b), the court shall order the defendant to submit to an examination by:

(a) the department if the offense is a felony; or

(b) the department or a forensic evaluator if the offense is a misdemeanor.

(4) If a court finds that a defendant was guilty with a mental condition at the time of the offense in accordance with Subsection (1)(c)(i) but would not benefit from available supervision or treatment, the court shall hold a sentencing hearing within 45 days of the entry of the defendant's plea of guilty with a mental condition.

(5) (a) If a court finds that a defendant had a mental condition at the time of the commission of the offense, the defendant could benefit from supervision or treatment, and has entered a plea of guilty with a mental condition in accordance with Subsection (1)(c)(i), the court:

(i) shall order:

(A) the department to provide a treatment assessment of the defendant and to submit to the court treatment recommendations for the defendant; or

(B) the defendant to arrange for a treatment assessment of the defendant with a private provider and for the private provider to submit to the court treatment recommendations for the defendant;

(ii) shall schedule a treatment review hearing within 30 days after the day on which the court entered the plea of guilty with a mental condition; and

(iii) may defer sentencing for up to one year in accordance with Subsection (6), if the defendant consents to a deferred sentence.

(b) At the treatment review hearing described in Subsection (5)(a)(ii), the court shall:

(i) consider all available diagnosis, treatment, and supervision recommendations;

(ii) if a party does not agree with treatment recommendations issued by the department under Subsection (5)(a)(i)(A), hold a hearing on the issue of the department's recommendations and make appropriate modifications to the recommendations if necessary; and

(iii) order the defendant to comply with all treatment and supervision recommendations that the court finds are in the best interest of the defendant and public safety.

(c) (i) In determining treatment and supervision recommendations under Subsection (5)(b), the court may order the defendant to be placed in a secure setting as described in Subsections (5)(c)(ii) and (iii) if the court finds that the placement would be in the best interest of the defendant, a victim of the defendant, or public safety.

(ii) (A) If the offense is a class C misdemeanor, the court may not place the defendant in a secure setting for more than 90 days.

(B) If the offense is a class B misdemeanor, the court may not place the defendant in a secure setting for more than six months.

(C) If the offense is a class A misdemeanor or a felony, the court may place the defendant in a secure setting for up to one year.

(iii) The court shall, before making a determination as to a secure setting placement, notify the executive director of the proposed placement and provide the department with an opportunity to:

(A) evaluate the defendant; and

(B) make a recommendation regarding placement to the court.

(d) If the court determines that the defendant is eligible for supervised release as part of the

defendant's treatment and supervision recommendations under Subsection (5)(b), except as provided in Section 76-3-406, the court may order:

(i) if the offense is a felony:

(A) supervision by Adult Probation and Parole for a period of up to one year in accordance with the applicable supervision provisions described in Title 64, Chapter 13, Department of Corrections - State Prison; or

(B) supervision including mental health supervision by a public or private entity that provides mental or behavioral health services and is approved by the department or the court; or

(ii) if the offense is a misdemeanor, supervision including mental health supervision by:

(A) a local mental health authority; or

(B) a public or private entity that provides mental or behavioral health services and is approved by the department or the court.

(e) (i) After the initial review hearing described in Subsection (5)(a), the court shall hold periodic review hearings approximately every 90 days, the frequency of which may be modified by the court.

(ii) At a review hearing described in Subsection (5)(e)(i):

(A) the department or the department's designee shall report on the progress of the defendant, provide recommendations for the defendant's future care, treatment, and secure or unsecure placement, and advise the court on the medical necessity of treatments for the defendant;

(B) the court shall review the status of the defendant and determine whether any changes are needed to the defendant's supervision or treatment plan; and

(C) a party may request, if the party has a good faith basis, that the court review or change the defendant's placement within a secure or non-secure setting.

(f) If a defendant is willfully non-compliant with the treatment or supervision ordered by the court under this Subsection (5), the court shall hold an order to show cause hearing to determine whether the court should:

(i) proceed with sentencing under Subsection (6);

(ii) change the defendant's placement to a secure setting;

(iii) impose another sanction; or

(iv) take no action.

(6) (a) The court shall defer sentencing for a defendant who has pleaded guilty with a mental condition as described in Subsection (5) until:

(i) the court determines, after an order to show cause hearing or a review hearing as described in Subsection (5), that:

(A) the defendant is willfully non-compliant with treatment or supervision and is unlikely to become compliant with further ordered treatment or supervision; or

(B) the defendant has reached the maximum benefit of treatment and supervision; or

(ii) one year has elapsed after the day on which the court entered the defendant's plea of guilty with a mental condition.

(b) At the sentencing hearing, the court shall:

(i) consider all treatment and supervision that has occurred before the sentencing hearing in the defendant's case;

(ii) credit any time the defendant has spent in a mental health facility or other residential treatment facility or a secure facility against the defendant's sentence;

(iii) consider victim input;

(iv) consider the best interests of the defendant, including which sentence will help prevent the defendant:

(A) from losing the defendant's ability to control the defendant's state of mental health; and

(B) from committing additional criminal conduct related to the defendant's mental condition;

(v) consider the best interest of public safety; and

(vi) consider any other relevant factor or circumstance.

(7) Except as provided in Subsection (7)(c), after a defendant who has been sentenced under Subsection (6) has completed the defendant's sentence and any probation or parole:

(a) notwithstanding the contrary provisions in Subsection 76-3-402(4) or 76-3-406(1), the court has jurisdiction to enter a judgment of conviction and shall reduce the judgment of conviction for the offense by two degrees from the original offense; and

(b) notwithstanding the contrary provisions in Subsection 76-3-402(4) or 76-3-406(1), if the prosecuting attorney specifically agrees in writing or on the court record at any time, the court has jurisdiction to consider and enter a judgment of conviction and may enter a judgment of conviction for the offense that is reduced by up to three degrees from the original offense.

(c) If a defendant's probation is revoked and any suspended sentence is imposed, the defendant may not receive a reduction under this Subsection (7).

(8) (a) (i) Except as provided in Subsection (8)(a)(iv), when the offense is a state offense, expenses of examination, observation, and treatment for the defendant shall be paid by the department when not paid for by the defendant's insurance.

(ii) Travel expenses shall be paid by the county where prosecution is commenced.

(iii) Expenses of examination for a defendant charged with a violation of a municipal or county

ordinance shall be paid by the municipality or county that commenced the prosecution.

(iv) The department is not responsible for payment for an evaluation described in Subsection (3)(b) that is conducted by a forensic evaluator who is privately retained by a party.

(b) (i) Provisions in this part for the support at public expense of a defendant with a mental condition do not release an insurer of a defendant with a mental condition from liability for the care or treatment of the defendant with a mental condition.

(ii) The department is authorized to collect amounts spent on a defendant with a mental condition from an insurer of the defendant with a mental condition.

(iii) A health insurance company may not deny coverage for court-ordered treatment or supervision of a defendant with a mental condition solely based on the fact that the treatment or supervision is ordered by a court if the treatment or supervision is medically necessary and would otherwise be a covered benefit under the defendant's insurance plan.

Section 16. Section 77-16a-104 is amended to read:

77-16a-104. Verdict of guilty with a mental condition -- Hearing to determine present mental state.

(1) Upon a verdict of guilty with a mental [~~illness~~] condition for the offense charged, or any lesser offense, the court shall conduct a hearing to determine the defendant's present mental state.

(2) (a) The court may order the department to examine the defendant to determine the defendant's mental condition, and may receive the evidence of any public or private expert witness offered by the defendant or the prosecutor.

(b) The defendant may be placed in the Utah State Hospital for [~~that~~] the examination described in Subsection (2)(a) only upon approval of the executive director.

(3) If the court finds by clear and convincing evidence that the defendant currently has a mental [~~illness~~] condition, the court shall impose any sentence that could be imposed under law upon a defendant who does not have a mental [~~illness~~] condition and who is convicted of the same offense, and:

(a) commit the defendant to the department, in accordance with the provisions of Section 77-16a-202, if:

(i) the court gives the department the opportunity to provide an evaluation and recommendation under Subsection (4); and

(ii) the court finds by clear and convincing evidence that:

(A) because of the defendant's mental [~~illness~~] condition the defendant poses an immediate physical danger to self or others, including jeopardizing the defendant's own or others' safety, health, or welfare if placed in a correctional or probation setting, or lacks the ability to provide the basic necessities of life, such as food, clothing, and shelter, if placed on probation; and

(B) the department is able to provide the defendant with treatment, care, custody, and security that is adequate and appropriate to the defendant's conditions and needs;

(b) order probation in accordance with Section 77-16a-201; or

(c) if the court determines that commitment to the department under Subsection (3)(a) or probation under Subsection (3)(b) is not appropriate, the court shall place the defendant in the custody of UDC or a county jail as allowed by law.

(4) In order to [~~insure~~] ensure that the requirements of Subsection (3)(a) are met, the court shall, before making a determination, notify the executive director of the proposed placement and provide the department with an opportunity to evaluate the defendant and make a recommendation to the court regarding placement prior to commitment.

(5) If the court finds that the defendant does not currently have a mental [~~illness~~] condition, the court shall sentence the defendant as it would any other defendant.

(6) Expenses for examinations ordered under this section shall be paid in accordance with Subsection [~~77-16a-103(5)~~] 77-16a-103(8).

Section 17. Section 77-16a-201 is amended to read:

Part 2. Disposition of Defendants Found Guilty with a Mental Condition

77-16a-201. Probation.

(1) (a) In felony cases, when the court proposes to place on probation a defendant who has pled or is found guilty with a mental [~~illness~~] condition at the time of the offense, it shall request UDC to provide a presentence investigation report regarding whether probation is appropriate for that defendant and, if so, recommending a specific treatment program. If the defendant is placed on probation, that treatment program shall be made a condition of probation, and the defendant shall remain under the jurisdiction of the sentencing court.

(b) The court may not place an offender who has been convicted of the felony offenses listed in Section 76-3-406 on probation, regardless of whether the offender has, or had, a mental [~~illness~~] condition.

(2) The period of probation for a felony offense committed by a defendant who has been found guilty with a mental [~~illness~~] condition at the time of the offense may not be subsequently reduced by the sentencing court without consideration of an

updated report on the mental health status of the defendant.

(3) (a) Treatment ordered by the court under this section may be provided by or under contract with the department, a mental health facility, a local mental health authority, or, with the approval of the sentencing court, any other public or private mental health provider.

(b) The entity providing treatment under this section shall file a report with the defendant's probation officer at least every six months during the term of probation.

(c) Any request for termination of probation regarding a defendant who is receiving treatment under this section shall include a current mental health report prepared by the treatment provider.

(4) Failure to continue treatment or any other condition of probation, except by agreement with the entity providing treatment and the sentencing court, is a basis for initiating probation violation hearings.

(5) The court may not release an offender with a mental [~~illness~~] condition into the community, as a part of probation, if it finds by clear and convincing evidence that the offender:

(a) poses an immediate physical danger to self or others, including jeopardizing the offender's own or others' safety, health, or welfare if released into the community; or

(b) lacks the ability to provide the basic necessities of life, such as food, clothing, and shelter, if released into the community.

(6) An offender with a mental [~~illness~~] condition who is not eligible for release into the community under the provisions of Subsection (5) may be placed by the court, on probation, in an appropriate mental health facility.

Section 18. Section 77-16a-202 is amended to read:

77-16a-202. Person found guilty with a mental condition-- Commitment to department -- Admission to Utah State Hospital.

(1) In sentencing and committing an offender with a mental [~~illness~~] condition to the department under Subsection 77-16a-104(3)(a) or in a felony case under Subsection 77-16a-103(6), the court shall:

(a) sentence the offender to a term of imprisonment and order that [~~he~~] the offender be committed to the department and admitted to the Utah State Hospital for care and treatment until transferred to UDC in accordance with Sections 77-16a-203 and 77-16a-204, making provision for readmission to the Utah State Hospital whenever the requirements and conditions of Section 77-16a-204 are met; or

(b) [~~sentence the offender to a term of imprisonment and~~] order that the offender be committed to the department for care and treatment for no more than 18 months, or until the offender's condition has been stabilized to the point that commitment to the department and admission to the Utah State Hospital is no longer necessary to ensure adequate mental health treatment, whichever occurs first. At the expiration of that time, the court [~~may recall the sentence and commitment, and resentence~~] shall sentence the offender. A [~~commitment and~~] retention of jurisdiction under this Subsection (1)(b) shall be specified in [~~the sentencing order. If that specification is not included in the sentencing order, the offender shall be committed in accordance with Subsection (1)(a).~~] a court order.

(2) The court may not retain jurisdiction, under Subsection (1)(b), over the sentence of an offender with a mental [~~illness~~] condition who has been convicted of a capital felony. In capital cases, the court shall make the findings required by this section after the capital sentencing proceeding mandated by Section 76-3-207.

(3) When an offender is committed to the department and admitted to the Utah State Hospital under Subsection (1)(b), the department shall provide the court with reports of the offender's mental health status every six months. Those reports shall be prepared in accordance with the requirements of Section 77-16a-203. Additionally, the court may appoint an independent examiner to assess the mental health status of the offender.

(4) The period of commitment to the department and admission to the Utah State Hospital, and any subsequent retransfers to the Utah State Hospital made pursuant to Section 77-16a-204 may not exceed the maximum sentence imposed by the court. Upon expiration of that sentence, the administrator of the facility where the offender is located may initiate civil proceedings for involuntary commitment in accordance with Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act.

Section 19. Section 77-16a-203 is amended to read:

77-16a-203. Review of offenders with a mental condition committed to department -- Recommendations for transfer to Department of Corrections.

(1) (a) The executive director shall designate a review team of at least three qualified staff members, including at least one licensed psychiatrist, to evaluate the mental condition of each offender with a mental [~~illness~~] condition committed to it in accordance with Section 77-16a-202, at least once every six months.

(b) If the offender has an intellectual disability, the review team shall include at least one individual who is a designated intellectual disability professional, as defined in Section 62A-5-101.

(2) At the conclusion of [~~its~~] the review team's evaluation, the review team described in Subsection (1) shall make a report to the executive director:

(a) regarding the offender's:

(i) current mental condition;

(ii) progress since commitment; and

(iii) prognosis; and

(b) that includes a recommendation regarding whether the offender with a mental [~~illness~~] condition should be:

(i) transferred to UDC; or

(ii) remain in the custody of the department.

(3) (a) The executive director shall notify the UDC medical administrator and the board's mental health adviser that an offender with a mental [~~illness~~] condition is eligible for transfer to UDC if the review team finds that the offender:

(i) no longer has a mental [~~illness~~] condition; or

(ii) has a mental [~~illness~~] condition and may continue to be a danger to self or others, but can be controlled if adequate care, medication, and treatment are provided by UDC; and

(iii) the offender's condition has been stabilized to the point that commitment to the department and admission to the Utah State Hospital are no longer necessary to ensure adequate mental health treatment.

(b) The administrator of the mental health facility where the offender is located shall provide the UDC medical administrator with a copy of the reviewing staff's recommendation and:

(i) all available clinical facts;

(ii) the diagnosis;

(iii) the course of treatment received at the mental health facility;

(iv) the prognosis for remission of symptoms;

(v) the potential for recidivism;

(vi) an estimation of the offender's dangerousness, either to self or others; and

(vii) recommendations for future treatment.

Section 20. Section 77-16a-204 is amended to read:

77-16a-204. UDC acceptance of transfer of persons found guilty with a mental condition -- Retransfer from UDC to department for admission to the Utah State Hospital.

(1) The UDC medical administrator shall designate a transfer team of at least three qualified staff members, including at least one licensed psychiatrist, to evaluate the recommendation made by the department's review team pursuant to Section 77-16a-203. If the offender has an intellectual disability, the transfer team shall include at least one person who has expertise in testing and diagnosis of people with intellectual disabilities.

(2) The transfer team shall concur in the recommendation if the transfer team determines that UDC can provide the offender with a mental [~~illness~~] condition with adequate mental health treatment.

(3) The UDC transfer team and medical administrator shall recommend the facility in which the offender should be placed and the treatment to be provided in order for the offender's mental condition to remain stabilized to the director of the Division of Institutional Operations, within the Department of Corrections.

(4) In the event that the department and UDC do not agree on the transfer of an offender with a mental [~~illness~~] condition, the administrator of the mental health facility where the offender is located shall notify the mental health adviser for the board, in writing, of the dispute. The mental health adviser shall be provided with copies of all reports and recommendations. The board's mental health adviser shall make a recommendation to the board on the transfer and the board shall issue its decision within 30 days.

(5) UDC shall notify the board whenever an offender with a mental [~~illness~~] condition is transferred from the department to UDC.

(6) When an offender with a mental [~~illness~~] condition sentenced under Section 77-16a-202, who has been transferred from the department to UDC, and accepted by UDC, is evaluated and it is determined that the offender's mental condition has deteriorated or that the offender has become mentally unstable, the offender may be readmitted to the Utah State Hospital in accordance with the findings and procedures described in Section 62A-15-605.5.

(7) Any [~~person~~] individual readmitted to the Utah State Hospital pursuant to Subsection (6) shall remain in the custody of UDC, and the state hospital shall act solely as the agent of UDC.

(8) An offender with a mental [~~illness~~] condition who has been readmitted to the Utah State Hospital pursuant to Subsection (6) shall be transferred back to UDC in accordance with the provisions of Section 77-16a-203.

Section 21. Section 77-16a-205 is amended to read:

77-16a-205. Parole.

(1) When an offender with a mental [~~illness~~] condition who has been committed to the department becomes eligible to be considered for parole, the board shall request a recommendation from the executive director and from UDC before placing the offender on parole.

(2) Before setting a parole date, the board shall request that its mental health adviser prepare a report regarding the offender with a mental [~~illness~~] condition, including:

(a) all available clinical facts;

(b) the diagnosis;

(c) the course of treatment received at the mental health facility;

(d) the prognosis for remission of symptoms;

(e) potential for recidivism;

(f) an estimation of the dangerousness of the offender with a mental [~~illness~~] condition either to self or others; and

(g) recommendations for future treatment.

(3) Based on the report described in Subsection (2), the board may place the offender with a mental [~~illness~~] condition on parole. The board may require mental health treatment as a condition of parole. If treatment is ordered, failure to continue treatment, except by agreement with the treatment provider, and the board, is a basis for initiation of parole violation hearings by the board.

(4) UDC, through Adult Probation and Parole, shall monitor the status of an offender with a mental [~~illness~~] condition who has been placed on parole. UDC may provide treatment by contracting with the department, a local mental health authority, any other public or private provider, or in-house staff.

(5) The board may not subsequently reduce the period of parole without considering an updated report on the offender's current mental condition.

Section 22. Section 77-16a-301 is amended to read:

77-16a-301. Mental examination of defendant.

(1) (a) When the court receives notice that a defendant intends to claim that the defendant is not guilty by reason of insanity or that the defendant had diminished mental capacity, or that the defendant intends to assert special mitigation under Subsection 76-5-205.5(2)(a), the court shall order the department to examine the defendant and investigate the defendant's mental condition.

(b) The person or organization directed by the department to conduct the examination shall testify at the request of the court or either party in a proceeding in which the testimony is otherwise admissible.

(c) Pending trial, unless the court or the executive director directs otherwise, the defendant shall be retained in the same custody or status the defendant was in at the time the examination was ordered.

(2) (a) The defendant shall be available and shall fully cooperate in the examination by the department and other independent examiners for the defense and the prosecuting attorney.

(b) If the defendant fails to be available and to fully cooperate, and that failure is established to the satisfaction of the court at a hearing prior to trial, the defendant is barred from presenting expert testimony relating to the defendant's defense of a mental [~~illness~~] condition at the trial of the case.

(c) The department shall complete the examination within 30 days after the court's order, and shall prepare and provide to the court prosecutor and defense counsel a written report concerning the condition of the defendant.

(3) Within 10 days after receipt of the report described in Subsection (2)(c) from the department, but not later than five days before the trial of the case, or at any other time the court directs, the prosecuting attorney shall file and serve upon the defendant a notice of rebuttal of the defense of a mental [~~illness~~] condition, which shall contain the names of witnesses the prosecuting attorney proposes to call in rebuttal.

(4) The report of another independent examiner is admissible as evidence upon stipulation of the prosecution and defense.

(5) (a) This section does not prevent a party from producing other testimony as to the mental condition of the defendant.

(b) An expert witness who is not appointed by the court is not entitled to compensation under Subsection (7).

(6) This section does not require the admission of evidence not otherwise admissible.

(7) (a) The department shall pay the expenses of an examination ordered by the court under this section.

(b) The department shall charge the county where the prosecution is commenced for travel expenses associated with an examination incurred by a defendant.

(c) The department shall charge the entity commencing the prosecution for an examination of a defendant charged with a violation of a municipal or county ordinance.

Section 23. Section 77-16a-302 is amended to read:

77-16a-302. Persons found not guilty by reason of insanity -- Disposition.

(1) Upon a verdict of not guilty by reason of insanity, the court shall conduct a hearing within 10 days to determine whether the defendant currently has a mental [~~illness~~] condition. The defense counsel and prosecutors may request further evaluations and present testimony from those examiners.

(2) After the hearing and upon consideration of the record, the court shall order the defendant committed to the department if it finds by clear and convincing evidence that:

(a) the defendant has a mental [~~illness~~] condition; and

(b) because of that mental [~~illness~~] condition the defendant presents a substantial danger to self or others.

(3) The period of commitment described in Subsection (2) may not exceed the period for which the defendant could be incarcerated had the

defendant been convicted and received the maximum sentence for the crime of which the defendant was accused. At the time that period expires, involuntary civil commitment proceedings may be instituted in accordance with Title 62A, Chapter 15, Substance Abuse and Mental Health Act.

Section 24. Section 77-16a-304 is amended to read:

77-16a-304. Review after commitment.

(1) (a) The executive director, or the executive director's designee, shall establish a review team of at least three qualified staff members to review the defendant's mental condition at least every six months.

(b) The team described in Subsection (1)(a) shall include:

(i) at least one psychiatrist; and

(ii) if the defendant has an intellectual disability, at least one staff member who is a designated intellectual disability professional.

(2) If the review team described in Subsection (1) finds that the defendant has recovered from the defendant's mental [~~illness~~] condition, or, that the defendant still has a mental [~~illness~~] condition but does not present a substantial danger to self or others, the executive director, or the executive director's designee, shall:

(a) notify the court that committed the defendant that the defendant is a candidate for discharge; and

(b) provide the court with a report stating the facts that form the basis for the recommendation.

(3) (a) The court shall conduct a hearing within 10 business days after receipt of the executive director's, or the executive director's designee's, notification.

(b) The court clerk shall provide notice of the date and time of the hearing to:

(i) the prosecuting attorney;

(ii) the defendant's attorney; and

(iii) any victim of the crime for which the defendant was found not guilty by reason of insanity.

(4) (a) The court shall order that the defendant be discharged from commitment if the court finds that the defendant:

(i) no longer has a mental [~~illness~~] condition; or

(ii) has a mental [~~illness~~] condition, but no longer presents a substantial danger to self or others.

(b) The court shall order the person conditionally released in accordance with Section 77-16a-305 if the court finds that the defendant:

(i) has a mental [~~illness~~] condition;

(ii) is a substantial danger to self or others; and

(iii) can be controlled adequately if conditionally released with treatment as a condition of release.

(c) The court shall order that the commitment be continued if the court finds that the defendant:

(i) has not recovered from the defendant's mental [~~illness~~] condition;

(ii) is a substantial danger to self or others; and

(iii) cannot adequately be controlled if conditionally released on supervision.

(d) (i) Except as provided in Subsection (4)(d)(ii), the court may not discharge a defendant whose mental [~~illness~~] condition is in remission as a result of medication or hospitalization if it can be determined within reasonable medical probability that without continued medication or hospitalization the defendant's mental [~~illness~~] condition will reoccur, making the defendant a substantial danger to self or others.

(ii) Notwithstanding Subsection (4)(d)(i), the defendant described in Subsection (4)(d)(i) may be a candidate for conditional release, in accordance with Section 77-16a-305.

Section 25. Section 77-16a-305 is amended to read:

77-16a-305. Conditional release.

(1) If the review team finds that a defendant is not eligible for discharge, in accordance with Section 77-16a-304, but that [~~his~~] the defendant's mental [~~illness~~] condition and dangerousness can be controlled with proper care, medication, supervision, and treatment if [~~he~~] the defendant is conditionally released, the review team shall prepare a report and notify the executive director, or [~~his~~] the executive director's designee, that the defendant is a candidate for conditional release.

(2) The executive director, or [~~his~~] the executive director's designee, shall prepare a conditional release plan, listing the type of care and treatment that the individual needs and recommending a treatment provider.

(3) The executive director, or [~~his~~] the executive director's designee, shall provide the court, the defendant's attorney, and the prosecuting attorney with a copy of the report issued by the review team under Subsection (1), and the conditional release plan. The court shall conduct a hearing on the issue of conditional release within 30 days after receipt of those documents.

(4) The court may order that a defendant be conditionally released if it finds that, even though the defendant presents a substantial danger to [~~himself~~] self or others, [~~he~~] the defendant can be adequately controlled with supervision and treatment that is available and provided for in the conditional release plan.

(5) The department may provide treatment or contract with a local mental health authority or other public or private provider to provide treatment for a defendant who is conditionally released under this section.

Section 26. Section 77-16a-306 is amended to read:

77-16a-306. Continuing review -- Discharge.

(1) Each entity that provides treatment for a defendant committed to the department as not guilty by reason of insanity under this part shall review the status of each defendant at least once every six months. If the treatment provider finds that a defendant has recovered from the defendant's mental [~~illness~~] condition, or, if the defendant has a mental [~~illness~~] condition, no longer presents a substantial danger to self or others, [~~it~~] the treatment provider shall notify the executive director of [~~its~~] the treatment provider's findings.

(2) Upon receipt of notification under Subsection (1), the executive director shall designate a review team, in accordance with Section 77-16a-304, to evaluate the defendant. If that review team concurs with the treatment provider's assessment, the executive director shall notify the court, the defendant's attorney, and the prosecuting attorney that the defendant is a candidate for discharge. The court shall conduct a hearing, in accordance with Section 77-16a-302, within 10 business days after receipt of that notice.

(3) The court may not discharge an individual whose mental [~~illness~~] condition is in remission as a result of medication or hospitalization if it can be determined within reasonable medical probability that without continued medication or hospitalization the defendant's mental [~~illness~~] condition will reoccur, making the defendant a substantial danger to self or others.

Section 27. Section 77-27-2 is amended to read:

77-27-2. Board of Pardons and Parole -- Creation -- Compensation -- Functions.

(1) (a) There is created the Board of Pardons and Parole.

(b) The board shall consist of five full-time members and not more than five pro tempore members to be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, and as provided in this section.

(c) The members of the board shall be resident citizens of the state.

(d) The governor shall establish salaries for the members of the board within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) (a) (i) (A) The full-time board members shall serve terms of five years.

(B) The terms of the full-time members shall be staggered so one board member is appointed for a term of five years on March 1 of each year.

(ii) (A) The pro tempore members shall serve terms of five years, beginning on March 1 of the year of appointment, with no more than one pro tempore member term beginning or expiring in the same calendar year.

(B) If a pro tempore member vacancy occurs, the board may submit the names of not fewer than three or more than five persons to the governor for appointment to fill the vacancy.

(b) All vacancies occurring on the board for any cause shall be filled by the governor with the advice and consent of the Senate in accordance with this section for the unexpired term of the vacating member.

(c) The governor may at any time remove any member of the board for inefficiency, neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

(d) (i) A member of the board may not hold any other office in the government of the United States, this state or any other state, or of any county government or municipal corporation within a state.

(ii) A member may not engage in any occupation or business inconsistent with the member's duties.

(e) (i) A majority of the board constitutes a quorum for the transaction of business, including the holding of hearings at any time or any location within or without the state, or for the purpose of exercising any duty or authority of the board.

(ii) An action is deemed the action of the board if the action is taken by a majority of the board regarding whether:

(A) parole, pardon, commutation, or termination of a sentence is granted in an offender's case;

(B) remission of a criminal accounts receivable, or a fines or forfeiture, is granted in an offender's case; or

(C) an offender's payment schedule for a criminal accounts receivable is modified.

(iii) A majority vote of the five full-time members of the board is required for adoption of rules or policies of general applicability as provided by statute.

(iv) Notwithstanding Subsection (2)(e)(iii), a vacancy on the board does not impair the right of the remaining board members to exercise any duty or authority of the board as long as a majority of the board remains.

(v) A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(f) (i) Any investigation, inquiry, or hearing that the board has authority to undertake or hold may be conducted by any board member or an examiner appointed by the board.

(ii) When an action under Subsection (2)(f)(i) is approved and confirmed by the board and filed in the board's office, the action is considered to be the action of the board and has the same effect as if originally made by the board.

(g) (i) When a full-time board member is absent or in other extraordinary circumstances, the chair may, as dictated by public interest and efficient administration of the board, assign a pro tempore member to act in the place of a full-time member.

(ii) Pro tempore members shall receive a per diem rate of compensation as established by the Division of Finance and all actual and necessary expenses incurred in attending to official business.

(h) The chair may request staff and administrative support as necessary from the department.

(3) (a) Except as provided in Subsection (3)(b), the commission shall:

(i) recommend five applicants to the governor for a full-time member appointment to the board; and

(ii) consider applicants' knowledge of the criminal justice system, state and federal criminal law, judicial procedure, corrections policies and procedures, and behavioral sciences.

(b) The procedures and requirements of Subsection (3)(a) do not apply if the governor appoints a sitting board member to a new term of office.

(4) (a) (i) The board shall appoint an individual to serve as the board's mental health adviser and may appoint other staff necessary to aid the board in fulfilling the board's responsibilities under [~~Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness~~] Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition.

(ii) The adviser shall prepare reports and recommendations to the board on all persons adjudicated as guilty with a mental [~~illness~~] condition, in accordance with [~~Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness~~] Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition.

(b) The mental health adviser shall possess the qualifications necessary to carry out the duties imposed by the board and may not be employed by the department or the Utah State Hospital.

(i) The board may review outside employment by the mental health advisor.

(ii) The board shall develop rules governing employment with entities other than the board by the mental health advisor for the purpose of prohibiting a conflict of interest.

(c) The mental health adviser shall:

(i) act as liaison for the board with the Department of Health and Human Services and local mental health authorities;

(ii) educate the members of the board regarding the needs and special circumstances of persons with a mental [~~illness~~] condition in the criminal justice system;

(iii) in cooperation with the department, monitor the status of persons in the prison who have been found guilty with a mental [~~illness~~] condition;

(iv) monitor the progress of other persons under the board's jurisdiction who have a mental [~~illness~~] condition;

(v) conduct hearings as necessary in the preparation of reports and recommendations; and

(vi) perform other duties as assigned by the board.

Section 28. Section 77-27-5.3 is amended to read:

77-27-5.3. Meritless and bad faith litigation.

(1) For purposes of this section:

(a) "Convicted" means a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental [~~illness~~] condition, no contest, and conviction of any crime or offense.

(b) "Prisoner" means a person who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.

(2) In any case filed in state or federal court in which a prisoner submits a claim that the court finds to be without merit and brought or asserted in bad faith, the Board of Pardons and Parole and any county jail administrator may consider that finding in any early release decisions concerning the prisoner.

Section 29. Section 77-27-10.5 is amended to read:

77-27-10.5. Special condition of parole -- Penalty.

(1) In accordance with Section 77-27-5, the Board of Pardons and Parole may release the defendant on parole and as a condition of parole, the board may order the defendant to be prohibited from directly or indirectly engaging in any profit or benefit generating activity relating to the publication of facts or circumstances pertaining to the defendant's involvement in the criminal act for which the defendant is convicted.

(2) The order may prohibit the defendant from contracting with any person, firm, corporation, partnership, association, or other legal entity with respect to the commission and reenactment of the defendant's criminal conduct, by way of a movie, book, magazine article, tape recording, phonograph record, radio, or television presentations, live entertainment of any kind, or from the expression of the defendant's thoughts, feelings, opinions, or emotions regarding the criminal conduct.

(3) The board may order that the prohibition includes any event undertaken and experienced by the defendant while avoiding apprehension from the authorities or while facing criminal charges.

(4) The board may order that any action taken by the defendant by way of execution of power of attorney, creation of corporate entities, or other action to avoid compliance with the board's order

shall be grounds for revocation of parole as provided in Section 77-27-11.

(5) Adult Probation and Parole shall notify the board of any alleged violation of the board's order under this section.

(6) The violation of the board's order shall be considered a violation of parole.

(7) For purposes of this section:

(a) "convicted" means a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental [~~illness~~] condition, no contest, and conviction of any crime or offense; and

(b) "defendant" means the convicted defendant, the defendant's assignees, and representatives acting on the defendant's authority.

Section 30. Section 77-36-1.1 is amended to read:

77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence offenses.

(1) As used in this section:

(a) (i) "Convicted" means a conviction by plea or verdict of a crime or offense.

(ii) "Convicted" includes:

(A) a plea of guilty or guilty [~~and mentally ill~~] with a mental condition;

(B) a plea of no contest; and

(C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(iii) "Convicted" does not include an adjudication in juvenile court.

(b) "Criminal mischief offense" means commission or attempt to commit an offense under Section 76-6-106 by one cohabitant against another.

(c) "Offense against the person" means commission or attempt to commit an offense under Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal Homicide, Part 3, Kidnapping, Trafficking, and Smuggling, Part 4, Sexual Offenses, or Part 7, Genital Mutilation, by one cohabitant against another.

(d) "Qualifying domestic violence offense" means:

(i) a domestic violence offense in Utah; or

(ii) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.

(2) An individual who is convicted of a domestic violence offense is guilty of a class B misdemeanor if:

(a) the domestic violence offense described in this Subsection (2) is designated by law as a class C misdemeanor; and

(b) the individual commits or is convicted of the domestic violence offense described in this Subsection (2):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

(ii) within five years after the day on which the individual is convicted of a criminal mischief offense.

(3) An individual who is convicted of a domestic violence offense is guilty of a class A misdemeanor if:

(a) the domestic violence offense described in this Subsection (3) is designated by law as a class B misdemeanor; and

(b) the individual commits or is convicted of the domestic violence offense described in this Subsection (3):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

(ii) within five years after the day on which the individual is convicted of a criminal mischief offense.

(4) An individual who is convicted of a domestic violence offense is guilty of a third degree felony if:

(a) the domestic violence offense described in this Subsection (4) is designated by law as a class B misdemeanor offense against the person and the individual:

(i) (A) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; and

(B) is convicted of another qualifying domestic violence offense that is not a criminal mischief offense after the day on which the individual is convicted of the qualifying domestic violence offense described in Subsection (4)(a)(i)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4);

(ii) (A) commits or is convicted of the domestic violence offense described in this Subsection (4) within five years after the day on which the individual is convicted of a criminal mischief offense; and

(B) is convicted of another criminal mischief offense after the day on which the individual is convicted of the criminal mischief offense described in Subsection (4)(a)(ii)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4); or

(iii) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense and within five years after the day on which the individual is convicted of a criminal mischief offense; and

(b) (i) the domestic violence offense described in this Subsection (4) is designated by law as a class A misdemeanor; and

(ii) the individual commits or is convicted of the domestic violence offense described in this Subsection (4):

(A) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

(B) within five years after the day on which the individual is convicted of a criminal mischief offense.

Section 31. Section 77-38-302 is amended to read:

77-38-302. Definitions.

As used in this part:

(1) "Convicted person" means a person who has been convicted of a crime.

(2) "Conviction" means an adjudication by a federal or state court resulting from a trial or plea, including a plea of no contest, nolo contendere, a finding of not guilty due to insanity, or not guilty but having a mental [~~illness~~] condition regardless of whether the sentence was imposed or suspended.

(3) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(4) "Memorabilia" means any tangible property of a convicted person or a representative or assignee of a convicted person, the value of which is enhanced by the notoriety gained from the criminal activity for which the person was convicted.

(5) "Notoriety of crimes contract" means a contract or other agreement with a convicted person, or a representative or assignee of a convicted person, with respect to:

(a) the reenactment of a crime in any manner including a movie, book, magazine article, Internet website, recording, phonograph record, radio or television presentation, or live entertainment of any kind;

(b) the expression of the convicted person's thoughts, feelings, opinions, or emotions regarding a crime involving or causing personal injury, death, or property loss as a direct result of the crime; or

(c) the payment or exchange of any money or other consideration or the proceeds or profits that directly or indirectly result from the notoriety of the crime.

(6) "Office" means the Utah Office for Victims of Crime.

(7) "Profit" means any income or benefit:

(a) over and above the fair market value of tangible property that is received upon the sale or transfer of memorabilia; or

(b) any money, negotiable instruments, securities, or other consideration received or contracted for gain which is traceable to a notoriety of crimes contract.

Section 32. Section 77-38b-102 is amended to read:

77-38b-102. Definitions.

As used in this chapter:

(1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(3) (a) "Conviction" means:

(i) a plea of:

(A) guilty;

(B) guilty with a mental [~~illness~~] condition; or

(C) no contest; or

(ii) a judgment of:

(A) guilty; or

(B) guilty with a mental [~~illness~~] condition.

(b) "Conviction" does not include:

(i) a plea in abeyance until a conviction is entered for the plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(4) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(5) "Criminal conduct" means:

(a) any misdemeanor or felony offense of which the defendant is convicted; or

(b) any other criminal behavior for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal behavior.

(6) (a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, criminal conduct.

(b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80, Chapter 6, Juvenile Justice.

(7) "Department" means the Department of Corrections.

(8) "Diversion agreement" means an agreement entered into by the prosecuting attorney and the

defendant that suspends criminal proceedings before conviction on the condition that a defendant agree to participate in a rehabilitation program, pay restitution to the victim, or fulfill some other condition.

(9) "Office" means the Office of State Debt Collection created in Section 63A-3-502.

(10) "Party" means the prosecuting attorney, the defendant, or the department involved in a prosecution.

(11) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

(12) (a) "Pecuniary damages" means all demonstrable economic injury, losses, and expenses regardless of whether the economic injury, losses, and expenses have yet been incurred.

(b) "Pecuniary damages" does not include punitive damages or pain and suffering damages.

(13) "Plea agreement" means an agreement entered between the prosecuting attorney and the defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

(14) "Plea disposition" means an agreement entered into between the prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

(15) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.

(16) "Plea in abeyance agreement" means an agreement entered into between the prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

(17) "Restitution" means the payment of pecuniary damages to a victim.

(18) (a) "Victim" means any person who has suffered pecuniary damages that are proximately caused by the criminal conduct of the defendant.

(b) "Victim" includes:

(i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes a payment to a victim under Section 63M-7-519;

(ii) the estate of a deceased victim; and

(iii) a parent, spouse, or sibling of a victim.

(c) "Victim" does not include a codefendant or accomplice.

Section 33. Section 78A-2-302 is amended to read:

78A-2-302. Indigent litigants -- Affidavit.

(1) As used in Sections 78A-2-302 through 78A-2-309:

(a) "Convicted" means:

(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental ~~[illness]~~ condition, no contest; and

(ii) a conviction of any crime or offense.

(b) "Indigent" means an individual who is financially unable to pay fees and costs or give security.

(c) "Prisoner" means an individual who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.

(2) An individual may institute, prosecute, defend, or appeal any cause in a court in this state without prepayment of fees and costs or security if the individual submits an affidavit demonstrating that the individual is indigent.

(3) A court shall find an individual indigent if the individual's affidavit under Subsection (2) demonstrates:

(a) the individual has an income level at or below 150% of the United States poverty level as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services;

(b) the individual receives benefits from a means-tested government program, including Temporary Assistance to Needy Families, Supplemental Security Income, the Supplemental Nutrition Assistance Program, or Medicaid;

(c) the individual receives legal services from a nonprofit provider or a pro bono attorney through the Utah State Bar; or

(d) the individual has insufficient income or other means to pay the necessary fees and costs or security without depriving the individual, or the individual's family, of food, shelter, clothing, or other necessities.

(4) An affidavit demonstrating that an individual is indigent under Subsection (3)(d) shall contain complete information on the individual's:

(a) identity and residence;

(b) amount of income, including any government financial support, alimony, or child support;

(c) assets owned, including real and personal property;

(d) business interests;

(e) accounts receivable;

(f) securities, checking and savings account balances;

(g) debts; and

(h) monthly expenses.

(5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the amount of money held in the prisoner's trust account at the time the affidavit under Subsection (2) is executed in accordance with Section 78A-2-305.

(6) An affidavit of indigency under this section shall state the following:

I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear the expenses of the action or legal proceedings which I am about to commence or the appeal which I am about to take, and that I believe I am entitled to the relief sought by the action, legal proceedings, or appeal.

Section 34. Section 78B-7-901 is amended to read:

78B-7-901. Definitions.

As used in this part:

(1) "Conviction" means:

(a) a verdict or conviction;

(b) a plea of guilty or guilty [~~and mentally ill~~] with a mental condition;

(c) a plea of no contest; or

(d) the acceptance by the court of a plea in abeyance.

(2) "Immediate family" means the same as that term is defined in Section 76-5-106.5.

Section 35. Section 80-2-1004 is amended to read:

80-2-1004. Request for division removal of name from Licensing Information System -- Petition for evidentiary hearing or substantiation.

(1) Except as provided in Subsection (2), an individual whose name is listed on the Licensing Information System as of May 6, 2002, may at any time:

(a) request review by the division of the individual's case and removal of the individual's name from the Licensing Information System under Subsection (3); or

(b) file a petition for substantiation and a request for a finding of unsubstantiated or without merit in accordance with Section 80-3-504.

(2) Subsection (1) does not apply to an individual who has been the subject of any of the following court determinations with respect to the alleged incident of abuse or neglect:

(a) conviction;

(b) adjudication under Section 80-3-402 or 80-6-701;

(c) plea of guilty;

(d) plea of guilty with a mental [~~illness~~] condition; or

(e) no contest.

(3) If an alleged perpetrator listed on the Licensing Information System before May 6, 2002, requests removal of the alleged perpetrator's name from the Licensing Information System, the division shall, within 30 days after the day on which the request is made:

(a) (i) review the case to determine whether the incident of alleged abuse or neglect qualifies as:

(A) a severe type of child abuse or neglect;

(B) chronic abuse; or

(C) chronic neglect; and

(ii) if the alleged abuse or neglect does not qualify as a type of abuse or neglect described in Subsections (3)(a)(i)(A) through (C), remove the alleged perpetrator's name from the Licensing Information System; or

(b) determine whether to file a petition for substantiation in accordance with Section 80-3-504.

Section 36. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the terms "guilty with a mental illness" and "guilty and mentally ill" with "guilty with a mental condition" in any new language added to the Utah Code by legislation passed during the 2023 General Session.

CHAPTER 185
H. B. 388
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

STATUTES OF LIMITATION AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses limitations on actions.

Highlighted Provisions:

This bill:

- addresses limitations of actions involving insurance, including for personal injury coverage;
- modifies the statute of limitations involving personal injury from a motor vehicle accident or property damage to a motor vehicle; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-21-313, as last amended by Laws of Utah 2020, Chapter 32
31A-22-305, as last amended by Laws of Utah 2022, Chapter 163
31A-22-307, as last amended by Laws of Utah 2020, Chapter 130
78B-2-305, as last amended by Laws of Utah 2010, Chapter 143
78B-2-307, as last amended by Laws of Utah 2017, Chapter 204

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

Section 1. Section 31A-21-313 is amended to read:

31A-21-313. Limitation of actions.

(1) (a) [~~An~~] A person shall commence an action on a written policy or contract of first party insurance [~~shall be commenced~~] within three years after the inception of the loss except as provided in:

(i) Subsection 31A-22-305(11); and

(ii) Subsection 31A-22-307(7).

(b) The inception of the loss on a fidelity bond is the date the insurer first denies all or part of a claim made under the fidelity bond.

(2) Except as provided in Subsection (1) or elsewhere in this title, an action on a written policy or contract for insurance is subject to the law applicable to limitation of actions in Title 78B, Chapter 2, Statutes of Limitations[~~, applies to actions on insurance policies~~].

(3) An insurance policy may not:

(a) limit the time for beginning an action on the policy to a time less than that authorized by statute;

(b) prescribe in what court an action may be brought on the policy; or

(c) provide that no action may be brought, subject to permissible arbitration provisions in contracts.

(4) (a) Unless by verified complaint it is alleged that prejudice to the complainant will arise from a delay in bringing suit against an insurer, which prejudice is other than the delay itself, [~~no~~] an action may not be brought against an insurer on an insurance policy to compel payment under the insurance policy until the earlier of:

(i) 60 days after proof of loss has been furnished as required under the policy;

(ii) waiver by the insurer of proof of loss; or

(iii) (A) the insurer's denial of full payment; or

(B) for an accident and health insurance policy, the insurer's denial of payment.

(b) Under an accident and health insurance policy, an insurer may not require the completion of an appeals process that exceeds the provisions in 29 C.F.R. Sec. 2560.503-1 to bring suit under this Subsection (4).

(5) The period of limitation is tolled during the period in which the parties conduct an appraisal or arbitration procedure prescribed by the insurance policy, by law, or as agreed to by the parties.

Section 2. Section 31A-22-305 is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

(c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist

coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least $25,000 per person and $500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by the workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by any benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years old who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine

the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a), (b), and (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(l) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed $2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection (10)(m), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured

motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014,

Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(11) (a) [~~Notwithstanding Section 31A-21-313, an~~] A person shall commence an action on a written policy or contract for uninsured motorist coverage [~~shall be commenced~~] within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

Section 3. Section 31A-22-307 is amended to read:

31A-22-307. Personal injury protection coverages and benefits.

(1) Personal injury protection coverages and benefits include:

(a) up to the minimum amount required coverage of not less than $3,000 per person, the reasonable value of all expenses for necessary:

(i) medical services;

(ii) surgical services;

(iii) X-ray services;

(iv) dental services;

(v) rehabilitation services, including prosthetic devices;

(vi) ambulance services;

(vii) hospital services; and

(viii) nursing services;

(b) (i) the lesser of $250 per week or 85% of any loss of gross income and loss of earning capacity per person from inability to work, for a maximum of 52 consecutive weeks after the loss, except that this benefit need not be paid for the first three days of disability, unless the disability continues for longer than two consecutive weeks after the date of injury; and

(ii) a special damage allowance not exceeding $20 per day for a maximum of 365 days, for services actually rendered or expenses reasonably incurred for services that, but for the injury, the injured person would have performed for the injured person's household, except that this benefit need not be paid for the first three days after the date of injury unless the person's inability to perform these services continues for more than two consecutive weeks;

(c) funeral, burial, or cremation benefits not to exceed a total of $1,500 per person; and

(d) compensation on account of death of a person, payable to the person's heirs, in the total of $3,000.

(2) (a) (i) To determine the reasonable value of the medical expenses provided for in Subsection (1) and under Subsection 31A-22-309(1)(a)(vi), the commissioner shall conduct a relative value study of services and accommodations for the diagnosis, care, recovery, or rehabilitation of an injured person in the most populous county in the state to assign a unit value and determine the 75th percentile charge for each type of service and accommodation.

(ii) The relative value study shall be updated every other year.

(iii) In conducting the relative value study, the department may consult or contract with appropriate public and private medical and health agencies or other technical experts.

(iv) The costs and expenses incurred in conducting, maintaining, and administering the relative value study shall be funded by the tax created under Section 59-9-105.

(v) Upon completion of the relative value study, the department shall prepare and publish a relative value study which sets forth the unit value and the 75th percentile charge assigned to each type of service and accommodation.

(b) (i) The reasonable value of any service or accommodation is determined by applying the unit value and the 75th percentile charge assigned to the service or accommodation under the relative value study.

(ii) If a service or accommodation is not assigned a unit value or the 75th percentile charge under the relative value study, the value of the service or accommodation shall equal the reasonable cost of the same or similar service or accommodation in the most populous county of this state.

(c) This Subsection (2) does not preclude the department from adopting a schedule already established or a schedule prepared by persons outside the department, if it meets the requirements of this Subsection (2).

(d) Every insurer shall report to the commissioner any pattern of overcharging, excessive treatment, or other improper actions by a health provider within 30 days after the day on which the insurer has knowledge of the pattern.

(e) (i) In disputed cases, a court on its own motion or on the motion of either party, may designate an impartial medical panel of not more than three licensed physicians to examine the claimant and testify on the issue of the reasonable value of the claimant's medical services or expenses.

(ii) An impartial medical panel designated under Subsection (2)(e)(i) shall consist of a majority of health care professionals within the same license classification and specialty as the provider of the claimant's medical services or expenses.

(3) Medical expenses as provided for in Subsection (1)(a) and in Subsection

31A-22-309(1)(a)(vi) include expenses for any nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing.

(4) The insured may waive for the named insured and the named insured's spouse only the loss of gross income benefits of Subsection (1)(b)(i) if the insured states in writing that:

(a) within 31 days of applying for coverage, neither the insured nor the insured's spouse received any earned income from regular employment; and

(b) for at least 180 days from the date of the writing and during the period of insurance, neither the insured nor the insured's spouse will receive earned income from regular employment.

(5) This section does not:

(a) prohibit the issuance of a policy of insurance providing coverages greater than the minimum coverage required under this chapter; or

(b) require the segregation of those minimum coverages from other coverages in the same policy.

(6) Deductibles are not permitted with respect to the insurance coverages required under this section.

(7) (a) A person shall bring an action on a written policy or contract for personal injury protection coverage within four years after the inception of loss.

(b) This Subsection (7) applies to a claim that is not time barred by Subsection 31A-21-313(1)(a) as of May 3, 2023.

Section 4. Section 78B-2-305 is amended to read:

78B-2-305. Within three years.

An action may be brought within three years:

(1) for waste, trespass upon, or injury to real property; except that when waste or trespass is committed by means of underground works upon any mining claim, the cause of action does not accrue until the discovery by the aggrieved party of the facts constituting the waste or trespass;

(2) for taking, detaining, or injuring personal property, including actions for specific recovery[~~;~~], except that:

(a) in cases where the subject of the action is a domestic animal usually included in the term "livestock," which at the time of its loss has a recorded mark or brand, if the animal strayed or was stolen from the true owner without the owner's fault, the cause does not accrue until the owner has actual knowledge of facts that would put a reasonable person upon inquiry as to the possession of the animal by the defendant; and

(b) as provided in Subsection 73B-2-307(3), for a claim involving damage to personal property from an accident involving a motor vehicle as defined in Section 41-6a-102, including an accident involving a motor vehicle and bicycle, the action may be brought within four years;

(3) for relief on the ground of fraud or mistake; except that the cause of action does not accrue until the discovery by the aggrieved party of the facts constituting the fraud or mistake;

(4) for a liability created by the statutes of this state, other than for a penalty or forfeiture under the laws of this state, except where in special cases a different limitation is prescribed by the statutes of this state; or

(5) to enforce liability imposed by Section 78B-3-603, or for damages under Section 78B-6-1701, except that the cause of action does not accrue until the aggrieved party knows or reasonably should know of the harm suffered.

Section 5. Section 78B-2-307 is amended to read:

78B-2-307. Within four years.

An action may be brought within four years:

(1) after the last charge is made or the last payment is received:

(a) upon a contract, obligation, or liability not founded upon an instrument in writing;

(b) on an open store account for any goods, wares, or merchandise; or

(c) on an open account for work, labor or services rendered, or materials furnished;

(2) for a claim for relief or a cause of action under the following sections of Title 25, Chapter 6, Uniform Voidable Transactions Act:

(a) Subsection 25-6-202(1)(a), except in specific situations where the time for action is limited to one year under Section 25-6-305;

(b) Subsection 25-6-202(1)(b); or

(c) Subsection 25-6-203(1); [~~and~~]

(3) for a claim involving personal property damage to the aggrieved party's motor vehicle, as defined in Section 41-6a-102, or personal property from an accident involving a motor vehicle; and

[~~(3)~~] (4) for relief not otherwise provided for by law.

CHAPTER 186
H. B. 389
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

ELECTRICAL POWER DELIVERY QUALITY AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill creates the Electrical Power Delivery Quality Act.

Highlighted Provisions:

This bill:

- defines terms;
- grants rulemaking authority to the Public Service Commission (commission);
- requires certain electric utility companies to prepare an electrical power delivery quality plan;
- grants rulemaking authority to the commission;
- creates a reporting requirement for the commission to report to the Public Utilities, Energy, and Technology Interim Committee;
- makes changes to the state energy policy; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-6-301, as last amended by Laws of Utah 2021, Chapter 383 and renumbered and amended by Laws of Utah 2021, Chapter 280

ENACTS:

54-25-101, Utah Code Annotated 1953
54-25-102, Utah Code Annotated 1953
54-25-201, Utah Code Annotated 1953

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

Section 1. Section 54-25-101 is enacted to read:

CHAPTER 25. ELECTRICAL POWER DELIVERY QUALITY ACT

Part 1. General Provisions

54-25-101. Definitions.

As used in this chapter:

(1) "Electrical power delivery quality" means the suitability of power delivered to customers as measured in comparison to accepted industry standards on voltage and power quality.

(2) "Electrical power delivery quality plan" means a plan submitted to the commission in accordance with the requirements of this chapter.

(3) "Interconnection request" means a request from a utility-scale energy generation system to a qualified utility's transmission line.

(4) "Qualified utility" means the same as that term is defined in Section 54-17-801.

(5) "Utility-scale energy generation system" means an electric generation facility that has a generating capacity of more than two megawatts and is intermittent, non-dispatchable, or controlled by an inverter.

Section 2. Section 54-25-102 is enacted to read:

54-25-102. Commission rulemaking authority.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to implement this chapter, including:

(a) rules establishing the submission of an electrical power delivery quality plan;

(b) rules establishing procedures for the review of an electrical power delivery quality plan;

(c) rules establishing the procedures for the review of the implementation of an electrical power delivery quality plan; and

(d) any other rules that the commission determines are necessary to protect the public interest and implement this chapter.

(2) In establishing the procedures and rules described in Subsection (1), the commission shall consult with:

(a) qualified utilities;

(b) utility-scale electricity providers; and

(c) other state agencies.

Section 3. Section 54-25-201 is enacted to read:

Part 2. Electrical Power Delivery Quality Plan

54-25-201. Electrical power delivery quality plan for a qualified utility.

(1) A qualified utility shall:

(a) prepare an electrical power delivery quality plan in accordance with the requirements of this chapter; and

(b) submit the electrical power delivery quality plan to the commission.

(2) An electrical power delivery quality plan under Subsection (1) shall include:

(a) a description of the procedures and standards that the qualified utility will use to assess an interconnection request to:

(i) decrease the risk that the interconnected utility-scale generation facility will adversely affect the electrical power delivery quality to other customers on the qualified utility lines; and

(ii) address adverse effects to the electrical power service quality caused by interconnected customer-owned generation systems that are discovered after the time of interconnection;

(b) a description of the equipment that the qualified utility will use to perform the assessment described in Subsection (2)(a); and

(c) a description of proposed modifications or upgrades to facilities and preventative programs that the qualified utility will implement to address any electrical power delivery quality issues that do not meet the qualified utility's interconnections policy or relevant national standards.

(3) (a) The commission may only approve an electrical power delivery quality plan that meets the requirements of Subsection (2).

(b) If the commission does not approve a proposed electrical power delivery quality plan, the commission shall:

(i) notify the qualified utility that the proposed electrical power delivery quality plan was not approved; and

(ii) provide specific recommendations to the qualified utility about changes needed for approval of the proposed electrical power delivery quality plan.

(4) On or before October 31, 2023, and before October 31 of each year after 2023, the commission shall report to the Public Utilities, Energy, and Technology Interim Committee regarding a qualified utility's compliance with the qualified utility's electrical power delivery quality plan.

Section 4. Section 79-6-301 is amended to read:

79-6-301. State energy policy.

(1) It is the policy of the state that:

(a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy resources;

(b) Utah [~~will~~] shall promote the development of:

(i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and oil sands;

(ii) renewable energy resources, including geothermal, solar, wind, biomass, biofuel, and hydroelectric;

(iii) nuclear power generation technologies certified for use by the United States Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;

(iv) alternative transportation fuels and technologies;

(v) infrastructure to facilitate energy development, diversified modes of transportation, greater access to domestic and international markets for Utah's resources, and advanced transmission systems;

(vi) energy storage, pumped storage, and other advanced energy systems, including hydrogen from all sources;

(vii) electricity systems that can be controlled at the request of grid operators to meet system load demands, to ensure an adequate supply of dispatchable energy generation resources;

(viii) electricity systems that are stable and capable of serving load without accelerating damage to customer equipment; and

[~~(viii)~~] (ix) increased refinery capacity;

(c) Utah [~~will~~] shall promote the development of resources and infrastructure sufficient to meet the state's growing demand, while contributing to the regional and national energy supply, thus reducing dependence on international energy sources;

(d) Utah [~~will~~] shall promote the development of resources, tools, and infrastructure to enhance the state's ability to:

(i) respond effectively to significant disruptions to the state's energy generation, energy delivery systems, or fuel supplies; and

(ii) maintain adequate supply, including reserves of proven and cost-effective dispatchable electricity reserves to meet grid demand;

(e) Utah [~~will~~] shall allow market forces to drive prudent use of energy resources, although incentives and other methods may be used to ensure the state's optimal development and use of energy resources in the short- and long-term;

(f) Utah [~~will~~] shall pursue energy conservation, energy efficiency, and environmental quality;

(g) (i) state regulatory processes should be streamlined to balance economic costs with the level of review necessary to ensure protection of the state's various interests; and

(ii) where federal action is required, Utah will encourage expedited federal action and will collaborate with federal agencies to expedite review;

(h) Utah [~~will~~] shall maintain an environment that provides for stable consumer prices that are as low as possible while providing producers and suppliers a fair return on investment, recognizing that:

(i) economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and

(ii) investment will occur only when adequate financial returns can be realized; and

(i) Utah [~~will~~] shall promote training and education programs focused on developing a comprehensive understanding of energy, including:

(i) programs addressing:

(A) energy conservation;

(B) energy efficiency;

(C) supply and demand; and

(D) energy related workforce development; and

(ii) energy education programs in grades K–12.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1).

(3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).

CHAPTER 187
H. B. 394
Passed March 3, 2023
Approved March 14, 2023
Effective January 1, 2025

HOLD HARMLESS FOR PUBLIC EDUCATION ENROLLMENT DECLINE

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill contingently provides additional funding for the Minimum School Program in certain fiscal years.

Highlighted Provisions:

This bill:

- contingently provides additional funding for the Minimum School Program in certain fiscal years;
- subjects the provision of additional funding to a sunset review by a legislative committee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-9-201.1, as last amended by Laws of Utah 2022, Chapter 456

63I-1-253, as last amended by Laws of Utah 2022, Chapters 10, 30, 31, 172, 173, 194, 218, 224, 229, 236, 254, 274, and 414

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

Section 1. Section 53F-9-201.1 is amended to read:

53F-9-201.1. Appropriations to the Minimum School Program from the Uniform School Fund.

(1) As used in this section:

(a) "Base budget" means the same as that term is defined in legislative rule.

(b) "Enrollment growth and inflation estimates" means the cost estimates regarding enrollment growth and inflation described in Section 53F-2-208.

(2) Except as provided in Subsection 53F-9-204(3), for a fiscal year beginning on or after July 1, 2021, when preparing the Public Education Base Budget, the Office of the Legislative Fiscal Analyst shall include appropriations to the Minimum School Program from the Uniform School Fund, and, subject to Subsection 53F-9-204(3), the Public Education Economic Stabilization Restricted Account, in an amount that is greater than or equal to the sum of:

(a) the ongoing Income Tax Fund and Uniform School Fund appropriations to the Minimum School Program in the current fiscal year; and

(b) subject to Subsection 53F-9-204(3)(b)[~~,~~]:

(i) enrollment growth and inflation estimates[~~.~~]; and

(ii) to increase the value of the weighted pupil unit, as defined in Section 53F-2-102, an amount equal to a projected reduction in appropriations to the Minimum School Program from the Uniform School Fund for the given fiscal year related to a decline in student enrollment that the Office of the Legislative Fiscal Analyst recommends to the Executive Appropriations Committee, in consultation with the state board and the Governor's Office of Planning and Budget:

(A) for the fiscal years beginning on July 1, 2025, 2026, 2027, 2028, and 2029; and

(B) if the Legislature amends the sunset date described in Section 63I-1-253 after a sunset review, for the fiscal years beginning on July 1, 2030, 2031, 2032, 2033, and 2034.

(3) The total annual amount deposited into the Uniform School Fund, including the deposits through the distributions described in Sections 59-7-532 and 59-10-544, for a given fiscal year may not exceed the amount appropriated from the Uniform School Fund for that fiscal year.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(7) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the

Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(10) [~~Subsection~~] Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(11) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(12) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(14) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(15) Section 53F-5-203 is repealed July 1, 2024.

(16) Section 53F-5-213 is repealed July 1, 2023.

(17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(19) Section 53F-5-219, which creates the Local INnovations Civics Education Pilot Program, is repealed on July 1, 2025.

(20) (a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

[~~(20)~~] (21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(21)~~] (22) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(22)~~] (23) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2027.

[~~(23)~~] (24) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24)~~] (25) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 3. Effective date.

This bill takes effect on January 1, 2025, if the amendment to the Utah Constitution proposed by S.J.R. 10, Proposal to Amend Utah Constitution - Income Tax, 2023 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

CHAPTER 188
H. B. 396
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

PALEONTOLOGICAL RESOURCES AMENDMENTS

Chief Sponsor: Joseph Elison
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies provisions related to paleontological resources and collections.

Highlighted Provisions:

This bill:

- defines terms; and
- provides that a city of the first or second class that has a paleontology museum may retain, curate, and manage specimens, collections, and paleontological resources recovered on lands owned or controlled by the city.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-17-603, as last amended by Laws of Utah 2008, Chapter 382
79-3-505, as renumbered and amended by Laws of Utah 2009, Chapter 344

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

Section 1. Section 53B-17-603 is amended to read:

53B-17-603. Curation and deposit of specimens.

(1) For purposes of this section:

(a) "Collections" is defined as provided in Section 9-8-302.

(b) "Curation facility" means:

(i) the museum;

(ii) an accredited facility meeting federal curation standards; [~~or~~]

(iii) for the purposes described in Subsection (3)(c), a paleontology museum; or

[~~(iii)~~] (iv) an appropriate state park.

(c) "Museum" means the Utah Museum of Natural History.

(d) "Paleontology museum" means a museum, owned or established by a city of the first or second class, that:

(i) is designed for the curation and display of specimens and paleontological resources;

(ii) has a designated paleontologist responsible for the care and preservation of specimens, collections, and paleontological resources; and

(iii) is an approved repository, as that term is defined in 43 C.F.R. Sec. 49.5, or has a detailed plan to become an approved repository.

[~~(d)~~] (e) "Repository" means:

(i) a facility designated by the museum through memoranda of agreement; [~~or~~]

(ii) for the purposes described in Subsection (3)(c), a paleontology museum; or

[~~(ii)~~] (iii) a place of reburial.

[~~(e)~~] (f) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

(2) The museum shall make rules to ensure the adequate curation of all collections from lands owned or controlled by the state or its subdivisions. The rules shall:

(a) conform to, but not be limited by, federal curation policy;

(b) recognize that collections recovered from school and institutional trust lands are owned by the respective trust, and shall be made available for exhibition as the beneficiaries of the respective trust may request, subject to museum curation policy and the curation facility's budgetary priorities;

(c) recognize that any collections obtained in exchange for collections found on school and institutional trust lands shall be owned by the respective trust; and

(d) recognize that if, at its discretion, the curation facility makes and sells reproductions derived from collections found on school or institutional trust lands, any money obtained from these sales shall be given to the respective trust, but the curation facility may retain money sufficient to recover the direct costs of preparation for sale and a reasonable fee for handling the sale.

(3) (a) [~~The~~] Subject to Subsection (3)(c), the museum may enter into memoranda of agreement with other repositories located in and outside the state to act as its designee for the curation of collections.

(b) In these memoranda, the museum may delegate some or all of its authority to curate.

(c) A city that has a paleontology museum may retain, curate, and manage paleontological specimens, paleontological collections, and paleontological resources recovered on lands owned or controlled by the city.

(4) (a) All collections recovered from lands owned or controlled by the state or its subdivisions shall be deposited at the museum, a curation facility, or at a repository within a reasonable time after the completion of field work.

(b) The museum shall make rules establishing procedures for selection of the appropriate curation facility or repository.

(c) The rules shall consider:

(i) whether the permittee, authorized pursuant to Section 9-8-305, is a curation facility;

(ii) the appropriateness of reburial;

(iii) the proximity of the curation facility or repository to the point of origin of the collection;

(iv) the preference of the owner of the land on which the collection was found;

(v) the nature of the collection and the repository's or curation facility's ability and desire to curate the collection in question, and ability to maximize the scientific, educational, and cultural benefits for the people of the state and the school and institutional trusts;

(vi) selection of a second curation facility or repository, if the original repository or curation facility becomes unable to curate the collections under its care; and

(vii) establishment of an arbitration process for the resolution of disputes over the location of a curation facility or repository, which shall include an ultimate arbitration authority consisting of the landowner, the state archaeologist or paleontologist, and a representative from the governor's office.

(d) The repository or curation facility may charge a curation fee commensurate with the costs of maintaining those collections, except that a fee may not be charged to the respective trust for collections found on school or institutional trust lands.

(5) The repository or curation facility shall make specimens available through loans to museums and research institutions in and out of the state when, in the opinion of the repository or curation facility:

(a) the use of the specimens is appropriate; and

(b) arrangements are made for safe custodianship of the specimens.

(6) The museum shall comply with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding publication of its rules in the Utah State Bulletin and the Utah Administrative Code.

Section 2. Section 79-3-505 is amended to read:

79-3-505. Paleontological landmarks.

(1) (a) Sites of significance or sites with exceptional fossils may be recommended to and approved by the board as state paleontological landmarks.

(b) No privately owned site [~~or~~], a site on school or institutional trust lands, or a site on lands owned or controlled by a city that has a paleontology museum may be so designated without the written consent of the owner or the trust.

(2) A person may not excavate on a privately owned designated landmark without a permit from the survey.

(3) Before an alteration is commenced on a designated landmark, three months notice of intent to alter the site shall be given the survey.

CHAPTER 189
H. B. 397
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

URBAN FARMING ASSESSMENT AMENDMENTS

Chief Sponsor: Michael L. Kohler
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies provisions relating to property tax assessment of agricultural land.

Highlighted Provisions:

This bill:

- provides that a portion of land withdrawn from assessment under the Farmland Assessment Act is not subject to a rollback tax if the land is eligible for, and the owner applies for, assessment under the Urban Farming Assessment Act;
- establishes a renewal application under the Urban Farming Assessment Act;
- for property that was previously assessed under the Farmland Assessment Act, addresses eligibility and application of the rollback tax under the Urban Farming Assessment Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-506, as last amended by Laws of Utah 2017, Chapter 319
59-2-1703, as last amended by Laws of Utah 2019, Chapter 492
59-2-1705, as last amended by Laws of Utah 2017, Chapter 319
59-2-1707, as last amended by Laws of Utah 2017, Chapter 319

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

Section 1. Section 59-2-506 is amended to read:

59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution.

(1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) $10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.

(b) The county treasurer shall pay the rollback tax collected under this section:

(i) into the county treasury; and

(ii) to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice described in this Subsection (5)(a).

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:

(i) the rollback tax; and

(ii) interest imposed in accordance with Subsection (7).

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed in accordance with Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-503 to be assessed under this part.

(10) Land that becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral is not subject to the rollback tax:

(a) (i) for the portion of the land required by a split estate mineral rights owner to extract a mineral if, after the split estate mineral rights owner exercises the right to extract a mineral, the portion of the property that remains in agricultural production still meets the acreage requirements of Section 59-2-503 for assessment under this part; or

(ii) for the entire acreage that would otherwise qualify for assessment under this part if, after the split estate mineral rights owner exercises the right to extract a mineral, the entire acreage that would otherwise qualify for assessment under this part no longer meets the acreage requirements of Section 59-2-503 for assessment under this part only due to the extraction of the mineral by the split estate mineral rights owner; and

(b) for the period of time that the property described in Subsection (10)(a) is ineligible for assessment under this part due to the extraction of a mineral by the split estate mineral rights owner.

(11) (a) A portion of land withdrawn from this part is not subject to the rollback tax if the portion of land:

(i) qualifies for assessment under Part 17, Urban Farming Assessment Act; and

(ii) for the tax year immediately following withdrawal, the owner of the portion of land applies in accordance with Section 59-2-1707 for the land to be assessed under Part 17, Urban Farming Assessment Act.

(b) Any remaining portion of the withdrawn land that does not satisfy the requirements of Subsection (11)(a) is subject to the rollback tax.

Section 2. Section 59-2-1703 is amended to read:

59-2-1703. Qualifications for urban farming assessment.

(1) (a) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(i) is actively devoted to urban farming;

(ii) is at least one contiguous acre, but less than five acres, in size; and

(iii) (A) has been actively devoted to urban farming for at least two successive years immediately preceding the tax year for which the land is assessed under this part[.]; or

(B) was assessed under Part 5, Farmland Assessment Act, for the preceding tax year.

(b) Land that is not actively devoted to urban farming may not be assessed as provided in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to urban farming.

(2) (a) In determining whether land is actively devoted to urban farming, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(i) production levels reported in the current publication of Utah Agricultural Statistics;

(ii) current crop budgets developed and published by Utah State University; or

(iii) the highest per acre value used for land assessed under the Farmland Assessment Act for the county in which the property is located.

(b) A county assessor may not assess land actively devoted to urban farming on the basis of the value that the land has for agricultural use under this part unless an owner annually files documentation with the county assessor:

(i) on a form provided by the county assessor;

(ii) demonstrating to the satisfaction of the county assessor that the land meets the production levels required under this part; and

(iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for each tax year in which the owner applies for assessment under this part.

(3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a waiver of the acreage requirements of Subsection (1)(a)(ii):

(a) on appeal by an owner; and

(b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:

(i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding;

(ii) the land is actively devoted to urban farming; and

(iii) no change occurs in the ownership of the land.

Section 3. Section 59-2-1705 is amended to read:

59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution.

(1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) $10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) except as provided in Subsection (3)(c), the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(c) For land that was previously assessed under Part 5, Farmland Assessment Act, the date described in Subsection (3)(b)(i)(A) is the date the land was first assessed under Part 5, Farmland Assessment Act, unless the land was subject to a rollback tax imposed under Section 59-2-506.

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.

(b) The county treasurer shall pay the rollback tax collected under this section:

(i) into the county treasury; and

(ii) to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice described in this Subsection (5)(a).

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within

30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.

Section 4. Section 59-2-1707 is amended to read:

59-2-1707. Application -- Signed statement -- Consent to creation of a lien -- Consent to audit and review -- Notice.

(1) For land to be assessed under this part, an owner of land eligible for assessment under this part shall submit [~~an application~~] annually to the county assessor of the county in which the land is located[~~.~~]:

(a) an application described in Subsection (2); or

(b) a renewal application described in Subsection (3) if:

(i) the land was assessed under this part for the preceding tax year; and

(ii) there have been no changes to the eligibility information provided in the most recently submitted application described in Subsection (2), other than the information described in Subsection 59-2-1703(2)(b).

(2) An application required by Subsection (1) shall:

(a) be on a form:

(i) approved by the commission; and

(ii) provided to an owner:

(A) by the county assessor; and

(B) at the request of an owner;

(b) provide for the reporting of information related to this part;

(c) be submitted by:

(i) May 1 of the tax year in which assessment under Subsection (1) is requested if the land was not assessed under this part in the year before the application is submitted; or

(ii) the date otherwise required by this part for land that before the application being submitted has been assessed under this part;

(d) be signed by all of the owners of the land that under the application would be assessed under this part;

(e) be accompanied by the prescribed fees made payable to the county recorder;

(f) include a certification by an owner that the facts set forth in the application or signed statement are true;

(g) include a statement that the application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and

(h) be recorded by the county recorder.

(3) A renewal application required by Subsection (1) shall:

(a) be on a form:

(i) approved by the commission; and

(ii) provided to an owner:

(A) by the county assessor; and

(B) at the request of an owner;

(b) provide for the reporting of the information described in Subsection 59-2-1703(2)(b);

(c) be submitted on or before January 30 of the tax year in which the owner requests assessment under this part;

(d) be signed by all of the owners of the land;

(e) be accompanied by the prescribed fees made payable to the county recorder;

(f) include a certification by an owner that the following are true:

(i) the facts set forth in the renewal application or signed statement; and

(ii) other than the information described in Subsection 59-2-1703(2)(b), the facts set forth in the most recently submitted application described in Subsection (2), as of the date the renewal application is submitted;

(g) include a statement that the renewal application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and

(h) be recorded by the county recorder.

(4) [~~The~~] An application described in Subsection (2) or a renewal application described in Subsection (3) constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part.

[~~(4)~~] (5) (a) If the county determines that [~~an application that was~~] a timely filed application or a timely filed renewal application is incomplete, the county shall:

(i) notify the owner of the incomplete application or renewal application; and

(ii) allow the owner to complete the application or renewal application within 30 days from the day on which the county provides notice to the owner.

(b) An application that has not been completed within 30 days of the day of the notice described in Subsection [~~(4)(a)~~] (5)(a) shall be considered denied.

[~~(5)~~] (6) (a) Except as provided in Subsections (1) [~~and (2)~~] through (3), a county assessor may not require an additional signed statement or application for assessment under this part.

(b) Notwithstanding Subsection [~~(5)(a)~~] (6)(a), a county shall require that an owner provide notice if land is withdrawn from this part as provided in Section 59-2-1705.

[~~(6)~~] (7) A certification under Subsection (2)(f) or (3)(f) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

[~~(7)~~] (8) (a) An owner applying for participation under this part or a purchaser or lessee that signs a statement under Subsection [~~(8)~~] (9) is considered to have given consent to a field audit and review by:

(i) the commission;

(ii) the county assessor; or

(iii) the commission and the county assessor.

(b) The consent described in Subsection [~~(7)(a)~~] (8)(a) is a condition to the acceptance of an application or signed statement.

[~~(8)~~] (9) An owner of land eligible for assessment under this part, because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-1703, may qualify the land for assessment under this part by submitting, with the application described in Subsection (2) or the renewal application described in Subsection (3), a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-1703 for assessment under this part.

Section 5. Retrospective operation.

The following sections have retrospective operation to January 1, 2023:

(1) Section 59-2-506; and

(2) Section 59-2-1705.

CHAPTER 190
H. B. 398
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

SPECIAL NEEDS OPPORTUNITY SCHOLARSHIP PROGRAM AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to the Special Needs Opportunity Scholarship Program.

Highlighted Provisions:

This bill:

- modifies defined terms;
- expands the expenses for which a scholarship recipient may use a scholarship award;
- amends the formula for calculating a scholarship amount for an eligible student;
- increases the amount of donations a scholarship granting organization may carry forward in a fiscal year; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53E-7-401, as last amended by Laws of Utah 2022, Chapter 262
53E-7-402, as last amended by Laws of Utah 2022, Chapter 262
53E-7-405, as last amended by Laws of Utah 2022, Chapters 262, 456

Utah Code Sections Affected by Coordination Clause:

53E-7-402, as last amended by Laws of Utah 2022, Chapter 262

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

Section 1. Section 53E-7-401 is amended to read:

53E-7-401. Definitions.

As used in this part:

(1) "Eligible student" means:

(a) a student who:

(i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(ii) is a resident of the state;

(iii) (A) has an IEP; or

(B) is determined by a multidisciplinary evaluation team to be eligible for services under 20 U.S.C. Sec. 1401(3); and

(iv) during the school year for which the student is applying for the scholarship, is not:

(A) a student who receives a scholarship under the Carson Smith Scholarship Program created in Section 53F-4-302; or

(B) enrolled as a public school student; or

(b) a student who:

(i) meets the requirement of Subsections (1)(a)(i) and (ii); and

(ii) is a sibling of and resides in the same household as a student described in Subsection (1)(a) if:

(A) the student described in Subsection (1)(a) is a scholarship student and has verified enrollment or intent to enroll at a qualifying school; and

(B) the sibling is applying for a scholarship to attend the same qualifying school.

(2) (a) "Employee" means an individual working in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from:

(i) program donations to a scholarship granting organization; or

(ii) scholarship money allocated to a qualifying school by a scholarship granting organization under Section 53E-7-405.

(b) "Employee" does not include an individual who volunteers at the scholarship granting organization or qualifying school.

(3) "Family income" means the annual income of the parent, parents, legal guardian, or legal guardians with whom a scholarship student lives.

(4) "Federal poverty level" means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(5) "Multidisciplinary evaluation team" means two or more individuals:

(a) who are qualified in two or more separate disciplines or professions; and

(b) who evaluate a child.

(6) "Officer" means:

(a) a member of the board of a scholarship granting organization or qualifying school; or

(b) the chief administrative officer of a scholarship granting organization or qualifying school.

(7) "Program donation" means a donation to the program under Section 53E-7-405.

(8) "Qualifying school" means a private school that:

(a) provides kindergarten, elementary, or secondary education;

(b) is approved by the state board under Section 53E-7-408; and

(c) meets the requirements described in Section 53E-7-403.

(9) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(10) "Scholarship" means a grant awarded to an eligible student:

(a) by a scholarship granting organization out of program donations; and

(b) for the purpose of paying for a scholarship expense.

[~~(11) "Scholarship expense" means:~~]

[~~(a) tuition, fees, or textbooks for a qualifying school;~~]

[~~(b) educational therapy, if the educational therapy is provided by a licensed physician or licensed practitioner, including occupational, behavioral, physical, or speech-language therapies;~~]

[~~(c) textbooks, curriculum, or other instructional materials, including supplemental materials or associated online instruction required by a curriculum;~~]

[~~(d) tuition and fees for an online learning course or program; or~~]

[~~(e) fees associated with a state-recognized industry certification examination or any examination related to college or university admission.~~]

(11) "Scholarship expense" means an expense that a parent or eligible student incurs in the education of the eligible student for goods or a service that a qualifying school provides or facilitates, including:

(a) tuition and fees of a qualifying school;

(b) fees and instructional materials at a technical college;

(c) tutoring services;

(d) fees for after-school or summer education programs;

(e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying school recommends;

(f) educational software and applications;

(g) supplies or other equipment related to an eligible student's educational needs;

(h) computer hardware or other technological devices that are intended primarily for an eligible student's educational needs;

(i) fees for the following examinations, or for a preparation course for the following examinations, that the scholarship granting organization approves:

(i) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;

(ii) a state-recognized industry certification examination; and

(iii) an examination related to college or university admission;

(j) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;

(k) contracted services that the scholarship granting organization approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

(l) ride fees or fares for a fee-for-service transportation provider to transport the eligible student to and from a qualifying school, not to exceed $750 in a given school year;

(m) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or

(n) the scholarship granting organization approves in accordance with Subsection 53E-7-405(3).

(12) "Scholarship granting organization" means an organization that is:

(a) qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and

(b) recognized through an agreement with the state board as a scholarship granting organization, as described in Section 53E-7-404.

(13) "Scholarship student" means an eligible student who receives a scholarship under this part.

(14) "Special Needs Opportunity Scholarship Program" or "program" means the program established in Section 53E-7-402.

(15) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 2. Section 53E-7-402 is amended to read:

53E-7-402. Special Needs Opportunity Scholarship Program.

(1) There is established the Special Needs Opportunity Scholarship Program under which a parent may apply to a scholarship granting organization on behalf of the parent's student for a

scholarship to help cover the cost of a scholarship expense.

(2) (a) A scholarship granting organization shall[~~:~~]

[~~(i)~~] award, in accordance with this part, scholarships to eligible students[~~; and~~].

[~~(ii) determine the amount of a scholarship in accordance with Subsection (3).~~]

(b) In awarding scholarships, a scholarship granting organization shall give priority to an eligible student described in Subsection 53E-7-401(1)(a) by:

(i) establishing an August 10 deadline for an eligible student described in Subsection 53E-7-401(1)(b) to apply for a scholarship; and

(ii) awarding a scholarship to an eligible student described in Subsection 53E-7-401(1)(b) only if funds exist after awarding scholarships to all eligible students described in Subsection 53E-7-401(1)(a) who have applied and qualify.

(c) Subject to available funds, a scholarship awarded to an eligible student described in Subsection 53E-7-401(1)(b) shall be for a similar term as a scholarship awarded to the eligible student's sibling.

(3) A scholarship granting organization shall determine a full-year scholarship award to pay for the cost of one or more scholarship expenses in an amount not more than:

(a) for an eligible student described in Subsection 53E-7-401(1)(a) who is:

(i) in [~~grades 1~~] kindergarten through grade 12 [~~with an IEP~~] and whose family income is:

(A) at or below 185% of the federal poverty level, the value of the weighted pupil unit multiplied by 2.5; or

(B) [~~between~~] above 185% [~~and 555%~~] of the federal poverty level, the value of the weighted pupil unit multiplied by two; or

[~~(C) above 555% of the federal poverty level, the value of the weighted pupil unit multiplied by 1.5;~~]

[~~(ii) in grades 1 through 12 and who does not have an IEP, the value of the weighted pupil unit;~~]

[~~(iii) in kindergarten with an IEP, the value of the weighted pupil unit; or~~]

[~~(iv) in kindergarten and who does not have an IEP, half the value of the weighted pupil unit; or~~]

(b) for an eligible student described in Subsection 53E-7-401(1)(b), half the value of the weighted pupil unit.

(4) Eligibility for a scholarship as determined by a multidisciplinary evaluation team under this program does not establish eligibility for an IEP under the Individuals with Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419, and is not binding on any LEA that is required to provide an IEP under the Individuals with Disabilities Education Act.

(5) The scholarship granting organizations shall prepare and disseminate information on the program to a parent applying for a scholarship on behalf of a student.

Section 3. Section 53E-7-405 is amended to read:

53E-7-405. Program donations -- Scholarship granting organization requirements.

(1) A person that makes a donation to a scholarship granting organization to help fund scholarships through the program may be eligible to receive a nonrefundable tax credit as described in Sections 59-7-625 and 59-10-1041.

(2) In accordance with Section 53E-7-404, an organization may enter into an agreement with the state board to be a scholarship granting organization.

(3) A scholarship granting organization shall:

(a) accept program donations and allow a person that makes a program donation to designate a qualifying school to which the donation shall be directed for scholarships;

(b) adopt an application process in accordance with Subsection (5);

(c) review scholarship applications and determine scholarship awards;

(d) allocate scholarship money to a scholarship student's parent or, on the parent's behalf, to a qualifying school in which the scholarship student is enrolled;

(e) adopt a process, with state board approval, that allows a parent to use a scholarship to pay for a nontuition scholarship expense for the scholarship student;

(f) ensure that during the state fiscal year:

(i) at least 92% of the scholarship granting organization's revenue from program donations is spent on scholarships;

(ii) up to 5% of the scholarship granting organization's revenue from program donations is spent on administration of the program;

(iii) up to 3% of the scholarship granting organization's revenue from program donations is spent on marketing and fundraising costs; and

(iv) all revenue from program donations' interest or investments is spent on scholarships;

(g) carry forward no more than [~~40~~] 60% of the scholarship granting organization's program donations, less funds for a scholarship that has been awarded, and funds expended for administration and marketing, from the state fiscal year in which the scholarship granting organization received the program donations to the following state fiscal year;

(h) at the end of a state fiscal year, remit to the state treasurer donation amounts greater than the amount described in Subsection (3)(g);

(i) prohibit a scholarship granting organization employee or officer from handling, managing, or processing program donations, if, based on a criminal background check conducted by the state board in accordance with Section 53E-7-404, the state board identifies the employee or officer as posing a risk to the appropriate use of program donations;

(j) ensure that a scholarship can be transferred during the school year to a different qualifying school that accepts the scholarship student;

(k) report to the state board on or before October 1 of each year the following information, prepared by a certified public accountant:

(i) the name and address of the scholarship granting organization;

(ii) the total number and total dollar amount of program donations that the scholarship granting organization received during the previous calendar year;

(iii) (A) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous state fiscal year to eligible students described in Subsection 53E-7-401(1)(a); and

(B) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous state fiscal year to eligible students described in Subsection 53E-7-401(1)(b); and

(iv) the percentage of first-time scholarship recipients who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

(l) issue tax credit certificates as described in Section 53E-7-407; and

(m) require a parent to notify a scholarship granting organization if the parent's scholarship recipient:

(i) receives scholarship money for tuition expenses; and

(ii) does not have continuing enrollment and attendance at a qualifying school.

(4) The state treasurer shall deposit the money described in Subsection (3)(h) into the Income Tax Fund.

(5) (a) An application for a scholarship shall contain an acknowledgment by the applicant's parent that the qualifying school selected by the parent for the applicant to attend using a scholarship is capable of providing the level of disability services required for the student.

(b) A scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of disability services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship recipient if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(c) Upon acceptance of a scholarship, the parent assumes full financial responsibility for the education of the scholarship recipient.

(d) Acceptance of a scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) A scholarship granting organization shall demonstrate the scholarship granting organization's financial accountability by annually submitting to the state board a financial information report that:

(a) complies with the uniform financial accounting standards described in Section 53E-7-404; and

(b) is prepared by a certified public accountant.

(7) (a) If a scholarship granting organization allocates $500,000 or more in scholarships annually through the program, the scholarship granting organization shall:

(i) contract for an annual audit, conducted by a certified public accountant who is independent from:

(A) the scholarship granting organization; and

(B) the scholarship granting organization's accounts and records pertaining to program donations; and

(ii) in accordance with Subsection (7)(b), report the results of the audit to the state board for review.

(b) For the report described in Subsection (7)(a)(ii), the scholarship granting organization shall:

(i) include the scholarship granting organization's financial statements in a format that meets generally accepted accounting standards; and

(ii) submit the report to the state board no later than 180 days after the last day of a scholarship granting organization's fiscal year.

(c) The certified public accountant shall conduct an audit described in Subsection (7)(a)(i) in accordance with generally accepted auditing standards and rules made by the state board.

(d) (i) The state board shall review a report submitted under this section and may request that the scholarship granting organization revise or supplement the report if the report is not in compliance with the provisions of this Subsection (7) or rules adopted by the state board.

(ii) A scholarship granting organization shall provide a revised report or supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (7)(d)(i).

(8) (a) A scholarship granting organization may not allocate scholarship money to a qualifying school if:

(i) the scholarship granting organization determines that the qualifying school intentionally or substantially misrepresented information on overpayment;

(ii) the qualifying school fails to refund an overpayment in a timely manner; or

(iii) the qualifying school routinely fails to provide scholarship recipients with promised educational goods or services.

(b) A scholarship granting organization shall notify a scholarship recipient if the scholarship granting organization stops allocation of the recipient's scholarship money to a qualifying school under Subsection (8)(a).

(9) If a scholarship recipient transfers to another qualifying school during the school year, the scholarship granting organization may prorate scholarship money between the qualifying schools according to the time the scholarship recipient spends at each school.

(10) A scholarship granting organization may not:

(a) award a scholarship to a relative of the scholarship granting organization's officer or employee; or

(b) allocate scholarship money to a qualifying school at which the scholarship recipient has a relative who is an officer or an employee of the qualifying school.

Section 4. Coordinating H.B. 398 with H.B. 2 -- Superseding technical and substantive amendments.

If this H.B. 398 and H.B. 2, Public Education Budget Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 53E-7-402 in this bill supersede the amendments to Section 53E-7-402 in H.B. 2 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 5. Coordinating H.B. 398 with H.B. 477 -- Superseding technical and substantive amendments.

If this H.B. 398 and H.B. 477, Full-day Kindergarten Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 53E-7-402 in this bill supersede the amendments to Section 53E-7-402 in H.B. 477 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 191
H. B. 399
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

CORPORATION AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses provisions related to corporations.

Highlighted Provisions:

This bill:

- amends application requirements for:
  - a nonprofit corporation or a corporation applying for reinstatement after dissolution; and
  - a foreign nonprofit corporation or foreign corporation applying for withdrawal;
- requires the Division of Corporations and Commercial Code to request that the State Tax Commission certify that:
  - a nonprofit corporation or corporation applying for reinstatement after dissolution is in good standing; and
  - a foreign nonprofit corporation or foreign corporation applying for withdrawal is in good standing;
- requires the State Tax Commission to notify the Division of Corporations and Commercial Code and the corporation if the corporation is not in good standing;
- requires the Division of Corporations and Commercial Code to approve a corporation's application for withdrawal under certain circumstances;
- modifies provisions related to corporate quorum or voting requirements for religious nonprofit corporations; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

16-6a-716, as enacted by Laws of Utah 2000, Chapter 300
16-6a-1412, as last amended by Laws of Utah 2017, Chapter 122
16-6a-1513, as enacted by Laws of Utah 2000, Chapter 300
16-10a-1422, as last amended by Laws of Utah 2017, Chapter 122
16-10a-1520, as enacted by Laws of Utah 1992, Chapter 277

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

Section 1. Section 16-6a-716 is amended to read:

16-6a-716. Greater quorum or voting requirements.

(1) The articles of incorporation or bylaws may provide for a greater:

(a) quorum requirement for members or voting groups than is provided for by this chapter; or

(b) voting requirement for members or voting groups than is provided by this chapter.

(2) [~~An~~] Except as provided in Subsection (3), an amendment to the articles of incorporation or the bylaws that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the greater of the quorum and voting requirements:

(a) then in effect; or

(b) proposed to be adopted.

(3) Notwithstanding Subsection (2), a nonprofit organization that is affiliated with a religious organization may make an amendment to the nonprofit organization's articles of incorporation or bylaws in accordance with the direction of the religious organization's religious authorities.

Section 2. Section 16-6a-1412 is amended to read:

16-6a-1412. Reinstatement following administrative dissolution -- Reinstatement after voluntary dissolution.

(1) A nonprofit corporation administratively dissolved under Section 16-6a-1411 may apply to the division for reinstatement within two years after the effective date of dissolution by delivering to the division for filing an application for reinstatement that:

(a) states:

[~~(a)~~] (i) the effective date of [~~its~~] the nonprofit corporation's administrative dissolution and [~~its~~] the nonprofit corporation's corporate name on the effective date of dissolution;

[~~(b)~~] (ii) that the ground or grounds for dissolution:

[~~(i)~~] (A) did not exist; or

[~~(ii)~~] (B) have been eliminated;

[~~(c)~~] (iii) [~~(i)~~] the corporate name under which the nonprofit corporation is being reinstated; [~~and~~]

[~~(ii)~~] (iv) the corporate name that satisfies the requirements of Section 16-6a-401;

[~~(d)~~] (v) that the nonprofit corporation has paid all fees or penalties imposed under this chapter or other applicable state law;

[~~(e)~~] (vi) that the nonprofit corporation:

[~~(i)~~] (A) has paid any taxes, fees, or penalties owed to the State Tax Commission; or

[~~(ii)~~] (B) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed to the State Tax Commission;

[~~(f)~~] (vii) the address of the nonprofit corporation's registered office;

[~~(g)~~] (viii) the name of the nonprofit corporation's registered agent at the office stated in Subsection (1)(f);

(ix) the federal employer identification number of the nonprofit corporation; and

[~~(h)~~] (x) any additional information the division determines is necessary or appropriate[~~.~~]; and

[~~(2)~~] (b) [~~The nonprofit corporation shall include in or with the application for reinstatement:~~]

[~~(a)~~] includes the written consent to appointment by the designated registered agent[~~; and~~].

[~~(b) a certificate from the State Tax Commission that states that the nonprofit corporation:~~]

[~~(i) has paid any taxes, fees, or penalties owed to the State Tax Commission; or~~]

[~~(ii) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed to the State Tax Commission.~~]

(2) (a) After receiving a nonprofit corporation's application for reinstatement, the division shall:

(i) provide the State Tax Commission with the nonprofit corporation's federal employer identification number; and

(ii) request that the State Tax Commission certify that the nonprofit corporation is in good standing.

(b) The State Tax Commission shall certify that a nonprofit corporation is in good standing if the nonprofit corporation:

(i) has paid all taxes, fees, and penalties the nonprofit corporation owed to the State Tax Commission; or

(ii) is current on a payment plan with the State Tax Commission for all taxes, fees, and penalties the nonprofit corporation owes to the State Tax Commission.

(c) If a nonprofit corporation is not in good standing as described in Subsection (2)(b), the State Tax Commission shall:

(i) notify the division, stating that the nonprofit corporation is not in good standing; and

(ii) notify the nonprofit corporation, explaining in detail why the nonprofit corporation is not in good standing.

(3) (a) The division shall revoke the administrative dissolution if:

(i) the division determines that the application for reinstatement contains the information required [~~by Subsections (1) and (2); and~~] under Subsection (1);

(ii) the division determines that the information in the application is correct; and

(iii) the State Tax Commission certifies that the nonprofit corporation is in good standing as described in Subsection (2)(b).

(b) The division shall mail written notice of the revocation to the nonprofit corporation in the manner provided in Subsection 16-6a-1411(5) stating the effective date of the dissolution.

(4) When the reinstatement is effective:

(a) the reinstatement relates back to and takes effect as of the effective date of the administrative dissolution;

(b) the nonprofit corporation may carry on [~~its~~] the nonprofit corporation's activities, under the name stated pursuant to Subsection [~~(1)(c)~~] (1)(a)(iii), as if the administrative dissolution had never occurred; and

(c) an act of the nonprofit corporation during the period of dissolution is effective and enforceable as if the administrative dissolution had never occurred.

(5) (a) The division may make rules for the reinstatement of a nonprofit corporation voluntarily dissolved.

(b) The rules made under Subsection (5)(a) shall be substantially similar to the requirements of this section for reinstatement of a nonprofit corporation that is administratively dissolved.

Section 3. Section 16-6a-1513 is amended to read:

16-6a-1513. Withdrawal of foreign nonprofit corporation.

(1) A foreign nonprofit corporation authorized to conduct affairs in this state may not withdraw from this state until [~~its~~] the foreign nonprofit corporation's application for withdrawal has been filed by the division.

(2) A foreign nonprofit corporation authorized to conduct affairs in this state may apply for withdrawal by delivering to the division for filing an application for withdrawal [~~setting forth~~] that states:

(a) [~~its~~] the foreign nonprofit corporation's corporate name and [~~its~~] assumed name, if any;

(b) the name of the state or country under whose law [~~it~~] the foreign nonprofit corporation is incorporated;

(c) (i) (A) the address of [~~its~~] the foreign nonprofit corporation's principal office; or

(B) if a principal office is not to be maintained, a statement that the foreign nonprofit corporation will not maintain a principal office; and

(ii) if different from the address of the principal office or if no principal office is to be maintained, the

address to which service of process may be mailed pursuant to Section 16-6a-1514;

(d) that the foreign nonprofit corporation is not conducting affairs in this state;

(e) that [~~it~~] the foreign nonprofit corporation surrenders [~~its~~] the foreign nonprofit corporation's authority to conduct affairs in this state;

(f) whether [~~its~~] the foreign nonprofit corporation's registered agent will continue to be authorized to accept service on [~~its~~] the foreign nonprofit corporation's behalf in any proceeding based on a cause of action arising during the time [~~it~~] the foreign nonprofit corporation was authorized to conduct affairs in this state; [~~and~~]

(g) the federal employer identification number of the foreign nonprofit corporation; and

[~~(g)~~] (h) any additional information that the division determines is necessary or appropriate to:

(i) determine whether the foreign nonprofit corporation is entitled to withdraw; and

(ii) determine and assess any unpaid taxes, fees, and penalties payable by the foreign nonprofit corporation as prescribed by this chapter.

[~~(3) A foreign nonprofit corporation's application for withdrawal may not be filed by the division until:~~]

[~~(a) all outstanding fees and state tax obligations have been paid; and~~]

[~~(b) the division has received a certificate from the State Tax Commission reciting that all taxes owed by the foreign nonprofit corporation have been paid.~~]

(3) (a) After receiving a foreign nonprofit corporation's application for withdrawal, the division shall:

(i) provide the State Tax Commission with the foreign nonprofit corporation's federal employer identification number; and

(ii) request that the State Tax Commission certify that the foreign nonprofit corporation is in good standing.

(b) The State Tax Commission shall certify that a foreign nonprofit corporation is in good standing if the foreign nonprofit corporation has paid all taxes, fees, and penalties the foreign nonprofit corporation owed to the State Tax Commission.

(c) If a foreign nonprofit corporation is not in good standing as described in Subsection (3)(b), the State Tax Commission shall:

(i) notify the division, stating that the foreign nonprofit corporation is not in good standing; and

(ii) notify the foreign nonprofit corporation, explaining in detail why the foreign nonprofit corporation is not in good standing.

(4) (a) The division shall approve a foreign nonprofit corporation's application for withdrawal if:

(i) the division determines that the application for withdrawal contains the information required under Subsection (2);

(ii) the division determines the information in the application is correct; and

(iii) the State Tax Commission certifies that the foreign nonprofit corporation is in good standing as described in Subsection (3)(b).

(b) The division shall mail written notice of the withdrawal stating the effective date of the withdrawal to the foreign nonprofit corporation.

Section 4. Section 16-10a-1422 is amended to read:

16-10a-1422. Reinstatement following dissolution.

(1) A corporation dissolved under Section 16-10a-1403 or 16-10a-1421 may apply to the division for reinstatement within two years after the effective date of dissolution by delivering to the division for filing an application for reinstatement that:

(a) states:

[~~(a)~~] (i) the effective date of the corporation's dissolution;

[~~(b)~~] (ii) the corporation's corporate name as of the effective date of dissolution;

[~~(c)~~] (iii) that the grounds for dissolution either did not exist or have been eliminated;

[~~(d)~~] (iv) the corporate name under which the corporation is being reinstated;

[~~(e)~~] (v) that the name stated in Subsection [~~(1)(d)~~] (1)(a)(iv) satisfies the requirements of Section 16-10a-401;

[~~(f)~~] (vi) that the corporation has paid all fees or penalties imposed under this chapter or other applicable state law;

[~~(g)~~] (vii) that the corporation:

[~~(i)~~] (A) has paid any taxes, fees, or penalties owed to the State Tax Commission; or

[~~(ii)~~] (B) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed to the State Tax Commission;

[~~(h)~~] (viii) the address of the corporation's registered office in this state;

[~~(i)~~] (ix) the name of the corporation's registered agent at the office stated in Subsection [~~(1)(h)~~] (1)(a)(viii);

(x) the federal employer identification number of the corporation; and

[~~(j)~~] (xi) any additional information the division determines to be necessary or appropriate[~~.~~]; and

[~~(2)~~] (b) [~~The corporation shall include in or with the application for reinstatement:~~]

[~~(a)~~] includes the written consent to appointment by the designated registered agent[~~; and~~].

[~~(b) a certificate from the State Tax Commission that states that the corporation:~~]

[~~(i) has paid any taxes, fees, or penalties owed to the State Tax Commission; or~~]

[~~(ii) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed to the State Tax Commission.~~]

(2) (a) After receiving a corporation's application for reinstatement, the division shall:

(i) provide the State Tax Commission with the corporation's federal employer identification number; and

(ii) request that the State Tax Commission certify that the corporation is in good standing.

(b) The State Tax Commission shall certify that a corporation is in good standing if the corporation:

(i) has paid all taxes, fees, and penalties the corporation owed to the State Tax Commission; or

(ii) is current on a payment plan with the State Tax Commission for all taxes, fees, and penalties the corporation owes to the State Tax Commission.

(c) If a corporation is not in good standing as described in Subsection (2)(b), the State Tax Commission shall:

(i) notify the division, stating that the corporation is not in good standing; and

(ii) notify the corporation, explaining in detail why the corporation is not in good standing.

(3) [~~If~~]

(a) The division shall revoke the administrative dissolution if:

(i) the division determines that the application for reinstatement contains the information required [~~by Subsections (1) and (2) and~~] under Subsection (1);

(ii) the division determines that the information in the application is correct[~~, the division shall revoke the administrative dissolution.~~]; and

(iii) the State Tax Commission certifies that the corporation is in good standing as described in Subsection (2)(b).

(b) The division shall mail to the corporation in the manner provided in Subsection 16-10a-1421(5) written notice of:

[~~(a)~~] (i) the revocation; and

[~~(b)~~] (ii) the effective date of the revocation.

(4) (a) When the reinstatement is effective, [~~it~~] the reinstatement relates back to the effective date of the administrative dissolution.

(b) Upon reinstatement:

[~~(a)~~] (i) an act of the corporation during the period of dissolution is effective and enforceable as if the administrative dissolution had never occurred; and

[~~(b)~~] (ii) the corporation may carry on [~~its~~] the corporation's business, under the name stated pursuant to Subsection [~~(1)(d),~~] (1)(a)(iv), as if the administrative dissolution had never occurred.

Section 5. Section 16-10a-1520 is amended to read:

16-10a-1520. Withdrawal of foreign corporation.

(1) A foreign corporation authorized to transact business in this state may not withdraw from this state until [~~its~~] the foreign corporation's application for withdrawal has been filed by the division.

(2) A foreign corporation authorized to transact business in this state may apply for withdrawal by delivering to the division for filing an application for withdrawal [~~setting forth~~] that states:

(a) [~~its~~] the foreign corporation's corporate name and [~~its~~] assumed name, if any;

(b) the name of the state or country under whose law [~~it~~] the foreign corporation is incorporated;

(c) the address of [~~its~~] the foreign corporation's principal office, or if none is to be maintained, a statement that the corporation will not maintain a principal office, and if different from the address of the principal office or if no principal office is to be maintained, the address to which service of process may be mailed pursuant to Section 16-10a-1521;

(d) that the corporation is not transacting business in this state and that [~~it~~] the foreign corporation surrenders [~~its~~] the foreign corporation's authority to transact business in this state;

(e) whether [~~its~~] the foreign corporation's registered agent will continue to be authorized to accept service on [~~its~~] the foreign corporation's behalf in any proceeding based on a cause of action arising during the time [~~it~~] the foreign corporation was authorized to transact business in this state; [~~and~~]

(f) the federal employer identification number of the foreign corporation; and

[~~(f)~~] (g) any additional information that the division determines is necessary or appropriate to determine whether the corporation is entitled to withdraw, and to determine and assess any unpaid taxes, fees, and penalties payable by [~~it~~] the foreign corporation as prescribed by this chapter.

[~~(3) A foreign corporation's application for withdrawal may not be filed by the division until all outstanding fees and state tax obligations have been paid and the division has received a tax clearance certificate from the State Tax Commission.~~]

(3) (a) After receiving a foreign corporation's application for withdrawal, the division shall:

(i) provide the State Tax Commission with the foreign corporation's federal employer identification number; and

(ii) request that the State Tax Commission certify that the foreign corporation is in good standing.

(b) The State Tax Commission shall certify that a foreign corporation is in good standing if the foreign corporation has paid all taxes, fees, and penalties the foreign corporation owed to the State Tax Commission.

(c) If a foreign corporation is not in good standing as described in Subsection (3)(b), the State Tax Commission shall:

(i) notify the division, stating that the foreign corporation is not in good standing; and

(ii) notify the foreign corporation, explaining in detail why the foreign corporation is not in good standing.

(4) (a) The division shall approve a foreign corporation's application for withdrawal if:

(i) the division determines that the application for withdrawal contains the information required under Subsection (2);

(ii) the division determines the information in the application is correct; and

(iii) the State Tax Commission certifies that the foreign corporation is in good standing as described in Subsection (3)(b).

(b) The division shall mail written notice of the withdrawal stating the effective date of the withdrawal to the foreign corporation.

Section 6. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) The actions affecting the following sections take effect on July 1, 2023:

(a) Section 16-6a-1412;

(b) Section 16-6a-1513;

(c) Section 16-10a-1422; and

(d) Section 16-10a-1520.

CHAPTER 192
H. B. 402
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

EXTRADITION TOLLING AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill concerns extradition tolling for a defendant subject to criminal charges in this state.

Highlighted Provisions:

This bill:

- ▶ concerns extradition tolling for a defendant subject to criminal charges in this state; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-30-19, as enacted by Laws of Utah 1980, Chapter 15

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

Section 1. Section 77-30-19 is amended to read:

77-30-19. Procedure if prosecution pending in this state.

(1) If a criminal prosecution has been instituted against [~~such person~~] a defendant under the laws of this state and is still pending, the governor[~~, in his discretion,~~] may either surrender [~~him~~] the defendant on demand of the executive authority of another state or hold [~~him until he~~] the defendant until the defendant has been tried and [~~discharged or~~] either convicted and [~~punished~~] sentenced, acquitted, or otherwise discharged in this state.

(2) Unless tolling is contrary to state or federal law, the period of time for extradition shall be tolled when local charges are pending in this state.

CHAPTER 193
H. B. 403
Passed March 3, 2023
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Effective May 3, 2023

STUDENT MENTAL HEALTH AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions of public education student mental health screening.

Highlighted Provisions:

This bill:

- defines "non-participating LEA" (non-participating local education agency);
- requires an LEA to determine whether the LEA will be a participating or non-participating LEA;
- requires a non-participating LEA to report each year whether the LEA will change or maintain the LEA's participation status;
- amends participating LEA mental health screening and parental notification requirements;
- amends the annual mental health screening report requirements for the State Board of Education; and
- amends the uses for which an LEA may use State Board of Education funds and when the board may distribute those funds.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-522, as enacted by Laws of Utah 2020, Chapter 202

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

Section 1. Section 53F-2-522 is amended to read:

53F-2-522. Public education mental health screening.

(1) As used in this section:

(a) "Division" means the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare.

(b) "Non-participating LEA" means an LEA that does not administer an approved mental health screening program described in this section.

[~~(b)~~] (c) "Participating LEA" means an LEA that has an approved screening program described in this section.

[~~(c)~~] (d) "Participating student" means a student in a participating LEA who participates in a mental health screening program.

[~~(d)~~] (e) "Qualifying parent" means a parent:

(i) of a participating student who, based on the results of a screening program, would benefit from resources that cannot be provided to the participating student in the school setting; and

(ii) who qualifies for financial assistance to pay for the resources under rules made by the state board.

[~~(e)~~] (f) "Screening program" means a student mental health screening program selected by a participating LEA and approved by the state board in consultation with the division.

[~~(2) A participating LEA may implement a mental health screening for participating students using an evidence-based screening program.~~]

(2) (a) On or before July 1, 2023, an LEA governing board shall determine whether the LEA will be a participating LEA or a non-participating LEA for the 2023-24 school year.

(b) (i) During the 2023-24 school year, and each year after, a participating LEA may change the LEA's participation status and become a non-participating LEA for the next school year by reporting the status change to the state board by the end of the current school year.

(ii) An LEA that changed the LEA's status from participating to non-participating in Subsection (2)(b)(i) is subject to the requirements of a non-participating LEA described in Subsection (2)(c).

(c) (i) During the 2023-24 school year, and each year after, a non-participating LEA's governing board shall submit a record of determination to the state board by the end of the school year, which record shall state whether the non-participating LEA will:

(A) maintain the LEA's non-participating status; or

(B) change the LEA's status to be a participating LEA.

(ii) If the non-participating LEA determines the LEA will change participation status and become a participating LEA, the LEA's status of participation will change at the end of the current school year.

(3) The state board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to [~~establish~~]:

(i) establish a process for a participating LEA to submit a selected screening program to the state board for approval;

(ii) in accordance with Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, establish who may access and use a participating student's screening data; [~~and~~]

(iii) establish a requirement and a process for appropriate LEA or school personnel to attend

annual training related to administering the screening program;

(iv) determine whether a parent is eligible to receive the financial support described in Subsection (5)(a) as a qualifying parent; and

(v) apply for and distribute the financial support described in Subsection (5)(a);

(b) in consultation with the division, approve an evidence-based student mental health screening program selected by a participating LEA that:

(i) is age appropriate for each grade in which the screening program is administered;

(ii) screens for the mental health conditions determined by the state board and division; and

(iii) is an effective tool for identifying whether a student has a mental health condition that requires intervention; and

(c) on or before November 30 of each year, submit a report on the screening programs to[:]

[~~(i)~~] the State Suicide Prevention Coalition created under Subsection 62A-15-1101(2)[;] and

[~~(ii)~~] the Education Interim Committee in accordance with Section 53E-1-201[.] that contains the following:

(i) the approximate number of participating students that were screened in each participating LEA the previous school year;

(ii) the names and number of:

(A) participating LEAs; and

(B) non-participating LEAs;

(iii) an overview of how participating LEAs utilized distributed funds; and

(iv) whether the amount of distributed funds to each participating LEA was sufficient for the participating LEA's needs.

(4) A participating LEA shall:

(a) in accordance with rules made by the state board under Subsection (3)(a), submit a selected evidence-based screening program to the state board for approval;

(b) implement and administer a state board-approved mental health screening program to participating students in the participating LEA[;] by:

(i) annually notifying each parent with a student in the participating LEA that the parent may have the student screened for mental health conditions;

[~~(c)~~] (ii) [~~obtain~~] obtaining prior written consent from a student's parent, that complies with Section 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, before the participating LEA [~~administers the screening program to~~] screens a participating student; [~~and~~]

(iii) screening the student for mental health conditions; and

[~~(d)~~] (iv) if results of a participating student's screening indicate a potential mental health condition, [~~notify~~] notifying the parent of the participating student of:

[~~(i)~~] (A) the participating student's results; and

[~~(ii)~~] (B) resources available to the participating student, including any services that can be provided by the school mental health provider or by a partnering entity[.];

(c) use state board-distributed funds for the purposes described in Subsection (5)(a); and

(d) provide the state board with necessary information and data for the state board to complete the report described in Subsection (3)(c).

(5) (a) Within appropriations made by the Legislature for this purpose, the state board may distribute funds to a participating LEA to use to:

(i) implement and administer a mental health screening for participating students as described in Subsection (4)(b); and

(ii) assist a qualifying parent to pay for resources described in Subsection [~~(4)(d)(ii)~~] (4)(b)(iv)(B) that cannot be provided by a school mental health professional in the school setting.

[~~(b) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:~~]

[~~(i) determining whether a parent is eligible to receive the financial support described in Subsection (5)(a); and~~]

[~~(ii) applying for and distributing the financial support described in Subsection (5)(a).~~]

(b) The state board may not distribute funds described in Subsection (5)(a) to a non-participating LEA.

(6) A school employee trained in accordance with rules made by the state board under Subsection (3)(a)(iii), who administers an approved mental health screening in accordance with this section in good faith, is not liable in a civil action for an act taken or not taken under this section.

CHAPTER 194
H. B. 410
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

INSURANCE AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Insurance Code, the Public Employees' Benefit and Insurance Program Act, and related provisions.

Highlighted Provisions:

This bill:

- makes changes to provisions of the Insurance Code to:
  - amend what is considered protected work papers when the commissioner conducts an examination;
  - amend requirements for service of process;
  - increase the amount of the annual appropriation for the Captive Insurance Division;
  - amend the required process for insurers to file certain documents;
  - specify the filing requirements for insurers to submit annual statements with the National Association of Insurance Commissioners;
  - prohibit insurance credit when a risk is ceded to an out-of-state captive;
  - eliminate certain requirements for a title insurance licensee to submit certain filings;
  - enacts provisions requiring certain reporting for insurers that offer large employer health benefit plans;
  - add a limited line insurance producer license for pet insurance;
  - permit the Department of Insurance (department) to take action against licensees if the licensee enters a plea in abeyance to certain crimes;
  - clarify provisions related to title insurance companies' deposit of trust money in federally-insured depository institutions in Utah;
  - eliminate the requirement that the Title and Escrow Commission (commission) establish in rule an amount of costs and expenses that are covered by the annual assessment on agency title insurance producers and title insurers (annual assessment);
  - allow the commission to approve costs and expenses covered by the annual assessment for the prior fiscal year;
  - eliminate the limitation on the amount of costs covered by the annual assessment;
  - create the State Mandated Insurer Payments Restricted Account (account) and provide that appropriations from the account are nonlapsing;
  - amend requirements for the method of reporting insurance fraud;
  - eliminate the requirement that an association of captives be in continuous existence for at least one year;
  - change requirements for a captive insurer's paid-in capital;
  - prohibit insuring an award of punitive damages against a third party; and
  - amend the requirements for pure captive insurance companies to which the commissioner issues a certificate of authority;
- amends provisions related to certain recommendations for benefit and rate adjustments for state employees that the Public Employees' Benefit and Insurance Program is required to submit;
- makes technical and conforming changes; and
- defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-2-204, as last amended by Laws of Utah 2018, Chapter 319
31A-2-310, as last amended by Laws of Utah 1995, Chapter 20
31A-3-304, as last amended by Laws of Utah 2019, Chapter 193
31A-4-113.5, as last amended by Laws of Utah 2003, Chapter 252
31A-16-103, as last amended by Laws of Utah 2018, Chapter 319
31A-17-404, as last amended by Laws of Utah 2021, Chapter 252
31A-19a-209, as last amended by Laws of Utah 2015, Chapters 312, 330
31A-23a-106, as last amended by Laws of Utah 2015, Chapter 330
31A-23a-111, as last amended by Laws of Utah 2022, Chapter 198
31A-23a-406, as last amended by Laws of Utah 2021, Chapter 252
31A-23a-409, as last amended by Laws of Utah 2021, Chapter 252
31A-23a-415, as last amended by Laws of Utah 2020, Chapter 32
31A-23b-401, as last amended by Laws of Utah 2020, Chapter 32
31A-25-208, as last amended by Laws of Utah 2020, Chapter 32
31A-26-213, as last amended by Laws of Utah 2020, Chapter 32
31A-30-118, as last amended by Laws of Utah 2020, Chapter 32
31A-31-110, as last amended by Laws of Utah 2008, Chapter 150
31A-35-504, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4
31A-37-102, as last amended by Laws of Utah 2021, Chapter 252
31A-37-202, as last amended by Laws of Utah 2021, Chapter 252
31A-37-204, as last amended by Laws of Utah 2021, Chapter 252

49-20-401, as last amended by Laws of Utah 2022, Chapter 302
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451

ENACTS:
31A-22-728, Utah Code Annotated 1953

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

Section 1. Section 31A-2-204 is amended to read:

31A-2-204. Conducting examinations.

(1) As used in this section, "work papers" means a record that is created or relied upon:

(a) during the course of an examination conducted under Section 31A-2-203; [~~or~~]

(b) in drafting an examination report[~~.~~]; or

(c) in requesting, responding to a request, or reviewing a response to a request under Section 31A-2-202.

(2) (a) For each examination under Section 31A-2-203, the commissioner shall issue an order:

(i) stating the scope of the examination; and

(ii) designating the examiner in charge.

(b) The commissioner need not give advance notice of an examination to an examinee.

(c) The examiner in charge shall give the examinee a copy of the order issued under this Subsection (2).

(d) (i) The commissioner may alter the scope or nature of an examination at any time without advance notice to the examinee.

(ii) If the commissioner amends an order described in this Subsection (2), the commissioner shall provide a copy of any amended order to the examinee.

(e) Statements in the commissioner's examination order concerning examination scope are for the examiner's guidance only.

(f) Examining relevant matters not mentioned in an order issued under this Subsection (2) is not a violation of this title.

(3) The commissioner shall, whenever practicable, cooperate with the insurance regulators of other states by conducting joint examinations of:

(a) multistate insurers doing business in this state; or

(b) other multistate licensees doing business in this state.

(4) An examiner authorized by the commissioner shall, when necessary to the purposes of the examination, have access at all reasonable hours to the premises and to any books, records, files, securities, documents, or property of:

(a) the examinee; and

(b) any of the following if the premises, books, records, files, securities, documents, or property relate to the affairs of the examinee:

(i) an officer of the examinee;

(ii) any other person who:

(A) has executive authority over the examinee; or

(B) is in charge of any segment of the examinee's affairs; or

(iii) any affiliate of the examinee under Subsection 31A-2-203(1)(b).

(5) (a) The officers, employees, and agents of the examinee and of persons under Subsection 31A-2-203(1)(b) shall comply with every reasonable request of the examiners for assistance in any matter relating to the examination.

(b) A person may not obstruct or interfere with the examination except by legal process.

(6) If the commissioner finds the accounts or records to be inadequate for proper examination of the condition and affairs of the examinee or improperly kept or posted, the commissioner may employ experts to rewrite, post, or balance the accounts or records at the expense of the examinee.

(7) (a) The examiner in charge of an examination shall make a report of the examination no later than 60 days after the completion of the examination that shall include:

(i) the information and analysis ordered under Subsection (2); and

(ii) the examiner's recommendations.

(b) At the option of the examiner in charge, preparation of the report may include conferences with the examinee or representatives of the examinee.

(c) The report is confidential until the report becomes a public document under Subsection (8), except the commissioner may use information from the report as a basis for action under Chapter 27a, Insurer Receivership Act.

(8) (a) The commissioner shall serve a copy of the examination report described in Subsection (7) upon the examinee.

(b) Within 20 days after service, the examinee shall:

(i) accept the examination report as written; or

(ii) request agency action to modify the examination report.

(c) The report is considered accepted under this Subsection (8) if the examinee does not file a request for agency action to modify the report within 20 days after service of the report.

(d) If the examination report is accepted:

(i) the examination report immediately becomes a public document; and

(ii) the commissioner shall distribute the examination report to all jurisdictions in which the examinee is authorized to do business.

(e) (i) Any adjudicative proceeding held as a result of the examinee's request for agency action shall, upon the examinee's demand, be closed to the public, except that the commissioner need not exclude any participating examiner from this closed hearing.

(ii) Within 20 days after the hearing held under this Subsection (8)(e), the commissioner shall:

(A) adopt the examination report with any necessary modifications; and

(B) serve a copy of the adopted report upon the examinee.

(iii) Unless the examinee seeks judicial relief, the adopted examination report:

(A) shall become a public document 10 days after service; and

(B) may be distributed as described in this section.

(f) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, to the extent that this section is in conflict with Title 63G, Chapter 4, Administrative Procedures Act, this section governs:

(i) a request for agency action under this section; or

(ii) adjudicative proceeding under this section.

(9) The examinee shall promptly furnish copies of the adopted examination report described in Subsection (8) to each member of the examinee's board.

(10) After an examination report becomes a public document under Subsection (8), the commissioner may furnish, without cost or at a reasonable price set under Section 31A-3-103, a copy of the examination report to interested persons, including:

(a) a member of the board of the examinee; or

(b) one or more newspapers in this state.

(11) (a) In a proceeding by or against the examinee, or any officer or agent of the examinee, the examination report as adopted by the commissioner is admissible as evidence of the facts stated in the report.

(b) In any proceeding commenced under Chapter 27a, Insurer Receivership Act, the examination report, whether adopted by the commissioner or not, is admissible as evidence of the facts stated in the examination report.

(12) Work papers are protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section 31A-2-310 is amended to read:

31A-2-310. Procedure for service of process through state officer.

(1) Service upon the commissioner or lieutenant governor under Section 31A-2-309 is service on the principal, if:

(a) [~~two copies of the process~~] the following are delivered personally or to the office of the official designated in Section 31A-2-309[~~, and~~]:

(i) two copies of the process to be served; and

(ii) a certificate of proof of service that meets the requirements of Subsection (3), dated and signed by the official designated in Section 31A-2-309; and

(b) that official mails a copy of the process to the person to be served according to Subsection (2)(b).

(2) (a) The commissioner and the lieutenant governor shall give receipts for and keep records of all process served through them.

(b) The commissioner or the lieutenant governor shall immediately send by certified mail one copy of the process received to the person to be served at that person's last known principal place of business, residence, or post-office address. The commissioner or the lieutenant governor shall retain the other copy for his files.

(c) No plaintiff or complainant may take a judgment by default in any proceeding in which process is served under this section and Section 31A-2-309 until the expiration of 40 days from the date of service of process under Subsection (2)(b).

(3) Proof of service shall be evidenced by a certificate by the official designated in Section 31A-2-309, showing service made upon him and mailing by him, and attached to a copy of the process presented to him for that purpose.

(4) When process is served under this section, the words "twenty days" in the first sentence of Rule 12(a) of the Utah Rules of Civil Procedure shall be changed to read "forty days."

Section 3. Section 31A-3-304 is amended to read:

31A-3-304. Annual fees -- Other taxes or fees prohibited -- Captive Insurance Restricted Account.

(1) (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew a certificate of authority.

(b) The commissioner shall:

(i) determine the annual fee pursuant to Section 31A-3-103; and

(ii) consider whether the annual fee is competitive with fees imposed by other states on captive insurance companies.

(2) A captive insurance company that fails to pay the fee required by this section is subject to the relevant sanctions of this title.

(3) (a) A captive insurance company that pays one of the following fees is exempt from Title 59,

Chapter 7, Corporate Franchise and Income Taxes, and Title 59, Chapter 9, Taxation of Admitted Insurers:

(i) a fee under this section;

(ii) a fee under Chapter 37, Captive Insurance Companies Act; or

(iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

(b) The state or a county, city, or town within the state may not levy or collect an occupation tax or other fee or charge not described in Subsections (3)(a)(i) through (iii) against a captive insurance company.

(c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115 against a captive insurance company.

(4) A captive insurance company shall pay the fee imposed by this section to the commissioner by June 1 of each year.

(5) (a) Money received pursuant to a fee described in Subsection (3)(a) shall be deposited into the Captive Insurance Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."

(c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).

(d) The commissioner shall administer the Captive Insurance Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Captive Insurance Restricted Account to:

(i) administer and enforce:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

(ii) promote the captive insurance industry in Utah.

(e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of the following shall be treated as free revenue in the General Fund:

(i) for fiscal year 2018-2019 and subsequent fiscal years, in excess of $1,600,000; [~~and~~]

(ii) for fiscal year 2019-2020 and subsequent fiscal years, in excess of $1,450,000[~~.~~]; and

(iii) for fiscal year 2023-2024 and subsequent fiscal years, in excess of $1,650,000.

Section 4. Section 31A-4-113.5 is amended to read:

31A-4-113.5. Filing requirements -- National Association of Insurance Commissioners.

(1) (a) Each domestic, foreign, and alien insurer who is authorized to transact insurance business in this state shall annually[~~, on or before March 1, file with the National Association of Insurance Commissioners~~] file with the NAIC a copy of the insurer's:

(i) annual statement convention blank on or before March 1; [~~and~~]

(ii) market conduct annual statements:

(A) on or before April 30, for all lines of business except health; and

(B) on or before June 30, for the health line of business; and

[~~(ii)~~] (iii) any additional filings required by the commissioner for the preceding year.

(b) (i) The information filed with the [~~National Association of Insurance Commissioners~~] NAIC under Subsection [~~(1)(a)~~] (1)(a)(i) shall:

[~~(i)~~] (A) [~~be in the format and scope required by the commissioner; and~~] be prepared in accordance with the NAIC's:

(I) annual statement instructions; and

(II) Accounting Practices and Procedures Manual; and

[~~(ii)~~] (B) include:

[~~(A)~~] (I) the signed jurat page; and

[~~(B)~~] (II) the actuarial certification.

(ii) An insurer shall file with the NAIC amendments and addenda to information filed with the commissioner under Subsection (1)(a)(i).

(c) [~~Any amendments and addendums to an annual statement that are filed with the commissioner shall be filed by the insurer with the National Association of Insurance Commissioners.~~] The information filed with the NAIC under Subsection (1)(a)(ii) shall be prepared in accordance with the NAIC's Market Conduct Annual Statement Industry User Guide.

(d) At the time an insurer makes a filing under this Subsection (1), the insurer shall pay any filing fees assessed by the [~~National Association of Insurance Commissioners~~] NAIC.

(e) A foreign insurer that is domiciled in a state that has a law substantially similar to this section shall be considered to be in compliance with this section.

(2) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the department by the Insurance Regulatory Information System are confidential and may not be disclosed by the department.

(3) The commissioner may suspend, revoke, or refuse to renew the certificate of authority of any insurer failing to:

(a) [~~file the annual statement as required by~~] submit the filings under Subsection (1)(a) when due or within any extension of time granted for good cause by:

(i) the commissioner; or

(ii) the [~~National Association of Insurance Commissioners~~] NAIC; or

(b) pay by the time specified in Subsection (3)(a) a fee the insurer is required to pay under this section to:

(i) the commissioner; or

(ii) the [~~National Association of Insurance Commissioners~~] NAIC.

Section 5. Section 31A-16-103 is amended to read:

31A-16-103. Acquisition of control of, divestiture of control of, or merger with domestic insurer.

(1) (a) A person may not take the actions described in Subsection (1)(b) or (c) unless, at the time any offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of securities if no offer or agreement is involved:

(i) the person files with the commissioner a statement containing the information required by this section;

(ii) the person provides a copy of the statement described in Subsection (1)(a)(i) to the insurer; and

(iii) the commissioner approves the offer, request, invitation, agreement, or acquisition.

(b) Unless the person complies with Subsection (1)(a), a person other than the issuer may not make a tender offer for, a request or invitation for tenders of, or enter into any agreement to exchange securities, or seek to acquire or acquire in the open market or otherwise, any voting security of a domestic insurer if after the acquisition, the person would directly, indirectly, by conversion, or by exercise of any right to acquire be in control of the insurer.

(c) Unless the person complies with Subsection (1)(a), a person may not enter into an agreement to merge with or otherwise to acquire control of:

(i) a domestic insurer; or

(ii) any person controlling a domestic insurer.

(d) For purposes of this section, a controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, shall file with the commissioner, with a copy to the insurer, confidential notice of its proposed divestiture at least 30 days before the cessation of control. The commissioner shall determine those instances in which the one or more persons seeking to divest or to acquire a controlling interest in an insurer, will be required to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the commissioner, in the commissioner's discretion, determines that confidential treatment will interfere with enforcement of this section. If the statement referred to in Subsection (1)(a) is otherwise filed, this Subsection (1)(d) does not apply.

(e) With respect to a transaction subject to this section, the acquiring person shall also file a pre-acquisition notification with the commissioner, which shall contain the information set forth in Section 31A-16-104.5. A failure to file the notification may be subject to penalties specified in Section 31A-16-104.5.

(f) (i) For purposes of this section, a domestic insurer includes any person controlling a domestic insurer unless the person as determined by the commissioner is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(ii) The controlling person described in Subsection (1)(f)(i) shall file with the commissioner a preacquisition notification containing the information required in Subsection (2) 30 calendar days before the proposed effective date of the acquisition.

(iii) For the purposes of this section, "person" does not include any securities broker that in the usual and customary brokers function holds less than 20% of:

(A) the voting securities of an insurance company; or

(B) any person that controls an insurance company.

(iv) This section applies to all domestic insurers and other entities licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations;

(C) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(D) Chapter 9, Insurance Fraternals; and

(E) Chapter 11, Motor Clubs.

(g) (i) An agreement for acquisition of control or merger as contemplated by this Subsection (1) is not valid or enforceable unless the agreement:

(A) is in writing; and

(B) includes a provision that the agreement is subject to the approval of the commissioner upon the filing of any applicable statement required under this chapter.

(ii) A written agreement for acquisition or control that includes the provision described in Subsection (1)(g)(i) satisfies the requirements of this Subsection (1).

(2) The statement to be filed with the commissioner under Subsection (1) shall be made under oath or affirmation and shall contain the following information:

(a) the name and address of the "acquiring party," which means each person by whom or on whose behalf the merger or other acquisition of control referred to in Subsection (1) is to be effected; and

(i) if the person is an individual:

(A) the person's principal occupation;

(B) a listing of all offices and positions held by the person during the past five years; and

(C) any conviction of crimes other than minor traffic violations during the past 10 years; and

(ii) if the person is not an individual:

(A) a report of the nature of its business operations during:

(I) the past five years; or

(II) for any lesser period as the person and any of its predecessors has been in existence;

(B) an informative description of the business intended to be done by the person and the person's subsidiaries;

(C) a list of all individuals who are or who have been selected to become directors or executive officers of the person, or individuals who perform, or who will perform functions appropriate to such positions; and

(D) for each individual described in Subsection (2)(a)(ii)(C), the information required by Subsection (2)(a)(i) for each individual;

(b) (i) the source, nature, and amount of the consideration used or to be used in effecting the merger or acquisition of control;

(ii) a description of any transaction in which funds were or are to be obtained for the purpose of effecting the merger or acquisition of control, including any pledge of:

(A) the insurer's stock; or

(B) the stock of any of the insurer's subsidiaries or controlling affiliates; and

(iii) the identity of persons furnishing the consideration;

(c) (i) fully audited financial information, or other financial information considered acceptable by the commissioner, of the earnings and financial condition of each acquiring party for:

(A) the preceding five fiscal years of each acquiring party; or

(B) any lesser period the acquiring party and any of its predecessors shall have been in existence; and

(ii) unaudited information:

(A) similar to the information described in Subsection (2)(c)(i); and

(B) prepared within the 90 days prior to the filing of the statement;

(d) any plans or proposals which each acquiring party may have to:

(i) liquidate the insurer;

(ii) sell its assets;

(iii) merge or consolidate the insurer with any person; or

(iv) make any other material change in the insurer's:

(A) business;

(B) corporate structure; or

(C) management;

(e) (i) the number of shares of any security referred to in Subsection (1) that each acquiring party proposes to acquire;

(ii) the terms of the offer, request, invitation, agreement, or acquisition referred to in Subsection (1); and

(iii) a statement as to the method by which the fairness of the proposal was arrived at;

(f) the amount of each class of any security referred to in Subsection (1) that:

(i) is beneficially owned; or

(ii) concerning which there is a right to acquire beneficial ownership by each acquiring party;

(g) a full description of any contract, arrangement, or understanding with respect to any security referred to in Subsection (1) in which any acquiring party is involved, including:

(i) the transfer of any of the securities;

(ii) joint ventures;

(iii) loan or option arrangements;

(iv) puts or calls;

(v) guarantees of loans;

(vi) guarantees against loss or guarantees of profits;

(vii) division of losses or profits; or

(viii) the giving or withholding of proxies;

(h) a description of the purchase by any acquiring party of any security referred to in Subsection (1) during the 12 calendar months preceding the filing of the statement including:

(i) the dates of purchase;

(ii) the names of the purchasers; and

(iii) the consideration paid or agreed to be paid for the purchase;

(i) a description of:

(i) any recommendations to purchase by any acquiring party any security referred to in Subsection (1) made during the 12 calendar months preceding the filing of the statement; or

(ii) any recommendations made by anyone based upon interviews or at the suggestion of the acquiring party;

(j) (i) copies of all tender offers for, requests for, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in Subsection (1); and

(ii) if distributed, copies of additional soliciting material relating to the transactions described in Subsection (2)(j)(i);

(k) (i) the term of any agreement, contract, or understanding made with, or proposed to be made with, any broker-dealer as to solicitation of securities referred to in Subsection (1) for tender; and

(ii) the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard to any agreement, contract, or understanding described in Subsection (2)(k)(i);

(l) an agreement by the person required to file the statement referred to in Subsection (1) that it will provide the annual report, specified in Section 31A-16-105, for so long as control exists;

(m) an acknowledgment by the person required to file the statement referred to in Subsection (1) that the person and all subsidiaries within its control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer; and

(n) any additional information the commissioner requires by rule, which the commissioner determines to be:

(i) necessary or appropriate for the protection of policyholders of the insurer; or

(ii) in the public interest.

(3) (a) The department may request:

[~~(a)~~] (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

(b) Information obtained by the department from the review of criminal history records received under Subsection (3)(a) shall be used by the department for the purpose of:

(i) verifying the information in Subsection (2)(a)(i);

(ii) determining the integrity of persons who would control the operation of an insurer; and

(iii) preventing persons who violate 18 U.S.C. Sec. 1033 from engaging in the business of insurance in the state.

(c) If the department requests the criminal background information, the department shall:

(i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(a)(i);

(ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(a)(ii); and

(iii) charge the person required to file the statement referred to in Subsection (1) a fee equal to the aggregate of Subsections (3)(c)(i) and (ii).

(4) (a) If the source of the consideration under Subsection (2)(b)(i) is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests.

(b) (i) Under Subsection (2)(e), the commissioner may require a statement of the adjusted book value assigned by the acquiring party to each security in arriving at the terms of the offer.

(ii) For purposes of this Subsection (4)(b), "adjusted book value" means each security's proportional interest in the capital and surplus of the insurer with adjustments that reflect:

(A) market conditions;

(B) business in force; and

(C) other intangible assets or liabilities of the insurer.

(c) The description required by Subsection (2)(g) shall identify the persons with whom the contracts, arrangements, or understandings have been entered into.

(5) (a) If the person required to file the statement referred to in Subsection (1) is a partnership, limited partnership, syndicate, or other group, the commissioner may require that all the information called for by Subsection (2), (3), or (4) shall be given with respect to each:

(i) partner of the partnership or limited partnership;

(ii) member of the syndicate or group; and

(iii) person who controls the partner or member.

(b) If any partner, member, or person referred to in Subsection (5)(a) is a corporation, or if the person required to file the statement referred to in Subsection (1) is a corporation, the commissioner may require that the information called for by Subsection (2) shall be given with respect to:

(i) the corporation;

(ii) each officer and director of the corporation; and

(iii) each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of the corporation.

(6) If any material change occurs in the facts set forth in the statement filed with the commissioner

and sent to the insurer pursuant to Subsection (2), an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the commissioner and sent to the insurer within two business days after the filing person learns of such change.

(7) If any offer, request, invitation, agreement, or acquisition referred to in Subsection (1) is proposed to be made by means of a registration statement under the Securities Act of 1933, or under circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, a person required to file the statement referred to in Subsection (1) may use copies of any registration or disclosure documents in furnishing the information called for by the statement.

(8) (a) The commissioner shall approve any merger or other acquisition of control referred to in Subsection (1), unless the commissioner finds that:

(i) after the change of control, the domestic insurer referred to in Subsection (1) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) the effect of the merger or other acquisition of control would:

(A) substantially lessen competition in insurance in this state; or

(B) tend to create a monopoly in insurance;

(iii) the financial condition of any acquiring party might:

(A) jeopardize the financial stability of the insurer; or

(B) prejudice the interest of:

(I) its policyholders; or

(II) any remaining securityholders who are unaffiliated with the acquiring party;

(iv) the terms of the offer, request, invitation, agreement, or acquisition referred to in Subsection (1) are unfair and unreasonable to the securityholders of the insurer;

(v) the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are:

(A) unfair and unreasonable to policyholders of the insurer; and

(B) not in the public interest; or

(vi) the competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of the policyholders of the insurer and the public to permit the merger or other acquisition of control.

(b) For purposes of Subsection (8)(a)(iv), the offering price for each security may not be considered unfair if the adjusted book values under Subsection (2)(e):

(i) are disclosed to the securityholders; and

(ii) determined by the commissioner to be reasonable.

(9) For a merger or other acquisition of control described in Subsection (1), the commissioner:

(a) may hold a public hearing on the merger or other acquisition at the commissioner's discretion; and

(b) shall hold a public hearing on the merger or other acquisition upon request by the acquiring party, the insurer, or [~~any other~~] an interested party.

(10) (a) [~~The commissioner shall hold a public hearing under Subsection (9) no later than 45 days after the day on which the statement required by Subsection (1) is filed.~~] If the commissioner does not hold a hearing described in Subsection (9), the commissioner shall approve or deny the merger or other acquisition within 30 days after the day on which the department deems the statement required under Subsection (1) complete.

(b) (i) The commissioner shall give at least 20 [~~days notice of the hearing to the person filing the statement~~] days' notice of a hearing described in Subsection (9) to the person filing the statement described in Subsection (1).

(ii) [~~Affected parties may waive the notice required by this Subsection (9)(b).~~] The commissioner shall hold a hearing described in Subsection (9) within 30 days after the day on which the department deems the statement required under Subsection (1) complete.

(iii) Not less than seven [~~days~~] days' notice of the [~~public~~] hearing shall be given by the person filing the statement under Subsection (1) to:

(A) the insurer; and

(B) any person designated by the commissioner.

(iv) Affected parties may waive the notice required under this Subsection (10)(b).

(v) At the hearing, the person filing the statement under Subsection (1), the insurer, any person to whom notice of hearing was sent, and any person whose interest may be affected by the hearing may:

(A) present evidence;

(B) examine and cross-examine witnesses; and

(C) offer oral and written arguments.

(vi) (A) A person or insurer described in Subsection (10)(b)(v) may conduct discovery in the same manner as is allowed in the district courts of this state.

(B) All discovery shall be concluded not later than three days before the commencement of the hearing.

[~~(c) The commissioner shall make a determination within 30 days after the conclusion of the hearing.~~]

[~~(d) At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected by the hearing may:~~]

[~~(i) present evidence;~~]

[~~(ii) examine and cross-examine witnesses; and~~]

[~~(iii) offer oral and written arguments.~~]

[~~(e) (i) A person or insurer described in Subsection (10)(d) may conduct discovery proceedings in the same manner as is presently allowed in the district courts of this state.~~]

[~~(ii) All discovery proceedings shall be concluded not later than three days before the commencement of the public hearing.~~]

(11) If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing described in Subsection (9) may be held on a consolidated basis upon request of the person filing the statement referred to in Subsection (1). The person shall file the statement referred to in Subsection (1) with the National Association of Insurance Commissioners within five days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing and shall provide notice to the applicant of the opt-out within 10 days of the receipt of the statement referred to in Subsection (1). A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. The commissioners shall hear and receive evidence. A commissioner may attend a hearing under this Subsection (11) in person or by telecommunication.

(12) In connection with a change of control of a domestic insurer, any determination by the commissioner that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and regulations of this state shall be made not later than 60 days after the date of notification of the change in control submitted pursuant to Subsection (1).

(13) (a) The commissioner may retain technical experts to assist in reviewing all, or a portion of, information filed in connection with a proposed merger or other acquisition of control referred to in Subsection (1).

(b) In determining whether any of the conditions in Subsection (8) exist, the commissioner may consider the findings of technical experts employed to review applicable filings.

(c) (i) A technical expert employed under Subsection (13)(a) shall present to the commissioner a statement of all expenses incurred by the technical expert in conjunction with the technical expert's review of a proposed merger or other acquisition of control.

(ii) At the commissioner's direction the acquiring person shall compensate the technical expert at customary rates for time and expenses:

(A) necessarily incurred; and

(B) approved by the commissioner.

(iii) The acquiring person shall:

(A) certify the consolidated account of all charges and expenses incurred for the review by technical experts;

(B) retain a copy of the consolidated account described in Subsection (13)(c)(iii)(A); and

(C) file with the department as a public record a copy of the consolidated account described in Subsection (13)(c)(iii)(A).

(14) (a) (i) If a domestic insurer proposes to merge into another insurer, any securityholder electing to exercise a right of dissent may file with the insurer a written request for payment of the adjusted book value given in the statement required by Subsection (1) and approved under Subsection (8), in return for the surrender of the security holder's securities.

(ii) The request described in Subsection (14)(a)(i) shall be filed not later than 10 days after the day of the securityholders' meeting where the corporate action is approved.

(b) The dissenting securityholder is entitled to and the insurer is required to pay to the dissenting securityholder the specified value within 60 days of receipt of the dissenting security holder's security.

(c) Persons electing under this Subsection (14) to receive cash for their securities waive the dissenting shareholder and appraisal rights otherwise applicable under Title 16, Chapter 10a, Part 13, Dissenters' Rights.

(d) (i) This Subsection (14) provides an elective procedure for dissenting securityholders to resolve their objections to the plan of merger.

(ii) This section does not restrict the rights of dissenting securityholders under Title 16, Chapter 10a, Utah Revised Business Corporation Act, unless this election is made under this Subsection (14).

(15) (a) All statements, amendments, or other material filed under Subsection (1), and all notices of public hearings held under Subsection [~~(8)~~] (10), shall be mailed by the insurer to its securityholders within five business days after the insurer has received the statements, amendments, other material, or notices.

(b) (i) Mailing expenses shall be paid by the person making the filing.

(ii) As security for the payment of mailing expenses, that person shall file with the commissioner an acceptable bond or other deposit in an amount determined by the commissioner.

(16) This section does not apply to any offer, request, invitation, agreement, or acquisition that the commissioner by order exempts from the requirements of this section as:

(a) not having been made or entered into for the purpose of, and not having the effect of, changing or influencing the control of a domestic insurer; or

(b) otherwise not comprehended within the purposes of this section.

(17) The following are violations of this section:

(a) the failure to file any statement, amendment, or other material required to be filed pursuant to Subsections (1), (2), and (5); or

(b) the effectuation, or any attempt to effectuate, an acquisition of control of, divestiture of, or merger with a domestic insurer unless the commissioner has given the commissioner's approval to the acquisition or merger.

(18) (a) The courts of this state are vested with jurisdiction over:

(i) a person who:

(A) files a statement with the commissioner under this section; and

(B) is not resident, domiciled, or authorized to do business in this state; and

(ii) overall actions involving persons described in Subsection (18)(a)(i) arising out of a violation of this section.

(b) A person described in Subsection (18)(a) is considered to have performed acts equivalent to and constituting an appointment of the commissioner by that person, to be that person's lawful agent upon whom may be served all lawful process in any action, suit, or proceeding arising out of a violation of this section.

(c) A copy of a lawful process described in Subsection (18)(b) shall be:

(i) served on the commissioner; and

(ii) transmitted by registered or certified mail by the commissioner to the person at that person's last-known address.

Section 6. Section 31A-17-404 is amended to read:

31A-17-404. Credit allowed a domestic ceding insurer against reserves for reinsurance.

(1) (a) Subject to Subsections (1)(b) and (c), a domestic ceding insurer is allowed credit for reinsurance as either an asset or a reduction from liability for reinsurance ceded only if the reinsurer meets the requirements of Subsection (3), (4), (5), (6), (7), (8), or (9).

(b) Credit is allowed under Subsection (3), (4), or (5) only with respect to a cession of a kind or class of business that the assuming insurer is licensed or otherwise permitted to write or assume:

(i) in the assuming insurer's state of domicile; or

(ii) in the case of a United States branch of an alien assuming insurer, in the state through which the assuming insurer is entered and licensed to transact insurance or reinsurance.

(c) Credit is allowed under Subsection (5) or (6) only if the applicable requirements of Subsection (11) are met.

(2) A domestic ceding insurer is allowed credit for reinsurance ceded:

(a) only if the reinsurance is payable in a manner consistent with Section 31A-22-1201;

(b) only to the extent that the accounting:

(i) is consistent with the terms of the reinsurance contract; and

(ii) clearly reflects:

(A) the amount and nature of risk transferred; and

(B) liability, including contingent liability, of the ceding insurer;

(c) only to the extent the reinsurance contract shifts insurance policy risk from the ceding insurer to the assuming reinsurer in fact and not merely in form; and

(d) only if the reinsurance contract contains a provision placing on the reinsurer the credit risk of all dealings with intermediaries regarding the reinsurance contract.

(3) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(4) (a) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state.

(b) An insurer is accredited as a reinsurer if the insurer:

(i) files with the commissioner evidence of the insurer's submission to this state's jurisdiction;

(ii) submits to the commissioner's authority to examine the insurer's books and records;

(iii) (A) is licensed to transact insurance or reinsurance in at least one state; or

(B) in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(iv) files annually with the commissioner a copy of the insurer's:

(A) annual statement filed with the insurance department of the insurer's state of domicile; and

(B) most recent audited financial statement; and

(v) (A) (I) has not had the insurer's accreditation denied by the commissioner within 90 days after the

day on which the insurer submits the information required by this Subsection (4); and

(II) maintains a surplus with regard to policyholders in an amount not less than $20,000,000; or

(B) (I) has the insurer's accreditation approved by the commissioner; and

(II) maintains a surplus with regard to policyholders in an amount less than $20,000,000.

(c) Credit may not be allowed a domestic ceding insurer if the assuming insurer's accreditation is revoked by the commissioner after a notice and hearing.

(5) (a) A domestic ceding insurer is allowed a credit if:

(i) the reinsurance is ceded to an assuming insurer that is:

(A) domiciled in a state meeting the requirements of Subsection (5)(a)(ii); or

(B) in the case of a United States branch of an alien assuming insurer, is entered through a state meeting the requirements of Subsection (5)(a)(ii);

(ii) the state described in Subsection (5)(a)(i) employs standards regarding credit for reinsurance substantially similar to those applicable under this section; and

(iii) the assuming insurer or United States branch of an alien assuming insurer:

(A) maintains a surplus with regard to policyholders in an amount not less than $20,000,000; and

(B) submits to the authority of the commissioner to examine the insurer's books and records.

(b) The requirements of Subsections (5)(a)(i) and (ii) do not apply to reinsurance ceded and assumed pursuant to a pooling arrangement among insurers in the same holding company system.

(6) (a) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that maintains a trust fund:

(i) created in accordance with rules made by the commissioner pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) in a qualified United States financial institution for the payment of a valid claim of:

(A) a United States ceding insurer of the assuming insurer;

(B) an assign of the United States ceding insurer; and

(C) a successor in interest to the United States ceding insurer.

(b) To enable the commissioner to determine the sufficiency of the trust fund described in Subsection (6)(a), the assuming insurer shall:

(i) report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by a licensed insurer; and

(ii) (A) submit to examination of its books and records by the commissioner; and

(B) pay the cost of an examination.

(c) (i) Credit for reinsurance may not be granted under this Subsection (6) unless the form of the trust and any amendment to the trust is approved by:

(A) the commissioner of the state where the trust is domiciled; or

(B) the commissioner of another state who, pursuant to the terms of the trust instrument, accepts principal regulatory oversight of the trust.

(ii) The form of the trust and an amendment to the trust shall be filed with the commissioner of every state in which a ceding insurer beneficiary of the trust is domiciled.

(iii) The trust instrument shall provide that a contested claim is valid and enforceable upon the final order of a court of competent jurisdiction in the United States.

(iv) The trust shall vest legal title to the trust's assets in one or more of the trust's trustees for the benefit of:

(A) a United States ceding insurer of the assuming insurer;

(B) an assign of the United States ceding insurer; or

(C) a successor in interest to the United States ceding insurer.

(v) The trust and the assuming insurer are subject to examination as determined by the commissioner.

(vi) The trust shall remain in effect for as long as the assuming insurer has an outstanding obligation due under a reinsurance agreement subject to the trust.

(vii) No later than February 28 of each year, the trustee of the trust shall:

(A) report to the commissioner in writing the balance of the trust;

(B) list the trust's investments at the end of the preceding calendar year; and

(C) (I) certify the date of termination of the trust, if so planned; or

(II) certify that the trust will not expire before the following December 31.

(d) The following requirements apply to the following categories of assuming insurer:

(i) For a single assuming insurer:

(A) the trust fund shall consist of funds in trust in an amount not less than the assuming insurer's

liabilities attributable to reinsurance ceded by United States ceding insurers; and

(B) the assuming insurer shall maintain a trusteed surplus of not less than $20,000,000, except as provided in Subsection (6)(d)(ii).

(ii) (A) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development.

(B) The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency.

(C) The minimum required trusteed surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(iii) For a group acting as assuming insurer, including incorporated and individual unincorporated underwriters:

(A) for reinsurance ceded under a reinsurance agreement with an inception, amendment, or renewal date on or after August 1, 1995, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by the one or more United States domiciled ceding insurers to an underwriter of the group;

(B) for reinsurance ceded under a reinsurance agreement with an inception date on or before July 31, 1995, and not amended or renewed after July 31, 1995, notwithstanding the other provisions of this chapter, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States;

(C) in addition to a trust described in Subsection (6)(d)(iii)(A) or (B), the group shall maintain in trust a trusteed surplus of which $100,000,000 is held jointly for the benefit of the one or more United States domiciled ceding insurers of a member of the group for all years of account;

(D) the incorporated members of the group:

(I) may not be engaged in a business other than underwriting as a member of the group; and

(II) are subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members; and

(E) within 90 days after the day on which the group's financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner:

(I) an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or

(II) if a certification is unavailable, a financial statement, prepared by an independent public accountant, of each underwriter member of the group.

(iv) For a group of incorporated underwriters under common administration, the group shall:

(A) have continuously transacted an insurance business outside the United States for at least three years immediately preceding the day on which the group makes application for accreditation;

(B) maintain aggregate policyholders' surplus of at least $10,000,000,000;

(C) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by the one or more United States domiciled ceding insurers to a member of the group pursuant to a reinsurance contract issued in the name of the group;

(D) in addition to complying with the other provisions of this Subsection (6)(d)(iv), maintain a joint trusteed surplus of which $100,000,000 is held jointly for the benefit of the one or more United States domiciled ceding insurers of a member of the group as additional security for these liabilities; and

(E) within 90 days after the day on which the group's financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner:

(I) an annual certification of each underwriter member's solvency by the member's domiciliary regulator; and

(II) a financial statement of each underwriter member of the group prepared by an independent public accountant.

(7) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that secures the assuming insurer's obligations in accordance with this Subsection (7):

(a) The insurer shall be certified by the commissioner as a reinsurer in this state.

(b) To be eligible for certification, the assuming insurer shall:

(i) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to Subsection (7)(d);

(ii) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the

commissioner pursuant to rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) maintain financial strength ratings from two or more rating agencies considered acceptable by the commissioner pursuant to rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iv) agree to:

(A) submit to the jurisdiction of this state;

(B) appoint the commissioner as the assuming insurer's agent for service of process in this state;

(C) provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment;

(D) agree to meet applicable information filing requirements as determined by the commissioner including an application for certification, a renewal and on an ongoing basis; and

(E) any other requirements for certification considered relevant by the commissioner.

(c) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer, if the association:

(i) satisfies the requirements of Subsections (7)(a) and (b);

(ii) satisfies the association's minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and the association's members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of the association's members in an amount determined by the commissioner to provide adequate protection;

(iii) does not have incorporated members of the association engaged in any business other than underwriting as a member of the association;

(iv) is subject to the same level of regulation and solvency control of the incorporated members of the association by the association's domiciliary regulator as are the unincorporated members; and

(v) within 90 days after the day on which the association's financial statements are due to be filed with the association's domiciliary regulator, provides to the commissioner:

(A) an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or

(B) if a certification described in Subsection (7)(c)(v)(A) is unavailable, financial statements prepared by independent public accountants, of each underwriter member of the association.

(d) (i) The commissioner shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in the jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(ii) To determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner:

(A) shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis;

(B) shall consider the rights, the benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States;

(C) shall require the qualified jurisdiction to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction; and

(D) may not recognize a jurisdiction as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards.

(iii) The commissioner may consider additional factors in determining a qualified jurisdiction.

(iv) A list of qualified jurisdictions shall be published through the National Association of Insurance Commissioners' Committee Process.

(v) The commissioner shall:

(A) consider the National Association of Insurance Commissioners' list of qualified jurisdictions in determining qualified jurisdictions; and

(B) if the commissioner approves a jurisdiction as qualified that does not appear on the National Association of Insurance Commissioners' list of qualified jurisdictions, provide thoroughly documented justification in accordance with criteria to be developed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(vi) United States jurisdictions that meet the requirement for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program shall be recognized as qualified jurisdictions.

(vii) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner may suspend the reinsurer's certification indefinitely, in lieu of revocation.

(e) The commissioner shall:

(i) assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies considered acceptable to the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) publish a list of all certified reinsurers and their ratings.

(f) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this Subsection (7) at a level consistent with the certified reinsurer's rating, as specified in rules made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(i) For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with Section 31A-17-404.1, or in a multibeneficiary trust in accordance with Subsections (5), (6), and (9), except as otherwise provided in this Subsection (7).

(ii) If a certified reinsurer maintains a trust to fully secure the certified reinsurer's obligations subject to Subsections (5), (6), and (9), and chooses to secure the certified reinsurer's obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for the certified reinsurer's obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this Subsection (7) or comparable laws of other United States jurisdictions and for the certified reinsurer's obligations subject to Subsections (5), (6), and (9).

(iii) It shall be a condition to the grant of certification under this Subsection (7) that the certified reinsurer shall have bound itself:

(A) by the language of the trust and agreement with the commissioner with principal regulatory oversight of the trust account; and

(B) upon termination of the trust account, to fund, out of the remaining surplus of the trust, any deficiency of any other trust account.

(iv) The minimum trusteed surplus requirements provided in Subsections (5), (6), and (9) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this Subsection (7), except that the trust shall maintain a minimum trusteed surplus of $10,000,000.

(v) With respect to obligations incurred by a certified reinsurer under this Subsection (7), if the security is insufficient, the commissioner:

(A) shall reduce the allowable credit by an amount proportionate to the deficiency; and

(B) may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(vi) (A) For purposes of this Subsection (7), a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100% of the certified reinsurer's obligations.

(B) As used in this Subsection (7), the term "terminated" refers to revocation, suspension, voluntary surrender, and inactive status.

(C) If the commissioner continues to assign a higher rating as permitted by other provisions of this section, the requirement under this Subsection (7)(f)(vi) does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(g) If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners' accredited jurisdiction, the commissioner may:

(i) defer to that jurisdiction's certification;

(ii) defer to the rating assigned by that jurisdiction; and

(iii) consider such reinsurer to be a certified reinsurer in this state.

(h) (i) A certified reinsurer that ceases to assume new business in this state may request to maintain the certified reinsurer's certification in inactive status in order to continue to qualify for a reduction in security for its in-force business.

(ii) An inactive certified reinsurer shall continue to comply with all applicable requirements of this Subsection (7).

(iii) The commissioner shall assign a rating to a reinsurer that qualifies under this Subsection (7)(h), that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(8) (a) As used in this Subsection (8):

(i) "Covered agreement" means an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. Sections 313 and 314, that:

(A) is currently in effect or in a period of provisional application; and

(B) addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance.

(ii) "Reciprocal jurisdiction" means a jurisdiction that is:

(A) a non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union;

(B) a United States jurisdiction that meets the requirements for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program; or

(C) a qualified jurisdiction, as determined by the commissioner in accordance with Subsection (7)(d), that is not otherwise described in this Subsection

(8)(a)(ii) and meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the commissioner in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) (i) Credit is allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth in this Subsection (8)(b).

(ii) The assuming insurer must have the assuming insurer's head office in or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction.

(iii) (A) The assuming insurer shall have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of the assuming insurer's domiciliary jurisdiction, in an amount to be set forth in regulation.

(B) If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, the assuming insurer shall have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in the assuming insurer's domiciliary jurisdiction, and a central fund containing a balance in amounts set forth in regulation.

(iv) (A) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ration, as applicable, which will be set forth in regulation.

(B) If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, the assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has the assuming insurer's head office or is domiciled, as applicable, and is also licensed.

(v) The assuming insurer must agree and provide adequate assurance to the commissioner, in a form specified by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(A) the assuming insurer must provide prompt written notice and explanation to the commissioner if the assuming insurer falls below the minimum requirements set forth in Subsection (8)(c) or (d), or if any regulatory action is taken against the assuming insurer for serious noncompliance with applicable law;

(B) the assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process, however the commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement and nothing in this provision shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(C) the assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or the ceding insurer's legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(D) each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which the final judgement was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by the ceding insurer's legal successor on behalf of the ceding insurer's resolution estate; and

(E) the assuming insurer must confirm that the assuming insurer is not presently participating in any solvent scheme of arrangement which involved this state's ceding insurers, and agree to notify the ceding insurer and the commissioner and to provide security:

(I) in an amount equal to 100% of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement; and

(II) in a form consistent with the provisions of Subsections (7) and (10) and as specified by the commissioner in regulation.

(vi) The assuming insurer or the assuming insurer's legal successor must provide, if requested by the commissioner, on behalf of the assuming insurer and any legal predecessors, certain documentation to the commissioner, as specified by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(vii) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(viii) The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in Subsections (8)(c) and (d).

(ix) Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(c) (i) The commissioner shall timely create and publish a list of reciprocal jurisdictions.

(ii) (A) A list of reciprocal jurisdictions is published through the National Association of Insurance Commissioners' Committee Process.

(B) The commissioner's list of reciprocal jurisdictions shall include any reciprocal jurisdiction as defined in this Subsection (8), and shall consider any other reciprocal jurisdictions in accordance with the criteria developed under rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iii) (A) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the commissioner may not remove from the list a reciprocal jurisdiction.

(B) Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer whose home office or domicile is in that jurisdiction is allowed, if otherwise allowed under this chapter.

(d) (i) The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this Subsection (8).

(ii) The commissioner may add an assuming insurer to such list if a National Association of Insurance Commissioners accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under this Subsection (8) and complies with any additional requirements that the commissioner may impose by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except to the extent that they conflict with an applicable covered agreement.

(e) (i) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this Subsection (8), the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this Subsection (8) in accordance with procedures established in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) (A) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the day on which the suspension is effective qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with Subsection (10).

(B) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the day on which the revocation is effective with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into before the day on which the revocation is effective, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of Subsection (10).

(f) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or the ceding insurer's representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(g) Nothing in this Subsection (8) limits or in any way alters the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this chapter or other applicable law or regulation.

(h) (i) Credit may be taken under this Subsection (8) only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this Subsection (8), and only with respect to losses incurred and reserves reported on or after the later of:

(A) the day on which the assuming insurer has met all eligibility requirements pursuant to Subsection (8)(b); and

(B) the day on which the new reinsurance agreement, amendment, or renewal is effective.

(ii) This Subsection (8) does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this Subsection (8), as long as the reinsurance qualifies for credit under any other applicable provision of this chapter.

(iii) Nothing in this Subsection (8) authorizes an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(iv) Nothing in this Subsection (8) limits, or in any way alters, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(9) If reinsurance is ceded to an assuming insurer not meeting the requirements of Subsection (3), (4), (5), (6), (7), or (8), a domestic ceding insurer is allowed credit only as to the insurance of a risk located in a jurisdiction where the reinsurance is required by applicable law or regulation of that jurisdiction.

(10) (a) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Subsection (3), (4), (5), (6), (7), or (8) shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer.

(b) The commissioner may adopt by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specific additional requirements relating to or setting forth:

(i) the valuation of assets or reserve credits;

(ii) the amount and forms of security supporting reinsurance arrangements; and

(iii) the circumstances pursuant to which credit will be reduced or eliminated.

(c) (i) The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is:

(A) held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or

(B) in the case of a trust, held in a qualified United States financial institution.

(ii) The security described in this Subsection (10)(c) may be in the form of:

(A) cash;

(B) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

(C) clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution effective no later than December 31 of the year for which the filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement;

(D) letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

(E) any other form of security acceptable to the commissioner.

(11) Reinsurance credit is not allowed a domestic ceding insurer unless the assuming insurer under the reinsurance contract submits to the jurisdiction of Utah courts by:

(a) (i) being an admitted insurer; and

(ii) submitting to jurisdiction under Section 31A-2-309;

(b) having irrevocably appointed the commissioner as the domestic ceding insurer's agent for service of process in an action arising out of or in connection with the reinsurance, which appointment is made under Section 31A-2-309; or

(c) agreeing in the reinsurance contract:

(i) that if the assuming insurer fails to perform the assuming insurer's obligations under the terms of the reinsurance contract, the assuming insurer, at the request of the ceding insurer, shall:

(A) submit to the jurisdiction of a court of competent jurisdiction in a state of the United States;

(B) comply with all requirements necessary to give the court jurisdiction; and

(C) abide by the final decision of the court or of an appellate court in the event of an appeal; and

(ii) to designate the commissioner or a specific attorney licensed to practice law in this state as its attorney upon whom may be served lawful process in an action, suit, or proceeding instituted by or on behalf of the ceding company.

(12) Submitting to the jurisdiction of Utah courts under Subsection (11) does not override a duty or right of a party under the reinsurance contract, including a requirement that the parties arbitrate their disputes.

(13) (a) If an assuming insurer does not meet the requirements of Subsection (3), (4), (5), or (8), the credit permitted by Subsection (6) or (7) may not be allowed unless the assuming insurer agrees in the trust instrument to the conditions described in Subsections (13)(b) through (e).

(b) (i) Notwithstanding any other provision in the trust instrument, if an event described in Subsection (13)(b)(ii) occurs the trustee shall comply with:

(A) an order of the commissioner with regulatory oversight over the trust; or

(B) an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(ii) This Subsection (13)(b) applies if:

(A) the trust fund is inadequate because the trust contains an amount less than the amount required by Subsection (6)(d); or

(B) the grantor of the trust is:

(I) declared insolvent; or

(II) placed into receivership, rehabilitation, liquidation, or similar proceeding under the laws of its state or country of domicile.

(c) The assets of a trust fund described in Subsection (13)(b) shall be distributed by and a claim shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of a domestic insurance company.

(d) If the commissioner with regulatory oversight determines that the assets of the trust fund, or any part of the assets, are not necessary to satisfy the claims of the one or more United States ceding insurers of the grantor of the trust, the assets, or a part of the assets, shall be returned by the

commissioner with regulatory oversight to the trustee for distribution in accordance with the trust instrument.

(e) A grantor shall waive any right otherwise available to the grantor under United States law that is inconsistent with this Subsection (13).

(14) (a) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

(b) The commissioner shall give the reinsurer notice and opportunity for hearing.

(c) The suspension or revocation may not take effect until after the day on which the commissioner issues an order after a hearing, unless:

(i) the reinsurer waives the reinsurer's right to hearing;

(ii) the commissioner's order is based on:

(A) regulatory action by the reinsurer's domiciliary jurisdiction; or

(B) the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or primary certifying state under Subsection (7)(g); or

(iii) the commissioner's finding that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(d) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 31A-17-404.1.

(e) If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Subsection (7)(f) or Section 31A-17-404.1.

(15) (a) A ceding insurer shall take steps to manage the ceding insurer's reinsurance recoverables proportionate to the ceding insurer's own book of business.

(b) (i) A domestic ceding insurer shall notify the commissioner within 30 days after the day on which reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers:

(A) exceeds 50% of the domestic ceding insurer's last reported surplus to policyholders; or

(B) after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed 50% of the domestic ceding insurer's last reported surplus to policyholders.

(ii) The notification required by Subsection (15)(b)(i) shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(c) A ceding insurer shall take steps to diversify the ceding insurer's reinsurance program.

(d) (i) A domestic ceding insurer shall notify the commissioner within 30 days after the day on which the ceding insurer cedes or is likely to cede more than 20% of the ceding insurer's gross written premium in the prior calendar year to any:

(A) single assuming insurer; or

(B) group of affiliated assuming insurers.

(ii) The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(16) A ceding insurer licensed under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, or Chapter 9, Insurance Fraternals, [~~or Chapter 14, Foreign Insurers is not~~] may be allowed credit if:

(a) the reinsurance is ceded to an assuming domestic [~~or foreign~~] captive insurer[~~, unless~~]; and

(b) the assuming domestic [~~or foreign~~] captive insurer complies with:

(i) Sections 31A-2-202 through 31A-2-205;

[~~(a)~~] (ii) Chapter 4, Insurers in General;

[~~(b)~~] (iii) Chapter 16, Insurance Holding Companies;

[~~(c)~~] (iv) Chapter 16a, Risk Management and Own Risk and Solvency Assessment Act;

[~~(d)~~] (v) Chapter 17, Determination of Financial Condition; [~~and~~]

[~~(e)~~] (vi) Chapter 18, Investments[~~.~~]; and

(vii) any other requirement that, in the commissioner's discretion, is necessary to promote the captive insurer's solvency.

Section 7. Section 31A-19a-209 is amended to read:

31A-19a-209. Special provisions for title insurance.

(1) (a) (i) The Title and Escrow Commission [~~shall adopt rules~~] may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Section 31A-2-404, establishing rate standards and rating methods [~~for individual title insurance producers and agency title insurance producers~~].

(ii) The commissioner shall determine compliance with rate standards and rating methods for title insurers, individual title insurance producers, and agency title insurance producers.

(b) In addition to the considerations in determining compliance with rate standards and

rating methods as set forth in Sections 31A-19a-201 and 31A-19a-202, including for title insurers, the commissioner and the Title and Escrow Commission shall consider the costs and expenses incurred by title insurers, individual title insurance producers, and agency title insurance producers [~~peculiar~~] pertaining to the business of title insurance including:

(i) the maintenance of title plants; and

(ii) the examining of public records to determine insurability of title to real [~~redevelopment~~] property.

[~~(2) (a) A title insurer, an agency title insurance producer, or an individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall file with the commissioner:~~]

[~~(i) a schedule of the escrow charges that the title insurer, individual title insurance producer, or agency title insurance producer proposes to use in this state for services performed in connection with the issuance of policies of title insurance; and~~]

[~~(ii) any changes to the schedule of the escrow charges described in Subsection (2)(a)(i).~~]

[~~(b) Except for a schedule filed by a title insurer under this Subsection (2), a schedule filed under this Subsection (2) is subject to review by the Title and Escrow Commission.~~]

[~~(c) (i) The schedule of escrow charges required to be filed by Subsection (2)(a)(i) takes effect on the day on which the schedule of escrow charges is filed.~~]

[~~(ii) Any changes to the schedule of the escrow charges required to be filed by Subsection (2)(a)(ii) take effect on the day specified in the change to the schedule of escrow charges except that the effective date may not be less than 30 calendar days after the day on which the change to the schedule of escrow charges is filed.~~]

[~~(3)~~] (2) A title insurer, individual title insurance producer, or agency title insurance producer may not [~~file or~~] use any rate or other charge relating to the business of title insurance, including rates or charges [~~filed~~] for escrow that would cause the title insurance company, individual title insurance producer, or agency title insurance producer to:

(a) operate at less than the cost of doing[~~:~~]

[~~(i)~~] the insurance business; or

[~~(ii) the escrow business; or~~]

(b) fail to adequately underwrite a title insurance policy.

[~~(4) (a) All or any of the schedule of rates or schedule of charges, including the schedule of escrow charges, may be changed or amended at any time, subject to the limitations in this Subsection (4).~~]

[~~(b) Each change or amendment shall:~~]

[~~(i) be filed with the commissioner, subject to review by the Title and Escrow Commission; and~~]

[~~(ii) state the effective date of the change or amendment, which may not be less than 30 calendar days after the day on which the change or amendment is filed.~~]

[~~(c) Any change or amendment remains in force for a period of at least 90 calendar days from the change or amendment's effective date.~~]

[~~(5) While the schedule of rates and schedule of charges are effective, a copy of each shall be:~~]

[~~(a) retained in each of the offices of:~~]

[~~(i) the title insurer in this state;~~]

[~~(ii) the title insurer's individual title insurance producers or agency title insurance producers in this state; and~~]

[~~(b) upon request, furnished to the public.~~]

[~~(6) Except in accordance with the schedules of rates and charges filed with the commissioner, a title insurer, individual title insurance producer, or agency title insurance producer may not make or impose any premium or other charge:~~]

[~~(a) in connection with the issuance of a policy of title insurance; or~~]

[~~(b) for escrow services performed in connection with the issuance of a policy of title insurance.~~]

Section 8. Section 31A-22-728 is enacted to read:

31A-22-728. Large employer health benefit plan required report.

(1) As used in this section:

(a) "Claims run-out period" means the period beginning on the first day following the last day of a plan year and ending on the 90th day following the last day of a plan year.

(b) "Large employer" means an employer who:

(i) with respect to a calendar year and to a plan year:

(A) employed an average of at least 51 employees on a business day during the preceding calendar year; and

(B) employs at least one employee on the first day of the plan year; and

(ii) has at least 51 but fewer than 100 enrolled eligible employees enrolled in a group health benefit plan during each consecutive month during the plan year.

(c) "Medical loss ratio" means a group health benefit plan's paid claims incurred during a plan year, including the claims run-out period, divided by the total premium revenue collected for the plan year.

(2) Except as provided in Subsection (6), beginning on January 1, 2024, an insurer that offers a large employer health benefit plan to a large

employer shall annually provide a report, upon request of:

(a) the large employer;

(b) the large employer's appointed producer; or

(c) the large employer's consultant.

(3) The report described in Subsection (2) shall include:

(a) after the first renewal, the health benefit plan's aggregate performance from the immediately preceding plan year that describes whether the health benefit plan had a medical loss ratio of:

(i) less than 85%;

(ii) between 85% and 125%; or

(iii) greater than 125%; and

(b) after the second renewal and each subsequent renewal thereafter, a summary of the health benefit plan's aggregate 24-month medical loss ratio from the immediately preceding two plan years combined.

(4) An insurer that offers a large employer health benefit plan shall provide the requested report described in Subsection (2) not less than 30 days after the claims run-out period.

(5) (a) The report described in Subsection (2) is proprietary to the large employer, the large employer's appointed producer, or the large employer's consultant.

(b) A person may not share the report described in Subsection (2) with a party other than a party described in Subsection (5)(a).

(6) An insurer is not required to provide a report as described in this section if:

(a) the health benefit plan is a qualified health plan as defined in 45 C.F.R. Sec. 155.20;

(b) the health benefit plan is issued to a group other than an employee group described in Section 31A-22-502;

(c) the large employer has not had continuous large employer health benefit plan coverage with the insurer for at least 18 months before the date on which the large employer requests the report;

(d) the large employer does not renew coverage with the insurer; or

(e) the insurer reasonably believes that providing the report would disclose information described in Subsection 13-61-102(2)(g).

(7) An insurer that provides a report in compliance with this section is immune from civil liability for the insurer's acts or omissions in providing information required under Subsection (3).

Section 9. Section 31A-23a-106 is amended to read:

31A-23a-106. License types.

(1) (a) A resident or nonresident license issued under this chapter shall be issued under the license types described under Subsection (2).

(b) A license type and a line of authority pertaining to a license type describe the type of licensee and the lines of business that a licensee may sell, solicit, or negotiate. A license type is intended to describe the matters to be considered under any education, examination, and training required of a license applicant under Sections 31A-23a-108, 31A-23a-202, and 31A-23a-203.

(2) (a) A producer license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the producer has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond;

(vi) title insurance under one or more of the following categories:

(A) title examination, including authority to act as a title marketing representative;

(B) escrow, including authority to act as a title marketing representative; and

(C) title marketing representative only; and

(vii) personal lines insurance.

(b) A surplus lines producer license type includes the following lines of authority:

(i) property insurance, if the person holds an underlying producer license with the property line of insurance; and

(ii) casualty insurance, if the person holds an underlying producer license with the casualty line of authority.

(c) A limited line producer license type includes the following limited lines of authority:

(i) limited line credit insurance;

(ii) travel insurance, as set forth in Part 9, Travel Insurance Act;

(iii) motor club insurance;

(iv) car rental related insurance;

(v) legal expense insurance;

(vi) crop insurance;

(vii) self-service storage insurance;

(viii) bail bond producer;

(ix) guaranteed asset protection waiver; [~~and~~]

(x) portable electronics insurance[.]; and

(xi) pet insurance.

(d) A consultant license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the consultant has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(e) A managing general agent license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the managing general agent has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(f) A reinsurance intermediary license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the reinsurance intermediary has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(g) A person who holds a license under Subsection (2)(a) has the qualifications necessary to act as a holder of a license under Subsection (2)(c), except that the person may not act under Subsection (2)(c)(viii) or (ix).

(3) (a) The commissioner may by rule recognize other producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary lines of authority as to kinds of insurance not listed under Subsections (2)(a) through (f).

(b) Notwithstanding Subsection (3)(a), for purposes of title insurance the Title and Escrow Commission may by rule, with the concurrence of the commissioner and subject to Section 31A-2-404, recognize other categories for an individual title insurance producer or agency title insurance producer line of authority not listed under Subsection (2)(a)(vi).

(4) The variable contracts line of authority requires:

(a) for a producer, licensure by the Financial Industry Regulatory Authority as a:

(i) registered broker-dealer; or

(ii) broker-dealer agent, with a current registration with a broker-dealer; and

(b) for a consultant, registration with the Securities and Exchange Commission or licensure by the Utah Division of Securities as an:

(i) investment adviser; or

(ii) investment adviser representative, with a current association with an investment adviser.

(5) A surplus lines producer is a producer who has a surplus lines license.

Section 10. Section 31A-23a-111 is amended to read:

31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-23a-113; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A line of authority issued under this chapter remains in force until:

(a) the qualifications pertaining to a line of authority are no longer met by the licensee; [~~or~~]

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5);

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(iii) lapses under Section 31A-23a-113; or

(iv) is voluntarily surrendered; or

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.

(5) (a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a line of authority;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a line of authority;

(iii) limit in whole or in part:

(A) a license; or

(B) a line of authority;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107;

(ii) violates:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person within 60 days after the day on which the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance producer's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) violates an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) obtains or attempts to obtain a license through misrepresentation or fraud;

(xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;

(xiii) intentionally misrepresents the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) life settlement;

(xiv) has been convicted of, or has entered a plea in abeyance as defined in Section 77-2a-1 to:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) admits or is found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere:

(A) uses fraudulent, coercive, or dishonest practices; or

(B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license, or an equivalent to an insurance license or registration, or other professional or occupational license or registration:

(A) denied;

(B) suspended;

(C) revoked; or

(D) surrendered to resolve an administrative action;

(xviii) forges another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) improperly uses notes or another reference material to complete an examination for an insurance license;

(xx) knowingly accepts insurance business from an individual who is not licensed;

(xxi) fails to comply with an administrative or court order imposing a child support obligation;

(xxii) fails to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033;

(xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public; or

(xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (8)(a), the former licensee

may not apply for a new license for five years from the day on which the order or agreement is made without the express approval by the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 11. Section 31A-23a-406 is amended to read:

31A-23a-406. Title insurance producer's business.

(1) As used in this section:

(a) "Automated clearing house network" or "ACH network" means a national electronic funds transfer system regulated by the Federal Reserve and the Office of the Comptroller of the Currency.

(b) "Depository institution" means the same as that term is defined in Section 7-1-103.

(c) "Funds transfer system" means the same as that term is defined in Section 7-1-103.

[~~(1)~~] (2) An individual title insurance producer or agency title insurance producer may do escrow involving real property transactions if all of the following exist:

(a) the individual title insurance producer or agency title insurance producer is licensed with:

(i) the title line of authority; and

(ii) the escrow subline of authority;

(b) the individual title insurance producer or agency title insurance producer is appointed by a title insurer authorized to do business in the state;

(c) except as provided in Subsection [~~(3)~~] (4), the individual title insurance producer or agency title insurance producer issues one or more of the following as part of the transaction:

(i) an owner's policy offering title insurance;

(ii) a lender's policy offering title insurance; or

(iii) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy offering title insurance;

(d) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is deposited:

(i) in a federally insured depository institution, as defined in Section 7-1-103, that:

(A) has [~~an office~~] a branch in this state, if the individual title insurance producer or agency title insurance producer depositing the money is a resident licensee; and

(B) is authorized by the depository institution's primary regulator to engage in trust business, as defined in Section 7-5-1, in this state; and

(ii) in a trust account that is separate from all other trust account money that is not related to real estate transactions;

(e) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is the property of the one or more persons entitled to the money under the provisions of the escrow; [~~and~~]

(f) money deposited with the individual title insurance producer or agency title insurance producer in connection with an escrow is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer;

(g) earnings on money held in escrow may be paid out of the escrow account to any person in accordance with the conditions of the escrow;

(h) the escrow does not require the individual title insurance producer or agency title insurance producer to hold:

(i) construction money; or

(ii) money held for exchange under Section 1031, Internal Revenue Code; and

(i) the individual title insurance producer or agency title insurance producer shall maintain a physical office in Utah staffed by a person with an escrow subline of authority who processes the escrow.

[~~(2)~~] (3) Notwithstanding Subsection [~~(1)~~] (2), an individual title insurance producer or agency title insurance producer may engage in the escrow business if:

(a) the escrow involves:

(i) a mobile home;

(ii) a grazing right;

(iii) a water right; or

(iv) other personal property authorized by the commissioner; and

(b) the individual title insurance producer or agency title insurance producer complies with this section except for Subsection [~~(1)(c)~~] (2)(c).

[~~(3)~~] (4) (a) Subsection [~~(1)(c)~~] (2)(c) does not apply if the transaction is for the transfer of real property from the School and Institutional Trust Lands Administration.

(b) This subsection does not prohibit an individual title insurance producer or agency title insurance producer from issuing a policy described in Subsection [~~(1)(c)~~] (2)(c) as part of a transaction described in Subsection [~~(3)(a)~~] (4)(a).

[~~(4)~~] (5) Money held in escrow:

(a) is not subject to any debts of the individual title insurance producer or agency title insurance producer;

(b) may only be used to fulfill the terms of the individual escrow under which the money is accepted; and

(c) may not be used until the conditions of the escrow are met.

[~~(5)~~] (6) Assets or property other than escrow money received by an individual title insurance producer or agency title insurance producer in accordance with an escrow shall be maintained in a manner that will:

(a) reasonably preserve and protect the asset or property from loss, theft, or damages; and

(b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.

[~~(6)~~] (7) (a) A check from the trust account described in Subsection [~~(1)(d)~~] (2)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated escrow account from which money is to be disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.

(b) As used in this Subsection [~~(6)~~] (7), money is considered to be "collected and cleared," and may be disbursed as follows:

(i) cash may be disbursed on the same day the cash is deposited;

(ii) a wire transfer may be disbursed on the same day the wire transfer is deposited; [~~and~~]

(iii) the proceeds of one or more of the following financial instruments may be disbursed on the same day the financial instruments are deposited if received from a single party to the real estate transaction and if the aggregate of the financial instruments for the real estate transaction is less than $10,000:

(A) a cashier's check, certified check, or official check that is drawn on an existing account at a federally insured financial institution;

(B) a check drawn on the trust account of a principal broker or associate broker licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual title insurance producer or agency title insurance producer has reasonable and prudent grounds to believe sufficient money will be available from the trust account on which the check is drawn at the time of disbursement of proceeds from the individual title insurance producer or agency title insurance producer's escrow account;

(C) a personal check not to exceed $500 per closing; or

(D) a check drawn on the escrow account of another individual title insurance producer or agency title insurance producer, if the individual title insurance producer or agency title insurance producer in the escrow transaction has reasonable and prudent grounds to believe that sufficient money will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of money from the escrow account of the individual title insurance producer or agency title insurance producer in the escrow transaction[~~.~~];

(iv) deposits made through the ACH network may be disbursed on the same day the deposit is made if:

(A) the transferred funds remain uniquely designated and traceable throughout the entire ACH network transfer process;

(B) except as a function of the ACH network process, the transferred funds are not subject to comingling or third party access during the transfer process;

(C) the transferred funds are deposited into the title insurance producer's escrow account and are available for disbursement; and

(D) either the ACH network payment type or the title insurance producer's systems prevent the transaction from being unilaterally canceled or reversed by the consumer once the transferred funds are deposited to the individual title insurance producer or agency title producer;

(v) deposits may be disbursed on the same day the deposit is made if the deposit is made via:

(A) the Federal Reserve Bank through the Federal Reserve's funds transfer system; or

(B) a funds transfer system provided by an association of banks.

(c) A check or deposit not described in Subsection [~~(6)(b)~~] (7)(b) may be disbursed:

(i) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or

(ii) upon notification from the financial institution to which the money has been deposited that final settlement has occurred on the deposited financial instrument.

[~~(7)~~] (8) An individual title insurance producer or agency title insurance producer shall maintain a record of a receipt or disbursement of escrow money.

[~~(8)~~] (9) An individual title insurance producer or agency title insurance producer shall comply with:

(a) Section 31A-23a-409;

(b) Title 46, Chapter 1, Notaries Public Reform Act; and

(c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404, that govern escrows.

[~~(9)~~] (10) If an individual title insurance producer or agency title insurance producer conducts a search for real estate located in the state, the individual title insurance producer or agency title insurance producer shall conduct a reasonable search of the public records.

Section 12. Section 31A-23a-409 is amended to read:

31A-23a-409. Trust obligation for money collected.

(1) (a) Subject to Subsection (7), a licensee is a trustee for money that is paid to, received by, or collected by a licensee for forwarding to insurers or to insureds.

(b) (i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust funds with:

(A) the licensee's own money; or

(B) money held in any other capacity.

(ii) This Subsection (1)(b) does not apply to:

(A) amounts necessary to pay bank charges; and

(B) money paid by insureds and belonging in part to the licensee as a fee or commission.

(c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the fiduciary duties of a trustee with respect to money to be forwarded to insurers or insureds through the licensee.

(d) (i) Unless money is sent to the appropriate payee by the close of the next business day after their receipt, the licensee shall deposit them in an account authorized under Subsection (2).

(ii) Money deposited under this Subsection (1)(d) shall remain in an account authorized under Subsection (2) until sent to the appropriate payee.

(2) Money required to be deposited under Subsection (1) shall be deposited:

(a) in a federally insured trust account in a depository institution, as defined in Section 7-1-103, which:

(i) has [~~an office~~] a branch in this state, if the [~~licensee~~] individual title insurance producer or agency title insurance producer depositing the money is a resident licensee;

(ii) has federal deposit insurance; and

(iii) is authorized by its primary regulator to engage in the trust business, as defined by Section 7-5-1, in this state; or

(b) in some other account, that:

(i) the commissioner approves by rule or order; and

(ii) provides safety comparable to an account described in Subsection (2)(a).

(3) It is not a violation of Subsection (2)(a) if the amounts in the accounts exceed the amount of the federal insurance on the accounts.

(4) A trust account into which money is deposited may be interest bearing. The interest accrued on the account may be paid to the licensee, so long as the licensee otherwise complies with this section and with the contract with the insurer.

(5) A depository institution or other organization holding trust funds under this section may not offset or impound trust account funds against debts and obligations incurred by the licensee.

(6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any portion of the money held under Subsection (1) to the licensee's own use, is guilty of theft under Title 76, Chapter 6, Part 4, Theft. Section 76-6-412 applies in determining the classification of the offense. Sanctions under Section 31A-2-308 also apply.

(7) A nonresident licensee:

(a) shall comply with Subsection (1)(a) by complying with the trust account requirements of the nonresident licensee's home state; and

(b) is not required to comply with the other provisions of this section.

Section 13. Section 31A-23a-415 is amended to read:

31A-23a-415. Assessment on agency title insurance producers or title insurers -- Account created.

(1) For purposes of this section:

(a) "Premium" is as described in Subsection 59-9-101(3).

(b) "Title insurer" means a person:

(i) making any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety;

(ii) proposing to make any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety; or

(iii) transacting or proposing to transact any phase of title insurance, including:

(A) soliciting;

(B) negotiating preliminary to execution;

(C) executing of a contract of title insurance;

(D) insuring; and

(E) transacting matters subsequent to the execution of the contract and arising out of the contract.

(c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or personal property located in Utah, an owner of real or personal property, the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of:

(i) liens or encumbrances upon, defects in, or the unmarketability of the title to the property; or

(ii) invalidity or unenforceability of any liens or encumbrances on the property.

(2) (a) The commissioner may assess each title insurer, each individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer, and each agency title insurance producer an annual assessment:

(i) determined by the Title and Escrow Commission:

(A) after consultation with the commissioner; and

(B) in accordance with this Subsection (2); and

(ii) to be used for the purposes described in Subsection (3).

(b) An agency title insurance producer and individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall be assessed up to:

(i) $250 for the first office in each county in which the agency title insurance producer or individual title insurance producer maintains an office; and

(ii) $150 for each additional office the agency title insurance producer or individual title insurance producer maintains in the county described in Subsection (2)(b)(i).

(c) A title insurer shall be assessed up to:

(i) $250 for the first office in each county in which the title insurer maintains an office;

(ii) $150 for each additional office the title insurer maintains in the county described in Subsection (2)(c)(i); and

(iii) an amount calculated by:

(A) aggregating the assessments imposed on:

(I) agency title insurance producers and individual title insurance producers under Subsection (2)(b); and

(II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);

(B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total costs and expenses determined under Subsection (2)(d); and

(C) multiplying:

(I) the amount calculated under Subsection (2)(c)(iii)(B); and

(II) the percentage of total premiums for title insurance on Utah risk that are premiums of the title insurer.

(d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, during the first quarter of each fiscal year the Title and Escrow Commission [~~by rule shall establish~~] shall approve the amount of costs and expenses described under Subsection (3) for the prior fiscal year that will be covered by the assessment[~~, except the costs or expenses to be covered by the assessment may not exceed the cost of one full-time equivalent position~~].

(e) (i) An individual licensed to practice law in Utah is exempt from the requirements of this Subsection (2) if that person issues 12 or less policies during a 12-month period.

(ii) In determining the number of policies issued by an individual licensed to practice law in Utah for purposes of Subsection (2)(e)(i), if the individual issues a policy to more than one party to the same closing, the individual is considered to have issued only one policy.

(3) (a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."

(c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.

(d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of laws governing individual title insurance producers, agency title insurance producers, or title insurers.

(e) An appropriation from the Title Licensee Enforcement Restricted Account is nonlapsing.

(4) The assessment imposed by this section shall be in addition to any premium assessment imposed under Subsection 59-9-101(3).

Section 14. Section 31A-23b-401 is amended to read:

31A-23b-401. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal or reinstatement.

(1) A license as a navigator under this chapter remains in force until:

(a) revoked or suspended under Subsection (4);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under this section; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke a license;

(ii) suspend a license for a specified period of 12 months or less;

(iii) limit a license in whole or in part;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (4)(a)(i) through (iv) and Subsection (4)(a)(v).

(b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license under Section 31A-23b-204, 31A-23b-205, or 31A-23b-206;

(ii) violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) failed to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) refused:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(vi) had an officer who refused to:

(A) give information with respect to the navigator's affairs; or

(B) perform any other legal obligation as to an examination;

(vii) provided information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(viii) violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(ix) obtained or attempted to obtain a license through misrepresentation or fraud;

(x) improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xi) intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) application for public program;

(xii) has been convicted of, or has entered a plea in abeyance as defined in Section 77-2a-1 to:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xiii) admitted or is found to have committed an insurance unfair trade practice or fraud;

(xiv) in the conduct of business in this state or elsewhere:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xv) has had an insurance license, navigator license, or other professional or occupational license or registration, or an equivalent of the same denied, suspended, revoked, or surrendered to resolve an administrative action;

(xvi) forged another's name to:

(A) an application for insurance;

(B) a document related to an insurance transaction;

(C) a document related to an application for a public program; or

(D) a document related to an application for premium subsidies;

(xvii) improperly used notes or another reference material to complete an examination for a license;

(xviii) knowingly accepted insurance business from an individual who is not licensed;

(xix) failed to comply with an administrative or court order imposing a child support obligation;

(xx) failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxi) has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033;

(xxii) engaged in a method or practice in the conduct of business that endangered the legitimate interests of customers and the public; or

(xxiii) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

(5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) surrendered in lieu of administrative action;

(iv) lapsed; or

(v) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(6) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.

(8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this chapter if so ordered by a court.

(9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 15. Section 31A-25-208 is amended to read:

31A-25-208. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal and reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (4);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-25-210; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke a license;

(ii) suspend a license for a specified period of 12 months or less;

(iii) limit a license in whole or in part; or

(iv) deny a license application.

(b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license under Section 31A-25-202, 31A-25-203, or 31A-25-204;

(ii) has violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another third party administrator that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the third party administrator's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) has violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xiii) has intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract; or

(B) application for insurance;

(xiv) has been convicted of, or has entered a plea in abeyance as defined in Section 77-2a-1 to:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere has:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license or registration, or an equivalent of the same, denied, suspended, revoked, or surrendered to resolve an administrative action;

(xviii) has forged another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) is convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required under 18 U.S.C. Sec. 1033;

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public; or

(xxv) has been convicted of a criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required under 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the agency license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

(5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(6) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against the person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.

(8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by the court.

(9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 16. Section 31A-26-213 is amended to read:

31A-26-213. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-26-214.5; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which it is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A license classification issued under this chapter remains in force until:

(a) the qualifications pertaining to a license classification are no longer met by the licensee; or

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5); or

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action.

(5) (a) If the commissioner makes a finding under Subsection (5)(b) as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a license classification;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a license classification;

(iii) limit in whole or in part:

(A) a license; or

(B) a license classification;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license or license classification under Section 31A-26-202, 31A-26-203, 31A-26-204, or 31A-26-205;

(ii) has violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance adjuster that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance adjuster's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) has violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xiii) has intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract; or

(B) application for insurance;

(xiv) has been convicted of, or has entered a plea in abeyance as defined in Section 77-2a-1 to:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere has:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license or registration, or equivalent, denied, suspended, revoked, or surrendered to resolve an administrative action;

(xviii) has forged another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has been convicted of a violation of the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent in accordance with 18 U.S.C. Sec. 1033 to engage in the business of insurance or participate in such business;

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public; or

(xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent in accordance with 18 U.S.C. Sec. 1033 to engage in the business of insurance or participate in such business.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for conducting an insurance business without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time not to exceed five years within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years without the express approval of the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 17. Section 31A-30-118 is amended to read:

31A-30-118. Patient Protection and Affordable Care Act -- State insurance mandates -- Cost of additional benefits.

(1) (a) The commissioner shall identify a new mandated benefit that is in excess of the essential health benefits required by PPACA.

(b) The state shall quantify the cost attributable to each additional mandated benefit specified in Subsection (1)(a) based on a qualified health plan issuer's calculation of the cost associated with the mandated benefit, which shall be:

(i) calculated in accordance with generally accepted actuarial principles and methodologies;

(ii) conducted by a member of the American Academy of Actuaries; and

(iii) reported to the commissioner and to the individual exchange operating in the state.

(c) The commissioner may require a proponent of a new mandated benefit under Subsection (1)(a) to provide the commissioner with a cost analysis conducted in accordance with Subsection (1)(b). The commissioner may use the cost information provided under this Subsection (1)(c) to establish estimates of the cost to the state under Subsection (2).

(2) If the state is required to defray the cost of additional required benefits under the provisions of 45 C.F.R. 155.170:

(a) the state shall make the required payments:

(i) in accordance with Subsection (3); and

(ii) directly to the qualified health plan issuer in accordance with 45 C.F.R. 155.170;

(b) an issuer of a qualified health plan that receives a payment under the provisions of Subsection (1) and 45 C.F.R. 155.170 shall:

(i) reduce the premium charged to the individual on whose behalf the issuer will be paid under Subsection (1), in an amount equal to the amount of the payment under Subsection (1); or

(ii) notwithstanding Subsection 31A-23a-402.5(5), provide a premium rebate to an individual on whose behalf the issuer received a payment under Subsection (1), in an amount equal to the amount of the payment under Subsection (1); and

(c) a premium rebate made under this section is not a prohibited inducement under Section 31A-23a-402.5.

(3) A payment required under 45 C.F.R. 155.170(c) shall:

(a) unless otherwise required by PPACA, be based on a statewide average of the cost of the additional benefit for all issuers who are entitled to payment under the provisions of 45 C.F.R. 155.170; and

(b) be submitted to an issuer through a process established by the commissioner.

(4) (a) As used in this Subsection (4), "account" means the State Mandated Insurer Payments Restricted Account created in Subsection (4)(b).

(b) There is created in the General Fund a restricted account known as the "State Mandated Insurer Payments Restricted Account."

(c) The account shall consist of:

(i) money appropriated to the account by the Legislature; and

(ii) interest earned on money in the account.

(d) Subject to appropriations from the Legislature, the commissioner shall administer the account for the sole benefit of a qualified health plan issuer who is eligible to receive payments under this section.

(e) An appropriation from the account is nonlapsing.

(5) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) administer the provisions of this section and 45 C.F.R. 155.170; and

(b) establish or implement a process for submitting a payment to an issuer under Subsection (3)(b).

Section 18. Section 31A-31-110 is amended to read:

31A-31-110. Mandatory reporting of fraudulent insurance acts.

(1) (a) A person shall report a fraudulent insurance act to the department if:

(i) the person has a good faith belief on the basis of a preponderance of the evidence that a fraudulent insurance act is being, will be, or has been committed by a person other than the person making the report; and

(ii) the person is:

(A) an insurer; or

(B) in relation to the business of title insurance, an auditor that is employed by a title insurer.

(b) The report required by this Subsection (1) shall:

(i) be in writing;

(ii) be submitted through:

(A) the National Insurance Crime Bureau fraud reporting system;

(B) the NAIC's online fraud reporting system; or

(C) email using an email address established by the department for the purpose of submitting the report required by this Subsection (1);

[~~(ii)~~] (iii) provide information in detail relating to:

(A) the fraudulent insurance act; and

(B) the perpetrator of the fraudulent insurance act; and

[~~(iii)~~] (iv) (A) state whether the person required to report under Subsection (1)(a) also reported the fraudulent insurance act in writing to:

(I) the attorney general;

(II) a state law enforcement agency;

(III) a criminal investigative department or agency of the United States;

(IV) a district attorney; or

(V) the prosecuting attorney of a municipality or county; and

(B) if the person reported the fraudulent insurance act as provided in Subsection [~~(1)(b)(iii)(A)~~] (1)(b)(iv)(A), state the agency to which the person reported the fraudulent insurance act.

(c) A person required to submit a written report under this Subsection (1) shall submit the written report to the department by no later than 90 days from the day on which the person required to report the fraudulent insurance act has a good faith belief on the basis of a preponderance of the evidence that the fraudulent insurance act is being, will be, or has been committed.

(2) An action brought under Section 31A-2-201, 31A-2-308, or 31A-31-109, for failure to comply with Subsection (1) shall be commenced within four years from the date on which a person described in Subsection (1):

(a) has a good faith belief on the basis of a preponderance of the evidence that a fraudulent insurance act is being, will be, or has been committed; and

(b) willfully fails to report the fraudulent insurance act.

(3) The department may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide a process by which a person described in Subsection (1)(a)(ii)(B) may comply with the requirements of Subsection (1) by reporting a fraudulent insurance act to the insurer with whom the person is employed, except that the rule shall provide that if the person reports the fraudulent insurance act to the insurer, the insurer is required to report the fraudulent insurance act to the department.

(4) A person described in Subsection (1)(a)(ii) who in good faith makes a report under this section, in accordance with Section 31A-31-105, is immune from civil action, civil penalty, or damages for making that report.

Section 19. Section 31A-35-504 is amended to read:

31A-35-504. Failure to pay bail bond forfeiture -- Grounds for suspension and revocation of bail bond agency license.

(1) As used in this section:

(a) "Agency" means a bail bond agency.

(b) "Judgment" means a judgment of bail bond forfeiture issued under Section 77-20-505.

(2) (a) (i) An agency shall pay a judgment not later than 15 days following service of notice upon the agency from a prosecutor of the entry of the judgment.

(ii) An agency may pay a bail bond forfeiture to the court prior to judgment.

(b) (i) A prosecutor who does not receive proof of or notice of payment of the judgment within 15 days after the service of notice to the agency of a judgment shall notify the commissioner of the failure to pay the judgment.

(ii) The commissioner shall notify the agency, by the most expeditious means available, of the nonpayment of the judgment.

(iii) The agency shall satisfy the judgment within five business days after receiving notice under Subsection (2)(b)(ii). [~~If the judgment is not satisfied at the end of the five days, the commissioner may suspend the agency's license under Subsection (3).~~]

(c) If notice of entry of judgment is served upon the agency by mail, three additional days are added to the 15 days provided in Subsections (2)(a), (2)(b), and (2)(d).

(d) A prosecutor may not proceed under Subsection (2)(b) if an agency, within 15 days after service of notice of the entry of judgment is served:

(i) files a motion to set aside the judgment or files an application for an extraordinary writ; and

(ii) provides proof that the agency has posted the judgment amount with the court in the form of cash, a cashier's check, or certified funds.

(e) As used in this section, the filing of the following tolls the time within which an agency is required to pay a judgment if the motion or application is filed within 15 days after the day on which service of notice of the entry of a judgment is served:

(i) a motion to set aside a judgment; or

(ii) an application for extraordinary writ.

(3) The commissioner shall suspend the license of the agency not later than five days following the agency's failure to satisfy the judgment as required under Subsection (2)(b).

(4) If the prosecutor receives proof of or notice of payment of the judgment during the suspension period under Subsection (3), the prosecutor shall immediately notify the commissioner of the payment. The notice shall be in writing and by the most expeditious means possible, including facsimile or other electronic means.

(5) The commissioner shall lift a suspension under Subsection (3) within five days of the day on which all of the following conditions are met:

(a) the suspension has been in place for no fewer than 14 days;

(b) the commissioner has received written notice of payment of the unpaid forfeiture from the prosecutor; and

(c) the commissioner has received:

(i) no other notice of any unpaid forfeiture from a prosecutor; or

(ii) if a notice of unpaid forfeiture is received, written notice from the prosecutor that the unpaid forfeiture has been paid.

(6) The commissioner shall commence an administrative proceeding and revoke the license of an agency that fails to meet the conditions under Subsection (5) within 60 days following the initial date of suspension.

(7) This section does not restrict or otherwise affect the rights of a prosecutor to commence collection proceedings under Subsection 77-20-505(5).

Section 20. Section 31A-37-102 is amended to read:

31A-37-102. Definitions.

As used in this chapter:

(1) (a) "Affiliated company" means a business entity that because of common ownership, control, operation, or management is in the same corporate or limited liability company system as:

(i) a parent;

(ii) an industrial insured; or

(iii) a member organization.

(b) "Affiliated company" does not include a business entity for which the commissioner issues an order finding that the business entity is not an affiliated company.

(2) "Alien captive insurance company" means an insurer:

(a) formed to write insurance business for a parent or affiliate of the insurer; and

(b) licensed pursuant to the laws of an alien or foreign jurisdiction that imposes statutory or regulatory standards:

(i) on a business entity transacting the business of insurance in the alien or foreign jurisdiction; and

(ii) in a form acceptable to the commissioner.

(3) "Applicant captive insurance company" means an entity that has submitted an application for a certificate of authority for a captive insurance company, unless the application has been denied or withdrawn.

(4) "Association" means a legal association of two or more persons that [~~has been in continuous existence for at least one year if~~] meets the following requirements:

(a) the persons are exposed to similar or related liability because of related, similar, or common business trade, products, services, premises, or operations; and

(b) [~~(a)~~] (i) the association or [~~its~~] the association's member organizations:

[~~(i)~~] (A) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; [~~or~~]

[~~(ii)~~] (B) have complete voting control over an association captive insurance company incorporated as a mutual insurer; or

(C) have complete voting control over an association captive insurance company formed as a limited liability company; or

[~~(b)~~] (ii) the association's member organizations collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer[~~; or~~].

[~~(c) the association or the association's member organizations have complete voting control over an association captive insurance company formed as a limited liability company.~~]

(5) "Association captive insurance company" means a business entity that insures risks of:

(a) a member organization of the association;

(b) an affiliate of a member organization of the association; and

(c) the association.

(6) "Branch business" means an insurance business transacted by a branch captive insurance company in this state.

(7) "Branch captive insurance company" means an alien captive insurance company that has a certificate of authority from the commissioner to transact the business of insurance in this state through a captive insurance company that is domiciled outside of this state.

(8) "Branch operation" means a business operation of a branch captive insurance company in this state.

(9) (a) "Captive insurance company" means the same as that term is defined in Section 31A-1-301.

(b) "Captive insurance company" includes any of the following formed or holding a certificate of authority under this chapter:

(i) a branch captive insurance company;

(ii) a pure captive insurance company;

(iii) an association captive insurance company;

(iv) a sponsored captive insurance company;

(v) an industrial insured captive insurance company, including an industrial insured captive insurance company formed as a risk retention group captive in this state pursuant to the provisions of the Federal Liability Risk Retention Act of 1986;

(vi) a special purpose captive insurance company; or

(vii) a special purpose financial captive insurance company.

(10) "Commissioner" means Utah's Insurance Commissioner or the commissioner's designee.

(11) "Common ownership and control" means that two or more captive insurance companies are owned or controlled by the same person or group of persons as follows:

(a) in the case of a captive insurance company that is a stock corporation, the direct or indirect ownership of 80% or more of the outstanding voting stock of the stock corporation;

(b) in the case of a captive insurance company that is a mutual corporation, the direct or indirect ownership of 80% or more of the surplus and the voting power of the mutual corporation;

(c) in the case of a captive insurance company that is a limited liability company, the direct or indirect ownership by the same member or members of 80% or more of the membership interests in the limited liability company; or

(d) in the case of a sponsored captive insurance company, a protected cell is a separate captive insurance company owned and controlled by the protected cell's participant, only if:

(i) the participant is the only participant with respect to the protected cell; and

(ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored captive insurance company through common ownership and control.

(12) "Consolidated debt to total capital ratio" means the ratio of Subsection (12)(a) to (b).

(a) This Subsection (12)(a) is an amount equal to the sum of all debts and hybrid capital instruments including:

(i) all borrowings from depository institutions;

(ii) all senior debt;

(iii) all subordinated debts;

(iv) all trust preferred shares; and

(v) all other hybrid capital instruments that are not included in the determination of consolidated GAAP net worth issued and outstanding.

(b) This Subsection (12)(b) is an amount equal to the sum of:

(i) total capital consisting of all debts and hybrid capital instruments as described in Subsection (12)(a); and

(ii) shareholders' equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

(13) "Consolidated GAAP net worth" means the consolidated shareholders' or members' equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

(14) "Controlled unaffiliated business" means a business entity:

(a) (i) in the case of a pure captive insurance company, that is not in the corporate or limited liability company system of a parent or the parent's affiliate; or

(ii) in the case of an industrial insured captive insurance company, that is not in the corporate or limited liability company system of an industrial insured or an affiliated company of the industrial insured;

(b) (i) in the case of a pure captive insurance company, that has a contractual relationship with a parent or affiliate; or

(ii) in the case of an industrial insured captive insurance company, that has a contractual relationship with an industrial insured or an affiliated company of the industrial insured; and

(c) whose risks that are or will be insured by a pure captive insurance company, an industrial insured captive insurance company, or both, are managed in accordance with Subsection 31A-37-106(1)(j) by:

(i) (A) a pure captive insurance company; or

(B) an industrial insured captive insurance company; or

(ii) a parent or affiliate of:

(A) a pure captive insurance company; or

(B) an industrial insured captive insurance company.

(15) "Criminal act" means an act for which a person receives a verdict or finding of guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.

(16) "Establisher" means a person who establishes a business entity or a trust.

(17) "Governing body" means the persons who hold the ultimate authority to direct and manage the affairs of an entity.

(18) "Industrial insured" means an insured:

(a) that produces insurance:

(i) by the services of a full-time employee acting as a risk manager or insurance manager; or

(ii) using the services of a regularly and continuously qualified insurance consultant;

(b) whose aggregate annual premiums for insurance on all risks total at least $25,000; and

(c) that has at least 25 full-time employees.

(19) "Industrial insured captive insurance company" means a business entity that:

(a) insures risks of the industrial insureds that comprise the industrial insured group; and

(b) may insure the risks of:

(i) an affiliated company of an industrial insured; or

(ii) a controlled unaffiliated business of:

(A) an industrial insured; or

(B) an affiliated company of an industrial insured.

(20) "Industrial insured group" means:

(a) a group of industrial insureds that collectively:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated or organized as a limited liability company as a stock insurer; or

(ii) have complete voting control over an industrial insured captive insurance company incorporated or organized as a limited liability company as a mutual insurer;

(b) a group that is:

(i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec. 3901 et seq., as amended, as a corporation or other limited liability association; and

(ii) taxable under this title as a:

(A) stock corporation; or

(B) mutual insurer; or

(c) a group that has complete voting control over an industrial captive insurance company formed as a limited liability company.

(21) "Member organization" means a person that belongs to an association.

(22) "Parent" means a person that directly or indirectly owns, controls, or holds with power to vote more than 50% of the outstanding securities of an organization.

(23) "Participant" means an entity that is insured by a sponsored captive insurance company:

(a) if the losses of the participant are limited through a participant contract to the assets of a protected cell; and

(b) (i) the entity is permitted to be a participant under Section 31A-37-403; or

(ii) the entity is an affiliate of an entity permitted to be a participant under Section 31A-37-403.

(24) "Participant contract" means a contract by which a sponsored captive insurance company:

(a) insures the risks of a participant; and

(b) limits the losses of the participant to the assets of a protected cell.

(25) "Protected cell" means a separate account established and maintained by a sponsored captive insurance company for one participant.

(26) "Pure captive insurance company" means a business entity that insures risks of a parent or affiliate of the business entity.

(27) "Special purpose financial captive insurance company" means the same as that term is defined in Section 31A-37a-102.

(28) "Sponsor" means an entity that:

(a) meets the requirements of Section 31A-37-402; and

(b) is approved by the commissioner to:

(i) provide all or part of the capital and surplus required by applicable law in an amount of not less than $350,000, which amount the commissioner may increase by order if the commissioner considers it necessary; and

(ii) organize and operate a sponsored captive insurance company.

(29) "Sponsored captive insurance company" means a captive insurance company:

(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(b) that is formed or holding a certificate of authority under this chapter;

(c) that insures the risks of a separate participant through the contract; and

(d) that segregates each participant's liability through one or more protected cells.

(30) "Treasury rates" means the United States Treasury strip asked yield as published in the Wall Street Journal as of a balance sheet date.

Section 21. Section 31A-37-202 is amended to read:

31A-37-202. Permissive areas of insurance.

(1) Except as provided in Subsections (2) and (3), a captive insurance company may not directly insure a risk other than the risk of the captive insurance company's parent or affiliated company.

(2) In addition to the risks described in Subsection (1), an association captive insurance company may insure the risk of:

(a) a member organization of the association captive insurance company's association; or

(b) an affiliate of a member organization of the association captive insurance company's association.

(3) The following may insure a risk of a controlled unaffiliated business:

(a) an industrial insured captive insurance company;

(b) a protected cell;

(c) a pure captive insurance company; or

(d) a sponsored captive insurance company.

(4) To the extent allowed by a captive insurance company's organizational charter, a captive

insurance company may provide any type of insurance described in this title, except:

(a) workers' compensation insurance;

(b) personal motor vehicle insurance;

(c) homeowners' insurance; and

(d) any component of the types of insurance described in Subsections (4)(a) through (c).

(5) A captive insurance company may not provide coverage for:

(a) a wager or gaming risk;

(b) loss of an election; or

(c) the penal consequences of a crime.

(6) Unless the punitive damages award arises out of a criminal act of an insured, a captive insurance company may provide coverage for punitive damages awarded, including through adjudication or compromise, against the captive insurance company's:

(a) parent; or

(b) affiliated company[~~; or~~].

[~~(c) controlled unaffiliated business.~~]

(7) Notwithstanding Subsection (4), if approved by the commissioner, a captive insurance company may insure as a reimbursement a limited layer or deductible of workers' compensation coverage.

Section 22. Section 31A-37-204 is amended to read:

31A-37-204. Paid-in capital -- Other capital.

(1) (a) The commissioner may not issue a certificate of authority to a company described in Subsection (1)(c) unless the company possesses and thereafter maintains unimpaired paid-in capital and unimpaired paid-in surplus of:

(i) in the case of a pure captive insurance company[~~,~~]:

(A) except as provided in Subsection (1)(a)(i)(B), not less than $250,000; or

(B) if the pure captive insurance company is not acting as a pool that facilitates risk distribution for other captive insurers, an amount that is the greater of:

(I) not less than 20% of the company's total aggregate risk; or

(II) $50,000;

(ii) in the case of an association captive insurance company, not less than $750,000;

(iii) in the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than $700,000;

(iv) in the case of a sponsored captive insurance company, not less than $500,000, of which a minimum of $200,000 is provided by the sponsor; or

(v) in the case of a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro-formas, including the nature of the risks to be insured.

(b) The paid-in capital and surplus required under this Subsection (1) may be in the form of:

(i) (A) cash; or

(B) cash equivalent;

(ii) an irrevocable letter of credit:

(A) issued by:

(I) a bank chartered by this state; [~~or~~]

(II) a member bank of the Federal Reserve System; [~~and~~] or

(III) a member bank of the Federal Deposit Insurance Corporation;

(B) approved by the commissioner;

(iii) marketable securities as determined by Subsection (5); or

(iv) some other thing of value approved by the commissioner, for a period not to exceed 45 days, to facilitate the formation of a captive insurance company in this state pursuant to an approved plan of liquidation and reorganization of another captive insurance company or alien captive insurance company in another jurisdiction.

(c) This Subsection (1) applies to:

(i) a pure captive insurance company;

(ii) a sponsored captive insurance company;

(iii) a special purpose captive insurance company;

(iv) an association captive insurance company; or

(v) an industrial insured captive insurance company.

(2) (a) The commissioner may, under Section 31A-37-106, prescribe additional capital based on the type, volume, and nature of insurance business transacted.

(b) The capital prescribed by the commissioner under this Subsection (2) may be in the form of:

(i) cash;

(ii) an irrevocable letter of credit issued by:

(A) a bank chartered by this state; or

(B) a member bank of the Federal Reserve System; or

(iii) marketable securities as determined by Subsection (5).

(3) (a) Except as provided in Subsection (3)(c), a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, shall, through its branch operations, establish and maintain a trust fund:

(i) funded by an irrevocable letter of credit or other acceptable asset; and

(ii) in the United States for the benefit of:

(A) United States policyholders; and

(B) United States ceding insurers under:

(I) insurance policies issued; or

(II) reinsurance contracts issued or assumed.

(b) The amount of the security required under this Subsection (3) shall be no less than:

(i) the capital and surplus required by this chapter; and

(ii) the reserves on the insurance policies or reinsurance contracts, including:

(A) reserves for losses;

(B) allocated loss adjustment expenses;

(C) incurred but not reported losses; and

(D) unearned premiums with regard to business written through branch operations.

(c) Notwithstanding the other provisions of this Subsection (3):

(i) the commissioner may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount as the security posted if the security remains posted with the reinsurer; and

(ii) a branch captive insurance company that is the result of the licensure of an alien captive insurance company that is not formed in an alien jurisdiction is not subject to the requirements of this Subsection (3).

(4) (a) A captive insurance company may not pay the following without the prior approval of the commissioner:

(i) a dividend out of capital or surplus in excess of the limits under Section 16-10a-640; or

(ii) a distribution with respect to capital or surplus in excess of the limits under Section 16-10a-640.

(b) The commissioner shall condition approval of an ongoing plan for the payment of dividends or other distributions on the retention, at the time of each payment, of capital or surplus in excess of:

(i) amounts specified by the commissioner under Section 31A-37-106; or

(ii) determined in accordance with formulas approved by the commissioner under Section 31A-37-106.

(5) For purposes of this section, marketable securities means:

(a) a bond or other evidence of indebtedness of a governmental unit in the United States or Canada or any instrumentality of the United States or Canada; or

(b) securities:

(i) traded on one or more of the following exchanges in the United States:

(A) New York;

(B) American; or

(C) NASDAQ;

(ii) when no particular security, or a substantially related security, applied toward the required minimum capital and surplus requirement of Subsection (1) represents more than 50% of the minimum capital and surplus requirement; and

(iii) when no group of up to four particular securities, consolidating substantially related securities, applied toward the required minimum capital and surplus requirement of Subsection (1) represents more than 90% of the minimum capital and surplus requirement.

(6) Notwithstanding Subsection (5), to protect the solvency and liquidity of a captive insurance company, the commissioner may reject the application of specific assets or amounts of specific assets to satisfying the requirement of Subsection (1).

Section 23. Section 49-20-401 is amended to read:

49-20-401. Program -- Powers and duties.

(1) The program shall:

(a) act as a self-insurer of employee benefit plans and administer those plans;

(b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;

(c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;

(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;

(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;

(f) obtain an annual actuarial review of all health and dental benefit plans and a periodic review of all other employee benefit plans;

(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;

(h) annually submit a budget and audited financial statements to the governor and Legislature that includes total projected benefit costs and administrative costs;

(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;

(j) submit, in advance, the program's recommended benefit and rate adjustments for

state employees, which may include actuarially substantiated member premium differentials between networks to:

(i) the Legislature; and

(ii) the director of the state Division of Human Resource Management;

(k) determine benefits and rates, upon approval of the board, for multi-employer risk pools, retiree coverage, and conversion coverage;

(l) determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees;

(m) administer benefits and rates, upon ratification of the board, for single-employer risk pools;

(n) request proposals for one or more out-of-state provider networks and a dental health plan administered by a third-party carrier at least once every three years for the purposes of:

(i) stimulating competition for the benefit of covered individuals;

(ii) establishing better geographical coverage of medical care services; and

(iii) providing coverage for both active and retired covered individuals;

(o) for a proposal that meets the criteria specified in a request for proposals and is accepted by the program:

(i) offer the proposal to active and retired state-covered individuals; and

(ii) at the option of the covered employer, offer the proposal to active and retired covered individuals of other covered employers;

(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health and Human Services if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act;

(q) establish rules and procedures governing the admission of political subdivisions or educational institutions and their employees to the program;

(r) (i) contract directly with medical providers to provide services for covered individuals at commercially competitive rates; and

(ii) (A) discontinue the preferred network, which offers in-network access to all in-state hospitals, for the state risk pool created in Subsection 49-20-202(1)(a) for plan years starting on or after July 1, 2022; and

(B) for an employee in the state risk pool who fails to elect one of the remaining networks before July 1, 2022, enroll the employee and the employee's dependents into the network that best reflects the utilization pattern of that employee and the employee's dependents;

(s) (i) require state employees and the state employees' dependents to participate in the electronic exchange of clinical health records in accordance with Section 26-1-37 unless the enrollee opts out of participation; and

(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time;

(t) at the request of a procurement unit, as that term is defined in Section 63G-6a-103, that administers benefits to program recipients who are not covered by Title 26, Utah Health Code, provide services for:

(i) drugs;

(ii) medical devices; or

(iii) other types of medical care; and

(u) take additional actions necessary or appropriate to carry out the purposes of this chapter.

(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.

(b) The board shall approve administrative costs and report the administrative costs to the governor and the Legislature.

(3) The Division of Human Resource Management shall include the benefit and rate adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection 63A-17-307(5)(a).

(4) The program may establish a partnership with a public entity in a different state to purchase or share services related to the administration of medical benefits if:

(a) the program receives approval for the partnership from the board; and

(b) the partnership:

(i) creates cost savings for Utah;

(ii) does not commingle state funds with funds of the public entity in the other state; and

(iii) does not pose a greater actuarial risk to Utah than the program has already assumed.

Section 24. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Technology Development Restricted Account created in Section 31A-3-104.

(18) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(19) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(20) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(21) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(22) The State Mandated Insurer Payments Restricted Account created in Section 31A-30-118.

[~~(22)~~] (23) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

[~~(23)~~] (24) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

[~~(24)~~] (25) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

[~~(25)~~] (26) The School Readiness Restricted Account created in Section 35A-15-203.

[~~(26)~~] (27) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

[~~(27)~~] (28) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

[~~(28)~~] (29) The Oil and Gas Conservation Account created in Section 40-6-14.5.

[~~(29)~~] (30) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

[~~(30)~~] (31) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[~~(31)~~] (32) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[~~(32)~~] (33) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

[~~(33)~~] (34) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[~~(34)~~] (35) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

[~~(35)~~] (36) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[~~(36)~~] (37) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~(37)~~] (38) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(38)~~] (39) The Canine Body Armor Restricted Account created in Section 53-16-201.

[~~(39)~~] (40) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(40)~~] (41) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(41)~~] (42) A certain portion of money collected for administrative costs under the School Institutional

Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(42)~~] (43) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(43)~~] (44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(44)~~] (45) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(45)~~] (46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(46)~~] (47) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(47)~~] (48) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~(48)~~] (49) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(49)~~] (50) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(50)~~] (51) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(51)~~] (52) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(52)~~] (53) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(53)~~] (54) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

[~~(54)~~] (55) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302.

[~~(55)~~] (56) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

[~~(56)~~] (57) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.

[~~(57)~~] (58) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(58)~~] (59) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(59)~~] (60) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(60)~~] (61) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[~~(61)~~] (62) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(62)~~] (63) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(63)~~] (64) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(64)~~] (65) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(65)~~] (66) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[~~(66)~~] (67) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(67)~~] (68) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(68)~~] (69) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(69)~~] (70) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(70)~~] (71) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(71)~~] (72) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(72)~~] (73) Fees for certificate of admission created under Section 78A-9-102.

[~~(73)~~] (74) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(74)~~] (75) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(75)~~] (76) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

[~~(76)~~] (77) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(77)~~] (78) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

[~~(78)~~] (79) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

CHAPTER 195
H. B. 425
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

ENERGY SECURITY AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Derrin R. Owens
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Kera Birkeland
Bridger Bolinder
Brady Brammer
Walt Brooks
Jefferson S. Burton
Scott H. Chew
Kay J. Christofferson
Tyler Clancy
Joseph Elison
Stephanie Gricius
Matthew H. Gwynn
Katy Hall
Jon Hawkins
Colin W. Jack
Tim Jimenez
Dan N. Johnson
Marsha Judkins
Michael L. Kohler
Quinn Kotter
Trevor Lee
Karianne Lisonbee
Anthony E. Loubet
Steven J. Lund
Phil Lyman
A. Cory Maloy
Jefferson Moss
Michael J. Petersen
Thomas W. Peterson
Candice B. Pierucci
Judy Weeks Rohner
Mike Schultz
Rex P. Shipp
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
R. Neil Walter
Stephen L. Whyte
Brad R. Wilson

LONG TITLE

General Description:

This bill modifies provisions related to the regulation of energy.

Highlighted Provisions:

This bill:

- defines terms;
- requires a project entity to provide notice to the Legislative Management Committee 180 days prior to:
  - the disposal or sale of any project entity asset; and
  - the decommissioning of a coal-powered electrical generation facility;
- requires the Office of Energy Development to:
  - conduct a study of a project entity; and
  - report the results of the study to the Public Utilities, Energy, and Technology Interim Committee;
- modifies the state energy policy to promote the state's energy independence by:
  - promoting the use of energy resources generated within the state; and
  - promoting the use of clean energy sources by considering the emissions of an energy resource throughout the entire life cycle of the energy resource;
- provides legislative findings;
- requires a qualified utility to inform the Office of the Attorney General when a proposed federal regulation would result in the early retirement of an electrical generation facility;
- authorizes the Office of the Attorney General to take any action to defend the state's interests with respect to electricity generation by a qualified utility facing a proposed federal regulation that would result in the early retirement of an electrical generation facility; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-6-301, as last amended by Laws of Utah 2021, Chapter 383 and renumbered and amended by Laws of Utah 2021, Chapter 280

ENACTS:

11-13-318, Utah Code Annotated 1953
11-13-319, Utah Code Annotated 1953
79-6-303, Utah Code Annotated 1953

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

Section 1. Section 11-13-318 is enacted to read:

11-13-318. Notice of decommissioning or disposal of project entity assets.

(1) As used in this section:

(a) "Disposal" means the sale, transfer, or other disposition of a project entity's assets.

(b) (i) "Project entity asset" means a project entity's:

(A) land;

(B) buildings; or

(C) essential equipment, including turbines, generators, transformers, and transmission lines.

(ii) "Project entity asset" does not include an asset that is not essential for the generation of electricity in the project entity's coal-powered electrical generation facility.

(2) A project entity shall provide a notice of decommissioning or disposal to the Legislative Management Committee at least 180 days before:

(a) the disposal of any project entity assets; or

(b) the decommissioning of the project entity's coal-powered electrical generation facility.

(3) The notice of decommissioning or disposal described in Subsection (2) shall include:

(a) the date of the intended decommissioning or disposal;

(b) a description of the project entity's coal-powered electrical generation facility intended for decommissioning or any project entity asset intended for disposal; and

(c) the reasons for the decommissioning or disposal.

(4) A project entity may not intentionally prevent the functionality of the project entity's existing coal-powered electrical generation facility.

(5) Notwithstanding the requirements in Subsections (2) through (4), a project entity may take any action necessary to transition to a new electrical generation facility powered by natural gas, hydrogen, or a combination of natural gas and hydrogen, including any action that has been approved by a permitting authority.

Section 2. Section 11-13-319 is enacted to read:

11-13-319. Project entity continued operation study.

(1) The Office of Energy Development shall conduct a study to:

(a) evaluate all environmental regulations and permits to be filed to continue operation of a project entity's existing coal-powered electrical generation facility;

(b) identify best available technology to implement additional environmental controls for continued operation of a project entity's existing coal-powered electrical generation facility;

(c) identify the transmission capacity of the project entity;

(d) coordinate with state and local economic development agencies to evaluate economic opportunities for continued use of a project entity's existing coal-powered electrical generation facility;

(e) analyze the financial assets and liabilities of a project entity;

(f) identify the best interests of the local economies, local tax base, and the state in relation to a project entity;

(g) evaluate the viability of the continued operation of a project entity's existing coal-powered electrical generation facility:

(i) under ownership of the state; or

(ii) in a public private partnership; and

(h) identify the steps necessary for the state to obtain first right of refusal for ownership of a project entity's existing coal-powered electrical generation facility.

(2) A project entity shall cooperate and provide timely assistance and information to the Office of Energy Development in the preparation of the study described in Subsection (1).

(3) The Office of Energy Development shall report to the Public Utilities, Energy, and Technology Interim Committee and the Legislative Management Committee on or before the Public Utilities, Energy, and Technology Interim Committee's September 2023 interim committee meeting.

(4) The report described in Subsection (3) shall include:

(a) the results of the study described in Subsection (1);

(b) recommendations for continued operation of a project entity's existing coal-powered electrical generation facility;

(c) environmental controls that need to be implemented for the continued operation of a project entity's existing coal-powered electrical generation facility;

(d) recommendations to increase local and state tax revenue through the continued operation of a project entity's existing coal-powered electrical generation facility; and

(e) recommendations for legislation to be introduced in the 2024 General Session to enable the continued operation of a project entity's existing coal-powered electrical generation facility.

Section 3. Section 79-6-301 is amended to read:

79-6-301. State energy policy.

(1) It is the policy of the state that:

(a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy resources;

(b) Utah [~~will~~] shall promote the development of:

(i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and oil sands;

(ii) renewable energy resources, including geothermal, solar, wind, biomass, biofuel, and hydroelectric;

(iii) nuclear power generation technologies certified for use by the United States Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;

(iv) alternative transportation fuels and technologies;

(v) infrastructure to facilitate energy development, diversified modes of transportation, greater access to domestic and international

markets for Utah's resources, and advanced transmission systems;

(vi) energy storage, pumped storage, and other advanced energy systems, including hydrogen from all sources;

(vii) electricity systems that can be controlled at the request of grid operators to meet system load demands, to ensure an adequate supply of dispatchable energy generation resources; and

(viii) increased refinery capacity;

(c) Utah [~~will~~] shall promote the development of resources and infrastructure sufficient to meet the state's growing demand, while contributing to the regional and national energy supply, thus reducing dependence on international energy sources;

(d) Utah [~~will~~] shall promote the development of resources, tools, and infrastructure to enhance the state's ability to:

(i) respond effectively to significant disruptions to the state's energy generation, energy delivery systems, or fuel supplies; [~~and~~]

(ii) maintain adequate supply, including reserves of proven and cost-effective dispatchable electricity reserves to meet grid demand; and

(iii) ensure the state's energy independence by promoting the use of energy resources generated within the state;

(e) Utah [~~will~~] shall allow market forces to drive prudent use of energy resources, although incentives and other methods may be used to ensure the state's optimal development and use of energy resources in the short- and long-term;

(f) Utah [~~will~~] shall pursue energy conservation, energy efficiency, and environmental quality;

(g) Utah shall promote the development of a secure supply chain from resource extraction to energy production and consumption;

[~~(g)~~] (h) (i) state regulatory processes should be streamlined to balance economic costs with the level of review necessary to ensure protection of the state's various interests; and

(ii) where federal action is required, Utah will encourage expedited federal action and will collaborate with federal agencies to expedite review;

[~~(h)~~] (i) Utah [~~will~~] shall maintain an environment that provides for stable consumer prices that are as low as possible while providing producers and suppliers a fair return on investment, recognizing that:

(i) economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and

(ii) investment will occur only when adequate financial returns can be realized; [~~and~~]

[~~(i)~~] (j) Utah [~~will~~] shall promote training and education programs focused on developing a comprehensive understanding of energy, including:

(i) programs addressing:

(A) energy conservation;

(B) energy efficiency;

(C) supply and demand; and

(D) energy related workforce development; and

(ii) energy education programs in grades [~~K-12.~~] kindergarten through grade 12; and

(k) Utah shall promote the use of clean energy sources by considering the emissions of an energy resource throughout the entire life cycle of the energy resource.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1).

(3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).

Section 4. Section 79-6-303 is enacted to read:

79-6-303. Legislative findings -- Forced retirement of electrical generation facilities.

(1) As used in this section:

(a) "Dispatchable" means available for use on demand and generally available to be delivered at a time and quantity of the operator's choosing.

(b) "Electrical generation facility" means a facility that generates electricity for provision to customers.

(c) "Forced retirement" means the closure of an electrical generation facility as a result of a federal regulation that either directly mandates the closure of an electrical generation facility or where the costs of compliance are so high as to effectively force the closure of an electrical generation facility.

(d) "Qualified utility" means the same as that term is defined in Section 54-17-801.

(e) "Reliable" means supporting a system generally able to provide a continuous supply of electricity at the proper voltage and frequency and the resiliency to withstand sudden or unexpected disturbances.

(f) "Secure" means protected against disruption, tampering, and external interference.

(2) The Legislature finds that:

(a) affordable, reliable, dispatchable, and secure energy resources are important to the health, safety, and welfare of the state's citizens;

(b) the state has invested substantial resources in the development of affordable, reliable, dispatchable, and secure energy resources within the state;

(c) the early retirement of an electrical generation facility that provides affordable,

reliable, dispatchable, and secure energy is a threat to the health, safety, and welfare of the state's citizens;

(d) the state's police powers, reserved to the state by the United States Constitution, provide the state with sovereign authority to make and enforce laws for the protection of the health, safety, and welfare of the state's citizens;

(e) the state has a duty to defend the production and supply of affordable, reliable, dispatchable, and secure energy from external regulatory interference; and

(f) the state's sovereign authority with respect to the retirement of an electrical generation facility for the protection of the health, safety, and welfare of the state's citizens is primary and takes precedence over any attempt from an external regulatory body to mandate, restrict, or influence the early retirement of an electrical generation facility in the state.

(3) A qualified utility that receives notice of any federal regulation that may result in the forced retirement of the qualified utility's electrical generation facility shall inform the Office of the Attorney General of the regulation within 30 days after the receipt of notice.

(4) After being informed as described in Subsection (3), the Office of the Attorney General may take any action necessary to defend the interest of the state with respect to electricity generation by the qualified utility, including filing an action in court or participating in administrative proceedings.

CHAPTER 196
H. B. 426
Passed March 1, 2023
Approved March 14, 2023
Effective July 1, 2023

STATEWIDE ENERGY POLICY AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill makes changes to the Utah Energy Act.

Highlighted Provisions:

This bill:

- requires the Office of Energy Development to prepare a strategic energy plan; and
- creates the Utah Energy Research Grant Program and gives the Office of Energy Development the authority to administer the grant program.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Department of Natural Resources -- Utah Energy Research Grant Program, as an ongoing appropriation:
  - from the General Fund, $1,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

79-6-401, as last amended by Laws of Utah 2022, Chapter 322

ENACTS:

79-6-403, Utah Code Annotated 1953

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

Section 1. Section 79-6-401 is amended to read:

79-6-401. Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees -- Transition for employees.

(1) There is created an Office of Energy Development in the Department of Natural Resources.

(2) (a) The energy advisor shall serve as the director of the office or, on or before June 30, 2029, appoint a director of the office.

(b) The director:

(i) shall, if the energy advisor appoints a director under Subsection (2)(a), report to the energy advisor; and

(ii) may appoint staff as funding within existing budgets allows.

(c) The office may consolidate energy staff and functions existing in the state energy program.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section 79-6-301; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives; and

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7, 59-10-1029, 63C-26-202, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6) (a) For purposes of administering this section, the office may make rules, by following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

(8) (a) An employee of the office is an at-will employee.

(b) For an employee of the office on July 1, 2021, the employee shall have the same salary and benefit options the employee had when the office was part of the office of the governor.

(9) (a) The office shall prepare a strategic energy plan to achieve the state's energy policy, including:

(i) technological and infrastructure innovation needed to meet future energy demand including:

(A) energy production technologies;

(B) battery and storage technologies;

(C) smart grid technologies;

(D) energy efficiency technologies; and

(E) any other developing energy technology, energy infrastructure planning, or investments that will assist the state in meeting energy demand;

(ii) the state's efficient utilization and development of:

(A) nonrenewable energy resources, including natural gas, coal, clean coal, hydrogen, oil, oil shale, and oil sands;

(B) renewable energy resources, including geothermal, solar, hydrogen, wind, biomass, biofuel, and hydroelectric;

(C) nuclear power; and

(D) earth minerals;

(iii) areas of energy-related academic research;

(iv) specific areas of workforce development necessary for an evolving energy industry;

(v) the development of partnerships with national laboratories; and

(vi) a proposed state budget for economic development and investment.

(b) In preparing the strategic energy plan, the office shall consult with stakeholders, including representatives from:

(i) energy companies in the state;

(ii) private and public institutions of higher education within the state conducting energy-related research; and

(iii) other state agencies.

(c) On or before the October 2023 interim meeting, the office shall report to the Public Utilities, Energy, and Technology Interim Committee and the Executive Appropriations Interim Committee describing:

(i) progress towards creation of the strategic energy plan; and

(ii) a proposed budget for the office to continue development of the strategic energy plan.

Section 2. Section 79-6-403 is enacted to read:

79-6-403. Utah Energy Research Grant Program.

(1) (a) There is created within the office the Utah Energy Research Grant Program.

(b) The purpose of the program is to encourage energy-related research within the state by providing matching grants to applicants that have received federal or private grants for specific ongoing energy-related research projects.

(2) (a) An applicant that submits a proposal for a grant to the office shall include details in the proposal regarding:

(i) the specific ongoing energy-related research project;

(ii) information about previously awarded federal and private grants for the specific ongoing energy-related research project, including:

(A) the amount of the previously awarded federal or private grant; and

(B) the requirements to qualify for the previously awarded federal or private grant; and

(iii) other information the office determines necessary to evaluate the proposal.

(b) When evaluating a proposal for a grant, the office shall consider:

(i) the grant amount requested, which may not exceed the amount of federal or private grants the applicant has been awarded;

(ii) the extent to which the proposal advances the goals of the state energy policy and strategic energy plan;

(iii) the extent to which any additional funding sources or existing or planned partnerships may benefit the proposal; and

(iv) the viability of the proposal.

(3) Subject to this Subsection (3), the office may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:

(a) eligibility criteria for a grant;

(b) the form and process for submitting a proposal to the office for a grant;

(c) the process and criteria for determining the priority of applications received;

(d) the formula and method for determining a grant amount; and

(e) reporting requirements for a grant recipient.

(4) On or before October 31 of each year, the office shall provide a written report to the Public Utilities, Energy, and Technology Interim Committee regarding:

(a) the number of grants and grant amounts awarded under the program;

(b) data gathered under the program; and

(c) the impact of the program on encouraging energy-related research within the state.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the

funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources -- Utah Energy Research Grant Program

From General Fund	1,000,000
Schedule of Programs:	
Utah Energy Research Grant Program	1,000,000

Under 63J-1-603 the Legislature intends that the $1,000,000 General Fund appropriation for the Utah Energy Research Grant Program shall not lapse at the close of fiscal year 2024.

Section 4. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 197
H. B. 433
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

PUBLIC LAND GEOGRAPHIC DATA AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill makes changes to the State Geographic Information Database.

Highlighted Provisions:

This bill:

- requires the Utah Geospatial Resource Center to make available online certain information about publicly owned land.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-16-506, as last amended by Laws of Utah 2021, Chapter 333 and renumbered and amended by Laws of Utah 2021, Chapter 344

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

Section 1. Section 63A-16-506 is amended to read:

63A-16-506. State Geographic Information Database.

(1) There is created a State Geographic Information Database to be managed by the center.

(2) The database shall:

(a) serve as the central reference for all information contained in any GIS database by any state agency;

(b) serve as a clearing house and repository for all data layers required by multiple users;

(c) serve as a standard format for geographic information acquired, purchased, or produced by any state agency;

(d) include an accurate representation of all civil subdivision boundaries of the state; and

(e) for each public highway, as defined in Section 72-1-102, in the state, include an accurate representation of the highway's centerline, physical characteristics, and associated street address ranges.

(3) The center shall, in coordination with municipalities, counties, emergency communications centers, and the Department of Transportation:

(a) develop the information described in Subsection (2)(e); and

(b) update the information described in Subsection (2)(e) in a timely manner after a county recorder records a final plat.

(4) The center, in coordination with county assessors and metropolitan planning organizations:

(a) shall inventory existing housing units and their general characteristics within each county of the first or second class to support infrastructure planning and economic development in each of those counties; and

(b) may inventory existing housing units and their general characteristics within one or more counties of the third, fourth, fifth, or sixth class to support infrastructure planning and economic development in one or more of those counties.

(5) (a) The center shall, in coordination with the Governor's Office of Planning and Budget and county assessors, annually compile a statewide GIS database of all government-owned property parcels in internet-accessible, searchable, and map format.

(b) The database described in Subsection (5)(a) shall include a parcel's:

(i) number, if available;

(ii) owner;

(iii) location; and

(iv) size.

[~~(5)~~] (6) Each state agency that acquires, purchases, or produces digital geographic information data shall:

(a) inform the center of the existence of the data layers and their geographic extent;

(b) allow the center access to all data classified public; and

(c) comply with any database requirements established by the center.

[~~(6)~~] (7) At least annually, the State Tax Commission shall deliver to the center information the State Tax Commission receives under Section 67-1a-6.5 relating to the creation or modification of the boundaries of political subdivisions.

[~~(7)~~] (8) The boundary of a political subdivision within the State Geographic Information Database is the official boundary of the political subdivision for purposes of meeting the needs of the United States Bureau of the Census in identifying the boundary of the political subdivision.

CHAPTER 198
H. B. 447
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

TRANSPLANT OF WILDLIFE AMENDMENTS

Chief Sponsor: Scott H. Chew
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses requirements related to the transplant of animals.

Highlighted Provisions:

This bill:

- clarifies the procedures for the transplant of animals;
- requires the adoption of a mitigation plan before transplanting certain animals;
- imposes requirements for the mitigation plan; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-14-21, as last amended by Laws of Utah 2021, Chapter 382

ENACTS:

23-14-21.5, Utah Code Annotated 1953

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

Section 1. Section 23-14-21 is amended to read:

23-14-21 (Codified as 23A-2-209). Transplants of big game, turkeys, wolves, or sensitive species.

(1) [~~The~~] Subject to Subsection (7), the division may transplant big game, turkeys, wolves, or sensitive species only in accordance with:

[~~(a) a list of sites for the transplant of a particular species that is prepared and adopted in accordance with Subsections (2) through (5);~~]

(a) (i) a list of sites for the transplant of each particular species that is prepared and adopted in accordance with Subsections (2) through (5);

[~~(b)~~] (ii) a species management plan, such as a deer or elk management plan adopted under Section 23-16-7 or a recovery plan for a threatened or endangered species, provided that:

[~~(i)~~] (A) the plan identifies sites for the transplant of the species or the lands or waters the species are expected to occupy; and

[~~(ii)~~] (B) the public has had an opportunity to comment and make recommendations on the plan; [~~or~~] and

(iii) the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq., if the transplant involves a threatened or endangered species; or

[~~(c)~~] (b) a legal agreement between the state and a tribal government that identifies potential transplants[~~; and~~].

[~~(d) the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.~~]

(2) The division shall:

(a) consult with the landowner in determining the suitability of a site for the transplant of a species;

(b) prepare a list of proposed sites for the transplant of species;

(c) provide notification of proposed sites for the transplant of species to:

(i) local government officials having jurisdiction over areas that may be affected by a transplant; and

(ii) the Resource Development Coordinating Committee created in Section 63L-11-401.

(3) After receiving comments from local government officials and the Resource Development Coordinating Committee, the division shall submit the list of proposed transplant sites, or a revised list, to regional advisory councils for regions that may be affected by the transplants of species.

(4) [~~Each~~] A regional advisory council reviewing a list of proposed sites for the transplant of species may submit recommendations to the Wildlife Board.

(5) The Wildlife Board shall approve, modify, or reject each proposal for the transplant of a species.

(6) [~~Each~~] A list of proposed transplant sites approved by the Wildlife Board shall have a termination date after which a transplant may not occur.

(7) Before reintroducing a big game animal to a new area under this section, the Wildlife Board shall approve a mitigation plan that complies with Section 23-14-21.5.

Section 2. Section 23-14-21.5 is enacted to read:

23-14-21.5 (Codified as 23A-2-210). Mitigation plan related to big game reintroduction.

(1) Before reintroducing a big game animal, turkey, wolf, or sensitive species to a new area in accordance with Section 23-14-21, the Wildlife Board shall approve a mitigation plan for the area into which the animal is being transplanted.

(2) (a) A mitigation plan described in this section shall:

(i) identify the objectives of the reintroduction of an animal;

(ii) provide conditions for issuing a permit to the landowner or lessee to take a big game animal, that is causing depredation, during a general or special season hunt authorized by the Wildlife Board; and

(iii) describe conditions for removal of a transplanted animal if:

(A) transplant objectives identified in the mitigation plan are not met; or

(B) property damage occurs.

(b) A mitigation plan described in this section may provide for:

(i) the scheduling of a depredation hunt;

(ii) allowing a landowner or lessee to designate a recipient who may obtain a mitigation permit to take a big game animal on the landowner's or lessee's land during a general or special season hunt authorized by the Wildlife Board; and

(iii) a description of how the division will assess and compensate the landowner or lessee under Section 23-16-4 for damage to cultivated crops, fences, or irrigation equipment.

(3) The division shall specify the number and sex of the big game animals that may be taken under Subsection (2)(a) or (2)(b)(ii).

(4) The division shall determine the number of animals taken under Subsection (2)(a) of which the landowner or lessee may retain possession.

(5) In determining appropriate remedial action under a mitigation plan described in this section, the division shall consider the:

(a) extent of damage experienced;

(b) use of landowner permits;

(c) use of mitigation permits; and

(d) objectives for the wildlife population.

CHAPTER 199
H. B. 450
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

LANDSCAPING REQUIREMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions regarding water wise landscaping.

Highlighted Provisions:

This bill:

- defines terms; and
- authorizes certain landscaping requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8a-231, as enacted by Laws of Utah 2022, Chapter 230

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

Section 1. Section 57-8a-231 is amended to read:

57-8a-231. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; [~~or~~]

(B) reduce the landscape area dedicated to lawn or turf[~~.~~]; or

(C) encourage vegetative coverage.

(f) "Water wise plant material" means a plant material suited to water wise landscaping as defined in this section.

(2) An association may not enact or enforce a governing document that prohibits, or has the effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition;

(iii) follow specific water wise landscaping design requirements adopted by the association including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to the association's operations; and

[~~(B) imposes minimum or maximum vegetative coverage; or~~]

[~~(C)~~] (B) restricts or prohibits the use of specific plant materials other than water wise plant materials.

(b) An association may not require a property owner to:

(i) [~~require a property owner to~~] install or keep in place lawn or turf in an area with a width less than eight feet[~~.~~]; or

(ii) have more than 50% vegetative coverage, that is not water wise landscaping, on the property owner's property.

CHAPTER 200
H. B. 457
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

STATE PROPERTY TRANSFER AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Daniel McCay
Cosponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill enacts language relating to the transfer of certain state property to a government entity.

Highlighted Provisions:

This bill:

- provides that an appraisal of real property is not required for the transfer of real property owned by specified agencies to a government entity, under certain circumstances; and
- provides an exception.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-5b-304, as enacted by Laws of Utah 2020, Chapter 152

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

Section 1. Section 63A-5b-304 is amended to read:

63A-5b-304. Agencies authorized to hold title -- Transfer of real property to a government entity.

(1) As used in this section:

(a) "Agency property" means real property, as described in Subsection (2), that:

(i) is owned by a title agency; and

(ii) the title agency no longer uses or needs.

(b) "Government entity" means:

(i) a local government entity, as defined in Section 63A-5b-901; or

(ii) a state agency, as defined in Section 63A-5b-901.

(c) "Title agency" means an agency listed in Subsection (2).

(2) Notwithstanding Section 63A-5b-303, an agency may hold title to real property that the agency occupies for a purpose other than the agency's administrative offices, if the agency is:

[~~(1)~~] (a) the Department of Transportation;

[~~(2)~~] (b) the Department of Natural Resources;

[~~(3)~~] (c) the Department of Workforce Services;

[~~(4)~~] (d) the Division of Forestry, Fire, and State Lands;

[~~(5)~~] (e) the Utah National Guard;

[~~(6)~~] (f) an area vocational center or other institution administered by the State Board of Education;

[~~(7)~~] (g) the trust lands administration; [~~and~~] or

[~~(8)~~] (h) an institution of higher education.

(3) A title agency is not required to obtain an appraisal of agency property the title agency intends to transfer to a government entity if:

(a) the director of the title agency determines that the transfer is in the best interest of the title agency and the state; and

(b) the government entity to which ownership of the agency property is transferred will use the property for a public purpose.

(4) Subsection (3) does not apply if the title agency is required by law to receive fair market value in exchange for a transfer of agency property to a government entity.

CHAPTER 201
H. B. 470
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

GOVERNMENT DIGITAL VERIFIABLE RECORD AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill requires the Division of Technology Services to create a pilot program and provide recommendations for certain digital verifiable records.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the Division of Technology Services to:
  - provide recommendations to government entities regarding digital verifiable records and credentials; and
  - create a pilot program for digital verifiable credentials.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63A-16-108, Utah Code Annotated 1953

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

Section 1. Section 63A-16-108 is enacted to read:

63A-16-108. Digital verifiable credential and records.

(1) As used in this section:

(a) "Blockchain" means a distributed ledger of ordered electronic records that:

(i) is distributed across a network of computers;

(ii) utilizes technology to prevent the unauthorized alteration of electronic records; and

(iii) is mathematically verified.

(b) "Digital record schema" means a description of the data fields and tamper-evident technologies required to create a digital verifiable credential or digital verifiable record that can be registered on a distributed ledger technology.

(c) "Digital signature" means a tamper-evident, immutable, electronic seal that is equivalent in function and status to a notary seal issued by a government entity.

(d) "Digital verifiable credential" means a digital document that:

(i) attests to a fact;

(ii) is issued by a government entity;

(iii) can be mathematically verified; and

(iv) conveys rights, privileges, and legal enforceability equivalent to the possession of a physical credential of the same type.

(e) "Digital verifiable record" means a digital record that:

(i) is issued by a government entity or has been digitally signed by a government entity;

(ii) has a digital signature;

(iii) can be mathematically verified; and

(iv) conveys rights, privileges, and legal enforceability equivalent to the possession of a physical record of the same type.

(f) "Distributed ledger" means a decentralized database that is maintained by the consensus of replicated, shared, and synchronized digital data.

(g) "Government entity" means:

(i) the state;

(ii) a state agency; or

(iii) a political subdivision of the state.

(h) "Government operations privacy officer" means the government operations privacy officer described in Section 67-1-17.

(i) "State archivist" means the state archivist appointed under Section 63A-12-102.

(j) "State privacy officer" means the state privacy officer described in Section 67-3-13.

(k) "State registrar" means the state registrar of vital records appointed under Section 26-2-3.

(2) The Division of Technology Services shall:

(a) provide recommendations to government entities regarding:

(i) appropriate digital record schemas that allow a government to issue a digital verifiable credential or record;

(ii) policies and procedures to protect the privacy of personal identifying information maintained within distributed ledger programs;

(iii) the manner and format in which an issuer may certify a document through blockchain; and

(iv) processes and procedures for the preservation, auditability, integrity, security, and confidentiality of digital verifiable credentials and records;

(b) create a pilot program for the implementation of digital verifiable credentials by governmental entities; and

(c) report to Public Utilities, Energy, and Technology Interim Committee by October 31, 2023, on the duties described in Subsections (2)(a) and (b).

(3) In performing the duties described in Subsections (2)(a) and (b), the Division of Technology Services shall consult with:

(a) the state archivist;

(b) the state privacy officer;

(c) the government operations privacy officer;

(d) the state registrar;

(e) private industry professionals with relevant expertise;

(f) the Utah League of Cities and Towns; and

(g) an association of counties in the state.

CHAPTER 202
H. B. 482
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

ARCHAEOLOGICAL RESOURCES AMENDMENTS

Chief Sponsor: Doug Owens
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill creates a Utah Archaeological and Historic Sites Assistance Grant Program.

Highlighted Provisions:

This bill:

- appropriates funds; and
- addresses expenditures from the grant program.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2024:

- to Department of Cultural and Community Engagement - Archaeological and Historic Sites Grant as a one-time appropriation:
  - from the General Fund $500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

9-8-906, Utah Code Annotated 1953

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

Section 1. Section 9-8-906 is enacted to read:

9-8-906. Utah Archaeological and Historic Sites Grant Program.

(1) The office shall:

(a) administer the money contained in the grant program; and

(b) select qualified recipients in accordance with Subsection (2).

(2) The office may distribute the money from the grant program to a private landowner:

(a) that applies to the office, in a manner prescribed by the office, to receive all or part of the money contained in the grant program; and

(b) for identifying and protecting archaeological resources on the landowner's property, if the private landowner contributes an amount of money equal to or greater than the amount of money the landowner receives from the grant program.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2023. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between the following funds or accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 1

To Department of Cultural and Community Engagement - Archaeological and Historic Sites Grants

From General Fund, One-Time	500,000
Schedule of Programs:	
Archaeological and Historic Sites Grant Program	500,000

CHAPTER 203
H. B. 485
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

RESTRICTED PERSONS AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill concerns notification procedures for an individual who becomes a restricted person.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions relating to firearm notifications for an individual who becomes a restricted person as a result of certain types of protective orders; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-503.1, as enacted by Laws of Utah 2021, Chapter 107

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

Section 1. Section 76-10-503.1 is amended to read:

76-10-503.1. Firearm restriction notification requirement.

(1) As used in this section:

(a) "Peace officer" means an officer described Section 53-13-102.

(b) "Possess" means actual physical possession, actual or purported ownership, or exercising control of an item.

(c) "Restricted person" means an individual who is restricted from possessing, purchasing, transferring, or owning a firearm under Section 76-10-503.

[~~(b) "Possess" or "possession" means actual physical possession, actual or purported ownership, or exercising control of an item.~~]

(2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon conviction, cause the defendant to become a restricted person shall, before entering a plea before a court, sign an acknowledgment that states:

(a) the defendant's attorney or the prosecuting attorney has informed the defendant:

(i) that conviction of the charge will classify the defendant as a restricted person;

(ii) that a restricted person may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the same category the defendant will become upon entering a plea for the criminal charge; and

(b) the defendant acknowledges and understands that, by pleading guilty or no contest to the criminal charge, the defendant:

(i) will be a restricted person;

(ii) upon conviction, shall forfeit possession of each firearm currently possessed by the defendant; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm.

(3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment described in Subsection (2) to the court before the defendant's entry of a plea, if the defendant pleads guilty or no contest.

(4) A defendant who is convicted by trial of a criminal charge resulting in the defendant becoming a restricted person shall, at the time of sentencing:

(a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:

(i) that the defendant is a restricted person;

(ii) that, as a restricted person, the defendant may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the defendant's category; and

(b) sign an acknowledgment in the presence of the court attesting that the defendant acknowledges and understands that the defendant:

(i) is a restricted person;

(ii) shall forfeit possession of each firearm; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm.

(5) The prosecuting attorney and the defendant's attorney shall inform the court at the preliminary hearing if a charge filed against the defendant would qualify the defendant as a restricted person if the defendant is convicted of the charge.

(6) The failure to inform or obtain a signed acknowledgment from the defendant may not render the plea invalid, form the basis for withdrawal of the plea, or create a basis to challenge a conviction or sentence.

(7) An individual who becomes a restricted person as a result of being served with a pretrial protective order in accordance with Section 78B-7-803, a sentencing protective order in accordance with Section 77-36-5, or a continuous protective order in accordance with Section 77-36-5, shall, at the time of service of the protective order:

(a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or, if a peace officer is serving the protective order, the peace officer:

(i) that the individual is a restricted person;

(ii) that, as a restricted person, the individual may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the individual's category; and

(b) sign, in the presence of the court or, if a peace officer serves the protective order, in the presence of the peace officer, an acknowledgment contained within the protective order document attesting that the individual acknowledges and understands that the individual:

(i) is a restricted person;

(ii) is required to relinquish possession of each firearm;

(iii) will be in violation of federal and state law if the individual possesses a firearm; and

(iv) may be eligible for an affirmative defense to a state-law prosecution for possession of a firearm under Section 76-10-503 if the individual lawfully transfers the individual's firearms within 10 days of becoming a restricted person.

CHAPTER 204
H. B. 488
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

UTAH LAKE AUTHORITY AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions governing the Utah Lake Authority Board.

Highlighted Provisions:

This bill:

- changes membership requirements for the Utah Lake Authority Board.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-65-302, as enacted by Laws of Utah 2022, Chapter 59

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

Section 1. Section 11-65-302 is amended to read:

11-65-302. Number of board members -- Appointment -- Vacancies.

(1) The lake authority's board shall consist of 15 members, as provided in Subsection (2).

(2) (a) The governor shall appoint two board members, at least one of whom shall be from the Governor's Office of Economic Opportunity.

(b) The president of the Senate shall appoint as one board member an individual who holds office as a member of the Senate and whose Senate district includes an area within Utah County.

(c) The speaker of the House of Representatives shall appoint as one board member an individual who holds office as a member of the House of Representatives and whose House of Representatives district includes an area within Utah County.

(d) The legislative body of Utah County shall appoint a member of the legislative body of Utah County as a board member.

(e) (i) The Utah County Council of Governments shall appoint eight board members, at least one of whom shall be an individual selected from among individuals designated by chambers of commerce in Utah County, each of which may recommend an individual for appointment to the board.

(ii) [~~A member appointed by the Utah County Council of Governments, except~~] Except for a member appointed as designated by a chamber of commerce in Utah County, [~~shall hold an elective office in Utah County or a municipality within Utah County~~] all members appointed by the Utah County Council of Governments shall be elected officials from municipalities whose boundaries are no more than one half mile from the lake authority boundary.

[~~(iii) At least four of the members appointed by the Utah County Council of Governments shall be elected officials from municipalities immediately adjacent to the lake authority boundary.~~]

[~~(iv)~~] (iii) The initial members appointed by the Utah County Council of Governments shall include:

(A) an individual designated by the legislative body of the city of Lehi;

(B) an individual designated by the legislative body of the city of Lindon;

(C) an individual designated by the legislative body of the city of Spanish Fork;

(D) an individual who is an elected officer of the city of Provo, designated by the mayor of the city of Provo;

(E) an individual who is an elected officer of the city of Orem, designated by the legislative body of the city of Orem;

(F) an individual who is an elected officer of the city of Vineyard, designated by the legislative body of the city of Vineyard; and

(G) an individual who is an elected officer of the city of Saratoga Springs, designated by the legislative body of the city of Saratoga Springs.

(f) The executive director of the Department of Natural Resources shall appoint one board member.

(g) The executive director of the Department of Environmental Quality shall appoint one board member.

(3) Appointments required under Subsection (2) shall be made no later than June 1, 2022.

(4) (a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.

(5) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(6) The lake authority may appoint nonvoting members of the board and set terms for those nonvoting members.

(7) Upon a vote of a majority of all board members, the board may appoint a board chair and any other officer of the board.

(8) The board:

(a) may appoint one or more advisory committees that may include individuals from impacted public entities, community organizations, environmental organizations, business organizations, or other organizations or associations; and

(b) shall appoint an advisory committee to advise on:

(i) water rights, water projects, and water facilities associated with Utah Lake; and

(ii) recreation and avian and other wildlife activities on Utah Lake.

CHAPTER 205
H. B. 491
Passed March 2, 2023
Approved March 14, 2023
Effective July 1, 2023

AMENDMENTS RELATED TO THE GREAT SALT LAKE

Chief Sponsor: Mike Schultz
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses issues related to the Great Salt Lake.

Highlighted Provisions:

This bill:

- enacts the Great Salt Lake Commissioner Act, including:
  - defining terms;
  - providing for the appointment of the commissioner;
  - addressing duties and authorizations of the commissioner;
  - addressing relationships with other state agencies;
  - addressing the strategic plan;
  - creating the Office of the Great Salt Lake Commissioner;
  - addressing the Great Salt Lake Advisory Council; and
  - addressing the Great Salt Lake Account;
- provides for protected records;
- provides that the Department of Natural Resources will provide facilities to the commissioner and office;
- addresses the Division of Forestry, Fire, and State Lands;
- modifies provisions related to ongoing administration of water trust provisions;
- addresses the compensation of the commissioner;
- expands the Board of Water Resources to include an individual who represents the interests of the Great Salt Lake; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the General Fund Restricted - Great Salt Lake Account, as an ongoing appropriation:
  - from General Fund, $2,500,000;
- to the General Fund Restricted - Great Salt Lake Account, as a one-time appropriation:
  - from General Fund, One-time, $10,000,000;
- to the Office of the Great Salt Lake Commissioner - Great Salt Lake Commissioner, as an ongoing appropriation:
  - from General Fund Restricted - Great Salt Lake Account, $1,500,000; and
- to the Office of the Great Salt Lake Commissioner - Great Salt Lake Commissioner, as a one-time appropriation:
  - from General Fund Restricted - Great Salt Lake Account, One-time, $1,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63G-2-305, as last amended by Laws of Utah 2022, Chapters 11, 109, 198, 201, 303, 335, 388, 391, and 415
63I-1-273, as last amended by Laws of Utah 2022, Chapters 68, 79
65A-5-1, as last amended by Laws of Utah 2022, Chapter 54
65A-10-1, as last amended by Laws of Utah 2011, Chapter 256
65A-10-8, as last amended by Laws of Utah 2022, Chapter 78
65A-16-101, as enacted by Laws of Utah 2022, Chapter 78
65A-16-202, as enacted by Laws of Utah 2022, Chapter 78
65A-16-301, as enacted by Laws of Utah 2022, Chapter 78
67-22-2, as last amended by Laws of Utah 2022, Chapter 447
73-10-2, as last amended by Laws of Utah 2020, Chapters 352, 373
79-2-201, as last amended by Laws of Utah 2022, Chapter 68
79-2-205, as renumbered and amended by Laws of Utah 2009, Chapter 344

ENACTS:

73-32-101, Utah Code Annotated 1953
73-32-201, Utah Code Annotated 1953
73-32-202, Utah Code Annotated 1953
73-32-203, Utah Code Annotated 1953
73-32-204, Utah Code Annotated 1953
73-32-301, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

73-32-302, (Renumbered from 73-30-201, as last amended by Laws of Utah 2020, Chapter 352)
73-32-303, (Renumbered from 73-30-202, as last amended by Laws of Utah 2012, Chapter 242)
73-32-304, (Renumbered from 65A-5-1.5, as enacted by Laws of Utah 2022, Chapter 54)

REPEALS:

73-30-101, as enacted by Laws of Utah 2010, Chapter 141
73-30-102, as enacted by Laws of Utah 2010, Chapter 141

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

Section 1. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known

outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and

Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a); [~~and~~]

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding[~~.~~]; and

(86) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a

person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake.

Section 2. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates: Title 73.

(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) In relation to Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, on July 1, 2025:

(a) Section 73-10g-202 is repealed; and

(b) Section 73-10g-203 is repealed.

(3) Section 73-18-3.5, which authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies, is repealed July 1, 2024.

[~~(4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1, 2027.~~]

[~~(5)~~] (4) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

(5) Sections 73-32-302 and 73-32-303, related to the Great Salt Lake Advisory Council, are repealed July 1, 2027.

Section 3. Section 65A-5-1 is amended to read:

65A-5-1. Sovereign Lands Management Account.

(1) There is created within the General Fund a restricted account known as the "Sovereign Lands Management Account."

(2) The Sovereign Lands Management Account shall consist of the following:

(a) the revenues derived from sovereign lands, except for revenues deposited into the Great Salt Lake Account under Section [~~65A-5-1.5~~] 73-32-304;

(b) that portion of the revenues derived from mineral leases on other lands managed by the division necessary to recover management costs;

(c) fees deposited by the division; and

(d) amounts deposited into the account in accordance with Section 59-23-4.

(3) (a) The expenditures of the division relating directly to the management of sovereign lands shall be funded by appropriation by the Legislature from the Sovereign Lands Management Account or other sources.

(b) Money in the Sovereign Lands Management Account may be used only for the direct benefit of sovereign lands, including the management of sovereign lands.

(c) In appropriating money from the Sovereign Lands Management Account, the Legislature shall prefer appropriations that benefit the sovereign land from which the money is derived unless compelling circumstances require that money be appropriated for sovereign land other than the sovereign land from which the money is derived.

(4) The division shall use the amount deposited into the account under Subsection (2)(d) for the Great Salt Lake as described in Section 65A-10-8 as directed by the Great Salt Lake Advisory Council created in Section [~~73-30-201~~] 73-32-302.

Section 4. Section 65A-10-1 is amended to read:

65A-10-1. Authority of division to manage sovereign lands.

(1) [~~The~~] Subject to Title 73, Chapter 32, Great Salt Lake Commissioner Act, the division is the management authority for sovereign lands, and may exchange, sell, or lease sovereign lands but only in the quantities and for the purposes as serve the public interest and do not interfere with the public trust.

(2) Nothing in this section shall be construed as asserting state ownership of the beds of nonnavigable lakes, bays, rivers, or streams.

(3) A lease for the construction of a highway facility over sovereign lakebed lands shall comply with the requirements described in Subsection 65A-7-5(5).

Section 5. Section 65A-10-8 is amended to read:

65A-10-8. Great Salt Lake -- Management responsibilities of the division.

The division has the following powers and duties:

(1) The division shall prepare and maintain a comprehensive management plan for the Great Salt Lake that recognizes the following policies:

(a) develop strategies to deal with a fluctuating lake level;

(b) encourage development of the Great Salt Lake in a manner that will preserve the Great Salt Lake, encourage availability of brines to lake extraction

industries, protect wildlife, and protect recreational facilities;

(c) maintain the Great Salt Lake's flood plain as a hazard zone;

(d) promote water quality management for the Great Salt Lake and the Great Salt Lake's tributary streams;

(e) promote the development of lake brines, minerals, chemicals, and petro-chemicals to aid the state's economy;

(f) encourage the use of appropriate areas for extraction of brine, minerals, chemicals, and petro-chemicals;

(g) maintain the Great Salt Lake and the marshes as important to shorebirds, waterfowl, and other waterbird flyway system;

(h) encourage the development of an integrated industrial complex;

(i) promote and maintain recreation areas on and surrounding the Great Salt Lake;

(j) encourage safe boating use of the Great Salt Lake;

(k) maintain and protect state, federal, and private marshlands, rookeries, and wildlife refuges; and

(l) provide public access to the Great Salt Lake for recreation, hunting, and fishing.

(2) The division may employ personnel and purchase equipment and supplies that the Legislature authorizes through appropriations for the purposes of this chapter.

(3) The division may initiate studies of the Great Salt Lake and the Great Salt Lake's related resources.

(4) The division may publish scientific and technical information concerning the Great Salt Lake.

(5) The division shall define the Great Salt Lake's flood plain.

(6) The division may qualify for, accept, and administer grants, gifts, or other funds from the federal government and other sources, for carrying out any functions under this chapter.

(7) The division shall determine the need for public works and utilities for the lake area.

(8) The division may implement the comprehensive plan described in Subsection (1) through state and local entities or agencies.

(9) The division shall coordinate the activities of the various divisions within the Department of Natural Resources with respect to the Great Salt Lake.

(10) The division may perform all other acts reasonably necessary to carry out the purposes and provisions of this chapter.

(11) The division shall retain and encourage the continued activity of the Great Salt Lake technical team.

(12) The division shall administer Chapter 16, Great Salt Lake Watershed Enhancement Program.

Section 6. Section 65A-16-101 is amended to read:

65A-16-101. Definitions.

As used in this chapter:

(1) "Commissioner" means the Great Salt Lake commissioner appointed under Section 73-32-201.

(2) "Conservation organization" means an institution, corporation, foundation, or association that is:

(a) private;

(b) nonprofit; and

(c) founded for the purpose of promoting conservation of natural resources.

[~~(2)~~] (3) "Council" means the Great Salt Lake Advisory Council created in Section [~~73-30-201~~] 73-32-302.

[~~(3)~~] (4) "Division" means the Division of Forestry, Fire, and State Lands.

[~~(4)~~] (5) "Eligible applicant" means two or more conservation organizations that submit a joint grant application to the division under Section 65A-16-201 and meet the criteria listed in Subsection 65A-16-201(3)(a).

[~~(5)~~] (6) "Grant money" means money [~~the division awards~~] awarded to an eligible applicant pursuant to this chapter.

[~~(6)~~] (7) "Grantee" means an eligible applicant that receives a grant authorized under this chapter.

[~~(7)~~] (8) "Great Salt Lake watershed" means the area comprised of the Great Salt Lake, the Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River watershed, and the West Desert watershed.

[~~(8)~~] (9) "Program" means the Great Salt Lake Watershed Enhancement Program created under Section 65A-16-201.

Section 7. Section 65A-16-202 is amended to read:

65A-16-202. Oversight.

(1) (a) The division shall oversee whether a grantee and the water trust that the grantee establishes comply with this chapter.

(b) In overseeing a grantee under this chapter, the division shall consult with the commissioner.

(2) (a) The division, in consultation with the council and the Division of Water Quality, shall establish by rule made in accordance with Section 65A-16-102, interventions for a grantee or water trust that fails to comply with this chapter.

(b) The rules establishing interventions under Subsection (2)(a) shall include, among other

actions, requiring the grantee or water trust to return unexpended grant money to the division for failure to comply with this chapter.

(3) This section may not be construed as limiting the state auditor's enforcement authority under Section 51-2a-201.5.

Section 8. Section 65A-16-301 is amended to read:

65A-16-301. Water trust -- Powers and duties -- Advisory councils.

(1) The grantee under this chapter shall establish a water trust that:

(a) is organized:

(i) as a private nonprofit organization; or

(ii) as an agreement between two or more conservation organizations; and

(b) complies with this section.

(2) A water trust created under this section shall:

(a) use a fiduciary to hold and administer grant money appropriated under this chapter;

(b) subject to Subsection (6):

(i) register with the lieutenant governor as a limited purpose entity pursuant to Section 51-2a-201.5;

(ii) file with the state auditor on or before June 30 of each year the accounting report that:

(A) satisfies Subsection 51-2a-201.5(2);

(B) includes an itemized accounting of the in-kind contributions and other monetary contributions described in Subsection (4); and

(C) includes an itemized accounting of the costs incurred under Subsection (3)(a);

(iii) provide a copy of the accounting report described in Subsection (2)(b)(ii) to:

(A) the division;

(B) the commissioner;

[~~(B)~~] (C) the Division of Water Quality;

[~~(C)~~] (D) the council; and

[~~(D)~~] (E) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee;

(iv) file with the division on or before January 31 of each year a report that satisfies the requirements of Subsections 51-2a-201.5(4) and 63J-1-220(2); and

(v) provide a copy of the report described in Subsection (2)(b)(iv) to:

(A) the Division of Water Quality;

(B) the council; and

(C) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee; and

(c) comply with applicable laws, regulations, ordinances, and rules.

(3) A water trust established by a grantee under this section:

(a) may use grant money for costs to establish, operate, or administer the water trust, including the hiring of staff or contractors;

(b) shall use no less than 25% of the grant money to protect and restore wetlands and habitats in the Great Salt Lake's surrounding ecosystem to benefit the hydrology of the Great Salt Lake; and

(c) may invest grant money the water trust receives under this chapter or any private money the water trust may receive, except that the water trust shall:

(i) invest and account for grant money and private money separately; and

(ii) use the earnings received from the investment of grant money to carry out the purposes described in Subsection 65A-16-201(1).

(4) The water trust shall provide a significant match of in-kind contributions or other monetary contributions to support the water trust's operations and for the purposes described in Subsection 65A-16-201(1).

(5) (a) A water trust established under this section shall create and consult with one or more advisory councils on matters related to the mission and objectives of the water trust.

(b) At least one of the advisory councils shall consist of nine members with a representative from the following:

(i) agriculture;

(ii) a private land owner adjacent to the Great Salt Lake;

(iii) a conservation organization dedicated to the preservation of migratory waterfowl;

(iv) a conservation organization dedicated to the protection of non-game avian species;

(v) another conservation organization working on Great Salt Lake issues;

(vi) aquaculture;

(vii) mineral extraction;

(viii) a water conservancy district; and

(ix) wastewater treatment facilities.

(6) The duties of the water trust under Subsection (2)(b) apply to the water trust notwithstanding whether the holdings, revenues, or expenditures of the water trust include grant money or other money from the state.

Section 9. Section 67-22-2 is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Services;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Cultural and Community Engagement;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Planning and Budget;

(xiv) executive director, Department of Government Operations;

(xv) executive director, Department of Environmental Quality;

(xvi) executive director, Governor's Office of Economic Opportunity;

(xvii) executive director, Department of Workforce Services;

(xviii) executive director, Department of Health, Nonphysician;

(xix) executive director, Department of Human Services;

(xx) executive director, Department of Transportation;

(xxi) executive director, Department of Veterans and Military Affairs; [~~and~~]

(xxii) executive director, Public Lands Policy Coordinating Office, created in Section 63L-11-201; and

(xxiii) Great Salt Lake commissioner, appointed under Section 73-32-201.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Division of Human Resource Management.

(2) (a) The director of the Division of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Division of Human Resource Management.

(b) (i) The Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range

established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 63A-17-301.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section 10. Section 73-10-2 is amended to read:

73-10-2. Board of Water Resources -- Members -- Appointment -- Terms -- Vacancies.

(1) (a) The Board of Water Resources shall be comprised of [~~eight~~] nine members to be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) In addition to the requirements of Section 79-2-203, not more than [~~four~~] five members shall be from the same political party.

(2) [~~One~~] The Board of Water Resources shall consist of:

(a) one member [~~of the board shall be~~] appointed from each of the following districts:

[~~(a)~~] (i) Bear River District, comprising the counties of Box Elder, Cache, and Rich;

[~~(b)~~] (ii) Weber District, comprising the counties of Weber, Davis, Morgan, and Summit;

[~~(c)~~] (iii) Salt Lake District, comprising the counties of Salt Lake and Tooele;

[~~(d)~~] (iv) Provo River District, comprising the counties of Juab, Utah, and Wasatch;

[~~(e)~~] (v) Sevier River District, comprising the counties of Millard, Sanpete, Sevier, Piute, and Wayne;

[~~(f)~~] (vi) Green River District, comprising the counties of Daggett, Duchesne, and Uintah;

[~~(g)~~] (vii) Upper Colorado River District, comprising the counties of Carbon, Emery, Grand, and San Juan; and

[~~(h)~~] (viii) Lower Colorado River District, comprising the counties of Beaver, Garfield, Iron, Washington, and Kane[~~.~~]; and

(b) one member that represents the interests of the Great Salt Lake.

(3) (a) Except as required by Subsection (3)(b), all appointments shall be for terms of four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the [~~replacement shall be appointed~~] governor shall appoint a replacement member for the unexpired term, with the advice and consent of the Senate [~~and shall be from the same district as such person~~], who:

(i) is from the same district as the individual leaving the board; or

(ii) if the individual leaving the board is appointed under Subsection (2)(b), represents the interests of the Great Salt Lake.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(5) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 11. Section 73-32-101 is enacted to read:

CHAPTER 32. GREAT SALT LAKE COMMISSIONER ACT

Part 1. General Provisions

73-32-101. Definitions.

As used in this chapter:

(1) "Account" means the Great Salt Lake Account created in Section 73-32-304.

(2) "Commissioner" means the Great Salt Lake commissioner appointed under Section 73-32-201.

(3) "Council" means the Great Salt Lake Advisory Council created in Section 73-32-302.

(4) "Department" means the Department of Natural Resources.

(5) "Office" means the Office of the Great Salt Lake Commissioner created in Section 73-32-301.

(6) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

(7) "Strategic plan" means the plan prepared by the commissioner under Sections 73-32-202 and 73-32-204.

Section 12. Section 73-32-201 is enacted to read:

Part 2. Commissioner

73-32-201. Great Salt Lake commissioner appointment.

(1) (a) The governor shall appoint a Great Salt Lake commissioner with the advice and consent of the Senate.

(b) Before the governor appoints the commissioner under this section, the governor shall consult with the speaker of the House of Representatives and the president of the Senate concerning the selection of potential candidates for the position of commissioner.

(2) The commissioner shall serve a term of six years and may be appointed to more than one term, but shall be subject to removal at the pleasure of the governor.

(3) The governor shall establish the commissioner's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Section 13. Section 73-32-202 is enacted to read:

73-32-202. Duties and authorizations of the commissioner.

(1) The commissioner shall:

(a) subject to Section 73-32-204, prepare an approved strategic plan for the long-term health of the Great Salt Lake and update the strategic plan regularly;

(b) oversee the execution of the strategic plan by other state agencies as provided in Section 73-32-203;

(c) maintain information that measures Great Salt Lake levels, salinity, and overall health;

(d) meet regularly with the executive director of the department and with the executive director of the Department of Environmental Quality;

(e) consult with the Division of Forestry, Fire, and State Lands regarding Title 65A, Chapter 16, Great Salt Lake Watershed Enhancement Program;

(f) monitor the integrated water assessment conducted under Chapter 10g, Part 4, Great Salt Lake Watershed Integrated Water Assessment;

(g) inform the governor, the president of the Senate, and the speaker of the House of Representatives, at least annually, about the status of the strategic plan and the progress regarding implementation of the strategic plan;

(h) at least annually report to the Executive Appropriations Committee regarding the expenditure of money under this chapter;

(i) coordinate and work collaboratively with water conservancy districts that serve water users within the Great Salt Lake watershed; and

(j) annually report to the Natural Resources, Agriculture, and Environment Interim Committee regarding the activities of the commissioner.

(2) The commissioner may:

(a) access information from other state or federal agencies related to the Great Salt Lake;

(b) develop cooperative agreements between the state, political subdivisions, and agencies of the federal government for involvement in the strategic plan;

(c) produce research, documents, maps, studies, analysis, or other information that supports the strategic plan for the Great Salt Lake;

(d) facilitate and coordinate the exchange of information, comments, and recommendations on Great Salt Lake policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) institutions of higher education that conduct research relevant to the Great Salt Lake;

(iv) nonprofit entities; and

(v) private business;

(e) communicate with the Great Salt Lake Watershed Council created under Chapter 10g, Part 3, Watershed Councils Act; and

(f) perform other duties that the commissioner considers necessary or expedient to carry out the purposes of this chapter.

(3) In fulfilling the duties under this chapter, the commissioner shall consult and coordinate, as necessary, with:

(a) the department;

(b) the Department of Agriculture and Food;

(c) the Department of Environmental Quality;

(d) other applicable state agencies;

(e) political subdivisions of the state;

(f) federal agencies;

(g) elected officials; and

(h) local tribal officials.

Section 14. Section 73-32-203 is enacted to read:

73-32-203. Relationship to other state agencies.

(1) A state agency shall cooperate with the commissioner, including providing information to the commissioner, to the extent not prohibited by federal or state law, at the commissioner's request.

(2) To the extent not prohibited by federal law and notwithstanding any other provision of state law, the commissioner may require a state agency to take action or refrain from acting to benefit the health of the Great Salt Lake to comply with the strategic plan.

(3) This chapter may not be interpreted to override, substitute, or modify a water right within the state or the role and authority of the state engineer.

(4) (a) This Subsection (4) applies if:

(i) the commissioner determines that an action or failure to act by the Department of Environmental Quality may negatively impact the health of the Great Salt Lake, as established by the strategic plan; and

(ii) the Department of Environmental Quality refuses to act or refrain from action because the Department of Environmental Quality believes it would jeopardize a delegation agreement entered into by the Department of Environmental Quality with the United States Environmental Protection Agency.

(b) If the conditions of Subsection (4)(a) are met, the commissioner shall inform:

(i) the governor;

(ii) the speaker of the House of Representatives; and

(iii) the president of the Senate.

(c) The Department of Environmental Quality may inform the governor, the speaker of the House of Representatives, and the president of the Senate of the need for the Department of Environmental Quality to take the action or refrain from the action described in Subsection (4)(a).

(d) The governor may review the information provided under this Subsection (4) and take action to resolve the issue raised by the commissioner under Subsection (4)(b).

(e) If the conditions of Subsection (4)(a) are not met, the Department of Environmental Quality shall comply with Subsection (2).

Section 15. Section 73-32-204 is enacted to read:

73-32-204. Strategic plan.

(1) (a) In accordance with this section, the commissioner shall prepare a strategic plan and obtain the approval of the governor of that strategic plan.

(b) A strategic plan prepared by the commissioner may not be implemented until the

governor approves the strategic plan, except as provided in Subsection (5).

(2) The commissioner shall base the strategic plan on a holistic approach that balances the diverse interests related to the health of the Great Salt Lake, and includes provisions concerning:

(a) coordination of efforts related to the Great Salt Lake;

(b) a sustainable water supply for the Great Salt Lake, while balancing competing needs;

(c) human health and quality of life;

(d) a healthy ecosystem;

(e) economic development;

(f) water conservation, including municipal and industrial uses and agricultural uses;

(g) water and land use planning;

(h) regional water sharing; and

(i) other provisions that the commissioner determines would be for the benefit of the Great Salt Lake.

(3) (a) The commissioner shall obtain the approval of the governor of an initial strategic plan by no later than December 31, 2023.

(b) On or before November 30, 2023, the commissioner shall submit an initial strategic plan to the governor, speaker of the House of Representatives, and the president of the Senate.

(c) The governor shall approve the strategic plan by no later than December 31, 2023, if the governor determines that the initial strategic plan satisfies this chapter.

(d) By no later than January 15, 2024, the commissioner shall provide the following a copy of the initial strategic plan approved by the governor under Subsection (3)(c):

(i) the Natural Resources, Agriculture, and Environment Interim Committee;

(ii) the department;

(iii) the Department of Environmental Quality; and

(iv) the Department of Agriculture and Food.

(4) The governor may approve a strategic plan only after consulting with the speaker of the House of Representatives and the president of the Senate.

(5) Once a strategic plan is approved by the governor, the commissioner may make substantive changes to the strategic plan without the approval of the governor, except that the commissioner shall:

(a) inform the governor, the speaker of the House of Representatives, and the president of the Senate of a substantive change to the strategic plan; and

(b) submit the strategic plan every five years for the approval of the governor in a process that is consistent with Subsection (3).

(6) The commissioner may work with the Division of Forestry, Fire, and State Lands in coordinating the comprehensive management plan created under Section 65A-10-8 with the strategic plan.

Section 16. Section 73-32-301 is enacted to read:

Part 3. Administration

73-32-301. Office of the Great Salt Lake Commissioner.

(1) There is created the Office of the Great Salt Lake Commissioner.

(2) The office shall:

(a) provide staff support to the commissioner; and

(b) operate under the supervision of the commissioner.

(3) The department shall provide office space, furnishings, and supplies to the commissioner, the office, and support staff for the office.

Section 17. Section 73-32-302, which is renumbered from Section 73-30-201 is renumbered and amended to read:

~~[73-30-201]~~. 73-32-302. Advisory council created -- Staffing -- Per diem and travel expenses.

(1) There is created an advisory council known as the "Great Salt Lake Advisory Council" consisting of 11 members listed in Subsection (2).

(2) (a) The governor shall appoint the following members, with the advice and consent of the Senate:

(i) one representative of industry representing the extractive industry;

(ii) one representative of industry representing aquaculture;

(iii) one representative of conservation interests;

(iv) one representative of a migratory bird protection area as defined in Section 23-28-102;

(v) one representative who is an elected official from municipal government, or the elected official's designee;

(vi) five representatives who are elected officials from county government, or the elected official's designee, one each representing:

(A) Box Elder County;

(B) Davis County;

(C) Salt Lake County;

(D) Tooele County; and

(E) Weber County; and

(vii) one representative of a publicly owned treatment works.

(3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year term.

(b) Notwithstanding Subsection (3)(a), at the time of appointment or reappointment, the governor shall adjust the length of terms of voting members to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(d) A member shall hold office until the member's successor is appointed and qualified.

(4) The council shall determine:

(a) the time and place of meetings; and

(b) any other procedural matter not specified in this chapter.

(5) (a) Attendance of six members at a meeting of the council constitutes a quorum.

(b) A vote of the majority of the members present at a meeting when a quorum is present constitutes an action of the council.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(7) The [~~Department of Natural Resources~~] office, the department, and the Department of Environmental Quality shall coordinate and provide necessary staff assistance to the council.

Section 18. Section 73-32-303, which is renumbered from Section 73-30-202 is renumbered and amended to read:

[~~73-30-202~~]. 73-32-303. Duties of the council.

(1) (a) The council shall advise the persons listed in Subsection (1)(b) on the sustainable use, protection, and development of the Great Salt Lake in terms of balancing:

(i) sustainable use;

(ii) environmental health; and

(iii) reasonable access for existing and future development.

(b) The council shall advise, as provided in Subsection (1)(a):

(i) the governor;

(ii) the Department of Natural Resources; [~~and~~]

(iii) the Department of Environmental Quality[~~.~~]; and

(iv) the commissioner.

(2) The council shall assist the Division of Forestry, Fire, and State Lands in [~~its~~] the Division of Forestry, Fire, and State Land's responsibilities for the Great Salt Lake described in Section 65A-10-8.

(3) The council:

(a) may recommend appointments to the Great Salt Lake technical team created by the Division of Forestry, Fire, and State Lands; and

(b) shall receive and [~~utilize~~] use technical support from the Great Salt Lake technical team.

(4) The council shall assist the [~~Department of Natural Resources~~] department, the Department of Environmental Quality, and their applicable boards in accomplishing their responsibilities for the Great Salt Lake.

(5) The council shall report annually to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee on the council's activities.

Section 19. Section 73-32-304, which is renumbered from Section 65A-5-1.5 is renumbered and amended to read:

[~~65A-5-1.5~~]. 73-32-304. Great Salt Lake Account.

(1) As used in this section[~~: (a) "Account" means the Great Salt Lake Account created in this section. (b) "Mining"~~], "mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a natural deposit of the mineral.

(2) (a) There is created within the General Fund a restricted account known as the "Great Salt Lake Account" consisting of:

(i) revenues deposited into the account under Subsection (3);

(ii) appropriations from the Legislature; and

(iii) interest and other earnings described in Subsection (2)(b).

(b) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.

(3) The [~~division~~] Division of Forestry, Fire, and State Lands shall deposit into the account the royalty income received by the state from mining that occurs on or after July 1, 2022, of a mineral from the sovereign lands of the Great Salt Lake if during the fiscal year beginning July 1, 2020, the state did not receive royalty income from the mining of that same mineral from the sovereign lands of the Great Salt Lake.

(4) Upon appropriation by the Legislature, money in the account may be used to:

(a) manage the water levels of the Great Salt Lake; and

(b) fund the activities of the commissioner and office under this chapter.

Section 20. Section 79-2-201 is amended to read:

79-2-201. Department of Natural Resources created.

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(c) Board of State Parks, created in Section 79-4-301;

(d) Office of Energy Development, created in Section 79-6-401;

(e) Wildlife Board, created in Section 23-14-2;

(f) Board of the Utah Geological Survey, created in Section 79-3-301;

(g) Water Development Coordinating Council, created in Section 73-10c-3;

(h) Division of Water Rights, created in Section 73-2-1.1;

(i) Division of Water Resources, created in Section 73-10-18;

(j) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

(k) Division of Oil, Gas, and Mining, created in Section 40-6-15;

(l) Division of State Parks, created in Section 79-4-201;

(m) Division of Outdoor Recreation, created in Section 79-7-201;

(n) Division of Wildlife Resources, created in Section 23-14-1;

(o) Utah Geological Survey, created in Section 79-3-201;

(p) Heritage Trees Advisory Committee, created in Section 65A-8-306;

(q) Utah Outdoor Recreation Infrastructure Advisory Committee, created in Section 79-7-206;

(r) (i) an advisory council that includes in the advisory council's duties advising on state boating policy, authorized by Section 73-18-3.5; or

(ii) an advisory council that includes in the advisory council's duties advising on off-highway vehicle use, authorized by Section 41-22-10;

(s) Wildlife Board Nominating Committee, created in Section 23-14-2.5;

(t) Wildlife Regional Advisory Councils, created in Section 23-14-2.6;

(u) Utah Watersheds Council, created in Section 73-10g-304;

(v) Utah Natural Resources Legacy Fund Board, created in Section 23-31-202; and

(w) Public Lands Policy Coordinating Office created in Section 63L-11-201.

(3) The department shall provide office space, furnishings, and supplies to the Great Salt Lake commissioner appointed under Section 73-32-201, the Office of the Great Salt Lake Commissioner created in Section 73-32-301, and support staff for the Office of the Great Salt Lake Commissioner.

Section 21. Section 79-2-205 is amended to read:

79-2-205. Procedures -- Adjudicative proceedings.

Except as provided by Sections 40-10-13, 63G-4-102, and 73-2-25, a division, board, council, or committee referred to in [~~Section 79-2-201~~] Subsection 79-2-201(2) shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding.

Section 22. Repealer.

This bill repeals:

Section 73-30-101, Title.

Section 73-30-102, Definition.

Section 23. Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To General Fund Restricted - Great Salt Lake Account

From General Fund	2,500,000
From General Fund, One-time	10,000,000
Schedule of Programs:	
Great Salt Lake Account	12,500,000

ITEM 2

To Office of the Great Salt Lake Commissioner - Great Salt Lake Commissioner

From General Fund Restricted - Great Salt Lake Account	1,500,000
From General Fund Restricted - Great Salt Lake Account, One-time	1,000,000
Schedule of Programs:	
Administration	2,500,000

The Legislature intends that the Division of Finance not allocate the $1,000,000 one-time appropriation from the Great Salt Lake Account to the Office of the Great Salt Lake Commissioner

until the strategic plan described by Section 73-32-204, enacted by this bill, may be implemented in accordance with Section 73-32-204.

Section 24. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 206
H. B. 493
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

SOLID WASTE MANAGEMENT AMENDMENTS

Chief Sponsor: Tim Jimenez
Senate Sponsor: Keith Grover

LONG TITLE

General Description:
This bill modifies definitions relating to solid waste.

Highlighted Provisions:
This bill:
- defines terms; and
- amends the definition of solid waste.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
19-6-102, as last amended by Laws of Utah 2022, Chapter 424
19-6-502, as last amended by Laws of Utah 2020, Chapter 256
19-6-509, as enacted by Laws of Utah 2022, Chapter 385

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

Section 1. Section 19-6-102 is amended to read:

19-6-102. Definitions.

As used in this part:

(1) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Closure plan" means a plan under Section 19-6-108 to close a facility or site at which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the facility or site.

(3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or disposal.

(b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" does not include a commercial facility that:

(i) receives waste for recycling;

(ii) receives waste to be used as fuel, in compliance with federal and state requirements;

(iii) is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government; or

(iv) receives only waste from the exploration and production of oil and gas.

(4) "Construction waste or demolition waste":

(a) means waste from building materials, packaging, and rubble resulting from construction, demolition, remodeling, and repair of pavements, houses, commercial buildings, and other structures, and from road building and land clearing; and

(b) does not include:

(i) asbestos;

(ii) contaminated soils or tanks resulting from remediation or cleanup at a release or spill;

(iii) waste paints;

(iv) solvents;

(v) sealers;

(vi) adhesives; or

(vii) hazardous or potentially hazardous materials similar to that described in Subsections (4)(b)(i) through (vi).

(5) "Director" means the director of the Division of Waste Management and Radiation Control.

(6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or discharged into any waters, including groundwaters.

(7) "Division" means the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d).

(8) "Generation" or "generated" means the act or process of producing nonhazardous solid or hazardous waste.

(9) (a) "Hazardous waste" means a solid waste or combination of solid wastes other than household waste that, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(b) "Hazardous waste" does not include those wastes listed in 40 C.F.R. Sec. 261.4(b).

(10) "Health facility" means a:

(a) hospital;

(b) psychiatric hospital;

(c) home health agency;

(d) hospice;

(e) skilled nursing facility;

(f) intermediate care facility;

(g) intermediate care facility for people with an intellectual disability;

(h) residential health care facility;

(i) maternity home or birthing center;

(j) free standing ambulatory surgical center;

(k) facility owned or operated by a health maintenance organization;

(l) state renal disease treatment center, including a free standing hemodialysis unit;

(m) the office of a private physician or dentist whether for individual or private practice;

(n) veterinary clinic; or

(o) mortuary.

(11) "Household waste" means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(12) "Infectious waste" means a solid waste that contains or may reasonably be expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

(13) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(14) "Mixed waste" means material that is a hazardous waste as defined in this chapter and is also radioactive as defined in Section 19-3-102.

(15) "Modification request" means a request under Section 19-6-108 to modify a permitted facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

(16) "Operation plan" or "nonhazardous solid or hazardous waste operation plan" means a plan or approval under Section 19-6-108, including:

(a) a plan to own, construct, or operate a facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste;

(b) a closure plan;

(c) a modification request; or

(d) an approval that the director is authorized to issue.

(17) "Permit" includes an operation plan.

(18) "Permittee" means a person who is obligated under an operation plan.

(19) (a) "Solid waste" means garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities.

(b) "Solid waste" does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

(c) "Solid waste" does not include metal that is:

(i) purchased as a valuable commercial commodity; and

(ii) not otherwise hazardous waste or subject to conditions of the federal hazardous waste regulations, including the requirements for recyclable materials found at 40 C.F.R. 261.6.

(d) "Solid waste" does not include post-use polymers or recovered feedstock, as those terms are defined in Section 19-6-502, converted or held at an advanced recycling facility.

(20) "Solid waste management facility" means the same as that term is defined in Section 19-6-502.

(21) "Storage" means the actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of the waste.

(22) (a) "Transfer" means the collection of nonhazardous solid waste from a permanent, fixed, supplemental collection facility for movement to a vehicle for movement to an offsite nonhazardous solid waste storage or disposal facility.

(b) "Transfer" does not mean:

(i) the act of moving nonhazardous solid waste from one location to another location on the site where the nonhazardous solid waste is generated; or

(ii) placement of nonhazardous solid waste on the site where the nonhazardous solid waste is generated in preparation for movement off that site.

(23) "Transportation" means the off-site movement of solid or hazardous waste to any intermediate point or to any point of storage, treatment, or disposal.

(24) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

(25) "Underground storage tank" means a tank that is regulated under Subtitle I of the Resource

Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

Section 2. Section 19-6-502 is amended to read:

19-6-502. Definitions.

As used in this part:

(1) (a) "Advanced recycling" means a manufacturing process that converts post-use polymers or recovered feedstock into basic raw materials, chemicals, or advanced recycling products using technology including:

(i) pyrolysis;

(ii) gasification;

(iii) depolymerization;

(iv) catalytic cracking;

(v) reforming;

(vi) hydrogenation;

(vii) solvolysis; or

(viii) chemolysis.

(b) "Advanced recycling" does not include incineration of plastics, energy recovery processes, or a product sold as fuel.

(2) "Advanced recycling facility" means a manufacturing facility:

(a) that is registered with the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d);

(b) that receives, stores, and converts post-use polymers or recovered feedstock using advanced recycling;

(c) that is subject to applicable Department of Environmental Quality manufacturing regulations for air, water, waste, and land use; and

(d) for which the feedstock received by the manufacturing facility is source-separated, diverted, or recovered from municipal or other waste streams prior to acceptance at the facility.

(3) "Advanced recycling product" means a recycled product produced at an advanced recycling facility, including:

(a) a monomer;

(b) an oligomer;

(c) a plastic;

(d) a chemical feedstock;

(e) a basic and unfinished chemical;

(f) a wax;

(g) a lubricant;

(h) a coating; or

(i) an adhesive.

(4) "Depolymerization" means a manufacturing process that breaks post-use polymers into smaller molecules to produce raw materials or products.

(5) "Gasification" means a manufacturing process that:

(a) heats post-use polymers or recovered feedstock in an oxygen-controlled atmosphere; and

(b) following the process described in Subsection (5)(a), converts the polymers or recovered feedstock into syngas or a raw, intermediate, or final product.

(6) "Governing body" means the governing board, commission, or council of a public entity.

[~~(2)~~] (7) "Jurisdiction" means the area within the incorporated limits of:

(a) a municipality;

(b) a special service district;

(c) a municipal-type service district;

(d) a service area; or

(e) the territorial area of a county not lying within a municipality.

[~~(3)~~] (8) "Long-term agreement" means an agreement or contract having a term of more than five years but less than 50 years.

(9) "Mass balance attribution" means a chain of custody accounting methodology with rules defined by a third-party certification system that enables the attribution of the mass of advanced recycling feedstock to at least one advanced recycling product.

[~~(4)~~] (10) "Municipal residential waste" means solid waste that is:

(a) discarded or rejected at a residence within the public entity's jurisdiction; and

(b) collected at or near the residence by:

(i) a public entity; or

(ii) a person with whom the public entity has as an agreement to provide solid waste management.

(11) "Post-use polymer" means a plastic that:

(a) is derived from an industrial, commercial, agricultural, or domestic activity;

(b) includes pre-consumer materials and post-consumer materials;

(c) has been sorted from solid waste and other regulated waste but may contain residual amounts of waste including organic material and incidental contaminants or impurities;

(d) is not mixed with solid waste or hazardous waste during processing at the advanced recycling facility;

(e) is used as a feedstock for the manufacturing of raw materials, intermediate products, or final products using advanced recycling; and

(f) is held for processing or processed at the advanced recycling facility.

(12) "Product sold as fuel" does not mean a recycled product.

[~~(5)~~] (13) "Public entity" means:

(a) a county;

(b) a municipality;

(c) a special service district under Title 17D, Chapter 1, Special Service District Act;

(d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or

(e) a municipal-type service district created under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas.

(14) "Pyrolysis" means a manufacturing process that:

(a) heats post-use polymers or recovered feedstock, without oxygen, until melted and thermally decomposed; and

(b) following the process described in Subsection (14)(a), cools, condenses, and converts post-use polymers or recovered feedstock into raw materials and intermediate and final products.

(15) (a) "Recovered feedstock" means a material:

(i) that includes post-use polymers;

(ii) for which the United States Environmental Protection Agency made a non-waste determination or has otherwise determined is feedstock and solid waste; or

(iii) that is converted using an advanced recycling process after storage of less than 270 days.

(b) "Recovered feedstock" does not include unprocessed municipal solid waste or recovered feedstock that is not mixed with solid waste or hazardous waste onsite, or during processing, at an advanced recycling facility.

(16) "Recycled plastic" means a product produced from:

(a) mechanical recycling of pre-consumer feedstock or plastic, or post-consumer plastic;

(b) the advanced recycling of pre-consumer feedstock or plastic, or post-consumer plastic, using mass balance attribution under a third-party certification system; or

(c) a recycled material, as that term is defined in Section 4-10-102.

[~~(6)~~] (17) "Requirement" means an ordinance, policy, rule, mandate, or other directive that imposes a legal duty on a person.

[~~(7)~~] (18) "Residence" means an improvement to real property used or occupied as a primary or secondary detached single-family dwelling.

[~~(8)~~] (19) "Resource recovery" means the separation, extraction, recycling, or recovery of usable material, energy, fuel, or heat from solid waste and the disposition of it.

[~~(9)~~] (20) "Short-term agreement" means a contract or agreement having a term of five years or less.

[~~(10)~~] (21) (a) "Solid waste" means a putrescible or nonputrescible material or substance discarded or rejected as being spent, useless, worthless, or in excess of the owner's needs at the time of discard or rejection, including:

(i) garbage;

(ii) refuse;

(iii) industrial and commercial waste;

(iv) sludge from an air or water control facility;

(v) rubbish;

(vi) ash;

(vii) contained gaseous material;

(viii) incinerator residue;

(ix) demolition and construction debris;

(x) a discarded automobile; and

(xi) offal.

(b) "Solid waste" does not include:

(i) sewage or another highly diluted water carried material or substance and those in gaseous form[~~.~~]; or

(ii) post-use polymers or recovered feedstock that are converted or held at an advanced recycling facility.

[~~(11)~~] (22) (a) "Solid waste management" means the purposeful and systematic collection, transportation, storage, processing, recovery, or disposal of solid waste.

(b) "Solid waste management" does not include advanced recycling.

[~~(12)~~] (23) (a) "Solid waste management facility" means a facility employed for solid waste management, including:

(i) a transfer station;

(ii) a transport system;

(iii) a baling facility;

(iv) a landfill; and

(v) a processing system, including:

(A) a resource recovery facility;

(B) a facility for reducing solid waste volume;

(C) a plant or facility for compacting, or composting, of solid waste;

(D) an incinerator;

(E) a solid waste disposal, reduction, pyrolization, or conversion facility;

(F) a facility for resource recovery of energy consisting of:

(I) a facility for the production, transmission, distribution, and sale of heat and steam;

(II) a facility for the generation and sale of electric energy to a public utility, municipality, or other public entity that owns and operates an electric power system on March 15, 1982; and

(III) a facility for the generation, sale, and transmission of electric energy on an emergency basis only to a military installation of the United States; and

(G) an auxiliary energy facility that is connected to a facility for resource recovery of energy as described in Subsection [~~(12)(a)(v)(F),~~] (23)(a)(v)(F), that:

(I) is fueled by natural gas, landfill gas, or both;

(II) consists of a facility for the production, transmission, distribution, and sale of supplemental heat and steam to meet all or a portion of the heat and steam requirements of a military installation of the United States; and

(III) consists of a facility for the generation, transmission, distribution, and sale of electric energy to a public utility, a municipality described in Subsection [~~(12)(a)(v)(F)(II),~~] (23)(a)(v)(F)(II), or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) "Solid waste management facility" does not mean a facility that:

(i) accepts and processes metal, as described in Subsection 19-6-102(19)(b), by separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle commodity grade product of prepared scrap metal for sale or use for remelting purposes provided that any byproduct or residual that would qualify as solid waste is managed at a solid waste management facility; or

(ii) accepts and processes paper, plastic, rubber, glass, or textiles that:

(A) have been source-separated or otherwise diverted from the solid waste stream before acceptance at the facility and that are not otherwise hazardous waste or subject to conditions of federal hazardous waste regulations; and

(B) are reused or recycled as a valuable commercial commodity by separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle commodity grade product, provided that any byproduct or residual that would qualify as solid waste is managed at a solid waste management facility.

(c) "Solid waste management facility" does not include an advanced recycling facility.

(24) "Solvolysis" means a manufacturing process that:

(a) purifies post-use polymers using solvents, while heated at low temperatures or pressurized, allowing additives and contaminants to be removed;

(b) uses technology, including:

(i) hydrolysis;

(ii) aminolysis;

(iii) ammonoloysis;

(iv) methanoloysis; or

(v) glycolysis; and

(c) manufactures products, including:

(i) monomers;

(ii) intermediates;

(iii) valuable chemicals;

(iv) chemical feedstock; or

(v) raw materials.

(25) "Third-party certification system" means an international or multinational third-party certification system of rules to implement mass balance attribution approaches for advanced recycling, including:

(a) International Sustainability and Carbon Certification;

(b) Underwriter Laboratories;

(c) SCS Recycled Content;

(d) Roundtable on Sustainable Biomaterials;

(e) Ecoloop; or

(f) REDcert2.

Section 3. Section 19-6-509 is amended to read:

19-6-509. Recycling data.

(1) As used in this section:

(a) (i) "Municipal solid waste" means nonhazardous solid waste, including garbage, refuse, office waste, or other similar material that results from the operation of residential, municipal, commercial, or institutional establishments or community activities.

(ii) "Municipal solid waste" does not include a plastic or material that is converted or held at an advanced recycling facility, including:

(A) post-use polymers; or

(B) recovered feedstock.

(b) "Recyclable material" means municipal solid waste that is suitable for recycling.

(c) "Recyclable material hauler" means a person, including a political subdivision, who:

(i) for compensation, collects and transports recyclable material; and

(ii) uses the billing and collection system of a political subdivision to bill or collect payment from the recyclable material hauler's customers.

(d) "Recycle" means to take action to recover recyclable materials from the municipal solid waste stream for the purposes of use or reuse, conversion

into raw materials, or use in the production of new products.

(2) A recyclable material hauler shall report, in accordance with Subsection (3) and according to the best of the recycler's knowledge, the approximate tonnage of recyclable material collected by the recyclable material hauler that the recyclable material hauler delivered to:

(a) a landfill; and

(b) a recycling facility.

(3) (a) At least two times each calendar year, a recyclable material hauler shall provide the information described in Subsection (2) to the political subdivision whose billing and collection system the recyclable material hauler uses.

(b) The recyclable material hauler shall provide data under Subsection (3)(a) for the longer of:

(i) the time since the recyclable material hauler last provided the data; or

(ii) six months before the day on which the data is provided.

(4) Within 45 days after the day on which a recyclable material hauler provides data under this section, a political subdivision shall publish the data, as available:

(a) in a newsletter produced by the municipality; and

(b) on a website operated by the municipality.

CHAPTER 207
H. B. 512
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

ELECTED OFFICIAL EDUCATION

Chief Sponsor: Brad R. Wilson
Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill provides for an annual statewide elected official summit.

Highlighted Provisions:

This bill:

- requires the Legislature to host an annual summit to educate and train legislators and local elected officials in Utah; and
- describes the training and education that may be provided at the summit.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Legislature – House of Representatives – Administration, as an ongoing appropriation:
  - from the General Fund, $75,000; and
- to the Legislature – Senate – Administration, as an ongoing appropriation:
  - from the General Fund, $75,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

36-34-101, Utah Code Annotated 1953

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

Section 1. Section 36-34-101 is enacted to read:

CHAPTER 34. EDUCATION AND TRAINING

Part 1. Statewide Elected Official Summit

36-34-101. Statewide elected official summit.

(1) Beginning no later than 2024, the Legislature, under the direction of the speaker of the House of Representatives and the president of the Senate, shall host an annual summit for elected officials in Utah.

(2) The purpose of the summit is to provide education and training to legislators and local elected officials, including:

(a) legal requirements for elected officials;

(b) professional development, leadership, management, and other skills related to functioning as an elected official;

(c) issues facing the state or local jurisdictions and the role of state and local elected officials in responding to both state and local issues;

(d) taxation, revenue, appropriation, and budgeting in relation to the state and local jurisdictions; and

(e) other education and training as the speaker of the House of Representatives and the president of the Senate may direct.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Legislature – House of Representatives

From General Fund	75,000
Schedule of Programs:	
Administration	75,000

ITEM 2

To Legislature – Senate

From General Fund	75,000
Schedule of Programs:	
Administration	75,000

The Legislature intends that appropriations provided under this section be used for the statewide elected official summit described in Section 36-34-101.

CHAPTER 208
H. B. 513
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

GREAT SALT LAKE AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses management of the Great Salt Lake and related activities.

Highlighted Provisions:

This bill:

- modifies provisions related to severance taxes;
- clarifies minerals with royalties going to the Great Salt Lake Account;
- addresses mineral leases or royalty agreements related to the Great Salt Lake;
- provides for royalties for certain elements and minerals;
- requires a study and reporting;
- defines terms;
- codifies legislative findings;
- modifies the Division of Forestry, Fire, and State Lands' management responsibilities for the Great Salt Lake, including addressing rulemaking;
- establishes emergency management responsibilities and powers;
- addresses force majeure; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-5-202, as last amended by Laws of Utah 1990, Chapter 295
65A-5-1, as last amended by Laws of Utah 2022, Chapter 54
65A-5-1.5, as enacted by Laws of Utah 2022, Chapter 54
65A-6-2, as last amended by Laws of Utah 1994, Chapter 294
65A-6-4, as last amended by Laws of Utah 1994, Chapter 294
73-30-202, as last amended by Laws of Utah 2012, Chapter 242

ENACTS:

65A-10-201, Utah Code Annotated 1953
65A-10-202, Utah Code Annotated 1953
65A-10-204, Utah Code Annotated 1953
65A-10-205, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

65A-10-203, (Renumbered from 65A-10-8, as last amended by Laws of Utah 2022, Chapter 78)

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

Section 1. Section 59-5-202 is amended to read:

59-5-202. Severance tax -- Rate -- Computation -- Annual exemption.

(1) [~~Every~~] A person engaged in the business of mining or extracting metalliferous minerals in this state shall pay to the state a severance tax equal to 2.6% of the taxable value of all metals or metalliferous minerals sold or otherwise disposed of.

(2) If the metals or metalliferous minerals are shipped outside the state, this constitutes a sale, and the finished metals or the recoverable units of finished metals from the metalliferous minerals shipped are subject to the severance tax. If the metals or metalliferous minerals are stockpiled, the tax is not applicable until they are sold or shipped out of state. For purposes of the tax imposed by this chapter, uranium concentrates shall be considered to be finished metals. The owner of the metals or metalliferous minerals that are stockpiled shall report to the commission annually, in a form acceptable to the commission, the amount of metalliferous minerals so stockpiled. Metals or metalliferous minerals that are stockpiled for more than two years, however, are subject to the severance tax.

(3) An annual exemption from the payment of the tax imposed by this chapter upon the first $50,000 in gross value of the metalliferous mineral is allowed to each mine.

(4) These taxes are in addition to all other taxes provided by law and are delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year when the metalliferous mineral is produced and sold or delivered.

(5) (a) As used in this Subsection (5):

(i) "Great Salt Lake extraction operator" means a person who:

(A) is engaged in the business of mining or extracting metalliferous minerals from the brine of the Great Salt Lake; and

(B) enters into a mineral lease with the Division of Forestry, Fire, and State Lands on or after May 3, 2023, or as of July 1, 2020, had a mineral lease with the Division of Forestry, Fire, and State Lands, but not a royalty agreement for a metalliferous mineral, chloride compound, or salt.

(ii) "Metalliferous compound" means a metalliferous mineral or a chloride compound or salt containing a metalliferous mineral.

(b) Notwithstanding the exclusion for chloride compounds or salts from the definition of metalliferous minerals under Section 59-5-201, beginning with calendar year 2024, a Great Salt Lake extraction operator shall pay to the state a severance tax in accordance with this part for the mining of a metalliferous compound.

(c) This Subsection (5) may not be interpreted to:

(i) excuse a person from paying a severance tax in accordance with the other provisions of this part; or

(ii) void a mineral lease or royalty agreement.

(d) A person extracting metalliferous minerals, including a metalliferous compound, from the brine of the Great Salt Lake is subject to the payment of a royalty agreement under Section 65A-6-4 and the payment of a severance tax under this part.

Section 2. Section 65A-5-1 is amended to read:

65A-5-1. Sovereign Lands Management Account.

(1) There is created within the General Fund a restricted account known as the "Sovereign Lands Management Account."

(2) The Sovereign Lands Management Account shall consist of the following:

(a) the revenues derived from sovereign lands, except for revenues deposited into the Great Salt Lake Account under Section 65A-5-1.5;

(b) that portion of the revenues derived from mineral leases on other lands managed by the division necessary to recover management costs;

(c) fees deposited by the division; and

(d) amounts deposited into the account in accordance with Section 59-23-4.

(3) (a) The expenditures of the division relating directly to the management of sovereign lands shall be funded by appropriation by the Legislature from the Sovereign Lands Management Account or other sources.

(b) Money in the Sovereign Lands Management Account may be used only for the direct benefit of sovereign lands, including the management of sovereign lands.

(c) In appropriating money from the Sovereign Lands Management Account, the Legislature shall prefer appropriations that benefit the sovereign land from which the money is derived unless compelling circumstances require that money be appropriated for sovereign land other than the sovereign land from which the money is derived.

(4) The division shall use the amount deposited into the account under Subsection (2)(d) for the Great Salt Lake as described in Section [~~65A-10-8~~] 65A-10-203 as directed by the Great Salt Lake Advisory Council created in Section 73-30-201.

Section 3. Section 65A-5-1.5 is amended to read:

65A-5-1.5. Great Salt Lake Account.

(1) As used in this section:

(a) "Account" means the Great Salt Lake Account created in this section.

(b) "Mineral" includes a chemical compound that includes an element or mineral.

[~~(b)~~] (c) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a natural deposit of the mineral.

(2) (a) There is created within the General Fund a restricted account known as the "Great Salt Lake Account" consisting of:

(i) revenues deposited into the account under Subsection (3);

(ii) appropriations from the Legislature; and

(iii) interest and other earnings described in Subsection (2)(b).

(b) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.

(3) The division shall deposit into the account the royalty income received by the state from mining that occurs on or after July 1, 2022, of a mineral from the sovereign lands of the Great Salt Lake if during the fiscal year beginning July 1, 2020, the state did not receive royalty income from the mining of that same mineral from the sovereign lands of the Great Salt Lake.

(4) Upon appropriation by the Legislature, money in the account may be used to manage the water levels of the Great Salt Lake.

Section 4. Section 65A-6-2 is amended to read:

65A-6-2. Mineral leases -- Division to prescribe rules.

The division shall by rule prescribe:

(1) the term of the lease;

(2) the annual rental;

(3) subject to Section 65A-6-4, the amount of royalty in addition to or in lieu of rental; and

(4) the basis upon which the royalty shall be computed.

Section 5. Section 65A-6-4 is amended to read:

65A-6-4. Mineral leases -- Multiple leases on same land -- Rentals and royalties -- Lease terms -- Great Salt Lake.

(1) As used in this section:

(a) "Great Salt Lake element or mineral" means:

(i) a rare earth element;

(ii) a trace element or mineral; or

(iii) a chemical compound that includes a rare earth element or trace element or mineral.

(b) "Rare earth element" is one of the following ores, minerals, or elements located in the brines or the sovereign lands of the Great Salt Lake:

(i) lanthanum;

(ii) cerium;

(iii) praseodymium;

(iv) neodymium;

(v) samarium;

(vi) europium;

(vii) gadolinium;

(viii) terbium;

(ix) dysprosium;

(x) holmium;

(xi) erbium;

(xii) thulium;

(xiii) ytterbium;

(xiv) lutetium; and

(xv) yttrium.

(c) "Trace element or mineral" means an element or mineral that is located in the brines or the sovereign lands of the Great Salt Lake that is not in production by July 1, 2020, and for which the state has not received a royalty payment by July 1, 2020.

(2) (a) Mineral leases, including oil, gas, and hydrocarbon leases, may be issued for prospecting, exploring, developing, and producing minerals covering any portion of state lands or the reserved mineral interests of the state.

(b) (i) Leases may be issued for different types of minerals on the same land.

(ii) If leases are issued for different types of minerals on the same land, the leases shall include stipulations for simultaneous operations, except that for leases related to the Great Salt Lake the leases shall include stipulations for simultaneous operations that will not interfere with, impede, limit, or require changes to pre-existing rights.

(c) No more than one lease may be issued for the same resource on the same land.

(d) The division shall require a separate royalty agreement for extraction of minerals from brines of the Great Salt Lake when:

(i) a mineral lease, a royalty agreement, or both that are in effect before the operator seeks to extract a particular mineral or mineral compound do not expressly include the right to extract the particular mineral or mineral compound; or

(ii) the proposed operation will use brines from the Great Salt Lake, but will not occupy sovereign lands for the direct production of minerals other than for incidental structures such as pumps and intake and outflow pipelines.

[~~(2)~~] (3) (a) Each mineral lease issued by the division shall provide for an annual rental of not less than $1 per acre per year, except that a mineral lease issued by the division involving the extraction of mineral from brines in the Great Salt Lake shall provide for an annual rental of not less than $100 per acre per year.

(b) However, a lease may provide for a rental credit, minimum rental, or minimum royalty upon commencement of production, as prescribed by rule.

[~~(3)~~] (4) The primary term of a mineral lease may not exceed:

(a) 20 years for oil shale and tar sands; and

(b) 10 years for oil and gas and any other mineral.

(5) (a) Subject to the other provisions of this Subsection (5), for a mineral lease or royalty agreement involving the extraction of minerals from brines in the Great Salt Lake, the division shall ensure that the following terms are included:

(i) an extraction operation or extraction method shall adhere to commercially viable technologies that minimize water depletion;

(ii) an extraction operation or extraction method shall mitigate for the total amount of water depleted by providing water back into the Great Salt Lake that approximates the total volume of water depleted;

(iii) a provision authorizing the division to curtail or limit mineral production at any time the condition of the Great Salt Lake reaches the emergency trigger, as defined in Section 65A-10-201;

(iv) a provision authorizing the division to withdraw lands, operations, extraction methods, or technologies from mineral production or mineral operations; and

(v) a provision allowing the division to require an existing operator to use commercially viable, innovative technologies to minimize water depletions caused by the planned mineral extraction as a condition of continued operations.

(b) If as of May 3, 2023, an operator has a mineral lease but not a royalty agreement involving the extraction of minerals from brines in the Great Salt Lake, the extraction operation or extraction method shall mitigate the total water depleted as provided in Subsection (5)(a)(ii) only to the extent that the extraction operation or extraction method increases total depletions as compared to an estimated 10-year average of depletions as estimated by the Division of Water Resources' water budget model beginning on January 1, 2013, and ending on December 31, 2022.

(c) If under Subsection (5)(a)(v) the division requires an existing operator to use a commercially viable, innovative technology, the division may not require use of the technology to begin until after a reasonable period determined by the division not to exceed five years.

(6) (a) Upon nomination from a prospective operator, the division shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a royalty rate and calculation methodology for a Great Salt Lake element or mineral that:

(i) provides for a full and fair return to the state from the production of the Great Salt Lake element or mineral;

(ii) is consistent with market royalty rates applicable to the production of the Great Salt Lake element or mineral or of the production of oil and gas;

(iii) provides a base royalty rate;

(iv) provides a reduced royalty rate from the royalty rate under Subsection (6)(a)(iii) if the royalty agreement:

(A) relates to a non-evaporative method of producing the Great Salt Lake element or mineral; or

(B) provides an incentive to use commercially viable, innovative technology to minimize water depletion and evaporation as determined by the division; and

(v) provides for a royalty rate that is based on the highest market value prevailing at the time of the sale or disposal of the following:

(A) the Great Salt Lake element or mineral; or

(B) a product the lessee produces from the Great Salt Lake element or mineral.

(b) Before entering into a royalty agreement permitting the extraction of Great Salt Lake elements or minerals, the operator shall:

(i) demonstrate commercial viability;

(ii) certify before operation begins that the operator is not negatively impacting the biota or chemistry of the Great Salt Lake; and

(iii) obtain the approval of the division and the Department of Environmental Quality that the certification supports a finding that the operation will not negatively impact the biota or chemistry of the Great Salt Lake.

(c) A new mineral lease for a mineral in production in the Great Salt Lake as of May 3, 2023, is subject to new royalty rates due to emergent technologies.

(d) An operator who as of July 1, 2020, had a mineral lease with the division but not a royalty agreement and who is subject to a severance tax under Subsection 59-5-202(5) shall pay a royalty under this section in addition to the severance tax.

(7) An operator who extracts a Great Salt Lake element or mineral from tailings from the production of minerals from brines in the Great Salt Lake is subject to this section to the same extent as an operator producing a Great Salt Lake element or mineral from brines in the Great Salt Lake.

(8) The division shall annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee regarding the amount of money collected under this section from royalties provided for in Subsection (6).

(9) In the issuance of royalty agreements for the extraction of lithium from the Great Salt Lake, the division shall prioritize applicants that:

(a) do not use evaporative concentration of Great Salt Lake brines in any stage of the extractive process; and

(b) use commercially viable extractive processes.

[~~(4)~~] (10) [~~The~~] Except in relationship to mineral leases related to the Great Salt Lake, the division shall make rules regarding the continuation of a mineral lease after the primary term has expired, which shall provide that a mineral lease shall continue so long as:

(a) the mineral covered by the lease is being produced in paying quantities from:

(i) the leased premises;

(ii) lands pooled, communitized, or unitized with the leased premises; or

(iii) lands constituting an approved mining or drilling unit with respect to the leased premises; or

(b) (i) the lessee is engaged in diligent operations, exploration, research, or development which is reasonably calculated to advance development or production of the mineral covered by the lease from:

(A) the leased premises;

(B) lands pooled, communitized, or unitized with the leased premises; or

(C) lands constituting an approved mining or drilling unit with respect to the leased premises; and

(ii) the lessee pays a minimum royalty.

[~~(5)~~] (11) For the purposes of Subsection [~~(4)~~] (10), diligent operations with respect to oil, gas, and other hydrocarbon leases may include cessation of operations not in excess of 90 days in duration.

(12) (a) The division shall study and analyze each mineral lease and mineral royalty agreement issued on the Great Salt Lake and compare and evaluate whether the mineral leases and royalty agreements are representative of current market conditions. As part of this study, the division shall:

(i) make the following determinations for mineral leases:

(A) whether the entire surface area described within the mineral lease is being used; and

(B) whether the annual lease payments are representative of current market conditions; and

(ii) for royalty agreements, perform studies and comparative analyses to determine whether the state is receiving royalty rates consistent with current market conditions.

(b) By no later than the 2023 November interim meeting, the division shall report the division's findings of the study required by this Subsection (12) to the Natural Resources, Agriculture, and Environment Interim Committee.

Section 6. Section 65A-10-201 is enacted to read:

Part 2. Great Salt Lake Management

65A-10-201. Definitions.

As used in this part:

(1) "Adaptive management berm" means a berm installed in the UP causeway breach to manage salinity to protect the ecosystem of Gilbert Bay.

(2) "Emergency trigger" means that the salinity levels of the Gilbert Bay of the Great Salt Lake do not satisfy the ecological conditions required for healthy brine shrimp and brine fly reproduction.

(3) "Healthy physical and ecological condition" means that the Gilbert Bay of the Great Salt Lake has sustained salinity levels that satisfy the ecological conditions required for healthy brine shrimp and brine fly reproduction.

(4) "UP causeway breach" means a breach in the 21-mile Union Pacific Railroad causeway across the Great Salt Lake that separates the Great Salt Lake into Gunnison Bay and Gilbert Bay.

Section 7. Section 65A-10-202 is enacted to read:

65A-10-202. Legislative findings.

The Legislature finds that:

(1) under Section 65A-10-1 the division, as the manager of sovereign lands, has a duty to serve the public interest in managing the Great Salt Lake;

(2) the Great Salt Lake is a critical resource owned and managed by the state;

(3) the lake levels of the Great Salt Lake have reached historic lows, requiring action by the state to address significant risks and minimize dangers to protect the ecological integrity of the Great Salt Lake, the state's environment in general, and the welfare of the state's citizens; and

(4) the management of the Great Salt Lake under this part, especially if the emergency trigger is reached, is reasonable and necessary to serve important public purposes and no reasonable alternative meets the interests described in Subsection (3).

Section 8. Section 65A-10-203, which is renumbered from Section 65A-10-8 is renumbered and amended to read:

[~~65A-10-8~~]. 65A-10-203. Great Salt Lake -- Management responsibilities of the division.

The division has the following powers and duties:

(1) The division shall [~~prepare and maintain a comprehensive plan for the Great Salt Lake that recognizes the following policies~~] make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the management of the Great Salt Lake that recognize and balance the following public trust values and public interest benefits and policies:

[~~(a) develop strategies to deal with a fluctuating lake level;~~]

[~~(b) encourage development of the Great Salt Lake in a manner that will preserve the Great Salt Lake, encourage availability of brines to lake extraction industries, protect wildlife, and protect recreational facilities;~~]

[~~(c) maintain the Great Salt Lake's flood plain as a hazard zone;~~]

[~~(d)~~] (a) strategies to effectively and efficiently manage the Great Salt Lake based on the Great Salt Lake's fluctuating lake levels;

(b) development of the Great Salt Lake that balances, in a manner that promotes a healthy physical and ecological condition:

(i) migratory and shorebirds habitats;

(ii) wetlands;

(iii) brines, minerals, chemicals, and petro-chemicals;

(iv) brine shrimp;

(v) the protection of wildlife and wildlife habitat;

(vi) the protection of recreational access and facilities; and

(vii) search and rescue efforts;

(c) promote water quality management for the Great Salt Lake and the Great Salt Lake's tributary streams;

[~~(e) promote the development of lake brines, minerals, chemicals, and petro-chemicals to aid the state's economy;~~]

[~~(f) encourage the use of appropriate areas for extraction of brine, minerals, chemicals, and petro-chemicals;~~]

[~~(g) maintain the Great Salt Lake and the marshes as important to shorebirds, waterfowl, and other waterbird flyway system;~~]

[~~(h) encourage the development of an integrated industrial complex;~~]

[~~(i) promote and maintain recreation areas on and surrounding the Great Salt Lake;~~]

[~~(j) encourage safe boating use of the Great Salt Lake;~~]

[~~(k) maintain and protect state, federal, and private marshlands, rookeries, and wildlife refuges; and~~]

[~~(l)~~] (d) [~~provide~~] public access to the Great Salt Lake for recreation, hunting, and fishing[~~.~~];

(e) temperature moderation, a stable role in the water cycle, and dust mitigation;

(f) maintain the Great Salt Lake's flood plain as a hazard zone;

(g) maintain the Great Salt Lake and the marshes as important shorebirds, waterfowl, and other waterbird flyway system;

(h) promote and maintain recreation areas on and surrounding the Great Salt Lake; and

(i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife refuges.

(2) The division shall prepare and maintain a comprehensive management plan for the Great Salt Lake that is consistent with the public trust values and public interest benefits described in Subsection (1) and policies established by rule made under Subsection (1).

[~~(2)~~] (3) The division may employ personnel and purchase equipment and supplies that the Legislature authorizes through appropriations for the purposes of this chapter.

[~~(3)~~] (4) The division may initiate studies of the Great Salt Lake and the Great Salt Lake's related resources.

[~~(4)~~] (5) The division may publish scientific and technical information concerning the Great Salt Lake.

[~~(5)~~] (6) The division shall define the Great Salt Lake's flood plain.

[~~(6)~~] (7) The division may qualify for, accept, and administer grants, gifts, or other funds from the federal government and other sources, for carrying out any functions under this chapter.

[~~(7)~~] (8) The division shall determine the need for public works and utilities for the lake area.

[~~(8)~~] (9) The division may implement the comprehensive plan described in Subsection [~~(1)~~] (2) through state and local entities or agencies.

[~~(9)~~] (10) The division shall coordinate the activities of the various divisions within the Department of Natural Resources with respect to the Great Salt Lake.

[~~(10) The division may perform all other acts reasonably necessary to carry out the purposes and provisions of this chapter.~~]

(11) The division shall retain and encourage the continued activity of the Great Salt Lake technical team.

(12) The division shall administer Chapter 16, Great Salt Lake Watershed Enhancement Program.

(13) The division shall administer Section 65A-10-204 when the Great Salt Lake emergency trigger is reached.

(14) The division shall manage the adaptive management berm in the UP causeway breach to manage salinity to protect the ecosystem of Gilbert Bay. Unless salinity conditions in Gilbert Bay warrant raising the adaptive management berm, the policy of the state is to keep the UP causeway breach open so as to allow the exchange of water between Gilbert and Gunnison Bays.

(15) The division may perform acts other than those described in Subsections (1) through (14) that are reasonably necessary to carry out this chapter.

(16) This part may not be interpreted to override, supersede, or modify any water right within the state, or the role and authority of the state engineer.

Section 9. Section 65A-10-204 is enacted to read:

65A-10-204. Emergency management responsibilities of the division.

(1) When the Great Salt Lake reaches the emergency trigger, the division:

(a) may construct, operate, modify, and maintain the adaptive management berm;

(b) may construct, operate, modify, and maintain one or more additional berms, dikes, structures, or management systems consistent with the authority granted in this title;

(c) may enter into agreements as necessary to provide for all or a portion of a berm, dike, system, or structure;

(d) is exempt from Title 63G, Chapter 6a, Utah Procurement Code, when acting to manage the Great Salt Lake under this section;

(e) is not liable for a third-party claim resulting from the division's actions to manage the Great Salt Lake under this section;

(f) may decline to issue a new permit, authorization, or agreement and may curtail mineral production for leases that contain provisions contemplating curtailment or similar contractual remedies;

(g) may implement mineral lease withdrawal over one or more of the following:

(i) portions of the Great Salt Lake;

(ii) specific methods of extraction; or

(iii) specific minerals; and

(h) may require the implementation of one or more of the following:

(i) extraction methods that are non-depletive in nature;

(ii) mitigation to offset depletion; or

(iii) innovative extraction technologies.

(2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the procedures the division shall follow in taking an action described in Subsection (1).

Section 10. Section 65A-10-205 is enacted to read:

65A-10-205. Force majeure.

(1) For purposes of managing the Great Salt Lake, the division may treat the fact that the Great Salt Lake has reached the emergency trigger as a triggering event for the purposes of invoking a force majeure provision in a contract, mineral lease, or royalty agreement.

(2) In addition to the standard mechanisms whereby performance is excused by invocation of a

force majeure provision, the division shall include language in a contract, mineral lease, or royalty agreement whereby the division may curtail or prohibit mineral production that results in a net depletion of water.

(3) The division shall allow an operator to continue processing brines that have already been extracted from the Great Salt Lake that are residing in the operator's process, and selling products derived from brines that have already been extracted at the time the force majeure is invoked.

(4) The division shall include standard mechanisms to promptly waive force majeure once salinity conditions improve by declining below the emergency trigger threshold.

(5) If the division invokes a force majeure provision in a contract, mineral lease, or royalty agreement, the effected operator is relieved from performance of any contractual provision requiring production to hold the contract, mineral lease, or royalty agreement for a maximum of two years. If the conditions creating the emergency trigger persist beyond a two-year period, the division shall terminate the contract, mineral lease, or royalty agreement and require the operator to engage in new contractual agreements whereby the operator represents and warrants that future operations will not amount to a net depletion of water.

Section 11. Section 73-30-202 is amended to read:

73-30-202. Duties of the council.

(1) (a) The council shall advise the persons listed in Subsection (1)(b) on the sustainable use, protection, and development of the Great Salt Lake in terms of balancing:

(i) sustainable use;

(ii) environmental health; and

(iii) reasonable access for existing and future development.

(b) The council shall advise, as provided in Subsection (1)(a):

(i) the governor;

(ii) the Department of Natural Resources; and

(iii) the Department of Environmental Quality.

(2) The council shall assist the Division of Forestry, Fire, and State Lands in its responsibilities for the Great Salt Lake described in [~~Section 65A-10-8~~] Sections 65A-10-203 and 65A-10-204.

(3) The council:

(a) may recommend appointments to the Great Salt Lake technical team created by the Division of Forestry, Fire, and State Lands; and

(b) shall receive and utilize technical support from the Great Salt Lake technical team.

(4) The council shall assist the Department of Natural Resources, the Department of Environmental Quality, and their applicable boards in accomplishing their responsibilities for the Great Salt Lake.

(5) The council shall report annually to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee on the council's activities.

Section 12. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) The amendments to Section 59-5-202 take effect on January 1, 2024.

CHAPTER 209
H. B. 532
Passed March 2, 2023
Approved March 14, 2023
Effective July 1, 2023

BUILDING CODE REVISIONS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies construction and fire codes under Title 15A, State Construction and Fire Codes Act.

Highlighted Provisions:

This bill:

- adopts, with certain statewide amendments, the International Code Council's 2021 edition of the:
  - International Building Code, including Appendices C and J;
  - certain International Residential Code, including Appendices AE and AQ;
  - International Plumbing Code;
  - International Mechanical Code;
  - International Fuel Gas Code;
  - commercial provisions of the International Energy Conservation Code;
  - International Existing Building Code; and
  - International Swimming Pool and Spa Code; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

15A-1-204, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
15A-1-403, as last amended by Laws of Utah 2021, Chapter 199
15A-2-103, as last amended by Laws of Utah 2021, Chapter 199
15A-2-104, as last amended by Laws of Utah 2016, Chapter 249
15A-2-105, as enacted by Laws of Utah 2011, Chapter 14
15A-3-102, as last amended by Laws of Utah 2019, Chapter 20
15A-3-103, as last amended by Laws of Utah 2020, Chapters 243, 441
15A-3-104, as last amended by Laws of Utah 2019, Chapter 20
15A-3-105, as last amended by Laws of Utah 2019, Chapter 20
15A-3-107, as last amended by Laws of Utah 2019, Chapter 20
15A-3-108, as last amended by Laws of Utah 2016, Chapter 249
15A-3-112, as last amended by Laws of Utah 2020, Chapter 441
15A-3-202, as last amended by Laws of Utah 2022, Chapter 28
15A-3-203, as last amended by Laws of Utah 2022, Chapter 28
15A-3-204, as last amended by Laws of Utah 2021, Chapter 102
15A-3-205, as last amended by Laws of Utah 2022, Chapter 28
15A-3-206, as last amended by Laws of Utah 2022, Chapter 28
15A-3-302, as last amended by Laws of Utah 2019, Chapter 20
15A-3-303, as last amended by Laws of Utah 2019, Chapter 20
15A-3-304, as last amended by Laws of Utah 2020, Chapter 441
15A-3-306, as last amended by Laws of Utah 2022, Chapter 28
15A-3-309, as last amended by Laws of Utah 2013, Chapter 297
15A-3-310, as last amended by Laws of Utah 2019, Chapter 20
15A-3-313, as last amended by Laws of Utah 2020, Chapter 441
15A-3-315, as enacted by Laws of Utah 2016, Chapter 249
15A-3-402, as last amended by Laws of Utah 2022, Chapters 28, 415
15A-3-601, as last amended by Laws of Utah 2021, Chapter 199
15A-3-701, as last amended by Laws of Utah 2019, Chapter 20
15A-3-801, as last amended by Laws of Utah 2020, Chapter 441
15A-3-1001, as enacted by Laws of Utah 2020, Chapter 441

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

Section 1. Section 15A-1-204 is amended to read:

15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall prepare a report described in Subsection (4) in 2022 and, thereafter, for every second update of the nationally recognized construction code.

(4) (a) In accordance with Subsection (3), on or before September 1 of the year after the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the commission recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on the commission's own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health and Human Services or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

(12) (a) A remote yurt is exempt from the State Construction Code including the permit requirements of the State Construction Code.

(b) Notwithstanding Subsection (12)(a), a county may by ordinance require remote yurts to comply with the State Construction Code, if the ordinance requires the remote yurts to comply with all of the following:

(i) the State Construction Code;

(ii) notwithstanding Section 15A-5-104, the State Fire Code; and

(iii) notwithstanding Section 19-5-125, Title 19, Chapter 5, Water Quality Act, rules made under that chapter, and local health department's jurisdiction over onsite wastewater disposal.

Section 2. Section 15A-1-403 is amended to read:

15A-1-403. Adoption of State Fire Code.

(1) (a) The State Fire Code is:

(i) a code promulgated by a nationally recognized code authority that is adopted by the Legislature under this section with any modifications; and

(ii) a code to which cities, counties, fire protection districts, and the state shall adhere in safeguarding life and property from the hazards of fire and explosion.

(b) On and after July 1, 2010, the State Fire Code is the State Fire Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Fire Code is adopted; or

(ii) one or more provisions of the State Fire Code are amended or repealed in accordance with this section.

(c) A provision of the State Fire Code may be applicable:

(i) to the entire state; or

(ii) within a city, county, or fire protection district.

(2) (a) The Legislature shall adopt a State Fire Code by enacting legislation that adopts a nationally recognized fire code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Fire Code adopted by the Legislature is the State Fire Code until in accordance with this section the Legislature adopts a new State Fire Code by:

(i) adopting a new State Fire Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Fire Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized fire code, the board shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized fire code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the board shall:

(i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized fire code; and

(ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of an update of a nationally recognized fire code, the board shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the board recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The board shall, by no later than September 1 of each year in which the board is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Fire Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the board shall describe the costs and benefits of each proposed amendment or repeal.

(b) The board may recommend legislative action related to the State Fire Code:

(i) on its own initiative; or

(ii) upon the receipt of a request by a city, county, or fire protection district that the board recommend legislative action related to the State Fire Code.

(c) Within 45 days after the day on which the board receives a request under Subsection (5)(b), the board shall direct the division to convene an informal hearing concerning the request.

(d) The board shall conduct a hearing under this section in accordance with the rules of the board.

(e) The board shall decide whether to include the request in the report described in Subsection (5)(a).

(f) (i) Within 15 days after the day on which the board conducts a hearing, the board shall direct the division to notify the entity that made the request of the board's decision regarding the request.

(ii) The division shall provide the notice:

(A) in writing; and

(B) in a form prescribed by the board.

(g) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session that, if passed by the Legislature, would amend or repeal one or more provisions of the State Fire Code.

(6) (a) Notwithstanding the provisions of this section, the board may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend a State Fire Code if the board determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the board amends a State Fire Code in accordance with this Subsection (6), the board shall:

(i) publish the State Fire Code with the amendment; and

(ii) prepare and submit, in accordance with Section 68-3-14, written notice to the Business and Labor Interim Committee of the adoption, including a copy of an analysis by the board identifying specific reasons and justifications for its findings.

(c) If not formally adopted by the Legislature at the next annual general session, an amendment to a State Fire Code adopted under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) Except as provided in Subsection (7)(b), a legislative body of a political subdivision may enact an ordinance in the political subdivision's fire code that is more restrictive than the State Fire Code:

(i) in order to meet a public safety need of the political subdivision; and

(ii) subject to the requirements of Subsection (7)(c).

(b) Except as provided in Subsections (7)(c), (10), and (11), or as expressly provided in state law, a political subdivision may not, after December 1, 2016, enact or enforce a rule or ordinance that applies to a structure built in accordance with the International Residential Code, as adopted in the State Construction Code, that is more restrictive than the State Fire Code.

(c) (i) Except as provided in Subsection (7)(c)(ii), a political subdivision may adopt:

(A) the appendices of the International Fire Code; and

(B) a fire sprinkler ordinance in accordance with Section 15A-5-203.

(ii) If a political subdivision adopts International Fire Code Appendix B, the political subdivision may not require:

(A) a subdivision of structures built in accordance with the International Residential Code to have a fire flow rate that is greater than 2000 gallons per minute;

(B) an individual structure built in accordance with the International Residential Code to have a fire flow rate that is greater than 2000 gallons per minute; or

(C) a one- or two-family dwelling or a town home to have a fire sprinkler system, except in accordance with Section 15A-5-203.

(d) The board shall submit, in accordance with Section 68-3-14, to the Business and Labor Interim Committee each year with the recommendations submitted in accordance with Subsection (4), recommendations, if any, for legislative action related to an ordinance enacted under this Subsection (7).

(8) Except as provided in Subsections (9), (10), and (11), or as expressly provided in state law, a state executive branch entity may not, after December 1, 2016, adopt or enforce a rule or requirement that:

(a) is more restrictive than the State Fire Code; and

(b) applies to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures.

(9) A state government entity may adopt a rule or requirement regarding a residential occupancy that is regulated by:

(a) the State Fire Prevention Board; or

(b) the Department of Health and Human Services[~~; or~~]

[~~(c) the Department of Human Services~~].

(10) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(11) The Department of Health and Human Services or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

Section 3. Section 15A-2-103 is amended to read:

15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the [~~2018~~] 2021 edition of the International Building Code, including Appendices C and J, issued by the International Code Council;

(b) [~~the 2015~~] except as provided in Subsection (1)(c), the 2021 edition of the International

Residential Code, issued by the International Code Council;

(c) the residential provisions of Chapter 11, Energy Efficiency, of the 2015 edition of the International Residential Code, issued by the International Code Council;

[~~(c)~~] (d) Appendix [~~Q~~] AQ of the [~~2018~~] 2021 edition of the International Residential Code, issued by the International Code Council;

[~~(d)~~] (e) the [~~2018~~] 2021 edition of the International Plumbing Code, issued by the International Code Council;

[~~(e)~~] (f) the [~~2018~~] 2021 edition of the International Mechanical Code, issued by the International Code Council;

[~~(f)~~] (g) the [~~2018~~] 2021 edition of the International Fuel Gas Code, issued by the International Code Council;

[~~(g)~~] (h) the 2020 edition of the National Electrical Code, issued by the National Fire Protection Association;

[~~(h)~~] (i) the residential provisions of the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;

[~~(i)~~] (j) the commercial provisions of the [~~2018~~] 2021 edition of the International Energy Conservation Code, issued by the International Code Council;

[~~(j)~~] (k) the [~~2018~~] 2021 edition of the International Existing Building Code, issued by the International Code Council;

[~~(k)~~] (l) subject to Subsection 15A-2-104(2), the HUD Code;

[~~(l)~~] (m) subject to Subsection 15A-2-104(1), Appendix [~~E~~] AE of the [~~2015~~] 2021 edition of the International Residential Code, issued by the International Code Council;

[~~(m)~~] (n) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association;

[~~(n)~~] (o) subject to Subsection (3), for standards and guidelines pertaining to plaster on a historic property, as defined in Section 9-8-302, the U.S. Department of the Interior Secretary's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; and

[~~(o)~~] (p) the residential provisions of the [~~2018~~] 2021 edition of the International Swimming Pool and Spa Code, issued by the International Code Council.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, Fire, and State Lands, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

(3) The standards and guidelines described in Subsection [~~(1)(n)~~] (1)(o) apply only if:

(a) the owner of the historic property receives a government tax subsidy based on the property's status as a historic property;

(b) the historic property is wholly or partially funded by public money; or

(c) the historic property is owned by a government entity.

Section 4. Section 15A-2-104 is amended to read:

15A-2-104. Installation standards for manufactured housing.

(1) The following are the installation standards for manufactured housing for new installations or for existing manufactured or mobile homes that are subject to relocation, building alteration, remodeling, or rehabilitation in the state:

(a) The manufacturer's installation instruction for the model being installed is the primary standard.

(b) If the manufacturer's installation instruction for the model being installed is not available or is incomplete, the following standards apply:

(i) Appendix E of the [~~2015~~] 2021 edition of the IRC, as issued by the International Code Council for installations defined in Section AE101 of Appendix E; or

(ii) if an installation is beyond the scope of the [~~2015~~] 2021 edition of the IRC as defined in Section AE101 of Appendix E, the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association.

(c) A manufacturer, dealer, or homeowner is permitted to design for unusual installation of a manufactured home not provided for in the manufacturer's standard installation instruction, Appendix E of the [~~2015~~] 2021 edition of the IRC, or the 2005 edition of the NFPA 225, if the design is approved in writing by a professional engineer or architect licensed in Utah.

(d) For a mobile home built before June 15, 1976, the mobile home shall also comply with the additional installation and safety requirements specified in Chapter 3, Part 8, Statewide Amendments to International Existing Building Code.

(2) Pursuant to the HUD Code Section 604(d), a manufactured home may be installed in the state that does not meet the local snow load requirements as specified in Chapter 3, Part 2, Statewide Amendments to International Residential Code, except that the manufactured home shall have a protective structure built over the home that meets the IRC and the snow load requirements under

Chapter 3, Part 2, Statewide Amendments to International Residential Code.

Section 5. Section 15A-2-105 is amended to read:

15A-2-105. Scope of application.

(1) To the extent that a construction code adopted under Section 15A-2-103 establishes a local administrative function or establishes a method of appeal which pursuant to Section 15A-1-207 is designated to be established by the compliance agency:

(a) that provision of the construction code is not included in the State Construction Code; and

(b) a compliance agency may establish provisions to establish a local administrative function or a method of appeal.

(2) (a) To the extent that a construction code adopted under Subsection (1) establishes a provision, standard, or reference to another code that by state statute is designated to be established or administered by another state agency, or a local city, town, or county jurisdiction:

(i) that provision of the construction code is not included in the State Construction Code; and

(ii) the state agency or local government has authority over that provision of the construction code.

(b) Provisions excluded under this Subsection (2) include:

(i) the International Property Maintenance Code;

(ii) the International Private Sewage Disposal Code, authority over which is reserved to the Department of Health and Human Services and the Department of Environmental Quality;

(iii) the International Fire Code, authority over which is reserved to the board, pursuant to Section 15A-1-403;

(iv) a day care provision that is in conflict with Title 26, Chapter 39, Utah Child Care Licensing Act, authority over which is designated to the [~~Utah~~] Department of Health and Human Services; and

(v) a wildland urban interface provision that goes beyond the authority under Section 15A-1-204, for the State Construction Code, authority over which is designated to the Utah Division of Forestry, Fire, and State Lands or to a local compliance agency.

(3) If a construction code adopted under Subsection 15A-2-103(1) establishes a provision that exceeds the scope described in Chapter 1, Part 2, State Construction Code Administration Act, to the extent the scope is exceeded, the provision is not included in the State Construction Code.

Section 6. Section 15A-3-102 is amended to read:

15A-3-102. Amendments to Chapters 1 through 3 of IBC.

(1) IBC, Section 106, is deleted.

(2) In IBC, Section 110, a new section is added as follows: "[~~110.3.5.1~~] 110.3.13, Weather-resistant exterior wall envelope. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section 1404.2, and flashing as required by Section 1404.4 to prevent water from entering the weather-resistive barrier."

(3) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or is dangerous or unsafe, the building official is authorized to stop work."

(4) In IBC, Section 202, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the [~~Utah~~] Department of Health and Human Services where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code R432-13."

(5) In IBC, Section 202, the definition for "Approved" is modified by adding the words "or independent third-party licensed engineer or architect and submitted to the building official" after the word "official."

(6) In IBC, Section 202, the definition for "Approved Agency" is modified by deleting the words "where such agency has been approved by the building official."

(7) In IBC, Section 202, the definition for "Approved Fabricator" is modified by adding the words "or approved by the state of Utah or a licensed engineer" after the word "code."

(8) In IBC, Section 202, the definition for "Approved Source" is modified by adding the words "or licensed engineer" after the word "official."

[~~(5)~~] (9) In IBC, Section 202, the following definition is added for Assisted Living Facility, Residential Treatment and Support: "ASSISTED LIVING FACILITY, RESIDENTIAL TREATMENT AND SUPPORT. [~~See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility.~~"] A residential facility that provides a group living environment for four or more residents licensed by the Department of Health and Human Services and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

ASSISTED LIVING FACILITY, TYPE I. A residential facility licensed by the Department of Health and Human Services that provides a protected living arrangement, assistance with activities of daily living, and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person.

ASSISTED LIVING FACILITY, TYPE II. A residential facility licensed by the Department of Health and Human Services that provides an array of coordinated supportive personal and health care services to two or more residents who are:

(i) Physically disabled but able to direct his or her own care; or

(ii) Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person.

ASSISTED LIVING FACILITY, LIMITED CAPACITY. A Type I or Type II assisted living facility having two to five residents.

ASSISTED LIVING FACILITY, SMALL. A Type I or Type II assisted living facility having six to sixteen residents.

ASSISTED LIVING FACILITY, LARGE. A Type I or Type II assisted living facility having more than sixteen residents."

[~~(6)~~] (10) In IBC, Section 202, the following definition is added for [~~Foster Care Facilities is modified by deleting the word "Foster" and replacing it with the word "Child."~~] Child Care Facility: "CHILD CARE FACILITY. A facility where care and supervision is provided for four or more children for less than 24 hours a day and for direct or indirect compensation in place of care ordinarily provided in their home."

[~~(7)~~] (11) In IBC, Section 202, the definition for "[~~F~~] [A] Record Drawings" is modified by deleting the words "a fire alarm system" and replacing them with "any fire protection system."

[~~(8) In IBC, Section 202, the following definition is added for Residential Treatment/Support Assisted Living Facility: "RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides a group living environment for four or more residents licensed by the Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person."~~]

[~~(9) In IBC, Section 202, the following definition is added for Type I Assisted Living Facility: "TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories are:~~]

[~~Limited Capacity: two to five residents;~~]

[~~Small: six to sixteen residents; and~~]

[~~Large: over sixteen residents."~~]

[~~(10) In IBC, Section 202, the following definition is added for Type II Assisted Living Facility: "TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides an array of coordinated supportive personal and health care services to two or more residents who are:~~]

[~~A. Physically disabled but able to direct his or her own care; or~~]

[~~B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:~~]

[~~Limited Capacity: two to five residents;~~]

[~~Small: six to sixteen residents; and~~]

[~~Large: over sixteen residents."~~]

[~~(11) In IBC, Section 305.2, the following changes are made:~~]

[~~(a) delete the words "more than five children older than 2 1/2 years of age" and replace with the words "five or more children 2 years of age or older";~~]

[~~(b) after the word "supervision" insert the words "child care services"; and~~]

[~~(c) add the following sentence at the end of the paragraph: "See Section 429, Day Care, for special requirements for day care."~~]

[~~(12) In IBC, Section 305.2.2 and 305.2.3, the word "five" is deleted and replaced with the word "four" in all places.~~]

[~~(13) A new IBC Section 305.2.4 is added as follows: "305.2.4 Child day care -- residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Sections 310.3 and 310.4 comply with the International Residential Code in accordance with Section R101.2."~~]

[~~(14) A new IBC Section 305.2.5 is added as follows: "305.2.5 Child care centers. Each of the following areas may be classified as accessory occupancies, if the area complies with Section 508.2:~~]

[~~1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;~~]

[~~2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and~~]

[~~3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs."~~]

[~~(15)~~] (12) In IBC, Section 305, Sections 305.2 through 305.2.3 are deleted and replaced with the following:

"305.2 Group E, child care facilities. This group includes buildings and structures or portions

thereof occupied by four or more children 2 years of age or older who receive educational, supervision, child care services or personal care services for fewer than 24 hours per day. See Section 429 Day Care, for special requirements for day care.

305.2.1 Within places of religious worship. Rooms and spaces within places of religious worship providing such day care during religious functions shall be classified as part of the primary occupancy.

305.2.2 Four or fewer children. A facility having four or fewer children receiving such day care shall be classified as part of the primary occupancy.

305.2.3 Four or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having four or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

305.2.4 Child day care -- residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Sections 310.3 and 310.4 or shall comply with the International Residential Code in accordance with Section R101.2.

305.2.5 Child care centers. Each of the following areas may be classified as accessory occupancies, if the area complies with Section 508.2:

1. Hourly child care center, as described in Utah Administrative Code, R381-60 Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers;

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs; and

4. Commercial preschools, as described in Utah Administrative Code, R381-40, Commercial Preschool Programs."

(13) In IBC, Table 307.1(1), footnote "d" is added to the row for Explosives, Division 1.4G in the column titled STORAGE - Solid Pounds (cubic feet).

[~~(16)~~] (14) In IBC, Section 308.2, in the list of items under "This group shall include," the words "Type-I Large and Type-II Small, see Section 308.2.5" are added after "Assisted living facilities."

[~~(17)~~] (15) In IBC, Section 308.2.4, all of the words after the first International Residential Code are deleted.

[~~(18)~~] (16) A new IBC, Section 308.2.5 is added as follows:

["~~308.2.5 Group I-1 assisted living facility occupancy groups. The following occupancy groups shall apply to assisted living facilities:~~]

[~~Type I assisted living facilities with seventeen or more residents are Large Facilities classified as an Institutional Group I-1, Condition 1 occupancy.~~]

[~~Type II assisted living facilities with six to sixteen residents are Small Facilities classified as an Institutional Group I-1, Condition 2 occupancy. See Section 202 for definitions."~~]

"308.2.5 Assisted living facilities. A Type I, Large assisted living facility is classified as occupancy Group I-1, Condition 1. A Type II, Small assisted living facility is classified as occupancy Group I-1, Condition 2. See Section 202 for definitions."

[~~(19)~~] (17) [~~In~~] IBC, Section 308.3 is deleted and replaced with the following:

"308.3 Institutional Group I-2[~~, the following changes are made:~~]. Institutional Group I-2 occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than four persons who are incapable of self-preservation. This group shall include, but not be limited to the following:

Assisted living facilities, Type-II Large, see Section 308.3.3

Child care facilities

Foster care facilities

Detoxification facilities

Hospitals

Nursing homes (both intermediate care facilities and skilled nursing facilities)

Psychiatric hospitals"

[~~(a) The words "more than five" are deleted and replaced with "four or more";~~]

[~~(b) The group "Assisted living facilities, Type-II Large" is added to the list of groups;~~]

[~~(c) The words "Foster care facilities" are deleted and replaced with the words "Child care facilities";~~ ~~and~~]

[~~(d) The words "(both intermediate care facilities and skilled nursing facilities)" are added after "Nursing homes."~~]

[~~(20)~~] (18) In IBC, Section 308.3.2, the number "five" is deleted and replaced with the number "four" in each location.

[~~(21)~~] (19) A new IBC, Section 308.3.3 is added as follows:

"308.3.3 [~~Group I-2 assisted~~] Assisted living facilities. [~~Type II~~] A Type-II, Large assisted living [~~facilities with seventeen or more residents are Large Facilities~~] facility is classified as [~~an Institutional~~] occupancy Group I-2, Condition 1 [~~occupancy~~]. See Section 202 for definitions."

[~~(22)~~] (20) In IBC, Section 308.5, the words "more than five" are deleted and replaced with the words "five or more in each location."

[~~(23)~~] (21) [~~In~~] IBC, Section 308.5.1, [~~the following changes are made~~] is deleted and replaced with the following:

[~~(a) The words "more than five" are deleted and replaced with the words "five or more."~~]

[~~(b) The words "2-1/2 years or less of age" are deleted and replaced with "under the age of two."~~]

[~~(c) The following sentence is added at the end: "See Section 429 for special requirements for Day Care."~~]

"308.5.1 Classification as Group E. A child day care facility that provides care for five or more but not more than 100 children under two years of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as a Group E. See Section 429 for special requirements for Day Care."

[~~(24)~~] (22) In IBC, Sections 308.5.3 and 308.5.4, the words "five or fewer" are deleted and replaced with the words "four or fewer" in [~~both places~~] each location and the following sentence is added at the end: "See Section 429 for special requirements for Day Care."

[~~(25)~~] (23) [~~In~~] IBC, Section 310.4, [~~the following changes are made~~] is deleted and replaced with the following:

[~~(a) The words "and single family dwellings complying with the IRC" are added after "Residential Group-3 occupancies."~~]

[~~(b) The words "Assisted Living Facilities, limited capacity" are added to the list of occupancies.~~]

"310.4 Residential Group R-3. Residential Group R-3 occupancies and single family dwellings complying with the International Residential Code where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

Assisted Living Facilities, Type-I, limited capacity, see Section 310.5.3

Buildings that do not contain more than two dwellings

Care facilities, other than child care, that provide accommodations for five or fewer persons receiving care

Congregate living facilities (nontransient) with 16 or fewer occupants

Boarding houses (nontransient)

Convents

Dormitories

Fraternities and sororities

Monasteries

Congregate living facilities (transient) with 10 or fewer occupants

Boarding houses (transient)

Lodging houses (transient) with five or fewer guest rooms and 10 or fewer occupants"

[~~(26)~~] (24) [~~In~~] IBC, Section 310.4.1, [~~the following changes are made~~] is deleted and replaced with the following:

[~~(a) The words "other than Child Care" are inserted after the words "Care facilities" in the first sentence.~~]

[~~(b) All of the words after the first "International Residential Code" are deleted.~~]

[~~(c) The following sentence is added at the end of the last sentence: "See Section 429 for special requirements for Child Day Care."~~]

"310.4.1 Care facilities within a dwelling. Care facilities, other than child care, for five or fewer persons receiving care that are within a single family dwelling are permitted to comply with the International Residential Code. See Section 429 for special requirements for Child Day Care."

[~~(27)~~] (25) A new IBC Section 310.4.3 is added as follows: "310.4.3 Child Care. Areas used for child care purposes may be located in a residential dwelling unit under all of the following conditions and Section 429:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the [~~Utah~~] Department of Health and Human Services, as enacted under the authority of the Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator."

[~~(28)~~] (26) A new IBC, Section 310.4.4 is added as follows: "310.4.4 Assisted living facilities. Type I assisted living facilities with two to five residents are Limited Capacity facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the International Residential Code. See Section 202 for definitions."

[~~(29)~~] (27) In IBC, Section 310.5, the words "Type II Limited Capacity and Type I Small, see Section 310.5.3" are added after the words "assisted living facilities."

[~~(30)~~] (28) A new IBC, Section 310.5.3, is added as follows: "310.5.3 Group R-4 Assisted living facility occupancy groups. The following occupancy groups shall apply to Assisted Living Facilities: Type II Assisted Living Facilities with two to five residents are Limited Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy. Type I assisted living facilities with six to sixteen residents are Small Facilities classified as

Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

Section 7. Section 15A-3-103 is amended to read:

15A-3-103. Amendments to Chapters 4 through 6 of IBC.

(1) IBC Section 403.5.5 is deleted.

(2) In IBC, Section 404.5, Exception 2.3 is added as follows:

"2.3 The atrium does not contain any means of egress component above the two lowest stories."

[~~(2)~~] (3) In IBC, Section 407.2.5, the words "and assisted living facility" are added in the title and first sentence after the words "nursing home."

[~~(3)~~] (4) In IBC, Section 407.2.6, the words "and assisted living facility" are added in the title after the words "nursing home."

(5) In IBC, Section 407.3.1.1, Item 3 is deleted and replaced with the following:

"3. To provide makeup air for exhaust systems in accordance with Section 1020.6, Exception 1, doors to toilet rooms, bathrooms, shower rooms, sink closets, and similar auxiliary spaces that do not contain flammable or combustible materials are permitted to have louvers or an undercut of 2/3 inch (19.1 mm) maximum."

(6) In IBC, Section 407.4.1, Exception 3 is added as follows:

"3. Only one exit access with direct access to a corridor is required from an assisted living facility, single resident sleeping unit that consists of a living space and one or two separate sleeping rooms. For other than closets, toilet and shower rooms, occupants may not be required to pass through more than one room before reaching the exit access."

(7) In IBC, Section 407.4.3, the words "and assisted living facility" are added in the title and after the words "nursing home."

[~~(4)~~] (8) In IBC, Section 407.11, a new exception is added as follows: "Exception: An essential electrical system is not required in assisted living facilities."

[~~(5)~~] (9) In IBC, Section 412.3.1, a new exception is added as follows: "Exception: Aircraft hangars of Type I or II construction that are less than 5,000 square feet (464.5m2) in area."

[~~(6)~~] (10) A new IBC, Section 422.2.1 is added as follows: "422.2.1 Separations: Ambulatory care facilities licensed by the Department of Health and Human Services shall be separated from adjacent tenants with a fire partition having a minimum one hour fire-resistance rating. Any level below the level of exit discharge shall be separated from the level of exit discharge by a horizontal assembly having a minimum one hour fire-resistance rating.

Exception: A fire barrier is not required to separate the level of exit discharge when:

1. Such levels are under the control of the Ambulatory Care Facility.

2. Any hazardous spaces are separated by horizontal assembly having a minimum one hour fire-resistance rating."

[~~(7)~~] (11) A new IBC Section 429, Day Care, is added as follows:

"429.1 Detailed Requirements. In addition to the occupancy and construction requirements in this code, the additional provisions of this section shall apply to all Day Care in accordance with Utah Administrative Code R710-8 Day Care Rules.

429.2 Definitions.

429.2.1 Authority Having Jurisdiction (AHJ): State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority code official.

429.2.2 Day Care Facility: Any building or structure occupied by clients of any age who receive custodial care for less than 24 hours by individuals other than parents, guardians, relatives by blood, marriage or adoption.

429.2.3 Day Care Center: Providing care for five or more clients in a place other than the home of the person cared for. This would also include Child Care Centers, Out of School Time or Hourly Child Care Centers licensed by the Department of Health and Human Services.

429.2.4 Family Day Care: Providing care for clients listed in the following two groups:

429.2.4.1 Type 1: Services provided for five to eight clients in a home. This would also include a home that is certified by the Department of Health and Human Services as Residential Certificate Child Care or licensed as Family Child Care.

429.2.4.2 Type 2: Services provided for nine to sixteen clients in a home with sufficient staffing. This would also include a home that is licensed by the Department of Health and Human Services as Family Child Care.

429.2.5 R710-8: Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

429.3 Family Day Care.

429.3.1 Family Day Care units shall have on each floor occupied by clients, two separate means of egress, arranged so that if one is blocked the other will be available.

429.3.2 Family Day Care units that are located in the basement or on the second story shall be provided with two means of egress, one of which shall discharge directly to the outside.

429.3.2.1 Residential Certificate Child Care and Licensed Family Child Care with five to eight clients in a home, located on the ground level or in a basement, may use an emergency escape or rescue window as allowed in IFC, Chapter 10, Section 1030.

429.3.3 Family Day Care units shall not be located above the second story.

429.3.4 In Family Day Care units, clients under the age of two shall not be located above or below the first story.

429.3.4.1 Clients under the age of two may be housed above or below the first story where there is at least one exit that leads directly to the outside and complies with IFC, Section 1011 or Section 1012 or Section 1027.

429.3.5 Family Day Care units located in split entry/split level type homes in which stairs to the lower level and upper level are equal or nearly equal, may have clients housed on both levels when approved by the AHJ.

429.3.6 Family Day Care units shall have a portable fire extinguisher on each level occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be serviced in accordance with NFPA, Standard 10, Standard for Portable Fire Extinguishers.

429.3.7 Family Day Care units shall have single station smoke detectors in good operating condition on each level occupied by clients. Battery operated smoke detectors shall be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure continued operation of the smoke detectors.

429.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap, shall have at least one window or door approved for emergency escape.

429.3.9 Fire drills shall be conducted in Family Day Care units quarterly and shall include the complete evacuation from the building of all clients and staff. At least annually, in Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape or rescue window, if one is used as a substitute for one of the required means of egress.

429.4 Day Care Centers.

429.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements of the IBC, whichever is applicable for the type of Day Care Center.

429.4.2 Emergency Evacuation Drills shall be completed as required in IFC, Chapter 4, Section 405.

429.4.3 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

429.4.3.1 Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

429.4.4 Egress. All Group E child day care spaces with an occupant load of more than 10 shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1030.

429.4.5 All Group E Child Day Care Centers shall comply with Utah Administrative Code, R430-100 Child Care Centers, R430-60 Hourly Child Care Centers, and R430-70 Out of School Time.

429.5 Requirements for all Day Care.

429.5.1 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

429.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure."

[~~(8)~~] (12) In IBC, Section 504.4, a new section is added as follows: "504.4.1 Group I-2 Assisted Living Facilities. Notwithstanding the allowable number of stories permitted by Table 504.4 Group I-2 Assisted Living Facilities of type VA, construction shall be allowed on each level of a two-story building when all of the following apply:

1. The total combined area of both stories does not exceed the total allowable area for a one-story, above grade plane building equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.

2. All other provisions that apply in Section 407 have been provided."

[~~(9)~~] (13) A new IBC, Section 504.5, is added as follows: "504.5 Group 1-2 Secured areas in Assisted Living Facilities. In Type IIIB, IV, and V construction, all areas for the use and care of residents required to be secured shall be located on the level of exit discharge with door operations in compliance with Section [~~1010.1.9.7, as amended~~] 1010.2.14."

Section 8. Section 15A-3-104 is amended to read:

15A-3-104. Amendments to Chapters 7 through 9 of IBC.

(1) In IBC, Section 703.5, the words "with signs or stenciling" are deleted.

[~~(1) In IBC, Section 704.13.2, the following sentence is added to the end of the section: "An individual spraying fire-resistant materials may obtain a certificate that demonstrates that the individual has undergone training on how to spray fire-resistant materials to manufacturer's specifications."~~]

(2) IBC, Section (F) 902.1, is deleted and replaced with the following: "(F) 902.1 Pump and riser room size. Fire pump rooms and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working [~~space~~] room around the stationary equipment. Clearances around equipment to elements of permanent construction, including other installed equipment and appliances, shall be [~~in accordance with manufacturer requirements~~] sufficient to allow inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required

fire-resistance-rated assembly and not less than the following minimum elements:

[~~902.1.5~~] 902.1.1 A minimum clear and unobstructed distance of 12-inches shall be provided from the installed equipment to the elements of permanent construction.

[~~902.1.6~~] 902.1.2 A minimum clear and unobstructed distance of 12-inches shall be provided between all other installed equipment and appliances.

[~~902.1.7~~] 902.1.3 A clear and unobstructed width of 36-inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly."

[~~902.1.8 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36-inches, and openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 34-inches and a clear height of the door opening shall not be less than 80-inches.~~]

[~~902.1.9 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72-inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68-inches and a clear height of the door opening shall not be less than 80-inches."~~]

(3) In IBC, Section 902, new sections are added as follows:

"(F) 902.2 Fire pump room. Fire pumps and controllers shall be provided with ready access. Fire pump rooms shall be provided with doors and an unobstructed passageway large enough to allow for the removal of the largest piece of equipment. The passageway shall have a clear width not less than 72 inches. Openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the fire pump room and the opening providing a clear width of not less than 68 inches and a clear height of the door opening shall not be less than 80 inches. The door shall be permitted to be locked provided that the key is available at all times and located in a Key Box in accordance with Section 506 of the International Fire Code.

(F) 902.3 Automatic sprinkler riser room. Automatic sprinkler system risers shall be provided with ready access. Automatic sprinkler system riser rooms shall be provided with doors and an unobstructed passageway large enough to allow for the removal of the largest piece of equipment. The passageway shall have a clear width not less than 36 inches. Openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the riser room and the opening providing a clear width of not less than 32 inches and a clear height of the door opening shall not be less than 80 inches. The door shall be permitted to be locked provided that the key is available at all times and located in a Key Box in accordance with Section 506 of the International Fire Code.

(F) 902.4 Marking on access doors. Access doors for automatic sprinkler system riser rooms and fire pump rooms shall be labeled with an approved sign. The lettering shall be in contrasting color to the background. Letters shall have a minimum height of 2 inches (51 mm) with a minimum stroke of 3/8 inch (10 mm).

(F) 902.5 Environment. Automatic sprinkler system riser rooms and fire pump rooms shall be maintained at a temperature of not less than 40 degrees Fahrenheit (4 degrees Celsius). Heating units shall be permanently installed.

(F) 902.6 Lighting. Permanently installed artificial illumination shall be provided in the automatic sprinkler system riser rooms and fire pump rooms."

[~~(3)~~] (4) [~~In~~] IBC, Section (F)903.2.2, [~~the words "the entire floor" are~~] is deleted and replaced with[~~"a building" and the last paragraph is deleted.~~] the following:

"(F) 903.2.2 Ambulatory care facilities. An automatic sprinkler system shall be installed throughout the building containing an ambulatory care facility where either of the following conditions exist at any time.

1. Four or more care recipients are incapable of self-preservation.

2. One or more care recipients that are incapable of self-preservation are located at other than the level of exit discharge serving such a facility."

[~~(4)~~] (5) IBC, Section (F)903.2.4, condition 2, is deleted and replaced with the following: "2. A Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access."

[~~(5)~~] (6) IBC, Section (F)903.2.7, condition 2, is deleted and replaced with the following: "2. A Group M fire area is located more than three stories above the lowest level of fire department vehicle access."

[~~(6)~~] (7) [~~IBC, Sections (F)903.2.8, (F)903.2.8.1, and (F)903.2.8.2, are deleted and replaced with the following: "(F)903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.~~] In IBC, Section (F)903.2.8, the following exceptions are added:

"Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code For One- and Two-Family Dwellings.

2. Single story Group R-1 occupancies with fire areas not more than 2,000 square feet that contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction.[~~"~~]

3. Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided all residents are housed on a level of exit discharge and the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system."

[~~(7) IBC, Section (F)903.2.8.3 is renumbered to (F)903.2.8.1 and the following exception is added:~~]

[~~"Exception: Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system."~~]

[~~(8) IBC, Section (F)903.2.8.4, is deleted.~~]

[~~(9)~~] (8) IBC, Section (F) 903.2.8.1 is deleted.

(9) IBC, Section (F)903.2.9, condition 2, is deleted and replaced with the following: "2. A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access."

[~~(10) IBC, Section (F)904.12, is deleted and replaced with the following: "(F)904.12 Commercial cooking systems. The automatic fire-extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL 300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions.~~]

[~~Exception: Factory-built commercial cooking recirculating systems that are tested in accordance with UL 710B and listed, labeled, and installed in accordance with Section 304.1 of the International Mechanical Code.~~"]

[~~(11) IBC, Sections (F)904.12.3, (F)904.12.3.1, (F)904.12.4, and (F)904.12.4.1, are deleted.~~]

[~~(12)~~] (10) In IBC, Section 905, a new subsection, Section (F)905.3.9, is added as follows:

"Open Parking Garages. Open parking garages shall be equipped with an approved Class 1 manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured from the approved fire department vehicle access. Class 1 manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection."

[~~(13)~~] (11) In IBC, Section (F)905.8, the exception is deleted and replaced with the following:

"Exception: Where subject to freezing and approved by the fire code official."

[~~(14)~~] (12) In IBC, Section (F)907.2.3 Group E is deleted and rewritten as follows: "A manual fire alarm system that initiates the occupant notification signal using an emergency voice/alarm communication system that meets the requirements of Section (F) 907.5.2.2, or a manual fire alarm system that initiates an approved audible and visual occupant notification signal that meets the requirements of Sections (F)907.5.2.1, (F)907.5.2.1.1, [~~(F)907.5.2.2~~] (F)907.5.2.1.2, and (F)907.5.2.3, and is installed in accordance with Section (F)907.6 shall be installed in Group E occupancies. Where automatic fire sprinkler systems or smoke detectors are installed, the fire sprinkler systems [~~or~~] and smoke detectors shall be connected to the building fire alarm system."

[~~(15) IBC, Sections (F)915 through (F)915.6, are deleted and replaced with the following:~~]

[~~"(F)915 Where required.~~]

[~~Group I-1, I-2, I-4, and R occupancies located in a building containing a fuel-burning appliance or in a building that has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 or UL 2075 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. An open parking garage, as defined in Chapter 2, or an enclosed parking garage, ventilated in accordance with Section 404 of the International Mechanical Code, shall not be considered an attached garage. A minimum of one carbon monoxide alarm shall be installed on each habitable level.~~]

[~~(F) 915.1 Interconnection.~~]

[~~Where more than one carbon monoxide alarm is required to be installed within Group I-1, I-2, I-4, or R occupancies, the carbon monoxide alarm shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.~~]

[~~(F) 915.2 Power source.~~]

[~~In new construction, required carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Carbon monoxide alarms with integral strobes that are not equipped with a battery backup shall be connected to an emergency electrical system. Carbon monoxide alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.~~]

[~~Exceptions.~~]

[1. Carbon monoxide alarms are not required to be equipped with a battery backup where they are connected to an emergency electrical system.]

[2. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available that could provide access for hard wiring without the removal of interior finishes.]

[(F) 915.3 Group E.]

[A carbon monoxide detection system shall be installed in new buildings that contain Group E occupancies in accordance with IFC, Chapter 9, Section 915. A carbon monoxide detection system shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 11, Section 1103.9.]

[(F) 915.3.1 Where required.]

[In Group E occupancies, a carbon monoxide detection system shall be provided where a fuel–burning appliance, a fuel–burning fireplace, or a fuel–burning forced air furnace is present.]

[(F) 915.3.2 Detection equipment.]

[Each carbon monoxide detection system shall be installed in accordance with NFPA 720 and the manufacturer's instructions and be listed as complying with, for single station detectors, UL 2034 and, for system detectors, UL 2075.]

[(F) 915.3.3 Locations.]

[Each carbon monoxide detection system shall be installed in the locations specified in NFPA 720.]

[(F) 915.3.4 Combination detectors.]

[A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed in accordance with UL 2075 and UL 268.]

[(F) 915.3.5 Power source.]

[Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source. If primary power is interrupted, each carbon monoxide detection system shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than that required for overcurrent protection.]

[(F) 915.3.6 Maintenance.]

[Each carbon monoxide detection system shall be maintained in accordance with NFPA 720. A carbon monoxide detection system that becomes inoperable or begins to produce end of life signals shall be replaced."]

(13) In IBC, Section (F) 907.2.3 Group E, Exception 2 is deleted and the remaining exceptions are renumbered.

(14) In IBC, Section (F) 907.2.3 Group E, renumbered Exception 3.2 is deleted and replaced with the following: "Exception 3.2 The fire alarm system will activate on fire sprinkler waterflow."

(15) In IBC, Section (F) 907.2.3 Group E, new sections (F) 907.2.3.1 through (F) 907.2.3.7 are added as follows:

"(F) 907.2.3.1 Automatic detection devices that detect smoke shall be installed throughout all corridors and spaces open to the corridor at the maximum prescribed spacing of thirty feet on center and no more than fifteen feet from the walls or smoke detectors shall be installed as required in NFPA, Standard 72, Section 17.7.

(F) 907.2.3.2 Where structures are not protected or are partially protected with an automatic fire sprinkler system, approved automatic smoke detectors shall be installed in accordance with the complete coverage requirements of NFPA, Standard 72.

(F) 907.2.3.3 An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses.

(F) 907.2.3.4 The main panel shall be located in a normally attended area such as the main office or lobby. Location of the main panel other than as stated above, shall require the review and authorization of the State Fire Marshal Division. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both visual and audible indication of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.

(F) 907.2.3.5 All system wiring shall be as follows:

(A) The initiating device circuits shall be designated and installed Class A as defined in NFPA, Standard 72.

(B) The notification appliance circuits shall be designated and installed Class A as defined in NFPA, Standard 72.

(C) Signaling line circuits shall be designated and installed Class A loop as defined in NFPA, Standard 72.

(F) 907.2.3.6 Fan Shutdown shall be as follows:

(A) Fan shut down shall be as required in the International Mechanical Code, Chapter 6, Section 606.

(B) Duct detectors required by the International Mechanical Code, shall be interconnected and compatible with the fire alarm system."

(16) IBC, Section (F) 915.2.3 Group E occupancies is deleted and replaced with the following:

"(F) 915.2.3 Group E occupancies. Carbon monoxide detectors shall be installed in the following areas within Group E occupancies:

(1) Boiler rooms, furnace rooms, and similar rooms, or in adjacent areas where carbon monoxide is likely to spread. (The installation of carbon monoxide detectors in boiler rooms and furnace rooms may cause a false alarm problem. Installing these detectors in adjacent spaces where the carbon monoxide is likely to spread from these spaces may be a better option.)

(2) Home economics rooms with gas appliances.

(3) School kitchens with gas appliances. (Commercial kitchens).

(4) Arts rooms and other areas with a gas kiln or open flame.

(5) Gas roof top units, and other carbon monoxide producing HVAC units, one per zone. (The zone shall be the area covered by the HVAC unit.)

(6) In areas with gas wall units.

(7) In areas with a gas water heater or boiler.

(8) Areas with a forge or foundry.

(9) Metal shop or auto shop areas or in adjacent areas where carbon monoxide is likely to spread. (The installation of carbon monoxide detectors in metal shop or auto shop areas may cause a false alarm problem. Installing these detectors in adjacent spaces, i.e. class rooms or corridors, where the carbon monoxide is likely to spread from these spaces may be a better option.)

(10) Labs with open flame.

(11) HVAC units drawing outside air that could be contaminated with carbon monoxide.

(12) Other areas with an open flame or fuel fired appliance.

(F) 915.2.3.1 Carbon monoxide alarm signals shall be automatically transmitted to an onsite location that is staffed by school personnel.

Exception: Carbon monoxide alarm signals shall not be required to be automatically transmitted to an onsite location that is staffed by school personnel in Group E occupancies with an occupant load of 30 or less."

(17) A new IBC, Section (F) 915.7 is added as follows:

"(F) 915.7 Carbon monoxide systems in Group E occupancies. Carbon monoxide systems may be part of a fire alarm system or standalone system.

(F) 915.7.1 Power and wiring.

(F) 915.7.1.1 Power. Carbon monoxide detection systems shall require a primary and secondary power source.

(F) 915.7.1.2 Wiring. Class "A" wiring is required when the carbon monoxide system is part of, or connected to, a fire alarm system. Standalone carbon monoxide detection systems may use Class "B" wiring. All wiring shall be Class "A" or "B."

(F) 915.7.2 Equipment shut down. Equipment and appliances that are producing carbon monoxide shall shut down automatically in the zone involved upon carbon monoxide system activation.

(F) 915.7.3 Notification.

(F) 915.7.3.1 Local alarm. Each occupied space shall sound an audible alarm when detecting carbon monoxide at a level in excess of 70 ppm for one hour.

(F) 915.7.3.2 General alarm. A blue strobe, visual alarm, is required in a normally occupied location, similar to the administrative offices, when carbon monoxide is detected in the facility in excess of 70 ppm for one hour.

(F) 915.7.3.2.1 The general alarm shall require a manual reset following an alarm activation.

(F) 915.7.3.3 Digital notification. Portable carbon monoxide detectors, with digital read out indicating parts per million of carbon monoxide, in a space to determine the level of hazard in a given space.

(F) 915.7.4 Monitoring. System monitoring is not required. If the system is monitored, the signal should be a supervisory signal indicating carbon monoxide.

(F) 915.7.5 Inspection.

(F) 915.7.5.1 The carbon monoxide detection system shall be tested in the presence of a Deputy or Special Deputy of the State Fire Marshal Division. The Deputy shall require "spot testing" of the system and its components.

(F) 915.7.5.2 Before requesting final inspection and approval, the installing contractor shall test each component of the system and issue a statement of compliance, in writing, to the State Fire Marshal Division that the carbon monoxide detection system has been installed in accordance with approved plans and has been tested in accordance with the manufacturer's specifications, and the appropriate installation standard.

(F) 915.7.5.3 Systems shall be tagged with the State approved tag for fire alarm systems, upon final approval and shall be inspected and tagged annually by an individual certified as a Master Fire Alarm Technician, by the State Fire Marshal Division.

(F) 915.7.6 Evacuation. The affected area within Group E occupancies shall be evacuated when carbon monoxide is detected at a level in excess of 70 ppm for one hour in that area."

Section 9. Section 15A-3-105 is amended to read:

15A-3-105. Amendments to Chapters 10 through 12 of IBC.

[~~(1) In IBC, Section 1010.1.9, an exception is added as follows: "Exception: Group E occupancies~~

~~for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5."~~]

[~~(2) In IBC, Section 1010.1.9.2, "Exception:" is deleted and replaced with "Exceptions: 1."~~]

[~~(3) In IBC, Section 1010.1.9.2, a new exception 2 is added as follows: "2. Group E occupancies for purposes of a lockdown or a lockdown drill may have one lock below 34 inches in accordance with Section 1010.1.9.5 Exception 5."~~]

[~~(4) In IBC, Section 1010.1.9.4, a new number 7 is added as follows: "7. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5."~~]

[~~(5) In IBC, Section 1010.1.9.5, a new exception 6 is added as follows: "6. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5."~~]

[~~(6) In IBC, Section 1010.1.9.6, a new exception 5 is added as follows: "5. Group E occupancies may have a second lock on classrooms for purposes of a lockdown or lockdown drill, if:~~]

[~~5.1 The application of the lock is approved by the code official.~~]

[~~5.2 The unlatching of any door or leaf does not require more than two operations.~~]

[~~5.3 The lock can be released from the opposite side of the door on which it is installed.~~]

[~~5.4 The lock is only applied during lockdown or during a lockdown drill.~~]

[~~5.5 The lock complies with all other state and federal regulations, including the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq."~~]

[~~(7) In IBC, Section 1010.1.9.7, a new number 9 is added as follows: "9. The secure area or unit with special egress locks shall be located at the level of exit discharge in Type IIIB, IV, and V construction."~~]

[~~(8)~~] (1) In IBC, Section 1011.5.2, exception 3 is deleted and replaced with the following: "3. In Group R–3 occupancies, within dwelling units in Group R–2 occupancies, and in Group U occupancies that are accessory to a Group R–3 occupancy, or accessory to individual dwelling units in Group R–2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm)."

[~~(9)~~] (2) In IBC, Section 1011.11, a new exception [~~5~~] 6 is added as follows: "[~~5~~] 6. In occupancies in Group R–3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R–3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers."

[~~(10) In IBC, Section 1013.5, the words ", including when the building may not be fully occupied" are added at the end of the sentence.~~]

[~~(11)~~] (3) IBC, Section 1025, is deleted.

[~~(12) In IBC, Section 1029.15, exception 2 is deleted.~~]

[~~(13) In IBC, Section 1207.4, subparagraph 1 is deleted and replaced with the following: "1. The unit shall have a living room of not less than 165 square feet (15.3 m2) of floor area. An additional 100 square feet (9.3 m2) of floor area shall be provided for each occupant of such unit in excess of two."~~]

Section 10. Section 15A-3-107 is amended to read:

15A-3-107. Amendments to Chapter 16 of IBC.

(1) In IBC, Table 1604.5, Risk Category III, in the sentence that begins "Group I–2 Condition 1," a new footnote c is added as follows: "c. Type II Assisted Living Facilities that are I–2 Condition 1 occupancy classifications in accordance with Section 308 shall be Risk Category II in this table."

(2) In IBC, Section 1605.1, Exception 2 is deleted and replaced with the following:

"2. Where the allowable stress design load combinations of ASCE 7 Section 2.4 are used, flat roof snow loads of 30 pounds per square foot (1.44kN/m2) or less and roof live loads of 30 pounds per square foot (1.44kN/m2) or less need not be combined with seismic loads. Where flat roof snow loads exceed 30 pounds per square foot (1.44kN/m2), the snow loads may be reduced in accordance with the following in load combinations including both snow and seismic loads. S as calculated below, shall be combined with seismic loads.

S = (0.20 + 0.025 (A–5))Proof, where S shall be greater than or equal to 0.20Proof.

Where:

S = Weight of snow to be used in combination with seismic loads.

A = Elevation above sea level at the location of the structure (ft/1,000)

Proof = Design roof snow loads, Pf or Ps, psf

For the purpose of this section, snow load shall be assumed uniform on the horizontal projection without including the effects of drift or sliding. The Importance Factor, I, used in calculating Pf may be considered 1.0."

(3) In IBC, Section 1605.1 a new exception 4 is added as follows:

"4. ASCE 7–16 Section 2.3.6 Equation 6 shall be modified to 1.2D + Ev + Eh + L +f2S and 1.2D + Ev + Emh + L +f2S with f2 = (0.20 +0.025(A–5)) where the roof snow load exceeds 30 pounds per square foot (1.44kN/m2). Where A = Elevation above sea level at the location of the structure (ft/1000). f2 = 0 for roof snow loads of 30 pounds per square foot (1.44kN/m2) or less."

[~~(2) In IBC, Section 1605.2, in the portion of the definition for the value of f2, the words "and 0.2 for other roof configurations" are deleted and replaced with the following: "f2 = 0.20 + .025(A–5) for other configurations where roof snow load exceeds 30 psf;~~]

[~~f2 = 0 for roof snow loads of 30 psf (1.44kN/m2) or less.~~]

[~~Where A = Elevation above sea level at the location of the structure (ft./1,000).~~"]

[~~(3) In IBC, Sections 1605.3.1 and 1605.3.2, exception 2 in each section is deleted and replaced with the following: "2. Flat roof snow loads of 30 pounds per square foot (1.44 kNm2) or less need not be combined with seismic loads. Where flat roof snow loads exceed 30 pounds per square foot (1.44 kNm2), the snow loads may be reduced in accordance with the following in load combinations including both snow and seismic loads. S as calculated below, shall be combined with seismic loads.~~]

[~~S = (0.20 + 0.025(A–5))Pf is greater than or equal to 0.20 Pf.~~]

[~~Where:~~]

[~~S = Weight of snow to be used in combination with seismic loads~~]

[~~A = Elevation above sea level at the location of the structure (ft./1,000)~~]

[~~Pf = Design roof snow load, psf.~~]

[~~For the purpose of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding. The Importance Factor, I, used in calculating Pf may be considered 1.0 for use in the formula for Ws".~~]

(4) IBC, Section 1608.1, is deleted and replaced with the following: "1608.1 General. Except as modified in Sections 1608.1.1[~~,~~] and 1608.1.2[~~, and 1608.1.3~~], design snow loads shall be determined in accordance with Chapter 7 of ASCE 7, but the design roof load shall not be less than that determined by Section 1607. Where the minimum live load, in accordance with Section 1607, is greater than the design roof snow load[~~, pf~~], the live load shall be used for design, but it may not be reduced to a load lower than the design roof snow load. Drifting need not be considered for design roof snow loads[~~, pf~~], less than 20 psf."

(5) A new IBC, Section 1608.1.1, is added as follows: "1608.1.1 Ice dams and icicles along eaves. Section 7.4.5 of Chapter 7 of ASCE 7 referenced in IBC Section 1608.1 is deleted and replaced with the following: 7.4.5 Ice Dams and Icicles Along Eaves. Where ground snow loads exceed 75 psf, eaves shall be capable of sustaining a uniformly distributed load of 2pf on all overhanging portions. No other loads except dead loads shall be present on the roof when this uniformly distributed load is applied. All building exits under down–slope eaves shall be protected from sliding snow and ice."

[~~(6) A new IBC, Section 1608.1.2, is added as follows: "1608.1.2 Thermal factor. The value for the thermal factor, Ct, used in calculation of pf shall be determined from Table 7.3–2 in ASCE 7. Exception: Except for unheated structures, the value of Ct need not exceed 1.0 when ground snow load, pg, is calculated using Section 1608.2.1."~~]

[~~(7)~~] (6) A new [~~IBC, Section 1608.1.3~~] IBC, Section 1608.1.2 is added as follows:[~~"1608.1.3~~] "1608.1.2 Drifts on adjacent structures. Section 7.7.2 of ASCE 7 referenced in IBC, Section 1608.1, is deleted and replaced with the following: 7.7.2 Adjacent structures. At lower adjacent structures, the requirements of Section 7.7.1 shall be used to calculate windward and leeward drifts. The resulting drift is permitted to be truncated."

[~~(8)~~] (7) A new IBC, Section 1608.2.1 is added as follows: "1608.2.1 Utah ground snow loads. Section 7.2 of ASCE 7 referenced in IBC, Section 1608.1 is modified as follows:

(a) In paragraph 1, 7.2–8 is deleted and replaced with 7.2–9.

(b) On Figure 7.2–1, remove CS and other ground snow load values in the state of Utah. Add red shaded region for the state of Utah with the following note: See note for Utah.

(c) The following is added to the Note on Figure 7.2.1: See Table 7.2–9 for Utah.

(d) Add Table [~~7–2.9~~] 7.2–9 as follows:

TABLE 7.2–9
GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb.ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft^2 to kN/m^2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utah-snowload.usu.edu/, for ground snow load values."

[~~(9)~~] (8) A new IBC, Section 1613.1.1, is added as follows: "1613.1.1 Effective Seismic Weight. In ASCE 12.7.2 and 12.14.8.1 as referenced in Section 1613.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Where flat roof snow load, Pf, exceeds 30 psf (1.44kN/m2), the snow load included in the effective seismic weight shall be calculated, in accordance with the following equation: Ws = (0.20 + 0.025(A–5))Pf >= 0.20 Pf.

WHERE:

Ws = Weight of snow to be included as effective seismic weight

A = Elevation above sea level at the location of the structure (ft./1,000)

Pf = Design flat roof snow load, psf.

For the purposes of this section, snow load shall be assumed uniform on the [~~roof footprint~~] horizontal projection without including the effects of drift or sliding. The Importance Factor, Is, used in calculating Pf may be considered 1.0 for use in the formula for Ws."

Section 11. Section 15A-3-108 is amended to read:

15A-3-108. Amendments to Chapters 17 through 19 of IBC.

(1) A new IBC, Section 1807.1.6.4, is added as follows: "1807.1.6.4 Empirical concrete foundation design. Group R, Division 3 Occupancies three stories or less in height, and Group U Occupancies, which are constructed in accordance with Section 2308, or with other methods employing repetitive wood–frame construction or repetitive cold–formed steel structural member construction, shall be permitted to have concrete foundations constructed in accordance with Table 1807.1.6.4."

(2) A new IBC, Table 1807.1.6.4 is added as follows:

"TABLE 1807.1.6.4
EMPIRICAL FOUNDATION WALLS (1,7,8)

Max. Height	Top Edge Support	Min. Thickness	Vertical Steel (2)	Horizontal Steel (3)	Steel at Openings (4)	Max. Lintel Length	Min. Lintel Length
2'(610 mm)	None	6"	(5)	2-#4 Bars	2- #4 Bars above 1- #4 Bar each side 1- #4 Bar below	2'(610 mm)	2"for each foot of opening width; min. 6"
3'(914 mm)	None	6"	#4@32"	3-#4 Bars	2-#4 Bars above 1- #4 Bar each side 1- #4 Bar below	2'(610 mm)	2"for each foot of opening width; min. 6"
4'(1,219 mm)	None	6"	#4@32"	4-#4 Bars	2- #4 Bars above 1- #4 Bar each side 1- #4 Bar below	3'(914 mm)	2"for each foot of opening width; min. 6"
6'(1,829 mm)	Floor or roof Diaphragm (6)	8"	#4@24"	5-#4 Bars	2- #4 Bars above 1- #4 Bar each side 1- #4 Bar below	6'(1,829 mm)	2"for each foot of opening width; min. 6"
8'(2,438 mm)	Floor or roof Diaphragm (6)	8"	#4@24"	6-#4 Bars	2- #4 Bars above 1- #4 Bar each side 1- #4 Bar below	6'(1,829 mm)	2"for each foot of opening width; min. 6"
9'(2,743 mm)	Floor or roof Diaphragm (6)	8"	#4@16"	7-#4 Bars	2- #4 Bars above 1- #4 Bar each side 1- #4 Bar below	6'(1,829 mm)	2"for each foot of opening width; min. 6"

Over 9'(2,743 mm), Engineering required for each column

Footnotes:

(1) Based on 3,000 psi (20.6 Mpa) concrete and 60,000 psi (414 Mpa) reinforcing steel.

(2) To be placed in the center of the wall, and extended from the footing to within three inches (76 mm) of the top of the wall; dowels of #4 bars to match vertical steel placement shall be provided in the footing, extending 24 inches (610 mm) into the foundation wall.

(3) One bar shall be located in the top four inches (102 mm), one bar in the bottom four inches (102 mm) and the other bars equally spaced between. Such bar placement satisfies the requirements of Section 1805.9. Corner reinforcing shall be provided so as to lap 24 inches (610 mm).

(4) Bars shall be placed within two inches (51 mm) of the openings and extend 24 inches (610 mm) beyond the edge of the opening; vertical bars may terminate three inches (76 mm) from the top of the concrete.

(5) Dowels of #4 bar at 32 inches on center shall be provided in the footing, extending 18 inches (457 mm) into the foundation wall.

(6) Diaphragm shall conform to the requirements of Section 2308.

(7) Footing shall be a minimum of nine inches thick by 20 inches wide.

(8) Soil backfill shall be soil classification types GW, GP, SW, or SP, per Table 1610.1. Soil shall not be submerged or saturated in groundwater."

(3) A new IBC, Section 1905.1.9, is added as follows: "1905.1.9 ACI 318, [~~Table 4.2.1~~] Section 19.3.1.1." Modify ACI 318, Table 19.3.1.1 to read as follows: In the portion of the table designated as["~~Conditions~~] "Conditions", the following Exposure category and class is deleted and replaced with the following:

"F0: Concrete elements not exposed to freezing and thawing cycles [~~to include~~] including footing [~~and foundation~~] elements, such as footings, tie beams, piles, and pile caps, etc., that are completely buried in soil."

Section 12. Section 15A-3-112 is amended to read:

15A-3-112. Amendments to Chapters 29 through 31 of IBC.

(1) In IBC [P] Table 2902.1 the following changes are made:

(a) In the row for "E" occupancy in the field for "OTHER" a new footnote i is added.

(b) In the row for "I-4" occupancy in the field for "OTHER" a new footnote i is added.

(c) A new footnote [~~h~~] g is added as follows: "FOOTNOTE: g. When provided, subject to footnote i, in public toilet facilities there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms."

(d) A new footnote h is added to the table as follows: "FOOTNOTE h: Non-residential child care facilities shall comply with additional sink requirements of Utah Administrative Code, R381-60-9, Hourly Child Care Centers, R381-70-9, Out of School Time Child Care Programs, and R381-100-9, Child Care Centers."

(e) A new footnote i is added to the table as follows: "FOOTNOTE i: A building owned by a state government entity or by a political subdivision of the state that allows access to the public shall provide diaper changing facilities in accordance with footnote [~~h~~] g if:

1. the building is newly constructed; or

2. a bathroom in the building is renovated."

(f) Footnote f is deleted and replaced with the following: "FOOTNOTE f: The required number and type of plumbing fixtures for outdoor public swimming pools shall be in accordance with Utah Administrative Code, R392-302, Design, Construction and Operation of Public Pools."

(2) In IBC, Section [P] 2902.1.1, Exception 2 is deleted and replaced with the following:

"2. Where multiple-user facilities are designed to serve all genders the following shall apply:

2.1 The maximum fixture count to serve all genders shall be calculated at 50 percent of the total occupant load. The maximum fixture count for the multiple-user all gender facility shall be calculated at 50 percent female and 50 percent male.

2.2 The remaining 50 percent of the required restroom fixtures shall be provided as required by Table 2902.1 in separate toilet facilities."

(3) In IBC, Section [P] 2902.2, Exception 6 is deleted and replaced with the following:

"6. Separate facilities shall not be required as prescribed in Section 2902.1.1 Exception 2. Rooms having both water closets and lavatory fixtures designed for use by all genders and privacy for water closets shall be installed in accordance with Section 405.3.4 of the International Plumbing Code and Section 2903.1.4 of this code. Urinals in multiple-user all gender toilet facilities shall be located in an area visually separated from the remainder of the facility or each urinal that is provided shall be located in a stall and installed in accordance with Section 405.3.5 of the International Plumbing Code and Section 2903.1.5 of this code."

[~~(2)~~] (4) A new IBC, Section [P]2902[~~.7~~].8, is added as follows:

"[P]2902[~~.7~~].8 Toilet Facilities for Workers.

Toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition. Construction worker toilet facilities of the nonsewer type shall conform to ANSI Z4.3-2016."

(5) In IBC, Section [P] 2903.1.4, the following sentence is added after the first sentence: "For restroom facilities designed to serve all genders, the partitions of the stalls shall extend from the floor to the ceiling."

(6) In IBC, Section [P] 2903.1.5, the following sentence is added at the end of the paragraph: "For facilities designed for use by all genders in the same room, urinals shall be located in a separate room or in stalls with partitions that extend from the floor to the ceiling."

[~~(3)~~] (7) IBC, Section 3001.2, is deleted.

[~~(4)~~] (8) In [~~IBC, Section 3006.5~~] IBC, Section 3005.5, a new exception is added as follows: "Exception: Hydraulic elevators and roped hydraulic elevators with a rise of 50 feet or less."

[~~(5)~~] (9) In IBC, Section 3109.1, the words "the International Swimming Pool and Spa Code" at the end of the section are deleted and replaced with the words "Utah Administrative Code, R392-302, Design, Construction and Operation of Public Pools."

Section 13. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R101.2, Exception, the words "where provided with an automatic sprinkler system complying with Section P2904" are deleted.

(2) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than

required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

(3) IRC, Section R105.2, number 10, is deleted and replaced with the following: "10. Decks that are not more than 30 inches (762 mm) above grade at any point and not requiring guardrails, that do not serve the exit door required by Section R311.4."

[~~(2)~~] (4) In IRC, Section R108.3, the following sentence is added at the end of the section: "The building official shall not request proprietary information."

[~~(3) In IRC, Section 109: (a) A new~~]

(5) IRC, Section 109.1.5, is [~~added as follows~~] deleted and replaced with the following: "R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section [~~R703.8~~] R703.4 to prevent water from entering the weather-resistive barrier."

[~~(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.~~]

[~~(4) IRC, Section R114.1, is deleted and replaced with the following: "R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume."~~]

[~~(5)~~] (6) In IRC, Section R202, the following definition is added: "ACCESSORY DWELLING UNIT: A habitable living unit created within the existing footprint of a primary owner-occupied single-family dwelling."

(7) In IRC, Section R202, the definition for "Approved" is modified by adding the words "or independent third-party licensed engineer or architect and submitted to the building official" after the word "official."

(8) In IRC, Section R202, the definition for "Approved Agency" is modified by replacing the word "and" with "or."

(9) In IRC, Section 202, the definition for "Approved Source" is modified by adding the words "or licensed engineer or architect" after the word "official."

[~~(6)~~] (10) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

[~~(7)~~] (11) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

(12) In IRC, Section 202, the following definition is added: "DUAL SOURCE CONNECTION. A pipe that is installed so that either the nonpotable (i.e. secondary) irrigation water or the potable water is connected to a pressurized irrigation system at one time, but not both at the same time; or a pipe that is installed so that either the potable water or private well water is connected to a residence at one time, but not both at the same time. The potable water supply line shall be protected by a reduced pressure backflow preventer."

[~~(8)~~] (13) In IRC, Section 202, the following definition is added: "ENERGY STORAGE SYSTEM (ESS). One or more devices, assembled together, that are capable of storing energy for supplying electrical energy at a future time."

[~~(9)~~] (14) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility."

[~~(10)~~] (15) In IRC, Section R202, the definition of "Potable Water" is deleted and replaced with the following: "POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

[~~(11)~~] (16) IRC, Figure R301.2[~~(5),~~] (3), is deleted and replaced with R301.2[~~(5)~~] (3) as follows:

"TABLE NO. R301.2{(5)} (3)
GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb.ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft^2 to kN/m^2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utah-snowload.usu.edu/, for ground snow load values."

[~~(12)~~] (17) IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

[~~(13)~~] (18) In IRC, Section R302.2, the following sentence is added [~~after the second sentence~~] at the end of the paragraph: "When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

[~~(14)~~] (19) In IRC, Section R302.3, a new exception 3 is added as follows: "3. Accessory dwelling units separated by walls or floor assemblies protected by not less than 1/2-inch (12.7 mm) gypsum board or equivalent on each side of the wall or bottom of the floor assembly are exempt from the requirements of this section."

[~~(15)~~] (20) In IRC, Section R302.5.1, the [~~words "self-closing device" are deleted and replaced with "self-latching hardware."~~] last sentence is deleted.

[~~(16)~~] (21) IRC, Section R302.13, is deleted.

[~~(17)~~] (22) In IRC, Section R303.4, the [~~number "5" is changed to "3" in the first sentence~~] following exception is added: "Exception: Dwelling units tested in accordance with Section N1102.4.1.2 (R402.4.1.2) which has an air tightness of 3.0 ACH (50) or greater do not require mechanical ventilation."

[~~(18)~~] (23) In IRC, Section [~~R310.6~~] R310.7, in the exception, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(19)~~] (24) IRC, Sections [~~R311.7.4~~] R311.7.45 through R311.7.5.3, are deleted and replaced with the following:[~~"R311.7.4~~] "R311.7.45.1 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 [~~Profile~~] Nosing. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less."

[~~(20)~~] (25) IRC, Section R312.2, is deleted.

[~~(21)~~] (26) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."

[~~(22)~~] (27) In IRC, Section R314.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(23)~~] (28) In IRC, Section R315.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(24)~~] (29) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and."

[~~(25) In IRC, Section R315.5, a new exception, 3, is added as follows:~~]

[~~"3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes."~~]

[~~(26) A new IRC, Section R315.7, is added as follows: "R315.7 Interconnection. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed~~

~~wireless alarms are installed and all alarms sound upon activation of one alarm.~~]

[~~Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.~~"]

[~~(27) In IRC, Section R317.1.5, the period is deleted and the following language is added to the end of the paragraph: "or treated with a moisture resistant coating."~~]

[~~(28) In IRC, Section 326.1, the words "residential provisions of the" are added after the words "pools and spas shall comply with".~~]

[~~(29)~~] (30) A new IRC, Section [~~327~~] R328.12, [~~Stationary Storage Battery Systems,~~] is added as follows:

[~~"327.1 General. Energy storage systems (ESS) shall comply with the provisions of this section.~~]

[~~Exceptions:~~]

[~~1. ESS listed and labeled in accordance with UL 9540 and marked "For use in residential dwelling units", where installed in accordance with the manufacturer's instruction and NFPA 70.~~]

[~~2. ESS less than 1kWh (3.6 megajoules).~~]

[~~327.2 Equipment listings. ESS shall be listed and labeled in accordance with UL 9540.~~]

[~~Exception: Where approved, repurposed unlisted battery systems from electric vehicle are allowed to be installed outdoors or in detached sheds located not less than 5 feet (1524 mm) from exterior walls, property lines and public ways.~~]

[~~327.3 Installation. ESS shall be installed in accordance with the manufacturer's instructions and their listing.~~]

[~~327.3.1 Spacing. Individual units shall be separate from each other by not less than three feet (914 mm) except where smaller separation distances are documented to be adequate based on large-scale fire testing complying with Section 1206.2.3 of the adopted International Fire Code.~~]

[~~327.4 Locations. ESS shall be installed only in the following locations:~~]

[~~1. Detached garages and detached accessory structures.~~]

[~~2. Attached garages separated from the dwelling unit living space in accordance with Section R302.6.~~]

[~~3. Outdoors or on the exterior side of exterior walls located not less than 3 feet (914 mm) from doors and windows directly entering the dwelling unit.~~]

[~~4. Enclosed utility closets, basements, storage or utility spaces within dwelling units with finished or noncombustible walls and ceilings. Walls and ceilings of unfinished wood-framed construction shall be provided with not less than 5/8-inch (15.9 mm) Type X gypsum wallboard.~~]

[~~ESS shall not be installed in sleeping rooms, or closets or spaces opening directly into sleeping rooms.~~]

[~~327.5 Energy ratings. Individual ESS units shall have a maximum rating of 20 kWh. The aggregate rating of the ESS shall not exceed:~~]

[~~1. 40 kWh within utility closets, basements, and storage or utility spaces.~~]

[~~2. 80 kWh in attached or detached garages and detached accessory structures.~~]

[~~3. 80 kWh on exterior walls.~~]

[~~4. 80 kWh outdoors on the ground.~~]

[~~ESS installations exceeding the permitted individual or aggregate ratings shall be installed in accordance with Sections 1206.2.1 through 1206.2.12 of the adopted International Fire Code.~~]

[~~327.6 Electrical installation. ESS shall be installed in accordance with NFPA 70. Inverters shall be listed and labeled in accordance with UL 1741 or provided as part of the UL 9540 listing. Systems connected to the utility grid shall use inverters listed for utility interaction.~~]

[~~327.7 Fire detection. Rooms and areas within dwelling units, basements, and attached garages in which ESS are installed shall be protected by smoke alarms in accordance with Section R314. A heat detector, listed and interconnected to the smoke alarms, shall be installed in locations within dwelling units and attached garages where smoke alarms cannot be installed based on their listing.~~]

[~~327.8 Protection from impact. ESS installed in a location subject to vehicle damage shall be protected by approved barriers.~~]

[~~327.9 Ventilation. Indoor installations of ESS that include batteries that produce hydrogen or other flammable gasses during charging shall be provided with mechanical ventilation in accordance with Section M1307.4.~~]

[~~327.10 Electric vehicle use. The temporary use of an owner or occupant's electric-powered vehicle to power a dwelling unit while parked in an attached or detached garage or outdoors shall comply with the vehicle manufacturer's instructions and NFPA 70.~~]

[~~327.11~~] "R328.12 Signage. A sign located on the exterior of the dwelling shall be installed at a location approved by the authority having jurisdiction which identifies the battery chemistry included in the ESS. This sign shall be of sufficient durability to withstand the environment involved and shall not be handwritten."

(31) In IRC, Section 403.1.3.5.3, an exception is added as follows: "Exception: Vertical steel in footings shall be permitted to be located while concrete is still plastic and before it has set. Where vertical steel resists placement or the consolidation

of concrete around steel is impeded, the concrete shall be vibrated to ensure full contact between the vertical steel and concrete."

[~~(30)~~] (32) In IRC, Section R403.1.6, a new Exception 3 is added as follows: "3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(31)~~] (33) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(32)~~] (34) In IRC, Section R404.1, a new exception is added as follows: "Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

[~~(33)~~] (35) In IRC, Section R405.1, a [~~new~~] second exception is added as follows: "Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The [~~geological~~] geotechnical report shall make a recommendation regarding a drainage system."

(36) In IRC, Section R506.2.3, the words "10-mil (0.010 inch; 0.25 mm)" are deleted and replaced with "6-mil (0.006 inch; 0.152 mm)" and the words "conforming to ASTM E1745 Class A requirements" are deleted.

Section 14. Section 15A-3-203 is amended to read:

15A-3-203. Amendments to Chapters 6 through 15 of IRC.

(1) IRC, Section 609.4.1, is deleted.

(2) In IRC, Section N1101.5 (R103.2), all words after the words "herein governed." are deleted and replaced with the following: "Construction documents include all documentation required to be submitted in order to issue a building permit."

[~~(2)~~] (3) In IRC, Section N1101.12 (R303.3), all wording after the first sentence is deleted.

[~~(3)~~] (4) In IRC, Section N1101.13 (R401.2), add Exception as follows:

"2. Exception: A project complies if the project demonstrates compliance, using the software RESCheck 2012 Utah Energy Conservation Code, of:

(a) on or after January 1, 2017, and before January 1, 2019, "3 percent better than code";

(b) on or after January 1, 2019, and before January 1, 2021, "4 percent better than code"; and

(c) after January 1, 2021, "5 percent better than code.""

[~~(4)~~] (5) In IRC, Table N1102.2 (R402.1.2), in the column titled MASS WALL R-VALUE, a new footnote j is added as follows:

"j. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has a .31 U-factor or lower, minimum heating equipment efficiency is 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met."

[~~(5)~~] (6) In IRC, Sections N1102.2.1 (R402.2.1), a new Section N1102.2.1.1 is added as follows:

"N1102.2.1.1. Unvented attic and unvented enclosed rafter assemblies. Unvented attic and unvented enclosed rafter assemblies conforming to Section R806.5 shall be provided with an R-value of R-22 (maximum U-Factor of 0.045) in Climate Zone 3-B or an R-value of R-26 (maximum U-factor of 0.038) in Climate Zones 5-B and 6-B provided all the following conditions are met:

1. The unvented attic assembly complies with the requirements of the International Residential Code, R806.5.

2. The house shall attain a blower door test result <2.5ACH 50.

3. The house shall require a whole house mechanical ventilation system that does not rely solely on a negative pressure strategy (must be positive, balanced or hybrid).

4. Where insulation is installed below the roof deck and the exposed portion of roof rafters are not already covered by the R-20 depth of the air-impermeable insulation, the exposed portion of the roof rafters shall be wrapped (covered) by minimum R-3 unless directly covered by drywall/finished ceiling. Roof rafters are not required to be covered by minimum R-3 if a continuous insulation is installed above the roof deck.

5. Indoor heating, cooling and ventilation equipment (including ductwork) shall be inside the building thermal envelope."

(7) In IRC, Section N1102.4.1 (R402.4.1), in the first sentence, the word "and" is deleted and replaced with the word "or."

[~~(6)~~] (8) In IRC, Section N1102.4.1.1 (R402.4.1.1), the last sentence is deleted and replaced with the following: "Where allowed by the code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections."

[~~(7)~~] (9) In IRC, Section N1102.4.1.2 (R402.4.1.2), the following changes are made:

(a) In the first sentence:

(i) "The building or dwelling unit" is deleted and replaced with "A single-family dwelling";

(ii) after January 1, 2019, replace the word "five" with "3.5"; and

(iii) the words "in Climate Zones 1 and 2, and three air changes per hour in Climate Zones 3 through 8" are deleted.

(b) The following sentence is inserted after the first sentence: "A multi-family dwelling and townhouse shall be tested and verified as having an air leakage rate of not exceeding five air changes per hour."

(c) In the third sentence, the word "third" is deleted.

(d) The following sentence is inserted after the third sentence: "The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training."

[~~(8)~~] (10) In IRC, Section N1103.3.3 (R403.3.3)[~~:~~], the exception for duct air leakage testing is deleted and replaced with the following:

[~~(a) the exception for duct air leakage testing is deleted; and~~]

[~~(b) the exception for duct air leakage is replaced:~~]

[~~(i)~~] (a) on or after January 1, 2017, and before January 1, 2019, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 65% of all ducts (measured by length) located entirely within the building thermal envelope.";

[~~(ii)~~] (b) on or after January 1, 2019, and before January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 75% of all ducts (measured by length) located entirely within the building thermal envelope."; and

[~~(iii)~~] (c) on or after January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 80% of all ducts (measured by length) located entirely within the building thermal envelope."

[~~(9)~~] (11) In IRC, Section N1103.3.3 (R403.3.3), the following is added after the second exception: "The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed either training provided by Duct Test equipment manufacturers or other comparable training."

[~~(10)~~] (12) In IRC, Section N1103.3.4 (R403.3.4):

(a) in Subsection 1, the number 4 is changed to 8, the number 113.3 is changed to 170, the number 3 is changed to 6, the number 85 is changed to 114.6; and

(b) in Subsection 2:

(i) on or after January 1, 2017, and before January 1, 2019, the number 4 is changed to 8 and the number 113.3 is changed to 226.5;

(ii) on or after January 1, 2019, and before January 1, 2021, the number 4 is changed to 7 and the number 113.3 is changed to 198.2; and

(iii) on or after January 1, 2021, the number 4 is changed to 6 and the number 113.3 is changed to 169.9.

[~~(11)~~] (13) In IRC, Section N1103.3.5 (R403.3.5), the words "or plenums" are deleted.

[~~(12)~~] (14) In IRC, Section N1103.5.3 (R403.5.3), Subsection 5 is deleted and Subsections 6 and 7 are renumbered.

[~~(13)~~] (15) IRC, Section N1103.6.1 (R403.6.1), is deleted and replaced with the following: "N1103.6.1 (R403.6.1) Whole-house mechanical ventilation system fan efficacy. Fans used to provide whole-house mechanical ventilation shall meet the efficacy requirements of Table N1103.6.1 (R403.6.1).

Exception: Where an air handler that is integral to tested and listed HVAC equipment is used to provide whole-house mechanical ventilation, the air handler shall be powered by an electronically commutated motor."

[~~(14)~~] (16) In IRC, Section N1103.6.1 (R403.6.1), the table is deleted and replaced with the following:

"TABLE N1103.6.1 (R403.6.1)

MECHANICAL VENTILATION SYSTEM FAN EFFICACY

FAN LOCATION	AIR FLOW RATE MINIMUM (CFM)	MINIMUM EFFICACY (CFM/WATT)	AIR FLOW RATE MAXIMUM (CFM)
HRV or ERV	Any	1.2 cfm/watt	Any
Range Hoods	Any	2.8 cfm/watt	Any
In-line fan	Any	2.8 cfm/watt	Any
Bathroom, utility room	10	1.4 cfm/watt	<90
Bathroom, utility room	90	2.8 cfm/watt	Any"

[~~(15)~~] (17) In IRC, Section N1106.4 (R406.4), the table is deleted and replaced with the following:

"TABLE N1106.4 (R406.4)

MAXIMUM ENERGY RATING INDEX

CLIMATE ZONE	ENERGY RATING INDEX
3	65
5	69
6	68"

[~~(16)~~] (18) In IRC, Section N1103.7 the word "approved" is deleted in the first sentence and the following is added after the word methodologies ", complying with N1103.7.1".

[~~(17)~~] (19) A new IRC, Section N1103.7.1 is added as follows: "N1103.7.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC [~~load calculation~~] training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

[~~(18)~~] (20) In IRC, Section M1307.2, the words "In Seismic Design Categories D0, D1, and D2, and in townhouses in Seismic Design Category C", are deleted, and in Subparagraph 1, the last sentence is deleted.

[~~(19)~~] (21) In IRC, Section M1401.3 the word "approved" is deleted in the first sentence and the following is added after the word methodologies ", complying with M1401.3.1".

[~~(20)~~] (22) A new IRC, Section M1401.3.1, is added as follows: "M1401.3.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC [~~load calculation~~] training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

[~~(21)~~] (23) In IRC, Section M1402.1, the following is added at the end of the second sentence: "or UL/CSA 60335-2-40."

[~~(22)~~] (24) In IRC, Section M1403.1, the characters "/ANCE" are deleted.

[~~(23)~~] (25) IRC, Section [~~M1411.8~~] M1411.9, is deleted.

[~~(24)~~] (26) In IRC, Section M1412.1, the characters "/ANCE" are deleted.

[~~(25)~~] (27) In IRC, Section M1413.1, the characters "/ANCE" are deleted.

Section 15. Section 15A-3-204 is amended to read:

15A-3-204. Amendments to Chapters 16 through 25 of IRC.

(1) In IRC, Section M1602.2, a new exception is added at the end of Item [~~6~~] 8 as follows: "Exception: The discharge of return air from an accessory dwelling unit into another dwelling unit, or into an accessory dwelling unit from another dwelling unit, is not prohibited."

(2) A new IRC, Section G2401.2, is added as follows: "G2401.2 Meter Protection. Fuel gas services shall be in an approved location and/or provided with structures designed to protect the fuel gas meter and surrounding piping from physical damage, including falling, moving, or migrating ice and snow. If an added structure is used, it must provide access for service and comply with the IBC or the IRC."

(3) IRC, Section P2503.2, is deleted and replaced with the following: "P2503.2 Testing. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protections, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The Utah Cross-Connection Control Commission has adopted the field test procedures published by the Manual of Cross Connection Control, Tenth Edition. This manual is published by the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research. Test gauges shall comply with ASSE 1064."

(4) In IRC, Section P2503.8, the word "devices" is deleted and replaced with the word "assemblies."

Section 16. Section 15A-3-205 is amended to read:

15A-3-205. Amendments to Chapters 26 through 35 of IRC.

(1) IRC, Section P2602.1, is deleted and replaced with the following: "P2602.1 General. The water-distribution system of any building or premises where plumbing fixtures are installed shall be connected to a public water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Utah Code Sections 73-3-1, 73-3-3, and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter.

Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code Section 10-8-38, or an approved private sewage disposal system in accordance with Utah Administrative Code, Rule R317-4, as administered by the Department of Environmental Quality, Division of Water Quality.

Exception: Sanitary drainage piping and systems that convey only the discharge from bathtubs, showers, lavatories, clothes washers, and laundry trays shall not be required to connect to a public sewer or to a private sewage disposal system provided that the piping or systems are connected to a system in accordance with Sections P2910 or P2911."

(2) A new IRC, Section P2602.3, is added as follows: "P2602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized, provided that the source has been developed in accordance with Utah Code, Sections 73-3-1 and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction."

[~~(2)~~] (3) A new IRC, Section P2602.4, is added as follows: "P2602.4 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code, Section 10-8-38; or an approved private sewage disposal system in accordance with Utah Administrative Code, Chapter 4, Rule R317, as administered by the Department of Environmental Quality, Division of Water Quality."

[~~(3)~~] (4) In IRC, Section P2705, Item 5, the words "lavatory" and "lavatories" are deleted.

[~~(4)~~] (5) In IRC, Section P2705, a new Item [~~6~~] 9 is added as follows:[~~-"6~~] "9. Lavatories. A lavatory shall not be set closer than 12 inches from its center to any side wall or partition. A lavatory shall be provided with a clearance of 24 inches in width and 21 inches in depth in front of the lavatory to any side wall, partition, or obstruction." Remaining item numbers are renumbered accordingly.

(6) In IRC, Section P2801.6.2, the following is added at the end of the section: "When permitted by the code official, the pan drain may be directly connected to a soil stack, waste stack, or branch drain. The pan drain shall be individually trapped and vented as required in Section 907.1. The pan drain shall not be directly or indirectly connected to any vent. The trap shall be provided with a trap primer conforming to ASSE 1018 or ASSE 1044, a barrier type floor drain trap seal protection device meeting ASSE 1072, or a deep seal p-trap."

(7) A new IRC, Section P2801.6.3, is added as follows: "P2801.6.3 Pan designation. A water heater pan shall be considered an emergency receptor designated to receive the discharge of water from the water heater only and shall not receive the discharge from any other fixtures, devises, or equipment."

[~~(5)~~] (8) [~~In~~] IRC, Section P2801.8, [~~all words in the first sentence up to the word "water" are~~] is deleted[~~.~~] and replaced with the following: "P2801.8 Water heater seismic bracing. As a minimum requirement, water heaters shall be anchored or strapped to resist horizontal displacement caused by earthquake motion. Strapping shall be at points within the upper one-third and lower one-third of the appliance's vertical dimensions.

(9) In IRC, Section P2804.6.1, a new number 15 is added as follows: "15. Be installed in accordance with the manufacturer's installation instructions, not to exceed 180 degrees in directional changes."

[~~(6)~~] (10) A new IRC, Section P2902.1.1, is added as follows: "P2902.1.1 Backflow assembly testing. [~~The premise owner or the premise owner's designee shall have backflow prevention assemblies operation tested in accordance with administrative rules made by the Drinking Water Board at the time of installation, repair, and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly. Third-party certification for backflow prevention assemblies will consist of any combination of two certifications, laboratory or field. Acceptable third-party laboratory certifying agencies are ASSE, IAPMO, and USC-FCCCHR. USC-FCCCHR currently provides the only field testing of backflow protection assemblies. Also see www.drinkingwater.utah.gov and rules made by the Drinking Water Board.~~"] Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The Utah Cross Connection Control Commission has adopted the field test procedures published by the Manual of Cross Connection Control, Tenth Edition. This manual is published by the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research. Test gauges shall comply with ASSE 1064.

[~~(7)~~] (11) In IRC, Section P2902.1, the following subsections are added as follows:

[~~"P2902.1.1~~] "P2902.1.2 General Installation Criteria.

Assemblies shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance, and to insure the safety of the backflow technician.

[~~P2902.1.2~~] P2902.1.2 Specific Installation Criteria.

[~~P2902.1.2.1~~] P2902.1.2 Reduced Pressure Principle Backflow Prevention Assembly.

The reduced pressure principle backflow prevention assembly shall be installed as follows:

a. The assembly may not be installed in a pit or below grade where the relief port could be submerged in water or where fumes could be present at the relief port discharge.

b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, a storm drain, or a vent.

c. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation in accordance with Section 303.4 of the International Plumbing Code as amended in Utah Code, Subsection 15A-3-303(1).

d. The bottom of the assembly shall be installed a minimum of 12 inches above the floor or ground.

e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

P2902.1.2.2 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

a. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation.

b. The bottom of the assembly shall be a minimum of 12 inches above the ground or floor.

c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

P2902.1.2.3 Pressure Vacuum Break Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum break assembly or a spill resistant pressure vacuum breaker assembly shall be installed as follows:

a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.

b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.

c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. The assembly shall not be installed below ground, in a vault, or in a pit.

e. The assembly shall be installed in a vertical position."

[~~(8)~~] (12) In IRC, Table 2903.2, the following changes are made in the column titled "MAXIMUM FLOW RATE OR QUANTITY":

(a) In the row titled "Lavatory faucet" the text is deleted and replaced with "1.5 gpm at 60 psi".

(b) In the row titled "Shower head" the text is deleted and replaced with "2 gpm at 80 psi".

[~~(9)~~] (13) In IRC, Section P2903.3, the words "public water main or an" are deleted and the following sentence is added at the end: "A water pressure booster pump may not be connected to a public water main unless allowed by Utah Administrative Code, Rule R309-540."

(14) In IRC, Section 2903.5, at the beginning of the second sentence, insert "If installed,".

[~~(10)~~] (15) In IRC, Section P2903.9.3, the first sentence is deleted and replaced with the following: "Unless the plumbing appliance or plumbing fixture has a wall-mount valve, shutoff valves shall be required on each fixture supply pipe to each plumbing appliance and to each plumbing fixture other than bathtubs and showers."

[~~(11)~~] (16) IRC, Section P2910.5, is deleted and replaced with the following:

"P2910.5 Potable water connections.

[~~When a potable water system is connected to a nonpotable water system, the potable water system shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 2901."~~] A system that utilizes nonpotable water (i.e., pressurized irrigation) and installs a connection to the potable water system for backup must install a Reduced Pressure Principle Assembly (RP) directly downstream of the potable water connection (Stop and Waste) and install a "dual source connection" directly downstream from the (RP) installed so that either the potable water system or the nonpotable water is connected at any time to prevent a direct Cross Connection and to protect the potable water from any potential hazard from the nonpotable water system. See Utah Code Section 19-4-112. Note: RP must be tested within 10 days of installation and annually whether the drinking water is used or not."

[~~(12)~~] (17) IRC, Section P2910.9.5, is deleted and replaced with the following:

"P2910.9.5 Makeup water.

Where an uninterrupted nonpotable water supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by means of an air gap not less than 4 inches (102 millimeters) above the overflow or by a reduced pressure backflow prevention assembly installed in accordance with Section 2902."

[~~(13)~~] (18) In IRC, Section P2911.12.4, the following words are deleted: "and backwater valves."

[~~(14)~~] (19) In IRC, Section P2912.15.6, the following words are deleted: "and backwater valves."

[~~(15)~~] (20) In IRC, Section P3007.3.3.1, the words "stainless steel, cast iron, galvanized steel, brass" are added after the word "PE."

(21) IRC, Section P3009, is deleted and replaced with the following:

[~~"P3009 Connected to nonpotable water from on-site water reuse systems.~~]

[~~Nonpotable systems utilized for subsurface irrigation for single-family residences shall comply with the requirements of R317-401, UAC, Graywater Systems.~~"] "P3009 Graywater soil absorption systems: Graywater recycling systems utilized for subsurface irrigation for single-family residences shall comply with the requirements of Utah Administrative Code, R317-401, Graywater Systems. Graywater recycling systems utilized for subsurface irrigation for other occupancies shall comply with Utah Administrative Code, R317-3, Design Requirements for Wastewater Collection, Treatment, and Disposal Systems, and Utah Administrative Code, R317-4, Onsite Wastewater Systems."

[~~(16)~~] (22) In IRC, Section [~~P3103.6~~] P3101.4, the following sentence is added at the end of the paragraph: "Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward."

[~~(17)~~] (23) In IRC, Section P3104.4, the following sentence is added at the end of the paragraph: "Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed below grade in accordance with Chapter 30, and Sections P3104.2 and P3104.3. A wall cleanout shall be provided in the vertical vent."

Section 17. Section 15A-3-206 is amended to read:

15A-3-206. Amendments to Chapters 36, 37, 39, and 44 and Appendix F of IRC.

(1) In IRC, Section E3601.6.2, a new exception is added as follows: "Exception: An occupant of an accessory dwelling unit is not required to have access to the disconnect serving the dwelling unit in which they reside."

(2) [~~In IRC, Section E3705.4.5, the following words are added after the word "assemblies": "with ungrounded conductors 10 AWG and smaller".~~] IRC, Section E3606.5, is deleted.

(3) [~~In IRC, Section E3901.4.5, the last sentence in the exception is deleted and replaced with the following: "Receptacles mounted below the countertop in accordance with this exception shall not be located more than 14 inches from the bottom leading edge of the countertop."~~] IRC, Section E3901.4.2, is deleted and replaced with the following:

"E3901.4.2 Island and Peninsular Countertops and Work Spaces. Receptacle outlets, if installed to serve an island or peninsular countertop or work surface, shall be installed in accordance with E3901.4.3. If a receptacle outlet is not provided to serve an island or peninsular countertop or work surface, provisions shall be provided at the island or peninsula for future addition of a receptacle outlet to serve the island or peninsular countertop or work surface.

[~~(4) In IRC, Section E3901.9, the following exception is added:~~]

[~~"Exception: Receptacles or other outlets adjacent to the exterior walls of the garage, outlets adjacent to an exterior wall of the garage, or outlets in a storage room with entry from the garage may be connected to the garage branch circuit."~~]

[~~(5)~~] (4) IRC, Section E3901.4.3, is deleted and replaced with the following:

"E3901.4.3 Receptacle Outlet Location. Receptacle outlets shall be located in one or more of the following:

1. On or above, but not more than 20 inches (508 mm) above a countertop or work surface.

2. In a countertop using receptacle outlet assemblies listed for use in countertops.

3. In a work surface using receptacle outlet assemblies listed for use in work surface or listed for use in countertops.

Receptacle outlets rendered not readily accessible by appliances fastened in place, appliance garages, sinks, or range tops as covered in the exception to Section E3901.4.1 or appliances occupying assigned spaces shall not be considered as these required outlets.

4. Under the countertop not more than 14 inches from the bottom leading edge of the countertop."

(5) In IRC, Section 3902.1, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(6) In IRC, Section 3902.2, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(7) In IRC, Section 3902.3, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(8) In IRC, Section 3902.4, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(9) In IRC, Section 3902.5, after the word "125-volt" add the words "single phase 15 and 20 ampere in unfinished portions of the basement shall have ground-fault circuit-interrupter protection for personnel" and delete the rest of the section.

(10) In IRC, Section 3902.6, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(11) In IRC, Section 3902.7, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(12) In IRC, Section 3902.8, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(13) In IRC, Section 3902.9, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(14) IRC, Section 3902.10, is deleted.

(15) In IRC, Section 3902.12, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(16) In IRC, Section 3902.13, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(17) IRC, Section E3902.16 is deleted.

[~~(6)~~] (18) [~~In~~] IRC Section E3902.17[~~:~~] is deleted.

[~~(a) following the word "Exception" the number "1." is added; and~~]

[~~(b) at the end of the section, the following sentences are added:~~]

[~~"2. This section does not apply for a simple move or an extension of a branch circuit or an outlet which does not significantly increase the existing electrical load. This exception does not include changes involving remodeling or additions to a residence."~~]

[~~(7)~~] (19) IRC, Section E3902.18 is deleted.

(20) IRC, Chapter 44, is amended by deleting the standard for "ANCE."

[~~(8)~~] (21) In IRC, Chapter 44, the standard for ASHRAE is amended by changing "34-2013" to "34-2019."

[~~(9)~~] (22) In IRC, Chapter 44, the standard for CSA, is amended by changing the:

(a) standard reference number "UL/CSA/ANCE 60335-2-40-2012" to "UL/CSA 60335-2-40-2019"; and

(b) title "Standard for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Motor-Compressors" to "Standard for Household and Similar Electrical Appliances, Part 2-40, Requirements for Electric Heat Pumps, Air Conditioners and Dehumidifiers-3rd Edition."

[~~(10)~~] (23) In IRC, Chapter 44, the standard for UL, is amended by changing the:

(a) standard reference number "1995-2011" to "1995-2015";

(b) standard reference number "UL/CSA/ANCE 60335-2-40-2012" to "UL/CSA 60335-2-40-2019"; and

(c) title "Standard for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Motor-Compressors" to "Standard for Household and Similar Electrical Appliances, Part 2-40, Requirements for Electric Heat Pumps, Air Conditioners and Dehumidifiers-3rd Edition."

[~~(11)~~] (24) IRC, Chapter 44, is amended by adding the following reference standard:

"Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table P2902.3"

[~~(12)~~] (25) In IRC, Chapter 44, is amended by adding the following reference standard: "UL 9540-20: Energy Storage Systems and Equipment; [~~R327.1, R327.2 and R327.6~~] R328.1, R328.2, and R328.6."

[~~(13)~~] (26) (a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection [~~(9)(a)~~] (22)(a) is not required.

Section 18. Section 15A-3-302 is amended to read:

15A-3-302. Amendments to Chapters 1 and 2 of IPC.

[~~(1) In IPC, Section 202, the definition for "Backflow Backpressure, Low Head" is deleted.~~]

[~~(2)~~] (1) In IPC, Section 202, the following definition is added: "Utah Certified Backflow Preventer Assembly Tester. A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4) and Utah Administrative Code, R309-305."

[~~(3) In IPC, Section 202, the following definition is added: "Contamination (High Hazard). An impairment of the quality of the potable water that creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids or waste."~~]

[~~(4)~~] (2) In IPC, Section 202, the definition for "Cross Connection" is deleted and replaced with the following: "Cross Connection. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow")."

[~~(5)~~] (3) In IPC, Section 202, the following definition is added: "Deep Seal Trap. A manufactured or field fabricated trap with a liquid seal of 4" or larger."

[~~(6)~~] (4) In IPC, Section 202, the definition for "Essentially Nontoxic Transfer Fluid" is deleted and replaced with the following:

"ESSENTIALLY NONTOXIC TRANSFER FLUID. Fluids [~~having a Gosselin rating of 1~~], including propylene glycol[~~;~~] and mineral oil."

[~~(7)~~] (5) In IPC, Section 202, the definition for "Essentially Toxic Transfer Fluid" is deleted and replaced with the following:

"ESSENTIALLY TOXIC TRANSFER FLUID. Soil, waste, or gray water; and any fluid that is not an essentially nontoxic transfer fluid under this code."

[~~(8) In IPC, Section 202, the following definition is added: "High Hazard. See Contamination."~~]

[~~(9) In IPC, Section 202, the following definition is added: "Low Hazard. See Pollution."~~]

[~~(10)~~] (6) In IPC, Section 202, the following definition is added: "Motor Vehicle Waste Disposal Well. An injection well that discharges to the subsurface by way of a floor drain, septic system, French drain, dry well, or similar system that receives or has received fluid from a facility engaged in vehicular repair or maintenance activities, including an auto body repair shop, automotive repair shop, new and used car dealership, speciality repair shop, or any other facility that does any vehicular repair work. A motor vehicle waste disposal well is subject to rulemaking under Section 19-5-104 regarding underground injection."

[~~(11) In IPC, Section 202, the following definition is added: "Pollution (Low Hazard). An impairment of the quality of the potable water to a degree that does not create a hazard to the public health but that does adversely and unreasonably affect the aesthetic qualities of such potable water for domestic use."~~]

[~~(12)~~] (7) In IPC, Section 202, the definition for "Potable Water" is deleted and replaced with the following: "Potable Water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

(8) In IPC, Section 202, the following definition is added for Dual Source Connection: "Dual Source Connection. A pipe that is installed so that either the nonpotable (i.e. secondary) irrigation water or the potable water is connected to a pressurized irrigation system at one time, but not both at the same time; or a pipe that is installed so that either the potable water or private well water is connected to a residence at one time, not both at the same time. The potable water supply line shall be protected by a reduced pressure backflow preventer."

Section 19. Section 15A-3-303 is amended to read:

15A-3-303. Amendments to Chapter 3 of IPC.

(1) In IPC, Section 303.4, the following exception is added:

"Exception: Third-party certification for backflow prevention assemblies will consist of any combination of two certifications, laboratory or field. Acceptable third party laboratory certifying agencies are ASSE, IAPMO, and USC-FCCCHR. USC-FCCCHR currently provides the only field testing of backflow protection assemblies. Also see www.drinkingwater.utah.gov and Division of Drinking Water Rule, Utah Administrative Code, R309-105-12(4)."

(2) IPC, Section 311.1, is deleted.

(3) In IPC, Section 312.3, the following is added at the end of the paragraph:

"Where water is not available at the construction site or where freezing conditions limit the use of water on the construction site, plastic drainage and vent pipe may be permitted to be tested with air. The following procedures shall be followed:

1. Contractor shall recognize that plastic is extremely brittle at lower temperatures and can explode, causing serious injury or death.

2. Contractor assumes all liability for injury or death to persons or damage to property or for claims for labor and/or material arising from any alleged failure of the system during testing with air or compressed gasses.

3. Proper personal protective equipment, including safety eyewear and protective headgear, should be worn by all individuals in any area where an air or gas test is being conducted.

4. Contractor shall take all precautions necessary to limit the pressure within the plastic piping.

5. No drain and vent system shall be pressurized in excess of 6 psi as measured by accurate gauges graduated to no more than three times the test pressure.

6. The pressure gauge shall be monitored during the test period, which should not exceed 15 minutes.

7. At the conclusion of the test, the system shall be depressurized gradually, all trapped air or gases should be vented, and test balls and plugs should be removed with caution."

(4) In IPC, Section 312.5, the following is added at the end of the paragraph:

"Where water is not available at the construction site or where freezing conditions limit the use of water on the construction site, plastic water pipes may be permitted to be tested with air. The following procedures shall be followed:

1. Contractor shall recognize that plastic is extremely brittle at lower temperatures and can explode, causing serious injury or death.

2. Contractor assumes all liability for injury or death to persons or damage to property or for claims

for labor and/or material arising from any alleged failure of the system during testing with air or compressed gasses.

3. Proper personal protective equipment, including safety eyewear and protective headgear, should be worn by all individuals in any area where an air or gas test is being conducted.

4. Contractor shall take all precautions necessary to limit the pressure within the plastic piping.

5. Water supply systems shall be pressure tested to a minimum of 50 psi but not more than 80 psi as measured by accurate gauges graduated to no more than three times the test pressure.

6. The pressure gauge shall be monitored during the test period, which should not exceed 15 minutes.

7. At the conclusion of the test, the system shall be depressurized gradually, all trapped air or gases should be vented, and test balls and plugs should be removed with caution."

(5) IPC, Section 312.10.2, is deleted and replaced with the following:

"312.10.2 Testing. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation or within 10 days of being placed into service, immediately after repairs or relocation and at least annually. The Utah Cross Connection Control Commission has adopted the field test procedures published by the Manual of Cross-Connection Control, Tenth Edition. This manual is published by the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research. Test gauges shall comply with ASSE 1064."

(6) A new IPC, Section 312.10.3, is added as follows: "312.10.3 Tester Qualifications. Testing shall be performed by a Utah Certified Backflow [~~Preventer~~] Assembly Tester in accordance with Utah Administrative Code, R309-305."

Section 20. Section 15A-3-304 is amended to read:

15A-3-304. Amendments to Chapter 4 of IPC.

(1) In IPC, Table 403.1, the following changes are made:

(a) In row number "3", for in the field for "OTHER", a new footnote h is added.

(b) In row number "5", for "Adult day care and child day care" occupancy, in the field for "OTHER", a new footnote h is added.

(c) Footnote f is deleted and replaced with the following: "FOOTNOTE f: The required number and type of plumbing fixtures for outdoor public swimming pools shall be in accordance with Utah Administrative Code, R392-302 Design, Construction and Operation of Public Pools."

(d) A new footnote g is added as follows: "FOOTNOTE: g: When provided, in public toilet facilities, there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms. Diaper changing facilities shall meet the requirements of ASTM F2285-04 (2010) Standard Consumer Safety Performance Specifications for Diaper Changing Tables for Commercial Use."

(e) A new footnote h is added to the table as follows: "FOOTNOTE h: Non-residential child care facilities shall comply with the additional sink requirements of Utah Administrative Code, R381-60-9, Hourly Child Care Centers, R381-70-9, Out of School Time Child Care Programs, and R381-100-9, Child Care Centers."

(2) In IPC, Section 405.3.4, the following sentence is added after the first sentence: "For facilities designed for use by all genders in the same room, the partitions of the stalls shall extend from the floor to the ceiling."

(3) In IPC, Section 405.3.5, the following sentence is added at the end of the first paragraph: "For facilities designed for use by all genders in the same room, the partitions of the stalls shall extend from the floor to the ceiling."

(4) A new IPC, Section 406.3, is added as follows: "406.3 Automatic clothes washer safe pans. Safe pans, when installed under automatic clothes washers, shall be installed in accordance with Section 504.7."

[~~(3)~~] (5) A new IPC, Section 413.5, is added as follows: "413.5 Public toilet rooms. All public toilet rooms shall be equipped with at least one floor drain."

[~~(4)~~] (6) A new IPC, Section 413.6, is added as follows: "Prohibition of motor vehicle waste disposal wells. New and existing motor vehicle waste disposal wells are prohibited. A motor vehicle waste disposal well associated with a single family residence is not subject to this prohibition."

[~~(5)~~] (7) IPC, Section 423.3, is deleted.

Section 21. Section 15A-3-306 is amended to read:

15A-3-306. Amendments to Chapter 6 of IPC.

(1) IPC, Section 602.3, is deleted and replaced with the following: "602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Utah Code, Sections 73-3-1, 73-3-3, and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter."

(2) IPC, Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5, and 602.3.5.1, are deleted.

(3) In IPC, Table 604.4, the following changes are made in the column titled "MAXIMUM FLOW RATE OR QUANTITY":

(a) In the row titled "Lavatory, private" the text is deleted and replaced with "1.5 gpm at 60 psi".

(b) In the row titled "Shower head" the text is deleted and replaced with "2 gpm at 80 psi".

(c) In the row titled "Urinal" the text is deleted and replaced with "0.5 gallon per flushing cycle".

(4) A new IPC, Section 604.4.1, is added as follows: "604.4.1 Manually operated metering faucets for food service establishments. Self closing or manually operated metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet."

(5) IPC, Section 606.5, is deleted and replaced with the following: "606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11."

(6) In IPC, Section 606.5.1, the words "public water main or" are deleted.

(7) A new IPC, Section 606.5.11, is added as follows: "606.5.11 [~~Prohibited installation. In no case shall a booster pump be allowed that will lower the pressure in the public main to less than the minimum water pressure specified in Utah Administrative Code R309-105-9.~~"] Water pressure booster pumps connected to a public water main. A water pressure booster pump shall not be connected to a public water main unless allowed by Utah Administrative Code, Rule R309-540."

[~~(7)~~] (8) In IPC, Section 608.1, the words "and pollution" are added after the word "contamination."

[~~(8)~~] (9) In IPC, Section 608.1, the following subsections are added as follows:

"608.1.1 General Installation Criteria.

An assembly shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance and to insure the safety of the backflow technician.

608.1.2 Specific Installation Criteria.

608.1.2.1 Reduced Pressure Principle Backflow Prevention Assembly.

A reduced pressure principle backflow prevention assembly shall be installed as follows:

a. The assembly shall not be installed in a pit or below grade where the relief port could be submerged in water or where fumes could be present at the relief port discharge.

b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, storm drain, or vent.

c. The assembly shall be installed in a horizontal position, unless the assembly is listed or approved for vertical installation in accordance with Section 303.4.

d. The bottom of each assembly shall be installed a minimum of 12 inches above the ground or the floor.

e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

608.1.2.2 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

a. The assembly shall be installed in a horizontal position unless the assembly is listed or approved for vertical installation.

b. The bottom of the assembly shall be a minimum of 12 inches above the ground or the floor.

c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance around all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

608.1.2.3 Pressure Vacuum Breaker Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum breaker assembly and spill resistant pressure vacuum breaker assembly shall be installed as follows:

a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.

b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.

c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. The assembly shall not be installed below ground or in a vault or pit.

e. The assembly shall be installed in a vertical position."

[~~(9)~~] (10) In IPC, Section 608.3, the word "and" before the word "contamination" is deleted and replaced with a comma and the words " or pollution" are added after the word "contamination" in the first sentence.

[~~(10)~~] (11) In IPC, Section 608.6, the words "with the potential to create a condition of either contamination or pollution or" are added after the word "substances."

[~~(11)~~] (12) In IPC, Section 608.7, the following sentence is added at the end of the paragraph: "Any connection between potable water piping and sewer-connected waste shall be protected by an air gap in accordance with Section 608.14.1."

[~~(12)~~] (13) IPC, Section 608.8, is deleted and replaced with the following: " 608.8 Stop and Waste Valves installed below grade. Combination stop-and-waste valves shall be permitted to be installed underground or below grade. Freeze proof yard hydrants that drain the riser into the ground are considered to be stop-and-waste valves and shall be permitted. A stop-and-waste valve shall be installed in accordance with a manufacturer's recommended installation instructions."

[~~(13)~~] (14) IPC, Section 608.14.3, is deleted and replaced with the following: " 608.14.3 Backflow preventer with intermediate atmospheric vent. Backflow preventers with intermediate atmospheric vents shall conform to ASSE 1012 or CSA CAN/CSA-B64.3. These devices shall be permitted to be installed on residential boilers, without chemical treatment, where subject to continuous pressure conditions, and humidifiers in accordance with Section 608.17.10. The relief opening shall discharge by air gap and shall be prevented from being submerged."

[~~(14)~~] (15) IPC, Section 608.14.4, is deleted.

[~~(15)~~] (16) IPC, Section 608.16.3, is deleted and replaced with the following: " 608.16.3 Protection by a backflow preventer with intermediate atmospheric vent. Connections to residential boilers only, without chemical treatment, and humidifiers shall be protected by a backflow preventer with an intermediate atmospheric vent."

[~~(16)~~] (17) IPC, Section 608.16.4, is deleted and replaced with the following: " 608.16.4 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors. Fill valves shall be set in accordance with Section [~~425.3.1~~] 415.3.1. Atmospheric Vacuum Breakers - The critical level of the atmospheric vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood level rim of the fixture or device. Pipe-applied vacuum breakers shall be installed at the highest point, but not less than 6 inches (152 mm) above the flood level rim of the fixture, receptor, or device served. No valves shall be installed downstream of the atmospheric vacuum breaker. The atmospheric vacuum breaker shall not be installed where it may be subjected to continuous pressure for more than 12 consecutive hours at any time. Pressure Vacuum Breaker - The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches (304 mm) above the flood level of the fixture [~~or~~] device and above all downstream piping and the highest point of use."

[~~(17)~~] (18) In IPC, Section 608.16.4.2, the following is added after the first sentence: "Add-on-backflow prevention devices shall be non-removable. In climates where freezing temperatures occur, a listed self-draining frost proof hose bibb with an integral backflow preventer shall be used."

[~~(18)~~] (19) In IPC, Section 608.17.1.2, the words "or ASSE 1024" are deleted.

[~~(19)~~] (20) IPC, Section 608.17.2, is deleted and replaced as follows: "608.17.2 Connections to boilers. The potable supply to a boiler shall be protected by an air gap or a reduced pressure principle backflow preventer, complying with ASSE 1013, CSA B64.4 or AWWA C511.

Exception: The potable supply to a residential boiler without chemical treatment may be equipped with a backflow preventer with an intermediate atmospheric vent complying with ASSE 1012, ASSE 1081.1, or CSA CAN/CSA-B64.3."

[~~(20)~~] (21) In IPC, Section 608.17.4.1, a new exception is added as follows: "Exception: All class 1 and 2 systems containing chemical additives consisting of strictly glycerine (C.P. or U.S.P. 96.5 percent grade) or propylene glycol shall be protected against backflow with a double check valve assembly or double check valve detector assembly. Such systems shall include written certification of the chemical additives at the time of original installation and service or maintenance."

[~~(21)~~] (22) IPC, Section 608.17.7, is deleted and replaced with the following: "608.17.7 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.14.1, Section 608.14.2, Section 608.14.5, Section 608.14.6 or Section 608.14.8. Installation shall be in accordance with Section 608.1.2. Chemical dispensers shall connect to a separate dedicated water supply line, and not [~~a sink faucet~~] downstream of an atmospheric vacuum breaker."

[~~(22)~~] (23) IPC, Section 608.17.8, is deleted and replaced with the following: "608.17.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.14.1 or Section 608.14.2."

[~~(23)~~] (24) A new IPC, Section 608.17.11, is added as follows: "608.17.11 Automatic and coin operated car washes. The water supply to an automatic or coin operated car wash shall be protected in accordance with [~~Section 608.14.1 or~~] Section 608.14.2."

[~~(24)~~] (25) IPC, Section 608.18, is deleted and replaced with the following: "608.18 Protection of individual water supplies. See Section 602.3 for requirements."

Section 22. Section 15A-3-309 is amended to read:

15A-3-309. Amendments to Chapter 9 of IPC.

(1) In IPC, Section [~~903.1~~] 903.1.1, when the number of inches is to be specified, "12 inches (304.8mm)" is inserted.

3(2) In IPC, a new Section [~~903.6, the following sentence is added at the end of the paragraph: "~~] 903.7 is added as follows: "903.7 Extension through a wall. Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward."

(3) In IPC, Section 905.4, the following sentence is added at the end of the paragraph: "Horizontal dry vents below the flood level rim shall be permitted for floor drain, floor sink, and bath tub installations when installed in accordance with Sections 702.2, 905.2 and 905.3 and provided with a wall clean out."

Section 23. Section 15A-3-310 is amended to read:

15A-3-310. Amendments to Chapter 10 of IPC.

(1) In IPC, a new Section 1002.4.1.6 is added as follows: "1002.4.1.6 Deep Seal Trap."

(2) In IPC, Section 1003.3.8, the word "gravity" is inserted before the word "grease."

Section 24. Section 15A-3-313 is amended to read:

15A-3-313. Amendments to Chapter 13 of IPC.

(1) A new IPC, Section 1301.4.1, is added as follows:

"1301.4.1 Recording.

The existence of a nonpotable water system shall be recorded on the deed of ownership for the property. The certificate of occupancy shall not be issued until the documentation for the recording required under this section is completed by the property owner."

(2) IPC, Section 1301.5, is deleted and replaced with the following:

"1301.5 Potable water connections.

Where a potable water system is connected to a nonpotable water system, the potable water supply shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 608."

(3) In IPC, a new Section 1301.5.1 is added as follows: "1301.5.1 Potable water connections. A system that utilizes nonpotable water (i.e., pressurized irrigation) and installs a connection to the potable water system for backup must install a Reduced Pressure Principle Assembly (RP) directly downstream of the potable water connection (Stop and Waste) and install a dual source connection directly downstream from the (RP) installed so that either the potable water system or the nonpotable water is connected at any time to prevent a direct Cross Connection and to protect the potable water from any potential hazard from the nonpotable water system. See Utah Code Section 19-4-112. Note: RP must be tested within 10 days of installation and annually whether the drinking water is used or not."

(4) IPC, Section 1301.9.4, is deleted and replaced with the following:

"1301.9.4 Makeup water.

Where an uninterrupted supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 608. A full-open valve located on the makeup water supply line to the storage tank shall be provided. Inlets to the storage tank shall be controlled by fill valves or other automatic supply valves installed to prevent the tank from overflowing and to prevent the water level from dropping below a predetermined point. Where makeup water is provided, the water level shall not be permitted to drop below the source water inlet or the intake of any attached pump."

[~~(4)~~] (5) IPC, Section 1302.12.4, is deleted and replaced with the following:

"1302.12.4 Inspection and testing of backflow prevention assemblies.

Testing of a backflow preventer shall be conducted in accordance with Sections 312.10.1, 312.10.2, and 312.10.3."

[~~(5)~~] (6) IPC, Section 1303.15.6, is deleted and replaced with the following:

"1303.15.6 Inspection and testing of backflow prevention assemblies.

Testing of a backflow prevention assembly shall be conducted in accordance with Sections 312.10.1, 312.10.2, and 312.10.3."

[~~(6)~~] (7) IPC, Section 1304.4.2, is deleted and replaced with the following:

"1304.4.2 Inspection and testing of backflow prevention assemblies.

Testing of a backflow preventer or backwater valve shall be conducted in accordance with Sections 312.10.1, 312.10.2, and 312.10.3."

Section 25. Section 15A-3-315 is amended to read:

15A-3-315. Amendments to Chapter 15 of IPC.

(1) In IPC, Chapter 15, the following reference standards are deleted: ASSE 5013-2015, ASSE 5015-2015, ASSE 5020-2015, ASSE 5047-2015, ASSE 5048-2015, ASSE 5052-98, ASSE 5056-2015, CSA B64.10-17, and CSA B64.10.1-17.

(2) In IPC, Chapter 15, the following referenced standard is added:

"Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table 608.1"

Section 26. Section 15A-3-402 is amended to read:

15A-3-402. Amendments to Chapters 1 through 5 of IMC.

(1) In IMC, Table 403.3.1.1, note h is deleted and replaced with the following:

"h. 1. A nail salon shall provide each manicure station where a nail technician files or shapes an acrylic nail, as defined by rule by the Division of Professional Licensing, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with:

a. a source capture system equipped with, at minimum, a MERV 8 particulate filter and an activated carbon filter that is capable of filtering and recirculating air to inside space at a rate not less than 50 cfm per station; or

b. a source capture system capable of exhausting not less than 50 cfm per station.

c. A nail salon that complies with Note h. la or h. lb is not required to comply with the labeling, listing, or testing requirements described in International Mechanical Code sections 301.7 or 301.8.

2. For a source capture system described in paragraph 1, the source capture system inlets for exhausting or recirculating air shall be located in accordance with Section 502.20.

3. Where one or more exhausting source capture systems described in paragraph 1 operate continuously during occupancy, the source capture system exhaust rate shall be permitted to be applied to the exhaust flow rate required by Table 403.3.1.1 for the nail salon.

4. The requirements of this note apply to:

a. an existing nail salon that remodels the nail salon after July 1, 2017;

b. a new nail salon that begins construction after July 1, 2017; and

c. all nail salons beginning on July 1, 2020."

(2) In IMC, Section 502.20 is deleted and rewritten as follows:

"502.20 Manicure stations. A nail salon that files or shapes an acrylic nail shall provide each manicure station with a source capture system in accordance with Table 403.3.1.1, note h. For a manicure table that does not have factory-installed source capture system inlets for recirculating or exhausting air, a nail salon shall provide the manicure table with inlets for recirculating or exhausting air located not more than 12 inches (305 mm) horizontally and vertically from the point of any acrylic chemical application.

Exception: Section 502.20 applies to a manicure station in:

a. an existing nail salon that remodels the nail salon after July 1, 2017;

b. a new nail salon that begins construction after July 1, 2017; and

c. all nail salons beginning on July 1, 2020."

(3) In IMC, Section 908.1, the following words are added at the end of the last sentence: "or UL/CSA 60335-2-40."

(4) In IMC, Section 918.1, the following words are added after "1995": "or UL/CSA 60335-2-40."

(5) In IMC, Section 918.2, the following words are added at the end of the sentence: "or UL/CSA 60335-2-40."

(6) In IMC, Section 1101.2, the words "471 or 1995" are deleted and replaced with "471, 1995, or UL/CSA 60335-2-40."

(7) In IMC, Section 1101.6, the following sentence is added at the end of the paragraph: "High probability systems utilizing A2L refrigerants shall comply with ASHRAE 15."

[~~(8) In IMC, Chapter 15, the standard for ASHRAE, is amended by changing the:~~]

[~~(a) standard reference number "15-2016" to "15-2019"; and~~]

[~~(b) standard reference number "34-2016" to "34-2019";~~]

[~~(9)~~] (8) In IMC, Chapter 15 is amended by adding the following referenced standard to CSA:

"Standard reference number	Title	Referenced in code section number
CSA: CSA C22.2 60335-2-40-2019	Standard for Household and Similar Electrical Appliances, Part 2-40: Particular Requirements for Electrical Heat Pumps, Air-Conditioners and Dehumidifiers - 3rd Edition	Table M1403.1, M1412.1 M1413.1"

[~~(10)~~] (9) In IMC, Chapter 15 is amended by adding the following referenced standard to UL:

"Standard reference number	Title	Referenced in code section number
UL: 60335-2-40-2019	Standard for Household and Similar Electrical Appliances, Part 2-40: Particular Requirements for Electrical Heat Pumps, Air-Conditioners and Dehumidifiers - 3rd Edition	Table M1403.1, M1412.1 M1413.1"

Section 27. Section 15A-3-601 is amended to read:

15A-3-601. General provisions.

The following are adopted as amendments to the NEC to be applicable statewide:

(1) The IRC provisions are adopted as the residential electrical standards applicable to residential installations under the IRC. All other installations shall comply with the adopted NEC.

(2) In NEC, Section 210.8(A), the words "through 250-volt" are deleted.

(3) In NEC, Section 210.8(A)(5), the word "Basements" is deleted and replaced with "Unfinished portions or areas of the basement not intended as habitable rooms."

(4) In NEC, Section 210.8(F), is deleted.

(5) NEC, Sections 210.52(C)(2) and (3) are deleted and replaced with the following:

"210.52(C)(2) Island and peninsular countertops and Work Surfaces. Receptacle outlets, if installed to serve an island or peninsular countertop or work surface, shall be installed in accordance with 210.52(C)(3). If a receptacle outlet is not provided to serve an island or peninsular countertop or work surface, provisions shall be provided at the island or peninsula for future addition of a receptacle outlet to serve the island or peninsular countertop or work surface.

210.2(C)(3) Receptacle outlet location. Receptacle outlets shall be located in one or more of the following:

(1) On or above, but not more than 500 mm (20 inches) above a countertop or work surface.

(2) In a countertop using receptacle assemblies listed for use in countertops.

(3) In a work surface using receptacle outlet assemblies listed for use in work surfaces or listed for use in countertops.

Receptacle outlets rendered not readily accessible by appliances fastened in place, appliance garages, sinks, or range tops as covered in the exception to 210.52(C)(1), occupying assigned spaces shall not be considered as these required outlets.

Exception: In dwelling units designed to be accessible to persons with disabilities, receptacles shall be permitted to be installed not more than 300 mm (12 inches) below the countertop or work surface. Receptacles installed below a countertop or work surface shall not be located where the countertop or work surface extends more than 150 mm (6 inches) beyond its support or base.

(6) NEC, Section 210.12, is deleted.

[~~(5)~~] (7) NEC, Section 210.65, is deleted.

[~~(6)~~] (8) In NEC, Section 230.67, is deleted.

[~~(7)~~] (9) In NEC, Section 314.27(C), is deleted and replaced with the following: "314.27(C) Boxes at Ceiling-Suspended (Paddle) Fan Outlets. Outlet boxes or outlet box systems used as the sole support of a ceiling-suspended (paddle) fan shall be listed, shall be marked by their manufacturer as suitable for this purpose, and shall not support ceiling-suspended (paddle) fans that weigh more than 32 kg (70 lb). For outlet boxes or outlet box systems designed to support ceiling-suspended (paddle) fans that weigh more than 16 kg (35 lb), the required marking shall include the maximum weight to be supported."

[~~(8)~~] (10) In NEC, Section 406.9(C), is deleted and replaced with the following: "406.9(C) Bathtub and Shower Space. Receptacles shall not be installed within or directly over a bathtub or shower stall."

Section 28. Section 15A-3-701 is amended to read:

15A-3-701. General provisions.

The following is adopted as an amendment to the IECC to be applicable statewide:

[~~(1) In IECC, Section C403.11.2.3, the words "by the designer" are deleted.~~]

[~~(2)~~] (1) IECC, Section C405.11, is deleted and replaced with the following: "C405.11 Automatic receptacle control. Automatic receptacle control to be optional and decided by property owner."

(2) In IECC, Section R103.2, all words after the words "herein governed." are deleted and replaced with the following: "Construction documents include all documentation required to be submitted in order to issue a building permit."

(3) In IECC, Section R303.3, all wording after the first sentence is deleted.

(4) In IECC, Section R401.2, a new number 4 is added as follows:

"4. Compliance may be shown by demonstrating a result, using the software RESCheck 2012 Utah Energy Conservation Code, of:

(a) on or after January 1, 2017, and before January 1, 2019, "3 percent better than code";

(b) on or after January 1, 2019, and before January 1, 2021, "4 percent better than code"; and

(c) after January 1, 2021, "5 percent better than code"."

(5) In IECC, Table R402.2, in the column entitled MASS WALL R-VALUE, a new footnote j is added as follows:

"j. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has a .31 U-factor or lower, minimum heating equipment efficiency is, for gas, 90 AFUE, or, for oil, 84 AFUE, and all other component requirements are met."

(6) In IECC, Section R402.2.1, a new section is added as follows: "R402.2.1.1. Unvented attic and unvented enclosed rafter assemblies. Unvented attic and unvented enclosed rafter assemblies conforming to Section R806.5 shall be provided with an R-value of R-22 (maximum U-Factor of 0.045) in Climate Zone 3-B or an R-value of R-26 (maximum U-factor of 0.038) in Climate Zones 5-B and 6-B provided all the following conditions are met:

1. The unvented attic assembly complies with the requirements of the International Residential Code, Section R806.5.

2. The house shall attain a blower door test result <2.5ACH 50.

3. The house shall require a whole house mechanical ventilation system that does not rely solely on a negative pressure strategy (must be positive, balanced or hybrid).

4. Where insulation is installed below the roof deck and the exposed portion of roof rafters are not already covered by the R-20 depth of the air-impermeable insulation, the exposed portion of the roof rafters shall be wrapped (covered) by minimum R-3 unless directly covered by drywall/finished ceiling. Roof rafters are not required to be covered by minimum R-3 if a continuous insulation is installed above the roof deck.

5. Indoor heating, cooling and ventilation equipment (including ductwork) shall be inside the building thermal envelope.

(7) In IECC, Section R402.4.1, in the first sentence, the word "and" is deleted and replaced with the word "or".

[~~(7)~~] (8) In IECC, Section R402.4.1.1, the last sentence is deleted and replaced with the following: "Where allowed by the code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections."

[~~(8)~~] (9) In IECC, Section R402.4.1.2, the following changes are made:

(a) In the first sentence:

(i) "The building or dwelling unit" is deleted and replaced with "A single-family dwelling";

(ii) after January 1, 2019, replace the word "five" with "3.5"; and

(iii) the words "in Climate Zones 1 and 2, and three air changes per hour in Climate Zones 3 through 8" are deleted.

(b) The following sentence is inserted after the first sentence: "A multi-family dwelling and townhouse shall be tested and verified as having an air leakage rate of not exceeding five air changes per hour."

(c) In the third sentence, the word "third" is deleted.

(d) The following sentence is inserted after the third sentence: "The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training."

[~~(9)~~] (10) In IECC, Section R403.3.3[~~:~~], the exception for duct air leakage testing is deleted and replaced with the following:

[~~(a) the exception for duct air leakage testing is deleted; and~~]

[~~(b) the exception for duct air leakage is replaced:~~]

[~~(i)~~] (a) on or after January 1, 2017, and before January 1, 2019, with the following: "Exception: The total leakage test is not required for systems with all air handlers and at least 65% of all ducts (measured by length) located entirely within the building thermal envelope.";

[~~(ii)~~] (b) on or after January 1, 2019, and before January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 75% of all ducts (measured by length) located entirely within the building thermal envelope."; and

[~~(iii)~~] (c) on or after January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 80% of all ducts (measured by length) located entirely within the building thermal envelope."

[~~(10)~~] (11) In IECC, Section R403.3.3, the following is added after the exception:

"The following parties shall be approved to conduct testing:

1. Parties certified by BPI or RESNET.

2. Licensed contractors who have completed training provided by Duct Test equipment manufacturers or other comparable training."

[~~(11)~~] (12) In IECC, Section R403.3.4:

(a) in Subsection 1, the number 4 is changed to 8, the number 113.3 is changed to 170, the number 3 is changed to 6, and the number 85 is changed to 114.6; and

(b) in Subsection 2:

(i) on or after January 1, 2017, and before January 1, 2019, the number 4 is changed to 8 and the number 113.3 is changed to 226.5;

(ii) on or after January 1, 2019, and before January 1, 2021, the number 4 is changed to 7 and the number 113.3 is changed to 198.2; and

(iii) on or after January 1, 2021, the number 4 is changed to 6 and the number 113.3 is changed to 169.9.

[~~(12)~~] (13) In IECC, Section R403.3.5, the words "or plenums" are deleted.

[~~(13)~~] (14) In IECC, Section R403.5.3, Subsection 5 is deleted and Subsections 6 and 7 are renumbered.

[~~(14)~~] (15) IECC, Section R403.6.1, is deleted and replaced with the following: "R403.6.1 Whole-house mechanical ventilation system fan efficacy. Fans used to provide whole-house mechanical ventilation shall meet the efficacy requirements of Table R403.6.1.

Exception: Where an air handler that is integral to tested and listed HVAC equipment is used to provide whole-house mechanical ventilation, the air handler shall be powered by an electronically commutated motor."

[~~(15)~~] (16) In IECC, Section R403.6.1, the table is deleted and replaced with the following:

"TABLE R403.6.1

MECHANICAL VENTILATION SYSTEM FAN EFFICACY

FAN LOCATION	AIR FLOW RATE MINIMUM (CFM)	MINIMUM EFFICACY (CFM/WATT)	AIR FLOW RATE MAXIMUM (CFM)
HRV or ERV	Any	1.2 cfm/watt	Any
Range Hoods	Any	2.8 cfm/watt	Any
In–line fan	Any	2.8 cfm/watt	Any
Bathroom, utility room	10	1.4 cfm/watt	<90
Bathroom, utility room	90	2.8 cfm/watt	Any"

[~~(16)~~] (17) In IECC, Section [~~R406.4~~] R406.5, the table is deleted and replaced with the following:

"TABLE [~~R406.4~~] R406.5

MAXIMUM ENERGY RATING INDEX

CLIMATE ZONE	ENERGY RATING INDEX
3	65
5	69
6	68"

(18) A new IECC, Section R403.7.1, is added as follows: "R403.7.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

Section 29. Section 15A-3-801 is amended to read:

15A-3-801. General provisions.The following are adopted as amendments to the IEBC and are applicable statewide:

(1) In Section 202, the following definition is added: "BUILDING OFFICIAL. See Code Official."

(2) In Section 202, the definition for "code official" is deleted and replaced with the following:

"CODE OFFICIAL. The officer or other designated authority having jurisdiction (AHJ) charged with the administration and enforcement of this code."

(3) In Section 202, the definition for existing buildings is deleted and replaced with the following:

"EXISTING BUILDING. A building that is not a dangerous building and that was either lawfully erected under a prior adopted code, or deemed a legal non-conforming building by the code official."

(4) In Section 301.3, the exception is deleted.

(5) In Section 305.4.2, number 7 is added after number 6 as follows: "7. When a change of occupancy in a building or portion of a building results in a Group R-2 occupancy, not less than 20% of the dwelling or sleeping units shall be Type-B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one unit, of the dwelling or sleeping units shall be Type-A dwelling units."

(6) Section 503.6 is deleted and replaced with the following:

"503.6 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance of such items. Reduced seismic forces are permitted for design purposes."

(7) In Section 705.1, Exception number 3, the following is added at the end of the exception:

"This exception does not apply if the existing facility is undergoing a change of occupancy classification."

(8) Section 706.3.1 is deleted and replaced with the following:

"706.3.1 Bracing for unreinforced masonry bearing wall parapets and other appendages.

Where a permit is issued for reroofing more than 25 percent of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist the reduced International Building Code level seismic forces as specified in Section 303 of this code unless an evaluation demonstrates compliance of such items."

(9) Section 906.6 is deleted and replaced with the following:

"906.6 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance with such items. Reduced seismic forces are permitted for design purposes."

(10) (a) Section 1006.3 is deleted and replaced with the following:

"1006.3 Seismic Loads. Where a change of occupancy results in a building being assigned to a higher risk category, or when a change of occupancy results in a design occupant load increase of 100% or more, the building shall satisfy the requirements of Section 1613 of the International Building Code using full seismic forces."

(b) Section 1006.3, exceptions 1 through 3 remain unchanged.

(c) In Section 1006.3, add a new exception [4] 5 as follows:

"[4] 5. Where the design occupant load increase is less than 25 occupants and the occupancy category does not change."

(11) In Section 1012.7.3, exception 2 is deleted.

Section 30. Section 15A-3-1001 is amended to read:

15A-3-1001. General provisions.

(1) In ISPSC, Section 202, the following definition is added for private residential swimming pool: "PRIVATE RESIDENTIAL SWIMMING POOL. A swimming pool, spa pool, or wading pool used only by an individual, family, or living unit members and guests, but not serving any type of multiple unit housing complex of four or more living units."

(2) In ISPSC, Section 202, the definition for Residential Swimming Pool (Residential Pool) is deleted and replaced with the following: "See the definition for Private Residential Swimming Pool."

(3) In ISPSC, Section 320.1, the following changes are made:

(a) the words "or storm" are deleted;

(b) the words "onsite waste water" are added before the word "disposal"; and

(c) the words "or shall be disposed of by other means approved by the state or local authority" are deleted.

Section 31. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 210
S. B. 9
Passed February 1, 2023
Approved March 14, 2023
Effective May 3, 2023

AGRICULTURAL ADVISORY BOARD SUNSET EXTENSION

Chief Sponsor: Scott D. Sandall
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill addresses the sunset date of the Agricultural Advisory Board.

Highlighted Provisions:

This bill:

- extends the sunset date of the Agricultural Advisory Board from 2023 to 2028.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-204, as last amended by Laws of Utah 2022, Chapter 84

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

Section 1. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates: Title 4.

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, [~~2023~~] 2028.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2024.

(3) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, 2026.

(4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

(5) Section 4-20-103, which creates the Utah Grazing Improvement Program Advisory Board, is repealed July 1, 2032.

(6) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, 2024.

(7) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

(8) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.

(9) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

CHAPTER 211
S. B. 10
Passed February 1, 2023
Approved March 14, 2023
Effective May 3, 2023

WILDLIFE SUNSET RELATED AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill modifies provisions related to a board, committee, or council created under Title 23, Wildlife Resources Code of Utah.

Highlighted Provisions:

This bill:

- makes consistent the number of names the nominating committee submits to the governor;
- removes incorrect references to boards;
- clarifies orientation training language related to regional advisory councils;
- extends sunset dates; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-14-2, as last amended by Laws of Utah 2020, Chapters 352 and 373
23-14-2.5, as last amended by Laws of Utah 2003, Chapter 36
23-14-2.6, as last amended by Laws of Utah 2010, Chapters 286 and 324
63I-1-223, as last amended by Laws of Utah 2020, Chapters 154 and 232
63I-1-279, as last amended by Laws of Utah 2022, Chapter 68

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

Section 1. Section 23-14-2 is amended to read:

23-14-2 (Codified as 23A-2-301). Wildlife Board -- Creation -- Membership -- Terms -- Quorum -- Meetings -- Per diem and expenses.

(1) There is created a Wildlife Board which shall consist of seven members appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) In addition to the requirements of Section 79-2-203, the members of the board shall have expertise or experience in at least one of the following areas:

(i) wildlife management or biology;

(ii) habitat management, including range or aquatic;

(iii) business, including knowledge of private land issues; and

(iv) economics, including knowledge of recreational wildlife uses.

(b) Each of the areas of expertise under Subsection (2)(a) shall be represented by at least one member of the Wildlife Board.

(3) (a) The governor shall select each board member from a list of nominees submitted by the nominating committee pursuant to Section 23-14-2.5.

(b) No more than two members shall be from a single wildlife region described in Subsection 23-14-2.6(1).

(c) The governor may request an additional list of at least two nominees from the nominating committee if the initial list of nominees for a given position is unacceptable.

(d) (i) If the governor fails to appoint a board member within 60 days after receipt of the initial or additional list, the nominating committee shall make an interim appointment by majority vote.

(ii) The interim board member shall serve until the matter is resolved by the committee and the governor or until the board member is replaced pursuant to this chapter.

(4) (a) Except as required by Subsection (4)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a six-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that:

(i) the terms of board members are staggered so that approximately one-third of the board is appointed every two years; and

(ii) members serving from the same region have staggered terms.

(c) If a vacancy occurs, the nominating committee shall submit at least two names, as provided in Subsection 23-14-2.5(4), to the governor and the governor shall appoint a replacement for the unexpired term.

(d) Board members may serve only one term unless:

(i) the member is among the first board members appointed to serve four years or less; or

(ii) the member filled a vacancy under Subsection (4)(c) for four years or less.

(5) (a) The board shall elect a chair and a vice chair from its membership.

(b) Four members of the board shall constitute a quorum.

(c) The director of the Division of Wildlife Resources shall act as secretary to the board but is not a voting member of the board.

(6) (a) The Wildlife Board shall hold a sufficient number of public meetings each year to expeditiously conduct its business.

(b) Meetings may be called by the chair upon five days notice or upon shorter notice in emergency situations.

(c) Meetings may be held at the Salt Lake City office of the Division of Wildlife Resources or elsewhere as determined by the Wildlife Board.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(8) (a) The members of the Wildlife Board shall complete an orientation course to assist them in the performance of the duties of their office.

(b) The Department of Natural Resources shall provide the course required under Subsection (8)(a).

(9) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 2. Section 23-14-2.5 is amended to read:

23-14-2.5 (Codified as 23A-2-302). Wildlife Board Nominating Committee -- Creation -- Membership -- Terms -- Quorum.

(1) There is created a Wildlife Board Nominating Committee which shall consist of 11 members.

(2) The governor shall appoint members to the nominating committee as follows:

(a) three members shall be appointed from a list of at least two nominees per position submitted by the agriculture industry;

(b) three members shall be appointed from a list of at least two nominees per position submitted by sportsmen groups;

(c) two members shall be appointed from a list of at least two nominees per position submitted by nonconsumptive wildlife interests;

(d) one member shall be appointed from a list of at least two nominees submitted by federal land management agencies;

(e) one local elected official shall be appointed from a list of at least two nominees submitted by the Utah Association of Counties; and

(f) one range management specialist shall be appointed from a list of at least two nominees submitted jointly by the Utah Chapter, Society of Range Management and the Utah Chapter, The Wildlife Society.

(3) Each wildlife region described in Subsection 23-14-2.6(1) shall be represented by at least one member and no wildlife region may be represented by more than three members.

(4) The nominating committee shall nominate at least two, but not more than four, candidates for each position or vacancy which occurs on the board.

(5) (a) Except as required by Subsection (5)(b), as terms of current [~~board~~] members expire, the governor shall appoint each new or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that:

(i) the terms of [~~board~~] members are staggered so that approximately half of the [~~board~~] nominating committee is appointed every two years; and

(ii) members from the same wildlife region serve staggered terms.

(c) If a vacancy occurs for any reason, the governor shall appoint a replacement in the same manner that the position was originally filled to serve the remainder of the unexpired term.

(6) The nominating committee shall select a chair and vice chair from its membership.

(7) Six members shall constitute a quorum.

Section 3. Section 23-14-2.6 is amended to read:

23-14-2.6(Codified as 23A-2-303). Regional advisory councils -- Creation -- Membership -- Duties -- Per diem and expenses.

(1) There are created five regional advisory councils which shall consist of 12 to 15 members each from the wildlife region whose boundaries are established for administrative purposes by the division.

(2) The members shall include individuals who represent the following groups and interests:

(a) agriculture;

(b) sportsmen;

(c) nonconsumptive wildlife;

(d) locally elected public officials;

(e) federal land agencies; and

(f) the public at large.

(3) The executive director of the Department of Natural Resources, in consultation with the director of the Division of Wildlife Resources, shall select the members from a list of nominees submitted by the respective interest group or agency.

(4) The councils shall:

(a) hear broad input, including recommendations, biological data, and information regarding the effects of wildlife;

(b) gather information from staff, the public, and government agencies; and

(c) make recommendations to the Wildlife Board in an advisory capacity.

(5) (a) Except as required by Subsection (5)(b), each member shall serve a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) The councils shall determine:

(a) the time and place of meetings; and

(b) any other procedural matter not specified in this chapter.

(8) Members of the councils shall complete an orientation course [~~as provided~~] described in Subsection 23-14-2(8).

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 4. Section 63I-1-223 is amended to read:

63I-1-223. Repeal dates: Title 23.

(1) Section 23-14-2.5, which creates the Wildlife Board Nominating Committee, is repealed July 1, [~~2023~~] 2028.

(2) Section 23-14-2.6, which creates regional advisory councils for the Wildlife Board, is repealed July 1, [~~2023~~] 2028.

Section 5. Section 63I-1-279 is amended to read:

63I-1-279. Repeal dates: Title 79.

(1) Subsection 79-2-201(2)(p), related to the Heritage Trees Advisory Committee, is repealed July 1, 2026.

(2) Subsection 79-2-201(2)(q), related to the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(3) Subsection 79-2-201(2)(r)(i), related to an advisory council created by the Division of Outdoor Recreation to advise on boating policies, is repealed July 1, 2024.

(4) Subsection 79-2-201(2)(s), related to the Wildlife Board Nominating Committee, is repealed July 1, [~~2023~~] 2028.

(5) Subsection 79-2-201(2)(t), related to regional advisory councils for the Wildlife Board, is repealed July 1, [~~2023~~] 2028.

(6) Section 79-7-206, creating the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(7) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

CHAPTER 212
S. B. 13
Passed February 1, 2023
Approved March 14, 2023
Effective July 1, 2023

MOTOR VEHICLE REGISTRATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provisions related to motor vehicle registration and license plates.

Highlighted Provisions:

This bill:

- clarifies when the State Tax Commission may impose a registration reinstatement fee;
- creates the License Plate Restricted Account (restricted account);
- repeals the honorary consulate special group license plate;
- provides that appropriations from the restricted account are nonlapsing; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-54-102, as last amended by Laws of Utah 2019, Chapter 405
41-1a-110, as last amended by Laws of Utah 2019, Chapter 461
41-1a-418, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, and 451
41-1a-1201, as last amended by Laws of Utah 2022, Chapter 259
53-8-214, as enacted by Laws of Utah 2017, Chapter 406
63I-1-241, as last amended by Laws of Utah 2022, Chapters 68, 92, 104, and 110
63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472
63I-2-263, as last amended by Laws of Utah 2022, Chapters 63, 209, 240, 242, 264, 354, and 435
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154

ENACTS:

41-1a-122, Utah Code Annotated 1953

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

Section 1. Section 26-54-102 is amended to read:

26-54-102. Spinal Cord and Brain Injury Rehabilitation Fund -- Creation -- Administration -- Uses.

(1) As used in this section, a "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:

(a) provides rehabilitation services to individuals in the state:

(i) who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating; and

(ii) who require post-acute care;

(b) employs licensed therapy clinicians;

(c) has at least five years experience operating a post-acute care rehabilitation clinic in the state; and

(d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

(2) There is created an expendable special revenue fund known as the "Spinal Cord and Brain Injury Rehabilitation Fund."

(3) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(b) a portion of the impound fee as designated in Section 41-6a-1406;

(c) the fees collected by the Motor Vehicle Division under Subsections [~~41-1a-1201(9)~~] 41-1a-1201(8) and 41-22-8(3); and

(d) amounts appropriated by the Legislature.

(4) The fund shall be administered by the executive director of the department, in consultation with the advisory committee created in Section 26-54-103.

(5) Fund money shall be used to:

(a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide rehabilitation services to individuals who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating, including:

(i) physical, occupational, and speech therapy; and

(ii) equipment for use in the qualified charitable clinic; and

(b) pay for operating expenses of the advisory committee created by Section 26-54-103, including the advisory committee's staff.

Section 2. Section 41-1a-110 is amended to read:

41-1a-110. Authority of division to suspend or revoke registration, certificate of title, license plate, or permit.

(1) Except as provided in Subsections (3) and (4), the division may suspend or revoke a registration, certificate of title, license plate, or permit if:

(a) the division is satisfied that a registration, certificate of title, license plate, or permit was fraudulently procured or erroneously issued;

(b) the division determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways;

(c) a registered vehicle has been dismantled;

(d) the division determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand;

(e) a registration decal, license plate, or permit is knowingly displayed upon a vehicle other than the one for which issued;

(f) the division determines that the owner has committed any offense under this chapter involving the registration, certificate of title, registration card, license plate, registration decal, or permit; or

(g) the division receives notification by the Department of Transportation that the owner has committed any offence under Title 72, Chapter 9, Motor Carrier Safety Act.

(2) (a) The division shall revoke the registration of a vehicle if the division receives notification by the:

(i) Department of Public Safety that a person:

(A) has been convicted of operating a registered motor vehicle in violation of Section 41-12a-301 or 41-12a-303.2; or

(B) is under an administrative action taken by the Department of Public Safety for operating a registered motor vehicle in violation of Section 41-12a-301; or

(ii) designated agent that the owner of a motor vehicle:

(A) has failed to provide satisfactory proof of owner's or operator's security to the designated agent after the second notice provided under Section 41-12a-804; or

(B) provided a false or fraudulent statement to the designated agent.

(b) The division shall notify the Driver License Division if the division revokes the registration of a vehicle under Subsection (2)(a)(ii)(A).

(3) The division may not suspend or revoke the registration of a vessel or outboard motor unless authorized under Section 73-18-7.3.

(4) The division may not suspend or revoke the registration of an off-highway vehicle unless authorized under Section 41-22-17.

(5) The division shall charge a registration reinstatement fee under Section 41-1a-1220, if the registration is revoked under Subsection [~~(1)(f)~~] (2).

(6) Except as provided in Subsections (3), (4), and (7), the division may suspend or revoke a registered vehicle's registration if the division is notified by a local health department, as defined in Section 26A-1-102, that the registered vehicle is unable to meet state or local air emissions standards or violates Subsection 41-6a-1626(2)(a) or (b).

(7) The division may not suspend or revoke a registered vehicle's registration under Subsection (6) if the registered vehicle has a manufacturer's gross vehicle weight rating that is greater than 26,000 pounds.

Section 3. Section 41-1a-122 is enacted to read:

41-1a-122 (Codified as 41-1a-123). License Plate Restricted Account.

(1) As used in this section, "account" means the License Plate Restricted Account created in Subsection (2).

(2) There is created within the General Fund a restricted account known as the "License Plate Restricted Account."

(3) The account consists of money deposited into the account in accordance with Subsection 41-1a-1201(3).

(4) The Legislature shall appropriate funds in the account to the commission for the costs of issuing license plates and decals.

(5) In accordance with Section 63J-1-602.1, appropriations made to the division from the account are nonlapsing.

Section 4. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

[~~(viii) a current honorary consulate designated by the United States Department of State;~~]

[~~(ix)~~] (viii) an individual supporting commemoration and recognition of women's suffrage;

[~~(x)~~] (ix) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

[~~(xi)~~] (x) an individual supporting the Utah Wing of the Civil Air Patrol; or

[~~(xii)~~] (xi) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of Outdoor Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiii) programs that support children with heart disease;

(xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

(xxviii) programs that promote motorcycle safety awareness;

(xxix) organizations that promote clean air through partnership, education, and awareness;

(xxx) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities;

(xxxi) organizations dedicated to facilitating, connecting, registering, and advocating for organ donors and donor families;

(xxxii) public education on behalf of the Kiwanis International clubs;

(xxxiii) the Live On suicide prevention campaign; or

(xxxiv) the Division of State Parks to advance the Utah State Parks dark sky initiative.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 5. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (5), (6), (7), and (8)[~~, and (9)~~] and Sections 41-1a-422, 41-1a-1220, 41-1a-1221, and 41-1a-1223, all fees collected under this part shall be deposited into the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), [~~and~~] (7), and (9) and Section 41-1a-1212 [~~may be used by the commission to cover the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.~~] shall be deposited into the License Plate Restricted Account created in Section 41-1a-122.

[~~(4) In accordance with Section 63J-1-602.2, all funds available to the commission for the purchase and distribution of license plates and decals are nonlapsing.~~]

[~~(5)~~] (4) (a) Except as provided in Subsections (3) and [~~(5)(b)~~] (4)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration

period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(c) Fifty cents of the registration fee imposed under Subsection 41-1a-1206(1)(i) for each vintage vehicle that has a model year of 1981 or newer may be used by the commission to cover the costs incurred in enforcing and administering this part.

[~~(6)~~] (5) (a) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited into the Transportation Investment Fund of 2005 created under Section 72-2-124:

(i) $30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), (4), and (7);

(ii) $21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) $2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) $23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) $24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); and

(vi) $1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) $23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) $23 of each registration fee collected under Subsection 41-1a-1206(2)(a)(ii).

[~~(7)~~] (6) (a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

[~~(8)~~] (7) (a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

[~~(9)~~] (8) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited into the Spinal Cord and Brain Injury Rehabilitation Fund created in Section 26-54-102.

Section 6. Section 53-8-214 is amended to read:

53-8-214. Creation of the Motor Vehicle Safety Impact Restricted Account.

(1) There is created a restricted account within the General Fund known as the Motor Vehicle Safety Impact Restricted Account.

(2) The account includes:

(a) deposits made to the restricted account from registration fees as described in Subsection [~~41-1a-1201(8)~~] 41-1a-1201(7);

(b) donations or deposits made to the account; and

(c) any interest earned on the account.

(3) Upon appropriation, the division may use funds in the account to improve motor vehicle safety, mitigate impacts, and enforce safety provisions, including the following:

(a) hiring new Highway Patrol troopers;

(b) payment of overtime for Highway Patrol troopers; and

(c) acquisition of equipment to improve motor vehicle safety impacts and enforcement.

(4) The division shall annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee to justify expenditures and use of funds in the account.

Section 7. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection [~~41-1a-1201(9)~~] 41-1a-1201(8), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2027:

(a) Subsection 41-6a-102(31) that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection 41-6a-1406(6)(c)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1)(a), which authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

Section 8. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection [~~63J-1-602.2(26),~~] 63J-1-602.2(24) related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

(26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

(30) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

(31) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

(32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 9. Section 63I-2-263 is amended to read:

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

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

[~~(3) Subsection 63A-17-304(1)(c) is repealed July 1, 2022.~~]

[~~(4)~~] (3) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

[~~(5) Section 63G-1-502 is repealed July 1, 2022.~~]

[~~(6) The following sections regarding the World War II Memorial Commission are repealed July 1, 2022:~~]

[~~(a) Section 63G-1-801;~~]

[~~(b) Section 63G-1-802;~~]

[~~(c) Section 63G-1-803; and~~]

[~~(d) Section 63G-1-804.~~]

[~~(7) Title 63H, Chapter 5, Utah State Railroad Museum Authority, is repealed on July 1, 2022.~~]

[~~(8)~~] (4) Section 63H-7a-303 is repealed July 1, 2024.

[~~(9)~~] (5) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(10)~~] (6) Subsection [~~63J-1-602.2(44),~~] 63J-1-602.2(42), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

[~~(11)~~] (7) Sections 63M-7-213 and 63M-7-213.5 are repealed January 1, 2023.

[~~(12) Section 63M-7-217 is repealed July 1, 2022.~~]

[~~(13)~~] (8) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(14)~~] (9) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 10. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Technology Development Restricted Account created in Section 31A-3-104.

(18) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(19) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(20) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(21) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(22) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(23) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(24) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The License Plate Restricted Account created in Section 41-1a-122.

[~~(31)~~] (32) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[~~(32)~~] (33) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

[~~(33)~~] (34) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[~~(34)~~] (35) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

[~~(35)~~] (36) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[~~(36)~~] (37) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~(37)~~] (38) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(38)~~] (39) The Canine Body Armor Restricted Account created in Section 53-16-201.

[~~(39)~~] (40) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(40)~~] (41) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(41)~~] (42) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(42)~~] (43) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(43)~~] (44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(44)~~] (45) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(45)~~] (46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(46)~~] (47) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(47)~~] (48) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~(48)~~] (49) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(49)~~] (50) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(50)~~] (51) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(51)~~] (52) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(52)~~] (53) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(53)~~] (54) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

[~~(54)~~] (55) The National Professional Men's Basketball Team Support of Women and Children

Issues Restricted Account created in Section 26B-1-302.

[~~(55)~~] (56) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

[~~(56)~~] (57) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.

[~~(57)~~] (58) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(58)~~] (59) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(59)~~] (60) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(60)~~] (61) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[~~(61)~~] (62) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(62)~~] (63) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(63)~~] (64) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(64)~~] (65) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(65)~~] (66) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[~~(66)~~] (67) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(67)~~] (68) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(68)~~] (69) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(69)~~] (70) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(70)~~] (71) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(71)~~] (72) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(72)~~] (73) Fees for certificate of admission created under Section 78A-9-102.

[~~(73)~~] (74) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(74)~~] (75) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(75)~~] (76) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

[~~(76)~~] (77) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(77)~~] (78) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

[~~(78)~~] (79) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 11. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The Emergency Medical Services Grant Program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

(15) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

[~~(18) The State Tax Commission under Section 41-1a-1201 for the:~~]

[~~(a) purchase and distribution of license plates and decals; and~~]

[~~(b) administration and enforcement of motor vehicle registration requirements.~~]

[~~(19)~~] (18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(20)~~] (19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(21)~~] (20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(22)~~] (21) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

[~~(23)~~] (22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

[~~(24)~~] (23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

[~~(25)~~] (24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[~~(26)~~] (25) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

[~~(27)~~] (26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(28)~~] (27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

[~~(29)~~] (28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[~~(30)~~] (29) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[~~(31)~~] (30) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(32)~~] (31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

[~~(33)~~] (32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(34)~~] (33) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(35)~~] (34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(36)~~] (35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(37)~~] (36) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(38)~~] (37) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(39)~~] (38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(40)~~] (39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(41)~~] (40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(42)~~] (41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

[~~(43)~~] (42) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 12. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 213
S. B. 14
Passed February 2, 2023
Approved March 14, 2023
Effective July 1, 2023

LEASED TANGIBLE PERSONAL PROPERTY TAX AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill modifies provisions related to leased tangible personal property.

Highlighted Provisions:

This bill:

- addresses the requirements for obtaining a temporary permit for a leased vehicle;
- provides that the sale of leased tangible personal property from the lessor to the lessee is subject to sales and use tax; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-211, as last amended by Laws of Utah 1998, Chapter 125
59-12-103, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433
59-12-104, as last amended by Laws of Utah 2022, Chapters 228, 275, 280, and 373

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

Section 1. Section 41-1a-211 is amended to read:

41-1a-211. Temporary permits -- Other laws applied.

(1) (a) The division may grant a temporary permit to operate a vehicle for which:

(i) application for registration has been made, or, in the case of a newly purchased vehicle, will be made;

(ii) evidence of ownership is provided; and

(iii) the proper fees have been paid.

(b) The temporary permit allows the vehicle to be operated pending complete registration by displaying:

(i) the temporary permit; or

(ii) other evidence of the application under rules made by the commission.

(2) If a vehicle is operated on a temporary permit issued under this section or Section 41-3-302, that vehicle is subject to all other statutes, rules, and regulations intended to control the use and operation of vehicles on the highways.

(3) For purposes of Subsection (1), evidence of ownership includes a document demonstrating that:

(a) in exchange for consideration, the vehicle's lessee agreed to transfer the vehicle to the applicant upon receipt of the vehicle's certificate of title from the vehicle's lessor; and

(b) the lessee is the current registered owner of the vehicle.

Section 2. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; [~~and~~]

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition[~~.~~]; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts paid or charged for

fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on

an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(e)(i)(A)(I).

(i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(e)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures

described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes

described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through (D).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant revenue.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(ii) As used in this Subsection (8)(d), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(vi).

(vi) The commission shall annually deposit the amount described in Subsection (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(vii) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(e).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

(15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(e)(i)(A)(I).

Section 3. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

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

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

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

(a) construction materials except:

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

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

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

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

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

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

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

(i) food and food ingredients; or

(ii) prepared food;

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

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

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

(i) to a passenger;

(ii) by a commercial airline carrier; and

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

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

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

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

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

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

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

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

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

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

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

(a) the sale is not from the vehicle's lessor to the vehicle's lessee;

(b) the vehicle is not registered in this state; and

[~~(b)~~] (c) (i) the vehicle is not used in this state; or

(ii) the vehicle is used in this state:

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

(I) 30 days in any calendar year; or

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

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

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

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

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

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

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

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

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

(A) "syringe"; or

(B) "stoma supply";

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

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

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

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

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

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

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

(i) a medical facility; or

(ii) a nursing facility; and

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

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

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

(i) regardless of the number of transactions involving the sale of that tangible personal property

or product transferred electronically by that person; and

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

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

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

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

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

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

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

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

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

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

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

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

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

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

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

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

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

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

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

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

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

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

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

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

(16) sales of newspapers or newspaper subscriptions;

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

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

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

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

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

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

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

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

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

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

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

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

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

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

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

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

(19) sales of hay;

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

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

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

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

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

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

property to be sold by that manufacturer, processor, wholesaler, or retailer;

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

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

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

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

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

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

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

(ii) for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) not registered in this state; and

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

(ii) used in this state:

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

(I) 30 days in any calendar year; or

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

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

(31) sales of aircraft manufactured in Utah;

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

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

(a) a vehicle by an authorized carrier; or

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

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

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

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

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

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

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

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

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

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

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

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

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

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

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

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

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

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

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and

Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

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

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

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

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or

diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;

(89) amounts paid or charged for an item exempt under Section 59-12-104.10;

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback;

(92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1; and

(93) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (93)(a); and

(c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose.

Section 4. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 214
S. B. 15
Passed February 2, 2023
Approved March 14, 2023
Effective May 3, 2023

JUVENILE OFFENDER PENALTY AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends provisions related to the sentencing of a juvenile offender.

Highlighted Provisions:

This bill:

- addresses the sentencing of a juvenile offender for the conviction of certain sexual offenses; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-209, as last amended by Laws of Utah 2021, Chapter 206

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

Section 1. Section 76-3-209 is amended to read:

76-3-209. Limitation on sentencing for crimes committed by juveniles.

(1) As used in this section, "qualifying sexual offense" means:

(a) an offense described in Chapter 5, Part 4, Sexual Offenses;

(b) Section 76-9-702, lewdness;

(c) Section 76-9-702.1, sexual battery; or

(d) Section 76-9-702.5, lewdness involving a child.

(2) (a) This Subsection (2) only applies prospectively to an individual sentenced on or after May 10, 2016.

(b) Notwithstanding any provision of law, an individual may not be sentenced to life without parole if:

(i) the individual is convicted of a crime punishable by life without parole; and

(ii) at the time the individual committed the crime, the individual was ~~[less than]~~ under 18 years old.

(c) The maximum punishment that may be imposed on an individual described in Subsection (2)(b) is an indeterminate prison term of not less than 25 years and that may be for life.

(3) Except as provided in Subsection (4), if an individual is convicted in district court of a qualifying sexual offense and, at the time of the offense, the individual was at least 14 years old, but under 18 years old:

(a) the individual is not, based on the conviction, subject to the registration requirements described in Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(b) the district court shall impose a sentence consistent with the disposition that would have been made in juvenile court; and

(c) the district court may not impose incarceration unless the court enters specific written findings that incarceration is warranted based on a totality of the circumstances, taking into account:

(i) the time that elapsed after the individual committed the offense;

(ii) the age of the individual at the time of the offense;

(iii) the age of the victim at the time of the offense;

(iv) the criminal history of the individual after the individual committed the offense;

(v) any treatment assessments or validated risk tools; and

(vi) public safety concerns.

(4) Subsection (3) does not apply if:

(a) before the individual described in Subsection (3) is convicted of the qualifying sexual offense, the individual is convicted of a qualifying sexual offense that the individual committed when the individual was 18 years old or older; ~~[or]~~

(b) the individual is convicted in district court, before the victim is 18 years old, of a violation of Section 76-5-405, aggravated sexual assault~~[.]~~; or

(c) the conviction occurred in district court after the individual was:

(i) charged by criminal information in the juvenile court for the qualifying sexual offense in accordance with Section 80-6-503; and

(ii) bound over to the district court for the qualifying sexual offense in accordance with Section 80-6-504.

(5) If the district court imposes incarceration under Subsection (3)(c), the term of incarceration may not exceed:

(a) seven years for a violation of Section 76-5-405, aggravated sexual assault;

(b) except as provided in Subsection (5)(a), four years for a felony violation of Chapter 5, Part 4, Sexual Offenses; or

(c) the maximum sentence described in Section 76-3-204 for:

(i) a misdemeanor violation of Chapter 5, Part 4, Sexual Offenses;

(ii) a violation of Section 76-9-702, lewdness;

(iii) a violation of Section 76-9-702.1, sexual battery; or

(iv) a violation of Section 76-9-702.5, lewdness involving a child.

CHAPTER 215
S. B. 17
Passed February 22, 2023
Approved March 14, 2023
Effective May 3, 2023

VOTING AND VOTER RESIDENCY AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill amends elections provisions, including residency provisions for voting and running for office and provisions relating to uniformed and overseas voters.

Highlighted Provisions:

This bill:

- defines terms;
- amends and clarifies provisions for determining residency;
- establishes standards and requirements for determining residency;
- addresses evidence of residency and challenges to residency;
- modifies provisions relating to uniformed and overseas voters to:
  - comply with federal law and certain provisions of state law; and
  - clarify the races for which, and the types of ballots which, certain overseas voters may vote; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-105, as last amended by Laws of Utah 2021, Chapter 183
20A-16-102, as last amended by Laws of Utah 2021, Chapter 93
20A-16-103, as enacted by Laws of Utah 2011, Chapter 327
20A-16-201, as enacted by Laws of Utah 2011, Chapter 327
20A-16-301, as enacted by Laws of Utah 2011, Chapter 327
20A-16-302, as last amended by Laws of Utah 2013, Chapter 198
20A-16-401, as last amended by Laws of Utah 2020, Chapter 31
20A-16-402, as last amended by Laws of Utah 2013, Chapter 198
20A-16-403, as last amended by Laws of Utah 2019, Chapter 255
20A-16-405, as enacted by Laws of Utah 2011, Chapter 327
20A-16-501, as last amended by Laws of Utah 2021, Chapter 100
20A-16-502, as last amended by Laws of Utah 2012, Chapter 369
20A-16-503, as enacted by Laws of Utah 2011, Chapter 327

REPEALS:

20A-16-101, as enacted by Laws of Utah 2011, Chapter 327

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

Section 1. Section 20A-2-105 is amended to read:

20A-2-105. Determining residency.

(1) As used in this section:

(a) "Principal place of residence" means the single location where [~~a person's~~] an individual's habitation is fixed and to which, whenever the [~~person~~] individual is absent, the [~~person~~] individual has the intention of returning, as evidenced by:

(i) the intent expressed by the individual; and

(ii) acts of the individual that are consistent or inconsistent with the intent expressed by the individual.

(b) "Resident" means [~~a person~~] an individual whose principal place of residence is within a specific voting precinct in Utah.

(2) Election officials and judges shall apply the standards and requirements of this section when determining whether [~~a person~~] an individual is a resident for purposes of interpreting this title or the Utah Constitution.

(3) An individual may request that an election official or election judge assist the individual in determining the individual's principal place of residence for a purpose described in Subsection (2).

[~~(3)~~] (4) (a) [~~A person~~] An individual resides in Utah if:

(i) the [~~person's~~] individual's principal place of residence is within Utah; and

(ii) the [~~person~~] individual has a present intention to maintain the [~~person's~~] individual's principal place of residence in Utah permanently or indefinitely.

(b) [~~A person~~] An individual resides within a particular voting precinct if, [~~as of~~] on the date of registering to vote, the [~~person's~~] individual's principal place of residence is in that voting precinct.

(c) [~~A person's~~] An individual's principal place of residence does not change solely because the [~~person~~] individual is present in Utah, present in a voting precinct, absent from Utah, or absent from the [~~person's~~] individual's voting precinct because the [~~person~~] individual is:

(i) employed in the service of the United States or of Utah;

(ii) a student at an institution of learning;

(iii) incarcerated in prison or jail; or

(iv) residing upon an Indian or military reservation.

(d) (i) A member of the armed forces of the United States is not a resident of Utah merely because that member is stationed at a military facility within Utah.

(ii) In order to be a resident of Utah, a member of the armed forces described in this Subsection [~~(3)(d)~~] (4)(d) shall meet the other requirements of this section.

(e) (i) Except as provided in Subsection [~~(3)(e)(ii) or (iii), a person has not lost the person's~~] (4)(e)(ii) or (iii), an individual does not lose the individual's principal place of residence in Utah or a precinct if [~~that person~~] the individual moves to a foreign country, another state, or another voting precinct within Utah, for temporary purposes with the intention of returning.

(ii) If [~~a person~~] an individual leaves the state or a voting precinct and votes or registers to vote in another state or voting precinct, the [~~person~~] individual is no longer a resident of the state or voting precinct that the [~~person~~] individual left.

(iii) [~~A person loses the person's~~] An individual loses the individual's principal place of residence in Utah or in a precinct, if, after the [~~person~~] individual moves to another state or another precinct under Subsection [~~(3)(e)(i)~~] (4)(e)(i), the [~~person~~] individual forms the intent of making the other state or precinct the [~~person's~~] individual's principal place of residence.

(f) [~~A person~~] An individual is not a resident of a county or voting precinct if [~~that person~~] the individual comes to the county or voting precinct for temporary purposes and does not intend to make that county or voting precinct the [~~person's~~] individual's principal place of residence.

(g) [~~A person loses the person's~~] An individual loses the individual's principal place of residence in Utah or in a precinct if the [~~person~~] individual moves to another state or precinct with the intention of making the other state or precinct the [~~person's~~] individual's principal place of residence.

(h) If [~~a person~~] an individual moves to another state or precinct with the intent of remaining [~~there~~] in the other state or precinct for an indefinite time as the [~~person's~~] individual's principal place of residence, the [~~person loses the person's~~] individual loses the individual's principal place of residence in Utah, or in the precinct, even though the [~~person~~] individual intends to return at some future time.

(5) (a) An individual may challenge a determination by a voter, election official, or election judge of a voter's principal place of residence, for the purpose of voting, in accordance with the applicable provisions of Sections 20A-3a-803, 20A-3a-804, and 20A-3a-805.

(b) If an election official or election judge has reasonable, articulable grounds to question the principal place of residence of an individual for a purpose described in Subsection (2), the election official or election judge may require the individual to provide information to resolve the question.

(c) Reasonable, articulable grounds to question an individual's principal place of residence, and require additional information under Subsection (5)(b) include:

(i) that the individual has a driver license or other identification from outside Utah;

(ii) that the address claimed as the individual's principal place of residence does not match the address on the individual's driver license or other identification;

(iii) that the individual owns residential property outside the location claimed as the individual's principal place of residence; or

(iv) other articulable grounds that would lead a reasonable individual to question an individual's principal place of residence.

(d) If an election official or election judge requires, under Subsection (5)(b), that an individual provide additional information, the clerk shall:

(i) enter the voter registration into the statewide voter registration database; and

(ii) indicate, in the statewide voter registration database, that the voter must provide additional information before the voter's ballot may be accepted.

[~~(4)~~] (6) [~~An~~] Subject to Subsection (10), an election official or judge [~~shall, in determining a person's~~] who, under Subsection (5), makes a determination regarding an individual's principal place of residence, shall, when making the determination, consider the following factors, to the extent that the [~~election official or judge determines the~~] factors [~~to be~~] are relevant:

(a) where the [~~person's~~] individual's family resides;

(b) whether the [~~person~~] individual is single, married, separated, or divorced;

(c) the age of the [~~person~~] individual;

(d) where the [~~person~~] individual usually sleeps;

(e) where the [~~person's~~] individual's minor children attend school;

(f) the location of the [~~person's~~] individual's employment, income sources, or business pursuits;

(g) the location of real property owned by the [~~person~~] individual;

(h) the [~~person's~~] individual's residence for purposes of taxation or tax exemption; [~~and~~]

(i) the location where the individual's motor vehicles are registered;

(j) the address for which the individual pays utility services;

(k) the address associated with the individual's hunting or fishing license;

(l) the address associated with the individual's professional licenses; and

[~~(i)~~] (m) other relevant factors.

[~~(5)~~] (7) (a) [~~A person has changed the person's~~] An individual changes the individual's principal place of residence if the [~~person~~] individual:

(i) acts affirmatively to move from the state or a precinct in the state; and

(ii) has the intent to remain in another state or precinct.

(b) [~~A person~~] An individual may not have more than one principal place of residence.

(c) [~~A person does not lose the person's~~] An individual does not lose the individual's principal place of residence until the [~~person~~] individual establishes another principal place of residence.

(d) An individual who moves from one county in Utah to another county in Utah retains the right to vote in the county from which the individual moved for 30 days after the day on which the individual moved from the county, unless the individual votes in the new county for that election.

(e) An individual who is homeless may, in accordance with the other provisions of this section, establish a nontraditional location, including a location without a structure, as the individual's principal place of residence.

[~~(6)~~] (8) In computing the period that a person is a resident[~~,~~] [~~a person shall~~] for a purpose described in Subsection (2), the period:

(a) [~~include~~] begins on the day on which the [~~person~~] individual establishes the [~~person's~~] individual's principal place of residence; and

(b) [~~exclude~~] ends on the day [~~of~~] before the day of the next applicable election.

[~~(7)~~] (9) (a) Except as provided in Subsection [~~(10)~~] (12), there is a rebuttable presumption that [~~a person's~~] an individual's principal place of residence is in Utah and in the voting precinct claimed by the [~~person if the person~~] individual, if the individual makes an oath or affirmation upon a registration application form or declaration of candidacy that the [~~person's~~] individual's principal place of residence is in Utah and in the voting precinct claimed by the [~~person~~] individual.

(b) Except as provided in Subsection [~~(10)~~] (12), the election officers and election officials shall allow [~~a person~~] an individual described in Subsection [~~(7)(a)~~] (9)(a) to register and vote in the precinct for the residence claimed under Subsection (9)(a), or accept the [~~person's~~] individual's declaration of candidacy in the district for the residence claimed under Subsection (9)(a), unless, [~~upon a challenge by a registrar or some other person~~] in accordance with Subsection (5), it is shown by law or by clear and convincing evidence that:

(i) the [~~person's~~] individual's principal place of residence is not in Utah or not in the applicable precinct or district; or

(ii) the [~~person~~] individual is incarcerated in prison or jail and did not, before the [~~person~~] individual was incarcerated in prison or jail, establish the [~~person's~~] individual's principal place of residence in the voting precinct where the prison or jail is located.

[~~(8)~~] (10) (a) The criteria described in this section for establishing [~~a person's~~] an individual's principal place of residence for voting purposes do not apply in relation to the [~~person's~~] individual's location while the [~~person~~] individual is incarcerated in prison or jail.

(b) For voting registration purposes, the principal place of residence of [~~a person~~] an individual incarcerated in prison or jail is the state and voting precinct where the [~~person's~~] individual's principal place of residence was located before incarceration.

[~~(9)~~] (11) If [~~a person's~~] an individual's principal place of residence is a residential parcel of one acre in size or smaller that is divided by the boundary line between two or more counties, that [~~person~~] individual shall be considered a resident of the county in which a majority of the residential parcel lies.

[~~(10)~~] (12) (a) If an individual seeking to become a candidate for a political office that includes a durational residency requirement has been absent from the state for a period of more than 180 consecutive days during the applicable residency period, the individual may, at the time that the candidate files a declaration of candidacy, submit evidence to the filing officer to show that the individual intended to return to the state during the time of the individual's absence from the state.

(b) There is a rebuttable presumption that an individual described in Subsection [~~(10)(a)~~] (12)(a) intended to return to the state during the individual's absence if:

(i) the individual submits evidence of the individual's intent to the filing officer at the time that the individual files a declaration of candidacy; or

(ii) the individual was absent from the state because the individual was:

(A) employed in the service of the United States or of Utah;

(B) a student at an institution of learning; or

(C) engaged solely in religious, missionary, philanthropic, or humanitarian activities.

(c) If a valid written objection to an individual's declaration of candidacy is filed, there is a rebuttable presumption that an individual described in Subsection [~~(10)(a)~~] (12)(a) did not intend to return to the state during the individual's absence if:

(i) the individual did not submit evidence of the individual's intent to the filing officer at the time that the individual filed a declaration of candidacy; and

(ii) the individual's absence from the state was not for one of the reasons described in Subsection [~~(10)(b)(ii)~~] (12)(b)(ii).

(d) An individual must rebut the presumption described in this Subsection [~~(10)~~] (12) by clear and convincing evidence.

Section 2. Section 20A-16-102 is amended to read:

20A-16-102. Definitions.

As used in this chapter:

[~~(1) "Covered voter" means:~~]

[~~(a) a uniformed-service voter or an overseas voter who is registered to vote in the state; or~~]

[~~(b) a uniformed-service voter whose voting residence is in the state and who otherwise satisfies the state's voter eligibility requirements.~~]

(1) "Covered voter" means an individual who:

(a) satisfies Utah's voter eligibility requirements that do not relate to residency;

(b) is not registered to vote in a state other than Utah;

(c) is absent from the United States on the day of the election; and

(d) (i) is a resident of Utah under Section 20A-2-105, but is absent from the United States on election day because the individual:

(A) is a uniformed service voter; or

(B) temporarily resides outside the United States;

(ii) is a foreign United States citizen who:

(A) before establishing a principal place of residence outside the United States, established a principal place of residence in Utah; and

(B) did not, after leaving Utah, register to vote in a state other than Utah or establish a principal place of residence in a state other than Utah; or

(iii) is a foreign United States citizen:

(A) who has never registered to vote in a state other than Utah;

(B) who has never established a principal place of residence in the United States; and

(C) whose parent, legal guardian, spouse, or domestic partner established the parent's, legal guardian's, spouse's, or domestic partner's most recent United States principal place of residence in Utah.

(2) "Dependent" means an individual recognized as a dependent by a uniformed service.

(3) "Federal postcard application" means the application prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, [~~Sec. 101(b)(2), 42 U.S.C. Sec. 1973ff(b)(2)~~] 52 U.S.C. Sec. 20301(b)(2).

(4) "Federal write-in absentee ballot" means the ballot described in the Uniformed and Overseas Citizens Absentee Voting Act, [~~Sec. 103, 42 U.S.C. Sec. 1973ff-2~~] 52 U.S.C. Sec. 20303(a)(1).

(5) "Foreign United States citizen" means a citizen of the United States whose principal place of residence is outside the United States.

[~~(5)~~] (6) "Military-overseas ballot" means:

(a) a federal write-in absentee ballot;

(b) a ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or

(c) a ballot cast by a covered voter in accordance with this chapter.

[~~(6)~~] (7) "Overseas voter" means a United States citizen who, on the day of the applicable election, is:

(a) voting age; and

(b) [~~outside~~] absent from the United States.

[~~(7)~~] (8) "State" means a state of the United States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, or [~~any territory or insular possession subject to the jurisdiction of the United States~~] American Samoa.

[~~(8)~~] (9) "Uniformed service" means:

(a) active and reserve components of the armed forces as defined in Section 68-3-12.5;

(b) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(c) the National Guard.

[~~(9)~~] (10) "Uniformed-service voter" means an individual who is qualified to vote and is:

(a) a member of the active or reserve components of the armed forces who is on active duty;

(b) a member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;

(c) a member on activated status of the National Guard; or

(d) a spouse or dependent of a member referred to in Subsections [~~(9)(a) through (c)~~] (10)(a) through (c).

[~~(10)~~] (11) "United States," when used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, and [~~any territory or insular possession subject to the jurisdiction of the United States~~] American Samoa.

Section 3. Section 20A-16-103 is amended to read:

20A-16-103. Application to elections -- Voting by foreign United States citizen.

(1) The voting procedures in this chapter apply to an election authorized by this title.

(2) A covered voter who is a foreign United States citizen may only vote in a federal election and may only vote for candidates for federal office.

(3) A covered voter described in Subsection 20A-16-102(1)(d)(ii) shall vote in the congressional election for the district where the covered voter established the covered voter's most recent principal place of residence in Utah.

(4) A covered voter described in Subsection 20A-16-102(1)(d)(iii) shall vote in the congressional election for the district where the covered voter's parent, legal guardian, spouse, or domestic partner established the parent's, legal guardian's, spouse's, or domestic partner's most recent United States principal place of residence in Utah.

Section 4. Section 20A-16-201 is amended to read:

20A-16-201. Duties of lieutenant governor.

The lieutenant governor shall:

(1) implement this chapter and the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, [~~42 U.S.C. Sec. 1973ff~~] 52 U.S.C. 20301 et seq.;

(2) make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots;

(3) establish an electronic transmission system through which a covered voter may apply for and receive voter registration materials, military-overseas ballots, and other information under this chapter;

(4) (a) develop standardized absentee-voting materials, including privacy and transmission envelopes and electronic equivalents of the envelopes, authentication materials, and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in the state; and

(b) to the extent reasonably possible, coordinate with other states on the development required by Subsection (4)(a); and

(5) prescribe the form and content of a declaration:

(a) for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of an overseas-military ballot;

(b) that is based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this chapter; and

(c) that is a prominent part of all balloting materials for which the declaration is required, including an indication of the date of execution of the declaration.

Section 5. Section 20A-16-301 is amended to read:

20A-16-301. Overseas voter's registration address.

[~~In~~] Subject to Section 20A-16-103, in registering to vote, an overseas voter who is eligible to vote in the state shall:

(1) use and be assigned to the voting precinct of the address of the last place of residence of the voter in the state; or

(2) if the address described in Subsection (1) is no longer a recognized residential address, be assigned an address, for voting purposes, in the applicable voting precinct.

Section 6. Section 20A-16-302 is amended to read:

20A-16-302. Methods of registering to vote.

(1) To apply to register to vote, in addition to any other approved method, a covered voter may use a federal postcard application or the application's electronic equivalent.

(2) (a) A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received [~~by the Thursday immediately~~] before the day of the election.

(b) If the declaration is received on or after the [~~Thursday immediately before~~] day of the election, the declaration shall be treated as an application to register to vote for subsequent elections.

(3) (a) The lieutenant governor shall ensure that the electronic transmission system described in Subsection 20A-16-201(3) is capable of accepting both a federal postcard application and any other approved electronic registration application sent to the appropriate election official.

(b) The voter may use the electronic transmission system or any other approved method to register to vote.

Section 7. Section 20A-16-401 is amended to read:

20A-16-401. Methods of applying for military-overseas ballots.

(1) A covered voter who is registered to vote in the state may apply for a military-overseas ballot:

(a) via the federal postcard application;

(b) via the federal postcard application's electronic equivalent; or

(c) by otherwise making a request in writing.

(2) A covered voter who is not registered to vote in this state may use a federal postcard application or the federal postcard application's electronic equivalent to apply simultaneously to register to vote under Section 20A-16-302 and for a military-overseas ballot.

(3) (a) The lieutenant governor shall ensure that the electronic transmission system described in

Subsection 20A-16-201(3) is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official.

(b) The voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.

(4) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official [~~by the Thursday immediately~~] before the day of the election.

(5) To receive the benefits of this chapter, a covered voter shall inform the appropriate election official that the voter is a covered voter by:

(a) the use of a federal postcard application or federal write-in absentee ballot;

(b) the use of an overseas address on an approved voter registration application or ballot application; or

(c) the inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.

(6) This chapter does not preclude a covered voter from voting via a manual ballot by mail.

Section 8. Section 20A-16-402 is amended to read:

20A-16-402. Timeliness and scope of application for military-overseas ballot.

(1) An application for a military-overseas ballot is timely if received [~~by the Thursday immediately~~] before the day of the election.

(2) An application for a military-overseas ballot for a regular primary election or municipal primary election, whether or not timely, is effective as an application for a military-overseas ballot for the regular general election or municipal general election.

Section 9. Section 20A-16-403 is amended to read:

20A-16-403. Transmission of unvoted ballots.

(1) For an election for which the state has not received a waiver pursuant to the Military and Overseas Voter Empowerment Act, [~~Sec. 579, 42 U.S.C. 1973ff-1(g)(2)~~] 52 U.S.C. Sec. 20302(g)(2), not later than 45 days before the election or, notwithstanding Section 20A-1-104, if the 45th day before the election is a weekend or holiday, not later than the business day preceding the 45th day, the election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.

(2) (a) A covered voter who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose:

(i) facsimile transmission;

(ii) email delivery; or

(iii) if offered by the voter's jurisdiction, Internet delivery.

(b) The election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.

(3) If a ballot application from a covered voter arrives after the jurisdiction begins transmitting ballots and balloting materials to voters, the official charged with distributing a ballot and balloting materials shall transmit [~~them~~] the ballot and balloting materials to the voter [~~not~~] no later than two business days after the day on which the application arrives.

Section 10. Section 20A-16-405 is amended to read:

20A-16-405. Federal write-in absentee ballot.

A covered voter may use a federal write-in absentee ballot to vote for all applicable offices and ballot propositions in an election.

Section 11. Section 20A-16-501 is amended to read:

20A-16-501. Use of voter's email address.

(1) An election officer shall request an email address from each covered voter who registers to vote [~~after January 1, 2012~~].

(2) An email address provided by a covered voter:

(a) is a private record under Section 63G-2-302; and

(b) may be used only for official communication with the covered voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, verifying the voter's mailing address and physical location, and informing the voter of the status of the voter's ballot in accordance with Section 20A-3a-401.5.

(3) The request for an email address shall:

(a) describe the purposes for which the email address may be used;

(b) include a statement that any other use or disclosure of the email address is prohibited; and

(c) describe how a voter may sign up to receive ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

(4) (a) A covered voter who provides an email address may request that the covered voter's application for a military-overseas ballot be

considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date of the application or another shorter period the covered voter specifies.

(b) An election official shall provide a military-overseas ballot to a covered voter who makes a standing request for each election to which the request is applicable.

(c) A covered voter who is entitled to receive a military-overseas ballot for a primary election under this Subsection (4) is entitled to receive a military-overseas ballot for the general election.

Section 12. Section 20A-16-502 is amended to read:

20A-16-502. Publication of election notice.

(1) At least 100 days before the day of an election, other than a statewide special election or local special election, and as soon as practicable before a statewide special election or local special election, the election officer shall prepare an election notice for the election officer's jurisdiction, to be used in conjunction with a federal write-in absentee ballot.

(2) The election notice must contain:

(a) a list of all of the ballot propositions and federal, state, and local offices that as of that date the election officer expects to be on the ballot on the date of the election; and

(b) specific instructions for how a covered voter is to indicate on the federal write-in absentee ballot the covered voter's choice for each office to be filled and for each ballot proposition to be contested.

(3) (a) A covered voter may request a copy of an election notice.

(b) The election officer shall send the notice to the covered voter by facsimile, email, or regular mail, as the covered voter requests.

(4) As soon as the ballot is certified, and not later than the date ballots are required to be transmitted to voters under Chapter 3a, Voting, the election officer charged with preparing the election notice under Subsection (1) shall update the notice with the certified candidates for each office and ballot propositions and make the updated notice publicly available.

(5) A political subdivision that maintains a website shall make the election notice prepared under this section and updated versions of the election notice regularly available on the website.

Section 13. Section 20A-16-503 is amended to read:

20A-16-503. Prohibition of nonsubstantive requirements.

(1) (a) If a covered voter's mistake or omission in the completion of a document under this chapter does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document.

(b) Failure to satisfy a nonsubstantive requirement, [~~such as using~~] including requirements to use paper or envelopes of a specified size or weight, does not invalidate a document submitted under this chapter.

(c) In a write-in ballot authorized by this chapter or in a vote for a write-in candidate on a regular ballot, if the intention of the covered voter is discernable under this state's uniform definition of what constitutes a vote, an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party is a valid vote.

(2) (a) Notarization is not required for the execution of a document under this chapter.

(b) (i) An authentication, other than the declaration [~~specified~~] described in Section 20A-16-409 or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under this chapter.

(ii) The declaration and any information in the declaration may be compared with information on file to ascertain the validity of the document.

Section 14. Repealer.

This bill repeals:

Section 20A-16-101, Title.

CHAPTER 216
S. B. 24
Passed February 2, 2023
Approved March 14, 2023
Effective May 3, 2023

ADVANCED AIR MOBILITY AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends and enacts provisions related to advanced air mobility systems.

Highlighted Provisions:

This bill:

- defines terms;
- renumbers and amends provisions related to unmanned aircraft systems and organizes those provisions with code related to the Division of Aeronautics;
- amends the powers of the Division of Aeronautics to include oversight of vertiports and other topics related to advanced air mobility systems;
- requires registration of unmanned aircraft systems and advanced air mobility systems;
- grants rulemaking authority to the Department of Transportation to make rules related to registration fees and registration requirements for unmanned aircraft systems and advanced air mobility systems;
- enacts and amends provisions related to preemption of local ordinances and business licensing of advanced air mobility business; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-10-102, as last amended by Laws of Utah 2019, Chapters 431, 479
72-10-103, as last amended by Laws of Utah 2019, Chapter 431
72-10-109, as last amended by Laws of Utah 2018, Chapter 436
72-10-110, as last amended by Laws of Utah 2018, Chapter 436
76-2-106, as enacted by Laws of Utah 2022, Chapter 93
76-9-308, as last amended by Laws of Utah 2022, Chapter 99

ENACTS:

72-10-1001, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

72-10-701, (Renumbered from 72-14-103, as last amended by Laws of Utah 2022, Chapter 99)
72-10-702, (Renumbered from 72-14-104, as enacted by Laws of Utah 2017, Chapter 364)
72-10-801, (Renumbered from 72-14-202, as enacted by Laws of Utah 2017, Chapter 364)
72-10-802, (Renumbered from 72-14-203, as last amended by Laws of Utah 2022, Chapter 64)
72-10-803, (Renumbered from 72-14-204, as renumbered and amended by Laws of Utah 2017, Chapter 364)
72-10-804, (Renumbered from 72-14-205, as enacted by Laws of Utah 2017, Chapter 364)
72-10-901, (Renumbered from 72-14-302, as enacted by Laws of Utah 2017, Chapter 364)
72-10-902, (Renumbered from 72-14-303, as enacted by Laws of Utah 2017, Chapter 364)
72-10-903, (Renumbered from 72-14-304, as enacted by Laws of Utah 2018, Chapter 40)
72-10-1002, (Renumbered from 72-14-403, as enacted by Laws of Utah 2017, Chapter 364)

REPEALS:

72-14-101, as renumbered and amended by Laws of Utah 2017, Chapter 364
72-14-102, as last amended by Laws of Utah 2022, Chapter 99
72-14-201, as enacted by Laws of Utah 2017, Chapter 364
72-14-301, as enacted by Laws of Utah 2017, Chapter 364
72-14-401, as enacted by Laws of Utah 2017, Chapter 364
72-14-402, as enacted by Laws of Utah 2017, Chapter 364

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

Section 1. Section 72-10-102 is amended to read:

72-10-102. Definitions.

As used in this chapter:

(1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.

(2) (a) "Advanced air mobility system" means a system that transports individuals and property using piloted and unpiloted aircraft, including electric aircraft and electric vertical takeoff and landing aircraft, in controlled or uncontrolled airspace.

(b) "Advanced air mobility system" includes each component of a system described in Subsection (2)(a), including:

(i) the aircraft, including payload;

(ii) communications equipment;

(iii) navigation equipment;

(iv) controllers;

(v) support equipment; and

(vi) remote and autonomous functions.

(3) "Aerial transit corridor" means an airspace volume defining a three-dimensional route segment with performance requirements to operate within or to cross where tactical air traffic control separation services are not provided.

[~~(2)~~] (4) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair, or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other air navigation facilities.

[~~(3)~~] (5) "Aeronautics instructor" means any individual engaged in giving or offering to give instruction in aeronautics, flying, or ground subjects, either with or without:

(a) compensation or other reward;

(b) advertising the occupation;

(c) calling his facilities an air school, or any equivalent term; or

(d) employing or using other instructors.

[~~(4)~~] (6) "Aircraft" means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

[~~(5)~~] (7) "Air instruction" means the imparting of aeronautical information by any aviation instructor or in any air school or flying club.

[~~(6)~~] (8) "Airport" means any area of land, water, or both, that:

(a) is used or is made available for landing and takeoff;

(b) provides facilities for the shelter, supply, and repair of aircraft, and handling of passengers and cargo;

(c) meets the minimum requirements established by the department as to size and design, surface, marking, equipment, and operation; and

(d) includes all areas shown as part of the airport in the current airport layout plan as approved by the Federal Aviation Administration.

[~~(7)~~] (9) "Airport authority" means a political subdivision of the state, other than a county or municipality, that is authorized by statute to operate an airport.

[~~(8)~~] (10) "Airport operator" means a municipality, county, or airport authority that owns or operates a commercial airport.

[~~(9)~~] (11) (a) "Airport revenue" means:

(i) all fees, charges, rents, or other payments received by or accruing to an airport operator for any of the following reasons:

(A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport permittees making use of airport property and services, and other parties;

(B) revenue received from the activities of others or the transfer of rights to others relating to the airport, including revenue received:

(I) for the right to conduct an activity on the airport or to use or occupy airport property;

(II) for the sale, transfer, or disposition of airport real or personal property, or any interest in that property, including transfer through a condemnation proceeding;

(III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural products or water owned by the airport operator to be taken from the airport; and

(IV) for the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest in real or personal property owned or controlled by the airport operator and used for an airport-related purpose but not located on the airport; or

(C) revenue received from activities conducted by the airport operator whether on or off the airport, which is directly connected to the airport operator's ownership or operation of the airport; and

(ii) state and local taxes on aviation fuel.

(b) "Airport revenue" does not include amounts received by an airport operator as passenger facility fees pursuant to 49 U.S.C. Sec. 40117.

[~~(10)~~] (12) "Air school" means any person engaged in giving, offering to give, or advertising, representing, or holding himself out as giving, with or without compensation or other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

[~~(11)~~] (13) "Airworthiness" means conformity with requirements prescribed by the Federal Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or accessories.

[~~(12)~~] (14) "Civil aircraft" means any aircraft other than a public aircraft.

[~~(13)~~] (15) "Commercial aircraft" means aircraft used for commercial purposes.

[~~(14)~~] (16) "Commercial airport" means a landing area, landing strip, or airport that may be used for commercial operations.

[~~(15)~~] (17) "Commercial flight operator" means a person who conducts commercial operations.

[~~(16)~~] (18) "Commercial operations" means:

(a) any operations of an aircraft for compensation or hire or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation is received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, and the operation of aircraft for hunting and fishing; or

(b) the brokering or selling of any of these services; but

(c) does not include any operations of aircraft as common carriers certificated by the federal government or the services incidental to those operations.

(19) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

[~~(17)~~] (20) "Dealer" means any person who is actively engaged in the business of flying for demonstration purposes, or selling or exchanging aircraft, and who has an established place of business.

[~~(18)~~] (21) "Experimental aircraft" means:

(a) any aircraft designated by the Federal Aviation Administration or the military as experimental and used solely for the purpose of experiments, or tests regarding the structure or functioning of aircraft, engines, or their accessories; and

(b) any aircraft designated by the Federal Aviation Administration as:

(i) being custom or amateur built; and

(ii) used for recreational, educational, or display purposes.

[~~(19)~~] (22) "Flight" means any kind of locomotion by aircraft while in the air.

[~~(20)~~] (23) "Flying club" means five or more persons who for neither profit nor reward own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

[~~(21)~~] (24) "Glider" means an aircraft heavier than air, similar to an airplane, but without a power plant.

[~~(22)~~] (25) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or overhauls aircraft, engines, or accessories.

[~~(23)~~] (26) "Parachute jumper" means any person who has passed the required test for jumping with a parachute from an aircraft, and has passed an examination showing that he possesses the required physical and mental qualifications for the jumping.

[~~(24)~~] (27) "Parachute rigger" means any person who has passed the required test for packing, repairing, and maintaining parachutes.

[~~(25)~~] (28) "Passenger aircraft" means aircraft used for transporting persons, in addition to the pilot or crew, with or without their necessary personal belongings.

[~~(26)~~] (29) "Person" means any individual, corporation, limited liability company, or association of individuals.

[~~(27)~~] (30) "Pilot" means any person who operates the controls of an aircraft while in-flight.

[~~(28)~~] (31) "Primary glider" means any glider that has a gliding angle of less than 10 to one.

[~~(29)~~] (32) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision, including the government of the United States, of the District of Columbia, and of any state, territory, or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for commercial purposes.

[~~(30)~~] (33) "Reckless flying" means the operation or piloting of any aircraft recklessly, or in a manner as to endanger the property, life, or body of any person, due regard being given to the prevailing weather conditions, field conditions, and to the territory being flown over.

[~~(31)~~] (34) "Registration number" means the number assigned by the Federal Aviation Administration to any aircraft, whether or not the number includes a letter or letters.

[~~(32)~~] (35) "Secondary glider" means any glider that has a gliding angle between 10 to one and 16 to one, inclusive.

[~~(33)~~] (36) "Soaring glider" means any glider that has a gliding angle of more than 16 to one.

(37) "Unmanned aircraft" means an aircraft that is:

(a) capable of sustaining flight; and

(b) operated with no possible direct human intervention from on or within the aircraft.

(38) "Unmanned aircraft system" means the entire system used to operate an unmanned aircraft, including:

(a) the unmanned aircraft, including payload;

(b) communications equipment;

(c) navigation equipment;

(d) controllers;

(e) support equipment; and

(f) autopilot functionality.

(39) "Unmanned aircraft system traffic management" means a traffic management ecosystem for uncontrolled operations, including unmanned aircraft systems, that is separate from, but complementary to, the Federal Aviation Administration's air traffic management system.

(40) "Vertiport" means an area of land, or a structure, used or intended to be used for electric, hydrogen, and hybrid vertical aircraft landings and takeoffs, including associated buildings and facilities.

Section 2. Section 72-10-103 is amended to read:

72-10-103. Rulemaking requirement.

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

(a) governing the establishment, location, and use of air navigation facilities;

(b) regulating the use, licensing, and supervision of all airports and vertiports in this state;

(c) establishing minimum standards with which all air navigation facilities, flying clubs, aircraft, gliders, pilots, and airports must comply; and

(d) safeguarding from accident and protecting the safety of persons operating or using aircraft and persons and property on the ground.

(2) The rules may:

(a) require that any device or accessory that forms part of any aircraft or its equipment be certified as complying with this chapter;

(b) limit the use of any device or accessory as necessary for safety; and

(c) develop and promote aeronautics within this state.

(3) (a) To avoid the danger of accident incident to confusion arising from conflicting rules governing aeronautics, the rules shall conform as nearly as possible with federal legislation, rules, regulations, and orders on aeronautics.

(b) The rules may not be inconsistent with paramount federal legislation, rules, regulations, and orders on the subject.

(4) The department may not require any pilot, aircraft, or mechanic who has procured a license under the Civil Aeronautics Authority of the United States to obtain a license from this state, other than required by this chapter.

(5) The department may not make rules that conflict with the regulations of:

(a) the Civil Aeronautics Authority; or

(b) other federal agencies authorized to regulate the particular activity.

(6) The department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Section 3. Section 72-10-109 is amended to read:

72-10-109. Certificate of registration of aircraft required -- Exceptions.

(1) (a) A person may not operate, pilot, or navigate, or cause or authorize to be operated, piloted, or navigated within this state any civil aircraft domiciled in this state unless the aircraft has a current certificate of registration issued by the department.

(b) The restriction described in Subsection (1)(a) does not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of the registered aircraft or to a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration.

(2) Aircraft centrally assessed by the State Tax Commission are exempt from the state registration requirement under Subsection (1).

(3) Beginning on January 1, 2024, a person may not operate in this state an unmanned aircraft system or an advanced air mobility aircraft for commercial operation for which certification is required under 14 C.F.R. Part 107 or 135 unless the aircraft has a current certificate of registration issued by the department.

[~~(3) Unmanned aircraft as defined in Section 72-14-102 are exempt from the state registration requirement under Subsection (1).~~]

Section 4. Section 72-10-110 is amended to read:

72-10-110. Aircraft registration information requirements -- Registration fee -- Administration -- Partial year registration.

(1) All applications for aircraft registration shall contain:

(a) a description of the aircraft, including:

(i) the manufacturer or builder;

(ii) the Federal Aviation Administration aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and

(iii) gross weight;

(b) the name and address of the owner of the aircraft; and

(c) where the aircraft is located, or the address where the aircraft is usually used or based.

(2) (a) Except as provided in Subsection (3) or (4), at the time application is made for registration or renewal of registration of an aircraft under this chapter, an annual registration fee of 0.4% of the average wholesale value of the aircraft shall be paid.

(b) For purposes of calculating the average wholesale value of an aircraft under Subsection (2)(a) or (3)(d), the department shall use the average wholesale value as stated in the Aircraft Bluebook Price Digest.

(c) For an aircraft not listed in the Aircraft Bluebook Price Digest, the department shall calculate the average wholesale value of the aircraft using common industry standards.

(d) (i) An owner of an aircraft may challenge the department's calculation of the average wholesale value of the aircraft.

(ii) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process for challenging the department's calculation under Subsection (2)(d)(i).

(3) (a) An annual registration fee of $100 is imposed on an aircraft that is used:

(i) exclusively by an entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, and exempt from property taxation under Title 59, Chapter 2, Property Tax Act; and

(ii) for the emergency transportation of medical patients for at least 95% of its flight time.

(b) An annual registration fee is imposed on an aircraft 60 years or older equal to the lesser of:

(i) $100; or

(ii) the annual registration fee provided for under Subsection (2)(a).

(c) (i) Except as provided in Subsection (3)(c)(iii), an owner of an aircraft shall apply for a certificate of registration described in Section 72-10-109, if the aircraft:

(A) is in the manufacture, construction, fabrication, assembly, or repair process;

(B) is not complete; and

(C) does not have a valid airworthiness certificate.

(ii) An aircraft described in Subsection (3)(c)(i) is exempt from the annual registration fee described in Subsection (2)(a).

(iii) The registration requirement described in Subsection (3)(c)(i) does not apply to an aircraft that, in accordance with Section 59-12-104, is exempt from the taxes imposed under Title 59, Chapter 12, Sales and Use Tax Act.

(d) An annual registration fee of .25% of the average wholesale value of the aircraft is imposed on an aircraft if the aircraft is:

(i) used by an air charter service for air charter; and

(ii) owned by a person other than the air charter service.

(e) The annual registration fee required in this section is due on December 31 of each year.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to establish and administer a registration fee for an unmanned aircraft system or an advanced air mobility system registered pursuant to Subsection 72-10-109(3).

(b) The rules made pursuant to Subsection (4)(a) regarding registration and applicable fees for an unmanned aircraft system or an advanced air mobility system may include:

(i) a system for classifying unmanned aircraft systems or an advanced air mobility systems;

(ii) technical guidance for complying with state and federal law;

(iii) criteria under which the department may suspend or revoke registration;

(iv) criteria under which the department may waive registration requirements for an applicant currently holding a valid license or permit to operate unmanned aircraft systems issued by another state or territory of the United States, the District of Columbia, or the United States; and

(v) other rules regarding operation as determined by the department.

[~~(4)~~] (5) (a) The department shall provide a registration card to an owner of an aircraft if:

(i) the owner complies with the registration requirements of this section; and

(ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.

(b) An owner of an aircraft shall carry the registration card in the registered aircraft.

[~~(5)~~] (6) The registration fees assessed under this chapter shall be collected by the department to be distributed as provided in Subsection [~~(6)~~] (7).

[~~(6)~~] (7) After deducting the costs of administering all aircraft registrations under this chapter, the department shall deposit all remaining aircraft registration fees [~~in~~] into the Aeronautics Restricted Account created by Section 72-2-126.

[~~(7)~~] (8) Aircraft which are initially registered under this chapter for less than a full calendar year shall be charged a registration fee which is reduced in proportion to the fraction of the calendar year during which the aircraft is registered in this state.

[~~(8)~~] (9) (a) For purposes of this section, an aircraft based at the owner's airport means an aircraft that is hangared, tied down, or parked at an owner's airport for a plurality of the year.

(b) Semi-annually, an owner or operator of an airport open to public use, or of an airport that receives grant funding from the state, shall provide a list of all aircraft based at the owner's airport to the department.

[~~(9)~~] (10) The department shall maintain a statewide database of all aircraft based within the state.

[~~(10)~~] (11) The department may suspend or revoke a registration if the department determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

Section 5. Section 72-10-701, which is renumbered from Section 72-14-103 is renumbered and amended to read:

Part 7. Unmanned Aircraft -- Drones

[~~72-14-103~~]. 72-10-701. Preemption of local ordinance -- Business licensing.

(1) As used in this section, "advanced air mobility business" means a business that operates an unmanned aircraft system or an advanced air mobility system for a commercial purpose that is required to obtain a certificate pursuant to 14 C.F.R. Part 107 or 135.

[~~(1)~~] (2) A political subdivision of the state, or an entity within a political subdivision of the state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft or the private use of an advanced air mobility system, unless:

(a) authorized by this chapter; or

(b) the political subdivision or entity is an airport operator that enacts the law, rule, or ordinance to govern:

(i) the operation of an unmanned aircraft or an advanced air mobility system within the geographic boundaries of the airport over which the airport operator has authority; or

(ii) the takeoff or landing of an unmanned aircraft or an aircraft operated as part of an advanced air mobility system at the airport over which the airport operator has authority.

(3) (a) Subject to the provisions of this chapter, a political subdivision may require an advanced air mobility business to obtain a business license if the advanced air mobility business does not hold a current business license in good standing from another political subdivision in the state.

(b) A political subdivision may only charge a licensing fee to an advanced air mobility business in an amount that reimburses the political subdivision for the actual cost of processing the business license.

(4) A political subdivision may not require an advanced air mobility business to:

(a) obtain a separate business license beyond the initial business license described in Subsection (3)(a);

(b) pay a fee other than the fee for the initial business license described in Subsection (3); or

(c) pay a fee for each employee the advanced air mobility business employs.

(5) A political subdivision shall provide a reasonable accommodation to an advanced air mobility business with regard to any regulation or restriction on the size of the business.

(6) A political subdivision shall recognize as valid within the political subdivision the business license of an advanced air mobility business obtained in another political subdivision within the state, if the business license is current and in good standing.

[~~(2)~~] (7) This chapter supersedes any law, ordinance, or rule enacted by a political subdivision of the state before July 1, [~~2017~~] 2022.

Section 6. Section 72-10-702, which is renumbered from Section 72-14-104 is renumbered and amended to read:

[~~72-14-104~~]. 72-10-702. Applicability.

This chapter does not apply to a person or business entity:

(1) using an unmanned aircraft for legitimate educational or business purposes; and

(2) operating the unmanned aircraft system in a manner consistent with applicable Federal Aviation Administration rules, exemptions, or other authorizations.

Section 7. Section 72-10-801, which is renumbered from Section 72-14-202 is renumbered and amended to read:

Part 8. Law Enforcement Use of Unmanned Aircraft

[~~72-14-202~~]. 72-10-801. Definitions.

As used in this part:

(1) "Civilian" means a person that is not a law enforcement officer.

(2) "Law enforcement agency" means the same as that term is defined in Section 53-3-102.

(3) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(4) "Target" means a person upon whom, or an object, structure, or area upon which, another person:

(a) has intentionally collected or attempted to collect information through the operation of an unmanned aircraft system; or

(b) intends to collect or to attempt to collect information through the operation of an unmanned aircraft system.

Section 8. Section 72-10-802, which is renumbered from Section 72-14-203 is renumbered and amended to read:

[~~72-14-203~~]. 72-10-802. Unmanned aircraft system use requirements -- Exceptions.

(1) A law enforcement agency or officer may not obtain, receive, or use data acquired through an unmanned aircraft system unless the data is obtained:

(a) pursuant to a search warrant;

(b) in accordance with judicially recognized exceptions to warrant requirements;

(c) subject to Subsection (2), from a person who is a nongovernment actor;

(d) to locate a lost or missing person in an area in which a person has no reasonable expectation of privacy; or

(e) for purposes unrelated to a criminal investigation.

(2) A law enforcement officer or agency may only use for law enforcement purposes data obtained from a nongovernment actor if:

(a) the data appears to pertain to the commission of a crime; or

(b) the law enforcement agency or officer believes, in good faith, that:

(i) the data pertains to an imminent or ongoing emergency involving danger of death or serious bodily injury to an individual; and

(ii) disclosing the data would assist in remedying the emergency.

(3) A law enforcement agency or officer that obtains, receives, or uses data acquired through the use of an unmanned aircraft system or through

Subsection (2) shall destroy the data as soon as reasonably possible after the law enforcement agency or officer obtains, receives, or uses the data subject to an applicable retention schedule under Title 63G, Chapter 2, Government Records Access and Management Act, or a federal, state, or local law.

(4) This section applies to any imaging surveillance device, as defined in Section 77-23d-102, when used in conjunction with an unmanned aircraft system.

Section 9. Section 72-10-803, which is renumbered from Section 72-14-204 is renumbered and amended to read:

[~~72-14-204~~]. 72-10-803. Data retention.

(1) Except as provided in this section, a law enforcement agency:

(a) may not use, copy, or disclose data collected by an unmanned aircraft system on a person, structure, or area that is not a target; and

(b) in accordance with applicable federal, state, and local laws, shall ensure that data described in Subsection (1)(a) is destroyed as soon as reasonably possible after the law enforcement agency collects or receives the data.

(2) A law enforcement agency is not required to comply with Subsection (1) if:

(a) deleting the data would also require the deletion of data that:

(i) relates to the target of the operation; and

(ii) is requisite for the success of the operation;

(b) the law enforcement agency receives the data:

(i) through a court order that:

(A) requires a person to release the data to the law enforcement agency; or

(B) prohibits the destruction of the data; or

(ii) from a person who is a nongovernment actor;

(c) (i) the data was collected inadvertently; and

(ii) the data appears to pertain to the commission of a crime;

(d) (i) the law enforcement agency reasonably determines that the data pertains to an emergency situation; and

(ii) using or disclosing the data would assist in remedying the emergency; or

(e) the data was collected through the operation of an unmanned aircraft system over public lands outside of municipal boundaries.

Section 10. Section 72-10-804, which is renumbered from Section 72-14-205 is renumbered and amended to read:

[~~72-14-205~~]. 72-10-804. Reporting.

(1) As used in this section, "law enforcement encounter" means the same as that term is defined in Section 77-7a-103.

(2) A law enforcement officer or agency that operates an unmanned aircraft system while on duty or acting in the law enforcement officer's or agency's official capacity, or obtains or receives data in accordance with Section [~~72-14-203~~] 72-10-802, shall document the following in any report or other official record of the law enforcement encounter:

(a) the presence and use of the unmanned aircraft;

(b) any data acquired; and

(c) if applicable, the person from whom data was received in accordance with Subsection [~~72-14-203(2).~~] 72-10-802(2).

Section 11. Section 72-10-901, which is renumbered from Section 72-14-302 is renumbered and amended to read:

Part 9. Unlawful Use of Unmanned Aircraft

[~~72-14-302~~]. 72-10-901. Definitions.

[~~Reserved.~~] As used in this part, "weapon" means:

(1) a firearm as that term is defined in Section 76-10-501; or

(2) an object that in the manner of the object's use or intended use is capable of causing death, bodily injury, or damage to property, as determined according to the following factors:

(a) the location and circumstances in which the object is used or possessed;

(b) the primary purpose for which the object is made;

(c) the character of the damage, if any, the object is likely to cause;

(d) the manner in which the object is used;

(e) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(f) the lawful purposes for which the object may be used.

Section 12. Section 72-10-902, which is renumbered from Section 72-14-303 is renumbered and amended to read:

[~~72-14-303~~]. 72-10-902. Weapon attached to unmanned aircraft -- Penalties.

[~~(1) As used in this section "weapon" means:~~]

[~~(a) a firearm as described in Section 76-10-501; or~~]

[~~(b) an object that in the manner of the object's use or intended use is capable of causing death, bodily injury, or damage to property, as determined according to the following factors:~~]

[~~(i) the location and circumstances in which the object is used or possessed;~~]

[~~(ii) the primary purpose for which the object is made;~~]

[~~(iii) the character of the damage, if any, the object is likely to cause;~~]

[~~(iv) the manner in which the object is used;~~]

[~~(v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and~~]

[~~(vi) the lawful purposes for which the object may be used.~~]

[~~(2)~~] (1) (a) Except as provided in Subsection [~~(3),~~] (2), a person may not fly an unmanned aircraft that carries a weapon or to which a weapon is attached.

(b) A person that violates Subsection [~~(2)(a)~~] (1)(a) is guilty of a class B misdemeanor.

[~~(3)~~] (2) A person may fly an unmanned aircraft that carries a weapon or to which a weapon is attached if the person:

(a) (i) obtains a certificate of authorization, or other written approval, from the Federal Aviation Administration authorizing the person to fly the unmanned aircraft that carries the weapon or to which the weapon is attached; and

(ii) operates the unmanned aircraft in accordance with the certificate of authorization or other written approval;

(b) (i) obtains a contract with the state or the federal government permitting the person to fly the unmanned aircraft that carries the weapon or to which the weapon is attached; and

(ii) operates the unmanned aircraft in accordance with the contract; or

(c) operates the unmanned aircraft that carries the weapon or to which the weapon is attached in airspace controlled by the United States Department of Defense, with the permission of the United States Department of Defense.

Section 13. Section 72-10-903, which is renumbered from Section 72-14-304 is renumbered and amended to read:

[~~72-14-304~~]. 72-10-903. Unlawful operation of unmanned aircraft near prison facilities -- Penalties.

(1) An individual may not operate an unmanned aircraft system:

(a) to carry or drop any item to or inside the property of a correctional facility; or

(b) in a manner that interferes with the operations or security of a correctional facility.

(2) (a) A violation of Subsection (1)(a) is a third degree felony.

(b) A violation of Subsection (1)(b) is a class B misdemeanor.

(3) An operator of an unmanned aircraft system does not violate Subsection (1) if the operator is:

(a) an employee or contractor working on behalf of a mosquito abatement district created pursuant to Title 17B, Limited Purpose Local Government Entities - Local Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(b) acting in the course and scope of the operator's employment.

Section 14. Section 72-10-1001 is enacted to read:

Part 10. Safe Use of Unmanned Aircraft

72-10-1001. Reserved.

Reserved.

Section 15. Section 72-10-1002, which is renumbered from Section 72-14-403 is renumbered and amended to read:

[~~72-14-403~~]. 72-10-1002. Safe operation of unmanned aircraft.

(1) An individual who operates an unmanned aircraft system to fly an unmanned aircraft for recreational purposes shall comply with this section or 14 C.F.R. Sec. 101, Subpart E.

(2) An individual operating an unmanned aircraft shall:

(a) maintain visual line of sight of the unmanned aircraft in order to:

(i) know the location of the unmanned aircraft;

(ii) determine the attitude, altitude, and direction of flight;

(iii) observe the airspace for other air traffic or hazards; and

(iv) determine that the unmanned aircraft does not endanger the life or property of another person;

(b) ensure that the ability described in Subsection (2)(a)(i) is exercised by either:

(i) the operator of the unmanned aircraft; or

(ii) a visual observer.

(3) An individual may not operate an unmanned aircraft in Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport unless the operator of the unmanned aircraft has prior authorization from air traffic control.

(4) An individual may not operate an unmanned aircraft in a manner that interferes with operations and traffic patterns at any airport, heliport, or seaplane base.

(5) An individual may not operate an unmanned aircraft system:

(a) from a public transit rail platform or station; or

(b) (i) under a height of 50 feet within a public transit fixed guideway right-of-way; and

(ii) directly above any overhead electric lines used to power a public transit rail vehicle.

(6) An individual may not operate an unmanned aircraft in violation of a notice to airmen described in 14 C.F.R. Sec. 107.47.

(7) An individual may not operate an unmanned aircraft at an altitude that is higher than 400 feet above ground level unless the unmanned aircraft:

(a) is flown within a 400-foot radius of a structure; and

(b) does not fly higher than 400 feet above the structure's immediate uppermost limit.

(8) (a) An individual who violates this section is liable for any damages that may result from the violation.

(b) A law enforcement officer shall issue a written warning to an individual who violates this section who has not previously received a written warning for a violation of this section.

(c) Except as provided in Subsection (8)(d), an individual who violates this section after receiving a written warning for a previous violation of this section is guilty of an infraction.

(d) An individual who violates this section is guilty of a class B misdemeanor for each conviction of a violation of this section after the individual is convicted of an infraction or a misdemeanor for a previous violation of this section.

Section 16. Section 76-2-106 is amended to read:

76-2-106. Commission of offense with aid of unmanned aircraft system.

(1) As used in this section:

(a) "Unmanned aircraft" means the same as that term is defined in Section [~~72-14-102~~] 72-10-102.

(b) "Unmanned aircraft system" means the same as that term is defined in Section [~~72-14-102~~] 72-10-102.

(2) An actor may be found guilty of an offense if:

(a) the actor commits the offense with the aid of an unmanned aircraft; and

(b) the unmanned aircraft system for the unmanned aircraft is under the actor's control at the time of the offense.

Section 17. Section 76-9-308 is amended to read:

76-9-308. Harassment of livestock.

(1) As used in this section:

(a) "Livestock" has the same meaning as that term is defined in Subsection 76-9-301(1).

(b) "Unmanned aircraft system" means the same as that term is defined in Section [~~72-14-102~~] 72-10-102.

(2) Except as provided in Subsection (3), a person is guilty of harassment of livestock if the person intentionally, knowingly, or recklessly chases, with the intent of causing distress, or harms livestock through the use of:

(a) a motorized vehicle or all-terrain vehicle;

(b) a dog; or

(c) an unmanned aircraft system.

(3) A person is not guilty of harassment of livestock if:

(a) the person is:

(i) the owner of the livestock;

(ii) an employee or agent of the owner, or otherwise acting under the owner's general direction or with the owner's permission;

(iii) acting in an emergency situation to prevent damage to the livestock or property; or

(iv) an employee or agent of the state or a political subdivision and acting in the employee or agent's official capacity; or

(b) the action is in line with generally accepted animal husbandry practices.

(4) A person who violates this section is guilty of:

(a) a class B misdemeanor if the violation is a first offense and:

(i) no livestock is seriously injured or killed as a result of the person's actions; or

(ii) the person's actions cause the livestock to be displaced onto property where the livestock is not legally entitled to be; and

(b) a class A misdemeanor if:

(i) the person has previously been convicted of harassment of livestock under this section;

(ii) livestock is seriously injured or killed as a result of the person's actions; or

(iii) livestock or property suffered damage in excess of $1,000, including money spent in recovering the livestock, as a result of the person's actions.

Section 18. Repealer.

This bill repeals:

Section 72-14-101, Title.

Section 72-14-102, Definitions.

Section 72-14-201, Title.

Section 72-14-301, Title.

Section 72-14-401, Title.

Section 72-14-402, Reserved.

CHAPTER 217
S. B. 25
Passed January 25, 2023
Approved March 14, 2023
Effective May 3, 2023

TRANSPORTATION FUNDING REVISIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Ashlee Matthews

LONG TITLE

General Description:

This bill repeals certain restricted accounts that are outdated or no longer needed.

Highlighted Provisions:

This bill:

- repeals the following outdated and no longer necessary accounts:
  - the Impacted Communities Transportation Development Restricted Account; and
  - the Motorcycle Safety Awareness Support Restricted Account; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-418, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, and 451
41-1a-422, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, 255, 259, 335, 451, and 456
59-21-2, as last amended by Laws of Utah 2022, Chapter 68

REPEALS:

72-2-128, as enacted by Laws of Utah 2016, Chapter 184
72-2-130, as enacted by Laws of Utah 2019, Chapter 38

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

Section 1. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of Outdoor Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiii) programs that support children with heart disease;

(xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

[~~(xxviii) programs that promote motorcycle safety awareness;~~]

[~~(xxix)~~] (xxviii) organizations that promote clean air through partnership, education, and awareness;

[~~(xxx)~~] (xxix) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities;

[~~(xxxi)~~] (xxx) organizations dedicated to facilitating, connecting, registering, and advocating for organ donors and donor families;

[~~(xxxii)~~] (xxxi) public education on behalf of the Kiwanis International clubs;

[~~(xxxiii)~~] (xxxii) the Live On suicide prevention campaign; or

[~~(xxxiv)~~] (xxxiii) the Division of State Parks to advance the Utah State Parks dark sky initiative.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor

vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 2. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Outdoor Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Outdoor Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 80-2-502 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

[~~(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;~~]

[~~(DD)~~] (CC) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

[~~(EE)~~] (DD) the Latino Community Support Restricted Account created in Section 13-1-16;

[~~(FF)~~] (EE) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101;

[~~(GG)~~] (FF) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Uniform School Fund;

[~~(HH)~~] (GG) the Governor's Suicide Prevention Fund created in Section 62A-15-1103 to support the Live On suicide prevention campaign administered by the Division of Integrated Healthcare; or

[~~(II)~~] (HH) the State Park Fees Restricted Account created in Section 79-4-402 to support the Division of State Parks' dark sky initiative.

(ii) (A) For a veterans special group license plate described in Subsection (4) or 41-1a-421(1)(a)(v), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions

from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), an applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(ii) An applicant for a historical special group license plate is not required to make a donation to the Utah State Historical Society if the historical special group license plate is for a vintage vehicle that has a model year of 1980 or older.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months before registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 3. Section 59-21-2 is amended to read:

59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of money from Mineral Lease Account.

(1) (a) There is created a restricted account within the General Fund known as the "Mineral Bonus Account."

(b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

(i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.

(e) The Division of Finance shall, beginning on July 1, 2017, annually deposit 30% of mineral lease bonus payments deposited under Subsection (1)(b) from the previous fiscal year into the Wildland Fire Suppression Fund created in Section 65A-8-204, up to $2,000,000 but not to exceed 20% of the amount expended in the previous fiscal year from the Wildland Fire Suppression Fund.

(2) (a) There is created a restricted account within the General Fund known as the "Mineral Lease Account."

(b) The Mineral Lease Account consists of federal mineral lease money deposited pursuant to Subsection 59-21-1(1).

(c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (2).

(d) [~~(i) Except as provided in Subsections (2)(d)(ii) and (iii), the~~] The Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

[~~(ii) For fiscal year 2016-17 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate $26,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.~~]

[~~(iii) For fiscal year 2017-18 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate $27,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.~~]

(e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used

for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by the survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation of water resources in the state.

(h) (i) The Legislature shall annually appropriate to the Division of Finance 40% of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection (2)(h)(ii) to:

(A) counties;

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(C) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Division of Finance shall allocate the funds specified in Subsection (2)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17D, Chapter 1, Special Service District Act, as determined by the county legislative body.

(i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Workforce Services to be distributed to:

(A) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Workforce Services may distribute the amounts described in Subsection (2)(i)(i) only to special service districts established under Title 17D, Chapter 1, Special Service District Act, by counties:

(A) of the third, fourth, fifth, or sixth class;

(B) in which 4.5% or less of the mineral lease money within the state is generated; and

(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

(iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (2)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (2)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, the Department of Workforce Services shall:

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17D, Chapter 1, Special Service District Act, as determined by the executive director of the Department of Workforce Services after consulting with the county legislative bodies of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).

(v) The executive director of the Department of Workforce Services:

(A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (2)(i)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, that meet the requirements of Subsections (2)(i)(ii) and (iii); and

(C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (2)(i) to special service districts; and

(II) defining the term "population" for purposes of Subsection (2)(i)(iv).

(j) (i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of State Parks or the Division of Outdoor Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) $1,000; and

(II) the number of residences described in Subsection (2)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

(A) special service districts established by the county under Title 17D, Chapter 1, Special Service District Act;

(B) school districts; or

(C) public institutions of higher education.

(iii) (A) Beginning in fiscal year 1994–95 and in each year after fiscal year 1994–95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001–02, the Division of Finance shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of State Parks;

(II) the Division of Outdoor Recreation; or

(III) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of State Parks;

(II) the Division of Outdoor Recreation; or

(III) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (2)(d) through (j).

(3) (a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

(b) The accounting required under Subsection (3)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the Business, Economic Development, and Labor Appropriations Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary Procedures Act.

Section 4. Repealer.

This bill repeals:

Section 72-2-128, Impacted Communities Transportation Development Restricted Account.

Section 72-2-130, Motorcycle Safety Awareness Support Restricted Account.

CHAPTER 218
S. B. 26
Passed February 1, 2023
Approved March 14, 2023
Effective May 3, 2023

RURAL EMPLOYMENT EXPANSION PROGRAM AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill addresses the Rural Employment Expansion Program administered by the Governor's Office of Economic Opportunity.

Highlighted Provisions:

This bill:

- extends the sunset date for the Rural Employment Expansion Program from 2023 to 2028; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472

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

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

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.~~]

[~~(20)~~] (19) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21)~~] (20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(22)~~] (21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(23)~~] (22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(24)~~] (23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~] (24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~] (25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~] (26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~] (27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~] (28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~] (29) In relation to the Rural Employment Expansion Program, on July 1, [~~2023~~] 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~] (30) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~] (31) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

CHAPTER 219
S. B. 27
Passed February 27, 2023
Approved March 14, 2023
Effective May 3, 2023

TRANSPORTATION REVISIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends code sections related to transportation and motor vehicle items and makes technical corrections.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions related to station area plans for public transit;
- amends provisions related to the compensation for a member of the board of trustees of a large public transit district;
- prohibits an individual from passing a snowplow on the side where the snowplow blade is deployed;
- prohibits an individual from passing three or more snowplows operating in echelon formation;
- requires an individual operating a motor vehicle to move over to avoid a vehicle stopped on the side of a highway;
- amends provisions related to license plate requirements for a vintage vehicle;
- amends a required local match of funds to qualify for certain transportation related funds;
- clarifies the division of responsibilities within the Department of Transportation for oversight of capital development of public transit facilities, shifting that oversight from the executive director to a deputy director;
- makes technical corrections to motor vehicle and transportation related code sections;
- amends provisions related to the transfer of real property from the Department of Transportation and a large public transit district;
- amends provisions related to fees related to tow truck dispatch services; and
- removes outdated language.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-203, as last amended by Laws of Utah 2021, Chapters 84, 162 and 345
10-9a-403, as last amended by Laws of Utah 2022, Chapters 282, 406 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 406
10-9a-403.1, as enacted by Laws of Utah 2022, Chapter 406
17B-2a-808.2, as last amended by Laws of Utah 2022, Chapter 69
20A-7-601, as last amended by Laws of Utah 2022, Chapter 406
41-1a-416, as last amended by Laws of Utah 2008, Chapter 382
41-1a-1201, as last amended by Laws of Utah 2022, Chapter 259
41-6a-102, as last amended by Laws of Utah 2022, Chapters 86, 92 and 104
41-6a-704, as last amended by Laws of Utah 2019, Chapter 49
41-6a-705, as last amended by Laws of Utah 2015, Chapter 412
41-6a-904, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
41-21-1, as last amended by Laws of Utah 2022, Chapter 259
53-3-109, as last amended by Laws of Utah 2020, Chapter 428
63I-1-241, as last amended by Laws of Utah 2022, Chapters 68, 92, 104, and 110
72-1-202, as last amended by Laws of Utah 2022, Chapter 69
72-1-203, as last amended by Laws of Utah 2019, Chapter 479
72-1-301, as last amended by Laws of Utah 2020, Chapters 352, 373
72-1-302, as last amended by Laws of Utah 2020, Chapter 373
72-1-303, as last amended by Laws of Utah 2022, Chapter 99
72-1-304, as last amended by Laws of Utah 2022, Chapter 406
72-1-305, as last amended by Laws of Utah 2018, Chapter 424
72-2-124, as last amended by Laws of Utah 2022, Chapters 69, 259 and 406
72-5-117, as last amended by Laws of Utah 2011, Chapter 289
72-9-604, as last amended by Laws of Utah 2020, Chapters 45, 420

ENACTS:

41-6a-718, Utah Code Annotated 1953

REPEALS AND REENACTS:

53-1-106.2, as enacted by Laws of Utah 2022, Chapter 259

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

Section 1. Section 10-9a-203 is amended to read:

10-9a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each municipality within a county of the first or second class shall provide 10 calendar days notice of the municipality's intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Utah Geospatial Resource Center created in Section 63A-16-505;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11,

Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and

(d) on the Utah Public Notice Website created under Section 63A-16-601.

(2) Each notice under Subsection (1) shall:

(a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of an individual where more information can be obtained concerning the municipality's proposed general plan or amendment.

(3) A municipality shall send the newly adopted general plan and comprehensive general plan amendments to the relevant association of governments within 45 days of the date of adoption.

Section 2. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) except for a city of the fifth class or a town, is coordinated to integrate the land use element with the water use and preservation element; and

(D) except for a city of the fifth class or a town, accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified municipality as defined in Section 10-9a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(iii) for implementation, including [~~one~~] additional moderate income housing [~~strategy~~] strategies as provided in Subsection (2)(b)(iv) for a specified municipality that has a fixed guideway public transit station; and

(C) includes an implementation plan as provided in Subsection (2)(c); and

(iv) except for a city of the fifth class or a town, a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include[,] an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for other municipalities, shall include[,] a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of

combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) develop and adopt a station area plan in accordance with Section 10-9a-403.1;

(W) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

(X) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; and

(iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement:

(A) the strategy described in Subsection (2)(b)(iii)(V); and

(B) a strategy described in Subsection (2)(b)(iii)(G), (H), or (Q).

(c) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall establish a timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.

(ii) The timeline described in Subsection (2)(c)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and

(B) provide flexibility for the municipality to make adjustments as needed.

(d) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(e) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the municipality's region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider:

(A) applicable regional water conservation goals recommended by the Division of Water Resources; and

(B) if Section 73-10-32 requires the municipality to adopt a water conservation plan pursuant to Section 73-10-32, the municipality's water conservation plan;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the municipality; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the municipality's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(vi) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(vii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 3. Section 10-9a-403.1 is amended to read:

10-9a-403.1. Station area plan requirements -- Contents -- Review and certification by applicable metropolitan planning organization.

(1) As used in this section:

(a) "Applicable metropolitan planning organization" means the metropolitan planning organization that has jurisdiction over the area in which a fixed guideway public transit station is located.

(b) "Applicable public transit district" means the public transit district, as defined in Section 17B-2a-802, of which a fixed guideway public transit station is included.

(c) "Existing fixed guideway public transit station" means a fixed guideway public transit

station for which construction begins before June 1, 2022.

(d) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(e) "Metropolitan planning organization" means an organization established under 23 U.S.C. Sec. 134.

(f) "New fixed guideway public transit station" means a fixed guideway public transit station for which construction begins on or after June 1, 2022.

(g) "Qualifying land use [~~application~~] petition" means a [~~land use application~~] petition:

(i) that involves land located within a station area for an existing public transit station that provides rail services;

(ii) that involves land located within a station area for which the municipality has not yet satisfied the requirements of Subsection (2)(a);

(iii) that proposes the development of an area greater than five contiguous acres, with no less than 51% of the acreage within the station area;

(iv) that would require the municipality to amend the municipality's general plan or change a zoning designation for the land use application to be approved;

(v) that would require a higher density than the density currently allowed by the municipality;

(vi) that proposes the construction of new residential units, at least 10% of which are dedicated to moderate income housing; and

(vii) for which the land use applicant requests the municipality to initiate the process of satisfying the requirements of Subsection (2)(a) for the station area in which the development is proposed, subject to Subsection (3)(d).

(h) (i) "Station area" means:

(A) for a fixed guideway public transit station that provides rail services, the area within a one-half mile radius of the center of the fixed guideway public transit station platform; or

(B) for a fixed guideway public transit station that provides bus services only, the area within a one-fourth mile radius of the center of the fixed guideway public transit station platform.

(ii) "Station area" includes any parcel bisected by the radius limitation described in Subsection (1)(h)(i)(A) or (B).

(i) "Station area plan" means a plan that:

(i) establishes a vision, and the actions needed to implement that vision, for the development of land within a station area; and

(ii) is developed and adopted in accordance with this section.

(2) (a) Subject to the requirements of this section, a municipality that has a fixed guideway public transit station located within the municipality's boundaries shall, for the station area:

(i) develop and adopt a station area plan; and

(ii) adopt any appropriate land use regulations to implement the station area plan.

(b) The requirements of Subsection (2)(a) shall be considered satisfied if:

(i) [~~(A) the municipality has already taken actions to satisfy the requirements of Subsection (2)(a) for a station area, including actions that involve public and stakeholder engagement processes, market assessments, the creation of a station area vision, planning and implementation activities, capital programs, the adoption of land use regulations, or other similar actions; and~~]

[~~(B) the municipality adopts a resolution demonstrating the requirements of Subsection (2)(a) have been satisfied; or~~]

(A) the municipality has already adopted plans or ordinances, approved land use applications, approved agreements or financing, or investments have been made, before June 1, 2022, that substantially promote each of the objectives in Subsection (7)(a) within the station area, and can demonstrate that such plans, ordinances, approved land use applications, approved agreements or financing, or investments are still relevant to making meaningful progress towards achieving such objectives; and

(B) the municipality adopts a resolution finding that the objectives of Subsection (7)(a) have been substantially promoted.

(ii) (A) the municipality has determined that conditions exist that make satisfying a portion or all of the requirements of Subsection (2)(a) for a station area impracticable, including conditions that relate to existing development, entitlements, land ownership, land uses that make opportunities for new development and long-term redevelopment infeasible, environmental limitations, market readiness, development impediment conditions, or other similar conditions; and

(B) the municipality adopts a resolution describing the conditions that exist to make satisfying the requirements of Subsection (2)(a) impracticable.

(c) To the extent that previous actions by a municipality do not satisfy the requirements of Subsection (2)(a) for a station area, the municipality shall take the actions necessary to satisfy those requirements.

(3) (a) A municipality that has a new fixed guideway public transit station located within the municipality's boundaries shall satisfy the requirements of Subsection (2)(a) for the station area surrounding the new fixed guideway public transit station before the new fixed guideway public transit station begins transit services.

(b) Except as provided in Subsections (3)(c) and (d), a municipality that has an existing fixed guideway public transit station located within the

municipality's boundaries shall satisfy the requirements of Subsection (2)(a) for the station area surrounding the existing fixed guideway public transit station on or before December 31, 2025.

(c) If a municipality has more than four existing fixed guideway public transit stations located within the municipality's boundaries, the municipality shall:

(i) on or before December 31, 2025, satisfy the requirements of Subsection (2)(a) for four or more station areas located within the municipality; and

(ii) on or before December 31 of each year thereafter, satisfy the requirements of Subsection (2)(a) for no less than two station areas located within the municipality until the municipality has satisfied the requirements of Subsection (2)(a) for each station area located within the municipality.

(d) (i) Subject to Subsection (3)(d)(ii):

(A) if a municipality receives a complete qualifying land use [~~application~~] petition on or before July 1, 2022, the municipality shall satisfy the requirements of Subsection (2)(a) for the station area in which the development is proposed on or before July 1, 2023; and

(B) if a municipality receives a complete qualifying land use [~~application~~] petition after July 1, 2022, the municipality shall satisfy the requirements of Subsection (2)(a) for the station area in which the development is proposed within a 12-month period beginning on the first day of the month immediately following the month in which the qualifying land use [~~application~~] petition is submitted to the municipality, and shall notify the applicable metropolitan planning organization of the receipt of the qualified land use petition within 45 days of the date of receipt.

(ii) (A) A municipality is not required to satisfy the requirements of Subsection (2)(a) for more than two station areas under Subsection (3)(d)(i) within any 12-month period.

(B) If a municipality receives more than two complete qualifying land use [~~applications~~] petitions on or before July 1, 2022, the municipality shall select two station areas for which the municipality will satisfy the requirements of Subsection (2)(a) in accordance with Subsection (3)(d)(i)(A).

(iii) A municipality shall process on a first priority basis a land use application, including an application for a building permit, if:

(A) the land use application is for a residential use within a station area for which the municipality has not satisfied the requirements of Subsection (2)(a); and

(B) the municipality would be required to change a zoning designation for the land use application to be approved.

(e) Notwithstanding Subsections (3)(a) through (d), the time period for satisfying the requirements of Subsection (2)(a) for a station area may be extended once for a period of 12 months if:

(i) the municipality demonstrates to the applicable metropolitan planning organization that conditions exist that make satisfying the requirements of Subsection (2)(a) within the required time period infeasible, despite the municipality's good faith efforts; and

(ii) the applicable metropolitan planning organization certifies to the municipality in writing that the municipality satisfied the demonstration in Subsection (3)(e)(i).

(4) (a) Except as provided in Subsection (4)(b), if a station area is included within the boundaries of more than one municipality, each municipality with jurisdiction over the station area shall satisfy the requirements of Subsection (2)(a) for the portion of the station area over which the municipality has jurisdiction.

(b) Two or more municipalities with jurisdiction over a station area may coordinate to develop a shared station area plan for the entire station area.

(5) A municipality that has more than one fixed guideway public transit station located within the municipality may, through an integrated process, develop station area plans for multiple station areas if the station areas are within close proximity of each other.

(6) (a) A municipality that is required to develop and adopt a station area plan under this section may request technical assistance from the applicable metropolitan planning organization.

(b) An applicable metropolitan planning organization that receives funds from the Governor's Office of Economic Opportunity under Section 63N-3-113 shall, when utilizing the funds, give priority consideration to requests for technical assistance for station area plans required under Subsection (3)(d).

(7) (a) A station area plan shall promote the following objectives within the station area:

(i) increasing the availability and affordability of housing, including moderate income housing;

(ii) promoting sustainable environmental conditions;

(iii) enhancing access to opportunities; and

(iv) increasing transportation choices and connections.

(b) (i) To promote the objective described in Subsection (7)(a)(i), a municipality may consider implementing the following actions:

(A) aligning the station area plan with the moderate income housing element of the municipality's general plan;

(B) providing for densities necessary to facilitate the development of moderate income housing;

(C) providing for affordable costs of living in connection with housing, transportation, and parking; or

(D) any other similar action that promotes the objective described in Subsection (7)(a)(i).

(ii) To promote the objective described in Subsection (7)(a)(ii), a municipality may consider implementing the following actions:

(A) conserving water resources through efficient land use;

(B) improving air quality by reducing fuel consumption and motor vehicle trips;

(C) establishing parks, open spaces, and recreational opportunities; or

(D) any other similar action that promotes the objective described in Subsection (7)(a)(ii).

(iii) To promote the objective described in Subsection (7)(a)(iii), a municipality may consider the following actions:

(A) maintaining and improving the connections between housing, transit, employment, education, recreation, and commerce;

(B) encouraging mixed-use development;

(C) enabling employment and educational opportunities within the station area;

(D) encouraging and promoting enhanced broadband connectivity; or

(E) any other similar action that promotes the objective described in Subsection (7)(a)(iii).

(iv) To promote the objective described in Subsection (7)(a)(iv), a municipality may consider the following:

(A) supporting investment in infrastructure for all modes of transportation;

(B) increasing utilization of public transit;

(C) encouraging safe streets through the designation of pedestrian walkways and bicycle lanes;

(D) encouraging manageable and reliable traffic conditions;

(E) aligning the station area plan with the regional transportation plan of the applicable metropolitan planning organization; or

(F) any other similar action that promotes the objective described in Subsection (7)(a)(iv).

(8) A station area plan shall include the following components:

(a) a station area vision that:

(i) is consistent with Subsection (7); and

(ii) describes the following:

(A) opportunities for the development of land within the station area under existing conditions;

(B) constraints on the development of land within the station area under existing conditions;

(C) the municipality's objectives for the transportation system within the station area and the future transportation system that meets those objectives;

(D) the municipality's objectives for land uses within the station area and the future land uses that meet those objectives;

(E) the municipality's objectives for public and open spaces within the station area and the future public and open spaces that meet those objectives; and

(F) the municipality's objectives for the development of land within the station area and the future development standards that meet those objectives;

(b) a map that depicts:

[~~(i) the area within the municipality that is subject to the station area plan, provided that the station area plan may apply to areas outside of the station area; and~~]

(i) the station area;

(ii) the area within the station area to which the station area plan applies, provided that the station area plan may apply to areas outside the station area, and the station area plan is not required to apply to the entire station area; and

[~~(ii)~~] (iii) the area where each action is needed to implement the station area plan;

(c) an implementation plan that identifies and describes each action needed within the next five years to implement the station area plan, and the party responsible for taking each action, including any actions to:

(i) modify land use regulations;

(ii) make infrastructure improvements;

(iii) modify deeds or other relevant legal documents;

(iv) secure funding or develop funding strategies;

(v) establish design standards for development within the station area; or

(vi) provide environmental remediation;

(d) a statement that explains how the station area plan promotes the objectives described in Subsection (7)(a); and

(e) as an alternative or supplement to the requirements of Subsection (7) or this Subsection (8), and for purposes of Subsection (2)(b)(ii), a statement that describes any conditions that would make the following impracticable:

(i) promoting the objectives described in Subsection (7)(a); or

(ii) satisfying the requirements of this Subsection (8).

(9) A municipality shall develop a station area plan with the involvement of all relevant stakeholders that have an interest in the station area through public outreach and community engagement, including:

(a) other impacted communities;

(b) the applicable public transit district;

(c) the applicable metropolitan planning organization;

(d) the Department of Transportation;

(e) owners of property within the station area; and

(f) the municipality's residents and business owners.

(10) (a) A municipality that is required to develop and adopt a station area plan for a station area under this section shall submit to the applicable metropolitan planning organization and the applicable public transit district documentation evidencing that the municipality has satisfied the requirement of Subsection (2)(a)(i) for the station area, including:

(i) a station area plan; or

(ii) a resolution adopted under Subsection (2)(b)(i) or (ii).

(b) The applicable metropolitan planning organization, in consultation with the applicable public transit district, shall:

(i) review the documentation submitted under Subsection (10)(a) to determine the municipality's compliance with this section; and

(ii) provide written certification to the municipality if the applicable metropolitan planning organization determines that the municipality has satisfied the requirement of Subsection (2)(a)(i) for the station area.

(c) The municipality shall include the certification described in Subsection (10)(b)(ii) in the municipality's report to the Department of Workforce Services under Section 10-9a-408.

Section 4. Section 17B-2a-808.2 is amended to read:

17B-2a-808.2. Large public transit district local advisory council -- Powers and duties.

(1) A large public transit district shall create and consult with a local advisory council.

(2) (a) (i) For a large public transit district in existence as of January 1, 2019, the local advisory council shall have membership selected as described in Subsection (2)(b).

(ii) (A) For a large public transit district created after January 1, 2019, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the appointments to the local advisory council of the large public transit district similar to the appointment process described in Subsection (2)(b).

(B) Upon approval of the Legislature, each nominating individual or body shall appoint individuals to the local advisory council.

(b) (i) The council of governments of Salt Lake County shall appoint three members to the local advisory council.

(ii) The mayor of Salt Lake City shall appoint one member to the local advisory council.

(iii) The council of governments of Utah County shall appoint two members to the local advisory council.

(iv) The council of governments of Davis County and Weber County shall each appoint one member to the local advisory council.

(v) The councils of governments of Box Elder County and Tooele County shall jointly appoint one member to the local advisory council.

(3) The local advisory council shall meet at least quarterly in a meeting open to the public for comment to discuss the service, operations, and any concerns with the public transit district operations and functionality.

(4) (a) The duties of the local advisory council shall include:

[~~(a)~~] (i) setting the compensation packages of the board of trustees, which salary, except as provided in Subsection (4)(b), may not exceed $150,000 for a newly appointed board member, plus additional retirement and other standard benefits;

[~~(b)~~] (ii) reviewing, approving, and recommending final adoption by the board of trustees of the large public transit district service plans at least every two and one-half years;

[~~(c)~~] (iii) except for a fixed guideway capital development project under the authority of the Department of Transportation as described in Section 72-1-202, reviewing, approving, and recommending final adoption by the board of trustees of project development plans, including funding, of all new capital development projects;

[~~(d)~~] (iv) reviewing, approving, and recommending final adoption by the board of trustees of any plan for a transit-oriented development where a large public transit district is involved;

[~~(e)~~] (v) at least annually, engaging with the safety and security team of the large public transit district to ensure coordination with local municipalities and counties;

[~~(f)~~] (vi) assisting with coordinated mobility and constituent services provided by the public transit district;

[~~(g)~~] (vii) representing and advocating the concerns of citizens within the public transit district to the board of trustees; and

[~~(h)~~] (viii) other duties described in Section 17B-2a-808.1.

(b) The local advisory council may approve an increase in the compensation for members of the board of trustees based on a cost-of-living adjustment at the same rate as government employees of the state for the same year.

(5) The local advisory council shall meet at least quarterly with and consult with the board of trustees and advise regarding the operation and management of the public transit district.

Section 5. Section 20A-7-601 is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws, subjurisdictional laws, and transit area land use laws -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Qualifying county" means a county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(c) "Qualifying transit area" means:

(i) a station area, as defined in Section 10-9a-403.1, for which the municipality with jurisdiction over the station area has satisfied the requirements of Subsection 10-9a-403.1(2)(a)(i), as demonstrated by the adoption of a station area plan or resolution under Subsection 10-9a-403.1(2); or

(ii) a housing and transit reinvestment zone, as defined in Section 63N-3-602, created within a qualifying county.

(d) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(e) (i) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, town, or metro township.

(ii) "Subjurisdictional law" does not include a land use law.

(f) "Transit area land use law" means a land use law that relates to the use of land within a qualifying transit area.

(g) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) Except as provided in Subsections (3) through (5), an eligible voter seeking to have a local law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 7.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 8.25% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 10% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 11.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(i) for a metro township with a population of 1,000 or more but less than 10,000, a city of the fifth class, or a county of the fifth class, 25% of the number of active voters in the metro township, city, or county; or

(j) for a metro township with a population of less than 1,000, a town, or a county of the sixth class, 35% of the number of active voters in the metro township, town, or county.

(3) Except as provided in Subsection (4) or (5), an eligible voter seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) for a county of the first, second, third, or fourth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a county of the fifth or sixth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(c) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 15% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 15% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 16% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 27.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 27.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(f) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 29% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 29% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a metro township with a population of 1,000 or more but less than 10,000, or a city of the fifth class, 35% of the number of active voters in the metro township or city; or

(h) for a metro township with a population of less than 1,000 or a town, 40% of the number of active voters in the metro township or town.

(4) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures of the residents in the subjurisdiction equal to:

(a) 10% of the number of active voters in the subjurisdiction if the number of active voters exceeds 25,000;

(b) 12–1/2% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 25,000 but is more than 10,000;

(c) 15% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 10,000 but is more than 2,500;

(d) 20% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 2,500 but is more than 500;

(e) 25% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 500 but is more than 250; and

(f) 30% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 250.

(5) An eligible voter seeking to have a transit area land use law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) for a county:

(i) 20% of the number of active voters in the county; and

(ii) 21% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 20% of the number of active voters in the metro township or city; and

(ii) 20% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 20% of the number of active voters in the metro township or city; and

(ii) 21% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(d) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 34% of the number of active voters in the metro township or city; and

(ii) 34% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 36% of the number of active voters in the metro township or city; and

(ii) 36% of the number of active voters in at least 75% of the metro township's or city's voter participation areas; or

(f) for a metro township with a population less than 10,000, a city of the fifth class, or a town, 40% of the number of active voters in the metro township, city, or town.

(6) Sponsors of any referendum petition challenging, under Subsection (2), (3), (4), or (5), any local law passed by a local legislative body shall file the application before 5 p.m. within seven days after the day on which the local law was passed.

(7) Nothing in this section authorizes a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 6. Section 41-1a-416 is amended to read:

41-1a-416. Original issue license plates -- Alternative stickers -- Rulemaking.

(1) The owner of a motor vehicle that is a model year 1973 or older may apply to the division for permission to display an original issue license plate of a format and type issued by the state in the same year as the model year of the vehicle.

(2) The owner of a motor vehicle who desires to display original issue license plates instead of license plates issued under Section 41-1a-401 shall:

(a) complete an application on a form provided by the division;

(b) supply and submit the original license plates that the owner desires to display to the division for approval; and

(c) pay the fees prescribed in Sections 41-1a-1206 and 41-1a-1211.

(3) The division, prior to approval of an application under this section, shall determine that the original issue license plates:

(a) are of a format and type issued by the state for use on a motor vehicle in this state;

(b) have numbers and characters that are unique and do not conflict with existing license plate series in this state;

(c) are legible, durable, and otherwise in a condition that serves the purposes of this chapter, except that original issue license plates are exempt from the provision of Section 41-1a-401 regarding reflectorization and Section 41-1a-403 regarding legibility from 100 feet; and

(d) are from the same year of issue as the model year of the motor vehicle on which they are to be displayed.

(4) (a) An owner of a motor vehicle displaying original issue license plates approved under this section is not exempt from any other requirement of this chapter except as specified under this section.

(b) Notwithstanding Subsection (4)(a), if a motor vehicle displaying an original issue license plate is also a vintage vehicle as defined in Section 41-21-1, the motor vehicle qualifies for the same exemptions as a vintage vehicle.

(5) (a) An owner of a motor vehicle currently registered in this state whose original issue license plates are not approved by the division because of the requirement in Subsection (3)(b) may apply to the division for a sticker to allow the temporary display of the original issue license plates if:

(i) the plates otherwise comply with this section;

(ii) the plates are only displayed when the motor vehicle is used for participating in motor vehicle club activities, exhibitions, tours, parades, and similar activities and are not used for general daily transportation;

(iii) the license plates and registration issued under this chapter for normal use of the motor vehicle on the highways of this state are kept in the motor vehicle and shown to a peace officer on request; and

(iv) the sticker issued by the division under this subsection is properly affixed to the face of the original issue license plate.

(b) The sticker issued under this section shall be the size and form customarily furnished by the division.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules for the implementation of this section.

Section 7. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (6), (7), (8), and (9) and Sections 41-1a-422, 41-1a-1205, 41-1a-1220, 41-1a-1221, 41-1a-1222, and 41-1a-1223 all fees collected under this part shall be deposited into the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), and (7) and Section 41-1a-1212 may be used by the commission to cover the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.

(4) In accordance with Section 63J-1-602.2, all funds available to the commission for the purchase and distribution of license plates and decals are nonlapsing.

(5) (a) Except as provided in Subsections (3) and (5)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(c) Fifty cents of the registration fee imposed under Subsection 41-1a-1206(1)(i) for each vintage vehicle that has a model year of 1981 or newer may be used by the commission to cover the costs incurred in enforcing and administering this part.

(6) (a) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited into the Transportation Investment Fund of 2005 created under Section 72-2-124:

(i) $30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), (4), and (7);

(ii) $21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) $2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) $23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) $24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); and

(vi) $1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) $23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) $23 of each registration fee collected under Subsection 41-1a-1206(2)(a)(ii).

(7) (a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(8) (a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(9) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited into the Spinal Cord and Brain Injury Rehabilitation Fund created in Section 26-54-102.

Section 8. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection [~~(17)(d)(i)~~] (18)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection [~~(17)(d)(ii)~~] (18)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection [~~(17)(d)(iii)~~] (18)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

[~~(17)~~] (18) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

[~~(18)~~] (19) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

[~~(19)~~] (20) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture

may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

[~~(20)~~] (21) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

[~~(21)~~] (22) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

[~~(22)~~] (23) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

[~~(23)~~] (24) (a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(24)~~] (25) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

[~~(25)~~] (26) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

[~~(26)~~] (27) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

[~~(27)~~] (28) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

[~~(28)~~] (29) "Highway authority" means the same as that term is defined in Section 72-1-102.

[~~(29)~~] (30) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

[~~(30)~~] (31) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

[~~(31)~~] (32) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

[~~(32)~~] (33) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

[~~(33)~~] (34) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(34)~~] (35) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[~~(35)~~] (36) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or

fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

[~~(36)~~] (37) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[~~(37)~~] (38) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[~~(38)~~] (39) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [~~(38)~~] (39)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[~~(39)~~] (40) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

[~~(40)~~] (41) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

[~~(41)~~] (42) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

[~~(42)~~] (43) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(43)~~] (44) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

[~~(44)~~] (45) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

[~~(45)~~] (46) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

[~~(46)~~] (47) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

[~~(47)~~] (48) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(48)~~] (49) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

[~~(49)~~] (50) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

[~~(50)~~] (51) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

[~~(51)~~] (52) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[~~(52)~~] (53) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[~~(53)~~] (54) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[~~(54)~~] (55) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

[~~(55)~~] (56) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[~~(56)~~] (57) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[~~(57)~~] (58) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(58)~~] (59) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(59)~~] (60) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(60)~~] (61) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(61)~~] (62) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(62)~~] (63) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(63)~~] (64) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(64)~~] (65) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(65)~~] (66) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(66)~~] (67) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(67)~~] (68) (a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(68)~~] (69) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(69)~~] (70) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(70)~~] (71) "Stop" when required means complete cessation from movement.

[~~(71)~~] (72) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(72)~~] (73) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(73)~~] (74) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(74)~~] (75) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(75)~~] (76) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(76)~~] (77) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(77)~~] (78) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(78)~~] (79) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(79)~~] (80) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(80)~~] (81) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(81)~~] (82) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(82)~~] (83) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(83)~~] (84) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(84)~~] (85) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 9. Section 41-6a-704 is amended to read:

41-6a-704. Overtaking and passing vehicles proceeding in same direction.

(1) (a) [~~On~~] Except as provided in Section 41-6a-718, on any highway:

(i) the operator of a vehicle overtaking another vehicle proceeding in the same direction shall:

(A) except as provided under Section 41-6a-705, promptly pass the overtaken vehicle on the left at a safe distance; and

(B) enter a right-hand lane or the right side of the roadway only when safely clear of the overtaken vehicle;

(ii) the operator of an overtaken vehicle:

(A) shall give way to the right in favor of the overtaking vehicle; and

(B) may not increase the speed of the vehicle until completely passed by the overtaking vehicle.

(b) The exemption from the minimum speed regulations for a vehicle operating on a grade under Section 41-6a-605 does not exempt the vehicle from promptly passing a vehicle as required under Subsection (1)(a)(i)(A).

(2) On a highway having more than one lane in the same direction, the operator of a vehicle traveling in the left general purpose lane:

(a) shall, upon being overtaken by another vehicle in the same lane, yield to the overtaking vehicle by moving safely to a lane to the right; and

(b) may not impede the movement or free flow of traffic in the left general purpose lane.

(3) An operator of a vehicle traveling in the left general purpose lane that has a vehicle following directly behind the operator's vehicle at a distance so that less than two seconds elapse before reaching the location of the operator's vehicle when space is available for the operator to yield to the overtaking vehicle by traveling in the right-hand lane is prima facie evidence that the operator is violating Subsection (2).

(4) The provisions of Subsection (2) do not apply to an operator of a vehicle traveling in the left general purpose lane when:

(a) overtaking and passing another vehicle proceeding in the same direction in accordance with Subsection (1)(a)(i);

(b) preparing to turn left or taking a different highway or an exit on the left;

(c) responding to emergency conditions;

(d) avoiding actual or potential traffic moving onto the highway from an acceleration or merging lane; or

(e) following the direction of a traffic-control device that directs the use of a designated lane.

(5) An individual may engage in lane filtering only when the following conditions exist:

(a) the individual is operating a motorcycle;

(b) the individual is on a roadway divided into two or more adjacent traffic lanes in the same direction of travel;

(c) the individual is on a roadway with a speed limit of 45 miles per hour or less;

(d) the vehicle being overtaken in the same lane is stopped;

(e) the motorcycle is traveling at a speed of 15 miles per hour or less; and

(f) the movement may be made safely.

(6) A violation of Subsection (1), (2), or (5) is an infraction.

Section 10. Section 41-6a-705 is amended to read:

41-6a-705. Passing on right -- When permissible.

(1) [~~The~~] Subject to Section 41-6a-718, the operator of a vehicle may overtake and pass on the right of another vehicle only:

(a) when the vehicle overtaken is making or preparing to make a left turn; or

(b) on a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(2) The operator of a vehicle may overtake and pass another vehicle on the right only under conditions permitting the movement with safety.

(3) Except for a person operating a bicycle, the operator of a vehicle may not overtake and pass another vehicle if the movement is made by driving off the roadway.

(4) A violation of this section is an infraction.

Section 11. Section 41-6a-718 is enacted to read:

41-6a-718. Operation of a snowplow -- Approaching a snowplow -- Prohibition to pass.

(1) (a) A snowplow operator shall ensure that a snowplow in operation on a highway displays flashing yellow lights.

(b) An individual operating a snowplow as an agent of a highway authority, while engaged in the removal of snow or ice on a highway, may not be charged with a violation under this chapter related to parking, standing, turning, backing, or yielding the right-of-way.

(c) Notwithstanding the exemptions described in Subsection (1)(b), an individual operating a snowplow shall operate the snowplow with reasonable care.

(2) If a snowplow is displaying flashing yellow lights, an individual operating a vehicle in the vicinity of the snowplow may not pass or overtake a snowplow on a side of the snowplow where a plow blade is deployed.

(3) If three or more snowplows are operating in echelon formation, an individual operating a vehicle in the vicinity of the snowplows may not overtake or pass the snowplows on either side of the snowplows.

(4) A violation of Subsection (2) or (3) is an infraction.

Section 12. Section 41-6a-904 is amended to read:

41-6a-904. Approaching emergency vehicle -- Necessary signals -- Stationary

emergency vehicle -- Duties of respective operators.

(1) Except when otherwise directed by a peace officer, the operator of a vehicle, upon the immediate approach of an authorized emergency vehicle using audible or visual signals under Section 41-6a-212 or 41-6a-1625, shall:

(a) yield the right-of-way and immediately move to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway, clear of any intersection; and

(b) then stop and remain stopped until the authorized emergency vehicle has passed.

(2) (a) The operator of a vehicle, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall:

(i) reduce the speed of the vehicle;

(ii) provide as much space as practical to the stationary authorized emergency vehicle; and

(iii) if traveling in a lane adjacent to the stationary authorized emergency vehicle and if practical, with due regard to safety and traffic conditions, make a lane change into a lane not adjacent to the authorized emergency vehicle.

(b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, the requirements in Subsection (2)(a) apply.

(ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the authorized emergency vehicle.

(3) (a) The operator of a vehicle, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall:

(i) reduce the speed of the vehicle;

(ii) provide as much space as practical to the stationary tow truck or highway maintenance vehicle; and

(iii) if traveling in a lane adjacent to the stationary tow truck or highway maintenance vehicle, if practical and with due regard to safety and traffic conditions, make a lane change into a lane not adjacent to the tow truck or highway maintenance vehicle.

(b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, the requirements in Subsection (3)(a) apply.

(ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the tow truck or highway maintenance vehicle.

(4) (a) The operator of a vehicle, upon approaching a stationary vehicle adjacent to a highway that is not parked in an apparent legal parking area that has flashing hazard lights illuminated, shall:

(i) reduce the speed of the vehicle;

(ii) provide as much space as practical to the stationary vehicle; and

(iii) if traveling in a lane adjacent to the stationary vehicle, if practical and with due regard to safety and traffic conditions, make a lane change into a lane not adjacent to the stationary vehicle.

(b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a stationary vehicle as described in Subsection (4)(a), the requirements in Subsection (4)(a) apply.

(ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary vehicle as described in Subsection (4)(a), shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the stationary vehicle.

[~~(4)~~] (5) When an authorized emergency vehicle is using audible or visual signals under Section 41-6a-212 or 41-6a-1625, the operator of a vehicle may not:

(a) follow closer than 500 feet behind the authorized emergency vehicle;

(b) pass the authorized emergency vehicle, if the authorized emergency vehicle is moving; or

(c) stop the vehicle within 500 feet of a fire apparatus which has stopped in answer to a fire alarm.

[~~(5)~~] (6) This section does not relieve the operator of an authorized emergency vehicle, tow truck, or highway maintenance vehicle from the duty to drive with regard for the safety of all persons using the highway.

[~~(6)~~] (7) (a) (i) In addition to the penalties prescribed under Subsection [~~(8)~~] (9), a person who violates this section shall attend a four hour live classroom defensive driving course approved by:

(A) the Driver License Division; or

(B) a court in this state.

(ii) Upon completion of the four hour live classroom course under Subsection [~~(6)(a)(i)~~] (7)(a)(i), the person shall provide to the Driver License Division a certificate of attendance of the classroom course.

(b) The Driver License Division shall suspend a person's driver license for a period of 90 days if the person:

(i) violates a provision of Subsections (1) through (3); and

(ii) fails to meet the requirements of Subsection [~~(6)(a)(i)~~] (7)(a)(i), within 90 days of sentencing for or pleading guilty to a violation of this section.

(c) Notwithstanding the provisions of Subsection [~~(6)(b)~~] (7)(b), the Driver License Division shall shorten the 90-day suspension period imposed under Subsection [~~(6)(b)~~] (7)(b) effective immediately upon receiving a certificate of attendance of the four hour live classroom course required under Subsection [~~(6)(a)(i)~~] (7)(a)(i), if the certificate of attendance is received before the completion of the suspension period.

(d) A person whose license is suspended under Subsection [~~(6)(b)~~] (7)(b) and a person whose suspension is shortened as described under Subsection [~~(6)(c)~~] (7)(c) shall pay the license reinstatement fees under Subsection 53-3-105(26).

[~~(7)~~] (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Driver License Division shall make rules to implement the provisions of this part.

[~~(8)~~] (9) A violation of Subsection (1), (2), (3), [~~or~~] (4), or (5) is an infraction.

Section 13. Section 41-21-1 is amended to read:

41-21-1. Definitions.

(1) "Autocycle" means the same as that term is defined in Section 53-3-102.

(2) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(3) (a) "Street rod" means a motor vehicle or motorcycle that:

(i) (A) was manufactured in 1948 or before; or

(B) (I) was manufactured after 1948 to resemble a vehicle that was manufactured in 1948 or before; and

(II) (Aa) has been altered from the manufacturer's original design; or

(Bb) has a body constructed from non-original materials; and

(ii) is primarily a collector's item that is used for:

(A) club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional transportation; and

(F) other similar uses.

(b) "Street rod" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(4) (a) "Vintage travel trailer" means a travel trailer, camping trailer, or fifth wheel trailer that is:

(i) 30 years old or older, from the current year; and

(ii) primarily a collector's item that is used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional recreational or vacation use; and

(F) other similar uses.

(b) "Vintage travel trailer" does not include a travel trailer, camping trailer, or fifth wheel trailer that is used for the general, daily transportation of persons or property.

(5) (a) "Vintage vehicle" means a motor vehicle or motorcycle that:

(i) is 30 years old or older from the current year;

(ii) displays:

(A) a unique vehicle type special group license plate issued in accordance with Section 41-1a-418; [~~or~~]

(B) for a vehicle that has a model year of 1980 or older, a historical support special group plate; [~~and~~] or

(C) an original issue license plate in accordance with Section 41-1a-416; and

(iii) is primarily a collector's item that is used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional transportation; and

(F) other similar uses.

(b) "Vintage vehicle" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(c) "Vintage vehicle" includes a:

(i) street rod; and

(ii) vintage travel trailer.

Section 14. Section 53-1-106.2 is repealed and reenacted to read:

53-1-106.2. Towing dispatch program.

(1) An interlocal agency established pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, a special service district established pursuant to Title 17D, Chapter 1, Special Service District Act, a

political subdivision, or a state agency may enter into a contract with a vendor that provides a product or technology capable of increasing efficiency, effectiveness, and transparency in the dispatching of towing providers and management of towing rotations.

(2) The product or technology described in Subsection (1) shall comply with the following requirements and capabilities:

(a) decreasing delays associated with requesting and dispatching a tow truck motor carrier from an established tow rotation;

(b) increasing information, transparency, and data collection associated with tow rotation operations, including dispatching, response time, completion, clearance, and storage; and

(c) increasing responder and traffic safety by reducing secondary crashes, responder time on scene, and the impacts of traffic accidents on traffic flow and safety.

(3) A vendor selected to provide towing dispatch management services as described in this section may not also provide towing, storage, impounding, or other services related to the operation of a towing provider.

Section 15. Section 53-3-109 is amended to read:

53-3-109. Records -- Access -- Fees -- Rulemaking.

(1) (a) Except as provided in this section, all records of the division shall be classified and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The division may disclose personal identifying information in accordance with 18 U.S.C. Chapter 123:

(i) to a licensed private investigator holding a valid agency license, with a legitimate business need;

(ii) to an insurer, insurance support organization, or a self-insured entity, or its agents, employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22, Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities, antifraud activities, rating, or underwriting for any person issued a license certificate under this chapter;

(iii) to a depository institution as that term is defined in Section 7-1-103;

(iv) to the State Tax Commission for the purposes of tax fraud detection and prevention and any other use required by law;

(v) subject to Subsection (7), to the University of Utah for data collection in relation to genetic and epidemiologic research; or

(vi) (A) to a government entity, including any court or law enforcement agency, to fulfill the government entity's functions; or

(B) to a private person acting on behalf of a government entity to fulfill the government entity's functions, if the division determines disclosure of the information is in the interest of public safety.

(2) (a) A person who receives personal identifying information shall be advised by the division that the person may not:

(i) disclose the personal identifying information from that record to any other person; or

(ii) use the personal identifying information from that record for advertising or solicitation purposes.

(b) Any use of personal identifying information by an insurer or insurance support organization, or by a self-insured entity or its agents, employees, or contractors not authorized by Subsection (1)(b)(ii) is:

(i) an unfair marketing practice under Section 31A-23a-402; or

(ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

(3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee may disclose portions of a driving record, in accordance with this Subsection (3), to:

(i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing driving risk on the insurer's current motor vehicle insurance policyholders;

(ii) an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employee's employment if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and

(iii) an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

(b) A disclosure under Subsection (3)(a)(i) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102 during the previous month;

(ii) be limited to the records of drivers who, at the time of the disclosure, are covered under a motor vehicle insurance policy of the insurer; and

(iii) be made under a contract with the insurer or a designee of an insurer.

(c) A disclosure under Subsection (3)(a)(ii) or (iii) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102, during the previous month;

(ii) be limited to the records of a current employee of an employer;

(iii) be made under a contract with the employer or a designee of an employer; and

(iv) include an indication of whether the driver has had a change reflected in the driver's:

(A) driving status;

(B) license class;

(C) medical self-certification status; or

(D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

(i) the criteria for searching and compiling the driving records being requested;

(ii) the frequency of the disclosures;

(iii) the format of the disclosures, which may be in bulk electronic form; and

(iv) a reasonable charge for the driving record disclosures under this Subsection (3).

(4) The division may charge fees:

(a) in accordance with Section 53-3-105 for searching and compiling its files or furnishing a report on the driving record of a person;

(b) for each document prepared under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee set in accordance with Section 63J-1-504 for each document authenticated; and

(c) established in accordance with the procedures and requirements of Section 63J-1-504 for disclosing personal identifying information under Subsection (1)(b).

(5) Each certified copy of a driving record furnished in accordance with this section is admissible in any court proceeding in the same manner as the original.

(6) (a) A driving record furnished under this section may only report on the driving record of a person for a period of 10 years.

(b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of commercial driver license violations, or reports for commercial driver license holders.

(7) (a) The division shall include on each application for or renewal of a license or identification card under this chapter:

(i) the following notice: "The Driver License Division may disclose the information provided on this form to an entity described in Utah Code Ann. Subsection 53-3-109(1)(b)(v).";

(ii) a reference to the website described in Subsection (7)(b); and

(iii) a link to the division website for:

(A) information provided by the division, after consultation with the University of Utah, containing the explanation and description described in Subsection (7)(b); and

(B) an online form for the individual to opt out of the disclosure of personal identifying information as described in Subsection (1)(b)(v).

(b) [~~On or before July 1, 2020, and in~~] In consultation with the division, the University of Utah shall create a website that provides an explanation and description of:

(i) what information may be disclosed by the division to the University of Utah under Subsection (1)(b)(v);

(ii) the methods and timing of anonymizing the information;

(iii) for situations where the information is not anonymized:

(A) how the information is used;

(B) how the information is secured;

(C) how long the information is retained; and

(D) who has access to the information;

(iv) research and statistical purposes for which the information is used; and

(v) other relevant details regarding the information.

(c) The website created by the University of Utah described in Subsection (7)(b) shall include the following:

(i) a link to the division website for an online form for the individual to opt out of the disclosure of personal identifying information as described in Subsection (1)(b)(v); and

(ii) a link to an online form for the individual to affirmatively choose to remove, subject to Subsection (7)(e)(ii), personal identifying information from the database controlled by the University of Utah that was disclosed pursuant to Subsection (1)(b)(v).

(d) In the course of business, the division shall provide information regarding the disclosure of personal identifying information, including providing on the division website:

(i) a link to the website created under Subsection (7)(b) to provide individuals with information regarding the disclosure of personal identifying information under Subsection (1)(b)(v); and

(ii) a link to the division website for:

(A) information provided by the division, after consultation with the University of Utah, containing the explanation and description described in Subsection (7)(b); and

(B) an online form for the individual to opt out of the disclosure of personal identifying information as described in Subsection (1)(b)(v).

(e) (i) The division may not disclose the personal identifying information under Subsection (1)(b)(v)

if an individual opts out of the disclosure as described in Subsection (7)(a)(iii)(B) or (7)(c)(i).

(ii) (A) Except as provided in Subsection (7)(e)(ii)(B), if an individual makes a request as described in Subsection (7)(c)(ii), the University of Utah shall, within 90 days of receiving the request, remove and destroy the individual's personal identifying information received under Subsection (1)(b)(v) from a database controlled by the University of Utah.

(B) The University of Utah is not required to remove an individual's personal identifying information as described in Subsection (7)(e)(ii)(A) from data released to a research study before the date of the request described in Subsection (7)(c)(ii).

[~~(f) (i) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General shall conduct an audit and issue a report on:~~]

[~~(A) procedures and safeguards utilized by the University of Utah related to the security of personal identifying information disclosed pursuant to Subsection (1)(b)(v); and~~]

[~~(B) potential risks of disclosure or breaches in the security of personal identifying information disclosed pursuant to Subsection (1)(b)(v).~~]

[~~(ii) The Office of the Legislative Auditor General shall provide the report described in Subsection (7)(f)(i) to the Transportation Interim Committee before October 31, 2021.~~]

[~~(g) (i) The University of Utah shall report to the Transportation Interim Committee before October 31, 2020, regarding the information described in Subsection (7)(b).~~]

[~~(ii)~~] (f) The University of Utah shall conduct a biennial internal information security audit of the information systems that store the data received pursuant to Subsection (1)(b)(v), and, beginning in the year 2023, provide a biennial report of the findings of the internal audit to the Transportation Interim Committee.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to designate:

(a) what information shall be included in a report on the driving record of a person;

(b) the form of a report or copy of the report which may include electronic format;

(c) the form of a certified copy, as required under Section 53-3-216, which may include electronic format;

(d) the form of a signature required under this chapter which may include electronic format;

(e) the form of written request to the division required under this chapter which may include electronic format;

(f) the procedures, requirements, and formats for disclosing personal identifying information under Subsection (1)(b); and

(g) the procedures, requirements, and formats necessary for the implementation of Subsection (3).

(9) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained by the division shall inform the commissioner and the division director of the unauthorized use.

Section 16. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection 41-1a-1201(9), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2027:

(a) [~~Subsection 41-6a-102(31)~~] the subsection in Section 41-6a-102 that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection 41-6a-1406(6)(c)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1)(a), which authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

Section 17. Section 72-1-202 is amended to read:

72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.

(1) (a) The governor, with the advice and consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.

(b) The executive director shall be a registered professional engineer and qualified executive with technical and administrative experience and training appropriate for the position.

(c) The executive director shall remain in office until a successor is appointed.

(d) The executive director may be removed by the governor.

(2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:

(a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;

(b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;

(c) have the responsibility for the oversight and supervision of[~~:~~]

[~~(i)~~] any transportation project for which state funds are expended; [~~and~~]

[~~(ii) any fixed guideway capital development project within the boundaries of a large public transit district for which any state funds are expended;~~]

(d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;

(e) receive a salary, to be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business;

(f) purchase all equipment, services, and supplies necessary to achieve the department's functions, powers, duties, rights, and responsibilities delegated under Section 72-1-201;

(g) have the responsibility to determine whether a purchase from, contribution to, or other participation with a public entity or association of public entities in a pooled fund program to acquire, develop, or share information, data, reports, or other services related to the department's mission are procurement items under Title 63G, Chapter 6a, Utah Procurement Code;

(h) have responsibility for administrative supervision of the Comptroller Division, the Internal Audit Division, and the Communications Division; and

(i) appoint assistants, to serve at the discretion of the executive director, to administer the divisions of the department.

(3) The executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the Division of Human Resource Management.

(4) (a) For a fixed guideway capital development project within the boundaries of a large public transit district for which state funds are expended, responsibilities of the executive director include:

(i) project development for a fixed guideway capital development project in a large public transit district;

(ii) oversight and coordination of planning, including:

(A) development of statewide strategic initiatives for planning across all modes of transportation;

(B) coordination with metropolitan planning organizations;

(C) coordination with a large public transit district, including planning, project development, outreach, programming, environmental studies and impact statements, construction, and impacts on public transit operations; and

(D) corridor and area planning;

(iii) programming and prioritization of fixed guideway capital development projects;

(iv) fulfilling requirements for environmental studies and impact statements; and

(v) resource investment, including identification, development, and oversight of public-private partnership opportunities.

(5) (a) Before October 31, 2022, the department shall submit to the Transportation Interim Committee a written plan for the department to assume management of all fixed guideway capital development projects within a large public transit district for which state funds are expended.

(b) The department shall consult with a large public transit district and relevant metropolitan planning organizations in developing the plan described in Subsection (5)(a).

(c) The Transportation Interim Committee shall consider the plan submitted by the department as described in Subsection (5)(a) and make recommendations to the Legislature before December 1, 2022.

Section 18. Section 72-1-203 is amended to read:

72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.

(1) The executive director shall appoint two deputy directors, who shall serve at the discretion of the executive director.

(2) (a) The deputy director of engineering and operations shall be a registered professional engineer in the state and is the chief engineer of the department.

(b) The deputy director of engineering and operations shall assist the executive director with areas of responsibility that may include:

(i) project development, including statewide standards for project design and construction, right-of-way, materials, testing, structures, and construction;

(ii) oversight of the management of the region offices described in Section 72-1-205;

(iii) operations and traffic management;

(iv) oversight of operations of motor carriers and ports;

(v) transportation systems safety;

(vi) aeronautical operations; and

(vii) equipment for department engineering and maintenance functions.

(c) The deputy director of planning and investment shall assist the executive director with areas of responsibility that may include:

(i) oversight and coordination of planning, including:

(A) development of statewide strategic initiatives for planning across all modes of transportation;

(B) coordination with metropolitan planning organizations and local governments; and

(C) corridor and area planning;

(ii) responsibility for the oversight and supervision of any fixed guideway capital development project within the boundaries of a large public transit district for which any state funds are expended;

[~~(ii)~~] (iii) asset management;

[~~(iii)~~] (iv) programming and prioritization of transportation projects;

[~~(iv)~~] (v) fulfilling requirements for environmental studies and impact statements;

[~~(v)~~] (vi) resource investment, including identification, development, and oversight of public-private partnership opportunities;

[~~(vi)~~] (vii) data analytics services to the department;

[~~(vii)~~] (viii) corridor preservation;

[~~(viii)~~] (ix) employee development;

[~~(ix)~~] (x) maintenance planning; and

[~~(x)~~] (xi) oversight and facilitation of the negotiations and integration of public transit providers described in Section 17B-2a-827.

Section 19. Section 72-1-301 is amended to read:

72-1-301. Transportation Commission created -- Members, appointment, terms -- Qualifications -- Pay and expenses -- Chair -- Quorum.

(1) (a) There is created the Transportation Commission which shall consist of seven members.

(b) The members of the commission shall be residents of Utah.

(c) The members of the commission shall be selected on a nonpartisan basis.

(d) [~~(i)~~] The commissioners shall, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, be appointed by the governor, with the advice and consent of the Senate, for a term of six years, beginning on April 1 of odd-numbered years[~~, except as provided under Subsection (1)(d)(ii)~~].

[~~(ii) The first two additional commissioners serving on the seven member commission shall be appointed for terms of two years nine months and four years nine months, respectively, initially commencing on July 1, 1996, and subsequently commencing as specified under Subsection (1)(d)(i).~~]

(e) The commissioners serve on a part-time basis.

(f) Each commissioner shall remain in office until a successor is appointed and qualified.

[~~(2) (a) Except as provided in Subsection (2)(b), the selection of the commissioners shall be as follows:~~]

[~~(i) one commissioner from Box Elder, Cache, or Rich county;~~]

[~~(ii) one commissioner from Salt Lake or Tooele county;~~]

[~~(iii) one commissioner from Carbon, Emery, Grand, or San Juan county;~~]

[~~(iv) one commissioner from Beaver, Garfield, Iron, Kane, Millard, Piute, Sanpete, Sevier, Washington, or Wayne county;~~]

[~~(v) one commissioner from Weber, Davis, or Morgan county;~~]

[~~(vi) one commissioner from Juab, Utah, Wasatch, Duchesne, Summit, Uintah, or Daggett county; and~~]

[~~(vii) one commissioner selected from the state at large.~~]

[~~(b)~~] (2) (a) [~~Beginning with the appointment of commissioners on or after July 1, 2009 and subject~~] Subject to the restriction in Subsection [~~(2)(d)~~] (2)(c), the selection of commissioners shall be as follows:

(i) four commissioners with one commissioner selected from each of the four regions established by the department; and

(ii) subject to the restriction in Subsection [~~(2)(c)~~] (2)(b), three commissioners selected from the state at large.

[~~(c)~~] (b) (i) At least one of the three commissioners appointed under Subsection [~~(2)(b)(ii)~~] (2)(a)(ii) shall be selected from a rural county.

(ii) For purposes of this Subsection [~~(2)(c)~~] (2)(b), a rural county [~~includes~~] is a county of the third, fourth, fifth, or sixth class.

[~~(d)~~] (c) No more than two commissioners appointed under Subsection [~~(2)(b)~~] (2)(a) may be selected from any one of the four regions established by the department.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(4) (a) One member of the commission shall be designated by the governor as chair.

(b) The commission [~~shall~~] may select one member as vice chair to act in the chair's absence.

(5) Any four commissioners constitute a quorum.

(6) Each member of the commission shall qualify by taking the constitutional oath of office.

(7) Each member of the commission is subject to the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

[~~(7)~~] (8) For the purposes of Section 63J-1-504, the commission is not considered an agency.

Section 20. Section 72-1-302 is amended to read:

72-1-302. Commission offices and meetings.

(1) The commission shall [~~maintain offices and~~] hold regular public meetings [~~at those offices on dates fixed and formally announced by it, and may hold other meetings at the times and places as it may, by order, provide~~] at least quarterly.

(2) The commission may hold additional public meetings as determined by the chair of the commission in consultation with the executive director of the department.

[~~(a) Meetings may be held upon call of the governor, the chairman, or two commissioners upon notice of the time, place, and purpose of meeting to each commissioner at least seven days prior to the date of the meeting.~~]

[~~(b) Any meeting may be held upon shorter notice with the unanimous approval of the commission.~~]

[~~(c) A member of the commission shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.~~]

Section 21. Section 72-1-303 is amended to read:

72-1-303. Duties of commission.

(1) The commission has the following duties:

(a) determining priorities and funding levels of projects and programs in the state transportation systems and the capital development of new public transit facilities for each fiscal year based on project lists compiled by the department and taking into consideration the strategic initiatives described in Section 72-1-211;

(b) determining additions and deletions to state highways under Chapter 4, Designation of State Highways Act;

(c) holding public [~~hearings~~] meetings and otherwise providing for public input in transportation matters;

(d) making policies and rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the commission's duties described under this section;

(e) in accordance with Section 63G-4-301, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(f) advising the department [~~in~~] on state transportation systems policy;

(g) approving settlement agreements of condemnation cases subject to Section 63G-10-401;

(h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a nonvoting[~~, ex officio~~] member or a voting member on the board of trustees of a public transit district;

(i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term and long-range public transit plans; and

(j) reviewing administrative rules made, substantively amended, or repealed by the department.

(2) (a) For projects prioritized with funding provided under Sections 72-2-124 and 72-2-125, the commission shall annually report to a committee designated by the Legislative Management Committee:

(i) a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects; and

(ii) the unfunded highway construction and maintenance needs within the state.

(b) The committee designated by the Legislative Management Committee under Subsection (2)(a) shall:

(i) review the list reported by the Transportation Commission; and

(ii) make a recommendation to the Legislature on:

(A) the amount of additional funding to allocate to transportation; and

(B) the source of revenue for the additional funding allocation under Subsection (2)(b)(ii)(A).

(3) The commission shall review and may approve plans for the construction of a highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval of Highway Facilities on Sovereign Lands Act.

(4) One or more associations representing airport operators or pilots in the state shall annually report to the commission recommended airport improvement projects and any other information related to the associations' expertise and relevant to the commission's duties.

Section 22. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects that:

(A) mitigate traffic congestion on the state highway system; and

(B) are part of an active transportation plan approved by the department;

(iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide [~~40%~~] the percentage of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the [~~40%~~] percentage of costs required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission:

(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802; and

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(b) When prioritizing a transportation project that increases capacity, the commission may give priority consideration to projects that are:

(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

(A) the state is a participant in the transportation reinvestment zone; or

(B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system; or

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(c) If the department receives a notice of prioritization for a municipality as described in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection 17-27a-408(5), the commission may, during the fiscal year specified in the notice, give priority consideration to transportation projects that are within the boundaries of the municipality or the unincorporated areas of the county.

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 23. Section 72-1-305 is amended to read:

72-1-305. Project selection using the written prioritization process -- Public comment -- Report.

(1) Except as provided in Subsection (4), in determining priorities and funding levels of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new transportation capacity projects, the commission shall use the weighted criteria system adopted in the written prioritization process under Section 72-1-304.

(2) Prior to finalizing priorities and funding levels of projects in the state transportation system, the commission shall conduct public [~~hearings~~] meetings at locations around the state and accept public comments on:

(a) the written prioritization process;

(b) the merits of new transportation capacity projects that will be prioritized under this section; and

(c) the merits of new transportation capacity projects as recommended by a consensus of local elected officials participating in a metropolitan planning organization as defined in Section 72-1-208.5.

(3) The commission shall make the weighted criteria system ranking for each project publicly available prior to the public [~~hearings~~] meetings held under Subsection (2).

(4) (a) If the commission prioritizes a project over another project with a higher rank under the weighted criteria system, the commission shall identify the change and accept public comment at a [~~hearing~~] meeting held under this section on the merits of prioritizing the project above higher ranked projects.

(b) The commission shall make the reasons for the prioritization under Subsection (4)(a) publicly available.

(5) (a) The executive director or the executive director's designee shall report annually to the governor and a committee designated by the Legislative Management Committee no later than the last day of October:

(i) the projects prioritized under this section during the year prior to the report; and

(ii) the status and progress of all projects prioritized under this section.

(b) Annually, before any funds are programmed and allocated from the Transit Transportation Investment Fund created in Section 72-2-124 for each fiscal year, the executive director or the executive director's designee, along with the executive director of a large public transit district as described in Section 17B-2a-802, shall report to the governor and a committee designated by the Legislative Management Committee no later than the last day of October:

(i) the public transit projects prioritized under this section during the year prior to the report; and

(ii) the status and progress of all public transit projects prioritized under this section.

(6) (a) The department may not delay a new transportation capacity project that was funded by the Legislature in an appropriations act to a different fiscal year than programmed by the commission due to an unavoidable shortfall in revenues unless the project delays are prioritized and approved by the Transportation Commission.

(b) The Transportation Commission shall prioritize and approve any new transportation capacity project delays for projects that were funded by the Legislature in an appropriations act due to an unavoidable shortfall in revenues.

Section 24. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) two lanes on U-111 from Herriman Parkway to 11800 South;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality during the fiscal year specified in the notice.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county during the fiscal year specified in the notice.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) private contributions; and

(v) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;

(ii) for development of the oversight plan described in Section 72-1-202(5); or

(iii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than [~~40%~~] 30% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the [~~40%~~] 30% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

Section 25. Section 72-5-117 is amended to read:

72-5-117. Rulemaking for sale of real property -- Licensed or certified appraisers -- Exceptions.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the department buys, sells, or exchanges real property, the department shall make rules to ensure that the value of the real property is congruent with the proposed price and other terms of the purchase, sale, or exchange.

(2) The rules:

(a) shall establish procedures for determining the value of the real property;

(b) may provide that an appraisal, as defined under Section 61-2g-102, demonstrates the real property's value; [~~and~~]

(c) may require that the appraisal be completed by a state-certified general appraiser, as defined under Section 61-2g-102[~~.~~]; and

(d) may provide for the sale or exchange of real property, with or without charge, to a large public transit district if the executive director enters into an agreement with the large public transit district and determines that the real property:

(i) is within the boundaries of a station area that has a station area plan certified by a metropolitan planning organization in accordance with Section 10-9a-403.1;

(ii) is part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802;

(iii) is adjacent to a completed fixed guideway capital development that was overseen by the department; or

(iv) will only be used by the large public transit district in a manner that the executive director determines will provide a benefit to the state transportation system.

(3) Subsection (1) does not apply to the purchase, sale, or exchange of real property, or to an interest in real property:

(a) that is under a contract or other written agreement before May 5, 2008; or

(b) with a value of less than $100,000, as estimated by the state agency.

Section 26. Section 72-9-604 is amended to read:

72-9-604. Preemption of local authorities -- Tow trucks.

(1) As used in this section:

(a) "Abandoned" means a vehicle, vessel, or outboard motor for which a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor does not, within 30 days after notice that the vehicle, vessel, or outboard motor was towed by a towing entity:

(i) pay the relevant fees; and

(ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

(b) "Towing entity" means:

(i) a political subdivision of this state;

(ii) a state agency;

(iii) an interlocal agency created under Title 11, Chapter 13, Interlocal Cooperation Act; or

(iv) a special service district created under Title 17D, Chapter 1, Special Service District Act.

[~~(1)~~] (2) (a) Notwithstanding any other provision of law, a political subdivision of this state may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor carrier, tow truck operator, or tow truck that conflicts with:

(i) any provision of this part;

(ii) Section 41-6a-1401;

(iii) Section 41-6a-1407; or

(iv) rules made by the department under this part.

(b) A county or municipal legislative governing body may not charge a fee for the storage of an

impounded vehicle, vessel, or outboard motor if the county or municipality:

(i) is holding the vehicle, vessel, or outboard motor as evidence; and

(ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

[~~(2)~~] (3) A tow truck motor carrier that has a county or municipal business license for a place of business located within that county or municipality may not be required to obtain another business license in order to perform a tow truck service in another county or municipality if there is not a business location in the other county or municipality.

[~~(3)~~] (4) A county or municipal legislative or governing body may not require a tow truck motor carrier, tow truck, or tow truck operator that has been issued a current, authorized towing certificate by the department, as described in Section 72-9-602, to obtain an additional towing certificate.

[~~(4)~~] (5) A county or municipal legislative body may require an annual tow truck safety inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

(a) no fee is charged for the inspection; and

(b) the inspection complies with federal motor carrier safety regulations.

[~~(5)~~] (6) (a) A tow truck shall be subject to only one annual safety inspection under Subsection [~~(4)(b)~~] (5)(b).

(b) A county or municipality that requires the additional annual safety inspection shall accept the same inspection performed by another county or municipality.

[~~(6) (a) (i) Beginning on July 1, 2021, a political subdivision or state agency may not charge an applicant a fee or charge related to dispatch costs in order to be part of the towing rotation of that political subdivision or state agency.~~]

[~~(ii) Notwithstanding Subsection (6)(a)(i), a special service district under Title 17D, Chapter 1, Special Service District Act, may charge an applicant a fee or charge related to dispatch costs in order to be part of the towing rotation of that special service district.~~]

[~~(b) In addition to the fees set by the department in rules made in accordance with Subsection 72-9-603(16), a tow truck motor carrier may charge a fee to cover the costs of a dispatch charge described in Subsection (6)(a).~~]

[~~(c) The amount of the fee described in Subsection (6)(b) may not exceed the amount charged to the tow truck motor carrier for dispatch services under Subsection (6)(a).~~]

[~~(d) A political subdivision or state agency that does not charge a dispatch fee as of January 1, 2019, may not charge a dispatch fee described in Subsection (6)(a)(i).~~]

(7) (a) (i) If a towing entity uses a towing dispatch vendor described in Section 53-1-106.2, the towing entity may charge a fee to cover costs associated with the use of a dispatch vendor as described in Section 53-1-106.2.

(ii) Except as provided in Subsection (8), a fee described in Subsection (7)(a)(i) may not exceed the actual costs of the dispatch vendor contracted to provide the dispatch service.

(b) (i) Except as provided in Subsection (7)(b)(ii), if a towing entity does not use a towing dispatch vendor described in Section 53-1-106.2, the towing entity may not charge a fee to cover costs associated with providing towing dispatch and rotation service.

(ii) A special service district created under Title 17D, Chapter 1, Special Service District Act, that charges a dispatch fee on or before January 1, 2023, may continue to charge a fee related to dispatch costs.

(iii) Except as provided in Subsection (8), a fee described in Subsection (7)(b)(ii) may not exceed an amount reasonably reflective to the actual costs of providing the towing dispatch and rotation service.

(c) A towing entity may not charge a fee described in Subsection (7)(a)(i) or (7)(b)(ii) unless the relevant governing body of the towing entity has approved the fee amount.

(d) In addition to fees set by the department in rules made in accordance with Subsection 72-9-603(16), a tow truck operator or a tow truck motor carrier may pass through a fee described in this Subsection (7) to owners, lien holders, or insurance providers of towed vehicles, vessels, or outboard motors.

(8) (a) In addition to the fees described in Subsection (7), a tow truck operator or tow truck motor carrier may charge an additional fee to absorb unrecovered costs of abandoned vehicles related to the fees described in Subsections (7)(a)(i) and (7)(b)(ii).

(b) Beginning May 3, 2023, and ending on June 30, 2025, a tow truck operator or tow truck motor carrier may charge a fee described in Subsection (8)(a) in an amount not to exceed an amount greater than 25% of the relevant fee described in Subsection (7)(a)(i) or (7)(b)(ii).

(c) (i) Beginning January 1, 2025, and annually thereafter, the towing entity shall, based on data provided by the State Tax Commission, determine the percentage of vehicles, vessels, or outboard motors that were abandoned during the previous year by:

(A) determining the total number of vehicles, vessels, or outboard motors that were towed as part of a towing entity's towing rotation during the previous calendar year that were also abandoned; and

(B) dividing the number described in Subsection (8)(c)(i)(A) by the total number of vehicles, vessels, or outboard motors that were towed as part of the towing entity's towing rotation during the previous calendar year.

(ii) No later than March 31, 2025, and each year thereafter, the towing entity shall publish:

(A) the relevant fee amount described in Subsection (7)(a)(i) or (7)(b)(ii); and

(B) the percentage described in Subsection (8)(c)(i).

(iii) Beginning on July 1, 2025, and each year thereafter, a tow truck operator or a tow truck motor carrier may charge a fee authorized in Subsection (8)(a) in an amount equal to the percentage described in Subsection (8)(c)(i) multiplied by the relevant fee amount described in Subsection (7)(a)(i) or (7)(b)(ii).

(d) A tow truck operator or tow truck motor carrier shall list on a separate line on the towing invoice any fee described in this Subsection (8).

[~~(7)~~] (9) A towing entity may not require a tow truck operator who has received an authorized towing certificate from the department to submit additional criminal background check information for inclusion of the tow truck motor carrier on a rotation.

[~~(8)~~] (10) If a tow truck motor carrier is dispatched as part of a towing rotation, the tow truck operator that responds may not respond to the location in a tow truck that is owned by a tow truck motor carrier that is different than the tow truck motor carrier that was dispatched.

CHAPTER 220
S. B. 29
Passed January 25, 2023
Approved March 14, 2023
Effective May 3, 2023

ROAD JURISDICTION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends descriptions of certain highways under state jurisdiction.

Highlighted Provisions:

This bill:

- amends descriptions of the following roads, transferring jurisdiction to the state:
  - SR-109; and
  - SR-131; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-4-116, as last amended by Laws of Utah 2019, Chapter 52
72-4-119, as last amended by Laws of Utah 2022, Chapter 83

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

Section 1. Section 72-4-116 is amended to read:

72-4-116. State highways -- SR-101 to SR-110.

State highways include:

(1) SR-101. From Wellsville on Route 23 easterly through Hyrum to the Hardware Ranch with a stub connection to the visitors' center and parking area.

(2) SR-102. From Route 83 east of Lampo Junction northeasterly through Penrose to Thatcher; then easterly through Tremonton and Deweyville to Route 38.

(3) SR-103. From Route 126 in Clearfield easterly on 650 North Street in Clearfield to the on and off access ramps on the east side of Route 15.

(4) SR-104. From Route 126 easterly on Wilson Lane, Twentieth Street, and Twenty-first Street in Ogden to Route 204.

(5) SR-105. From Route 67 east on Parrish Lane in Centerville to Route 106.

(6) SR-106. From .21 miles west of Route 15 east on 400 North Street in Bountiful; then northerly to Sheppard Lane in Farmington; then west on Sheppard Lane to Route 89.

(7) SR-107. From Route 110 west of West Point easterly on 300 North through West Point to 3000 West.

(8) SR-108. From the I-15 north bound on- and off-ramps at the Hill Field South Gate Interchange in Layton west to Syracuse; then north into Weber County; then northeasterly to Route 126.

(9) SR-109. From Route 126 [~~easterly through~~] in Layton easterly via Gentile Street and Oak Hills Drive to East Side Drive east of Route 89.

(10) SR-110. From Route 127 west of Syracuse north to Route 37 west of Clinton.

Section 1. Section 72-4-119 is amended to read:

72-4-119. State highways -- SR-131 to SR-140.

State highways include:

(1) SR-131. From [~~Freedom Point Way~~] Route 68 in Bluffdale northeasterly on Porter Rockwell Boulevard to Route 140.

(2) SR-132. From Route 6 in Lynndyl northeasterly through Leamington to Nephi; then southeasterly through Fountain Green and Moroni to Route 89 at Pigeon Hollow Junction.

(3) SR-133. From Kanosh south city limits north through Meadow to Route 15 north of Meadow.

(4) SR-134. From Route 37 at Kanesville northerly to Plain City; then easterly to Route 235 in North Ogden.

(5) SR-135. From 2800 West in Lindon easterly via Pleasant Grove Boulevard to Route 129 in Pleasant Grove.

(6) SR-136. From a junction with Route 50 and 125 east of Delta north to Route 6.

(7) SR-137. From Route 89 in Gunnison easterly to Mayfield; then northerly to Route 89.

(8) SR-138. From Route 80 at Stansbury Interchange southeasterly through Grantsville to Route 179 in Tooele County.

(9) SR-139. From Route 6 northerly to Route 157 near Spring Glen.

(10) SR-140. From 800 West in Bluffdale easterly on 14600 South to the on and off access ramps on the east side of Route 15.

CHAPTER 221
S. B. 34
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

WATER INFRASTRUCTURE FUNDING STUDY

Chief Sponsor: Daniel McCay
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill addresses the use of property tax revenue for water.

Highlighted Provisions:

This bill:

- directs the Department of Natural Resources (department) to:
  - study the use of property tax revenue to fund water infrastructure, treatment, and delivery; and
  - make recommendations for future funding; and
- requires the department to submit a written report to the Natural Resources, Agriculture, and Environment Interim Committee and the Revenue and Taxation Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-279, as last amended by Laws of Utah 2022, Chapter 68

ENACTS:

79-2-407, Utah Code Annotated 1953

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

Section 1. Section 63I-2-279 is amended to read:

63I-2-279. Repeal dates: Title 79.

(1) Section 79-2-206, Transition, is repealed July 1, 2024.

(2) Section 79-2-407, which directs the Department of Natural Resources to study funding for water infrastructure costs, is repealed July 1, 2025.

[~~(2) Title 79, Chapter 6, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.~~]

Section 2. Section 79-2-407 is enacted to read:

79-2-407. Study of funding for water infrastructure costs.

(1) The department shall:

(a) study the use of property tax revenue for payment of costs related to supplying drinking and irrigation water, including infrastructure, treatment, and delivery; and

(b) make recommendations for funding of the costs described in Subsection (1)(a).

(2) As part of the study and to prepare the recommendations described in Subsection (1), the department shall:

(a) analyze the use of tax revenue for water infrastructure in other states with similar climate and water supply challenges as the state of Utah;

(b) review the use of property tax revenue for construction, operation, maintenance, repair, and replacement of water facilities, including facilities related to:

(i) diversion, treatment, and storage of drinking and irrigation water; and

(ii) the delivery of drinking and irrigation water to end users;

(c) investigate policies that would ensure all users contribute to the cost of water infrastructure;

(d) identify methods of developing tiered water rate structures that promote water conservation and ensure reasonable revenue stability;

(e) analyze the effect of eliminating or reducing property tax revenue as a funding source for costs related to water infrastructure, treatment, or delivery, including:

(i) the effect on retail water rates and retail customer water use and demand;

(ii) wholesale water suppliers' ability to prepare for anticipated local and regional water demand; and

(iii) water development costs associated with new growth; and

(f) identify and study any water conservancy district or special service district that levies a property tax for a purpose described in Subsection (1)(a) but does not provide water service.

(3) The department shall convene a working group consisting of a wide range of stakeholders with diverse interests, including those with expertise in water development and delivery, tax policy, and water funding, to help the department conduct the study and develop the recommendations described in this section.

(4) On or before October 30, 2024, the department shall provide a written report of the department's findings, including any recommended legislative action, to the Natural Resources, Agriculture, and Environment Interim Committee and the Revenue and Taxation Interim Committee.

CHAPTER 222
S. B. 35
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

RECIPROCAL PROFESSIONAL LICENSING AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill addresses reciprocal professional licensing and certification by certain state agencies.

Highlighted Provisions:

This bill:

- defines terms;
- enacts the Interstate Teacher Mobility Compact;
- enacts the PA Licensure Compact;
- creates a process for the following state agencies to issue certain professional licenses and certificates by endorsement:
  - the Department of Agriculture and Food;
  - the Pete Suazo Utah Athletic Commission within the Department of Cultural and Community Engagement;
  - the Department of Commerce;
  - the Department of Environmental Quality;
  - the Department of Health and Human Services;
  - the Utah State Office of Rehabilitation within the Department of Workforce Services;
  - the Labor Commission;
  - the State Board of Education; and
  - the Department of Transportation;
- provides administrative rulemaking authority; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301.5, as last amended by Laws of Utah 2022, Chapters 221, 438 and 466
58-1-302, as last amended by Laws of Utah 2022, Chapter 415
58-70a-302, as last amended by Laws of Utah 2021, Chapter 312

ENACTS:

4-1-112, Utah Code Annotated 1953
9-23-301.5, Utah Code Annotated 1953
13-1-17, Utah Code Annotated 1953
19-1-208, Utah Code Annotated 1953
26B-3-102, Utah Code Annotated 1953
35A-13-606.5, Utah Code Annotated 1953
40-2-403, Utah Code Annotated 1953
53E-6-205, Utah Code Annotated 1953
53E-6-1100, Utah Code Annotated 1953
53E-6-1101, Utah Code Annotated 1953
53E-6-1102, Utah Code Annotated 1953
53E-6-1103, Utah Code Annotated 1953
53E-6-1104, Utah Code Annotated 1953
53E-6-1105, Utah Code Annotated 1953
53E-6-1106, Utah Code Annotated 1953
53E-6-1107, Utah Code Annotated 1953
53E-6-1108, Utah Code Annotated 1953
53E-6-1109, Utah Code Annotated 1953
53E-6-1110, Utah Code Annotated 1953
53E-6-1111, Utah Code Annotated 1953
53E-6-1112, Utah Code Annotated 1953
58-70a-301.1, Utah Code Annotated 1953
58-70c-101, Utah Code Annotated 1953
58-70c-102, Utah Code Annotated 1953
58-70c-103, Utah Code Annotated 1953
58-70c-104, Utah Code Annotated 1953
58-70c-105, Utah Code Annotated 1953
58-70c-106, Utah Code Annotated 1953
58-70c-107, Utah Code Annotated 1953
58-70c-108, Utah Code Annotated 1953
58-70c-109, Utah Code Annotated 1953
58-70c-110, Utah Code Annotated 1953
58-70c-111, Utah Code Annotated 1953
58-70c-112, Utah Code Annotated 1953
58-70c-113, Utah Code Annotated 1953
58-70c-201, Utah Code Annotated 1953
72-9-602.5, Utah Code Annotated 1953

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

Section 1. Section 4-1-112 is enacted to read:

4-1-112. License by endorsement.

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the department determines that the licensure requirements of the other state, district, territory,

or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The department may refuse to issue a license to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the department issues a license to an applicant under this section, the applicant shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(7) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Section 2. Section 9-23-301.5 is enacted to read:

9-23-301.5. License by endorsement.

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this chapter.

(2) Subject to Subsections (4) through (6), the commission shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the commission determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (6), the commission may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the commission determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the commission determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the commission determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The commission may refuse to issue a license to an applicant under this section if:

(a) the commission determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the commission issues a license to an applicant under this section, the applicant shall:

(a) pay a fee determined by the commission under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

Section 3. Section 13-1-17 is enacted to read:

13-1-17 (Codified as 13-1-17). License by endorsement.

(1) As used in this section:

(a) "License" means, except as provided in Subsection (1)(b), an authorization that permits the

holder to engage in the practice of a profession regulated under this title.

(b) "License" does not include an authorization that permits the holder to engage in the practice of a profession regulated by the Division of Real Estate under Title 61, Securities Division – Real Estate Division, or the Division of Professional Licensing under Title 58, Occupations and Professions.

(2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The department may refuse to issue a license to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the department issues a license to an applicant under this section, the applicant shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(7) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Section 4. Section 19-1-208 is enacted to read:

19-1-208. License by endorsement.

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory

of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The department may refuse to issue a license to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the department issues a license to an applicant under this section, the applicant shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(7) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Section 5. Section 26B-3-102 is enacted to read:

26B-3-102 (Codified as 26B-1-240). License by endorsement.

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The department may refuse to issue a license to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the department issues a license to an applicant under this section, the applicant shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(7) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Section 6. Section 35A-13-606.5 is enacted to read:

35A-13-606.5. Certificate by endorsement.

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession described in Section 35A-13-605.

(2) Subject to Subsections (3) through (5), the director may issue a certificate described in Section 35A-13-605 to an applicant who has been licensed in another state, district, or territory of the United

States, or in a jurisdiction outside of the United States, if:

(a) the director determines that the applicant's education, experience, and skills demonstrate competency in the profession for which certification is sought; or

(b) the director determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the certificate.

(3) The director may refuse to issue a certificate to an applicant under this section if:

(a) the director determines that there is reasonable cause to believe that the applicant is not qualified to receive the certificate; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(4) Before the director issues a certificate to an applicant under this section, the applicant shall:

(a) pay a fee determined by the director under Section 35A-13-606; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which certification is sought.

(5) The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

Section 7. Section 40-2-403 is enacted to read:

40-2-403. Certificate by endorsement.

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of an occupation described in Section 40-2-402.

(2) Subject to Subsections (4) through (6), the commission shall issue a certificate described in Section 40-2-401 to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the commission determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the certificate;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (6), the commission may issue a certificate described in Section 40-2-401 to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the commission determines that the applicant's education, experience, and skills demonstrate competency in the occupation for which certification is sought; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the commission determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the certificate; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the commission determines that the education or experience was substantially similar to the education or experience requirements for the certificate.

(4) The commission may refuse to issue a certificate to an applicant under this section if:

(a) the commission determines that there is reasonable cause to believe that the applicant is not qualified to receive the certificate; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the commission issues a certificate to an applicant under this section, the applicant shall:

(a) pay a fee determined by the commission under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the occupation for which certification is sought.

(6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

Section 8. Section 53E-6-205 is enacted to read:

53E-6-205. License by endorsement.

(1) Subject to Subsections (3) through (6), the state board shall issue a license to an applicant who has been issued a certificate in another state, district, or territory of the United States if:

(a) the state board determines that the certificate encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the certificate; and

(c) the applicant's certificate is in good standing in the other state, district, or territory.

(2) Subject to Subsections (3) through (6), the state board may issue a license to an applicant who:

(a) has been issued a certificate in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the state board determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the certificate; or

(ii) the state board determines that the certification requirements of the other state, district, territory, or jurisdiction at the time the certificate was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been issued a certificate in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the state board determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(3) The state board may refuse to issue a license to an applicant under this section if:

(a) the state board determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's certificate.

(4) Before the state board issues a license to an applicant under this section, the applicant shall:

(a) pay a fee determined by the state board under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(5) The state board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(6) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific parts of this chapter.

Section 9. Section 53E-6-1100 is enacted to read:

Part 11. Interstate Teacher Mobility Compact

53E-6-1100. Article I -- Purpose.

(1) The purpose of this compact is to facilitate the mobility of teachers across the member states, with the goal of supporting teachers through a new pathway to licensure. Through this compact, the member states seek to establish a collective regulatory framework that expedites and enhances the ability of teachers to move across state lines.

(2) This compact is intended to achieve the following objectives and should be interpreted accordingly. The member states hereby ratify the same intentions by subscribing hereto:

(a) create a streamlined pathway to licensure mobility for teachers;

(b) support the relocation of eligible military spouses;

(c) facilitate and enhance the exchange of licensure, investigative, and disciplinary information between the member states;

(d) enhance the power of state and district level education officials to hire qualified, competent teachers by removing barriers to the employment of out-of-state teachers;

(e) support the retention of teachers in the profession by removing barriers to relicensure in a new state; and

(f) maintain state sovereignty in the regulation of the teaching profession.

Section 10. Section 53E-6-1101 is enacted to read:

53E-6-1101. Article II -- Definitions.

(1) As used in this compact, and except as otherwise provided, the following definitions shall govern the terms herein:

(a) "Active military member" means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve;

(b) "Adverse action" means any limitation or restriction imposed by a member state's licensing authority, such as revocation, suspension, reprimand, probation, or limitation on the licensee's ability to work as a teacher;

(c) "Bylaws" means those bylaws established by the commission;

(d) "Career and technical education license" means a current, valid authorization issued by a member state's licensing authority allowing an individual to serve as a teacher in P-12 public educational settings in a specific career and technical education area;

(e) "Charter member states" means a member state that has enacted legislation to adopt this compact where such legislation predates the initial

meeting of the commission after the effective date of the compact;

(f) "Commission" means the interstate administrative body which membership consists of delegates of all states that have enacted this compact, and which is known as the Interstate Teacher Mobility Compact Commission;

(g) "Commissioner" means the delegate of a member state;

(h) "Eligible license" means a license to engage in the teaching profession which requires at least a bachelor's degree and the completion of a state approved program for teacher licensure;

(i) "Eligible military spouse" means the spouse of an individual in full-time duty status in the active armed forces of the United States including members of the National Guard and Reserve moving as a result of a military mission or military career progression requirements or are on their terminal move as a result of separation or retirement, to include surviving spouses of deceased military members;

(j) "Executive committee" means a group of commissioners elected or appointed to act on behalf of, and within the powers granted to them by, the commission as provided for herein;

(k) "Licensing authority" means an official, agency, board, or other entity of a state that is responsible for the licensing and regulation of teachers authorized to teach in P-12 public educational settings;

(l) "Member state" means any state that has adopted this compact, including all agencies and officials of such a state;

(m) "Receiving state" means any state where a teacher has applied for licensure under this compact;

(n) "Rule" means any regulation promulgated by the commission in accordance with Section 53E-6-1107, which shall have the force of law as a rule promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and which shall be binding in each member state;

(o) "State" means a state, territory, or possession of the United States, and the District of Columbia;

(p) "State practice laws" means a member state's laws, rules, and regulations that govern the teaching profession, define the scope of such profession, and create the methods and grounds for imposing discipline;

(q) "State specific requirements" means a requirement for licensure covered in coursework or examination that include content of unique interest to the state;

(r) "Teacher" means an individual who currently holds an authorization from a member state that forms the basis for employment in the P-12 public schools of the state to provide instruction in a specific subject area, grade level, or student population; and

(s) "Unencumbered license" means a current, valid authorization issued by a member state's licensing authority allowing an individual to serve as a teacher in P-12 public educational settings. An unencumbered license is not a restricted, probationary, provisional, substitute, or temporary credential.

(2) The definitions described in Section 53E-1-102 do not apply to this compact.

Section 11. Section 53E-6-1102 is enacted to read:

53E-6-1102. Article III -- Licensure under the compact.

(1) Licensure under this compact pertains only to the initial grant of a license by the receiving state. Nothing herein applies to any subsequent or ongoing compliance requirements that a receiving state might require for teachers.

(2) Each member state shall, in accordance with the rules of the commission, define, compile, and update as necessary, a list of eligible licenses and career and technical educational licenses that the member state is willing to consider for equivalency under this compact and provide the list to the commission. The list shall include those licenses that a receiving state is willing to grant to teachers from other member states, pending a determination of equivalency by the receiving state's licensing authority.

(3) Upon the receipt of an application for licensure by a teacher holding an unencumbered eligible license, the receiving state shall determine which of the receiving state's eligible licenses the teacher is qualified to hold and shall grant such a license or licenses to the applicant. Such a determination shall be made in the sole discretion of the receiving state's licensing authority and may include a determination that the applicant is not eligible for any of the receiving state's eligible licenses. For all teachers who hold an unencumbered license, the receiving state shall grant one or more unencumbered license(s) that, in the receiving state's sole discretion, are equivalent to the license(s) held by the teacher in any other member state.

(4) For active military members and eligible military spouses who hold a license that is not unencumbered, the receiving state shall grant an equivalent license or licenses that, in the receiving state's sole discretion, is equivalent to the license or licenses held by the teacher in any other member state, except where the receiving state does not have an equivalent license.

(5) For a teacher holding an unencumbered career and technical education license, the receiving state shall grant an unencumbered license equivalent to the career and technical education license held by the applying teacher and issued by another member state, as determined by the receiving state in its sole discretion, except where a career and technical education teacher does not hold a bachelor's degree and the receiving state requires a bachelor's degree for licenses to teach career and technical education. A receiving

state may require career and technical education teachers to meet state industry recognized requirements, if required by law in the receiving state.

Section 12. Section 53E-6-1103 is enacted to read:

53E-6-1103. Article IV -- Licensure not under the compact.

(1) Except as provided in Section 53E-6-1105, nothing in this compact shall be construed to limit or inhibit the power of a member state to regulate licensure or endorsements overseen by the member state's licensing authority.

(2) When a teacher is required to renew a license received pursuant to this compact, the state granting such a license may require the teacher to complete state specific requirements as a condition of licensure renewal or advancement in that state.

(3) For the purposes of determining compensation, a receiving state may require additional information from teachers receiving a license under the provisions of this compact.

(4) Nothing in this compact shall be construed to limit the power of a member state to control and maintain ownership of its information pertaining to teachers, or limit the application of a member state's laws or regulations governing the ownership, use, or dissemination of information pertaining to teachers.

(5) Nothing in this compact shall be construed to invalidate or alter any existing agreement or other cooperative arrangement which a member state may already be a party to, or limit the ability of a member state to participate in any future agreement or other cooperative arrangement to:

(a) award teaching licenses or other benefits based on additional professional credentials, including, but not limited to National Board Certification;

(b) participate in the exchange of names of teachers whose license has been subject to an adverse action by a member state; or

(c) participate in any agreement or cooperative arrangement with a nonmember state.

Section 13. Section 53E-6-1104 is enacted to read:

53E-6-1104. Article V -- Teacher qualifications and requirements for licensure under the compact.

(1) Except as provided for active military members or eligible military spouses in Subsection 53E-6-1102(4), a teacher may only be eligible to receive a license under this compact where that teacher holds an unencumbered license in a member state.

(2) A teacher eligible to receive a license under this compact shall, unless otherwise provided for herein:

(a) upon their application to receive a license under this compact, undergo a criminal background check in the receiving state in accordance with the laws and regulations of the receiving state; and

(b) provide the receiving state with the information in addition to the information required for licensure for the purposes of determining compensation, if applicable.

Section 14. Section 53E-6-1105 is enacted to read:

53E-6-1105. Article VI -- Discipline and adverse actions.

(1) Nothing in this Compact shall be deemed or construed to limit the authority of a member state to investigate or impose disciplinary measures on teachers according to the state practice laws thereof.

(2) Member states shall be authorized to receive, and shall provide, files and information regarding the investigation and discipline, if any, of teachers in other member states upon request. Any member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall communicate its intention and purpose for such disclosure to the member state which originally provided that information.

Section 15. Section 53E-6-1106 is enacted to read:

53E-6-1106. Article VII -- Establishment of the Interstate Teacher Mobility Compact Commission.

(1) The interstate compact member states hereby create and establish a joint public agency known as the Interstate Teacher Mobility Compact Commission:

(a) the commission is a joint interstate governmental agency comprised of states that have enacted the Interstate Teacher Mobility Compact; and

(b) nothing in this interstate compact shall be construed to be a waiver of sovereign immunity.

(2) (a) Each member state shall have and be limited to one delegate to the commission, who shall be given the title of commissioner.

(b) The commissioner shall be the primary administrative officer of the state licensing authority or their designee.

(c) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed.

(d) The member state shall fill any vacancy occurring in the commission within 90 days.

(e) Each commissioner shall be entitled to one vote about the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to

participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.

(f) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(g) The commission shall establish by rule a term of office for commissioners.

(3) The commission shall have the following powers and duties:

(a) establish a code of ethics for the commission;

(b) establish the fiscal year of the commission;

(c) establish bylaws for the commission;

(d) maintain its financial records in accordance with the bylaws of the commission;

(e) meet and take such actions as are consistent with the provisions of this interstate compact, the bylaws, and rules of the commission;

(f) promulgate uniform rules to implement and administer this interstate compact. The rules shall have the force and effect of law and shall be binding in all member states. In the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law;

(g) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law shall not be affected;

(h) purchase and maintain insurance and bonds;

(i) borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state, or an associated nongovernmental organization that is open to membership by all states;

(j) hire employees, elect, or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(k) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal or mixed, provided that at all times the commission shall avoid any appearance of impropriety;

(l) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(m) establish a budget and make expenditures;

(n) borrow money;

(o) appoint committees, including standing committees composed of members and such other interested persons as may be designated in this interstate compact, rules, or bylaws;

(p) provide and receive information from, and cooperate with, law enforcement agencies;

(q) establish and elect an executive committee;

(r) establish and develop a charter for an Executive Information Governance Committee to advise on facilitating exchange of information; use of information, data privacy, and technical support needs, and provide reports as needed;

(s) perform such other functions as may be necessary or appropriate to achieve the purposes of this interstate compact consistent with the state regulation of teacher licensure; and

(t) determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact.

(4) (a) The executive committee of the Interstate Teacher Mobility Compact Commission shall have the power to act on behalf of the commission according to the terms of this interstate compact.

(b) The executive committee shall be composed of eight voting members:

(i) the commission chair, vice chair, and treasurer; and

(ii) five members who are elected by the commission from the current membership:

(A) four voting members representing geographic regions in accordance with commission rules; and

(B) one at large voting member in accordance with commission rules.

(c) The commission may add or remove members of the executive committee as provided in commission rules.

(d) The executive committee shall meet at least once annually.

(e) The executive committee shall have the following duties and responsibilities:

(i) recommend to the entire commission changes to the rules or bylaws, changes to the compact legislation, fees paid by interstate compact member states such as annual dues, and any compact fee charged by the member states on behalf of the commission;

(ii) ensure commission administration services are appropriately provided, contractual or otherwise;

(iii) prepare and recommend the budget;

(iv) maintain financial records on behalf of the commission;

(v) monitor compliance of member states and provide reports to the commission; and

(vi) perform other duties as provided in rules or bylaws.

(f) (i) All meetings of the commission shall be open to the public, and public notice of meetings shall be given in accordance with commission bylaws.

(ii) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(A) non-compliance of a Member State with its obligations under the compact;

(B) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) current, threatened, or reasonably anticipated litigation;

(D) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(E) accusing any person of a crime or formally censuring any person;

(F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) disclosure of investigative records compiled for law enforcement purposes;

(I) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

(J) matters specifically exempted from disclosure by federal or member state statute; and

(K) other matters as set forth by commission bylaws and rules.

(iii) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(iv) The commission shall keep minutes of commission meetings and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(g) (i) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(ii) The commission may accept all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.

(iii) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission, in accordance with the commission rules.

(iv) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(v) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to accounting procedures established under commission bylaws. All receipts and disbursements of funds of the commission shall be reviewed annually in accordance with commission bylaws, and a report of the review shall be included in and become part of the annual report of the commission.

(h) (i) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(ii) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(iii) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or

alleged act, error or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Section 16. Section 53E-6-1107 is enacted to read:

53E-6-1107. Article VIII -- Rulemaking.

(1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this interstate compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(2) The commission shall promulgate reasonable rules to achieve the intent and purpose of this interstate compact. In the event the commission exercises its rulemaking authority in a manner that is beyond purpose and intent of this interstate compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law in the member states.

(3) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(4) Rules or amendments to the rules shall be adopted or ratified at a regular or special meeting of the commission in accordance with commission rules and bylaws.

(5) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) meet an imminent threat to public health, safety, or welfare;

(b) prevent a loss of Commission or Member State funds;

(c) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(d) protect public health and safety.

Section 17. Section 53E-6-1108 is enacted to read:

53E-6-1108. Article IX -- Facilitating information exchange.

(1) The commission shall provide for facilitating the exchange of information to administer and implement the provisions of this compact in accordance with the rules of the commission, consistent with generally accepted data protection principles.

(2) Nothing in this compact shall be deemed or construed to alter, limit, or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the member state.

Section 18. Section 53E-6-1109 is enacted to read:

53E-6-1109. Article X -- Oversight, dispute resolution, and enforcement.

(1) (a) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact shall have standing as statutory law.

(b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(c) All courts and all administrative agencies shall take judicial notice of the compact, the rules of the commission, and any information provided to a member state pursuant thereto in any judicial or quasijudicial proceeding in a member state pertaining to the subject matter of this compact, or which may affect the powers, responsibilities, or actions of the commission.

(d) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2) (a) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(i) provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(ii) provide remedial training and specific technical assistance regarding the default.

(3) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the commissioners of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the state licensing authority and each of the member states.

(5) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(7) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(8) (a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(b) The commission shall promulgate a rule providing for both binding and nonbinding alternative dispute resolutions for disputes as appropriate.

(9) (a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Section 19. Section 53E-6-1110 is enacted to read:

53E-6-1110. Article XI -- Effectuation, withdrawal, and amendment.

(1) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state.

(a) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different from the model compact statute.

(b) A charter member state whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Section 53E-6-1109.

(c) Member states enacting the compact subsequent to the charter member states shall be subject to the process set forth in Subsection 53E-6-1106(3)(t) to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

(2) If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member States should be less than 10.

(3) Any state that joins the compact after the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state, as the rules and bylaws may be amended as provided in this compact.

(4) (a) Any member state may withdraw from this compact by enacting a statute repealing the same.

(b) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(c) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(5) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Section 20. Section 53E-6-1111 is enacted to read:

53E-6-1111. Article XII -- Construction and severability.

(1) This compact shall be liberally construed to effectuate the purposes thereof.

(2) The provisions of this compact shall be severable and if any phrase, clause, sentence, or

provision of this compact is declared to be contrary to the constitution of any member state or a state seeking membership in the compact, or of the United States or the applicability thereof to any other government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.

(3) If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 21. Section 53E-6-1112 is enacted to read:

53E-6-1112. Article XIII -- Consistent effect and conflict with other state laws.

(1) Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

(2) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

(3) All permissible agreements between the commission and the member states are binding in accordance with their terms.

Section 22. Section 58-1-301.5 is amended to read:

58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of individuals who are applying for licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

(a) Section 58-17b-307;

(b) Sections 58-24b-302 and 58-24b-302.1;

(c) Section 58-31b-302;

(d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy Practice Act;

(e) Section 58-44a-302.1;

(f) Section 58-47b-302;

(g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm company agents;

(h) Sections 58-60-103.1, 58-60-205, 58-60-305, and 58-60-405, of Chapter 60, Mental Health Professional Practice Act;

(i) Sections 58-61-304 and 58-61-304.1;

(j) Section 58-63-302;

(k) Section 58-64-302;

(l) Sections 58-67-302 and 58-67-302.1; [~~and~~]

(m) Sections 58-68-302 and 58-68-302.1[~~.~~]; and

(n) Sections 58-70a-301.1 and 58-70a-302, of Chapter 70a, Utah Physician Assistant Act.

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 23. Section 58-1-302 is amended to read:

58-1-302. License by endorsement.

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(2) Subject to Subsections [~~(3) through (6),~~] (4) through (7), the division shall issue a license to [~~a person~~] an applicant who has been licensed in [~~a~~] another state, district, or territory of the United States if:

(a) the division determines that the license issued in the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) [~~after being licensed outside of this state, the person~~] the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory [~~of the United States~~] [~~where the license was issued~~]; and

[~~(b)~~] (c) the [~~person's~~] applicant's license is in good standing in the other state, district, or territory [~~of the United States~~] where the license was issued[~~; and~~].

[~~(c) the division determines that the license issued by the state, district, or territory of the United States encompasses a similar scope of practice as the license sought in this state.~~]

[~~(2)~~] (3) Subject to Subsections [~~(3) through (6),~~] (4) through (7), the division may issue a license to [~~a person~~] an applicant who:

(a) has been licensed in [~~a~~] another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the division determines that the applicant's education, experience, and skills demonstrate competency in the profession for which the licensure is sought in this state; and

(B) [~~after being licensed, the person~~] the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction [~~where the license was issued~~]; [~~and~~] or

[~~(B) the division determines that the person's education, experience, and skills demonstrate competency in the occupation or profession for which the person seeks licensure; or~~]

(ii) the division determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the current [~~licensure~~] requirements [~~of~~] for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the [~~person~~] applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the division determines that the education or experience was substantially similar to the current education or experience requirements for [~~licensure~~] the license sought in this state.

[~~(3) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.~~]

(4) The division may refuse to issue a license to [~~a person under the provisions of~~] an applicant under this section if:

(a) the division determines that there is reasonable cause to believe that the [~~person~~] applicant is not qualified to receive [~~a~~] the license in this state; or

(b) the [~~person~~] applicant has a previous or pending disciplinary action related to the [~~person's~~] applicant's license.

(5) Before [~~a person may be issued~~] the division issues a license to an applicant under this section, the [~~person~~] applicant shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the [~~person's~~] applicant's identity, qualifications, and good standing in the [~~occupation or~~] profession for which licensure is sought in this state.

(6) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

[~~(6)~~] (7) In accordance with Section 58-1-107, licensure endorsement provisions in this section are subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

[~~(7) On or before October 1, 2022, the division shall provide a written report to the Business and Labor Interim Committee regarding the effectiveness and sufficiency of the provisions of this section at ensuring that persons receiving a license without examination under the provisions of this section are qualified to receive a license in this state.~~]

Section 24. Section 58-70a-301.1 is enacted to read:

58-70a-301.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not:

(a) disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section; or

(b) issue a letter of qualification to participate in the PA Licensure Compact under Chapter 70c, PA Licensure Compact, until the criminal background check described in this section is completed.

Section 25. Section 58-70a-302 is amended to read:

58-70a-302. Qualifications for licensure.

Each applicant for licensure as a physician assistant shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63J-1-504;

(3) have successfully completed a physician assistant program accredited by:

(a) the Accreditation Review Commission on Education for the Physician Assistant; or

(b) if prior to January 1, 2001, either the:

(i) Committee on Accreditation of Allied Health Education Programs; or

(ii) Committee on Allied Health Education and Accreditation;

(4) have passed the licensing examinations required by division rule made in collaboration with the board; [~~and~~]

(5) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure[~~.~~]; and

(6) if the applicant is applying to participate in the PA Licensure Compact under Chapter 70c, PA Licensure Compact, consent to a criminal background check in accordance with Section 58-70a-301.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 26. Section 58-70c-101 is enacted to read:

CHAPTER 70c. PA LICENSURE COMPACT

Part 1. Compact Text

58-70c-101. Section 1 -- Purpose.

In order to strengthen access to Medical Services, and in recognition of the advances in the delivery of Medical Services, the Participating States of the PA Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing authority of State Licensing Boards to license and discipline PAs and seeks to enhance the portability of a License to practice as a PA while safeguarding the safety of patients. This Compact allows Medical Services to be provided by PAs, via the mutual recognition of the Licensees Qualifying License by other Compact Participating States. This Compact also adopts the prevailing standard for PA licensure and affirms that the practice and delivery of Medical Services by the PA occurs where the patient is located at the time of the patient encounter, and therefore requires the PA to be under the jurisdiction of the State Licensing Board where the patient is located. State Licensing Boards that participate in this Compact retain the jurisdiction to impose Adverse Action against a Compact Privilege in that State issued to a PA through the procedures of this Compact. The PA Licensure Compact will alleviate burdens for military families by allowing active duty military personnel and their spouses to obtain a Compact Privilege based on having an unrestricted License in good standing from a Participating State.

Section 27. Section 58-70c-102 is enacted to read:

58-70c-102. Section 1 -- Definitions.

In this Compact:

A. "Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a Licensing Board or other authority against a PA License or License application or Compact Privilege such as License denial, censure, revocation, suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.

B. "Compact Privilege" means the authorization granted by a Remote State to allow a Licensee from another Participating State to practice as a PA to provide Medical Services and other licensed activity to a patient located in the Remote State under the Remote State's laws and regulations.

C. "Conviction" means a finding by a court that an individual is guilty of a felony or misdemeanor offense through adjudication or entry of a plea of guilt or no contest to the charge by the offender.

D. "Criminal Background Check" means the submission of fingerprints or other biometric-based information for a License applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. § 20.3(d), from the State's criminal history record repository as defined in 28 C.F.R. § 20.3(f).

E. "Data System" means the repository of information about Licensees, including but not limited to License status and Adverse Actions, which is created and administered under the terms of this Compact.

F. "Executive Committee" means a group of directors and ex-officio individuals elected or appointed pursuant to Section 7.F.2.

G. "Impaired Practitioner" means a PA whose practice is adversely affected by health-related condition(s) that impact their ability to practice.

H. "Investigative Information" means information, records, or documents received or generated by a Licensing Board pursuant to an investigation.

I. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and Rules governing the practice of a PA in a State.

J. "License" means current authorization by a State, other than authorization pursuant to a Compact Privilege, for a PA to provide Medical Services, which would be unlawful without current authorization.

K. "Licensee" means an individual who holds a License from a State to provide Medical Services as a PA.

L. "Licensing Board" means any State entity authorized to license and otherwise regulate PAs.

M. "Medical Services" means health care services provided for the diagnosis, prevention, treatment, cure or relief of a health condition, injury, or disease, as defined by a State's laws and regulations.

N. "Model Compact" means the model for the PA Licensure Compact on file with The Council of State Governments or other entity as designated by the Commission.

O. "Participating State" means a State that has enacted this Compact.

P. "PA" means an individual who is licensed as a physician assistant in a State. For purposes of this Compact, any other title or status adopted by a State to replace the term "physician assistant" shall be deemed synonymous with "physician assistant" and shall confer the same rights and responsibilities to the Licensee under the provisions of this Compact at the time of its enactment.

Q. "PA Licensure Compact Commission," "Compact Commission," or "Commission" mean the national administrative body created pursuant to Section 7.A of this Compact.

R. "Qualifying License" means an unrestricted License issued by a Participating State to provide Medical Services as a PA.

S. "Remote State" means a Participating State where a Licensee who is not licensed as a PA is exercising or seeking to exercise the Compact Privilege.

T. "Rule" means a regulation promulgated by an entity that has the force and effect of law.

U. "Significant Investigative Information" means Investigative Information that a Licensing Board, after an inquiry or investigation that includes notification and an opportunity for the PA to respond if required by State law, has reason to believe is not groundless and, if proven true, would indicate more than a minor infraction.

V. "State" means any state, commonwealth, district, or territory of the United States.

Section 28. Section 58-70c-103 is enacted to read:

58-70c-103. Section 3 -- State Participation in this Compact.

A. To participate in this Compact, a Participating State shall:

1. License PAs.

2. Participate in the Compact Commission's Data System.

3. Have a mechanism in place for receiving and investigating complaints against Licensees and License applicants.

4. Notify the Commission, in compliance with the terms of this Compact and Commission Rules, of any Adverse Action against a Licensee or License applicant and the existence of Significant Investigative Information regarding a Licensee or License applicant.

5. Fully implement a Criminal Background Check requirement, within a time frame established by Commission Rule, by its Licensing Board receiving the results of a Criminal Background Check and reporting to the Commission whether the License applicant has been granted a License.

6. Comply with the Rules of the Compact Commission.

7. Utilize passage of a recognized national exam such as the NCCPA PANCE as a requirement for PA licensure.

8. Grant the Compact Privilege to a holder of a Qualifying License in a Participating State.

B. Nothing in this Compact prohibits a Participating State from charging a fee for granting the Compact Privilege.

Section 29. Section 58-70c-104 is enacted to read:

58-70c-104. Section 4 -- Compact Privilege.

A. To exercise the Compact Privilege, a Licensee must:

1. Have graduated from a PA program accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc. or other programs authorized by Commission Rule.

2. Hold current NCCPA certification.

3. Have no felony or misdemeanor Conviction.

4. Have never had a controlled substance license, permit, or registration suspended or revoked by a State or by the United States Drug Enforcement Administration.

5. Have a unique identifier as determined by Commission Rule.

6. Hold a Qualifying License.

7. Have had no revocation of a License or limitation or restriction on any License currently held due to an adverse action.

8. If a Licensee has had a limitation or restriction on a License or Compact Privilege due to an Adverse Action, two years must have elapsed from the date on which the License or Compact Privilege is no longer limited or restricted due to the Adverse Action.

9. If a Compact Privilege has been revoked or is limited or restricted in a Participating State for conduct that would not be a basis for disciplinary action in a Participating State in which the Licensee is practicing or applying to practice under a Compact Privilege, that Participating State shall have the discretion not to consider such action as an Adverse Action requiring the denial or removal of a Compact Privilege in that State.

10. Notify the Compact Commission that the Licensee is seeking the Compact Privilege in a Remote State.

11. Meet any Jurisprudence Requirement of a Remote State in which the Licensee is seeking to practice under the Compact Privilege and pay any fees applicable to satisfying the Jurisprudence Requirement.

12. Report to the Commission any Adverse Action taken by a non-participating State within thirty (30) days after the action is taken.

B. The Compact Privilege is valid until the expiration or revocation of the Qualifying License unless terminated pursuant to an Adverse Action. The Licensee must also comply with all of the requirements of Subsection A above to maintain the Compact Privilege in a Remote State. If the Participating State takes Adverse Action against a Qualifying License, the Licensee shall lose the Compact Privilege in any Remote State in which the Licensee has a Compact Privilege until all of the following occur:

1. The License is no longer limited or restricted; and

2. Two (2) years have elapsed from the date on which the License is no longer limited or restricted due to the Adverse Action.

C. Once a restricted or limited License satisfies the requirements of Subsection B.1 and 2, the Licensee must meet the requirements of Subsection A to obtain a Compact Privilege in any Remote State.

D. For each Remote State in which a PA seeks authority to prescribe controlled substances, the PA shall satisfy all requirements imposed by such State in granting or renewing such authority.

Section 30. Section 58-70c-105 is enacted to read:

58-70c-105. Section 5 -- Designation of the State from Which Licensee is Applying for a Compact Privilege.

A. Upon a Licensee's application for a Compact Privilege, the Licensee shall identify to the Commission the Participating State from which the Licensee is applying, in accordance with applicable Rules adopted by the Commission, and subject to the following requirements:

1. When applying for a Compact Privilege, the Licensee shall provide the Commission with the address of the Licensee's primary residence and thereafter shall immediately report to the Commission any change in the address of the Licensee's primary residence.

2. When applying for a Compact Privilege, the Licensee is required to consent to accept service of process by mail at the Licensee's primary residence on file with the Commission with respect to any action brought against the Licensee by the Commission or a Participating State, including a subpoena, with respect to any action brought or investigation conducted by the Commission or a Participating State.

Section 31. Section 58-70c-106 is enacted to read:

58-70c-106. Section 6 -- Adverse Actions.

A. A Participating State in which a Licensee is licensed shall have exclusive power to impose Adverse Action against the Qualifying License issued by that Participating State.

B. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to do all of the following:

1. Take Adverse Action against a PA's Compact Privilege within that State to remove a Licensee's Compact Privilege or take other action necessary under applicable law to protect the health and safety of its citizens.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Participating State for the attendance and testimony of witnesses or the production of evidence from another Participating State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the State in which the witnesses or evidence are located.

3. Notwithstanding paragraph 1, subpoenas may not be issued by a Participating State to gather evidence of conduct in another State that is lawful in that other State for the purpose of taking Adverse Action against a Licensee's Compact Privilege or application for a Compact Privilege in that Participating State.

4. Nothing in this Compact authorizes a Participating State to impose discipline against a PA's Compact Privilege or to deny an application for a Compact Privilege in that Participating State for the individual's otherwise lawful practice in another State.

C. For purposes of taking Adverse Action, the Participating State which issued the Qualifying License shall give the same priority and effect to reported conduct received from any other Participating State as it would if the conduct had occurred within the Participating State which issued the Qualifying License. In so doing, that Participating State shall apply its own State laws to determine appropriate action.

D. A Participating State, if otherwise permitted by State law, may recover from the affected PA the costs of investigations and disposition of cases resulting from any Adverse Action taken against that PA.

E. A Participating State may take Adverse Action based on the factual findings of a Remote State, provided that the Participating State follows its own procedures for taking the Adverse Action.

F. Joint Investigations.

1. In addition to the authority granted to a Participating State by its respective State PA laws and regulations or other applicable State law, any Participating State may participate with other Participating States in joint investigations of Licensees.

2. Participating States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under this Compact.

G. If an Adverse Action is taken against a PA's Qualifying License, the PA's Compact Privilege in all Remote States shall be deactivated until two (2) years have elapsed after all restrictions have been removed from the State License. All disciplinary orders by the Participating State which issued the Qualifying License that impose Adverse Action against a PA's License shall include a Statement that the PA's Compact Privilege is deactivated in all Participating States during the pendency of the order.

H. If any Participating State takes Adverse Action, it promptly shall notify the administrator of the Data System.

Section 32. Section 58-70c-107 is enacted to read:

58-70c-107. Section 7 -- Establishment of the PA Licensure Compact Commission.

A. The Participating States hereby create and establish a joint government agency and national administrative body known as the PA Licensure Compact Commission. The Commission is an instrumentality of the Compact States acting jointly and not an instrumentality of any one State. The Commission shall come into existence on or after the effective date of the Compact as set forth in Section 11.A.

B. Membership, Voting, and Meetings

1. Each Participating State shall have and be limited to one (1) delegate selected by that Participating State's Licensing Board or, if the State has more than one Licensing Board, selected collectively by the Participating State's Licensing Boards.

2. The delegate shall be either:

a. A current PA, physician or public member of a Licensing Board or PA Council/Committee; or

b. An administrator of a Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the laws of the State from which the delegate is appointed.

4. The Participating State Licensing Board shall fill any vacancy occurring in the Commission within sixty (60) days.

5. Each delegate shall be entitled to one (1) vote on all matters voted on by the Commission and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telecommunications, video conference, or other means of communication.

6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in this Compact and the bylaws.

7. The Commission shall establish by Rule a term of office for delegates.

C. The Commission shall have the following powers and duties:

1. Establish a code of ethics for the Commission;

2. Establish the fiscal year of the Commission;

3. Establish fees;

4. Establish bylaws;

5. Maintain its financial records in accordance with the bylaws;

6. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

7. Promulgate Rules to facilitate and coordinate implementation and administration of this Compact. The Rules shall have the force and effect of law and shall be binding in all Participating States;

8. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;

9. Purchase and maintain insurance and bonds;

10. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Participating State;

11. Hire employees and engage contractors, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and establish the Commission's personnel policies and

programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

12. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

13. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed, provided that at all times the Commission shall avoid any appearance of impropriety;

14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

15. Establish a budget and make expenditures;

16. Borrow money;

17. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

18. Provide and receive information from, and cooperate with, law enforcement agencies;

19. Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the Commission as provided in the Commission's bylaws;

20. Reserve for itself, in addition to those reserved exclusively to the Commission under the Compact, powers that the Executive Committee may not exercise;

21. Approve or disapprove a State's participation in the Compact based upon its determination as to whether the State's Compact legislation departs in a material manner from the Model Compact language;

22. Prepare and provide to the Participating States an annual report; and

23. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of PA licensure and practice.

D. Meetings of the Commission

1. All meetings of the Commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the Commission's website at least thirty (30) days prior to the public meeting.

2. Notwithstanding subsection D.1 of this section, the Commission may convene a public meeting by providing at least twenty-four (24) hours prior notice on the Commission's website, and any other means as provided in the Commission's Rules, for any of the reasons it may dispense with notice of proposed rulemaking under Section 9.L.

3. The Commission may convene in a closed, non-public meeting or non-public part of a public meeting to receive legal advice or to discuss.

a. Non-compliance of a Participating State with its obligations under this Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact;

j. Legal advice; or

k. Matters specifically exempted from disclosure by federal or Participating States' statutes.

4. If a meeting, or portion of a meeting, is closed pursuant to this provision, the chair of the meeting or the chair's designee shall certify that the meeting or portion of the meeting may be closed and shall reference each relevant exempting provision.

5. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

E. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Participating State and may impose Compact Privilege fees on Licensees of Participating States to whom a Compact Privilege is granted to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the Commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount levied on Participating States shall be allocated based upon a formula to be determined by Commission Rule.

a. A Compact Privilege expires when the Licensee's Qualifying License in the Participating State from which the Licensee applied for the Compact Privilege expires.

b. If the Licensee terminates the Qualifying License through which the Licensee applied for the Compact Privilege before its scheduled expiration, and the Licensee has a Qualifying License in another Participating State, the Licensee shall inform the Commission that it is changing to that Participating State the Participating State through which it applies for a Compact Privilege and pay to the Commission any Compact Privilege fee required by Commission Rule.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Participating States, except by and with the authority of the Participating State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

F. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact and Commission Rules.

2. The Executive Committee shall be composed of nine (9) members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. One ex-officio, nonvoting member from a recognized national PA professional association; and

c. One ex-officio, nonvoting member from a recognized national PA certification organization.

3. The ex-officio members will be selected by their respective organizations.

4. The Commission may remove any member of the Executive Committee as provided in its bylaws.

5. The Executive Committee shall meet at least annually.

6. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the Commission changes to the Commission's Rules or bylaws, changes to this Compact legislation, fees to be paid by Compact Participating States such as annual dues, and any Commission Compact fee charged to Licensees for the Compact Privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Participating States and provide compliance reports to the Commission;

f. Establish additional committees as necessary;

g. Exercise the powers and duties of the Commission during the interim between Commission meetings, except for issuing proposed rulemaking or adopting Commission Rules or bylaws, or exercising any other powers and duties exclusively reserved to the Commission by the Commission's Rules; and

h. Perform other duties as provided in the Commission's Rules or bylaws.

7. All meetings of the Executive Committee at which it votes or plans to vote on matters in exercising the powers and duties of the Commission shall be open to the public and public notice of such meetings shall be given as public meetings of the Commission are given.

8. The Executive Committee may convene in a closed, non-public meeting for the same reasons that the Commission may convene in a non-public meeting as set forth in Section 7.D.3 and shall announce the closed meeting as the Commission is required to under Section 7.D.4 and keep minutes of the closed meeting as the Commission is required to under Section 7.D.5.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the

intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense, and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses in any proceedings as authorized by Commission Rules.

5. Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.

6. Nothing herein shall be construed to designate the venue or jurisdiction to bring actions for alleged acts of malpractice, professional misconduct, negligence, or other such civil action pertaining to the practice of a PA. All such matters shall be determined exclusively by State law other than this Compact.

7. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Participating State's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

8. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Participating States or by the Commission.

Section 33. Section 58-70c-108 is enacted to read:

58-70c-108. Section 8 -- Data System.

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated data and reporting system containing licensure, Adverse Action, and the reporting of the existence of Significant Investigative Information on all licensed PAs and applicants denied a License in Participating States.

B. Notwithstanding any other State law to the contrary, a Participating State shall submit a uniform data set to the Data System on all PAs to whom this Compact is applicable (utilizing a unique identifier) as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a License or Compact Privilege;

4. Any denial of application for licensure, and the reason(s) for such denial (excluding the reporting of any Criminal history record information where prohibited by law);

5. The existence of Significant Investigative Information; and

6. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Significant Investigative Information pertaining to a Licensee in any Participating State shall only be available to other Participating States.

D. The Commission shall promptly notify all Participating States of any Adverse Action taken against a Licensee or an individual applying for a License that has been reported to it. This Adverse Action information shall be available to any other Participating State.

E. Participating States contributing information to the Data System may, in accordance with State or federal law, designate information that may not be shared with the public without the express permission of the contributing State. Notwithstanding any such designation, such information shall be reported to the Commission through the Data System.

F. Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Participating State contributing the information shall be removed from the Data System upon reporting of such by the Participating State to the Commission.

G. The records and information provided to a Participating State pursuant to this Compact or through the Data System, when certified by the Commission or an agent thereof, shall constitute

the authenticated business records of the Commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a Participating State.

Section 34. Section 58-70c-109 is enacted to read:

58-70c-109. Section 9 -- Rulemaking.

A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Commission Rules shall become binding as of the date specified by the Commission for each Rule.

B. The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer this Compact and achieve its purposes. A Commission Rule shall be invalid and have not force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope of the purposes of this Compact, or the powers granted hereunder, or based upon another applicable standard of review.

C. The Rules of the Commission shall have the force of law in each Participating State, provided however that where the Rules of the Commission conflict with the laws of the Participating State that establish the medical services a PA may perform in the Participating State, as held by a court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.

D. If a majority of the legislatures of the Participating States rejects a Commission Rule, by enactment of a statute or resolution in the same manner used to adopt this Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Participating State or to any State applying to participate in the Compact.

E. Commission Rules shall be adopted at a regular or special meeting of the Commission.

F. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. To persons who have requested notice of the Commission's notices of proposed rulemaking, and

3. In such other way(s) as the Commission may by Rule specify.

G. The Notice of Proposed Rulemaking shall include:

1. The time, date, and location of the public hearing on the proposed Rule and the proposed time, date and location of the meeting in which the proposed Rule will be considered and voted upon;

2. The text of the proposed Rule and the reason for the proposed Rule;

3. A request for comments on the proposed Rule from any interested person and the date by which written comments must be received; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing or provide any written comments.

H. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

I. If the hearing is to be held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall as directed in the Notice of Proposed Rulemaking, not less than five (5) business days before the scheduled date of the hearing, notify the Commission of their desire to appear and testify at the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings shall be recorded. A copy of the recording and the written comments, data, facts, opinions, and arguments received in response to the proposed rulemaking shall be made available to a person upon request.

4. Nothing in this section shall be construed as requiring a separate hearing on each proposed Rule. Proposed Rules may be grouped for the convenience of the Commission at hearings required by this section.

J. Following the public hearing the Commission shall consider all written and oral comments timely received.

K. The Commission shall, by majority vote of all delegates, take final action on the proposed Rule and shall determine the effective date of the Rule, if adopted, based on the Rulemaking record and the full text of the Rule.

1. If adopted, the Rule shall be posted on the Commission's website.

2. The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.

3. The Commission shall provide on its website an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.

4. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in subsection L, the effective date of the

Rule shall be no sooner than thirty (30) days after the Commission issued the notice that adopted the Rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with twenty–four (24) hours prior notice, without the opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately by the Commission in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Participating State funds;

3. Meet a deadline for the promulgation of a Commission Rule that is established by federal law or Rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Commission Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made as set forth in the notice of revisions and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No Participating State's rulemaking requirements shall apply under this Compact.

Section 35. Section 58-70c-110 is enacted to read:

58-70c-110. Section 10 -- Oversight, Dispute Resolution, and Enforcement.

A. Oversight

1. The executive and judicial branches of State government in each Participating State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact or the Commission's Rules and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission with service of process shall render a judgment or order in such proceeding void as to the Commission, this Compact, or Commission Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Participating State has defaulted in the performance of its obligations or responsibilities under this Compact or the Commission Rules, the Commission shall provide written notice to the defaulting State and other Participating States. The notice shall describe the default, the proposed means of curing the default and any other action that the Commission may take and shall offer remedial training and specific technical assistance regarding the default.

2. If a State in default fails to cure the default, the defaulting State may be terminated from this Compact upon an affirmative vote of a majority of the delegates of the Participating States, and all rights, privileges and benefits conferred by this Compact upon such State may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

3. Termination of participation in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and to the Licensing Board(s) of each of the Participating States.

4. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from this Compact, unless agreed upon in writing between the Commission and the defaulting State.

6. The defaulting State may appeal its termination from the Compact by the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

7. Upon the termination of a State's participation in the Compact, the State shall immediately provide notice to all Licensees within that State of such termination:

a. Licensees who have been granted a Compact Privilege in that State shall retain the Compact Privilege for one hundred eighty (180) days following the effective date of such termination.

b. Licensees who are licensed in that State who have been granted a Compact Privilege in a Participating State shall retain the Compact Privilege for one hundred eighty (180) days unless the Licensee also has a Qualifying License in a Participating State or obtains a Qualifying License in a Participating State before the one hundred eighty (180)-day period ends, in which case the Compact Privilege shall continue.

C. Dispute Resolution

1. Upon request by a Participating State, the Commission shall attempt to resolve disputes related to this Compact that arise among Participating States and between participating and non-Participating States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact and Rules of the Commission.

2. If compliance is not secured after all means to secure compliance have been exhausted, by majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices, against a Participating State in default to enforce compliance with the provisions of this Compact and the Commission's promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

E. Legal Action Against the Commission

1. A Participating State may initiate legal action against the Commission in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

2. No person other than a Participating State shall enforce this Compact against the Commission.

Section 36. Section 58-70c-111 is enacted to read:

58-70c-111. Section 11 -- Date of Implementation of the PA Licensure Compact Commission.

A. This Compact shall come into effect on the date on which this Compact statute is enacted into law in the seventh Participating State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the States that enacted the Compact prior to the Commission convening ("Charter Participating States") to determine if the statute enacted by each such Charter Participating State is materially different than the Model Compact.

a. A Charter Participating State whose enactment is found to be materially different from the Model Compact shall be entitled to the default process set forth in Section 10.B.

b. If any Participating State later withdraws from the Compact or its participation is terminated, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Participating States should be less than seven. Participating States enacting the Compact subsequent to the Commission convening shall be subject to the process set forth in Section 7.C.21 to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.

2. Participating States enacting the Compact subsequent to the seven initial Charter Participating States shall be subject to the process set forth in Section 7.C.21 to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

B. Any State that joins this Compact shall be subject to the Commission's Rules and bylaws as they exist on the date on which this Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day this Compact becomes law in that State.

C. Any Participating State may withdraw from this Compact by enacting a statute repealing the same.

1. A Participating State's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute. During this one hundred eighty (180) day-period, all Compact Privileges that were in effect in the withdrawing State and were granted to Licensees licensed in the withdrawing State shall remain in effect. If any Licensee licensed in the withdrawing State is also

licensed in another Participating State or obtains a license in another Participating State within the one hundred eighty (180) days, the Licensee's Compact Privileges in other Participating States shall not be affected by the passage of the one hundred eighty (180) days.

2. Withdrawal shall not affect the continuing requirement of the State Licensing Board(s) of the withdrawing State to comply with the investigative, and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing a State from this Compact, the State shall immediately provide notice of such withdrawal to all Licensees within that State. Such withdrawing State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of such notice of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any PA licensure agreement or other cooperative arrangement between Participating States and between a Participating State and non–Participating State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Participating States. No amendment to this Compact shall become effective and binding upon any Participating State until it is enacted materially in the same manner into the laws of all Participating States as determined by the Commission.

Section 37. Section 58-70c-112 is enacted to read:

58-70c-112. Section 12 -- Construction and Severability.

A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Participating State, a State seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

C. Notwithstanding subsection B or this section, the Commission may deny a State's participation in the Compact or, in accordance with the requirements of Section 10.B, terminate a Participating State's participation in the Compact, if it determines that a constitutional requirement of a Participating State is, or would be with respect to a State seeking to participate in the Compact, a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Participating State, the Compact shall remain in full force and effect as to the remaining Participating States and in full force and effect as to the Participating State affected as to all severable matters.

Section 38. Section 58-70c-113 is enacted to read:

58-70c-113. Section 13 -- Binding Effect of Compact.

A. Nothing herein prevents the enforcement of any other law of a Participating State that is not inconsistent with this Compact.

B. Any laws in a Participating State in conflict with this Compact are superseded to the extent of the conflict.

C. All agreements between the Commission and the Participating States are binding in accordance with their terms.

Section 39. Section 58-70c-201 is enacted to read:

Part 2. Division Implementation

58-70c-201. Rulemaking authority -- State authority over scope of practice.

(1) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter.

(2) Notwithstanding any provision in Sections 58–70c–101 through 58–70c–113, Sections 58–70c–101 through 58–70c–113 do not supersede state law related to an individual's scope of practice under this title.

Section 40. Section 72-9-602.5 is enacted to read:

72-9-602.5. Certificate by endorsement.

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession described in Section 72–9–602.

(2) Subject to Subsections (4) through (6), the department shall issue a certificate described in Section 72–9–602 to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the certificate;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (6), the department may issue a certificate described in Section 72-9-602 to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the occupation for which certification is sought; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the certificate; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the certificate.

(4) The department may refuse to issue a certificate to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the certificate; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the department issues a certificate to an applicant under this section, the applicant shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the occupation for which certification is sought.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

CHAPTER 223
S. B. 36
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

PROFESSIONAL LICENSING AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies provisions related to professional licensing.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- clarifies the purpose of recommendations provided by a professional licensing board to the director of the Division of Professional Licensing (division);
- authorizes the director of the division to designate certain professional licensing board members to preside over adjudicative proceedings concerning professional licenses;
- creates a process for review of the designated professional licensing board members' recommended order after an adjudicative proceeding;
- modifies professional license application requirements regarding proof of identity;
- allows the division to designate information regarding proof of identity that is included with a professional license application as a private government record;
- clarifies supervision requirements for a physician assistant performing a cosmetic medical procedure;
- removes provisions requiring the division to administer a radiology practical technician examination for radiology-related license applicants;
- modifies penalties for unlawful conduct by a person licensed to engage in a construction trade;
- removes requirements a licensed advanced practice registered nurse is required to meet before prescribing or administering a Schedule II controlled substance;
- removes provisions prohibiting the division from issuing or renewing a nurse's license for past criminal convictions;
- modifies licensing requirements for certain funeral service establishments and professionals, landscape architects, security personnel, and deception detection examiners;
- modifies background check requirements for licensed pharmacies, alarm companies, security car companies, and deception detector examiners;
- grants administrative rulemaking authority; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-108, as last amended by Laws of Utah 2008, Chapter 382
58-1-109, as last amended by Laws of Utah 2016, Chapter 238
58-1-201, as last amended by Laws of Utah 2013, Chapter 262
58-1-202, as last amended by Laws of Utah 2022, Chapter 415
58-1-301, as last amended by Laws of Utah 2022, Chapters 413, 415
58-1-301.5, as last amended by Laws of Utah 2022, Chapters 221, 438 and 466
58-1-501, as last amended by Laws of Utah 2020, Chapters 289, 339
58-1-506, as last amended by Laws of Utah 2016, Chapter 75
58-9-306, as last amended by Laws of Utah 2007, Chapter 144
58-17b-102, as last amended by Laws of Utah 2021, Chapters 127, 340
58-17b-306, as last amended by Laws of Utah 2017, Chapter 384
58-17b-307, as last amended by Laws of Utah 2018, Chapter 318
58-17b-625, as last amended by Laws of Utah 2021, Chapter 340
58-31b-102, as last amended by Laws of Utah 2022, Chapter 277
58-31b-302, as last amended by Laws of Utah 2022, Chapter 277
58-31b-502, as last amended by Laws of Utah 2022, Chapter 290
58-31b-803, as last amended by Laws of Utah 2022, Chapter 274
58-53-302, as last amended by Laws of Utah 2009, Chapter 183
58-54-302, as last amended by Laws of Utah 2020, Chapter 339
58-55-102, as last amended by Laws of Utah 2022, Chapters 415, 446
58-55-302, as last amended by Laws of Utah 2022, Chapter 415
58-55-303, as last amended by Laws of Utah 2013, Chapter 57
58-55-503, as last amended by Laws of Utah 2022, Chapter 415
58-63-102, as last amended by Laws of Utah 2022, Chapter 415
58-63-302, as last amended by Laws of Utah 2022, Chapter 415
58-64-302, as last amended by Laws of Utah 2020, Chapters 154, 339

ENACTS:

58-55-302.1, Utah Code Annotated 1953
58-63-302.1, Utah Code Annotated 1953
58-64-302.1, Utah Code Annotated 1953

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

Section 1. Section 58-1-108 is amended to read:

58-1-108. Adjudicative proceedings.

(1) The division and all boards created under [~~the authority of~~] this title, including the members of a board designated under Subsection 58-1-109(3), shall comply with the procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures Act, in all of their adjudicative proceedings as defined by Subsection 63G-4-103(1).

(2) Before proceeding under Section 63G-4-502, the division shall review the proposed action with a committee of no less than three licensees appointed by the chairman of the licensing board created under this title for the profession of the person against whom the action is proposed.

(3) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a warning or final disposition letter which does not constitute disciplinary action against the addressee, issued in response to a complaint of unprofessional or unlawful conduct under this title, does not constitute an adjudicative proceeding.

Section 2. Section 58-1-109 is amended to read:

58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final orders -- Appeal of orders.

(1) (a) Unless otherwise specified by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the presiding officer for adjudicative proceedings before the division [~~shall be~~] is the director. [~~However, pursuant to~~]

(b) Under Title 63G, Chapter 4, Administrative Procedures Act, the director may designate in writing an individual or body of individuals to act as presiding officer to conduct or [~~to~~] assist the director in conducting any part or all of an adjudicative proceeding.

(2) Unless otherwise specified by the director, an administrative law judge shall be designated as the presiding officer to conduct formal adjudicative proceedings in accordance with Subsection 63G-4-102(4), Sections 63G-4-204 through 63G-4-207, and 63G-4-209.

(3) (a) Unless otherwise specified by the director, the licensing board of the [~~occupation or~~] profession that is the subject of the proceedings shall be designated as the presiding officer to serve as fact finder at the evidentiary hearing in a formal adjudicative proceeding.

(b) (i) If the licensing board is composed of seven or more members, the director may designate any odd number of board members to represent the licensing board as the presiding officer under Subsection (3)(a).

(ii) Notwithstanding Subsection 58-1-201(3), the vote of the majority of the board members designated under Subsection (3)(b)(i) is sufficient authority for the licensing board to act as the presiding officer.

(4) (a) At the close of an evidentiary hearing in an adjudicative proceeding, unless otherwise specified by the director, the presiding officer who served as the fact finder at the hearing shall issue a recommended order based [~~upon~~] on the record developed at the hearing determining all issues pending before the division.

(b) If the director designates certain licensing board members under Subsection (3)(b) to represent the licensing board described in Subsection (3)(a), the person who is aggrieved by the designated board members' recommended order may petition the licensing board to review the designated board members' recommended order.

(c) The licensing board shall issue a recommended order based on the review under Subsection (4)(b) that shall become the recommended order of the presiding officer.

(5) (a) (i) The director shall issue a final order affirming the recommended order or modifying or rejecting all or any part of the recommended order and entering new findings of fact, conclusions of law, statement of reasons, and order based [~~upon~~] on the director's personal attendance at the hearing or a review of the record developed at the hearing.

(ii) Before modifying or rejecting a recommended order, the director shall consult with the presiding officer who issued the recommended order.

(b) (i) If the director issues a final order modifying or rejecting a recommended order, the licensing board of the [~~occupation or~~] profession that is the subject of the proceeding may, by a two-thirds majority vote of all board members, petition the executive director or designee within the department to review the director's final order.

(ii) The executive director's decision shall become the final order of the division.

(c) This [~~subsection~~] Subsection (5) does not limit the right of the parties to appeal the director's final order by filing a request for agency review under Subsection (8).

(6) If the director is unable for any reason to rule [~~upon~~] on a recommended order of a presiding officer, the director may designate another person within the division to issue a final order.

(7) If the director or the director's designee does not initiate additional fact finding or issue a final order within 20 calendar days after the [~~date of the~~] day on which the recommended order of the presiding officer is issued, the recommended order becomes the final order of the director or the director's designee.

(8) The final order of the director may be appealed by filing a request for agency review with the executive director or the executive director's designee within the department.

(9) The content of all orders shall comply with the requirements of Subsection 63G-4-203(1)(i) and Sections 63G-4-208 and 63G-4-209.

Section 3. Section 58-1-201 is amended to read:

58-1-201. Boards -- Appointment -- Membership -- Terms -- Vacancies --

Quorum -- Per diem and expenses -- Chair -- Financial interest or faculty position in professional school that teaches continuing education prohibited.

(1) (a) (i) The executive director shall appoint the members of the boards established under this title.

(ii) In appointing [~~these~~] the board members the executive director shall give consideration to recommendations by members of the respective [~~occupations and professions and by their~~] professions and the professions' organizations.

(b) Each board shall be composed of five members, four of whom [~~shall be~~] are licensed or certified practitioners in good standing of the [~~occupation or~~] profession the board represents, and one of whom [~~shall be~~] is a member of the general public, unless otherwise provided under the specific licensing chapter.

(c) (i) The name of each [~~person~~] individual appointed to a board shall be submitted to the governor for confirmation or rejection.

(ii) If an appointee is rejected by the governor, the executive director shall appoint another [~~person~~] individual in the same manner as set forth in Subsection (1)(a).

(2) (a) (i) Except as required by Subsection (2)(b), as terms of current board members expire, the executive director shall appoint each new board member or reappointed board member to a four-year term.

(ii) Upon the expiration of the term of a board member, the board member shall continue to serve until a successor is appointed, but for a period not to exceed six months from the expiration date of the board member's term.

(b) Notwithstanding the requirements of Subsection (2)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A board member may not serve more than two consecutive terms, and a board member who ceases to serve on a board may not serve again on that board until after the expiration of a two-year period beginning from that cessation of service.

(d) (i) When a vacancy occurs in the board membership for any reason, the replacement shall be appointed for the unexpired term.

(ii) After filling that term, the replacement board member may be appointed for only one additional full term.

(e) The director, with the approval of the executive director, may remove a board member and replace the board member in accordance with this section for the following reasons:

(i) the board member fails or refuses to fulfill the responsibilities and duties of a board member, including attendance at board meetings;

(ii) the board member engages in unlawful or unprofessional conduct; or

(iii) if appointed to the board position as a licensed member of the board, the board member fails to maintain a license that is active and in good standing.

(3) (a) A majority of the board members constitutes a quorum.

(b) [~~A~~] Except as provided in Subsection 58-1-109(3), a quorum is sufficient authority for the board to act.

(4) A board member may not receive compensation or benefits for the board member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(5) Each board shall annually designate one of [~~its~~] the board's members to serve as chair for a one-year period.

(6) A board member may not be a member of the faculty of, or have a financial interest in, a vocational or professional college or school that provides continuing education to any licensee if that continuing education is required by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 58-1-202 is amended to read:

58-1-202. Boards -- Duties, functions, and responsibilities.

(1) [~~The~~] Except as provided in Subsection (2), the duties, functions, and responsibilities of each board established under this title include the following:

(a) recommending to the director appropriate rules and statutory changes to improve the health, safety, and financial welfare of the public, including changes to remove regulations that are no longer necessary or effective in protecting the public and enhancing commerce;

(b) recommending to the director policy and budgetary matters;

(c) approving and establishing a passing score for applicant examinations;

(d) screening applicants and recommending licensing, renewal, reinstatement, and relicensure actions to the director in writing;

(e) assisting the director in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the [~~occupation or~~] profession [~~it~~] the board represents; and

(f) in accordance with Section 58-1-109, acting as presiding officer in conducting hearings associated with adjudicative proceedings and in issuing

recommended orders when so designated by the director.

(2) Subsection (1) does not apply to boards created in Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(3) (a) Each board or commission established under this title may recommend to the appropriate legislative committee whether the board or commission supports a change to a licensing act.

(b) This Subsection (3) does not:

(i) require a board's approval to amend a practice act; [~~and~~] or

(ii) apply to technical or clarifying amendments to a practice act.

Section 5. Section 58-1-301 is amended to read:

58-1-301. License application -- Licensing procedure.

(1) (a) Each license applicant shall apply to the division in writing upon forms available from the division.

(b) Each completed application shall:

(i) contain documentation of the particular qualifications required of the applicant under this title or rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) include the applicant's:

(A) full legal name; and

(B) social security number, or other satisfactory evidence of the applicant's identity permitted under rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) be verified by the applicant; and

(iv) be accompanied by the appropriate fees.

(c) An applicant's social security number is a private record under Subsection 63G-2-302(1)(i).

(d) The division may designate an applicant's evidence of identity under Subsection (1)(b)(ii)(B) as a private record in accordance with Section 63G-2-302.

(2) (a) The division shall issue a license to an applicant who submits a complete application if the division determines that the applicant meets the qualifications of licensure.

(b) The division shall provide a written notice of additional proceedings to an applicant who submits a complete application, but who has been, is, or will be placed under investigation by the division for conduct directly bearing upon the applicant's qualifications for licensure, if the outcome of additional proceedings is required to determine the division's response to the application.

(c) The division shall provide a written notice of denial of licensure to an applicant who submits a complete application if the division determines that the applicant does not meet the qualifications of licensure.

(d) The division shall provide a written notice of incomplete application and conditional denial of licensure to an applicant who submits an incomplete application, which notice shall advise the applicant that the application is incomplete and that the application is denied, unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all qualifications for licensure.

(3) The division may only issue a license to an applicant under this title if the applicant meets the requirements for that license as established under this title and by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) If an applicant meets all requirements for a specific license, the division shall issue the license to the applicant.

(5) (a) As used in this Subsection (5):

(i) (A) "Competency-based licensing requirement" means a practical assessment of knowledge and skills that clearly demonstrate a person is prepared to engage in an occupation or profession regulated by this title, and which the director determines is at least as effective as a time-based licensing requirement at demonstrating proficiency and protecting the health and safety of the public.

(B) "Competency-based licensing requirement" may include any combination of training, experience, testing, or observation.

(ii) (A) "Time-based licensing requirement" means a specific number of hours, weeks, months, or years of education, training, supervised training, or other experience that an applicant for licensure under this title is required to complete before receiving a license under this title.

(B) "Time-based licensing requirement" does not include an associate degree, a bachelor's degree, or a graduate degree from an accredited institution of higher education.

(b) Subject to Subsection (5)(c), for an occupation or profession regulated by this title that has a time-based licensing requirement, the director, after consultation with the appropriate board, may by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, allow an applicant to complete a competency-based licensing requirement as an alternative to completing the time-based licensing requirement.

(c) If a time-based licensing requirement involves a program that must be approved or accredited by a specific entity or board, the director may only allow an applicant to complete a competency-based licensing requirement as an alternative to completing the time-based licensing requirement under Subsection (5)(b) if the competency-based requirement is approved or accredited by the specific entity or board as a

replacement or alternative to the time-based licensing requirement.

Section 6. Section 58-1-301.5 is amended to read:

58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of individuals who are applying for licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

(a) [~~Section~~] Sections 58-17b-306 and 58-17b-307;

(b) Sections 58-24b-302 and 58-24b-302.1;

(c) Section 58-31b-302;

(d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy Practice Act;

(e) Section 58-44a-302.1;

(f) Section 58-47b-302;

(g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm company agents, and Section 58-55-302.1;

(h) Sections 58-60-103.1, 58-60-205, 58-60-305, and 58-60-405, of Chapter 60, Mental Health Professional Practice Act;

(i) Sections 58-61-304 and 58-61-304.1;

(j) [~~Section~~] Sections 58-63-302 and 58-63-302.1;

(k) [~~Section~~] Sections 58-64-302 and 58-64-302.1;

(l) Sections 58-67-302 and 58-67-302.1; and

(m) Sections 58-68-302 and 58-68-302.1.

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 7. Section 58-1-501 is amended to read:

58-1-501. Unlawful and unprofessional conduct.

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any [~~occupation or~~] profession requiring licensure under this title if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

(ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;

(b) (i) impersonating another licensee or practicing [~~an occupation or~~] a profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same [~~occupation or~~] profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any [~~occupation or~~] profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any [~~occupation or~~] profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission;

(f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title; or

(g) aiding or abetting any other person to violate any statute, rule, or order regulating [~~an occupation or~~] a profession under this title.

(2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

(a) violating any statute, rule, or order regulating [~~an occupation or~~] a profession under this title;

(b) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to [~~an occupation or~~] a profession regulated under this title;

(c) subject to the provisions of Subsection (4), engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation with respect to a crime [~~of moral turpitude or any other crime~~] that, when considered with the functions and duties of the [~~occupation or~~] profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the [~~occupation or~~] profession;

(d) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same [~~occupation or~~] profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

(e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the [~~occupation or~~] profession;

(f) practicing or attempting to practice [~~an occupation or~~] a profession regulated under this title despite being physically or mentally unfit to do so;

(g) practicing or attempting to practice [~~an occupation or~~] a profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

(h) practicing or attempting to practice [~~an occupation or~~] a profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

(i) practicing or attempting to practice [~~an occupation or~~] a profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

(j) practicing or attempting to practice [~~an occupation or~~] a profession regulated under this title beyond the scope of the licensee's license;

(k) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

(l) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

(m) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(i) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

(ii) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

(n) violating a provision of Section 58-1-501.5; or

(o) violating the terms of an order governing a license.

(3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding commenced by the division under this title, a person subject to any of the unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.

(4) The following are not evidence of engaging in unprofessional conduct under Subsection (2)(c):

(a) an arrest not followed by a conviction; or

(b) a conviction for which an individual's incarceration has ended more than seven years before the date of the division's consideration, unless:

(i) after the incarceration the individual has engaged in additional conduct that results in another conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation; or

(ii) the conviction was for:

(A) a violent felony as defined in Section 76-3-203.5;

(B) a felony related to a criminal sexual act [~~pursuant to~~] under Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; or

(C) a felony related to criminal fraud or embezzlement, including a felony [~~pursuant to~~] under Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft.

Section 8. Section 58-1-506 is amended to read:

58-1-506. Supervision of cosmetic medical procedures.

(1) For purposes of this section:

(a) "Delegation group A" means the following who are licensed under this title, acting within their respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii):

(i) a physician assistant, if acting [~~under the supervision of a physician and the procedure is included in the delegation of services agreement as defined in Section 58-70a-102~~] in accordance with Chapter 70a, Utah Physician Assistant Act;

(ii) a registered nurse;

(iii) a master esthetician; and

(iv) an electrologist, if evaluating for or performing laser hair removal.

(b) "Delegation group B" means:

(i) a practical nurse or an esthetician who is licensed under this title, acting within their respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii); and

(ii) a medical assistant who is qualified under Subsections (2)(f)(i) and (iii).

(c) "Direct cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee; and

(ii) is present and available for a face-to-face communication with the supervisee when and where a cosmetic medical procedure is performed.

(d) "General cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) is available in a timely and appropriate manner in person to evaluate and initiate care for a patient with a suspected adverse reaction or complication; and

(iii) is located within 60 minutes or 60 miles of the cosmetic medical facility.

(e) "Hair removal review" means:

(i) conducting an in-person, face-to-face interview of a patient based on the responses provided by the patient to a detailed medical history assessment that was prepared by the supervisor;

(ii) evaluating for contraindications and conditions that are part of the treatment plan; and

(iii) if the patient history or patient presentation deviates in any way from the treatment plan, referring the patient to the supervisor and receiving clearance from the supervisor before starting the treatment.

(f) "Indirect cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) has given written instructions to the person being supervised;

(iii) is present within the cosmetic medical facility in which the person being supervised is providing services; and

(iv) is available to:

(A) provide immediate face-to-face communication with the person being supervised; and

(B) evaluate the patient, as necessary.

(2) A supervisor supervising a nonablative cosmetic medical procedure for hair removal shall:

(a) have an unrestricted license to practice medicine or advanced practice registered nursing in the state;

(b) develop the medical treatment plan for the procedure;

(c) conduct a hair removal review, or delegate the hair removal review to a member of delegation group A, of the patient prior to initiating treatment or a series of treatments;

(d) personally perform the nonablative cosmetic medical procedure for hair removal, or authorize and delegate the procedure to a member of delegation group A or B;

(e) during the nonablative cosmetic medical procedure for hair removal provide general cosmetic medical procedure supervision to individuals in delegation group A performing the procedure, except physician assistants, who shall [~~be supervised as provided in~~] act in accordance with Chapter 70a, Utah Physician Assistant Act, and indirect cosmetic medical procedure supervision to individuals in delegation group B performing the procedure; and

(f) verify that a person to whom the supervisor delegates an evaluation under Subsection (2)(c) or delegates a procedure under Subsection (2)(d) or (3)(c)(ii):

(i) has received appropriate training regarding the medical procedures developed under Subsection (2)(b);

(ii) has an unrestricted license under this title or is performing under the license of the supervising physician and surgeon; and

(iii) has maintained competence to perform the nonablative cosmetic medical procedure through documented education and experience of at least 80 hours, as further defined by rule, regarding:

(A) the appropriate standard of care for performing nonablative cosmetic medical procedures;

(B) physiology of the skin;

(C) skin typing and analysis;

(D) skin conditions, disorders, and diseases;

(E) pre- and post-procedure care;

(F) infection control;

(G) laser and light physics training;

(H) laser technologies and applications;

(I) safety and maintenance of lasers;

(J) cosmetic medical procedures an individual is permitted to perform under this title;

(K) recognition and appropriate management of complications from a procedure; and

(L) cardiopulmonary resuscitation (CPR).

(3) For a nonablative cosmetic medical procedure other than hair removal under Subsection (2):

(a) a physician who has an unrestricted license to practice medicine, a nurse practitioner who has an unrestricted license for advanced practice registered nursing, or a physician assistant acting [~~under the supervision of a physician, with the procedure included in the delegation of service agreement as defined in Section 58-70a-102~~] in accordance with Chapter 70a, Utah Physician Assistant Act, who has an unrestricted license to practice as a physician assistant, shall:

(i) develop a treatment plan for the nonablative cosmetic medical procedure; and

(ii) conduct an in-person face-to-face evaluation of the patient prior to the initiation of a treatment protocol or series of treatments; and

(b) a nurse practitioner or physician assistant conducting an in-person face-to-face evaluation of a patient under Subsection (3)(a)(ii) prior to removing a tattoo shall:

(i) inspect the patient's skin for any discoloration unrelated to the tattoo and any other indication of cancer or other condition that should be treated or further evaluated before the tattoo is removed;

(ii) refer a patient with any such condition to a physician for treatment or further evaluation; and

(iii) shall not supervise a nonablative cosmetic medical procedure to remove a tattoo on the patient until the patient has been approved for the tattoo removal by a physician who has evaluated the patient; and

(c) the supervisor supervising the procedure shall:

(i) have an unrestricted license to practice medicine or advanced practice registered nursing;

(ii) personally perform the nonablative cosmetic medical procedure or:

(A) authorize and provide general cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by a registered nurse or a master esthetician;

(B) authorize and provide supervision as provided in Chapter 70a, Utah Physician Assistant Act, for the nonablative cosmetic medical procedure that is performed by a physician assistant[~~, if the procedure is included in the delegation of services agreement~~]; or

(C) authorize and provide direct cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by an esthetician; and

(iii) verify that a person to whom the supervisor delegates a procedure under Subsection (3)(c):

(A) has received appropriate training regarding the medical procedures to be performed;

(B) has an unrestricted license and is acting within the person's scope of practice under this title; and

(C) is qualified under Subsection (2)(f)(iii).

(4) A supervisor performing or supervising a cosmetic medical procedure under Subsection (2) or (3) shall ensure that:

(a) the supervisor's name is prominently posted at the cosmetic medical facility identifying the supervisor;

(b) a copy of the supervisor's license is displayed on the wall of the cosmetic medical facility;

(c) the patient receives written information with the name and licensing information of the supervisor who is supervising the nonablative cosmetic medical procedure and the person who is performing the nonablative cosmetic medical procedure;

(d) the patient is provided with a telephone number that is answered within 24 hours for follow-up communication; and

(e) the cosmetic medical facility's contract with a master esthetician who performs a nonablative cosmetic medical procedure at the facility is kept on the premises of the facility.

(5) Failure to comply with the provisions of this section is unprofessional conduct.

(6) A chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, is not subject to the supervision requirements in this section for a nonablative cosmetic medical procedure for hair removal if the chiropractic physician is acting within the scope of practice of a chiropractic physician and with training specific to nonablative hair removal.

Section 9. Section 58-9-306 is amended to read:

58-9-306. License by endorsement.

The division may issue a license by endorsement under this chapter to a person who:

(1) provides documentation that the funeral service director's current licensure is active, in good standing, and free from any disciplinary action;

(2) submits an application on a form provided by the division;

(3) pays a fee determined by the department;

(4) [~~is of good moral character in that the person~~] has not been convicted of:

(a) a first or second degree felony; or

[~~(b) a misdemeanor involving moral turpitude; or~~]

[~~(c)~~] (b) [~~any other~~] crime that when considered with the duties and responsibilities of the license for which the person is applying is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

(5) has completed five years of lawful and active practice as a licensed funeral service director and embalmer within the 10 years immediately preceding the application for licensure by endorsement;

(6) has passed a national examination determined by the division; and

(7) has demonstrated competency of the laws and the rules of the state as determined by the division.

Section 10. Section 58-17b-102 is amended to read:

58-17b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

(3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) (a) "Closed-door pharmacy" means a pharmacy that:

(i) provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company; or

(ii) engages exclusively in the practice of telepharmacy and does not serve walk-in retail customers.

(b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(26) (a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections (26)(a)(i), (ii), (iii), and (iv).

(b) "Drug" does not include dietary supplements.

(27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35) (a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

(39) (a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

(42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under

which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

(ii) eliminating or reducing a patient's symptoms; or

(iii) arresting or slowing a disease process.

(b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

(46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(48) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(52) "Pharmacy benefits manager or coordinator" means a person or entity that provides a pharmacy benefits management service as defined in Section 31A-46-102 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) "Pharmacy manager" means:

(a) a pharmacist-in-charge;

(b) a licensed pharmacist designated by a licensed pharmacy to consult on the pharmacy's administration;

(c) an individual who manages the facility in which a licensed pharmacy is located;

(d) an individual who oversees the operations of a licensed pharmacy;

(e) an immediate supervisor of an individual described in Subsections (54)(a) through (d); or

(f) another operations or site manager of a licensed pharmacy.

(55) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

[~~(55)~~] (56) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule; or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

[~~(56)~~] (57) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

[~~(57)~~] (58) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and, when appropriate, the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy;

(m) formulary management intervention;

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26, Chapter 64, Family Planning Access Act; and

(o) issuing a prescription in accordance with Section 58-17b-627.

[~~(58)~~] (59) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

[~~(59)~~] (60) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

[~~(60)~~] (61) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

[~~(61)~~] (62) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

[~~(62)~~] (63) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

[~~(63)~~] (64) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and

dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

[~~(64)~~] (65) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

[~~(65)~~] (66) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection [~~(65)(a)~~] (66)(a)when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

[~~(66)~~] (67) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

[~~(67)~~] (68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

[~~(68)~~] (69) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

[~~(69)~~] (70) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

[~~(70)~~] (71) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

[~~(71)~~] (72) "Supportive personnel" means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

[~~(72)~~] (73) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

[~~(73)~~] (74) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

[~~(74)~~] (75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 11. Section 58-17b-306 is amended to read:

58-17b-306. Qualifications for licensure as a pharmacy.

(1) Each applicant for licensure under this section, except for those applying for a class D license, shall:

(a) submit a written application in the form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) satisfy the division that the applicant, and each owner, officer, or manager of the applicant have not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this section indicates there is cause to believe that issuing a license to the applicant is inconsistent with the interest of the public's health, safety, or welfare;

(d) demonstrate the licensee's operations will be in accordance with all federal, state, and local laws relating to the type of activity engaged in by the licensee, including regulations of the Federal Drug Enforcement Administration and Food and Drug Administration;

(e) maintain operating standards established by division rule made in collaboration with the board[~~;~~] and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(f) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint background check in accordance with Section 58-17b-307; and

[~~(f)~~] (g) acknowledge the division's authority to inspect the licensee's business premises pursuant to Section 58-17b-103.

(2) Each applicant applying for a class D license shall:

(a) submit a written application in the form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) present to the division verification of licensure in the state where physically located and verification that such license is in good standing;

(d) satisfy the division that the applicant and each of the applicant's pharmacy managers has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this section, indicates there is cause to believe that issuing a license to the applicant is inconsistent with the interest of the public's health, safety, or welfare;

(e) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint background check in accordance with Section 58-17b-307;

[~~(d)~~] (f) provide a statement of the scope of pharmacy services that will be provided and a detailed description of the protocol as described by rule by which pharmacy care will be provided, including any collaborative practice arrangements with other health care practitioners;

[~~(e)~~] (g) sign an affidavit attesting that any healthcare practitioners employed by the applicant and physically located in Utah have the appropriate license issued by the division and in good standing;

[~~(f)~~] (h) sign an affidavit attesting that the applicant will abide by the pharmacy laws and regulations of the jurisdiction in which the pharmacy is located; and

[~~(g)~~] (i) if an applicant engages in compounding, submit the most recent inspection report:

(i) conducted within two years before the application for licensure; and

(ii) (A) conducted as part of the National Association of Boards of Pharmacy Verified Pharmacy Program; or

(B) performed by the state licensing agency of the state in which the applicant is a resident and in accordance with the National Association of Boards of Pharmacy multistate inspection blueprint program.

(3) Each license issued under this section shall be issued for a single, specific address, and is not transferable or assignable.

Section 12. Section 58-17b-307 is amended to read:

58-17b-307. Qualification for licensure -- Criminal background checks.

(1) An individual applicant for licensure under this chapter shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) in accordance with this section and requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consent to a fingerprint background check regarding the application conducted by the:

(i) Utah Bureau of Criminal Identification; and

(ii) Federal Bureau of Investigation.

(2) An applicant for licensure as a pharmacy under this chapter shall submit the information described in Subsection (1) for each of the applicant's pharmacy managers.

[~~(2)~~] (3) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records, a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each [~~applicant~~] individual who requires a background check under this section.

[~~(3)~~] (4) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

[~~(4)~~] (5) For purposes of conducting the criminal background check required in Subsection (1), the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

[~~(5)~~] (6) (a) A new pharmacy, pharmacist, pharmacy intern, or pharmacy technician license issued under this section is conditional, pending completion of the criminal background [~~check~~] checks.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Subsection [~~(1),~~] (1) discloses that the applicant or the applicant's pharmacy manager has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

[~~(6)~~] (7) (a) A person whose conditional license has been revoked under Subsection [~~(5)~~] (6) is entitled to a postrevocation hearing to challenge the revocation.

(b) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

[~~(7)~~] (8) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 13. Section 58-17b-625 is amended to read:

58-17b-625. Administration of a long-acting injectable and naloxone.

(1) A pharmacist may, in accordance with this section, administer a drug described in Subsection (2).

(2) Notwithstanding the provisions of Subsection [~~58-17b-102(57)(c)(ii)(B)~~] 58-17b-102(58)(c)(ii)(B), the division shall make rules in collaboration with the board and, when appropriate, the Physicians Licensing Board created in Section 58-67-201, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish training for a pharmacist to administer naloxone and long-acting injectables intramuscularly.

(3) A pharmacist may not administer naloxone or a long-acting injectable intramuscularly unless the pharmacist:

(a) completes the training described in Subsection (2);

(b) administers the drug at a clinic or community pharmacy, as those terms are defined by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) is directed by the physician, as that term is defined in Section 58-67-102 or Section 58-68-102, who issues the prescription to administer the drug.

Section 14. Section 58-31b-102 is amended to read:

58-31b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Applicant" means an individual who applies for licensure or certification under this chapter by submitting a completed application for licensure or certification and the required fees to the department.

(3) "Approved education program" means a nursing education program that is accredited by an accrediting body for nursing education that is approved by the United States Department of Education.

(4) "Board" means the Board of Nursing created in Section 58-31b-201.

(5) "Diagnosis" means the identification of and discrimination between physical and psychosocial signs and symptoms essential to the effective execution and management of health care.

(6) "Examinee" means an individual who applies to take or does take any examination required under this chapter for licensure.

(7) "Licensee" means an individual who is licensed or certified under this chapter.

(8) "Long-term care facility" means any of the following facilities licensed by the Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act:

(a) a nursing care facility;

(b) a small health care facility;

(c) an intermediate care facility for people with an intellectual disability;

(d) an assisted living facility Type I or II; or

(e) a designated swing bed unit in a general hospital.

(9) "Medication aide certified" means a certified nurse aide who:

(a) has a minimum of 2,000 hours experience working as a certified nurse aide;

(b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and

(c) is certified by the division as a medication aide certified.

(10) (a) "Practice as a medication aide certified" means the limited practice of nursing under the supervision, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient care that requires minimal or limited specialized or general knowledge, judgment, and skill, to an individual who:

(i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual disability; and

(ii) is in a regulated long-term care facility.

(b) "Practice as a medication aide certified":

(i) includes:

(A) providing direct personal assistance or care; and

(B) administering routine medications to patients in accordance with a formulary and protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not include assisting a resident of an assisted living facility, a long term care facility, or an intermediate care facility for people with an intellectual disability to self administer a medication, as regulated by the Department of Health by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Practice of advanced practice registered nursing" means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

(a) maintenance and promotion of health and prevention of disease;

(b) diagnosis, treatment, correction, consultation, and referral;

(c) prescription or administration of prescription drugs or devices including:

(i) local anesthesia;

(ii) Schedule III-V controlled substances; and

(iii) [~~Subject to Section 58-31b-803,~~] Schedule II controlled substances; or

(d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:

(i) preanesthesia preparation and evaluation including:

(A) performing a preanesthetic assessment of the patient;

(B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and

(C) selecting, ordering, or administering appropriate medications;

(ii) anesthesia induction, maintenance, and emergence, including:

(A) selecting and initiating the planned anesthetic technique;

(B) selecting and administering anesthetics and adjunct drugs and fluids; and

(C) administering general, regional, and local anesthesia;

(iii) postanesthesia follow-up care, including:

(A) evaluating the patient's response to anesthesia and implementing corrective actions; and

(B) selecting, ordering, or administering the medications and studies listed in this Subsection (11)(d);

(iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:

(A) emergency airway management;

(B) advanced cardiac life support; and

(C) the establishment of peripheral, central, and arterial invasive lines; and

(v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care professional":

(A) means a health care professional practicing within the scope of the health care professional's license, requests anesthesia services for a specific patient; and

(B) does not require an advanced practice registered nurse specializing as a certified registered nurse anesthetist to obtain additional authority to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.

(12) "Practice of nursing" means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment, and requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences. "Practice of nursing" includes:

(a) initiating and maintaining comfort measures;

(b) promoting and supporting human functions and responses;

(c) establishing an environment conducive to well-being;

(d) providing health counseling and teaching;

(e) collaborating with health care professionals on aspects of the health care regimen;

(f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee;

(g) delegating nursing tasks that may be performed by others, including an unlicensed assistive personnel; and

(h) supervising an individual to whom a task is delegated under Subsection (12)(g) as the individual performs the task.

(13) "Practice of practical nursing" means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as provided in this Subsection (13) by an individual licensed under this chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

(a) contributing to the assessment of the health status of individuals and groups;

(b) participating in the development and modification of the strategy of care;

(c) implementing appropriate aspects of the strategy of care;

(d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and

(e) participating in the evaluation of responses to interventions.

(14) "Practice of registered nursing" means performing acts of nursing as provided in this Subsection (14) by an individual licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered nursing acts include:

(a) assessing the health status of individuals and groups;

(b) identifying health care needs;

(c) establishing goals to meet identified health care needs;

(d) planning a strategy of care;

(e) prescribing nursing interventions to implement the strategy of care;

(f) implementing the strategy of care;

(g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;

(h) evaluating responses to interventions;

(i) teaching the theory and practice of nursing; and

(j) managing and supervising the practice of nursing.

(15) "Registered nurse apprentice" means an individual licensed under Subsection 58-31b-301(2)(b) who is learning and engaging in the practice of registered nursing under the indirect supervision of an individual licensed under:

(a) Subsection 58-31b-301(2)(c), (e), or (f);

(b) Chapter 67, Utah Medical Practice Act; or

(c) Chapter 68, Utah Osteopathic Medical Practice Act.

(16) "Routine medications":

(a) means established medications administered to a medically stable individual as determined by a licensed health care practitioner or in consultation with a licensed medical practitioner; and

(b) is limited to medications that are administered by the following routes:

(i) oral;

(ii) sublingual;

(iii) buccal;

(iv) eye;

(v) ear;

(vi) nasal;

(vii) rectal;

(viii) vaginal;

(ix) skin ointments, topical including patches and transdermal;

(x) premeasured medication delivered by aerosol/nebulizer; and

(xi) medications delivered by metered hand-held inhalers.

(17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-501.

(18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of title, who is delegated a task by a licensed nurse as permitted by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards of the profession.

(19) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 15. Section 58-31b-302 is amended to read:

58-31b-302. Qualifications for licensure or certification -- Criminal background checks.

(1) An applicant for certification as a medication aide shall:

(a) submit an application to the division on a form prescribed by the division;

(b) pay a fee to the division as determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) have a current certification as a nurse aide, in good standing, from the Department of Health and Human Services;

(e) have a minimum of 2,000 hours of experience within the two years prior to application, working as a certified nurse aide in a long-term care facility;

(f) obtain letters of recommendation from a long-term care facility administrator and one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

(g) be in a condition of physical and mental health that will permit the applicant to practice safely as a medication aide certified;

(h) have completed an approved education program or an equivalent as determined by the division in collaboration with the board;

(i) have passed the examinations as required by division rule made in collaboration with the board; and

(j) meet with the board, if requested, to determine the applicant's qualifications for certification.

(2) An applicant for licensure as a licensed practical nurse shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will permit the applicant to practice safely as a licensed practical nurse;

(e) have completed an approved practical nursing education program or an equivalent as determined by the board;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(3) An applicant for a registered nurse apprentice license shall:

(a) submit to the division an application form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will allow the applicant to practice safely as a registered nurse apprentice;

(e) as determined by an approved registered nursing education program, be:

(i) in good standing with the program; and

(ii) in the last semester, quarter, or competency experience;

(f) have written permission from the program in which the applicant is enrolled; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(4) An applicant for licensure as a registered nurse shall:

(a) submit to the division an application form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will allow the applicant to practice safely as a registered nurse;

(e) have completed an approved registered nursing education program;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(5) Applicants for licensure as an advanced practice registered nurse shall:

(a) submit to the division an application on a form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) be in a condition of physical and mental health which will allow the applicant to practice safely as an advanced practice registered nurse;

(d) hold a current registered nurse license in good standing issued by the state or be qualified at the time for licensure as a registered nurse;

(e) (i) have earned a graduate degree in:

(A) an advanced practice registered nurse nursing education program; or

(B) a related area of specialized knowledge as determined appropriate by the division in collaboration with the board; or

(ii) have completed a nurse anesthesia program in accordance with Subsection (5)(f)(ii);

(f) have completed:

(i) course work in patient assessment, diagnosis and treatment, and pharmacotherapeutics from an education program approved by the division in collaboration with the board; or

(ii) a nurse anesthesia program which is approved by the Council on Accreditation of Nurse Anesthesia Educational Programs;

(g) to practice within the psychiatric mental health nursing specialty, demonstrate, as described in division rule, that the applicant, after completion of a doctorate or master's degree required for licensure, is in the process of completing the applicant's clinical practice requirements in

psychiatric mental health nursing, including in psychotherapy;

(h) have passed the examinations as required by division rule made in collaboration with the board;

(i) be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of the certification; and

(j) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(6) For each applicant for licensure or certification under this chapter except an applicant under Subsection 58-31b-301(2)(b):

(a) the applicant shall:

(i) submit fingerprint cards in a form acceptable to the division at the time the application is filed; and

(ii) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;

(b) the division shall:

(i) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(ii) submit from each applicant the fingerprint card and the fees described in this Subsection (6)(b) to the Bureau of Criminal Identification; and

(iii) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant; and

(c) the Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(i) check the fingerprints submitted under Subsection (6)(b) against the applicable state and regional criminal records databases;

(ii) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(iii) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(7) For purposes of conducting the criminal background checks required in Subsection (6), the division shall have direct access to criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(8) (a) (i) Any new nurse license or certification issued under this section shall be conditional, pending completion of the criminal background check.

(ii) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license or certification shall be immediately and automatically revoked upon notice to the licensee by the division.

(b) (i) An individual whose conditional license or certification has been revoked under Subsection (8)(a) is entitled to a postrevocation hearing to challenge the revocation.

(ii) A postrevocation hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(9) If an individual has been charged with a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation, [~~the individual is disqualified for licensure under this chapter and:(a) if the individual is licensed under this chapter, the division:(i)~~] the division shall act upon the license as required under Section 58-1-401[~~; and~~].

[~~(ii) may not renew or subsequently issue a license to the individual under this chapter; and~~]

[~~(b) if the individual is not licensed under this chapter, the division may not issue a license to the individual under this chapter.~~]

(10) If an individual has been charged with a felony other than a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation, the division shall determine whether the felony disqualifies the individual for licensure under this chapter and act upon the license, as required, in accordance with Section 58-1-401.

(11) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 16. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

[~~(n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;~~]

[~~(o)~~] (n) violating Section 58-31b-801;

[~~(p)~~] (o) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

[~~(q)~~] (p) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through [~~(o)~~] (n) or Subsection 58-1-501(1); or

[~~(r)~~] (q) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 17. Section 58-31b-803 is amended to read:

58-31b-803. Advanced practice registered nurse prescriptive authority.

(1) Except as provided in Subsection (2), a licensed advanced practice registered nurse may prescribe or administer a Schedule II controlled substance.

(2) This section does not apply to an advanced practice registered nurse specializing as a certified registered nurse anesthetist under Subsection 58-31b-102(11)(d).

[~~(2) Except as provided in Subsection (3), an advanced practice registered nurse may prescribe or administer a Schedule II controlled substance.~~]

[~~(3) An advanced practice registered nurse described in Subsection (4) may not prescribe or administer a Schedule II controlled substance unless the advanced practice registered nurse:~~]

[~~(a) receives a board certification from a nationally recognized organization;~~]

[~~(b) completes at least 30 hours of instruction, or the equivalent number of credit hours, pertaining to advanced pharmacology during a graduate education program;~~]

[~~(c) when obtaining licensure with the division, demonstrates completion of at least seven hours of continuing education pertaining to prescribing opioids; and~~]

[~~(d) participates in a prescribing mentorship under which the advanced practice registered nurse:~~]

[~~(i) is mentored by:~~]

[~~(A) a physician licensed in accordance with this title; or~~]

[~~(B) an advance practice registered nurse who has been licensed at least three years; and~~]

[~~(ii) periodically provides the mentor described in Subsection (3)(d)(i) timesheets that, in total, demonstrate 1,000 hours of clinical experience.~~]

[~~(4) Subsection (3) applies to an advanced practice registered nurse who:~~]

[~~(a) is engaged in independent solo practice; and~~]

[~~(b) (i) has been licensed as an advanced practice registered nurse for less than one year; or~~]

[~~(ii) has less than 2,000 hours of experience practicing as a licensed advanced practice registered nurse.~~]

Section 18. Section 58-53-302 is amended to read:

58-53-302. Qualifications for licensure.

(1) Each applicant for licensure as a landscape architect shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

[~~(c) provide satisfactory evidence of good moral character;~~]

[~~(d)~~] (c) (i) have graduated and received an earned bachelors or masters degree from a landscape architecture program meeting criteria established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) have completed not less than eight years of supervised practical experience in landscape architecture which meets the requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

[~~(e)~~] (d) have successfully passed examinations established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Satisfactory completion of each year of a landscape architectural program described in Subsection [~~(1)(d)(i)~~] (1)(c)(i) is equivalent to one year of experience for purposes of Subsection [~~(1)(d)(ii)~~] (1)(c)(ii).

Section 19. Section 58-54-302 is amended to read:

58-54-302. Requirements for licensure.

(1) Each applicant for licensure as a radiologic technologist, radiology assistant, or radiology practical technician shall:

(a) submit an application in a form prescribed by the division in collaboration with the board; and

(b) pay a fee as determined by the department pursuant to Section 63J-1-504.

(2) Each applicant for licensure as a radiologic technologist shall, in addition to the requirements of Subsection (1):

(a) be a graduate of an accredited educational program in radiologic technology or certified by the American Registry of Radiologic Technologists or any equivalent educational program approved by the division in collaboration with the board; and

(b) have passed an examination approved by the division in collaboration with the board.

(3) Each applicant for licensure as a radiology practical technician shall, in addition to the requirements of Subsection (1), have passed a basic examination and one or more specialty examinations that are competency based, using a task analysis of the scope of practice of radiology practical technicians in the state. The basic examination and the specialty examination shall be approved by the division in collaboration with the board and the licensing board of the profession within which the radiology practical technician will be practicing.

[~~(4) The division shall provide for administration of the radiology practical technician examination not less than monthly at offices designated by the division and located:~~]

[~~(a) in Salt Lake City; and~~]

[~~(b) within each local health department jurisdictional area.~~]

[~~(5)~~] (4) (a) Except as provided in Subsection [~~(5)(b),~~] (4)(b), each applicant for licensure as a radiologist assistant shall:

(i) meet the requirements of Subsections (1) and (2);

(ii) have a Bachelor of Science degree; and

(iii) be certified as:

(A) a radiologist assistant by the American Registry of Radiologic Technologists; or

(B) a radiology practitioner assistant by the Certification Board of Radiology Practitioner Assistants.

(b) An individual who meets the requirements of Subsections [~~(5)(a)(i)~~] (4)(a)(i) and (iii), but not Subsection [~~(5)(a)(ii)~~] (4)(a)(ii), may be licensed as a radiologist assistant under this chapter until May 31, 2013, at which time, the individual must

have completed the Bachelor of Science degree in order to retain the license of radiologist assistant.

Section 20. Section 58-55-102 is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Alarm business" or "alarm company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business" or "alarm company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm company officer" means:

(a) a governing person, as defined in Section 48-3a-102, of an alarm company;

(b) an individual appointed as an officer of an alarm company that is a corporation in accordance with Section 16-10a-830;

(c) a general partner, as defined in Section 48-2e-102, of an alarm company; or

(d) a partner, as defined in Section 48-1d-102, of an alarm company.

(4) "Alarm company owner" means:

(a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the outstanding shares of an alarm company that:

(i) is a corporation; and

(ii) is not publicly listed or traded; or

(b) an individual who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the equity of an alarm company that is not a corporation.

(5) "Alarm company proprietor" means the sole proprietor of an alarm company that is registered as a sole proprietorship with the Division of Corporations and Commercial Code.

(6) "Alarm company trustee" means an individual with control of or power of administration over property held in trust.

[~~(3)~~] (7) (a) "Alarm system" means equipment and devices assembled for the purpose of:

(i) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(ii) signaling a robbery or attempted robbery on protected premises.

(b) "Alarm system" includes a battery-charged suspended-wire system or fence that is part of and interfaces with an alarm system for the purposes of detecting and deterring unauthorized intrusion or entry into or onto certain premises.

[~~(4)~~] (8) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

[~~(5)~~] (9) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

[~~(6)~~] (10) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

[~~(7)~~] (11) (a) "Approved prelicensure course provider" means a provider that is the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Utah Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved prelicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt

Lake County, Utah County, Davis County, or Weber County.

[~~(8)~~] (12) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

[~~(9)~~] (13) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

[~~(10)~~] (14) "Commission" means the Construction Services Commission created under Section 58-55-103.

[~~(11)~~] (15) "Construction trade" means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

[~~(12)~~] (16) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

[~~(13)~~] (17) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection [~~(13),~~] (17)by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) "Contractor" does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier's products.

[~~(14)~~] (18) (a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring;

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; or

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code.

[~~(15)~~] (19) "Elevator" means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

[~~(16)~~] (20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

[~~(17)~~] (21) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

[~~(18)~~] (22) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

[~~(19)~~] (23) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

[~~(20)~~] (24) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

[~~(21)~~] (25) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

[~~(22)~~] (26) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

[~~(23)~~] (27) (a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(24)~~] (28) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform or superintend construction of fixed works or components of fixed works requiring specialized engineering knowledge and skill in any of the following:

(i) irrigation;

(ii) drainage;

(iii) water power;

(iv) water supply;

(v) flood control;

(vi) an inland waterway;

(vii) a harbor;

(viii) a railroad;

(ix) a highway;

(x) a tunnel;

(xi) an airport;

(xii) an airport runway;

(xiii) a sewer;

(xiv) a bridge;

(xv) a refinery;

(xvi) a pipeline;

(xvii) a chemical plant;

(xviii) an industrial plant;

(xix) a pier;

(xx) a foundation;

(xxi) a power plant; or

(xxii) a utility plant or installation.

(b) A general engineering contractor may not perform or superintend:

(i) construction of a structure built primarily for the support, shelter, and enclosure of persons, animals, and chattels; or

(ii) performance of:

(A) plumbing work;

(B) electrical work; or

(C) mechanical work.

[~~(25)~~] (29) (a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such

premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(26)~~] (30) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

[~~(27)~~] (31) "Individual" means a natural person.

[~~(28)~~] (32) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

[~~(29)~~] (33) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

[~~(30)~~] (34) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

[~~(31)~~] (35) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

[~~(32)~~] (36) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

[~~(33)~~] (37) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

(i) delivery of the water supply;

(ii) discharge of liquid and water carried waste;

(iii) building drainage system within the walls of the building; and

(iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

[~~(34)~~] (38) "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(35)~~] (39) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

[~~(36)~~] (40) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

[~~(37)~~] (41) (a) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit.

(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(38)~~] (42) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

[~~(39)~~] (43) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

[~~(40)~~] (44) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

[~~(41)~~] (45) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

[~~(42)~~] (46) (a) "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and residential purposes.

(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(43)~~] (47) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(48) "Responsible management personnel" means:

(a) a qualifying agent;

(b) an operations manager; or

(c) a site manager.

[~~(44)~~] (49) "Sensitive alarm system information" means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

[~~(45)~~] (50) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

[~~(46)~~] (51) "Unincorporated entity" means an entity that is not:

(a) an individual;

(b) a corporation; or

(c) publicly traded.

[~~(47)~~] (52) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

[~~(48)~~] (53) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

[~~(49)~~] (54) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 21. Section 58-55-302 is amended to read:

58-55-302. Qualifications for licensure.

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) meet the examination requirements established by this section and by rule by the commission with the concurrence of the director, which requirements include:

(i) for licensure as an apprentice electrician, apprentice plumber, or specialty contractor, no division-administered examination is required;

(ii) for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, the only required division-administered examination is a division-administered examination that covers information from the 25-hour course described in Subsection (1)(e)(iii), which course may have been previously completed as part of applying for any other license under this chapter, and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law course described in Subsection (1)(e)(iv); and

(iii) if required in Section 58-55-304, an individual qualifier must pass the required division-administered examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), and except that no employment experience is required for licensure as a specialty contractor, two years full-time paid employment experience in the construction industry, which employment experience, unless more specifically described in this section, may be related to any contracting classification and does not have to include supervisory experience; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 25-hour course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, and which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals;

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director; and

(E) for no additional fee, a provider-administered examination at the end of the 25-hour course;

(iv) complete a five-hour business and law course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, if an applicant for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was completed before July 1, 2019, the applicant does not need to take the business and law course;

(v) (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

(vi) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number or other satisfactory evidence of the applicant's identity permitted under rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) (a) If the applicant for a contractor's license described in Subsection (1) is a building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years full-time paid employment experience as a building inspector, which shall include at least one year full-time experience as a licensed combination inspector.

(b) The applicant shall file the following with the division before the division issues the license:

(i) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(ii) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

(iii) proof of registration as required by applicable law with the:

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

(C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(D) State Tax Commission; and

(E) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master plumber.

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master residential plumber.

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Plumbers Licensing Board; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman plumber.

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman plumber.

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

(ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed apprentice

plumber may work without supervision for a period not to exceed eight hours in any 24-hour period; and

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master electrician.

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a master residential electrician.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians Licensing Board; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman electrician.

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman electrician.

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) A licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician;

(ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed apprentice electrician may work without supervision for a period not to exceed eight hours in any 24-hour period;

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor; and

(iv) a licensed supervisor may have up to three licensed apprentice electricians on a residential project, or more if established by rules made by the commission, in concurrence with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) An alarm company applicant shall:

(i) have a qualifying agent who [~~is an officer, director, partner, proprietor, or manager of the applicant who~~]:

(A) is an alarm company officer, alarm company owner, alarm company proprietor, an alarm company trustee, or other responsible management personnel;

[~~(A)~~] (B) demonstrates 6,000 hours of experience in the alarm company business;

[~~(B)~~] (C) demonstrates 2,000 hours of experience as a manager or administrator in the alarm

company business or in a construction business; and

[~~(C)~~] (D) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) provide the name, address, date of birth, social security number, fingerprint card, and consent to a background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm company proprietor, alarm company trustee, and responsible management personnel with direct responsibility for managing operations of the applicant within the state;

[~~(ii) if a corporation, provide:~~]

[~~(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and~~]

[~~(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;~~]

[~~(iii) if a limited liability company, provide:~~]

[~~(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and~~]

[~~(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;~~]

[~~(iv) if a partnership, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;~~]

[~~(v) if a proprietorship, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;~~]

[~~(vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the trustee, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;~~]

[~~(vii)~~] (iii) document that none of the [~~applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel~~] persons described in Subsection (3)(k)(ii):

(A) have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; or

[~~(viii)~~] (B) [~~document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel~~] are currently suffering from habitual drunkenness or from drug addiction or dependence;

[~~(ix)~~] (iv) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

[~~(x)~~] (v) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) submit to and pass a criminal background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

[~~(iii)~~] (iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

[~~(iv)~~] (v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

[~~(v)~~] (vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work

experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent under this section and Section 58-55-302.1.

[~~(5) For each applicant described in Subsection (3)(k) or (l), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:~~]

[~~(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and~~]

[~~(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section.~~]

[~~(6) The Department of Public Safety shall send to the division:~~]

[~~(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and~~]

[~~(b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.~~]

[~~(7) (a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.~~]

[~~(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.~~]

[~~(8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.~~]

[~~(9)~~] (5) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection [~~(9)(a)(ii)(B)~~] (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection [~~(9)(b)(ii)(B)~~] (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application.

[~~(10)~~] (6) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection [~~(10)(a)(i)(A)~~] (6)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection [~~(10)(a)(i)~~] (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection [~~(10)~~] (6) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection (1)(e)(vi);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection [~~(10)(b)(i).~~] (6)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection [~~(10)~~] (6):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or Subsection 58-55-502(8) or (9).

[~~(11)~~] (7) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection [~~(11)(a)(i)~~] (7)(a)(i), an ownership status report containing the information that would be required under Subsection [~~(10)~~] (6) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection [~~(11)(a)(i)~~] (7)(a)(i) or an ownership status report described in Subsection [~~(11)(a)(ii),~~] (7)(a)(i) an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

[~~(12)~~] (8) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection [~~(10)~~] (6) or [~~(11)~~] (7) and the owners of the unincorporated entity for any purpose, including income tax withholding.

[~~(13)~~] (9) (a) A social security number provided under Subsection (1)(e)(vi) or (3)(k)(ii) is a private record under Subsection 63G-2-302(1)(i).

(b) The division may designate an applicant's evidence of identity under Subsection (1)(e)(vi) as a private record in accordance with Section 63G-2-302.

Section 22. Section 58-55-302.1 is enacted to read:

58-55-302.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) (a) A new license issued under Section 58-55-302 is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Section 58-55-302 demonstrates the applicant or the applicant's officer, director, shareholder, general partner, proprietor, trustee, or other responsible management personnel has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Section 23. Section 58-55-303 is amended to read:

58-55-303. Term of license -- Expiration -- Renewal.

(1) (a) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycle it administers.

(c) (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a license is automatically suspended 60 days after the licensee:

(A) becomes, after the time of licensing, an unincorporated entity that is subject to the ownership status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~] 58-55-302(6)(a)(i); or

(B) transfers its license to an unincorporated entity that is subject to the ownership status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~] 58-55-302(6)(a)(i).

(ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the expiration of the 60-day period in Subsection (1)(c)(i):

(A) the licensee submits an application for renewal of the license; and

(B) the division renews the licensee's license pursuant to the licensee's application for renewal.

(iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i), the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, make a final determination concerning the suspension.

(2) At the time of renewal, the licensee shall show satisfactory evidence of:

(a) continuing financial responsibility as required under Section 58-55-306;

(b) for a contractor licensee, completion of six hours of approved continuing education, as required in Section 58-55-302.5; and

(c) if the licensee is an apprentice electrician or plumber, journeyman electrician or plumber, master electrician or plumber, residential journeyman electrician or plumber, or residential master electrician or plumber, completion of the number of hours of continuing education specified under Section 58-55-302.7.

(3) Each license automatically expires on the expiration date shown on the license unless the licensee renews the license in accordance with Section 58-1-308.

(4) The requirements of Subsection [~~58-55-302(9)~~] 58-55-302(5) shall also apply to applicants seeking to renew or reinstate a license.

(5) In addition to any other requirements imposed by law, if a license has been suspended or revoked for any reason, the applicant:

(a) shall pay in full all fines imposed by the division;

(b) resolve any outstanding citations or disciplinary actions with the division;

(c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;

(d) complete a new financial responsibility review as required under Section 58-55-306, using only titled assets; and

(e) pay in full any reimbursement amount as provided in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act.

Section 24. Section 58-55-503 is amended to read:

58-55-503. Penalty for unlawful conduct -- Citations.

(1) As used in this section:

(a) "Person" means, in reference to Subsection 58-55-504(2), an individual, and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) "Qualifying violation" means a violation under:

(i) Subsection 58-55-308(2);

(ii) Subsections 58-55-501(1) through (3), (9), (10), (12), (14), (16)(e), (18), or (20) through (28);

(iii) Subsection 58-55-502(4)(a) or (11); or

(iv) Subsection 58-55-504(2).

(2) (a) [~~(i)~~] A person who violates Subsection [~~58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6),~~] 58-55-501(1) through (7), (9), (10), (12), (14), (15), (16)(e), [~~(21), (22), (23), (24), (25), (26), (27), or~~] or (21) through (28), Subsection 58-55-308(2), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after [~~it~~] the citation is final, is guilty of a class A misdemeanor.

[~~(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.~~]

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

[~~(2)~~] (3) A person who violates [~~the provisions of~~] Subsection 58-55-501(13) is guilty of:

(a) an infraction [~~unless the~~]; or

(b) if the violator did so with the intent to deprive the person to whom money is to be paid of the money received, [~~in which case the violator is guilty~~] of theft[~~,~~] as classified in Section 76-6-412.

[~~(3)~~] (4) Grounds for immediate suspension of a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

[~~(4)~~] (5) (a) (i) If upon inspection or investigation, the division concludes that a person has [~~violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection 58-55-502(4)(a) or (11), Subsection 58-55-504(2),~~] committed a qualifying violation or violated any rule or order issued with respect to [~~these subsections~~] a qualifying violation, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(A) promptly issue a citation to the person according to this chapter and any pertinent rules[~~,~~];

(B) attempt to negotiate a stipulated settlement[~~,~~]; or

(C) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) A person who [~~is in violation of the provisions of Subsection 58-55-308(2), Subsection~~

~~58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2)~~] committed a qualifying violation, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine [~~pursuant to this Subsection (4)~~] and may, in addition to or in lieu of, be ordered to cease and desist from [~~violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(e), (18), (20), (21), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2)~~] engaging in the qualifying violation.

(iii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) [~~(i)~~] A citation shall:

(i) be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated[~~.~~];

(ii) [~~A citation shall~~] clearly state that the recipient must notify the division in writing within 20 calendar days [~~of service of the citation~~] after the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act[~~.~~]; and

(iii) [~~A citation shall~~] clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d) (i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(f) The failure of an applicant for licensure to comply with a citation after the citation becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of one year [~~following~~] after the date on which the violation that is the subject of the citation is reported to the division.

(h) (i) Except as provided in Subsections [~~(4)(h)(ii)~~] (5)(h)(ii) and [~~(5),~~] (6), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled [~~pursuant to~~] under Subsection [~~(4)(a)~~] (5)(a), a fine of up to $1,000;

(B) for a second offense handled [~~pursuant to~~] under Subsection [~~(4)(a),~~] (5)(a), a fine of up to $2,000; and

(C) for any subsequent offense handled [~~pursuant to~~] under Subsection [~~(4)(a)~~] (5)(a), a fine of up to $2,000 for each day of continued offense.

(ii) Except as provided in Subsection [~~(5),~~] (6), if a person violates Subsection 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled [~~pursuant to~~] under Subsection [~~(4)(a),~~] (5)(a), a fine of up to $2,000;

(B) for a second offense handled [~~pursuant to~~] under Subsection [~~(4)(a),~~] (5)(a), a fine of up to $4,000; and

(C) for any subsequent offense handled [~~pursuant to~~] under Subsection [~~(4)(a),~~] (5)(a), a fine of up to $4,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection [~~(4)(h)~~] (5)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second [~~offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2)~~] qualifying violation; or

(B) (I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection [~~(4)(i)(i)(B)(I)~~] (5)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection [~~(4)(i)(i)(B)(I)~~] (5)(i)(i)(B)(I) that the person committed a second or subsequent [~~violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28), or Subsection 58-55-504(2)~~] qualifying violation; and

(IV) after determining that the person committed a second or subsequent [~~offense~~] qualifying violation under Subsection [~~(4)(i)(i)(B)(III)~~] (5)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection [~~(4)(i)(i)(B)(I).~~] (5)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection [~~(4)(i)(i),~~]

(5)(i)(i), the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24) two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24) for each individual is considered a separate violation.

[~~(5)~~] (6) If a person violates Section 58-55-501, the division may not treat the violation as a subsequent violation of a previous violation if the violation occurs five years or more after the day on which the person committed the previous violation.

[~~(6)~~] (7) If, after an investigation, the division determines that a person has committed multiple of the same type of violation of Section 58-55-501, the division may treat each violation as a separate violation of Section 58-55-501 and apply a penalty under this section to each violation.

[~~(7)~~] (8) (a) A penalty imposed by the director under Subsection [~~(4)(b)~~] (5) shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) In an action brought to collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

Section 25. Section 58-63-102 is amended to read:

58-63-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Agreement for services" means a written and signed agreement between a security service provider and a client that:

(a) contains clear language that addresses and assigns financial responsibility;

(b) describes the length, duties, and scope of the security services that will be provided; and

(c) describes the compensation that will be paid by the client for the security services, including the compensation for each security officer.

(2) "Armed courier service" means a person engaged in business as a contract security company who transports or offers to transport tangible personal property from one place or point to another under the control of an armed security officer employed by that service.

(3) "Armed private security officer" means an individual:

(a) employed by a contract security company;

(b) whose primary duty is:

(i) guarding personal or real property; or

(ii) providing protection or security to the life and well being of humans or animals; and

(c) who wears, carries, possesses, or has immediate access to a firearm in the performance of the individual's duties.

(4) "Armored car company" means a person engaged in business under contract to others who transports or offers to transport tangible personal property, currency, valuables, jewelry, SNAP benefits as defined in Section 35A-1-102, or any other high value items, that require secured delivery from one place to another under the control of an armored car security officer employed by the company using a specially equipped motor vehicle offering a high degree of security.

(5) "Armored car security officer" means an individual:

(a) employed by an armored car company;

(b) whose primary duty is to guard the tangible property, currency, valuables, jewelry, SNAP benefits as defined in Section 35A-1-102, or other high value items that require secured delivery from one place to another; and

(c) who wears, carries, possesses, or has immediate access to a firearm in the performance of the individual's duties.

(6) "Board" means the Security Services Licensing Board created in Section 58-63-201.

(7) "Client" means a person, company, or entity that contracts for and receives security services from a contract security company or an armored car company.

(8) "Contract security company" means a company that [~~is registered with the Division of Corporations and Commercial Code and~~] is engaged in business to provide security services to another person, business, or entity on a contractual basis by assignment of an armed or unarmed private security officer.

[~~(9) "Corporate officer" means an individual who is on file with the Division of Corporations and Commercial Code as:~~]

[~~(a) a corporate officer of a contract security company or an armored car company that is a corporation; or~~]

[~~(b) a sole proprietor of a contract security company or an armored car company that is not a corporation.~~]

[~~(10)~~] (9) "Company officer" means:

(a) a governing person, as defined in Section 48-3a-102, of an armored car company or contract security company;

(b) an individual appointed as an officer of an armored car company or contract security company that is a corporation in accordance with Section 16-10a-830;

(c) a general partner, as defined in Section 48-2e-102, of an armored car company or contract security company; or

(d) a partner, as defined in Section 48-1d-102, of an armored car company or contract security company.

(10) "Company owner" means:

(a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the outstanding shares of an armored car company or contract security company that:

(i) is a corporation; and

(ii) is not publicly listed or traded; or

(b) an individual who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the equity of an armored car company or contract security company that is not a corporation.

(11) "Company proprietor" means the sole proprietor of an armored car company or contract security company that is registered as a sole proprietorship with the Division of Corporations and Commercial Code.

(12) "Company trustee" means an individual with control of or power of administration over property held in trust.

(13) "Financial responsibility," when referring to a contract security company, means that a contract security company may only provide security services to a client if the contract security company:

(a) enters into an agreement for services with the client;

(b) maintains a current general liability insurance policy with:

(i) at least an annual $1,000,000 per occurrence limit;

(ii) at least an annual $2,000,000 aggregate limit; and

(iii) the following riders:

(A) general liability;

(B) assault and battery;

(C) personal injury;

(D) false arrest;

(E) libel and slander;

(F) invasion of privacy;

(G) broad form property damage;

(H) damage to property in the care, custody, or control of the security service provider; and

(I) errors and omissions;

(c) maintains a workers' compensation insurance policy with at least a $1,000,000 per occurrence limit and that covers each security officer employed by the contract security company; and

(d) maintains a federal employer identification number and an unemployment insurance employer account as required under state and federal law.

[~~(11)~~] (14) "Identification card" means a personal pocket or wallet size card issued by the division to each armored car and armed or unarmed private security officer licensed under this chapter.

[~~(12)~~] (15) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

[~~(13) "Owner" means an individual who is listed with the Division of Corporations and Commercial Code as a majority stockholder of a company, a general partner of a partnership, or the proprietor of a sole proprietorship.~~]

[~~(14)~~] (16) "Peace officer" means a person who:

(a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications; and

(b) derives total or special law enforcement powers from, and is an employee of, the federal government, the state, or a political subdivision, agency, department, branch, or service of either, of a municipality, or a unit of local government.

[~~(15)~~] (17) "Regular basis" means at least 20 hours per month.

[~~(16)~~] (18) "Responsible management personnel" means [~~an individual who is responsible for managing an applicant's operations.~~]:

(a) a qualifying agent;

(b) an operations manager; or

(c) a site manager.

[~~(17)~~] (19) (a) "Security officer" means an individual who is licensed as an armed or unarmed private security officer under this chapter and who:

(i) is employed by a contract security company securing, guarding, or otherwise protecting tangible personal property, real property, or the life and well being of human or animal life against:

(A) trespass or other unlawful intrusion or entry;

(B) larceny;

(C) vandalism or other abuse;

(D) arson or other criminal activity; or

(E) personal injury caused by another person or as a result of an act or omission by another person;

(ii) is controlling, regulating, or directing the flow of movements of an individual or vehicle; or

(iii) providing street patrol service.

(b) "Security officer" does not include an individual whose duties include taking admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other materials of individuals who are entering a sports venue, concert venue, theatrical venue, convention center, fairgrounds, public assembly facility, or mass gathering location if:

(i) the individual carries out these duties without the use of specialized equipment;

(ii) the authority of the individual is limited to denying entry or passage of another individual into or within the facility; and

(iii) the individual is not authorized to use physical force in the performance of the individual's duties under this Subsection [~~(17)(b).~~] (19)(b).

[~~(18)~~] (20) "Security service provider" means a contract security company or an armored car company licensed under this chapter.

[~~(19)~~] (21) "Security system" means equipment, a device, or an instrument installed for:

(a) detecting and signaling entry or intrusion by an individual into or onto, or exit from the premises protected by the system; or

(b) signaling the commission of criminal activity at the election of an individual having control of the features of the security system.

[~~(20)~~] (22) "Specialized resource, motor vehicle, or equipment" means an item of tangible personal property specifically designed for use in law enforcement or in providing security or guard services, or that is specially equipped with a device or feature designed for use in providing law enforcement, security, or guard services, but does not include:

(a) standardized clothing, whether or not bearing a company name or logo, if the clothing does not bear the words "security" or "guard"; or

(b) an item of tangible personal property, other than a firearm or nonlethal weapon, that may be used without modification in providing security or guard services.

[~~(21)~~] (23) "Street patrol service" means a contract security company that provides patrols by means of foot, vehicle, or other method of transportation using public streets, thoroughfares, or property in the performance of the company's duties and responsibilities.

[~~(22)~~] (24) "Unarmed private security officer" means an individual:

(a) employed by a contract security company;

(b) whose primary duty is guarding personal or real property or providing protection or security to the life and well being of humans or animals;

(c) who does not wear, carry, possess, or have immediate access to a firearm in the performance of the individual's duties; and

(d) who wears clothing of distinctive design or fashion bearing a symbol, badge, emblem, insignia, or other device that identifies the individual as a security officer.

[~~(23)~~] (25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-63-501.

[~~(24)~~] (26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-63-502 and as may be further defined by rule.

Section 26. Section 58-63-302 is amended to read:

58-63-302. Qualifications for licensure.

(1) Each applicant for licensure as an armored car company or a contract security company shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have a qualifying agent who:

(i) [~~shall meet~~] meets with the division and the board and [~~demonstrate~~] demonstrates that the applicant and the qualifying agent meet the requirements of this section;

(ii) is a resident of the state [~~and~~];

(iii) is responsible management personnel or [~~an~~] a company owner of the applicant;

[~~(iii)~~] (iv) exercises material day-to-day authority in the conduct of the applicant's business by making substantive technical and administrative decisions and whose primary employment is with the applicant;

[~~(iv)~~] (v) is not concurrently acting as a qualifying agent or employee of another armored car company or contract security company and is not engaged in any other employment on a regular basis;

[~~(v)~~] (vi) is not involved in any activity that would conflict with the qualifying agent's duties and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's performance under this chapter does not jeopardize the health or safety of the general public;

[~~(vi)~~] (vii) is not an employee of a government agency;

[~~(vii)~~] (viii) passes an examination component established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

[~~(viii)~~] (ix) (A) demonstrates 6,000 hours of compensated experience as a manager, supervisor, or administrator of an armored car company or a contract security company; or

(B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United

States military, state, county, or municipal law enforcement agency;

(d) provide the name, address, date of birth, social security number, fingerprint card, and consent to a criminal background check in accordance with Section 58-63-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for each company officer, company owner, company proprietor, company trustee, and responsible management personnel with direct responsibility for managing operations of the applicant within the state;

[~~(d) if a corporation, provide:~~]

[~~(i) the names, addresses, dates of birth, and social security numbers of all corporate officers, directors, and responsible management personnel; and~~]

[~~(ii) the names, addresses, dates of birth, and social security numbers, of all shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by the division if the stock is publicly listed and traded;~~]

[~~(e) if a limited liability company, provide:~~]

[~~(i) the names, addresses, dates of birth, and social security numbers of all company officers, and responsible management personnel; and~~]

[~~(ii) the names, addresses, dates of birth, and social security numbers of all individuals owning 5% or more of the equity of the company;~~]

[~~(f) if a partnership, provide the names, addresses, dates of birth, and social security numbers of all general partners, and responsible management personnel;~~]

[~~(g) if a proprietorship, provide the names, addresses, dates of birth, and social security numbers of the proprietor, and responsible management personnel;~~]

[~~(h)~~] (e) have [~~good moral character in that officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have~~] company officers, company owners, company proprietors, company trustees, and responsible management personnel who have not been convicted of:

(i) a felony; or

[~~(ii) a misdemeanor involving moral turpitude; or~~]

[~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of a contract security company or an armored car company by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

[~~(i)~~] (f) document that none of the [~~applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel~~] persons described in Subsection (1)(e):

(i) have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; [~~and~~] or

(ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

[~~(j)~~] (g) file and maintain with the division evidence of:

(i) comprehensive general liability insurance in a form and in amounts established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law;

(iii) registration with the Division of Corporations and Commercial Code; and

(iv) registration as required by applicable law with the:

(A) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(B) State Tax Commission; and

(C) Internal Revenue Service; and

[~~(k)~~] (h) meet with the division and board if requested by the division or board.

(2) Each applicant for licensure as an armed private security officer [~~shall~~]:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) [~~have good moral character in that the applicant has not~~] may not have been convicted of:

(i) a felony; or

[~~(ii) a misdemeanor involving moral turpitude; or~~]

[~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an armed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) may not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) shall successfully complete basic education and training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight hours of classroom or online curriculum;

(h) shall successfully complete firearms training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;

(i) shall pass the examination requirement established by rule by the division in collaboration with the board[~~;~~] and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(j) shall submit to and pass a background check in accordance with Section 58-63-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

[~~(j)~~] (k) shall meet with the division and board if requested by the division or the board.

(3) Each applicant for licensure as an unarmed private security officer [~~shall~~]:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) [~~have good moral character in that the applicant has not~~] may not have been convicted of:

(i) a felony; or

[~~(ii) a misdemeanor involving moral turpitude; or~~]

[~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an unarmed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) may not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall successfully complete basic education and training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight hours of classroom or online curriculum;

(g) shall pass the examination requirement established by rule by the division in collaboration with the board[~~;~~] and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) shall submit to and pass a background check in accordance with Section 58-63-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

[~~(h)~~] (i) shall meet with the division and board if requested by the division or board.

(4) Each applicant for licensure as an armored car security officer [~~shall~~]:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) [~~have good moral character in that the applicant has not~~] may not have been convicted of:

(i) a felony; or

[~~(ii) a misdemeanor involving moral turpitude; or~~]

[~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an armored car security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) may not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) shall successfully complete basic education and training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) shall successfully complete firearms training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(i) shall pass the examination requirements established by rule by the division in collaboration with the board[~~;~~] and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(j) shall submit to and pass a background check in accordance with Section 58-63-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

[~~(j)~~] (k) shall meet with the division and board if requested by the division or the board.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make a rule establishing when the division shall request a Federal Bureau of Investigation records' review for an applicant who is applying for licensure or licensure renewal under this chapter.

[~~(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c), (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:~~]

[~~(a) conduct a search of records of the Department of Public Safety for criminal history information~~

~~relating to each applicant for licensure under this chapter and each applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel; and~~]

[~~(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the FBI for criminal history information under this section.~~]

[~~(7) The Department of Public Safety shall send the division:~~]

[~~(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and~~]

[~~(b) the results of the FBI review concerning an applicant in a timely manner after receipt of information from the FBI.~~]

[~~(8) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.~~]

[~~(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews under this chapter.~~]

[~~(9) The division shall use or disseminate the information it obtains from the reviews of criminal history records of the Department of Public Safety and the FBI only to determine if an applicant for licensure or licensure renewal under this chapter is qualified for licensure.~~]

Section 27. Section 58-63-302.1 is enacted to read:

58-63-302.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) (a) A new license issued under Section 58-63-302 is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Section 58-63-302 demonstrates the applicant or the applicant's officer, director, shareholder, general partner, proprietor, trustee, or other responsible management personnel has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Section 28. Section 58-64-302 is amended to read:

58-64-302. Qualifications for licensure.

(1) Each applicant for licensure as a deception detection examiner:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) may not have been convicted of a felony[~~, a misdemeanor involving moral turpitude,~~] or any other crime that when considered with the duties and responsibilities of a deception detection examiner is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

(g) shall have successfully completed a training program in detection deception meeting criteria established by rule made by the division[~~; and~~] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) shall submit to and pass a background check in accordance with Section 58-64-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

[~~(h)~~] (i) shall have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection examinations under the supervision of a licensed deception detection examiner.

(2) Each applicant for licensure as a deception detection intern:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) may not have been convicted of a felony[~~, a misdemeanor involving moral turpitude,~~] or any other crime that when considered with the duties and responsibilities of a deception detection intern is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

(g) shall have successfully completed a training program in detection deception meeting criteria established by rule made by the division[~~; and~~] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) shall submit to and pass a background check in accordance with Section 58-64-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

[~~(h)~~] (i) shall provide the division with an intern supervision agreement in a form prescribed by the division under which:

(i) a licensed deception detection examiner agrees to supervise the intern; and

(ii) the applicant agrees to be supervised by that licensed deception detection examiner.

(3) Each applicant for licensure as a deception detection examination administrator:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) may not have been convicted of a felony[~~, a misdemeanor involving moral turpitude,~~] or any other crime that when considered with the duties and responsibilities of a deception detection examination administrator is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience; [~~and~~]

(g) shall submit to and pass a background check in accordance with Section 58-64-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

[~~(g)~~] (h) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that is approved by the director.

[~~(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:~~]

[~~(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter; and~~]

[~~(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section.~~]

[~~(5) The Department of Public Safety shall send to the division:~~]

[~~(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and~~]

[~~(b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.~~]

[~~(6) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.~~]

[~~(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this chapter.~~]

[~~(7) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure under this chapter is qualified for licensure.~~]

Section 29. Section 58-64-302.1 is enacted to read:

58-64-302.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) (a) A new license issued under Section 58-64-302 is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Section 58-64-302 demonstrates the applicant or the applicant's officer, director, shareholder, general partner, proprietor, trustee, or other responsible management personnel has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

CHAPTER 224
S. B. 37
Passed February 24, 2023
Approved March 14, 2023
Effective May 3, 2023

MUNICIPALITY INCORPORATION AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions related to incorporating a municipality.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the procedures and requirements for incorporating a municipality;
- modifies the procedures and requirements to request exclusion from an area proposed for incorporation;
- establishes a procedure and requirements for requesting inclusion in an area proposed for incorporation;
- transfers many of the duties currently fulfilled by the lieutenant governor, in relation to municipal incorporation, to the county of the area proposed for incorporation;
- describes the duties of the lieutenant governor in relation to municipal incorporation;
- provides for transition to the new incorporation process for a municipality; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

10-2-402, as last amended by Laws of Utah 2021, Chapter 112
10-2a-102, as last amended by Laws of Utah 2019, Chapter 165
10-2a-103, as last amended by Laws of Utah 2015, Chapters 111, 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
10-2a-104, as renumbered and amended by Laws of Utah 2015, Chapter 352
10-2a-106, as last amended by Laws of Utah 2019, Chapter 165 and further amended by Revisor Instructions, Laws of Utah 2019, Chapter 165
10-2a-201.5, as last amended by Laws of Utah 2021, Chapter 112
10-2a-202, as last amended by Laws of Utah 2019, Chapter 165
10-2a-204, as last amended by Laws of Utah 2019, Chapter 165
10-2a-205, as last amended by Laws of Utah 2019, Chapter 165
10-2a-206, as last amended by Laws of Utah 2021, Chapter 112
10-2a-207, as last amended by Laws of Utah 2021, Chapters 84, 112, 345, and 355
10-2a-208, as last amended by Laws of Utah 2019, Chapter 165
10-2a-209, as last amended by Laws of Utah 2019, Chapter 165
10-2a-210, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-213, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-214, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-220, as last amended by Laws of Utah 2019, Chapter 165

ENACTS:

10-2a-204.3, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

10-2a-204.5, (Renumbered from 10-2a-203, as last amended by Laws of Utah 2021, Chapter 112)

REPEALS:

10-2a-101, as enacted by Laws of Utah 2015, Chapter 352
10-2a-201, as last amended by Laws of Utah 2019, Chapter 165Utah Code Sections Affected by Revisor Instructions:
10-2a-106, as last amended by Laws of Utah 2019, Chapter 165 and further amended by Revisor Instructions, Laws of Utah 2019, Chapter 165

Utah Code Sections Affected by Coordination Clause:

10-2a-207, as last amended by Laws of Utah 2021, Chapters 84, 112, 345, and 355
10-2a-213, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

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

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

10-2-402. Annexation -- Limitations.

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

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

(i) the unincorporated area is a contiguous area;

(ii) the unincorporated area is contiguous to the municipality;

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

(A) except as provided in Subsection 10-2-418(3); or

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

(iv) for an area located in a specified county, the area is within the proposed annexing municipality's expansion area.

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

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

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

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

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

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

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

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

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

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

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

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

(A) consists of 50 or more acres;

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

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

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

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

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

(B) within 90 days after the county's notification of the proposed development, the city or town submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or

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

(6) (a) As used in this Subsection (6), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

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

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (6)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

(7) (a) As used in this Subsection (7), "project area" means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

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

(c) (i) Except as provided in Subsection (7)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as if the Military Installation Development Authority was the sole private property owner within the area:

(A) an area within a project area;

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

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

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

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

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

(B) the provisions of Section 10-2-402.5 do not apply.

(8) A municipality may not annex an unincorporated area if:

(a) the area is proposed for incorporation in[~~: (i)~~] a feasibility study conducted under Section 10-2a-205[~~; or (ii)~~] or a supplemental feasibility study conducted under Section 10-2a-206; and

(b) the [~~lieutenant governor~~] county clerk completes the [~~first~~] second public hearing on the proposed incorporation under Subsection 10-2a-207(4)[~~; and~~].

[~~(c) the time period for a specified landowner, as defined in Section 10-2a-203, to request that the lieutenant governor exclude the specified landowner's property from the proposed incorporation under Subsection 10-2a-207(5)(a) has expired.~~]

Section 2. Section 10-2a-102 is amended to read:

10-2a-102. Definitions.

(1) As used in this part and Part 2, Incorporation of a Municipality:

(a) "Contact sponsor" means the person designated in the feasibility request as the contact sponsor under Subsection 10-2a-202(2)(d).

(b) (i) "Contiguous" means, except as provided in Subsection (1)(b)(ii), the same as that term is defined in Section 10-1-104.

(ii) "Contiguous" does not include a circumstance where:

(A) two areas of land are only connected by a strip of land between geographically separate areas; and

(B) the distance between the geographically separate areas described in Subsection (1)(b)(ii)(A) is greater than the average width of the strip of land connecting the geographically separate areas.

[~~(a)~~] (c) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

(d) "Feasibility request" means a request, described in Section 10-2a-202, for a feasibility study for the proposed incorporation of a municipality.

[~~(b)~~] (e) (i) "Municipal service" means any of the following that are publicly provided:

(A) culinary water;

(B) secondary water;

(C) sewer service;

(D) storm drainage or flood control;

(E) recreational facilities or parks;

(F) electrical power generation or distribution;

(G) construction or maintenance of local streets and roads;

(H) street lighting;

(I) curb, gutter, and sidewalk maintenance;

(J) law or code enforcement service;

(K) fire protection service;

(L) animal services;

(M) planning and zoning;

(N) building permits and inspections;

(O) refuse collection; or

(P) weed control.

(ii) "Municipal service" includes the physical facilities required to provide a service described in Subsection [~~(1)(b)(i)~~] (1)(e)(i).

[~~(c)~~] (f) "Private," with respect to real property, means taxable property.

(2) For purposes of this part:

(a) the owner of real property shall be the record title owner according to the records of the county recorder on the date of the filing of the feasibility request or petition for incorporation; and

(b) the assessed fair market value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the feasibility request or petition for incorporation.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or fraction of the total private land area within an area to sign a feasibility request or a petition for incorporation:

(a) a parcel of real property may not be included in the calculation of the required percentage or fraction unless the feasibility request or petition for incorporation is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a feasibility request or a petition for incorporation in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the feasibility request or petition for incorporation with the person's signature; and

(ii) the person provides documentation accompanying the feasibility request or petition for incorporation that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a feasibility request or a petition for incorporation on behalf of a deceased owner.

Section 3. Section 10-2a-103 is amended to read:

10-2a-103. Incorporation of a contiguous area -- Incorporation involving more than one county.

(1) A contiguous area of a county not within a municipality may incorporate as a municipality as provided in this chapter.

(2) If a proposed incorporation relates to an area in more than one county:

(a) the individual who files the feasibility request shall file the request with each county containing a portion of the area proposed for incorporation; and

(b) the counties shall work together, in accordance with direction given by the lieutenant governor, to complete the actions required by this chapter.

Section 4. Section 10-2a-104 is amended to read:

10-2a-104. Elections governed by the Election Code.

Except as otherwise provided in this chapter, each election under this chapter [~~shall be~~] is governed by the provisions of Title 20A, Election Code.

Section 5. Section 10-2a-106 is amended to read:

10-2a-106. Feasibility request filed before changes to law take effect.

[~~(1) If a request for a feasibility study to incorporate a city is filed under Section 10-2a-202 before May 12, 2015, the request and a subsequent feasibility study, petition, public hearing, election, and any other city incorporation action applicable to that request shall be filed with and be acted upon, held, processed, or paid for by the county legislative body or county clerk, as applicable, as designated, directed, or authorized before Laws of Utah 2015, Chapter 157, takes effect.~~]

[~~(2) If a petition to incorporate a town is filed before May 12, 2015, the petition and a subsequent feasibility study, petition, public hearing, election, and any other town incorporation action applicable to that petition to incorporate shall be filed with and be acted upon, held, processed, or paid for by the county legislative body or county clerk, as applicable, as designated, directed, or authorized before Laws of Utah 2015, Chapter 157, takes effect.~~]

[~~(3)~~] (1) If an individual files a [~~request for a feasibility study for the incorporation of a city, or an application for an incorporation petition for the incorporation of a~~] feasibility request for incorporation of a city or town[~~,~~] before May 14, 2019, the process for incorporating [~~that~~] the city or town [~~under that request or application~~] is not subject to Laws of Utah 2019, Chapter 165 or this bill, and is instead subject to the municipal incorporation law in effect on the day on which the individual files the feasibility request.

(2) If an individual files a feasibility request for incorporation of a city or town before May 3, 2023, the process for incorporating the city or town is not subject to this bill, and is subject to the municipal incorporation law in effect on the day on which the individual files the feasibility request.

Section 6. Section 10-2a-201.5 is amended to read:

10-2a-201.5. Qualifications for incorporation.

(1) (a) An area may incorporate as a town in accordance with this part if the area:

(i) [~~subject to Subsection (1)(c),~~] is contiguous;

(ii) has a population of at least 100 people, but fewer than 1,000 people; and

(iii) is not already part of a municipality.

(b) An area may incorporate as a city in accordance with this part if the area:

(i) [~~subject to Subsection (1)(c),~~] is contiguous;

(ii) has a population of 1,000 people or more; and

(iii) is not already part of a municipality.

[~~(c) An area is not contiguous for purposes of Subsection (1)(a)(i) or (b)(i) if:~~]

[~~(i) the area includes a strip of land that connects geographically separate areas; and~~]

[~~(ii) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.~~]

(2) (a) An area may not incorporate under this part if:

(i) the area has a population of fewer than 100 people; or

(ii) except as provided in Subsection (2)(b), the area has an average population density of fewer than seven people per square mile.

(b) [~~Subject to Subsection (1)(c), an area that does not comply with Subsection (2)(a)(ii) may incorporate under this part if the~~] Subsection (2)(a)(ii) does not prohibit incorporation of an area if:

(i) noncompliance with Subsection (2)(a)(ii) is necessary to connect separate areas that share a demonstrable community interest[~~.~~]; and

(ii) the area is contiguous.

(3) [~~Subject to Subsection (1)(c), an~~] An area incorporating under this part may not include land owned by the United States federal government unless:

(a) the area, including the land owned by the United States federal government, is contiguous; and

(b) [~~(a)~~] (i) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or

[~~(b)~~] (ii) excluding the land from the incorporating area would create an unincorporated island within the proposed municipality.

(4) (a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the request for a feasibility study, described in Section 10-2a-202, relating to the incorporating area; and

(ii) is still pending on the date the request for the feasibility study described in Subsection (4)(a)(i) is filed.

(b) A [~~request for a feasibility study~~] feasibility request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the feasibility request complies with Subsections 10-2a-202(1) [~~and (2)~~] through (4) with respect to excluding the proposed annexation area from the area proposed for incorporation; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to not be contiguous [~~under Subsection (1)(c)~~].

(c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each feasibility request to which Subsection (4)(b) applies as not proposing the incorporation of an area proposed for annexation.

(5) (a) An area incorporating under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of the parcel gives written consent to exclude part of the parcel.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (5)(a) if owned by the same owner.

Section 7. Section 10-2a-202 is amended to read:

10-2a-202. Feasibility request -- Requirements -- Limitations.

(1) The process to incorporate a contiguous area of a county as a municipality is initiated by an individual filing a [~~request for a feasibility study with the Office of the Lieutenant Governor that:~~] feasibility request, with the county clerk of the county where the area proposed to be incorporated is located, that includes:

(a) [~~is signed by~~] the signatures of the owners of private real property that:

(i) is located within the area proposed to be incorporated;

(ii) covers at least 10% of the total private land area within the area; and

(iii) is, as of January 1 of the current year, equal in assessed fair market value to at least 7% of the assessed fair market value of all private real property within the area; and

(b) [~~indicates~~] the typed or printed name and current residence address of each owner signing the request[~~;~~].

(2) The feasibility request shall include:

[~~(c)~~] (a) [~~describes~~] a description of the contiguous area proposed to be incorporated as a municipality;

[~~(d)~~] (b) [~~designates~~] a designation of up to five signers of the request as sponsors, one of whom is designated as the contact sponsor, with the mailing address and telephone number of each;

[~~(e)~~] (c) [~~is accompanied by and circulated with~~] an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundaries of the proposed municipality; and

[~~(f)~~] (d) [~~requests the lieutenant governor to~~] a request that the lieutenant governor commission a study to determine the feasibility of incorporating the area as a municipality.

(3) The individual described in Subsection (1) shall, on the day on which the individual files the feasibility request with the county clerk, provide to the lieutenant governor:

(a) written notice that the individual filed the feasibility request that indicates the day on which the individual filed the feasibility request; and

(b) a complete copy of the feasibility request.

[~~(2)~~] (4) A feasibility request [~~for a feasibility study under this section~~] may not propose for incorporation an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection [~~10-2a-205(6)(a)~~] 10-2a-205(5)(a) unless:

(a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2a-210; or

(b) the time described in Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing an incorporation petition under Section 10-2a-208.

[~~(3)~~] (5) Sponsors may not file a feasibility request [~~under this section regarding~~] relating to the incorporation of a town if the cumulative private real property that the sponsors own exceeds 40% of the total private land area within the boundaries of the proposed town.

Section 8. Section 10-2a-204 is amended to read:

10-2a-204. Processing a feasibility request -- Certification or rejection -- Processing

priority -- Determination by the Utah Population Committee.

(1) Within 45 days after the day on which an individual files a feasibility request under Section 10-2a-202, the [~~lieutenant governor~~] county clerk shall:

(a) [~~with the assistance of other county officers of the county in which the incorporation is proposed from whom the lieutenant governor requests assistance,~~] determine whether the feasibility request complies with Section 10-2a-202; and

(b) notify the lieutenant governor, in writing, of the determination made under Subsection (1)(a) and the grounds for the determination.

(2) The county clerk:

(a) shall keep the lieutenant governor apprised of the county clerk's progress in making the determination described in Subsection (1)(a); and

(b) may consult with the lieutenant governor in making the determination described in Subsection (1)(a).

[~~(b)~~] (3) Within five days after the day on which the county clerk provides the notification described in Subsection (1)(b), the lieutenant governor shall:

(a) review the determination and the grounds for the determination to evaluate whether the feasibility request complies with Section 10-2a-202; and

(b) (i) uphold the determination;

(ii) reverse the determination; or

(iii) require the county clerk to provide additional information that the lieutenant governor identifies as necessary for the lieutenant governor to uphold or reverse the county clerk's determination.

(4) If the office requires the county clerk to provide additional information under Subsection (3)(b)(iii):

(a) the county clerk shall provide the additional information to the office within five days after the day on which the office notifies the county clerk that the additional information is required; and

(b) the office shall, within five days after the day on which the county clerk provides the additional information, uphold or reverse the determination of the county clerk described in Subsection (1)(b).

[~~(i) if the lieutenant governor~~]

(5) If the lieutenant governor determines that the feasibility request complies with Section 10-2a-202, the lieutenant governor shall:

[~~(A)~~] (a) certify the request;

[~~(B)~~] (b) transmit written notification of the certification to the contact sponsor; and

[~~(C)~~] (c) transmit written notification of the certification to the Utah Population Committee[~~; or~~].

[~~(ii)~~] (6) [~~if the lieutenant governor~~] If the lieutenant governor determines that the feasibility request fails to comply with Section 10-2a-202, the lieutenant governor shall reject the feasibility request and notify the contact sponsor in writing of the rejection and the [~~reasons~~] grounds for the rejection.

[~~(2)~~] (7) (a) Within 20 days after the day on which the lieutenant governor transmits written notification under Subsection [~~(1)(b)(i)(C),~~] (5)(c), the Utah Population Committee shall:

(i) determine whether, on the date the sponsors filed the feasibility request [~~under Section 10-2a-202 for the proposed municipality~~], the proposed municipality complied with the population, population density, and contiguity requirements described in Section 10-2a-201.5; and

(ii) provide notice of the determination to the lieutenant governor and the county clerk.

(b) If the Utah Population Committee determines that a proposed municipality does not comply with the population, population density, or contiguity requirements described in Section 10-2a-201.5, the lieutenant governor shall rescind the certification described in Subsection [~~(1)(b)(i)~~] (5)(a) and reject the [~~application in accordance with Subsection (1)(b)(ii)~~] feasibility request.

[~~(3)~~] (8) The lieutenant governor shall certify or reject feasibility requests [~~under Subsection (1)~~] in the order in which the requests are filed.

[~~(4)~~] (9) (a) [~~(i)~~] If the lieutenant governor [~~rejects a request under Subsection (1)(b)(ii)~~] determines that the feasibility request fails to comply with Section 10-2a-202, or rejects the feasibility request under Subsection (7)(b), the sponsors may, subject to Section 10-2a-206, amend the feasibility request to correct the deficiencies [~~for which the lieutenant governor rejected the request~~] and refile the feasibility request with the [~~lieutenant governor~~] county clerk.

[~~(ii)~~] (b) The sponsors shall submit any amended feasibility request within 90 days after the day on which the lieutenant governor [~~rejects the request under Subsection (1)(b)(ii)~~] makes the determination or rejection described in Subsection (9)(a).

[~~(iii)~~] (c) The sponsors may reuse a signature described in Subsection [~~10-2a-202(1)(a)~~] 10-2a-202(2)(a) that is on a rejected feasibility request or on an amended feasibility request described in Subsection [~~(4)(a)(i)~~] (9)(a).

[~~(b)~~] (d) The county clerk and the lieutenant governor shall consider a feasibility request that is amended and refiled under Subsection [~~(4)(a)~~] (9)(a) as a newly filed feasibility request and process the feasibility request in accordance with [~~Subsection (3)~~] this section.

Section 9. Section 10-2a-204.3 is enacted to read:

10-2a-204.3. Notice to property owners -- First public hearing.

(1) Unless the lieutenant governor rescinds the certification under Subsection 10-2a-204(7)(b), the county clerk shall:

(a) hold the first public hearing in relation to the proposed incorporation, at a location approved by the lieutenant governor, no later than 30 days after the day on which the county clerk receives the notice described in Subsection 10-2a-204(7)(a)(ii);

(b) publish notice of the hearing in accordance with Subsection 10-2a-207(7); and

(c) within seven calendar days after the day on which the county clerk receives the notice described in Subsection 10-2a-204(7)(a)(ii), mail written notice of the proposed incorporation and of the first public hearing described in this section to:

(i) each residence within, and each owner of real property located within:

(A) the proposed incorporation boundaries; and

(B) 300 feet of the proposed incorporation boundaries;

(ii) the contact sponsor; and

(iii) the lieutenant governor.

(2) The written notice provided by the county clerk under Subsections (1)(b) and (c) shall include:

(a) the following statement:

"NOTICE OF PROPOSED INCORPORATION AND FIRST PUBLIC HEARING

You have received this notice because you reside or own property within an area proposed for incorporation, or an area within 300 feet of an area proposed for incorporation. The first public hearing in relation to the proposed incorporation will be held on [insert date, time, and location]. The purpose of the first public hearing is to provide information regarding the proposed incorporation, the incorporation process, including the process for deciding whether to incorporate, and certain rights you may have in relation to the proposed incorporation. A specified landowner, as defined in Utah Code Section 10-2a-204.5, may, within 30 days after the day of the public hearing, request that the county clerk exclude all or part of the specified landowner's land from the area proposed for incorporation. A specified landowner may not request exclusion after the end of the 30-day period. Any owner of land within a county where the area proposed for incorporation is located may, within 30 days after the day of the public hearing, request that the county clerk include all or part of that land in the area proposed for incorporation. An owner of land may not request inclusion after the end of the 30-day period."; and

(b) a clear description of the area proposed for incorporation.

(3) Notwithstanding that the county conducts the first public hearing, the lieutenant governor, or a designee of the lieutenant governor, shall:

(a) direct the proceedings at the first public hearing, with the assistance of the county clerk as needed;

(b) provide information regarding the proposed incorporation, the incorporation process, including the process for deciding whether to incorporate, and the rights citizens may have in relation to the proposed incorporation;

(c) describe the process by which a specified landowner may request that the county clerk exclude all or part of the specified landowner's land from the area proposed for incorporation;

(d) describe the process by which an owner of land described in Subsection 10-2a-204.5(2)(b) may request that the county clerk include all or part of that land in the area proposed for incorporation;

(e) describe the criteria for granting a request for exclusion or inclusion of land; and

(f) answer questions from individuals who attend the first public hearing.

(4) The contact sponsor, or an agent of the contact sponsor, and the county clerk, or an employee of the county clerk designated by the county clerk, shall attend the first public hearing.

(5) The county clerk shall:

(a) provide the location and equipment for the public hearing, subject to approval by the lieutenant governor; and

(b) ensure compliance with the requirements of Title 52, Chapter 4, Open and Public Meetings Act, in relation to the public hearing.

Section 10. Section 10-2a-204.5, which is renumbered from Section 10-2a-203 is renumbered and amended to read:

[~~10-2a-203~~]. 10-2a-204.5. Notice to owner of property -- Exclusion or inclusion of property from or in proposed municipality.

(1) As used in this section:

[~~(a) "Assessed value" with respect to property means the value at which the property would be assessed without regard to a valuation for agricultural use under Section 59-2-503.~~]

[~~(b)~~] (a) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.

[~~(c)~~] (b) "Specified landowner" means a record owner of real property:

(i) who owns more than:

(A) 1% of the assessed fair market value, as of January 1 of the current year, of all property within the boundaries of a proposed incorporation; or

(B) 10% of the total private land area within the boundaries of a proposed incorporation; or

(ii) located in a mining protection area as defined in Section 17-41-101.

[~~(2) Within seven calendar days after the day on which an individual files a request for a feasibility~~

~~study under Section 10-2a-202, the lieutenant governor shall mail written notice of the proposed incorporation to each residence within, and each owner of real property located within:~~]

[~~(a) the proposed incorporation boundaries; and~~]

[~~(b) 300 feet of the proposed incorporation boundaries.~~]

[~~(3)~~] (2) [~~A specified landowner may, within~~] Within 30 calendar days after the day [~~on which the specified landowner receives notice under Subsection (2),~~] of the first public hearing described in Section 10-2a-204.3:

(a) a specified landowner may request that the [~~lieutenant governor~~] county clerk exclude all or part of the [~~property~~] land owned by the specified landowner from the area proposed for incorporation by filing a [~~notice of~~] request for exclusion with the [~~Office of the Lieutenant Governor~~] county clerk that describes the [~~property~~] land for which the specified landowner requests exclusion; or

(b) any owner of land located within the county where the area proposed for incorporation is located may file a request that all or part of that land be included in the area proposed for incorporation by filing a request for inclusion with the county clerk that describes the land that the landowner desires to include.

[~~(4)~~] (3) The [~~lieutenant governor~~] county clerk shall exclude the [~~property~~] land identified by a specified landowner under Subsection [~~(3)~~] (2)(a) from the proposed incorporation boundaries unless the [~~lieutenant governor~~] county clerk finds by clear and convincing evidence that:

(a) the exclusion will leave an unincorporated island within the proposed municipality; and

(b) the [~~property~~] land receives from the county a majority of currently provided municipal services.

(4) The county clerk shall include land identified by a landowner under Subsection (2)(b) in the area proposed for incorporation unless the county clerk finds by clear and convincing evidence that:

(a) the land will not be contiguous with the area of the proposed municipality, taking into account other requests for inclusion or requests for exclusion received before the deadline described in Subsection (2); or

(b) the inclusion will cause the area proposed for incorporation to violate a requirement for incorporation described in this part.

(5) The county clerk shall:

(a) no earlier than 30 days after, but no later than 44 days after, the day of the first public hearing described in Section 10-2a-204.3, make a determination on all timely requests for exclusion or inclusion;

(b) forward to the lieutenant governor for review:

(i) all timely requests for exclusion or inclusion;

(ii) the county clerk's determination on each of the requests described in Subsection (5)(b)(i); and

(iii) the reasons, including the supporting data, for each determination described in Subsection (5)(b)(ii); and

[~~(5)~~] [~~(a)~~] (c) [~~Within~~] within five days after the day on which the lieutenant governor makes a final determination on whether to include or exclude [~~a property~~] land under Subsection [~~(4), the lieutenant governor~~] (7), the county clerk shall mail or transmit written notice of whether the [~~property~~] land is included or excluded from the proposed incorporation boundaries to:

(i) for a request for exclusion, the specified landowner that requested the [~~property's~~] exclusion; [~~and~~]

(ii) for a request for inclusion, the owner of land that requested the inclusion; and

[~~(ii)~~] (iii) the contact sponsor.

[~~(b)~~] (6) [~~If the lieutenant governor makes a determination to include a property under Subsection (4), the lieutenant governor~~] For a request for exclusion or inclusion that is denied, the county clerk shall include, in the written notice described in Subsection [~~(5)(a)~~] (5)(c), a detailed explanation of the [~~lieutenant governor's determination~~] reason for the denial and the facts supporting the denial.

(7) Within 14 days after the day on which the lieutenant governor receives the information described in Subsection (5)(b) the lieutenant governor shall:

(a) review each determination;

(b) uphold or reverse each determination; and

(c) forward to the county clerk:

(i) the lieutenant governor's final determinations; and

(ii) if the lieutenant governor reverses a determination of the county clerk, the reason for the reversal and the supporting facts.

Section 11. Section 10-2a-205 is amended to read:

10-2a-205. Feasibility study -- Feasibility study consultant -- Qualifications for proceeding with incorporation.

[~~(1) Within 90 days after the day on which the lieutenant governor receives a request that the lieutenant governor certifies under Subsection 10-2a-204(1)(b)(i), the lieutenant governor shall engage a feasibility consultant selected, in accordance with Subsection (2), to conduct a feasibility study.~~]

(1) Unless the lieutenant governor rescinds the certification under Subsection 10-2a-204(7)(b), the lieutenant governor shall, within 90 days after the day on which the lieutenant governor certifies a feasibility request under Subsection 10-2a-204(5)(a), in accordance with Subsection (2),

engage a feasibility consultant to conduct a feasibility study.

(2) [~~(a)~~] The lieutenant governor shall:

(a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code[~~.~~];

(b) [~~The lieutenant governor shall ensure that a feasibility consultant selected under Subsection (2)(a)~~] ensure that the feasibility consultant:

(i) has expertise in the processes and economics of local government; and

(ii) is not affiliated with[~~: (A)~~] a sponsor of the feasibility [~~study~~] request [~~to which the feasibility study relates; or (B)~~] or the county in which the proposed municipality is located[~~.~~]; and

[~~(3)~~] (c) [~~The lieutenant governor shall~~] require the feasibility consultant to:

[~~(a)~~] (i) submit a draft of the feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection [~~(4)(c)~~] (3)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;

[~~(b)~~] (ii) allow each person to whom the consultant provides a draft under Subsection [~~(3)(a)~~] (2)(c)(i) to review and provide comment on the draft;

[~~(c)~~] (iii) submit a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the feasibility study:

[~~(i)~~] (A) the lieutenant governor;

[~~(ii)~~] (B) the county legislative body of the county in which the incorporation is proposed;

[~~(iii)~~] (C) the contact sponsor; and

[~~(iv)~~] (D) each person to whom the consultant provided a draft under Subsection [~~(3)(a)~~] (2)(c)(i); and

[~~(d)~~] (iv) attend the public hearings described in Section 10-2a-207 to present the feasibility study results and respond to questions from the public.

[~~(4)~~] (3) (a) The feasibility [~~consultant shall ensure that the feasibility study includes~~] study shall include:

(i) an analysis of the population and population density within the area proposed for incorporation and the surrounding area;

(ii) the current and projected five-year demographics and tax base within the boundaries of the proposed municipality and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) subject to Subsection [~~(4)(b)~~] (3)(b), the current and five-year projected cost of providing municipal services to the proposed municipality, including administrative costs;

(iv) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed municipality;

(v) an analysis of the risks and opportunities that might affect the actual costs described in Subsection [~~(4)(a)(iii)~~] (3)(a)(iii) or revenues described in Subsection [~~(4)(a)(iv)~~] (3)(a)(iv) of the newly incorporated municipality;

(vi) an analysis of new revenue sources that may be available to the newly incorporated municipality that are not available before the area incorporates, including an analysis of the amount of revenues the municipality might obtain from those revenue sources;

(vii) the projected tax burden per household of any new taxes that may be levied within the proposed municipality within five years after incorporation;

(viii) the fiscal impact of the municipality's incorporation on unincorporated areas, other municipalities, local districts, special service districts, and other governmental entities in the county; and

(ix) if the [~~lieutenant governor~~] county clerk excludes property from, or includes property in, the proposed municipality under Section [~~10-2a-203~~] 10-2a-204.5, an update to the map and legal description described in Subsection [~~10-2a-202(1)(e)~~] 10-2a-202(2)(e).

(b) (i) [~~For purposes of Subsection (4)(a)(iii)~~] In calculating the projected costs under Subsection (3)(a)(iii), the feasibility consultant shall assume the proposed municipality will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the area of the proposed municipality at the time the feasibility consultant conducts the feasibility study.

(ii) In [~~determining the present~~] calculating the current cost of a municipal service under Subsection (3)(a)(iii), the feasibility consultant shall consider:

(A) the amount it would cost the proposed municipality to provide the municipal service for the first five years after the municipality's incorporation; and

(B) the current municipal service provider's present and five-year projected cost of providing the municipal service.

(iii) In calculating costs under Subsection [~~(4)(a)(iii)~~] (3)(a)(iii), the feasibility consultant shall account for inflation and anticipated growth.

(c) In conducting the feasibility study, the feasibility consultant shall consult with the following before submitting a draft of the feasibility study under Subsection [~~(3)(a)~~] (2)(c)(i):

(i) if the proposed municipality will include lands owned by the United States federal government, the entity within the United States federal government that has jurisdiction over the land;

(ii) if the proposed municipality will include lands owned by the state, the entity within state government that has jurisdiction over the land;

(iii) each entity that provides a municipal service to a portion of the proposed municipality; and

(iv) [~~any~~] each other special service district that provides services to a portion of the proposed municipality.

[~~(5)~~] (4) If the five-year projected revenues calculated under Subsection [~~(4)(a)(iv)~~] (3)(a)(iv) exceed the five-year projected costs calculated under Subsection [~~(4)(a)(iii)~~] (3)(a)(iii) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

[~~(6)~~] (5) (a) Except as provided in Subsection [~~(6)(b)~~] (5)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-206, show that the average annual amount of revenue calculated under Subsection [~~(4)(a)(iv)~~] (3)(a)(iv) does not exceed the average annual cost calculated under Subsection [~~(4)(a)(iii)~~] (3)(a)(iii) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.

(b) The process to incorporate an area described in Subsection [~~(6)(a)~~] (5)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed incorporation demonstrates compliance with Subsection [~~(6)(a)~~] (5)(a).

[~~(7)~~] (6) If the results of the feasibility study or revised feasibility study do not comply with Subsection [~~(6)~~] (5), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study, make recommendations regarding how the boundaries of the proposed municipality may be altered to comply with Subsection [~~(6)~~] (5).

[~~(8)~~] (7) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's website and make a copy available for public review at the [~~Office of the Lieutenant Governor~~] lieutenant governor's office.

Section 12. Section 10-2a-206 is amended to read:

10-2a-206. Modified feasibility request -- Supplemental feasibility study.

(1) (a) The sponsors of a feasibility [~~study~~] request may modify the request to alter the boundaries of the proposed municipality and refile the modified feasibility request with the [~~lieutenant governor~~] county clerk if:

(i) the results of the feasibility study do not comply with Subsection [~~10-2a-205(6)(a)~~] 10-2a-205(5)(a); or

(ii) (A) the feasibility request complies with Subsection 10-2a-201.5(4)(b);

(B) the annexation petition described in Subsection 10-2a-201.5(4)(b) that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and

(C) an incorporation petition based on the feasibility request has not been filed[~~;~~].

[~~(iii) (A) the lieutenant governor completes the first public hearing described in Subsection 10-2a-207(4); and~~]

[~~(B) property is excluded from the proposed municipality in accordance with Subsection 10-2a-207(5)(b); or~~]

[~~(iv) before the time period for a specified landowner, as defined in Section 10-2a-203, to request that the lieutenant governor exclude the specified landowner's property from the proposed incorporation under Subsection 10-2a-207(5)(a) has expired, a municipal legislative body:~~]

[~~(A) approves an annexation petition proposing the annexation of an area that is part of the area proposed for incorporation under Section 10-2-407 or 10-2-408; or~~]

[~~(B) adopts an ordinance approving the annexation of an area that is part of the area proposed for incorporation under Section 10-2-418.~~]

(b) (i) The sponsors of a feasibility [~~study~~] request may not file a modified request under Subsection (1)(a)(i) more than 90 days after the day on which the feasibility consultant submits the final results of the feasibility study under Subsection [~~10-2a-205(3)(c)~~] 10-2a-205(2)(c)(iii).

(ii) The sponsors of a feasibility request may not file a modified request under Subsection (1)(a)(ii) more than 18 months after filing the original feasibility request under Section 10-2a-202.

[~~(iii) The sponsors of a request may not file a modified request under Subsection (1)(a)(iii) more than 90 days after the day on which the lieutenant governor mails or transmits written notice under Subsection 10-2a-207(4)(c).~~]

[~~(iv) The sponsors of a request may not file a modified request under Subsection (1)(a)(iv) more than 90 days after the day on which the municipal legislative body:~~]

[~~(A) approves the annexation petition under Section 10-2-407 or 10-2-408; or~~]

[~~(B) adopts the ordinance approving the annexation under Section 10-2-418.~~]

(c) (i) Subject to Subsection (1)(c)(ii), each modified feasibility request under Subsection (1)(a) shall comply with Subsections 10-2a-202(1) [~~and (2)~~] through (4) and Subsection 10-2a-201.5(4).

(ii) Notwithstanding Subsection (1)(c)(i), a signature on a feasibility request filed under Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection [~~10-2a-202(1)(a)~~] 10-2a-202(2)(a) for the feasibility request as modified under Subsection (1)(a), unless the modified feasibility request

proposes the incorporation of an area that is more than 20% larger or smaller than the area described by the original feasibility request in terms of:

(A) private land area; or

(B) assessed fair market value of private real property, as of January 1 of the current year.

[~~(2)~~] (d) Within 20 days after the [~~lieutenant governor's receipt of~~] day on which the county clerk receives the modified request, the [~~lieutenant governor~~] county clerk and the lieutenant governor shall follow the same procedure [~~under Subsection 10-2a-204(1)~~] described in Subsections 10-2a-204(1) through (6) for the modified feasibility request as for an original feasibility request.

[~~(3)~~] (2) The timely filing of a modified feasibility request under Subsection (1) gives the modified feasibility request the same processing priority under Subsection [~~10-2a-204(3)~~] 10-2a-204(8) as the original feasibility request.

[~~(4)~~] (3) Within 10 days after the day on which the [~~lieutenant governor~~] county clerk receives a modified feasibility request under Subsection (1)(a) that relates to a request for which a feasibility study has already been completed, the lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to conduct a supplemental feasibility study that accounts for the modified feasibility request.

[~~(5)~~] (4) The lieutenant governor shall require the feasibility consultant to:

(a) submit a draft of the supplemental feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection [~~10-2a-205(4)(c)~~] 10-2a-205(3)(c) within 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental study;

(b) allow each person to whom the consultant provided a draft under Subsection [~~(5)(a)~~] (4)(a) to review and provide comment on the draft; and

(c) submit a completed supplemental feasibility study, to the following within 45 days after the day on which the feasibility consultant is engaged to conduct the feasibility study:

(i) the lieutenant governor;

(ii) the county legislative body of the county in which the incorporation is proposed;

(iii) the contact sponsor; and

(iv) each person to whom the consultant provided a draft under Subsection [~~(5)(a)~~] (4)(a).

[~~(6)~~] (5) (a) Subject to Subsection [~~(6)(b)~~] (5)(b), if the results of the supplemental feasibility study do not comply with Subsection [~~10-2a-205(6)(a)~~] 10-2a-205(5)(a), the sponsors may further modify the request in accordance with Subsection (1).

(b) Subsections [~~(2), (4), and (5)~~] (1)(d), (5), and (6) apply to a modified feasibility request described in Subsection [~~(6)(a)~~] (5)(a).

(c) The [~~lieutenant governor~~] county clerk shall consider a modified feasibility request described in Subsection [~~(6)(a)~~] (5)(a) as an original feasibility request [~~for a feasibility study~~] for purposes of determining the modified feasibility request's processing priority under Subsection [~~10-2a-204(3)~~] 10-2a-204(8).

Section 13. Section 10-2a-207 is amended to read:

10-2a-207. Additional public hearings on feasibility study results -- Notice of hearings.

(1) As used in this section, "specified landowner" means the same as that term is defined in Section [~~10-2a-203~~] 10-2a-204.5.

(2) If the results of the feasibility study or supplemental feasibility study comply with Subsection [~~10-2a-205(6)(a)~~] 10-2a-205(5)(a), the [~~lieutenant governor~~] county clerk shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct [~~two~~] additional public hearings in accordance with this section.

(3) (a) If an area proposed for incorporation is approved for annexation after the feasibility study or supplemental feasibility study is conducted but before the [~~lieutenant governor~~] county clerk conducts the [~~first~~] second public hearing under Subsection (4), the [~~lieutenant governor~~] county clerk may not conduct the [~~first~~] second public hearing under Subsection (4) unless:

(i) the sponsors of the feasibility study file a modified feasibility request [~~for a feasibility study~~] in accordance with Section 10-2a-206; and

(ii) the results of the supplemental feasibility study comply with Subsection [~~10-2a-205(6)(a)~~] 10-2a-205(5)(a).

(b) For purposes of Subsection (3)(a), an area is approved for annexation if [~~a condition described in Subsection 10-2a-206(1)(a)(iv) occurs~~] a municipal legislative body:

(i) approves an annexation petition proposing the annexation of an area that is part of the area proposed for incorporation under Section 10-2-407 or 10-2-408; or

(ii) adopts an ordinance approving the annexation of an area that is part of the area proposed for incorporation under Section 10-2-418.

(4) The [~~lieutenant governor~~] county clerk shall conduct the [~~first~~] second public hearing:

(a) within 60 days after the day on which the [~~lieutenant governor~~] county clerk receives the results under Subsection (2) or (3)(a)(ii);

(b) at a location approved by the lieutenant governor within or near the proposed municipality; and

(c) to allow the feasibility consultant to present the results of the feasibility study[~~; and (d) to~~] and

inform the public about the results [~~of the feasibility study~~].

[~~(5) (a) Within 30 calendar days after the day on which the lieutenant governor completes the first public hearing under Subsection (4), a specified landowner may request that the lieutenant governor exclude all or part of the property owned by the specified landowner from the proposed incorporation by filing a notice of exclusion with the Office of the Lieutenant Governor that describes the property for which the specified landowner requests exclusion.~~]

[~~(b) The lieutenant governor shall exclude the property identified by a specified landowner under Subsection (5)(a) from the proposed incorporation boundaries unless the lieutenant governor finds by clear and convincing evidence that:~~]

[~~(i) the exclusion will leave an unincorporated island within the proposed municipality; and~~]

[~~(ii) the property receives from the county a majority of currently provided municipal services.~~]

[~~(c) (i) Within five days after the day on which the lieutenant governor determines whether to exclude property under Subsection (5)(b), the lieutenant governor shall mail or transmit written notice of whether the property is included or excluded from the proposed municipality to:~~]

[~~(A) the specified landowner that requested the property's exclusion; and~~]

[~~(B) the contact sponsor.~~]

[~~(ii) If the lieutenant governor makes a determination to include a property under Subsection (5)(b), the lieutenant governor shall include, in the written notice described in Subsection (5)(c)(i), a detailed explanation of the lieutenant governor's determination.~~]

[~~(d) (i) If the lieutenant governor excludes property from the proposed municipality under Subsection (5)(b), or if an area proposed for incorporation is approved for annexation within the time period for a specified landowner to request an exclusion under Subsection (5)(a), the lieutenant governor may not conduct the second public hearing under Subsection (6), unless:~~]

[~~(A) the sponsors of the feasibility study file a modified request for a feasibility study in accordance with Section 10-2a-206; and~~]

[~~(B) the results of the supplemental feasibility study comply with Subsection 10-2a-205(6)(a).~~]

[~~(ii) For purposes of Subsection (5)(d)(i), an area is approved for annexation if a condition described in Subsection 10-2a-206(1)(a)(iv) occurs.~~]

[~~(6) The lieutenant governor shall conduct the second public hearing:~~]

[~~(a) (i) within 30 days after the day on which the time period described in Subsection (5)(a) expires, if Subsection (5)(d) does not apply; or~~]

[~~(ii) within 30 days after the day on which the lieutenant governor receives the results of the supplemental feasibility study described in Subsection (5)(d)(i)(B), if Subsection (5)(d) applies;~~]

[~~(b) within or near the proposed municipality; and~~]

[~~(c) to allow the feasibility consultant to present the results of and inform the public about:~~]

[~~(i) the feasibility study presented to the public in the first public hearing under Subsection (4), if Subsection (5)(d) does not apply; or~~]

[~~(ii) the supplemental feasibility study described in Subsection (5)(d)(i)(B), if Subsection (5)(d) applies.~~]

(5) The county clerk shall:

(a) conduct an additional public hearing following each occasion when, after the day of the second public hearing, the county clerk receives the results of a supplemental feasibility study that comply with Subsection 10-2a-205(5); and

(b) hold the public hearing described in Subsection (5)(a):

(i) within 30 days after the day on which the county clerk receives the results of the supplemental feasibility study;

(ii) at a location approved by the lieutenant governor within or near the proposed municipality;

(iii) to inform the public that the feasibility presented to the public at the preceding public hearing does not apply; and

(iv) to allow the feasibility consultant to present the results of the supplemental feasibility study and inform the public about the results.

[~~(7)~~] (6) At each public hearing required under this section, the [~~lieutenant governor~~] county clerk shall:

(a) provide a map or plat of the boundary of the proposed municipality;

(b) provide a copy of the applicable feasibility study for public review;

(c) allow members of the public to express views about the proposed incorporation, including views about the proposed boundaries; and

(d) allow the public to ask the feasibility consultant questions about the applicable feasibility study.

[~~(8)~~] (7) The [~~lieutenant governor~~] county clerk shall publish notice of each public hearing required under this section and Section 10-2a-204.3:

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the proposed municipality, in places within the proposed municipality that are most likely to give notice to the residents within, and the owners of real property located within, the proposed municipality; or

(ii) at least three weeks before the public hearing, by mailing notice to each residence within, and each owner of real property located within, the proposed municipality;

(b) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks before the day of the public hearing; and

(c) on the [~~lieutenant governor's~~] county's website for three weeks before the day of the public hearing.

[~~(9)~~] (8) (a) Except as provided in Subsection [~~(9)(b),~~] (8)(b), for a hearing described in this section, the notice described in Subsection [~~(8)~~] (7) shall:

(i) include the feasibility study summary described in Subsection [~~10-2a-205(3)(c)~~] 10-2a-205(2)(c)(iii); and

(ii) indicate that a full copy of the feasibility study is available on the [~~lieutenant governor's~~] county's website and for inspection at the [~~Office of the Lieutenant Governor; and~~] county clerk's office.

[~~(iii) indicate that under no circumstances may property be excluded or annexed from the proposed incorporation after the time period specified in Subsection (5)(a) has expired, if the notice is for the first public hearing under Subsection (4).~~]

(b) Instead of publishing the feasibility summary under Subsection [~~(9)(a)(i), the lieutenant governor~~] (8)(a)(i), the county clerk may publish a statement that specifies the following sources where a resident within, or the owner of real property located within, the proposed municipality, may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the county's website;

[~~(ii)~~] (iii) the physical address of the [~~Office of the Lieutenant Governor~~] county clerk's office; and

[~~(iii)~~] (iv) a mailing address and telephone number.

Section 14. Section 10-2a-208 is amended to read:

10-2a-208. Petition for incorporation -- Requirements and form.

(1) At any time within one year after the day on which the [~~lieutenant governor~~] county clerk completes the public hearings [~~described in~~] required under Section 10-2a-207, individuals within the proposed municipality may proceed with the incorporation process by circulating, and submitting to the [~~lieutenant governor an incorporation~~] county clerk, a petition for incorporation that, to be certified under Subsection 10-2a-209(1)(b)(i), is required to be signed by:

(a) 10% of all registered voters within the area proposed to be incorporated as a municipality, as of the [~~date~~] day on which the petition for incorporation is filed;

(b) if the petition for incorporation proposes the incorporation of a city, and subject to Subsection (4), 10% of all registered voters within 90% of the voting precincts within the area proposed to be incorporated as a city, as of the [~~date~~] day on which the petition for incorporation is filed; and

(c) the owners of private real property that:

(i) is located within the proposed municipality;

(ii) covers at least 10% of the total private land area within the proposed municipality; and

(iii) [~~is~~] on January 1 of the current year, was equal in assessed fair market value to at least 7% of the assessed fair market value of all private real property within the proposed municipality.

(2) The [~~petition sponsors shall ensure that the~~] petition for incorporation shall:

(a) [~~includes~~] include the typed or printed name and current residence address of each voter [~~that~~] who signs the petition for incorporation;

(b) [~~describes~~] describe the area proposed to be incorporated as a municipality, as described in the feasibility [~~study~~] request or the modified feasibility request that complies with Subsection [~~10-2a-205(6)(a)~~] 10-2a-205(5)(a);

(c) [~~states~~] state the proposed name for the proposed municipality;

(d) [~~designates~~] designate five signers of the petition for incorporation as petition sponsors, one of whom is designated as the contact sponsor, with the mailing address and telephone number of each;

(e) if the sponsors propose the incorporation of a city, [~~states~~] state that the signers of the petition for incorporation appoint the sponsors, if the incorporation measure passes, to represent the signers in:

(i) selecting the number of commission or council members the new city will have; and

(ii) drawing district boundaries for the election of council members, if the voters decide to elect council members by district;

(f) [~~is~~] be accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed municipality; and

(g) substantially [~~complies~~] comply with and [~~is~~] be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed municipality)

To the Honorable Lieutenant Governor and the [name of county legislative body]:

We, the undersigned registered voters within the area described in this petition for incorporation, respectfully petition the lieutenant governor [~~to direct~~] and the county legislative body to submit to the registered voters residing within the area described in this petition for incorporation, at the next regular general election, the question of whether the area should incorporate as a municipality. Each of the undersigned affirms that each has personally signed this petition for

incorporation and is a registered voter who resides within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a municipality is described as follows: [(][insert an accurate description of the area proposed to be incorporated[)]].

(3) (a) [A] Except as provided in Subsection (3)(b), a valid signature on a feasibility request described in Section 10-2a-202 or a modified feasibility request described in Section 10-2a-206 may [not] be used toward fulfilling the signature requirement described in Subsection (1)[: (a)] if the feasibility request notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for a petition for incorporation under this section[; and].

(b) [unless] A signature described in Subsection (3)(a) may not be used toward fulfilling the signature requirement described in Subsection (1) if the signer files with the [lieutenant governor] county clerk a written withdrawal of the signature before the petition for incorporation is filed with the county clerk under this section [with the lieutenant governor].

(4) (a) A signature does not qualify under Subsection (1)(b) if the signature is gathered from a voting precinct that:

(i) except in a proposed municipality that will be a city of the fifth class, is not located entirely within the boundaries of a proposed city; or

(ii) includes less than 50 registered voters.

(b) A voting precinct that is not located entirely within the boundaries of the proposed city does not qualify as a voting precinct under Subsection (1)(b).

Section 15. Section 10-2a-209 is amended to read:

10-2a-209. Processing of petition by county clerk -- Certification or rejection -- Petition modification.

(1) Within 45 days after the day on which [an incorporation] a petition for incorporation is filed under Section 10-2a-208, the [lieutenant governor] county clerk shall:

(a) [with the assistance of other county officers of the county in which the incorporation is proposed, and from whom the lieutenant governor requests assistance,] determine whether the petition for incorporation complies with Section 10-2a-208; and

(b) (i) if the [lieutenant governor] county clerk determines that the petition for incorporation complies with Section 10-2a-208, certify the petition for incorporation and notify in writing the contact sponsor of the certification; or

(ii) if the [lieutenant governor] county clerk determines that the petition for incorporation fails to comply with Section 10-2a-208, reject the petition for incorporation and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) (a) If the [lieutenant governor] county clerk rejects a petition for incorporation under Subsection (1)(b)(ii), the [petition] sponsors of the petition for incorporation may correct the deficiencies for which the petition for incorporation was rejected and refile the petition for incorporation with the [lieutenant governor] county clerk.

(b) Notwithstanding the deadline described in Subsection 10-2a-208(1), the [petition] sponsors of the petition for incorporation may file a modified petition for incorporation under Subsection (2)(a) no later than 30 days after the day on which the [lieutenant governor] county clerk notifies the contact sponsor of rejection under Subsection (1)(b)(ii).

(c) A valid signature on [an incorporation] a petition for incorporation described in Section 10-2a-208 may be used toward fulfilling the signature requirement described in Subsection 10-2a-208(1) for a petition for incorporation that is modified under Subsection (2)(a).

(3) (a) Within 20 days after the day on which the [lieutenant governor] county clerk receives a modified petition for incorporation under Subsection (2)(a), the [lieutenant governor] county clerk shall review the modified petition for incorporation in accordance with Subsection (1).

(b) The sponsors of [an incorporation] a petition for incorporation may not modify the petition for incorporation more than once.

Section 16. Section 10-2a-210 is amended to read:

10-2a-210. Incorporation election -- Notice of election -- Voter information pamphlet.

(1) (a) If the [lieutenant governor] county clerk certifies a petition for incorporation under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition for incorporation to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the [lieutenant governor] county clerk certifies the petition for incorporation.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county legislative body shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall provide notice of the election:

(a) (i) by publishing notice in a newspaper of general circulation within the area proposed to be

incorporated at least once a week for three successive weeks before the election;

(ii) at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated, subject to a maximum of 10 notices; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the election;

(c) if the proposed municipality has a website, by posting notice on the proposed municipality's website for three weeks before the day of the election; and

(d) by posting notice on the county's website for three weeks before the day of the election.

(3) (a) The notice [~~required by~~] described in Subsection (2) shall [~~contain~~] include:

(i) a statement of the contents of the petition for incorporation;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(b), the feasibility study summary described in Subsection [~~10-2a-205(3)(c)~~] 10-2a-205(2)(c)(iii) and a statement that a full copy of the study is available on the [~~lieutenant governor's~~] county's website and for inspection at the [~~Office of the Lieutenant Governor~~] county offices.

(b) Instead of including the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in the area proposed to be incorporated may view or obtain a copy of the feasibility study:

(i) the [~~lieutenant governor's~~] county's website;

(ii) the physical address of the [~~Office of the Lieutenant Governor~~] county clerk office; and

(iii) a mailing address and telephone number.

(4) (a) In addition to the notice [~~required under~~] described in Subsection (2), the county clerk shall publish and distribute, before the incorporation election is held, a voter information pamphlet:

(i) in accordance with the procedures and requirements of Section 20A-7-402;

(ii) in consultation with the lieutenant governor; and

(iii) in a manner that the county clerk determines is adequate, subject to Subsections (4)(a)(i) and (ii).

(b) The voter information pamphlet described in Subsection (4)(a):

(i) shall inform the public of the proposed incorporation; and

(ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.

(5) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(6) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 17. Section 10-2a-213 is amended to read:

10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the [~~petition~~] sponsors of the petition for incorporation shall, within 60 days after the day on which the county conducts the canvass of the election under Section 10-2a-212:

(a) for the incorporation of a city:

(i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the city; and

(ii) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population; and

(b) for the incorporation of any municipality:

(i) determine the initial terms of the mayor and members of the municipal council so that:

(A) the mayor and approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows the mayor's and members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the municipal council are elected to serve an initial term, of no less than one year, that allows the members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(ii) submit in writing to the county legislative body the results of the determinations made by the sponsors under Subsections (1)(a) and (b)(i).

(2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(3) Before making a determination under Subsection (1)(a) or (b)(i), the [~~petition~~] sponsors of the petition for incorporation shall, under the direction of the county clerk, hold a public hearing within the future municipality on the applicable issues described in Subsections (1)(a) and (b)(i).

(4) [~~The petition sponsors shall provide notice~~] Notice of the public hearing described in Subsection (3) shall be provided as follows:

(a) the sponsors of the petition for incorporation shall:

(i) at least two weeks before the day of the public hearing, [~~by posting~~] post one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents within, and the owners of real property located within, the future municipality, subject to a maximum of 10 notices; or

(ii) at least two weeks before the day of the public hearing, [~~by mailing~~] mail notice to each residence within, and each owner of real property located within, the future municipality;

(b) [~~by posting~~] the county clerk shall post notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks before the day of the public hearing;

(c) if the future municipality has a website, [~~by posting~~] the sponsors of the petition for incorporation shall post notice on the future municipality's website for two weeks before the day of the public hearing; and

(d) [~~by posting notice~~] the county clerk shall post notice on the county's website for two weeks before the day of the public hearing.

Section 18. Section 10-2a-214 is amended to read:

10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for municipal office.

(1) Within 20 days after the day on which a county legislative body receives the [~~petition sponsors' determination under~~] determination described in Subsection 10-2a-213(1)(b)(ii), the county clerk shall provide a notice, in accordance with Subsection (2), containing:

(a) the number of municipal council members to be elected for the new municipality;

(b) except as provided in Subsection (3), if some or all of the municipal council members are to be elected by district, a description of the boundaries of those districts;

(c) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council; and

(d) information about the length of the initial term of each of the municipal officers.

(2) The county clerk shall provide the notice described in Subsection (1):

(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents in the future municipality, subject to a maximum of 10 notices; or

(ii) by mailing notice to each residence in the future municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks;

(c) if the future municipality has a website, by posting notice on the future municipality's website for two weeks; and

(d) by posting notice on the county's website for two weeks.

(3) Instead of including a description of the district boundaries under Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy of the district boundaries:

(a) the county website;

(b) the physical address of the county [~~offices~~] clerk's office; and

(c) a mailing address and telephone number.

(4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:

(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

Section 19. Section 10-2a-220 is amended to read:

10-2a-220. Costs of incorporation -- Fees established by lieutenant governor.

(1) (a) There is created an expendable special revenue fund known as the "Municipal Incorporation Expendable Special Revenue Fund."

(b) The fund shall consist of:

(i) appropriations from the Legislature; and

(ii) fees the [~~Office of the Lieutenant Governor~~] lieutenant governor collects and remits to the fund under this section.

(c) The [~~Office of the Lieutenant Governor~~] lieutenant governor shall deposit all money collected under this section into the fund.

(2) (a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost incurred by the lieutenant governor or the county for an incorporation proceeding, including:

(i) a request certification;

(ii) a feasibility study;

(iii) a petition certification;

(iv) publication of notices;

(v) public hearings;

(vi) all other incorporation activities occurring after the elections; and

(vii) any other cost incurred by the lieutenant governor or county in relation to an incorporation proceeding.

(b) A cost under Subsection (2)(a) does not include a cost incurred by a county for holding an election under Section 10-2a-210.

(3) The lieutenant governor shall pay for a cost described in Subsection (2)(a) using funds from the Municipal Incorporation Expendable Special Revenue Fund.

(4) (a) An area that incorporates as a municipality shall pay:

(i) to the lieutenant governor each fee established under Subsection (2) for each cost described in Subsection (2)(a) incurred by the lieutenant governor or the county; and

(ii) the county for a cost described in Subsection (2)(b).

(b) The lieutenant governor shall execute a payback agreement with each new municipality for the new municipality to pay the fees described in Subsection (4)(a) over a period that, except as provided in Subsection (4)(c), may not exceed five years.

(c) If necessary, the lieutenant governor may extend a fee payment deadline beyond the deadline described in Subsection (4)(b) by amending the payback agreement described in Subsection (4)(b).

(d) The lieutenant governor shall deposit each fee the lieutenant governor collects under Subsection (4)(a)(i) into the Municipal Incorporation Expendable Special Revenue Fund.

(5) If the lieutenant governor expends funds from the Municipal Incorporation Expendable Special Revenue Fund that are not repaid to the lieutenant governor under Subsection (4)(a)(i) because an area did not incorporate as a municipality, the Legislature shall appropriate money to the fund in an amount equal to the funds that are not repaid.

Section 20. Repealer.

This bill repeals:

Section 10-2a-101, Title.

Section 10-2a-201, Title.

Section 21. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the references in Subsections 10-2a-106(1) and (2) in this bill from "this bill" to the citation to the bill in the Laws of Utah.

Section 22. Coordinating S.B. 37 with S.B. 43 -- Substantive and technical amendments.

If this S.B. 37 and S.B. 43, Public Notice Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) amending Subsection 10-2a-207(8) as follows:

"[~~(8)~~] (7) The [~~lieutenant governor~~] county clerk shall publish notice of each public hearing required under this section[~~:~~], and Section 10-2a-204.3, for the proposed municipality, as a class B notice under Section 63G-28-102, for at least three weeks before the day of the public hearing.

[~~(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the proposed municipality, in places within the proposed municipality that are most likely to give notice to the residents within, and the owners of real property located within, the proposed municipality; or~~]

[~~(ii) at least three weeks before the public hearing, by mailing notice to each residence within, and each owner of real property located within, the proposed municipality;~~]

[~~(b) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks before the day of the public hearing; and~~]

[~~(c) on the lieutenant governor's website for three weeks before the day of the public hearing.~~]"; and

(2) amending Subsection 10-2a-213(4) as follows:

"(4) [~~The petition sponsors shall provide notice~~] Notice of the public hearing described in Subsection (3) shall be provided as follows:

[~~(a) (i) at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents within, and the owners of real property located within, the future municipality, subject to a maximum of 10 notices; or~~]

[~~(ii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the future municipality;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks before the day of the public hearing;~~]

(a) the county clerk shall provide notice for the future municipality, as a class B notice under Section 63G-28-102, for at least two weeks before the day of the public hearing; and

[~~(c)~~] (b) if the future municipality has a website, [~~by posting~~] the sponsors of the petition for incorporation shall post notice on the future municipality's website for at least two weeks before the day of the public hearing[~~; and~~].

[~~(d) by posting notice on the county's website for two weeks before the day of the public hearing.~~]".

CHAPTER 225
S. B. 42
Passed February 16, 2023
Approved March 14, 2023
Effective May 3, 2023

MASSAGE THERAPY PRACTICE ACT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill amends the Massage Therapy Practice Act.

Highlighted Provisions:

This bill:

- creates and amends definitions;
- creates a license classification for a massage assistant and a massage assistant in-training;
- establishes the qualifications and scope of practice for a massage assistant and a massage assistant in-training;
- amends massage therapist examination and background check requirements;
- addresses supervision of a massage apprentice, massage assistant, and massage assistant in-training;
- requires certain signage and disclosures when a massage assistant or massage assistant in-training provides a massage service;
- clarifies consent requirements for certain massage services; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301.5, as last amended by Laws of Utah 2022, Chapters 221, 438, and 466
58-47b-102, as last amended by Laws of Utah 2012, Chapter 34
58-47b-301, as last amended by Laws of Utah 2013, Chapter 278
58-47b-302, as last amended by Laws of Utah 2020, Chapter 339
58-47b-303, as enacted by Laws of Utah 1996, Chapter 76
58-47b-304, as last amended by Laws of Utah 2021, Chapter 403
58-47b-305, as last amended by Laws of Utah 1998, Chapter 159
58-47b-501, as last amended by Laws of Utah 2018, Chapter 318
58-47b-502, as last amended by Laws of Utah 1998, Chapter 159

ENACTS:

58-47b-302.1, Utah Code Annotated 1953
58-47b-306, Utah Code Annotated 1953

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

Section 1. Section 58-1-301.5 is amended to read:

58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of individuals who are applying for licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

(a) Section 58-17b-307;

(b) Sections 58-24b-302 and 58-24b-302.1;

(c) Section 58-31b-302;

(d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy Practice Act;

(e) Section 58-44a-302.1;

(f) [~~Section~~] Sections 58-47b-302 and 58-47b-302.1;

(g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm company agents;

(h) Sections 58-60-103.1, 58-60-205, 58-60-305, and 58-60-405, of Chapter 60, Mental Health Professional Practice Act;

(i) Sections 58-61-304 and 58-61-304.1;

(j) Section 58-63-302;

(k) Section 58-64-302;

(l) Sections 58-67-302 and 58-67-302.1; and

(m) Sections 58-68-302 and 58-68-302.1.

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 2. Section 58-47b-102 is amended to read:

58-47b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Board of Massage Therapy created in Section 58-47b-201.

(2) "Breast" means the female mammary gland and does not include the muscles, connective tissue, or other soft tissue of the upper chest.

(3) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the muscular system.

(4) "Massage apprentice" means an individual licensed under this chapter as a massage apprentice [~~to work under the direct supervision of a licensed massage therapist~~].

(5) "Massage assistant" means an individual licensed under this chapter as a massage assistant.

(6) "Massage assistant in-training" means an individual licensed under this chapter as a massage assistant in-training.

[~~(5)~~] (7) "Massage therapist" means an individual licensed under this chapter as a massage therapist.

(8) "Massage therapy supervisor" means:

(a) a massage therapist who has at least three years of experience as a massage therapist and has engaged in the lawful practice of massage therapy for at least 3,000 hours;

(b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(c) a physician licensed under Chapter 67, Utah Medical Practice Act;

(d) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or

(f) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act.

(9) (a) "Practice of limited massage therapy" means:

(i) the systematic manual manipulation of the soft tissue of the body for the purpose of promoting the therapeutic health and well-being of a client, enhancing the circulation of the blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic balance, relaxation, or achieving homeostasis;

(ii) seated chair massage;

(iii) the use of body wraps;

(iv) aromatherapy;

(v) reflexology; or

(vi) in connection with an activity described in this Subsection (9), the use of:

(A) the hands;

(B) a towel;

(C) a stone;

(D) a shell;

(E) a bamboo stick; or

(F) an herbal ball compress.

(b) "Practice of limited massage therapy" does not include work on an acute or subacute injury.

[~~(6)~~] (10) "Practice of massage therapy" means:

(a) the examination, assessment, and evaluation of the soft tissue structures of the body for the purpose of devising a treatment plan to promote homeostasis;

(b) the systematic manual or mechanical manipulation of the soft tissue of the body for [~~the purpose of: (i)~~] the purpose of promoting the therapeutic health and well-being of a client[~~; (ii)~~], enhancing the circulation of the blood and lymph[~~; (iii)~~], relaxing and lengthening muscles[~~;(iv)~~], relieving pain[~~;(v)~~], restoring metabolic balance[~~; (vi)~~], or achieving homeostasis[~~; or~~], or for any other purpose;

[~~(vii) other purposes;~~]

(c) the use of the hands or a mechanical or electrical apparatus in connection with this Subsection [~~(6)~~] (10);

(d) the use of rehabilitative procedures involving the soft tissue of the body;

(e) range of motion or movements without spinal adjustment as set forth in Section 58-73-102;

(f) [~~oil~~] the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and cabinet baths;

(g) manual traction and stretching exercise;

(h) correction of muscular distortion by treatment of the soft tissues of the body;

(i) counseling, education, and other advisory services to reduce the incidence and severity of physical disability, movement dysfunction, and pain;

(j) [~~similar or related~~] activities and modality techniques similar or related to the activities and techniques described in this Subsection (10);

(k) [~~the~~] a practice described in this Subsection [~~(6)~~] (10) on an animal to the extent permitted by:

(i) Subsection 58-28-307(12);

(ii) the provisions of this chapter; and

(iii) division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(l) providing, offering, or advertising a paid service using the term massage or a derivative of the word massage, regardless of whether the service includes physical contact.

[~~(7)~~] (11) "Soft tissue" means the muscles and related connective tissue.

[~~(8)~~] (12) "Unlawful conduct" [~~is as~~] means the same as that term is defined in Sections 58-1-501 and 58-47b-501.

[~~(9)~~] (13) "Unprofessional conduct" [~~is as~~] means the same as that term is defined in Sections 58-1-501 and 58-47b-502 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 58-47b-301 is amended to read:

58-47b-301. Licensure required.

(1) An individual shall hold a license issued under this chapter in order to engage in the practice of massage therapy or the practice of limited massage therapy, except as specifically provided in Section 58-1-307 or 58-47b-304.

(2) An individual shall have a license in order to:

(a) represent [~~himself~~] oneself as a massage therapist [~~or~~], massage apprentice, massage assistant, or massage assistant in-training;

(b) represent [~~himself~~] oneself as providing a service that is within the practice of massage therapy or the practice of limited massage therapy or use the word massage or any other word to describe [~~such~~] the services; or

(c) charge or receive a fee or any consideration for providing a service that is within the practice of massage therapy or the practice of limited massage therapy.

Section 4. Section 58-47b-302 is amended to read:

58-47b-302. License classifications -- Qualifications for licensure.

(1) The division shall issue licenses under this chapter in the classifications of:

(a) massage therapist; [~~and~~]

(b) massage apprentice[~~.~~];

(c) massage assistant; and

(d) massage assistant in-training.

(2) [~~Each~~] An applicant for licensure as a massage therapist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be 18 years [~~of age~~] old or older;

(d) have either:

(i) (A) graduated from a school of massage having a curriculum [~~which~~] that meets standards established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) completed equivalent education and training in compliance with division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) completed a massage apprenticeship program consisting of a minimum of 1,000 hours of supervised training over a minimum of 12 months and in accordance with standards established by [~~the~~] division [~~by~~] rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(e) pass [~~examinations~~]:

(i) the Federation of State Massage Therapy Boards Massage and Bodywork Licensing Examination; or

(ii) any other examination established by [~~rule by the division~~] division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) [~~Each~~] An applicant for licensure as a massage apprentice shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be 18 years [~~of age~~] old or older;

(d) provide satisfactory evidence to the division that the [~~individual~~] applicant will practice as a massage apprentice only under the direct supervision of a licensed massage therapist in good standing [~~and who has~~] who, for at least 6,000 hours, has engaged in the lawful practice of massage therapy as a licensed massage therapist [~~for not less than 6,000 hours~~]; and

(e) [~~successfully complete~~] pass an examination as required by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) An applicant for licensure as a massage assistant shall:

(i) submit an application in a form prescribed by the division;

(ii) pay a fee determined by the department in accordance with Section 63J-1-504;

(iii) be 18 years old or older;

(iv) subject to Subsection (4)(b), complete at least 300 hours of education and training approved by division rule made accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(v) provide satisfactory evidence to the division that the applicant will practice as a massage assistant only under the indirect supervision of a massage therapy supervisor; and

(vi) pass an examination as required by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The 300-hour education and training requirement described in Subsection (4)(a) shall include:

(i) at least 150 hours of education and training while the applicant is:

(A) enrolled in massage school; or

(B) licensed as a massage assistant in-training and under the direct supervision of a massage therapist in good standing who, for at least 6,000

hours, has engaged in the lawful practice of massage therapy; and

(ii) at least 150 hours of education and training while the applicant is:

(A) enrolled in massage school; or

(B) licensed as a massage assistant in-training and under the indirect supervision of a massage therapist in good standing who, for at least 6,000 hours, has engaged in the lawful practice of massage therapy.

(5) An applicant for licensure as a massage assistant in-training shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department in accordance with Section 63J-1-504;

(c) be 18 years old or older; and

(d) provide satisfactory evidence to the division that the applicant will practice as a massage assistant in-training under the supervision of a massage therapist for a period of no more than six months for the purpose of satisfying the requirements described in Subsections (4)(a)(iv) and (4)(b) for licensure as a massage assistant.

(6) (a) A massage therapist may supervise at one time up to six individuals licensed as a massage apprentice or massage assistant in-training.

(b) A massage therapy supervisor may supervise at one time up to six individuals licensed as a massage assistant.

[~~(4) (a) Any~~] (7) A new massage therapist [~~or~~], massage apprentice, massage assistant, or massage assistant in-training applicant shall submit [~~fingerprint cards in a form acceptable to the division at the time the license application is filed and shall consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.~~] to and pass a criminal background check in accordance with Section 58-47b-302.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(b) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each new massage therapist or apprentice applicant through the national criminal history system (NCIC) or any successor system.~~]

[~~(c) The cost of the background check and the fingerprinting shall be borne by the applicant.~~]

[~~(5) (a) Any new massage therapist or massage apprentice license issued under this section shall be conditional, pending completion of the criminal background check. If the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license shall be immediately and automatically revoked.~~]

[~~(b) Any person whose conditional license has been revoked under Subsection (5) (a) shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.~~]

[~~(6) An applicant who successfully completes a fingerprint background check under Subsection (4) may not be required by any other state or local government body to submit to a second fingerprint background check as a condition of lawfully practicing massage therapy in this state.~~]

Section 5. Section 58-47b-302.1 is enacted to read:

58-47b-302.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) (a) A new license issued under this chapter is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Subsection 58-47b-302(7) demonstrates the applicant has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license is revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(7) An applicant who successfully completes a background check under this section may not be required by any other state or local government body to submit to a second background check as a condition of lawfully engaging in the practice of massage therapy or the practice of limited massage therapy in this state.

Section 6. Section 58-47b-303 is amended to read:

58-47b-303. Term of license -- Expiration -- Renewal.

(1) (a) [~~Each~~] Except as provided in Subsection (3), the division shall issue a license [~~issued~~] under this chapter [~~shall be issued~~] in accordance with a two-year renewal cycle established by [~~rule~~] division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.

(2) [~~Each~~] Subject to Subsection (3), a license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

(3) A massage assistant in-training license expires six months after the day on which the division issues the massage assistant in-training license.

Section 7. Section 58-47b-304 is amended to read:

58-47b-304. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the practice of massage therapy [~~as defined under this chapter,~~] or the practice of limited massage therapy, subject to the stated circumstances and limitations, without being licensed[~~, but may not represent themselves as a massage therapist or massage apprentice:~~] under this chapter:

(a) a physician or surgeon licensed under Chapter 67, Utah Medical Practice Act;

(b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

(c) a nurse licensed under Chapter 31b, Nurse Practice Act, or under Chapter 44a, Nurse Midwife Practice Act;

(d) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(e) a physical therapist assistant licensed under Chapter 24b, Physical Therapy Practice Act, while under the general supervision of a physical therapist;

(f) an osteopathic physician or surgeon licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(g) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act;

(h) a hospital staff member employed by a hospital, who practices massage as part of the staff member's responsibilities;

(i) an athletic trainer licensed under Chapter 40a, Athletic Trainer Licensing Act;

(j) a student in training enrolled in a massage therapy school approved by the division;

(k) a naturopathic physician licensed under Chapter 71, Naturopathic Physician Practice Act;

(l) (i) an occupational therapist licensed under Chapter 42a, Occupational Therapy Practice Act; and

(ii) an occupational therapy assistant licensed under Chapter 42a, Occupational Therapy Practice Act, while under the general supervision of an occupational therapist;

(m) an individual performing gratuitous massage; and

(n) an individual:

(i) certified by or through, and in good standing with, an industry organization that is recognized by the division and that represents a profession with established standards and ethics:

(A) who is certified to practice reflexology and whose practice is limited to the scope of practice of reflexology;

(B) who is certified to practice a type of zone therapy, including foot zone therapy, and whose practice is limited to the scope of practice for which the individual is certified;

(C) who is certified to practice ortho-bionomy and whose practice is limited to the scope of practice of ortho-bionomy;

(D) who is certified to practice bowenwork and whose practice is limited to the scope of practice of bowenwork; or

(E) who is certified to practice a type of brain integration and whose practice is limited to the scope of practice for which the individual is certified;

(ii) whose clients remain fully clothed from the shoulders to the knees; and

(iii) whose clients do not receive gratuitous massage from the individual.

(2) An individual described in Subsection (1) may not represent oneself as a massage therapist, massage apprentice, massage assistant, or massage assistant in-training.

(3) This chapter may not be construed to:

(a) authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state[.];

[~~(3) This chapter may not be construed to:~~]

[~~(a)~~] (b) require insurance coverage or reimbursement for massage therapy or limited massage therapy from third party payors; or

[~~(b)~~] (c) prevent an insurance carrier from offering coverage for massage therapy or limited massage therapy.

Section 8. Section 58-47b-305 is amended to read:

58-47b-305. State and local jurisdiction.

(1) (a) The division is the only agency authorized to license individuals to [~~practice~~] engage in the practice of massage therapy or the practice of limited massage therapy within the state or any of [~~its~~] the state's political subdivisions.

(b) This chapter does not prevent any political subdivision of the state from enacting:

(i) ordinances governing the operation of establishments offering massages; or

(ii) ordinances regulating the practice of massage therapy or the practice of limited massage therapy, if the ordinances are not less stringent than this chapter.

(2) This chapter does not prohibit any political subdivision of the state from prosecuting [~~unlicensed individuals~~]:

(a) an unlicensed individual who is engaged in the practice of massage therapy [~~or from prosecuting licensed individuals who are~~] or the practice of limited massage therapy; or

(b) a licensed individual who is engaged in unlawful conduct.

Section 9. Section 58-47b-306 is enacted to read:

58-47b-306. Required signage and disclosures.

(1) As used in this section, "massage establishment" means an establishment in which an individual lawfully engages in the practice of massage therapy or the practice of limited massage therapy.

(2) If a massage assistant or massage assistant in-training engages in the practice of limited massage therapy at a massage establishment, the massage establishment shall prominently display to the public a sign that indicates certain massage services offered at the massage establishment are performed by a massage assistant or a massage assistant in-training.

(3) If an individual requests a massage service that is performed by a massage assistant or a massage assistant in-training, the licensee performing or the massage therapy supervisor supervising the massage service shall ensure that the individual is notified before scheduling or agreeing to the massage service that the massage service is performed by a massage assistant or massage assistant in-training.

Section 10. Section 58-47b-501 is amended to read:

58-47b-501. Unlawful conduct.

(1) "Unlawful conduct" includes:

[~~(1)~~] (a) practicing, engaging in, or attempting to practice or engage in the practice of massage therapy without holding a current license as a massage therapist or a massage apprentice under this chapter;

[~~(2)~~] (b) advertising or representing [~~himself as practicing~~] oneself as engaging in the practice of massage therapy when not licensed to do so; [~~and~~]

(c) practicing, engaging in, or attempting to practice or engage in the practice of limited massage therapy without holding a current license as a massage therapist, massage apprentice, massage assistant, or massage assistant in-training under this chapter;

(d) advertising or representing oneself as engaging in the practice of limited massage therapy when not licensed to do so; and

[~~(3)~~] (e) massaging, touching, or applying any instrument or device by a licensee in the course of [~~practicing or~~] engaging in the practice of massage therapy or the practice of limited massage therapy to the:

[~~(a)~~] (i) genitals;

[~~(b)~~] (ii) anus; or

[~~(c)~~] (iii) except as provided in Subsection (2), breasts of a female patron[~~,except when a female patron~~].

(2) (a) Subsection (1)(e)(iii) does not apply if a female patron:

(i) requests breast massage, as may be further defined by division rule[~~, and signs a written consent form, which must also include the signature of a parent or legal guardian if the patron is a minor, authorizing the procedure and outlining the reason for it before the procedure is performed.~~] made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) subject to Subsection (2)(b), signs a written consent form before each time the procedure is performed.

(b) If the female patron is a minor, the female patron's parent or legal guardian shall sign the written consent form described in Subsection (2)(a).

Section 11. Section 58-47b-502 is amended to read:

58-47b-502. Unprofessional conduct.

"Unprofessional conduct" includes the following and may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) maintaining, operating, or assisting in the establishment or operation of any place of business for the purpose of performing the practice of massage therapy or the practice of limited massage therapy without first obtaining a business license, if a license is required;

(2) failing to comply with any applicable ordinances relating to the regulation of massage establishment;

(3) failing to comply with all applicable state and local health or sanitation codes;

(4) failing to properly supervise [~~an apprentice~~] a massage apprentice, massage assistant, or massage assistant in-training;

(5) failing to maintain mechanical or electrical equipment in a safe operating condition;

(6) failing to adequately monitor patrons utilizing steam rooms, dry heat cabinets, or water baths;

(7) prescribing or administering medicine or drugs;

(8) engaging in any act or practice in a professional capacity that is outside of the practice of massage therapy or the practice of limited massage therapy; and

(9) engaging in any act or practice in a professional capacity for which the licensee is not competent to perform through training or experience.

CHAPTER 226
S. B. 45
Passed March 1, 2023
Approved March 14, 2023
Effective July 1, 2023

STATEWIDE ONLINE EDUCATION PROGRAM AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Kera Birkeland

LONG TITLE

General Description:

This bill expands the Statewide Online Education Program.

Highlighted Provisions:

This bill:

- expands the Statewide Online Education Program to:
  - include grade 6 in certain circumstances; and
  - allow additional middle school credits per school year; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the State Board of Education – Statewide Online Education Program Subsidy, as a one-time appropriation:
  - from the Public Education Economic Stabilization Account, One-time, $1,696,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-4-501, as last amended by Laws of Utah 2021, Chapters 362, 413
53F-4-503, as last amended by Laws of Utah 2021, Chapter 362

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

Section 1. Section 53F-4-501 is amended to read:

53F-4-501. Definitions.

As used in this part:

(1) (a) "Certified online course provider" means a provider that the state board approves to offer courses through the Statewide Online Education Program.

(b) "Certified online course provider" does not include an entity described in Subsections 53F-4-504(1)(a) through (c).

(2) "Credit" means credit for a high school course, or the equivalent for a middle school course, as determined by the state board.

(3) "Eligible student" means a student:

(a) who intends to take a course for middle school or high school credit; and

(b) (i) who is enrolled in a district school or charter school in Utah; or

(ii) (A) who attends a private school or home school; and

(B) whose custodial parent is a resident of Utah.

(4) "High school" means grade 9, 10, 11, or 12.

(5) "Middle school" means, only for purposes of student eligibility to participate in the Statewide Online Education Program, grade 6, 7, or 8.

(6) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology.

(7) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

(8) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

(9) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

Section 2. Section 53F-4-503 is amended to read:

53F-4-503. Option to enroll in online courses offered through the Statewide Online Education Program.

(1) Subject to Subsections (2)[~~, (3), and (9)~~] and (8), an eligible student may enroll in an online course offered through the Statewide Online Education Program if:

(a) the student meets the course prerequisites;

(b) the course is open for enrollment;

(c) the online course is aligned with the student's plan for college and career readiness;

(d) the online course is consistent with the student's IEP, if the student has an IEP; and

(e) the online course is consistent with the student's international baccalaureate program, if the student is participating in an international baccalaureate program.

(2) [~~(a) Except as provided in Subsection (2)(b), an~~] An eligible student may enroll in online courses for no more than six credits per school year.

[~~(b) An eligible student may enroll in an online course for middle school credit for no more than two credits per school year if the eligible student:~~]

[~~(i) does not have a primary LEA of enrollment; and~~]

[~~(ii) is enrolled in a private school.~~]

[~~(3) (a) An eligible student who has a primary LEA of enrollment may enroll in an online course for middle school credit beginning January 1, 2022.~~]

[~~(b) An eligible student who does not have a primary LEA of enrollment may enroll in an online course for middle school credit beginning in the 2022-2023 school year.~~]

[~~(4)~~] (3) Notwithstanding Subsection (2):

(a) a student's primary LEA of enrollment may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or

(b) upon the request of an eligible student, the state board may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.

[~~(5)~~] (4) An eligible student's primary LEA of enrollment:

(a) in conjunction with the student and the student's parent, is responsible for preparing and implementing a plan for college and career readiness for the eligible student, as provided in Section 53E-2-304; and

(b) shall assist an eligible student in scheduling courses in accordance with the student's plan for college and career readiness, graduation requirements, and the student's post-secondary plans.

[~~(6)~~] (5) An eligible student's primary LEA of enrollment may not:

(a) impose restrictions on a student's selection of an online course that fulfills graduation requirements and is consistent with the student's plan for college and career readiness or post-secondary plans; or

(b) give preference to an online course or online course provider.

[~~(7)~~] (6) The state board, including an employee of the state board, may not give preference to an online course or online course provider.

[~~(8)~~] (7) (a) Except as provided in Subsection [~~(8)(b)~~] (7)(b), a person may not provide an inducement or incentive to a public school student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection [~~(8)(a)~~] (7)(a):

(i) "Inducement or incentive" does not mean:

(A) instructional materials or software necessary to take an online course; or

(B) access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the public school student.

[~~(9)~~] (8) If the program lacks sufficient legislative appropriations to fund the enrollment in online courses for all eligible students who do not have a primary LEA of enrollment, the state board shall prioritize funding the enrollment of an eligible student who intends to graduate from high school during the school year in which the student enrolls in an online course.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Statewide Online Education Program Subsidy

From Public Education Economic Stabilization Account, One-time	1,696,000
Schedule of Programs:	
Home and Private School Students	1,696,000

Section 4. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 227
S. B. 47
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

INCARCERATED YOUTH EDUCATION AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill clarifies a definition related to the Utah Tech University Higher Education for Incarcerated Youth Program.

Highlighted Provisions:

This bill:

- clarifies a definition related to the Utah Tech University Higher Education for Incarcerated Youth Program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-31-301, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1

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

Section 1. Section 53B-31-301 is amended to read:

53B-31-301. Utah Tech University Higher Education for Incarcerated Youth Program.

(1) As used in this section:

(a) "Interactive video conferencing" means two-way, real-time transmission of audio and video signals between devices or computers at two or more locations.

(b) "Program" means the Utah Tech University Higher Education for Incarcerated Youth Program.

(c) "Student" means an individual who is:

(i) in the custody of the Division of Juvenile Justice and Youth Services [~~within the timeframe of the course~~] at any time a course is being offered, including:

(A) individuals in the legal custody of the Division of Juvenile Justice and Youth Services; and

(B) individuals who are housed in a detention center that the Division of Juvenile Justice and Youth Services operates; and

(ii) subject to the jurisdiction of the Youth Parole Authority.

(2) Consistent with policies established by the board, Utah Tech University shall, subject to legislative appropriation, establish and administer the Utah Tech University Higher Education for Incarcerated Youth Program to provide:

(a) students needing high school credits opportunities for concurrent enrollment courses;

(b) a consistent, two-year, flexible schedule of higher education courses delivered through interactive video conferencing, in-person, or online methods to students;

(c) a pathway for students to earn college credits that:

(i) apply toward earning a certificate, associate degree, bachelor's degree; or

(ii) satisfy scholarship requirements or other objectives that best meet the needs of an individual student; and

(d) advisory support to students and academic counselors who participate in the program to ensure that the students' higher education courses align with the academic and career goals defined in the students' plans for college and career readiness.

CHAPTER 228
S. B. 48
Passed February 28, 2023
Approved March 14, 2023
Effective May 3, 2023

ENERGY PRODUCER STATES' AGREEMENT AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill directs the Legislature to participate in The Energy Council and provides for the appointment and duties of members.

Highlighted Provisions:

This bill:

- directs the Legislature to participate in The Energy Council;
- provides requirements for legislators appointed as members;
- addresses powers and duties for members;
- provides for compensation and expenses of members;
- requires the Office of Legislative Research and General Counsel to provide staff assistance to members as requested;
- modifies sunset provisions;
- removes a provision related to participation in the Energy Producing States Coalition; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-236, as last amended by Laws of Utah 2022, Chapters 175, 247

ENACTS:

36-7a-601, Utah Code Annotated 1953

REPEALS:

36-12-20, as last amended by Laws of Utah 2018, Chapter 33

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

Section 1. Section 36-7a-601 is enacted to read:

36-7a-601. State participation in The Energy Council -- Membership -- Duties.

(1) As used in this section, "member" means a legislator appointed under the requirements of this section to participate in The Energy Council.

(2) The Legislature shall participate in and appoint members to The Energy Council, a nonpartisan legislative organization that provides a forum for legislators from energy producing states to discuss and collaborate on energy policy.

(3) The Legislature shall appoint four members to The Energy Council as follows:

(a) two senators, appointed by the president of the Senate; and

(b) two representatives, appointed by the speaker of the House.

(4) Members shall:

(a) as able, participate in conferences and meetings of The Energy Council; and

(b) upon request, report on their activities to the Natural Resources, Agriculture, and Environment Interim Committee and the Public Utilities, Energy, and Technology Interim Committee.

(5) The compensation and expenses of a member shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Lodging, Meal, and Transportation Expenses.

(6) The Office of Legislative Research and General Counsel shall provide staff assistance to a member as requested.

Section 2. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates: Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

[~~(2) Section 36-12-20 is repealed June 30, 2023.~~]

[~~(3)~~] (2) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

[~~(4)~~] (3) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1, 2023.

[~~(5)~~] (4) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2022.

Section 3. Repealer.

This bill repeals:

Section 36-12-20, Development of proposed energy producer states' agreement -- Membership selection -- Agreements -- Goals -- Meetings -- Reports.

CHAPTER 229
S. B. 52
Passed February 28, 2023
Approved March 14, 2023
Effective May 3, 2023

PARENTAL INDIGENT DEFENSE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill modifies provisions relating to indigent defense in parental rights actions.

Highlighted Provisions:

This bill:

- modifies the definition of appellate defense services; and
- expands the services provided by the Indigent Appellate Defense Division to include representation for appeals of certain actions relating to the termination or restoration of parental rights.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-22-901, as last amended by Laws of Utah 2022, Chapters 281, 295
78B-22-903, as last amended by Laws of Utah 2022, Chapter 295

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

Section 1. Section 78B-22-901 is amended to read:

78B-22-901. Definitions.

As used in this part:

(1) (a) "Appellate defense services" means the representation of an indigent individual:

(i) described in Subsection 78B-22-201(1)(d) or who is party to an appeal under Section 77-18a-1; [~~or~~]

(ii) in an action or on appeal for postconviction relief under [~~Title 78B,~~] Chapter 9, Postconviction Remedies Act[~~.~~]; or

(iii) in an appeal of right from an action for the termination or restoration of parental rights under Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(b) "Appellate defense services" does not include the representation of an indigent individual:

(i) facing an appeal in a case where the indigent individual was prosecuted for aggravated murder; or

(ii) in an action or appeal for postconviction relief under [~~Title 78B,~~] Chapter 9, Postconviction Remedies Act, if the indigent individual has been sentenced to death.

(2) "Division" means the Indigent Appellate Defense Division created in Section 78B-22-902.

Section 2. Section 78B-22-903 is amended to read:

78B-22-903. Powers and duties of the division.

(1) The division shall:

(a) provide appellate defense services:

(i) for an appeal under Section 77-18a-1, in counties of the third, fourth, fifth, and sixth class; [~~and~~]

(ii) for an action or an appeal for postconviction relief under [~~Title 78B,~~] Chapter 9, Postconviction Remedies Act, if the court appoints the division to represent the indigent individual; and

(iii) for an appeal of right from an action for the termination or restoration of parental rights under Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights; and

(b) provide appellate defense services in accordance with the core principles adopted by the commission under Section 78B-22-404 and any other state and federal standards for appellate defense services.

(2) Upon consultation with the executive director and the commission, the division shall:

(a) adopt a budget for the division;

(b) adopt and publish on the commission's website:

(i) appellate performance standards;

(ii) case weighting standards; and

(iii) any other relevant measures or information to assist with appellate defense services; and

(c) if requested by the commission, provide a report to the commission on:

(i) the provision of appellate defense services by the division;

(ii) the caseloads of appellate attorneys; and

(iii) any other information relevant to appellate defense services in the state.

(3) If the division provides appellate defense services to an indigent individual in an indigent defense system, the division shall provide notice to the district court and the indigent defense system that the division intends to be appointed as counsel for the indigent individual.

(4) The office shall assist with providing training and continual legal education on appellate defense to indigent defense service providers in counties of the third, fourth, fifth, and sixth class.

CHAPTER 230
S. B. 53
Passed February 9, 2023
Approved March 14, 2023
Effective May 3, 2023

GROUNDWATER USE AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill addresses water uses related to groundwater.

Highlighted Provisions:

This bill:

- corrects punctuation related to storage as a beneficial use;
- modifies provisions related to recharge of an aquifer; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-1-4, as last amended by Laws of Utah 2020, Chapters 60, 342
73-5-15, as last amended by Laws of Utah 2012, Chapter 97

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

Section 1. Section 73-1-4 is amended to read:

73-1-4. Reversion to the public by abandonment or forfeiture for nonuse within seven years -- Nonuse application.

(1) As used in this section:

(a) "Public entity" means:

(i) the United States;

(ii) an agency of the United States;

(iii) the state;

(iv) a state agency;

(v) a political subdivision of the state; or

(vi) an agency of a political subdivision of the state.

(b) "Public water supplier" means an entity that:

(i) supplies water, directly or indirectly, to the public for municipal, domestic, or industrial use; and

(ii) is:

(A) a public entity;

(B) a water corporation, as defined in Section 54-2-1, that is regulated by the Public Service Commission;

(C) a community water system:

(I) that:

(Aa) supplies water to at least 100 service connections used by year-round residents; or

(Bb) regularly serves at least 200 year-round residents; and

(II) whose voting members:

(Aa) own a share in the community water system;

(Bb) receive water from the community water system in proportion to the member's share in the community water system; and

(Cc) pay the rate set by the community water system based on the water the member receives; or

(D) a water users association:

(I) in which one or more public entities own at least 70% of the outstanding shares; and

(II) that is a local sponsor of a water project constructed by the United States Bureau of Reclamation.

(c) "Shareholder" means the same as that term is defined in Section 73-3-3.5.

(d) "Water company" means the same as that term is defined in Section 73-3-3.5.

(e) "Water supply entity" means an entity that supplies water as a utility service or for irrigation purposes and is also:

(i) a municipality, water conservancy district, metropolitan water district, irrigation district, or other public agency;

(ii) a water company regulated by the Public Service Commission; or

(iii) any other owner of a community water system.

(2) (a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the appropriator's successor in interest abandons or ceases to beneficially use all or a portion of a water right for a period of at least seven years, the water right or the unused portion of that water right is subject to forfeiture in accordance with Subsection (2)(c).

(b) (i) An appropriator or the appropriator's successor in interest may file an application for nonuse with the state engineer.

(ii) A nonuse application may be filed on all or a portion of the water right, including water rights held by a water company.

(iii) After giving written notice to the water company, a shareholder may file a nonuse application with the state engineer on the water represented by the stock.

(iv) (A) The approval of a nonuse application excuses the requirement of beneficial use of water from the date of filing.

(B) The time during which an approved nonuse application is in effect does not count toward the seven-year period described in Subsection (2)(a).

(v) The filing or approval of a nonuse application or a series of nonuse applications under Subsection (3) does not:

(A) constitute beneficial use of a water right;

(B) protect a water right that is already subject to forfeiture under this section; or

(C) bar a water right owner from:

(I) using the water under the water right as permitted under the water right; or

(II) claiming the benefit of Subsection (2)(e) or any other forfeiture defense provided by law.

(c) (i) Except as provided in Subsection (2)(c)(ii), a water right or a portion of the water right may not be forfeited unless a judicial action to declare the right forfeited is commenced:

(A) within 15 years from the end of the latest period of nonuse of at least seven years; or

(B) within the combined time of 15 years from the end of the most recent period of nonuse of at least seven years and the time the water right was subject to one or more nonuse applications.

(ii) (A) The state engineer, in a proposed determination of rights filed with the court and prepared in accordance with Section 73-4-11, may not assert that a water right was forfeited unless the most recent period of nonuse of seven years ends or occurs:

(I) during the 15 years immediately preceding the day on which the state engineer files the proposed determination of rights with the court; or

(II) during the combined time immediately preceding the day on which the state engineer files the proposed determination of rights consisting of 15 years and the time the water right was subject to one or more approved nonuse applications.

(B) After the day on which a proposed determination of rights is filed with the court a person may not assert that a water right subject to that determination was forfeited before the issuance of the proposed determination, unless the state engineer asserts forfeiture in the proposed determination, or a person, in accordance with Section 73-4-11, makes an objection to the proposed determination that asserts forfeiture.

(iii) A water right, found to be valid in a decree entered in an action for general determination of rights under Chapter 4, Determination of Water Rights, is subject to a claim of forfeiture based on a seven-year period of nonuse that begins after the day on which the state engineer filed the related proposed determination of rights with the court, unless the decree provides otherwise.

(iv) If in a judicial action a court declares a water right forfeited, on the date on which the water right is forfeited:

(A) the right to beneficially use the water reverts to the public; and

(B) the water made available by the forfeiture:

(I) first, satisfies other water rights in the hydrologic system in order of priority date; and

(II) second, may be appropriated as provided in this title.

(d) Except as provided in Subsection (2)(e), this section applies whether the unused or abandoned water or a portion of the water is:

(i) permitted to run to waste; or

(ii) beneficially used by others without right with the knowledge of the water right holder.

(e) This section does not apply to:

(i) the beneficial use of water according to a written, terminable lease or other agreement with the appropriator or the appropriator's successor in interest;

(ii) a water right if its place of use is contracted under an approved state agreement or federal conservation fallowing program;

(iii) those periods of time when a surface water or groundwater source fails to yield sufficient water to satisfy the water right;

(iv) a water right when water is unavailable because of the water right's priority date;

(v) a water right to store water in a surface reservoir, or an aquifer[,] in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act, if the water is stored for present or future beneficial use;

(vi) a water right if a water user has beneficially used substantially all of the water right within a seven-year period, provided that this exemption does not apply to the adjudication of a water right in a general determination of water rights under Chapter 4, Determination of Water Rights;

(vii) except as provided by Subsection (2)(g), a water right:

(A) (I) owned by a public water supplier;

(II) represented by a public water supplier's ownership interest in a water company; or

(III) to which a public water supplier owns the right of beneficial use; and

(B) conserved or held for the reasonable future water requirement of the public, which is determined according to Subsection (2)(f);

(viii) a supplemental water right during a period of time when another water right available to the appropriator or the appropriator's successor in interest provides sufficient water so as to not require beneficial use of the supplemental water right;

(ix) a period of nonuse of a water right during the time the water right is subject to an approved change application where the applicant is diligently pursuing certification;

(x) a water right to store water in a surface reservoir if:

(A) storage is limited by a safety, regulatory, or engineering restraint that the appropriator or the appropriator's successor in interest cannot reasonably correct; and

(B) not longer than seven years have elapsed since the limitation described in Subsection (2)(e)(x)(A) is imposed; or

(xi) a water right subject to an approved change application for use within a water bank that has been authorized but not dissolved under Chapter 31, Water Banking Act, during the period of time the state engineer authorizes the water right to be used within the water bank.

(f) (i) The reasonable future water requirement of the public is the amount of water needed in the next 40 years by:

(A) the persons within the public water supplier's reasonably anticipated service area based on reasonably anticipated population growth; or

(B) other water use demand.

(ii) For purposes of Subsection (2)(f)(i), a community water system's reasonably anticipated service area:

(A) is the area served by the community water system's distribution facilities; and

(B) expands as the community water system expands the distribution facilities in accordance with Title 19, Chapter 4, Safe Drinking Water Act.

(iii) The state engineer shall by rule made in accordance with Subsection 73-2-1(4) establish standards for a written plan that may be presented as evidence in conformance with this Subsection (2)(f), except that before a rule establishing standards for a written plan under this Subsection (2)(f) takes effect, in addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall present the rule to:

(A) if the Legislature is not in session, the Natural Resources, Agriculture, and Environment Interim Committee; or

(B) if the Legislature is in session, the House of Representatives and Senate Natural Resources, Agriculture, and Environment standing committees.

(g) For a water right acquired by a public water supplier on or after May 5, 2008, Subsection (2)(e)(vii) applies if:

(i) the public water supplier submits a change application under Section 73-3-3; and

(ii) the state engineer approves the change application.

(3) (a) The state engineer shall furnish a nonuse application form requiring the following information:

(i) the name and address of the applicant;

(ii) a description of the water right or a portion of the water right, including the point of diversion, place of use, and priority;

(iii) the quantity of water;

(iv) the period of use;

(v) the extension of time applied for;

(vi) a statement of the reason for the nonuse of the water; and

(vii) any other information that the state engineer requires.

(b) (i) Upon receipt of the application, the state engineer shall publish a notice of the application once a week for two successive weeks:

(A) in a newspaper of general circulation in the county in which the source of the water supply is located and where the water is to be beneficially used; and

(B) as required in Section 45-1-101.

(ii) The notice shall:

(A) state that an application has been made; and

(B) specify where the interested party may obtain additional information relating to the application.

(c) An interested person may file a written protest with the state engineer against the granting of the application:

(i) within 20 days after the notice is published, if the adjudicative proceeding is informal; and

(ii) within 30 days after the notice is published, if the adjudicative proceeding is formal.

(d) In a proceeding to determine whether the nonuse application should be approved or rejected, the state engineer shall follow Title 63G, Chapter 4, Administrative Procedures Act.

(e) After further investigation, the state engineer may approve or reject the application.

(4) (a) The state engineer shall grant a nonuse application on all or a portion of a water right for a period of time not exceeding seven years if the applicant shows a reasonable cause for nonuse.

(b) A reasonable cause for nonuse includes:

(i) a demonstrable financial hardship or economic depression;

(ii) a physical cause or change that renders use beyond the reasonable control of the water right owner so long as the water right owner acts with reasonable diligence to resume or restore the use;

(iii) the initiation of water conservation or an efficiency practice, or the operation of a groundwater recharge recovery program approved by the state engineer;

(iv) operation of a legal proceeding;

(v) the holding of a water right or stock in a mutual water company without use by a water

supply entity to meet the reasonable future requirements of the public;

(vi) situations where, in the opinion of the state engineer, the nonuse would assist in implementing an existing, approved water management plan; or

(vii) the loss of capacity caused by deterioration of the water supply or delivery equipment if the applicant submits, with the application, a specific plan to resume full use of the water right by replacing, restoring, or improving the equipment.

(5) (a) Sixty days before the expiration of a nonuse application, the state engineer shall notify the applicant by mail or by a form of electronic communication through which receipt is verifiable, of the date when the nonuse application will expire.

(b) An applicant may file a subsequent nonuse application in accordance with this section.

Section 2. Section 73-5-15 is amended to read:

73-5-15. Groundwater management plan.

(1) As used in this section:

(a) "Critical management area" means a groundwater basin in which the groundwater withdrawals consistently exceed the safe yield.

(b) "Safe yield" means the amount of groundwater that can be withdrawn from a groundwater basin over a period of time without exceeding the long-term recharge of the basin or unreasonably affecting the basin's physical and chemical integrity.

(2) (a) The state engineer may regulate groundwater withdrawals within a specific groundwater basin by adopting a groundwater management plan in accordance with this section for any groundwater basin or aquifer or combination of hydrologically connected groundwater basins or aquifers.

(b) The objectives of a groundwater management plan are to:

(i) limit groundwater withdrawals to safe yield;

(ii) protect the physical integrity of the aquifer; and

(iii) protect water quality.

(c) The state engineer shall adopt a groundwater management plan for a groundwater basin if more than one-third of the water right owners in the groundwater basin request that the state engineer adopt a groundwater management plan.

(3) (a) In developing a groundwater management plan, the state engineer may consider:

(i) the hydrology of the groundwater basin;

(ii) the physical characteristics of the groundwater basin;

(iii) the relationship between surface water and groundwater, including whether the groundwater should be managed in conjunction with hydrologically connected surface waters;

(iv) the conjunctive management of water rights to facilitate and coordinate the lease, purchase, or voluntary use of water rights subject to the groundwater management plan;

(v) the geographic spacing and location of groundwater withdrawals;

(vi) water quality;

(vii) local well interference; and

(viii) other relevant factors.

(b) The state engineer shall base the provisions of a groundwater management plan on the principles of prior appropriation.

(c) (i) The state engineer shall use the best available scientific method to determine safe yield.

(ii) As hydrologic conditions change or additional information becomes available, safe yield determinations made by the state engineer may be revised by following the procedures listed in Subsection (5).

(4) (a) (i) Except as provided in Subsection (4)(b), the withdrawal of water from a groundwater basin shall be limited to the basin's safe yield.

(ii) Before limiting withdrawals in a groundwater basin to safe yield, the state engineer shall:

(A) determine the groundwater basin's safe yield; and

(B) adopt a groundwater management plan for the groundwater basin.

(iii) If the state engineer determines that groundwater withdrawals in a groundwater basin exceed the safe yield, the state engineer shall regulate groundwater rights in that groundwater basin based on the priority date of the water rights under the groundwater management plan, unless a voluntary arrangement exists under Subsection (4)(c) that requires a different distribution.

(iv) A groundwater management plan shall include a list of each groundwater right in the proposed groundwater management area known to the state engineer identifying the water right holder, the land to which the groundwater right is appurtenant, and any identification number the state engineer uses in the administration of water rights.

(b) When adopting a groundwater management plan for a critical management area, the state engineer shall, based on economic and other impacts to an individual water user or a local community caused by the implementation of safe yield limits on withdrawals, allow gradual implementation of the groundwater management plan.

(c) (i) In consultation with the state engineer, water users in a groundwater basin may agree to participate in a voluntary arrangement for managing withdrawals at any time, either before or after a determination that groundwater

withdrawals exceed the groundwater basin's safe yield.

(ii) A voluntary arrangement under Subsection (4)(c)(i) shall be consistent with other law.

(iii) The adoption of a voluntary arrangement under this Subsection (4)(c) by less than all of the water users in a groundwater basin does not affect the rights of water users who do not agree to the voluntary arrangement.

(5) To adopt a groundwater management plan, the state engineer shall:

(a) give notice as specified in Subsection (7) at least 30 days before the first public meeting held in accordance with Subsection (5)(b):

(i) that the state engineer proposes to adopt a groundwater management plan;

(ii) describing generally the land area proposed to be included in the groundwater management plan; and

(iii) stating the location, date, and time of each public meeting to be held in accordance with Subsection (5)(b);

(b) hold one or more public meetings in the geographic area proposed to be included within the groundwater management plan to:

(i) address the need for a groundwater management plan;

(ii) present any data, studies, or reports that the state engineer intends to consider in preparing the groundwater management plan;

(iii) address safe yield and any other subject that may be included in the groundwater management plan;

(iv) outline the estimated administrative costs, if any, that groundwater users are likely to incur if the plan is adopted; and

(v) receive any public comments and other information presented at the public meeting, including comments from any of the entities listed in Subsection (7)(a)(iii);

(c) receive and consider written comments concerning the proposed groundwater management plan from any person for a period determined by the state engineer of not less than 60 days after the day on which the notice required by Subsection (5)(a) is given;

(d) (i) at least 60 days prior to final adoption of the groundwater management plan, publish notice:

(A) that a draft of the groundwater management plan has been proposed; and

(B) specifying where a copy of the draft plan may be reviewed; and

(ii) promptly provide a copy of the draft plan in printed or electronic form to each of the entities listed in Subsection (7)(a)(iii) that makes written request for a copy; and

(e) provide notice of the adoption of the groundwater management plan.

(6) A groundwater management plan shall become effective on the date notice of adoption is completed under Subsection (7), or on a later date if specified in the plan.

(7) (a) A notice required by this section shall be:

(i) published:

(A) once a week for two successive weeks in a newspaper of general circulation in each county that encompasses a portion of the land area proposed to be included within the groundwater management plan; and

(B) in accordance with Section 45-1-101 for two weeks;

(ii) published conspicuously on the state engineer's website; and

(iii) mailed to each of the following that has within its boundaries a portion of the land area to be included within the proposed groundwater management plan:

(A) county;

(B) incorporated city or town;

(C) a local district created to acquire or assess a groundwater right under Title 17B, Chapter 1, Provisions Applicable to All Local Districts;

(D) improvement district under Title 17B, Chapter 2a, Part 4, Improvement District Act;

(E) service area, under Title 17B, Chapter 2a, Part 9, Service Area Act;

(F) drainage district, under Title 17B, Chapter 2a, Part 2, Drainage District Act;

(G) irrigation district, under Title 17B, Chapter 2a, Part 5, Irrigation District Act;

(H) metropolitan water district, under Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

(I) special service district providing water, sewer, drainage, or flood control services, under Title 17D, Chapter 1, Special Service District Act;

(J) water conservancy district, under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; and

(K) conservation district, under Title 17D, Chapter 3, Conservation District Act.

(b) A notice required by this section is effective upon substantial compliance with Subsections (7)(a)(i) through (iii).

(8) A groundwater management plan may be amended in the same manner as a groundwater management plan may be adopted under this section.

(9) The existence of a groundwater management plan does not preclude any otherwise eligible person from filing any application or challenging any decision made by the state engineer within the affected groundwater basin.

(10) (a) A person aggrieved by a groundwater management plan may challenge any aspect of the groundwater management plan by filing a complaint within 60 days after the adoption of the groundwater management plan in the district court for any county in which the groundwater basin is found.

(b) Notwithstanding Subsection (9), a person may challenge the components of a groundwater management plan only in the manner provided by Subsection (10)(a).

(c) An action brought under this Subsection (10) is reviewed de novo by the district court.

(d) A person challenging a groundwater management plan under this Subsection (10) shall join the state engineer as a defendant in the action challenging the groundwater management plan.

(e) (i) Within 30 days after the day on which a person files an action challenging any aspect of a groundwater management plan under Subsection (10)(a), the person filing the action shall publish notice of the action:

(A) in a newspaper of general circulation in the county in which the district court is located; and

(B) in accordance with Section 45-1-101 for two weeks.

(ii) The notice required by Subsection (10)(e)(i)(A) shall be published once a week for two consecutive weeks.

(iii) The notice required by Subsection (10)(e)(i) shall:

(A) identify the groundwater management plan the person is challenging;

(B) identify the case number assigned by the district court;

(C) state that a person affected by the groundwater management plan may petition the district court to intervene in the action challenging the groundwater management plan; and

(D) list the address for the clerk of the district court in which the action is filed.

(iv) (A) Any person affected by the groundwater management plan may petition to intervene in the action within 60 days after the day on which notice is last published under Subsections (10)(e)(i) and (ii).

(B) The district court's treatment of a petition to intervene under this Subsection (10)(e)(iv) is governed by the Utah Rules of Civil Procedure.

(v) A district court in which an action is brought under Subsection (10)(a) shall consolidate all actions brought under that subsection and include in the consolidated action any person whose petition to intervene is granted.

(11) A groundwater management plan adopted or amended in accordance with this section is exempt from the requirements in Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) (a) [~~Recharge~~] Except as provided in Subsection (12)(b), recharge and recovery projects permitted under Chapter 3b, Groundwater Recharge and Recovery Act, are exempted from this section.

(b) In a critical management area, the artificial recharge of a groundwater basin that uses surface water naturally tributary to the groundwater basin [~~by a local district created under Subsection 17B-1-202(1)(a)(xiii)~~], in accordance with Chapter 3b, Groundwater Recharge and Recovery Act, constitutes a beneficial use of the water under Section 73-1-3 if:

(i) the recharge is done during the time the area is designated as a critical management area;

(ii) the recharge is done with a valid recharge permit;

(iii) the [~~recharged water~~] water placed in the aquifer is not recovered under a recovery permit; and

(iv) the [~~recharged water~~] water placed in the aquifer is used to replenish the groundwater basin.

(13) Nothing in this section may be interpreted to require the development, implementation, or consideration of a groundwater management plan as a prerequisite or condition to the exercise of the state engineer's enforcement powers under other law, including powers granted under Section 73-2-25.

(14) A groundwater management plan adopted in accordance with this section may not apply to the dewatering of a mine.

(15) (a) A groundwater management plan adopted by the state engineer before May 1, 2006, remains in force and has the same legal effect as it had on the day on which it was adopted by the state engineer.

(b) If a groundwater management plan that existed before May 1, 2006, is amended on or after May 1, 2006, the amendment is subject to this section's provisions.

CHAPTER 231
S. B. 57
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

SEXUAL ABUSE MATERIAL AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill addresses the reproduction and possession of sexual abuse material.

Highlighted Provisions:

This bill:

- changes the term "child pornography" to "child sexual abuse material" in the Utah Code;
- changes the term "vulnerable adult pornography" to "vulnerable adult sexual abuse material" in the Utah Code;
- prohibits the reproduction of child sexual abuse material evidence;
- allows a defendant's attorney or a defendant's expert to inspect child sexual abuse material evidence at a government facility before trial;
- allows a victim, the victim's attorney, or the victim's expert to inspect child sexual abuse material evidence at a government facility before trial upon a showing of good cause; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-7-215, as last amended by Laws of Utah 2017, Chapter 208
24-1-102, as last amended by Laws of Utah 2022, Chapter 179
62A-1-122, as last amended by Laws of Utah 2021, Chapter 344
63G-2-103, as last amended by Laws of Utah 2021, Chapters 211, 283
67-5-21, as enacted by Laws of Utah 2006, Chapter 350
76-5b-103, as last amended by Laws of Utah 2022, Chapter 181
76-5b-201, as last amended by Laws of Utah 2022, Chapters 181, 185
76-5b-201.1, as enacted by Laws of Utah 2022, Chapter 185 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 185
76-5b-202, as last amended by Laws of Utah 2022, Chapter 181
76-10-1204.5, as enacted by Laws of Utah 2016, Chapter 313

ENACTS:

77-4-201, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

77-4-101, (Renumbered from 77-4-1, as enacted by Laws of Utah 1980, Chapter 15)

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

Section 1. Section 9-7-215 is amended to read:

9-7-215. Internet and online access policy required.

(1) As used in this section:

(a) [~~"Child pornography" is as~~] "Child sexual abuse material" means the same as that term is defined in Section 76-5b-103.

(b) "Harmful to minors" [~~is as~~] means the same as that term is defined in Section 76-10-1201.

(c) "Obscene" [~~is as~~] means the same as that term is defined in 20 U.S.C. Sec. 9101.

(d) "Technology protection measure" means a technology that blocks or filters Internet access to visual depictions.

(2) State funds may not be provided to any public library that provides public access to the Internet unless the library:

(a) (i) has in place a policy of Internet safety for minors, including the operation of a technology protection measure:

(A) with respect to any computer or other device while connected to the Internet through a network provided by the library, including a wireless network; and

(B) that protects against access to visual depictions that are:

(I) child [~~pornography~~] sexual abuse material;

(II) harmful to minors; or

(III) obscene; and

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(a)(i) during any use by a minor of a computer or other device that is connected to the Internet through a network provided by the library, including a wireless network; and

(b) (i) has in place a policy of Internet safety, including the operation of a technology protection measure:

(A) with respect to any computer or other device while connected to the Internet through a network provided by the library, including a wireless network; and

(B) that protects against access to visual depictions that are:

(I) child [~~pornography~~] sexual abuse material; or

(II) obscene; and

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(b)(i) during any use of a computer or other device that is connected to the Internet through a network provided by the library, including a wireless network.

(3) This section does not prohibit a public library from limiting Internet access or otherwise protecting against materials other than the materials specified in this section.

(4) An administrator, supervisor, or other representative of a public library may disable a technology protection measure described in Subsection (2):

(a) at the request of a library patron who is not a minor; and

(b) to enable access for research or other lawful purposes.

Section 2. Section 24-1-102 is amended to read:

24-1-102. Definitions.

As used in this title:

(1) "Account" means the Criminal Forfeiture Restricted Account created in Section 24-4-116.

(2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not guilty.

(b) "Acquitted" does not include:

(i) a verdict of guilty on a lesser or reduced charge;

(ii) a plea of guilty to a lesser or reduced charge; or

(iii) dismissal of a charge as a result of a negotiated plea agreement.

(3) (a) "Agency" means an agency of this state or a political subdivision of this state.

(b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

(4) "Claimant" means:

(a) an owner of property as defined in this section;

(b) an interest holder as defined in this section; or

(c) an individual or entity who asserts a claim to any property seized for forfeiture under this title.

(5) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(6) "Complaint" means a civil or criminal complaint seeking the forfeiture of any real or personal property under this title.

(7) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, and storage functions.

(b) "Computer" includes any device that is used for the storage of digital or electronic files, flash memory, software, or other electronic information.

(c) "Computer" does not mean a computer server of an Internet or electronic service provider, or the service provider's employee, if used to comply with the requirements under 18 U.S.C. Sec. 2258A.

(8) "Constructive seizure" means a seizure of property where the property is left in the control of the owner and an agency posts the property with a notice of intent to seek forfeiture.

(9) (a) "Contraband" means any property, item, or substance that is unlawful to produce or to possess under state or federal law.

(b) "Contraband" includes:

(i) a controlled substance that is possessed, transferred, distributed, or offered for distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(ii) a computer that:

(A) contains or houses child [~~pornography~~] sexual abuse material, or is used to create, download, transfer, upload to a storage account, or store any electronic or digital files containing child [~~pornography~~] sexual abuse material; or

(B) contains the personal identifying information of another individual, as defined in Subsection 76-6-1102(1), whether that individual is alive or deceased, and the personal identifying information has been used to create false or fraudulent identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.

(10) "Forfeit" means to divest a claimant of an ownership interest in property seized under this title.

(11) "Innocent owner" means a claimant who:

(a) held an ownership interest in property at the time of the commission of an offense subjecting the property to forfeiture under this title, and:

(i) did not have actual knowledge of the offense subjecting the property to forfeiture; or

(ii) upon learning of the commission of the offense, took reasonable steps to prohibit the use of the property in the commission of the offense; or

(b) acquired an ownership interest in the property and had no knowledge that the commission of the offense subjecting the property to forfeiture under this title had occurred or that the property had been seized for forfeiture, and:

(i) acquired the property in a bona fide transaction for value;

(ii) was an individual, including a minor child, who acquired an interest in the property through probate or inheritance; or

(iii) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.

(12) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value.

(b) "Interest holder" does not mean a person:

(i) who holds property for the benefit of or as an agent or nominee for another person; or

(ii) who is not in substantial compliance with any statute requiring an interest in property to be:

(A) recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value; or

(B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for value.

(13) "Known address" means any address provided by a claimant to the peace officer or agency at the time the property is seized, or the claimant's most recent address on record with a governmental entity if no address was provided at the time of the seizure.

(14) "Legal costs" means the costs and expenses incurred by a party in a forfeiture action.

(15) "Legislative body" means:

(a) (i) the Legislature, county commission, county council, city commission, city council, or town council that has fiscal oversight and budgetary approval authority over an agency; or

(ii) the agency's governing political subdivision; or

(b) the lead governmental entity of a multijurisdictional task force, as designated in a memorandum of understanding executed by the agencies participating in the task force.

(16) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of individuals who are employed by or acting under the authority of different governmental entities, including federal, state, county, or municipal governments, or any combination of federal, state, county, or municipal agencies.

(17) "Owner" means an individual or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in real or personal property.

(18) "Peace officer" means an employee:

(a) of an agency;

(b) whose duties consist primarily of the prevention and detection of violations of laws of this state or a political subdivision of this state; and

(c) who is authorized by the agency to seize property under this title.

(19) (a) "Proceeds" means:

(i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense; or

(ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection (19)(a)(i).

(b) "Proceeds" includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose regarding property under Subsection (19)(a)(i).

(c) "Proceeds" is not limited to the net gain or profit realized from the offense that subjects the property to forfeiture.

(20) "Program" means the State Asset Forfeiture Grant Program created in Section 24-4-117.

(21) (a) "Property" means all property, whether real or personal, tangible or intangible.

(b) "Property" does not include contraband.

(22) "Prosecuting attorney" means:

(a) the attorney general and an assistant attorney general;

(b) a district attorney or deputy district attorney;

(c) a county attorney or assistant county attorney; and

(d) an attorney authorized to commence an action on behalf of the state under this title.

(23) "Public interest use" means a:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation of the property to a nonprofit charity registered with the state.

(24) "Real property" means land, including any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

Section 3. Section 62A-1-122 is amended to read:

62A-1-122. Child sexual abuse material.

(1) As used in this section:

(a) [~~"Child pornography"~~] "Child sexual abuse material" means the same as that term is defined in Section 76-5b-103.

(b) "Secure" means to prevent and prohibit access, electronic upload, transmission, or transfer of an image.

(2) The department or a division within the department may not retain child [~~pornography~~] sexual abuse material longer than is necessary to comply with the requirements of this section.

(3) When the department or a division within the department obtains child [~~pornography~~] sexual abuse material as a result of an employee unlawfully viewing child [~~pornography~~] sexual abuse material, the department or division shall consult with and follow the guidance of the Division of Human Resource Management regarding personnel action and local law enforcement regarding retention of the child [~~pornography~~] sexual abuse material.

(4) When the department or a division within the department obtains child [~~pornography~~] sexual abuse material as a result of a report or an investigation, the department or division shall immediately secure the child [~~pornography~~] sexual

abuse material, or the electronic device if the child [~~pornography~~] sexual abuse material is digital, and contact the law enforcement office that has jurisdiction over the area where the division's case is located.

Section 4. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child [~~pornography~~] sexual abuse material, as defined by Section 76-5b-103;

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; or

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(25) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(26) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(27) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(28) "State archivist" means the director of the state archives.

(29) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 5. Section 67-5-21 is amended to read:

67-5-21. Internet Crimes Against Children (ICAC) unit creation -- Duties -- Employment of staff.

(1) There is created within the Office of the Attorney General the Internet Crimes Against Children (ICAC) unit to investigate and prosecute cases involving child [~~pornography~~] sexual abuse material and cases involving enticing minors over the Internet into illegal sexual acts.

(2) The attorney general may employ investigators, prosecutors, and necessary support staff for the unit created under Subsection (1).

Section 6. Section 76-5b-103 is amended to read:

76-5b-103. Definitions.

As used in this chapter:

(1) [~~"Child pornography"~~] "Child sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a minor engaging in sexually explicit conduct;

(b) the visual depiction is of a minor engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

(2) "Distribute" means the selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, or otherwise transferring or presenting child [~~pornography~~] sexual abuse material or vulnerable adult [~~pornography~~] sexual abuse material with or without consideration.

(3) "Identifiable minor" means a person:

(a) (i) who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

(4) "Identifiable vulnerable adult" means a person:

(a) (i) who was a vulnerable adult at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a vulnerable adult was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

(5) "Lacks capacity to consent" is as defined in Section 76-5-111.4.

(6) "Live performance" means any act, play, dance, pantomime, song, or other activity performed by live actors in person.

(7) "Minor" means a person younger than 18 years old.

(8) "Nudity or partial nudity" means any state of dress or undress in which the human genitals, pubic region, buttocks, or the female breast, at a point below the top of the areola, is less than completely and opaquely covered.

(9) "Produce" means:

(a) the photographing, filming, taping, directing, producing, creating, designing, or composing of child [~~pornography~~] sexual abuse material or vulnerable adult [~~pornography~~] sexual abuse material; or

(b) the securing or hiring of persons to engage in the photographing, filming, taping, directing, producing, creating, designing, or composing of child [~~pornography~~] sexual abuse material or vulnerable adult [~~pornography~~] sexual abuse material.

(10) "Sexually explicit conduct" means actual or simulated:

(a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(b) masturbation;

(c) bestiality;

(d) sadistic or masochistic activities;

(e) lascivious exhibition of the genitals, pubic region, buttocks, or female breast of any person;

(f) the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any person;

(g) the fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(h) the explicit representation of the defecation or urination functions.

(11) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct which duplicates, within the perception of

an average person, the appearance of an actual act of sexually explicit conduct.

(12) "Vulnerable adult" is as defined in Subsection 76-5-111(1).

(13) "Vulnerable adult [~~pornography~~] sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a vulnerable adult engaging in sexually explicit conduct;

(b) the visual depiction is of a vulnerable adult engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable vulnerable adult is engaging in sexually explicit conduct.

Section 7. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits sexual exploitation of a minor when the actor knowingly possesses or intentionally views child [~~pornography~~] sexual abuse material.

(3) (a) A violation of Subsection (2) is a second degree felony.

(b) It is a separate offense under this section:

(i) for each minor depicted in the child [~~pornography~~] sexual abuse material; and

(ii) for each time the same minor is depicted in different child [~~pornography~~] sexual abuse material.

(4) (a) It is an affirmative defense to a charge of violating this section that no minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(b) For a charge of violating this section, it is an affirmative defense that:

(i) the defendant:

(A) did not solicit the child [~~pornography~~] sexual abuse material from the minor depicted in the child [~~pornography~~] sexual abuse material;

(B) is not more than two years older than the minor depicted in the child [~~pornography~~] sexual abuse material; and

(C) upon request of a law enforcement agent or the minor depicted in the child [~~pornography~~] sexual abuse material, removes from an electronic device or destroys the child [~~pornography~~] sexual abuse material and all copies of the child [~~pornography~~] sexual abuse material in the defendant's possession; and

(ii) the child [~~pornography~~] sexual abuse material does not depict an offense under Chapter 5, Part 4, Sexual Offenses.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) [~~This section may not be construed to impose criminal or civil liability on~~] The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child [~~pornography~~] sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child [~~pornography~~] sexual abuse material on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child [~~pornography~~] sexual abuse material during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child [~~pornography~~] sexual abuse material during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child [~~pornography~~] sexual abuse material during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Human Services who is required to view child [~~pornography~~] sexual abuse material within the scope of the employee's employment; or

(g) an attorney who is required to view child [~~pornography~~] sexual abuse material within the scope of the attorney's responsibility to represent the Department of Human Services, including the divisions and offices within the Department of Human Services.

Section 8. Section 76-5b-201.1 is amended to read:

76-5b-201.1. Aggravated sexual exploitation of a minor.

(1) As used in this section:

(a) "Physical abuse" or "physically abused" means the same as the term "physical abuse" is defined in Section 80-1-102.

(b) The terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated sexual exploitation of a minor if the actor:

(a) intentionally distributes child [~~pornography~~] sexual abuse material;

(b) knowingly produces child [~~pornography~~] sexual abuse material; or

(c) is the minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (2)(a) or (b) or Section 76-5b-201.

(3) (a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a first degree felony.

(b) If an actor is under 18 years old at the time of the offense, a violation of Subsection (2) is a second degree felony.

(c) A violation of Subsection (2)(a) is a second degree felony if the child [~~pornography~~] sexual abuse material depicts an individual who is:

(i) 14 years old or older; or

(ii) pubescent.

(4) It is a separate offense under this section:

(a) for each minor depicted in the child [~~pornography~~] sexual abuse material; and

(b) for each time the same minor is depicted in different child [~~pornography~~] sexual abuse material.

(5) (a) It is an affirmative defense to a charge of violating this section that no minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(b) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) [~~This section may not be construed to impose criminal or civil liability on~~] The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child [~~pornography~~] sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child [~~pornography~~] sexual abuse material on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child [~~pornography~~] sexual abuse material during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child [~~pornography~~] sexual abuse material during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child [~~pornography~~] sexual abuse material during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Health and Human Services who is required to view child [~~pornography~~] sexual abuse material within the scope of the employee's employment; or

(g) an attorney who is required to view child [~~pornography~~] sexual abuse material within the scope of the attorney's responsibility to represent the Department of Health and Human Services, including the divisions and offices within the Department of Health and Human Services.

Section 9. Section 76-5b-202 is amended to read:

76-5b-202. Sexual exploitation of a vulnerable adult -- Offenses.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits sexual exploitation of a vulnerable adult if the actor:

(a) (i) (A) knowingly produces, possesses, or possesses with intent to distribute material that the actor knows is vulnerable adult [~~pornography~~] sexual abuse material; or

(B) intentionally distributes or views material that the actor knows is vulnerable adult [~~pornography~~] sexual abuse material; and

(ii) the vulnerable adult who appears in, or is depicted in, the vulnerable adult [~~pornography~~] sexual abuse material lacks capacity to consent to the conduct described in Subsection (2)(a); or

(b) is a vulnerable adult's legal guardian and knowingly consents to, or permits the vulnerable adult to be, sexually exploited as described in Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) It is a separate offense under this section:

(i) for each vulnerable adult depicted in the vulnerable adult [~~pornography~~] sexual abuse material; and

(ii) for each time the same vulnerable adult is depicted in different vulnerable adult [~~pornography~~] sexual abuse material.

(4) It is an affirmative defense to a charge of violating this section that no vulnerable adult was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(5) In proving a violation of this section in relation to an identifiable vulnerable adult, proof of the actual identity of the identifiable vulnerable adult is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) any entity or an employee, director, officer, or agent of an entity, when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under any federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of vulnerable adult [~~pornography~~] sexual abuse material on any tangible or intangible property, or of detecting and reporting the presence of vulnerable adult [~~pornography~~] sexual abuse material on the property; or

(b) any law enforcement officer acting within the scope of a criminal investigation.

Section 10. Section 76-10-1204.5 is amended to read:

76-10-1204.5. Reporting of child sexual abuse material by a computer technician.

(1) As used in this section:

(a) [~~"Child pornography"~~] "Child sexual abuse material" means the same as that term is defined in Section 76-5b-103.

(b) "Computer technician" or "technician" means an individual who in the course and scope of the individual's employment for compensation installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.

(c) "Image" means an image of child [~~pornography~~] sexual abuse material or an image that a computer technician reasonably believes is child [~~pornography~~] sexual abuse material.

(2) (a) A computer technician who in the course of employment for compensation views an image on a computer or other electronic device that is or appears to be child [~~pornography~~] sexual abuse material shall immediately report the finding of the image to:

(i) a state or local law enforcement agency, or the Cyber Tip Line at the National Center for Missing and Exploited Children; or

(ii) an employee designated by the employer of the computer technician in accordance with Subsection (3).

(b) A computer technician who willfully does not report an image as required under Subsection (2)(a) is guilty of a class B misdemeanor.

(c) The identity of the computer technician who reports an image shall be confidential, except as necessary for the criminal investigation and the judicial process.

(d) (i) If the computer technician makes or does not make a report under this section in good faith, the technician is immune from any criminal or civil liability related to reporting or not reporting the image.

(ii) In this Subsection (2)(d), good faith may be presumed from an employee's or employer's previous course of conduct when the employee or employer has made appropriate reports.

(e) It is a defense to prosecution under this section that the computer technician did not report the image because the technician reasonably believed the image did not depict a person younger than 18 years [~~of age~~] old.

(3) (a) An employer of a computer technician may implement a procedure that requires:

(i) the computer technician report an image as is required under Subsection (2)(a) to an employee designated by the employer to receive the report of the image; and

(ii) the designated employee to immediately forward the report provided by the computer technician to an agency under Subsection (2)(a)(i).

(b) Compliance by the computer technician and the designated employee with the reporting process under Subsection (3)(a) is compliance with the reporting requirement of this section and establishes immunity under Subsection (2)(d).

(4) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if the provider reports the image in compliance with 18 U.S.C. 2258A or a successor federal statute that requires reporting by a provider of an image of child [~~pornography~~] sexual abuse material.

Section 11. Section 77-4-101, which is renumbered from Section 77-4-1 is renumbered and amended to read:

CHAPTER 4. PLEADINGS AND PROCEEDINGS BEFORE TRIAL

Part 1. Suppression of Resistance to Service of Process

[~~77-4-1~~]. 77-4-101. Force by officer -- Arrest.

A public officer authorized to execute process issued by any court may use such force as is reasonable and necessary to execute service of process. If necessary, he may seize, arrest, and confine persons resisting or aiding and abetting resistance to his service of process.

Section 12. Section 77-4-201 is enacted to read:

Part 2. Evidence

77-4-201. Reproduction of child sexual abuse material -- Prohibition.

(1) As used in this section:

(a) "Child sexual abuse material" means the same as that term is defined in Section 76-5b-103.

(b) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(c) "Victim" means the same as that term is defined in Section 77-37-2.

(2) In a proceeding involving child sexual abuse material, the child sexual abuse material shall remain in the care, custody, and control of:

(a) a law enforcement agency; or

(b) a court.

(3) (a) In a proceeding involving child sexual abuse material, a court shall deny a request by a defendant to copy, photograph, duplicate, or otherwise reproduce the child sexual abuse material if the court or a law enforcement agency provides the defendant's attorney or an individual the defendant may seek to qualify as an expert an adequate opportunity to view and examine the child sexual abuse material.

(b) An individual described in Subsection (3)(a) may view or examine the child sexual abuse material only at the law enforcement agency or court that has custody and control of the child sexual abuse material.

(c) A defendant who is self represented:

(i) may not inspect the child sexual abuse material; and

(ii) may request that the court appoint counsel for the purpose of inspecting the child sexual abuse material on behalf of the defendant.

(4) (a) In a proceeding involving child sexual abuse material, a victim, the victim's attorney, or an individual the victim may, upon a showing of good cause, seek to qualify as an expert, may view and examine the child sexual abuse material that depicts the victim upon a showing of good cause.

(b) An individual described in Subsection (4)(a) may not copy, photograph, duplicate, or otherwise reproduce the child sexual abuse material.

(c) An individual described in Subsection (4)(a) may view or examine the child sexual abuse material only at the law enforcement agency or court that has custody and control of the child sexual abuse material.

(d) The court or law enforcement agency may redact the child sexual abuse material described in this Subsection (4) to protect the privacy of a third party.

CHAPTER 232
S. B. 61
Passed March 2, 2023
Approved March 14, 2023
Effective April 1, 2024

LIVESTOCK COLLISION AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill enacts provisions related to railroads, fencing of railroad rights-of-way, and liability for damage to livestock.

Highlighted Provisions:

This bill:

- defines terms;
- requires a railroad to report livestock strikes;
- clarifies liability for damages to livestock caused by railroad operations;
- creates a process for a livestock owner to be compensated for livestock damaged by a railroad;
- provides an appeal process regarding the actual fair market value of damaged livestock;
- modifies and clarifies requirements regarding a railroad's duty to construct and maintain fencing along railroad rights-of-way;
- requires each railroad to pay a fee based on mileage to cover damages to livestock caused by railroad operations;
- allows the Department of Agriculture and Food to pay for costs of administration and staff salary related to the administration of livestock damage claims from fees paid by railroads;
- grants rulemaking authority to the Department of Agriculture and Food regarding compensation for livestock damaged by a railroad;
- prohibits a railroad from entering into an indemnification agreement related to damages to livestock; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-2-103, as last amended by Laws of Utah 2022, Chapters 68, 79

REPEALS AND REENACTS:

56-1-12, as last amended by Laws of Utah 2018, Chapter 148

56-1-13, as Utah Code Annotated 1953

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

Section 1. Section 4-2-103 is amended to read:

4-2-103. Functions, powers, and duties of department -- Fees for services -- Marketing orders -- Procedure -- Purchasing and auditing.

(1) The department shall:

(a) inquire into and promote the interests and products of agriculture and allied industries;

(b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;

(c) (i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and

(ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

(iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;

(f) administer and enforce all laws assigned to the department by the Legislature;

(g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;

(h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

(i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules necessary for the effective administration of the agricultural laws of the state;

(j) when necessary, make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning matters related to agriculture;

(k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests;

(ii) establish and enforce quarantines;

(iii) issue and enforce orders and rules for the control and eradication of pests, wherever they may exist within the state; and

(iv) perform other duties relating to plants and plant products considered advisable and not contrary to law;

(l) inspect apiaries for diseases inimical to bees and beekeeping;

(m) take charge of any agricultural exhibit within the state, if considered necessary by the department, and award premiums at that exhibit;

(n) provide for the coordination of state conservation efforts, including by:

(i) assisting the Conservation Commission in the administration of Chapter 18, Conservation Commission Act;

(ii) implementing Chapter 46, Conservation Coordination Act, including entering into agreements with other state agencies; and

(iii) administering and disbursing money available to assist conservation districts in the state in the conservation of the state's soil and water resources;

(o) participate in the United States Department of Agriculture certified agricultural mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

(p) promote and support the multiple use of public lands;

(q) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an entity within the department; [~~and~~]

(r) administer the requirements described in Section 56-1-12 pertaining to livestock damaged by railroad operations; and

[~~(r)~~] (s) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) A marketing order issued under Subsection (1)(e) may not take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) A board of control shall:

(A) ensure that proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account is annually audited by an accountant approved by the commissioner.

(4) Money collected by grain grading, as provided by Subsection (1)(g), shall be deposited into the General Fund as dedicated credits for the grain grading program.

(5) In fulfilling the department's duties in this chapter, the department may:

(a) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(b) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(c) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

(d) accept and administer grants from the federal government and from other sources, public or private; and

(e) fund grants using money appropriated by the Legislature or money received from any other source.

Section 2. Section 56-1-12 is repealed and reenacted to read:

56-1-12. Injury to livestock -- Notice -- Livestock Damages Fund and Board -- Appeals -- Compensation and fees -- Rulemaking.

(1) As used in this section:

(a) "Actual fair market value" means the actual value of damages to livestock as determined by the Livestock Damages Board.

(b) "Damage" means injury or loss to livestock resulting from a strike by a railroad operation.

(c) "Department" means the Department of Agriculture and Food created in Section 4-2-102.

(d) "Estimated market value" means the market value of livestock as determined in rules made in accordance with Subsection (8).

(e) "Indemnification provision" means a covenant, promise, agreement or understanding in, in connection with, or collateral to a railroad contract requiring the other entity to insure, hold harmless, indemnify, or defend a railroad against liability if:

(i) the damages arise out of:

(A) damage to property, including livestock; or

(B) other related economic loss; and

(ii) the damages are caused by or resulting from the fault, in whole or in part, of the railroad or the railroad's agents or employees.

(f) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(g) "Livestock" means the same as that term is defined in Section 4-1-109.

(h) "Livestock Damages Board" means the Livestock Damages Board created in Subsection (9).

(i) "Railroad" means the same as that term is defined in 49 C.F.R. Sec. 200.3.

(j) "Railroad Livestock Damage Fund" or "fund" means the Railroad Livestock Damage Fund created in Subsection (7).

(k) "Statewide railroad engineer" means the statewide railroad engineer within the Department of Transportation.

(2) Each railroad that operates in this state shall provide to the department current contact information suitable for communication between the department and the railroad regarding injury to livestock caused by a railroad.

(3) (a) A railroad operator that strikes, injures, or kills livestock during the operation of an engine or car shall:

(i) immediately record the location of the strike; and

(ii) within 24 hours of the strike, notify and provide pertinent information to the department and the statewide railroad engineer.

(b) (i) If a railroad fails to report a strike as required in Subsection (3)(a), the railroad is liable for a civil penalty of at least $5,000 per incident.

(ii) It is prima facie evidence that a railroad has failed to report if:

(A) an investigation described in Subsection (3)(c) determines that livestock was struck by railroad;

(B) the investigation under Subsection (3)(c) resulted from a notification from a livestock owner of a potential strike as described in Subsection (4)(c); and

(C) the railroad has not reported a corresponding strike under Subsection (3)(a).

(iii) If the department determines that a railroad has failed to report as described in Subsection (3)(b)(ii):

(A) the department shall notify the railroad and assess a civil penalty; and

(B) the railroad shall pay the civil penalty assessed by the department.

(iv) The department shall deposit into the Railroad Livestock Damage Fund any money received for a civil penalty under this Subsection (3)(b).

(v) Payment of a civil penalty described in this Subsection (3)(b) does not release a railroad from liability for damage to livestock.

(c) After receiving the notification described in Subsection (3)(a), the department shall:

(i) notify the relevant law enforcement agency with jurisdiction over the location of the livestock strike; and

(ii) in consultation with the relevant law enforcement agency and the statewide railroad engineer, make reasonable efforts to:

(A) investigate the scene of the strike;

(B) identify the livestock that was struck;

(C) determine ownership of the livestock that was struck;

(D) assess the state of repair of the fences along the railroad right-of-way; and

(E) document and preserve relevant evidence of the scene of the strike.

(d) (i) After the investigation described in Subsection (3)(b), if possible, the department and relevant law enforcement agency shall notify the owner of the livestock that was struck.

(ii) The department shall create and maintain a website to document and provide notice and information to the public regarding livestock strikes within this state.

(iii) If the relevant law enforcement agency and department are unable to identify the owner of the injured livestock as described in Subsection (3)(b), the department shall post and maintain relevant information regarding the strike on a website to provide notice to the public regarding each livestock strike.

(4) (a) If livestock is struck by an implement of railroad operations, the owner of the livestock may receive compensation for the estimated market value or the actual fair market value of the damage.

(b) To obtain compensation, the owner of the damaged livestock shall notify the department as soon as possible after discovering the damage.

(c) A livestock owner shall notify the department each time the owner believes livestock has been damaged by railroad operations.

(5) A livestock owner shall file a proof of loss form, provided by the department, no later than 30 days after the date of the original notification livestock damage:

(a) has been received by the livestock owner pursuant to Subsection (3)(c); or

(b) has been received by the department pursuant to Subsection (4)(c).

(6) The department shall:

(a) within 30 days after the day the department receives a proof of loss form from a livestock owner, either accept or deny the claim for damages to livestock; and

(b) to the extent money is available in the Railroad Livestock Damage Fund created in Subsection (7), pay all accepted claims in

accordance with the livestock estimated market value established pursuant to Subsection (8).

(7) (a) There is created an expendable special revenue fund called the Railroad Livestock Damage Fund.

(b) The fund shall consist of:

(i) deposits by the Legislature;

(ii) an initial deposit by each railroad as described in Subsection (7)(c);

(iii) periodic payments by each railroad as required in Subsection (7)(d);

(iv) annual deposits by each railroad for administrative costs as provided under Subsection (7)(e);

(v) money deposited by the department from a civil penalty described in Subsection (3);

(vi) other donations or deposits into the fund; and

(vii) interest earned on the balance of the fund.

(c) Before December 31, 2023, each railroad shall pay into the Railroad Livestock Damage Fund:

(i) an initial, one-time fee of $150 per mile of railroad track owned by the railroad in this state, in accordance with rules made under Subsection (8)(b), to capitalize the fund for payment of claims as provided in this section; and

(ii) an initial, one-time fee of $75 per mile of railroad track owned by the railroad in this state, in accordance with rules made under Subsection (8)(b), to pay for staff salaries and other costs to administer the fund and the department responsibilities under this section.

(d) (i) If the department issues payment from the fund in accordance with Subsection (6), the department shall notify the relevant railroad that is liable for the damage.

(ii) The department shall include in the notice to the railroad described in Subsection (7)(d)(i) relevant information, including:

(A) the date or approximate date that the damage occurred;

(B) the location where the damage occurred;

(C) the type of livestock that was damaged;

(D) the name of the owner of the livestock that was damaged; and

(E) the estimated market value of the damage for which the railroad is responsible.

(iii) Within 30 days of the date the railroad receives the notice described in Subsection (7)(d)(iii), the railroad shall remit to the department the value of the damage.

(iv) If a railroad fails to remit to the department the value of the damage as required in Subsection (7)(d)(i), the department may impose a civil penalty up to $10,000:

(A) for the failure to pay within 30 days as described in Subsection (7)(d)(iii); and

(B) for every additional 30-day period of delinquency.

(v) Payment of a civil penalty described in Subsection (7)(d)(iv) does not release a railroad from liability for damage to livestock.

(e) (i) Between July 1, 2023, and December 31, 2023, the department shall gather data from livestock strikes reported as required in this section to determine how many livestock strikes occurred during that six months.

(ii) Based on the information gathered under Subsection (7)(e)(i) and extrapolated and adjusted to estimate annual strike rates, beginning on July 1, 2024, the department shall establish and charge an administrative fee for each claim the department processes under this section sufficient to cover the staff salary and other administrative costs directly related to the administration of this section.

(iii) The department shall establish and publish the fee amount in rules made pursuant to Subsection (8).

(iv) The department may not charge more than necessary to cover the costs of salary and administration directly related to the duties under this chapter.

(f) In addition to payment of claims for damage to livestock as described in this section, the department may use money in the Railroad Livestock Damage Fund to pay for the costs of administration, staff salary, and other support related to the Railroad Livestock Damage Fund and administration of this section.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules necessary to implement and enforce this section, including rules to establish the:

(a) estimated market value of each type of livestock;

(b) official mileage calculation for each railroad for the fee established in Subsection (7)(c); and

(c) administrative fee per claim as described in Subsection (7)(e).

(9) (a) A livestock owner may appeal the estimated market value granted by the department for damage to livestock by appealing to the Livestock Damages Board.

(b) There is created the Livestock Damages Board, which shall consist of three members appointed as described in Subsection (9)(c).

(c) The commissioner of the department shall appoint three members to the Livestock Damages Board as follows:

(i) one member who owns or administers a livestock auction;

(ii) one member who owns livestock and is engaged in a livestock business; and

(iii) one member who works for the department.

(d) Except as described in Subsection (9)(e)(ii), a member of the Livestock Damages Board may serve for up to two terms of four years.

(e) (i) The commissioner shall appoint the first members to the Livestock Damages Board on or before January 1, 2024.

(ii) The commissioner shall stagger the initial terms of the members of the Livestock Damages Board appointed on or before January 1, 2024, by:

(A) designating one appointee to serve an initial term of five years; and

(B) designating one appointee to serve an initial term of three years.

(f) (i) The Livestock Damages Board may convene twice each year to hear appeals regarding the value of livestock damaged by a railroad operation.

(ii) If a livestock owner provides clear and convincing evidence that the value of the damage to livestock caused by a railroad operation exceeds the estimated market value established pursuant to Subsection (8), the Livestock Damages Board may issue payment from the fund at the actual fair market value amount established in the hearing.

(10) An indemnification provision in a contract between a railroad and another entity that operates on a railroad facility is against public policy and is void and unenforceable to the extent the indemnification provision is related to damages to livestock or another provision in this section.

Section 3. Section 56-1-13 is repealed and reenacted to read:

56-1-13. Fencing right-of-way -- Gates.

(1) As used in this section:

(a) "Livestock" means the same as that term is defined in Section 4-1-109.

(b) "Railroad" means the same as that term is defined in 49 C.F.R. Sec. 200.3.

(2) Each railroad shall erect and maintain a fence on each side of any railroad right-of-way owned or operated by the railroad that passes through:

(a) land owned by a private owner; or

(b) public land upon which grazing of livestock occurs.

(3) A railroad shall ensure that a fence required under Subsection (2) is:

(a) at least four and one-half feet high;

(b) constructed with barbed or other fencing wire, with at least five wires;

(c) constructed with substantial posts no more than 16.5 feet apart; and

(d) reasonably constructed to ensure livestock are unable to pass through the fence.

(4) A railroad shall ensure that fences required under Subsection (2) include proper gates and cattle guards at each private crossing.

(5) A railroad is liable to a livestock owner for all damages to livestock resulting from a railroad's failure to construct or maintain a fence as required in this section.

(6) (a) If a fence falls into disrepair or is damaged, the railroad shall ensure that the fence is repaired as soon as possible, but not later than 30 days after the date the railroad receives notice of the disrepair or damage.

(b) To recover damage to livestock caused by a damaged fence as described in this section, a livestock owner shall follow the procedures described in Section 56-1-12.

(7) (a) If a railroad fails to repair a fence within 30 days after the date the railroad receives notice as described in Subsection (6)(a), the owner of the adjacent property may construct or repair the fence.

(b) If a land owner repairs a fence as described in Subsection (7)(a):

(i) the railroad is liable for the full value of the work and materials for the construction or repair; and

(ii) if the railroad fails to timely reimburse the land owner, the land owner may file a civil action in a court of competent jurisdiction.

(8) Any work by a land owner to repair a fence required by this section does not:

(a) shift liability for damage to livestock as described in Section 56-1-12 to the land owner; or

(b) relieve the railroad from liability for damage to livestock as described in Section 56-1-12.

Section 4. Effective date.

This bill takes effect on April 1, 2024.

CHAPTER 233
S. B. 62
Passed February 15, 2023
Approved March 14, 2023
Effective May 3, 2023

HYDROGEN AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill enacts provisions related to hydrogen development.

Highlighted Provisions:

This bill:

- directs the Department of Natural Resources to establish a hydrogen advisory council within the Office of Energy Development which may advise on issues related to hydrogen.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

79-6-106, Utah Code Annotated 1953

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

Section 1. Section 79-6-106 is enacted to read:

79-6-106. Hydrogen advisory council.

(1) The department shall create a hydrogen advisory council within the office that consists of seven to nine members appointed by the executive director, in consultation with the energy advisor. The executive director shall appoint members with expertise in:

(a) hydrogen energy in general;

(b) hydrogen project facilities;

(c) technology suppliers;

(d) hydrogen producers or processors;

(e) renewable and fossil based power generation industries; and

(f) fossil fuel based hydrogen feedstock providers.

(2) (a) Except as required by Subsection (2)(b), a member shall serve a four-year term.

(b) The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the hydrogen advisory council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) (a) A majority of the members appointed under this section constitutes a quorum of the hydrogen advisory council.

(b) The hydrogen advisory council shall determine:

(i) the time and place of meetings; and

(ii) any other procedural matter not specified in this section.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(5) The office shall staff the hydrogen advisory council.

(6) The hydrogen advisory council may:

(a) develop hydrogen facts and figures that facilitate use of hydrogen fuel within the state;

(b) encourage cross-state cooperation with states that have hydrogen programs;

(c) work with state agencies, the private sector, and other stakeholders, such as environmental groups, to:

(i) recommend realistic goals for hydrogen development that can be executed within realistic time frames; and

(ii) educate, discuss, consult, and make recommendations in hydrogen related matters that benefit the state;

(d) promote hydrogen research at state institutions of higher education, as defined in Section 53B-3-102;

(e) make recommendations regarding how to qualify for federal funding of hydrogen projects, including hydrogen related projects for:

(i) the state;

(ii) a local government;

(iii) a privately commissioned project;

(iv) an educational project;

(v) scientific development; and

(vi) engineering and novel technologies;

(f) make recommendations related to the development of multiple feedstock or energy resources in the state such as wind, solar, hydroelectric, geothermal, coal, natural gas, oil, water, electrolysis, coal gasification, liquefaction, hydrogen storage, safety handling, compression, and transportation;

(g) make recommendations to establish statewide safety protocols for production, transportation, and handling of hydrogen for both residential and commercial applications;

(h) facilitate public events to raise the awareness of hydrogen and hydrogen related fuels within the state and how hydrogen can be advantageous to all forms of transportation, heat, and power generation;

(i) review and make recommendations regarding legislation; and

(j) make other recommendations to the energy advisor related to hydrogen development in the state.

CHAPTER 234
S. B. 63
Passed February 22, 2023
Approved March 14, 2023
Effective May 3, 2023

ELECTION CANDIDATE REPLACEMENT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill addresses candidate vacancies.

Highlighted Provisions:

This bill:

- amends the definition of a vacancy;
- changes the deadline for filling a candidate vacancy;
- subject to an existing exception, for certain candidate vacancies, permits a political party to replace a candidate regardless of the reason for the vacancy; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-102, as last amended by Laws of Utah 2022, Chapters 18, 170
20A-1-501, as last amended by Laws of Utah 2019, Chapter 349

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

Section 1. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on ballots and tabulates the results.

(3) (a) "Ballot" means the storage medium, including a paper, mechanical, or electronic storage medium, that records an individual voter's vote.

(b) "Ballot" does not include a record to tally multiple votes.

(4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(5) "Bind," "binding," or "bound" means securing more than one piece of paper together using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.

(6) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(7) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(8) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(9) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(10) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(11) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(12) "Convention" means the political party convention at which party officers and delegates are selected.

(13) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(14) "Counting judge" means a poll worker designated to count the ballots during election day.

(15) "Counting room" means a suitable and convenient private place or room for use by the poll workers and counting judges to count ballots.

(16) "County officers" means those county officers that are required by law to be elected.

(17) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for voting by mail, military-overseas voting, or emergency voting; or

(ii) any early voting or early voting period as provided under Chapter 3a, Part 6, Early Voting.

(18) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(b)(ii).

(19) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(20) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(21) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(22) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(23) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(24) "Election official" means any election officer, election judge, or poll worker.

(25) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(26) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(27) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(28) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

(29) "Judicial office" means the office filled by any judicial officer.

(30) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(31) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(32) "Local district officers" means those local district board members that are required by law to be elected.

(33) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(34) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(35) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(36) "Manual ballot" means a paper document produced by an election officer on which an individual records an individual's vote by directly placing a mark on the paper document using a pen or other marking instrument.

(37) "Mechanical ballot" means a record, including a paper record, electronic record, or mechanical record, that:

(a) is created via electronic or mechanical means; and

(b) records an individual voter's vote cast via a method other than an individual directly placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

(38) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(39) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(40) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(41) "Municipal office" means an elective office in a municipality.

(42) "Municipal officers" means those municipal officers that are required by law to be elected.

(43) "Municipal primary election" means an election held to nominate candidates for municipal office.

(44) "Municipality" means a city, town, or metro township.

(45) "Official ballot" means the ballots distributed by the election officer for voters to record their votes.

(46) "Official endorsement" means the information on the ballot that identifies:

(a) the ballot as an official ballot;

(b) the date of the election; and

(c) (i) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(ii) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii).

(47) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(48) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(49) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(50) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(51) "Polling place" means a building where voting is conducted.

(52) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(53) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

(54) "Primary convention" means the political party conventions held during the year of the regular general election.

(55) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(56) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(57) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(58) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(59) (a) "Public figure" means an individual who, due to the individual being considered for, holding, or having held a position of prominence in a public or private capacity, or due to the individual's celebrity status, has an increased risk to the individual's safety.

(b) "Public figure" does not include an individual:

(i) elected to public office; or

(ii) appointed to fill a vacancy in an elected public office.

(60) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the individual was elected.

(61) "Receiving judge" means the poll worker that checks the voter's name in the official register at a polling place and provides the voter with a ballot.

(62) "Registration form" means a form by which an individual may register to vote under this title.

(63) "Regular ballot" means a ballot that is not a provisional ballot.

(64) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each

even-numbered year for the purposes established in Section 20A-1-201.

(65) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(66) "Resident" means a person who resides within a specific voting precinct in Utah.

(67) "Return envelope" means the envelope, described in Subsection 20A-3a-202(4), provided to a voter with a manual ballot:

(a) into which the voter places the manual ballot after the voter has voted the manual ballot in order to preserve the secrecy of the voter's vote; and

(b) that includes the voter affidavit and a place for the voter's signature.

(68) "Sample ballot" means a mock ballot similar in form to the official ballot, published as provided in Section 20A-5-405.

(69) "Special election" means an election held as authorized by Section 20A-1-203.

(70) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(71) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(72) "Tabulation system" means a device or system designed for the sole purpose of tabulating votes cast by voters at an election.

(73) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(74) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(75) "Vacancy" means:

(a) except as provided in Subsection (75)(b), the absence of [~~a person~~] an individual to serve in [~~any~~] a position created by state constitution or state statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause[~~.~~]; or

(b) in relation to a candidate for a position created by state constitution or state statute, the removal of a candidate due to the candidate's death, resignation, or disqualification.

(76) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (76)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(77) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate

by following the procedures and requirements of this title.

(78) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:

(a) mailing the ballot to the location designated in the mailing; or

(b) depositing the ballot in a ballot drop box designated by the election officer.

(79) "Voter" means an individual who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(80) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(81) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(82) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting enclosure or curtain; or

(b) a voting device that is free standing.

(83) "Voting device" means any device provided by an election officer for a voter to vote a mechanical ballot.

(84) "Voting precinct" means the smallest geographical voting unit, established under Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

(85) "Watcher" means an individual who complies with the requirements described in Section 20A-3a-801 to become a watcher for an election.

(86) "Write-in ballot" means a ballot containing any write-in votes.

(87) "Write-in vote" means a vote cast for an individual, whose name is not printed on the ballot, in accordance with the procedures established in this title.

Section 2. Section 20A-1-501 is amended to read:

20A-1-501. Candidate vacancies -- Procedure for filling.

(1) [~~The state~~] As used in this section, "central committee" means:

(a) the state central committee of a political party, for [~~candidates~~] a candidate for:

(i) United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, [~~and~~] or state auditor[~~, and for~~]; or

(ii) [~~legislative candidates whose~~] state legislator if the legislative [~~districts encompass~~] district encompasses all or a portion of more than one county[~~, and~~]; or

(b) the county central committee of a political party, for [~~all other party candidates~~] a party candidate seeking an office, other than an office described in Subsection (1)(a), elected [~~at a regular general election,~~] at an election held in an even-numbered year.

(2) Except as provided in Subsection (6), the central committee may certify the name of another candidate to the appropriate election officer if:

(a) for a registered political party that will have a candidate on a ballot in a primary election[~~,~~]:

(i) after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor provides the list described in Subsection 20A-9-403(4)(a)[~~:~~]

[~~(i)~~], only one or two candidates from that party have filed a declaration of candidacy for that office[~~;~~] and

[~~(ii)~~] one or both[~~:~~] dies, resigns as a candidate, or is disqualified as a candidate; and

[~~(A) dies;~~]

[~~(B) resigns because of acquiring a physical or mental disability, certified by a physician or physician assistant, that prevents the candidate from continuing the candidacy; or~~]

[~~(C) is disqualified by an election officer for improper filing or nominating procedures;~~]

(ii) the central committee provides written certification of the replacement candidate to the appropriate election officer before the day on which the lieutenant governor provides the list described in Subsection 20A-9-403(4)(a); and

(b) for a registered political party that does not have a candidate on the ballot in a primary, but [~~that~~] will have a candidate on the ballot for a regular general election[~~,~~]:

(i) after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate[~~:~~] dies, resigns as a candidate, or is disqualified as a candidate; and

[~~(i) dies;~~]

[~~(ii) resigns because of acquiring a physical or mental disability as certified by a physician or physician assistant;~~]

[~~(iii) is disqualified by an election officer for improper filing or nominating procedures; or~~]

[~~(iv) resigns to become a candidate for president or vice president of the United States; or~~]

(ii) the central committee provides written certification of the replacement candidate to the appropriate election officer before the day on which the lieutenant governor makes the certification described in Section 20A-5-409; or

(c) for a registered political party with a candidate certified as winning a primary election[,]:

(i) after the [~~deadline described in Subsection (1)(a)~~] close of the period for filing a declaration of candidacy and continuing through the day before [~~that~~] the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate[:] dies, resigns as a candidate, or is disqualified as a candidate; and

[~~(i) dies;~~]

[~~(ii) resigns because of acquiring a physical or mental disability as certified by a physician or physician assistant;~~]

[~~(iii) is disqualified by an election officer for improper filing or nominating procedures; or~~]

[~~(iv) resigns to become a candidate for president or vice president of the United States.~~]

(ii) the central committee provides written certification of the replacement candidate to the appropriate election officer before the day on which the lieutenant governor makes the certification described in Section 20A-5-409.

[~~(2)~~] (3) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the [~~state~~] central committee of that political party[~~, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party candidates,~~] may certify the name of another candidate to the appropriate election officer.

[~~(3)~~] (4) Each replacement candidate shall file a declaration of candidacy as required by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

[~~(4)~~] (5) (a) The name of a candidate who is certified under Subsection [~~(1)(a)~~] (2)(a) after the deadline described in Subsection [~~(1)(a)~~] (2)(a)(ii) may not appear on the primary election ballot.

(b) The name of a candidate who is certified under Subsection [~~(1)(b)~~] (2)(b) after the deadline described in Subsection [~~(1)(b)~~] (2)(b)(ii) may not appear on the general election ballot.

(c) The name of a candidate who is certified under Subsection [~~(1)(c)~~] (2)(c) after the deadline described in Subsection [~~(1)(c)~~] (2)(c)(ii) may not appear on the general election ballot.

[~~(5)~~] (6) A political party may not replace a candidate who is disqualified for failure to timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, or Section 17-16-6.5.

(7) This section does not apply to a candidate vacancy for a nonpartisan office.

CHAPTER 235
S. B. 65
Passed February 16, 2023
Approved March 14, 2023
Effective May 3, 2023

CHARTER SCHOOL AUTHORIZERS MODIFICATIONS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill addresses charter school authorizers.

Highlighted Provisions:

This bill:

- modifies the entities that are eligible to authorize charter schools;
- defines terms;
- requires certain authorizers to adopt procedures for imposing a standard, guideline, or policy;
- requires certain authorizers to comply with the procedures;
- provides when a standard, guideline, or policy is invalid; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-5-205, as last amended by Laws of Utah 2020, Chapter 408

ENACTS:

53G-5-308, Utah Code Annotated 1953

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

Section 1. Section 53G-5-205 is amended to read:

53G-5-205. Charter school authorizers -- Power and duties -- Charter application minimum standard.

(1) The following entities are eligible to authorize charter schools:

(a) the State Charter School Board;

(b) a local school board; [~~or~~]

(c) a board of trustees of an institution in the state system of higher education as described in Section 53B-1-102[~~.~~]; or

(d) a board of trustees of a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(2) A charter school authorizer shall:

(a) annually review and evaluate the performance of charter schools authorized by the authorizer and hold a charter school accountable for the school's performance; and

(b) monitor charter schools authorized by the authorizer for compliance with federal and state laws, rules, and regulations.

(3) A charter school authorizer may:

(a) authorize and promote the establishment of charter schools, subject to the provisions in this part;

(b) make recommendations on legislation and rules pertaining to charter schools to the Legislature and state board, respectively;

(c) make recommendations to the state board on the funding of charter schools;

(d) provide technical support to charter schools and persons seeking to establish charter schools by:

(i) identifying and promoting successful charter school models;

(ii) facilitating the application and approval process for charter school authorization;

(iii) directing charter schools and persons seeking to establish charter schools to sources of funding and support;

(iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; or

(v) assisting charter schools to understand and carry out their charter obligations; or

(e) provide technical support, as requested, to another charter school authorizer relating to charter schools.

(4) Within 60 days after an authorizer's approval of an application for a new charter school, the state board may direct an authorizer to do the following if the authorizer or charter school applicant failed to follow statutory or state board rule requirements made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) reconsider the authorizer's approval of an application for a new charter school; and

(b) correct deficiencies in the charter school application or authorizer's application process as described in statute or state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, before approving the new application.

(5) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing minimum standards that a charter school authorizer is required to apply when:

(a) evaluating a charter school application; or

(b) monitoring charter school compliance.

(6) The minimum standards described in Subsection (5) shall include:

(a) reasonable consequences for an authorizer that fails to comply with statute or state board rule;

(b) a process for an authorizer to review:

(i) the skill and expertise of a proposed charter school's governing board; and

(ii) the functioning operation of the charter school governing board of an authorized charter school;

(c) a process for an authorizer to review the financial viability of a proposed charter school and of an authorized charter school;

(d) a process to evaluate:

(i) how well an authorizer's authorized charter school complies with the charter school's charter agreement;

(ii) whether an authorizer's authorized charter school maintains reasonable academic standards; and

(iii) standards that an authorizer is required to meet to demonstrate the authorizer's capacity to oversee, monitor, and evaluate the charter schools the authorizer authorizes.

Section 2. Section 53G-5-308 is enacted to read:

53G-5-308. Adoption of standards, guidelines, or policies.

(1) As used in this section:

(a) "Applicable charter school authorizer" means a charter school authorizer that is the authorizer of more than 10 charter schools at the same time.

(b) "Standard, guideline, or policy" means a requirement or measurement of performance imposed by an applicable charter school authorizer on two or more charter schools authorized by the applicable charter school authorizer.

(2) (a) An applicable charter school authorizer shall adopt a procedure for the imposition of a standard, guideline, or policy that is substantially similar to the rulemaking procedure under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including procedures for notice and receipt of public comment.

(b) An applicable charter school authorizer may not impose a standard, guideline, or policy unless the applicable charter school authorizer follows the procedure adopted under Subsection (2)(a).

(3) A standard, guideline, or policy imposed on or after July 1, 2023, by an applicable charter school authorizer is not valid if the applicable charter school authorizer does not follow the procedures adopted under Subsection (2)(a) in imposing the standard, guideline, or policy.

CHAPTER 236
S. B. 67
Passed February 24, 2023
Approved March 14, 2023
Effective May 3, 2023

JUVENILE COMMITMENT AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill addresses the commitment of a juvenile offender to secure care.

Highlighted Provisions:

This bill:

- amends provisions regarding the commitment of a juvenile offender to secure care; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-6-804, as last amended by Laws of Utah 2022, Chapters 116, 155, 203, 426, and 430

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

Section 1. Section 80-6-804 is amended to read:

80-6-804. Review and termination of secure care.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2) (a) [~~If~~] Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of [~~commitment~~] secure care for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may immediately release the juvenile offender on parole if there is a treatment program available for the juvenile offender in a community-based setting.

[~~(b)~~] (c) [~~The~~] Except as provided in Subsection (2)(h), the authority shall release the juvenile offender on parole at the end of the presumptive term of [~~commitment~~] secure care unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

[~~(c)~~] (d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection [~~(2)(b)(i)~~] (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

[~~(d)~~] (e) [~~The~~] Except as provided in Subsection (2)(h), the authority may extend the length of [~~commitment~~] secure care and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection [~~(2)(b)~~] (2)(c) exists.

[~~(e)~~] (f) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

[~~(f)~~] (g) Records under Subsection [~~(2)(e)~~] (2)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may not:

(i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a) that would result in a term of secure care that exceeds a term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense; or

(ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e) if the extension would result in a term of secure care that exceeds the term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense.

(3) (a) If a juvenile offender is [~~committed~~] ordered to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:

(i) in the home of a qualifying relative or guardian;

(ii) at an independent living program contracted or operated by the division; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection [~~(2)(e)(i)~~] (3)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender [~~committed~~] ordered to secure care for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, negligently operating a vehicle resulting in death;

(g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or

(q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously [~~committed to the division for~~] ordered to secure care.

CHAPTER 237
S. B. 70
Passed February 15, 2023
Approved March 14, 2023
Effective May 3, 2023

VICTIM AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Sahara Hayes

LONG TITLE

General Description:

This bill amends provisions related to victims.

Highlighted Provisions:

This bill:

- amends a chapter title;
- modifies the name of the Address Confidentiality Program to the Safe at Home Program;
- amends provisions related to the Safe at Home Program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-204, as last amended by Laws of Utah 2022, Chapter 215
59-2-407, as last amended by Laws of Utah 2022, Chapter 215
77-37-5, as last amended by Laws of Utah 2022, Chapter 430
77-38-601, as enacted by Laws of Utah 2022, Chapter 215
77-38-602, as enacted by Laws of Utah 2022, Chapter 215
77-38-605, as enacted by Laws of Utah 2022, Chapter 215
77-38-607, as enacted by Laws of Utah 2022, Chapter 215
77-38-608, as enacted by Laws of Utah 2022, Chapter 215
77-38-609, as enacted by Laws of Utah 2022, Chapter 215
77-38-611, as enacted by Laws of Utah 2022, Chapter 215
77-38-612, as enacted by Laws of Utah 2022, Chapter 215
77-38-615, as enacted by Laws of Utah 2022, Chapter 215
77-38-618, as enacted by Laws of Utah 2022, Chapter 215
77-38-619, as enacted by Laws of Utah 2022, Chapter 215
77-38-620, as enacted by Laws of Utah 2022, Chapter 215
78B-7-804, as last amended by Laws of Utah 2021, Chapters 159, 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 159
80-6-604, as enacted by Laws of Utah 2021, Chapter 261

REPEALS:

77-38-1, as enacted by Laws of Utah 1994, Chapter 198

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

Section 1. Section 20A-2-204 is amended to read:

20A-2-204. Registering to vote when applying for or renewing a driver license.

(1) As used in this section, "voter registration form" means, when an individual named on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for voter registration purposes.

(2) (a) Except as provided in Subsection (2)(b), a citizen who is qualified to vote may register to vote, and a citizen who is qualified to preregister to vote may preregister to vote, by answering "yes" to the question described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

(b) A citizen who is a program participant in the [~~Address Confidentiality~~] Safe at Home Program created in Section 77-38-602 is not eligible to register to vote as described in Subsection (2)(a), but is eligible to register to vote by any other means described in this part.

(3) The Driver License Division shall:

(a) assist an individual in completing the voter registration form unless the individual refuses assistance;

(b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address;

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated;

(v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)(b); and

(vi) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted with the form.

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record or the individual submits a withholding request form described in Subsections 20A-2-104(7) and (8) and any required verification, classify the individual's voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

(a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and

(b) (i) if the individual meets the qualifications to be registered to vote:

(A) ensure that the individual is assigned to the proper voting precinct; and

(B) send the individual the notice described in Section 20A-2-304; or

(ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

(i) comply with the applicable provisions of this Subsection (6); or

(ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

(b) If the county clerk receives a correctly completed voter registration form under this section no later than 5 p.m. or, if submitting the form electronically, midnight, 11 calendar days before the date of an election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote:

(A) enter the individual's name on the list of registered voters for the voting precinct in which the individual resides; and

(B) notify the individual that the individual is registered to vote in the upcoming election; and

(iii) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

(c) If the county clerk receives a correctly completed voter registration form under this section after the deadline described in Subsection (6)(b), the county clerk shall, unless the individual named in the form is preregistering to vote:

(i) accept the application for registration of the individual;

(ii) process the voter registration form; and

(iii) unless the individual is preregistering to vote, and except as provided in Subsection 20A-2-207(6), inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.

(7) (a) If the county clerk determines that an individual's voter registration form received from the Driver License Division is incorrect because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual stating that the individual has not been registered or preregistered because of an error, because the registration form is incomplete, or because the individual does not meet the qualifications to be registered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

Section 2. Section 59-2-407 is amended to read:

59-2-407. Administration of uniform fees.

(1) (a) Except as provided in Subsection 59-2-405(4) or 59-2-405.3(4), the uniform fee authorized in Sections 59-2-405, 59-2-405.3, and 72-10-110.5 shall be assessed at the same time and in the same manner as ad valorem personal property taxes under Chapter 2, Part 13, Collection of Taxes, except that in listing personal property subject to the uniform fee with real property as permitted by Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall list only the amount of the uniform fee due, and not the taxable value of the property subject to the uniform fee.

(b) Except as provided in Subsections 59-2-405.1(4), 59-2-405.2(5), and 59-2-405.3(4), the uniform fee imposed by Section 59-2-405.1, 59-2-405.2, or 59-2-405.3 shall be assessed at the time of:

(i) registration as defined in Section 41-1a-102; and

(ii) renewal of registration.

(2) The remedies for nonpayment of the uniform fees authorized by Sections 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, and 72-10-110.5 shall be the same as those provided in Chapter 2, Part 13, Collection of Taxes, for nonpayment of ad valorem personal property taxes.

(3) Any disclosure of information to a county for purposes of distributing a uniform fee under this part is not subject to [~~Title 77, Chapter 38, Part 6,~~

~~Address Confidentiality Program~~] Title 77, Chapter 38, Part 6, Safe at Home Program.

Section 3. Section 77-37-5 is amended to read:

77-37-5. Remedies -- District Victims' Rights Committee.

(1) In each judicial district, the Utah Council on Victims of Crime, established in Section 63M-7-601, shall appoint a person who shall chair a judicial district victims' rights committee consisting of:

(a) a county attorney or district attorney;

(b) a sheriff;

(c) a corrections field services administrator;

(d) an appointed victim advocate;

(e) a municipal attorney;

(f) a municipal chief of police; and

(g) other representatives as appropriate.

(2) The committee shall meet at least semiannually to review progress and problems related to this chapter, [~~Title 77, Chapter 38, Rights of Crime Victims Act~~] Title 77, Chapter 38, Crime Victims, Title 77, Chapter 38b, Crime Victims Restitution Act, and Utah Constitution Article I, Section 28. Victims and other interested parties may submit matters of concern to the victims' rights committee. The committee may hold a hearing open to the public on any appropriate matter of concern and may publish its findings. These matters shall also be considered at the meetings of the victims' rights committee. The committee shall forward minutes of all meetings to the Utah Council on Victims of Crime for review and other appropriate action.

(3) If a victims' rights committee is unable to resolve a complaint, it may refer the complaint to the Utah Council on Victims of Crime.

(4) The Utah Office for Victims of Crime shall provide materials to local law enforcement to inform every victim of a sexual offense of the right to request testing of the convicted sexual offender and of the victim as provided in Section 53-10-802.

(5) (a) If a person acting under color of state law willfully or wantonly fails to perform duties so that the rights in this chapter are not provided, an action for injunctive relief may be brought against the individual and the government entity that employs the individual.

(b) For all other violations, if the committee finds a violation of a victim's right, it shall refer the matter to the appropriate court for further proceedings consistent with Subsection 77-38-11(2).

(c) The failure to provide the rights in this chapter or [~~Title 77, Chapter 38, Rights of Crime Victims Act~~] Title 77, Chapter 38, Crime Victims, does not constitute cause for a judgment against the state or any government entity, or any individual employed by the state or any government entity, for monetary damages, attorney fees, or the costs of exercising any rights under this chapter.

(6) The person accused of and subject to prosecution for the crime or the act which would be a crime if committed by a competent adult, has no standing to make a claim concerning any violation of the provisions of this chapter.

Section 4. Section 77-38-601 is amended to read:

CHAPTER 38. CRIME VICTIMS

Part 6. Safe at Home Program

77-38-601. Definitions.

As used in this part:

(1) "Abuse" means any of the following:

(a) "abuse" as that term is defined in Section 76-5-111 or 80-1-102; or

(b) "child abuse" as that term is defined in Section 76-5-109.

(2) "Actual address" means the residential street address of the program participant that is stated in a program participant's application for enrollment or on a notice of a change of address under Section 77-38-610.

(3) "Assailant" means an individual who commits or threatens to commit abuse, human trafficking, domestic violence, stalking, or a sexual offense against an applicant for the program or a minor or incapacitated individual residing with an applicant for the program.

(4) "Assigned address" means an address designated by the commission and assigned to a program participant.

(5) "Authorization card" means a card issued by the commission that identifies a program participant as enrolled in the program with the program participant's assigned address and the date on which the program participant will no longer be enrolled in the program.

(6) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(7) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(8) "Human trafficking" means a human trafficking offense under Section 76-5-308.

(9) "Incapacitated individual" means an individual who is incapacitated, as defined in Section 75-1-201.

(10) (a) "Mail" means first class letters or flats delivered by the United States Postal Service, including priority, express, and certified mail.

(b) "Mail" does not include a package, parcel, periodical, or catalogue, unless the package, parcel, periodical, or catalogue is clearly identifiable as:

(i) being sent by a federal, state, or local agency or another government entity; or

(ii) a pharmaceutical or medical item.

(11) "Minor" means an individual who is younger than 18 years old.

(12) "Notification form" means a form issued by the commission that a program participant may send to a person demonstrating that the program participant is enrolled in the program.

(13) "Program" means the [~~Address Confidentiality Program~~] Safe at Home Program created in Section 77-38-602.

(14) "Program assistant" means an individual designated by the commission under Section 77-38-604 to assist an applicant or program participant.

(15) "Program participant" means an individual who is enrolled under Section 77-38-606 by the commission to participate in the program.

(16) "Record" means the same as that term is defined in Section 63G-2-103.

(17) "Sexual offense" means:

(a) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or

(b) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual Exploitation.

(18) "Stalking" means the same as that term is defined in Section 76-5-106.5.

(19) "State or local government entity" means a county, municipality, higher education institution, local district, special service district, or any other political subdivision of the state or an administrative subunit of the executive, legislative, or judicial branch of this state, including:

(a) a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission; or

(b) an individual acting or purporting to act for or on behalf of a state or local entity, including an elected or appointed public official.

(20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or sexual assault.

Section 5. Section 77-38-602 is amended to read:

77-38-602. Creation -- Commission responsibilities.

(1) There is created the [~~Address Confidentiality~~] Safe at Home Program within the commission.

(2) Under the program, the commission shall:

(a) designate, train, and manage program assistants;

(b) develop, distribute, and process application forms and related materials for the program;

(c) designate an assigned address for a program participant to be used by the program participant and a state or local government entity; and

(d) receive mail sent to a program participant's assigned address, forward the mail to the program participant's actual address at the commission's expense, and track and maintain records for all mail received.

Section 6. Section 77-38-605 is amended to read:

77-38-605. Administration -- Application.

(1) The commission shall provide an application form to an applicant who seeks to participate in the program under this [~~chapter~~] part.

(2) The commission may not charge an applicant or program participant for an application or participation fee to apply for, or participate in, the program.

(3) The application shall include:

(a) the applicant's name;

(b) a mailing address, a phone number, and an email address where the applicant may be contacted by the commission;

(c) an indication regarding whether the assailant is employed by a state or local government entity, and if applicable, the name of the state or local government entity;

(d) a statement that the applicant understands and consents to:

(i) remain enrolled in the program for four years, unless the applicant's participation in the program is cancelled under Section 77-38-617;

(ii) while the applicant is enrolled in the program, notify the commission when the applicant changes the applicant's actual address or legal name;

(iii) develop a safety plan with a program assistant;

(iv) authorize the commission to notify a state or local government entity that the applicant is a program participant;

(v) submit written notice to the commission if the applicant chooses to cancel the applicant's participation in the program;

(vi) register to vote in person at the office of the clerk in the county where the applicant's actual address is located; and

(vii) certify that the commission is the applicant's designated agent for service of process for personal service;

(e) evidence that the applicant, or a minor or an incapacitated individual residing with the applicant, is a victim, including:

(i) a law enforcement, court, or other state, local, or federal government agency record; or

(ii) a document from:

(A) a domestic violence program, facility, or shelter;

(B) a sexual assault program; or

(C) a religious, medical, or other professional from whom the applicant, or the minor or the incapacitated individual residing with the applicant, sought assistance in dealing with alleged abuse, domestic violence, stalking, or a sexual offense;

(f) a statement from the applicant that a disclosure of the applicant's actual address would endanger the applicant, or a minor or an incapacitated individual residing with the applicant;

(g) a statement by the applicant that the applicant:

(i) resides at a residential address that is not known by the assailant;

(ii) has relocated to a different residential address in the past 90 days that is not known by the assailant; or

(iii) will relocate to a different residential address in the state within 90 days that is not known by the assailant;

(h) the actual address that:

(i) the applicant requests that the commission not disclose; and

(ii) is at risk of discovery by the assailant or potential assailant;

(i) a statement by the applicant disclosing:

(i) the existence of a court order or action involving the applicant, or a minor or an incapacitated individual residing with the applicant, related to a divorce proceeding, a child support order or judgment, or the allocation of custody or parent-time; and

(ii) the court that issued the order or has jurisdiction over the action;

(j) the name of any other individual who resides with the applicant who needs to be a program participant to ensure the safety of the applicant, or a minor or an incapacitated individual residing with the applicant;

(k) a statement by the applicant that:

(i) the applicant, or a minor or an incapacitated individual residing at the same address as the applicant, will benefit from participation in the program;

(ii) if the applicant intends to vote, the applicant will register to vote at the office of the clerk in the county in which the applicant actually resides;

(iii) the applicant does not have a current obligation to register as a sex offender or a kidnap offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(iv) the applicant does not have a current obligation to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry;

(l) a statement by the applicant, under penalty of perjury, that the information contained in the application is true;

(m) a statement that:

(i) if the applicant intends to use the assigned address for any correspondence with the State Tax Commission, the applicant must provide the State Tax Commission with the applicant's social security number, federal employee identification number, and any other identification number related to a tax, fee, charge, or license administered by the State Tax Commission; and

(ii) if the applicant intends to use the assigned address for correspondence to a state or local government entity for the purpose of titling or registering a motor vehicle or a watercraft that is owned or leased by the applicant, the applicant shall provide to the state or local government entity for each motor vehicle or watercraft:

(A) the motor vehicle or hull identification number;

(B) the license plate or registration number for the motor vehicle or the watercraft; and

(C) the physical address where each motor vehicle or watercraft is stored; and

(n) a statement that any assistance or counseling provided by a program assistant as part of the program does not constitute legal advice or legal services to the applicant.

Section 7. Section 77-38-607 is amended to read:

77-38-607. Use of assigned address -- Release of information.

(1) The commission shall forward all mail that the office receives at the assigned address for a program participant to the program participant's actual address.

(2) The commission shall provide, at the request of a program participant or a state or local government entity, confirmation of an individual's status as a program participant.

(3) Except as provided in Sections 77-38-611, 77-38-612, and 77-38-613, the [~~office~~] commission may not disclose a program participant's actual address to any person.

Section 8. Section 77-38-608 is amended to read:

77-38-608. Use of assigned address -- Confidentiality.

(1) A program participant may use the assigned address provided to the program participant to receive mail as provided in Subsection 77-38-602(2).

(2) (a) A state or local government entity may not refuse to use a program participant's assigned address for any official business, unless:

(i) the state or local government entity is statutorily required to use the program participant's actual address; or

(ii) the state or local government entity is permitted or required to use the program participant's actual address under this part.

(b) A state or local government entity may confirm an individual's status as a program participant with the commission.

(3) A state or local government entity, after receiving a copy of the notification form from a program participant or a notification of the program participant's enrollment from the commission, may not:

(a) except as provided in Subsection (2)(a), refuse to use the assigned address for the program participant, or a minor or an incapacitated individual residing with the program participant;

(b) except as provided in Subsection (4), require a program participant to disclose the program participant's actual address; or

(c) except as provided in Section 77-38-611, intentionally disclose to another person or state or local government entity the program participant's actual address.

(4) Notwithstanding Subsections (2) and (3), a county clerk may require a program participant to disclose the program participant's actual address:

(a) for voter registration; and

(b) to enroll a program participant in a program designed to protect the confidentiality of a voter's address.

(5) If a program participant is enrolled in a program designed to protect the confidentiality of a voter's address, a county clerk:

(a) shall classify the program participant's actual address as concealed; and

(b) may not disclose the program participant's actual address.

Section 9. Section 77-38-609 is amended to read:

77-38-609. Disclosure of actual address prohibited.

(1) (a) The commission may not disclose a program participant's actual address, unless:

(i) required by a court order; or

(ii) the commission grants a request from a state or local government entity under Section 77-38-612.

(b) The commission shall provide a program participant immediate notification of a disclosure of the program participant's actual address if the disclosure is made under Subsection (1)(a)(i) or (ii).

(2) If, at the time of application, an applicant, or a parent or guardian of an applicant, is subject to a court order relating to a divorce proceeding, a child support order or judgment, or an allocation of custody or parent-time, the commission shall provide notice of whether the applicant is enrolled under the program and the assigned address of the applicant to the court that issued the order or has jurisdiction over the action.

(3) A person may not knowingly or intentionally obtain a program participant's actual address from the commission or any state or local government entity if the person is not authorized to obtain the program participant's actual address.

(4) Unless the disclosure is permitted under this [~~chapter~~] part or is otherwise permitted by law, an employee of the commission or a state or local government entity may not knowingly or intentionally disclose a program participant's actual address if:

(a) the employee obtains a program participant's actual address during the course of the employee's official duties; and

(b) at the time of disclosure, the employee has specific knowledge that the address is the actual address of the program participant.

(5) A person who intentionally or knowingly obtains or discloses information in violation of this [~~chapter~~] part is guilty of a class B misdemeanor.

Section 10. Section 77-38-611 is amended to read:

77-38-611. Address use by state or local government entities.

(1) Except as otherwise provided in Subsection (7), a program participant is responsible for requesting that a state or local government entity use the program participant's assigned address as the program participant's residential address.

(2) Except as otherwise provided in this [~~chapter~~] part, if a program participant submits a valid authorization card, or a notification form, to a state or local government entity, the state or local government entity shall accept the assigned address listed on the authorization card or notification form as the program participant's address to be used as the program participant's residential address when creating a record.

(3) The program participant's assigned address shall be listed as the last known address if any last known address requirement is needed by the state or local government entity.

(4) The state or local government entity may photocopy a program participant's authorization card for a record for the state or local government entity, but the state or local government entity shall immediately return the authorization card to the program participant.

(5) (a) An election official, as defined in Section 20A-1-102, shall:

(i) use a program participant's actual address for precinct designation and all official election-related purposes;

(ii) classify the program participant's actual address as concealed; and

(iii) keep the program participant's actual address confidential from the public.

(b) A program participant may not use the program participant's assigned address for voter registration.

(c) An election official shall use the assigned address for all correspondence and mail for the program participant placed in the United States mail.

(d) A state or local government entity's access to a program participant's voter registration is subject to the request for disclosure process under Section 77-38-612.

(e) This Subsection (5) applies only to a program participant who submits a valid authorization card or a notification form when registering to vote.

(6) (a) A state or local government entity may not use a program participant's assigned address for the purposes of listing, or appraising a property, or assessing property taxes.

(b) Except as provided by Subsection (6)(c), all property assessments and tax notices, property tax collection notices, and all property related correspondence placed in the United States mail for the program participant shall be addressed to the assigned address.

(c) The State Tax Commission shall use the actual address of a program participant, unless the commission provides the following information to the State Tax Commission:

(i) the full name of the program participant; and

(ii) the [~~applicant's~~] program participant's social security number, federal employee identification number, and any other identification number related to a tax, fee, charge, or license administered by the State Tax Commission.

(7) (a) A state or local government entity may not use a program participant's assigned address for purposes of assessing any taxes or fees on a motor vehicle or a watercraft for titling or registering a motor vehicle or a watercraft.

(b) Except as provided by Subsection (7)(c), all motor vehicle and watercraft assessments and tax notices, title registration notices, and all related correspondence placed in the United States mail for the program participant is required to be addressed to the assigned address.

(c) The Motor Vehicle Division shall use the actual address of a program participant, unless the commission provides the following information to the Motor Vehicle Division:

(i) the full name of the program participant;

(ii) the assigned address of the program participant;

(iii) the motor vehicle or hull identification number for each motor vehicle or watercraft that is owned or leased by the program participant;

(iv) the license plate or registration number for each motor vehicle or watercraft that is owned or leased by the program participant; and

(v) the physical address where each motor vehicle or watercraft that is owned or leased by the program participant.

(d) Notwithstanding any other provision of this part, the Motor Vehicle Division may disclose to another state or local government entity all information that is necessary for the state or local government entity to distribute any taxes or fees collected for titling or registering a motor vehicle or a watercraft.

(e) Notwithstanding Section 41-1a-116 or any other provision of this part, the Motor Vehicle Division may not disclose the actual address of a program participant described in Subsection 77-38-605(3)(m)(ii) to:

(i) the Utah Criminal Justice Information System; or

(ii) the title, lien, and registration system that is provided to the Motor Vehicle Division by a third party contractor and is accessed in accordance with Subsection 41-1a-116(4).

(8) (a) The Department of Corrections, or any other entity responsible for supervising a program participant who is on probation or parole as a result of a criminal conviction or an adjudication, may not use the program participant's assigned address if the program participant's actual address is necessary for supervising the program participant.

(b) All written communication delivered through the United States mail to the program participant by the Department of Corrections, or the other entity described in Subsection (8)(a), shall be addressed to the program participant's assigned address.

(9) If a program participant is required by law to swear or affirm to the program participant's address, the program participant may use the program participant's assigned address.

(10) (a) A school district shall:

(i) accept the assigned address as the address of record; and

(ii) verify student enrollment eligibility with the commission.

(b) The commission shall help facilitate the transfer of student records as needed.

(11) (a) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a record containing a program participant's address is confidential and, regardless of the record's classification under Title 63G, Chapter 2, Part 3, Classification, may not be disclosed by a state or local government entity, unless otherwise provided under this [~~chapter~~] part.

(b) A program participant's actual address may not be disclosed to a third party by a state or local government entity, except:

(i) in a record created more than 90 days before the date on which the program participant applied for enrollment in the program; or

(ii) if a program participant voluntarily requests, in writing, that the program participant's actual address be disclosed to the third party.

(c) For a record created within 90 days before the date that a program participant applied for enrollment in the program, a state or local government entity shall redact the actual address from the record or change the actual address to the assigned address in the public record if the program participant presents a valid authorization card or a notification form and requests that the state or local government entity use the assigned address instead of the actual address on the record.

Section 11. Section 77-38-612 is amended to read:

77-38-612. Request for disclosure.

(1) A state or local government entity requesting disclosure of a program participant's actual address in accordance with this section shall make the request:

(a) in writing;

(b) on the state or local government entity's letterhead; and

(c) with the signature of the head or an executive-level official of the state or local government entity.

(2) In accordance with Subsection (1), a state or local government entity requesting disclosure of a program participant's actual address shall provide the commission with the name of the program participant and a statement:

(a) explaining why the state or local government entity is requesting the program participant's actual address;

(b) explaining why the state or local government entity cannot meet the state or local government entity's statutory or administrative obligations without the disclosure of the program participant's actual address;

(c) of facts showing that:

(i) other methods to locate the program participant's actual address have failed;

(ii) other methods will be unlikely to succeed; or

(iii) other means of contacting the program participant have failed or are unavailable; and

(d) that the state or local government entity has adopted a procedure to protect the confidentiality of the program participant's actual address.

(3) In response to a request for disclosure under Subsection (2), the commission may request additional information from the state or local government entity to help identify the program participant in the records of the office or to assess whether disclosure to the state or local government entity is permitted under this [~~chapter~~] part.

(4) (a) Except as provided in Subsection (4)(b), after receiving a request for disclosure from a state or local government entity under Subsection (1), the commission shall provide a program participant with written notification:

(i) informing the participant of the request, and to the extent possible, of an opportunity to be heard regarding the request; and

(ii) after a decision is made by the commission, whether the request has been granted or denied.

(b) The commission is not required to provide notice of a request for disclosure to a program participant under Subsection (4)(a) when:

(i) the request is made by a state or local law enforcement agency conducting a criminal investigation involving alleged criminal conduct by the program participant; or

(ii) providing notice to the program participant would jeopardize an ongoing criminal investigation or the safety of law enforcement personnel.

(5) The commission shall grant a state or local government entity's request for disclosure and disclose the program participant's actual address if:

(a) the state or local government entity has demonstrated a good faith statutory or administrative need for the actual address;

(b) the actual address will be used only for the purpose stated in the request;

(c) other methods to locate the program participant or the program participant's actual address have failed or are unlikely to succeed;

(d) other means of contacting the program participant have failed or are unavailable; and

(e) the state or local government entity has adopted a procedure to protect the confidentiality of the program participant's actual address.

(6) If the commission grants a request for disclosure under this section, the commission shall provide the state or local government entity with a disclosure that contains:

(a) the program participant's actual address;

(b) a statement of the permitted use of the program participant's actual address;

(c) the names or classes of persons permitted to have access to or use of the program participant's actual address;

(d) a statement that the state or local government entity is required to limit access to and use of the program participant's actual address to the permitted use and to the listed persons or classes of persons; and

(e) if expiration of the disclosure is appropriate, the date on which the permitted use of the program participant's actual address expires.

(7) If a request for disclosure is granted by the commission, a state or local government entity shall:

(a) limit use of the program participant's actual address to the purpose stated in the disclosure;

(b) limit access to the program participant's actual address to the persons or classes of persons stated in the disclosure;

(c) cease use of the program participant's actual address upon the expiration of the permitted use;

(d) dispose of the program participant's actual address upon the expiration of the permitted use; and

(e) except as permitted in the request for disclosure, maintain the confidentiality of the program participant's actual address.

(8) Upon denial of a state or local government entity's request for disclosure, the commission shall promptly provide a written notification to the state or local government entity explaining the specific reasons for denying the request for disclosure.

(9) (a) A state or local government entity may file a written appeal with the commission no later than 15 days after the day on which the state or local government entity receives the written notification under Subsection (8).

(b) A state or local government entity filing a written appeal under Subsection (9)(a) shall:

(i) restate the information contained in the request for disclosure; and

(ii) respond to the commission's reason for denying the request for disclosure.

(c) The commission shall make a final determination on the appeal within 30 days after the day on which the appeal is received by the commission, unless the state or local government entity and the [~~office~~] commission agree to a different deadline.

(d) Before the commission makes a final determination, the commission may conduct a hearing or request additional information from the state or local government entity or the program participant.

Section 12. Section 77-38-615 is amended to read:

77-38-615. Participation in the program -- Orders in relation to allocation of custody or parent-time.

(1) A court may not consider a parent's participation in the program for the purpose of making an order allocating custody under Section 30-3-10 or parent-time under Section 30-3-32.

(2) A court shall take practical measures to keep a program participant's actual address confidential when making an order allocating custody or parent-time.

(3) Nothing in this [~~chapter~~] part affects an order relating to the allocation of custody or parent-time in effect prior to or during a program participant's participation in the program.

Section 13. Section 77-38-618 is amended to read:

77-38-618. Retention and destruction of records.

The commission shall establish policies and procedures regarding the maintenance and destruction of applications, records, and other documents received or generated under this [~~chapter~~] part.

Section 14. Section 77-38-619 is amended to read:

77-38-619. Immunity from suit.

(1) A program assistant, or a program assistant's employer, is immune from liability in a civil action or proceeding involving the performance or nonperformance of a duty under this [~~chapter~~] part, unless:

(a) the performance or nonperformance of a program assistant was manifestly outside the scope of the program assistant's duties in the program; or

(b) the program assistant acted with malicious purpose, bad faith, or in a wanton or reckless manner.

(2) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, or any other governmental immunity provided by law, the commission, the state, and the political subdivisions of the state are immune from liability in a civil action or proceeding involving the performance or nonperformance of a duty under the program.

Section 15. Section 77-38-620 is amended to read:

77-38-620. Safe at Home Program Restricted Account -- Report.

(1) There is created a restricted account in the General Fund known as the[~~"Address Confidentiality~~] "Safe at Home Program Restricted Account."

(2) The account shall be funded by:

(a) private contributions;

(b) gifts, donations, or grants from public or private entities; and

(c) interest and earnings on account money.

(3) Upon appropriation by the Legislature, the commission may expend funds from the account to:

(a) designate, train, and manage program assistants;

(b) develop, distribute, and process application forms and related materials for the program;

(c) assist applicants and program participants in enrolling in the program; or

(d) ensure program participants receive mail forwarded from the program to the program participant's actual address.

(4) No later than December 31 of each year, the commission shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report of the program's activities, including:

(a) the contributions received under Subsection (2);

(b) an accounting of the money expended or committed to be expended by the commission under Subsection (3); and

(c) the balance of the account.

Section 16. Section 78B-7-804 is amended to read:

78B-7-804. Sentencing and continuous protective orders for a domestic violence offense -- Modification -- Expiration.

(1) Before a perpetrator who has been convicted of or adjudicated for a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of or adjudicated for domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 37, Victims' Rights, and [~~Title 77, Chapter 38, Rights of Crime Victims Act~~] Title 77, Chapter 38, Crime Victims, and Article I, Section 28 of the Utah Constitution.

(b) Except as provided in Subsection (6), if a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless the court determines by clear and convincing evidence that the victim does not a have a reasonable fear of future harm or abuse.

(c) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court. The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(d) A continuous protective order is permanent in accordance with this Subsection (3) and may include:

(i) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(iii) an order prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;

(iv) an order directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act; and

(v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.

(4) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse.

(5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3), a district court may issue a continuous protective order at any time if the victim files a petition with the court, and after notice and hearing the court finds that a continuous protective order is necessary to protect the victim.

(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 80-6-807, the day on which the Division of Juvenile Justice Services discharges the perpetrator.

Section 17. Section 80-6-604 is amended to read:

80-6-604. Victim's rights -- Access to juvenile court records.

(1) (a) If a minor is charged in a petition or information under this chapter for an offense that if committed by an adult would be a felony or a class A or class B misdemeanor, a victim of any act charged in the petition or information shall, upon request, be afforded all rights afforded to victims in:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 77, Chapter 37, Victims' Rights;

(iii) [~~Title 77, Chapter 38, Rights of Crime Victims Act~~] Title 77, Chapter 38, Crime Victims; and

(iv) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(b) The notice provisions in Section 77-38-3 do not apply to important juvenile justice hearings as defined in Section 77-38-2.

(2) A victim, upon request to the appropriate juvenile court personnel, shall have the right to inspect and duplicate juvenile court records related to the offense against the victim that have not been expunged under Part 10, Juvenile Records and Expungement, concerning:

(a) the scheduling of any juvenile court hearings on a petition or information filed under this chapter;

(b) any findings made by the juvenile court; and

(c) any order or disposition imposed by the juvenile court.

Section 18. Repealer.

This bill repeals:

Section 77-38-1, Title.

CHAPTER 238
S. B. 76
Passed March 1, 2023
Approved March 14, 2023
Effective May 3, 2023

WATER AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses coordination of planning related to water.

Highlighted Provisions:

This bill:

- provides for a study;
- addresses grants for environmental improvement projects;
- requires certain municipal and county planning commissions to consult with the Division of Water Resources in development of general plans;
- addresses consultation with the Department of Agriculture and Food;
- requires notification of irrigation and canal companies in certain circumstances;
- requires counties to notify certain public water systems and request feedback on how elements of the general plan affect certain water planning;
- requires counties to consider planning for regionalization of public water systems;
- provides for action by the director of the Division of Drinking Water to establish regional source and storage minimum sizing standards or adjust system-specific sizing standards;
- addresses a change application by a shareholder of a water company;
- provides what may be included in a water conservation plan;
- modifies requirements related to the Division of Water Resources making rules for regional water conservation goals;
- requires the Division of Water Resources to consult with watershed councils under certain circumstances;
- changes the membership of the Water Development Coordinating Council;
- directs the Water Development Coordinating Council to take actions related to the coordination of growth and conservation planning; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Natural Resources -- Water Resources -- Planning, as a one-time appropriation:
  - from the General Fund, One-time, $500,000;
- to the Department of Natural Resources -- Water Resources -- Planning, as an ongoing appropriation:
  - from the General Fund, $130,000;
- to the Department of Environmental Quality Drinking Water, System Assistance, as an ongoing appropriation:
  - from the General Fund, $130,000; and
- to the Department of Agriculture and Food -- Resource Conservation, as an ongoing appropriation:
  - from the General Fund, $130,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-18-108, as last amended by Laws of Utah 2022, Chapter 79
10-9a-403, as last amended by Laws of Utah 2022, Chapters 282, 406 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 406
17-27a-403, as last amended by Laws of Utah 2022, Chapters 282, 406
19-4-106, as last amended by Laws of Utah 2020, Chapter 256
19-4-114, as last amended by Laws of Utah 2020, Chapter 256
73-3-3.5, as last amended by Laws of Utah 2015, Chapter 249
73-10-32, as last amended by Laws of Utah 2022, Chapter 90
73-10-36, as enacted by Laws of Utah 2022, Chapter 282
73-10c-3, as last amended by Laws of Utah 2022, Chapter 66

ENACTS:

73-10c-11, Utah Code Annotated 1953

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

Section 1. Section 4-18-108 is amended to read:

4-18-108. Grants for environmental improvement projects -- Criteria for award -- Duties of commission.

(1) The commission may make a grant from the Agriculture Resource Development Fund, or from funds appropriated by the federal government, Legislature, or another entity, to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(a) control or eradication of noxious weeds and invasive plant species in cooperation and coordination with a local weed board;

(b) the costs of plans or projects to improve manure management, control surface water runoff, or address other environmental issues on a farm or ranch operation, including the costs of preparing or implementing a nutrient management plan;

(c) the improvement of water quality;

(d) the improvement of water quantity and flows;

[~~(d)~~] (e) the development of watershed plans; or

[~~(e)~~] (f) a program to address other environmental issues.

(2) (a) In awarding a grant, the commission shall consider the following criteria:

(i) the ability of the grantee to pay for the costs of proposed plans or projects;

(ii) the availability of:

(A) matching funds provided by the grantee or another source; or

(B) material, labor, or other items of value provided in lieu of money by the grantee or another source; and

(iii) the benefits that accrue to the general public by the awarding of a grant.

(b) The commission may establish by rule additional criteria for the awarding of a grant.

(3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(4) The commission may appoint an advisory board to:

(a) assist with the grant process;

(b) make recommendations to the commission regarding grants; and

(c) establish policies and procedures for awarding loans or grants.

Section 2. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) except for a city of the fifth class or a town, is coordinated to integrate the land use element with the water use and preservation element; and

(D) except for a city of the fifth class or a town, accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified municipality as defined in Section 10-9a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(iii) for implementation, including one additional moderate income housing strategy as provided in Subsection (2)(b)(iv) for a specified municipality that has a fixed guideway public transit station; and

(C) includes an implementation plan as provided in Subsection (2)(c); and

(iv) except for a city of the fifth class or a town, a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) develop and adopt a station area plan in accordance with Section 10-9a-403.1;

(W) create or allow for, and reduce regulations related to, multifamily residential dwellings

compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

(X) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; and

(iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement:

(A) the strategy described in Subsection (2)(b)(iii)(V); and

(B) a strategy described in Subsection (2)(b)(iii)(G), (H), or (Q).

(c) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall establish a timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.

(ii) The timeline described in Subsection (2)(c)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and

(B) provide flexibility for the municipality to make adjustments as needed.

(d) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(e) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the municipality's region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider:

(A) applicable regional water conservation goals recommended by the Division of Water Resources; and

(B) if Section 73-10-32 requires the municipality to adopt a water conservation plan pursuant to Section 73-10-32, the municipality's water conservation plan;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the municipality; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the municipality's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(vi) shall consult with the Division of Water Resources for information and technical resources

regarding regional water conservation goals, including how implementation of the land use element and the water use and preservation element may affect the Great Salt Lake;

[~~(vi)~~] (vii) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

[~~(vii)~~] (viii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 3. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) is coordinated to integrate the land use element with the water use and preservation element; and

(D) accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(ii) for implementation; and

(C) includes an implementation plan as provided in Subsection (2)(e);

(iv) a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3); and

(v) a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or

mixed-use zones, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

(W) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing.

(iii) If a specified county, as defined in Section 17-27a-408, has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(e) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall establish a timeline for

implementing each of the moderate income housing strategies selected by the county for implementation.

(ii) The timeline described in Subsection (2)(e)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and

(B) provide flexibility for the county to make adjustments as needed.

(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;

(ii) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and water use and preservation element may affect the Great Salt Lake;

(iii) shall notify the community water systems serving drinking water within the unincorporated portion of the county and request feedback from the community water systems about how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(iv) shall consider the potential opportunities and benefits of planning for regionalization of public water systems;

(v) shall consult with the Department of Agriculture and Food for information and technical resources regarding the potential benefits of agriculture conservation easements and potential implementation of agriculture water optimization projects that would support regional water conservation goals;

(vi) shall notify an irrigation or canal company located in the county so that the irrigation or canal company can be involved in the protection and integrity of the irrigation or canal company's delivery systems;

[~~(ii)~~] (vii) shall include a recommendation for:

(A) water conservation policies to be determined by the county; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

[~~(iii)~~] (viii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

[~~(iv)~~] (ix) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

[~~(v)~~] (x) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

[~~(vi)~~] (xi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 4. Section 19-4-106 is amended to read:

19-4-106. Director -- Appointment -- Authority.

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) The director shall:

(a) develop programs to promote and protect the quality of the public drinking water supplies of the state;

(b) advise, consult, and cooperate with other agencies of this and other states, the federal government, and with other groups, political subdivisions, and industries in furtherance of the purpose of this chapter;

(c) review plans, specifications, and other data pertinent to proposed or expanded water supply systems to ensure proper design and construction; and

(d) subject to the provisions of this chapter, enforce rules made by the board through the issuance of orders that may be subsequently revoked, which orders may require:

(i) discontinuance of use of unsatisfactory sources of drinking water;

(ii) suppliers to notify the public concerning the need to boil water; or

(iii) suppliers in accordance with existing rules, to take remedial actions necessary to protect or improve an existing water system; and

(e) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the chair of the board.

(3) The director may authorize employees or agents of the department, after reasonable notice and presentation of credentials, to enter any part of a public water system at reasonable times to inspect the facilities and water quality records required by board rules, conduct sanitary surveys, take samples, and investigate the standard of operation and service delivered by public water systems.

(4) As provided in this chapter and in accordance with rules made by the board, the director may:

(a) [~~the director may~~] issue and enforce a notice of violation and an administrative order; and

(b) [~~the director may~~] assess and make a demand for payment of an administrative penalty arising from a violation of this chapter, a rule or order issued under the authority of this chapter, or the terms of a permit or other administrative authorization issued under the authority of this chapter.

(5) (a) The director shall study how water providers, municipalities, counties, and state agencies may find greater efficiencies through improved coordination, consolidation, and regionalization related to:

(i) water use and conservation; and

(ii) administrative and economic efficiencies.

(b) The study under this Subsection (5) shall consider recommendations including incentives, funding, regulatory changes, and statutory changes to promote greater coordination and efficiency and to help meet water infrastructure needs statewide.

(c) The director shall:

(i) conduct the study in conjunction with the Division of Water Resources; and

(ii) consult with a diverse group consisting of water providers, state agencies, local governments, and relevant stakeholders to help the director conduct the study and develop recommendations described in this Subsection (5).

(d) On or before October 30, 2024, the director shall provide a written report of the study's findings, including any recommended legislative action, to the Natural Resources, Agriculture, and Environment Interim Committee.

Section 5. Section 19-4-114 is amended to read:

19-4-114. Source and storage minimum sizing requirements for public water systems.

(1) (a) Except as provided in Subsection (1)(b), upon submission of plans for a substantial addition to or alteration of a community water system, the director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of more than 3,300 based on at least the most recent three years of a community water system's actual water use data submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

(b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available to the division, or if the community water system determines that the data submitted does not represent future system use, the director may establish source and storage minimum sizing requirements for the community water system based on:

(i) an engineering study submitted by the community water system and accepted by the director; or

(ii) at least three years of historical water use data that is:

(A) submitted by the community water system; and

(B) accepted by the director.

(c) A community water system serving a population of more than 3,300 shall provide the information necessary to establish the system-specific standards described in this Subsection (1) by no later than March 1, 2019.

(2) (a) By no later than October 1, 2023, and except as provided in Subsection (2)(b), the director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of between 500 and no more than 3,300 based on at least the most recent three years of a community water system's actual water use data submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

(b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available to the division, or if the community water system determines that the data submitted does not represent future system use, the director may establish source and storage minimum sizing requirements for the community water system based on:

(i) an engineering study submitted by the community water system and accepted by the director; or

(ii) at least three years of historical water use data that is:

(A) submitted by the community water system; and

(B) accepted by the director.

(c) A community water system serving a population of between 500 and no more than 3,300 shall provide the information necessary to establish system-specific standards described in this Subsection (2) by no later than March 1, 2023.

(3) The director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of fewer than 500 based on:

(a) at least the most recent three years of a community water system's actual water use data submitted to the division and accepted by the director;

(b) an engineering study submitted by the community water system and accepted by the director;

(c) standards, comparable to those of established community water systems, as determined by the director; or

(d) relevant information, as determined by the director.

(4) The director shall:

(a) for community water systems described in Subsection (3), establish a schedule to transition from statewide sizing standards to system-specific standards;

(b) establish minimum sizing standards for public water systems that are not community water systems;

(c) provide for the routine evaluation of changes to the system-specific standards; and

(d) include, as part of system-specific standards, necessary fire storage capacity in accordance with

the state fire code adopted under Section 15A-1-403 and as determined by the local fire code official.

(5) The director may adjust system-specific sizing standards, established under this section for a public water system, based on information submitted by the public water system addressing the effect of any wholesale water deliveries or other system-specific conditions affecting infrastructure needs.

(6) [~~A~~] Except as provided for under Subsection (7), a wholesale water supplier is exempt from this section if the wholesale water supplier serves:

(a) a total population of more than 10,000; and

(b) a wholesale population that is 75% or more of the total population served.

(7) Upon request of a wholesale water supplier and the community water systems receiving water from the wholesale water supplier, the director may establish regional source and storage minimum sizing standards for community water systems receiving water from the wholesale water supplier using actual water use data submitted by the wholesale water supplier and the community water systems served by the wholesale water supplier.

(8) The director may adjust system-specific sizing standards established under this section for a public water system based on adopted enforceable water conservation measures that are consistent with regional water conservation goals adopted pursuant to Subsection 73-10-32(2)(d)(ii)(A) or (B).

Section 6. Section 73-3-3.5 is amended to read:

73-3-3.5. Application for a change of point of diversion, place of use, or purpose of use of water in a water company made by a shareholder.

(1) As used in this section:

(a) "Shareholder" means the owner of a share of stock, or other evidence of stock ownership, that entitles the person to a proportionate share of water in a water company.

(b) "Water company" means, except as described in Subsection (1)(c), any company, operating for profit or not for profit, where a shareholder has the right to receive a proportionate share, based on that shareholder's ownership interest, of water delivered by the company.

(c) "Water company" does not include a public water supplier, as defined in Section 73-1-4.

(2) (a) A shareholder who seeks to file a change application under Section 73-3-3 to make a change to some or all of the water rights represented by the shareholder's shares in a water company shall:

(i) prepare a proposed change application on forms furnished by the state engineer; and

(ii) provide the proposed change application to the water company by personal delivery with a signed receipt, certified mail, or electronic mail with confirmation of receipt.

(b) The water company and the shareholder shall cooperate in supplying information relevant to preparation or correction of the shareholder's change application.

(c) In addition to the information required under Section 73-3-3, the proposed change application shall include:

(i) the certificate number of the stock affected by the change;

(ii) a description of the land proposed to be retired from irrigation in accordance with Section 73-3-3, if the proposed change in place or nature of use of the water involves a situation where the water was previously used for irrigation;

(iii) an agreement by the shareholder to continue to pay all applicable corporate assessments on the share affected by the change; and

(iv) any other information that the water company may reasonably need to evaluate the proposed change application.

(3) (a) [~~The water company shall respond to the proposed change application described in Subsection (2) within 120 days after the day on which the water company receives the proposed change application.~~] The water company shall respond to the proposed change application described in Subsection (2) within:

(i) for a permanent change application, 120 days after the day on which the water company receives the proposed change application; or

(ii) for a temporary change application, 60 days after the day on which the water company receives the proposed change application.

(b) The water company's response to the proposed change application shall be in writing and shall:

(i) consent to the proposed change;

(ii) consent to the proposed change, subject to certain conditions described by the water company; or

(iii) decline to consent to the proposed change, describing the reasons for declining to consent.

(c) If the water company fails to timely respond, as described in Subsection (3)(a), the failure to respond shall be considered the water company's consent to the proposed change application and the shareholder may file the change application with the state engineer.

(4) (a) In reviewing a shareholder's proposed change application, a water company may consider:

(i) whether an increased cost to the water company or its shareholders results from the proposed change;

(ii) whether the proposed change will interfere with the water company's ability to manage and distribute water for the benefit of all shareholders;

(iii) whether the proposed change represents more water than the shareholder's proportionate share of the water company's right;

(iv) whether the proposed change would create preferential access to use of particular company water rights to the detriment of other shareholders;

(v) whether the proposed change will impair the quantity or quality of water delivered to other shareholders under the existing water rights of the water company, including rights to carrier water;

(vi) whether the proposed change violates a statute, ordinance, regulation, or order of a court or government agency;

(vii) if applicable, whether the shareholder has or can arrange for the beneficial use of water to be retired from irrigation within the water company's service area under the proposed change; and

(viii) the cumulative effects that the approval of the change application may have on other shareholders or water company operations.

(b) The water company may not withhold consent if any potential damage, liability, or impairment to the water company, or its shareholders, can be reasonably mitigated without cost to the water company.

(c) The water company may require the shareholder to pay all reasonable and necessary costs associated with the change application, but may not impose unreasonable exactions.

(5) (a) If the water company declines to consent to the proposed change application, stating its reasons, the shareholder may file an action in district court, seeking court review of the reasonableness of the conditions imposed for giving consent or the reasons stated for declining consent and a final order allowing the shareholder to file the proposed change application with the state engineer.

(b) If the water company consents to the proposed change application subject to conditions to which the shareholder does not agree, the shareholder may file the change application with the state engineer as provided in Subsection (6), without waiving the shareholder's right to contest conditions set by the water company under Subsection (3)(b)(ii).

(c) During or after the completion of the proceeding before the state engineer commenced under Subsection (6), the shareholder may file an action in district court seeking court review of the reasonableness of the conditions imposed by the water company for giving consent.

(d) In an action brought under Subsection (5)(a), (b), or (c), the court:

(i) shall refer the parties to mediation under Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, unless one or both parties decline mediation; and

(ii) may award costs and reasonable attorney fees to the prevailing party if mediation does not occur because the other party declined to participate in mediation.

(6) If the water company consents to the proposed change, the water company fails to respond as required by Subsection (3)(a), the court has entered an order described in Subsection (5)(a), or the water company consents to the proposed change subject to conditions to which the shareholder does not agree, as described in Subsection (5)(b), the shareholder may commence an administrative proceeding by filing the change application with the state engineer in accordance with Section 73-3-3 and this section.

(7) The shareholder shall include as part of the change application filed with the state engineer under Subsection (5)(b) or (6):

(a) the water company's response to the shareholder's proposed change application;

(b) if applicable, an affidavit signed by the shareholder documenting the water company's failure to respond in the time period described in Subsection (3)(a); or

(c) if applicable, the court order described in Subsection (5)(a).

(8) (a) The state engineer shall evaluate a shareholder's change application in the same manner used to evaluate a change application submitted under Section 73-3-3, using the criteria described in Section 73-3-8.

(b) Nothing in this section limits the authority of the state engineer in evaluating and processing a change application, including the authority to require or allow a shareholder or water company to submit additional relevant information, if the state engineer finds an absence of prejudice and allows adequate time and opportunity for the other party to respond.

(9) If the state engineer approves a shareholder's change application, the state engineer may, for shares included in the approval, require that the shareholder requesting the change be current on all water company assessments and continue to pay all reasonably applicable future assessments, with credit given to the shareholder for any cost savings to the company resulting from the change.

(10) By mutual agreement only, and when the shares will rely upon a different diversion and delivery system, the water company and the shareholder may negotiate a buyout from the water company that may include a pro rata share of the water company's existing indebtedness assignable to the shares.

(11) After an application has been approved by the state engineer, the shareholder may file requests for extensions of time to submit proof of beneficial use under the change application without further involvement of the water company.

(12) If, after a proposed change has been approved and gone into effect, a shareholder fails to substantially comply with a condition described in Subsection (9), or any condition reasonably imposed by the company and agreed to by the shareholder,

and neglects to remedy the failure after written notice from the water company that allows the shareholder a reasonable opportunity to remedy the failure, no less than 90 days after the day on which the water company gives notice, the water company may petition the state engineer to order a reversal of the change application approval.

(13) (a) The shareholder requesting the change shall have a cause of action, including an award of actual damages incurred, against the water company if the water company:

(i) unreasonably withholds approval of a requested change;

(ii) imposes unreasonable conditions in its approval; or

(iii) withdraws approval of a change application in a manner other than as provided in Subsection (12).

(b) The court may award costs and reasonable attorney fees:

(i) to the shareholder if the court finds that the water company acted in bad faith when it declined to consent to the proposed change or conditioned its consent on excessive exactions or unreasonable conditions; or

(ii) to the water company if it finds that the shareholder acted in bad faith in refusing to accept conditions reasonably necessary to protect other shareholders if the shareholder's change application is approved.

Section 7. Section 73-10-32 is amended to read:

73-10-32. Definitions -- Water conservation plan required.

(1) As used in this section:

(a) "Division" means the Division of Water Resources created under Section 73-10-18.

(b) "Water conservancy district" means an entity formed under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.

(c) "Water conservation plan" means a written document that contains existing and proposed water conservation measures describing what will be done by a water provider, and the end user of culinary water to help conserve water in the state in terms of per capita use of water provided through culinary water infrastructure owned or operated by the water provider so that adequate supplies of water are available for future needs.

(d) "Water provider" means:

(i) a retail water supplier, as defined in Section 19-4-102; or

(ii) a water conservancy district.

(2) (a) A water conservation plan shall contain:

(i) (A) a clearly stated overall water use reduction goal that is consistent with Subsection (2)(d); and

(B) an implementation plan for each water conservation measure a water provider chooses to use, including a timeline for action and an evaluation process to measure progress;

(ii) a requirement that a notification procedure be implemented that includes the delivery of the water conservation plan to the media and to the governing body of each municipality and county served by the water provider;

(iii) a copy of the minutes of the meeting regarding a water conservation plan and the notification procedure required in Subsection (2)(a)(ii) that shall be added as an appendix to the water conservation plan; and

(iv) for a retail water supplier, as defined in Section 19-4-102, the retail water supplier's rate structure that is:

(A) adopted by the retail water supplier's governing body in accordance with Section 73-10-32.5; and

(B) current as of the day the retail water supplier files a water conservation plan.

(b) A water conservation plan may include information regarding:

(i) the installation and use of water efficient fixtures and appliances, including toilets, shower fixtures, and faucets;

(ii) residential and commercial landscapes and irrigation that require less water to maintain;

(iii) more water efficient industrial and commercial processes involving the use of water;

(iv) water reuse systems, both potable and not potable;

(v) distribution system leak repair;

(vi) dissemination of public information regarding more efficient use of water, including public education programs, customer water use audits, and water saving demonstrations;

(vii) water rate structures designed to encourage more efficient use of water;

(viii) statutes, ordinances, codes, or regulations designed to encourage more efficient use of water by means such as water efficient fixtures and landscapes;

(ix) incentives to implement water efficient techniques, including rebates to water users to encourage the implementation of more water efficient measures; [~~and~~]

(x) regional conservation planning and shared shortage agreements; and

[~~(x)~~] (xi) other measures designed to conserve water.

(c) The division may be contacted for information and technical resources regarding measures listed in Subsection (2)(b).

(d) (i) The division shall adopt by rule, made in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, regional water conservation goals that:

(A) are developed by the division;

(B) take into consideration goals established in the Colorado River management plan adopted pursuant to Section 63M-14-204;

(C) for areas in the Great Salt Lake watershed, take into consideration the Great Salt Lake, including the water budget associated with the integrated surface and ground water assessment described in Section 73-10g-402;

(D) take into consideration how growth and regional conservation goals impact agriculture water use;

[~~(B)~~] (E) are reevaluated by December 31, 2030, and every 10 years after December 31, 2030; and

[~~(C)~~] (F) define what constitutes "water being conserved" under a water conservation goal after considering factors such as depletion, diversion, use, consumption, or return flows.

(ii) As part of a water conservation plan, a water provider shall adopt one of the following:

(A) the regional water conservation goal applicable to the water provider;

(B) a water conservation goal that would result in more water being conserved than would be conserved under the regional water conservation goal; or

(C) a water conservation goal that would result in less water being conserved than would be conserved under the regional water conservation goal with a reasonable justification as to why the different water conservation goal is adopted and an explanation of the factors supporting the reasonable justification, such as demographics, geography, lot sizes, make up of water service classes, or availability of secondary water.

(3) (a) A water provider shall:

(i) prepare and adopt a water conservation plan; and

(ii) file a copy of the water conservation plan with the division.

(b) (i) Before adopting or amending a water conservation plan, a water provider shall hold a public hearing with reasonable, advance public notice in accordance with this Subsection (3)(b).

(ii) The water provider shall provide public notice at least 14 days before the date of the public hearing.

(iii) A water provider meets the requirements of reasonable notice required by this Subsection (3)(b) if the water provider posts notice of the public hearing in at least three public places within the service area of the water provider and:

(A) if the water provider is a public entity, posts notice on the Utah Public Notice Website, created in Section 63A-16-601; or

(B) if the water provider is a private entity and has a public website, posts notice on the water provider's public website.

(iv) Proof that notice described in Subsection (3)(b)(iii) was given is prima facie evidence that notice was properly given.

(v) If notice given under authority of this Subsection (3)(b) is not challenged within 30 days from the date of the public hearing for which the notice was given, the notice is considered adequate and proper.

(c) A water provider shall:

(i) post the water provider's water conservation plan on a public website; or

(ii) if the water provider does not have a public website, make the water provider's water conservation plan [~~publically~~] publicly available for inspection upon request.

(4) (a) The division shall:

(i) provide guidelines and technical resources to help water providers prepare and implement water conservation plans;

(ii) assist water providers by identifying water conservation methods upon request; and

(iii) provide an online submission form that allows for an electronic copy of the water conservation plan to be filed with the division under Subsection (3)(a)(ii).

(b) The division shall post an annual report at the end of a calendar year listing water providers in compliance with this section.

(5) A water provider may only receive state funds for water development if the water provider complies with the requirements of this section.

(6) A water provider specified under Subsection (3)(a) shall:

(a) update the water provider's water conservation plan no less frequently than every five years; and

(b) follow the procedures required under Subsection (3) when updating the water conservation plan.

(7) It is the intent of the Legislature that the water conservation plans, amendments to existing water conservation plans, and the studies and report by the division be handled within the existing budgets of the respective entities or agencies.

Section 8. Section 73-10-36 is amended to read:

73-10-36. Division to provide technical assistance in local government planning.

(1) As used in this section:

(a) "Division" means the Division of Water Resources.

(b) "General plan":

(i) for a municipality, means the same as that term is defined in Section 10-9a-103; and

(ii) for a county, means the same as that term is defined in Section 17-27a-103.

(c) "Local government" means a county or a municipality, as defined in Section 10-1-104.

(d) "Watershed council" means a council created under Chapter 10g, Part 3, Watershed Councils Act.

(2) The division [~~may~~] shall provide technical assistance to a local government to support the local government's adoption of a water use and preservation element in a general plan.

(3) When consulted by a local government for information and technical resources regarding regional water conservation goals under Subsection 10-9a-403(2)(f)(vi) or 17-27a-403(2)(f)(ii), the division may seek input from the appropriate watershed council or councils.

Section 9. Section 73-10c-3 is amended to read:

73-10c-3. Water Development Coordinating Council created -- Purpose -- Members.

(1) (a) There is created within the Department of Natural Resources a Water Development Coordinating Council. The council is comprised of:

(i) the director of the Division of Water Resources;

(ii) the executive secretary of the Water Quality Board;

(iii) the executive secretary of the Drinking Water Board;

(iv) the director of the Housing and Community Development Division or the director's designee; [~~and~~]

(v) the state treasurer or the state treasurer's designee[~~.~~]; and

(vi) the commissioner of the Department of Agriculture and Food, or the commissioner's designee.

(b) The council shall choose a chair and vice chair from among [~~its~~] the council's own members.

(c) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(2) The purposes of the council are to:

(a) coordinate the use and application of the funds available to the state to give financial assistance to political subdivisions of this state so as to promote the conservation, development, treatment, restoration, and protection of the waters of this state;

(b) promote the coordination of the financial assistance programs administered by the state and the use of the financing alternative most economically advantageous to the state and its political subdivisions;

(c) promote the consideration by the Board of Water Resources, Drinking Water Board, and Water Quality Board of regional solutions to the water and wastewater needs of individual political subdivisions of this state;

(d) assess the adequacy and needs of the state and its political subdivisions with respect to water-related infrastructures and advise the governor and the Legislature on those funding needs; and

(e) conduct reviews and reports on water-related infrastructure issues as directed by statute.

Section 10. Section 73-10c-11 is enacted to read:

73-10c-11. Actions related to coordination of growth and conservation planning.

(1) (a) The council shall identify how different agencies may work together to assist the following in coordinating growth and conservation planning related to water:

(i) municipalities, as defined in Section 10-1-104;

(ii) counties;

(iii) water conservancy districts, as defined in Section 17B-1-102; and

(iv) public water systems, as defined in Section 19-4-102.

(b) To comply with Subsection (1)(a), the council shall consider Sections 10-9a-403, 17-27a-403, 19-4-114, and 73-10-32.

(2) The council shall identify incentives that are most effective to help the entities described in Subsection (1) to, where feasible:

(a) develop and implement conservation plans; and

(b) regionalize water systems.

Section 11. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Department of Natural Resources -- Water Resources

From General Fund $130,000

From General Fund, One-time $500,000

Schedule of Programs:

Planning $630,000

The Legislature intends that:

(1) the Division of Water Resources use the one-time appropriation included in this item to provide water conservation planning grants to cities, counties, districts, and water providers, and to fund technical support for coordinated planning;

(2) the one-time appropriation be nonlapsing; and

(3) the ongoing General Fund included in this item be used by the Division of Water Resources to assist cities, counties, districts, and water providers with coordinated water planning.

ITEM 2

To the Department of Environmental Quality -- Drinking Water

From General Fund $130,000

Schedule of Programs:

System Assistance $130,000

The Legislature intends that the ongoing General Fund included in this item be used by the Division of Drinking Water to assist cities, counties, districts, and water providers with coordinated water planning.

ITEM 3

To the Department of Agriculture and Food -- Resource Conservation

From General Fund $130,000

Schedule of Programs:

Resource Conservation $130,000

The Legislature intends that the ongoing General Fund included in this item be used by the Division of Conservation to assist cities, counties, districts, and water providers with coordinated water planning.

Section 12. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) The amendments to Section 73-3-3.5 in this bill take effect on March 1, 2024.

CHAPTER 239
S. B. 80
Passed February 15, 2023
Approved March 14, 2023
Effective May 3, 2023

DRIVER LICENSE SUSPENSION AND REVOCATIONAMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies provisions related to driver license suspension and revocation requirements.

Highlighted Provisions:

This bill:

- provides for the shortening of the driver license suspension or revocation period required for certain traffic violations if an individual participates in a problem solving court program and meets specified probationary conditions;
- limits the types of offenses for which a court is authorized to shorten an individual's driver license suspension or revocation period; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-509, as last amended by Laws of Utah 2022, Chapter 116
53-3-223, as last amended by Laws of Utah 2022, Chapter 116

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

Section 1. Section 41-6a-509 is amended to read:

41-6a-509. Driver license suspension or revocation for a driving under the influence violation.

(1) The Driver License Division shall, if the person is 21 years old or older at the time of arrest:

(a) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502 or 76-5-102.1; or

(b) revoke for a period of two years the license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation.

(2) The Driver License Division shall, if the person is 19 years old or older but under 21 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old or for a period of one year, whichever is longer, if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;

(b) deny the person's application for a license or learner's permit until the person is 21 years old if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (9).

(5) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(9) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207.

(b) If the court suspends or revokes the person's license under this Subsection (9), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(10) (a) The court shall notify the Driver License Division if a person fails to complete all court ordered:

(i) screenings;

(ii) assessments;

(iii) educational series;

(iv) substance abuse treatment; and

(v) hours of work in a compensatory-service work program.

(b) Subject to Subsection 53-3-218(3), upon receiving the notification described in Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

(11) (a) A court that reported a conviction of a violation of Section 41-6a-502[~~, 76-5-102.1, or 76-5-207~~] to the Driver License Division may shorten the suspension or revocation period imposed under Subsection (1) before completion of the suspension or revocation period if the person:

(i) is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5; or

(ii) (A) is participating in or has successfully completed a problem solving court program approved by the Judicial Council, including a driving under the influence court program or a drug court program; and

(B) has elected to become an interlock restricted driver as a condition of probation during the remainder of the person's suspension or revocation period in accordance with Section 41-6a-518.

(b) If [~~the~~] a court shortens a person's license suspension or revocation period in accordance with the requirements of this Subsection (11), the court shall forward the order shortening the person's suspension or revocation period to the Driver License Division in a manner specified by the division.

(c) The court shall notify the Driver License Division, in a manner specified by the Driver License Division, if a person fails to [~~complete all requirements of a 24-7 sobriety program~~] complete or comply with a condition that allowed the court to shorten the person's license suspension or revocation period under Subsection (11)(a).

(d) (i) (A) Upon receiving the notification described in Subsection (11)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was previously suspended under this section or Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under Section 41-6a-502[~~, 76-5-102.1, or 76-5-207~~] is based.

(ii) (A) Upon receiving the notification described in Subsection (11)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under Section 41-6a-502[~~, 76-5-102.1, or 76-5-207~~] is based.

Section 2. Section 53-3-223 is amended to read:

53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) a copy of the citation issued for the offense;

(b) a signed report in a manner specified by the division indicating the chemical test results, if any; and

(c) any other basis for the peace officer's determination that the person has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207.

(6) (a) Upon request in a manner specified by the division, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under Subsection (5).

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207;

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years old or older at the time of arrest, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

(B) two years beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years old at the time of arrest:

(A) suspend the person's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the 45th day after the date of arrest for a first suspension; or

(II) until the person is 21 years old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the person's application for a license or learner's permit:

(I) for a period of six months beginning on the 45th day after the date of the arrest for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 45th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If a person's license is reinstated under this Subsection (7)(b), the person is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

(iv) The driver license reinstatements authorized under this Subsection (7)(b) only apply to a [~~120 day~~] 120-day suspension period imposed under Subsection (7)(a)(i)(A).

(8) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the

matter which, if held, is governed by Section 53-3-224.

(9) (a) Notwithstanding the provisions in Subsection (7)(a)(i) [~~or (ii)~~], the division shall reinstate a person's license before completion of the suspension period imposed under Subsection (7)(a)(i) [~~or (ii)~~] if:

(i) (A) the reporting court notifies the Driver License Division that the [~~defendant~~] person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5; or

(B) the reporting court notifies the Driver License Division that the person is participating in or has successfully completed a problem solving court program approved by the Judicial Council, including a driving under the influence court program or a drug court program, and has elected to become an interlock restricted driver as a condition of probation during the remainder of the person's suspension period in accordance with Section 41-6a-518; and

(ii) the person has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i).

(b) If a person's license is reinstated under Subsection (9)(a), the person is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

(10) (a) If the division suspends a person's license for an alcohol related offense under Subsection (7)(a)(i)(A), the person may petition the division and elect to become an ignition interlock restricted driver if the person:

(i) has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i)(A);

(ii) completes a risk assessment approved by the division that:

(A) is completed after the date of the arrest for which the person is suspended under Subsection (7)(a)(i)(A); and

(B) identifies the person as a low risk offender;

(iii) installs an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and

(iv) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27).

(b) The person shall remain an ignition interlock restricted driver for a period of 120 days from the original effective date of the suspension under Subsection (7)(a)(i)(A). If the person removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the [~~120 day~~] 120-day ignition interlock restriction period:

(i) the person's driver license shall be suspended under Subsection (7)(a)(i)(A) for the remainder of the [~~120 day~~] 120-day ignition interlock restriction period;

(ii) the person is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

(iii) the person may not elect to become an ignition interlock restricted driver under this section.

(c) If a person elects to become an ignition interlock restricted driver under Subsection (10)(a), the provisions under Subsection (7)(b) do not apply.

CHAPTER 240
S. B. 90
Passed February 9, 2023
Approved March 14, 2023
Effective May 3, 2023

AUTOMOBILE FRANCHISE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill makes changes to the New Automobile Franchise Act.

Highlighted Provisions:

This bill:

- requires an automobile franchisor to:
  - provide a franchisee with certain written disclosures that may be provided to a potential buyer of the new motor vehicle; and
  - provide reasonable compensation to a franchisee assisting a customer whose vehicle was subjected to an over the air or remote change, repair, or update;
- amends requirements for changes to a franchisee's retail labor rate and retail parts markup; and
- defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-14-201, as last amended by Laws of Utah 2018, Chapter 245
13-14-204, as last amended by Laws of Utah 2022, Chapter 455

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

Section 1. Section 13-14-201 is amended to read:

13-14-201. Prohibited acts by franchisors -- Affiliates -- Disclosures.

(1) A franchisor may not in this state:

(a) except as provided in Subsection (3), require a franchisee to order or accept delivery of any new motor vehicle, part, accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered by the franchisee;

(b) require a franchisee to:

(i) participate monetarily in any advertising campaign; or

(ii) contest, or purchase any promotional materials, display devices, or display decorations or materials;

(c) require a franchisee to change the capital structure of the franchisee's dealership or the means by or through which the franchisee finances the operation of the franchisee's dealership, if the dealership at all times meets reasonable capital standards determined by and applied in a nondiscriminatory manner by the franchisor;

(d) require a franchisee to refrain from participating in the management of, investment in, or acquisition of any other line of new motor vehicles or related products, if the franchisee:

(i) maintains a reasonable line of credit for each make or line of vehicles; and

(ii) complies with reasonable capital and facilities requirements of the franchisor;

(e) require a franchisee to prospectively agree to a release, assignment, novation, waiver, or estoppel that would:

(i) relieve a franchisor from any liability, including notice and hearing rights imposed on the franchisor by this chapter; or

(ii) require any controversy between the franchisee and a franchisor to be referred to a third party if the decision by the third party would be binding;

(f) require a franchisee to change the location of the principal place of business of the franchisee's dealership or make any substantial alterations to the dealership premises, if the change or alterations would be unreasonable or cause the franchisee to lose control of the premises or impose any other unreasonable requirement related to the facilities or premises;

(g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an advertising association;

(h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to cancel a franchise agreement or other contractual agreement or understanding existing between the franchisor and franchisee;

(i) adopt, change, establish, enforce, modify, or implement a plan or system for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to the franchisor's franchisees so that the plan or system is not fair, reasonable, and equitable, including a plan or system that imposes a vehicle sales objective, goal, or quota on a franchisee, or that evaluates a franchisee's sales effectiveness or overall sales performance, without providing a reasonable opportunity for the franchisee to acquire the necessary vehicles in a timely manner from the franchisor on commercially reasonable terms;

(j) increase the price of any new motor vehicle that the franchisee has ordered from the franchisor and for which there exists at the time of the order a bona fide sale to a retail purchaser if the order was made prior to the franchisee's receipt of an official written price increase notification;

(k) fail to indemnify and hold harmless the franchisor's franchisee against any judgment for damages or settlement approved in writing by the franchisor:

(i) including court costs and attorney fees arising out of actions, claims, or proceedings including those based on:

(A) strict liability;

(B) negligence;

(C) misrepresentation;

(D) express or implied warranty;

(E) revocation as described in Section 70A-2-608; or

(F) rejection as described in Section 70A-2-602; and

(ii) to the extent the judgment or settlement relates to alleged defective or negligent actions by the franchisor;

(l) threaten or coerce a franchisee to waive or forbear the franchisee's right to protest the establishment or relocation of a same line-make franchisee in the relevant market area of the affected franchisee;

(m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of new motor vehicles of each make, series, and model needed by the franchisee to achieve a percentage of total new vehicle sales of each make, series, and model equitably related to the total new vehicle production or importation being achieved nationally at the time of the order by each make, series, and model covered under the franchise agreement;

(n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing dealer facility or facilities, including by:

(i) requiring or otherwise coercing a franchisee to exclude or remove from the franchisee's facility operations the selling or servicing of a line-make of vehicles for which the franchisee has a franchise agreement to utilize the facilities; or

(ii) prohibiting the franchisee from locating, relocating, or occupying a franchise or line-make in an existing facility owned or occupied by the franchisee that includes the selling or servicing of another franchise or line-make at the facility provided that the franchisee gives the franchisor written notice of the franchise co-location;

(o) fail to include in any franchise agreement or other agreement governing a franchisee's ownership of a dealership or a franchisee's conduct of business under a franchise the following language or language to the effect that: "If any provision in this agreement contravenes the laws or regulations of any state or other jurisdiction where this agreement is to be performed, or provided for by such laws or regulations, the provision is considered to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force.";

(p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to purchasers who acquire the vehicle in this state except through a franchisee with whom the franchisor has established a written franchise agreement, if the franchisor's trade name, trademark, service mark, or related characteristic is an integral element in the distribution, sale, offer for sale, or lease;

(q) engage in the distribution or sale of a recreational vehicle that is manufactured, rented, sold, or offered for sale in this state without being constructed in accordance with the standards set by the American National Standards Institute for recreational vehicles and evidenced by a seal or plate attached to the vehicle;

(r) except as provided in Subsection (2), authorize or permit a person to perform warranty service repairs on motor vehicles, except warranty service repairs:

(i) by a franchisee with whom the franchisor has entered into a franchise agreement for the sale and service of the franchisor's motor vehicles; or

(ii) on owned motor vehicles by a person or government entity who has purchased new motor vehicles pursuant to a franchisor's fleet discount program;

(s) fail to provide a franchisee with a written franchise agreement;

(t) (i) except as provided in Subsection (1)(t)(ii) and notwithstanding any other provisions of this chapter:

(A) unreasonably fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make;

(B) unreasonably require a dealer to:

(I) pay any extra fee, remodel, renovate, recondition the dealer's existing facilities; or

(II) purchase unreasonable advertising displays or other materials as a prerequisite to receiving a model or series of vehicles;

(ii) notwithstanding Subsection (1)(t)(i), a recreational vehicle franchisor may split a line-make between motor home and travel trailer products;

(u) except as provided in Subsection (6), directly or indirectly:

(i) own an interest in a new motor vehicle dealer or dealership;

(ii) operate or control a new motor vehicle dealer or dealership;

(iii) act in the capacity of a new motor vehicle dealer, as defined in Section 13-14-102; or

(iv) operate a motor vehicle service facility;

(v) fail to timely pay for all reimbursements to a franchisee for incentives and other payments made by the franchisor;

(w) directly or indirectly influence or direct potential customers to franchisees in an inequitable manner, including:

(i) charging a franchisee a fee for a referral regarding a potential sale or lease of any of the

franchisee's products or services in an amount exceeding the actual cost of the referral;

(ii) giving a customer referral to a franchisee on the condition that the franchisee agree to sell the vehicle at a price fixed by the franchisor; or

(iii) advising a potential customer as to the amount that the potential customer should pay for a particular product;

(x) fail to provide comparable delivery terms to each franchisee for a product of the franchisor, including the time of delivery after the placement of an order by the franchisee;

(y) if a franchisor provides personnel training to the franchisor's franchisees, unreasonably fail to make that training available to each franchisee on proportionally equal terms;

(z) condition a franchisee's eligibility to participate in a sales incentive program on the requirement that a franchisee use the financing services of the franchisor or a subsidiary or affiliate of the franchisor for inventory financing;

(aa) make available for public disclosure, except with the franchisee's permission or under subpoena or in any administrative or judicial proceeding in which the franchisee or the franchisor is a party, any confidential financial information regarding a franchisee, including:

(i) monthly financial statements provided by the franchisee;

(ii) the profitability of a franchisee; or

(iii) the status of a franchisee's inventory of products;

(bb) use any performance standard, incentive program, or similar method to measure the performance of franchisees unless the standard or program:

(i) is designed and administered in a fair, reasonable, and equitable manner;

(ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample; and

(iii) is, upon request by a franchisee, disclosed and explained in writing to the franchisee, including:

(A) how the standard or program is designed;

(B) how the standard or program will be administered; and

(C) the types of data that will be collected and used in the application of the standard or program;

(cc) other than sales to the federal government, directly or indirectly, sell, lease, offer to sell, or offer to lease, a new motor vehicle or any motor vehicle owned by the franchisor, except through a franchised new motor vehicle dealer;

(dd) compel a franchisee, through a finance subsidiary, to agree to unreasonable operating requirements, except that this Subsection (1)(dd) may not be construed to limit the right of a financing subsidiary to engage in business practices in accordance with the usage of trade in retail and wholesale motor vehicle financing;

(ee) condition the franchisor's participation in co-op advertising for a product category on the franchisee's participation in any program related to another product category or on the franchisee's achievement of any level of sales in a product category other than that which is the subject of the co-op advertising;

(ff) except as provided in Subsections (7) through (9), discriminate against a franchisee in the state in favor of another franchisee of the same line-make in the state:

(i) by selling or offering to sell a new motor vehicle to one franchisee at a higher actual price, including the price for vehicle transportation, than the actual price at which the same model similarly equipped is offered to or is made available by the franchisor to another franchisee in the state during a similar time period;

(ii) except as provided in Subsection (8), by using a promotional program or device or an incentive, payment, or other benefit, whether paid at the time of the sale of the new motor vehicle to the franchisee or later, that results in the sale of or offer to sell a new motor vehicle to one franchisee in the state at a higher price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is made available by the franchisor to another franchisee in the state during a similar time period;

(iii) except as provided in Subsection (9), by failing to provide or direct a lead in a fair, equitable, and timely manner; or

(iv) if the franchisee complies with any reasonable requirement concerning the sale of new motor vehicles, by using or considering the performance of any of its franchisees located in this state relating to the sale of the franchisor's new motor vehicles in determining the:

(A) dealer's eligibility to purchase program, certified, or other used motor vehicles from the franchisor;

(B) volume, type, or model of program, certified, or other used motor vehicles the dealer is eligible to purchase from the franchisor;

(C) price of any program, certified, or other used motor vehicles that the dealer is eligible to purchase from the franchisor; or

(D) availability or amount of any discount, credit, rebate, or sales incentive the dealer is eligible to receive from the manufacturer for the purchase of any program, certified, or other motor vehicle offered for sale by the franchisor;

(gg) (i) take control over funds owned or under the control of a franchisee based on the findings of a warranty audit, sales incentive audit, or recall repair audit, unless the following conditions are satisfied:

(A) the franchisor fully identifies in writing the basis for the franchisor's claim or charge back

arising from the audit, including notifying the franchisee that the franchisee has 20 days from the day on which the franchisee receives the franchisor's claim or charge back to assert a protest in writing to the franchisor identifying the basis for the protest;

(B) the franchisee's protest shall inform the franchisor that the protest shall be submitted to a mediator in the state who is identified by name and address in the franchisee's notice to the franchisor;

(C) if mediation is requested under Subsection (1)(gg)(i)(B), mediation shall occur no later than 30 days after the day on which the franchisor receives the franchisee's protest of a claim or charge back;

(D) if mediation does not lead to a resolution of the protest, the protest shall be set for binding arbitration in the same venue in which the mediation occurred;

(E) binding arbitration under Subsection (1)(gg)(i)(D) shall be conducted:

(I) by an arbitrator mutually agreed upon by the franchisor and the franchisee; and

(II) on a date mutually agreed upon by the franchisor and the franchisee, but shall be held no later than 90 days after the franchisor's receipt of the franchisee's notice of protest;

(F) this Subsection (1)(gg)(i) applies exclusively to warranty audits, recall repair audits, and sales incentive audits;

(G) Subsections (1)(gg)(i)(A) through (E) do not apply if the franchisor reasonably believes that the amount of the claim or charge back is related to a fraudulent act by the franchisee; and

(H) the costs of the mediator or arbitrator instituted under this Subsection (1)(gg) shall be shared equally by the franchisor and the franchisee; or

(ii) require a franchisee to execute a written waiver of the requirements of Subsection (1)(gg)(i);

(hh) coerce, or attempt to coerce a franchisee to purchase or sell an aftermarket product manufactured by the franchisor, or obtained by the franchisor for resale from a third-party supplier and the franchisor or its affiliate derives a financial benefit from the franchisee's sale or purchase of the aftermarket product as a condition to obtaining preferential status from the franchisor;

(ii) through an affiliate, take any action that would otherwise be prohibited under this chapter;

(jj) impose any fee, surcharge, or other charge on a franchisee designed to recover the cost of a warranty repair for which the franchisor pays the franchisee;

(kk) except as provided by the audit provisions of this chapter, take an action designed to recover a cost related to a recall, including:

(i) imposing a fee, surcharge, or other charge on a franchisee;

(ii) reducing the compensation the franchisor owes to a franchisee;

(iii) removing the franchisee from an incentive program; or

(iv) reducing the amount the franchisor owes to a franchisee under an incentive program;

(ll) directly or indirectly condition any of the following actions on the willingness of a franchisee, prospective new franchisee, or owner of an interest in a dealership facility to enter into a site-control agreement:

(i) the awarding of a franchise to a prospective new franchisee;

(ii) the addition of a line-make or franchise to an existing franchisee;

(iii) the renewal of an existing franchisee's franchise;

(iv) the approval of the relocation of an existing franchisee's dealership facility, unless the franchisor pays, and the franchisee voluntarily accepts, additional specified cash consideration to facilitate the relocation; or

(v) the approval of the sale or transfer of a franchise's ownership, unless the franchisor pays, and the buyer voluntarily accepts, additional specified cash consideration to facilitate the sale or transfer;

(mm) subject to Subsection (11), deny a franchisee the right to return any or all parts or accessories that:

(i) were specified for and sold to the franchisee under an automated ordering system required by the franchisor; and

(ii) (A) are in good, resalable condition; and

(B) (I) the franchisee received within the previous 12 months; or

(II) are listed in the current parts catalog;

(nn) subject to Subsection (12), obtain from a franchisee a waiver of a franchisee's right, by threatening:

(i) to impose a detriment upon the franchisee's business; or

(ii) to withhold any entitlement, benefit, or service:

(A) to which the franchisee is entitled under a franchise agreement, contract, statute, rule, regulation, or law; or

(B) that has been granted to more than one other franchisee of the franchisor in the state;

(oo) coerce a franchisee to establish, or provide by agreement, program, or incentive provision that a franchisee must establish, a price at which the franchisee is required to sell a product or service that is:

(i) sold in connection with the franchisee's sale of a motor vehicle; and

(ii) (A) in the case of a product, not manufactured, provided, or distributed by the franchisor or an affiliate; or

(B) in the case of a service, not provided by the franchisor or an affiliate;

(pp) except as necessary to comply with a health or safety law, or to comply with a technology requirement compliance with which is necessary to sell or service a motor vehicle that the franchisee is authorized or licensed by the franchisor to sell or service, coerce or require a franchisee, through a penalty or other detriment to the franchisee's business, to:

(i) construct a new dealer facility or materially alter or remodel an existing dealer facility before the date that is 10 years after the date the construction of the new dealer facility at that location was completed, if the construction substantially complied with the franchisor's brand image standards or plans that the franchisor provided or approved; or

(ii) materially alter or remodel an existing dealer facility before the date that is 10 years after the date the previous alteration or remodeling at that location was completed, if the previous alteration or remodeling substantially complied with the franchisor's brand image standards or plans that the franchisor provided or approved; [~~or~~]

(qq) notwithstanding the terms of a franchise agreement providing otherwise and subject to Subsection (14):

(i) coerce or require a franchisee, including by agreement, program, or incentive provision, to purchase a good or service, relating to a facility construction, alteration, or remodel, from a vendor that a franchisor or its affiliate selects, identifies, or designates, without allowing the franchisee, after consultation with the franchisor, to obtain a like good or service of substantially similar quality from a vendor that the franchisee chooses; or

(ii) coerce or require a franchisee, including by agreement, program, or incentive provision, to lease a sign or other franchisor image element from the franchisor or an affiliate without providing the franchisee the right to purchase a sign or other franchisor image element of like kind and quality from a vendor that the franchisee chooses[.];

(rr) when providing a new motor vehicle to a franchisee for offer or sale to the public, fail to provide to the franchisee a written disclosure that may be provided to a potential buyer of the new motor vehicle of each accessory or function of the vehicle that may be initiated, updated, changed, or maintained by the franchisor or affiliate through over the air or remote means, and the charge to the customer at the time of sale for such initiation, update, change, or maintenance; or

(ss) fail to provide reasonable compensation to a franchisee for assistance requested by a customer whose vehicle was subjected to an over the air or remote change, repair, or update to any part, system, accessory, or function by the franchisor or affiliate and performed at the franchisee's dealership in order to satisfy the customer.

(2) Notwithstanding Subsection (1)(r), a franchisor may authorize or permit a person to perform warranty service repairs on motor vehicles if the warranty services is for a franchisor of recreational vehicles.

(3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee carry a reasonable inventory of:

(a) new motor vehicle models offered for sale by the franchisor; and

(b) parts to service the repair of the new motor vehicles.

(4) Subsection (1)(d) does not prevent a franchisor from requiring that a franchisee maintain separate sales personnel or display space.

(5) Upon the written request of any franchisee, a franchisor shall disclose in writing to the franchisee the basis on which new motor vehicles, parts, and accessories are allocated, scheduled, and delivered among the franchisor's dealers of the same line-make.

(6) (a) A franchisor may engage in any of the activities listed in Subsection (1)(u), for a period not to exceed 12 months if:

(i) (A) the person from whom the franchisor acquired the interest in or control of the new motor vehicle dealership was a franchised new motor vehicle dealer; and

(B) the franchisor's interest in the new motor vehicle dealership is for sale at a reasonable price and on reasonable terms and conditions; or

(ii) the franchisor is engaging in the activity listed in Subsection (1)(u) for the purpose of broadening the diversity of its dealer body and facilitating the ownership of a new motor vehicle dealership by a person who:

(A) is part of a group that has been historically underrepresented in the franchisor's dealer body;

(B) would not otherwise be able to purchase a new motor vehicle dealership;

(C) has made a significant investment in the new motor vehicle dealership which is subject to loss;

(D) has an ownership interest in the new motor vehicle dealership; and

(E) operates the new motor vehicle dealership under a plan to acquire full ownership of the dealership within a reasonable period of time and under reasonable terms and conditions.

(b) After receipt of the advisory board's recommendation, the executive director may, for good cause shown, extend the time limit set forth in Subsection (6)(a) for an additional period not to exceed 12 months.

(c) A franchisor who was engaged in any of the activities listed in Subsection (1)(u) in this state prior to May 1, 2000, may continue to engage in that

activity, but may not expand that activity to acquire an interest in any other new motor vehicle dealerships or motor vehicle service facilities after May 1, 2000.

(d) Notwithstanding Subsection (1)(u), a franchisor may own, operate, or control a new motor vehicle dealership trading in a line-make of motor vehicle if:

(i) as to that line-make of motor vehicle, there are no more than four franchised new motor vehicle dealerships licensed and in operation within the state as of January 1, 2000;

(ii) the franchisor does not own directly or indirectly, more than a 45% interest in the dealership;

(iii) at the time the franchisor first acquires ownership or assumes operation or control of the dealership, the distance between the dealership thus owned, operated, or controlled and the nearest unaffiliated new motor vehicle dealership trading in the same line-make is not less than 150 miles;

(iv) all the franchisor's franchise agreements confer rights on the franchisee to develop and operate as many dealership facilities as the franchisee and franchisor shall agree are appropriate within a defined geographic territory or area; and

(v) as of January 1, 2000, no fewer than half of the franchisees of the line-make within the state own and operate two or more dealership facilities in the geographic area covered by the franchise agreement.

(7) Subsection (1)(ff) does not apply to recreational vehicles.

(8) Subsection (1)(ff)(ii) does not prohibit a promotional or incentive program that is functionally available to all competing franchisees of the same line-make in the state on substantially comparable terms.

(9) Subsection (1)(ff)(iii) may not be construed to:

(a) permit provision of or access to customer information that is otherwise protected from disclosure by law or by contract between a franchisor and a franchisee; or

(b) require a franchisor to disregard the preference volunteered by a potential customer in providing or directing a lead.

(10) Subsection (1)(ii) does not limit the right of an affiliate to engage in business practices in accordance with the usage of trade in which the affiliate is engaged.

(11) (a) Subsection (1)(mm) does not apply to parts or accessories that the franchisee ordered and purchased outside of an automated parts ordering system required by the franchisor.

(b) In determining whether parts or accessories in a franchisee's inventory were specified and sold under an automated ordering system required by the franchisor, the parts and accessories in the franchisee's inventory are presumed to be the most recent parts and accessories that the franchisor sold to the franchisee.

(12) (a) Subsection (1)(nn) does not apply to a good faith settlement of a dispute, including a dispute relating to contract negotiations, in which the franchisee gives a waiver in exchange for fair consideration in the form of a benefit conferred on the franchisee.

(b) Subsection (12)(a) may not be construed to defeat a franchisee's claim that a waiver has been obtained in violation of Subsection (1)(nn).

(13) (a) As used in Subsection (1)(pp):

(i) "Materially alter":

(A) means to make a material architectural, structural, or aesthetic alteration; and

(B) does not include routine maintenance, such as interior painting, reasonably necessary to keep a dealership facility in attractive condition.

(ii) "Penalty or other detriment" does not include a payment under an agreement, incentive, or program that is offered to but declined or not accepted by a franchisee, even if a similar payment is made to another franchisee in the state that chooses to participate in the agreement, incentive, or program.

(b) Subsection (1)(pp) does not apply to:

(i) a program that provides a lump sum payment to assist a franchisee to make a facility improvement or to pay for a sign or a franchisor image element, if the payment is not dependent on the franchisee selling or purchasing a specific number of new vehicles;

(ii) a program that is in effect on May 8, 2012, with more than one franchisee in the state or to a renewal or modification of the program;

(iii) a program that provides reimbursement to a franchisee on reasonable, written terms for a substantial portion of the franchisee's cost of making a facility improvement or installing signage or a franchisor image element; or

(iv) a written agreement between a franchisor and franchisee, in effect before May 8, 2012, under which a franchisee agrees to construct a new dealer facility.

(14) (a) Subsection (1)(qq)(i) does not apply to:

(i) signage purchased by a franchisee in which the franchisor has an intellectual property right; or

(ii) a good used in a facility construction, alteration, or remodel that is:

(A) a moveable interior display that contains material subject to a franchisor's intellectual property right; or

(B) specifically eligible for reimbursement of over one-half its cost pursuant to a franchisor or distributor program or incentive granted to the franchisee on reasonable, written terms.

(b) Subsection (1)(qq)(ii) may not be construed to allow a franchisee to:

(i) impair or eliminate a franchisor's intellectual property right; or

(ii) erect or maintain a sign that does not conform to the franchisor's reasonable fabrication specifications and intellectual property usage guidelines.

(15) A franchisor may comply with Subsection (1)(rr) by notifying the franchisee that the information in a written disclosure described in Subsection (1)(rr) is available on a website or by other digital means.

Section 2. Section 13-14-204 is amended to read:

13-14-204. Franchisor's obligations related to service -- Franchisor audits -- Time limits.

(1) Each franchisor shall specify in writing to each of the franchisor's franchisees licensed as a new motor vehicle dealer in this state:

(a) the franchisee's obligations for new motor vehicle preparation, delivery, [~~and~~] warranty service, and recalls on the franchisor's products;

(b) the schedule of compensation to be paid to the franchisee for parts, work, and service; and

(c) the time allowance for the performance of work and service.

(2) (a) The schedule of compensation described in Subsection (1) shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor.

(b) Time allowances described in Subsection (1) for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed.

(3) (a) [~~In the determination of what constitutes reasonable compensation under this section, the principal factor to be considered is the prevailing wage rates being paid by franchisees in the relevant market area in which the franchisee is doing business.~~] As used in this Subsection (3):

(i) "Qualified repair" means a repair to a motor vehicle that:

(A) would have come within the franchisor's new motor vehicle warranty but for such motor vehicle having exceeded the time or mileage limits of such warranty; and

(B) does not otherwise constitute warranty work.

(ii) "Qualified repair" does not include:

(A) routine maintenance, including without limitation the replacement of fluids, filters, non-electric vehicle batteries, bulbs, belts, brake pads, rotors, nuts, bolts, or fasteners;

(B) a replacement of or work on tires, wheels, or elements related to either, including without limitation wheel alignments and tire or wheel rotations;

(C) a repair for a government agency, an insurer, or an extended warranty or service contract provider;

(D) a repair that is the subject of a franchisor special event, promotion, or service campaign, or otherwise is subject to a franchisor discount;

(E) a repair of a motor vehicle owned by the franchisee or an employee of the franchisee;

(F) an installation of an accessory;

(G) a safety or vehicle emission inspection required by law;

(H) motor vehicle reconditioning;

(I) a part sold at wholesale;

(J) a repair or replacement with or to an aftermarket part;

(K) a franchisor-approved goodwill or policy repair or replacement; or

(L) a repair performed on a motor vehicle of a line-make other than that for which the franchisee is franchised by the franchisor.

(b) (i) [~~Compensation~~] Reasonable compensation of the franchisee for parts and service in warranty [~~service~~] or recall repair work may not be less than the [~~amount~~] rates charged by the franchisee for like parts and service to retail [~~or fleet customers, if the amounts are reasonable~~] customers.

(ii) In the case of a recreational vehicle franchisee, reimbursement for parts used in the performance of warranty repairs, including those parts separately warranted directly to the consumer by a recreational vehicle parts supplier, may not be less than the franchisee's cost plus 20%.

(iii) For purposes of Subsection (3)(b)(ii), the term "cost" shall be that same price paid by a franchisee to a franchisor or supplier for the part when the part is purchased for a nonwarranty repair.

(c) A franchisee seeking to establish or modify the franchisee's retail labor rate, retail parts markup, or both, shall submit in writing or electronically to the franchisee's franchisor at the location and materially in the format theretofore specified by the franchisor in writing to the franchisee whichever of the following produces the fewer number of repair orders, all of which must be for repairs made no more than 180 days before such submission:

(i) all consecutive repair orders that include 100 sequential repair orders reflecting qualified repairs; or

(ii) all repair orders reflecting qualified repairs closed during any period of 90 consecutive days.

(d) A franchisee shall calculate the franchisee's:

(i) retail labor rate by determining the total charges for labor in the qualified repairs submitted and dividing that amount by the total number of hours in the qualified repairs that generated such charges; and

(ii) retail parts markup by determining the total charges for parts in the qualified repairs submitted,

dividing such amount by the franchisee's total cost of the purchase of such parts, subtracting one, and multiplying by 100 to produce a percentage.

(e) (i) A retail labor rate or retail parts markup described in Subsection (3)(c) is effective 30 days after the franchisee submits the notice described in Subsection (3)(c), unless, within 30 days after receiving the franchisee's submission, the franchisor delivers to the franchisee:

(A) a written objection to the material accuracy of the retail labor rate or retail parts markup; or

(B) a written request for supplemental repair orders pursuant to Subsection (3)(e)(ii).

(ii) (A) If a franchisor determines from the franchisee's set of repair orders submitted pursuant to Subsections (3)(c) and (d) that the franchisee's submission for a retail labor rate or retail parts markup is substantially higher than the franchisee's current warranty rate, the franchisor may request, in writing, within 30 days after the franchisor's receipt of the notice described in Subsection (3)(c), all repair orders closed within the period of 30 days immediately preceding, or 30 days immediately following, the set of repair orders submitted by the franchisee.

(B) All time periods under this section shall be suspended until the franchisee submits the supplemental repair orders described in Subsection (3)(e)(ii)(A).

(iii) If a franchisor requests supplemental repair orders described in Subsection (3)(e)(ii), the franchisor may, within 30 days after receiving the supplemental repair orders, calculate a proposed adjusted retail labor rate or retail parts markup, as applicable, based upon any set of the qualified repair orders submitted by the franchisee, if the franchisor:

(A) uses the same requirements applicable to the franchisee's submission described in Subsection (3)(c);

(B) uses the formula to calculate the retail labor rate or retail parts markup described in Subsection (3)(d); and

(C) omits all charges in the repair orders described in Subsection (3)(a)(ii).

(f) A franchisee may not seek to establish or modify the franchisee's:

(i) retail labor rate more frequently than once in a 12-month period; and

(ii) retail parts markup more frequently than once in a 12-month period.

(g) An approved adjusted retail labor rate or retail parts markup shall be effective on the later of 30 days after a franchisor receives:

(i) a submission described in Subsection (3)(c); or

(ii) supplemental repair orders described in Subsection (3)(e)(ii).

(h) A franchisor shall begin compensating the franchisee according to the effective retail labor rate and retail parts markup rate no later than 15 days after the effective date of the rate or rates.

(4) A franchisor may not fail to:

(a) perform any warranty obligation;

(b) include in written notices of franchisor's recalls to new motor vehicle owners and franchisees the expected date by which necessary parts and equipment will be available to franchisees for the correction of the defects; or

(c) in accordance with Subsections (2) and (3), compensate a franchisee for all diagnostic work, labor, and parts the franchisor requires to perform a recall repair.

(5) If a franchisor disallows a franchisee's claim for a defective part, alleging that the part is not defective, the franchisor at the franchisor's option shall:

(a) return the part to the franchisee at the franchisor's expense; or

(b) pay the franchisee the cost of the part.

(6) (a) A claim made by a franchisee pursuant to this section for diagnostic work, labor, or parts shall be paid within 30 days after the claim's approval.

(b) The franchisor shall approve or disapprove a claim within 30 days after receipt of the claim on a form generally used by the franchisor and containing the generally required information. Any claim not specifically disapproved of in writing within 30 days after the receipt of the form is considered to be approved and payment shall be made within 30 days.

(7) A franchisor may conduct warranty service audits and recall repair audits of the franchisor's franchisee records on a reasonable basis.

(8) A franchisor may deny a franchisee's claim for warranty compensation or recall repair compensation only if:

(a) the franchisee's claim is based on a nonwarranty repair or a nonrecall repair;

(b) the franchisee lacks material documentation for the claim;

(c) the franchisee fails to comply materially with specific substantive terms and conditions of the franchisor's warranty compensation program or recall repair compensation program; or

(d) the franchisor has a bona fide belief based on competent evidence that the franchisee's claim is intentionally false, fraudulent, or misrepresented.

(9) (a) Any charge back for a warranty part or service compensation, recall repair compensation, or service incentive is only enforceable for the six-month period immediately following the day on which the franchisor makes the payment compensating the franchisee for the warranty part or service, recall repair, or service incentive.

(b) Except as provided in Subsection (9)(e), all charge backs levied by a franchisor for sales

compensation or sales incentives arising out of the sale or lease of a motor vehicle sold or leased by a franchisee shall be compensable only if written notice of the charge back is received by the franchisee within six months immediately following the sooner of:

(i) the day on which the franchisee reports the sale to the franchisor; or

(ii) the day on which the franchisor makes the payment for the sales compensation or sales incentive to the franchisee.

(c) (i) Upon an audit, the franchisor shall provide the franchisee automated or written notice explaining the amount of and reason for a charge back.

(ii) A franchisee may respond in writing within 30 days after the notice under Subsection (9)(c)(i) to:

(A) explain a deficiency; or

(B) provide materials or information to correct and cure compliance with a provision that is a basis for a charge back.

(d) A charge back:

(i) may not be based on a nonmaterial error that is clerical in nature; and

(ii) (A) shall be based on one or more specific instances of material noncompliance with the franchisor's warranty compensation program, sales incentive program, recall repair program, or recall compensation program; and

(B) may not be extrapolated from a sampling of warranty claims, recall repair claims, or sales incentive claims.

(e) The time limitations of this Subsection (9) do not preclude charge backs for any fraudulent claim that was previously paid.

(10) (a) If within 30 days after the day on which a franchisor issues an initial notice of recall a part or remedy is not reasonably available to perform the recall repair on a used motor vehicle, each calendar month thereafter the franchisor shall pay the franchisee an amount equal to at least 1.35% of the value of the used motor vehicle, if:

(i) the franchisee holding the used motor vehicle for sale is authorized to sell and service a new vehicle of the same line-make;

(ii) after May 7, 2018, the franchisor issues a stop-sale or do-not-drive order on the used motor vehicle; and

(iii) (A) the used motor vehicle is in the franchisee's inventory at the time the franchisor issued the order described in Subsection (10)(a)(ii); or

(B) after the franchisor issues the order described in Subsection (10)(a)(ii), the franchisee takes the used motor vehicle into the franchisee's inventory at the termination of the consumer lease for the vehicle, as a consumer trade-in accompanying the purchase of a new vehicle from the franchisee, or for any other reason in the ordinary course of business.

(b) A franchisor shall pay the compensation described in Subsection (10)(a):

(i) beginning:

(A) 30 days after the day on which the franchisee receives the stop-sale or do-not-drive order; or

(B) if a franchisee obtains the used motor vehicle more than 30 days after the day on which the franchisee receives the stop-sale or do-not-drive order, the day on which the franchisee obtains the used motor vehicle; and

(ii) ending the earlier of the day on which:

(A) the franchisor makes the recall part or remedy available for order and prompt shipment to the franchisee; or

(B) the franchisee sells, trades, or otherwise disposes of the used motor vehicle.

(c) A franchisor shall prorate the first and last payment for a used motor vehicle to a franchisee under this Subsection (10).

(d) A franchisor may direct the manner in which a franchisee demonstrates the inventory status of an affected used motor vehicle to determine eligibility under this Subsection (10), if the manner is not unduly burdensome.

(11) (a) A franchisee that offsets recall repair compensation received from a franchisor under this section against recall repair compensation the franchisee receives under a state or federal recall repair compensation remedy may pursue any other available remedy against the franchisor.

(b) As an alternative to providing recall repair compensation under this section, a franchisor may compensate a franchisee for a recall repair:

(i) under a national recall repair compensation program, if the compensation is equal to or greater than the compensation provided under this section; or

(ii) as the franchisor and franchisee otherwise agree, if the compensation is equal to or greater than the compensation provided under this section.

(c) Nothing in this section requires a franchisor to provide compensation to a franchisee that exceeds the value of the used motor vehicle affected by a recall.

(12) During an audit under this section, a franchisor may not request a document from the franchisee that originated from the franchisor or a subsidiary of the franchisor, unless the document required additional information from the customer.

CHAPTER 241
S. B. 94
Passed February 23, 2023
Approved March 14, 2023
Effective May 3, 2023

SPECIAL SERVICE DISTRICT BONDS AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill modifies provisions related to the issuance of special service district bonds secured by federal mineral lease payments.

Highlighted Provisions:

This bill:

- removes a prohibition on the issuance of special service district bonds secured by federal mineral lease payments; and
- provides that the issuance of any bonds is not impaired or invalid solely because the issuance was made contrary to requirements of the removed provision.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-14-308, as last amended by Laws of Utah 2011, Second Special Session, Chapter 1

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

Section 1. Section 11-14-308 is amended to read:

11-14-308. Special service district bonds secured by federal mineral lease payments -- Use of bond proceeds -- Bond resolution -- Nonimpairment of appropriation formula -- Issuance of bonds.

(1) Special service districts may:

(a) issue bonds payable, in whole or in part, from federal mineral lease payments which are to be deposited into the Mineral Lease Account under Section 59-21-1 and distributed to special service districts under Subsection 59-21-2(2)(h); or

(b) pledge all or any part of the mineral lease payments described in Subsection (1)(a) as an additional source of payment for their general obligation bonds.

(2) The proceeds of these bonds may be used:

(a) to construct, repair, and maintain streets and roads;

(b) to fund any reserves and costs incidental to the issuance of the bonds and pay any associated administrative costs; and

(c) for capital projects of the special service district.

(3) (a) The special service district board shall enact a resolution authorizing the issuance of bonds which, until the bonds have been paid in full:

(i) shall be irrevocable; and

(ii) may not be amended in any manner that would:

(A) impair the rights of the bond holders; or

(B) jeopardize the timely payment of principal or interest when due.

(b) Notwithstanding any other provision of this chapter, the resolution described in Subsection (3)(a) may contain covenants with the bond holder regarding:

(i) mineral lease payments, or their disposition;

(ii) the issuance of future bonds; or

(iii) other pertinent matters considered necessary by the governing body to:

(A) assure the marketability of the bonds; or

(B) insure the enforcement, collection, and proper application of mineral lease payments.

(4) (a) Except as provided in Subsection (4)(b), the state may not alter, impair, or limit the statutory appropriation formula provided in Subsection 59-21-2(2)(h), in a manner that reduces the amounts to be distributed to the special service district until the bonds and the interest on the bonds are fully met and discharged. Each special service district may include this pledge and undertaking of the state in these bonds.

(b) Nothing in this section:

(i) may preclude the alteration, impairment, or limitation of these bonds if adequate provision is made by law for the protection of the bond holders; or

(ii) shall be construed:

(A) as a pledge guaranteeing the actual dollar amount ultimately received by individual special service districts;

(B) to require the Department of Transportation to allocate the mineral lease payments in a manner contrary to the general allocation method described in Subsection 59-21-2(2)(h); or

(C) to limit the Department of Transportation in making rules or procedures allocating mineral lease payments pursuant to Subsection 59-21-2(2)(h).

(5) (a) The average annual installments of principal and interest on bonds to which mineral lease payments have been pledged as the sole source of payment may not at any one time exceed:

(i) 80% of the total mineral lease payments received by the issuing entity during the fiscal year of the issuing entity immediately preceding the fiscal year in which the resolution authorizing the issuance of bonds is adopted; or

(ii) if the bonds are issued during the first fiscal year the issuing entity is eligible to receive funds, 60% of the amount estimated by the Department of Transportation to be appropriated to the issuing entity in that fiscal year.

(b) The Department of Transportation is not liable for any loss or damage resulting from reliance on the estimates.

(6) The final maturity date of the bonds may not exceed 15 years from the date of their issuance.

[~~(7) Bonds may not be issued under this section after December 31, 2020.~~]

[~~(8)~~] (7) Bonds which are payable solely from a special fund into which mineral lease payments are deposited constitute a borrowing based solely upon the credit of the mineral lease payments received or to be received by the special service district and do not constitute an indebtedness or pledge of the general credit of the special service district or the state.

(8) No bond issuance shall be invalid or impaired solely because the bonds were issued under this section during the period beginning January 1, 2021 and ending May 3, 2023.

CHAPTER 242
S. B. 96
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

FIDUCIARY DUTY MODIFICATIONS

Chief Sponsor: Chris H. Wilson
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill addresses fiduciary duties for funds managed by public entities.

Highlighted Provisions:

This bill:

- requires a public entity to invest public funds in accordance with the prudent investor rule;
- addresses a public entity's proxy voting duties;
- requires a public entity to provide the state treasurer access to proxy voting reports upon request; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-11-203, as renumbered and amended by Laws of Utah 2002, Chapter 250
51-7-2, as last amended by Laws of Utah 2022, Chapters 186, 298
51-7-14, as last amended by Laws of Utah 2006, Chapter 277
53B-8a-107, as last amended by Laws of Utah 2011, Chapter 46

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

Section 1. Section 49-11-203 is amended to read:

49-11-203. Powers and duties of board.

(1) The board shall:

(a) appoint an executive director to administer the office;

(b) receive and act upon reports covering the operations of the systems, plans, programs, and funds administered by the office;

(c) ensure that the systems, plans, programs, and funds are administered according to law;

(d) review any final order of a hearing officer and approve or modify the order at the board's discretion in accordance with Section 49-11-613;

(e) examine and approve an annual operating budget for the office;

(f) serve as investment trustees of the Utah State Retirement Investment Fund as provided under this title;

(g) maintain, in conjunction with participating employers and members, the systems, plans, and programs on an actuarially sound basis;

(h) report annually to the governor, the Legislature, and each participating employer the contribution rates, premium rates, and any adjustments necessary to maintain the systems, plans, and programs on a financially and actuarially sound basis;

(i) receive and act upon recommendations of the executive director;

(j) recommend to the governor and Legislature, through the executive director, any necessary or desirable changes to this title;

(k) develop broad policy for the long-term operation of the various systems, plans, and programs under broad discretion and power to perform the board's policymaking functions, including the specific authority to interpret and define any provision or term under this title when the board or office provides written documentation which demonstrates that the interpretation or definition promotes uniformity in the administration of the systems or maintains the actuarial soundness of the systems, plans, or programs;

(l) adopt interest rates, premium rates, and annual contribution rates after reviewing actuarial recommendations;

(m) establish the compensation of the executive director and adopt compensation plans and policies based on market surveys for positions in the office;

(n) take action consistent with this title for the administration of the systems, plans, and programs in order to carry out the purposes of this title;

(o) provide for audits of the systems, plans, programs, and funds;

(p) take actions not in conflict with the board's trust and fiduciary responsibilities or other law, with respect to the governance of the office which are substantially similar to those governing other public agencies; [~~and~~]

(q) in accordance with the board's fiduciary responsibilities, make investment decisions with the sole purpose of maximizing the risk-adjusted return on the investments;

(r) to the extent practicable:

(i) (A) retain the right to vote investor proxies; or

(B) if the investments are commingled with another investor's funds, request the right to vote investor proxies; and

(ii) ensure proxy voting is exercised to maximize risk-adjusted returns for the exclusive benefit of beneficiaries;

(s) make proxy voting records available to the state treasurer upon the state treasurer's request; and

[~~(q)~~] (t) otherwise exercise the powers and perform the duties conferred on the board by this title.

(2) The board may:

(a) subpoena witnesses and compel [~~their~~] the witnesses' attendance to testify before [~~it~~] the board, for which purpose each board member may administer oaths and affirmations to witnesses and others transacting business of the office;

(b) establish councils to recommend to the board and the executive director policies affecting members of any systems, plans, and programs administered by the board;

(c) pay the travel expenses of council members who attend council meetings; and

(d) sue and be sued in [~~its~~] the board's own name.

(3) The state treasurer is subject to the same restrictions on disclosure of the proxy voting records described in Subsection (1)(s) as the board.

Section 2. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

(1) [~~The~~] Except as provided in Subsection (2), the following funds are exempt from this chapter:

[~~(1)~~] (a) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

[~~(2)~~] (b) funds of the Utah State Retirement Board;

[~~(3)~~] (c) funds of the Utah Housing Corporation;

[~~(4)~~] (d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-801;

[~~(5)~~] (e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

[~~(6)~~] (f) the State Post-Retirement Benefits Trust Fund;

[~~(7)~~] (g) the funds of the Utah Educational Savings Plan;

[~~(8)~~] (h) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

[~~(9)~~] (i) the funds in the Navajo Trust Fund;

[~~(10)~~] (j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

[~~(11)~~] (k) the funds in the Employers' Reinsurance Fund;

[~~(12)~~] (l) the funds in the Uninsured Employers' Fund;

[~~(13)~~] (m) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 62A-5-206.7;

[~~(14)~~] (n) the funds in the Risk Management Fund created in Section 63A-4-201; and

[~~(15)~~] (o) the Utah fund of funds created in Section 63N-6-401.

(2) Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan, the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).

Section 3. Section 51-7-14 is amended to read:

51-7-14. Prudent investor rule for management of investments -- Proxy voting -- Sale of security or investment for less than cost -- State treasurer access.

(1) [~~Persons~~] Subject to Subsection (2), a person selecting investments authorized by Sections 51-7-11 and 51-7-13 shall:

[~~(a) exercise that degree of judgment and care, under the circumstances prevailing at the time the investment is selected, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs;~~]

[~~(b)~~] (a) select investments not for speculation but for investment; and

[~~(c)~~] (b) consider:

(i) the probable safety of the capital;

(ii) the probable benefits to be derived;

(iii) the probable duration for which that investment may be made;

(iv) the investment objectives specified in Section 51-7-17; and

(v) the investment portfolio as a whole.

(2) A public treasurer shall:

(a) invest public funds in accordance with the prudent investor rule established in Title 75, Chapter 7, Part 9, Utah Uniform Prudent Investor Act;

(b) make public fund investment decisions with the sole purpose of maximizing the risk-adjusted return on the investments; and

(c) to the extent practicable:

(i) (A) retain the right to vote investor proxies; or

(B) if the investments are commingled with another investor's funds, request the right to vote investor proxies; and

(ii) ensure proxy voting is exercised to maximize risk-adjusted returns for the exclusive benefit of beneficiaries.

[~~(2)~~] (3) A public treasurer may sell or otherwise dispose of, at less than cost, any security or investment in which public funds under [~~his~~] the public treasurer's jurisdiction have been invested if that sale or other disposition tends to maximize the benefits that may be derived from the changed investment.

(4) (a) A public treasurer shall make proxy voting records available to the state treasurer upon the state treasurer's request.

(b) The state treasurer is subject to the same restrictions on disclosure of the proxy voting records as the originating public treasurer.

Section 4. Section 53B-8a-107 is amended to read:

53B-8a-107. Program, administrative, and endowment funds -- Investment and payments from funds -- Proxy voting -- State treasurer access.

(1) [~~(a)~~] The plan shall segregate money received by the plan into three funds, the program fund, the administrative fund, and the endowment fund.

[~~(b) The plan, as approved by the board, may hold, deposit, and invest program fund, administrative fund, and endowment fund money in the following:~~]

[~~(i) the Public Treasurer's Investment Fund;~~]

[~~(ii) mutual funds, securities, or other investments registered with the United States Securities and Exchange Commission;~~]

[~~(iii) federally insured depository institutions;~~]

[~~(iv) stable value products, including guaranteed investment contracts, guaranteed interest contracts, and guaranteed insurance contracts; and~~]

[~~(v) any investments that are determined by the board to be appropriate and that would be authorized under:~~]

[~~(A) the provisions of Section 51-7-11; or~~]

[~~(B) rules of the State Money Management Council applicable to gift funds.~~]

(2) The board shall:

(a) invest the plan in a manner that is consistent with the prudent investor rule for trustees established in Title 75, Chapter 7, Part 9, Utah Uniform Prudent Investor Act;

(b) in accordance with the board's fiduciary responsibilities, make investment decisions with the sole purpose of maximizing the risk-adjusted return on the investments; and

(c) to the extent practicable:

(i) (A) retain the right to vote investor proxies; or

(B) if the investments are commingled with another investor's funds, request the right to vote investor proxies; and

(ii) ensure proxy voting is exercised to maximize risk-adjusted returns for the exclusive benefit of beneficiaries.

[~~(2)~~] (3) Transfers may be made from the program fund to the administrative fund to pay operating costs:

(a) associated with administering the plan and as required under Sections 53B-8a-103 through 53B-8a-105; and

(b) as included in the budget approved by the board.

[~~(3)~~] (4) (a) All money paid by account owners in connection with account agreements shall be deposited as received into separate accounts within the program fund which shall be invested and accounted for separately.

(b) Money accrued by account owners in the program fund may be used for:

(i) payments to any institution of higher education;

(ii) payments to the account owner or beneficiary;

(iii) transfers to another 529 plan; or

(iv) other expenditures or transfers made in accordance with the account agreement.

[~~(4)~~] (5) (a) All money received by the plan from the proceeds of gifts and other endowments for the purposes of the plan shall be:

(i) deposited, according to the nature of the donation, as received into the endowment fund or the administrative fund; and

(ii) invested and accounted for separately.

(b) Any gifts, grants, or donations made by any governmental unit or any person, firm, partnership, or corporation to the plan for deposit to the endowment fund or the administrative fund is a grant, gift, or donation to the state for the accomplishment of a valid public eleemosynary, charitable, and educational purpose and is not included in the income of the donor for Utah tax purposes.

(c) The endowment fund or the administrative fund may be used to enhance the savings of low income account owners investing in the plan, for scholarships, or for other college savings incentive programs as approved by the board.

(d) Transfers may be made between the endowment fund and the administrative fund upon approval by the board.

(e) Endowment fund earnings not accruing to a beneficiary under an account agreement, not transferred to the administrative fund, or not otherwise approved by the board for expenditure, shall be reinvested in the endowment fund.

(6) Subsection (2) does not prohibit the board from offering individual account owners a variety of voluntary investment options that have different risk profiles and investment objectives.

(7) (a) The board shall make proxy voting records available to the state treasurer upon the state treasurer's request.

(b) The state treasurer is subject to the same restrictions on disclosure of the proxy voting records as the board.

CHAPTER 243
S. B. 97
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

PUBLIC CONTRACT REQUIREMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Rex P. Shipp

LONG TITLE

General Description:

This bill addresses public entity contract requirements.

Highlighted Provisions:

This bill:

- defines terms;
- subject to exceptions, prohibits a public entity from entering into a contract with a company that engages in certain boycott actions;
- prohibits a person from penalizing a company that agrees not to engage in certain boycott actions while under contract with a public entity;
- provides that a person who penalizes a company for agreeing not to engage in certain boycott actions while under contract with a public entity interferes with the state's interest in administering state programs and maintaining commercial relationships; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-27-102, as enacted by Laws of Utah 2021, Chapter 347

63G-27-201, as enacted by Laws of Utah 2021, Chapter 347

ENACTS:

63G-27-202, Utah Code Annotated 1953

REPEALS:

63G-27-101, as enacted by Laws of Utah 2021, Chapter 347

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

Section 1. Section 63G-27-102 is amended to read:

CHAPTER 27. PUBLIC CONTRACT BOYCOTT RESTRICTIONS

63G-27-102. Definitions.

As used in this chapter:

(1) "Boycott action" means refusing to deal, terminating business activities, or limiting commercial relations.

(2) "Boycott of the State of Israel" means engaging in a boycott action targeting:

(a) the State of Israel; and

(b) (i) companies or individuals doing business in or with the State of Israel; or

(ii) companies authorized by, licensed by, or organized under the laws of the State of Israel to do business.

(3) "Boycotted company" means a company that:

(a) engages in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture;

(b) engages in, facilitates, or supports the manufacture, distribution, sale, or use of firearms;

(c) does not meet or commit to meet environmental standards, including standards for eliminating, reducing, offsetting, or disclosing greenhouse gas-emissions, beyond applicable state and federal law requirements; or

(d) does not facilitate or commit to facilitate access to abortion or sex characteristic surgical procedures.

[~~(3)~~] (4) (a) "Company" means a corporation, partnership, limited liability company, or similar entity.

(b) "Company" includes any wholly-owned subsidiary, majority-owned subsidiary, parent company, or affiliate of an entity described in Subsection [~~(3)(a)~~] (4)(a).

(5) "Economic boycott" means, without an ordinary business purpose:

(a) engaging in a boycott action targeting:

(i) a boycotted company; or

(ii) another company because the company does business with a boycotted company; or

(b) taking an action intended to penalize, inflict economic harm to, or change or limit the activities of:

(i) a boycotted company; or

(ii) another company because the company does business with a boycotted company.

(6) (a) "Ordinary business purpose" means a purpose that is related to business operations.

(b) "Ordinary business purpose" does not include a purpose that is solely related to furthering social, political, or ideological interests.

[~~(4)~~] (7) "Public entity" means the state or a political subdivision of the state, including each department, division, office, board, commission, council, authority, or institution of the state or a political subdivision of the state.

Section 2. Section 63G-27-201 is amended to read:

63G-27-201. Prohibition on contracting.

(1) Except as provided in Subsection [~~(2)~~] (3), a public entity may not enter into a contract with a company to acquire or dispose of a good or service, including supplies, information technology, or construction services, unless:

(a) the contract includes a written certification that the company is not currently engaged in:

(i) a boycott of the State of Israel; or

(ii) an economic boycott; [~~and~~]

(b) the company agrees not to engage in a boycott of the State of Israel for the duration of the contract[~~.~~]; and

(c) the company agrees to notify the public entity in writing if the company begins engaging in an economic boycott.

(2) A company's notice under Subsection (1)(c) may be grounds for termination of the contract.

[~~(2)~~] (3) This section does not:

(a) apply to:

[~~(a)~~] (i) a contract with a total value of less than $100,000; or

[~~(b)~~] (ii) a contract with a company that has fewer than 10 full-time employees[~~.~~]; or

(b) prohibit a public entity from entering into a contract with a company that engages in an economic boycott if:

(i) there is no economically practicable alternative available to the public entity to:

(A) acquire or dispose of the good or service; or

(B) meet the public entity's legal duties to issue, incur, or manage debt obligations, or deposit, keep custody of, manage, borrow, or invest funds; or

(ii) the company engages in the economic boycott to comply with federal law.

Section 3. Section 63G-27-202 is enacted to read:

63G-27-202. Prohibition on interference with state programs and commercial relationships.

(1) A person may not take action to penalize or threaten to penalize a company because the company enters into a contract that complies with Subsections 63G-27-201(1)(a)(ii) or (c).

(2) A person who takes an action or makes a threat in violation of Subsection (1) interferes with the state's interest in administering state programs and maintaining commercial relationships.

Section 4. Repealer.

This bill repeals:

Section 63G-27-101, Title.

CHAPTER 244
S. B. 112
Passed February 16, 2023
Approved March 14, 2023
Effective July 1, 2023

AQUATIC INVASIVE SPECIES AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill addresses aquatic invasive species issues.

Highlighted Provisions:

This bill:

- requires the payment of a fee and display of an aquatic invasive species decal before launching or operating a vessel;
- addresses the display of an aquatic invasive species decal obtained by payment of a fee;
- addresses the imposition of resident and nonresident fees, including:
  - clarifying that a resident aquatic invasive species fee is separate from a registration fee; and
  - addressing collections by the Division of Motor Vehicles;
- requires certain vessel owners to complete an education course;
- repeals outdated language and certain language related to the resident aquatic invasive species fee; and
- makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

23-27-201, as last amended by Laws of Utah 2014, Chapter 274
23-27-304, as enacted by Laws of Utah 2020, Chapter 195
23-27-305, as enacted by Laws of Utah 2020, Chapter 195

ENACTS:

73-18-25.3, Utah Code Annotated 1953

REPEALS:

73-18-26, as last amended by Laws of Utah 2020, Chapter 195

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

Section 1. Section 23-27-201 is amended to read:

23-27-201 (Codified as 23A-10-201). Invasive species prohibited -- Administrative inspection authorized -- Decal.

(1) Except as authorized in this title or a board rule or order, a person may not:

(a) possess, import, export, ship, or transport a Dreissena mussel;

(b) release, place, plant, or cause to be released, placed, or planted a Dreissena mussel in a water body, facility, or water supply system; [~~or~~]

(c) transport a conveyance or equipment that has been in an infested water within the previous 30 days without decontaminating the conveyance or equipment[~~.~~]; or

(d) launch or operate a vessel on the waters of the state without first:

(i) paying an aquatic invasive species fee required by Subsection 23-27-304(1) or (2); and

(ii) displaying an aquatic invasive species decal in accordance with Subsection (6).

(2) A person who violates Subsection (1):

(a) is strictly liable;

(b) is guilty of an infraction; and

(c) shall reimburse the state for all costs associated with detaining, quarantining, and decontaminating the conveyance or equipment.

(3) A person who knowingly or intentionally violates Subsection (1) is guilty of a class A misdemeanor.

(4) A person may not proceed past or travel through an inspection station or administrative checkpoint, as described in Section 23-27-301, while transporting a conveyance during an inspection station's or administrative checkpoint's hours of operations without presenting the conveyance for inspection.

(5) A person who violates Subsection (4) is guilty of a class B misdemeanor.

(6) (a) (i) The division shall provide a resident person who pays the aquatic invasive species fee required by Subsection 23-27-304(1)(a) an aquatic invasive species decal to be displayed on the vessel for which the aquatic invasive species fee is paid.

(ii) The division shall provide a nonresident person who pays the aquatic invasive species fee required by Subsection 23-27-304(2)(a) an aquatic invasive species decal to be displayed on the vessel for which the aquatic invasive species fee is paid.

(b) A person shall display the aquatic invasive species decal obtained under this Subsection (6) on the bow of the vessel's port side six inches aft of the vessel's registration decal.

Section 2. Section 23-27-304 is amended to read:

23-27-304 (Codified as 23A-10-304). Aquatic invasive species fee.

(1) (a) Except as described in Subsection (3), there is imposed an annual resident aquatic invasive species fee of $20 on a vessel required to be registered under Section 73-18-7.

(b) The division shall:

(i) collect the aquatic invasive species fee imposed under Subsection (1)(a):

(A) in cooperation with the Division of Outdoor Recreation and in conjunction with the registration process described in Section 73-18-7; or

(B) through a division process if the vessel owner elects to not pay the aquatic invasive species fee in conjunction with the registration process;

(ii) deposit the aquatic invasive species fee into the Aquatic Invasive Species Interdiction Account created in Section 23-27-305; and

(iii) administer the aquatic invasive species fee in accordance with this section.

(c) The aquatic invasive species fee imposed under this Subsection (1) is in addition to and is separate from a registration fee described in Section 73-18-7.

(2) (a) Except as provided in Subsection [~~(1)(b)~~] (3), there is imposed an annual nonresident aquatic invasive species fee of [~~$20~~] $25 on each vessel [~~in order~~] to launch or operate a vessel in waters of this state if:

(i) the vessel is owned by a nonresident; and

(ii) the vessel would otherwise be subject to registration requirements under Section 73-18-7 if the vessel were owned by a resident of this state.

[~~(b) The provisions of Subsection (1)(a) do not apply if the vessel is owned and operated by a state or federal government agency and the vessel is used within the course and scope of the duties of the agency.~~]

[~~(c) The division shall administer and collect the fee described in Subsection (1)(a), and the fee shall be deposited into the Aquatic Invasive Species Interdiction Account created in Section 23-27-305.~~]

(b) The division shall:

(i) collect and administer an aquatic invasive species fee described in Subsection (2)(a) in accordance with this section; and

(ii) deposit the aquatic invasive species fee collected under this Subsection (2) into the Aquatic Invasive Species Interdiction Account created in Section 23-27-305.

[~~(2)~~] (3) Subsections (1) and (2) do not apply if the vessel is owned and operated by a state or federal government agency and the vessel is used within the course and scope of the duties of the agency.

(4) Before launching or operating a vessel on the waters of this state[~~,~~]:

(a) (i) a resident shall pay the aquatic invasive species fee as described in Subsection (1); and

(ii) a nonresident shall pay the aquatic invasive species fee as described in Subsection [~~(1),~~] (2); and

(b) the resident or nonresident vessel owner shall successfully complete an aquatic invasive species education course offered by the division.

[~~(3) (a) The division shall study options and feasability of implementing an automated system capable of scanning, photographing, and providing real-time information regarding a conveyance's or equipment's:~~]

[~~(i) last entry into a body of water; and~~]

[~~(ii) last decontamination.~~]

[~~(b) The study described in Subsection (3)(a) shall evaluate the system's capability of:~~]

[~~(i) operation with or without the use or supervision of personnel;~~]

[~~(ii) operation 24 hours per day;~~]

[~~(iii) capturing a state assigned number on a vessel or conveyance as described in Section 73-18-6;~~]

[~~(iv) preserving photographic evidence of:~~]

[~~(A) a conveyance's state assigned bow number;~~]

[~~(B) a conveyance's or equipment's entry into a body of water, including the global positioning system location of where the conveyance is photographed; and~~]

[~~(C) decontamination of the conveyance or equipment;~~]

[~~(v) identifying a conveyance or equipment not owned by a resident that is entering a body of water in this state; and~~]

[~~(vi) collecting the fee described in Subsection (1).~~]

[~~(c) The division shall present a report of the study and findings described in Subsections (3)(a) and (b) to the Natural Resources, Agriculture, and Environment Interim Committee before November 30, 2020.~~]

[~~(d) Based on the findings of the study described in this Subsection (3), the division shall implement a pilot program to provide the services described in this Subsection (3) on or before May 1, 2021.~~]

[~~(4)~~] (5) [~~The~~] Notwithstanding the fee amount described in Subsections (1) and (2), the board may increase resident and nonresident aquatic invasive species fees assessed under [~~Subsection (1)~~] this section, so long as:

(a) the aquatic invasive species fee for nonresidents described in Subsection [~~(1)~~] (2) is no less than the resident aquatic invasive species fee described in [~~Section 73-18-26~~] Subsection (1); and

(b) the aquatic invasive species fee is confirmed in the legislative fee schedule.

[~~(5)~~] (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules establishing procedures for:

(a) proof of payment and other methods of verifying compliance with this section;

(b) special requirements applicable on interstate water bodies in this state; and

(c) other provisions necessary for the administration of the program.

Section 3. Section 23-27-305 is amended to read:

23-27-305 (Codified as 23A-3-211). Aquatic Invasive Species Interdiction Account.

(1) There is created within the General Fund a restricted account known as the "Aquatic Invasive Species Interdiction Account."

(2) The [~~restricted account~~] Aquatic Invasive Species Interdiction Account shall consist of:

(a) nonresident aquatic invasive species fees collected under [~~Section 23-27-304~~] Subsection 23-27-304(2);

(b) resident aquatic invasive species fees collected under [~~Section 73-18-26~~] Subsection 23-27-304(1); and

(c) any other amount deposited in the restricted account from donations, appropriations, contractual agreements, and accrued interest.

(3) Upon appropriation, the division shall use the aquatic invasive species fees collected under [~~Sections 23-27-305 and 73-18-26~~] Subsections 23-27-304(1) and (2) and deposited in the Aquatic Invasive Species Account to fund aquatic invasive species prevention and containment efforts.

Section 4. Section 73-18-25.3 is enacted to read:

73-18-25.3. Collection of the aquatic invasive species fee.

(1) A person who applies for a vessel registration or registration renewal under Section 73-18-7 may pay the aquatic invasive species fee required under Section 23-27-304 at the time of registration or registration renewal. If the Division of Motor Vehicles collects the registration fee and a person elects to pay the aquatic invasive species fee at the same time, the payment of the aquatic invasive species fee under this section shall be:

(a) collected by the Division of Motor Vehicles;

(b) treated as a separate fee and not part of the registration fee; and

(c) deposited into the Aquatic Invasive Species Interdiction Account created in Section 23-27-305, less actual administrative costs associated with collecting and transferring the aquatic invasive species fee by the Division of Motor Vehicles.

(2) Notwithstanding Section 41-1a-116, the Division of Motor Vehicles shall report to the Division of Wildlife Resources identifying information regarding a person who pays the aquatic invasive species fee so that the Division of Wildlife Resources may provide a decal to that person in accordance with Subsection 23-27-201(6).

Section 5. Repealer.

This bill repeals:

Section 73-18-26, Resident aquatic invasive species fee -- Amount -- Deposit.

Section 6. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 245
S. B. 113
Passed February 15, 2023
Approved March 14, 2023
Effective May 3, 2023

LOCAL AGRICULTURAL AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill modifies the authority of a political subdivision to enact regulations regarding animal enterprises and working animals.

Highlighted Provisions:

This bill:

- defines terms, including "animal enterprise" and "working animal"; and
- except for certain exceptions, prohibits a municipality or a county from adopting or enforcing an ordinance or other regulation that prohibits or effectively prohibits the operation of an animal enterprise or the use of a working animal.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
11-46a-101, Utah Code Annotated 1953
11-46a-102, Utah Code Annotated 1953

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

Section 1. Section 11-46a-101 is enacted to read:

CHAPTER 46a. ANIMAL ENTERPRISE AND WORKING ANIMAL REGULATIONS

11-46a-101. Definitions.

As used in this chapter:

(1) (a) "Animal" means any nonhuman vertebrate life form.

(b) "Animal" does not include domestic cats, domestic dogs, exotic animals, or reptiles.

(2) (a) "Animal enterprise" means a commercial enterprise, an academic enterprise, or a competition that uses or sells animals or animal products for profit, food or fiber production, agriculture, education, research, sport, or testing.

(b) "Animal enterprise" includes an animal competition, exposition, fair, rodeo, farm, feedlot, furrier, ranch, or event intended to exhibit or advance agricultural arts and sciences.

(c) "Animal enterprise" does not include an aquarium, circus, horse and carriage operation, retail pet store, or zoo.

(3) "Exotic animal" means a:

(a) member of the family Felidae not indigenous to Utah, except the species Felis catus (domestic cat);

(b) nonhuman primate;

(c) nonwolf member of the family Canidae not indigenous to Utah, except the species Canis familiaris (domestic dog);

(d) bear; and

(e) member of the order Crocodylia.

(4) "Political subdivision" means:

(a) a city, town, or metro township; or

(b) a county, as it relates to the licensing and regulation of an animal enterprise or working animal in the unincorporated area of the county.

(5) (a) "Working animal" means an animal used for performing a specific duty or function in commerce, including an animal used for entertainment, herding, transportation, education, or exhibition.

(b) "Working animal" does not include a horse and carriage operation.

Section 2. Section 11-46a-102 is enacted to read:

11-46a-102. Limitations on animal enterprise and working animal regulations.

(1) Subject to Subsection (2), a political subdivision may not adopt or enforce an ordinance or other regulation that prohibits or effectively prohibits:

(a) the operation of an animal enterprise;

(b) the use of a working animal; or

(c) domestic dogs from:

(i) actively participating in an exposition or rodeo; or

(ii) performing a specific duty as a working animal.

(2) Subsection (1) does not apply to an ordinance or other regulation that a political subdivision adopts or enforces if the ordinance or other regulation:

(a) enforces a state or federal law;

(b) is a land use regulation as that term is defined in Section 10-9a-103; or

(c) is adopted or enforced, in accordance with Section 10-8-15 or 19-4-113, to protect:

(i) drinking water or a source of drinking water from pollution; or

(ii) a waterworks system.

CHAPTER 246
S. B. 114
Passed February 28, 2023
Approved March 14, 2023
Effective July 1, 2023

COUNTY CORRECTIONAL FACILITY CONTRACTINGAMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill concerns county correctional facility contracting.

Highlighted Provisions:

This bill:

- modifies definitions;
- amends provisions concerning county correctional facility contracting for state inmates;
- mandates certain data collection and reporting regarding county correctional facility treatment programs for state inmates;
- removes existing state daily incarceration rate as applied to county correctional facility contracting for state inmates;
- removes existing annual expenditure for county correctional facility contracting for state inmates;
- requires the Department of Corrections to annually estimate the number of county correctional facility bed spaces required for state inmates and removes specific numbers of bed spaces;
- amends provisions concerning the Subcommittee on County Correctional Facility Contracting and Reimbursement; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Corrections – County Correctional Facility Contracting:
  - from the General Fund, $5,410,400.
  - from the General Fund, One-time, $1,436,200.
- to the Department of Corrections – County Correctional Facility Contracting Reserve, as a one-time appropriation:
  - from the General Fund, One-time, $2,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154
64-13e-102, as last amended by Laws of Utah 2022, Chapter 370
64-13e-103, as last amended by Laws of Utah 2022, Chapter 187
64-13e-103.1, as enacted by Laws of Utah 2020, Chapter 410
64-13e-103.2, as enacted by Laws of Utah 2021, Chapter 366
64-13e-105, as last amended by Laws of Utah 2021, Chapters 366, 382

ENACTS:

64-13e-103.3, Utah Code Annotated 1953

REPEALS:

64-13e-101, as enacted by Laws of Utah 2007, Chapter 353

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

Section 1. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The Emergency Medical Services Grant Program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

(15) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(30) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(31) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

[~~(31)~~] (32) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(32)~~] (33) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

[~~(33)~~] (34) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(34)~~] (35) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(35)~~] (36) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(36)~~] (37) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(37)~~] (38) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(38)~~] (39) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(39)~~] (40) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(40)~~] (41) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(41)~~] (42) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(42)~~] (43) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

[~~(43)~~] (44) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 2. Section 64-13e-102 is amended to read:

CHAPTER 13e. COUNTY CORRECTIONAL FACILITY CONTRACTING AND REIMBURSEMENT

64-13e-102. Definitions.

As used in this chapter:

(1) "Actual county daily incarceration rate" means the median amount of jail daily incarceration costs based on the data submitted by counties in accordance with [~~Section~~] Subsection 64-13e-104(6)(b).

[~~(2) "Actual state daily incarceration rate" means the average daily incarceration rate, calculated by the department based on the previous three fiscal years, that reflects the following expenses incurred by the department for housing an inmate:~~]

[~~(a) executive overhead;~~]

[~~(b) administrative overhead;~~]

[~~(c) transportation overhead;~~]

[~~(d) division overhead; and~~]

[~~(e) motor pool expenses.~~]

[~~(3)~~] (2) "Alternative treatment program" means:

(a) an evidence-based cognitive behavioral therapy program; or

(b) a certificate-based program provided by:

(i) an institution of higher education described in Subsection 53B-1-102(1)(b); or

(ii) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.

[~~(4)~~] (3) "Annual inmate jail days" means the total number of state probationary inmates housed in a county jail each day for the preceding fiscal year.

[~~(5)~~] (4) "CCJJ" means the [~~Utah~~] State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

[~~(6)~~] (5) "Department" means the Department of Corrections, created in Section 64-3-101.

[~~(7)~~] (6) "Division of Finance" means the Division of Finance, created in Section 63A-3-101.

[~~(8)~~] (7) "Final county daily incarceration rate" means the amount equal to:

(a) the amount appropriated by the Legislature for the purpose of making payments to counties under Section 64-13e-104; divided by

(b) the average annual inmate jail days for the preceding five fiscal years.

[~~(9)~~] (8) "Jail daily incarceration costs" means the following daily costs incurred by a county jail for housing a state probationary inmate on behalf of the department:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

(9) "State daily incarceration rate" means the average daily incarceration rate, calculated by the department based on the previous three fiscal years, that reflects the following expenses incurred by the department for housing an inmate:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

(10) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

(11) "State parole inmate" means an individual who is:

(a) on parole, as defined in Section 77-27-1; and

(b) housed in a county [~~jail~~] correctional facility for a reason related to the individual's parole.

(12) "State probationary inmate" means a felony probationer sentenced to time in a county [~~jail~~] correctional facility under Subsection 77-18-105(6).

(13) "Treatment program" means:

(a) an alcohol treatment program;

(b) a substance abuse treatment program;

(c) a sex offender treatment program; or

(d) an alternative treatment program.

Section 3. Section 64-13e-103 is amended to read:

64-13e-103. County correctional facility contracting program for state inmates -- Payments -- Reporting -- Contracts.

(1) Subject to Subsection (6), the department may contract with a county to house state inmates in a county [~~or other~~] correctional facility.

(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).

(3) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) except as provided in Subsection (3)(a)(ii), [~~83.19%~~] 84% of the [~~actual~~] state daily incarceration rate for [~~beds~~] a county correctional facility bed space in a county that, pursuant to the contract, [~~are~~] is dedicated to a treatment program for state inmates, if the treatment program is approved by the department under Subsection (3)(c);

(ii) [~~74.18%~~] 75% of the [~~actual~~] state daily incarceration rate for [~~beds~~] a county correctional facility bed space in a county that, pursuant to the contract, [~~are~~] is dedicated to an alternative treatment program for state inmates, if the alternative treatment program is approved by the department under Subsection (3)(c); and

(iii) [~~66.23%~~] 70% of the [~~actual~~] state daily incarceration rate for [~~beds~~] a county correctional facility bed space in a county other than the [~~beds~~] bed spaces described in Subsections (3)(a)(i) and (ii).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii), unless:

(i) the program meets the standards established under Subsection (3)(b)(i); and

[~~(ii) the department determines that the Legislature has appropriated sufficient funds to:~~]

[~~(A) pay the county that provides the treatment program at the rate described in Subsection (3)(a)(i) or (ii); and~~]

[~~(B) pay each county that does not provide a treatment program an amount per state inmate that is not less than the amount per state inmate received for the preceding fiscal year by a county that did not provide a treatment program; and~~]

[~~(iii)~~] (ii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(d) (i) The department shall annually:

(A) collect information from each county described in Subsection (1) regarding the treatment programs for state inmates offered by the county;

(B) evaluate, review, and audit the results of each treatment program on state inmate recidivism and other relevant metrics; and

(C) on or before November 30, report the results of the information described in Subsection (3)(d)(i)(B) to the Executive Offices and Criminal Justice Appropriations Subcommittee.

(ii) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of Subsection (3)(d)(i).

(4) (a) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(b) Funds from the County Correctional Facility Contracting Reserve Program may be used only once existing annual appropriated funds for the fiscal year have been exhausted.

(5) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section; [~~and~~]

(b) the total number of state inmate days of incarceration that were provided by the county[~~.~~]; and

(c) the information required under Subsection (3)(d)(i)(A).

(6) Except as provided under Subsection (7), the department may not enter into a contract with a county as described under Subsection (1), unless:

(a) beginning July 1, 2023, the county [~~jail~~] correctional facility within the county is in compliance with the reporting requirements described in Subsection 17-22-32(2); and

(b) the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

(i) the approximate number of beds to be contracted;

[~~(ii) the daily rate at which the county is paid to house a state inmate;~~]

[~~(iii)~~] (ii) the approximate amount of the county's long-term debt; and

[~~(iv)~~] (iii) the repayment time of the debt for the facility where the inmates are to be housed.

(7) The department may enter into a contract with a county government to house inmates without complying with the approval process described in Subsection (6) only if the county facility was under construction, or already in existence, on March 16, 2001.

(8) Any resolution passed by the Legislature under Subsection (6) does not bind or obligate the Legislature or the department regarding the proposed contract.

Section 4. Section 64-13e-103.1 is amended to read:

64-13e-103.1. Calculating the state incarceration rate.

(1) Before September 15 of each year, the department shall:

(a) calculate[~~,~~] the state daily incarceration rate; and

(b) inform each county and CCJJ of the [~~actual~~] state daily incarceration rate.

(2) The [~~actual~~] state daily incarceration rate may not be less than the rate presented to the Executive Appropriations Committee of the Legislature for purposes of setting the appropriation for the department's budget.

Section 5. Section 64-13e-103.2 is amended to read:

64-13e-103.2. State daily incarceration rate -- Limits -- Payments to county correctional facilities for state probationary and state parole inmates.

(1) Notwithstanding [~~Sections 64-13e-103 and~~] Section 64-13e-103.1, the [~~actual~~] state daily

incarceration rate shall be $85.27[~~. This rate shall apply to inmates under Section 64-13e-103 and~~] for probationary and parole inmates under Section 64-13e-104.

[~~(2) Notwithstanding Subsection 64-13e-103(3)(a), the number of jail beds contracted for shall be 1450 at the base rate of 71.57%, with the exception of:~~]

[~~(a) the beds set aside for Subsection 64-13e-103(3)(a)(i) which shall be 434 beds and shall be reimbursed at 88.53% of the actual state daily incarceration rate; and~~]

[~~(b) the beds set aside for Subsection 64-13e-103(3)(a)(ii) which shall be 235 beds and shall be reimbursed at 79.52% of the actual state daily incarceration rate.~~]

[~~(3)~~] (2) Notwithstanding Subsection 64-13e-104(9), the five year average state probationary or parole inmate days is set at 300,000 days.

[~~(4)~~] (3) Notwithstanding Subsection 64-13e-104(2), within funds appropriated by the Legislature for this purpose, the Division of Finance shall pay a county that houses a state probationary inmate or a state parole inmate at a rate of 50% of the [~~actual~~] state daily incarceration rate.

[~~(5) Expenditures for Section 64-13e-103 shall be $35,173,900 annually.~~]

[~~(6)~~] (4) Expenditures for Section 64-13e-104 shall be $12,790,700 annually.

Section 6. Section 64-13e-103.3 is enacted to read:

64-13e-103.3. Estimating the annual number of county correctional facility bed spaces required for state inmates.

(1) (a) Before September 15 of each year, the department shall estimate the total number of annual county correctional facility bed spaces that are required for state inmates in the upcoming fiscal year, including the annual number of bed spaces that shall be dedicated to:

(i) a treatment program for state inmates under Subsection 64-13e-103(3)(a)(i); and

(ii) an alternative treatment program for state inmates under Subsection 64-13e-103(3)(a)(ii).

(b) The department's estimates described in Subsection (1)(a) shall be based upon:

(i) a review of the annual numbers of county correctional facility bed spaces used for state inmates during the preceding years; and

(ii) any other information relevant to the department.

(2) The department shall inform each county of the estimates described in Subsection (1)(a).

Section 7. Section 64-13e-105 is amended to read:

64-13e-105. Subcommittee on County Correctional Facility Contracting and Reimbursement -- Purpose -- Responsibilities -- Membership.

(1) There is created within [~~the Commission on Criminal and Juvenile Justice~~] CCJJ, the Subcommittee on [~~Jail~~] County Correctional Facility Contracting and Reimbursement consisting of the individuals listed in Subsection (3).

(2) The subcommittee shall meet at least quarterly to review, discuss, and make recommendations for:

(a) the state daily incarceration rate, described in Section 64-13e-103.1;

(b) the county daily incarceration rate;

(c) [~~jail~~] county correctional facility contracting and [~~jail~~] reimbursement processes and goals, including the creation of a comprehensive statewide system of [~~jail~~] county correctional facility contracting and reimbursement;

(d) developing a partnership between the state and counties to create common goals for housing state inmates;

(e) calculations for the projected number of [~~beds~~] bed spaces needed;

(f) programming for inmates while incarcerated;

(g) proposals to reduce recidivism;

(h) enhancing partnerships to improve law enforcement and incarceration programs;

(i) inmate transportation costs; and

(j) the compilation described in Subsection 64-13e-104(7).

(3) The membership of the subcommittee shall consist of the following nine members:

(a) as designated by the Utah [~~Sheriffs~~] Sheriffs' Association:

(i) one sheriff of a county that is currently under contract with the department to house state inmates; and

(ii) one sheriff of a county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;

(b) the executive director of the department or the executive director's designee;

(c) as designated by the Utah Association of Counties:

(i) one member of the legislative body of one county that is currently under contract with the department to house state inmates; and

(ii) one member of the legislative body of one county that is currently receiving reimbursement [~~from the department~~] for housing state probationary inmates or state parole inmates;

(d) the executive director of [~~the Commission on Criminal and Juvenile Justice~~] CCJJ or the executive director's designee;

(e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(f) one member of the Senate, appointed by the president of the Senate; and

(g) the executive director of the Governor's Office of Planning and Budget or the executive director's designee.

(4) The subcommittee shall report to the Law Enforcement and Criminal Justice Interim Committee in November [~~2022~~] 2023 and 2024 on progress and efforts to create and implement a comprehensive statewide [~~jail~~] county correctional facility reimbursement and contracting system.

(5) The subcommittee shall report to the Executive Offices and Criminal Justice Appropriations Subcommittee not later than October 31 in 2022, 2023, and 2024 on costs associated with creating and implementing a comprehensive statewide [~~jail~~] county correctional facility reimbursement and contracting system.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

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

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

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 8. Repealer.

This bill repeals:

Section 64-13e-101, Title.

Section 9. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Corrections - County Correctional Facility Contracting

From General Fund	$5,410,400
From General Fund, One-time	$1,436,200

Schedule of Programs:

County Correctional Facility Contracting	$6,846,600

ITEM 2

To Department of Corrections - County Correctional Facility Contracting Reserve

From General Fund, One-time	$2,000,000

Schedule of Programs:

County Correctional Facility Contracting Reserve	$2,000,000

Section 10. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 247
S. B. 118
Passed March 2, 2023
Approved March 14, 2023
Effective March 14, 2023

WATER EFFICIENT LANDSCAPING INCENTIVES

Chief Sponsor: Scott D. Sandall
House Sponsor: Doug Owens

LONG TITLE

General Description:

This bill addresses efficient use of water including incentives to install and maintain water efficient landscaping.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes water conservancy districts to receive grants to provide incentives;
- provides conditions on when an owner may receive an incentive;
- addresses rulemaking authority;
- addresses tracking of local government implementation of water use efficiency standards; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Natural Resources – Water Resources, as an ongoing appropriation:
  - from the General Fund, $3,000,000; and
- to the Department of Natural Resources – Water Resources, as a one-time appropriation:
  - from the General Fund, One-time, $11,200.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-9a-536, as enacted by Laws of Utah 2022, Chapter 230
17-27a-532, as enacted by Laws of Utah 2022, Chapter 230
73-10-37, as enacted by Laws of Utah 2022, Chapter 50

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

Section 1. Section 10-9a-536 is amended to read:

10-9a-536. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the municipality, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to municipal operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A municipality may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) A municipality shall report to the Division of Water Resources the existence, enactment, or modification of an ordinance, resolution, or policy that implements regional-based water use efficiency standards established by the Division of Water Resources by rule under Section 73-10-37.

Section 2. Section 17-27a-532 is amended to read:

17-27a-532. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the county, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to county operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A county may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) A county shall report to the Division of Water Resources the existence, enactment, or modification of an ordinance, resolution, or policy that implements regional-based water use efficiency standards established by the Division of Water Resources by rule under Section 73-10-37.

Section 3. Section 73-10-37 is amended to read:

73-10-37. Incentives to use water efficient landscaping.

(1) As used in this section:

(a) "District" means a water conservancy district, as that term is defined in Section 73-10-32.

(b) "Division" means the Division of Water Resources.

(c) "Landscaping conversion incentive program" means a program administered by a district that pays an owner a financial incentive to remove lawn or turf from a project area on land owned by the owner.

[~~(b)~~] (d) (i) Except as provided in Subsection [~~(1)(b)(ii)~~] (1)(d)(ii), "lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(ii) "Lawn or turf" does not include a golf course, park, athletic field, or sod farm.

[~~(c)~~] (e) "Owner" means an owner of private or public land where a water end user is located.

(f) "Program guidelines" means guidelines adopted by a district for the district's landscaping conversion incentive program.

(g) "Project area" means the area from which lawn or turf is removed and replaced with water efficient landscaping.

[~~(d)~~] (h) "Water end user" means a person who enters into a water contract to obtain water from a retail water provider for residential, commercial, industrial, or institutional use.

(2) [~~(a) Subject to a $5,000,000 aggregate annual cap, the~~] The division may:

(a) award a grant under Subsection (3) to a district to fund financial incentives provided through a landscaping conversion incentive program administered by the district; and

(b) provide an incentive under Subsection (4) to an owner to remove lawn or turf from a project area on land owned by the owner in an area without a landscaping conversion incentive program.

(3) (a) (i) A district may obtain a grant from the division to help fund a financial incentive provided to an owner through a landscaping conversion incentive program administered by the district.

(ii) Both the award and use of a grant under this Subsection (3) are subject to Subsections (3)(b), (c), and (d).

(b) To obtain a grant, a district shall:

(i) initiate and operate a landscaping conversion incentive program;

(ii) limit the disbursement of grant money in the district's landscaping conversion incentive program to owners that satisfy the minimum requirements of Subsection (4)(c) and:

(A) rules made by the division under Subsection (5)(b); or

(B) program guidelines approved by the division under Subsection (3)(f);

(iii) use the grant exclusively to fund financial incentives provided to owners that remove lawn or turf from a project area in the district's landscaping conversion incentive program;

(iv) provide an equal amount or more of matching funds for the district's landscaping conversion incentive program from sources other than the grant money the district receives under this section;

(v) file an application with the division that:

(A) describes the district's landscaping conversion incentive program, including verification that the program can and shall implement the minimum requirements of Subsection (4)(c) and either rules made by the division under Subsection (5)(b) or program guidelines approved by the division under Subsection (3)(f);

(B) includes a copy of the program guidelines governing the district's landscaping conversion incentive program;

(C) if the district wants to be subject to program guidelines in lieu of division rules made under Subsection (5)(b), requests that the division approve the district's program guidelines under Subsection (3)(f); and

(D) provides additional information requested by the division; and

(vi) enter into a contract with the division that requires the district to:

(A) verify that participants comply and landscaping conversion projects proposed, undertaken, and completed by participants under the district's landscaping conversion incentive program satisfy the requirements in this Subsection (3) and any contract before using grant money for a financial incentive;

(B) agree not to use grant money for a financial incentive in any landscaping conversion project that fails to satisfy the requirements of this Subsection (3) and either rules made by the division or program guidelines approved by the division under Subsection (3)(f);

(C) submit to the division quarterly reports on funding status; and

(D) prepare and submit an annual accounting to the division on the use of grant money for financial incentives in the district's landscaping conversion incentive program.

(c) (i) Upon expenditure of 70% of the grant money awarded to a district and an accounting on the use of that grant money, a district may apply for additional grant money in accordance with Subsection (3)(b).

(ii) The division may award a district an additional grant based on:

(A) the availability of grant money;

(B) the priority or importance of the grant proposal in relation to availability of grant money, the division's landscaping conversion incentive program under this Subsection (3), other landscaping conversion incentive program grant requests, and regional needs and goals;

(C) the effectiveness of the district's landscaping conversion incentive program in incentivizing owners to convert lawn or turf to water efficient landscaping;

(D) the district's previous compliance with this Subsection (3) and contract terms and conditions; and

(E) any matter bearing on the district's ability to responsibly handle and disperse grant money consistent with this Subsection (3) and contract terms and conditions.

(d) A district awarded grant money under this Subsection (3) may not use grant money to pay an incentive that exceeds the maximum amounts established by the division by rule under Subsection (5)(c).

(e) Nothing in this section prohibits a district from expending non-grant money, including matching money, under the district's landscaping conversion incentive program to:

(i) assist an owner that does not satisfy Subsection (4)(c); or

(ii) provide an incentive that exceeds a maximum amount established by the division for grant money under Subsection (3)(d).

(f) The division may approve a request from a district under Subsection (3)(b)(v)(C) to use program guidelines in lieu of rules made by the division under Subsection (5)(b) if the division determines that the district's program guidelines will:

(i) result in at least as much water use savings as rules made under Subsection (5)(b); and

(ii) accomplish the same objectives as rules made under Subsection (5)(b).

(4) (a) In an area without an existing landscaping conversion incentive program, the division may provide an incentive to an owner to remove lawn or turf from land owned by the owner and replace the lawn or turf with [~~drought resistant~~] water efficient landscaping.

(b) If the division provides an incentive under this [~~section~~] Subsection (4), the division shall provide the incentive in the order that an application for the incentive is filed. The division may terminate an application if the division determines that the owner has not completed the project within

12 months of the date on which the owner files the application for the incentive.

(c) To be eligible for an incentive under this [~~section,~~] Subsection (4):

(i) the owner shall at the time the owner applies for the incentive:

[~~(i)~~] (A) have living lawn or turf, as determined by the entity providing the incentive, on the land owned by the owner that the owner intends to replace with [~~drought resistant~~] water efficient landscaping; and

[~~(ii) be in good standing with a retail water provider so that the owner has no unpaid water bills; and~~]

[~~(iii)~~] (B) participate voluntarily in the removal of the lawn or turf in that the removal is not required by governmental code or policy[~~.~~];

(ii) the property where the project area is located, is located within:

(A) a municipality that implements regional-based water use efficiency standards established by the division under Subsection (5)(d); or

(B) an unincorporated area of a county that implements regional-based water use efficiency standards established by the division under Subsection (5)(d); and

(iii) the owner shall agree to:

(A) maintain water efficient landscaping and a drip irrigation system installed in the project area and not reinstall lawn or turf or overhead spray irrigation in the project area after receipt of a payment under this section to incentivize conversion of lawn or turf to water efficient landscaping; or

(B) return to the division or to a district the payments received for removal of lawn or turf from the project area.

(d) An owner may not receive an incentive under this section if the owner has previously received an incentive under this section for the same [~~property~~] project area.

(e) [~~The division may not provide an owner~~] An owner may not receive an incentive under this [~~section~~] Subsection (4) in an amount [~~greater than 50% of the cost of replacing the~~] that exceeds:

(i) the maximum amount established by the division in rule, as provided in Subsection (5) for each square foot of lawn or turf [~~with drought resistant~~] converted to water efficient landscaping; or

(ii) the maximum aggregate amount established by the division in rule as provided in Subsection (5).

[~~(3)~~] (5) The division [~~may~~] shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) establishing the process by which:

(i) a district obtains a grant under Subsection (3); or

(ii) an owner obtains an incentive under [~~this section; and~~] Subsection (4);

(b) defining what constitutes [~~drought resistant~~] water efficient landscaping[~~.~~], including what irrigation is used after conversion to water efficient landscaping;

(c) establishing for funding under this section, the maximum incentive from grant money allowable for each square foot of lawn or turf converted to water efficient landscaping or a maximum aggregate amount; and

(d) establishing for purposes of this section regional-based water use efficiency standards designed to reduce water consumption and conserve culinary and secondary water supplies.

(6) This section does not prohibit a municipality or county from adopting landscaping standards that would result in greater water efficiency than provided by division rule made under Subsection (5) if the standards do not conflict with this section or division rules.

(7) The division shall maintain a public website that, at a minimum, provides the status of a municipal or county ordinance, resolution, or policy that implements regional-based water use efficiency standards as described in Subsection (4)(c)(ii).

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources - Water Resources

From General Fund	3,000,000
From General Fund, One-time	11,200
Schedule of Programs:	
Planning	3,011,200

The Legislature intends that the Division of Water Resources use the $3,000,000 ongoing appropriation for incentives to use water efficient landscaping as outlined in Section 73-10-37.

Section 5. Effective date.

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

CHAPTER 248
S. B. 119
Passed February 15, 2023
Approved March 14, 2023
Effective May 3, 2023

PER CAPITA CONSUMPTIVE USE

Chief Sponsor: Michael K. McKell
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill addresses reporting of per capita consumptive use of water.

Highlighted Provisions:

This bill:

- defines terms;
- provides that per capita consumptive use is the standard in certain geographic areas;
- requires reporting districts to calculate per capita consumptive use;
- describes how per capita consumptive use is to be calculated;
- requires reporting to the Division of Water Rights;
- addresses scope of section regarding the calculation, publication, or dissemination of consumptive water use numbers; and
- clarifies that specific agencies shall comply with the per capita consumptive use provision.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
73-2-30, Utah Code Annotated 1953
73-5-8.5, Utah Code Annotated 1953
73-10-38, Utah Code Annotated 1953

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

Section 1. Section 73-2-30 is enacted to read:

73-2-30. Per capita consumptive use.

The Division of Water Rights shall comply with Section 73-5-8.5.

Section 2. Section 73-5-8.5 is enacted to read:

73-5-8.5. Per capita consumptive use.

(1) As used in this section:

(a) "Community water system" means a public water system that serves residents year-round.

(b) (i) "Metered secondary water" means secondary water metered by a secondary water supplier either at the supply side when introduced into the secondary water supplier's distribution system or metered at the meter of the end user.

(ii) "Metered secondary water" does not include:

(A) water lost in the secondary water supplier's system before being delivered to an end user; or

(B) water delivered to an end user who is not a commercial, industrial, institutional, or residential user.

(c) "Per capita consumptive use" means a valid representation of total water consumed divided by the total population for a given area.

(d) "Publicly owned treatment works" means a facility for the treatment of pollutants owned by the state, the state's political subdivisions, or other public entity.

(e) "Reporting district" means a water conservancy district that serves wholesale water to a retail water supplier located in whole or in part in a county of the first or second class.

(f) "Retail water supplier" means a person that:

(i) supplies water for human consumption and other domestic uses to an end user; and

(ii) has more than 500 service connections.

(g) "Secondary water" means the same as that term is defined in Section 73-10-34.

(h) "Secondary water supplier" means the same as that term is defined in Section 73-10-34.

(i) "Total population" means the permanent population of a given area subject to a population adjustment described in Subsection (5).

(j) "Total water consumed" means total water supplied to commercial, industrial, institutional, and residential users in a given area minus return flow.

(k) "Total water supplied" means the total amount of water delivered to commercial, industrial, institutional, and residential users in a given area as metered secondary water or metered drinking water.

(l) "Water conservancy district" means an entity formed under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.

(2) State agencies and political subdivisions shall use per capita consumptive use for reporting municipal and industrial water use in counties of the first and second class to provide another method to:

(a) track progress in water conservation; and

(b) ensure efficient public water supply management.

(3) (a) The Division of Water Resources shall designate the reporting district that shall calculate the per capita consumptive use for each county of the first or second class, except that the Division of Water Resources may only require a reporting district calculate the per capita consumptive use for a county in which the reporting district provides wholesale water to a retail water supplier.

(b) Beginning with a calculation of per capita consumptive use for calendar year 2023, a reporting

district shall annually provide the Division of Water Rights a calculation of per capita consumptive use for the one or more counties designated under Subsection (3)(a).

(4) In determining per capita consumptive use, a reporting district:

(a) shall use reliable and timely information about water used for municipal and industrial purposes, including water used in commercial, industrial, institutional, and residential settings; and

(b) may not be required:

(i) to use the same methodology as another reporting district; or

(ii) to adopt or follow the definition of "water being conserved" that is adopted under Section 73-10-32.

(5) In determining total population, a reporting district shall rely on the most recent census, a census estimate of the United States Bureau of the Census, or an estimate of the Utah Population Committee, together with an adjustment to population based on locally significant effects of a non-permanent population, including:

(a) transient but consistently recurring non-resident population associated with secondary residences or visitors; and

(b) daytime population changes.

(6) In determining return flow, a reporting district:

(a) shall obtain relevant data associated with discharges from publicly owned treatment works; and

(b) may include water flow returning to the natural environment from the use of drinking water, secondary water, or other water used for outdoor irrigation if the flow is capable of being measured or otherwise determined with a reasonable degree of certainty.

(7) In determining total water supplied, a reporting district shall:

(a) select the community water systems serving a population of 3,300 or more whose data the reporting district will use in preparing the report of per capita consumptive use;

(b) only rely on data that:

(i) is reliable; and

(ii) the reporting district is able to obtain for both metered drinking water and metered secondary water; and

(c) make reasonable efforts to ensure that the water use data relied upon in the reporting district's report is the same as the water use data reported by the community water systems to the Division of Water Rights under Section 73-5-8.

(8) A reporting district shall include in the reporting district's report of per capita consumptive use an explanation of how the reporting district determines:

(a) total water supplied;

(b) return flow; and

(c) total population.

(9) A reporting district shall annually file the reporting district's per capita consumptive use report with the Division of Water Rights on or before July 1.

(10) (a) Except as provided in Subsection (10)(b), this section may not be construed to prohibit the Division of Water Resources from:

(i) adopting regional water conservation goals as described in Section 73-10-32; or

(ii) calculating, publishing, or disseminating diverted water use information or per capita consumptive use from community water systems in counties of the third, fourth, fifth, or sixth class.

(b) A state agency or a political subdivision of the state may not calculate, publish, or disseminate a:

(i) statewide per capita consumptive use number; or

(ii) per capita consumptive use number for a first class or second class county that is different from a number reported by a reporting district pursuant to this section.

(c) This section may not be construed to prohibit a retail water supplier from using or publishing the retail water supplier's own water consumptive use numbers for the efficient management of the retail water supplier's system.

Section 3. Section 73-10-38 is enacted to read:

73-10-38. Per capita consumptive use.

The Division of Water Resources shall comply with Section 73-5-8.5.

CHAPTER 249
S. B. 123
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

BOARDS AND COMMISSIONS MODIFICATIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill repeals and amends provisions related to certain boards and commissions.

Highlighted Provisions:

This bill:

- repeals the following entities and amends provisions related to the following entities:
  - the Residential Child Care Licensing Advisory Committee;
  - the Dietitian Board;
  - the Genetic Counselors Licensing Board;
  - the Online Prescribing, Dispensing, and Facilitation Licensing Board;
  - the Licensed Direct Entry Midwife Board;
  - the Naturopathic Physicians Licensing Board;
  - the Utah Health Advisory Council;
  - the Transparency Advisory Board; and
  - the Western States Transportation Alliance;
- modifies provisions related to the Motor Carrier Advisory Board;
- modifies provisions related to the Geographic Names Board;
- modifies provisions related to the criminal justice coordinating councils;
- renames and modifies provisions related to the Child Care Center Licensing Committee; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-9-113, as enacted by Laws of Utah 2021, Chapter 189
17-55-201, as enacted by Laws of Utah 2022, Chapter 187
26-1-2, as last amended by Laws of Utah 2022, Chapter 255
26-39-102, as last amended by Laws of Utah 2022, Chapters 21, 255
26-39-200, as last amended by Laws of Utah 2022, Chapter 255
26-39-203, as last amended by Laws of Utah 2016, Chapter 74
26B-1-204, as renumbered and amended by Laws of Utah 2022, Chapter 255
58-49-2, as last amended by Laws of Utah 1993, Chapter 297
58-49-4, as last amended by Laws of Utah 2020, Chapter 339
58-49-6, as enacted by Laws of Utah 1986, Chapter 192
58-71-102, as last amended by Laws of Utah 2022, Chapter 440
58-71-203, as enacted by Laws of Utah 2022, Chapter 440
58-71-302, as last amended by Laws of Utah 2020, Chapter 339
58-71-304, as last amended by Laws of Utah 2001, Chapter 268
58-71-304.2, as enacted by Laws of Utah 1996, Chapter 282
58-71-601, as last amended by Laws of Utah 2013, Chapter 364
58-71-802, as enacted by Laws of Utah 1996, Chapter 282
58-71-803, as enacted by Laws of Utah 1996, Chapter 282
58-75-102, as last amended by Laws of Utah 2008, Chapter 382
58-75-303, as enacted by Laws of Utah 2001, Chapter 100
58-77-102, as last amended by Laws of Utah 2017, Chapter 114
58-77-302, as last amended by Laws of Utah 2020, Chapter 339
58-83-102, as last amended by Laws of Utah 2022, Chapter 415
58-83-302, as last amended by Laws of Utah 2022, Chapter 415
58-83-401, as last amended by Laws of Utah 2022, Chapter 415
63A-16-107, as enacted by Laws of Utah 2021, Chapter 84
63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451
63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472
63I-2-226, as last amended by Laws of Utah 2022, Chapters 255, 365
67-1-2.5, as last amended by Laws of Utah 2021, Chapters 84, 345
72-9-201, as last amended by Laws of Utah 2017, Chapter 96

REPEALS:

26-1-7.5, as last amended by Laws of Utah 2011, Chapter 297
26-39-201, as last amended by Laws of Utah 2022, Chapter 255
41-23-1, as last amended by Laws of Utah 2011, Chapter 202
41-23-2, as last amended by Laws of Utah 2011, Chapter 202
58-49-1, as enacted by Laws of Utah 1986, Chapter 192
58-49-3, as repealed and reenacted by Laws of Utah 1993, Chapter 297
58-71-201, as last amended by Laws of Utah 1997, Chapter 10
58-75-101, as enacted by Laws of Utah 2001, Chapter 100
58-75-201, as enacted by Laws of Utah 2001, Chapter 100
58-77-201, as last amended by Laws of Utah 2013, Chapter 167

58-83-101, as enacted by Laws of Utah 2010, Chapter 180
58-83-201, as enacted by Laws of Utah 2010, Chapter 180
63A-18-102, as enacted by Laws of Utah 2021, Chapter 84
63A-18-201, as renumbered and amended by Laws of Utah 2021, Chapter 84
63A-18-202, as enacted by Laws of Utah 2021, Chapter 84

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

Section 1. Section 9-9-113 is amended to read:

9-9-113. Geographic place names -- Role of division -- Report.

(1) As used in this section[~~:~~], "location name referring to American Indians" means the name of a place in the state that uses American Indian related terms.

[~~(a) "Location name referring to American Indians" means the name of a place in the state that uses American Indian related terms.~~]

[~~(b) "Utah Committee on Geographic Names" means the committee created by executive order of the governor that has a primary function to act as the state's liaison with the United States Board on Geographic Names and to review geographic name changes and additions in Utah.~~]

(2) (a) To facilitate the United States Board on Geographic Names' application process for changing a location name referring to American Indians, the division may create an application template[~~, in consultation with the Utah Committee on Geographic Names,~~] for the following to use:

(i) a county in which a place with a location name referring to American Indians is located;

(ii) an Indian tribe that is connected to the geographic location referring to American Indians for which the Indian tribe seeks to change the name;

(iii) a local community in and around a place with a location name referring to American Indians; or

(iv) another person identified by the division [~~in consultation with the Utah Committee on Geographic Names~~].

(b) The application template described in Subsection (2)(a) shall encourage an applicant to solicit feedback from the one or more tribal governments that are connected to the geographic location for which the applicant is proposing to change the location name referring to American Indians.

(c) If the division assists a person applying to change the location name referring to American Indians, the division shall direct the person to consult with any tribal government that is connected to the geographic location for which the location name referring to American Indians is proposed to be changed so that a tribal government has an opportunity to provide an official response.

(d) The division may bring proposed name changes to location names referring to American Indians to tribal leaders to solicit input from the Indian tribes.

(3) The division shall provide on the division's website resources for applicants and information about proposed changes to location names referring to American Indians.

(4) In accordance with Section 9-9-107, the division shall annually report to the Native American Legislative Liaison Committee on the division's activities under this section.

Section 2. Section 17-55-201 is amended to read:

17-55-201. Criminal justice coordinating councils -- Creation -- Strategic plan -- Reporting requirements.

(1) (a) Beginning January 1, 2023, a county shall:

(i) create a criminal justice coordinating council; or

(ii) jointly with another county or counties, create a criminal justice coordinating council.

(b) The purpose of a council is to coordinate and improve components of the criminal justice system in the county or counties.

(2) (a) A council shall include:

(i) one county commissioner or county council member;

(ii) the county sheriff or the sheriff's designee;

(iii) one chief of police of a municipality within the county or the chief's designee;

(iv) the county attorney or the attorney's designee;

(v) one public defender or attorney who provides public defense within the county;

(vi) one district court judge;

(vii) one justice court judge;

(viii) one representative from the Division of Adult Probation and Parole within the Department of Corrections;

(ix) one representative from the local mental health authority within the county; and

(x) one individual who is:

(A) a crime victim; or

(B) a victim advocate, as defined in Section 77-38-403.

(b) A council may include:

(i) an individual representing:

(A) local government;

(B) human services programs;

(C) higher education;

(D) peer support services;

(E) workforce services;

(F) local housing services;

(G) mental health or substance use disorder providers;

(H) a health care organization within the county;

(I) a local homeless council;

(J) family counseling and support groups; or

(K) organizations that work with families of incarcerated individuals; or

(ii) an individual with lived experiences in the criminal justice system.

[~~(3) The member described in Subsection (2)(a)(i) shall serve as chair of the council.~~]

(3) A council shall rotate the position of the chair among the members.

(4) (a) A council shall develop and implement a strategic plan for the county's or counties' criminal justice system that includes:

(i) mapping of all systems, resources, assets, and services within the county's or counties' criminal justice system;

(ii) a plan for data sharing across the county's or counties' criminal justice system;

(iii) recidivism reduction objectives; and

(iv) community reintegration goals.

(b) The commission may assist a council in the development of a strategic plan.

(5) Before November 30 of each year, a council shall provide a written report to the commission regarding:

(a) the implementation of a strategic plan described in Subsection (4); and

(b) any data on the impact of the council on the criminal justice system in the county or counties.

Section 3. Section 26-1-2 is amended to read:

26-1-2. Definitions.

As used in this title:

[~~(1) "Council" means the Utah Health Advisory Council.~~]

[~~(2)~~] (1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

[~~(3)~~] (2) "Executive director" means the executive director of the department appointed under Section 26B-1-203.

[~~(4)~~] (3) "Public health authority" means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, an Indian tribe, or a person acting under a grant of authority from or contract with such an agency, that is responsible for public health matters as part of its official mandate.

Section 4. Section 26-39-102 is amended to read:

26-39-102. Definitions.

As used in this chapter:

[~~(1) "Advisory committee" means the Residential Child Care Licensing Advisory Committee created in Section 26B-1-204.~~]

[~~(2)~~] (1) "Capacity limit" means the maximum number of qualifying children that a regulated provider may care for at any given time, in accordance with rules made by the department.

[~~(3)~~] (2) (a) "Center based child care" means child care provided in a facility or program that is not the home of the provider.

(b) "Center based child care" does not include:

(i) residential child care; or

(ii) care provided in a facility or program exempt under Section 26-39-403.

[~~(4)~~] (3) "Certified provider" means a person who holds a certificate from the department under Section 26-39-402.

[~~(5)~~] (4) "Child care" means continuous care and supervision of a qualifying child, that is:

(a) in lieu of care ordinarily provided by a parent in the parent's home;

(b) for less than 24 hours a day; and

(c) for direct or indirect compensation.

[~~(6)~~] (5) "Child care program" means a child care facility or program operated by a regulated provider.

[~~(7)~~] (6) "Exempt provider" means a person who provides care described in Subsection 26-39-403(2).

[~~(8)~~] (7) "Licensed provider" means a person who holds a license from the department under Section 26-39-401.

[~~(9)~~] (8) "Licensing committee" means the Child Care [~~Center~~] Provider Licensing Committee created in Section 26B-1-204.

[~~(10)~~] (9) "Public school" means:

(a) a school, including a charter school, that:

(i) is directly funded at public expense; and

(ii) provides education to qualifying children for any grade from first grade through twelfth grade; or

(b) a school, including a charter school, that provides:

(i) preschool or kindergarten to qualifying children, regardless of whether the preschool or kindergarten is funded at public expense; and

(ii) education to qualifying children for any grade from first grade through twelfth grade, if each

grade, from first grade to twelfth grade, that is provided at the school, is directly funded at public expense.

[~~(11)~~] (10) "Qualifying child" means an individual who is:

(a) (i) under the age of 13 years old; or

(ii) under the age of 18 years old, if the person has a disability; and

(b) a child of:

(i) a person other than the person providing care to the child;

(ii) a regulated provider, if the child is under the age of four; or

(iii) an employee or owner of a licensed child care center, if the child is under the age of four.

[~~(12)~~] (11) "Regulated provider" means a licensed provider or certified provider.

[~~(13)~~] (12) "Residential child care" means child care provided in the home of the provider.

Section 5. Section 26-39-200 is amended to read:

26-39-200. Child Care Provider Licensing Committee.

(1) (a) The licensing committee shall be comprised of [~~seven~~] 12 members appointed by the governor and approved by the Senate in accordance with this subsection.

(b) The governor shall appoint three members who:

(i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care; and

(ii) hold an active license as a child care center from the department to provide center based child care.

(c) The governor shall appoint two members who hold an active license as a residential child care provider and one member who is a certified residential child care provider.

[~~(c)~~] (d) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in a licensed center based child care facility;

(B) a parent with a child in a residential based child care facility;

[~~(B)~~] (C) a child development expert from the state system of higher education;

[~~(C)~~] (D) except as provided in Subsection [~~(1)(c)~~] (1)(f), a pediatrician licensed in the state; [~~and~~]

(E) a health care provider; and

[~~(D)~~] (F) an architect licensed in the state.

(ii) Except as provided in Subsection [~~(1)(c)(i)(B)~~] (1)(d)(i)(C), a member appointed under Subsection [~~(1)(c)(i)~~] (1)(d)(i) may not be an employee of the state or a political subdivision of the state.

[~~(d)~~] (e) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.

[~~(e)~~] (f) For the appointment described in Subsection [~~(1)(c)(i)(C)~~] (1)(d)(i)(D), the governor may appoint a health care professional who specializes in pediatric health if:

(i) the health care professional is licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or

(B) Title 58, Chapter 70a, Utah Physician Assistant Act; and

(ii) before appointing a health care professional under this Subsection [~~(1)(e)~~] (1)(f), the governor:

(A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection [~~(1)(c)(i)(C)~~] (1)(d)(i)(D); and

(B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection [~~(1)(c)(i)(C)~~] (1)(d)(i)(D) within 90 days after the day on which the governor sends the notice described in Subsection [~~(1)(e)(ii)(A)~~] (1)(f)(ii)(A).

(2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.

(c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.

(d) A member may not serve more than two consecutive terms.

(e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.

(3) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(4) (a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more members.

(5) [~~Three~~] Seven members of the licensing committee constitute a quorum for the transaction of business.

(6) A member appointed under Subsection (1)(b) may not vote on any action proposed by the licensing committee regarding residential child care.

(7) A member appointed under Subsection (1)(c) may not vote on any action proposed by the licensing committee regarding center based child care.

[~~(6)~~] (8) A member of the licensing committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 6. Section 26-39-203 is amended to read:

26-39-203. Duties of the Child Care Provider Licensing Committee.

(1) The licensing committee shall:

(a) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care and residential child care as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers considering the age of the children and the type of program offered by the licensee;

(b) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of this chapter that govern center based child care and residential child care, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees;

(c) advise the department on the administration of a matter affecting center based child care and residential child care;

(d) advise and assist the department in conducting center based child care provider seminars and residential child care seminars; and

(e) perform other duties as provided under Section 26-39-301.

(2) (a) The licensing committee may not enforce the rules adopted under this section.

(b) The department shall enforce the rules adopted under this section in accordance with Section 26-39-301.

Section 7. Section 26B-1-204 is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

[~~(c) Health Advisory Council;~~]

[~~(d)~~] (c) Health Facility Committee;

[~~(e)~~] (d) State Emergency Medical Services Committee;

[~~(f)~~] (e) Air Ambulance Committee;

[~~(g)~~] (f) Health Data Committee;

[~~(h)~~] (g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

[~~(i) Residential Child Care Licensing Advisory Committee;~~]

[~~(j)~~] (h) Child Care [~~Center~~] Provider Licensing Committee;

[~~(k)~~] (i) Primary Care Grant Committee;

[~~(l)~~] (j) Adult Autism Treatment Program Advisory Committee;

[~~(m)~~] (k) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

[~~(n)~~] (l) any boards, councils, or committees that are created by statute in:

(i) this title;

(ii) Title 26, Utah Health Code; or

(iii) Title 62A, Utah Human Services Code.

(3) The following divisions are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities; and

(c) relating to community health and well-being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; and

(v) the Office of Recovery Services.

(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with:

(a) this title;

(b) Title 26, Utah Health Code; and

(c) Title 62A, Utah Human Services Code.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in:

(a) this title;

(b) Title 26, Utah Health Code; or

(c) Title 62A, Utah Human Services Code.

Section 8. Section 58-49-2 is amended to read:

58-49-2. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

[~~(1) "Board" means the Dietitian Board created in Section 58-49-3.~~]

[~~(2)~~] (1) "Certified dietitian" means a person who is certified by the division as meeting the certification requirements provided in this chapter.

[~~(3)~~] (2) "Commission on Dietetic Registration" means the credentialing component of the American Dietetic Association.

[~~(4)~~] (3) "Dietetics" means the integration and application of principles derived from the sciences of food for the development, management, and provision of dietary services for individuals and groups for meeting their health care needs. "Dietetics" includes:

(a) the evaluation of a person's dietary status;

(b) the advising and education of persons on dietary needs; and

(c) the evaluation of needs, implementation of systems to support needs, and maintenance of appropriate standards of quality in food and dietary service for individuals, groups, or patients in licensed institutional facilities or in private office settings.

[~~(5)~~] (4) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes failing to maintain a level of professional practice consistent with all initial and subsequent requirements by which certification is achieved or maintained under this chapter.

Section 9. Section 58-49-4 is amended to read:

58-49-4. Qualifications for certification -- Fee.

Each applicant for certification under this chapter shall provide proof satisfactory to the division that the applicant:

(1) holds a baccalaureate or post-baccalaureate degree conferred by a college or university approved by the division at the time the degree was conferred with a major course of study in the sciences of food, dietetics, food systems management, or an equivalent major course of study;

(2) has completed an internship or preplanned professional baccalaureate or post-baccalaureate experience in a dietetic program under the supervision of a certified dietitian who is certified

under this chapter or certified, registered, or licensed under the laws of another state or territory of the United States;

(3) has satisfactorily passed a competency examination, approved by or given at the direction of the [~~board in collaboration with the~~] division; and

(4) has paid the appropriate fees determined by the Department of Commerce. The fee assessed by the Department of Commerce shall be fair and reasonable and shall reflect the cost of services provided.

Section 10. Section 58-49-6 is amended to read:

58-49-6. Certification of persons qualified in other jurisdictions.

Upon receipt of an application and application fee[~~, and upon the recommendation of the board,~~] the division may waive the examination requirement for an applicant who, at the time of application:

(1) holds a valid dietitian license or certificate issued by another state or territory of the United States, provided his qualifications meet the requirements of this chapter; or

(2) is registered by the Commission on Dietetic Registration.

Section 11. Section 58-71-102 is amended to read:

58-71-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Acupuncture" means the same as that term is defined in Section 58-72-102.

(2) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

[~~(3) "Board" means the Naturopathic Physicians Licensing Board created in Section 58-71-201.~~]

[~~(4)~~] (3) "Controlled substance" means the same as that term is defined in Section 58-37-2.

[~~(5)~~] (4) "Diagnose" means:

(a) to examine in any manner another individual, parts of an individual's body, substances, fluids, or materials excreted, taken, or removed from an individual's body, or produced by an individual's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection [~~(5)(a)~~] (4)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection [~~(5)(a)~~] (4)(a); or

(d) to make an examination or determination as described in Subsection [~~(5)(a)~~] (4)(a) upon or from information supplied directly or indirectly by another individual, whether or not in the presence of the individual the examination or determination concerns.

[~~(6)~~] (5) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled prescription drug, which:

(a) is applied topically or by injection associated with the performance of minor office procedures;

(b) has the ability to produce loss of sensation to a targeted area of an individual's body;

(c) does not cause loss of consciousness or produce general sedation; and

(d) is part of the competent practice of naturopathic medicine during minor office procedures.

[~~(7)~~] (6) "Medical naturopathic assistant" means an unlicensed individual working under the direct and immediate supervision of a licensed naturopathic physician and engaged in specific tasks assigned by the licensed naturopathic physician in accordance with the standards and ethics of the profession.

[~~(8)~~] (7) (a) "Minor office procedures" means:

(i) the use of operative, electrical, or other methods for repair and care of superficial lacerations, abrasions, and benign lesions;

(ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear;

(iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures; and

(iv) percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

(A) local anesthesia or a prescription drug described in Subsection [~~(9)(d)~~] (8)(d); or

(B) natural substances.

(b) "Minor office procedures" does not include:

(i) general or spinal anesthesia;

(ii) office procedures more complicated or extensive than those set forth in Subsection [~~(8)(a)~~] (7)(a);

(iii) procedures involving the eye; and

(iv) any office procedure involving nerves, veins, or arteries.

[~~(9)~~] (8) "Natural medicine" means any:

(a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not designated a prescription drug or controlled substance;

(b) over-the-counter medication;

(c) other nonprescription substance, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law; or

(d) prescription drug:

(i) the prescription of which is consistent with the competent practice of naturopathic medicine;

(ii) that is not a controlled substance except for testosterone; and

(iii) that is not any of the following as determined by the federal Food and Drug Administration's general drug category list:

(A) an anticoagulant for the management of a bleeding disorder;

(B) an anticonvulsant;

(C) an antineoplastic;

(D) an antipsychotic;

(E) a barbiturate;

(F) a cytotoxic;

(G) a sedative;

(H) a sleeping drug;

(I) a tranquilizer; or

(J) any drug category added after April 1, 2022, unless the division determines the drug category to be consistent with the practice of naturopathic medicine under Section 58-71-203.

[~~(10)~~] (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician.

(b) "Naturopathic childbirth" includes the use of:

(i) natural medicines; and

(ii) uncomplicated episiotomy.

(c) "Naturopathic childbirth" does not include the use of:

(i) forceps delivery;

(ii) general or spinal anesthesia;

(iii) caesarean section delivery; or

(iv) induced labor or abortion.

[~~(11)~~] (10) (a) "Naturopathic mobilization therapy" means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body;

(b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier; and

(c) "Naturopathic mobilization therapy" does not include manipulation as used in Title 58, Chapter 73, Chiropractic Physician Practice Act.

[~~(12)~~] (11) (a) "Naturopathic physical medicine" means the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, and exercise.

(b) "Naturopathic physical medicine" does not include the practice of physical therapy or physical rehabilitation.

[~~(13)~~] (12) "Practice of naturopathic medicine" means:

(a) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and natural therapies, to support and stimulate the patient's intrinsic self-healing processes by:

(i) using naturopathic childbirth, but only if:

(A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or ACNO's successor as determined by the division in collaboration with the board; and

(B) the licensee follows a written plan for naturopathic physicians practicing naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and specialty care and delivery is indicated, detailing the guidelines by which the naturopathic physician will:

(I) refer patients to the consulting physician; and

(II) consult with the consulting physician;

(ii) using naturopathic mobilization therapy;

(iii) using naturopathic physical medicine;

(iv) using minor office procedures;

(v) prescribing or administering natural medicine;

(vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;

(vii) prescribing barrier devices for contraception;

(viii) using dietary therapy;

(ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;

(x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;

(xi) taking of a history from and conducting of a physical examination upon a human patient; and

(xii) administering local anesthesia during the performance of a minor office procedure;

(b) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection [~~(13)(a)~~] (12)(a), whether or not for compensation; or

(c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care," "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that might cause a reasonable person to believe the individual using the designation is a licensed naturopathic physician.

[~~(14)~~] (13) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

[~~(15)~~] (14) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person licensed under this chapter or exempt from licensure under this chapter.

[~~(16)~~] (15) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

[~~(17)~~] (16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-501.

[~~(18)~~] (17) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

Section 12. Section 58-71-203 is amended to read:

58-71-203. Drug category review.

(1) As used in this section, "FDA" means the federal Food and Drug Administration.

(2) After April 1, 2022, if the FDA adds a new drug category to the FDA's general drug category list, the division shall determine whether the drug category is consistent with the practice of naturopathic medicine.

(3) To make the determination described in Subsection (2), the division shall consult with[~~:~~] the board described in Section 58-67-201.

[~~(a) the board; and~~]

[~~(b) the board described in Section 58-67-201.~~]

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to implement this section.

Section 13. Section 58-71-302 is amended to read:

58-71-302. Qualifications for licensure.

(1) An applicant for licensure as a naturopathic physician, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant; and

(ii) a record of professional liability claims made against the applicant and settlements paid by or in behalf of the applicant;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a naturopathic physician, as evidenced by having received an earned degree of doctor of naturopathic medicine from:

(i) a naturopathic medical school or college accredited by the Council of Naturopathic Medical Education or its successor organization approved by the division;

(ii) a naturopathic medical school or college that is a candidate for accreditation by the Council of Naturopathic Medical Education or its successor organization, and is approved by the division [~~in collaboration with the board~~], upon a finding there is reasonable expectation the school or college will be accredited; or

(iii) a naturopathic medical school or college which, at the time of the applicant's graduation, met current criteria for accreditation by the Council of Naturopathic Medical Education or its successor organization approved by the division;

(d) provide satisfactory documentation of having successfully completed, after successful completion of the education requirements set forth in Subsection (1)(c), 12 months of clinical experience in naturopathic medicine in a residency program recognized by the division and associated with an accredited school or college of naturopathic medicine, and under the preceptorship of a licensed naturopathic physician, physician and surgeon, or osteopathic physician;

(e) pass the licensing examination sequence required by division rule [~~established in collaboration with the board~~];

(f) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the [~~board~~] division if requested by the [~~board~~] division; and

(g) meet with [~~the board and~~] representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure.

(2) (a) In accordance with Subsection (2)(b), an applicant for licensure as a naturopathic physician under the endorsement provision of Section 58-1-302 shall:

(i) meet the requirements of Section 58-1-302;

(ii) document having met all requirements for licensure under Subsection (1) except the clinical experience requirement of Subsection (1)(d);

(iii) have passed the examination requirements established under Subsection (1)(e) that:

(A) the applicant has not passed in connection with licensure in another state or jurisdiction; and

(B) are available to the applicant to take without requiring additional professional education;

(iv) have been actively engaged in the practice of a naturopathic physician for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah; and

(v) meet with [~~the board and~~] representatives of the division for the purpose of evaluating the applicant's qualifications for licensure.

(b) The division may rely, either wholly or in part, on one or more credentialing associations designated by division rule[~~, made in collaboration with the board,~~] to document and certify in writing to the satisfaction of the division that an applicant has met each of the requirements of this Subsection (2), including the requirements of Section 58-1-302, and that:

(i) the applicant holds a current license;

(ii) the education, experience, and examination requirements of the foreign country or the state, district, or territory of the United States that issued the applicant's license are, or were at the time the license was issued, equal to those of this state for licensure as a naturopathic physician; and

(iii) the applicant has produced evidence satisfactory to the division of the applicant's qualifications, identity, and good standing as a naturopathic physician.

Section 14. Section 58-71-304 is amended to read:

58-71-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule, complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule [~~made in collaboration with the board~~].

(2) If a renewal period is extended or shortened under Section 58-71-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

Section 15. Section 58-71-304.2 is amended to read:

58-71-304.2. Temporary license.

(1) The division may issue a temporary license to an individual who:

(a) meets all qualifications for licensure except completion of the 12 month clinical experience required under Section 58-71-302; and

(b) presents a plan acceptable to the division [~~and the board~~] under which the applicant will practice under the direct supervision of a licensed naturopathic physician, physician and surgeon, or osteopathic physician, who supervises not more than three naturopathic physicians in an approved clinical experience program.

(2) A temporary license issued under this section expires on the date the licensee completes the clinical experience program, but not more than 18 months from the original date of issue.

(3) A temporary license under this section may be issued only once to an individual.

Section 16. Section 58-71-601 is amended to read:

58-71-601. Mentally incompetent or incapacitated naturopathic physician.

(1) As used in this section:

(a) "Incapacitated person" means a person who is incapacitated, as defined in Section 75-1-201.

(b) "Mental illness" is as defined in Section 62A-15-602.

(2) If a court of competent jurisdiction determines a naturopathic physician is an incapacitated person or that the physician has a mental illness and is unable to safely engage in the practice of medicine, the director shall immediately suspend the license of the naturopathic physician upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the naturopathic physician, in writing, of the suspension.

(3) (a) If the division [~~and a majority of the board find~~] finds reasonable cause to believe a naturopathic physician, who is not determined judicially to be an incapacitated person or to have a mental illness, is incapable of practicing medicine with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, [~~the board shall recommend that~~] the director shall file a petition with the division, and cause the petition to be served upon the naturopathic physician with a notice of hearing on the sole issue of the capacity of the naturopathic physician to competently and safely engage in the practice of medicine.

(b) The hearing shall be conducted under Section 58-1-109, and Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).

(4) (a) Every naturopathic physician who accepts the privilege of being licensed under this chapter gives consent to:

(i) submitting at the physician's own expense to an immediate mental or physical examination when directed in writing by the division [~~and a majority of the board~~] to do so; and

(ii) the admissibility of the reports of the examining physician's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

(b) The examination may be ordered by the division[~~, with the consent of a majority of the board,~~] only upon a finding of reasonable cause to believe:

(i) the naturopathic physician has a mental illness, is incapacitated, or otherwise unable to practice medicine with reasonable skill and safety; and

(ii) immediate action by the division [~~and the board~~] is necessary to prevent harm to the naturopathic physician's patients or the general public.

(c) (i) Failure of a naturopathic physician to submit to the examination ordered under this section is a ground for the division's immediate suspension of the naturopathic physician's license by written order of the director.

(ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the naturopathic physician and was not related directly to the illness or incapacity of the naturopathic physician.

(5) (a) A naturopathic physician whose license is suspended under Subsection (2) or (3) has the right to a hearing to appeal the suspension within 10 days after the license is suspended.

(b) The hearing held under this subsection shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the naturopathic physician's patients or the general public.

(6) A naturopathic physician whose license is revoked, suspended, or in any way restricted under this section may request the division [~~and the board~~] to consider, at reasonable intervals, evidence presented by the naturopathic physician, under procedures established by division rule, regarding any change in the naturopathic physician's condition, to determine whether:

(a) the physician is or is not able to safely and competently engage in the practice of medicine; and

(b) the physician is qualified to have the physician's license to practice under this chapter restored completely or in part.

Section 17. Section 58-71-802 is amended to read:

58-71-802. Form of practice.

(1) A naturopathic physician licensed under this chapter may engage in practice as a naturopathic physician, or in the practice of naturopathic medicine only as an individual licensee; but as an individual licensee, [~~he~~] the naturopathic physician may be:

(a) an individual operating as a business proprietor;

(b) an employee of another person;

(c) a partner in a lawfully organized partnership;

(d) a lawfully formed professional corporation;

(e) a lawfully organized limited liability company;

(f) a lawfully organized business corporation; or

(g) any other form of organization recognized by the state which is not prohibited by rule adopted by division rules [~~made in collaboration with the board~~].

(2) Regardless of the form in which a licensee engages in the practice of medicine, the licensee may only permit the practice of medicine in that form of practice to be conducted by an individual:

(a) licensed in Utah as a naturopathic physician under Section 58-71-301, a physician and surgeon, or as an osteopathic physician and surgeon; and

(b) who is able to lawfully and competently engage in the practice of medicine.

Section 18. Section 58-71-803 is amended to read:

58-71-803. Medical records -- Electronic records.

(1) Medical records maintained by a licensee shall:

(a) meet the standards and ethics of the profession; and

(b) be maintained in accordance with division rules [~~made in collaboration with the board~~].

(2) Medical records under this section may be maintained by an electronic means if the records comply with Subsection (1).

Section 19. Section 58-75-102 is amended to read:

58-75-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

[~~(1) "Board" means the Genetic Counselors Licensing Board created in Section 58-75-201.~~]

[~~(2)~~] (1) "Genetic counselor" means a person licensed under this chapter to engage in the practice of genetic counseling.

[~~(3)~~] (2) "Practice of genetic counseling" means the communication process which deals with the human problems associated with the occurrence, or the risk of occurrence, of a genetic disorder in a family, including the provision of services to help an individual or family:

(a) comprehend the medical facts, including the diagnosis, probable cause of the disorder, and the available management;

(b) appreciate the way heredity contributes to the disorder and the risk of occurrence in specified relatives;

(c) understand the alternatives for dealing with the risk of occurrence;

(d) choose the course of action which seems appropriate to them in view of their risk, their family goals, and their ethical and religious standards, and to act in accordance with that decision; and

(e) make the best possible psychosocial adjustment to the disorder in an affected family member or to the risk of occurrence of that disorder.

[~~(4)~~] (3) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-75-501.

[~~(5)~~] (4) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-75-502 and as may be further defined by rule by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 20. Section 58-75-303 is amended to read:

58-75-303. Term of license -- Expiration -- Renewal.

(1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

(2) Each licensee shall, at the time of applying for renewal, demonstrate compliance with continuing education requirements established by rule by the division [~~in collaboration with the board~~].

(3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Section 21. Section 58-77-102 is amended to read:

58-77-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

[~~(1) "Board" means the Licensed Direct-entry Midwife Board created in Section 58-77-201.~~]

[~~(2)~~] (1) "Certified nurse-midwife" means a person licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act.

[~~(3)~~] (2) "Client" means a woman and her fetus or newborn baby under the care of a direct-entry midwife.

[~~(4)~~] (3) "Direct-entry midwife" means an individual who is engaging in the practice of direct-entry midwifery.

[~~(5)~~] (4) "Licensed direct-entry midwife" means a person licensed under this chapter.

[~~(6)~~] (5) "Low risk" means a labor and delivery and postpartum, newborn, and interconceptual care that does not include a condition that requires a mandatory transfer under administrative rules adopted by the division.

[~~(7)~~] (6) "Physician" means an individual licensed as a physician and surgeon, osteopathic physician, or naturopathic physician.

[~~(8)~~] (7) "Practice of direct-entry midwifery" means the practice of providing the necessary supervision, care, and advice to a client during essentially normal pregnancy, labor, delivery, postpartum, and newborn periods that is consistent with national professional midwifery standards and that is based upon the acquisition of clinical skills necessary for the care of a pregnant woman and a newborn baby, including antepartum, intrapartum, postpartum, newborn, and limited interconceptual care, and includes:

(a) obtaining an informed consent to provide services;

(b) obtaining a health history, including a physical examination;

(c) developing a plan of care for a client;

(d) evaluating the results of client care;

(e) consulting and collaborating with and referring and transferring care to licensed health care professionals, as is appropriate, regarding the care of a client;

(f) obtaining medications, as specified in this Subsection [~~(8)(f)~~] (7)(f), to administer to a client, including:

(i) prescription vitamins;

(ii) Rho D immunoglobulin;

(iii) sterile water;

(iv) one dose of intramuscular oxytocin after the delivery of a baby to minimize a client's blood loss;

(v) an additional single dose of oxytocin if a hemorrhage occurs, in which case the licensed direct-entry midwife must initiate transfer if a client's condition does not immediately improve;

(vi) oxygen;

(vii) local anesthetics without epinephrine used in accordance with Subsection [~~(8)(l)~~] (7)(l);

(viii) vitamin K to prevent hemorrhagic disease of a newborn baby;

(ix) as required by law, eye prophylaxis to prevent opthalmia neonatorum; and

(x) any other medication approved by a licensed health care provider with authority to prescribe that medication;

(g) obtaining food, food extracts, dietary supplements, as defined by the federal Food, Drug, and Cosmetic Act, homeopathic remedies, plant substances that are not designated as prescription drugs or controlled substances, and over-the-counter medications to administer to clients;

(h) obtaining and using appropriate equipment and devices such as a Doppler, a blood pressure cuff, phlebotomy supplies, instruments, and sutures;

(i) obtaining appropriate screening and testing, including laboratory tests, urinalysis, and ultrasound scans;

(j) managing the antepartum period;

(k) managing the intrapartum period, including:

(i) monitoring and evaluating the condition of a mother and a fetus;

(ii) performing an emergency episiotomy; and

(iii) delivering a baby in any out-of-hospital setting;

(l) managing the postpartum period, including the suturing of an episiotomy and the suturing of first and second degree natural perineal and labial lacerations, including the administration of a local anesthetic;

(m) managing the newborn period, including:

(i) providing care for a newborn baby, including performing a normal newborn baby examination; and

(ii) resuscitating a newborn baby;

(n) providing limited interconceptual services in order to provide continuity of care, including:

(i) breastfeeding support and counseling;

(ii) family planning, limited to natural family planning, cervical caps, and diaphragms; and

(iii) pap smears, where each client with an abnormal result is to be referred to an appropriate licensed health care provider; and

(o) executing the orders of a licensed health care professional, if the orders are within the education, knowledge, and skill of the direct-entry midwife.

[~~(9)~~] (8) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-77-501.

[~~(10)~~] (9) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-77-502 and as may be further defined by rule.

Section 22. Section 58-77-302 is amended to read:

58-77-302. Qualifications for licensure.

Each applicant for licensure as a licensed direct-entry midwife shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee as determined by the department under Section 63J-1-504;

(3) hold a Certified Professional Midwife certificate in good standing with the North American Registry of Midwives or equivalent certification approved by the division [~~in collaboration with the board~~];

(4) hold current adult and infant CPR and newborn resuscitation certifications through an organization approved by the division [~~in collaboration with the board~~]; and

(5) provide documentation of successful completion of an approved pharmacology course as defined by division rule.

Section 23. Section 58-83-102 is amended to read:

58-83-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

[~~(1) "Board" means the Online Prescribing, Dispensing, and Facilitation Licensing Board created in Section 58-83-201.~~]

[~~(2)~~] (1) "Branching questionnaire" means an adaptive and progressive assessment tool [~~approved by the board~~].

[~~(3)~~] (2) "Delivery of online pharmaceutical services" means the process in which a prescribing practitioner diagnoses a patient and prescribes one or more of the drugs authorized by Section 58-83-306, using:

(a) a branching questionnaire or other assessment tool approved by the division for the purpose of diagnosing and assessing a patient's health status;

(b) an Internet contract pharmacy to:

(i) dispense the prescribed drug; or

(ii) transfer the prescription to another pharmacy; and

(c) an Internet facilitator to facilitate the practices described in Subsections [~~(3)(a) and (b)~~] (2)(a) and (b).

[~~(4)~~] (3) "Division" means the Division of Professional Licensing.

[~~(5)~~] (4) "Internet facilitator" means a licensed provider of a web-based system for electronic communication between and among an online prescriber, the online prescriber's patient, and the online contract pharmacy.

[~~(6)~~] (5) "Online contract pharmacy" means a pharmacy licensed and in good standing under Chapter 17b, Pharmacy Practice Act, as either a Class A Retail Pharmacy or a Class B Closed Door Pharmacy and licensed under this chapter to fulfill

prescriptions issued by an online prescriber through a specific Internet facilitator.

[~~(7)~~] (6) "Online prescriber" means a person:

(a) licensed under another chapter of this title;

(b) whose license under another chapter of this title includes assessing, diagnosing, and prescribing authority for humans; and

(c) who has obtained a license under this chapter to engage in online prescribing.

[~~(8)~~] (7) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-83-501.

[~~(9)~~] (8) "Unprofessional conduct" is as defined in Sections 58-1-203 and 58-83-502, and as further defined by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 24. Section 58-83-302 is amended to read:

58-83-302. Qualifications for licensure.

(1) Each applicant for licensure as an online prescriber under this chapter shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) document that the applicant holds a Utah license that is active and in good standing and authorizes the licensee to engage in the assessment, diagnosis, and treatment of human ailments and the prescription of medications;

(d) document that any other professional license the applicant possesses from other jurisdictions is in good standing;

(e) (i) submit to the division an outline of the applicant's proposed online assessment, diagnosis, and prescribing tool, such as a branching questionnaire; and

(ii) demonstrate the proposed online assessment, diagnosis, and prescribing tool to the [~~board~~] division and establish to the [~~board's~~] division's satisfaction that the utilization of that assessment tool to facilitate the prescription of the drugs approved for online prescribing under Section 58-83-305 does not compromise the public's health, safety, or welfare;

(f) submit policies and procedures that address patient confidentiality, including measures that will be taken to ensure that the age and other identifying information of the person completing the online branching questionnaire are accurate;

(g) describe the mechanism by which the online prescriber and patient will communicate with one another, including electronic and telephonic communication;

(h) describe how the online prescriber/patient relationship will be established and maintained;

(i) submit the name, address, and contact person of the Internet facilitator with whom the online prescriber has contracted to provide services that the online prescriber will use to engage in online assessment, diagnosis, and prescribing; and

(j) submit documentation satisfactory to the [~~board~~] division regarding public health, safety, and welfare demonstrating:

(i) how the online prescriber will comply with the requirements of Section 58-83-305;

(ii) the contractual services arrangement between the online prescriber and:

(A) the Internet facilitator; and

(B) the online contract pharmacy; and

(iii) how the online prescriber will allow and facilitate the division's ability to conduct audits in accordance with Section 58-83-308.

(2) An online prescriber may not use the services of an Internet facilitator or online contract pharmacy whose license is not active and in good standing.

(3) Each applicant for licensure as an online contract pharmacy under this chapter shall:

(a) be licensed in good standing in Utah as a Class A Retail Pharmacy or a Class B Closed Door Pharmacy;

(b) submit a written application in the form prescribed by the division;

(c) pay a fee as determined by the department under Section 63J-1-504;

(d) submit any contract between the applicant and the Internet facilitator with which the applicant is or will be affiliated;

(e) submit proof of liability insurance acceptable to the division that expressly covers all activities the online contract pharmacy will engage in under this chapter, which coverage shall be in a minimum amount of $1,000,000 per occurrence with a policy limit of not less than $3,000,000;

(f) submit a signed affidavit to the division attesting that the online contract pharmacy will not dispense a drug that is prescribed by an online prescriber engaged in the delivery of online pharmaceutical services under the provisions of this chapter unless:

(i) the drug is specifically approved by the division under Section 58-83-306; and

(ii) both the prescribing and the dispensing of the drug were facilitated by the Internet facilitator with whom the Internet contract pharmacy is associated under Subsection (3)(d);

(g) document that any other professional license the applicant possesses from other jurisdictions is active and in good standing; and

(h) demonstrate to the division that the applicant has satisfied any background check required by Section 58-17b-307, and each owner, officer, or

manager of the applicant online contract pharmacy has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this chapter indicates there is cause to believe that issuing a license under this chapter is inconsistent with the public's health, safety, or welfare.

(4) Each applicant for licensure as an Internet facilitator under this chapter shall:

(a) submit a written application in the form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) submit any contract between the applicant and the following with which the applicant will be affiliated:

(i) each online prescriber; and

(ii) the single online contract pharmacy;

(d) submit written policies and procedures satisfactory to the division that:

(i) address patient privacy, including compliance with 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996;

(ii) ensure compliance with all applicable laws by health care personnel and the online prescriber who will process patient communications;

(iii) list the hours of operation;

(iv) describe the types of services that will be permitted electronically;

(v) describe the required patient information to be included in the communication, such as patient name, identification number, and type of transaction;

(vi) establish procedures for archiving and retrieving information; and

(vii) establish quality oversight mechanisms;

(e) submit written documentation of the applicant's security measures to ensure the confidentiality and integrity of any user-identifiable medical information;

(f) submit a description of the mechanism for:

(i) patients to access, supplement, and amend patient-provided personal health information;

(ii) back-up regarding the Internet facilitator electronic interface;

(iii) the quality of information and services provided via the interface; and

(iv) patients to register complaints regarding the Internet facilitator, the online prescriber, or the online contract pharmacy;

(g) submit a copy of the Internet facilitator's website;

(h) sign an affidavit attesting that:

(i) the applicant will not access any medical records or information contained in the medical record except as necessary to administer the website and the branching questionnaire; and

(ii) the applicant and its principals, and any entities affiliated with them, will only use the services of a single online contract pharmacy named on the license approved by the division; and

(i) submit any other information required by the division.

Section 25. Section 58-83-401 is amended to read:

58-83-401. Grounds for denial of license -- Disciplinary proceedings -- Termination of authority to prescribe -- Immediate and significant danger.

(1) Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public reprimand to a licensee, and for issuing a cease and desist order:

(a) shall be in accordance with Section 58-1-401; and

(b) includes:

(i) prescribing, dispensing, or facilitating the prescribing or dispensing of a drug not approved by the [~~board~~] division under Section 58-83-306; or

(ii) any other violation of this chapter.

(2) The termination or expiration of a license under this chapter for any reason does not limit the division's authority to start or continue any investigation or adjudicative proceeding.

(3) (a) Because of the working business relationship between and among the online prescriber, the Internet facilitator, and the online contract pharmacy, each entity's ability to comply with this chapter may depend in some respects on the actions of the others.

(b) It is possible that a particular action or inaction by the online prescriber, the Internet facilitator, or the online contract pharmacy could have the effect of causing the other licensed entities to be out of compliance with this chapter, and each entity may, therefore, be held accountable for any related party's non-compliance, if the party knew or reasonably should have known of the other person's non-compliance.

(4) (a) An online prescriber may lose the practitioner's professional license to prescribe any drug under this title if the online prescriber knew or reasonably should have known that the provisions of this chapter were violated by the online prescriber, the Internet facilitator, or the online contract pharmacy.

(b) It is not a defense to an alleged violation under this chapter that the alleged violation was a result of an action or inaction not by the charged party but

by the related online prescriber, the online contract pharmacy, or the Internet facilitator.

(5) The following actions may result in an immediate suspension of the online prescriber's license, the online contract pharmacy's license, or the Internet facilitator's license, and each is considered an immediate and significant danger to the public health, safety, or welfare requiring immediate action by the division pursuant to Section 63G-4-502 to terminate the delivery of online pharmaceutical services by the licensee:

(a) online prescribing, dispensing, or facilitation with respect to:

(i) a person who is younger than 18 years old;

(ii) a legend drug not authorized by the division in accordance with Section 58-83-306; and

(iii) any controlled substance;

(b) violating this chapter after having been given reasonable opportunity to cure the violation;

(c) using the name or official seal of the state, the department, or the division, or their boards, in an unauthorized manner; or

(d) failing to respond to a request from the division within the time frame requested for:

(i) an audit of the website; or

(ii) records of the online prescriber, the Internet facilitator, or the online contract pharmacy.

Section 26. Section 63A-16-107 is amended to read:

63A-16-107. Utah Open Data Portal Website.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(b) "Public information" means:

(i) a record of a state governmental entity, a local governmental entity, or an independent entity that is classified as public under Title 63G, Chapter 2, Government Records Access and Management Act; or

(ii) subject to any specific limitations and requirements regarding the provision of financial information from the entity under Section 67-3-12, for an entity that is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(c) "Private, controlled, or protected information" means information classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) "Website" means the Utah Open Data Portal Website created in this section.

(2) There is created the Utah Open Data Portal Website to be administered by the division.

(3) The website shall serve as a point of access for public information.

(4) The division shall:

(a) establish and maintain the website[~~, guided by the principles described in Subsection 63A-18-202(2)~~];

(b) provide equipment, resources, and personnel as needed to establish and maintain the website;

(c) provide a mechanism for a governmental entity to gain access to the website for the purpose of posting and modifying public information; and

(d) maintain an archive of all public information posted to the website.

(5) The timing for posting and the content of the public information posted to the website is the responsibility of the governmental entity posting the public information.

(6) A governmental entity may not post private, controlled, or protected information to the website.

(7) A person who negligently discloses private, controlled, or protected information is not criminally or civilly liable for improper disclosure of the information if the information is disclosed solely as a result of the preparation or publication of the website.

Section 27. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26 through 26B.

[~~(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.~~]

[~~(2) Section 26-1-40 is repealed July 1, 2022.~~]

[~~(3)~~] (1) Section 26-1-41 is repealed July 1, 2026.

[~~(4)~~] (2) Section 26-1-43 is repealed December 31, 2025.

[~~(5)~~] (3) Section 26-7-10 is repealed July 1, 2025.

[~~(6)~~] (4) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

[~~(7)~~] (5) Section 26-7-14 is repealed December 31, 2027.

[~~(8)~~] (6) Section 26-8a-603 is repealed July 1, 2027.

[~~(9)~~] (7) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

[~~(10)~~] (8) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(11)~~] (9) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.~~]

[~~(13)~~] (10) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(14)~~] (11) Section 26-18-27 is repealed July 1, 2025.

[~~(15)~~] (12) Section 26-18-28 is repealed June 30, 2027.

[~~(16)~~] (13) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(17)~~] (14) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

[~~(18)~~] (15) Section 26-33a-117 is repealed December 31, 2023.

[~~(19)~~] (16) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[~~(20)~~] (17) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[~~(21)~~] (18) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(22)~~] (19) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

[~~(23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.~~]

[~~(24)~~] (20) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

[~~(25)~~] (21) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(26)~~] (22) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(27)~~] (23) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(28)~~] (24) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

[~~(29)~~] (25) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

[~~(30)~~] (26) Section 26-69-406 is repealed July 1, 2025.

[~~(31) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.~~]

[~~(32)~~] (27) Subsection [~~26B-1-204(2)(k)~~] 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 28. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A through 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

[~~(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:~~]

[~~(a) Section 63A-18-102 is repealed;~~]

[~~(b) Section 63A-18-201 is repealed; and~~]

[~~(c) Section 63A-18-202 is repealed.~~]

[~~(5)~~] (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

[~~(6)~~] (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(7)~~] (6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

[~~(8)~~] (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

[~~(9)~~] (8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

[~~(10)~~] (9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

[~~(11)~~] (10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

[~~(12)~~] (11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

[~~(13)~~] (12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(14)~~] (13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(15)~~] (14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(16)~~] (15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(17)~~] (16) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

[~~(18)~~] (17) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.~~]

[~~(20)~~] (18) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21)~~] (19) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(22)~~] (20) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(23)~~] (21) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(24)~~] (22) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~] (23) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~] (24) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~] (25) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~] (26) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~] (27) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~] (28) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~] (29) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~] (30) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 29. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26 through 26B.

[~~(1) Subsection 26-2-12.6(3), relating to the report for birth certificate fees, is repealed December 31, 2022.~~]

[~~(2)~~] (1) Subsection 26-7-8(3) is repealed January 1, 2027.

[~~(3)~~] (2) Section 26-8a-107 is repealed July 1, 2024.

[~~(4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.~~]

[~~(5)~~] (3) Section 26-8a-211 is repealed July 1, 2023.

[~~(6)~~] (4) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(7) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.~~]

[~~(8) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.~~]

[~~(9)~~] (5) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(10)~~] (6) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(11) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.~~]

[~~(12)~~] (7) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(13) Subsection 26-61-202(4)(b) is repealed January 1, 2022.~~]

[~~(14) Subsection 26-61-202(5) is repealed January 1, 2022.~~]

[~~(15)~~] (8) Subsection [~~26B-1-204(2)(f)~~] 26B-1-204(2)(e), relating to the Air Ambulance Committee, is repealed July 1, 2024.

Section 30. Section 67-1-2.5 is amended to read:

67-1-2.5. Executive boards -- Database -- Governor's review of new boards.

(1) As used in this section:

(a) "Administrator" means the boards and commissions administrator designated under Subsection (3).

(b) "Executive board" means an executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body:

(i) with a defined limited membership;

(ii) that is created by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government; and

(iii) that is created to operate for more than six months.

(2) (a) Except as provided in Subsection (2)(c), before August 1 of the calendar year following the year in which a new executive board is created in statute, the governor shall:

(i) review the executive board to evaluate:

(A) whether the executive board accomplishes a substantial governmental interest; and

(B) whether it is necessary for the executive board to remain in statute;

(ii) in the governor's review described in Subsection (2)(a)(i), consider:

(A) the funding required for the executive board;

(B) the staffing resources required for the executive board;

(C) the time members of the executive board are required to commit to serve on the executive board; and

(D) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction; and

(iii) submit a report to the Government Operations Interim Committee recommending that the Legislature:

(A) repeal the executive board;

(B) add a sunset provision or future repeal date to the executive board;

(C) make other changes to make the executive board more efficient; or

(D) make no changes to the executive board.

(b) In conducting the evaluation described in Subsection (2)(a), the governor shall give deference to:

(i) reducing the size of government; and

(ii) making governmental programs more efficient and effective.

(c) The governor is not required to conduct the review or submit the report described in Subsection (2)(a) for an executive board that is scheduled for repeal under Title 63I, Chapter 1, Legislative Oversight and Sunset Act, or Title 63I, Chapter 2, Repeal Dates by Title Act.

(3) (a) The governor shall designate a board and commissions administrator from the governor's staff to maintain a computerized database containing information about all executive boards.

(b) The administrator shall ensure that the database contains:

(i) the name of each executive board;

(ii) the current statutory or constitutional authority for the creation of the executive board;

(iii) the sunset date on which each executive board's statutory authority expires;

(iv) the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

(v) the name, address, gender, telephone number, and county of each individual currently serving on the executive board, along with a notation of all vacant or unfilled positions;

(vi) the title of the position held by the person who appointed each member of the executive board;

(vii) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;

(viii) whether members appointed to the executive board require the advice and consent of the Senate;

(ix) the organization, interest group, profession, local government entity, or geographic area that an individual appointed to an executive board represents, if any;

(x) the party affiliation of an individual appointed to an executive board, if the statute or executive order creating the position requires representation from political parties;

(xi) whether each executive board is a policy board or an advisory board;

(xii) whether the executive board has or exercises rulemaking authority, or is a rulemaking board as defined in Section 63G-24-102; and

(xiii) any compensation and expense reimbursement that members of the executive board are authorized to receive.

(4) The administrator shall ensure the governor's website includes:

(a) the information contained in the database, except for an individual's:

(i) physical address;

(ii) email address; and

(iii) telephone number;

(b) a portal, accessible on each executive board's web page within the governor's website, through which a member of the public may provide input on:

(i) an individual appointed to serve on the executive board; or

(ii) a sitting member of the executive board;

(c) each report the administrator receives under Subsection (5); and

(d) the summary report described in Subsection (6).

(5) (a) Before August 1, once every five years, beginning in calendar year 2024, each executive board shall prepare and submit to the administrator a report that includes:

(i) the name of the executive board;

(ii) a description of the executive board's official function and purpose;

(iii) a description of the actions taken by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

(iv) recommendations on whether any statutory, rule, or other changes are needed to make the executive board more effective; and

(v) an indication of whether the executive board should continue to exist.

(b) The administrator shall compile and post the reports described in Subsection (5)(a) to the governor's website before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a).

(6) (a) Before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a), the administrator shall prepare a report that includes:

(i) as of July 1 of that year, the total number of executive boards that exist;

(ii) a summary of the reports submitted to the administrator under Subsection (5), including:

(A) a list of each executive board that submitted a report under Subsection (5);

(B) a list of each executive board that did not submit a report under Subsection (5);

(C) an indication of any recommendations made under Subsection (5)(a)(iv); and

(D) a list of any executive boards that indicated under Subsection (5)(a)(v) that the executive board should no longer exist; and

(iii) a list of each executive board, identified and reported by the Division of Archives and Record Services under Section 63A-16-601, that did not post a notice of a public meeting on the Utah Public Notice Website during the previous fiscal year.

(b) On or before September 1 of a calendar year in which the administrator prepares a report described in Subsection (6)(a), in accordance with Section 68-3-14, the administrator shall submit the report to:

(i) the president of the Senate;

(ii) the speaker of the House of Representatives; and

(iii) the Government Operations Interim Committee.

(7) (a) On or before September 30, 2023, the administrator shall meet with the Division of Professional Licensing, the Insurance Department, the Department of Agriculture and Food, and the stakeholders involved with at least the following boards as part of the annual review of executive boards:

(i) the Landscape Architects Board;

(ii) the Professional Geologist Licensing Board;

(iii) the Bail Bond Oversight Board;

(iv) the Title and Escrow Commission; and

(v) the Horse Racing Commission.

(b) The review described in Subsection (7)(a) shall consider:

(i) the funding required for the executive board;

(ii) the staffing resources required for the executive board;

(iii) the time members of the executive board are required to commit to serve on the executive board;

(iv) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction;

(v) the historical record of how many meetings the executive board held in the last five years and the agendas of the executive board;

(vi) the ability to fill vacancies and appointments to the executive board;

(vii) the statutory duties of the executive board; and

(viii) other items to make the best recommendations for the executive board.

(8) (a) The administrator shall submit a report of the review described in Subsection (7)(b) to the Government Operations Interim Committee before October 17, 2023, recommending that the Legislature:

(i) repeal the executive board;

(ii) add a sunset or future repeal date to the executive board;

(iii) make other changes to make the executive board more efficient; or

(iv) make no changes to the executive board.

(b) In conducting the review described in Subsection (7)(b), the administrator shall give deference to:

(i) reducing the size of government;

(ii) making governmental programs more efficient and effective; and

(iii) reducing the burdens of government on business.

Section 31. Section 72-9-201 is amended to read:

72-9-201. Motor Carrier Advisory Board created -- Appointment -- Terms -- Meetings -- Per diem and expenses -- Duties.

(1) There is created within the department the Motor Carrier Advisory Board consisting of five members appointed by the [~~governor~~] department.

(2) Each member of the board shall:

(a) represent experience and expertise in the areas of motor carrier transportation, commerce, agriculture, economics, shipping, or highway safety;

(b) be selected at large on a nonpartisan basis; and

(c) have been a legal resident of the state for at least one year immediately preceding the date of appointment.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the [~~governor~~] department shall appoint each new member or reappointed member to a four-year term.

(b) The [~~governor~~] department shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member shall serve from the date of appointment until a replacement is appointed.

(4) When a vacancy occurs in the membership for any reason, the [~~governor~~] department shall appoint the replacement to serve for the remainder of the unexpired term beginning the day following the day on which the vacancy occurs.

(5) The board shall elect its own chair and vice chair at the first regular meeting of each calendar year.

(6) The board shall meet at least twice per year or as needed when called by the chair.

(7) Any three voting members constitute a quorum for the transaction of business that comes before the board.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(9) The board shall advise the department and the commission on interpretation, adoption, and implementation of this chapter and other motor carrier related issues.

(10) The department shall provide staff support to the board.

Section 32. Repealer.

This bill repeals:

Section 26-1-7.5, Health advisory council.

Section 26-39-201, Residential Child Care Licensing Advisory Committee.

Section 41-23-1, Enactment.

Section 41-23-2, Text.

Section 58-49-1, Short title.

Section 58-49-3, Board created -- Duties.

Section 58-71-201, Board.

Section 58-75-101, Title.

Section 58-75-201, Board.

Section 58-77-201, Board.

Section 58-83-101, Title.

Section 58-83-201, Board.

Section 63A-18-102, Definitions.

Section 63A-18-201, Utah Transparency Advisory Board -- Creation -- Membership -- Duties.

Section 63A-18-202, Utah Transparency Advisory Board -- Duties.

CHAPTER 250
S. B. 129
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

JUDICIARY AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill amends provisions related to the judiciary.

Highlighted Provisions:

This bill:

- provides a repeal date for Title 78A, Chapter 10, Judicial Selection Act;
- defines terms related to judicial nominating commissions;
- addresses the selection, appointment, and confirmation of judges to the appellate, district, and juvenile courts of this state;
- addresses partisan political consideration in regard to the selection, appointment, and confirmation of judges;
- clarifies the transition process in regard to the creation of new judicial nominating commissions;
- allows the State Criminal and Juvenile Justice Commission to make rules for judicial nominating commissions;
- clarifies the process and timeline for the selection, appointment, and confirmation of judges to the appellate, district, and juvenile courts of this state;
- addresses the procedures, meetings, and certification process for judicial nominating commissions;
- addresses the process for the appointment of a judge by the governor;
- amends provisions regarding the Senate confirmation process;
- creates the Appellate Court Nominating Commission;
- provides the purpose and membership of the Appellate Court Nominating Commission;
- addresses the appointment, vacancy, or removal of commissioners on the Appellate Court Nominating Commission;
- addresses procedures and expenses for the Appellate Court Nominating Commission;
- creates a district and juvenile court nominating commission for each geographical division of the district and juvenile courts;
- provides the purpose and membership of a district and juvenile court nominating commission;
- addresses the appointment, vacancy, or removal of commissioners on a district and juvenile court nominating commission;
- addresses procedures and expenses for a district and juvenile court nominating commission; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

53B-1-501, as enacted by Laws of Utah 2020, Chapter 365 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 365
63I-2-278, as last amended by Laws of Utah 2022, Chapter 470
67-1-1.5, as last amended by Laws of Utah 2021, Chapter 394
67-1-2, as last amended by Laws of Utah 2020, Chapters 352, 373 and last amended by Coordination Clause, Laws of Utah 2020, Chapters 352, 365 and 373
78A-10-102, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-10-104, as last amended by Laws of Utah 2010, Chapter 134 and last amended by Coordination Clause, Laws of Utah 2010, Chapter 134

ENACTS:

78A-10a-101, Utah Code Annotated 1953
78A-10a-102, Utah Code Annotated 1953
78A-10a-103, Utah Code Annotated 1953
78A-10a-201, Utah Code Annotated 1953
78A-10a-202, Utah Code Annotated 1953
78A-10a-203, Utah Code Annotated 1953
78A-10a-204, Utah Code Annotated 1953
78A-10a-301, Utah Code Annotated 1953
78A-10a-302, Utah Code Annotated 1953
78A-10a-303, Utah Code Annotated 1953
78A-10a-304, Utah Code Annotated 1953
78A-10a-305, Utah Code Annotated 1953
78A-10a-401, Utah Code Annotated 1953
78A-10a-402, Utah Code Annotated 1953
78A-10a-403, Utah Code Annotated 1953
78A-10a-404, Utah Code Annotated 1953
78A-10a-405, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

31A-5-414, as enacted by Laws of Utah 1985, Chapter 242
31A-5-415, as last amended by Laws of Utah 2000, Chapter 300
31A-16-111, as last amended by Laws of Utah 2000, Chapter 114
78A-10-101.5, Utah Code Annotated 1953
78A-10-401, Utah Code Annotated 1953
78A-10-402, Utah Code Annotated 1953
78A-10-403, Utah Code Annotated 1953
78A-10-404, Utah Code Annotated 1953
78A-10-405, Utah Code Annotated 1953
78A-10a-101, Utah Code Annotated 1953
78A-10a-203, Utah Code Annotated 1953
78A-10a-501, Utah Code Annotated 1953
78A-10a-503, Utah Code Annotated 1953
78A-10a-504, Utah Code Annotated 1953

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

Section 1. Section 53B-1-501 is amended to read:

53B-1-501. Establishment of initial board membership.

(1) (a) The governor shall appoint, with the advice and consent of the Senate, individuals to the board, to ensure that beginning July 1, 2020, the board consists of 18 members, including:

(i) at least six individuals who were members of the State Board of Regents on May 12, 2020;

(ii) at least six individuals who were members of the Utah System of Technical Colleges Board of Trustees on May 12, 2020; and

(iii) two student members appointed to the board in accordance with Section 53B-1-404.

(b) Before making an appointment described in Subsection (1)(a), the governor shall consult:

(i) for an appointment described in Subsection (1)(a)(i), with State Board of Regents leadership; and

(ii) for an appointment described in Subsection (1)(a)(ii), with Utah System of Technical Colleges Board of Trustees leadership.

(2) (a) Except for an appointment described in Subsection (1)(a)(iii), the governor shall appoint an individual to a two-year, four-year, or six-year term to ensure that one-third of the members complete the members' terms on June 30 of each even number year.

(b) The governor may appoint an individual described in Subsection (1)(a) to a second term without the individual being considered by the nominating committee described in Section 53B-1-406 if, at the time of the individual's initial appointment to the board, the individual:

(i) is serving the individual's first full term on the State Board of Regents or the Utah System of Technical Colleges Board of Trustees; or

(ii) is not a member of the State Board of Regents or the Utah System of Technical Colleges Board of Trustees.

(c) An appointment described in Subsection (2)(b) is for a six-year term.

(3) Following the appointments described in this section, a vacancy on the board shall be filled in accordance with Section 53B-1-404.

(4) Notwithstanding Section 67-1-2, for an appointment described in this section:

(a) a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection [~~67-1-2(1)~~] 67-1-2(2); and

(b) the Senate is not required to hold a confirmation hearing.

Section 2. Section 63I-2-278 is amended to read:

63I-2-278. Repeal dates: Title 78A and Title 78B.

(1) Title 78A, Chapter 10, Judicial Selection Act, is repealed on July 1, 2023.

(2) If Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is not in effect before January 1, 2031, Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is repealed January 1, 2031.

[~~(2)~~] (3) Sections 78B-12-301 and 78B-12-302 are repealed on January 1, 2025.

Section 3. Section 67-1-1.5 is amended to read:

67-1-1.5. Gubernatorial appointment powers.

(1) As used in this section:

(a) "Board member" means each gubernatorial appointee to any state board, committee, commission, council, or authority.

(b) "Executive branch management position" includes department executive directors, division directors, and any other administrative position in state government where the person filling the position:

(i) works full-time performing managerial and administrative functions;

(ii) is appointed by the governor with the advice and consent of the Senate.

(c) (i) "Executive branch policy position" means any person other than a person filling an executive branch management position, who is appointed by the governor with the advice and consent of the Senate.

(ii) "Executive branch policy position" includes each member of any state board and commission appointed by the governor with the advice and consent of the Senate.

(2) (a) Whenever a vacancy occurs in any executive branch policy position or in any executive branch management position, the governor shall submit the name of a nominee to the Senate for advice and consent no later than three months after the day on which the vacancy occurs.

(b) If the Senate fails to consent to that person within 90 days after the day on which the governor submits the nominee's name to the Senate for consent:

(i) the nomination is considered rejected; and

(ii) the governor shall resubmit the name of the nominee described in Subsection (2)(a) or submit the name of a different nominee to the Senate for consent no later than 60 days after the date on which the nomination was rejected by the Senate.

(3) Whenever a vacancy occurs in any executive branch management position, the governor may either:

(a) appoint an interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months, pending consent of a person to permanently fill that position by the Senate; or

(b) appoint an interim manager who does not meet the qualifications of the vacant position and

submit that person's name to the Senate for consent as interim manager within one month of the appointment.

(4) Except for an interim manager appointed to a position described in Subsection [~~67-1-2(3)(b)(i) through (vii)~~] 67-1-2(2)(a), if the Senate fails to consent to the interim manager appointed under Subsection (3)(b) within 30 days after the day on which the governor submits the nominee's name to the Senate for consent:

(a) the nomination is considered rejected; and

(b) the governor may:

(i) (A) reappoint the interim manager to whom the Senate failed to consent within 30 days; and

(B) resubmit the name of the person described in Subsection (4)(b)(i)(A) to the Senate for consent as interim manager; or

(ii) appoint a different interim manager under Subsection (3).

(5) For an interim manager appointed to a position described in Subsection [~~67-1-2(3)(b)(i) through (vii)~~] 67-1-2(2)(a), if the Senate fails to consent to the interim manager appointed under Subsection (3)(b) within 60 days after the day on which the governor submits the nominee's name to the Senate for consent:

(a) the nomination is considered rejected; and

(b) the governor may:

(i) (A) reappoint the interim manager to whom the Senate failed to consent; and

(B) resubmit the name of the person described in Subsection (5)(b)(i)(A) to the Senate for consent as interim manager; or

(ii) appoint a different interim manager under Subsection (3).

(6) If, after an interim manager has served three months, no one has been appointed and received Senate consent to permanently fill the position, the governor shall:

(a) appoint a new interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months; or

(b) submit the name of the first interim manager to the Senate for consent as an interim manager for a three-month term.

(7) If the Senate fails to consent to a nominee whose name is submitted under Subsection (6)(b) within 30 days after the day on which the governor submits the name to the Senate:

(a) the nomination is considered rejected; and

(b) the governor shall:

(i) (A) reappoint the person described in Subsection (6)(b); and

(B) resubmit the name of the person described in Subsection (6)(b) to the Senate for consent as interim manager; or

(ii) appoint a different interim manager in the manner required by Subsection (3).

(8) The governor may not make a temporary appointment to fill a vacant executive branch policy position.

(9) (a) Before appointing any person to serve as a board member, the governor shall ask the person whether the person wishes to receive per diem, expenses, or both for serving as a board member.

(b) If the person declines to receive per diem, expenses, or both, the governor shall notify the agency administering the board, commission, committee, council, or authority and direct the agency to implement the board member's request.

(10) A gubernatorial nomination upon which the Senate has not acted to give consent or refuse to give consent is void when a vacancy in the office of governor occurs.

Section 4. Section 67-1-2 is amended to read:

67-1-2. Senate confirmation of gubernatorial nominees -- Verification of nomination requirements -- Consultation on appointments -- Notification of anticipated vacancies.

[~~(1) Until October 1, 2020, unless waived by a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader, 15 days before any Senate session to confirm any gubernatorial nominee, except a judicial appointment, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel:~~]

[~~(a) a list of each nominee for an office or position made by the governor in accordance with the Utah Constitution and state law; and~~]

[~~(b) any information that may support or provide biographical information about the nominee, including resumes and curriculum vitae.~~]

[~~(2)~~] (1) (a) Except as provided in Subsection (3), [~~beginning October 1, 2020,~~] at least 30 days before the day of an extraordinary session of the Senate to confirm a gubernatorial nominee, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel the following information for each nominee:

[~~(a)~~] (i) the nominee's name and biographical information, including a resume and curriculum vitae with personal contact information, including home address, email address, and telephone number, redacted, except that the governor shall send to the Office of Legislative Research and General Counsel the contact information for the nominee;

[~~(b)~~] (ii) a detailed list, with citations, of the legal requirements for the appointed position;

[~~(c)~~] (iii) a detailed list with supporting documents explaining how, and verifying that, the

nominee meets each statutory and constitutional requirement for the appointed position;

[~~(d)~~] (iv) a written certification by the governor that the nominee satisfies all requirements for the appointment; and

[~~(e)~~] (v) public comment information collected in accordance with Section 63G-24-204.

(b) This Subsection (1) does not apply to a judicial appointee.

[~~(3) (a) Subsection (2) does not apply to a judicial nominee.~~]

[~~(b) Beginning October 1, 2020, a~~]

(2) (a) A majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection [~~(2)~~] (1) for a gubernatorial nominee other than a nominee for the following:

(i) the executive director of a department;

(ii) the executive director of the Governor's Office of Economic Opportunity;

(iii) the executive director of the Labor Commission;

(iv) a member of the State Tax Commission;

(v) a member of the State Board of Education;

(vi) a member of the Utah Board of Higher Education; or

(vii) an individual:

(A) whose appointment requires the advice and consent of the Senate; and

(B) whom the governor designates as a member of the governor's cabinet.

[~~(4) Beginning October 1, 2020, the~~]

(b) The Senate shall hold a confirmation hearing for a nominee for an individual described in Subsection [~~(3)(b)(i) through (vii)~~] (2)(a).

[~~(5) Beginning on October 1, 2020, the~~]

(3) The governor shall:

(a) if the governor is aware of an upcoming vacancy in a position that requires Senate confirmation, provide notice of the upcoming vacancy to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel at least 30 days before the day on which the vacancy occurs; and

(b) establish a process for government entities and other relevant organizations to provide input on gubernatorial appointments.

[~~(6)~~] (4) When the governor makes a judicial appointment, the governor shall immediately provide to the president of the Senate and the Office of Legislative Research and General Counsel:

(a) the name of the judicial appointee; and

(b) the judicial appointee's:

(i) resume;

(ii) complete file of all the application materials the governor received from the [~~Judicial Nominating Commission~~] judicial nominating commission; and

(iii) any other related documents, including any letters received by the governor about the appointee, unless the letter specifically directs that [~~it~~] the letter may not be shared.

[~~(7)~~] (5) The governor shall inform the president of the Senate and the Office of Legislative Research and General Counsel of the number of letters withheld pursuant to Subsection [~~(6)(b)(iii)~~] (4)(b)(iii).

[~~(8)~~] (6) (a) Letters of inquiry submitted by any judge at the request of any judicial nominating commission [~~shall be~~] are classified as private in accordance with Section 63G-2-302.

(b) All other records received from the governor pursuant to this Subsection [~~(8)~~] (6) may be classified as private in accordance with Section 63G-2-302.

[~~(9)~~] (7) The Senate shall consent or refuse to give [~~its~~] the Senate's consent to [~~the~~] a nomination or judicial appointment.

[~~(10) A judicial nominating commission shall, at the time the judicial nominating commission certifies a list of the most qualified judicial applicants to the governor under Section 78A-10-104, submit the same list to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel.~~]

Section 5. Section 78A-10-102 is amended to read:

78A-10-102. Nomination, appointment, and confirmation of judges -- Judicial nomination commissions.

[~~Judges~~] Before July 1, 2023, judges for courts of record in Utah [~~shall be~~] are nominated, appointed, and confirmed [~~as provided in~~] in accordance with this chapter, Section 67-1-2, and Utah Constitution Article VIII, Section 8[~~, and this chapter~~].

Section 6. Section 78A-10-104 is amended to read:

78A-10-104. Convening of judicial nominating commissions -- Certification to governor of nominees -- Meetings to investigate prospective candidates.

(1) Unless a hiring freeze is implemented in accordance with Section 78A-2-113, the governor shall ensure that:

(a) the recruitment period to fill a judicial vacancy begins 235 days before the effective date of a vacancy, unless sufficient notice is not given, in which case the recruitment period shall begin within 10 days of receiving notice;

(b) the recruitment period is a minimum of 30 days but not more than 90 days, unless fewer

than nine applications are received, in which case the recruitment period may be extended up to 30 days; and

(c) the chair of the judicial nominating commission having authority over the vacancy shall convene a meeting not more than 10 days after the close of the recruitment period.

(2) The time limits in Subsection (1) shall begin to run the day the hiring freeze ends.

(3) The nominating commission may:

(a) meet as necessary to perform its function; and

(b) investigate prospective candidates.

(4) Not later than 45 days after convening, the:

(a) appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and

(b) trial court nominating commission shall certify to the governor a list of the five most qualified applicants per vacancy.

(5) A commission shall, at the time that the commission certifies a list of the most qualified applicants to the governor, submit the same list to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel.

[~~(5)~~] (6) The governor shall fill the vacancy within 30 days after receiving the list of nominees.

[~~(6)~~] (7) If the governor fails to fill the vacancy within 30 days of receiving the list of nominees from the nominating commission, the chief justice of the Supreme Court shall, within 20 days, appoint a person from the list of nominees certified to the governor.

[~~(7)~~] (8) A nominating commission may not nominate a person who has served on a nominating commission within six months of the date that the commission was last convened.

Section 7. Section 78A-10a-101 is enacted to read:

CHAPTER 10a. JUDICIAL SELECTION

Part 1. General Provisions

78A-10a-101. Definitions.

As used in this part:

(1) "Commission" means a judicial nominating commission created under Section 78A-10a-302 or 78A-10a-402.

(2) "Commissioner" means an individual appointed by the governor to serve on a judicial nominating commission created under Section 78A-10a-302 or 78A-10a-402.

Section 8. Section 78A-10a-102 is enacted to read:

78A-10a-102. Nomination, appointment, and confirmation of judges.

(1) On and after July 1, 2023, judges for courts of record in this state are nominated, appointed, and confirmed in accordance with this chapter, Section 67-1-2, and Utah Constitution, Article VIII, Section 8.

(2) A commission, the governor, the chief justice of the Supreme Court, and the Senate shall nominate and select judges based solely upon consideration of fitness for office without regard to any partisan political consideration.

Section 9. Section 78A-10a-103 is enacted to read:

78A-10a-103. Judicial nominating commissions -- Transition clause.

(1) Except as provided in Subsection (2), an individual appointed by the governor to serve on a judicial nominating commission before July 1, 2023, is removed from the judicial nominating commission on June 30, 2023.

(2) On or after May 3, 2023, but before July 1, 2023, the governor may appoint a commissioner to serve on a commission in accordance with this chapter.

(3) A commissioner appointed by the governor under Subsection (2) may not begin the commissioner's term of service until July 1, 2023.

(4) Nothing in this chapter prevents the governor from appointing an individual removed from a judicial nominating commission under Subsection (1) to serve as a commissioner under this chapter on or after July 1, 2023, if the individual's appointment meets the requirements of this chapter.

Section 10. Section 78A-10a-201 is enacted to read:

Part 2. Judicial Selection Process

78A-10a-201. State Commission on Criminal and Juvenile Justice -- Duties -- Rulemaking.

The State Commission on Criminal and Juvenile Justice shall:

(1) enact rules establishing procedures for the meetings of a commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(2) ensure that the rules described in Subsection (1):

(a) comply with the requirements of this chapter;

(b) include standards that:

(i) maintain the confidentiality of applications for a judicial vacancy and related documents;

(ii) address destroying the records of the names of applicants, applications, and related documents upon the completion of the judicial nomination process; and

(iii) govern a commissioner's disqualification and inability to serve;

(c) allow for public comment concerning the judicial nomination process, qualifications for judicial office, and individual applicants;

(d) include evaluation criteria for the selection of judicial nominees; and

(e) address procedures for:

(i) taking summary minutes at a commission meeting;

(ii) simultaneously forwarding the names of nominees to the governor, the president of the Senate, and the Office of Legislative Research and General Counsel as described in Subsection 78A-10a-203(5); and

(iii) requiring the Administrative Office of the Courts to immediately inform the governor when a judge is removed, resigns, or retires.

Section 11. Section 78A-10a-202 is enacted to read:

78A-10a-202. Time periods -- Recruitment period for judicial vacancy -- Convening a judicial nominating commission.

(1) (a) Unless a hiring freeze is implemented in accordance with Section 78A-2-113, the governor shall ensure that:

(i) except as provided in Subsection (1)(a)(ii), the recruitment period to fill a judicial vacancy begins 235 days before the effective date of the judicial vacancy;

(ii) if sufficient notice of a judicial vacancy is not given to the governor, the recruitment period to fill a judicial vacancy begins within 10 days after the day on which the governor receives notice;

(iii) except as provided in Subsection (1)(b), the recruitment period is a minimum of at least 30 days but no more than 90 days; and

(iv) the chair of the commission having authority over the vacancy convenes a meeting no more than 10 days after the close of the recruitment period.

(b) If fewer than nine applications are received for a judicial vacancy, the governor may extend the recruitment period described in Subsection (1)(b)(iii) up to 30 days.

(2) If there is a hiring freeze implemented in accordance with Section 78A-2-113, the time periods described in Subsection (1) shall begin to run on the day that the hiring freeze ends.

Section 12. Section 78A-10a-203 is enacted to read:

78A-10a-203. Procedures for judicial nomination commission -- Meetings -- Certification -- Governor appointment.

(1) (a) A commission may:

(i) meet as necessary to perform the commission's function; and

(ii) investigate the applicants of a judicial vacancy, including seeking input from members and employees of the judiciary and the community.

(b) A commission may consult with the Judicial Council regarding the applicants for a judicial vacancy.

(c) A commission is exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

(2) In determining which of the applicants are the most qualified, a commission shall determine by a majority vote of the commissioners present which of the applicants best possess the ability, temperament, training, and experience that qualifies an applicant for the office.

(3) (a) Except as provided under Subsection (3)(b):

(i) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per judicial vacancy; and

(ii) a district and juvenile court nominating commission shall certify to the governor a list of the five most qualified applicants per judicial vacancy.

(b) If a commission is considering applicants for more than one judicial vacancy existing at the same time and for the same court, the commission shall include one additional applicant for each additional judicial vacancy in the court in the list of applicants the commission certifies to the governor.

(4) A commission shall certify a list to the governor under Subsection (3) no more than 45 days after convening in accordance with Section 78A-10a-202.

(5) A commission shall, at the time that the commission certifies a list of the most qualified applicants to the governor, submit the same list to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel.

(6) A commission shall ensure that the list of applicants certified to the governor:

(a) meet the qualifications required by law to fill the office; and

(b) are willing to serve.

(7) In determining which of the applicants are the most qualified, a commission may not decline to certify an applicant's name to the governor because:

(a) the commission declined to submit that applicant's name to the governor to fill a previous judicial vacancy;

(b) a previous commission declined to submit that applicant's name to the governor; or

(c) the commission or a previous commission submitted the applicant's name to the governor and the governor selected another individual to fill the judicial vacancy.

(8) A commission may not certify:

(a) an applicant who is a justice or judge that was not retained by the voters for the office for which the

justice or judge was defeated until after the expiration of that justice's or judge's term of office; and

(b) an applicant who has served on a commission within six months after the day on which the commission was last convened.

(9) The governor shall fill a judicial vacancy within 30 days after the day on which the governor received the list of nominees from the commission.

(10) If the governor fails to fill a judicial vacancy within 30 days after the day on which the governor received the list of nominees from the commission, the chief justice of the Supreme Court shall, within 20 days, appoint an applicant from the list of nominees certified to the governor by the commission.

Section 13. Section 78A-10a-204 is enacted to read:

78A-10a-204. Senate confirmation of judicial appointments for courts of record.

(1) The Senate shall:

(a) consider and render a decision on each judicial appointment within 60 days after the day of the judicial appointment; and

(b) if necessary, convene the Senate in an extraordinary session to consider the judicial appointment.

(2) If the Senate fails to approve a judicial appointment, the office is considered vacant and a new nominating process begins.

(3) A judicial appointment is effective upon approval of a majority of all members of the Senate.

Section 14. Section 78A-10a-301 is enacted to read:

Part 3. Appellate Court Nominating Commission

78A-10a-301. Definitions.

As used in this part:

(1) "Commission" means the Appellate Court Nominating Commission created under Section 78A-10a-302.

(2) "Commissioner" means an individual appointed by the governor to serve on the Appellate Court Nominating Commission created under Section 78A-10a-302.

Section 15. Section 78A-10a-302 is enacted to read:

78A-10a-302. Creation -- Purpose.

(1) There is created the Appellate Court Nominating Commission.

(2) The Appellate Court Nominating Commission shall nominate individuals to fill judicial vacancies on the Supreme Court and the Court of Appeals.

Section 16. Section 78A-10a-303 is enacted to read:

78A-10a-303. Membership -- Vacancies -- Removal.

(1) The Appellate Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

(2) A commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah; and

(c) serve until the commissioner's successor is appointed.

(3) The governor may not appoint:

(a) a commissioner to serve successive terms; or

(b) a member of the Legislature to serve as a commissioner.

(4) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission selects applicants without any regard to partisan political consideration.

(5) The governor shall appoint the chair of the commission from among the membership of the commission.

(6) The governor shall fill any vacancy on the commission caused by the expiration of a commissioner's term.

(7) (a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

(b) A replacement commissioner appointed under Subsection (7)(a) may not be reappointed upon expiration of the term of service.

(8) The governor may remove a commissioner from the commission at any time with or without cause.

Section 17. Section 78A-10a-304 is enacted to read:

78A-10a-304. Procedure -- Staff.

(1) Four commissioners are a quorum.

(2) The governor shall appoint a member of the governor's staff to serve as staff to the commission.

(3) The governor shall:

(a) ensure that the commission follows the rules promulgated by the State Commission on Criminal and Juvenile Justice under Section 78A-10a-201; and

(b) resolve any questions regarding the rules described in Subsection (3)(a).

(4) A commissioner who is a licensed attorney may recuse oneself if there is a conflict of interest that makes the commissioner unable to serve.

Section 18. Section 78A-10a-305 is enacted to read:

78A-10a-305. Expenses -- Per diem and travel.

A commissioner may not receive compensation or benefits for the commissioner's service but may receive per diem and travel expenses in accordance with:

(1) Section 63A-3-106;

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

(3) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 19. Section 78A-10a-401 is enacted to read:

Part 4. District and Juvenile Court Nominating Commissions

78A-10a-401 (Codified as 78A-10a-501). Definitions.

As used in this part:

(1) "Commission" means a district and juvenile court nominating commission created under Section 78A-10a-402.

(2) "Commissioner" means an individual appointed by the governor to serve on a district and juvenile court nominating commission created under Section 78A-10a-402.

Section 20. Section 78A-10a-402 is enacted to read:

78A-10a-402 (Codified as 78A-10a-502). Creation -- Purpose.

(1) There is a district and juvenile court nominating commission created for each geographical division of the district and juvenile courts.

(2) A district and juvenile court nominating commission shall nominate individuals to fill judicial vacancies for the district court and the juvenile court within the commission's geographical division.

Section 21. Section 78A-10a-403 is enacted to read:

78A-10a-403 (Codified as 78A-10a-503). Membership -- Vacancies -- Removal.

(1) A district and juvenile court nominating commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

(2) A commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah;

(c) be a resident of the geographical division to be served by the commission to which the commissioner is appointed; and

(d) serve until the commissioner's successor is appointed.

(3) The governor may not appoint:

(a) a commissioner to successive terms; and

(b) a member of the Legislature to serve as a commissioner.

(4) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission selects applicants without any regard to partisan political consideration.

(5) The governor shall appoint the chair of each commission from among the membership of the commission.

(6) The governor shall fill any vacancy on the commission caused by the expiration of a commissioner's term.

(7) (a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

(b) A replacement commissioner appointed under Subsection (7)(a) may not be reappointed upon expiration of the term of service.

(8) The governor may remove a commissioner from the commission at any time with or without cause.

Section 22. Section 78A-10a-404 is enacted to read:

78A-10a-404 (Codified as 78A-10a-504). Procedure -- Staff.

(1) Four commissioners are a quorum.

(2) The governor shall appoint a member of the governor's staff to serve as staff for each commission.

(3) The governor shall:

(a) ensure that each commission follows the rules promulgated by the State Commission on Criminal and Juvenile Justice under Section 78A-10a-201; and

(b) resolve any questions regarding the rules.

(4) A commissioner who is a licensed attorney may recuse oneself if there is a conflict of interest that makes the commissioner unable to serve.

Section 23. Section 78A-10a-405 is enacted to read:

78A-10a-405 (Codified as 78A-10a-505). Expenses -- Per diem and travel.

A commissioner may not receive compensation or benefits for the commissioner's service but may receive per diem and travel expenses in accordance with:

(1) Section 63A-3-106;

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

(3) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 24. Coordinating S.B. 129 with H.B. 216 -- Superseding technical and substantive amendments.

If this S.B. 129 and H.B. 216, Business and Chancery Court Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) not enacting Section 78A-10-101.5 in H.B. 216, Business and Chancery Court Amendments;

(2) amending Section 78A-10a-101 in this S.B. 129 to read:

"As used in this part:

(1) "Commission" means a judicial nominating commission created under Section 78A-10a-302, 78A-10a-402, or 78A-10a-502.

(2) "Commissioner" means an individual appointed by the governor to serve on a

judicial nominating commission created under Section 78A-10a-302, 78A-10a-402, or 78A-10a-502.";

(3) amending Subsection 78A-10a-203(3)(a) in this S.B. 129 to read:

"(3) (a) Except as provided under Subsection (3)(b):

(i) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per judicial vacancy;

(ii) a district and juvenile court nominating commission shall certify to the governor a list of the five most qualified applicants per judicial vacancy; and

(iii) the business and chancery court nominating commission shall certify to the governor a list of the seven most qualified applicants per judicial vacancy.";

(4) renumbering Section 78A-10-401 in H.B. 216 to Section 78A-10a-501 and amending Subsection 78A-10a-501(1) to read:

""Commission" means the Business and Chancery Court Nominating Commission created in Section 78A-10a-502.";

(5) renumbering Section 78A-10-402 in H.B. 216 to Section 78A-10a-502;

(6) renumbering Section 78A-10-403 in H.B. 216 to Section 78A-10a-503 and amending Section 78A-10a-503 to read:

"(1) The Business and Chancery Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

(2) A commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah; and

(c) serve until the commissioner's successor is appointed.

(3) The governor may not appoint:

(a) a commissioner to serve successive terms; or

(b) a member of the Legislature to serve as a member of the commission.

(4) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission selects applicants without any regard to partisan political consideration.

(5) The governor shall appoint the chair of the commission from among the membership of the commission.

(6) The governor shall fill any vacancy in the commission caused by the expiration of a commissioner's term.

(7) (a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

(b) A replacement commissioner appointed under Subsection (7)(a) may not be reappointed upon expiration of the term of service.

(8) The governor may remove a commissioner from the commission at any time with or without cause.";

(7) renumbering Section 78A-10-404 in H.B. 216 to Section 78A-10a-504 and amending:

(a) the reference in Section 78A-10a-504 from "Section 78A-10-103" to "Section 78A-10a-201"; and

(b) Subsection 78A-10a-504(4) to read:

"A commissioner who is a licensed attorney may recuse oneself if there is a conflict of interest that makes the commissioner unable to serve."; and

(8) renumbering Section 78A-10-405 in H.B. 216 to Section 78A-10a-505.

Section 25. Coordinating S.B. 129 with H.B. 251 -- Superseding technical and substantive amendments.

If this S.B. 129 and H.B. 251, Court Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication, the Office of Legislative Research and General Counsel not implement the coordination clause affecting Sections 31A-5-414, 31A-5-415, and 31A-16-111 in H.B. 251.

CHAPTER 251
S. B. 138
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

FRAUDULENT TICKET SALES MODIFICATIONS

Chief Sponsor: Scott D. Sandall
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill makes changes to the Ticket Website Sales Act and the Ticket Transferability Act.

Highlighted Provisions:

This bill:

- makes out-of-state online ticket resellers subject to the Ticket Website Sales Act;
- amends requirements for online ticket sale disclosures;
- prohibits the use of certain intellectual property without written authorization;
- prohibits the knowing sale of more than one copy of the same ticket;
- adds requirements related to refunds for tickets sold on the secondary market online;
- prohibits the use of ticket purchasing software in certain circumstances;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-54-102, as enacted by Laws of Utah 2019, Chapter 115
13-54-201, as enacted by Laws of Utah 2019, Chapter 115
13-54-202, as last amended by Laws of Utah 2021, Chapter 154

ENACTS:

13-54-203, Utah Code Annotated 1953

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

Section 1. Section 13-54-102 is amended to read:

13-54-102. Definitions.

(1) "Consumer" means a person who purchases a ticket for use by the person or the person's invitee.

(2) "Division" means the Division of Consumer Protection in the Department of Commerce.

(3) "Domain" means the portion of text in a URL that is to the left of the top-level domain.

(4) "Event" means a single, specific occurrence of one of the following, that takes place at a venue:

(a) a concert;

(b) a game;

(c) a performance;

(d) a show; or

(e) an occasion similar to the occasions described in Subsections (4)(a) through (d).

(5) "Event participant" means any of the following persons who is associated with an event or on behalf of whom a person sells a ticket to an event:

(a) an artist;

(b) a league;

(c) a team;

(d) a tour group;

(e) a venue; or

(f) any person similar to the persons described in Subsections (5)(a) through (e).

(6) "Person" does not include a government entity.

(7) "Primary ticket seller" means the person who first sells a particular ticket.

(8) (a) "Reseller" means a person who sells or offers for sale a ticket after it is sold by a primary ticket seller.

(b) "Reseller" includes a person who engages in conduct described in Subsection (8)(a), regardless of whether the person is also the primary ticket seller of the ticket or the primary ticket seller of another ticket to the same event.

(c) "Reseller" does not include a person who transfers a ticket to another person without reimbursement or consideration.

(9) "Ticket" means evidence of an individual's right of entry to an event.

(10) "Ticket aggregator" means a person who aggregates the prices for which other persons offer tickets for sale or resale.

(11) "Ticket purchasing software" means software that is primarily designed for the purpose of:

(a) interfering with the sale of tickets by circumventing controls or measures on a ticket website to bypass posted event ticket purchasing limits; or

(b) undermining the integrity of posted online ticket purchasing order rules.

[~~(11)~~] (12) "Ticket website" means:

(a) with respect to a reseller, a website on which the reseller sells or offers for sale or resale one or more tickets; or

(b) with respect to a ticket aggregator, a website on which the ticket aggregator aggregates the prices for which other persons offer tickets for sale or resale.

[~~(12)~~] (13) "Top-level domain" includes .com, .net, and .org.

[~~(13)~~] (14) "URL" means the uniform resource locator for a website on the Internet.

[~~(14)~~] (15) (a) "Venue" means real property located in the state where one or more persons host a concert, game, performance, show, or similar occasion.

(b) "Venue" includes an arena, a stadium, a theater, a concert hall, an amphitheater, a fairground, a club, a convention center, a public assembly facility, or a mass gathering location.

Section 2. Section 13-54-201 is amended to read:

13-54-201. Disclosure requirements.

(1) A reseller or ticket aggregator shall clearly and conspicuously disclose on each of its ticket websites that:

(a) the website is a secondary market and is not the primary ticket seller; and

(b) the price of a ticket on the website may be higher than face value.

(2) A primary ticket seller and a reseller shall clearly and conspicuously disclose during the checkout process an itemization of the total price for which the primary ticket seller or reseller is offering the ticket for sale or resale, including taxes and each fee.

Section 3. Section 13-54-202 is amended to read:

13-54-202. Prohibited practices.

(1) (a) It is unlawful for any person who is not a primary ticket seller to represent, directly or indirectly, that the person is a primary ticket seller.

(b) If a presiding officer or court determines appropriate after considering other relevant factors, the following actions by a person who is not a primary ticket seller establish a presumption that the person is representing that the person is a primary ticket seller in violation of Subsection (1)(a):

(i) using the name of an event in the domain of the person's ticket website, unless the person has written authorization from an agent of the event;

(ii) using the name of an event participant in the domain of the person's ticket website, unless the person has written authorization from the event participant or an agent of the event participant; [~~or~~]

(iii) using, in paid search results, the name of an event or event participant in a manner described in Subsection (1)(b)(i) or (ii)[~~.~~];

(iv) using on the person's website any of the following that individually or in combination is substantially similar to a primary ticket seller's, venue's, or event's website, with the intent to mislead a potential purchaser, without written authorization:

(A) text;

(B) images;

(C) website graphics;

(D) website design; or

(E) Internet address.

(2) It is unlawful for a person who lists or offers a ticket for sale to:

(a) accept payment for the ticket; and

(b) fail to deliver to the consumer who purchases the ticket a ticket that reflects the transaction to which the parties agreed.

(3) It is unlawful for a person to:

(a) knowingly sell more than one copy of the same ticket;

(b) use ticket purchasing software to circumvent any portion of the process for purchasing a ticket on a ticket website, including:

(i) circumventing:

(A) security measures;

(B) identity validation measures; or

(C) an access control system; or

(ii) disguising the identity of a ticket purchaser for the purpose of purchasing a number of tickets that exceeds the maximum number of tickets allowed for a person to purchase.

[~~(3)~~] (4) It is unlawful for a person to fail to comply with a provision of Section 13-54-201.

[~~(4)~~] (5) Nothing in this section prohibits a person from including the name of an event or an event participant in a URL after the top-level domain.

Section 4. Section 13-54-203 is enacted to read:

13-54-203. Resale refund requirements.

A primary ticket seller or reseller from which a consumer purchases a ticket shall guarantee a full refund, including handling fees, if:

(1) the event for which the primary ticket seller or reseller sold the ticket is canceled;

(2) the ticket does not grant the purchaser admission to the event;

(3) the ticket is counterfeit; or

(4) the ticket fails to conform to the description that the primary ticket seller or reseller advertised to the purchaser.

CHAPTER 252
S. B. 143
Passed February 23, 2023
Approved March 14, 2023
Effective May 3, 2023

PUBLIC SCHOOL DISTRICT RESOURCE SHARING AGREEMENTS AND STUDENT TRANSPORTATION AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill amends provisions regarding resource sharing, including through agreements and transportation of certain students.

Highlighted Provisions:

This bill:

- allows school districts to enter into cooperative agreements for resource sharing with other school districts;
- requires cooperative agreements to:
  - be signed by participating districts;
  - specify the type of shared resource;
  - include the duration of the agreement;
  - include shared costs of the shared resource; and
  - be filed with the state board;
- amends requirements for nonresident student transportation; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-15-102, as last amended by Laws of Utah 2022, Chapters 316, 348
53F-4-401, as last amended by Laws of Utah 2022, Chapter 316
53G-3-202, as last amended by Laws of Utah 2019, Chapter 293
53G-4-402, as last amended by Laws of Utah 2021, Chapters 84, 262, 324, and 345
53G-6-405, as last amended by Laws of Utah 2019, Chapter 293

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

Section 1. Section 35A-15-102 is amended to read:

35A-15-102. Definitions.

As used in this chapter:

(1) "Board" means the School Readiness Board, created in Section 35A-15-201.

(2) "Economically disadvantaged" means to be eligible to receive free or reduced price lunch.

(3) "Eligible home-based educational technology provider" means a provider that offers a home-based educational technology program to develop the school readiness skills of an eligible student.

(4) (a) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(b) "Eligible LEA" includes a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) (a) "Eligible private provider" means a child care program that:

(i) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(ii) except as provided in Subsection (5)(b)(ii), is exempt from licensure under Section 26-39-403.

(b) "Eligible private provider" does not include:

(i) residential child care, as defined in Section 26-39-102; or

(ii) a program exempt from licensure under Subsection 26-39-403(2)(c).

(6) "Eligible student" means a student:

(a) (i) who is age three, four, or five; and

(ii) is not eligible for enrollment under Subsection [~~53G-4-402(6);~~] 53G-4-402(8); and

(b) (i) (A) who is economically disadvantaged; and

(B) whose parent or legal guardian reports that the student has experienced at least one risk factor;

(ii) is an English learner; or

(iii) is in foster care.

(7) "Evaluation" means an evaluation conducted in accordance with Section 35A-15-303.

(8) "High quality school readiness program" means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 35A-15-202.

(9) "Investor" means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 35A-15-402 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

(10) "Kindergarten assessment" means the kindergarten entry assessment described in Section 53G-7-203.

(11) "Kindergarten transition plan" means a plan that supports the smooth transition of a preschool student to kindergarten and includes communication and alignment among the preschool, program, parents, and K-12 personnel.

(12) "Local Education Agency" or "LEA" means a school district or charter school.

(13) "Performance outcome measure" means:

(a) indicators, as determined by the board, on the school readiness assessment and the kindergarten assessment; or

(b) for a results-based contract, the indicators included in the contract.

(14) "Results-based contract" means a contract that:

(a) is entered into in accordance with Section 35A-15-402;

(b) includes a performance outcome measure; and

(c) is between the board, a provider of a high quality school readiness program, and an investor.

(15) "Risk factor" means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child's household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child's home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

(i) the primary language spoken in a child's home is a language other than English; or

(j) having at least one parent who has not completed high school.

(16) "School readiness assessment" means the same as that term is defined in Section 53E-4-314.

(17) "Tool" means the tool developed in accordance with Section 35A-15-303.

Section 2. Section 53F-4-401 is amended to read:

53F-4-401. Definitions.

As used in this part:

(1) "Contractor" means the educational technology provider selected by the state board under Section 53F-4-402.

(2) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(3) "Preschool child" means a child who is:

(a) four or five years old; and

(b) not eligible for enrollment under Subsection [~~53G-4-402(6)~~] 53G-4-402(8).

(4) (a) "Private preschool provider" means a child care program that:

(i) (A) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(B) except as provided in Subsection (4)(b)(ii), is exempt from licensure under Section 26-39-403; and

(ii) meets other criteria as established by the state board, consistent with Utah Constitution, Article X, Section 1.

(b) "Private preschool provider" does not include:

(i) a residential certificate provider described in Section 26-39-402; or

(ii) a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) "Public preschool" means a preschool program that is provided by a school district or charter school.

(6) "Qualifying participant" means a preschool child who:

(a) resides within the boundaries of a qualifying school as determined under Section 53G-6-302; or

(b) is enrolled in a qualifying preschool.

(7) "Qualifying preschool" means a public preschool or private preschool provider that:

(a) serves preschool children covered by child care subsidies funded by the Child Care and Development Block Grant Program authorized under 42 U.S.C. Secs. 9857-9858r;

(b) participates in a federally assisted meal program that provides funds to licensed child care centers as authorized under Section 53E-3-501; or

(c) is located within the boundaries of a qualifying school.

(8) "Qualifying school" means a school district elementary school that:

(a) has at least 50% of students who were eligible to receive free or reduced lunch the previous school year;

(b) is a school with a high percentage, as determined by the Department of Workforce Services through rule and based on the previous school year enrollments, of students experiencing intergenerational poverty; or

(c) is located in one of the following school districts:

(i) Beaver School District;

(ii) Carbon School District;

(iii) Daggett School District;

(iv) Duchesne School District;

(v) Emery School District;

(vi) Garfield School District;

(vii) Grand School District;

(viii) Iron School District;

(ix) Juab School District;

(x) Kane School District;

(xi) Millard School District;

(xii) Morgan School District;

(xiii) North Sanpete School District;

(xiv) North Summit School District;

(xv) Piute School District;

(xvi) Rich School District;

(xvii) San Juan School District;

(xviii) Sevier School District;

(xix) South Sanpete School District;

(xx) South Summit School District;

(xxi) Tintic School District;

(xxii) Uintah School District; or

(xxiii) Wayne School District.

(9) "UPSTART" means the project established by Section 53F-4-402 that uses a home-based educational technology program to develop school readiness skills of preschool children.

Section 3. Section 53G-3-202 is amended to read:

53G-3-202. School districts independent of municipal and county governments -- School district name -- Control of property.

(1) (a) Each school district shall be controlled by its local school board and shall be independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000, shall comply with Subsection 17-50-103(2)(a).

(2) The local school board shall have direction and control of all school property in the district and may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for overall operation of the public school system.

(3) (a) Each school district shall register and maintain the school district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A school district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 4. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment, and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the school board members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by [~~children~~] students residing within the district and [~~children~~] students residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) A local school board may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for the overall operation of the school districts, including shared transportation services.

(7) An agreement under Subsection (6) shall:

(a) be signed by the president of the local school board of each participating district;

(b) specify the resource being shared;

(c) include a mutually agreed upon pro rata cost;

(d) include the duration of the agreement; and

(e) be filed with the state board.

[~~(6)~~] (8) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

[~~(7)~~] (9) A local school board may establish and support school libraries.

[~~(8)~~] (10) A local school board may collect damages for the loss, injury, or destruction of school property.

[~~(9)~~] (11) A local school board may authorize guidance and counseling services for [~~children and their~~] students and the student's parents before, during, or [~~following enrollment of the children in schools~~] following school enrollment.

[~~(10)~~] (12) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

[~~(11)~~] (13) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents, or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

[~~(12)~~] (14) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) [~~These~~] The contributions made under Subsection (14)(a) are not subject to appropriation by the Legislature.

[~~(13)~~] (15) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

[~~(14)~~] (16) A local school board shall adopt bylaws and policies for the local school board's own procedures.

[~~(15)~~] (17) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

[~~(16)~~] (18) A local school board may hold school on legal holidays other than Sundays.

[~~(17)~~] (19) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection [~~(17).~~] (19).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others, and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all [~~school children~~] students in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection [~~(17)(c).~~] (19)(c).

[~~(18)~~] (20) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on [~~what their~~] the staff's roles [~~are~~] in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection [~~(18)(a)~~] (20)(a); and

(v) include procedures to notify a student[~~, to the extent practicable,~~] who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection [~~(18)(a).~~] (20)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and [~~their~~] the student's parents and local law enforcement and public safety representatives.

[~~(19)~~] (21) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection [~~(19)(b),~~] (21)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection [~~(19)~~] (21).

[~~(20)~~] (22) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

[~~(21)~~] (23) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least [~~120~~] 90 days before approving the school closure or school boundary change, provide notice [~~to the following~~] that the local school board is considering the closure or boundary change to:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection [~~(21)(b)~~] (23)(b).

(b) The notice of a public hearing required under Subsection [~~(21)(a)(iii)~~] (23)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63A-16-601; and

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection [~~(21)(a)(iii),~~] (23)(a)(iii), be provided as described in Subsections [~~(21)(a)(i)(A), (B), and (C)~~] (23)(a)(i)(A) through (C).

[~~(22)~~] (24) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

[~~(23)~~] (25) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

[~~(24)~~] (26) A local school board shall:

(a) make curriculum that the school district uses readily accessible and available for a parent to view;

(b) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection [~~(24)(a)~~] (26)(a); and

(c) include on the school district's website information about how to access the information described in Subsection [~~(24)(a).~~] (26)(a).

Section 5. Section 53G-6-405 is amended to read:

53G-6-405. Funding.

(1) A student who enrolls in a nonresident district is considered a resident of that district for purposes of state funding.

(2) The state board shall adopt rules providing that:

(a) the resident district pay the nonresident district, for each of the resident district's students who enroll in the nonresident district, 1/2 of the amount by which the resident district's per student expenditure exceeds the value of the state's contribution; and

(b) if a student is enrolled in a nonresident district for less than a full year, the resident district shall pay a portion of the amount specified in Subsection (2)(a) based on the percentage of school days the student is enrolled in the nonresident district.

(3) (a) Except as provided in this Subsection (3), the parent of a nonresident student shall arrange for the student's own transportation to and from school.

(b) The state board may adopt rules under which a nonresident [~~students~~] student may be transported to [~~their schools~~] the student's school of attendance if:

(i) [~~the~~] transportation [~~of students to schools in other districts would relieve~~] relieves overcrowding or other serious problems in the district of residence;

(ii) the district of residence lacks sufficient transportation services;

(iii) [~~and~~] the costs of transportation are [~~not excessive~~] reasonable; [~~or~~]

(iv) there is available space on an approved route within the student's school of attendance; or

[~~(ii)~~] (v) the Legislature has granted an adequate specific appropriation for that purpose.

[~~(c) A receiving district shall provide transportation for a nonresident student on the basis of available space on an approved route within the district to the school of attendance if district students would be eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.~~]

[~~(d)~~] (c) Nothing in this section shall be construed as prohibiting the resident district or the receiving district from providing bus transportation on any approved route.

[~~(e)~~] (d) Except as provided in Subsection (3)(b), the district of residence may not claim any state transportation costs for students enrolled in other school districts.

CHAPTER 253
S. B. 144
Passed February 23, 2023
Approved March 14, 2023
Effective May 3, 2023

WATER INSTREAM FLOW AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill modifies provisions related to instream flow.

Highlighted Provisions:

This bill:

- allows for certain change applications related to delivery of water to reservoirs; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-8, as last amended by Laws of Utah 2022, Chapter 43
73-3-30, as last amended by Laws of Utah 2022, Chapter 43

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

Section 1. Section 73-3-8 is amended to read:

73-3-8. Approval or rejection of application -- Requirements for approval -- Application for specified period of time -- Filing of royalty contract for removal of salt or minerals -- Request for agency action.

(1) (a) It shall be the duty of the state engineer to approve an application if there is reason to believe that:

(i) for an application to appropriate, there is unappropriated water in the proposed source;

(ii) the proposed use will not impair existing rights or interfere with the more beneficial use of the water;

(iii) the proposed plan:

(A) is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation; and

(B) would not prove detrimental to the public welfare;

(iv) the applicant has the financial ability to complete the proposed works;

(v) the application was filed in good faith and not for purposes of speculation or monopoly; and

(vi) if applicable, the application complies with a groundwater management plan adopted under Section 73-5-15.

(b) If the state engineer, because of information in the state engineer's possession obtained either by the state engineer's own investigation or otherwise, has reason to believe that an application will interfere with the water's more beneficial use for irrigation, municipal and industrial, domestic or culinary, stock watering, power or mining development, or manufacturing, or will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, the state engineer shall withhold approval or rejection of the application until the state engineer has investigated the matter.

(c) If an application does not meet the requirements of this section, it shall be rejected.

(2) (a) An application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may an application be granted for a period of time less than that ordinarily needed to satisfy the essential and primary purpose of the application or until the water is no longer available as determined by the state engineer.

(b) At the expiration of the period fixed by the state engineer the water shall revert to the public and is subject to appropriation as provided by this title.

(c) No later than 60 calendar days before the expiration date of the fixed time period, the state engineer shall send notice by mail or by any form of electronic communication through which receipt is verifiable, to the applicant of record.

(d) Except as provided by Subsection (2)(e), the state engineer may extend any limited water right upon a showing that:

(i) the essential purpose of the original application has not been satisfied;

(ii) the need for an extension is not the result of any default or neglect by the applicant; and

(iii) the water is still available.

(e) An extension may not exceed the time necessary to satisfy the primary purpose of the original application.

(f) A request for extension of the fixed time period must be filed in writing in the office of the state engineer on or before the expiration date of the application.

(3) (a) Before the approval of any application for the appropriation of water from navigable lakes or streams of the state that contemplates the recovery of salts and other minerals therefrom by precipitation or otherwise, the applicant shall file with the state engineer a copy of a contract for the payment of royalties to the state.

(b) The approval of an application shall be revoked if the applicant fails to comply with terms of the royalty contract.

(4) (a) The state engineer shall investigate all temporary change applications.

(b) The state engineer shall:

(i) approve the temporary change if the state engineer finds there is reason to believe that the temporary change will not impair an existing right; and

(ii) deny the temporary change if the state engineer finds there is reason to believe the temporary change would impair an existing right.

(5) (a) With respect to a change application for a permanent or fixed time change:

(i) the state engineer shall follow the same procedures provided in this title for approving an application to appropriate water; and

(ii) the rights and duties of a change applicant are the same as the rights and duties of a person who applies to appropriate water under this title.

(b) The state engineer may waive notice for a permanent or fixed time change application if the application only involves a change in point of diversion of 660 feet or less.

(c) The state engineer may condition approval of a change application to prevent an enlargement of the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use of water proposed to be changed.

(d) A condition described in Subsection (5)(c) may not include a reduction in the currently approved diversion rate of water under the water right identified in the change application solely to account for the difference in depletion under the nature of the proposed use when compared with the nature of the currently approved use.

(6) (a) Except as provided in Subsection (6)(b), the state engineer shall reject a permanent or fixed time change application if the person proposing to make the change is unable to meet the burden described in Subsection 73-3-3(5).

(b) If otherwise proper, the state engineer may approve a change application upon one or more of the following conditions:

(i) for part of the water involved;

(ii) that the applicant acquire a conflicting right; or

(iii) that the applicant provide and implement a plan approved by the state engineer to mitigate impairment of an existing right.

(c) (i) There is a rebuttable presumption of quantity impairment, as defined in Section 73-3-3, to the extent that, for a period of at least seven consecutive years, a portion of the right identified in a change application has not been:

(A) diverted from the approved point of diversion; or

(B) beneficially used at the approved place of use.

(ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the beneficial use requirement is excused by:

(A) Subsection 73-1-4(2)(e);

(B) an approved nonuse application under Subsection 73-1-4(2)(b);

(C) Subsection [~~73-3-30(6)~~] 73-3-30(7); or

(D) the passage of time under Subsection 73-1-4(2)(c)(i).

(d) The state engineer may not consider quantity impairment based on the conditions described in Subsection (6)(c) unless the issue is raised in a:

(i) timely protest that identifies which of the protestant's existing rights the protestant reasonably believes will experience quantity impairment; or

(ii) written notice provided by the state engineer to the applicant within 90 days after the change application is filed.

(e) The written notice described in Subsection (6)(d)(ii) shall:

(i) specifically identify an existing right the state engineer reasonably believes may experience quantity impairment; and

(ii) be mailed to the owner of an identified right, as shown by the state engineer's records, if the owner has not protested the change application.

(f) The state engineer is not required to include all rights the state engineer believes may be impaired by the proposed change in the written notice described in Subsection (6)(d)(ii).

(g) The owner of a right who receives the written notice described in Subsection (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a timely protest.

(h) If a change applicant, the protestants, and the persons identified by the state engineer under Subsection (6)(d)(ii) come to a written agreement regarding how the issue of quantity impairment shall be mitigated, the state engineer may incorporate the terms of the agreement into a change application approval.

Section 2. Section 73-3-30 is amended to read:

73-3-30. Change application for an instream flow -- Change application for delivery to a reservoir.

(1) As used in this section:

(a) "Colorado River System" means the same as that term is defined in Sections 73-12a-2 and 73-13-10.

(b) "Division" means the Division of Wildlife Resources created in Section 23-14-1, the Division

of State Parks created in Section 79-4-201, or the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.

[~~(b)~~] (c) "Person entitled to the use of water" means the same as that term is defined in Section 73-3-3.

[~~(c)~~] (d) "Sovereign lands" means the same as that term is defined in Section 65A-1-1.

[~~(d)~~] (e) "Wildlife" means species of animals, including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, that are protected or regulated by a statute, law, regulation, ordinance, or administrative rule.

(2) (a) Pursuant to Section 73-3-3, a division may file a permanent change application, a fixed time change application, or a temporary change application, or a person entitled to the use of water may file a fixed time change application or a temporary change application, to provide water within the state for:

(i) an instream flow within a specified section of a natural or altered stream; or

(ii) use on sovereign lands.

(b) The state engineer may not approve a change application filed under this [~~section~~] Subsection (2) unless the proposed instream flow or use on sovereign lands will contribute to:

(i) the propagation or maintenance of wildlife;

(ii) the management of state parks; or

(iii) the reasonable preservation or enhancement of the natural aquatic environment.

(c) A division may file a change application on:

(i) a perfected water right:

(A) presently owned by the division;

(B) purchased by the division for the purpose of providing water for an instream flow or use on sovereign lands, through funding provided for that purpose by legislative appropriation; or

(C) secured by lease, agreement, gift, exchange, or contribution; or

(ii) an appurtenant water right acquired with the acquisition of real property by the division.

(d) A division may:

(i) purchase a water right for the purposes described in Subsection (2)(a) only with funds specifically appropriated by the Legislature for water rights purchases; or

(ii) accept a donated water right without legislative approval.

(e) A division may not acquire water rights by eminent domain for an instream flow, use on sovereign lands, or for any other purpose.

(3) (a) A person entitled to the use of water shall obtain a division director's approval of the proposed change before filing a fixed time change application or a temporary change application with the state engineer.

(b) By approving a proposed fixed time change application or temporary change application, a division director attests that the water that is the subject of the application can be used consistent with the statutory mandates of the director's division.

(4) (a) Pursuant to Section 73-3-3, a person entitled to the use of water may file a fixed time change application or a temporary change application for a project to deliver water to a reservoir located partially or entirely within the Colorado River System in the state in accordance with:

(i) Colorado River Drought Contingency Plan Authorization Act, Public Law 116-14;

(ii) a water conservation program funded by the Bureau of Reclamation; or

(iii) a water conservation program authorized by the state.

(b) Before filing a change application under this Subsection (4), a person entitled to the use of water shall obtain the approval from the executive director of the Colorado River Authority of Utah, appointed under Section 63M-14-401.

(c) By approving a proposed fixed time change application or temporary change application, the executive director of the Colorado River Authority of Utah attests that the water that is the subject of the application can be used consistent with this section.

[~~(4)~~] (5) In addition to the requirements of Section 73-3-3, an application authorized by this section shall include:

(a) a legal description of:

(i) the segment of the natural or altered stream that will be the place of use for an instream flow; [~~or~~]

(ii) the location where the water will be used on sovereign lands; [~~and~~] or

(iii) the reservoir located partially or entirely within the Colorado River System in the state that the water will be delivered to; and

(b) appropriate studies, reports, or other information required by the state engineer demonstrating:

(i) the projected benefits to the public resulting from the change; and

(ii) the necessity for the proposed instream flow or use on sovereign lands.

[~~(5)~~] (6) A person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow or use on sovereign lands.

[~~(6)~~] (7) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.

[~~(7)~~] (8) A physical structure or physical diversion from the stream is not required to implement a change under this section.

[~~(8)~~] (9) An approved change application described in this section does not create a right of access across private property or allow any infringement of a private property right.

CHAPTER 254
S. B. 146
Passed March 1, 2023
Approved March 14, 2023
Effective July 1, 2023

HIGHER EDUCATION GOVERNANCE AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill amends provisions regarding governance of the state's system of higher education.

Highlighted Provisions:

This bill:

- defines terms;
- removes an exception for public employment of a relative under certain circumstances;
- amends the membership and duties of the Utah Board of Higher Education (board);
- amends the appointment process of members of the board;
- requires the University of Utah to provide administrative support to the board;
- amends the duties of the commissioner of higher education;
- repeals requirements regarding the establishment of certain committees;
- amends provisions regarding the employment, support, and evaluation of institution of higher education presidents;
- amends provisions regarding the approval of programs;
- requires the board to engage in certain program and discipline reviews;
- amends provisions regarding the set aside and reallocation of new performance funding;
- removes members of the board from the Higher Education and Corrections Council;
- expands the allowed term of a land lease;
- repeals obsolete provisions regarding past requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

52-3-1, as last amended by Laws of Utah 2018, Chapter 118
53B-1-101.5, as last amended by Laws of Utah 2020, Chapter 365
53B-1-401, as last amended by Laws of Utah 2022, Chapters 166, 177
53B-1-402, as last amended by Laws of Utah 2022, Chapters 166, 177
53B-1-403, as enacted by Laws of Utah 2020, Chapter 365
53B-1-404, as last amended by Laws of Utah 2022, Chapter 362
53B-1-408, as last amended by Laws of Utah 2021, Chapter 187
53B-1-501, as enacted by Laws of Utah 2020, Chapter 365 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 365
53B-2-102, as last amended by Laws of Utah 2021, Chapter 187
53B-2a-101, as last amended by Laws of Utah 2020, Chapters 152, 365
53B-2a-112, as last amended by Laws of Utah 2022, Chapter 421
53B-7-705, as last amended by Laws of Utah 2021, Chapter 351
53B-7-706, as last amended by Laws of Utah 2021, Chapter 351
53B-13a-102, as last amended by Laws of Utah 2022, Chapter 370
53B-13b-102, as last amended by Laws of Utah 2017, Chapter 143
53B-13c-101, as enacted by Laws of Utah 2021, Chapter 271
53B-16-101, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
53B-16-102, as last amended by Laws of Utah 2020, Chapter 365
53B-16-105, as last amended by Laws of Utah 2020, Chapter 365
53B-20-101, as enacted by Laws of Utah 1987, Chapter 167
53B-21-108, as enacted by Laws of Utah 1987, Chapter 167
53B-35-201, as enacted by Laws of Utah 2022, Chapter 147
67-1-12, as last amended by Laws of Utah 2017, Chapter 382

REPEALS:

53B-1-406, as enacted by Laws of Utah 2020, Chapter 365
53B-1-502, as enacted by Laws of Utah 2020, Chapter 365
53B-6-106, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 52-3-1 is amended to read:

52-3-1. Employment of relatives and household members prohibited -- Exceptions.

(1) As used in this chapter:

(a) "Appointee" means an employee whose salary, wages, pay, or compensation is paid from public funds.

(b) "Chief administrative officer" means the person who has ultimate responsibility for the operation of the department or agency of the state or a political subdivision.

(c) "Household member" means a person who resides in the same residence as the public officer.

(d) "Public officer" means a person who holds a position that is compensated by public funds.

(e) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece,

grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) (a) A public officer may not employ, appoint, or vote for or recommend the appointment of an appointee when the appointee will be directly supervised by a relative or household member, unless:

(i) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of the appointee's compliance with civil service or merit system laws or regulations;

(ii) the appointee will be compensated from funds designated for vocational training;

(iii) the appointee will be employed for a period of 12 weeks or less;

(iv) the appointee is a volunteer as defined by the employing entity; or

(v) the chief administrative officer determines that the appointee is the only or best person available, qualified, or eligible for the position.

(b) A public officer may not directly supervise an appointee who is a relative or household member of the public officer, unless:

(i) the appointee was appointed or employed before the public officer assumed the public officer's supervisory position, if the appointee's appointment did not violate the provisions of this chapter in effect at the time of the appointee's appointment;

(ii) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of the appointee's compliance with civil service or merit system laws or regulations;

(iii) the appointee will be compensated from funds designated for vocational training;

(iv) the appointee will be employed for a period of 12 weeks or less;

(v) the appointee is a volunteer as defined by the employing entity;

(vi) the appointee is the only person available, qualified, or eligible for the position; or

(vii) the chief administrative officer determines that the public officer is the only individual available or best qualified to perform supervisory functions for the appointee.

(c) When a public officer supervises a relative or household member under Subsection (2)(b):

(i) the public officer shall immediately submit a complete written disclosure of the public officer's relationship with the relative or household member:

(A) for a public officer subject to the requirements of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, in the same manner the public officer is required to make a disclosure under Section 67-16-7;

(B) for a public officer subject to the requirements of Title 17, Chapter 16a, County Officers and Employees Disclosure Act, in the same manner the public officer is required to make a disclosure under Section 17-16a-6; and

(C) for a public officer subject to the requirements of Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act, in the same manner the public officer is required to make a disclosure under Section 10-3-1306; and

(ii) the public officer may not evaluate the job performance of or recommend salary increases for the relative or household member.

(d) A disclosure submitted under this Subsection (2) is public, and the person or entity with which the public officer files the disclosure shall make the disclosure available for public inspection.

(3) An appointee may not accept or retain employment if accepting or retaining employment will place the appointee under the direct supervision of a relative or household member unless:

(a) the relative or household member was appointed or employed before the appointee assumed the appointee's position, if the appointment of the relative or household member did not violate the provisions of this chapter in effect at the time of the appointment;

(b) the appointee was or is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of the appointee's compliance with civil service or merit system laws or regulations;

(c) the appointee is the only person available, qualified, or eligible for the position;

[~~(d) the appointee is compensated from funds designated for vocational training;~~]

[~~(e)~~] (d) the appointee is employed for a period of 12 weeks or less;

[~~(f)~~] (e) the appointee is a volunteer as defined by the employing entity; or

[~~(g)~~] (f) the chief administrative officer determines that the appointee's relative or household member is the only individual available or qualified to supervise the appointee.

Section 2. Section 53B-1-101.5 is amended to read:

53B-1-101.5. Definitions.

As used in this title:

(1) (a) "Academic education" means an educational program that is offered by a degree-granting institution.

(b) "Academic education" does not include technical education.

(2) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.

(3) "Career and technical education" means an educational program that:

(a) is designed to meet industry needs;

(b) leads to:

(i) a certificate; or

(ii) a degree; and

(c) may qualify for funding under the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. 2301 et seq.

(4) "Commissioner" means the commissioner of higher education appointed in accordance with Section 53B-1-408.

(5) "Degree-granting institution of higher education" or "degree-granting institution" means an institution of higher education described in Subsection 53B-1-102(1)(a).

(6) "Institution board of trustees" means:

(a) an institution of higher education board of trustees described in Section 53B-2-103; or

(b) a technical college board of trustees described in Section 53B-2a-108.

(7) "Technical college" means an institution of higher education described in Subsection 53B-1-102(1)(b).

(8) (a) "Technical education" means career and technical education that:

(i) leads to [~~an institutional~~] a certificate; or

(ii) is short-term training.

(b) "Technical education" does not include general education.

Section 3. Section 53B-1-401 is amended to read:

53B-1-401. Definitions.

As used in this part:

(1) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.

(2) "Institution of higher education" or "institution" means an institution of higher education described in Section 53B-1-102.

(3) "Miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

[~~(4) "Nominating committee" means the committee described in Section 53B-1-406.~~]

Section 4. Section 53B-1-402 is amended to read:

53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.

(1) (a) There is established [~~a State Board of Regents~~] the Utah Board of Higher Education, which:

[~~(a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;~~]

[~~(b)~~] (i) is the governing board for the institutions of higher education;

[~~(c)~~] (ii) controls, [~~manages, and supervises~~] oversees, and regulates the Utah system of higher education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board; and

[~~(d) is a body politic and corporate with perpetual succession and with all rights, immunities, and franchises necessary to function as a body politic and corporate.~~]

(b) (i) The University of Utah shall provide administrative support for the board.

(ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

(b) establish system policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) [~~coordinate~~] govern data quality and collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform the following duties related to an institution of higher education president, including:

(i) appointing an institution of higher education president in accordance with Section 53B-2-102;

(ii) through the commissioner and the board's executive committee:

(A) providing support and guidance to an institution of higher education president; and

[~~(iii)~~] (B) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities; [~~and~~]

[~~(iv)~~] (iii) setting the [~~compensation~~] terms of employment for an institution of higher education president, including performance-based compensation, through an employment contract or another method of establishing employment; and

(iv) establishing, through a public process, a statewide succession plan to develop potential institution presidents from within the system;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create and annually report to the Higher Education Appropriations Subcommittee on a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs; [~~and~~]

(vii) coordinating work-based learning; and

(viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and (c);

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;

(p) maximize efficiency throughout the Utah system of higher education by identifying and establishing shared administrative services[~~;~~], beginning with:

(i) commercialization;

(ii) services for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(iii) information technology services; and

(iv) human resources, payroll, and benefits administration;

(q) develop strategies for providing higher education, including career and technical education, in rural areas;

(r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives, beginning with common applications and direct admissions; [~~and~~]

(s) provide ongoing quality review of [~~institutions~~] programs[~~.~~] ; and

(t) before each annual legislative general session, provide to the Higher Education Appropriations Subcommittee a prioritization of all projects and proposals for which the board or an institution of higher education seeks an appropriation.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

(4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the Legislature's Education Interim Committee by October 31 of each year, including information detailing:

(a) how institutions of higher education are meeting the career and technical education needs of secondary students [~~are being met by institutions of higher education~~];

(b) how the [~~emphasis on~~] system emphasized high demand, high wage, and high skill jobs in business and industry [~~is being provided~~];

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(9) The board shall adopt a policy requiring institutions to provide at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 5. Section 53B-1-403 is amended to read:

53B-1-403. Committees.

[~~(1) The board shall form:~~]

[~~(a) a committee to focus on technical education; and~~]

[~~(b) a committee to focus on academic education.~~ ~~(2)~~] The board may form committees [~~in addition to the committees described in Subsection (1)~~] to support the board in fulfilling the board's duties.

Section 6. Section 53B-1-404 is amended to read:

53B-1-404. Membership of the board -- Student appointee -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation -- Training.

(1) The board consists of [~~18~~] 10 residents of the state [~~appointed by~~] whom the governor appoints with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, [~~as follows:~~] and this section.

[~~(a) subject to Subsections (2)(a), (3), and (6)(b)(ii), 16 members appointed from among candidates presented to the governor by a nominating committee; and~~]

[~~(b) two student members appointed as described in Subsection (4).~~]

(2) (a) For an appointment [~~of a member~~] effective July 1, [~~2020~~] 2023, the governor shall appoint the member in accordance with Section 53B-1-501.

(b) [~~Unless appointed by the governor~~] Except for an individual whom the governor appoints as described in Section 53B-1-501, the term of each [~~individual who is a~~] member of the [~~State Board of Regents on May 12, 2020, expires on June 30, 2020~~] Utah Board of Higher Education expires on July 1, 2023.

[~~(3) If the governor is not satisfied with a sufficient number of the candidates presented by the nominating committee to make the required number of appointments, the governor may request that the committee nominate additional candidates.~~]

[~~(4) (a) For the appointments described in Subsection (1)(b), the governor shall appoint:~~]

[~~(i) one individual who is enrolled in a certificate program at a technical college at the time of the appointment; and~~]

[~~(ii) one individual who:~~]

[~~(A) is a fully matriculated student enrolled in a degree-granting institution; and~~]

[~~(B) is not serving as a student body president at the time of the nomination.~~]

[~~(b) The governor shall select:~~]

[~~(i) an appointee described in Subsection (4)(a)(i) from among three nominees, presented to the governor by a committee consisting of eight students, one from each technical college, each of whom is recognized by the student's technical college; and~~]

[~~(ii) an appointee described in Subsection (4)(a)(ii) from among three nominees presented to the governor by the student body presidents of degree-granting institutions.~~]

[~~(c) An appointee described in Subsection (4)(a) is not subject to the public comment process described in Section 63G-24-204.~~]

[~~(5)~~] (3) (a) [~~All~~] The governor shall make all appointments to the board [~~shall be made~~] on a nonpartisan basis.

(b) An individual may not serve simultaneously on the board and an institution board of trustees.

(c) The governor shall appoint at least one student member to the board.

(d) Notwithstanding Subsection (1), the governor's appointment of a student member described in Subsection (3)(c) is not subject to the advice and consent of the Senate.

(e) The governor shall ensure that the membership of the board includes:

(i) members with various experience, including in degree-granting institution governance, technical college governance, and representation from various industry sectors; and

(ii) at least one member who resides in:

(A) a county of the third through sixth class; or

(B) a county of the second class with a national park and two or more state parks.

[~~(6)~~] (4) (a) (i) Except as provided in Subsection (6)(a)(ii) and Section 53B-1-501, [~~members shall be appointed to~~] the governor shall appoint board members to six-year staggered terms[~~, each of which begins~~] beginning on July 1 of the year of appointment.

(ii) [~~A member described in Subsection (1)(b) shall be appointed~~] The governor shall appoint the student member described in Subsection (3)(c) to a one-year term.

(b) (i) A board member [~~described in Subsection (1)(a)~~] other than the student member described in Subsection (3)(c) may serve up to two consecutive full terms.

[~~(ii) The governor may appoint a member described in Subsection (1)(a) to a second consecutive full term without a recommendation from the nominating committee.~~]

[~~(iii)~~] (ii) [~~A~~] The student member described in Subsection [~~(1)(b)~~] (3)(c) may not serve more than one full term.

[~~(c)~~] (5) [~~(i)~~] The governor may, after consulting with the president of the Senate, remove a member for cause.

[~~(ii) The governor shall consult with the president of the Senate before removing a member.~~]

[~~(7)~~] (6) (a) A board member shall take the official oath of office before entering upon the duties of office.

(b) The [~~oath shall be filed~~] board shall file the oath described in Subsection (6)(a) with the Division of Archives and Records Services.

[~~(8)~~] (7) The board shall elect a chair and vice chair from among the board's members [~~who shall~~] to serve terms of two years and until [~~their~~] the board chooses and qualifies successors [~~are chosen and qualified~~].

[~~(9)~~] (8) (a) The board shall appoint a secretary from the commissioner's staff to serve at the board's discretion.

(b) The board's secretary is a full-time employee.

(c) The secretary shall record and maintain a record of all board meetings and perform other duties as the board directs.

[~~(10)~~] (9) (a) The board may establish advisory committees, including a faculty and staff advisory committee.

(b) [~~All~~] The board shall address all matters requiring board determination [~~shall be addressed~~] in a properly convened meeting of the board or the board's executive committee.

[~~(11)~~] (10) (a) The board shall enact bylaws for the board's own government not inconsistent with the constitution or the laws of this state.

(b) The board shall provide for an executive committee in the bylaws that:

(i) has the full authority of the board to act upon routine matters during the interim between board meetings;

(ii) may not act on nonroutine matters except under extraordinary and emergency circumstances; and

(iii) shall report to the board at the board's next meeting following an action undertaken by the executive committee.

[~~(12)~~] (11) (a) The board shall meet regularly upon the board's own determination.

(b) The board may also meet, in full or executive session, at the request of the chair, the commissioner, or at least five members of the board.

[~~(13)~~] (12) [~~A quorum of the board is required to conduct the board's business and consists of 10 members.~~] The board may not conduct the board's

business without the agreement of a majority of the board.

[~~(14)~~] (13) (a) [~~A~~] The governor shall immediately fill a vacancy in the board occurring before the expiration of a member's full term [~~shall be immediately filled through the nomination process described in Section 53B-1-406 and in~~] in accordance with this section.

(b) An individual [~~appointed~~] whom the governor appoints under Subsection [~~(14)(a) serves~~] (13)(a) shall serve for the remainder of the unexpired term.

[~~(15)~~] (14) (a) (i) Subject to Subsection [~~(15)(a)(ii)~~] (14)(a)(ii), a member shall receive a daily salary for each calendar day that the member attends a board meeting that is the same as the daily salary for a member of the Legislature described in Section 36-2-3.

(ii) A member may receive a salary for up to 10 calendar days per calendar year.

(b) A member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

[~~(16)~~] (15) The commissioner shall provide to each member:

(a) initial training when the member joins the board; and

(b) ongoing annual training.

[~~(17)~~] (16) A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 7. Section 53B-1-408 is amended to read:

53B-1-408. Appointment of commissioner of higher education -- Qualifications -- Associate commissioners -- Duties -- Office.

(1) (a) The board, upon approval from the governor and with the advice and consent of the Senate, shall appoint a commissioner of higher education to serve at the board's pleasure as the board's chief executive officer.

(b) The following may terminate the commissioner [~~may be terminated by~~]:

(i) the board; or

(ii) the governor, after consultation with the board.

(c) The board shall:

(i) set the salary of the commissioner;

(ii) subject to Subsection (3), prescribe the duties and functions of the commissioner; and

(iii) select a commissioner on the basis of outstanding professional qualifications.

(2) [~~(a) The commissioner shall appoint, subject to approval by the board:~~]

[~~(i) an associate commissioner for academic education; and~~]

[~~(ii) an associate commissioner for technical education.~~]

[~~(b) (i)~~] (a) The commissioner may appoint associate commissioners [~~in addition to the associate commissioners described in Subsection (2)(a)~~].

[~~(ii)~~] (b) An [~~association~~] associate commissioner described in Subsection [~~(2)(b)(i)~~] (2)(a) is not subject to the approval of the board.

(3) The commissioner is responsible to the board to:

(a) ensure [~~that~~] the proper execution of the policies, programs, and strategic plan of the board [~~are properly executed~~];

(b) furnish information about the Utah system of higher education and make recommendations regarding that information to the board;

(c) provide state-level leadership in any activity affecting an institution of higher education; [~~and~~]

(d) in consultation with the board's executive committee and in accordance with Subsection 53B-1-402(2), evaluate and provide support and guidance to an institution of higher education president; and

[~~(d)~~] (e) perform other duties [~~assigned by~~] the board assigns in carrying out the board's duties and responsibilities.

Section 8. Section 53B-1-501 is amended to read:

53B-1-501. Establishment of initial board membership in 2023.

(1) [~~(a)~~] The governor shall appoint, with the advice and consent of the Senate, individuals to the board, to ensure that beginning July 1, [~~2020~~] 2023, the board consists of [~~18 members, including:~~] 10 members with new terms in accordance with this section.

[~~(i) at least six individuals who were members of the State Board of Regents on May 12, 2020;~~]

[~~(ii) at least six individuals who were members of the Utah System of Technical Colleges Board of Trustees on May 12, 2020; and~~]

[~~(iii) two student members appointed to the board in accordance with Section 53B-1-404.~~]

[~~(b) Before making an appointment described in Subsection (1)(a), the governor shall consult:~~]

[~~(i) for an appointment described in Subsection (1)(a)(i), with State Board of Regents leadership; and~~]

[~~(ii) for an appointment described in Subsection (1)(a)(ii), with Utah System of Technical Colleges Board of Trustees leadership.~~]

(2) [~~(a)~~] Except for [~~an~~] the appointment of the student member described in Subsection [~~(1)(a)(iii)~~] 53B-1-404(3)(c), the governor shall appoint [~~an~~] each individual to a two-year, four-year, or six-year term to ensure that one-third of the members complete the members' terms on June 30 of each [~~even~~] odd number year.

[~~(b) The governor may appoint an individual described in Subsection (1)(a) to a second term without the individual being considered by the nominating committee described in Section 53B-1-406 if, at the time of the individual's initial appointment to the board, the individual:~~]

[~~(i) is serving the individual's first full term on the State Board of Regents or the Utah System of Technical Colleges Board of Trustees; or~~]

[~~(ii) is not a member of the State Board of Regents or the Utah System of Technical Colleges Board of Trustees.~~]

[~~(c) An appointment described in Subsection (2)(b) is for a six-year term.~~]

(3) Following the appointments described in this section, the governor shall fill a vacancy on the board [~~shall be filled~~] in accordance with Section 53B-1-404.

(4) Notwithstanding Section 67-1-2, for an appointment described in this section:

(a) a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection 67-1-2(1); and

(b) the Senate is not required to hold a confirmation hearing.

Section 9. Section 53B-2-102 is amended to read:

53B-2-102. Appointment of institution of higher education presidents.

(1) As used in this section:

(a) "Institution of higher education" means:

(i) a degree-granting institution; or

(ii) a technical college.

(b) "President" means the president of an institution of higher education.

(c) "Search committee" means a committee that selects finalists for a position as an institution of higher education president.

(2) The board shall appoint a president for each institution of higher education.

(3) An institution of higher education president serves [~~at the pleasure of~~] in accordance with the terms of employment that the board establishes as described in Section 53B-1-402.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), to appoint an institution of higher education president, the board shall establish a search committee that includes representatives of faculty, staff, students, the institution of higher education board of trustees, alumni, the outgoing institution of higher education president's executive council or cabinet, and the board.

(ii) The board may delegate the authority to appoint the search committee described in Subsection (4)(a)(i) to an institution of higher education board of trustees.

(iii) The commissioner shall provide staff support to a search committee.

(b) (i) Except as provided in Subsection (4)(b)(ii), a search committee shall be cochaired by a member of the board and a member of the institution of higher education board of trustees.

(ii) The board may delegate the authority to chair a search committee to the institution of higher education board trustees.

(c) A search committee described in Subsection (4)(a) shall forward three to five finalists to the board to consider for a position as an institution of higher education president.

(d) A search committee may not forward an individual to the board as a finalist unless two-thirds of the search committee members, as verified by the commissioner, find the individual to be qualified and likely to succeed as an institution of higher education president.

(5) (a) The board shall select an institution of higher education president from among the finalists presented by a search committee.

(b) If the board is not satisfied with the finalists forwarded by a search committee, the board may direct the search committee to resume the search process until the search committee has forwarded three finalists with whom the board is satisfied.

(6) The board, through the commissioner, shall:

(a) create a comprehensive, active recruiting plan to ensure a strong, diverse pool of potential candidates for institution of higher education presidents[~~.~~]; and

(b) review, in a closed executive session, individuals from within the system whose candidacy may be considered for future applicant pools in relation to the succession plan described in Section 53B-1-402.

(7) (a) Except as provided in Subsection (7)(b), a record or information gathered or generated during the search process, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

(b) Application materials for a publicly named finalist described in Subsection (5)(a) are not protected records under Section 63G-2-305.

Section 10. Section 53B-2a-101 is amended to read:

53B-2a-101. Definitions.

As used in this chapter:

(1) "Capital development" means the same as capital development project, as defined in Section 63A-5b-401.

(2) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.

(3) "Dedicated project" means a capital development project for which state funds from the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

(4) "Nondedicated project" means a capital development project for which state funds from a source other than the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

[~~(5) "Open-entry, open-exit" means:~~]

[~~(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered;~~]

[~~(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered; and~~]

[~~(c) if competency is demonstrated in a program of study, a credential, certificate, or diploma may be awarded.~~]

[~~(6)~~] (5) "State funds" means the same as that term is defined in Section 63A-5b-401.

Section 11. Section 53B-2a-112 is amended to read:

53B-2a-112. Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.

(1) As used in this section, "higher education institution" means:

(a) Utah State University for:

(i) Bridgerland Technical College;

(ii) Tooele Technical College; and

(iii) Uintah Basin Technical College;

(b) Weber State University for:

(i) Ogden-Weber Technical College; and

(ii) Davis Technical College;

(c) Utah Valley University for Mountainland Technical College;

(d) Southern Utah University for Southwest Technical College; and

(e) Utah Tech University for Dixie Technical College.

(2) A technical college may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships; or

(b) with other public and higher education institutions to enhance career and technical education within the technical college's region.

(3) Before a technical college develops new instructional facilities, the technical college shall give priority to:

(a) maintaining the technical college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of the technical college's [~~higher education institution~~] degree-granting partner and entering into any necessary agreements to provide career and technical education to secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

(4) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board, a technical college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections (3)(a) through (c); and

(ii) coordinate the request with the president of the technical college's [~~higher education institution~~] degree-granting partner, if applicable.

(b) The Division of Facilities Construction and Management shall make a finding that the requirements of this section are met before the Division of Facilities Construction and Management may consider a funding request from the board pertaining to new capital facilities and land purchases for a technical college.

(c) A technical college may not construct, approve the construction of, plan for the design or construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

(5) Before acquiring new fiscal and administrative support structures, a technical college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of [~~career and technical~~] education in the region;

(b) determine the feasibility of using existing systems; and

(c) with the approval of the technical college board of trustees and the board, use the existing systems.

Section 12. Section 53B-7-705 is amended to read:

53B-7-705. Determination of full new performance funding amount -- Role of appropriations subcommittee -- Program review.

(1) In accordance with this section, and based on money deposited into the account, the Legislature shall, as part of the higher education appropriations budget process, annually determine the full new performance funding amount for each:

(a) degree-granting institution; and

(b) technical college.

(2) (a) Before January 1, 2024, the Legislature shall annually allocate:

(i) 90% of the money in the account to degree-granting institutions; and

(ii) 10% of the money in the account to technical colleges.

(b) After January 1, 2024, the Legislature shall annually allocate:

(i) [~~85%~~] 80% of the money in the account to degree-granting institutions; and

(ii) [~~15%~~] 20% of the money in the account to technical colleges.

(3) (a) The Legislature shall determine a degree-granting institution's full new performance funding amount based on the degree-granting institution's prior year share of:

(i) full-time equivalent enrollment in all degree-granting institutions; and

(ii) the total state-funded appropriated budget for all degree-granting institutions.

(b) In determining a degree-granting institution's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (3)(a)(i) and (ii).

(4) (a) The Legislature shall determine a technical college's full new performance funding amount based on the technical college's prior year share of:

(i) (A) before January 1, 2024, membership hours for all technical colleges; and

(B) after January 1, 2024, full-time equivalent enrollment for all technical colleges; and

(ii) the total state-funded appropriated budget for all technical colleges.

(b) In determining a technical college's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (4)(a)(i) and (ii).

(5) Annually, at least 30 days before the first day of the legislative general session the board shall submit a report to the Higher Education Appropriations Subcommittee on each degree-granting institution's and each technical college's performance.

(6) (a) In accordance with this Subsection (6), and based on the report described in Subsection (5), the Legislature shall determine for each degree-granting institution and each technical college:

(i) the portion of the full new performance funding amount earned; and

(ii) the amount of new performance funding to recommend that the Legislature appropriate, from the account, to the degree-granting institution or technical college.

(b) (i) This Subsection (6)(b) applies before January 1, 2024.

(ii) A degree-granting institution earns the full new performance funding amount if the degree-granting institution has a positive change in performance of at least 1% compared to the degree-granting institution's average performance over the previous five years.

(iii) A technical college earns the full new performance funding amount if the technical college has a positive change in the technical college's performance of at least 5% compared to the technical college's average performance over the previous five years.

(c) After January 1, 2024, a degree-granting institution or technical college earns the full new performance funding amount if the degree-granting institution or technical college meets the annual performance goals the board sets under Subsection 53B-7-706(1)(a)(ii).

(d) Before January 1, 2024, a degree-granting institution or technical college that has a positive change in performance that is less than a change described in Subsection (6)(b) is eligible to receive a prorated amount of the full new performance funding amount.

(e) Before January 1, 2024, a degree-granting or technical college that has a negative change, or no change, in performance over a time period described in Subsection (6)(b) is not eligible to receive new performance funding.

(f) After January 1, 2024, a degree-granting institution or technical college that does not meet the goals the board sets under Subsection 53B-7-706(1)(a)(ii):

(i) is not eligible to receive the full new performance funding amount; and

(ii) is eligible to receive a prorated amount of the full new performance funding amount for performance that is greater than zero as measured by the model the board establishes under Subsection 53B-7-706(1)(a)(i)(B).

(g) [~~(i)~~] After January 1, 2024, if a degree-granting institution or technical college

does not earn the full new performance funding amount as described in Subsection (6)(c), the board [~~shall~~]:

[~~(A)~~] (i) shall set aside the unearned new performance funding; and

[~~(B)~~] (ii) may, at the end of an annual performance goal period within a five-year period for which the board sets goals under Subsection 53B-7-706(1)(a)(ii), [~~allocate~~] reallocate the funds set aside under Subsection [~~(6)(g)(i)(A)~~] (6)(g)(i) to a degree-granting institution or technical college that meets or exceeds the degree-granting institution's or technical college's [~~five-year goals described in Subsection 53B-7-706(1)(a)(ii)(B)~~]:

(A) previous year's annual performance goal; and

(B) performance goal that the institution previously failed to meet which caused the funding to be set aside.

[~~(ii) The board may reallocate the funds described in Subsection (6)(g)(i)(A) on a one-time basis to a degree-granting institution or technical college that exceeds the degree-granting institution's or technical college's annual performance goals until the board evaluates performance of five-year goals as described Subsection 53B-7-706(5).~~]

(7) An appropriation described in this section is ongoing.

(8) Notwithstanding Section 53B-7-703 and Subsections (6) and (7), the Legislature may, by majority vote, appropriate or refrain from appropriating money for performance funding as circumstances require in a particular year.

Section 13. Section 53B-7-706 is amended to read:

53B-7-706. Performance metrics for institutions -- Determination of performance.

(1) (a) (i) (A) The board shall establish a model for determining a degree-granting institution's performance.

(B) Beginning in March 2021, the board shall establish a model for determining a degree-granting institution's or technical college's performance.

(ii) Beginning in May 2021, the board shall:

(A) set a five-year goal for the Utah System of Higher Education for each metric described in Subsection (2)(a)(ii);

(B) adopt five-year goals for each degree-granting institution and technical college that align with each goal described in Subsection (1)(a)(ii)(A); and

(C) ensure the goals the board adopts for each degree-granting institution and technical college described in Subsection (1)(a)(ii)(B) are sufficiently rigorous to meet the goals described in Subsection (1)(a)(ii)(A); and

(b) (i) The board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(ii) Beginning in 2021, and every five years thereafter, the board shall:

(A) submit the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii) to the Higher Education Appropriations Subcommittee and to the governor for comments and recommendations; and

(B) consider the comments and recommendations described in Subsection (1)(b)(ii)(A), and make any necessary changes to the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii).

(c) Beginning in 2021, and every five years thereafter, the Executive Appropriations Committee, the Higher Education Appropriations Subcommittee, and the Education Interim Committee shall prepare and jointly meet to consider legislation for introduction at the following general legislative session to adopt the goals described in Subsection (1)(a)(ii).

(2) (a) (i) The model described in Subsection (1)(a)(i)(A) shall include metrics, including:

(A) completion, measured by degrees and certificates awarded;

(B) completion by underserved students, measured by degrees and certificates awarded to underserved students;

(C) responsiveness to workforce needs, measured by degrees and certificates awarded in high market demand fields;

(D) institutional efficiency, measured by degrees and certificates awarded per full-time equivalent student; and

(E) for a research university, research, measured by total research expenditures.

(ii) Beginning in 2021, the board shall set the goals and establish the performance model described in Subsection (1)(a)(i)(B) for the following metrics:

(A) access;

(B) timely completion; and

(C) high-yield awards.

(b) (i) Subject to Subsection (2)(b)(ii), the board shall determine the relative weights of the metrics described in Subsection (2)(a)(i).

(ii) The board shall assign the responsiveness to workforce needs metric described in Subsection (2)(a)(i)(C) a weight of at least 25% when determining a degree-granting institution's performance.

(c) Beginning in 2021, the board shall determine and establish in board policy, the definitions, measures, and relative weights of the metrics described in Subsection (2)(a)(ii) based on each

degree-granting institution's and each technical college's mission.

(3) (a) For each degree-granting institution, the board shall annually determine the degree-granting institution's:

(i) performance; and

(ii) change in performance compared to the degree-granting institution's average performance over the previous five years.

(b) [~~Beginning in 2022, for~~] For each degree-granting institution and technical college, the board shall annually:

(i) adopt annual performance goals for each metric described in Subsection (2)(a)(ii) that will advance the degree-granting institution or technical college toward achievement of the five-year goals described in Subsection (1)(a)(ii);

(ii) evaluate performance in meeting the goals described in Subsection (3)(b)(i); and

(iii) include a degree-granting institution's or technical college's performance under this section in the evaluation described in Subsection [~~53B-1-402(2)(i)(iii)~~] 53B-1-402(2)(i).

(4) (a) The board shall use the model described in Subsection (1)(a)(i)(A) to make the report described in Section 53B-7-705 for determining a degree-granting institution's performance funding for a fiscal year beginning on or after July 1, 2018, but before July 1, 2024.

(b) For a fiscal year beginning on or after July 1, 2024, the board shall use the model described in Subsection (1)(a)(i)(B) to make the report described in Section 53B-7-705 for determining a degree-granting institution's or technical college's performance funding.

(5) At the end of each five-year period for which the board sets goals under Subsection (1)(a)(ii):

(a) the board shall:

(i) review the Utah System of Higher Education's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(A);

(ii) review each degree-granting institution's and each technical college's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(B); and

(iii) allocate any funds not allocated under Subsection 53B-7-705(6)(g) to each degree-granting institution and each technical college that meets or exceeds the goals the board sets under Subsection (1)(a)(ii)(B); and

(b) the Legislature may appropriate additional funds for the board to allocate to each degree-granting institution and each technical college that meets or exceeds goals as described in Subsection (5)(a)(iii).

(6) In year two or three of each five-year period for which the board sets goals under Subsection (1)(a)(ii), the following committees and the governor shall hold a joint open meeting to review the goals the board sets under Subsection (1)(a)(ii):

(a) the Executive Appropriations Committee;

(b) the Higher Education Appropriations Subcommittee; and

(c) the Education Interim Committee.

Section 14. Section 53B-13a-102 is amended to read:

53B-13a-102. Definitions.

As used in this chapter:

(1) (a) "Cost of attendance" means the estimated costs associated with attending an institution, as established by the institution in accordance with board policies.

(b) "Cost of attendance" includes costs payable to the institution, other direct educational expenses, transportation, and living expenses while attending the institution.

(2) (a) "Eligible student" means a financially needy student who is:

(i) unconditionally admitted to and enrolled at a Utah postsecondary institution on at least a half-time basis, as defined by the board, in an eligible postsecondary program leading to a defined education or training objective, as defined by the board;

(ii) making satisfactory academic progress, as defined by the institution in published policies or rules, toward an education or training objective; and

(iii) (A) a resident student under Section 53B-8-102 and rules of the board; or

(B) exempt from paying the nonresident portion of total tuition under Section 53B-8-106.

(b) "Eligible student" does not include a graduate student.

(3) "Financially needy student" means a student who demonstrates the financial inability to meet all or a portion of the cost of attendance at an institution for any period of attendance as defined by the board, after considering the student's expected family contribution.

(4) "Fiscal year" means the fiscal year of the state.

(5) "Partner award" means a financial award described in Section 53B-13a-106.

(6) "Program" means the Utah Promise Program.

(7) "Promise partner" means an employer that participates in the program described in Section 53B-13a-106.

(8) "Utah postsecondary institution" or "institution" means:

(a) an institution of higher education listed in Section 53B-1-102; or

(b) a Utah private, nonprofit postsecondary institution that is accredited by [~~a regional~~] an

accrediting organization [~~recognized by the board~~] that the United States Department of Education recognizes.

Section 15. Section 53B-13b-102 is amended to read:

53B-13b-102. Definitions.

As used in this chapter:

(1) "Federal program" means a veterans educational assistance program established in:

(a) United States Code, Title 10, Chapter 1606, Educational Assistance for Members of the Selected Reserve;

(b) United States Code, Title 38, Chapter 30, All-Volunteer Force Educational Assistance Program;

(c) United States Code, Title 38, Chapter 31, Training and Rehabilitation for Veterans with Service-Connected Disabilities;

(d) United States Code, Title 38, Chapter 32, Post-Vietnam Era Veterans' Educational Assistance; or

(e) United States Code, Title 38, Chapter 33, Post-9/11 Educational Assistance.

(2) "Institution of higher education" or "institution" means:

(a) an institution of higher education listed in Subsection 53B-2-101(1); or

(b) a private, nonprofit, postsecondary institution located in Utah that is accredited by [~~a recognized~~] an accrediting organization [~~recognized by~~] that the United States Department of Education recognizes.

(3) "Program" means the Veterans Tuition Gap Program created in this chapter.

(4) (a) "Qualifying military veteran" means a veteran, as defined in Section 68-3-12.5, who:

(i) is a resident student under Section 53B-8-102 and rules of the board;

(ii) is accepted into an institution and enrolled in a program leading to a bachelor's degree;

(iii) (A) has exhausted the federal benefit under a federal program; or

(B) demonstrates that the veteran no longer qualifies to receive federal benefits under any federal program; and

(iv) has not completed a bachelor's degree.

(b) "Qualifying military veteran" does not include a family member.

Section 16. Section 53B-13c-101 is amended to read:

53B-13c-101. Definitions.

As used in this chapter:

(1) (a) "Cost of attendance" means the estimated costs associated with taking an online course, as established by an eligible institution in accordance with board policies.

(b) "Cost of attendance" includes tuition, costs payable to the eligible institution, and other direct educational expenses related to taking an online course.

(2) "Eligible institution" means an institution that offers a postsecondary level course of instruction using digital technology.

(3) "Eligible student" means a financially needy student who is:

(a) at least 26 years old;

(b) enrolled in an online course at an eligible institution;

(c) pursuing:

(i) an online postsecondary degree program in a field where there is a demonstrated industry need; or

(ii) an online non-degree program that is designed to meet industry needs and leads to a certificate or another recognized educational credential; and

(d) a resident student under Section 53B-8-102 and rules the board establishes.

(4) "Financially needy student" means a student who demonstrates the financial inability to meet all or a portion of the cost of attendance at an eligible institution as defined by the board, after utilizing family and personal resources, federal assistance, and scholarships.

(5) "Fiscal year" means the fiscal year of the state.

(6) "Institution" means:

(a) an institution described in Section 53B-1-102; or

(b) a Utah private, nonprofit postsecondary institution that is accredited by [~~a regional~~] an accrediting organization that the [~~board~~] United States Department of Education recognizes.

(7) "Online course" means a postsecondary level course of instruction offered by an eligible institution using digital technology.

(8) "Program" means the Adult Learners Grant Program established in Section 53B-13c-102.

(9) "Tuition" means tuition and fees at the rate charged for residents of the state.

Section 17. Section 53B-16-101 is amended to read:

53B-16-101. Establishment of institutional roles and general courses of study.

(1) Except as institutional roles are specifically assigned by the Legislature, the board:

(a) shall establish and define the roles of the various institutions of higher education; and

(b) shall, within each institution of higher education's primary role, prescribe the general

course of study to be offered at the institution of higher education, including for:

(i) research universities, which provide undergraduate, graduate, and research programs and include:

(A) the University of Utah; and

(B) Utah State University;

(ii) regional universities, which provide career and technical education, undergraduate associate and baccalaureate programs, and select master's degree programs to fill regional demands and include:

(A) Weber State University;

(B) Southern Utah University;

(C) Utah Tech University; and

(D) Utah Valley University;

(iii) comprehensive community colleges, which provide associate programs and include:

(A) Salt Lake Community College; and

(B) Snow College; and

(iv) technical colleges and degree-granting institutions that provide technical education, and include:

(A) each technical college; and

(B) the degree-granting institutions described in Section 53B-2a-201.

(2) (a) Except for the University of Utah, and subject to Subsection (2)(b), each institution of higher education described in Subsections (1)(b)(i) through (iii) has career and technical education included in the institution of higher education's primary role.

(b) The board shall determine the extent to which an institution described in Subsection (2)(a) provides career and technical education within the institution's primary role.

(3) The board shall further clarify each institution of higher education's primary role by clarifying:

(a) the level of program that the institution of higher education generally offers, in accordance with Subsection 53B-16-102(3);

(b) broad fields that are within the institution of higher education's mission; and

(c) any special characteristics of the institution of higher education, such as being a land grant university.

Section 18. Section 53B-16-102 is amended to read:

53B-16-102. Changes in curriculum -- Substantial alterations in institutional operations -- Program approval -- Periodic review of programs -- Career and technical education curriculum changes.

(1) As used in this section:

(a) "Institution of higher education" means an institution described in Section 53B-1-102.

(b) "Program of instruction" means a program of curriculum that leads to the completion of a degree, diploma, certificate, or other credential.

(2) Under procedures and policies approved by the board and developed in consultation with each institution of higher education, each institution of higher education may make such changes in the institution of higher education's curriculum as necessary to better effectuate the institution of higher education's primary role.

(3) The board shall establish criteria for whether an institution of higher education may approve a new program of instruction, including criteria related to whether:

(a) the program of instruction meets identified workforce needs;

(b) the institution of higher education is maximizing collaboration with other institutions of higher education to provide for efficiency in offering the program of instruction;

(c) the new program of instruction is within the institution of higher education's mission and role; and

(d) the new program of instruction meets other criteria determined by the board.

(4) (a) Except as provided in Subsection (4)(b), without the approval of the board, an institution of higher education may not:

(i) establish a branch, extension center, college, or professional school; or

(ii) establish a new program of instruction.

(b) An institution of higher education may, with the approval of the institution of higher education's board of trustees, establish a new program of instruction that meets the criteria described in Subsection (3), subject to board review for pathway articulation.

(5) (a) An institution of higher education shall notify the board of a proposed new program of instruction, including how the proposed new program of instruction meets the criteria described in Subsection (3).

(b) The board shall establish procedures and guidelines for institutional boards of trustees to consider an institutional proposal for a new program of instruction described in Subsection (4)(b).

(6) (a) The board shall conduct a periodic review of all new programs of instruction, including those funded by gifts, grants, and contracts, no later than two years after the first cohort to begin the program of instruction completes the program of instruction.

(b) The board may conduct a periodic review of any program of instruction at an institution of

higher education, including a program of instruction funded by a gift, grant, or contract.

(c) The board shall conduct:

(i) at least once every seven years, at least one review described in Subsection (6)(b) of each program of instruction at each institution; and

(ii) annually, a qualitative and quantitative review of academic disciplines across the system, including enrollment, graduation rates, and workforce placement, ensuring that the board conducts a review of all disciplines within the system at least once every seven years.

[~~(c)~~] (d) Following a review described in this Subsection (6) and after providing the relevant institution of higher education an opportunity to respond to the board's review of a given program of instruction, the board may [~~recommend that the institution of higher education~~] modify, consolidate, or terminate the program of instruction.

[~~(7) Prior to requiring modification or termination of a program, the board shall give the institution of higher education adequate opportunity for a hearing before the board.~~]

[~~(8)~~] (7) In making decisions related to career and technical education curriculum changes, the board shall coordinate on behalf of the boards of trustees of higher education institutions a review of the proposed changes by the State Board of Education to ensure an orderly and systematic career and technical education curriculum that eliminates overlap and duplication of course work with high schools and technical colleges.

Section 19. Section 53B-16-105 is amended to read:

53B-16-105. Common course numbering -- Transferability of credits -- Agreement with competency-based general education provider -- Policies.

(1) As used in this section:

(a) "Accredited institution" means an institution that:

(i) offers a competency-based postsecondary general education course online or in person; and

(ii) is accredited by an organization that the United States Department of Education recognizes.

[~~(a)~~] (b) "Articulation agreement" means an agreement between the board and a provider that allows a student to transfer credit awarded by the provider for a general education course to any institution of higher education.

[~~(b)~~] (c) "Competency-based" means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.

[~~(c)~~] (d) "Competency-based general education provider" or "provider" means a private institution that:

(i) offers a postsecondary competency-based general education course online or in person;

(ii) awards academic credit; and

(iii) does not award degrees, including associates degrees or baccalaureate degrees.

[~~(d)~~] (e) "Credit for prior learning" means the same as that term is defined in Section 53B-16-110.

[~~(e)~~] (f) "Institution of higher education" means an institution described in Section 53B-1-102.

[~~(f) "Regionally accredited institution" means an institution that:~~]

[~~(i) offers a competency-based postsecondary general education course online or in person; and~~]

[~~(ii) is accredited by a regional accrediting body recognized by the United States Department of Education.~~]

(2) The board shall:

(a) facilitate articulation and the seamless transfer of courses, programs, and credit for prior learning within the Utah [~~system of higher education~~] System of Higher Education;

(b) provide for the efficient and effective progression and transfer of students within the Utah [~~system of higher education~~] System of Higher Education;

(c) avoid the unnecessary duplication of courses;

(d) communicate ways in which a student may earn credit for prior learning; and

(e) allow a student to proceed toward the student's educational objectives as rapidly as the student's circumstances permit.

(3) The board shall develop, coordinate, and maintain a transfer and articulation system that:

(a) maintains a course numbering system that assigns common numbers to specified courses of similar level with similar curricular content, rigor, and standards;

(b) allows a student to track courses that transfer among institutions of higher education [~~to meet requirements for general education and lower division courses that transfer to baccalaureate majors~~];

(c) allows a student to transfer courses from a provider with which the board has an articulation agreement to any institution of higher education;

(d) allows a student to transfer competency-based general education courses from [~~a regionally~~] an accredited institution to an institution of higher education;

(e) improves program planning;

(f) increases communication and coordination between institutions of higher education;

(g) facilitates student acceleration and the transfer of students and credits between institutions of higher education; and

(h) if the system includes a software or data tool:

(i) provides predictive analysis that models probabilities of student success; and

(ii) develops tailored strategies to best support students.

(4) (a) The board shall identify general education courses in the humanities, social sciences, arts, physical sciences, and life sciences with uniform prefixes and common course numbers.

(b) A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection (4)(a).

(c) A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or (4)(a) toward filling specific area requirements for general education or lower division courses that transfer to baccalaureate majors.

(5) (a) The board shall:

(i) identify technical education programs with common names, descriptions, lengths, and objectives; and

(ii) within technical education programs, common course names, descriptions, length, and objectives allowing for customization of electives to meet regional industry demand.

(b) The commissioner shall appoint committees of faculty members from technical education committees to recommend aligned programs and courses that will satisfy graduation requirements.

[~~(5)~~] (6) (a) The board shall identify common prerequisite courses and course substitutions for degree programs across degree-granting institutions.

(b) The commissioner shall appoint committees of faculty members from the degree-granting institutions to recommend appropriate courses of similar content and numbering that will satisfy requirements for lower division courses that transfer to baccalaureate majors.

(c) A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection [~~(5)(a)~~] (6)(a).

(d) A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or [~~(5)(a)~~] (6)(a) toward filling graduation requirements.

[~~(6)~~] (7) (a) (i) The board shall seek proposals from providers to enter into articulation agreements.

(ii) A proposal described in Subsection [~~(6)(a)(i)~~] (7)(a)(i) shall include the general education courses that the provider intends to include in an articulation agreement.

(b) The board shall:

(i) evaluate each general education course included in a proposal described in Subsection [~~(6)(a)~~] (7)(a) to determine whether the course is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education; and

(ii) if the board determines that a course included in a provider's proposal is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education, enter into an articulation agreement with the provider.

[~~(7)~~] (8) The board shall establish policies to administer the policies and requirements described in this section.

[~~(8)~~] (9) The board shall include information demonstrating that institutions of higher education are complying with the provisions of this section and the policies established in accordance with Subsection [~~(7)~~] (8) in the annual report described in Section 53B-1-402.

Section 20. Section 53B-20-101 is amended to read:

53B-20-101. Property of institutions to vest in state board.

The [~~State~~] Utah Board of [~~Regents~~] Higher Education is the successor to, and vested with, all the powers and authority relating to all properties, real and personal, tangible and intangible, and to the control and management of the property which was held by the governing board of each institution prior to the creation of the board.

Section 21. Section 53B-21-108 is amended to read:

53B-21-108. Financing project by contract or lease agreement instead of by bond issue -- Authority of board -- Term of lease -- Terms of agreement -- Board covenants.

(1) Whenever the board, by resolution, finds and declares it preferable to acquire a project under this chapter by purchase or lease of the facilities constituting the project under an agreement which provides the consideration for the purchase or lease to be paid in installments during a period not exceeding [~~40~~] 99 years, rather than through the issuance of revenue bonds by the board in the manner provided in this chapter, it may do so upon compliance with this section.

(2) The board may lease, to any person, any portion of the campus of the institution necessary as a site for a project which the board is authorized to acquire under Section 53B-20-103, [~~to any person,~~] for a term not exceeding [~~40~~] 99 years.

(3) The agreement authorized to be entered into by the board shall provide that the person shall construct, improve, remodel, add to, or extend a project of the type and construction described in the agreement on the part of the campus to be leased to the person, or on such real property as may be acquired for that purpose by the person.

(4) The agreement shall further provide for the leasing of the project, including necessary

equipment, furnishings, and land, from the person to the board executing the agreement, for a period not exceeding [40] 99 years.

(5) Prior to the execution of the agreement, the person proposing to lease the project, including the necessary equipment, furnishings, and land, to the board shall submit to the board all plans, specifications, and estimates for the project.

(6) The plans, specifications, and estimates shall be approved by resolution of the board prior to the execution of the agreement.

(7) The board may, by appropriate provisions in the agreement:

(a) covenant as to the use which will be made of the project;

(b) covenant as to the operation, maintenance, and supervision of the project;

(c) covenant to collect fees and charges from all students and other persons availing themselves of the use of the accommodations and facilities of the project;

(d) covenant to levy and collect student building fees from all regular and part-time students enrolled in the institution for the use and availability of the project;

(e) covenant as to the collection, use, and disposition of the proceeds arising from the collection of all the revenues, fees, and charges;

(f) covenant to impose and collect fees and charges in amounts adequate to pay all costs incurred in maintaining and operating the project and to pay the amortization of the acquisition cost of the project, including necessary equipment and furnishings, and interest on the unpaid part of the acquisition cost, whether represented by rental installments or otherwise;

(g) covenant to pledge all revenues, fees, and charges, including student building fees, arising from the ownership and operation of the project to the payment of the rental installments provided for under the terms of the contract or lease agreement;

(h) covenant as to the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement contained in the agreement;

(i) covenant and agree to carry any insurance on the project, and its use and occupancy, as the board considers desirable, and to provide that the cost of the insurance shall be included as a part of the cost of operating the project;

(j) covenant to make and enforce such parietal rules and regulations with reference to the use of the facilities comprising the project, or any part of the project, and with reference to requiring any class of students to use the project, or any part of the project, as the board determines desirable for the institution; and

(k) covenant against the pledging of the revenues, fees, and charges, including student building fees, arising from the ownership and operation of the project for any purpose other than the payment of the rental installments required to be paid under the agreement, or against the issuance of any obligations payable therefrom, unless the pledge or obligations are made subordinate to the agreement. Nothing in this section prevents the board from providing conditions and terms under which pledges may be made and obligations issued on a parity with the pledge of revenues, fees, and charges under the agreement.

(8) It shall be specifically provided in the agreement that the board is not obligated to pay the rental installments or amortization of the acquisition cost of the project, and interest on the unpaid part of the acquisition cost, from any source other than the revenues, fees, and charges arising from the ownership and operation of the project, including student building fees levied for the use and availability of the facilities of the project.

(9) Each agreement shall provide that the rental installments, or amortization of the acquisition cost of the project, including necessary equipment, furnishings, and land, and interest on the unpaid part of the acquisition cost, are not an obligation of the state, and that ad valorem taxes or appropriations from the state may not be used to pay or discharge the amounts required to be paid under the agreement.

(10) The agreement shall also provide that when the amortized acquisition cost, as represented by the rental installments, has been paid in full and when all obligations, if any, issued by the person to finance the cost of the acquisition of the project have been paid in full as to both principal and interest, the agreement terminates and title to the project, including the land upon which the project is situated, and all equipment and furnishings, vests in the board.

(11) The agreement may provide that the board may purchase the project, including the land upon which the project is situated, and all equipment and furnishings, which is subject to the agreement upon terms wherein rental installments previously made, or a portion of them, are deducted from the cost of acquisition of the project, including the land upon which the project is situated, and all equipment and furnishings, as provided for in the agreement.

(12) The board may furnish without charge heat, light, water, power, and similar facilities for any project leased by the board for operation by the board under this section, and all projects acquired and constructed under this section are exempt from taxation.

(13) The agreement may provide that the board may lease the project, including the land upon which the project is situated, and all equipment and furnishings, to any person for a term not exceeding [40] 99 years for operation by any person.

(14) A lease may not be entered into unless the rental to be paid to the board by the person is sufficient to satisfy the rental to be paid by the board to the person from which the project was originally leased. But in no event may the rental

paid to the board be less than the fair rental value of the property leased.

Section 22. Section 53B-35-201 is amended to read:

53B-35-201. Higher Education and Corrections Council.

(1) There is created the Higher Education and Corrections Council to advise the board, the Education Interim Committee, and the Higher Education Appropriations Subcommittee regarding the development and delivery of accredited higher education curriculum to incarcerated individuals in the state correctional system.

(2) The council consists of the following [~~13~~] 11 members:

(a) a member of the House of Representatives whom the speaker of the House of Representatives appoints;

(b) a member of the Senate whom the president of the Senate appoints;

[~~(c) two members of the board whom the chair of the board appoints:~~]

[~~(i) one member having expertise in technical colleges; and~~]

[~~(ii) one member having expertise in general education;~~]

[~~(d)~~] (c) the commissioner or the commissioner's designee;

[~~(e)~~] (d) the following two members whom the commissioner appoints and who are engaged in prison education and have expertise in transfer articulation:

(i) one employee of a technical college; and

(ii) one employee of a degree-granting institution;

[~~(f)~~] (e) the following two members whom the governor appoints:

(i) an individual who actively researches higher education delivered in a corrections setting using evidence-based practices; and

(ii) a formerly incarcerated individual who participated in postsecondary educational programs while incarcerated;

[~~(g)~~] (f) one member of the Board of Pardons and Parole whom the chair of the Board of Pardons and Parole appoints;

[~~(h)~~] (g) the executive director of the Department of Corrections or the executive director's designee;

[~~(i)~~] (h) one employee of the Department of Corrections with expertise in education whom the executive director of the Department of Corrections appoints; and

[~~(j)~~] (i) the executive director of the Department of Workforce Services or the executive director's designee.

(3) (a) The members described in Subsections (2)(a) and (2)(b) shall serve as co-chairs of the council.

(b) (i) Except as provided under Subsection (3)(b)(ii), an appointed member of the council shall serve a term of two years.

(ii) A council member's term ends on the day on which the member's status that allows the member to serve on the council under Subsection (2) ends.

(c) The individuals authorized to make appointments under Subsection (2) shall make the respective appointments:

(i) for the initial appointments, before July 1, 2022;

(ii) for subsequent terms, before July 1 of each odd-numbered year, by:

(A) reappointing the council member whose term expires under Subsection (3)(b)(i); or

(B) appointing a new council member; and

(iii) in the case of a vacancy created under Subsection (3)(b)(ii), for the remainder of the vacated term.

(d) The individual authorized to make appointments under Subsection (2) may change the relevant appointment described in Subsection (2) at any time for the remainder of the existing term.

(4) (a) The salary and expenses of a council member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A council member who is not a legislator:

(i) may not receive compensation or benefits for the member's service on the council; and

(ii) may receive per diem and reimbursement for travel expenses that the council member incurs as a council member at the rates that the Division of Finance establishes under:

(A) Sections 63A-3-106 and 63A-3-107; and

(B) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(5) (a) A majority of the council members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the council.

(6) The commissioner shall provide staff support to the council.

Section 23. Section 67-1-12 is amended to read:

67-1-12. Displaced defense workers.

(1) The governor, through the Department of Workforce Services, may use funds specifically appropriated by the Legislature to benefit, in a manner prescribed by Subsection (2):

(a) Department of Defense employees within the state who lose their employment because of

reductions in defense spending by the federal government;

(b) persons dismissed by a defense-related industry employer because of reductions in federal government defense contracts received by the employer; and

(c) defense-related businesses in the state that have been severely and adversely impacted because of reductions in defense spending.

(2) Funds appropriated under this section before fiscal year 1999-2000 but not expended shall remain with the agency that possesses the funds and shall be used in a manner consistent with this section. Any amount appropriated under this section in fiscal year 1999-2000 or thereafter may be used to:

(a) provide matching or enhancement funds for grants, loans, or other assistance received by the state from the United States Department of Labor, Department of Defense, or other federal agency to assist in retraining, community assistance, or technology transfer activities;

(b) fund or match available private or public funds from the state or local level to be used for retraining, community assistance, technology transfer, or educational projects coordinated by state or federal agencies;

(c) provide for retraining, upgraded services, and programs at technical colleges, public schools, higher education institutions, or any other appropriate public or private entity that are designed to teach specific job skills requested by a private employer in the state or required for occupations that are in demand in the state;

(d) aid public or private entities that provide assistance in locating new employment;

(e) inform the public of assistance programs available for persons who have lost their employment;

(f) increase funding for assistance and retraining programs;

(g) provide assistance for small start-up companies owned or operated by persons who have lost their employment;

(h) enhance the implementation of dual-use technologies programs, community adjustment assistance programs, or other relevant programs under Pub. L. No. 102-484; and

(i) coordinate local and national resources to protect and enhance current Utah defense installations and related operations and to facilitate conversion or enhancement efforts by:

(i) creating and operating state information clearinghouse operations that monitor relevant activities on the federal, state, and local level;

(ii) identifying, seeking, and matching funds from federal and other public agencies and private donors;

(iii) identifying and coordinating needs in different geographic areas;

(iv) coordinating training and retraining centers;

(v) coordinating technology transfer efforts between public entities, private entities, and institutions of higher education;

(vi) facilitating the development of local and national awareness and support for Utah defense installations;

(vii) studying the creation of strategic alliances, tax incentives, and relocation and consolidation assistance; and

(viii) exploring feasible alternative uses for the physical and human resources at defense installations and in related industries should reductions in mission occur.

(3) The governor, through the Department of Workforce Services, may coordinate and administer the expenditure of money under this section and collaborate with [~~applied technology centers, public~~] institutions of higher [~~learning~~] education, or other appropriate public or private entities to provide retraining and other services described in Subsection (2).

Section 24. Repealer.

This bill repeals:

Section 53B-1-406, Nominating committee.

Section 53B-1-502, Transition of Utah System of Technical Colleges to Utah Board of Higher Education -- Recommendations.

Section 53B-6-106, Jobs Now and economic development initiatives.

Section 25. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 255
S. B. 158
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

LOCAL GOVERNMENT WATER AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill addresses local government's actions related to a water interest.

Highlighted Provisions:

This bill:

- modifies provisions related to determining the basis for an exaction for a water interest imposed by certain local government entities;
- addresses water source protection ordinances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-508, as last amended by Laws of Utah 2016, Chapter 350
17-27a-507, as last amended by Laws of Utah 2013, Chapter 309
17-41-402.5, as enacted by Laws of Utah 2009, Chapter 376
17B-1-120, as enacted by Laws of Utah 2011, Chapter 205
19-4-113, as last amended by Laws of Utah 2009, Chapter 173

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

Section 1. Section 10-9a-508 is amended to read:

10-9a-508. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:

(a) the governmental entity shall request the exaction; and

(b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

(3) (a) (i) [~~A~~] Subject to the requirements of this Subsection (3), a municipality shall base [~~any~~] an exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base an exaction for a culinary water interest on:

(A) consideration of the system-wide minimum sizing standards established for the culinary water authority by the Division of Drinking Water pursuant to Section 19-4-114; and

(B) the number of equivalent residential connections associated with the culinary water demand for each specific development proposed in the development's land use application, applying lower exactions for developments with lower equivalent residential connections as demonstrated by at least five years of usage data for like land uses within the municipality.

(iii) A municipality may impose an exaction for a culinary water interest that results in less water being exacted than would otherwise be exacted under Subsection (3)(a)(ii) if the municipality, at the municipality's sole discretion, determines there is good cause to do so.

(iv) A municipality shall make public the methodology used to comply with Subsection (3)(a)(ii)(B). A land use applicant may appeal to the municipality's governing body an exaction calculation used by the municipality under Subsection (3)(a)(ii). A land use applicant may present data and other information that illustrates a need for an exaction recalculation and the municipality's governing body shall respond with due process.

[~~(ii)~~] (v) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.

(b) A municipality may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(4) (a) If a municipality plans to dispose of surplus real property that was acquired under this section and has been owned by the municipality for less than 15 years, the municipality shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the municipality.

(b) A person to whom a municipality offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the municipality's offer.

(c) If a person to whom a municipality offers to reconvey property declines the offer, the municipality may offer the property for sale.

(d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community reinvestment agency.

Section 2. Section 17-27a-507 is amended to read:

17-27a-507. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A county may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:

(a) the governmental entity shall request the exaction; and

(b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

(3) (a) (i) [~~A~~] Subject to the requirements of this Subsection (3), a county or, if applicable, the county's culinary water authority shall base any exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base an exaction for a culinary water interest on:

(A) consideration of the system-wide minimum sizing standards established for the culinary water authority by the Division of Drinking Water pursuant to Section 19-4-114; and

(B) the number of equivalent residential connections associated with the culinary water demand for each specific development proposed in the development's land use application, applying lower exactions for developments with lower equivalent residential connections as demonstrated by at least five years of usage data for like land uses within the county.

(iii) A county or culinary water authority may impose an exaction for a culinary water interest that results in less water being exacted than would otherwise be exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the county's or culinary water authority's sole discretion, determines there is good cause to do so.

(iv) A county shall make public the methodology used to comply with Subsection (3)(a)(ii)(B). A land use applicant may appeal to the county's governing body an exaction calculation used by the county or the county's culinary water authority under Subsection (3)(a)(ii). A land use applicant may present data and other information that illustrates a need for an exaction recalculation and the county's governing body shall respond with due process.

[~~(ii)~~] (v) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.

(b) A county or its culinary water authority may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(4) (a) If a county plans to dispose of surplus real property under Section 17-50-312 that was acquired under this section and has been owned by the county for less than 15 years, the county shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the county.

(b) A person to whom a county offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the county's offer.

(c) If a person to whom a county offers to reconvey property declines the offer, the county may offer the property for sale.

(d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community development or urban renewal agency.

Section 3. Section 17-41-402.5 is amended to read:

17-41-402.5. Limits on political subdivisions with respect to a vested mining use -- Exception.

(1) A political subdivision may not:

(a) terminate a vested mining use, whether by amortization, the exercise of police power, or otherwise;

(b) prohibit, restrict, or otherwise limit a mine operator with a vested mining use from exercising the rights permitted under this chapter;

(c) require, for a vested mining use:

(i) a variance;

(ii) a conditional use permit;

(iii) a special exception;

(iv) the establishment or determination of a nonconforming use right; or

(v) any other type of zoning or land use permit; or

(d) prohibit, restrict, limit, or otherwise regulate a vested mining use under a variance, conditional use permit, special exception, or other zoning or land use permit issued before May 12, 2009.

(2) Subsection (1) does not prohibit a political subdivision from requiring a vested mining use to comply with the generally applicable, reasonable health and safety regulations and building code

adopted by the political subdivision including a drinking water protection zone as defined and limited to [~~Subsection~~] [~~19-4-113(4)(a)~~] Subsections 19-4-113(5)(a) and (b).

Section 4. Section 17B-1-120 is amended to read:

17B-1-120. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A local district may impose an exaction on a service received by an applicant, including, subject to Subsection (2), an exaction for a water interest if:

(a) the local district establishes that a legitimate local district interest makes the exaction essential; and

(b) the exaction is roughly proportionate, both in nature and extent, to the impact of the proposed service on the local district.

(2) (a) (i) [~~A~~] Subject to the requirements of this Subsection (2), a local district shall base an exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) Except as described in Subsection (2)(a)(iii), a culinary water authority shall base an exaction for a culinary water interest on:

(A) consideration of the system-wide minimum sizing standards established for the culinary water authority by the Division of Drinking Water pursuant to Section 19-4-114; and

(B) the number of equivalent residential connections associated with the culinary water demand for each specific development proposed in the development's land use application, applying lower exactions for developments with lower equivalent residential connections as demonstrated by at least five years of usage data for like land uses within the local district.

(iii) A local district may impose an exaction for a culinary water interest that results in less water being exacted than would otherwise be exacted under Subsection (2)(a)(ii) if the local district, at the local district's sole discretion, determines there is good cause to do so.

(iv) A local district shall make public the methodology used to comply with Subsection (2)(a)(ii)(B). A service applicant may appeal to the local district's governing body an exaction calculation used by the local district under Subsection (2)(a)(ii). A service applicant may present data and other information that illustrates a need for an exaction recalculation and the local district's governing body shall respond with due process.

[~~(ii)~~] (v) If requested by a service applicant, the culinary authority shall provide the basis for the culinary water authority's calculations described in Subsection (2)(a)(i).

(b) A local district may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined in accordance with Section 73-1-4.

(3) (a) If a local district plans to dispose of surplus real property that was acquired under this section and has been owned by the local district for less than 15 years, the local district shall offer to reconvey the surplus real property, without receiving additional consideration, first to a person who granted the real property to the local district.

(b) The person described in Subsection (3)(a) shall, within 90 days after the day on which a local district makes an offer under Subsection (3)(a), accept or reject the offer.

(c) If a person rejects an offer under Subsection (3)(b), the local district may sell the real property.

Section 5. Section 19-4-113 is amended to read:

19-4-113. Water source protection ordinance .

(1) As used in this section, "municipality" means the same as that term is defined in Section 10-1-104.

[~~(1)~~] (2) (a) Before May 3, 2010, a first or second class county shall:

(i) adopt an ordinance in compliance with this section after:

(A) considering the rules established by the board to protect a watershed or water source used by a public water system;

(B) consulting with a wholesale water supplier or retail water supplier whose drinking water source is within the county's jurisdiction;

(C) considering the effect of the proposed ordinance on:

(I) agriculture production within an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas; and

(II) a manufacturing, industrial, or mining operation within the county's jurisdiction; and

(D) holding a public hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) file a copy of the ordinance with the board.

(b) A municipality in a first or second class county may adopt an ordinance that a first or second class county is required to adopt by this section by following the procedures and requirements of this section.

[~~(2)~~] (3) (a) A county ordinance adopted in accordance with this section applies to the incorporated and unincorporated areas of the county unless a municipality adopts an ordinance in accordance with this section.

(b) A municipal ordinance adopted in accordance with this section supercedes, within the municipality's jurisdiction, a county ordinance adopted in accordance with this section.

[~~(3)~~] (4) An ordinance required or authorized by this section at a minimum shall:

(a) designate a drinking water source protection zone in accordance with Subsection [~~(4)~~] (5) for a groundwater source that is:

(i) used by a public water system; and

(ii) located within the county's or municipality's jurisdiction;

(b) contain a zoning provision regulating the storage, handling, use, or production of a hazardous or toxic substance within a drinking water source protection zone designated under Subsection [~~(3)(a)~~] (4)(a); and

(c) authorize a retail water supplier or wholesale water supplier to seek enforcement of the ordinance provision required by Subsections [~~(3)(a)~~] (4)(a) and (b) in a district court located within the county or municipality if the county or municipality:

(i) notifies the retail water supplier or wholesale water supplier within 10 days of receiving notice of a violation of the ordinance that the county or municipality will not seek enforcement of the ordinance; or

(ii) does not seek enforcement within two days of a notice of violation of the ordinance when the violation may cause irreparable harm to the groundwater source.

[~~(4)~~] (5) A county shall designate a drinking water source protection zone required by Subsection [~~(3)(a)~~] (4)(a) within:

(a) a 100 foot radius from the groundwater source; and

(b) a 250 day groundwater time of travel to the groundwater source if the supplier calculates the time of travel in the public water system's drinking water source protection plan in accordance with board rules.

[~~(5)~~] (6) A zoning provision required by Subsection [~~(3)(b)~~] (4)(b) is not subject to Subsection 17-41-402(3).

[~~(6)~~] (7) An ordinance authorized by Section 10-8-15 supercedes an ordinance required or authorized by this section to the extent that the ordinances conflict.

[~~(7)~~] (8) The board shall[~~:~~]

[~~(a)~~] provide information, guidelines, and technical resources to a county or municipality preparing and implementing an ordinance in accordance with this section[~~; and~~]

[~~(b) report to the Natural Resources, Agriculture, and Environment Interim Committee before November 30, 2010 on:~~]

[~~(i) compliance with this section's requirement to adopt an ordinance to protect a public drinking water source; and~~]

[~~(ii) the effectiveness of the ordinance in retaining state primacy in regulating drinking water~~].

(9) A third, fourth, fifth, or sixth class county or a municipality located within a third, fourth, fifth, or sixth class county may adopt an ordinance in accordance with this section to establish a drinking water source protection zone and take any other action allowed under this section.

CHAPTER 256
S. B. 186
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

JUVENILE COURT AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill amends provisions related to the juvenile court.

Highlighted Provisions:

This bill:

- amends the requirements for requesting restitution in the juvenile court; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-6-710, as last amended by Laws of Utah 2022, Chapters 155, 334

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

Section 1. Section 80-6-710 is amended to read:

80-6-710. Determination of restitution -- Requirements.

(1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order the minor to repair, replace, or otherwise make restitution for:

(a) material loss caused by an offense listed in the petition; or

(b) conduct for which the minor agrees to make restitution.

(2) Within seven days after the day on which a petition is filed under this chapter, the prosecuting attorney or a juvenile probation officer shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.

(3) A victim that receives notice under Subsection (2) is responsible for providing the prosecuting attorney with:

(a) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;

(b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

(c) if available, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and

(d) the victim's contact information, including the victim's current home and work address and telephone number.

(4) [~~A prosecuting attorney or victim shall submit a request for restitution to the juvenile court:~~]

(a) A prosecuting attorney, or a victim's attorney, shall make a request for an order for restitution in the juvenile court:

[~~(a)~~] (i) if feasible, at the time of disposition; or

[~~(b)~~] (ii) within 90 days after disposition.

(b) If a prosecuting attorney's request for restitution includes an amount that is less than the amount requested by the victim, the prosecuting attorney shall include a copy of the victim's request with the prosecuting attorney's request.

(c) A written request for an order for restitution under Subsection (4)(a) shall be served on all parties to the minor's case.

(5) In an order for restitution under Subsection (1), the juvenile court:

(a) shall only order restitution for the victim's material loss;

(b) may not order restitution if the juvenile court finds that the minor is unable to pay or acquire the means to pay;

(c) shall take into account:

(i) the minor's ability to satisfy the restitution order within six months from the day on which restitution is ordered; or

(ii) if the minor participates in a restorative justice program under Subsection (6), the amount or conditions of restitution agreed upon by the minor and the victim of the adjudicated offense;

(d) shall credit any amount paid by the minor to the victim in a civil suit against restitution owed by the minor; and

(e) shall credit any amount paid to the victim in restitution against liability in a civil suit.

(6) If the minor and the victim of the adjudicated offense agree to participate, the juvenile court may refer the minor's case to a restorative justice program, such as victim offender mediation, to address how loss resulting from the adjudicated offense may be addressed.

(7) (a) The juvenile court may require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person for providing information resulting in an adjudication of a minor for the commission of an offense.

(b) If a minor is returned to this state in accordance with Part 11, Interstate Compact for Juveniles, the juvenile court may order the minor to make restitution for costs expended by any governmental entity for the return of the minor.

CHAPTER 257
S. B. 218
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

PRIVATE PROBATION AND COURT ORDERED SERVICES AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill amends provisions related to persons providing certain services to criminal defendants.

Highlighted Provisions:

This bill:

- prohibits private probation providers and other court ordered service providers from soliciting clients on court property, with some exceptions;
- requires a criminal justice coordinating council to prepare a list of private probation providers;
- requires a court that orders probation to make available to a defendant a list of private probation providers under certain circumstances;
- requires assessors to provide a list of licensed providers of required treatment and services, with some exceptions;
- requires private probation providers to notify the court if the private probation provider is providing supervision services to a defendant;
- prohibits a private probation provider from simultaneously providing other services except in certain circumstances;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-55-201, as enacted by Laws of Utah 2022, Chapter 187
58-50-9, as last amended by Laws of Utah 2022, Chapter 115
77-18-105, as last amended by Laws of Utah 2022, Chapters 115, 359

ENACTS:

62A-2-129, Utah Code Annotated 1953

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

Section 1. Section 17-55-201 is amended to read:

17-55-201. Criminal justice coordinating councils -- Creation -- Strategic plan -- Reporting requirements.

(1) (a) Beginning January 1, 2023, a county shall:

(i) create a criminal justice coordinating council; or

(ii) jointly with another county or counties, create a criminal justice coordinating council.

(b) The purpose of a council is to coordinate and improve components of the criminal justice system in the county or counties.

(2) (a) A council shall include:

(i) one county commissioner or county council member;

(ii) the county sheriff or the sheriff's designee;

(iii) one chief of police of a municipality within the county or the chief's designee;

(iv) the county attorney or the attorney's designee;

(v) one public defender or attorney who provides public defense within the county;

(vi) one district court judge;

(vii) one justice court judge;

(viii) one representative from the Division of Adult Probation and Parole within the Department of Corrections;

(ix) one representative from the local mental health authority within the county; and

(x) one individual who is:

(A) a crime victim; or

(B) a victim advocate, as defined in Section 77-38-403.

(b) A council may include:

(i) an individual representing:

(A) local government;

(B) human services programs;

(C) higher education;

(D) peer support services;

(E) workforce services;

(F) local housing services;

(G) mental health or substance use disorder providers;

(H) a health care organization within the county;

(I) a local homeless council;

(J) family counseling and support groups; or

(K) organizations that work with families of incarcerated individuals; or

(ii) an individual with lived experiences in the criminal justice system.

(3) The member described in Subsection (2)(a)(i) shall serve as chair of the council.

(4) (a) A council shall develop and implement a strategic plan for the county's or counties' criminal justice system that includes:

(i) mapping of all systems, resources, assets, and services within the county's or counties' criminal justice system;

(ii) a plan for data sharing across the county's or counties' criminal justice system;

(iii) recidivism reduction objectives; and

(iv) community reintegration goals.

(b) The commission may assist a council in the development of a strategic plan.

(5) As part of the council's duties described in Subsection (4)(a)(i), the council shall prepare a list of private probation providers for a court to provide to defendants as described in Section 77-18-105.

[~~(5)~~] (6) Before November 30 of each year, a council shall provide a written report to the commission regarding:

(a) the implementation of a strategic plan described in Subsection (4); and

(b) any data on the impact of the council on the criminal justice system in the county or counties.

Section 2. Section 58-50-9 is amended to read:

58-50-9. Standards of conduct for private probation providers -- Contracts -- Reports.

(1) As used in this section, "licensee" means the same as that term is defined in Section 62A-2-101.

(2) The private probation provider:

(a) shall maintain impartiality toward all parties;

(b) shall ensure that all parties understand the nature of the process, the procedure, the particular role of the private probation provider, and the parties' relationship to the private probation provider;

(c) shall maintain confidentiality or, in cases where confidentiality is not protected, the private probation provider shall so advise the parties;

(d) shall:

(i) disclose any circumstance that may create or give the appearance of a conflict of interest and any circumstance that may reasonably raise a question as to the private probation provider's impartiality; and

(ii) if the contract probation supervisor perceives or believes a conflict of interest to exist, the contract probation supervisor shall refrain from entering into those probation services;

(e) shall adhere to the standards regarding private probation services adopted by the licensing board;

(f) shall:

(i) comply with orders of court and perform services as directed by judges in individual cases; and

(ii) notify the court that the private probation provider is providing supervision services to a defendant;

(g) shall perform duties established under Section 77-18-105, as ordered by the court;

(h) beginning July 1, 2022, may not provide private probation in a county where an agency of local government provides probation services unless the private probation provider has entered into a contract with the agency of local government; [~~and~~]

(i) shall provide a report each month to each county sheriff where the private probation provider provides private probation identifying:

(i) each individual currently supervised in the county by the private probation provider;

(ii) the crimes each individual supervised committed;

(iii) the level of supervision that is being provided for each individual; and

(iv) any other information related to the provision of private probation that the county sheriff determines is relevant[~~.~~]; and

(j) may not solicit defendants as supervision clients on any property that operates as a court of justice as described in Section 78A-1-101.

(3) If, after conducting a screening of a defendant's risk and needs, a private probation provider determines that a defendant requires a specific assessment, treatment, or other services, the private probation provider shall:

(a) provide the defendant a list of all available licensees that provide the assessment, treatment, or other services; and

(b) permit the defendant to select a licensee described in Subsection (3)(a) with which to complete the required assessment, treatment, or other services.

(4) (a) Except as provided in Subsection (4)(b), a private probation provider that is a licensee may not simultaneously provide to a defendant private probation services and other services for which the private probation provider receives compensation, including:

(i) mental health therapy services;

(ii) education services; or

(iii) rehabilitation services.

(b) A private probation provider that is a licensee may simultaneously provide private probation services and other services as described in Subsection (4)(a) if:

(i) no other licensees that provide the services are located within 50 miles of the defendant's residence; and

(ii) the private probation provider obtains the defendant's written informed consent.

(c) The written informed consent described in Subsection (4)(b) shall include:

(i) a description of the services other than private probation services the private probation provider will provide;

(ii) a separate paragraph describing how the defendant can withdraw consent;

(iii) a separate paragraph describing grievance procedures, including how to contact and file a complaint with the division's investigation office; and

(iv) a separate paragraph informing the defendant of the potential conflict of interest.

[~~(2)~~] (5) A contract described in Subsection [~~(1)(h)~~] (2)(h) shall include a description of the fees the private probation provider will charge a defendant who is supervised by the private probation provider.

Section 3. Section 62A-2-129 is enacted to read:

62A-2-129 (Codified as 26B-2-134). Obligations of persons providing assessment and treatment services.

(1) As used in this section:

(a) "Assessor" means a licensee that provides an assessment as ordered by a court in a criminal case.

(b) "Criminal case" means a case in which a court of justice described in Section 78A-1-101 has ordered an individual to comply with certain terms and conditions of probation related to a criminal offense.

(c) "Licensee" means the same as that term is defined in Section 62A-2-101.

(2) (a) Except as provided in Subsection (4), an assessor that determines that the individual requires specific treatment shall:

(i) provide the individual a list of all available licensees that provide the treatment; and

(ii) permit the individual to select a licensee described in Subsection (2)(a)(i) with which to complete the treatment.

(b) The list described in Subsection (2)(a)(i) may include the assessor, if the assessor is a licensee that provides the required treatment described in Subsection (2)(a).

(3) Except as provided in Subsection (4), an assessor or other licensee may not solicit defendants as clients on any property that operates as a court of justice as described in Section 78A-1-101.

(4) An assessor that performs services for a problem-solving court approved by the Judicial Council is not required to comply with this section.

Section 4. Section 77-18-105 is amended to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the department;

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3) (a) The legal custody of all probationers under the supervision of the department is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4) (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(c) If a court orders supervised probation and determines that a public probation provider is unavailable or inappropriate to supervise the defendant, the court shall make available to the defendant the list of private probation providers prepared by a criminal justice coordinating council under Section 17-55-201.

(5) (a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.

(b) (i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:

(A) the agency has the capacity to supervise the individual; and

(B) the individual's supervision needs will be met by the agency.

(ii) A court may only order:

(A) the department to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or

(B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.

(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

(6) (a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-6-107.1;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation, the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements.

CHAPTER 258
S. B. 236
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

LEGISLATIVE WATER DEVELOPMENT COMMISSION AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill modifies provisions related to the Legislative Water Development Commission.

Highlighted Provisions:

This bill:

- authorizes the Legislative Water Development Commission to open committee bill files related to the commission's duties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-27-103, as last amended by Laws of Utah 2022, Chapter 50

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

Section 1. Section 73-27-103 is amended to read:

73-27-103. Duties and powers of commission.

(1) The commission shall consider and make recommendations to the Legislature and governor on the following issues:

(a) how the water needs of the state's growing agricultural, municipal, and industrial sectors will be met;

(b) what the impact of federal regulations and legislation will be on the ability of the state to manage and develop its compacted water rights;

(c) how the state will fund water projects;

(d) whether the state should become an owner and operator of water projects;

(e) how the state will encourage the implementation of water conservation programs; and

(f) other water issues of statewide importance.

(2) The commission shall consult with the Division of Water Resources and the Board of Water Resources regarding:

(a) recommendations for rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3); and

(b) the scope of any request for proposals that may be issued by the Division of Water Resources and Board of Water Resources to assist in creating the rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3) .

(3) The commission shall support community efforts to develop a unified, state water strategy to promote water conservation and efficiency that:

(a) is consistent with Section 73-1-21;

(b) is created with the aid of stakeholders including water conservancy districts created under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act;

(c) includes model ordinances or policies consistent with the unified, statewide water strategy that may be adopted by political subdivisions; and

(d) respects different needs of different political subdivisions or geographic regions of the state.

(4) The commission may:

(a) form one or more working groups from the membership of the commission to consider and study the issues described in this section; [~~and~~]

(b) meet up to six times per calendar year without approval from the Legislative Management Committee[~~.~~]; and

(c) open one or more committee bill files that relate to the commission's duties under this section.

[~~(5) (a) In addition to supporting community efforts to develop a unified, state water strategy to promote water conservation and efficiency under Subsection (3), the commission shall study water conservation in the state on public and private land including:~~]

[~~(i) the management of water resources in the state; and~~]

[~~(ii) programs and policies to promote water conservation in the state that also protect and support existing water rights.~~]

[~~(b) The commission shall report the commission's findings under this Subsection (5), including any proposed legislation, to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the 2022 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee.~~]

CHAPTER 259
S. B. 241
Passed March 3, 2023
Approved March 14, 2023
Effective March 14, 2023

UTAH INLAND PORT AUTHORITY AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill modifies provisions relating to the Utah Inland Port Authority.

Highlighted Provisions:

This bill:

- modifies definitions applicable to the Utah Inland Port Authority;
- eliminates language relating to the forgiveness of a loan from the inland port infrastructure loan fund;
- enacts a provision relating to services to be provided the Authority by specified state agencies;
- requires the Authority board to adopt a procurement policy;
- modifies board quorum provisions;
- modifies provisions relating to the loan committee for loans from the inland port infrastructure revolving loan fund and requires the approval of the Authority board and the Executive Appropriations Committee for a loan from the fund;
- repeals a provision relating to projects benefitting authority jurisdictional land;
- modifies the allowable uses of authority funds, including the use of funds for a conservation easement;
- eliminates the requirement for property owner approval for inclusion of the owner's property in a project area but requires the Authority to exclude property from a proposed project area if the owner requests to have the property excluded from a proposed project area;
- modifies the allowable uses of property tax differential;
- authorizes the Authority to create a remediation project area for the remediation of contaminated land and provides for property tax differential to be used to repay remediation costs;
- provides immunity for a government owner of contaminated land under certain circumstances;
- modifies provisions relating to property tax differential to be paid to the Authority from authority jurisdictional land and from areas outside authority jurisdictional land;
- modifies provisions relating to a business recruitment incentive;
- repeals obsolete language and makes other technical and conforming changes;
- modifies public infrastructure district provisions relating to the Authority;
- includes the Authority as a qualifying jurisdiction under provisions relating to the nondisclosure of certain tax information; and
- provides for the transfer of funds from the State Infrastructure Bank Fund to the inland port infrastructure revolving loan fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-58-102, as last amended by Laws of Utah 2022, Chapter 82
11-58-106, as last amended by Laws of Utah 2022, Chapters 82 and 207
11-58-205, as last amended by Laws of Utah 2022, Chapter 82
11-58-206, as last amended by Laws of Utah 2019, Chapter 399
11-58-302, as last amended by Laws of Utah 2022, Chapter 82
11-58-303, as last amended by Laws of Utah 2022, Chapter 82
11-58-501, as last amended by Laws of Utah 2019, Chapter 399
11-58-505, as last amended by Laws of Utah 2020, Chapter 126
11-58-601, as last amended by Laws of Utah 2022, Chapter 82
11-58-602, as last amended by Laws of Utah 2022, Chapter 82
11-58-603, as enacted by Laws of Utah 2022, Chapter 82
11-58-604, as enacted by Laws of Utah 2022, Chapter 82
17D-4-201, as renumbered and amended by Laws of Utah 2021, Chapter 314
17D-4-203, as last amended by Laws of Utah 2022, Chapter 82
59-1-403, as last amended by Laws of Utah 2022, Chapter 447
63A-3-401.5, as last amended by Laws of Utah 2022, Chapters 82 and 237
63A-3-402, as last amended by Laws of Utah 2022, Chapter 237
63B-27-101, as last amended by Laws of Utah 2022, Chapter 463
63G-7-201, as last amended by Laws of Utah 2021, Chapter 352
72-2-202, as last amended by Laws of Utah 2022, Chapter 463

ENACTS:

11-58-600.5, Utah Code Annotated 1953
11-58-600.7, Utah Code Annotated 1953
11-58-605, Utah Code Annotated 1953
11-58-606, Utah Code Annotated 1953
78B-6-2401, Utah Code Annotated 1953
78B-6-2402, Utah Code Annotated 1953

REPEALS:

11-58-207, as enacted by Laws of Utah 2018, Chapter 179

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

Section 1. Section 11-58-102 is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in [~~Subsection 11-58-601(5)~~] Section 11-58-600.7, the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Contaminated land" means land:

(a) within a project area; and

(b) that contains hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material on, in, or under the land.

[~~(6)~~] (7) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection [~~(6)~~] (7)(a).

[~~(7)~~] (8) "Development project" means a project for the development of land within a project area.

[~~(8)~~] (9) "Inland port" means one or more sites that:

(a) contain multimodal facilities, intermodal facilities, or other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

[~~(9)~~] (10) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection [~~(8)~~] (9);

(c) that complements or supports the purposes of an inland port, as stated in Subsection [~~(8)~~] (9); or

(d) that depends upon the presence of the inland port for the viability of the use.

[~~(10)~~] (11) "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.

(12) "Landfill material" means garbage, waste, debris, or other materials disposed of or placed in a landfill.

[~~(11)~~] (13) "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

[~~(12)~~] (14) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(3) who does not have the power to vote on matters of authority business.

[~~(13)~~] (15) "Project area" means:

(a) the authority jurisdictional land, subject to Section 11-58-605; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

[~~(14)~~] (16) "Project area budget" means a multiyear projection of annual or cumulative

revenues and expenses and other fiscal matters pertaining to the project area.

[~~(15)~~] (17) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

[~~(16)~~] (18) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

[~~(17)~~] (19) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

[~~(18)~~] (20) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

[~~(19)~~] (21) (a) "Public infrastructure and improvements"[~~: (a)~~] means infrastructure, improvements, facilities, or buildings that:

(i) (A) benefit the public[~~; and (ii) (A)~~] and are owned by a public entity or a utility; or

(B) benefit the public and are publicly maintained or operated by a public entity; or

(ii) (A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to applicable county or municipal design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) an inland port; and

(iv) infrastructure, improvements, facilities, or buildings that[~~: (A) are privately owned; (B) benefit the public; (C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and (D) are built according to the applicable county or municipal design and safety standards for public infrastructure.~~] are developed as part of a remediation project.

(22) "Remediation" includes:

(a) activities for the cleanup, rehabilitation, and development of contaminated land; and

(b) acquiring an interest in land within a remediation project area.

(23) "Remediation differential" means property tax differential generated from a remediation project area.

(24) "Remediation project" means a project for the remediation of contaminated land that:

(a) is owned by:

(i) the state or a department, division, or other instrumentality of the state;

(ii) an independent entity, as defined in Section 63E-1-102; or

(iii) a political subdivision of the state; and

(b) became contaminated land before the owner described in Subsection (24)(a) obtained ownership of the land.

(25) "Remediation project area" means a project area consisting of contaminated land that is or is expected to become the subject of a remediation project.

[~~(20)~~] (26) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

[~~(21)~~] (27) "Taxable value" means the value of property as shown on the last equalized assessment roll.

[~~(22)~~] (28) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

[~~(23)~~] (29) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 2. Section 11-58-106 is amended to read:

11-58-106. Loan approval committee -- Approval of infrastructure loans.

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Inland port fund" means the same as that term is defined in Section 63A-3-401.5.

[~~(d)~~] (e) "Loan approval committee" means a committee [~~consisting of the individuals who are the voting members of the board~~] established under Subsection (2).

(2) (a) The authority shall establish a loan committee consisting of:

(i) two individuals with expertise in public finance or infrastructure development, appointed by the governor;

(ii) one individual with expertise in public finance or infrastructure development, appointed by the president of the Senate;

(iii) one individual with expertise in public finance or infrastructure development, appointed by the speaker of the House of Representatives; and

(iv) one individual with expertise in public finance or infrastructure development, appointed jointly by the president of the Senate and the speaker of the House of Representatives.

(b) A board member may not be appointed to or serve as a member of the loan committee.

[~~(2)~~] (3) (a) The loan [~~approval~~] committee may [~~approve~~] recommend for board approval an infrastructure loan from the inland port fund[~~, as defined in Section 63A-3-401.5,~~] to a borrower for an infrastructure project undertaken by the borrower.

(b) An infrastructure loan from the inland port fund may not be made unless:

(i) the infrastructure loan is recommended by the loan committee; and

(ii) the board approves the infrastructure loan.

[~~(3)~~] (4) (a) [~~The~~] If the loan [~~approval~~] committee recommends an infrastructure loan, the loan committee shall [~~establish~~] recommend the terms of an infrastructure loan in accordance with Section 63A-3-404.

(b) The [~~loan approval committee~~] board shall require the terms of an infrastructure loan secured by property tax differential to include a requirement that money from the infrastructure loan be used only for an infrastructure project within the project area that generates the property tax differential.

[~~(c) The terms of an infrastructure loan that the loan approval committee approves may include provisions allowing for the infrastructure loan to be forgiven if:~~]

[~~(i) the infrastructure loan is to a public university in the state;~~]

[~~(ii) the infrastructure loan is to fund a vehicle electrification pilot project;~~]

[~~(iii) the amount of the infrastructure loan does not exceed $15,000,000; and~~]

[~~(iv) the public university receives matching funds for the vehicle electrification pilot project from another source.~~]

[~~(4)~~] (5) (a) The [~~loan approval committee shall~~] board may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(b) With respect to infrastructure loan requests for an infrastructure project on authority jurisdictional land, the policies and guidelines established under Subsection [~~(4)(a)~~] (5)(a) shall give priority to an infrastructure loan request that furthers the policies and best practices incorporated into the environmental sustainability component of the authority's business plan under Subsection 11-58-202(1)(a).

[~~(5)~~] (6) Within 60 days after the execution of an infrastructure loan, the [~~loan approval committee~~] board shall report the infrastructure loan, including the loan amount, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

[~~(6)~~] (7) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

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

Section 3. Section 11-58-205 is amended to read:

11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Disclosure by nonauthority

governing body member -- Services from state agencies -- Procurement policy.

(1) Except as otherwise provided in this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) (a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

(i) determined by the municipality; and

(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

(6) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(7) (a) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(8) (a) As used in this Subsection (8):

(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.

(ii) "Nonauthority governing body member" means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town, metro township, local district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (8)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (8), if that date is later than the period described in Subsection (8)(d)(i).

(e) A written disclosure submitted under this Subsection (8) is a public record.

[~~(9) No later than December 31, 2022, a primary municipality, as defined in Section 11-58-601, shall enter into an agreement with the authority under which the primary municipality agrees to facilitate the efficient processing of land use applications, as defined in Section 10-9a-103, relating to authority jurisdictional land within the primary municipality, including providing for at least one full-time~~

~~employee as a single point of contact for the processing of those land use applications.~~]

(9) (a) The authority may request and, upon request, shall receive:

(i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;

(ii) surplus property services provided by the Division of Purchasing and General Services;

(iii) information technology services provided by the Division of Technology Services;

(iv) archive services provided by the Division of Archives and Records Service;

(v) financial services provided by the Division of Finance;

(vi) human resources services provided by the Division of Human Resource Management;

(vii) legal services provided by the Office of the Attorney General; and

(viii) banking services provided by the Office of the State Treasurer.

(b) Nothing in Subsection (9)(a) may be construed to relieve the authority of the obligation to pay the applicable fee for the service provided.

(10) (a) To govern authority procurements, the board shall adopt a procurement policy that the board determines to be substantially consistent with applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) The board may delegate to the executive director the responsibility to adopt a procurement policy.

(c) The board's determination under Subsection (10)(a) of substantial consistency is final and conclusive.

Section 4. Section 11-58-206 is amended to read:

11-58-206. Port authority funds.

The authority may use authority funds for any purpose authorized under this chapter, including:

(1) promoting, facilitating, and advancing inland port uses;

(2) owning and operating an intermodal facility; [~~and~~]

(3) the remediation of contaminated land within a project area; and

[~~(3)~~] (4) paying any consulting fees and staff salaries and other administrative, overhead, legal, and operating expenses of the authority.

Section 5. Section 11-58-302 is amended to read:

11-58-302. Number of board members -- Appointment -- Vacancies.

(1) The authority's board shall consist of five voting members, as provided in Subsection (2).

(2) (a) The governor shall appoint as board members two individuals who are not elected government officials:

(i) one of whom shall be an individual engaged in statewide economic development or corporate recruitment and retention; and

(ii) one of whom shall be an individual engaged in statewide trade, import and export activities, foreign direct investment, or public-private partnerships.

(b) The president of the Senate shall appoint as a board member one individual with relevant business expertise.

(c) The speaker of the House of Representatives shall appoint as a board member one individual with relevant business expertise.

(d) The president of the Senate and speaker of the House of Representatives shall jointly appoint as a board member one individual with relevant business expertise.

(3) (a) The board shall include three nonvoting board members.

(b) The board shall appoint as nonvoting board members two individuals with expertise in transportation and logistics.

(c) One of the nonvoting board members shall be a member of the Salt Lake City Council, designated by the Salt Lake City Council, who represents a council district whose boundary includes authority jurisdictional land.

(d) The board may set the term of office for nonvoting board members appointed under Subsection (3)(b).

(4) An individual required under Subsection (2) to appoint a board member shall appoint each initial board member the individual is required to appoint no later than June 1, 2022.

(5) (a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) A person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(6) A member of the board appointed under Subsection (2) serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the individual or individuals who appointed the member.

(7) Upon a vote of a majority of all [~~board~~] voting members, the board may appoint a board chair and any other officer of the board.

(8) The board may appoint one or more advisory committees that may include individuals from impacted public entities, community organizations, environmental organizations, business organizations, or other organizations or associations.

Section 6. Section 11-58-303 is amended to read:

11-58-303. Term of board members -- Quorum -- Compensation.

(1) The term of a board member appointed under Subsection 11-58-302(2) is four years, except that the initial term of one of the two members appointed under Subsection 11-58-302(2)(a) and of the member appointed under Subsection 11-58-302(2)(d) is two years.

(2) Each board member shall serve until a successor is duly appointed and qualified.

(3) A board member may serve multiple terms if duly appointed to serve each term under Subsection 11-58-302(2).

(4) A majority of [~~board~~] voting members constitutes a quorum, and the action of a majority of [~~a quorum~~] voting members constitutes action of the board.

(5) (a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member as allowed in:

(i) Sections 63A-3-106 and 63A-3-107; and

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

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 7. Section 11-58-501 is amended to read:

11-58-501. Preparation of project area plan -- Required contents of project area plan.

(1) (a) [~~The~~] Subject to Section 11-58-605, the authority jurisdictional land constitutes a single project area.

(b) The authority is not required to adopt a project area plan for a project area consisting of the authority jurisdictional land.

(2) (a) The board may adopt a project area plan for land that is outside the authority jurisdictional land, as provided in this part, if the board receives written consent to include the land in the project area described in the project area plan from[~~: (i)~~], as applicable:

[~~(A)~~] (i) the legislative body of the county in whose unincorporated area the land is located; or

[~~(B)~~] (ii) the legislative body of the municipality in which the land is located[~~; and~~].

[~~(ii) the owner of the land.~~]

(b) (i) An owner of land proposed to be included within a project area may request that the owner's land be excluded from the project area.

(ii) A request under Subsection (2)(b)(i) shall be submitted to the board:

(A) in writing; and

(B) no more than 45 days after the public meeting under Subsection 11-58-502(1).

[~~(b)~~] (c) Land included or to be included within a project area need not be contiguous or in close proximity to the authority jurisdictional land.

[~~(c)~~] (d) In order to adopt a project area plan, the board shall:

(i) prepare a draft project area plan;

(ii) give notice as required under Subsection 11-58-502(2);

(iii) hold at least one public meeting, as required under Subsection 11-58-502(1); and

(iv) after holding at least one public meeting and subject to [~~Subsection (2)(d)~~] Subsections (2)(b) and (e), adopt the draft project area plan as the project area plan.

[~~(d)~~] (e) Before adopting a draft project area plan as the project area plan, the board:

(i) shall eliminate from the proposed project area the land of any owner who requests the owner's land to be excluded from the project area under Subsection (2)(b); and

(ii) may make other modifications to the draft project area plan that the board considers necessary or appropriate.

(3) Each project area plan and draft project area plan shall contain:

(a) a legal description of the boundary of the project area;

(b) the authority's purposes and intent with respect to the project area; and

(c) the board's findings and determination that:

(i) there is a need to effectuate a public purpose;

(ii) there is a public benefit to the proposed development project;

(iii) it is economically sound and feasible to adopt and carry out the project area plan; and

(iv) carrying out the project area plan will promote the goals and objectives stated in Subsection 11-58-203(1).

Section 8. Section 11-58-505 is amended to read:

11-58-505. Project area budget.

(1) Before the authority may use the property tax differential from a project area, the board shall prepare and adopt a project area budget.

(2) A project area budget shall include:

(a) the base taxable value of property in the project area;

(b) the projected property tax differential expected to be generated within the project area;

(c) the amount of the property tax differential expected to be used to implement the project area plan, including the estimated amount of the property tax differential to be used for:

(i) land acquisition[~~,~~];

(ii) public [~~improvements,~~] infrastructure and improvements[~~,~~];

(iii) a remediation project, if applicable; and

(iv) loans, grants, or other incentives to private and public entities;

(d) the property tax differential expected to be used to cover the cost of administering the project area plan; [~~and~~]

(e) the amount of property tax differential expected to be shared with other taxing entities; and

[~~(e)~~] (f) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(3) The board may amend an adopted project area budget as and when the board considers it appropriate.

(4) For a project area that consists of the authority jurisdictional land, the budget requirements of this part are met by the authority complying with the budget requirements of Part 8, Port Authority Budget, Reporting, and Audits.

Section 9. Section 11-58-600.5 is enacted to read:

11-58-600.5. Definitions.

As used in this part:

(1) "General differential" means property tax differential generated by a property tax levied:

(a) on property that is not part of the authority jurisdictional land or within a remediation project area; and

(b) by all taxing entities.

(2) "Nonmunicipal differential" means property tax differential generated from a property tax imposed:

(a) on property that is part of the authority jurisdictional land; and

(b) by all taxing entities other than the primary municipality.

(3) "Primary municipality" means the municipality that has more authority jurisdictional land within the municipality's boundary than is included within the boundary of any other municipality.

(4) "Primary municipality differential" means property tax differential generated by a property tax levied:

(a) on property in the reduced area; and

(b) by the primary municipality.

(5) "Primary municipality's agency" means the community development and renewal agency created by a primary municipality.

(6) "Reduced area" means the authority jurisdictional land that is within a primary municipality, excluding:

(a) an area described in Subsection 11-58-600.7(1);

(b) a parcel of land described in Subsection 11-56-600.7(2); and

(c) a remediation project area, if a remediation project area is created under Section 11-58-605.

Section 10. Section 11-58-600.7 is enacted to read:

11-58-600.7. Limit on tax differential the authority may receive from authority jurisdictional land.

The authority may not receive:

(1) a taxing entity's portion of property tax differential generated from an area that is part of the authority jurisdictional land and included within a community reinvestment project area under a community reinvestment project area plan, as defined in Section 17C-1-102, adopted before October 1, 2018, if the taxing entity has, before October 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of the taxing entity's tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan; or

(2) property tax differential from a parcel of land:

(a) that is part of the authority jurisdictional land;

(b) that was substantially developed before December 1, 2018;

(c) for which a certificate of occupancy was issued before December 1, 2018; and

(d) that is identified in a list that the municipality in which the land is located provides to the authority and the county assessor by April 1, 2020.

Section 11. Section 11-58-601 is amended to read:

11-58-601. General differential and nonmunicipal differential.

(1) As used in this section:

(a) "Designation resolution" means a resolution adopted by the board that designates a transition date for the parcel specified in the resolution.

[~~(b) "Exempt area" means the authority jurisdictional land that is within a primary municipality, excluding areas described in Subsection (5)(a) and parcels of land described in Subsection (5)(b).~~]

[~~(c) "Exempt area property tax" means the same as that term is defined in Section 11-58-604.~~]

[~~(d) "Post-designation differential" means 75% of property tax differential generated from a post-designation parcel.~~]

[~~(e)~~] (b) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.

[~~(f) "Pre-designation differential" means 75% of property tax differential generated from all pre-designation parcels within a project area.~~]

[~~(g)~~] (c) "Pre-designation parcel" means a parcel within a project area before the transition date for that parcel.

[~~(h) "Primary municipality" means the municipality that has more authority jurisdictional land within the municipality's boundary than is included within the boundary of any other municipality.~~]

[~~(i)~~] (d) "Transition date" means the date indicated in a designation resolution after which the [~~authority is to be paid post-designation differential for the parcel that is the subject of a designation resolution.~~] parcel that is the subject of the designation resolution is a post-designation parcel.

(2) This section applies to nonmunicipal differential and general differential to be paid to the authority.

[~~(2) (a)~~] (3) The authority shall be paid [~~pre-designation~~] 75% of nonmunicipal differential generated [~~within the authority jurisdictional land~~] from a pre-designation parcel that is part of the authority jurisdictional land:

[~~(i)~~] (a) for the period beginning November 2019 and ending the earlier of:

(i) the transition date for that parcel; and

(ii) November 30, 2044; and

[~~(ii)~~] (b) for a period of 15 years following [~~the period described in Subsection (2)(a)(i)~~] November 2044 if, before the end of [~~the period described in Subsection (2)(a)(i),~~] November 2044:

(i) the parcel has not become a post-designation parcel; and

(ii) the board adopts a resolution [~~extending the period described in Subsection (2)(a)(i) for 15 years~~] approving the 15-year extension.

[~~(b) The authority shall be paid pre-designation differential generated within a project area, other than the authority jurisdictional land:~~]

[~~(i) for a period of 25 years beginning the date the board adopts a project area plan under Section 11-58-502 establishing the project area; and~~]

[~~(ii) for a period of 15 years following the period described in Subsection (2)(b)(i) if, before the end of the period described in Subsection (2)(b)(i), the board adopts a resolution extending the period described in Subsection (2)(b)(i) for 15 years.~~]

[~~(3) The~~] (4) (a) As provided in Subsection (4)(b), the authority shall be paid [~~post-designation~~]:

(i) 75% of nonmunicipal differential generated from a post-designation parcel that is part of the authority jurisdictional land; and

(ii) 75% of general differential generated from a post-designation parcel[~~:~~] that is not part of the authority jurisdictional land.

(b) The property tax differential paid under Subsection (4)(a) from a post-designation parcel shall be paid:

[~~(a)~~] (i) for a period of 25 years beginning on the transition date for that parcel; and

[~~(b)~~] (ii) for a period of an additional 15 years beyond the period stated in Subsection [~~(3)(a)~~] (4)(b)(i) if the board determines by resolution that the additional years of [~~post-designation~~] nonmunicipal differential or general differential, as the case may be, from that parcel will produce a significant benefit.

[~~(4)~~] (5) (a) For purposes of this section, the authority may designate an improved portion of a parcel in a project area as a separate parcel.

(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection [~~(4)~~] (5)(a) does not constitute a subdivision, as defined in Section 10-9a-103 or Section 17-27a-103.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection [~~(4)~~] (5)(a).

[~~(5) The authority may not receive:~~]

[~~(a) a taxing entity's portion of property tax differential generated from an area included within a community reinvestment project area under a community reinvestment project area plan, as defined in Section 17C-1-102, adopted before October 1, 2018, if the taxing entity has, before October 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of its tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan; or~~]

[~~(b) property tax differential from a parcel of land:~~]

[~~(i) that was substantially developed before December 1, 2018;~~]

[~~(ii) for which a certificate of occupancy was issued before December 1, 2018; and~~]

[~~(iii) that is identified in a list that the municipality in which the land is located provides to the authority and the county assessor by April 1, 2020.~~]

[~~(6) (a) Subsection (6)(b) applies if:~~]

[~~(i) the primary municipality, the primary municipality's agency, as defined in Section 11-58-604, and the authority have entered into the agreement described in Section 11-58-604; and~~]

[~~(ii) the primary municipality and the authority have entered into the agreement described in Subsection 11-58-205(9).~~]

[~~(b) If the conditions under Subsection (6)(a) have been met, beginning with the first tax year that begins on or after January 1, 2023:~~]

[~~(i) the distribution of exempt area property tax to the authority:~~]

[~~(A) is not governed by Subsections (2) and (3); and~~]

[~~(B) is governed by Section 11-58-604; and~~]

[~~(ii) the primary municipality shall be paid, for the primary municipality's use for municipal operations, all exempt area property tax remaining after the payment of exempt area property tax as required under Section 11-58-604.~~]

[~~(7) (a) As used in this Subsection (7):~~]

[~~(i) "Agency land" means authority jurisdictional land that is within the boundary of an eligible community reinvestment agency and from which the authority is paid property tax differential.~~]

[~~(ii) "Applicable differential" means the amount of property tax differential paid to the authority that is generated from agency land.~~]

[~~(iii) "Eligible community reinvestment agency" means the community reinvestment agency in which agency land is located.~~]

[~~(b) The authority shall pay 10% of applicable differential to the eligible community reinvestment agency, to be used for affordable housing as provided in Section 17C-1-412.~~]

[~~(8) (a) Subject to Subsection (8)(b), a county that collects property tax on property within a project area shall, in the manner and at the time provided in Section 59-2-1365:~~]

[~~(i) pay and distribute to the authority the property tax differential that the authority is entitled to collect under this chapter, including exempt area property tax the authority is entitled to collect under Section 11-58-604;~~]

[~~(ii) pay and distribute to a primary municipality's agency, as defined in Section 11-58-604, the exempt area property tax that the primary municipality's agency is required to use for affordable housing, as provided in Subsection 11-58-604(4)(c); and~~]

[~~(iii) pay and distribute to a primary municipality the exempt area property tax described in Subsection (6)(b)(ii).~~]

[~~(b) For property tax differential that a county collects for tax year 2019, a county shall pay and distribute to the authority, on or before June 30, 2020, the property tax differential that the authority is entitled to collect:~~]

[~~(i) according to the provisions of this section; and~~]

[~~(ii) based on the boundary of the authority jurisdictional land as of May 31, 2020.~~]

[~~(9) Notwithstanding any other provision of this chapter, beginning with the first tax year that begins on or after January 1, 2023, the authority may not use the portion of property tax differential generated by a property tax levied by a primary municipality on the exempt area unless the primary municipality, the primary municipality's agency, as defined in Section 11-58-604, and the authority have entered into an agreement as provided in Section 11-58-604.~~]

Section 12. Section 11-58-602 is amended to read:

11-58-602. Allowable uses of property tax differential and other funds.

(1) (a) The authority may use money from property tax differential, money the authority receives from the state, money the authority receives under Subsection 59-12-205(2)(a)(ii)(C), and other money available to the authority:

(i) for any purpose authorized under this chapter;

(ii) for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(iii) to pay for, including financing or refinancing, all or part of the development of land within a project area, including assisting the ongoing operation of a development or facility within the project area;

(iv) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax differential funds were collected;

(v) to pay the cost of the installation of public infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

(vi) to pay to a community reinvestment agency for affordable housing, as provided in Subsection [~~11-58-601(7)~~] 11-58-606(2);

(vii) to pay the principal and interest on bonds issued by the authority; [~~and~~]

(viii) to pay the cost of acquiring a conservation easement on land that is part of or adjacent to authority jurisdictional land:

(A) for the perpetual preservation of the land from development; and

(B) to provide a buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land; and

[~~(viii)~~] (ix) subject to Subsection (1)(b), to encourage, incentivize, or require development that:

(A) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(B) mitigates traffic congestion; or

(C) uses high efficiency building construction and operation.

(b) (i) (A) The authority shall establish minimum mitigation and environmental standards that a landowner is required to meet to qualify for the use of property tax differential under Subsection (1)(a)[~~(viii)~~](ix) in the landowner's development.

(B) Minimum mitigation and environmental standards established under Subsection (1)(b)(i)(A) shall include a standard prohibiting the use of property tax differential as a business recruitment incentive, as defined in Section 11-58-603, for new commercial or industrial development or an expansion of existing commercial or industrial development within the authority jurisdictional land if the new or expanded development will consume on an annual basis more than 200,000 gallons of potable water per day.

(ii) In establishing minimum mitigation and environmental standards, the authority shall consult with:

(A) the municipality in which the development is expected to occur, for development expected to occur within a municipality; or

(B) the county in whose unincorporated area the development is expected to occur, for development expected to occur within the unincorporated area of a county.

(iii) The authority may not use property tax differential under Subsection (1)(a)(viii) for a landowner's development in a project area unless the minimum mitigation and environmental standards are followed with respect to that landowner's development.

(2) The authority may use revenue generated from the operation of public infrastructure operated by the authority or improvements, including an intermodal facility, operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) The determination of the board under Subsection (1)(a)(v) regarding benefit to the project area is final.

(4) The authority may not use property tax differential revenue collected from one project area for a development project within another project area.

[~~(5) Until the authority adopts a business plan under Subsection 11-58-202(1)(a), the authority may not spend property tax differential revenue collected from authority jurisdictional land.~~]

(5) The authority may use up to 10% of the general differential revenue generated from a project area to pay for affordable housing within or near the project area.

(6) The authority may share general differential funds with a taxing entity that levies a property tax on land within the project area from which the general differential is generated.

[~~(6)~~] (7) (a) As used in this Subsection [~~(6)~~] (7):

(i) "Authority sales and use tax revenue" means money distributed to the authority under Subsection 59-12-205(2)(a)(ii)(C).

(ii) "Eligible county" means a county that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C).

(iii) "Eligible municipality" means a municipality that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C).

(iv) "Point of sale portion" means:

(A) for an eligible county, the amount of sales and use tax revenue the eligible county would have received under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C), excluding the retail sales portion; and

(B) for an eligible municipality, the amount of sales and use tax revenue the eligible municipality would have received under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C), excluding the retail sales portion.

(v) "Retail sales portion" means the amount of sales and use tax revenue collected under Subsection 59-12-205(2)(a)(ii)(A) from retail sales transactions that occur on authority jurisdictional land.

(b) Within 45 days after receiving authority sales and use tax revenue, the authority shall:

(i) distribute half of the point of sale portion to each eligible county and eligible municipality; and

(ii) distribute all of the retail sales portion to each eligible county and eligible municipality.

Section 13. Section 11-58-603 is amended to read:

11-58-603. Use of authority money for business recruitment incentive.

(1) As used in this section:

(a) "Business recruitment incentive" means the post-performance payment of property tax differential as an incentive for [~~a capital expenditure or for the creation of high-paying jobs~~] development within a project area, as provided in this section.

[~~(b) "Capital expenditure" means an expenditure of money, other than property tax differential:~~]

[~~(i) by an applicant under an incentive application; and~~]

[~~(ii) for the development of capital facilities that are:~~]

[~~(A) constructed within a project area; and~~]

[~~(B) focused on value-added manufacturing that optimizes the use of rail facilities.~~]

[~~(c) "High-paying job" means a job:~~]

[~~(i) created because of development activity within a project area; and~~]

[~~(ii) that pays at least 130% of the average for all wages within the county in which the project area is~~

~~located for the year during which an incentive application is submitted.~~]

[~~(d)~~] (b) "Incentive application" means an application for a business recruitment incentive.

[~~(e)~~] (c) "Tax differential parcel" means a parcel of land[~~: (i) on which capital facilities are constructed from a capital expenditure; or (ii)~~] where development activity occurs [~~that results in the creation of high-paying jobs~~].

(2) The authority may use property tax differential as a business recruitment incentive as provided in this section.

(3) The board shall establish:

(a) the requirements for a person to qualify for a business recruitment incentive;

(b) the application timeline, documentation requirements, and approval criteria applicable to an incentive application; and

(c) the standards and criteria for approval of an incentive application[~~, consistent with this section~~].

(4) (a) Subject to Subsection (4)(b), a person may qualify for a business recruitment incentive if:

(i) the person submits an incentive application according to requirements established by the board;

(ii) the person meets the requirements [~~under Subsection (5) or (6)~~] established by the board for a business recruitment incentive; and

(iii) the board approves the incentive application.

(b) A person may not qualify for a business recruitment incentive if the person's development project relates primarily to retail operations or the distribution of goods.

(5) The authority may pay a person, on a post-performance basis[~~:~~] and as determined by the board, a percentage of property tax differential:

(a) generated from a tax differential parcel and paid to the authority; and

(b) for a specified period of time.

[~~(a) up to 20% of the property tax differential generated from a tax differential parcel for a period of 20 years, if the person demonstrates that at least $1,000,000,000 of capital expenditure will occur on the tax differential parcel due to the person's development project;~~]

[~~(b) up to 15% of the property tax differential generated from a tax differential parcel for a period of 15 years, if the person demonstrates that at least $500,000,000 of capital expenditure will occur on the tax differential parcel due to the person's development project; or~~]

[~~(c) up to 10% of the property tax differential generated from a tax differential parcel for a period of 10 years, if the person demonstrates that at least $100,000,000 of capital expenditure will occur on the tax differential parcel due to the person's development project.~~]

[~~(6) The authority may pay a person, on a post-performance basis:~~]

[~~(a) up to 10% of the property tax differential generated from a tax differential parcel for a period of 20 years, if the person demonstrates that the person's development activity on the tax differential parcel will result in the creation of at least 1,000 high-paying jobs;~~]

[~~(b) up to 8% of the property tax differential generated from a tax differential parcel for a period of 15 years, if the person demonstrates that the person's development activity on the tax differential parcel will result in the creation of at least 500 high-paying jobs; or~~]

[~~(c) up to 5% of the property tax differential generated from a tax differential parcel for a period of 10 years, if the person demonstrates that the person's development activity on the tax differential parcel will result in the creation of at least 250 high-paying jobs.~~]

[~~(7) Subject to the limits stated in Subsections (5) and (6), the amount of property tax differential to be paid under this section and the timing of any payment are at the discretion of the board.~~]

[~~(8) A person may not receive a business recruitment incentive under both Subsection (5) and Subsection (6).~~]

Section 14. Section 11-58-604 is amended to read:

11-58-604. Distribution and use of primary municipality differential.

[~~(1) As used in this section:~~]

[~~(a) "Exempt area" means the same as that term is defined in Section 11-58-601.~~]

[~~(b) "Exempt area property tax" means the portion of property tax differential generated by a property tax levied by a primary municipality on property in the exempt area.~~]

[~~(c) "Mitigation money" means the exempt area property tax required to be used as provided in Subsections (6)(a) and (b).~~]

[~~(d) "Participating entities" means a primary municipality, the primary municipality's agency, and the authority.~~]

[~~(e) "Primary municipality" means the same as that term is defined in Section 11-58-601.~~]

[~~(f) "Primary municipality's agency" means the community development and renewal agency created by a primary municipality.~~]

[~~(2) (a) No later than December 31, 2022, participating entities shall enter into an agreement as provided in this section.~~]

[~~(b) An agreement under Subsection (2)(a) shall:~~]

[~~(i) provide:~~]

[~~(A) how the authority is to spend mitigation money; or~~]

[~~(B) a process for determining how the authority is to spend mitigation money;~~]

[~~(ii) include a requirement that the authority consult with the primary municipality in determining how to spend mitigation money; and~~]

[~~(iii) require the primary municipality's agency to spend money the primary municipality's agency receives under Subsection (4)(c) for affordable housing, as provided in Section 17C-1-412.~~]

[~~(3) If participating entities enter into an agreement under this section, beginning January 1, 2023:~~]

[~~(a) Subsections 11-58-601(2) and (3) do not apply to exempt area property tax; and~~]

[~~(b) exempt area property tax shall be paid and distributed as provided in Subsection 11-58-601(8) and in accordance with Subsections (4) and (5).~~]

[~~(4) If participating entities enter into an agreement under this section, beginning~~]

(1) This section applies to the payment and use of primary municipality differential.

(2) Beginning the first tax year that begins on or after January 1, 2023:

(a) the authority shall be paid 25% of [~~the exempt area property tax~~] primary municipality differential:

(i) for the authority's use as provided in Subsection [~~(6)~~] (4); and

(ii) (A) for a period of 25 years beginning January 1, 2023; and

(B) for a period of time not exceeding an additional 15 years beyond the period stated in Subsection [~~(4)~~] (2)(a)(ii)(A) if the board determines by resolution, adopted before the expiration of the 25-year period under Subsection [~~(4)~~] (2)(a)(ii)(A), that the additional years will produce a significant benefit to the uses described in Subsection [~~(6)~~] (4) and if the primary municipality and the authority agree to the additional period of time;

(b) the authority shall be paid, in addition to the amounts under Subsection [~~(4)~~] (2)(a), a percentage, as defined in Subsection [~~(5)~~] (3), of [~~the exempt area property tax~~] primary municipality differential for the authority's use as provided in Subsection [~~(6)~~] (4); and

[~~(c) the primary municipality's agency shall be paid, for the same period of time that the authority is paid exempt area property tax under Subsection (4)(a), 10% of exempt area property tax, to be used for affordable housing as provided in Section 17C-1-412.~~]

(c) the primary municipality shall be paid, for the primary municipality's use for municipal operations, all primary municipality differential remaining after the payment of primary municipality differential to the authority as required under Subsections (2)(a) and (b).

[~~(5)~~] (3) The percentage of [~~the exempt area property tax~~] primary municipality differential paid to the authority as provided in Subsection [~~(4)~~] (2)(b):

(a) shall be 40% for the first tax year that begins on or after January 1, 2023, decreasing 2% each year after the 2023 tax year, so that in 2029 the percentage is 28;

(b) beginning January 1, 2030, and for a period of seven years, shall be 10%;

(c) beginning January 1, 2037, and for a period of 11 years, shall be 8%; and

(d) after 2047, shall be 0%.

[~~(6)~~] (4) Of the [~~exempt area property tax~~] primary municipality differential the authority receives, the authority shall use:

(a) 40% for environmental mitigation projects within the authority jurisdictional land;

(b) 40% for mitigation projects, which may include a regional traffic study and an environmental impact mitigation analysis, for communities that are:

(i) within the primary municipality;

(ii) adjacent to the authority jurisdictional land; and

(iii) west of the east boundary of the right of way of a fixed guideway used, as of January 1, 2022, for commuter rail within the primary municipality; and

(c) 20% for economic development activities on the authority jurisdictional land.

Section 15. Section 11-58-605 is enacted to read:

11-58-605. Creation of remediation project area and payment of remediation differential.

(1) As used in this section:

(a) "Remedial action plan" means a plan for the cleanup of contaminated land under a voluntary cleanup agreement under Title 19, Chapter 8, Voluntary Cleanup Program.

(b) "Subsidiary district" means a public infrastructure district that is a subsidiary of the authority.

(2) This section applies to a remediation project area and to remediation differential.

(3) The authority may adopt a resolution creating a remediation project area if the authority and the owner of contaminated land to be included in the remediation project area enter an agreement governing a remediation project within the remediation project area.

(4) If the authority adopts a resolution creating a remediation project area, the authority shall reconfigure the boundary of the project area that consists of the authority jurisdictional land to exclude the remediation project area.

(5) The authority may pay the costs of a remediation project from funds available to the authority, including funds of a subsidiary district.

(6) (a) If the authority pays some or all the costs of a remediation project, the authority shall be paid 100% of the remediation differential, subject to Subsection (6)(b), until the authority is fully reimbursed for the costs the authority paid for the remediation project.

(b) (i) Subject to Subsection (6)(b)(iii), the authority's use of remediation differential paid to the authority under Subsection (6)(a) is subject to any bonds of a subsidiary district issued before May 3, 2023 pledging property tax differential funds generated from the contaminated land.

(ii) Before using remediation differential to pay subsidiary district bonds described in Subsection (6)(b)(i), the authority shall use other funds available to the authority to pay the bonds.

(iii) A pledge of property tax differential under subsidiary district bonds issued before May 3, 2023 may be satisfied if:

(A) the authority or the subsidiary district pledges additional property tax differential, other than remediation differential, or other authority or subsidiary district funds to offset any decrease in property tax differential resulting from the payment under Subsection (6)(a) of remediation differential funds that would otherwise have been available to pay the subsidiary district bonds; and

(B) the pledge described in Subsection (6)(b)(iii)(A) is senior in right to any pledge of remediation differential for a commitment the authority makes in connection with a remediation project.

(7) If a remediation project is conducted pursuant to a remedial action plan, the use of the land that is the subject of the remediation project shall be consistent with the remedial action plan unless the change of use:

(a) occurs after the government owner, as defined in Subsection 63G-7-201(3)(b), is environmentally compliant, as defined in Subsection 63G-7-201(3)(b), with respect to the land that is the subject of the remediation project; and

(b) is approved by the board following a public hearing on the proposed change of use.

(8) (a) Upon the authority receiving full reimbursement for the authority's payment of costs for a remediation project, the remediation project area is automatically and immediately dissolved and the land within the remediation project area automatically and immediately becomes part of the project area consisting of the authority jurisdictional land.

(b) The board shall take any action necessary to effectuate and reflect in authority project area records and any other applicable records the reincorporation of the remediation project area under Subsection (8)(a) into the project area consisting of the authority jurisdictional land.

Section 16. Section 11-58-606 is enacted to read:

11-58-606. Distribution of property tax differential.

(1) A county that collects property tax on property within a project area shall, in the manner and at the time provided in Section 59-2-1365:

(a) pay and distribute to the authority the property tax differential that the authority is entitled to be paid under this chapter; and

(b) pay and distribute to the primary municipality the primary municipality differential described in Subsection 11-58-604(2)(c).

(2) The authority shall pay to the primary municipality's agency, to be used for affordable housing as provided in Section 17C-1-412, 10% of all property tax differential that is:

(a) paid to the authority; and

(b) generated within the reduced area.

Section 17. Section 17D-4-201 is amended to read:

17D-4-201. Creation -- Annexation or withdrawal of property.

(1) (a) Except as provided in Subsection (1)(b), Subsection (2), and in addition to the provisions regarding creation of a local district in Title 17B, Chapter 1, Provisions Applicable to All Local Districts, a public infrastructure district may not be created unless:

(i) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(b) (i) Notwithstanding Title 17B, Chapter 1, Part 2, Creation of a Local District, and any other provision of this chapter, [~~the~~] a development authority may adopt a resolution creating a public infrastructure district [~~as a subsidiary of the development authority~~] if all owners of surface property proposed to be included within the public infrastructure district consent in writing to the creation of the public infrastructure district.

(ii) A public infrastructure district created under Subsection (1)(b)(i) may be created as a subsidiary of the development authority that adopts the resolution creating the public infrastructure district.

(2) (a) The following do not apply to the creation of a public infrastructure district:

(i) Section 17B-1-203;

(ii) Section 17B-1-204;

(iii) Subsection 17B-1-208(2);

(iv) Section 17B-1-212; or

(v) Section 17B-1-214.

(b) The protest period described in Section 17B-1-213 may be waived in whole or in part with the consent of:

(i) 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) 100% of the surface property owners within the applicable area approving the creation of the public infrastructure district.

(c) If the protest period is waived under Subsection (2)(b), a resolution approving the creation of the public infrastructure district may be adopted in accordance with Subsection 17B-1-213(5).

(d) A petition meeting the requirements of Subsection (1):

(i) may be certified under Section 17B-1-209; and

(ii) shall be filed with the lieutenant governor in accordance with Subsection 17B-1-215(1)(b)(iii).

(3) (a) Notwithstanding Title 17B, Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the annexation; or

(B) adoption of a resolution of the board to annex the area, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to annex an area outside of the boundaries of the public infrastructure district without future consent of the creating entity;

(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the annexation into the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed, demonstrating the surface property owners' consent to the annexation into the public infrastructure district.

(b) Within 30 days of meeting the requirements of Subsection (3)(a), the board shall file with the lieutenant governor:

(i) a copy of a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(4) (a) Notwithstanding Title 17B, Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the withdrawal; or

(B) adoption of a resolution of the board to withdraw the property, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to withdraw property from the public infrastructure district without further consent from the creating entity;

(ii) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the withdrawal from the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn, demonstrating that the surface property owners consent to the withdrawal from the public infrastructure district.

(b) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

(c) Upon meeting the requirements of Subsections (4)(a) and (b), the board shall comply with the requirements of Section 17B-1-512.

(5) A creating entity may impose limitations on the powers of a public infrastructure district through the governing document.

(6) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection (6)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity, by the state, or by any municipality, county, or other political subdivision.

(ii) Notwithstanding Subsection (6)(b)(i) and Section 17B-1-216, the governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (6)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (6)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

(7) A creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

(8) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

Section 18. Section 17D-4-203 is amended to read:

17D-4-203. Public infrastructure district powers.

A public infrastructure district [~~shall have~~]:

(1) has all of the authority conferred upon a local district under Section 17B-1-103[~~, and in addition a public infrastructure district may:~~]; and

(2) may:

[~~(1)~~] (a) issue negotiable bonds to pay:

[~~(a)~~] (i) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

[~~(b)~~] (ii) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;

[~~(c)~~] (iii) public improvements related to the provision of housing;

[~~(d)~~] (iv) capital costs related to public transportation; [~~and~~]

[~~(e)~~] (v) for a public infrastructure district created by a development authority, the cost of acquiring or financing public infrastructure and improvements; and

(vi) for a public infrastructure district that is a subsidiary of the Utah Inland Port Authority, the costs associated with a remediation project, as defined in Section 11-58-102;

[~~(2)~~] (b) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

[~~(3)~~] (c) acquire completed or partially completed improvements for fair market value as reasonably determined by:

[~~(a)~~] (i) the board;

[~~(b)~~] (ii) the creating entity, if required in the governing document; or

[~~(c)~~] (iii) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;

[~~(4)~~] (d) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and

[~~(5)~~] (e) for a public infrastructure district created by a development authority:

[~~(a)~~] (i) (A) operate and maintain public infrastructure and improvements the district acquires or finances; and

[~~(ii)~~] (B) use fees, assessments, or taxes to pay for the operation and maintenance of those public infrastructure and improvements; and

[~~(b)~~] (ii) issue bonds under Title 11, Chapter 42, Assessment Area Act[~~.~~]; and

(f) for a public infrastructure district that is a subsidiary of the Utah Inland Port Authority, pay for costs associated with a remediation project, as defined in Section 11-58-102, of the Utah Inland Port Authority.

Section 19. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township; [~~or~~]

(ii) the military installation development authority created in Section 63H-1-201[~~.~~]; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the

commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the

commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and

other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 20. Section 63A-3-401.5 is amended to read:

63A-3-401.5. Definitions.

As used in this part:

(1) "Borrower" means a person who borrows money from an infrastructure fund for an infrastructure project.

(2) "Independent political subdivision" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201; or

(c) the Military Installation Development Authority created in Section 63H-1-201.

(3) "Infrastructure fund" means a fund created in Subsection 63A-3-402(1).

(4) "Infrastructure loan" means a loan of infrastructure fund money to finance an infrastructure project.

(5) "Infrastructure project" means a project to acquire, construct, reconstruct, rehabilitate, equip, or improve public infrastructure and improvements:

(a) within a project area; or

(b) outside a project area, if the respective loan approval body determines by resolution that the public infrastructure and improvements are of benefit to the project area.

(6) "Inland port" means the same as that term is defined in Section 11-58-102.

(7) "Inland port fund" means the infrastructure fund created in Subsection 63A-3-402(1)(a).

(8) "Military development fund" means the infrastructure fund created in Subsection 63A-3-402(1)(c).

(9) "Point of the mountain fund" means the infrastructure fund created in Subsection 63A-3-402(1)(b).

(10) "Project area" means:

(a) the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;

(b) the point of the mountain state land, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; and

(c) the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(11) "Property tax revenue" means:

(a) property tax differential, as defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund; or

(b) property tax allocation, as defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(12) "Public infrastructure and improvements":

(a) means the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;

(b) means publicly owned infrastructure and improvements, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; and

(c) means the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(13) "Respective loan approval body" means:

(a) the [~~committee~~] board created in Section [~~11-58-106~~] 11-58-301, for purposes of an infrastructure loan from the inland port fund;

(b) the board created in Section 11-59-301, for purposes of an infrastructure loan from the point of the mountain fund; and

(c) the committee created in Section 63H-1-104, for purposes of an infrastructure loan from the military development fund.

Section 21. Section 63A-3-402 is amended to read:

63A-3-402. Infrastructure funds established -- Purpose of funds -- Use of money in funds.

(1) There are created, as enterprise revolving loan funds:

(a) the inland port infrastructure revolving loan fund;

(b) the point of the mountain infrastructure revolving loan fund; and

(c) the military development infrastructure revolving loan fund.

(2) The purpose of each infrastructure fund is to provide funding, through infrastructure loans, for infrastructure projects undertaken by a borrower.

(3) (a) Money in an infrastructure fund may be used only to provide loans for infrastructure projects.

(b) The division may not loan money in an infrastructure fund without the approval of:

(i) the respective loan approval body; and

(ii) the Executive Appropriations Committee of the Legislature, for a loan from the inland port fund or the point of the mountain fund.

Section 22. Section 63B-27-101 is amended to read:

63B-27-101. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed $1,000,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed $1,010,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(7) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection (2) for the current or next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed 1% of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

(a) state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304, giving priority consideration for projects with a regional significance or that support economic development within the state, including:

(i) projects that are prioritized but exceed available cash flow beyond the normal programming horizon; or

(ii) projects prioritized in the state highway construction program; and

(b) $100,000,000 to be used by the Department of Transportation for transportation improvements as prioritized by the Transportation Commission for projects that:

(i) have a significant economic development impact associated with recreation and tourism within the state; and

(ii) address significant needs for congestion mitigation.

(3) (a) Forty-six million dollars of the bond proceeds issued under this section shall be provided to the State Infrastructure Bank Fund created by Section 72-2-202 to make funds available for a transportation infrastructure loan or transportation infrastructure assistance under Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, including the amounts as follows:

(i) subject to Subsection (3)(b), $14,000,000 to the military installation development authority created in Section 63H-1-201;

(ii) $5,000,000 to the Inland Port Authority created in Section 11-58-201, for highway, infrastructure, and rail right-of-way acquisition, design, engineering, and construction, to be repaid through tax differential; and

(iii) $7,000,000 to Midvale City for a parking structure in proximity to an intermodal transportation facility that enhances economic development within the city.

(b) When the loan described in Subsection (3)(a)(i) is transferred in accordance with Section 72-2-202, the bond proceeds for the loan shall be provided to the military development infrastructure revolving loan fund created in Section 63A-3-402.

(c) When the funds described in Subsection (3)(a)(ii) are transferred in accordance with Subsection 72-2-2(8), the funds shall be provided to the inland port infrastructure revolving loan fund created in Section 63A-3-402.

(4) (a) Four million dollars of the bond proceeds issued under this section shall be used for a public transit fixed guideway rail station associated with or adjacent to an institution of higher education.

(b) Nineteen million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for the design, engineering, construction, or reconstruction of underpasses under a state highway connecting a state park and a project area created by a military installation development authority created in Section 63H-1-201.

(c) Nine million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for infrastructure improvements related to the Provo Airport.

(d) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in this section, the Department of Transportation may use available funding to study, design, engineer, and construct rail access through I-80 in western Salt Lake County.

(5) The bond proceeds issued under this section shall be provided to the Department of Transportation.

(6) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites, and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsection (2) before the receipt of proceeds of bonds issued under this section.

Section 23. Section 63G-7-201 is amended to read:

63G-7-201. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) (a) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

[~~(a)~~] (i) a latent dangerous or latent defective condition of:

[~~(i)~~] (A) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

[~~(ii)~~] (B) another structure located on any of the items listed in Subsection (3)(a)(i); or

[~~(b)~~] (ii) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(b) (i) As used in this Subsection (3)(b):

(A) "Contaminated land" means the same as that term is defined in Section 11-58-102.

(B) "Contamination" means the condition of land that results from the placement, disposal, or release of hazardous matter on, in, or under the land, including any seeping or escaping of the hazardous matter from the land.

(C) "Damage" means any property damage, personal injury, or other injury or any loss of any kind, however denominated.

(D) "Environmentally compliant" means, as applicable, obtaining a certificate of completion from the Department of Environmental Quality under Section 19-8-111 following participation in a voluntary cleanup under Title 19, Chapter 8, Voluntary Cleanup Program, obtaining an administrative letter from the Department of Environmental Quality for a discrete phase of a voluntary cleanup that is conducted under a remedial action plan as defined in Section 11-58-605, or complying with the terms of an environmental covenant, as defined in Section 57-25-102, signed by an agency, as defined in Section 57-25-102, and duly recorded in the office of the recorder of the county in which the contaminated land is located.

(E) "Government owner" means a governmental entity, including an independent entity, as defined in Section 63E-1-102, that acquires an ownership interest in land that was contaminated land before the governmental entity or independent entity acquired an ownership interest in the land.

(F) "Hazardous matter" means hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material, as defined in Section 11-58-102.

(G) "Remediation" means the same as that term is defined in Section 11-58-102.

(ii) (A) A government owner and the government owner's officers and employees are immune from suit, and immunity is not waived, for any claim for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(B) A government owner's ownership of contaminated land may not be the basis of a claim against the government owner for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(iii) Subsection (3)(b)(ii) does not limit or affect:

(A) the liability of a person that placed, disposed of, or released hazardous matter on, in, or under the land; or

(B) a worker compensation claim of an employee of an entity that conducts work on or related to contaminated land.

(iv) Immunity under Subsection (3)(b)(ii)(A) is not affected by a government owner's remediation of contaminated land if the government owner is environmentally compliant.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity;

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road; or

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-101.

Section 24. Section 72-2-202 is amended to read:

72-2-202. State Infrastructure Bank Fund -- Creation -- Use of money.

(1) There is created a revolving loan fund entitled the State Infrastructure Bank Fund.

(2) (a) The fund consists of money generated from the following revenue sources:

(i) appropriations made to the fund by the Legislature;

(ii) federal money and grants that are deposited in the fund;

(iii) money transferred to the fund by the commission from other money available to the department;

(iv) state grants that are deposited in the fund;

(v) contributions or grants from any other private or public sources for deposit into the fund; and

(vi) subject to Subsection (2)(b), all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.

(b) When a loan from the fund is repaid, the department may request and the Legislature may transfer from the fund to the source from which the money originated an amount equal to the repaid loan.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Money in the fund shall be used by the department, as prioritized by the commission, only to:

(a) provide infrastructure loans or infrastructure assistance; and

(b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects and publicly owned infrastructure projects, and obtaining repayments of infrastructure loans or infrastructure assistance.

(5) (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.

(6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

(7) Before July 1, 2022, the department shall transfer the loan described in Subsection 63B-27-101(3)(a)(i) from the State Infrastructure Bank Fund to the military development

infrastructure revolving loan fund created in Section 63A-3-402.

(8) Before July 1, 2023, the department shall transfer the funds described in Subsection 63B-27-101(3)(a)(ii) from the State Infrastructure Bank Fund to the inland port infrastructure revolving loan fund created in Section 63A-3-402.

Section 25. Section 78B-6-2401 is enacted to read:

Part 24. Claims to Which Immunity Applies

78B-6-2401 (Codified as 78B-6-2501). Definitions.

As used in this part:

(1) "Contamination claim" means a claim for which a government owner and the government owner's officers and employees have immunity under Subsection 63G-7-201(3)(b).

(2) "Government owner" means the same as that term is defined in Subsection 63G-7-201(3).

Section 26. Section 78B-6-2402 is enacted to read:

78B-6-2402 (Codified as 78B-6-2502). Award of double attorney fees and costs.

If a person asserts a contamination claim against a government owner or an officer or employee of the government owner for which the government owner or officer or employee are found to be immune under Subsection 63G-7-201(3)(b), the court shall award the government owner or officer or employee double the attorney fees and costs incurred by the government owner or officer or employee in defending the claim.

Section 27. Repealer.

This bill repeals:

Section 11-58-207, Projects benefitting authority jurisdictional land.

Section 28. Effective date.

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

CHAPTER 260
S. B. 251
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

SECONDARY WATER METERING REQUIREMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses secondary water metering.

Highlighted Provisions:

This bill:

- defines terms;
- modifies penalty provisions;
- provides for an alternative metering requirement under certain conditions;
- allows the issuing of grants for projects other than metering under certain conditions; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-10-34, as last amended by Laws of Utah 2022, Chapter 61
73-10-34.5, as enacted by Laws of Utah 2022, Chapter 61

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

Section 1. Section 73-10-34 is amended to read:

73-10-34. Secondary water metering -- Loans and grants.

(1) As used in this section:

(a) "Agriculture use" means water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(b) (i) "Commercial user" means a secondary water user that is a place of business.

(ii) "Commercial user" does not include a multi-family residence, an agricultural user, or a customer that falls within the industrial or institutional classification.

[~~(b)~~] (c) "Full metering" means that use of secondary water is accurately metered by a meter that is installed and maintained on every secondary water connection of a secondary water supplier.

[~~(c)~~] (d) (i) "Industrial user" means a secondary water user that manufactures or produces materials.

(ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a mining company.

[~~(d)~~] (e) (i) "Institutional user" means a secondary water user that is dedicated to public service, regardless of ownership.

(ii) "Institutional user" includes a school, church, hospital, park, golf course, and government facility.

(f) "Power generation use" means water used in the production of energy, such as use in an electric generation facility, natural gas refinery, or coal processing plant.

[~~(e)~~] (g) (i) "Residential user" means a secondary water user in a residence.

(ii) "Residential user" includes a single-family or multi-family home, apartment, duplex, twin home, condominium, or planned community.

[~~(f)~~] (h) "Secondary water" means water that is:

(i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) delivered to and used by an end user for the irrigation of landscaping or a garden.

[~~(g)~~] (i) "Secondary water connection" means the location at which the water leaves the secondary water supplier's pipeline and enters into the remainder of the pipes that are owned by another person to supply water to an end user.

[~~(h)~~] (j) "Secondary water supplier" means an entity that supplies pressurized secondary water.

[~~(i)~~] (k) "Small secondary water retail supplier" means an entity that:

(i) supplies pressurized secondary water only to the end user of the secondary water; and

(ii) (A) is a city, town, or metro township; or

(B) supplies 5,000 or fewer secondary water connections.

(2) (a) (i) A secondary water supplier that supplies secondary water within a county of the first or second class and begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(ii) A secondary water supplier that supplies secondary water within a county of the third, fourth, fifth, or sixth class and begins design work for new service on or after May 4, 2022, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(b) By no later than January 1, 2030, a secondary water supplier shall install and maintain a meter of the use of pressurized secondary water by each user receiving secondary water service from the secondary water supplier.

(c) Beginning January 1, 2022, a secondary water supplier shall establish a meter installation reserve for metering installation and replacement projects.

(d) A secondary water supplier, including a small secondary water retail supplier, may not raise the rates charged for secondary water:

(i) by more than 10% in a calendar year for costs associated with metering secondary water unless the rise in rates is necessary because the secondary water supplier experiences a catastrophic failure or other similar event; or

(ii) unless, before raising the rates on the end user, the entity charging the end user provides a statement explaining the basis for why the needs of the secondary water supplier required an increase in rates.

(e) (i) A secondary water supplier that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan, or if the secondary water supplier previously filed a similar plan, update the plan for metering the use of the pressurized water.

(ii) The plan required by this Subsection (2)(e) shall be filed or updated with the Division of Water Resources by no later than December 31, 2025, and address the process the secondary water supplier will follow to implement metering, including:

(A) the costs of full metering by the secondary water supplier;

(B) how long it would take the secondary water supplier to complete full metering, including an anticipated beginning date and completion date, except a secondary water supplier shall achieve full metering by no later than January 1, 2030; and

(C) how the secondary water supplier will finance metering.

(3) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:

(a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial, institutional, and residential users during the preceding 12-month period;

(b) the number of secondary water meters within the secondary water supplier's service boundary;

(c) a description of the secondary water supplier's service boundary;

(d) the number of secondary water connections in each of the following categories through which the secondary water supplier supplies pressurized secondary water:

(i) commercial;

(ii) industrial;

(iii) institutional; and

(iv) residential;

(e) the total volume of water that the secondary water supplier receives from the secondary water supplier's sources; and

(f) the dates of service during the preceding 12-month period in which the secondary water supplier supplied pressurized secondary water.

(4) (a) Beginning July 1, 2019, the Board of Water Resources may make up to $10,000,000 in low-interest loans available each year:

(i) from the Water Resources Conservation and Development Fund, created in Section 73-10-24; and

(ii) for financing the cost of secondary water metering.

(b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and process for receiving a loan described in this Subsection (4), except the rules may not include prepayment penalties.

(5) (a) Beginning July 1, 2021, subject to appropriation, the Division of Water Resources may make matching grants each year for financing the cost of secondary water metering for a commercial, industrial, institutional, or residential user by a small secondary water retail supplier that:

(i) is not for new service described in Subsection (2)(a); and

(ii) matches the amount of the grant.

(b) For purposes of issuing grants under this section, the division shall prioritize the small secondary water retail suppliers that can demonstrate the greatest need or greatest inability to pay the entire cost of installing secondary water meters.

(c) The amount of a grant under this Subsection (5) may not:

(i) exceed 50% of the small secondary water retail supplier's cost of installing secondary water meters; or

(ii) supplant federal, state, or local money previously allocated to pay the small secondary water retail supplier's cost of installing secondary water meters.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Water Resources shall make rules establishing:

(i) the procedure for applying for a grant under this Subsection (5); and

(ii) how a small secondary water retail supplier can establish that the small secondary water retail supplier meets the eligibility requirements of this Subsection (5).

(6) Nothing in this section affects a water right holder's obligation to measure and report water usage as described in Sections 73-5-4 and 73-5-8.

(7) If a secondary water supplier fails to comply with Subsection (2)(b), the secondary water supplier:

(a) beginning January 1, 2030, may not receive state money for water related purposes until the

secondary water supplier completes full metering; and

(b) is subject to an enforcement action of the state engineer in accordance with Subsection (8).

(8) (a) (i) The state engineer shall commence an enforcement action under this Subsection (8) if the state engineer receives a referral from the director of the Division of Water Resources.

(ii) The director of the Division of Water Resources shall submit a referral to the state engineer if the director:

(A) finds that a secondary water supplier fails to fully meter secondary water as required by this section; and

(B) determines an enforcement action is necessary to conserve or protect a water resource in the state.

(b) To commence an enforcement action under this Subsection (8), the state engineer shall issue a notice of violation that includes notice of the administrative fine to which a secondary water supplier is subject.

(c) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce a notice of violation, that includes:

(i) provisions consistent with this Subsection (8) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;

(ii) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and

(iii) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection (8)(d)(ii).

(e) A person may not intervene in an enforcement action commenced under this section.

(f) After issuance of a final order under rules made pursuant to Subsection (8)(d), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:

(i) personal service under Utah Rules of Civil Procedure, Rule 5; or

(ii) certified mail.

(g) (i) The state engineer's final order may be reviewed by trial de novo by the district court in Salt Lake County or the county where the violation occurred.

(ii) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this section within 20 days from the day on which the final order was served on the secondary water supplier.

(h) The state engineer may bring suit in a court of competent jurisdiction to enforce a final order issued under this Subsection (8).

(i) If the state engineer prevails in an action brought under Subsection (8)(g) or (h), the state may recover court costs and a reasonable attorney fee.

(j) As part of a final order issued under this Subsection (8), the state engineer shall order that a secondary water supplier to whom an order is issued pay an administrative fine equal to:

(i) $10 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2030;

(ii) $20 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2031;

(iii) $30 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2032;

(iv) $40 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2033; and

(v) $50 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2034, and for each subsequent year the secondary water supplier fails to comply with full metering.

(k) Money collected under this Subsection (8) shall be deposited into the Water Resources Conservation and Development Fund, created in Section 73-10-24.

(9) A secondary water supplier located within a county of the fifth or sixth class is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) if:

(a) the owner or operator of the secondary water supplier seeks an exemption under this Subsection (9) by establishing with the Division of Water Resources that the cost of purchasing, installing, and upgrading systems to accept meters exceeds 25% of the total operating budget of the owner or operator of the secondary water supplier;

(b) the secondary water supplier agrees to not add a new secondary water connection to the secondary water supplier's system on or after May 4, 2022;

(c) within six months of when the secondary water supplier seeks an exemption under Subsection (9)(a), the secondary water supplier provides to the Division of Water Resources a plan for conservation within the secondary water

supplier's service area that does not require metering;

(d) the secondary water supplier annually reports to the Division of Water Resources on the results of the plan described in Subsection (9)(c); and

(e) the secondary water supplier submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (9)(c).

(10) A secondary water supplier is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) to the extent that the secondary water supplier:

(a) is unable to obtain a meter that a meter manufacturer will warranty because of the water quality within a specific location served by the secondary water supplier;

(b) submits reasonable proof to the Division of Water Resources that the secondary water supplier is unable to obtain a meter as described in Subsection (10)(a);

(c) within six months of when the secondary water supplier submits reasonable proof under Subsection (10)(b), provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) annually reports to the Division of Water Resources on the results of the plan described in Subsection (10)(c); and

(e) submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (10)(c).

(11) A secondary water supplier that is located within a critical management area that is subject to a groundwater management plan adopted or amended under Section 73-5-15 on or after May 1, 2006, is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8).

(12) If a secondary water supplier is required to have a water conservation plan under Section 73-10-32, that water conservation plan satisfies the requirements of Subsection (9)(c) or (10)(c).

(13) (a) Notwithstanding the other provisions of this section and unless exempt under Subsection (9), (10), or (11), to comply with this section, a secondary water supplier is not required to meter every secondary water connection of the secondary water supplier's system, but shall meter at strategic points of the system as approved by the state engineer under this Subsection (13) if:

(i) the system has no storage and relies on stream flow;

(ii) (A) the majority of secondary water users on the system are associated with agriculture use or power generation use; and

(B) less than 50% of the secondary water is used by residential secondary water users; or

(iii) the system has:

(A) 1,000 or fewer users; and

(B) a mix of pressurized lines and open ditches.

(b) (i) A secondary water supplier may obtain the approval by the state engineer of strategic points where metering is to occur as required under this Subsection (13) by filing an application with the state engineer in the form established by the state engineer.

(ii) The state engineer may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for approving strategic points for metering under this Subsection (13).

Section 2. Section 73-10-34.5 is amended to read:

73-10-34.5. Grant money for existing secondary water metering to facilitate full metering -- Other grants.

(1) As used in this section:

(a) "Applicant" means a secondary water supplier or group of secondary water suppliers that applies for a grant under this section.

(b) "Board" means the Board of Water Resources.

(c) "Division" means the Division of Water Resources.

(d) "Project" means the purchase or installation of a meter for a secondary water system that as of May 4, 2022, provides secondary water service that is not metered.

(e) "Secondary water" means the same as that term is defined in Section 73-10-34.

(f) "Secondary water connection" means the same as that term is defined in Section 73-10-34.

(g) "Secondary water supplier" means the same as that term is defined in Section 73-10-34.

(2) (a) The board may issue grants in an amount appropriated by the Legislature in accordance with this section to an applicant to fund projects for meters on secondary water systems that before May 4, 2022, provide secondary water service that is not metered.

(b) The board may not issue a grant under this section to fund:

(i) metering of secondary water for service that begins on or after May 4, 2022; or

(ii) the replacement or repair of an existing secondary water meter.

(c) Notwithstanding the other provisions of this section, the board may issue a grant under this section to a secondary water supplier to reimburse the secondary water supplier for the costs incurred by the secondary water supplier that are associated with installing meters on a secondary water system on or after March 3, 2021, but before May 4, 2022, except that the grant issued under this Subsection (2)(c):

(i) shall be included in calculating the total grant amount under Subsections (3)(a) through (c);

(ii) may not exceed 70% of the costs associated with a project described in this Subsection (2)(c), including installation and purchase of meters; and

(iii) shall comply with Subsection (6).

(3) (a) A secondary water supplier with 7,000 secondary water connections or less is eligible for a total grant amount under this section of up to $5,000,000.

(b) A secondary water supplier with more than 7,000 secondary water connections is eligible for a total grant amount under this section of up to $10,000,000.

(c) If a secondary water supplier applies for a grant as part of a group of secondary water suppliers, the total grant amount described in Subsection (3)(a) or (b) applies to each member of the group and is not based on the number of secondary water connections of the entire group.

(d) (i) Subject to the other provisions of this section, a grant may not exceed the following amounts for the costs associated with a project, including installation and purchase of meters:

(A) for calendar year 2022, 70% of the costs of a project;

(B) for calendar year 2023, 70% of the costs of a project;

(C) for calendar year 2024, 65% of the costs of a project;

(D) for calendar year 2025, 60% of the costs of a project; and

(E) for calendar year 2026, 50% of the costs of a project.

(ii) Beginning with calendar year 2027, a grant under this section shall consist of providing a meter or funding to obtain a meter, which may not exceed the following for costs associated with the project:

(A) for calendar year 2027, 40% of the costs of a project;

(B) for calendar year 2028, 30% of the costs of a project;

(C) for calendar year 2029, 20% of the costs of a project; and

(D) for calendar year 2030, 10% of the costs of a project.

(e) A secondary water supplier may pay the secondary water supplier's portion of the costs of a project through a loan from the board under Section 73-10-34 by filing a separate application with the board.

(f) A meter purchased with grant money received under this section shall allow for data communication between the meter and other devices designed to manage use of secondary water that is:

(i) open and available to an end user; and

(ii) open so that it can integrate with third-party providers.

(4) (a) (i) To obtain a grant under this section, an applicant shall submit an application with the division during a period of time designated by the board.

(ii) If there remains money described in Subsection (2) after the grants for applications submitted during the time period described in Subsection (4)(a) are awarded, the board may designate one or more additional time periods so that the entire amount described in Subsection (2) is awarded by December 31, 2024.

(b) An application submitted to the division shall include:

(i) a detailed project cost estimate including meter costs and installation costs;

(ii) a total number of pressurized secondary water connections in the applicable secondary water supplier's system;

(iii) the number of meters to be installed under the grant;

(iv) a detailed estimated secondary water use reduction including:

(A) average lot size calculations;

(B) average irrigated acreage; and

(C) estimated water applied before the project versus after completion of the project;

(v) the timeline for purchase and installation of meters under the project;

(vi) an agreement to:

(A) provide an educational component for end users as determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, either on a monthly statement or by a customer specific Internet portal that provides information on the customer's usage more frequently than monthly; or

(B) bill according to usage using a tiered conservation rate and provide an educational component described in Subsection (4)(b)(vi)(A); and

(vii) additional information the board considers helpful.

(5) (a) The division shall:

(i) review and prioritize an application submitted under Subsection (4); and

(ii) recommend to the board which applicants should be awarded a grant under this section.

(b) In prioritizing applications under this Subsection (5), the division shall rank the applicants on the basis of the following weighted factors:

(i) 60% weight based on the ratio of estimated water use reduction divided by total state investment;

(ii) 20% weight based on an applicant facing current or potential water shortages when installation of meters and subsequent water use reductions will result in delaying or eliminating the need for new water development; and

(iii) 20% weight based on a project's accelerated construction schedule, prompt start, and prompt finish.

(6) As a condition of receiving a grant under this section, the recipient shall enter into an agreement with the board to use the grant money. The agreement shall:

(a) be executed by no later than December 31, 2024; and

(b) require that the grant money be spent by December 31, 2026, and the project completed under the terms of the grant.

(7) Notwithstanding the other provisions of this section, the board may issue a grant to a secondary water supplier:

(a) that installed meters on secondary water connections before May 4, 2022;

(b) that has not otherwise received a grant under this section;

(c) for the purpose of water conservation; and

(d) in an amount not to exceed $2,000,000.

(8) Notwithstanding the other provisions of this section, the board may issue a grant to or convert a grant previously issued to a secondary water supplier described in Subsection 73-10-34(13)(a)(iii) from money appropriated under this section to fund a project that is an alternative to metering, such as lining ditches or improving head gates, if the secondary water supplier establishes to the satisfaction of the board that the alternative project will conserve more water than is expected to be conserved through metering.

[~~(8)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the board may make rules establishing the procedure for applying for a grant under this section.

CHAPTER 261
S. B. 277
Passed March 1, 2023
Approved March 14, 2023
Effective July 1, 2023

WATER CONSERVATION AND AUGMENTATION AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses the optimal use of water in the state.

Highlighted Provisions:

This bill:

- modifies the purposes for which money in the Water Infrastructure Restricted Account may be used;
- provides for transfer of certain loan payments from the Water Resources Conservation and Development Fund to the Water Infrastructure Restricted Account;
- codifies a grant program for agricultural water optimization, including:
  - defining terms;
  - creating the Agricultural Water Optimization Committee;
  - providing powers and duties of the committee which includes rulemaking;
  - directing the process by which grants are to be issued; and
  - providing a sunset date;
- provides for public information and reporting regarding the grant program;
- addresses agricultural water optimization change applications and water savings;
- repeals provisions related to the Agricultural Water Optimization Task Force; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to General Fund Restricted Agricultural Water Optimization Account, as a one-time appropriation:
  - from General Fund, One-time, $170,000,000;
- to General Fund Restricted Agricultural Water Optimization Account, as a one-time appropriation:
  - from Federal Funds - American Rescue Plan, One-time, $30,000,000;
- to Department of Agriculture and Food Resource Conservation, as a one-time appropriation:
  - from Agricultural Water Optimization Account, One-time, $125,000,000;
- to Department of Natural Resources Water Resources Conservation and Development Fund, as a one-time appropriation:
  - From General Fund Restricted Water Infrastructure Restricted Account, One-time ($5,000,000);
- to Department of Natural Resources - Water Resources Conservation and Development Fund, as an ongoing appropriation:
  - From General Fund Restricted Water Infrastructure Restricted Account, $50,000,000; and
- to Department of Natural Resources Water Resources, as a one-time appropriation:
  - From General Fund Restricted Water Infrastructure Restricted Account, One-time, $5,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-1-273, as last amended by Laws of Utah 2022, Chapters 68, 79
73-10-25, as last amended by Laws of Utah 1991, First Special Session, Chapter 4
73-10g-103, as enacted by Laws of Utah 2015, Chapter 458
73-10g-104, as last amended by Laws of Utah 2016, Chapter 309
73-10g-204, as last amended by Laws of Utah 2022, Chapter 79

ENACTS:

73-10g-203.5, Utah Code Annotated 1953
73-10g-205, Utah Code Annotated 1953
73-10g-206, Utah Code Annotated 1953
73-10g-207, Utah Code Annotated 1953
73-10g-208, Utah Code Annotated 1953

REPEALS:

73-10g-202, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
73-10g-203, as last amended by Laws of Utah 2020, Chapter 33

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

Section 1. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates: Title 73.

(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2028.

[~~(2) In relation to Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, on July 1, 2025:~~]

[~~(a) Section 73-10g-202 is repealed; and~~]

[~~(b) Section 73-10g-203 is repealed.~~]

(3) Section 73-18-3.5, which authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies, is repealed July 1, 2024.

(4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1, 2027.

(5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

Section 2. Section 73-10-25 is amended to read:

73-10-25. Contents of fund -- Investment -- Contributions.

(1) The Water Resources Conservation and Development Fund consists of:

(a) money appropriated to it by the Legislature;

(b) money received from the sale of project water and power, less operating and maintenance costs;

(c) annual payments on contracts for projects constructed under Section 73-10-24 or the State Water Conservation Program; and

(d) other money or tax revenues designated by the Legislature to be credited to the Water Resources Conservation and Development Fund.

(2) [~~All money~~] Money deposited into the Water Resources Conservation and Development Fund shall be invested by the state treasurer with interest accruing to the Water Resources Conservation and Development Fund, except for payments, if any, necessary to comply with Section 148(f), Internal Revenue Code of 1986.

(3) [~~Contributions~~] A contribution of money, property, or equipment may be received from [~~any~~] a political subdivision of the state, federal agency, water users' association, or person[~~, or corporation~~] for use in carrying out the purposes of Section 73-10-24.

(4) Notwithstanding Subsection (1), the division shall transfer a payment on a loan to the Water Infrastructure Restricted Account, created in Section 73-10g-103, if the loan:

(a) is issued from the Water Resources Conservation and Development Fund on or after July 1, 2023; and

(b) relates to a project described in Subsection 73-10g-104(4).

Section 3. Section 73-10g-103 is amended to read:

73-10g-103. Creation of the Water Infrastructure Restricted Account.

(1) (a) There is created a restricted account in the General Fund known as the "Water Infrastructure Restricted Account."

(b) The restricted account shall earn interest.

(2) The restricted account consists of money generated from the following sources:

(a) voluntary contributions made to the division for the construction, operation, or maintenance of state water projects;

(b) appropriations made to the [~~fund~~] restricted account by the Legislature; [~~and~~]

(c) interest earned on the restricted account[~~.~~]; and

(d) money transferred to the restricted account under Section 73-10-25.

(3) Subject to appropriation, the division and the board shall manage the restricted account created in Subsection (1) in accordance with this chapter.

Section 4. Section 73-10g-104 is amended to read:

73-10g-104. Authorized use of the Water Infrastructure Restricted Account.

Money in the restricted account is to be used for:

(1) the development of the state's undeveloped share of the Bear and Colorado rivers, pursuant to existing interstate compacts governing both rivers as described in Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development Act;

(2) repair, replacement, or improvement of federal water projects for local sponsors in the state [~~of Utah~~] when federal funds are not available; [~~and~~]

(3) study and development of rules, criteria, targets, processes, and plans, as described in Subsection 73-10g-105(3)[~~.~~]; and

(4) a project that benefits the Colorado River drainage in Utah, including projects for water reuse, desalinization, building of dams, or water conservation, if a county or municipality that benefits from the project:

(a) requires a new residential subdivision follow the regional conservation level of .59 acre-feet regardless of whether the outside water is potable, reuse, or secondary water;

(b) adopts and implements the local water conservancy district's emergency drought contingency plan;

(c) adopts and implements the local water conservancy district's grass rebate program's maximum grass restrictions;

(d) prohibits grass in new retail, industrial, or commercial facility landscaping;

(e) has reuse water be managed by the local water conservancy district;

(f) does not withdraw water from an aquifer in excess of the safe yield of the aquifer as defined in Section 73-5-15;

(g) adopts and implements excess water use surcharges;

(h) prohibits private water features in new development, such as a fountain, pond, or ski lake; and

(i) prohibits large grassy areas in new development, unless the large grassy area is open to the general public.

Section 5. Section 73-10g-203.5 is enacted to read:

73-10g-203.5. Definitions.

As used in this part:

(1) "Account" means the Agricultural Water Optimization Account created in Section 73-10g-204.

(2) "Agricultural water optimization" means the implementation of agricultural and water management practices that maintain viable agriculture while reducing water depletion to enhance water availability and minimize impacts on water supply, water quality, and the environment.

(3) "Change application" means an application filed under Section 73-3-3.

(4) "Committee" means the Agricultural Water Optimization Committee created in Section 73-10g-205.

(5) "Conservation commission" means the conservation commission created in Section 4-18-104.

(6) "Department" means the Department of Agriculture and Food.

(7) "Depletion reduction" means a net decrease in water consumed accomplished by implementing water optimization practices during beneficial use of water under an approved water right.

(8) "Diversion reduction" means a decrease in net diversion amount from that allowed under a water right accomplished by implementation of water optimization practices.

(9) "Funding application" means an application filed under Section 73-10g-206.

(10) "Saved water" means the water quantified as depletion reduction or diversion reduction in a final order approving a change application filed in conjunction with an agricultural water optimization project.

Section 6. Section 73-10g-204 is amended to read:

73-10g-204. Agricultural Water Optimization Account.

[~~(1) As used in this section:~~]

[~~(a) "Account" means the Agricultural Water Optimization Account created in Subsection (2).~~]

[~~(b) "Agricultural water optimization" means the implementation of agricultural and water management practices that maintain or increase viable agriculture while minimizing negative impacts on water supply, water quality, and the environment.~~]

[~~(c) "Department" means the Department of Agriculture and Food.~~]

[~~(2)~~] (1) There is created a restricted account within the General Fund called the "Agricultural Water Optimization Account."

[~~(3)~~] (2) The account consists of:

(a) appropriations from the Legislature;

(b) federal funds; and

(c) grants or donations from other public or private sources.

[~~(4)~~] (3) Subject to appropriation, the [~~department~~] conservation commission may use money in the account to issue grants in accordance with Section 73-10g-206 to improve agricultural water optimization.

[~~(5)~~] (4) Until December 31, 2024, the department may loan up to $3,000,000 of General Fund money in the account to the Agriculture Resource Development Fund, subject to the conditions described in Section 4-18-106.

[~~(6)~~] (5) (a) The department shall maintain the [~~Agriculture Water Optimization Account~~] account and record [~~all~~] the debits and credits made to the account by the department.

(b) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the [~~Agriculture Water Optimization Account~~] account into the account.

(6) The department and the Department of Natural Resources may use money in the account for the administration of this part, except that the aggregate amount expended under this Subsection (6) may not exceed 1.5% of the money appropriated to the grant program described in Section 73-10g-206.

Section 7. Section 73-10g-205 is enacted to read:

73-10g-205. Agricultural Water Optimization Committee.

(1) There is created in the department a committee known as the "Agricultural Water Optimization Committee" that consists of:

(a) the commissioner of the department, or the commissioner's designee;

(b) the director of the division, or the director's designee;

(c) the director of the Division of Water Rights, or the director's designee;

(d) the dean of the College of Agriculture and Applied Science from Utah State University, or the dean's designee;

(e) one individual representing local conservation districts created by Title 17D, Chapter 3, Conservation District Act, appointed by the executive director of the Department of Natural Resources;

(f) one individual representing water conservancy districts, appointed by the executive director of the Department of Natural Resources; and

(g) three Utah residents representing the interests of the agriculture industry appointed by the executive director of the Department of Natural Resources.

(2) (a) An individual appointed under Subsection (1) shall serve for a term of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the executive director of the Department of Natural Resources shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(3) (a) The presence of five members constitutes a quorum.

(b) The vote of five members constitutes the transaction of business by the committee.

(c) The committee shall select one of the committee's members to be chair. The committee may select a member to be vice chair to act in place of the chair:

(i) during the absence or disability of the chair; or

(ii) as requested by the chair.

(d) The committee shall convene at the times and places prescribed by the chair.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(5) The department shall provide administrative support to the committee.

(6) The committee shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(a) eligibility requirements for a grant issued under Section 73-10g-206, except that the eligibility requirements shall:

(i) require at least a match for grant money of 50% of the total costs;

(ii) consider the statewide need to distribute grant money;

(iii) require a grant recipient to construct or install and maintain one or more measuring devices as necessary to comply with Section 73-5-4 and rules adopted by the Division of Water Rights regarding installation, use, and maintenance of devices to measure water use and to demonstrate water use in accordance with a project funded by a grant; and

(iv) require a grant recipient to report water diversion and use measurements to the state engineer pursuant to Section 73-5-4 and rules made by the state engineer, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for water measurement and reporting;

(b) the process for applying for a grant issued under Section 73-10g-206; and

(c) preliminary screening criteria to be used by the department under Subsection 73-10g-206(2)(d).

(7) The committee shall, in coordination with the division:

(a) as of July 1, 2023, assume oversight of all remaining research and contracts of the previous Agricultural Water Optimization Task Force activities;

(b) post research to address and account for farm economics at the enterprise and community level that affects agricultural water optimization and encourage market behavior that financially rewards agricultural water optimization practices;

(c) oversee research to identify obstacles to and constraints upon optimization of agricultural water use, and to recommend management tools, technologies, and other opportunities to optimize agricultural water use as measured at the basin level; and

(d) facilitate benefits for farmers who optimize water use and protect water quality.

(8) The committee shall comply with Section 73-10g-206 related to grants issued under this part.

Section 8. Section 73-10g-206 is enacted to read:

73-10g-206. Agricultural water optimization grants -- Demonstration of water savings.

(1) The conservation commission may issue a grant described in Subsection 73-10g-204(3) in accordance with the procedures in this section.

(2) (a) The committee shall establish funding application periods during which a person may apply for a grant under this part.

(b) During a funding application period, a person may file a funding application with the department for preliminary screening of eligibility to receive a grant under this part, including requisite water savings.

(c) The department shall screen the funding applications for eligibility.

(d) If the department determines that an applicant meets eligibility requirements and proposes water savings, the department shall provide the applicant preliminary approval.

(e) After receiving preliminary approval under Subsection (2)(d), the applicant shall engage in a pre-filing consultation with the Division of Water Rights under Subsection 73-3-3(2) to determine whether a change application is required to accomplish the project proposed in the funding application or to quantify saved water that may be made available for beneficial use as part of the project.

(f) Once the Division of Water Rights determines whether the person is required to file a change application, the person may complete the funding application process and file the completed funding application with the committee.

(g) The committee shall review completed funding applications to rank the funding applications and recommend to the conservation commission which applicants should receive a grant under this part for the relevant funding application period.

(h) The conservation commission may issue a grant under this section only after receipt of the recommendations of the committee.

(3) If the conservation commission issues a grant under this part, before the grant recipient may receive the grant money, the grant recipient shall:

(a) enter into a contract with the department that includes:

(i) the expectations for the grant recipient;

(ii) the life expectancy of a project;

(iii) the process of certifying completion; and

(iv) design requirements;

(b) file any needed change application and obtain a final order from the state engineer approving the change application, including any judicial review of the state engineer's order; and

(c) demonstrate how the grant recipient shall comply with the requirements of the final order approving the related change application.

(4) A grant recipient shall comply with the monitoring and reporting requirements under the contract described in Subsection (3).

(5) The department shall:

(a) monitor the grant related activities of a grant recipient;

(b) certify a project funded by a grant once the project is complete;

(c) determine whether there are funding sources other than the account to fund the grant; and

(d) provide information needed by the division or the Division of Water Rights to fulfill the division's or the Division of Water Rights' statutory duties, including those designated in this chapter.

(6) The department may:

(a) conduct outreach campaigns related to the grant program, including the program's purpose and expectations for grant recipients;

(b) solicit funding applications and assist persons in applying for a grant under this part;

(c) assist grant recipients in developing a project; and

(d) coordinate with federal agencies and the division for evaluation of funding applications and for assistance with implementing projects for which funding has been provided under this part.

(7) Grant money may be used by the department or a grant recipient for the hiring of third-party consultants as appropriate to complete a project funded by grant money.

(8) The division, upon request from the committee, may assist with evaluation of funding applications and implementation of projects funded under this part.

Section 9. Section 73-10g-207 is enacted to read:

73-10g-207. Division public information and reporting.

(1) The division shall, in coordination with the department and the Division of Water Rights, annually compile and publish a report on:

(a) completed projects;

(b) saved water made available from agricultural water optimization projects; and

(c) the effectiveness of the agricultural water optimization funding programs established by this part.

(2) On or before November 30 of each year, the committee, division, and the Division of Water Rights shall jointly present the annual report to:

(a) the Legislative Water Development Commission;

(b) the Natural Resources, Agriculture, and Environment Interim Committee;

(c) the Utah Water Task Force within the Department of Natural Resources; and

(d) the Utah Watersheds Council.

(3) The division shall publish reports from research described in Subsection 73-10g-205(7).

Section 10. Section 73-10g-208 is enacted to read:

73-10g-208. Water use pursuant to a water optimization change application.

(1) A person entitled to file a change application under Section 73-3-3 may file a change application in connection with an agricultural water optimization project, regardless of whether the agricultural water optimization project is funded under this part:

(a) to change the nature of use of the depletion reduction amount of an agricultural water right to saved water;

(b) to quantify saved water; and

(c) to allow beneficial use of saved water separate from the agricultural use, so long as there is no enlargement of depletion or diversion amounts.

(2) Saved water, including depletion reduction and diversion reduction, is considered beneficial use as required by Sections 73-1-3 and 73-3-1.

(3) The state engineer may make rules as provided under Section 73-2-1 and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding implementation of this section.

Section 11. Repealer.

This bill repeals:

Section 73-10g-202, Agricultural Water Optimization Task Force.

Section 73-10g-203, Duties of the task force.

Section 12. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To General Fund Restricted Agricultural Water Optimization Account

From General Fund, One-time	170,000,000
From Federal Funds - American Rescue Plan, One-time	30,000,000

Schedule of Programs:

Agricultural Water Optimization Account	200,000,000

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

ITEM 2

To Department of Agriculture and Food Resource Conservation

From Agricultural Water Optimization Account, One-time125,000,000

Schedule of Programs:

Water Quantity	125,000,000

The Legislature intends that the $125,000,000 one-time from the Agricultural Water Optimization Account provided by this item be expended as follows:

(1) $25,000,000 on general water optimization;

(2) $25,000,000 on subsurface drip irrigation;

(3) $25,000,000 on surge irrigation;

(4) $25,000,000 on delivery, measurement, and reporting of water use data, including telemetry; and

(5) $25,000,000 on canal improvements.

ITEM 3

To Department of Natural Resources Water Resources Conservation and Development Fund

From General Fund Restricted Water Infrastructure

Restricted Account, One-time	(5,000,000)

From General Fund Restricted Water Infrastructure

Restricted Account	50,000,000

Schedule of Programs:

Water Resources Conservation and Development Fund	45,000,000

The Legislature intends that:

(1) the ongoing funding from the Water Infrastructure Restricted Account provided in this item be expended as loans for projects that benefit the Colorado River drainage in Utah, including projects for water reuse, dam construction, desalination, and other conservation projects;ï¿½and

(2) repayments of loans described in Subsection (1) be transferred to the Water Infrastructure Restricted Account as outlined under Section 73-10-25.

ITEM 4

To Department of Natural Resources Water Resources

From General Fund Restricted Water Infrastructure

Restricted Account, One-time	5,000,000

Schedule of Programs:

Construction	5,000,000

The Legislature intends that the $5,000,000 provided by this item be expended as a grant for construction related to the Hyrum Reservoir.

Section 13. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 262
S. B. 287
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

ONLINE PORNOGRAPHY VIEWING AGE REQUIREMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill creates obligations and liabilities for a commercial entity that provides pornography or other materials harmful to minors.

Highlighted Provisions:

This bill:

- provides definitions;
- requires a commercial entity that provides pornography and other materials defined as being harmful to minors as a substantial portion of the entity's content to verify the age of individuals accessing the material;
- establishes requirements and liability for retention of data;
- imposes liability for publishers and distributors of material harmful to minors who fail to comply with verification requirements; and
- provides that an Internet service provider or hosting entity is not liable for hosting or transmitting material harmful to minors to the extent that it is not the creator of the material.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
78B-3-1001, Utah Code Annotated 1953
78B-3-1002, Utah Code Annotated 1953

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

Section 1. Section 78B-3-1001 is enacted to read:

Part 10. Liability for Publishers and Distributors of Material Harmful to Minors

78B-3-1001. Definitions.

As used in this chapter:

(1) "Commercial entity" includes corporations, limited liability companies, partnerships, limited partnerships, sole proprietorships, or other legally recognized entities.

(2) "Digitized identification card" means a data file available on any mobile device which has connectivity to the Internet through a state-approved application that allows the mobile device to download the data file from a state agency or an authorized agent of a state agency that contains all of the data elements visible on the face and back of a license or identification card and displays the current status of the license or identification card.

(3) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.

(4) "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

(5) "Material harmful to minors" is defined as all of the following:

(a) any material that the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

(b) material that exploits, is devoted to, or principally consists of descriptions of actual, simulated, or animated display or depiction of any of the following, in a manner patently offensive with respect to minors:

(i) pubic hair, anus, vulva, genitals, or nipple of the female breast;

(ii) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or

(iii) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, exhibitions, or any other sexual act; and

(c) the material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(6) "Minor" means any person under 18 years old.

(7) "News-gathering organization" means any of the following:

(a) an employee of a newspaper, news publication, or news source, printed or on an online or mobile platform, of current news and public interest, while operating as an employee as provided in this subsection, who can provide documentation of such employment with the newspaper, news publication, or news source; or

(b) an employee of a radio broadcast station, television broadcast station, cable television operator, or wire service while operating as an employee as provided in this subsection, who can provide documentation of such employment.

(8) "Publish" means to communicate or make information available to another person or entity on a publicly available Internet website.

(9) "Reasonable age verification methods" means verifying that the person seeking to access the material is 18 years old or older by using any of the following methods:

(a) use of a digitized information card as defined in this section;

(b) verification through an independent, third-party age verification service that compares the personal information entered by the individual who is seeking access to the material that is

available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for the purpose of age and identity verification; or

(c) any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the material.

(10) "Substantial portion" means more than 33-1/3% of total material on a website, which meets the definition of "material harmful to minors" as defined in this section.

(11) (a) "Transactional data" means a sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for the purpose of satisfying a request or event.

(b) "Transactional data" includes records from mortgage, education, and employment entities.

Section 2. Section 78B-3-1002 is enacted to read:

78B-3-1002. Liability for publishers and distributors -- Age verification -- Retention of data -- Exceptions.

(1) A commercial entity that knowingly and intentionally publishes or distributes material harmful to minors on the Internet from a website that contains a substantial portion of such material shall be held liable if the entity fails to perform reasonable age verification methods to verify the age of an individual attempting to access the material.

(2) A commercial entity or third party that performs the required age verification shall not retain any identifying information of the individual after access has been granted to the material.

(3) A commercial entity that is found to have violated this section shall be liable to an individual for damages resulting from a minor's accessing the material, including court costs and reasonable attorney fees as ordered by the court.

(4) A commercial entity that is found to have knowingly retained identifying information of the individual after access has been granted to the individual shall be liable to the individual for damages resulting from retaining the identifying information, including court costs and reasonable attorney fees as ordered by the court.

(5) This section shall not apply to any bona fide news or public interest broadcast, website video, report, or event and shall not be construed to affect the rights of a news-gathering organization.

(6) No Internet service provider, affiliate or subsidiary of an Internet service provider, search engine, or cloud service provider shall be held to have violated the provisions of this section solely for providing access or connection to or from a website or other information or content on the Internet, or a facility, system, or network not under that provider's control, including transmission, downloading, storing, or providing access, to the extent that such provider is not responsible for the creation of the content of the communication that constitutes material harmful to minors.

CHAPTER 263
S. B. 289
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

POINT OF THE MOUNTAIN STATE LAND AUTHORITY AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Jeffrey D. Stenquist

LONG TITLE

General Description:

This bill modifies provisions relating to the Point of the Mountain State Land Authority.

Highlighted Provisions:

This bill:

- provides that the Point of the Mountain State Land Authority has control over the management, development, and disposition of point of the mountain state land;
- provides for the role of the Division of Facilities Construction and Management with respect to construction on point of the mountain state land;
- specifies that local governments do not have zoning authority with respect to the point of the mountain state land;
- eliminates a limitation on the Authority's ability to spend Authority money;
- authorizes the Authority to impose an accommodations tax and specifies that the revenue from the tax is to be used for affordable housing;
- modifies the composition of the Authority board;
- authorizes the Authority board to hold a closed meeting for a specified purpose; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-59-102, as last amended by Laws of Utah 2022, Chapter 237
11-59-103, as enacted by Laws of Utah 2018, Chapter 388
11-59-205, as enacted by Laws of Utah 2022, Chapter 237
11-59-301, as enacted by Laws of Utah 2018, Chapter 388
11-59-302, as last amended by Laws of Utah 2021, Chapter 282
11-59-304, as last amended by Laws of Utah 2021, Chapter 282
11-59-501, as last amended by Laws of Utah 2021, Chapter 282
52-4-205, as last amended by Laws of Utah 2022, Chapters 237, 290, 332, 335, 422, and 478
59-12-352, as last amended by Laws of Utah 2009, Chapter 92
59-12-354, as last amended by Laws of Utah 2018, Chapters 258 and 312
59-12-355, as last amended by Laws of Utah 2004, Chapter 255
63A-5b-902, as last amended by Laws of Utah 2022, Chapter 421

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

Section 1. Section 11-59-102 is amended to read:

11-59-102. Definitions.

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

[~~(4)~~] (5) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

[~~(5)~~] (6) "Point of the mountain state land" means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.

[~~(6)~~] (7) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

[~~(7)~~] (8) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities; and

(iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

[~~(8)~~] (9) "Taxing entity" means the same as that term is defined in Section 59-2-102.

Section 2. Section 11-59-103 is amended to read:

11-59-103. Scope of chapter -- Limit on selling or leasing point of the mountain state land -- Authority control over point of the mountain state land -- Role of Division of Facilities Construction and Management -- Local government zoning not applicable.

(1) This chapter governs the management of the point of the mountain state land, and the process of planning, managing, and implementing the development of the point of the mountain state land[~~:~~].

[~~(a) beginning May 8, 2018;~~]

[~~(b) subject to Subsection (3), during the transition period as prison operations on the point of the mountain state land continue and eventually wind down in anticipation of the relocation of prison operations to the new correctional facility; and~~]

[~~(c) upon and after the transfer of prison operations to the new correctional facility.~~]

(2) (a) No part of the point of the mountain state land may be sold or otherwise disposed of or leased without the approval of the board.

(b) The authority has complete and exclusive control over the management, development, and disposition of the point of the mountain state land.

[~~(3) Nothing in this chapter may be construed to authorize the authority to:~~]

[~~(a) manage, oversee, or otherwise affect prison operations conducted on the point of the mountain state land; or~~]

[~~(b) take an action that would impair or interfere with prison operations conducted on the point of the mountain state land.~~]

(3) (a) The facilities division serves the role of compliance agency under Title 15A, State Construction and Fire Codes Act, with respect to the point of the mountain state land.

(b) The facilities division is the permitting agency responsible for the issuance of a building permit or certificate of occupancy related to construction on the point of the mountain state land, in accordance with applicable building codes and standards.

(4) The zoning authority of a local government under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, or Title 17, Chapter 27a, County Land Use, Development, and Management Act, does not apply to the use of the point of the mountain state land or to any improvements constructed on the point of the mountain state land, including improvements constructed by an entity other than the authority.

Section 3. Section 11-59-205 is amended to read:

11-59-205. Authority funds.

(1) Authority funds consist of all money that the authority receives from any source, including:

(a) money appropriated by the Legislature;

(b) money from lease revenue;

(c) revenue from fees or other charges imposed by the authority; and

(d) other money paid to or acquired by the authority, as provided in this chapter or other applicable law.

(2) The authority may use authority funds to carry out any of the powers of the authority under this chapter or for any purpose authorized under this chapter, including:

(a) providing long-term benefits to the state from the development or use of point of the mountain state land;

(b) investment in authority projects;

(c) repayment of point of the mountain infrastructure loans;

(d) repayment of or collateral for authority bonds;

(e) the sharing of money with other governmental entities under an interlocal agreement; and

(f) paying any consulting fees, staff salaries, and other administrative, overhead, legal, and operating expenses of the authority.

[~~(3) The authority may not spend or use any money the authority receives under Section 10-1-304, 11-59-206, 11-59-207, or 11-59-208 until after June 30, 2023.~~]

Section 4. Section 11-59-301 is amended to read:

11-59-301. Authority board -- Delegation of power.

(1) The authority shall be governed by a board, which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.

(2) All powers of the authority are exercised through the board.

(3) The board may by resolution:

(a) delegate powers to authority staff[~~.~~]; and

(b) designate an authority officer or employee to execute on behalf of the authority a document by which the authority acts to lease, transfer, or otherwise dispose of land that is part of the point of the mountain state land.

Section 5. Section 11-59-302 is amended to read:

11-59-302. Number of board members -- Appointment -- Vacancies -- Chairs.

(1) The board shall consist of [~~11~~] 12 members as provided in Subsection (2).

(2) (a) The president of the Senate shall appoint two members of the Senate to serve as members of the board.

(b) The speaker of the House of Representatives shall appoint two members of the House of Representatives to serve as members of the board.

(c) The governor shall appoint [~~four~~] five individuals to serve as members of the board:

(i) one of whom shall be a member of the board of or employed by the Governor's Office of Economic Opportunity, created in Section 63N-1a-301; [~~and~~]

(ii) one of whom shall be an employee of the [~~Division of Facilities Construction and Management, created in Section 63A-5b-301.~~] facilities division; and

(iii) one of whom shall be an elected official from a municipality in close proximity to the municipality in which the point of the mountain state land is located.

(d) The Salt Lake County mayor shall appoint one board member, who shall be an elected Salt Lake County government official.

(e) The mayor of Draper, or a member of the Draper city council that the mayor designates, shall serve as a board member.

(f) The commissioner of higher education, appointed under Section 53B-1-408, or the commissioner's designee, shall serve as a board member.

(3) (a) (i) Subject to Subsection (3)(a)(ii), a vacancy on the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(ii) If the mayor of Draper or commissioner of higher education is removed as a board member under Subsection (5), the mayor of Draper or commissioner of higher education, as the case may be, shall designate an individual to serve as a member of the board, as provided in Subsection (2)(e) or (f), respectively.

(b) Each person appointed or designated to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(4) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(5) A member of the board may be removed by a vote of two-thirds of all members of the board.

(6) (a) The governor shall appoint one board member to serve as cochair of the board.

(b) The president of the Senate and speaker of the House of Representatives shall jointly appoint one legislative member of the board to serve as cochair of the board.

Section 6. Section 11-59-304 is amended to read:

11-59-304. Staff and other support services -- Cooperation from state and local government entities -- Services from state agencies.

(1) As used in this section[~~: (a) "Division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301. (b) "Office"~~], "office" means the Governor's Office of Economic Opportunity, created in Section 63N-1a-301.

(2) If and as requested by the board:

(a) the facilities division shall:

(i) provide staff support to the board; and

(ii) make available to the board existing division resources and expertise to assist the board in the development, marketing, and disposition of the point of the mountain state land; and

(b) the office shall cooperate with and provide assistance to the board in the board's:

(i) formulation of a development plan for the point of the mountain state land; and

(ii) management and implementation of a development plan, including the marketing of property and recruitment of businesses and others to locate on the point of the mountain state land.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority and the board to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) (a) The authority may request and, upon request, shall receive services that include:

(i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;

(ii) surplus property services provided by the Division of Purchasing and General Service;

(iii) information technology services provided by the Division of Technology Services;

(iv) archive services provided by the Division of Archives and Records Service;

(v) financial services provided by the Division of Finance;

(vi) human resource management services provided by the Division of Human Resource Management;

(vii) legal services provided by the Office of the Attorney General; and

(viii) banking services provided by the Office of the State Treasurer.

(b) Nothing in Subsection (4)(a) may be construed to relieve the authority of the obligation to pay the applicable fee for the service provided.

Section 7. Section 11-59-501 is amended to read:

11-59-501. Dissolution of authority -- Restrictions -- Publishing notice of dissolution -- Authority records -- Dissolution expenses.

(1) The authority may not be dissolved unless:

(a) the authority board first receives approval from the Legislative Management Committee of the Legislature to dissolve the authority; and

(b) the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) To dissolve the authority, the board shall:

(a) obtain the approval of the Legislative Management Committee of the Legislature; and

(b) adopt a resolution dissolving the authority, to become effective as provided in the resolution.

(3) Upon the dissolution of the authority:

(a) the Governor's Office of Economic Opportunity shall publish a notice of dissolution:

(i) in a newspaper of general circulation in the county in which the dissolved authority is located; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the authority vests in the [~~Division of Facilities Construction and Management, created in Section 63A-5b-301,~~] facilities division for the benefit of the state.

(4) The board shall deposit all books, documents, records, papers, and seal of the dissolved authority with the state auditor for safekeeping and reference.

(5) The authority shall pay all expenses of the deactivation and dissolution.

Section 8. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section

63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments; [~~or~~]

(r) a discussion of the board of the Point of the Mountain State Land Authority, created in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as defined in Section 11-59-102; or

[~~(r)~~] (s) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105;

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(83);

(h) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market; and

(i) a meeting of the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 9. Section 59-12-352 is amended to read:

59-12-352. Transient room tax authority for municipalities, military installation development authority, and Point of the Mountain State Land Authority -- Purposes for which revenues may be used.

(1) (a) Except as provided in Subsection (5), the governing body of a municipality may impose a tax of not to exceed 1% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(2) Subject to the limitations of Subsection (1), a governing body of a municipality may, by ordinance, increase or decrease the tax under this part.

(3) A governing body of a municipality shall regulate the tax under this part by ordinance.

(4) A municipality may use revenues generated by the tax under this part for general fund purposes.

(5) (a) A municipality may not impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) Subsection (5)(a) does not apply to the military installation development authority's imposition of a tax under this section.

(6) (a) As used in this Subsection (6):

(i) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(ii) "Authority board" means the board referred to in Section 11-59-301.

(b) The authority may, by a resolution adopted by the authority board, impose a tax of not to exceed 5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) for transactions that occur on point of the mountain state land, as defined in Section 11-59-102.

(c) The authority board, by resolution, shall regulate the tax under this Subsection (6).

(d) The authority shall use all revenue from a tax imposed under this Subsection (6) to provide affordable housing, consistent with the manner that a community reinvestment agency uses funds for affordable housing under Section 17C-1-412.

(e) A tax under this Subsection (6) is in addition to any other tax that may be imposed under this part.

Section 10. Section 59-12-354 is amended to read:

59-12-354. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(b) The commission:

(i) except as provided in Subsection (2)(b)(ii), shall distribute the revenue collected from the tax to:

(A) the municipality within which the revenue was collected, for a tax imposed under this part by a municipality; and

(B) the Point of the Mountain State Land Authority, for a tax imposed under Subsection 59-12-352(6); and

(ii) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

Section 11. Section 59-12-355 is amended to read:

59-12-355. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c), if, on or after July 1, 2004, a city or town enacts or repeals a tax or changes the rate of a tax under this part, or if the Point of the Mountain State Land Authority imposes or repeals a tax under Subsection 59-12-352(6) or changes the rate of the tax, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

(3) (a) Except as provided in Subsection (3)(c), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the

enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 12. Section 63A-5b-902 is amended to read:

63A-5b-902. Application of part.

(1) The provisions of this part, other than this section, do not apply to:

(a) a conveyance, lease, or disposal under Subsection 63A-5b-303(1)(a)(viii);

(b) the division's disposal or lease of division-owned property with a value under $500,000, as estimated by the division; [~~or~~]

(c) a conveyance, lease, or disposal of division-owned property in connection with:

(i) the establishment of a state store, as defined in Section 32B-1-102; or

(ii) the construction of student housing[.]; or

(d) a conveyance, lease, or disposal of any part of the point of the mountain state land, as defined in Section 11-59-102, by the Point of the Mountain State Land Authority created in Section 11-59-201.

(2) Nothing in Subsection (1)(b) or (c) may be construed to diminish or eliminate the division's responsibility to manage division-owned property in the best interests of the state.

CHAPTER 264
S. B. 290
Passed March 2, 2023
Approved March 14, 2023
Effective May 3, 2023

JUVENILE COURT MODIFICATIONS

Chief Sponsor: Todd D. Weiler
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill amends provisions related to the juvenile court.

Highlighted Provisions:

This bill:

- amends the original jurisdiction of the juvenile court;
- allows for the juvenile court to enter an order with special findings regarding the abuse, neglect, or dependence of a noncitizen child; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-6-103, as last amended by Laws of Utah 2022, Chapters 155, 335

ENACTS:

80-3-505, Utah Code Annotated 1953

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

Section 1. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

(2) The juvenile court has original jurisdiction over any proceeding concerning:

(a) a child who is an abused child, neglected child, or dependent child;

(b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(c) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(e) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(f) the treatment or commitment of a minor who has an intellectual disability;

(g) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(h) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(i) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(j) the treatment or commitment of a child with a mental illness;

(k) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(l) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(m) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(n) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(o) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of Juvenile Justice Services, the child has demonstrated that the child:

(i) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(ii) has run away from home; and

(p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court.

(3) The juvenile court has original jurisdiction over a petition for special findings under Section 80-3-505.

[~~(3)~~] (4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection (2)(p).

[~~(4)~~] (5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

[~~(5)~~] (6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

[~~(6)~~] (7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

[~~(7)~~] (8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 2. Section 80-3-505 is enacted to read:

Part 5. Miscellaneous Hearings and Petitions

80-3-505. Petition for special findings for at-risk noncitizen child.

(1) As used in this section:

(a) "At-risk" means there is reasonable cause to suspect that:

(i) a noncitizen child's health, safety, and welfare is, or has been, in jeopardy due to abuse, neglect, abandonment, or similar circumstances; and

(ii) the return of the noncitizen child to the noncitizen child's, or the noncitizen child's parent's, country of origin or country of last habitual residence is not in the best interest of the noncitizen child.

(b) "Noncitizen child" means an unmarried individual:

(i) who is younger than 21 years old; and

(ii) who is not a citizen of the United States.

(c) "Dependent on the court" means subject to the jurisdiction of the juvenile or district court to make decisions concerning the protection, well-being, care, and custody of a noncitizen child for findings, orders, or referrals to:

(i) support the health, safety, and welfare of the noncitizen child; or

(ii) remedy the effects on the noncitizen child of abuse, neglect, abandonment, or similar circumstances.

(d) "Similar circumstances" means a condition or conditions that have an effect on a noncitizen child comparable to abuse, neglect, or abandonment, including the death of a parent.

(2) A noncitizen child who is at-risk may petition the juvenile court for special findings regarding the abuse, neglect, abandonment, or similar circumstances of the noncitizen child.

(3) Upon reviewing a petition under Subsection (2) and any supporting evidence, the juvenile court shall enter an order with special findings that determine whether:

(a) the noncitizen child:

(i) is dependent on the court;

(ii) is in the custody of the division or another appropriate person by order of the juvenile court; or

(iii) has been appointed a guardian by a court;

(b) the noncitizen child has suffered from abuse, neglect, abandonment, or similar circumstances;

(c) the noncitizen child may not be viably reunified with one or both of the noncitizen child's parents due to abuse, neglect, abandonment, or similar circumstances; and

(d) the noncitizen child may not be returned to the noncitizen child's, or the noncitizen child's parent's, country of origin or country of last habitual residence because it is not in the best interest of the child.

(4) In determining the best interest of the noncitizen child under Subsection (3)(d), the court shall consider:

(a) the health, safety, and welfare of the child to be the paramount concern for the noncitizen child; and

(b) whether the present and past living conditions will adversely affect the noncitizen child's physical, mental, or emotional health.

(5) If the identity or location of the noncitizen child's parents is unknown or if the noncitizen child's parents reside outside the United States, the juvenile court may serve notice using any alternative method of service the court determines is appropriate or waive service.

(6) The juvenile court shall hear, adjudicate, and issue findings of fact on any petition for special findings under this section as soon as it is administratively feasible and before the noncitizen child is 21 years old.

(7) (a) The juvenile court may refer a noncitizen child who is the subject of a petition for special findings under this section for psychiatric,

psychological, educational, occupational, medical, dental, or social services or for protection against human trafficking or domestic violence.

(b) A noncitizen child's participation in a referred service under Subsection (7)(a) is voluntary.

(8) This section does not:

(a) limit a noncitizen child from petitioning for special findings under any other provision of law or from any other rights and remedies available to the child under any other provision of law;

(b) limit the juvenile court from issuing similar findings of fact for a noncitizen child in any other proceeding concerning the noncitizen child; or

(c) constitute an adjudication for abuse, neglect, or dependency under this chapter.

CHAPTER 265
S. B. 293
Passed March 3, 2023
Approved March 14, 2023
Effective May 3, 2023

EXPUNGEMENT REVISIONS

Chief Sponsor: Todd D. Weiler
House Sponsor: Marsha Judkins

LONG TITLE

General Description:

This bill amends provisions related to expungement.

Highlighted Provisions:

This bill:

- defines terms;
- amends the rulemaking authority of the Department of Public Safety;
- amends the requirements for a certificate of eligibility to expunge records of arrest, investigation, and detention;
- amends the requirements for a certificate of eligibility to expunge records of a conviction;
- amends the requirements for a petition for expungement for a traffic offense case;
- addresses a victim's response to a petition for expungement;
- requires an agency to provide written confirmation of expungement if the individual who received the expungement requests confirmation;
- allows the Bureau of Criminal Identification to charge a fee for providing a written confirmation of an expungement;
- amends the list of agencies that can access an expunged record;
- allows an individual who receives an expungement to request confirmation of an expungement from an agency;
- clarifies a statutory provision regarding a hearing for the expungement of a protective order; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-40a-101, as last amended by Laws of Utah 2022, Chapters 116, 430 and renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-104, as renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-302, as renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-303, as last amended by Laws of Utah 2022, Chapter 116 and renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-304, as last amended by Laws of Utah 2022, Chapter 384 and renumbered and amended by Laws of Utah 2022, Chapter 250 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 384
77-40a-305, as last amended by Laws of Utah 2022, Chapter 384 and renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-401, as renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-402, as renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-403, as renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-404, as renumbered and amended by Laws of Utah 2022, Chapter 250
78B-7-1003, as enacted by Laws of Utah 2022, Chapter 270

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

Section 1. Section 77-40a-101 is amended to read:

77-40a-101. Definitions.

As used in this chapter:

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(3) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(4) (a) [~~Except as provided in Subsection (4)(c), "clean slate eligible case" means~~] "Clean slate eligible case" means, except as provided in Subsection (4)(c), a case:

(i) where each conviction within the case is:

(A) a misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor conviction; or

(C) an infraction conviction;

(ii) that involves an individual:

(A) whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections [~~77-40a-303(5) and (6)~~] 77-40a-303(4) and (5) without taking into consideration the exception in Subsection [~~77-40a-303(8)~~] 77-40a-303(7); and

(B) against whom no criminal proceedings are pending in the state; and

(iii) for which the following time periods have elapsed from the day on which the case is adjudicated:

(A) at least five years for a class C misdemeanor or an infraction;

(B) at least six years for a class B misdemeanor; and

(C) at least seven years for a class A conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(b) "Clean slate eligible case" includes a case:

(i) that is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) if:

(A) except as provided in Subsection (4)(c), each charge within the case is a misdemeanor for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;

(B) the individual involved meets the requirements of Subsection (4)(a)(ii); and

(C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed from the day on which the case is dismissed; or

(ii) where charges are dismissed without prejudice if each conviction, or charge that was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or (b)(i).

(c) "Clean slate eligible case" does not include a case:

(i) where the individual is found not guilty by reason of insanity;

(ii) where the case establishes a criminal accounts receivable, as defined in Section 77-32b-102, that:

(A) has been entered as a civil accounts receivable or a civil judgment of restitution, as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt Collection under Section 77-18-114; or

(B) has not been satisfied according to court records; or

(iii) that resulted in one or more pleas held in abeyance or convictions for the following offenses:

(A) any of the offenses listed in Subsection [~~77-40a-303(1)(a)~~] 77-40a-303(2)(a);

(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;

(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(D) sexual battery in violation of Section 76-9-702.1;

(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(G) damage to or interruption of a communication device in violation of Section 76-6-108;

(H) a domestic violence offense as defined in Section 77-36-1; or

(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(5) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(6) "Criminal protective order" means the same as that term is defined in Section 78B-7-102.

(7) "Criminal stalking injunction" means the same as that term is defined in Section 78B-7-102.

(8) "Department" means the Department of Public Safety established in Section 53-1-103.

(9) "Drug possession offense" means an offense under:

(a) Subsection 58-37-8(2), except:

(i) any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana;

(ii) any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility; or

(iii) driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (9).

(10) "Expunge" means to seal or otherwise restrict access to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

(11) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(12) (a) [~~Except as provided in Subsection (12)(c), "minor regulatory offense" means~~] "Minor regulatory offense" means, except as provided in Subsection (12)(c), a class B or C misdemeanor offense or a local ordinance.

(b) "Minor regulatory offense" includes an offense under Section 76-9-701 or 76-10-105.

(c) "Minor regulatory offense" does not include:

(i) any drug possession offense;

(ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iii) an offense under Sections 73-18-13 through 73-18-13.6;

(iv) except as provided in Subsection (12)(b), an offense under Title 76, Utah Criminal Code; or

(v) any local ordinance that is substantially similar to an offense listed in Subsections (12)(c)(i) through (iv).

(13) "Petitioner" means an individual applying for expungement under this chapter.

(14) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

[~~(14)~~] (15) (a) "Traffic offense" means, except as provided in Subsection (15)(b):

(i) [~~all infractions, class B misdemeanors, and class C misdemeanors in~~] an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 41, Chapter 6a, Traffic Code;

(ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to an offense listed in Subsections [~~(14)(a)(i)~~] (15)(a)(i) through (iii).

(b) "Traffic offense" does not mean:

(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) an offense under Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to an offense listed in Subsection [~~(14)(b)(i)~~] (15)(b)(i) or (ii).

[~~(15)~~] (16) "Traffic offense case" means that each offense in the case is a traffic offense.

Section 2. Section 77-40a-104 is amended to read:

77-40a-104. Department rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(1) implement procedures for processing an automatic expungement;

(2) implement procedures for applying for certificates of eligibility;

(3) specify procedures for receiving a certificate of eligibility; [~~and~~]

(4) create forms and determine information necessary to be provided to the bureau[~~.~~]; and

(5) implement procedures for the confirmation of an expungement under Subsection 77-40a-403(2).

Section 3. Section 77-40a-302 is amended to read:

77-40a-302. Requirements for certificate of eligibility to expunge records of arrest, investigation, and detention.

[~~An individual who is arrested or formally charged with an offense is eligible to receive a certificate of eligibility from the bureau to expunge the records of arrest, investigation, and detention that may have been made in the case if:~~]

[~~(1) at least 30 days have passed since the day of the arrest for which a certificate of eligibility is sought;~~]

[~~(2) there are no criminal proceedings or pleas in abeyance pending against the individual;~~]

[~~(3) the individual is not currently on probation or parole;~~]

[~~(4) there is not a criminal protective order or a criminal stalking injunction in effect for the case;~~]

[~~(5) there are no convictions in the case for a traffic offense; and~~]

[~~(6) one of the following occurs:~~]

[~~(a) charges are screened by the investigating law enforcement agency and the prosecuting attorney makes a final determination that no charges will be filed in the case;~~]

[~~(b) (i) all charges contained in the case are dismissed; and~~]

[~~(ii) if any charge contained in the case is dismissed without prejudice or without condition:~~]

[~~(A) the prosecuting attorney consents in writing to the issuance of a certificate of eligibility; or~~]

[~~(B) at least 180 days have passed since the day on which the charge is dismissed;~~]

[~~(c) the individual is acquitted at trial on all of the charges contained in the case; or~~]

[~~(d) the statute of limitations expires on all of the charges contained in the case.~~]

(1) Except as provided in Subsection (2), if a petitioner is arrested or charged with an offense, the petitioner is eligible to receive a certificate of eligibility from the bureau to expunge records of the arrest, investigation, and detention in the case for the offense if:

(a) at least 30 days have passed after the day on which the individual is arrested or charged for the offense;

(b) one of the following occurs:

(i) an investigating law enforcement agency and the prosecuting attorney have screened the case and determined that no charges will be filed against the petitioner;

(ii) all charges in the case are dismissed with prejudice;

(iii) if a charge in the case is dismissed without prejudice or without condition:

(A) the prosecuting attorney consents in writing to the issuance of a certificate of eligibility; or

(B) at least 180 days have passed after the day on which the charge is dismissed;

(iv) the petitioner is acquitted at trial on all of the charges in the case; or

(v) the statute of limitations expires on all of the charges in the case; and

(c) (i) there is a conviction in the case for a traffic offense that is a class C misdemeanor or an infraction, at least three years have passed after the day on which the petitioner was convicted of the traffic offense; or

(ii) there is a conviction in the case for a traffic offense that is a class B misdemeanor, at least four years have passed after the day on which the petitioner was convicted of the traffic offense.

(2) A petitioner is not eligible for a certificate of eligibility under Subsection (1) if:

(a) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(b) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense;

(c) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense; or

(d) there is a criminal protective order or a criminal stalking injunction in effect for the case.

Section 4. Section 77-40a-303 is amended to read:

77-40a-303. Requirements for a certificate of eligibility to expunge records of a conviction.

(1) Except as otherwise provided by this section, a petitioner is eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction if:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and

(c) the following time periods have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for the conviction that the petitioner seeks to expunge:

(i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

(ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(iii) seven years for the conviction of a felony;

(iv) five years for the conviction of a drug possession offense that is a felony;

(v) five years for the conviction of a class A misdemeanor;

(vi) four years for the conviction of a class B misdemeanor; or

(vii) three years for the conviction of a class C misdemeanor or infraction.

[~~(1) Except as provided in Subsections (2) and (4), an individual~~]

(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction under Subsection (1) if:

(a) except as provided in Subsection (3), the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) a felony conviction described in Subsection 41-6a-501(2);

(v) an offense, or a combination of offenses, that would require the individual to register as a sex offender, as defined in Section 77-41-102; or

(vi) a registerable child abuse offense as defined in Subsection 77-43-102(2);

(b) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(c) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense;

(d) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense;

[~~(b) a criminal proceeding or a plea in abeyance is pending against the petitioner;~~]

[~~(c) the petitioner is on probation or parole;~~]

[~~(d)~~] (e) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility; [~~or~~]

[~~(e)~~] (f) there is a criminal protective order or a criminal stalking injunction [~~is~~] in effect for the case[~~.~~]; or

(g) the bureau determines that the petitioner's criminal history makes the petitioner ineligible for a certificate of eligibility under Subsection (4) or (5).

(3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District Court.

[~~(2) The eligibility limitation described in Subsection (1) does not apply in relation to a conviction for a qualifying sexual offense, as defined in Subsection 76-3-209(1), if, at the time of the offense, the individual who committed the offense was at least 14 years old, but under 18 years old, unless the conviction occurred in district court after the individual was:~~]

[~~(a) charged by criminal information under Section 80-6-502 or 80-6-503; and~~]

[~~(b) bound over to district court under Section 80-6-504.~~]

[~~(3) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:~~]

[~~(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;~~]

[~~(b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and~~]

[~~(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:~~]

[~~(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);~~]

[~~(ii) seven years in the case of a felony;~~]

[~~(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;~~]

[~~(iv) four years in the case of a class B misdemeanor; or~~]

[~~(v) three years in the case of any other misdemeanor or infraction.~~]

[~~(4) When determining whether to issue a certificate of eligibility for a conviction, the bureau may not consider:~~]

[~~(a) a petitioner's pending or previous:~~]

[~~(i) infraction;~~]

[~~(ii) traffic offense;~~]

[~~(iii) minor regulatory offense; or~~]

[~~(iv) clean slate eligible case that was automatically expunged in accordance with Section 77-40a-201; or~~]

[~~(b) a fine or fee related to an offense described in Subsection (4)(a).~~]

[~~(5) Except as provided in Subsection (8), the bureau may not issue a certificate of eligibility for a conviction if, at the time the petitioner seeks a certificate of eligibility,~~]

(4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

[~~(6) Except as provided in Subsection (8), the bureau may not issue a certificate of eligibility for a conviction if, at the time the petitioner seeks a certificate of eligibility,~~]

(5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

[~~(7)~~] (6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non-drug possession offense arising from the same criminal episode, [~~that criminal episode shall be counted as provided in Subsection (5)~~] the bureau shall count that criminal episode as a conviction under Subsection (4) if any non-drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection [~~(3)~~] (1)(c) than any drug possession offense in that episode.

[~~(8) If at least 10 years have elapsed from the date~~]

(7) Except as provided in Subsection (8), if at least 10 years have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions:

(a) each numerical eligibility limit [~~defined in Subsections (5)(a) and (b)~~] under Subsections (4)(a) and (b) shall be increased by one; and

(b) each numerical eligibility limit [~~defined in Subsections (5)(c), (5)(d), and (6) are not applicable and the bureau may issue a certificate of eligibility if:~~] under Subsections (4)(c) and (d) is not applicable if the highest level of convicted offense in the criminal episode is:

[~~(i) the individual is otherwise eligible; and~~]

[~~(ii) the highest convicted offense in the criminal episode for each conviction is:~~]

[~~(A)~~] (i) a class B misdemeanor;

[~~(B)~~] (ii) a class C misdemeanor;

[~~(C)~~] (iii) a drug possession offense if none of the non-drug possession offenses in the criminal episode are a felony or a class A misdemeanor; or

[~~(D)~~] (iv) an infraction.

(8) When determining whether a petitioner is eligible for a certificate of eligibility under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or prior conviction for:

(a) an infraction;

(b) a traffic offense;

(c) a minor regulatory offense; or

(d) a clean slate eligible case that was automatically expunged in accordance with Section 77-40a-201.

(9) [~~If, prior to May 14, 2013, the petitioner has received a pardon~~] If the petitioner received a pardon before May 14, 2013, from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes in accordance with Section 77-27-5.1.

Section 5. Section 77-40a-304 is amended to read:

77-40a-304. Certificate of eligibility process -- Issuance of certificate -- Fees.

(1) (a) When a petitioner applies for a certificate of eligibility as described in Subsection 77-40a-301(1), the bureau shall perform a check of records of governmental agencies, including national criminal data bases, to determine whether the petitioner is eligible to receive a certificate of eligibility under this chapter.

(b) For purposes of determining eligibility under this chapter, the bureau may review records of arrest, investigation, detention, and conviction that have been previously expunged, regardless of the jurisdiction in which the expungement occurred.

(c) Once the eligibility process is complete, the bureau shall notify the petitioner.

(d) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303:

(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days from the day on which the certificate is issued;

(ii) the bureau shall provide a petitioner with an identification number for the certificate of eligibility; and

(iii) the petitioner shall pay the issuance fee established by the department as described in Subsection (2).

(e) If, after reasonable research, a disposition for an arrest on the criminal history file is unobtainable, the bureau may issue a special certificate giving determination of eligibility to the court [~~if:~~], except that the bureau may not issue the special certificate if:

[~~(i) there are no criminal proceedings or pleas in abeyance pending against the petitioner; and~~]

[~~(ii) the petitioner is not currently on probation or parole.~~]

(i) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(ii) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense; or

(iii) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense.

(2) (a) The bureau shall charge application and issuance fees for a certificate of eligibility or special certificate in accordance with the process in Section 63J-1-504.

(b) The application fee shall be paid at the time the petitioner submits an application for a certificate of eligibility to the bureau.

(c) If the bureau determines that the issuance of a certificate of eligibility or special certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a certificate of eligibility or special certificate unless Subsection (2)(d) applies.

(d) An issuance fee may not be assessed against a petitioner who qualifies for a certificate of eligibility under Section 77-40a-302 unless the charges were dismissed pursuant to a plea in abeyance

agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.

(e) Funds generated under this Subsection (2) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(3) The bureau shall include on the certificate of eligibility all information that is needed for the court to issue a valid expungement order.

(4) The bureau shall provide clear written instructions to the petitioner that explain:

(a) the process for a petition for expungement; and

(b) what is required of the petitioner to complete the process for a petition for expungement.

(5) (a) The requirement for a petitioner to pay an issuance fee for a certificate of eligibility or a special certificate of eligibility under Subsection (2) is suspended from May 4, 2022, to June 30, 2023.

(b) The bureau may not charge a fee for the issuance of a certificate of eligibility or a special certificate of eligibility during the time period described in Subsection (5)(a).

Section 6. Section 77-40a-305 is amended to read:

77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.

(1) (a) The petitioner shall file a petition for expungement, in accordance with the Utah Rules of Criminal Procedure, that includes the identification number for the certificate of eligibility described in Subsection 77-40a-304(1)(d)(ii).

(b) Information on a certificate of eligibility is incorporated into a petition by reference to the identification number for the certificate of eligibility.

(2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall obtain a certificate of eligibility from the bureau.

(b) A court may not accept a petition for expungement if the certificate of eligibility is no longer valid as described in Subsection 77-40a-304(1)(d)(i).

(3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a traffic [~~conviction~~] offense case without obtaining a certificate of eligibility if:

(a) (i) for a traffic offense case with a class C misdemeanor or infraction, at least three years have [~~elapsed from~~] passed after the day on which the petitioner was convicted; or

(ii) for a traffic offense case with a class B misdemeanor, at least four years have [~~elapsed from~~] passed after the day on which the petitioner was convicted[~~; and~~];

(b) there is no traffic offense case pending against the petitioner;

(c) there is no plea in abeyance for a traffic offense case pending against the petitioner; and

(d) the petitioner is not currently on probation for a traffic offense case.

[~~(b) all convictions in the case for the traffic conviction are for traffic offenses.~~]

(4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a record for a conviction related to cannabis possession without a certificate of eligibility if the petition demonstrates that:

(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(b) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (4)(a).

(5) (a) The court shall provide notice of a filing of a petition and certificate of eligibility to the prosecutorial office that handled the court proceedings within three days after the day on which the petitioner's filing fee is paid or waived.

(b) If there were no court proceedings, the court shall provide notice of a filing of a petition and certificate of eligibility to the county attorney's office in the jurisdiction where the arrest occurred.

(c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where the arrest occurred shall immediately notify the city attorney's office that the county attorney's office has received a notice of a filing of a petition for expungement.

(6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall make a reasonable effort to provide notice to any victim of the conviction or charge.

(b) The notice under Subsection (6)(a) shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(7) (a) The prosecuting attorney [~~and the victim, if applicable,~~] may respond to the petition by filing a recommendation or objection with the court within 35 days after the day on which the notice of the filing of the petition is sent by the court to the prosecuting attorney.

(b) If there is a victim of the offense for which expungement is sought, the victim may respond to

the petition by filing a recommendation or objection with the court within 60 days after the day on which the petition for expungement was filed with the court.

(8) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(9) The petitioner may respond in writing to any objections filed by the prosecuting attorney or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after the day on which the objection or response is received.

(10) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(b) The prosecuting attorney shall notify the victim of the date set for the hearing.

(c) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(d) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(11) If no objection is received within 60 days from the day on which the petition for expungement is filed with the court, the expungement may be granted without a hearing.

Section 7. Section 77-40a-401 is amended to read:

77-40a-401. Distribution of order -- Redaction -- Receipt of order -- Bureau requirements -- Administrative proceedings.

(1) (a) The bureau, upon receiving notice from the court, shall notify all criminal justice agencies affected by the expungement order.

(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons and Parole of an expungement order if the individual has never been:

(i) sentenced to prison in this state; or

(ii) under the jurisdiction of the Board of Pardons and Parole.

(c) A petitioner may deliver copies of the expungement to all criminal justice agencies affected by the order of expungement.

(d) An individual, who receives an expungement order under Section 77-27-5.1, shall pay a processing fee to the bureau, established in accordance with the process in Section 63J-1-504, before the bureau's record may be expunged.

(2) Unless otherwise provided by law or ordered by a court to respond differently, an individual or agency who has received an expungement of an arrest or conviction under this chapter or Section 77-27-5.1 may respond to any inquiry as though the arrest or conviction did not occur.

(3) The bureau shall forward a copy of the expungement order to the Federal Bureau of Investigation.

(4) An agency receiving an expungement order shall expunge the individual's identifying information contained in records in the agency's possession relating to the incident for which expungement is ordered.

(5) Unless ordered by a court to do so, or in accordance with [~~Subsection 77-40a-403(2)~~] Section 77-40a-403, a government agency or official may not divulge information or records that have been expunged.

(6) (a) An expungement order may not restrict an agency's use or dissemination of records in the agency's ordinary course of business until the agency has received a copy of the order.

(b) Any action taken by an agency after issuance of the order but prior to the agency's receipt of a copy of the order may not be invalidated by the order.

(7) An expungement order may not:

(a) terminate or invalidate any pending administrative proceedings or actions of which the individual had notice according to the records of the administrative body prior to issuance of the expungement order;

(b) affect the enforcement of any order or findings issued by an administrative body pursuant to the administrative body's lawful authority prior to issuance of the expungement order;

(c) remove any evidence relating to the individual including records of arrest, which the administrative body has used or may use in these proceedings; or

(d) prevent an agency from maintaining, sharing, or distributing any record required by law.

Section 8. Section 77-40a-402 is amended to read:

77-40a-402. Distribution for order for vacatur.

(1) An individual who receives an order for vacatur under Subsection 78B-9-108(2) shall be responsible for delivering a copy of the order for vacatur to all affected criminal justice agencies and officials.

(2) To complete delivery of the order for vacatur to the bureau, the individual shall complete and attach to the order for vacatur an application for a certificate of eligibility for expungement, including identifying information and fingerprints, in accordance with Section 77-40a-301.

(3) Except as otherwise provided in this section, the bureau shall treat the order for vacatur and attached certificate of eligibility for expungement the same as a valid order for expungement under Section 77-40a-401.

(4) Unless otherwise provided by law or ordered by a court to respond differently, an individual who has received a vacatur of conviction under [~~Section~~] Subsection 78B-9-108(2) may respond to any inquiry as though the conviction did not occur.

(5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of Investigation.

(6) An agency receiving an order for vacatur shall expunge the individual's identifying information contained in records in the agency's possession relating to the incident for which vacatur is ordered.

(7) A government agency or official may not divulge information contained in a record of arrest, investigation, detention, or conviction after receiving an order for vacatur to any person or agency, except for:

(a) the individual for whom vacatur was ordered; or

(b) Peace Officer Standards and Training, in accordance with Section 53-6-203 and Subsection [~~77-40a-403(2)(b)(ii)~~] 77-40a-403(4)(b).

(8) The bureau may not count vacated convictions against any future expungement eligibility.

Section 9. Section 77-40a-403 is amended to read:

77-40a-403. Retention and release of expunged records -- Agencies.

(1) (a) The bureau, after receiving an expungement order, shall keep, index, and maintain all expunged records of arrests and convictions.

(b) Any agency, other than the bureau, receiving an expungement order shall develop and implement a process to identify and maintain an expunged record.

(2) (a) An agency shall provide an individual who receives an expungement with written confirmation that the agency has expunged all records of the offense for which the individual received the expungement if the individual requests confirmation from the agency.

(b) The bureau may charge a fee for providing a written confirmation under Subsection (2)(a) in accordance with the process in Section 63J-1-504.

[~~(2)~~] (3) [~~(a) (i)~~] (a) An employee of the bureau, or any agency with an expunged record, may not divulge any information contained in the expunged record to any person or agency without a court order unless:

[~~(A)~~] (i) specifically authorized by statute; or

[~~(B)~~] (ii) subject to Subsection [~~(2)(a)(ii)~~] (3)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.

[~~(ii)~~] (b) An agency with a records management system may not disclose any information in an expunged record with another agency or person that does not use the records management system for the purpose of record management.

[~~(b)~~] (4) The following entities or agencies may receive information contained in expunged records upon specific request:

[~~(i)~~] (a) the Board of Pardons and Parole;

[~~(ii)~~] (b) Peace Officer Standards and Training;

[~~(iii)~~] (c) federal authorities if required by federal law;

[~~(iv) the Department of Commerce;~~]

[~~(v) the Department of Insurance;~~]

[~~(vi)~~] (d) the State Board of Education;

[~~(vii)~~] (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office; and

[~~(viii)~~] (f) a research institution or an agency engaged in research regarding the criminal justice system if:

[~~(A)~~] (i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;

[~~(B)~~] (ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;

[~~(C)~~] (iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and

[~~(D)~~] (iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.

[~~(c)~~] (5) Except as otherwise provided by this [~~Subsection (2)~~] section or by court order, a person, an agency, or an entity authorized by this [~~Subsection (2)~~] section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.

[~~(d)~~] (6) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a

successful completion of a plea in abeyance agreement, for:

[~~(i)~~] (a) stalking as described in Section 76-5-106.5;

[~~(ii)~~] (b) a domestic violence offense as defined in Section 77-36-1;

[~~(iii)~~] (c) an offense that would require the individual to register as a sex offender, as defined in Section 77-41-102; or

[~~(iv)~~] (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.

[~~(c)~~] (7) Except as provided in Subsection [~~(4)~~] (9), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.

[~~(3)~~] (8) The bureau may also use the information in the bureau's index as provided in Section 53-5-704.

[~~(4)~~] (9) If, after obtaining an expungement, an individual is charged with a felony or an offense eligible for enhancement based on a prior conviction, the state may petition the court to open the expunged records upon a showing of good cause.

[~~(5)~~] (10) (a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection [~~(5)~~] (10) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

[~~(6)~~] (11) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

Section 10. Section 77-40a-404 is amended to read:

77-40a-404. Confirmation of expungement -- Access to expunged records by individuals.

[~~A record expunged under this chapter or Section 77-27-5.1 may be released to or viewed by:~~]

(1) An individual who receives an expungement may request a written confirmation from an agency under Subsection 77-40a-403(2) to confirm that the agency has expunged all records of the offense for which the individual received the expungement.

(2) The following individuals may view or obtain an expunged record under this chapter or Section 77-27-5.1:

[~~(1)~~] (a) the petitioner or an individual who receives an automatic expungement under Section 77-40a-201;

[~~(2)~~] (b) a law enforcement officer, who was involved in the case, for use solely in the officer's defense of a civil action arising out of the officer's involvement with the petitioner in that particular case; and

[~~(3)~~] (c) [~~parties~~] a party to a civil action arising out of the expunged incident if the information is kept confidential and utilized only in the action.

Section 11. Section 78B-7-1003 is amended to read:

78B-7-1003. Requirements for expungement of protective order or stalking injunction.

(1) (a) An individual against whom a civil order is sought may petition the court to expunge records of the civil order.

(b) A petition under Subsection (1)(a) shall be filed in accordance with the Utah Rules of Civil Procedure.

(2) (a) The petitioner shall provide notice to the individual whom filed the civil order against the petitioner in accordance with Rule 4 of the Utah Rules of Civil Procedure.

(b) The individual who filed the civil order against the petitioner:

(i) may file a written objection with the court within 30 days after the day on which the petition is received by the individual; and

(ii) if the individual files a written objection, provide a copy of the written objection to the petitioner.

(c) If the court receives a written objection to the petition for expungement of a civil order, the court shall:

(i) set a date for a hearing on the petition;

(ii) provide notice at least 30 days before the day on which the hearing is held to:

(A) all parties of the civil order; and

(B) any other person or agency that the court has reason to believe may have relevant information related to the expungement of the civil order.

(d) The petitioner may respond, in writing, to any written objection within 14 days after the day on which the written objection is received by the court.

(3) If no written objection is received within 60 days from the day on which the petition for expungement is filed under Subsection (1), the court may grant the expungement in accordance with Subsection (4) or (5) without a hearing.

(4) A court may expunge an ex parte civil protective order or an ex parte civil stalking injunction if:

(a) the ex parte civil protective order or the ex parte civil stalking injunction was issued but:

(i) the ex parte civil protective order or the ex parte civil stalking injunction is dismissed, dissolved, or expired upon a hearing by the court;

(ii) the court did not issue a civil protective order or a civil stalking injunction on the same circumstances for which the ex parte civil protective order or the ex parte civil stalking injunction was issued;

(iii) at least 30 days have passed from the day on which the ex parte civil protective order or the ex parte civil stalking injunction was issued;

(iv) the petitioner has not been arrested, charged, or convicted for violating the ex parte civil protective order or ex parte civil stalking injunction; and

(v) there are no criminal proceedings pending against the petitioner in the state; or

(b) (i) the individual who filed the ex parte civil protective order or the ex parte civil stalking injunction failed to appear for the hearing on the ex parte civil protective order or ex parte civil stalking injunction;

(ii) at least 30 days have passed from the day on which the hearing on the ex parte civil protective order or the ex parte civil stalking injunction was set to occur, including any continuance, postponement, or rescheduling of the hearing;

(iii) the petitioner has not been arrested, charged, or convicted for violating the ex parte civil protective order or ex parte civil stalking injunction; and

(iv) there are no criminal proceedings pending against the petitioner in the state.

(5) A court may expunge a civil protective order or a civil stalking injunction if:

(a) the civil protective order or the civil stalking injunction has been dismissed, dissolved, vacated, or expired;

(b) three years have passed from the day on which the civil protective order or the civil stalking injunction is dismissed, dissolved, vacated, or expired;

(c) the petitioner has not been arrested, charged, or convicted for violating the civil protective order or the civil stalking injunction; and

(d) there are no criminal proceedings pending against the petitioner in the state.

CHAPTER 266
H. B. 23
Passed March 3, 2023
Approved March 15, 2023
Effective July 1, 2023

FORENSIC MENTAL HEALTH AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies the duties of the Utah Substance Use and Mental Health Advisory Council (council) regarding forensic mental health.

Highlighted Provisions:

This bill:

- modifies the council's membership to include an individual that represents the Utah State Hospital;
- moves responsibilities from the Forensic Mental Health Coordinating Council to the council;
- authorizes the council to determine and collect data from the Department of Corrections regarding mental health services; and
- requires the council to report on the adequacy of employee pay at the Utah State Hospital.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63M-7-301, as last amended by Laws of Utah 2022, Chapter 255
63M-7-303, as last amended by Laws of Utah 2022, Chapter 211

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

Section 1. Section 63M-7-301 is amended to read:

63M-7-301. Definitions -- Creation of council -- Membership -- Terms.

(1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) one elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of Integrated Healthcare or the director's designee;

(e) the state superintendent of public instruction or the superintendent's designee;

(f) the executive director of the Department of Health and Human Services or the executive director's designee;

(g) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

(n) the state court administrator or the state court administrator's designee;

(o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) one prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

(t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection 62A-15-1101(2);

(u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

(v) the superintendent of the Utah State Hospital or the superintendent's designee;

[~~(v)~~] (w) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

[~~(w)~~] (x) in addition to the voting members described in Subsections (2)(a) through [~~(v)~~] (w), the following voting members appointed by a majority of the members described in Subsections (2)(a) through [~~(v)~~] (w) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;

(iv) one resident of the state who represents prevention professionals;

(v) one resident of the state who represents treatment professionals;

(vi) one resident of the state who represents the physical health care field;

(vii) one resident of the state who is a criminal defense attorney;

(viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;

(ix) one resident of the state who represents local law enforcement agencies;

(x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and

(xi) one resident of the state who is certified by the Division of Integrated Healthcare as a peer support specialist as described in Subsection 62A-15-103(2)(h).

(3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the council.

Section 2. Section 63M-7-303 is amended to read:

63M-7-303. Duties of council.

(1) The Utah Substance Use and Mental Health Advisory Council shall:

(a) provide leadership and generate unity for Utah's ongoing efforts to reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(b) recommend and coordinate the creation, dissemination, and implementation of statewide policies to address substance use and mental health disorders;

(c) facilitate planning for a balanced continuum of substance use and mental health disorder prevention, treatment, and justice services;

(d) promote collaboration and mutually beneficial public and private partnerships;

(e) coordinate recommendations made by any committee created under Section 63M-7-302;

(f) analyze and provide an objective assessment of all proposed legislation concerning substance use, mental health, forensic mental health, and related issues;

(g) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d), as provided in Section 63M-7-305;

(h) comply with Sections 32B-2-306 and 62A-15-403; [~~and~~]

(i) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section 62A-15-1101[~~.~~];

(j) advise the Department of Health and Human Services regarding the state hospital admissions policy for individuals in the custody of the Department of Corrections;

(k) regarding the interaction between an individual with a mental illness or an intellectual disability and the civil commitment system, criminal justice system, or juvenile justice system:

(i) promote communication between and coordination among all agencies interacting with the individual;

(ii) study, evaluate, and recommend changes to laws and procedures;

(iii) identify and promote the implementation of specific policies and programs to deal fairly and efficiently with the individual; and

(iv) promote judicial education;

(l) study the long-term need for adult patient staffed beds at the state hospital, including:

(i) the total number of staffed beds currently in use at the state hospital;

(ii) the current staffed bed capacity at the state hospital;

(iii) the projected total number of staffed beds needed in the adult general psychiatric unit of the state hospital over the next three, five, and 10 years based on:

(A) the state's current and projected population growth;

(B) current access to mental health resources in the community; and

(C) any other factors the council finds relevant to projecting the total number of staffed beds; and

(iv) the cost associated with the projected total number of staffed beds described in Subsection (1)(l)(iii); and

(m) each year report on whether the pay of the state hospital's employees is adequate based on market conditions.

(2) The council shall meet quarterly or more frequently as determined necessary by the chair.

(3) The council shall report:

(a) with the assistance and staff support from the state hospital, regarding the items described in Subsections (1)(l) and (m), including any recommendations, to the Health and Human Services Interim Committee before October 1 of each year; and

(b) any other recommendations annually to the commission, the governor, the Legislature, and the Judicial Council.

[~~(3) The council shall report the council's recommendations annually to the commission, governor, the Legislature, and the Judicial Council.~~]

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 267
H. B. 24
Passed February 2, 2023
Approved March 15, 2023
Effective May 3, 2023

PRESCRIPTION DISCOUNT PROGRAM AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill allows the Public Employees' Benefit and Insurance Program (program) to add additional drugs to the prescription discount program.

Highlighted Provisions:

This bill:

- modifies definitions;
- allows the Public Employees' Benefit and Insurance Program to add additional drugs to the prescription discount program;
- requires the program to notify the Legislature when an additional drug is added to the program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-20-421, as last amended by Laws of Utah 2021, Chapter 255

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

Section 1. Section 49-20-421 is amended to read:

49-20-421. Prescription discount program.

(1) As used in this section:

[~~(a) "Diabetes" means:~~]

[~~(i) complete insulin deficiency or type 1 diabetes;~~]

[~~(ii) insulin resistant with partial insulin deficiency or type 2 diabetes; or~~]

[~~(iii) elevated blood glucose levels induced by pregnancy or gestational diabetes.~~]

[~~(b)~~] (a) "Discount program" means [~~a process developed by the program that allows participants to purchase a qualified prescription at a discounted, post-rebate rate~~] the prescription discount program created by this section.

[~~(c)~~] (b) "Epinephrine auto-injector" means the same as that term is defined in Section 26-41-102.

[~~(d) "Individual with diabetes" means an individual who has been diagnosed with diabetes and who uses insulin to treat diabetes.~~]

[~~(e)~~] (c) "Insulin" means a prescription drug that contains insulin.

[~~(f)~~] (d) "Participant" means a resident of Utah who:

(i) [~~has a qualified condition~~] has a prescription or standing prescription for a qualified prescription;

(ii) does not receive health coverage under the program; and

(iii) enrolls in the discount program.

[~~(g)~~] (e) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

[~~(h) "Qualified condition" means the individual:~~]

[~~(i) uses insulin to treat diabetes; or~~]

[~~(ii) has a prescription or a standing prescription drug order for an epinephrine auto-injector issued under Section 58-17b-1005.~~]

[~~(i) "Qualified prescription" means:~~]

[~~(i) insulin; or~~]

[~~(ii) epinephrine auto-injector.~~]

(f) "Qualified prescription" means a prescription drug, including insulin and epinephrine auto-injectors, that the program has determined:

(i) treats a serious, prevalent, and ongoing condition;

(ii) does not have a generic substitute;

(iii) qualifies for a substantial rebate; and

(iv) would not result in financial losses to the state risk pool if sold as part of the discount program.

[~~(j)~~] (g) "Rebate" means the same as that term is defined in Section 31A-46-102.

(2) [~~Notwithstanding Subsection 49-20-201(1), and for the purpose of the discount program only, the program shall offer a discount program that allows participants to purchase a qualified prescription at a discounted, post-rebate price when a rebate is available.~~] The program shall create a prescription discount program for a participant to purchase a qualified prescription at a discounted, post-rebate price.

(3) The [~~discount~~] program [~~described in Subsection (2)~~] shall:

(a) provide a participant with a card or electronic document that identifies the participant as eligible for the discount on a qualified prescription [~~related to the participant's qualified condition~~];

(b) provide a participant with information about pharmacies that will honor the discount; and

[~~(c) allow a participant to purchase a qualified prescription at a discounted, post-rebate price; and~~]

[~~(d)~~] (c) provide a participant with instructions to pursue a reimbursement of the purchase price from the participant's health insurer.

[~~(4) The discount program shall charge a price for a qualified prescription that allows the program to retain only enough of any rebate for the qualified prescription to make the state risk pool whole for providing a discounted qualified prescription to participants.~~]

(4) The program may not retain any amount of a rebate for a qualified prescription except for an amount necessary to make the state risk pool whole for providing the qualified prescription to participants.

(5) For each drug added to the discount program, the program shall notify the Health and Human Services Interim Committee, providing:

(a) the name of the drug; and

(b) the primary condition the drug treats.

CHAPTER 268
H. B. 36
Passed February 2, 2023
Approved March 15, 2023
Effective May 3, 2023

LONG TERM CARE OMBUDSMAN AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill amends requirements relating to assisted living facilities.

Highlighted Provisions:

This bill:

- amends requirements for certain facility-initiated transfers or discharges of a resident;
- removes a sunset date; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-21-305, as enacted by Laws of Utah 2018, Chapter 220
62A-3-209, as enacted by Laws of Utah 2018, Chapter 220
63I-1-262, as last amended by Laws of Utah 2022, Chapters 34, 35, 149, 257, and 335

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

Section 1. Section 26-21-305 is amended to read:

26-21-305. Requirements for facility-initiated transfer or discharge.

(1) A facility is subject to the requirements in Subsection (2) if the transfer or discharge:

(a) is initiated by the facility for any reason;

(b) is objected to by the resident or the resident's responsible person;

(c) was not initiated by a verbal or written request from the resident; or

(d) is inconsistent with the resident's preferences and stated goals for care.

(2) [~~When a facility initiates the~~] Before a transfer or discharge [~~of a resident~~] described in Subsection (1) occurs, the facility from which the resident is transferred or discharged shall:

[~~(1)~~] (a) notify the resident and the resident's responsible person, if any, in writing and in a language and a manner that is most likely to be understood by the resident and the resident's responsible person, of:

[~~(a)~~] (i) the reasons for the transfer or discharge;

[~~(b)~~] (ii) the effective date of the transfer or discharge;

[~~(c)~~] (iii) the location to which the resident will be transferred or discharged, if known; and

[~~(d)~~] (iv) the name, address, email, and telephone number of the ombudsman;

[~~(2)~~] (b) send a copy, in English, of the notice described in Subsection [~~(1)(a)~~] (2)(a) to the ombudsman on the same day on which the facility delivers the notice described in Subsection [~~(1)(a)~~] (2)(a) to the resident and the resident's responsible person;

[~~(3)~~] (c) provide the notice described in Subsection [~~(1)(a)~~] (2)(a) at least 30 days before the day on which the resident is transferred or discharged, unless:

[~~(a)~~] (i) notice for a shorter period of time is necessary to protect:

[~~(i)~~] (A) the safety of individuals in the facility from endangerment due to the medical or behavioral status of the resident; or

[~~(ii)~~] (B) the health of individuals in the facility from endangerment due to the resident's continued residency;

[~~(b)~~] (ii) an immediate transfer or discharge is required by the resident's urgent medical needs; or

[~~(c)~~] (iii) the resident has not resided in the facility for at least 30 days;

[~~(4)~~] (d) update the transfer or discharge notice as soon as practicable before the transfer or discharge if information in the notice changes before the transfer or discharge;

[~~(5)~~] (e) orally explain to the resident:

[~~(a)~~] (i) the services available through the ombudsman; and

[~~(b)~~] (ii) the contact information for the ombudsman; and

[~~(6)~~] (f) provide and document the provision of preparation and orientation for the resident, in a language and manner the resident is most likely to understand, [~~for a resident~~] to ensure a safe and orderly transfer or discharge from the facility[~~; and~~].

[~~(7)~~] (3) [~~in~~] In the event of a facility closure, the facility shall provide written notification of the closure to the ombudsman, each resident of the facility, and each resident's responsible person.

Section 2. Section 62A-3-209 is amended to read:

62A-3-209. Assisted living facility transfers.

(1) After the ombudsman receives a notice described in Subsection [~~26-21-305(1)(a)~~] 26-21-305(2)(b), the ombudsman shall:

(a) review the notice; and

(b) contact the resident or the resident's responsible person to conduct a voluntary interview.

(2) The voluntary interview described in Subsection (1)(b) shall:

(a) provide the resident with information about the services available through the ombudsman;

(b) confirm the details in the notice described in Subsection [~~26-21-305(1)(a)~~] 26-21-305(2)(b), including:

(i) the name of the resident;

(ii) the reason for the transfer or discharge;

(iii) the date of the transfer or discharge; and

(iv) a description of the resident's next living arrangement; and

(c) provide the resident an opportunity to discuss any concerns or complaints the resident may have regarding:

(i) the resident's treatment at the assisted living facility; and

(ii) whether the assisted living facility treated the resident fairly when the assisted living facility transferred or discharged the resident.

(3) On or before November 1 of each year, the ombudsman shall provide a report to the Health and Human Services Interim Committee regarding:

(a) the reasons why assisted living facilities are transferring residents;

(b) where residents are going upon transfer or discharge; and

(c) the type and prevalence of complaints that the ombudsman receives regarding assisted living facilities, including complaints about the process or reasons for a transfer or discharge.

Section 3. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates: Title 62A.

[~~(1) Section 62A-3-209 is repealed July 1, 2023.~~]

[~~(2)~~] (1) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2027.

[~~(3)~~] (2) Subsections 62A-15-116(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.

[~~(4)~~] (3) Section 62A-15-118 is repealed December 31, 2023.

[~~(5)~~] (4) Section 62A-15-124 is repealed December 31, 2024.

[~~(6)~~] (5) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(7)~~] (6) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[~~(8)~~] (7) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Subsection 62A-15-1303(1), the language that states "In consultation with the commission," is repealed;

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; and

(e) Subsection 62A-15-1702(6) is repealed.

CHAPTER 269
H. B. 48
Passed January 31, 2023
Approved March 15, 2023
Effective May 3, 2023

EARLY CHILDHOOD AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill addresses state programs and services for children in early childhood.

Highlighted Provisions:

This bill:

- defines terms;
- repeals the Governor's Early Childhood Commission (the commission);
- requires the Department of Health and Human Services to provide administrative and staff support to the Early Childhood Utah Advisory Council (the council);
- expands the duties of the council to include duties previously fulfilled by the commission;
- requires the council to report certain information to the executive officers of the Department of Health and Human Services, the Department of Workforce Services, and the State Board of Education;
- extends the sunset date of the council from 2026 to 2029; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
26-66-102, as enacted by Laws of Utah 2019, Chapter 34
26-66-201, as enacted by Laws of Utah 2019, Chapter 34
26-66-202, as enacted by Laws of Utah 2019, Chapter 34
63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451

ENACTS:
26-66-204, Utah Code Annotated 1953

REPEALS:
63M-13-101, as enacted by Laws of Utah 2019, Chapter 34
63M-13-102, as enacted by Laws of Utah 2019, Chapter 34
63M-13-201, as enacted by Laws of Utah 2019, Chapter 34
63M-13-202, as last amended by Laws of Utah 2020, Chapter 354
63M-13-203, as enacted by Laws of Utah 2019, Chapter 34

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

Section 1. Section 26-66-102 is amended to read:

26-66-102. Definitions.

As used in this chapter:

[~~(1) "Commission" means the Governor's Early Childhood Commission created in Section 63M-13-201.~~]

[~~(2)~~] (1) "Council" means the Early Childhood Utah Advisory Council created in Section 26-66-201.

(2) "Early childhood" refers to a child in the state who is eight years of age or younger.

(3) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

Section 2. Section 26-66-201 is amended to read:

26-66-201. Creation of the Early Childhood Utah Advisory Council -- Duties of the department.

(1) There is created the Early Childhood Utah Advisory Council.

(2) The department shall:

(a) make rules establishing the membership, duties, and procedures of the council in accordance with the requirements of:

[~~(a)~~] (i) this chapter;

[~~(b)~~] (ii) the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b; and

[~~(c)~~] (iii) Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~.~~]; and

(b) provide necessary administrative and staff support to the council.

Section 3. Section 26-66-202 is amended to read:

26-66-202. Duties of the council.

(1) The duties of the council [~~shall serve as an entity dedicated to~~] include:

(a) improving and coordinating the quality of programs and services for children in accordance with the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b[~~.~~];

(b) supporting Utah parents and families by providing comprehensive and accurate information regarding the availability of voluntary services for children in early childhood from state agencies and other private and public entities;

(c) facilitating improved coordination between state agencies and community partners that provide services to children in early childhood;

(d) sharing and analyzing information regarding early childhood issues in the state;

(e) providing recommendations to the department, the Department of Workforce

Services, and the State Board of Education regarding a comprehensive delivery system of services for children in early childhood that addresses the following four areas:

(i) family support and safety;

(ii) health and development;

(iii) early learning; and

(iv) economic development; and

(f) identifying opportunities for and barriers to the alignment of standards, rules, policies, and procedures across programs and agencies that support children in early childhood.

(2) To fulfill the duties described in Subsection (1), the council shall:

(a) directly engage with parents, families, community members, and public and private service providers to identify and address:

(i) the quality, effectiveness, and availability of existing services for children in early childhood and the coordination of those services;

(ii) gaps and barriers to entry in the provision of services for children in early childhood; and

(iii) community-based solutions in improving the quality, effectiveness, and availability of services for children in early childhood;

(b) seek regular and ongoing feedback from a wide range of entities and individuals that use or provide services for children in early childhood, including entities and individuals that use, represent, or provide services for any of the following:

(i) children in early childhood who live in urban, suburban, or rural areas of the state;

(ii) children in early childhood with varying socioeconomic backgrounds;

(iii) children in early childhood with varying ethnic or racial heritage;

(iv) children in early childhood from various geographic areas of the state; and

(v) children in early childhood with special needs;

(c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to children in early childhood;

(d) study and evaluate the effectiveness of policies, procedures, and programs implemented by other states and nongovernmental entities that address the needs of children in early childhood;

(e) identify policies, procedures, and programs that are impeding efforts to help children in early childhood in the state and recommend changes to those policies, procedures, and programs;

(f) identify policies, procedures, and programs related to children in early childhood in the state that are inefficient or duplicative and recommend changes to those policies, procedures, and programs;

(g) recommend policy, procedure, and program changes to address the needs of children in early childhood;

(h) develop methods for using interagency information to inform comprehensive policy and budget decisions relating to early childhood services; and

(i) develop strategies and monitor efforts concerning:

(i) increasing school readiness;

(ii) improving access to early child care and early education programs; and

(iii) improving family and community engagement in early childhood education and development.

(3) In fulfilling the council's duties, the council may request and receive, from any state or local governmental agency or institution, information relating to early childhood, including reports, audits, projections, and statistics.

[~~(2) The council shall advise the commission and, on or before August 1, annually provide to the commission:~~]

[~~(a) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households; and~~]

[~~(b) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:~~]

[~~(i) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;~~]

[~~(ii) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;~~]

[~~(iii) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and~~]

[~~(iv) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards.~~]

[~~(3) On or before August 1, 2020, and at least every five years thereafter, the council shall provide~~

~~to the commission a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.~~]

Section 4. Section 26-66-204 is enacted to read:

26-66-204 (Codified as 26B-1-422.1). Reports.

(1) (a) On or before August 1 of each year, the council shall provide an annual report to the executive director, the executive director of the Department of Workforce Services, and the state superintendent.

(b) The annual report shall include:

(i) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households;

(ii) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:

(A) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;

(B) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;

(C) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and

(D) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards; and

(iii) the recommendations described in Subsection 26-66-202(1)(e).

(2) In addition to the annual report described in Subsection (1)(a), on or before August 1, 2024, and at least every five years thereafter, the council shall provide to the executive director, the executive director of the Department of Workforce Services, and the state superintendent, a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

Section 5. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Title 26 through 26B.

(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(2) Section 26-1-40 is repealed July 1, 2022.

(3) Section 26-1-41 is repealed July 1, 2026.

(4) Section 26-1-43 is repealed December 31, 2025.

(5) Section 26-7-10 is repealed July 1, 2025.

(6) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(7) Section 26-7-14 is repealed December 31, 2027.

(8) Section 26-8a-603 is repealed July 1, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.~~]

[~~(13)~~] (12) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(14)~~] (13) Section 26-18-27 is repealed July 1, 2025.

[~~(15)~~] (14) Section 26-18-28 is repealed June 30, 2027.

[~~(16)~~] (15) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(17)~~] (16) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

[~~(18)~~] (17) Section 26-33a-117 is repealed December 31, 2023.

[~~(19)~~] (18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[~~(20)~~] (19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[~~(21)~~] (20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(22)~~] (21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

[~~(23)~~] (22) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(24)~~] (23) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

[~~(25)~~] (24) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(26)~~] (25) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(27)~~] (26) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(28)~~] (27) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, [~~2026~~] 2029.

[~~(29)~~] (28) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

[~~(30)~~] (29) Section 26-69-406 is repealed July 1, 2025.

[~~(31)~~] (30) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(32)~~] (31) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 6. Repealer.

This bill repeals:

Section 63M-13-101, Title.

Section 63M-13-102, Definitions.

Section 63M-13-201, Creation of the Governor's Early Childhood Commission.

Section 63M-13-202, Duties of the commission.

Section 63M-13-203, Annual report.

CHAPTER 270
H. B. 66
Passed March 1, 2023
Approved March 15, 2023
Effective March 15, 2023

BEHAVIORAL HEALTH CRISIS RESPONSE COMMISSION AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Chris H. Wilson
Cosponsors: Melissa G. Ballard
Scott H. Chew
Jennifer Dailey-Provost
Michael J. Petersen
Christine F. Watkins
Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions related to the Behavioral Health Crisis Response Commission.

Highlighted Provisions:

This bill:

- requires the Behavioral Health Crisis Response Commission (commission) to make recommendations regarding, and the Division of Integrated Healthcare to administer grant programs for the development of:
  - mobile crisis outreach teams;
  - one behavioral health receiving center in a county of the third class; and
  - a virtual crisis outreach team that will primarily serve counties of the third, fourth, fifth, or sixth class;
- requires the Division of Integrated Healthcare to consult with the commission regarding use of funds from the Statewide Behavioral Health Crisis Response Account, and amends provisions related to the use of those funds;
- amends provisions regarding the membership of the commission;
- repeals outdated language and makes corresponding modifications;
- directs the commission to coordinate services by local mental health crisis lines and mobile crisis outreach teams;
- extends the sunset of the commission to December 31, 2026, and modifies corresponding and related sunset provisions;
- provides sunset dates for the mobile crisis outreach team and virtual crisis outreach team grant programs;
- repeals codified title provisions; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

62A-15-118, as enacted by Laws of Utah 2020, Chapter 303
62A-15-123, as last amended by Laws of Utah 2022, Chapter 187
63C-18-202, as last amended by Laws of Utah 2021, Chapter 76
63C-18-203, as last amended by Laws of Utah 2021, Chapter 76
63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451
63I-1-262, as last amended by Laws of Utah 2022, Chapters 34, 35, 149, 257, and 335
63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472

ENACTS:

62A-15-116.5, Utah Code Annotated 1953
62A-15-125, Utah Code Annotated 1953

REPEALS:

63C-18-201, as enacted by Laws of Utah 2017, Chapter 23

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

Section 1. Section 62A-15-116.5 is enacted to read:

62A-15-116.5. Mobile Crisis Outreach Team Grant Program.

(1) As used in this section, "commission" means the Behavioral Health Crisis Response Commission established in Section 63C-18-202.

(2) The commission shall provide recommendations and the division shall award grants for the development of up to five mobile crisis outreach teams.

(3) A mobile crisis outreach team that is awarded a grant under Subsection (2) shall provide mental health crisis services 24 hours per day, seven days per week, and every day of the year.

(4) The division shall prioritize the award of a grant described in Subsection (2) to entities based on:

(a) the outstanding need for crisis outreach services within the area the proposed mobile crisis outreach team will serve; and

(b) the capacity for implementation of the proposed mobile crisis outreach team in accordance with the division's established standards and requirements for mobile crisis outreach teams.

(5) (a) In consultation with the commission, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (2).

(b) (i) The rules created under Subsection (5)(a) shall implement a funding structure for a mobile crisis outreach team developed using a grant awarded under this section.

(ii) The funding structure described in Subsection (5)(b)(i) shall provide for tiers and phases of shared funding coverage between the state and counties.

Section 2. Section 62A-15-118 is amended to read:

62A-15-118. Behavioral Health Receiving Center Grant Program.

(1) As used in this section:

(a) "Behavioral health receiving center" means a 23-hour nonsecure program or facility that is responsible for, and provides mental health crisis services to, an individual experiencing a mental health crisis.

(b) "Commission" means the Behavioral Health Crisis Response Commission established in Section 63C-18-202.

[~~(b)~~] (c) "Project" means a behavioral health receiving center project described in [~~Subsection (2)(a)~~] Subsection (2) or (3)(a).

(2) [~~(a) (i)~~] Before July 1, 2020, the division shall issue a request for proposals in accordance with this section to award a grant to one or more counties of the first or second class, as classified in Section 17-50-501, to[~~, except as provided in Subsection (2)(a)(ii),~~] develop and implement a behavioral health receiving center.

[~~(ii) A grant awarded under Subsection (2)(a)(i) may not be used to purchase land for the behavioral health receiving center.~~]

[~~(b) The division shall award all grants under this section before December 31, 2020.~~]

(3) (a) Before July 1, 2023, the division shall issue a request for proposals in accordance with this section to award a grant to one county of the third class, as classified in Section 17-50-501, to develop and implement a behavioral health receiving center.

(b) Subject to appropriations by the Legislature, the division shall award grants under this Subsection (3) before December 31, 2023.

(c) The commission shall provide recommendations to the division regarding the development and implementation of a behavioral health receiving center.

[~~(3)~~] (4) The purpose of a project is to:

(a) increase access to mental health crisis services for individuals in the state who are experiencing a mental health crisis; and

(b) reduce the number of individuals in the state who are incarcerated or in a hospital emergency room while experiencing a mental health crisis.

[~~(4)~~] (5) An application for a grant under this section shall:

(a) identify the population to which the behavioral health receiving center will provide mental health crisis services;

(b) identify the type of mental health crisis services the behavioral health receiving center will provide;

(c) explain how the population described in Subsection [~~(4)(a)~~] (5)(a) will benefit from the provision of mental health crisis services;

(d) provide details regarding:

(i) how the proposed project plans to provide mental health crisis services;

(ii) how the proposed project will ensure that consideration is given to the capacity of the behavioral health receiving center;

(iii) how the proposed project will ensure timely and effective provision of mental health crisis services;

(iv) the cost of the proposed project;

(v) any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the proposed project;

(vi) any plan to use funding sources in addition to a grant under this section for the proposed project;

(vii) the sustainability of the proposed project; and

(viii) the methods the proposed project will use to:

(A) protect the privacy of each individual who receives mental health crisis services from the behavioral health receiving center;

(B) collect nonidentifying data relating to the proposed project; and

(C) provide transparency on the costs and operation of the proposed project; and

(e) provide other information requested by the division to ensure that the proposed project satisfies the criteria described in Subsection [~~(5)~~] (7).

[~~(5)~~] (6) A recipient of a grant under this section shall enroll as a Medicaid provider and meet minimum standards of care for behavioral health receiving centers established by the division.

(7) In evaluating an application for the grant, the division shall consider:

(a) the extent to which the proposed project will fulfill the purposes described in Subsection [~~(3)~~] (4);

(b) the extent to which the population described in Subsection [~~(4)(a)~~] (5)(a) is likely to benefit from the proposed project;

(c) the cost of the proposed project;

(d) the extent to which any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the project, or additional funding sources available to the applicant for the proposed project, are likely to benefit the proposed project; and

(e) the viability and innovation of the proposed project.

[~~(6) Before June 30, 2021, the division shall report to the Health and Human Services Interim Committee regarding:~~]

[~~(a) each county awarded a grant under this section; and~~]

[~~(b) the details of each project.~~]

[~~(7)~~] (8) Before June 30, 2023, the division shall report to the Health and Human Services Interim Committee regarding:

(a) data gathered in relation to each project described in Subsection (2);

(b) knowledge gained relating to the provision of mental health crisis services in a behavioral health receiving center;

(c) recommendations for the future use of mental health crisis services in behavioral health receiving centers; [~~and~~]

(d) obstacles encountered in the provision of mental health crisis services in a behavioral health receiving center[~~.~~]; and

(e) recommendations for appropriate Medicaid reimbursement for rural behavioral health receiving centers.

(9) (a) In consultation with the commission, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of a grant under this section.

(b) (i) The rules created under Subsection (9)(a) shall:

(A) implement a funding structure for a behavioral health receiving center developed using a grant awarded under this section;

(B) include implementation standards and minimum program requirements for a behavioral health receiving center developed using a grant awarded under this section, including minimum guidelines and standards of care, and minimum staffing requirements; and

(C) require a behavioral health receiving center developed using a grant awarded under this section to operate 24 hours per day, seven days per week, and every day of the year.

(ii) The funding structure described in Subsection (9)(b)(i)(A) shall provide for tiers and phases of shared funding coverage between the state and counties.

(10) Before June 30, 2024, the division shall report to the Health and Human Services Interim Committee regarding:

(a) grants awarded under Subsection (3)(a); and

(b) the details of each project described in Subsection (3)(a).

(11) Before June 30, 2026, the division shall provide a report to the Health and Human Services Interim Committee that includes:

(a) data gathered in relation to each project described in Subsection (3)(a); and

(b) an update on the items described in Subsections (8)(b) through (d).

Section 3. Section 62A-15-123 is amended to read:

62A-15-123. Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses -- Reporting.

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

(2) (a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.

(b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.

(c) [~~Except as provided in Subsection (2)(d), the division shall prioritize expending funds from the account as follows~~] After consultation with the Behavioral Health Crisis Response Commission created in Section 63C-18-202, and local substance use authorities and local mental health authorities described in Sections 17-43-201 and 17-43-301, the division shall expend funds from the account on any of the following programs:

(i) the Statewide Mental Health Crisis Line, as defined in Section 62A-15-1301, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;

[~~(ii) mitigation of any negative impacts on 911 emergency service from 988 services;~~]

[~~(iii)~~] (ii) mobile crisis outreach teams as defined in Section 62A-15-1401, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

[~~(iv)~~] (iii) behavioral health receiving centers as defined in Section 62A-15-118;

[~~(v)~~] (iv) stabilization services as described in Section 62A-1-104; [~~and~~]

[~~(vi)~~] (v) mental health crisis services provided by local substance abuse authorities as described in Section 17-43-201 and local mental health

authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis[.];

(vi) crisis intervention training for first responders, as that term is defined in Section 78B-4-501;

(vii) crisis worker certification training for first responders, as that term is defined in Section 78B-4-501;

(viii) frontline support for the SafeUT Crisis Line; or

(ix) suicide prevention gatekeeper training for first responders, as that term is defined in Section 78B-4-501.

(d) If the Legislature appropriates money to the account for a purpose described in Subsection (2)(c), the division shall use the appropriation for that purpose.

(3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.

(4) The division director shall submit and make available to the public a report before December of each year to the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative Management Committee that includes:

(a) the amount of each disbursement from the account;

(b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(c) any conditions placed by the division on the disbursements from the account;

(d) the anticipated expenditures from the account for the next fiscal year;

(e) the amount of any unexpended funds carried forward;

(f) the number of Statewide Mental Health Crisis Line calls received;

(g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and

(h) other relevant justification for ongoing support from the account.

(5) Notwithstanding Subsection (2)(c), allocations made to local substance use authorities and local mental health authorities for behavioral health receiving centers or mobile crisis outreach teams before the end of fiscal year 2023 shall be maintained through fiscal year 2027, subject to appropriation.

(6) (a) As used in this Subsection (6):

(i) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(ii) "Mental health service provider" means a behavioral health receiving center or mobile crisis outreach team.

(b) The department shall coordinate with each mental health service provider that receives state funds to determine which health benefit plans, if any, have not contracted or have refused to contract with the mental health service provider at usual and customary rates for the services provided by the mental health service provider.

(c) In each year that the department identifies a health benefit plan that meets the description in Subsection (6)(b), the department shall provide a report on the information gathered under Subsection (6)(b) to the Health and Human Services Interim Committee at or before the committee's October meeting.

Section 4. Section 62A-15-125 is enacted to read:

62A-15-125. Virtual crisis outreach team grant program.

(1) As used in this section:

(a) "Certified peer support specialist" means the same as that term is defined in Section 62A-15-1301.

(b) "Commission" means the Behavioral Health Crisis Response Commission established in Section 63C-18-202.

(c) "Committee" means the Health and Human Services Interim Committee.

(d) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-1401.

(e) "Virtual crisis outreach program" means a program that provides the following real-time services 24 hours per day, seven days per week, and every day of the year:

(i) crisis support, by a qualified mental or behavioral health professional, to law enforcement officers; and

(ii) peer support services, by a certified peer support specialist, to individuals experiencing behavioral health crises.

(2) In consultation with the commission and in accordance with the requirements of this section, the division shall award a grant for the development of a virtual crisis outreach program that primarily serves counties of the third, fourth, fifth, or sixth class.

(3) The division shall prioritize the award of the grant described in Subsection (2) based on the extent to which providing the grant to the applicant will increase the provision of crisis support and peer support services in areas:

(a) with frequent mental or behavioral health provider shortages; and

(b) where only one mobile crisis outreach team is available to serve multiple counties of the third, fourth, fifth, or sixth class.

(4) When not providing crisis support or peer support services to law enforcement or individuals in a county of the third, fourth, fifth, or sixth class, the virtual crisis outreach program developed using a grant under this section shall provide support services as needed to mobile crisis outreach teams in counties of the first or second class.

(5) In consultation with the commission, the division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grant described in Subsection (2).

(6) Before June 30, 2024, the division shall submit a written report to the committee regarding the virtual crisis outreach program developed using the grant awarded under this section.

(7) Before June 30, 2026, the division shall submit a written report to the committee regarding:

(a) data gathered in relation to the rural virtual crisis outreach team developed using the grant awarded under this section;

(b) knowledge gained relating to the provision of virtual crisis outreach services;

(c) recommendations for the future use of virtual crisis outreach services; and

(d) obstacles encountered in the provision of virtual crisis outreach services.

Section 5. Section 63C-18-202 is amended to read:

63C-18-202. Commission established -- Members.

(1) There is created the Behavioral Health Crisis Response Commission, composed of the following members:

(a) the executive director of the [~~University Neuropsychiatric Institute~~] Huntsman Mental Health Institute;

(b) the governor or the governor's designee;

(c) the director of the [~~Division~~] Office of Substance [~~Abuse~~] Use and Mental Health;

(d) one representative of the Office of the Attorney General, appointed by the attorney general;

(e) the executive director of the Department of Health and Human Services or the executive director's designee;

[~~(e)~~] (f) one member of the public, appointed by the chair of the commission and approved by the commission;

[~~(f)~~] (g) two individuals who are mental or behavioral health clinicians licensed to practice in the state, appointed by the chair of the commission and approved by the commission, at least one of whom is an individual who:

(i) is licensed as a physician under:

(A) Title 58, Chapter 67, Utah Medical Practice Act;

(B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

(C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists;

[~~(g)~~] (h) one individual who represents a county of the first or second class, appointed by the Utah Association of Counties;

[~~(h)~~] (i) one individual who represents a county of the third, fourth, or fifth class, appointed by the Utah Association of Counties;

[~~(i)~~] (j) one individual who represents the Utah Hospital Association, appointed by the chair of the commission;

[~~(j)~~] (k) one individual who represents law enforcement, appointed by the chair of the commission;

[~~(k)~~] (l) one individual who has lived with a mental health disorder, appointed by the chair of the commission;

[~~(l)~~] (m) one individual who represents an integrated health care system that:

(i) is not affiliated with the chair of the commission; and

(ii) provides inpatient behavioral health services and emergency room services to individuals in the state;

[~~(m)~~] (n) one individual who represents an accountable care organization, as defined in Section 26-18-423, with a statewide membership base;

[~~(n) three members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;~~]

[~~(o) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party;~~]

[~~(p)~~] (o) one individual who represents 911 call centers and public safety answering points, appointed by the chair of the commission;

[~~(q)~~] (p) one individual who represents Emergency Medical Services, appointed by the chair of the commission;

[~~(r)~~] (q) one individual who represents the mobile wireless service provider industry, appointed by the chair of the commission;

[~~(s)~~] (r) one individual who represents rural telecommunications providers, appointed by the chair of the commission;

[~~(t)~~] (s) one individual who represents voice over internet protocol and land line providers, appointed by the chair of the commission; [~~and~~]

[~~(u)~~] (t) one individual who represents the Utah League of Cities and Towns, appointed by the [~~chair of the commission.~~] Utah League of Cities and Towns; and

(u) three or six legislative members, the number of which shall be decided jointly by the speaker of the House of Representatives and the president of the Senate, appointed as follows:

(i) if the speaker of the House of Representatives and the president of the Senate jointly decide to appoint three legislative members to the commission, the speaker shall appoint one member of the House of Representatives, the president shall appoint one member of the Senate, and the speaker and the president shall jointly appoint one legislator from the minority party; or

(ii) if the speaker of the House of Representatives and the president of the Senate jointly decide to appoint six legislative members to the commission:

(A) the speaker of the House of Representatives shall appoint three members of the House of Representatives, no more than two of whom may be from the same political party; and

(B) the president of the Senate shall appoint three members of the Senate, no more than two of whom may be from the same political party.

[~~(2) On December 31, 2022:~~]

[~~(a) the number of members described in Subsection (1)(n) and the number of members described in Subsection (1)(o) is reduced to one, with no restriction relating to party membership; and~~]

[~~(b) the members described in Subsections (1)(p) through (u) are removed from the commission.~~]

[~~(3)~~] (2) (a) [~~The~~] Except as provided in Subsection (2)(d), the executive director of the [~~University Neuropsychiatric Institute~~] Huntsman Mental Health Institute is the chair of the commission.

(b) The chair of the commission shall appoint a member of the commission to serve as the vice chair of the commission, with the approval of the commission.

(c) The chair of the commission shall set the agenda for each commission meeting.

(d) If the executive director of the Huntsman Mental Health Institute is not available to serve as the chair of the commission, the commission shall elect a chair from among the commission's members.

[~~(4)~~] (3) (a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

[~~(5)~~] (4) (a) Except as provided in Subsection [~~(5)(b)~~] (4)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service on the commission.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

[~~(6)~~] (5) The Office of the Attorney General shall provide staff support to the commission.

Section 6. Section 63C-18-203 is amended to read:

63C-18-203. Commission duties -- Reporting requirements.

(1) The commission shall:

(a) identify a method to integrate existing local mental health crisis lines to ensure each individual who accesses a local mental health crisis line is connected to a qualified mental or behavioral health professional, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line;

(b) study how to establish and implement a statewide mental health crisis line and a statewide warm line, including identifying:

(i) a statewide phone number or other means for an individual to easily access the statewide mental health crisis line, including a short code for text messaging and a three-digit number for calls;

(ii) a statewide phone number or other means for an individual to easily access the statewide warm line, including a short code for text messaging and a three-digit number for calls;

(iii) a supply of:

(A) qualified mental or behavioral health professionals to staff the statewide mental health crisis line; and

(B) qualified mental or behavioral health professionals or certified peer support specialists to staff the statewide warm line; and

(iv) a funding mechanism to operate and maintain the statewide mental health crisis line and the statewide warm line;

(c) coordinate with local mental health authorities in fulfilling the commission's duties described in Subsections (1)(a) and (b); [~~and~~]

(d) recommend standards for the certifications described in Section 62A-15-1302; and

(e) coordinate services provided by local mental health crisis lines and mobile crisis outreach teams, as defined in Section 62A-15-1401.

(2) [~~In preparation for the implementation of the statewide 988 hotline, the~~] The commission shall study and make recommendations regarding:

(a) crisis line practices and needs, including:

(i) quality and timeliness of service;

(ii) service volume projections;

(iii) a statewide assessment of crisis line staffing needs, including required certifications; and

(iv) a statewide assessment of technology needs;

(b) primary duties performed by crisis line workers;

(c) coordination or redistribution of secondary duties performed by crisis line workers, including responding to non-emergency calls;

(d) [~~establishing a~~] operating the statewide 988 hotline:

(i) in accordance with federal law;

(ii) [~~that ensures~~] to ensure the efficient and effective routing of calls to an appropriate crisis center; and

(iii) [~~that includes~~] to directly [~~responding~~] respond to calls with trained personnel and the provision of acute mental health, crisis outreach, and stabilization services;

(e) opportunities to increase operational and technological efficiencies and effectiveness between 988 and 911, utilizing current technology;

(f) needs for interoperability partnerships and policies related to 911 call transfers and public safety responses;

(g) standards for statewide mobile crisis outreach teams, including:

(i) current models and projected needs;

(ii) quality and timeliness of service;

(iii) hospital and jail diversions; and

(iv) staffing and certification;

(h) resource centers, including:

(i) current models and projected needs; and

(ii) quality and timeliness of service;

(i) policy considerations related to whether the state should:

(i) manage, operate, and pay for a complete behavioral health system; or

(ii) create partnerships with private industry; and

(j) sustainable funding source alternatives, including:

(i) charging a 988 fee, including a recommendation on the fee amount;

(ii) General Fund appropriations;

(iii) other government funding options;

(iv) private funding sources;

(v) grants;

(vi) insurance partnerships, including coverage for support and treatment after initial call and triage; and

(vii) other funding resources.

[~~(3) The commission shall:~~]

[~~(a) before December 31, 2021, present an initial report on the matters described in Subsection (2), including any proposed legislation, to the Executive Appropriations Committee; and~~]

[~~(b) before December 31, 2022, present a final report on the items described in Subsection (2), including any proposed legislation, to the Executive Appropriations Committee.~~]

[~~(4) The duties described in Subsection (2) are removed on December 31, 2022.~~]

[~~(5)~~] (3) The commission may conduct other business related to the commission's duties described in this section.

[~~(6)~~] (4) The commission shall consult with the [~~Division~~] Office of Substance [~~Abuse~~] Use and Mental Health regarding:

(a) the standards and operation of the statewide mental health crisis line and the statewide warm line, in accordance with Title 62A, Chapter 15, Part 13, Statewide Mental Health Crisis Line and Statewide Warm Line; and

(b) the incorporation of the statewide mental health crisis line and the statewide warm line into behavioral health systems throughout the state.

(5) Beginning in 2023, by no later than the last interim meeting of the Health and Human Services Interim Committee each calendar year, the commission shall report to the Health and Human Services Interim Committee on the matters described in Subsections (1) and (2), including any recommendations, legislation proposals, and opportunities for behavioral health crisis response system improvement.

Section 7. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Title 26 through 26B.

(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(2) Section 26-1-40 is repealed July 1, 2022.

(3) Section 26-1-41 is repealed July 1, 2026.

(4) Section 26-1-43 is repealed December 31, 2025.

(5) Section 26-7-10 is repealed July 1, 2025.

(6) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(7) Section 26-7-14 is repealed December 31, 2027.

(8) Section 26-8a-603 is repealed July 1, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home

kitchen permits that may be issued, is repealed July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Section 26-18-28 is repealed June 30, 2027.

(16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(17) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed [~~July 1, 2023~~] December 31, 2026.

(18) Section 26-33a-117 is repealed December 31, 2023.

(19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(24) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

(25) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(26) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(27) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

(29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

(30) Section 26-69-406 is repealed July 1, 2025.

(31) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(32) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 8. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates: Title 62A.

(1) Section 62A-3-209 is repealed July 1, 2023.

(2) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2027.

(3) Subsections 62A-15-116(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed [~~January 1, 2023~~] December 31, 2026.

(4) Section 62A-15-116.5 is repealed December 31, 2026.

[~~(4)~~] (5) Section 62A-15-118 is repealed December 31, [~~2023~~] 2026.

(6) Subsection 62A-15-123(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

[~~(5)~~] (7) Section 62A-15-124 is repealed December 31, 2024.

(8) Section 62A-15-125 is repealed December 31, 2026.

[~~(6)~~] (9) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(7)~~] (10) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[~~(8)~~] (11) In relation to the Behavioral Health Crisis Response Commission, on [~~July 1, 2023~~] December 31, 2026:

(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Subsection 62A-15-1303(1), the language that states "In consultation with the commission," is repealed;

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; [~~and~~]

(e) Subsection 62A-15-1702(6) is repealed; and

(f) Subsection 62A-15-1903(3)(b)(iv) is repealed.

Section 9. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed [~~July 1, 2023~~] December 31, 2026.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

(26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

(30) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

(31) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

(32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to

issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 10. Repealer.

This bill repeals:

Section 63C-18-201, Title.

Section 11. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 271
H. B. 70
Passed February 24, 2023
Approved March 15, 2023
Effective May 3, 2023

CONTINUING CARE RETIREMENT FACILITIES AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions related to the regulation of continuing care facilities.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the processes through which the Insurance Department regulates continuing care facilities; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-44-102, as last amended by Laws of Utah 2016, Third Special Session, Chapter 8
31A-44-402, as enacted by Laws of Utah 2016, Chapter 270
31A-44-404, as last amended by Laws of Utah 2016, Third Special Session, Chapter 8
31A-44-502, as last amended by Laws of Utah 2016, Third Special Session, Chapter 8
31A-44-505, as enacted by Laws of Utah 2016, Chapter 270
31A-44-506, as enacted by Laws of Utah 2016, Chapter 270

ENACTS:

31A-44-315, Utah Code Annotated 1953
31A-44-501.1, Utah Code Annotated 1953

REPEALS:

31A-44-101, as enacted by Laws of Utah 2016, Chapter 270
31A-44-501, as enacted by Laws of Utah 2016, Chapter 270
31A-44-503, as last amended by Laws of Utah 2016, Third Special Session, Chapter 8

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-44-102 is amended to read:

31A-44-102. Definitions.

As used in this chapter:

(1) "Continuing care" means furnishing or providing access to an individual, other than by an individual related to the individual by blood, marriage, or adoption, of lodging together with nursing services, medical services, or other related services pursuant to a contract requiring an entrance fee.

(2) "Continuing care contract" means a contract under which a provider provides continuing care to a resident.

(3) (a) "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or property made or promised to be made as full or partial consideration for acceptance of a specified individual as a resident in a facility.

(b) "Entrance fee" includes a monthly fee, assessed at a rate that is greater than the value of the provider's monthly services, that a resident agrees to pay in exchange for acceptance into a facility or a promise of future monthly fees assessed at a rate that is less than the value of the services rendered.

(c) "Entrance fee" does not include an amount less than the sum of the regular period charges for three months of residency in a facility.

(d) "Entrance fee" does not include a deposit of less than $1,000 made under a reservation agreement.

(4) "Facility" means a place in which a person provides continuing care pursuant to a continuing care contract.

(5) "Ground lease" means a lease to a provider of the land and infrastructure improvements to the land on which a facility is located.

(6) "Ground lessor" means, for a facility subject to a ground lease, the owner and lessor of the land and infrastructure improvements to the land on which the facility is located.

(7) "Insolvent" means:

(a) having generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide dispute;

(b) being unable to pay debts as they become due; or

(c) being insolvent within the meaning of federal bankruptcy law.

[~~(7)~~] (8) "Living unit" means a room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one or more identified individuals.

[~~(8)~~] (9) (a) "Provider" means:

(i) the owner of a facility;

(ii) a person, other than a resident, that claims a possessory interest in a facility; or

(iii) a person who enters into a continuing care contract with a resident or potential resident.

(b) "Provider" does not include a person who is solely a ground lessor.

[~~(9)~~] (10) "Provider disclosure statement" means, for a given provider, the disclosure statement described in Section 31A-44-301.

[~~(10)~~] (11) "Reservation agreement" means an agreement that requires the payment of a deposit to reserve a living unit for a prospective resident.

[~~(11)~~] (12) "Resident" means an individual entitled to receive continuing care in a facility pursuant to a continuing care contract.

Section 2. Section 31A-44-315 is enacted to read:

31A-44-315. Financial assessment.

(1) The department shall assess the financial condition of a provider no less than once per year.

(2) The department may consider any relevant documents and information in performing an assessment.

(3) A provider shall prepare and timely provide to the department documents and information requested by the department in connection with an assessment.

(4) Department work papers created or relied upon in connection with an assessment are protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(5) The department may conduct any portion of an assessment at the provider's facility during regular business hours if the department notifies the provider of the anticipated visit and assessment at least seven calendar days in advance.

(6) The department shall prepare a written report of the assessment and provide a copy of the report to the provider within 28 days after the day on which the department completes the gathering of information necessary to complete the assessment.

Section 3. Section 31A-44-402 is amended to read:

31A-44-402. Actuarial reserve -- Priority of entrance fee refunds.

(1) The department may require a provider that the department determines has actuarial liability under Section 31A–44–204 to create an additional reserve fund to offset the actuarial liability.

(2) The department may require the additional reserve fund described in Subsection (1) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) If a refund or remittance of funds is owed in relation to a living unit due to the death or relocation of a resident, the provider shall prioritize the sale of the resident's living unit over the sale of other units for which a refund or remittance of funds is not owed.

Section 4. Section 31A-44-404 is amended to read:

31A-44-404. Nondisturbance of residents.

(1) A person may not directly or indirectly disturb the rights of a resident or third party beneficiary under a continuing care contract and this chapter if the resident has substantially performed the resident's obligations under the continuing care contract.

(2) If the person to whom a resident owes performance under the continuing care contract is contested, and a court has not issued a temporary or permanent order resolving the contest:

(a) the department may appoint a temporary receiver to receive the performance of the resident; and

(b) a court may appoint a receiver upon the department's petition [~~by the department~~], or the department's motion under an existing action.

(3) (a) Except as provided in Subsection (3)(b), a person other than a resident that holds a present right to possess a facility, including a ground lessor but only after the ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, is bound by every continuing care contract related to the facility, including a continuing care contract that provides for the return of part or all of a resident's entrance fee.

(b) If a ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, the ground lessor's obligation under the continuing care contracts is limited to the monetary obligations of the provider to which the ground lessor succeeds.

(4) (a) The commissioner holds a covenant that:

(i) runs with the land on which a facility is located; and

(ii) except as provided in Subsection (4)(b), binds a person with a present right to possess the land on which the facility is located, including a ground lessor but only after the ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, to every continuing care contract related to the facility, including a continuing care contract that provides for the return of all or part of a resident's entrance fee.

(b) If a ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, the ground lessor's obligation under the continuing care contracts under the covenant described in Subsection (4)(a) is limited to the monetary obligations of the provider to which the ground lessor succeeds.

(c) A person may not sell the land on which the facility is located free and clear of the interest described in Subsection (4)(a).

(5) A person may not sell or transfer the land on which a facility subject to a ground lease is located free and clear of the provider's possessory interest in the ground lease.

Section 5. Section 31A-44-501.1 is enacted to read:

31A-44-501.1. Receivership.

(1) The department may, by petition or motion, request that a court appoint the commissioner as receiver for a provider.

(2) The court may appoint the commissioner as receiver if, as determined by the commissioner, the provider:

(a) is insolvent or at material risk of becoming insolvent within the next 12 months;

(b) is materially unable to meet the income or available cash projections described in the provider's disclosure statement; or

(c) is unable or at risk of being unable to perform a material obligation under a continuing care contract within the next 12 months.

(3) In evaluating whether a receiver is appropriate under this section, the court:

(a) shall evaluate and promote the best interests of the residents that have contracted with the provider; and

(b) may require the proceeds of a lien imposed under Section 31A-44-601 to be used to pay an entrance fee to another facility on behalf of a resident of the provider's facility.

(4) The commissioner may not file an independent proceeding or action described in this section if another judicial proceeding or action based on the provider's financial condition is pending, but may move to intervene in a pending proceeding or action that is based on the provider's financial condition.

Section 6. Section 31A-44-502 is amended to read:

31A-44-502. Relief available.

(1) [~~A court order to rehabilitate a facility under Section 31A-44-501 may direct a trustee to~~] In a judicial proceeding, including under Sections 31A-44-501 and 31A-44-501.1, a court may:

(a) direct a receiver to take possession of the provider's property in order to conduct the provider's business, including employing any manager or agent that the [~~trustee~~] receiver considers necessary; and

(b) [~~take action as directed by the court~~] direct a receiver to eliminate the causes and conditions that made [~~rehabilitation~~] receivership necessary, which action may include:

(i) selling the facility [~~through bankruptcy or receivership proceedings~~]; [~~and~~]

(ii) requiring a purchaser of the facility to honor any continuing care contract for the facility; and

(iii) collecting and liquidating all or a portion of the provider's assets within the court's jurisdiction.

(2) (a) For a facility subject to a ground lease, a court may, in addition to the actions described in Subsection (1), direct a [~~trustee~~] receiver to purchase from the ground lessor, or assign to another person that agrees to operate the facility, for market value, the ground lessor's interest in the land and the infrastructure improvements to the land on which the facility is located.

(b) A court may direct a [~~trustee under Subsection (2)(a)~~] receiver to purchase from a ground lessor the land and infrastructure improvements to the land on which a facility is located, regardless of the terms of the ground lease agreement.

(c) If a court directs a [~~trustee~~] receiver to purchase or assign the land and infrastructure improvements to the land under Subsection (2)(a), the ground lessor shall sell or assign the land and infrastructure improvements to the land in compliance with the court order.

[~~(d) The commissioner shall determine market value in accordance with rules made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

[~~(e)~~] (d) In determining market value under Subsection [~~(2)(d)~~] (2)(a), the commissioner shall:

(i) value the land and infrastructure improvements to the land on which the facility is located as though the land and infrastructure improvements to the land were not subject to the ground lease; and

(ii) disregard the monetized value of an existing ground lease.

(3) A provider that is subject to a liquidation order may not enter into a new continuing care contract.

[~~(3)~~] (4) Solely for the purpose of enforcing this section, a court has personal jurisdiction in a proceeding under this section over:

(a) the owner of a facility; and

(b) the owner of the land and infrastructure improvements to the land on which a facility is located.

(5) If the commissioner is appointed as receiver, the commissioner may hire or retain a deputy receiver to perform any duties of receivership.

Section 7. Section 31A-44-505 is amended to read:

31A-44-505. Termination of receivership.

(1) A court may terminate a [~~rehabilitation~~] receivership of a provider's facility and order the return of the facility and the facility's assets to the provider if the court determines:

(a) the objectives of the [~~order to rehabilitate the facility~~] receivership orders have been accomplished; and

(b) [~~the facility may be returned to the provider without further jeopardy to the facility's residents, creditors, or owners, or the public~~] termination of the receivership will not jeopardize the interests of the facility's residents, creditors, owners, or the public.

(2) A court may enter an order under this section after the court enters:

(a) a full report and accounting of the conduct of the facility's affairs during the rehabilitation; and

(b) a report on the facility's financial condition.

Section 8. Section 31A-44-506 is amended to read:

31A-44-506. Payment of receiver.

A [~~trustee's~~] receiver's and any deputy receiver's reasonable costs, expenses, and fees are payable from a provider's or facility's assets.

Section 9. Repealer.

This bill repeals:

Section 31A-44-101, Title.

Section 31A-44-501, Application for court order for rehabilitation or liquidation.

Section 31A-44-503, Order to liquidate.

CHAPTER 272
H. B. 71
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

LOCAL HEALTH DEPARTMENT REVISIONS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill enacts provisions related to local health department governance.

Highlighted Provisions:

This bill:

- requires the Department of Health and Human Services and the Department of Environmental Quality, when reviewing policies or rules that affect local health departments, to make certain determinations;
- requires the Department of Health and Human Services and local health departments to report on funding received from each county to accomplish minimum performance standards;
- clarifies that the Department of Health and Human Services and the Department of Environmental Quality must have a funding formula for allocating contract funds outlined in administrative rule;
- creates a reporting requirement; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-1-201, as last amended by Laws of Utah 2020, Chapter 256
26A-1-115, as last amended by Laws of Utah 2018, Chapter 330
26A-1-116, as last amended by Laws of Utah 1991, Chapter 112 and renumbered and amended by Laws of Utah 1991, Chapter 269
26B-1-207, as renumbered and amended by Laws of Utah 2022, Chapter 255

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-1-201 is amended to read:

19-1-201. Powers and duties of department -- Rulemaking authority -- Committee -- Monitoring environmental impacts of inland port.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health and Human Services to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and Human Services and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, in consultation with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually;

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(i) for a board created in Section 19-1-106, rules regarding:

(A) board meeting attendance; and

(B) conflicts of interest procedures; and

(ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a special adjudicative proceeding, consistent with Section 19-1-301.5;

(e) ensure that training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(f) subject to Subsection (2), establish annual fees that conform with Title V of the Clean Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a source subject to the Title V program.

(2) (a) A fee established under Subsection (1)(f) is in addition to a fee assessed under Subsection (6)(i) for issuance of an approval order.

(b) In establishing a fee under Subsection (1)(f), the department shall comply with Section 63J-1-504 that requires a public hearing and requires the established fee to be submitted to the Legislature for the Legislature's approval as part of the department's annual appropriations request.

(c) A fee established under this section shall cover the reasonable direct and indirect costs required to develop and administer the Title V program and the small business assistance program established under Section 19-2-109.2.

(d) A fee established under Subsection (1)(f) shall be established for all sources subject to the Title V program and for all regulated pollutants.

(e) An emission fee may not be assessed for a regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

(f) An emission fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(g) An emission fee shall be based on actual emissions for a regulated pollutant unless a source elects, before the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.

(h) The fees collected by the department under Subsection (1)(f) and penalties collected under Subsection 19-2-109.1(4) shall be deposited into the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program and the small business assistance program under Section 19-2-109.2.

(3) The department shall establish a committee that consists of:

(a) the executive director or the executive director's designee;

(b) two representatives of the department appointed by the executive director; and

(c) three representatives of local health departments appointed by a group of all the local health departments in the state.

(4) (a) The committee established in Subsection (3) shall:

[~~(a)~~] (i) review the allocation of environmental quality resources between the department and the local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116;

[~~(b)~~] (ii) evaluate rules and department policies that affect local health departments in accordance with Subsection (4)(b);

[~~(c)~~] (iii) consider policy changes proposed by the department or by local health departments;

[~~(d)~~] (iv) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and

[~~(e)~~] (v) review each department application for any grant from the federal government that affects a local health department before the department submits the application.

(b) When evaluating a policy or rule that affects a local health department, the committee shall:

(i) compute an estimate of the cost a local health department will bear to comply with the policy or rule;

(ii) specify whether there is any funding provided to a local health department to implement the policy or rule; and

(iii) advise whether the policy or rule is still needed.

(c) Before November 1 of each year, the department shall provide a report to the Administrative Rules Review and General Oversight Committee regarding the determinations made under Subsection (4)(b).

(5) The committee shall create bylaws to govern the committee's operations.

(6) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

(c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;

(d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;

(e) use local health departments in the delivery of environmental health programs to the extent provided by law;

(f) enter into contracts with local health departments or others to meet responsibilities established under this title;

(g) acquire real and personal property by purchase, gift, devise, and other lawful means;

(h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;

(i) in accordance with Section 63J-1-504, establish a schedule of fees that may be assessed for actions and services of the department that are reasonable, fair, and reflect the cost of services provided;

(j) for an owner or operator of a source subject to a fee established by Subsection (6)(i) who fails to

timely pay that fee, assess a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually;

(k) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

(l) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;

(m) upon the request of a board or a division director, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the money available to the department for the staff and services; and

(n) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service to efficiently use department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.

(7) In providing service under Subsection (6)(n), the department may not provide service in a manner that impairs another person's service from the department.

(8) (a) As used in this Subsection (8):

(i) "Environmental impacts" means:

(A) impacts on air quality, including impacts associated with air emissions; and

(B) impacts on water quality, including impacts associated with storm water runoff.

(ii) "Inland port" means the same as that term is defined in Section 11-58-102.

(iii) "Inland port area" means the area in and around the inland port that bears the environmental impacts of destruction, construction, development, and operational activities within the inland port.

(iv) "Monitoring facilities" means:

(A) for monitoring air quality, a sensor system consisting of monitors to measure levels of research-grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment with internal data storage that are interconnected at all times to capture air quality readings and store data; and

(B) for monitoring water quality, facilities to collect groundwater samples, including in existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to storm water.

(b) The department shall:

(i) develop and implement a sampling and analysis plan to:

(A) characterize the environmental baseline for air quality and water quality in the inland port area;

(B) characterize the environmental baseline for only air quality for the Salt Lake International Airport; and

(C) define the frequency, parameters, and locations for monitoring;

(ii) establish and maintain monitoring facilities to measure the environmental impacts in the inland port area arising from destruction, construction, development, and operational activities within the inland port;

(iii) publish the monitoring data on the department's website; and

(iv) provide at least annually before November 30 a written report summarizing the monitoring data to:

(A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part 3, Port Authority Board; and

(B) the Legislative Management Committee.

Section 2. Section 26A-1-115 is amended to read:

26A-1-115. Apportionment of costs -- Contracts to provide services -- Percentage match of state funds -- Audit.

(1) (a) The cost of establishing and maintaining a multicounty local health department may be apportioned among the participating counties on the basis of population in proportion to the total population of all counties within the boundaries of the local health department, or upon other bases agreeable to the participating counties.

(b) Costs of establishing and maintaining a county health department shall be a charge of the county creating the local health department.

(c) Money available from fees, contracts, surpluses, grants, and donations may also be used to establish and maintain local health departments.

(d) As used in this Subsection (1), "population" means population estimates prepared by the Utah Population Committee.

(2) The cost of providing, equipping, and maintaining suitable offices and facilities for a local health department is the responsibility of participating governing bodies.

(3) Local health departments that comply with all department rules and secure advance approval of proposed service boundaries from the department may by contract receive funds under Section 26A-1-116 from the department to provide specified public health services.

(4) Contract funds distributed under Subsection (3) shall be in accordance with Section 26A-1-116 and policies and procedures adopted by the department.

(5) Department rules shall require that contract funds be used for public health services and not

replace other funds used for local public health services.

(6) (a) (i) All state funds distributed by contract from the department to local health departments for public health services shall be matched by those local health departments at a percentage determined by the department in consultation with local health departments.

(ii) Counties shall have no legal obligation to match state funds at percentages in excess of those established by the department and shall suffer no penalty or reduction in state funding for failing to exceed the required funding match.

(b) By October 1 of each year, the department, in consultation with each local health department, shall submit a written report to the Social Services Appropriations Subcommittee describing, for the preceding five fiscal years, each county's annual per capita contribution to a local health department that is used to meet the minimum performance standards described in Section 26A-1-106.

(c) A county may submit an additional written report separate from the report described in Subsection (6)(b) to the Social Services Appropriations Subcommittee outlining a county's contribution to public and community health in the county through other methods that are additional to the annual per capita contribution described in Subsection (6)(b).

(7) (a) Each local health department shall cause an annual financial and compliance audit to be made of its operations by a certified public accountant. The audit may be conducted as part of an annual county government audit of the county where the local health department headquarters are located.

(b) The local health department shall provide a copy of the audit report to the department and the local governing bodies of counties participating in the local health department.

Section 3. Section 26A-1-116 is amended to read:

26A-1-116. Allocation of state funds to local health departments -- Formula.

(1) (a) On or before July 1, 2024, each of the following shall establish in rule a formula for allocating state funds by contract to local health departments:

(i) the department; and

(ii) [~~The Departments of Health and Environmental Quality shall each establish by rule a formula for allocating state funds by contract to local health departments.~~] the Department of Environmental Quality.

(b) This formula shall provide for allocation of funds based on need.

(c) Determination of need shall be based on population unless the department making the rule establishes by valid and accepted data that other defined factors are relevant and reliable indicators of need.

(d) The formula shall include a differential to compensate for additional costs of providing services in rural areas.

[~~(2) (a) The formulas established under Subsection (1) shall be in effect on or before July 1, 1991.~~]

[~~(b)~~] (2) (a) [~~The~~] Except as provided in Subsection (2)(b), the formulas apply to all state funds appropriated by the Legislature to [~~the Departments of Health and Environmental Quality for local health departments.~~] any of the following for local health department use:

(i) the department; or

(ii) the Department of Environmental Quality.

[~~(c)~~] (b) The formulas do not apply to funds a local health department receives from:

(i) sources other than the [~~Departments of Health and~~] department or the Department of Environmental Quality; [~~and~~] or

(ii) the [~~Departments of Health and~~] department or the Department of Environmental Quality:

(A) to operate a specific program within the local health department's boundaries which program is available to all residents of the state;

(B) to meet a need that exists only within the local health department's boundaries; and

(C) to engage in research projects.

Section 4. Section 26B-1-207 is amended to read:

26B-1-207. Policymaking responsibilities -- Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants.

(1) In establishing public health policy, the department shall consult with the local health departments established under Title 26A, Chapter 1, Local Health Departments.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may prescribe by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent with law for a local health department as defined in Section 26A-1-102.

(b) Except where specifically allowed by federal law or state statute, a local health department, as defined in Section 26A-1-102, may not establish standards or regulations that are more stringent than those established by federal law, state statute, or administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) Nothing in this Subsection (2), limits the ability of a local health department to make standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:

(i) emergency rules made in accordance with Section 63G-3-304; or

(ii) items not regulated under federal law, state statute, or state administrative rule.

(3) (a) As used in this Subsection (3):

(i) "Committee" means the committee established under Subsection (3)(b).

(ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iii).

(iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iv).

(iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.

(v) "Reviewable application" means an application for a federal grant that is not an exempt application.

(b) The department shall establish a committee consisting of:

(i) the executive director, or the executive director's designee;

(ii) two representatives of the department, appointed by the executive director; and

(iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

(i) evaluate[~~: (A)~~] the allocation of public health resources between the department and local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116; [~~and~~]

[~~(B)~~] (ii) evaluate policies and rules that affect local health departments in accordance with Subsection (3)(g);

[~~(ii)~~] (iii) consider department policy and rule changes proposed by the department or local health departments;

[~~(iii)~~] (iv) establish criteria by which an application for a federal grant may be judged to determine whether it should be exempt from the requirements under Subsection (3)(d); and

[~~(iv)~~] (v) establish criteria by which an application for a federal grant may be judged to determine whether committee review under Subsection (3)(d)(i) should be delayed until after the application is submitted because the application is required to be submitted under a timetable that makes committee review before it is submitted impracticable if the submission deadline is to be met.

(d) (i) The committee shall review the goals and budget for each reviewable application:

(A) before the application is submitted, except for an expedited application; and

(B) for an expedited application, after the application is submitted but before funds from the federal grant for which the application was submitted are disbursed or encumbered.

(ii) Funds from a federal grant under a reviewable application may not be disbursed or encumbered before the goals and budget for the federal grant are established by:

(A) a two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i); or

(B) if two-thirds of the committee cannot agree on the goals and budget, the chair of the health advisory council, after consultation with the committee in a manner that the committee determines.

(e) An exempt application is exempt from the requirements of Subsection (3)(d).

(f) The department may use money from a federal grant to pay administrative costs incurred in implementing this Subsection (3).

(g) When evaluating a policy or rule that affects a local health department, the committee shall determine:

(i) whether the department has the authority to promulgate the policy or rule;

(ii) an estimate of the cost a local health department will bear to comply with the policy or rule;

(iii) whether there is any funding provided to a local health department to implement the policy or rule; and

(iv) whether the policy or rule is still needed.

(h) Before November 1 of each year, the department shall provide a report to the Administrative Rules Review and General Oversight Committee regarding the determinations made under Subsection (3)(g).

CHAPTER 273
H. B. 72
Passed February 21, 2023
Approved March 15, 2023
Effective July 1, 2023

MEDICAL CANNABIS GOVERNANCE REVISIONS

Chief Sponsor: Walt Brooks
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill enacts provisions regarding medical cannabis governance.

Highlighted Provisions:

This bill:

- defines terms;
- moves most oversight and regulation of medical cannabis pharmacies and couriers from the Department of Health and Human Services to the Department of Agriculture and Food;
- creates a transition period where the Department of Agriculture and Food may seek assistance from the Department of Health and Human Services;
- authorizes the Department of Health and Human Services to revoke a pharmacy medical provider registration;
- creates a Medical Cannabis Policy Advisory Board (board);
- outlines the duties of board;
- modifies the duties and membership of the medical cannabis governance working group (working group);
- extends a sunset date for the working group; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2022, Chapters 290, 452
4-41a-105, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
4-41a-201, as last amended by Laws of Utah 2022, Chapter 290
4-41a-404, as last amended by Laws of Utah 2020, Chapter 12
4-41a-802, as last amended by Laws of Utah 2022, Chapter 97
10-9a-528, as last amended by Laws of Utah 2021, Chapter 60
17-27a-525, as last amended by Laws of Utah 2021, Chapter 60
26-61-202, as last amended by Laws of Utah 2022, Chapter 415
26-61a-102, as last amended by Laws of Utah 2022, Chapters 290, 452
26-61a-103, as last amended by Laws of Utah 2022, Chapters 290, 415
26-61a-105, as last amended by Laws of Utah 2022, Chapter 452
26-61a-106, as last amended by Laws of Utah 2022, Chapters 415, 452
26-61a-109, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
26-61a-201, as last amended by Laws of Utah 2022, Chapters 198, 290 and 452
26-61a-403, as last amended by Laws of Utah 2022, Chapters 415, 452
26-61a-601, as last amended by Laws of Utah 2021, Chapter 337
26-61a-701, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-703, as last amended by Laws of Utah 2022, Chapter 97
36-12-8.2, as enacted by Laws of Utah 2022, Chapter 97
58-17b-302, as last amended by Laws of Utah 2022, Chapter 353
58-17b-502, as last amended by Laws of Utah 2022, Chapter 465
58-37-3.8, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
63I-2-204, as last amended by Laws of Utah 2022, Chapters 67, 68
63I-2-236, as last amended by Laws of Utah 2022, Chapters 97, 141, 363, 437, and 458
78A-2-231, as last amended by Laws of Utah 2022, Chapter 256
80-3-110, as last amended by Laws of Utah 2022, Chapter 256
80-4-109, as enacted by Laws of Utah 2021, Chapter 261

ENACTS:

4-41a-102.1, Utah Code Annotated 1953
4-41a-110, Utah Code Annotated 1953
4-41a-1201, Utah Code Annotated 1953
26-61a-206, Utah Code Annotated 1953
26-61a-801, Utah Code Annotated 1953
26-61a-802, Utah Code Annotated 1953
26-61a-803, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

4-41a-108, (Renumbered from 26-61a-603, as last amended by Laws of Utah 2020, Chapter 12)
4-41a-109, (Renumbered from 26-61a-116, as enacted by Laws of Utah 2022, Chapter 452)
4-41a-801.1, (Renumbered from 26-61a-702, as last amended by Laws of Utah 2022, Chapter 452)
4-41a-1001, (Renumbered from 26-61a-301, as last amended by Laws of Utah 2022, Chapter 290)
4-41a-1002, (Renumbered from 26-61a-302, as last amended by Laws of Utah 2019, First Special Session, Chapter 5)
4-41a-1003, (Renumbered from 26-61a-303, as last amended by Laws of Utah 2022, Chapters 290, 415)
4-41a-1004, (Renumbered from 26-61a-304, as last amended by Laws of Utah 2019, First Special Session, Chapter 5)

4-41a-1005, (Renumbered from 26-61a-305, as last amended by Laws of Utah 2022, Chapter 290)
4-41a-1101, (Renumbered from 26-61a-501, as last amended by Laws of Utah 2022, Chapters 290, 415)
4-41a-1102, (Renumbered from 26-61a-502, as last amended by Laws of Utah 2022, Chapter 290)
4-41a-1103, (Renumbered from 26-61a-504, as last amended by Laws of Utah 2021, Chapter 350)
4-41a-1104, (Renumbered from 26-61a-505, as last amended by Laws of Utah 2022, Chapter 452 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 290)
4-41a-1105, (Renumbered from 26-61a-507, as last amended by Laws of Utah 2020, Chapter 12)
4-41a-1106, (Renumbered from 26-61a-401, as last amended by Laws of Utah 2022, Chapters 290, 415)
4-41a-1107, (Renumbered from 26-61a-402, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1)
4-41a-1202, (Renumbered from 26-61a-604, as last amended by Laws of Utah 2022, Chapters 290, 452)
4-41a-1203, (Renumbered from 26-61a-605, as last amended by Laws of Utah 2022, Chapter 415)
4-41a-1204, (Renumbered from 26-61a-606, as last amended by Laws of Utah 2022, Chapters 290, 415)
4-41a-1205, (Renumbered from 26-61a-607, as last amended by Laws of Utah 2022, Chapter 452)
26-61a-404, (Renumbered from 26-61a-503, as last amended by Laws of Utah 2022, Chapter 415)

REPEALS:
26-61a-108, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-506, as last amended by Laws of Utah 2022, Chapter 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-102 is amended to read:

CHAPTER 41a. CANNABIS PRODUCTION ESTABLISHMENTS AND PHARMACIES

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) toxins; or

(f) foreign matter.

(2) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26-61a-801.

[~~(2)~~] (3) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26-61-201.

[~~(3)~~] (4) "Cannabis" means the same as that term is defined in Section 26-61a-102.

[~~(4)~~] (5) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

[~~(5)~~] (6) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

[~~(6)~~] (7) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

[~~(7)~~] (8) "Cannabis cultivation facility agent" means an individual who:

(a) is an employee of a cannabis cultivation facility; and

(b) holds a valid cannabis production establishment agent registration card.

[~~(8)~~] (9) "Cannabis derivative product" means a product made using cannabis concentrate.

[~~(9)~~] (10) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

[~~(10)~~] (11) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

[~~(11)~~] (12) "Cannabis processing facility agent" means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

[~~(12)~~] (13) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

[~~(13)~~] (14) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

[~~(14)~~] (15) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

[~~(15)~~] (16) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

[~~(16)~~] (17) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(17)~~] (18) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(19) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility, the medical cannabis cardholder's home address; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

[~~(18)~~] (20) "Department" means the Department of Agriculture and Food.

[~~(19)~~] (21) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

[~~(20)~~] (22) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(23) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

[~~(21)~~] (24) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

[~~(22)~~] (25) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

[~~(23)~~] (26) "Industrial hemp waste" means:

(a) a cannabinoid concentrate; or

(b) industrial hemp biomass.

[~~(24)~~] (27) "Inventory control system" means a system described in Section 4-41a-103.

[~~(25)~~] (28) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

[~~(26)~~] (29) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

[~~(27)~~] (30) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(31) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 4-41a-1201; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

(32) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

[~~(28)~~] (33) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

[~~(29)~~] (34) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

[~~(30)~~] (35) "Medical cannabis research license" means a license that the department issues to a

research university for the purpose of obtaining and possessing medical cannabis for academic research.

[~~(31)~~] (36) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

(37) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[~~(32)~~] (38) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.

[~~(33)~~] (39) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(40) "Pharmacy medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(34)~~] (41) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(35)~~] (42) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(36)~~] (43) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(37)~~] (44) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

[~~(38)~~] (45) "State electronic verification system" means the system described in Section 26-61a-103.

[~~(39)~~] (46) "Synthetic cannabinoid" means any cannabinoid that:

(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and

(b) is not a derivative cannabinoid.

[~~(40)~~] (47) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

[~~(41)~~] (48) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(42)~~] (49) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

[~~(43)~~] (50) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 2. Section 4-41a-102.1 is enacted to read:

4-41a-102.1. Temporary governance over medical cannabis pharmacies.

(1) As used in this section:

(a) "Pharmacy provisions" means the provisions contained in the following parts:

(i) Part 10, Medical Cannabis Pharmacy License;

(ii) Part 11, Medical Cannabis Pharmacy Operation and Agents; and

(iii) Part 12, Medical Cannabis Home Delivery and Couriers.

(b) "Transition period" means the period of time beginning on July 1, 2023, and ending on January 1, 2024.

(2) During the transition period:

(a) the department may request:

(i) the Department of Health and Human Services to carry out the duties described in the pharmacy provisions; and

(ii) technical assistance from the Department of Health and Human Services related to carrying out the duties described in the pharmacy provisions;

(b) the department may terminate or limit the scope of the Department of Health and Human Services' power to carry out duties described in the pharmacy provisions; and

(c) if the department requests the Department of Health and Human Services to carry out duties described in the pharmacy provisions, the department may make personnel available to the Department of Health and Human Services for carrying out the duties.

(3) Upon the request of the department under this section, the Department of Health and Human Services has the authority to carry out any duties:

(a) within the scope of the request; and

(b) if related to the pharmacy provisions.

(4) Notwithstanding any other provision of law, the Department of Health and Human Services may use funds from the Qualified Patient Enterprise Fund, created in Section 26-61a-109, to cover any costs of Department of Health and Human Services personnel related to carrying out duties requested by the department under this section.

Section 3. Section 4-41a-105 is amended to read:

4-41a-105. Agreement with a tribe.

(1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.

(2) (a) In accordance with this section, the governor may enter into an agreement with a tribe

to allow for the operation of a cannabis production establishment or a medical cannabis pharmacy on tribal land located within the state.

(b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.

(c) The governor shall ensure that an agreement described in Subsection (2)(a):

(i) is in writing;

(ii) is signed by:

(A) the governor; and

(B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;

(iii) states the effective date of the agreement;

(iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and

(v) includes any accommodation that the tribe makes:

(A) to which the tribe agrees; and

(B) that is reasonably related to the agreement.

(d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.

(e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:

(i) the chairs of the Native American Legislative Liaison Committee; and

(ii) the Office of Legislative Research and General Counsel.

Section 4. Section 4-41a-108, which is renumbered from Section 26-61a-603 is renumbered and amended to read:

[~~26-61a-603~~]. 4-41a-108. Payment provider for electronic medical cannabis transactions.

(1) A cannabis production establishment, a medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy seeking to use a payment provider shall submit to the Division of Finance and the state treasurer information regarding the payment provider the prospective licensee will use to conduct financial transactions related to medical cannabis, including:

(a) the name and contact information of the payment provider;

(b) the nature of the relationship between the establishment, pharmacy, or prospective pharmacy and the payment provider; and

(c) for a prospective home delivery medical cannabis pharmacy, the processes the prospective licensee and the payment provider have in place to safely and reliably conduct financial transactions for medical cannabis shipments.

(2) The Division of Finance shall, in consultation with the state treasurer:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish standards for identifying payment providers that demonstrate the functional and technical ability to safely conduct financial transactions related to medical cannabis, including medical cannabis shipments;

(b) review submissions the Division of Finance and the state treasurer receive under Subsection (1);

(c) approve a payment provider that meets the standards described in Subsection (2)(a); and

(d) establish a list of approved payment providers.

(3) Any licensed cannabis production establishment, licensed medical cannabis pharmacy, or medical cannabis courier may use a payment provider that the Division of Finance approves, in consultation with the state treasurer, to conduct transactions related to the establishment's, pharmacy's, or courier's respective medical cannabis business.

(4) If Congress passes legislation that allows a cannabis-related business to facilitate payments through or deposit funds in a financial institution, a cannabis production establishment or a medical cannabis pharmacy may facilitate payments through or deposit funds in a financial institution in addition to or instead of a payment provider that the Division of Finance approves, in consultation with the state treasurer, under this section.

Section 5. Section 4-41a-109, which is renumbered from Section 26-61a-116 is renumbered and amended to read:

[~~26-61a-116~~]. 4-41a-109. Advertising.

(1) Except as provided in this chapter, a person may not advertise regarding the recommendation, sale, dispensing, or transportation of medical cannabis.

(2) Notwithstanding any authorization to advertise regarding medical cannabis under this chapter, the person advertising may not advertise:

(a) using promotional discounts or incentives;

(b) a particular medical cannabis product, medical cannabis device, or medicinal dosage form; or

(c) an assurance regarding an outcome related to medical cannabis treatment.

(3) Notwithstanding Subsection (1):

(a) a nonprofit organization that offers financial assistance for medical cannabis treatment to low-income patients may advertise the organization's assistance if the advertisement does not relate to a specific medical cannabis pharmacy or a specific medical cannabis product; and

(b) a medical cannabis pharmacy may provide information regarding subsidies for the cost of medical cannabis treatment to patients who affirmatively accept receipt of the subsidy information.

(4) To ensure that the name and logo of a licensee under this chapter have a medical rather than a recreational disposition, the name and logo of the licensee:

(a) may include terms and images associated with:

(i) a medical disposition, including "medical," "medicinal," "medicine," "pharmacy," "apothecary," "wellness," "therapeutic," "health," "care," "cannabis," "clinic," "compassionate," "relief," "treatment," and "patient;" or

(ii) the plant form of cannabis, including "leaf," "flower," and "bloom;"[~~;~~] and

(b) may not include:

(i) any term, statement, design representation, picture, or illustration that is associated with a recreational disposition or that appeals to children;

(ii) an emphasis on a psychoactive ingredient;

(iii) a specific cannabis strain; or

(iv) terms related to recreational marijuana, including "weed," "pot," "reefer," "grass," "hash," "ganga," "Mary Jane," "high," "buzz," "haze," "stoned," "joint," "bud," "smoke," "euphoria," "dank," "doobie," "kush," "frost," "cookies," "rec," "bake," "blunt," "combust," "bong," "budtender," "dab," "blaze," "toke," or "420."

(5) The department shall define standards for advertising authorized under this chapter, including names and logos in accordance with Subsection (4), to ensure a medical rather than recreational disposition.

Section 6. Section 4-41a-110 is enacted to read:

4-41a-110. Department coordination with the advisory board.

The department shall:

(1) provide draft rules made under this chapter to the advisory board for the advisory board's review;

(2) consult with the advisory board before issuing an additional:

(a) cultivation facility license under Section 4-41a-205; or

(b) pharmacy license under Section 4-41a-1005;

(3) consult with the advisory board regarding fees set by the department that pertain to the medical cannabis program; and

(4) when appropriate, consult with the advisory board regarding issues that arise in the medical cannabis program.

Section 7. Section 4-41a-201 is amended to read:

4-41a-201. Cannabis production establishment -- License.

(1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a licensing process that the department initiates after March 17, 2021, the department, through the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:

(i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment;

(B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or

(C) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department or licensing board approves;

(iv) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) $100,000 for each cannabis cultivation facility for which the applicant applies; or

(B) $50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the licensing board approves an application for a license under this section and Section 4-41a-201.1:

(a) the applicant shall pay the department:

(i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; or

(ii) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i); and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection (4)(b), a cannabis production establishment shall obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the licensing board receives more than one application for a cannabis production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(8) (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] this title, the licensing board[~~:~~]

[~~(i) shall consult with the Department of Health regarding the applicant; and~~]

[~~(ii)~~] may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:

[~~(A)~~] (i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

[~~(B)~~] (ii) the licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.

(9) The licensing board may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;

(b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;

(f) if, after a change of ownership described in Subsection (15)(b), the board determines that the cannabis production establishment no longer meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; or

(g) for an independent cannabis testing laboratory, if the independent cannabis testing laboratory fails to substantially meet the performance standards described in Subsection (14)(b).

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.

(b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on or before January 1, 2020.

(13) (a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(14) (a) Notwithstanding this section, the department:

(i) may not issue more than four licenses to operate an independent cannabis testing laboratory;

(ii) may operate or partner with a research university to operate an independent cannabis testing laboratory;

(iii) if the department operates or partners with a research university to operate an independent cannabis testing laboratory, may not cease operating or partnering with a research university to operate the independent cannabis testing laboratory unless:

(A) the department issues at least two licenses to independent cannabis testing laboratories; and

(B) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and

(iv) after ceasing department or research university operations under Subsection (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:

(A) fewer than two licensed independent cannabis testing laboratories are operating; or

(B) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

(b) (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an independent cannabis testing laboratory, including deadlines for testing completion.

(ii) A license that the department issues to an independent cannabis testing laboratory is

contingent upon substantial satisfaction of the performance standards described in Subsection (14)(b)(i), as determined by the board.

(15) (a) A cannabis production establishment license is not transferrable or assignable.

(b) If the ownership of a cannabis production establishment changes by 50% or more:

(i) the cannabis production establishment shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the board shall:

(A) conduct the application review described in Section 4-41a-201.1; and

(B) award a license to the cannabis production establishment for the remainder of the term of the cannabis production establishment's license before the ownership change if the cannabis production establishment meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; and

(iii) if the board approves the license application, notwithstanding Subsection (3), the cannabis production establishment shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 8. Section 4-41a-404 is amended to read:

4-41a-404. Medical cannabis transportation.

(1) (a) [~~Only~~] Except as provided in Part 12, Medical Cannabis Home Delivery and Couriers, the following individuals may transport cannabis or a cannabis product under this chapter:

(i) a registered cannabis production establishment agent; [~~or~~]

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter[~~.~~];

(iii) a registered medical cannabis pharmacy agent;

(iv) a registered medical cannabis courier agent; and

(v) a registered pharmacy medical provider.

(b) Only an agent of a cannabis cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment, an individual transporting cannabis or a cannabis product shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;

(b) includes origin and destination information for any cannabis or cannabis product that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis or cannabis product.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis or cannabis product to ensure that the cannabis or cannabis product remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis production establishment and another cannabis production establishment; [~~and~~]

(ii) between a cannabis processing facility and a medical cannabis pharmacy[~~.~~]; and

(iii) a medical cannabis pharmacy and:

(A) another medical cannabis pharmacy; or

(B) for a medical cannabis shipment, a delivery address.

(4) (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis or cannabis product than the manifest identifies, except for a de minimis administrative error:

(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment, medical cannabis pharmacy, medical cannabis courier, or another person for

failing to make a transport in compliance with the requirements of this section.

(6) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Section 9. Section 4-41a-801.1, which is renumbered from Section 26-61a-702 is renumbered and amended to read:

[~~26-61a-702~~]. 4-41a-801.1. Enforcement for medical cannabis pharmacies and couriers -- Fine -- Citation.

(1) (a) The department may, for a medical cannabis pharmacy's or a medical cannabis courier's violation of this chapter or an applicable administrative rule:

(i) revoke the medical cannabis pharmacy or medical cannabis courier license;

(ii) refuse to renew the medical cannabis pharmacy or medical cannabis courier license; or

(iii) assess the medical cannabis pharmacy or medical cannabis courier an administrative penalty.

(b) The department may, for a medical cannabis pharmacy agent's or medical cannabis courier agent's violation of this chapter:

(i) revoke the medical cannabis pharmacy agent or medical cannabis courier agent registration card;

(ii) refuse to renew the medical cannabis pharmacy agent or medical cannabis courier agent registration card; or

(iii) assess the medical cannabis pharmacy agent or medical cannabis courier agent an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

(3) For a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, the department may:

(a) for a fine amount not already specified in law, assess the person a fine of up to $5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(4) The department may not revoke a medical cannabis pharmacy's license or a medical cannabis courier's license without first directing the medical cannabis pharmacy or the medical cannabis courier to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(6) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or agent registration card; or

(b) suspend, revoke, or place on probation the person's license or agent registration card.

(7) (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual violates a provision of this chapter, the individual is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (7)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (7)(a).

Section 10. Section 4-41a-802 is amended to read:

4-41a-802. Report.

(1) At or before the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications that the department receives under this chapter;

(b) the number of each type of cannabis production facility that the department licenses in each county;

(c) the amount of cannabis that licensees grow;

(d) the amount of cannabis that licensees manufacture into cannabis products;

(e) the number of licenses the department revokes under this chapter;

(f) the department's operation of an independent cannabis testing laboratory under Section 4-41a-201, including:

(i) the cannabis and cannabis products the department tested; and

(ii) the results of the tests the department performed; and

(g) the expenses incurred and revenues generated under this chapter.

(2) The department may not include personally identifying information in the report described in this section.

(3) [~~During the 2022 legislative interim, the~~] The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 11. Section 4-41a-1001, which is renumbered from Section 26-61a-301 is renumbered and amended to read:

Part 10. Medical Cannabis Pharmacy License

[~~26-61a-301~~]. 4-41a-1001. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section [~~26-61a-305~~] 4-41a-1005, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least $100,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section [~~26-61a-304~~] 4-41a-1004;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section [~~26-61a-507~~] 4-41a-1106; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection [~~26-61a-109(5)~~] 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection [~~26-61a-109(5)~~] 4-41a-104(5), the department sets in accordance with Section 63J-1-504;

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and

(c) charge the licensee a fee in an amount that, subject to Subsection [~~26-61a-109(5)~~] 4-41a-104(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5) (a) If an applicant for a medical cannabis pharmacy license under this section holds [~~a~~] another license under [~~Title 4, Chapter 41, Hemp and Cannabinoid Act~~] this chapter, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under this section, the department may give consideration to the applicant's status as a holder of the license if:

(i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(ii) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

[~~(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis Production Establishments, the department:~~]

[~~(i) shall consult with the Department of Agriculture and Food regarding the applicant; and~~]

[~~(ii) may give consideration to the applicant based on the applicant's status as a holder of a license to operate a cannabis cultivation facility if:~~]

[~~(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and~~]

[~~(B) the department finds multiple other factors, in addition to the existing license, that support granting the new license.~~]

(6) (a) The department may revoke a license under this part:

(i) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;

(ii) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution;

(iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter; or

(vi) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter.

(b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified [~~Patient~~] Production Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy

shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 12. Section 4-41a-1002, which is renumbered from Section 26-61a-302 is renumbered and amended to read:

[~~26-61a-302~~]. 4-41a-1002. Medical cannabis pharmacy owners and directors -- Criminal background checks.

(1) Each applicant to whom the department issues a notice of intent to award a license to operate as a medical cannabis pharmacy shall submit, before the department may award the license, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 13. Section 4-41a-1003, which is renumbered from Section 26-61a-303 is renumbered and amended to read:

[~~26-61a-303~~]. 4-41a-1003. Renewal.

(1) The department shall renew a license under this part every year if, at the time of renewal:

(a) the licensee meets the requirements of Section [~~26-61a-301~~] 4-41a-1001;

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection [~~26-61a-109(5)~~] 4-41a-1004(5), the department sets in accordance with Section 63J-1-504; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section [~~26-61a-304~~] 4-41a-1004 that the department approved under Subsection [~~26-61a-301(2)(b)(iv)~~] 4-41a-1001(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section 63A-16-601.

(b) The department may establish criteria, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

(3) If the department has not completed the necessary processes to make a determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a license, the department may issue a conditional medical cannabis pharmacy license to a licensed medical cannabis pharmacy

that has applied for license renewal under this section and paid the fee described in Subsection (1)(b).

Section 14. Section 4-41a-1004, which is renumbered from Section 26-61a-304 is renumbered and amended to read:

[~~26-61a-304~~]. 4-41a-1004. Operating plan.

A person applying for a medical cannabis pharmacy license shall submit to the department a proposed operation plan for the medical cannabis pharmacy [~~that complies with this section and~~] that includes:

(1) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

(2) a description of the credentials and experience of:

(a) each officer, director, or owner of the proposed medical cannabis pharmacy; and

(b) any highly skilled or experienced prospective employee;

(3) the medical cannabis pharmacy's employee training standards;

(4) a security plan;

(5) a description of the medical cannabis pharmacy's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system;

(6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis; and

(7) a description of the proposed medical cannabis pharmacy's strategic plan for opening the medical cannabis pharmacy, including gauging appropriate timing based on:

(a) the supply of medical cannabis and medical cannabis products, in consultation with the [~~Department of Agriculture and Food~~] department; and

(b) the quantity and condition of the population of medical cannabis cardholders, in consultation with the [~~department~~] Department of Health and Human Services.

Section 15. Section 4-41a-1005, which is renumbered from Section 26-61a-305 is renumbered and amended to read:

[~~26-61a-305~~]. 4-41a-1005. Maximum number of licenses .

(1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue up to 15 medical cannabis pharmacy licenses in accordance with this section.

(b) If an insufficient number of qualified applicants apply for the available number of medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with Subsection (1)(c)(i), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of [~~Agriculture and Food~~] Health and Human Services and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i); and

(B) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A).

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and

(F) a strategic plan described in Subsection [~~26-61a-304(7)~~] 4-41a-1004(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section [~~26-61a-603~~] 4-41a-108; or

(B) a financial institution in accordance with Subsection [~~26-61a-603(4).~~] 4-41a-108(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

[~~(4) (a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:~~]

[~~(i) safely conduct transactions for medical cannabis shipments;~~]

[~~(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and~~]

[~~(iii) accept payments through:~~]

[~~(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or~~]

[~~(B) a financial institution in accordance with Subsection 26-61a-603(4).~~]

[~~(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (4)(a), including:~~]

[~~(i) the name and contact information of the payment provider;~~]

[~~(ii) the nature of the relationship between the prospective licensee and the payment provider;~~]

[~~(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:~~]

[~~(A) the prospective licensee; and~~]

[~~(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and~~]

[~~(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.~~]

[~~(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.~~]

Section 16. Section 4-41a-1101, which is renumbered from Section 26-61a-501 is renumbered and amended to read:

Part 11. Medical Cannabis Pharmacy Operation and Agents

[~~26-61a-501~~]. 4-41a-1101. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section [~~26-61a-301~~] 4-41a-1001; and

(ii) in accordance with the operating plan provided to the department under Section [~~26-61a-301~~] 4-41a-1001 and, if applicable, Section [~~26-61a-304~~] 4-41a-1004.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection (4):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department [~~or the Department of Agriculture and Food~~] performing an inspection under Section [~~26-61a-504~~] 4-41a-1103; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(5) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection [~~26-61a-502(2)~~] 4-41a-1102(2).

(7) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:

(A) a unique identification number;

(B) directions for use and cautionary statements;

(C) amount and cannabinoid content; and

(D) a suggested use date.

(iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:

(A) the cannabinoid content;

(B) the suggested use date; and

(C) any other requirements that the department determines.

(iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (9)(b)(i).

(10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26-61a-106(1)(b) through (d):

(i) for a written order or an electronic order under circumstances that the department determines,

contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection [~~26-61a-502(4) or (5)~~] 26-61a-404(5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(11) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 17. Section 4-41a-1102, which is renumbered from Section 26-61a-502 is renumbered and amended to read:

[~~26-61a-502~~]. 4-41a-1102. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) (a) A medical cannabis pharmacy may not sell a product other than[~~, subject to this chapter~~]:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card; or

(B) a department registration described in [~~Section 26-61a-201(10)~~] Subsection 26-61a-201(11); and

(ii) a corresponding valid form of photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

(ii) to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection [~~(4),~~] 26-61a-404(5) any medical cannabis.

[~~(3) An individual with a medical cannabis card:~~]

[~~(a) may purchase, in any one 28-day period, up to the legal dosage limit of:~~]

[~~(i) unprocessed cannabis in a medicinal dosage form; and~~]

[~~(ii) a cannabis product in a medicinal dosage form;~~]

[~~(b) may not purchase:~~]

[~~(i) more medical cannabis than described in Subsection (3)(a); or~~]

[~~(ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis; and~~]

[~~(c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.~~]

[~~(4) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:~~]

[~~(a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:~~]

[~~(i) information regarding the qualifying condition underlying the recommendation;~~]

[~~(ii) information regarding prior treatment attempts with medical cannabis; and~~]

[~~(iii) portions of the patient's current medication list; and~~]

[~~(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:~~]

[~~(i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (4)(a); and~~]

[~~(ii) unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:~~]

[~~(A) the patient's qualifying condition underlying the recommendation from the recommending medical provider;~~]

[~~(B) indications for available treatments;~~]

[~~(C) directions of use and dosing guidelines; and~~]

[~~(D) potential adverse reactions.~~]

[~~(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.~~]

[~~(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.~~]

[~~(6)~~] (3) (a) A medical cannabis pharmacy shall:

(i) (A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

(B) if the verification in Subsection [~~(6)(a)(i)~~] (3)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;

(ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

(iv) package any medical cannabis that is in a container that:

(A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26-61a-102;

(B) is tamper-resistant and tamper-evident; and

(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public; and

(v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection [~~(6)(a)(iv)~~] (3)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

[~~(7)~~] (4) (a) Except as provided in Subsection [~~(7)(b)~~] (4)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

[~~(8)~~] (5) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

[~~(9) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.~~]

[~~(10)~~] (6) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this [~~title or Title 4, Chapter 41a, Cannabis Production Establishments~~] chapter or Title 26B, Utah Health and Human Services Code.

Section 18. Section 4-41a-1103, which is renumbered from Section 26-61a-504 is renumbered and amended to read:

[~~26-61a-504~~]. 4-41a-1103. Inspections.

(1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) (a) The department [~~or the Department of Agriculture and Food~~] may inspect the records, facility, and inventory of a medical cannabis pharmacy at any time during business hours in order to determine if the medical cannabis pharmacy complies with this chapter [~~and Title 4, Chapter 41a, Cannabis Production Establishments~~].

(b) The Department of Health and Human Services may inspect patient records held by a medical cannabis pharmacy:

(i) for compliance with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended; or

(ii) to ensure that a medical cannabis pharmacy is providing a cannabis product to a patient in accordance with the recommendations of the patient's recommending medical provider.

(3) (a) An inspection conducted by the department under this section may include:

[~~(a)~~] (i) [~~inspection of~~] inspecting a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above;

[~~(b)~~] (ii) questioning of any relevant individual;

[~~(c)~~] (iii) [~~inspection of~~] inspecting equipment, an instrument, a tool, or machinery, including a container or label;

[~~(d)~~] (iv) random sampling of medical cannabis [~~by the Department of Agriculture and Food~~] in accordance with rules described in Section 4-41a-701; or

[~~(e)~~] (v) seizure of medical cannabis, medical cannabis devices, or educational material as evidence in a department investigation or inspection or in instances of compliance failure.

(b) An inspection conducted by the Department of Health and Human Services under Subsection (2)(b) may include:

(i) inspecting a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above; or

(ii) questioning of any relevant individual.

(4) In making an inspection under this section[~~,~~]:

(a) the department [~~or the Department of Agriculture and Food~~] may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data[~~.~~]; and

(b) the Department of Health and Human Services may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information related to patient records.

(5) Failure to provide the department, the [~~Department of Agriculture and Food~~] Department of Health and Human Services, or the authorized agents of the department or the [~~Department of Agriculture and Food~~] Department of Health and Human Services immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

(6) Notwithstanding any other provision of law, the department may temporarily store in any department facility the items the department seizes under Subsection [~~(3)(e)~~] (3)(a)(v) until the department:

(a) determines that sufficient compliance justifies the return of the seized items; or

(b) disposes of the items in the same manner as a cannabis production establishment in accordance with Section 4-41a-405.

Section 19. Section 4-41a-1104, which is renumbered from Section 26-61a-505 is renumbered and amended to read:

[~~26-61a-505~~]. 4-41a-1104. Advertising.

(1) Except as provided in this section, a person may not advertise in any medium regarding a medical cannabis pharmacy or the dispensing of medical cannabis within the state.

(2) Subject to Section [~~26-61a-116~~] 4-41a-109, a medical cannabis pharmacy may:

(a) advertise an employment opportunity at the medical cannabis pharmacy;

(b) notwithstanding any municipal or county ordinance prohibiting signage, use signage on the outside of the medical cannabis pharmacy that:

(i) includes only:

(A) in accordance with Subsection [~~26-61a-116(4)~~] 4-41a-109(4), the medical cannabis pharmacy's name, logo, and hours of operation; and

(B) a green cross; and

(ii) complies with local ordinances regulating signage;

(c) advertise in any medium:

(i) the pharmacy's name and logo;

(ii) the location and hours of operation of the medical cannabis pharmacy;

(iii) a service available at the medical cannabis pharmacy;

(iv) personnel affiliated with the medical cannabis pharmacy;

(v) whether the medical cannabis pharmacy is licensed as a home delivery medical cannabis pharmacy;

(vi) best practices that the medical cannabis pharmacy upholds; and

(vii) educational material related to the medical use of cannabis, as defined by the department;

(d) hold an educational event for the public or medical providers in accordance with Subsection (3) and the rules described in Subsection (4); and

(e) maintain on the medical cannabis pharmacy's website non-promotional information regarding the medical cannabis pharmacy's inventory.

(3) A medical cannabis pharmacy may not include in an educational event described in Subsection (2)(d):

(a) any topic that conflicts with this chapter or [~~Title 4, Chapter 41a, Cannabis Production Establishments~~] Title 26, Chapter 61a, Utah Medical Cannabis Act;

(b) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(c) any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(d) a presenter other than the following:

(i) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(v) a medical practitioner, similar to [~~the practitioners~~] a practitioner described in [~~this Subsection (3)(d)(v)~~] Subsections (3)(d)(i) through (iv), who is licensed in another state or country;

(vi) a state employee; or

(vii) if the presentation relates to a cannabis topic other than medical treatment or medical conditions, an individual whom the department approves based on the individual's background and credentials in the presented topic.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define:

(a) the educational material described in Subsection (2)(c)(vii); and

(b) the elements of and restrictions on the educational event described in Subsection (3), including:

(i) a minimum age of 21 years old for attendees; and

(ii) an exception to the minimum age for a medical cannabis patient cardholder who is at least 18 years old.

Section 20. Section 4-41a-1105, which is renumbered from Section 26-61a-507 is renumbered and amended to read:

[~~26-61a-507~~]. 4-41a-1105. Local control.

(1) The operation of a medical cannabis pharmacy:

(a) shall be a permitted use:

(i) in any zone, overlay, or district within the municipality or county except for a primarily residential zone; and

(ii) on land that the municipality or county has not zoned; and

(b) is subject to the land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, that apply in the underlying zone.

(2) A municipality or county may not:

(a) on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis, deny or revoke:

(i) a land use permit, as that term is defined in Sections 10-9a-103 and 17-27a-103, to operate a medical cannabis pharmacy; or

(ii) a business license to operate a medical cannabis pharmacy;

(b) require a certain distance between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy;

(ii) a cannabis production establishment;

(iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a medical cannabis pharmacy that was not in effect on the day on which the medical cannabis pharmacy submitted a complete land use application.

(3) (a) A municipality or county may enact an ordinance that:

(i) is not in conflict with this chapter; and

(ii) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.

(b) An ordinance that a municipality or county enacts under Subsection (3)(a) may not restrict the hours of operation from 7 a.m. to 10 p.m.

(4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Section 21. Section 4-41a-1106, which is renumbered from Section 26-61a-401 is renumbered and amended to read:

[~~26-61a-401~~]. 4-41a-1106. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(9) (a) As a condition precedent to registration and renewal of a medical cannabis pharmacy agent registration card, a medical cannabis pharmacy agent shall:

(i) complete at least one hour of continuing education regarding patient privacy and federal health information privacy laws that is offered by the department under Subsection (9)(b) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and the Board of Pharmacy.

(b) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (9).

(c) The pharmacist-in-charge described in Section 26-61a-403 shall ensure that each medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to the state electronic verification system is in compliance with this Subsection (9).

Section 22. Section 4-41a-1107, which is renumbered from Section 26-61a-402 is renumbered and amended to read:

[~~26-61a-402~~]. 4-41a-1107. Medical cannabis pharmacy agent registration card -- Rebuttable presumption.

(1) A medical cannabis pharmacy agent shall carry the individual's medical cannabis pharmacy

agent registration card with the individual at all times when:

(a) the individual is on the premises of a medical cannabis pharmacy; and

(b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and a medical cannabis pharmacy.

(2) If an individual handling, at a medical cannabis pharmacy, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device or transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

(a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the individual's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), that the individual is engaging in illegal activity.

(3) (a) A medical cannabis pharmacy agent who fails to carry the agent's medical cannabis pharmacy agent registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

(A) guilty of an infraction; and

(B) is subject to a $100 fine; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a $750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant medical cannabis pharmacy of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant medical cannabis pharmacy a fine of up to $5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 23. Section 4-41a-1201 is enacted to read:

Part 12. Medical Cannabis Home Delivery and Couriers

4-41a-1201. Medical cannabis home delivery designation.

(1) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(a) safely conduct transactions for medical cannabis shipments;

(b) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(c) accept payments through:

(i) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(ii) a financial institution in accordance with Subsection 26-61a-603(4).

(2) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (1), including:

(a) the name and contact information of the payment provider;

(b) the nature of the relationship between the prospective licensee and the payment provider;

(c) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(i) the prospective licensee; and

(ii) the electronic payment provider or the financial institution described in Subsection (1)(c); and

(d) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(3) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this part.

Section 24. Section 4-41a-1202, which is renumbered from Section 26-61a-604 is renumbered and amended to read:

[~~26-61a-604~~]. 4-41a-1202. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection [~~26-61a-109(5)~~] 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection [~~26-61a-109(5)~~] 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection [~~(3)(b)(ii).~~] (3)(b)(i).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection [~~(3)(b)(ii)~~] (3)(b)(i):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times;

(c) an individual described in Subsection [~~(3)(b)(ii)~~] (3)(b)(i) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified [~~Patient~~] Production Enterprise Fund.

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(15) (a) A medical cannabis courier license is not transferrable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

(i) concurrent with the report described in Subsection (15)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

(16) (a) Except as provided in Subsection (15)(b), a person may not advertise regarding the transportation of medical cannabis.

(b) Notwithstanding Subsection (15)(a) and subject to Section [~~26-61a-116~~] 4-41a-109, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

(i) a green cross;

(ii) the pharmacy's or courier's name and logo; and

(iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section 25. Section 4-41a-1203, which is renumbered from Section 26-61a-605 is renumbered and amended to read:

[~~26-61a-605~~]. 4-41a-1203. Medical cannabis shipment transportation.

(1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.

(2) (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders that the state central patient portal facilitates.

(b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:

(i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and

(ii) provide regular oversight of the medical cannabis courier.

(3) [~~Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an~~] Notwithstanding Subsection 4-41a-404(1), an individual may [~~not~~] transport a medical cannabis shipment [~~unless~~] if the individual is:

(a) a registered pharmacy medical provider;

(b) a registered medical cannabis pharmacy agent; or

(c) a registered agent of the medical cannabis courier described in Subsection (2).

(4) An individual transporting a medical cannabis shipment under Subsection (3) shall [~~possess a physical or electronic transportation manifest that:~~] comply with the requirements of Subsection 4-41a-404(3).

[~~(a) includes a unique identifier that links the medical cannabis shipment to a relevant inventory control system;~~]

[~~(b) includes origin and destination information for the medical cannabis shipment the individual is transporting; and~~]

[~~(c) indicates the departure and estimated arrival times and locations of the individual transporting the medical cannabis shipment.~~]

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 26. Section 4-41a-1204, which is renumbered from Section 26-61a-606 is renumbered and amended to read:

[~~26-61a-606~~]. 4-41a-1204. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a medical cannabis courier agent unless:

(a) the individual is an employee of a licensed medical cannabis courier; and

(b) the department registers the individual as a medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and address of the medical cannabis courier;

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

(D) the submission required under Subsection (2)(b);

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution; and

(iii) pays the department a fee in an amount that, subject to Subsection [~~26-61a-109(5)~~] 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and

regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the medical cannabis shipment process; and

(iii) medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis courier agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection [~~26-61a-109(5)~~] 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(6) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:

(a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and

(b) the agent is handling a medical cannabis shipment.

(8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.

(9) (a) A medical cannabis courier agent who violates Subsection (7) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (9)(a).

Section 27. Section 4-41a-1205, which is renumbered from Section 26-61a-607 is renumbered and amended to read:

[~~26-61a-607~~]. 4-41a-1205. Home delivery of medical cannabis shipments.

(1) An individual may not receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from a home delivery medical cannabis pharmacy unless:

(a) the individual receiving the shipment presents:

(i) a valid form of photo identification; and

(ii) (A) a valid medical cannabis card under the same name that appears on the valid form of photo identification; or

(B) for a facility that a medical cannabis cardholder has designated as a caregiver under Subsection 26-61a-202(1)(b), evidence of the facility caregiver designation; and

(b) the delivery occurs at:

(i) the medical cannabis cardholder's home address that is on file in the state electronic verification system; or

(ii) the facility that the medical cannabis cardholder has designated as a caregiver under Subsection 26-61a-202(1)(b).

(2) Before a medical cannabis pharmacy agent or a medical cannabis courier agent distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection (1);

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in a manner such that the delivery of the shipment will later be recorded within a reasonable period in the electronic verification system.

(3) The medical cannabis courier shall:

(a) (i) store each medical cannabis shipment in a secure manner until the recipient medical cannabis cardholder receives the shipment or the medical cannabis courier returns the shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4); and

(ii) ensure that only a medical cannabis courier agent is able to access the medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

(b) return any undelivered medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has possessed the shipment for 10 business days; and

(c) return any medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to accept the shipment.

(4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered medical cannabis shipment that remains unopened, the home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

(b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the shipment by:

(i) rendering the shipment unusable and unrecognizable before transporting the shipment from the home delivery medical cannabis pharmacy; and

(ii) disposing of the shipment in accordance with:

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 28. Section 10-9a-528 is amended to read:

10-9a-528. Cannabis production establishments, medical cannabis pharmacies, and industrial hemp producer licensee.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

(c) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(2) (a) (i) A municipality may not regulate a cannabis production establishment or a medical cannabis pharmacy in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and applicable jurisprudence; and

(B) this chapter.

[~~(ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:~~]

[~~(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and~~]

[~~(B) this chapter.~~]

[~~(iii)~~] (ii) A municipality may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment or a medical cannabis pharmacy.

[~~(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.~~]

(3) (a) Within the time period described in Subsection (3)(b), a municipality shall prepare and

adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section [~~26-61a-507~~] 4-41a-110.

(b) A municipality shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

Section 29. Section 17-27a-525 is amended to read:

17-27a-525. Cannabis production establishments and medical cannabis pharmacies.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

(c) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(2) (a) (i) A county may not regulate a cannabis production establishment or a medical cannabis pharmacy in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and applicable jurisprudence; and

(B) this chapter.

[~~(ii) A county may not regulate a medical cannabis pharmacy in conflict with:~~]

[~~(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and~~]

[~~(B) this chapter.~~]

[~~(iii)~~] (ii) A county may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment or a medical cannabis pharmacy.

[~~(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.~~]

(3) (a) Within the time period described in Subsection (3)(b), a county shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section [~~26-61a-507~~] 4-41a-110.

(b) A county shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the county receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 17-27a-509.5(2).

Section 30. Section 26-61-202 is amended to read:

26-61-202. Duties.

(1) The board shall review any available scientific research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:

(a) was conducted under a study approved by an IRB;

(b) was conducted or approved by the federal government; or

(c) (i) was conducted in another country; and

(ii) demonstrates, as determined by the board, a sufficient level of scientific reliability and significance to merit the board's review.

(2) Based on the research described in Subsection (1), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:

(a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;

(b) cannabis and cannabinoid dosage amounts and medical dosage forms;

(c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products with other treatments; and

(d) contraindications, adverse reactions, and potential side effects from use of cannabis, cannabinoid products, and expanded cannabinoid products.

(3) Based on the board's evaluation under Subsection (2), the board shall develop guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include:

(a) a list of medical conditions, if any, that the board determines are appropriate for treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded cannabinoid product;

(b) a list of contraindications, side effects, and adverse reactions that are associated with use of cannabis, cannabinoid products, or expanded cannabinoid products;

(c) a list of potential drug-drug interactions between medications that the United States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products; and

(d) any other guideline the board determines appropriate.

(4) Based on the board's evaluation under Subsection (2), the board may provide recommendations to the Medical Cannabis Policy Advisory Board created in Section 26-61a-801 regarding restrictions for a substance found in a medical cannabis product that:

(a) is likely harmful to human health; or

(b) is associated with a substance that is likely harmful to human health.

[~~(4)~~] (5) The board shall submit the guidelines described in Subsection (3) to the director of the Division of Professional Licensing.

[~~(5)~~] (6) Guidelines that the board develops under this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 31. Section 26-61a-102 is amended to read:

26-61a-102. Definitions.

As used in this chapter:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26-61a-801.

[~~(2)~~] (3) " Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26-61-201.

[~~(3)~~] (4) "Cannabis" means marijuana.

[~~(4)~~] (5) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

[~~(5)~~] (6) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

[~~(6)~~] (7) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

[~~(7)~~] (8) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

[~~(8)~~] (9) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

[~~(9)~~] (10) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

[~~(10)~~] (11) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(11)~~] (12) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26-61a-201(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

[~~(12)~~] (13) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

[~~(13)~~] (14) "Department" means the Department of Health and Human Services.

[~~(14)~~] (15) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26-61a-202; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26-61a-202(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26-61a-202(1)(b)(ii).

[~~(15)~~] (16) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

[~~(16)~~] (17) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

[~~(17)~~] (18) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

[~~(18)~~] (19) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the state central patient portal facilitates.

[~~(19)~~] (20) "Inventory control system" means the system described in Section 4-41a-103.

[~~(20)~~] (21) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection [~~26-61a-502(4) or (5)~~] 26-61a-404(5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

[~~(21)~~] (22) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

[~~(22)~~] (23) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card or provisional patient card as a result of the individual's recommendation, in accordance with Subsection 26-61a-106(1)(b).

[~~(23)~~] (24) "Marijuana" means the same as that term is defined in Section 58-37-2.

[~~(24)~~] (25) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[~~(25)~~] (26) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

[~~(26)~~] (27) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection[~~(14)(b),~~] (15)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26-61a-202(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26-61a-202(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

[~~(27)~~] (28) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

[~~(28)~~] (29) "Medical cannabis courier" means [~~a courier that:~~] the same as that term is defined in Section 4-41a-102.

[~~(a) the department licenses in accordance with Section 26-61a-604; and~~]

[~~(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.~~]

[~~(29)~~] (30) "Medical cannabis courier agent" means [~~an individual who:~~] the same as that term is defined in Section 4-41a-102.

[~~(a) is an employee of a medical cannabis courier; and~~]

[~~(b) who holds a valid medical cannabis courier agent registration card.~~]

[~~(30)~~] (31) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

[~~(31)~~] (32) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(32)~~] (33) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(33)~~] (34) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or

(ii) possesses medical cannabis or a medical cannabis device; and

(b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

[~~(34)~~] (35) "Medical cannabis pharmacy agent" means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

[~~(35)~~] (36) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

[~~(36)~~] (37) "Medical cannabis shipment" means [~~a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates~~] the same as that term is defined in Section 4-41a-102.

[~~(37)~~] (38) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(38)~~] (39) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that, after December 1, 2022, does not exceed 30 ml;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape;

(I) a resin or wax; or

(J) an aerosol; or

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system[~~; and~~].

[~~(iii) a form measured in grams, milligrams, or milliliters.~~]

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection [~~(38)~~] (39)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [~~(38)~~] (39)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection [~~(38)~~] (39)(a)(ii), except as provided in Subsection [~~(38)(b);~~] (39)(b);

(ii) [~~any~~] unprocessed cannabis flower in a container described in Subsection [~~(38)~~] (39)(a)(ii) after the legal use termination date;

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch; [~~or~~]

(iv) a liquid suspension that is branded as a beverage[~~.~~]; or

(v) a substance described in Subsection (39)(a)(i) or (ii) if the substance is not measured in grams, milligrams, or milliliters.

[~~(39)~~] (40) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

[~~(40)~~] (41) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

[~~(41)~~] (42) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

[~~(42)~~] (43) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[~~(43)~~] (44) "Qualified medical provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

[~~(44)~~] (45) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

[~~(45)~~] (46) "Qualifying condition" means a condition described in Section 26-61a-104.

[~~(46)~~] (47) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

[~~(47)~~] (48) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

[~~(48)~~] (49) "Recommending qualifications" means that an individual:

(a) (i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(49)~~] (50) "State central patient portal" means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.

[~~(50)~~] (51) "State central patient portal medical provider" means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section 26-61a-602.

[~~(51)~~] (52) "State electronic verification system" means the system described in Section 26-61a-103.

[~~(52)~~] (53) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

[~~(53)~~] (54) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(54)~~] (55) "Valid form of photo identification" means any of the following forms of identification that is either current or has expired within the previous six months:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a passport that another country issued.

Section 32. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that[~~, on or before March 1, 2020,~~] the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical

cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(a)(iii), treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines; and

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit[.]

(d) [~~beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facility medical cannabis pharmacy recording,~~] allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection [~~26-61a-501(10)(a),~~] 4-41a-1101(10)(a), to:

(i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

(ii) record a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider; and

(iii) record a limited medical provider's renewal of the provider's previous recommendation;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(g) provides access to and interaction with the state central patient portal;

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits

to the state electronic verification system under Subsection [~~26-61a-502(6)(a)(ii)~~] 4-41a-1102(3)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) [~~Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an~~] An employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26-61a-703; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 33. Section 26-61a-105 is amended to read:

26-61a-105. Compassionate Use Board.

(1) (a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) whom the appropriate board certifies in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (1)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(2) (a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (2)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

(3) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) review and approve or deny the use of a medical cannabis device for an individual described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the individual or minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7) (a) (i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:

(A) the department shall notify the Compassionate Use Board of the department's determination; and

(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to the Cannabis Research Review Board and the advisory board.

Section 34. Section 26-61a-106 is amended to read:

26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation -- Limited medical provider.

(1) (a) (i) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.

(b) Beginning on the earlier of September 1, 2021, or the date on which the department gives notice that the electronic verification system is functionally capable as described in Subsection 26-61a-103(2)(d), an individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) if:

(i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:

(A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or

(B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and

(ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.

(c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:

(i) (A) [~~that~~] the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or

(B) [~~that~~] the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection 26-61a-201(3)(c).

(d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:

(i) the date of issuance;

(ii) the provider's name, address and contact information, controlled substance license information, and signature; and

(iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

(e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual meets the recommending qualifications;

(iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:

(A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, the Podiatric Physician Board;

(B) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(C) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

(D) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

(E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 275 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

(b) A qualified medical provider may recommend a medical cannabis treatment to up to 600 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or

(ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.

(5) A recommending medical provider may recommend medical cannabis to an individual under this chapter only in the course of a provider-patient relationship after the recommending medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), [~~an individual~~] a person may not advertise that the [~~individual~~] person or the person's employee recommends a medical cannabis treatment.

(b) Notwithstanding Subsection (6)(a) and [~~subject to~~] Section [~~26-61a-116~~] 4-41a-109, a qualified medical provider or clinic or office that employs a qualified medical provider may advertise the following:

(i) a green cross;

(ii) the provider's or clinic's name and logo;

(iii) a qualifying condition that the individual treats;

(iv) that the individual is registered as a qualified medical provider and recommends medical cannabis; or

(v) a scientific study regarding medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license under the recommending qualifications;

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A recommending medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a recommending medical provider or pharmacy medical provider.

(10) (a) On or before November 1, 2021, a qualified medical provider shall report to the department, in a manner designated by the department:

(i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a

qualified medical provider or offers medical cannabis recommendations to patients; and

(ii) the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation, either as an actual cash rate or, if the provider or entity bills insurance, an average cash rate.

(b) The department shall:

(i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):

(A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;

(B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and

(C) the fee amount described in Subsection (10)(a)(ii); and

(ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

Section 35. Section 26-61a-109 is amended to read:

26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality -- Uniform fee.

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's responsibilities under this chapter.

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

(6) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection (5), the department sets in accordance with Section 63J-1-504.

Section 36. Section 26-61a-201 is amended to read:

26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) The department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis card under this Subsection (1)(b), upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection [~~26-61a-501(10)(a)~~] 4-41a-1101(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26-61a-202.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26-61a-106(1)(c) and (d).

(ii) If a recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated

medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-1-301, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:

(a) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and

(b) state in the recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) (A) six months for the first issuance, and, except as provided in Subsection (5)(a)(ii)(B), for a renewal; or

(B) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the recommending medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 expires after one year.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(c) A medical cannabis card that the department issues in relation to acute pain as described in Section 26-61a-104 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26-61a-105.

(b) The recommending medical provider who made the underlying recommendation for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card through phone or video conference with the cardholder, at the recommending medical provider's discretion.

(c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a

medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(8) The department may revoke a medical cannabis card that the department issues under this section if the cardholder:

(a) violates this chapter; or

(b) is convicted under state or federal law of, after March 17, 2021, a drug distribution offense.

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11) (a) On or before September 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 37. Section 26-61a-206 is enacted to read:

26-61a-206 (Codified as 26B-4-247). Purchasing and use limitations.

An individual with a medical cannabis card:

(1) may purchase, in any one 28-day period, up to the legal dosage limit of:

(a) unprocessed cannabis in a medicinal dosage form; and

(b) a cannabis product in a medicinal dosage form;

(2) may not purchase:

(a) more medical cannabis than described in Subsection (1)(a); or

(b) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection 26-61a-404(5), any medical cannabis; and

(3) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection 26-61a-404(5), has not recommended.

Section 38. Section 26-61a-403 is amended to read:

Part 4. Pharmacy Medical Providers

26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider or a state central patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5) (a) Except as provided in Subsection (5)(b), a person may not advertise that the person or another person dispenses medical cannabis.

(b) Notwithstanding Subsection (5)(a) and [~~subject to~~] Section [~~26-61a-116~~] 4-41a-109, a registered pharmacy medical provider may advertise the following:

(i) a green cross;

(ii) that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

(iii) a scientific study regarding medical cannabis use.

(6) (a) The department may revoke a pharmacy medical provider's registration for a violation of this chapter.

(b) The department may inspect patient records held by a medical cannabis pharmacy to ensure a pharmacy medical provider is practicing in accordance with this chapter and applicable rules.

Section 39. Section 26-61a-404, which is renumbered from Section 26-61a-503 is renumbered and amended to read:

[~~26-61a-503~~]. 26-61a-404. Partial filling -- Pharmacy medical provider directions of use.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the recommending medical provider recommends, if the recommending medical provider recommended specific dosing parameters.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the recommending medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection [~~26-61a-502(2)~~] 4-41a-1102(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection [~~26-61a-502(4) or (5)~~] 4-41a-1102(5) or (6); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

(5) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) information regarding the qualifying condition underlying the recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (5)(a); and

(ii) unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (6), after completing the review described in Subsection (5)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the recommending medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

Section 40. Section 26-61a-601 is amended to read:

26-61a-601. State central patient portal -- Department duties.

(1) [~~On or before July 1, 2020, the~~] The department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

(a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;

(b) allow a medical cannabis patient cardholder to:

(i) obtain and download the cardholder's medical cannabis card;

(ii) review the cardholder's medical cannabis purchase history; and

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201(12);

(c) if the cardholder's recommending medical provider recommended the use of medical cannabis without providing directions of use and dosing guidelines and the cardholder has not yet received the counseling or consultation required in Subsection 26-61a-502(4):

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order:

(i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or

(ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in person from the pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection [~~26-61a-502(2)(a) or (b)~~] 4-41a-1102(2)(a) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.

(3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

Section 41. Section 26-61a-701 is amended to read:

26-61a-701. Enforcement -- Misdemeanor.

(1) Except as provided in Title 4, Chapter 41a, Cannabis Production Establishments[~~, and Sections 26-61a-502, 26-61a-605, and 26-61a-607~~] and Pharmacies, it is unlawful for a medical cannabis cardholder to sell or otherwise give to another medical cannabis cardholder cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, a medical cannabis device, or any cannabis residue remaining in or from a medical cannabis device.

(2) (a) Except as provided in Subsection (2)(b), a medical cannabis cardholder who violates Subsection (1) is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a $1,000 fine.

(b) An individual is not guilty under Subsection (2)(a) if the individual:

(i) (A) is a designated caregiver; and

(B) gives the product described in Subsection (1) to the medical cannabis cardholder who designated the individual as a designated caregiver; or

(ii) (A) is a medical cannabis guardian cardholder; and

(B) gives the product described in Subsection (1) to the relevant provisional patient cardholder.

(c) An individual who is guilty of a violation described in Subsection (2)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (2)(a).

Section 42. Section 26-61a-703 is amended to read:

26-61a-703. Report.

(1) By the November interim meeting each year beginning in 2020, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity of medical cannabis shipments that the state central patient portal facilitates;

(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

(m) an analysis of product availability in medical cannabis pharmacies in consultation with the Department of Agriculture and Food.

(2) The department may not include personally identifying information in the report described in this section.

(3) [~~During the 2022 legislative interim, the~~] The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 43. Section 26-61a-801 is enacted to read:

Part 8. Medical Cannabis Policy Advisory Board

26-61a-801 (Codified as 26B-1-435. Advisory board creation -- Membership.

(1) There is created within the department the Medical Cannabis Policy Advisory Board.

(2) (a) The advisory board shall consist of the following members:

(i) appointed by the executive director:

(A) a qualified medical provider who has at least 100 patients who have a medical cannabis patient card at the time of appointment;

(B) a medical research professional;

(C) a mental health specialist;

(D) an individual who represents an organization that advocates for medical cannabis patients;

(E) an individual who holds a medical cannabis patient card; and

(F) a member of the general public who does not hold a medical cannabis card; and

(ii) appointed by the commissioner of the Department of Agriculture and Food:

(A) an individual who owns or operates a licensed cannabis cultivation facility;

(B) an individual who owns or operates a licensed medical cannabis pharmacy; and

(C) a law enforcement officer.

(b) The commissioner of the Department of Agriculture and Food shall ensure that at least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a licensed cannabis processing facility.

(3) (a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a four year term.

(b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that approximately half of the board is appointed every two years.

(4) (a) If an advisory board member is no longer able to serve as a member, a new member shall be appointed in the same manner as the original appointment.

(b) A member appointed in accordance with Subsection (4)(a) shall serve for the remainder of the unexpired term of the original appointment.

(5) (a) A majority of the advisory board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(c) The advisory board shall annually designate one of the advisory board's members to serve as chair for a one-year period.

(6) An advisory board member may not receive compensation or benefits for the member's service on the advisory board but may receive per diem and reimbursement for travel expenses incurred as an advisory board member in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall:

(a) provide staff support for the advisory board; and

(b) assist the advisory board in conducting meetings.

Section 44. Section 26-61a-802 is enacted to read:

26-61a-802 (Codified as 26B-1-435.1). Advisory board duties.

(1) The advisory board may recommend:

(a) to the department or the Department of Agriculture and Food changes to current or proposed medical cannabis rules or statutes;

(b) to the appropriate legislative committee whether the advisory board supports a change to medical cannabis statutes.

(2) The advisory board shall:

(a) review any draft rule that is authorized under this chapter or Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) consult with the Department of Agriculture and Food regarding the issuance of an additional:

(i) cultivation facility license under Section 4-41a-205; or

(ii) pharmacy license under Section 4-41a-1005;

(c) consult with the department regarding cannabis patient education;

(d) consult regarding the reasonableness of any fees set by the department or the Utah Department of Agriculture and Food that pertain to the medical cannabis program; and

(e) consult regarding any issue pertaining to medical cannabis when asked by the department or the Utah Department of Agriculture and Food.

Section 45. Section 26-61a-803 is enacted to read:

26-61a-803 (Codified as 26B-4-247). Department coordination.

The department shall:

(1) provide draft rules made under this chapter to the advisory board for the advisory board's review;

(2) consult with the advisory board regarding:

(a) patient education; and

(b) fees set by the department that pertain to the medical cannabis program; and

(3) when appropriate, consult with the advisory board regarding issues that arise in the medical cannabis program.

Section 46. Section 36-12-8.2 is amended to read:

36-12-8.2. Medical cannabis governance structure working group.

[~~During the 2022 legislative interim, the~~]

(1) The Legislative Management Committee shall establish a medical cannabis governance structure working group composed of [~~three members of the Health and Human Services Interim Committee and three members of the Natural Resources, Agriculture, and Environment Interim Committee to:~~] six members of the Legislature.

(2) The working group may:

[~~(1)~~] (a) work with industry, patients, medical providers, and others [~~to conduct a~~] to review [~~of~~] the state's governance structure over medical cannabis;

[~~(2)~~] (b) study various regulatory structures throughout the nation regarding state agency regulation of medical cannabis; and

(c) make recommendations to the Health and Human Services Interim Committee or the Natural Resources, Agriculture, and Environment Interim Committee regarding medical cannabis governance before or at the October interim meeting.

[~~(3) at or before the October 2022 interim meeting, make recommendations to the Health and Human Services Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee on whether a committee should recommend committee legislation to vertically integrate licenses, streamline regulations, and reduce costs for patients by unifying the efforts of the Department of Health and Human Services and the Department of Agriculture and Food under a single state authority over medical cannabis.~~]

Section 47. Section 58-17b-302 is amended to read:

58-17b-302. License required -- License classifications for pharmacy facilities.

(1) A license is required to act as a pharmacy, except:

(a) as specifically exempted from licensure under Section 58-1-307;

(b) for the operation of a medical cannabis pharmacy under [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and

(c) to operate a licensed dispensing practice under Chapter 88, Part 2, Dispensing Practice.

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

(a) class A pharmacy;

(b) class B pharmacy;

(c) class C pharmacy;

(d) class D pharmacy;

(e) class E pharmacy; or

(f) dispensing medical practitioner clinic pharmacy.

(3) (a) Each place of business shall require a separate license.

(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

(4) (a) The division may further define or supplement the classifications of pharmacies.

(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

Section 48. Section 58-17b-502 is amended to read:

58-17b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of a pharmacy;

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

(m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;

(n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order;

(o) violating the requirements of Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(p) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(a) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(b) when acting as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 49. Section 58-37-3.8 is amended to read:

58-37-3.8. Enforcement.

(1) A law enforcement officer, as that term is defined in Section 53-13-103, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26, Chapter 61a, Utah Medical Cannabis Act, may not expend any state or local resources, including the officer's time, to:

(a) effect any arrest or seizure of cannabis, as that term is defined in Section 26-61a-102, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that the activity is in compliance with the state medical cannabis laws;

(b) enforce a law that restricts an individual's right to acquire, own, or possess a firearm based solely on the individual's possession or use of cannabis in accordance with state medical cannabis laws; or

(c) provide any information or logistical support related to an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

(2) An agency or political subdivision of the state may not take an adverse action against a person for providing a professional service to a medical cannabis pharmacy, as that term is defined in Section 26-61a-102, the state central patient portal, as that term is defined in Section 26-61a-102, or a cannabis production establishment, as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.

Section 50. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates: Title 4.

(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, 2027.

(2) Section 4-41a-102.1 is repealed January 1, 2024.

[~~(2)~~] (3) Section 4-46-104, Transition, is repealed July 1, 2024.

Section 51. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates: Title 36.

(1) Section 36-12-8.2 is repealed July 1, [~~2023~~] 2024.

(2) Section 36-29-107.5 is repealed on November 30, 2023.

(3) Section 36-29-109 is repealed on November 30, 2027.

(4) Section 36-29-110 is repealed on November 30, 2024.

(5) Section 36-29-111 is repealed April 30, 2023.

(6) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

(7) Title 36, Chapter 29, Part 3, Mental Illness Psychotherapy Drug Task Force, is repealed December 31, 2023.

Section 52. Section 78A-2-231 is amended to read:

78A-2-231. Consideration of lawful use or possession of medical cannabis.

(1) As used in this section:

(a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(g) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26-61a-404(5).

(3) Notwithstanding Sections 77-18-105 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

Section 53. Section 80-3-110 is amended to read:

80-3-110. Consideration of cannabis during proceedings -- Drug testing.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(h) " Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In a proceeding under this chapter, in which the juvenile court makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's medical cannabis card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5).~~] 26-61a-404(5).

(3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of the child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of the child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's recommending medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26-61a-404(5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

(6) If an individual, who is party to a proceeding under this chapter, is ordered by the juvenile court to submit to drug testing, or is referred by the division or a guardian ad litem for drug testing, the individual may not be ordered or referred for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

Section 54. Section 80-4-109 is amended to read:

80-4-109. Consideration of cannabis during proceedings.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(h) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In a proceeding under this chapter in which the juvenile court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5).~~] 26-61a-404(5).

(3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26-61a-404(5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Section 55. Repealer.

This bill repeals:

Section 26-61a-108, Agreement with a tribe.

Section 26-61a-506, Medical cannabis transportation.

Section 56. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2023.

(2) The actions affecting the following sections take effect on May 3, 2023:

(a) Section 4-41a-102;

(b) Section 4-41a-110;

(c) Section 4-41a-802;

(d) Section 26-61-202;

(e) Section 26-61a-102;

(f) Section 26-61a-105;

(g) Section 26-61a-801;

(h) Section 26-61a-802;

(i) Section 26-61a-803;

(j) Section 36-12-8.2; and

(k) Section 63I-2-236.

CHAPTER 274
H. B. 105
Passed March 1, 2023
Approved March 15, 2023
Effective July 1, 2023

PUBLIC EMPLOYEE DISABILITY BENEFITS AMENDMENTS

Chief Sponsor: Brian S. King
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Public Employees' Long-Term Disability Act.

Highlighted Provisions:

This bill:

- establishes a three-year pilot period during which an eligible employee with a mental objective medical impairment qualifies for the same disability benefit as the eligible employee would receive for a physical objective medical impairment;
- creates review and compliance requirements for an individual receiving a disability benefit; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-21-102, as last amended by Laws of Utah 2020, Chapter 365
49-21-401, as last amended by Laws of Utah 2018, Chapter 185
49-21-402, as last amended by Laws of Utah 2019, Chapter 349
49-21-406, as last amended by Laws of Utah 2019, Chapter 349

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-21-102 is amended to read:

49-21-102. Definitions.

As used in this chapter:

(1) "Date of disability" means the date on which a period of total disability begins, and may not begin on or before the last day of performing full-duty work in the eligible employee's regular occupation.

(2) (a) "Eligible employee" means any of the following [~~employee~~] employees whose employer provides coverage under this chapter:

(i) (A) any regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102;

(B) any public safety service employee as defined under Section 49-14-102, 49-15-102, or 49-23-102;

(C) any firefighter service employee or volunteer firefighter as defined under Section 49-23-102 who began firefighter service on or after July 1, 2011;

(D) any judge as defined under Section 49-17-102 or 49-18-102; or

(E) the governor of the state;

(ii) an employee who is exempt from participating in a retirement system under Subsection 49-12-203(4), 49-13-203(4), 49-14-203(1), or 49-15-203(1); and

(iii) an employee who is covered by a retirement program offered by a public or private system, organization, or company designated by the Utah Board of Higher Education.

(b) "Eligible employee" does not include:

(i) any employee that is exempt from coverage under Section 49-21-201; or

(ii) a retiree.

(3) "Elimination period" means the three months at the beginning of each continuous period of total disability for which no benefit will be paid. The elimination period begins on the nearest first day of the month from the date of disability. The elimination period may include a one-time trial return to work period of less than 15 consecutive calendar days.

(4) (a) "Gainful employment" means any occupation or employment position in the state that:

(i) contemplates continued employment during a fiscal or calendar year; and

(ii) would pay an amount equal to or greater than 40 hours per week at the legally required minimum wage, regardless of the number of hours worked.

(b) "Gainful employment" does not mean that an occupation or employment position in the state is:

(i) available within any geographic boundaries of the state;

(ii) offered at a certain level of wages;

(iii) available at a particular number of hours per week; or

(iv) currently available.

(5) "Maximum benefit period" means the maximum period of time the monthly disability income benefit will be paid under Section 49-21-403 for any continuous period of total disability.

(6) "Monthly disability benefit" means the monthly payments and accrual of service credit under Section 49-21-401.

(7) "Objective medical impairment" means an impairment resulting from an injury or illness [~~which~~] that is diagnosed by a physician and [~~which~~] that is based on accepted objective medical tests or findings rather than subjective complaints.

(8) [~~(a)~~] "Ongoing disability" means, after the elimination period and the first 24 months of

disability benefits, the complete inability due to objective medical impairment, as determined under [~~Subsection (8)(b)~~] Subsection 49-21-401(9), to engage in any gainful employment which is reasonable, considering the eligible employee's education, training, and experience.

[~~(b) For purposes of Subsection (8)(a), inability is determined:~~]

[~~(i) based solely on physical objective medical impairment; and~~]

[~~(ii) regardless of the existence or absence of any mental impairment.~~]

(9) "Own occupation disability" means the complete inability, due to objective medical impairment, whether physical or mental, to engage in the eligible employee's regular occupation during the elimination period and the first 24 months of disability benefits.

(10) "Physician" means a licensed physician.

(11) "Pilot period" means the period beginning on July 1, 2023, and ending on June 30, 2026.

[~~(11)~~] (12) "Regular monthly salary" means the amount certified by the participating employer as the monthly salary of the eligible employee, unless there is a discrepancy between the certified amount and the amount actually paid, in which case the office shall determine the regular monthly salary.

[~~(12)~~] (13) "Regular occupation" means either:

(a) the primary duties performed by the eligible employee for the 12 months preceding the date of disability; or

(b) a permanent assignment of duty to the eligible employee, as long as the eligible employee has actually performed all the required duties of the permanent assignment of duty.

[~~(13)~~] (14) "Rehabilitative employment" means any occupation or employment for wage or profit, for which the eligible employee is reasonably qualified to perform based on education, training, or experience.

[~~(14)~~] (15) "Total disability" means:

(a) own occupation disability; or

(b) ongoing disability.

[~~(15)~~] (16) (a) "Workers' compensation indemnity benefits" means benefits provided that are designed to replace wages under Title 34A, Chapter 2, Part 4, Compensation and Benefits, including wage replacement for a temporary disability, temporary partial disability, permanent partial disability, or permanent total disability.

(b) "Workers' compensation indemnity benefits" includes a settlement amount following a claim for indemnity benefits.

Section 2. Section 49-21-401 is amended to read:

49-21-401. Disability benefits -- Application -- Eligibility.

(1) An eligible employee shall apply for long-term disability benefits under this chapter by:

(a) completing an application form prepared by the office;

(b) signing a consent form allowing the office access to the eligible employee's medical records; and

(c) providing any documentation or information reasonably requested by the office.

(2) (a) If an eligible employee is unable to apply on the employee's own behalf, the application may be made by a person who is:

(i) the attorney for an eligible employee; or

(ii) appointed as a conservator or guardian of the eligible employee.

(b) A person described in Subsection (2)(a), may not make an application for a deceased employee.

(3) Upon request by the office, the participating employer of the eligible employee shall provide to the office documentation and information concerning the eligible employee.

(4) The office:

(a) shall review all relevant information;

(b) may request additional information; and

(c) shall determine whether or not the eligible employee has a total disability.

(5) (a) If the office determines that the eligible employee has a total disability due to accidental bodily injury or [~~physical~~] illness [~~which~~] that is not the result of the performance of an employment duty, the eligible employee shall receive a monthly disability benefit equal to:

(i) two-thirds of the eligible employee's regular monthly salary, for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period; minus

(ii) any required reductions or reimbursements under Section 49-21-402.

(b) For an eligible employee under an own occupation disability, the office shall, at the end of the two-year disability period or when a claim for total disability is made by an eligible employee:

(i) review and determine whether the eligible employee qualifies for ongoing disability benefits;

(ii) make the determination under Subsection (5)(b)(i) as of the day after the eligible employee's own occupation disability benefits end;

(iii) consider only [~~physical~~] objective medical impairment that the office determines as a disabling condition on the date of disability; and

(iv) exclude any new intervening causes or new diagnoses during the own occupation disability period.

[~~(6) If the office determines that the eligible employee has a total disability due to psychiatric illness, the eligible employee shall receive:~~]

[~~(a) a maximum of two years of monthly disability benefits equal to two-thirds of the eligible employee's regular monthly salary for each month the total disability continues beyond the elimination period;~~]

[~~(b) a maximum of $10,000 for psychiatric expenses, including rehabilitation expenses preauthorized by the office's consultants, paid during the period of monthly disability benefits; and~~]

[~~(c) payment of monthly disability benefits according to contractual provisions for a period not to exceed five years if the eligible employee is institutionalized due to psychiatric illness.~~]

[~~(7)~~] (6) (a) An eligible employee shall receive a monthly disability benefit equal to 100% of the eligible employee's regular monthly salary for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period, but reduced by any required reductions and reimbursements under Section 49-21-402, if the office determines that the employee meets all of the following:

(i) the eligible employee has a total disability:

(A) during the pilot period, due [~~solely~~] to a physical objective medical impairment or a mental objective medical impairment; or

(B) except as provided in Subsection (6)(b), after the pilot period, due to a physical objective medical impairment;

(ii) the [~~physical~~] objective medical impairment described in Subsection [~~(7)(a)(i)~~] (6)(a)(i) resulted from physical, external force or violence [~~as a result of~~] to the body of the eligible employee in the performance of an employment duty; and

(iii) the eligible employee received workers' compensation indemnity benefits for the [~~physical~~] objective medical impairment described in Subsection [~~(7)(a)(i)~~] (6)(a)(i).

(b) If an eligible employee qualifies for a total disability during the pilot period, the office shall determine whether the employee has a total disability after the pilot period due to a physical objective medical impairment or a mental objective medical impairment.

(c) An eligible employee who receives workers' compensation indemnity benefits for [~~a physical~~] an objective medical impairment is not guaranteed to receive the 100% monthly disability benefit described in Subsection [~~(7)(a)~~] (6)(a).

[~~(8)~~] (7) (a) Successive periods of disability are considered as a continuous period of disability if the period of disability:

(i) results from the same or related causes;

(ii) is separated by less than six months of continuous full-time work at the individual's usual place of employment; and

(iii) commences while the individual is an eligible employee covered by this chapter.

(b) The inability to work for a period of less than 15 consecutive calendar days is not considered as a period of disability.

(c) If Subsection [~~(8)(a)~~] (7)(a) or (b) does not apply, successive periods of disability are considered as separate periods of disability.

[~~(9)~~] (8) The office may, at any time, have any eligible employee claiming to have a disability examined by a physician chosen by the office to determine if the eligible employee has a total disability.

(9) (a) For purposes of determining whether an eligible employee has an ongoing disability, inability is determined:

(i) during the pilot period, due to physical objective medical impairment or mental objective medical impairment; or

(ii) except as provided in Subsection (9)(b), after the pilot period, due to a physical objective medical impairment.

(b) If an eligible employee has a total disability during the pilot period, the office shall determine whether the employee has an ongoing disability after the pilot period due to a physical objective medical impairment or a mental objective medical impairment.

(10) A claim brought by an eligible employee for long-term disability benefits under the Public Employee's Long-Term Disability Program is barred if it is not commenced within six months from the eligible employee's date of disability, unless the office determines that under the surrounding facts and circumstances, the eligible employee's failure to comply with the time limitations was reasonable.

(11) (a) If the office denies or terminates a claim for long-term disability benefits, the eligible employee shall have the right to appeal the denial or termination:

(i) to the executive director of the office within 60 days [~~of~~] after the day of the denial or termination of long-term disability benefits; and

(ii) in accordance with Section 49-11-613.

(b) An appeal of a denial or termination of long-term disability benefits described in Subsection (11)(a) is barred if it is not commenced within the time limit described in Subsection (11)(a).

(12) Medical or psychiatric conditions [~~which existed prior to~~] that existed before eligibility may not be a basis for disability benefits until the eligible employee has had one year of continuous eligibility in the Public Employees Long-Term Disability Program.

(13) If there is a valid benefit protection contract, service credit shall accrue during the period of total disability, unless the disabled eligible employee is:

(a) exempted from a system;

(b) eligible to retire with an unreduced retirement allowance; or

(c) otherwise ineligible for service credit.

(14) Regardless of any medical evidence provided by the employee to support the application for disability, an employee is not eligible for long-term disability benefits during any period in which the employee:

(a) makes a claim that the employee is able to work; or

(b) has a pending action in a court or before any federal, state, or local administrative body in which the employee has made a claim that the employee is able to work.

(15) Notwithstanding the provisions of Section 49-11-618, upon written request by an employer, information obtained under this part may, upon an order of a court or an administrative law judge, be released to an employer who is a party in an action under Subsection (14).

(16) On or after May 1, 2025, but on or before November 1, 2025, the office shall provide a written electronic report to the Retirement and Independent Entities Committee regarding the costs and benefits of the changes to the disability benefits during the pilot period.

Section 3. Section 49-21-402 is amended to read:

49-21-402. Reduction or reimbursement of benefit -- Circumstances -- Application for other benefits required.

(1) A monthly disability benefit may be reduced, suspended, or terminated unless:

(a) the eligible employee [~~is under the~~] participates in ongoing care and treatment [~~of a physician or physician assistant other than the eligible employee; and~~] in accordance with Subsection 49-21-406(3) or (4); and

(b) the eligible employee provides the information and documentation requested by the office.

(2) (a) The monthly disability benefit shall be reduced or reimbursed by any amount received by, or payable to, the eligible employee for the same injury or illness that is the basis for the monthly disability benefit from the following sources:

(i) workers' compensation indemnity benefits, regardless of whether the amount is received as an ongoing monthly benefit, as a lump sum, or in a settlement with a workers' compensation indemnity carrier;

(ii) any money received by judgment, legal action, or settlement from a third party liable to the employee for the monthly disability benefit;

(iii) automobile no-fault, medical payments, or similar insurance payments;

(iv) any money received by a judgment, settlement, or other payment as a result of a claim against an employer; or

(v) annual leave or similar lump-sum payments.

(b) The monthly disability benefit shall be reduced or reimbursed by any amount received by, or payable to, the eligible employee for the same period of time during which the eligible employee is entitled to receive a monthly disability benefit from the following sources:

(i) social security disability benefits, including all benefits received by the eligible employee, the eligible employee's spouse, and the eligible employee's children as determined by the Social Security Administration;

(ii) unemployment compensation benefits;

(iii) sick leave benefits; or

(iv) compensation received for employment, including self-employment, except for eligible amounts from approved rehabilitative employment in accordance with Section 49-21-406.

(3) The monthly disability benefit shall be reduced by any amount in excess of one-third of the eligible employee's regular monthly salary received by, or payable to, the eligible employee from the following sources for the same period of time during which the eligible employee is entitled to receive a monthly disability benefit:

(a) any retirement payment earned through or provided by public or private employment; and

(b) any disability benefit, other than social security or workers' compensation indemnity benefits, resulting from the disability for which benefits are being received under this chapter.

(4) After the date of disability, cost-of-living increases to any of the benefits listed in Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability benefit.

(5) Any amounts payable to the eligible employee from one or more of the sources under Subsection (2) are considered as amounts received whether or not the amounts were actually received by the eligible employee.

(6) (a) An eligible employee shall first apply for all disability benefits from governmental entities under Subsection (2) to which the eligible employee is or may be entitled, and provide to the office evidence of the applications.

(b) If the eligible employee fails to make application under this Subsection (6), the monthly disability benefit shall be suspended.

(7) During a period of total disability, an eligible employee has an affirmative duty to keep the program informed regarding:

(a) the award or receipt of an amount from a source that could result in the monthly disability benefit being reduced or reimbursed under this

section within 10 days [~~of~~] after the day of the award or receipt of the amount; and

(b) any employment, including self-employment, of the eligible employee and the compensation for that employment within 10 days [~~of~~] after beginning the employment or a material change in the compensation from that employment.

(8) The program shall use commercially reasonable means to collect any amounts of overpayments and reimbursements.

(9) (a) If the program is unable to reduce or obtain reimbursement for the required amount from the monthly disability benefit for any reason, the employee will have received an overpayment of monthly disability benefits.

(b) If an eligible employee receives an overpayment of monthly disability benefits, the eligible employee shall repay to the office the amount of the overpayment, plus interest as determined by the program, within 30 days from the date the overpayment is received by:

(i) the eligible employee; or

(ii) a third party related to the eligible employee.

(c) The executive director may waive the interest on an overpayment of monthly disability benefits under Subsection (9)(b) if good cause is shown for the delay in repayment of the overpayment of monthly disability benefits.

Section 4. Section 49-21-406 is amended to read:

49-21-406. Rehabilitative employment -- Interview by disability specialist -- Maintaining eligibility -- Additional treatment and care.

(1) (a) If an eligible employee, during a period of total disability for which the monthly disability benefit is payable, engages in approved rehabilitative employment, the monthly disability benefit otherwise payable shall be reduced:

(i) by an amount equal to 50% of the income to which the eligible employee is entitled for the employment during the month; and

(ii) so that the combined amount received from the rehabilitative employment and the monthly disability payment does not exceed 100% of the eligible employee's monthly salary prior to the employee's disability.

(b) This rehabilitative benefit is payable for up to two years or to the end of the maximum benefit period, whichever occurs first.

(2) (a) The office shall review an eligible employee's total disability at least one time each year.

[~~(a) Each~~] (b) The office shall interview each eligible employee receiving a monthly disability benefit [~~shall be interviewed by the office~~].

[~~(b)~~] (c) The office may refer the eligible employee to a rehabilitative or vocational specialist for a review of the eligible employee's condition and a written rehabilitation plan and return to work assistance.

(3) If an eligible employee receiving a monthly disability benefit fails to participate in an office-approved rehabilitation program within the limitations set forth by a physician or physician assistant, the monthly disability benefit may be reduced, suspended, or terminated.

(4) The office may, as a condition of paying a monthly disability benefit, require that the eligible employee receive medical care and treatment if that treatment is reasonable or usual according to current medical practices.

Section 5. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 275
H. B. 131
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

VACCINE PASSPORT PROHIBITION

Chief Sponsor: Walt Brooks
Senate Sponsor: Michael S. Kennedy
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Stewart E. Barlow
Kera Birkeland
Bridger Bolinder
Brady Brammer
Jefferson S. Burton
Kay J. Christofferson
Tyler Clancy
Joseph Elison
Stephanie Gricius
Katy Hall
Jon Hawkins
Ken Ivory
Colin W. Jack
Dan N. Johnson
Michael L. Kohler
Quinn Kotter
Jason B. Kyle
Trevor Lee
Karianne Lisonbee
Steven J. Lund
Phil Lyman
A. Cory Maloy
Jefferson Moss
Michael J. Petersen
Thomas W. Peterson
Mike Schultz
Rex P. Shipp
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
Christine F. Watkins
Stephen L. Whyte
Brad R. Wilson

LONG TITLE

General Description:

This bill enacts a prohibition on the use of an individual's immunity status by places of public accommodation, governmental entities, and employers.

Highlighted Provisions:

This bill:

- defines terms;
- makes it unlawful for a place of public accommodation to discriminate against an individual based on the individual's immunity status;
- with certain exceptions, prohibits a governmental entity from requiring proof of immunity status;
- with certain exceptions, makes it unlawful discrimination for an employer to require proof of immunity status; and
- prohibits a governmental entity or employer from requiring an individual to receive a vaccine.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
63D-2-102, as last amended by Laws of Utah 2021, Chapter 345
63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451

ENACTS:
13-7-5, Utah Code Annotated 1953
26-68-103, Utah Code Annotated 1953
34A-5-113, Utah Code Annotated 1953

REPEALS:
26-68-101, as enacted by Laws of Utah 2021, Chapter 182
26-68-102, as enacted by Laws of Utah 2021, Chapter 182

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-7-5 is enacted to read:

13-7-5. Equal right in business establishments, places of public accommodation, and enterprises regulated by the state regardless of immunity status.

(1) As used in this section, "immunity status" means an indication of whether an individual is immune to a disease, whether through vaccination or infection and recovery.

(2) All persons within the jurisdiction of this state are free and equal and are entitled to full and equal accommodations, advantages, facilities, privileges, goods, and services in all business establishments and in all places of public accommodation, and by all enterprises regulated by the state of every kind whatsoever, without discrimination on the basis of immunity status.

(3) Nothing in this section shall be construed to deny any person the right to regulate the operation of a business establishment or place of public accommodation or an enterprise regulated by the state in a manner which applies uniformly to all persons without regard to immunity status, or to deny any religious organization the right to regulate the operation and procedures of the religious organization's establishments.

(4) (a) The provisions in Section 13-7-4 shall apply to enforcement and violations of this section.

(b) Upon application to the attorney general by any person denied the rights guaranteed by this section, the attorney general shall investigate and seek to conciliate the matter.

Section 2. Section 26-68-103 is enacted to read:

CHAPTER 68. VACCINE AND IMMUNITY PASSPORT RESTRICTIONS ACT

26-68-103 (Codified as 26B-1-242). Prohibition on requiring immunity passports or vaccination -- Exceptions.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63D-2-102.

(b) "Immunity passport" means a document, digital record, or software application indicating that an individual is immune to a disease, whether through vaccination or infection and recovery.

(c) "Regulated entity" means an employer, as defined in Section 34A-6-103, that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a vaccine, unless the employer is:

(i) the state or a political subdivision of the state; and

(ii) not a health care facility as defined in Section 26-21-2.

(d) "Vaccination status" means an indication of whether an individual has received one or more doses of a vaccine.

(2) A governmental entity may not:

(a) refuse, withhold from, or deny to an individual any local or state service, good, facility, advantage, privilege, license, educational opportunity, health care access, or employment opportunity based on the individual's vaccination status, including whether the individual has an immunity passport; or

(b) require any individual, directly or indirectly, to receive a vaccine.

(3) Subsection (2) does not apply to:

(a) a vaccination requirement by an institution of higher education, if the vaccination requirement is implemented in accordance with Section 53B-2-113;

(b) a vaccination requirement by a school if the vaccination requirement is implemented in accordance with Title 53G, Chapter 9, Part 3, Immunization Requirements;

(c) a child care program as defined in Section 26-39-102 if the vaccination requirement is implemented in accordance with applicable provisions of state and federal law;

(d) a regulated entity if compliance with Subsection (2) would result in a violation of binding, mandatory regulations or requirements that affect the regulated entity's funding issued by the Centers for Medicare and Medicaid Services or the United States Centers for Disease Control and Prevention;

(e) a contract for goods or services entered into before May 3, 2023, if:

(i) application of this section would result in a substantial impairment of the contract; and

(ii) the contract is not between an employer and the employer's employee;

(f) a federal contractor;

(g) a governmental entity vaccination requirement of an employee who, as determined by the governmental entity:

(i) has, as part of the employee's duties, direct exposure to human blood, human fecal matter, or other potentially infectious materials that may expose the employee to hepatitis or tuberculosis; or

(ii) is acting in a public health or medical setting that requires the employee to receive vaccinations to perform the employee's assigned duties and responsibilities; or

(h) a governmental entity that:

(i) establishes a nexus between a vaccination requirement and the employee's assigned duties and responsibilities; or

(ii) identifies an external requirement for vaccination that is not imposed by the governmental entity and is related to the employee's duties and responsibilities.

(4) Nothing in this section prohibits a governmental entity from recommending that an employee receive a vaccine.

Section 3. Section 34A-5-113 is enacted to read:

34A-5-113. Prohibition on requiring immunity passports and discrimination based on immunity -- Exceptions.

(1) As used in this section:

(a) "Employer" means, notwithstanding Section 34A-5-102:

(i) the state;

(ii) a county, city, town, or school district in the state; and

(iii) a person, including a public utility, having one or more workers or operatives regularly employed in the same business, or in or about the same establishment, under any contract of hire.

(b) "Immunity passport" means a document, digital record, or software application indicating that an individual is immune to a disease, whether through vaccination or infection and recovery.

(c) "Regulated entity" means an employer, as defined in Section 34A-6-103, that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a vaccine, unless the employer is:

(i) the state or a political subdivision of the state; and

(ii) not a health care facility as defined in Section 26-21-2.

(d) "School" means the same as that term is defined in Section 53G-9-301.

(e) "Vaccination status" means an indication of whether an individual has received one or more doses of a vaccine.

(2) It is a discriminatory or prohibited employment practice for an employer, on the basis of an individual's vaccination status or whether the individual has an immunity passport, to:

(a) refuse employment to an individual;

(b) bar an individual from employment; or

(c) discriminate against an individual in compensation or in a term, condition, or privilege of employment.

(3) Subsection (2) does not apply to:

(a) a vaccination requirement by a child care program as defined in Section 26-39-102 if the vaccination requirement is implemented in accordance with applicable provisions of state and federal law;

(b) a regulated entity if compliance with Subsection (2) would result in a violation of binding, mandatory regulations or requirements that affect the regulated entity's funding issued by the Centers for Medicare and Medicaid Services or the United States Centers for Disease Control and Prevention;

(c) a contract for goods or services entered into before May 3, 2023, if:

(i) application of this section would result in a substantial impairment of the contract; and

(ii) the contract is not between an employer and the employer's employee;

(d) a federal contractor;

(e) an employer vaccination requirement of an employee who, as determined by the employer, has direct exposure to human blood, human fecal matter, or other potentially infectious materials that may expose the employee to hepatitis or tuberculosis; or

(f) an employer that:

(i) establishes a nexus between a vaccination requirement and the employee's assigned duties and responsibilities; or

(ii) identifies an external requirement for vaccination that is not imposed by the employer and is related to the employee's duties and responsibilities.

(4) Nothing in this section prohibits an employer from recommending that an employee receive a vaccine.

Section 4. Section 63D-2-102 is amended to read:

63D-2-102. Definitions.

As used in this chapter:

(1) (a) "Collect" means the gathering of personally identifiable information:

(i) from a user of a governmental website; or

(ii) about a user of the governmental website.

(b) "Collect" includes use of any identifying code linked to a user of a governmental website.

(2) "Court website" means a website on the Internet that is operated by or on behalf of any court created in Title 78A, Chapter 1, Judiciary.

(3) "Governmental entity" means:

(a) an executive branch agency as defined in Section 63A-16-102;

(b) the legislative branch;

(c) the judicial branch;

(d) the State Board of Education;

(e) the Utah Board of Higher Education;

(f) an institution of higher education as defined in Section 53B-1-102; and

(g) a political subdivision of the state:

(i) as defined in Section 17B-1-102; and

(ii) including a school district.

(4) (a) "Governmental website" means a website on the Internet that is operated by or on behalf of a governmental entity.

(b) "Governmental website" includes a court website.

(5) "Governmental website operator" means a governmental entity or person acting on behalf of the governmental entity that:

(a) operates a governmental website; and

(b) collects or maintains personally identifiable information from or about a user of that website.

(6) "Personally identifiable information" means information that identifies:

(a) a user by:

(i) name;

(ii) account number;

(iii) physical address;

(iv) email address;

(v) telephone number;

(vi) Social Security number;

(vii) credit card information; or

(viii) bank account information;

(b) a user as having requested or obtained specific materials or services from a governmental website;

(c) Internet sites visited by a user; or

(d) any of the contents of a user's data-storage device.

(7) "User" means a person who accesses a governmental website.

Section 5. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Title 26 through 26B.

(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(2) Section 26-1-40 is repealed July 1, 2022.

(3) Section 26-1-41 is repealed July 1, 2026.

(4) Section 26-1-43 is repealed December 31, 2025.

(5) Section 26-7-10 is repealed July 1, 2025.

(6) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(7) Section 26-7-14 is repealed December 31, 2027.

(8) Section 26-8a-603 is repealed July 1, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Section 26-18-28 is repealed June 30, 2027.

(16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(17) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(18) Section 26-33a-117 is repealed December 31, 2023.

(19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(24) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

(25) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(26) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(27) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

[~~(29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.~~]

[~~(30)~~] (29) Section 26-69-406 is repealed July 1, 2025.

[~~(31)~~] (30) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(32)~~] (31) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 6. Repealer.

This bill repeals:

Section 26-68-101, Title.

Section 26-68-102, Governmental entities prohibited from requiring a COVID-19 vaccine.

CHAPTER 276
H. B. 133
Passed February 3, 2023
Approved March 15, 2023
Effective July 1, 2023

HEALTH CARE FACILITY VISITATION AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill establishes requirements for health care facilities related to patient visitation.

Highlighted Provisions:

This bill:

- requires health care facilities to allow a patient to see visitors under certain circumstances;
- requires health care facilities to establish visitation policies;
- requires a health care facility to publish the health care facility's visitation policies; and
- requires the Department of Health and Human Services (department) to:
  - publish information related to the visitation requirements on the department's website; and
  - provide a method for the public to report a violation to the department.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

26-21-36, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-21-36 is enacted to read:

26-21-36 (Codified as 26B-2-242). Visitation policy.

(1) As used in this section:

(a) "Patient" means an individual who receives care or services from a health care facility.

(b) "Personal representative" means an individual described in 45 C.F.R. Sec. 164.502(g).

(c) "Primary visitor" means an individual who a patient designates under Subsection (3).

(2) A health care facility shall establish visitation policies and procedures that shall, at a minimum, include provisions regarding:

(a) infection control;

(b) infection control education for visitors;

(c) personal protective equipment requirements when necessary for infection control;

(d) for a visitor who is not a primary visitor:

(i) maximum duration of visits;

(ii) maximum number of visitors a patient may have each day;

(iii) maximum number of visitors a patient may have at one time; and

(e) the individual or position at the health care facility that is responsible for ensuring that staff adhere to the policies and procedures.

(3) (a) A patient or the patient's personal representative may designate one individual as a primary visitor.

(b) Except as provided in Subsection (5), a health care facility may not limit the duration or frequency of a primary visitor's visits to the designating patient.

(4) A health care facility may not:

(a) require a visitor or primary visitor to comply with infection control measures that are more restrictive than the infection control measures the health care facility requires of the health care facility's staff;

(b) require a visitor or primary visitor to show proof of vaccination or immunization status;

(c) except as provided in Subsection (5), prohibit physical contact between the visitor and the patient the visitor is visiting; or

(d) deny a visitor or primary visitor access to the patient unless visitation is denied, modified, or limited as provided in Subsection (5).

(5) A health care facility may:

(a) exclude certain areas of the health care facility from visitor and primary visitor access;

(b) require a visitor or a primary visitor to agree in writing to follow the health care facility's visitation policies and procedures before allowing access to the patient;

(c) suspend or refuse in-person visitation for a visitor or a primary visitor if the visitor or primary visitor violates the health care facility's visitation policies and procedures;

(d) remove a visitor or primary visitor or deny visitation, if the patient is undergoing a procedure or receiving treatment that would be impeded by visitation;

(e) deny visitation for a visitor or primary visitor if the patient or personal representative objects to the visit; or

(f) prohibit physical contact or visitation if:

(i) the visit or physical contact is prohibited by law;

(ii) the patient is in the custody of the state; or

(iii) the health care facility determines the visit or physical contact:

(A) creates a physical safety risk to the patient, the visitor or primary visitor, or the health care facility's staff;

(B) is counter therapeutic to the patient's well-being; or

(C) is disruptive to the patient's care or treatment.

(6) A health care facility shall provide the department with a copy of the health care facility's visitation policies and procedures:

(a) upon the department's request; and

(b) when the health care facility:

(i) obtains a license to operate from the department;

(ii) renews the license from the department; and

(iii) changes ownership.

(7) A health care facility shall make visitation policies and procedures created in accordance with this section available on the health care facility's website.

(8) The department shall provide:

(a) a description of the requirements of this section on the department's website; and

(b) a method for the public to report a violation of this section.

(9) This section does not apply to the Utah State Hospital.

Section 2. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 277
H. B. 152
Passed February 6, 2023
Approved March 15, 2023
Effective May 3, 2023

ONLINE PRESCRIBING, DISPENSING, AND FACILITATION LICENSING ACT REPEALER

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill repeals the Online Prescribing, Dispensing, and Facilitation Licensing Act.

Highlighted Provisions:

This bill:

- repeals Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act; and
- makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-60-103, as last amended by Laws of Utah 2021, Chapter 64

REPEALS:

58-83-101, as enacted by Laws of Utah 2010, Chapter 180
58-83-102, as last amended by Laws of Utah 2022, Chapter 415
58-83-201, as enacted by Laws of Utah 2010, Chapter 180
58-83-301, as last amended by Laws of Utah 2022, Chapter 274
58-83-302, as last amended by Laws of Utah 2022, Chapter 415
58-83-303, as enacted by Laws of Utah 2010, Chapter 180
58-83-305, as enacted by Laws of Utah 2010, Chapter 180
58-83-306, as last amended by Laws of Utah 2015, Chapter 321
58-83-307, as enacted by Laws of Utah 2010, Chapter 180
58-83-308, as enacted by Laws of Utah 2010, Chapter 180
58-83-401, as last amended by Laws of Utah 2022, Chapter 415
58-83-501, as enacted by Laws of Utah 2010, Chapter 180
58-83-502, as last amended by Laws of Utah 2022, Chapter 415
58-83-503, as enacted by Laws of Utah 2010, Chapter 180

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-60-103 is amended to read:

26-60-103. Scope of telehealth practice.

(1) A provider offering telehealth services shall:

(a) at all times:

(i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and

(ii) be held to the same standards of practice as those applicable in traditional health care settings;

(b) if the provider does not already have a provider-patient relationship with the patient, establish a provider-patient relationship during the patient encounter in a manner consistent with the standards of practice, determined by the Division of Professional Licensing in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including providing the provider's licensure and credentials to the patient;

(c) before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:

(i) obtaining from the patient or another provider the patient's relevant clinical history; and

(ii) documenting the patient's relevant clinical history and current symptoms;

(d) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;

(e) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated;

(f) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records; and

(g) if the patient has a designated health care provider who is not the telemedicine provider:

(i) consult with the patient regarding whether to provide the patient's designated health care provider a medical record or other report containing an explanation of the treatment provided to the patient and the telemedicine provider's evaluation, analysis, or diagnosis of the patient's condition;

(ii) collect from the patient the contact information of the patient's designated health care provider; and

(iii) within two weeks after the day on which the telemedicine provider provides services to the patient, and to the extent allowed under HIPAA as that term is defined in Section 26-18-17, provide the medical record or report to the patient's designated health care provider, unless the patient indicates that the patient does not want the telemedicine provider to send the medical record or

report to the patient's designated health care provider.

(2) Subsection (1)(g) does not apply to prescriptions for eyeglasses or contacts.

(3) [~~Except as specifically provided in Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act, and unless a provider has established a provider-patient relationship with a patient, a~~] A provider offering telemedicine services may not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of the following:

(a) an online questionnaire;

(b) an email message; or

(c) a patient-generated medical history.

(4) A provider may not offer telehealth services if:

(a) the provider is not in compliance with applicable laws, rules, and regulations regarding the provider's licensed practice; or

(b) the provider's license under Title 58, Occupations and Professions, is not active and in good standing.

Section 2. Repealer.

This bill repeals:

Section 58-83-101, Title.

Section 58-83-102, Definitions.

Section 58-83-201, Board.

Section 58-83-301, Licensure required -- Issuance of licenses.

Section 58-83-302, Qualifications for licensure.

Section 58-83-303, Term of license -- Expiration -- Renewal.

Section 58-83-305, Duties and responsibilities.

Section 58-83-306, Drugs approved for online prescribing, dispensing, and facilitation -- Delivery of prescription drugs.

Section 58-83-307, Approval of additional drugs -- Request to facilitate.

Section 58-83-308, Audits.

Section 58-83-401, Grounds for denial of license -- Disciplinary proceedings -- Termination of authority to prescribe -- Immediate and significant danger.

Section 58-83-501, Practice without a license.

Section 58-83-502, Unprofessional conduct.

Section 58-83-503, Unlawful conduct.

CHAPTER 278
H. B. 159
Passed February 17, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH CARE PROFESSIONAL LICENSING REQUIREMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill creates an exemption for professional licensing.

Highlighted Provisions:

This bill:

- defines terms; and
- allows an individual who holds a health care license from a different state to provide telemedicine services to individuals located in Utah under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
58-1-302.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-302.1 is enacted to read:

58-1-302.1. Temporary license for telemedicine.

(1) As used in this section:

(a) "Nonresident health care license" means a health care license issued by another state, district, or territory of the United States.

(b) "Telemedicine service" means the same as that term is defined in Section 26-60-102.

(2) An individual with a temporary license issued under this section is authorized to provide a telemedicine service if:

(a) the telemedicine service is a service the individual is licensed to perform under the nonresident health care license of the state, district, or territory that issued the nonresident health care license;

(b) at the time the telemedicine service is performed, the patient is located in Utah; and

(c) performing the telemedicine service would not otherwise violate state law.

(3) The division shall issue a temporary license described in Subsection (2) to an individual who has a nonresident health care license in good standing if:

(a) the individual has completed an application for a license by endorsement in accordance with Section 58-1-302; and

(b) the division determines that they will not be able to process the application within 15 days from the day on which the application is submitted.

(4) The division may not charge a fee for a temporary license issued under this section beyond the fee required for a license issued under Section 58-1-302.

CHAPTER 279
H. B. 167
Passed February 10, 2023
Approved March 15, 2023
Effective May 3, 2023

STATE CHILD CARE AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses on-site child care for state employees.

Highlighted Provisions:

This bill:

- defines terms;
- allows an agency to establish an on-site child care center for the benefit of the agency's employees;
- requires a child care provider that operates an on-site child care center to maintain liability insurance coverage;
- allows an agency to charge a reasonable fee for the use of the agency's facility as an on-site child care center;
- provides for agency consultation in establishing an on-site child care center; and
- provides that the state is not liable for civil damages resulting from the operation of an on-site child care center.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63A-17-808, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-808 is enacted to read:

63A-17-808. On-site child care for state employees.

(1) As used in this section:

(a) "Child care" means the same as that term is defined in Section 35A-3-201.

(b) "Licensed child care provider" means a person who holds a license from the Department of Health and Human Services to provide center based child care in accordance with Title 26, Chapter 39, Utah Child Care Licensing Act.

(c) "On-site child care center" means a child care center established in a facility that is owned or operated by an agency.

(2) An agency may enter into a contract with a licensed child care provider to operate an on-site child care center for the benefit of the agency's employees.

(3) A licensed child care provider that operates an on-site child care center for an agency shall maintain professional liability insurance.

(4) (a) An agency may charge a licensed child care provider a reasonable fee for operating an on-site child care center so that the agency incurs no expense.

(b) The fee in Subsection (4)(a) shall include costs for utility, building maintenance, and administrative services supplied by the agency that are related to the operation of the on-site child care center.

(5) An agency may consult with the Office of Child Care within the Department of Workforce Services, the Department of Health and Human Services, and the Division of Facilities Construction and Management for assistance in establishing an on-site child care center.

(6) The state is not liable for any civil damages for acts or omissions resulting from the operation of an on-site child care center.

CHAPTER 280
H. B. 204
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

CHILD WELFARE PROCEEDINGS TESTING REQUIREMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses drug testing for certain individuals.

Highlighted Provisions:

This bill:

- defines terms;
- provides that a guardian ad litem may not refer an individual for drug testing that is administered through a sample of hair, fingernails, or saliva;
- provides that an individual who is receiving services from the Division of Child and Family Services, or is a party to an abuse, neglect, or dependency proceeding, may not be ordered or referred for drug testing that is administered through a sample of saliva, with certain exceptions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-2-803, as last amended by Laws of Utah 2022, Chapters 272, 334
80-2-301, as last amended by Laws of Utah 2022, Chapter 430 and renumbered and amended by Laws of Utah 2022, Chapter 334
80-3-110, as last amended by Laws of Utah 2022, Chapter 256

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-2-803 is amended to read:

78A-2-803. Appointment of attorney guardian ad litem -- Duties and responsibilities -- Training -- Trained staff and court-appointed special advocate volunteers -- Costs -- Immunity -- Annual report.

(1) (a) The court:

(i) may appoint an attorney guardian ad litem to represent the best interest of a minor involved in any case before the court; and

(ii) shall consider the best interest of a minor, consistent with the provisions of Section 80-2a-201, in determining whether to appoint a guardian ad litem.

(b) In all cases where an attorney guardian ad litem is appointed, the court shall make a finding that establishes the necessity of the appointment.

(2) An attorney guardian ad litem shall represent the best interest of each minor who may become the subject of an abuse, neglect, or dependency petition from the earlier of:

(a) the day on which the minor is removed from the minor's home by the division; or

(b) the day on which the abuse, neglect, or dependency petition is filed.

(3) The director shall ensure that each attorney guardian ad litem employed by the office:

(a) represents the best interest of each client of the office in all venues, including:

(i) court proceedings; and

(ii) meetings to develop, review, or modify the child and family plan with the division in accordance with Section 80-3-307;

(b) before representing any minor before the court, be trained in:

(i) applicable statutory, regulatory, and case law; and

(ii) nationally recognized standards for an attorney guardian ad litem;

(c) conducts or supervises an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(d) (i) personally meets with the minor, unless:

(A) the minor is outside of the state; or

(B) meeting with the minor would be detrimental to the minor;

(ii) personally interviews the minor, unless:

(A) the minor is not old enough to communicate;

(B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor; and

(iii) if the minor is placed in an out-of-home placement, or is being considered for placement in an out-of-home placement, unless it would be detrimental to the minor:

(A) to the extent possible, determines the minor's goals and concerns regarding placement; and

(B) personally assesses or supervises an assessment of the appropriateness and safety of the minor's environment in each placement;

(e) personally attends all review hearings pertaining to the minor's case;

(f) participates in all appeals, unless excused by order of the court;

(g) is familiar with local experts who can provide consultation and testimony regarding the reasonableness and appropriateness of efforts made by the division to:

(i) maintain a minor in the minor's home; or

(ii) reunify a minor with a minor's parent;

(h) to the extent possible, and unless it would be detrimental to the minor, personally or through a trained volunteer, paralegal, or other trained staff, keeps the minor advised of:

(i) the status of the minor's case;

(ii) all court and administrative proceedings;

(iii) discussions with, and proposals made by, other parties;

(iv) court action; and

(v) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;

(i) in cases where a child and family plan is required, personally or through a trained volunteer, paralegal, or other trained staff, monitors implementation of a minor's child and family plan and any dispositional orders to:

(i) determine whether services ordered by the court:

(A) are actually provided; and

(B) are provided in a timely manner; and

(ii) attempt to assess whether services ordered by the court are accomplishing the intended goal of the services; and

(j) makes all necessary court filings to advance the guardian's ad litem position regarding the best interest of the minor.

(4) (a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers Act, trained paralegals, and other trained staff to assist in investigation and preparation of information regarding the cases of individual minors before the court.

(b) A volunteer, paralegal, or other staff utilized under this section shall be trained in and follow, at a minimum, the guidelines established by the United States Department of Justice Court Appointed Special Advocate Association.

(5) The attorney guardian ad litem shall continue to represent the best interest of the minor until released from that duty by the court.

(6) (a) Consistent with Subsection (6)(b), the juvenile court is responsible for:

(i) all costs resulting from the appointment of an attorney guardian ad litem; and

(ii) the costs of volunteer, paralegal, and other staff appointment and training.

(b) The court shall use funds appropriated by the Legislature for the guardian ad litem program to cover the costs described in Subsection (6)(a).

(c) (i) When the court appoints an attorney guardian ad litem under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the minor's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:

(A) private attorney fees;

(B) counseling for the minor;

(C) counseling for the parent, if mandated by the court or recommended by the division; and

(D) any other cost the court determines to be relevant.

(ii) The court may not assess the fees or costs described in Subsection (6)(c)(i) against:

(A) a legal guardian, when that guardian is the state; or

(B) consistent with Subsection (6)(d), a parent who is found to be an indigent individual.

(d) For purposes of Subsection (6)(c)(ii)(B), if an individual claims to be an indigent individual, the court shall:

(i) require the individual to submit an affidavit of indigency as provided in Section 78A-2-302; and

(ii) follow the procedures and make the determinations as provided in Section 78A-2-304.

(e) The minor's parents, parent, or legal guardian may appeal the court's determination, under Subsection (6)(c), of fees, costs, and expenses.

(7) An attorney guardian ad litem appointed under this section, when serving in the scope of the attorney guardian's ad litem duties as guardian ad litem is considered an employee of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) (a) An attorney guardian ad litem shall represent the best interest of a minor.

(b) If the minor's wishes differ from the attorney's determination of the minor's best interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in addition to presenting the attorney's determination of the minor's best interest.

(c) A difference between the minor's wishes and the attorney's determination of best interest may not be considered a conflict of interest for the attorney.

(d) The guardian ad litem shall disclose the wishes of the minor unless the minor:

(i) instructs the guardian ad litem to not disclose the minor's wishes; or

(ii) has not expressed any wishes.

(e) The court may appoint one attorney guardian ad litem to represent the best interests of more than one minor of a marriage.

(9) The division shall provide an attorney guardian ad litem access to all division records regarding the minor at issue and the minor's family.

(10) (a) An attorney guardian ad litem shall conduct an independent investigation regarding the minor at issue, the minor's family, and what is in the best interest of the minor.

(b) An attorney guardian ad litem may interview the minor's child welfare caseworker, but may not:

(i) rely exclusively on the conclusions and findings of the division; or

(ii) except as provided in Subsection (10)(c), conduct a visit with the client in conjunction with the visit of a child welfare caseworker.

(c) (i) An attorney guardian ad litem may meet with a client during a team meeting, court hearing, or similar venue when a child welfare caseworker is present for a purpose other than the attorney guardian ad litem's meeting with the client.

(ii) A party and the party's counsel may attend a team meeting in accordance with the Utah Rules of Professional Conduct.

(11) (a) An attorney guardian ad litem shall maintain current and accurate records regarding:

(i) the number of times the attorney has had contact with each minor; and

(ii) the actions the attorney has taken in representation of the minor's best interest.

(b) In every hearing where the attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(12) (a) Except as provided in Subsection (12)(b), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, all records of an attorney guardian ad litem are confidential and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise.

(b) Consistent with Subsection (12)(d), all records of an attorney guardian ad litem:

(i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers; and

(ii) shall be released to the Legislature.

(c) (i) Except as provided in Subsection (12)(c)(ii), the Legislature shall maintain records released in accordance with Subsection (12)(b) as confidential.

(ii) Notwithstanding Subsection (12)(c)(i), the Office of the Legislative Auditor General may include summary data and nonidentifying information in the office's audits and reports to the Legislature.

(d) (i) Subsection (12)(b) is an exception to Rules of Professional Conduct, Rule 1.6, as provided by Rule 1.6(b)(4), because of:

(A) the unique role of an attorney guardian ad litem described in Subsection (8); and

(B) the state's role and responsibility to provide a guardian ad litem program, and as parens patriae, to protect minors.

(ii) A claim of attorney-client privilege does not bar access to the records of an attorney guardian ad litem by the Legislature, through legislative subpoena.

Section 2. Section 80-2-301 is amended to read:

80-2-301. Division responsibilities.

(1) The division is the child, youth, and family services authority of the state.

(2) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services in accordance with Section 80-2-306, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence and the victims' children, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (2)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 80-2-405; and

(ii) approve facilities that meet the standards established under Subsection (2)(c) to provide substitute care for dependent, abused, or neglected children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) in accordance with Subsection (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, or dependent children, in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;

(g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(h) compile relevant information, statistics, and reports on child and family service matters in the state;

(i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 80-2-1102 and 80-2-1103;

(j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;

(l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;

(m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, under Section 80-3-409, and promote adoption of the children;

(n) subject to Subsections (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

(o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (2)(o)(i); and

(p) perform other duties and functions required by law.

(3) (a) The division may provide, directly or through contract, services that include the following:

(i) adoptions;

(ii) day-care services;

(iii) out-of-home placements for minors;

(iv) health-related services;

(v) homemaking services;

(vi) home management services;

(vii) protective services for minors;

(viii) transportation services; or

(ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(4) (a) The division may:

(i) receive gifts, grants, devises, and donations;

(ii) encourage merchants and service providers to:

(A) donate goods or services; or

(B) provide goods or services at a nominal price or below cost;

(iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and

(iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.

(b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.

(5) (a) In carrying out the requirements of Subsection (2)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in Subsection (5)(a)(ii), within the division's budget.

(b) If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (2)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is an indigent individual.

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-114.

(7) (a) [~~The~~] Except as provided in Subsection (7)(b), the division may not:

[~~(a)~~] (i) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo; or

[~~(b)~~] (ii) refer an individual who is receiving services from the division for drug testing by means of a hair [~~or~~], fingernail, or saliva test that is administered to detect the presence of drugs.

(b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is receiving services from the division for drug testing by means of a saliva test if:

(i) the individual consents to drug testing by means of a saliva test; or

(ii) the court, based on a finding that a saliva test is necessary in the circumstances, orders the individual to complete drug testing by means of a saliva test.

Section 3. Section 80-3-110 is amended to read:

80-3-110. Consideration of cannabis during proceedings -- Drug testing.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(h) " Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In a proceeding under this chapter, in which the juvenile court makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's medical cannabis card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of the child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of the child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

(6) (a) [~~If~~] Except as provided in Subsection (6)(c), if an individual, who is party to a proceeding under this chapter, is ordered by the juvenile court to submit to drug testing, [~~or is referred by the division or a guardian ad litem for drug testing,~~] the individual may not be ordered [~~or referred for~~] to complete drug testing by means of a hair [~~or~~], fingernail, or saliva test that is administered to detect the presence of drugs.

(b) Except as provided in Subsection (6)(c), if an individual, who is party to a proceeding under this chapter, is referred by the division or a guardian ad litem for drug testing, the individual may not be referred for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.

(c) Notwithstanding Subsections (6)(a) and (b), an individual who is party to a proceeding under this chapter:

(i) may be ordered by the juvenile court to submit to drug testing by means of a saliva test, if the court finds that such testing is necessary in the circumstances; or

(ii) may be referred by the division for drug testing by means of a saliva test if the individual consents to drug testing by means of a saliva test.

CHAPTER 281
H. B. 230
Passed February 17, 2023
Approved March 15, 2023
Effective May 3, 2023

CENTER FOR MEDICAL CANNABIS RESEARCH

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill creates the Center for Medical Cannabis Research.

Highlighted Provisions:

This bill:

- defines terms;
- modifies membership requirements for members of the Cannabis Research Review Board;
- creates the Center for Medical Cannabis Research (center) within the University of Utah;
- requires the Department of Health and Human Services to work with the center to create guidance on medical cannabis use;
- allows the center to be funded by the Qualified Patient Enterprise Fund; and
- establishes the center's duties.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the University of Utah - Education and General - Center for Medical Cannabis Research, as an ongoing appropriation:
  - from the Qualified Patient Enterprise Fund, $650,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-61-201, as last amended by Laws of Utah 2022, Chapter 452
26-61a-109, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
26-61a-703, as last amended by Laws of Utah 2022, Chapter 97

ENACTS:

26-61a-117, Utah Code Annotated 1953
53B-17-1401, Utah Code Annotated 1953
53B-17-1402, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-61-201 is amended to read:

26-61-201. Cannabis Research Review Board.

(1) There is created the Cannabis Research Review Board within the department.

(2) The department shall appoint, in consultation with a professional association based in the state that represents physicians, seven members to the Cannabis Research Review Board as follows:

(a) three individuals who are medical research professionals; and

(b) four physicians [~~who~~]:

(i) who are qualified medical providers; and

(ii) at least two who have at least 100 patients with a medical cannabis patient card at the time of appointment.

(3) The department shall ensure that at least one of the board members appointed under Subsection (2) is a member of the Controlled Substances Advisory Committee created in Section 58-38a-201.

(4) (a) Four of the board members appointed under Subsection (2) shall serve an initial term of two years and three of the board members appointed under Subsection (2) shall serve an initial term of four years.

(b) Successor board members shall each serve a term of four years.

(c) A board member appointed to fill a vacancy on the board shall serve the remainder of the term of the board member whose departure created the vacancy.

(5) The department may remove a board member without cause.

(6) The board shall:

(a) nominate a board member to serve as chairperson of the board by a majority vote of the board members; and

(b) meet as often as necessary to accomplish the duties assigned to the board under this chapter.

(7) Each board member, including the chair, has one vote.

(8) (a) A majority of board members constitutes a quorum.

(b) A vote of a majority of the quorum at any board meeting is necessary to take action on behalf of the board.

(9) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

(10) If a board member appointed under Subsection (2)(b) does not meet the qualifications of Subsection (2)(b) before July 1, 2022:

(a) the board member's seat is vacant; and

(b) the department shall fill the vacancy in accordance with this section.

Section 2. Section 26-61a-109 is amended to read:

26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

[~~(4) The department may only use money in the fund to fund the department's responsibilities under this chapter~~]

(4) Money deposited into the fund may only be used by:

(a) the department to accomplish the department's responsibilities described in this chapter; and

(b) the Center for Medical Cannabis Research created in Section 53B-17-1402 to accomplish the Center for Medical Cannabis Research's responsibilities.

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Section 3. Section 26-61a-117 is enacted to read:

26-61a-117 (Codified as 26B-4-243). Guidance for treatment with medical cannabis.

The department, in consultation with the Center for Medical Cannabis Research created in Section 53B-17-1402, shall:

(1) develop evidence-based guidance for treatment with medical cannabis based on the latest medical research that shall include:

(a) for each qualifying condition, a summary of the latest medical research regarding the treatment of the qualifying condition with medical cannabis;

(b) risks, contraindications, side effects, and adverse reactions that are associated with medical cannabis use; and

(c) potential drug interactions between medical cannabis and medications that have been approved by the United States Food and Drug Administration; and

(2) educate recommending medical providers, pharmacy medical providers, medical cannabis cardholders, and the public regarding:

(a) the evidence-based guidance for treatment with medical cannabis described in Subsection (1)(a);

(b) relevant warnings and safety information related to medical cannabis use; and

(c) other topics related to medical cannabis use as determined by the department.

Section 4. Section 26-61a-703 is amended to read:

26-61a-703. Report.

(1) By the November interim meeting each year beginning in 2020, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity of medical cannabis shipments that the state central patient portal facilitates;

(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

(m) an analysis of product availability in medical cannabis pharmacies.

(2) The report shall include information provided by the Center for Medical Cannabis Research described in Section 53B-17-1402.

[~~(2)~~] (3) The department may not include personally identifying information in the report described in this section.

[~~(3)~~] (4) During the 2022 legislative interim, the department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 5. Section 53B-17-1401 is enacted to read:

CHAPTER 17. UNIVERSITY OF UTAH

Part 14. Center for Medical Cannabis Research

53B-17-1401. Definitions.

As used in this part:

(1) "Academic research cannabis license" means the license described in Title 4, Chapter 41a, Part 9, Academic Medical Cannabis Research.

(2) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(3) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

(4) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(5) "Center" means the Center for the Medical Cannabis Research created in Section 53B-17-1402.

(6) "Eligible institution" means an institution of higher education that:

(a) is located in Utah; and

(b) has or will obtain an academic research cannabis license.

(7) "Medical cannabis patient card" means the same as that term is defined in Section 26-61a-102.

Section 6. Section 53B-17-1402 is enacted to read:

53B-17-1402. Center creation -- Duties.

(1) There is created the Center for Medical Cannabis Research within the University of Utah.

(2) The center:

(a) shall seek state, federal, and private funds to award grants for medical cannabis research;

(b) shall facilitate and support funding for research related to the health effects, including the potential risks or side effects, of the use of cannabis products;

(c) shall facilitate and support funding for research related to the efficacy and potential health effects of various cannabis delivery methods, including vaporizing, ingesting, topical application, and combustion;

(d) shall support researchers in applying for and securing federal and private research grant funding for expanding medical cannabis research;

(e) shall review current and future cannabis research literature, clinical studies, and clinical trials;

(f) shall educate medical providers, lawmakers, and the public about medical cannabis research advances;

(g) shall, if requested, consult with researchers and eligible institutions seeking to conduct medical cannabis research regarding legal implications of the research under state and federal law;

(h) shall monitor, to the extent that appropriate and sufficient data are available, patient outcomes in any state with a medicinal cannabis program;

(i) may coordinate, share knowledge, and share best practices with a state:

(i) that has a medical cannabis program; and

(ii) is conducting cannabis research;

(j) may award or facilitate funding for grants to an eligible institution for medical cannabis research, including research regarding the growing of a medical-grade cannabis plant that is used for a cannabis product;

(k) shall support a licensed cannabis cultivation facility to provide medical-grade cannabis products for research;

(l) shall make, for research conducted by the center, the research outcomes publicly available;

(m) shall maintain a catalog of all published scientific reports based on projects funded or managed by the center;

(n) shall ensure that an individual who agrees to use a cannabis product as part of a research project conducted by the center or a grantee has:

(i) a valid medical cannabis patient card from the state; or

(ii) if included in the research project as a resident of another state, the equivalent of a medical cannabis patient card under the laws of another state, district, territory, commonwealth, or insular possession of the United States;

(o) shall obtain an academic research cannabis license;

(p) may apply for, or assist an eligible institution to apply for, a federal cannabis cultivation registration to locate a cannabis cultivation site in Utah; and

(q) for the report described in Section 26-61a-703, shall provide information to the Department of Health and Human Services describing:

(i) all research projects that are funded by a grant awarded by the center, including which institution received the grant;

(ii) all research projects conducted by the center; and

(iii) the adequacy of funding for the center's duties.

(3) For research funded, conducted, or facilitated by the center, the center shall ensure the research:

(a) includes appropriate research development, testing, and evaluation; and

(b) if the research involves human subjects, is reviewed, approved, and overseen by an

institutional review board as defined in Section 26-61-102.

(4) The University of Utah shall provide staff for the center.

Section 7. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To University of Utah - Education and General

From Qualified Patient Enterprise Fund	650,000

Schedule of Programs:

Center for Medical Cannabis Research	650,000

The Legislature intends that the Center for Medical Cannabis Research (center) use the appropriation under this item to carry out the center's duties described in Section 53B-17-1402.

CHAPTER 282
H. B. 248
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

MENTAL HEALTH SERVICES FOR ADULTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to the provision of mental health services for adults.

Highlighted Provisions:

This bill:

- requires the Department of Health and Human Services (department) to create a long-term, statewide assertive community treatment (ACT) team plan;
- modifies a grant program for the development of ACT teams;
- requires the department to report to the Health and Human Services Interim Committee regarding the long-term, statewide ACT team plan and ACT team grant program; and
- creates a sunset date for provisions relating to the creation of the statewide ACT team plan.

Monies Appropriated in this Bill:

This bill appropriates:

- to the Department of Health and Human Services -- Integrated Health Care Services -- Non-Medicaid Behavioral Health Treatment & Crisis Response, as a one-time appropriation:
  - from the General Fund, One-time, $1,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-15-1802, as enacted by Laws of Utah 2020, Chapter 304
62A-15-1803, as enacted by Laws of Utah 2020, Chapter 304
63I-1-262, as last amended by Laws of Utah 2022, Chapters 34, 35, 149, 257, and 335

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-15-1802 is amended to read:

62A-15-1802. Division duties -- ACT team license creation.

(1) To promote the availability of assertive community treatment, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for ACT team personnel and ACT teams, that includes:

(a) the standards the division establishes under Subsection (2); and

(b) guidelines for:

(i) required training and experience of ACT team personnel; and

(ii) the coordination of assertive community treatment and other community resources.

(2) (a) The division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the certifications described in Subsection (1); and

(ii) create a long-term, statewide ACT team plan that:

(A) identifies current and future statewide assertive community treatment needs, objectives, and priorities;

(B) identifies barriers to establishing an ACT team in areas where an ACT team does not currently exist;[~~and~~]

[~~(B)~~] (C) identifies the equipment, facilities, personnel training, and other resources necessary to provide assertive community treatment in areas where an ACT team does not currently exist; and

(D) identifies the gaps in housing needs for individuals served by ACT teams and how to ensure individuals served by ACT teams can secure and maintain housing.

(b) The division may delegate the ACT team plan requirement described in Subsection (2)(a)(ii) to a contractor with whom the division contracts to provide assertive community outreach treatment.

(c) The division shall report to the Health and Human Services Interim Committee before June 30, 2024, regarding:

(i) the long-term, statewide ACT team plan described in Subsection (2)(a)(ii);

(ii) the number of individuals in each local area who meet the criteria for serious mental illness and could benefit from ACT team services;

(iii) knowledge gained relating to the provision of care through ACT teams;

(iv) recommendations for further development of ACT teams; and

(v) obstacles that exist for further development of ACT teams throughout the state.

Section 2. Section 62A-15-1803 is amended to read:

62A-15-1803. Grants for development of an ACT team.

(1) The division shall award grants for the development of one [~~ACT team~~] or more ACT teams to provide assertive community treatment to individuals in the state.

(2) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed ACT team will serve;

(b) the ability of the entity to provide housing to individuals served under the program;

(c) the ability of the entity to provide evidence of probable future program sustainability; and

[~~(b)~~] (d) the percentage of matching funds the entity will provide to develop the proposed ACT team.

(3) (a) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(b) An entity may submit an application for and be awarded more than one grant pursuant to the prioritization described in Subsection (2).

(c) An ACT team developed using a grant awarded under this section shall:

(i) coordinate with local homeless councils and criminal justice coordinating councils to align the ACT team's services with existing services and strategic plans; and

(ii) work with an individual served under the program to secure and maintain housing and provide wraparound services, including:

(A) clinical support;

(B) case management;

(C) peer support;

(D) employment support; and

(E) other services identified in the long-term, statewide ACT team plan described in Section 62A-15-1802.

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

(5) Before June 30, 2024, and before June 30 of each subsequent fiscal year in which a grant is awarded under Subsection (1), the division shall report to the Health and Human Services Interim Committee regarding:

(a) data gathered in relation to each awarded grant;

(b) knowledge gained relating to the provision of medical and mental health services by ACT teams;

(c) recommendations for the future use of ACT teams to provide medical and mental health services;

(d) Medicaid reimbursement for services provided by ACT teams; and

(e) aggregated data about the patients who have received services from an ACT team, including:

(i) the number of ACT team patients who have a severe mental illness;

(ii) the number of ACT team patients who have a co-occurring substance use disorder;

(iii) the number of ACT team patients who are experiencing homelessness or facing housing insecurity; and

(iv) the number of ACT team patients who, after the most recent report was made, have experienced:

(A) an acute psychiatric hospitalization;

(B) an arrest, incarceration, probation, or parole; or

(C) a transition from homelessness or housing insecurity to supported housing or housing.

Section 3. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates: Title 62A.

(1) Section 62A-3-209 is repealed July 1, 2023.

(2) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2027.

(3) Subsections 62A-15-116(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.

(4) Section 62A-15-118 is repealed December 31, 2023.

(5) Section 62A-15-124 is repealed December 31, 2024.

(6) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(7) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

(8) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Subsection 62A-15-1303(1), the language that states "In consultation with the commission," is repealed;

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; and

(e) Subsection 62A-15-1702(6) is repealed.

(9) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 62A-15-1802(2)(a)(i), the language that states "and" is repealed;

(b) Subsections 62A-15-1802(2)(a)(ii), 62A-15-1802(2)(b), and 62A-15-1802(2)(c) are repealed.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services -- Integrated Health Care Services

From General Fund, One-time	1,000,000
Schedule of Programs:	
Non-Medicaid Behavioral Health Treatment & Crisis Response	1,000,000

Under Section 63J-1-603, the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2024. The use of funds described in Item 1 is limited to awarding grants under Section 62A-15-1803.

CHAPTER 283
H. B. 250
Passed February 23, 2023
Approved March 15, 2023
Effective May 3, 2023

SOCIAL WORKER LICENSING AMENDMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions of the Social Worker Licensing Act.

Highlighted Provisions:

This bill:

- removes an examination requirement for licensure as a certified social worker or social service worker;
- repeals provisions creating and related to the position of certified social worker intern; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-524, as enacted by Laws of Utah 2022, Chapter 329
58-60-204, as last amended by Laws of Utah 2003, Chapter 201
58-60-205, as last amended by Laws of Utah 2022, Chapters 345, 466

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-524 is amended to read:

53E-3-524. Newcomer student and foreign exchange student transcript repository.

(1) As used in this section:

(a) "Newcomer student" means a student who:

(i) is three through 21 years old;

(ii) was not born in any state; and

(iii) has not attended one or more schools in one or more states for more than three full academic years.

(b) "Qualified social service provider" means a social service provider that works directly with a student's family.

(c) "Repository" means the online transcript repository described in Subsection (2).

(d) "Social service provider" means:

(i) one of the following professionals, licensed to practice under Section 58-60-205:

(A) a clinical social worker;

(B) a certified social worker; or

[~~(C) a certified social worker intern; or~~]

[~~(D)~~] (C) a social service worker; or

(ii) staff employed to provide direct support to a professional described in Subsection (1)(d)(i).

(e) "State" means:

(i) a state of the United States;

(ii) the District of Columbia; or

(iii) the Commonwealth of Puerto Rico.

(f) "Student" means an individual who is enrolled in:

(i) a public school within the state of Utah; and

(ii) any grade from kindergarten through grade 12.

(g) (i) "Transcript" means documentation of a newcomer student's or foreign exchange student's prior educational experience.

(ii) "Transcript" includes oral representations about prior educational experience that a school or an LEA documents.

(2) On or before July 1, 2024, the state board shall establish and maintain, as part of the Utah school information management system described in Section 53E-3-518, an online repository for transcripts.

(3) The state board shall:

(a) ensure that the repository provides a central location for:

(i) an LEA to upload transcripts; and

(ii) LEAs and qualified service providers to share information regarding transcripts, including:

(A) best practices for linguistic interpretation;

(B) interpretation of educational experiences; and

(C) placement of newcomer students;

(b) ensure that use of the repository:

(i) is voluntary; and

(ii) complies with all state and federal student privacy requirements, including:

(A) Title 53E, Chapter 9, Student Privacy and Data Protection; and

(B) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

(c) provide the repository at no cost to LEAs;

(d) provide access to the repository to qualified social service providers;

(e) establish appropriate access protocols in coordination with LEAs and qualified social service providers; and

(f) annually, before the school enrollment period begins, provide notice of the repository to interested parties that the state board designates in state board rule.

(4) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section, including rules:

(a) establishing procedures:

(i) to protect student data related to the repository in compliance with Title 53E, Chapter 9, Student Privacy and Data Protection; and

(ii) for the use of the repository by the state board, LEAs, and qualified social service providers;

(b) requiring repository users to enter into a data sharing agreement; and

(c) designating the interested parties described in Subsection (3)(f).

Section 2. Section 58-60-204 is amended to read:

58-60-204. License classifications.

The division shall issue licenses and certifications to individuals qualified under this part in the classifications:

(1) clinical social worker;

(2) certified social worker; and

[~~(3) certified social worker intern; and~~]

[~~(4)~~] (3) social service worker.

Section 3. Section 58-60-205 is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

(d) have completed a minimum of 3,000 hours of clinical social work training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a supervisor approved by the division in collaboration with the board who is a:

(A) clinical mental health counselor;

(B) psychiatrist;

(C) psychologist;

(D) registered psychiatric mental health nurse practitioner;

(E) marriage and family therapist; or

(F) clinical social worker; and

(iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor described in Subsection (1)(d)(ii);

(f) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203;

(g) pass the examination requirement established by rule under Section 58-1-203; and

(h) if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203[~~; and~~].

[~~(d) pass the examination requirement established by rule under Section 58-1-203.~~]

[~~(3) (a) An applicant for certification as a certified social worker intern shall meet the requirements of Subsections (2)(a), (b), and (c).~~]

[~~(b) Certification under Subsection (3)(a) is limited to the time necessary to pass the examination required under Subsection (2)(d) or six months, whichever occurs first.~~]

[~~(c) A certified social worker intern may provide mental health therapy under the general supervision, as defined by rule, of a supervisor described in Subsection (1)(d)(ii).~~]

[~~(4)~~] (3) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (4); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum[~~; and~~].

[~~(d) pass the examination requirement established by rule under Section 58-1-203.~~]

[~~(5)~~] (4) The division shall ensure that the rules for an examination described under [~~Subsections (1)(g), (2)(d), and (4)(d)~~] Subsection (1)(g) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

CHAPTER 284
H. B. 264
Passed February 17, 2023
Approved March 15, 2023
Effective May 3, 2023

CERTIFIED NURSING ASSISTANTS AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill allows a certified nurse aide to obtain experience at a health care facility that is designated by the Division of Professional Licensing.

Highlighted Provisions:

This bill:

- allows a certified nurse aide to obtain experience at a health care facility that is designated by the Division of Professional Licensing; and
- allows the certified nurse aide applicant to obtain a letter of recommendation from a health care facility administrator.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-31b-302, as last amended by Laws of Utah 2022, Chapter 277

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-31b-302 is amended to read:

58-31b-302. Qualifications for licensure or certification -- Criminal background checks.

(1) An applicant for certification as a medication aide shall:

(a) submit an application to the division on a form prescribed by the division;

(b) pay a fee to the division as determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) have a current certification as a nurse aide, in good standing, from the Department of Health and Human Services;

(e) have a minimum of 2,000 hours of experience within the two years prior to application, working as a certified nurse aide in a long-term care facility or another health care facility that is designated by the division in collaboration with the board;

(f) obtain letters of recommendation from a [~~long-term care~~] health care facility administrator and one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

(g) be in a condition of physical and mental health that will permit the applicant to practice safely as a medication aide certified;

(h) have completed an approved education program or an equivalent as determined by the division in collaboration with the board;

(i) have passed the examinations as required by division rule made in collaboration with the board; and

(j) meet with the board, if requested, to determine the applicant's qualifications for certification.

(2) An applicant for licensure as a licensed practical nurse shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will permit the applicant to practice safely as a licensed practical nurse;

(e) have completed an approved practical nursing education program or an equivalent as determined by the board;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(3) An applicant for a registered nurse apprentice license shall:

(a) submit to the division an application form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will allow the applicant to practice safely as a registered nurse apprentice;

(e) as determined by an approved registered nursing education program, be:

(i) in good standing with the program; and

(ii) in the last semester, quarter, or competency experience;

(f) have written permission from the program in which the applicant is enrolled; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(4) An applicant for licensure as a registered nurse shall:

(a) submit to the division an application form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will allow the applicant to practice safely as a registered nurse;

(e) have completed an approved registered nursing education program;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(5) Applicants for licensure as an advanced practice registered nurse shall:

(a) submit to the division an application on a form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) be in a condition of physical and mental health which will allow the applicant to practice safely as an advanced practice registered nurse;

(d) hold a current registered nurse license in good standing issued by the state or be qualified at the time for licensure as a registered nurse;

(e) (i) have earned a graduate degree in:

(A) an advanced practice registered nurse nursing education program; or

(B) a related area of specialized knowledge as determined appropriate by the division in collaboration with the board; or

(ii) have completed a nurse anesthesia program in accordance with Subsection (5)(f)(ii);

(f) have completed:

(i) course work in patient assessment, diagnosis and treatment, and pharmacotherapeutics from an education program approved by the division in collaboration with the board; or

(ii) a nurse anesthesia program which is approved by the Council on Accreditation of Nurse Anesthesia Educational Programs;

(g) to practice within the psychiatric mental health nursing specialty, demonstrate, as described in division rule, that the applicant, after completion of a doctorate or master's degree required for licensure, is in the process of completing the applicant's clinical practice requirements in psychiatric mental health nursing, including in psychotherapy;

(h) have passed the examinations as required by division rule made in collaboration with the board;

(i) be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of the certification; and

(j) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(6) For each applicant for licensure or certification under this chapter except an applicant under Subsection 58-31b-301(2)(b):

(a) the applicant shall:

(i) submit fingerprint cards in a form acceptable to the division at the time the application is filed; and

(ii) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;

(b) the division shall:

(i) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(ii) submit from each applicant the fingerprint card and the fees described in this Subsection (6)(b) to the Bureau of Criminal Identification; and

(iii) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant; and

(c) the Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(i) check the fingerprints submitted under Subsection (6)(b) against the applicable state and regional criminal records databases;

(ii) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(iii) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(7) For purposes of conducting the criminal background checks required in Subsection (6), the division shall have direct access to criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(8) (a) (i) Any new nurse license or certification issued under this section shall be conditional, pending completion of the criminal background check.

(ii) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license or certification shall be immediately and

automatically revoked upon notice to the licensee by the division.

(b) (i) An individual whose conditional license or certification has been revoked under Subsection (8)(a) is entitled to a postrevocation hearing to challenge the revocation.

(ii) A postrevocation hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(9) If an individual has been charged with a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation, the individual is disqualified for licensure under this chapter and:

(a) if the individual is licensed under this chapter, the division:

(i) shall act upon the license as required under Section 58-1-401; and

(ii) may not renew or subsequently issue a license to the individual under this chapter; and

(b) if the individual is not licensed under this chapter, the division may not issue a license to the individual under this chapter.

(10) If an individual has been charged with a felony other than a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation, the division shall determine whether the felony disqualifies the individual for licensure under this chapter and act upon the license, as required, in accordance with Section 58-1-401.

(11) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

CHAPTER 285
H. B. 288
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

OPIOID DISPENSING REQUIREMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill creates certain requirements for the dispensing of opioids.

Highlighted Provisions:

This bill:

- requires a pharmacist who dispenses opioids to a patient to:
  - provide patient counseling on the use and availability of opioid antagonists; and
  - offer an opioid antagonist to the patient or the patient's representative for certain opiate prescriptions;
- requires a health care provider who prescribes opioids to include a prescription for an opioid antagonist under certain circumstances; and
- implements these requirements on January 1, 2024.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37-7, as last amended by Laws of Utah 2018, Chapter 145
58-37-19, as enacted by Laws of Utah 2019, Chapter 130

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37-7 is amended to read:

58-37-7. Labeling and packaging controlled substance -- Informational pamphlet for opiates -- Naloxone education and offer to dispense.

(1) A person licensed pursuant to this act may not distribute a controlled substance unless it is packaged and labeled in compliance with the requirements of Section 305 of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(2) No person except a pharmacist for the purpose of filling a prescription shall alter, deface, or remove any label affixed by the manufacturer.

(3) Whenever a [~~pharmacist~~] pharmacy sells or dispenses any controlled substance on a prescription issued by a practitioner, the [~~pharmacist~~] pharmacy shall affix to the container in which the substance is sold or dispensed:

(a) a label showing the:

(i) pharmacy name and address;

(ii) serial number; and

(iii) date of initial filling;

(b) the prescription number, the name of the patient, or if the patient is an animal, the name of the owner of the animal and the species of the animal;

(c) the name of the practitioner by whom the prescription was written;

(d) any directions stated on the prescription; and

(e) any directions required by rules and regulations promulgated by the department.

(4) Whenever a [~~pharmacist~~] pharmacy sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate, [~~a pharmacist~~] the pharmacy shall:

(a) affix a warning to the container or the lid for the container in which the substance is sold or dispensed that contains the following text:

[~~(a)~~] (i) "Caution: Opioid. Risk of overdose and addiction"; or

[~~(b)~~] (ii) any other language that is approved by the Department of Health[~~.~~] and Human Services;

(b) beginning January 1, 2024:

(i) offer to counsel the patient or the patient's representative on the use and availability of an opioid antagonist as defined in Section 26-55-102; and

(ii) offer to dispense an opioid antagonist as defined in Section 26-55-102 to the patient or the patient's representative, under a prescription from a practitioner or under Section 26-55-105, if the patient:

(A) receives a single prescription for 50 morphine milligram equivalents or more per day, calculated in accordance with guidelines developed by the United States Centers for Disease Control and Prevention;

(B) is being dispensed an opioid and the pharmacy dispensed a benzodiazepine to the patient in the previous 30 day period; or

(C) is being dispensed a benzodiazepine and the pharmacy dispensed an opioid to the patient in the previous 30 day period.

(5) (a) A [~~pharmacist~~] pharmacy who sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate shall, if available from the Department of Health and Human Services, prominently display at the point of sale the informational pamphlet developed by the Department of Health and Human Services under Section 26-55-109.

(b) The board and the Department of Health and Human Services shall encourage [~~pharmacists~~] pharmacies to use the informational pamphlet to engage in patient counseling regarding the risks associated with taking opiates.

(c) The requirement in Subsection (5)(a) does not apply to a [~~pharmacist if the pharmacist~~] pharmacy

if the pharmacy is unable to obtain the informational pamphlet from the Department of Health and Human Services for any reason.

(6) A person may not alter the face or remove any label so long as any of the original contents remain.

(7) (a) An individual to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner and the owner of any animal for which any controlled substance has been prescribed, sold, or dispensed by a veterinarian may lawfully possess it only in the container in which it was delivered to the individual by the person selling or dispensing it.

(b) It is a defense to a prosecution under this subsection that the person being prosecuted produces in court a valid prescription for the controlled substance or the original container with the label attached.

Section 2. Section 58-37-19 is amended to read:

58-37-19. Opiate prescription consultation -- Prescription for opioid antagonist required.

(1) As used in this section:

[~~(a) "Hospice" means the same as that term is defined in Section 26-21-2.~~]

[~~(b)~~] (a) "Initial opiate prescription" means a prescription for an opiate to a patient who:

(i) has never previously been issued a prescription for an opiate; or

(ii) was previously issued a prescription for an opiate, but the date on which the current prescription is being issued is more than one year after the date on which an opiate was previously prescribed or administered to the patient.

(b) "Opioid antagonist" means the same as that term is defined in Section 26-55-102.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under this chapter.

(2) Except as provided in Subsection (3), a prescriber may not issue an initial opiate prescription without discussing with the patient, or the patient's parent or guardian if the patient is under 18 years of age and is not an emancipated minor:

(a) the risks of addiction and overdose associated with opiate drugs;

(b) the dangers of taking opiates with alcohol, benzodiazepines, and other central nervous system depressants;

(c) the reasons why the prescription is necessary;

(d) alternative treatments that may be available; and

(e) other risks associated with the use of the drugs being prescribed.

(3) [~~This section~~] Subsection (2) does not apply to a prescription for:

(a) a patient who is currently in active treatment for cancer;

(b) a patient who is receiving hospice care from a licensed hospice as defined in Section 26-21-2; or

(c) a medication that is being prescribed to a patient for the treatment of the patient's substance abuse or opiate dependence.

(4) (a) Beginning January 1, 2024, a prescriber shall offer to prescribe or dispense an opioid antagonist to a patient if the patient receives an initial opiate prescription for:

(i) 50 morphine milligram equivalents or more per day, calculated in accordance with guidelines developed by the United States Centers for Disease Control and Prevention; or

(ii) any opiate if the practitioner is also prescribing a benzodiazepine to the patient.

(b) Subsection (4)(a) does not apply if the initial opiate prescription:

(i) is administered directly to an ultimate user by a licensed practitioner; or

(ii) is for a three-day supply or less.

(c) This Subsection (4) does not require a patient to purchase or obtain an opioid antagonist as a condition of receiving the patient's initial opiate prescription.

CHAPTER 286
H. B. 290
Passed February 28, 2023
Approved March 15, 2023
Effective July 1, 2023

MEDICAID WAIVER FOR MEDICALLY COMPLEX CHILDREN AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Medicaid waiver program for children with disabilities and complex medical conditions.

Highlighted Provisions:

This bill:

- amends the Medicaid waiver program for children with disabilities and complex medical conditions.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Health and Human Services – Integrated Health Care Services, Medicaid Home and Community Based Services, as an ongoing appropriation:
  - from the General Fund, $901,100;
- to the Department of Health and Human Services – Health Care Administration, Integrated Health Care Administration, as an ongoing appropriation:
  - from the General Fund, $94,200; and
- to the Department of Workforce Services – Operations and Policy, Eligibility Services, as an ongoing appropriation:
  - from the General Fund, $4,700.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-18-410, as last amended by Laws of Utah 2022, Chapter 226

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-410 is amended to read:

26-18-410. Medicaid waiver for children with disabilities and complex medical needs.

(1) As used in this section:

(a) "Additional eligibility criteria" means the additional eligibility criteria set by the department under Subsection (4)(e).

(b) "Complex medical condition" means a physical condition of an individual that:

(i) results in severe functional limitations for the individual; and

(ii) is likely to:

(A) last at least 12 months; or

(B) result in death.

(c) "Program" means the program for children with complex medical conditions created in Subsection (3).

(d) "Qualified child" means a child who:

(i) is less than 19 years old;

(ii) is diagnosed with a complex medical condition;

(iii) has a condition that meets the definition of disability in 42 U.S.C. Sec. 12102; and

(iv) meets the additional eligibility criteria.

(2) The department shall apply for a Medicaid home and community-based waiver with CMS to implement, within the state Medicaid program, the program described in Subsection (3).

(3) If the waiver described in Subsection (2) is approved, the department shall offer a program that:

(a) as funding permits, provides treatment for qualified children;

[~~(b) if approved by CMS and as funding permits, beginning in fiscal year 2023 provides on an ongoing basis treatment for 130 more qualified children than the program provided treatment for during fiscal year 2022; and~~]

[~~(c)~~] (b) accepts applications for the program on an ongoing basis[~~.~~];

[~~(i)~~] (c) requires periodic reevaluations of an enrolled child's eligibility and other applicants or eligible children waiting for services in the program based on the additional eligibility criteria; and

[~~(ii)~~] (d) at the time of reevaluation, allows the department to disenroll a child [~~based on the prioritization described in Subsection (4)(a) and additional eligibility criteria~~] if the child is no longer a qualified child.

(4) The department shall:

(a) establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, criteria to prioritize qualified children's participation in the program based on the following factors, in the following priority order:

(i) the complexity of a qualified child's medical condition; and

(ii) the financial needs of the qualified child and the qualified child's family;

(b) convene a public process to determine the benefits and services to offer a qualified child under the program;

(c) evaluate, on an ongoing basis, the cost and effectiveness of the program;

(d) if funding for the program is reduced, develop an evaluation process to reduce the number of children served based on the participation criteria established under Subsection (4)(a); and

(e) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, additional eligibility criteria based on the factors described in Subsections (4)(a)(i) and (ii).

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Department of Health and Human Services -- Integrated Health Care Services

From General Fund 901,100

Schedule of Programs:

Medicaid Home and Community Based Services 901,100

The Legislature intends that the Department of Health and Human Services use the appropriation under this item to add children to the Medicaid wavier described in Section 26-18-410.

ITEM 2

To the Department of Health and Human Services -- Health Care Administration

From General Fund 94,200

Schedule of Programs:

Integrated Health Care Administration 94,200

The Legislature intends that the Department of Health and Human Services use the appropriation under this item to add children to the Medicaid wavier described in Section 26-18-410.

ITEM 3

To the Department of Workforce Services -- Operations and Policy

From General Fund 4,700

Schedule of Programs:

Eligibility Services 4,700

The Legislature intends that the Department of Workforce Services use the appropriation under this item to add children to the Medicaid wavier described in Section 26-18-410.

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 287
H. B. 312
Passed March 2, 2023
Approved March 15, 2023
Effective May 3, 2023

PATIENT MEDICAL RECORD ACCESS AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies the fee a person may charge for providing medical records if the medical records are not provided in a certain amount of time.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the fee an entity may charge for providing medical records if the medical records are not provided in a certain amount of time;
- requires the Division of Professional Licensing to maintain an index of third party services that provide medical records on behalf of health care providers; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-5-618, as last amended by Laws of Utah 2022, Chapter 327

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-5-618 is amended to read:

78B-5-618. Patient access to medical records -- Third-party access to medical records -- Medical records services -- Fees -- Standard form.

(1) As used in this section:

(a) "Force majeure event" means an event or circumstance beyond the control of the health care provider or the health care provider's third-party service, including fires, floods, earthquakes, acts of God, lockouts, ransomware, or strikes.

(b) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(c) "History of poor payment" means three or more invoices where payment is more than 30 days late within a 12-month period.

[~~(b)~~] (d) "Indigent individual" means an individual whose household income is at or below 100% of the federal poverty level as defined in Section 26-18-3.9.

[~~(c)~~] (e) "Inflation" means the unadjusted Consumer Price Index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers.

[~~(d)~~] (f) "Qualified claim or appeal" means a claim or appeal under any:

(i) provision of the Social Security Act as defined in Section 67-11-2; or

(ii) federal or state financial needs-based benefit program.

(g) "Third-party service" means a service that has entered into a contract with a health care provider to provide patient records on behalf of a health care provider.

(2) Pursuant to Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records from a health care provider when that health care provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.

(3) When a health care provider is not governed by Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records unless access to the records is restricted by law or judicial order.

(4) A health care provider who provides a paper or electronic copy of a patient's records to the patient or the patient's personal representative:

(a) shall provide the copy within the deadlines required by the Health Insurance Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec. 164.524(b); and

(b) may charge a reasonable cost-based fee provided that the fee includes only the cost of:

(i) copying, including the cost of supplies for and labor of copying; and

(ii) postage, when the patient or patient's personal representative has requested the copy be mailed.

(5) (a) Except for records provided [~~by a health care provider~~] under Section 26-1-37, a health care provider [~~who~~] or a health care provider's third-party service that provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:

[~~(a)~~] (i) shall provide the copy within 30 days after receipt of notice; [~~and~~]

[~~(b)~~] (ii) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:

[~~(i)~~] (A) $30 per request for locating a patient's records;

[~~(ii)~~] (B) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;

[~~(iii)~~] (C) the cost of postage when the requester has requested the copy be mailed;

[~~(iv)~~] (D) if requested, the [~~health care provider~~] person fulfilling the request will certify the record as a duplicate of the original for a fee of $20; and

[~~(v)~~] (E) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act[~~.~~]; and

(iii) may charge an expedition fee of $20 if:

(A) the requester's notice explicitly requests an expedited response; and

(B) the person fulfilling the request postmarks or otherwise makes the record available electronically within 15 days from the day the person fulfilling the request receives notice of the request.

(b) Notwithstanding the provisions of Subsection (5)(a)(ii) and subject to Subsection (5)(c), in the event the requested records are not postmarked or otherwise made available electronically by the person fulfilling the request:

(i) within 30 days after the day on which notice is received by the person fulfilling the request, the person fulfilling the request shall waive 50% of the fee; or

(ii) within 60 days after the day on which notice is received by the person fulfilling the request, the person fulfilling the request shall provide the requested records free of charge to the requester.

(c) Performance under Subsection (5)(b) shall be extended in accordance with Subsection (5)(d) if the person fulfilling the request notifies the requester of:

(i) the occurrence of a force majeure event within 10 days from the day:

(A) the force majeure event occurs; or

(B) the person fulfilling the request receives notice of the request; and

(ii) the termination of the force majeure event within 10 days from the day the force majeure event terminates.

(d) In accordance with Subsection (5)(c), for a force majeure event:

(i) that lasts less than eight days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:

(A) 30 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and

(B) 60 days of the day the force majeure event ends, waive the entire fee for providing the records;

(ii) that lasts at least eight days but less than 30 days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:

(A) 60 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and

(B) 90 days of the day the force majeure event ends, waive the entire fee for providing the records; and

(iii) that lasts more than 30 days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:

(A) 90 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and

(B) 120 days of the day the force majeure event ends, waive the entire fee for providing the records.

(e) (i) A third-party service may require prepayment before sending records for a request under this Subsection (5) if the third-party service:

(A) determines the requester has a history of poor payment; and

(B) notifies the requester, within the time periods described in Subsection (5)(b)(i) and (ii), that the records will be sent as soon as the request has been prepaid.

(ii) The fee reductions described in Subsection (5)(d) do not apply if a third-party service complies with Subsection (5)(e)(i).

(f) If a third-party service does not possess or have access to the data necessary to fulfill a request, the third-party service shall notify:

(i) the requester that the request cannot be fulfilled; and

(ii) state the reasons for the third-party service's inability to fulfill the request within 30 days from the day on which the request is received by the third-party service.

(g) A patient's attorney, legal representative, or other third party authorized to receive records may request patient records directly from a third-party service.

[~~(6) Except for records provided under Section 26-1-37, a contracted third party service that provides medical records, other than a health care provider under Subsections (4) and (5), who provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:~~]

[~~(a) shall provide the copy within 30 days after the request; and~~]

[~~(b) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:~~]

[~~(i) $30 per request for locating a patient's records;~~]

[~~(ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;~~]

[~~(iii) the cost of postage when the requester has requested the copy be mailed;~~]

[~~(iv) if requested, the health care provider or the health care provider's contracted third party service will certify the record as a duplicate of the original for a fee of $20; and~~]

[~~(v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.~~]

(6) (a) A health care provider that contracts with a third-party service to fulfill the health care provider's medical record requests shall file a statement with the Division of Professional Licensing containing:

(i) the name of the third-party service;

(ii) the phone number of the third-party service; and

(iii) the fax number, email address, website portal address, if applicable, and mailing address for the third-party service where medical record requests can be sent for fulfillment.

(b) A health care provider described in Subsection (6)(a) shall update the filing described in Subsection (6)(a) as necessary to ensure that the information is accurate.

(c) The Division of Professional Licensing shall develop a form for a health care provider to complete that provides the information required by Subsection (6)(a).

(d) The Division of Professional Licensing shall:

(i) maintain an index of statements described in Subsection (6)(a) arranged alphabetically by entity; and

(ii) make the index available to the public electronically on the Division of Professional Licensing's website.

(7) A health care provider or the health care provider's [~~contracted third party~~] third-party service shall deliver the medical records in the electronic medium customarily used by the [~~health care provider or the health care provider's contracted third party service~~] person fulfilling the request or in a universally readable image such as portable document format:

(a) if the patient, patient's personal representative, or a third party authorized to receive the records requests the records be delivered in an electronic medium; and

(b) the original medical record is readily producible in an electronic medium.

(8) (a) Except as provided in Subsections (8)(b) [~~and (c),~~] through (d), the per page fee in Subsections (4)[~~, (5), and (6)~~] and (5) applies to medical records reproduced electronically or on paper.

(b) The per page fee for producing a copy of records in an electronic medium shall be 50% of the per page fee otherwise provided in this section, regardless of whether the original medical records are stored in electronic format.

(c) (i) A health care provider or a health care provider's [~~contracted third party~~] third-party service shall deliver the medical records in the electronic medium customarily used by the health care provider or the health care provider's [~~contracted third party~~] third-party service or in a universally readable image, such as portable document format, if the patient, patient's personal representative, patient's attorney, legal representative, or a third party authorized to receive the records, requests the records be delivered in an electronic medium.

(ii) [~~An entity providing requested information~~] A person fulfilling the request under Subsection (8)(c)(i):

(A) shall provide the requested information within 30 days; and

(B) may not charge a fee for the electronic copy that exceeds $150 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format.

(d) Subject to Subsection (8)(e), in the event the requested records under Subsection (8)(c)(i) are not postmarked or otherwise made available electronically by the person fulfilling the request:

(i) within 30 days after the day notice is received by the person fulfilling the request, the person fulfilling the request may not charge a fee for the electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; or

(ii) within 60 days after the day notice is received by the person fulfilling the request, the person fulfilling the request shall provide the requested records free of charge to the requester.

(e) Performance under Subsection (8)(d) shall be extended in accordance with Subsection (8)(f) if the person fulfilling the request notifies the requester of:

(i) the occurrence of a force majeure event within 10 days from the day:

(A) the force majeure event occurs; or

(B) the person fulfilling the request receives notice of the request; and

(ii) the termination of the force majeure event within 10 days from the day the force majeure event terminates.

(f) In accordance with Subsection (8)(e), for a force majeure event:

(i) that lasts less than eight days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 30 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages

and regardless of whether the original medical records are stored in electronic format; and

(B) 60 days of the day the force majeure event ends, shall waive the entire fee for providing the records;

(ii) that lasts at least eight days but less than 30 days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 60 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 90 days of the day the force majeure event ends, shall waive the entire fee for providing the records; and

(iii) that lasts more than 30 days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 90 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 120 days of the day the force majeure event ends, shall waive the entire fee for providing the records.

(9) (a) On January 1 of each year, the state treasurer shall adjust the following fees for inflation:

(i) the fee for providing patient's records under[:] Subsections (5)(a)(ii)(A) and (B); and

[~~(A) Subsections (5)(b)(i) through (ii); and~~]

[~~(B) Subsections (6)(b)(i) through (ii); and~~]

(ii) the maximum amount that may be charged for an electronic copy under Subsection (8)(c)(ii)(B).

(b) On or before January 30 of each year, the state treasurer shall:

(i) certify the inflation-adjusted fees and maximum amounts calculated under this section; and

(ii) notify the Administrative Office of the Courts of the information described in Subsection (9)(b)(i) for posting on the court's website.

(10) Notwithstanding Subsections (4) through (6), if a request for a medical record is accompanied by documentation of a qualified claim or appeal, a health care provider or the health care provider's [~~contracted third party~~] third-party service:

(a) may not charge a fee for the first copy of the record for each date of service that is necessary to support the qualified claim or appeal in each calendar year;

(b) for a second or subsequent copy in a calendar year of a date of service that is necessary to support the qualified claim or appeal, may charge a reasonable fee that may not:

(i) exceed 60 cents per page for paper photocopies;

(ii) exceed a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes;

(iii) include an administrative fee or additional service fee related to the production of the medical record; or

(iv) exceed the fee provisions for an electronic copy under Subsection (8)(c); and

(c) shall provide the health record within 30 days after the day on which the request is received by the health care provider.

(11) (a) Except as otherwise provided in Subsections (4) through (6), a health care provider or the health care provider's [~~contracted third party~~] third-party service shall waive all fees under this section for an indigent individual.

(b) A health care provider or the health care provider's [~~contracted third party~~] third-party service may require the indigent individual or the indigent individual's authorized representative to provide proof that the individual is an indigent individual by executing an affidavit.

(c) (i) An indigent individual that receives copies of a medical record at no charge under this Subsection (11) is limited to one copy for each date of service for each health care provider, or the health care provider's [~~contracted third party~~] third-party service, in each calendar year.

(ii) Any request for additional copies in addition to the one copy allowed under Subsection (11)(c) is subject to the fee provisions described in Subsection (10).

(12) By January 1, 2023, a health care provider and all of the health care provider's contracted third party health related services shall accept a properly executed form described in Title 26, Chapter 70, Standard Health Record Access Form.

CHAPTER 288
H. B. 315
Passed February 23, 2023
Approved March 15, 2023
Effective May 3, 2023

RECREATIONAL THERAPY MEDICAID COVERAGE AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts provisions relating to recreational therapy coverage under Medicaid.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the Department of Health and Human Services to apply for a Medicaid waiver or state plan amendment to expand coverage for recreational therapy services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-18-430, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-430 is enacted to read:

26-18-430 (Codified as 26B-3-227). Recreational therapy -- Reimbursement.

(1) As used in this section:

(a) "Assisted living facility" means the same as that term is defined in Section 26-21-2.

(b) "Behavioral health program" means a behavioral health program described in Title 62A, Chapter 15, Substance Abuse and Mental Health Act.

(c) "General acute hospital" means the same as that term is defined in Section 26-21-2.

(d) "Intermediate care facility" means the same as that term is defined in Section 58-15-101.

(e) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(f) "Qualified enrollee" means an individual who:

(i) is enrolled in the Medicaid program; and

(ii) has been referred for recreational therapy services by a mental health therapist.

(g) "Recreational therapy services" means the same as that term is defined in Section 58-40-102.

(h) "Skilled nursing facility" means the same as that term is defined in Section 58-15-101.

(i) "Youth residential treatment facility" means a facility that provides a 24-hour group living environment for four or more individuals who are under 18 years old and who are unrelated to the owner or provider of the facility.

(2) Before January 1, 2024, the department shall apply for a Medicaid waiver or a state plan with CMS to allow for reimbursement for recreational therapy services provided:

(a) to a qualified enrollee;

(b) by an individual authorized to engage in the practice of recreational therapy under Title 58, Chapter 40, Recreational Therapy Practice Act; and

(c) at a:

(i) general acute hospital;

(ii) youth residential treatment facility;

(iii) behavioral health program;

(iv) intermediate care facility;

(v) assisted living facility;

(vi) skilled nursing facility;

(vii) psychiatric hospital; or

(viii) mental health agency.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the Medicaid program shall provide coverage to a qualified enrollee for recreational therapy services.

CHAPTER 289
H. B. 350
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

ADOPTION MODIFICATIONS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to adoption.

Highlighted Provisions:

This bill:

- requires a clerk of the court to provide a report of adoption, upon request, to an attorney or child-placing agency in certain circumstances;
- amends the circumstances under which the consent of an unmarried biological father is required in relation to the adoption of a child;
- clarifies who must sign an affidavit of fees or expenses filed with the court before a final decree of adoption is entered; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-2-25, as last amended by Laws of Utah 2021, Chapter 65
78B-6-122, as last amended by Laws of Utah 2013, Chapter 474
78B-6-140, as last amended by Laws of Utah 2021, Chapter 65

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-2-25 is amended to read:

26-2-25. Divorce or adoption -- Duty of court clerk to file certificates or reports.

(1) For each adoption, annulment of adoption, divorce, and annulment of marriage ordered or decreed in this state, the clerk of the court shall prepare a divorce certificate or report of adoption on a form furnished by the state registrar or, for a report of adoption, the state of the child's birth.

(2) The petitioner shall provide the clerk of the court with the information necessary to prepare the certificate or report under Subsection (1), including the form furnished by the child's state of birth if the child was born in another state.

(3) The clerk shall:

(a) prepare the certificate or report under Subsection (1); and

(b) complete the remaining entries for the certificate or report immediately after the decree or order becomes final.

(4) On or before the 15th day of each month, the clerk shall forward the divorce certificates and reports of adoption under Subsection (1) completed by the clerk during the preceding month to the state registrar, except for reports of adoption provided to an attorney or child-placing agency under Subsection (5)(b).

(5) (a) [~~A~~] In addition to the report of adoption that the clerk forwards to the state registrar under Subsection (4), the clerk shall also provide an original report of adoption under Subsection (1) [~~may be provided~~], upon request, to the attorney who is providing representation of a party to the adoption, or the child-placing agency, as defined in Section 78B-6-103, that is placing the child.

(b) If the child was born in another state, the clerk of court shall prepare and provide one original report of adoption, upon request, to the attorney who is providing representation of a party to the adoption, or the child-placing agency that is placing the child, and the attorney or child-placing agency shall be responsible for submitting the report to the state of the child's birth.

(c) If the attorney or child-placing agency does not request an original report of adoption under Subsection (5)(a) or (b), the clerk shall forward the report of adoption to the state registrar pursuant to Subsection (4).

[~~(b)~~] (d) [~~If a~~] If, pursuant to Subsection (5)(a), an original report of adoption is provided to the attorney or the child-placing agency, as defined in Section 78B-6-103, the attorney or the child-placing agency shall immediately provide the report of adoption to the state registrar.

Section 2. Section 78B-6-122 is amended to read:

78B-6-122. Qualifying circumstance.

(1) (a) For purposes of this section, "qualifying circumstance" means that, at any point during the time period beginning at the conception of the child and ending at the time the mother executed a consent to adoption or relinquishment of the child for adoption:

(i) the child or the child's mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state;

(ii) the mother intended to give birth to the child in the state;

(iii) the child was born in the state; or

(iv) the mother intended to execute a consent to adoption or relinquishment of the child for adoption:

(A) in the state; or

(B) under the laws of the state.

(b) For purposes of Subsection (1)(c)(i)(C) only, when determining whether an unmarried biological father has demonstrated a full commitment to his parental responsibilities, a court shall consider the totality of the circumstances, including, if applicable:

(i) efforts he has taken to discover the location of the child or the child's mother;

(ii) whether he has expressed [~~or~~] and demonstrated an interest in taking responsibility for the child;

(iii) whether, and to what extent, he has developed, or attempted to develop, a relationship with the child;

(iv) whether he offered to provide and, [~~if~~] unless the offer was [~~accepted~~] rejected, did provide, financial support for the child or the child's mother;

(v) whether, and to what extent, he has communicated, or attempted to communicate, with the child or the child's mother;

(vi) whether he has timely filed legal proceedings to establish his paternity of, and take responsibility for, the child;

(vii) whether he has timely filed a notice with a public official or agency relating to:

(A) his paternity of the child; or

(B) legal proceedings to establish his paternity of the child; or

(viii) other evidence that [~~demonstrates that~~] shows whether he has demonstrated a full commitment to his parental responsibilities.

(c) Notwithstanding the provisions of Section 78B-6-121, the consent of an unmarried biological father is required with respect to an adoptee who is under the age of 18 if:

(i) (A) the unmarried biological father did not know, and through the exercise of reasonable diligence could not have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed;

(B) before the mother executed a consent to adoption or relinquishment of the child for adoption, the unmarried biological father fully complied with the requirements to establish parental rights in the child, and to preserve the right to notice of a proceeding in connection with the adoption of the child, imposed by:

(I) the last state where the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that the mother resided in before the mother executed the consent to adoption or relinquishment of the child for adoption; or

(II) the state where the child was conceived; and

(C) the unmarried biological father has demonstrated, based on the totality of the circumstances, a full commitment to his parental responsibilities, as described in Subsection (1)(b); or

(ii) (A) the unmarried biological father knew, or through the exercise of reasonable diligence should have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed; and

(B) the unmarried biological father complied with the requirements of Section 78B-6-121 before the later of:

(I) 20 days after the day that the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that a qualifying circumstance existed; or

(II) the time that the mother executed a consent to adoption or relinquishment of the child for adoption.

(2) An unmarried biological father who does not fully and strictly comply with the requirements of Section 78B-6-121 and this section is considered to have waived and surrendered any right in relation to the child, including the right to:

(a) notice of any judicial proceeding in connection with the adoption of the child; and

(b) consent, or refuse to consent, to the adoption of the child.

Section 3. Section 78B-6-140 is amended to read:

78B-6-140. Itemization of fees and expenses.

(1) Except as provided in Subsection (4), before the date that a final decree of adoption is entered, an affidavit regarding fees and expenses, signed by the prospective adoptive parent or parents and, if the child was placed by a child-placing agency, the [~~person or~~] agency placing the child, shall be filed with the court.

(2) The affidavit described in Subsection (1) shall itemize the following items in connection with the adoption:

(a) all legal expenses, maternity expenses, medical or hospital expenses, and living expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(b) fees paid by the prospective adoptive parent or parents in connection with the adoption;

(c) all gifts, property, or other items that have been or will be provided to the preexisting parents, including the source of the gifts, property, or other items;

(d) all public funds used for any medical or hospital costs in connection with the:

(i) pregnancy;

(ii) delivery of the child; or

(iii) care of the child;

(e) the state of residence of the:

(i) birth mother or the preexisting parents; and

(ii) prospective adoptive parent or parents;

(f) a description of services provided to the prospective adoptive parents or preexisting parents in connection with the adoption; and

(g) that Section 76-7-203 has not been violated.

(3) If a child-placing agency, that is licensed by this state, placed the child, a copy of the affidavit described in Subsection (1) shall be provided to the Office of Licensing within the Department of Health and Human Services.

(4) This section does not apply if the prospective adoptive parent is the legal spouse of a preexisting parent.

CHAPTER 290
H. B. 377
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

PRISON HEALTH CARE SERVICES RETIREMENT AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies membership provisions of the public safety retirement systems to include certain employees of the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- provides the circumstances under which an employee who was employed by the Department of Corrections and now is an employee of the Department of Health and Human Services shall continue to earn public safety service credit in the public safety retirement systems; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-14-201, as last amended by Laws of Utah 2022, Chapter 171
49-15-201, as last amended by Laws of Utah 2022, Chapter 171
49-23-201, as last amended by Laws of Utah 2022, Chapter 171

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-14-201 is amended to read:

49-14-201. System membership -- Eligibility.

(1) Except as provided in Section 49-15-201, a public safety service employee of a participating employer participating in this system is eligible for service credit in this system at the earliest of:

(a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the public safety service employee was employed by the participating employer on that date; or

(c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system before July 1, 1989.

(iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this

system during the period for which service credit is to be granted.

(5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(7) A public safety employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.

(8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system before July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(9) An employee of the Department of Health and Human Services who is transferred from the Department of Corrections' clinical services bureau to provide a clinical or health care service to an inmate as defined in Section 64-13-1 shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections or the Department of Health and Human Services;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system before July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

[~~(9)~~] (10) An employee who is reassigned to the Division of Technology Services or to the Division of Human Resource Management, and who was a member of this system, is entitled to remain a member of this system.

[~~(10)~~] (11) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection [~~(10)(a)~~] (11)(a), the office and the Peace Officer Standards and Training Council shall consider whether or not the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

[~~(11)~~] (12) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection [~~(10)~~] (11) in making the subcommittee's recommendation.

[~~(12)~~] (13) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

[~~(13)~~] (14) Except as provided under Subsection [~~(14)~~] (15), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

[~~(14)~~] (15) (a) A public safety service employee employed by an airport police department, which elects to cover the airport police department's public safety service employees under the Public Safety Noncontributory Retirement System under Subsection [~~(13)~~] (14), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection [~~(14)(a)~~] (15)(a):

(i) shall be made at the time the employer elects to move the employer's public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

[~~(15)~~] (16) (a) Subject to Subsection [~~(16)~~] (17), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover the participating employer's dispatchers under this system.

(b) A participating employer's election to cover the participating employer's dispatchers under this system under Subsection [~~(15)(a)(ii)~~] (16)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection [~~(15)(b)~~] (16)(b), is not eligible for service credit in this system.

[~~(16)~~] (17) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 2. Section 49-15-201 is amended to read:

49-15-201. System membership -- Eligibility.

(1) (a) A public safety service employee employed by the state after July 1, 1989, but before July 1, 2011, is eligible for service credit in this system.

(b) A public safety service employee employed by the state before July 1, 1989, may either elect to receive service credit in this system or continue to receive service credit under the system established under Chapter 14, Public Safety Contributory Retirement Act, by following the procedures established by the board under this chapter.

(2) (a) Public safety service employees of a participating employer other than the state that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System shall be eligible only for service credit in that system.

(b) (i) A participating employer other than the state that elected on or before July 1, 1989, to participate in this system shall, have allowed, before July 1, 1989, a public safety service employee to elect to participate in either this system or the Public Safety Contributory Retirement System.

(ii) Except as expressly allowed by this title, the election of the public safety service employee is final and may not be changed.

(c) A public safety service employee hired by a participating employer other than the state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

(d) A public safety service employee of a participating employer other than the state who began participation in this system after July 1, 1989, but before July 1, 2011, is only eligible for service credit in this system.

(e) A person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(3) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(4) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(5) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system before July 1, 1989.

(iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer Standards

and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(6) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(7) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(8) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.

(9) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system before July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(10) An employee of the Department of Health and Human Services who is transferred from the Department of Corrections' clinical services bureau to provide a clinical or health care service to an inmate as defined in Section 64-13-1 shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections or the Department of Health and Human Services;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system before July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

[~~(10)~~] (11) Any employee who is reassigned to the Division of Technology Services or to the Division of Human Resource Management, and who was a member in this system, shall be entitled to remain a member in this system.

[~~(11)~~] (12) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection [~~(11)(a)~~] (12)(a), the office and Peace Officer Standards and Training Council shall consider whether the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

[~~(12)~~] (13) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection [~~(11)~~] (12) in making the subcommittee's recommendation.

[~~(13)~~] (14) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

[~~(14)~~] (15) Except as provided under Subsection [~~(15)~~] (16), if a participating employer's public safety service employees are not covered by this system or under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

[~~(15)~~] (16) (a) A public safety service employee employed by an airport police department, which

elects to cover the airport police department's public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (14), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection [~~(15)(a)~~] (16)(a):

(i) shall be made at the time the employer elects to move the employer's public safety service employees to a public safety retirement system;

(ii) shall be documented by written notice to the participating employer; and

(iii) is irrevocable.

[~~(16)~~] (17) (a) Subject to Subsection [~~(17)~~] (18), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover the participating employer's dispatchers under this system.

(b) A participating employer's election to cover the participating employer's dispatchers under this system under Subsection [~~(16)(a)(ii)~~] (17)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection [~~(16)(b)~~] (17)(b), is not eligible for service credit in this system.

[~~(17)~~] (18) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 3. Section 49-23-201 is amended to read:

49-23-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer that employs public safety service employees or firefighter service employees shall participate in this system.

(2) (a) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contributions plan established by Part 4, Tier II Defined Contribution Plan.

(b) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter:

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a public safety service employee or firefighter service employee initially entering employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the public safety service employee or firefighter service employee shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

(3) (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover the participating employer's dispatchers under this system.

(b) A participating employer's election to cover the participating employer's dispatchers under this system under Subsection (3)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (3)(b), is not eligible for service credit in this system.

(4) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that

consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.

(5) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system before July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(6) An employee of the Department of Health and Human Services who is transferred from the Department of Corrections' clinical services bureau to provide a clinical or health care service to an inmate as defined in Section 64-13-1 shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections or the Department of Health and Human Services;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system before July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

CHAPTER 291
H. B. 414
Passed March 3, 2023
Approved March 15, 2023
Effective March 15, 2023

RECORDS MANAGEMENT AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions relating to the management of certain records.

Highlighted Provisions:

This bill:

- modifies provisions relating to the purposes and duties of the State Library Division;
- includes the Utah Code, the Laws of Utah, and biennial versions of the Utah Constitution within the digital library that the State Library Division is required to publish;
- requires the Office of Legislative Research and General Counsel to deposit digital copies of those publications with the State Library Division;
- provides for the Office of Legislative Research and General Counsel to be the repository and custodian of the official version of the Utah Constitution database, to update the constitution database as amendments are passed, and to maintain the bold face descriptive titles to sections of the Utah Constitution;
- modifies provisions relating to the Office of Legislative Research and General Counsel's management of certain legislative records;
- eliminates the responsibility of the Office of Legislative Research and General Counsel to maintain a legislative research library;
- modifies duties of and other provisions relating to the state archivist;
- requires the state archivist to retain and preserve certain legislative records;
- provides for the transmission of certain legislative records to the state archivist for retention and preservation; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

9-7-101, as last amended by Laws of Utah 2019, Chapter 221
9-7-201, as renumbered and amended by Laws of Utah 1992, Chapter 241
9-7-203, as last amended by Laws of Utah 2017, Chapter 48
9-7-205, as last amended by Laws of Utah 2017, Chapter 48
9-7-207, as last amended by Laws of Utah 2006, Chapter 81
9-7-208, as repealed and reenacted by Laws of Utah 2006, Chapter 81
36-12-12, as last amended by Laws of Utah 2003, Chapter 92
63A-12-102, as last amended by Laws of Utah 2021, Chapter 344
63G-2-703, as last amended by Laws of Utah 2015, Chapter 258

ENACTS:

63A-12-102.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-7-101 is amended to read:

9-7-101. Definitions.

As used in this chapter:

(1) "Board" means the State Library Board created in Section 9-7-204.

(2) "Division" means the State Library Division.

(3) "Legislative staff office" means the Office of Legislative Research and General Counsel.

(4) "Legislative publication" means:

(a) the Utah Code after the legislative staff office prepares an updated Utah Code database incorporating amendments to the Utah Code;

(b) the Laws of Utah; and

(c) the Utah Constitution after the legislative staff office incorporates into the Utah Constitution amendments to the Utah Constitution that passed during the preceding regular general election.

[~~(3)~~] (5) "Library board" means the library board of directors appointed locally as authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which the board is known locally.

[~~(4)~~] (6) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.

[~~(5)~~] (7) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section 9-7-215.

[~~(6)~~] (8) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.

[~~(7)~~] (9) "State agency" means:

(a) the state; or

(b) an office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

[~~(8)~~] (10) (a) "State publication" means a book, compilation, directory, document, contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register, rule, report, statute, audiovisual material, electronic

publication, micrographic form and tape or disc recording regardless of format or method of reproduction, issued or published by a state agency or political subdivision for distribution.

(b) "State publication" does not include correspondence, internal confidential publications, office memoranda, university press publications, or publications of the state historical society.

Section 2. Section 9-7-201 is amended to read:

9-7-201. State Library Division -- Creation -- Purpose.

(1) There is created within the department the State Library Division under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall be under the policy direction of the board.

(3) The division shall function as the library authority for the state and is responsible for:

(a) general library services[,];

(b) extension services[,];

(c) publishing legislative publications, as provided in this part, that the legislative staff office deposits with the division;

(d) the preservation, distribution and exchange of state publications[,];

(e) legislative reference[,]; and

(f) other services considered proper for a state library.

Section 3. Section 9-7-203 is amended to read:

9-7-203. Division duties.

The division shall:

(1) establish, operate, and maintain a state publications collection, a digital library of state publications and legislative publications, a bibliographic control system, and depositories as provided in this part;

(2) cooperate with:

(a) other agencies to facilitate public access to government information through electronic networks or other means;

(b) other state or national libraries or library agencies; and

(c) the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;

(3) receive bequests, gifts, and endowments of money and deposit the funds with the state treasurer to be placed in the State Library Donation Fund, which funds shall be held for the purpose, if any, specifically directed by the donor; and

(4) receive bequests, gifts, and endowments of property to be held, used, or disposed of, as directed by the donor, with the approval of the Division of Finance.

Section 4. Section 9-7-205 is amended to read:

9-7-205. Duties of board and director.

(1) The board shall:

(a) promote, develop, and organize a state library and make provisions for its housing;

(b) promote and develop library services throughout the state in cooperation with other state or municipal libraries, schools, or other agencies wherever practical;

(c) promote the establishment of district, regional, or multicounty libraries as conditions within particular areas of the state may require;

(d) supervise the books and materials of the state library and require the keeping of careful and complete records of the condition and affairs of the state library;

(e) establish policies for the administration of the division and for the control, distribution, and lending of books and materials to those libraries, institutions, groups, or individuals entitled to them under this chapter;

(f) serve as the agency of the state for the administration of state or federal funds that may be appropriated to further library development within the state;

(g) aid and provide general advisory assistance in the development of statewide school library service and encourage contractual and cooperative relations between school and public libraries;

(h) give assistance, advice, and counsel to all tax-supported libraries within the state and to all communities or persons proposing to establish a tax-supported library and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;

(i) furnish or contract for the furnishing of library or information service to state officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;

(j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind, visually impaired, persons with disabilities, and professional, occupational, and other groups;

(k) administer a depository library program by collecting state publications and legislative publications, and providing a bibliographic information system;

(l) require the collection of information and statistics necessary to the work of the state library and the distribution of findings and reports;

(m) make any report concerning the activities of the state library to the governor as the governor may require; and

(n) develop standards for public libraries.

(2) The director shall, under the policy direction of the board, carry out the responsibilities under Subsection (1).

Section 5. Section 9-7-207 is amended to read:

9-7-207. Deposit of state publications and legislative publications.

(1) (a) (i) Each state agency and political subdivision publishing a digital version of a state publication shall deposit a digital copy with the division.

(ii) (A) Upon the legislative staff office's production of a legislative publication, the legislative staff office shall deposit with the division a digital copy of the legislative publication.

(B) The legislative staff office's deposit of a legislative publication with the division for the division to publish online, as provided in this part, is a method for the legislative staff office to comply with Section 46-5-108.

(b) Each state agency and political subdivision shall deposit with the division copies of each state publication that it elects to publish in a physical format in the numbers specified by the state librarian.

(c) The division shall forward two copies of each state publication published in a physical format deposited with it by a state agency to the Library of Congress, one copy to the state archivist, at least one copy to each depository library, and retain two copies.

(2) Each state agency or political subdivision shall deposit with the division a digital copy of each audio and video publication or recording issued by it for bibliographic listing and retention in the digital library.

(3) Each state agency or political subdivision shall deposit with the division copies of audio and video publications or recordings issued by it in physical formats in the numbers specified by the state librarian for bibliographic listing and retention in the state library collection.

(4) (a) The division shall publish or make available to the public through electronic networks a list of state agency publications.

(b) The list shall be published periodically and distributed to depository libraries and the state archivist.

(5) Materials the division considers not to be of major public interest will be listed, but no copies will be required for deposit.

Section 6. Section 9-7-208 is amended to read:

9-7-208. Digital library for permanent public access.

(1) The division shall manage and maintain an online, web-accessible digital library for state publications and legislative publications.

(2) The division shall provide for permanent public access to the publications in the digital library.

(3) The library shall be accessible by agency, author, title, subject, keyword, and such other means as provided by the division.

(4) (a) Each state agency publishing a digital version of a state publication shall deposit a digital copy of the publication with the division.

(b) A state agency may not remove a state publication it posts to its public website until a copy is deposited into the digital library for permanent public access.

Section 7. Section 36-12-12 is amended to read:

36-12-12. Office of Legislative Research and General Counsel -- Established -- Powers, functions, and duties -- Organization of office -- Selection of director and general counsel.

(1) There is established an Office of Legislative Research and General Counsel as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of Legislative Research and General Counsel under the supervision of the director shall be:

(a) to provide research and legal staff assistance to all standing, special, and interim committees as follows:

(i) to assist each committee chairman in planning the work of the committee;

(ii) to prepare and present research and legal information in accordance with committee instructions or instructions of the committee chairman;

(iii) to prepare progress reports of committee work when requested; and

(iv) to prepare a final committee report in accordance with committee instructions, that includes relevant research information, committee policy recommendations, and recommended legislation;

(b) to collect and examine the acts and official reports of any state and report their contents to any committee or member of the Legislature;

(c) to provide research and legal analysis services to any interim committee, legislative standing committee, or individual legislator on actual or proposed legislation or subjects of general legislative concern;

[~~(d) to maintain a legislative research library that provides analytical, statistical, legal, and~~

~~descriptive data relative to current and potential governmental and legislative subjects;~~]

[~~(e)~~] (d) (i) to exercise under the direction of the general counsel the constitutional authority provided in Article VI, Sec. 32, Utah Constitution, in serving as legal counsel to the Legislature, majority and minority leadership of the House or Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the Legislature's staff offices, or any of the legislative staff; and

(ii) to represent the Legislature, majority and minority leadership of the House or Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the Legislature's staff offices, or any of the legislative staff in cases and controversies before courts and administrative agencies and tribunals;

[~~(f)~~] (e) to prepare and assist in the preparation of legislative bills, resolutions, memorials, amendments, and other documents or instruments required in the legislative process and, under the direction of the general counsel, give advice and counsel regarding them to the Legislature, majority and minority leadership of the House or Senate, any of its members or members-elect, any of its committees or subcommittees, or the legislative staff;

[~~(g)~~] (f) under the direction of the general counsel, to review, examine, and correct any technical errors and approve legislation that has passed both houses in order to enroll the legislation and prepare the laws for publication;

[~~(h) to keep on file records concerning all legislation and proceedings of the Legislature with respect to legislation referred to in Subsection (2)(g);~~]

(g) (i) to exercise control over and to act as the repository and custodian of the official copy and database of the current version of the Utah Constitution;

(ii) to incorporate into the Utah Constitution any amendments to the Utah Constitution that pass during a regular general election; and

(iii) to update and maintain the bold face descriptive titles to sections of the Utah Constitution;

(h) (i) to exercise control over and to act as the repository and custodian of the official copy and database of the Utah Code; and

(ii) to keep the Utah Code database current, including updating the database to reflect any duly enacted legislation making changes to the Utah Code;

(i) to formulate recommendations for the revision, clarification, classification, arrangement, codification, annotation, and indexing of Utah statutes, and to develop proposed legislation to effectuate the recommendations;

(j) to appoint and develop a professional staff within budget limitations; and

(k) to prepare and submit the annual budget request for the Office of Legislative Research and General Counsel.

(3) The statutory authorization of the Office of Legislative Research and General Counsel to correct technical errors provided in Subsection [~~(2)(g)~~] (2)(f) includes:

(a) adopting a uniform system of punctuation, capitalization, numbering, and wording;

(b) eliminating duplication and the repeal of laws directly or by implication, including renumbering when necessary;

(c) correcting defective or inconsistent section and paragraph structure in the arrangement of the subject matter of existing statutes;

(d) eliminating all obsolete and redundant words;

(e) correcting obvious errors and inconsistencies including those involving punctuation, capitalization, cross references, numbering, and wording;

(f) changing the boldface to more accurately reflect the substance of each section, part, chapter, or title; and

(g) merging or determining priority of any amendments, enactments, or repealers to the same code provisions that are passed by the Legislature.

(4) In carrying out the duties provided for in this section, the director of the Office of Legislative Research and General Counsel may obtain access to all records, documents, and reports necessary to the scope of the director's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

(5) In organizing the management of the Office of Legislative Research and General Counsel, the Legislative Management Committee may either:

(a) select a person to serve as both the director of the office and as general counsel. In such case, the director of the office shall be a lawyer admitted to practice in Utah and shall have practical management experience or equivalent academic training; or

(b) select a person to serve as director of the office who would have general supervisory authority and select another person to serve as the legislative general counsel within the office. In such case, the director of the office shall have a master's degree in public or business administration, economics, or the equivalent in academic or practical experience and the legislative general counsel shall be a lawyer admitted to practice in Utah.

Section 8. Section 63A-12-102 is amended to read:

63A-12-102. State archivist -- Duties.

(1) (a) With the approval of the governor, the executive director shall appoint the state archivist to serve as director of the state archives.

(b) The state archivist shall be qualified by archival training, education, and experience.

(2) The state archivist is charged with [~~custody of the following~~]:

(a) the custody and permanent retention and preservation of:

[~~(a)~~] (i) the enrolled copy of the original 1895 Utah [~~constitution~~] Constitution;

[~~(b) the acts and resolutions passed by the Legislature;~~]

[~~(c) all records kept or deposited with the state archivist as provided by law;~~]

[~~(d) the journals of the Legislature and all bills, resolutions, memorials, petitions, and claims introduced in the Senate or the House of Representatives;~~]

[~~(e)~~] (ii) Indian war records; [~~and~~]

[~~(f)~~] (iii) oaths of office of all state officials[~~.~~], including legislative officials, required under Article IV, Section 10 of the Utah Constitution to take an oath of office;

(iv) all other records, excluding legislative records described in Section 63A-12-102.5, kept by or deposited with the state archivist for permanent preservation as provided by law; and

(b) the retention and preservation of legislative records, as provided in Section 63A-12-102.5.

(3) (a) The state archivist is the official custodian of all noncurrent records of permanent or historic value that are not required by law to remain in the custody of the originating governmental entity.

(b) Upon the termination of any governmental entity, its records shall be transferred to the state archives.

Section 9. Section 63A-12-102.5 is enacted to read:

63A-12-102.5. Preservation of legislative records.

(1) As used in this section:

(a) "Historical legislative record" means a permanent legislative record or a supplemental legislative record that a legislative office transmitted to the state archivist before the effective date of this section for retention and preservation.

(b) "Legislative office" means:

(i) the Senate, the House of Representatives, or a staff office of the Legislature; or

(ii) as applicable, a body designated by the Legislative Management Committee to be responsible for:

(A) the retention of a legislative record; or

(B) the transmission of a legislative record to the division, as provided in this section, if the body chooses to transmit the legislative record to the division.

(c) "Legislative retention schedule" means the retention schedule attached as Appendix A to the Legislative Management Committee Policy L. Legislative Records.

(d) "Permanent legislative record" means:

(i) a joint proclamation issued by the president of the Senate and the speaker of the House of Representatives convening a session of the Legislature under Article VI, Section 2 of the Utah Constitution;

(ii) a session journal of the Senate or House of Representatives;

(iii) a recording of Senate or House of Representatives floor proceedings;

(iv) a numbered bill or resolution of the Senate or House of Representatives, including:

(A) a public substitute or amendment;

(B) a fiscal note or other information required to accompany a numbered bill or resolution; and

(C) an enrolled bill or resolution;

(v) an introduced article of impeachment or amendment to an article of impeachment;

(vi) as prepared by the Legislature and provided to the public, a list of actions taken on legislation during a legislative session or descriptions of the status of legislation considered during a legislative session;

(vii) a notice, agenda, handout or other public meeting material, recording, or minutes of the Legislative Management Committee, Executive Appropriations Committee, standing and interim committees of the Legislature, appropriations subcommittees of the Legislature, audit subcommittees of the Legislature, and other legislative committees, task forces, or commissions, excluding a rules or sifting committee of the Legislature;

(viii) a statutorily required budget or appropriations report;

(ix) an audit or review report of the Office of the Legislative Auditor General and a record that supports the conclusions and findings of the audit or review report;

(x) a version of the Utah Code after the Office of Legislative Research and General Counsel prepares an updated Utah Code database incorporating any duly enacted legislation making changes to the Utah Code;

(xi) the Laws of Utah;

(xii) a biennial version of the Utah Constitution after the Office of Legislative Research and General Counsel incorporates into the Utah Constitution amendments that passed during the preceding regular general election; or

(xiii) a notice of appeal under Section 63G-9-401 relating to a decision of the board of examiners and a record accompanying a notice of appeal.

(e) "Supplemental legislative record" means a legislative record that is not a permanent legislative record.

(2) A legislative office may, but is not required to, transmit a legislative record to the state archivist for retention and preservation as provided in this section.

(3) (a) A legislative office shall consult with the state archivist as the legislative office determines the method and timing of transmitting a legislative record that the legislative office chooses to transmit to the state archivist for the state archivist's retention and preservation as provided in this section.

(b) The transmission of a digital copy of a legislative record is sufficient for purposes of the transmission of the legislative record to the state archivist.

(4) (a) A legislative record that a legislative office transmits to the state archivist for retention and preservation remains in the control and legal custody of the legislative office and, although retained and preserved by the state archivist, does not become subject to the control or legal custody of the state archivist.

(b) The state archivist shall allow a legislative office full and continuing access to any legislative record transmitted to the state archivist for retention and preservation under this section.

(5) (a) The state archivist may not disclose a supplemental legislative record without the prior written consent of the legislative office that transmitted the supplemental legislative record to the state archivist.

(b) If the state archivist receives a subpoena or other request for a supplemental legislative record, the state archivist shall immediately provide written notice of the subpoena or other request to:

(i) the legislative office that transmitted the supplemental legislative record to the state archivist; and

(ii) legislative general counsel.

(6) The state archivist shall:

(a) permanently retain and preserve a historical legislative record;

(b) permanently retain and preserve a permanent legislative record that a legislative office chooses to transmit to the state archivist after the effective date of this section; and

(c) retain and preserve, according to the legislative retention schedule, a supplemental legislative record that a legislative office chooses to transmit to the state archivist for retention and preservation after the effective date of this section.

Section 10. Section 63G-2-703 is amended to read:

63G-2-703. Applicability to the Legislature.

(1) The Legislature and its staff offices shall designate and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.

(2) (a) The Legislature and its staff offices are not subject to Section 63G-2-203 or to Part 4, Appeals, Part 5, State Records Committee, or Part 6, Collection of Information and Accuracy of Records.

(b) The Legislature is subject to only the following sections in Title 63A, Chapter 12, Division of Archives and Records Service: Sections 63A-12-102, 63A-12-102.5, and 63A-12-106.

(3) The Legislature, through the Legislative Management Committee:

(a) shall establish policies to handle requests for classification, designation, fees, access, denials, segregation, appeals, management, retention, and amendment of records; and

(b) may establish an appellate board to hear appeals from denials of access.

(4) Policies shall include reasonable times for responding to access requests consistent with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.

(5) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program in the Legislature; and

(b) as required by the Legislature, provide program services similar to those available to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service.

Section 11. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 12. Coordinating H.B. 414 with H.B. 302 -- Substantive and technical amendments.

If this H.B. 414 and H.B. 302, Cultural and Community Engagement Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication on July 1, 2023, by:

(1) amending Subsection 9-7-101(4) to read:

"(4) "Legislative publication" means:

(a) the Utah Code after the legislative staff office prepares an updated Utah Code database incorporating amendments to the Utah Code;

(b) the Laws of Utah; and

(c) the Utah Constitution after the legislative staff office incorporates into the Utah Constitution

amendments to the Utah Constitution that passed during the preceding regular general election.";

(2) amending Subsection 9-7-201(3) to read:

"(3) (a) The division shall function as the library authority for [~~the state and is responsible for general library services, extension services, the preservation, distribution and exchange of state publications, legislative reference, and other services considered proper for a state library.~~]:

(i) general library services;

(ii) mobile library services;

(iii) providing for permanent public access to state publications; and

(iv) other services considered proper for a state library.

(b) The division is responsible for publishing legislative publications, as provided in this part, that the legislative staff office deposits with the division.";

(3) amending Subsection 9-7-205(1)(k) to read:

"(k) administer a [~~depository~~] state publications and legislative publications library program by collecting state publications and legislative publications , providing access to state publications and legislative publications through the digital library, and providing a bibliographic information system;"; and

(4) amending Subsection 9-7-207(3), as enacted in H.B. 302, to read:

"(3) (a) Upon the legislative staff office's production of a legislative publication, the legislative staff office shall deposit with the division a digital copy of the legislative publication.

(b) The legislative staff office's deposit of a legislative publication with the division for the division to publish online, as provided in this part, is a method for the legislative staff office to comply with Section 46-5-108.".

CHAPTER 292
H. B. 415
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

MATERNAL COVERAGE AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Luz Escamilla
Cosponsors: Gay Lynn Bennion
Kera Birkeland
Joel K. Briscoe
Tyler Clancy
Jennifer Dailey-Provost
Stephanie Gricius
Sahara Hayes
Sandra Hollins
Marsha Judkins
Rosemary T. Lesser
Carol S. Moss
Karen M. Peterson
Angela Romero
Douglas R. Welton

LONG TITLE

General Description:

This bill requires the Public Employees' Benefit and Insurance Program to cover pregnancy and childbirth services.

Highlighted Provisions:

This bill:

- defines terms;
- requires coverage of pregnancy and childbirth services by the Public Employees' Benefit and Insurance Program, including:
  - doula services;
  - services by a licensed direct-entry midwife; and
  - services at a free-standing birthing center;
- requires the program to report on its coverage of pregnancy and childbirth services to the Health and Human Services Interim Committee; and
- provides a repeal date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-249, as last amended by Laws of Utah 2021, Chapter 64

ENACTS:

49-20-422, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-20-422 is enacted to read:

49-20-422. Coverage of pregnancy and childbirth services, including doula, direct-entry midwife, and birthing center services.

(1) As used in this section:

(a) "Doula" means an individual who:

(i) provides information and physical and emotional support:

(A) to a pregnant or postpartum individual; and

(B) related to the pregnant or postpartum individual's pregnancy; and

(ii) is certified by one or more organizations approved by the program.

(b) "Pregnancy and childbirth services" means services provided to a pregnant individual before, during, or shortly after childbirth:

(i) by a doula for the services described in Subsections (1)(a)(i) and (ii); and

(ii) at a birthing center that:

(A) is licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, or accredited by the Commission for the Accreditation of Birth Centers; and

(B) may include services by a direct-entry midwife licensed under Title 58, Chapter 77, Direct-Entry Midwife Act, if the direct-entry midwife is engaged in the practice of direct-entry midwifery, as defined in Section 58-77-102.

(c) "Qualified individual" means a covered individual who is:

(i) within the state employees' risk pool; and

(ii) (A) is pregnant; or

(B) was pregnant within the past six months.

(2) For a plan year that begins on or after July 1, 2023, and before July 1, 2026, the program shall cover pregnancy and childbirth services to a qualified individual.

(3) The program may establish limits for coverage under Subsection (2), including limits based on:

(a) the type or number of services provided;

(b) a qualified individual's physical or emotional condition; and

(c) conditions for provider participation.

(4) The program shall report to the Health and Human Services Interim Committee on or before October 1 of each year regarding coverage provided under Subsection (2), including:

(a) covered providers;

(b) covered services;

(c) provider payment rates;

(d) covered-individual cost sharing;

(e) total provider payments and covered-individual cost sharing; and

(f) any indicators of whether pregnancy and childbirth services covered under Subsection (2) have:

(i) reduced pregnancy or postpartum coverage costs; or

(ii) improved pregnancy or postpartum care.

Section 2. Section 63I-2-249 is amended to read:

63I-2-249. Repeal dates: Title 49.

(1) Subsection 49-20-420(3), regarding a requirement to report to the Legislature, is repealed January 1, 2030.

(2) Section 49-20-422, regarding coverage for pregnancy and childbirth services, is repealed July 1, 2027.

CHAPTER 293
H. B. 421
Passed March 2, 2023
Approved March 15, 2023
Effective January 1, 2025

SCHOOL LAND TRUST PROGRAM AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies the percentage of revenue from trust lands that is distributed from the Land Grant Management Fund.

Highlighted Provisions:

This bill:

- modifies the percentage of revenue from trust lands that is distributed from the Land Grant Management Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53C-3-102, as last amended by Laws of Utah 2021, Chapter 336
53F-2-404, as last amended by Laws of Utah 2020, Chapter 408
53F-9-201, as last amended by Laws of Utah 2022, Chapter 456

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53C-3-102 is amended to read:

53C-3-102. Deposit and allocation of money received.

(1) (a) The director shall pay to the School and Institutional Trust Fund Office, created in Section 53D-1-201, all money received, accompanied by a statement showing the respective sources of this money.

(b) The administration and the School and Institutional Trust Fund Office shall enter into a memorandum of understanding detailing:

(i) the classification of sources of money; and

(ii) other relevant information, as determined by the administration and the School and Institutional Trust Fund Office.

(2) All money received from the sale of lands granted by Section 6 of the Utah Enabling Act for the support of the common schools, all money received from the sale of lands selected in lieu of those lands, all money received from the United States under Section 9 of the Utah Enabling Act, all money received from the sale of lands or other securities acquired by the state from the investment of those funds, all sums paid for fees, all forfeitures, and all penalties paid in connection with these sales shall be deposited in the Permanent State School Fund.

(3) All money received from the sale and all net proceeds from other contractual arrangements of institutional trust lands granted to the state by the United States under Section 7, 8, or 12 of the Utah Enabling Act shall be deposited into the respective permanent funds established for the benefit of those institutions under the Utah Enabling Act and the Utah Constitution.

(4) (a) All lands acquired by the state through foreclosure of mortgages securing school or institutional trust funds or through deeds from mortgagors or owners of those lands shall become a part of the respective school or institutional trust lands.

(b) All money received from these lands shall be treated as money received from school or institutional trust lands.

(5) All money received from the sale of lands acquired by the state through foreclosure of mortgages securing trust funds or through deeds from mortgagors or owners of such lands, whether a profit is realized or a loss sustained on the principal invested, shall be regarded as principal and shall go into the principal or permanent fund from which it was originally taken in reimbursement of that fund, with profits being used to offset losses.

(6) (a) All money received by the director as a first or down payment on applications to purchase, permit, or lease trust lands or minerals shall be paid to the state treasurer and held in suspense pending final action on those applications.

(b) After final action the payments received under Subsection (6)(a) shall either be credited to the appropriate fund or account, or refunded to the applicant in accordance with the action taken.

(7) Distributions to the respective institutions from the associated permanent funds created from lands granted in Sections 8 and 12 of the Utah Enabling Act shall consist of [~~4%~~] 5% of the average market value of each institutional permanent fund over the past 20 consecutive quarters.

Section 2. Section 53F-2-404 is amended to read:

53F-2-404. School LAND Trust Program distribution of funds.

(1) (a) By appropriation the Legislature shall fund the School LAND Trust Program, established in Section 53G-7-1206, on or before July 31 of each fiscal year:

(i) from the Trust Distribution Account, created in Section 53F-9-201; and

(ii) except as provided in Subsection (1)(b), in the total amount of the quarterly deposits made to the Trust Distribution Account for the School LAND Trust Program during the prior fiscal year.

[~~(b) The amount described in Subsection (1)(a)(ii) may not exceed an amount equal to 3% of the funds provided for the Minimum School Program, in accordance with this chapter, each fiscal year.~~]

[~~(c)~~] (b) Independently from the appropriation for the School LAND Trust Program described in Subsection (1)(a), the Legislature shall make an annual appropriation to the state board from the Trust Distribution Account, created in Section 53F-9-201, for the administration of the School LAND Trust Program.

[~~(d)~~] (c) Any unused balance remaining from an amount appropriated under Subsection (1)(c) shall be deposited into the Trust Distribution Account.

(2) (a) The state board shall allocate the money referred to in Subsection (1)(a) annually as follows:

(i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the product of:

(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (1)(a);

(ii) charter schools shall receive funding equal to the product of:

(A) charter school enrollment on October 1 in the prior year, divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (1)(a); and

(iii) of the funds available for distribution under Subsection (1)(a) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:

(A) school districts shall receive 10% of the funds on an equal basis; and

(B) the remaining 90% of the funds shall be distributed to school districts on a per student basis.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules specifying a formula to distribute the amount allocated under Subsection (2)(a)(ii) to charter schools.

(ii) In making rules under Subsection (2)(b)(i), the state board shall:

(A) consult with the State Charter School Board; and

(B) ensure that the rules include a provision that allows a charter school in the charter school's first year of operations to receive funding based on projected enrollment, to be adjusted in future years based on actual enrollment.

(c) A school district shall distribute its allocation under Subsection (2)(a)(iii) to each school within the school district on an equal per student basis.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection (2)(a)(iii).

Section 3. Section 53F-9-201 is amended to read:

53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.

(1) As used in this section:

(a) "Annual distribution calculation" means, for a given fiscal year, the average of:

(i) [~~4%~~] 5% of the average market value of the State School Fund for that fiscal year; and

(ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

(A) one;

(B) the percent change in student enrollment from the school year two years prior to the prior school year; and

(C) the actual total percent change of the consumer price index during the last 12 months as measured in June of the prior fiscal year.

(b) "Average market value of the State School Fund" means the results of a calculation completed by the SITFO director each fiscal year that averages the value of the State School Fund for the past 20 consecutive quarters ending in the prior fiscal year.

(c) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(d) "SITFO director" means the director of the School and Institutional Trust Fund Office appointed under Section 53D-1-401.

(e) "State School Fund investment earnings distribution amount" or "distribution amount" means, for a fiscal year, the lesser of:

(i) the annual distribution calculation; or

(ii) [~~4%~~] 5% of the average market value of the State School Fund.

(2) The Uniform School Fund, a special revenue fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including:

(i) appropriations for the Minimum School Program, enrollment growth, and inflation under Section 53F-9-201.1; and

(ii) revenues received by donation.

(3) (a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

(b) The Trust Distribution Account consists of:

(i) in accordance with Subsection (4), quarterly deposits of the State School Fund investment earnings distribution amount from the prior fiscal year;

(ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

(iii) any unused appropriation for the administration of the School LAND Trust Program, as described in Subsection 53F-2-404(1)(c).

(4) If, at the end of a fiscal year, the Trust Distribution Account has a balance remaining after subtracting the appropriation amount described in Subsection 53F-2-404(1)(a) for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount of the remaining balance from the prior fiscal year toward the current fiscal year's distribution amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the remaining balance from the prior fiscal year.

(5) On or before October 1 of each year, the SITFO director shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

(i) the State Treasurer;

(ii) the Legislative Fiscal Analyst;

(iii) the Division of Finance;

(iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;

(v) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(vi) the state board; and

(vii) the Governor's Office of Planning and Budget.

(6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review the distribution amount; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula for calculating the distribution amount.

(7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust Distribution Account funds for the School LAND Trust Program as described in Subsections 53F-2-404(1)(a) and (c).

Section 4. Contingent effective date.

This bill takes effect January 1, 2025, if the amendment to the Utah Constitution proposed by H.J.R. 18, Proposal to Amend Utah Constitution - State School Fund, 2023 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

CHAPTER 294
H. B. 427
Passed March 3, 2023
Approved March 15, 2023
Effective July 31, 2023

INDIVIDUAL FREEDOM IN PUBLIC EDUCATION

Chief Sponsor: Tim Jimenez
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill ensures that all instructional materials and classroom instruction are consistent with the principles of inalienable rights, equal opportunity, and individual merit.

Highlighted Provisions:

This bill:

- defines terms;
- broadens a provision regarding prayer or religious devotionals;
- requires the State Board of Education (state board), local education agencies (LEAs), and staff to ensure that instructional materials and classroom instruction are consistent with certain principles;
- prohibits the state board, LEAs, and staff from:
  - allowing the use of instructional materials and classroom instruction that are inconsistent with certain principles; or
  - adopting policies that are inconsistent with certain principles;
- prohibits the state board and the State Instructional Materials Commission from recommending instructional materials that are inconsistent with certain principles; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-10-202, as last amended by Laws of Utah 2019, Chapter 293

ENACTS:

53G-10-206, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-10-202 is amended to read:

53G-10-202. Maintaining constitutional freedom in the public schools.

(1) [~~Any~~] Except as provided in Section 53G-10-206, any instructional activity, performance, or display which includes examination of or presentations about religion, political or religious thought or expression, or the influence thereof on music, art, literature, law, politics, history, or any other element of the curriculum, including the comparative study of religions, which is designed to achieve [~~secular~~] academic educational objectives included within the context of a course or activity and conducted in accordance with applicable rules or policies of the state and LEA governing boards, may be undertaken in the public schools.

(2) No aspect of cultural heritage, political theory, moral theory, or societal value shall be included within or excluded from public school curricula for the primary reason that it affirms, ignores, or denies religious belief, religious doctrine, a religious sect, or the existence of a spiritual realm or supreme being.

(3) Public schools may not sponsor or deny the practice of prayer or religious devotionals.

(4) School officials and employees may not use their positions to endorse, promote, or disparage a particular religious, denominational, sectarian, agnostic, or atheistic belief or viewpoint.

Section 2. Section 53G-10-206 is enacted to read:

53G-10-206. Educational freedom.

(1) As used in this section:

(a) (i) "Administrative personnel" means any LEA or state board staff personnel who have system-wide, LEA-wide, or school-wide functions and who perform management activities, including:

(A) developing broad policies for LEA or state-level boards; and

(B) executing developed policies through the direction of personnel at any level within the state or LEA.

(ii) "Administrative personnel" includes state, LEA, or school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, directors, executive directors, network directors, cabinet members, subject area directors, grant coordinators, specialty directors, career center directors, educational specialists, technology personnel, technology administrators, and others who perform management activities.

(b) (i) "Instructional personnel" means an individual whose function includes the provision of:

(A) direct or indirect instructional services to students;

(B) direct or indirect support in the learning process of students; or

(C) direct or indirect delivery of instruction, training, coaching, evaluation, or professional development to instructional or administrative personnel.

(ii) "Instructional personnel" includes:

(A) the state board, LEAs, schools, superintendents, boards, administrators, administrative staff, teachers, classroom teachers, facilitators, coaches, proctors, therapists, counselors, student personnel services, librarians, media specialists, associations, affiliations, committees, contractors, vendors, consultants,

advisors, outside entities, community volunteers, para-professionals, public-private partners, trainers, mentors, specialists, and staff; or

(B) any other employees, officials, government agencies, educational entities, persons, or groups for whom access to students is facilitated through, or not feasible without, the public education system.

(2) (a) Each LEA shall provide an annual assurance to the state board that the LEA's professional learning, administrative functions, displays, and instructional and curricular materials, are consistent with the following principles of individual freedom:

(i) the principle that all individuals are equal before the law and have unalienable rights; and

(ii) the following principles of individual freedom:

(A) that no individual is inherently racist, sexist, or oppressive, whether consciously or unconsciously, solely by virtue of the individual's race, sex, or sexual orientation;

(B) that no race is inherently superior or inferior to another race;

(C) that no person should be subject to discrimination or adverse treatment solely or partly on the basis of the individual's race, color, national origin, religion, disability, sex, or sexual orientation;

(D) that meritocracy or character traits, including hard work ethic, are not racist nor associated with or inconsistent with any racial or ethnic group; and

(E) that an individual, by virtue of the individual's race or sex, does not bear responsibility for actions that other members of the same race or sex committed in the past or present.

(b) Nothing in this section prohibits instruction regarding race, color, national origin, religion, disability, or sex in a manner that is consistent with the principles described in Subsection (2)(a).

(3) The state board or an LEA may not:

(a) attempt to persuade a student or instructional or administrative personnel to a point of view that is inconsistent with the principles described in Subsection (2)(a); or

(b) implement policies or programs, or allow instructional personnel or administrative personnel to implement policies or programs, with content that is inconsistent with the principles described in Subsection (2)(a).

(4) The State Instructional Materials Commission may not recommend to the state board instructional materials under Section 53E-4-403 that violate this section or are inconsistent with the principles described in Subsection (2)(a).

(5) The state board and state superintendent may not develop or continue to use core standards under Section 53E-3-301 or professional learning that are inconsistent with the principles described in Subsection (2)(a).

Section 3. Effective date.

This bill takes effect on July 31, 2023.

CHAPTER 295
H. B. 437
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH SERVICES AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill is related to certain health care services.

Highlighted Provisions:

This bill:

- requires the Department of Health and Human Services to report to the Health and Human Services Interim Committee on tardive dyskinesia;
- requires the Medicaid program to reimburse for audio-only telehealth services as specified by division rule;
- requires the Department of Health and Human Services to report to the Health and Human Services Interim Committee on payment by the Medicaid program for long-acting injectable typical and atypical antipsychotics; and
- establishes repeal dates.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
26-18-13.5, as last amended by Laws of Utah 2019, Chapter 249
63I-2-226, as last amended by Laws of Utah 2022, Chapters 255, 365

ENACTS:
26-10-16, Utah Code Annotated 1953
26-18-29, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-10-16 is enacted to read:

26-10-16 (Codified as 26B-1-241). Tardive dyskinesia.

With respect to tardive dyskinesia, the department shall report on the following to the Health and Human Services Interim Committee before November 1, 2023:

(1) resources available to help health care providers, including mental health providers, accurately diagnose and appropriately treat tardive dyskinesia;

(2) resources available to help an individual with tardive dyskinesia, and the individual's caregivers, respond to the functional and social challenges posed by the condition;

(3) options for improving screening, diagnosis, and treatment of tardive dyskinesia, including actions the department may take on behalf of:

(a) residents of the state generally;

(b) Medicaid program enrollees; and

(c) individuals receiving services under a local mental health authority, as defined in Section 62A-15-102; and

(4) the potential costs and benefits of implementing the options reported under Subsection (3).

Section 2. Section 26-18-13.5 is amended to read:

26-18-13.5. Reimbursement of telemedicine services, audio-only telehealth services and telepsychiatric consultations.

(1) As used in this section:

(a) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(b) "Telemedicine services" means the same as that term is defined in Section 26-60-102.

(c) "Telepsychiatric consultation" means a consultation between a physician and a board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in the state, that utilizes:

(i) the health records of the patient, provided from the patient or the referring physician;

(ii) a written, evidence-based patient questionnaire; and

(iii) telehealth services that meet industry security and privacy standards, including compliance with the:

(A) Health Insurance Portability and Accountability Act; and

(B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

(2) This section applies to:

(a) a managed care organization that contracts with the Medicaid program; and

(b) a provider who is reimbursed for health care services under the Medicaid program.

(3) The Medicaid program shall reimburse for telemedicine services at the same rate that the Medicaid program reimburses for other health care services.

(4) The Medicaid program shall reimburse for audio-only telehealth services as specified by division rule.

[~~(4)~~] (5) The Medicaid program shall reimburse for telepsychiatric consultations at a rate set by the Medicaid program.

Section 3. Section 26-18-29 is enacted to read:

26-18-29 (Codified as 26B-3-142). Long-acting injectables.

(1) With respect to payments by the Medicaid program for long-acting injectable typical and atypical antipsychotics, the department shall report on the following to the Health and Human Services Interim Committee before November 1, 2023:

(a) options for payment, including the benefits and cost of each option; and

(b) whether payment should be included in a bundled payment made to a hospital.

(2) The department shall prepare the report with input from health care providers.

Section 4. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26 through 26B.

(1) Subsection 26-2-12.6(3), relating to the report for birth certificate fees, is repealed December 31, 2022.

(2) Subsection 26-7-8(3) is repealed January 1, 2027.

(3) Section 26-8a-107 is repealed July 1, 2024.

(4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

(5) Section 26-8a-211 is repealed July 1, 2023.

(6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(7) Section 26-10-16 is repealed July 1, 2024.

[~~(7)~~] (8) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

(9) Section 26-18-29 is repealed July 1, 2024.

[~~(8)~~] (10) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

[~~(9)~~] (11) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(10)~~] (12) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(11)~~] (13) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

[~~(12)~~] (14) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(13)~~] (15) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

[~~(14)~~] (16) Subsection 26-61-202(5) is repealed January 1, 2022.

[~~(15)~~] (17) Subsection 26B-1-204(2)(f), relating to the Air Ambulance Committee, is repealed July 1, 2024.

CHAPTER 296
H. B. 440
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

INTRASTATE COMMERCIAL VEHICLE AMENDMENTS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends the definition of an interstate and intrastate commercial vehicle and amends the gross vehicle weight requirement for stopping at a port-of-entry.

Highlighted Provisions:

This bill:

- amends the definition of an intrastate commercial vehicle by including the gross combination weight rating and gross combination weight;
- amends the definition of an intrastate commercial vehicle by increasing the gross vehicle weight rating and gross vehicle weight, and gross combination weight rating and gross combination weight from 26,000 or more pounds to 26,001 or more pounds; and
- amends the gross vehicle weight or gross combination weight requirement for a vehicle to stop at a port-of-entry from 10,001 or more pounds to 26,001 or more pounds.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-102, as last amended by Laws of Utah 2022, Chapter 162
72-9-102, as last amended by Laws of Utah 2021, Chapter 118
72-9-502, as last amended by Laws of Utah 2021, Chapter 239

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-102 is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Autocycle" means a motor vehicle that:

(a) is designed to travel with three or fewer wheels in contact with the ground; and

(b) is equipped with:

(i) a steering mechanism;

(ii) seat belts; and

(iii) seating that does not require the operator to straddle or sit astride the motor vehicle.

(2) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(3) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(4) "Commercial driver instruction permit" or "CDIP" means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(5) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

(6) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a motor vehicle record described in Subsection (30).

(7) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating or gross vehicle weight of 26,001 or more pounds, or gross combination weight rating or gross combination weight of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(8) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(9) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(10) "Director" means the division director appointed under Section 53-3-103.

(11) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(12) "Division" means the Driver License Division of the department created in Section 53-3-103.

(13) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(14) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(15) (a) "Driver" means an individual who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or federal law.

(16) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(17) "Electronic license certificate" means the evidence, in an electronic format as described in Section 53-3-235, of a privilege granted under this chapter to drive a motor vehicle.

(18) "Extension" means a renewal completed in a manner specified by the division.

(19) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(20) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(21) "Human driver" means the same as that term is defined in Section 41-26-102.1.

(22) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

(23) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the [~~U.S.~~] United States Department of Health and Human Services in the Federal Register.

(24) "License" means the privilege to drive a motor vehicle.

(25) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes:

(i) a regular license certificate;

(ii) a limited-term license certificate;

(iii) a driving privilege card;

(iv) a CDL license certificate;

(v) a limited-term CDL license certificate;

(vi) a temporary regular license certificate;

(vii) a temporary limited-term license certificate; and

(viii) an electronic license certificate created in Section 53-3-235.

(26) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

(27) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

(28) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

(29) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(30) "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

(31) "Motorboat" means the same as that term is defined in Section 73-18-2.

(32) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(33) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

(34) "Operate" means the same as that term is defined in Section 41-1a-102.

(35) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

(36) "Penalty accounts receivable" means a fine, restitution, forfeiture, fee, surcharge, or other financial penalty imposed on an individual by a court or other government entity.

(37) (a) "Private passenger carrier" means any motor vehicle for hire that is:

(i) designed to transport 15 or fewer passengers, including the driver; and

(ii) operated to transport an employee of the person that hires the motor vehicle.

(b) "Private passenger carrier" does not include:

(i) a taxicab;

(ii) a motor vehicle driven by a transportation network driver as defined in Section 13-51-102;

(iii) a motor vehicle driven for transportation network services as defined in Section 13-51-102; and

(iv) a motor vehicle driven for a transportation network company as defined in Section 13-51-102 and registered with the Division of Consumer Protection as described in Section 13-51-104.

(38) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

(39) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

(40) "Renewal" means to validate a license certificate so that it expires at a later date.

(41) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

(42) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections (42)(b)(i) through (iii).

(43) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

(44) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

(45) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

(46) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 2. Section 72-9-102 is amended to read:

72-9-102. Definitions.

As used in this chapter:

(1) (a) "Commercial vehicle" includes:

(i) an interstate commercial vehicle; and

(ii) an intrastate commercial vehicle.

(b) "Commercial vehicle" does not include the following vehicles for purposes of this chapter:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) firefighting and emergency vehicles, operated by emergency personnel, not including commercial tow trucks;

(iii) recreational vehicles that are driven solely as family or personal conveyances for noncommercial purposes; or

(iv) vehicles owned by the state or a local government.

(2) "Interstate commercial vehicle" means a self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property if the vehicle:

(a) has a gross vehicle weight rating or gross vehicle weight of 10,001 or more pounds, or gross combination weight rating [~~of 10,001 or more pounds;~~] or gross combination weight of 10,001 or more pounds, whichever is greater;

(b) is designed or used to transport more than eight passengers, including the driver, for compensation;

(c) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(d) (i) is used to transport materials designated as hazardous in accordance with 49 U.S.C. Sec. 5103; and

(ii) is required to be placarded in accordance with regulations under 49 C.F.R., Subtitle B, Chapter I, Subchapter C.

(3) "Intrastate commercial vehicle" means a motor vehicle, vehicle, trailer, or semitrailer used or maintained for business, compensation, or profit to transport passengers or property on a highway only within the boundaries of this state if the commercial vehicle:

(a) (i) has a manufacturer's gross vehicle weight rating or gross vehicle weight, or gross combination weight rating [~~of 26,000 or more pounds~~] or gross combination weight of 26,001 or more pounds, whichever is greater, and is operated by an individual who is 18 years old or older; or

(ii) has a manufacturer's gross vehicle weight rating or gross combination weight rating of 16,001 or more pounds and is operated by an individual who is under 18 years old;

(b) (i) is designed to transport more than 15 passengers, including the driver; or

(ii) is designed to transport more than 12 passengers, including the driver, and has a manufacturer's gross vehicle weight rating or gross combination weight rating of 13,000 or more pounds; or

(c) is used in the transportation of hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(4) "Motor carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property by a commercial vehicle on a highway within this state and includes a tow truck business.

(5) "Owner" as pertaining to a vehicle, vessel, or outboard motor, means the same as that term is defined in Section 41-1a-102.

(6) "Property owner" means the owner or lessee of real property.

(7) "State impound yard" means the same as that term is defined in Section 41-1a-102.

(8) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped

primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow bar, tow line, dolly, tilt bed, or other means.

(9) "Tow truck motor carrier" means a motor carrier that is engaged in or transacting business for tow truck services.

(10) "Tow truck operator" means an individual that performs operations related to a tow truck service as an employee or as an independent contractor on behalf of a tow truck motor carrier.

(11) "Tow truck service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

(12) "Transportation" means the actual movement of property or passengers by motor vehicle, including loading, unloading, and any ancillary service provided by the motor carrier in connection with movement by motor vehicle, which is performed by or on behalf of the motor carrier, its employees or agents, or under the authority of the motor carrier, its employees or agents, or under the apparent authority and with the knowledge of the motor carrier.

Section 3. Section 72-9-502 is amended to read:

72-9-502. Motor vehicles to stop at ports-of-entry -- Signs -- Exceptions -- Rulemaking -- By-pass permits.

(1) Except under Subsection (3), a motor carrier operating a motor vehicle with a gross vehicle weight [~~of 10,001 pounds or more~~] or gross combination weight of 26,001 or more pounds, whichever is greater, shall stop at a port-of-entry as required under this section.

(2) The department may erect and maintain signs directing motor vehicles to a port-of-entry as provided in this section.

(3) A motor vehicle required to stop at a port-of-entry under Subsection (1) is exempt from this section if:

(a) the total one-way trip distance for the motor vehicle would be increased by more than 5% or three miles, whichever is greater if diverted to a port-of-entry;

(b) the motor vehicle is operating under a temporary port-of-entry by-pass permit issued under Subsection (4); or

(c) the motor vehicle is an implement of husbandry as defined in Section 41-1a-102 being operated only incidentally on a highway as described in Section 41-1a-202.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the issuance of a temporary port-of-entry by-pass permit exempting a motor vehicle from the provisions of Subsection (1) if the department determines that the permit is needed to accommodate highway transportation needs due to multiple daily or weekly trips in the proximity of a port-of-entry.

(b) The rules under Subsection (4)(a) shall provide that one permit may be issued to a motor carrier for multiple motor vehicles.

CHAPTER 297
H. B. 448
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

ELECTION CHANGES

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions of the Election Code and the authority of the lieutenant governor over elections.

Highlighted Provisions:

This bill:

- defines terms;
- modifies and describes the supervisory and oversight authority of the lieutenant governor over elections;
- describes the duties of a clerk in relation to elections;
- provides the lieutenant governor with access to records, facilities, equipment, staff, and meetings to assist the lieutenant governor in fulfilling the supervisory and oversight authority described above;
- provides a process and method for the lieutenant governor to enforce compliance with the provisions of election law;
- requires the lieutenant governor to provide, and certain election administrators and employees to complete, training relating to conducting elections;
- addresses requirements for audits of election processes;
- modifies publication dates for certain ballot statistics;
- requires certain studies relating to elections;
- grants rulemaking authority to the lieutenant governor in relation to:
  - training;
  - audits;
  - maintaining and updating the statewide voter registration system and database;
  - conducting elections;
  - signature comparison and verification;
  - alternative methods of identity verification; and
  - chain of custody and ballot reconciliation;
- modifies provisions relating to the statewide voter registration system and database, including requirements relating to maintenance and updates;
- establishes requirements to ensure accessibility of the election system in relation to a person with a disability;
- modifies ballot curing requirements;
- enacts ballot chain of custody and reconciliation requirements;
- establishes requirements relating to election records and election security;
- requires uniformity of certain election processes and records; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Governor's Office Lt. Governor's Office, as an ongoing appropriation:
  - from the General Fund, $860,000; and
- to the Governor's Office Lt. Governor's Office, as a one-time appropriation:
  - from the General Fund, $730,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-102, as last amended by Laws of Utah 2022, Chapters 18, 170
20A-2-206, as last amended by Laws of Utah 2021, Chapter 64
20A-2-300.6, as last amended by Laws of Utah 2003, Chapter 117
20A-3a-202, as last amended by Laws of Utah 2022, Chapters 18, 121 and 156
20A-3a-401, as last amended by Laws of Utah 2022, Chapter 392
20A-3a-401.5, as enacted by Laws of Utah 2021, Chapter 100
20A-3a-405, as enacted by Laws of Utah 2022, Chapter 380
20A-4-102, as last amended by Laws of Utah 2022, Chapter 342
20A-4-104, as last amended by Laws of Utah 2022, Chapter 380
20A-4-106, as last amended by Laws of Utah 2020, Chapter 31
20A-4-202, as last amended by Laws of Utah 2022, Chapter 156
20A-4-304, as last amended by Laws of Utah 2022, Chapter 342
20A-5-101, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
20A-5-403.5, as last amended by Laws of Utah 2022, Chapter 156
53-18-103, as last amended by Laws of Utah 2022, Chapter 367
67-1a-2, as last amended by Laws of Utah 2022, Chapter 18

ENACTS:

20A-1-105, Utah Code Annotated 1953
20A-1-106, Utah Code Annotated 1953
20A-1-107, Utah Code Annotated 1953
20A-1-108, Utah Code Annotated 1953
20A-2-501, Utah Code Annotated 1953
20A-2-507, Utah Code Annotated 1953
20A-3a-106, Utah Code Annotated 1953
20A-3a-401.1, Utah Code Annotated 1953
20A-3a-402.5, Utah Code Annotated 1953
20A-4-109, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

20A-2-502, (Renumbered from 20A-2-109, as last amended by Laws of Utah 2018, Chapter 19)
20A-2-503, (Renumbered from 20A-2-304.5, as last amended by Laws of Utah 2012, Chapter 52)
20A-2-504, (Renumbered from 20A-2-305, as last amended by Laws of Utah 2022, Chapter 121)

20A-2-505, (Renumbered from 20A-2-306, as last amended by Laws of Utah 2022, Chapter 121)
20A-2-506, (Renumbered from 20A-2-308, as last amended by Laws of Utah 2022, Chapter 156)

REPEALS:
20A-1-101, as enacted by Laws of Utah 1993, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on ballots and tabulates the results.

(3) (a) "Ballot" means the storage medium, including a paper, mechanical, or electronic storage medium, that records an individual voter's vote.

(b) "Ballot" does not include a record to tally multiple votes.

(4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(5) "Bind," "binding," or "bound" means securing more than one piece of paper together using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.

(6) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(7) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(8) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(9) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(10) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(11) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(12) "Convention" means the political party convention at which party officers and delegates are selected.

(13) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(14) "Counting judge" means a poll worker designated to count the ballots during election day.

(15) "Counting room" means a suitable and convenient private place or room for use by the poll workers and counting judges to count ballots.

(16) "County officers" means those county officers that are required by law to be elected.

(17) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for voting by mail, military-overseas voting, or emergency voting; or

(ii) any early voting or early voting period as provided under Chapter 3a, Part 6, Early Voting.

(18) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(b)(ii).

(19) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(20) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(21) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(22) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(23) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(24) "Election official" means any election officer, election judge, or poll worker.

(25) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(26) "Election returns" includes:

(a) the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form; and

(b) the record, described in Subsection 20A-3a-401(8)(c), of voters contacted to cure a ballot.

(27) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(28) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection [~~20A-2-306(4)(c)(i) or (ii)~~] 20A-2-505(4)(c)(i) or (ii).

(29) "Judicial office" means the office filled by any judicial officer.

(30) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(31) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(32) "Local district officers" means those local district board members that are required by law to be elected.

(33) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(34) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(35) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(36) "Manual ballot" means a paper document produced by an election officer on which an individual records an individual's vote by directly placing a mark on the paper document using a pen or other marking instrument.

(37) "Mechanical ballot" means a record, including a paper record, electronic record, or mechanical record, that:

(a) is created via electronic or mechanical means; and

(b) records an individual voter's vote cast via a method other than an individual directly placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

(38) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the [~~chair~~] mayor of a metro township form of government defined in Section 10-3b-102.

(39) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(40) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(41) "Municipal office" means an elective office in a municipality.

(42) "Municipal officers" means those municipal officers that are required by law to be elected.

(43) "Municipal primary election" means an election held to nominate candidates for municipal office.

(44) "Municipality" means a city, town, or metro township.

(45) "Official ballot" means the ballots distributed by the election officer for voters to record their votes.

(46) "Official endorsement" means the information on the ballot that identifies:

(a) the ballot as an official ballot;

(b) the date of the election; and

(c) (i) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(ii) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii).

(47) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(48) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(49) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(50) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(51) "Polling place" means a building where voting is conducted.

(52) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(53) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

(54) "Primary convention" means the political party conventions held during the year of the regular general election.

(55) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(56) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(57) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(58) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(59) (a) "Public figure" means an individual who, due to the individual being considered for, holding, or having held a position of prominence in a public or private capacity, or due to the individual's celebrity status, has an increased risk to the individual's safety.

(b) "Public figure" does not include an individual:

(i) elected to public office; or

(ii) appointed to fill a vacancy in an elected public office.

(60) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the individual was elected.

(61) "Receiving judge" means the poll worker that checks the voter's name in the official register at a polling place and provides the voter with a ballot.

(62) "Registration form" means a form by which an individual may register to vote under this title.

(63) "Regular ballot" means a ballot that is not a provisional ballot.

(64) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(65) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(66) "Resident" means a person who resides within a specific voting precinct in Utah.

(67) "Return envelope" means the envelope, described in Subsection 20A-3a-202(4), provided to a voter with a manual ballot:

(a) into which the voter places the manual ballot after the voter has voted the manual ballot in order to preserve the secrecy of the voter's vote; and

(b) that includes the voter affidavit and a place for the voter's signature.

(68) "Sample ballot" means a mock ballot similar in form to the official ballot, published as provided in Section 20A-5-405.

(69) "Special election" means an election held as authorized by Section 20A-1-203.

(70) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(71) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(72) "Tabulation system" means a device or system designed for the sole purpose of tabulating votes cast by voters at an election.

(73) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(74) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(75) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(76) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (76)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(77) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(78) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:

(a) mailing the ballot to the location designated in the mailing; or

(b) depositing the ballot in a ballot drop box designated by the election officer.

(79) "Voter" means an individual who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(80) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(81) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(82) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting enclosure or curtain; or

(b) a voting device that is free standing.

(83) "Voting device" means any device provided by an election officer for a voter to vote a mechanical ballot.

(84) "Voting precinct" means the smallest geographical voting unit, established under Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

(85) "Watcher" means an individual who complies with the requirements described in Section 20A-3a-801 to become a watcher for an election.

(86) "Write-in ballot" means a ballot containing any write-in votes.

(87) "Write-in vote" means a vote cast for an individual, whose name is not printed on the ballot, in accordance with the procedures established in this title.

Section 2. Section 20A-1-105 is enacted to read:

Part 1. Elections: General Provisions and Election Oversight

20A-1-105. Chief election officer of the state -- Duties, authority, and enforcement.

(1) The lieutenant governor:

(a) is the chief election officer of the state;

(b) is responsible to oversee, and generally supervise, all elections and functions relating to elections in the state; and

(c) shall enforce compliance by election officers with all legal requirements relating to elections, including:

(i) Public Law 103-31, the National Voter Registration Act of 1993;

(ii) Public Law 107-252, the Help America Vote Act of 2002;

(iii) all other applicable provisions of federal law and rule relating to elections;

(iv) state law relating to elections;

(v) the requirements of this title; and

(vi) rules made under this title.

(2) To the extent that the lieutenant governor determines the following is useful in fulfilling the responsibilities described in Subsection (1), the lieutenant governor has:

(a) full access to closely observe, examine, and copy all records, documents, recordings, and other information in the custody or control of an election officer or a board of canvassers;

(b) full access to closely observe, examine, and copy all voter registration records, ballots, ballot envelopes, vote tallies, canvassing records, and other election returns in the custody or control of an election officer or a board of canvassers;

(c) full access to closely observe and examine all facilities, storage areas, and equipment, and to closely observe, examine, or copy all materials, in the custody or control of an election officer or a board of canvassers;

(d) full access to all staff, including full-time, part-time, and volunteer staff of an election officer or a board of canvassers;

(e) full access to closely observe, examine, and copy all records and information relating to election audits that are conducted, directed, or commissioned by a county clerk;

(f) the right to attend any meeting, including a closed meeting, relating to a matter within the scope of authority or responsibility of the lieutenant governor described in this chapter or Subsection 67-1a-2(2); and

(g) the right to closely observe and examine any work or other process relating to a matter within the scope of authority or responsibility of the lieutenant governor described in this chapter or Subsection 67-1a-2(2).

(3) An election officer shall fully assist, and cooperate with, the lieutenant governor in:

(a) fulfillment, by the lieutenant governor, of the responsibilities described in Subsection (1); and

(b) obtaining the access and exercising the rights described in Subsection (2).

(4) If the lieutenant governor determines that an election officer is in violation of a law or rule described in Subsection (1)(c), the lieutenant governor, in an effort to remedy the violation and bring the election officer into compliance with the law or rule:

(a) shall consult with the election officer; and

(b) may provide training and other assistance to the election officer to the extent the lieutenant governor determines warranted.

(5) If a violation continues after the lieutenant governor complies with Subsection (4)(a), the lieutenant governor shall issue a written order to the election officer that:

(a) describes the violation;

(b) describes the action taken under Subsection (4) to remedy the violation and bring the election officer into compliance with the law or rule;

(c) directs the election officer to remedy and cease the violation;

(d) describes the specific actions the election officer must take to comply with the order;

(e) states the deadline for the election officer to comply with the order; and

(f) describes the actions the election officer must take to verify compliance with the order.

(6) (a) An order described in Subsection (5) has the force of law.

(b) An election officer shall fully comply with an order described in Subsection (5) unless the election officer obtains a court order rescinding or modifying the order in accordance with Subsections (7) through (9).

(7) An election officer desiring to seek a court order described in Subsection (6) shall file an action seeking a court order within 10 days after the day on which the lieutenant governor issues the order described in Subsection (5).

(8) A court may not rescind or modify an order described in Subsection (5) unless, and only to the extent that:

(a) the order is arbitrary or capricious;

(b) the court finds that the violation alleged by the lieutenant governor did not occur; or

(c) the court determines that the violation alleged by the lieutenant governor is not a violation of law or rule.

(9) An election officer who files an action described in Subsection (7) has the burden of proof.

(10) This section does not prohibit the lieutenant governor from bringing a legal action, at any time, to compel an election officer to comply with the law and rules described in Subsection (1).

Section 3. Section 20A-1-106 is enacted to read:

20A-1-106. Duties of a clerk.

(1) As used in this section, "clerk" means an election officer other than the lieutenant governor.

(2) A clerk shall:

(a) comply with all of the following in relation to elections:

(i) federal and state law;

(ii) federal and state rules; and

(iii) the policies and direction of the lieutenant governor; and

(b) diligently learn and become familiar with the law, rules, policies, and direction described in Subsection (2)(a).

Section 4. Section 20A-1-107 is enacted to read:

20A-1-107. Elections training -- Training required -- Reimbursement.

(1) As used in this section, "election administrator" means:

(a) a county clerk; and

(b) if the county clerk employs one or more individuals who assist with elections:

(i) the most senior employee who assists with elections; or

(ii) if more than one employee qualifies as the most senior employee under Subsection (1)(b)(i), one of those employees, as designated by the election officer.

(2) The lieutenant governor shall, in accordance with this section:

(a) design and provide training to election officers and government workers who perform functions relating to elections; and

(b) provide the training described in this section without charge to the officers and workers described in Subsection (2)(a).

(3) The training shall include:

(a) a course designed for election administrators:

(i) that may include multiple sessions;

(ii) that may require attendance on multiple occasions; and

(iii) for which the lieutenant governor may, notwithstanding Section 63G-22-103, require live attendance; and

(b) a course designed for government workers, who perform functions relating to elections, that consists of modules relating to individual election processes.

(4) (a) An election administrator who was elected, appointed, or hired before May 3, 2023, shall:

(i) begin the first session described in Subsection (3)(a) before July 1, 2024; and

(ii) complete all sessions within four years after the election administrator takes the first session.

(b) An election administrator who is elected, appointed, or hired on or after May 3, 2023, shall:

(i) begin the first session described in Subsection (3)(a) within one year after the day on which the election administrator is elected, appointed, or hired; and

(ii) complete all sessions within four years after the election administrator takes the first session.

(5) The lieutenant governor shall reimburse an election administrator who is required under this section to attend the training described in Subsection (3)(a) per diem and travel expenses for attending the training, in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) An individual may not perform an election process for which the lieutenant governor has developed an online training module described in Subsection (3)(b), unless the individual has completed the training module developed for that election process.

(7) The director of elections, within the Office of the Lieutenant Governor, may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for:

(a) complying with the training requirements described in this section; and

(b) supplemental or refresher training that the lieutenant governor determines is needed to ensure the integrity of elections in the state.

Section 5. Section 20A-1-108 is enacted to read:

20A-1-108. Audits -- Studies relating to elections.

(1) Except as provided in Subsection (2):

(a) the director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements and procedures for an audit described in this title; and

(b) an election officer shall ensure that, when an audit is conducted of work done during ballot processing, the individual who performs the audit does not audit the individual's own work.

(2) Subsection (1) does not relate to an audit conducted by the legislative auditor general or the lieutenant governor.

(3) The lieutenant governor shall keep the Government Operations Interim Committee informed of advances in election technology that the committee may want to study for use in Utah's elections.

(4) The lieutenant governor shall:

(a) study methods to improve post-election audits to confirm that the election correctly identified the winning candidates, including evaluating:

(i) different risk-limiting audit methods; and

(ii) other confirmation methods; and

(b) at or before the last 2023 meeting of the Government Operations Interim Committee, report to the committee on:

(i) the methods studied; and

(ii) recommendations for post-election audit requirements.

(5) The Driver License Division shall, in cooperation with the lieutenant governor:

(a) study:

(i) the options for improving the quality of signatures collected by the Driver License Division that are used for signature verification in an election; and

(ii) the technology needs and costs associated with the options described in Subsection (5)(a)(i); and

(b) at or before the last 2023 meeting of the Government Operations Interim Committee, report to the committee on:

(i) the options, technology needs, and costs described in Subsection (5)(a); and

(ii) recommendations regarding the options described in Subsection (5)(a)(i).

Section 6. Section 20A-2-206 is amended to read:

20A-2-206. Electronic registration.

(1) The lieutenant governor shall create and maintain an electronic system that is publicly available on the Internet for an individual to apply for voter registration or preregistration.

(2) An electronic system for voter registration or preregistration shall require:

(a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the applicant's current principal place of residence;

(b) that the applicant provide the information required by Section 20A-2-104, except that the applicant's signature may be obtained in the manner described in Subsections (2)(d) and [~~(4)~~] (5);

(c) that the applicant attest to the truth of the information provided; and

(d) that the applicant authorize the lieutenant governor's and county clerk's use of the applicant's:

(i) driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes; or

(ii) signature on file in the lieutenant governor's statewide voter registration database developed under Section [~~20A-2-109~~] 20A-2-502.

(3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for voter registration or preregistration created under this section is not required to complete a printed registration form.

(4) A system created and maintained under this section shall provide the notices concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

(5) The lieutenant governor shall:

(a) obtain a digital copy of the applicant's driver license or identification card signature from the Driver License Division; or

(b) ensure that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section [~~20A-2-109~~] 20A-2-502.

(6) The lieutenant governor shall send the information to the county clerk for the county in

which the applicant's principal place of residence is found for further action as required by Section 20A-2-304 after:

(a) receiving all information from an applicant; and

(b) (i) receiving all information from the Driver License Division; or

(ii) ensuring that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section [~~20A-2-109~~] 20A-2-502.

(7) The lieutenant governor may use additional security measures to ensure the accuracy and integrity of an electronically submitted voter registration.

(8) If an individual applies to register under this section no later than 11 calendar days before the date of an election, the county clerk shall:

(a) accept and process the voter registration form;

(b) unless the individual named in the form is preregistering to vote:

(i) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(ii) notify the individual that the individual is registered to vote in the upcoming election; and

(c) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

(9) If an individual applies to register under this section after the deadline described in Subsection (8), the county clerk shall, unless the individual is preregistering to vote:

(a) accept the application for registration; and

(b) except as provided in Subsection 20A-2-207(6), if possible, promptly inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.

(10) The lieutenant governor shall provide a means by which a registered voter shall sign the application form.

Section 7. Section 20A-2-300.6 is amended to read:

Part 3. Voter Registration Responsibilities

20A-2-300.6. Voter registration activities -- Coordination among local, state, and federal officials.

[~~(1) The lieutenant governor is Utah's chief elections officer. (2)~~] The lieutenant governor shall:

[~~(a) oversee all of Utah's:~~]

[~~(i) voter registration activities; and~~]

[~~(ii) other responsibilities established by:~~]

[~~(A) Public Law 103-31, the National Voter Registration Act of 1993; and~~]

[~~(B) Public Law 107-252, the Help America Vote Act of 2002; and~~]

(1) oversee, manage, and coordinate all voter registration activities in the state; and

[~~(b)~~] (2) coordinate with local, state, and federal officials to ensure compliance with state and federal election laws.

[~~(3) The lieutenant governor, in cooperation with the county clerks, shall develop a general program to obtain change of address information in order to remove the names of ineligible voters from the official register.~~]

Section 8. Section 20A-2-501 is enacted to read:

20A-2-501. Definitions.

As used in this part:

(1) "Annual maintenance utility" means a tool within the system that:

(a) is designed to comply with Section 20A-2-305;

(b) a county clerk is required to run on an annual basis; and

(c) identifies each inactive voter and each voter to be removed from the voter registration database.

(2) "Database" means the statewide voter registration database, described in Subsection 20A-2-502(1)(a) that:

(a) is maintained and updated via the system; and

(b) uses information relative to voter registration and voting, including information that is obtained from a voter, a governmental entity, as defined in Section 63G-2-103, or another state.

(3) "Duplicate voter utility" means a tool within the system that runs a set of queries to identify potential duplicate voter records.

(4) "System" means the statewide voter registration system described in Subsection 20A-2-502(1)(a), including the database and all information within the system or database.

(5) "Voter identification verification tool" means a tool within the system that compares data in a voter registration record to Driver License Division data and Social Security Administration data to verify voter identification.

Section 9. Section 20A-2-502, which is renumbered from Section 20A-2-109 is renumbered and amended to read:

[~~20A-2-109~~]. 20A-2-502. Statewide voter registration system -- Maintenance and update of system -- Record security -- List of incarcerated felons -- Public document showing compliance by county clerks.

(1) [~~(a) (i)~~] The lieutenant governor shall:

(a) develop, manage, and maintain a statewide voter registration [~~database.~~] system to be used by county clerks to maintain an updated statewide voter registration database in accordance with this section and rules made under Section 20A-2-507;

(b) except as provided in Subsection (2)(c), regularly update the system with information relevant to voter registration, as follows:

(i) on at least a weekly basis, information received from the Driver License Division in relation to:

(A) voter registration;

(B) a registered voter's change of address; or

(C) a registered voter's change of name;

(ii) on at least a weekly basis, the information described in Subsection 26-2-13(11) from the state registrar, regarding deceased individuals;

(iii) on at least a monthly basis, the information described in Subsection (3), received from the Department of Corrections regarding incarcerated individuals;

(iv) on at least a monthly basis, information received from other states, including information received under an agreement described in Subsection (2); and

(v) within 31 days after receiving information relevant to voter registration, other than the information described in Subsections (1)(b)(i) through (v);

(c) regularly monitor the system to ensure that each county clerk complies with the requirements of this part and rules made under Section 20A-2-507;

[~~(ii) (A) The lieutenant governor may compare the information in the statewide voter registration database with information submitted by a registered voter to a state agency to identify a change in a registered voter's principal place of residence or name.~~]

[~~(B) The lieutenant governor shall~~] (d) establish matching criteria and security measures for identifying a change described in Subsection [~~(1)(a)(ii)(A)~~] (1)(b) to ensure the accuracy of a voter registration record[~~.~~]; and

[~~(C) The lieutenant governor shall~~] (e) on at least a monthly basis:

(i) use the matching criteria and security measures described in Subsection (1)(d) to compare information in the database to identify duplicate data, contradictory data, and changes in data;

(ii) notify the applicable county clerk of the data identified; and

(iii) notify the county clerk of the county in which [~~the~~] a voter's principal place of residence is located of [~~the change in the~~] a change in a registered voter's principal place of residence or name.

[~~(b) Each county clerk shall utilize the statewide voter registration database when recording or modifying voter registration records.~~]

[~~(2) (a) The lieutenant governor shall establish and implement a procedure to maintain the accuracy of the statewide voter registration database by using information available from:~~]

[~~(i) a voter;~~]

[~~(ii) a governmental entity, as defined by Section 63G-2-103; or~~]

[~~(iii) another state.~~]

[~~(b)~~] (2) (a) Subject to Subsection [~~(2)(c)~~] (2)(b), the lieutenant governor may cooperate or enter into an agreement with a governmental entity or another state to share information [~~to implement the procedure established under Subsection (2)(a)~~] and increase the accuracy of the database.

[~~(c)~~] (b) For a record shared under Subsection [~~(2)(b)~~] (2)(a), the lieutenant governor shall ensure:

(i) that the record is only used to maintain the accuracy of [~~a voter registration~~] the database;

(ii) compliance with Section 63G-2-206; and

(iii) that the record is secure from unauthorized use by employing data encryption or another similar technology security system.

(c) The lieutenant governor is not required to comply with an updating requirement described in Subsection (1)(b) to the extent that the person responsible to provide the information to the lieutenant governor fails to provide the information.

(3) (a) The lieutenant governor shall maintain a current list of all incarcerated felons in Utah.

(b) [~~(i)~~] The Department of Corrections shall provide the lieutenant governor's office with [~~a list of~~]:

(i) the name and last-known address of each [~~person~~] individual who:

(A) was convicted of a felony in a Utah state court; and

(B) is currently incarcerated for commission of a felony[~~.~~]; and

[~~(ii) The lieutenant governor shall establish the frequency of receipt of the information and the method of transmitting the information after consultation with the Department of Corrections.~~]

[~~(c) (i)~~] (ii) [~~The Department of Corrections shall provide the lieutenant governor's office with a list containing~~] the name of each convicted felon who has been released from incarceration.

[~~(ii) The lieutenant governor shall establish the frequency of receipt of the information and the method of transmitting the information after consultation with the Department of Corrections.~~]

(4) The lieutenant governor shall maintain on the lieutenant governor's website a document that:

(a) describes the utilities and tools within the system that a county clerk is required to run;

(b) describes the actions, if any, that a county clerk is required to take in relation to the results of running a utility or tool;

(c) lists, by date, the recurring deadlines by which a county clerk must comply with Subsection (4)(a) or (b); and

(d) indicates, by county:

(i) whether the county clerk timely complies with each deadline described in Subsection (4)(c); and

(ii) if the county clerk fails to timely comply with a deadline described in Subsection (4)(c), whether the county clerk subsequently complies with the deadline and the date on which the county clerk complies.

Section 10. Section 20A-2-503, which is renumbered from Section 20A-2-304.5 is renumbered and amended to read:

[~~20A-2-304.5~~]. 20A-2-503. County clerk's responsibilities -- Updating voter registration.

(1) (a) Each county clerk shall use the system to record or modify all voter registration records.

(b) A county clerk shall:

(i) at the time the county clerk enters a voter registration record into the system, run the system's voter identification verification tool in relation to the record; and

(ii) in accordance with rules made under Section 20A-2-507, regularly report to the lieutenant governor the information described in Subsection 20A-2-502(4).

[~~(1)~~] (2) A county clerk who receives notification from the lieutenant governor, as provided in Subsection [~~20A-2-109(1)~~] 20A-2-502(1)(e), of a change in a registered voter's principal place of residence or name may verify the change with the registered voter.

[~~(2)~~] (3) Unless the county clerk verifies that a change described in Subsection [~~(1)~~] (2) is incorrect, the county clerk shall:

(a) change the voter registration record to show the registered voter's current name and address; and

(b) notify the registered voter of the change to the voter registration record.

(4) A county clerk shall, in accordance with rules made under Section 20A-2-507:

(a) on at least a monthly basis, run the duplicate voter utility and take the action required to resolve potential duplicate data identified by the utility; and

(b) every December, run the annual maintenance utility.

[~~(3)~~] (5) (a) If a voter does not vote in any election during the period beginning on the date of any regular general election and ending on the day after the date of the next regular general election, and the county clerk has not sent the voter a notice described in Section [~~20A-2-306~~] 20A-2-505 during the period, the county clerk shall, within 14 days after the day on which the county clerk runs the annual maintenance utility, send to the voter a preaddressed return form in substantially the following form:

"VOTER REGISTRATION ADDRESS"

To ensure the address on your voter registration is correct, please complete and return this form if your address has changed. What is your current street address?

_____

Street City County State ZIP

_____

Signature of Voter

(b) The county clerk shall mail the form described in Subsection [~~(3)(a)~~] (5)(a) with a postal service that will notify the county clerk if the voter has changed the voter's address.

Section 11. Section 20A-2-504, which is renumbered from Section 20A-2-305 is renumbered and amended to read:

[~~20A-2-305~~]. 20A-2-504. Removing names from the official register -- General requirements.

(1) The county clerk may not remove a voter's name from the official register solely because the voter has failed to vote in an election.

(2) The county clerk shall remove a voter's name from the official register if:

(a) the voter dies and the requirements of Subsection (3) are met;

(b) the county clerk, after complying with the requirements of Section [~~20A-2-306~~] 20A-2-505, receives written confirmation from the voter that the voter no longer resides within the county clerk's county;

(c) [~~the county clerk has:~~]

(i) [~~obtained~~] the county clerk obtains evidence that the voter's residence has changed;

(ii) [~~mailed~~] the county clerk mails notice to the voter as required [~~by~~] under Section [~~20A-2-306~~] 20A-2-505;

(iii) the county clerk:

(A) [~~received~~] receives no response from the voter; or

(B) [~~not received~~] does not receive information that confirms the voter's residence; and

(iv) the voter [~~has failed to~~] does not vote or appear to vote in an election during the period beginning on the date of the notice described in Section [~~20A-2-306~~] 20A-2-505 and ending on the day after the date of the second regular general election occurring after the date of the notice;

(d) the voter requests, in writing, that the voter's name be removed from the official register;

(e) the county clerk receives notice that a voter has been convicted of any felony or a misdemeanor

for an offense under this title and the voter's right to vote has not been restored as provided in Section 20A-2-101.3 or 20A-2-101.5; or

(f) the county clerk receives notice that a voter has registered to vote in another state after the day on which the voter registered to vote in this state.

(3) The county clerk shall remove a voter's name from the official register within five business days after the day on which the county clerk receives confirmation from the [~~Department of Health's Bureau~~] Office of Vital Records that the voter is deceased.

(4) No later than 90 days before each primary and general election, the county clerk shall update the official register by reviewing the official register and taking the actions permitted or required by law under this section, Section [~~20A-2-304.5~~] 20A-2-503, and Section [~~20A-2-306~~] 20A-2-505.

Section 12. Section 20A-2-505, which is renumbered from Section 20A-2-306 is renumbered and amended to read:

[~~20A-2-306~~]. 20A-2-505. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) [~~has not voted~~] does not vote in an election during the period beginning on the date of the notice [~~required by~~] described in Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) [~~has failed to~~] does not respond to the notice [~~required by~~] described in Subsection (3).

(2) (a) [~~When a~~] Within 31 days after the day on which a county clerk obtains information that a voter's address has changed, [~~and~~] if it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice [~~required by~~] described in Subsection (3) [~~printed on a postage prepaid, preaddressed return form~~].

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice [~~required by~~] described in Subsection (3), printed on a postage prepaid, preaddressed return form.

(3) (a) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

_____

Street City County State Zip

What is your current phone number (optional)?_____

What is your current email address (optional)?_____

If you have not changed your residence, or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to return this form within that time:

– you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

– if you fail to vote at least once, from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

_____

Signature of Voter

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political

parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."

(b) Beginning May 1, 2022, the form described in Subsection (3)(a) shall also include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election [~~and~~] or the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election [~~and~~] or the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter [~~has died~~] dies.

(c) (i) After a county clerk mails a notice [~~as required in~~] under this section, the county clerk [~~may~~] shall, unless otherwise prohibited by law, list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk [~~may~~] shall, unless otherwise prohibited by law, list that voter as inactive.

(iii) An inactive voter [~~shall be allowed to~~] may vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to:

(A) send routine mailings to an inactive voter [~~and is not required to~~]; or

(B) count inactive voters when dividing precincts and preparing supplies.

(5) [~~Beginning on or before January 1, 2022, the~~] The lieutenant governor shall make available to a county clerk United States Social Security Administration data received by the lieutenant governor regarding deceased individuals.

(6) A county clerk shall, within ten business days after the day on which the county clerk receives the information described in Subsection (5) or Subsections 26-2-13(11) and (12) relating to a decedent whose name appears on the official register, remove the decedent's name from the official register.

(7) Ninety days before each primary and general election the lieutenant governor shall compare the information the lieutenant governor has received under Subsection 26-2-13(11) with the official register of voters to ensure that all deceased voters have been removed from the official register.

Section 13. Section 20A-2-506, which is renumbered from Section 20A-2-308 is renumbered and amended to read:

[~~20A-2-308~~]. 20A-2-506. Lieutenant governor and county clerks to preserve records.

(1) As used in this section:

(a) "Voter registration record" means a record concerning the implementation of programs and activities conducted for the purpose of ensuring that the official register is accurate and current.

(b) "Voter registration record" does not include a record that:

(i) relates to a person's decision to decline to register to vote; or

(ii) identifies the particular public assistance agency, discretionary voter registration agency, or Driver License Division through which a particular voter registered to vote.

(2) The lieutenant governor and each county clerk shall:

(a) preserve for at least two years all records relating to voter registration, including:

(i) the official register; and

(ii) [~~the names and addresses of all persons~~] the name and address of each individual to whom the notice required by Section [~~20A-2-306~~] 20A-2-505 was sent and a notation [~~as to whether or not the person~~] regarding whether the individual responded to the notice;

(b) make a voter registration record available for public inspection, except for a voter registration

record, or part of a voter registration record that is classified as private under Section 63G-2-302; and

(c) allow a record or part of a record described in Subsection (2)(b) that is not classified as a private record to be photocopied for a reasonable cost.

(3) The lieutenant governor shall take, and store for at least 22 months, a static copy of the official register made at the following times:

(a) the voter registration deadline described in Subsection 20A-2-102.5(2)(a);

(b) the day of the election; and

(c) the last day of the canvass.

Section 14. Section 20A-2-507 is enacted to read:

20A-2-507. Rulemaking authority relating to voter registration records.

The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) to regulate the use, security, maintenance, data entry, and update of the system;

(2) establishing duties and deadlines for a county clerk to:

(a) ensure that the database is updated, accurate, and secure; and

(b) regularly report to the lieutenant governor the information described in Subsection 20A-2-502(4); and

(3) establishing requirements for a county clerk in relation to:

(a) running the utilities and tools in the system;

(b) actions that the county clerk is required to take in response to the matters identified, or the results produced, from running the utilities and tools; and

(c) documenting and reporting compliance with the requirements of this part and rules made under this section.

Section 15. Section 20A-3a-106 is enacted to read:

20A-3a-106. Rulemaking authority relating to conducting an election.

The director of elections, within the Office of the Lieutenant Governor, may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for:

(1) a return envelope described in Subsection 20A-3a-202(4), to ensure uniformity and security of the envelopes;

(2) complying with the signature comparison audit requirements described in Section 20A-3a-402.5; or

(3) conducting and documenting the identity verification process described in Subsection 20A-3a-401(7)(b).

Section 16. Section 20A-3a-202 is amended to read:

20A-3a-202. Conducting election by mail.

(1) (a) Except as otherwise provided for an election conducted entirely by mail under Section 20A-7-609.5, an election officer shall administer an election primarily by mail, in accordance with this section.

(b) An individual who did not provide valid voter identification at the time the voter registered to vote shall provide valid voter identification before voting.

(2) An election officer who administers an election:

(a) shall in accordance with Subsection (3), no sooner than 21 days before election day and no later than seven days before election day, mail to each active voter within a voting precinct:

(i) a manual ballot;

(ii) a return envelope;

(iii) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(iv) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote or a website address where the voter may view this information;

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling place or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the ballot, the voter will be unable to vote in that election because there will be no polling place for the voting precinct on the day of the election; and

(vi) [~~after May 1, 2022,~~] instructions on how a voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5;

(b) may not mail a ballot under this section to:

(i) an inactive voter, unless the inactive voter requests a manual ballot; or

(ii) a voter whom the election officer is prohibited from sending a ballot under Subsection [~~(10)(c)(ii); and~~] (9)(c)(ii);

(c) shall, on the outside of the envelope in which the election officer mails the ballot, include instructions for returning the ballot if the individual to whom the election officer mails the ballot does not live at the address to which the ballot is sent[~~.~~];

(d) shall provide a method of accessible voting to a voter with a disability who is not able to vote by mail; and

(e) shall include, on the election officer's website and with each ballot mailed, instructions regarding how a voter described in Subsection (2)(d) may vote.

(3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail the manual ballot to the address:

(i) provided at the time of registration; or

(ii) if, at or after the time of registration, the voter files an alternate address request form described in Subsection (3)(b), the alternate address indicated on the form.

(b) The lieutenant governor shall make available to voters an alternate address request form that permits a voter to request that the election officer mail the voter's ballot to a location other than the voter's residence.

(c) A voter shall provide the completed alternate address request form to the election officer no later than 11 days before the day of the election.

(4) The return envelope shall include:

(a) the name, official title, and post office address of the election officer on the front of the envelope;

(b) a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected;

(c) a printed affidavit in substantially the following form:

"County of ____State of ____

I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct in ____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon currently incarcerated for commission of a felony.

_____

Signature of Voter"; and

(d) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.

(5) If the election officer determines that the voter is required to show valid voter identification, the election officer may:

(a) mail a ballot to the voter;

(b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot; and

(c) provide instructions to the voter on how the voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

(6) An election officer who administers an election shall:

(a) (i) before the election, obtain the signatures of each voter qualified to vote in the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(7) Upon receipt of a returned ballot, the election officer shall review and process the ballot under Section 20A-3a-401.

(8) A county that administers an election:

(a) shall provide at least one election day voting center in accordance with [~~Chapter 3a, Part 7, Election Day Voting Center~~] Part 7, Election Day Voting Center, and at least one additional election day voting center for every 5,000 active voters in the county who have requested to not receive a ballot by mail;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-3a-601, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604; and

(d) is not required to pay return postage for a ballot[~~; and~~].

[~~(e) is subject to an audit conducted under Subsection (9).~~]

[~~(9) (a) The lieutenant governor shall:~~]

[~~(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and~~]

[~~(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection (9)(a)(i).~~]

[~~(b) The lieutenant governor shall post the results of an audit conducted under this Subsection (9) on the lieutenant governor's website.~~]

[~~(10)~~] (9) (a) An individual may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection [~~(10)(a)~~] (9)(a) to the election officer before 5 p.m. no later than 60 days before an election if the individual does not wish to receive a ballot by mail in that election.

(c) An election officer who receives a request from an individual under Subsection [~~(10)(a)~~] (9)(a):

(i) shall remove the individual's name from the list of voters who will receive a ballot by mail; and

(ii) may not send the individual a ballot by mail for:

(A) the next election, if the individual submits the request described in Subsection [~~(10)(a)~~] (9)(a) before the deadline described in Subsection [~~(10)(b)~~] (9)(b); or

(B) an election after the election described in Subsection [~~(10)(c)(ii)(A)~~] (9)(c)(ii)(A).

(d) An individual who submits a request under Subsection [~~(10)(a)~~] (9)(a) may resume the individual's receipt of a ballot by mail by submitting a written request to the election officer.

Section 17. Section 20A-3a-401 is amended to read:

20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice.

(1) This section governs ballots returned by mail or via a ballot drop box.

(2) (a) Poll workers shall open return envelopes containing manual ballots that are in the custody of the poll workers in accordance with [~~Subsection (2)(b)~~] this section.

(b) The poll workers shall, first, compare the signature of the voter on the affidavit of the return envelope to the signature of the voter in the voter registration records.

(3) After complying with Subsection (2), the poll workers shall determine whether:

(a) the signatures correspond;

(b) the affidavit is sufficient;

(c) the voter is registered to vote in the correct precinct;

(d) the voter's right to vote the ballot has been challenged;

(e) the voter has already voted in the election;

(f) the voter is required to provide valid voter identification; and

(g) if the voter is required to provide valid voter identification, whether the voter has provided valid voter identification.

(4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll workers determine [~~that~~]:

[~~(i) the signatures correspond;~~]

(i) in accordance with the rules made under Subsection (9):

(A) that the signature on the affidavit of the return envelope is reasonably consistent with the individual's signature in the voter registration records; or

(B) for an individual who checks the box described in Subsection (5)(c)(v), that the individual's identity is verified by alternative means;

(ii) that the affidavit is sufficient;

(iii) that the voter is registered to vote in the correct precinct;

(iv) that the voter's right to vote the ballot has not been challenged;

(v) that the voter has not already voted in the election; and

(vi) for a voter required to provide valid voter identification, that the voter has provided valid voter identification.

(b) If the poll workers make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not destroy the affidavit on the return envelope;

(ii) ensure that the ballot does not unfold and is not otherwise examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

(c) If the poll workers do not make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) disallow the vote;

(ii) without opening the return envelope, [~~mark across the face of the return envelope:~~] record the ballot as "rejected" and state the reason for the rejection; and

[~~(A) "Rejected as defective"; or~~]

[~~(B) "Rejected as not a registered voter"; and~~]

(iii) place the return envelope, unopened, with the other rejected return envelopes.

(5) (a) If the poll workers reject an individual's ballot because the poll workers determine, in accordance with rules made under Subsection (9), that the signature on the return envelope [~~does not match~~] is not reasonably consistent with the individual's signature in the voter registration records, the election officer shall:

(i) contact the individual in accordance with Subsection [~~(7) by mail, email, text message, or phone, and~~] (6); and

(ii) inform the individual:

[~~(i)~~] (A) that the individual's signature is in question;

[~~(ii)~~] (B) how the individual may resolve the issue; and

[~~(iii)~~] (C) that, in order for the ballot to be counted, the individual is required to deliver to the election

officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection [~~(5)(b)~~] (5)(c).

(b) The election officer shall ensure that the information provided under Subsection (5)(a) includes:

(i) when communicating by mail, a printed copy of the affidavit described in Subsection (5)(c) and a courtesy reply envelope;

(ii) when communicating electronically, a link to a copy of the affidavit described in Subsection (5)(c) or information on how to obtain a copy of the affidavit; or

(iii) when communicating by phone, either during a direct conversation with the voter or in a voicemail, arrangements for the voter to receive a copy of the affidavit described in Subsection (5)(c), either in person from the clerk's office, by mail, or electronically.

[~~(b)~~] (c) An affidavit described in Subsection [~~(5)(a)(iii)~~] (5)(a)(ii)(C) shall include:

(i) an attestation that the individual voted the ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit; [~~and~~]

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes[~~.~~]; and

(v) a check box accompanied by language in substantially the following form:

"I am a voter with a qualifying disability under the Americans with Disabilities Act that impacts my ability to sign my name consistently. I can provide appropriate documentation upon request. To discuss accommodations, I can be contacted at _____".

[~~(c)~~] (d) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection [~~(5)(b)~~] (5)(c) to the election officer.

[~~(d)~~] (e) An election officer who receives a signed affidavit under Subsection [~~(5)(c)~~] (5)(d) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section [~~20A-2-109; and~~] 20A-2-502;

(ii) if the election officer receives the affidavit no later than 5 p.m. three days before the day on which the canvass begins, count the individual's ballot[~~.~~]; and

(iii) if the check box described in Subsection (5)(c)(v) is checked, comply with the rules described in Subsection (9)(c).

[~~(6) If the poll workers reject an individual's ballot for any reason, other than the reason described in Subsection (5)(a), the election officer shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.~~]

[~~(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:~~]

[~~(a) if the election officer rejects the ballot before election day:~~]

[~~(i) one business day after the day on which the election officer rejects the ballot, if the election officer gives the notice by email or text message; or~~]

[~~(ii) two business days after the day on which the election officer rejects the ballot, if the election officer gives the notice by postal mail or phone;~~]

[~~(b) seven days after election day if the election officer rejects the ballot on election day; or~~]

[~~(c) seven days after the canvass if the election officer rejects the ballot after election day and before the end of the canvass.~~]

(6) (a) The election officer shall, within two business days after the day on which an individual's ballot is rejected, notify the individual of the rejection and the reason for the rejection, by phone, mail, email, or SMS text message, unless:

(i) the ballot is cured within one business day after the day on which the ballot is rejected; or

(ii) the ballot is rejected because the ballot is received late or for another reason that cannot be cured.

(b) If an individual's ballot is rejected for a reason described in Subsection (6)(a)(ii), the election officer shall notify the individual of the rejection and the reason for the rejection by phone, mail, email, or SMS text message, within the later of:

(i) 30 days after the day of the rejection; or

(ii) 30 days after the day of the election.

(c) The election officer may, when notifying an individual by phone under this Subsection (6), use auto-dial technology.

[~~(8)~~] (7) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless, no later than 5 p.m. three days before the day on which the canvass begins, the election officer:

[~~(a) the election officer receives a signed affidavit from the individual under Subsection (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's identity; and~~]

[~~(b) the affidavit described in Subsection (8)(a) is received, or the confirmation described in Subsection (8)(a) occurs, no later than 5 p.m. three days before the day on which the canvass begins.~~]

(a) receives a signed affidavit from the individual under Subsection (5); or

(b) (i) contacts the individual;

(ii) if the election officer has reason to believe that an individual, other than the voter to whom the ballot was sent, signed the ballot affidavit, informs the individual that it is unlawful to sign a ballot affidavit for another person, even if the person gives permission;

(iii) verifies the identity of the individual by:

(A) requiring the individual to provide at least two types of personal identifying information for the individual;

(B) comparing the information provided under Subsection (7)(b)(iii)(A) to records relating to the individual that are in the possession or control of an election officer; and

(iv) documenting the verification described in Subsection (7)(b)(iii), by recording:

(A) the name and voter identification number of the individual contacted;

(B) the name of the individual who conducts the verification;

(C) the date and manner of the communication;

(D) the type of personal identifying information provided by the individual;

(E) a description of the records against which the personal identifying information provided by the individual is compared and verified; and

(F) other information required by the lieutenant governor.

[~~(9)~~] (8) The election officer shall:

(a) retain and preserve the return envelopes in the manner provided by law for the retention and preservation of ballots voted at that election[~~.~~];

(b) retain and preserve the documentation described in Subsection (7)(b)(iv); and

(c) if the election officer complies with Subsection (8)(b) by including the documentation in the voter's voter registration record, make, retain, and preserve a record of the name and voter identification number of each voter contacted under Subsection (7)(b).

(9) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) criteria and processes for use by poll workers in determining if a signature is reasonably consistent with the signature on file for the voter under Subsections (3)(a) and (4)(a)(i)(A);

(b) training and certification requirements for election officers and employees of election officers regarding the criteria and processes described in Subsection (9)(a); and

(c) in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Secs. 12131 through 12165, an alternative means of verifying the signature of an individual who checks the box described in Subsection (5)(c)(v).

Section 18. Section 20A-3a-401.1 is enacted to read:

20A-3a-401.1. Ballot chain of custody.

(1) As used in this section:

(a) "Batch" means a grouping of a specified number of ballots:

(i) that is assembled by poll workers, and given a number to distinguish the grouping from other groupings, when the ballots are first received for processing;

(ii) that is kept together in the same grouping, and kept separate from other groupings, throughout ballot processing; and

(iii) for which a log is kept to document the chain of custody of the grouping.

(b) "Processed" means an action taken in relation to a batch, a ballot in a batch, or a return envelope that a poll worker has not separated from a ballot, as follows:

(i) starting with receiving the ballot;

(ii) each step taken in relation to a ballot as part of conducting an election; and

(iii) ending after the ballots are counted and stored.

(2) An election officer shall preserve the chain of custody of all ballots in accordance with this section.

(3) An election officer shall maintain an accurate, updated count of the number of ballots that the election officer:

(a) mails or otherwise provides to a voter;

(b) receives from a voter;

(c) counts;

(d) rejects;

(e) resolves after rejecting; or

(f) does not resolve after rejecting.

(4) Upon receiving ballots cast by voters, the election officer shall ensure that poll workers immediately count the number of ballots received and divide the ballots into batches.

(5) The election officer shall ensure that:

(a) ballots in each batch are kept separate from the ballots in other batches;

(b) a ballot is not separated from a batch, except as necessary to the election process;

(c) if a ballot is separated from a batch, the batch log indicates:

(i) the ballot number;

(ii) the date and time of removal;

(iii) the identity of the individual who removes the ballot; and

(iv) the reason the ballot is removed;

(d) poll workers shall keep for each batch a log that includes:

(i) a unique identifying code or number for the batch;

(ii) the number of ballots in the batch;

(iii) the date that the ballots were received; and

(iv) for each occasion that the batches, or any of the ballots in the batches, are handled:

(A) the date and time that the ballots are handled;

(B) a description of what is done with the ballots;

(C) the identity of the poll workers who handle the ballots; and

(D) any other information required by rule under Subsection (7);

(e) an election official who performs a ballot processing function performs the function in the presence of at least one other election official;

(f) to the extent reasonably possible, the poll workers who perform a ballot processing function for a batch complete performing that function for the entire batch; and

(g) each part of the processing of all ballots is monitored by recorded video, without audio.

(6) An election officer shall:

(a) keep the recordings described in Subsection (5)(g) until the later of:

(i) the end of the calendar year in which the election was held; or

(ii) if the election is contested, when the contest is resolved; and

(b) ensure that a camera, a video, or a recording of a video described in Subsection (5)(g) may only be accessed:

(i) by the election officer;

(ii) by a custodian of the camera, video, or recording;

(iii) by the lieutenant governor;

(iv) by the legislative auditor general, when performing an audit; or

(v) by, or pursuant to an order of, a court of competent jurisdiction.

(7) An individual may not view a video, or a recording of a video, described in Subsection (5)(g):

(a) unless the individual is an individual described in Subsection (6)(b); and

(b) the individual views the video to the extent necessary to:

(i) ensure compliance with Subsection (5)(g) or (6); or

(ii) investigate a concern relating to the processing of ballots.

(8) The director of elections within the Office of the Lieutenant Governor may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing specific requirements and procedures for an election officer or poll worker to:

(a) fulfill the chain of custody requirements described in this section;

(b) perform the signature verification audits described in Section 20A-3a-402.5; and

(c) comply with the reconciliation requirements described in Subsection 20A-4-304(2)(h).

Section 19. Section 20A-3a-401.5 is amended to read:

20A-3a-401.5. Ballot tracking system.

(1) As used in this section:

(a) "Ballot tracking system" means the system described in this section to track and confirm the status of trackable ballots.

(b) "Change in the status" includes:

(i) when a trackable ballot is mailed to a voter;

(ii) when an election official receives a voted trackable ballot; and

(iii) when a voted trackable ballot is counted.

(c) "Trackable ballot" means a manual ballot that is:

(i) mailed to a voter in accordance with Section 20A-3a-202;

(ii) deposited in the mail by a voter in accordance with Section 20A-3a-204; or

(iii) deposited in a ballot drop box by a voter in accordance with Section 20A-3a-204.

(d) "Voter registration database" means the [~~statewide voter registration database described in Section 20A-2-109~~] database, as defined in Section 20A-2-501.

(2) [~~(a)~~] The lieutenant governor shall [~~develop~~] operate and maintain a statewide or locally based system to track and confirm when there is a change in the status of a trackable ballot.

[~~(b) The ballot tracking system shall be operational on or before May 1, 2022.~~]

(3) [~~Beginning on May 1, 2022, if~~] If a voter elects to receive electronic notifications regarding the status of the voter's trackable ballot, the ballot tracking system shall, when there is a change in the status of the voter's trackable ballot:

(a) send a text message notification to the voter if the voter's information in the voter registration database includes a mobile telephone number;

(b) send an email notification to the voter if the voter's information in the voter registration database includes an email address; and

(c) send a notification by another electronic means directed by the lieutenant governor.

(4) The lieutenant governor shall ensure that the ballot tracking system and the state-provided website described in Section 20A-7-801 automatically share appropriate information to ensure that a voter is able to confirm the status of the voter's trackable ballot via the state-provided website free of charge.

(5) The ballot tracking system shall include a toll-free telephone number or other offline method by which a voter can confirm the status of the voter's trackable ballot.

(6) The lieutenant governor shall ensure that the ballot tracking system:

(a) is secure from unauthorized use by employing data encryption or other security measures; and

(b) is only used for the purposes described in this section.

Section 20. Section 20A-3a-402.5 is enacted to read:

20A-3a-402.5. Signature verification audits.

(1) An election officer shall, in accordance with this section and rules made under Section 20A-3a-106, conduct regular audits of signature comparisons made between signatures on envelopes and voter signatures maintained by the election officer.

(2) An individual who conducts an audit of signature comparisons may not audit the individual's own work.

(3) Before separating ballots from return envelopes, the election officer shall:

(a) audit 1% of all signature comparisons of the envelopes to be separated to determine the accuracy of the comparisons made; and

(b) provide additional training or staff reassignments, as needed, based on the results of the audit.

(4) An election officer shall submit to the lieutenant governor and the board of canvassers a record of:

(a) the audits performed under this section;

(b) the results of the audits; and

(c) any remedial action taken.

Section 21. Section 20A-3a-405 is amended to read:

20A-3a-405. Ballot statistics.

(1) [~~An~~] Except as provided in Subsection (5)(a), an election officer shall post and update the data described in Subsection (2) on the election officer's website, on the following days, after the election officer finishes processing ballots on that day:

(a) the day on which the election officer begins mailing ballots;

(b) [~~except as provided in Subsection (5)(a), until the day described in Subsection (1)(c),~~] each Monday, Wednesday, and Friday after the day described in Subsection (1)(a), until the final posting described in Subsection (1)(c); and

(c) the [~~Friday before~~] Wednesday after the day of the election.

(2) The data that an election officer is required to post under Subsection (1) includes:

(a) the number of ballots in the county clerk's possession; and

(b) of the number of ballots described in Subsection (2)(a):

(i) the number of ballots that have not yet begun processing;

(ii) the number of ballots in process; and

(iii) the number of ballots processed.

(3) Except as provided in Subsection (5)(b), an election officer shall post and update the data described in Subsection (4) on the election officer's website on the following days:

(a) the Friday after the day of the election;

(b) [~~until the day described in Subsection (3)(c),~~] each Monday, Wednesday, and Friday after the day described in Subsection (3)(a), until the final posting described in Subsection (3)(c); and

(c) on the last day of the canvass.

(4) The data that an election officer is required to post under Subsection (3) includes:

(a) a best estimate of the number of ballots received, to date, by the election officer;

(b) the number of ballots in possession of the election officer that have been rejected and are not yet cured;

(c) the number of provisional ballots in the possession of the election officer that have not been processed;

(d) the number of ballots that need to be adjudicated, but have not yet been adjudicated;

(e) the number of ballots awaiting replication; and

(f) the number of ballots that have been replicated.

(5) (a) [~~Except for the Monday described in Subsection (1)(c), an~~] An election officer is not required to update the data described in Subsection (2) on a Monday if the election officer does not process any ballots the preceding Saturday or Sunday.

(b) An election officer is not required to update the data described in Subsection (4) on a Monday if

the election officer does not process any ballots the preceding Saturday or Sunday.

Section 22. Section 20A-4-102 is amended to read:

20A-4-102. Manual ballots cast at a polling place -- Counting manual ballots at polling place on day of election after polls close.

(1) (a) This section governs counting manual ballots on the day of an election, if:

(i) the ballots are cast at a polling place; and

(ii) the ballots are counted at the polling place after the polls close.

(b) Except as provided in Subsection (2) or a rule made under Subsection 20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.

(c) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:

(i) to the extent applicable, Section 20A-4-105; and

(ii) as applicable, for an instant runoff voting race under Part 6, Municipal Alternate Voting Methods Pilot Project, Subsections 20A-4-603(3) through (5).

(2) (a) First, the election judges shall count the number of ballots in the ballot box.

(b) (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.

(ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

(c) (i) If, after examining the official endorsements, there are still more ballots in the ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.

(ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.

(iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.

(d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.

(3) The judges shall:

(a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and

(b) seal that envelope or container.

(4) The judges shall:

(a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and

(b) seal that envelope or container.

(5) (a) In counting the votes, the election judges shall read and count each ballot separately.

(b) In regular primary elections the judges shall:

(i) count the number of ballots cast for each party;

(ii) place the ballots cast for each party in separate piles; and

(iii) count all the ballots for one party before beginning to count the ballots cast for other parties.

(6) (a) In all elections, the counting judges shall, except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i):

(i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;

(ii) count each vote for each write-in candidate who has qualified by filing a declaration of candidacy under Section 20A-9-601;

(iii) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;

(iv) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;

(v) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and

(vi) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.

(b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.

(c) The judges shall certify to the accuracy and completeness of the tally list in the space provided on the tally list.

(d) When the judges have counted all of the voted ballots, they shall record the results on the total votes cast form.

(7) [~~(7)~~] (a) [~~Only~~] Except as provided in Subsection (7)(b), only an election judge and a watcher may be present at the place where counting is conducted until the count is completed.

(b) The lieutenant governor may be present at the place where counting is conducted, regardless of whether the count is completed.

Section 23. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election

officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall provide public notice of the time and place of the test:

(i) (A) by publishing notice at least 48 hours before the test in a newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used;

(B) at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction, subject to a maximum of 10 notices; or

(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the test; and

(iii) if the county, municipality, or jurisdiction has a website, by posting notice on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) [~~the automatic tabulating equipment passes the same test at the end of the count~~]before the election returns are approved as official[~~.~~], the automatic tabulating equipment passes a post election audit conducted in accordance with the rules described in Subsection 20A-1-108(1).

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) (a) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(i) make a true replication of the ballot with an identifying serial number;

(ii) substitute the replicated ballot for the damaged or defective ballot;

(iii) label the replicated ballot "replicated"; and

(iv) record the replicated ballot's serial number on the damaged or defective ballot.

(b) The lieutenant governor shall provide to each election officer a standard form on which the election officer shall maintain a log of all replicated ballots, that includes, for each ballot:

(i) the serial number described in Subsection (3)(a);

(ii) the identification of the individuals who replicated the ballot;

(iii) the reason for the replication; and

(iv) any other information required by the lieutenant governor.

(c) An election officer shall:

(i) maintain the log described in Subsection (3)(b) in a complete and legible manner, as ballots are replicated;

(ii) at the end of each day during which one or more ballots are replicated, make an electronic copy of the log; and

(iii) keep each electronic copy made under Subsection (3)(c)(ii) for at least 22 months.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

(6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any

valid provisional ballots for counting as provided in Section 20A-4-107.

(7) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 24. Section 20A-4-106 is amended to read:

20A-4-106. Manual ballots -- Sealing.

(1) After the official canvas of an election, the election officer shall store all election returns in containers that identify the containers' contents.

(2) After the ballots are stored under Subsection (1), the ballots may not be examined by anyone, except as follows:

(a) when examined during a recount conducted under the authority of Section 20A-4-401 or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project[.]; or

(b) the lieutenant governor may examine the ballots:

(i) until the later of:

(A) the end of the calendar year in which the election was held; or

(B) if the election is contested, when the contest is resolved; or

(ii) at any time via a subpoena or other legal process.

Section 25. Section 20A-4-109 is enacted to read:

20A-4-109. Ballot reconciliation -- Rulemaking authority.

(1) In accordance with this section and rules made under Subsection (2), an election officer whose office processes ballots shall:

(a) conduct ballot reconciliations every time ballots are tabulated;

(b) conduct a final ballot reconciliation when an election officer concludes processing all ballots;

(c) document each ballot reconciliation;

(d) publicly release the results of each ballot reconciliation; and

(e) in conducting ballot reconciliations:

(i) ensure that the number of ballots received for processing, the number of ballots processed, and the number of voters given credit for voting, are equal; or

(ii) if the numbers described in Subsection (1)(e)(i) are not equal, account for and explain the differences in the numbers.

(2) The director of elections within the Office of the Lieutenant Governor may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and requirements for conducting, documenting, and publishing a ballot reconciliation.

Section 26. Section 20A-4-202 is amended to read:

20A-4-202. Election officers -- Disposition of ballots -- Release of number of provisional ballots cast.

(1) Upon receipt of the election returns from the poll workers, the election officer shall:

(a) ensure that the poll workers have provided all of the ballots and election returns;

(b) inspect the ballots and election returns to ensure that they are sealed;

(c) for manual ballots, deposit and lock the ballots and election returns in a safe and secure place;

(d) for mechanical ballots:

(i) count the ballots; and

(ii) deposit and lock the ballots and election returns in a safe and secure place; and

(e) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.

(2) Each election officer shall:

(a) before 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;

(b) preserve ballots for 22 months after the election or until the time has expired during which the ballots could be used in an election contest;

(c) preserve all other official election returns for at least 22 months after an election; and

(d) after that time, destroy them without opening or examining them.

(3) (a) The election officer shall package and retain all tabulating cards and other materials used in the programming of the automatic tabulating equipment.

(b) The election officer:

(i) may access these tabulating cards and other materials;

(ii) may make copies of these materials and make changes to the copies;

(iii) may not alter or make changes to the materials themselves; and

(iv) within 22 months after the election in which they were used, may dispose of those materials or retain them.

(4) (a) If an election contest is begun within 12 months, the election officer shall, except as provided in Subsection (4)(c):

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) [~~When~~] Except as provided in Subsection (4)(c), when all election contests arising from an election are complete, the election officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in the election officer's custody without opening or examining them if the time for preserving them under this section has run.

(c) The lieutenant governor may examine the ballots and election returns described in this Subsection (4).

(5) (a) Notwithstanding the provisions of this section, the legislative auditor general:

(i) may make and keep copies of ballots or election returns as part of a legislative audit; and

(ii) may not examine, make copies, or keep copies, of a ballot in a manner that identifies a ballot with the voter who casts the ballot.

(b) A copy described in Subsection (5)(a) is not a record, and not subject to disclosure, under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 27. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction; or

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) [~~As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain~~] The election officer shall submit a report to the board of canvassers that includes the following information:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each ballot-counting phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) standardized statistics, on a form provided by the lieutenant governor, disclosing:

(i) the number of ballots counted;

(ii) provisional ballots; and

(iii) the number of ballots [~~that were~~] rejected; [~~and~~]

(h) a final ballot reconciliation report;

(i) other information required by law to be provided to the board of canvassers; and

[~~(h)~~] (j) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that [~~it~~] the report is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2):

(a) (i) by publishing notice at least once in a newspaper of general circulation within the jurisdiction;

(ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing notice to each residence within the jurisdiction;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for one week; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for one week.

(6) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 28. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall provide notice, in accordance with Subsection (3):

(i) by posting notice in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county;

(ii) (A) by publishing notice in a newspaper of general circulation in the county;

(B) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county, subject to a maximum of 10 notices; or

(C) by mailing notice to each registered voter in the county;

(iii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the election; and

(iv) by posting notice on the county's website for seven days before the day of the election.

(b) The county clerk shall prepare an affidavit of the posting under Subsection (2)(a)(i), showing a copy of the notice and the places where the notice was posted.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; [~~and~~]

(f) the qualifications for persons to vote in the election[~~.~~]; and

(g) instructions regarding how an individual with a disability, who is not able to vote a manual ballot by mail, may obtain information on voting in an accessible manner.

(5) The election officer shall provide the notice described in Subsection (4):

(a) (i) by publishing the notice in a newspaper of general circulation in the jurisdiction to which the election pertains, at least two days before the day of the election;

(ii) at least two days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing the notice to each registered voter who resides in the jurisdiction to which the election pertains at least five days before the day of the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two days before the day of the election; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for two days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 29. Section 20A-5-403.5 is amended to read:

20A-5-403.5. Ballot drop boxes.

(1) (a) An election officer:

[~~(a)~~] (i) shall designate at least one ballot drop box in each municipality and reservation located in the jurisdiction to which the election relates;

[~~(b)~~] (ii) may designate additional ballot drop boxes for the election officer's jurisdiction;

[~~(c)~~] (iii) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction;

[~~(d)~~] (iv) shall provide 24-hour recorded video surveillance, without audio, of each unattended ballot drop box; [~~and~~]

[~~(e)~~] (v) shall post a sign on or near each unattended ballot drop box indicating that the ballot drop box is under 24-hour video surveillance[~~.~~]; and

(vi) shall ensure that a camera, a video, or a recording of a video described in Subsection (1)(a)(iv) may only be accessed:

(A) by the election officer;

(B) by a custodian of the camera, video, or recording;

(C) by the lieutenant governor;

(D) by the legislative auditor general, when performing an audit; or

(E) by, or pursuant to an order of, a court of competent jurisdiction.

(b) An individual may not view a video, or a recording of a video, described in Subsection (1)(a)(iv), unless the individual:

(i) is an individual described in Subsection (1)(a)(vi); and

(ii) views the video to the extent necessary to:

(A) ensure compliance with Subsection (1)(a)(iv), (1)(a)(vi), or (1)(c); or

(B) investigate a concern relating to ballots or the ballot box.

(c) The election officer, or the custodian of the recording, shall keep a recording described in Subsection (1)(a)(iv) until the later of:

(i) the end of the calendar year in which the election was held; or

(ii) if the election is contested, when the contest is resolved.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least 19 days before the date of the election, provide notice of the location of each ballot drop box designated under Subsection (1):

(a) (i) by publishing notice in at least one issue of a newspaper of general circulation in the jurisdiction holding the election;

(ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction holding the election, in places within the jurisdiction that are most likely to give notice to the residents in the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing notice to each registered voter in the jurisdiction holding the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for 19 days before the day of the election; and

(c) by posting notice on the jurisdiction's website for 19 days before the day of the election.

(3) Instead of including the location of ballot drop boxes, a notice required under Subsection (2) may specify the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

(7) (a) At least two poll workers must be present when a poll worker collects ballots from a ballot drop box and delivers the ballots to the location where the ballots will be opened and counted.

(b) An election officer shall ensure that the chain of custody of ballots placed in a ballot box are recorded and tracked from the time the ballots are removed from the ballot box until the ballots are delivered to the location where the ballots will be opened and counted.

Section 30. Section 53-18-103 is amended to read:

53-18-103. Internet posting of personal information of public safety employees -- Prohibitions.

(1) (a) A state or local governmental agency that receives the form described in Subsection (1)(b) from a public safety employee may not publicly post on the Internet the personal information of the public safety employee employed by the state or local governmental agency.

(b) Each state or local government agency employing a public safety employee shall:

(i) provide a form for a public safety employee to request the removal or concealment of the public safety employee's personal information from the state or local government agencies' publicly accessible websites and databases;

(ii) inform the public safety employee how to submit a form under this section;

(iii) upon request, assist a public safety employee in completing the form;

(iv) include on the form a disclaimer informing the public safety employee that by submitting a completed form the public safety employee may not receive official announcements affecting the public safety employee's property, including notices about proposed annexations, incorporation, or zoning modifications; and

(v) require a form submitted by a public safety employee to be signed by:

(A) for a public safety employee who is a law enforcement officer, the highest ranking elected or appointed official in the officer's chain of command certifying that the individual requesting removal or concealment is a law enforcement officer; or

(B) for a public safety employee who is not a law enforcement officer, the public safety employee's supervisor.

(2) A county clerk, upon receipt of the form described in Subsection (1)(b) from a public safety employee, completed and submitted under this section, shall:

(a) classify the public safety employee's voter registration record in the [~~lieutenant governor's statewide voter registration database developed under Section 20A-2-109~~] system, as defined in Section 20A-2-501, as a private record; and

(b) classify the public safety employee's marriage licenses and marriage license applications, if any, as private records.

(3) A county recorder, treasurer, auditor, or tax assessor, upon receipt of the form described in Subsection (1)(b) from a public safety employee, completed and submitted under this section, shall:

(a) provide a method for the assessment roll and index and the tax roll and index that will block public access to the public safety employee's personal information; and

(b) provide to the public safety employee who submits the form a written disclaimer informing the public safety employee that the public safety employee may not receive official announcements affecting the public safety employee's property, including notices about proposed annexations, incorporations, or zoning modifications.

(4) A form submitted under this section remains in effect for the shorter of:

(a) four years from the date on which the form was signed by the public safety employee, regardless of whether the public safety employee's qualifying employment is terminated during the four years; or

(b) one year after official notice of the public safety employee's death is transmitted by the public safety employee's immediate family or the public safety employee's employing agency to all state and local government agencies that are reasonably expected to have records containing personal information of the deceased public safety employee.

(5) Notwithstanding Subsection (4), the public safety employee, or the public safety employee's immediate family if the public safety employee is deceased, may rescind the form at any time.

(6) (a) An individual may not, with intent to frighten or harass a public safety employee, publicly post on the Internet the personal information of a public safety employee knowing the public safety employee is a public safety employee.

(b) Except as provided in Subsection (6)(c), a violation of Subsection (6)(a) is a class B misdemeanor.

(c) A violation of Subsection (6)(a) that results in bodily injury to the public safety employee, or a member of the public safety employee's immediate family, is a class A misdemeanor.

(d) (i) Each act against a separate individual in violation of Subsection (6)(a) is a separate offense.

(ii) A defendant may also be charged separately with the commission of any other criminal conduct related to the commission of an offense under Subsection (6)(a).

(7) (a) A business or association may not publicly post or publicly display on the Internet the personal information of a public safety employee if the public safety employee has, either directly or through an agent designated under Subsection (7)(c), provided to that business or association a written demand to not disclose the public safety employee's personal information.

(b) A written demand made under Subsection (7)(a) by a public safety employee is effective for four years beginning on the day the demand is delivered, regardless of whether the public safety employee's employment as a public safety employee has terminated during the four years.

(c) A public safety employee may designate in writing the public safety employee's employer or, for a public safety employee who is a law enforcement officer, a representative of a voluntary professional association of law enforcement officers to act on behalf of the officer and as the officer's agent to make a written demand under this chapter.

(d) (i) A business or association that receives a written demand from a public safety employee under Subsection (7)(a) shall remove the public safety employee's personal information from public display on the Internet, including the removal of information provided to cellular telephone applications, within 24 hours of the delivery of the written demand, and shall ensure that the information is not posted again on the same Internet website or any other Internet website over which the recipient of the written demand maintains or exercises control.

(ii) After receiving the public safety employee's written demand, the person, business, or association may not publicly post or publicly display on the Internet, the personal information of the public safety employee.

(iii) This Subsection (7)(d) does not prohibit a telephone corporation, as defined in Section 54-2-1, or the telephone corporation's affiliate or other voice service provider, including providers of interconnected voice over Internet protocol service as defined in 47 C.F.R. 9.3, from transferring the public safety employee's personal information to any person, business, or association, if the transfer is authorized by federal or state law, regulation, order, terms of service, or tariff, or is necessary in the event of an emergency, or to collect a debt owed by the public safety employee to the telephone corporation or its affiliate.

(iv) This Subsection (7)(d) does not apply to a telephone corporation or other voice service provider, including providers of interconnected voice over Internet protocol service, with respect to directories or directories listings to the extent the entity offers a nonpublished listing option.

(8) (a) A public safety employee whose personal information is made public as a result of a violation of Subsection (7) may bring an action seeking injunctive or declarative relief in a court of competent jurisdiction.

(b) If a court finds that a violation has occurred, the court may grant injunctive or declarative relief and shall award the public safety employee court costs and reasonable attorney fees.

(c) If the defendant fails to comply with an order of the court issued under Subsection (8)(b), the court may impose a civil penalty of not more than $1,000 for the defendant's failure to comply with the court's order.

(9) (a) A person, business, or association may not solicit, sell, or trade on the Internet the personal information of a public safety employee, if:

(i) the dissemination of the personal information poses an imminent and serious threat to the public safety employee's safety or the safety of the public safety employee's immediate family; and

(ii) the person making the information available on the Internet knows or reasonably should know of the imminent and serious threat.

(b) (i) A public safety employee whose personal information is knowingly publicly posted or publicly displayed on the Internet may bring an action in a court of competent jurisdiction.

(ii) If a jury or court finds that a defendant has committed a violation of Subsection (9)(a), the jury or court shall award damages to the public safety employee in the amount of triple the cost of actual damages or $4,000, whichever is greater.

(10) An interactive computer service or access software is not liable under Subsections (7)(d)(i) and (9) for information or content provided by another information content provider.

(11) Unless a state or local government agency receives a completed form directly from a public safety employee in accordance with Subsection (1), a state or local government official who makes information available for public inspection in accordance with state law is not in violation of this chapter.

Section 31. Section 67-1a-2 is amended to read:

67-1a-2. Duties enumerated.

(1) The lieutenant governor shall:

(a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:

(i) as the head of any one department, if so qualified, with the advice and consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;

(ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;

(iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of the State of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise oversight, and general supervisory authority, over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) [~~assist county clerks in unifying~~] establish uniformity in the election ballot;

(iv) (A) prepare election information for the public as required by [~~statute~~] law and as determined appropriate by the lieutenant governor; and

(B) make the information [~~under~~] described in Subsection (2)(a)(iv)(A) available to the public and to news media, on the Internet, and in other forms as required by [~~statute or~~] law and as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of [~~those persons who have received the highest number of votes for any~~] individuals nominated to run for, or elected to, office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of Sections 20A-5-302, 20A-5-802, and 20A-5-803;

(x) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

(xi) exercise all other election authority, and perform other election duties, as provided inTitle 20A, Election Code.

(b) As chief election officer, the lieutenant governor:

(i) shall oversee all elections, and functions relating to elections, in the state;

(ii) shall, in accordance with Section 20A-1-105, take action to enforce compliance by an election officer with legal requirements relating to elections; and

(iii) may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

(i) determine a new municipality's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part 2, Incorporation of a Municipality, based on the municipality's population using the population estimate from the Utah Population Committee; and

(ii) (A) prepare a certificate indicating the class in which the new municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the municipality's legislative body.

(b) The lieutenant governor shall:

(i) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information from:

(A) each official census or census estimate of the United States Bureau of the Census; or

(B) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census; and

(ii) (A) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body.

(c) The lieutenant governor shall:

(i) determine a new metro township's classification under Section 10-2-301.5 upon the metro township's incorporation under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, based on the metro township's population using the population estimates from the Utah Population Committee; and

(ii) prepare a certificate indicating the class in which the new metro township belongs based on the metro township's population and, within 10 days after preparing the certificate, deliver a copy of the certificate to the metro township's legislative body.

(d) The lieutenant governor shall monitor the population of each municipality using population information from:

(i) each official census or census estimate of the United States Bureau of the Census; or

(ii) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census.

(e) If the applicable population figure under Subsection (3)(b) or (d) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

(f) (i) If the applicable population figure under Subsection (3)(b) or (d) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Section 32. Repealer.

This bill repeals:

Section 20A-1-101, Title.

Section 33. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office

From General Fund	860,000
From General Fund, One-Time	730,000

Schedule of Programs:

Lt. Governor's Office	1,590,000

The Legislature intends that:

(1) under Section 63J-1-603, up to $250,000 of the money appropriated to the Governor's Office in Item 1 of 2022 Laws of Utah, Chapter 156, not lapse at the end of Fiscal Year 2023; and

(2) on or after July 1, 2023, the lieutenant governor may use the nonlapsing funds described in Subsection (1) to assist political subdivisions with election security costs, including the expanded video surveillance described in this bill.

CHAPTER 298
H. B. 449
Passed March 3, 2023
Approved March 15, 2023
Effective July 1, 2023

BUSINESS SERVICES AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill prohibits a company from coordinating with another to intentionally destroy certain companies by eliminating the viable options for the companies to obtain a product or service.

Highlighted Provisions:

This bill:

- defines terms;
- subject to exceptions, prohibits a company from coordinating with another to intentionally destroy certain companies by eliminating the viable options for the companies to obtain a product or service;
- allows a person to bring a civil action for injunctive relief or damages for a violation of the prohibition;
- requires a court to award attorney fees and costs to the prevailing party in the civil action; and
- prohibits a court from reducing damages in the civil action to an amount less than the actual damages.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

13-63-101, Utah Code Annotated 1953
13-63-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-63-101 is enacted to read:

CHAPTER 63. BUSINESS SERVICES BOYCOTT RESTRICTIONS

Part 1. General Provisions

13-63-101 (Codified as 13-66-101). Definitions.

As used in this chapter:

(1) "Boycotted company" means a company that:

(a) engages in, facilitates, or supports the manufacture, import, distribution, advertising, sale, or lawful use of a firearm, ammunition, or another component or accessory of a firearm or ammunition; or

(b) does not meet or commit to meet:

(i) environmental, social, or governance criteria in that the company engages in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based or nuclear energy, timber, mining, or agriculture; or

(ii) environmental standards, including standards for eliminating, reducing, offsetting, or disclosing greenhouse gas-emissions, beyond applicable state and federal law requirements.

(2) (a) "Company" means a corporation, partnership, limited liability company, or similar entity.

(b) "Company" includes any wholly-owned subsidiary, majority-owned subsidiary, parent company, or affiliate of an entity described in Subsection (2)(a).

Section 2. Section 13-63-201 is enacted to read:

Part 2. Prohibitions

13-63-201 (Codified as 13-66-201). Coordinated elimination of boycotted company's options to obtain a product or service prohibited -- Civil action -- Damages -- Exceptions.

(1) Except as provided in Subsection (4), a company that offers a product or service may not, with the specific intent of destroying a boycotted company and without an ordinary business purpose, coordinate or conspire with another company to eliminate the viable options for the boycotted company to obtain the product or service.

(2) (a) A person who is injured or is threatened with injury to the person's business or property by a violation of Subsection (1) may bring an action for injunctive relief or damages.

(b) In an action for a violation of Subsection (1), the court:

(i) shall award attorney fees and costs to the prevailing party; and

(ii) may not reduce a judgment to an amount less than the amount of actual damages sustained.

(3) A person may not recover damages under this section from:

(a) a political subdivision;

(b) an official or employee of a political subdivision acting in an official capacity; or

(c) another person based on an official action directed by a political subdivision or a political subdivision's official or employee acting in an official capacity.

(4) This section does not prohibit a person from engaging in an activity to the extent the activity is regulated or supervised by state government officers or agencies under the laws of this state or federal government officers or agencies under the laws of the United States.

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 299
H. B. 458
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

CLEAN FUEL VEHICLE DECAL AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to clean fuel vehicle decal use.

Highlighted Provisions:

This bill:

- provides that a clean fuel vehicle decal permit holder is not required to place the clean fuel vehicle decal on the vehicle; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-6-121, as last amended by Laws of Utah 2013, Chapter 254

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-6-121 is amended to read:

72-6-121. Clean fuel vehicle decal.

(1) [~~Beginning on July 1, 2011, and subject~~] Subject to the requirements of this section, the department shall issue a clean fuel vehicle decal permit and a clean fuel vehicle decal to an applicant if:

(a) the applicant is an owner of a vehicle:

(i) powered by clean fuel that meets the standards established by the department in rules authorized under Subsection 41-6a-702(5)(b); and

(ii) that is registered in the state of Utah;

(b) the applicant remits an application and all fees required under this section; and

(c) the department has clean fuel vehicle decals available subject to the limits established by the department in accordance with Subsection 41-6a-702(5)(b).

(2) The department shall establish the clean fuel vehicle decal design in consultation with the Utah Highway Patrol.

(3) (a) An applicant for a clean fuel vehicle decal shall pay a clean fuel vehicle decal fee established by the department in accordance with Section 63J-1-504.

(b) Funds generated by the clean fuel vehicle decal fee may be used by the department to cover the costs incurred in issuing clean fuel vehicle decals under this section.

(4) (a) The department shall issue a clean fuel vehicle decal permit and a clean fuel vehicle decal to a person who has been issued a clean fuel special group license plate prior to July 1, 2011.

(b) A person who applies to the department to receive a clean fuel vehicle decal permit and a clean fuel vehicle decal under Subsection (4)(a) is not subject to the fee imposed under Subsection (3).

(5) (a) An owner of a vehicle may not place a clean fuel vehicle decal on a vehicle other than the vehicle specified in the application for the clean fuel vehicle decal permit and the clean fuel vehicle decal.

(b) An owner of a vehicle issued a clean fuel vehicle permit and clean fuel vehicle decal is not required to place the clean fuel vehicle decal on the vehicle specified to drive in the high occupancy lane described in Subsection 41-6a-702(5).

[~~(b)~~] (c) A person operating a motor vehicle that has been issued a clean fuel vehicle decal shall:

(i) have in the person's immediate possession the clean fuel vehicle decal permit issued by the department for the motor vehicle the person is operating; and

(ii) [~~display~~] present the permit upon demand of a peace officer.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to administer the clean fuel vehicle decal program authorized in this section.

CHAPTER 300
H. B. 460
Passed March 2, 2023
Approved March 15, 2023
Effective May 3, 2023

SETTLEMENT FUND AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill addresses the state's proceeds from certain settlement agreements related to electronic cigarette products.

Highlighted Provisions:

This bill:

- renames the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account to the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account;
- specifies that proceeds from certain settlements regarding the manufacture, marketing, distribution, or sale of electronic cigarette products be deposited into the restricted account amended in this bill; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-7-10, as last amended by Laws of Utah 2022, Chapter 255
59-14-804, as enacted by Laws of Utah 2020, Chapter 347
59-14-807, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-7-10 is amended to read:

26-7-10. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.

(1) As used in this section:

(a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee created in Section 26B-1-204.

(b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in this section.

(2) (a) There is created within the department the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.

(b) In consultation with the committee, the department shall:

(i) establish guidelines for the use of funds appropriated to the program;

(ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and appropriate for the population targeted by the program; and

(iii) subject to appropriations from the Legislature, fund statewide initiatives to prevent use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.

(3) (a) The committee shall advise the department on:

(i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the state;

(ii) developing the guidelines described in Subsection (2)(b)(i); and

(iii) implementing the provisions of the program.

(b) The executive director shall:

(i) appoint members of the committee; and

(ii) consult with the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301 when making the appointments under Subsection (3)(b)(i).

(c) The committee shall include, at a minimum:

(i) the executive director of a local health department as defined in Section 26A-1-102, or the local health department executive director's designee;

(ii) one designee from the department;

(iii) one representative from the Department of Public Safety;

(iv) one representative from the behavioral health community; and

(v) one representative from the education community.

(d) A member of the committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(4) On or before October 31 of each year, the department shall report to:

(a) the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the program;

(ii) the impact and results of the program, including the effectiveness of each program funded under Subsection (2)(b)(iii), during the previous fiscal year;

(iii) a summary of the impacts and results on reducing youth use of electronic cigarettes and nicotine products by entities represented by members of the committee, including those entities who receive funding through the Electronic Cigarette Substance and Nicotine Product [~~Tax~~] Proceeds Restricted Account created in Section 59-14-807; and

(iv) any recommendations for legislation; and

(b) the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301, regarding:

(i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and

(ii) any collaborative efforts and partnerships established by the program with public and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

Section 2. Section 59-14-804 is amended to read:

59-14-804. Taxation of electronic cigarette substance, prefilled electronic cigarette, alternative nicotine product, nontherapeutic nicotine device substance, and prefilled nontherapeutic nicotine device.

(1) (a) Beginning on July 1, 2020, a tax is imposed upon the following:

(i) an electronic cigarette substance; and

(ii) a prefilled electronic cigarette.

(b) Beginning on July 1, 2021, a tax is imposed upon the following:

(i) a nontherapeutic nicotine device substance; and

(ii) a prefilled nontherapeutic nicotine device.

(c) Beginning on July 1, 2021, a tax is imposed upon an alternative nicotine product.

(2) (a) The amount of tax imposed under Subsections (1)(a) and (b) is .56 multiplied by the manufacturer's sales price.

(b) (i) The tax under Subsection (1)(c) on an alternative nicotine product is imposed:

(A) at a rate of $1.83 per ounce; and

(B) on the basis of the net weight of the alternative nicotine product as listed by the manufacturer.

(ii) If the net weight of the alternative nicotine product is in a quantity that is a fractional part of one ounce, a proportionate amount of the tax described in Subsection (2)(b)(i)(A) is imposed:

(A) on that fractional part of one ounce; and

(B) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) If a product is sold in the same package as a product that is taxed under Subsection (1), the tax described in Subsection (2) shall apply to the wholesale manufacturer's sale price of the entire packaged product.

(4) (a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall pay the tax levied under Subsection (1) at the time that an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device is first received in the state.

(b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not resell an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to another distributor, another retailer, or a consumer before paying the tax levied under Subsection (1).

(5) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall remit the taxes collected in accordance with this section to the commission.

(b) The commission shall deposit revenues generated by the tax imposed by this section into the Electronic Cigarette Substance and Nicotine Product [~~Tax~~] Proceeds Restricted Account created in Section 59-14-807.

Section 3. Section 59-14-807 is amended to read:

59-14-807. Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product [~~Tax~~] Proceeds Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product [~~Tax~~] Proceeds Restricted Account consists of:

(a) revenues collected from the tax imposed by Section 59-14-804; [~~and~~]

(b) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of electronic cigarette products, as defined in Section 76-10-101:

(i) if the total amount of the judgment, settlement, or compromise received by the state exceeds $1,000,000; and

(ii) after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in Subsection (2)(b); and

[~~(b)~~] (c) amounts appropriated by the Legislature.

(3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product [~~Tax~~] Proceeds Restricted Account:

(a) $2,000,000 which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;

(b) $2,000,000 to the Department of Health and Human Services for statewide cessation programs and prevention education;

(c) $1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;

(d) $3,000,000 which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;

(e) $5,084,200 to the State Board of Education for school-based prevention programs; and

(f) $2,000,000 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television.

(4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26-57-103;

(ii) the labeling requirement described in Section 26-57-104; and

(iii) the penalty provisions described in Section 26-62-305.

(b) The Department of Health and Human Services shall use the money received in accordance with Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26-7-10.

(c) The local health departments shall use the money received in accordance with Subsection (3)(d) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection (3)(e) to distribute to local education agencies to pay for:

(i) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(ii) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b).

(5) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product [~~Tax~~] Proceeds Restricted Account after the distribution described in Subsection (3) may only be used for programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

CHAPTER 301
H. B. 467
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

ABORTION CHANGES

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Daniel McCay
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Kera Birkeland
Brady Brammer
Walt Brooks
Jefferson S. Burton
Joseph Elison
Katy Hall
Jon Hawkins
Colin W. Jack
Dan N. Johnson
Trevor Lee
Steven J. Lund
A. Cory Maloy
Jefferson Moss
Susan Pulsipher
Mike Schultz
Mark A. Strong
Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions related to abortion.

Highlighted Provisions:

This bill:

- modifies definitions;
- requires abortions to be performed in a hospital, with some exceptions;
- prohibits licensing of abortion clinics after May 2, 2023, but allows licensing of certain clinics for providing an abortion if the clinic meets certain standards;
- removes certain references to abortion clinics;
- provides that inducing or performing an abortion contrary to statutory requirements is unprofessional conduct for a physician, osteopathic physician, physician assistant, advanced practice registered nurse, certified nurse midwife, and direct-entry midwife;
- modifies provisions that govern what constitutes a medical emergency in relation to an abortion;
- modifies the conditions under which an abortion may be performed to protect the life or health of the mother;
- amends language related to medical defects of a fetus;
- repeals the statute that established a prohibition on abortions after 18 weeks and incorporates its contents into existing statute, replacing language that established now-superseded viability standards;
- standardizes language between various statutes that regulate abortion;
- requires a physician, in the case of a diagnosis of a lethal fetal anomaly, to give notice of the availability of perinatal hospice and perinatal palliative care services as an alternative to abortion;
- treats an individual who becomes pregnant at a certain age as having the same access to abortion services as rape or incest situations;
- prohibits the ability to receive an abortion due to rape or incest if the unborn child has reached 18 weeks gestational age;
- requires updates to abortion information modules to match current law;
- modifies state of mind standards for criminal acts;
- provides for severability;
- provides for regulation of drugs that are known to be used in relation to an abortion;
- creates a criminal offense for prescribing a drug for the purpose of causing an abortion, unless the prescriber is licensed as a physician under the laws of this state; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-21-2, as last amended by Laws of Utah 2022, Chapter 255
26-21-6.5, as last amended by Laws of Utah 2018, Chapter 282
26-21-7, as last amended by Laws of Utah 2019, Chapter 349
26-21-8, as last amended by Laws of Utah 2016, Chapter 74
26-21-11, as last amended by Laws of Utah 1997, Chapter 209
26-21-25, as last amended by Laws of Utah 2010, Chapter 218
58-31b-502, as last amended by Laws of Utah 2022, Chapter 290
58-44a-502, as last amended by Laws of Utah 2020, Chapter 25
58-67-304, as last amended by Laws of Utah 2020, Chapters 12, 339
58-67-502, as last amended by Laws of Utah 2021, Chapter 337
58-68-304, as last amended by Laws of Utah 2020, Chapters 12, 339
58-68-502, as last amended by Laws of Utah 2021, Chapter 337
58-70a-501, as last amended by Laws of Utah 2021, Chapter 312
58-77-603, as enacted by Laws of Utah 2005, Chapter 299
63I-2-276, as last amended by Laws of Utah 2022, Chapter 117
76-7-301, as last amended by Laws of Utah 2021, Chapter 262
76-7-302, as last amended by Laws of Utah 2022, Chapter 335
76-7-302.4, as enacted by Laws of Utah 2019, Chapter 124
76-7-304, as last amended by Laws of Utah 2018, Chapter 282
76-7-304.5, as last amended by Laws of Utah 2022, Chapter 287
76-7-305, as last amended by Laws of Utah 2022, Chapter 181
76-7-305.5, as last amended by Laws of Utah 2020, Chapter 251

76-7-313, as last amended by Laws of Utah 2019, Chapters 124, 208
76-7-314, as last amended by Laws of Utah 2019, Chapter 208
76-7-314.5, as last amended by Laws of Utah 2010, Chapter 13
76-7-317, as enacted by Laws of Utah 1974, Chapter 33
76-7a-101, as last amended by Laws of Utah 2021, Chapter 262
76-7a-201, as enacted by Laws of Utah 2020, Chapter 279

ENACTS:
76-7-332, Utah Code Annotated 1953

REPEALS:
76-7-302.5, as enacted by Laws of Utah 2019, Chapter 208

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-21-2 is amended to read:

26-21-2. Definitions.

As used in this chapter:

(1) (a) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

(b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101.

(2) "Activities of daily living" means essential activities including:

(a) dressing;

(b) eating;

(c) grooming;

(d) bathing;

(e) toileting;

(f) ambulation;

(g) transferring; and

(h) self-administration of medication.

(3) "Ambulatory surgical facility" means a freestanding facility, which provides surgical services to patients not requiring hospitalization.

(4) "Assistance with activities of daily living" means providing of or arranging for the provision of assistance with activities of daily living.

(5) (a) "Assisted living facility" means:

(i) a type I assisted living facility, which is a residential facility that provides assistance with activities of daily living and social care to two or more residents who:

(A) require protected living arrangements; and

(B) are capable of achieving mobility sufficient to exit the facility without the assistance of another person; and

(ii) a type II assisted living facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who have been assessed under department rule to need any of these services.

(b) Each resident in a type I or type II assisted living facility shall have a service plan based on the assessment, which may include:

(i) specified services of intermittent nursing care;

(ii) administration of medication; and

(iii) support services promoting residents' independence and self sufficiency.

(6) "Birthing center" means a facility that:

(a) receives maternal clients and provides care during pregnancy, delivery, and immediately after delivery; and

(b) (i) is freestanding; or

(ii) is not freestanding, but meets the requirements for an alongside midwifery unit described in Subsection 26-21-29(7).

(7) "Committee" means the Health Facility Committee created in Section 26B-1-204.

(8) "Consumer" means any person not primarily engaged in the provision of health care to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his gross income from any entity or activity relating to health care.

(9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

(10) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

(11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and rehabilitative services to both inpatients and outpatients by or under the supervision of physicians.

(12) "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or agency of the state, a county, municipality, or other political subdivision.

(13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that meets

the definition of hospital under Section 76-7-301 or 76-7a-201, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule.

(b) "Health care facility" does not include the offices of private physicians or dentists, whether for individual or group practice, except that it does include an abortion clinic.

(14) "Health maintenance organization" means an organization, organized under the laws of any state which:

(a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

(b) (i) provides or otherwise makes available to enrolled participants at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services and out-of-area coverage;

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and

(iii) provides physicians' services primarily directly through physicians who are either employees or partners of such organizations, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(15) (a) "Home health agency" means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff persons who provide licensed nursing services, therapeutic services of physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.

(b) "Home health agency" does not mean an individual who provides services under the authority of a private license.

(16) "Hospice" means a program of care for the terminally ill and their families which occurs in a home or in a health care facility and which provides medical, palliative, psychological, spiritual, and supportive care and treatment.

(17) "Nursing care facility" means a health care facility, other than a general acute or specialty hospital, constructed, licensed, and operated to provide patient living accommodations, 24-hour staff availability, and at least two of the following patient services:

(a) a selection of patient care services, under the direction and supervision of a registered nurse, ranging from continuous medical, skilled nursing, psychological, or other professional therapies to intermittent health-related or paraprofessional personal care services;

(b) a structured, supportive social living environment based on a professionally designed and supervised treatment plan, oriented to the individual's habilitation or rehabilitation needs; or

(c) a supervised living environment that provides support, training, or assistance with individual activities of daily living.

(18) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(19) "Resident" means a person 21 years old or older who:

(a) as a result of physical or mental limitations or age requires or requests services provided in an assisted living facility; and

(b) does not require intensive medical or nursing services as provided in a hospital or nursing care facility.

(20) "Small health care facility" means a four to 16 bed facility that provides licensed health care programs and services to residents.

(21) "Specialty hospital" means a facility which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(22) "Substantial compliance" means in a department survey of a licensee, the department determines there is an absence of deficiencies which would harm the physical health, mental health, safety, or welfare of patients or residents of a licensee.

(23) "Type I abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy; and

(b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of pregnancy.

(24) "Type II abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, after the first trimester of pregnancy; or

(b) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy and after the first trimester of pregnancy.

Section 2. Section 26-21-6.5 is amended to read:

26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee -- Licensing of a clinic meeting the definition of hospital.

(1) (a) No abortion clinic may operate in the state on or after January 1, 2024, or the last valid date of an abortion clinic license issued under the

requirements of this section, whichever date is later.

(b) Notwithstanding Subsection (1)(a), a licensed abortion clinic may not perform an abortion in violation of any provision of state law.

(2) The state may not issue a license for an abortion clinic after May 2, 2023.

(3) For any license for an abortion clinic that is issued under this section:

(a) A type I abortion clinic may not operate in the state without a license issued by the department to operate a type I abortion clinic.

[~~(2)~~] (b) A type II abortion clinic may not operate in the state without a license issued by the department to operate a type II abortion clinic.

[~~(3)~~] (c) The department shall make rules establishing minimum health, safety, sanitary, and recordkeeping requirements for:

[~~(a)~~] (i) a type I abortion clinic; and

[~~(b)~~] (ii) a type II abortion clinic.

[~~(4)~~] (d) To receive and maintain a license described in this section, an abortion clinic shall:

[~~(a)~~] (i) apply for a license on a form prescribed by the department;

[~~(b)~~] (ii) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping requirements established under Subsection [~~(3)~~] (3)(c) that relate to the type of abortion clinic licensed;

[~~(c)~~] (iii) comply with the recordkeeping and reporting requirements of Section 76-7-313;

[~~(d)~~] (iv) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition;

[~~(e)~~] (v) pay the annual licensing fee; and

[~~(f)~~] (vi) cooperate with inspections conducted by the department.

[~~(5)~~] (e) The department shall, at least twice per year, inspect each abortion clinic in the state to ensure that the abortion clinic is complying with all statutory and licensing requirements relating to the abortion clinic. At least one of the inspections shall be made without providing notice to the abortion clinic.

[~~(6)~~] (f) The department shall charge an annual license fee, set by the department in accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an amount that will pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

[~~(7)~~] (g) The department shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

(4) (a) Notwithstanding any other provision of this section, the department may license a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101.

(b) A clinic described in Subsection (4)(a) is not defined as an abortion clinic.

Section 3. Section 26-21-7 is amended to read:

26-21-7. Exempt facilities.

This chapter does not apply to:

(1) a dispensary or first aid facility maintained by any commercial or industrial plant, educational institution, or convent;

(2) a health care facility owned or operated by an agency of the United States;

(3) the office of a physician, physician assistant, or dentist whether it is an individual or group practice[~~, except that it does apply to an abortion clinic~~];

(4) a health care facility established or operated by any recognized church or denomination for the practice of religious tenets administered by mental or spiritual means without the use of drugs, whether gratuitously or for compensation, if it complies with statutes and rules on environmental protection and life safety;

(5) any health care facility owned or operated by the Department of Corrections, created in Section 64-13-2; and

(6) a residential facility providing 24-hour care:

(a) that does not employ direct care staff;

(b) in which the residents of the facility contract with a licensed hospice agency to receive end-of-life medical care; and

(c) that meets other requirements for an exemption as designated by administrative rule.

Section 4. Section 26-21-8 is amended to read:

26-21-8. License required -- Not assignable or transferable -- Posting -- Expiration and renewal -- Time for compliance by operating facilities.

(1) (a) A person or governmental unit acting severally or jointly with any other person or governmental unit, may not establish, conduct, or maintain a health care facility in this state without receiving a license from the department as provided by this chapter and the rules adopted pursuant to this chapter.

(b) This Subsection (1) does not apply to facilities that are exempt under Section 26-21-7.

(2) A license issued under this chapter is not assignable or transferable.

(3) The current license shall at all times be posted in each health care facility in a place readily visible and accessible to the public.

(4) (a) The department may issue a license for a period of time [~~not to exceed 12 months from the~~

~~date of issuance for an abortion clinic and~~] not to exceed 24 months from the date of issuance for [~~other~~] health care facilities that meet the provisions of this chapter and department rules adopted pursuant to this chapter.

(b) Each license expires at midnight on the day designated on the license as the expiration date, unless previously revoked by the department.

(c) The license shall be renewed upon completion of the application requirements, unless the department finds the health care facility has not complied with the provisions of this chapter or the rules adopted pursuant to this chapter.

(5) A license may be issued under this section only for the operation of a specific facility at a specific site by a specific person.

(6) Any health care facility in operation at the time of adoption of any applicable rules as provided under this chapter shall be given a reasonable time for compliance as determined by the committee.

Section 5. Section 26-21-11 is amended to read:

26-21-11. Violations -- Denial or revocation of license -- Restricting or prohibiting new admissions -- Monitor.

(1) If the department finds a violation of this chapter or any rules adopted pursuant to this chapter the department may take one or more of the following actions:

[~~(1)~~] (a) serve a written statement of violation requiring corrective action, which shall include time frames for correction of all violations;

[~~(2)~~] (b) subject to Subsection (2), deny or revoke a license if it finds:

[~~(a)~~] (i) there has been a failure to comply with the rules established pursuant to this chapter;

[~~(b)~~] (ii) evidence of aiding, abetting, or permitting the commission of any illegal act; or

[~~(c)~~] (iii) conduct adverse to the public health, morals, welfare, and safety of the people of the state;

[~~(3)~~] (c) restrict or prohibit new admissions to a health care facility or revoke the license of a health care facility for:

[~~(a)~~] (i) violation of any rule adopted under this chapter; or

[~~(b)~~] (ii) permitting, aiding, or abetting the commission of any illegal act in the health care facility;

[~~(4)~~] (d) place a department representative as a monitor in the facility until corrective action is completed;

[~~(5)~~] (e) assess to the facility the cost incurred by the department in placing a monitor;

[~~(6)~~] (f) assess an administrative penalty as allowed by Subsection 26-23-6(1)(a); or

[~~(7)~~] (g) issue a cease and desist order to the facility.

(2) If the department finds that an abortion has been performed in violation of Section 76-7-314 or 76-7a-201, the department shall deny or revoke the license.

Section 6. Section 26-21-25 is amended to read:

26-21-25. Patient identity protection.

(1) As used in this section:

(a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor Act.

(b) "Health professional office" means:

(i) a physician's office; or

(ii) a dental office.

(c) "Medical facility" means:

(i) a general acute hospital;

(ii) a specialty hospital;

(iii) a home health agency;

(iv) a hospice;

(v) a nursing care facility;

(vi) a residential-assisted living facility;

(vii) a birthing center;

(viii) an ambulatory surgical facility;

(ix) a small health care facility;

(x) an abortion clinic;

(xi) a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101;

[~~(xi)~~] (xii) a facility owned or operated by a health maintenance organization;

[~~(xii)~~] (xiii) an end stage renal disease facility;

[~~(xiii)~~] (xiv) a health care clinic; or

[~~(xiv)~~] (xv) any other health care facility that the committee designates by rule.

(2) (a) In order to discourage identity theft and health insurance fraud, and to reduce the risk of medical errors caused by incorrect medical records, a medical facility or a health professional office shall request identification from an individual prior to providing in-patient or out-patient services to the individual.

(b) If the individual who will receive services from the medical facility or a health professional office lacks the legal capacity to consent to treatment, the medical facility or a health professional office shall request identification:

(i) for the individual who lacks the legal capacity to consent to treatment; and

(ii) from the individual who consents to treatment on behalf of the individual described in Subsection (2)(b)(i).

(3) A medical facility or a health professional office:

(a) that is subject to EMTALA:

(i) may not refuse services to an individual on the basis that the individual did not provide identification when requested; and

(ii) shall post notice in its emergency department that informs a patient of the patient's right to treatment for an emergency medical condition under EMTALA;

(b) may not be penalized for failing to ask for identification;

(c) is not subject to a private right of action for failing to ask for identification; and

(d) may document or confirm patient identity by:

(i) photograph;

(ii) fingerprinting;

(iii) palm scan; or

(iv) other reasonable means.

(4) The identification described in this section:

(a) is intended to be used for medical records purposes only; and

(b) shall be kept in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996.

Section 7. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

(n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

(o) violating Section 58-31b-801;

(p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(q) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the person licensed or certified under the provisions of this chapter is found guilty of a crime in connection with the violation;

[~~(q)~~] (r) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1); or

[~~(r)~~] (s) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 8. Section 58-44a-502 is amended to read:

58-44a-502. Unprofessional conduct.

"Unprofessional conduct" includes:

(1) disregard for a patient's dignity or right to privacy as to the patient's person, condition, possessions, or medical record;

(2) engaging in an act, practice, or omission which when considered with the duties and responsibilities of a certified nurse midwife does or could jeopardize the health, safety, or welfare of a patient or the public;

(3) failure to confine one's practice as a certified nurse midwife to those acts or practices permitted by law;

(4) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(5) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by the court;

(6) failure to pay a penalty imposed by the division;

(7) prescribing a schedule II-III controlled substance without a consulting physician;

(8) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter is found guilty of a crime in connection with the violation;

[~~(8)~~] (9) (a) failure to have and maintain a safe mechanism for obtaining medical consultation, collaboration, and referral with a consulting physician, including failure to identify one or more consulting physicians in the written documents required by Subsection 58-44a-102(9)(b)(iii); or

(b) representing that the certified nurse midwife is in compliance with Subsection [~~(8)(a)~~] (9)(a) when the certified nurse midwife is not in compliance with Subsection [~~(8)(a)~~] (9)(a); or

[~~(9)~~] (10) falsely making an entry in, or altering, a medical record with the intent to conceal:

(a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(b) conduct described in Subsections (1) through [~~(8)~~] (9) or Subsection 58-1-501(1).

Section 9. Section 58-67-304 is amended to read:

58-67-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(i);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) (a) An application to renew a license under this chapter shall:

[~~(a)~~] (i) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

[~~(b)~~] (ii) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious physical risk of substantial [~~and irreversible~~] impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(b) The statement in Subsection (3)(a)(ii) shall be modified, if necessary, to ensure compliance with the definitions and requirements of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition.

(4) In order to assist the Department of Health and Human Services in fulfilling [~~its~~] the

department's responsibilities relating to the licensing of [~~an abortion clinic~~] a health care facility and the enforcement of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition, if a physician responds positively to the question described in Subsection [~~(3)(a),~~] (3)(a)(i) the division shall, within 30 days after the day on which [~~it~~] the division renews the physician's license under this chapter, inform the Department of Health and Human Services in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection [~~(3)(a)~~] (3)(a)(i).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106 and 26-61a-403.

Section 10. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; [~~or~~]

(e) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter is found guilty of a crime in connection with the violation; or

[~~(e)~~] (f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through [~~(d)~~] (e) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 11. Section 58-68-304 is amended to read:

58-68-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(i);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(j); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) (a) An application to renew a license under this chapter shall:

[~~(a)~~] (i) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

[~~(b)~~] (ii) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious physical risk of substantial [~~and irreversible~~] impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(b) The statement in Subsection (3)(a)(ii) shall be modified, if necessary, to ensure compliance with the definitions and requirements of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition.

(4) In order to assist the Department of Health and Human Services in fulfilling [~~its~~] the department's responsibilities relating to the licensing of [~~an abortion clinic~~] a health care facility and the enforcement of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition, if a physician responds positively to the question described in Subsection [~~(3)(a)~~] (3)(a)(i), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health and Human Services in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection [~~(3)(a)~~] (3)(a)(i).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106 and 26-61a-403.

Section 12. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; [~~or~~]

(e) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter is found guilty of a crime in connection with the violation; or

[~~(e)~~] (f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through [~~(d)~~] (e) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 13. Section 58-70a-501 is amended to read:

58-70a-501. Scope of practice.

(1) A physician assistant may provide any medical services that are not specifically prohibited under this chapter or rules adopted under this chapter, and that are within the physician assistant's skills and scope of competence.

(2) A physician assistant shall consult, collaborate with, and refer to appropriate members of the health care team:

(a) as indicated by the patient's condition;

(b) based on the physician assistant's education, experience, and competencies;

(c) the applicable standard of care; and

(d) if applicable, in accordance with the requirements described in Section 58-70a-307.

(3) Subject to Section 58-70a-307, the degree of collaboration under Subsection (2):

(a) shall be determined at the physician assistant's practice, including decisions made by the physician assistant's:

(i) employer;

(ii) group;

(iii) hospital service; or

(iv) health care facility credentialing and privileging system; and

(b) may also be determined by a managed care organization with whom the physician assistant is a network provider.

(4) A physician assistant may only provide healthcare services:

(a) for which the physician assistant has been trained and credentialed, privileged, or authorized to perform; and

(b) that are within the physician assistant's practice specialty.

(5) A physician assistant may authenticate through a signature, certification, stamp, verification, affidavit, or endorsement any document that may be authenticated by a physician and that is within the physician assistant's scope of practice.

(6) A physician assistant is responsible for the care that the physician assistant provides.

(7) (a) As used in this Subsection (7):

(i) "ALS/ACLS certification" means a certification:

(A) in advanced life support by the American Red Cross;

(B) in advanced cardiac life support by the American Heart Association; or

(C) that is equivalent to a certification described in Subsection (7)(a)(i)(A) or (B).

(ii) "Minimal sedation anxiolysis" means creating a drug induced state:

(A) during which a patient responds normally to verbal commands;

(B) which may impair cognitive function and physical coordination; and

(C) which does not affect airway, reflexes, or ventilatory and cardiovascular function.

(b) Except as provided in Subsections (c) through (e), a physician assistant may not administer general anesthetics.

(c) A physician assistant may perform minimal sedation anxiolysis if the procedure is within the physician assistant's scope of practice.

(d) A physician assistant may perform rapid sequence induction for intubation of a patient if:

(i) the procedure is within the physician assistant's scope of practice;

(ii) the physician assistant holds a valid ALS/ACLS certification and is credentialed and privileged at the hospital where the procedure is performed; and

(iii) (A) a qualified physician is not available and able to perform the procedure; or

(B) the procedure is performed by the physician assistant under supervision of or delegation by a physician.

(e) Subsection (7)(b) does not apply to anesthetics administered by a physician assistant:

(i) in an intensive care unit of a hospital;

(ii) for the purpose of enabling a patient to tolerate ventilator support or intubation; and

(iii) under supervision of or delegation by a physician whose usual scope of practice includes the procedure.

(8) (a) A physician assistant may prescribe or administer an appropriate controlled substance that is within the physician assistant's scope of practice if the physician assistant holds a Utah controlled substance license and a DEA registration.

(b) A physician assistant may prescribe, order, administer, and procure a drug or medical device that is within the physician assistant's scope of practice.

(c) A physician assistant may dispense a drug if dispensing the drug:

(i) is permitted under Title 58, Chapter 17b, Pharmacy Practice Act; and

(ii) is within the physician assistant's scope of practice.

(9) A physician assistant may not perform or induce an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the physician assistant is found guilty of a crime in connection with the violation.

[~~(9)~~] (10) A physician assistant practicing independently may only perform or provide a health care service that:

(a) is appropriate to perform or provide outside of a health care facility; and

(b) the physician assistant has been trained and credentialed or authorized to provide or perform independently without physician supervision.

[~~(10)~~] (11) A physician assistant, while practicing as a physician assistant:

(a) shall wear an identification badge showing the physician assistant's license classification as a physician assistant;

(b) shall identify themselves to a patient as a physician assistant; and

(c) may not identify themselves to any person in connection with activities allowed under this chapter other than as a physician assistant or PA.

Section 14. Section 58-77-603 is amended to read:

58-77-603. Prohibited practices.

A direct-entry midwife may not:

(1) administer a prescription drug to a client in a manner that violates this chapter;

(2) effect any type of surgical delivery except for the cutting of an emergency episiotomy;

(3) administer any type of epidural, spinal, or caudal anesthetic, or any type of narcotic analgesia;

(4) use forceps or a vacuum extractor;

(5) manually remove the placenta, except in an emergency that presents an immediate threat to the life of the client; or

(6) [~~induce abortion~~] perform or induce an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the direct-entry midwife is found guilty of a crime in connection with the violation.

Section 15. Section 63I-2-276 is amended to read:

63I-2-276. Repeal dates: Title 76.

(1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an owner, employee, or contractor of a health facility, is repealed January 1, 2027.

[~~(2) If Section 76-7-302.4 is not in effect before January 1, 2029, Section 76-7-302.4 is repealed January 1, 2029.~~]

[~~(3)~~] (2) Section 76-7-305.7 is repealed January 1, 2023.

Section 16. Section 76-7-301 is amended to read:

76-7-301. Definitions.

As used in this part:

(1) (a) "Abortion" means[~~:~~] the act, by a physician, of using an instrument, or prescribing a drug, with the intent to cause the death of an unborn child of a woman known to be pregnant, except as permitted under this part.

[~~(i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;~~]

[~~(ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or~~]

[~~(iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.~~]

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

[~~(2) "Abortion clinic" means the same as that term is defined in Section 26-21-2.~~]

[~~(3)~~] (2) "Abuse" means the same as that term is defined in Section 80-1-102.

[~~(4)~~] (3) "Department" means the Department of Health and Human Services.

[~~(5)~~] (4) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

[~~(6)~~] (5) "Gestational age" means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman.

[~~(7)~~] (6) "Hospital" means:

(a) a general hospital licensed by the department according to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and

(b) a clinic or other medical facility [~~to the extent that such clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to the pregnant woman and the unborn child as would be provided for the particular medical procedures undertaken by a general hospital licensed by the department~~] that meets the following criteria:

(i) a clinician who performs procedures at the clinic is required to be credentialed to perform the same procedures at a general hospital licensed by the department; and

(ii) any procedures performed at the clinic are done with the same level of safety for the pregnant woman and unborn child as would be available in a general hospital licensed by the department.

[~~(8)~~] (7) "Information module" means the pregnancy termination information module prepared by the department.

[~~(9)~~] (8) "Medical emergency" means [~~that condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial~~

~~and irreversible impairment of major bodily function~~] a life threatening physical condition aggravated by, caused by, or arising from a pregnancy that places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of a major bodily function, unless the abortion is performed or induced.

[~~(10)~~] (9) "Minor" means an individual who is:

(a) under 18 years old;

(b) unmarried; and

(c) not emancipated.

[~~(11)~~] (10) (a) "Partial birth abortion" means an abortion in which the person performing the abortion:

(i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(ii) performs the overt act, other than completion of delivery, that kills the partially living fetus.

(b) "Partial birth abortion" does not include the dilation and evacuation procedure involving dismemberment prior to removal, the suction curettage procedure, or the suction aspiration procedure for abortion.

(11) "Perinatal hospice" means comprehensive support to the mother and her family from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth, and through the postpartum period, that:

(a) focuses on alleviating fear and ensuring that the woman and her family experience the life and death of a child in a comfortable and supportive environment; and

(b) may include counseling or medical care by:

(i) maternal-fetal medical specialists;

(ii) obstetricians;

(iii) neonatologists;

(iv) anesthesia specialists;

(v) psychiatrists, psychologists, or other mental health providers;

(vi) clergy;

(vii) social workers; or

(viii) specialty nurses.

(12) "Physician" means:

(a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act;

(b) an osteopathic physician licensed to practice osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(c) a physician employed by the federal government who has qualifications similar to [~~a person~~] an individual described in Subsection (12)(a) or (b).

(13) (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

(iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Section 17. Section 76-7-302 is amended to read:

76-7-302. Circumstances under which abortion authorized.

[~~(1) As used in this section, "viable" means that the unborn child has reached a stage of fetal development when the unborn child is potentially able to live outside the womb, as determined by the attending physician to a reasonable degree of medical certainty.~~]

[~~(2)~~] (1) An abortion may be performed in this state only by a physician.

[~~(3)~~] (2) An abortion may be performed in this state only under the following circumstances:

(a) the unborn child [~~is not viable; or~~] has not reached 18 weeks gestational age;

(b) the unborn child [~~is viable, if:~~] has reached 18 weeks gestational age, and:

(i) the abortion is necessary to avert:

(A) the death of the woman on whom the abortion is performed; or

(B) a serious physical risk of substantial [~~and irreversible~~] impairment of a major bodily function of the woman on whom the abortion is performed; or

(ii) subject to Subsection (4), two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus[~~:~~] has a fetal abnormality that in the physicians' reasonable medical judgment is incompatible with life; or

[~~(A) has a defect that is uniformly diagnosable and uniformly lethal; or~~]

[~~(B) has a severe brain abnormality that is uniformly diagnosable; or~~]

[~~(iii) (A)~~]

(c) the unborn child has not reached 18 weeks gestational age and:

(i) (A) the woman is pregnant as a result of:

(I) rape, as described in Section 76-5-402;

(II) rape of a child, as described in Section 76-5-402.1; or

(III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; [~~and~~] or

(B) the pregnant child is under the age of 14; and

[~~(B)~~] (ii) before the abortion is performed, the physician who performs the abortion:

[~~(I)~~] (A) for an abortion authorized under Subsection (2)(c)(i)(A), verifies that the incident described in Subsection [~~(3)(b)(iii)(A)~~] (2)(c)(i)(A) has been reported to law enforcement; and

[~~(II)~~] (B) if applicable, complies with the requirements of Section 80-2-602.

[~~(4)~~] (3) An abortion may be performed only in [~~an abortion clinic or~~] a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

(4) If the unborn child has been diagnosed with a fetal abnormality that is incompatible with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and in writing, that perinatal hospice and perinatal palliative care services are available and are an alternative to abortion.

Section 18. Section 76-7-302.4 is amended to read:

76-7-302.4. Abortion restriction of an unborn child with Down syndrome.

Notwithstanding any other provision of this part, an abortion may not be performed if the pregnant mother's sole reason for the abortion is that the unborn child has or may have Down syndrome, unless the abortion is permissible for a reason described in [~~Subsection 76-7-302(3)(b)~~] Section 76-7-302.

Section 19. Section 76-7-304 is amended to read:

76-7-304. Considerations by physician -- Notice to a parent or guardian -- Exceptions.

(1) To enable the physician to exercise the physician's best medical judgment, the physician shall consider all factors relevant to the well-being of a pregnant woman upon whom an abortion is to be performed, including:

(a) her physical, emotional, and psychological health and safety;

(b) her age; and

(c) her familial situation.

(2) Subject to Subsection (3), at least 24 hours before a physician performs an abortion on a minor, the physician shall notify a parent or guardian of the minor that the minor intends to have an abortion.

(3) A physician is not required to comply with Subsection (2) if:

(a) subject to Subsection (4)(a):

(i) a medical condition exists that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate the abortion of her pregnancy to avert:

(A) the minor's death; or

(B) a serious physical risk of substantial [~~and irreversible~~] impairment of a major bodily function of the minor; and

(ii) there is not sufficient time to give the notice required under Subsection (2) before it is necessary to terminate the minor's pregnancy in order to avert the minor's death or impairment described in Subsection (3)(a)(i);

(b) subject to Subsection (4)(b):

(i) the physician complies with Subsection (5); and

(ii) (A) the minor is pregnant as a result of incest to which the parent or guardian was a party; or

(B) the parent or guardian has abused the minor; or

(c) subject to Subsection (4)(b), the parent or guardian has not assumed responsibility for the minor's care and upbringing.

(4) (a) If, for the reason described in Subsection (3)(a), a physician does not give the 24-hour notice described in Subsection (2), the physician shall give the required notice as early as possible before the abortion, unless it is necessary to perform the abortion immediately in order to avert the minor's death or impairment described in Subsection (3)(a)(i).

(b) If, for a reason described in Subsection (3)(b) or (c), a parent or guardian of a minor is not notified that the minor intends to have an abortion, the physician shall notify another parent or guardian of the minor, if the minor has another parent or guardian that is not exempt from notification under Subsection (3)(b) or (c).

(5) If, for a reason described in Subsection (3)(b)(ii)(A) or (B), a physician does not notify a parent or guardian of a minor that the minor intends to have an abortion, the physician shall report the incest or abuse to the Division of Child and Family Services within the Department of Health and Human Services.

Section 20. Section 76-7-304.5 is amended to read:

76-7-304.5. Consent required for abortions performed on minors -- Division of Child and Family Services as guardian of a minor -- Hearing to allow a minor to self-consent -- Appeals.

(1) In addition to the other requirements of this part, a physician may not perform an abortion on a minor unless:

(a) the physician obtains the informed written consent of a parent or guardian of the minor, in accordance with Sections 76-7-305 and 76-7-305.5;

(b) the minor is granted the right, by court order under Subsection (4)(b), to consent to the abortion without obtaining consent from a parent or guardian; or

(c) (i) a medical condition exists that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate the abortion of her pregnancy to avert:

(A) the minor's death; or

(B) a [~~serious risk of substantial and irreversible impairment of a major bodily function of the minor~~] risk described in Subsection 76-7-302(2)(b)(i)(B); and

(ii) there is not sufficient time to obtain the consent in the manner chosen by the minor under Subsection (2) before it is necessary to terminate the minor's pregnancy in order to avert the minor's death or impairment described in Subsection (1)(c)(i).

(2) (a) A minor who wants to have an abortion may choose:

(i) to seek consent from the minor's parent or guardian as described in Subsection (1); or

(ii) to seek a court order as described in Subsection (1).

(b) Neither Subsection (1) nor this Subsection (2) require the minor to seek or obtain consent from the minor's parent or guardian if the circumstances described in Subsection 76-7-304(3)(b)(ii) exist.

(3) If a minor does not obtain the consent of the minor's parent or guardian, the minor may file a petition with the juvenile court to obtain a court order as described in Subsection (1).

(4) (a) The juvenile court shall close the hearing on a petition described in Subsection (3) to the public.

(b) After considering the evidence presented at the hearing, the court shall order that the minor may obtain an abortion without the consent of a parent or guardian of the minor if the court finds by a preponderance of the evidence that:

(i) the minor:

(A) has given her informed consent to the abortion; and

(B) is mature and capable of giving informed consent to the abortion; or

(ii) an abortion would be in the minor's best interest.

(5) The Judicial Council shall make rules that:

(a) provide for the administration of the proceedings described in this section;

(b) provide for the appeal of a court's decision under this section;

(c) ensure the confidentiality of the proceedings described in this section and the records related to the proceedings; and

(d) establish procedures to expedite the hearing and appeal proceedings described in this section.

Section 21. Section 76-7-305 is amended to read:

76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains from the woman on whom the abortion is to be performed a voluntary and informed written consent that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:

(a) a staff member of [~~an abortion clinic or~~] a hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;

(b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the pregnant woman viewed the entire information module;

(c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):

(i) documents that the pregnant woman viewed the entire information module;

(ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and

(iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;

(d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:

(i) the nature of the proposed abortion procedure;

(ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the fetus;

(iii) the risks and alternatives to the abortion procedure or treatment;

(iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;

(v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(vi) the medical risks associated with carrying her child to term;

(vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and

(viii) when the result of a prenatal screening or diagnostic test indicates that the unborn child has or may have Down syndrome, the [~~Department of Health website containing~~] department's website, which contains the information described in Section 26-10-14, including the information on the informational support sheet; and

(e) after the pregnant woman views the entire information module, a staff member of the [~~abortion clinic or~~] hospital provides to the pregnant woman:

(i) on a document that the pregnant woman may take home:

(A) the address for the department's website described in Section 76-7-305.5; and

(B) a statement that the woman may request, from a staff member of the [~~abortion clinic or~~] hospital where the woman viewed the information module, a printed copy of the material on the department's website;

(ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman; and

(iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the disposition of the aborted fetus.

(3) Before performing an abortion, the physician who is to perform the abortion shall:

(a) in a face-to-face consultation, provide the information described in Subsection (2)(d), unless the attending physician or referring physician is the individual who provided the information required under Subsection (2)(d); and

(b) (i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection (2) and this Subsection (3) was provided in accordance with the requirements of Subsection (2) and this Subsection (3);

(ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

(iii) ensure that:

(A) the woman has received the information described in Subsections 26-21-33(3) and (4); and

(B) if the woman has a preference for the disposition of the aborted fetus, the woman has informed the health care facility of the woman's decision regarding the disposition of the aborted fetus.

(4) When a [~~serious~~] medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(5) If an ultrasound is performed on a woman before an abortion is performed, the individual who performs the ultrasound, or another qualified individual, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection (5)(c), if the woman requests it.

(6) The information described in Subsections (2), (3), and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection [~~76-7-302(3)(b)(i)~~] 76-7-302(2)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a [~~serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed~~] risk described in Subsection 76-7-302(2)(b)(i)(B); or

(b) Subsection [~~76-7-302(3)(b)(ii)~~] 76-7-302(2)(b)(ii).

(7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

(8) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a [~~serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed~~] risk described in Subsection 76-7-302(2)(b)(i)(B);

(c) the pregnancy was the result of rape or rape of a child, as described in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant [~~woman~~] child was 14 years old or younger.

(9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

(10) (a) The department shall provide an ultrasound, in accordance with the provisions of Subsection (5)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection (10)(a) to the department.

(11) A physician is not guilty of violating this section if:

(a) the information described in Subsection (2) is provided less than 72 hours before the physician performs the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Section 22. Section 76-7-305.5 is amended to read:

76-7-305.5. Requirements for information module and website.

(1) In order to ensure that a woman's consent to an abortion is truly an informed consent, the department shall, in accordance with the requirements of this section, develop an information module and maintain a public website.

(2) The information module and public website described in Subsection (1) shall:

(a) be scientifically accurate, comprehensible, and presented in a truthful, nonmisleading manner;

(b) present adoption as a preferred and positive choice and alternative to abortion;

(c) be produced in a manner that conveys the state's preference for childbirth over abortion;

(d) state that the state prefers childbirth over abortion;

(e) state that it is unlawful for any person to coerce a woman to undergo an abortion;

(f) state that any physician who performs an abortion without obtaining the woman's informed consent or without providing her a private medical consultation in accordance with the requirements of this section, may be liable to her for damages in a civil action at law;

(g) provide a geographically indexed list of resources and public and private services available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth, and while the child is dependent, including:

(i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

(ii) services and supports available under Section 35A-3-308;

(iii) other financial aid that may be available during an adoption;

(iv) services available from public adoption agencies, private adoption agencies, and private attorneys whose practice includes adoption; and

(v) the names, addresses, and telephone numbers of each person listed under this Subsection (2)(g);

(h) describe the adoption-related expenses that may be paid under Section 76-7-203;

(i) describe the persons who may pay the adoption related expenses described in Subsection (2)(h);

(j) except as provided in Subsection (4), describe the legal responsibility of the father of a child to assist in child support, even if the father has agreed to pay for an abortion;

(k) except as provided in Subsection (4), describe the services available through the Office of Recovery Services, within the Department of Human Services, to establish and collect the support described in Subsection (2)(j);

(l) state that private adoption is legal;

(m) describe and depict, with pictures or video segments, the probable anatomical and physiological characteristics of an unborn child at two-week gestational increments from fertilization to full term, including:

(i) brain and heart function;

(ii) the presence and development of external members and internal organs; and

(iii) the dimensions of the fetus;

(n) show an ultrasound of the heartbeat of an unborn child at:

(i) four weeks from conception;

(ii) six to eight weeks from conception; and

(iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;

(o) describe abortion procedures used in current medical practice at the various stages of growth of the unborn child, including:

(i) the medical risks associated with each procedure;

(ii) the risk related to subsequent childbearing that are associated with each procedure; and

(iii) the consequences of each procedure to the unborn child at various stages of fetal development;

(p) describe the possible detrimental psychological effects of abortion;

(q) describe the medical risks associated with carrying a child to term;

(r) include relevant information on the possibility of an unborn child's survival at the two-week gestational increments described in Subsection (2)(m);

(s) except as provided in Subsection (5), include:

(i) information regarding substantial medical evidence from studies concluding that an unborn child who is at least 20 weeks gestational age may be capable of experiencing pain during an abortion procedure; and

(ii) the measures that will be taken in accordance with Section 76-7-308.5;

(t) explain the options and consequences of aborting a medication-induced abortion;

(u) include the following statement regarding a medication-induced abortion, "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but have not yet taken the second drug and have questions regarding the health of your fetus or are questioning your decision to terminate your pregnancy, you should consult a physician immediately.";

(v) inform a pregnant woman that she has the right to view an ultrasound of the unborn child, at no expense to her, upon her request;

(w) inform a pregnant woman that she has the right to:

(i) determine the final disposition of the remains of the aborted fetus;

(ii) unless the woman waives this right in writing, wait up to 72 hours after the abortion procedure is performed to make a determination regarding the disposition of the aborted fetus before the health care facility may dispose of the fetal remains;

(iii) receive information about options for disposition of the aborted fetus, including the method of disposition that is usual and customary for a health care facility; and

(iv) for a medication-induced abortion, return the aborted fetus to the health care facility for disposition; and

(x) provide a digital copy of the form described in Subsection 26-21-33(3)(a)(i); and

(y) be in a typeface large enough to be clearly legible.

(3) The information module and website described in Subsection (1) may include a toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and description of services, agencies, and adoption attorneys in the locality of the caller.

(4) The department may develop a version of the information module and website that omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of rape.

(5) The department may develop a version of the information module and website that omits the information described in Subsection (2)(s) for a viewer who will have an abortion performed:

(a) on an unborn child who is less than 20 weeks gestational age at the time of the abortion; or

(b) on an unborn child who is at least 20 weeks gestational age at the time of the abortion, if:

(i) the abortion is being performed for a reason described in Subsection [~~76-7-302(3)(b)(i)~~] 76-7-302(2)(b)(i) or (ii); and

(ii) due to a serious medical emergency, time does not permit compliance with the requirement to provide the information described in Subsection (2)(s).

(6) The department and each local health department shall make the information module and the website described in Subsection (1) available at no cost to any person.

(7) The department shall make the website described in Subsection (1) available for viewing on the department's website by clicking on a conspicuous link on the home page of the website.

(8) The department shall ensure that the information module is:

(a) available to be viewed at all facilities where an abortion may be performed;

(b) interactive for the individual viewing the module, including the provision of opportunities to answer questions and manually engage with the module before the module transitions from one substantive section to the next;

(c) produced in English and may include subtitles in Spanish or another language; and

(d) capable of being viewed on a tablet or other portable device.

(9) After the department releases the initial version of the information module, for the use described in Section 76-7-305, the department shall:

(a) update the information module, as required by law; and

(b) present an updated version of the information module to the Health and Human Services Interim Committee for the committee's review and recommendation before releasing the updated version for the use described in Section 76-7-305.

Section 23. Section 76-7-313 is amended to read:

76-7-313. Department's enforcement responsibility -- Physician's report to department.

(1) In order for the department to maintain necessary statistical information and ensure enforcement of the provisions of this part:

(a) any physician performing an abortion must obtain and record in writing:

(i) the age, marital status, and county of residence of the woman on whom the abortion was performed;

(ii) the number of previous abortions performed on the woman described in Subsection (1)(a)(i);

(iii) the hospital or other facility where the abortion was performed;

(iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;

(v) the pathological description of the unborn child;

(vi) the given gestational age of the unborn child;

(vii) the date the abortion was performed;

(viii) the measurements of the unborn child, if possible to ascertain; and

(ix) the medical procedure used to abort the unborn child; and

(b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Each physician who performs an abortion shall provide the following to the department within 30 days after the day on which the abortion is performed:

(a) the information described in Subsection (1);

(b) a copy of the pathologist's report described in Section 76-7-309;

(c) an affidavit:

(i) indicating whether the required consent was obtained pursuant to Sections 76-7-305 and 76-7-305.5;

(ii) described in Subsection (3), if applicable; and

(iii) indicating whether at the time the physician performed the abortion, the physician had any knowledge that the pregnant woman sought the abortion solely because the unborn child had or may have had Down syndrome; and

(d) a certificate indicating:

[~~(i) whether the unborn child was or was not viable, as defined in Subsection 76-7-302(1), at the time of the abortion;~~]

[~~(ii)~~] (i) whether the unborn child was older or younger than 18 weeks gestational age at the time of the abortion; and

[~~(iii)~~] (ii) [~~if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than 18 weeks gestational age at the time of the abortion,~~] the reason for the abortion.

(3) If the information module or the address to the website is not provided to a pregnant woman, the physician who performs the abortion on the woman shall, within 10 days after the day on which the abortion is performed, provide to the department an affidavit that:

(a) specifies the information that was not provided to the woman; and

(b) states the reason that the information was not provided to the woman.

(4) All information supplied to the department shall be confidential and privileged pursuant to Title 26, Chapter 25, Confidential Information Release.

(5) The department shall pursue all administrative and legal remedies when the department determines that a physician or a facility has not complied with the provisions of this part.

Section 24. Section 76-7-314 is amended to read:

76-7-314. Violations of abortion laws -- Classifications.

(1) [~~A willful~~] An intentional violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311, or 76-7-312 is a felony of the third degree.

(2) A violation of Section 76-7-326 is a felony of the third degree.

(3) A violation of Section [~~76-7-302.5 or~~] 76-7-314.5 is a felony of the second degree.

(4) A violation of any other provision of this part, including Subsections 76-7-305(2)(a) through (c), and (e), is a class A misdemeanor.

(5) The [~~Department of Health~~] department shall report a physician's violation of any provision of this part to the Physicians Licensing Board, described in Section 58-67-201.

(6) Any person with knowledge of a physician's violation of any provision of this part may report the violation to the Physicians Licensing Board, described in Section 58-67-201.

(7) In addition to the penalties described in this section, the department may take any action described in Section 26-21-11 against [~~an abortion clinic~~] a health care facility if a violation of this chapter occurs at the [~~abortion clinic~~] health care facility.

Section 25. Section 76-7-314.5 is amended to read:

76-7-314.5. Killing an unborn child.

(1) A person is guilty of killing an unborn child if the person intentionally causes the death of an unborn child by performing an abortion of the unborn child in violation of the provisions of Subsection [~~76-7-302(3)~~] 76-7-302(2).

(2) A woman is not criminally liable for:

(a) seeking to obtain, or obtaining, an abortion that is permitted by this part; or

(b) a physician's failure to comply with Subsection [~~76-7-302(3)(b)(ii)~~] 76-7-302(2)(b)(ii) or Section 76-7-305.

Section 26. Section 76-7-317 is amended to read:

76-7-317. Severability clause.

If any one or more provision, section, subsection, sentence, clause, phrase, or word of this part or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this part shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed this part, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional. This section applies to any provision, section, subsection, sentence, clause, phrase, or word of this part, regardless of the time of enactment, amendment, or repeal.

Section 27. Section 76-7-332 is enacted to read:

76-7-332. Drugs known to be used for abortion -- Prescriber limitation -- Criminal penalties -- Pharmacy presumption for other use.

(1) As used in the section, "abortion-related drug" means a drug or medication that is known to be used for the purpose of performing an abortion, and includes:

(a) methotrexate, or methotrexate with misoprostol;

(b) mifepristone, also known as mifeprex;

(c) misoprostol, also known as cytotec; and

(d) RU-486.

(2) An individual may not prescribe an abortion-related drug for the purpose of causing an abortion, unless the individual is licensed as a physician in this state under:

(a) Title 58, Chapter 67, Utah Medical Practice Act; or

(b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) (a) Any prescription or medical order for a drug that is known to possibly cause an abortion shall be presumed by a pharmacy to be for an indication other than for the termination of a pregnancy.

(b) A pharmacy dispensing a prescription or medical order for a drug that is known to possibly cause an abortion shall not be required to verify whether the prescription or medical order violates any provision of this chapter.

Section 28. Section 76-7a-101 is amended to read:

76-7a-101. Definitions.

As used in this chapter:

(1) (a) "Abortion" means[~~:~~] the act, by a physician, of using an instrument, or prescribing a drug, with the intent to cause the death of an unborn child of a woman known to be pregnant, except as permitted under this chapter.

[~~(i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;~~]

[~~(ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or~~]

[~~(iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.~~]

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

[~~(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II abortion clinic licensed by the state.~~]

[~~(3)~~] (2) "Department" means the Department of Health and Human Services.

[~~(4)~~] (3) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

[~~(5)~~] (4) "Hospital" means:

(a) a general hospital licensed by the department; [~~or~~] and

(b) a clinic or other medical facility [~~to the extent the clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to a pregnant woman and an unborn child as would be provided for the particular medical procedure undertaken by a general hospital licensed by the department.~~] that meets the following criteria:

(i) a clinician who performs procedures at the clinic is required to be credentialed to perform the same procedures at a general hospital licensed by the department; and

(ii) any procedures performed at the clinic are done with the same level of safety for the pregnant woman and unborn child as would be available in a general hospital licensed by the department.

[~~(6) "Incest" means the same as that term is defined in Section 80-1-102.~~]

[~~(7)~~] (5) "Medical emergency" means a [~~condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function~~] life threatening physical condition aggravated by, caused by, or arising from a pregnancy that places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of a major bodily function, unless the abortion is performed or induced.

(6) "Perinatal hospice" means comprehensive support to the mother and her family from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth, and through the postpartum period, that:

(a) focuses on alleviating fear and ensuring that the woman and her family experience the life and death of a child in a comfortable and supportive environment; and

(b) may include counseling or medical care by:

(i) maternal-fetal medical specialists;

(ii) obstetricians;

(iii) neonatologists;

(iv) anesthesia specialists;

(v) psychiatrists, psychologists, or other mental health providers;

(vi) clergy;

(vii) social workers; or

(viii) specialty nurses.

[~~(8)~~] (7) "Physician" means:

(a) a medical doctor licensed to practice medicine and surgery in the state;

(b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

(c) a physician employed by the federal government who has qualifications similar to an individual described in Subsection [~~(8)(a) or (b)~~] (7)(a) or (b).

[~~(9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.~~]

[~~(10)~~] (8) (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

(iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Section 29. Section 76-7a-201 is amended to read:

76-7a-201. Abortion prohibition -- Exceptions -- Penalties.

(1) An abortion may be performed in this state only under the following circumstances:

(a) the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious physical risk of substantial [~~and irreversible~~] impairment of a major bodily function of the woman on whom the abortion is performed;

(b) subject to Subsection (3), two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus[~~:~~] has a fetal abnormality that in the physicians' reasonable medical judgment is incompatible with life; or

[~~(i) has a defect that is uniformly diagnosable and uniformly lethal; or~~]

[~~(ii) has a severe brain abnormality that is uniformly diagnosable; or~~]

(c) [~~(i)~~] the unborn child has not reached 18 weeks gestational age and:

(i) (A) the woman is pregnant as a result of:

[~~(A)~~] (I) rape, as described in Section 76-5-402;

[~~(B)~~] (II) rape of a child, as described in Section 76-5-402.1; or

[~~(C)~~] (III) incest[~~; and~~], as described in Subsection 76-5-406(2)(j) or Section 76-7-102; or

(B) the pregnant child is under the age of 14; and

(ii) before the abortion is performed, the physician who performs the abortion:

(A) for an abortion authorized under Subsection (1)(c)(i)(A), verifies that the incident described in Subsection [~~(1)(c)(i)~~] (1)(c)(i)(A) has been reported to law enforcement; and

(B) if applicable, complies with requirements related to reporting suspicions of or known child abuse.

(2) An abortion may be performed only:

(a) by a physician; and

(b) in [~~an abortion clinic or~~] a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

(3) If the unborn child has been diagnosed with a fetal abnormality that is incompatible with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and in writing, that perinatal hospice services and perinatal palliative care are available and are an alternative to abortion.

[~~(3)~~] (4) A person who performs an abortion in violation of this section is guilty of a second degree felony.

[~~(4)~~] (5) In addition to the penalty described in Subsection [~~(3)~~] (4), the department may take appropriate corrective action against [~~an abortion clinic~~] a health care facility, including revoking the [~~abortion clinic's~~] health care facility's license, if a violation of this chapter occurs at the [~~abortion clinic~~] health care facility.

[~~(5)~~] (6) The department shall report a physician's violation of any provision of this section to the state entity that regulates the licensing of a physician.

Section 30. Repealer.

This bill repeals:

Section 76-7-302.5, Circumstances under which abortion prohibited.

CHAPTER 302
H. B. 499
Passed March 2, 2023
Approved March 15, 2023
Effective May 3, 2023

HOMELESS SERVICES AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies provisions related to the oversight and provision of services for individuals experiencing homelessness.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the formula used by the Office of Homeless Services (office) to disburse funds from the Homeless Shelter Cities Mitigation Restricted Account (account) to municipalities to mitigate the impacts of homeless shelters;
- prohibits a municipality from receiving funds from the account if the municipality does not enforce an ordinance that prohibits camping, except in certain circumstances;
- modifies the annual local contribution amount that certain local governments are required to provide from the local government's collected sales tax revenue for deposit into the account;
- provides for the State Tax Commission to subtract a certain amount from a local government's annual local contribution to the account based on the availability of homeless shelter beds within the local government's boundaries;
- requires certain counties to convene a county winter response task force for the purpose of preparing a county winter response plan, formerly known as a county overflow plan;
- describes the membership of a county winter response task force;
- expands the county winter response plan requirements to counties of the second class;
- modifies the process and requirements for a county winter response plan and the consequences of noncompliance during the winter response period;
- requires the Department of Health and Human Services to issue a code blue alert for certain weather events that may pose a danger to individuals experiencing homelessness;
- provides for certain requirements and limitations to take effect within a county that is impacted by a code blue alert; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-1-202, as last amended by Laws of Utah 2022, Chapters 40, 274 and renumbered and amended by Laws of Utah 2022, Chapter 255
35A-16-203, as last amended by Laws of Utah 2022, Chapter 403
35A-16-302, as renumbered and amended by Laws of Utah 2021, Chapter 281
35A-16-303, as renumbered and amended by Laws of Utah 2021, Chapter 281
35A-16-401, as enacted by Laws of Utah 2022, Chapter 403
35A-16-402, as last amended by Laws of Utah 2022, Chapter 82 and renumbered and amended by Laws of Utah 2022, Chapter 403
35A-16-403, as renumbered and amended by Laws of Utah 2022, Chapter 403
35A-16-404, as renumbered and amended by Laws of Utah 2022, Chapter 403
35A-16-501, as enacted by Laws of Utah 2022, Chapter 403
35A-16-602, as enacted by Laws of Utah 2022, Chapter 467
59-12-205, as last amended by Laws of Utah 2022, Chapters 59, 82 and 403

ENACTS:

35A-16-405, Utah Code Annotated 1953
35A-16-501.5, Utah Code Annotated 1953
35A-16-502.5, Utah Code Annotated 1953
35A-16-701, Utah Code Annotated 1953
35A-16-702, Utah Code Annotated 1953
35A-16-703, Utah Code Annotated 1953

REPEALS AND REENACTS:

35A-16-502, as enacted by Laws of Utah 2022, Chapter 403

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-1-202 is amended to read:

26B-1-202. Department authority and duties.

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(14) provide training and educational opportunities for the department's staff;

(15) collect child support payments and any other money due to the department;

(16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403, including:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(18) carry out the responsibilities assigned to the department by statute;

(19) examine and audit the expenditures of any public funds provided to a local substance abuse authority, a local mental health authority, a local area agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this Subsection (19) "public funds" means the same as that term is defined in Section 62A-15-102;

(20) in accordance with Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(21) within legislative appropriations, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

(22) ensure that any training or certification required of a public official or public employee, as

those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department;

(23) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(24) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(25) to the extent authorized under state law or required by federal law, promote and protect the health and wellness of the people within the state;

(26) establish, maintain, and enforce rules authorized under state law or required by federal law to promote and protect the public health or to prevent disease and illness;

(27) investigate the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(28) provide for the detection and reporting of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(29) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(30) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(31) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(32) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(33) establish laboratory services necessary to support public health programs and medical services in the state;

(34) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations and Assistance Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(37) investigate the causes of maternal and infant mortality;

(38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

(39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

(40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(41) conduct health planning for the state;

(42) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

(44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

(45) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(46) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code; [~~and~~]

(47) oversee public education vision screening as described in Section 53G-9-404[~~.~~]; and

(48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue Alert.

Section 2. Section 35A-16-203 is amended to read:

35A-16-203. Powers and duties of the coordinator.

(1) The coordinator shall:

(a) coordinate the provision of homeless services in the state;

(b) in cooperation with the homelessness council, develop and maintain a comprehensive annual budget and overview of all homeless services available in the state, which homeless services budget shall receive final approval by the homelessness council;

(c) in cooperation with the homelessness council, create a statewide strategic plan to minimize homelessness in the state, which strategic plan shall receive final approval by the homelessness council;

(d) in cooperation with the homelessness council, oversee funding provided for the provision of homeless services, which funding shall receive final approval by the homelessness council, including funding from the:

(i) Pamela Atkinson Homeless Account created in Section 35A-16-301;

(ii) Homeless to Housing Reform Restricted Account created in Section 35A-16-303; and

(iii) Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402;

(e) provide administrative support to and serve as a member of the homelessness council;

(f) at the governor's request, report directly to the governor on issues regarding homelessness in the state and the provision of homeless services in the state; and

(g) report directly to the president of the Senate and the speaker of the House of Representatives at least twice each year on issues regarding homelessness in the state and the provision of homeless services in the state.

(2) The coordinator, in cooperation with the homelessness council, shall ensure that the homeless services budget described in Subsection (1)(b) includes an overview and coordination plan for all funding sources for homeless services in the state, including from state agencies, Continuum of Care organizations, housing authorities, local governments, federal sources, and private organizations.

(3) The coordinator, in cooperation with the homelessness council, shall ensure that the strategic plan described in Subsection (1)(c):

(a) outlines specific goals and measurable benchmarks for minimizing homelessness in the state and for coordinating services for individuals experiencing homelessness among all service providers in the state;

(b) identifies best practices and recommends improvements to the provision of services to individuals experiencing homelessness in the state to ensure the services are provided in a safe, cost-effective, and efficient manner;

(c) identifies best practices and recommends improvements in coordinating the delivery of services to the variety of populations experiencing homelessness in the state, including through the use of electronic databases and improved data sharing among all service providers in the state; and

(d) identifies gaps and recommends solutions in the delivery of services to the variety of populations experiencing homelessness in the state.

(4) In overseeing funding for the provision of homeless services as described in Subsection (1)(d), the coordinator:

(a) shall prioritize the funding of programs and providers that have a documented history of successfully reducing the number of individuals experiencing homelessness, reducing the time individuals spend experiencing homelessness, moving individuals experiencing homelessness to permanent housing, or reducing the number of individuals who return to experiencing homelessness; and

(b) except for a program or provider providing services to victims of domestic violence, may not approve funding to a program or provider that does not enter into a written agreement with the office to collect and share HMIS data regarding the provision of services to individuals experiencing homelessness so that the provision of services can be coordinated among state agencies, local governments, and private organizations.

(5) In cooperation with the homelessness council, the coordinator shall update the annual statewide budget and the strategic plan described in this section on an annual basis.

(6) (a) On or before October 1, the coordinator shall provide a written report to the department for inclusion in the department's annual written report described in Section 35A-1-109.

(b) The written report shall include:

(i) the homeless services budget;

(ii) the strategic plan; [~~and~~]

(iii) recommendations regarding improvements to coordinating and providing services to

individuals experiencing homelessness in the state[.]; and

(iv) in coordination with the homelessness council, a complete accounting of the office's disbursement of funds during the previous fiscal year from:

(A) the Pamela Atkinson Homeless Account created in Section 35A-16-301;

(B) the Homeless to Housing Reform Restricted Account created in Section 35A-16-303;

(C) the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402;

(D) the COVID-19 Homeless Housing and Services Grant Program created in Section 35A-16-602; and

(E) any other grant program created in statute that is administered by the office.

Section 3. Section 35A-16-302 is amended to read:

35A-16-302. Uses of Homeless to Housing Reform Restricted Account.

(1) The homelessness council may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-16-303.

[~~(2) Before final approval of a grant or contract awarded under this section, the homelessness council and the coordinator shall provide written information regarding the grant or contract to, and shall consider the recommendations of, the Executive Appropriations Committee.~~]

[~~(3)~~] (2) As a condition of receiving money, including any ongoing money, from the restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the homelessness council and the coordinator that describes:

(a) how money provided from the restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the homelessness council before the awarding of the grant or contract.

[~~(4)~~] (3) In determining the awarding of a grant or contract under this section, the homelessness council and the coordinator shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) give priority to a project or contract that will include significant additional or matching funds from a private organization, nonprofit organization, or local government entity;

(c) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter;

(d) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state's homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults;

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness; and

(xii) providing medical respite care for homeless individuals where the homeless individuals can access medical care and other supportive services; and

(e) address the needs identified in the strategic plan described in Section 35A-16-203 for inclusion in the annual written report described in Section 35A-1-109.

[~~(5)~~] (4) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create,

or renovate a facility that will provide shelter or other resources for the homeless, of the homelessness council, with the concurrence of the coordinator, may consider whether the facility will be:

(a) located near mass transit services;

(b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;

(c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and

(d) located in an area with access to employment, job training, and positive activities.

[~~(6)~~] (5) In accordance with Subsection [~~(5)~~] (4), and subject to the approval the homelessness council, with the concurrence of the coordinator, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

(a) the county executive of a county of the first class on behalf of the county of the first class, if the facility is or will be located in the county of the first class in a location other than Salt Lake City;

(b) the state;

(c) a nonprofit entity approved by the homelessness council, with the concurrence of the coordinator; and

(d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.

[~~(7)~~] (6) (a) If a homeless shelter commits to provide matching funds [~~equal to the total grant awarded~~] under this Subsection [~~(7)~~] (6), the homelessness council, with the concurrence of the coordinator, may award a grant for the ongoing operations of the homeless shelter.

(b) In awarding a grant under this Subsection [~~(7)~~] (6), the homelessness council, with the concurrence of the coordinator, shall consider the number of beds available at the homeless shelter and the number and quality of the homeless services provided by the homeless shelter.

[~~(8)~~] (7) The office may expend money from the restricted account to offset actual office and homelessness council expenses related to administering this section.

[~~(9) In addition to other provisions of this section, the homelessness council, with the concurrence of the coordinator, may award one-time money from the state's sale of the land at 210 South Rio Grande Street, Salt Lake City, which was the location of a former emergency homeless shelter, to a nonprofit entity that owns three or more homeless shelters in a county of the first class to assist the entity in paying off a loan taken out by the entity to build a homeless shelter located in a county of the first class in a location other than Salt Lake City.~~]

Section 4. Section 35A-16-303 is amended to read:

35A-16-303. Homeless to Housing Reform Restricted Account.

(1) There is created a restricted account within the General Fund known as the Homeless to Housing Reform Restricted Account.

(2) The restricted account shall be administered by the office for the purposes described in Section 35A-16-302.

(3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited [~~in~~] into the restricted account.

(4) The restricted account shall be funded by:

(a) appropriations made to the account by the Legislature; and

(b) private donations, grants, gifts, bequests, or money made available from any other source to implement this section and Section 35A-16-302.

(5) Subject to appropriation, the coordinator shall use restricted account money as described in Section 35A-16-302.

[~~(6) The coordinator, in cooperation with the homelessness council, shall submit an annual written report to the department that gives a complete accounting of the use of money from the restricted account for inclusion in the annual report described in Section 35A-1-109.~~]

[~~(7) In addition to the funding sources described in Subsection (4), the restricted account shall be funded by the one-time deposit of the proceeds of the state's sale of land located at 210 South Rio Grande Street, Salt Lake City, on or after March 1, 2020, which was the former location of an emergency homeless shelter.~~]

Section 5. Section 35A-16-401 is amended to read:

35A-16-401. Definitions.

As used in this part:

(1) "Account" means the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(2) "Authorized provider" means a nonprofit provider of homeless services that is authorized by a third-tier eligible municipality to operate a temporary winter response shelter within the municipality in accordance with Part 5, Winter Response Plan Requirements.

[~~(2)~~] (3) "Eligible municipality" means:

(a) a first-tier eligible municipality;

(b) a second-tier eligible municipality; or

(c) a third-tier eligible municipality.

[~~(3)~~] (4) "Eligible services" means [~~public safety services or any other~~] any activities or services that

mitigate the impacts of the location of an eligible shelter, including direct services, public safety services, and emergency services, as further defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(4)~~] (5) "Eligible shelter" means:

(a) for a first-tier eligible municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 80 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation;

(b) for a second-tier municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 25 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(c) for a third-tier eligible municipality, a homeless shelter that:

(i) (A) has the capacity to provide temporary shelter to at least 50 individuals per night, as verified by the office; and

(B) operates for no less than three months during the period beginning October 1 and ending April 30 of the following year; or

(ii) (A) meets the definition of a homeless shelter under Section 35A-16-501; and

(B) increases capacity during [~~an overflow~~] a winter response period, as defined in Section 35A-16-501, in accordance with Subsection 35A-16-502(6)(a).

[~~(5)~~] (6) "First-tier eligible municipality" means a municipality that:

(a) is located within a county of the first or second class;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a first-tier eligible municipality in accordance with Section 35A-16-404.

[~~(6)~~] (7) "Homeless shelter" means a facility that provides or is proposed to provide temporary shelter to individuals experiencing homelessness.

[~~(7)~~] (8) "Municipality" means a city, town, or metro township.

[~~(8)~~] (9) "Public safety services" means law enforcement, emergency medical services, or fire protection.

[~~(9)~~] (10) "Second-tier eligible municipality" means a municipality that:

(a) is located within a county of the third, fourth, fifth, or sixth class;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a second-tier eligible municipality in accordance with Section 35A-16-404.

[~~(10)~~] (11) "Third-tier eligible municipality" means a municipality that:

[~~(a) is located within any county;~~]

[~~(b)~~] (a) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year; and

[~~(c)~~] (b) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services.

Section 6. Section 35A-16-402 is amended to read:

35A-16-402. Homeless Shelter Cities Mitigation Restricted Account -- Formula for disbursing account funds to eligible municipalities.

(1) There is created a restricted account within the General Fund known as the Homeless Shelter Cities Mitigation Restricted Account.

(2) The account shall be funded by:

(a) local sales and use tax revenue deposited into the account in accordance with Section 59-12-205;

(b) interest earned on the account; and

(c) appropriations made to the account by the Legislature.

(3) The office shall administer the account.

(4) (a) Subject to appropriations, the office shall annually disburse funds from the account as follows:

(i) [~~92.5~~] 87.5% shall be disbursed to first-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, of which:

(A) 70% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total number of individuals

experiencing homelessness who are served by eligible shelters within each municipality, as determined by the office;

(B) 20% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality as compared to the total population of the municipality, as determined by the office; and

(C) 10% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total year-round capacity of all eligible shelters within each municipality, as determined by the office;

(ii) 2.5% shall be disbursed to second-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, of which:

(A) 70% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality, as determined by the office;

(B) 20% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality as compared to the total population of the municipality, as determined by the office; and

(C) 10% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total year-round capacity of all eligible shelters within each municipality, as determined by the office; and

(iii) [~~5~~] 10% shall be disbursed to third-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, in accordance with a formula established by the office and approved by the homelessness council.

[~~(b) In disbursing funds to first-tier municipalities under Subsection (4)(a)(i), the maximum amount of funds that the office may disburse each year to a single first-tier municipality may not exceed the greater of:~~]

[~~(i) $2,750,000; or~~]

[~~(ii) 25% of the total amount of funds disbursed under Subsection (4)(a)(i).~~]

[~~(c)~~] (b) In disbursing funds to second-tier municipalities under Subsection (4)(a)(ii), the maximum amount of funds that the office may disburse each year to a single second-tier municipality may not exceed 50% of the total amount of funds disbursed under Subsection (4)(a)(ii).

(c) The office may disburse funds under Subsection (4)(a)(iii) to an authorized provider of a third-tier eligible municipality.

(d) The office may disburse funds to a third-tier municipality or an authorized provider under Subsection (4)(a)(iii) regardless of whether the municipality receives funds under Subsection (4)(a)(i) as a first-tier municipality or funds under Subsection (4)(a)(ii) as a second-tier municipality.

(e) If any account funds are available to the office for disbursement under this section after making the disbursements required in Subsection (4)(a), the office may disburse the available account funds to third-tier municipalities that have been approved to receive account funds under Section 35A-16-403.

(5) The office may use up to 2.75% of any appropriations made to the account by the Legislature to offset the office's administrative expenses under this part.

Section 7. Section 35A-16-403 is amended to read:

35A-16-403. Eligible municipality application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) An eligible municipality may apply for account funds to mitigate the impacts of the location of an eligible shelter through the provision of eligible services within the eligible municipality's boundaries.

(2) [~~(a) This Subsection (2) applies to a fiscal year beginning on or after July 1, 2022.~~]

[~~(b)~~] (a) [~~(i)~~] The homelessness council shall set aside time on the agenda of a homelessness council meeting that occurs [~~on or after July 1 and on or before November 30~~] before the beginning of the next fiscal year to allow an eligible municipality to present a request for account funds for [~~the~~] that next fiscal year.

[~~(ii)~~] (b) An eligible municipality may present a request for account funds by:

[~~(A)~~] (i) sending an electronic copy of the request to the homelessness council before the meeting; and

[~~(B)~~] (ii) appearing at the meeting to present the request.

(c) The request described in Subsection (2)(b)(ii) shall contain:

(i) a proposal outlining the need for eligible services, including a description of each eligible service for which the eligible municipality requests account funds;

(ii) a description of the eligible municipality's proposed use of account funds;

(iii) a description of the outcomes that the funding would be used to achieve, including indicators that would be used to measure progress toward the specified outcomes; and

(iv) the amount of account funds requested.

(d) (i) On or before [~~November~~] September 30, an eligible municipality that received account funds during the previous fiscal year shall file

electronically with the homelessness council a report that includes:

(A) a summary of the amount of account funds that the eligible municipality expended and the eligible municipality's specific use of those funds;

(B) an evaluation of the eligible municipality's effectiveness in using the account funds to address the eligible municipality's needs due to the location of an eligible shelter;

(C) an evaluation of the eligible municipality's progress regarding the outcomes and indicators described in Subsection (2)(c)(iii); and

(D) any proposals for improving the eligible municipality's effectiveness in using account funds that the eligible municipality may receive in future fiscal years.

(ii) The homelessness council may request additional information as needed to make the evaluation described in Subsection (2)(e).

(e) The homelessness council shall evaluate a request made in accordance with this Subsection (2) [~~using~~] and may take the following factors into consideration in determining whether to approve or deny the request:

(i) the strength of the proposal that the eligible municipality provided to support the request;

(ii) if the eligible municipality received account funds during the previous fiscal year, the efficiency with which the eligible municipality used any account funds during the previous fiscal year;

(iii) the availability of funding for the eligible municipality under Subsection 35A-16-402(4);

(iv) the availability of alternative funding for the eligible municipality to address the eligible municipality's needs due to the location of an eligible shelter; and

[~~(v) whether the eligible municipality enacts and enforces an ordinance that prohibits camping; and~~]

[~~(vi)~~] (v) any other considerations identified by the homelessness council.

(f) [~~(i)~~] After making the evaluation described in Subsection (2)(e), and subject to Subsection (2)(g), the homelessness council shall vote to either approve or deny an eligible municipality's request for account funds.

[~~(ii) The homelessness council shall support the homelessness council's decision under Subsection (2)(f)(i) with findings on each of the factors described in Subsection (2)(e).~~]

(g) (i) Except as provided in Subsection (2)(g)(ii), an eligible municipality may not receive account funds under this section unless the eligible municipality enforces an ordinance that prohibits camping.

(ii) Subsection (2)(g)(i) does not apply if each homeless shelter located within the county in which the eligible municipality is located is at full capacity, as defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(g)~~] (h) [~~(i)~~] If the homelessness council approves an eligible municipality's request to receive account funds under Subsection (2)(f), the office, subject to appropriation, shall calculate the amount of funds for disbursement to the eligible municipality under Subsection 35A-16-402(4).

[~~(ii) An eligible municipality that is approved to receive account funds may submit an invoice of the eligible municipality's expenses, with supporting documentation, to the office monthly for reimbursement.~~]

[~~(3) On or before October 1, the coordinator, in cooperation with the homelessness council, shall:~~]

[~~(a) submit an annual written report electronically to the Social Services Appropriations Subcommittee of the Legislature that gives a complete accounting of the office's disbursement of the money from the account under this section for the previous fiscal year; and~~]

[~~(b) include information regarding the disbursement of money from the account under this section in the annual report described in Section 35A-1-109.~~]

[~~(4)~~] (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules governing the process for calculating the amount of funds that an eligible municipality may receive under Subsection 35A-16-402(4).

Section 8. Section 35A-16-404 is amended to read:

35A-16-404. Certification of eligible municipality.

On or before October 1 of each year, the office shall:

(1) [~~The office shall certify each year, on or after July 1 and before the first meeting of the homelessness council after July 1,~~] certify the municipalities that meet the requirements of a first-tier eligible municipality or a second-tier eligible municipality as of July 1[~~.~~]; and

(2) [~~On or before October 1, the office shall~~] provide a list of the municipalities that the office has certified as meeting the requirements of a first-tier eligible municipality or a second-tier eligible municipality for the year to the State Tax Commission.

Section 9. Section 35A-16-405 is enacted to read:

35A-16-405. Information to report to State Tax Commission regarding third-tier eligible municipalities.

On or before October 1 of each year, the office shall provide the following information to the State Tax Commission:

(1) a list of the municipalities that the office:

(a) has not certified as an eligible municipality in accordance with Section 35A-16-404; and

(b) determines to have a homeless shelter located within the municipality's geographic boundaries; and

(2) the number of beds available at all homeless shelters located within each municipality described in Subsection (1).

Section 10. Section 35A-16-501 is amended to read:

Part 5. Winter Response Plan Requirements

35A-16-501. Definitions.

As used in this part:

(1) "Applicable county" means a county of the first or second class.

(2) "Applicable local homeless council" means the local homeless council that is responsible for coordinating homeless response within an applicable county.

[~~(2)~~] (3) "Capacity limit" means a limit as to the number of individuals that a homeless shelter may provide overnight shelter to under a conditional use permit.

(4) "Chief executive officer" means the same as that term is defined in Section 11-51-102.

(5) "Community location" means the same as that term is defined in Section 10-8-41.6.

[~~(3)~~] (6) "Conference of mayors" means an association consisting of the mayor of each municipality located within a county.

[~~(4)~~] (7) "Council of governments" means the same as that term is defined in Section 72-2-117.5.

(8) "County winter response task force" or "task force" means a task force described in Section 35A-16-501.5.

[~~(5)~~] (9) "Homeless shelter" means a facility that:

[~~(a) is located within an applicable county;~~]

[~~(b)~~] (a) provides temporary shelter to individuals experiencing homelessness;

[~~(c) has the capacity to provide temporary shelter to at least 200 individuals per night;~~]

[~~(d)~~] (b) operates year-round; and

[~~(e)~~] (c) is not subject to restrictions that limit the hours, days, weeks, or months of operation.

[~~(6)~~] (10) "Municipality" means a city, town, or metro township.

[~~(7) "Overflow period" means the period beginning October 1 and ending April 30 of the following year.~~]

[~~(8) "Overflow plan" means the plan described in Subsection 35A-16-502(1).~~]

[~~(9)~~] (11) "State facility" means the same as that term is defined in Section 63A-5b-1001.

[~~(10)~~] (12) "Subsequent [~~overflow~~] winter response period" means the [~~overflow~~] winter response period that begins on October [~~1~~] 15 of the year in which a [~~council of governments~~] county winter response task force is required to submit [~~an overflow~~] a winter response plan to the office under Section 35A-16-502.

(13) "Targeted winter response bed count" means the targeted bed count number for an applicable county during the winter response period, as determined jointly by the applicable local homeless council and the office.

[~~(11)~~] (14) "Temporary [~~overflow~~] winter response shelter" means a facility that:

(a) provides temporary emergency shelter to [~~no more than 150~~] individuals experiencing homelessness during [~~an overflow~~] a winter response period; and

(b) does not operate year-round.

(15) "Winter response period" means the period beginning October 15 and ending April 30 of the following year.

(16) "Winter response plan" means the plan described in Section 35A-16-502.

Section 11. Section 35A-16-501.5 is enacted to read:

35A-16-501.5. County winter response task force.

(1) Subject to the requirements of Section 35A-16-502, the council of governments of each applicable county shall annually convene a county winter response task force.

(2) (a) The task force for Salt Lake County shall consist of the following 14 voting members:

(i) the chief executive officer of Salt Lake County, or the chief executive officer's designee;

(ii) the chief executive officer, or the chief executive officer's designee, of each of the following 11 municipalities:

(A) Draper;

(B) Midvale;

(C) Millcreek;

(D) Murray;

(E) Salt Lake City;

(F) Sandy;

(G) South Jordan;

(H) South Salt Lake;

(I) Taylorsville;

(J) West Jordan; and

(K) West Valley City; and

(iii) the chief executive officer, or the chief executive officer's designee, of any two municipalities located in Salt Lake County that are not described in Subsection (2)(a)(ii), appointed by the conference of mayors of Salt Lake County.

(b) A task force for an applicable county not described in Subsection (2)(a) shall consist of the following voting members:

(i) the chief executive officer of the applicable county, or the chief executive officer's designee; and

(ii) the chief executive officer, or the chief executive officer's designee, of a number of municipalities located in the applicable county that the conference of mayors of the applicable county considers to be appropriate, appointed by the conference of mayors of the applicable county.

(3) In addition to the voting members required in Subsection (2), a task force shall include the following nonvoting members:

(a) the coordinator, or the coordinator's designee;

(b) one representative of the Utah League of Cities and Towns, appointed by the Utah League of Cities and Towns, or the representative's designee;

(c) one representative of the Utah Association of Counties, appointed by the Utah Association of Counties, or the representative's designee;

(d) two individuals experiencing homelessness or having previously experienced homelessness, appointed by the applicable local homelessness council;

(e) three representatives of the applicable local homeless council, appointed by the applicable local homeless council, or the representative's designee; and

(f) any other individual appointed by the council of governments of the applicable county.

(4) (a) Any vacancy on a task force shall be filled in the same manner as the appointment of the member whose vacancy is being filled.

(b) Each member of a task force shall serve until a successor is appointed.

(5) A majority of the voting members of a task force constitutes a quorum and may act on behalf of the task force.

(6) A task force shall:

(a) select officers from the task force's members as the task force finds necessary; and

(b) meet as necessary to effectively conduct the task force's business and duties as prescribed by statute.

(7) A task force may establish one or more working groups as is deemed appropriate to assist on specific issues related to the task force's duties, including a working group for site selection of temporary winter response shelters.

(8) (a) A task force member may not receive compensation or benefits for the task force member's service.

(b) A task force member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(9) The applicable county for which a task force is convened shall provide administrative support to the task force.

(10) Meetings of the task force are not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 12. Section 35A-16-502 is repealed and reenacted to read:

35A-16-502. Winter response plan required -- Contents -- Review -- Consequences after determination of noncompliance.

(1) (a) The task force for an applicable county that is a county of the first class shall annually prepare and submit to the office a winter response plan on or before August 1 in calendar years 2023, 2024, and 2025.

(b) The task force for an applicable county not described in Subsection (1)(a) shall annually prepare and submit to the office a winter response plan on or before August 1 in calendar years 2024 and 2025.

(2) The winter response plan shall:

(a) provide assurances to the office that the applicable county will meet the applicable county's targeted winter response bed count or other accommodations during the subsequent winter response period by establishing plans for the requisite need during the subsequent winter response period;

(b) ensure that any temporary winter response shelter planned for operation within the applicable county will meet all local zoning requirements;

(c) include a detailed transportation plan, budget, revenue sources, including in-kind sources, and any other component specified by the office under Subsection (3) as a requirement for the applicable county to achieve compliance with this section;

(d) include a detailed county plan for a code blue event as defined in Section 35A-16-701, including the number and location of available beds for individuals experiencing homelessness for the duration of the code blue event; and

(e) be approved by the chief executive officer of:

(i) any municipality located within the applicable county in which a temporary winter response shelter is planned for operation during the subsequent winter response period; and

(ii) the applicable county, if a temporary winter response shelter is planned for operation within an unincorporated area of the county.

(3) To assist a task force in preparing a winter response plan, by no later than March 30 of the year in which the winter response plan is due, the applicable local homeless council, in coordination with the office, shall provide the following information to the task force:

(a) the targeted winter response bed count;

(b) the requirements for the plan described in Subsection (2)(d);

(c) the availability of funds that can be used to mitigate the winter response plan; and

(d) any component required for the winter response plan to achieve compliance that is not described in Subsection (2).

(4) In preparing the winter response plan, the task force shall coordinate with:

(a) the office;

(b) the applicable local homeless council;

(c) for Salt Lake County, the conference of mayors for Salt Lake County; and

(d) for an applicable county not described in Subsection (4)(c), the council of governments for the applicable county.

(5) In conducting site selection for a temporary winter response shelter under a winter response plan, the task force shall prioritize:

(a) a site located more than one mile from any homeless shelter;

(b) a site located more than one mile from any permanent supportive housing, as verified by the office; and

(c) a site located in a municipality or unincorporated area of the applicable county that does not have a homeless shelter.

(6) (a) On or before August 15 of the year in which a winter response plan is submitted, the office shall:

(i) conduct a review of the winter response plan for compliance with this section; and

(ii) send a written notice of the office's determination regarding compliance to:

(A) the task force for the applicable county;

(B) the council of governments for the applicable county;

(C) the applicable local homeless council; and

(D) the legislative body of each municipality located within the applicable county.

(b) For purposes of Section 35A-16-502.5, an applicable county is in noncompliance with this section if:

(i) the applicable county's task force fails to submit a timely winter response plan under this section; or

(ii) the office determines that the winter response plan prepared for the applicable county does not comply with this section.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing requirements for an applicable county's compliance with this section.

Section 13. Section 35A-16-502.5 is enacted to read:

35A-16-502.5. County noncompliance with winter response plan requirements.

(1) This section applies to an applicable county that is in noncompliance with Section 35A-16-502.

(2) Subject to Subsection (3), the following provisions apply within the applicable county during the subsequent winter response period:

(a) the office may authorize:

(i) the expansion of a homeless shelter's capacity limit by up to 25%; and

(ii) the operation of one or more temporary winter response shelters; and

(b) the applicable county, and any municipality located within the applicable county, may not enact or enforce an ordinance or otherwise take any action that limits or restricts the office's authority under Subsection (2)(a).

(3) (a) The office may not authorize the expansion of a homeless shelter's capacity under Subsection (2)(a) unless:

(i) the homeless shelter is in compliance with the applicable building code and fire code; and

(ii) the fire code official approves the layout of the homeless shelter.

(b) In authorizing the operation of a temporary winter response shelter under Subsection (2)(a), the office:

(i) may not authorize the siting of a temporary winter response shelter within a three-fourths mile radius of any homeless shelter; and

(ii) shall consider:

(A) a site located more than 500 feet from any community location;

(B) a site located in a municipality in which a homeless shelter is not located;

(C) the locations of permanent supportive housing;

(D) authorizing the operation of a temporary winter response shelter before authorizing the expansion of a homeless shelter's capacity limit;

(E) the potential impacts of a temporary winter response shelter on community locations; and

(F) any recommendations included in the applicable county's winter response plan, regardless of the office's determination of noncompliance.

(4) A temporary winter response shelter authorized by the office under this section may not be converted into a permanent facility after April 15, 2026, without the consent of the municipality in which the facility is located.

Section 14. Section 35A-16-602 is amended to read:

35A-16-602. COVID-19 Homeless Housing and Services Grant Program.

(1) There is established the COVID-19 Homeless Housing and Services Grant Program, a competitive grant program administered by the office and funded in accordance with 42 U.S.C. Sec. 802.

(2) The office shall distribute money to fund one or more projects that:

(a) include affordable housing units for households:

(i) whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located;

(ii) at rental rates no greater than [~~the rates described in Subsection 35A-8-511(2)(b)~~] 30% of the income described in Subsection (2)(a)(i) for a household of:

(A) one person if the unit is an efficiency unit;

(B) two people if the unit is a one-bedroom unit;

(C) four people if the unit is a two-bedroom unit;

(D) five people if the unit is a three-bedroom unit;

(E) six people if the unit is a four-bedroom unit; or

(F) eight people if the unit is a five-bedroom or larger unit; and

(iii) that have been impacted by the COVID-19 emergency in accordance with 42 U.S.C. Sec. 802; and

(b) have been approved by the homelessness council.

(3) The office shall:

(a) administer the grant program, including:

(i) reviewing grant applications and making recommendations to the homelessness council; and

(ii) distributing grant money to approved grant recipients; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer the program, including:

(i) grant application requirements;

(ii) procedures to approve a grant; and

(iii) procedures for distributing money to grant recipients.

(4) When reviewing an application for approval, the homelessness council shall consider:

(a) an applicant's rental income plan;

(b) proposed case management and service plans for households;

(c) any matching funds proposed by an applicant;

(d) proposed restrictions, including deed restrictions, and the duration of restrictions on housing units to facilitate long-term assistance to households;

(e) whether use of funds for the proposed project complies with 42 U.S.C. Sec. 802; and

(f) any other considerations as adopted by the council.

(5) A grant award under this section shall comply with the requirements of 42 U.S.C. Sec. 802.

[~~(6) On or before October 1, the coordinator, in cooperation with the homelessness council shall submit an annual report electronically to the Social Services Appropriations Subcommittee that gives a complete account of the office's disbursement of funds under this section.~~]

Section 15. Section 35A-16-701 is enacted to read:

Part 7. Code Blue Alert

35A-16-701. Definitions.

As used in this part:

(1) "Affected county" means a county of the first, second, third, or fourth class in which a code blue event is anticipated.

(2) "Applicable local homeless council" means the local homeless council that is responsible for coordinating homeless response within an affected county.

(3) "Capacity limit" means a limit as to the number of individuals that a homeless shelter may provide temporary shelter to under a conditional use permit.

(4) "Code blue alert" means a proclamation issued by the Department of Health and Human Services under Section 35A-16-702 to alert the public of a code blue event.

(5) "Code blue event" means a weather event in which the National Weather Service predicts temperatures of 15 degrees Fahrenheit or less, including wind chill, or any other extreme weather conditions established in rules made by the Department of Health and Human Services under Subsection 35A-16-702(4), to occur in any county of the first, second, third, or fourth class for two hours or longer within the next 24 to 48 hours.

(6) "Homeless shelter" means a facility that provides temporary shelter to individuals experiencing homelessness.

(7) "Municipality" means a city, town, or metro township.

Section 16. Section 35A-16-702 is enacted to read:

35A-16-702. Code blue alert -- Content -- Dissemination -- Rulemaking.

(1) The Department of Health and Human Services shall:

(a) monitor and evaluate forecasts and advisories produced by the National Weather Service;

(b) issue a code blue alert under this section if the Department of Health and Human Services identifies a code blue event; and

(c) disseminate the code blue alert to:

(i) the public at large;

(ii) homeless shelters located within an affected county;

(iii) local government entities located within an affected county;

(iv) the office; and

(v) any other relevant public or private entities that provide services to individuals experiencing homelessness within an affected county.

(2) The code blue alert shall:

(a) identify each affected county;

(b) specify the duration of the code blue alert;

(c) describe the provisions that take effect for the duration of the code blue alert as described in Section 35A-16-703; and

(d) include the information prepared by the office under Subsection (3).

(3) (a) The office shall prepare and regularly update information to assist individuals experiencing homelessness during a code blue event, including:

(i) the location and availability of homeless shelters and other community resources and services for individuals experiencing homelessness;

(ii) information regarding public safety and emergency services; and

(iii) any other information considered relevant by the office.

(b) The office shall submit to the Department of Health and Human Services the information prepared and updated under Subsection (3)(a).

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Health and Human Services, in coordination with the office, shall make rules to implement this section.

(b) The rules under Subsection (4)(a) shall:

(i) establish any extreme weather conditions that warrant the issuance of a code blue alert; and

(ii) establish standards for:

(A) monitoring and evaluating National Weather Service forecasts and advisories to identify code blue events;

(B) issuing code blue alerts under this section, including the form, content, and dissemination of code blue alerts;

(C) the provisions that take effect within an affected county for the duration of a code blue alert, as provided in Section 35A-16-703; and

(D) coordinating with the office to receive the information described in Subsection (3).

(5) Nothing in this section prohibits a municipality from issuing a safety alert based on other environmental conditions that present a substantial threat to the health or safety of individuals experiencing homelessness.

Section 17. Section 35A-16-703 is enacted to read:

35A-16-703. Provisions in effect for duration of code blue alert.

Subject to rules made by the Department of Health and Human Services under Subsection 35A-16-702(4), the following provisions take effect within an affected county for the duration of a code blue alert:

(1) a homeless shelter may expand the homeless shelter's capacity limit by up to 35% to provide temporary shelter to any number of individuals experiencing homelessness, so long as the homeless shelter is in compliance with the applicable building code and fire code;

(2) a homeless shelter, in coordination with the applicable local homeless council, shall implement expedited intake procedures for individuals experiencing homelessness who request access to the homeless shelter;

(3) a homeless shelter may not deny temporary shelter to any individual experiencing homelessness who requests access to the homeless shelter for temporary shelter unless the homeless shelter is at the capacity limit described in Subsection (1) or if the individual presents a danger to the homeless shelter's staff or guests;

(4) any indoor facility owned by a private organization, nonprofit organization, state government entity, or local government entity may be used to provide temporary shelter to individuals experiencing homelessness and is exempt from the licensure requirements of Title 62A, Chapter 2, Licensure of Programs and Facilities, for the duration of the code blue alert and seven days following the day on which the code blue alert ends, so long as the facility is in compliance with the applicable building code and fire code;

(5) homeless shelters, state and local government entities, and other organizations that provide services to individuals experiencing homelessness shall coordinate street outreach efforts to distribute to individuals experiencing homelessness any available resources for survival in cold weather, including clothing items and blankets;

(6) if no beds or other accommodations are available at any homeless shelters located within the affected county, a municipality may not enforce an ordinance that prohibits or abates camping for the duration of the code blue alert and the two days following the day on which the code blue alert ends;

(7) a state or local government entity, including a municipality, law enforcement agency, and local health department may not enforce an ordinance or policy to seize from individuals experiencing homelessness any personal items for survival in cold weather, including clothing, blankets, tents, sleeping bags, heaters, stoves, and generators; and

(8) a municipality or other local government entity may not enforce any ordinance or policy that limits or restricts the ability for the provisions described in Subsections (1) through (7) to take effect, including local zoning ordinances.

Section 18. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) (a) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

(i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(ii) (A) except as provided in Subsections (2)(a)(ii)(B), (C), and (D), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(B) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201;

(C) beginning July 1, 2022, 50% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201; and

(D) 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by $333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is $333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) As used in this Subsection (4):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(5) (a) For purposes of this Subsection (5):

(i) "Annual local contribution" means the lesser of [~~$200,000~~] $275,000 or an amount equal to [~~1.8~~] 2.55% of the participating local government's tax revenue distribution amount under Subsection (2)(a)(i) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a)(i) to a participating local government, shall:

(i) adjust a participating local government's tax revenue distribution under Subsection (2)(a)(i) by:

(A) [~~subtract~~] subtracting an amount equal to one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution [~~under Subsection (2)(a)~~]; and

(B) if applicable, reducing the amount described in Subsection (5)(b)(i)(A) by $250 for each bed that is available at all homeless shelters located within the boundaries of the participating local government, as reported to the commission by the Office of Homeless Services in accordance with Section 35A-16-405; and

(ii) deposit the resulting amount described in Subsection (5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3) or (4), the commission shall apply the provisions of this Subsection (5) after the commission applies the provisions of Subsections (3) and (4).

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 19. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) The actions affecting Section 59-12-205 take effect on January 1, 2024.

CHAPTER 303
S. B. 12
Passed February 1, 2023
Approved March 15, 2023
Effective May 3, 2023

HEARING INSTRUMENT SPECIALIST LICENSINGAMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill addresses hearing instrument specialist licensing requirements.

Highlighted Provisions:

This bill:

- extends the sunset date for the Hearing Instrument Specialist Licensing Act;
- modifies licensing requirements for a hearing instrument intern who applies for licensure as a hearing instrument specialist;
- permits renewal of a license for a hearing instrument intern under certain circumstances;
- provides administrative rulemaking authority; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-46a-302.5, as last amended by Laws of Utah 2020, Chapter 154
58-46a-303, as last amended by Laws of Utah 2020, Chapter 154
63I-1-258, as last amended by Laws of Utah 2022, Chapters 33, 415, and 416

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-46a-302.5 is amended to read:

58-46a-302.5. Supervision requirements -- Hearing instrument interns.

(1) [~~A~~] Except as provided in Subsection (2), a hearing instrument intern [~~shall~~] may only practice as a hearing instrument intern [~~only~~] under the direct supervision of a licensed hearing instrument specialist[~~, until the intern:~~].

(2) A hearing instrument intern may practice under the indirect supervision of a licensed hearing instrument specialist if the hearing instrument specialist:

(a) receives a passing score on a practical examination demonstrating acceptable skills in the area of hearing testing as approved by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) completes the National Institute for Hearing instrument studies education and examination program, or an equivalent college level program as approved by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(2) Upon satisfaction of the direct supervision requirement of Subsection (1) the intern shall:~~]

[~~(a) practice as a hearing instrument intern only under the indirect supervision of a licensed hearing instrument specialist; and~~]

[~~(b) receive a passing score on the International Licensing Examination of the hearing instrument dispenser or other tests approved by the division prior to applying for licensure as a hearing instrument specialist.~~]

Section 2. Section 58-46a-303 is amended to read:

58-46a-303. Term of license -- Expiration -- Renewal of specialist and intern licenses.

(1) (a) (i) The division shall issue [~~each~~] a license for a hearing instrument specialist in accordance with a two-year renewal cycle established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) The division may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, extend or shorten a renewal period by as much as one year to stagger the renewal cycles [~~it~~] the division administers.

[~~(2) Each license as a hearing instrument intern shall be issued for a term of three years and may not be renewed.~~]

[~~(3)~~] (b) At the time of renewal, the licensed hearing instrument specialist shall demonstrate satisfactory evidence of each of the following:

[~~(a)~~] (i) current certification by the National Board for Certification Hearing Instrument Sciences, or other acceptable certification approved by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

[~~(b)~~] (ii) calibration of all appropriate technical instruments used in practice; and

[~~(c)~~] (iii) completion of continuing professional education required in Section 58-46a-304.

[~~(4) Each~~] (c) A hearing instrument specialist license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with [~~the provisions of~~] Section 58-1-308[~~,~~] or [~~unless~~] surrendered in accordance with [~~the provisions of~~] Section 58-1-306.

(2) (a) The division shall issue a license for a hearing instrument intern for a term of three years.

(b) The division may renew a license for a hearing instrument intern for a term of three years for good cause shown, as determined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates: Title 58.

(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.

(2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(4) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(5) Subsection 58-37-6(7)(f)(iii), relating to the seven-day opiate supply restriction, is repealed July 1, 2032, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.

(7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

(8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, [~~2023~~] 2033.

(10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(11) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

(12) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2032.

(13) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(14) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

[~~(15) The following sections are repealed July 1, 2022:~~]

[~~(a) Section 58-5a-502;~~]

[~~(b) Section 58-31b-502.5;~~]

[~~(c) Section 58-67-502.5;~~]

[~~(d) Section 58-68-502.5; and~~]

[~~(e) Section 58-69-502.5.~~]

CHAPTER 304
S. B. 19
Passed February 8, 2023
Approved March 15, 2023
Effective May 3, 2023

MEDICAID DENTAL WAIVER AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends the Medical Assistance Act.

Highlighted Provisions:

This bill:

- requires the Department of Health and Human Services to request authorization to provide dental services to Medicaid-eligible adults not already eligible for dental services; and
- makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-413, as last amended by Laws of Utah 2020, Chapter 225

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-413 is amended to read:

26-18-413. Medicaid waiver for delivery of adult dental services.

(1) (a) Before June 30, 2016, the department shall ask CMS to grant waivers from federal statutory and regulatory law necessary for the Medicaid program to provide dental services in the manner described in Subsection (2)(a).

(b) Before June 30, 2018, the department shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary for the state to provide dental services, in accordance with Subsections (2)(b)(i) and (d) through [~~(g)~~] (f), to an individual described in Subsection (2)(b)(i).

(c) Before June 30, 2019, the department shall submit to [~~the Centers for Medicare and Medicaid Services~~] CMS a request for waivers, or an amendment to existing waivers, from federal law necessary for the state to:

(i) provide dental services, in accordance with Subsections (2)(b)(ii) and (d) through [~~(g)~~] (f), to an individual described in Subsection (2)(b)(ii); and

(ii) provide the services described in Subsection [~~(2)(h)~~] (2)(g).

(d) On or before January 1, 2024, the department shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary for the state to provide dental services, in accordance with Subsections (2)(b)(iii) and (d) through (f), to an individual described in Subsection (2)(b)(iii).

(2) (a) To the extent funded, the department shall provide dental services to only blind or disabled individuals, as defined in 42 U.S.C. Sec. 1382c(a)(1), who are 18 years old or older and eligible for the program.

(b) Notwithstanding Subsection (2)(a):

(i) if a waiver is approved under Subsection (1)(b), the department shall provide dental services to an individual who:

(A) qualifies for the health coverage improvement program described in Section 26-18-411; and

(B) is receiving treatment in a substance abuse treatment program, as defined in Section 62A-2-101, licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities; [~~and~~]

(ii) if a waiver is approved under Subsection (1)(c)(i), the department shall provide dental services to an individual who is an aged individual as defined in 42 U.S.C. Sec. 1382c(a)(1)[~~.~~]; and

(iii) if a waiver is approved under Subsection (1)(d), the department shall provide dental services to an individual who is:

(A) not described in Subsection (2)(a);

(B) not described in Subsection (2)(b)(i);

(C) not described in Subsection (2)(b)(ii);

(D) not pregnant;

(E) 21 years old or older; and

(F) eligible for full services through the Medicaid program.

(c) To the extent possible, services to individuals described in Subsection (2)(a) shall be provided through the University of Utah School of Dentistry and the University of Utah School of Dentistry's associated statewide network.

(d) The department shall provide the services to individuals described in Subsection (2)(b):

(i) by contracting with an entity that:

(A) has demonstrated experience working with individuals who are being treated for both a substance use disorder and a major oral health disease;

(B) operates a program, targeted at the individuals described in Subsection (2)(b), that has demonstrated, through a peer-reviewed evaluation, the effectiveness of providing dental treatment to those individuals described in Subsection (2)(b);

(C) is willing to pay for an amount equal to the program's non-federal share of the cost of providing dental services to the population described in Subsection (2)(b); and

(D) is willing to pay all state costs associated with applying for the waiver described in Subsection

(1)(b) and administering the program described in Subsection (2)(b); and

(ii) through a fee-for-service payment model.

(e) The entity that receives the contract under Subsection (2)(d)(i) shall cover all state costs of the program described in Subsection (2)(b).

(f) Each fiscal year, the University of Utah School of Dentistry shall, in compliance with state and federal regulations regarding intergovernmental transfers, transfer funds to the program in an amount equal to the program's non-federal share of the cost of providing services under this section through the school during the fiscal year.

(g) If a waiver is approved under Subsection (1)(c)(ii), the department shall provide coverage for porcelain and porcelain-to-metal crowns if the services are provided:

(i) to an individual who qualifies for dental services under Subsection (2)(b); and

(ii) by an entity that covers all state costs of:

(A) providing the coverage described in this Subsection [~~(2)(h)~~] (2)(g); and

(B) applying for the waiver described in Subsection (1)(c).

(h) Where possible, the department shall ensure that dental services described in Subsection (2)(a) that are not provided by the University of Utah School of Dentistry or the University of Utah School of Dentistry's associated network are provided:

(i) through [~~fee for service~~] fee-for-service reimbursement until July 1, 2018; and

(ii) after July 1, 2018, through the method of reimbursement used by the division for Medicaid dental benefits.

(i) Subject to appropriations by the Legislature, and as determined by the department, the scope, amount, duration, and frequency of services provided under this section may be limited.

(3) (a) If the waivers requested under Subsection (1)(a) are granted, the Medicaid program shall begin providing dental services in the manner described in Subsection (2) no later than July 1, 2017.

(b) If the waivers requested under Subsection (1)(b) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b) within 90 days from the day on which the waivers are granted.

(c) If the waivers requested under Subsection (1)(c)(i) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b)(ii) within 90 days after the day on which the waivers are granted.

(d) If the waivers requested under Subsection (1)(d) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b)(iii) within 90 days after the day on which the waivers are granted.

(4) If the federal share of the cost of providing dental services under this section will be less than [~~65~~] 55% during any portion of the next fiscal year, the Medicaid program shall cease providing dental services under this section no later than the end of the current fiscal year.

CHAPTER 305
S. B. 38
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH AND HUMAN SERVICES RECODIFICATION -ADMINISTRATION, LICENSING, AND RECOVERY SERVICES

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill recodifies portions of the Utah Health Code and Utah Human Services Code.

Highlighted Provisions:

This bill:

- recodifies provisions regarding:
  - the Department of Health and Human Services;
  - licensing and certifications; and
  - recovery services and child support administration; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

26B-1-102, as last amended by Laws of Utah 2022, Chapter 255
26B-1-204, as renumbered and amended by Laws of Utah 2022, Chapter 255
26B-2-101, as enacted by Laws of Utah 2022, Chapter 255
26B-9-101, as enacted by Laws of Utah 2022, Chapter 255

ENACTS:

26B-1-333, Utah Code Annotated 1953
26B-1-432, Utah Code Annotated 1953
26B-1-433, Utah Code Annotated 1953
26B-9-401, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26B-1-214, (Renumbered from 26-1-10, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-215, (Renumbered from 62A-1-115, as enacted by Laws of Utah 1988, Chapter 1)
26B-1-216, (Renumbered from 62A-18-105, as last amended by Laws of Utah 2022, Chapter 335)
26B-1-217, (Renumbered from 26-1-35, as enacted by Laws of Utah 2000, Chapter 86)
26B-1-218, (Renumbered from 26-1-44, as enacted by Laws of Utah 2022, Chapter 36)
26B-1-219, (Renumbered from 26-1-45, as enacted by Laws of Utah 2022, Chapter 189)
26B-1-220, (Renumbered from 26-23-1, as last amended by Laws of Utah 1993, Chapter 38)
26B-1-221, (Renumbered from 26-23-2, as last amended by Laws of Utah 2008, Chapter 382)
26B-1-222, (Renumbered from 26-23-3, as enacted by Laws of Utah 1981, Chapter 126)
26B-1-223, (Renumbered from 26-23-4, as enacted by Laws of Utah 1981, Chapter 126)
26B-1-224, (Renumbered from 26-23-6, as last amended by Laws of Utah 2022, Chapter 457)
26B-1-225, (Renumbered from 26-23-7, as last amended by Laws of Utah 2011, Chapter 297)
26B-1-226, (Renumbered from 26-23-8, as enacted by Laws of Utah 1981, Chapter 126)
26B-1-227, (Renumbered from 26-23-9, as enacted by Laws of Utah 1981, Chapter 126)
26B-1-228, (Renumbered from 26-23-10, as last amended by Laws of Utah 2011, Chapter 297)
26B-1-229, (Renumbered from 26-25-1, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-230, (Renumbered from 26-68-102, as enacted by Laws of Utah 2021, Chapter 182)
26B-1-231, (Renumbered from 26B-1a-104, as enacted by Laws of Utah 2022, Chapter 245)
26B-1-232, (Renumbered from 26B-1a-105, as renumbered and amended by Laws of Utah 2022, Chapter 245 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 245)
26B-1-233, (Renumbered from 26B-1a-106, as enacted by Laws of Utah 2022, Chapter 245 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 245)
26B-1-234, (Renumbered from 62A-1-122, as last amended by Laws of Utah 2021, Chapter 344)
26B-1-235, (Renumbered from 26-10-8, as last amended by Laws of Utah 2012, Chapter 347)
26B-1-236, (Renumbered from 26-26-3, as last amended by Laws of Utah 2010, Chapter 241
26B-1-237, (Renumbered from 26-18-605, as last amended by Laws of Utah 2015, Chapter 135)
26B-1-238, (Renumbered from 62A-4a-211, as enacted by Laws of Utah 2014, Chapter 67)
26B-1-306, (Renumbered from 26-8a-108, as last amended by Laws of Utah 2021, Chapter 395)
26B-1-307, (Renumbered from 26-8b-602, as last amended by Laws of Utah 2014, Chapter 109)

26B-1-308, (Renumbered from 26-9-4, as last amended by Laws of Utah 2017, Chapter 199)
26B-1-309, (Renumbered from 26-18-402, as last amended by Laws of Utah 2020, Chapter 152)
26B-1-310, (Renumbered from 26-61a-109, as last amended by Laws of Utah 2019, First Special Session, Chapter 5)
26B-1-311, (Renumbered from 26-18a-4, as last amended by Laws of Utah 2010, Chapter 278)
26B-1-312, (Renumbered from 26-18b-101, as last amended by Laws of Utah 2021, Chapter 378)
26B-1-313, (Renumbered from 26-21a-302, as last amended by Laws of Utah 2011, Chapter 303)
26B-1-314, (Renumbered from 26-21a-304, as enacted by Laws of Utah 2016, Chapter 46)
26B-1-315, (Renumbered from 26-36b-208, as last amended by Laws of Utah 2021, Chapter 367)
26B-1-316, (Renumbered from 26-36d-207, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20)
26B-1-317, (Renumbered from 26-37a-107, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20)
26B-1-318, (Renumbered from 26-50-201, as last amended by Laws of Utah 2013, Chapter 400)
26B-1-319, (Renumbered from 26-54-102, as last amended by Laws of Utah 2019, Chapter 405)
26B-1-320, (Renumbered from 26-54-102.5, as enacted by Laws of Utah 2019, Chapter 405)
26B-1-321, (Renumbered from 26-58-102, as enacted by Laws of Utah 2016, Chapter 71)
26B-1-322, (Renumbered from 26-67-205, as enacted by Laws of Utah 2020, Chapter 169)
26B-1-323, (Renumbered from 62A-3-110, as last amended by Laws of Utah 2013, Chapters 167 and 400)
26B-1-324, (Renumbered from 62A-15-123, as last amended by Laws of Utah 2022, Chapter 187)
26B-1-325, (Renumbered from 62A-15-1103, as last amended by Laws of Utah 2022, Chapters 19 and 149)
26B-1-326, (Renumbered from 62A-15-1104, as enacted by Laws of Utah 2021, Chapter 12)
26B-1-327, (Renumbered from 62A-15-1502, as last amended by Laws of Utah 2021, Chapter 277)
26B-1-328, (Renumbered from 62A-15-1602, as last amended by Laws of Utah 2021, Chapter 278)
26B-1-329, (Renumbered from 62A-15-1702, as enacted by Laws of Utah 2020, Chapter 358 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 358)
26B-1-330, (Renumbered from 62A-5-206.5, as last amended by Laws of Utah 2016, Chapter 300)
26B-1-331, (Renumbered from 62A-5-206.7, as enacted by Laws of Utah 2018, Chapter 404)
26B-1-332, (Renumbered from 26-35a-106, as last amended by Laws of Utah 2017, Chapter 443)
26B-1-401, (Renumbered from 26-1-11, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-402, (Renumbered from 26-1-41, as enacted by Laws of Utah 2020, Chapter 172)
26B-1-403, (Renumbered from 26-7-13, as last amended by Laws of Utah 2022, Chapter 415)
26B-1-404, (Renumbered from 26-8a-103, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-405, (Renumbered from 26-8a-107, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-406, (Renumbered from 26-8a-251, as last amended by Laws of Utah 2019, Chapter 349)
26B-1-407, (Renumbered from 26-8d-104, as last amended by Laws of Utah 2019, Chapter 349)
26B-1-408, (Renumbered from 26-8d-105, as last amended by Laws of Utah 2019, Chapter 349)
26B-1-409, (Renumbered from 26-9f-103, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-410, (Renumbered from 26-10b-106, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-411, (Renumbered from 26-18a-2, as last amended by Laws of Utah 2010, Chapter 286)
26B-1-412, (Renumbered from 26-21-3, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-413, (Renumbered from 26-33a-104, as last amended by Laws of Utah 2016, Chapter 74)
26B-1-414, (Renumbered from 26-39-200, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-415, (Renumbered from 26-39-201, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-416, (Renumbered from 26-40-104, as last amended by Laws of Utah 2015, Chapter 107)

26B-1-417, (Renumbered from 26-50-202, as last amended by Laws of Utah 2016, Chapter 168)
26B-1-418, (Renumbered from 26-54-103, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-419, (Renumbered from 26-46-103, as last amended by Laws of Utah 2017, Chapter 126)
26B-1-420, (Renumbered from 26-61-201, as last amended by Laws of Utah 2022, Chapter 452)
26B-1-421, (Renumbered from 26-61a-105, as last amended by Laws of Utah 2022, Chapter 452)
26B-1-422, (Renumbered from 26-66-202, as enacted by Laws of Utah 2019, Chapter 34)
26B-1-423, (Renumbered from26-46a-104, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-424, (Renumbered from 26-67-202, as enacted by Laws of Utah 2015, Chapter 136)
26B-1-425, (Renumbered from 26-69-201, as enacted by Laws of Utah 2022, Chapter 224)
26B-1-426, (Renumbered from 62A-1-107, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-427, (Renumbered from 62A-1-121, as last amended by Laws of Utah 2022, Chapter 447)
26B-1-428, (Renumbered from 26-7-10, as last amended by Laws of Utah 2022, Chapter 255)
26B-1-429, (Renumbered from 62A-5-202.5, as last amended by Laws of Utah 2021, Chapter 355)
26B-1-430, (Renumbered from 62A-5a-103, as last amended by Laws of Utah 2016, Chapter 271)
26B-1-431, (Renumbered from 62A-15-605, as last amended by Laws of Utah 2020, Chapter 304)
26B-1-501, (Renumbered from 62A-16-102, as last amended by Laws of Utah 2022, Chapter 335)
26B-1-502, (Renumbered from 62A-16-201, as last amended by Laws of Utah 2021, Chapter 231)
26B-1-503, (Renumbered from 62A-16-202, as last amended by Laws of Utah 2021, Chapter 231)
26B-1-504, (Renumbered from 62A-16-203, as last amended by Laws of Utah 2021, Chapter 231)
26B-1-505, (Renumbered from 62A-16-204, as last amended by Laws of Utah 2021, Chapter 231)
26B-1-506, (Renumbered from 62A-16-301, as last amended by Laws of Utah 2021, Chapter 231)
26B-1-507, (Renumbered from 62A-16-302, as last amended by Laws of Utah 2022, Chapter 274)
26B-2-102, (Renumbered from 62A-2-102, as last amended by Laws of Utah 1998, Chapter 358)
26B-2-103, (Renumbered from 62A-2-103, as last amended by Laws of Utah 1998, Chapter 358)
26B-2-104, (Renumbered from 62A-2-106, as last amended by Laws of Utah 2021, Chapter 400)
26B-2-105, (Renumbered from 62A-2-108, as last amended by Laws of Utah 2017, Chapter 78)
26B-2-106, (Renumbered from 62A-2-109, as last amended by Laws of Utah 2009, Chapter 75)
26B-2-107, (Renumbered from 62A-2-118, as last amended by Laws of Utah 2021, Chapter 400)
26B-2-108, (Renumbered from 62A-2-119, as enacted by Laws of Utah 1998, Chapter 358)
26B-2-109, (Renumbered from 62A-2-124, as enacted by Laws of Utah 2021, Chapter 400)
26B-2-110, (Renumbered from 62A-2-113, as last amended by Laws of Utah 2018, Chapter 93)
26B-2-111, (Renumbered from 62A-2-111, as last amended by Laws of Utah 2008, Chapter 382)
26B-2-112, (Renumbered from 62A-2-112, as last amended by Laws of Utah 2021, Chapter 117)
26B-2-113, (Renumbered from 62A-2-116, as last amended by Laws of Utah 2022, Chapter 468)
26B-2-114, (Renumbered from 62A-2-115, as last amended by Laws of Utah 2009, Chapter 75)
26B-2-115, (Renumbered from 62A-2-110, as last amended by Laws of Utah 2005, Chapter 188)
26B-2-116, (Renumbered from 62A-2-108.1, as last amended by Laws of Utah 2019, Chapters 187 and 316)
26B-2-117, (Renumbered from 62A-2-108.2, as last amended by Laws of Utah 2014, Chapter 240)
26B-2-118, (Renumbered from 62A-2-108.4, as enacted by Laws of Utah 2016, Chapter 342)
26B-2-119, (Renumbered from 62A-2-108.8, as last amended by Laws of Utah 2021, Chapter 262)
26B-2-120, (Renumbered from 62A-2-120, as last amended by Laws of Utah 2022, Chapters 185, 335, 430, and 468)
26B-2-121, (Renumbered from 62A-2-121, as last amended by Laws of Utah 2022, Chapters 255, 255, and 335)
26B-2-122, (Renumbered from 62A-2-122, as last amended by Laws of Utah 2016, Chapter 348)
26B-2-123, (Renumbered from 62A-2-123, as last amended by Laws of Utah 2022, Chapter 468)

26B-2-124, (Renumbered from 62A-2-125, as enacted by Laws of Utah 2021, Chapter 117)
26B-2-125, (Renumbered from 62A-2-128, as enacted by Laws of Utah 2022, Chapter 468)
26B-2-126, (Renumbered from 62A-2-108.5, as last amended by Laws of Utah 2017, Chapter 148)
26B-2-127, (Renumbered from 62A-2-108.6, as last amended by Laws of Utah 2022, Chapters 287, 326 and renumbered and amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 334)
26B-2-128, (Renumbered from 62A-2-116.5, as enacted by Laws of Utah 2017, Chapter 29)
26B-2-129, (Renumbered from 62A-2-117, as last amended by Laws of Utah 2017, Chapter 209)
26B-2-130, (Renumbered from 62A-2-117.5, as last amended by Laws of Utah 2022, Chapter 335)
26B-2-131, (Renumbered from 62A-2-127, as renumbered and amended by Laws of Utah 2022, Chapter 334)
26B-2-132, (Renumbered from 62A-2-115.2, as renumbered and amended by Laws of Utah 2022, Chapter 334)
26B-2-133, (Renumbered from 62A-2-115.1, as last amended by Laws of Utah 2022, Chapter 415 and renumbered and amended by Laws of Utah 2022, Chapter 334)
26B-2-201, (Renumbered from 26-21-2, as last amended by Laws of Utah 2022, Chapter 255)
26B-2-202, (Renumbered from 26-21-6, as last amended by Laws of Utah 2016, Chapter 74)
26B-2-203, (Renumbered from 26-21-2.1, as last amended by Laws of Utah 2022, Chapter 452)
26B-2-204, (Renumbered from 26-21-6.5, as last amended by Laws of Utah 2018, Chapter 282)
26B-2-205, (Renumbered from 26-21-7, as last amended by Laws of Utah 2019, Chapter 349)
26B-2-206, (Renumbered from 26-21-8, as last amended by Laws of Utah 2016, Chapter 74)
26B-2-207, (Renumbered from 26-21-9, as last amended by Laws of Utah 2011, Chapter 297)
26B-2-208, (Renumbered from 26-21-11, as last amended by Laws of Utah 1997, Chapter 209)
26B-2-209, (Renumbered from 26-21-11.1, as last amended by Laws of Utah 2018, Chapter 203)
26B-2-210, (Renumbered from 26-21-12, as last amended by Laws of Utah 1997, Chapter 209)
26B-2-211, (Renumbered from 26-21-13, as last amended by Laws of Utah 1990, Chapter 114)
26B-2-212, (Renumbered from 26-21-13.5, as last amended by Laws of Utah 2011, Chapter 366)
26B-2-213, (Renumbered from 26-21-13.6, as enacted by Laws of Utah 1995, Chapter 321)
26B-2-214, (Renumbered from 26-21-14, as last amended by Laws of Utah 1990, Chapter 114)
26B-2-215, (Renumbered from 26-21-15, as last amended by Laws of Utah 1990, Chapter 114)
26B-2-216, (Renumbered from 26-21-16, as last amended by Laws of Utah 2009, Chapter 347)
26B-2-217, (Renumbered from 26-21-17, as last amended by Laws of Utah 1990, Chapter 114)
26B-2-218, (Renumbered from 26-21-19, as last amended by Laws of Utah 1985, Chapter 242)
26B-2-219, (Renumbered from 26-21-20, as last amended by Laws of Utah 2009, Chapter 11)
26B-2-220, (Renumbered from 26-21-21, as enacted by Laws of Utah 1992, Chapter 31)
26B-2-221, (Renumbered from 26-21-22, as last amended by Laws of Utah 2022, Chapter 415)
26B-2-222, (Renumbered from 26-21-23, as last amended by Laws of Utah 2017, Chapter 443)
26B-2-223, (Renumbered from 26-21-24, as enacted by Laws of Utah 2008, Chapter 347)
26B-2-224, (Renumbered from 26-21-25, as last amended by Laws of Utah 2010, Chapter 218)
26B-2-225, (Renumbered from 26-21-26, as last amended by Laws of Utah 2022, Chapter 415)
26B-2-226, (Renumbered from 26-21-27, as last amended by Laws of Utah 2021, Chapter 353)
26B-2-227, (Renumbered from 26-21-28, as enacted by Laws of Utah 2016, Chapter 357)
26B-2-228, (Renumbered from 26-21-29, as last amended by Laws of Utah 2020, Chapter 222)
26B-2-229, (Renumbered from 26-21-30, as enacted by Laws of Utah 2018, Chapter 157)
26B-2-230, (Renumbered from 26-21-31, as last amended by Laws of Utah 2019, Chapter 445)
26B-2-231, (Renumbered from 26-21-32, as enacted by Laws of Utah 2019, Chapter 262)
26B-2-232, (Renumbered from 26-21-33, as enacted by Laws of Utah 2020, Chapter 251)

26B-2-233, (Renumbered from 26-21-34, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4)
26B-2-234, (Renumbered from 26-21-35, as enacted by Laws of Utah 2021, Chapter 146)
26B-2-235, (Renumbered from 26-21c-103, as enacted by Laws of Utah 2020, Chapter 406)
26B-2-236, (Renumbered from 26-21-303, as enacted by Laws of Utah 2016, Chapter 141)
26B-2-237, (Renumbered from 26-21-305, as enacted by Laws of Utah 2018, Chapter 220)
26B-2-238, (Renumbered from 26-21-201, as enacted by Laws of Utah 2012, Chapter 328)
26B-2-239, (Renumbered from 26-21-202, as enacted by Laws of Utah 2012, Chapter 328)
26B-2-240, (Renumbered from 26-21-204, as last amended by Laws of Utah 2022, Chapters 335 and 415)
26B-2-241, (Renumbered from 26-21-209, as last amended by Laws of Utah 2015, Chapter 307)
26B-2-301, (Renumbered from 62A-3-202, as last amended by Laws of Utah 2022, Chapter 415)
26B-2-302, (Renumbered from 62A-3-201, as last amended by Laws of Utah 2018, Chapter 60)
26B-2-303, (Renumbered from 62A-3-203, as last amended by Laws of Utah 2018, Chapter 60)
26B-2-304, (Renumbered from 62A-3-204, as last amended by Laws of Utah 2018, Chapter 60)
26B-2-305, (Renumbered from 62A-3-205, as last amended by Laws of Utah 2018, Chapter 60)
26B-2-306, (Renumbered from 62A-3-206, as last amended by Laws of Utah 2018, Chapter 60)
26B-2-307, (Renumbered from 62A-3-207, as last amended by Laws of Utah 2018, Chapter 60)
26B-2-308, (Renumbered from 62A-3-208, as last amended by Laws of Utah 2018, Chapter 60)
26B-2-309, (Renumbered from 62A-3-209, as enacted by Laws of Utah 2018, Chapter 220)
26B-2-401, (Renumbered from 26-39-102, as last amended by Laws of Utah 2022, Chapters 21 and 255)
26B-2-402, (Renumbered from 26-39-301, as last amended by Laws of Utah 2022, Chapters 21 and 255)
26B-2-403, (Renumbered from 26-39-401, as last amended by Laws of Utah 2022, Chapter 21)
26B-2-404, (Renumbered from 26-39-402, as last amended by Laws of Utah 2022, Chapters 21, 255, and 335)
26B-2-405, (Renumbered from 26-39-403, as last amended by Laws of Utah 2022, Chapter 21)
26B-2-406, (Renumbered from 26-39-404, as last amended by Laws of Utah 2020, Chapter 150)
26B-2-407, (Renumbered from 26-39-405, as enacted by Laws of Utah 2022, Chapter 194)
26B-2-408, (Renumbered from 26-39-501, as last amended by Laws of Utah 2015, Chapter 220)
26B-2-409, (Renumbered from 26-39-601, as last amended by Laws of Utah 2008, Chapter 382 and renumbered and amended by Laws of Utah 2008, Chapter 111)
26B-2-410, (Renumbered from 26-39-602, as renumbered and amended by Laws of Utah 2008, Chapter 111)
26B-2-501, (Renumbered from 26-71-101, as enacted by Laws of Utah 2022, Chapter 279)
26B-2-502, (Renumbered from 26-71-102, as enacted by Laws of Utah 2022, Chapter 279)
26B-2-503, (Renumbered from 26-71-103, as enacted by Laws of Utah 2022, Chapter 279)
26B-2-504, (Renumbered from 26-71-104, as enacted by Laws of Utah 2022, Chapter 279)
26B-2-505, (Renumbered from 26-71-105, as enacted by Laws of Utah 2022, Chapter 279)
26B-2-506, (Renumbered from 26-71-106, as enacted by Laws of Utah 2022, Chapter 279)
26B-2-507, (Renumbered from 26-71-107, as enacted by Laws of Utah 2022, Chapter 279)
26B-2-601, (Renumbered from 26-21a-101, as enacted by Laws of Utah 1991, Chapter 126)
26B-2-602, (Renumbered from 26-21a-203, as last amended by Laws of Utah 2018, Chapter 217)
26B-2-603, (Renumbered from 26-21a-204, as last amended by Laws of Utah 2001, Chapter 286)
26B-2-604, (Renumbered from 26-21a-205, as last amended by Laws of Utah 2018, Chapter 217)
26B-2-605, (Renumbered from 26-21a-206, as enacted by Laws of Utah 2018, Chapter 217)
26B-2-606, (Renumbered from 26-21a-301, as enacted by Laws of Utah 1991, Chapter 126)
26B-9-102, (Renumbered from 62A-11-101, as enacted by Laws of Utah 1988, Chapter 1)
26B-9-103, (Renumbered from 62A-11-102, as enacted by Laws of Utah 1988, Chapter 1)
26B-9-104, (Renumbered from 62A-11-104, as last amended by Laws of Utah 2015, Chapter 45)

26B-9-105, (Renumbered from 62A-11-104.1, as last amended by Laws of Utah 2008, Chapter 382)
26B-9-106, (Renumbered from 62A-11-105, as last amended by Laws of Utah 2008, Chapter 382)
26B-9-107, (Renumbered from 62A-11-106, as last amended by Laws of Utah 1994, Chapter 140)
26B-9-108, (Renumbered from 62A-11-107, as last amended by Laws of Utah 2008, Chapter 3)
26B-9-109, (Renumbered from 62A-11-108, as last amended by Laws of Utah 1997, Chapter 232)
26B-9-110, (Renumbered from 62A-11-111, as last amended by Laws of Utah 2011, Chapter 366)
26B-9-111, (Renumbered from 62A-1-117, as enacted by Laws of Utah 1997, Chapter 174)
26B-9-112, (Renumbered from 62A-11-703, as renumbered and amended by Laws of Utah 2008, Chapter 73)
26B-9-113, (Renumbered from 62A-11-704, as enacted by Laws of Utah 2008, Chapter 73)
26B-9-201, (Renumbered from 62A-11-303, as last amended by Laws of Utah 2008, Chapters 3 and 382)
26B-9-202, (Renumbered from 62A-11-302, as enacted by Laws of Utah 1988, Chapter 1)
26B-9-203, (Renumbered from 62A-11-303.5, as enacted by Laws of Utah 2002, Chapter 60)
26B-9-204, (Renumbered from 62A-11-303.7, as last amended by Laws of Utah 2019, Chapter 285)
26B-9-205, (Renumbered from 62A-11-304.1, as last amended by Laws of Utah 2009, Chapter 212)
26B-9-206, (Renumbered from 62A-11-304.2, as last amended by Laws of Utah 2021, Chapter 262)
26B-9-207, (Renumbered from 62A-11-304.4, as last amended by Laws of Utah 2022, Chapter 335)
26B-9-208, (Renumbered from 62A-11-304.5, as enacted by Laws of Utah 1997, Chapter 232)
26B-9-209, (Renumbered from 62A-11-305, as last amended by Laws of Utah 2015, Chapter 45)
26B-9-210, (Renumbered from 62A-11-306.1, as last amended by Laws of Utah 1997, Chapter 232)
26B-9-211, (Renumbered from 62A-11-306.2, as enacted by Laws of Utah 2007, Chapter 282)
26B-9-212, (Renumbered from 62A-11-307.1, as last amended by Laws of Utah 2017, Chapter 156)
26B-9-213, (Renumbered from 62A-11-307.2, as last amended by Laws of Utah 1997, Chapters 174 and 232)
26B-9-214, (Renumbered from 62A-11-312.5, as last amended by Laws of Utah 2008, Chapter 3)
26B-9-215, (Renumbered from 62A-11-313, as last amended by Laws of Utah 1989, Chapter 62)
26B-9-216, (Renumbered from 62A-11-315.5, as enacted by Laws of Utah 1997, Chapter 232)
26B-9-217, (Renumbered from 62A-11-316, as last amended by Laws of Utah 1988, Chapter 203)
26B-9-218, (Renumbered from 62A-11-319, as enacted by Laws of Utah 1988, Chapter 1)
26B-9-219, (Renumbered from 62A-11-320, as last amended by Laws of Utah 1997, Chapter 232)
26B-9-220, (Renumbered from 62A-11-320.5, as repealed and reenacted by Laws of Utah 1997, Chapter 232)
26B-9-221, (Renumbered from 62A-11-320.6, as enacted by Laws of Utah 1997, Chapter 232)
26B-9-222, (Renumbered from 62A-11-320.7, as enacted by Laws of Utah 1997, Chapter 232)
26B-9-223, (Renumbered from 62A-11-321, as enacted by Laws of Utah 1988, Chapter 1)
26B-9-224, (Renumbered from 62A-11-326, as last amended by Laws of Utah 2010, Chapter 285)
26B-9-225, (Renumbered from 62A-11-326.1, as last amended by Laws of Utah 2001, Chapter 116)
26B-9-226, (Renumbered from 62A-11-326.2, as last amended by Laws of Utah 2001, Chapter 116)
26B-9-227, (Renumbered from 62A-11-326.3, as last amended by Laws of Utah 2008, Chapter 382)
26B-9-228, (Renumbered from 62A-11-327, as repealed and reenacted by Laws of Utah 1997, Chapter 232)
26B-9-229, (Renumbered from 62A-11-328, as last amended by Laws of Utah 2021, Chapter 367)
26B-9-230, (Renumbered from 62A-11-333, as last amended by Laws of Utah 2008, Chapters 3 and 382)
26B-9-231, (Renumbered from 62A-11-334, as enacted by Laws of Utah 2021, Chapter 132)
26B-9-301, (Renumbered from 62A-11-401, as last amended by Laws of Utah 2008, Chapters 3 and 73)
26B-9-302, (Renumbered from 62A-11-402, as enacted by Laws of Utah 1988, Chapter 1)
26B-9-303, (Renumbered from 62A-11-403, as last amended by Laws of Utah 2007, Chapter 131)
26B-9-304, (Renumbered from 62A-11-404, as repealed and reenacted by Laws of Utah 1997, Chapter 232)

26B-9-305, (Renumbered from 62A-11-405, as last amended by Laws of Utah 1997, Chapter 232)
26B-9-306, (Renumbered from 62A-11-406, as last amended by Laws of Utah 2000, Chapter 161)
26B-9-307, (Renumbered from 62A-11-407, as last amended by Laws of Utah 2008, Chapter 382)
26B-9-308, (Renumbered from 62A-11-408, as last amended by Laws of Utah 1997, Chapter 232)
26B-9-309, (Renumbered from 62A-11-409, as last amended by Laws of Utah 1997, Chapter 232)
26B-9-310, (Renumbered from 62A-11-410, as enacted by Laws of Utah 1988, Chapter 1)
26B-9-311, (Renumbered from 62A-11-411, as enacted by Laws of Utah 1988, Chapter 1)
26B-9-312, (Renumbered from 62A-11-413, as enacted by Laws of Utah 1988, Chapter 1)
26B-9-313, (Renumbered from 62A-11-414, as enacted by Laws of Utah 1988, Chapter 1)
26B-9-402, (Renumbered from 62A-11-501, as last amended by Laws of Utah 1997, Chapter 232)
26B-9-403, (Renumbered from 62A-11-502, as last amended by Laws of Utah 2007, Chapter 131)
26B-9-404, (Renumbered from 62A-11-503, as repealed and reenacted by Laws of Utah 1997, Chapter 232)
26B-9-405, (Renumbered from 62A-11-504, as last amended by Laws of Utah 1998, Chapter 188)
26B-9-406, (Renumbered from 62A-11-505, as enacted by Laws of Utah 1997, Chapter 232)
26B-9-407, (Renumbered from 62A-11-506, as last amended by Laws of Utah 2000, Chapter 161)
26B-9-408, (Renumbered from 62A-11-507, as enacted by Laws of Utah 1997, Chapter 232)
26B-9-409, (Renumbered from 62A-11-508, as enacted by Laws of Utah 1997, Chapter 232)
26B-9-410, (Renumbered from 62A-11-509, as enacted by Laws of Utah 1997, Chapter 232)
26B-9-411, (Renumbered from 62A-11-510, as enacted by Laws of Utah 1997, Chapter 232)
26B-9-412, (Renumbered from 62A-11-511, as enacted by Laws of Utah 1997, Chapter 232)
26B-9-501, (Renumbered from 62A-11-602, as enacted by Laws of Utah 2007, Chapter 338)
26B-9-502, (Renumbered from 62A-11-603, as last amended by Laws of Utah 2008, Chapter 382)
26B-9-503, (Renumbered from 62A-11-604, as enacted by Laws of Utah 2007, Chapter 338)

Utah Code Sections Affected by Coordination Clause:

26-8a-103, as last amended by Laws of Utah 2022, Chapter 255
26-8a-107, as last amended by Laws of Utah 2022, Chapter 255
26-8a-602, as enacted by Laws of Utah 2019, Chapter 262
26-21-305, as enacted by Laws of Utah 2018, Chapter 220
26-39-200, as last amended by Laws of Utah 2022, Chapter 255
26-61-201, as last amended by Laws of Utah 2022, Chapter 452
26-61a-109, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
26-66-202, as enacted by Laws of Utah 2019, Chapter 34
26-66-204, Utah Code Annotated 1953
26B-1-333, Utah Code Annotated 1953
26B-1-433, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-1-102 is amended to read:

CHAPTER 1. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Part 1. General Provisions

26B-1-102. Definitions.

As used in this title:

(1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

[~~(2) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.~~]

(2) "Executive director" means the executive director of the department appointed under Section 26B-1-203.

(3) "Local health department" means the same as that term is defined in Section 26A-1-102.

[~~(3)~~] (4) "Public health authority" means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, an Indian tribe, or a person acting under a grant of authority from or a contract with such an agency, that is responsible for public health matters as part of the agency or authority's official mandate.

[~~(4) "System of care" means a broad, flexible array of services and supports that:~~]

[~~(a) serve a child with or who is at risk for complex emotional and behavioral needs;~~]

[~~(b) are community based;~~]

[~~(c) are informed about trauma;~~]

[~~(d) build meaningful partnerships with families and children;~~]

[~~(e) integrate service planning, service coordination, and management across state and local entities;~~]

[~~(f) include individualized case planning;~~]

[~~(g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and~~]

[~~(h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.~~]

Section 2. Section 26B-1-204 is amended to read:

Part 2. Department of Health and Human Services

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

[~~(c) Health Advisory Council;~~]

[~~(d)~~] (c) Health Facility Committee;

[~~(e)~~] (d) State Emergency Medical Services Committee;

[~~(f)~~] (e) Air Ambulance Committee;

[~~(g)~~] (f) Health Data Committee;

[~~(h)~~] (g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

[~~(i)~~] (h) Residential Child Care Licensing Advisory Committee;

[~~(j)~~] (i) Child Care Center Licensing Committee;

[~~(k)~~] (j) Primary Care Grant Committee;

[~~(l)~~] (k) Adult Autism Treatment Program Advisory Committee;

[~~(m)~~] (l) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

[~~(n)~~] (m) any boards, councils, or committees that are created by statute in[~~:~~] this title.

[~~(i) this title;~~]

[~~(ii) Title 26, Utah Health Code; or~~]

[~~(iii) Title 62A, Utah Human Services Code.~~]

(3) The following divisions are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act;~~] Chapter 5, Health Care – Substance Use and Mental Health;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities; and

(c) relating to community health and well-being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; and

(v) the Office of Recovery Services.

(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with[~~:~~] this title.

[~~(a) this title;~~]

[~~(b) Title 26, Utah Health Code; and~~]

[~~(c) Title 62A, Utah Human Services Code.~~]

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in[~~:~~] this title.

[~~(a) this title;~~]

[~~(b) Title 26, Utah Health Code; or~~]

[~~(c) Title 62A, Utah Human Services Code.~~]

Section 3. Section 26B-1-214, which is renumbered from Section 26-1-10 is renumbered and amended to read:

[~~26-1-10~~]. 26B-1-214. Executive director -- Enforcement powers.

Subject to the restrictions in this title and to the extent permitted by state law, the executive director is empowered to issue orders to enforce state laws and rules established by the department except where the enforcement power is given to a committee created under Section 26B-1-204.

Section 4. Section 26B-1-215, which is renumbered from Section 62A-1-115 is renumbered and amended to read:

[~~62A-1-115~~]. 26B-1-215. Actions on behalf of department -- Party in interest.

(1) The executive director, each of the department's boards, divisions, offices, and the director of each division or office, shall, in the exercise of any power, duty, or function under any statute of this state, is considered to be acting on behalf of the department.

(2) The department, through the executive director or through any of the department's boards, divisions, offices, or directors, shall be considered the party in interest in all actions at law or in equity, where the department or any constituent, board, division, office, or official thereof is authorized by any statute of the state to be a party to any legal action.

Section 5. Section 26B-1-216, which is renumbered from Section 62A-18-105 is renumbered and amended to read:

[~~62A-18-105~~]. 26B-1-216. Powers and duties of the department -- Quality and design.

The [~~office~~] department shall:

(1) monitor and evaluate the quality of services provided by the department including:

(a) in accordance with [~~Title 62A, Chapter 16, Fatality Review Act,~~] Part 5, Fatality Review, monitoring, reviewing, and making recommendations relating to a fatality review;

(b) overseeing the duties of the child protection ombudsman appointed under Section 80-2-1104; and

(c) conducting internal evaluations of the quality of services provided by the department and service providers contracted with the department;

(2) conduct investigations described in Section 80-2-703; and

(3) [~~assist the department in developing~~] develop an integrated human services system and [~~implementing~~] implement a system of care by:

(a) designing and implementing a comprehensive continuum of services for individuals who receive services from the department or a service provider contracted with the department;

(b) establishing and maintaining department contracts with public and private service providers;

(c) establishing standards for the use of service providers who contract with the department;

(d) coordinating a service provider network to be used within the department to ensure individuals receive the appropriate type of services;

(e) centralizing the department's administrative operations; and

(f) integrating, analyzing, and applying department-wide data and research to monitor the quality, effectiveness, and outcomes of services provided by the department.

Section 6. Section 26B-1-217, which is renumbered from Section 26-1-35 is renumbered and amended to read:

[~~26-1-35~~]. 26B-1-217. Content and form of certificates and reports.

(1) Certificates, certifications, forms, reports, other documents and records, and the form of communication between persons required by this title shall be prepared in the form prescribed by department rule.

(2) Certificates, certifications, forms, reports, or other documents and records, and communications between persons required by this title may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.

Section 7. Section 26B-1-218, which is renumbered from Section 26-1-44 is renumbered and amended to read:

[~~26-1-44~~]. 26B-1-218. Intergenerational poverty mitigation reporting.

(1) As used in this section:

(a) "Cycle of poverty" means the same as that term is defined in Section 35A-9-102.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(2) On or before October 1 of each year, the department shall provide an annual report to the Department of Workforce Services for inclusion in the intergenerational poverty report described in Section 35A-9-202.

(3) The report shall:

(a) describe policies, procedures, and programs that the department has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty; and

(b) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty.

Section 8. Section 26B-1-219, which is renumbered from Section 26-1-45 is renumbered and amended to read:

[~~26-1-45~~]. 26B-1-219. Requirements for issuing, recommending, or facilitating rationing criteria.

(1) As used in this section:

(a) "Health care resource" means:

(i) health care as defined in Section 78B-3-403;

(ii) a prescription drug as defined in Section 58-17b-102;

(iii) a prescription device as defined in Section 58-17b-102;

(iv) a nonprescription drug as defined in Section 58-17b-102; or

(v) any supply or treatment that is intended for use in the course of providing health care as defined in Section 78B-3-403.

(b) (i) "Rationing criteria" means any requirement, guideline, process, or recommendation regarding:

(A) the distribution of a scarce health care resource; or

(B) qualifications or criteria for a person to receive a scarce health care resource.

(ii) "Rationing criteria" includes crisis standards of care with respect to any health care resource.

(c) "Scarce health care resource" means a health care resource:

(i) for which the need for the health care resource in the state or region significantly exceeds the available supply of that health care resource in that state or region;

(ii) that, based on the circumstances described in Subsection (1)(c)(i), is distributed or provided using written requirements, guidelines, processes, or recommendations as a factor in the decision to distribute or provide the health care resource; and

(iii) that the federal government has allocated to the state to distribute.

(2) (a) On or before July 1, 2022, the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure that the department will follow to adopt, modify, require, facilitate, or recommend rationing criteria.

(b) Beginning July 1, 2022, the department may not adopt, modify, require, facilitate, or recommend rationing criteria unless the department follows the procedure established by the department under Subsection (2)(a).

(3) The procedures developed by the department under Subsection (2) shall include, at a minimum:

(a) a requirement that the department notify the following individuals in writing before rationing criteria are issued, are recommended, or take effect:

(i) the Administrative Rules Review and General Oversight Committee created in Section 63G-3-501;

(ii) the governor or the governor's designee;

(iii) the president of the Senate or the president's designee;

(iv) the speaker of the House of Representatives or the speaker's designee;

(v) the executive director or the executive director's designee; and

(vi) if rationing criteria affect hospitals in the state, a representative of an association representing hospitals throughout the state, as designated by the executive director; and

(b) procedures for an emergency circumstance which shall include, at a minimum:

(i) a description of the circumstances under which emergency procedures described in this Subsection (3)(b) may be used; and

(ii) a requirement that the department notify the individuals described in Subsections (3)(a)(i) through (vi) as soon as practicable, but no later than 48 hours after the rationing criteria take effect.

(4) (a) Within 30 days after March 22, 2022, the department shall send to the Administrative Rules Review and General Oversight Committee all rationing criteria that:

(i) were adopted, modified, required, facilitated, or recommended by the department prior to March 22, 2022; and

(ii) on March 22, 2022, were in effect and in use to distribute or qualify a person to receive scarce health care resources.

(b) During the 2022 interim, the Administrative Rules Review and General Oversight Committee shall, under Subsection 63G-3-501(3)(d)(i), review each of the rationing criteria submitted by the department under Subsection (4)(a).

(5) The requirements described in this section and rules made under this section shall apply regardless of whether rationing criteria:

(a) have the force and effect of law, or is solely advisory, informative, or descriptive;

(b) are carried out or implemented directly or indirectly by the department or by other individuals or entities; or

(c) are developed solely by the department or in collaboration with other individuals or entities.

(6) This section:

(a) may not be suspended under Section 53-2a-209 or any other provision of state law relating to a state of emergency;

(b) does not limit a private entity from developing or implementing rationing criteria; and

(c) does not require the department to adopt, modify, require, facilitate, or recommend rationing criteria that the department does not determine to be necessary or appropriate.

(7) Subsection (2) does not apply to rationing criteria that are adopted, modified, required, facilitated, or recommended by the department:

(a) through the regular, non-emergency rulemaking procedure described in Section 63G-3-301;

(b) if the modification is solely to correct a technical error in rationing criteria such as correcting obvious errors and inconsistencies including those involving punctuation, capitalization, cross references, numbering, and wording;

(c) to the extent that compliance with this section would result in a direct violation of federal law;

(d) that are necessary for administration of the Medicaid program;

(e) if state law explicitly authorizes the department to engage in rulemaking to establish rationing criteria; or

(f) if rationing criteria are authorized directly through a general appropriation bill that is validly enacted.

Section 9. Section 26B-1-220, which is renumbered from Section 26-23-1 is renumbered and amended to read:

[~~26-23-1~~]. 26B-1-220. Legal advice and representation for department.

(1) The attorney general shall be the legal adviser for the department and the executive director and shall defend them in all actions and proceedings brought against either of them. The county attorney of the county in which a cause of action arises or a public offense occurs shall bring any civil action requested by the executive director to abate a condition which exists in violation of the public health laws or standards, orders, and rules of the department as provided in Section [~~26-23-6~~] 26B-1-224.

(2) The district attorney or county attorney having criminal jurisdiction shall prosecute for the violation of the public health laws or standards, orders, and rules of the department as provided in Section [~~26-23-6~~] 26B-1-224.

(3) If the county attorney or district attorney fails to act, the executive director may bring any such action and shall be represented by the attorney general or, with the approval of the attorney general, by special counsel.

Section 10. Section 26B-1-221, which is renumbered from Section 26-23-2 is renumbered and amended to read:

[~~26-23-2~~]. 26B-1-221. Administrative review of actions of department or director.

Any person aggrieved by any action or inaction of the department or its executive director may request an adjudicative proceeding by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

Section 11. Section 26B-1-222, which is renumbered from Section 26-23-3 is renumbered and amended to read:

[~~26-23-3~~]. 26B-1-222. Violation of public health laws or orders unlawful.

It shall be unlawful for any person, association, or corporation, and the officers thereof:

(1) to willfully violate, disobey, or disregard the provisions of the public health laws or the terms of any lawful notice, order, standard, rule, or regulation issued thereunder; [~~or~~]

(2) to fail to remove or abate from private property under the person's control at [~~his~~] the person's own expense, within 48 hours, or such other reasonable time as the health authorities shall determine, after being ordered to do so by the health authorities, any nuisance, source of filth, cause of sickness, dead animal, health hazard, or sanitation violation within the jurisdiction and control of the department, whether the person, association, or corporation shall be the owner, tenant, or occupant of such property; provided, however, when any such condition is due to an act of God, it shall be removed at public expense; [~~or~~]

(3) to pay, give, present, or otherwise convey to any officer or employee of the department any gift, remuneration or other consideration, directly or indirectly, which such officer or employee is forbidden to receive by the provisions of [~~this chapter~~] Sections 26B-1-220 and 26B-1-228; or

(4) to fail to make or file reports required by law or rule of the department relating to the existence of disease or other facts and statistics relating to the public health.

Section 12. Section 26B-1-223, which is renumbered from Section 26-23-4 is renumbered and amended to read:

[~~26-23-4~~]. 26B-1-223. Unlawful acts by department officers and employees.

It shall be unlawful for any officer or employee of the department:

(1) [~~To~~] to accept any gift, remuneration, or other consideration, directly or indirectly, for an incorrect or improper performance of the duties imposed upon [~~him~~] the officer or employee by or in behalf of the department or by the provisions of [~~this chapter.~~] Sections 26B-1-220 and 26B-1-228; or

(2) [~~To~~] to perform any work, labor, or services other than the duties assigned to [~~him~~] the officer or employee on behalf of the department during the hours such officer or employee is regularly employed by the department, or to perform [~~his~~] the officer or employee's duties as an officer or employee of the department under any condition or arrangement that involves a violation of this or any other law of the state.

Section 13. Section 26B-1-224, which is renumbered from Section 26-23-6 is renumbered and amended to read:

[~~26-23-6~~]. 26B-1-224. Criminal and civil penalties and liability for violations.

(1) (a) Any person, association, corporation, or an officer of a person, an association, or a corporation, who violates any provision of [~~this chapter~~] Section 26B-1-222 or 26B-1-223, or lawful orders of the department or a local health department in a criminal proceeding is guilty of a class B misdemeanor for the first violation, and for any subsequent similar violation within two years, is guilty of a class A misdemeanor, except this section does not establish the criminal penalty for a violation of Section [~~26-23-5.5~~] 26B-8-134 or Section [~~26-8a-502.1~~] 26B-4-128.

(b) Conviction in a criminal proceeding does not preclude the department or a local health department from assessment of any civil penalty, administrative civil money penalty or to deny, revoke, condition, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

(2) (a) Subject to Subsections (2)(c) and (d), any association, corporation, or an officer of an association or a corporation, who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:

(i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of $5,000 per violation; or

(ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of $5,000 per violation.

(b) Subject to Subsections (2)(c) and (d), an individual who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:

(i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of $150 per violation; or

(ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of $150 per violation.

(c) (i) Except as provided in Subsection (2)(c)(ii), a penalty described in Subsection (2)(a) or (b) may only be assessed against the same individual, association, or corporation one time in a calendar week.

(ii) Notwithstanding Subsection (2)(c)(i), an individual, an association, a corporation, or an officer of an association or a corporation, who willfully disregards or recklessly violates a provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department, may be assessed a penalty as described in Subsection (2)(a) for each day of violation if it is determined that the violation is likely to result in a serious threat to public health.

(d) Upon reasonable cause shown in judicial civil proceeding or an administrative action, a penalty imposed under this Subsection (2) may be waived or reduced.

(3) Assessment of any civil penalty or administrative penalty does not preclude the department or a local health department from seeking criminal penalties or to deny, revoke, impose conditions on, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

(4) In addition to any penalties imposed under Subsection (1), a person, association, corporation, or an officer of a person, an association, or a corporation, is liable for any expense incurred by the department in removing or abating any health or sanitation violations, including any nuisance, source of filth, cause of sickness, or dead animal.

Section 14. Section 26B-1-225, which is renumbered from Section 26-23-7 is renumbered and amended to read:

[~~26-23-7~~]. 26B-1-225. Application of enforcement procedures and penalties.

Enforcement procedures and penalties provided in [~~this chapter~~] Sections 26B-1-222 through 26B-1-224 do not apply to other chapters in this title which provide for specific enforcement procedures and penalties.

Section 15. Section 26B-1-226, which is renumbered from Section 26-23-8 is renumbered and amended to read:

[~~26-23-8~~]. 26B-1-226. Representatives of department authorized to enter regulated premises.

(1) Authorized representatives of the department upon presentation of appropriate identification shall be authorized to enter upon the premises of properties regulated under this title to perform routine inspections to [~~insure~~] ensure compliance with rules adopted by the department.

(2) This section does not authorize the department to inspect private dwellings.

Section 16. Section 26B-1-227, which is renumbered from Section 26-23-9 is renumbered and amended to read:

[~~26-23-9~~]. 26B-1-227. Authority of department as to functions transferred from other agencies.

(1) (a) If functions transferred from other agencies are vested by this code in the department, the department shall be the successor in every way, with respect to such functions, except as otherwise provided by this code.

(b) Every act done in the exercise of such functions by the department shall have the same force and effect as if done by the agency in which the functions were previously vested.

(2) Whenever any such agency is referred to or designated by law, contract, or other document, the

reference or designation shall apply to the department.

Section 17. Section 26B-1-228, which is renumbered from Section 26-23-10 is renumbered and amended to read:

[~~26-23-10~~]. 26B-1-228. Religious exemptions from code -- Regulation of state-licensed healing system practice unaffected by code.

(1) (a) Except as provided in Subsection (1)(b), nothing in this code shall be construed to compel any person to submit to any medical or dental examination or treatment under the authority of this code when such person, or the parent or guardian of any such person objects to such examination or treatment on religious grounds, or to permit any discrimination against such person on account of such objection.

(b) An exemption from medical or dental examination, described in Subsection (1)(a), may not be granted if the executive director has reasonable cause to suspect a substantial menace to the health of other persons exposed to contact with the unexamined person.

(2) Nothing in this code shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination, provided the statutes and regulations on sanitation are complied with.

(3) Nothing in this code shall be construed or used to amend any statute now in force pertaining to the scope of practice of any state-licensed healing system.

Section 18. Section 26B-1-229, which is renumbered from Section 26-25-1 is renumbered and amended to read:

[~~26-25-1~~]. 26B-1-229. Authority to provide data on treatment and condition of persons to designated agencies -- Immunity from liability -- Information considered privileged communication -- Information held in confidence -- Penalties for violation.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(b) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(1)~~] (2) Any person, health facility, or other organization may, without incurring liability, provide the following information to the persons and entities described in Subsection [~~(2)~~] (3):

(a) information as determined by the state registrar of vital records appointed under [~~Title 26, Chapter 2, Utah Vital Statistics Act~~] Chapter 8, Part 1, Vital Statistics;

(b) interviews;

(c) reports;

(d) statements;

(e) memoranda;

(f) familial information; and

(g) other data relating to the condition and treatment of any person.

[~~(2)~~] (3) The information described in Subsection [~~(1)~~] (2) may be provided to:

(a) the department and local health departments;

(b) the Division of Integrated Healthcare within the [~~Department of Health and Human Services~~] department;

(c) scientific and health care research organizations affiliated with institutions of higher education;

(d) the Utah Medical Association or any of its allied medical societies;

(e) peer review committees;

(f) professional review organizations;

(g) professional societies and associations; and

(h) any health facility's in-house staff committee for the uses described in Subsection [~~(3)~~] (4).

[~~(3)~~] (4) The information described in Subsection [~~(1)~~] (2) may be provided for the following purposes:

(a) study and advancing medical research, with the purpose of reducing the incidence of disease, morbidity, or mortality; or

(b) the evaluation and improvement of hospital and health care rendered by hospitals, health facilities, or health care providers.

[~~(4)~~] (5) Any person may, without incurring liability, provide information, interviews, reports, statements, memoranda, or other information relating to the ethical conduct of any health care provider to peer review committees, professional societies and associations, or any in-hospital staff committee to be used for purposes of intraprofessional society or association discipline.

[~~(5)~~] (6) No liability may arise against any person or organization as a result of:

(a) providing information or material authorized in this section;

(b) releasing or publishing findings and conclusions of groups referred to in this section to advance health research and health education; or

(c) releasing or publishing a summary of these studies in accordance with this [~~chapter~~] section.

[~~(6) As used in this chapter:~~]

[~~(a) "health care provider" has the meaning set forth in Section 78B-3-403; and~~]

[~~(b) "health care facility" has the meaning set forth in Section 26-21-2.~~]

(7) (a) The information described in Subsection (2) that is provided to the entities described in Subsection (3):

(i) shall be used and disclosed by the entities described in Subsection (3) in accordance with this section; and

(ii) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The Office of Substance Use and Mental Health, scientific and health care research organizations affiliated with institutions of higher education, the Utah Medical Association or any of the Utah Medical Association's allied medical societies, peer review committees, professional review organizations, professional societies and associations, or any health facility's in-house staff committee may only use or publish the information or material received or gathered under this section for the purpose of study and advancing medical research or medical education in the interest of reducing the incidence of disease, morbidity, or mortality, except that a summary of studies conducted in accordance with this section may be released by those groups for general publication.

(8) All information, interviews, reports, statements, memoranda, or other data furnished by reason of this section, and any findings or conclusions resulting from those studies are privileged communications and are not subject to discovery, use, or receipt in evidence in any legal proceeding of any kind or character.

(9) (a) All information described in Subsection (2) that is provided to a person or organization described in Subsection (3) shall be held in strict confidence by that person or organization, and any use, release, or publication resulting therefrom shall be made only for the purposes described in Subsections (4) and (7) and shall preclude identification of any individual or individuals studied.

(b) Notwithstanding Subsection (9)(a), the department's use and disclosure of information is not governed by this section.

(10) (a) Any use, release, or publication, negligent or otherwise, contrary to the provisions of this section is a class B misdemeanor.

(b) Subsection (10)(a) does not relieve the person or organization responsible for such use, release, or publication from civil liability.

Section 19. Section 26B-1-230, which is renumbered from Section 26-68-102 is renumbered and amended to read:

[~~26-68-102~~]. 26B-1-230. Governmental entities prohibited from requiring a COVID-19 vaccine.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63D-2-102.

(b) "Emergency COVID-19 vaccine" means a substance that is:

(i) authorized for use by the United States Food and Drug Administration under an emergency use authorization under 21 U.S.C. Sec. 360bbb-3;

(ii) injected into or otherwise administered to an individual; and

(iii) intended to immunize an individual against COVID-19 as defined in Section 78B-4-517.

(2) Except as provided in Subsection (4), a governmental entity may not require, directly or indirectly, that an individual receive an emergency COVID-19 vaccine.

(3) The prohibited activities under Subsection (2) include:

(a) making rules that require, directly or indirectly, that an individual receive an emergency COVID-19 vaccine;

(b) requiring that an individual receive an emergency COVID-19 vaccine as a condition of:

(i) employment;

(ii) participation in an activity of the governmental entity, including outside or extracurricular activities; or

(iii) attendance at events that are hosted or sponsored by the governmental entity; and

(c) any action that a reasonable person would not be able to deny without significant harm to the individual.

(4) Subsection (2) does not include:

(a) facilitating the distribution, dispensing, administration, coordination, or provision of an emergency COVID-19 vaccine;

(b) an employee of a governmental entity who is:

(i) acting in a public health or medical setting; and

(ii) required to receive vaccinations in order to perform the employee's assigned duties and responsibilities; or

(c) enforcement by a governmental entity of a non-discretionary requirement under federal law.

(5) This section may not be suspended or modified by the governor or any other chief executive officer under Title 53, Chapter 2a, Emergency Management Act.

Section 20. Section 26B-1-231, which is renumbered from Section 26B-1a-104 is renumbered and amended to read:

[~~26B-1a-104~~]. 26B-1-231. Office of American Indian-Alaska Native Health and Family Services -- Creation -- Director -- Purpose -- Duties.

(1) (a) "Director" means the director of the office appointed under Subsection (3).

(b) "Office" means the Office of American Indian-Alaska Native Health and Family Services created in Subsection (2).

(2) There is created within the department the Office of American Indian-Alaska Native Health and Family Services.

(3) The executive director shall appoint a director of the office who:

(a) has a bachelor's degree from an accredited university or college;

(b) is experienced in administration; and

(c) is knowledgeable about the areas of American Indian-Alaska Native practices.

(4) (a) The director is the administrative head of the office and shall serve under the supervision of the executive director.

(b) The executive director may hire staff as necessary to carry out the duties of the office described in Subsection (5)(b).

(5) (a) The purpose of the office is to oversee and coordinate department services for Utah's American Indian-Alaska Native populations.

(b) The office shall:

[~~(1)~~] (i) oversee and coordinate department services for Utah's American Indian-Alaska Native populations;

[~~(2)~~] (ii) conduct regular and meaningful consultation with Indian tribes when there is a proposed department action that has an impact on an Indian tribe as a sovereign entity;

[~~(3)~~] (iii) monitor agreements between the department and Utah's American Indian-Alaska Native populations; and

[~~(4)~~] (iv) oversee the health liaison appointed under Section 26B-1-232 and ICWA liaison appointed under Section 26B-1-233.

Section 21. Section 26B-1-232, which is renumbered from Section 26B-1a-105 is renumbered and amended to read:

[~~26B-1a-105~~]. 26B-1-232. American Indian-Alaska Native Health Liaison -- Appointment -- Duties.

(1) (a) "Director" means the director of the Office of American Indian-Alaska Native Health and Family Services appointed under Section 26B-1-231.

(b) "Health care" means care, treatment, service, or a procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

(c) "Health liaison" means the American Indian-Alaska Native Health Liaison appointed under Subsection (2).

[~~(1)~~] (2) (a) The executive director shall appoint an individual as the American Indian-Alaska Native Health Liaison.

(b) The health liaison shall serve under the supervision of the director.

[~~(2)~~] (3) The health liaison shall:

(a) promote and coordinate collaborative efforts between the department and Utah's American Indian-Alaska Native population to improve the availability and accessibility of quality health care impacting Utah's American Indian-Alaska Native populations on and off reservations;

(b) interact with the following to improve health disparities for Utah's American Indian-Alaska Native populations:

(i) tribal health programs;

(ii) local health departments;

(iii) state agencies and officials; and

(iv) providers of health care in the private sector;

(c) facilitate education, training, and technical assistance regarding public health and medical assistance programs to Utah's American Indian-Alaska Native populations; and

(d) staff an advisory board by which Utah's tribes may consult with state and local agencies for the development and improvement of public health programs designed to address improved health care for Utah's American Indian-Alaska Native populations on and off the reservation.

(4) The health liaison shall annually report the liaison's activities and accomplishments to the Native American Legislative Liaison Committee created in Section 36-22-1.

Section 22. Section 26B-1-233, which is renumbered from Section 26B-1a-106 is renumbered and amended to read:

[~~26B-1a-106~~]. 26B-1-233. Indian Child Welfare Act Liaison -- Appointment -- Qualifications -- Duties.

(1) As used in this section:

(a) "Director" means the director of the Office of American Indian-Alaska Native Health and Family Services appointed under Section 26B-1-231.

(b) "ICWA liaison" means the Indian Child Welfare Act Liaison appointed under Subsection (2).

[~~(1)~~] (2) (a) The executive director shall appoint an individual as the Indian Child Welfare Act Liaison who:

(i) has a bachelor's degree from an accredited university or college; and

(ii) is knowledgeable about the areas of child and family services and Indian tribal child rearing practices.

(b) The ICWA liaison shall serve under the supervision of the director.

[~~(2)~~] (3) The ICWA liaison shall:

(a) act as a liaison between the department and Utah's American Indian populations regarding child and family services;

(b) provide training to department employees regarding the requirements and implementation of

the Indian Child Welfare Act, 25 U.S.C. Secs. 1901-1963;

(c) develop and facilitate education and technical assistance programs for Utah's American Indian populations regarding available child and family services;

(d) promote and coordinate collaborative efforts between the department and Utah's American Indian population to improve the availability and accessibility of quality child and family services for Utah's American Indian populations; and

(e) interact with the following to improve delivery and accessibility of child and family services for Utah's American Indian populations:

(i) state agencies and officials; and

(ii) providers of child and family services in the public and private sector.

(4) The ICWA liaison shall annually report the liaison's activities and accomplishments to the Native American Legislative Liaison Committee created in Section 36-22-1.

Section 23. Section 26B-1-234, which is renumbered from Section 62A-1-122 is renumbered and amended to read:

[~~62A-1-122~~]. 26B-1-234. Handling of child sexual abuse material.

(1) As used in this section:

(a) "Child pornography" means the same as that term is defined in Section 76-5b-103.

(b) "Secure" means to prevent and prohibit access, electronic upload, transmission, or transfer of an image.

(2) The department or a division within the department may not retain child pornography longer than is necessary to comply with the requirements of this section.

(3) When the department or a division within the department obtains child pornography as a result of an employee unlawfully viewing child pornography, the department or division shall consult with and follow the guidance of the Division of Human Resource Management regarding personnel action and local law enforcement regarding retention of the child pornography.

(4) When the department or a division within the department obtains child pornography as a result of a report or an investigation, the department or division shall immediately secure the child pornography, or the electronic device if the child pornography is digital, and contact the law enforcement office that has jurisdiction over the area where the division's case is located.

Section 24. Section 26B-1-235, which is renumbered from Section 26-10-8 is renumbered and amended to read:

[~~26-10-8~~]. 26B-1-235. Request for proposal required for non-state supplied services.

(1) As used in this section:

(a) "AED" means the same as that term is defined in Section 26B-4-301.

(b) "Office" means the Office of Emergency Medical Services and Preparedness within the department.

(c) "Sudden cardiac arrest" means the same as that term is defined in Section 26B-4-301.

[~~(1)~~] (2) Funds provided to the department through Sections 51-9-201 and 59-14-204 to be used to provide services, shall be awarded to non-governmental entities based on a competitive process consistent with Title 63G, Chapter 6a, Utah Procurement Code.

[~~(2)~~] (3) Beginning July 1, 2010, and not more than every five years thereafter, the department shall issue requests for proposals for new or renewing contracts to award funding for programs under Subsection (1).

Section 25. Section 26B-1-236, which is renumbered from Section 26-26-3 is renumbered and amended to read:

[~~26-26-3~~]. 26B-1-236. Experimental animals -- Authorization -- Minimum period of impoundment -- Requirements -- Fees -- Records -- Revocation -- Rulemaking and investigation.

(1) As used in this section, "institution" means any school or college of agriculture, veterinary medicine, medicine, pharmacy, or dentistry or other educational, hospital, or scientific establishment properly concerned with the investigation of or instruction concerning the structure or functions of living organisms, the cause, prevention, control, or cure of diseases or abnormal condition of human beings or animals.

(2) (a) Institutions may apply to the department for authorization to obtain animals from establishments maintained for the impounding, care, and disposal of animals seized by lawful authority.

(b) If, after an investigation under Subsection (2)(a), the department finds that the institution meets the requirements of this section and the department's rules and that the public interest will be served thereby, the department may authorize the institution to obtain animals under this section.

[~~(1)~~] (3) Subject to Subsection [~~(2)~~] (4), the governing body of the county or municipality in which an establishment is located may make available to an authorized institution as many impounded animals in that establishment as the institution may request.

[~~(2)~~] (4) A governing body described in Subsection [~~(1)~~] (3) may not make an impounded animal available to an institution, unless:

(a) the animal has been legally impounded for the longer of:

(i) at least five days; or

(ii) the minimum period provided for by local ordinance;

(b) the animal has not been claimed or redeemed by:

(i) the animal's owner; or

(ii) any other person entitled to claim or redeem the animal; and

(c) the establishment has made a reasonable effort to:

(i) find the rightful owner of the animal, including checking if the animal has a tag or microchip; and

(ii) if the owner is not found, make the animal available to others during the impound period.

(5) Owners of animals who voluntarily provide their animals to an establishment may, by signature, determine whether or not the animal may be provided to an institution or used for research or educational purposes.

(6) The authorized institution shall provide, at the authorized institution's own expense, for the transportation of such animals from the establishment to the institution and shall use them only in the conduct of scientific and educational activities and for no other purpose.

(7) (a) The institution shall reimburse the establishment for animals received.

(b) The fee described in Subsection (7)(a) shall be, at a minimum, $15 for cats and $20 for dogs.

(c) The fee described in Subsection (7)(a) shall be increased as determined by the department, based on fluctuations or changes in the Consumer Price Index.

(8) Each institution shall keep a public record of all animals received and disposed of.

(9) The department, upon 15 days written notice and an opportunity to be heard, may revoke an institution's authorization if the institution has violated any provision of this section, or has failed to comply with the conditions required by the department with respect to the issuance of authorization.

(10) In carrying out the provisions of this section, the department may adopt rules for:

(a) controlling the humane use of animals;

(b) diagnosis and treatment of human and animal diseases;

(c) advancement of veterinary, dental, medical, and biological sciences; and

(d) testing, improvement, and standardization of laboratory specimens, biologic projects, pharmaceuticals, and drugs.

(11) The department may inspect or investigate any institution that applies for or is authorized to obtain animals.

Section 26. Section 26B-1-237, which is renumbered from Section 26-18-605 is renumbered and amended to read:

[~~26-18-605~~]. 26B-1-237. Utah Office of Internal Audit.

The Utah Office of Internal Audit:

(1) may not be placed within the division;

(2) shall be placed directly under, and report directly to, the executive director of the Department of Health; and

(3) shall have full access to all records of the division.

Section 27. Section 26B-1-238, which is renumbered from Section 62A-4a-211 is renumbered and amended to read:

[~~62A-4a-211~~]. 26B-1-238. Normalizing lives of children -- Responsibilities of the Division of Child and Family Services.

(1) As used in this section:

(a) "Activity" means an extracurricular, enrichment, or social activity.

(b) "Age-appropriate" means a type of activity that is generally accepted as suitable for a child of the same age or level of maturity, based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for the child's age or age group.

(c) "Caregiver" means a person with whom a child is placed in an out-of-home placement.

(d) "Division" means the Division of Child and Family Services.

(e) "Out-of-home placement" means the placement of a child in the division's custody outside of the child's home, including placement in a foster home, a residential treatment program, proctor care, or with kin.

(f) "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions to maintain a child's health, safety, and best interest while at the same time encouraging the child's emotional and developmental growth.

[~~(1)~~] (2) A child who comes into care under this chapter is entitled to participate in age-appropriate activities for the child's emotional well-being and development of valuable life-coping skills.

[~~(2)~~] (3) The division shall make efforts to normalize the lives of children in the division's custody and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable and prudent parent standard, without prior approval of the division.

[~~(3)~~] (4) The division shall allow a caregiver to make important decisions, similar to the decisions that a parent is entitled to make, regarding the child's participation in activities.

Section 28. Section 26B-1-306, which is renumbered from Section 26-8a-108 is renumbered and amended to read:

Part 3. Funds and Accounts

[~~26-8a-108~~]. 26B-1-306. Emergency Medical Services System Account.

(1) There is created within the General Fund a restricted account known as the "Emergency Medical Services System Account."

(2) The account consists of:

(a) interest earned on the account;

(b) appropriations made by the Legislature; and

(c) contributions deposited into the account in accordance with Section 41-1a-230.7.

(3) The department shall use:

(a) an amount equal to 25% of the money in the account for administrative costs related to [~~this chapter~~] Chapter 4, Part 1, Utah Emergency Medical Services System;

(b) an amount equal to 75% of the money in the account for grants awarded in accordance with [~~Subsection 26-8a-207(3)~~] Section 26B-4-107; and

(c) all money received from the revenue source in Subsection (2)(c) for grants awarded in accordance with [~~Subsection 26-8a-207(3)~~] Section 26B-4-107.

Section 29. Section 26B-1-307, which is renumbered from Section 26-8b-602 is renumbered and amended to read:

[~~26-8b-602~~]. 26B-1-307. Automatic External Defibrillator Restricted Account.

(1) As used in this section:

(a) "AED" means the same as that term is defined in Section 26B-4-301.

(b) "Office" means the Office of Emergency Medical Services and Preparedness within the department.

(c) "Sudden cardiac arrest" means the same as that term is defined in Section 26B-4-301.

[~~(1) (a)~~] (2) (a) There is created a restricted account within the General Fund known as the "Automatic External Defibrillator Restricted Account" to provide AEDs to entities under Subsection (4).

(b) The director of the [~~bureau~~] office shall administer the account in accordance with rules made by the [~~bureau~~] office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(2)~~] (c) The restricted account shall consist of money appropriated to the account by the Legislature.

(3) The director of the [~~bureau~~] office shall distribute funds deposited in the account to eligible entities, under Subsection (4), for the purpose of purchasing:

(a) an AED;

(b) an AED carrying case;

(c) a wall-mounted AED cabinet; or

(d) an AED sign.

(4) Upon appropriation, the director of the [~~bureau~~] office shall distribute funds deposited in the account, for the purpose of purchasing items under Subsection (3), to:

(a) a municipal department of safety that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;

(b) a municipal or county law enforcement agency that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;

(c) a state law enforcement agency that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;

(d) a school that offers instruction to grades kindergarten through 6;

(e) a school that offers instruction to grades 7 through 12; or

(f) a state institution of higher education.

(5) The director of the [~~bureau~~] office shall distribute funds under this section to a municipality only if the municipality provides a match in funding for the total cost of items under Subsection (3):

(a) of 50% for the municipality, if the municipality is a city of first, second, or third class under Section 10-2-301; or

(b) of 75% for the municipality, other than a municipality described in Subsection (5)(a).

(6) The director of the [~~bureau~~] office shall distribute funds under this section to a county only if the county provides a match in funding for the total cost of items under Subsection (3):

(a) of 50% for the county, if the county is a county of first, second, or third class under Section 17-50-501; or

(b) of 75% for the county, other than a county described in Subsection (6)(a).

(7) In accordance with rules made by the [~~bureau~~] office, an entity described in Subsection (4) may apply to the director of the [~~bureau~~] office to receive a distribution of funds from the account by filing an application with the [~~bureau~~] office on or before October 1 of each year.

Section 30. Section 26B-1-308, which is renumbered from Section 26-9-4 is renumbered and amended to read:

[~~26-9-4~~]. 26B-1-308. Rural Health Care Facilities Account -- Source of revenues -- Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into the General Fund.

(1) As used in this section:

(a) "Emergency medical services" is as defined in Section [~~26-8a-102~~] 26B-4-101.

(b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

(c) "Fiscal year" means a one-year period beginning on July 1 of each year.

(d) "Freestanding urgent care center" is as defined in Section 59-12-801.

(e) "Nursing care facility" is as defined in Section [~~26-21-2~~] 26B-2-201.

(f) "Rural city hospital" is as defined in Section 59-12-801.

(g) "Rural county health care facility" is as defined in Section 59-12-801.

(h) "Rural county hospital" is as defined in Section 59-12-801.

(i) "Rural county nursing care facility" is as defined in Section 59-12-801.

(j) "Rural emergency medical services" is as defined in Section 59-12-801.

(k) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

(2) There is created a restricted account within the General Fund known as the "Rural Health Care Facilities Account."

(3) (a) The restricted account shall be funded by amounts appropriated by the Legislature.

(b) Any interest earned on the restricted account shall be deposited into the General Fund.

(4) Subject to Subsections (5) and (6), the State Tax Commission shall for a fiscal year distribute money deposited into the restricted account to each:

(a) county legislative body of a county that, on January 1, 2007, imposes a tax in accordance with Section 59-12-802 and has not repealed the tax; or

(b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance with Section 59-12-804 and has not repealed the tax.

(5) (a) Subject to Subsection (6), for purposes of the distribution required by Subsection (4), the State Tax Commission shall:

(i) estimate for each county and city described in Subsection (4) the amount by which the revenues collected from the taxes imposed under Sections 59-12-802 and 59-12-804 for fiscal year 2005-06 would have been reduced had:

(A) the amendments made by Laws of Utah 2007, Chapter 288, Sections 25 and 26, to Sections 59-12-802 and 59-12-804 been in effect for fiscal year 2005-06; and

(B) each county and city described in Subsection (4) imposed the tax under Sections 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

(ii) (A) for fiscal years ending before fiscal year 2018, calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by $555,000; and

(B) beginning in fiscal year 2018, calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by $218,809.33;

(iii) distribute to each county and city described in Subsection (4) an amount equal to the product of:

(A) the percentage calculated in accordance with Subsection (5)(a)(ii); and

(B) the amount appropriated by the Legislature to the restricted account for the fiscal year.

(b) The State Tax Commission shall make the estimations, calculations, and distributions required by Subsection (5)(a) on the basis of data collected by the State Tax Commission.

(6) If a county legislative body repeals a tax imposed under Section 59-12-802 or a city legislative body repeals a tax imposed under Section 59-12-804:

(a) the commission shall determine in accordance with Subsection (5) the distribution that, but for this Subsection (6), the county legislative body or city legislative body would receive; and

(b) after making the determination required by Subsection (6)(a), the commission shall:

(i) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is October 1:

(A) (I) distribute to the county legislative body or city legislative body 25% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 75% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;

(ii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is January 1:

(A) (I) distribute to the county legislative body or city legislative body 50% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 50% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the

distribution determined in accordance with Subsection (6)(a) into the General Fund;

(iii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is April 1:

(A) (I) distribute to the county legislative body or city legislative body 75% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 25% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund; or

(iv) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is July 1, beginning on that effective date and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund.

(7) (a) Subject to Subsection (7)(b) and Section 59-12-802, a county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6):

(i) for a county of the third or fourth class, to fund rural county health care facilities in that county; and

(ii) for a county of the fifth or sixth class, to fund:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

(D) rural county health care facilities in that county;

(E) rural health clinics in that county; or

(F) a combination of Subsections (7)(a)(ii)(A) through (E).

(b) A county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6) to a center, clinic, facility, or service described in Subsection (7)(a) as determined by the county legislative body.

(c) A center, clinic, facility, or service that receives a distribution in accordance with this Subsection (7) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-802 may be expended.

(8) (a) Subject to Subsection (8)(b), a city legislative body shall distribute the money the city legislative body receives in accordance with Subsection (5) or (6) to fund rural city hospitals in that city.

(b) A city legislative body shall distribute a percentage of the money the city legislative body receives in accordance with Subsection (5) or (6) to each rural city hospital described in Subsection (8)(a) equal to the same percentage that the city legislative body distributes to that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on the December 31 immediately preceding the first day of the fiscal year for which the city legislative body receives the distribution in accordance with Subsection (5) or (6).

(c) A rural city hospital that receives a distribution in accordance with this Subsection (8) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-804 may be expended.

(9) Any money remaining in the Rural Health Care Facilities Account at the end of a fiscal year after the State Tax Commission makes the distributions required by this section shall lapse into the General Fund.

Section 31. Section 26B-1-309, which is renumbered from Section 26-18-402 is renumbered and amended to read:

[~~26-18-402~~]. 26B-1-309. Medicaid Restricted Account.

(1) There is created a restricted account in the General Fund known as the "Medicaid Restricted Account."

(2) (a) Except as provided in Subsection (3), the following shall be deposited into the Medicaid Restricted Account:

(i) any general funds appropriated to the department for the state plan for medical assistance or for the Division of Health Care Financing that are not expended by the department in the fiscal year for which the general funds were appropriated and which are not otherwise designated as nonlapsing shall lapse into the Medicaid Restricted Account;

(ii) any unused state funds that are associated with the Medicaid program, as defined in Section [~~26-18-2~~] 26B-3-101, from the Department of Workforce Services [~~and the Department of Human Services~~]; and

(iii) any penalties imposed and collected under:

(A) Section 17B-2a-818.5;

(B) Section 19-1-206;

(C) Section 63A-5b-607;

(D) Section 63C-9-403;

(E) Section 72-6-107.5; or

(F) Section 79-2-404.

(b) The account shall earn interest and all interest earned shall be deposited into the account.

(c) The Legislature may appropriate money in the restricted account to fund programs that expand medical assistance coverage and private health

insurance plans to low income persons who have not traditionally been served by Medicaid, including the Utah Children's Health Insurance Program created in [~~Chapter 40, Utah Children's Health Insurance Act~~] Section 26B-3-902.

(3) (a) For fiscal years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 the following funds are nonlapsing:

[~~(a)~~] (i) any general funds appropriated to the department for the state plan for medical assistance, or for the Division of Health Care Financing that are not expended by the department in the fiscal year in which the general funds were appropriated; and

[~~(b)~~] (ii) funds described in Subsection (2)(a)(ii).

(b) For fiscal years 2019-20, 2020-21, 2021-22, and 2022-23, the funds described in Subsections (2)(a)(ii) and (3)(a)(i) are nonlapsing.

Section 32. Section 26B-1-310, which is renumbered from Section 26-61a-109 is renumbered and amended to read:

[~~26-61a-109~~]. 26B-1-310. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under [~~this chapter~~] Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's responsibilities under [~~this chapter~~] Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(5) The department shall set fees authorized under [~~this chapter~~] Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement [~~this chapter~~] Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section 33. Section 26B-1-311, which is renumbered from Section 26-18a-4 is renumbered and amended to read:

[~~26-18a-4~~]. 26B-1-311. Creation of Kurt Oscarson Children's Organ Transplant Account.

(1) (a) There is created a restricted account within the General Fund known as the "Kurt Oscarson Children's Organ Transplant Account."

(b) Private contributions received under this section and Section 59-10-1308 shall be deposited into the restricted account to be used only for the programs and purposes described in Section [~~26-18a-3~~] 26B-1-411.

(2) Money shall be appropriated from the restricted account to the [~~committee~~] Kurt Oscarson Children's Organ Transplant Coordinating Committee created in Section 26B-1-411, in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(3) In addition to funds received under Section 59-10-1308, the [~~committee~~] Kurt Oscarson Children's Organ Transplant Coordinating Committee created in Section 26B-1-411 may accept transfers, grants, gifts, bequests, or any money made available from any source to implement [~~this chapter~~] the programs and purposes described in Section 26B-1-411.

Section 34. Section 26B-1-312, which is renumbered from Section 26-18b-101 is renumbered and amended to read:

[~~26-18b-101~~]. 26B-1-312. Allyson Gamble Organ Donation Contribution Fund created.

(1) (a) There is created an expendable special revenue fund known as the "Allyson Gamble Organ Donation Contribution Fund."

(b) The Allyson Gamble Organ Donation Contribution Fund shall consist of:

(i) private contributions;

(ii) donations or grants from public or private entities;

(iii) voluntary donations collected under Sections 41-1a-230.5 and 53-3-214.7;

(iv) contributions deposited into the account in accordance with Section 41-1a-422; and

(v) interest and earnings on fund money.

(c) The cost of administering the Allyson Gamble Organ Donation Contribution Fund shall be paid from money in the fund.

(2) The [~~Department of Health~~] department shall:

(a) administer the funds deposited in the Allyson Gamble Organ Donation Contribution Fund; and

(b) select qualified organizations and distribute the funds in the Allyson Gamble Organ Donation Contribution Fund in accordance with Subsection (3).

(3) (a) The funds in the Allyson Gamble Organ Donation Contribution Fund may be distributed to a selected organization that:

(i) promotes and supports organ donation;

(ii) assists in maintaining and operating a statewide organ donation registry; and

(iii) provides donor awareness education.

(b) An organization that meets the criteria of Subsections (3)(a)(i) through (iii) may apply to the [~~Department of Health~~] department, in a manner prescribed by the department, to receive a portion of the money contained in the Allyson Gamble Organ Donation Contribution Fund.

(4) The [~~Department of Health~~] department may expend funds in the account to pay the costs of administering the fund and issuing or reordering the Donate Life support special group license plate and decals.

Section 35. Section 26B-1-313, which is renumbered from Section 26-21a-302 is renumbered and amended to read:

[~~26-21a-302~~]. 26B-1-313. Cancer Research Restricted Account.

(1) As used in this section, "account" means the Cancer Research Restricted Account created by this section.

(2) There is created in the General Fund a restricted account known as the "Cancer Research Restricted Account."

(3) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest and earnings on fund money.

(4) The department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) have been designated as an official cancer center of the state;

(c) is a National Cancer Institute designated cancer center; and

(d) have as part of its primary mission:

(i) cancer research programs in basic science, translational science, population science, and clinical research to understand cancer from its beginnings; and

(ii) the dissemination and use of knowledge developed by the research described in Subsection (4)(d)(i) for the creation and improvement of cancer detection, treatments, prevention, and outreach programs.

(5) (a) An organization described in Subsection (4) may apply to the department to receive a distribution in accordance with Subsection (4).

(b) An organization that receives a distribution from the department in accordance with Subsection (4) shall expend the distribution only to conduct cancer research for the purpose of making improvements in cancer treatments, cures, detection, and prevention of cancer at the molecular and genetic levels.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under Subsection (4).

Section 36. Section 26B-1-314, which is renumbered from Section 26-21a-304 is renumbered and amended to read:

[~~26-21a-304~~]. 26B-1-314. Children with Cancer Support Restricted Account.

(1) As used in this section, "account" means the Children with Cancer Support Restricted Account created in this section.

(2) There is created in the General Fund a restricted account known as the "Children with Cancer Support Restricted Account."

(3) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest and earnings on account money.

(4) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as tax exempt under Section 501(c)(3), Internal Revenue Code;

(b) are hospitals for children's tertiary care with board certified pediatric hematologist oncologists treating children, both on an inpatient and outpatient basis, with blood disorders and cancers from throughout the state;

(c) are members of a national organization devoted exclusively to childhood and adolescent cancer research;

(d) have pediatric nurses trained in hematology oncology;

(e) participate in one or more pediatric cancer clinical trials; and

(f) have programs that provide assistance to children with cancer.

(5) (a) An organization described in Subsection (4) may apply to the department to receive a distribution in accordance with Subsection (4).

(b) An organization that receives a distribution from the department in accordance with Subsection (4) may expend the distribution only to create or support programs that provide assistance to children with cancer.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures

for an organization to apply to the department to receive a distribution under Subsection (4).

Section 37. Section 26B-1-315, which is renumbered from Section 26-36b-208 is renumbered and amended to read:

[~~26-36b-208~~]. 26B-1-315. Medicaid Expansion Fund.

(1) There is created an expendable special revenue fund known as the "Medicaid Expansion Fund."

(2) The fund consists of:

(a) assessments collected under [~~this chapter~~] Chapter 3, Part 5, Inpatient Hospital Assessment;

(b) intergovernmental transfers under Section [~~26-36b-206~~] 26B-3-508;

(c) savings attributable to the health coverage improvement program, as defined in Section 26B-3-501, as determined by the department;

(d) savings attributable to the enhancement waiver program, as defined in Section 26B-3-501, as determined by the department;

(e) savings attributable to the Medicaid waiver expansion, as defined in Section 26B-3-501, as determined by the department;

(f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection [~~26-18-2.4(3)~~] 26B-3-105(3) as determined by the department;

(g) revenues collected from the sales tax described in Subsection 59-12-103(12);

(h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(i) interest earned on money in the fund; and

(j) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of [~~this chapter~~] Chapter 3, Part 5, Inpatient Hospital Assessment, may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program as defined in Section 26B-3-501;

(ii) the enhancement waiver program as defined in Section 26B-3-501;

(iii) a Medicaid waiver expansion as defined in Section 26B-3-501; and

(iv) the outpatient upper payment limit supplemental payments under Section [~~26-36b-210~~] 26B-3-511.

(b) A state agency administering the provisions of [~~this chapter~~] Chapter 3, Part 5, Inpatient Hospital Assessment, may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 38. Section 26B-1-316, which is renumbered from Section 26-36d-207 is renumbered and amended to read:

[~~26-36d-207~~]. 26B-1-316. Hospital Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the department under [~~this chapter~~] Chapter 3, Part 7, Hospital Provider Assessment;

(b) any interest and penalties levied with the administration of [~~this chapter~~] Chapter 3, Part 7, Hospital Provider Assessment; and

(c) any other funds received as donations for the fund and appropriations from other sources.

(3) Money in the fund shall be used:

(a) to support capitated rates consistent with Subsection [~~26-36d-203~~] 26B-3-705(1)(d) for accountable care organizations as defined in Section 26B-3-701; and

(b) to reimburse money collected by the division from a hospital, as defined in Section 26B-3-701, through a mistake made under [~~this chapter~~] Chapter 3, Part 7, Hospital Provider Assessment.

(4) (a) Subject to Subsection (4)(b), for the fiscal year beginning July 1, 2019, and ending July 1, 2020, any fund balance in excess of the amount necessary to pay for the costs described in Subsection (3) shall be deposited into the General Fund.

(b) Subsection (4)(a) applies only to funds that were appropriated by the Legislature from the General Fund to the fund and the interest and penalties deposited into the fund under Subsection (2)(b).

Section 39. Section 26B-1-317, which is renumbered from Section 26-37a-107 is renumbered and amended to read:

[~~26-37a-107~~]. 26B-1-317. Ambulance Service Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Ambulance Service Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the division under [~~this chapter~~] Chapter 3, Part 8, Ambulance Service Provider Assessment;

(b) the penalties collected by the division under [~~this chapter~~] Chapter 3, Part 8, Ambulance Service Provider Assessment;

(c) donations to the fund; and

(d) appropriations by the Legislature.

(3) Money in the fund shall be used:

(a) to support fee-for-service rates; and

(b) to reimburse money to an ambulance service provider, as defined in Section 26B-3-801, that is collected by the division from the ambulance service provider through a mistake made under [~~this chapter~~] Chapter 3, Part 8, Ambulance Service Provider Assessment.

(4) (a) Subject to Subsection (4)(b), for the fiscal year beginning July 1, 2019, and ending July 1, 2020, any fund balance in excess of the amount necessary to pay for the costs described in Subsection (3) shall be deposited into the General Fund.

(b) Subsection (4)(a) applies only to funds that were appropriated by the Legislature from the General Fund to the fund and the penalties deposited into the fund under Subsection (2)(b).

Section 40. Section 26B-1-318, which is renumbered from Section 26-50-201 is renumbered and amended to read:

[~~26-50-201~~]. 26B-1-318. Traumatic Brain Injury Fund -- Creation -- Administration -- Uses.

(1) There is created an expendable special revenue fund [~~entitled~~] known as the "Traumatic Brain Injury Fund."

(2) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and

(b) additional amounts as appropriated by the Legislature.

(3) The fund shall be administered by the executive director.

(4) Fund money may be used to:

(a) educate the general public and professionals regarding understanding, treatment, and prevention of traumatic brain injury;

(b) provide access to evaluations and coordinate short-term care to assist an individual in identifying services or support needs, resources, and benefits for which the individual may be eligible;

(c) develop and support an information and referral system for persons with a traumatic brain injury and their families; and

(d) provide grants to persons or organizations to provide the services described in Subsections (4)(a), (b), and (c).

(5) Not less that 50% of the fund shall be used each fiscal year to directly assist individuals who meet the qualifications described in Subsection (6).

(6) An individual who receives services either paid for from the fund, or through an organization under contract with the fund, shall:

(a) be a resident of Utah;

(b) have been diagnosed by a qualified professional as having a traumatic brain injury which results in impairment of cognitive or physical function; and

(c) have a need that can be met within the requirements of this [~~chapter~~] section.

(7) The fund may not duplicate any services or support mechanisms being provided to an individual by any other government or private agency.

(8) All actual and necessary operating expenses for the [~~committee~~] Traumatic Brain Injury Advisory Committee created in Section 26B-1-417 and staff shall be paid by the fund.

(9) The fund may not be used for medical treatment, long-term care, or acute care.

Section 41. Section 26B-1-319, which is renumbered from Section 26-54-102 is renumbered and amended to read:

[~~26-54-102~~]. 26B-1-319. Spinal Cord and Brain Injury Rehabilitation Fund -- Creation -- Administration -- Uses.

(1) As used in this section, a "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:

(a) provides rehabilitation services to individuals in the state:

(i) who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating; and

(ii) who require post-acute care;

(b) employs licensed therapy clinicians;

(c) has at least five years experience operating a post-acute care rehabilitation clinic in the state; and

(d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

(2) There is created an expendable special revenue fund known as the "Spinal Cord and Brain Injury Rehabilitation Fund."

(3) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(b) a portion of the impound fee as designated in Section 41-6a-1406;

(c) the fees collected by the Motor Vehicle Division under Subsections 41-1a-1201(9) and 41-22-8(3); and

(d) amounts appropriated by the Legislature.

(4) The fund shall be administered by the executive director of the department, in consultation with the advisory committee created in Section [~~26-54-103~~] 26B-1-418.

(5) Fund money shall be used to:

(a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide rehabilitation services to individuals who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating, including:

(i) physical, occupational, and speech therapy; and

(ii) equipment for use in the qualified charitable clinic; and

(b) pay for operating expenses of the [~~advisory committee~~] Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee created by Section [~~26-54-103~~] 26B-1-418, including the advisory committee's staff.

Section 42. Section 26B-1-320, which is renumbered from Section 26-54-102.5 is renumbered and amended to read:

[~~26-54-102.5~~]. 26B-1-320. Pediatric Neuro-Rehabilitation Fund -- Creation -- Administration -- Uses.

(1) As used in this section, a "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:

(a) provides services for children in the state:

(i) with neurological conditions, including:

(A) cerebral palsy; and

(B) spina bifida; and

(ii) who require post-acute care;

(b) employs licensed therapy clinicians;

(c) has at least five years experience operating a post-acute care rehabilitation clinic in the state; and

(d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

(2) There is created an expendable special revenue fund known as the "Pediatric Neuro-Rehabilitation Fund."

(3) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and

(b) amounts appropriated to the fund by the Legislature.

(4) The fund shall be administered by the executive director of the department, in consultation with the advisory committee created in Section [~~26-54-103~~] 26B-1-418.

(5) Fund money shall be used to:

(a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide physical or occupational therapy to children with neurological conditions; and

(b) pay for operating expenses of the [~~advisory committee~~] Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee created by Section [~~26-54-103~~] 26B-1-418, including the advisory committee's staff.

Section 43. Section 26B-1-321, which is renumbered from Section 26-58-102 is renumbered and amended to read:

[~~26-58-102~~]. 26B-1-321. Children with Heart Disease Support Restricted Account -- Creation -- Administration -- Uses.

(1) As used in this section, "account" means the Children with Heart Disease Support Restricted Account created in Subsection (2).

(2) There is created in the General Fund a restricted account known as the "Children with Heart Disease Support Restricted Account."

(3) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest and earnings on fund money.

(4) The Legislature shall appropriate money in the account to the department.

(5) Upon appropriation, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(b) have programs that provide awareness, education, support services, and advocacy for and on behalf of children with heart disease.

(6) (a) An organization described in Subsection (5) may apply to the department to receive a distribution in accordance with Subsection (5).

(b) An organization that receives a distribution from the department in accordance with Subsection (5) shall expend the distribution only to provide awareness, education, support services, and advocacy for and on behalf of children with heart disease.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under Subsection (5).

(7) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Section 44. Section 26B-1-322, which is renumbered from Section 26-67-205 is renumbered and amended to read:

[~~26-67-205~~]. 26B-1-322. Adult Autism Treatment Account.

(1) There is created within the General Fund a restricted account known as the "Adult Autism Treatment Account."

(2) The account consists of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the [~~fund~~] account from private sources;

(b) interest earned on money in the account; and

(c) money appropriated to the account by the Legislature.

(3) Money from the [~~fund~~] account shall be used only to:

(a) fund grants awarded by the department under Section [~~26-67-201~~] 26B-4-602; and

(b) pay the [~~advisory committee's~~] operating expenses of the Adult Autism Treatment Program Advisory Committee created in Section 26B-1-204, including the cost of advisory committee staff if approved by the executive director.

(4) The state treasurer shall invest the money in the account in accordance with Title 51, Chapter 7, State Money Management Act.

Section 45. Section 26B-1-323, which is renumbered from Section 62A-3-110 is renumbered and amended to read:

[~~62A-3-110~~]. 26B-1-323. Out and About Homebound Transportation Assistance Fund -- Creation -- Administration -- Uses.

(1) (a) There is created an expendable special revenue fund known as the "Out and About[~~"~~] Homebound Transportation Assistance Fund."

(b) The [~~"~~]Out and About[~~"~~] Homebound Transportation Assistance Fund shall consist of:

(i) private contributions;

(ii) donations or grants from public or private entities;

(iii) voluntary donations collected under Section 53-3-214.8; and

(iv) interest and earnings on account money.

(c) The cost of administering the [~~"~~]Out and About[~~"~~] Homebound Transportation Assistance Fund shall be paid from money in the fund.

(2) The Division of Aging and Adult Services in the [~~Department of Human Services~~] department shall:

(a) administer the funds contained in the [~~"~~]Out and About[~~"~~] Homebound Transportation Assistance Fund; and

(b) select qualified organizations and distribute the funds in the [~~"~~]Out and About[~~"~~] Homebound Transportation Assistance Fund in accordance with Subsection (3).

(3) (a) The division may distribute the funds in the [~~"~~]Out and About[~~"~~] Homebound Transportation Assistance Fund to a selected organization that provides public transportation to aging persons, high risk adults, or people with disabilities.

(b) An organization that provides public transportation to aging persons, high risk adults, or people with disabilities may apply to the Division of Aging and Adult Services, in a manner prescribed by the division, to receive all or part of the money contained in the [~~"~~]Out and About[~~"~~] Homebound Transportation Assistance Fund.

Section 46. Section 26B-1-324, which is renumbered from Section 62A-15-123 is renumbered and amended to read:

[~~62A-15-123~~]. 26B-1-324. Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses.

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

(2) (a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.

(b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.

(c) Except as provided in Subsection (2)(d), the division shall prioritize expending funds from the account as follows:

(i) the Statewide Mental Health Crisis Line, as defined in Section [~~62A-15-1301~~] 26B-5-610, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;

(ii) mitigation of any negative impacts on 911 emergency service from 988 services;

(iii) mobile crisis outreach teams as defined in Section [~~62A-15-1401~~] 26B-5-609, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) behavioral health receiving centers as defined in Section [~~62A-15-118~~] 26B-5-114;

(v) stabilization services as described in Section [~~62A-1-104~~] 26B-1-102; and

(vi) mental health crisis services, as defined in Section 26B-5-101, provided by local substance abuse authorities as described in Section 17-43-201 and local mental health authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis as defined in Section 26B-5-101.

(d) If the Legislature appropriates money to the account for a purpose described in Subsection (2)(c), the division shall use the appropriation for that purpose.

(3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.

(4) The division director shall submit and make available to the public a report before December of each year to the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative Management Committee that includes:

(a) the amount of each disbursement from the account;

(b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(c) any conditions placed by the division on the disbursements from the account;

(d) the anticipated expenditures from the account for the next fiscal year;

(e) the amount of any unexpended funds carried forward;

(f) the number of Statewide Mental Health Crisis Line calls received;

(g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and

(h) other relevant justification for ongoing support from the account.

Section 47. Section 26B-1-325, which is renumbered from Section 62A-15-1103 is renumbered and amended to read:

[~~62A-15-1103~~]. 26B-1-325. Governor's Suicide Prevention Fund -- Creation -- Administration -- Uses.

(1) There is created an expendable special revenue fund known as the "Governor's Suicide Prevention Fund."

(2) The fund shall consist of donations described in Section 41-1a-422, gifts, grants, and bequests of real property or personal property made to the fund.

(3) A donor to the fund may designate a specific purpose for the use of the donor's donation, if the designated purpose is described in Subsection (4).

(4) (a) Subject to Subsection (3), money in the fund shall be used for the following activities:

(i) efforts to directly improve mental health crisis response;

(ii) efforts that directly reduce risk factors associated with suicide; and

(iii) efforts that directly enhance known protective factors associated with suicide reduction.

(b) Efforts described in Subsections (4)(a)(ii) and (iii) include the components of the state suicide prevention program described in Subsection [~~62A-15-1101~~] 26B-5-611(3).

(5) The [~~division~~] Office of Substance Use and Mental Health shall establish a grant application and review process for the expenditure of money from the fund.

(6) The grant application and review process shall describe:

(a) requirements to complete a grant application;

(b) requirements to receive funding;

(c) criteria for the approval of a grant application;

(d) standards for evaluating the effectiveness of a project proposed in a grant application; and

(e) support offered by the [~~division~~] office to complete a grant application.

(7) The [~~division~~] Office of Substance Use and Mental Health shall:

(a) review a grant application for completeness;

(b) make a recommendation to the governor or the governor's designee regarding a grant application;

(c) send a grant application to the governor or the governor's designee for evaluation and approval or rejection;

(d) inform a grant applicant of the governor or the governor's designee's determination regarding the grant application; and

(e) direct the fund administrator to release funding for grant applications approved by the governor or the governor's designee.

(8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited into the fund.

(9) Money in the fund may not be used for the Office of the Governor's administrative expenses that are normally provided for by legislative appropriation.

(10) The governor or the governor's designee may authorize the expenditure of fund money in accordance with this section.

(11) The governor shall make an annual report to the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.

Section 48. Section 26B-1-326, which is renumbered from Section 62A-15-1104 is renumbered and amended to read:

[~~62A-15-1104~~]. 26B-1-326. Suicide Prevention and Education Fund.

(1) There is created an expendable special revenue fund known as the Suicide Prevention and Education Fund.

(2) The fund shall consist of funds transferred from the Concealed Weapons Account in accordance with Subsection 53-5-707(5)(d).

(3) Money in the fund shall be used for suicide prevention efforts that include a focus on firearm safety as related to suicide prevention.

(4) The [~~division~~] Office of Substance Use and Mental Health shall establish a process by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expenditure of money from the fund.

(5) The [~~division~~] Office of Substance Use and Mental Health shall make an annual report to the Legislature regarding the status of the fund, including a report detailing amounts received, expenditures made, and programs and services funded.

Section 49. Section 26B-1-327, which is renumbered from Section 62A-15-1502 is renumbered and amended to read:

[~~62A-15-1502~~]. 26B-1-327. Survivors of Suicide Loss Account.

(1) As used in this section:

(a) (i) "Cohabitant" means an individual who lives with another individual.

(ii) "Cohabitant" does not include a relative.

(b) "Relative" means father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

[~~(1)~~] (2) (a) There is created a restricted account within the General Fund known as the "Survivors of Suicide Loss Account."

[~~(2)~~] (b) The [~~division~~] Office of Substance Use and Mental Health shall administer the account in accordance with this part.

(3) The account shall consist of:

(a) money appropriated to the account by the Legislature; and

(b) interest earned on money in the account.

(4) Upon appropriation, the [~~division~~] Office of Substance Use and Mental Health shall award grants from the account to a person who provides, for no or minimal cost:

(a) clean-up of property affected or damaged by an individual's suicide, as reimbursement for the costs incurred for the clean-up; and

(b) bereavement services to a relative, legal guardian, or cohabitant of an individual who dies by suicide.

(5) Before November 30 of each year, the [~~division~~] Office of Substance Use and Mental Health shall report to the Health and Human Services Interim Committee regarding the status of the account and expenditures made from the account.

Section 50. Section 26B-1-328, which is renumbered from Section 62A-15-1602 is renumbered and amended to read:

[~~62A-15-1602~~]. 26B-1-328. Psychiatric and Psychotherapeutic Consultation Program Account -- Creation -- Administration -- Uses.

(1) As used in this section:

(a) "Child care" means the child care services defined in Section 35A-3-102 for a child during early childhood.

(b) "Child care provider" means a person who provides child care or mental health support or interventions to a child during early childhood.

(c) "Child mental health care facility" means a facility that provides licensed mental health care programs and services to children and families and employs a child mental health therapist.

(d) "Child mental health therapist" means a mental health therapist who:

(i) is knowledgeable and trained in early childhood mental health; and

(ii) provides mental health services to children during early childhood.

(e) "Division" means the Division of Integrated Healthcare within the department.

(f) "Early childhood" means the time during which a child is zero to six years old.

(g) "Early childhood psychotherapeutic telehealth consultation" means a consultation regarding a child's mental health care during the child's early childhood between a child care provider or a mental health therapist and a child mental health therapist that is focused on psychotherapeutic and psychosocial interventions and is completed through the use of electronic or telephonic communication.

(h) "Health care facility" means a facility that provides licensed health care programs and

services and employs at least two psychiatrists, at least one of whom is a child psychiatrist.

(i) "Primary care provider" means:

(i) an individual who is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(ii) a physician as defined in Section 58-67-102; or

(iii) a physician assistant as defined in Section 58-70a-102.

(j) "Psychiatrist" means a physician who is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(k) "Telehealth psychiatric consultation" means a consultation regarding a patient's mental health care, including diagnostic clarification, medication adjustment, or treatment planning, between a primary care provider and a psychiatrist that is completed through the use of electronic or telephonic communication.

[~~(1)~~] (2) There is created a restricted account within the General Fund known as the "Psychiatric and Psychotherapeutic Consultation Program Account."

[~~(2)~~] (3) (a) The [~~division~~] Office of Substance Use and Mental Health shall administer the account in accordance with this [~~part~~] section.

[~~(3)~~] (b) The account shall consist of:

[~~(a)~~] (i) money appropriated to the account by the Legislature; and

[~~(b)~~] (ii) interest earned on money in the account.

(4) Upon appropriation, the [~~division~~] Office of Substance Use and Mental Health shall award grants from the account to:

(a) at least one health care facility to implement a program that provides a primary care provider access to a telehealth psychiatric consultation when the primary care provider is evaluating a patient for or providing a patient mental health treatment; and

(b) at least one child mental health care facility to implement a program that provides access to an early childhood psychotherapeutic telehealth consultation to:

(i) a mental health therapist as defined in Section 58-60-102 when the mental health therapist is evaluating a child for or providing a child mental health treatment; or

(ii) a child care provider when the child care provider is providing child care to a child.

(5) The [~~division~~] Office of Substance Use and Mental Health may award and distribute grant money to a health care facility or child mental health care facility only if the health care facility or child mental health care facility:

(a) is located in the state; and

(b) submits an application in accordance with Subsection (6).

(6) An application for a grant under this section shall include:

(a) the number of psychiatrists employed by the health care facility or the number of child mental health therapists employed by the child mental health care facility;

(b) the health care facility's or child mental health care facility's plan to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4);

(c) the estimated cost to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4);

(d) any plan to use one or more funding sources in addition to a grant under this section to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4);

(e) the amount of grant money requested to fund the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4); and

(f) any existing or planned contract or partnership between the health care facility and another person to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4).

(7) A health care facility or child mental health care facility that receives grant money under this section shall file a report with the division before October 1 of each year that details for the immediately preceding calendar year:

(a) the type and effectiveness of each service provided in the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program;

(b) the utilization of the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program based on metrics or categories determined by the division;

(c) the total amount expended from the grant money; and

(d) the intended use for grant money that has not been expended.

(8) Before November 30 of each year, the [~~division~~] department shall report to the Health and Human Services Interim Committee regarding:

(a) the status of the account and expenditures made from the account; and

(b) a summary of any report provided to the division under Subsection (7).

Section 51. Section 26B-1-329, which is renumbered from Section 62A-15-1702 is renumbered and amended to read:

[~~62A-15-1702~~]. 26B-1-329. Mental Health Services Donation Fund.

(1) As used in this section:

(a) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(b) "Mental health therapy" means treatment or prevention of a mental illness, including:

(i) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized by mental health therapists;

(ii) establishing a diagnosis in accordance with established written standards generally recognized by mental health therapists;

(iii) prescribing a plan or medication for the prevention or treatment of a condition of a mental illness or an emotional disorder; and

(iv) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized by mental health therapists.

(c) "Qualified individual" means an individual who:

(i) is experiencing a mental health crisis; and

(ii) calls a local mental health crisis line as defined in Section 26B-5-610 or the statewide mental health crisis line as defined in Section 26B-5-610.

[~~(1)~~] (2) There is created an expendable special revenue fund known as the "Mental Health Services Donation Fund."

[~~(2)~~] (3) (a) The fund shall consist of:

[~~(a)~~] (i) gifts, grants, donations, or any other conveyance of money that may be made to the fund from public or private individuals or entities; and

[~~(b)~~] (ii) interest earned on money in the fund.

[~~(3)~~] (b) The [~~division~~] Office of Substance Use and Mental Health shall administer the fund in accordance with this section.

(4) The [~~division~~] Office of Substance Use and Mental Health shall award fund money to an entity in the state that provides mental health and substance [~~abuse~~] use treatment for the purpose of:

(a) providing through telehealth or in-person services, mental health therapy to qualified individuals;

(b) providing access to evaluations and coordination of short-term care to assist a qualified individual in identifying services or support needs, resources, or benefits for which the qualified individual may be eligible; and

(c) developing a system for a qualified individual and a qualified individual's family to access information and referrals for mental health therapy.

(5) Fund money may only be used for the purposes described in Subsection (4).

(6) The [~~division~~] Office of Substance Use and Mental Health shall provide an annual report to the Behavioral Health Crisis Response Commission, created in Section 63C-18-202, regarding:

(a) the entity that is awarded a grant under Subsection (4);

(b) the number of qualified individuals served by the entity with fund money; and

(c) any costs or benefits as a result of the award of the grant.

Section 52. Section 26B-1-330, which is renumbered from Section 62A-5-206.5 is renumbered and amended to read:

[~~62A-5-206.5~~]. 26B-1-330. Utah State Developmental Center Miscellaneous Donation Fund -- Use.

(1) There is created an expendable special revenue fund known as the "Utah State Developmental Center Miscellaneous Donation Fund."

(2) The [~~board~~] Utah State Developmental Center Board created in Section 26B-1-429 shall deposit donations made to the Utah State Developmental Center under Section [~~62A-1-111~~] 26B-1-202 into the expendable special revenue fund described in Subsection (1).

(3) The state treasurer shall invest the money in the fund described in Subsection (1) according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and the revenue received from the investment shall remain with the fund described in Subsection (1).

(4) (a) Except as provided in Subsection (5), the money or revenue in the fund described in Subsection (1) may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section [~~63J-1-211~~] 26B-1-202, the Legislature may not appropriate money or revenue from the fund described in Subsection (1) to eliminate or otherwise reduce an operating deficit if the money or revenue appropriated from the fund is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money or revenue in the fund described in Subsection (1) may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(5) (a) The [~~board~~] Utah State Developmental Center Board shall approve expenditures of money and revenue in the fund described in Subsection (1).

(b) The [~~board~~] Utah State Developmental Center Board may expend money and revenue in the fund described in Subsection (1) only:

(i) as designated by the donor; or

(ii) for the benefit of:

(A) residents of the [~~developmental center~~] Utah State Developmental Center, established in

accordance with Chapter 6, Part 5, Utah State Developmental Center; or

(B) individuals with disabilities who receive services and support from the Utah State Developmental Center, as described in Subsection [~~62A-5-201~~] 26B-6-502(2)(b).

(c) Money and revenue in the fund described in Subsection (1) may not be used for items normally paid for by operating revenues or for items related to personnel costs without specific legislative authorization.

Section 53. Section 26B-1-331, which is renumbered from Section 62A-5-206.7 is renumbered and amended to read:

[~~62A-5-206.7~~]. 26B-1-331. Utah State Developmental Center Long-Term Sustainability Fund -- Fund management.

(1) As used in this section:

(a) "Board" means the Utah State Developmental Center Board created in Section 26B-1-429.

(b) "Division" means the Division of Integrated Healthcare within the department.

(c) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Subsection (2).

(d) "Utah State Developmental Center" means the Utah State Developmental Center established in accordance with Chapter 6, Part 5, Utah State Developmental Center.

[~~(1)~~] (2) There is created a special revenue fund entitled the "Utah State Developmental Center Long-Term Sustainability Fund."

[~~(2)~~] (3) (a) The sustainability fund consists of:

[~~(a)~~] (i) revenue generated from the lease, except any lease existing on May 1, 1995, of land associated with the Utah State Developmental Center;

[~~(b)~~] (ii) all proceeds from the sale or other disposition of real property, water rights, or water shares associated with the Utah State Developmental Center; and

[~~(c)~~] (iii) all existing money in the Utah State Developmental Center Land Fund[~~, created in Section 62A-5-206.6~~].

[~~(3)~~] (b) The state treasurer shall invest sustainability fund money by following the procedures and requirements in [~~Section 62A-5-206.8~~] Subsection (8).

(4) (a) The board shall ensure that money or revenue deposited into the sustainability fund is irrevocable and is expended only as provided in Subsection (5).

(b) The Legislature may not amend the purposes in Subsection (5) for which money or revenue in the fund may be expended or committed to be expended, except by the affirmative vote of two-thirds of all the members elected to each house.

(5) (a) Money may be expended from the sustainability fund to:

(i) fulfill the functions of the Utah State Developmental Center described in Sections [~~62A-5-201 and 62A-5-203~~] 26B-6-502 and 26B-6-504; and

(ii) assist the division in the division's administration of services and supports described in Sections [~~62A-5-102 and 62A-5-103~~] 26B-6-402 and 26B-6-403.

(b) Money from the sustainability fund may not be expended:

(i) for a purpose other than the purposes described in Subsection (5)(a); or

(ii) to reduce the amount of money that the Legislature appropriates from the General Fund for the purposes described in Subsection (5)(a).

(6) Money may be expended from the sustainability fund only under the following conditions:

(a) if the balance of the sustainability fund is at least $5,000,000 at the end of the fiscal year, the board may expend the earnings generated by the sustainability fund during the fiscal year for a purpose described in Subsection (5)(a);

(b) if the balance of the sustainability fund is at least $50,000,000 at the end of the fiscal year, the Legislature may appropriate to the division up to 5% of the balance of the sustainability fund for a purpose described in Subsection (5)(a); and

(c) the board or the division may not expend any money from the sustainability fund, except as provided in Subsection (6)(a), without legislative appropriation.

(7) The sustainability fund is revocable only by the affirmative vote of two-thirds of all the members elected to each house of the Legislature.

(8) (a) The state treasurer shall invest the assets of the sustainability fund with the primary goal of providing for the stability, income, and growth of the principal.

(b) Nothing in this Subsection (8) requires a specific outcome in investing.

(c) The state treasurer may deduct any administrative costs incurred in managing sustainability fund assets from earnings before depositing earnings into the sustainability fund.

(d) (i) The state treasurer may employ professional asset managers to assist in the investment of assets of the sustainability fund.

(ii) The state treasurer may only provide compensation to asset managers from earnings generated by the sustainability fund's investments.

(e) The state treasurer shall invest and manage the sustainability fund assets as a prudent investor would under Section 67-19d-302.

Section 54. Section 26B-1-332, which is renumbered from Section 26-35a-106 is renumbered and amended to read:

[~~26-35a-106~~]. 26B-1-332. Nursing Care Facilities Provider Assessment Fund -- Creation -- Administration -- Uses.

(1) There is created an expendable special revenue fund known as the "Nursing Care Facilities Provider Assessment Fund" consisting of:

(a) the assessments collected by the department under [~~this chapter~~] Chapter 3, Part 4, Nursing Care Facility Assessment;

(b) fines paid by nursing care facilities for excessive Medicare inpatient revenue under Section [~~26-21-23~~] 26B-2-222;

(c) money appropriated or otherwise made available by the Legislature;

(d) any interest earned on the fund; and

(e) penalties levied with the administration of [~~this chapter~~] Chapter 3, Part 4, Nursing Care Facility Assessment.

(2) Money in the fund shall only be used by the Medicaid program:

(a) to the extent authorized by federal law, to obtain federal financial participation in the Medicaid program;

(b) to provide the increased level of hospice reimbursement resulting from the nursing care facilities assessment imposed under Section [~~26-35a-104~~] 26B-3-403;

(c) for the Medicaid program to make quality incentive payments to nursing care facilities, subject to approval of a Medicaid state plan amendment to do so by the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services;

(d) to increase the rates paid before July 1, 2004, to nursing care facilities for providing services pursuant to the Medicaid program; and

(e) for administrative expenses, if the administrative expenses for the fiscal year do not exceed 3% of the money deposited into the fund during the fiscal year.

(3) The department may not spend the money in the fund to replace existing state expenditures paid to nursing care facilities for providing services under the Medicaid program, except for increased costs due to hospice reimbursement under Subsection (2)(b).

Section 55. Section 26B-1-333 is enacted to read:

26B-1-333. Children's Hearing Aid Program Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Children's Hearing Aid Program Restricted Account."

(2) The Children's Hearing Aid Program Restricted Account shall consist of:

(a) amounts appropriated to the account by the Legislature; and

(b) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, or any other conveyance that may be made to the account from private sources.

(3) Upon appropriation, all actual and necessary operating expenses for the committee described in Section 26B-1-433 shall be paid by the restricted account.

(4) Upon appropriation, no more than 9% of the restricted account money may be used for the department's expenses.

(5) If this account is repealed in accordance with Section 63I-1-226, any remaining assets in the account shall be deposited into the General Fund.

Section 56. Section 26B-1-401, which is renumbered from Section 26-1-11 is renumbered and amended to read:

Part 4. Boards, Commissions, Councils, and Advisory Committees

[~~26-1-11~~]. 26B-1-401. Executive director -- Power to amend, modify, or rescind committee rules.

The executive director pursuant to the requirements of the Administrative Rulemaking Act may amend, modify, or rescind any rule of any committee created under Section 26B-1-204 if the rule creates a clear present hazard or clear potential hazard to the public health except that the executive director may not act until after discussion with the appropriate committee.

Section 57. Section 26B-1-402, which is renumbered from Section 26-1-41 is renumbered and amended to read:

[~~26-1-41~~]. 26B-1-402. Rare Disease Advisory Council Grant Program -- Creation -- Reporting.

(1) As used in this section:

(a) "Council" means the Rare Disease Advisory Council described in Subsection (3).

(b) "Grantee" means the recipient of a grant under this section to operate the program.

(c) "Rare disease" means a disease that affects fewer than 200,000 individuals in the United States.

(2) (a) Within legislative appropriations, the department shall issue a request for proposals for a grant to administer the provisions of this section.

(b) The department may issue a grant under this section if the grantee agrees to:

(i) convene the council in accordance with Subsection (3);

(ii) provide staff and other administrative support to the council; and

(iii) in coordination with the department, report to the Legislature in accordance with Subsection (4).

(3) The Rare Disease Advisory Council convened by the grantee shall:

(a) advise the Legislature and state agencies on providing services and care to individuals with a rare disease;

(b) make recommendations to the Legislature and state agencies on improving access to treatment and services provided to individuals with a rare disease;

(c) identify best practices to improve the care and treatment of individuals in the state with a rare disease;

(d) meet at least two times in each calendar year; and

(e) be composed of members identified by the department, including at least the following individuals:

(i) a representative from the department;

(ii) researchers and physicians who specialize in rare diseases, including at least one representative from the University of Utah;

(iii) two individuals who have a rare disease or are the parent or caregiver of an individual with a rare disease; and

(iv) two representatives from one or more rare disease patient organizations that operate in the state.

(4) Before November 30, 2021, and before November 30 of every odd-numbered year thereafter, the department shall report to the Health and Human Services Interim Committee on:

(a) the activities of the grantee and the council; and

(b) recommendations and best practices regarding the ongoing needs of individuals in the state with a rare disease.

Section 58. Section 26B-1-403, which is renumbered from Section 26-7-13 is renumbered and amended to read:

[~~26-7-13~~]. 26B-1-403. Opioid and Overdose Fatality Review Committee.

(1) As used in this section:

(a) "Committee" means the Opioid and Overdose Fatality Review Committee created in this section.

(b) "Opioid overdose death" means a death primarily caused by opioids or another substance that closely resembles an opioid.

(2) The department shall establish the Opioid and Overdose Fatality Review Committee.

(3) (a) The committee shall consist of:

(i) the attorney general, or the attorney general's designee;

(ii) a state, county, or municipal law enforcement officer;

(iii) the manager of the department's Violence Injury Prevention Program, or the manager's designee;

(iv) an emergency medical services provider;

(v) a representative from the Office of the Medical Examiner;

(vi) a representative from the [~~Division~~] Office of Substance [~~Abuse~~] Use and Mental Health;

(vii) a representative from the Office of Vital Records;

(viii) a representative from the Office of Health Care Statistics;

(ix) a representative from the Division of Professional Licensing;

(x) a healthcare professional who specializes in the prevention, diagnosis, and treatment of substance use disorders;

(xi) a representative from a state or local jail or detention center;

(xii) a representative from the Department of Corrections;

(xiii) a representative from the Division of Juvenile Justice and Youth Services;

(xiv) a representative from the Department of Public Safety;

(xv) a representative from the Commission on Criminal and Juvenile Justice;

(xvi) a physician from a Utah-based medical center; and

(xvii) a physician from a nonprofit vertically integrated health care organization.

(b) The president of the Senate may appoint one member of the Senate, and the speaker of the House of Representatives may appoint one member of the House of Representatives, to serve on the committee.

(4) The executive director [~~of the department~~] shall appoint a committee coordinator.

(5) (a) The department shall give the committee access to all reports, records, and other documents that are relevant to the committee's responsibilities under Subsection (6) including reports, records, or documents that are private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) In accordance with Subsection 63G-2-206(6), the committee is subject to the same restrictions on disclosure of a report, record, or other document received under Subsection (5)(a) as the department.

(6) The committee shall:

(a) conduct a multidisciplinary review of available information regarding a decedent of an opioid overdose death, which shall include:

(i) consideration of the decedent's points of contact with health care systems, social services systems, criminal justice systems, and other systems; and

(ii) identification of specific factors that put the decedent at risk for opioid overdose;

(b) promote cooperation and coordination among government entities involved in opioid misuse, abuse, or overdose prevention;

(c) develop an understanding of the causes and incidence of opioid overdose deaths in the state;

(d) make recommendations for changes to law or policy that may prevent opioid overdose deaths;

(e) inform public health and public safety entities of emerging trends in opioid overdose deaths;

(f) monitor overdose trends on non-opioid overdose deaths; and

(g) review non-opioid overdose deaths in the manner described in Subsection (6)(a), when the committee determines that there are a substantial number of overdose deaths in the state caused by the use of a non-opioid.

(7) A committee may interview or request information from a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the review of an opioid overdose death.

(8) A majority vote of committee members present constitutes the action of the committee.

(9) The committee may meet up to eight times each year.

(10) When an individual case is discussed in a committee meeting under Subsection (6)(a), (6)(g), or (7), the committee shall close the meeting in accordance with Sections 52-4-204 through 52-4-206.

Section 59. Section 26B-1-404, which is renumbered from Section 26-8a-103 is renumbered and amended to read:

[~~26-8a-103~~]. 26B-1-404. State Emergency Medical Services Committee -- Membership -- Expenses.

(1) The State Emergency Medical Services Committee created by Section 26B-1-204 shall be composed of the following 19 members appointed by the governor, at least six of whom shall reside in a county of the third, fourth, fifth, or sixth class:

(a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

(i) one surgeon who actively provides trauma care at a hospital;

(ii) one rural physician involved in emergency medical care;

(iii) two physicians who practice in the emergency department of a general acute hospital; and

(iv) one pediatrician who practices in the emergency department or critical care unit of a general acute hospital or a children's specialty hospital;

(b) two representatives from private ambulance providers as defined in Section 26B-4-101;

(c) one representative from an ambulance provider as defined in Section 26B-4-101 that is neither privately owned nor operated by a fire department;

(d) two chief officers from fire agencies operated by the following classes of licensed or designated emergency medical services providers[~~: municipality, county, and fire district~~], provided that no class of medical services providers may have more than one representative under this Subsection (1)(d)[~~;~~]:

(i) a municipality;

(ii) a county; and

(iii) a fire district;

(e) one director of a law enforcement agency that provides emergency medical services;

(f) one hospital administrator;

(g) one emergency care nurse;

(h) one paramedic in active field practice;

(i) one emergency medical technician in active field practice;

(j) one certified emergency medical dispatcher affiliated with an emergency medical dispatch center;

(k) one licensed mental health professional with experience as a first responder;

(l) one licensed behavioral emergency services technician; and

(m) one consumer.

(2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a four-year term beginning July 1.

(b) Notwithstanding Subsection (2)(a), the governor:

(i) shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years;

(ii) may not reappoint a member for more than two consecutive terms; and

(iii) shall:

(A) initially appoint the second member under Subsection (1)(b) from a different private provider

than the private provider currently serving under Subsection (1)(b); and

(B) thereafter stagger each replacement of a member in Subsection (1)(b) so that the member positions under Subsection (1)(b) are not held by representatives of the same private provider.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term.

(3) (a) (i) Each January, the committee shall organize and select one of the committee's members as chair and one member as vice chair.

(ii) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(b) (i) The chair shall convene a minimum of four meetings per year.

(ii) The chair may call special meetings.

(iii) The chair shall call a meeting upon request of five or more members of the committee.

(c) (i) Nine members of the committee constitute a quorum for the transaction of business.

(ii) The action of a majority of the members present is the action of the committee.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) Administrative services for the committee shall be provided by the department.

(6) The committee shall adopt rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) establish licensure, certification, and reciprocity requirements under Section 26B-4-116;

(b) establish designation requirements under Section 26B-4-117;

(c) promote the development of a statewide emergency medical services system under Section 26B-4-106;

(d) establish insurance requirements for ambulance providers;

(e) provide guidelines for requiring patient data under Section 26B-4-106;

(f) establish criteria for awarding grants under Section 26B-4-107;

(g) establish requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 26B-4-120;

(h) select appropriate vendors to establish certification requirements for emergency medical dispatchers;

(i) establish the minimum level of service for 911 ambulance services provided under Section 11-48-103; and

(j) are necessary to carry out the responsibilities of the committee as specified in other sections of this part.

Section 60. Section 26B-1-405, which is renumbered from Section 26-8a-107 is renumbered and amended to read:

[~~26-8a-107~~]. 26B-1-405. Air Ambulance Committee -- Membership -- Duties.

(1) The Air Ambulance Committee created by Section 26B-1-204 shall be composed of the following members:

(a) the state emergency medical services medical director;

(b) one physician who:

(i) is licensed under:

(A) Title 58, Chapter 67, Utah Medical Practice Act;

(B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

(C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) actively provides trauma or emergency care at a Utah hospital; and

(iii) has experience and is actively involved in state and national air medical transport issues;

(c) one member from each level 1 and level 2 trauma center in the state of Utah, selected by the trauma center the member represents;

(d) one registered nurse who:

(i) is licensed under Title 58, Chapter 31b, Nurse Practice Act; and

(ii) currently works as a flight nurse for an air medical transport provider in the state [~~of Utah~~];

(e) one paramedic who:

(i) is licensed under [~~this chapter~~] Chapter 4, Part 1, Utah Emergency Medical Services System; and

(ii) currently works for an air medical transport provider in the state [~~of Utah~~]; and

(f) two members, each from a different for-profit air medical transport company operating in the state [~~of Utah~~].

(2) The state emergency medical services medical director shall appoint the physician member under Subsection (1)(b), and the physician shall serve as the chair of the Air Ambulance Committee.

(3) The chair of the Air Ambulance Committee shall:

(a) appoint the Air Ambulance Committee members under Subsections (1)(c) through (f);

(b) designate the member of the Air Ambulance Committee to serve as the vice chair of the committee; and

(c) set the agenda for Air Ambulance Committee meetings.

(4) (a) Except as provided in Subsection (4)(b), members shall be appointed to a two-year term.

(b) Notwithstanding Subsection (4)(a), the Air Ambulance Committee chair shall, at the time of appointment or reappointment, adjust the length of the terms of committee members to ensure that the terms of the committee members are staggered so that approximately half of the committee is reappointed every two years.

(5) (a) A majority of the members of the Air Ambulance Committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the Air Ambulance Committee.

(6) The Air Ambulance Committee shall, before November 30, 2019, and before November 30 of every odd-numbered year thereafter, provide recommendations to the Health and Human Services Interim Committee regarding the development of state standards and requirements related to:

(a) air medical transport provider licensure and accreditation;

(b) air medical transport medical personnel qualifications and training; and

(c) other standards and requirements to ensure patients receive appropriate and high-quality medical attention and care by air medical transport providers operating in the state of Utah.

(7) (a) The committee shall prepare an annual report, using any data available to the department and in consultation with the Insurance Department, that includes the following information for each air medical transport provider that operates in the state:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available to the committee, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer.

(b) When calculating the average charge under Subsection (7)(a)(ii), the committee shall distinguish between:

(i) a rotary wing provider and a fixed wing provider; and

(ii) any other differences between air medical transport service providers that may substantially affect the cost of the air medical transport service, as determined by the committee.

(c) The department shall:

(i) post the committee's findings under Subsection (7)(a) on the department's website; and

(ii) send the committee's findings under Subsection (7)(a) to each emergency medical service provider, health care facility, and other entity that has regular contact with patients in need of air medical transport provider services.

(8) [~~An~~] A member of the Air Ambulance Committee [~~member~~] may not receive compensation, benefits, per diem, or travel expenses for the member's service on the committee.

(9) The Office of the Attorney General shall provide staff support to the Air Ambulance Committee.

(10) The Air Ambulance Committee shall report to the Health and Human Services Interim Committee before November 30, 2023, regarding the sunset of this section in accordance with Section 63I-2-226.

Section 61. Section 26B-1-406, which is renumbered from Section 26-8a-251 is renumbered and amended to read:

[~~26-8a-251~~]. 26B-1-406. Trauma System Advisory Committee.

(1) There is created within the department the [~~trauma system advisory committee~~] Trauma System Advisory Committee.

(2) (a) The committee shall be comprised of individuals knowledgeable in adult or pediatric trauma care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations.

(b) Representation on the committee shall be broad and balanced among the health care delivery systems in the state with no more than three representatives coming from any single delivery system.

(3) The committee shall:

(a) advise the department regarding trauma system needs throughout the state;

(b) assist the department in evaluating the quality and outcomes of the overall trauma system;

(c) review and comment on proposals and rules governing the statewide trauma system; and

(d) make recommendations for the development of statewide triage, treatment, transportation, and transfer guidelines.

(4) The department shall:

(a) determine, by rule, the term and causes for removal of committee members;

(b) establish committee procedures and administration policies consistent with this chapter and department rule; and

(c) provide administrative support to the committee.

Section 62. Section 26B-1-407, which is renumbered from Section 26-8d-104 is renumbered and amended to read:

[~~26-8d-104~~]. 26B-1-407. Stroke registry advisory committee.

(1) There is created within the department a stroke registry advisory committee.

(2) The stroke registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric stroke care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;

(b) advise the department regarding the development and implementation of the stroke registry created in Section 26B-7-225;

(c) assist the department in evaluating the quality and outcomes of the stroke registry created in Section 26B-7-225; and

(d) review and comment on proposals and rules governing the statewide stroke registry created in Section 26B-7-225.

Section 63. Section 26B-1-408, which is renumbered from Section 26-8d-105 is renumbered and amended to read:

[~~26-8d-105~~]. 26B-1-408. Cardiac registry advisory committee.

(1) There is created within the department a cardiac registry advisory committee.

(2) The cardiac registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric cardiac care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;

(b) advise the department regarding the development and implementation of the cardiac registry created in Section 26B-7-226;

(c) assist the department in evaluating the quality and outcomes of the cardiac registry created in Section 26B-7-226; and

(d) review and comment on proposals and rules governing the statewide cardiac registry created in Section 26B-7-226.

Section 64. Section 26B-1-409, which is renumbered from Section 26-9f-103 is renumbered and amended to read:

[~~26-9f-103~~]. 26B-1-409. Utah Digital Health Service Commission -- Creation -- Membership -- Duties.

(1) As used in this section:

(a) "Commission" means the Utah Digital Health Service Commission created in this section.

(b) "Digital health service" means the electronic transfer, exchange, or management of related data for diagnosis, treatment, consultation, educational, public health, or other related purposes.

[~~(1)~~] (2) There is created within the department the Utah Digital Health Service Commission.

[~~(2)~~] (3) The governor shall appoint 13 members to the commission with the advice and consent of the Senate, as follows:

(a) a physician who is involved in digital health service;

(b) a representative of a health care system or a licensed health care facility as [~~that term is~~] defined in Section [~~26-21-2~~] 26B-2-201;

(c) a representative of rural Utah, which may be a person nominated by an advisory committee on rural health issues;

(d) a member of the public who is not involved with digital health service;

(e) a nurse who is involved in digital health service; and

(f) eight members who fall into one or more of the following categories:

(i) individuals who use digital health service in a public or private institution;

(ii) individuals who use digital health service in serving medically underserved populations;

(iii) nonphysician health care providers involved in digital health service;

(iv) information technology professionals involved in digital health service;

(v) representatives of the health insurance industry;

(vi) telehealth digital health service consumer advocates; and

(vii) individuals who use digital health service in serving mental or behavioral health populations.

[~~(3)~~] (4) (a) The commission shall annually elect a chairperson from its membership. The chairperson shall report to the executive director of the department.

(b) The commission shall hold meetings at least once every three months. Meetings may be held from time to time on the call of the chair or a majority of the board members.

(c) Seven commission members are necessary to constitute a quorum at any meeting and, if a

quorum exists, the action of a majority of members present shall be the action of the commission.

[~~(4)~~] (5) (a) Except as provided in Subsection [~~(4)~~] (5)(b), a commission member shall be appointed for a three-year term and eligible for two reappointments.

(b) Notwithstanding Subsection [~~(4)~~] (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately 1/3 of the commission is appointed each year.

(c) A commission member shall continue in office until the expiration of the member's term and until a successor is appointed, which may not exceed 90 days after the formal expiration of the term.

(d) Notwithstanding Subsection [~~(4)~~] (5)(c), a commission member who fails to attend 75% of the scheduled meetings in a calendar year shall be disqualified from serving.

(e) When a vacancy occurs in membership for any reason, the replacement shall be appointed for the unexpired term.

[~~(5)~~] (6) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(6)~~] (7) The department shall provide informatics staff support to the commission.

[~~(7)~~] (8) The funding of the commission shall be a separate line item to the department in the annual appropriations act.

(9) The commission shall:

(a) advise and make recommendations on digital health service issues to the department and other state entities;

(b) advise and make recommendations on digital health service related patient privacy and information security to the department;

(c) promote collaborative efforts to establish technical compatibility, uniform policies, privacy features, and information security to meet legal, financial, commercial, and other societal requirements;

(d) identify, address, and seek to resolve the legal, ethical, regulatory, financial, medical, and technological issues that may serve as barriers to digital health service;

(e) explore and encourage the development of digital health service systems as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations with access to or development of electronic medical records;

(f) seek public input on digital health service issues; and

(g) in consultation with the department, advise the governor and Legislature on:

(i) the role of digital health service in the state;

(ii) the policy issues related to digital health service;

(iii) the changing digital health service needs and resources in the state; and

(iv) state budgetary matters related to digital health service.

Section 65. Section 26B-1-410, which is renumbered from Section 26-10b-106 is renumbered and amended to read:

[~~26-10b-106~~]. 26B-1-410. Primary Care Grant Committee.

(1) As used in this section:

(a) "Committee" means the Primary Care Grant Committee created in Subsection (2).

(b) "Program" means the Primary Care Grant Program described in Sections 26B-4-310 and 26B-4-313.

(2) There is created the Primary Care Grant Committee.

[~~(1)~~] (3) The committee shall:

(a) review grant applications forwarded to the committee by the department under Subsection [~~26-10b-104~~] 26B-4-312(1);

(b) recommend, to the executive director, grant applications to award under Subsection [~~26-10b-102~~] 26B-4-310(1);

(c) evaluate:

(i) the need for primary health care as defined in Section 26B-4-301 in different areas of the state;

(ii) how the program is addressing those needs; and

(iii) the overall effectiveness and efficiency of the program;

(d) review annual reports from primary care grant recipients;

(e) meet as necessary to carry out its duties, or upon a call by the committee chair or by a majority of committee members; and

(f) make rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the committee, including the committee's grant selection criteria.

[~~(2)~~] (4) The committee shall consist of:

(a) as chair, the executive director or an individual designated by the executive director; and

(b) six members appointed by the governor to serve up to two consecutive, two-year terms of office, including:

(i) four licensed health care professionals; and

(ii) two community advocates who are familiar with a medically underserved population as defined in Section 26B-4-301 and with health care systems, where at least one is familiar with a rural medically underserved population.

[~~(3)~~] (5) The executive director may remove a committee member:

(a) if the member is unable or unwilling to carry out the member's assigned responsibilities; or

(b) for a rational reason.

[~~(4)~~] (6) A committee member may not receive compensation or benefits for the member's service, except a committee member who is not an employee of the department may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 66. Section 26B-1-411, which is renumbered from Section 26-18a-2 is renumbered and amended to read:

[~~26-18a-2~~]. 26B-1-411. Creation and membership of Kurt Oscarson Children's Organ Transplant Coordinating Committee -- Expenses -- Purposes.

(1) There is created the Kurt Oscarson Children's Organ Transplant Coordinating Committee.

(2) The committee shall have five members representing the following:

(a) the executive director [~~of the Department of Health or his~~] or the executive director's designee;

(b) two representatives from public or private agencies and organizations concerned with providing support and financial assistance to the children and families of children who need organ transplants; and

(c) two individuals who have had organ transplants, have children who have had organ transplants, who work with families or children who have had or are awaiting organ transplants, or community leaders or volunteers who have demonstrated an interest in working with families or children in need of organ transplants.

(3) (a) The governor shall appoint the committee members and designate the chair from among the committee members.

(b) (i) Except as required by Subsection (3)(b)(ii), each member shall serve a four-year term.

(ii) Notwithstanding the requirements of Subsection (3)(b)(i), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of the committee members are staggered so that approximately half of the committee is appointed every two years.

(4) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The [~~Department of Health~~] department shall provide support staff for the committee.

(6) The committee shall work to:

(a) provide financial assistance for initial medical expenses of children who need organ transplants;

(b) obtain the assistance of volunteer and public service organizations; and

(c) fund activities as the committee designates for the purpose of educating the public about the need for organ donors.

(7) (a) The committee is responsible for awarding financial assistance funded by the Kurt Oscarson Children's Organ Transplant Account created in Section 26B-1-311.

(b) The financial assistance awarded by the committee under Subsection (6)(a) shall be in the form of interest free loans. The committee may establish terms for repayment of the loans, including a waiver of the requirement to repay any awards if, in the committee's judgment, repayment of the loan would impose an undue financial burden on the recipient.

(c) In making financial awards under Subsection (6)(a), the committee shall consider:

(i) need;

(ii) coordination with or enhancement of existing services or financial assistance, including availability of insurance or other state aid;

(iii) the success rate of the particular organ transplant procedure needed by the child; and

(iv) the extent of the threat to the child's life without the organ transplant.

(d) The committee may only provide the assistance described in this section to children who have resided in Utah, or whose legal guardians have resided in Utah for at least six months prior to the date of assistance under this section.

(8) (a) The committee may expend up to 5% of the committee's annual appropriation for administrative costs associated with the allocation of funds from the Kurt Oscarson Children's Organ Transplant Account created in Section 26B-1-311.

(b) The administrative costs shall be used for the costs associated with staffing the committee and for State Tax Commission costs in implementing Section 59-10-1308.

Section 67. Section 26B-1-412, which is renumbered from Section 26-21-3 is renumbered and amended to read:

[~~26-21-3~~]. 26B-1-412. Health Facility Committee -- Members -- Terms -- Organization -- Meetings.

(1) The definitions in Section 26B-2-201 apply to this section.

[~~(1)~~] (2) (a) The [~~committee~~] Health Facility Committee shall consist of 12 members appointed by the governor in consultation with the executive director.

(b) The appointed members shall be knowledgeable about health care facilities and issues.

[~~(2)~~] (3) The membership of the committee is:

(a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is a graduate of a regularly chartered medical school;

(b) one hospital administrator;

(c) one hospital trustee;

(d) one representative of a freestanding ambulatory surgical facility;

(e) one representative of an ambulatory surgical facility that is affiliated with a hospital;

(f) one representative of the nursing care facility industry;

(g) one registered nurse, licensed to practice under Title 58, Chapter 31b, Nurse Practice Act;

(h) one licensed architect or engineer with expertise in health care facilities;

(i) one representative of assisted living facilities licensed under [~~this chapter~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

(j) two consumers, one of whom has an interest in or expertise in geriatric care; and

(k) one representative from either a home health care provider or a hospice provider.

[~~(3)~~] (4) (a) Except as required by Subsection [~~(3)~~] (4)(b), members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection [~~(3)~~] (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, giving consideration to recommendations made by the committee, with the consent of the Senate.

(d) (i) A member may not serve more than two consecutive full terms or 10 consecutive years, whichever is less. [~~However,~~]

(ii) Notwithstanding Subsection (4)(d)(i), a member may continue to serve as a member until the member is replaced.

(e) The committee shall annually elect from [~~its~~] the committee's membership a chair and vice chair.

(f) The committee shall meet at least quarterly, or more frequently as determined by the chair or five members of the committee.

(g) Six members constitute a quorum.

(h) A vote of the majority of the members present constitutes action of the committee.

(5) The committee shall:

(a) with the concurrence of the department, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for the licensing of health-care facilities; and

(ii) requiring the submission of architectural plans and specifications for any proposed new health-care facility or renovation to the department for review;

(b) approve the information for applications for licensure pursuant to Section 26B-2-207;

(c) advise the department as requested concerning the interpretation and enforcement of the rules established under Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(d) advise, consult, cooperate with, and provide technical assistance to other agencies of the state and federal government, and other states and affected groups or persons in carrying out the purposes of Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 68. Section 26B-1-413, which is renumbered from Section 26-33a-104 is renumbered and amended to read:

[~~26-33a-104~~]. 26B-1-413. Health Data Committee -- Purpose, powers, and duties of the committee -- Membership -- Terms -- Chair -- Compensation.

(1) The definitions in Section 26B-8-501 apply to this section.

[~~(1)~~] (2) (a) There is created within the department the Health Data Committee.

(b) The purpose of the committee is to direct a statewide effort to collect, analyze, and distribute health care data to facilitate the promotion and

accessibility of quality and cost-effective health care and also to facilitate interaction among those with concern for health care issues.

[~~(2)~~] (3) The committee shall:

(a) with the concurrence of the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, develop and adopt by rule, following public hearing and comment, a health data plan that shall among its elements:

(i) identify the key health care issues, questions, and problems amenable to resolution or improvement through better data, more extensive or careful analysis, or improved dissemination of health data;

(ii) document existing health data activities in the state to collect, organize, or make available types of data pertinent to the needs identified in Subsection [~~(2)~~] (3)(a)(i);

(iii) describe and prioritize the actions suitable for the committee to take in response to the needs identified in Subsection [~~(2)~~] (3)(a)(i) in order to obtain or to facilitate the obtaining of needed data, and to encourage improvements in existing data collection, interpretation, and reporting activities, and indicate how those actions relate to the activities identified under Subsection [~~(2)~~] (3)(a)(ii);

(iv) detail the types of data needed for the committee's work, the intended data suppliers, and the form in which such data are to be supplied, noting the consideration given to the potential alternative sources and forms of such data and to the estimated cost to the individual suppliers as well as to the department of acquiring these data in the proposed manner; the plan shall reasonably demonstrate that the committee has attempted to maximize cost-effectiveness in the data acquisition approaches selected;

(v) describe the types and methods of validation to be performed to assure data validity and reliability;

(vi) explain the intended uses of and expected benefits to be derived from the data specified in Subsection [~~(2)~~] (3)(a)(iv), including the contemplated tabulation formats and analysis methods; the benefits described shall demonstrably relate to one or more of the following:

(A) promoting quality health care;

(B) managing health care costs; or

(C) improving access to health care services;

(vii) describe the expected processes for interpretation and analysis of the data flowing to the committee; noting specifically the types of expertise and participation to be sought in those processes; and

(viii) describe the types of reports to be made available by the committee and the intended audiences and uses;

(b) have the authority to collect, validate, analyze, and present health data in accordance with the plan while protecting individual privacy through the use of a control number as the health data identifier;

(c) evaluate existing identification coding methods and, if necessary, require by rule adopted in accordance with Subsection [~~(3)~~] (4), that health data suppliers use a uniform system for identification of patients, health care facilities, and health care providers on health data they submit under this [~~chapter~~] section and Chapter 8, Part 5, Utah Health Data Authority; and

(d) advise, consult, contract, and cooperate with any corporation, association, or other entity for the collection, analysis, processing, or reporting of health data identified by control number only in accordance with the plan.

[~~(3)~~] (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may adopt rules to carry out the provisions of this [~~chapter~~] section and Chapter 8, Part 5, Utah Health Data Authority.

[~~(4)~~] (5) (a) Except for data collection, analysis, and validation functions described in this section, nothing in this [~~chapter~~] section or in Chapter 8, Part 5, Utah Health Data Authority, shall be construed to authorize or permit the committee to perform regulatory functions which are delegated by law to other agencies of the state or federal governments or to perform quality assurance or medical record audit functions that health care facilities, health care providers, or third party payors are required to conduct to comply with federal or state law.

(b) The committee may not recommend or determine whether a health care provider, health care facility, third party payor, or self-funded employer is in compliance with federal or state laws including federal or state licensure, insurance, reimbursement, tax, malpractice, or quality assurance statutes or common law.

[~~(5)~~] (6) (a) Nothing in this [~~chapter~~] section or in Chapter 8, Part 5, Utah Health Data Authority, shall be construed to require a data supplier to supply health data identifying a patient by name or describing detail on a patient beyond that needed to achieve the approved purposes included in the plan.

[~~(6)~~] (7) No request for health data shall be made of health care providers and other data suppliers until a plan for the use of such health data has been adopted.

[~~(7)~~] (8) (a) If a proposed request for health data imposes unreasonable costs on a data supplier, due consideration shall be given by the committee to altering the request.

(b) If the request is not altered, the committee shall pay the costs incurred by the data supplier associated with satisfying the request that are demonstrated by the data supplier to be unreasonable.

[~~(8)~~] (9) After a plan is adopted as provided in Section [~~26-33a-106.1~~] 26B-8-504, the committee

may require any data supplier to submit fee schedules, maximum allowable costs, area prevailing costs, terms of contracts, discounts, fixed reimbursement arrangements, capitations, or other specific arrangements for reimbursement to a health care provider.

[~~(9)~~] (10) (a) The committee may not publish any health data collected under Subsection [~~(8)~~] (9) that would disclose specific terms of contracts, discounts, or fixed reimbursement arrangements, or other specific reimbursement arrangements between an individual provider and a specific payer.

[~~(10)~~] (b) Nothing in Subsection [~~(8)~~] (9) shall prevent the committee from requiring the submission of health data on the reimbursements actually made to health care providers from any source of payment, including consumers.

(11) The committee shall be composed of 15 members.

(12) (a) One member shall be:

(i) the commissioner of the Utah Insurance Department; or

(ii) the commissioner's designee who shall have knowledge regarding the health care system and characteristics and use of health data.

(b) (i) Fourteen members shall be appointed by the governor with the advice and consent of the Senate in accordance with Subsection (13) and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(ii) No more than seven members of the committee appointed by the governor may be members of the same political party.

(13) The members of the committee appointed under Subsection (12)(b) shall:

(a) be knowledgeable regarding the health care system and the characteristics and use of health data;

(b) be selected so that the committee at all times includes individuals who provide care;

(c) include one person employed by or otherwise associated with a general acute hospital as defined in Section 26B-2-201, who is knowledgeable about the collection, analysis, and use of health care data;

(d) include two physicians, as defined in Section 58-67-102:

(i) who are licensed to practice in this state;

(ii) who actively practice medicine in this state;

(iii) who are trained in or have experience with the collection, analysis, and use of health care data; and

(iv) one of whom is selected by the Utah Medical Association;

(e) include three persons:

(i) who are:

(A) employed by or otherwise associated with a business that supplies health care insurance to the business's employees; and

(B) knowledgeable about the collection and use of health care data; and

(ii) at least one of whom represents an employer employing 50 or fewer employees;

(f) include three persons representing health insurers:

(i) at least one of whom is employed by or associated with a third-party payor that is not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(ii) at least one of whom is employed by or associated with a third party that is licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(iii) who are trained in, or experienced with the collection, analysis, and use of health care data;

(g) include two consumer representatives:

(i) from organized consumer or employee associations; and

(ii) knowledgeable about the collection and use of health care data;

(h) include one person:

(i) representative of a neutral, non-biased entity that can demonstrate that the entity has the broad support of health care payers and health care providers; and

(ii) who is knowledgeable about the collection, analysis, and use of health care data; and

(i) include two persons representing public health who are trained in or experienced with the collection, use, and analysis of health care data.

(14) (a) Except as required by Subsection (14)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (14)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Members may serve after the members' terms expire until replaced.

(15) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(16) Committee members shall annually elect a chair of the committee from among the committee's membership. The chair shall report to the executive director.

(17) (a) The committee shall meet at least once during each calendar quarter. Meeting dates shall be set by the chair upon 10 working days' notice to

the other members, or upon written request by at least four committee members with at least 10 working days' notice to other committee members.

(b) Eight committee members constitute a quorum for the transaction of business. Action may not be taken except upon the affirmative vote of a majority of a quorum of the committee.

(c) All meetings of the committee shall be open to the public, except that the committee may hold a closed meeting if the requirements of Sections 52-4-204, 52-4-205, and 52-4-206 are met.

(18) A member:

(a) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107; and

(b) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 69. Section 26B-1-414, which is renumbered from Section 26-39-200 is renumbered and amended to read:

[~~26-39-200~~]. 26B-1-414. Child Care Center Licensing Committee -- Duties.

(1) (a) The [~~licensing committee~~] Child Care Center Licensing Committee shall be comprised of seven members appointed by the governor [~~and approved by~~] with the advice and consent of the Senate in accordance with this [~~subsection~~] Subsection (1).

(b) The governor shall appoint three members who:

(i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care as defined in Section 26B-2-401; and

(ii) hold an active license as a child care center from the department to provide center based child care as defined in Section 26B-2-401.

(c) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in center based child care as defined in Section 26B-2-401;

(B) a child development expert from the state system of higher education;

(C) except as provided in Subsection (1)(e), a pediatrician licensed in the state; and

(D) an architect licensed in the state.

(ii) Except as provided in Subsection (1)(c)(i)(B), a member appointed under Subsection (1)(c)(i) may not be an employee of the state or a political subdivision of the state.

(d) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.

(e) For the appointment described in Subsection (1)(c)(i)(C), the governor may appoint a health care professional who specializes in pediatric health if:

(i) the health care professional is licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or

(B) Title 58, Chapter 70a, Utah Physician Assistant Act; and

(ii) before appointing a health care professional under this Subsection (1)(e), the governor:

(A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection (1)(c)(i)(C); and

(B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection (1)(c)(i)(C) within 90 days after the day on which the governor sends the notice described in Subsection (1)(e)(ii)(A).

(2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.

(c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.

(d) A member may not serve more than two consecutive terms.

(e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.

(3) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(4) (a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more members.

(5) Three members of the licensing committee constitute a quorum for the transaction of business.

(6) A member of the licensing committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) The Child Care Center Licensing Committee shall:

(a) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care as defined in Section 26B-2-401 as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers considering the age of the children and the type of program offered by the licensee;

(b) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of this chapter that govern center based child care as defined in Section 26B-2-401, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with this Subsection (7);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and ensure compliance with statute and rule; and

(vii) guidelines necessary to ensure consistency and appropriateness in the regulation and discipline of licensees;

(c) advise the department on the administration of a matter affecting center based child care as defined in Section 26B-2-401;

(d) advise and assist the department in conducting center based child care provider seminars; and

(e) perform other duties as provided in Section 26B-2-402.

(8) (a) The licensing committee may not enforce the rules adopted under this section.

(b) The department shall enforce the rules adopted under this section in accordance with Section 26B-2-402.

Section 70. Section 26B-1-415, which is renumbered from Section 26-39-201 is renumbered and amended to read:

[~~26-39-201~~]. 26B-1-415. Residential Child Care Licensing Advisory Committee.

(1) (a) The [~~advisory committee~~] Residential Child Care Licensing Advisory Committee shall advise the department on rules made by the department under [~~this chapter~~] Chapter 2, Part 4, Child Care Licensing, for residential child care.

(b) The advisory committee shall be composed of the following nine members who shall be appointed by the executive director:

(i) two child care consumers;

(ii) three licensed providers of residential child care [~~providers~~] as defined in Section 26B-2-401;

(iii) one certified provider of residential child care [~~provider~~] as defined in Section 26B-2-401;

(iv) one individual with expertise in early childhood development; and

(v) two health care providers.

(2) (a) Members of the advisory committee shall be appointed for four-year terms, except for those members who have been appointed to complete an unexpired term.

(b) Appointments and reappointments may be staggered so that [~~1/~~4] one-fourth of the advisory committee changes each year.

(c) The advisory committee shall annually elect a chair from its membership.

(3) The advisory committee shall meet at least quarterly, or more frequently as determined by the executive director, the chair, or three or more members of the advisory committee.

(4) Five members constitute a quorum and a vote of the majority of the members present constitutes an action of the advisory committee.

(5) A member of the advisory committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 71. Section 26B-1-416, which is renumbered from Section 26-40-104 is renumbered and amended to read:

[~~26-40-104~~]. 26B-1-416. Utah Children's Health Insurance Program Advisory Council.

(1) (a) There is created a Utah Children's Health Insurance Program Advisory Council consisting of at least five and no more than eight members appointed by the executive director of the department.

(b) The term of each appointment shall be three years.

(c) The appointments shall be staggered at one-year intervals to ensure continuity of the advisory council.

(2) The advisory council shall meet at least quarterly.

(3) The membership of the advisory council shall include at least one representative from each of the following groups:

(a) child health care providers;

(b) ethnic populations other than American Indians;

(c) American Indians;

(d) health and accident and health insurance providers; and

(e) the general public.

(4) The advisory council shall advise the department on:

(a) benefits design;

(b) eligibility criteria;

(c) outreach;

(d) evaluation; and

(e) special strategies for under-served populations.

(5) A member of the advisory council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 72. Section 26B-1-417, which is renumbered from Section 26-50-202 is renumbered and amended to read:

[~~26-50-202~~]. 26B-1-417. Traumatic Brain Injury Advisory Committee -- Membership -- Time limit.

(1) On or after July 1 of each year, the executive director may create a Traumatic Brain Injury Advisory Committee of not more than nine members.

(2) The committee shall be composed of members of the community who are familiar with traumatic brain injury, its causes, diagnosis, treatment, rehabilitation, and support services, including:

(a) persons with a traumatic brain injury;

(b) family members of a person with a traumatic brain injury;

(c) representatives of an association which advocates for persons with traumatic brain injuries;

(d) specialists in a profession that works with brain injury patients; and

(e) department representatives.

(3) The department shall provide staff support to the committee.

(4) (a) If a vacancy occurs in the committee membership for any reason, a replacement may be appointed for the unexpired term.

(b) The committee shall elect a chairperson from the membership.

(c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the committee.

(d) The committee may adopt bylaws governing the committee's activities.

(e) A committee member may be removed by the executive director:

(i) if the member is unable or unwilling to carry out the member's assigned responsibilities; or

(ii) for good cause.

(5) The committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) Not later than November 30 of each year the committee shall provide a written report summarizing the activities of the committee to the executive director of the department.

(8) The committee shall cease to exist on December 31 of each year, unless the executive director determines it necessary to continue.

Section 73. Section 26B-1-418, which is renumbered from Section 26-54-103 is renumbered and amended to read:

[~~26-54-103~~]. 26B-1-418. Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee -- Creation -- Membership -- Terms -- Duties.

(1) There is created a Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee.

(2) The advisory committee shall be composed of 11 members as follows:

(a) the executive director, or the executive director's designee;

(b) two survivors, or family members of a survivor, of a traumatic brain injury appointed by the governor;

(c) two survivors, or family members of a survivor, of a traumatic spinal cord injury appointed by the governor;

(d) one traumatic brain injury or spinal cord injury professional appointed by the governor who, at the time of appointment and throughout the professional's term on the committee, does not receive a financial benefit from the fund;

(e) two parents of a child with a nonprogressive neurological condition appointed by the governor;

(f) (i) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor; or

(ii) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor;

(g) a member of the House of Representatives appointed by the speaker of the House of Representatives; and

(h) a member of the Senate appointed by the president of the Senate.

(3) (a) The term of advisory committee members shall be four years. If a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(b) The committee shall elect a chairperson from the membership.

(c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum is present at an open meeting, the action of the majority of members shall be the action of the advisory committee.

(d) The terms of the advisory committee shall be staggered so that members appointed under Subsections (2)(b), (d), and (f) shall serve an initial two-year term and members appointed under Subsections (2)(c), (e), and (g) shall serve four-year terms. Thereafter, members appointed to the advisory committee shall serve four-year terms.

(4) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules adopted by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The advisory committee shall:

(a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee to follow in recommending distribution of money from the fund to assist qualified IRC 501(c)(3) charitable clinics, as defined in Sections [~~26-54-102 and 26-54-102.5~~] 26B-1-319 and 26B-1-320;

(b) identify, evaluate, and review the quality of care available to:

(i) individuals with spinal cord and brain injuries through qualified IRC 501(c)(3) charitable clinics, as defined in Section [~~26-54-102~~] 26B-1-319; or

(ii) children with nonprogressive neurological conditions through qualified IRC 501(c)(3) charitable clinics, as defined in Section [~~26-54-102.5~~] 26B-1-320; and

(c) explore, evaluate, and review other possible funding sources and make a recommendation to the Legislature regarding sources that would provide adequate funding for the advisory committee to accomplish its responsibilities under this section.

(7) Operating expenses for the advisory committee, including the committee's staff, shall be paid for only with money from:

(a) the Spinal Cord and Brain Injury Rehabilitation Fund;

(b) the Pediatric Neuro-Rehabilitation Fund; or

(c) both funds.

Section 74. Section 26B-1-419, which is renumbered from Section 26-46-103 is renumbered and amended to read:

[~~26-46-103~~]. 26B-1-419. Utah Health Care Workforce Financial Assistance Program

Advisory Committee -- Membership -- Compensation -- Duties.

(1) There is created the Utah Health Care Workforce Financial Assistance Program Advisory Committee consisting of the following 13 members appointed by the executive director, eight of whom shall be residents of rural communities:

(a) one rural representative of Utah Hospitals and Health Systems, nominated by the association;

(b) two rural representatives of the Utah Medical Association, nominated by the association;

(c) one representative of the Utah Academy of Physician Assistants, nominated by the association;

(d) one representative of the Association for Utah Community Health, nominated by the association;

(e) one representative of the Utah Dental Association, nominated by the association;

(f) one representative of mental health therapists, selected from nominees submitted by mental health therapist professional associations;

(g) one representative of the Association of Local Health Officers, nominated by the association;

(h) one representative of a low-income advocacy group, nominated by a Utah health and human services coalition that represents underserved populations as defined in Section 26B-4-702;

(i) one nursing program faculty member, nominated by the Statewide Deans and Directors Committee;

(j) one administrator of a long-term care facility, nominated by the Utah Health Care Association;

(k) one nursing administrator, nominated by the Utah Nurses Association; and

(l) one geriatric professional as defined in Section 26B-4-702 who is:

(i) determined by the department to have adequate advanced training in geriatrics to prepare the person to provide specialized geriatric care within the scope of the person's profession; and

(ii) nominated by a professional association for the profession of which the person is a member.

(2) (a) An appointment to the committee shall be for a four-year term unless the member is appointed to complete an unexpired term.

(b) The executive director may also adjust the length of term at the time of appointment or reappointment so that approximately [~~1/2~~] one-half of the committee is appointed every two years.

(c) The executive director shall annually appoint a committee chair from among the members of the committee.

(3) The committee shall meet at the call of the chair, at least three members of the committee, or the executive director, but no less frequently than once each calendar year.

(4) (a) A majority of the members of the committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the committee.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The committee shall:

(a) make recommendations to the department for the development and modification of rules to administer the Utah Health Care Workforce Financial Assistance Program; and

(b) advise the department on the development of a needs assessment tool for identifying underserved areas as defined in Section 26B-4-702.

(7) As funding permits, the department shall provide staff and other administrative support to the committee.

Section 75. Section 26B-1-420, which is renumbered from Section 26-61-201 is renumbered and amended to read:

[~~26-61-201~~]. 26B-1-420. Cannabis Research Review Board.

(1) As used in this section:

(a) "Cannabinoid product" means the same as that term is defined in Section 58-37-3.6.

(b) "Cannabis" means the same as that term is defined in Section 58-37-3.6.

[~~(1)~~] (2) (a) There is created the Cannabis Research Review Board within the department.

[~~(2)~~] (b) The department shall appoint, in consultation with a professional association based in the state that represents physicians, seven members to the Cannabis Research Review Board as follows:

[~~(a)~~] (i) three individuals who are medical research professionals; and

[~~(b)~~] (ii) four physicians who are qualified medical providers as defined in Section 26B-4-201.

(3) The department shall ensure that at least one of the board members appointed under Subsection (2)(b) is a member of the Controlled Substances Advisory Committee created in Section 58-38a-201.

(4) (a) Four of the board members appointed under Subsection (2)(b) shall serve an initial term of two years and three of the board members appointed under Subsection (2)(b) shall serve an initial term of four years.

(b) Successor board members shall each serve a term of four years.

(c) A board member appointed to fill a vacancy on the board shall serve the remainder of the term of

the board member whose departure created the vacancy.

(5) The department may remove a board member without cause.

(6) The board shall:

(a) nominate a board member to serve as chairperson of the board by a majority vote of the board members; and

(b) meet as often as necessary to accomplish the duties assigned to the board under this chapter.

(7) Each board member, including the chair, has one vote.

(8) (a) A majority of board members constitutes a quorum.

(b) A vote of a majority of the quorum at any board meeting is necessary to take action on behalf of the board.

(9) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

(10) If a board member appointed under Subsection (2)(b) does not meet the qualifications of Subsection (2)(b) before July 1, 2022:

(a) the board member's seat is vacant; and

(b) the department shall fill the vacancy in accordance with this section.

(11) The board shall review any available scientific research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:

(a) was conducted under a study approved by an institutional review board that is registered for human subject research by the United States Department of Health and Human Services;

(b) was conducted or approved by the federal government; or

(c) (i) was conducted in another country; and

(ii) demonstrates, as determined by the board, a sufficient level of scientific reliability and significance to merit the board's review.

(12) Based on the research described in Subsection (11), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:

(a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;

(b) cannabis and cannabinoid dosage amounts and medical dosage forms;

(c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products, as defined in Section 58-37-3.6, with other treatments; and

(d) contraindications, adverse reactions, and potential side effects from use of cannabis, cannabinoid products, and expanded cannabinoid products.

(13) Based on the board's evaluation under Subsection (12), the board shall develop guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include:

(a) a list of medical conditions, if any, that the board determines are appropriate for treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded cannabinoid product;

(b) a list of contraindications, side effects, and adverse reactions that are associated with use of cannabis, cannabinoid products, or expanded cannabinoid products;

(c) a list of potential drug-drug interactions between medications that the United States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products; and

(d) any other guideline the board determines appropriate.

(14) The board shall submit the guidelines described in Subsection (13) to the director of the Division of Professional Licensing.

(15) Guidelines that the board develops under this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4, Chapter 41a, Cannabis Production Establishments, or Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section 76. Section 26B-1-421, which is renumbered from Section 26-61a-105 is renumbered and amended to read:

[~~26-61a-105~~]. 26B-1-421. Compassionate Use Board.

(1) The definitions in Section 26B-4-201 apply to this section.

[~~(1)~~] (2) (a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) whom the appropriate board certifies in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection [~~(1)~~] (2)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

[~~(2)~~] (3) (a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection [~~(2)~~] (3)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

[~~(3)~~] (d) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection [~~26-61a-201~~] 26B-4-213(2)(a), a minor described in Subsection [~~26-61a-201~~] 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) review and approve or deny the use of a medical cannabis device for an individual described in Subsection [~~26-61a-201~~] 26B-4-213(2)(a)(i)(B) or a minor described in Subsection [~~26-61a-201~~] 26B-4-213(2)(c) if the individual's or minor's qualified medical provider recommends that the individual or minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7) (a) (i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval

under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:

(A) the department shall notify the Compassionate Use Board of the department's determination; and

(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to the Cannabis Research Review Board.

Section 77. Section 26B-1-422, which is renumbered from Section 26-66-202 is renumbered and amended to read:

[~~26-66-202~~]. 26B-1-422. Early Childhood Utah Advisory Council -- Creation -- Compensation -- Duties.

(1) There is created the Early Childhood Utah Advisory Council.

(2) (a) The department shall make rules establishing the membership, duties, and procedures of the council in accordance with the requirements of:

(i) this section;

(ii) the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b; and

(iii) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A member of the council may not receive compensation or benefits for the member's service.

[~~(1)~~] (3) The council shall serve as an entity dedicated to improving and coordinating the quality of programs and services for children in accordance with the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b.

[~~(2)~~] (4) The council shall advise the [~~commission~~] Governor's Early Childhood Commission created in Section 63M-13-201 and, on or before August 1, annually provide to the [~~commission~~] Governor's Early Childhood Commission:

(a) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households; and

(b) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:

(i) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;

(ii) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;

(iii) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and

(iv) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards.

[~~(3)~~] (5) On or before August 1, 2020, and at least every five years thereafter, the council shall provide to the [~~commission~~] Governor's Early Childhood Commission a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

Section 78. Section 26B-1-423, which is renumbered from Section 26-46a-104 is renumbered and amended to read:

[~~26-46a-104~~]. 26B-1-423. Rural Physician Loan Repayment Program Advisory Committee -- Membership -- Compensation -- Duties.

(1) There is created the Rural Physician Loan Repayment Program Advisory Committee consisting of the following eight members appointed by the executive director:

(a) two legislators whose districts include a rural [~~counties~~] county as defined in Section 26B-4-701;

(b) five administrators of [~~rural hospitals~~] a hospital located in a rural county as defined in Section 26B-4-701, nominated by an association representing Utah hospitals, no more than two of whom are employed by hospitals affiliated by ownership; and

(c) a physician currently practicing in a rural county as defined in Section 26B-4-701.

(2) (a) An appointment to the committee shall be for a four-year term unless the member is appointed to complete an unexpired term.

(b) The executive director shall adjust the length of term at the time of appointment or reappointment so that approximately one-half of the committee is appointed every two years.

(c) The executive director shall annually appoint a committee chair from among the members of the committee.

(3) (a) The committee shall meet at the call of:

(i) the chair;

(ii) at least three members of the committee; or

(iii) the executive director.

(b) The committee shall meet at least once each calendar year.

(4) (a) A majority of the members of the committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the committee.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The committee shall make recommendations to the department for the development and modification of rules to administer the Rural Physician Loan Repayment Program created in Section 26B-4-703.

(7) As funding permits, the department shall provide staff and other administrative support to the committee.

Section 79. Section 26B-1-424, which is renumbered from Section 26-67-202 is renumbered and amended to read:

[~~26-67-202~~]. 26B-1-424. Adult Autism Treatment Program Advisory Committee -- Membership -- Procedures -- Compensation -- Duties -- Expenses.

(1) As used in this section, "autism spectrum disorder" means the same as that term is defined in Section 31A-22-642.

[~~(1)~~] (2) The Adult Autism Treatment Advisory Committee created in Section 26B-1-204 shall consist of six members appointed by the governor to two-year terms as follows:

(a) one individual who:

(i) has a doctorate degree in psychology;

(ii) is a licensed behavior analyst practicing in the state; and

(iii) has treated adults with an autism spectrum disorder for at least three years;

(b) one individual who is:

(i) employed by the department; and

(ii) has professional experience with the treatment of autism spectrum disorder;

(c) three individuals who have firsthand experience with autism spectrum disorders and the effects, diagnosis, treatment, and rehabilitation of autism spectrum disorders, including:

(i) family members of an adult with an autism spectrum disorder;

(ii) representatives of an association that advocates for adults with an autism spectrum disorder; and

(iii) specialists or professionals who work with adults with an autism spectrum disorder; and

(d) one individual who is:

(i) a health insurance professional;

(ii) holds a Doctor of Medicine or Doctor of Philosophy degree, with professional experience relating to the treatment of autism spectrum disorder; and

(iii) has a knowledge of autism benefits and therapy that are typically covered by the health insurance industry.

[~~(2)~~] (3) (a) Notwithstanding Subsection [~~(1)~~] (2), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure the terms of members are staggered so that approximately half of the advisory committee is appointed every year.

(b) If a vacancy occurs in the membership of the advisory committee, the governor may appoint a replacement for the unexpired term.

[~~(3) (a)~~] (c) The advisory committee shall annually elect a chair from its membership.

[~~(b)~~] (d) A majority of the advisory committee constitutes a quorum at any meeting and, if a quorum exists, the action of the majority of members present is the action of the advisory committee.

(4) The advisory committee shall meet as necessary to:

(a) advise the department regarding implementation of the [~~program~~] Adult Autism Treatment Program created in Section 26B-4-602;

(b) make recommendations to the department and the Legislature for improving the [~~program~~] Adult Autism Treatment Program; and

(c) before October 1 each year, provide a written report of the advisory committee's activities and recommendations to:

(i) the executive director;

(ii) the Health and Human Services Interim Committee; and

(iii) the Social Services Appropriations Subcommittee.

(5) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The department shall staff the advisory committee.

(b) Expenses of the advisory committee, including the cost of advisory committee staff if approved by the executive director, may be paid only with funds from the Adult Autism Treatment Account created in Section 26B-1-322.

Section 80. Section 26B-1-425, which is renumbered from Section 26-69-201 is renumbered and amended to read:

[~~26-69-201~~]. 26B-1-425. Utah Health Workforce Advisory Council -- Creation and membership.

(1) There is created within the department the Utah Health Workforce Advisory Council.

(2) The council shall be comprised of at least 14 but not more than 19 members.

(3) The following are members of the council:

(a) the executive director or that individual's designee;

(b) the executive director of the Department of Workforce Services or that individual's designee;

(c) the commissioner of higher education of the Utah System of Higher Education or that individual's designee;

(d) the state superintendent of the State Board of Education or that individual's designee;

(e) the executive director of the Department of Commerce or that individual's designee;

(f) the director of the Division of Multicultural Affairs or that individual's designee;

(g) the director of the Utah Substance Use and Mental Advisory Council or that individual's designee;

(h) the chair of the Utah Indian Health Advisory Board; and

(i) the chair of the Utah Medical Education Council created in Section [~~26-69-402~~] 26B-4-706.

(4) The executive director shall appoint at least five but not more than ten additional members that represent diverse perspectives regarding Utah's health workforce as defined in Section 26B-4-701.

(5) (a) A member appointed by the executive director under Subsection (4) shall serve a four-year term.

(b) Notwithstanding Subsection (5)(a) for the initial appointments of members described in Subsection (4) the executive director shall appoint at least three but not more than five members to a two-year appointment to ensure that approximately half of the members appointed by the executive director rotate every two years.

(6) The executive director or the executive director's designee shall chair the council.

(7) (a) As used in this Subsection (7), "health workforce" means the same as that term is defined in Section 26B-4-706.

(b) The council shall:

(i) meet at least once each quarter;

(ii) study and provide recommendations to an entity described in Subsection (8) regarding:

(A) health workforce supply;

(B) health workforce employment trends and demand;

(C) options for training and educating the health workforce;

(D) the implementation or improvement of strategies that entities in the state are using or may use to address health workforce needs including shortages, recruitment, retention, and other Utah health workforce priorities as determined by the council;

(iii) provide guidance to an entity described in Subsection (8) regarding health workforce related matters;

(iv) review and comment on legislation relevant to Utah's health workforce; and

(v) advise the Utah Board of Higher Education and the Legislature on the status and needs of the health workforce who are in training.

(8) The council shall provide information described in Subsections (7)(b)(ii) and (iii) to:

(a) the Legislature;

(b) the department;

(c) the Department of Workforce Services;

(d) the Department of Commerce;

(e) the Utah Medical Education Council; and

(f) any other entity the council deems appropriate upon the entity's request.

(9) (a) The Utah Medical Education Council created in Section 26B-4-706 is a subcommittee of the council.

(b) The council may establish subcommittees to support the work of the council.

(c) A member of the council shall chair a subcommittee created by the council.

(d) Except for the Utah Medical Education Council, the chair of the subcommittee may appoint any individual to the subcommittee.

(10) For any report created by the council that pertains to any duty described in Subsection (7), the council shall:

(a) provide the report to:

(i) the department; and

(ii) any appropriate legislative committee; and

(b) post the report on the council's website.

(11) The executive director shall:

(a) ensure the council has adequate staff to support the council and any subcommittee created by the council; and

(b) provide any available information upon the council's request if:

(i) that information is necessary for the council to fulfill a duty described in Subsection (7); and

(ii) the department has access to the information.

(12) A member of the council or a subcommittee created by the council may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

Section 81. Section 26B-1-426, which is renumbered from Section 62A-1-107 is renumbered and amended to read:

[~~62A-1-107~~]. 26B-1-426. Board of Aging and Adult Services -- Members, appointment, terms, vacancies, chairperson, compensation, meetings, quorum.

(1) The Board of Aging and Adult Services created in Section 26B-1-204 shall have seven members who are appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) (a) No more than four members of the board may be from the same political party.

(b) The board shall have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to the Board of Aging and Adult Services.

(4) (a) The board shall annually elect a chairperson from the board's membership.

(b) The board shall hold meetings at least once every three months.

(c) Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of the board.

(d) Four members of the board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) (a) The board shall adopt bylaws governing its activities. [~~Bylaws~~]

(b) The bylaws described in Subsection (6)(a) shall include procedures for removal of a board

member who is unable or unwilling to fulfill the requirements of the board member's appointment.

(7) The board has program policymaking authority for the division over which the board presides.

(8) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 82. Section 26B-1-427, which is renumbered from Section 62A-1-121 is renumbered and amended to read:

[~~62A-1-121~~]. 26B-1-427. Alcohol Abuse Tracking Committee --Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the [~~"~~]Alcohol Abuse Tracking Committee[~~"~~] that consists of:

(a) the executive director or the executive director's designee;

[~~(b) the executive director of the Department of Health or that executive director's designee;~~]

[~~(c)~~] (b) the commissioner of the Department of Public Safety or the commissioner's designee;

[~~(d)~~] (c) the director of the Department of Alcoholic Beverage Services or that director's designee;

[~~(e)~~] (d) the executive director of the Department of Workforce Services or that executive director's designee;

[~~(f)~~] (e) the chair of the Utah Substance Use and Mental Health Advisory Council or the chair's designee;

[~~(g)~~] (f) the state court administrator or the state court administrator's designee; and

[~~(h)~~] (g) the director of the Division of Technology Services or that director's designee.

(2) The executive director or the executive director's designee shall chair the committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:

(a) with one meeting held each year to develop the report required under Subsection (7); and

(b) with one meeting held to review and finalize the report before the report is issued.

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services;

(e) the location where the alcoholic products that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) The committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the calendar year for which the information is collected.

Section 83. Section 26B-1-428, which is renumbered from Section 26-7-10 is renumbered and amended to read:

[~~26-7-10~~]. 26B-1-428. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program -- Creation -- Membership -- Duties.

(1) As used in this section:

(a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee created in Section 26B-1-204.

(b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in this section.

(2) (a) There is created within the department the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.

(b) In consultation with the committee, the department shall:

(i) establish guidelines for the use of funds appropriated to the program;

(ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and appropriate for the population targeted by the program; and

(iii) subject to appropriations from the Legislature, fund statewide initiatives to prevent use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.

(3) (a) The committee shall advise the department on:

(i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the state;

(ii) developing the guidelines described in Subsection (2)(b)(i); and

(iii) implementing the provisions of the program.

(b) The executive director shall:

(i) appoint members of the committee; and

(ii) consult with the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301 when making the appointments under Subsection (3)(b)(i).

(c) The committee shall include, at a minimum:

(i) the executive director of a local health department as defined in Section 26A-1-102, or the local health department executive director's designee;

(ii) one designee from the department;

(iii) one representative from the Department of Public Safety;

(iv) one representative from the behavioral health community; and

(v) one representative from the education community.

(d) A member of the committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(4) On or before October 31 of each year, the department shall report to:

(a) the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the program;

(ii) the impact and results of the program, including the effectiveness of each program funded under Subsection (2)(b)(iii), during the previous fiscal year;

(iii) a summary of the impacts and results on reducing youth use of electronic cigarettes and nicotine products by entities represented by members of the committee, including those entities who receive funding through the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account created in Section 59-14-807; and

(iv) any recommendations for legislation; and

(b) the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301, regarding:

(i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and

(ii) any collaborative efforts and partnerships established by the program with public and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

Section 84. Section 26B-1-429, which is renumbered from Section 62A-5-202.5 is renumbered and amended to read:

[~~62A-5-202.5~~]. 26B-1-429. Utah State Developmental Center Board -- Creation -- Membership -- Duties -- Powers.

(1) There is created the Utah State Developmental Center Board within the [~~Department of Human Services~~] department.

(2) The board is composed of nine members as follows:

(a) the director of the [~~division~~] Division of Services for People with Disabilities or the director's designee;

(b) the superintendent of the developmental center or the superintendent's designee;

(c) the executive director [~~of the Department of Human Services~~] or the executive director's designee;

(d) a resident of the [~~developmental center~~] Utah State Developmental Center selected by the superintendent; and

(e) five members appointed by the governor with the advice and consent of the Senate as follows:

(i) three members of the general public; and

(ii) two members who are parents or guardians of individuals who receive services at the [~~developmental center~~] Utah State Developmental Center.

(3) In making appointments to the board, the governor shall ensure that:

(a) no more than three members have immediate family residing at the [~~developmental center~~] Utah State Developmental Center; and

(b) members represent a variety of geographic areas and economic interests of the state.

(4) (a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.

(b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) (a) The director shall serve as the chair.

(b) The board shall appoint a member to serve as vice chair.

(c) The board shall hold meetings quarterly or as needed.

(d) Five members are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.

(6) An appointed member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The board shall adopt bylaws governing the board's activities.

(b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.

(8) The board shall:

(a) act for the benefit of the [~~developmental center and the division~~] Utah State Developmental Center and the Division of Services for People with Disabilities;

(b) advise and assist the [~~division~~] Division of Services for People with Disabilities with the division's functions, operations, and duties related to the [~~developmental center~~] Utah State Developmental Center, described in Sections [~~62A-5-102, 62A-5-103, 62A-5-201, 62A-5-203, and 62A-5-206~~] 26B-6-402, 26B-6-403, 26B-6-502, 26B-6-504, and 26B-6-506;

(c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section [~~62A-5-206.5~~] 26B-1-330;

(d) administer the Utah State Developmental Center [~~Land~~] Long-Term Sustainability Fund, as described in Section [~~62A-5-206.6~~] 26B-1-331;

(e) approve the sale, lease, or other disposition of real property or water rights associated with the [~~developmental center~~] Utah State Developmental Center, as described in Subsection [~~62A-5-206.6~~] 26B-6-507(2); and

(f) within 21 days after the day on which the board receives the notice required under Subsection 10-2-419(3)(c), provide a written opinion regarding the proposed boundary adjustment to:

(i) the director of the Division of Facilities and Construction Management; and

(ii) the Legislative Management Committee.

Section 85. Section 26B-1-430, which is renumbered from Section 62A-5a-103 is renumbered and amended to read:

[~~62A-5a-103~~]. 26B-1-430. Coordinating Council for Persons with Disabilities -- Policy regarding services to individuals with disabilities -- Creation -- Membership -- Expenses.

(1) As used in this section, "state agencies" means:

(a) the Division of Services for People with Disabilities;

(b) the Office of Substance Use and Mental Health;

(c) the Division of Integrated Healthcare;

(d) family health services programs established under Chapter 4, Health Care - Delivery and Access, operated by the department;

(e) the Utah State Office of Rehabilitation created in Section 35A-1-202; and

(f) special education programs operated by the State Board of Education or an LEA under Title 53E, Chapter 7, Part 2, Special Education Program.

(2) It is the policy of this state that all agencies that provide services to persons with disabilities:

(a) coordinate and ensure that services and supports are provided in a cost-effective manner. It is the intent of the Legislature that services and supports provided under this chapter be coordinated to meet the individual needs of persons with disabilities; and

(b) whenever possible, regard an individual's personal choices concerning services and supports that are best suited to the individual's needs and that promote the individual's independence, productivity, and integration in community life.

[~~(1)~~] (3) There is created the Coordinating Council for Persons with Disabilities.

[~~(2)~~] (4) The council shall consist of:

(a) the director of the Division of Services for People with Disabilities within the [~~Department of Human Services~~] department, or the director's designee;

(b) the director of family health services programs, appointed under Section [~~26-10-3~~] 26B-7-102, or the director's designee;

(c) the director of the Utah State Office of Rehabilitation created in Section 35A-1-202, or the director's designee;

(d) the state director of special education, or the director's designee;

(e) the director of the Division of [~~Health Care Financing within the Department of Health~~] Integrated Healthcare within the department, or the director's designee;

(f) the director of the [~~Division~~] Office of Substance [~~Abuse~~] Use and Mental Health within the [~~Department of Human Services~~] department, or the director's designee;

(g) the superintendent of Schools for the Deaf and the Blind, or the superintendent's designee; and

(h) a person with a disability, a family member of a person with a disability, or an advocate for persons with disabilities, appointed by the members listed in Subsections [~~(2)~~] (4)(a) through (g).

[~~(3)~~] (5) (a) The council shall annually elect a chair from its membership.

(b) Five members of the council are a quorum.

[~~(4)~~] (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The council has authority, after local or individual efforts have failed, to:

(a) coordinate the appropriate transition of persons with disabilities who receive services and support from one state agency to receive services and support from another state agency;

(b) coordinate policies governing the provision of services and support for persons with disabilities by state agencies; and

(c) consider issues regarding eligibility for services and support and, where possible, develop uniform eligibility standards for state agencies.

(8) The council may receive appropriations from the Legislature to purchase services and supports for persons with disabilities as the council deems appropriate.

(9) (a) Within appropriations authorized by the Legislature, the following individuals or the individuals' representatives shall cooperatively develop a single coordinated education program, treatment services, and individual and family supports for students entitled to a free appropriate education under Title 53E, Chapter 7, Part 2, Special Education Program, who also require services from the department or the Utah State Office of Rehabilitation:

(i) the state director of special education;

(ii) the director of the Utah State Office of Rehabilitation created in Section 35A-1-202;

(iii) the executive director of the department;

(iv) the director of family health services within the department; and

(v) the affected LEA, as defined in Section 53E-1-102.

(b) Distribution of costs for services and supports described in Subsection (9)(a) shall be determined through a process established by the department and the State Board of Education.

Section 86. Section 26B-1-431, which is renumbered from Section 62A-15-605 is renumbered and amended to read:

[~~62A-15-605~~]. 26B-1-431. Forensic Mental Health Coordinating Council -- Establishment and purpose.

(1) There is established the Forensic Mental Health Coordinating Council composed of the following members:

(a) the director of the [~~Division~~] Office of Substance [~~Abuse~~] Use and Mental Health or the director's appointee;

(b) the superintendent of the state hospital or the superintendent's appointee;

(c) the executive director of the Department of Corrections or the executive director's appointee;

(d) a member of the Board of Pardons and Parole or its appointee;

(e) the attorney general or the attorney general's appointee;

(f) the director of the Division of Services for People with Disabilities or the director's appointee;

(g) the director of the Division of Juvenile Justice and Youth Services or the director's appointee;

(h) the director of the Commission on Criminal and Juvenile Justice or the director's appointee;

(i) the state court administrator or the administrator's appointee;

(j) the state juvenile court administrator or the administrator's appointee;

(k) a representative from a local mental health authority or an organization, excluding the state hospital that provides mental health services under contract with the [~~Division~~] Office of Substance [~~Abuse~~] Use and Mental Health or a local mental health authority, as appointed by the director of the [~~division~~] Division of Integrated Healthcare;

(l) the executive director of the Utah Developmental Disabilities Council or the director's appointee; and

(m) other individuals, including individuals from appropriate advocacy organizations with an

interest in the mission described in Subsection (3), as appointed by the members described in Subsections (1)(a) through (l).

(2) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(3) The purpose of the Forensic Mental Health Coordinating Council is to:

(a) advise the director of the Office of Substance Use and Mental Health regarding the state hospital admissions policy for individuals in the custody of the Department of Corrections;

(b) develop policies for coordination between the [~~division~~] Office of Substance Use and Mental Health and the Department of Corrections;

(c) advise the executive director of the Department of Corrections regarding department policy related to the care of individuals in the custody of the Department of Corrections who are mentally ill;

(d) promote communication between and coordination among all agencies dealing with individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system;

(e) study, evaluate, and recommend changes to laws and procedures relating to individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system;

(f) identify and promote the implementation of specific policies and programs to deal fairly and efficiently with individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system;

(g) promote judicial education relating to individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system; and

(h) in consultation with the Utah Substance Abuse Advisory Council created in Section 63M-7-301, study the long-term need for adult patient beds at the state hospital, including:

(i) the total number of beds currently in use in the adult general psychiatric unit of the state hospital;

(ii) the current bed capacity at the state hospital;

(iii) the projected total number of beds needed in the adult general psychiatric unit of the state hospital over the next three, five, and 10 years based on:

(A) the state's current and projected population growth;

(B) current access to mental health resources in the community; and

(C) any other factors the Forensic Mental Health Coordinating Council finds relevant to projecting the total number of beds; and

(iv) the cost associated with the projected total number of beds described in Subsection (3)(h)(iii).

(4) The Forensic Mental Health Coordinating Council shall report the results of the study described in Subsection (3)(h) and any recommended changes to laws or procedures based on the results to the Health and Human Services Interim Committee before November 30 of each year.

Section 87. Section 26B-1-432 is enacted to read:

26B-1-432. Newborn Hearing Screening Committee.

(1) There is established the Newborn Hearing Screening Committee.

(2) The committee shall advise the department on:

(a) the validity and cost of newborn infant hearing loss testing procedures; and

(b) rules promulgated by the department to implement this Section 26B-4-319.

(3) The committee shall be composed of at least 11 members appointed by the executive director, including:

(a) one representative of the health insurance industry;

(b) one pediatrician;

(c) one family practitioner;

(d) one ear, nose, and throat specialist nominated by the Utah Medical Association;

(e) two audiologists nominated by the Utah Speech-Language Hearing Association;

(f) one representative of hospital neonatal nurseries;

(g) one representative of the Early Intervention Baby Watch Program administered by the department;

(h) one public health nurse;

(i) one consumer; and

(j) the executive director or the executive director's designee.

(4) (a) Of the initial members of the committee, the executive director shall appoint as nearly as possible half to two-year terms and half to four-year terms.

(b) After the initial appointments described in Subsection (4)(a), appointments shall be for four-year terms except:

(i) for those members who have been appointed to complete an unexpired term; and

(ii) as necessary to ensure that as nearly as possible the terms of half the appointments expire every two years.

(5) A majority of the members constitutes a quorum, and a vote of the majority of the members present constitutes an action of the committee.

(6) The committee shall appoint a chair from the committee's membership.

(7) The committee shall meet at least quarterly.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The department shall provide staff for the committee.

Section 88. Section 26B-1-433 is enacted to read:

26B-1-433. Children's Hearing Aid Advisory Committee.

(1) There is established the Children's Hearing Aid Advisory Committee.

(2) The committee shall be composed of five members appointed by the executive director, and shall include:

(a) one audiologist with pediatric expertise;

(b) one speech-language pathologist;

(c) one teacher, certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening and spoken language therapist;

(d) one ear, nose, and throat specialist; and

(e) one parent whose child:

(i) is six years old or older; and

(ii) has hearing loss.

(3) A majority of the members constitutes a quorum.

(4) A vote of the majority of the members, with a quorum present, constitutes an action of the committee.

(5) The committee shall elect a chair from the committee's members.

(6) The committee shall:

(a) meet at least quarterly;

(b) recommend to the department medical criteria and procedures for selecting children who may qualify for assistance from the account; and

(c) review rules developed by the department.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance, pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The department shall provide staff to the committee.

Section 89. Section 26B-1-501, which is renumbered from Section 62A-16-102 is renumbered and amended to read:

Part 5. Fatality Review

~~[62A-16-102]~~. 26B-1-501. Definitions.

As used in this part:

(1) "Abuse" means the same as that term is defined in Section 80-1-102.

(2) "Child" means the same as that term is defined in Section 80-1-102.

(3) "Committee" means a fatality review committee that is formed under Section ~~[62A-16-202 or 62A-16-203]~~ 26B-1-503 or 26B-1-504.

(4) "Dependency" means the same as that term is defined in Section 80-1-102.

(5) "Formal review" means a review of a death or a near fatality that is ordered under Subsection ~~[62A-16-201(6)]~~ 26B-1-502(6).

(6) "Near fatality" means alleged abuse or neglect that, as certified by a physician, places a child in serious or critical condition.

(7) "Qualified individual" means an individual who:

(a) at the time that the individual dies, is a resident of a facility or program that is owned or operated by the department or a division of the department;

(b) (i) is in the custody of the department or a division of the department; and

(ii) is placed in a residential placement by the department or a division of the department;

(c) at the time that the individual dies, has an open case for the receipt of child welfare services, including:

(i) an investigation for abuse, neglect, or dependency;

(ii) foster care;

(iii) in-home services; or

(iv) substitute care;

(d) had an open case for the receipt of child welfare services within one year before the day on which the individual dies;

(e) was the subject of an accepted referral received by Adult Protective Services within one year before the day on which the individual dies, if:

(i) the department or a division of the department is aware of the death; and

(ii) the death is reported as a homicide, suicide, or an undetermined cause;

(f) received services from, or under the direction of, the Division of Services for People with Disabilities within one year before the day on which the individual dies, unless the individual:

(i) lived in the individual's home at the time of death; and

(ii) the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement determines that the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department;

(g) dies within 60 days after the day on which the individual is discharged from the Utah State Hospital, if the department is aware of the death;

(h) is a child who:

(i) suffers a near fatality; and

(ii) is the subject of an open case for the receipt of child welfare services within one year before the day on which the child suffered the near fatality, including:

(A) an investigation for abuse, neglect, or dependency;

(B) foster care;

(C) in-home services; or

(D) substitute care; or

(i) is designated as a qualified individual by the executive director.

(8) "Neglect" means the same as that term is defined in Section 80-1-102.

(9) "Substitute care" means the same as that term is defined in Section 80-1-102.

Section 90. Section 26B-1-502, which is renumbered from Section 62A-16-201 is renumbered and amended to read:

[~~62A-16-201~~]. 26B-1-502. Initial review.

(1) Within seven days after the day on which the department knows that a qualified individual has died or is an individual described in Subsection [~~62A-16-102(7)(h)~~] 26B-1-501(7)(h), a person designated by the department shall:

(a) (i) for a death, complete a deceased client report form, created by the department; or

(ii) for an individual described in Subsection [~~62A-16-102(7)(h)~~] 26B-1-501(7)(h), complete a near fatality client report form, created by the department; and

(b) forward the completed client report form to the director of the office or division that has jurisdiction over the region or facility.

(2) The director of the office or division described in Subsection (1) shall, upon receipt of a near fatality client report form or a deceased client report form, immediately provide a copy of the form to:

(a) the executive director; and

(b) the fatality review coordinator or the fatality review coordinator's designee.

(3) Within 10 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives a copy of the near fatality client report form or the deceased client report form, the fatality review coordinator or the fatality review coordinator's designee shall request a copy of all relevant department case records regarding the individual who is the subject of the client report form.

(4) Each person who receives a request for a record described in Subsection (3) shall provide a copy of the record to the fatality review coordinator or the fatality review coordinator's designee, by a secure method, within seven days after the day on which the request is made.

(5) Within 30 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives the case records requested under Subsection (3), the fatality review coordinator, or the fatality review coordinator's designee, shall:

(a) review the client report form, the case files, and other relevant information received by the fatality review coordinator; and

(b) make a recommendation to the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement regarding whether a formal review of the death or near fatality should be conducted.

(6) (a) In accordance with Subsection (6)(b), within seven days after the day on which the fatality review coordinator or the fatality review coordinator's designee makes the recommendation described in Subsection (5)(b), the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement or the director's designee shall determine whether to order that a review of the death or near fatality be conducted.

(b) The director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement or the director's designee shall order that a formal review of the death or near fatality be conducted if:

(i) at the time of the near fatality or the death, the qualified individual is:

(A) an individual described in Subsection [~~62A-16-102~~] 26B-1-501(6)(a) or (b), unless:

(I) the near fatality or the death is due to a natural cause; or

(II) the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and

Improvement or the director's designee determines that the near fatality or the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department; or

(B) a child in foster care or substitute care, unless the near fatality or the death is due to:

(I) a natural cause; or

(II) an accident;

(ii) it appears, based on the information provided to the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement or the director's designee, that:

(A) a provision of law, rule, policy, or procedure relating to the qualified individual or the individual's family may not have been complied with;

(B) the near fatality or the fatality was not responded to properly;

(C) a law, rule, policy, or procedure may need to be changed; or

(D) additional training is needed;

(iii) (A) the death is caused by suicide; or

(B) the near fatality is caused by attempted suicide; or

(iv) the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement or the director's designee determines that another reason exists to order that a review of the near fatality or the death be conducted.

Section 91. Section 26B-1-503, which is renumbered from Section 62A-16-202 is renumbered and amended to read:

[~~62A-16-202~~]. 26B-1-503. Fatality review committee for a qualified individual who was not a resident of the Utah State Hospital or the Utah State Developmental Center.

(1) Except for a fatality review committee described in Section [~~62A-16-203~~] 26B-1-504, the fatality review coordinator shall organize a fatality review committee for each formal review.

(2) Except as provided in Subsection (5), a committee described in Subsection (1):

(a) shall include the following members:

(i) the department's fatality review coordinator, who shall designate a member of the committee to serve as chair of the committee;

(ii) a member of the board, if there is a board, of the relevant division or office;

(iii) the attorney general or the attorney general's designee;

(iv) (A) a member of the management staff of the relevant division or office; or

(B) a person who is a supervisor, or a higher level position, from a region that did not have jurisdiction over the qualified individual; and

(v) a member of the department's risk management services; and

(b) may include the following members:

(i) a health care professional;

(ii) a law enforcement officer; or

(iii) a representative of the Office of Public Guardian.

(3) If a death that is subject to formal review involves a qualified individual described in Subsection [~~62A-16-102~~] 26B-1-501(7)(c), (d), or (h), the committee may also include:

(a) a health care professional;

(b) a law enforcement officer;

(c) the director of the Office of Guardian ad Litem;

(d) an employee of the division who may be able to provide information or expertise that would be helpful to the formal review; or

(e) a professional whose knowledge or expertise may significantly contribute to the formal review.

(4) A committee described in Subsection (1) may also include a person whose knowledge or expertise may significantly contribute to the formal review.

(5) A committee described in this section may not include an individual who was involved in, or who supervises a person who was involved in, the near fatality or the death.

(6) Each member of a committee described in this section who is not an employee of the department shall sign a form, created by the department, indicating that the member agrees to:

(a) keep all information relating to the formal review confidential; and

(b) not release any information relating to a formal review, unless required or permitted by law to release the information.

Section 92. Section 26B-1-504, which is renumbered from Section 62A-16-203 is renumbered and amended to read:

[~~62A-16-203~~]. 26B-1-504. Fatality review committees for a resident of the Utah State Hospital or the Utah State Developmental Center.

(1) If a qualified individual who is the subject of a formal review was a resident of the Utah State Hospital or the Utah State Developmental Center, the fatality review coordinator of that facility shall organize a fatality review committee to review the near fatality or the death.

(2) Except as provided in Subsection (4), a committee described in Subsection (1) shall include the following members:

(a) the fatality review coordinator for the facility, who shall serve as chair of the committee;

(b) a member of the management staff of the facility;

(c) a supervisor of a unit other than the one in which the qualified individual resided;

(d) a physician;

(e) a representative from the administration of the division that oversees the facility;

(f) the department's fatality review coordinator;

(g) a member of the department's risk management services; and

(h) a citizen who is not an employee of the department.

(3) A committee described in Subsection (1) may also include a person whose knowledge or expertise may significantly contribute to the formal review.

(4) A committee described in this section may not include an individual who:

(a) was involved in, or who supervises a person who was involved in, the near fatality or the death; or

(b) has a conflict with the fatality review.

Section 93. Section 26B-1-505, which is renumbered from Section 62A-16-204 is renumbered and amended to read:

[~~62A-16-204~~]. 26B-1-505. Fatality review committee proceedings.

(1) A majority vote of committee members present constitutes the action of the committee.

(2) The department shall give the committee access to all reports, records, and other documents that are relevant to the near fatality or the death under investigation, including:

(a) narrative reports;

(b) case files;

(c) autopsy reports; and

(d) police reports, unless the report is protected from disclosure under Subsection 63G-2-305(10) or (11).

(3) The Utah State Hospital and the Utah State Developmental Center shall provide protected health information to the committee if requested by a fatality review coordinator.

(4) A committee shall convene its first meeting within 14 days after the day on which a formal review is ordered, unless this time is extended, for good cause, by the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement.

(5) A committee may interview a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the formal review.

(6) A committee shall render an advisory opinion regarding:

(a) whether the provisions of law, rule, policy, and procedure relating to the qualified individual and the individual's family were complied with;

(b) whether the near fatality or the death was responded to properly;

(c) whether to recommend that a law, rule, policy, or procedure be changed; and

(d) whether additional training is needed.

Section 94. Section 26B-1-506, which is renumbered from Section 62A-16-301 is renumbered and amended to read:

[~~62A-16-301~~]. 26B-1-506. Fatality review committee report -- Response to report.

(1) Within 20 days after the day on which the committee proceedings described in Section [~~62A-16-204~~] 26B-1-505 end, the committee shall submit:

(a) a written report to the executive director that includes:

(i) the advisory opinions made under Subsection [~~62A-16-204(6)~~] 26B-1-505(6); and

(ii) any recommendations regarding action that should be taken in relation to an employee of the department or a person who contracts with the department;

(b) a copy of the report described in Subsection (1)(a) to:

(i) the director, or the director's designee, of the office or division to which the near fatality or the death relates; and

(ii) the regional director, or the regional director's designee, of the region to which the near fatality or the death relates; and

(c) a copy of the report described in Subsection (1)(a), with only identifying information redacted, to the Office of Legislative Research and General Counsel.

(2) Within 20 days after the day on which the director described in Subsection (1)(b)(i) receives a copy of the report described in Subsection (1)(a), the director shall provide a written response to the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement and a copy of the response, with only identifying information redacted, to the Office of Legislative Research and General Counsel, if the report:

(a) indicates that a law, rule, policy, or procedure was not complied with;

(b) indicates that the near fatality or the death was not responded to properly;

(c) recommends that a law, rule, policy, or procedure be changed; or

(d) indicates that additional training is needed.

(3) The response described in Subsection (2) shall include a plan of action to implement any recommended improvements within the office or division.

(4) Within 30 days after the day on which the executive director receives the response described in Subsection (2), the executive director, or the executive director's designee shall:

(a) review the plan of action described in Subsection (3);

(b) make any written response that the executive director or the executive director's designee determines is necessary;

(c) provide a copy of the written response described in Subsection (4)(b), with only identifying information redacted, to the Office of Legislative Research and General Counsel; and

(d) provide an unredacted copy of the response described in Subsection (4)(b) to the director of the [~~Office of Quality and Design~~] Division of Continuous Quality and Improvement.

(5) A report described in Subsection (1) and each response described in this section is a protected record.

(6) (a) As used in this Subsection (6), "fatality review document" means any document created in connection with, or as a result of, a formal review of a near fatality or a death, or a decision whether to conduct a formal review of a near fatality or a death, including:

(i) a report described in Subsection (1);

(ii) a response described in this section;

(iii) a recommendation regarding whether a formal review should be conducted;

(iv) a decision to conduct a formal review;

(v) notes of a person who participates in a formal review;

(vi) notes of a person who reviews a formal review report;

(vii) minutes of a formal review;

(viii) minutes of a meeting where a formal review report is reviewed; and

(ix) minutes of, documents received in relation to, and documents generated in relation to, the portion of a meeting of the Health and Human Services Interim Committee or the Child Welfare Legislative Oversight Panel that a formal review report or a document described in this Subsection (6)(a) is reviewed or discussed.

(b) A fatality review document is not subject to discovery, subpoena, or similar compulsory process in any civil, judicial, or administrative proceeding, nor shall any individual or organization with lawful access to the data be compelled to testify with regard to a report described in Subsection (1) or a response described in this section.

(c) The following are not admissible as evidence in a civil, judicial, or administrative proceeding:

(i) a fatality review document; and

(ii) an executive summary described in Subsection [~~62A-16-302(4)~~] 26B-1-507(4).

Section 95. Section 26B-1-507, which is renumbered from Section 62A-16-302 is renumbered and amended to read:

[~~62A-16-302~~]. 26B-1-507. Reporting to, and review by, legislative committees.

(1) The Office of Legislative Research and General Counsel shall provide a copy of the report described in Subsection [~~62A-16-301~~] 26B-1-506(1)(c), and the responses described in Subsections [~~62A-16-301~~] 26B-1-506(2) and (4)(c) to the chairs of:

(a) the Health and Human Services Interim Committee; or

(b) if the qualified individual who is the subject of the report is an individual described in Subsection [~~62A-16-102~~] 26B-1-501(7)(c), (d), or (h), the Child Welfare Legislative Oversight Panel.

(2) (a) The Health and Human Services Interim Committee may, in a closed meeting, review a report described in Subsection [~~62A-16-301~~] 26B-1-506(1)(b).

(b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a report described in Subsection (1)(b).

(3) (a) The Health and Human Services Interim Committee and the Child Welfare Legislative Oversight Panel may not interfere with, or make recommendations regarding, the resolution of a particular case.

(b) The purpose of a review described in Subsection (2) is to assist a committee or panel described in Subsection (2) in determining whether to recommend a change in the law.

(c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a change in the law shall be made in an open meeting.

(4) (a) On or before September 1 of each year, the department shall provide an executive summary of all formal review reports for the preceding state fiscal year to the Office of Legislative Research and General Counsel.

(b) The Office of Legislative Research and General Counsel shall forward a copy of the executive summary described in Subsection (4)(a) to:

(i) the Health and Human Services Interim Committee; and

(ii) the Child Welfare Legislative Oversight Panel.

(5) The executive summary described in Subsection (4):

(a) may not include any names or identifying information;

(b) shall include:

(i) all recommendations regarding changes to the law that were made during the preceding fiscal year under Subsection [~~62A-16-204~~] 26B-1-505(6);

(ii) all changes made, or in the process of being made, to a law, rule, policy, or procedure in response to a formal review that occurred during the preceding fiscal year;

(iii) a description of the training that has been completed in response to a formal review that occurred during the preceding fiscal year;

(iv) statistics for the preceding fiscal year regarding:

(A) the number of qualified individuals and the type of deaths and near fatalities that are known to the department;

(B) the number of formal reviews conducted;

(C) the categories described in Subsection [~~62A-16-102~~] 26B-1-501(7) of qualified individuals;

(D) the gender, age, race, and other significant categories of qualified individuals; and

(E) the number of fatalities of qualified individuals known to the department that are identified as suicides; and

(v) action taken by the [~~Office~~] Division of Licensing and Background Checks and the Bureau of Internal Review and Audits in response to the near fatality or the death of a qualified individual; and

(c) is a public document.

(6) The Division of Child and Family Services shall, to the extent required by the federal Child Abuse Prevention and Treatment Act of 1988, Pub. L. No. 93-247, as amended, allow public disclosure of the findings or information relating to a case of child abuse or neglect that results in a child fatality or a near fatality.

Section 96. Section 26B-2-101 is amended to read:

CHAPTER 2. LICENSING AND CERTIFICATIONS

Part 1. Human Services Programs and Facilities

26B-2-101. Definitions.

[~~Reserved~~]

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (38)(a); or

(B) provides the treatment or services described in Subsection (38)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection (38)(a) on a limited basis if:

(A) the treatment or services described in Subsection (38)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (38)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (38)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Child" means an individual under 18 years old.

(7) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(8) "Child-placing agency" means a person that engages in child placing.

(9) "Client" means an individual who receives or has received services from a licensee.

(10) (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(11) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(12) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(13) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(14) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

(15) "Director" means the director of the office.

(16) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(17) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(18) "Elder adult" means a person 65 years old or older.

(19) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

(20) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.

(21) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(22) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

(23) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

(24) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(25) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(26) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(27) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

(28) "Licensee" means an individual or a human services program licensed by the office.

(29) "Local government" means a city, town, metro township, or county.

(30) "Minor" means child.

(31) "Office" means the Office of Licensing within the department.

(32) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

(33) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(34) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(35) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

(36) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(37) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(38) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(39) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(40) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

(41) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

(42) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(43) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

(44) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (44)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

(45) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

(46) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(47) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(48) (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

(49) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 97. Section 26B-2-102, which is renumbered from Section 62A-2-102 is renumbered and amended to read:

[~~62A-2-102~~]. 26B-2-102. Purpose of licensure.

The purpose of licensing under this [~~chapter~~] part is to permit or authorize a public or private agency to provide defined human services programs within statutory and regulatory guidelines.

Section 98. Section 26B-2-103, which is renumbered from Section 62A-2-103 is renumbered and amended to read:

[~~62A-2-103~~]. 26B-2-103. Office of Licensing -- Appointment -- Qualifications of director.

(1) There is created the Office of Licensing within the [~~Department of Human Services~~] department.

(2) The office shall be the licensing authority for the department, and is vested with all the powers, duties, and responsibilities described in [~~this chapter.~~]:

(a) this part;

(b) Part 2, Health Care Facility Licensing and Inspection; and

(c) Part 6, Mammography Quality Assurance.

[~~(2)~~] (3) The executive director shall appoint the director of the office.

[~~(3)~~] (4) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable of health and human services licensing.

Section 99. Section 26B-2-104, which is renumbered from Section 62A-2-106 is renumbered and amended to read:

[~~62A-2-106~~]. 26B-2-104. Office responsibilities.

(1) Subject to the requirements of federal and state law, the office shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for licensees, that shall be limited to:

(A) fire safety;

(B) food safety;

(C) sanitation;

(D) infectious disease control;

(E) safety of the:

(I) physical facility and grounds; and

(II) area and community surrounding the physical facility;

(F) transportation safety;

(G) emergency preparedness and response;

(H) the administration of medical standards and procedures, consistent with the related provisions of this title;

(I) staff and client safety and protection;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(ii) basic health and safety standards for therapeutic schools, that shall be limited to:

(A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(B) food safety;

(C) sanitation;

(D) infectious disease control, except that the standards are limited to:

(I) those required by law or rule under [~~Title 26, Utah Health Code~~] this title, or Title 26A, Local Health Authorities; and

(II) requiring a separate room for clients who are sick;

(E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(F) transportation safety;

(G) emergency preparedness and response;

(H) access to appropriate medical care, including:

(I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and

(II) storing, tracking, and securing medication;

(I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(iii) procedures and standards for permitting a licensee to:

(A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:

(I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;

(II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);

(III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and

(IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or

(B) (I) provide residential treatment services to a child who is:

(Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and

(Bb) under the custody of the [~~Department of Human Services~~] department, or one of its divisions; and

(II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:

(Aa) at least 18 years old, but younger than 21 years old; and

(Bb) under the custody of the [~~Department of Human Services~~] department, or one of its divisions;

(iv) minimum administration and financial requirements for licensees;

(v) guidelines for variances from rules established under this Subsection (1);

(vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum responsibilities of a child-placing agency that provides adoption services and that is licensed under this [~~chapter~~] part;

(vii) what constitutes an "outpatient treatment program" for purposes of this [~~chapter~~] part;

(viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any services or supplies billed to the insurer, and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;

(ix) a protocol for the office to investigate and process complaints about licensees;

(x) a procedure for a licensee to:

(A) report the use of a restraint or seclusion within one business day after the day on which the use of the restraint or seclusion occurs; and

(B) report a critical incident within one business day after the day on which the incident occurs;

(xi) guidelines for the policies and procedures described in Sections [~~62A-2-123~~ and 62A-2-124] 26B-2-109 and 26B-2-123;

(xii) a procedure for the office to review and approve the policies and procedures described in Sections [~~62A-2-123~~ and 62A-2-124] 26B-2-109 and 26B-2-123; and

(xiii) a requirement that each human services program publicly post information that informs an individual how to submit a complaint about a human services program to the office;

(b) enforce rules relating to the office;

(c) issue licenses in accordance with this [~~chapter~~] part;

(d) if the United States Department of State executes an agreement with the office that designates the office to act as an accrediting entity in accordance with the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:

(i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

(ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L. No. 106-279;

(e) make rules to implement the provisions of Subsection (1)(d);

(f) conduct surveys and inspections of licensees and facilities in accordance with Section [~~62A-2-118~~] 26B-2-107;

(g) collect licensure fees;

(h) notify licensees of the name of a person within the department to contact when filing a complaint;

(i) investigate complaints regarding any licensee or human services program;

(j) have access to all records, correspondence, and financial data required to be maintained by a licensee;

(k) have authority to interview any client, family member of a client, employee, or officer of a licensee;

(l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this [~~chapter~~] part by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act;

(m) electronically post notices of agency action issued to a human services program, with the exception of a foster home, on the office's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

(n) upon receiving a local government's request under Section [~~62A-2-108.4~~] 26B-2-118, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.

(2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:

(a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:

(i) on the premises where the licensee operates its human services program;

(ii) by or against its clients; or

(iii) by or against a staff member while the staff member is on duty;

(b) immediately report to emergency medical services any medical emergency, as defined by rule:

(i) on the premises where the licensee operates its human services program;

(ii) involving its clients; or

(iii) involving a staff member while the staff member is on duty; and

(c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Section 100. Section 26B-2-105, which is renumbered from Section 62A-2-108 is renumbered and amended to read:

[~~62A-2-108~~]. 26B-2-105. Licensure requirements -- Expiration -- Renewal.

(1) Except as provided in Section [~~62A-2-110~~] 26B-2-115, an individual, agency, firm, corporation, association, or governmental unit acting severally or jointly with any other individual, agency, firm, corporation, association, or governmental unit may not establish, conduct, or maintain a human services program in this state without a valid and current license issued by and under the authority of the office as provided by this [~~chapter~~] part and the rules under the authority of this [~~chapter~~] part.

(2) (a) For purposes of this Subsection (2), "member" means a person or entity that is associated with another person or entity:

(i) as a member;

(ii) as a partner;

(iii) as a shareholder; or

(iv) as a person or entity involved in the ownership or management of a human services program owned or managed by the other person or entity.

(b) A license issued under this [~~chapter~~] part may not be assigned or transferred.

(c) An application for a license under this [~~chapter~~] part shall be treated as an application for reinstatement of a revoked license if:

(i) (A) the person or entity applying for the license had a license revoked under this [~~chapter~~] part; and

(B) the revoked license described in Subsection (2)(c)(i)(A) is not reinstated before the application described in this Subsection (2)(c) is made; or

(ii) a member of an entity applying for the license:

(A) (I) had a license revoked under this [~~chapter~~] part; and

(II) the revoked license described in Subsection (2)(c)(ii)(A)(I) is not reinstated before the application described in this Subsection (2)(c) is made; or

(B) (I) was a member of an entity that had a license revoked under this [~~chapter~~] part at any time before the license was revoked; and

(II) the revoked license described in Subsection (2)(c)(ii)(B)(I) is not reinstated before the application described in this Subsection (2)(c) is made.

(3) A current license shall at all times be posted in the facility where each human services program is operated, in a place that is visible and readily accessible to the public.

(4) (a) Except as provided in Subsection (4)(c), each license issued under this [~~chapter~~] part expires at midnight on the last day of the same

month the license was issued, one year following the date of issuance unless the license has been:

(i) previously revoked by the office;

(ii) voluntarily returned to the office by the licensee; or

(iii) extended by the office.

(b) A license shall be renewed upon application and payment of the applicable fee, unless the office finds that the licensee:

(i) is not in compliance with the:

(A) provisions of this [~~chapter~~] part; or

(B) rules made under this [~~chapter~~] part;

(ii) has engaged in a pattern of noncompliance with the:

(A) provisions of this [~~chapter~~] part; or

(B) rules made under this [~~chapter~~] part;

(iii) has engaged in conduct that is grounds for denying a license under Section [~~62A-2-112~~] 26B-2-112; or

(iv) has engaged in conduct that poses a substantial risk of harm to any person.

(c) The office may issue a renewal license that expires at midnight on the last day of the same month the license was issued, two years following the date of issuance, if:

(i) the licensee has maintained a human services license for at least 24 months before the day on which the licensee applies for the renewal; and

(ii) the licensee has not violated this [~~chapter~~] part or a rule made under this [~~chapter~~] part.

(5) Any licensee that is in operation at the time rules are made in accordance with this [~~chapter~~] part shall be given a reasonable time for compliance as determined by the rule.

(6) (a) A license for a human services program issued under this section shall apply to a specific human services program site.

(b) A human services program shall obtain a separate license for each site where the human services program is operated.

Section 101. Section 26B-2-106, which is renumbered from Section 62A-2-109 is renumbered and amended to read:

[~~62A-2-109~~]. 26B-2-106. License application -- Classification of information.

(1) An application for a license under this [~~chapter~~] part shall be made to the office and shall contain information that is necessary to comply with approved rules.

(2) Information received by the office through reports and inspections shall be classified in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 102. Section 26B-2-107, which is renumbered from Section 62A-2-118 is renumbered and amended to read:

[~~62A-2-118~~]. 26B-2-107. Administrative inspections.

(1) (a) Subject to Subsection (1)(b), the office may, for the purpose of ascertaining compliance with this [~~chapter~~] part, enter and inspect on a routine basis the facility of a licensee.

(b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter.

(ii) At least two of the inspections described in Subsection (1)(b)(i) shall be unannounced.

(c) If another government entity conducts an inspection that is substantially similar to an inspection conducted by the office, the office may conclude the inspection satisfies an inspection described in Subsection (1)(b).

(2) Before conducting an inspection under Subsection (1), the office shall, after identifying the person in charge:

(a) give proper identification;

(b) request to see the applicable license;

(c) describe the nature and purpose of the inspection; and

(d) if necessary, explain the authority of the office to conduct the inspection and the penalty for refusing to permit the inspection as provided in Section [~~62A-2-116~~] 26B-2-113.

(3) In conducting an inspection under Subsection (1), the office may, after meeting the requirements of Subsection (2):

(a) inspect the physical facilities;

(b) inspect and copy records and documents;

(c) interview officers, employees, clients, family members of clients, and others; and

(d) observe the licensee in operation.

(4) An inspection conducted under Subsection (1) shall be during regular business hours and may be announced or unannounced.

(5) The licensee shall make copies of inspection reports available to the public upon request.

(6) The provisions of this section apply to on-site inspections and do not restrict the office from contacting family members, neighbors, or other individuals, or from seeking information from other sources to determine compliance with this [~~chapter~~] part.

Section 103. Section 26B-2-108, which is renumbered from Section 62A-2-119 is renumbered and amended to read:

[~~62A-2-119~~]. 26B-2-108. Adoption of inspections, examinations, and studies.

The office may adopt an inspection, examination, or study conducted by a public or private entity, as

identified by rule, to determine whether a licensee has complied with a licensing requirement imposed by virtue of this [~~chapter~~] part.

Section 104. Section 26B-2-109, which is renumbered from Section 62A-2-124 is renumbered and amended to read:

[~~62A-2-124~~]. 26B-2-109. Human services program non-discrimination.

A human services program:

(1) shall perform an individualized assessment when classifying and placing an individual in programs and living environments; and

(2) subject to the office's review and approval, shall create policies and procedures that include:

(a) a description of what constitutes sex and gender based abuse, discrimination, and harassment;

(b) procedures for preventing and reporting abuse, discrimination, and harassment; and

(c) procedures for teaching effective and professional communication with individuals of all sexual orientations and genders.

Section 105. Section 26B-2-110, which is renumbered from Section 62A-2-113 is renumbered and amended to read:

[~~62A-2-113~~]. 26B-2-110. License revocation -- Suspension.

(1) If a license is revoked, the office may not grant a new license unless:

(a) the human services program provides satisfactory evidence to the office that the conditions upon which revocation was based have been corrected;

(b) the human services program is inspected by the office and found to be in compliance with all provisions of this [~~chapter~~] part and applicable rules;

(c) at least five years have passed since the day on which the licensee is served with final notice that the license is revoked; and

(d) the office determines that the interests of the public will not be jeopardized by granting the license.

(2) The office may suspend a license for no longer than three years.

(3) When a license has been suspended, the office may restore, or restore subject to conditions, the suspended license upon a determination that the:

(a) conditions upon which the suspension was based have been completely or partially corrected; and

(b) interests of the public will not be jeopardized by restoration of the license.

Section 106. Section 26B-2-111, which is renumbered from Section 62A-2-111 is renumbered and amended to read:

[~~62A-2-111~~]. 26B-2-111. Adjudicative proceedings.

(1) Whenever the office has reason to believe that a licensee is in violation of this [~~chapter~~] part or rules made under this [~~chapter~~] part, the office may commence adjudicative proceedings to determine the legal rights of the licensee by serving notice of agency action in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) A licensee, human services program, or individual may commence adjudicative proceedings, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, regarding all office actions that determine the legal rights, duties, privileges, immunities, or other legal interests of the licensee, human services program, or persons associated with the licensee, including all office actions to grant, deny, place conditions on, revoke, suspend, withdraw, or amend an authority, right, or license under this [~~chapter~~] part.

Section 107. Section 26B-2-112, which is renumbered from Section 62A-2-112 is renumbered and amended to read:

[~~62A-2-112~~]. 26B-2-112. Violations -- Penalties.

(1) As used in this section, "health care provider" means a person licensed to provide health care services under this [~~chapter~~] part.

(2) The office may deny, place conditions on, suspend, or revoke a human services license, if [~~it~~] the office finds, related to the human services program:

(a) that there has been a failure to comply with the rules established under this [~~chapter~~] part;

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

(c) evidence of conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud.

(3) The office may restrict or prohibit new admissions to a human services program, if it finds:

(a) that there has been a failure to comply with rules established under this [~~chapter~~] part;

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

(c) evidence of conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud.

(4) (a) The office may assess a fine of up to $500 per violation against a health care provider that violates Section 31A-26-313.

(b) The office shall waive the fine described in Subsection (4)(a) if:

(i) the health care provider demonstrates to the office that the health care provider mitigated and reversed any damage to the insured caused by the health care provider or third party's violation; or

(ii) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care provider or third party makes a report to a credit bureau or takes an action in violation of Section 31A-26-313.

(5) If a congregate care program knowingly fails to comply with the provisions of Section [~~62A-2-125~~] 26B-2-124, the office may impose a penalty on the congregate care program that is less than or equal to the cost of care incurred by the state for a private-placement child described in Subsection [~~62A-2-125~~] 26B-2-124(3).

(6) The office shall make rules for calculating the cost of care described in Subsection (5) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 108. Section 26B-2-113, which is renumbered from Section 62A-2-116 is renumbered and amended to read:

[~~62A-2-116~~]. 26B-2-113. Violation -- Criminal penalties.

(1) (a) A person who owns, establishes, conducts, maintains, manages, or operates a human services program in violation of this [~~chapter~~] part is guilty of a class A misdemeanor if the violation endangers or harms the health, welfare, or safety of persons participating in that program.

(b) Conviction in a criminal proceeding does not preclude the office from:

(i) assessing a civil penalty or an administrative penalty;

(ii) denying, placing conditions on, suspending, or revoking a license; or

(iii) seeking injunctive or equitable relief.

(2) Any person that violates a provision of this [~~chapter~~] part, lawful orders of the office, or rules adopted under this [~~chapter~~] part may be assessed a penalty not to exceed the sum of $10,000 per violation, in:

(a) a judicial civil proceeding; or

(b) an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(3) Assessment of a judicial penalty or an administrative penalty does not preclude the office from:

(a) seeking criminal penalties;

(b) denying, placing conditions on, suspending, or revoking a license; or

(c) seeking injunctive or equitable relief.

(4) The office may assess the human services program the cost incurred by the office in placing a monitor.

(5) Notwithstanding Subsection (1)(a) and subject to Subsections (1)(b) and (2), an individual is guilty of a class A misdemeanor if the individual knowingly and willfully offers, pays, promises to pay, solicits, or receives any remuneration, including any commission, bonus, kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, or engages in any split-fee arrangement in return for:

(a) referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder;

(b) receiving a referred individual for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder; or

(c) referring a clinical sample to a person, including a laboratory, for testing that is used toward the furnishing of any item or service for the treatment of a substance use disorder.

(6) Subsection (5) does not prohibit:

(a) any discount, payment, waiver of payment, or payment practice not prohibited by 42 U.S.C. Sec. 1320a-7(b) or regulations made under 42 U.S.C. Sec. 1320a-7(b);

(b) patient referrals within a practice group;

(c) payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance use disorder goods or services under a health benefit plan;

(d) payments to or by a health care provider, practice group, or substance use disorder treatment program that has contracted with a local mental health authority, a local substance abuse authority, a health insurer, a health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance use disorder services;

(e) payments by a health care provider, practice group, or substance use disorder treatment program to a health, mental health, or substance use disorder information service that provides information upon request and without charge to consumers about providers of health care goods or services to enable consumers to select appropriate providers or facilities, if the information service:

(i) does not attempt, through standard questions for solicitation of consumer criteria or through any other means, to steer or lead a consumer to select or consider selection of a particular health care provider, practice group, or substance use disorder treatment program;

(ii) does not provide or represent that the information service provides diagnostic or counseling services or assessments of illness or injury and does not make any promises of cure or guarantees of treatment; and

(iii) charges and collects fees from a health care provider, practice group, or substance use disorder treatment program participating in information services that:

(A) are set in advance;

(B) are consistent with the fair market value for those information services; and

(C) are not based on the potential value of the goods or services that a health care provider, practice group, or substance use disorder treatment program may provide to a patient; or

(f) payments by a laboratory to a person that:

(i) does not have a financial interest in or with a facility or person who refers a clinical sample to the laboratory;

(ii) is not related to an owner of a facility or a person who refers a clinical sample to the laboratory;

(iii) is not related to and does not have a financial relationship with a health care provider who orders the laboratory to conduct a test that is used toward the furnishing of an item or service for the treatment of a substance use disorder;

(iv) identifies, in advance of providing marketing or sales services, the types of clinical samples that each laboratory will receive, if the person provides marketing or sales services to more than one laboratory;

(v) the person does not identify as or hold itself out to be a laboratory or part of a network with an insurance payor, if the person provides marketing or sales services under a contract with a laboratory, as described in Subsection (6)(f)(vii)(B);

(vi) the person identifies itself in all marketing materials as a salesperson for a licensed laboratory and identifies each laboratory that the person represents, if the person provides marketing or sales services under a contract with a laboratory, as described in Subsection (6)(f)(vii)(B); and

(vii) (A) is a sales person employed by the laboratory to market or sell the laboratory's services to a person who provides substance use disorder treatment; or

(B) is a person under contract with the laboratory to market or sell the laboratory's services to a person who provides substance use disorder treatment, if the total compensation paid by the laboratory does not exceed the total compensation that the laboratory pays to employees of the laboratory for similar marketing or sales services.

(7) (a) A person may not knowingly or willfully, in exchange for referring an individual to a youth transportation company:

(i) offer, pay, promise to pay, solicit, or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, including:

(A) a commission;

(B) a bonus;

(C) a kickback;

(D) a bribe; or

(E) a rebate; or

(ii) engage in any split-fee arrangement.

(b) A person who violates Subsection (7)(a) is guilty of a class A misdemeanor and shall be assessed a penalty in accordance with Subsection (2).

Section 109. Section 26B-2-114, which is renumbered from Section 62A-2-115 is renumbered and amended to read:

[~~62A-2-115~~]. 26B-2-114. Injunctive relief and other legal procedures.

In addition to, and notwithstanding, any other remedy provided by law the department may, in a manner provided by law and upon the advice of the attorney general, who shall represent the department in the proceedings, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, management, or operation of a human services program or facility in violation of this [~~chapter~~] part or rules established under this [~~chapter~~] part.

Section 110. Section 26B-2-115, which is renumbered from Section 62A-2-110 is renumbered and amended to read:

[~~62A-2-110~~]. 26B-2-115. Exclusions from chapter.

The provisions of this [~~chapter~~] part do not apply to:

(1) a facility or program owned or operated by an agency of the United States government;

(2) a facility or program operated by or under an exclusive contract with the Department of Corrections;

(3) unless required otherwise by a contract with the department, individual or group counseling by a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(4) a general acute hospital, small health care facility, specialty hospital, nursing care facility, or other health care facility licensed by the [~~Department of Health under Title 26, Chapter 21,~~] department under Part 2, Health Care Facility Licensing and Inspection [~~Act~~]; or

(5) a boarding school.

Section 111. Section 26B-2-116, which is renumbered from Section 62A-2-108.1 is renumbered and amended to read:

[~~62A-2-108.1~~]. 26B-2-116. Coordination of human services and educational services -- Licensing of programs -- Procedures.

(1) As used in this section:

(a) "Accredited private school" means a private school that is accredited by an accrediting entity recognized by the Utah State Board of Education.

(b) "Education entitled children" means children:

(i) subject to compulsory education under Section 53G-6-202;

(ii) subject to the school attendance requirements of Section 53G-6-203; or

(iii) who are eligible for special education services as described in Title 53E, Chapter 7, Part 2, Special Education Program.

(2) Subject to Subsection (9) or (10), a human services program may not be licensed to serve education entitled children unless the human services program presents an educational service plan that includes evidence:

(a) satisfactory to:

(i) the office; and

(ii) (A) the local school board of the school district in which the human services program will be operated; or

(B) the school district superintendent of the school district in which the human services program will be operated; and

(b) that children served by the human services program shall receive appropriate educational services satisfying the requirements of applicable law.

(3) An educational services plan may be accepted if the educational services plan includes:

(a) the following information provided by the human services program:

(i) the number of children served by the human services program estimated to be enrolled in the local school district;

(ii) the ages and grade levels of children served by the human services program estimated to be enrolled in the local school district;

(iii) the subjects or hours of the school day for which children served by the human services program are estimated to enroll in the local school district;

(iv) the direct contact information for the purposes of taking custody of a child served by the human services program during the school day in case of illness, disciplinary removal by a school, or emergency evacuation of a school; and

(v) the method or arrangements for the transportation of children served by the human services program to and from the school; and

(b) the following information provided by the school district:

(i) enrollment procedures and forms;

(ii) documentation required prior to enrollment from each of the child's previous schools of enrollment;

(iii) if applicable, a schedule of the costs for tuition and school fees; and

(iv) schools and services for which a child served by the human services program may be eligible.

(4) Subject to Subsection (9) or (10), if a human services program serves any education entitled children whose custodial parents or legal guardians reside outside the state, then the program shall also provide an educational funding plan that includes evidence:

(a) satisfactory to:

(i) the office; and

(ii) (A) the local school board of the school district in which the human services program will be operated; or

(B) the school district superintendent of the school district in which the human services program will be operated; and

(b) that all costs for educational services to be provided to the education entitled children, including tuition, and school fees approved by the local school board, shall be borne by the human services program.

(5) Subject to Subsection (9) or (10), and in accordance with Subsection (2), the human services program shall obtain and provide the office with a letter:

(a) from the entity referred to in Subsection (2)(a)(ii):

(i) approving the educational service plan referred to in Subsection (3); or

(ii) (A) disapproving the educational service plan referred to in Subsection (3); and

(B) listing the specific requirements the human services program must meet before approval is granted; and

(b) from the entity referred to in Subsection (4)(a)(ii):

(i) approving the educational funding plan, referred to in Subsection (4); or

(ii) (A) disapproving the educational funding plan, referred to in Subsection (4); and

(B) listing the specific requirements the human services program must meet before approval is granted.

(6) Subject to Subsection (9), failure of a local school board or school district superintendent to respond to a proposed plan within 45 days of receipt of the plan is equivalent to approval of the plan by the local school board or school district superintendent if the human services program provides to the office:

(a) proof that:

(i) the human services program submitted the proposed plan to the local school board or school district superintendent; and

(ii) more than 45 days have passed from the day on which the plan was submitted; and

(b) an affidavit, on a form produced by the office, stating:

(i) the date that the human services program submitted the proposed plan to the local school board or school district superintendent;

(ii) that more than 45 days have passed from the day on which the plan was submitted; and

(iii) that the local school board or school district superintendent described in Subsection (6)(b)(i) failed to respond to the proposed plan within 45 days from the day on which the plan was submitted.

(7) If a licensee that is licensed to serve an education entitled child fails to comply with the licensee's approved educational service plan or educational funding plan, then:

(a) the office may give the licensee notice of intent to revoke the licensee's license; and

(b) if the licensee continues its noncompliance for more than 30 days after receipt of the notice described in Subsection (7)(a), the office may revoke the licensee's license.

(8) If an education entitled child whose custodial parent or legal guardian resides within the state is provided with educational services by a school district other than the school district in which the custodial parent or legal guardian resides, then the funding provisions of Section 53G-6-405 apply.

(9) A human services program that is an accredited private school:

(a) for purposes of Subsection (3):

(i) is only required to submit proof to the office that the accreditation of the private school is current; and

(ii) is not required to submit an educational service plan for approval by an entity described in Subsection (2)(a)(ii);

(b) for purposes of Subsection (4):

(i) is only required to submit proof to the office that all costs for educational services provided to education entitled children will be borne by the human services program; and

(ii) is not required to submit an educational funding plan for approval by an entity described in Subsection (4)(a)(ii); and

(c) is not required to comply with Subsections (5) and (6).

(10) Except for Subsection (8), the provisions of this section do not apply to a human services program that is a licensed or certified foster home [~~as defined in Section 62A-2-101~~].

Section 112. Section 26B-2-117, which is renumbered from Section 62A-2-108.2 is renumbered and amended to read:

[~~62A-2-108.2~~]. 26B-2-117. Licensing residential treatment programs and recovery residences -- Notification of local government.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules that establish categories of residential treatment and recovery residence licenses based on differences in the types of residential treatment programs and recovery residences.

(b) The categories referred to in Subsection (1)(a) may be based on differences in:

(i) services offered;

(ii) types of clients served;

(iii) risks posed to the community; or

(iv) other factors that make regulatory differences advisable.

(2) Subject to the requirements of federal and state law, and pursuant to the authority granted by Section [~~62A-2-106~~] 26B-2-104, the office shall establish and enforce rules that:

(a) relate generally to all categories of residential treatment program and recovery residence licenses; and

(b) relate to specific categories of residential treatment program and recovery residence licenses on the basis of the regulatory needs, as determined by the office, of residential treatment programs and recovery residences within those specific categories.

(3) (a) Beginning July 1, 2014, the office shall charge an annual licensing fee, set by the office in accordance with the procedures described in Section 63J-1-504, to a recovery residence in an amount that will pay for the cost of the licensing and inspection requirements described in this section and in Section [~~62A-2-106~~] 26B-2-104.

(b) The office shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing and inspection requirements described in this section and in Section [~~62A-2-106~~] 26B-2-104.

(4) Before submitting an application for a license to operate a residential treatment program, the applicant shall serve notice of its intent to operate a residential treatment program on the governing body of:

(a) the city in which the residential treatment program will be located; or

(b) if the residential treatment program will be located in the unincorporated area of a county, the county in which the residential treatment program will be located.

(5) The notice described in Subsection (4) shall include the following information relating to the residential treatment program:

(a) an accurate description of the residential treatment program;

(b) the location where the residential treatment program will be operated;

(c) the services that will be provided by the residential treatment program;

(d) the type of clients that the residential treatment program will serve;

(e) the category of license for which the residential treatment program is applying to the office;

(f) the name, telephone number, and address of a person that may be contacted to make inquiries about the residential treatment program; and

(g) any other information that the office may require by rule.

(6) When submitting an application for a license to operate a residential treatment program, the applicant shall include with the application:

(a) a copy of the notice described in Subsection (4); and

(b) proof that the applicant served the notice described in Subsection (4) on the governing body described in Subsection (4).

Section 113. Section 26B-2-118, which is renumbered from Section 62A-2-108.4 is renumbered and amended to read:

[~~62A-2-108.4~~]. 26B-2-118. Request by local government.

(1) A local government may request that the office notify the local government of new human services program license applications for human services programs located within the local government's jurisdiction.

(2) Subsection (1) does not apply to foster homes.

Section 114. Section 26B-2-119, which is renumbered from Section 62A-2-108.8 is renumbered and amended to read:

[~~62A-2-108.8~~]. 26B-2-119. Residential support program -- Temporary homeless youth shelter.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules that establish age-appropriate and gender-appropriate sleeping quarters in temporary homeless youth shelters, as defined in Section 80-5-102, that provide overnight shelter to minors.

Section 115. Section 26B-2-120, which is renumbered from Section 62A-2-120 is renumbered and amended to read:

[~~62A-2-120~~]. 26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section [~~62A-2-101~~] 26B-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) an individual who transports a child for a youth transportation company;

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant or a representative shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a disclosure form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the [~~Department of Human Services,~~] Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the [~~Department of Human Services,~~] Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section [~~62A-3-311.1~~] 26B-6-210;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall:

(i) search the [~~Department of Human Services,~~] Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits

the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Individual;

(B) Section 76-5b-201, Sexual Exploitation of a Minor;

(C) Section 76-5b-201.1, Aggravated Sexual Exploitation of a Minor; or

(D) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has an open court case or a conviction for any felony offense, not described in Subsection (5)(a), with a date of conviction that is no more than 10 years before the date on which the applicant submits the application;

(ii) has an open court case or a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3,

Utah Administrative Rulemaking Act, if the conviction is within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the [~~Department of Human Services,~~] Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(vi) has a listing in the [~~Department of Human Services,~~] Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section [~~62A-3-311.1~~] 26B-6-210;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 80-3-404;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years old; or

(B) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(ix) has a pending charge for an offense described in Subsection (5)(a); or

(x) is an applicant described in Subsection (5)(c).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) any other pertinent information presented to or publicly available to the committee members.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:

(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and

(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this [~~chapter~~] part, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (14).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the

application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 80-2-1002;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section [~~62A-3-311.1~~] 26B-6-210;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 80-3-404; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give notice of the clearance status to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection [~~62A-2-111~~] 26B-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this [~~chapter~~] part:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt

from this section. This exemption does not extend to a program director or a member, as defined by Section [~~62A-2-108~~] 26B-2-105, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant to become a prospective foster parent, or an applicant to become a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(Q) aggravated arson, as described in Section 76-6-103;

(R) aggravated burglary, as described in Section 76-6-203;

(S) aggravated robbery, as described in Section 76-6-302; or

(T) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102.

Section 116. Section 26B-2-121, which is renumbered from Section 62A-2-121 is renumbered and amended to read:

[~~62A-2-121~~]. 26B-2-121. Access to abuse and neglect information.

(1) As used in this section:

(a) "Direct service worker" means the same as that term is defined in Section [~~62A-5-101~~] 26B-6-401.

(b) "Personal care attendant" means the same as that term is defined in Section [~~62A-3-101~~] 26B-6-401.

(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 80-2-1002 and juvenile court records under Subsection 80-3-404(4), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a licensee that a person associated with the licensee:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2);

(b) (i) determining whether a direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); or

(c) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a person described in Subsections [~~62A-3-101~~] 26B-6-101(9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2).

(3) Notwithstanding Subsection (2), the department may access the Division of Child and Family Services' Management Information System under Section 80-2-1001:

(a) for the purpose of licensing and monitoring foster parents;

(b) for the purposes described in Subsection 80-2-1001(5)(b)(iii); and

(c) for the purpose described in Section 26B-1-211.

(4) The department shall receive and process personal identifying information under Subsection [~~62A-2-120~~] 26B-2-120(1) for the purposes described in Subsection (2).

(5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this [~~chapter~~] part, defining the circumstances under which a person may have direct access or provide services to children when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section 80-2-1002; or

(b) juvenile court records show that a court made a substantiated finding under Section 80-3-404, that the person committed a severe type of child abuse or neglect.

Section 117. Section 26B-2-122, which is renumbered from Section 62A-2-122 is renumbered and amended to read:

[~~62A-2-122~~]. 26B-2-122. Access to vulnerable adult abuse and neglect information.

(1) For purposes of this section:

(a) "Direct service worker" means the same as that term is defined in Section [~~62A-5-101~~] 26B-6-401.

(b) "Personal care attendant" means the same as that term is defined in Section [~~62A-3-101~~] 26B-6-401.

(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access the database created by Section [~~62A-3-311.1~~] 26B-6-210 for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to vulnerable adults, has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a licensee that a person associated with the licensee has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation;

(b) (i) determining whether a direct service worker has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; or

(c) (i) determining whether a personal care attendant has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a person described in Subsections [~~62A-3-101~~] 26B-6-401(9)(a)(i) through (iv) that a personal care attendant has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation.

(3) The department shall receive and process personal identifying information under Subsection [~~62A-2-120~~] 26B-2-120(1) for the purposes described in Subsection (2).

(4) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this [~~chapter~~] part and [~~Title 62A, Chapter 3, Part 3~~] Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult, defining the circumstances under which a person may have direct access or provide services to vulnerable adults when the person is listed in the statewide database of the Division of Aging and Adult Services created by Section [~~62A-3-311.1~~] 26B-6-210 as having a supported or substantiated finding of abuse, neglect, or exploitation.

Section 118. Section 26B-2-123, which is renumbered from Section 62A-2-123 is renumbered and amended to read:

[~~62A-2-123~~]. 26B-2-123. Congregate care program regulation.

(1) A congregate care program may not use a cruel, severe, unusual, or unnecessary practice on a child, including:

(a) a strip search unless the congregate care program determines and documents that a strip search is necessary to protect an individual's health or safety;

(b) a body cavity search unless the congregate care program determines and documents that a body cavity search is necessary to protect an individual's health or safety;

(c) inducing pain to obtain compliance;

(d) hyperextending joints;

(e) peer restraints;

(f) discipline or punishment that is intended to frighten or humiliate;

(g) requiring or forcing the child to take an uncomfortable position, including squatting or bending;

(h) for the purpose of punishing or humiliating, requiring or forcing the child to repeat physical movements or physical exercises such as running laps or performing push-ups;

(i) spanking, hitting, shaking, or otherwise engaging in aggressive physical contact;

(j) denying an essential program service;

(k) depriving the child of a meal, water, rest, or opportunity for toileting;

(l) denying shelter, clothing, or bedding;

(m) withholding personal interaction, emotional response, or stimulation;

(n) prohibiting the child from entering the residence;

(o) abuse as defined in Section 80-1-102; and

(p) neglect as defined in Section 80-1-102.

(2) Before a congregate care program may use a restraint or seclusion, the congregate care program shall:

(a) develop and implement written policies and procedures that:

(i) describe the circumstances under which a staff member may use a restraint or seclusion;

(ii) describe which staff members are authorized to use a restraint or seclusion;

(iii) describe procedures for monitoring a child that is restrained or in seclusion;

(iv) describe time limitations on the use of a restraint or seclusion;

(v) require immediate and continuous review of the decision to use a restraint or seclusion;

(vi) require documenting the use of a restraint or seclusion;

(vii) describe record keeping requirements for records related to the use of a restraint or seclusion;

(viii) to the extent practicable, require debriefing the following individuals if debriefing would not interfere with an ongoing investigation, violate any law or regulation, or conflict with a child's treatment plan:

(A) each witness to the event;

(B) each staff member involved; and

(C) the child who was restrained or in seclusion;

(ix) include a procedure for complying with Subsection (5); and

(x) provide an administrative review process and required follow up actions after a child is restrained or put in seclusion; and

(b) consult with the office to ensure that the congregate care program's written policies and procedures align with applicable law.

(3) A congregate care program:

(a) may use a passive physical restraint only if the passive physical restraint is supported by a nationally or regionally recognized curriculum focused on non-violent interventions and de-escalation techniques;

(b) may not use a chemical or mechanical restraint unless the office has authorized the congregate care program to use a chemical or mechanical restraint;

(c) shall ensure that a staff member that uses a restraint on a child is:

(i) properly trained to use the restraint; and

(ii) familiar with the child and if the child has a treatment plan, the child's treatment plan; and

(d) shall train each staff member on how to intervene if another staff member fails to follow correct procedures when using a restraint.

(4) (a) A congregate care program:

(i) may use seclusion if:

(A) the purpose for the seclusion is to ensure the immediate safety of the child or others; and

(B) no less restrictive intervention is likely to ensure the safety of the child or others; and

(ii) may not use seclusion:

(A) for coercion, retaliation, or humiliation; or

(B) due to inadequate staffing or for the staff's convenience.

(b) While a child is in seclusion, a staff member who is familiar to the child shall actively supervise the child for the duration of the seclusion.

(5) Subject to the office's review and approval, a congregate care program shall develop:

(a) suicide prevention policies and procedures that describe:

(i) how the congregate care program will respond in the event a child exhibits self-injurious, self-harm, or suicidal behavior;

(ii) warning signs of suicide;

(iii) emergency protocol and contacts;

(iv) training requirements for staff, including suicide prevention training;

(v) procedures for implementing additional supervision precautions and for removing any additional supervision precautions;

(vi) suicide risk assessment procedures;

(vii) documentation requirements for a child's suicide ideation and self-harm;

(viii) special observation precautions for a child exhibiting warning signs of suicide;

(ix) communication procedures to ensure all staff are aware of a child who exhibits warning signs of suicide;

(x) a process for tracking suicide behavioral patterns; and

(xi) a post-intervention plan with identified resources; and

(b) based on state law and industry best practices, policies and procedures for managing a child's behavior during the child's participation in the congregate care program.

(6) (a) A congregate care program:

(i) subject to Subsection (6)(b), shall facilitate weekly confidential voice-to-voice communication between a child and the child's parents, guardian, foster parents, and siblings, as applicable;

(ii) shall ensure that the communication described in Subsection (6)(a)(i) complies with the child's treatment plan, if any; and

(iii) may not use family contact as an incentive for proper behavior or withhold family contact as a punishment.

(b) For the communication described in Subsection (6)(a)(i), a congregate care program may not:

(i) deny the communication unless state law or a court order prohibits the communication; or

(ii) modify the frequency or form of the communication unless:

(A) the office approves the modification; or

(B) state law or a court order prohibits the frequency or the form of the communication.

Section 119. Section 26B-2-124, which is renumbered from Section 62A-2-125 is renumbered and amended to read:

[~~62A-2-125~~]. 26B-2-124. Congregate care program requirements.

(1) As used in this section, "disruption plan" means a child specific plan used:

(a) when the private-placement child stops receiving services from a congregate care program; and

(b) for transporting a private-placement child to a parent or guardian or to another congregate care program.

(2) A congregate care program shall keep the following for a private-placement child whose parent or guardian lives outside the state:

(a) regularly updated contact information for the parent or guardian that lives outside the state; and

(b) a disruption plan.

(3) If a private-placement child whose parent or guardian resides outside the state leaves a congregate care program without following the child's disruption plan, the congregate care program shall:

(a) notify the parent or guardian, office, and local law enforcement authorities;

(b) assist the state in locating the private-placement child; and

(c) after the child is located, transport the private-placement child:

(i) to a parent or guardian;

(ii) back to the congregate care program; or

(iii) to another congregate care program.

(4) This section does not apply to a guardian that is a state or agency.

(5) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, describing:

(a) additional mandatory provisions for a disruption plan; and

(b) how a congregate care program shall notify the office when a private-placement child begins receiving services.

Section 120. Section 26B-2-125, which is renumbered from Section 62A-2-128 is renumbered and amended to read:

[~~62A-2-128~~]. 26B-2-125. Youth transportation company registration.

(1) The office shall establish a registration system for youth transportation companies.

(2) The office shall establish a fee:

(a) under Section 63J-1-504 that does not exceed $500; and

(b) that when paid by all registrants generates sufficient revenue to cover or substantially cover the costs for the creation and maintenance of the registration system.

(3) A youth transportation company shall:

(a) register with the office; and

(b) provide the office:

(i) proof of a business insurance policy that provides at least $1,000,000 in coverage; and

(ii) a valid business license from the state where the youth transportation company is headquartered.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules to implement this section.

Section 121. Section 26B-2-126, which is renumbered from Section 62A-2-108.5 is renumbered and amended to read:

[~~62A-2-108.5~~]. 26B-2-126. Notification requirement for child-placing agencies that provide foster home services -- Rulemaking authority.

(1) The office shall require a child-placing agency that provides foster home services to notify a foster parent that if the foster parent signs as the responsible adult for a foster child to receive a driver license under Section 53-3-211:

(a) the foster parent is jointly and severally liable with the minor for civil compensatory damages caused by the minor when operating a motor vehicle upon a highway as provided under Subsections 53-3-211(2) and (4); and

(b) the foster parent may file with the Driver License Division a verified written request that the learner permit or driver license be canceled in accordance with Section 53-3-211 if the foster child no longer resides with the foster parent.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing the procedures for a child-placing agency to provide the notification required under this section.

Section 122. Section 26B-2-127, which is renumbered from Section 62A-2-108.6 is renumbered and amended to read:

[~~62A-2-108.6~~]. 26B-2-127. Child placing licensure requirements -- Prohibited acts.

(1) As used in this section:

(a) (i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) "Advertisement" includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Birth parent" means the same as that term is defined in Section 78B-6-103.

(c) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.

(d) (i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection (1)(d)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(2) (a) Subject to Section 78B-24-205, a person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the office in accordance with this [~~chapter~~] part.

(b) If a child-placing agency's license is suspended or revoked in accordance with this [~~chapter~~] part, the care, control, or custody of any child who is in the care, control, or custody of the child-placing agency shall be transferred to the Division of Child and Family Services.

(3) (a) (i) An attorney, physician, or other person may assist:

(A) a birth parent to identify or locate a prospective adoptive parent who is interested in adopting the birth parent's child; or

(B) a prospective adoptive parent to identify or locate a child to be adopted.

(ii) A payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may not be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

(A) "comprehensive";

(B) "complete";

(C) "one-stop";

(D) "all-inclusive"; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the office shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the office.

(4) A person who intentionally or knowingly violates Subsection (2) or (3) is guilty of a third degree felony.

(5) This section does not preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings.

(6) In accordance with federal law, only an agent or employee of the Division of Child and Family Services or of a licensed child-placing agency may certify to United States Citizenship and Immigration Services that a family meets the preadoption requirements of the Division of Child and Family Services.

(7) A licensed child-placing agency or an attorney practicing in this state may not place a child for adoption, either temporarily or permanently, with an individual who would not be qualified for adoptive placement under Sections 78B-6-102, 78B-6-117, and 78B-6-137.

Section 123. Section 26B-2-128, which is renumbered from Section 62A-2-116.5 is renumbered and amended to read:

[~~62A-2-116.5~~]. 26B-2-128. Numerical limit of foster children in a foster home.

(1) Except as provided in Subsection (2) or (3), no more than:

(a) four foster children may reside in the foster home of a licensed foster parent; or

(b) three foster children may reside in the foster home of a certified foster parent.

(2) When placing a sibling group into a foster home, the limits in Subsection (1) may be exceeded if:

(a) no other foster children reside in the foster home;

(b) only one other foster child resides in the foster home at the time of a sibling group's placement into the foster home; or

(c) a sibling group re-enters foster care and is placed into the foster home where the sibling group previously resided.

(3) When placing a child into a foster home, the limits in Subsection (1) may be exceeded:

(a) to place a child into a foster home where a sibling of the child currently resides; or

(b) to place a child in a foster home where the child previously resided.

Section 124. Section 26B-2-129, which is renumbered from Section 62A-2-117 is renumbered and amended to read:

[~~62A-2-117~~]. 26B-2-129. Licensure of tribal foster homes.

(1) The Indian Child Welfare Act, 25 U.S.C. Secs. 1901-1963, provides that Indian tribes may develop and implement tribal foster home standards.

(2) The office shall give full faith and credit to an Indian tribe's certification or licensure of a tribal foster home for an Indian child and siblings of that Indian child, both on and off Indian country, according to standards developed and approved by the Indian tribe, pursuant to the Indian Child Welfare Act, 25 U.S.C. Secs. 1901-1963.

(3) If the Indian tribe has not developed standards, the office shall license tribal foster homes pursuant to this [~~chapter~~] part.

Section 125. Section 26B-2-130, which is renumbered from Section 62A-2-117.5 is renumbered and amended to read:

[~~62A-2-117.5~~]. 26B-2-130. Foster care by a child's relative.

(1) As used in this section:

(a) "Custody" means the same as that term is defined in Section 80-2-102.

(b) "Relative" means the same as that term is defined in Section 80-3-102.

(c) "Temporary custody" means the same as that term is defined in Section 80-2-102.

[~~(1)~~] (2) (a) In accordance with state and federal law, the division shall provide for licensure of a child's relative for foster or substitute care, when the child is in the temporary custody or custody of the Division of Child and Family Services.

(b) If it is determined that, under federal law, allowance is made for an approval process requiring less than full foster parent licensure proceedings for a child's relative, the division shall establish an approval process to accomplish that purpose.

[~~(2) For purposes of this section:~~]

[~~(a) "Custody" and "temporary custody" mean the same as those terms are defined in Section 80-2-102.~~]

[~~(b) "Relative" means the same as that term is defined in Section 80-3-102.~~]

Section 126. Section 26B-2-131, which is renumbered from Section 62A-2-127 is renumbered and amended to read:

[~~62A-2-127~~]. 26B-2-131. Child-placing agency responsibility for educational services -- Payment of costs.

(1) A child-placing agency shall ensure that the requirements of Subsections 53G-6-202(2) and 53G-6-203(1) are met through the provision of appropriate educational services for all children served in the state by the child-placing agency.

(2) (a) If the educational services described in Subsection (1) are provided through a public school and the custodial parent or legal guardian resides outside the state, the child-placing agency shall pay all educational costs required under Sections 53G-6-306 and 53G-7-503.

(b) If the educational services described in Subsection (1) are provided through a public school and the custodial parent or legal guardian resides within the state, then the child-placing agency shall pay all educational costs required under Section 53G-7-503.

(3) A child in the custody or under the care of a Utah state agency is exempt from the payment of fees required under Subsection (2).

(4) A public school shall admit any child living within the public school's boundaries who is under the supervision of a child-placing agency upon payment by the child-placing agency of the tuition and fees required under Subsection (2).

Section 127. Section 26B-2-132, which is renumbered from Section 62A-2-115.2 is renumbered and amended to read:

[~~62A-2-115.2~~]. 26B-2-132. Child-placing agency proof of authority in a proceeding.

A child-placing agency is not required to present the child-placing agency's license issued under this [~~chapter~~] part, the child placing agency's certificate of incorporation, or proof of the child-placing agency's authority to consent to adoption, as proof of the child-placing agency's authority in any proceeding in which the child-placing agency is an

interested party, unless the court or a party to the proceeding requests that the child-placing agency or the child-placing agency's representative establish proof of authority.

Section 128. Section 26B-2-133, which is renumbered from Section 62A-2-115.1 is renumbered and amended to read:

[~~62A-2-115.1~~]. 26B-2-133. Injunctive relief and civil penalty for unlawful child placing -- Enforcement by county attorney or attorney general.

(1) The office or another interested person may commence an action in [~~district~~] court to enjoin any person, agency, firm, corporation, or association from violating Section [~~62A-2-108.6~~] 26B-2-127.

(2) The office shall:

(a) solicit information from the public relating to violations of Section [~~62A-2-108.6~~] 26B-2-127; and

(b) upon identifying a violation of Section [~~62A-2-108.6~~] 26B-2-127:

(i) send a written notice to the person who violated Section [~~62A-2-108.6~~] 26B-2-127 that describes the alleged violation; and

(ii) notify the following persons of the alleged violation:

(A) the local county attorney; and

(B) the Division of Professional Licensing.

(3) (a) A county attorney or the attorney general shall institute legal action as necessary to enforce the provisions of Section [~~62A-2-108.6~~] 26B-2-127 after being informed of an alleged violation.

(b) If a county attorney does not take action within 30 days after the day on which the county attorney is informed of an alleged violation of Section [~~62A-2-108.6~~] 26B-2-127, the attorney general may be requested to take action, and shall then institute legal proceedings in place of the county attorney.

(4) (a) In addition to the remedies provided in Subsections (1) and (3), any person, agency, firm, corporation, or association found to be in violation of Section [~~62A-2-108.6~~] 26B-2-127 shall forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil penalty of not more than $10,000 for each violation.

(b) Each act in violation of Section [~~62A-2-108.6~~] 26B-2-127, including each placement or attempted placement of a child, is a separate violation.

(5) (a) The amount recovered as a penalty under Subsection (4) shall be placed in the General Fund of the prosecuting county, or in the state General Fund if the attorney general prosecutes.

(b) If two or more governmental entities are involved in the prosecution, the court shall apportion the penalty among the entities, according to the entities' involvement.

(6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4) is a lien when recorded in the judgment docket, and has the same effect and is subject to the same rules as a judgment for money in a civil action.

Section 129. Section 26B-2-201, which is renumbered from Section 26-21-2 is renumbered and amended to read:

Part 2. Health Care Facility Licensing and Inspection

[~~26-21-2~~]. 26B-2-201. Definitions.

As used in this [~~chapter~~] part:

(1) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

(2) "Activities of daily living" means essential activities including:

(a) dressing;

(b) eating;

(c) grooming;

(d) bathing;

(e) toileting;

(f) ambulation;

(g) transferring; and

(h) self-administration of medication.

(3) "Ambulatory surgical facility" means a freestanding facility, which provides surgical services to patients not requiring hospitalization.

(4) "Assistance with activities of daily living" means providing of or arranging for the provision of assistance with activities of daily living.

(5) (a) "Assisted living facility" means:

(i) a type I assisted living facility, which is a residential facility that provides assistance with activities of daily living and social care to two or more residents who:

(A) require protected living arrangements; and

(B) are capable of achieving mobility sufficient to exit the facility without the assistance of another person; and

(ii) a type II assisted living facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who have been assessed under department rule to need any of these services.

(b) Each resident in a type I or type II assisted living facility shall have a service plan based on the assessment, which may include:

(i) specified services of intermittent nursing care;

(ii) administration of medication; and

(iii) support services promoting residents' independence and [~~self sufficiency~~] self-sufficiency.

(6) "Birthing center" means a facility that:

(a) receives maternal clients and provides care during pregnancy, delivery, and immediately after delivery; and

(b) (i) is freestanding; or

(ii) is not freestanding, but meets the requirements for an alongside midwifery unit described in Subsection [~~26-21-29~~] 26B-2-228(7).

(7) "Committee" means the Health Facility Committee created in Section 26B-1-204.

(8) "Consumer" means any person not primarily engaged in the provision of health care to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his gross income from any entity or activity relating to health care.

(9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

(10) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

(11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and rehabilitative services to both inpatients and outpatients by or under the supervision of physicians.

(12) "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or agency of the state, a county, municipality, or other political subdivision.

(13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule.

(b) "Health care facility" does not include the offices of private physicians or dentists, whether for individual or group practice, except that it does include an abortion clinic.

(14) "Health maintenance organization" means an organization, organized under the laws of any state which:

(a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

(b) (i) provides or otherwise makes available to enrolled participants at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services and out-of-area coverage;

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and

(iii) provides physicians' services primarily directly through physicians who are either employees or partners of such organizations, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(15) (a) "Home health agency" means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff persons who provide licensed nursing services, therapeutic services of physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.

(b) "Home health agency" does not mean an individual who provides services under the authority of a private license.

(16) "Hospice" means a program of care for the terminally ill and their families which occurs in a home or in a health care facility and which provides medical, palliative, psychological, spiritual, and supportive care and treatment.

(17) "Nursing care facility" means a health care facility, other than a general acute or specialty hospital, constructed, licensed, and operated to provide patient living accommodations, 24-hour staff availability, and at least two of the following patient services:

(a) a selection of patient care services, under the direction and supervision of a registered nurse, ranging from continuous medical, skilled nursing, psychological, or other professional therapies to intermittent health-related or paraprofessional personal care services;

(b) a structured, supportive social living environment based on a professionally designed and supervised treatment plan, oriented to the individual's habilitation or rehabilitation needs; or

(c) a supervised living environment that provides support, training, or assistance with individual activities of daily living.

(18) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(19) "Resident" means a person 21 years old or older who:

(a) as a result of physical or mental limitations or age requires or requests services provided in an assisted living facility; and

(b) does not require intensive medical or nursing services as provided in a hospital or nursing care facility.

(20) "Small health care facility" means a four to 16 bed facility that provides licensed health care programs and services to residents.

(21) "Specialty hospital" means a facility which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(22) "Substantial compliance" means in a department survey of a licensee, the department determines there is an absence of deficiencies which would harm the physical health, mental health, safety, or welfare of patients or residents of a licensee.

(23) "Type I abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy; and

(b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of pregnancy.

(24) "Type II abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, after the first trimester of pregnancy; or

(b) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy and after the first trimester of pregnancy.

Section 130. Section 26B-2-202, which is renumbered from Section 26-21-6 is renumbered and amended to read:

[~~26-21-6~~]. 26B-2-202. Duties of department.

(1) The department shall:

(a) enforce rules established pursuant to this [~~chapter~~] part;

(b) authorize an agent of the department to conduct inspections of health care facilities pursuant to this [~~chapter~~] part;

(c) collect information authorized by the committee that may be necessary to ensure that adequate health care facilities are available to the public;

(d) collect and credit fees for licenses as free revenue;

(e) collect and credit fees for conducting plan reviews as dedicated credits;

(f) (i) collect and credit fees for conducting clearance under [~~Chapter 21, Part 2, Clearance for Direct Patient Access~~] Sections 26B-2-239 and 26B-2-240; and

(ii) beginning July 1, 2012:

(A) up to $105,000 of the fees collected under Subsection (1)(f)(i) are dedicated credits; and

(B) the fees collected for background checks under Subsection [~~26-21-204~~] 26B-2-240(6) and [~~Section 26-21-205~~] Subsection 26B-2-241(4) shall be transferred to the Department of Public Safety to reimburse the Department of Public Safety for its costs in conducting the federal background checks;

(g) designate an executive secretary from within the department to assist the committee in carrying out its powers and responsibilities;

(h) establish reasonable standards for criminal background checks by public and private entities;

(i) recognize those public and private entities that meet the standards established pursuant to Subsection (1)(h); and

(j) provide necessary administrative and staff support to the committee.

(2) The department may:

(a) exercise all incidental powers necessary to carry out the purposes of this [~~chapter~~] part;

(b) review architectural plans and specifications of proposed health care facilities or renovations of health care facilities to ensure that the plans and specifications conform to rules established by the committee; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules as necessary to implement the provisions of this [~~chapter~~] part.

Section 131. Section 26B-2-203, which is renumbered from Section 26-21-2.1 is renumbered and amended to read:

[~~26-21-2.1~~]. 26B-2-203. Services required -- General acute hospitals -- Specialty Hospitals.

(1) General acute hospitals and specialty hospitals shall remain open and be continuously ready to receive patients 24 hours of every day in a year and have an attending medical staff consisting of one or more physicians licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) A specialty hospital shall provide on-site all basic services required of a general acute hospital that are needed for the diagnosis, therapy, or rehabilitation offered to or required by patients admitted to or cared for in the facility.

(3) (a) A home health agency shall provide at least licensed nursing services or therapeutic services directly through the agency employees.

(b) A home health agency may provide additional services itself or under arrangements with another agency, organization, facility, or individual.

(4) Beginning January 1, 2023, a hospice program shall provide at least one qualified medical provider, as that term is defined in Section

[~~26-61a-102~~] 26B-4-201, for the treatment of hospice patients.

Section 132. Section 26B-2-204, which is renumbered from Section 26-21-6.5 is renumbered and amended to read:

[~~26-21-6.5~~]. 26B-2-204. Licensing of an abortion clinic -- Rulemaking authority -- Fee.

(1) A type I abortion clinic may not operate in the state without a license issued by the department to operate a type I abortion clinic.

(2) A type II abortion clinic may not operate in the state without a license issued by the department to operate a type II abortion clinic.

(3) The department shall make rules establishing minimum health, safety, sanitary, and recordkeeping requirements for:

(a) a type I abortion clinic; and

(b) a type II abortion clinic.

(4) To receive and maintain a license described in this section, an abortion clinic shall:

(a) apply for a license on a form prescribed by the department;

(b) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping requirements established under Subsection (3) that relate to the type of abortion clinic licensed;

(c) comply with the recordkeeping and reporting requirements of Section 76-7-313;

(d) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion;

(e) pay the annual licensing fee; and

(f) cooperate with inspections conducted by the department.

(5) (a) The department shall, at least twice per year, inspect each abortion clinic in the state to ensure that the abortion clinic is complying with all statutory and licensing requirements relating to the abortion clinic.

(b) At least one of the inspections shall be made without providing notice to the abortion clinic.

(6) The department shall charge an annual license fee, set by the department in accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an amount that will pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

(7) The department shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

Section 133. Section 26B-2-205, which is renumbered from Section 26-21-7 is renumbered and amended to read:

[~~26-21-7~~]. 26B-2-205. Exempt facilities.

This [~~chapter~~] part does not apply to:

(1) a dispensary or first aid facility maintained by any commercial or industrial plant, educational institution, or convent;

(2) a health care facility owned or operated by an agency of the United States;

(3) the office of a physician, physician assistant, or dentist whether it is an individual or group practice, except that it does apply to an abortion clinic;

(4) a health care facility established or operated by any recognized church or denomination for the practice of religious tenets administered by mental or spiritual means without the use of drugs, whether gratuitously or for compensation, if it complies with statutes and rules on environmental protection and life safety;

(5) any health care facility owned or operated by the Department of Corrections, created in Section 64-13-2; and

(6) a residential facility providing 24-hour care:

(a) that does not employ direct care staff;

(b) in which the residents of the facility contract with a licensed hospice agency to receive end-of-life medical care; and

(c) that meets other requirements for an exemption as designated by administrative rule.

Section 134. Section 26B-2-206, which is renumbered from Section 26-21-8 is renumbered and amended to read:

[~~26-21-8~~]. 26B-2-206. License required -- Not assignable or transferable -- Posting -- Expiration and renewal -- Time for compliance by operating facilities.

(1) (a) A person or governmental unit acting severally or jointly with any other person or governmental unit, may not establish, conduct, or maintain a health care facility in this state without receiving a license from the department as provided by this [~~chapter~~] part and the rules adopted pursuant to this [~~chapter~~] part.

(b) This Subsection (1) does not apply to facilities that are exempt under Section [~~26-21-7~~] 26B-2-205.

(2) A license issued under this [~~chapter~~] part is not assignable or transferable.

(3) The current license shall at all times be posted in each health care facility in a place readily visible and accessible to the public.

(4) (a) The department may issue a license for a period of time not to exceed 12 months from the date of issuance for an abortion clinic and not to exceed 24 months from the date of issuance for other health care facilities that meet the provisions of this

[~~chapter~~] part and department rules adopted pursuant to this [~~chapter~~] part.

(b) Each license expires at midnight on the day designated on the license as the expiration date, unless previously revoked by the department.

(c) The license shall be renewed upon completion of the application requirements, unless the department finds the health care facility has not complied with the provisions of this [~~chapter~~] part or the rules adopted pursuant to this [~~chapter~~] part.

(5) A license may be issued under this section only for the operation of a specific facility at a specific site by a specific person.

(6) Any health care facility in operation at the time of adoption of any applicable rules as provided under this [~~chapter~~] part shall be given a reasonable time for compliance as determined by the committee.

Section 135. Section 26B-2-207, which is renumbered from Section 26-21-9 is renumbered and amended to read:

[~~26-21-9~~]. 26B-2-207. Application for license -- Information required -- Public records.

(1) An application for license shall be made to the department in a form prescribed by the department. The application and other documentation requested by the department as part of the application process shall require such information as the committee determines necessary to ensure compliance with established rules.

(2) Information received by the department in reports and inspections shall be public records, except the information may not be disclosed if it directly or indirectly identifies any individual other than the owner or operator of a health facility (unless disclosure is required by law) or if its disclosure would otherwise constitute an unwarranted invasion of personal privacy.

(3) Information received by the department from a health care facility, pertaining to that facility's accreditation by a voluntary accrediting organization, shall be private data except for a summary prepared by the department related to licensure standards.

Section 136. Section 26B-2-208, which is renumbered from Section 26-21-11 is renumbered and amended to read:

[~~26-21-11~~]. 26B-2-208. Violations -- Denial or revocation of license -- Restricting or prohibiting new admissions -- Monitor.

If the department finds a violation of this [~~chapter~~] part or any rules adopted pursuant to this [~~chapter~~] part the department may take one or more of the following actions:

(1) serve a written statement of violation requiring corrective action, which shall include time frames for correction of all violations;

(2) deny or revoke a license if it finds:

(a) there has been a failure to comply with the rules established pursuant to this [~~chapter~~] part;

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

(c) conduct adverse to the public health, morals, welfare, and safety of the people of the state;

(3) restrict or prohibit new admissions to a health care facility or revoke the license of a health care facility for:

(a) violation of any rule adopted under this [~~chapter~~] part; or

(b) permitting, aiding, or abetting the commission of any illegal act in the health care facility;

(4) place a department representative as a monitor in the facility until corrective action is completed;

(5) assess to the facility the cost incurred by the department in placing a monitor;

(6) assess an administrative penalty as allowed by Subsection [~~26-23-6~~] 26B-1-224(1)(a); or

(7) issue a cease and desist order to the facility.

Section 137. Section 26B-2-209, which is renumbered from Section 26-21-11.1 is renumbered and amended to read:

[~~26-21-11.1~~]. 26B-2-209. Failure to follow certain health care claims practices -- Penalties.

(1) The department may assess a fine of up to $500 per violation against a health care facility that violates Section 31A-26-313.

(2) The department shall waive the fine described in Subsection (1) if:

(a) the health care facility demonstrates to the department that the health care facility mitigated and reversed any damage to the insured caused by the health care facility or third party's violation; or

(b) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care facility or third party makes a report to a credit bureau or takes an action in violation of Section 31A-26-313.

Section 138. Section 26B-2-210, which is renumbered from Section 26-21-12 is renumbered and amended to read:

[~~26-21-12~~]. 26B-2-210. Issuance of new license after revocation -- Restoration.

(1) If a license is revoked, the department may issue a new license only after it determines by inspection that the facility has corrected the conditions that were the basis of revocation and that the facility complies with all provisions of this [~~chapter~~] part and applicable rules.

(2) If the department does not renew a license because of noncompliance with the provisions of

this [~~chapter~~] part or the rules adopted under this [~~chapter~~] part, the department may issue a new license only after the facility complies with all renewal requirements and the department determines that the interests of the public will not be jeopardized.

Section 139. Section 26B-2-211, which is renumbered from Section 26-21-13 is renumbered and amended to read:

[~~26-21-13~~]. 26B-2-211. License issued to facility in compliance or substantial compliance with part and rules.

(1) The department shall issue a standard license for a health care facility which is found to be in compliance with the provisions of this [~~chapter~~] part and with all applicable rules adopted by the committee.

(2) The department may issue a provisional or conditional license for a health care facility which is in substantial compliance if the interests of the public will not be jeopardized.

Section 140. Section 26B-2-212, which is renumbered from Section 26-21-13.5 is renumbered and amended to read:

[~~26-21-13.5~~]. 26B-2-212. Intermediate care facilities for people with an intellectual disability -- Licensing.

(1) (a) It is the Legislature's intent that a person with a developmental disability be provided with an environment and surrounding that, as closely as possible, resembles small community-based, homelike settings, to allow those persons to have the opportunity, to the maximum extent feasible, to exercise their full rights and responsibilities as citizens.

(b) It is the Legislature's purpose, in enacting this section, to provide assistance and opportunities to enable a person with a developmental disability to achieve the person's maximum potential through increased independence, productivity, and integration into the community.

(2) After July 1, 1990, the department may only license intermediate care beds for people with an intellectual disability in small health care facilities.

(3) The department may define by rule "small health care facility" for purposes of licensure under this section and adopt rules necessary to carry out the requirements and purposes of this section.

(4) This section does not apply to the renewal of a license or the licensure to a new owner of any facility that was licensed on or before July 1, 1990, and that licensure has been maintained without interruption.

Section 141. Section 26B-2-213, which is renumbered from Section 26-21-13.6 is renumbered and amended to read:

[~~26-21-13.6~~]. 26B-2-213. Rural hospital -- Optional service designation.

(1) The Legislature finds that:

(a) the rural citizens of this state need access to hospitals and primary care clinics;

(b) financial stability of remote-rural hospitals and their integration into remote-rural delivery networks is critical to ensure the continued viability of remote-rural health care; and

(c) administrative simplicity is essential for providing large benefits to small-scale remote-rural providers who have limited time and resources.

(2) After July 1, 1995, the department may grant variances to remote-rural acute care hospitals for specific services currently required for licensure under general hospital standards established by department rule.

(3) For purposes of this section, "remote-rural hospitals" are hospitals that are in a county with less than 20 people per square mile.

Section 142. Section 26B-2-214, which is renumbered from Section 26-21-14 is renumbered and amended to read:

[~~26-21-14~~]. 26B-2-214. Closing facility -- Appeal.

(1) If the department finds a condition in any licensed health care facility that is a clear hazard to the public health, the department may immediately order that facility closed and may prevent the entrance of any resident or patient onto the premises of that facility until the condition is eliminated.

(2) Parties aggrieved by the actions of the department under this section may obtain an adjudicative proceeding and judicial review.

Section 143. Section 26B-2-215, which is renumbered from Section 26-21-15 is renumbered and amended to read:

[~~26-21-15~~]. 26B-2-215. Action by department for injunction.

Notwithstanding the existence of any other remedy, the department may, in the manner provided by law, upon the advice of the attorney general, who shall represent the department in the proceedings, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management, or operation of a health care facility which is in violation of this [~~chapter~~] part or rules adopted by the committee.

Section 144. Section 26B-2-216, which is renumbered from Section 26-21-16 is renumbered and amended to read:

[~~26-21-16~~]. 26B-2-216. Operating facility in violation of part a misdemeanor.

In addition to the penalties in Section [~~26-23-6~~] 26B-1-224, any person owning, establishing, conducting, maintaining, managing, or operating a health care facility in violation of this [~~chapter~~] part is guilty of a class A misdemeanor.

Section 145. Section 26B-2-217, which is renumbered from Section 26-21-17 is renumbered and amended to read:

[~~26-21-17~~]. 26B-2-217. Department agency of state to contract for certification of facilities under Social Security Act.

The department is the sole agency of the state authorized to enter into a contract with the United States government for the certification of health care facilities under Title XVIII and Title XIX of the Social Security Act, and any amendments thereto.

Section 146. Section 26B-2-218, which is renumbered from Section 26-21-19 is renumbered and amended to read:

[~~26-21-19~~]. 26B-2-218. Life and Health Insurance Guaranty Association Act not amended.

The provisions of this [~~chapter~~] part do not amend, affect, or alter the provisions of Title 31A, Chapter 28, Guaranty Associations.

Section 147. Section 26B-2-219, which is renumbered from Section 26-21-20 is renumbered and amended to read:

[~~26-21-20~~]. 26B-2-219. Requirement for hospitals to provide statements of itemized charges to patients.

(1) [~~For purposes of~~] As used in this section, "hospital" includes:

(a) an ambulatory surgical facility;

(b) a general acute hospital; and

(c) a specialty hospital.

(2) A hospital shall provide a statement of itemized charges to any patient receiving medical care or other services from that hospital.

(3) (a) The statement shall be provided to the patient or the patient's personal representative or agent at the hospital's expense, personally, by mail, or by verifiable electronic delivery after the hospital receives an explanation of benefits from a third party payer which indicates the patient's remaining responsibility for the hospital charges.

(b) If the statement is not provided to a third party, it shall be provided to the patient as soon as possible and practicable.

(4) The statement required by this section:

(a) shall itemize each of the charges actually provided by the hospital to the patient;

(b) (i) shall include the words in bold "THIS IS THE BALANCE DUE AFTER PAYMENT FROM YOUR HEALTH INSURER"; or

(ii) shall include other appropriate language if the statement is sent to the patient under Subsection (3)(b); and

(c) may not include charges of physicians who bill separately.

(5) The requirements of this section do not apply to patients who receive services from a hospital under Title XIX of the Social Security Act.

(6) Nothing in this section prohibits a hospital from sending an itemized billing statement to a patient before the hospital has received an explanation of benefits from an insurer. If a hospital provides a statement of itemized charges to a patient prior to receiving the explanation of benefits from an insurer, the itemized statement shall be marked in bold: "DUPLICATE: DO NOT PAY" or other appropriate language.

Section 148. Section 26B-2-220, which is renumbered from Section 26-21-21 is renumbered and amended to read:

[~~26-21-21~~]. 26B-2-220. Authentication of medical records.

Any entry in a medical record compiled or maintained by a health care facility may be authenticated by identifying the author of the entry by:

(1) a signature including first initial, last name, and discipline; or

(2) the use of a computer identification process unique to the author that definitively identifies the author.

Section 149. Section 26B-2-221, which is renumbered from Section 26-21-22 is renumbered and amended to read:

[~~26-21-22~~]. 26B-2-221. Reporting of disciplinary information -- Immunity from liability.

A health care facility licensed under this [~~chapter~~] part which reports disciplinary information on a licensed nurse to the Division of Professional Licensing within the Department of Commerce as required by Section 58-31b-702 is entitled to the immunity from liability provided by that section.

Section 150. Section 26B-2-222, which is renumbered from Section 26-21-23 is renumbered and amended to read:

[~~26-21-23~~]. 26B-2-222. Licensing of a new nursing care facility -- Approval for a licensed bed in an existing nursing care facility -- Fine for excess Medicare inpatient revenue.

(1) Notwithstanding Section [~~26-21-2~~] 26B-2-201, as used in this section:

(a) "Medicaid" means the Medicaid program, as that term is defined in Section [~~26-18-2~~] 26B-3-101.

(b) "Medicaid certification" means the same as that term is defined in Section [~~26-18-501~~] 26B-3-301.

(c) "Nursing care facility" and "small health care facility":

(i) mean the following facilities licensed by the department under this [~~chapter~~] part:

(A) a skilled nursing facility;

(B) an intermediate care facility; or

(C) a small health care facility with four to 16 beds functioning as a skilled nursing facility; and

(ii) do not mean:

(A) an intermediate care facility for the intellectually disabled;

(B) a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998);

(C) a small health care facility that is hospital based; or

(D) a small health care facility other than a skilled nursing care facility with no more than 16 beds.

(d) "Rural county" means the same as that term is defined in Section [~~26-18-501~~] 26B-3-301.

(2) Except as provided in Subsection (6) and Section [~~26-21-28~~] 26B-2-227, a new nursing care facility shall be approved for a health facility license only if:

(a) under the provisions of Section [~~26-18-503~~] 26B-3-311 the facility's nursing care facility program has received Medicaid certification or will receive Medicaid certification for each bed in the facility;

(b) the facility's nursing care facility program has received or will receive approval for Medicaid certification under Subsection [~~26-18-503~~] 26B-3-311(5), if the facility is located in a rural county; or

(c) (i) the applicant submits to the department the information described in Subsection (3); and

(ii) based on that information, and in accordance with Subsection (4), the department determines that approval of the license best meets the needs of the current and future patients of nursing care facilities within the area impacted by the new facility.

(3) A new nursing care facility seeking licensure under Subsection (2) shall submit to the department the following information:

(a) proof of the following as reasonable evidence that bed capacity provided by nursing care facilities within the county or group of counties that would be impacted by the facility is insufficient:

(i) nursing care facility occupancy within the county or group of counties:

(A) has been at least 75% during each of the past two years for all existing facilities combined; and

(B) is projected to be at least 75% for all nursing care facilities combined that have been approved for licensure but are not yet operational;

(ii) there is no other nursing care facility within a 35-mile radius of the new nursing care facility seeking licensure under Subsection (2); and

(b) a feasibility study that:

(i) shows the facility's annual Medicare inpatient revenue, including Medicare Advantage revenue, will not exceed 49% of the facility's annual total revenue during each of the first three years of operation;

(ii) shows the facility will be financially viable if the annual occupancy rate is at least 88%;

(iii) shows the facility will be able to achieve financial viability;

(iv) shows the facility will not:

(A) have an adverse impact on existing or proposed nursing care facilities within the county or group of counties that would be impacted by the facility; or

(B) be within a three-mile radius of an existing nursing care facility or a new nursing care facility that has been approved for licensure but is not yet operational;

(v) is based on reasonable and verifiable demographic and economic assumptions;

(vi) is based on data consistent with department or other publicly available data; and

(vii) is based on existing sources of revenue.

(4) When determining under Subsection (2)(c) whether approval of a license for a new nursing care facility best meets the needs of the current and future patients of nursing care facilities within the area impacted by the new facility, the department shall consider:

(a) whether the county or group of counties that would be impacted by the facility is underserved by specialized or unique services that would be provided by the facility; and

(b) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of current and future nursing care facility patients within the impacted area.

(5) The department may approve the addition of a licensed bed in an existing nursing care facility only if:

(a) each time the facility seeks approval for the addition of a licensed bed, the facility satisfies each requirement for licensure of a new nursing care facility in Subsections (2)(c), (3), and (4); or

(b) the bed has been approved for Medicaid certification under Section [~~26-18-503~~] 26B-3-311 or [~~26-18-505~~] 26B-3-313.

(6) Subsection (2) does not apply to a nursing care facility that:

(a) has, by the effective date of this act, submitted to the department schematic drawings, and paid applicable fees, for a particular site or a site within a three-mile radius of that site;

(b) before July 1, 2016:

(i) filed an application with the department for licensure under this section and paid all related fees due to the department; and

(ii) submitted to the department architectural plans and specifications, as defined by the department by administrative rule, for the facility;

(c) applies for a license within three years of closing for renovation;

(d) replaces a nursing care facility that:

(i) closed within the past three years; or

(ii) is located within five miles of the facility;

(e) is undergoing a change of ownership, even if a government entity designates the facility as a new nursing care facility; or

(f) is a state-owned veterans home, regardless of who operates the home.

(7) (a) For each year the annual Medicare inpatient revenue, including Medicare Advantage revenue, of a nursing care facility approved for a health facility license under Subsection (2)(c) exceeds 49% of the facility's total revenue for the year, the facility shall be subject to a fine of $50,000, payable to the department.

(b) A nursing care facility approved for a health facility license under Subsection (2)(c) shall submit to the department the information necessary for the department to annually determine whether the facility is subject to the fine in Subsection (7)(a).

(c) The department:

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the information a nursing care facility shall submit to the department under Subsection (7)(b);

(ii) shall annually determine whether a facility is subject to the fine in Subsection (7)(a);

(iii) may take one or more of the actions in Section [~~26-21-11 or 26-23-6~~] 26B-2-202 or 26B-2-208 against a facility for nonpayment of a fine due under Subsection (7)(a); and

(iv) shall deposit fines paid to the department under Subsection (7)(a) into the Nursing Care Facilities Provider Assessment Fund, created [~~by Section 26-35a-106~~] in Section 26B-3-405.

Section 151. Section 26B-2-223, which is renumbered from Section 26-21-24 is renumbered and amended to read:

[~~26-21-24~~]. 26B-2-223. Prohibition against bed banking by nursing care facilities for Medicaid reimbursement.

(1) [~~For purposes of~~] As used in this section:

(a) "[~~bed~~] Bed banking" means the designation of a nursing care facility bed as not part of the facility's operational bed capacity[~~; and~~].

(b) "[~~nursing~~] Nursing care facility" [~~is as defined in Subsection 26-21-23(1)~~] means the same as that term is defined in Section 26B-2-222.

(2) Beginning July 1, 2008, the department shall, for purposes of Medicaid reimbursement under [~~Chapter 18, Part 1, Medical Assistance Programs~~] Chapter 3, Part 1, Health Care Assistance, prohibit the banking of nursing care facility beds.

Section 152. Section 26B-2-224, which is renumbered from Section 26-21-25 is renumbered and amended to read:

[~~26-21-25~~]. 26B-2-224. Patient identity protection.

(1) As used in this section:

(a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor Act.

(b) "Health professional office" means:

(i) a physician's office; or

(ii) a dental office.

(c) "Medical facility" means:

(i) a general acute hospital;

(ii) a specialty hospital;

(iii) a home health agency;

(iv) a hospice;

(v) a nursing care facility;

(vi) a residential-assisted living facility;

(vii) a birthing center;

(viii) an ambulatory surgical facility;

(ix) a small health care facility;

(x) an abortion clinic;

(xi) a facility owned or operated by a health maintenance organization;

(xii) an end stage renal disease facility;

(xiii) a health care clinic; or

(xiv) any other health care facility that the committee designates by rule.

(2) (a) In order to discourage identity theft and health insurance fraud, and to reduce the risk of medical errors caused by incorrect medical records, a medical facility or a health professional office shall request identification from an individual prior to providing in-patient or out-patient services to the individual.

(b) If the individual who will receive services from the medical facility or a health professional office lacks the legal capacity to consent to treatment, the medical facility or a health professional office shall request identification:

(i) for the individual who lacks the legal capacity to consent to treatment; and

(ii) from the individual who consents to treatment on behalf of the individual described in Subsection (2)(b)(i).

(3) A medical facility or a health professional office:

(a) that is subject to EMTALA:

(i) may not refuse services to an individual on the basis that the individual did not provide identification when requested; and

(ii) shall post notice in its emergency department that informs a patient of the patient's right to treatment for an emergency medical condition under EMTALA;

(b) may not be penalized for failing to ask for identification;

(c) is not subject to a private right of action for failing to ask for identification; and

(d) may document or confirm patient identity by:

(i) photograph;

(ii) fingerprinting;

(iii) palm scan; or

(iv) other reasonable means.

(4) The identification described in this section:

(a) is intended to be used for medical records purposes only; and

(b) shall be kept in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996.

Section 153. Section 26B-2-225, which is renumbered from Section 26-21-26 is renumbered and amended to read:

[~~26-21-26~~]. 26B-2-225. General acute hospital to report prescribed controlled substance poisoning or overdose.

(1) If a person who is 12 years old or older is admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance, the general acute hospital shall, within three business days after the day on which the person is admitted, send a written report to the Division of Professional Licensing, created in Section 58-1-103, that includes:

(a) the patient's name and date of birth;

(b) each drug or other substance found in the person's system that may have contributed to the poisoning or overdose, if known;

(c) the name of each person who the general acute hospital has reason to believe may have prescribed a controlled substance described in Subsection (1)(b) to the person, if known; and

(d) the name of the hospital and the date of admission.

(2) Nothing in this section may be construed as creating a new cause of action.

Section 154. Section 26B-2-226, which is renumbered from Section 26-21-27 is renumbered and amended to read:

[~~26-21-27~~]. 26B-2-226. Information regarding certain health care facility charges.

A health care facility licensed under this [~~chapter~~] part shall, when requested by a consumer:

(1) make a list of prices charged by the facility available for the consumer that includes the facility's:

(a) in-patient procedures;

(b) out-patient procedures;

(c) the 50 most commonly prescribed drugs in the facility;

(d) imaging services; and

(e) implants; and

(2) provide the consumer with information regarding any discounts the facility provides for:

(a) charges for services not covered by insurance; or

(b) prompt payment of billed charges.

Section 155. Section 26B-2-227, which is renumbered from Section 26-21-28 is renumbered and amended to read:

[~~26-21-28~~]. 26B-2-227. Pilot program for managed care model with a small health care facility operating as a skilled nursing facility.

(1) Notwithstanding the requirement for Medicaid certification under [~~Chapter 18, Part 5, Long Term Care Facility - Medicaid Certification~~] Sections 26B-3-310 through 26B-3-313, and Section [~~26-21-23~~] 26B-2-222, a small health care facility with four to 16 beds, functioning as a skilled nursing facility, may be approved for licensing by the department as a pilot program in accordance with this section, and without obtaining Medicaid certification for the beds in the facility.

(2) (a) The department shall establish one pilot program with a facility that meets the qualifications under Subsection (3).

(b) The purpose of the pilot program described in Subsection (2)(a) is to study the impact of an integrated managed care model on cost and quality of care involving pre- and post-surgical services offered by a small health care facility operating as a skilled nursing facility.

(3) A small health care facility with four to 16 beds that functions as a skilled nursing facility may apply for a license under the pilot program if the facility will:

(a) be located in:

(i) a county of the second class that has at least 1,800 square miles within the county; and

(ii) a city of the fifth class; and

(b) limit a patient's stay in the facility to no more than 10 days.

Section 156. Section 26B-2-228, which is renumbered from Section 26-21-29 is renumbered and amended to read:

[~~26-21-29~~]. 26B-2-228. Birthing centers -- Regulatory restrictions.

(1) [~~For purposes of~~] As used in this section:

(a) "Alongside midwifery unit" means a birthing center that meets the requirements described in Subsection (7).

(b) "Certified nurse midwife" means an individual who is licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act.

(c) "Direct-entry midwife" means an individual who is licensed under Title 58, Chapter 77, Direct-Entry Midwife Act.

(d) "Licensed maternity care practitioner" includes:

(i) a physician;

(ii) a certified nurse midwife;

(iii) a direct entry midwife;

(iv) a naturopathic physician; and

(v) other individuals who are licensed under Title 58, Occupations and Professions and whose scope of practice includes midwifery or obstetric care.

(e) "Naturopathic physician" means an individual who is licensed under Title 58, Chapter 71, Naturopathic Physician Practice Act.

(f) "Physician" means an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) The [~~Health Facility Committee~~] committee and the department may not require a birthing center or a licensed maternity care practitioner who practices at a birthing center to:

(a) maintain admitting privileges at a general acute hospital;

(b) maintain a written transfer agreement with one or more general acute hospitals;

(c) maintain a collaborative practice agreement with a physician; or

(d) have a physician or certified nurse midwife present at each birth when another licensed maternity care practitioner is present at the birth and remains until the maternal patient and newborn are stable postpartum.

(3) The [~~Health Facility Committee~~] committee and the department shall:

(a) permit all types of licensed maternity care practitioners to practice in a birthing center; and

(b) except as provided in Subsection (2)(b), require a birthing center to have a written plan for the transfer of a patient to a hospital in accordance with Subsection (4).

(4) A transfer plan under Subsection (3)(b) shall:

(a) be signed by the patient; and

(b) indicate that the plan is not an agreement with a hospital.

(5) If a birthing center transfers a patient to a licensed maternity care practitioner or facility, the responsibility of the licensed maternity care practitioner or facility, for the patient:

(a) does not begin until the patient is physically within the care of the licensed maternity care practitioner or facility;

(b) is limited to the examination and care provided after the patient is transferred to the licensed maternity care practitioner or facility; and

(c) does not include responsibility or accountability for the patient's decision to pursue an out-of-hospital birth and the services of a birthing center.

(6) (a) Except as provided in Subsection (6)(c), a licensed maternity care practitioner who is not practicing at a birthing center may, upon receiving a briefing from a member of a birthing center's clinical staff, issue a medical order for the birthing center's patient without assuming liability for the care of the patient for whom the order was issued.

(b) Regardless of the advice given or order issued under Subsection (6)(a), the responsibility and liability for caring for the patient is that of the birthing center and the birthing center's clinical staff.

(c) The licensed maternity care practitioner giving the order under Subsection (6)(a) is responsible and liable only for the appropriateness of the order, based on the briefing received under Subsection (6)(a).

(7) (a) A birthing center that is not freestanding may be licensed as an alongside midwifery unit if the birthing center:

(i) is accredited by the Commission on Accreditation of Birth Centers;

(ii) is connected to a hospital facility, either through a bridge, ramp, or adjacent to the labor and delivery unit within the hospital with care provided with the midwifery model of care, where maternal patients are received and care provided during labor, delivery, and immediately after delivery; and

(iii) is supervised by a clinical director who is licensed as a physician as defined in Section 58-67-102 or a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act.

(b) An alongside midwifery unit shall have a transfer agreement in place with the adjoining hospital:

(i) to transfer a patient to the adjacent hospital's labor and delivery unit if a higher level of care is needed; and

(ii) for services that are provided by the adjacent hospital's staff in collaboration with the alongside midwifery unit staff.

(c) An alongside midwifery unit may:

(i) contract with staff from the adjoining hospital to assist with newborn care or resuscitation of a patient in an emergency; and

(ii) integrate the alongside midwifery unit's medical records with the medical record system utilized by the adjoining hospital.

(d) Notwithstanding Title 58, Chapter 77, Direct-Entry Midwife Act, licensure as a direct-entry midwife under Section 58-77-301 is not sufficient to practice as a licensed maternity care practitioner in an alongside midwifery unit.

(8) The department shall hold a public hearing under Subsection 63G-3-302(2)(a) for a proposed administrative rule, and amendment to a rule, or repeal of a rule, that relates to birthing centers.

Section 157. Section 26B-2-229, which is renumbered from Section 26-21-30 is renumbered and amended to read:

[~~26-21-30~~]. 26B-2-229. Disposal of controlled substances at nursing care facilities.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) (i) "Irretrievable" means a state in which the physical or chemical condition of a controlled substance is permanently altered through irreversible means so that the controlled substance is unavailable and unusable for all practical purposes.

(ii) A controlled substance is irretrievable if the controlled substance is non-retrievable as that term is defined in 21 C.F.R. Sec. 1300.05.

(2) A nursing care facility that is in lawful possession of a controlled substance in the nursing care facility's inventory that desires to dispose of the controlled substance shall dispose of the controlled substance in a manner that:

(a) renders the controlled substance irretrievable; and

(b) complies with all applicable federal and state requirements for the disposal of a controlled substance.

(3) A nursing care facility shall:

(a) develop a written plan for the disposal of a controlled substance in accordance with this section; and

(b) make the plan described in Subsection (3)(a) available to the department and the committee for inspection.

Section 158. Section 26B-2-230, which is renumbered from Section 26-21-31 is renumbered and amended to read:

[~~26-21-31~~]. 26B-2-230. Prohibition on certain age-based physician testing.

A health care facility may not require for purposes of employment, privileges, or reimbursement, that a physician, as defined in Section 58-67-102, take a cognitive test when the physician reaches a specified age, unless the test reflects the standards described in Subsections 58-67-302(5)(b)(i) through (x).

Section 159. Section 26B-2-231, which is renumbered from Section 26-21-32 is renumbered and amended to read:

[~~26-21-32~~]. 26B-2-231. Notification of air ambulance policies and charges.

(1) For any patient who is in need of air medical transport provider services, a health care facility shall:

(a) provide the patient or the patient's representative with the information described in Subsection [~~26-8a-107~~] 26B-1-405(7)(a) before contacting an air medical transport provider; and

(b) if multiple air medical transport providers are capable of providing the patient with services, provide the patient or the patient's representative with an opportunity to choose the air medical transport provider.

(2) Subsection (1) does not apply if the patient:

(a) is unconscious and the patient's representative is not physically present with the patient; or

(b) is unable, due to a medical condition, to make an informed decision about the choice of an air medical transport provider, and the patient's representative is not physically present with the patient.

Section 160. Section 26B-2-232, which is renumbered from Section 26-21-33 is renumbered and amended to read:

[~~26-21-33~~]. 26B-2-232. Treatment of aborted remains.

(1) As used in this section, "aborted fetus" means a product of human conception, regardless of gestational age, that has died from an abortion as that term is defined in Section 76-7-301.

(2) (a) A health care facility having possession of an aborted fetus shall provide for the final disposition of the aborted fetus through:

(i) cremation as that term is defined in Section 58-9-102; or

(ii) interment.

(b) A health care facility may not conduct the final disposition of an aborted fetus less than 72 hours after an abortion is performed unless:

(i) the pregnant woman authorizes the health care facility, in writing, to conduct the final

disposition of the aborted fetus less than 72 hours after the abortion is performed; or

(ii) immediate disposition is required under state or federal law.

(c) A health care facility may serve as an authorizing agent as defined in Section 58-9-102 with respect to the final disposition of an aborted fetus if:

(i) the pregnant woman provides written authorization for the health care facility to act as the authorizing agent; or

(ii) (A) more than 72 hours have passed since the abortion was performed; and

(B) the pregnant woman did not exercise her right to control the final disposition of the aborted fetus under Subsection (4)(a).

(d) Within 120 business days after the day on which an abortion is performed, a health care facility possessing an aborted fetus shall:

(i) conduct the final disposition of the aborted fetus in accordance with this section; or

(ii) ensure that the aborted fetus is preserved until final disposition.

(e) A health care facility shall conduct the final disposition under this section in accordance with applicable state and federal law.

(3) Before performing an abortion, a health care facility shall:

(a) provide the pregnant woman with the information described in Subsection 76-7-305.5(2)(w) through:

(i) a form approved by the department;

(ii) an in-person consultation with a physician; or

(iii) an in-person consultation with a mental health therapist as defined in Section 58-60-102; and

(b) if the pregnant woman makes a decision under Subsection (4)(b), document the pregnant woman's decision under Subsection (4)(b) in the pregnant woman's medical record.

(4) A pregnant woman who has an abortion:

(a) except as provided in Subsection (6), has the right to control the final disposition of the aborted fetus;

(b) if the pregnant woman has a preference for disposition of the aborted fetus, shall inform the health care facility of the pregnant woman's decision for final disposition of the aborted fetus;

(c) is responsible for the costs related to the final disposition of the aborted fetus at the chosen location if the pregnant woman chooses a method or location for the final disposition of the aborted fetus that is different from the method or location that is usual and customary for the health care facility; and

(d) for a medication-induced abortion, shall be permitted to return the aborted fetus to the health care facility in a sealed container for disposition by the health care facility in accordance with this section.

(5) The form described in Subsection (3)(a)(i) shall include the following information:

"You have the right to decide what you would like to do with the aborted fetus. You may decide for the provider to be responsible for disposition of the fetus. If you are having a medication-induced abortion, you also have the right to bring the aborted fetus back to this provider for disposition after the fetus is expelled. The provider may dispose of the aborted fetus by burial or cremation. You can ask the provider if you want to know the specific method for disposition."

(6) If the pregnant woman is a minor, the health care facility shall obtain parental consent for the disposition of the aborted fetus unless the minor is granted a court order under Subsection [~~76-7-304~~] 76-7-304.5(1)(b).

(7) (a) A health care facility may not include fetal remains with other biological, infectious, or pathological waste.

(b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is not subject to the requirements of this section.

(c) (i) A health care facility is responsible for maintaining a record to demonstrate to the department that the health care facility has complied with the provisions of this section.

(ii) The records described in Subsection (7)(c)(i) shall be:

(A) maintained for at least two years; and

(B) made available to the department for inspection upon request by the department.

Section 161. Section 26B-2-233, which is renumbered from Section 26-21-34 is renumbered and amended to read:

[~~26-21-34~~]. 26B-2-233. Treatment of miscarried remains.

(1) As used in this section, "miscarried fetus" means a product of human conception, regardless of gestational age, that has died from a spontaneous or accidental death before expulsion or extraction from the mother, regardless of the duration of the pregnancy.

(2) (a) A health care facility having possession of a miscarried fetus shall provide for the final disposition of the miscarried fetus through:

(i) cremation as that term is defined in Section 58-9-102; or

(ii) interment.

(b) A health care facility may not conduct the final disposition of a miscarried fetus less than 72 hours after a woman has her miscarried fetus expelled or extracted in the health care facility unless:

(i) the parent authorizes the health care facility, in writing, to conduct the final disposition of the

miscarried fetus less than 72 hours after the miscarriage occurs; or

(ii) immediate disposition is required under state or federal law.

(c) A health care facility may serve as an authorizing agent as defined in Section 58-9-102 with respect to the final disposition of a miscarried fetus if:

(i) the parent provides written authorization for the health care facility to act as the authorizing agent; or

(ii) (A) more than 72 hours have passed since the miscarriage occurs; and

(B) the parent did not exercise their right to control the final disposition of the miscarried fetus under Subsection (4)(a).

(d) Within 120 business days after the day on which a miscarriage occurs, a health care facility possessing miscarried remains shall:

(i) conduct the final disposition of the miscarried remains in accordance with this section; or

(ii) ensure that the miscarried remains are preserved until final disposition.

(e) A health care facility shall conduct the final disposition under this section in accordance with applicable state and federal law.

(3) (a) No more than 24 hours after a woman has her miscarried fetus expelled or extracted in a health care facility, the health care facility shall provide information to the parent or parents of the miscarried fetus regarding:

(i) the parents' right to determine the final disposition of the miscarried fetus;

(ii) the available options for disposition of the miscarried fetus; and

(iii) counseling that may be available concerning the death of the miscarried fetus.

(b) A health care facility shall:

(i) provide the information described in Subsection (3)(a) through:

(A) a form approved by the department;

(B) an in-person consultation with a physician; or

(C) an in-person consultation with a mental health therapist as defined in Section 58-60-102; and

(ii) if the parent or parents make a decision under Subsection (4)(b), document the parent's decision under Subsection (4)(b) in the parent's medical record.

(4) The parents of a miscarried fetus:

(a) have the right to control the final disposition of the miscarried fetus;

(b) if the parents have a preference for disposition of the miscarried fetus, shall inform the health care facility of the parents' decision for final disposition of the miscarried fetus; and

(c) are responsible for the costs related to the final disposition of the miscarried fetus at the chosen location if the parents choose a method or location for the final disposition of the miscarried fetus that is different from the method or location that is usual and customary for the health care facility.

(5) The form described in Subsection (3)(b)(i) shall include the following information:

"You have the right to decide what you would like to do with the miscarried fetus. You may decide for the provider to be responsible for disposition of the fetus. The provider may dispose of the miscarried fetus by burial or cremation. You can ask the provider if you want to know the specific method for disposition."

(6) (a) A health care facility may not include a miscarried fetus with other biological, infectious, or pathological waste.

(b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is not subject to the requirements of this section.

(c) (i) A health care facility is responsible for maintaining a record to demonstrate to the department that the health care facility has complied with the provisions of this section.

(ii) The records described in Subsection (6)(c)(i) shall be:

(A) maintained for at least two years; and

(B) made available to the department for inspection upon request by the department.

Section 162. Section 26B-2-234, which is renumbered from Section 26-21-35 is renumbered and amended to read:

~~[26-21-35].~~ 26B-2-234. Resident consumer protection.

(1) As used in this section:

(a) "Eligible requester" means:

(i) a resident;

(ii) a prospective resident;

(iii) a legal representative of a resident or prospective resident; or

(iv) the department.

(b) "Facility" means an assisted living facility or nursing care facility.

(c) "Facility's leadership" means a facility's:

(i) owner;

(ii) administrator;

(iii) director; or

(iv) employee that is in a position to determine which providers have access to the facility.

(d) "Personal care agency" means a person that provides assistance with activities of daily living.

(e) "Provider" means a home health agency, hospice provider, medical provider, or personal care agency.

(f) "Resident" means an individual who resides in a facility.

(2) Subject to other state or federal laws, a facility may limit which providers have access to the facility if the facility complies with Subsection (3).

(3) (a) A facility that prohibits a provider from accessing the facility shall:

(i) before or at the time a prospective resident or prospective resident's legal representative signs an admission contract, inform the prospective resident or prospective resident's legal representative that the facility prohibits one or more providers from accessing the facility;

(ii) if an eligible requester requests to know which providers have access to the facility, refer the eligible requester to a member of the facility's leadership; and

(iii) if a provider requests to know whether the provider has access to the facility, refer the provider to a member of the facility's leadership.

(b) If a facility refers an eligible requester to a member of the facility's leadership under Subsection (3)(a)(ii), the member of the facility's leadership shall inform the eligible requester:

(i) which providers the facility:

(A) allows to access the facility; or

(B) prohibits from accessing the facility;

(ii) that a provider's access to the facility may change at any time; and

(iii) whether a person in the facility's leadership has a legal or financial interest in a provider that is allowed to access the facility.

(c) If a facility refers a provider to a member of the facility's leadership under Subsection (3)(a)(iii), the member of the facility's leadership:

(i) shall disclose whether the provider has access to the facility; and

(ii) may disclose any other information described in Subsection (3)(b).

(d) If a resident is being served by a provider that is later prohibited from accessing the facility, the facility shall:

(i) allow the provider access to the facility to finish the resident's current episode of care; or

(ii) provide to the resident a written explanation of why the provider no longer has access to the facility.

(4) This section does not apply to a facility operated by a government unit.

(5) The department may issue a notice of deficiency if a facility that denies a provider access under Subsection (2) does not comply with Subsection (3) at the time of the denial.

Section 163. Section 26B-2-235, which is renumbered from Section 26-21c-103 is renumbered and amended to read:

[~~26-21c-103~~]. 26B-2-235. Sepsis protocols for general acute hospitals -- Presenting protocols upon inspection.

(1) As used in this section, "sepsis" means a life-threatening complication of an infection.

[~~(1)~~] (2) [~~Hospitals~~] A general acute hospital may develop protocols for the treatment of sepsis and septic shock that are consistent with current evidence-based guidelines for the treatment of severe sepsis and septic shock.

[~~(2)~~] (3) When developing the protocols described in Subsection [~~(1)~~] (2), a general acute hospital shall consider:

(a) a process for screening and recognizing patients with sepsis;

(b) a process to screen out individuals for whom the protocols would not be appropriate for treating sepsis;

(c) timeline goals for treating sepsis;

(d) different possible methods for treating sepsis and reasons to use each method;

(e) specific protocols to treat children who present with symptoms of sepsis or septic shock; and

(f) training requirements for staff.

[~~(3)~~] (4) A general acute hospital may update the general acute hospital's sepsis protocols as new data on the treatment of sepsis and septic shock becomes available.

(5) The department, or an entity assigned by the department to inspect a general acute hospital, may request a copy of the sepsis protocols described in this section when inspecting a general acute hospital.

Section 164. Section 26B-2-236, which is renumbered from Section 26-21-303 is renumbered and amended to read:

[~~26-21-303~~]. 26B-2-236. Monitoring device -- Installation, notice, and consent -- Admission and discharge -- Liability.

(1) As used in this section:

(a) "Legal representative" means an individual who is legally authorized to make health care decisions on behalf of another individual.

(b) (i) "Monitoring device" means:

(A) a video surveillance camera; or

(B) a microphone or other device that captures audio.

(ii) "Monitoring device" does not include:

(A) a device that is specifically intended to intercept wire, electronic, or oral communication

without notice to or the consent of a party to the communication; or

(B) a device that is connected to the Internet or that is set up to transmit data via an electronic communication.

(c) "Resident" means an individual who receives health care from a facility.

(d) "Room" means a resident's private or shared primary living space.

(e) "Roommate" means an individual sharing a room with a resident.

[~~(1)~~] (2) A resident or the resident's legal representative may operate or install a monitoring device in the resident's room if the resident and the resident's legal representative, if any, unless the resident is incapable of informed consent:

(a) notifies the resident's assisted living facility in writing that the resident or the resident's legal representative, if any:

(i) intends to operate or install a monitoring device in the resident's room; and

(ii) consents to a waiver agreement, if required by [~~a~~] an assisted living facility;

(b) obtains written consent from each of the resident's roommates, and their legal representative, if any, that specifically states the hours when each roommate consents to the resident or the resident's legal representative operating the monitoring device; and

(c) assumes all responsibility for any cost related to installing or operating the monitoring device.

[~~(2) A~~] (3) An assisted living facility shall not be civilly or criminally liable to:

(a) a resident or resident's roommate for the operation of a monitoring device consistent with this part; and

(b) any person other than the resident or resident's roommate for any claims related to the use or operation of a monitoring device consistent with this part, unless the claim is caused by the acts or omissions of an employee or agent of the assisted living facility.

(4) (a) An assisted living facility may not deny an individual admission to the facility for the sole reason that the individual or the individual's legal representative requests to install or operate a monitoring device in the individual's room.

(b) An assisted living facility may not discharge a resident for the sole reason that the resident or the resident's legal representative requests to install or operate a monitoring device in the individual's room.

(c) An assisted living facility may require the resident or the resident's legal representative to place a sign near the entrance of the resident's room that states that the room contains a monitoring device.

[~~(3)~~] (5) Notwithstanding any other provision of this part, an individual may not, under this part, operate a monitoring device in [~~a~~] an assisted living facility without a court order:

(a) in secret; or

(b) with an intent to intercept a wire, electronic, or oral communication without notice to or the consent of a party to the communication.

Section 165. Section 26B-2-237, which is renumbered from Section 26-21-305 is renumbered and amended to read:

[~~26-21-305~~]. 26B-2-237. Transfer or discharge from an assisted living facility.

(1) As used in this section:

(a) "Ombudsman" means the same as that term is defined in Section 26B-2-301.

(b) "Resident" means an individual who receives health care from an assisted living facility.

(c) "Responsible person" means an individual who:

(i) is designated in writing by a resident to receive communication on behalf of the resident; or

(ii) is legally authorized to make health care decisions on behalf of the resident.

(2) When [~~a~~] an assisted living facility initiates the transfer or discharge of a resident, the assisted living facility shall:

[~~(1)~~] (a) notify the resident and the resident's responsible person, if any, in writing and in a language and a manner that is most likely to be understood by the resident and the resident's responsible person, of:

[~~(a)~~] (i) the reasons for the transfer or discharge;

[~~(b)~~] (ii) the effective date of the transfer or discharge;

[~~(c)~~] (iii) the location to which the resident will be transferred or discharged, if known; and

[~~(d)~~] (iv) the name, address, email, and telephone number of the ombudsman;

[~~(2)~~] (b) send a copy, in English, of the notice described in Subsection [~~(1)(a)~~] (2)(a) to the ombudsman on the same day on which the assisted living facility delivers the notice described in Subsection [~~(1)(a)~~] (2)(a) to the resident and the resident's responsible person;

[~~(3)~~] (c) provide the notice described in Subsection [~~(1)(a)~~] (2)(a) at least 30 days before the day on which the resident is transferred or discharged, unless:

[~~(a)~~] (i) notice for a shorter period of time is necessary to protect:

[~~(i)~~] (A) the safety of individuals in the assisted living facility from endangerment due to the medical or behavioral status of the resident; or

[~~(ii)~~] (B) the health of individuals in the assisted living facility from endangerment due to the resident's continued residency;

[~~(b)~~] (ii) an immediate transfer or discharge is required by the resident's urgent medical needs; or

[~~(c)~~] (iii) the resident has not resided in the assisted living facility for at least 30 days;

[~~(4)~~] (d) update the transfer or discharge notice as soon as practicable before the transfer or discharge if information in the notice changes before the transfer or discharge;

[~~(5)~~] (e) orally explain to the resident:

[~~(a)~~] (i) the services available through the ombudsman; and

[~~(b)~~] (ii) the contact information for the ombudsman; and

[~~(6)~~] (f) provide and document the provision of preparation and orientation for the resident, in a language and manner the resident is most likely to understand, [~~for a resident~~] to ensure a safe and orderly transfer or discharge from the assisted living facility[~~; and~~].

[~~(7) in~~] (3) In the event of [~~a~~] an assisted living facility closure, the assisted living facility shall provide written notification of the closure to the ombudsman, each resident of the facility, and each resident's responsible person.

Section 166. Section 26B-2-238, which is renumbered from Section 26-21-201 is renumbered and amended to read:

[~~26-21-201~~]. 26B-2-238. Definitions for Sections 26B-2-238 through 26B-2-241.

As used in this [~~part~~] section and Sections 26B-2-239, 26B-2-240, and 26B-2-241:

(1) "Clearance" means approval by the department under Section [~~26-21-203~~] 26B-2-239 for an individual to have direct patient access.

(2) "Covered body" means a covered provider, covered contractor, or covered employer.

(3) "Covered contractor" means a person that supplies covered individuals, by contract, to a covered employer or covered provider.

(4) "Covered employer" means an individual who:

(a) engages a covered individual to provide services in a private residence to:

(i) an aged individual, as defined by department rule; or

(ii) a disabled individual, as defined by department rule;

(b) is not a covered provider; and

(c) is not a licensed health care facility within the state.

(5) "Covered individual":

(a) means an individual:

(i) whom a covered body engages; and

(ii) who may have direct patient access;

(b) includes:

(i) a nursing assistant, as defined by department rule;

(ii) a personal care aide, as defined by department rule;

(iii) an individual licensed to engage in the practice of nursing under Title 58, Chapter 31b, Nurse Practice Act;

(iv) a provider of medical, therapeutic, or social services, including a provider of laboratory and radiology services;

(v) an executive;

(vi) administrative staff, including a manager or other administrator;

(vii) dietary and food service staff;

(viii) housekeeping and maintenance staff; and

(ix) any other individual, as defined by department rule, who has direct patient access; and

(c) does not include a student, as defined by department rule, directly supervised by a member of the staff of the covered body or the student's instructor.

(6) "Covered provider" means:

(a) an end stage renal disease facility;

(b) a long-term care hospital;

(c) a nursing care facility;

(d) a small health care facility;

(e) an assisted living facility;

(f) a hospice;

(g) a home health agency; or

(h) a personal care agency.

(7) "Direct patient access" means for an individual to be in a position where the individual could, in relation to a patient or resident of the covered body who engages the individual:

(a) cause physical or mental harm;

(b) commit theft; or

(c) view medical or financial records.

(8) "Engage" means to obtain one's services:

(a) by employment;

(b) by contract;

(c) as a volunteer; or

(d) by other arrangement.

(9) "Long-term care hospital":

(a) means a hospital that is certified to provide long-term care services under the provisions of 42 U.S.C. Sec. 1395tt; and

(b) does not include a critical access hospital, designated under 42 U.S.C. Sec. 1395i-4(c)(2).

(10) "Patient" means an individual who receives health care services from one of the following covered providers:

(a) an end stage renal disease facility;

(b) a long-term care hospital;

(c) a hospice;

(d) a home health agency; or

(e) a personal care agency.

(11) "Personal care agency" means a health care facility defined by department rule.

(12) "Resident" means an individual who receives health care services from one of the following covered providers:

(a) a nursing care facility;

(b) a small health care facility;

(c) an assisted living facility; or

(d) a hospice that provides living quarters as part of its services.

(13) "Residential setting" means a place provided by a covered provider:

(a) for residents to live as part of the services provided by the covered provider; and

(b) where an individual who is not a resident also lives.

(14) "Volunteer" means an individual, as defined by department rule, who provides services without pay or other compensation.

Section 167. Section 26B-2-239, which is renumbered from Section 26-21-202 is renumbered and amended to read:

[~~26-21-202~~]. 26B-2-239. Clearance required -- Application by covered providers, covered contractors, and individuals.

(1) The definitions in Section 26B-2-238 apply to this section.

[~~(1)~~] (2) (a) A covered provider may engage a covered individual only if the individual has clearance.

[~~(2)~~] (b) A covered contractor may supply a covered individual to a covered employer or covered provider only if the individual has clearance.

[~~(3)~~] (c) A covered employer may engage a covered individual who does not have clearance.

[~~(4)~~] (3) (a) Notwithstanding Subsections [~~(1) and (2)~~] (2)(a) and (b), if a covered individual does not have clearance, a covered provider may engage the individual or a covered contractor may supply the individual to a covered provider or covered employer:

(i) under circumstances specified by department rule; and

(ii) only while an application for clearance for the individual is pending.

(b) For purposes of Subsection [~~(4)(a)~~] (3)(a), an application is pending if the following have been submitted to the department for the individual:

(i) an application for clearance;

(ii) the personal identification information specified by the department under Subsection [~~26-21-204(4)(b)~~] 26B-2-240(4)(b); and

(iii) any fees established by the department under Subsection [~~26-21-204(9)~~] 26B-2-240(9).

(4) (a) As provided in Subsection (4)(b), each covered provider and covered contractor operating in this state shall:

(i) collect from each covered individual the contractor engages, and each individual the contractor intends to engage as a covered individual, the personal identification information specified by the department under Subsection 26B-2-240(4)(b); and

(ii) submit to the department an application for clearance for the individual, including:

(A) the personal identification information; and

(B) any fees established by the department under Subsection 26B-2-240(9).

(b) Clearance granted for an individual pursuant to an application submitted by a covered provider or a covered contractor is valid until the later of:

(i) two years after the individual is no longer engaged as a covered individual; or

(ii) the covered provider's or covered contractor's next license renewal date.

(5) (a) A covered provider that provides services in a residential setting shall:

(i) collect the personal identification information specified by the department under Subsection 26B-2-240(4)(b) for each individual 12 years old or older, other than a resident, who resides in the residential setting; and

(ii) submit to the department an application for clearance for the individual, including:

(A) the personal identification information; and

(B) any fees established by the department under Subsection 26B-2-240(9).

(b) A covered provider that provides services in a residential setting may allow an individual 12 years old or older, other than a resident, to reside in the residential setting only if the individual has clearance.

(6) (a) An individual may apply for clearance by submitting to the department an application, including:

(i) the personal identification information specified by the department under Subsection 26B-2-240(4)(b); and

(ii) any fees established by the department under Subsection 26B-2-240(9).

(b) Clearance granted to an individual who makes application under Subsection (6)(a) is valid

for two years unless the department determines otherwise based on the department's ongoing review under Subsection 26B-2-240(4)(a).

Section 168. Section 26B-2-240, which is renumbered from Section 26-21-204 is renumbered and amended to read:

[~~26-21-204~~]. 26B-2-240. Department authorized to grant, deny, or revoke clearance -- Department may limit direct patient access -- Clearance.

(1) The definitions in Section 26B-2-238 apply to this section.

(2) (a) As provided in this section, the department may grant, deny, or revoke clearance for an individual, including a covered individual.

(b) The department may limit the circumstances under which a covered individual granted clearance may have direct patient access, based on the relationship factors under Subsection (4) and other mitigating factors related to patient and resident protection.

[~~(1)~~] (c) The department shall determine whether to grant clearance for each applicant for whom it receives:

[~~(a)~~] (i) the personal identification information specified by the department under Subsection (4)(b); and

[~~(b)~~] (ii) any fees established by the department under Subsection (9).

[~~(2)~~] (d) The department shall establish a procedure for obtaining and evaluating relevant information concerning covered individuals, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.

(3) The department may review the following sources to determine whether an individual should be granted or retain clearance, which may include:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;

(c) federal criminal background databases available to the state;

(d) the [~~Department of Human Services'~~] Division of Child and Family Services Licensing Information System described in Section 80-2-1002;

(e) child abuse or neglect findings described in Section 80-3-404;

(f) the [~~Department of Human Services'~~] Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section [~~62A-3-311.1~~] 26B-6-210;

(g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

(h) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions; and

(i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.

(4) The department shall adopt rules that:

(a) specify the criteria the department will use to determine whether an individual is granted or retains clearance:

(i) based on an initial evaluation and ongoing review of information under Subsection (3); and

(ii) including consideration of the relationship the following may have to patient and resident protection:

(A) warrants for arrest;

(B) arrests;

(C) convictions, including pleas in abeyance;

(D) pending diversion agreements;

(E) adjudications by a juvenile court under Section 80-6-701 if the individual is over 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old; and

(F) any other findings under Subsection (3); and

(b) specify the personal identification information that must be submitted by an individual or covered body with an application for clearance, including:

(i) the applicant's Social Security number; and

(ii) fingerprints.

(5) For purposes of Subsection (4)(a), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(6) The Department of Public Safety, the Administrative Office of the Courts, [~~the Department of Human Services,~~] the Division of Professional Licensing, and any other state agency or political subdivision of the state:

(a) shall allow the department to review the information the department may review under Subsection (3); and

(b) except for the Department of Public Safety, may not charge the department for access to the information.

(7) The department shall adopt measures to protect the security of the information it reviews

under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for clearance.

(8) The department may disclose personal identification information specified under Subsection (4)(b) to [~~the Department of Human Services~~] other divisions and offices within the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

(9) The department may establish fees, in accordance with Section 63J-1-504, for an application for clearance, which may include:

(a) the cost of obtaining and reviewing information under Subsection (3);

(b) a portion of the cost of creating and maintaining the Direct Access Clearance System database under Section [~~26-21-209~~] 26B-2-241; and

(c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a) to determine whether clearance should be retained.

Section 169. Section 26B-2-241, which is renumbered from Section 26-21-209 is renumbered and amended to read:

[~~26-21-209~~]. 26B-2-241. Direct Access Clearance System database -- Contents and use -- Department of Public Safety retention of information and notification -- No civil liability for providing information.

(1) The definitions in Section 26B-2-238 apply to this section.

[~~(1)~~] (2) The department shall create and maintain a Direct Access Clearance System database, which:

(a) includes the names of individuals for whom the department has received:

(i) an application for clearance under this part; or

(ii) an application for background clearance under Section [~~26-8a-310~~] 26B-4-124; and

(b) indicates whether an application is pending and whether clearance has been granted and retained for:

(i) an applicant under this part; and

(ii) an applicant for background clearance under Section [~~26-8a-310~~] 26B-4-124.

[~~(2)~~] (3) (a) The department shall allow covered providers and covered contractors to access the database electronically.

(b) Data accessible to a covered provider or covered contractor is limited to the information under Subsections [~~(1)(a)(i) and (1)(b)(i)~~] (2)(a)(i) and (2)(b)(i) for:

(i) covered individuals engaged by the covered provider or covered contractor; and

(ii) individuals:

(A) whom the covered provider or covered contractor could engage as covered individuals; and

(B) who have provided the covered provider or covered contractor with sufficient personal identification information to uniquely identify the individual in the database.

(c) (i) The department may establish fees, in accordance with Section 63J-1-504, for use of the database by a covered contractor.

(ii) The fees may include, in addition to any fees established by the department under Subsection [~~26-21-204~~] 26B-2-240(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

(4) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information, including any fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240(3)(a); and

(b) notify the department upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(5) A covered body is not civilly liable for submitting to the department information required under this section, Section 26B-2-239, or Section 26B-2-240, or refusing to employ an individual who does not have clearance to have direct patient access under Section 26B-2-240.

Section 170. Section 26B-2-301, which is renumbered from Section 62A-3-202 is renumbered and amended to read:

Part 3. Long Term Care Ombudsman

[~~62A-3-202~~]. 26B-2-301. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(2) "Auxiliary aids and services" means items, equipment, or services that assist in effective communication between an individual who has a mental, hearing, vision, or speech disability and another individual.

(3) "Division" means the Division of Customer Experience.

[~~(3)~~] (4) "Government agency" means any department, division, office, bureau, board, commission, authority, or any other agency or

instrumentality created by the state, or to which the state is a party, or created by any county or municipality, which is responsible for the regulation, visitation, inspection, or supervision of facilities, or which provides services to patients, residents, or clients of facilities.

[~~(4)~~] (5) "Intermediate care facility" means the same as that term is defined in Section 58-15-101.

[~~(5)~~] (6) (a) "Long-term care facility" means:

(i) a skilled nursing facility;

(ii) except as provided in Subsection [~~(5)~~] (6)(b), an intermediate care facility;

(iii) a nursing home;

(iv) a small health care facility;

(v) a small health care facility type N; or

(vi) an assisted living facility.

(b) "Long-term care facility" does not mean an intermediate care facility for people with an intellectual disability, as defined in Section 58-15-101.

[~~(6)~~] (7) "Ombudsman" means the administrator of the long-term care ombudsman program, created pursuant to Section [~~62A-3-203~~] 26B-2-303.

[~~(7)~~] (8) "Ombudsman program" means the Long-Term Care Ombudsman Program.

[~~(8)~~] (9) "Resident" means an individual who resides in a long-term care facility.

[~~(9)~~] (10) "Skilled nursing facility" means the same as that term is defined in Section 58-15-101.

[~~(10)~~] (11) "Small health care facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

[~~(11)~~] (12) "Small health care facility type N" means a residence in which a licensed nurse resides and provides protected living arrangements, nursing care, and other services on a daily basis for two to three individuals who are also residing in the residence and are unrelated to the licensee.

Section 171. Section 26B-2-302, which is renumbered from Section 62A-3-201 is renumbered and amended to read:

[~~62A-3-201~~]. 26B-2-302. Legislative findings -- Purpose -- Ombudsman.

(1) The Legislature finds and declares that the citizens of this state should be assisted in asserting their civil and human rights as patients, residents, and clients of long-term care facilities created to serve their specialized needs and problems; and that for the health, safety, and welfare of these citizens, the state should take appropriate action through an adequate legal framework to address their difficulties.

(2) The purpose of this part is to establish within the division the Long-Term Care Ombudsman Program for the citizens of this state and identify duties and responsibilities of that program and of the ombudsman, in order to address problems relating to long-term care and to fulfill federal requirements.

Section 172. Section 26B-2-303, which is renumbered from Section 62A-3-203 is renumbered and amended to read:

[~~62A-3-203~~]. 26B-2-303. Long-Term Care Ombudsman Program -- Responsibilities.

(1) (a) There is created within the division the ombudsman program for the purpose of promoting, advocating, and ensuring the adequacy of care received and the quality of life experienced by residents of long-term care facilities within the state.

(b) Subject to the rules made under Section [~~62A-3-106.5~~] 26B-6-110, the ombudsman is responsible for:

(i) receiving and resolving complaints relating to residents of long-term care facilities;

(ii) conducting investigations of any act, practice, policy, or procedure of a long-term care facility or government agency that the ombudsman has reason to believe affects or may affect the health, safety, welfare, or civil and human rights of a resident of a long-term care facility;

(iii) coordinating the department's services for residents of long-term care facilities to ensure that those services are made available to eligible citizens of the state; and

(iv) providing training regarding the delivery and regulation of long-term care to public agencies, local ombudsman program volunteers, and operators and employees of long-term care facilities.

(2) (a) A long-term care facility shall display an ombudsman program information poster in a location that is readily visible to all residents, visitors, and staff members.

(b) The division is responsible for providing the posters, which shall include phone numbers for local ombudsman programs.

Section 173. Section 26B-2-304, which is renumbered from Section 62A-3-204 is renumbered and amended to read:

[~~62A-3-204~~]. 26B-2-304. Powers and responsibilities of ombudsman.

The long-term care ombudsman shall:

(1) comply with Title VII of the federal Older Americans Act, 42 U.S.C. 3058 et seq.;

(2) establish procedures for and engage in receiving complaints, conducting investigations, reporting findings, issuing findings and recommendations, promoting community contact and involvement with residents of long-term care facilities through the use of volunteers, and publicizing its functions and activities;

(3) investigate an administrative act or omission of a long-term care facility or governmental agency if the act or omission relates to the purposes of the

ombudsman. The ombudsman may exercise its authority under this subsection without regard to the finality of the administrative act or omission, and it may make findings in order to resolve the subject matter of its investigation;

(4) recommend to the division rules that it considers necessary to carry out the purposes of the ombudsman;

(5) cooperate and coordinate with governmental entities and voluntary assistance organizations in exercising its powers and responsibilities;

(6) request and receive cooperation, assistance, services, and data from any governmental agency, to enable it to properly exercise its powers and responsibilities;

(7) establish local ombudsman programs to assist in carrying out the purposes of this part, which shall meet the standards developed by the division, and possess all of the authority and power granted to the ombudsman program under this part; and

(8) exercise other powers and responsibilities as reasonably required to carry out the purposes of this part.

Section 174. Section 26B-2-305, which is renumbered from Section 62A-3-205 is renumbered and amended to read:

[~~62A-3-205~~]. 26B-2-305. Procedures -- Adjudicative proceedings.

The ombudsman shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in the ombudsman's adjudicative proceedings.

Section 175. Section 26B-2-306, which is renumbered from Section 62A-3-206 is renumbered and amended to read:

[~~62A-3-206~~]. 26B-2-306. Investigation of complaints -- Procedures.

(1) The ombudsman shall investigate each complaint the ombudsman receives. An investigation may consist of a referral to another public agency, the collecting of facts and information over the telephone, or an inspection of the long-term care facility that is named in the complaint.

(2) In making an investigation, the ombudsman may engage in actions the ombudsman considers appropriate, including:

(a) making inquiries and obtaining information;

(b) holding investigatory hearings;

(c) entering and inspecting any premises, without notice to the facility, provided the investigator presents, upon entering the premises, identification as an individual authorized by this part to inspect the premises; and

(d) inspecting or obtaining a book, file, medical record, or other record required by law to be retained by the long-term care facility or governmental agency, pertaining to residents, subject to Subsection (3).

(3) (a) Before reviewing a resident's records, the ombudsman shall seek to obtain from the resident, or the resident's legal representative, permission in writing, orally, or through the use of auxiliary aids and services to review the records.

(b) The effort to obtain permission under Subsection (3)(a) shall include personal contact with the resident or the resident's legal representative. If the resident or the resident's legal representative refuses to give permission, the ombudsman shall record and abide by this decision.

(c) If the ombudsman's attempt to obtain permission fails for a reason other than the refusal of the resident or the resident's legal representative to give permission, the ombudsman may review the records.

(d) If the ombudsman has reasonable cause to believe that the resident is incompetent to give permission and that the resident's legal representative is not acting in the best interest of the resident, the ombudsman shall determine whether review of the resident's records is in the best interest of the resident.

(e) If the ombudsman determines that review of the resident's records is in the best interest of the resident, the ombudsman shall review the records.

Section 176. Section 26B-2-307, which is renumbered from Section 62A-3-207 is renumbered and amended to read:

[~~62A-3-207~~]. 26B-2-307. Confidentiality of materials relating to complaints or investigations -- Immunity from liability -- Discriminatory, disciplinary, or retaliatory actions prohibited.

(1) The ombudsman shall establish procedures to ensure that all files maintained by the ombudsman program are disclosed only at the discretion of and under the authority of the ombudsman. The identity of a complainant or resident of a long-term care facility may not be disclosed by the ombudsman unless:

(a) the complainant or resident, or the legal representative of either, consents in writing, orally, or through the use of auxiliary aids and services to the disclosure;

(b) disclosure is ordered by the court; or

(c) the disclosure is approved by the ombudsman and is made, as part of an investigation involving the resident, to an agency that:

(i) has statutory responsibility for the resident;

(ii) has statutory responsibility over the action alleged in the complaint;

(iii) is able to assist the ombudsman to achieve resolution of the complaint; or

(iv) is able to provide expertise that would benefit the resident.

(2) Neither the ombudsman nor the ombudsman's agent or designee may be required to

testify in court with respect to confidential matters, except as the court finds necessary to enforce this part.

(3) Any person who makes a complaint to the ombudsman pursuant to this part is immune from any civil or criminal liability unless the complaint was made maliciously or without good faith.

(4) (a) Discriminatory, disciplinary, or retaliatory action may not be taken against a volunteer or employee of a long-term care facility or governmental agency, or against a resident of a long-term care facility, for any communication made or information given or disclosed to aid the ombudsman or other appropriate public agency in carrying out its duties and responsibilities, unless the same was done maliciously or without good faith.

(b) This subsection does not infringe on the rights of an employer to supervise, discipline, or terminate an employee for any other reason.

Section 177. Section 26B-2-308, which is renumbered from Section 62A-3-208 is renumbered and amended to read:

[~~62A-3-208~~]. 26B-2-308. Prohibited acts -- Penalty.

(1) No person may:

(a) give or cause to be given advance notice to a long-term care facility or agency that an investigation or inspection under the direction of the ombudsman is pending or under consideration, except as provided by law;

(b) disclose confidential information submitted to the ombudsman pursuant to this part, except as provided by law;

(c) willfully interfere with the lawful actions of the ombudsman;

(d) willfully refuse to comply with lawful demands of the ombudsman, including the demand for immediate entry into or inspection of the premises of any long-term care facility or agency or for immediate access to a resident of a long-term care facility; or

(e) offer or accept any compensation, gratuity, or promise thereof in an effort to affect the outcome of a matter being investigated or of a matter that is before the ombudsman for determination of whether an investigation should be conducted.

(2) Violation of any provision of this part constitutes a class B misdemeanor.

Section 178. Section 26B-2-309, which is renumbered from Section 62A-3-209 is renumbered and amended to read:

[~~62A-3-209~~]. 26B-2-309. Assisted living facility transfers.

(1) After the ombudsman receives a notice described in Subsection [~~26-21-305~~] 26B-2-237(1)(a), the ombudsman shall:

(a) review the notice; and

(b) contact the resident or the resident's responsible person to conduct a voluntary interview.

(2) The voluntary interview described in Subsection (1)(b) shall:

(a) provide the resident with information about the services available through the ombudsman;

(b) confirm the details in the notice described in Subsection [~~26-21-305~~] 26B-2-237(1)(a), including:

(i) the name of the resident;

(ii) the reason for the transfer or discharge;

(iii) the date of the transfer or discharge; and

(iv) a description of the resident's next living arrangement; and

(c) provide the resident an opportunity to discuss any concerns or complaints the resident may have regarding:

(i) the resident's treatment at the assisted living facility; and

(ii) whether the assisted living facility treated the resident fairly when the assisted living facility transferred or discharged the resident.

(3) On or before November 1 of each year, the ombudsman shall provide a report to the Health and Human Services Interim Committee regarding:

(a) the reasons why assisted living facilities are transferring residents;

(b) where residents are going upon transfer or discharge; and

(c) the type and prevalence of complaints that the ombudsman receives regarding assisted living facilities, including complaints about the process or reasons for a transfer or discharge.

Section 179. Section 26B-2-401, which is renumbered from Section 26-39-102 is renumbered and amended to read:

Part 4. Child Care Licensing

[~~26-39-102~~]. 26B-2-401. Definitions.

As used in this [~~chapter~~] part:

(1) "Advisory committee" means the Residential Child Care Licensing Advisory Committee created in Section 26B-1-204.

(2) "Capacity limit" means the maximum number of qualifying children that a regulated provider may care for at any given time, in accordance with rules made by the department.

(3) (a) "Center based child care" means child care provided in a facility or program that is not the home of the provider.

(b) "Center based child care" does not include:

(i) residential child care; or

(ii) care provided in a facility or program exempt under Section [~~26-39-403~~] 26B-2-405.

(4) "Certified provider" means a person who holds a certificate from the department under Section [~~26-39-402~~] 26B-2-404.

(5) "Child care" means continuous care and supervision of a qualifying child, that is:

(a) in lieu of care ordinarily provided by a parent in the parent's home;

(b) for less than 24 hours a day; and

(c) for direct or indirect compensation.

(6) "Child care program" means a child care facility or program operated by a regulated provider.

(7) "Exempt provider" means a person who provides care described in Subsection [~~26-39-403~~] 26B-2-405(2).

(8) "Licensed provider" means a person who holds a license from the department under Section [~~26-39-401~~] 26B-2-403.

(9) "Licensing committee" means the Child Care Center Licensing Committee created in Section 26B-1-204.

(10) "Public school" means:

(a) a school, including a charter school, that:

(i) is directly funded at public expense; and

(ii) provides education to qualifying children for any grade from first grade through twelfth grade; or

(b) a school, including a charter school, that provides:

(i) preschool or kindergarten to qualifying children, regardless of whether the preschool or kindergarten is funded at public expense; and

(ii) education to qualifying children for any grade from first grade through twelfth grade, if each grade, from first grade to twelfth grade, that is provided at the school, is directly funded at public expense.

(11) "Qualifying child" means an individual who is:

(a) (i) under the age of 13 years old; or

(ii) under the age of 18 years old, if the person has a disability; and

(b) a child of:

(i) a person other than the person providing care to the child;

(ii) a regulated provider, if the child is under the age of four; or

(iii) an employee or owner of a licensed child care center, if the child is under the age of four.

(12) "Regulated provider" means a licensed provider or certified provider.

(13) "Residential child care" means child care provided in the home of the provider.

Section 180. Section 26B-2-402, which is renumbered from Section 26-39-301 is renumbered and amended to read:

[~~26-39-301~~]. 26B-2-402. Duties of the department -- Enforcement of part -- Licensing committee requirements.

(1) With regard to residential child care licensed or certified under this [~~chapter~~] part, the department may:

(a) make and enforce rules to implement this [~~chapter~~] part and, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers, considering the age of the children and the type of program offered by the licensee; and

(b) make and enforce rules necessary to carry out the purposes of this [~~chapter~~] part, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1)(a);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees.

(2) The department shall enforce the rules established by the licensing committee, with the concurrence of the department, for center based child care.

(3) The department shall make rules that allow a regulated provider to provide after school child care for a reasonable number of qualifying children in excess of the regulated provider's capacity limit, without requiring the regulated provider to obtain a waiver or new license from the department.

(4) Rules made under this [~~chapter~~] part by the department, or the licensing committee with the concurrence of the department, shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The licensing committee and the department may not regulate educational curricula, academic methods, or the educational philosophy or approach of the provider.

(b) The licensing committee and the department shall allow for a broad range of educational training and academic background in certification or qualification of child day care directors.

(6) In licensing and regulating child care programs, the licensing committee and the department shall reasonably balance the benefits and burdens of each regulation and, by rule, provide for a range of licensure, depending upon the needs and different levels and types of child care provided.

(7) Notwithstanding the definition of "qualifying child" in Section [~~26-39-102~~] 26B-2-401, the licensing committee and the department shall count children through age 12 and children with disabilities through age 18 toward the minimum square footage requirement for indoor and outdoor areas, including the child of:

(a) a licensed residential child care provider; or

(b) an owner or employee of a licensed child care center.

(8) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department may not exclude floor space used for furniture, fixtures, or equipment from the minimum square footage requirement for indoor and outdoor areas if the furniture, fixture, or equipment is used:

(a) by qualifying children;

(b) for the care of qualifying children; or

(c) to store classroom materials.

(9) (a) A child care center constructed prior to January 1, 2004, and licensed and operated as a child care center continuously since January 1, 2004, is exempt from the licensing committee's and the department's group size restrictions, if the child to caregiver ratios are maintained, and adequate square footage is maintained for specific classrooms.

(b) An exemption granted under Subsection (9)(a) is transferrable to subsequent licensed operators at the center if a licensed child care center is continuously maintained at the center.

(10) The licensing committee, with the concurrence of the department, shall develop, by rule, a five-year phased-in compliance schedule for playground equipment safety standards.

(11) The department shall set and collect licensing and other fees in accordance with Section 26B-1-209.

Section 181. Section 26B-2-403, which is renumbered from Section 26-39-401 is renumbered and amended to read:

[~~26-39-401~~]. 26B-2-403. Licensure requirements -- Expiration -- Renewal.

(1) Except as provided in Section [~~26-39-403~~] 26B-2-405, and subject to Subsection (2), a person shall obtain a license from the department if:

(a) the person provides center based child care for five or more qualifying children;

(b) the person provides residential child care for nine or more qualifying children; or

(c) the person:

(i) provides child care;

(ii) is not required to obtain a license under Subsection (1)(a) or (b); and

(iii) requests to be licensed.

(2) Notwithstanding Subsection (1), a certified provider may, in accordance with rules made by the department under Subsection [~~26-39-301~~] 26B-2-402(3), exceed the certified provider's capacity limit to provide after school child care without obtaining a license from the department.

(3) The department may issue licenses for a period not exceeding 24 months to child care providers who meet the requirements of:

(a) this [~~chapter~~] part; and

(b) the department's rules governing child care programs.

(4) A license issued under this [~~chapter~~] part is not assignable or transferable.

Section 182. Section 26B-2-404, which is renumbered from Section 26-39-402 is renumbered and amended to read:

[~~26-39-402~~]. 26B-2-404. Residential Child Care Certificate.

(1) Except as provided in Section [~~26-39-403~~] 26B-2-405, a person shall obtain a Residential Child Care Certificate from the department if:

(a) the person provides residential child care for seven or eight qualifying children; or

(b) the person:

(i) provides residential child care for six or less qualifying children; and

(ii) requests to be certified.

(2) The minimum qualifications for a Residential Child Care Certificate are:

(a) the submission of:

(i) an application in the form prescribed by the department;

(ii) a certification and criminal background fee established in accordance with Section 26B-1-209; and

(iii) in accordance with Section [~~26-39-404~~] 26B-2-406, identifying information for each adult person and each juvenile age 12 through 17 years old who resides in the provider's home:

(A) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime;

(B) to screen for a substantiated finding of child abuse or neglect by a juvenile court; and

(C) to discover whether the person is listed in the Licensing Information System described in Section 80-2-1002;

(b) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:

(i) check the immunization record, as defined in Section 53G-9-301, of each qualifying child who receives child care in the provider's home;

(ii) identify serious sanitation, fire, and health hazards to qualifying children; and

(iii) make appropriate recommendations; and

(c) annual training consisting of 10 hours of department-approved training as specified by the department by administrative rule, including a current department-approved CPR and first aid course.

(3) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection (2)(b), the department shall require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance.

(4) In addition to an inspection conducted pursuant to Subsection (2)(b), the department may inspect the home of a certified provider in response to a complaint of:

(a) child abuse or neglect;

(b) serious health hazards in or around the provider's home; or

(c) providing residential child care without the appropriate certificate or license.

(5) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Section 183. Section 26B-2-405, which is renumbered from Section 26-39-403 is renumbered and amended to read:

[~~26-39-403~~]. 26B-2-405. Exclusions from part -- Criminal background checks by an excluded person.

(1) (a) Except as provided in Subsection (1)(b), the provisions and requirements of this [~~chapter~~] part do not apply to:

(i) a facility or program owned or operated by an agency of the United States government;

(ii) group counseling provided by a mental health therapist, as defined in Section 58-60-102, who is licensed to practice in this state;

(iii) a health care facility licensed [~~pursuant to Title 26, Chapter 21~~] under Part 2, Health Care Facility Licensing and Inspection [~~Act~~];

(iv) care provided to a qualifying child by or in the home of a parent, legal guardian, grandparent, brother, sister, uncle, or aunt;

(v) care provided to a qualifying child, in the home of the provider, for less than four hours a day or on a sporadic basis, unless that child care directly affects or is related to a business licensed in this state;

(vi) care provided at a residential support program that is licensed by the [~~Department of Human Services~~] department;

(vii) center based child care for four or less qualifying children, unless the provider requests to be licensed under Section [~~26-39-401~~] 26B-2-403; or

(viii) residential child care for six or less qualifying children, unless the provider requests to be licensed under Section [~~26-39-401~~] 26B-2-403 or certified under Section [~~26-39-402~~] 26B-2-404.

(b) Notwithstanding Subsection (1)(a), a person who does not hold a license or certificate from the department under this [~~chapter~~] part may not, at any given time, provide child care in the person's home for more than 10 children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person providing child care.

(2) The licensing and certification requirements of this [~~chapter~~] part do not apply to:

(a) care provided to a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;

(b) care provided to a qualifying child by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;

(c) care provided to a qualifying child at a public school by an organization other than the public school, if:

(i) the care is provided under contract with the public school or on school property; or

(ii) the public school accepts responsibility and oversight for the care provided by the organization;

(d) care provided to a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit;

(e) care provided by an organization that:

(i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code;

(ii) provides care pursuant to a written agreement with:

(A) a municipality, as defined in Section 10-1-104, that provides oversight for the program; or

(B) a county that provides oversight for the program; and

(iii) provides care to a child who is over the age of four and under the age of 13; or

(f) care provided to a qualifying child at a facility where:

(i) the parent or guardian of the qualifying child is at all times physically present in the building where the care is provided and the parent or guardian is near enough to reach the child within five minutes if needed;

(ii) the duration of the care is less than four hours for an individual qualifying child in any one day;

(iii) the care is provided on a sporadic basis;

(iv) the care does not include diapering a qualifying child; and

(v) the care does not include preparing or serving meals to a qualifying child.

(3) An exempt provider shall submit to the department:

(a) the information required under Subsections [~~26-39-404~~] 26B-2-406(1) and (2); and

(b) of the children receiving care from the exempt provider:

(i) the number of children who are less than two years old;

(ii) the number of children who are at least two years old and less than five years old; and

(iii) the number of children who are five years old or older.

(4) An exempt provider shall post, in a conspicuous location near the entrance of the exempt provider's facility, a notice prepared by the department that:

(a) states that the facility is exempt from licensure and certification; and

(b) provides the department's contact information for submitting a complaint.

(5) (a) Except as provided in Subsection (5)(b), the department may not release the information the department collects from exempt providers under Subsection (3).

(b) The department may release an aggregate count of children receiving care from exempt providers, without identifying a specific provider.

Section 184. Section 26B-2-406, which is renumbered from Section 26-39-404 is renumbered and amended to read:

[~~26-39-404~~]. 26B-2-406. Disqualified individuals -- Criminal history checks -- Payment of costs.

(1) (a) Each exempt provider, except as provided in Subsection (1)(c), and each person requesting a residential certificate or to be licensed or to renew a license under this [~~chapter~~] part shall submit to the department the name and other identifying information, which shall include fingerprints, of existing, new, and proposed:

(i) owners;

(ii) directors;

(iii) members of the governing body;

(iv) employees;

(v) providers of care;

(vi) volunteers, except parents of children enrolled in the programs; and

(vii) all adults residing in a residence where child care is provided.

(b) (i) The Utah Division of Criminal Investigation and Technical Services within the Department of Public Safety shall process the information required under Subsection (1)(a) to determine whether the individual has been convicted of any crime.

(ii) The Utah Division of Criminal Investigation and Technical Services shall submit fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record check.

(iii) A person required to submit information to the department under Subsection (1) shall pay the cost of conducting the record check described in this Subsection (1)(b).

(c) An exempt provider who provides care to a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to this Subsection (1), unless required by the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r.

(2) (a) Each person requesting a residential certificate or to be licensed or to renew a license under this [~~chapter~~] part shall submit to the department the name and other identifying information of any person age 12 through 17 who resides in the residence where the child care is provided. The identifying information required for a person age 12 through 17 does not include fingerprints.

(b) The department shall access the juvenile court records to determine whether a person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor if:

(i) the person described in Subsection (1) is under the age of 28; or

(ii) the person described in Subsection (1) is:

(A) over the age of 28; and

(B) has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(3) Except as provided in Subsections (4) and (5), a licensee under this [~~chapter~~] part or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor, or if the provisions

of Subsection (2)(b) apply, who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:

(a) provide child care;

(b) provide volunteer services for a child care program or an exempt provider;

(c) reside at the premises where child care is provided; or

(d) function as an owner, director, or member of the governing body of a child care program or an exempt provider.

(4) (a) The department may, by rule, exempt the following from the restrictions of Subsection (3):

(i) specific misdemeanors; and

(ii) specific acts adjudicated in juvenile court, which if committed by an adult would be misdemeanors.

(b) In accordance with criteria established by rule, the executive director may consider and exempt individual cases not otherwise exempt under Subsection (4)(a) from the restrictions of Subsection (3).

(5) The restrictions of Subsection (3) do not apply to the following:

(a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a date 10 years or more before the date of the criminal history check described in this section; or

(b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense adjudicated in juvenile court on a date 10 years or more before the date of the criminal history check described in this section.

(6) The department may retain background check information submitted to the department for up to one year after the day on which the covered individual is no longer associated with a Utah child care provider.

Section 185. Section 26B-2-407, which is renumbered from Section 26-39-405 is renumbered and amended to read:

[~~26-39-405~~]. 26B-2-407. Drinking water quality in child care centers.

A child care center, as defined in Section 19-4-115, may comply with Section 19-4-115.

Section 186. Section 26B-2-408, which is renumbered from Section 26-39-501 is renumbered and amended to read:

[~~26-39-501~~]. 26B-2-408. Investigations -- Records.

[~~(1) The department may conduct investigations necessary to enforce the provisions of this chapter.~~]

[~~(2) For purposes of~~] (1) As used in this section:

(a) "Anonymous complainant" means a complainant for whom the department does not have the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made.

(b) "Confidential complainant" means a complainant for whom the department has the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made, but who elects under Subsection (3)(c) not to be identified to the subject of the complaint.

(c) "Subject of the complaint" means the licensee or certificate holder about whom the complainant is informing the department.

(2) The department may conduct investigations necessary to enforce the provisions of this part.

(3) (a) If the department receives a complaint about a child care program or an exempt provider, the department shall:

(i) solicit information from the complainant to determine whether the complaint suggests actions or conditions that could pose a serious risk to the safety or well-being of a qualifying child;

(ii) as necessary:

(A) encourage the complainant to disclose the minimum personal identifying information necessary, including the complainant's full name, for the department to attempt to subsequently communicate with the complainant;

(B) inform the complainant that the department may not investigate an anonymous complaint;

(C) inform the complainant that the identity of a confidential complainant may be withheld from the subject of a complaint only as provided in Subsection (3)(c)(ii); and

(D) inform the complainant that the department may be limited in its use of information provided by a confidential complainant, as provided in Subsection (3)(c)(ii)(B); and

(iii) inform the complainant that a person is guilty of a class B misdemeanor under Section 76-8-506 if the person gives false information to the department with the purpose of inducing a change in that person's or another person's licensing or certification status.

(b) If the complainant elects to be an anonymous complainant, or if the complaint concerns events which occurred more than six weeks before the complainant contacted the department:

(i) shall refer the information in the complaint to the Division of Child and Family Services within the [~~Department of Human Services~~] department, law enforcement, or any other appropriate agency, if the complaint suggests actions or conditions which could pose a serious risk to the safety or well-being of a child;

(ii) may not investigate or substantiate the complaint; and

(iii) may, during a regularly scheduled annual survey, inform the exempt provider, licensee, or certificate holder that is the subject of the complaint of allegations or concerns raised by:

(A) the anonymous complainant; or

(B) the complainant who reported events more than six weeks after the events occurred.

(c) (i) If the complainant elects to be a confidential complainant, the department shall determine whether the complainant wishes to remain confidential:

(A) only until the investigation of the complaint has been completed; or

(B) indefinitely.

(ii) (A) If the complainant elects to remain confidential only until the investigation of the complaint has been completed, the department shall disclose the name of the complainant to the subject of the complaint at the completion of the investigation, but no sooner.

(B) If the complainant elects to remain confidential indefinitely, the department:

(I) notwithstanding Subsection 63G-2-201(5)(b), may not disclose the name of the complainant, including to the subject of the complaint; and

(II) may not use information provided by the complainant to substantiate an alleged violation of state law or department rule unless the department independently corroborates the information.

(4) (a) Prior to conducting an investigation of a child care program or an exempt provider in response to a complaint, a department investigator shall review the complaint with the investigator's supervisor.

(b) The investigator may proceed with the investigation only if:

(i) the supervisor determines the complaint is credible;

(ii) the complaint is not from an anonymous complainant; and

(iii) prior to the investigation, the investigator informs the subject of the complaint of:

(A) except as provided in Subsection (3)(c), the name of the complainant; and

(B) except as provided in Subsection (4)(c), the substance of the complaint.

(c) An investigator is not required to inform the subject of a complaint of the substance of the complaint prior to an investigation if doing so would jeopardize the investigation. However, the investigator shall inform the subject of the complaint of the substance of the complaint as soon as doing so will no longer jeopardize the investigation.

(5) If the department is unable to substantiate a complaint, any record related to the complaint or the investigation of the complaint:

(a) shall be classified under Title 63G, Chapter 2, Government Records Access and Management Act, as:

(i) a private or controlled record if appropriate under Section 63G-2-302 or 63G-2-304; or

(ii) a protected record under Section 63G-2-305; and

(b) if disclosed in accordance with Subsection 63G-2-201(5)(b), may not identify an individual child care program, exempt provider, licensee, certificate holder, or complainant.

(6) Any record of the department related to a complaint by an anonymous complainant is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, and, notwithstanding Subsection 63G-2-201(5)(b), may not be disclosed in a manner that identifies an individual child care program, exempt provider, licensee, certificate holder, or complainant.

Section 187. Section 26B-2-409, which is renumbered from Section 26-39-601 is renumbered and amended to read:

[~~26-39-601~~]. 26B-2-409. License violations -- Penalties.

(1) The department may deny or revoke a license and otherwise invoke disciplinary penalties if it finds:

(a) evidence of committing or of aiding, abetting, or permitting the commission of any illegal act on the premises of the child care facility;

(b) a failure to meet the qualifications for licensure; or

(c) conduct adverse to the public health, morals, welfare, and safety of children under its care.

(2) The department may also place a department representative as a monitor in a facility, and may assess the cost of that monitoring to the facility, until the licensee has remedied the deficiencies that brought about the department action.

(3) The department may impose civil monetary penalties in accordance with Title 63G, Chapter 4, Administrative Procedures Act, if there has been a failure to comply with the provisions of this [~~chapter~~] part, or rules made pursuant to this [~~chapter~~] part, as follows:

(a) if significant problems exist that are likely to lead to the harm of a qualifying child, the department may impose a civil penalty of $50 to $1,000 per day; and

(b) if significant problems exist that result in actual harm to a qualifying child, the department may impose a civil penalty of $1,050 to $5,000 per day.

Section 188. Section 26B-2-410, which is renumbered from Section 26-39-602 is renumbered and amended to read:

[~~26-39-602~~]. 26B-2-410. Offering or providing care in violation of part -- Misdemeanor.

Notwithstanding the provisions of [~~Title 26, Chapter 23, Enforcement Provisions and Penalties,~~] Section 26B-1-224, a person who provides or offers child care except as provided by this [~~chapter~~] part is guilty of a class A misdemeanor.

Section 189. Section 26B-2-501, which is renumbered from Section 26-71-101 is renumbered and amended to read:

Part 5. Certifications

[~~26-71-101~~]. 26B-2-501. Definitions.

As used in this [~~chapter~~] part:

(1) "Capacity building" means strengthening an individual's or a community's ability to participate in shared decision making.

(2) "Community health worker" means an individual who:

(a) works to improve a social determinant of health;

(b) acts as an intermediary between a community and health services or social services to:

(i) facilitate access to services; or

(ii) improve the quality and cultural competence of service delivery; and

(c) increases health knowledge and self-sufficiency of an individual or a community through outreach, capacity building, community education, informal counseling, social support, and other similar activities.

(3) "Core-skill education" means education regarding each of the following:

(a) self-reliance;

(b) outreach;

(c) capacity building;

(d) individual and community assessment;

(e) coordination skills;

(f) relationship building;

(g) facilitation of services;

(h) communication;

(i) professional conduct; and

(j) health promotion.

(4) "Core-skill training" means:

(a) 90 hours of competency-based education; and

(b) 300 hours of community involvement as determined by the department through rule.

(5) "Social determinate of health" means any condition in which an individual or a community lives, learns, works, plays, worships, or ages, that affects the individual's or the community's health or quality of life outcomes or risks.

(6) "State certified" means that an individual has obtained the state certification described in Subsection [~~26-71-104~~] 26B-2-504(1).

Section 190. Section 26B-2-502, which is renumbered from Section 26-71-102 is renumbered and amended to read:

[~~26-71-102~~]. 26B-2-502. Rulemaking.

The department may make rules as authorized by this [~~chapter~~] part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 191. Section 26B-2-503, which is renumbered from Section 26-71-103 is renumbered and amended to read:

[~~26-71-103~~]. 26B-2-503. Recommendation for Community Health Worker Certification Advisory Board.

The department shall notify the Health and Human Services Interim Committee if the department determines that there is a need to create, by statute, a Community Health Worker Certification Advisory Board.

Section 192. Section 26B-2-504, which is renumbered from Section 26-71-104 is renumbered and amended to read:

[~~26-71-104~~]. 26B-2-504. Certification -- Unlawful conduct.

(1) The department shall issue to an individual who qualifies under [~~this chapter~~] Section 26B-2-505 a certification as a state certified community health worker.

(2) An individual may not use the term "state certified" in conjunction with the individual's work as a community health worker if the individual is not state certified.

(3) The department may fine an individual who violates Subsection (2) in an amount up to $100.

Section 193. Section 26B-2-505, which is renumbered from Section 26-71-105 is renumbered and amended to read:

[~~26-71-105~~]. 26B-2-505. Qualifications for certification.

(1) The department shall issue a certification described in Section [~~26-71-104~~] 26B-2-504 to a community health worker if the community health worker has:

(a) completed core-skill training administered by:

(i) the department;

(ii) a state professional association that:

(A) is associated with the community health worker profession; and

(B) is aligned with a national community health worker professional association; or

(iii) an entity designated by a state professional association described in Subsection (1)(a)(ii);

(b) completed training regarding basic medical confidentiality requirements, including the confidentiality requirements of [~~the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended~~] HIPAA as defined in Section 26B-8-514;

(c) completed an application as designed by the department with a signed statement agreeing to abide by national standards of practice and ethics for community health workers; and

(d) paid a fee established by the department under Section 63J-1-504.

(2) A community health worker with at least 4,000 hours of experience as a community health worker is exempt from the core-skill training requirement described in Subsection (1)(a).

Section 194. Section 26B-2-506, which is renumbered from Section 26-71-106 is renumbered and amended to read:

[~~26-71-106~~]. 26B-2-506. Certification is voluntary.

This [~~chapter~~] part does not prohibit an individual from acting as a community health worker if the individual does not have a certificate described in this [~~chapter~~] part.

Section 195. Section 26B-2-507, which is renumbered from Section 26-71-107 is renumbered and amended to read:

[~~26-71-107~~]. 26B-2-507. Term of certification - Expiration - Renewal.

(1) Subject to Subsection (2), the department shall issue each certification under [~~this chapter~~] Section 26B-2-504 in accordance with a two-year renewal cycle.

(2) The department may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles that the department administers.

(3) (a) The department shall print the expiration date on the certification.

(b) Each certification automatically expires on the date shown on the certificate.

(c) The department shall establish procedures through rule to notify each state certified community health worker when the certification is due for renewal.

(4) (a) The department shall renew a certification if the individual has:

(i) met each renewal requirement established by the department through rule; and

(ii) paid a certification renewal fee established by the department.

(b) A rule created by the department under Subsection (4)(a)(i) shall include a requirement regarding:

(i) continuing education; and

(ii) maintaining professional conduct.

Section 196. Section 26B-2-601, which is renumbered from Section 26-21a-101 is renumbered and amended to read:

Part 6. Mammography Quality Assurance

[~~26-21a-101~~]. 26B-2-601. Definitions.

As used in this [~~chapter~~] part:

[~~(1) "Breast cancer screening mammography" means a standard two-view per breast, low-dose as defined by the National Cancer Institute, radiographic examination of the breasts to detect unsuspected breast cancer using equipment designed and dedicated specifically for mammography.~~]

[~~(2)~~] (1) "Diagnostic mammography" means mammography performed on a woman having suspected breast cancer.

[~~(3)~~] (2) "Facility" means a facility that provides screening or diagnostic breast mammography services.

Section 197. Section 26B-2-602, which is renumbered from Section 26-21a-203 is renumbered and amended to read:

[~~26-21a-203~~]. 26B-2-602. Department rulemaking authority.

The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) establishing quality assurance standards for all facilities performing screening or diagnostic mammography and developing mammogram x-ray films, including notification and procedures for clinical follow-up of abnormal mammograms;

(2) providing for:

(a) collection and periodic reporting of mammography examinations and clinical follow-up data to the department;

(b) certification and revocation of certification of mammogram facilities;

(c) inspection of mammogram facilities, including entry of agents of the department into the facilities for inspections;

(d) setting fees for certification; and

(e) an appeal process regarding department certification decisions; and

(3) requiring a facility that is certified under Section [~~26-21a-204~~] 26B-2-603 to comply with the notification requirement described in Section [~~26-21a-206~~] 26B-2-605.

Section 198. Section 26B-2-603, which is renumbered from Section 26-21a-204 is renumbered and amended to read:

[~~26-21a-204~~]. 26B-2-603. Mammogram provider certification.

(1) A mammogram may only be performed in a facility the department certifies as meeting:

(a) the qualifications and standards under Section [~~26-21a-203~~] 26B-2-602; and

(b) the registration, licensing, and inspection requirements for radiation sources under Section 19-3-104.

(2) Facilities desiring to perform mammograms shall request certification as a mammogram provider by the department under procedures established by department rule.

Section 199. Section 26B-2-604, which is renumbered from Section 26-21a-205 is renumbered and amended to read:

[~~26-21a-205~~]. 26B-2-604. Department duties.

The department shall:

(1) enforce rules established under this part;

(2) implement and enforce the notice requirement in Section [~~26-21a-206~~] 26B-2-605;

(3) authorize qualified department agents to conduct inspections of mammogram facilities under department rules;

(4) collect and credit fees for certification established by the department in accordance with Section 63J-1-504; and

(5) provide necessary administrative and staff support to the committee.

Section 200. Section 26B-2-605, which is renumbered from Section 26-21a-206 is renumbered and amended to read:

[~~26-21a-206~~]. 26B-2-605. Women's cancer screening notification requirement.

(1) As used in this section, "dense breast tissue" means heterogeneously dense tissue or extremely dense tissue as defined in the Breast Imaging and Reporting Data System established by the American College of Radiology.

(2) A facility that is certified under Section [~~26-21a-204~~] 26B-2-603 shall include the following notification and information with a mammography result provided to a patient with dense breast tissue:

"Your mammogram indicates that you have dense breast tissue. Dense breast tissue is common and is found in as many as half of all women. However, dense breast tissue can make it more difficult to fully and accurately evaluate your mammogram and detect early signs of possible cancer in the breast. This information is being provided to inform and encourage you to discuss your dense breast tissue and other breast cancer risk factors with your health care provider. Together, you can decide what may be best for you. A copy of your mammography report has been sent to your health care provider. Please contact them if you have any questions or concerns about this notice."

Section 201. Section 26B-2-606, which is renumbered from Section 26-21a-301 is renumbered and amended to read:

[~~26-21a-301~~]. 26B-2-606. Breast cancer mortality reduction program.

The department shall create a breast cancer mortality reduction program. The program shall include:

(1) education programs for health professionals regarding skills in cancer screening, diagnosis, referral, treatment, and rehabilitation based on current scientific knowledge;

(2) education programs to assist the public in understanding:

(a) the benefits of regular breast cancer screening;

(b) resources available in the medical care system for cancer screening, diagnosis, referral, treatment, and rehabilitation; and

(c) available options for treatment of breast cancer and the ramifications of each approach; and

(3) subsidized screening mammography for low-income women as determined by the department standards.

Section 202. Section 26B-9-101 is amended to read:

CHAPTER 9. RECOVERY SERVICES AND ADMINISTRATION OFCHILD SUPPORT

Part 1. Office of Recovery Services

26B-9-101. Definitions.

[~~Reserved~~]

As used in this part:

(1) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(2) "Assistance" means public assistance.

(3) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

(4) "Child support" means the same as that term is defined in Section 26B-9-301.

(5) "Child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.

(6) "Director" means the director of the Office of Recovery Services.

(7) "Disposable earnings" means that part of the earnings of an individual remaining after the

deduction of all amounts required by law to be withheld.

(8) "Financial institution" means:

(a) a depository institution as defined in Section 7-1-103 or the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(c);

(b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(u);

(c) any federal credit union or state credit union as defined in the Federal Credit Union Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit union as defined in 12 U.S.C. Sec. 1786(r);

(d) a broker-dealer as defined in Section 61-1-13; or

(e) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the state.

(9) "Financial record" is defined in the Right to Financial Privacy Act of 1978, 12 U.S.C. Sec. 3401.

(10) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, or contract payment, or denominated as advances on future wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

(11) "IV-D" means Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

(12) "IV-D child support services" means the same as child support services.

(13) "New hire registry" means the centralized new hire registry created in Section 35A-7-103.

(14) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a debt is owed or who is entitled to reimbursement of child support or public assistance.

(15) "Obligor" means a person, firm, corporation, or the estate of a decedent owing money to this state, to an individual, to another state, or other comparable jurisdiction in whose behalf this state is acting.

(16) "Office" means the Office of Recovery Services.

(17) "Provider" means a person or entity that receives compensation from any public assistance program for goods or services provided to a public assistance recipient.

(18) "Public assistance" means:

(a) services or benefits provided under Title 35A, Chapter 3, Employment Support Act;

(b) medical assistance provided under Chapter 3, Part 1, Health Care Assistance;

(c) foster care maintenance payments under Part E of Title IV of the Social Security Act, 42 U.S.C. Sec. 670, et seq.;

(d) SNAP benefits as defined in Section 35A-1-102; or

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(19) "State case registry" means the central, automated record system maintained by the office and the central, automated district court record system maintained by the Administrative Office of the Courts, that contains records which use standardized data elements, such as names, Social Security numbers and other uniform identification numbers, dates of birth, and case identification numbers, with respect to:

(a) each case in which services are being provided by the office under the state IV-D child support services plan; and

(b) each support order established or modified in the state on or after October 1, 1998.

Section 203. Section 26B-9-102, which is renumbered from Section 62A-11-101 is renumbered and amended to read:

~~[62A-11-101]~~. 26B-9-102. Legislative intent -- Liberal construction.

It is the intent of the Legislature that the integrity of the public assistance programs of this state be maintained and that the taxpayers support only those persons in need and only as a resource of last resort. To this end, this part should be liberally construed.

Section 204. Section 26B-9-103, which is renumbered from Section 62A-11-102 is renumbered and amended to read:

~~[62A-11-102]~~. 26B-9-103. Office of Recovery Services -- Creation.

(1) There is created within the department the Office of Recovery Services which has the powers and duties provided by law.

(2) The office is under the administrative and general supervision of the executive director.

Section 205. Section 26B-9-104, which is renumbered from Section 62A-11-104 is renumbered and amended to read:

[~~62A-11-104~~]. 26B-9-104. Duties of the Office of Recovery Services.

(1) The office has the following duties:

(a) except as provided in Subsection (2), to provide child support services if:

(i) the office has received an application for child support services;

(ii) the state has provided public assistance; or

(iii) a child lives out of the home in the protective custody, temporary custody, or custody or care of the state;

(b) for the purpose of collecting child support, to carry out the obligations of the department contained in:

(i) this chapter [~~and in~~];

(ii) Title 78B, Chapter 12, Utah Child Support Act;

(iii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act; and

(iv) Title 78B, Chapter 15, Utah Uniform Parentage Act[~~, for the purpose of collecting child support~~];

(c) to collect money due the department which could act to offset expenditures by the state;

(d) to cooperate with the federal government in programs designed to recover health and social service funds;

(e) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution, and reimbursable expenses owed to the state or any of its political subdivisions, if the office has contracted to provide collection services;

(f) to implement income withholding for collection of child support in accordance with Part [4] 3, Income Withholding in IV-D Cases[~~, of this chapter~~];

(g) to enter into agreements with financial institutions doing business in the state to develop and operate, in coordination with such financial institutions, a data match system in the manner provided for in Section [~~62A-11-304.5~~] 26B-9-208;

(h) to establish and maintain the state case registry in the manner required by the Social Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

(i) the amount of monthly or other periodic support owed under the order, and other amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under the order;

(ii) any amount described in Subsection (1)(h)(i) that has been collected;

(iii) the distribution of collected amounts;

(iv) the birth date of any child for whom the order requires the provision of support; and

(v) the amount of any lien imposed with respect to the order pursuant to this part;

(i) to contract with the Department of Workforce Services to establish and maintain the new hire registry created under Section 35A-7-103;

(j) to determine whether an individual who has applied for or is receiving cash assistance or Medicaid is cooperating in good faith with the office as required by Section [~~62A-11-307.2~~] 26B-9-213;

(k) to finance any costs incurred from collections, fees, General Fund appropriation, contracts, and federal financial participation; and

(l) to provide notice to a noncustodial parent in accordance with Section [~~62A-11-304.4~~] 26B-9-207 of the opportunity to contest the accuracy of allegations by a custodial parent of nonpayment of past-due child support, prior to taking action against a noncustodial parent to collect the alleged past-due support.

(2) The office may not provide child support services to the Division of Child and Family Services for a calendar month when the child to whom the child support services relate is:

(a) in the custody of the Division of Child and Family Services; and

(b) lives in the home of a custodial parent of the child for more than seven consecutive days, regardless of whether:

(i) the greater than seven consecutive day period starts during one month and ends in the next month; and

(ii) the child is living in the home on a trial basis.

(3) The Division of Child and Family Services is not entitled to child support, for a child to whom the child support relates, for a calendar month when child support services may not be provided under Subsection (2).

Section 206. Section 26B-9-105, which is renumbered from Section 62A-11-104.1 is renumbered and amended to read:

[~~62A-11-104.1~~]. 26B-9-105. Disclosure of information regarding employees.

(1) Upon request by the office, for purposes of an official investigation made in connection with its duties under Section [~~62A-11-104~~] 26B-9-104, the following disclosures shall be made to the office:

(a) a public or private employer shall disclose an employee's name, address, date of birth, income, social security number, and health insurance information pertaining to the employee and the employee's dependents;

(b) an insurance organization subject to Title 31A, Insurance Code, or the insurance administrators of a self-insured employer shall disclose health insurance information pertaining to an insured or an insured's dependents, if known; and

(c) a financial institution subject to Title 7, Financial Institutions Act, shall disclose financial record information of a customer named in the request.

(2) The office shall specify by rule the type of health insurance and financial record information required to be disclosed under this section.

(3) All information received under this section is subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(4) An employer, financial institution, or insurance organization, or its agent or employee, is not civilly or criminally liable for providing information to the office in accordance with this section, whether the information is provided pursuant to oral or written request.

Section 207. Section 26B-9-106, which is renumbered from Section 62A-11-105 is renumbered and amended to read:

[~~62A-11-105~~]. 26B-9-106. Adjudicative proceedings.

The office and the department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

Section 208. Section 26B-9-107, which is renumbered from Section 62A-11-106 is renumbered and amended to read:

[~~62A-11-106~~]. 26B-9-107. Office may file as real party in interest -- Written consent to payment agreements -- Money judgment in favor of obligee considered to be in favor of office to extent of right to recover.

(1) The office may file judicial proceedings as a real party in interest to establish, modify, and enforce a support order in the name of the state, any department of the state, the office, or an obligee.

(2) No agreement between an obligee and an obligor as to past, present, or future obligations, reduces or terminates the right of the office to recover from that obligor on behalf of the department for public assistance provided, unless the department has consented to the agreement in writing.

(3) Any court order that includes a money judgment for support to be paid to an obligee by any person is considered to be in favor of the office to the extent of the amount of the office's right to recover public assistance from the judgment debtor.

Section 209. Section 26B-9-108, which is renumbered from Section 62A-11-107 is renumbered and amended to read:

[~~62A-11-107~~]. 26B-9-108. Director -- Powers of office -- Representation by county attorney or attorney general -- Receipt of grants -- Rulemaking and enforcement.

(1) The director of the office shall be appointed by the executive director.

(2) The office has power to administer oaths, certify to official acts, issue subpoenas, and to compel witnesses and the production of books, accounts, documents, and evidence.

(3) The office has the power to seek administrative and judicial orders to require an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated.

(4) The office has the power to enter into reciprocal child support enforcement agreements with foreign countries consistent with federal law and cooperative enforcement agreements with Indian Tribes.

(5) The office has the power to pursue through court action the withholding, suspension, and revocation of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or orders relating to paternity or child support proceedings pursuant to Section 78B-6-315.

(6) It is the duty of the attorney general or the county attorney of any county in which a cause of action can be filed, to represent the office. Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out the duties arising under this chapter.

(7) The office, with department approval, is authorized to receive any grants or stipends from the federal government or other public or private source designed to aid the efficient and effective operation of the recovery program.

(8) The office may adopt, amend, and enforce rules as may be necessary to carry out the provisions of this chapter.

Section 210. Section 26B-9-109, which is renumbered from Section 62A-11-108 is renumbered and amended to read:

[~~62A-11-108~~]. 26B-9-109. Office designated as criminal justice agency -- Access by IV-D agencies to motor vehicle and law enforcement data through the office.

(1) The office is designated as a criminal justice agency for the purpose of requesting and obtaining access to criminal justice information, subject to appropriate federal, state, and local agency restrictions governing the dissemination of that information.

(2) All federal and state agencies conducting activities under Title IV-D of the Social Security Act shall have access through the office to any system used by this state to locate an individual for purposes relating to motor vehicles or law enforcement.

Section 211. Section 26B-9-110, which is renumbered from Section 62A-11-111 is renumbered and amended to read:

[~~62A-11-111~~]. 26B-9-110. Lien provisions.

Provisions for collection of any lien placed as a condition of eligibility for any federally or state-funded public assistance program are as follows:

(1) Any assistance granted after July 1, 1953 to the spouse of an old-age recipient who was not eligible for old-age assistance but who participated in the assistance granted to the family is recoverable in the same manner as old-age assistance granted to the old-age recipient.

(2) At the time of the settlement of a lien given as a condition of eligibility for the old-age assistance program, there shall be allowed a cash exemption of $1,000, less any additional money invested by the department in the home of an old-age recipient or recipients of other assistance programs either as payment of taxes, home and lot improvements, or to protect the interest of the state in the property for necessary improvements to make the home habitable, to be deducted from the market or appraised value of the real property. When it is necessary to sell property or to settle an estate the department may grant reasonable costs of sale and settlement of an estate as follows:

(a) When the total cost of probate, including the sale of property when it is sold, and the cost of burial and last illness do not exceed $1,000, the exemption of $1,000 shall be the total exemption, which shall be the only amount deductible from the market or appraised value of the property.

(b) Subject to Subsection (2)(c), when $1,000 is not sufficient to pay for the costs of probate, the following expenditures are authorized:

(i) cost of funeral expenses not exceeding $1,500;

(ii) costs of terminal illness, provided the medical expenses have not been paid from any state or federally-funded assistance program;

(iii) realty fees, if any;

(iv) costs of revenue stamps, if any;

(v) costs of abstract or title insurance, whichever is the least costly;

(vi) attorney fees not exceeding the recommended fee established by the Utah State Bar;

(vii) administrator's fee not to exceed $150;

(viii) court costs; and

(ix) delinquent taxes, if any.

(c) An attorney, who sells the property in an estate that the attorney is probating, is entitled to the lesser of:

(i) a real estate fee; or

(ii) an attorney fee.

(3) The amounts listed in Subsection (2)(b) are to be considered only when the total costs of probate exceed $1,000, and those amounts are to be deducted from the market or appraised value of the property in lieu of the exemption of $1,000 and are not in addition to the $1,000 exemption.

(4) When both husband and wife are recipients and one or both of them own an interest in real property, the lien attaches to the interests of both for the reimbursement of assistance received by either or both spouses. Only one exemption, as provided in this section, is allowed.

(5) When a lien was executed by one party on property that is owned in joint tenancy with full rights of survivorship, the execution of the lien severs the joint tenancy and a tenancy in common results, insofar as a department lien is affected, unless the recipients are husband and wife. When recipients are husband and wife who own property in joint tenancy with full rights of survivorship, the execution of a lien does not sever the joint tenancy, insofar as a department lien might be affected, and settlement of the lien shall be in accordance with the provisions of Subsection (4).

(6) The amount of the lien given for old-age assistance shall be the total amount of assistance granted up to the market or appraised value of the real or personal property, less the amount of the legal maximum property limitations from the execution of the lien until settlement thereof. There shall be no exemption of any kind or nature allowed against real or personal property liens granted for old-age assistance except assistance in the form of medical care, and nursing home care, other types of congregate care, and similar plans for persons with a physical or mental disability.

(7) When it is necessary to sell property or to settle an estate, the department is authorized to approve payment of the reasonable costs of sale and settlement of an estate on which a lien has been given for old-age assistance.

(8) The amount of reimbursement of all liens held by the department shall be determined on the basis of the formulas described in this section, when they become due and payable.

(9) All lien agreements shall be recorded with the county recorder of the county in which the real property is located, and that recording has the same effect as a judgment lien on any real property in which the recipient has any title or interest. All such real property including but not limited to, joint tenancy interests, shall, from the time a lien agreement is recorded, be and become charged with a lien for all assistance received by the recipient or his spouse as provided in this section. That lien has priority over all unrecorded encumbrances. No fees or costs shall be paid for such recording.

(10) Liens shall become due and payable, and the department shall seek collection of each lien now held:

(a) when the property to which the lien attaches is transferred to a third party prior to the recipient's death, provided, that if other property is purchased by the recipient to be used by the recipient as a home, the department may transfer the amount of the lien from the property sold to the property purchased;

(b) upon the death of the recipient and the recipient's spouse, if any. When the heirs or devisees of the property are also recipients of public

assistance, or when other hardship circumstances exist, the department may postpone settlement of the lien if that would be in the best interest of the recipient and the state;

(c) when a recipient voluntarily offers to settle the lien; or

(d) when property subject to a lien is no longer used by a recipient and appears to be abandoned.

(11) When a lien becomes due and payable, a certificate in a form approved by the department certifying to the amount of assistance provided to the recipient and the amount of the lien, shall be mailed to the recipient, the recipient's heirs, or administrators of the estate, and the same shall be allowed, approved, filed, and paid as a preferred claim, as provided in Subsection 75-3-805(1)(e) in the administration of the decedent's estate. The amount so certified constitutes the entire claim, as of the date of the certificate, against the real or personal property of the recipient or the recipient's spouse. Any person dealing with the recipient, heirs, or administrators, may rely upon that certificate as evidence of the amount of the existing lien against that real or personal property. That amount, however, shall increase by accruing interest until time of final settlement, at the rate of 6% per annum, commencing six months after the lien becomes due and payable, or at the termination of probate proceedings, whichever occurs later.

(12) If heirs are unable to make a lump-sum settlement of the lien at the time it becomes due and payable, the department may permit settlement based upon periodic repayments in a manner prescribed by the department, with interest as provided in Subsection (11).

(13) All sums so recovered, except those credited to the federal government, shall be retained by the department.

(14) The department is empowered to accept voluntary conveyance of real or personal property in satisfaction of its interest therein. All property acquired by the department under the provisions of this section may be disposed of by public or private sale under rules prescribed by the department. The department is authorized to execute and deliver any document necessary to convey title to all property that comes into its possession, as though the department constituted a corporate entity.

(15) Any real property acquired by the department, either by foreclosure or voluntary conveyance, is tax exempt, so long as it is so held.

Section 212. Section 26B-9-111, which is renumbered from Section 62A-1-117 is renumbered and amended to read:

[~~62A-1-117~~]. 26B-9-111. Assignment of support -- Children in state custody.

(1) Child support is assigned to the department by operation of law when a child is residing outside of his home in the protective custody, temporary custody, custody, or care of the state for at least 30 days.

(2) The department has the right to receive payment for child support assigned to it under Subsection (1).

(3) The Office of Recovery Services is the payee for the department for payment received under this section.

Section 213. Section 26B-9-112, which is renumbered from Section 62A-11-703 is renumbered and amended to read:

[~~62A-11-703~~]. 26B-9-112. Alternative payment by obligor through electronic funds transfer.

(1) The office may enter into a written alternative payment agreement with an obligor which provides for electronic payment of child support under Part [4] 3, Income Withholding in IV-D Cases, or Part [~~5~~] 4, Income Withholding in Non IV-D Cases. Electronic payment shall be accomplished through an automatic withdrawal from the obligor's account at a financial institution.

(2) The alternative payment agreement shall:

(a) provide for electronic payment of child support in lieu of income withholding;

(b) specify the date on which electronic payments will be withdrawn from an obligor's account; and

(c) specify the amount which will be withdrawn.

(3) The office may terminate the agreement and initiate immediate income withholding, as defined in Section 26B-9-301, if:

(a) required to meet federal or state requirements or guidelines;

(b) funds available in the account at the scheduled time of withdrawal are insufficient to satisfy the agreement; or

(c) requested by the obligor.

(4) If the payment amount requires adjusting, the office may initiate a new written agreement with the obligor. If, for any reason, the office and obligor fail to agree on the terms, the office may terminate the agreement and initiate income withholding.

(5) If an agreement is terminated for insufficient funds, a new agreement may not be entered into between the office and obligor for a period of at least 12 months.

(6) The office shall make rules specifying eligibility requirements for obligors to enter into alternative payment agreements.

Section 214. Section 26B-9-113, which is renumbered from Section 62A-11-704 is renumbered and amended to read:

[~~62A-11-704~~]. 26B-9-113. Mandatory distribution to obligee through electronic funds transfer.

(1) Notwithstanding any provision of this chapter to the contrary, the office shall, except as provided in Subsection (3), distribute child support payments, under Subsection [~~62A-11-413~~] 26B-9-312(2) or Section [~~62A-11-505~~] 26B-9-406, by electronic funds transfer.

(2) Distribution of child support payments by electronic payment under this section shall be made to:

(a) an account of the obligee; or

(b) an account that may be accessed by the obligee through the use of an electronic access card.

(3) (a) Subject to Subsection (3)(b), the office may make rules, pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to allow exceptions to the requirement to make distributions by electronic funds transfer under Subsection (1).

(b) The rules described in Subsection (3)(a) may only allow exceptions under circumstances where:

(i) requiring distribution by electronic funds transfer would result in an undue hardship to the office or a person; or

(ii) it is not likely that distribution will be made to the obligee on a recurring basis.

Section 215. Section 26B-9-201, which is renumbered from Section 62A-11-303 is renumbered and amended to read:

Part 2. Child Support Services

[~~62A-11-303~~]. 26B-9-201. Definitions.

As used in this part:

(1) "Adjudicative proceeding" means an action or proceeding of the office conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Administrative order" means an order that has been issued by the office, the department, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.

(3) "Arrears" means the same as support debt.

[~~(3)~~] (4) "Assistance" [~~or "public assistance" is~~] means public assistance as defined in Section [~~62A-11-103~~] 26B-9-101.

[~~(4)~~] (5) "Business day" means a day on which state offices are open for regular business.

[~~(5)~~] (6) "Child" means:

(a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and is without sufficient means.

[~~(6)~~] (7) "Child support" means the same as that term is defined in Section [~~62A-11-401~~] 26B-9-301.

[~~(7)~~] (8) "Child support guidelines" [~~or "guidelines" is~~] means guidelines as defined in Section 78B-12-102.

[~~(8)~~] (9) "Child support order" [~~or "support order"~~] means the same as that term is defined in Section [~~62A-11-401~~] 26B-9-301.

[~~(9)~~] (10) "Child support services" [~~or "IV-D child support services"~~] means the same as that term is defined in Section [~~62A-11-103~~] 26B-9-101.

[~~(10)~~] (11) "Court order" means a judgment or order of a tribunal of appropriate jurisdiction of this state, another state, Native American tribe, the federal government, or any other comparable jurisdiction.

[~~(11)~~] (12) "Director" means the director of the Office of Recovery Services.

[~~(12)~~] (13) "Disposable earnings" means the same as that term is defined in Section [~~62A-11-103~~] 26B-9-101.

(14) "Guidelines" means the same as that term is defined in Section 78B-12-102.

[~~(13)~~] (15) "High-volume automated administrative enforcement" in interstate cases means, on the request of another state, the identification by the office, through automatic data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in the requesting state, and the seizure of the assets by the office, through levy or other appropriate processes.

[~~(14)~~] (16) "Income" means the same as that term is defined in Section [~~62A-11-103~~] 26B-9-101.

(17) "IV-D child support services" means the same as child support services.

[~~(15)~~] (18) "Notice of agency action" means the notice required to commence an adjudicative proceeding in accordance with Section 63G-4-201.

[~~(16)~~] (19) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a duty of child support is owed, or who is entitled to reimbursement of child support or public assistance.

[~~(17)~~] (20) "Obligor" means a person, firm, corporation, or the estate of a decedent owing a duty of support to this state, to an individual, to another state, or other corporate jurisdiction in whose behalf this state is acting.

[~~(18)~~] (21) "Office" [~~is defined in Section 62A-11-103~~] means the Office of Recovery Services.

[~~(19)~~] (22) "Parent" means a natural parent or an adoptive parent of a dependent child.

(23) "Past-due support" means the same as support debt.

[~~(20)~~] (24) "Person" includes an individual, firm, corporation, association, political subdivision, department, or office.

(25) "Public assistance" means the same as that term is defined in Section 26B-9-101.

[~~(21)~~] (26) "Presiding officer" means a presiding officer described in Section 63G-4-103.

[~~(22)~~] (27) "Support" includes past-due, present, and future obligations established by:

(a) a tribunal or imposed by law for the financial support, maintenance, medical, or dental care of a dependent child; and

(b) a tribunal for the financial support of a spouse or former spouse with whom the obligor's dependent child resides if the obligor also owes a child support obligation that is being enforced by the state.

[~~(23)~~] (28) "Support [~~debt," "past-due support," or "arrears"~~] debt" means the debt created by nonpayment of support.

(29) "Support order" means the same as child support order.

[~~(24)~~] (30) "Tribunal" means the district court, the [~~Department of Human Services~~] department, the Office of Recovery Services, or court or administrative agency of any state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

Section 216. Section 26B-9-202, which is renumbered from Section 62A-11-302 is renumbered and amended to read:

[~~62A-11-302~~]. 26B-9-202. Common-law and statutory remedies augmented by act -- Public policy.

The state of Utah, exercising its police and sovereign power, declares that the common-law and statutory remedies pertaining to family desertion and nonsupport of minor dependent children shall be augmented by this part, which is directed to the real and personal property resources of the responsible parents. In order to render resources more immediately available to meet the needs of minor children, it is the legislative intent that the remedies provided in this part are in addition to, and not in lieu of, existing law. It is declared to be the public policy of this state that this part be liberally construed and administered to the end that children shall be maintained from the resources of responsible parents, thereby relieving or avoiding, at least in part, the burden often borne by the general citizenry through public assistance programs.

Section 217. Section 26B-9-203, which is renumbered from Section 62A-11-303.5 is renumbered and amended to read:

[~~62A-11-303.5~~]. 26B-9-203. Application for child support services.

(1) Any person applying to the office for child support services shall be required to attest to the truthfulness of the information contained in the application.

(2) The attestation shall indicate that the person believes that all information provided is true and correct to the best of their knowledge and that knowingly providing false or misleading information is a violation of Section 76-8-504 and may result in prosecution, case closure for failure to cooperate, or both.

Section 218. Section 26B-9-204, which is renumbered from Section 62A-11-303.7 is renumbered and amended to read:

[~~62A-11-303.7~~]. 26B-9-204. Annual fee for child support services to a custodial parent who has not received TANF assistance.

(1) The office shall impose an annual fee of $35 in each case in which services are provided by the office if:

(a) the custodial parent who received the services has never received assistance under a state program funded under Title IV, Part A of the Social Security Act; and

(b) the office has collected at least $550 of child support in the case.

(2) The fee described in Subsection (1) shall be:

(a) subject to Subsection (3), retained by the office from child support collected on behalf of the custodial parent described in Subsection (1)(a); or

(b) paid by the custodial parent described in Subsection (1)(a).

(3) A fee retained under Subsection (2)(a) may not be retained from the first $550 of child support collected in the case.

(4) The fees collected under this section shall be deposited in the General Fund as a dedicated credit to be used by the office for the purpose of collecting child support.

Section 219. Section 26B-9-205, which is renumbered from Section 62A-11-304.1 is renumbered and amended to read:

[~~62A-11-304.1~~]. 26B-9-205. Expedited procedures for establishing paternity or establishing, modifying, or enforcing a support order.

(1) The office may, without the necessity of initiating an adjudicative proceeding or obtaining an order from any other judicial or administrative tribunal, take the following actions related to the establishment of paternity or the establishment, modification, or enforcement of a support order, and to recognize and enforce the authority of state agencies of other states to take the following actions:

(a) require a child, mother, and alleged father to submit to genetic testing;

(b) subpoena financial or other information needed to establish, modify, or enforce a support order, including:

(i) the name, address, and employer of a person who owes or is owed support that appears on the customer records of public utilities and cable television companies; and

(ii) information held by financial institutions on such things as the assets and liabilities of a person who owes or is owed support;

(c) require a public or private employer to promptly disclose information to the office on the name, address, date of birth, social security number, employment status, compensation, and benefits, including health insurance, of any person employed as an employee or contractor by the employer;

(d) require an insurance organization subject to Title 31A, Insurance Code, or an insurance administrator of a self-insured employer to promptly disclose to the office health insurance information pertaining to an insured or an insured's dependents, if known;

(e) obtain access to information in the records and automated databases of other state and local government agencies, including:

(i) marriage, birth, and divorce records;

(ii) state and local tax and revenue records providing information on such things as residential and mailing addresses, employers, income, and assets;

(iii) real and titled personal property records;

(iv) records concerning occupational and professional licenses and the ownership and control of corporations, partnerships, and other business entities;

(v) employment security records;

(vi) records of agencies administering public assistance programs;

(vii) motor vehicle department records; and

(viii) corrections records;

(f) upon providing notice to the obligor and obligee, direct an obligor or other payor to change the payee to the office if support has been assigned to the office under Section 35A-7-108 or if support is paid through the office pursuant to the Social Security Act, 42 U.S.C. Sec. 654B;

(g) order income withholding in accordance with Part [4] 3, Income Withholding in IV-D Cases;

(h) secure assets to satisfy past-due support by:

(i) intercepting or seizing periodic or lump-sum payments from:

(A) a state or local government agency, including unemployment compensation, workers' compensation, and other benefits; and

(B) judgments, settlements, and lotteries;

(ii) attaching and seizing assets of an obligor held in financial institutions;

(iii) attaching public and private retirement funds, if the obligor presently:

(A) receives periodic payments; or

(B) has the authority to withdraw some or all of the funds; and

(iv) imposing liens against real and personal property in accordance with this section and Section [~~62A-11-312.5~~] 26B-9-214; and

(i) increase monthly payments in accordance with Section [~~62A-11-320~~] 26B-9-219.

(2) (a) When taking action under Subsection (1), the office shall send notice under this Subsection (2)(a) to the person or entity who is required to comply with the action if not a party to a case receiving IV-D services.

(b) The notice described in Subsection (2)(a) shall include:

(i) the authority of the office to take the action;

(ii) the response required by the recipient;

(iii) the opportunity to provide clarifying information to the office under Subsection (2)(c);

(iv) the name and telephone number of a person in the office who can respond to inquiries; and

(v) the protection from criminal and civil liability extended under Subsection (7).

(c) The recipient of a notice sent under this Subsection (2) shall promptly comply with the terms of the notice and may, if the recipient believes the office's request is in error, send clarifying information to the office setting forth the basis for the recipient's belief.

(3) The office shall in any case in which it requires genetic testing under Subsection (1)(a):

(a) consider clarifying information if submitted by the obligee and alleged father;

(b) proceed with testing as the office considers appropriate;

(c) pay the cost of the tests, subject to recoupment from the alleged father if paternity is established;

(d) order a second test if the original test result is challenged, and the challenger pays the cost of the second test in advance; and

(e) require that the genetic test is:

(i) of a type generally acknowledged as reliable by accreditation bodies designated by the [~~federal~~] Secretary of the United States Department of Health and Human Services; and

(ii) performed by a laboratory approved by such an accreditation body.

(4) The office may impose a penalty against an entity for failing to provide information requested in a subpoena issued under Subsection (1) as follows:

(a) $25 for each failure to provide requested information; or

(b) $500 if the failure to provide requested information is the result of a conspiracy between the entity and the obligor to not supply the requested information or to supply false or incomplete information.

(5) (a) Unless a court or administrative agency has reduced past-due support to a sum certain judgment, the office shall provide concurrent notice to an obligor in accordance with Section [~~62A-11-304.4~~] 26B-9-207 of:

(i) any action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection [~~62A-11-304.5~~] 26B-9-208(1)(b) if Subsection (5)(b)(iii) does not apply; and

(ii) the opportunity of the obligor to contest the action and the amount claimed to be past-due by filing a written request for an adjudicative proceeding with the office within 15 days of notice being sent.

(b) (i) Upon receipt of a notice of levy from the office for an action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection [~~62A-11-304.5~~] 26B-9-208(1)(b), a person in possession of personal property of the obligor shall:

(A) secure the property from unauthorized transfer or disposition as required by Section [~~62A-11-313~~] 26B-9-215; and

(B) surrender the property to the office after 21 days of receiving the notice unless the office has notified the person to release all or part of the property to the obligor.

(ii) Unless released by the office, a notice of levy upon personal property shall be:

(A) valid for 60 days; and

(B) effective against any additional property which the obligor may deposit or transfer into the possession of the person up to the amount of the levy.

(iii) If the property upon which the office imposes a levy is insufficient to satisfy the specified amount of past-due support and the obligor fails to contest that amount under Subsection (5)(a)(ii), the office may proceed under Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection [~~62A-11-304.5~~] 26B-9-208(1)(b) against additional property of the obligor until the amount specified and the reasonable costs of collection are fully paid.

(c) Except as provided in Subsection (5)(b)(iii), the office may not disburse funds resulting from action requiring notice under Subsection (5)(a)(i) until:

(i) 21 days after notice was sent to the obligor; and

(ii) the obligor, if the obligor contests the action under Subsection (5)(a)(ii), has exhausted the obligor's administrative remedies and, if appealed to a district court, the district court has rendered a final decision.

(d) Before intercepting or seizing any periodic or lump-sum payment under Subsection (1)(h)(i)(A), the office shall:

(i) comply with Subsection 59-10-529(4)(a); and

(ii) include in the notice required by Subsection 59-10-529(4)(a) reference to Subsection (1)(h)(i)(A).

(e) If Subsection (5)(a) or (5)(d) does not apply, an action against the real or personal property of the obligor shall be in accordance with Section [~~62A-11-312.5~~] 26B-9-214.

(6) All information received under this section is subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(7) No employer, financial institution, public utility, cable company, insurance organization, its agent or employee, or related entity may be civilly or criminally liable for providing information to the office or taking any other action requested by the office pursuant to this section.

(8) The actions the office may take under Subsection (1) are in addition to the actions the office may take pursuant to Part [4] 3, Income Withholding in IV-D Cases.

Section 220. Section 26B-9-206, which is renumbered from Section 62A-11-304.2 is renumbered and amended to read:

[~~62A-11-304.2~~]. 26B-9-206. Issuance or modification of administrative order -- Compliance with court order -- Authority of office -- Stipulated agreements -- Notification requirements.

(1) Through an adjudicative proceeding the office may issue or modify an administrative order that:

(a) determines paternity;

(b) determines whether an obligor owes support;

(c) determines temporary orders of child support upon clear and convincing evidence of paternity in the form of genetic test results or other evidence;

(d) requires an obligor to pay a specific or determinable amount of present and future support;

(e) determines the amount of past-due support;

(f) orders an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated;

(g) imposes a penalty authorized under this chapter;

(h) determines an issue that may be specifically contested under this chapter by a party who timely files a written request for an adjudicative proceeding with the office; and

(i) renews an administrative judgment.

(2) (a) An abstract of a final administrative order issued under this section or a notice of

judgment-lien under Section [~~62A-11-312.5~~] 26B-9-214 may be filed with the clerk of any district court.

(b) Upon a filing under Subsection (2)(a), the clerk of the court shall:

(i) docket the abstract or notice in the judgment docket of the court and note the time of receipt on the abstract or notice and in the judgment docket; and

(ii) at the request of the office, place a copy of the abstract or notice in the file of a child support action involving the same parties.

(3) If a judicial order has been issued, the office may not issue an order under Subsection (1) that is not based on the judicial order, except:

(a) the office may establish a new obligation in those cases in which the juvenile court has ordered the parties to meet with the office to determine the support pursuant to Section 78A-6-356; or

(b) the office may issue an order of current support in accordance with the child support guidelines if the conditions of Subsection 78B-14-207(2)(c) are met.

(4) The office may proceed under this section in the name of this state, another state under Section [~~62A-11-305~~] 26B-9-209, any department of this state, the office, or the obligee.

(5) The office may accept voluntary acknowledgment of a support obligation and enter into stipulated agreements providing for the issuance of an administrative order under this part.

(6) The office may act in the name of the obligee in endorsing and cashing any drafts, checks, money orders, or other negotiable instruments received by the office for support.

(7) The obligor shall, after a notice of agency action has been served on the obligor in accordance with Section 63G-4-201, keep the office informed of:

(a) the obligor's current address;

(b) the name and address of current payors of income;

(c) availability of or access to health insurance coverage; and

(d) applicable health insurance policy information.

Section 221. Section 26B-9-207, which is renumbered from Section 62A-11-304.4 is renumbered and amended to read:

[~~62A-11-304.4~~]. 26B-9-207. Filing of location information -- Service of process.

(1) (a) Upon the entry of an order in a proceeding to establish paternity or to establish, modify, or enforce a support order, each party shall file identifying information and shall update that information as changes occur:

(i) with the court or administrative agency that conducted the proceeding; and

(ii) after October 1, 1998, with the state case registry.

(b) The identifying information required under Subsection (1)(a) shall include the person's Social Security number, driver's license number, residential and mailing addresses, telephone numbers, the name, address, and telephone number of employers, and any other data required by the [~~United States~~] Secretary of the United States Department of Health and Human Services.

(c) In any subsequent child support action involving the office or between the parties, state due process requirements for notice and service of process shall be satisfied as to a party upon:

(i) a sufficient showing that diligent effort has been made to ascertain the location of the party; and

(ii) delivery of notice to the most recent residential or employer address filed with the court, administrative agency, or state case registry under Subsection (1)(a).

(2) (a) The office shall provide individuals who are applying for or receiving services under this chapter or who are parties to cases in which services are being provided under this chapter:

(i) with notice of all proceedings in which support obligations might be established or modified; and

(ii) with a copy of any order establishing or modifying a child support obligation, or in the case of a petition for modification, a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination.

(b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall be provided in accordance with Section 78B-14-614.

(3) Service of all notices and orders under this part shall be made in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the Utah Rules of Civil Procedure, or this section.

(4) Consistent with Title 63G, Chapter 2, Government Records Access and Management Act, the office shall adopt procedures to classify records to prohibit the unauthorized use or disclosure of information relating to a proceeding to:

(a) establish paternity; or

(b) establish or enforce support.

(5) (a) The office shall, upon written request, provide location information available in its files on a custodial or noncustodial parent to the other party or the other party's legal counsel provided that:

(i) the party seeking the information produces a copy of the parent-time order signed by the court;

(ii) the information has not been safeguarded in accordance with Section 454 of the Social Security Act;

(iii) the party whose location is being sought has been afforded notice in accordance with this section of the opportunity to contest release of the information;

(iv) the party whose location is being sought has not provided the office with a copy of a protective order, a current court order prohibiting disclosure, a current court order limiting or prohibiting the requesting person's contact with the party or child whose location is being sought, a criminal order, an administrative order pursuant to Section 80-2-707, or documentation of a pending proceeding for any of the above; and

(v) there is no other state or federal law that would prohibit disclosure.

(b) "Location information" shall consist of the current residential address of the custodial or noncustodial parent and, if different and known to the office, the current residence of any children who are the subject of the parent-time order. If there is no current residential address available, the person's place of employment and any other location information shall be disclosed.

(c) For the purposes of this section, "reason to believe" under Section 454 of the Social Security Act means that the person seeking to safeguard information has provided to the office a copy of a protective order, current court order prohibiting disclosure, current court order prohibiting or limiting the requesting person's contact with the party or child whose location is being sought, criminal order signed by a court of competent jurisdiction, an administrative order pursuant to Section 80-2-707, or documentation of a pending proceeding for any of the above.

(d) Neither the state, the department, the office nor its employees shall be liable for any information released in accordance with this section.

(6) Custodial or noncustodial parents or their legal representatives who are denied location information in accordance with Subsection (5) may serve the Office of Recovery Services to initiate an action to obtain the information.

Section 222. Section 26B-9-208, which is renumbered from Section 62A-11-304.5 is renumbered and amended to read:

[~~62A-11-304.5~~]. 26B-9-208. Financial institutions.

(1) The office shall enter into agreements with financial institutions doing business in the state:

(a) to develop and operate, in coordination with such financial institutions, a data match system that:

(i) uses automated data exchanges to the maximum extent feasible; and

(ii) requires a financial institution each calendar quarter to provide the name, record address, social security number, other taxpayer identification number, or other identifying information for each obligor who:

(A) maintains an account at the institution; and

(B) owes past-due support as identified by the office by name and social security number or other taxpayer identification number; and

(b) to require a financial institution upon receipt of a notice of lien to encumber or surrender assets held by the institution on behalf of an obligor who is subject to a child support lien in accordance with Section [~~62A-11-304.1~~] 26B-9-205.

(2) The office may pay a reasonable fee to a financial institution for compliance with Subsection (1)(a), which may not exceed the actual costs incurred.

(3) A financial institution may not be liable under any federal or state law to any person for any disclosure of information or action taken in good faith under Subsection (1).

(4) The office may disclose a financial record obtained from a financial institution under this section only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation.

(5) If an employee of the office knowingly, or by reason of negligence, discloses a financial record of an individual in violation of Subsection (4), the individual may bring a civil action for damages in a district court of the United States as provided for in the Social Security Act, 42 U.S.C. Sec. 669A.

(6) The office shall provide notice and disburse funds seized or encumbered under this section in accordance with Section [~~62A-11-304.1~~] 26B-9-205.

Section 223. Section 26B-9-209, which is renumbered from Section 62A-11-305 is renumbered and amended to read:

[~~62A-11-305~~]. 26B-9-209. Support collection services requested by agency of another state.

(1) In accordance with Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, the office may proceed to issue or modify an order under Section [~~62A-11-304.2~~] 26B-9-206 to collect under this part from an obligor who is located in or is a resident of this state regardless of the presence or residence of the obligee if:

(a) support collection services are requested by an agency of another state that is operating under Part IV-D of the Social Security Act; or

(b) an individual applies for services.

(2) The office shall use high-volume automated administrative enforcement, to the same extent it is used for intrastate cases, in response to a request made by another state's IV-D child support agency to enforce support orders.

(3) A request by another state shall constitute a certification by the requesting state:

(a) of the amount of support under the order of payment of which is in arrears; and

(b) that the requesting state has complied with procedural due process requirements applicable to the case.

(4) The office shall give automated administrative interstate enforcement requests the same priority as a two-state referral received from another state to enforce a support order.

(5) The office shall promptly report the results of the enforcement procedures to the requesting state.

(6) As required by the Social Security Act, 42 U.S.C. Sec. 666(a)(14), the office shall maintain records of:

(a) the number of requests for enforcement assistance received by the office under this section;

(b) the number of cases for which the state collected support in response to those requests; and

(c) the amount of support collected.

Section 224. Section 26B-9-210, which is renumbered from Section 62A-11-306.1 is renumbered and amended to read:

[~~62A-11-306.1~~]. 26B-9-210. Issuance or modification of an order to collect support for persons not receiving public assistance.

The office may proceed to issue or modify an order under Section [~~62A-11-304.2~~] 26B-9-206 and collect under this part even though public assistance is not being provided on behalf of a dependent child if the office provides support collection services in accordance with:

(1) an application for services provided under Title IV-D of the federal Social Security Act;

(2) the continued service provisions of Subsection [~~62A-11-307.2~~] 26B-9-213(5); or

(3) the interstate provisions of Section [~~62A-11-305~~] 26B-9-209.

Section 225. Section 26B-9-211, which is renumbered from Section 62A-11-306.2 is renumbered and amended to read:

[~~62A-11-306.2~~]. 26B-9-211. Mandatory review and adjustment of child support orders for TANF recipients.

If a child support order has not been issued, adjusted, or modified within the previous three years and the children who are the subject of the order currently receive TANF funds, the office shall review the order, and if appropriate, move the tribunal to adjust the amount of the order if there is a difference of 10% or more between the payor's ordered support amount and the payor's support amount required under the guidelines.

Section 226. Section 26B-9-212, which is renumbered from Section 62A-11-307.1 is renumbered and amended to read:

[~~62A-11-307.1~~]. 26B-9-212. Collection directly from responsible parent.

(1) (a) The office may issue or modify an order under Section [~~62A-11-304.2~~] 26B-9-206 and collect under this part directly from a responsible parent if the procedural requirements of applicable law have been met and if public assistance is provided on behalf of that parent's dependent child.

(b) The direct right to issue an order under this Subsection (1) is independent of and in addition to the right derived from that assigned under Section 35A-3-108.

(2) An order issuing or modifying a support obligation under Subsection (1), issued while public assistance was being provided for a dependent child, remains in effect and may be enforced by the office under Section [~~62A-11-306.1~~] 26B-9-210 after provision of public assistance ceases.

(3) (a) The office may issue or modify an administrative order, subject to the procedural requirements of applicable law, that requires that obligee to pay to the office assigned support that an obligee receives and retains in violation of Subsection [~~62A-11-307.2~~] 26B-9-213(4) and may reduce to judgment any unpaid balance due.

(b) The office may collect the judgment debt in the same manner as it collects any judgment for past-due support owed by an obligor.

(4) Notwithstanding any other provision of law, the Office of Recovery Services shall have full standing and authority to establish and enforce child support obligations against an alleged parent currently or formerly in a same-sex marriage on the same terms as the Office of Recovery Services' authority against other mothers and fathers.

Section 227. Section 26B-9-213, which is renumbered from Section 62A-11-307.2 is renumbered and amended to read:

[~~62A-11-307.2~~]. 26B-9-213. Duties of obligee after assignment of support rights.

(1) An obligee whose rights to support have been assigned under Section 35A-3-108 as a condition of eligibility for public assistance has the following duties:

(a) Unless a good cause or other exception applies, the obligee shall, at the request of the office:

(i) cooperate in good faith with the office by providing the name and other identifying information of the other parent of the obligee's child for the purpose of:

(A) establishing paternity; or

(B) establishing, modifying, or enforcing a child support order;

(ii) supply additional necessary information and appear at interviews, hearings, and legal proceedings; and

(iii) submit the obligee's child and himself to judicially or administratively ordered genetic testing.

(b) The obligee may not commence an action against an obligor or file a pleading to collect or modify support without the office's written consent.

(c) The obligee may not do anything to prejudice the rights of the office to establish paternity, enforce

provisions requiring health insurance, or to establish and collect support.

(d) The obligee may not agree to allow the obligor to change the court or administratively ordered manner or amount of payment of past, present, or future support without the office's written consent.

(2) (a) The office shall determine and redetermine, when appropriate, whether an obligee has cooperated with the office as required by Subsection (1)(a).

(b) If the office determines that an obligee has not cooperated as required by Subsection (1)(a), the office shall:

(i) forward the determination and the basis for it to the Department of Workforce Services, which shall inform the [~~Department of Health~~] department of the determination, for a determination of whether compliance by the obligee should be excused on the basis of good cause or other exception; and

(ii) send to the obligee:

(A) a copy of the notice; and

(B) information that the obligee may, within 15 days of notice being sent:

(I) contest the office's determination of noncooperation by filing a written request for an adjudicative proceeding with the office; or

(II) assert that compliance should be excused on the basis of good cause or other exception by filing a written request for a good cause exception with the Department of Workforce Services.

(3) The office's right to recover is not reduced or terminated if an obligee agrees to allow the obligor to change the court or administratively ordered manner or amount of payment of support regardless of whether that agreement is entered into before or after public assistance is furnished on behalf of a dependent child.

(4) (a) If an obligee receives direct payment of assigned support from an obligor, the obligee shall immediately deliver that payment to the office.

(b) (i) If an obligee agrees with an obligor to receive payment of support other than in the court or administratively ordered manner and receives payment as agreed with the obligor, the obligee shall immediately deliver the cash equivalent of the payment to the office.

(ii) If the amount delivered to the office by the obligee under Subsection (4)(b)(i) exceeds the amount of the court or administratively ordered support due, the office shall return the excess to the obligee.

(5) (a) If public assistance furnished on behalf of a dependent child is terminated, the office may continue to provide paternity establishment and support collection services.

(b) Unless the obligee notifies the office to discontinue these services, the obligee is considered to have accepted and is bound by the rights, duties, and liabilities of an obligee who has applied for those services.

Section 228. Section 26B-9-214, which is renumbered from Section 62A-11-312.5 is renumbered and amended to read:

[~~62A-11-312.5~~]. 26B-9-214. Liens by operation of law and writs of garnishment.

(1) Each payment or installment of child support is, on and after the date it is due, a judgment with the same attributes and effect of any judgment of a district court in accordance with Section 78B-12-112 and for purposes of Section 78B-5-202.

(2) (a) A judgment under Subsection (1) or final administrative order shall constitute a lien against the real property of the obligor upon the filing of a notice of judgment-lien in the district court where the obligor's real property is located if the notice:

(i) specifies the amount of past-due support; and

(ii) complies with the procedural requirements of Section 78B-5-202.

(b) Rule 69, Utah Rules of Civil Procedure, shall apply to any action brought to execute a judgment or final administrative order under this section against real or personal property in the obligor's possession.

(3) (a) The office may issue a writ of garnishment against the obligor's personal property in the possession of a third party for a judgment under Subsection (1) or a final administrative order in the same manner and with the same effect as if the writ were issued on a judgment of a district court if:

(i) the judgment or final administrative order is recorded on the office's automated case registry; and

(ii) the writ is signed by the director or the director's designee and served by certified mail, return receipt requested, or as prescribed by Rule 4, Utah Rules of Civil Procedure.

(b) A writ of garnishment issued under Subsection (3)(a) is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section [~~62A-11-316~~] 26B-9-217.

Section 229. Section 26B-9-215, which is renumbered from Section 62A-11-313 is renumbered and amended to read:

[~~62A-11-313~~]. 26B-9-215. Effect of lien.

(1) After receiving notice that a support lien has been filed under this part by the office, no person in possession of any property which may be subject to that lien may pay over, release, sell, transfer, encumber, or convey that property to any person other than the office, unless he first receives:

(a) a release or waiver thereof from the office; or

(b) a court order that orders release of the lien on the basis that the debt does not exist or has been satisfied.

(2) Whenever any such person has in his possession earnings, deposits, accounts, or balances in excess of $100 over the amount of the debt claimed by the office, that person may, without liability under this part, release that excess to the obligor.

Section 230. Section 26B-9-216, which is renumbered from Section 62A-11-315.5 is renumbered and amended to read:

[~~62A-11-315.5~~]. 26B-9-216. Enforcement of liens arising in another state.

A lien arising in another state shall be accorded full faith and credit in this state, without any additional requirement of judicial notice or hearing prior to the enforcement of the lien, if the office, parent, or state IV-D agency who seeks to enforce the lien complies with Section [~~62A-11-304.1 or Section 62A-11-312.5~~] 26B-9-205 or Section 26B-9-214.

Section 231. Section 26B-9-217, which is renumbered from Section 62A-11-316 is renumbered and amended to read:

[~~62A-11-316~~]. 26B-9-217. Requirement to honor voluntary assignment of earnings -- Discharge of employee prohibited -- Liability for discharge -- Earnings subject to support lien or garnishment.

(1) (a) Every person, firm, corporation, association, political subdivision, or department of the state shall honor, according to its terms, a duly executed voluntary assignment of earnings which is presented by the office as a plan to satisfy or retire a support debt or obligation.

(b) The requirement to honor an assignment of earnings, and the assignment of earnings itself, are applicable whether the earnings are to be paid presently or in the future, and continue in effect until released in writing by the office.

(c) Payment of money pursuant to an assignment of earnings presented by the office shall serve as full acquittance under any contract of employment, and the state shall defend the employer and hold [~~him~~] the employer harmless for any action taken pursuant to the assignment of earnings.

(d) The office shall be released from liability for improper receipt of money under an assignment of earnings upon return of any money so received.

(2) An employer may not discharge or prejudice any employee because [~~his~~] the employee's earnings have been subjected to support lien, wage assignment, or garnishment for any indebtedness under this part.

(3) If [~~a person~~] an employer discharges an employee in violation of Subsection (2), [~~he~~] the employer is liable to the employee for the damages [~~he~~] the employee may suffer, and, additionally, to the office in an amount equal to the debt which is the basis of the assignment or garnishment, plus costs, interest, and [~~attorneys'~~] attorney fees, or a maximum of $1,000, whichever is less.

(4) The maximum part of the aggregate disposable earnings of an individual for any work pay period which may be subjected to a garnishment to enforce payment of a judicial or administrative judgment arising out of failure to support dependent children may not exceed 50% of [~~his~~] the individual's disposable earnings for the work pay period.

(5) The support lien or garnishment shall continue to operate and require [~~that person~~] the employer to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until released in writing by the court or office.

Section 232. Section 26B-9-218, which is renumbered from Section 62A-11-319 is renumbered and amended to read:

[~~62A-11-319~~]. 26B-9-218. Release of lien, attachment, or garnishment by department.

The office may, at any time, release a support lien, wage assignment, attachment, or garnishment on all or part of the property of the obligor, or return seized property without liability, if assurance of payment is considered adequate by the office, or if that action will facilitate collection of the support debt. However, that release or return does not prevent future action to collect from the same or other property. The office may also waive provisions providing for the collection of interest on accounts due, if that waiver would facilitate collection of the support debt.

Section 233. Section 26B-9-219, which is renumbered from Section 62A-11-320 is renumbered and amended to read:

[~~62A-11-320~~]. 26B-9-219. Payment schedules.

(1) The office may:

(a) set or reset a level and schedule of payments at any time consistent with the income, earning capacity, and resources of the obligor; or

(b) demand payment in full.

(2) If a support debt is reduced to a schedule of payments and made subject to income withholding, the total monthly amount of the scheduled payment, current support payment, and cost of health insurance attributable to a child for whom the obligor has been ordered may only be subject to income withholding in an amount that does not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673(b).

(3) (a) Within 15 days of receiving notice, an obligor may contest a payment schedule as inconsistent with Subsection (2) or the rules adopted by the office to establish payment schedules under Subsection (1) by filing a written request for an adjudicative proceeding.

(b) For purposes of Subsection (3)(a), notice includes:

(i) notice sent to the obligor by the office in accordance with Section [~~62A-11-304.4~~] 26B-9-207;

(ii) participation by the obligor in the proceedings related to the establishment of the payment schedule; and

(iii) receiving a paycheck in which a reduction has been made in accordance with a payment schedule established under Subsection (1).

Section 234. Section 26B-9-220, which is renumbered from Section 62A-11-320.5 is renumbered and amended to read:

[~~62A-11-320.5~~]. 26B-9-220. Review and adjustment of child support order in three-year cycle -- Substantial change in circumstances not required.

(1) If a child support order has not been issued, modified, or reviewed within the previous three years, the office shall review a child support order, taking into account the best interests of the child involved, if:

(a) requested by a parent or legal guardian involved in a case receiving IV-D services; or

(b) there has been an assignment under Section 35A-3-108 and the office determines that a review is appropriate.

(2) If the office conducts a review under Subsection (1), the office shall determine if there is a difference of 10% or more between the amount ordered and the amount that would be required under the child support guidelines. If there is such a difference and the difference is not of a temporary nature, the office shall:

(a) with respect to a child support order issued or modified by the office, adjust the amount to that which is provided for in the guidelines; or

(b) with respect to a child support order issued or modified by a court, file a petition with the court to adjust the amount to that which is provided for in the guidelines.

(3) The office may use automated methods to:

(a) collect information and conduct reviews under Subsection (2); and

(b) identify child support orders in which there is a difference of 10% or more between the amount of child support ordered and the amount that would be required under the child support guidelines for review under Subsection (1)(b).

(4) (a) A parent or legal guardian who requests a review under Subsection (1)(a) shall provide notice of the request to the other parent within five days and in accordance with Section [~~62A-11-304.4~~] 26B-9-207.

(b) If the office conducts a review under Subsections (1)(b) and (3)(b), the office shall provide notice to the parties of:

(i) a proposed adjustment under Subsection (2)(a); or

(ii) a proposed petition to be filed in court under Subsection (2)(b).

(5) (a) Within 30 days of notice being sent under Subsection (4)(a), a parent or legal guardian may respond to a request for review filed with the office.

(b) Within 30 days of notice being sent under Subsection (4)(b), a parent or legal guardian may contest a proposed adjustment or petition by requesting a review under Subsection (1)(a) and providing documentation that refutes the adjustment or petition.

(6) A showing of a substantial change in circumstances is not necessary for an adjustment under this section.

Section 235. Section 26B-9-221, which is renumbered from Section 62A-11-320.6 is renumbered and amended to read:

[~~62A-11-320.6~~]. 26B-9-221. Review and adjustment of support order for substantial change in circumstances outside three-year cycle.

(1) (a) A parent or legal guardian involved in a case receiving IV-D services or the office, if there has been an assignment under Section 35A-3-108, may at any time request the office to review a child support order if there has been a substantial change in circumstances.

(b) For purposes of Subsection (1)(a), a substantial change in circumstances may include:

(i) material changes in custody;

(ii) material changes in the relative wealth or assets of the parties;

(iii) material changes of 30% or more in the income of a parent;

(iv) material changes in the ability of a parent to earn;

(v) material changes in the medical needs of the child; and

(vi) material changes in the legal responsibilities of either parent for the support of others.

(2) Upon receiving a request under Subsection (1), the office shall review the order, taking into account the best interests of the child involved, to determine whether the substantial change in circumstance has occurred, and if so, whether the change resulted in a difference of 15% or more between the amount of child support ordered and the amount that would be required under the child support guidelines. If there is such a difference and the difference is not of a temporary nature, the office shall:

(a) with respect to a support order issued or modified by the office, adjust the amount in accordance with the guidelines; or

(b) with respect to a support order issued or modified by a court, file a petition with the court to adjust the amount in accordance with the guidelines.

(3) The office may use automated methods to collect information for a review conducted under Subsection (2).

(4) (a) A parent or legal guardian who requests a review under Subsection (1) shall provide notice of the request to the other parent within five days and in accordance with Section [~~62A-11-304.4~~] 26B-9-207.

(b) If the office initiates and conducts a review under Subsection (1), the office shall provide notice of the request to any parent or legal guardian within five days and in accordance with Section [~~62A-11-304.4~~] 26B-9-207.

(5) Within 30 days of notice being sent under Subsection (4), a parent or legal guardian may file a response to a request for review with the office.

Section 236. Section 26B-9-222, which is renumbered from Section 62A-11-320.7 is renumbered and amended to read:

[~~62A-11-320.7~~]. 26B-9-222. Three-year notice of opportunity to review.

(1) Once every three years, the office shall give notice to each parent or legal guardian involved in a case receiving IV-D services of the opportunity to request a review and, if appropriate, adjustment of a child support order under Sections [~~62A-11-320.5 and 62A-11-320.6~~] 26B-9-220 and 26B-9-221.

(2) (a) The notice required by Subsection (1) may be included in an issued or modified order of support.

(b) Notwithstanding Subsection (2)(a), the office shall comply with Subsection (1), three years after the date of the order issued or modified under Subsection (2)(a).

Section 237. Section 26B-9-223, which is renumbered from Section 62A-11-321 is renumbered and amended to read:

[~~62A-11-321~~]. 26B-9-223. Posting bond or security for payment of support debt -- Procedure.

(1) The office shall, or an obligee may, petition the court for an order requiring an obligor to post a bond or provide other security for the payment of a support debt, if the office or an obligee determines that action is appropriate, and if the payments are more than 90 days delinquent. The office shall establish rules for determining when it shall seek an order for bond or other security.

(2) When the office or an obligee petitions the court under this section, it shall give written notice to the obligor, stating:

(a) the amount of support debt;

(b) that it has petitioned the court for an order requiring the obligor to post security; and

(c) that the obligor has the right to appear before the court and contest the office's or obligee's petition.

(3) After notice to the obligor and an opportunity for a hearing, the court shall order a bond posted or other security to be deposited upon the office's or obligee's showing of a support debt and of a reasonable basis for the security.

Section 238. Section 26B-9-224, which is renumbered from Section 62A-11-326 is renumbered and amended to read:

[~~62A-11-326~~]. 26B-9-224. Medical and dental expenses of dependent children.

In any action under this part, the office and the department in their orders shall:

(1) include a provision assigning responsibility for cash medical support;

(2) include a provision requiring the purchase and maintenance of appropriate medical, hospital, and dental care insurance for those children, if:

(a) insurance coverage is or becomes available at a reasonable cost; and

(b) the insurance coverage is accessible to the children; and

(3) include a designation of which health, dental or hospital insurance plan, is primary and which is secondary in accordance with the provisions of Section 30-3-5.4 which will take effect if at any time the dependent children are covered by both parents' health, hospital, or dental insurance plans.

Section 239. Section 26B-9-225, which is renumbered from Section 62A-11-326.1 is renumbered and amended to read:

[~~62A-11-326.1~~]. 26B-9-225. Enrollment of child in accident and health insurance plan -- Order -- Notice.

(1) The office may issue a notice to existing and future employers or unions to enroll a dependent child in an accident and health insurance plan that is available through the dependent child's parent or legal guardian's employer or union, when the following conditions are satisfied:

(a) the parent or legal guardian is already required to obtain insurance coverage for the child by a prior court or administrative order; and

(b) the parent or legal guardian has failed to provide written proof to the office that:

(i) the child has been enrolled in an accident and health insurance plan in accordance with the court or administrative order; or

(ii) the coverage required by the order was not available at group rates through the employer or union 30 or more days prior to the date of the mailing of the notice to enroll.

(2) The office shall provide concurrent notice to the parent or legal guardian in accordance with Section [~~62A-11-304.4~~] 26B-9-207 of:

(a) the notice to enroll sent to the employer or union; and

(b) the opportunity to contest the enrollment due to a mistake of fact by filing a written request for an adjudicative proceeding with the office within 15 days of the notice being sent.

(3) A notice to enroll shall result in the enrollment of the child in the parent's accident and health insurance plan, unless the parent successfully contests the notice based on a mistake of fact.

(4) A notice to enroll issued under this section may be considered a "qualified medical support order" for the purposes of enrolling a dependent child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

Section 240. Section 26B-9-226, which is renumbered from Section 62A-11-326.2 is renumbered and amended to read:

[~~62A-11-326.2~~]. 26B-9-226. Compliance with order -- Enrollment of dependent child for insurance.

(1) An employer or union shall comply with a notice to enroll issued by the office under Section [~~62A-11-326.1~~] 26B-9-225 by enrolling the dependent child that is the subject of the notice in the:

(a) accident and health insurance plan in which the parent or legal guardian is enrolled, if the plan satisfies the prior court or administrative order; or

(b) least expensive plan, assuming equivalent benefits, offered by the employer or union that complies with the prior court or administrative order which provides coverage that is reasonably accessible to the dependent child.

(2) The employer, union, or insurer may not refuse to enroll a dependent child pursuant to a notice to enroll because a parent or legal guardian has not signed an enrollment application.

(3) Upon enrollment of the dependent child, the employer shall deduct the appropriate premiums from the parent or legal guardian's wages and remit them directly to the insurer.

(4) The insurer shall provide proof of insurance to the office upon request.

(5) The signature of the custodial parent of the insured dependent is a valid authorization to the insurer for purposes of processing any insurance reimbursement claim.

Section 241. Section 26B-9-227, which is renumbered from Section 62A-11-326.3 is renumbered and amended to read:

[~~62A-11-326.3~~]. 26B-9-227. Determination of parental liability.

(1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the office may determine by order the amount of a parent's liability for uninsured medical, hospital, and dental expenses of a dependent child, when the parent:

(a) is required by a prior court or administrative order to:

(i) share those expenses with the other parent of the dependent child; or

(ii) obtain medical, hospital, or dental care insurance but fails to do so; or

(b) receives direct payment from an insurer under insurance coverage obtained after the prior court or administrative order was issued.

(2) If the prior court or administrative order does not specify what proportions of the expenses are to be shared, the office may determine the amount of liability in accordance with established rules.

(3) This section applies to an order without regard to when it was issued.

Section 242. Section 26B-9-228, which is renumbered from Section 62A-11-327 is renumbered and amended to read:

[~~62A-11-327~~]. 26B-9-228. Reporting past-due support to consumer reporting agency.

The office shall periodically report the name of any obligor who is delinquent in the payment of support and the amount of overdue support owed by the obligor to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681a(f):

(1) only after the obligor has been afforded notice and a reasonable opportunity to contest the accuracy of the information; and

(2) only to an entity that has provided satisfactory evidence that it is a consumer reporting agency under 15 U.S.C. Sec. 1681a(f).

Section 243. Section 26B-9-229, which is renumbered from Section 62A-11-328 is renumbered and amended to read:

[~~62A-11-328~~]. 26B-9-229. Information received from State Tax Commission provided to other states' child support collection agencies.

The office shall, upon request, provide to any other state's child support collection agency the information which it receives from the State Tax Commission under Subsection 59-1-403(4)(l), with regard to a support debt which that agency is involved in enforcing.

Section 244. Section 26B-9-230, which is renumbered from Section 62A-11-333 is renumbered and amended to read:

[~~62A-11-333~~]. 26B-9-230. Right to judicial review.

(1) (a) Within 30 days of notice of any administrative action on the part of the office to establish paternity or establish, modify or enforce a child support order, the obligor may file a petition for de novo review with the district court.

(b) For purposes of Subsection (1)(a), notice includes:

(i) notice actually received by the obligor in accordance with Section [~~62A-11-304.4~~] 26B-9-207;

(ii) participation by the obligor in the proceedings related to the establishment of the paternity or the modification or enforcement of child support; or

(iii) receiving a paycheck in which a reduction has been made for child support.

(2) The petition shall name the office and all other appropriate parties as respondents and meet the form requirements specified in Section 63G-4-402.

(3) A copy of the petition shall be served upon the Child and Family Support Division of the Office of Attorney General.

(4) (a) If the petition is regarding the amount of the child support obligation established in accordance with Title 78B, Chapter 12, Utah Child Support Act, the court may issue a temporary order for child support until a final order is issued.

(b) The petitioner may file an affidavit stating the amount of child support reasonably believed to be due and the court may issue a temporary order for that amount. The temporary order shall be valid for 60 days, unless extended by the court while the action is being pursued.

(c) If the court upholds the amount of support established in Subsection (4)(a), the petitioner shall be ordered to make up the difference between the amount originally ordered in Subsection (4)(a) and the amount temporarily ordered under Subsection (4)(b).

(d) This Subsection (4) does not apply to an action for the court-ordered modification of a judicial child support order.

(5) The court may, on its own initiative and based on the evidence before it, determine whether the petitioner violated U.R. Civ. P. Rule 11 by filing the action. If the court determines that U.R. Civ. P. Rule 11 was violated, it shall, at a minimum, award to the office attorney fees and costs for the action.

(6) Nothing in this section precludes the obligor from seeking administrative remedies as provided in this chapter.

Section 245. Section 26B-9-231, which is renumbered from Section 62A-11-334 is renumbered and amended to read:

[~~62A-11-334~~]. 26B-9-231. Reporting past-due support for criminal prosecution.

(1) (a) Upon request from an official described in Subsection (1)(b), the office shall report the name of an obligor who is over $10,000 delinquent in the payment of support and the amount of overdue support owed by the obligor to an obligee.

(b) The following officials may request the information described in Subsection (1)(a):

(i) the attorney general;

(ii) a county attorney in whose jurisdiction the obligor's obligee resides; or

(iii) a district attorney in whose jurisdiction the obligor's obligee resides.

(2) The office shall make the report described in Subsection (1) no later than 30 days after the day on which the office receives the request for information.

Section 246. Section 26B-9-301, which is renumbered from Section 62A-11-401 is renumbered and amended to read:

Part 3. Income Withholding in IV-D Cases

[~~62A-11-401~~]. 26B-9-301. Definitions.

As used in this part[~~, Part 5, Income Withholding in Non IV-D Cases, and Part 7, Electronic Funds Transfer~~] and Part 4, Income Withholding in Non IV-D Cases:

(1) "Business day" means a day on which state offices are open for regular business.

(2) "Child" means the same as that term is defined in Section [~~62A-11-303~~] 26B-9-201.

(3) (a) "Child support" means a base child support award as defined in Section 78B-12-102, or a financial award for uninsured monthly medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, all arrearages which accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(b) "Child support" includes obligations ordered by a tribunal for the support of a spouse or former spouse with whom the child resides if the spousal support is collected with the child support.

(4) "Child support order" [~~or "support order"~~] means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a tribunal for child support and related costs and fees, interest and penalties, income withholding, attorney fees, and other relief.

(5) "Child support services" means the same as that term is defined in Section [~~62A-11-103~~] 26B-9-101.

(6) "Delinquent" or "delinquency" means that child support in an amount at least equal to current child support payable for one month is overdue.

(7) "Immediate income withholding" means income withholding without regard to whether a delinquency has occurred.

(8) "Income" means the same as that term is defined in Section [~~62A-11-103~~] 26B-9-101.

(9) "Jurisdiction" means a state or political subdivision of the United States, a territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, an Indian tribe or tribal organization, or any comparable foreign nation or political subdivision.

(10) "Obligee" means the same as that term is defined in Section [~~62A-11-303~~] 26B-9-201.

(11) "Obligor" means the same as that term is defined in Section [~~62A-11-303~~] 26B-9-201.

(12) "Office" [~~is defined in Section 62A-11-103~~] means the Office of Recovery Services.

(13) "Payor" means an employer or any person who is a source of income to an obligor.

(14) "Support order" means the same as child support order.

Section 247. Section 26B-9-302, which is renumbered from Section 62A-11-402 is renumbered and amended to read:

[~~62A-11-402~~]. 26B-9-302. Administrative procedures.

Because the procedures of this part are mandated by federal law they shall be applied for the purposes specified in this part and control over any other statutory administrative procedures.

Section 248. Section 26B-9-303, which is renumbered from Section 62A-11-403 is renumbered and amended to read:

[~~62A-11-403~~]. 26B-9-303. Provision for income withholding in child support order -- Immediate income withholding.

(1) Whenever a child support order is issued or modified in this state the obligor's income is subject to immediate income withholding for the child support described in the order in accordance with the provisions of this chapter, unless:

(a) the court or administrative body which entered the order finds that one of the parties has demonstrated good cause so as not to require immediate income withholding; or

(b) a written agreement which provides an alternative payment arrangement is executed by the obligor and obligee, and reviewed and entered in the record by the court or administrative body.

(2) In every child support order issued or modified on or after January 1, 1994, the court or administrative body shall include a provision that the income of an obligor is subject to immediate income withholding in accordance with this chapter. If for any reason other than the provisions of Subsection (1) that provision is not included in the child support order the obligor's income is nevertheless subject to immediate income withholding.

(3) In determining "good cause," the court or administrative body may, in addition to any other requirement it considers appropriate, consider whether the obligor has:

(a) obtained a bond, deposited money in trust for the benefit of the dependent children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months;

(b) arranged to deposit all child support payments into a checking account belonging to the obligee, or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained; or

(c) arranged for electronic transfer of funds on a regular basis to meet court-ordered child support obligations.

Section 249. Section 26B-9-304, which is renumbered from Section 62A-11-404 is renumbered and amended to read:

[~~62A-11-404~~]. 26B-9-304. Office procedures for income withholding for orders issued or modified on or after October 13, 1990.

(1) With regard to obligees or obligors who are receiving IV-D services, each child support order issued or modified on or after October 13, 1990, subjects the income of an obligor to immediate income withholding as of the effective date of the order, regardless of whether a delinquency occurs unless:

(a) the court or administrative body that entered the order finds that one of the parties has demonstrated good cause not to require immediate income withholding; or

(b) a written agreement that provides an alternative arrangement is executed by the obligor and obligee, and by the office, if there is an assignment under Section 35A-3-108, and reviewed and entered in the record by the court or administrative body.

(2) For purposes of this section:

(a) "good cause" shall be based on, at a minimum:

(i) a determination and explanation on the record by the court or administrative body that implementation of income withholding would not be in the best interest of the child; and

(ii) proof of timely payment of any previously ordered support;

(b) in determining "good cause," the court or administrative body may, in addition to any other requirement that it determines appropriate, consider whether the obligor has:

(i) obtained a bond, deposited money in trust for the benefit of the dependent children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months; and

(ii) arranged to deposit all child support payments into a checking account belonging to the obligee or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained.

(3) An exception from immediate income withholding shall be:

(a) included in the court or administrative agency's child support order; and

(b) negated without further administrative or judicial action:

(i) upon a delinquency;

(ii) upon the obligor's request; or

(iii) if the office, based on internal procedures and standards, or a party requests immediate income withholding for a case in which the parties have entered into an alternative arrangement to immediate income withholding pursuant to Subsection (1)(b).

(4) If an exception to immediate income withholding has been ordered on the basis of good cause under Subsection (1)(a), the office may commence income withholding under this part:

(a) in accordance with Subsection (3)(b); or

(b) if the administrative or judicial body that found good cause determines that circumstances no longer support that finding.

(5) (a) A party may contest income withholding due to a mistake of fact by filing a written objection with the office within 15 days of the commencement of income withholding under Subsection (4).

(b) If a party contests income withholding under Subsection (5)(a), the office shall proceed with the objection as it would an objection filed under Section [~~62A-11-405~~] 26B-9-305.

(6) Income withholding implemented under this section is subject to termination under Section [~~62A-11-408~~] 26B-9-308.

(7) (a) Income withholding under the order may be effective until the obligor no longer owes child support to the obligee.

(b) Appropriate income withholding procedures apply to existing and future payors and all withheld income shall be submitted to the office.

Section 250. Section 26B-9-305, which is renumbered from Section 62A-11-405 is renumbered and amended to read:

[~~62A-11-405~~]. 26B-9-305. Office procedures for income withholding for orders issued or modified before October 13, 1990.

(1) With regard to child support orders issued prior to October 13, 1990, and not otherwise modified after that date, and for which an obligor or obligee is receiving IV-D services, the office shall proceed to withhold income as a means of collecting child support if a delinquency occurs under the order, regardless of whether the relevant child support order includes authorization for income withholding.

(2) Upon receipt of a verified statement or affidavit alleging that a delinquency has occurred, the office shall:

(a) send notice to the payor for income withholding in accordance with Section [~~62A-11-406~~] 26B-9-306; and

(b) send notice to the obligor under Section [~~62A-11-304.4~~] 26B-9-207 that includes:

(i) a copy of the notice sent to the payor; and

(ii) information regarding:

(A) the commencement of income withholding; and

(B) the opportunity to contest the withholding or the amount withheld due to mistake of fact by filing a written request for review under this section with the office within 15 days.

(3) If the obligor contests the withholding, the office shall:

(a) provide an opportunity for the obligor to provide documentation and, if necessary, to present evidence supporting the obligor's claim of mistake of fact;

(b) decide whether income withholding shall continue;

(c) notify the obligor of its decision and the obligor's right to appeal under Subsection (4); and

(d) at the obligor's option, return, if in the office's possession, or credit toward the most current and future support obligations of the obligor any amount mistakenly withheld and, if the mistake is attributable to the office, interest at the legal rate.

(4) (a) An obligor may appeal the office's decision to withhold income under Subsection (3) by filing an appeal with the district court within 30 days after service of the notice under Subsection (3) and immediately notifying the office in writing of the obligor's decision to appeal.

(b) The office shall proceed with income withholding under this part during the appeal, but shall hold all funds it receives, except current child support, in a reserve account pending the court's decision on appeal. The funds, plus interest at the legal rate, shall be paid to the party determined by the court.

(c) If an obligor appeals a decision of the office to a district court under Subsection (4)(a), the obligor shall provide to the obligee:

(i) notice of the obligor's appeal; and

(ii) a copy of any documents filed by the obligor upon the office in connection with the appeal.

(5) An obligor's payment of overdue child support may not be the sole basis for not implementing income withholding in accordance with this part.

Section 251. Section 26B-9-306, which is renumbered from Section 62A-11-406 is renumbered and amended to read:

[~~62A-11-406~~]. 26B-9-306. Notice to payor.

Upon compliance with the applicable provisions of this part the office shall mail or deliver to each payor at the payor's last-known address written notice stating:

(1) the amount of child support to be withheld from income;

(2) that the child support must be withheld from the obligor's income each time the obligor is paid, but that the amount withheld may not exceed the maximum amount permitted under Section 303 (b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673(b);

(3) that the payor must mail or deliver the withheld income to the office within seven business days of the date the amount would have been paid or credited to the employee but for this section;

(4) that the payor may deduct from the obligor's income an additional amount which is equal to the

amount payable to a garnishee under Rule 64D of the Utah Rules of Civil Procedure, as the payor's fee for administrative costs, but the total amount withheld may not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673(b);

(5) that the notice to withhold is binding on the payor and on any future payor until further notice by the office or a court;

(6) (a) that if the payor fails to mail or deliver withheld income to the office within the time period set in Subsection (3), the payor is liable to the office for a late fee of $50 or 10% of the withheld income, whichever is greater, for each payment that is late, per obligor; and

(b) that if the payor willfully fails to withhold income in accordance with the notice, the payor is liable to the office for $1,000 or the accumulated amount the payor should have withheld, whichever is greater, plus interest on that amount;

(7) that the notice to withhold is prior to any other legal process under state law;

(8) that the payor must begin to withhold income no later than the first time the obligor's earnings are normally paid after five working days from the date the payor receives the notice;

(9) that the payor must notify the office within five days after the obligor terminates employment or the periodic income payment is terminated, and provide the obligor's last-known address and the name and address of any new payor, if known;

(10) that if the payor discharges, refuses to employ, or takes disciplinary action against an obligor because of the notice to withhold, the payor is liable to the obligor as provided in Section [~~62A-11-316~~] 26B-9-217, and to the office for the greater of $1,000 or the amount of child support accumulated to the date of discharge which the payor should have withheld, plus interest on that amount; and

(11) that, in addition to any other remedy provided in this section, the payor is liable for costs and reasonable attorneys' fees incurred in enforcing any provision in a notice to withhold mailed or delivered to the payor's last-known address.

Section 252. Section 26B-9-307, which is renumbered from Section 62A-11-407 is renumbered and amended to read:

[~~62A-11-407~~]. 26B-9-307. Payor's procedures for income withholding.

(1) (a) A payor is subject to the requirements, penalties, and effects of a notice served on the payor under Section [~~62A-11-406~~] 26B-9-306.

(b) A payment of withheld income mailed to the office in an envelope postmarked within seven business days of the date the amount would have been paid or credited to the obligor but for this section satisfies Subsection [~~62A-11-406~~] 26B-9-306(3).

(2) (a) If a payor fails to comply with a notice served upon [~~him~~] the payor under Section [~~62A-11-406~~] 26B-9-306, the office, the obligee, if an assignment has not been made under Section 35A-7-108, or the obligor may proceed with a civil action against the payor to enforce a provision of the notice.

(b) In addition to a civil action under Subsection (2)(a), the office may bring an administrative action pursuant to Title 63G, Chapter 4, Administrative Procedures Act, to enforce a provision of the notice.

(c) If an obligee or obligor brings a civil action under Subsection (2)(a) to enforce a provision of the notice, the obligee or obligor may recover any penalty related to that provision under Section [~~62A-11-406~~] 26B-9-306 in place of the office.

(3) If the obligor's child support is owed monthly and the payor's pay periods are at more frequent intervals, the payor, with the consent of the office may withhold an equal amount at each pay period cumulatively sufficient to pay the monthly child support obligation.

(4) A payor may combine amounts which the payor has withheld from the incomes of multiple obligors into a single payment to the office. If such a combined payment is made, the payor shall specify the amount attributable to each individual obligor by name and Social Security number.

(5) In addition to any other remedy provided in this section, a payor is liable to the office, obligee, or obligor for costs and reasonable [~~attorneys'~~] attorney fees incurred in enforcing a provision in the notice mailed or delivered under Section [~~62A-11-406~~] 26B-9-306.

(6) Notwithstanding this section or Section [~~62A-11-406~~] 26B-9-306, if a payor receives an income withholding order or notice issued by another state, the payor shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

(a) the payor's fee for processing income withholding;

(b) the maximum amount permitted to be withheld from the obligor's income;

(c) the time periods within which the payor must implement income withholding and forward child support payments;

(d) the priorities for withholding and allocating withheld income for multiple child support obligees; and

(e) any term or condition for withholding not specified in the notice.

Section 253. Section 26B-9-308, which is renumbered from Section 62A-11-408 is renumbered and amended to read:

[~~62A-11-408~~]. 26B-9-308. Termination of income withholding.

(1) (a) At any time after the date income withholding begins, a party to the child support order may request a judicial hearing or

administrative review to determine whether income withholding should be terminated due to:

(i) good cause under Section [~~62A-11-404~~] 26B-9-304;

(ii) the execution of a written agreement under Section [~~62A-11-404~~] 26B-9-304; or

(iii) the completion of an obligor's support obligation.

(b) An obligor's payment of overdue child support may not be the sole basis for termination of income withholding.

(c) If it is determined by a court or the office that income withholding should be terminated, the office shall give written notice of termination to each payor within 10 days after receipt of notice of that decision.

(d) If, after termination of income withholding by court or administrative order, an obligor's child support obligation becomes delinquent or subject to immediate and automatic income withholding under Section [~~62A-11-404~~] 26B-9-304, the office shall reinstate income withholding procedures in accordance with the provisions of this part.

(e) If the office terminates income withholding through an agreement with a party, the office may reinstate income withholding if:

(i) a delinquency occurs;

(ii) the obligor requests reinstatement;

(iii) the obligee requests reinstatement; or

(iv) the office, based on internal procedures and standards, determines reinstatement is appropriate.

(2) The office shall give written notice of termination to each payor when the obligor no longer owes child support to the obligee.

(3) A notice to withhold income, served by the office, is binding on a payor until the office notifies the payor that the obligation to withhold income has been terminated.

Section 254. Section 26B-9-309, which is renumbered from Section 62A-11-409 is renumbered and amended to read:

[~~62A-11-409~~]. 26B-9-309. Payor's compliance with income withholding.

(1) Payment by a payor under this part satisfies the terms for payment of income under any contract between a payor and obligor.

(2) A payor who complies with an income withholding notice that is regular on its face may not be subject to civil liability to any person for conduct in compliance with the notice.

Section 255. Section 26B-9-310, which is renumbered from Section 62A-11-410 is renumbered and amended to read:

[~~62A-11-410~~]. 26B-9-310. Violations by payor.

(1) A payor may not discharge, refuse to hire, or discipline any obligor because of a notice to withhold served by the office under this part, or because of a notice or order served by an obligee in a civil action for income withholding.

(2) If the payor violates Subsection (1), that payor is liable to the office, or to the obligee seeking income withholding in a civil action, for the greater of $1,000 or the amount of child support accumulated to the date of discharge which he should have withheld, plus interest on that amount and costs incurred in collection of the amount from the payor, including a reasonable [~~attorney's~~] attorney fee.

Section 256. Section 26B-9-311, which is renumbered from Section 62A-11-411 is renumbered and amended to read:

[~~62A-11-411~~]. 26B-9-311. Priority of notice or order to withhold income.

The notice to withhold provided by Section [~~62A-11-406~~] 26B-9-306, and a notice or order to withhold issued by the court in a civil action for income withholding, are prior to all other legal collection processes provided by state law, including garnishment, attachment, execution, and wage assignment.

Section 257. Section 26B-9-312, which is renumbered from Section 62A-11-413 is renumbered and amended to read:

[~~62A-11-413~~]. 26B-9-312. Records and documentation -- Distribution or refund of collected income -- Allocation of payments among multiple notices to withhold.

(1) The office shall keep adequate records to document and monitor all child support payments received under this part.

(2) The office shall promptly distribute child support payments which it receives from a payor, to the obligee, unless those payments are owed to the department.

(3) The office shall promptly refund any improperly withheld income to the obligor.

(4) The office may allocate child support payments received from an obligor under this part among multiple notices to withhold which it has issued with regard to that obligor, in accordance with rules promulgated by the office to govern that procedure.

Section 258. Section 26B-9-313, which is renumbered from Section 62A-11-414 is renumbered and amended to read:

[~~62A-11-414~~]. 26B-9-313. Income withholding upon obligor's request.

Whether or not a delinquency has occurred, an obligor may request that the office implement

income withholding procedures under this part for payment of [~~his~~] the obligor's child support obligations.

Section 259. Section 26B-9-401 is enacted to read:

Part 4. Income Withholding in Non IV-D Cases

26B-9-401. Definitions.

The definitions in Section 26B-9-301 apply to this part.

Section 260. Section 26B-9-402, which is renumbered from Section 62A-11-501 is renumbered and amended to read:

[~~62A-11-501~~]. 26B-9-402. Application of this part only to Non IV-D cases.

[~~(1)~~] The requirements of this part apply only to cases in which neither the obligee nor the obligor is receiving IV-D services.

[~~(2) For purposes of this part the definitions contained in Section 62A-11-401 apply.~~]

Section 261. Section 26B-9-403, which is renumbered from Section 62A-11-502 is renumbered and amended to read:

[~~62A-11-502~~]. 26B-9-403. Child support orders issued or modified on or after January 1, 1994 -- Immediate income withholding.

(1) With regard to obligees or obligors who are not receiving IV-D services, each child support order issued or modified on or after January 1, 1994, subjects the income of an obligor to immediate income withholding as of the effective date of the order, regardless of whether a delinquency occurs unless:

(a) the court or administrative body that entered the order finds that one of the parties has demonstrated good cause so as not to require immediate income withholding; or

(b) a written agreement which provides an alternative payment arrangement is executed by the obligor and obligee, and reviewed and entered in the record by the court or administrative body.

(2) For purposes of this section:

(a) an action on or after January 1, 1994, to reduce child support arrears to judgment, without a corresponding establishment of or modification to a base child support amount, is not sufficient to trigger immediate income withholding;

(b) "good cause" shall be based on, at a minimum:

(i) a determination and explanation on the record by the court or administrative body that implementation of income withholding would not be in the best interest of the child; and

(ii) proof of timely payment of any previously ordered support;

(c) in determining "good cause," the court or administrative body may, in addition to any other requirement it considers appropriate, consider whether the obligor has:

(i) obtained a bond, deposited money in trust for the benefit of the dependent children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months;

(ii) arranged to deposit all child support payments into a checking account belonging to the obligee, or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained; or

(iii) arranged for electronic transfer of funds on a regular basis to meet court-ordered child support obligations.

(3) In cases where the court or administrative body that entered the order finds a demonstration of good cause or enters a written agreement that immediate income withholding is not required, in accordance with this section, any party may subsequently pursue income withholding on the earliest of the following dates:

(a) the date payment of child support becomes delinquent;

(b) the date the obligor requests;

(c) the date the obligee requests if a written agreement under Subsection (1)(b) exists; or

(d) the date the court or administrative body so modifies that order.

(4) The court shall include in every child support order issued or modified on or after January 1, 1994, a provision that the income of an obligor is subject to income withholding in accordance with this chapter; however, if for any reason that provision is not included in the child support order, the obligor's income is nevertheless subject to income withholding.

(5) (a) In any action to establish or modify a child support order after July 1, 1997, the court, upon request by the obligee or obligor, shall commence immediate income withholding by ordering the clerk of the court or the requesting party to:

(i) mail written notice to the payor at the payor's last-known address that contains the information required by Section [~~62A-11-506~~] 26B-9-407; and

(ii) mail a copy of the written notice sent to the payor under Subsection (5)(a)(i) and a copy of the support order to the office.

(b) If neither the obligee nor obligor requests commencement of income withholding under Subsection (5)(a), the court shall include in the order to establish or modify child support a provision that the obligor or obligee may commence income withholding by:

(i) applying for IV-D services with the office; or

(ii) filing an ex parte motion with a district court of competent jurisdiction pursuant to Section [~~62A-11-504~~] 26B-9-405.

(c) A payor who receives written notice under Subsection (5)(a)(i) shall comply with the requirements of Section [~~62A-11-507~~] 26B-9-408.

Section 262. Section 26B-9-404, which is renumbered from Section 62A-11-503 is renumbered and amended to read:

[~~62A-11-503~~]. 26B-9-404. Requirement of employment and location information.

(1) As of July 1, 1997, a court, before issuing or modifying an order of support, shall require the parties to file the information required under Section [~~62A-11-304.4~~] 26B-9-207.

(2) If a party fails to provide the information required by Section [~~62A-11-304.4~~] 26B-9-207, the court shall issue or modify an order upon receipt of a verified representation of employment or source of income for that party based on the best evidence available if:

(a) that party has participated in the current proceeding;

(b) the notice and service of process requirements of the Utah Rules of Civil Procedure have been met if the case is before the court to establish an original order of support; or

(c) the notice requirements of Section [~~62A-11-304.4~~] 26B-9-207 have been met if the case is before the court to modify an existing order.

(3) A court may restrict the disclosure of information required by Section [~~62A-11-304.4~~] 26B-9-207:

(a) in accordance with a protective order involving the parties; or

(b) if the court has reason to believe that the release of information may result in physical or emotional harm by one party to the other party.

Section 263. Section 26B-9-405, which is renumbered from Section 62A-11-504 is renumbered and amended to read:

[~~62A-11-504~~]. 26B-9-405. Procedures for commencing income withholding.

(1) If income withholding has not been commenced in connection with a child support order, an obligee or obligor may commence income withholding by:

(a) applying for IV-D services from the office; or

(b) filing an ex parte motion for income withholding with a district court of competent jurisdiction.

(2) The office shall commence income withholding in accordance with Part [~~4~~] 3, Income Withholding in IV-D Cases, upon receipt of an application for IV-D services under Subsection (1)(a).

(3) A court shall grant an ex parte motion to commence income withholding filed under Subsection (1)(b) regardless of whether the child support order provided for income withholding, if the obligee provides competent evidence showing:

(a) the child support order was issued or modified after January 1, 1994, and the obligee or obligor expresses a desire to commence income withholding;

(b) the child support order was issued or modified after January 1, 1994, and the order contains a good cause exception to income withholding as provided for in Section [~~62A-11-502~~] 26B-9-403, and a delinquency has occurred; or

(c) the child support order was issued or modified before January 1, 1994, and a delinquency has occurred.

(4) If a court grants an ex parte motion under Subsection (3), the court shall order the clerk of the court or the requesting party to:

(a) mail written notice to the payor at the payor's last-known address that contains the information required by Section [~~62A-11-506~~] 26B-9-407;

(b) mail a copy of the written notice sent to the payor under Subsection (4)(a) to the nonrequesting party's address and a copy of the support order and the notice to the payor to the office; and

(c) if the obligee is the requesting party, send notice to the obligor under Section [~~62A-11-304.4~~] 26B-9-207 that includes:

(i) a copy of the notice sent to the payor; and

(ii) information regarding:

(A) the commencement of income withholding; and

(B) the opportunity to contest the withholding or the amount withheld due to mistake of fact by filing an objection with the court within 20 days.

(5) A payor who receives written notice under Subsection (4)(a) shall comply with the requirements of Section [~~62A-11-507~~] 26B-9-408.

(6) If an obligor contests withholding, the court shall:

(a) provide an opportunity for the obligor to present evidence supporting his claim of a mistake of fact;

(b) decide whether income withholding should continue;

(c) notify the parties of the decision; and

(d) at the obligor's option, return or credit toward the most current and future support payments of the obligor any amount mistakenly withheld plus interest at the legal rate.

Section 264. Section 26B-9-406, which is renumbered from Section 62A-11-505 is renumbered and amended to read:

[~~62A-11-505~~]. 26B-9-406. Responsibilities of the office.

The office shall document and distribute payments in the manner provided for and in the

time required by Section [~~62A-11-413~~] 26B-9-312 and federal law upon receipt of:

(1) a copy of the written notice sent to the payor under Section [~~62A-11-502~~] 26B-9-403 or Section [~~62A-11-504~~] 26B-9-405;

(2) the order of support;

(3) the obligee's address; and

(4) withheld income from the payor.

Section 265. Section 26B-9-407, which is renumbered from Section 62A-11-506 is renumbered and amended to read:

[~~62A-11-506~~]. 26B-9-407. Notice to payor.

(1) A notice mailed or delivered to a payor under this part shall state in writing:

(a) the amount of child support to be withheld from income;

(b) that the child support must be withheld from the obligor's income each time the obligor is paid, but that the amount withheld may not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. [~~Section~~] Sec. 1673(b);

(c) that the payor must mail or deliver the withheld income to the office within seven business days of the date the amount would have been paid or credited to the employee but for this section;

(d) that the payor may deduct from the obligor's income an additional amount which is equal to the amount payable to a garnishee under Rule 64D of the Utah Rules of Civil Procedure, as the payor's fee for administrative costs, but the total amount withheld may not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. [~~Section~~] Sec. 1673(b);

(e) that the notice to withhold is binding on the payor and on any future payor until further notice by the office or a court;

(f) (i) that if the payor fails to mail or deliver withheld income to the office within the time period set in Subsection (1)(c), the payor is liable to the obligee for a late fee of $50 or 10% of the withheld income, whichever is greater, for each payment that is late; and

(ii) that if the payor willfully fails to withhold income in accordance with the notice, the payor is liable to the obligee for $1,000 or the accumulated amount the payor should have withheld, whichever is greater, plus interest on that amount;

(g) that the notice to withhold is prior to any other legal process under state law;

(h) that the payor must begin to withhold income no later than the first time the obligor's earnings are normally paid after five working days from the date the payor receives the notice;

(i) that the payor must notify the office within five days after the obligor terminates employment or the periodic income payment is terminated, and provide the obligor's last-known address and the name and address of any new payor, if known;

(j) that if the payor discharges, refuses to employ, or takes disciplinary action against an obligor because of the notice to withhold, the payor is liable to the obligor as provided in Section [~~62A-11-316~~] 26B-9-217 and the obligee for the greater of $1,000 or the amount of child support accumulated to the date of discharge which the payor should have withheld plus interest on that amount; and

(k) that, in addition to any other remedy provided in this section, the payor is liable to the obligee or obligor for costs and reasonable [~~attorneys'~~] attorney fees incurred in enforcing a provision in a notice to withhold mailed or delivered under Section [~~62A-11-502 or 62A-11-504~~] 26B-9-403 or 26B-9-405.

(2) If the obligor's employment with a payor is terminated, the office shall, if known and if contacted by the obligee, inform the obligee of:

(a) the obligor's last-known address; and

(b) the name and address of any new payor.

Section 266. Section 26B-9-408, which is renumbered from Section 62A-11-507 is renumbered and amended to read:

[~~62A-11-507~~]. 26B-9-408. Payor's procedures for income withholding.

(1) (a) A payor is subject to the requirements, penalties, and effects of a notice mailed or delivered to him under Section [~~62A-11-506~~] 26B-9-407.

(b) A payment of withheld income mailed to the office in an envelope postmarked within seven business days of the date the amount would have been paid or credited to the obligor but for this section satisfies Subsection [~~62A-11-506~~] 26B-9-407(1)(c).

(2) If a payor fails to comply with the requirements of a notice served upon him under Section [~~62A-11-506~~] 26B-9-407, the obligee, or obligor may proceed with a civil action against the payor to enforce a provision of the notice.

(3) If the obligor's child support is owed monthly and the payor's pay periods are at more frequent intervals, the payor, with the consent of the office or obligee, may withhold an equal amount at each pay period cumulatively sufficient to pay the monthly child support obligation.

(4) A payor may combine amounts which he has withheld from the income of multiple obligors into a single payment to the office. If such a combined payment is made, the payor shall specify the amount attributable to each individual obligor by name and Social Security number.

(5) In addition to any other remedy provided in this section, a payor is liable to the obligee or obligor for costs and reasonable [~~attorneys'~~] attorney fees incurred in enforcing a provision of the notice mailed or delivered under Section [~~62A-11-506~~] 26B-9-407.

(6) Notwithstanding this section or Section [~~62A-11-506~~] 26B-9-407, if a payor receives an income withholding order or notice issued by another state, the payor shall apply the income withholding law of the state of the obligor's principal place of business in determining:

(a) the payor's fee for processing income withholding;

(b) the maximum amount permitted to be withheld from the obligor's income;

(c) the time periods within which the payor must implement income withholding and forward child support payments;

(d) the priorities for withholding and allocating withheld income for multiple child support obligees; and

(e) any terms or conditions for withholding not specified in the notice.

Section 267. Section 26B-9-409, which is renumbered from Section 62A-11-508 is renumbered and amended to read:

[~~62A-11-508~~]. 26B-9-409. Termination of income withholding.

(1) (a) At any time after the date income withholding begins, a party to the child support order may request a court to determine whether income withholding should be terminated due to:

(i) good cause under Section [~~62A-11-502~~] 26B-9-403; or

(ii) the completion of an obligor's support obligation.

(b) An obligor's payment of overdue child support may not be the sole basis for termination of income withholding.

(c) After termination of income withholding under this section, a party may seek reinstatement of income withholding under Section [~~62A-11-504~~] 26B-9-405.

(2) (a) If it is determined that income withholding should be terminated under Subsection (1)(a)(i), the court shall order written notice of termination be given to each payor within 10 days after receipt of notice of that decision.

(b) The obligee shall give written notice of termination to each payor:

(i) when the obligor no longer owes child support to the obligee; or

(ii) if the obligee and obligor enter into a written agreement that provides an alternative arrangement, which may be filed with the court.

(3) A notice to withhold income is binding on a payor until the court or the obligee notifies the payor that his obligation to withhold income has been terminated.

Section 268. Section 26B-9-410, which is renumbered from Section 62A-11-509 is renumbered and amended to read:

[~~62A-11-509~~]. 26B-9-410. Payor's compliance with income withholding.

(1) Payment by a payor under this part satisfies the terms for payment of income under any contract between a payor and obligor.

(2) A payor who complies with an income withholding notice that is regular on its face may not be subject to civil liability to any person for conduct in compliance with the notice.

Section 269. Section 26B-9-411, which is renumbered from Section 62A-11-510 is renumbered and amended to read:

[~~62A-11-510~~]. 26B-9-411. Violations by payor.

(1) A payor may not discharge, refuse to hire, or discipline any obligor because of a notice to withhold under this part.

(2) If a payor violates Subsection (1), the payor is liable to the obligor as provided in Section [~~62A-11-316~~] 26B-9-217 and the obligee for the greater of $1,000 or the amount of child support accumulated to the date of discharge which should have been withheld plus interest on that amount and costs incurred in collecting the amount, including reasonable [~~attorneys'~~] attorney fees.

Section 270. Section 26B-9-412, which is renumbered from Section 62A-11-511 is renumbered and amended to read:

[~~62A-11-511~~]. 26B-9-412. Priority of notice or order to withhold income.

The notice to withhold under this part is prior to all other legal collection processes provided by state law, including garnishment, attachment, execution, and wage assignment.

Section 271. Section 26B-9-501, which is renumbered from Section 62A-11-602 is renumbered and amended to read:

Part 5. Administrative License Suspension for Child Support Enforcement

[~~62A-11-602~~]. 26B-9-501. Definitions.

As used in this part:

(1) "Child support" is as defined in Section [~~62A-11-401~~] 26B-9-301.

(2) "Delinquent on a child support obligation" means that a person:

(a) (i) made no payment for 60 days on a current child support obligation as set forth in an administrative or court order;

(ii) after the 60-day period described in Subsection (2)(a)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the order; and

(iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears; or

(b) (i) made no payment for 60 days on an arrearage obligation of child support as set forth in:

(A) a payment schedule;

(B) a written agreement with the office; or

(C) an administrative or judicial order;

(ii) after the 60-day period described in Subsection (2)(b)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the payment schedule, agreement, or order; and

(iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears.

(3) "Driver license" means a license, as defined in Section 53-3-102.

(4) "Driver License Division" means the Driver License Division of the Department of Public Safety created in Section 53-3-103.

(5) "Office" means the Office of Recovery Services [~~created in Section 62A-11-102~~].

Section 272. Section 26B-9-502, which is renumbered from Section 62A-11-603 is renumbered and amended to read:

[~~62A-11-603~~]. 26B-9-502. Suspension of driver license for child support delinquency -- Reinstatement.

(1) Subject to the provisions of this section, the office may order the suspension of a person's driver license if the person is delinquent on a child support obligation.

(2) Before ordering a suspension of a person's driver license, the office shall serve the person with a "notice of intent to suspend driver license."

(3) The notice described in Subsection (2) shall:

(a) be personally served or served by certified mail;

(b) except as otherwise provided in this section, comply with Title 63G, Chapter 4, Administrative Procedures Act;

(c) state the amount that the person is in arrears on the person's child support obligation; and

(d) state that, if the person desires to contest the suspension of the person's driver license, the person must request an informal adjudicative proceeding with the office within 30 days after the day on which the notice is mailed or personally served.

(4) (a) The office shall hold an informal adjudicative proceeding to determine whether a person's driver license should be suspended if the person requests a hearing within 30 days after the day on which the notice described in Subsection (2) is mailed or personally served on the person.

(b) The informal adjudicative proceeding described in Subsection (4)(a), and any appeal of the decision rendered in that proceeding, shall comply with Title 63G, Chapter 4, Administrative Procedures Act.

(5) Except as provided in Subsection (6), the office may order that a person's driver license be suspended:

(a) if, after the notice described in Subsection (2) is mailed or personally served, the person fails to request an informal adjudicative proceeding within the time period described in Subsection (4)(a); or

(b) following the informal adjudicative proceeding described in Subsection (4)(a), if:

(i) the presiding officer finds that the person is delinquent on a child support obligation; and

(ii) the finding described in Subsection (5)(b)(i):

(A) is not timely appealed; or

(B) is upheld after a timely appeal becomes final.

(6) The office may not order the suspension of a person's driver license if the person:

(a) pays the full amount that the person is in arrears on the person's child support obligation;

(b) subject to Subsection (8):

(i) enters into a payment agreement with the office for the payment of the person's current child support obligation and all arrears; and

(ii) complies with the agreement described in Subsection (6)(b)(i) for any initial compliance period required by the agreement;

(c) obtains a judicial order staying enforcement of the person's child support obligation or the amount in arrears; or

(d) is not currently delinquent on a child support obligation.

(7) The office shall rescind an order made by the office to suspend a driver license if the person:

(a) pays the full amount that the person is in arrears on the person's child support obligation;

(b) subject to Subsection (8):

(i) enters into a payment agreement with the office for the payment of the person's current child support obligation and all arrears; and

(ii) complies with the agreement described in Subsection (7)(b)(i) for any initial compliance period required by the agreement;

(c) obtains a judicial order staying enforcement of the person's child support obligation or the amount in arrears; or

(d) is not currently delinquent on a child support obligation.

(8) For purposes of Subsections (6)(b) and (7)(b), the office shall diligently strive to enter into a fair and reasonable payment agreement that takes into account the person's employment and financial ability to make payments, provided that there is a reasonable basis to believe that the person will comply with the agreement.

(9) (a) If, after the office seeks to suspend a person's driver license under this section, it is determined that the person is not delinquent, the office shall refund to the person any noncustodial parent income withholding fee that was collected from the person during the erroneously alleged delinquency.

(b) Subsection (9)(a) does not apply if the person described in Subsection (9)(a) is otherwise in arrears on a child support obligation.

(10) (a) A person whose driver license is ordered suspended pursuant to this section may file a request with the office, on a form provided by the office, to have the office rescind the order of suspension if:

(i) the person claims that, since the time of the suspension, circumstances have changed such that the person is entitled to have the order of suspension rescinded under Subsection (7); and

(ii) the office has not rescinded the order of suspension.

(b) The office shall respond, in writing, to a person described in Subsection (10), within 10 days after the day on which the request is filed with the office, stating whether the person is entitled to have the order of suspension rescinded.

(c) If the office determines, under Subsection (10)(b), that an order to suspend a person's license should be rescinded, the office shall immediately rescind the order.

(d) If the office determines, under Subsection (10)(b), that an order to suspend a person's license should not be rescinded:

(i) the office shall, as part of the response described in Subsection (10)(b), notify the person, in writing, of the reasons for that determination; and

(ii) the person described in this Subsection (10)(d) may, within 15 days after the day on which the office sends the response described in Subsection (10)(b), appeal the determination of the office to district court.

(e) The office may not require that a person file the request described in Subsection (10)(a) before the office orders that an order of suspension is rescinded, if the office has already determined that the order of suspension should be rescinded under Subsection (7).

(11) The office may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) implement the provisions of this part; and

(b) determine when the arrears described in Subsections (6) and (7) are considered paid.

Section 273. Section 26B-9-503, which is renumbered from Section 62A-11-604 is renumbered and amended to read:

[~~62A-11-604~~]. 26B-9-503. Notification of order to suspend or rescission of order.

(1) When, pursuant to this part, the office orders the suspension of a person's driver license, or rescinds an order suspending a person's driver license, the office shall, within five business days after the day on which the order or rescission is made, notify:

(a) the Driver License Division; and

(b) the person to whom the order or rescission applies.

(2) (a) The notification described in Subsections (1)(a) and (b) shall include the name and identifying information of the person described in Subsection (1).

(b) The notification to a person described in Subsection (1)(b) shall include a statement indicating that the person must reinstate the person's driver license with the Driver License Division before driving a motor vehicle.

Section 274. Coordinating S.B. 38, S.B. 39, S.B. 40, S.B. 41, and S.B. 208 with S.B. 64 -- Superseding revisor instructions.

If this S.B. 38, S.B. 39, Health and Human Services Recodification – Health Care Assistance and Data, S.B. 40, Health and Human Services Recodification – Health Care Delivery and Repeals, S.B. 41, Health and Human Services Recodification – Prevention, Supports, Substance Use and Mental Health, S.B. 208, Health and Human Services Recodification – Cross References, Titles 58–63J, and S.B. 64, Bureau of Emergency Medical Services Amendments, all pass and become law, the Legislature intends that, on July 1, 2024:

(1) instances in which revisor instructions in this S.B. 38, S.B. 39, S.B. 40, S.B. 41, or S.B. 208 conflict with the revisor instructions in S.B. 64, the revisor instructions in S.B. 64 supersede only conflicting changes made by the revisor instructions in this S.B. 38, S.B. 39, S.B. 40, S.B. 41, or S.B. 208 as those instructions were implemented on May 3, 2023; and

(2) instances in which the revisor instructions for this S.B. 38, S.B. 39, S.B. 40, or S.B. 41 do not conflict with the revisor instructions for S.B. 64, changes made by the revisor instructions in this S.B. 38, S.B. 39, S.B. 40, S.B. 41, or S.B. 208 are unaffected by the revisor instructions in S.B. 64..

Section 275. Coordinating S.B. 38 with H.B. 36 -- Substantive and technical amendments.

If this S.B. 38 and H.B. 36, Long Term Care Ombudsman Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Section 26B-2-237 (renumbered from Section 26-21-305) in this S.B. 38 to read:

"(1) As used in this section:

(a) "Ombudsman" means the same as that term is defined in Section 26B-2-301.

(b) "Resident" means an individual who receives health care from an assisted living facility.

(c) "Responsible person" means an individual who:

(i) is designated in writing by a resident to receive communication on behalf of the resident; or

(ii) is legally authorized to make health care decisions on behalf of the resident.

(2) An assisted living facility is subject to the requirements in Subsection (3) if the transfer or discharge:

(a) is initiated by the assisted living facility for any reason;

(b) is objected to by the resident or the resident's responsible person;

(c) was not initiated by a verbal or written request from the resident; or

(d) is inconsistent with the resident's preferences and stated goals for care.

(3) [~~When a facility initiates the~~] Before a transfer or discharge [~~of a resident~~] described in Subsection (2) occurs, the assisted living facility from which the resident is transferred or discharged shall:

[~~(1)~~] (a) notify the resident and the resident's responsible person, if any, in writing and in a language and a manner that is most likely to be understood by the resident and the resident's responsible person, of:

[~~(a)~~] (i) the reasons for the transfer or discharge;

[~~(b)~~] (ii) the effective date of the transfer or discharge;

[~~(c)~~] (iii) the location to which the resident will be transferred or discharged, if known; and

[~~(d)~~] (iv) the name, address, email, and telephone number of the ombudsman;

[~~(2)~~] (b) send a copy, in English, of the notice described in Subsection [~~(1)(a)~~] (3)(a) to the ombudsman on the same day on which the assisted living facility delivers the notice described in Subsection [~~(1)(a)~~] (3)(a) to the resident and the resident's responsible person;

[~~(3)~~] (c) provide the notice described in Subsection [~~(1)(a)~~] (3)(a) at least 30 days before the day on which the resident is transferred or discharged, unless:

[~~(a)~~] (i) notice for a shorter period of time is necessary to protect:

[~~(i)~~] (A) the safety of individuals in the assisted living facility from endangerment due to the medical or behavioral status of the resident; or

[~~(ii)~~] (B) the health of individuals in the assisted living facility from endangerment due to the resident's continued residency;

[~~(b)~~] (ii) an immediate transfer or discharge is required by the resident's urgent medical needs; or

[~~(c)~~] (iii) the resident has not resided in the assisted living facility for at least 30 days;

[~~(4)~~] (d) update the transfer or discharge notice as soon as practicable before the transfer or discharge if information in the notice changes before the transfer or discharge;

[~~(5)~~] (e) orally explain to the resident:

[~~(a)~~] (i) the services available through the ombudsman; and

[~~(b)~~] (ii) the contact information for the ombudsman; and

[~~(6)~~] (f) provide and document the provision of preparation and orientation for the resident, in a language and manner the resident is most likely to understand, [~~for a resident~~] to ensure a safe and orderly transfer or discharge from an assisted living facility[~~; and~~].

[~~(7)~~] (4) [~~in~~] In the event of [~~a~~] an assisted living facility closure, the assisted living facility shall provide written notification of the closure to the ombudsman, each resident of the facility, and each resident's responsible person.".

Section 276. Coordinating S.B. 38 with H.B. 48 -- Substantive and technical amendments.

If this S.B. 38 and H.B. 48, Early Childhood Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) amending Section 26B-1-422 (renumbered from Section 26-66-202) in this S.B. 38 to read:

"(1) As used in this section:

(a) "Early childhood" refers to a child in the state who is eight years old or younger; and

(b) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

(2) There is created the Early Childhood Utah Advisory Council.

(3) (a) The department shall:

(i) make rules establishing the membership, duties, and procedures of the council in accordance with the requirements of:

(A) this section;

(B) the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b; and

(C) Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) provide necessary administrative and staff support to the council.

(b) A member of the council may not receive compensation or benefits for the member's service.

[~~(1)~~] (4) The duties of the council [~~shall serve as an entity dedicated to~~] include:

(a) improving and coordinating the quality of programs and services for children in accordance with the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b[.];

(b) supporting Utah parents and families by providing comprehensive and accurate information regarding the availability of voluntary services for children in early childhood from state agencies and other private and public entities;

(c) facilitating improved coordination between state agencies and community partners that provide services to children in early childhood;

(d) sharing and analyzing information regarding early childhood issues in the state;

(e) providing recommendations to the department, the Department of Workforce Services, and the State Board of Education regarding a comprehensive delivery system of services for children in early childhood that addresses the following four areas:

(i) family support and safety;

(ii) health and development;

(iii) early learning; and

(iv) economic development; and

(f) identifying opportunities for and barriers to the alignment of standards, rules, policies, and procedures across programs and agencies that support children in early childhood.

(5) To fulfill the duties described in Subsection (4), the council shall:

(a) directly engage with parents, families, community members, and public and private service providers to identify and address:

(i) the quality, effectiveness, and availability of existing services for children in early childhood and the coordination of those services;

(ii) gaps and barriers to entry in the provision of services for children in early childhood; and

(iii) community-based solutions in improving the quality, effectiveness, and availability of services for children in early childhood;

(b) seek regular and ongoing feedback from a wide range of entities and individuals that use or provide services for children in early childhood, including entities and individuals that use, represent, or provide services for any of the following:

(i) children in early childhood who live in urban, suburban, or rural areas of the state;

(ii) children in early childhood with varying socioeconomic backgrounds;

(iii) children in early childhood with varying ethnic or racial heritages;

(iv) children in early childhood from various geographic areas of the state; and

(v) children in early childhood with special needs;

(c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to children in early childhood;

(d) study and evaluate the effectiveness of policies, procedures, and programs implemented by other states and nongovernmental entities that address the needs of children in early childhood;

(e) identify policies, procedures, and programs that are impeding efforts to help children in early childhood in the state and recommend changes to those policies, procedures, and programs;

(f) identify policies, procedures, and programs related to children in early childhood in the state that are inefficient or duplicative and recommend changes to those policies, procedures, and programs;

(g) recommend policy, procedure, and program changes to address the needs of children in early childhood;

(h) develop methods for using interagency information to inform comprehensive policy and budget decisions relating to early childhood services; and

(i) develop strategies and monitor efforts concerning:

(i) increasing school readiness;

(ii) improving access to early child care and early education programs; and

(iii) improving family and community engagement in early childhood education and development.

(6) In fulfilling the council's duties, the council may request and receive, from any state or local governmental agency or institution, information relating to early childhood, including reports, audits, projections, and statistics.

(7) (a) On or before August 1 of each year, the council shall provide an annual report to the executive director, the executive director of the Department of Workforce Services, and the state superintendent.

(b) The annual report shall include:

(i) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households;

(ii) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:

(A) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;

(B) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;

(C) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and

(D) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards; and

(iii) the recommendations described in Subsection (4)(e).

(8) In addition to the annual report described in Subsection (7)(a), on or before August 1, 2024, and at least every five years thereafter, the council shall provide to the executive director, the executive director of the Department of Workforce Services, and the state superintendent a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

[~~(2) The council shall advise the commission and, on or before August 1, annually provide to the commission:~~]

[~~(a) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households; and~~]

[~~(b) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:~~]

[~~(i) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;~~]

[~~(ii) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;~~]

[~~(iii) recommending statewide professional development and career advancement plans or early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and~~]

[~~(iv) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards.~~]

[~~(3) On or before August 1, 2020, and at least every five years thereafter, the council shall provide to the commission a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.~~]"; and

(2) not enacting Section 26-66-204 in H.B. 48..

Section 277. Coordinating S.B. 38 with H.B. 72 -- Substantive and technical amendments.

If this S.B. 38 and H.B. 72, Medical Cannabis Governance Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by enacting the amendment to Subsection 26-61-202(4) in H.B. 72 into a new Subsection 26B-1-420(16) (renumbered from Section 26-61-201) in this S.B. 38 to read:

"(16) Based on the board's evaluation under Subsection (11), the board may provide recommendations to the Medical Cannabis Policy Advisory Board created in Section 26-61a-801 regarding restrictions for a substance found in a medical cannabis product that:

(a) is likely harmful to human health; or

(b) is associated with a substance that is likely harmful to human health.".

Section 278. Coordinating S.B. 38 with H.B. 230 -- Substantive and technical amendments.

If this S.B. 38 and H.B. 230, Center for Medical Cannabis Research, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 26-61a-109(4) in H.B. 230, relating to permitted uses of money in this fund, to read:

"(4) Money deposited into the fund may only be used by:

(a) the department to accomplish the department's responsibilities described in Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(b) the Center for Medical Cannabis Research created in Section 53B-17-1402 to accomplish the Center for Medical Cannabis Research's responsibilities.".

Section 279. Coordinating S.B. 38 with S.B. 64 -- Technical amendments.

If this S.B. 38 and S.B. 64, Bureau of Emergency Medical Services Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on

July 1, 2024, so that changes in S.B. 64 supersede the changes in this bill, as those changes went into effect on May 3, 2023, in the following sections:

(1) Section 53-2d-104 (renumbered from 26-8a-103) in S.B. 64;

(2) Section 53-2d-107 (renumbered from 26-8a-107) in S.B. 64; and

(3) Section 53-2d-809 (renumbered from 26-8b-602) in S.B. 64.

Section 280. Coordinating S.B. 38 with S.B. 123 -- Substantive and technical amendments.

If this S.B. 38 and S.B. 123, Boards and Commissions Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) by amending Subsection 26B-1-414(1)(c)(i) (renumbered from Subsection 26-39-200(1)(c)(i)) in this S.B. 38 to read:

"[~~(c)~~] (d) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in a licensed center based child care facility;

(B) a parent with a child in a residential based child care facility;

[~~(B)~~] (C) a child development expert from the state system of higher education;

[~~(C)~~] (D) except as provided in Subsection (1)[~~(c)~~](f), a pediatrician licensed in the state; [~~and~~]

(E) a health care provider; and

[~~(D)~~] (F) an architect licensed in the state."; and

(2) by amending Subsections 26B-1-414(7) and (8) (renumbered from Subsections 26-39-200(7) and (8)) in this S.B. 38 to read:

"(7) The licensing committee shall:

(a) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care and residential child care, as those terms are defined in Section 26B-2-401, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers considering the age of the children and the type of program offered by the licensee;

(b) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of Chapter 2, Part 4, Child Care Licensing, that govern center based child care and residential child care, as those terms are defined in Section 26B-2-401, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation, policies, and procedures that providers shall have in place in order to be licensed, in accordance with this Subsection (7);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and ensure compliance with statute and rule; and

(vii) guidelines necessary to ensure consistency and appropriateness in the regulation and discipline of licensees;

(c) advise the department on the administration of a matter affecting center based child care or residential child care, as those terms are defined in Section 26B-2-401;

(d) advise and assist the department in conducting center based child care provider seminars and residential child care seminars; and

(e) perform other duties as provided in Section 26B-2-402.

(8) (a) The licensing committee may not enforce the rules adopted under this section.

(b) The department shall enforce the rules adopted under this section in accordance with Section 26B-2-402.".

Section 281. Coordinating S.B. 38 with S.B. 137 -- Substantive and technical amendments.

If this S.B. 38 and S.B. 137, Medical Cannabis Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by enacting the amendment to Subsection 26-61-202(4) in S.B. 137 into a new Subsection 26B-1-420(16) (renumbered from Section 26-61-201) in this S.B. 38 to read:

"(16) The board shall provide a report to the Health and Human Services Interim Committee regarding the board's work before October 1 of each year.".

Section 282. Coordinating S.B. 38 with S.B. 272 -- Substantive and technical amendments.

If this S.B. 38 and S.B. 272, Funds Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code

database for publication on July 1, 2023, by repealing the following sections enacted in this S.B. 38:

(1) Section 26B-1-333, relating to the Children's Hearing Aid Program Restricted Account; and

(2) Section 26B-1-433, relating to the Children's Hearing Aid Advisory Committee.

Section 283. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) not enroll this bill if any of the following bills do not pass:

(a) S.B. 39, Health and Human Services Recodification - Health Care Assistance and Data;

(b) S.B. 40, Health and Human Services Recodification - Health Care Delivery and Repeals; or

(c) S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health; and

(2) in any new language added to the Utah Code by legislation passed during the 2023 General Session, replace any references to Titles 26 or 62A

with the renumbered reference as it is renumbered in this bill.

CHAPTER 306
S. B. 39
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH AND HUMAN SERVICES RECODIFICATION -HEALTH CARE ASSISTANCE AND DATA

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill recodifies portions of the Utah Health Code and Utah Human Services Code.

Highlighted Provisions:

This bill:

- recodifies provisions regarding:
  - health care administration and assistance; and
  - vital statistics, health data, and the Utah Medical Examiner; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

26B-3-101, as enacted by Laws of Utah 2022, Chapter 255
26B-8-101, as enacted by Laws of Utah 2022, Chapter 255

RENUMBERS AND AMENDS:

26B-3-102, (Renumbered from 26-18-2.1, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-103, (Renumbered from 26-18-2.2, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-104, (Renumbered from 26-18-2.3, as last amended by Laws of Utah 2020, Chapter 225)
26B-3-105, (Renumbered from 26-18-2.4, as last amended by Laws of Utah 2022, Chapter 255)
26B-3-106, (Renumbered from 26-18-2.5, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-107, (Renumbered from 26-18-2.6, as last amended by Laws of Utah 2021, Chapter 234)
26B-3-108, (Renumbered from 26-18-3, as last amended by Laws of Utah 2021, Chapter 422)
26B-3-109, (Renumbered from 26-18-3.1, as last amended by Laws of Utah 2020, Chapter 225)
26B-3-110, (Renumbered from 26-18-3.5, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-111, (Renumbered from 26-18-3.6, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-112, (Renumbered from 26-18-3.8, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 3)
26B-3-113, (Renumbered from 26-18-3.9, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4)
26B-3-114, (Renumbered from 26-18-4, as last amended by Laws of Utah 2013, Chapter 167)
26B-3-115, (Renumbered from 26-18-5, as last amended by Laws of Utah 2020, Chapter 225)
26B-3-116, (Renumbered from 26-18-5.5, as enacted by Laws of Utah 2022, Chapter 469)
26B-3-117, (Renumbered from 26-18-6, as enacted by Laws of Utah 1981, Chapter 126)
26B-3-118, (Renumbered from 26-18-7, as last amended by Laws of Utah 1988, Chapter 21)
26B-3-119, (Renumbered from 26-18-8, as last amended by Laws of Utah 2020, Chapter 225)
26B-3-120, (Renumbered from 26-18-9, as enacted by Laws of Utah 1981, Chapter 126)
26B-3-121, (Renumbered from 26-18-11, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-122, (Renumbered from 26-18-13, as last amended by Laws of Utah 2017, Chapter 241)
26B-3-123, (Renumbered from 26-18-13.5, as last amended by Laws of Utah 2019, Chapter 249)
26B-3-124, (Renumbered from 26-18-15, as last amended by Laws of Utah 2021, Chapter 163)
26B-3-125, (Renumbered from 26-18-16, as enacted by Laws of Utah 2012, Chapter 155)
26B-3-126, (Renumbered from 26-18-17, as enacted by Laws of Utah 2013, Chapter 53)
26B-3-127, (Renumbered from 26-18-18, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-128, (Renumbered from 26-18-19, as last amended by Laws of Utah 2016, Chapter 114)
26B-3-129, (Renumbered from 26-18-20, as last amended by Laws of Utah 2022, Chapter 443)
26B-3-130, (Renumbered from 26-18-21, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-131, (Renumbered from 26-18-22, as enacted by Laws of Utah 2017, Chapter 180)
26B-3-132, (Renumbered from 26-18-23, as enacted by Laws of Utah 2017, Chapter 53)

26B-3-133, (Renumbered from 26-18-24, as enacted by Laws of Utah 2018, Chapter 180)
26B-3-134, (Renumbered from 26-18-25, as enacted by Laws of Utah 2019, Chapter 320)
26B-3-135, (Renumbered from 26-18-26, as enacted by Laws of Utah 2019, Chapter 265)
26B-3-136, (Renumbered from 26-18-27, as enacted by Laws of Utah 2021, Chapter 163)
26B-3-137, (Renumbered from 26-18-28, as enacted by Laws of Utah 2022, Chapter 206)
26B-3-138, (Renumbered from 26-18-427, as enacted by Laws of Utah 2022, Chapter 394)
26B-3-139, (Renumbered from 26-18-603, as last amended by Laws of Utah 2015, Chapter 135)
26B-3-140, (Renumbered from 26-18-604, as last amended by Laws of Utah 2015, Chapter 135)
26B-3-141, (Renumbered from 26-18-703, as renumbered and amended by Laws of Utah 2022, Chapter 334)
26B-3-201, (Renumbered from 26-18-403, as enacted by Laws of Utah 2006, Chapter 110)
26B-3-202, (Renumbered from 26-18-405, as last amended by Laws of Utah 2020, Chapter 275)
26B-3-203, (Renumbered from 26-18-405.5, as last amended by Laws of Utah 2022, Chapter 149)
26B-3-204, (Renumbered from 26-18-408, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4)
26B-3-205, (Renumbered from 26-18-409, as enacted by Laws of Utah 2014, Chapter 174)
26B-3-206, (Renumbered from 26-18-410, as last amended by Laws of Utah 2022, Chapter 226)
26B-3-207, (Renumbered from 26-18-411, as last amended by Laws of Utah 2022, Chapter 394)
26B-3-208, (Renumbered from 26-18-413, as last amended by Laws of Utah 2020, Chapter 225)
26B-3-209, (Renumbered from 26-18-414, as enacted by Laws of Utah 2017, Chapter 307)
26B-3-210, (Renumbered from 26-18-415, as last amended by Laws of Utah 2019, Chapters 1 and 393)
26B-3-211, (Renumbered from 26-18-416, as last amended by Laws of Utah 2020, Chapter 354)
26B-3-212, (Renumbered from 26-18-417, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-213, (Renumbered from 26-18-418, as last amended by Laws of Utah 2020, Chapter 303)
26B-3-214, (Renumbered from 26-18-419, as enacted by Laws of Utah 2019, Chapter 172)
26B-3-215, (Renumbered from 26-18-420, as enacted by Laws of Utah 2020, Chapter 187)
26B-3-216, (Renumbered from 26-18-420.1, as enacted by Laws of Utah 2021, Chapter 133)
26B-3-217, (Renumbered from 26-18-421, as enacted by Laws of Utah 2020, Chapter 159)
26B-3-218, (Renumbered from 26-18-422, as enacted by Laws of Utah 2020, Chapter 188)
26B-3-219, (Renumbered from 26-18-423, as enacted by Laws of Utah 2020, Chapter 303)
26B-3-220, (Renumbered from 26-18-424, as enacted by Laws of Utah 2021, Chapter 76)
26B-3-221, (Renumbered from 26-18-425, as enacted by Laws of Utah 2021, Chapter 27)
26B-3-222, (Renumbered from 26-18-426, as enacted by Laws of Utah 2021, Chapter 212)
26B-3-223, (Renumbered from 26-18-428, as enacted by Laws of Utah 2022, Chapter 394)
26B-3-224, (Renumbered from 26-18-429, as enacted by Laws of Utah 2022, Chapter 253)
26B-3-301, (Renumbered from 26-18-101, as last amended by Laws of Utah 2004, Chapter 280)
26B-3-302, (Renumbered from 26-18-102, as last amended by Laws of Utah 2010, Chapters 286 and 324)
26B-3-303, (Renumbered from 26-18-103, as last amended by Laws of Utah 2020, Chapter 225)
26B-3-304, (Renumbered from 26-18-104, as last amended by Laws of Utah 2008, Chapter 382)
26B-3-305, (Renumbered from 26-18-105, as last amended by Laws of Utah 2010, Chapter 205)
26B-3-306, (Renumbered from 26-18-106, as enacted by Laws of Utah 1992, Chapter 273)
26B-3-307, (Renumbered from 26-18-107, as last amended by Laws of Utah 2019, Chapter 349)
26B-3-308, (Renumbered from 26-18-108, as enacted by Laws of Utah 1992, Chapter 273)
26B-3-309, (Renumbered from 26-18-109, as enacted by Laws of Utah 1992, Chapter 273)
26B-3-310, (Renumbered from 26-18-502, as last amended by Laws of Utah 2021, Chapter 274)
26B-3-311, (Renumbered from 26-18-503, as last amended by Laws of Utah 2022, Chapter 274)

26B-3-312, (Renumbered from 26-18-504, as last amended by Laws of Utah 2017, Chapter 443)
26B-3-313, (Renumbered from 26-18-505, as last amended by Laws of Utah 2017, Chapter 443)
26B-3-401, (Renumbered from 26-35a-103, as last amended by Laws of Utah 2018, Chapter 39)
26B-3-402, (Renumbered from 26-35a-102, as last amended by Laws of Utah 2011, Chapter 366)
26B-3-403, (Renumbered from 26-35a-104, as last amended by Laws of Utah 2017, Chapter 443)
26B-3-404, (Renumbered from 26-35a-105, as enacted by Laws of Utah 2004, Chapter 284)
26B-3-405, (Renumbered from 26-35a-107, as last amended by Laws of Utah 2017, Chapter 443)
26B-3-406, (Renumbered from 26-35a-108, as last amended by Laws of Utah 2011, Chapter 366)
26B-3-501, (Renumbered from 26-36b-103, as last amended by Laws of Utah 2019, Chapter 1)
26B-3-502, (Renumbered from 26-36b-102, as last amended by Laws of Utah 2018, Chapter 384)
26B-3-503, (Renumbered from 26-36b-201, as last amended by Laws of Utah 2018, Chapters 384 and 468)
26B-3-504, (Renumbered from 26-36b-202, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-505, (Renumbered from 26-36b-203, as last amended by Laws of Utah 2018 Chapters 384 and 468)
26B-3-506, (Renumbered from 26-36b-204, as last amended by Laws of Utah 2020, Chapter 225)
26B-3-507, (Renumbered from 26-36b-205, as last amended by Laws of Utah 2020, Chapter 225)
26B-3-508, (Renumbered from 26-36b-206, as last amended by Laws of Utah 2018, Chapters 384 and 468)
26B-3-509, (Renumbered from 26-36b-207, as last amended by Laws of Utah 2018, Chapters 384 and 468)
26B-3-510, (Renumbered from 26-36b-209, as last amended by Laws of Utah 2018, Chapters 384 and 468)
26B-3-511, (Renumbered from 26-36b-210, as last amended by Laws of Utah 2018, Chapters 384 and 468)
26B-3-512, (Renumbered from 26-36b-211, as last amended by Laws of Utah 2018, Chapters 384 and 468)
26B-3-601, (Renumbered from 26-36c-102, as last amended by Laws of Utah 2019, Chapter 1)
26B-3-602, (Renumbered from 26-36c-103, as enacted by Laws of Utah 2018, Chapter 468)
26B-3-603, (Renumbered from 26-36c-201, as last amended by Laws of Utah 2019, Chapter 1)
26B-3-604, (Renumbered from 26-36c-202, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-605, (Renumbered from 26-36c-203, as last amended by Laws of Utah 2019, Chapter 1)
26B-3-606, (Renumbered from 26-36c-204, as last amended by Laws of Utah 2020, Chapter 225)
26B-3-607, (Renumbered from 26-36c-205, as last amended by Laws of Utah 2019, Chapter 136)
26B-3-608, (Renumbered from 26-36c-206, as last amended by Laws of Utah 2019, Chapter 1)
26B-3-609, (Renumbered from 26-36c-207, as enacted by Laws of Utah 2018, Chapter 468)
26B-3-610, (Renumbered from 26-36c-208, as last amended by Laws of Utah 2019, Chapter 1)
26B-3-611, (Renumbered from 26-36c-209, as last amended by Laws of Utah 2019, Chapter 1)
26B-3-612, (Renumbered from 26-36c-210, as last amended by Laws of Utah 2019, Chapter 136)
26B-3-701, (Renumbered from 26-36d-103, as repealed and reenacted by Laws of Utah 2019, Chapter 455)
26B-3-702, (Renumbered from 26-36d-102, as repealed and reenacted by Laws of Utah 2019, Chapter 455)
26B-3-703, (Renumbered from 26-36d-201, as repealed and reenacted by Laws of Utah 2019, Chapter 455)
26B-3-704, (Renumbered from 26-36d-202, as repealed and reenacted by Laws of Utah 2019, Chapter 455)
26B-3-705, (Renumbered from 26-36d-203, as repealed and reenacted by Laws of Utah 2019, Chapter 455)
26B-3-706, (Renumbered from 26-36d-204, as repealed and reenacted by Laws of Utah 2019, Chapter 455)
26B-3-707, (Renumbered from 26-36d-205, as repealed and reenacted by Laws of Utah 2019, Chapter 455)
26B-3-708, (Renumbered from 26-36d-206, as repealed and reenacted by Laws of Utah 2019, Chapter 455)
26B-3-709, (Renumbered from 26-36d-208, as repealed and reenacted by Laws of Utah 2019, Chapter 455)
26B-3-801, (Renumbered from 26-37a-102, as last amended by Laws of Utah 2016, Chapter 348)
26B-3-802, (Renumbered from 26-37a-103, as enacted by Laws of Utah 2015, Chapter 440)
26B-3-803, (Renumbered from 26-37a-104, as enacted by Laws of Utah 2015, Chapter 440)

26B-3-804, (Renumbered from 26-37a-105, as enacted by Laws of Utah 2015, Chapter 440)
26B-3-805, (Renumbered from 26-37a-106, as enacted by Laws of Utah 2015, Chapter 440)
26B-3-806, (Renumbered from 26-37a-108, as enacted by Laws of Utah 2015, Chapter 440)
26B-3-901, (Renumbered from 26-40-102, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-902, (Renumbered from 26-40-103, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-903, (Renumbered from 26-40-105, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-904, (Renumbered from 26-40-106, as last amended by Laws of Utah 2021, Chapter 175)
26B-3-905, (Renumbered from 26-40-107, as enacted by Laws of Utah 1998, Chapter 360)
26B-3-906, (Renumbered from 26-40-108, as last amended by Laws of Utah 2010, Chapter 391)
26B-3-907, (Renumbered from 26-40-109, as last amended by Laws of Utah 2013, Chapter 167)
26B-3-908, (Renumbered from 26-40-110, as last amended by Laws of Utah 2019, Chapter 393)
26B-3-909, (Renumbered from 26-40-115, as last amended by Laws of Utah 2020, Chapters 32 and 152)
26B-3-1001, (Renumbered from 26-19-102, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1002, (Renumbered from 26-19-103, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1003, (Renumbered from 26-19-201, as last amended by Laws of Utah 2021, Chapter 300)
26B-3-1004, (Renumbered from 26-19-301, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1005, (Renumbered from 26-19-302, as last amended by Laws of Utah 2020, Chapter 354)
26B-3-1006, (Renumbered from 26-19-303, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1007, (Renumbered from 26-19-304, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1008, (Renumbered from 26-19-305, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1009, (Renumbered from 26-19-401, as last amended by Laws of Utah 2021, Chapter 300)
26B-3-1010, (Renumbered from 26-19-402, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1011, (Renumbered from 26-19-403, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1012, (Renumbered from 26-19-404, as enacted by Laws of Utah 2018, Chapter 443)
26B-3-1013, (Renumbered from 26-19-405, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1014, (Renumbered from 26-19-406, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1015, (Renumbered from 26-19-501, as enacted by Laws of Utah 2018, Chapter 443)
26B-3-1016, (Renumbered from 26-19-502, as enacted by Laws of Utah 2018, Chapter 443)
26B-3-1017, (Renumbered from 26-19-503, as enacted by Laws of Utah 2018, Chapter 443)
26B-3-1018, (Renumbered from 26-19-504, as enacted by Laws of Utah 2018, Chapter 443)
26B-3-1019, (Renumbered from 26-19-505, as enacted by Laws of Utah 2018, Chapter 443)
26B-3-1020, (Renumbered from 26-19-506, as enacted by Laws of Utah 2018, Chapter 443)
26B-3-1021, (Renumbered from 26-19-507, as enacted by Laws of Utah 2018, Chapter 443)
26B-3-1022, (Renumbered from 26-19-508, as enacted by Laws of Utah 2018, Chapter 443)
26B-3-1023, (Renumbered from 26-19-509, as enacted by Laws of Utah 2018, Chapter 443)
26B-3-1024, (Renumbered from 26-19-601, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1025, (Renumbered from 26-19-602, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1026, (Renumbered from 26-19-603, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1027, (Renumbered from 26-19-604, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1028, (Renumbered from 26-19-605, as renumbered and amended by Laws of Utah 2018, Chapter 443)
26B-3-1101, (Renumbered from 26-20-2, as last amended by Laws of Utah 2007, Chapter 48)
26B-3-1102, (Renumbered from 26-20-3, as last amended by Laws of Utah 2011, Chapter 297)
26B-3-1103, (Renumbered from 26-20-4, as repealed and reenacted by Laws of Utah 2007, Chapter 48)
26B-3-1104, (Renumbered from 26-20-5, as last amended by Laws of Utah 2007, Chapter 48)

26B-3-1105, (Renumbered from 26-20-6, as last amended by Laws of Utah 2011, Chapter 297)
26B-3-1106, (Renumbered from 26-20-7, as last amended by Laws of Utah 2007, Chapter 48)
26B-3-1107, (Renumbered from 26-20-8, as last amended by Laws of Utah 2011, Chapter 297)
26B-3-1108, (Renumbered from 26-20-9, as last amended by Laws of Utah 2007, Chapter 48)
26B-3-1109, (Renumbered from 26-20-9.5, as last amended by Laws of Utah 2011, Chapter 297)
26B-3-1110, (Renumbered from 26-20-10, as last amended by Laws of Utah 1998, Chapter 192)
26B-3-1111, (Renumbered from 26-20-11, as enacted by Laws of Utah 1986, Chapter 46)
26B-3-1112, (Renumbered from 26-20-12, as last amended by Laws of Utah 2011, Chapter 297)
26B-3-1113, (Renumbered from 26-20-13, as last amended by Laws of Utah 2007, Chapter 48)
26B-3-1114, (Renumbered from 26-20-14, as last amended by Laws of Utah 2011, Chapter 297)
26B-3-1115, (Renumbered from 26-20-15, as enacted by Laws of Utah 2007, Chapter 48)
26B-8-102, (Renumbered from 26-2-3, as last amended by Laws of Utah 2017, Chapter 22)
26B-8-103, (Renumbered from 26-2-4, as last amended by Laws of Utah 2022, Chapters 231 and 365)
26B-8-104, (Renumbered from 26-2-5, as last amended by Laws of Utah 2019, Chapter 349)
26B-8-105, (Renumbered from 26-2-5.5, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-106, (Renumbered from 26-2-6, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-107, (Renumbered from 26-2-7, as last amended by Laws of Utah 2022, Chapter 231)
26B-8-108, (Renumbered from 26-2-8, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-109, (Renumbered from 26-2-9, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-110, (Renumbered from 26-2-10, as last amended by Laws of Utah 2021, Chapter 65)
26B-8-111, (Renumbered from 26-2-11, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-112, (Renumbered from 26-2-12.5, as last amended by Laws of Utah 2022, Chapters 255 and 335)
26B-8-113, (Renumbered from 26-2-12.6, as last amended by Laws of Utah 2022, Chapters 255 and 365)
26B-8-114, (Renumbered from 26-2-13, as last amended by Laws of Utah 2021, Chapters 11 and 297)
26B-8-115, (Renumbered from 26-2-14, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-116, (Renumbered from 26-2-14.1, as enacted by Laws of Utah 2002, Chapter 69)
26B-8-117, (Renumbered from 26-2-14.2, as enacted by Laws of Utah 2002, Chapter 69)
26B-8-118, (Renumbered from 26-2-14.3, as enacted by Laws of Utah 2015, Chapter 184)
26B-8-119, (Renumbered from 26-2-15, as last amended by Laws of Utah 2020, Chapter 201)
26B-8-120, (Renumbered from 26-2-16, as last amended by Laws of Utah 2009, Chapters 66 and 68)
26B-8-121, (Renumbered from 26-2-17, as last amended by Laws of Utah 2020, Chapter 251)
26B-8-122, (Renumbered from 26-2-18, as last amended by Laws of Utah 2020, Chapter 251)
26B-8-123, (Renumbered from 26-2-19, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-124, (Renumbered from 26-2-21, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-125, (Renumbered from 26-2-22, as last amended by Laws of Utah 2021, Chapter 262)
26B-8-126, (Renumbered from 26-2-23, as last amended by Laws of Utah 2009, Chapter 68)
26B-8-127, (Renumbered from 26-2-24, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-128, (Renumbered from 26-2-25, as last amended by Laws of Utah 2021, Chapter 65)
26B-8-129, (Renumbered from 26-2-26, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-130, (Renumbered from 26-2-27, as last amended by Laws of Utah 2011, Chapter 366)
26B-8-131, (Renumbered from 26-2-28, as last amended by Laws of Utah 2021, Chapter 65)
26B-8-132, (Renumbered from 26-34-4, as enacted by Laws of Utah 2020, Chapter 353)
26B-8-133, (Renumbered from 26-23-5, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-134, (Renumbered from 26-23-5.5, as enacted by Laws of Utah 1995, Chapter 202)

26B-8-201, (Renumbered from 26-4-2, as last amended by Laws of Utah 2022, Chapter 277)
26B-8-202, (Renumbered from 26-4-4, as last amended by Laws of Utah 2015, Chapter 72)
26B-8-203, (Renumbered from 26-4-5, as last amended by Laws of Utah 1993, Chapter 227)
26B-8-204, (Renumbered from 26-4-6, as last amended by Laws of Utah 2009, Chapter 63)
26B-8-205, (Renumbered from 26-4-7, as last amended by Laws of Utah 2021, Chapter 25)
26B-8-206, (Renumbered from 26-4-8, as last amended by Laws of Utah 1993, Chapter 38)
26B-8-207, (Renumbered from 26-4-9, as last amended by Laws of Utah 2021, Chapter 297)
26B-8-208, (Renumbered from 26-2-18.5, as last amended by Laws of Utah 2019, Chapter 189)
26B-8-209, (Renumbered from 26-4-10, as last amended by Laws of Utah 2021, Chapter 25)
26B-8-210, (Renumbered from 26-4-10.5, as last amended by Laws of Utah 2022, Chapter 415)
26B-8-211, (Renumbered from 26-4-11, as last amended by Laws of Utah 2018, Chapter 414)
26B-8-212, (Renumbered from 26-4-12, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-213, (Renumbered from 26-4-13, as last amended by Laws of Utah 2001, Chapter 278)
26B-8-214, (Renumbered from 26-4-14, as last amended by Laws of Utah 2021, Chapter 297)
26B-8-215, (Renumbered from 26-4-15, as enacted by Laws of Utah 1981, Chapter 126)
26B-8-216, (Renumbered from 26-4-16, as last amended by Laws of Utah 2007, Chapter 144)
26B-8-217, (Renumbered from 26-4-17, as last amended by Laws of Utah 2022, Chapter 255)
26B-8-218, (Renumbered from 26-4-18, as enacted by Laws of Utah 1981, Chapter 126)
26B-8-219, (Renumbered from 26-4-19, as last amended by Laws of Utah 1993, Chapter 38)
26B-8-220, (Renumbered from 26-4-20, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-221, (Renumbered from 26-4-21, as last amended by Laws of Utah 1997, Chapter 372)
26B-8-222, (Renumbered from 26-4-22, as enacted by Laws of Utah 1981, Chapter 126)
26B-8-223, (Renumbered from 26-4-23, as enacted by Laws of Utah 1981, Chapter 126)
26B-8-224, (Renumbered from 26-4-24, as last amended by Laws of Utah 1997, Chapter 375)
26B-8-225, (Renumbered from 26-4-25, as repealed and reenacted by Laws of Utah 2015, Chapter 72)
26B-8-226, (Renumbered from 26-4-26, as enacted by Laws of Utah 1997, Chapter 232)
26B-8-227, (Renumbered from 26-4-27, as enacted by Laws of Utah 1998, Chapter 153)
26B-8-228, (Renumbered from 26-4-28, as last amended by Laws of Utah 2013, Chapter 167)
26B-8-229, (Renumbered from 26-4-28.5, as enacted by Laws of Utah 2017, Chapter 346)
26B-8-230, (Renumbered from 26-4-29, as last amended by Laws of Utah 2010, Chapter 218)
26B-8-231, (Renumbered from 26-4-30, as enacted by Laws of Utah 2020, Chapter 201)
26B-8-232, (Renumbered from 26-23a-2, as last amended by Laws of Utah 1996, Chapter 23)
26B-8-301, (Renumbered from 26-28-102, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-302, (Renumbered from 26-28-103, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-303, (Renumbered from 26-28-104, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-304, (Renumbered from 26-28-105, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-305, (Renumbered from 26-28-106, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-306, (Renumbered from 26-28-107, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-307, (Renumbered from 26-28-108, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-308, (Renumbered from 26-28-109, as last amended by Laws of Utah 2018, Chapter 48)
26B-8-309, (Renumbered from 26-28-110, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-310, (Renumbered from 26-28-111, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-311, (Renumbered from 26-28-112, as last amended by Laws of Utah 2014, Chapter 189)
26B-8-312, (Renumbered from 26-28-113, as enacted by Laws of Utah 2007, Chapter 60)

26B-8-313, (Renumbered from 26-28-114, as last amended by Laws of Utah 2019, Chapter 349)
26B-8-314, (Renumbered from 26-28-115, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-315, (Renumbered from 26-28-116, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-316, (Renumbered from 26-28-117, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-317, (Renumbered from 26-28-118, as last amended by Laws of Utah 2018, Chapter 48)
26B-8-318, (Renumbered from 26-28-119, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-319, (Renumbered from 26-28-120, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-320, (Renumbered from 26-28-121, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-321, (Renumbered from 26-28-122, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-322, (Renumbered from 26-28-123, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-323, (Renumbered from 26-28-124, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-324, (Renumbered from 26-28-125, as enacted by Laws of Utah 2007, Chapter 60)
26B-8-401, (Renumbered from 26-3-1, as last amended by Laws of Utah 1995, Chapter 202)
26B-8-402, (Renumbered from 26-3-2, as enacted by Laws of Utah 1981, Chapter 126)
26B-8-403, (Renumbered from 26-3-4, as enacted by Laws of Utah 1981, Chapter 126)
26B-8-404, (Renumbered from 26-3-5, as last amended by Laws of Utah 1996, Chapter 201)
26B-8-405, (Renumbered from 26-3-6, as last amended by Laws of Utah 1996, Chapter 201)
26B-8-406, (Renumbered from 26-3-7, as last amended by Laws of Utah 2013, Chapter 278)
26B-8-407, (Renumbered from 26-3-8, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-408, (Renumbered from 26-3-9, as last amended by Laws of Utah 1996, Chapter 201)
26B-8-409, (Renumbered from 26-3-10, as last amended by Laws of Utah 1996, Chapter 201)
26B-8-410, (Renumbered from 26-3-11, as last amended by Laws of Utah 2005, Chapter 243)
26B-8-411, (Renumbered from 26-1-37, as last amended by Laws of Utah 2019, Chapter 105)
26B-8-501, (Renumbered from 26-33a-102, as last amended by Laws of Utah 2022, Chapter 255)
26B-8-502, (Renumbered from 26-33a-105, as enacted by Laws of Utah 1990, Chapter 305)
26B-8-503, (Renumbered from 26-33a-106, as last amended by Laws of Utah 1996, Chapter 201)
26B-8-504, (Renumbered from 26-33a-106.1, as last amended by Laws of Utah 2022, Chapter 321)
26B-8-505, (Renumbered from 26-33a-106.5, as last amended by Laws of Utah 2019, Chapter 370)
26B-8-506, (Renumbered from 26-33a-107, as last amended by Laws of Utah 2016, Chapter 74)
26B-8-507, (Renumbered from 26-33a-108, as last amended by Laws of Utah 1996, Chapter 201)
26B-8-508, (Renumbered from 26-33a-109, as last amended by Laws of Utah 2021, Chapter 277)
26B-8-509, (Renumbered from 26-33a-110, as enacted by Laws of Utah 1990, Chapter 305)
26B-8-510, (Renumbered from 26-33a-111, as last amended by Laws of Utah 2011, Chapter 297)
26B-8-511, (Renumbered from 26-33a-115, as enacted by Laws of Utah 2013, Chapter 102)
26B-8-512, (Renumbered from 26-33a-116, as enacted by Laws of Utah 2019, Chapter 287)
26B-8-513, (Renumbered from 26-33a-117, as enacted by Laws of Utah 2020, Chapter 181)
26B-8-514, (Renumbered from 26-70-102, as enacted by Laws of Utah 2022, Chapter 327)

Utah Code Sections Affected by Coordination Clause:
26-2-2, as last amended by Laws of Utah 2022, Chapter 415
26-2-11, as last amended by Laws of Utah 1995, Chapter 202
26B-8-101, as enacted by Laws of Utah 2022, Chapter 255
26B-8-111, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-3-101 is amended to read:

CHAPTER 3. HEALTH CARE - ADMINISTRATION AND ASSISTANCE

Part 1. Health Care Assistance

26B-3-101. Definitions.

[~~Reserved~~]

As used in this chapter:

(1) "Applicant" means any person who requests assistance under the medical programs of the state.

(2) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(3) "Division" means the Division of Integrated Healthcare within the department, established under Section 26B-3-102.

(4) "Enrollee" or "member" means an individual whom the department has determined to be eligible for assistance under the Medicaid program.

(5) "Medicaid program" means the state program for medical assistance for persons who are eligible under the state plan adopted pursuant to Title XIX of the federal Social Security Act.

(6) "Medical assistance" means services furnished or payments made to or on behalf of a member.

(7) (a) "Passenger vehicle" means a self-propelled, two-axle vehicle intended primarily for operation on highways and used by an applicant or recipient to meet basic transportation needs and has a fair market value below 40% of the applicable amount of the federal luxury passenger automobile tax established in 26 U.S.C. Sec. 4001 and adjusted annually for inflation.

(b) "Passenger vehicle" does not include:

(i) a commercial vehicle, as defined in Section 41-1a-102;

(ii) an off-highway vehicle, as defined in Section 41-1a-102; or

(iii) a motor home, as defined in Section 13-14-102.

(8) "PPACA" means the same as that term is defined in Section 31A-1-301.

(9) "Recipient" means a person who has received medical assistance under the Medicaid program.

Section 2. Section 26B-3-102, which is renumbered from Section 26-18-2.1 is renumbered and amended to read:

[~~26-18-2.1~~]. 26B-3-102. Division -- Creation.

There is created, within the department, the Division of [~~Medicaid and Health Financing~~] Integrated Healthcare which shall be responsible for implementing, organizing, and maintaining the Medicaid program and the Children's Health Insurance Program established in Section [~~26-40-103~~] 26B-3-902, in accordance with the provisions of this chapter and applicable federal law.

Section 3. Section 26B-3-103, which is renumbered from Section 26-18-2.2 is renumbered and amended to read:

[~~26-18-2.2~~]. 26B-3-103. State Medicaid director -- Appointment -- Responsibilities.

(1) The state Medicaid director shall be appointed by the governor, after consultation with the executive director, with the advice and consent of the Senate.

(2) The state Medicaid director may employ other employees as necessary to implement the provisions of this chapter, and shall:

[~~(1)~~] (a) administer the responsibilities of the division as set forth in this chapter;

[~~(2)~~] (b) administer the division's budget; and

[~~(3)~~] (c) establish and maintain a state plan for the Medicaid program in compliance with federal law and regulations.

Section 4. Section 26B-3-104, which is renumbered from Section 26-18-2.3 is renumbered and amended to read:

[~~26-18-2.3~~]. 26B-3-104. Division responsibilities -- Emphasis -- Periodic assessment.

(1) In accordance with the requirements of Title XIX of the Social Security Act and applicable federal regulations, the division is responsible for the effective and impartial administration of this chapter in an efficient, economical manner. The division shall:

(a) establish, on a statewide basis, a program to safeguard against unnecessary or inappropriate use of Medicaid services, excessive payments, and unnecessary or inappropriate hospital admissions or lengths of stay;

(b) deny any provider claim for services that fail to meet criteria established by the division concerning medical necessity or appropriateness; and

(c) place its emphasis on high quality care to recipients in the most economical and cost-effective manner possible, with regard to both publicly and privately provided services.

(2) The division shall implement and utilize cost-containment methods, where possible, which may include:

(a) prepayment and postpayment review systems to determine if utilization is reasonable and necessary;

(b) preadmission certification of nonemergency admissions;

(c) mandatory outpatient, rather than inpatient, surgery in appropriate cases;

(d) second surgical opinions;

(e) procedures for encouraging the use of outpatient services;

(f) consistent with Sections [~~26-18-2.4~~] 26B-3-105 and 58-17b-606, a Medicaid drug program;

(g) coordination of benefits; and

(h) review and exclusion of providers who are not cost effective or who have abused the Medicaid program, in accordance with the procedures and provisions of federal law and regulation.

(3) The state Medicaid director shall periodically assess the cost effectiveness and health implications of the existing Medicaid program, and consider alternative approaches to the provision of covered health and medical services through the Medicaid program, in order to reduce unnecessary or unreasonable utilization.

(4) (a) The department shall ensure Medicaid program integrity by conducting internal audits of the Medicaid program for efficiencies, best practices, and cost avoidance.

(b) The department shall coordinate with the Office of the Inspector General for Medicaid Services created in Section 63A-13-201 to implement Subsection (2) and to address Medicaid fraud, waste, or abuse as described in Section 63A-13-202.

Section 5. Section 26B-3-105, which is renumbered from Section 26-18-2.4 is renumbered and amended to read:

[~~26-18-2.4~~]. 26B-3-105. Medicaid drug program -- Preferred drug list.

(1) A Medicaid drug program developed by the department under Subsection [~~26-18-2.3~~] 26B-3-104(2)(f):

(a) shall, notwithstanding Subsection [~~26-18-2.3~~] 26B-3-104(1)(b), be based on clinical and cost-related factors which include medical necessity as determined by a provider in accordance with administrative rules established by the Drug Utilization Review Board;

(b) may include therapeutic categories of drugs that may be exempted from the drug program;

(c) may include placing some drugs, except the drugs described in Subsection (2), on a preferred drug list:

(i) to the extent determined appropriate by the department; and

(ii) in the manner described in Subsection (3) for psychotropic drugs;

(d) notwithstanding the requirements of [~~Part 2,~~] Sections 26B-3-302 through 26B-3-309 regarding the Drug Utilization Review Board, and except as provided in Subsection (3), shall immediately implement the prior authorization requirements for a nonpreferred drug that is in the same therapeutic class as a drug that is:

(i) on the preferred drug list on the date that this act takes effect; or

(ii) added to the preferred drug list after this act takes effect; and

(e) except as prohibited by Subsections 58-17b-606(4) and (5), shall establish the prior authorization requirements established under Subsections (1)(c) and (d) which shall permit a health care provider or the health care provider's agent to obtain a prior authorization override of the preferred drug list through the department's pharmacy prior authorization review process, and which shall:

(i) provide either telephone or fax approval or denial of the request within 24 hours of the receipt of a request that is submitted during normal business hours of Monday through Friday from 8 a.m. to 5 p.m.;

(ii) provide for the dispensing of a limited supply of a requested drug as determined appropriate by the department in an emergency situation, if the request for an override is received outside of the department's normal business hours; and

(iii) require the health care provider to provide the department with documentation of the medical need for the preferred drug list override in accordance with criteria established by the department in consultation with the Pharmacy and Therapeutics Committee.

(2) (a) [~~For purposes of~~] As used in this Subsection (2):

(i) "Immunosuppressive drug":

(A) means a drug that is used in immunosuppressive therapy to inhibit or prevent activity of the immune system to aid the body in preventing the rejection of transplanted organs and tissue; and

(B) does not include drugs used for the treatment of autoimmune disease or diseases that are most likely of autoimmune origin.

(ii) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical state within the past 90 days using a particular psychotropic drug.

(b) A preferred drug list developed under the provisions of this section may not include an immunosuppressive drug.

(c) (i) The state Medicaid program shall reimburse for a prescription for an immunosuppressive drug as written by the health care provider for a patient who has undergone an organ transplant.

(ii) For purposes of Subsection 58-17b-606(4), and with respect to patients who have undergone an organ transplant, the prescription for a particular immunosuppressive drug as written by a health care provider meets the criteria of demonstrating to the department a medical necessity for dispensing the prescribed immunosuppressive drug.

(d) Notwithstanding the requirements of [~~Part 2,~~] Sections 26B-3-302 through 26B-3-309 regarding the Drug Utilization Review Board, the state Medicaid drug program may not require the use of

step therapy for immunosuppressive drugs without the written or oral consent of the health care provider and the patient.

(e) The department may include a sedative hypnotic on a preferred drug list in accordance with Subsection (2)(f).

(f) The department shall grant a prior authorization for a sedative hypnotic that is not on the preferred drug list under Subsection (2)(e), if the health care provider has documentation related to one of the following conditions for the Medicaid client:

(i) a trial and failure of at least one preferred agent in the drug class, including the name of the preferred drug that was tried, the length of therapy, and the reason for the discontinuation;

(ii) detailed evidence of a potential drug interaction between current medication and the preferred drug;

(iii) detailed evidence of a condition or contraindication that prevents the use of the preferred drug;

(iv) objective clinical evidence that a patient is at high risk of adverse events due to a therapeutic interchange with a preferred drug;

(v) the patient is a new or previous Medicaid client with an existing diagnosis previously stabilized with a nonpreferred drug; or

(vi) other valid reasons as determined by the department.

(g) A prior authorization granted under Subsection (2)(f) is valid for one year from the date the department grants the prior authorization and shall be renewed in accordance with Subsection (2)(f).

(3) (a) ~~[For purposes of]~~ As used in this Subsection (3), "psychotropic drug" means the following classes of drugs:

(i) atypical anti-psychotic;

(ii) anti-depressant;

(iii) anti-convulsant/mood stabilizer;

(iv) anti-anxiety; and

(v) attention deficit hyperactivity disorder stimulant.

(b) (i) The department shall develop a preferred drug list for psychotropic drugs.

(ii) Except as provided in Subsection (3)(d), a preferred drug list for psychotropic drugs developed under this section shall allow a health care provider to override the preferred drug list by writing "dispense as written" on the prescription for the psychotropic drug.

(iii) A health care provider may not override Section 58-17b-606 by writing "dispense as written" on a prescription.

(c) The department, and a Medicaid accountable care organization that is responsible for providing behavioral health, shall:

(i) establish a system to:

(A) track health care provider prescribing patterns for psychotropic drugs;

(B) educate health care providers who are not complying with the preferred drug list; and

(C) implement peer to peer education for health care providers whose prescribing practices continue to not comply with the preferred drug list; and

(ii) determine whether health care provider compliance with the preferred drug list is at least:

(A) 55% of prescriptions by July 1, 2017;

(B) 65% of prescriptions by July 1, 2018; and

(C) 75% of prescriptions by July 1, 2019.

(d) Beginning October 1, 2019, the department shall eliminate the dispense as written override for the preferred drug list, and shall implement a prior authorization system for psychotropic drugs, in accordance with Subsection (2)(f), if by July 1, 2019, the department has not realized annual savings from implementing the preferred drug list for psychotropic drugs of at least $750,000 General Fund savings.

Section 6. Section 26B-3-106, which is renumbered from Section 26-18-2.5 is renumbered and amended to read:

~~[26-18-2.5]~~. 26B-3-106. Simplified enrollment and renewal process for Medicaid and other state medical programs -- Financial institutions.

(1) The department may apply for grants and accept donations to make technology system improvements necessary to implement a simplified enrollment and renewal process for the Medicaid program, Utah Premium Partnership, and Primary Care Network Demonstration Project programs.

(2) (a) The department may enter into an agreement with a financial institution doing business in the state to develop and operate a data match system to identify an applicant's or enrollee's assets that:

(i) uses automated data exchanges to the maximum extent feasible; and

(ii) requires a financial institution each month to provide the name, record address, Social Security number, other taxpayer identification number, or other identifying information for each applicant or enrollee who maintains an account at the financial institution.

(b) The department may pay a reasonable fee to a financial institution for compliance with this Subsection (2), as provided in Section 7-1-1006.

(c) A financial institution may not be liable under any federal or state law to any person for any disclosure of information or action taken in good faith under this Subsection (2).

(d) The department may disclose a financial record obtained from a financial institution under this section only for the purpose of, and to the extent necessary in, verifying eligibility as provided in this section and Section [~~26-40-105~~] 26B-3-903.

Section 7. Section 26B-3-107, which is renumbered from Section 26-18-2.6 is renumbered and amended to read:

[~~26-18-2.6~~]. 26B-3-107. Dental benefits.

(1) (a) Except as provided in Subsection (8), the division may establish a competitive bid process to bid out Medicaid dental benefits under this chapter.

(b) The division may bid out the Medicaid dental benefits separately from other program benefits.

(2) The division shall use the following criteria to evaluate dental bids:

(a) ability to manage dental expenses;

(b) proven ability to handle dental insurance;

(c) efficiency of claim paying procedures;

(d) provider contracting, discounts, and adequacy of network; and

(e) other criteria established by the department.

(3) The division shall request bids for the program's benefits at least once every five years.

(4) The division's contract with dental plans for the program's benefits shall include risk sharing provisions in which the dental plan must accept 100% of the risk for any difference between the division's premium payments per client and actual dental expenditures.

(5) The division may not award contracts to:

(a) more than three responsive bidders under this section; or

(b) an insurer that does not have a current license in the state.

(6) (a) The division may cancel the request for proposals if:

(i) there are no responsive bidders; or

(ii) the division determines that accepting the bids would increase the program's costs.

(b) If the division cancels a request for proposal or a contract that results from a request for proposal described in Subsection (6)(a), the division shall report to the Health and Human Services Interim Committee regarding the reasons for the decision.

(7) Title 63G, Chapter 6a, Utah Procurement Code, shall apply to this section.

(8) (a) The division may:

(i) establish a dental health care delivery system and payment reform pilot program for Medicaid dental benefits to increase access to cost effective and quality dental health care by increasing the number of dentists available for Medicaid dental services; and

(ii) target specific Medicaid populations or geographic areas in the state.

(b) The pilot program shall establish compensation models for dentists and dental hygienists that:

(i) increase access to quality, cost effective dental care; and

(ii) use funds from the Division of Family Health and Preparedness that are available to reimburse dentists for educational loans in exchange for the dentist agreeing to serve Medicaid and under-served populations.

(c) The division may amend the state plan and apply to the Secretary of the United States Department of Health and Human Services for waivers or pilot programs if necessary to establish the new dental care delivery and payment reform model.

(d) The division shall evaluate the pilot program's effect on the cost of dental care and access to dental care for the targeted Medicaid populations.

(9) (a) As used in this Subsection (9), "dental hygienist" means an individual who is licensed as a dental hygienist under Section 58-69-301.

(b) The department shall reimburse a dental hygienist for dental services performed in a public health setting and in accordance with Subsection (9)(c) beginning on the earlier of:

(i) January 1, 2023; or

(ii) 30 days after the date on which the replacement of the department's Medicaid Management Information System software is complete.

(c) The department shall reimburse a dental hygienist directly for a service provided through the Medicaid program if:

(i) the dental hygienist requests to be reimbursed directly; and

(ii) the dental hygienist provides the service within the scope of practice described in Section 58-69-801.

(d) Before November 30 of each year in which the department reimburses dental hygienists in accordance with Subsection (9)(c), the department shall report to the Health and Human Services Interim Committee, for the previous fiscal year:

(i) the number and geographic distribution of dental hygienists who requested to be reimbursed directly;

(ii) the total number of Medicaid enrollees who were served by a dental hygienist who were reimbursed under this Subsection (9);

(iii) the total amount reimbursed directly to dental hygienists under this Subsection (9);

(iv) the specific services and billing codes that are reimbursed under this Subsection (9); and

(v) the aggregate amount reimbursed for each service and billing code described in Subsection (9)(d)(iv).

(e) (i) Except as provided in this Subsection (9), nothing in this Subsection (9) shall be interpreted as expanding or otherwise altering the limitations and scope of practice for a dental hygienist.

(ii) A dental hygienist may only directly bill and receive compensation for billing codes that fall within the scope of practice of a dental hygienist.

Section 8. Section 26B-3-108, which is renumbered from Section 26-18-3 is renumbered and amended to read:

[~~26-18-3~~]. 26B-3-108. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section [~~26-1-37~~] 26B-8-411 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

(i) implements a change in the Medicaid State Plan;

(ii) initiates a new Medicaid waiver;

(iii) initiates an amendment to an existing Medicaid waiver;

(iv) applies for an extension of an application for a waiver or an existing Medicaid waiver;

(v) applies for or receives approval for a change in any capitation rate within the Medicaid program; or

(vi) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

(i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and

(ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with [~~the Department of Human Services or~~] other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section [~~26-20-13~~] 26B-3-1113, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7) are nonlapsing.

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or [~~Chapter 40~~] Part 9, Utah Children's Health Insurance [~~Act~~] Program, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) [~~For purposes of~~] As used in this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

(11) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

(b) A health opportunity account established under Subsection (11)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.

(c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.

(12) (a) (i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection (12) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection (12)(b) for eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection (12)(a)(i), the department shall:

(i) disregard resources held in an account in the savings plan created under Title 53B, Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:

(A) under the age of 26; and

(B) living with the account owner, as that term is defined in Section 53B-8a-102, or temporarily absent from the residence of the account owner; and

(ii) include the withdrawals from an account in the Utah Educational Savings Plan as resources for a benefit determination, if the withdrawal was not used for qualified higher education costs as that term is defined in Section 53B-8a-102.5.

(13) (a) The department may not deny or terminate eligibility for Medicaid solely because an individual is:

(i) incarcerated; and

(ii) not an inmate as defined in Section 64-13-1.

(b) Subsection (13)(a) does not require the Medicaid program to provide coverage for any services for an individual while the individual is incarcerated.

(14) The department is a party to, and may intervene at any time in, any judicial or administrative action:

(a) to which the Department of Workforce Services is a party; and

(b) that involves medical assistance under[~~:~~] this chapter.

[~~(i) Title 26, Chapter 18, Medical Assistance Act; or~~]

[~~(ii) Title 26, Chapter 40, Utah Children's Health Insurance Act.~~]

Section 9. Section 26B-3-109, which is renumbered from Section 26-18-3.1 is renumbered and amended to read:

[~~26-18-3.1~~]. 26B-3-109. Medicaid expansion.

(1) The purpose of this section is to expand the coverage of the Medicaid program to persons who are in categories traditionally not served by that program.

(2) Within appropriations from the Legislature, the department may amend the state plan for medical assistance to provide for eligibility for Medicaid:

(a) on or after July 1, 1994, for children 12 to 17 years old who live in households below the federal poverty income guideline; and

(b) on or after July 1, 1995, for persons who have incomes below the federal poverty income guideline and who are aged, blind, or have a disability.

(3) (a) Within appropriations from the Legislature, on or after July 1, 1996, the Medicaid program may provide for eligibility for persons who have incomes below the federal poverty income guideline.

(b) In order to meet the provisions of this subsection, the department may seek approval for a demonstration project under 42 U.S.C. Sec. 1315 from the secretary of the United States Department of Health and Human Services.

(4) The Medicaid program shall provide for eligibility for persons as required by Subsection [~~26-18-3.9~~] 26B-3-113(2).

(5) Services available for persons described in this section shall include required Medicaid services and may include one or more optional Medicaid services if those services are funded by the Legislature. The department may also require persons described in Subsections (1) through (3) to meet an asset test.

Section 10. Section 26B-3-110, which is renumbered from Section 26-18-3.5 is renumbered and amended to read:

[~~26-18-3.5~~]. 26B-3-110. Copayments by recipients -- Employer sponsored plans.

(1) The department shall selectively provide for enrollment fees, premiums, deductions, cost sharing or other similar charges to be paid by recipients, their spouses, and parents, within the limitations of federal law and regulation.

(2) Beginning May 1, 2006, within appropriations by the Legislature and as a means to increase health care coverage among the uninsured, the department shall take steps to promote increased participation in employer sponsored health insurance, including:

(a) maximizing the health insurance premium subsidy provided under the state's 1115 demonstration waiver by:

(i) ensuring that state funds are matched by federal funds to the greatest extent allowable; and

(ii) as the department determines appropriate, seeking federal approval to do one or more of the following:

(A) eliminate or otherwise modify the annual enrollment fee;

(B) eliminate or otherwise modify the schedule used to determine the level of subsidy provided to an enrollee each year;

(C) reduce the maximum number of participants allowable under the subsidy program; or

(D) otherwise modify the program in a manner that promotes enrollment in employer sponsored health insurance; and

(b) exploring the use of other options, including the development of a waiver under the Medicaid Health Insurance Flexibility Demonstration Initiative or other federal authority.

Section 11. Section 26B-3-111, which is renumbered from Section 26-18-3.6 is renumbered and amended to read:

[~~26-18-3.6~~]. 26B-3-111. Income and resources from institutionalized spouses.

(1) As used in this section:

(a) "Community spouse" means the spouse of an institutionalized spouse.

(b) (i) "Community spouse monthly income allowance" means an amount by which the minimum monthly maintenance needs allowance for the spouse exceeds the amount of monthly income otherwise available to the community spouse, determined without regard to the allowance, except as provided in Subsection (1)(b)(ii).

(ii) If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse may not be less than the amount of the monthly income so ordered.

(c) "Community spouse resource allowance" is the amount of combined resources that are protected for a community spouse living in the community, which the division shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, based on the amounts established by the United States Department of Health and Human Services.

(d) "Excess shelter allowance" for a community spouse means the amount by which the sum of the spouse's expense for rent or mortgage payment, taxes, and insurance, and in the case of condominium or cooperative, required maintenance charge, for the community spouse's principal residence and the spouse's actual expenses for electricity, natural gas, and water utilities or, at the discretion of the department, the federal standard utility allowance under SNAP as defined in Section 35A-1-102, exceeds 30% of the amount described in Subsection (9).

(e) "Family member" means a minor dependent child, dependent parents, or dependent sibling of the institutionalized spouse or community spouse who are residing with the community spouse.

(f) (i) "Institutionalized spouse" means a person who is residing in a nursing facility and is married to a spouse who is not in a nursing facility.

(ii) An "institutionalized spouse" does not include a person who is not likely to reside in a nursing facility for at least 30 consecutive days.

(g) "Nursing care facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(2) The division shall comply with this section when determining eligibility for medical assistance for an institutionalized spouse.

(3) For services furnished during a calendar year beginning on or after January 1, 1999, the community spouse resource allowance shall be increased by the division by an amount as determined annually by CMS.

(4) The division shall compute, as of the beginning of the first continuous period of institutionalization of the institutionalized spouse:

(a) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest; and

(b) a spousal share, which is 1/2 of the resources described in Subsection (4)(a).

(5) At the request of an institutionalized spouse or a community spouse, at the beginning of the first continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the division shall promptly assess and document the total value described in Subsection (4)(a) and shall provide a copy of that assessment and documentation to each spouse and shall retain a copy of the assessment. When the division provides a copy of the assessment, it shall include a notice stating that the spouse may request a hearing under Subsection (11).

(6) When determining eligibility for medical assistance under this chapter:

(a) Except as provided in Subsection (6)(b), all resources held by either the institutionalized spouse, community spouse, or both, are considered to be available to the institutionalized spouse.

(b) Resources are considered to be available to the institutionalized spouse only to the extent that the amount of those resources exceeds the community spouse resource allowance at the time of application for medical assistance under this chapter.

(7) (a) The division may not find an institutionalized spouse to be ineligible for medical assistance by reason of resources determined under Subsection (5) to be available for the cost of care when:

(i) the institutionalized spouse has assigned to the state any rights to support from the community spouse;

(ii) except as provided in Subsection (7)(b), the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment; or

(iii) the division determines that denial of medical assistance would cause an undue burden.

(b) Subsection (7)(a)(ii) does not prevent the division from seeking a court order for an assignment of support.

(8) During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is eligible for medical assistance, the resources of the community spouse may not be considered to be available to the institutionalized spouse.

(9) When an institutionalized spouse is determined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly for the cost of care in the nursing care facility, the division shall deduct from the spouse's monthly income the following amounts in the following order:

(a) a personal needs allowance, the amount of which is determined by the division;

(b) a community spouse monthly income allowance, but only to the extent that the income of the institutionalized spouse is made available to, or for the benefit of, the community spouse;

(c) a family allowance for each family member, equal to at least 1/3 of the amount that the amount described in Subsection (10)(a) exceeds the amount of the family member's monthly income; and

(d) amounts for incurred expenses for the medical or remedial care for the institutionalized spouse.

(10) The division shall establish a minimum monthly maintenance needs allowance for each community spouse that includes:

(a) an amount established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, based on the amounts established by the United States Department of Health and Human Services; and

(b) an excess shelter allowance.

(11) (a) An institutionalized spouse or a community spouse may request a hearing with

respect to the determinations described in Subsections (11)(e)(i) through (v) if an application for medical assistance has been made on behalf of the institutionalized spouse.

(b) A hearing under this subsection regarding the community spouse resource allowance shall be held by the division within 90 days from the date of the request for the hearing.

(c) If either spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance provided under Subsection (10), an amount adequate to provide additional income as is necessary.

(d) If either spouse establishes that the community spouse resource allowance, in relation to the amount of income generated by the allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance, an amount adequate to provide a minimum monthly maintenance needs allowance.

(e) A hearing may be held under this subsection if either the institutionalized spouse or community spouse is dissatisfied with a determination of:

(i) the community spouse monthly income allowance;

(ii) the amount of monthly income otherwise available to the community spouse;

(iii) the computation of the spousal share of resources under Subsection (4);

(iv) the attribution of resources under Subsection (6); or

(v) the determination of the community spouse resource allocation.

(12) (a) An institutionalized spouse may transfer an amount equal to the community spouse resource allowance, but only to the extent the resources of the institutionalized spouse are transferred to or for the sole benefit of the community spouse.

(b) The transfer under Subsection (12)(a) shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account the time necessary to obtain a court order under Subsection (12)(c).

(c) [~~Chapter 19, Medical Benefits Recovery Act~~] Part 10, Medical Benefits Recovery, does not apply if a court has entered an order against an institutionalized spouse for the support of the community spouse.

Section 12. Section 26B-3-112, which is renumbered from Section 26-18-3.8 is renumbered and amended to read:

[~~26-18-3.8~~]. 26B-3-112. Maximizing use of premium assistance programs -- Utah's Premium Partnership for Health Insurance.

(1) (a) The department shall seek to maximize the use of Medicaid and Children's Health Insurance Program funds for assistance in the purchase of private health insurance coverage for Medicaid-eligible and non-Medicaid-eligible individuals.

(b) The department's efforts to expand the use of premium assistance shall:

(i) include, as necessary, seeking federal approval under all Medicaid and Children's Health Insurance Program premium assistance provisions of federal law, including provisions of [~~the Patient Protection and Affordable Care Act, Public Law 111-148~~] PPACA;

(ii) give priority to, but not be limited to, expanding the state's Utah Premium Partnership for Health Insurance Program, including as required under Subsection (2); and

(iii) encourage the enrollment of all individuals within a household in the same plan, where possible, including enrollment in a plan that allows individuals within the household transitioning out of Medicaid to retain the same network and benefits they had while enrolled in Medicaid.

(2) The department shall seek federal approval of an amendment to the state's Utah Premium Partnership for Health Insurance program to adjust the eligibility determination for single adults and parents who have an offer of employer sponsored insurance. The amendment shall:

(a) be within existing appropriations for the Utah Premium Partnership for Health Insurance program; and

(b) provide that adults who are up to 200% of the federal poverty level are eligible for premium subsidies in the Utah Premium Partnership for Health Insurance program.

(3) For the fiscal year 2020-21, the department shall seek authority to increase the maximum premium subsidy per month for adults under the Utah Premium Partnership for Health Insurance program to $300.

(4) Beginning with the fiscal year 2021-22, and in each subsequent fiscal year, the department may increase premium subsidies for single adults and parents who have an offer of employer-sponsored insurance to keep pace with the increase in insurance premium costs, subject to appropriation of additional funding.

Section 13. Section 26B-3-113, which is renumbered from Section 26-18-3.9 is renumbered and amended to read:

[~~26-18-3.9~~]. 26B-3-113. Expanding the Medicaid program.

(1) As used in this section:

[~~(a) "CMS" means the Centers for Medicare and Medicaid Services in the United States Department of Health and Human Services.~~]

[~~(b)~~] (a) "Federal poverty level" means the same as that term is defined in Section [~~26-18-411~~] 26B-3-207.

[~~(c)~~] (b) "Medicaid expansion" means an expansion of the Medicaid program in accordance with this section.

[~~(d)~~] (c) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in Section [~~26-36b-208~~] 26B-1-315.

(2) (a) As set forth in Subsections (2) through (5), eligibility criteria for the Medicaid program shall be expanded to cover additional low-income individuals.

(b) The department shall continue to seek approval from CMS to implement the Medicaid waiver expansion as defined in Section [~~26-18-415~~] 26B-1-112.

(c) The department may implement any provision described in Subsections [~~26-18-415~~] 26B-3-112(2)(b)(iii) through (viii) in a Medicaid expansion if the department receives approval from CMS to implement that provision.

(3) The department shall expand the Medicaid program in accordance with this Subsection (3) if the department:

(a) receives approval from CMS to:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for enrolling an individual in the Medicaid expansion under this Subsection (3); and

(iii) permit the state to close enrollment in the Medicaid expansion under this Subsection (3) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (3);

(b) pays the state portion of costs for the Medicaid expansion under this Subsection (3) with funds from:

(i) the Medicaid Expansion Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(c) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (3) if the department projects that the cost of the Medicaid expansion under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(4) (a) The department shall expand the Medicaid program in accordance with this Subsection (4) if the department:

(i) receives approval from CMS to:

(A) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid expansion under this Subsection (4); and

(C) permit the state to close enrollment in the Medicaid expansion under this Subsection (4) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (4);

(ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4) with funds from:

(A) the Medicaid Expansion Fund;

(B) county contributions to the nonfederal share of Medicaid expenditures; or

(C) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(iii) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (4) if the department projects that the cost of the Medicaid expansion under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(b) The department shall submit a waiver, an amendment to an existing waiver, or a state plan amendment to CMS to:

(i) administer federal funds for the Medicaid expansion under this Subsection (4) according to a per capita cap developed by the department that includes an annual inflationary adjustment, accounts for differences in cost among categories of Medicaid expansion enrollees, and provides greater flexibility to the state than the current Medicaid payment model;

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (4);

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (4) violates certain program requirements as defined by the department;

(iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to remain in the Medicaid program for up to a 12-month certification period as defined by the department; and

(v) allow federal Medicaid funds to be used for housing support for eligible enrollees in the Medicaid expansion under this Subsection (4).

(5) (a) (i) If CMS does not approve a waiver to expand the Medicaid program in accordance with Subsection (4)(a) on or before January 1, 2020, the department shall develop proposals to implement additional flexibilities and cost controls, including cost sharing tools, within a Medicaid expansion under this Subsection (5) through a request to CMS for a waiver or state plan amendment.

(ii) The request for a waiver or state plan amendment described in Subsection (5)(a)(i) shall include:

(A) a path to self-sufficiency for qualified adults in the Medicaid expansion that includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and

(B) a requirement that an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan.

(iii) The department shall submit the request for a waiver or state plan amendment developed under Subsection (5)(a)(i) on or before March 15, 2020.

(b) Notwithstanding Sections [~~26-18-18~~] 26B-3-127 and 63J-5-204, and in accordance with this Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in the optional Medicaid expansion population under [~~the Patient Protection and Affordable Care Act, Pub. L. No. 111-148~~] PPACA and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance, on the earlier of:

(i) the day on which CMS approves a waiver to implement the provisions described in Subsections (5)(a)(ii)(A) and (B); or

(ii) July 1, 2020.

(c) The department shall seek a waiver, or an amendment to an existing waiver, from federal law to:

(i) implement each provision described in Subsections [~~26-18-415~~] 26B-3-210(2)(b)(iii) through (viii) in a Medicaid expansion under this Subsection (5);

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (5); and

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (5) violates certain program requirements as defined by the department.

(d) The eligibility criteria in this Subsection (5) shall be construed to include all individuals eligible for the health coverage improvement program under Section [~~26-18-411~~] 26B-3-207.

(e) The department shall pay the state portion of costs for a Medicaid expansion under this Subsection (5) entirely from:

(i) the Medicaid Expansion Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures.

(f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds available under Subsection (5)(e):

(i) the department may reduce or eliminate optional Medicaid services under this chapter; [~~and~~]

(ii) savings, as determined by the department, from the reduction or elimination of optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid Expansion Fund; and

(iii) the department may submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary to implement budget controls within the Medicaid program to address the deficiency.

(g) If the costs of the Medicaid expansion under this Subsection (5) are projected by the department to exceed the funds available in the current fiscal year under Subsection (5)(e), including savings resulting from any action taken under Subsection (5)(f):

(i) the governor shall direct the [~~Department of Health, Department of Human Services,~~] department and Department of Workforce Services to reduce commitments and expenditures by an amount sufficient to offset the deficiency:

(A) proportionate to the share of total current fiscal year General Fund appropriations for each of those agencies; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations;

(ii) the Division of Finance shall reduce allotments to the [~~Department of Health, Department of Human Services,~~] department and Department of Workforce Services by a percentage:

(A) proportionate to the amount of the deficiency; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations; and

(iii) the Division of Finance shall deposit the total amount from the reduced allotments described in Subsection (5)(g)(ii) into the Medicaid Expansion Fund.

(6) The department shall maximize federal financial participation in implementing this section, including by seeking to obtain any necessary federal approvals or waivers.

(7) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing

Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under a Medicaid expansion.

(8) The department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that a Medicaid expansion is operational:

(a) the number of individuals who enrolled in the Medicaid expansion;

(b) costs to the state for the Medicaid expansion;

(c) estimated costs to the state for the Medicaid expansion for the current and following fiscal years;

(d) recommendations to control costs of the Medicaid expansion; and

(e) as calculated in accordance with Subsections [~~26-36b-204~~] 26B-3-506(4) and [~~26-36c-204~~] 26B-3-606(2), the state's net cost of the qualified Medicaid expansion.

Section 14. Section 26B-3-114, which is renumbered from Section 26-18-4 is renumbered and amended to read:

[~~26-18-4~~]. 26B-3-114. Department standards for eligibility under Medicaid -- Funds for abortions.

(1) (a) The department may develop standards and administer policies relating to eligibility under the Medicaid program as long as they are consistent with Subsection [~~26-18-3~~] 26B-4-704(8).

(b) An applicant receiving Medicaid assistance may be limited to particular types of care or services or to payment of part or all costs of care determined to be medically necessary.

(2) The department may not provide any funds for medical, hospital, or other medical expenditures or medical services to otherwise eligible persons where the purpose of the assistance is to perform an abortion, unless the life of the mother would be endangered if an abortion were not performed.

(3) Any employee of the department who authorizes payment for an abortion contrary to the provisions of this section is guilty of a class B misdemeanor and subject to forfeiture of office.

(4) Any person or organization that, under the guise of other medical treatment, provides an abortion under auspices of the Medicaid program is guilty of a third degree felony and subject to forfeiture of license to practice medicine or authority to provide medical services and treatment.

Section 15. Section 26B-3-115, which is renumbered from Section 26-18-5 is renumbered and amended to read:

[~~26-18-5~~]. 26B-3-115. Contracts for provision of medical services -- Federal provisions modifying department rules -- Compliance with Social Security Act.

(1) The department may contract with other public or private agencies to purchase or provide medical services in connection with the programs of the division. Where these programs are used by other government entities, contracts shall provide that other government entities, in compliance with state and federal law regarding intergovernmental transfers, transfer the state matching funds to the department in amounts sufficient to satisfy needs of the specified program.

(2) Contract terms shall include provisions for maintenance, administration, and service costs.

(3) If a federal legislative or executive provision requires modifications or revisions in an eligibility factor established under this chapter as a condition for participation in medical assistance, the department may modify or change its rules as necessary to qualify for participation.

(4) The provisions of this section do not apply to department rules governing abortion.

(5) The department shall comply with all pertinent requirements of the Social Security Act and all orders, rules, and regulations adopted thereunder when required as a condition of participation in benefits under the Social Security Act.

Section 16. Section 26B-3-116, which is renumbered from Section 26-18-5.5 is renumbered and amended to read:

[~~26-18-5.5~~]. 26B-3-116. Liability insurance required.

The Medicaid program may not reimburse a home health agency, as defined in Section [~~26-21-2~~] 26B-2-201, for home health services provided to an enrollee unless the home health agency has liability coverage of:

(1) at least $500,000 per incident; or

(2) an amount established by department rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 17. Section 26B-3-117, which is renumbered from Section 26-18-6 is renumbered and amended to read:

[~~26-18-6~~]. 26B-3-117. Federal aid -- Authority of executive director.

(1) The executive director, with the approval of the governor, may bind the state to any executive or legislative provisions promulgated or enacted by the federal government which invite the state to participate in the distribution, disbursement or administration of any fund or service advanced, offered or contributed in whole or in part by the federal government for purposes consistent with the powers and duties of the department.

(2) Such funds shall be used as provided in this chapter and be administered by the department for purposes related to medical assistance programs.

Section 18. Section 26B-3-118, which is renumbered from Section 26-18-7 is renumbered and amended to read:

[~~26-18-7~~]. 26B-3-118. Medical vendor rates.

(1) Medical vendor payments made to providers of services for and in behalf of recipient households shall be based upon predetermined rates from standards developed by the division in cooperation with providers of services for each type of service purchased by the division.

(2) As far as possible, the rates paid for services shall be established in advance of the fiscal year for which funds are to be requested.

Section 19. Section 26B-3-119, which is renumbered from Section 26-18-8 is renumbered and amended to read:

[~~26-18-8~~]. 26B-3-119. Enforcement of public assistance statutes.

(1) The department shall enforce or contract for the enforcement of Sections 35A-1-503, 35A-3-108, 35A-3-110, 35A-3-111, 35A-3-112, and 35A-3-603 to the extent that these sections pertain to benefits conferred or administered by the division under this chapter, to the extent allowed under federal law or regulation.

(2) The department may contract for services covered in Section 35A-3-111 insofar as that section pertains to benefits conferred or administered by the division under this chapter.

Section 20. Section 26B-3-120, which is renumbered from Section 26-18-9 is renumbered and amended to read:

[~~26-18-9~~]. 26B-3-120. Prohibited acts of state or local employees of Medicaid program -- Violation a misdemeanor.

(1) Each state or local employee responsible for the expenditure of funds under the state Medicaid program, each individual who formerly was such an officer or employee, and each partner of such an officer or employee is prohibited for a period of one year after termination of such responsibility from committing any act, the commission of which by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee is prohibited by Section 207 or Section 208 of Title 18, United States Code.

(2) Violation of this section is a class A misdemeanor.

Section 21. Section 26B-3-121, which is renumbered from Section 26-18-11 is renumbered and amended to read:

[~~26-18-11~~]. 26B-3-121. Rural hospitals.

(1) [~~For purposes of~~] As used in this section "rural hospital" means a hospital located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

(2) For purposes of the Medicaid program, the [~~Division of Medicaid and Health Financing~~] division may not discriminate among rural hospitals on the basis of size.

Section 22. Section 26B-3-122, which is renumbered from Section 26-18-13 is renumbered and amended to read:

[~~26-18-13~~]. 26B-3-122. Telemedicine -- Reimbursement -- Rulemaking.

(1) (a) As used in this section, communication by telemedicine is considered face-to-face contact between a health care provider and a patient under the state's medical assistance program if:

(i) the communication by telemedicine meets the requirements of administrative rules adopted in accordance with Subsection (3); and

(ii) the health care services are eligible for reimbursement under the state's medical assistance program.

(b) This Subsection (1) applies to any managed care organization that contracts with the state's medical assistance program.

(2) The reimbursement rate for telemedicine services approved under this section:

(a) shall be subject to reimbursement policies set by the state plan; and

(b) may be based on:

(i) a monthly reimbursement rate;

(ii) a daily reimbursement rate; or

(iii) an encounter rate.

(3) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which establish:

(a) the particular telemedicine services that are considered face-to-face encounters for reimbursement purposes under the state's medical assistance program; and

(b) the reimbursement methodology for the telemedicine services designated under Subsection (3)(a).

Section 23. Section 26B-3-123, which is renumbered from Section 26-18-13.5 is renumbered and amended to read:

[~~26-18-13.5~~]. 26B-3-123. Reimbursement of telemedicine services and telepsychiatric consultations.

(1) As used in this section:

(a) "Telehealth services" means the same as that term is defined in Section [~~26-60-102~~] 26B-4-704.

(b) "Telemedicine services" means the same as that term is defined in Section [~~26-60-102~~] 26B-4-704.

(c) "Telepsychiatric consultation" means a consultation between a physician and a board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in the state, that utilizes:

(i) the health records of the patient, provided from the patient or the referring physician;

(ii) a written, evidence-based patient questionnaire; and

(iii) telehealth services that meet industry security and privacy standards, including compliance with the:

(A) Health Insurance Portability and Accountability Act; and

(B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

(2) This section applies to:

(a) a managed care organization that contracts with the Medicaid program; and

(b) a provider who is reimbursed for health care services under the Medicaid program.

(3) The Medicaid program shall reimburse for telemedicine services at the same rate that the Medicaid program reimburses for other health care services.

(4) The Medicaid program shall reimburse for telepsychiatric consultations at a rate set by the Medicaid program.

Section 24. Section 26B-3-124, which is renumbered from Section 26-18-15 is renumbered and amended to read:

[~~26-18-15~~]. 26B-3-124. Process to promote health insurance coverage for children.

(1) The department, in collaboration with the Department of Workforce Services and the State Board of Education, shall develop a process to promote health insurance coverage for a child in school when:

(a) the child applies for free or reduced price school lunch;

(b) a child enrolls in or registers in school; and

(c) other appropriate school related opportunities.

(2) The department, in collaboration with the Department of Workforce Services, shall promote and facilitate the enrollment of children identified under Subsection (1) without health insurance in the Utah Children's Health Insurance Program, the Medicaid program, or the Utah Premium Partnership for Health Insurance Program.

Section 25. Section 26B-3-125, which is renumbered from Section 26-18-16 is renumbered and amended to read:

[~~26-18-16~~]. 26B-3-125. Medicaid -- Continuous eligibility -- Promoting payment and delivery reform.

(1) In accordance with Subsection (2), and within appropriations from the Legislature, the department may amend the state Medicaid plan to:

(a) create continuous eligibility for up to 12 months for an individual who has qualified for the state Medicaid program;

(b) provide incentives in managed care contracts for an individual to obtain appropriate care in appropriate settings; and

(c) require the managed care system to accept the risk of managing the Medicaid population assigned to the plan amendment in return for receiving the benefits of providing quality and cost effective care.

(2) If the department amends the state Medicaid plan under Subsection (1)(a) or (b), the department:

(a) shall ensure that the plan amendment:

(i) is cost effective for the state Medicaid program;

(ii) increases the quality and continuity of care for recipients; and

(iii) calculates and transfers administrative savings from continuous enrollment from the Department of Workforce Services to the [~~Department of Health~~] department; and

(b) may limit the plan amendment under Subsection (1)(a) or (b) to select geographic areas or specific Medicaid populations.

(3) The department may seek approval for a state plan amendment, waiver, or a demonstration project from the Secretary of the United States Department of Health and Human Services if necessary to implement a plan amendment under Subsection (1)(a) or (b).

Section 26. Section 26B-3-126, which is renumbered from Section 26-18-17 is renumbered and amended to read:

[~~26-18-17~~]. 26B-3-126. Patient notice of health care provider privacy practices.

(1) (a) For purposes of this section:

(i) "Health care provider" means a health care provider as defined in Section 78B-3-403 who:

(A) receives payment for medical services from the Medicaid program established in this chapter, or the Children's Health Insurance Program established in [~~Chapter 40, Utah Children's Health Insurance Act~~] Section 26B-3-902; and

(B) submits a patient's personally identifiable information to the Medicaid eligibility database or the Children's Health Insurance Program eligibility database.

(ii) "HIPAA" means 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996, as amended.

(b) Beginning July 1, 2013, this section applies to the Medicaid program, the Children's Health Insurance Program created in [~~Chapter 40, Utah Children's Health Insurance Act~~] Section 26B-3-902, and a health care provider.

(2) A health care provider shall, as part of the notice of privacy practices required by HIPAA, provide notice to the patient or the patient's personal representative that the health care provider either has, or may submit, personally identifiable information about the patient to the Medicaid eligibility database and the Children's Health Insurance Program eligibility database.

(3) The Medicaid program and the Children's Health Insurance Program may not give a health care provider access to the Medicaid eligibility database or the Children's Health Insurance Program eligibility database unless the health care provider's notice of privacy practices complies with Subsection (2).

(4) The department may adopt an administrative rule to establish uniform language for the state requirement regarding notice of privacy practices to patients required under Subsection (2).

Section 27. Section 26B-3-127, which is renumbered from Section 26-18-18 is renumbered and amended to read:

[~~26-18-18~~]. 26B-3-127. Optional Medicaid expansion.

(1) The department and the governor may not expand the state's Medicaid program under PPACA unless:

(a) the department expands Medicaid in accordance with Section [~~26-18-415~~] 26B-3-210; or

(b) (i) the governor or the governor's designee has reported the intention to expand the state Medicaid program under PPACA to the Legislature in compliance with the legislative review process in Section [~~26-18-3~~] 26B-3-108; and

(ii) the governor submits the request for expansion of the Medicaid program for optional populations to the Legislature under the high impact federal funds request process required by Section 63J-5-204.

(2) (a) The department shall request approval from CMS for waivers from federal statutory and regulatory law necessary to implement the health coverage improvement program under Section [~~26-18-411~~] 26B-3-207.

(b) The health coverage improvement program under Section [~~26-18-411~~] 26B-3-207 is not subject to the requirements in Subsection (1).

Section 28. Section 26B-3-128, which is renumbered from Section 26-18-19 is renumbered and amended to read:

[~~26-18-19~~]. 26B-3-128. Medicaid vision services -- Request for proposals.

The department may select one or more contractors, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide vision services to the Medicaid populations that are eligible for vision services, as described in department rules, without restricting provider participation, and within existing appropriations from the Legislature.

Section 29. Section 26B-3-129, which is renumbered from Section 26-18-20 is renumbered and amended to read:

[~~26-18-20~~]. 26B-3-129. Review of claims -- Audit and investigation procedures.

(1) (a) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with providers and health care professionals subject to audit and investigation under the state Medicaid program, to establish procedures for audits and investigations that are fair and consistent with the duties of the department as the single state agency responsible for the administration of the Medicaid program under Section [~~26-18-3~~] 26B-3-108 and Title XIX of the Social Security Act.

(b) If the providers and health care professionals do not agree with the rules proposed or adopted by the department under Subsection (1)(a), the providers or health care professionals may:

(i) request a hearing for the proposed administrative rule or seek any other remedies under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) request a review of the rule by the Legislature's Administrative Rules Review and General Oversight Committee created in Section 63G-3-501.

(2) The department shall:

(a) notify and educate providers and health care professionals subject to audit and investigation under the Medicaid program of the providers' and health care professionals' responsibilities and rights under the administrative rules adopted by the department under the provisions of this section;

(b) ensure that the department, or any entity that contracts with the department to conduct audits:

(i) has on staff or contracts with a medical or dental professional who is experienced in the treatment, billing, and coding procedures used by the type of provider being audited; and

(ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if the provider who is the subject of the audit disputes the findings of the audit;

(c) ensure that a finding of overpayment or underpayment to a provider is not based on extrapolation, as defined in Section 63A-13-102, unless:

(i) there is a determination that the level of payment error involving the provider exceeds a 10% error rate:

(A) for a sample of claims for a particular service code; and

(B) over a three year period of time;

(ii) documented education intervention has failed to correct the level of payment error; and

(iii) the value of the claims for the provider, in aggregate, exceeds $200,000 in reimbursement for a particular service code on an annual basis; and

(d) require that any entity with which the office contracts, for the purpose of conducting an audit of a service provider, shall be paid on a flat fee basis for

identifying both overpayments and underpayments.

(3) (a) If the department, or a contractor on behalf of the department:

(i) intends to implement the use of extrapolation as a method of auditing claims, the department shall, prior to adopting the extrapolation method of auditing, report its intent to use extrapolation to the Social Services Appropriations Subcommittee; and

(ii) determines Subsections (2)(c)(i) through (iii) are applicable to a provider, the department or the contractor may use extrapolation only for the service code associated with the findings under Subsections (2)(c)(i) through (iii).

(b) (i) If extrapolation is used under this section, a provider may, at the provider's option, appeal the results of the audit based on:

(A) each individual claim; or

(B) the extrapolation sample.

(ii) Nothing in this section limits a provider's right to appeal the audit under Title 63G, General Government, Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

Section 30. Section 26B-3-130, which is renumbered from Section 26-18-21 is renumbered and amended to read:

[~~26-18-21~~]. 26B-3-130. Medicaid intergovernmental transfer report -- Approval requirements.

(1) As used in this section:

(a) (i) "Intergovernmental transfer" means the transfer of public funds from:

(A) a local government entity to another nonfederal governmental entity; or

(B) from a nonfederal, government owned health care facility regulated under [~~Chapter 21, Health Care Facility Licensing and Inspection Act~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection, to another nonfederal governmental entity.

(ii) "Intergovernmental transfer" does not include:

(A) the transfer of public funds from one state agency to another state agency; or

(B) a transfer of funds from the University of Utah Hospitals and Clinics.

(b) (i) "Intergovernmental transfer program" means a federally approved reimbursement program or category that is authorized by the Medicaid state plan or waiver authority for intergovernmental transfers.

(ii) "Intergovernmental transfer program" does not include the addition of a provider to an existing intergovernmental transfer program.

(c) "Local government entity" means a county, city, town, special service district, local district, or local education agency as that term is defined in Section 63J-5-102.

(d) "Non-state government entity" means a hospital authority, hospital district, health care district, special service district, county, or city.

(2) (a) An entity that receives federal Medicaid dollars from the department as a result of an intergovernmental transfer shall, on or before August 1, 2017, and on or before August 1 each year thereafter, provide the department with:

(i) information regarding the payments funded with the intergovernmental transfer as authorized by and consistent with state and federal law;

(ii) information regarding the entity's ability to repay federal funds, to the extent required by the department in the contract for the intergovernmental transfer; and

(iii) other information reasonably related to the intergovernmental transfer that may be required by the department in the contract for the intergovernmental transfer.

(b) On or before October 15, 2017, and on or before October 15 each subsequent year, the department shall prepare a report for the Executive Appropriations Committee that includes:

(i) the amount of each intergovernmental transfer under Subsection (2)(a);

(ii) a summary of changes to CMS regulations and practices that are known by the department regarding federal funds related to an intergovernmental transfer program; and

(iii) other information the department gathers about the intergovernmental transfer under Subsection (2)(a).

(3) The department shall not create a new intergovernmental transfer program after July 1, 2017, unless the department reports to the Executive Appropriations Committee, in accordance with Section 63J-5-206, before submitting the new intergovernmental transfer program for federal approval. The report shall include information required by Subsection 63J-5-102(1)(d) and the analysis required in Subsections (2)(a) and (b).

(4) (a) The department shall enter into new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contracts and contract amendments adding new nursing care facilities and new non-state government entity operators in accordance with this Subsection (4).

(b) (i) If the nursing care facility expects to receive less than $1,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State

Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility.

(ii) If the nursing care facility expects to receive between $1,000,000 and $10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility after receiving the approval of the Executive Appropriations Committee.

(iii) If the nursing care facility expects to receive more than $10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department may not approve the application without obtaining approval from the Legislature and the governor.

(c) A non-state government entity may not participate in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program unless the non-state government entity is a special service district, county, or city that operates a hospital or holds a license under [~~Chapter 21, Health Care Facility Licensing and Inspection Act~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(d) Each non-state government entity that participates in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program shall certify to the department that:

(i) the non-state government entity is a local government entity that is able to make an intergovernmental transfer under applicable state and federal law;

(ii) the non-state government entity has sufficient public funds or other permissible sources of seed funding that comply with the requirements in 42 C.F.R. Part 433, Subpart B;

(iii) the funds received from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program are:

(A) for each nursing care facility, available for patient care until the end of the non-state government entity's fiscal year; and

(B) used exclusively for operating expenses for nursing care facility operations, patient care, capital expenses, rent, royalties, and other operating expenses; and

(iv) the non-state government entity has completed all licensing, enrollment, and other forms and documents required by federal and state law to register a change of ownership with the department and with CMS.

(5) The department shall add a nursing care facility to an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract if:

(a) the nursing care facility is managed by or affiliated with the same non-state government entity that also manages one or more nursing care facilities that are included in an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract; and

(b) the non-state government entity makes the certification described in Subsection (4)(d)(ii).

(6) The department may not increase the percentage of the administrative fee paid by a non-state government entity to the department under the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program.

(7) The department may not condition participation in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program on:

(a) a requirement that the department be allowed to direct or determine the types of patients that a non-state government entity will treat or the course of treatment for a patient in a non-state government nursing care facility; or

(b) a requirement that a non-state government entity or nursing care facility post a bond, purchase insurance, or create a reserve account of any kind.

(8) The non-state government entity shall have the primary responsibility for ensuring compliance with Subsection (4)(d)(ii).

(9) (a) The department may not enter into a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract before January 1, 2019.

(b) Subsection (9)(a) does not apply to:

(i) a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018; or

(ii) a nursing care facility that is operated or managed by the same company as a nursing care facility that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018.

Section 31. Section 26B-3-131, which is renumbered from Section 26-18-22 is renumbered and amended to read:

[~~26-18-22~~]. 26B-3-131. Screening, Brief Intervention, and Referral to Treatment Medicaid reimbursement.

(1) As used in this section:

(a) "Controlled substance prescriber" means a controlled substance prescriber, as that term is defined in Section 58-37-6.5, who:

(i) has a record of having completed SBIRT training, in accordance with Subsection

58-37-6.5(2), before providing the SBIRT services; and

(ii) is a Medicaid enrolled health care provider.

(b) "SBIRT" means the same as that term is defined in Section 58-37-6.5.

(2) The department shall reimburse a controlled substance prescriber who provides SBIRT services to a Medicaid enrollee who is 13 years [~~of age~~] old or older for the SBIRT services.

Section 32. Section 26B-3-132, which is renumbered from Section 26-18-23 is renumbered and amended to read:

[~~26-18-23~~]. 26B-3-132. Prescribing policies for opioid prescriptions.

(1) The department may implement a prescribing policy for certain opioid prescriptions that is substantially similar to the prescribing policies required in Section 31A-22-615.5.

(2) The department may amend the state program and apply for waivers for the state program, if necessary, to implement Subsection (1).

Section 33. Section 26B-3-133, which is renumbered from Section 26-18-24 is renumbered and amended to read:

[~~26-18-24~~]. 26B-3-133. Reimbursement for long-acting reversible contraception immediately following childbirth.

(1) As used in this section, "long-acting reversible contraception" means a contraception method that requires administration less than once per month, including:

(a) an intrauterine device; and

(b) a contraceptive implant.

(2) The division shall separately identify and reimburse, from other labor and delivery services within the Medicaid program, the provision and insertion of long-acting reversible contraception immediately after childbirth.

Section 34. Section 26B-3-134, which is renumbered from Section 26-18-25 is renumbered and amended to read:

[~~26-18-25~~]. 26B-3-134. Coverage of exome sequence testing.

(1) As used in this section, "exome sequence testing" means a genomic technique for sequencing the genome of an individual for diagnostic purposes.

(2) The Medicaid program shall reimburse for exome sequence testing:

(a) for an enrollee who:

(i) is younger than 21 years [~~of age~~] old; and

(ii) who remains undiagnosed after exhausting all other appropriate diagnostic-related tests;

(b) performed by a nationally recognized provider with significant experience in exome sequence testing;

(c) that is medically necessary; and

(d) at a rate set by the Medicaid program.

Section 35. Section 26B-3-135, which is renumbered from Section 26-18-26 is renumbered and amended to read:

[~~26-18-26~~]. 26B-3-135. Reimbursement for nonemergency secured behavioral health transport providers.

The department may not reimburse a nonemergency secured behavioral health transport provider that is designated under Section [~~26-8a-303~~] 26B-4-117.

Section 36. Section 26B-3-136, which is renumbered from Section 26-18-27 is renumbered and amended to read:

[~~26-18-27~~]. 26B-3-136. Children's Health Care Coverage Program.

(1) As used in this section:

(a) "CHIP" means the Children's Health Insurance Program created in Section [~~26-40-103~~] 26B-3-902.

(b) "Program" means the Children's Health Care Coverage Program created in Subsection (2).

(2) (a) There is created the Children's Health Care Coverage Program within the department.

(b) The purpose of the program is to:

(i) promote health insurance coverage for children in accordance with Section [~~26-18-15~~] 26B-3-124;

(ii) conduct research regarding families who are eligible for Medicaid and CHIP to determine awareness and understanding of available coverage;

(iii) analyze trends in disenrollment and identify reasons that families may not be renewing enrollment, including any barriers in the process of renewing enrollment;

(iv) administer surveys to recently enrolled CHIP and children's Medicaid enrollees to identify:

(A) how the enrollees learned about coverage; and

(B) any barriers during the application process;

(v) develop promotional material regarding CHIP and children's Medicaid eligibility, including outreach through social media, video production, and other media platforms;

(vi) identify ways that the eligibility website for enrollment in CHIP and children's Medicaid can be redesigned to increase accessibility and enhance the user experience;

(vii) identify outreach opportunities, including partnerships with community organizations including:

(A) schools;

(B) small businesses;

(C) unemployment centers;

(D) parent-teacher associations; and

(E) youth athlete clubs and associations; and

(viii) develop messaging to increase awareness of coverage options that are available through the department.

(3) (a) The department may not delegate implementation of the program to a private entity.

(b) Notwithstanding Subsection (3)(a), the department may contract with a media agency to conduct the activities described in Subsection (2)(b)(iv) and (vii).

Section 37. Section 26B-3-137, which is renumbered from Section 26-18-28 is renumbered and amended to read:

[~~26-18-28~~]. 26B-3-137. Reimbursement for diabetes prevention program.

(1) As used in this section, "DPP" means the National Diabetes Prevention Program developed by the United States Centers for Disease Control and Prevention.

(2) Beginning July 1, 2022, the Medicaid program shall reimburse a provider for an enrollee's participation in the DPP if the enrollee:

(a) meets the DPP's eligibility requirements; and

(b) has not previously participated in the DPP after July 1, 2022, while enrolled in the Medicaid program.

(3) Subject to appropriation, the Medicaid program may set the rate for reimbursement.

(4) The department may apply for a state plan amendment if necessary to implement this section.

(5) (a) On or after July 1, 2025, but before October 1, 2025, the department shall provide a written report regarding the efficacy of the DPP and reimbursement under this section to the Health and Human Services Interim Committee.

(b) The report described in Subsection (5)(a) shall include:

(i) the total number of enrollees with a prediabetic condition as of July 1, 2022;

(ii) the total number of enrollees as of July 1, 2022, with a diagnosis of type 2 diabetes;

(iii) the total number of enrollees who participated in the DPP;

(iv) the total cost incurred by the state to implement this section; and

(v) any conclusions that can be drawn regarding the impact of the DPP on the rate of type 2 diabetes for enrollees.

Section 38. Section 26B-3-138, which is renumbered from Section 26-18-427 is renumbered and amended to read:

[~~26-18-427~~]. 26B-3-138. Behavioral health delivery working group.

(1) As used in this section, "targeted adult Medicaid program" means the same as that term is defined in Section [~~26-18-411~~] 26B-3-207.

(2) On or before May 31, 2022, the department shall convene a working group to collaborate with the department on:

(a) establishing specific and measurable metrics regarding:

(i) compliance of managed care organizations in the state with federal Medicaid managed care requirements;

(ii) timeliness and accuracy of authorization and claims processing in accordance with Medicaid policy and contract requirements;

(iii) reimbursement by managed care organizations in the state to providers to maintain adequacy of access to care;

(iv) availability of care management services to meet the needs of Medicaid-eligible individuals enrolled in the plans of managed care organizations in the state; and

(v) timeliness of resolution for disputes between a managed care organization and the managed care organization's providers and enrollees;

(b) improving the delivery of behavioral health services in the Medicaid program;

(c) proposals to implement the delivery system adjustments authorized under Subsection [~~26-18-428~~] 26B-3-223(3); and

(d) issues that are identified by managed care organizations, behavioral health service providers, and the department.

(3) The working group convened under Subsection (2) shall:

(a) meet quarterly; and

(b) consist of at least the following individuals:

(i) the executive director or the executive director's designee;

(ii) for each Medicaid accountable care organization with which the department contracts, an individual selected by the accountable care organization;

(iii) five individuals selected by the department to represent various types of behavioral health services providers, including, at a minimum, individuals who represent providers who provide the following types of services:

(A) acute inpatient behavioral health treatment;

(B) residential treatment;

(C) intensive outpatient or partial hospitalization treatment; and

(D) general outpatient treatment;

(iv) a representative of an association that represents behavioral health treatment providers in the state, designated by the Utah Behavioral Healthcare Council convened by the Utah Association of Counties;

(v) a representative of an organization representing behavioral health organizations;

(vi) the chair of the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301;

(vii) a representative of an association that represents local authorities who provide public behavioral health care, designated by the department;

(viii) one member of the Senate, appointed by the president of the Senate; and

(ix) one member of the House of Representatives, appointed by the speaker of the House of Representatives.

(4) The working group convened under this section shall recommend to the department:

(a) specific and measurable metrics under Subsection (2)(a);

(b) how physical and behavioral health services may be integrated for the targeted adult Medicaid program, including ways the department may address issues regarding:

(i) filing of claims;

(ii) authorization and reauthorization for treatment services;

(iii) reimbursement rates; and

(iv) other issues identified by the department, behavioral health services providers, or Medicaid managed care organizations;

(c) ways to improve delivery of behavioral health services to enrollees, including changes to statute or administrative rule; and

(d) wraparound service coverage for enrollees who need specific, nonclinical services to ensure a path to success.

Section 39. Section 26B-3-139, which is renumbered from Section 26-18-603 is renumbered and amended to read:

[~~26-18-603~~]. 26B-3-139. Adjudicative proceedings related to Medicaid funds.

(1) If a proceeding of the department, under Title 63G, Chapter 4, Administrative Procedures Act, relates in any way to recovery of Medicaid funds:

(a) the presiding officer shall be designated by the executive director of the department and report directly to the executive director or, in the discretion of the executive director, report directly to the director of the Office of Internal Audit; and

(b) the decision of the presiding officer is the recommended decision to the executive director of the department or a designee of the executive director who is not in the division.

(2) Subsection (1) does not apply to hearings conducted by the Department of Workforce Services relating to medical assistance eligibility determinations.

(3) If a proceeding of the department, under Title 63G, Chapter 4, Administrative Procedures Act, relates in any way to Medicaid or Medicaid funds, the following may attend and present evidence or testimony at the proceeding:

(a) the director of the Office of Internal Audit, or the director's designee; and

(b) the inspector general of Medicaid services or the inspector general's designee.

(4) In relation to a proceeding of the department under Title 63G, Chapter 4, Administrative Procedures Act, a person may not, outside of the actual proceeding, attempt to influence the decision of the presiding officer.

Section 40. Section 26B-3-140, which is renumbered from Section 26-18-604 is renumbered and amended to read:

[~~26-18-604~~]. 26B-3-140. Medical assistance accountability -- Division duties -- Reporting.

(1) As used in this section:

(a) "Abuse" means:

(i) an action or practice that:

(A) is inconsistent with sound fiscal, business, or medical practices; and

(B) results, or may result, in unnecessary Medicaid related costs or other medical or hospital assistance costs; or

(ii) reckless or negligent upcoding.

(b) "Fraud" means intentional or knowing:

(i) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, claims, reimbursement, or practice; or

(ii) deception or misrepresentation in relation to medical or hospital assistance funds, costs, claims, reimbursement, or practice.

(c) "Upcoding" means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking into account reasonable opinions derived from official published coding definitions, would result in a lower Medicaid payment or reimbursement.

(d) "Waste" means overutilization of resources or inappropriate payment.

(2) The division shall:

[~~(1)~~] (a) develop and implement procedures relating to Medicaid funds and medical or hospital assistance funds to ensure that providers do not receive:

[~~(a)~~] (i) duplicate payments for the same goods or services;

[~~(b)~~] (ii) payment for goods or services by resubmitting a claim for which:

[~~(i)~~] (A) payment has been disallowed on the grounds that payment would be a violation of federal or state law, administrative rule, or the state plan; and

[~~(ii)~~] (B) the decision to disallow the payment has become final;

[~~(e)~~] (iii) payment for goods or services provided after a recipient's death, including payment for pharmaceuticals or long-term care; or

[~~(d)~~] (iv) payment for transporting an unborn infant;

[~~(2)~~] (b) consult with [~~the Centers for Medicaid and Medicare Services~~] CMS, other states, and the Office of Inspector General of Medicaid Services to determine and implement best practices for discovering and eliminating fraud, waste, and abuse of Medicaid funds and medical or hospital assistance funds;

[~~(3)~~] (c) actively seek repayment from providers for improperly used or paid:

[~~(a)~~] (i) Medicaid funds; and

[~~(b)~~] (ii) medical or hospital assistance funds;

[~~(4)~~] (d) coordinate, track, and keep records of all division efforts to obtain repayment of the funds described in Subsection [~~(3)~~] (2)(c), and the results of those efforts;

[~~(5)~~] (e) keep Medicaid pharmaceutical costs as low as possible by actively seeking to obtain pharmaceuticals at the lowest price possible, including, on a quarterly basis for the pharmaceuticals that represent the highest 45% of state Medicaid expenditures for pharmaceuticals and on an annual basis for the remaining pharmaceuticals:

[~~(a)~~] (i) tracking changes in the price of pharmaceuticals;

[~~(b)~~] (ii) checking the availability and price of generic drugs;

[~~(c)~~] (iii) reviewing and updating the state's maximum allowable cost list; and

[~~(d)~~] (iv) comparing pharmaceutical costs of the state Medicaid program to available pharmacy price lists; and

[~~(6)~~] (f) provide training, on an annual basis, to the employees of the division who make decisions on billing codes, or who are in the best position to observe and identify upcoding, in order to avoid and detect upcoding.

Section 41. Section 26B-3-141, which is renumbered from Section 26-18-703 is renumbered and amended to read:

[~~26-18-703~~]. 26B-3-141. Medical assistance from division or Department of Workforce Services and compliance under adoption assistance interstate compact -- Penalty for fraudulent claim.

(1) As used in this section:

(a) "Adoption assistance" means the same as that term is defined in Section 80-2-809.

(b) "Adoption assistance agreement" means the same as that term is defined in Section 80-2-809.

(c) "Adoption assistance interstate compact" means an agreement executed by the Division of Child and Family Services with any other state in accordance with Section 80-2-809.

[~~(1)~~] (2) (a) A child who is a resident of this state and is the subject of an adoption assistance interstate compact is entitled to receive medical assistance from the division and the Department of Workforce Services by filing a certified copy of the child's adoption assistance agreement with the division or the Department of Workforce Services.

(b) The adoptive parent of the child described in Subsection [~~(1)~~] (2)(a) shall annually provide the division or the Department of Workforce Services with evidence verifying that the adoption assistance agreement is still effective.

[~~(2)~~] (3) The Department of Workforce Services shall consider the recipient of medical assistance under this section as the Department of Workforce Services does any other recipient of medical assistance under an adoption assistance agreement executed by the Division of Child and Family Services.

[~~(3)~~] (4) (a) A person may not submit a claim for payment or reimbursement under this section that the person knows is false, misleading, or fraudulent.

(b) A violation of Subsection [~~(3)~~] (4)(a) is a third degree felony.

(5) The division and the Department of Workforce Services shall:

(a) cooperate with the Division of Child and Family Services in regard to an adoption assistance interstate compact; and

(b) comply with an adoption assistance interstate compact.

Section 42. Section 26B-3-201, which is renumbered from Section 26-18-403 is renumbered and amended to read:

Part 2. Medicaid Waivers

[~~26-18-403~~]. 26B-3-201. Medicaid waiver for independent foster care adolescents.

(1) [~~For purposes of~~] As used in this section, an "independent foster care adolescent" includes any individual who reached 18 years [~~of age~~] old while in the custody of the[~~ Division of Child and Family Services, or the Department of Human Services~~] department if the [~~Division of Child and Family Services~~] department was the primary case manager, or a federally recognized Indian tribe.

(2) An independent foster care adolescent is eligible, when funds are available, for Medicaid coverage until the individual reaches 21 years [~~of age~~] old.

(3) Before July 1, 2006, the division shall submit a state Medicaid Plan amendment to [~~the Center For~~

~~Medicaid Services~~] CMS to provide medical coverage for independent foster care adolescents effective fiscal year 2006-07.

Section 43. Section 26B-3-202, which is renumbered from Section 26-18-405 is renumbered and amended to read:

[~~26-18-405~~]. 26B-3-202. Waivers to maximize replacement of fee-for-service delivery model -- Cost of mandated program changes.

(1) The department shall develop a waiver program in the Medicaid program to replace the fee-for-service delivery model with one or more risk-based delivery models.

(2) The waiver program shall:

(a) restructure the program's provider payment provisions to reward health care providers for delivering the most appropriate services at the lowest cost and in ways that, compared to services delivered before implementation of the waiver program, maintain or improve recipient health status;

(b) restructure the program's cost sharing provisions and other incentives to reward recipients for personal efforts to:

(i) maintain or improve their health status; and

(ii) use providers that deliver the most appropriate services at the lowest cost;

(c) identify the evidence-based practices and measures, risk adjustment methodologies, payment systems, funding sources, and other mechanisms necessary to reward providers for delivering the most appropriate services at the lowest cost, including mechanisms that:

(i) pay providers for packages of services delivered over entire episodes of illness rather than for individual services delivered during each patient encounter; and

(ii) reward providers for delivering services that make the most positive contribution to a recipient's health status;

(d) limit total annual per-patient-per-month expenditures for services delivered through fee-for-service arrangements to total annual per-patient-per-month expenditures for services delivered through risk-based arrangements covering similar recipient populations and services; and

(e) except as provided in Subsection (4), limit the rate of growth in per-patient-per-month General Fund expenditures for the program to the rate of growth in General Fund expenditures for all other programs, when the rate of growth in the General Fund expenditures for all other programs is greater than zero.

(3) To the extent possible, the department shall operate the waiver program with the input of stakeholder groups representing those who will be affected by the waiver program.

(4) (a) For purposes of this Subsection (4), "mandated program change" shall be determined by the department in consultation with the Medicaid accountable care organizations, and may include a change to the state Medicaid program that is required by state or federal law, state or federal guidance, policy, or the state Medicaid plan.

(b) A mandated program change shall be included in the base budget for the Medicaid program for the fiscal year in which the Medicaid program adopted the mandated program change.

(c) The mandated program change is not subject to the limit on the rate of growth in per-patient-per-month General Fund expenditures for the program established in Subsection (2)(e), until the fiscal year following the fiscal year in which the Medicaid program adopted the mandated program change.

(5) A managed care organization or a pharmacy benefit manager that provides a pharmacy benefit to an enrollee shall establish a unique group number, payment classification number, or bank identification number for each Medicaid managed care organization plan for which the managed care organization or pharmacy benefit manager provides a pharmacy benefit.

Section 44. Section 26B-3-203, which is renumbered from Section 26-18-405.5 is renumbered and amended to read:

[~~26-18-405.5~~]. 26B-3-203. Base budget appropriations for Medicaid accountable care organizations and behavioral health plans -- Forecast of behavioral health services cost.

(1) As used in this section:

(a) "ACO" means an accountable care organization that contracts with the state's Medicaid program for:

(i) physical health services; or

(ii) integrated physical and behavioral health services.

(b) "Base budget" means the same as that term is defined in legislative rule.

(c) "Behavioral health plan" means a managed care or fee for service delivery system that contracts with or is operated by the department to provide behavioral health services to Medicaid eligible individuals.

(d) "Behavioral health services" means mental health or substance use treatment or services.

(e) "General Fund growth factor" means the amount determined by dividing the next fiscal year ongoing General Fund revenue estimate by current fiscal year ongoing appropriations from the General Fund.

(f) "Next fiscal year ongoing General Fund revenue estimate" means the next fiscal year ongoing General Fund revenue estimate identified by the Executive Appropriations Committee, in accordance with legislative rule, for use by the

Office of the Legislative Fiscal Analyst in preparing budget recommendations.

(g) "PMPM" means per-member-per-month funding.

(2) If the General Fund growth factor is less than 100%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans equals the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by 100%.

(3) If the General Fund growth factor is greater than or equal to 100%, but less than 102%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans equals the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by the General Fund growth factor.

(4) If the General Fund growth factor is greater than or equal to 102%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans is greater than or equal to the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by 102% and less than or equal to the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by the General Fund growth factor.

(5) The appropriations provided to the department for behavioral health plans under this section shall be reduced by the amount contributed by counties in the current fiscal year for behavioral health plans in accordance with Subsections 17-43-201(5)(k) and 17-43-301(6)(a)(x).

(6) In order for the department to estimate the impact of Subsections (2) through (4) before identification of the next fiscal year ongoing General Fund revenue estimate, the Governor's Office of Planning and Budget shall, in cooperation with the Office of the Legislative Fiscal Analyst, develop an estimate of ongoing General Fund revenue for the next fiscal year and provide the estimate to the department no later than November 1 of each year.

(7) The Office of the Legislative Fiscal Analyst shall include an estimate of the cost of behavioral health services in any state Medicaid funding or savings forecast that is completed in coordination with the department and the Governor's Office of Planning and Budget.

Section 45. Section 26B-3-204, which is renumbered from Section 26-18-408 is renumbered and amended to read:

[~~26-18-408~~]. 26B-3-204. Incentives to appropriately use emergency department services.

(1) (a) This section applies to the Medicaid program and to the Utah Children's Health Insurance Program created in [~~Chapter 40, Utah Children's Health Insurance Act~~] Section 26B-3-902.

(b) As used in this section:

(i) "Managed care organization" means a comprehensive full risk managed care delivery system that contracts with the Medicaid program or the Children's Health Insurance Program to deliver health care through a managed care plan.

(ii) "Managed care plan" means a risk-based delivery service model authorized by Section [~~26-18-405~~] 26B-3-202 and administered by a managed care organization.

(iii) "Non-emergent care":

(A) means use of the emergency department to receive health care that is non-emergent as defined by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the Emergency Medical Treatment and Active Labor Act; and

(B) does not mean the medical services provided to an individual required by the Emergency Medical Treatment and Active Labor Act, including services to conduct a medical screening examination to determine if the recipient has an emergent or non-emergent condition.

(iv) "Professional compensation" means payment made for services rendered to a Medicaid recipient by an individual licensed to provide health care services.

(v) "Super-utilizer" means a Medicaid recipient who has been identified by the recipient's managed care organization as a person who uses the emergency department excessively, as defined by the managed care organization.

(2) (a) A managed care organization may, in accordance with Subsections (2)(b) and (c):

(i) audit emergency department services provided to a recipient enrolled in the managed care plan to determine if non-emergent care was provided to the recipient; and

(ii) establish differential payment for emergent and non-emergent care provided in an emergency department.

(b) (i) The differential payments under Subsection (2)(a)(ii) do not apply to professional compensation for services rendered in an emergency department.

(ii) Except in cases of suspected fraud, waste, and abuse, a managed care organization's audit of payment under Subsection (2)(a)(i) is limited to the 18-month period of time after the date on which the medical services were provided to the recipient. If fraud, waste, or abuse is alleged, the managed care organization's audit of payment under Subsection (2)(a)(i) is limited to three years after the date on which the medical services were provided to the recipient.

(c) The audits and differential payments under Subsections (2)(a) and (b) apply to services provided to a recipient on or after July 1, 2015.

(3) A managed care organization shall:

(a) use the savings under Subsection (2) to maintain and improve access to primary care and urgent care services for all Medicaid or CHIP recipients enrolled in the managed care plan;

(b) provide viable alternatives for increasing primary care provider reimbursement rates to incentivize after hours primary care access for recipients; and

(c) report to the department on how the managed care organization complied with this Subsection (3).

(4) The department may:

(a) through administrative rule adopted by the department, develop quality measurements that evaluate a managed care organization's delivery of:

(i) appropriate emergency department services to recipients enrolled in the managed care plan;

(ii) expanded primary care and urgent care for recipients enrolled in the managed care plan, with consideration of the managed care organization's:

(A) delivery of primary care, urgent care, and after hours care through means other than the emergency department;

(B) recipient access to primary care providers and community health centers including evening and weekend access; and

(C) other innovations for expanding access to primary care; and

(iii) quality of care for the managed care plan members;

(b) compare the quality measures developed under Subsection (4)(a) for each managed care organization; and

(c) develop, by administrative rule, an algorithm to determine assignment of new, unassigned recipients to specific managed care plans based on the plan's performance in relation to the quality measures developed pursuant to Subsection (4)(a).

Section 46. Section 26B-3-205, which is renumbered from Section 26-18-409 is renumbered and amended to read:

[~~26-18-409~~]. 26B-3-205. Long-term care insurance partnership.

(1) As used in this section:

(a) "Qualified long-term care insurance contract" is as defined in 26 U.S.C. Sec. 7702B(b).

(b) "Qualified long-term care insurance partnership" is as defined in 42 U.S.C. Sec. 1396p(b)(1)(C)(iii).

(c) "State plan amendment" means an amendment to the state Medicaid plan drafted by the department in compliance with this section.

(2) No later than July 1, 2014, the department shall seek federal approval of a state plan amendment that creates a qualified long-term care insurance partnership.

(3) The department may make rules to comply with federal laws and regulations relating to qualified long-term care insurance partnerships and qualified long-term care insurance contracts.

Section 47. Section 26B-3-206, which is renumbered from Section 26-18-410 is renumbered and amended to read:

[~~26-18-410~~]. 26B-3-206. Medicaid waiver for children with disabilities and complex medical needs.

(1) As used in this section:

(a) "Additional eligibility criteria" means the additional eligibility criteria set by the department under Subsection (4)(e).

(b) "Complex medical condition" means a physical condition of an individual that:

(i) results in severe functional limitations for the individual; and

(ii) is likely to:

(A) last at least 12 months; or

(B) result in death.

(c) "Program" means the program for children with complex medical conditions created in Subsection (3).

(d) "Qualified child" means a child who:

(i) is less than 19 years old;

(ii) is diagnosed with a complex medical condition;

(iii) has a condition that meets the definition of disability in 42 U.S.C. Sec. 12102; and

(iv) meets the additional eligibility criteria.

(2) The department shall apply for a Medicaid home and community-based waiver with CMS to implement, within the state Medicaid program, the program described in Subsection (3).

(3) If the waiver described in Subsection (2) is approved, the department shall offer a program that:

(a) as funding permits, provides treatment for qualified children;

(b) if approved by CMS and as funding permits, beginning in fiscal year 2023 provides on an ongoing basis treatment for 130 more qualified children than the program provided treatment for during fiscal year 2022; [~~and~~]

(c) accepts applications for the program on an ongoing basis[~~.~~];

[~~(i)~~] (d) requires periodic reevaluations of an enrolled child's eligibility and other applicants or eligible children waiting for services in the program based on the additional eligibility criteria; and

[~~(ii)~~] (e) at the time of reevaluation, allows the department to disenroll a child based on the prioritization described in Subsection (4)(a) and additional eligibility criteria.

(4) The department shall:

(a) establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, criteria to prioritize qualified children's participation in the program based on the following factors, in the following priority order:

(i) the complexity of a qualified child's medical condition; and

(ii) the financial needs of the qualified child and the qualified child's family;

(b) convene a public process to determine the benefits and services to offer a qualified child under the program;

(c) evaluate, on an ongoing basis, the cost and effectiveness of the program;

(d) if funding for the program is reduced, develop an evaluation process to reduce the number of children served based on the participation criteria established under Subsection (4)(a); and

(e) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, additional eligibility criteria based on the factors described in Subsections (4)(a)(i) and (ii).

Section 48. Section 26B-3-207, which is renumbered from Section 26-18-411 is renumbered and amended to read:

[~~26-18-411~~]. 26B-3-207. Health coverage improvement program -- Eligibility -- Annual report -- Expansion of eligibility for adults with dependent children.

(1) As used in this section:

(a) "Adult in the expansion population" means an individual who:

(i) is described in 42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII); and

(ii) is not otherwise eligible for Medicaid as a mandatory categorically needy individual.

(b) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in Section [~~26-18-416~~] 26B-3-211.

(c) "Federal poverty level" means the poverty guidelines established by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

(d) "Health coverage improvement program" means the health coverage improvement program described in Subsections (3) through [~~(10)~~] (9).

(e) "Homeless":

(i) means an individual who is chronically homeless, as determined by the department; and

(ii) includes someone who was chronically homeless and is currently living in supported housing for the chronically homeless.

(f) "Income eligibility ceiling" means the percent of federal poverty level:

(i) established by the state in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for Medicaid coverage in accordance with this section.

(g) "Targeted adult Medicaid program" means the program implemented by the department under Subsections (5) through (7).

(2) Beginning July 1, 2016, the department shall amend the state Medicaid plan to allow temporary residential treatment for substance [~~abuse~~] use, for the traditional Medicaid population, in a short term, non-institutional, 24-hour facility, without a bed capacity limit that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan, as approved by CMS and as long as the county makes the required match under Section 17-43-201.

(3) Beginning July 1, 2016, the department shall amend the state Medicaid plan to increase the income eligibility ceiling to a percentage of the federal poverty level designated by the department, based on appropriations for the program, for an individual with a dependent child.

(4) Before July 1, 2016, the division shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal statutory and regulatory law necessary for the state to implement the health coverage improvement program in the Medicaid program in accordance with this section.

(5) (a) An adult in the expansion population is eligible for Medicaid if the adult meets the income eligibility and other criteria established under Subsection (6).

(b) An adult who qualifies under Subsection (6) shall receive Medicaid coverage:

(i) through the traditional fee for service Medicaid model in counties without Medicaid accountable care organizations or the state's Medicaid accountable care organization delivery system, where implemented and subject to Section [~~26-18-428~~] 26B-3-223;

(ii) except as provided in Subsection (5)(b)(iii), for behavioral health, through the counties in accordance with Sections 17-43-201 and 17-43-301;

(iii) that, subject to Section [~~26-18-428~~] 26B-3-223, integrates behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model; and

(iv) that permits temporary residential treatment for substance [~~abuse~~] use in a short term,

non-institutional, 24-hour facility, without a bed capacity limit, as approved by CMS, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(6) (a) An individual is eligible for the health coverage improvement program under Subsection (5) if:

(i) at the time of enrollment, the individual's annual income is below the income eligibility ceiling established by the state under Subsection (1)(f); and

(ii) the individual meets the eligibility criteria established by the department under Subsection (6)(b).

(b) Based on available funding and approval from CMS, the department shall select the criteria for an individual to qualify for the Medicaid program under Subsection (6)(a)(ii), based on the following priority:

(i) a chronically homeless individual;

(ii) if funding is available, an individual:

(A) involved in the justice system through probation, parole, or court ordered treatment; and

(B) in need of substance [~~abuse~~] use treatment or mental health treatment, as determined by the department; or

(iii) if funding is available, an individual in need of substance [~~abuse~~] use treatment or mental health treatment, as determined by the department.

(c) An individual who qualifies for Medicaid coverage under Subsections (6)(a) and (b) may remain on the Medicaid program for a 12-month certification period as defined by the department. Eligibility changes made by the department under Subsection (1)(f) or (6)(b) shall not apply to an individual during the 12-month certification period.

(7) The state may request a modification of the income eligibility ceiling and other eligibility criteria under Subsection (6) each fiscal year based on projected enrollment, costs to the state, and the state budget.

(8) The current Medicaid program and the health coverage improvement program, when implemented, shall coordinate with a state prison or county jail to expedite Medicaid enrollment for an individual who is released from custody and was eligible for or enrolled in Medicaid before incarceration.

(9) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under the health coverage improvement program under Subsection (6).

(10) If the enhancement waiver program is implemented, the department:

(a) may not accept any new enrollees into the health coverage improvement program after the day on which the enhancement waiver program is implemented;

(b) shall transition all individuals who are enrolled in the health coverage improvement program into the enhancement waiver program;

(c) shall suspend the health coverage improvement program within one year after the day on which the enhancement waiver program is implemented;

(d) shall, within one year after the day on which the enhancement waiver program is implemented, use all appropriations for the health coverage improvement program to implement the enhancement waiver program; and

(e) shall work with CMS to maintain any waiver for the health coverage improvement program while the health coverage improvement program is suspended under Subsection [~~(11)~~] (10)(c).

(11) If, after the enhancement waiver program takes effect, the enhancement waiver program is repealed or suspended by either the state or federal government, the department shall reinstate the health coverage improvement program and continue to accept new enrollees into the health coverage improvement program in accordance with the provisions of this section.

Section 49. Section 26B-3-208, which is renumbered from Section 26-18-413 is renumbered and amended to read:

[~~26-18-413~~]. 26B-3-208. Medicaid waiver for delivery of adult dental services.

(1) (a) Before June 30, 2016, the department shall ask CMS to grant waivers from federal statutory and regulatory law necessary for the Medicaid program to provide dental services in the manner described in Subsection (2)(a).

(b) Before June 30, 2018, the department shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary for the state to provide dental services, in accordance with Subsections (2)(b)(i) and (d) through (g), to an individual described in Subsection (2)(b)(i).

(c) Before June 30, 2019, the department shall submit to the Centers for Medicare and Medicaid Services a request for waivers, or an amendment to existing waivers, from federal law necessary for the state to:

(i) provide dental services, in accordance with Subsections (2)(b)(ii) and (d) through (g) to an individual described in Subsection (2)(b)(ii); and

(ii) provide the services described in Subsection (2)(h).

(2) (a) To the extent funded, the department shall provide services to only blind or disabled

individuals, as defined in 42 U.S.C. Sec. 1382c(a)(1), who are 18 years old or older and eligible for the program.

(b) Notwithstanding Subsection (2)(a):

(i) if a waiver is approved under Subsection (1)(b), the department shall provide dental services to an individual who:

(A) qualifies for the health coverage improvement program described in Section [~~26-18-411~~] 26B-3-207; and

(B) is receiving treatment in a substance abuse treatment program, as defined in Section [~~62A-2-101~~] 26B-2-101, licensed under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Chapter 2, Part 1, Human Services Programs and Facilities; and

(ii) if a waiver is approved under Subsection (1)(c)(i), the department shall provide dental services to an individual who is an aged individual as defined in 42 U.S.C. Sec. 1382c(a)(1).

(c) To the extent possible, services to individuals described in Subsection (2)(a) shall be provided through the University of Utah School of Dentistry and the University of Utah School of Dentistry's associated statewide network.

(d) The department shall provide the services to individuals described in Subsection (2)(b):

(i) by contracting with an entity that:

(A) has demonstrated experience working with individuals who are being treated for both a substance use disorder and a major oral health disease;

(B) operates a program, targeted at the individuals described in Subsection (2)(b), that has demonstrated, through a peer-reviewed evaluation, the effectiveness of providing dental treatment to those individuals described in Subsection (2)(b);

(C) is willing to pay for an amount equal to the program's non-federal share of the cost of providing dental services to the population described in Subsection (2)(b); and

(D) is willing to pay all state costs associated with applying for the waiver described in Subsection (1)(b) and administering the program described in Subsection (2)(b); and

(ii) through a fee-for-service payment model.

(e) The entity that receives the contract under Subsection (2)(d)(i) shall cover all state costs of the program described in Subsection (2)(b).

(f) Each fiscal year, the University of Utah School of Dentistry shall, in compliance with state and federal regulations regarding intergovernmental transfers, transfer funds to the program in an amount equal to the program's non-federal share of the cost of providing services under this section through the school during the fiscal year.

(g) If a waiver is approved under Subsection (1)(c)(ii), the department shall provide coverage for porcelain and porcelain-to-metal crowns if the services are provided:

(i) to an individual who qualifies for dental services under Subsection (2)(b); and

(ii) by an entity that covers all state costs of:

(A) providing the coverage described in this Subsection [~~(2)(h)~~] (2)(g); and

(B) applying for the waiver described in Subsection (1)(c).

(h) Where possible, the department shall ensure that services described in Subsection (2)(a) that are not provided by the University of Utah School of Dentistry or the University of Utah School of Dentistry's associated network are provided:

(i) through fee for service reimbursement until July 1, 2018; and

(ii) after July 1, 2018, through the method of reimbursement used by the division for Medicaid dental benefits.

(i) Subject to appropriations by the Legislature, and as determined by the department, the scope, amount, duration, and frequency of services may be limited.

(3) (a) If the waivers requested under Subsection (1)(a) are granted, the Medicaid program shall begin providing dental services in the manner described in Subsection (2) no later than July 1, 2017.

(b) If the waivers requested under Subsection (1)(b) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b) within 90 days from the day on which the waivers are granted.

(c) If the waivers requested under Subsection (1)(c)(i) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b)(ii) within 90 days after the day on which the waivers are granted.

(4) If the federal share of the cost of providing dental services under this section will be less than 65% during any portion of the next fiscal year, the Medicaid program shall cease providing dental services under this section no later than the end of the current fiscal year.

Section 50. Section 26B-3-209, which is renumbered from Section 26-18-414 is renumbered and amended to read:

[~~26-18-414~~]. 26B-3-209. Medicaid long-term support services housing coordinator.

(1) There is created within the Medicaid program a full-time-equivalent position of Medicaid long-term support services housing coordinator.

(2) The coordinator shall help Medicaid recipients receive long-term support services in a home or other community-based setting rather

than in a nursing home or other institutional setting by:

(a) working with municipalities, counties, the Housing and Community Development Division within the Department of Workforce Services, and others to identify community-based settings available to recipients;

(b) working with the same entities to promote the development, construction, and availability of additional community-based settings;

(c) training Medicaid case managers and support coordinators on how to help Medicaid recipients move from an institutional setting to a community-based setting; and

(d) performing other related duties.

Section 51. Section 26B-3-210, which is renumbered from Section 26-18-415 is renumbered and amended to read:

[~~26-18-415~~]. 26B-3-210. Medicaid waiver expansion.

(1) As used in this section:

(a) "Federal poverty level" means the same as that term is defined in Section [~~26-18-411~~] 26B-3-207.

(b) "Medicaid waiver expansion" means an expansion of the Medicaid program in accordance with this section.

(2) (a) Before January 1, 2019, the department shall apply to CMS for approval of a waiver or state plan amendment to implement the Medicaid waiver expansion.

(b) The Medicaid waiver expansion shall:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid program;

(iii) provide Medicaid benefits through the state's Medicaid accountable care organizations in areas where a Medicaid accountable care organization is implemented;

(iv) integrate the delivery of behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model;

(v) include a path to self-sufficiency, including work activities as defined in 42 U.S.C. Sec. 607(d), for qualified adults;

(vi) require an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan;

(vii) sunset in accordance with Subsection (5)(a); and

(viii) permit the state to close enrollment in the Medicaid waiver expansion if the department has insufficient funding to provide services to additional eligible individuals.

(3) If the Medicaid waiver described in Subsection (2)(a) is approved, the department may only pay the state portion of costs for the Medicaid waiver expansion with appropriations from:

(a) the Medicaid Expansion Fund, created in Section [~~26-36b-208~~] 26B-1-315;

(b) county contributions to the non-federal share of Medicaid expenditures; and

(c) any other contributions, funds, or transfers from a non-state agency for Medicaid expenditures.

(4) (a) In consultation with the department, Medicaid accountable care organizations and counties that elect to integrate care under Subsection (2)(b)(iv) shall collaborate on enrollment, engagement of patients, and coordination of services.

(b) As part of the provision described in Subsection (2)(b)(iv), the department shall apply for a waiver to permit the creation of an integrated delivery system:

(i) for any geographic area that expresses interest in integrating the delivery of services under Subsection (2)(b)(iv); and

(ii) in which the department:

(A) may permit a local mental health authority to integrate the delivery of behavioral health services and physical health services;

(B) may permit a county, local mental health authority, or Medicaid accountable care organization to integrate the delivery of behavioral health services and physical health services to select groups within the population that are newly eligible under the Medicaid waiver expansion; and

(C) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to integrate payments for behavioral health services and physical health services to plans or providers.

(5) (a) If federal financial participation for the Medicaid waiver expansion is reduced below 90%, the authority of the department to implement the Medicaid waiver expansion shall sunset no later than the next July 1 after the date on which the federal financial participation is reduced.

(b) The department shall close the program to new enrollment if the cost of the Medicaid waiver expansion is projected to exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(6) If the Medicaid waiver expansion is approved by CMS, the department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that the Medicaid waiver expansion is operational:

(a) the number of individuals who enrolled in the Medicaid waiver program;

(b) costs to the state for the Medicaid waiver program;

(c) estimated costs for the current and following state fiscal year; and

(d) recommendations to control costs of the Medicaid waiver expansion.

Section 52. Section 26B-3-211, which is renumbered from Section 26-18-416 is renumbered and amended to read:

[~~26-18-416~~]. 26B-3-211. Primary Care Network enhancement waiver program.

(1) As used in this section:

(a) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in this section.

(b) "Federal poverty level" means the poverty guidelines established by the secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9902(2).

(c) "Health coverage improvement program" means the same as that term is defined in Section [~~26-18-411~~] 26B-3-207.

(d) "Income eligibility ceiling" means the percentage of federal poverty level:

(i) established by the Legislature in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for coverage in the enhancement waiver program in accordance with this section.

(e) "Optional population" means the optional expansion population under PPACA if the expansion provides coverage for individuals at or above 95% of the federal poverty level.

(f) "Primary Care Network" means the state Primary Care Network program created by the Medicaid primary care network demonstration waiver obtained under Section [~~26-18-3~~] 26B-3-108.

(2) The department shall continue to implement the Primary Care Network program for qualified individuals under the Primary Care Network program.

(3) (a) The division shall apply for a Medicaid waiver or a state plan amendment with CMS to implement, within the state Medicaid program, the enhancement waiver program described in this section within six months after the day on which:

(i) the division receives a notice from CMS that the waiver for the Medicaid waiver expansion submitted under Section [~~26-18-415~~] 26B-3-210, Medicaid waiver expansion, will not be approved; or

(ii) the division withdraws the waiver for the Medicaid waiver expansion submitted under Section [~~26-18-415~~] 26B-3-210, Medicaid waiver expansion.

(b) The division may not apply for a waiver under Subsection (3)(a) while a waiver request under Section [~~26-18-415~~] 26B-3-210, Medicaid waiver expansion, is pending with CMS.

(4) An individual who is eligible for the enhancement waiver program may receive the following benefits under the enhancement waiver program:

(a) the benefits offered under the Primary Care Network program;

(b) diagnostic testing and procedures;

(c) medical specialty care;

(d) inpatient hospital services;

(e) outpatient hospital services;

(f) outpatient behavioral health care, including outpatient substance [~~abuse~~] use care; and

(g) for an individual who qualifies for the health coverage improvement program, as approved by CMS, temporary residential treatment for substance [~~abuse~~] use in a short term, non-institutional, 24-hour facility, without a bed capacity limit, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(5) An individual is eligible for the enhancement waiver program if, at the time of enrollment:

(a) the individual is qualified to enroll in the Primary Care Network or the health coverage improvement program;

(b) the individual's annual income is below the income eligibility ceiling established by the Legislature under Subsection (1)(d); and

(c) the individual meets the eligibility criteria established by the department under Subsection (6).

(6) (a) Based on available funding and approval from CMS, the department shall determine the criteria for an individual to qualify for the enhancement waiver program, based on the following priority:

(i) adults in the expansion population, as defined in Section [~~26-18-411~~] 26B-3-207, who qualify for the health coverage improvement program;

(ii) adults with dependent children who qualify for the health coverage improvement program under Subsection [~~26-18-411~~] 26B-3-207(3);

(iii) adults with dependent children who do not qualify for the health coverage improvement program; and

(iv) if funding is available, adults without dependent children.

(b) The number of individuals enrolled in the enhancement waiver program may not exceed 105% of the number of individuals who were

enrolled in the Primary Care Network on December 31, 2017.

(c) The department may only use appropriations from the Medicaid Expansion Fund created in Section [~~26-36b-208~~] 26B-1-315 to fund the state portion of the enhancement waiver program.

(7) The department may request a modification of the income eligibility ceiling and the eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment in the enhancement waiver program, projected enrollment in the enhancement waiver program, costs to the state, and the state budget.

(8) The department may implement the enhancement waiver program by contracting with Medicaid accountable care organizations to administer the enhancement waiver program.

(9) In accordance with Subsections [~~26-18-411(11) and (12)~~] 26B-3-207(10) and (11), the department may use funds that have been appropriated for the health coverage improvement program to implement the enhancement waiver program.

(10) If the department expands the state Medicaid program to the optional population, the department:

(a) except as provided in Subsection (11), may not accept any new enrollees into the enhancement waiver program after the day on which the expansion to the optional population is effective;

(b) shall suspend the enhancement waiver program within one year after the day on which the expansion to the optional population is effective; and

(c) shall work with CMS to maintain the waiver for the enhancement waiver program submitted under Subsection (3) while the enhancement waiver program is suspended under Subsection (10)(b).

(11) If, after the expansion to the optional population described in Subsection (10) takes effect, the expansion to the optional population is repealed by either the state or the federal government, the department shall reinstate the enhancement waiver program and continue to accept new enrollees into the enhancement waiver program in accordance with the provisions of this section.

Section 53. Section 26B-3-212, which is renumbered from Section 26-18-417 is renumbered and amended to read:

[~~26-18-417~~]. 26B-3-212. Limited family planning services for low-income individuals.

(1) As used in this section:

(a) (i) "Family planning services" means family planning services that are provided under the state Medicaid program, including:

(A) sexual health education and family planning counseling; and

(B) other medical diagnosis, treatment, or preventative care routinely provided as part of a family planning service visit.

(ii) "Family planning services" do not include an abortion, as that term is defined in Section 76-7-301.

(b) "Low-income individual" means an individual who:

(i) has an income level that is equal to or below 95% of the federal poverty level; and

(ii) does not qualify for full coverage under the Medicaid program.

(2) Before July 1, 2018, the division shall apply for a Medicaid waiver or a state plan amendment with CMS to:

(a) offer a program that provides family planning services to low-income individuals; and

(b) receive a federal match rate of 90% of state expenditures for family planning services provided under the waiver or state plan amendment.

Section 54. Section 26B-3-213, which is renumbered from Section 26-18-418 is renumbered and amended to read:

[~~26-18-418~~]. 26B-3-213. Medicaid waiver for mental health crisis lines and mobile crisis outreach teams.

(1) As used in this section:

(a) "Local mental health crisis line" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

(b) "Mental health crisis" means:

(i) a mental health condition that manifests itself in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(A) serious danger to the individual's health or well-being; or

(B) a danger to the health or well-being of others; or

(ii) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or the intervention of a mental health therapist.

(c) (i) "Mental health crisis services" means direct mental health services and on-site intervention that a mobile crisis outreach team provides to an individual suffering from a mental health crisis, including the provision of safety and care plans, prolonged mental health services for up to 90 days, and referrals to other community resources.

(ii) "Mental health crisis services" includes:

(A) local mental health crisis lines; and

(B) the statewide mental health crisis line.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

(2) In consultation with [~~the Department of Human Services and~~] the Behavioral Health Crisis Response Commission created in Section 63C-18-202, the department shall develop a proposal to amend the state Medicaid plan to include mental health crisis services, including the statewide mental health crisis line, local mental health crisis lines, and mobile crisis outreach teams.

(3) By January 1, 2019, the department shall apply for a Medicaid waiver with CMS, if necessary to implement, within the state Medicaid program, the mental health crisis services described in Subsection (2).

Section 55. Section 26B-3-214, which is renumbered from Section 26-18-419 is renumbered and amended to read:

[~~26-18-419~~]. 26B-3-214. Medicaid waiver for coverage of mental health services in schools.

(1) As used in this section, "local education agency" means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

(2) In consultation with [~~the Department of Human Services and~~] the State Board of Education, the department shall develop a proposal to allow the state Medicaid program to reimburse a local education agency, a local mental health authority, or a private provider for covered mental health services provided:

(a) in accordance with Section 53E-9-203; and

(b) (i) at a local education agency building or facility; or

(ii) by an employee or contractor of a local education agency.

(3) Before January 1, 2020, the department shall apply to CMS for a state plan amendment to implement the coverage described in Subsection (2).

Section 56. Section 26B-3-215, which is renumbered from Section 26-18-420 is renumbered and amended to read:

[~~26-18-420~~]. 26B-3-215. Coverage for in vitro fertilization and genetic testing.

(1) As used in this section:

(a) "Qualified condition" means:

(i) cystic fibrosis;

(ii) spinal muscular atrophy;

(iii) Morquio Syndrome;

(iv) myotonic dystrophy; or

(v) sickle cell anemia.

(b) "Qualified enrollee" means an individual who:

(i) is enrolled in the Medicaid program;

(ii) has been diagnosed by a physician as having a genetic trait associated with a qualified condition; and

(iii) intends to get pregnant with a partner who is diagnosed by a physician as having a genetic trait associated with the same qualified condition as the individual.

(2) Before January 1, 2021, the department shall apply for a Medicaid waiver or a state plan amendment with the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services to implement the coverage described in Subsection (3).

(3) If the waiver described in Subsection (2) is approved, the Medicaid program shall provide coverage to a qualified enrollee for:

(a) in vitro fertilization services; and

(b) genetic testing of a qualified enrollee who receives in vitro fertilization services under Subsection (3)(a).

(4) The Medicaid program may not provide the coverage described in Subsection (3) before the later of:

(a) the day on which the waiver described in Subsection (2) is approved; and

(b) January 1, 2021.

(5) Before November 1, 2022, and before November 1 of every third year thereafter, the department shall:

(a) calculate the change in state spending attributable to the coverage under this section; and

(b) report the amount described in Subsection [~~(4)(a)~~] (5)(a) to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee.

Section 57. Section 26B-3-216, which is renumbered from Section 26-18-420.1 is renumbered and amended to read:

[~~26-18-420.1~~]. 26B-3-216. Medicaid waiver for fertility preservation services.

(1) As used in this section:

(a) "Iatrogenic infertility" means an impairment of fertility or reproductive functioning caused by surgery, chemotherapy, radiation, or other medical treatment.

(b) "Physician" means an individual licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(c) "Qualified enrollee" means an individual who:

(i) is enrolled in the Medicaid program;

(ii) has been diagnosed with a form of cancer by a physician; and

(iii) needs treatment for that cancer that may cause a substantial risk of sterility or iatrogenic infertility, including surgery, radiation, or chemotherapy.

(d) "Standard fertility preservation service" means a fertility preservation procedure and service that:

(i) is not considered experimental or investigational by the American Society for Reproductive Medicine or the American Society of Clinical Oncology; and

(ii) is consistent with established medical practices or professional guidelines published by the American Society for Reproductive Medicine or the American Society of Clinical Oncology, including:

(A) sperm banking;

(B) oocyte banking;

(C) embryo banking;

(D) banking of reproductive tissues; and

(E) storage of reproductive cells and tissues.

(2) Before January 1, 2022, the department shall apply for a Medicaid waiver or a state plan amendment with CMS to implement the coverage described in Subsection (3).

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the Medicaid program shall provide coverage to a qualified enrollee for standard fertility preservation services.

(4) The Medicaid program may not provide the coverage described in Subsection (3) before the later of:

(a) the day on which the waiver described in Subsection (2) is approved; and

(b) January 1, 2023.

(5) Before November 1, 2023, and before November 1 of each third year after 2023, the department shall:

(a) calculate the change in state spending attributable to the coverage described in this section; and

(b) report the amount described in Subsection (5)(a) to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee.

Section 58. Section 26B-3-217, which is renumbered from Section 26-18-421 is renumbered and amended to read:

[~~26-18-421~~]. 26B-3-217. Medicaid waiver for coverage of qualified inmates leaving prison or jail.

(1) As used in this section:

(a) "Correctional facility" means:

(i) a county jail;

(ii) the Department of Corrections, created in Section 64-13-2; or

(iii) a prison, penitentiary, or other institution operated by or under contract with the Department of Corrections for the confinement of an offender, as defined in Section 64-13-1.

(b) "Qualified inmate" means an individual who:

(i) is incarcerated in a correctional facility; and

(ii) has:

(A) a chronic physical or behavioral health condition;

(B) a mental illness, as defined in Section [~~62A-15-602~~] 26B-5-301; or

(C) an opioid use disorder.

(2) Before July 1, 2020, the division shall apply for a Medicaid waiver or a state plan amendment with CMS to offer a program to provide Medicaid coverage to a qualified inmate for up to 30 days immediately before the day on which the qualified inmate is released from a correctional facility.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the department shall report to the Health and Human Services Interim Committee each year before November 30 while the waiver or state plan amendment is in effect regarding:

(a) the number of qualified inmates served under the program;

(b) the cost of the program; and

(c) the effectiveness of the program, including:

(i) any reduction in the number of emergency room visits or hospitalizations by inmates after release from a correctional facility;

(ii) any reduction in the number of inmates undergoing inpatient treatment after release from a correctional facility;

(iii) any reduction in overdose rates and deaths of inmates after release from a correctional facility; and

(iv) any other costs or benefits as a result of the program.

(4) If the waiver or state plan amendment described in Subsection (2) is approved, a county that is responsible for the cost of a qualified inmate's medical care shall provide the required matching funds to the state for:

(a) any costs to enroll the qualified inmate for the Medicaid coverage described in Subsection (2);

(b) any administrative fees for the Medicaid coverage described in Subsection (2); and

(c) the Medicaid coverage that is provided to the qualified inmate under Subsection (2).

Section 59. Section 26B-3-218, which is renumbered from Section 26-18-422 is renumbered and amended to read:

[~~26-18-422~~]. 26B-3-218. Medicaid waiver for inpatient care in an institution for mental diseases.

(1) As used in this section, "institution for mental diseases" means the same as that term is defined in 42 C.F.R. Sec. 435.1010.

(2) Before August 1, 2020, the division shall apply for a Medicaid waiver or a state plan amendment with CMS to offer a program that provides reimbursement for mental health services that are provided:

(a) in an institution for mental diseases that includes more than 16 beds; and

(b) to an individual who receives mental health services in an institution for mental diseases for a period of more than 15 days in a calendar month.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the department shall:

(a) [~~coordinate with the Department of Human Services to~~] develop and offer the program described in Subsection (2); and

(b) submit to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee any report that the department submits to CMS that relates to the budget neutrality, independent waiver evaluation, or performance metrics of the program described in Subsection (2), within 15 days after the day on which the report is submitted to CMS.

(4) Notwithstanding Sections 17-43-201 and 17-43-301, if the waiver or state plan amendment described in Subsection (2) is approved, a county does not have to provide matching funds to the state for the mental health services described in Subsection (2) that are provided to an individual who qualifies for Medicaid coverage under Section [~~26-18-3.9 or Section 26-18-411~~] 26B-3-113 or 26B-3-207.

Section 60. Section 26B-3-219, which is renumbered from Section 26-18-423 is renumbered and amended to read:

[~~26-18-423~~]. 26B-3-219. Reimbursement for crisis management services provided in a behavioral health receiving center -- Integration of payment for physical health services.

(1) As used in this section:

(a) "Accountable care organization" means the same as that term is defined in Section [~~26-18-408~~] 26B-3-204.

(b) "Behavioral health receiving center" means the same as that term is defined in Section [~~62A-15-118~~] 26B-4-114.

(c) "Crisis management services" means behavioral health services provided to an individual who is experiencing a mental health crisis.

(d) "Managed care organization" means the same as that term is defined in 42 C.F.R. Sec. 438.2.

(2) Before July 1, 2020, the division shall apply for a Medicaid waiver or state plan amendment with CMS to offer a program that provides reimbursement through a bundled daily rate for crisis management services that are delivered to an individual during the individual's stay at a behavioral health receiving center.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the department shall:

(a) implement the program described in Subsection (2); and

(b) require a managed care organization that contracts with the state's Medicaid program for behavioral health services or integrated health services to provide coverage for crisis management services that are delivered to an individual during the individual's stay at a behavioral health receiving center.

(4) (a) The department may elect to integrate payment for physical health services provided in a behavioral health receiving center.

(b) In determining whether to integrate payment under Subsection (4)(a), the department shall consult with accountable care organizations and counties in the state.

Section 61. Section 26B-3-220, which is renumbered from Section 26-18-424 is renumbered and amended to read:

[~~26-18-424~~]. 26B-3-220. Crisis services -- Reimbursement.

The [~~Department~~] department shall submit a waiver or state plan amendment to allow for reimbursement for 988 services provided to an individual who is eligible and enrolled in Medicaid at the time this service is provided.

Section 62. Section 26B-3-221, which is renumbered from Section 26-18-425 is renumbered and amended to read:

[~~26-18-425~~]. 26B-3-221. Medicaid waiver for respite care facility that provides services to homeless individuals.

(1) As used in this section:

(a) "Adult in the expansion population" means an adult:

(i) described in 42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII); and

(ii) not otherwise eligible for Medicaid as a mandatory categorically needy individual.

(b) "Homeless" means the same as that term is defined in Section [~~26-18-411~~] 26B-3-207.

(c) "Medical respite care" means short-term housing with supportive medical services.

(d) "Medical respite facility" means a residential facility that provides medical respite care to homeless individuals.

(2) Before January 1, 2022, the department shall apply for a Medicaid waiver or state plan amendment with CMS to choose a single medical respite facility to reimburse for services provided to an individual who is:

(a) homeless; and

(b) an adult in the expansion population.

(3) The department shall choose a medical respite facility best able to serve homeless individuals who are adults in the expansion population.

(4) If the waiver or state plan amendment described in Subsection (2) is approved, while the waiver or state plan amendment is in effect, the department shall submit a report to the Health and Human Services Interim Committee each year before November 30 detailing:

(a) the number of homeless individuals served at the facility;

(b) the cost of the program; and

(c) the reduction of health care costs due to the program's implementation.

(5) Through administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall further define and limit the services, described in this section, provided to a homeless individual.

Section 63. Section 26B-3-222, which is renumbered from Section 26-18-426 is renumbered and amended to read:

[~~26-18-426~~]. 26B-3-222. Medicaid waiver expansion for extraordinary care reimbursement.

(1) As used in this section:

(a) "Existing home and community-based services waiver" means an existing home and community-based services waiver in the state that serves an individual:

(i) with an acquired brain injury;

(ii) with an intellectual or physical disability; or

(iii) who is 65 years old or older.

(b) "Personal care services" means a service that:

(i) is furnished to an individual who is not an inpatient nor a resident of a hospital, nursing facility, intermediate care facility, or institution for mental diseases;

(ii) is authorized for an individual described in Subsection (1)(b)(i) in accordance with a plan of treatment;

(iii) is provided by an individual who is qualified to provide the services; and

(iv) is furnished in a home or another community-based setting.

(c) "Waiver enrollee" means an individual who is enrolled in an existing home and community-based services waiver.

(2) Before July 1, 2021, the department shall apply with CMS for an amendment to an existing home and community-based services waiver to implement a program to offer reimbursement to an individual who provides personal care services that constitute extraordinary care to a waiver enrollee who is the individual's spouse.

(3) If CMS approves the amendment described in Subsection (2), the department shall implement the program described in Subsection (2).

(4) The department shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, define "extraordinary care" for purposes of Subsection (2).

Section 64. Section 26B-3-223, which is renumbered from Section 26-18-428 is renumbered and amended to read:

[~~26-18-428~~]. 26B-3-223. Delivery system adjustments for the targeted adult Medicaid program.

(1) As used in this section, "targeted adult Medicaid program" means the same as that term is defined in Section [~~26-18-411~~] 26B-3-207.

(2) The department may implement the delivery system adjustments authorized under Subsection (3) only on the later of:

(a) July 1, 2023; and

(b) the department determining that the Medicaid program, including providers and managed care organizations, are satisfying the metrics established in collaboration with the working group convened under Subsection [~~26-18-427~~] 26B-3-138(2).

(3) The department may, for individuals who are enrolled in the targeted adult Medicaid program:

(a) integrate the delivery of behavioral and physical health in certain counties; and

(b) deliver behavioral health services through an accountable care organization where implemented.

(4) Before implementing the delivery system adjustments described in Subsection (3) in a county, the department shall, at a minimum, seek input from:

(a) individuals who qualify for the targeted adult Medicaid program who reside in the county;

(b) the county's executive officer, legislative body, and other county officials who are involved in the delivery of behavioral health services;

(c) the local mental health authority and local substance [~~use~~] abuse authority that serves the county;

(d) Medicaid managed care organizations operating in the state, including Medicaid accountable care organizations;

(e) providers of physical or behavioral health services in the county who provide services to enrollees in the targeted adult Medicaid program in the county; and

(f) other individuals that the department deems necessary.

(5) If the department provides Medicaid coverage through a managed care delivery system under this section, the department shall include language in the department's managed care contracts that require the managed care plan to:

(a) be in compliance with federal Medicaid managed care requirements;

(b) timely and accurately process authorizations and claims in accordance with Medicaid policy and contract requirements;

(c) adequately reimburse providers to maintain adequacy of access to care;

(d) provide care management services sufficient to meet the needs of Medicaid eligible individuals enrolled in the managed care plan's plan; and

(e) timely resolve any disputes between a provider or enrollee with the managed care plan.

(6) The department may take corrective action if the managed care organization fails to comply with the terms of the managed care organization's contract.

Section 65. Section 26B-3-224, which is renumbered from Section 26-18-429 is renumbered and amended to read:

[~~26-18-429~~]. 26B-3-224. Medicaid waiver for increased integrated health care reimbursement.

(1) As used in this section:

(a) "Integrated health care setting" means a health care or behavioral health care setting that provides integrated physical and behavioral health care services.

(b) "Local mental health authority" means a local mental health authority described in Section 17-43-301.

(2) The department shall develop a proposal to allow the state Medicaid program to reimburse a local mental health authority for covered physical health care services provided in an integrated health care setting to Medicaid eligible individuals.

(3) Before December 31, 2022, the department shall apply for a Medicaid waiver or a state plan amendment with CMS to implement the proposal described in Subsection (2).

(4) If the waiver or state plan amendment described in Subsection (3) is approved, the department shall:

(a) implement the proposal described in Subsection (2); and

(b) while the waiver or state plan amendment is in effect, submit a report to the Health and Human Services Interim Committee each year before November 30 detailing:

(i) the number of patients served under the waiver or state plan amendment;

(ii) the cost of the waiver or state plan amendment; and

(iii) any benefits of the waiver or state plan amendment.

Section 66. Section 26B-3-301, which is renumbered from Section 26-18-101 is renumbered and amended to read:

Part 3. Administration of Medicaid Programs: Drug Utilization Review and Long Term Care Facility Certification

[~~26-18-101~~]. 26B-3-301. Definitions.

As used in this part:

(1) "Appropriate and medically necessary" means, regarding drug prescribing, dispensing, and patient usage, that it is in conformity with the criteria and standards developed in accordance with this part.

(2) "Board" means the Drug Utilization Review Board created in Section [~~26-18-102~~] 26B-3-302.

(3) "Certified program" means a nursing care facility program with Medicaid certification.

[~~(3)~~] (4) "Compendia" means resources widely accepted by the medical profession in the efficacious use of drugs, including "American Hospital Formulary [~~Services~~] Service Drug Information," "U.S. Pharmacopeia - Drug Information," "A.M.A. Drug Evaluations," peer-reviewed medical literature, and information provided by manufacturers of drug products.

[~~(4)~~] (5) "Counseling" means the activities conducted by a pharmacist to inform Medicaid recipients about the proper use of drugs, as required by the board under this part.

[~~(5)~~] (6) "Criteria" means those predetermined and explicitly accepted elements used to measure drug use on an ongoing basis in order to determine if the use is appropriate, medically necessary, and not likely to result in adverse medical outcomes.

[~~(6)~~] (7) "Drug-disease contraindications" means that the therapeutic effect of a drug is adversely altered by the presence of another disease condition.

[~~(7)~~] (8) "Drug-interactions" means that two or more drugs taken by a recipient lead to clinically

significant toxicity that is characteristic of one or any of the drugs present, or that leads to interference with the effectiveness of one or any of the drugs.

[~~(8)~~] (9) "Drug Utilization Review" or "DUR" means the program designed to measure and assess, on a retrospective and prospective basis, the proper use of outpatient drugs in the Medicaid program.

[~~(9)~~] (10) "Intervention" means a form of communication utilized by the board with a prescriber or pharmacist to inform about or influence prescribing or dispensing practices.

(11) "Medicaid certification" means the right of a nursing care facility, as a provider of a nursing care facility program, to receive Medicaid reimbursement for a specified number of beds within the facility.

(12) (a) "Nursing care facility" means the following facilities licensed by the department under Chapter 2, Part 2, Health Care Facility Licensing and Inspection:

(i) skilled nursing facilities;

(ii) intermediate care facilities; and

(iii) an intermediate care facility for people with an intellectual disability.

(b) "Nursing care facility" does not mean a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998).

(13) "Nursing care facility program" means the personnel, licenses, services, contracts, and all other requirements that shall be met for a nursing care facility to be eligible for Medicaid certification under this part and division rule.

[~~(10)~~] (14) "Overutilization" or "underutilization" means the use of a drug in such quantities that the desired therapeutic goal is not achieved.

[~~(11)~~] (15) "Pharmacist" means a person licensed in this state to engage in the practice of pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.

(16) "Physical facility" means the buildings or other physical structures where a nursing care facility program is operated.

[~~(12)~~] (17) "Physician" means a person licensed in this state to practice medicine and surgery under Section 58-67-301 or osteopathic medicine under Section 58-68-301.

[~~(13)~~] (18) "Prospective DUR" means that part of the drug utilization review program that occurs before a drug is dispensed, and that is designed to screen for potential drug therapy problems based on explicit and predetermined criteria and standards.

[~~(14)~~] (19) "Retrospective DUR" means that part of the drug utilization review program that assesses or measures drug use based on an historical review of drug use data against predetermined and explicit criteria and standards, on an ongoing basis with professional input.

(20) "Rural county" means a county with a population of less than 50,000, as determined by:

(a) the most recent official census or census estimate of the United States Bureau of the Census; or

(b) the most recent population estimate for the county from the Utah Population Committee, if a population figure for the county is not available under Subsection (20)(a).

(21) "Service area" means the boundaries of the distinct geographic area served by a certified program as determined by the division in accordance with this part and division rule.

[~~(15)~~] (22) "Standards" means the acceptable range of deviation from the criteria that reflects local medical practice and that is tested on the Medicaid recipient database.

[~~(16)~~] (23) "SURS" means the Surveillance Utilization Review System of the Medicaid program.

[~~(17)~~] (24) "Therapeutic appropriateness" means drug prescribing and dispensing based on rational drug therapy that is consistent with criteria and standards.

[~~(18)~~] (25) "Therapeutic duplication" means prescribing and dispensing the same drug or two or more drugs from the same therapeutic class where periods of drug administration overlap and where that practice is not medically indicated.

(26) "Urban county" means a county that is not a rural county.

Section 67. Section 26B-3-302, which is renumbered from Section 26-18-102 is renumbered and amended to read:

[~~26-18-102~~]. 26B-3-302. DUR Board -- Creation and membership -- Expenses.

(1) There is created a 12-member Drug Utilization Review Board responsible for implementation of a retrospective and prospective DUR program.

(2) (a) Except as required by Subsection (2)(b), as terms of current board members expire, the executive director shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Persons appointed to the board may be reappointed upon completion of their terms, but may not serve more than two consecutive terms.

(d) The executive director shall provide for geographic balance in representation on the board.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The membership shall be comprised of the following:

(a) four physicians who are actively engaged in the practice of medicine or osteopathic medicine in this state, to be selected from a list of nominees provided by the Utah Medical Association;

(b) one physician in this state who is actively engaged in academic medicine;

(c) three pharmacists who are actively practicing in retail pharmacy in this state, to be selected from a list of nominees provided by the Utah Pharmaceutical Association;

(d) one pharmacist who is actively engaged in academic pharmacy;

(e) one person who shall represent consumers;

(f) one person who shall represent pharmaceutical manufacturers, to be recommended by the Pharmaceutical Manufacturers Association; and

(g) one dentist licensed to practice in this state under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, who is actively engaged in the practice of dentistry, nominated by the Utah Dental Association.

(5) Physician and pharmacist members of the board shall have expertise in clinically appropriate prescribing and dispensing of outpatient drugs.

(6) The board shall elect a chair from among its members who shall serve a one-year term, and may serve consecutive terms.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 68. Section 26B-3-303, which is renumbered from Section 26-18-103 is renumbered and amended to read:

~~[26-18-103].~~ 26B-3-303. DUR Board -- Responsibilities.

The board shall:

(1) develop rules necessary to carry out its responsibilities as defined in this part;

(2) oversee the implementation of a Medicaid retrospective and prospective DUR program in accordance with this part, including responsibility for approving provisions of contractual agreements between the Medicaid program and any other entity that will process and review Medicaid drug claims and profiles for the DUR program in accordance with this part;

(3) develop and apply predetermined criteria and standards to be used in retrospective and prospective DUR, ensuring that the criteria and standards are based on the compendia, and that they are developed with professional input, in a consensus fashion, with provisions for timely revision and assessment as necessary. The DUR standards developed by the board shall reflect the local practices of physicians in order to monitor:

(a) therapeutic appropriateness;

(b) overutilization or underutilization;

(c) therapeutic duplication;

(d) drug-disease contraindications;

(e) drug-drug interactions;

(f) incorrect drug dosage or duration of drug treatment; and

(g) clinical abuse and misuse;

(4) develop, select, apply, and assess interventions and remedial strategies for physicians, pharmacists, and recipients that are educational and not punitive in nature, in order to improve the quality of care;

(5) disseminate information to physicians and pharmacists to ensure that they are aware of the board's duties and powers;

(6) provide written, oral, or electronic reminders of patient-specific or drug-specific information, designed to ensure recipient, physician, and pharmacist confidentiality, and suggest changes in prescribing or dispensing practices designed to improve the quality of care;

(7) utilize face-to-face discussions between experts in drug therapy and the prescriber or pharmacist who has been targeted for educational intervention;

(8) conduct intensified reviews or monitoring of selected prescribers or pharmacists;

(9) create an educational program using data provided through DUR to provide active and ongoing educational outreach programs to improve prescribing and dispensing practices, either directly or by contract with other governmental or private entities;

(10) provide a timely evaluation of intervention to determine if those interventions have improved the quality of care;

(11) publish the annual Drug Utilization Review report required under 42 C.F.R. Sec. 712;

(12) develop a working agreement with related boards or agencies, including the State Board of Pharmacy, Physicians' Licensing Board, and SURS staff within the division, in order to clarify areas of responsibility for each, where those areas may overlap;

(13) establish a grievance process for physicians and pharmacists under this part, in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(14) publish and disseminate educational information to physicians and pharmacists

concerning the board and the DUR program, including information regarding:

(a) identification and reduction of the frequency of patterns of fraud, abuse, gross overuse, inappropriate, or medically unnecessary care among physicians, pharmacists, and recipients;

(b) potential or actual severe or adverse reactions to drugs;

(c) therapeutic appropriateness;

(d) overutilization or underutilization;

(e) appropriate use of generics;

(f) therapeutic duplication;

(g) drug-disease contraindications;

(h) drug-drug interactions;

(i) incorrect drug dosage and duration of drug treatment;

(j) drug allergy interactions; and

(k) clinical abuse and misuse;

(15) develop and publish, with the input of the State Board of Pharmacy, guidelines and standards to be used by pharmacists in counseling Medicaid recipients in accordance with this part. The guidelines shall ensure that the recipient may refuse counseling and that the refusal is to be documented by the pharmacist. Items to be discussed as part of that counseling include:

(a) the name and description of the medication;

(b) administration, form, and duration of therapy;

(c) special directions and precautions for use;

(d) common severe side effects or interactions, and therapeutic interactions, and how to avoid those occurrences;

(e) techniques for self-monitoring drug therapy;

(f) proper storage;

(g) prescription refill information; and

(h) action to be taken in the event of a missed dose; and

(16) establish procedures in cooperation with the State Board of Pharmacy for pharmacists to record information to be collected under this part. The recorded information shall include:

(a) the name, address, age, and gender of the recipient;

(b) individual history of the recipient where significant, including disease state, known allergies and drug reactions, and a comprehensive list of medications and relevant devices;

(c) the pharmacist's comments on the individual's drug therapy;

(d) name of prescriber; and

(e) name of drug, dose, duration of therapy, and directions for use.

Section 69. Section 26B-3-304, which is renumbered from Section 26-18-104 is renumbered and amended to read:

[~~26-18-104~~]. 26B-3-304. Confidentiality of records.

(1) Information obtained under this part shall be treated as confidential or controlled information under Title 63G, Chapter 2, Government Records Access and Management Act.

(2) The board shall establish procedures [~~insuring~~] ensuring that the information described in Subsection [~~26-18-103~~] 26B-3-304(16) is held confidential by the pharmacist, being provided to the physician only upon request.

(3) The board shall adopt and implement procedures designed to ensure the confidentiality of all information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program, that identifies individual physicians, pharmacists, or recipients. The board may have access to identifying information for purposes of carrying out intervention activities, but that identifying information may not be released to anyone other than a member of the board. The board may release cumulative nonidentifying information for research purposes.

Section 70. Section 26B-3-305, which is renumbered from Section 26-18-105 is renumbered and amended to read:

[~~26-18-105~~]. 26B-3-305. Drug prior approval program.

(1) A drug prior approval program approved or implemented by the board shall meet the following conditions:

(a) except as provided in Subsection (2), a drug may not be placed on prior approval for other than medical reasons;

(b) the board shall hold a public hearing at least 30 days prior to placing a drug on prior approval;

(c) notwithstanding the provisions of Section 52-4-202, the board shall provide not less than 14 days' notice to the public before holding a public hearing under Subsection (1)(b);

(d) the board shall consider written and oral comments submitted by interested parties prior to or during the hearing held in accordance with Subsection (1)(b);

(e) the board shall provide evidence that placing a drug class on prior approval:

(i) will not impede quality of recipient care; and

(ii) that the drug class is subject to clinical abuse or misuse;

(f) the board shall reconsider its decision to place a drug on prior approval:

(i) no later than nine months after any drug class is placed on prior approval; and

(ii) at a public hearing with notice as provided in Subsection (1)(b);

(g) the program shall provide an approval or denial of a request for prior approval:

(i) by either:

(A) fax;

(B) telephone; or

(C) electronic transmission;

(ii) at least Monday through Friday, except for state holidays; and

(iii) within 24 hours after receipt of the prior approval request;

(h) the program shall provide for the dispensing of at least a 72-hour supply of the drug on the prior approval program:

(i) in an emergency situation; or

(ii) on weekends or state holidays;

(i) the program may be applied to allow acceptable medical use of a drug on prior approval for appropriate off-label indications; and

(j) before placing a drug class on the prior approval program, the board shall:

(i) determine that the requirements of Subsections (1)(a) through (i) have been met; and

(ii) by majority vote, place the drug class on prior approval.

(2) The board may, only after complying with Subsections (1)(b) through (j), consider the cost:

(a) of a drug when placing a drug on the prior approval program; and

(b) associated with including, or excluding a drug from the prior approval process, including:

(i) potential side effects associated with a drug; or

(ii) potential hospitalizations or other complications that may occur as a result of a drug's inclusion on the prior approval process.

Section 71. Section 26B-3-306, which is renumbered from Section 26-18-106 is renumbered and amended to read:

[~~26-18-106~~]. 26B-3-306. Advisory committees.

The board may establish advisory committees to assist it in carrying out its duties under [~~this part~~] Sections 26B-3-302 through 26B-3-309.

Section 72. Section 26B-3-307, which is renumbered from Section 26-18-107 is renumbered and amended to read:

[~~26-18-107~~]. 26B-3-307. Retrospective and prospective DUR.

(1) The board, in cooperation with the division, shall include in its state plan the creation and implementation of a retrospective and prospective DUR program for Medicaid outpatient drugs to ensure that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.

(2) The retrospective and prospective DUR program shall be operated under guidelines established by the board under Subsections (3) and (4).

(3) The retrospective DUR program shall be based on guidelines established by the board, using the mechanized drug claims processing and information retrieval system to analyze claims data in order to:

(a) identify patterns of fraud, abuse, gross overuse, and inappropriate or medically unnecessary care; and

(b) assess data on drug use against explicit predetermined standards that are based on the compendia and other sources for the purpose of monitoring:

(i) therapeutic appropriateness;

(ii) overutilization or underutilization;

(iii) therapeutic duplication;

(iv) drug-disease contraindications;

(v) drug-drug interactions;

(vi) incorrect drug dosage or duration of drug treatment; and

(vii) clinical abuse and misuse.

(4) The prospective DUR program shall be based on guidelines established by the board and shall provide that, before a prescription is filled or delivered, a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from:

(a) therapeutic duplication;

(b) drug-drug interactions;

(c) incorrect dosage or duration of treatment;

(d) drug-allergy interactions; and

(e) clinical abuse or misuse.

(5) In conducting the prospective DUR, a pharmacist may not alter the prescribed outpatient drug therapy without the consent of the prescribing physician or physician assistant. This section does not effect the ability of a pharmacist to substitute a generic equivalent.

Section 73. Section 26B-3-308, which is renumbered from Section 26-18-108 is renumbered and amended to read:

[~~26-18-108~~]. 26B-3-308. Penalties.

Any person who violates the confidentiality provisions of [~~this part~~] Sections 26B-3-302 through 26B-3-307 is guilty of a class B misdemeanor.

Section 74. Section 26B-3-309, which is renumbered from Section 26-18-109 is renumbered and amended to read:

[~~26-18-109~~]. 26B-3-309. Immunity.

There is no liability on the part of, and no cause of action of any nature arises against any member of the board, its agents, or employees for any action or omission by them in effecting the provisions of [~~this part~~] Sections 26B-3-302 through 26B-3-307.

Section 75. Section 26B-3-310, which is renumbered from Section 26-18-502 is renumbered and amended to read:

[~~26-18-502~~]. 26B-3-310. Purpose -- Medicaid certification of nursing care facilities.

(1) The Legislature finds:

(a) that an oversupply of nursing care facilities in the state adversely affects the state Medicaid program and the health of the people in the state;

(b) it is in the best interest of the state to prohibit nursing care facilities from receiving Medicaid certification, except as provided by [~~this part~~] Sections 26B-3-311 through 26B-3-313; and

(c) it is in the best interest of the state to encourage aging nursing care facilities with Medicaid certification to renovate the nursing care facilities' physical facilities so that the quality of life and clinical services for Medicaid residents are preserved.

(2) Medicaid reimbursement of nursing care facility programs is limited to:

(a) the number of nursing care facility programs with Medicaid certification as of May 9, 2016; and

(b) additional nursing care facility programs approved for Medicaid certification under the provisions of Subsections [~~26-18-503~~] 26B-3-311(5) and (7).

(3) The division may not:

(a) except as authorized by Section [~~26-18-503~~] 26B-3-311:

(i) process initial applications for Medicaid certification or execute provider agreements with nursing care facility programs; or

(ii) reinstate Medicaid certification for a nursing care facility whose certification expired or was terminated by action of the federal or state government; or

(b) execute a Medicaid provider agreement with a certified program that moves to a different physical facility, except as authorized by Subsection [~~26-18-503~~] 26B-3-311(3).

(4) Notwithstanding Section [~~26-18-503~~] 26B-3-311, beginning May 4, 2021, the division may not approve a new or additional bed in an intermediate care facility for individuals with an intellectual disability for Medicaid certification, unless certification of the bed by the division does not increase the total number in the state of Medicaid-certified beds in intermediate care facilities for individuals with an intellectual disability.

Section 76. Section 26B-3-311, which is renumbered from Section 26-18-503 is renumbered and amended to read:

[~~26-18-503~~]. 26B-3-311. Authorization to renew, transfer, or increase Medicaid certified programs -- Reimbursement methodology.

(1) (a) The division may renew Medicaid certification of a certified program if the program, without lapse in service to Medicaid recipients, has its nursing care facility program certified by the division at the same physical facility as long as the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) The division may renew Medicaid certification of a nursing care facility program that is not currently certified if:

(i) since the day on which the program last operated with Medicaid certification:

(A) the physical facility where the program operated has functioned solely and continuously as a nursing care facility; and

(B) the owner of the program has not, under this section or Section [~~26-18-505~~] 26B-3-313, transferred to another nursing care facility program the license for any of the Medicaid beds in the program; and

(ii) except as provided in Subsection [~~26-18-502~~] 26B-3-310(4), the number of beds granted renewed Medicaid certification does not exceed the number of beds certified at the time the program last operated with Medicaid certification, excluding a period of time where the program operated with temporary certification under Subsection [~~26-18-504~~] 26B-3-312(3).

(2) (a) The division may issue a Medicaid certification for a new nursing care facility program if a current owner of the Medicaid certified program transfers its ownership of the Medicaid certification to the new nursing care facility program and the new nursing care facility program meets all of the following conditions:

(i) the new nursing care facility program operates at the same physical facility as the previous Medicaid certified program;

(ii) the new nursing care facility program gives a written assurance to the director in accordance with Subsection (4);

(iii) the new nursing care facility program receives the Medicaid certification within one year of the date the previously certified program ceased to provide medical assistance to a Medicaid recipient; and

(iv) the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) A nursing care facility program that receives Medicaid certification under the provisions of

Subsection (2)(a) does not assume the Medicaid liabilities of the previous nursing care facility program if the new nursing care facility program:

(i) is not owned in whole or in part by the previous nursing care facility program; or

(ii) is not a successor in interest of the previous nursing care facility program.

(3) The division may issue a Medicaid certification to a nursing care facility program that was previously a certified program but now resides in a new or renovated physical facility if the nursing care facility program meets all of the following:

(a) the nursing care facility program met all applicable requirements for Medicaid certification at the time of closure;

(b) the new or renovated physical facility is in the same county or within a five-mile radius of the original physical facility;

(c) the time between which the certified program ceased to operate in the original facility and will begin to operate in the new physical facility is not more than three years, unless:

(i) an emergency is declared by the president of the United States or the governor, affecting the building or renovation of the physical facility;

(ii) the director approves an exception to the three-year requirement for any nursing care facility program within the three-year requirement;

(iii) the provider submits documentation supporting a request for an extension to the director that demonstrates a need for an extension; and

(iv) the exception does not extend for more than two years beyond the three-year requirement;

(d) if Subsection (3)(c) applies, the certified program notifies the department within 90 days after ceasing operations in its original facility, of its intent to retain its Medicaid certification;

(e) the provider gives written assurance to the director in accordance with Subsection (4) that no third party has a legitimate claim to operate a certified program at the previous physical facility; and

(f) the bed capacity in the physical facility has not been expanded unless the director has approved additional beds in accordance with Subsection (5).

(4) (a) The entity requesting Medicaid certification under Subsections (2) and (3) shall give written assurances satisfactory to the director or the director's designee that:

(i) no third party has a legitimate claim to operate the certified program;

(ii) the requesting entity agrees to defend and indemnify the department against any claims by a third party who may assert a right to operate the certified program; and

(iii) if a third party is found, by final agency action of the department after exhaustion of all administrative and judicial appeal rights, to be entitled to operate a certified program at the physical facility the certified program shall voluntarily comply with Subsection (4)(b).

(b) If a finding is made under the provisions of Subsection (4)(a)(iii):

(i) the certified program shall immediately surrender its Medicaid certification and comply with division rules regarding billing for Medicaid and the provision of services to Medicaid patients; and

(ii) the department shall transfer the surrendered Medicaid certification to the third party who prevailed under Subsection (4)(a)(iii).

(5) (a) The director may approve additional nursing care facility programs for Medicaid certification, or additional beds for Medicaid certification within an existing nursing care facility program, if a nursing care facility or other interested party requests Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program, and the nursing care facility program or other interested party complies with this section.

(b) The nursing care facility or other interested party requesting Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program under Subsection (5)(a) shall submit to the director:

(i) proof of the following as reasonable evidence that bed capacity provided by Medicaid certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient:

(A) nursing care facility occupancy levels for all existing and proposed facilities will be at least 90% for the next three years;

(B) current nursing care facility occupancy is 90% or more; or

(C) there is no other nursing care facility within a 35-mile radius of the nursing care facility requesting the additional certification; and

(ii) an independent analysis demonstrating that at projected occupancy rates the nursing care facility's after-tax net income is sufficient for the facility to be financially viable.

(c) Any request for additional beds as part of a renovation project are limited to the maximum number of beds allowed in Subsection (7).

(d) The director shall determine whether to issue additional Medicaid certification by considering:

(i) whether bed capacity provided by certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient, based on the information submitted to the director under Subsection (5)(b);

(ii) whether the county or group of counties impacted by the requested additional Medicaid

certification is underserved by specialized or unique services that would be provided by the nursing care facility;

(iii) whether any Medicaid certified beds are subject to a claim by a previous certified program that may reopen under the provisions of Subsections (2) and (3);

(iv) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of Medicaid recipients; and

(v) (A) whether the existing certified programs within the county or group of counties have provided services of sufficient quality to merit at least a two-star rating in the Medicare Five-Star Quality Rating System over the previous three-year period; and

(B) information obtained under Subsection (9).

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the Medicaid nursing care facility property reimbursement methodology to:

(a) only pay that portion of the property component of rates, representing actual bed usage by Medicaid clients as a percentage of the greater of:

(i) actual occupancy; or

(ii) (A) for a nursing care facility other than a facility described in Subsection (6)(a)(ii)(B), 85% of total bed capacity; or

(B) for a rural nursing care facility, 65% of total bed capacity; and

(b) not allow for increases in reimbursement for property values without major renovation or replacement projects as defined by the department by rule.

(7) (a) Except as provided in Subsection [~~26-18-502(3)~~] 26B-3-310(3), if a nursing care facility does not seek Medicaid certification for a bed under Subsections (1) through (6), the department shall, notwithstanding Subsections [~~26-18-504~~] 26B-3-312(3)(a) and (b), grant Medicaid certification for additional beds in an existing Medicaid certified nursing care facility that has 90 or fewer licensed beds, including Medicaid certified beds, in the facility if:

(i) the nursing care facility program was previously a certified program for all beds but now resides in a new facility or in a facility that underwent major renovations involving major structural changes, with 50% or greater facility square footage design changes, requiring review and approval by the department;

(ii) the nursing care facility meets the quality of care regulations issued by CMS; and

(iii) the total number of additional beds in the facility granted Medicaid certification under this section does not exceed 10% of the number of licensed beds in the facility.

(b) The department may not revoke the Medicaid certification of a bed under this Subsection (7) as long as the provisions of Subsection (7)(a)(ii) are met.

(8) (a) If a nursing care facility or other interested party indicates in its request for additional Medicaid certification under Subsection (5)(a) that the facility will offer specialized or unique services, but the facility does not offer those services after receiving additional Medicaid certification, the director shall revoke the additional Medicaid certification.

(b) The nursing care facility program shall obtain Medicaid certification for any additional Medicaid beds approved under Subsection (5) or (7) within three years of the date of the director's approval, or the approval is void.

(9) (a) If the director makes an initial determination that quality standards under Subsection (5)(d)(v) have not been met in a rural county or group of rural counties over the previous three-year period, the director shall, before approving certification of additional Medicaid beds in the rural county or group of counties:

(i) notify the certified program that has not met the quality standards in Subsection (5)(d)(v) that the director intends to certify additional Medicaid beds under the provisions of Subsection (5)(d)(v); and

(ii) consider additional information submitted to the director by the certified program in a rural county that has not met the quality standards under Subsection (5)(d)(v).

(b) The notice under Subsection (9)(a) does not give the certified program that has not met the quality standards under Subsection (5)(d)(v), the right to legally challenge or appeal the director's decision to certify additional Medicaid beds under Subsection (5)(d)(v).

Section 77. Section 26B-3-312, which is renumbered from Section 26-18-504 is renumbered and amended to read:

[~~26-18-504~~]. 26B-3-312. Appeals of division decision -- Rulemaking authority -- Application of act.

(1) A decision by the director under this part to deny Medicaid certification for a nursing care facility program or to deny additional bed capacity for an existing certified program is subject to review under the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(2) The department shall make rules to administer and enforce [~~this part~~] Sections 26B-3-310 through 26B-3-313 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) In the event the department is at risk for a federal disallowance with regard to a Medicaid recipient being served in a nursing care facility program that is not Medicaid certified, the department may grant temporary Medicaid certification to that facility for up to 24 months.

(b) (i) The department may extend a temporary Medicaid certification granted to a facility under Subsection (3)(a):

(A) for the number of beds in the nursing care facility occupied by a Medicaid recipient; and

(B) for the period of time during which the Medicaid recipient resides at the facility.

(ii) A temporary Medicaid certification granted under this Subsection (3) is revoked upon:

(A) the discharge of the patient from the facility; or

(B) the patient no longer residing at the facility for any reason.

(c) The department may place conditions on the temporary certification granted under Subsections (3)(a) and (b), such as:

(i) not allowing additional admissions of Medicaid recipients to the program; and

(ii) not paying for the care of the patient after October 1, 2008, with state only dollars.

Section 78. Section 26B-3-313, which is renumbered from Section 26-18-505 is renumbered and amended to read:

[~~26-18-505~~]. 26B-3-313. Authorization to sell or transfer licensed Medicaid beds -- Duties of transferor -- Duties of transferee -- Duties of division.

(1) This section provides a method to transfer or sell the license for a Medicaid bed from a nursing care facility program to another entity that is in addition to the authorization to transfer under Section [~~26-18-503~~] 26B-3-311.

(2) (a) A nursing care facility program may transfer or sell one or more of its licenses for Medicaid beds in accordance with Subsection (2)(b) if:

(i) at the time of the transfer, and with respect to the license for the Medicaid bed that will be transferred, the nursing care facility program that will transfer the Medicaid license meets all applicable regulations for Medicaid certification;

(ii) the nursing care facility program gives a written assurance, which is postmarked or has proof of delivery 30 days before the transfer, to the director and to the transferee in accordance with Subsection [~~26-18-503~~] 26B-3-311(4);

(iii) the nursing care facility program that will transfer the license for a Medicaid bed notifies the division in writing, which is postmarked or has proof of delivery 30 days before the transfer, of:

(A) the number of bed licenses that will be transferred;

(B) the date of the transfer; and

(C) the identity and location of the entity receiving the transferred licenses; and

(iv) if the nursing care facility program for which the license will be transferred or purchased is located in an urban county with a nursing care facility average annual occupancy rate over the previous two years less than or equal to 75%, the nursing care facility program transferring or selling the license demonstrates to the satisfaction of the director that the sale or transfer:

(A) will not result in an excessive number of Medicaid certified beds within the county or group of counties that would be impacted by the transfer or sale; and

(B) best meets the needs of Medicaid recipients.

(b) Except as provided in Subsection (2)(c), a nursing care facility program may transfer or sell one or more of its licenses for Medicaid beds to:

(i) a nursing care facility program that has the same owner or successor in interest of the same owner;

(ii) a nursing care facility program that has a different owner; or

(iii) a related-party nonnursing-care-facility entity that wants to hold one or more of the licenses for a nursing care facility program not yet identified, as long as:

(A) the licenses are subsequently transferred or sold to a nursing care facility program within three years; and

(B) the nursing care facility program notifies the director of the transfer or sale in accordance with Subsection (2)(a)(iii).

(c) A nursing care facility program may not transfer or sell one or more of its licenses for Medicaid beds to an entity under Subsection (2)(b)(i), (ii), or (iii) that is located in a rural county unless the entity requests, and the director issues, Medicaid certification for the beds under Subsection [~~26-18-503~~] 26B-3-311(5).

(3) A nursing care facility program or entity under Subsection (2)(b)(i), (ii), or (iii) that receives or purchases a license for a Medicaid bed under Subsection (2)(b):

(a) may receive a license for a Medicaid bed from more than one nursing care facility program;

(b) shall give the division notice, which is postmarked or has proof of delivery within 14 days of the nursing care facility program or entity seeking Medicaid certification of beds in the nursing care facility program or entity, of the total number of licenses for Medicaid beds that the entity received and who it received the licenses from;

(c) may only seek Medicaid certification for the number of licensed beds in the nursing care facility program equal to the total number of licenses for Medicaid beds received by the entity;

(d) does not have to demonstrate need or seek approval for the Medicaid licensed bed under Subsection [~~26-18-503~~] 26B-3-311(5), except as provided in Subsections (2)(a)(iv) and (2)(c);

(e) shall meet the standards for Medicaid certification other than those in Subsection [~~26-18-503~~] 26B-3-311(5), including personnel, services, contracts, and licensing of facilities under [~~Chapter 21, Health Care Facility Licensing and Inspection Act~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(f) shall obtain Medicaid certification for the licensed Medicaid beds within three years of the date of transfer as documented under Subsection (2)(a)(iii)(B).

(4) (a) When the division receives notice of a transfer of a license for a Medicaid bed under Subsection (2)(a)(iii)(A), the department shall reduce the number of licenses for Medicaid beds at the transferring nursing care facility:

(i) equal to the number of licenses transferred; and

(ii) effective on the date of the transfer as reported under Subsection (2)(a)(iii)(B).

(b) For purposes of Section [~~26-18-502~~] 26B-3-310, the division shall approve Medicaid certification for the receiving nursing care facility program or entity:

(i) in accordance with the formula established in Subsection (3)(c); and

(ii) if:

(A) the nursing care facility seeks Medicaid certification for the transferred licenses within the time limit required by Subsection (3)(f); and

(B) the nursing care facility program meets other requirements for Medicaid certification under Subsection (3)(e).

(c) A license for a Medicaid bed may not be approved for Medicaid certification without meeting the requirements of Sections [~~26-18-502 and 26-18-503~~] 26B-3-310 and 26B-3-311 if:

(i) the license for a Medicaid bed is transferred under this section but the receiving entity does not obtain Medicaid certification for the licensed bed within the time required by Subsection (3)(f); or

(ii) the license for a Medicaid bed is transferred under this section but the license is no longer eligible for Medicaid certification.

Section 79. Section 26B-3-401, which is renumbered from Section 26-35a-103 is renumbered and amended to read:

Part 4. Nursing Care Facility Assessment

[~~26-35a-103~~]. 26B-3-401. Definitions.

As used in this [~~chapter~~] part:

(1) (a) "Nursing care facility" means:

(i) a nursing care facility [~~described in Subsection 26-21-2(17)~~] as defined in Section 26B-2-201;

(ii) beginning January 1, 2006, a designated swing bed in:

(A) a general acute hospital as defined in [~~Subsection 26-21-2(11)~~] Section 26B-2-201; and

(B) a critical access hospital which meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998); and

(iii) an intermediate care facility for people with an intellectual disability that is licensed under Section [~~26-21-13.5~~] 26B-2-212.

(b) "Nursing care facility" does not include:

(i) the Utah State Developmental Center;

(ii) the Utah State Hospital;

(iii) a general acute hospital, specialty hospital, or small health care facility as those terms are defined in Section [~~26-21-2~~] 26B-2-201; or

(iv) a Utah State Veterans Home.

(2) "Patient day" means each calendar day in which an individual patient is admitted to the nursing care facility during a calendar month, even if on a temporary leave of absence from the facility.

Section 80. Section 26B-3-402, which is renumbered from Section 26-35a-102 is renumbered and amended to read:

[~~26-35a-102~~]. 26B-3-402. Legislative findings.

(1) The Legislature finds that there is an important state purpose to improve the quality of care given to persons who are elderly and to people who have a disability, in long-term care nursing facilities.

(2) The Legislature finds that in order to improve the quality of care to those persons described in Subsection (1), the rates paid to the nursing care facilities by the Medicaid program must be adequate to encourage and support quality care.

(3) The Legislature finds that in order to meet the objectives in Subsections (1) and (2), adequate funding must be provided to increase the rates paid to nursing care facilities providing services pursuant to the Medicaid program.

Section 81. Section 26B-3-403, which is renumbered from Section 26-35a-104 is renumbered and amended to read:

[~~26-35a-104~~]. 26B-3-403. Collection, remittance, and payment of nursing care facilities assessment.

(1) (a) Beginning July 1, 2004, an assessment is imposed upon each nursing care facility in the amount designated in Subsection (1)(c).

(b) (i) The department shall establish by rule, a uniform rate per non-Medicare patient day that may not exceed 6% of the total gross revenue for services provided to patients of all nursing care facilities licensed in this state.

(ii) For purposes of Subsection (1)(b)(i), total revenue does not include charitable contribution received by a nursing care facility.

(c) The department shall calculate the assessment imposed under Subsection (1)(a) by

multiplying the total number of patient days of care provided to non-Medicare patients by the nursing care facility, as provided to the department pursuant to Subsection (3)(a), by the uniform rate established by the department pursuant to Subsection (1)(b).

(2) (a) The assessment imposed by this [~~chapter~~] part is due and payable on a monthly basis on or before the last day of the month next succeeding each monthly period.

(b) The collecting agent for this assessment shall be the department which is vested with the administration and enforcement of this [~~chapter~~] part, including the right to audit records of a nursing care facility related to patient days of care for the facility.

(c) The department shall forward proceeds from the assessment imposed by this [~~chapter~~] part to the state treasurer for deposit in the expendable special revenue fund as specified in Section [~~26-35a-106~~] 26B-1-332.

(3) Each nursing care facility shall, on or before the end of the month next succeeding each calendar monthly period, file with the department:

(a) a report which includes:

(i) the total number of patient days of care the facility provided to non-Medicare patients during the preceding month;

(ii) the total gross revenue the facility earned as compensation for services provided to patients during the preceding month; and

(iii) any other information required by the department; and

(b) a return for the monthly period, and shall remit with the return the assessment required by this [~~chapter~~] part to be paid for the period covered by the return.

(4) Each return shall contain information and be in the form the department prescribes by rule.

(5) The assessment as computed in the return is an allowable cost for Medicaid reimbursement purposes.

(6) The department may by rule, extend the time for making returns and paying the assessment.

(7) Each nursing care facility that fails to pay any assessment required to be paid to the state, within the time required by this [~~chapter~~] part, or that fails to file a return as required by this [~~chapter~~] part, shall pay, in addition to the assessment, penalties and interest as provided in Section [~~26-35a-105~~] 26B-3-404.

Section 82. Section 26B-3-404, which is renumbered from Section 26-35a-105 is renumbered and amended to read:

[~~26-35a-105~~]. 26B-3-404. Penalties and interest.

(1) The penalty for failure to file a return or pay the assessment due within the time prescribed by this [~~chapter~~] part is the greater of $50, or 1% of the assessment due on the return.

(2) For failure to pay within 30 days of a notice of deficiency of assessment required to be paid, the penalty is the greater of $50 or 5% of the assessment due.

(3) The penalty for underpayment of the assessment is as follows:

(a) If any underpayment of assessment is due to negligence, the penalty is 25% of the underpayment.

(b) If the underpayment of the assessment is due to intentional disregard of law or rule, the penalty is 50% of the underpayment.

(4) For intent to evade the assessment, the penalty is 100% of the underpayment.

(5) The rate of interest applicable to an underpayment of an assessment under this [~~chapter~~] part or an unpaid penalty under this [~~chapter~~] part is 12% annually.

(6) The department may waive the imposition of a penalty for good cause.

Section 83. Section 26B-3-405, which is renumbered from Section 26-35a-107 is renumbered and amended to read:

[~~26-35a-107~~]. 26B-3-405. Adjustment to nursing care facility Medicaid reimbursement rates.

If federal law or regulation prohibits the money in the Nursing Care Facilities Provider Assessment Fund from being used in the manner set forth in Subsection [~~26-35a-106~~] 26B-1-332(1)(b), the rates paid to nursing care facilities for providing services pursuant to the Medicaid program shall be changed:

(1) except as otherwise provided in Subsection (2), to the rates paid to nursing care facilities on June 30, 2004; or

(2) if the Legislature or the department has on or after July 1, 2004, changed the rates paid to facilities through a manner other than the use of expenditures from the Nursing Care Facilities Provider Assessment Fund, to the rates provided for by the Legislature or the department.

Section 84. Section 26B-3-406, which is renumbered from Section 26-35a-108 is renumbered and amended to read:

[~~26-35a-108~~]. 26B-3-406. Intermediate care facility for people with an intellectual disability -- Uniform rate.

An intermediate care facility for people with an intellectual disability is subject to all the provisions of this [~~chapter~~] part, except that the department shall establish a uniform rate for an intermediate care facility for people with an intellectual disability that:

(1) is based on the same formula specified for nursing care facilities under the provisions of Subsection [~~26-35a-104~~] 26B-3-403(1)(b); and

(2) may be different than the uniform rate established for other nursing care facilities.

Section 85. Section 26B-3-501, which is renumbered from Section 26-36b-103 is renumbered and amended to read:

Part 5. Inpatient Hospital Assessment

[~~26-36b-103~~]. 26B-3-501. Definitions.

As used in this [~~chapter~~] part:

(1) "Assessment" means the inpatient hospital assessment established by this [~~chapter~~] part.

(2) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(3) "Discharges" means the number of total hospital discharges reported on:

(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of [~~Health Care Financing~~] Integrated Healthcare within the department.

(5) "Enhancement waiver program" means the program established by the Primary Care Network enhancement waiver program described in Section [~~26-18-416~~] 26B-3-211.

(6) "Health coverage improvement program" means the health coverage improvement program described in Section [~~26-18-411~~] 26B-3-207.

(7) "Hospital share" means the hospital share described in Section [~~26-36b-203~~] 26B-3-505.

(8) "Medicaid accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section [~~26-18-405~~] 26B-3-202.

(9) "Medicaid waiver expansion" means a Medicaid expansion in accordance with Section [~~26-18-3.9 or 26-18-415~~] 26B-3-113 or 26B-3-210.

(10) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

(11) (a) "Non-state government hospital" means a hospital owned by a non-state government entity.

(b) "Non-state government hospital" does not include:

(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

(12) (a) "Private hospital" means:

(i) a general acute hospital, as defined in Section [~~26-21-2~~] 26B-2-201, that is privately owned and operating in the state; and

(ii) a privately owned specialty hospital operating in the state, including a privately owned hospital whose inpatient admissions are predominantly for:

(A) rehabilitation;

(B) psychiatric care;

(C) chemical dependency services; or

(D) long-term acute care services.

(b) "Private hospital" does not include a facility for residential treatment as defined in Section [~~62A-2-101~~] 26B-2-101.

(13) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

(14) "Upper payment limit gap" means the difference between the private hospital outpatient upper payment limit and the private hospital Medicaid outpatient payments, as determined in accordance with 42 C.F.R. Sec. 447.321.

Section 86. Section 26B-3-502, which is renumbered from Section 26-36b-102 is renumbered and amended to read:

[~~26-36b-102~~]. 26B-3-502. Application.

(1) Other than for the imposition of the assessment described in this [~~chapter~~] part, nothing in this [~~chapter~~] part shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious, or educational health care provider under any:

(a) state law;

(b) ad valorem property taxes;

(c) sales or use taxes; or

(d) other taxes, fees, or assessments, whether imposed or sought to be imposed, by the state or any political subdivision of the state.

(2) All assessments paid under this [~~chapter~~] part may be included as an allowable cost of a hospital for purposes of any applicable Medicaid reimbursement formula.

(3) This [~~chapter~~] part does not authorize a political subdivision of the state to:

(a) license a hospital for revenue;

(b) impose a tax or assessment upon a hospital; or

(c) impose a tax or assessment measured by the income or earnings of a hospital.

Section 87. Section 26B-3-503, which is renumbered from Section 26-36b-201 is renumbered and amended to read:

[~~26-36b-201~~]. 26B-3-503. Assessment.

(1) An assessment is imposed on each private hospital:

(a) beginning upon the later of CMS approval of:

(i) the health coverage improvement program waiver under Section [~~26-18-411~~] 26B-3-207; and

(ii) the assessment under this [~~chapter~~] part;

(b) in the amount designated in Sections [~~26-36b-204 and 26-36b-205~~] 26B-3-506 and 26B-3-507; and

(c) in accordance with Section [~~26-36b-202~~] 26B-3-504.

(2) Subject to Section [~~26-36b-203~~] 26B-3-505, the assessment imposed by this [~~chapter~~] part is due and payable on a quarterly basis, after payment of the outpatient upper payment limit supplemental payments under Section [~~26-36b-210~~] 26B-3-511 have been paid.

(3) The first quarterly payment is not due until at least three months after the earlier of the effective dates of the coverage provided through:

(a) the health coverage improvement program;

(b) the enhancement waiver program; or

(c) the Medicaid waiver expansion.

Section 88. Section 26B-3-504, which is renumbered from Section 26-36b-202 is renumbered and amended to read:

[~~26-36b-202~~]. 26B-3-504. Collection of assessment -- Deposit of revenue -- Rulemaking.

(1) The collecting agent for the assessment imposed under Section [~~26-36b-201~~] 26B-3-503 is the department.

(2) The department is vested with the administration and enforcement of this [~~chapter~~] part, and may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(a) collect the assessment, intergovernmental transfers, and penalties imposed under this [~~chapter~~] part;

(b) audit records of a facility that:

(i) is subject to the assessment imposed by this [~~chapter~~] part; and

(ii) does not file a Medicare cost report; and

(c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.

(3) The department shall:

(a) administer the assessment in this [~~chapter~~] part separately from the assessment in [~~Chapter 36d~~] Part 7, Hospital Provider Assessment [~~Act~~]; and

(b) deposit assessments collected under this [~~chapter~~] part into the Medicaid Expansion Fund created by Section [~~26-36b-208~~] 26B-1-315.

Section 89. Section 26B-3-505, which is renumbered from Section 26-36b-203 is renumbered and amended to read:

[~~26-36b-203~~]. 26B-3-505. Quarterly notice.

(1) Quarterly assessments imposed by this [~~chapter~~] part shall be paid to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

(2) The department may, by rule, extend the time for paying the assessment.

Section 90. Section 26B-3-506, which is renumbered from Section 26-36b-204 is renumbered and amended to read:

[~~26-36b-204~~]. 26B-3-506. Hospital financing of health coverage improvement program Medicaid waiver expansion -- Hospital share.

(1) The hospital share is:

(a) 45% of the state's net cost of the health coverage improvement program, including Medicaid coverage for individuals with dependent children up to the federal poverty level designated under Section [~~26-18-411~~] 26B-3-207;

(b) 45% of the state's net cost of the enhancement waiver program;

(c) if the waiver for the Medicaid waiver expansion is approved, $11,900,000; and

(d) 45% of the state's net cost of the upper payment limit gap.

(2) (a) The hospital share is capped at no more than $13,600,000 annually, consisting of:

(i) an $11,900,000 cap for the programs specified in Subsections (1)(a) through (c); and

(ii) a $1,700,000 cap for the program specified in Subsection (1)(d).

(b) The department shall prorate the cap described in Subsection (2)(a) in any year in which the programs specified in Subsections (1)(a) and (d) are not in effect for the full fiscal year.

(3) Private hospitals shall be assessed under this [~~chapter~~] part for:

(a) 69% of the portion of the hospital share for the programs specified in Subsections (1)(a) through (c); and

(b) 100% of the portion of the hospital share specified in Subsection (1)(d).

(4) (a) In the report described in Subsection [~~26-18-3.9~~] 26B-3-113(8), the department shall calculate the state's net cost of each of the programs described in Subsections (1)(a) through (c) that are in effect for that year.

(b) If the assessment collected in the previous fiscal year is above or below the hospital share for private hospitals for the previous fiscal year, the

underpayment or overpayment of the assessment by the private hospitals shall be applied to the fiscal year in which the report is issued.

(5) A Medicaid accountable care organization shall, on or before October 15 of each year, report to the department the following data from the prior state fiscal year for each private hospital, state teaching hospital, and non-state government hospital provider that the Medicaid accountable care organization contracts with:

(a) for the traditional Medicaid population:

(i) hospital inpatient payments;

(ii) hospital inpatient discharges;

(iii) hospital inpatient days; and

(iv) hospital outpatient payments; and

(b) if the Medicaid accountable care organization enrolls any individuals in the health coverage improvement program, the enhancement waiver program, or the Medicaid waiver expansion, for the population newly eligible for any of those programs:

(i) hospital inpatient payments;

(ii) hospital inpatient discharges;

(iii) hospital inpatient days; and

(iv) hospital outpatient payments.

(6) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide details surrounding specific content and format for the reporting by the Medicaid accountable care organization.

Section 91. Section 26B-3-507, which is renumbered from Section 26-36b-205 is renumbered and amended to read:

[~~26-36b-205~~]. 26B-3-507. Calculation of assessment.

(1) (a) Except as provided in Subsection (1)(b), an annual assessment is payable on a quarterly basis for each private hospital in an amount calculated by the division at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) A private teaching hospital with more than 425 beds and 60 residents shall pay an assessment rate 2.5 times the uniform rate established under Subsection (1)(c).

(c) The division shall calculate the uniform assessment rate described in Subsection (1)(a) by dividing the hospital share for assessed private hospitals, described in Subsections [~~26-36b-204(1) and 26-36b-204(3)~~] 26B-3-506(1) and (3), by the sum of:

(i) the total number of discharges for assessed private hospitals that are not a private teaching hospital; and

(ii) 2.5 times the number of discharges for a private teaching hospital, described in Subsection (1)(b).

(d) The division may, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adjust the formula described in Subsection (1)(c) to address unforeseen circumstances in the administration of the assessment under this [~~chapter~~] part.

(e) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed private hospitals.

(2) Except as provided in Subsection (3), for each state fiscal year, the division shall determine a hospital's discharges as follows:

(a) for state fiscal year 2017, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2013, and June 30, 2014; and

(b) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years before the assessment fiscal year.

(3) (a) If a hospital's fiscal year Medicare cost report is not contained in the CMS Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare cost report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(b) If a hospital is not certified by the Medicare program and is not required to file a Medicare cost report:

(i) the hospital shall submit to the division the hospital's applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (3)(b)(i); and

(iii) failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.

(4) Except as provided in Subsection (5), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this [~~chapter~~] part.

(5) If multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 92. Section 26B-3-508, which is renumbered from Section 26-36b-206 is renumbered and amended to read:

[~~26-36b-206~~]. 26B-3-508. State teaching hospital and non-state government hospital mandatory intergovernmental transfer.

(1) The state teaching hospital and a non-state government hospital shall make an intergovernmental transfer to the Medicaid Expansion Fund created in Section [~~26-36b-208~~] 26B-1-315, in accordance with this section.

(2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer beginning on the later of CMS approval of:

(a) the health improvement program waiver under Section [~~26-18-411~~] 26B-3-207; or

(b) the assessment for private hospitals in this [~~chapter~~] part.

(3) The intergovernmental transfer is apportioned as follows:

(a) the state teaching hospital is responsible for:

(i) 30% of the portion of the hospital share specified in Subsections [~~26-36b-204~~] 26B-3-506(1)(a) through (c); and

(ii) 0% of the hospital share specified in Subsection [~~26-36b-204~~] 26B-3-506(1)(d); and

(b) non-state government hospitals are responsible for:

(i) 1% of the portion of the hospital share specified in Subsections [~~26-36b-204~~] 26B-3-506(1)(a) through (c); and

(ii) 0% of the hospital share specified in Subsection [~~26-36b-204~~] 26B-3-506(1)(d).

(4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate:

(a) the method of calculating the amounts designated in Subsection (3); and

(b) the schedule for the intergovernmental transfers.

Section 93. Section 26B-3-509, which is renumbered from Section 26-36b-207 is renumbered and amended to read:

[~~26-36b-207~~]. 26B-3-509. Penalties and interest.

(1) A hospital that fails to pay a quarterly assessment, make the mandated intergovernmental transfer, or file a return as required under this [~~chapter~~] part, within the time required by this [~~chapter~~] part, shall pay penalties described in this section, in addition to the assessment or intergovernmental transfer.

(2) If a hospital fails to timely pay the full amount of a quarterly assessment or the mandated intergovernmental transfer, the department shall add to the assessment or intergovernmental transfer:

(a) a penalty equal to 5% of the quarterly amount not paid on or before the due date; and

(b) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)(a) are paid in full, an additional 5% penalty on:

(i) any unpaid quarterly assessment or intergovernmental transfer; and

(ii) any unpaid penalty assessment.

(3) Upon making a record of the division's actions, and upon reasonable cause shown, the division may waive, reduce, or compromise any of the penalties imposed under this [~~chapter~~] part.

Section 94. Section 26B-3-510, which is renumbered from Section 26-36b-209 is renumbered and amended to read:

[~~26-36b-209~~]. 26B-3-510. Hospital reimbursement.

(1) If the health coverage improvement program, the enhancement waiver program, or the Medicaid waiver expansion is implemented by contracting with a Medicaid accountable care organization, the department shall, to the extent allowed by law, include, in a contract to provide benefits under the health coverage improvement program, the enhancement waiver program, or the Medicaid waiver expansion, a requirement that the Medicaid accountable care organization reimburse hospitals in the accountable care organization's provider network at no less than the Medicaid fee-for-service rate.

(2) If the health coverage improvement program, the enhancement waiver program, or the Medicaid waiver expansion is implemented by the department as a fee-for-service program, the department shall reimburse hospitals at no less than the Medicaid fee-for-service rate.

(3) Nothing in this section prohibits a Medicaid accountable care organization from paying a rate that exceeds the Medicaid fee-for-service rate.

Section 95. Section 26B-3-511, which is renumbered from Section 26-36b-210 is renumbered and amended to read:

[~~26-36b-210~~]. 26B-3-511. Outpatient upper payment limit supplemental payments.

(1) Beginning on the effective date of the assessment imposed under this [~~chapter~~] part, and for each subsequent fiscal year, the department shall implement an outpatient upper payment limit program for private hospitals that shall supplement the reimbursement to private hospitals in accordance with Subsection (2).

(2) The division shall ensure that supplemental payment to Utah private hospitals under Subsection (1):

(a) does not exceed the positive upper payment limit gap; and

(b) is allocated based on the Medicaid state plan.

(3) The department shall use the same outpatient data to allocate the payments under Subsection (2) and to calculate the upper payment limit gap.

(4) The supplemental payments to private hospitals under Subsection (1) are payable for outpatient hospital services provided on or after the later of:

(a) July 1, 2016;

(b) the effective date of the Medicaid state plan amendment necessary to implement the payments under this section; or

(c) the effective date of the coverage provided through the health coverage improvement program waiver.

Section 96. Section 26B-3-512, which is renumbered from Section 26-36b-211 is renumbered and amended to read:

[~~26-36b-211~~]. 26B-3-512. Repeal of assessment.

(1) The assessment imposed by this [~~chapter~~] part shall be repealed when:

(a) the executive director certifies that:

(i) action by Congress is in effect that disqualifies the assessment imposed by this [~~chapter~~] part from counting toward state Medicaid funds available to be used to determine the amount of federal financial participation;

(ii) a decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government, is in effect that:

(A) disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(B) creates for any reason a failure of the state to use the assessments for at least one of the Medicaid programs described in this [~~chapter~~] part; or

(iii) a change is in effect that reduces the aggregate hospital inpatient and outpatient payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1, 2015; or

(b) this [~~chapter~~] part is repealed in accordance with Section 63I-1-226.

(2) If the assessment is repealed under Subsection (1):

(a) the division may not collect any assessment or intergovernmental transfer under this [~~chapter~~] part;

(b) the department shall disburse money in the special Medicaid Expansion Fund in accordance with the requirements in Subsection [~~26-36b-208~~] 26B-1-315(4), to the extent federal matching is not reduced by CMS due to the repeal of the assessment;

(c) any money remaining in the Medicaid Expansion Fund after the disbursement described in Subsection (2)(b) that was derived from assessments imposed by this [~~chapter~~] part shall be refunded to the hospitals in proportion to the amount paid by each hospital for the last three fiscal years; and

(d) any money remaining in the Medicaid Expansion Fund after the disbursements described in Subsections (2)(b) and (c) shall be deposited into the General Fund by the end of the fiscal year that the assessment is suspended.

Section 97. Section 26B-3-601, which is renumbered from Section 26-36c-102 is renumbered and amended to read:

Part 6. Medicaid Expansion Hospital Assessment

[~~26-36c-102~~]. 26B-3-601. Definitions.

As used in this [~~chapter~~] part:

(1) "Assessment" means the Medicaid expansion hospital assessment established by this [~~chapter~~] part.

(2) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(3) "Discharges" means the number of total hospital discharges reported on:

(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of [~~Health Care Financing~~] Integrated Healthcare within the department.

(5) "Hospital share" means the hospital share described in Section [~~26-36c-203~~] 26B-3-605.

(6) "Medicaid accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section [~~26-18-405~~] 26B-3-202.

(7) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in Section [~~26-36b-208~~] 26B-1-315.

(8) "Medicaid waiver expansion" means the same as that term is defined in Section [~~26-18-415~~] 26B-3-210.

(9) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

(10) (a) "Non-state government hospital" means a hospital owned by a non-state government entity.

(b) "Non-state government hospital" does not include:

(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

(11) (a) "Private hospital" means:

(i) a privately owned general acute hospital operating in the state as defined in Section [~~26-21-2~~] 26B-2-201; or

(ii) a privately owned specialty hospital operating in the state, including a privately owned hospital for which inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services.

(b) "Private hospital" does not include a facility for residential treatment as defined in Section [~~62A-2-101~~] 26B-2-101.

(12) "Qualified Medicaid expansion" means an expansion of the Medicaid program in accordance with Subsection [~~26-18-3.9~~] 26B-3-113(5).

(13) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

Section 98. Section 26B-3-602, which is renumbered from Section 26-36c-103 is renumbered and amended to read:

[~~26-36c-103~~]. 26B-3-602. Application.

(1) Other than for the imposition of the assessment described in this [~~chapter~~] part, nothing in this [~~chapter~~] part shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious, or educational health care provider under any:

(a) state law;

(b) ad valorem property tax requirement;

(c) sales or use tax requirement; or

(d) other requirements imposed by taxes, fees, or assessments, whether imposed or sought to be imposed, by the state or any political subdivision of the state.

(2) A hospital paying an assessment under this [~~chapter~~] part may include the assessment as an allowable cost of a hospital for purposes of any applicable Medicaid reimbursement formula.

(3) This [~~chapter~~] part does not authorize a political subdivision of the state to:

(a) license a hospital for revenue;

(b) impose a tax or assessment upon a hospital; or

(c) impose a tax or assessment measured by the income or earnings of a hospital.

Section 99. Section 26B-3-603, which is renumbered from Section 26-36c-201 is renumbered and amended to read:

[~~26-36c-201~~]. 26B-3-603. Assessment.

(1) An assessment is imposed on each private hospital:

(a) beginning upon the later of:

(i) April 1, 2019; and

(ii) CMS approval of the assessment under this [~~chapter~~] part;

(b) in the amount designated in Sections [~~26-36c-204 and 26-36c-205~~] 26B-3-606 and 26B-3-607; and

(c) in accordance with Section [~~26-36c-202~~] 26B-3-604.

(2) The assessment imposed by this [~~chapter~~] part is due and payable in accordance with Subsection [~~26-36c-202~~] 26B-3-604(4).

Section 100. Section 26B-3-604, which is renumbered from Section 26-36c-202 is renumbered and amended to read:

[~~26-36c-202~~]. 26B-3-604. Collection of assessment -- Deposit of revenue -- Rulemaking.

(1) The department shall act as the collecting agent for the assessment imposed under Section [~~26-36c-201~~] 26B-3-603.

(2) The department shall administer and enforce the provisions of this [~~chapter~~] part, and may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(a) collect the assessment, intergovernmental transfers, and penalties imposed under this [~~chapter~~] part;

(b) audit records of a facility that:

(i) is subject to the assessment imposed under this [~~chapter~~] part; and

(ii) does not file a Medicare cost report; and

(c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.

(3) The department shall:

(a) administer the assessment in this part separately from the assessments in [~~Chapter 36d~~] Part 7, Hospital Provider Assessment [~~Act, and Chapter 36b~~],and Part 5, Inpatient Hospital Assessment [~~Act~~]; and

(b) deposit assessments collected under this [~~chapter~~] part into the Medicaid Expansion Fund.

(4) (a) Hospitals shall pay the quarterly assessments imposed by this [~~chapter~~] part to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

(b) The department may make rules creating requirements to allow the time for paying the assessment to be extended.

Section 101. Section 26B-3-605, which is renumbered from Section 26-36c-203 is renumbered and amended to read:

[~~26-36c-203~~]. 26B-3-605. Hospital share.

(1) The hospital share is:

(a) for the period from April 1, 2019, through June 30, 2020, $15,000,000; and

(b) beginning July 1, 2020, 100% of the state's net cost of the qualified Medicaid expansion, after deducting appropriate offsets and savings expected as a result of implementing the qualified Medicaid expansion, including:

(i) savings from:

(A) the Primary Care Network program;

(B) the health coverage improvement program, as defined in Section [~~26-18-411~~] 26B-3-207;

(C) the state portion of inpatient prison medical coverage;

(D) behavioral health coverage; and

(E) county contributions to the non-federal share of Medicaid expenditures; and

(ii) any funds appropriated to the Medicaid Expansion Fund.

(2) (a) Beginning July 1, 2020, the hospital share is capped at no more than $15,000,000 annually.

(b) Beginning July 1, 2020, the division shall prorate the cap specified in Subsection (2)(a) in any year in which the qualified Medicaid expansion is not in effect for the full fiscal year.

Section 102. Section 26B-3-606, which is renumbered from Section 26-36c-204 is renumbered and amended to read:

[~~26-36c-204~~]. 26B-3-606. Hospital financing.

(1) Private hospitals shall be assessed under this [~~chapter~~] part for the portion of the hospital share described in Section [~~26-36c-209~~] 26B-3-611.

(2) In the report described in Subsection [~~26-18-3.9~~] 26B-3-113(8), the department shall calculate the state's net cost of the qualified Medicaid expansion.

(3) If the assessment collected in the previous fiscal year is above or below the hospital share for private hospitals for the previous fiscal year, the division shall apply the underpayment or overpayment of the assessment by the private hospitals to the fiscal year in which the report is issued.

Section 103. Section 26B-3-607, which is renumbered from Section 26-36c-205 is renumbered and amended to read:

[~~26-36c-205~~]. 26B-3-607. Calculation of assessment.

(1) (a) Except as provided in Subsection (1)(b), each private hospital shall pay an annual assessment due on the last day of each quarter in an amount calculated by the division at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) A private teaching hospital with more than 425 beds and more than 60 residents shall pay an assessment rate 2.5 times the uniform rate established under Subsection (1)(c).

(c) The division shall calculate the uniform assessment rate described in Subsection (1)(a) by dividing the hospital share for assessed private hospitals, as described in Subsection [~~26-36c-204~~] 26B-3-606(1), by the sum of:

(i) the total number of discharges for assessed private hospitals that are not a private teaching hospital; and

(ii) 2.5 times the number of discharges for a private teaching hospital, described in Subsection (1)(b).

(d) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the formula described in Subsection (1)(c) to address unforeseen circumstances in the administration of the assessment under this [~~chapter~~] part.

(e) The division shall apply any quarterly changes to the uniform assessment rate uniformly to all assessed private hospitals.

(2) Except as provided in Subsection (3), for each state fiscal year, the division shall determine a hospital's discharges as follows:

(a) for state fiscal year 2019, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2015, and June 30, 2016; and

(b) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years before the assessment fiscal year.

(3) (a) If a hospital's fiscal year Medicare cost report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare cost report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(b) If a hospital is not certified by the Medicare program and is not required to file a Medicare cost report:

(i) the hospital shall submit to the division the hospital's applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (3)(b)(i); and

(iii) if the hospital fails to submit discharge information, the division shall audit the hospital's records and may impose a penalty equal to 5% of the calculated assessment.

(4) Except as provided in Subsection (5), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the division shall calculate the assessment for each hospital separately; and

(b) each separate hospital shall pay the assessment imposed by this [~~chapter~~] part.

(5) If multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 104. Section 26B-3-608, which is renumbered from Section 26-36c-206 is renumbered and amended to read:

[~~26-36c-206~~]. 26B-3-608. State teaching hospital and non-state government hospital mandatory intergovernmental transfer.

(1) A state teaching hospital and a non-state government hospital shall make an intergovernmental transfer to the Medicaid Expansion Fund, in accordance with this section.

(2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer beginning on the later of:

(a) April 1, 2019; or

(b) CMS approval of the assessment for private hospitals in this [~~chapter~~] part.

(3) The intergovernmental transfer is apportioned between the non-state government hospitals as follows:

(a) the state teaching hospital shall pay for the portion of the hospital share described in Section [~~26-36c-209~~] 26B-3-611; and

(b) non-state government hospitals shall pay for the portion of the hospital share described in Section [~~26-36c-209~~] 26B-3-611.

(4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate:

(a) the method of calculating the amounts designated in Subsection (3); and

(b) the schedule for the intergovernmental transfers.

Section 105. Section 26B-3-609, which is renumbered from Section 26-36c-207 is renumbered and amended to read:

[~~26-36c-207~~]. 26B-3-609. Penalties.

(1) A hospital that fails to pay a quarterly assessment, make the mandated intergovernmental transfer, or file a return as required under this [~~chapter~~] part, within the time required by this [~~chapter~~] part, shall pay penalties described in this section, in addition to the assessment or intergovernmental transfer.

(2) If a hospital fails to timely pay the full amount of a quarterly assessment or the mandated intergovernmental transfer, the department shall add to the assessment or intergovernmental transfer:

(a) a penalty equal to 5% of the quarterly amount not paid on or before the due date; and

(b) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)(a) are paid in full, an additional 5% penalty on:

(i) any unpaid quarterly assessment or intergovernmental transfer; and

(ii) any unpaid penalty assessment.

(3) Upon making a record of the division's actions, and upon reasonable cause shown, the division may waive or reduce any of the penalties imposed under this [~~chapter~~] part.

Section 106. Section 26B-3-610, which is renumbered from Section 26-36c-208 is renumbered and amended to read:

[~~26-36c-208~~]. 26B-3-610. Hospital reimbursement.

(1) If the qualified Medicaid expansion is implemented by contracting with a Medicaid accountable care organization, the department shall, to the extent allowed by law, include in a contract to provide benefits under the qualified Medicaid expansion a requirement that the accountable care organization reimburse hospitals in the accountable care organization's provider network at no less than the Medicaid fee-for-service rate.

(2) If the qualified Medicaid expansion is implemented by the department as a fee-for-service program, the department shall reimburse hospitals at no less than the Medicaid fee-for-service rate.

(3) Nothing in this section prohibits the department or a Medicaid accountable care organization from paying a rate that exceeds the Medicaid fee-for-service rate.

Section 107. Section 26B-3-611, which is renumbered from Section 26-36c-209 is renumbered and amended to read:

[~~26-36c-209~~]. 26B-3-611. Hospital financing of the hospital share.

(1) For the first two full fiscal years that the assessment is in effect, the department shall:

(a) assess private hospitals under this [~~chapter~~] part for 69% of the hospital share;

(b) require the state teaching hospital to make an intergovernmental transfer under this [~~chapter~~] part for 30% of the hospital share; and

(c) require non-state government hospitals to make an intergovernmental transfer under this [~~chapter~~] part for 1% of the hospital share.

(2) (a) At the beginning of the third full fiscal year that the assessment is in effect, and at the beginning of each subsequent fiscal year, the department may set a different percentage share for private hospitals, the state teaching hospital, and non-state government hospitals by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with input from private hospitals and private teaching hospitals.

(b) If the department does not set a different percentage share under Subsection (2)(a), the percentage shares in Subsection (1) shall apply.

Section 108. Section 26B-3-612, which is renumbered from Section 26-36c-210 is renumbered and amended to read:

[~~26-36c-210~~]. 26B-3-612. Suspension of assessment.

(1) The department shall suspend the assessment imposed by this [~~chapter~~] part when the executive director certifies that:

(a) action by Congress is in effect that disqualifies the assessment imposed by this [~~chapter~~] part from counting toward state Medicaid funds available to be used to determine the amount of federal financial participation;

(b) a decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government, is in effect that:

(i) disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creates for any reason a failure of the state to use the assessments for at least one of the Medicaid programs described in this [~~chapter~~] part; or

(c) a change is in effect that reduces the aggregate hospital inpatient and outpatient payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1, 2015.

(2) If the assessment is suspended under Subsection (1):

(a) the division may not collect any assessment or intergovernmental transfer under this [~~chapter~~] part;

(b) the division shall disburse money in the Medicaid Expansion Fund that was derived from assessments imposed by this [~~chapter~~] part in accordance with the requirements in Subsection [~~26-36b-208~~] 26B-1-315(4), to the extent federal matching is not reduced by CMS due to the repeal of the assessment; and

(c) the division shall refund any money remaining in the Medicaid Expansion Fund after the disbursement described in Subsection (2)(b) that was derived from assessments imposed by this [~~chapter~~] part to the hospitals in proportion to the amount paid by each hospital for the last three fiscal years.

Section 109. Section 26B-3-701, which is renumbered from Section 26-36d-103 is renumbered and amended to read:

Part 7. Hospital Provider Assessment

[~~26-36d-103~~]. 26B-3-701. Definitions.

As used in this [~~chapter~~] part:

(1) "Accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section [~~26-18-405~~] 26B-3-202.

(2) "Assessment" means the Medicaid hospital provider assessment established by this [~~chapter~~] part.

(3) "Discharges" means the number of total hospital discharges reported on Worksheet S-3 Part I, column 15, lines 12, 14, and 14.01 of the 2552-96 Medicare Cost Report or on Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare Cost Report for the applicable assessment year.

(4) "Division" means the Division of [~~Health Care Financing~~] Integrated Healthcare of the department.

(5) "Hospital":

(a) means a privately owned:

(i) general acute hospital operating in the state as defined in Section [~~26-21-2~~] 26B-2-201; and

(ii) specialty hospital operating in the state, which shall include a privately owned hospital whose inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services; and

(b) does not include:

(i) a human services program, as defined in Section [~~62A-2-101~~] 26B-2-101;

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital; or

(iii) a hospital that is owned by the state government, a state agency, or a political subdivision of the state, including:

(A) a state-owned teaching hospital; and

(B) the Utah State Hospital.

(6) "Medicare Cost Report" means CMS-2552-96 or CMS-2552-10, the cost report for electronic filing of hospitals.

(7) "State plan amendment" means a change or update to the state Medicaid plan.

Section 110. Section 26B-3-702, which is renumbered from Section 26-36d-102 is renumbered and amended to read:

[~~26-36d-102~~]. 26B-3-702. Legislative findings.

(1) The Legislature finds that there is an important state purpose to improve the access of Medicaid patients to quality care in Utah hospitals because of continuous decreases in state revenues and increases in enrollment under the Utah Medicaid program.

(2) The Legislature finds that in order to improve this access to those persons described in Subsection (1):

(a) the rates paid to Utah hospitals shall be adequate to encourage and support improved access; and

(b) adequate funding shall be provided to increase the rates paid to Utah hospitals providing services pursuant to the Utah Medicaid program.

Section 111. Section 26B-3-703, which is renumbered from Section 26-36d-201 is renumbered and amended to read:

[~~26-36d-201~~]. 26B-3-703. Application of part.

(1) Other than for the imposition of the assessment described in this [~~chapter~~] part, nothing in this [~~chapter~~] part shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious, or educational health care provider under:

(a) Section 501(c), as amended, of the Internal Revenue Code;

(b) other applicable federal law;

(c) any state law;

(d) any ad valorem property taxes;

(e) any sales or use taxes; or

(f) any other taxes, fees, or assessments, whether imposed or sought to be imposed by the state or any political subdivision, county, municipality, district, authority, or any agency or department thereof.

(2) All assessments paid under this [~~chapter~~] part may be included as an allowable cost of a hospital for purposes of any applicable Medicaid reimbursement formula.

(3) This [~~chapter~~] part does not authorize a political subdivision of the state to:

(a) license a hospital for revenue;

(b) impose a tax or assessment upon hospitals; or

(c) impose a tax or assessment measured by the income or earnings of a hospital.

Section 112. Section 26B-3-704, which is renumbered from Section 26-36d-202 is renumbered and amended to read:

[~~26-36d-202~~]. 26B-3-704. Assessment, collection, and payment of hospital provider assessment.

(1) A uniform, broad based, assessment is imposed on each hospital as defined in Subsection [~~26-36d-103~~] 26B-3-701(5)(a):

(a) in the amount designated in Section [~~26-36d-203~~] 26B-3-705; and

(b) in accordance with Section [~~26-36d-204~~] 26B-3-706.

(2) (a) The assessment imposed by this [~~chapter~~] part is due and payable on a quarterly basis in accordance with Section [~~26-36d-204~~] 26B-3-706.

(b) The collecting agent for this assessment is the department which is vested with the administration and enforcement of this [~~chapter~~] part, including the right to adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(i) implement and enforce the provisions of this act; and

(ii) audit records of a facility:

(A) that is subject to the assessment imposed by this [~~chapter~~] part; and

(B) does not file a Medicare Cost Report.

(c) The department shall forward proceeds from the assessment imposed by this [~~chapter~~] part to the state treasurer for deposit in the expendable special revenue fund as specified in Section [~~26-36d-207~~] 26B-1-316.

(3) The department may, by rule, extend the time for paying the assessment.

Section 113. Section 26B-3-705, which is renumbered from Section 26-36d-203 is renumbered and amended to read:

[~~26-36d-203~~]. 26B-3-705. Calculation of assessment.

(1) (a) An annual assessment is payable on a quarterly basis for each hospital in an amount calculated at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) The uniform assessment rate shall be determined using the total number of hospital discharges for assessed hospitals divided into the total non-federal portion in an amount consistent with Section [~~26-36d-205~~] 26B-3-707 that is needed to support capitated rates for accountable care organizations for purposes of hospital services provided to Medicaid enrollees.

(c) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed hospitals.

(d) The annual uniform assessment rate may not generate more than:

(i) $1,000,000 to offset Medicaid mandatory expenditures; and

(ii) the non-federal share to seed amounts needed to support capitated rates for accountable care organizations as provided for in Subsection (1)(b).

(2) (a) For each state fiscal year, discharges shall be determined using the data from each hospital's Medicare Cost Report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file. The hospital's discharge data will be derived as follows:

(i) for state fiscal year 2013, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2009, and June 30, 2010;

(ii) for state fiscal year 2014, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2010, and June 30, 2011;

(iii) for state fiscal year 2015, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2011, and June 30, 2012;

(iv) for state fiscal year 2016, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2012, and June 30, 2013; and

(v) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years prior to the assessment fiscal year.

(b) If a hospital's fiscal year Medicare Cost Report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare Cost Report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(c) If a hospital is not certified by the Medicare program and is not required to file a Medicare Cost Report:

(i) the hospital shall submit to the division its applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (2)(c)(i); and

(iii) the failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.

(3) Except as provided in Subsection (4), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this [~~chapter~~] part.

(4) Notwithstanding the requirement of Subsection (3), if multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 114. Section 26B-3-706, which is renumbered from Section 26-36d-204 is renumbered and amended to read:

[~~26-36d-204~~]. 26B-3-706. Quarterly notice -- Collection.

Quarterly assessments imposed by this [~~chapter~~] part shall be paid to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

Section 115. Section 26B-3-707, which is renumbered from Section 26-36d-205 is renumbered and amended to read:

[~~26-36d-205~~]. 26B-3-707. Medicaid hospital adjustment under accountable care organization rates.

To preserve and improve access to hospital services, the division shall, for accountable care organization rates effective on or after April 1, 2013, incorporate into the accountable care organization rate structure calculation consistent with the certified actuarial rate range:

(1) $154,000,000 to be allocated toward the hospital inpatient directed payments for the Medicaid eligibility categories covered in Utah before January 1, 2019; and

(2) an amount equal to the difference between payments made to hospitals by accountable care organizations for the Medicaid eligibility categories covered in Utah before January 1, 2019, based on submitted encounter data and the maximum amount that could be paid for those services using Medicare payment principles to be used for directed payments to hospitals for outpatient services.

Section 116. Section 26B-3-708, which is renumbered from Section 26-36d-206 is renumbered and amended to read:

[~~26-36d-206~~]. 26B-3-708. Penalties and interest.

(1) A facility that fails to pay any assessment or file a return as required under this [~~chapter~~] part, within the time required by this [~~chapter~~] part, shall pay, in addition to the assessment, penalties and interest established by the department.

(2) (a) Consistent with Subsection (2)(b), the department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which establish reasonable penalties and interest for the violations described in Subsection (1).

(b) If a hospital fails to timely pay the full amount of a quarterly assessment, the department shall add to the assessment:

(i) a penalty equal to 5% of the quarterly amount not paid on or before the due date; and

(ii) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)(b)(i) are paid in full, an additional 5% penalty on:

(A) any unpaid quarterly assessment; and

(B) any unpaid penalty assessment.

(c) Upon making a record of its actions, and upon reasonable cause shown, the division may waive, reduce, or compromise any of the penalties imposed under this part.

Section 117. Section 26B-3-709, which is renumbered from Section 26-36d-208 is renumbered and amended to read:

[~~26-36d-208~~]. 26B-3-709. Repeal of assessment.

(1) The repeal of the assessment imposed by this [~~chapter~~] part shall occur upon the certification by the executive director of the department that the sooner of the following has occurred:

(a) the effective date of any action by Congress that would disqualify the assessment imposed by this [~~chapter~~] part from counting toward state Medicaid funds available to be used to determine the federal financial participation;

(b) the effective date of any decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government that has the effect of:

(i) disqualifying the assessment from counting towards state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creating for any reason a failure of the state to use the assessments for the Medicaid program as described in this [~~chapter~~] part;

(c) the effective date of:

(i) an appropriation for any state fiscal year from the General Fund for hospital payments under the state Medicaid program that is less than the amount appropriated for state fiscal year 2012;

(ii) the annual revenues of the state General Fund budget return to the level that was appropriated for fiscal year 2008;

(iii) a division change in rules that reduces any of the following below July 1, 2011, payments:

(A) aggregate hospital inpatient payments;

(B) adjustment payment rates; or

(C) any cost settlement protocol; or

(iv) a division change in rules that reduces the aggregate outpatient payments below July 1, 2011, payments; and

(d) the sunset of this [~~chapter~~] part in accordance with Section 63I-1-226.

(2) If the assessment is repealed under Subsection (1), money in the fund that was derived from assessments imposed by this [~~chapter~~] part, before the determination made under Subsection (1), shall be disbursed under Section [~~26-36d-205~~] 26B-3-707 to the extent federal matching is not reduced due to the impermissibility of the assessments. Any funds remaining in the special revenue fund shall be refunded to the hospitals in proportion to the amount paid by each hospital.

Section 118. Section 26B-3-801, which is renumbered from Section 26-37a-102 is renumbered and amended to read:

Part 8. Ambulance Service Provider Assessment

[~~26-37a-102~~]. 26B-3-801. Definitions.

As used in this [~~chapter~~] part:

(1) "Ambulance service provider" means:

(a) an ambulance provider as defined in Section [~~26-8a-102~~] 26B-4-101; or

(b) a non-911 service provider as defined in Section [~~26-8a-102~~] 26B-4-101.

(2) "Assessment" means the Medicaid ambulance service provider assessment established by this [~~chapter~~] part.

(3) "Division" means the Division of [~~Health Care Financing~~] Integrated Healthcare within the department.

(4) "Non-federal portion" means the non-federal share the division needs to seed amounts that will support fee-for-service ambulance service provider rates, as described in Section [~~26-37a-105~~] 26B-3-804.

(5) "Total transports" means the number of total ambulance transports applicable to a given fiscal year, as determined under Subsection [~~26-37a-104~~] 26B-3-803(5).

Section 119. Section 26B-3-802, which is renumbered from Section 26-37a-103 is renumbered and amended to read:

[~~26-37a-103~~]. 26B-3-802. Assessment, collection, and payment of ambulance service provider assessment.

(1) An ambulance service provider shall pay an assessment to the division:

(a) in the amount designated in Section [~~26-37a-104~~] 26B-3-803;

(b) in accordance with this [~~chapter~~] part;

(c) quarterly, on a day determined by the division by rule made under Subsection (2)(b); and

(d) no more than 15 business days after the day on which the division issues the ambulance service provider notice of the assessment.

(2) The division shall:

(a) collect the assessment described in Subsection (1);

(b) determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, standards and procedures for implementing and enforcing the provisions of this [~~chapter~~] part; and

(c) transfer assessment proceeds to the state treasurer for deposit into the Ambulance Service Provider Assessment Expendable Revenue Fund created in Section [~~26-37a-107~~] 26B-1-317.

Section 120. Section 26B-3-803, which is renumbered from Section 26-37a-104 is renumbered and amended to read:

[~~26-37a-104~~]. 26B-3-803. Calculation of assessment.

(1) The division shall calculate a uniform assessment per transport as described in this section.

(2) The assessment due from a given ambulance service provider equals the non-federal portion divided by total transports, multiplied by the number of transports for the ambulance service provider.

(3) The division shall apply any quarterly changes to the assessment rate, calculated as described in Subsection (2), uniformly to all assessed ambulance service providers.

(4) The assessment may not generate more than the total of:

(a) an annual amount of $20,000 to offset Medicaid administration expenses; and

(b) the non-federal portion.

(5) (a) For each state fiscal year, the division shall calculate total transports using data from the Emergency Medical System as follows:

(i) for state fiscal year 2016, the division shall use ambulance service provider transports during the 2014 calendar year; and

(ii) for a fiscal year after 2016, the division shall use ambulance service provider transports during the calendar year ending 18 months before the end of the fiscal year.

(b) If an ambulance service provider fails to submit transport information to the Emergency Medical System, the division may audit the ambulance service provider to determine the ambulance service provider's transports for a given fiscal year.

Section 121. Section 26B-3-804, which is renumbered from Section 26-37a-105 is renumbered and amended to read:

[~~26-37a-105~~]. 26B-3-804. Medicaid ambulance service provider adjustment under fee-for-service rates.

The division shall, if the assessment imposed by this [~~chapter~~] part is approved by the Centers for Medicare and Medicaid Services, for fee-for-service rates effective on or after July 1, 2015, reimburse an ambulance service provider in an amount up to the Emergency Medical Services Ambulance Rates adopted annually by the department.

Section 122. Section 26B-3-805, which is renumbered from Section 26-37a-106 is renumbered and amended to read:

[~~26-37a-106~~]. 26B-3-805. Penalties.

The division shall require an ambulance service provider that fails to pay an assessment due under this [~~chapter~~] part to pay the division, in addition to the assessment, a penalty determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 123. Section 26B-3-806, which is renumbered from Section 26-37a-108 is renumbered and amended to read:

[~~26-37a-108~~]. 26B-3-806. Repeal of assessment.

(1) This [~~chapter~~] part is repealed when, as certified by the executive director of the department, any of the following occurs:

(a) an action by Congress that disqualifies the assessment imposed by this [~~chapter~~] part from state Medicaid funds available to be used to determine the federal financial participation takes legal effect; or

(b) an action, decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state or federal government takes effect that:

(i) disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creates for any reason a failure of the state to use the assessments for the Medicaid program as described in this [~~chapter~~] part.

(2) If this [~~chapter~~] part is repealed under Subsection (1):

(a) money in the Ambulance Service Provider Assessment Expendable Revenue Fund that was derived from assessments imposed by this [~~chapter~~] part, deposited before the determination made under Subsection (1), shall be disbursed under Section [~~26-37a-107~~] 26B-1-317 to the extent federal matching is not reduced due to the impermissibility of the assessments; and

(b) any funds remaining in the special revenue fund shall be refunded to each ambulance service provider in proportion to the amount paid by the ambulance service provider.

Section 124. Section 26B-3-901, which is renumbered from Section 26-40-102 is

renumbered and amended to read:

Part 9. Utah Children's Health Insurance Program

[~~26-40-102~~]. 26B-3-901. Definitions.

As used in this [~~chapter~~] part:

(1) "Child" means [~~a person who is under 19 years of age~~] an individual who is younger than 19 years old.

(2) "Eligible child" means a child who qualifies for enrollment in the program as provided in Section [~~26-40-105~~] 26B-3-903.

(3) "Member" means a child enrolled in the program.

(4) "Plan" means the department's plan submitted to the United States Department of Health and Human Services pursuant to 42 U.S.C. Sec. 1397ff.

(5) "Program" means the Utah Children's Health Insurance Program created by this [~~chapter~~] part.

Section 125. Section 26B-3-902, which is renumbered from Section 26-40-103 is renumbered and amended to read:

[~~26-40-103~~]. 26B-3-902. Creation and administration of the Utah Children's Health Insurance Program.

(1) There is created the Utah Children's Health Insurance Program to be administered by the department in accordance with the provisions of:

(a) this [~~chapter~~] part; and

(b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397aa et seq.

(2) The department shall:

(a) prepare and submit the state's children's health insurance plan before May 1, 1998, and any amendments to the [~~federal~~] United States Department of Health and Human Services in accordance with 42 U.S.C. Sec. 1397ff; and

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding:

(i) eligibility requirements consistent with Section [~~26-18-3~~] 26B-3-108;

(ii) program benefits;

(iii) the level of coverage for each program benefit;

(iv) cost-sharing requirements for members, which may not:

(A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or

(B) impose deductible, copayment, or coinsurance requirements on a member for well-child, well-baby, and immunizations;

(v) the administration of the program; and

(vi) a requirement that:

(A) members in the program shall participate in the electronic exchange of clinical health records established in accordance with Section [~~26-1-37~~] 26B-8-411 unless the member opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the member shall receive notice of the enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the member and when the member logs onto the program's website, the member shall receive notice of the right to opt out of the electronic exchange of clinical health records.

Section 126. Section 26B-3-903, which is renumbered from Section 26-40-105 is renumbered and amended to read:

[~~26-40-105~~]. 26B-3-903. Eligibility.

(1) A child is eligible to enroll in the program if the child:

(a) is a bona fide Utah resident;

(b) is a citizen or legal resident of the United States;

(c) is under 19 years of age;

(d) does not have access to or coverage under other health insurance, including any coverage available through a parent or legal guardian's employer;

(e) is ineligible for Medicaid benefits;

(f) resides in a household whose gross family income, as defined by rule, is at or below 200% of the federal poverty level; and

(g) is not an inmate of a public institution or a patient in an institution for mental diseases.

(2) A child who qualifies for enrollment in the program under Subsection (1) may not be denied enrollment due to a diagnosis or pre-existing condition.

(3) (a) The department shall determine eligibility and send notification of the eligibility decision within 30 days after receiving the application for coverage.

(b) If the department cannot reach a decision because the applicant fails to take a required action, or because there is an administrative or other emergency beyond the department's control, the department shall:

(i) document the reason for the delay in the applicant's case record; and

(ii) inform the applicant of the status of the application and time frame for completion.

(4) The department may not close enrollment in the program for a child who is eligible to enroll in the program under the provisions of Subsection (1).

(5) The program shall:

(a) apply for grants to make technology system improvements necessary to implement a simplified enrollment and renewal process in accordance with Subsection (5)(b); and

(b) if funding is available, implement a simplified enrollment and renewal process.

Section 127. Section 26B-3-904, which is renumbered from Section 26-40-106 is renumbered and amended to read:

[~~26-40-106~~]. 26B-3-904. Program benefits.

(1) Except as provided in Subsection (3), medical and dental program benefits shall be benchmarked, in accordance with 42 U.S.C. Sec. 1397cc, as follows:

(a) medical program benefits, including behavioral health care benefits, shall be benchmarked effective July 1, 2019, and on July 1 every third year thereafter, to:

(i) be substantially equal to a health benefit plan with the largest insured commercial enrollment offered by a health maintenance organization in the state; and

(ii) comply with the Mental Health Parity and Addiction Equity Act, Pub. L. No. 110-343; and

(b) dental program benefits shall be benchmarked effective July 1, 2019, and on July 1 every third year thereafter in accordance with the Children's Health Insurance Program Reauthorization Act of 2009, to be substantially equal to a dental benefit plan that has the largest insured, commercial, non-Medicaid enrollment of covered lives that is offered in the state, except that the utilization review mechanism for orthodontia shall be based on medical necessity.

(2) On or before July 1 of each year, the department shall publish the benchmark for dental program benefits established under Subsection (1)(b).

(3) The program benefits:

(a) for enrollees who are at or below 100% of the federal poverty level are exempt from the benchmark requirements of Subsections (1) and (2); and

(b) shall include treatment for autism spectrum disorder as defined in Section 31A-22-642, which:

(i) shall include coverage for applied behavioral analysis; and

(ii) if the benchmark described in Subsection (1)(a) does not include the coverage described in this Subsection (3)(b), the department shall exclude from the benchmark described in Subsection (1)(a) for any purpose other than providing benefits under the program.

Section 128. Section 26B-3-905, which is renumbered from Section 26-40-107 is renumbered and amended to read:

[~~26-40-107~~]. 26B-3-905. Limitation of benefits.

Abortion is not a covered benefit, except as provided in 42 U.S.C. Sec. 1397ee.

Section 129. Section 26B-3-906, which is renumbered from Section 26-40-108 is renumbered and amended to read:

[~~26-40-108~~]. 26B-3-906. Funding.

(1) The program shall be funded by federal matching funds received under, together with state matching funds required by, 42 U.S.C. Sec. 1397ee.

(2) Program expenditures in the following categories may not exceed 10% in the aggregate of all federal payments pursuant to 42 U.S.C. Sec. 1397ee:

(a) other forms of child health assistance for children with gross family incomes below 200% of the federal poverty level;

(b) other health services initiatives to improve low-income children's health;

(c) outreach program expenditures; and

(d) administrative costs.

Section 130. Section 26B-3-907, which is renumbered from Section 26-40-109 is renumbered and amended to read:

[~~26-40-109~~]. 26B-3-907. Evaluation.

The department shall develop performance measures and annually evaluate the program's performance.

Section 131. Section 26B-3-908, which is renumbered from Section 26-40-110 is renumbered and amended to read:

[~~26-40-110~~]. 26B-3-908. Managed care -- Contracting for services.

(1) Program benefits provided to a member under the program, as described in Section [~~26-40-106~~] 26B-3-904, shall be delivered by a managed care organization if the department determines that adequate services are available where the member lives or resides.

(2) The department may contract with a managed care organization to provide program benefits. The department shall evaluate a potential contract with a managed care organization based on:

(a) the managed care organization's:

(i) ability to manage medical expenses, including mental health costs;

(ii) proven ability to handle accident and health insurance;

(iii) efficiency of claim paying procedures;

(iv) proven ability for managed care and quality assurance;

(v) provider contracting and discounts;

(vi) pharmacy benefit management;

(vii) estimated total charges for administering the pool;

(viii) ability to administer the pool in a cost-efficient manner;

(ix) ability to provide adequate providers and services in the state; and

(x) ability to meet quality measures for emergency room use and access to primary care established by the department under Subsection [~~26-18-408~~] 26B-3-204(4); and

(b) other factors established by the department.

(3) The department may enter into separate managed care organization contracts to provide dental benefits required by Section [~~26-40-106~~] 26B-3-904.

(4) The department's contract with a managed care organization for the program's benefits shall include risk sharing provisions in which the plan shall accept at least 75% of the risk for any difference between the department's premium payments per member and actual medical expenditures.

(5) (a) The department may contract with the Group Insurance Division within the Utah State Retirement Office to provide services under Subsection (1) if no managed care organization is willing to contract with the department or the department determines no managed care organization meets the criteria established under Subsection (2).

(b) In accordance with Section 49-20-201, a contract awarded under Subsection (5)(a) is not subject to the risk sharing required by Subsection (4).

Section 132. Section 26B-3-909, which is renumbered from Section 26-40-115 is renumbered and amended to read:

[~~26-40-115~~]. 26B-3-909. State contractor -- Employee and dependent health benefit plan coverage.

(1) For purposes of Sections 17B-2a-818.5, 19-1-206, 63A-5b-607, 63C-9-403, 72-6-107.5, and 79-2-404, "qualified health coverage" means, at the time the contract is entered into or renewed:

(a) a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of:

(i) the benchmark plan determined by the program under Subsection [~~26-40-106~~] 26B-3-904(1)(a); and

(ii) a contribution level at which the employer pays at least 50% of the premium or contribution amounts for the employee and the dependents of the employee who reside or work in the state; or

(b) a federally qualified high deductible health plan that, at a minimum:

(i) has a deductible that is:

(A) the lowest deductible permitted for a federally qualified high deductible health plan; or

(B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

(ii) has an out-of-pocket maximum that does not exceed three times the amount of the annual deductible; and

(iii) provides that the employer pays 60% of the premium or contribution amounts for the employee and the dependents of the employee who work or reside in the state.

(2) The department shall:

(a) on or before July 1, 2016:

(i) determine the commercial equivalent of the benchmark plan described in Subsection (1)(a); and

(ii) post the commercially equivalent benchmark plan described in Subsection (2)(a)(i) on the department's website, noting the date posted; and

(b) update the posted commercially equivalent benchmark plan annually and at the time of any change in the benchmark.

Section 133. Section 26B-3-1001, which is renumbered from Section 26-19-102 is renumbered and amended to read:

Part 10. Medical Benefits Recovery

[~~26-19-102~~]. 26B-3-1001. Definitions.

As used in this [~~chapter~~] part:

(1) "Annuity" shall have the same meaning as provided in Section 31A-1-301.

(2) "Care facility" means:

(a) a nursing facility;

(b) an intermediate care facility for an individual with an intellectual disability; or

(c) any other medical institution.

(3) "Claim" means:

(a) a request or demand for payment; or

(b) a cause of action for money or damages arising under any law.

(4) "Employee welfare benefit plan" means a medical insurance plan developed by an employer under 29 U.S.C. [~~Section~~] Sec. 1001, et seq., the Employee Retirement Income Security Act of 1974 as amended.

(5) "Health insurance entity" means:

(a) an insurer;

(b) a person who administers, manages, provides, offers, sells, carries, or underwrites health insurance, as defined in Section 31A-1-301;

(c) a self-insured plan;

(d) a group health plan, as defined in Subsection 607(1) of the federal Employee Retirement Income Security Act of 1974;

(e) a service benefit plan;

(f) a managed care organization;

(g) a pharmacy benefit manager;

(h) an employee welfare benefit plan; or

(i) a person who is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service.

(6) "Inpatient" means an individual who is a patient and a resident of a care facility.

(7) "Insurer" includes:

(a) a group health plan as defined in Subsection 607(1) of the federal Employee Retirement Income Security Act of 1974;

(b) a health maintenance organization; and

(c) any entity offering a health service benefit plan.

(8) "Medical assistance" means:

(a) all funds expended for the benefit of a recipient under [~~Title 26, Chapter 18, Medical Assistance Act, or under~~] this chapter or Titles XVIII and XIX, federal Social Security Act; and

(b) any other services provided for the benefit of a recipient by a prepaid health care delivery system under contract with the department.

(9) "Office of Recovery Services" means the Office of Recovery Services within the [~~Department of Human Services~~] department.

(10) "Provider" means a person or entity who provides services to a recipient.

(11) "Recipient" means:

(a) an individual who has applied for or received medical assistance from the state;

(b) the guardian, conservator, or other personal representative of an individual under Subsection (11)(a) if the individual is a minor or an incapacitated person; or

(c) the estate and survivors of an individual under Subsection (11)(a), if the individual is deceased.

(12) "Recovery estate" means, regarding a deceased recipient:

(a) all real and personal property or other assets included within a decedent's estate as defined in Section 75-1-201;

(b) the decedent's augmented estate as defined in Section 75-2-203; and

(c) that part of other real or personal property in which the decedent had a legal interest at the time of death including assets conveyed to a survivor, heir, or assign of the decedent through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

(13) "State plan" means the state Medicaid program as enacted in accordance with Title XIX, federal Social Security Act.

(14) "TEFRA lien" means a lien, authorized under the Tax Equity and Fiscal Responsibility Act of 1982, against the real property of an individual prior to the individual's death, as described in 42 U.S.C. Sec. 1396p.

(15) "Third party" includes:

(a) an individual, institution, corporation, public or private agency, trust, estate, insurance carrier, employee welfare benefit plan, health maintenance organization, health service organization, preferred provider organization, governmental program such as Medicare, CHAMPUS, and workers' compensation, which may be obligated to pay all or part of the medical costs of injury, disease, or disability of a recipient, unless any of these are excluded by department rule; and

(b) a spouse or a parent who:

(i) may be obligated to pay all or part of the medical costs of a recipient under law or by court or administrative order; or

(ii) has been ordered to maintain health, dental, or accident and health insurance to cover medical expenses of a spouse or dependent child by court or administrative order.

(16) "Trust" shall have the same meaning as provided in Section 75-1-201.

Section 134. Section 26B-3-1002, which is renumbered from Section 26-19-103 is renumbered and amended to read:

[~~26-19-103~~]. 26B-3-1002. Program established by department -- Promulgation of rules.

(1) The department shall establish and maintain a program for the recoupment of medical assistance.

(2) The department may promulgate rules to implement the purposes of this [~~chapter~~] part.

Section 135. Section 26B-3-1003, which is renumbered from Section 26-19-201 is renumbered and amended to read:

[~~26-19-201~~]. 26B-3-1003. Assignment of rights to benefits.

(1) (a) Except as provided in Subsection [~~26-19-401~~] 26B-3-1009(1), to the extent that medical assistance is actually provided to a recipient, all benefits for medical services or payments from a third-party otherwise payable to or on behalf of a recipient are assigned by operation of law to the department if the department provides, or becomes obligated to provide, medical assistance, regardless of who made application for the benefits on behalf of the recipient.

(b) The assignment:

(i) authorizes the department to submit its claim to the third-party and authorizes payment of benefits directly to the department; and

(ii) is effective for all medical assistance.

(2) The department may recover the assigned benefits or payments in accordance with Section [~~26-19-401~~] 26B-3-1009 and as otherwise provided by law.

(3) (a) The assignment of benefits includes medical support and third-party payments ordered, decreed, or adjudged by any court of this state or any other state or territory of the United States.

(b) The assignment is not in lieu of, and does not supersede or alter any other court order, decree, or judgment.

(4) When an assignment takes effect, the recipient is entitled to receive medical assistance, and the benefits paid to the department are a reimbursement to the department.

Section 136. Section 26B-3-1004, which is renumbered from Section 26-19-301 is renumbered and amended to read:

[~~26-19-301~~]. 26B-3-1004. Health insurance entity -- Duties related to state claims for Medicaid payment or recovery.

As a condition of doing business in the state, a health insurance entity shall:

(1) with respect to an individual who is eligible for, or is provided, medical assistance under the state plan, upon the request of the [~~Department of Health~~] department, provide information to determine:

(a) during what period the individual, or the spouse or dependent of the individual, may be or may have been, covered by the health insurance entity; and

(b) the nature of the coverage that is or was provided by the health insurance entity described in Subsection (1)(a), including the name, address, and identifying number of the plan;

(2) accept the state's right of recovery and the assignment to the state of any right of an individual to payment from a party for an item or service for which payment has been made under the state plan;

(3) respond to any inquiry by the [~~Department of Health~~] department regarding a claim for payment for any health care item or service that is submitted no later than three years after the day on which the health care item or service is provided; and

(4) not deny a claim submitted by the [~~Department of Health~~] department solely on the basis of the date of submission of the claim, the type or format of the claim form, or failure to present proper documentation at the point-of-sale that is the basis for the claim, if:

(a) the claim is submitted no later than three years after the day on which the item or service is furnished; and

(b) any action by the [~~Department of Health~~] department to enforce the rights of the state with respect to the claim is commenced no later than six years after the day on which the claim is submitted.

Section 137. Section 26B-3-1005, which is renumbered from Section 26-19-302 is renumbered and amended to read:

[~~26-19-302~~]. 26B-3-1005. Insurance policies not to deny or reduce benefits of individuals eligible for state medical assistance -- Exemptions.

(1) A policy of accident or sickness insurance may not contain any provision denying or reducing benefits because services are rendered to an insured or dependent who is eligible for or receiving medical assistance from the state.

(2) An association, corporation, or organization may not deliver, issue for delivery, or renew any subscriber's contract which contains any provisions denying or reducing benefits because services are rendered to a subscriber or dependent who is eligible for or receiving medical assistance from the state.

(3) An association, corporation, business, or organization authorized to do business in this state and which provides or pays for any health care benefits may not deny or reduce benefits because services are rendered to a beneficiary who is eligible for or receiving medical assistance from the state.

(4) Notwithstanding Subsection (1), (2), or (3), the Utah State Public Employees' Health Program, administered by the Utah State Retirement Board, is not required to reimburse any agency of state government for custodial care which the agency provides, through its staff or facilities, to members of the Utah State Public Employees' Health Program.

Section 138. Section 26B-3-1006, which is renumbered from Section 26-19-303 is renumbered and amended to read:

[~~26-19-303~~]. 26B-3-1006. Availability of insurance policy.

If the third party does not pay the department's claim or lien within 30 days from the date the claim or lien is received, the third party shall:

(1) provide a written explanation if the claim is denied;

(2) specifically describe and request any additional information from the department that is necessary to process the claim; and

(3) provide the department or its agent a copy of any relevant or applicable insurance or benefit policy.

Section 139. Section 26B-3-1007, which is renumbered from Section 26-19-304 is renumbered and amended to read:

[~~26-19-304~~]. 26B-3-1007. Employee benefit plans.

As allowed pursuant to 29 U.S.C. [~~Section~~] Sec. 1144, an employee benefit plan may not include any provision that has the effect of limiting or excluding coverage or payment for any health care for an individual who would otherwise be covered or entitled to benefits or services under the terms of the employee benefit plan based on the fact that the individual is eligible for or is provided services under the state plan.

Section 140. Section 26B-3-1008, which is renumbered from Section 26-19-305 is renumbered and amended to read:

[~~26-19-305~~]. 26B-3-1008. Statute of limitations -- Survival of right of action -- Insurance policy not to limit time allowed for recovery.

(1) (a) Subject to Subsection (6), action commenced by the department under this [~~chapter~~] part against a health insurance entity shall be commenced within:

(i) subject to Subsection (7), six years after the day on which the department submits the claim for recovery or payment for the health care item or service upon which the action is based; or

(ii) six months after the date of the last payment for medical assistance, whichever is later.

(b) An action against any other third party, the recipient, or anyone to whom the proceeds are payable shall be commenced within:

(i) four years after the date of the injury or onset of the illness; or

(ii) six months after the date of the last payment for medical assistance, whichever is later.

(2) The death of the recipient does not abate any right of action established by this [~~chapter~~] part.

(3) (a) No insurance policy issued or renewed after June 1, 1981, may contain any provision that limits the time in which the department may submit its claim to recover medical assistance benefits to a period of less than 24 months from the date the provider furnishes services or goods to the recipient.

(b) No insurance policy issued or renewed after April 30, 2007, may contain any provision that limits the time in which the department may submit its claim to recover medical assistance benefits to a period of less than that described in Subsection (1)(a).

(4) The provisions of this section do not apply to Section [~~26-19-405 or Part 5, TEFRA Liens~~] 26B-3-1013 or Sections 26B-3-1015 through 26B-3-1023.

(5) The provisions of this section [~~supercede~~] supersede any other sections regarding the time limit in which an action shall be commenced, including Section 75-7-509.

(6) (a) Subsection (1)(a) extends the statute of limitations on a cause of action described in Subsection (1)(a) that was not time-barred on or before April 30, 2007.

(b) Subsection (1)(a) does not revive a cause of action that was time-barred on or before April 30, 2007.

(7) An action described in Subsection (1)(a) may not be commenced if the claim for recovery or payment described in Subsection (1)(a)(i) is submitted later than three years after the day on which the health care item or service upon which the claim is based was provided.

Section 141. Section 26B-3-1009, which is renumbered from Section 26-19-401 is renumbered and amended to read:

[~~26-19-401~~]. 26B-3-1009. Recovery of medical assistance from third party -- Lien -- Notice -- Action -- Compromise or waiver -- Recipient's right to action protected.

(1) (a) Except as provided in Subsection (1)(c), if the department provides or becomes obligated to provide medical assistance to a recipient that a third-party is obligated to pay for, the department may recover the medical assistance directly from the third-party.

(b) (i) A claim under Subsection (1)(a) or Section [~~26-19-201~~] 26B-3-1003 to recover medical assistance provided to a recipient is a lien against any proceeds payable to or on behalf of the recipient by the third-party.

(ii) The lien described in Subsection (1)(b)(i) has priority over all other claims to the proceeds, except claims for attorney fees and costs authorized under Subsection [~~26-19-403~~] 26B-3-1011(2)(c)(ii).

(c) (i) The department may not recover medical assistance under Subsection (1)(a) if:

(A) the third-party is obligated to pay the recipient for an injury to the recipient's child that occurred while the child was in the physical custody of the child's foster parent;

(B) the child's injury is a physical or mental impairment that requires ongoing medical attention, or limits activities of daily living, for at least one year;

(C) the third-party's payment to the recipient is placed in a trust, annuity, financial account, or other financial instrument for the benefit of the child; and

(D) the recipient makes reasonable efforts to mitigate any other medical assistance costs for the recipient to the state.

(ii) The department is responsible for any repayment to the federal government related to the medical assistance the department is prohibited from recovering under Subsection (1)(c)(i).

(2) (a) The department shall mail or deliver written notice of the department's claim or lien to

the third-party at the third-party's principal place of business or last-known address.

(b) The notice shall include:

(i) the recipient's name;

(ii) the approximate date of illness or injury;

(iii) a general description of the type of illness or injury; and

(iv) if applicable, the general location where the injury is alleged to have occurred.

(3) The department may commence an action on the department's claim or lien in the department's name, but the claim or lien is not enforceable as to a third-party unless:

(a) the third-party receives written notice of the department's claim or lien before the third-party settles with the recipient; or

(b) the department has evidence that the third party had knowledge that the department provided or was obligated to provide medical assistance.

(4) The department may:

(a) waive a claim or lien against a third party in whole or in part; or

(b) compromise, settle, or release a claim or lien.

(5) An action commenced under this section does not bar an action by a recipient or a dependent of a recipient for loss or damage not included in the department's action.

(6) Except as provided in Subsection (1)(c), the department's claim or lien on proceeds under this section is not affected by the transfer of the proceeds to a trust, annuity, financial account, or other financial instrument.

Section 142. Section 26B-3-1010, which is renumbered from Section 26-19-402 is renumbered and amended to read:

~~[26-19-402]~~. 26B-3-1010. Action by department -- Notice to recipient.

(1) (a) Within 30 days after commencing an action under Subsection ~~[26-19-401]~~ 26B-3-1009(3), the department shall give the recipient, the recipient's guardian, personal representative, trustee, estate, or survivor, whichever is appropriate, written notice of the action by:

(i) personal service or certified mail to the last known address of the person receiving the notice; or

(ii) if no last-known address is available, by publishing a notice:

(A) once a week for three successive weeks in a newspaper of general circulation in the county where the recipient resides; and

(B) in accordance with Section 45-1-101 for three weeks.

(b) Proof of service shall be filed in the action.

(c) The recipient may intervene in the department's action at any time before trial.

(2) The notice required by Subsection (1) shall name the court in which the action is commenced and advise the recipient of:

(a) the right to intervene in the proceeding;

(b) the right to obtain a private attorney; and

(c) the department's right to recover medical assistance directly from the third party.

Section 143. Section 26B-3-1011, which is renumbered from Section 26-19-403 is renumbered and amended to read:

~~[26-19-403]~~. 26B-3-1011. Notice of claim by recipient -- Department response -- Conditions for proceeding -- Collection agreements.

(1) (a) A recipient may not file a claim, commence an action, or settle, compromise, release, or waive a claim against a third party for recovery of medical costs for an injury, disease, or disability for which the department has provided or has become obligated to provide medical assistance, without the department's written consent as provided in Subsection (2)(b) or (4).

(b) For purposes of Subsection (1)(a), consent may be obtained if:

(i) a recipient who files a claim, or commences an action against a third party notifies the department in accordance with Subsection (1)(d) within 10 days of the recipient making the claim or commencing an action; or

(ii) an attorney, who has been retained by the recipient to file a claim, or commence an action against a third party, notifies the department in accordance with Subsection (1)(d) of the recipient's claim:

(A) within 30 days after being retained by the recipient for that purpose; or

(B) within 30 days from the date the attorney either knew or should have known that the recipient received medical assistance from the department.

(c) Service of the notice of claim to the department shall be made by certified mail, personal service, or by e-mail in accordance with Rule 5 of the Utah Rules of Civil Procedure, to the director of the Office of Recovery Services.

(d) The notice of claim shall include the following information:

(i) the name of the recipient;

(ii) the recipient's Social Security number;

(iii) the recipient's date of birth;

(iv) the name of the recipient's attorney if applicable;

(v) the name or names of individuals or entities against whom the recipient is making the claim, if known;

(vi) the name of the third party's insurance carrier, if known;

(vii) the date of the incident giving rise to the claim; and

(viii) a short statement identifying the nature of the recipient's claim.

(2) (a) Within 30 days of receipt of the notice of the claim required in Subsection (1), the department shall acknowledge receipt of the notice of the claim to the recipient or the recipient's attorney and shall notify the recipient or the recipient's attorney in writing of the following:

(i) if the department has a claim or lien pursuant to Section [~~26-19-401~~] 26B-3-1009 or has become obligated to provide medical assistance; and

(ii) whether the department is denying or granting written consent in accordance with Subsection (1)(a).

(b) The department shall provide the recipient's attorney the opportunity to enter into a collection agreement with the department, with the recipient's consent, unless:

(i) the department, prior to the receipt of the notice of the recipient's claim pursuant to Subsection (1), filed a written claim with the third party, the third party agreed to make payment to the department before the date the department received notice of the recipient's claim, and the agreement is documented in the department's record; or

(ii) there has been a failure by the recipient's attorney to comply with any provision of this section by:

(A) failing to comply with the notice provisions of this section;

(B) failing or refusing to enter into a collection agreement;

(C) failing to comply with the terms of a collection agreement with the department; or

(D) failing to disburse funds owed to the state in accordance with this section.

(c) (i) The collection agreement shall be:

(A) consistent with this section and the attorney's obligation to represent the recipient and represent the state's claim; and

(B) state the terms under which the interests of the department may be represented in an action commenced by the recipient.

(ii) If the recipient's attorney enters into a written collection agreement with the department, or includes the department's claim in the recipient's claim or action pursuant to Subsection (4), the department shall pay attorney fees at the rate of 33.3% of the department's total recovery and shall pay a proportionate share of the litigation expenses directly related to the action.

(d) The department is not required to enter into a collection agreement with the recipient's attorney for collection of personal injury protection under Subsection 31A-22-302(2).

(3) (a) If the department receives notice pursuant to Subsection (1), and notifies the recipient and the recipient's attorney that the department will not enter into a collection agreement with the recipient's attorney, the recipient may proceed with the recipient's claim or action against the third party if the recipient excludes from the claim:

(i) any medical expenses paid by the department; or

(ii) any medical costs for which the department is obligated to provide medical assistance.

(b) When a recipient proceeds with a claim under Subsection (3)(a), the recipient shall provide written notice to the third party of the exclusion of the department's claim for expenses under Subsection (3)(a)(i) or (ii).

(4) If the department receives notice pursuant to Subsection (1), and does not respond within 30 days to the recipient or the recipient's attorney, the recipient or the recipient's attorney:

(a) may proceed with the recipient's claim or action against the third party;

(b) may include the state's claim in the recipient's claim or action; and

(c) may not negotiate, compromise, settle, or waive the department's claim without the department's consent.

Section 144. Section 26B-3-1012, which is renumbered from Section 26-19-404 is renumbered and amended to read:

[~~26-19-404~~]. 26B-3-1012. Department's right to intervene -- Department's interests protected -- Remitting funds -- Disbursements -- Liability and penalty for noncompliance.

(1) The department has an unconditional right to intervene in an action commenced by a recipient against a third party for the purpose of recovering medical costs for which the department has provided or has become obligated to provide medical assistance.

(2) (a) If the recipient proceeds without complying with the provisions of Section [~~26-19-403~~] 26B-3-1011, the department is not bound by any decision, judgment, agreement, settlement, or compromise rendered or made on the claim or in the action.

(b) The department:

(i) may recover in full from the recipient, or any party to which the proceeds were made payable, all medical assistance that the department has provided; and

(ii) retains its right to commence an independent action against the third party, subject to Subsection [~~26-19-401~~] 26B-3-1009(3).

(3) Any amounts assigned to and recoverable by the department pursuant to Sections [~~26-19-201 and 26-19-401~~] 26B-3-1003 and 26B-3-1009 collected directly by the recipient shall be remitted to the Bureau of Medical Collections within the Office of Recovery Services no later than five business days after receipt.

(4) (a) Any amounts assigned to and recoverable by the department pursuant to Sections [~~26-19-201 and 26-19-401~~] 26B-3-1003 and 26B-3-1009 collected directly by the recipient's attorney shall be remitted to the Bureau of Medical Collections within the Office of Recovery Services no later than 30 days after the funds are placed in the attorney's trust account.

(b) The date by which the funds shall be remitted to the department may be modified based on agreement between the department and the recipient's attorney.

(c) The department's consent to another date for remittance may not be unreasonably withheld.

(d) If the funds are received by the recipient's attorney, no disbursements shall be made to the recipient or the recipient's attorney until the department's claim has been paid.

(5) A recipient or recipient's attorney who knowingly and intentionally fails to comply with this section is liable to the department for:

(a) the amount of the department's claim or lien pursuant to Subsection (1);

(b) a penalty equal to 10% of the amount of the department's claim; and

(c) attorney fees and litigation expenses related to recovering the department's claim.

Section 145. Section 26B-3-1013, which is renumbered from Section 26-19-405 is renumbered and amended to read:

[~~26-19-405~~]. 26B-3-1013. Estate and trust recovery.

(1) (a) Except as provided in Subsection (1)(b), upon a recipient's death, the department may recover from the recipient's recovery estate and any trust, in which the recipient is the grantor and a beneficiary, medical assistance correctly provided for the benefit of the recipient when the recipient was 55 years [~~of age~~] old or older.

(b) The department may not make an adjustment or a recovery under Subsection (1)(a):

(i) while the deceased recipient's spouse is still living; or

(ii) if the deceased recipient has a surviving child who is:

(A) under [~~age~~] 21 years old; or

(B) blind or disabled, as defined in the state plan.

(2) (a) The amount of medical assistance correctly provided for the benefit of a recipient and recoverable under this section is a lien against the deceased recipient's recovery estate or any trust when the recipient is the grantor and a beneficiary.

(b) The lien holds the same priority as reasonable and necessary medical expenses of the last illness as provided in Section 75-3-805.

(3) (a) For a lien described in Subsection (2), the department shall provide notice in accordance with Section 38-12-102.

(b) Before final distribution, the department shall perfect the lien as follows:

(i) for an estate, by presenting the lien to the estate's personal representative in accordance with Section 75-3-804; and

(ii) for a trust, by presenting the lien to the trustee in accordance with Section 75-7-510.

(c) The department may file an amended lien before the entry of the final order to close the estate or trust.

(4) Claims against a deceased recipient's inter vivos trust shall be presented in accordance with Sections 75-7-509 and 75-7-510.

(5) Any trust provision that denies recovery for medical assistance is void at the time of its making.

(6) Nothing in this section affects the right of the department to recover Medicaid assistance before a recipient's death under Section [~~26-19-201 or Section 26-19-406~~] 26B-3-1003 or 26B-3-1014.

(7) A lien imposed under this section is of indefinite duration.

Section 146. Section 26B-3-1014, which is renumbered from Section 26-19-406 is renumbered and amended to read:

[~~26-19-406~~]. 26B-3-1014. Recovery from recipient of incorrectly provided medical assistance.

The department may:

(1) recover medical assistance incorrectly provided, whether due to administrative or factual error or fraud, from the recipient or the recipient's recovery estate; and

(2) pursuant to a judgment, impose a lien against real property of the recipient.

Section 147. Section 26B-3-1015, which is renumbered from Section 26-19-501 is renumbered and amended to read:

[~~26-19-501~~]. 26B-3-1015. TEFRA liens authorized -- Grounds for TEFRA liens -- Exemptions.

(1) Except as provided in Subsections (2) and (3), the department may impose a TEFRA lien on the real property of an individual for the amount of medical assistance provided for, or to, the individual while the individual is an inpatient in a care facility, if:

(a) the individual is an inpatient in a care facility;

(b) the individual is required, as a condition of receiving services under the state plan, to spend for

costs of medical care all but a minimal amount of the individual's income required for personal needs; and

(c) the department determines that the individual cannot reasonably be expected to:

(i) be discharged from the care facility; and

(ii) return to the individual's home.

(2) The department may not impose a lien on the home of an individual described in Subsection (1), if any of the following individuals are lawfully residing in the home:

(a) the spouse of the individual;

(b) a child of the individual, if the child is:

(i) under 21 years [~~of age~~] old; or

(ii) blind or permanently and totally disabled, as defined in Title 42 U.S.C. Sec. 1382c(a)(3)(F); or

(c) a sibling of the individual, if the sibling:

(i) has an equity interest in the home; and

(ii) resided in the home for at least one year immediately preceding the day on which the individual was admitted to the care facility.

(3) The department may not impose a TEFRA lien on the real property of an individual, unless:

(a) the individual has been an inpatient in a care facility for the 180-day period immediately preceding the day on which the lien is imposed;

(b) the department serves:

(i) a preliminary notice of intent to impose a TEFRA lien relating to the real property, in accordance with Section [~~26-19-503~~] 26B-3-1017; and

(ii) a final notice of intent to impose a TEFRA lien relating to the real property, in accordance with Section [~~26-19-504~~] 26B-3-1018; and

(c) (i) the individual does not file a timely request for review of the department's decision under Title 63G, Chapter 4, Administrative Procedures Act; or

(ii) the department's decision is upheld upon final review or appeal under Title 63G, Chapter 4, Administrative Procedures Act.

Section 148. Section 26B-3-1016, which is renumbered from Section 26-19-502 is renumbered and amended to read:

[~~26-19-502~~]. 26B-3-1016. Presumption of permanency.

There is a rebuttable presumption that an individual who is an inpatient in a care facility cannot reasonably be expected to be discharged from a care facility and return to the individual's home, if the individual has been an inpatient in a care facility for a period of at least 180 consecutive days.

Section 149. Section 26B-3-1017, which is renumbered from Section 26-19-503 is renumbered and amended to read:

[~~26-19-503~~]. 26B-3-1017. Preliminary notice of intent to impose a TEFRA lien.

(1) Prior to imposing a TEFRA lien on real property, the department shall serve a preliminary notice of intent to impose a TEFRA lien, on the individual described in Subsection [~~26-19-501~~] 26B-3-1015(1), who owns the property.

(2) The preliminary notice of intent shall:

(a) be served in person, or by certified mail, on the individual described in Subsection [~~26-19-501~~] 26B-3-1015(1), and, if the department is aware that the individual has a legally authorized representative, on the representative;

(b) include a statement indicating that, according to the department's records, the individual:

(i) meets the criteria described in Subsections [~~26-19-501~~] 26B-3-1015(1)(a) and (b);

(ii) has been an inpatient in a care facility for a period of at least 180 days immediately preceding the day on which the department provides the notice to the individual; and

(iii) is legally presumed to be in a condition where it cannot reasonably be expected that the individual will be discharged from the care facility and return to the individual's home;

(c) indicate that the department intends to impose a TEFRA lien on real property belonging to the individual;

(d) describe the real property that the TEFRA lien will apply to;

(e) describe the current amount of, and purpose of, the TEFRA lien;

(f) indicate that the amount of the lien may continue to increase as the individual continues to receive medical assistance;

(g) indicate that the individual may seek to prevent the TEFRA lien from being imposed on the real property by providing documentation to the department that:

(i) establishes that the individual does not meet the criteria described in Subsection [~~26-19-501~~] 26B-3-1015(1)(a) or (b);

(ii) establishes that the individual has not been an inpatient in a care facility for a period of at least 180 days;

(iii) rebuts the presumption described in Section [~~26-19-502~~] 26B-3-1016; or

(iv) establishes that the real property is exempt from imposition of a TEFRA lien under Subsection [~~26-19-501~~] 26B-3-1015(2);

(h) indicate that if the owner fails to provide the documentation described in Subsection (2)(g) within 30 days after the day on which the preliminary notice of intent is served, the

department will issue a final notice of intent to impose a TEFRA lien on the real property and will proceed to impose the lien;

(i) identify the type of documentation that the owner may provide to comply with Subsection (2)(g);

(j) describe the circumstances under which a TEFRA lien is required to be released; and

(k) describe the circumstances under which the department may seek to recover the lien.

Section 150. Section 26B-3-1018, which is renumbered from Section 26-19-504 is renumbered and amended to read:

[~~26-19-504~~]. 26B-3-1018. Final notice of intent to impose a TEFRA lien.

(1) The department may issue a final notice of intent to impose a TEFRA lien on real property if:

(a) a preliminary notice of intent relating to the property is served in accordance with Section [~~26-19-503~~] 26B-3-1017;

(b) it is at least 30 days after the day on which the preliminary notice of intent was served; and

(c) the department has not received documentation or other evidence that adequately establishes that a TEFRA lien may not be imposed on the real property.

(2) The final notice of intent to impose a TEFRA lien on real property shall:

(a) be served in person, or by certified mail, on the individual described in Subsection [~~26-19-501~~] 26B-3-1015(1), who owns the property, and, if the department is aware that the individual has a legally authorized representative, on the representative;

(b) indicate that the department has complied with the requirements for filing the final notice of intent under Subsection (1);

(c) include a statement indicating that, according to the department's records, the individual:

(i) meets the criteria described in Subsections [~~26-19-501~~] 26B-3-1015(1)(a) and (b);

(ii) has been an inpatient in a care facility for a period of at least 180 days immediately preceding the day on which the department provides the notice to the individual; and

(iii) is legally presumed to be in a condition where it cannot reasonably be expected that the individual will be discharged from the care facility and return to the individual's home;

(d) indicate that the department intends to impose a TEFRA lien on real property belonging to the individual;

(e) describe the real property that the TEFRA lien will apply to;

(f) describe the current amount of, and purpose of, the TEFRA lien;

(g) indicate that the amount of the lien may continue to increase as the individual continues to receive medical assistance;

(h) describe the circumstances under which a TEFRA lien is required to be released;

(i) describe the circumstances under which the department may seek to recover the lien;

(j) describe the right of the individual to challenge the decision of the department in an adjudicative proceeding; and

(k) indicate that failure by the individual to successfully challenge the decision of the department will result in the TEFRA lien being imposed.

Section 151. Section 26B-3-1019, which is renumbered from Section 26-19-505 is renumbered and amended to read:

[~~26-19-505~~]. 26B-3-1019. Review of department decision.

An individual who has been served with a final notice of intent to impose a TEFRA lien under Section [~~26-19-504~~] 26B-3-1018 may seek agency or judicial review of that decision under Title 63G, Chapter 4, Administrative Procedures Act.

Section 152. Section 26B-3-1020, which is renumbered from Section 26-19-506 is renumbered and amended to read:

[~~26-19-506~~]. 26B-3-1020. Dissolution and removal of TEFRA lien.

(1) A TEFRA lien shall dissolve and be removed by the department if the individual described in Subsection [~~26-19-501~~] 26B-3-1015(1):

(a) (i) is discharged from the care facility; and

(ii) returns to the individual's home; or

(b) provides sufficient documentation to the department that:

(i) rebuts the presumption described in Section [~~26-19-502~~] 26B-3-1016; or

(ii) any of the following individuals are lawfully residing in the individual's home:

(A) the spouse of the individual;

(B) a child of the individual, if the child is under 21 years [~~of age~~] old or blind or permanently and totally disabled, as defined in Title 42 U.S.C. Sec. 1382c(a)(3)(F); or

(C) a sibling of the individual, if the sibling has an equity interest in the home and resided in the home for at least one year immediately preceding the day on which the individual was admitted to the care facility.

(2) An individual described in Subsection [~~26-19-501~~] 26B-3-1015(1)(a) may, at any time after the department has imposed a lien under [~~this part~~] Sections 26B-3-1015 through 26B-3-1023, file a request for the department to remove the lien.

(3) A request filed under Subsection (2) shall be considered and reviewed pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

Section 153. Section 26B-3-1021, which is renumbered from Section 26-19-507 is renumbered and amended to read:

[~~26-19-507~~]. 26B-3-1021. Expenditures included in lien -- Other proceedings.

(1) A TEFRA lien imposed on real property under [~~this part~~] Sections 26B-3-1015 through 26B-3-1023 includes all expenses relating to medical assistance provided or paid for under the state plan from the first day that the individual is placed in a care facility, regardless of when the lien is imposed or filed on the property.

(2) Nothing in [~~this part affects or prevents~~] Sections 26B-3-1015 through 26B-3-1023 affect or prevent the department from bringing or pursuing any other legally authorized action to recover medical assistance or to set aside a fraudulent or improper conveyance.

Section 154. Section 26B-3-1022, which is renumbered from Section 26-19-508 is renumbered and amended to read:

[~~26-19-508~~]. 26B-3-1022. Contract with another government agency.

If the department contracts with another government agency to recover funds paid for medical assistance under this [~~chapter~~] part, that government agency shall be the sole agency that determines whether to impose or remove a TEFRA lien under [~~this part~~] Sections 26B-3-1015 through 26B-3-1023.

Section 155. Section 26B-3-1023, which is renumbered from Section 26-19-509 is renumbered and amended to read:

[~~26-19-509~~]. 26B-3-1023. Precedence of the Tax Equity and Fiscal Responsibility Act of 1982.

If any provision of [~~this part conflicts~~] Sections 26B-3-1015 through 26B-3-1023 conflict with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 for imposing a lien against the property of an individual prior to the individual's death, under 42 U.S.C. Sec. 1396p, the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 take precedence and shall be complied with by the department.

Section 156. Section 26B-3-1024, which is renumbered from Section 26-19-601 is renumbered and amended to read:

[~~26-19-601~~]. 26B-3-1024. Legal recognition of electronic claims records.

Pursuant to Title 46, Chapter 4, Uniform Electronic Transactions Act:

(1) a claim submitted to the department for payment may not be denied legal effect, enforceability, or admissibility as evidence in any court in any civil action because it is in electronic form; and

(2) a third party shall accept an electronic record of payments by the department for medical services on behalf of a recipient as evidence in support of the department's claim.

Section 157. Section 26B-3-1025, which is renumbered from Section 26-19-602 is renumbered and amended to read:

[~~26-19-602~~]. 26B-3-1025. Direct payment to the department by third party.

(1) Any third party required to make payment to the department pursuant to this [~~chapter~~] part shall make the payment directly to the department or its designee.

(2) The department may negotiate a payment or payment instrument it receives in connection with Subsection (1) without the cosignature or other participation of the recipient or any other party.

Section 158. Section 26B-3-1026, which is renumbered from Section 26-19-603 is renumbered and amended to read:

[~~26-19-603~~]. 26B-3-1026. Attorney general or county attorney to represent department.

The attorney general or a county attorney shall represent the department in any action commenced under this [~~chapter~~] part.

Section 159. Section 26B-3-1027, which is renumbered from Section 26-19-604 is renumbered and amended to read:

[~~26-19-604~~]. 26B-3-1027. Department's right to attorney fees and costs.

In any action brought by the department under this [~~chapter~~] part in which it prevails, the department shall recover along with the principal sum and interest, a reasonable attorney fee and costs incurred.

Section 160. Section 26B-3-1028, which is renumbered from Section 26-19-605 is renumbered and amended to read:

[~~26-19-605~~]. 26B-3-1028. Application of provisions contrary to federal law prohibited.

In no event shall any provision contained in this [~~chapter~~] part be applied contrary to existing federal law.

Section 161. Section 26B-3-1101, which is renumbered from Section 26-20-2 is renumbered and amended to read:

Part 11. Utah False Claims Act

[~~26-20-2~~]. 26B-3-1101. Definitions.

As used in this [~~chapter~~] part:

(1) "Benefit" means the receipt of money, goods, or any other thing of pecuniary value.

(2) "Claim" means any request or demand for money or property:

(a) made to any:

(i) employee, officer, or agent of the state;

(ii) contractor with the state; or

(iii) grantee or other recipient, whether or not under contract with the state; and

(b) if:

(i) any portion of the money or property requested or demanded was issued from or provided by the state; or

(ii) the state will reimburse the contractor, grantee, or other recipient for any portion of the money or property.

(3) "False statement" or "false representation" means a wholly or partially untrue statement or representation which is:

(a) knowingly made; and

(b) a material fact with respect to the claim.

(4) "Knowing" and "knowingly":

(a) for purposes of criminal prosecutions for violations of this [~~chapter~~] part, is one of the culpable mental states described in Subsection [~~26-20-9~~] 26B-3-1108(1); and

(b) for purposes of civil prosecutions for violations of this [~~chapter~~] part, is the required culpable mental state as defined in Subsection [~~26-20-9.5~~] 26B-3-1109(1).

(5) "Medical benefit" means a benefit paid or payable to a recipient or a provider under a program administered by the state under:

(a) Titles V and XIX of the federal Social Security Act;

(b) Title X of the federal Public Health Services Act;

(c) the federal Child Nutrition Act of 1966 as amended by [~~P.L.~~] Pub. L. No. 94-105; and

(d) any programs for medical assistance of the state.

(6) "Person" means an individual, corporation, unincorporated association, professional corporation, partnership, or other form of business association.

Section 162. Section 26B-3-1102, which is renumbered from Section 26-20-3 is renumbered and amended to read:

[~~26-20-3~~]. 26B-3-1102. False statement or representation relating to medical benefits.

(1) A person may not make or cause to be made a false statement or false representation of a material fact in an application for medical benefits.

(2) A person may not make or cause to be made a false statement or false representation of a material fact for use in determining rights to a medical benefit.

(3) A person, who having knowledge of the occurrence of an event affecting the person's initial or continued right to receive a medical benefit or the initial or continued right of any other person on whose behalf the person has applied for or is receiving a medical benefit, may not conceal or fail to disclose that event with intent to obtain a medical benefit to which the person or any other person is not entitled or in an amount greater than that to which the person or any other person is entitled.

Section 163. Section 26B-3-1103, which is renumbered from Section 26-20-4 is renumbered and amended to read:

[~~26-20-4~~]. 26B-3-1103. Kickbacks or bribes prohibited.

(1) For purposes of this section, kickback or bribe:

(a) includes rebates, compensation, or any other form of remuneration which is:

(i) direct or indirect;

(ii) overt or covert; or

(iii) in cash or in kind; and

(b) does not include a rebate paid to the state under 42 U.S.C. Sec. 1396r-8 or any state supplemental rebates.

(2) A person may not solicit, offer, pay, or receive a kickback or bribe in return for or to induce:

(a) the purchasing, leasing, or ordering of any goods or services for which payment is or may be made in whole or in part pursuant to a medical benefit program; or

(b) the referral of an individual to another person for the furnishing of any goods or services for which payment is or may be made in whole or in part pursuant to a medical benefit program.

Section 164. Section 26B-3-1104, which is renumbered from Section 26-20-5 is renumbered and amended to read:

[~~26-20-5~~]. 26B-3-1104. False statements or false representations relating to qualification of health institution or facility prohibited -- Felony.

(1) A person may not knowingly, intentionally, or recklessly make, induce, or seek to induce, the making of a false statement or false representation of a material fact with respect to the conditions or operation of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, or home health agency.

(2) A person who violates this section is guilty of a second degree felony.

Section 165. Section 26B-3-1105, which is renumbered from Section 26-20-6 is renumbered and amended to read:

[~~26-20-6~~]. 26B-3-1105. Conspiracy to defraud prohibited.

A person may not enter into an agreement, combination, or conspiracy to defraud the state by

obtaining or aiding another to obtain the payment or allowance of a false, fictitious, or fraudulent claim for a medical benefit.

Section 166. Section 26B-3-1106, which is renumbered from Section 26-20-7 is renumbered and amended to read:

[~~26-20-7~~]. 26B-3-1106. False claims for medical benefits prohibited.

(1) A person may not make or present or cause to be made or presented to an employee or officer of the state a claim for a medical benefit:

(a) which is wholly or partially false, fictitious, or fraudulent;

(b) for services which were not rendered or for items or materials which were not delivered;

(c) which misrepresents the type, quality, or quantity of items or services rendered;

(d) representing charges at a higher rate than those charged by the provider to the general public;

(e) for items or services which the person or the provider knew were not medically necessary in accordance with professionally recognized standards;

(f) which has previously been paid;

(g) for services also covered by one or more private sources when the person or provider knew of the private sources without disclosing those sources on the claim; or

(h) where a provider:

(i) unbundles a product, procedure, or group of procedures usually and customarily provided or performed as a single billable product or procedure into artificial components or separate procedures; and

(ii) bills for each component of the product, procedure, or group of procedures:

(A) as if they had been provided or performed independently and at separate times; and

(B) the aggregate billing for the components exceeds the amount otherwise billable for the usual and customary single product or procedure.

(2) In addition to the prohibitions in Subsection (1), a person may not:

(a) fail to credit the state for payments received from other sources;

(b) recover or attempt to recover payment in violation of the provider agreement from:

(i) a recipient under a medical benefit program; or

(ii) the recipient's family;

(c) falsify or alter with intent to deceive, any report or document required by state or federal law, rule, or Medicaid provider agreement;

(d) retain any unauthorized payment as a result of acts described by this section; or

(e) aid or abet the commission of any act prohibited by this section.

Section 167. Section 26B-3-1107, which is renumbered from Section 26-20-8 is renumbered and amended to read:

[~~26-20-8~~]. 26B-3-1107. Knowledge of past acts not necessary to establish fact that false statement or representation knowingly made.

In prosecution under this [~~chapter~~] part, it is not necessary to show that the person had knowledge of similar acts having been performed in the past on the part of persons acting on his behalf nor to show that the person had actual notice that the acts by the persons acting on his behalf occurred to establish the fact that a false statement or representation was knowingly made.

Section 168. Section 26B-3-1108, which is renumbered from Section 26-20-9 is renumbered and amended to read:

[~~26-20-9~~]. 26B-3-1108. Criminal penalties.

(1) (a) Except as provided in Subsection (1)(b) the culpable mental state required for a criminal violation of this [~~chapter~~] part is knowingly, intentionally, or recklessly as defined in Section 76-2-103.

(b) The culpable mental state required for a criminal violation of this [~~chapter~~] part for kickbacks and bribes under Section [~~26-20-4~~] 26B-3-1103 is knowingly and intentionally as defined in Section 76-2-103.

(2) The punishment for a criminal violation of any provision of this [~~chapter~~] part, except as provided under Section [~~26-20-5~~] 26B-3-1104, is determined by the cumulative value of the funds or other benefits received or claimed in the commission of all violations of a similar nature, and not by each separate violation.

(3) Punishment for criminal violation of this [~~chapter~~] part, except as provided under Section [~~26-20-5~~] 26B-3-1104, is a felony of the second degree, felony of the third degree, class A misdemeanor, or class B misdemeanor based on the dollar amounts as prescribed by Subsection 76-6-412(1) for theft of property and services.

Section 169. Section 26B-3-1109, which is renumbered from Section 26-20-9.5 is renumbered and amended to read:

[~~26-20-9.5~~]. 26B-3-1109. Civil penalties.

(1) The culpable mental state required for a civil violation of this [~~chapter~~] part is "knowing" or "knowingly" which:

(a) means that person, with respect to information:

(i) has actual knowledge of the information;

(ii) acts in deliberate ignorance of the truth or falsity of the information; or

(iii) acts in reckless disregard of the truth or falsity of the information; and

(b) does not require a specific intent to defraud.

(2) Any person who violates this [~~chapter~~] part shall, in all cases, in addition to other penalties provided by law, be required to:

(a) make full and complete restitution to the state of all damages that the state sustains because of the person's violation of this [~~chapter~~] part;

(b) pay to the state its costs of enforcement of this [~~chapter~~] part in that case, including the cost of investigators, attorneys, and other public employees, as determined by the state; and

(c) pay to the state a civil penalty equal to:

(i) three times the amount of damages that the state sustains because of the person's violation of this [~~chapter~~] part; and

(ii) not less than $5,000 or more than $10,000 for each claim filed or act done in violation of this [~~chapter~~] part.

(3) Any civil penalties assessed under Subsection (2) shall be awarded by the court as part of its judgment in both criminal and civil actions.

(4) A criminal action need not be brought against a person in order for that person to be civilly liable under this section.

Section 170. Section 26B-3-1110, which is renumbered from Section 26-20-10 is renumbered and amended to read:

[~~26-20-10~~]. 26B-3-1110. Revocation of license of assisted living facility -- Appointment of receiver.

(1) If the license of an assisted living facility is revoked for violation of this [~~chapter~~] part, the county attorney may file a petition with the district court for the county in which the facility is located for the appointment of a receiver.

(2) The district court shall issue an order to show cause why a receiver should not be appointed returnable within five days after the filing of the petition.

(3) (a) If the court finds that the facts warrant the granting of the petition, the court shall appoint a receiver to take charge of the facility.

(b) The court may determine fair compensation for the receiver.

(4) A receiver appointed pursuant to this section shall have the powers and duties prescribed by the court.

Section 171. Section 26B-3-1111, which is renumbered from Section 26-20-11 is renumbered and amended to read:

[~~26-20-11~~]. 26B-3-1111. Presumption based on paid state warrant -- Value of medical benefits -- Repayment of benefits.

(1) In any civil or criminal action brought under this [~~chapter~~] part, a paid state warrant, made payable to the order of a party, creates a presumption that the party received funds from the state.

(2) In any civil or criminal action brought under this [~~chapter~~] part, the value of the benefits received shall be the ordinary or usual charge for similar benefits in the private sector.

(3) In any criminal action under this [~~chapter~~] part, the repayment of funds or other benefits obtained in violation of the provisions of this [~~chapter~~] part does not constitute a defense to, or grounds for dismissal of that action.

Section 172. Section 26B-3-1112, which is renumbered from Section 26-20-12 is renumbered and amended to read:

[~~26-20-12~~]. 26B-3-1112. Violation of other laws.

(1) The provisions of this [~~chapter~~] part are:

(a) not exclusive, and the remedies provided for in this [~~chapter~~] part are in addition to any other remedies provided for under:

(i) any other applicable law; or

(ii) common law; and

(b) to be liberally construed and applied to:

(i) effectuate the chapter's remedial and deterrent purposes; and

(ii) serve the public interest.

(2) If any provision of this [~~chapter~~] part or the application of this [~~chapter~~] part to any person or circumstance is held unconstitutional:

(a) the remaining provisions of this [~~chapter~~] part are not affected; and

(b) the application of this [~~chapter~~] part to other persons or circumstances are not affected.

Section 173. Section 26B-3-1113, which is renumbered from Section 26-20-13 is renumbered and amended to read:

[~~26-20-13~~]. 26B-3-1113. Medicaid fraud enforcement.

(1) This [~~chapter~~] part shall be enforced in accordance with this section.

(2) The department is responsible for:

(a) (i) investigating and prosecuting suspected civil violations of this [~~chapter~~] part; or

(ii) referring suspected civil violations of this [~~chapter~~] part to the attorney general for investigation and prosecution; and

(b) promptly referring suspected criminal violations of this [~~chapter~~] part to the attorney general for criminal investigation and prosecution.

(3) The attorney general has:

(a) concurrent jurisdiction with the department for investigating and prosecuting suspected civil violations of this [~~chapter~~] part; and

(b) exclusive jurisdiction to investigate and prosecute all suspected criminal violations of this [~~chapter~~] part.

(4) The department and the attorney general share concurrent civil enforcement authority under this [~~chapter~~] part and may enter into an interagency agreement regarding the investigation and prosecution of violations of this [~~chapter~~] part in accordance with this section, the requirements of Title XIX of the federal Social Security Act, and applicable federal regulations.

(5) (a) Any violation of this [~~chapter~~] part which comes to the attention of any state government officer or agency shall be reported to the attorney general or the department.

(b) All state government officers and agencies shall cooperate with and assist in any prosecution for violation of this [~~chapter~~] part.

Section 174. Section 26B-3-1114, which is renumbered from Section 26-20-14 is renumbered and amended to read:

[~~26-20-14~~]. 26B-3-1114. Investigations -- Civil investigative demands.

(1) The attorney general may take investigative action under Subsection (2) if the attorney general has reason to believe that:

(a) a person has information or custody or control of documentary material relevant to the subject matter of an investigation of an alleged violation of this [~~chapter~~] part;

(b) a person is committing, has committed, or is about to commit a violation of this [~~chapter~~] part; or

(c) it is in the public interest to conduct an investigation to ascertain whether or not a person is committing, has committed, or is about to commit a violation of this [~~chapter~~] part.

(2) In taking investigative action, the attorney general may:

(a) require the person to file on a prescribed form a statement in writing, under oath or affirmation describing:

(i) the facts and circumstances concerning the alleged violation of this [~~chapter~~] part; and

(ii) other information considered necessary by the attorney general;

(b) examine under oath a person in connection with the alleged violation of this [~~chapter~~] part; and

(c) in accordance with Subsections (7) through (18), execute in writing, and serve on the person, a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying of the material.

(3) The attorney general may not release or disclose information that is obtained under Subsection (2)(a) or (b), or any documentary material or other record derived from the information obtained under Subsection (2)(a) or (b), except:

(a) by court order for good cause shown;

(b) with the consent of the person who provided the information;

(c) to an employee of the attorney general or the department;

(d) to an agency of this state, the United States, or another state;

(e) to a special assistant attorney general representing the state in a civil action;

(f) to a political subdivision of this state; or

(g) to a person authorized by the attorney general to receive the information.

(4) The attorney general may use documentary material derived from information obtained under Subsection (2)(a) or (b), or copies of that material, as the attorney general determines necessary in the enforcement of this [~~chapter~~] part, including presentation before a court.

(5) (a) If a person fails to file a statement as required by Subsection (2)(a) or fails to submit to an examination as required by Subsection (2)(b), the attorney general may file in district court a complaint for an order to compel the person to within a period stated by court order:

(i) file the statement required by Subsection (2)(a); or

(ii) submit to the examination required by Subsection (2)(b).

(b) Failure to comply with an order entered under Subsection (5)(a) is punishable as contempt.

(6) A civil investigative demand shall:

(a) state the rule or statute under which the alleged violation of this [~~chapter~~] part is being investigated;

(b) describe the:

(i) general subject matter of the investigation; and

(ii) class or classes of documentary material to be produced with reasonable specificity to fairly indicate the documentary material demanded;

(c) designate a date within which the documentary material is to be produced; and

(d) identify an authorized employee of the attorney general to whom the documentary material is to be made available for inspection and copying.

(7) A civil investigative demand may require disclosure of any documentary material that is discoverable under the Utah Rules of Civil Procedure.

(8) Service of a civil investigative demand may be made by:

(a) delivering an executed copy of the demand to the person to be served or to a partner, an officer, or an agent authorized by appointment or by law to receive service of process on behalf of that person;

(b) delivering an executed copy of the demand to the principal place of business in this state of the person to be served; or

(c) mailing by registered or certified mail an executed copy of the demand addressed to the person to be served:

(i) at the person's principal place of business in this state; or

(ii) if the person has no place of business in this state, to the person's principal office or place of business.

(9) Documentary material demanded in a civil investigative demand shall be produced for inspection and copying during normal business hours at the office of the attorney general or as agreed by the person served and the attorney general.

(10) The attorney general may not produce for inspection or copying or otherwise disclose the contents of documentary material obtained pursuant to a civil investigative demand except:

(a) by court order for good cause shown;

(b) with the consent of the person who produced the information;

(c) to an employee of the attorney general or the department;

(d) to an agency of this state, the United States, or another state;

(e) to a special assistant attorney general representing the state in a civil action;

(f) to a political subdivision of this state; or

(g) to a person authorized by the attorney general to receive the information.

(11) (a) With respect to documentary material obtained pursuant to a civil investigative demand, the attorney general shall prescribe reasonable terms and conditions allowing such documentary material to be available for inspection and copying by the person who produced the material or by an authorized representative of that person.

(b) The attorney general may use such documentary material or copies of it as the attorney general determines necessary in the enforcement of this [~~chapter~~] part, including presentation before a court.

(12) (a) A person may file a complaint, stating good cause, to extend the return date for the demand or to modify or set aside the demand.

(b) A complaint under this Subsection (12) shall be filed in district court before the earlier of:

[~~(a)~~] (i) the return date specified in the demand; or

[~~(b)~~] (ii) the 20th day after the date the demand is served.

(13) Except as provided by court order, a person who has been served with a civil investigative demand shall comply with the terms of the demand.

(14) (a) A person who has committed a violation of this [~~chapter~~] part in relation to the Medicaid program in this state or to any other medical benefit program administered by the state has submitted to the jurisdiction of this state.

(b) Personal service of a civil investigative demand under this section may be made on the person described in Subsection (14)(a) outside of this state.

(15) This section does not limit the authority of the attorney general to conduct investigations or to access a person's documentary materials or other information under another state or federal law, the Utah Rules of Civil Procedure, or the Federal Rules of Civil Procedure.

(16) The attorney general may file a complaint in district court for an order to enforce the civil investigative demand if:

(a) a person fails to comply with a civil investigative demand; or

(b) copying and reproduction of the documentary material demanded:

(i) cannot be satisfactorily accomplished; and

(ii) the person refuses to surrender the documentary material.

(17) If a complaint is filed under Subsection (16), the court may determine the matter presented and may enter an order to enforce the civil investigative demand.

(18) Failure to comply with a final order entered under Subsection (17) is punishable by contempt.

Section 175. Section 26B-3-1115, which is renumbered from Section 26-20-15 is renumbered and amended to read:

[~~26-20-15~~]. 26B-3-1115. Limitation of actions -- Civil acts antedating this section -- Civil burden of proof -- Estoppel -- Joint civil liability -- Venue.

(1) An action under this [~~chapter~~] part may not be brought after the later of:

(a) six years after the date on which the violation was committed; or

(b) three years after the date an official of the state charged with responsibility to act in the circumstances discovers the violation, but in no event more than 10 years after the date on which the violation was committed.

(2) A civil action brought under this [~~chapter~~] part may be brought for acts occurring prior to the effective date of this section if the limitations period set forth in Subsection (1) has not lapsed.

(3) In any civil action brought under this [~~chapter~~] part the state shall be required to prove by a preponderance of evidence, all essential elements of the cause of action including damages.

(4) Notwithstanding any other provision of law, a final judgment rendered in favor of the state in any criminal proceeding under this [~~chapter~~] part,

whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any civil action under this [~~chapter~~] part which involves the same transaction.

(5) Civil liability under this [~~chapter~~] part shall be joint and several for a violation committed by two or more persons.

(6) Any action brought by the state under this [~~chapter~~] part shall be brought in district court in Salt Lake County or in any county where the defendant resides or does business.

Section 176. Section 26B-8-101 is amended to read:

CHAPTER 8. HEALTH DATA, VITAL STATISTICS, AND UTAH MEDICAL EXAMINER

Part 1. Vital Statistics

26B-8-101. Definitions.

[~~Reserved~~]

As used in this part:

(1) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(2) "Certified nurse midwife" means an individual who:

(a) is licensed to practice as a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Custodial funeral service director" means a funeral service director who:

(a) is employed by a licensed funeral establishment; and

(b) has custody of a dead body.

(4) "Dead body" means a human body or parts of a human body from the condition of which it reasonably may be concluded that death occurred.

(5) "Decedent" means the same as a dead body.

(6) "Dead fetus" means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):

(a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and

(b) that was not born alive.

(7) "Declarant father" means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child's paternity.

(8) "Dispositioner" means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or

(b) the next of kin of the decedent, if:

(i) (A) a person has not been designated as described in Subsection (8)(a); or

(B) the person described in Subsection (8)(a) is unable or unwilling to exercise the right and duty described in Subsection (8)(a); and

(ii) the next of kin voluntarily acts as the dispositioner.

(9) "Fetal remains" means:

(a) an aborted fetus as that term is defined in Section 26B-2-232; or

(b) a miscarried fetus as that term is defined in Section 26B-2-233.

(10) "File" means the submission of a completed certificate or other similar document, record, or report as provided under this part for registration by the state registrar or a local registrar.

(11) "Funeral service director" means the same as that term is defined in Section 58-9-102.

(12) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(13) "Health care professional" means a physician, physician assistant, nurse practitioner, or certified nurse midwife.

(14) "Licensed funeral establishment" means:

(a) if located in Utah, a funeral service establishment, as that term is defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or

(b) if located in a state, district, or territory of the United States other than Utah, a funeral service establishment that complies with the licensing laws of the jurisdiction where the establishment is located.

(15) "Live birth" means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

(16) "Local registrar" means a person appointed under Subsection 26B-8-102(3)(b).

(17) "Nurse practitioner" means an individual who:

(a) is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(18) "Office" means the Office of Vital Records and Statistics within the department.

(19) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(20) "Physician assistant" means an individual who:

(a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(21) "Presumed father" means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.

(22) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

(23) "State registrar" means the state registrar of vital records appointed under Section 26B-8-102.

(24) "Vital records" means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

(b) amendments to any of the registered certificates or reports described in Subsection (24)(a);

(c) an adoption document; and

(d) other similar documents.

(25) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

Section 177. Section 26B-8-102, which is renumbered from Section 26-2-3 is renumbered and amended to read:

[~~26-2-3~~]. 26B-8-102. Department duties and authority.

(1) As used in this section:

(a) "Compact" means the Compact for Interstate Sharing of Putative Father Registry Information created in Section 78B-6-121.5, effective on May 10, 2016.

(b) "Putative father":

(i) means the same as that term is as defined in Section 78B-6-121.5; and

(ii) includes an unmarried biological father.

(c) "State registrar" means the state registrar of vital records appointed under Subsection (2)(e).

(d) "Unmarried biological father" means the same as that term is defined in Section 78B-6-103.

(2) The department shall:

(a) provide offices properly equipped for the preservation of vital records made or received under this [~~chapter~~] part;

(b) establish a statewide vital records system for the registration, collection, preservation, amendment, and certification of vital records and other similar documents required by this [~~chapter~~] part and activities related to them, including the tabulation, analysis, and publication of vital statistics;

(c) prescribe forms for certificates, certification, reports, and other documents and records necessary to establish and maintain a statewide system of vital records;

(d) prepare an annual compilation, analysis, and publication of statistics derived from vital records; and

(e) appoint a state registrar to direct the statewide system of vital records.

(3) The department may:

(a) divide the state from time to time into registration districts; and

(b) appoint local registrars for registration districts who under the direction and supervision of the state registrar shall perform all duties required of them by this [~~chapter~~] part and department rules.

(4) The state registrar appointed under Subsection (2)(e) shall, with the input of Utah stakeholders and the Uniform Law Commission, study the following items for the state's implementation of the compact:

(a) the feasibility of using systems developed by the National Association for Public Health Statistics and Information Systems, including the State and Territorial Exchange of Vital Events (STEVE) system and the Electronic Verification of Vital Events (EVVE) system, or similar systems, to exchange putative father registry information with states that are parties to the compact;

(b) procedures necessary to share putative father information, located in the confidential registry maintained by the state registrar, upon request from the state registrar of another state that is a party to the compact;

(c) procedures necessary for the state registrar to access putative father information located in a state that is a party to the compact, and share that information with persons who request a certificate from the state registrar;

(d) procedures necessary to ensure that the name of the mother of the child who is the subject of a putative father's notice of commencement, filed pursuant to Section 78B-6-121, is kept confidential when a state that is a party to the compact accesses

this state's confidential registry through the state registrar; and

(e) procedures necessary to ensure that a putative father's registration with a state that is a party to the compact is given the same effect as a putative father's notice of commencement filed pursuant to Section 78B-6-121.

Section 178. Section 26B-8-103, which is renumbered from Section 26-2-4 is renumbered and amended to read:

[~~26-2-4~~]. 26B-8-103. Content and form of certificates and reports.

(1) As used in this section:

(a) "Additional information" means information that is beyond the information necessary to comply with federal standards or state law for registering a birth.

(b) "Diacritical mark" means a mark on a letter from the ISO basic Latin alphabet used to indicate a special pronunciation.

(c) "Diacritical mark" includes accents, tildes, graves, umlauts, and cedillas.

(2) Except as provided in Subsection (8), to promote and maintain nationwide uniformity in the vital records system, the forms of certificates, certification, reports, and other documents and records required by this [~~chapter~~] part or the rules implementing this [~~chapter~~] part shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval, additions, and modifications by the department.

(3) Certificates, certifications, forms, reports, other documents and records, and the form of communications between persons required by this [~~chapter~~] part shall be prepared in the format prescribed by department rule.

(4) All vital records shall include the date of filing.

(5) Certificates, certifications, forms, reports, other documents and records, and communications between persons required by this [~~chapter~~] part may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.

(6) (a) An individual may use a diacritical mark in an application for a vital record.

(b) The office shall record a diacritical mark on a vital record as indicated on the application for the vital record.

(7) The absence of a diacritical mark on a vital record does not render the document invalid or affect any constructive notice imparted by proper recordation of the document.

(8) (a) The state:

(i) may collect the Social Security number of a deceased individual; and

(ii) may not include the Social Security number of an individual on a certificate of death.

(b) For registering a birth, the department may not require an individual to provide additional information.

(c) The department may request additional information if the department provides a written statement that:

(i) discloses that providing the additional information is voluntary;

(ii) discloses how the additional information will be used and the duration of use;

(iii) describes how the department prevents the additional information from being used in a manner different from the disclosure given under Subsection [~~(6)(c)(ii)~~] (8)(c)(ii); and

(iv) includes a notice that the individual is consenting to the department's use of the additional information by providing the additional information.

(d) (i) Beginning July 1, 2022, an individual may submit a written request to the department to de-identify the individual's additional information contained in the department's databases.

(ii) Upon receiving the written request, the department shall de-identify the additional information.

(e) The department shall de-identify additional information contained in the department's databases before the additional information is held by the department for longer than six years.

Section 179. Section 26B-8-104, which is renumbered from Section 26-2-5 is renumbered and amended to read:

[~~26-2-5~~]. 26B-8-104. Birth certificates -- Execution and registration requirements.

(1) As used in this section, "birthing facility" means a general acute hospital or birthing center as defined in Section [~~26-21-2~~] 26B-2-201.

(2) For each live birth occurring in the state, a certificate shall be filed with the local registrar for the district in which the birth occurred within 10 days following the birth. The certificate shall be registered if it is completed and filed in accordance with this [~~chapter~~] part.

(3) (a) For each live birth that occurs in a birthing facility, the administrator of the birthing facility, or his designee, shall obtain and enter the information required under this [~~chapter~~] part on the certificate, securing the required signatures, and filing the certificate.

(b) (i) The date, time, place of birth, and required medical information shall be certified by the birthing facility administrator or his designee.

(ii) The attending physician or nurse midwife may sign the certificate, but if the attending physician or nurse midwife has not signed the certificate within seven days of the date of birth, the birthing facility administrator or his designee shall

enter the attending physician's or nurse midwife's name and transmit the certificate to the local registrar.

(iii) The information on the certificate about the parents shall be provided and certified by the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.

(4) (a) For live births that occur outside a birthing facility, the birth certificate shall be completed and filed by the physician, physician assistant, nurse, midwife, or other person primarily responsible for providing assistance to the mother at the birth. If there is no such person, either the presumed or declarant father shall complete and file the certificate. In his absence, the mother shall complete and file the certificate, and in the event of her death or disability, the owner or operator of the premises where the birth occurred shall do so.

(b) The certificate shall be completed as fully as possible and shall include the date, time, and place of birth, the mother's name, and the signature of the person completing the certificate.

(5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the administrator or director of that facility, or his designee, shall:

(i) provide the birth mother and declarant father, if present, with:

(A) a voluntary declaration of paternity form published by the state registrar;

(B) oral and written notice to the birth mother and declarant father of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration; and

(C) the opportunity to sign the declaration;

(ii) witness the signature of a birth mother or declarant father in accordance with Section 78B-15-302 if the signature occurs at the facility;

(iii) enter the declarant father's information on the original birth certificate, but only if the mother and declarant father have signed a voluntary declaration of paternity or a court or administrative agency has issued an adjudication of paternity; and

(iv) file the completed declaration with the original birth certificate.

(b) If there is a presumed father, the voluntary declaration will only be valid if the presumed father also signs the voluntary declaration.

(c) The state registrar shall file the information provided on the voluntary declaration of paternity form with the original birth certificate and may provide certified copies of the declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform Parentage Act.

(6) (a) The state registrar shall publish a form for the voluntary declaration of paternity, a description of the process for filing a voluntary declaration of paternity, and of the rights and responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act.

(b) Information regarding the form and services related to voluntary paternity establishment shall be made available to birthing facilities and to any other entity or individual upon request.

(7) The name of a declarant father may only be included on the birth certificate of a child of unmarried parents if:

(a) the mother and declarant father have signed a voluntary declaration of paternity; or

(b) a court or administrative agency has issued an adjudication of paternity.

(8) Voluntary declarations of paternity, adjudications of paternity by judicial or administrative agencies, and voluntary rescissions of paternity shall be filed with and maintained by the state registrar for the purpose of comparing information with the state case registry maintained by the Office of Recovery Services pursuant to Section [~~62A-11-104~~] 26B-9-104.

Section 180. Section 26B-8-105, which is renumbered from Section 26-2-5.5 is renumbered and amended to read:

[~~26-2-5.5~~]. 26B-8-105. Requirement to obtain parents' social security numbers.

(1) For each live birth that occurs in this state, the administrator of the birthing facility, as defined in Section [~~26-2-5~~] 26B-8-104, or other person responsible for completing and filing the birth certificate under Section [~~26-2-5~~] 26B-8-104 shall obtain the social security numbers of each parent and provide those numbers to the state registrar.

(2) Each parent shall furnish his or her social security number to the person authorized to obtain the numbers under Subsection (1) unless a court or administrative agency has determined there is good cause for not furnishing a number under Subsection (1).

(3) The state registrar shall, as soon as practicable, supply those social security numbers to the Office of Recovery Services within the [~~Department of Human Services~~] department.

(4) The social security numbers obtained under this section may not be recorded on the child's birth certificate.

(5) The state may not use any social security number obtained under this section for any reason other than enforcement of child support orders in accordance with the federal Family Support Act of 1988, [~~Public Law~~] Pub. L. No. 100-485.

Section 181. Section 26B-8-106, which is renumbered from Section 26-2-6 is renumbered and amended to read:

[~~26-2-6~~]. 26B-8-106. Foundling certificates.

(1) A foundling certificate shall be filed for each infant of unknown parentage found in the state. The certificate shall be prepared and filed with the local registrar of the district in which the infant was found by the person assuming custody.

(2) The certificate shall be filed within 10 days after the infant is found and is acceptable for all purposes in lieu of a certificate of birth.

Section 182. Section 26B-8-107, which is renumbered from Section 26-2-7 is renumbered and amended to read:

[~~26-2-7~~]. 26B-8-107. Correction of errors or omissions in vital records -- Conflicting birth and foundling certificates -- Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules:

(1) governing applications to correct alleged errors or omissions on any vital record;

(2) establishing procedures to resolve conflicting birth and foundling certificates; and

(3) allowing for the correction and reissuance of a vital record that was originally created omitting a diacritical mark.

Section 183. Section 26B-8-108, which is renumbered from Section 26-2-8 is renumbered and amended to read:

[~~26-2-8~~]. 26B-8-108. Birth certificates -- Delayed registration.

(1) When a certificate of birth of a person born in this state has not been filed within the time provided in Subsection [~~26-2-5~~] 26B-8-104(2), a certificate of birth may be filed in accordance with department rules and subject to this section.

(2) (a) The registrar shall mark a certificate of birth as "delayed" and show the date of registration if the certificate is registered one year or more after the date of birth.

(b) The registrar shall abstract a summary statement of the evidence submitted in support of delayed registration onto the certificate.

(3) When the minimum evidence required for delayed registration is not submitted or when the state registrar has reasonable cause to question the validity or adequacy of the evidence supporting the application, and the deficiencies are not corrected, the state registrar:

(a) may not register the certificate; and

(b) shall provide the applicant with a written statement indicating the reasons for denial of registration.

(4) The state registrar has no duty to take further action regarding an application which is not actively pursued.

Section 184. Section 26B-8-109, which is renumbered from Section 26-2-9 is renumbered and amended to read:

[~~26-2-9~~]. 26B-8-109. Birth certificates -- Petition for issuance of delayed certificate -- Court procedure.

(1) (a) If registration of a certificate of birth under Section [~~26-2-8~~] 26B-8-108 is denied, the person seeking registration may bring an action by a verified petition in the Utah [~~district~~] court encompassing where the petitioner resides or in the district encompassing Salt Lake City.

(b) The petition shall request an order establishing a record of the date and place of the birth and the parentage of the person whose birth is to be registered.

(2) The petition shall be on a form furnished by the state registrar and shall allege:

(a) the person for whom registration of a delayed certificate is sought was born in this state and is still living;

(b) no registered certificate of birth of the person can be found in the state office of vital statistics or the office of any local registrar;

(c) diligent efforts by the petitioner have failed to obtain the evidence required by department rule; and

(d) the state registrar has denied the petitioner's request to register a delayed certificate of birth.

(3) The petition shall be accompanied by a written statement of the state registrar indicating the reasons for denial of registration and all documentary evidence which was submitted in support of registration.

(4) The court shall fix a time and place for hearing the petition and shall give the state registrar 15 [~~days~~] days' notice of the hearing. The state registrar or his authorized representative may appear and testify at the hearing.

(5) (a) If the court finds the person for whom registration of a certificate of birth is sought under Section [~~26-2-8~~] 26B-8-108 was born in this state, it shall make findings as to the place and date of birth, parentage, and other findings as may be required and shall issue an order, on a form prescribed and furnished by the state registrar, to establish a court-ordered delayed certificate of birth.

(b) The order shall include the birth data to be registered, a description of the evidence presented, and the date of the court's action.

[~~(b)~~] (c) The clerk of the court shall forward each order to the state registrar not later than the tenth day of the calendar month following the month in which the order was entered.

(d) The order described in Subsection (5)(a) shall be registered by the state registrar and constitutes the certificate of birth.

Section 185. Section 26B-8-110, which is renumbered from Section 26-2-10 is renumbered and amended to read:

[~~26-2-10~~]. 26B-8-110. Supplementary certificate of birth.

(1) An individual born in this state may request the state registrar to register a supplementary birth certificate for the individual if:

(a) the individual is legally recognized as a child of the individual's natural parents when the individual's natural parents are subsequently married;

(b) the individual's parentage has been determined by a state court of the United States or a Canadian provincial court with jurisdiction; or

(c) the individual has been legally adopted, as a child or as an adult, under the law of this state, any other state, or any province of Canada.

(2) The application for registration of a supplementary birth certificate may be made by:

(a) the individual requesting registration under Subsection (1) if the individual is of legal age;

(b) a legal representative; or

(c) any agency authorized to receive children for placement or adoption under the laws of this or any other state.

(3) (a) The state registrar shall require that an applicant submit identification and proof according to department rules.

(b) In the case of an adopted individual, that proof may be established by order of the court in which the adoption proceedings were held.

(4) (a) After the supplementary birth certificate is registered, any information disclosed from the record shall be from the supplementary birth certificate.

(b) Access to the original birth certificate and to the evidence submitted in support of the supplementary birth certificate are not open to inspection except upon the order of a Utah district court or as described in Section 78B-6-141 or Section 78B-6-144.

Section 186. Section 26B-8-111, which is renumbered from Section 26-2-11 is renumbered and amended to read:

[~~26-2-11~~]. 26B-8-111. Name or sex change -- Registration of court order and amendment of birth certificate.

(1) When a person born in this state has a name change or sex change approved by an order of a Utah [~~district~~] court or a court of competent jurisdiction of another state or a province of Canada, a certified copy of the order may be filed with the state registrar with an application form provided by the registrar.

(2) (a) Upon receipt of the application, a certified copy of the order, and payment of the required fee, the state registrar shall review the application, and if complete, register it and note the fact of the amendment on the otherwise unaltered original certificate.

(b) The amendment shall be registered with and become a part of the original certificate and a certified copy shall be issued to the applicant without additional cost.

Section 187. Section 26B-8-112, which is renumbered from Section 26-2-12.5 is renumbered and amended to read:

[~~26-2-12.5~~]. 26B-8-112. Certified copies of birth certificates -- Fees credited to Children's Account.

(1) In addition to the fees provided for in Section 26B-1-209, the department and local registrars authorized to issue certified copies shall charge an additional $3 fee for each certified copy of a birth certificate, including certified copies of supplementary and amended birth certificates, under Sections [~~26-2-8 through 26-2-11~~] 26B-8-108 through 26B-8-111. [~~This~~]

(2) The additional fee described in Subsection (1) may be charged only for the first copy requested at any one time.

[~~(2)~~] (3) The fee shall be transmitted monthly to the state treasurer and credited to the Children's Account [~~established~~] created in Section 80-2-501.

Section 188. Section 26B-8-113, which is renumbered from Section 26-2-12.6 is renumbered and amended to read:

[~~26-2-12.6~~]. 26B-8-113. Fee waived for certified copy of birth certificate.

(1) Notwithstanding [~~Section~~] Sections 26B-1-209 and [~~Section 26-2-12.5~~] 26B-6-112, the department shall waive a fee that would otherwise be charged for a certified copy of a birth certificate, if the individual whose birth is confirmed by the birth certificate is:

(a) the individual requesting the certified copy of the birth certificate; and

(b) (i) homeless, as defined in Section [~~26-18-411~~] 26B-3-207;

(ii) a person who is homeless, as defined in Section 35A-5-302;

(iii) an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual;

(iv) a homeless service provider as verified by the Department of Workforce Services; or

(v) a homeless child or youth, as defined in 42 U.S.C. Sec. 11434a.

(2) To satisfy the requirement in Subsection (1)(b), the department shall accept written verification that the individual is homeless or a person, child, or youth who is homeless from:

(a) a homeless shelter;

(b) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(c) the Department of Workforce Services;

(d) a homeless service provider as verified by the Department of Workforce Services; or

(e) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

Section 189. Section 26B-8-114, which is renumbered from Section 26-2-13 is renumbered and amended to read:

[~~26-2-13~~]. 26B-8-114. Certificate of death -- Execution and registration requirements -- Information provided to lieutenant governor.

(1) (a) A certificate of death for each death that occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five days after death and prior to the decedent's interment, any other disposal, or removal from the registration district where the death occurred.

(b) A certificate of death shall be registered if the certificate of death is completed and filed in accordance with this [~~chapter~~] part.

(2) (a) If the place of death is unknown but the dead body is found in this state:

(i) the certificate of death shall be completed and filed in accordance with this section; and

(ii) the place where the dead body is found shall be shown as the place of death.

(b) If the date of death is unknown, the date shall be determined by approximation.

(3) (a) When death occurs in a moving conveyance in the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the place where the decedent is removed shall be considered the place of death.

(b) When a death occurs on a moving conveyance outside the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the certificate of death shall show the actual place of death to the extent it can be determined.

(4) (a) Subject to Subsections (4)(d) and (10), a custodial funeral service director or, if a funeral service director is not retained, a dispositioner shall sign the certificate of death.

(b) The custodial funeral service director, an agent of the custodial funeral service director, or, if a funeral service director is not retained, a dispositioner shall:

(i) file the certificate of death prior to any disposition of a dead body or fetus; and

(ii) obtain the decedent's personal data from the next of kin or the best qualified person or source available, including the decedent's social security number, if known.

(c) The certificate of death may not include the decedent's social security number.

(d) A dispositioner may not sign a certificate of death, unless the signature is witnessed by the state registrar or a local registrar.

(5) (a) Except as provided in Section [~~26-2-14~~] 26B-8-115, fetal death certificates, the medical section of the certificate of death shall be completed, signed, and returned to the funeral service director, or, if a funeral service director is not retained, a dispositioner, within 72 hours after death by the health care professional who was in charge of the decedent's care for the illness or condition which resulted in death, except when inquiry is required by [~~Title 26, Chapter 4, Utah Medical Examiner Act~~] Part 2, Utah Medical Examiner.

(b) In the absence of the health care professional or with the health care professional's approval, the certificate of death may be completed and signed by an associate physician, the chief medical officer of the institution in which death occurred, or a physician who performed an autopsy upon the decedent, if:

(i) the person has access to the medical history of the case;

(ii) the person views the decedent at or after death; and

(iii) the death is not due to causes required to be investigated by the medical examiner.

(6) When death occurs more than 365 days after the day on which the decedent was last treated by a health care professional, the case shall be referred to the medical examiner for investigation to determine and certify the cause, date, and place of death.

(7) When inquiry is required by [~~Title 26, Chapter 4, Utah Medical Examiner Act~~] Part 2, Utah Medical Examiner, the medical examiner shall make an investigation and complete and sign the medical section of the certificate of death within 72 hours after taking charge of the case.

(8) If the cause of death cannot be determined within 72 hours after death:

(a) the medical section of the certificate of death shall be completed as provided by department rule;

(b) the attending health care professional or medical examiner shall give the funeral service director, or, if a funeral service director is not retained, a dispositioner, notice of the reason for the delay; and

(c) final disposition of the decedent may not be made until authorized by the attending health care professional or medical examiner.

(9) (a) When a death is presumed to have occurred within this state but the dead body cannot be located, a certificate of death may be prepared by

the state registrar upon receipt of an order of a Utah [~~district~~] court.

(b) The order described in Subsection (9)(a) shall include a finding of fact stating the name of the decedent, the date of death, and the place of death.

(c) A certificate of death prepared under Subsection (9)(a) shall:

(i) show the date of registration; and

(ii) identify the court and the date of the order.

(10) It is unlawful for a dispositioner to charge for or accept any remuneration for:

(a) signing a certificate of death; or

(b) performing any other duty of a dispositioner, as described in this section.

(11) The state registrar shall, within five business days after the day on which the state registrar or local registrar registers a certificate of death for a Utah resident, inform the lieutenant governor of:

(a) the decedent's name, last known residential address, date of birth, and date of death; and

(b) any other information requested by the lieutenant governor to assist the county clerk in identifying the decedent for the purpose of removing the decedent from the official register of voters.

(12) The lieutenant governor shall, within one business day after the day on which the lieutenant governor receives the information described in Subsection (11), provide the information to the county clerks.

Section 190. Section 26B-8-115, which is renumbered from Section 26-2-14 is renumbered and amended to read:

[~~26-2-14~~]. 26B-8-115. Fetal death certificate -- Filing and registration requirements.

(1) A fetal death certificate shall be filed for each fetal death which occurs in this state. The certificate shall be filed within five days after delivery with the local registrar or as otherwise directed by the state registrar. The certificate shall be registered if it is completed and filed in accordance with this [~~chapter~~] part.

(2) When a dead fetus is delivered in an institution, the institution administrator or his designated representative shall prepare and file the fetal death certificate. The attending physician shall state in the certificate the cause of death and sign the certificate.

(3) When a dead fetus is delivered outside an institution, the physician in attendance at or immediately after delivery shall complete, sign, and file the fetal death certificate.

(4) When a fetal death occurs without medical attendance at or immediately after the delivery or when inquiry is required by [~~Title 26, Chapter 4, Utah Medical Examiner Act~~] Part 2, Utah Medical Examiner, the medical examiner shall investigate the cause of death and prepare and file the certificate of fetal death within five days after taking charge of the case.

(5) When a fetal death occurs in a moving conveyance and the dead fetus is first removed from the conveyance in this state or when a dead fetus is found in this state and the place of death is unknown, the death shall be registered in this state. The place where the dead fetus was first removed from the conveyance or found shall be considered the place of death.

(6) Final disposition of the dead fetus may not be made until the fetal death certificate has been registered.

Section 191. Section 26B-8-116, which is renumbered from Section 26-2-14.1 is renumbered and amended to read:

[~~26-2-14.1~~]. 26B-8-116. Certificate of birth resulting in stillbirth.

(1) [~~For purposes of this section and Section 26-2-14.2~~] As used in this section, "stillbirth" and "stillborn child" [~~shall have the same meaning~~] mean the same as "dead fetus" as defined in Section [~~26-2-2~~] 26B-8-101.

(2) (a) In addition to the requirements of Section [~~26-2-14~~] 26B-8-115, the state registrar shall establish a certificate of birth resulting in stillbirth on a form approved by the state registrar for each stillbirth occurring in this state.

(b) This certificate shall be offered to the parent or parents of a stillborn child.

(3) The certificate of birth resulting in stillbirth shall meet all of the format and filing requirements of Sections [~~26-2-4 and 26-2-5~~] 26B-8-103 and 26B-8-104, relating to a live birth.

(4) The person who prepares a certificate pursuant to this section shall leave blank any references to the stillborn child's name if the stillborn child's parent or parents do not wish to provide a name for the stillborn child.

(5) Notwithstanding Subsections (2) and (3), the certificate of birth resulting in stillbirth shall be filed with the designated registrar within 10 days following the delivery and prior to cremation or removal of the fetus from the registration district.

Section 192. Section 26B-8-117, which is renumbered from Section 26-2-14.2 is renumbered and amended to read:

[~~26-2-14.2~~]. 26B-8-117. Delayed registration of birth resulting in stillbirth.

When a birth resulting in stillbirth occurring in this state has not been registered within one year after the date of delivery, a certificate marked "delayed" may be filed and registered in accordance with department rule relating to evidentiary and other requirements sufficient to substantiate the alleged facts of birth resulting in stillbirth.

Section 193. Section 26B-8-118, which is renumbered from Section 26-2-14.3 is renumbered and amended to read:

[~~26-2-14.3~~]. 26B-8-118. Certificate of early term stillbirth.

(1) As used in this section, "early term stillborn child" means a product of human conception, other than in the circumstances described in Subsection 76-7-301(1), that:

(a) is of at least 16 weeks' gestation but less than 20 weeks' gestation, calculated from the day on which the mother's last normal menstrual period began to the day of delivery; and

(b) is not born alive.

(2) The state registrar shall issue a certificate of early term stillbirth to a parent of an early term stillborn child if:

(a) the parent requests, on a form created by the state registrar, that the state registrar register and issue a certificate of early term stillbirth for the early term stillborn child; and

(b) the parent files with the state registrar:

(i) (A) a signed statement from a physician confirming the delivery of the early term stillborn child; or

(B) an accurate copy of the parent's medical records related to the early term stillborn child; and

(ii) any other record the state registrar determines, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is necessary for accurate recordkeeping.

(3) The certificate of early term stillbirth described in Subsection (2) shall meet all of the format and filing requirements of Section [~~26-2-4~~] 26B-8-103.

(4) A person who prepares a certificate of early term stillbirth under this section shall leave blank any references to an early term stillborn child's name if the early term stillborn child's parent does not wish to provide a name for the early term stillborn child.

Section 194. Section 26B-8-119, which is renumbered from Section 26-2-15 is renumbered and amended to read:

[~~26-2-15~~]. 26B-8-119. Petition for establishment of unregistered birth or death -- Court procedure.

(1) A person holding a direct, tangible, and legitimate interest as described in Subsection [~~26-2-22~~] 26B-8-125(3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth or death that is not registered or for which a certified copy of the registered birth or death certificate is not obtainable. The person shall verify the petition and file the petition in the Utah [~~district~~] court for the county where:

(a) the birth or death is alleged to have occurred;

(b) the person resides whose birth is to be established; or

(c) the decedent named in the petition resided at the date of death.

(2) In order for the court to have jurisdiction, the petition shall:

(a) allege the date, time, and place of the birth or death; and

(b) state either that no certificate of birth or death has been registered or that a copy of the registered certificate cannot be obtained.

(3) The court shall set a hearing for five to 10 days after the day on which the petition is filed.

(4) (a) If the time and place of birth or death are in question, the court shall hear available evidence and determine the time and place of the birth or death.

(b) If the time and place of birth or death are not in question, the court shall determine the time and place of birth or death to be those alleged in the petition.

(5) A court order under this section shall be made on a form prescribed and furnished by the department and is effective upon the filing of a certified copy of the order with the state registrar.

(6) (a) For purposes of this section, the birth certificate of an adopted alien child, as defined in Section 78B-6-108, is considered to be unobtainable if the child was born in a country that is not recognized by department rule as having an established vital records registration system.

(b) If the adopted child was born in a country recognized by department rule, but a person described in Subsection (1) is unable to obtain a certified copy of the birth certificate, the state registrar shall authorize the preparation of a birth certificate if the state registrar receives a written statement signed by the registrar of the child's birth country stating a certified copy of the birth certificate is not available.

Section 195. Section 26B-8-120, which is renumbered from Section 26-2-16 is renumbered and amended to read:

[~~26-2-16~~]. 26B-8-120. Certificate of death -- Duties of a custodial funeral service director, an agent of a funeral service director, or a dispositioner -- Medical certification -- Records of funeral service director or dispositioner -- Information filed with local registrar -- Unlawful signing of certificate of death.

(1) The custodial funeral service director or, if a funeral service director is not retained, a dispositioner shall sign the certificate of death prior to any disposition of a dead body or dead fetus.

(2) The custodial funeral service director, an agent of the custodial funeral service director, or, if a funeral service director is not retained, a dispositioner shall:

(a) obtain personal and statistical information regarding the decedent from the available persons best qualified to provide the information;

(b) present the certificate of death to the attending health care professional, if any, or to the medical examiner who shall certify the cause of death and other information required on the certificate of death;

(c) provide the address of the custodial funeral service director or, if a funeral service director is not retained, a dispositioner;

(d) certify the date and place of burial; and

(e) file the certificate of death with the state or local registrar.

(3) A funeral service director, dispositioner, embalmer, or other person who removes a dead body or dead fetus from the place of death or transports or is in charge of final disposal of a dead body or dead fetus, shall keep a record identifying the dead body or dead fetus, and containing information pertaining to receipt, removal, and delivery of the dead body or dead fetus as prescribed by department rule.

(4) (a) Not later than the tenth day of each month, every licensed funeral service establishment shall send to the local registrar and the department a list of the information required in Subsection (3) for each casket furnished and for funerals performed when no casket was furnished, during the preceding month.

(b) The list described in Subsection (4)(a) shall be in the form prescribed by the state registrar.

(5) Any person who intentionally signs the portion of a certificate of death that is required to be signed by a funeral service director or a dispositioner under Subsection (1) is guilty of a class B misdemeanor, unless the person:

(a) (i) is a funeral service director; and

(ii) is employed by a licensed funeral establishment; or

(b) is a dispositioner, if a funeral service director is not retained.

(6) The state registrar shall post information on the state registrar's website, providing instructions to a dispositioner for complying with the requirements of law relating to the dispositioner's responsibilities for:

(a) completing and filing a certificate of death; and

(b) possessing, transporting, and disposing of a dead body or dead fetus.

(7) The provisions of this [~~chapter~~] part shall be construed to avoid interference, to the fullest extent possible, with the ceremonies, customs, rites, or beliefs of the decedent and the decedent's next of kin for disposing of a dead body or dead fetus.

Section 196. Section 26B-8-121, which is renumbered from Section 26-2-17 is renumbered and amended to read:

[~~26-2-17~~]. 26B-8-121. Certificate of death -- Registration prerequisite to interment -- Burial-transit permits -- Procedure where body donated under anatomical gift law -- Permit for disinterment.

(1) (a) A dead body or dead fetus may not be interred or otherwise disposed of or removed from the registration district in which death or fetal death occurred or the remains are found until a certificate of death is registered.

(b) Subsection (1)(a) does not apply to fetal remains for a fetus that is less than 20 weeks in gestational age.

(2) (a) For deaths or fetal deaths which occur in this state, no burial-transit permit is required for final disposition of the remains if:

(i) disposition occurs in the state and is performed by a funeral service director; or

(ii) the disposition takes place with authorization of the next of kin and in:

(A) a general acute hospital as [~~that term is~~] defined in Section [~~26-21-2~~] 26B-2-201, that is licensed by the department; or

(B) in a pathology laboratory operated under contract with a general acute hospital licensed by the department.

(b) For an abortion or miscarriage that occurs at a health care facility, no burial-transit permit is required for final disposition of the fetal remains if:

(i) disposition occurs in the state and is performed by a funeral service director; or

(ii) the disposition takes place:

(A) with authorization of the parent of a miscarried fetus or the pregnant woman for an aborted fetus; and

(B) in a general acute hospital as [~~that term is~~] defined in Section [~~26-21-2~~] 26B-2-201, or a pathology laboratory operated under contract with a general acute hospital.

(3) (a) A burial-transit permit shall be issued by the local registrar of the district where the certificate of death or fetal death is registered:

(i) for a dead body or a dead fetus to be transported out of the state for final disposition; or

(ii) when disposition of the dead body or dead fetus is made by a person other than a funeral service director.

(b) For fetal remains that are less than 20 weeks in gestational age, a burial-transit permit shall be issued by the local registrar of the district where the health care facility that is in possession of the fetal remains is located:

(i) for the fetal remains to be transported out of the state for final disposition; or

(ii) when disposition of the fetal remains is made by a person other than a funeral service director.

(c) A local registrar issuing a burial-transit permit issued under Subsection (3)(b):

(i) may not require an individual to designate a name for the fetal remains; and

(ii) may leave the space for a name on the burial-transit permit blank; and

(d) shall redact from any public records maintained under this [~~chapter~~] part any information:

(i) that is submitted under Subsection (3)(c); and

(ii) that may be used to identify the parent or pregnant woman.

(4) A burial-transit permit issued under the law of another state which accompanies a dead body, dead fetus, or fetal remains brought into this state is authority for final disposition of the dead body, dead fetus, or fetal remains in this state.

(5) When a dead body or dead fetus or any part of the dead body or dead fetus has been donated under [~~the~~] Part 3, Revised Uniform Anatomical Gift Act, or similar laws of another state and the preservation of the gift requires the immediate transportation of the dead body, dead fetus, or any part of the body or fetus outside of the registration district in which death occurs or the remains are found, or into this state from another state, the dead body or dead fetus or any part of the body or fetus may be transported and the burial-transit permit required by this section obtained within a reasonable time after transportation.

(6) A permit for disinterment and reinterment is required prior to disinterment of a dead body, dead fetus, or fetal remains, except as otherwise provided by statute or department rule.

Section 197. Section 26B-8-122, which is renumbered from Section 26-2-18 is renumbered and amended to read:

[~~26-2-18~~]. 26B-8-122. Interments -- Duties of sexton or person in charge -- Record of interments -- Information filed with local registrar.

(1) (a) A sexton or person in charge of any premises in which interments are made may not inter or permit the interment of any dead body, dead fetus, or fetal remains unless the interment is made by a funeral service director or by a person holding a burial-transit permit.

(b) The right and duty to control the disposition of a deceased person shall be governed by Sections 58-9-601 through 58-9-604.

(2) (a) The sexton or the person in charge of any premises where interments are made shall keep a record of all interments made in the premises under their charge, stating the name of the decedent, place of death, date of burial, and name and address of the funeral service director or other person making the interment.

(b) The record described in this Subsection (2) shall be open to public inspection.

(c) A city or county clerk may, at the clerk's option, maintain the interment records described in this Subsection (2) on behalf of the sexton or person in charge of any premises in which interments are made.

(3) (a) Not later than the tenth day of each month, the sexton, person in charge of the premises, or city or county clerk who maintains the interment records shall send to the local registrar and the department a list of all interments made in the premises during the preceding month.

(b) The list described in Subsection (3)(a) shall be in the form prescribed by the state registrar.

Section 198. Section 26B-8-123, which is renumbered from Section 26-2-19 is renumbered and amended to read:

[~~26-2-19~~]. 26B-8-123. Rules of department for transmittal of certificates and keeping of records by local registrar.

Each local registrar shall transmit all records registered by him to the department in accordance with department rules. The manner of keeping local copies of vital records and the uses of them shall be prescribed by department rules.

Section 199. Section 26B-8-124, which is renumbered from Section 26-2-21 is renumbered and amended to read:

[~~26-2-21~~]. 26B-8-124. Local registrars authorized to issue certified copies of records.

The state registrar may authorize local registrars to issue certified copies of vital records.

Section 200. Section 26B-8-125, which is renumbered from Section 26-2-22 is renumbered and amended to read:

[~~26-2-22~~]. 26B-8-125. Inspection of vital records.

(1) As used in this section:

(a) "Designated legal representative" means an attorney, physician, funeral service director, genealogist, or other agent of the subject, or an immediate family member of the subject, who has been delegated the authority to access vital records.

(b) "Drug use intervention or suicide prevention effort" means a program that studies or promotes the prevention of drug overdose deaths or suicides in the state.

(c) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

(2) (a) The vital records shall be open to inspection, but only in compliance with the provisions of this [~~chapter~~] part, department rules, and Sections 78B-6-141 and 78B-6-144.

(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this [~~chapter~~] part, department rule, Section 78B-6-141, or Section 78B-6-144.

(c) (i) An adoption document is open to inspection as provided in Section 78B-6-141 or Section 78B-6-144.

(ii) A birth parent may not access an adoption document under Subsection 78B-6-141(3).

(d) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

(3) Except as provided in Subsection (4), a direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:

(i) the subject;

(ii) an immediate family member of the subject;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

(v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a drug use intervention or suicide prevention effort or a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

(4) (a) Except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or an immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest under this section.

(b) Except as provided in Subsection (2)(d), a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest under this section.

(5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:

(a) except as provided in Subsection [~~26-2-10~~] 26B-8-110(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection (5)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

(6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

(7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for the inspection of adoption documents under Subsection 78B-6-141(4);

(b) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;

(c) for the release of information by the mutual-consent, voluntary adoption registry, under Section 78B-6-144;

(d) for collecting fees and donations under Section 78B-6-144.5; and

(e) for the review and approval of a request described in Subsection (3)(d).

Section 201. Section 26B-8-126, which is renumbered from Section 26-2-23 is renumbered and amended to read:

[~~26-2-23~~]. 26B-8-126. Records required to be kept by health care institutions -- Information filed with local registrar and department.

(1) (a) All administrators or other persons in charge of hospitals, nursing homes, or other institutions, public or private, to which persons resort for treatment of diseases, confinements, or are committed by law, shall record all the personal and statistical information about patients of their institutions as required in certificates prescribed by this [~~chapter~~] part.

(b) The information described in Subsection (1)(a) shall:

(i) be recorded for collection at the time of admission of a patient;

(ii) be obtained from the patient, if possible; and

(iii) if the information cannot be obtained from the patient, the information shall be secured in as complete a manner as possible from other persons acquainted with the facts.

(2) (a) When a dead body or dead fetus is released or disposed of by an institution, the person in charge of the institution shall keep a record showing:

(i) the name of the deceased;

(ii) the date of death of the deceased;

(iii) the name and address of the person to whom the dead body or dead fetus is released; and

(iv) the date that the dead body or dead fetus is removed from the institution.

(b) If final disposal is by the institution, the date, place, manner of disposition, and the name of the person authorizing disposition shall be recorded by the person in charge of the institution.

(3) Not later than the tenth day of each month, the administrator of each institution shall cause to be sent to the local registrar and the department a list of all births, deaths, fetal deaths, and induced abortions occurring in the institution during the preceding month. The list shall be in the form prescribed by the state registrar.

(4) A person or institution who, in good faith, releases a dead body or dead fetus, under this section, to a funeral service director or a dispositioner is immune from civil liability connected, directly or indirectly, with release of the dead body or dead fetus.

Section 202. Section 26B-8-127, which is renumbered from Section 26-2-24 is renumbered and amended to read:

[~~26-2-24~~]. 26B-8-127. Marriage licenses -- Execution and filing requirements.

(1) The state registrar shall supply county clerks with application forms for marriage licenses.

(2) Completed applications shall be transmitted by the clerks to the state registrar monthly.

(3) The personal identification information contained on each application for a marriage license filed with the county clerk shall be entered on a form supplied by the state registrar.

(4) The person performing the marriage shall furnish the date and place of marriage and his name and address.

(5) The form described in Subsection (1) shall be completed and certified by the county clerk before it is filed with the state registrar.

Section 203. Section 26B-8-128, which is renumbered from Section 26-2-25 is renumbered and amended to read:

[~~26-2-25~~]. 26B-8-128. Divorce or adoption -- Duty of court clerk to file certificates or reports.

(1) For each adoption, annulment of adoption, divorce, and annulment of marriage ordered or decreed in this state, the clerk of the court shall prepare a divorce certificate or report of adoption on a form furnished by the state registrar.

(2) The petitioner shall provide the information necessary to prepare the certificate or report under Subsection (1).

(3) The clerk shall:

(a) prepare the certificate or report under Subsection (1); and

(b) complete the remaining entries for the certificate or report immediately after the decree or order becomes final.

(4) On or before the 15th day of each month, the clerk shall forward the divorce certificates and reports of adoption under Subsection (1) completed by the clerk during the preceding month to the state registrar.

(5) (a) A report of adoption under Subsection (1) may be provided to the attorney who is providing representation of a party to the adoption or the child-placing agency, as defined in Section 78B-6-103, that is placing the child.

(b) If a report of adoption is provided to the attorney or the child-placing agency, as defined in Section 78B-6-103, the attorney or the child-placing agency shall immediately provide the report of adoption to the state registrar.

Section 204. Section 26B-8-129, which is renumbered from Section 26-2-26 is renumbered and amended to read:

[~~26-2-26~~]. 26B-8-129. Certified copies of vital records -- Preparation by state and local registrars -- Evidentiary value.

(1) The state registrar and local registrars authorized by the department under Section [~~26-2-21~~] 26B-8-124 may prepare typewritten, photographic, electronic, or other reproductions of vital records and certify their correctness.

(2) Certified copies of the vital record, or authorized reproductions of the original, issued by either the state registrar or a designated local registrar are prima facie evidence in all courts of the state with like effect as the vital record.

Section 205. Section 26B-8-130, which is renumbered from Section 26-2-27 is renumbered and amended to read:

[~~26-2-27~~]. 26B-8-130. Identifying birth certificates of missing persons -- Procedures.

(1) As used in this section:

(a) "Division" means the Criminal Investigations and Technical Services Division, Department of Public Safety, in Title 53, Chapter 10, Criminal Investigations and Technical Services Act.

(b) "Missing child" means a person younger than 18 years [~~of age~~] old who is missing from the person's home environment or a temporary placement facility for any reason, and whose whereabouts cannot be determined by the person responsible for the child's care.

(c) "Missing person" means a person who:

(i) is missing from the person's home environment; and

(ii) (A) has a physical or mental disability;

(B) is missing under circumstances that indicate that the person is endangered, missing involuntarily, or a victim of a catastrophe; or

(C) is a missing child.

(2) (a) In accordance with Section 53-10-203, upon the state registrar's notification by the division that a person who was born in this state is missing, the state and local registrars shall flag the registered birth certificate of that person so that when a copy of the registered birth certificate or information regarding the birth record is requested, the state and local registrars are alerted to the fact the registered birth certificate is that of a missing person.

(b) Upon notification by the division the missing person has been recovered, the state and local registrars shall remove the flag from that person's registered birth certificate.

(3) The state and local registrars may not provide a copy of a registered birth certificate of any person whose record is flagged under Subsection (2), except as approved by the division.

(4) (a) When a copy of the registered birth certificate of a person whose record has been flagged is requested in person, the state or local registrar shall require that person to complete a form supplying that person's name, address, telephone number, and relationship to the missing person, and the name and birth date of the missing person.

(b) The state or local registrar shall inform the requester that a copy of the registered birth certificate will be mailed to the requester.

(c) The state or local registrar shall note the physical description of the person making the request, and shall immediately notify the division of the request and the information obtained pursuant to this Subsection (4).

(5) When a copy of the registered birth certificate of a person whose record has been flagged is requested in writing, the state or local registrar or personnel of the state or local registrar shall immediately notify the division, and provide it with a copy of the written request.

Section 206. Section 26B-8-131, which is renumbered from Section 26-2-28 is renumbered and amended to read:

[~~26-2-28~~]. 26B-8-131. Birth certificate for foreign adoptees.

Upon presentation of a court order of adoption and an order establishing the fact, time, and place of birth under Section [~~26-2-15~~] 26B-6-119, the department shall prepare a birth certificate for an individual who:

(1) was adopted under the laws of this state; and

(2) was at the time of adoption, as a child or as an adult, considered an alien child or adult for whom the court received documentary evidence of lawful admission under Section 78B-6-108.

Section 207. Section 26B-8-132, which is renumbered from Section 26-34-4 is renumbered and amended to read:

[~~26-34-4~~]. 26B-8-132. Determination of death made by registered nurse.

(1) As used in this section[~~: (a) "Health care facility" means the same as that term is defined in Section 26-21-2. (b) "Physician" means a physician licensed under: (i) Title 58, Chapter 67, Utah Medical Practice Act; or (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act. (c) "Registered~~], "registered nurse" means a registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act.

(2) (a) An individual is dead if the individual has sustained either:

(i) irreversible cessation of circulatory and respiratory functions; or

(ii) irreversible cessation of all functions of the entire brain, including the brain stem.

(b) A determination of death shall be made in accordance with this part and accepted medical standards.

[~~(2)~~] (3) A registered nurse may make a determination of death of an individual if:

(a) an attending physician has:

(i) documented in the individual's medical or clinical record that the individual's death is anticipated due to illness, infirmity, or disease no later than 180 days after the day on which the physician makes the documentation; and

(ii) established clear assessment procedures for determining death;

(b) the death actually occurs within the 180-day period described in Subsection [~~(2)~~] (3)(a); and

(c) at the time of the documentation described in Subsection [~~(2)~~] (3)(a), the physician authorized the following, in writing, to make the determination of death:

(i) one or more specific registered nurses; or

(ii) if the individual is in a health care facility that has complied with Subsection [~~(5)~~] (6), all registered nurses that the facility employs.

[~~(3)~~] (4) A registered nurse who has determined death under this section shall:

(a) document the clinical criteria for the determination in the individual's medical or clinical record;

(b) notify the physician described in Subsection [~~(2)~~] (3); and

(c) ensure that the death certificate includes:

(i) the name of the deceased;

(ii) the presence of a contagious disease, if known; and

(iii) the date and time of death.

[~~(4)~~] (5) Except as otherwise provided by law or rule, a physician [~~licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act,~~] shall certify a determination of death described in Subsection [~~(3)~~] (4) within 24 hours

after the registered nurse makes the determination of death.

[~~(5)~~] (6) (a) For a health care facility to be eligible for a general authorization described in Subsection [~~(2)~~] (3)(c), the facility shall adopt written policies and procedures that provide for the determination of death by a registered nurse under this section.

(b) A registered nurse that a health care facility employs may not make a determination of death under this section unless the facility has adopted the written policies and procedures described in Subsection [~~(5)~~] (6)(a).

[~~(6)~~] (7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the appropriate determination of death under this section.

Section 208. Section 26B-8-133, which is renumbered from Section 26-23-5 is renumbered and amended to read:

[~~26-23-5~~]. 26B-8-133. Unlawful acts concerning certificates, records, and reports -- Unlawful transportation or acceptance of dead human body.

It is unlawful for any person, association, or corporation and the officers of any of them:

(1) to willfully and knowingly make any false statement in a certificate, record, or report required to be filed with the department, or in an application for a certified copy of a vital record, or to willfully and knowingly supply false information intending that the information be used in the preparation of any report, record, or certificate, or an amendment to any of these;

(2) to make, counterfeit, alter, amend, or mutilate any certificate, record, or report required to be filed under this code or a certified copy of the certificate, record, or report without lawful authority and with the intent to deceive;

(3) to willfully and knowingly obtain, possess, use, sell, furnish, or attempt to obtain, possess, use, sell, or furnish to another, for any purpose of deception, any certificate, record, report, or certified copy of any of them, including any that are counterfeited, altered, amended, or mutilated;

(4) without lawful authority, to possess any certificate, record, or report, required by the department or a copy or certified copy of the certificate, record, or report, knowing it to have been stolen or otherwise unlawfully obtained; or

(5) to willfully and knowingly transport or accept for transportation, interment, or other disposition a dead human body without a permit required by law.

Section 209. Section 26B-8-134, which is renumbered from Section 26-23-5.5 is renumbered and amended to read:

[~~26-23-5.5~~]. 26B-8-134. Illegal use of birth certificate -- Penalties.

(1) It is a third degree felony for any person to willfully and knowingly:

(a) and with the intent to deceive, obtain, possess, use, sell, furnish, or attempt to obtain, possess, use, sell, or furnish to another any certificate of birth or certified copy of a certificate of birth knowing that the certificate or certified copy was issued upon information which is false in whole or in part or which relates to the birth of another person, whether living or deceased; or

(b) furnish or process a certificate of birth or certified copy of a certificate of birth with the knowledge or intention that it be used for the purpose of deception by a person other than the person to whom the certificate of birth relates.

(2) The specific criminal violations and the criminal penalty under this section take precedence over any more general criminal offense as described in Section [~~26-23-5~~] 26B-8-133.

Section 210. Section 26B-8-201, which is renumbered from Section 26-4-2 is renumbered and amended to read:

Part 2. Utah Medical Examiner

[~~26-4-2~~]. 26B-8-201. Definitions.

As used in this [~~chapter~~] part:

(1) "Dead body" means the same as that term is defined in Section [~~26-2-2~~] 26B-8-101.

(2) (a) "Death by violence" means death that resulted by the decedent's exposure to physical, mechanical, or chemical forces.

(b) "Death by violence" includes death that appears to have been due to homicide, death that occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.

(3) "Immediate relative" means an individual's spouse, child, parent, sibling, grandparent, or grandchild.

(4) "Health care professional" means any of the following while acting in a professional capacity:

(a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(b) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(c) an advance practice registered nurse licensed under Subsection 58-31b-301(2)(e).

(5) "Medical examiner" means the state medical examiner appointed pursuant to Section [~~26-4-4~~] 26B-8-202 or a deputy appointed by the medical examiner.

(6) "Medical examiner record" means:

(a) all information that the medical examiner obtains regarding a decedent; and

(b) reports that the medical examiner makes regarding a decedent.

(7) "Regional pathologist" means a trained pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection [~~26-4-4~~] 26B-8-202(3).

(8) "Sudden death while in apparent good health" means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or coma, or death during an acute or unexplained rapidly fatal illness.

(9) "Sudden infant death syndrome" means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.

(10) "Suicide" means death caused by an intentional and voluntary act of an individual who understands the physical nature of the act and intends by such act to accomplish self-destruction.

(11) "Unattended death" means a death that occurs more than 365 days after the day on which a health care professional examined or treated the deceased individual for any purpose, including writing a prescription.

(12) (a) "Unavailable for postmortem investigation" means that a dead body is:

(i) transported out of state;

(ii) buried at sea;

(iii) cremated;

(iv) processed by alkaline hydrolysis; or

(v) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.

(b) "Unavailable for postmortem investigation" does not include embalming or burial of a dead body pursuant to the requirements of law.

(13) "Within the scope of the decedent's employment" means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

Section 211. Section 26B-8-202, which is renumbered from Section 26-4-4 is renumbered and amended to read:

[~~26-4-4~~]. 26B-8-202. Chief medical examiner -- Appointment -- Qualifications -- Authority.

(1) The executive director, with the advice of an advisory board consisting of the chairman of the Department of Pathology at the University of Utah medical school and the dean of the law school at the University of Utah, shall appoint a chief medical examiner who shall be licensed to practice medicine in the state and shall meet the qualifications of a forensic pathologist, certified by the American Board of [~~Pathologists~~] Pathology.

(2) (a) The medical examiner shall serve at the will of the executive director.

(b) The medical examiner has authority to:

(i) employ medical, technical and clerical personnel as may be required to effectively administer this chapter, subject to the rules of the department and the state merit system;

(ii) conduct investigations and pathological examinations;

(iii) perform autopsies authorized in this title;

(iv) conduct or authorize necessary examinations on dead bodies; and

(v) notwithstanding the provisions of Subsection [~~26-28-122~~] 26B-8-321(3), retain tissues and biological samples:

(A) for scientific purposes;

(B) where necessary to accurately certify the cause and manner of death; or

(C) for tissue from an unclaimed body, subject to Section [~~26-4-25~~] 26B-8-225, in order to donate the tissue or biological sample to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

(c) In the case of an unidentified body, the medical examiner shall authorize or conduct investigations, tests and processes in order to determine its identity as well as the cause of death.

(3) The medical examiner may appoint regional pathologists, each of whom shall be approved by the executive director.

Section 212. Section 26B-8-203, which is renumbered from Section 26-4-5 is renumbered and amended to read:

[~~26-4-5~~]. 26B-8-203. County medical examiners.

The county executive, with the advice and consent of the county legislative body, may appoint medical examiners for their respective counties.

Section 213. Section 26B-8-204, which is renumbered from Section 26-4-6 is renumbered and amended to read:

[~~26-4-6~~]. 26B-8-204. Investigation of deaths -- Requests for autopsies.

(1) The following have authority to investigate a death described in Section [~~26-4-7~~] 26B-8-205 and any other case which may be within their jurisdiction:

(a) the attorney general or an assistant attorney general;

(b) the district attorney or county attorney who has criminal jurisdiction over the death or case;

(c) a deputy of the district attorney or county attorney described in Subsection (1)(b); or

(d) a peace officer within the jurisdiction described in Subsection (1)(b).

(2) If, in the opinion of the medical examiner, an autopsy should be performed or if an autopsy is requested by the district attorney or county attorney having criminal jurisdiction, or by the attorney general, the autopsy shall be performed by the medical examiner or a regional pathologist.

Section 214. Section 26B-8-205, which is renumbered from Section 26-4-7 is renumbered and amended to read:

[~~26-4-7~~]. 26B-8-205. Custody by medical examiner.

Upon notification under Section [~~26-4-8~~] 26B-8-206 or investigation by the medical examiner's office, the medical examiner shall assume custody of a deceased body if it appears that death:

(1) was by violence, gunshot, suicide, or accident;

(2) was sudden death while in apparent good health;

(3) occurred unattended, except that an autopsy may only be performed in accordance with the provisions of Subsection [~~26-4-9~~] 26B-8-207(3);

(4) occurred under suspicious or unusual circumstances;

(5) resulted from poisoning or overdose of drugs;

(6) resulted from a disease that may constitute a threat to the public health;

(7) resulted from disease, injury, toxic effect, or unusual exertion incurred within the scope of the decedent's employment;

(8) was due to sudden infant death syndrome;

(9) occurred while the decedent was in prison, jail, police custody, the state hospital, or in a detention or medical facility operated for the treatment of persons with a mental illness, persons who are emotionally disturbed, or delinquent persons;

(10) resulted directly from the actions of a law enforcement officer, as defined in Section 53-13-103;

(11) was associated with diagnostic or therapeutic procedures; or

(12) was described in this section when request is made to assume custody by a county or district attorney or law enforcement agency in connection with a potential homicide investigation or prosecution.

Section 215. Section 26B-8-206, which is renumbered from Section 26-4-8 is renumbered and amended to read:

[~~26-4-8~~]. 26B-8-206. Discovery of dead body -- Notice requirements -- Procedure.

(1) When death occurs under circumstances listed in Section [~~26-4-7~~] 26B-8-205, the person or persons finding or having custody of the body shall immediately notify the nearest law enforcement agency. The law enforcement agency having jurisdiction over the case shall then proceed to the place where the body is and conduct an investigation concerning the cause and circumstances of death for the purpose of determining whether there exists any criminal responsibility for the death.

(2) On a determination by the law enforcement agency that death may have occurred in any of the ways described in Section [~~26-4-7~~] 26B-8-205, the death shall be reported to the district attorney or county attorney having criminal jurisdiction and to the medical examiner by the law enforcement agency having jurisdiction over the investigation.

(3) The report shall be made by the most expeditious means available. Failure to give notification or report to the district attorney or county attorney having criminal jurisdiction and medical examiner is a class B misdemeanor.

Section 216. Section 26B-8-207, which is renumbered from Section 26-4-9 is renumbered and amended to read:

[~~26-4-9~~]. 26B-8-207. Custody of dead body and personal effects -- Examination of scene of death -- Preservation of body -- Autopsies.

(1) (a) Upon notification of a death under Section [~~26-4-8~~] 26B-8-206, the medical examiner shall assume custody of the deceased body, clothing on the body, biological samples taken, and any article on or near the body which may aid the medical examiner in determining the cause of death except those articles which will assist the investigative agency to proceed without delay with the investigation.

(b) In all cases the scene of the event may not be disturbed until authorization is given by the senior ranking peace officer from the law enforcement agency having jurisdiction of the case and conducting the investigation.

(c) Where death appears to have occurred under circumstances listed in Section [~~26-4-7~~] 26B-8-205, the person or persons finding or having custody of the body, or jurisdiction over the investigation of the death, shall take reasonable precautions to preserve the body and body fluids so that minimum deterioration takes place.

(d) A person may not move a body in the custody of the medical examiner unless:

(i) the medical examiner, or district attorney or county attorney that has criminal jurisdiction, authorizes the person to move the body;

(ii) a designee of an individual listed in this Subsection (1)(d) authorizes the person to move the body;

(iii) not moving the body would be an affront to public decency or impractical; or

(iv) the medical examiner determines the cause of death is likely due to natural causes.

(e) The body can under direction of the medical examiner or the medical examiner's designee be moved to a place specified by the medical examiner or the medical examiner's designee.

(2) (a) If the medical examiner has custody of a body, a person may not clean or embalm the body without first obtaining the medical examiner's permission.

(b) An intentional or knowing violation of Subsection (2)(a) is a class B misdemeanor.

(3) (a) When the medical examiner assumes lawful custody of a body under Subsection [~~26-4-7~~] 26B-8-205(3) solely because the death was unattended, an autopsy may not be performed unless requested by the district attorney, county attorney having criminal jurisdiction, or law enforcement agency having jurisdiction of the place where the body is found.

(b) The county attorney or district attorney and law enforcement agency having jurisdiction shall consult with the medical examiner to determine the need for an autopsy.

(c) If the deceased chose not to be seen or treated by a health care professional for a spiritual or religious reason, a district attorney, county attorney, or law enforcement agency, may not request an autopsy or inquest under Subsection (3)(a) solely because of the deceased's choice.

(d) The medical examiner or medical examiner's designee may not conduct a requested autopsy described in Subsection (3)(a) if the medical examiner or medical examiner's designee determines:

(i) the request violates Subsection (3)(c); or

(ii) the cause of death can be determined without performing an autopsy.

Section 217. Section 26B-8-208, which is renumbered from Section 26-2-18.5 is renumbered and amended to read:

[~~26-2-18.5~~]. 26B-8-208. Rendering a dead body unavailable for postmortem investigation.

(1) As used in this section:

(a) "Medical examiner" means the same as that term is defined in Section [~~26-4-2~~] 26B-8-201.

(b) "Unavailable for postmortem investigation" means the same as that term is defined in Section [~~26-4-2~~] 26B-8-201.

(2) It is unlawful for a person to engage in any conduct that makes a dead body unavailable for postmortem investigation, unless, before engaging in that conduct, the person obtains a permit from the medical examiner to render the dead body unavailable for postmortem investigation, under Section [~~26-4-29~~] 26B-8-230, if the person intends to make the body unavailable for postmortem investigation.

(3) A person who violates Subsection (2) is guilty of a third degree felony.

(4) If a person engages in conduct that constitutes both a violation of this section and a violation of Section 76-9-704, the provisions and penalties of Section 76-9-704 supersede the provisions and penalties of this section.

Section 218. Section 26B-8-209, which is renumbered from Section 26-4-10 is renumbered and amended to read:

[~~26-4-10~~]. 26B-8-209. Certification of cause of death.

(1) (a) For a death under any of the circumstances described in Section [~~26-4-7~~] 26B-8-205, only the medical examiner or the medical examiner's designee may certify the cause of death.

(b) An individual who knowingly certifies the cause of death in violation of Subsection (1)(a) is guilty of a class B misdemeanor.

(2) (a) For a death described in Section [~~26-4-7~~] 26B-8-205, an individual may not knowingly give false information, with the intent to mislead, to the medical examiner or the medical examiner's designee.

(b) A violation of Subsection (2)(a) is a class B misdemeanor.

Section 219. Section 26B-8-210, which is renumbered from Section 26-4-10.5 is renumbered and amended to read:

[~~26-4-10.5~~]. 26B-8-210. Medical examiner to report death caused by prescribed controlled substance poisoning or overdose.

(1) If a medical examiner determines that the death of a person who is 12 years old or older at the time of death resulted from poisoning or overdose involving a prescribed controlled substance, the medical examiner shall, within three business days after the day on which the medical examiner determines the cause of death, send a written report to the Division of Professional Licensing, created in Section 58-1-103, that includes:

(a) the decedent's name;

(b) each drug or other substance found in the decedent's system that may have contributed to the poisoning or overdose, if known; and

(c) the name of each person the medical examiner has reason to believe may have prescribed a controlled substance described in Subsection (1)(b) to the decedent.

(2) This section does not create a new cause of action.

Section 220. Section 26B-8-211, which is renumbered from Section 26-4-11 is renumbered and amended to read:

[~~26-4-11~~]. 26B-8-211. Records and reports of investigations.

(1) A complete copy of all written records and reports of investigations and facts resulting from medical care treatment, autopsies conducted by any person on the body of the deceased who died in any

manner listed in Section [~~26-4-7~~] 26B-8-205 and the written reports of any investigative agency making inquiry into the incident shall be promptly made and filed with the medical examiner.

(2) The judiciary or a state or local government entity that retains a record, other than a document described in Subsection (1), of the decedent shall provide a copy of the record to the medical examiner:

(a) in accordance with federal law; and

(b) upon receipt of the medical examiner's written request for the record.

(3) Failure to submit reports or records described in Subsection (1) or (2), other than reports of a county attorney, district attorney, or law enforcement agency, within 10 days after the day on which the person in possession of the report or record receives the medical examiner's written request for the report or record is a class B misdemeanor.

Section 221. Section 26B-8-212, which is renumbered from Section 26-4-12 is renumbered and amended to read:

[~~26-4-12~~]. 26B-8-212. Order to exhume body -- Procedure.

(1) In case of any death described in Section [~~26-4-7~~] 26B-8-205, when a body is buried without an investigation by the medical examiner as to the cause and manner of death, it shall be the duty of the medical examiner, upon being advised of the fact, to notify the district attorney or county attorney having criminal jurisdiction where the body is buried or death occurred. Upon notification, the district attorney or county attorney having criminal jurisdiction may file an action in the district court to obtain an order to exhume the body. A district judge may order the body exhumed upon an ex parte hearing.

(2) (a) A body may not be exhumed until notice of the order has been served upon the executor or administrator of the deceased's estate, or if no executor or administrator has been appointed, upon the nearest heir of the deceased, determined as if the deceased had died intestate. If the nearest heir of the deceased cannot be located within the jurisdiction, then the next heir in succession within the jurisdiction may be served.

(b) The executor, administrator, or heir shall have 24 hours to notify the issuing court of any objection to the order prior to the time the body is exhumed. If no heirs can be located within the jurisdiction within 24 hours, the facts shall be reported to the issuing court which may order that the body be exhumed forthwith.

(c) Notification to the executor, administrator, or heir shall specifically state the nature of the action and the fact that any objection shall be filed with the issuing court within 24 hours of the time of service.

(d) In the event an heir files an objection, the court shall set hearing on the matter at the earliest possible time and issue an order on the matter immediately at the conclusion of the hearing. Upon the receipt of notice of objection, the court shall immediately notify the county attorney who requested the order, so that the interest of the state may be represented at the hearing.

(e) When there is reason to believe that death occurred in a manner described in Section [~~26-4-7~~] 26B-8-205, the district attorney or county attorney having criminal jurisdiction may make a motion that the court, upon ex parte hearing, order the body exhumed forthwith and without notice. Upon a showing of exigent circumstances the court may order the body exhumed forthwith and without notice. In any event, upon motion of the district attorney or county attorney having criminal jurisdiction and upon the personal appearance of the medical examiner, the court for good cause may order the body exhumed forthwith and without notice.

(3) An order to exhume a body shall be directed to the medical examiner, commanding the medical examiner to cause the body to be exhumed, perform the required autopsy, and properly cause the body to be reburied upon completion of the examination.

(4) The examination shall be completed and the complete autopsy report shall be made to the district attorney or county attorney having criminal jurisdiction for any action the attorney considers appropriate. The district attorney or county attorney shall submit the return of the order to exhume within 10 days in the manner prescribed by the issuing court.

Section 222. Section 26B-8-213, which is renumbered from Section 26-4-13 is renumbered and amended to read:

[~~26-4-13~~]. 26B-8-213. Autopsies -- When authorized.

(1) The medical examiner shall perform an autopsy to:

(a) aid in the discovery and prosecution of a crime;

(b) protect an innocent person accused of a crime; and

(c) disclose hazards to public health.

(2) The medical examiner may perform an autopsy:

(a) to aid in the administration of civil justice in life and accident insurance problems in accordance with Title 34A, Chapter 2, Workers' Compensation Act; and

(b) in other cases involving questions of civil liability.

Section 223. Section 26B-8-214, which is renumbered from Section 26-4-14 is renumbered and amended to read:

[~~26-4-14~~]. 26B-8-214. Certification of death by attending health care professional -- Deaths without medical attendance -- Cause of death uncertain -- Notice requirements.

(1) (a) A health care professional who treats or examines an individual within 365 days from the

day on which the individual dies, shall certify the individual's cause of death to the best of the health care professional's knowledge and belief unless the health care professional determines the individual may have died in a manner described in Section [~~26-4-7~~] 26B-8-205.

(b) If a health care professional is unable to determine an individual's cause of death in accordance with Subsection (1)(a), the health care professional shall notify the medical examiner.

(2) For an unattended death, the person with custody of the body shall notify the medical examiner of the death.

(3) If the medical examiner determines there may be criminal responsibility for a death, the medical examiner shall notify:

(a) the district attorney or county attorney that has criminal jurisdiction; or

(b) the head of the law enforcement agency that has jurisdiction to investigate the death.

Section 224. Section 26B-8-215, which is renumbered from Section 26-4-15 is renumbered and amended to read:

[~~26-4-15~~]. 26B-8-215. Deaths in medical centers and federal facilities.

All death certificates of any decedent who died in a teaching medical center or a federal medical facility unattended or in the care of an unlicensed physician or other medical personnel shall be signed by the licensed supervisory physician, attending physician or licensed resident physician of the medical center or facility.

Section 225. Section 26B-8-216, which is renumbered from Section 26-4-16 is renumbered and amended to read:

[~~26-4-16~~]. 26B-8-216. Release of body for funeral preparations.

(1) (a) Where a body is held for investigation or autopsy under this chapter or for a medical investigation permitted by law, the body shall, if requested by the person given priority under Section 58-9-602, be released for funeral preparations no later than 24 hours after the arrival at the office of the medical examiner or regional medical facility.

(b) An extension may be ordered only by a district court.

(2) The right and duty to control the disposition of a deceased person is governed by Sections 58-9-601 through 58-9-606.

Section 226. Section 26B-8-217, which is renumbered from Section 26-4-17 is renumbered and amended to read:

[~~26-4-17~~]. 26B-8-217. Records of medical examiner -- Confidentiality.

(1) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

(a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;

(b) indicate the place where the body was found;

(c) indicate the date of death;

(d) indicate the cause and manner of death;

(e) indicate the occupation of the decedent, if available;

(f) include all other relevant information concerning the death; and

(g) include a full report and detailed findings of the autopsy or report of the investigation.

(2) (a) Upon written request from an individual described in Subsections (2)(a)(i) through (iv), the medical examiner shall provide a copy of the medical examiner's final report of examination for the decedent, including the autopsy report, toxicology report, lab reports, and investigative reports to any of the following:

(i) a decedent's immediate relative;

(ii) a decedent's legal representative;

(iii) a physician or physician assistant who attended the decedent during the year before the decedent's death; or

(iv) a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction, as necessary for the performance of the attorney or official's professional duties.

(b) Upon written request from the director or a designee of the director of an entity described in Subsections (2)(b)(i) through (iv), the medical examiner may provide a copy of the of the medical examiner's final report of examination for the decedent, including any other reports described in Subsection (2)(a), to any of the following entities as necessary for performance of the entity's official purposes:

(i) a local health department;

(ii) a local mental health authority;

(iii) a public health authority; or

(iv) another state or federal governmental agency.

(c) The medical examiner may provide a copy of the medical examiner's final report of examination, including any other reports described in Subsection (2)(a), if the final report relates to an issue of public health or safety, as further defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Reports provided under Subsection (2) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.

(4) The medical examiner may provide a medical examiner record to a researcher who:

(a) has an advanced degree;

(b) (i) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or

(ii) is part of a research firm contracted with an accredited college or university, a hospital, or another system of care;

(c) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the department; and

(d) provides to the medical examiner an approval from:

(i) the researcher's sponsoring organization; and

(ii) the Utah Department of Health and Human Services Institutional Review Board.

(5) Records provided under Subsection (4) may not include a third party record, unless:

(a) a court has ordered disclosure of the third party record; and

(b) disclosure is conducted in compliance with state and federal law.

(6) A person who obtains a medical examiner record under Subsection (4) shall:

(a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;

(b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

(c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

(d) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;

(e) reimburse the medical examiner, as provided in Section 26B-1-209, for any costs incurred by the medical examiner in providing a medical examiner record;

(f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

(g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.

(7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consideration of applicable state and federal law, to establish permissible uses and disclosures of a medical examiner record or other record obtained under this section.

(8) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.

(9) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).

Section 227. Section 26B-8-218, which is renumbered from Section 26-4-18 is renumbered and amended to read:

[~~26-4-18~~]. 26B-8-218. Records of medical examiner -- Admissibility as evidence -- Subpoena of person who prepared record.

The records of the medical examiner or transcripts thereof certified by the medical examiner are admissible as evidence in any civil action in any court in this state except that statements by witnesses or other persons, unless taken pursuant to Section [~~26-4-21~~] 26B-8-221, as conclusions upon extraneous matters are not hereby made admissible. The person who prepared a report or record offered in evidence hereunder may be subpoenaed as a witness in the case by any party.

Section 228. Section 26B-8-219, which is renumbered from Section 26-4-19 is renumbered and amended to read:

[~~26-4-19~~]. 26B-8-219. Personal property of deceased -- Disposition.

(1) Personal property of the deceased not held as evidence shall be turned over to the legal representative of the deceased within 30 days after completion of the investigation of the death of the deceased. If no legal representative is known, the county attorney, district attorney, or the medical examiner shall, within 30 days after the investigation, turn the personal property over to the county treasurer to be handled pursuant to the escheat laws.

(2) An affidavit shall be filed with the county treasurer by the county attorney, district attorney, or the medical examiner within 30 days after investigation of the death of the deceased showing the money or other property belonging to the estate of the deceased person which has come into his possession and the disposition made of the property.

(3) Property required to be turned over to the legal representative of the deceased may be held longer than 30 days if, in the opinion of the county attorney, district attorney, or attorney general, the property is necessary evidence in a court proceeding. Upon conclusion of the court proceedings, the personal property shall be turned over as described in this section and in accordance with the rules of the court.

Section 229. Section 26B-8-220, which is renumbered from Section 26-4-20 is renumbered and amended to read:

[~~26-4-20~~]. 26B-8-220. Officials not liable for authorized acts.

Except as provided in this [~~chapter~~] part, a criminal or civil action may not arise against the county attorney, district attorney, or his deputies, the medical examiner or his deputies, or regional pathologists for authorizing or performing autopsies authorized by this [~~chapter~~] part or for any other act authorized by this [~~chapter~~] part.

Section 230. Section 26B-8-221, which is renumbered from Section 26-4-21 is renumbered and amended to read:

[~~26-4-21~~]. 26B-8-221. Authority of county attorney or district attorney to subpoena witnesses and compel testimony -- Determination if decedent died by unlawful means.

(1) The district attorney or county attorney having criminal jurisdiction may subpoena witnesses and compel testimony concerning the death of any person and have such testimony reduced to writing under his direction and may employ a shorthand reporter for that purpose at the same compensation as is allowed to reporters in the district courts. When the testimony has been taken down by the shorthand reporter, a transcript thereof, duly certified, shall constitute the deposition of the witness.

(2) Upon review of all facts and testimony taken concerning the death of a person, the district attorney or county attorney having criminal jurisdiction shall determine if the decedent died by unlawful means and shall also determine if criminal prosecution shall be instituted.

Section 231. Section 26B-8-222, which is renumbered from Section 26-4-22 is renumbered and amended to read:

[~~26-4-22~~]. 26B-8-222. Additional powers and duties of department.

The department may:

(1) establish rules to carry out the provisions of this [~~chapter~~] part;

(2) arrange for the state health laboratory to perform toxicologic analysis for public or private institutions and fix fees for the services;

(3) cooperate and train law enforcement personnel in the techniques of criminal investigation as related to medical and pathological matters; and

(4) pay to private parties, institutions or funeral directors the reasonable value of services performed for the medical examiner's office.

Section 232. Section 26B-8-223, which is renumbered from Section 26-4-23 is renumbered and amended to read:

[~~26-4-23~~]. 26B-8-223. Authority of examiner to provide organ or other tissue for transplant purposes.

(1) When requested by the licensed physician of a patient who is in need of an organ or other tissue for transplant purpose, by a legally created Utah eye bank, organ bank or medical facility, the medical examiner may provide an organ or other tissue if:

(a) a decedent who may provide a suitable organ or other tissue for the transplant is in the custody of the medical examiner;

(b) the medical examiner is assured that the requesting party has made reasonable search for and inquiry of next of kin of the decedent and that no objection by the next of kin is known by the requesting party; and

(c) the removal of the organ or other tissue will not interfere with the investigation or autopsy or alter the post-mortem facial appearance.

(2) When the medical examiner is in custody of a decedent who may provide a suitable organ or other tissue for transplant purposes, he may contact the appropriate eye bank, organ bank or medical facility and notify them concerning the suitability of the organ or other tissue. In such contact the medical examiner may disclose the name of the decedent so that necessary clearances can be obtained.

(3) No person shall be held civilly or criminally liable for any acts performed pursuant to this section.

Section 233. Section 26B-8-224, which is renumbered from Section 26-4-24 is renumbered and amended to read:

[~~26-4-24~~]. 26B-8-224. Autopsies -- Persons eligible to authorize.

(1) Autopsies may be authorized:

(a) by the commissioner of the Labor Commission or the commissioner's designee as provided in Section 34A-2-603;

(b) by individuals by will or other written document;

(c) upon a decedent by the next of kin in the following order and as known: surviving spouse, child, if 18 years old or older, otherwise the legal guardian of the child, parent, sibling, uncle or aunt, nephew or niece, cousin, others charged by law with the duty of burial, or friend assuming the obligation of burial;

(d) by the county attorney, district attorney, or the district attorney's deputy, or a district judge; and

(e) by the medical examiner as provided in this [~~chapter~~] part.

(2) Autopsies authorized under Subsections (1)(a) and (1)(d) shall be performed by a certified pathologist.

(3) No criminal or civil action arises against a pathologist or a physician who proceeds in good faith and performs an autopsy authorized by this section.

Section 234. Section 26B-8-225, which is renumbered from Section 26-4-25 is renumbered and amended to read:

[~~26-4-25~~]. 26B-8-225. Burial of an unclaimed body -- Request by the school of medicine at the University of Utah -- Medical examiner may retain tissue for dog training.

(1) Except as described in Subsection (2) or (3), a county shall provide, at the county's expense, decent burial for an unclaimed body found in the county.

(2) A county is not responsible for decent burial of an unclaimed body found in the county if the body is requested by the dean of the school of medicine at the University of Utah under Section 53B-17-301.

(3) For an unclaimed body that is temporarily in the medical examiner's custody before burial under Subsection (1), the medical examiner may retain tissue from the unclaimed body in order to donate the tissue to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

Section 235. Section 26B-8-226, which is renumbered from Section 26-4-26 is renumbered and amended to read:

[~~26-4-26~~]. 26B-8-226. Social security number in certification of death.

A certification of death shall include, if known, the social security number of the deceased person, and a copy of the certification shall be sent to the Office of Recovery Services within the [~~Department of Human Services~~] department upon request.

Section 236. Section 26B-8-227, which is renumbered from Section 26-4-27 is renumbered and amended to read:

[~~26-4-27~~]. 26B-8-227. Registry of unidentified deceased persons.

(1) If the identity of a deceased person over which the medical examiner has jurisdiction under Section [~~26-4-7~~] 26B-8-205 is unknown, the medical examiner shall do the following before releasing the body to the county in which the body was found as provided in Section [~~26-4-25~~] 26B-8-225:

(a) assign a unique identifying number to the body;

(b) create and maintain a file under the assigned number;

(c) examine the body, take samples, and perform other related tasks for the purpose of deriving information that may be useful in ascertaining the identity of the deceased person;

(d) use the identifying number in all records created by the medical examiner that pertains to the body;

(e) record all information pertaining to the body in the file created and maintained under Subsection (1)(b);

(f) communicate the unique identifying number to the county in which the body was found; and

(g) access information from available government sources and databases in an attempt to ascertain the identity of the deceased person.

(2) A county which has received a body to which Subsection (1) applies:

(a) shall adopt and use the same identifying number assigned by Subsection (1) in all records created by the county that pertain to the body;

(b) require any funeral director or sexton who is involved in the disposition of the body to adopt and use the same identifying number assigned by Subsection (1) in all records created by the funeral director or sexton pertaining to the body; and

(c) shall provide a decent burial for the body.

(3) Within 30 days of receiving a body to which Subsection (1) applies, the county shall inform the medical examiner of the disposition of the body including the burial plot. The medical examiner shall record this information in the file created and maintained under Subsection (1)(b).

(4) The requirements of Subsections (1) and (6) apply to a county examiner appointed under Section [~~26-4-5~~] 26B-8-203, with the additional requirements that the county examiner:

(a) obtain a unique identifying number from the medical examiner for the body; and

(b) send to the medical examiner a copy of the file created and maintained in accordance with Subsection (1)(b), including the disposition of the body and burial plot, within 30 days of releasing the body.

(5) The medical examiner shall maintain a file received under Subsection (4) in the same way that it maintains a file created and maintained by the medical examiner in accordance with Subsection (1)(b).

(6) The medical examiner shall cooperate and share information generated and maintained under this section with a person who demonstrates:

(a) a legitimate personal or governmental interest in determining the identity of a deceased person; and

(b) a reasonable belief that the body of that deceased person may have come into the custody of the medical examiner.

Section 237. Section 26B-8-228, which is renumbered from Section 26-4-28 is renumbered and amended to read:

[~~26-4-28~~]. 26B-8-228. Testing for suspected suicides -- Maintaining information --

Compensation to deputy medical examiners.

(1) In all cases where it is suspected that a death resulted from suicide, including assisted suicide, the medical examiner shall endeavor to have the following tests conducted upon samples taken from the body of the deceased:

(a) a test that detects all of the substances included in the volatiles panel of the Bureau of Forensic Toxicology within the [~~Department of Health~~] department;

(b) a test that detects all of the substances included in the drugs of abuse panel of the Bureau of Forensic Toxicology within the [~~Department of Health~~] department; and

(c) a test that detects all of the substances included in the prescription drug panel of the Bureau of Forensic Toxicology within the [~~Department of Health~~] department.

(2) The medical examiner shall maintain information regarding the types of substances found present in the samples taken from the body of a person who is suspected to have died as a result of suicide or assisted suicide.

(3) Within funds appropriated by the Legislature for this purpose, the medical examiner shall provide compensation, at a standard rate determined by the medical examiner, to a deputy medical examiner who collects samples for the purposes described in Subsection (1).

Section 238. Section 26B-8-229, which is renumbered from Section 26-4-28.5 is renumbered and amended to read:

[~~26-4-28.5~~]. 26B-8-229. Psychological autopsy examiner.

(1) With funds appropriated by the Legislature for this purpose, the department shall provide compensation, at a standard rate determined by the department, to a psychological autopsy examiner.

(2) The psychological autopsy examiner shall:

(a) work with the medical examiner to compile data regarding suicide related deaths;

(b) as relatives of the deceased are willing, gather information from relatives of the deceased regarding the psychological reasons for the decedent's death;

(c) maintain a database of information described in Subsections (2)(a) and (b);

(d) in accordance with all applicable privacy laws subject to approval by the department, share the database described in Subsection (2)(c) with the University of Utah Department of Psychiatry or other university-based departments conducting research on suicide;

(e) coordinate no less than monthly with the suicide prevention coordinator described in Subsection [~~62A-15-1101~~] 26B-5-611(2); and

(f) coordinate no less than quarterly with the state suicide prevention coalition.

Section 239. Section 26B-8-230, which is renumbered from Section 26-4-29 is renumbered and amended to read:

[~~26-4-29~~]. 26B-8-230. Application for permit to render a dead body unavailable for postmortem examination -- Fees.

(1) Upon receiving an application by a person for a permit to render a dead body unavailable for postmortem investigation, the medical examiner shall review the application to determine whether:

(a) the person is authorized by law to render the dead body unavailable for postmortem investigation in the manner specified in the application; and

(b) there is a need to delay any action that will render the dead body unavailable for postmortem investigation until a postmortem investigation or an autopsy of the dead body is performed by the medical examiner.

(2) Except as provided in Subsection (4), within three days after receiving an application described in Subsection (1), the medical examiner shall:

(a) make the determinations described in Subsection (1); and

(b) (i) issue a permit to render the dead body unavailable for postmortem investigation in the manner specified in the application; or

(ii) deny the permit.

(3) The medical examiner may deny a permit to render a dead body unavailable for postmortem investigation only if:

(a) the applicant is not authorized by law to render the dead body unavailable for postmortem investigation in the manner specified in the application;

(b) the medical examiner determines that there is a need to delay any action that will render the dead body unavailable for postmortem investigation; or

(c) the applicant fails to pay the fee described in Subsection (5).

(4) If the medical examiner cannot in good faith make the determinations described in Subsection (1) within three days after receiving an application described in Subsection (1), the medical examiner shall notify the applicant:

(a) that more time is needed to make the determinations described in Subsection (1); and

(b) of the estimated amount of time needed before the determinations described in Subsection (1) can be made.

(5) The medical examiner may charge a fee, pursuant to Section 63J-1-504, to recover the costs of fulfilling the duties of the medical examiner described in this section.

Section 240. Section 26B-8-231, which is renumbered from Section 26-4-30 is renumbered and amended to read:

[~~26-4-30~~]. 26B-8-231. Overdose fatality examiner.

(1) Within funds appropriated by the Legislature, the department shall provide compensation, at a standard rate determined by the department, to an overdose fatality examiner.

(2) The overdose fatality examiner shall:

(a) work with the medical examiner to compile data regarding overdose and opioid related deaths, including:

(i) toxicology information;

(ii) demographics; and

(iii) the source of opioids or drugs;

(b) as relatives of the deceased are willing, gather information from relatives of the deceased regarding the circumstances of the decedent's death;

(c) maintain a database of information described in Subsections (2)(a) and (b);

(d) coordinate no less than monthly with the suicide prevention coordinator described in Section [~~62A-15-1101~~] 26B-5-611; and

(e) coordinate no less than quarterly with the Opioid and Overdose Fatality Review Committee created in Section [~~26-7-13~~] 26B-1-403.

Section 241. Section 26B-8-232, which is renumbered from Section 26-23a-2 is renumbered and amended to read:

[~~26-23a-2~~]. 26B-8-232. Injury reporting requirements by health care provider -- Contents of report -- Penalties.

(1) As used in this section:

(a) "Health care provider" means any person, firm, corporation, or association which furnishes treatment or care to persons who have suffered bodily injury, and includes hospitals, clinics, podiatrists, dentists and dental hygienists, nurses, nurse practitioners, physicians and physicians' assistants, osteopathic physicians, naturopathic practitioners, chiropractors, acupuncturists, paramedics, and emergency medical technicians.

(b) "Injury" does not include any psychological or physical condition brought about solely through the voluntary administration of prescribed controlled substances.

(c) "Law enforcement agency" means the municipal or county law enforcement agency:

(i) having jurisdiction over the location where the injury occurred; or

(ii) if the reporting health care provider is unable to identify or contact the law enforcement agency with jurisdiction over the injury, "law enforcement agency" means the agency nearest to the location of the reporting health care provider.

(d) "Report to a law enforcement agency" means to report, by telephone or other spoken communication, the facts known regarding an injury subject to reporting under Section 26-23a-2 to the dispatch desk or other staff person designated by the law enforcement agency to receive reports from the public.

[~~(1)~~] (2) (a) Any health care provider who treats or cares for any person who suffers from any wound or other injury inflicted by the person's own act or by the act of another by means of a knife, gun, pistol, explosive, infernal device, or deadly weapon, or by violation of any criminal statute of this state, shall immediately report to a law enforcement agency the facts regarding the injury.

(b) The report shall state the name and address of the injured person, if known, the person's whereabouts, the character and extent of the person's injuries, and the name, address, and telephone number of the person making the report.

[~~(2)~~] (3) A health care provider may not be discharged, suspended, disciplined, or harassed for making a report pursuant to this section.

[~~(3)~~] (4) A person may not incur any civil or criminal liability as a result of making any report required by this section.

[~~(4)~~] (5) A health care provider who has personal knowledge that the report of a wound or injury has been made in compliance with this section is under no further obligation to make a report regarding that wound or injury under this section.

(6) Any health care provider who intentionally or knowingly violates any provision of this section is guilty of a class B misdemeanor.

Section 242. Section 26B-8-301, which is renumbered from Section 26-28-102 is renumbered and amended to read:

Part 3. Revised Uniform Anatomical Gift Act

[~~26-28-102~~]. 26B-8-301. Definitions.

As used in this [~~chapter~~] part:

(1) "Adult" means an individual who is at least 18 years [~~of age~~] old.

(2) "Agent" means an individual:

(a) authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(b) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means:

(a) a deceased individual whose body or part is or may be the source of an anatomical gift; and

(b) includes:

(i) a stillborn infant; and

(ii) subject to restrictions imposed by law other than this [~~chapter~~] part, a fetus.

(5) (a) "Disinterested witness" means:

(i) a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift; or

(ii) another adult who exhibited special care and concern for the individual.

(b) "Disinterested witness" does not include a person to which an anatomical gift could pass under Section [~~26-28-111~~] 26B-8-310.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver license, identification card, or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver license" means a license or permit issued by the Driver License Division of the Department of Public Safety, to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian":

(a) means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual; and

(b) does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Identification card" means an identification card issued by the Driver License Division of the Department of Public Safety.

(14) "Know" means to have actual knowledge.

(15) "Minor" means an individual who is under 18 years of age.

(16) "Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor":

(a) means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education; and

(b) does not include an individual who has made a refusal.

(23) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(24) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) "Refusal" means a record created under Section [~~26-28-107~~] 26B-8-306 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(27) "Sign" means, with the present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(29) "Technician":

(a) means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law; and

(b) includes an enucleator.

(30) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(32) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

Section 243. Section 26B-8-302, which is renumbered from Section 26-28-103 is renumbered and amended to read:

[~~26-28-103~~]. 26B-8-302. Applicability.

This [~~chapter~~] part applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

Section 244. Section 26B-8-303, which is renumbered from Section 26-28-104 is renumbered and amended to read:

[~~26-28-104~~]. 26B-8-303. Who may make anatomical gift before donor's death.

Subject to Section [~~26-28-108~~] 26B-8-307, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section [~~26-28-105~~] 26B-8-304 by:

(1) the donor, if the donor is an adult or if the donor is a minor and is:

(a) emancipated; or

(b) authorized under state law to apply for a driver license because the donor is at least 15 years [~~of age~~] old;

(2) an agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) a parent of the donor, if the donor is an unemancipated minor; or

(4) the donor's guardian.

Section 245. Section 26B-8-304, which is renumbered from Section 26-28-105 is renumbered and amended to read:

[~~26-28-105~~]. 26B-8-304. Manner of making anatomical gift before donor's death.

(1) A donor may make an anatomical gift:

(a) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver license or identification card;

(b) in a will;

(c) during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(d) as provided in Subsection (2).

(2) A donor or other person authorized to make an anatomical gift under Section [~~26-28-104~~] 26B-8-303 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall:

(a) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) state that it has been signed and witnessed as provided in Subsection (2)(a).

(3) Revocation, suspension, expiration, or cancellation of a driver license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Section 246. Section 26B-8-305, which is renumbered from Section 26-28-106 is renumbered and amended to read:

[~~26-28-106~~]. 26B-8-305. Amending or revoking anatomical gift before donor's death.

(1) Subject to Section [~~26-28-108~~] 26B-8-307, a donor or other person authorized to make an anatomical gift under Section [~~26-28-104~~] 26B-8-303 may amend or revoke an anatomical gift by:

(a) a record signed by:

(i) the donor;

(ii) the other person; or

(iii) subject to Subsection (2), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(b) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(2) A record signed pursuant to Subsection (1)(a)(iii) shall:

(a) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) state that it has been signed and witnessed as provided in Subsection (1)(a).

(3) Subject to Section [~~26-28-108~~] 26B-8-307, a donor or other person authorized to make an anatomical gift under Section [~~26-28-104~~] 26B-8-303 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of

communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in Subsection (1).

Section 247. Section 26B-8-306, which is renumbered from Section 26-28-107 is renumbered and amended to read:

[~~26-28-107~~]. 26B-8-306. Refusal to make anatomical gift -- Effect of refusal.

(1) An individual may refuse to make an anatomical gift of the individual's body or part by:

(a) a record signed by:

(i) the individual; or

(ii) subject to Subsection (2), another individual acting at the direction of the individual if the individual is physically unable to sign;

(b) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(c) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(2) A record signed pursuant to Subsection (1)(a)(ii) shall:

(a) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(b) state that it has been signed and witnessed as provided in Subsection (1)(a).

(3) An individual who has made a refusal may amend or revoke the refusal:

(a) in the manner provided in Subsection (1) for making a refusal;

(b) by subsequently making an anatomical gift pursuant to Section [~~26-28-105~~] 26B-8-304 that is inconsistent with the refusal; or

(c) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(4) Except as otherwise provided in Subsection [~~26-28-108~~] 26B-8-307(8), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

Section 248. Section 26B-8-307, which is renumbered from Section 26-28-108 is renumbered and amended to read:

[~~26-28-108~~]. 26B-8-307. Preclusive effect of anatomical gift, amendment, or revocation.

(1) Except as otherwise provided in Subsection (7) and subject to Subsection (6), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under Section [~~26-28-105~~] 26B-8-304 or an amendment to an anatomical gift of the donor's body or part under Section [~~26-28-106~~] 26B-8-305.

(2) A donor's revocation of an anatomical gift of the donor's body or part under Section [~~26-28-106~~] 26B-8-305 is not a refusal and does not bar another person specified in Section [~~26-28-104 or 26-28-109~~] 26B-8-303 or 26B-8-308 from making an anatomical gift of the donor's body or part under Section [~~26-28-105 or 26-28-110~~] 26B-8-304 or 26B-8-309.

(3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under Section [~~26-28-105~~] 26B-8-304 or an amendment to an anatomical gift of the donor's body or part under Section [~~26-28-106~~] 26B-8-305, another person may not make, amend, or revoke the gift of the donor's body or part under Section [~~26-28-110~~] 26B-8-309.

(4) A revocation of an anatomical gift of a donor's body or part under Section [~~26-28-106~~] 26B-8-305 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under Section [~~26-28-105 or 26-28-110~~] 26B-8-304 or 26B-8-309.

(5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section [~~26-28-104~~] 26B-8-303, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section [~~26-28-104~~] 26B-8-303, an anatomical gift of a part for one or more of the purposes set forth in Section [~~26-28-104~~] 26B-8-303 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under Section [~~26-28-105 or 26-28-110~~] 26B-8-304 or 26B-8-309.

(7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

Section 249. Section 26B-8-308, which is renumbered from Section 26-28-109 is renumbered and amended to read:

[~~26-28-109~~]. 26B-8-308. Who may make anatomical gift of decedent's body or part.

(1) Subject to Subsections (2) and (3) and unless barred by Section [~~26-28-107 or 26-28-108~~] 26B-8-306 or 26B-8-307, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(a) an agent of the decedent at the time of death who could have made an anatomical gift under Subsection [~~26-28-104~~] 26B-8-303(2) immediately before the decedent's death;

(b) the spouse of the decedent;

(c) adult children of the decedent;

(d) parents of the decedent;

(e) adult siblings of the decedent;

(f) adult grandchildren of the decedent;

(g) grandparents of the decedent;

(h) the persons who were acting as the guardians of the person of the decedent at the time of death;

(i) an adult who exhibited special care and concern for the decedent; and

(j) any other person having the authority to dispose of the decedent's body.

(2) If there is more than one member of a class listed in Subsection (1)(a), (c), (d), (e), (f), (g), or (j) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section [~~26-28-111~~] 26B-8-310 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under Subsection (1) is reasonably available to make or to object to the making of an anatomical gift.

Section 250. Section 26B-8-309, which is renumbered from Section 26-28-110 is renumbered and amended to read:

[~~26-28-110~~]. 26B-8-309. Manner of making, amending, or revoking anatomical gift of decedent's body or part.

(1) A person authorized to make an anatomical gift under Section [~~26-28-109~~] 26B-8-308 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(2) Subject to Subsection (3), an anatomical gift by a person authorized under Section [~~26-28-109~~] 26B-8-308 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under Section [~~26-28-109~~] 26B-8-308 may be:

(a) amended only if a majority of the reasonably available members agree to the amending of the gift; or

(b) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under Subsection (2) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

Section 251. Section 26B-8-310, which is renumbered from Section 26-28-111 is renumbered and amended to read:

[~~26-28-111~~]. 26B-8-310. Persons that may receive anatomical gift -- Purpose of anatomical gift.

(1) An anatomical gift may be made to the following persons named in the document of gift:

(a) a hospital, accredited medical school, dental school, college, university, organ procurement organization, or other appropriate person, for research or education;

(b) subject to Subsection (2), an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or

(c) an eye bank or tissue bank.

(2) If an anatomical gift to an individual under Subsection (1)(b) cannot be transplanted into the individual, the part passes in accordance with Subsection (7) in the absence of an express, contrary indication by the person making the anatomical gift.

(3) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in Subsection (1) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(a) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(b) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(c) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift

passes to the appropriate organ procurement organization as custodian of the organ.

(d) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(4) For the purpose of Subsection (3), if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(5) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in Subsection (1) and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (7).

(6) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (7).

(7) For purposes of Subsections (2), (5), and this Subsection (7), the following rules apply:

(a) If the part is an eye, the gift passes to the appropriate eye bank.

(b) If the part is tissue, the gift passes to the appropriate tissue bank.

(c) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under Subsection (1)(b), passes to the organ procurement organization as custodian of the organ.

(9) If an anatomical gift does not pass pursuant to Subsections (2) through (8) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(10) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Section [~~26-28-105 or 26-28-110~~] 26B-8-304 or 26B-8-309 or if the person knows that the decedent made a refusal under Section [~~26-28-107~~] 26B-8-306 that was not revoked. For purposes of this Subsection (10), if a person knows that an anatomical gift was made on a document of gift, the person is considered to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(11) Except as otherwise provided in Subsection (1)(b), nothing in this [~~chapter~~] part affects the allocation of organs for transplantation or therapy.

Section 252. Section 26B-8-311, which is renumbered from Section 26-28-112 is renumbered and amended to read:

[~~26-28-112~~]. 26B-8-311. Search and notification.

(1) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual;

(b) if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital; and

(c) a law enforcement officer, firefighter, emergency medical services provider, or other emergency rescuer who finds an individual who is deceased at the scene of a motor vehicle accident, when the deceased individual is transported from the scene of the accident to a funeral establishment licensed under Title 58, Chapter 9, Funeral Services Licensing Act:

(i) the law enforcement officer, firefighter, emergency medical services provider, or other emergency rescuer shall as soon as reasonably possible, notify the appropriate organ procurement organization, tissue bank, or eye bank of:

(A) the identity of the deceased individual, if known;

(B) information, if known, pertaining to the deceased individual's legal next-of-kin in accordance with Section [~~26-28-109~~] 26B-8-308; and

(C) the name and location of the funeral establishment which received custody of and transported the deceased individual; and

(ii) the funeral establishment receiving custody of the deceased individual under this Subsection (1)(c) may not embalm the body of the deceased individual until:

(A) the funeral establishment receives notice from the organ procurement organization, tissue bank, or eye bank that the readily available persons listed as having priority in Section [~~26-28-109~~] 26B-8-308 have been informed by the organ procurement organization of the option to make or refuse to make an anatomical gift in accordance with Section [~~26-28-104~~] 26B-8-303, with reasonable discretion and sensitivity appropriate to the circumstances of the family;

(B) in accordance with federal law, prior approval for embalming has been obtained from a family member or other authorized person; and

(C) the period of time in which embalming is prohibited under Subsection (1)(c)(ii) may not exceed 24 hours after death.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by

Subsection (1)(a) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

Section 253. Section 26B-8-312, which is renumbered from Section 26-28-113 is renumbered and amended to read:

[~~26-28-113~~]. 26B-8-312. Delivery of document of gift not required -- Right to examine.

(1) A document of gift need not be delivered during the donor's lifetime to be effective.

(2) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section [~~26-28-111~~] 26B-8-310.

Section 254. Section 26B-8-313, which is renumbered from Section 26-28-114 is renumbered and amended to read:

[~~26-28-114~~]. 26B-8-313. Rights and duties of procurement organization and others.

(1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization shall be allowed reasonable access to information in the records of the Department of Public Safety to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this [~~chapter~~] part, at any time after a donor's death, the person to which a part passes under Section [~~26-28-111~~] 26B-8-310 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(5) Unless prohibited by law other than this [~~chapter~~] part, an examination under Subsection (3) or (4) may include an examination of all medical and dental records of the donor or prospective donor.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under Subsection (1), a procurement organization shall make a reasonable search for any person listed in Section [~~26-28-109~~] 26B-8-308 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to Subsection [~~26-28-111~~] 26B-8-310(9) and Section [~~26-28-123~~] 26B-8-322, the rights of the person to which a part passes under Section [~~26-28-111~~] 26B-8-310 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this [~~chapter~~] part, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section [~~26-28-111~~] 26B-8-310, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(9) Neither the physician or physician assistant who attends the decedent at death nor the physician or physician assistant who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(10) A physician, physician assistant, or technician may remove a donated part from the body of a donor that the physician, physician assistant, or technician is qualified to remove.

Section 255. Section 26B-8-314, which is renumbered from Section 26-28-115 is renumbered and amended to read:

[~~26-28-115~~]. 26B-8-314. Coordination of procurement and use.

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

Section 256. Section 26B-8-315, which is renumbered from Section 26-28-116 is renumbered and amended to read:

[~~26-28-116~~]. 26B-8-315. Sale or purchase of parts prohibited.

(1) Except as otherwise provided in Subsection (2), a person that for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a third degree felony.

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

Section 257. Section 26B-8-316, which is renumbered from Section 26-28-117 is renumbered and amended to read:

[~~26-28-117~~]. 26B-8-316. Other prohibited acts.

A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment, or revocation of a document of gift, or a refusal commits a third degree felony.

Section 258. Section 26B-8-317, which is renumbered from Section 26-28-118 is renumbered and amended to read:

[~~26-28-118~~]. 26B-8-317. Immunity.

(1) A person that acts in accordance with this [~~chapter~~] part or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(3) In determining whether an anatomical gift has been made, amended, or revoked under this [~~chapter~~] part, a person may rely upon representations of an individual listed in Subsection [~~26-28-109~~] 26B-8-308(1)(b), (c), (d), (e), (f), (g), (h), (i), or (j) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

Section 259. Section 26B-8-318, which is renumbered from Section 26-28-119 is renumbered and amended to read:

[~~26-28-119~~]. 26B-8-318. Law governing validity -- Choice of law as to execution of document of gift -- Presumption of validity.

(1) A document of gift is valid if executed in accordance with:

(a) this [~~chapter~~] part;

(b) the laws of the state or country where it was executed; or

(c) the laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Section 260. Section 26B-8-319, which is renumbered from Section 26-28-120 is renumbered and amended to read:

[~~26-28-120~~]. 26B-8-319. Donor registry.

(1) The Department of Public Safety may establish or contract for the establishment of a donor registry.

(2) The Driver License Division of the Department of Public Safety shall cooperate with a person that administers any donor registry that this state establishes, contracts for, or recognizes for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.

(3) A donor registry shall:

(a) allow a donor or other person authorized under Section [~~26-28-104~~] 26B-8-303 to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift;

(b) be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and

(c) be accessible for purposes of Subsections (3)(a) and (b) seven days a week on a 24-hour basis.

(4) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(5) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any such registry shall comply with Subsections (3) and (4).

Section 261. Section 26B-8-320, which is renumbered from Section 26-28-121 is renumbered and amended to read:

[~~26-28-121~~]. 26B-8-320. Effect of anatomical gift on advance health care directive.

(1) As used in this section:

(a) "Advance health care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the

prospective donor's direction concerning a health care decision for the prospective donor.

(b) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(c) "Health care decision" means any decision regarding the health care of the prospective donor.

(2) If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or if no declaration or directive exists or the agent is not reasonably available, another person authorized by a law other than this [~~chapter~~] part to make a health care decision on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict shall be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under Section [~~26-28-109~~] 26B-8-308. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end of life care.

Section 262. Section 26B-8-321, which is renumbered from Section 26-28-122 is renumbered and amended to read:

[~~26-28-122~~]. 26B-8-321. Cooperation between medical examiner and procurement organization.

(1) A medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

(2) If a medical examiner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is going to be performed, unless the medical examiner denies recovery in accordance with Section [~~26-28-123~~] 26B-8-322, the medical examiner or designee shall conduct a postmortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

(3) A part may not be removed from the body of a decedent under the jurisdiction of a medical examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This Subsection (3) does not preclude a medical examiner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the medical examiner.

Section 263. Section 26B-8-322, which is renumbered from Section 26-28-123 is renumbered and amended to read:

[~~26-28-123~~]. 26B-8-322. Facilitation of anatomical gift from decedent whose body is under jurisdiction of medical examiner.

(1) Upon request of a procurement organization, a medical examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the medical examiner. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the medical examiner only if relevant to transplantation or therapy.

(2) The medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner which the medical examiner determines may be relevant to the investigation.

(3) A person that has any information requested by a medical examiner pursuant to Subsection (2) shall provide that information as expeditiously as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

(4) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is not required, or the medical examiner determines that a postmortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research, or education.

(5) If an anatomical gift of a part from the decedent under the jurisdiction of the medical examiner has been or might be made, but the medical examiner initially believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death, the medical examiner shall

consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the medical examiner may allow the recovery.

(6) Following the consultation under Subsection (5), in the absence of mutually agreed upon protocols to resolve conflict between the medical examiner and the procurement organization, if the medical examiner intends to deny recovery, the medical examiner or designee, at the request of the procurement organization, may attend the removal procedure for the part before making a final determination not to allow the procurement organization to recover the part. During the removal procedure, the medical examiner or designee may allow recovery by the procurement organization to proceed, or, if the medical examiner or designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death, deny recovery by the procurement organization.

(7) If the medical examiner or designee denies recovery under Subsection (6), the medical examiner or designee shall:

(a) explain in a record the specific reasons for not allowing recovery of the part;

(b) include the specific reasons in the records of the medical examiner; and

(c) provide a record with the specific reasons to the procurement organization.

(8) If the medical examiner or designee allows recovery of a part under Subsection (4), (5), or (6), the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the medical examiner with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.

(9) If a medical examiner or designee is required to be present at a removal procedure under Subsection (6), upon request the procurement organization requesting the recovery of the part shall reimburse the medical examiner or designee for the additional costs incurred in complying with Subsection (6).

Section 264. Section 26B-8-323, which is renumbered from Section 26-28-124 is renumbered and amended to read:

[~~26-28-124~~]. 26B-8-323. Uniformity of application and construction.

In applying and construing [~~this~~] the uniform act in this part, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 265. Section 26B-8-324, which is renumbered from Section 26-28-125 is renumbered and amended to read:

[~~26-28-125~~]. 26B-8-324. Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. [~~Section~~] Sec. 7001 et seq., but does not modify, limit or supersede Section 101(a) of that act, 15 U.S.C. [~~Section~~] Sec. 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. [~~Section~~] Sec. 7003(b).

Section 266. Section 26B-8-401, which is renumbered from Section 26-3-1 is renumbered and amended to read:

Part 4. Health Statistics

[~~26-3-1~~]. 26B-8-401. Definitions.

As used in this [~~chapter~~] part:

(1) "Disclosure" or "disclose" means the communication of health data to any individual or organization outside the department.

(2) "Health data" means any information, except vital records as defined in Section [~~26-2-2~~] 26B-8-101, relating to the health status of individuals, the availability of health resources and services, and the use and cost of these resources and services.

(3) "Identifiable health data" means any item, collection, or grouping of health data which makes the individual supplying it or described in it identifiable.

(4) "Individual" means a natural person.

(5) "Organization" means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part of any of these.

(6) "Research and statistical purposes" means the performance of activities relating to health data, including:

(a) describing the group characteristics of individuals or organizations;

(b) analyzing the interrelationships among the various characteristics of individuals or organizations;

(c) the conduct of statistical procedures or studies to improve the quality of health data;

(d) the design of sample surveys and the selection of samples of individuals or organizations;

(e) the preparation and publication of reports describing these matters; and

(f) other related functions.

Section 267. Section 26B-8-402, which is renumbered from Section 26-3-2 is renumbered and amended to read:

[~~26-3-2~~]. 26B-8-402. Powers of department to collect and maintain health data.

The department may on a voluntary basis, except when there is specific legal authority to compel reporting of health data:

(1) collect and maintain health data on:

(a) the extent, nature, and impact of illness and disability on the population of the state;

(b) the determinants of health and health hazards;

(c) health resources, including the extent of available manpower and resources;

(d) utilization of health care;

(e) health care costs and financing; or

(f) other health or health-related matters;

(2) undertake and support research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in Subsection (1) of this section; and

(3) collect health data under other authorities and on behalf of other governmental or not-for-profit organizations.

Section 268. Section 26B-8-403, which is renumbered from Section 26-3-4 is renumbered and amended to read:

[~~26-3-4~~]. 26B-8-403. Quality and publication of statistics.

The department shall:

(1) take such actions as may be necessary to assure that statistics developed under this [~~chapter~~] part are of high quality, timely, and comprehensive, as well as specific, standardized, and adequately analyzed and indexed; and

(2) publish, make available, and disseminate such statistics on as wide a basis as practicable.

Section 269. Section 26B-8-404, which is renumbered from Section 26-3-5 is renumbered and amended to read:

[~~26-3-5~~]. 26B-8-404. Coordination of health data collection activities.

(1) The department shall coordinate health data activities within the state to eliminate unnecessary duplication of data collection and maximize the usefulness of data collected.

(2) Except as specifically provided, this [~~chapter~~] part does not independently provide authority for the department to compel the reporting of information.

Section 270. Section 26B-8-405, which is renumbered from Section 26-3-6 is renumbered and amended to read:

[~~26-3-6~~]. 26B-8-405. Uniform standards -- Powers of department.

The department may:

(1) participate and cooperate with state, local, and federal agencies and other organizations in the design and implementation of uniform standards for the management of health information at the federal, state, and local levels; and

(2) undertake and support research, development, demonstrations, and evaluations that support uniform health information standards.

Section 271. Section 26B-8-406, which is renumbered from Section 26-3-7 is renumbered and amended to read:

[~~26-3-7~~]. 26B-8-406. Disclosure of health data -- Limitations.

The department may not [~~disclose~~] make a disclosure of any identifiable health data unless:

(1) one of the following persons has consented to the disclosure:

(a) the individual;

(b) the next-of-kin if the individual is deceased;

(c) the parent or legal guardian if the individual is a minor or mentally incompetent; or

(d) a person holding a power of attorney covering such matters on behalf of the individual;

(2) the disclosure is to a governmental entity in this or another state or the federal government, provided that:

(a) the data will be used for a purpose for which they were collected by the department; and

(b) the recipient enters into a written agreement satisfactory to the department agreeing to protect such data in accordance with the requirements of this [~~chapter~~] part and department rule and not permit further disclosure without prior approval of the department;

(3) the disclosure is to an individual or organization, for a specified period, solely for bona fide research and statistical purposes, determined in accordance with department rules, and the department determines that the data are required for the research and statistical purposes proposed and the requesting individual or organization enters into a written agreement satisfactory to the department to protect the data in accordance with this [~~chapter~~] part and department rule and not permit further disclosure without prior approval of the department;

(4) the disclosure is to a governmental entity for the purpose of conducting an audit, evaluation, or investigation of the department and such governmental entity agrees not to use those data for making any determination affecting the rights, benefits, or entitlements of any individual to whom the health data relates;

(5) the disclosure is of specific medical or epidemiological information to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or agencies

responsible to enforce quarantine, when necessary to continue patient services or to undertake public health efforts to control communicable, infectious, acute, chronic, or any other disease or health hazard that the department considers to be dangerous or important or that may affect the public health;

(6) (a) the disclosure is of specific medical or epidemiological information to a "health care provider" as defined in Section 78B-3-403, health care personnel, or public health personnel who has a legitimate need to have access to the information in order to assist the patient or to protect the health of others closely associated with the patient; and

(b) this Subsection (6) does not create a duty to warn third parties;

(7) the disclosure is necessary to obtain payment from an insurer or other third-party payor in order for the department to obtain payment or to coordinate benefits for a patient; or

(8) the disclosure is to the subject of the identifiable health data.

Section 272. Section 26B-8-407, which is renumbered from Section 26-3-8 is renumbered and amended to read:

[~~26-3-8~~]. 26B-8-407. Disclosure of health data -- Discretion of department.

(1) Any disclosure provided for in Section [~~26-3-7~~] 26B-8-406 shall be made at the discretion of the department[~~, except that the~~].

(2) Notwithstanding Subsection (1), the disclosure provided for in Subsection [~~26-3-7~~] 26B-8-406(4) shall be made when the requirements of that paragraph are met.

Section 273. Section 26B-8-408, which is renumbered from Section 26-3-9 is renumbered and amended to read:

[~~26-3-9~~]. 26B-8-408. Health data not subject to subpoena or compulsory process -- Exception.

Identifiable health data obtained in the course of activities undertaken or supported under this [~~chapter~~] part may not be subject to discovery, subpoena, or similar compulsory process in any civil or criminal, judicial, administrative, or legislative proceeding, nor shall any individual or organization with lawful access to identifiable health data under the provisions of this [~~chapter~~] part be compelled to testify with regard to such health data, except that data pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this [~~chapter~~] part.

Section 274. Section 26B-8-409, which is renumbered from Section 26-3-10 is renumbered and amended to read:

[~~26-3-10~~]. 26B-8-409. Department measures to protect security of health data.

The department shall protect the security of identifiable health data by use of the following measures and any other measures adopted by rule:

(1) limit access to identifiable health data to authorized individuals who have received training in the handling of such data;

(2) designate a person to be responsible for physical security;

(3) develop and implement a system for monitoring security; and

(4) review periodically all identifiable health data to determine whether identifying characteristics should be removed from the data.

Section 275. Section 26B-8-410, which is renumbered from Section 26-3-11 is renumbered and amended to read:

[~~26-3-11~~]. 26B-8-410. Relation to other provisions.

Because [~~Chapter 2, Utah Vital Statistics Act, Chapter 4, Utah Medical Examiner Act, Chapter 6, Utah Communicable Disease Control Act, and Chapter 33a, Utah Health Data Authority Act~~] the following parts contain specific provisions regarding collection and disclosure of data, the provisions of this [~~chapter~~] part do not apply to data that is subject to [~~those chapters.~~] the following parts:

(1) Part 1, Vital Statistics;

(2) Part 2, Utah Medical Examiner; and

(3) Sections 26B-7-201 through 26B-7-223.

Section 276. Section 26B-8-411, which is renumbered from Section 26-1-37 is renumbered and amended to read:

[~~26-1-37~~]. 26B-8-411. Duty to establish standards for the electronic exchange of clinical health information -- Immunity.

(1) [~~For purposes of~~] As used in this section:

(a) "Affiliate" means an organization that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another organization.

(b) "Clinical health information" shall be defined by the department by administrative rule adopted in accordance with Subsection (2).

(c) "Electronic exchange":

(i) includes:

(A) the electronic transmission of clinical health data via Internet or extranet; and

(B) physically moving clinical health information from one location to another using magnetic tape, disk, or compact disc media; and

(ii) does not include exchange of information by telephone or fax.

(d) "Health care provider" means a licensing classification that is either:

(i) licensed under Title 58, Occupations and Professions, to provide health care; or

(ii) licensed under [~~Chapter 21~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection [~~Act~~].

(e) "Health care system" shall include:

(i) affiliated health care providers;

(ii) affiliated third party payers; and

(iii) other arrangement between organizations or providers as described by the department by administrative rule.

(f) "Qualified network" means an entity that:

(i) is a non-profit organization;

(ii) is accredited by the Electronic Healthcare Network Accreditation Commission, or another national accrediting organization recognized by the department; and

(iii) performs the electronic exchange of clinical health information among multiple health care providers not under common control, multiple third party payers not under common control, the department, and local health departments.

(g) "Third party payer" means:

(i) all insurers offering health insurance who are subject to Section 31A-22-614.5; and

(ii) the state Medicaid program.

(2) (a) [~~In addition to the duties listed in Section 26-1-30, the~~] The department shall[~~,~~] make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) define:

(A) "clinical health information" subject to this section; and

(B) "health system arrangements between providers or organizations" as described in Subsection (1)(e)(iii); and

(ii) adopt standards for the electronic exchange of clinical health information between health care providers and third party payers that are for treatment, payment, health care operations, or public health reporting, as provided for in 45 C.F.R. Parts 160, 162, and 164, Health Insurance Reform: Security Standards.

(b) The department shall coordinate its rule making authority under the provisions of this section with the rule making authority of the Insurance Department under Section 31A-22-614.5.

(c) The department shall establish procedures for developing the rules adopted under this section, which ensure that the Insurance Department is given the opportunity to comment on proposed rules.

(3) (a) Except as provided in Subsection (3)(e), a health care provider or third party payer in Utah is required to use the standards adopted by the department under the provisions of Subsection (2) if the health care provider or third party payer elects to engage in an electronic exchange of clinical health information with another health care provider or third party payer.

(b) A health care provider or third party payer may [~~disclose~~] make a disclosure of information to the department or a local health department, by electronic exchange of clinical health information, as permitted by Subsection 45 C.F.R. Sec. 164.512(b).

(c) When functioning in its capacity as a health care provider or payer, the department or a local health department may [~~disclose~~] make a disclosure of clinical health information by electronic exchange to another health care provider or third party payer.

(d) An electronic exchange of clinical health information by a health care provider, a third party payer, the department, a local health department, or a qualified network is a disclosure for treatment, payment, or health care operations if it complies with Subsection (3)(a) or (c) and is for treatment, payment, or health care operations, as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.

(e) A health care provider or third party payer is not required to use the standards adopted by the department under the provisions of Subsection (2) if the health care provider or third party payer engage in the electronic exchange of clinical health information within a particular health care system.

(4) Nothing in this section shall limit the number of networks eligible to engage in the electronic data interchange of clinical health information using the standards adopted by the department under Subsection (2)(a)(ii).

(5) (a) The department, a local health department, a health care provider, a third party payer, or a qualified network is not subject to civil liability for a disclosure of clinical health information if the disclosure is in accordance with:

(i) Subsection (3)(a); and

(ii) Subsection (3)(b), (c), or (d).

(b) The department, a local health department, a health care provider, a third party payer, or a qualified network that accesses or reviews clinical health information from or through the electronic exchange in accordance with the requirements in this section is not subject to civil liability for the access or review.

(6) Within a qualified network, information generated or [~~disclosed~~] for which a disclosure is made in the electronic exchange of clinical health information is not subject to discovery, use, or receipt in evidence in any legal proceeding of any kind or character.

Section 277. Section 26B-8-501, which is renumbered from Section 26-33a-102 is renumbered and amended to read:

Part 5. Utah Health Data Authority

[~~26-33a-102~~]. 26B-8-501. Definitions.

As used in this [~~chapter~~] part:

(1) "Committee" means the Health Data Committee created [~~by Section 26B-1-204~~] in Section 26B-1-413.

(2) "Control number" means a number assigned by the committee to an individual's health data as an identifier so that the health data can be disclosed or used in research and statistical analysis without readily identifying the individual.

(3) "Data supplier" means a health care facility, health care provider, self-funded employer, third-party payor, health maintenance organization, or government department which could reasonably be expected to provide health data under this [~~chapter~~] part.

(4) "Disclosure" or "disclose" means the communication of health care data to any individual or organization outside the committee, its staff, and contracting agencies.

(5) (a) "Health care facility" means a facility that is licensed by the department under [~~Title 26, Chapter 21~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection [~~Act~~].

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may by rule add, delete, or modify the list of facilities that come within this definition for purposes of this [~~chapter~~] part.

(6) "Health care provider" means [~~any person, partnership, association, corporation, or other facility or institution that renders or causes to be rendered health care or professional services as a physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech pathologist, certified social worker, social service worker, social service aide, marriage and family counselor, or practitioner of obstetrics, and others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons, and officers, employees, or agents of any of the above acting in the course and scope of their employment~~] the same as that term is defined in Section 78B-3-403.

(7) "Health data" means information relating to the health status of individuals, health services delivered, the availability of health manpower and facilities, and the use and costs of resources and services to the consumer, except vital records as defined in Section [~~26-2-2~~] 26B-8-101 shall be excluded.

(8) "Health maintenance organization" [~~has the meaning set forth~~] means the same as that term is defined in Section 31A-8-101.

(9) "Identifiable health data" means any item, collection, or grouping of health data that makes the individual supplying or described in the health data identifiable.

(10) "Organization" means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part thereof.

(11) "Research and statistical analysis" means activities using health data analysis including:

(a) describing the group characteristics of individuals or organizations;

(b) analyzing the noncompliance among the various characteristics of individuals or organizations;

(c) conducting statistical procedures or studies to improve the quality of health data;

(d) designing sample surveys and selecting samples of individuals or organizations; and

(e) preparing and publishing reports describing these matters.

(12) "Self-funded employer" means an employer who provides for the payment of health care services for employees directly from the employer's funds, thereby assuming the financial risks rather than passing them on to an outside insurer through premium payments.

(13) "Plan" means the plan developed and adopted by the Health Data Committee under Section [~~26-33a-104~~] 26B-1-413.

(14) "Third party payor" means:

(a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at least 2,500 enrollees in the state;

(b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) a program funded or administered by Utah for the provision of health care services, including the Medicaid and medical assistance programs described in [~~Chapter 18, Medical Assistance Act~~] Chapter 3, Part 1, Health Care Assistance; and

(d) a corporation, organization, association, entity, or person:

(i) which administers or offers a health benefit plan to at least 2,500 enrollees in the state; and

(ii) which is required by administrative rule adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the committee.

Section 278. Section 26B-8-502, which is renumbered from Section 26-33a-105 is renumbered and amended to read:

[~~26-33a-105~~]. 26B-8-502. Executive secretary -- Appointment -- Powers.

(1) An executive secretary shall be appointed by the executive director, with the approval of the committee, and shall serve under the administrative direction of the executive director.

(2) The executive secretary shall:

(a) employ full-time employees necessary to carry out this [~~chapter~~] part;

(b) supervise the development of a draft health data plan for the committee's review, modification, and approval; and

(c) supervise and conduct the staff functions of the committee in order to assist the committee in meeting its responsibilities under this [~~chapter~~] part.

Section 279. Section 26B-8-503, which is renumbered from Section 26-33a-106 is renumbered and amended to read:

[~~26-33a-106~~]. 26B-8-503. Limitations on use of health data.

The committee may not use the health data provided to it by third-party payors, health care providers, or health care facilities to make recommendations with regard to a single health care provider or health care facility, or a group of health care providers or health care facilities.

Section 280. Section 26B-8-504, which is renumbered from Section 26-33a-106.1 is renumbered and amended to read:

[~~26-33a-106.1~~]. 26B-8-504. Health care cost and reimbursement data.

(1) The committee shall, as funding is available:

(a) establish a plan for collecting data from data suppliers to determine measurements of cost and reimbursements for risk-adjusted episodes of health care;

(b) share data regarding insurance claims and an individual's and small employer group's health risk factor and characteristics of insurance arrangements that affect claims and usage with the Insurance Department, only to the extent necessary for:

(i) risk adjusting; and

(ii) the review and analysis of health insurers' premiums and rate filings; and

(c) assist the Legislature and the public with awareness of, and the promotion of, transparency in the health care market by reporting on:

(i) geographic variances in medical care and costs as demonstrated by data available to the committee; and

(ii) rate and price increases by health care providers:

(A) that exceed the Consumer Price Index - Medical as provided by the United States Bureau of Labor Statistics;

(B) as calculated yearly from June to June; and

(C) as demonstrated by data available to the committee;

(d) provide on at least a monthly basis, enrollment data collected by the committee to a not-for-profit, broad-based coalition of state health care insurers and health care providers that are involved in the standardized electronic exchange of health data as described in Section 31A-22-614.5, to the extent necessary:

(i) for the department or the Medicaid Office of the Inspector General to determine insurance enrollment of an individual for the purpose of determining Medicaid third party liability;

(ii) for an insurer that is a data supplier, to determine insurance enrollment of an individual for the purpose of coordination of health care benefits; and

(iii) for a health care provider, to determine insurance enrollment for a patient for the purpose of claims submission by the health care provider;

(e) coordinate with the State Emergency Medical Services Committee to publish data regarding air ambulance charges under Section [~~26-8a-203~~] 26B-4-106;

(f) share data collected under this [~~chapter~~] part with the state auditor for use in the health care price transparency tool described in Section 67-3-11; and

(g) publish annually a report on primary care spending within Utah.

(2) A data supplier is not liable for a breach of or unlawful disclosure of the data caused by an entity that obtains data in accordance with Subsection (1).

(3) The plan adopted under Subsection (1) shall include:

(a) the type of data that will be collected;

(b) how the data will be evaluated;

(c) how the data will be used;

(d) the extent to which, and how the data will be protected; and

(e) who will have access to the data.

Section 281. Section 26B-8-505, which is renumbered from Section 26-33a-106.5 is renumbered and amended to read:

[~~26-33a-106.5~~]. 26B-8-505. Comparative analyses.

(1) The committee may publish compilations or reports that compare and identify health care providers or data suppliers from the data it collects under this [~~chapter~~] part or from any other source.

(2) (a) Except as provided in Subsection (7)(c), the committee shall publish compilations or reports from the data it collects under this [~~chapter~~] part or from any other source which:

(i) contain the information described in Subsection (2)(b); and

(ii) compare and identify by name at least a majority of the health care facilities, health care plans, and institutions in the state.

(b) Except as provided in Subsection (7)(c), the report required by this Subsection (2) shall:

(i) be published at least annually;

(ii) list, as determined by the committee, the median paid amount for at least the top 50 medical procedures performed in the state by volume;

(iii) describe the methodology approved by the committee to determine the amounts described in Subsection (2)(b)(ii); and

(iv) contain comparisons based on at least the following factors:

(A) nationally or other generally recognized quality standards;

(B) charges; and

(C) nationally recognized patient safety standards.

(3) (a) The committee may contract with a private, independent analyst to evaluate the standard comparative reports of the committee that identify, compare, or rank the performance of data suppliers by name.

(b) The evaluation described in this Subsection (3) shall include a validation of statistical methodologies, limitations, appropriateness of use, and comparisons using standard health services research practice.

(c) The independent analyst described in Subsection (3)(a) shall be experienced in analyzing large databases from multiple data suppliers and in evaluating health care issues of cost, quality, and access.

(d) The results of the analyst's evaluation shall be released to the public before the standard comparative analysis upon which it is based may be published by the committee.

(4) [~~In~~] The committee, with the concurrence of the department, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~the committee, with the concurrence of the department, shall adopt by rule~~] to adopt a timetable for the collection and analysis of data from multiple types of data suppliers.

(5) The comparative analysis required under Subsection (2) shall be available free of charge and easily accessible to the public.

(6) (a) The department shall include in the report required by Subsection (2)(b), or include in a separate report, comparative information on commonly recognized or generally agreed upon measures of cost and quality identified in accordance with Subsection (7), for:

(i) routine and preventive care; and

(ii) the treatment of diabetes, heart disease, and other illnesses or conditions as determined by the committee.

(b) The comparative information required by Subsection (6)(a) shall be based on data collected under Subsection (2) and clinical data that may be available to the committee, and shall compare:

(i) results for health care facilities or institutions;

(ii) results for health care providers by geographic regions of the state;

(iii) a clinic's aggregate results for a physician who practices at a clinic with five or more physicians; and

(iv) a geographic region's aggregate results for a physician who practices at a clinic with less than five physicians, unless the physician requests physician-level data to be published on a clinic level.

(c) The department:

(i) may publish information required by this Subsection (6) directly or through one or more nonprofit, community-based health data organizations; and

(ii) may use a private, independent analyst under Subsection (3)(a) in preparing the report required by this section.

(d) A report published by the department under this Subsection (6):

(i) is subject to the requirements of Section [~~26-33a-107~~] 26B-8-506; and

(ii) shall, prior to being published by the department, be submitted to a neutral, non-biased entity with a broad base of support from health care payers and health care providers in accordance with Subsection (7) for the purpose of validating the report.

(7) (a) The Health Data Committee shall, through the department, for purposes of Subsection (6)(a), use the quality measures that are developed and agreed upon by a neutral, non-biased entity with a broad base of support from health care payers and health care providers.

(b) If the entity described in Subsection (7)(a) does not submit the quality measures, the department may select the appropriate number of quality measures for purposes of the report required by Subsection (6).

(c) (i) For purposes of the reports published on or after July 1, 2014, the department may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through (iv) if the department determines that the data available to the department can not be appropriately validated, does not represent nationally recognized measures, does not reflect the mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing providers.

(ii) The department shall report to the Legislature's Health and Human Services Interim Committee prior to making a determination not to publish a report under Subsection (7)(c)(i).

Section 282. Section 26B-8-506, which is renumbered from Section 26-33a-107 is renumbered and amended to read:

[~~26-33a-107~~]. 26B-8-506. Limitations on release of reports.

The committee may not release a compilation or report that compares and identifies health care providers or data suppliers unless it:

(1) allows the data supplier and the health care provider to verify the accuracy of the information submitted to the committee and submit to the committee any corrections of errors with supporting evidence and comments within a reasonable period of time to be established by rule, with the concurrence of the department, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(2) corrects data found to be in error; and

(3) allows the data supplier a reasonable amount of time prior to publication to review the committee's interpretation of the data and prepare a response.

Section 283. Section 26B-8-507, which is renumbered from Section 26-33a-108 is renumbered and amended to read:

[~~26-33a-108~~]. 26B-8-507. Disclosure of identifiable health data prohibited.

(1) (a) All information, reports, statements, memoranda, or other data received by the committee are strictly confidential.

(b) Any use, release, or publication of the information shall be done in such a way that no person is identifiable except as provided in Sections [~~26-33a-107~~] 26B-8-506 and [~~26-33a-109~~] 26B-8-508.

(2) No member of the committee may be held civilly liable by reason of having released or published reports or compilations of data supplied to the committee, so long as the publication or release is in accordance with the requirements of Subsection (1).

(3) No person, corporation, or entity may be held civilly liable for having provided data to the committee in accordance with this [~~chapter~~] part.

Section 284. Section 26B-8-508, which is renumbered from Section 26-33a-109 is renumbered and amended to read:

[~~26-33a-109~~]. 26B-8-508. Exceptions to prohibition on disclosure of identifiable health data.

(1) The committee may not disclose any identifiable health data unless:

(a) the individual has authorized the disclosure;

(b) the disclosure is to the department or a public health authority in accordance with Subsection (2); or

(c) the disclosure complies with the provisions of:

(i) Subsection (3);

(ii) insurance enrollment and coordination of benefits under Subsection [~~26-33a-106.1~~] 26B-8-504(1)(d); or

(iii) risk adjusting under Subsection [~~26-33a-106.1~~] 26B-8-504(1)(b).

(2) The committee may disclose identifiable health data to the department or a public health authority under Subsection (1)(b) if:

(a) the department or the public health authority has clear statutory authority to possess the identifiable health data; and

(b) the disclosure is solely for use:

(i) in the Utah Statewide Immunization Information System operated by the department;

(ii) in the Utah Cancer Registry operated by the University of Utah, in collaboration with the department; or

(iii) by the medical examiner, as defined in Section [~~26-4-2~~] 26B-8-201, or the medical examiner's designee.

(3) The committee shall consider the following when responding to a request for disclosure of information that may include identifiable health data:

(a) whether the request comes from a person after that person has received approval to do the specific research or statistical work from an institutional review board; and

(b) whether the requesting entity complies with the provisions of Subsection (4).

(4) A request for disclosure of information that may include identifiable health data shall:

(a) be for a specified period; or

(b) be solely for bona fide research or statistical purposes as determined in accordance with administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall require:

(i) the requesting entity to demonstrate to the department that the data is required for the research or statistical purposes proposed by the requesting entity; and

(ii) the requesting entity to enter into a written agreement satisfactory to the department to protect the data in accordance with this [~~chapter~~] part or other applicable law.

(5) A person accessing identifiable health data pursuant to Subsection (4) may not further disclose the identifiable health data:

(a) without prior approval of the department; and

(b) unless the identifiable health data is disclosed or identified by control number only.

(6) Identifiable health data that has been designated by a data supplier as being subject to regulation under 42 C.F.R. Part 2, Confidentiality of Substance Use Disorder Patient Records, may only be used or disclosed in accordance with applicable federal regulations.

Section 285. Section 26B-8-509, which is renumbered from Section 26-33a-110 is renumbered and amended to read:

[~~26-33a-110~~]. 26B-8-509. Penalties.

(1) Any use, release, or publication of health care data contrary to the provisions of Sections [~~26-33a-108 and 26-33a-109~~] 26B-8-507 and 26B-8-508 is a class A misdemeanor.

(2) Subsection (1) does not relieve the person or organization responsible for that use, release, or publication from civil liability.

Section 286. Section 26B-8-510, which is renumbered from Section 26-33a-111 is renumbered and amended to read:

[~~26-33a-111~~]. 26B-8-510. Health data not subject to subpoena or compulsory process -- Exception.

Identifiable health data obtained in the course of activities undertaken or supported under this [~~chapter~~] part are not subject to subpoena or similar compulsory process in any civil or criminal, judicial, administrative, or legislative proceeding, nor shall any individual or organization with lawful access to identifiable health data under the provisions of this [~~chapter~~] part be compelled to testify with regard to such health data, except that data pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this [~~chapter~~] part.

Section 287. Section 26B-8-511, which is renumbered from Section 26-33a-115 is renumbered and amended to read:

[~~26-33a-115~~]. 26B-8-511. Consumer-focused health care delivery and payment reform demonstration project.

(1) The Legislature finds that:

(a) current health care delivery and payment systems do not provide system wide incentives for the competitive delivery and pricing of health care services to consumers;

(b) there is a compelling state interest to encourage consumers to seek high quality, low cost care and educate themselves about health care options;

(c) some health care providers and health care payers have developed consumer-focused ideas for health care delivery and payment system reform, but lack the critical number of patient lives and payer involvement to accomplish system-wide consumer-focused reform; and

(d) there is a compelling state interest to encourage as many health care providers and health care payers to join together and coordinate efforts at consumer-focused health care delivery and payment reform that would provide to consumers enrolled in a high-deductible health plan:

(i) greater choice in health care options;

(ii) improved services through competition; and

(iii) more affordable options for care.

(2) (a) The department shall meet with health care providers and health care payers for the purpose of coordinating a demonstration project for consumer-based health care delivery and payment reform.

(b) Participation in the coordination efforts is voluntary, but encouraged.

(3) The department, in order to facilitate the coordination of a demonstration project for consumer-based health care delivery and payment reform, shall convene and consult with pertinent entities including:

(a) the Utah Insurance Department;

(b) the Office of Consumer [~~Health~~] Services;

(c) the Utah Medical Association;

(d) the Utah Hospital Association; and

(e) neutral, non-biased third parties with an established record for broad based, multi-provider and multi-payer quality assurance efforts and data collection.

(4) The department shall supervise the efforts by entities under Subsection (3) regarding:

(a) applying for and obtaining grant funding and other financial assistance that may be available for demonstrating consumer-based improvements to health care delivery and payment;

(b) obtaining and analyzing information and data related to current health system utilization and costs to consumers; and

(c) consulting with those health care providers and health care payers who elect to participate in the consumer-based health delivery and payment demonstration project.

[~~(5) The executive director shall report to the Health System Reform Task Force by January 1, 2015, regarding the progress toward coordination of consumer-focused health care system payment and delivery reform.~~]

Section 288. Section 26B-8-512, which is renumbered from Section 26-33a-116 is renumbered and amended to read:

[~~26-33a-116~~]. 26B-8-512. Health care billing data.

(1) Subject to Subsection (2), the department shall make aggregate data produced under this [~~chapter~~] part available to the public through a standardized application program interface format.

(2) (a) The department shall ensure that data made available to the public under Subsection (1):

(i) does not contain identifiable health data of a patient; and

(ii) meets state and federal data privacy requirements, including the requirements of Section [~~26-33a-107~~] 26B-8-506.

(b) The department may not release any data under Subsection (1) that may be identifiable health data of a patient.

Section 289. Section 26B-8-513, which is renumbered from Section 26-33a-117 is renumbered and amended to read:

[~~26-33a-117~~]. 26B-8-513. Identifying potential overuse of non-evidence-based health care.

(1) The department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with an entity to provide a nationally-recognized health waste calculator that:

(a) uses principles such as the principles of the Choosing Wisely initiative of the American Board of Internal Medicine Foundation; and

(b) is approved by the committee.

(2) The department shall use the calculator described in Subsection (1) to:

(a) analyze the data in the state's All Payer Claims Database; and

(b) flag data entries that the calculator identifies as potential overuse of non- evidence-based health care.

(3) The department, or a third party organization that the department contracts with in accordance with Title 63G, Chapter 6a, Utah Procurement Code, shall:

(a) analyze the data described in Subsection (2)(b);

(b) review current scientific literature about medical services that are best practice;

(c) review current scientific literature about eliminating duplication in health care;

(d) solicit input from Utah health care providers, health systems, insurers, and other stakeholders regarding duplicative health care quality initiatives and instances of non-alignment in metrics used to measure health care quality that are required by different health systems;

(e) solicit input from Utah health care providers, health systems, insurers, and other stakeholders on methods to avoid overuse of non-evidence-based health care; and

(f) present the results of the analysis, research, and input described in Subsections (3)(a) through (e) to the committee.

(4) The committee shall:

(a) make recommendations for action and opportunities for improvement based on the results described in Subsection (3)(f);

(b) make recommendations on methods to bring into alignment the various health care quality metrics different entities in the state use; and

(c) identify priority issues and recommendations to include in an annual report.

(5) The department, or the third party organization described in Subsection (3) shall:

(a) compile the report described in Subsection (4)(c); and

(b) submit the report to the committee for approval.

(6) Beginning in 2021, on or before November 1 each year, the department shall submit the report approved in Subsection (5)(b) to the Health and Human Services Interim Committee.

Section 290. Section 26B-8-514, which is renumbered from Section 26-70-102 is renumbered and amended to read:

[~~26-70-102~~]. 26B-8-514. Standard health record access form.

(1) As used in this section:

(a) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(b) "Patient" means the individual whose information is being requested.

(c) "Personal representative" means an individual described in 45 C.F.R. Sec. 164.502(g).

[~~(1)~~] (2) Before December 31, 2022, the department shall create a standard form that:

(a) is compliant with HIPAA and 42 C.F.R. Part 2; and

(b) a patient or a patient's personal representative may use to request that a copy of the patient's health records be sent to any of the following:

(i) the patient;

(ii) the patient's personal representative;

(iii) the patient's attorney; or

(iv) a third party authorized by the patient.

[~~(2)~~] (3) The form described in Subsection (2) shall include fields for:

(a) the patient's name;

(b) the patient's date of birth;

(c) the patient's phone number;

(d) the patient's address;

(e) (i) the patient's signature and date of signature, which may not require notarization; or

(ii) the signature of the patient's personal representative and date of signature, which may not require notarization;

(f) the name, address, and phone number of the person to which the information will be disclosed;

(g) the records requested, including whether the patient is requesting paper or electronic records;

(h) the duration of time the authorization is valid; and

(i) the dates of service requested.

[~~(3)~~] (4) The form described in Subsection (2) shall include the following options for the field described in Subsection [~~(2)~~] (3)(g):

(a) history and physical examination records;

(b) treatment plans;

(c) emergency room records;

(d) radiology and lab reports;

(e) operative reports;

(f) pathology reports;

(g) consultations;

(h) discharge summary;

(i) outpatient clinic records and progress notes;

(j) behavioral health evaluation;

(k) behavioral health discharge summary;

(l) mental health therapy records;

(m) financial information including an itemized billing statement;

(n) health insurance claim form;

(o) billing form; and

(p) other.

Section 291. Coordinating S.B. 39 with S.B. 93 -- Substantive and technical amendments.

If this S.B. 39 and S.B. 93, Birth Certificate Modifications, both pass and become law, it is the intent of the Legislature that on May 3, 2023, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) in Section 26B-8-101 in this bill:

(a) enacting the amendment to Subsection 26-2-2(2) in S.B. 93 as a new Subsection 26B-8-101(2) in this S.B. 39 that reads:

"(2) "Biological sex at birth" means an individual's sex, as being male or female,according to distinct reproductive roles as manifested by sex and reproductive organ anatomy, chromosomal makeup, and endogenous hormone profiles.";

(b) enacting the amendment to Subsection 26-2-2(14) in S.B. 93 as a new Subsection 26B-8-101(14) in this S.B. 39 that reads:

"(14) "Intersex individual" means an individual who:

(a) is born with external biological sex characteristics that are irresolvably ambiguous;

(b) is born with 46, XX chromosomes with virilization;

(c) is born with 46, XY chromosomes with undervirilization;

(d) has both ovarian and testicular tissue; or

(e) has been diagnosed by a physician, based on genetic or biochemical testing, with abnormal:

(i) sex chromosome structure;

(ii) sex steroid hormone production; or

(iii) sex steroid hormone action for a male or female."; and

(c) renumbering the subsections in Section 26B-8-101 accordingly; and

(2) renumbering Section 26-2-11 in S.B. 93 to Section 26B-8-111..

Section 292. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) not enroll this bill if any of the following bills do not pass:

(a) S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;

(b) S.B. 40, Health and Human Services Recodification - Health Care Delivery and Repeals; or

(c) S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health; and

(2) in any new language added to the Utah Code by legislation passed during the 2023 General Session, replace any references to Title 26 or 62A with the renumbered reference as it is renumbered in this bill.

CHAPTER 307
S. B. 40
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH AND HUMAN SERVICES RECODIFICATION -HEALTH CARE DELIVERY AND REPEALS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill recodifies and repeals portions of the Utah Health Code and Utah Human Services Code.

Highlighted Provisions:

This bill:

- recodifies provisions regarding health care delivery and access;
- repeals certain sections in the Utah Health Code and Utah Human Services Code that are no longer needed following the recodification; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

26B-4-101, as enacted by Laws of Utah 2022, Chapter 255

RENUMBERS AND AMENDS:

26B-4-102, (Renumbered from 26-8a-105, as last amended by Laws of Utah 2019, Chapter 265)

26B-4-103, (Renumbered from 26-8a-106, as last amended by Laws of Utah 2017, Chapter 326)

26B-4-104, (Renumbered from 26-8a-201, as enacted by Laws of Utah 1999, Chapter 141)

26B-4-105, (Renumbered from 26-8a-202, as enacted by Laws of Utah 1999, Chapter 141)

26B-4-106, (Renumbered from 26-8a-203, as last amended by Laws of Utah 2022, Chapter 387)

26B-4-107, (Renumbered from 26-8a-207, as last amended by Laws of Utah 2020, Chapters 215 and 230)

26B-4-108, (Renumbered from 26-8a-208, as last amended by Laws of Utah 2022, Chapter 255)

26B-4-109, (Renumbered from 26-8a-210, as enacted by Laws of Utah 2020, Chapter 215)

26B-4-110, (Renumbered from 26-8a-212, as enacted by Laws of Utah 2022, Chapter 404)

26B-4-111, (Renumbered from 26-8a-250, as enacted by Laws of Utah 2000, Chapter 305)

26B-4-112, (Renumbered from 26-8a-252, as enacted by Laws of Utah 2000, Chapter 305)

26B-4-113, (Renumbered from 26-8a-253, as last amended by Laws of Utah 2011, Chapter 297)

26B-4-114, (Renumbered from 26-8a-254, as enacted by Laws of Utah 2000, Chapter 305)

26B-4-115, (Renumbered from 26-8a-301, as last amended by Laws of Utah 2021, Chapter 237)

26B-4-116, (Renumbered from 26-8a-302, as last amended by Laws of Utah 2022, Chapters 255 and 460)

26B-4-117, (Renumbered from 26-8a-303, as last amended by Laws of Utah 2019, Chapter 265)

26B-4-118, (Renumbered from 26-8a-304, as last amended by Laws of Utah 2019, Chapter 265)

26B-4-119, (Renumbered from 26-8a-305, as enacted by Laws of Utah 1999, Chapter 141)

26B-4-120, (Renumbered from 26-8a-306, as last amended by Laws of Utah 2021, Chapter 237)

26B-4-121, (Renumbered from 26-8a-307, as last amended by Laws of Utah 2021, Chapter 208)

26B-4-122, (Renumbered from 26-8a-308, as last amended by Laws of Utah 2017, Chapter 326)

26B-4-123, (Renumbered from 26-8a-309, as enacted by Laws of Utah 1999, Chapter 141)

26B-4-124, (Renumbered from 26-8a-310, as last amended by Laws of Utah 2022, Chapters 255, 335, and 415)

26B-4-125, (Renumbered from 26-8a-310.5, as enacted by Laws of Utah 2021, Chapter 237)

26B-4-126, (Renumbered from 26-8a-501, as last amended by Laws of Utah 2017, Chapter 326)

26B-4-127, (Renumbered from 26-8a-502, as last amended by Laws of Utah 2021, Chapter 237)

26B-4-128, (Renumbered from 26-8a-502.1, as enacted by Laws of Utah 2022, Chapter 457)

26B-4-129, (Renumbered from 26-8a-503, as last amended by Laws of Utah 2019, Chapter 346)

26B-4-130, (Renumbered from 26-8a-504, as last amended by Laws of Utah 2008, Chapter 382)

26B-4-131, (Renumbered from 26-8a-505, as enacted by Laws of Utah 1999, Chapter 141)

26B-4-132, (Renumbered from 26-8a-506, as last amended by Laws of Utah 2017, Chapter 326)

26B-4-133, (Renumbered from 26-8a-507, as enacted by Laws of Utah 1999, Chapter 141)
26B-4-134, (Renumbered from 26-8a-601, as last amended by Laws of Utah 2021, Chapter 237)
26B-4-135, (Renumbered from 26-8a-602, as enacted by Laws of Utah 2019, Chapter 262)
26B-4-136, (Renumbered from 26-8a-603, as enacted by Laws of Utah 2022, Chapter 347)
26B-4-137, (Renumbered from 26-8c-102, as enacted by Laws of Utah 2016, Chapter 97)
26B-4-150, (Renumbered from 26-8a-401, as last amended by Laws of Utah 2021, Chapter 265)
26B-4-151, (Renumbered from 26-8a-402, as last amended by Laws of Utah 2021, Chapter 265)
26B-4-152, (Renumbered from 26-8a-403, as last amended by Laws of Utah 2006, Chapter 209)
26B-4-153, (Renumbered from 26-8a-404, as last amended by Laws of Utah 2022, Chapter 351)
26B-4-154, (Renumbered from 26-8a-405, as last amended by Laws of Utah 2019, Chapter 390)
26B-4-155, (Renumbered from 26-8a-405.1, as last amended by Laws of Utah 2021, Chapter 265)
26B-4-156, (Renumbered from 26-8a-405.2, as last amended by Laws of Utah 2011, Chapter 297)
26B-4-157, (Renumbered from 26-8a-405.3, as last amended by Laws of Utah 2021, Chapter 355)
26B-4-158, (Renumbered from 26-8a-405.4, as last amended by Laws of Utah 2021, Chapter 265)
26B-4-159, (Renumbered from 26-8a-405.5, as last amended by Laws of Utah 2021, Chapter 265)
26B-4-160, (Renumbered from 26-8a-406, as last amended by Laws of Utah 2011, Chapter 297)
26B-4-161, (Renumbered from 26-8a-407, as last amended by Laws of Utah 2008, Chapter 382)
26B-4-162, (Renumbered from 26-8a-408, as last amended by Laws of Utah 2017, Chapter 326)
26B-4-163, (Renumbered from 26-8a-409, as last amended by Laws of Utah 2017, Chapter 326)
26B-4-164, (Renumbered from 26-8a-410, as last amended by Laws of Utah 2011, Chapter 297)
26B-4-165, (Renumbered from 26-8a-411, as last amended by Laws of Utah 2003, Chapter 213)
26B-4-166, (Renumbered from 26-8a-412, as enacted by Laws of Utah 1999, Chapter 141)
26B-4-167, (Renumbered from 26-8a-413, as last amended by Laws of Utah 2022, Chapter 274)
26B-4-168, (Renumbered from 26-8a-414, as last amended by Laws of Utah 2008, Chapter 382)
26B-4-169, (Renumbered from 26-8a-415, as enacted by Laws of Utah 1999, Chapter 141)
26B-4-170, (Renumbered from 26-8a-416, as last amended by Laws of Utah 2022, Chapter 351)
26B-4-201, (Renumbered from 26-61a-102, as last amended by Laws of Utah 2022, Chapters 290 and 452)
26B-4-202, (Renumbered from 26-61a-103, as last amended by Laws of Utah 2022, Chapters 290 and 415)
26B-4-203, (Renumbered from 26-61a-104, as last amended by Laws of Utah 2022, Chapters 277 and 452)
26B-4-204, (Renumbered from 26-61a-106, as last amended by Laws of Utah 2022, Chapters 415 and 452)
26B-4-205, (Renumbered from 26-61a-107, as last amended by Laws of Utah 2021, Chapter 337)
26B-4-206, (Renumbered from 26-61a-108, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1)
26B-4-207, (Renumbered from 26-61a-111, as last amended by Laws of Utah 2022, Chapters 174, 256, and 290)
26B-4-208, (Renumbered from 26-61a-112, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1)
26B-4-209, (Renumbered from 26-61a-113, as last amended by Laws of Utah 2020, Chapters 12 and 354)
26B-4-210, (Renumbered from 26-61a-114, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1)
26B-4-211, (Renumbered from 26-61a-115, as enacted by Laws of Utah 2019, First Special Session, Chapter 5)
26B-4-212, (Renumbered from 26-61-103, as enacted by Laws of Utah 2017, Chapter 398)
26B-4-213, (Renumbered from 26-61a-201, as last amended by Laws of Utah 2022, Chapters 198, 290, and 452)
26B-4-214, (Renumbered from 26-61a-202, as last amended by Laws of Utah 2022, Chapters 290 and 452)
26B-4-215, (Renumbered from 26-61a-203, as last amended by Laws of Utah 2019, First Special Session, Chapter 5)
26B-4-216, (Renumbered from 26-61a-204, as last amended by Laws of Utah 2022, Chapters 198 and 290)
26B-4-217, (Renumbered from 26-61a-401, as last amended by Laws of Utah 2022, Chapters 290 and 415)

26B-4-218, (Renumbered from 26-61a-402, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1)
26B-4-219, (Renumbered from 26-61a-403, as last amended by Laws of Utah 2022, Chapters 415 and 452)
26B-4-220, (Renumbered from 26-61a-701, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1)
26B-4-221, (Renumbered from 26-61a-702, as last amended by Laws of Utah 2022, Chapter 452)
26B-4-222, (Renumbered from 26-61a-703, as last amended by Laws of Utah 2022, Chapter 97)
26B-4-223, (Renumbered from 26-61a-116, as enacted by Laws of Utah 2022, Chapter 452)
26B-4-224, (Renumbered from 26-61a-301, as last amended by Laws of Utah 2022, Chapter 290)
26B-4-225, (Renumbered from 26-61a-302, as last amended by Laws of Utah 2019, First Special Session, Chapter 5)
26B-4-226, (Renumbered from 26-61a-303, as last amended by Laws of Utah 2022 Chapters 290 and 415)
26B-4-227, (Renumbered from 26-61a-304, as last amended by Laws of Utah 2019, First Special Session, Chapter 5)
26B-4-228, (Renumbered from 26-61a-305, as last amended by Laws of Utah 2022, Chapter 290)
26B-4-229, (Renumbered from 26-61a-501, as last amended by Laws of Utah 2022, Chapters 290 and 415)
26B-4-230, (Renumbered from 26-61a-502, as last amended by Laws of Utah 2022, Chapter 290)
26B-4-231, (Renumbered from 26-61a-503, as last amended by Laws of Utah 2022, Chapter 415)
26B-4-232, (Renumbered from 26-61a-504, as last amended by Laws of Utah 2021, Chapter 350)
26B-4-233, (Renumbered from 26-61a-505, as last amended by Laws of Utah 2022, Chapter 452 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 290)
26B-4-234, (Renumbered from 26-61a-506, as last amended by Laws of Utah 2022, Chapter 415)
26B-4-235, (Renumbered from 26-61a-507, as last amended by Laws of Utah 2020, Chapter 12)
26B-4-236, (Renumbered from 26-61a-601, as last amended by Laws of Utah 2021, Chapter 337)
26B-4-237, (Renumbered from 26-61a-602, as last amended by Laws of Utah 2020, Chapter 354)
26B-4-238, (Renumbered from 26-61a-603, as last amended by Laws of Utah 2020, Chapter 12)
26B-4-239, (Renumbered from 26-61a-604, as last amended by Laws of Utah 2022, Chapters 290 and 452)
26B-4-240, (Renumbered from 26-61a-605, as last amended by Laws of Utah 2022, Chapter 415)
26B-4-241, (Renumbered from 26-61a-606, as last amended by Laws of Utah 2022, Chapters 290 and 415)
26B-4-242, (Renumbered from 26-61a-607, as last amended by Laws of Utah 2022, Chapter 452)
26B-4-301, (Renumbered from 26-10b-101, as last amended by Laws of Utah 2022, Chapter 255)
26B-4-302, (Renumbered from 26-8b-201, as enacted by Laws of Utah 2009, Chapter 22)
26B-4-303, (Renumbered from 26-8b-202, as enacted by Laws of Utah 2009, Chapter 22)
26B-4-304, (Renumbered from 26-8b-301, as last amended by Laws of Utah 2013, Chapter 98)
26B-4-305, (Renumbered from 26-8b-302, as enacted by Laws of Utah 2009, Chapter 22)
26B-4-306, (Renumbered from 26-8b-303, as last amended by Laws of Utah 2013, Chapter 98)
26B-4-307, (Renumbered from 26-8b-401, as enacted by Laws of Utah 2009, Chapter 22)
26B-4-308, (Renumbered from 26-8b-402, as enacted by Laws of Utah 2013, Chapter 98)
26B-4-309, (Renumbered from 26-8b-501, as enacted by Laws of Utah 2013, Chapter 98)
26B-4-310, (Renumbered from 26-10b-102, as last amended by Laws of Utah 2014, Chapter 384)
26B-4-311, (Renumbered from 26-10b-103, as last amended by Laws of Utah 2014, Chapter 384)
26B-4-312, (Renumbered from 26-10b-104, as last amended by Laws of Utah 2014, Chapter 384)
26B-4-313, (Renumbered from 26-10b-107, as enacted by Laws of Utah 2014, Chapter 384)
26B-4-314, (Renumbered from 26-9-1, as enacted by Laws of Utah 1981, Chapter 126)
26B-4-315, (Renumbered from 26-9-2, as enacted by Laws of Utah 1981, Chapter 126)
26B-4-316, (Renumbered from 26-9-3, as last amended by Laws of Utah 2001, Chapter 95)
26B-4-317, (Renumbered from 26-9-5, as enacted by Laws of Utah 2012, Chapter 408)
26B-4-318, (Renumbered from 26-10-2, as last amended by Laws of Utah 2011, Chapters 147, 366 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 366)

26B-4-319, (Renumbered from 26-10-6, as last amended by Laws of Utah 2022, Chapter 255)
26B-4-320, (Renumbered from 26-10-7, as enacted by Laws of Utah 1981, Chapter 126)
26B-4-321, (Renumbered from 26-10-9, as last amended by Laws of Utah 2022, Chapter 430)
26B-4-322, (Renumbered from 26-10-11, as last amended by Laws of Utah 2021, Chapter 50)
26B-4-323, (Renumbered from 26-10-13, as enacted by Laws of Utah 2017, Chapter 351)
26B-4-324, (Renumbered from 26-47-103, as last amended by Laws of Utah 2017, Chapter 181)
26B-4-401, (Renumbered from 26-53-102, as last amended by Laws of Utah 2013, Chapter 18)
26B-4-402, (Renumbered from 26-10-5, as last amended by Laws of Utah 2016, Chapter 144)
26B-4-403, (Renumbered from 26-53-201, as enacted by Laws of Utah 2011, Chapter 97)
26B-4-404, (Renumbered from 26-53-301, as enacted by Laws of Utah 2011, Chapter 97)
26B-4-405, (Renumbered from 26-53-401, as last amended by Laws of Utah 2014, Chapter 165)
26B-4-406, (Renumbered from 26-41-103, as last amended by Laws of Utah 2019, Chapter 236)
26B-4-407, (Renumbered from 26-41-104, as last amended by Laws of Utah 2019, Chapter 236)
26B-4-408, (Renumbered from 26-41-104.1, as enacted by Laws of Utah 2019, Chapter 236)
26B-4-409, (Renumbered from 26-41-105, as last amended by Laws of Utah 2020, Chapter 372)
26B-4-410, (Renumbered from 26-41-106, as last amended by Laws of Utah 2019, Chapter 236)
26B-4-411, (Renumbered from 26-41-107, as last amended by Laws of Utah 2019, Chapter 236)
26B-4-501, (Renumbered from 26-64-102, as last amended by Laws of Utah 2022, Chapter 415)
26B-4-502, (Renumbered from 26-21b-201, as last amended by Laws of Utah 2010, Chapter 140)
26B-4-503, (Renumbered from 26-64-103, as enacted by Laws of Utah 2018, Chapter 295)
26B-4-504, (Renumbered from 26-64-104, as enacted by Laws of Utah 2018, Chapter 295)
26B-4-505, (Renumbered from 26-64-105, as enacted by Laws of Utah 2018, Chapter 295)
26B-4-506, (Renumbered from 26-64-106, as enacted by Laws of Utah 2018, Chapter 295)
26B-4-507, (Renumbered from 26-64-107, as enacted by Laws of Utah 2018, Chapter 295)
26B-4-508, (Renumbered from 26-55-103, as enacted by Laws of Utah 2014, Chapter 130)
26B-4-509, (Renumbered from 26-55-104, as last amended by Laws of Utah 2017, Chapters 181 and 392)
26B-4-510, (Renumbered from 26-55-105, as last amended by Laws of Utah 2022, Chapter 415)
26B-4-511, (Renumbered from 26-55-106, as last amended by Laws of Utah 2017, Chapter 392)
26B-4-512, (Renumbered from 26-55-107, as enacted by Laws of Utah 2016, Chapter 202 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 207)
26B-4-513, (Renumbered from 26-55-108, as last amended by Laws of Utah 2022, Chapter 415)
26B-4-514, (Renumbered from 26-55-109, as enacted by Laws of Utah 2018, Chapter 145)
26B-4-601, (Renumbered from 26-67-102, as last amended by Laws of Utah 2022, Chapter 255)
26B-4-602, (Renumbered from 26-67-201, as enacted by Laws of Utah 2020, Chapter 169)
26B-4-603, (Renumbered from 26-67-203, as enacted by Laws of Utah 2020, Chapter 169)
26B-4-604, (Renumbered from 26-67-204, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4)
26B-4-701, (Renumbered from 26-46a-102, as last amended by Laws of Utah 2018, Chapter 330)
26B-4-702, (Renumbered from 26-46-102, as last amended by Laws of Utah 2020, Chapter 56)
26B-4-703, (Renumbered from 26-46a-103, as enacted by Laws of Utah 2015, Chapter 136)
26B-4-704, (Renumbered from 26-60-103, as last amended by Laws of Utah 2021, Chapter 64)
26B-4-705, (Renumbered from 26-69-301, as enacted by Laws of Utah 2022, Chapter 224)
26B-4-706, (Renumbered from 26-69-402, as renumbered and amended by Laws of Utah 2022, Chapter 224)
26B-4-707, (Renumbered from 26-69-403, as renumbered and amended by Laws of Utah 2022, Chapter 224)
26B-4-708, (Renumbered from 26-69-404, as renumbered and amended by Laws of Utah 2022, Chapter 224)

26B-4-709, (Renumbered from 26-69-405, as last amended by Laws of Utah 2022, Chapter 415 and renumbered and amended by Laws of Utah 2022, Chapter 224 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 415)
26B-4-710, (Renumbered from 26-69-406, as renumbered and amended by Laws of Utah 2022, Chapter 224)
26B-4-711, (Renumbered from 26-69-407, as enacted by Laws of Utah 2022, Chapter 154 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154)
26B-4-712, (Renumbered from 26-69-408, as enacted by Laws of Utah 2022, Chapter 154 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154)
26B-4-801, (Renumbered from 26-49-102, as last amended by Laws of Utah 2022, Chapter 255)
26B-4-802, (Renumbered from 26-49-103, as last amended by Laws of Utah 2021, Chapter 188)
26B-4-803, (Renumbered from 26-49-201, as last amended by Laws of Utah 2021, Chapter 188)
26B-4-804, (Renumbered from 26-49-202, as last amended by Laws of Utah 2021, Chapter 188)
26B-4-805, (Renumbered from 26-49-203, as last amended by Laws of Utah 2021, Chapter 188)
26B-4-806, (Renumbered from 26-49-204, as last amended by Laws of Utah 2021, Chapter 188)
26B-4-807, (Renumbered from 26-49-205, as last amended by Laws of Utah 2022, Chapter 415)
26B-4-808, (Renumbered from 26-49-301, as enacted by Laws of Utah 2008, Chapter 242)
26B-4-809, (Renumbered from 26-49-401, as enacted by Laws of Utah 2008, Chapter 242)
26B-4-810, (Renumbered from 26-49-501, as enacted by Laws of Utah 2008, Chapter 242)
26B-4-811, (Renumbered from 26-49-601, as enacted by Laws of Utah 2008, Chapter 242)
26B-4-812, (Renumbered from 26-49-701, as last amended by Laws of Utah 2011, Chapter 297)

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26-1-2, as last amended by Laws of Utah 2022, Chapter 255
26-1-7.5, as last amended by Laws of Utah 2011, Chapter 297
26-2-1, as last amended by Laws of Utah 1995, Chapter 202
26-2-2, as last amended by Laws of Utah 2022, Chapter 415
26-4-1, as enacted by Laws of Utah 1981, Chapter 126
26-5-2, as enacted by Laws of Utah 1981, Chapter 126
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26-6-1, as enacted by Laws of Utah 1981, Chapter 126
26-6-12, as enacted by Laws of Utah 1981, Chapter 126
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26-6-14, as enacted by Laws of Utah 1981, Chapter 126
26-6b-2, as last amended by Laws of Utah 2006, Chapter 185
26-8a-101, as enacted by Laws of Utah 1999, Chapter 141
26-8a-211, as enacted by Laws of Utah 2020, Chapter 215
26-8b-101, as enacted by Laws of Utah 2009, Chapter 22
26-8b-102, as last amended by Laws of Utah 2015, Chapter 411
26-8b-601, as enacted by Laws of Utah 2013, Chapter 99
26-8c-101, as enacted by Laws of Utah 2016, Chapter 97
26-8d-101, as enacted by Laws of Utah 2018, Chapter 104
26-9f-101, as last amended by Laws of Utah 2004, Chapter 33
26-9f-102, as last amended by Laws of Utah 2008, Chapter 46
26-9f-104, as last amended by Laws of Utah 2018, Chapter 125
26-10-1, as last amended by Laws of Utah 2019, Chapter 124
26-15-1, as last amended by Laws of Utah 2020, Chapter 311
26-15-5.1, as enacted by Laws of Utah 2014, Chapter 327
26-15-12, as last amended by Laws of Utah 1994, Chapter 281
26-15a-101, as enacted by Laws of Utah 1998, Chapter 345
26-15a-103, as enacted by Laws of Utah 1998, Chapter 345
26-15a-107, as enacted by Laws of Utah 1998, Chapter 345
26-15b-101, as enacted by Laws of Utah 2020, Chapter 189
26-15b-102, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
26-15b-103, as enacted by Laws of Utah 2020, Chapter 189
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26-15c-103, as enacted by Laws of Utah 2021, Chapter 417
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26-18-1, as enacted by Laws of Utah 1981, Chapter 126
26-18-2, as last amended by Laws of Utah 2019, Chapter 393
26-18-402.5, as last amended by Laws of Utah 2022, Chapter 40
26-18-501, as last amended by Laws of Utah 2019, Chapter 393
26-18-601, as enacted by Laws of Utah 2011, Chapter 362
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26-19-101, as renumbered and amended by Laws of Utah 2018, Chapter 443
26-20-1, as last amended by Laws of Utah 2007, Chapter 48
26-21-1, as last amended by Laws of Utah 1997, Chapter 209
26-21-4, as last amended by Laws of Utah 2010, Chapter 286
26-21-5, as last amended by Laws of Utah 2016, Chapter 74
26-21-100, as enacted by Laws of Utah 2012, Chapter 328
26-21-203, as enacted by Laws of Utah 2012, Chapter 328
26-21-205, as enacted by Laws of Utah 2012, Chapter 328
26-21-206, as enacted by Laws of Utah 2012, Chapter 328
26-21-207, as enacted by Laws of Utah 2012, Chapter 328
26-21-208, as enacted by Laws of Utah 2012, Chapter 328
26-21-210, as enacted by Laws of Utah 2012, Chapter 328
26-21-301, as last amended by Laws of Utah 2018, Chapter 220
26-21-302, as last amended by Laws of Utah 2018, Chapter 220
26-21-304, as enacted by Laws of Utah 2016, Chapter 141
26-21a-201, as enacted by Laws of Utah 1991, Chapter 126
26-21b-101, as enacted by Laws of Utah 2009, Chapter 266
26-21b-102, as last amended by Laws of Utah 2010, Chapter 140
26-21b-301, as enacted by Laws of Utah 2009, Chapter 266
26-21c-101, as enacted by Laws of Utah 2020, Chapter 406
26-21c-102, as enacted by Laws of Utah 2020, Chapter 406
26-21c-104, as enacted by Laws of Utah 2020, Chapter 406
26-23a-1, as last amended by Laws of Utah 1996, Chapter 23
26-23a-3, as enacted by Laws of Utah 1988, Chapter 238
26-23b-101, as enacted by Laws of Utah 2002, Chapter 155
26-25-2, as last amended by Laws of Utah 2008, Chapter 382
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26-25-4, as last amended by Laws of Utah 2003, Chapter 242
26-25-5, as last amended by Laws of Utah 2011, Chapter 297
26-26-1, as enacted by Laws of Utah 1981, Chapter 126
26-26-2, as enacted by Laws of Utah 1981, Chapter 126
26-26-4, as last amended by Laws of Utah 1989, Chapter 80
26-26-5, as enacted by Laws of Utah 1981, Chapter 126
26-26-6, as enacted by Laws of Utah 1981, Chapter 126
26-26-7, as last amended by Laws of Utah 1989, Chapter 80
26-28-101, as enacted by Laws of Utah 2007, Chapter 60
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26-31-202, as enacted by Laws of Utah 2011, Chapter 90
26-33a-101, as enacted by Laws of Utah 1990, Chapter 305
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26-34-1, as enacted by Laws of Utah 1989, Chapter 276
26-34-2, as last amended by Laws of Utah 2020, Chapter 353
26-35a-101, as enacted by Laws of Utah 2004, Chapter 284
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26-37a-101, as enacted by Laws of Utah 2015, Chapter 440
26-38-1, as enacted by Laws of Utah 1994, Chapter 281
26-38-2, as last amended by Laws of Utah 2020, Chapter 347
26-38-3.5, as enacted by Laws of Utah 1995, Chapter 125
26-38-6, as last amended by Laws of Utah 2007, Chapter 44
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26-40-101, as enacted by Laws of Utah 1998, Chapter 360
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26-41-102, as last amended by Laws of Utah 2020, Chapter 372
26-43-101, as enacted by Laws of Utah 1998, Chapter 73
26-43-103, as last amended by Laws of Utah 2008, Chapter 382
26-46-101, as last amended by Laws of Utah 2020, Chapter 56
26-46a-101, as enacted by Laws of Utah 2015, Chapter 136
26-47-101, as enacted by Laws of Utah 2005, Chapter 273
26-47-102, as last amended by Laws of Utah 2013, Chapter 167
26-49-101, as enacted by Laws of Utah 2008, Chapter 242
26-50-101, as enacted by Laws of Utah 2008, Chapter 325
26-50-102, as enacted by Laws of Utah 2008, Chapter 325
26-51-101, as enacted by Laws of Utah 2008, Chapter 38
26-51-202, as enacted by Laws of Utah 2008, Chapter 38
26-53-101, as enacted by Laws of Utah 2011, Chapter 97
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26-55-101, as last amended by Laws of Utah 2016, Chapters 202, 207, and 208
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26-57-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 12
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26-58-101, as enacted by Laws of Utah 2016, Chapter 71
26-60-101, as enacted by Laws of Utah 2017, Chapter 241
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26-60-104, as last amended by Laws of Utah 2022, Chapters 255 and 415
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26-62-101, as last amended by Laws of Utah 2020, Chapter 347
26-64-101, as enacted by Laws of Utah 2018, Chapter 295
26-66-101, as enacted by Laws of Utah 2019, Chapter 34
26-66-102, as enacted by Laws of Utah 2019, Chapter 34
26-66-201, as enacted by Laws of Utah 2019, Chapter 34
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26-67-101, as enacted by Laws of Utah 2020, Chapter 169
26-68-101, as enacted by Laws of Utah 2021, Chapter 182
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26A-1-101, as renumbered and amended by Laws of Utah 1991, Chapter 269
26B-1-201.1, as last amended by Laws of Utah 2022, Chapter 255
26B-1a-101, as enacted by Laws of Utah 2022, Chapter 245
26B-1a-102, as enacted by Laws of Utah 2022, Chapter 245
26B-1a-103, as enacted by Laws of Utah 2022, Chapter 245 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 245
26B-1a-107, as enacted by Laws of Utah 2022, Chapter 245
62A-1-104, as last amended by Laws of Utah 2022, Chapter 255
62A-1-123, as enacted by Laws of Utah 2022, Chapter 36
62A-1-201, as enacted by Laws of Utah 2014, Chapter 37
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62A-3-101, as last amended by Laws of Utah 2005, Chapter 107
62A-4a-101.5, as enacted by Laws of Utah 2022, Chapter 334
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62A-5-206.8, as enacted by Laws of Utah 2018, Chapter 404
62A-5-401, as enacted by Laws of Utah 1991, Chapter 207
62A-5-403, as last amended by Laws of Utah 1996, Chapters 179 and 318
62A-5a-101, as enacted by Laws of Utah 1991, Chapter 207
62A-5a-102, as last amended by Laws of Utah 2019, Chapter 187
62A-5a-104, as last amended by Laws of Utah 2013, Chapters 167 and 413
62A-5a-105, as last amended by Laws of Utah 2019, Chapter 187
62A-5b-101, as last amended by Laws of Utah 2019, Chapter 190

62A-6-101, as last amended by Laws of Utah 2011, Chapter 366
62A-11-103, as last amended by Laws of Utah 2012, Chapter 41
62A-11-301, as last amended by Laws of Utah 2000, Chapter 161
62A-11-601, as enacted by Laws of Utah 2007, Chapter 338
62A-11-701, as enacted by Laws of Utah 2008, Chapter 73
62A-11-702, as enacted by Laws of Utah 2008, Chapter 73
62A-14-101, as enacted by Laws of Utah 1999, Chapter 69
62A-15-101, as last amended by Laws of Utah 2009, Chapter 75
62A-15-102, as last amended by Laws of Utah 2022, Chapter 255
62A-15-201, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
62A-15-645, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
62A-15-1001, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
62A-15-1100, as enacted by Laws of Utah 2018, Chapter 414
62A-15-1301, as last amended by Laws of Utah 2020, Chapter 303
62A-15-1303, as last amended by Laws of Utah 2020, Chapter 303
62A-15-1401, as last amended by Laws of Utah 2020, Chapter 303
62A-15-1501, as last amended by Laws of Utah 2021, Chapter 277
62A-15-1601, as last amended by Laws of Utah 2021, Chapter 278
62A-15-1701, as enacted by Laws of Utah 2020, Chapter 358
62A-15-1801, as enacted by Laws of Utah 2020, Chapter 304
62A-16-101, as enacted by Laws of Utah 2010, Chapter 239
62A-17-101, as enacted by Laws of Utah 2013, Chapter 24
62A-18-101, as enacted by Laws of Utah 2019, Chapter 139
62A-18-102, as enacted by Laws of Utah 2019, Chapter 139
62A-18-103, as enacted by Laws of Utah 2019, Chapter 139
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26-8a-105, as last amended by Laws of Utah 2019, Chapter 265
26-8a-106, as last amended by Laws of Utah 2017, Chapter 326
26-8a-206, as last amended by Laws of Utah 2021, Chapter 208
26-8a-207, as last amended by Laws of Utah 2020, Chapters 215 and 230
26-8a-210, as enacted by Laws of Utah 2020, Chapter 215
26-8a-301, as last amended by Laws of Utah 2021, Chapter 237
26-8a-308, as last amended by Laws of Utah 2017, Chapter 326
26-8a-309, as enacted by Laws of Utah 1999, Chapter 141
26-8a-405.4, as last amended by Laws of Utah 2021, Chapter 265
26-8a-414, as last amended by Laws of Utah 2008, Chapter 382
26-8a-501, as last amended by Laws of Utah 2017, Chapter 326
26-8a-502, as last amended by Laws of Utah 2021, Chapter 237
26-8a-503, as last amended by Laws of Utah 2019, Chapter 346
26-8a-506, as last amended by Laws of Utah 2017, Chapter 326
26-8a-507, as enacted by Laws of Utah 1999, Chapter 141
26-8a-601, as last amended by Laws of Utah 2021, Chapter 237
26-8b-402, as enacted by Laws of Utah 2013, Chapter 98
26-10b-101, as last amended by Laws of Utah 2022, Chapter 255
26-61a-103, as last amended by Laws of Utah 2022, Chapters 290 and 415
26-61a-106, as last amended by Laws of Utah 2022, Chapters 415 and 452
26-61a-116, as enacted by Laws of Utah 2022, Chapter 452
26-61a-201, as last amended by Laws of Utah 2022, Chapters 198, 290, and 452
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26-61a-303, as last amended by Laws of Utah 2022, Chapters 290 and 415
26-61a-304, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
26-61a-305, as last amended by Laws of Utah 2022, Chapter 290
26-61a-401, as last amended by Laws of Utah 2022, Chapters 290 and 415
26-61a-402, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-403, as last amended by Laws of Utah 2022, Chapters 415 and 452
26-61a-501, as last amended by Laws of Utah 2022, Chapters 290 and 415
26-61a-502, as last amended by Laws of Utah 2022, Chapter 290
26-61a-503, as last amended by Laws of Utah 2022, Chapter 415
26-61a-504, as last amended by Laws of Utah 2021, Chapter 350
26-61a-505, as last amended by Laws of Utah 2022, Chapter 452 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 290

26-61a-507, as last amended by Laws of Utah 2020, Chapter 12
26-61a-601, as last amended by Laws of Utah 2021, Chapter 337
26-61a-603, as last amended by Laws of Utah 2020, Chapter 12
26-61a-604, as last amended by Laws of Utah 2022, Chapters 290 and 452
26-61a-605, as last amended by Laws of Utah 2022, Chapter 415
26-61a-606, as last amended by Laws of Utah 2022, Chapters 290 and 415
26-61a-607, as last amended by Laws of Utah 2022, Chapter 452
26-61a-701, as renumbered and enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-702, as last amended by Laws of Utah 2022, Chapter 452
26B-4-101, as enacted by Laws of Utah 2022, Chapter 255

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-4-101 is amended to read:

CHAPTER 4. HEALTH CARE - DELIVERY AND ACCESS

Part 1. Utah Emergency Medical Services System

26B-4-101. Definitions.

[~~Reserved~~]

As used in this part:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this part.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26B-4-118 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302;

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(5) "Committee" means the State Emergency Medical Services Committee created by Section 26B-1-204.

(6) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26B-2-201.

(7) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26B-4-116.

(8) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26B-4-116 during transport.

(9) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 26B-4-116.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

(10) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26B-4-117(1)(a); and

(c) emergency medical service personnel.

(11) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (11)(a) through (c).

(12) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26B-4-118.

(13) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this part by the special service district's legislative body or administrative control board.

(14) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Sections 26B-4-150 through 26B-4-170;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Sections 26B-4-150 through 26B-4-170; or

(c) the department when acting in the interest of the public.

(15) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

(16) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(17) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(18) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26B-4-119; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26B-4-117.

(19) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Sections 26B-4-150 through 26B-4-170.

(20) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26B-4-119.

(21) "Political subdivision" means:

(a) a city, town, or metro township;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a local district created under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 26B-4-156(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

(22) "Trauma" means an injury requiring immediate medical or surgical intervention.

(23) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

(24) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

(25) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

(26) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 2. Section 26B-4-102, which is renumbered from Section 26-8a-105 is renumbered and amended to read:

[~~26-8a-105~~]. 26B-4-102. Department powers.

The department shall:

(1) coordinate the emergency medical services within the state;

(2) administer this [~~chapter~~] part and the rules established pursuant to it;

(3) establish a voluntary task force representing a diversity of emergency medical service providers to advise the department and the committee on rules;

(4) establish an emergency medical service personnel peer review board to advise the department concerning discipline of emergency medical service personnel under this [~~chapter~~] part; [~~and~~]

(5) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) license ambulance providers and paramedic providers;

(b) permit ambulances, emergency medical response vehicles, and nonemergency secured behavioral health transport vehicles, including approving an emergency vehicle operator's course in accordance with Section [~~26-8a-304~~] 26B-4-118;

(c) establish:

(i) the qualifications for membership of the peer review board created by this section;

(ii) a process for placing restrictions on a license while an investigation is pending;

(iii) the process for the investigation and recommendation by the peer review board; and

(iv) the process for determining the status of a license while a peer review board investigation is pending;

(d) establish application, submission, and procedural requirements for licenses, designations, and permits; and

(e) establish and implement the programs, plans, and responsibilities as specified in other sections of this [~~chapter.~~] part;

(6) develop and implement, in cooperation with state, federal, and local agencies empowered to oversee disaster response activities, plans to provide emergency medical services during times of disaster or emergency;

(7) establish a pediatric quality improvement resource program; and

(8) develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services which shall include:

(a) ongoing training for agencies providing emergency services and counseling program volunteers;

(b) critical incident stress debriefing for personnel at no cost to the emergency provider; and

(c) advising the department on training requirements for licensure as a behavioral emergency services technician.

Section 3. Section 26B-4-103, which is renumbered from Section 26-8a-106 is renumbered and amended to read:

[~~26-8a-106~~]. 26B-4-103. Waiver of rules and education and licensing requirements.

(1) Upon application, the department, or the committee with the concurrence of the department, may waive the requirements of a rule the department, or the committee with the concurrence of the department, has adopted if:

(a) the person applying for the waiver satisfactorily demonstrates that:

(i) the waiver is necessary for a pilot project to be undertaken by the applicant;

(ii) in the particular situation, the requirement serves no beneficial public purpose; or

(iii) circumstances warrant that waiver of the requirement outweighs the public benefit to be gained by adherence to the rule; and

(b) for a waiver granted under Subsection (1)(a)(ii) or (iii):

(i) the committee or department extends the waiver to similarly situated persons upon application; or

(ii) the department, or the committee with the concurrence of the department, amends the rule to be consistent with the waiver.

(2) A waiver of education or licensing requirements may be granted to a veteran, as defined in Section 68-3-12.5, if the veteran:

(a) provides to the committee or department documentation showing military education and training in the field in which licensure is sought; and

(b) successfully passes any examination required.

(3) No waiver may be granted under this section that is inconsistent with the provisions of this [~~chapter~~] part.

Section 4. Section 26B-4-104, which is renumbered from Section 26-8a-201 is renumbered and amended to read:

[~~26-8a-201~~]. 26B-4-104. Public awareness efforts.

The department may:

(1) develop programs to inform the public of the emergency medical service system; and

(2) develop and disseminate emergency medical training programs for the public, which emphasize the prevention and treatment of injuries and illnesses.

Section 5. Section 26B-4-105, which is renumbered from Section 26-8a-202 is renumbered and amended to read:

[~~26-8a-202~~]. 26B-4-105 (Codified as 53-2d-103). Emergency medical communications.

Consistent with federal law, the department is the lead agency for coordinating the statewide emergency medical service communication systems under which emergency medical personnel, dispatch centers, and treatment facilities provide medical control and coordination between emergency medical service providers.

Section 6. Section 26B-4-106, which is renumbered from Section 26-8a-203 is renumbered and amended to read:

[~~26-8a-203~~]. 26B-4-106. Data collection.

(1) The committee shall specify the information that shall be collected for the emergency medical services data system established pursuant to Subsection (2).

(2) (a) The department shall establish an emergency medical services data system, which shall provide for the collection of information, as defined by the committee, relating to the treatment and care of patients who use or have used the emergency medical services system.

(b) The committee shall coordinate with the Health Data Authority created in Chapter [~~33a~~] 8, Part 5, Utah Health Data Authority [~~Act~~], to create a report of data collected by the Health Data Committee under Section [~~26-33a-106.1~~] 26B-8-504 regarding:

(i) appropriate analytical methods;

(ii) the total amount of air ambulance flight charges in the state for a one-year period; and

(iii) of the total number of flights in a one-year period under Subsection (2)(b)(ii):

(A) the number of flights for which a patient had no personal responsibility for paying part of the flight charges;

(B) the number of flights for which a patient had personal responsibility to pay all or part of the flight charges;

(C) the range of flight charges for which patients had personal responsibility under Subsection (2)(b)(iii)(B), including the median amount for paid patient personal responsibility; and

(D) the name of any air ambulance provider that received a median paid amount for patient responsibility in excess of the median amount for all paid patient personal responsibility during the reporting year.

(c) The department may share, with the Department of Public Safety, information from the emergency medical services data system that:

(i) relates to traffic incidents;

(ii) is for the improvement of traffic safety;

(iii) may not be used for the prosecution of criminal matters; and

(iv) may not include any personally identifiable information.

(3) (a) On or before October 1, the department shall make the information in Subsection (2)(b) public and send the information in Subsection (2)(b) to public safety dispatchers and first responders in the state.

(b) Before making the information in Subsection (2)(b) public, the committee shall provide the air ambulance providers named in the report with the opportunity to respond to the accuracy of the information in the report under Section [~~26-33a-107~~] 26B-8-506.

(4) Persons providing emergency medical services:

(a) shall provide information to the department for the emergency medical services data system established pursuant to Subsection (2)(a);

(b) are not required to provide information to the department under Subsection (2)(b); and

(c) may provide information to the department under Subsection (2)(b) or (3)(b).

Section 7. Section 26B-4-107, which is renumbered from Section 26-8a-207 is renumbered and amended to read:

[~~26-8a-207~~]. 26B-4-107. Emergency Medical Services Grant Program.

(1) Funds appropriated to the department for the Emergency Medical Services Grant Program shall be used for improvement of delivery of emergency medical services and administrative costs as described in Subsection (2)(a).

(2) From the total amount of funds appropriated to the department under Subsection (1), the department shall use:

(a) an amount equal to 50% of the funds:

(i) to provide staff support; and

(ii) for other expenses incurred in:

(A) administration of grant funds; and

(B) other department administrative costs under this [~~chapter~~] part; and

(b) an amount equal to 50% of the funds to provide emergency medical services grants in accordance with Subsection (3).

(3) (a) A recipient of a grant under this section shall actively provide emergency medical services within the state.

(b) (i) From the total amount of funds used to provide grants under Subsection (3), the department shall distribute an amount equal to 21% as per capita block grants for use specifically related to the provision of emergency medical services to nonprofit prehospital emergency medical services providers that are either licensed or designated and to emergency medical services that are the primary emergency medical services for a service area.

(ii) The department shall determine the grant amounts by prorating available funds on a per capita basis by county as described in department rule.

(c) Subject to Subsections (3)(d) through (f), the committee shall use the remaining grant funds to award competitive grants to licensed emergency medical services providers that provide emergency medical services within counties of the third through sixth class, in accordance with rules made by the committee.

(d) A grant awarded under Subsection (3)(c) shall be used:

(i) for the purchase of equipment, subject to Subsection (3)(e); or

(ii) for the recruitment, training, or retention of licensed emergency medical services providers.

(e) A recipient of a grant under Subsection (3)(c) may not use more than $100,000 in grant proceeds for the purchase of vehicles.

(f) A grant awarded for the purpose described in Subsection (3)(d)(ii) is ongoing for a period of up to three years.

(g) (i) If, after providing grants under Subsections (3)(c) through (f), any grant funds are unallocated at the end of the fiscal year, the committee shall distribute the unallocated grant funds as per capita block grants as described in Subsection (3)(b).

(ii) Any grant funds distributed as per capita grants under Subsection (3)(g)(i) are in addition to the amount described in Subsection (3)(b).

Section 8. Section 26B-4-108, which is renumbered from Section 26-8a-208 is renumbered and amended to read:

[~~26-8a-208~~]. 26B-4-108. Fees for training equipment rental, testing, and quality assurance reviews.

(1) The department may charge fees, established [~~pursuant to~~] in accordance with Section 26B-1-209:

(a) for the use of department-owned training equipment;

(b) to administer tests and conduct quality assurance reviews; and

(c) to process an application for a designation, permit, or license.

(2) (a) Fees collected under Subsections (1)(a) and (b) shall be separate dedicated credits.

(b) Fees under Subsection (1)(a) may be used to purchase training equipment.

(c) Fees under Subsection (1)(b) may be used to administer tests and conduct quality assurance reviews.

Section 9. Section 26B-4-109, which is renumbered from Section 26-8a-210 is renumbered and amended to read:

[~~26-8a-210~~]. 26B-4-109. Regional Emergency Medical Services Liaisons -- Qualifications -- Duties.

(1) As used in this section:

(a) "Liaison" means a regional emergency medical services liaison hired under this section.

(b) "Rural county" means a county of the third, fourth, fifth, or sixth class.

(2) The department shall hire five individuals to serve as regional emergency medical services liaisons to:

(a) serve the needs of rural counties in providing emergency medical services in accordance with this [~~chapter~~] part;

(b) act as a liaison between the department and individuals or entities responsible for emergency medical services in rural counties, including:

(i) emergency medical services providers;

(ii) local officials; and

(iii) local health departments or agencies;

(c) provide support and training to emergency medical services providers in rural counties;

(d) assist rural counties in utilizing state and federal grant programs for financing emergency medical services; and

(e) serve as emergency medical service personnel to assist licensed providers with ambulance staffing needs within rural counties.

(3) Each liaison hired under Subsection (2):

(a) shall reside in a rural county; and

(b) shall be licensed as:

(i) an advanced emergency medical technician as defined in Section [~~26-8c-102~~] 26B-4-137; or

(ii) a paramedic as defined in Section [~~26-8c-102~~] 26B-4-137.

(4) The department shall provide each liaison with a vehicle and other equipment in accordance with rules established by the department.

Section 10. Section 26B-4-110, which is renumbered from Section 26-8a-212 is renumbered and amended to read:

[~~26-8a-212~~]. 26B-4-110. Community paramedicine program.

(1) A ground ambulance provider or a designated quick response provider, as designated in accordance with Section [~~26-8a-303~~] 26B-4-117, may develop and implement a community paramedicine program.

(2) (a) Before providing services, a community paramedicine program shall:

(i) implement training requirements as determined by the committee; and

(ii) submit a written community paramedicine operational plan to the department that meets requirements established by the committee.

(b) A community paramedicine program shall report data, as determined by the committee, related to community paramedicine to the department.

(3) A service provided as part of a community paramedicine program may not be billed to an individual or a health benefit plan as defined in Section 31A-1-301 unless:

(a) the service is provided in partnership with a health care facility as defined in Section [~~26-21-2~~] 26B-2-201; and

(b) the partnering health care facility is the person that bills the individual or health benefit plan.

(4) Nothing in this section affects any billing authorized under Section [~~26-8a-403~~] 26B-4-152.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee shall make rules to implement this section.

Section 11. Section 26B-4-111, which is renumbered from Section 26-8a-250 is renumbered and amended to read:

[~~26-8a-250~~]. 26B-4-111. Establishment of statewide trauma system.

The department shall establish and actively supervise a statewide trauma system to:

(1) promote optimal care for trauma patients;

(2) alleviate unnecessary death and disability from trauma and emergency illness;

(3) inform health care providers about trauma system capabilities;

(4) encourage the efficient and effective continuum of patient care, including prevention, prehospital care, hospital care, and rehabilitative care; and

(5) minimize the overall cost of trauma care.

Section 12. Section 26B-4-112, which is renumbered from Section 26-8a-252 is renumbered and amended to read:

[~~26-8a-252~~]. 26B-4-112. Statewide trauma system -- Department duties.

In connection with the statewide trauma system established in Section [~~26-8a-250~~] 26B-4-111, the department shall:

(1) establish a statewide trauma system plan that:

(a) identifies statewide trauma care needs, objectives, and priorities;

(b) identifies the equipment, facilities, personnel training, and other things necessary to create and maintain a statewide trauma system; and

(c) organizes and coordinates trauma care within defined geographic areas;

(2) support the statewide trauma system by:

(a) facilitating the coordination of prehospital, acute care, and rehabilitation services and providers through state regulation and oversight;

(b) facilitating the ongoing evaluation and refinement of the statewide trauma system;

(c) providing educational programs;

(d) encouraging cooperation between community organizations, health care facilities, public health officials, emergency medical service providers, and rehabilitation facilities for the development of a statewide trauma system;

(e) implementing a quality assurance program using information from the statewide trauma registry established pursuant to Section [~~26-8a-253~~] 26B-4-113;

(f) establishing trauma center designation requirements in accordance with Section [~~26-8a-254~~] 26B-4-114; and

(g) developing standards so that:

(i) trauma centers are categorized according to their capability to provide care;

(ii) trauma victims are triaged at the initial point of patient contact; and

(iii) trauma patients are sent to appropriate health care facilities.

Section 13. Section 26B-4-113, which is renumbered from Section 26-8a-253 is renumbered and amended to read:

[~~26-8a-253~~]. 26B-4-113. Statewide trauma system -- Registry and quality assurance program.

(1) The department shall:

(a) establish and fund a statewide trauma registry to collect and analyze information on the incidence, severity, causes, and outcomes of trauma;

(b) establish, by rule, the data elements, the medical care providers that shall report, and the time frame and format for reporting;

(c) use the data collected to:

(i) improve the availability and delivery of prehospital and hospital trauma care;

(ii) assess trauma care delivery, patient care outcomes, and compliance with the requirements of this [~~chapter~~] part and applicable department rules; and

(iii) regularly produce and disseminate reports to data providers, state government, and the public; and

(d) support data collection and abstraction by providing:

(i) a data collection system and technical assistance to each hospital that submits data; and

(ii) funding or, at the discretion of the department, personnel for collection and abstraction for each hospital not designated as a trauma center under the standards established pursuant to Section [~~26-8a-254~~] 26B-4-114.

(2) (a) Each hospital shall submit trauma data in accordance with rules established under Subsection (1).

(b) A hospital designated as a trauma center shall submit data as part of the ongoing quality assurance program established in Section [~~26-8a-252~~] 26B-4-112.

(3) The department shall assess:

(a) the effectiveness of the data collected pursuant to Subsection (1); and

(b) the impact of the statewide trauma system on the provision of trauma care.

(4) Data collected under this section shall be subject to Chapter [~~3~~] 8, Part 4, Health Statistics.

(5) No person may be held civilly liable for having provided data to the department in accordance with this section.

Section 14. Section 26B-4-114, which is renumbered from Section 26-8a-254 is renumbered and amended to read:

[~~26-8a-254~~]. 26B-4-114. Statewide trauma system -- Trauma center designations and guidelines.

(1) The department, after seeking the advice of the trauma system advisory committee, shall establish by rule:

(a) trauma center designation requirements; and

(b) model state guidelines for triage, treatment, transportation, and transfer of trauma patients to the most appropriate health care facility.

(2) The department shall designate as a trauma center each hospital that:

(a) voluntarily requests a trauma center designation; and

(b) meets the applicable requirements established pursuant to Subsection (1).

Section 15. Section 26B-4-115, which is renumbered from Section 26-8a-301 is renumbered and amended to read:

[~~26-8a-301~~]. 26B-4-115. Certificates, Designations, Permits, and Licenses -- General requirement.

(1) Except as provided in Section [~~26-8a-308 or 26-8b-201~~] 26B-4-104 or 26B-4-122:

(a) an individual may not provide emergency medical services without a license or certification issued under Section [~~26-8a-302~~] 26B-4-116;

(b) a facility or provider may not hold itself out as a designated emergency medical service provider or nonemergency secured behavioral health transport provider without a designation issued under Section [~~26-8a-303~~] 26B-4-117;

(c) a vehicle may not operate as an ambulance, emergency response vehicle, or nonemergency secured behavioral health transport vehicle without a permit issued under Section [~~26-8a-304~~] 26B-4-118; and

(d) an entity may not respond as an ambulance or paramedic provider without the appropriate license issued under [~~Part 4, Ambulance and Paramedic Providers~~] Sections 26B-4-150 through 26B-4-170 for ambulance and paramedic providers.

(2) Section [~~26-8a-502~~] 26B-4-127 applies to violations of this section.

Section 16. Section 26B-4-116, which is renumbered from Section 26-8a-302 is renumbered and amended to read:

[~~26-8a-302~~]. 26B-4-116. Licensure of emergency medical service personnel.

(1) To promote the availability of comprehensive emergency medical services throughout the state, the committee shall establish:

(a) initial and ongoing licensure and training requirements for emergency medical service personnel in the following categories:

(i) paramedic;

(ii) advanced emergency medical services technician;

(iii) emergency medical services technician;

(iv) behavioral emergency services technician; and

(v) advanced behavioral emergency services technician;

(b) a method to monitor the certification status and continuing medical education hours for emergency medical dispatchers; and

(c) guidelines for giving credit for out-of-state training and experience.

(2) The department shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel;

(b) issue a license and license renewals to emergency medical service personnel other than emergency medical dispatchers; and

(c) verify the certification of emergency medical dispatchers.

(3) The department shall coordinate with local mental health authorities described in Section 17-43-301 to develop and authorize initial and ongoing licensure and training requirements for licensure as a:

(a) behavioral emergency services technician; and

(b) advanced behavioral emergency services technician.

(4) As provided in Section [~~26-8a-502~~] 26B-4-127, an individual issued a license or certified under this section may only provide emergency medical services to the extent allowed by the license or certification.

(5) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section [~~26-8a-310~~] 26B-4-124.

(6) An individual may not be issued or retain a certification under this section unless the individual obtains and retains background clearance in accordance with Section [~~26-8a-310.5~~] 26B-4-125.

Section 17. Section 26B-4-117, which is renumbered from Section 26-8a-303 is renumbered and amended to read:

[~~26-8a-303~~]. 26B-4-117. Designation of emergency medical service providers and nonemergency secured behavioral health transport providers.

(1) To ensure quality emergency medical services, the committee shall establish designation requirements for:

(a) emergency medical service providers in the following categories:

(i) quick response provider;

(ii) resource hospital for emergency medical providers;

(iii) emergency medical service dispatch center;

(iv) emergency patient receiving facilities; and

(v) other types of emergency medical service providers as the committee considers necessary; and

(b) nonemergency secured behavioral health transport providers.

(2) The department shall, based on the requirements in Subsection (1), issue designations to emergency medical service providers and nonemergency secured behavioral health transport providers listed in Subsection (1).

(3) As provided in Section [~~26-8a-502~~] 26B-4-127, an entity issued a designation under Subsection (2) may only function and hold itself out in accordance with its designation.

Section 18. Section 26B-4-118, which is renumbered from Section 26-8a-304 is renumbered and amended to read:

[~~26-8a-304~~]. 26B-4-118. Permits for emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

(1) (a) To ensure that emergency medical service vehicles and nonemergency secured behavioral health transport vehicles are adequately staffed, safe, maintained, properly equipped, and safely operated, the committee shall establish permit requirements at levels it considers appropriate in the following categories:

(i) ambulance;

(ii) emergency medical response vehicle; and

(iii) nonemergency secured behavioral health transport vehicle.

(b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a requirement that beginning on or after January 31, 2014, every operator of an ambulance or emergency medical response vehicle annually provide proof of the successful completion of an emergency vehicle operator's course approved by the department for all ambulances and emergency medical response vehicle operators.

(2) The department shall, based on the requirements established in Subsection (1), issue permits to emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

Section 19. Section 26B-4-119, which is renumbered from Section 26-8a-305 is renumbered and amended to read:

[~~26-8a-305~~]. 26B-4-119. Ambulance license required for emergency medical transport.

Except as provided in Section [~~26-8a-308~~] 26B-4-122, only an ambulance operating under a permit issued under Section [~~26-8a-304~~] 26B-4-118 may transport an individual who:

(1) is in an emergency medical condition;

(2) is medically or mentally unstable, requiring direct medical observation during transport;

(3) is physically incapacitated because of illness or injury and in need of immediate transport by emergency medical service personnel;

(4) is likely to require medical attention during transport;

(5) is being maintained on any type of emergency medical electronic monitoring;

(6) is receiving or has recently received medications that could cause a sudden change in medical condition that might require emergency medical services;

(7) requires IV administration or maintenance, oxygen that is not patient-operated, or other emergency medical services during transport;

(8) needs to be immobilized during transport to a hospital, an emergency patient receiving facility, or mental health facility due to a mental or physical condition, unless the individual is in the custody of a peace officer and the primary purpose of the restraint is to prevent escape;

(9) needs to be immobilized due to a fracture, possible fracture, or other medical condition; or

(10) otherwise requires or has the potential to require a level of medical care that the committee establishes as requiring direct medical observation.

Section 20. Section 26B-4-120, which is renumbered from Section 26-8a-306 is renumbered and amended to read:

[~~26-8a-306~~]. 26B-4-120. Medical control.

(1) The committee shall establish requirements for the coordination of emergency medical services rendered by emergency medical service providers, including the coordination between prehospital providers, hospitals, emergency patient receiving facilities, and other appropriate destinations.

(2) The committee shall establish requirements for the medical supervision of emergency medical service providers to assure adequate physician oversight of emergency medical services and quality improvement.

Section 21. Section 26B-4-121, which is renumbered from Section 26-8a-307 is renumbered and amended to read:

[~~26-8a-307~~]. 26B-4-121. Patient destination.

(1) If an individual being transported by a ground or air ambulance is in a critical or unstable medical condition, the ground or air ambulance shall transport the patient to the trauma center or closest emergency patient receiving facility appropriate to adequately treat the patient.

(2) If the patient's condition is not critical or unstable as determined by medical control, the ground or air ambulance may transport the patient to the:

(a) hospital, emergency patient receiving facility, licensed mental health facility, or other medical provider chosen by the patient and approved by medical control as appropriate for the patient's condition and needs; or

(b) nearest hospital, emergency patient receiving facility, licensed mental health facility, or other medical provider approved by medical control as appropriate for the patient's condition and needs if the patient expresses no preference.

Section 22. Section 26B-4-122, which is renumbered from Section 26-8a-308 is renumbered and amended to read:

[~~26-8a-308~~]. 26B-4-122. Exemptions.

(1) The following persons may provide emergency medical services to a patient without being licensed under this [~~chapter~~] part:

(a) out-of-state emergency medical service personnel and providers in time of disaster;

(b) an individual who gratuitously acts as a Good Samaritan;

(c) a family member;

(d) a private business if emergency medical services are provided only to employees at the place of business and during transport;

(e) an agency of the United States government if compliance with this [~~chapter~~] part would be inconsistent with federal law; and

(f) police, fire, and other public service personnel if:

(i) emergency medical services are rendered in the normal course of the person's duties; and

(ii) medical control, after being apprised of the circumstances, directs immediate transport.

(2) An ambulance or emergency response vehicle may operate without a permit issued under Section [~~26-8a-304~~] 26B-4-118 in time of disaster.

(3) Nothing in this [~~chapter~~] part or Title 58, Occupations and Professions, may be construed as requiring a license for an individual to administer cardiopulmonary resuscitation or to use a fully automated external defibrillator under Section [~~26-8b-201~~] 26B-4-302.

(4) Nothing in this [~~chapter~~] part may be construed as requiring a license, permit, or designation for an acute care hospital, medical clinic, physician's office, or other fixed medical facility that:

(a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse; and

(b) treats an individual who has presented himself or was transported to the hospital, clinic, office, or facility.

Section 23. Section 26B-4-123, which is renumbered from Section 26-8a-309 is renumbered and amended to read:

[~~26-8a-309~~]. 26B-4-123. Out-of-state vehicles.

(1) An ambulance or emergency response vehicle from another state may not pick up a patient in Utah to transport that patient to another location in Utah or to another state without a permit issued under Section [~~26-8a-304~~] 26B-2-318 and, in the case of an ambulance, a license issued under [~~Part 4, Ambulance and Paramedic Providers~~] this part for ambulance and paramedic providers.

(2) Notwithstanding Subsection (1), an ambulance or emergency response vehicle from another state may, without a permit or license:

(a) transport a patient into Utah; and

(b) provide assistance in time of disaster.

(3) The department may enter into agreements with ambulance and paramedic providers and their respective licensing agencies from other states to assure the expeditious delivery of emergency medical services beyond what may be reasonably provided by licensed ambulance and paramedic providers, including the transportation of patients between states.

Section 24. Section 26B-4-124, which is renumbered from Section 26-8a-310 is renumbered and amended to read:

[~~26-8a-310~~]. 26B-4-124. Background clearance for emergency medical service personnel.

(1) Subject to Section [~~26-8a-310.5~~] 26B-4-125, the department shall determine whether to grant background clearance for an individual seeking licensure or certification under Section [~~26-8a-302~~] 26B-4-116 from whom the department receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The department shall determine whether to deny or revoke background clearance for individuals for whom the department has previously granted background clearance.

(3) The department shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the department obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the department will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure or certification under Section [~~26-8a-302~~] 26B-4-116 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the department may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years old; or

(ii) the applicant:

(A) is over 28 years old; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 80-3-404;

(e) the department's Licensing Information System described in Section 80-2-1002;

(f) the department's database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section [~~62A-3-311.1~~] 26B-6-210;

(g) Division of Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The department shall adopt measures to protect the security of information the department

accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The department may disclose personal identification information the department receives under Subsection (1) to the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The department may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other department costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the department; and

(b) notify the department upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(12) The department shall use the Direct Access Clearance System database created under Section [~~26-21-209~~] 26B-2-241 to manage information about the background clearance status of each individual for whom the department is required to make a determination under Subsection (1).

(13) Clearance granted for an individual licensed or certified under Section [~~26-8a-302~~] 26B-4-123 is valid until two years after the day on which the individual is no longer licensed or certified in Utah as emergency medical service personnel.

Section 25. Section 26B-4-125, which is renumbered from Section 26-8a-310.5 is renumbered and amended to read:

[~~26-8a-310.5~~]. 26B-4-125. Background check requirements for emergency medical dispatchers.

An emergency medical dispatcher seeking certification under Section [~~26-8a-302~~] 26B-4-116 shall undergo the background clearance process described in Section [~~26-8a-310~~] 26B-4-124 unless the emergency medical dispatcher can demonstrate that the emergency medical dispatcher has received and currently holds an approved Department of Public Safety background clearance.

Section 26. Section 26B-4-126, which is renumbered from Section 26-8a-501 is renumbered and amended to read:

[~~26-8a-501~~]. 26B-4-126. Discrimination prohibited.

(1) No person licensed or designated pursuant to this [~~chapter~~] part may discriminate in the provision of emergency medical services on the basis of race, sex, color, creed, or prior inquiry as to ability to pay.

(2) This [~~chapter~~] part does not authorize or require medical assistance or transportation over the objection of an individual on religious grounds.

Section 27. Section 26B-4-127, which is renumbered from Section 26-8a-502 is renumbered and amended to read:

[~~26-8a-502~~]. 26B-4-127. Illegal activity.

(1) Except as provided in Section [~~26-8a-308 or 26-8b-201~~] 26B-4-104 or 26B-4-122, a person may not:

(a) practice or engage in the practice, represent that the person is practicing or engaging in the practice, or attempt to practice or engage in the practice of any activity that requires a license, certification, or designation under this [~~chapter~~] part unless that person is licensed, certified, or designated under this [~~chapter~~] part; or

(b) offer an emergency medical service that requires a license, certification, or designation under this [~~chapter~~] part unless the person is licensed, certified, or designated under this [~~chapter~~] part.

(2) A person may not advertise or represent that the person holds a license, certification, or designation required under this [~~chapter~~] part, unless that person holds the license, certification, or designation under this [~~chapter~~] part.

(3) A person may not employ or permit any employee to perform any service for which a license or certification is required by this [~~chapter~~] part, unless the person performing the service possesses the required license or certification under this [~~chapter~~] part.

(4) A person may not wear, display, sell, reproduce, or otherwise use any Utah Emergency Medical Services insignia without authorization from the department.

(5) A person may not reproduce or otherwise use materials developed by the department for licensure or certification testing or examination without authorization from the department.

(6) A person may not willfully summon an ambulance or emergency response vehicle or report that one is needed when the person knows that the ambulance or emergency response vehicle is not needed.

(7) A person who violates this section is subject to Section [~~26-23-6~~] 26B-1-224.

Section 28. Section 26B-4-128, which is renumbered from Section 26-8a-502.1 is renumbered and amended to read:

[~~26-8a-502.1~~]. 26B-4-128. Prohibition on the use of "911".

(1) As used in this section:

(a) "Emergency services" means services provided by a person in response to an emergency.

(b) "Emergency services" includes:

(i) fire protection services;

(ii) paramedic services;

(iii) law enforcement services;

(iv) 911 ambulance or paramedic services[~~, as defined in Section 26-8a-102~~]; and

(v) any other emergency services.

(2) A person may not use "911" or other similar sequence of numbers in the person's name with the purpose to deceive the public that the person operates or represents emergency services, unless the person is authorized to provide emergency services.

(3) A violation of Subsection (2) is:

(a) a class C misdemeanor; and

(b) subject to a fine of up to $500 per violation.

Section 29. Section 26B-4-129, which is renumbered from Section 26-8a-503 is renumbered and amended to read:

[~~26-8a-503~~]. 26B-4-129. Discipline of emergency medical services personnel.

(1) The department may refuse to issue a license or renewal, or revoke, suspend, restrict, or place on probation an individual's license if:

(a) the individual does not meet the qualifications for licensure under Section [~~26-8a-302~~] 26B-4-116;

(b) the individual has engaged in conduct, as defined by committee rule, that:

(i) is unprofessional;

(ii) is adverse to the public health, safety, morals, or welfare; or

(iii) would adversely affect public trust in the emergency medical service system;

(c) the individual has violated Section [~~26-8a-502~~] 26B-4-127 or other provision of this [~~chapter~~] part;

(d) the individual has violated Section 58-1-509;

(e) a court of competent jurisdiction has determined the individual to be mentally incompetent for any reason; or

(f) the individual is unable to provide emergency medical services with reasonable skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated.

(2) (a) An action to revoke, suspend, restrict, or place a license on probation shall be done in:

(i) consultation with the peer review board created in Section [~~26-8a-105~~] 26B-4-102; and

(ii) accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist order under Section [~~26-8a-507~~] 26B-4-133 to immediately suspend an individual's license pending an administrative proceeding to be held within 30 days if there is evidence to show that the individual poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

(3) An individual whose license has been suspended, revoked, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with any conditions imposed upon the license by statute, committee rule, or the terms of the suspension, revocation, or restriction.

(4) In addition to taking disciplinary action under Subsection (1), the department may impose sanctions in accordance with Section [~~26-23-6~~] 26B-1-224.

Section 30. Section 26B-4-130, which is renumbered from Section 26-8a-504 is renumbered and amended to read:

[~~26-8a-504~~]. 26B-4-130. Discipline of designated and licensed providers.

(1) The department may refuse to issue a license or designation or a renewal, or revoke, suspend, restrict, or place on probation, an emergency medical service provider's license or designation if the provider has:

(a) failed to abide by terms of the license or designation;

(b) violated statute or rule;

(c) failed to provide services at the level or in the exclusive geographic service area required by the license or designation;

(d) failed to submit a renewal application in a timely fashion as required by department rule;

(e) failed to follow operational standards established by the committee; or

(f) committed an act in the performance of a professional duty that endangered the public or constituted gross negligence.

(2) (a) An action to revoke, suspend, restrict, or place a license or designation on probation shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist order under Section [~~26-8a-507~~] 26B-4-133 to immediately suspend a license or designation pending an administrative proceeding to be held within 30 days if there is evidence to show that the provider or facility poses a clear, immediate, and

unjustifiable threat or potential threat to the public health, safety, or welfare.

(3) In addition to taking disciplinary action under Subsection (1), the department may impose sanctions in accordance with Section [~~26-23-6~~] 26B-1-224.

Section 31. Section 26B-4-131, which is renumbered from Section 26-8a-505 is renumbered and amended to read:

[~~26-8a-505~~]. 26B-4-131. Service interruption or cessation -- Receivership -- Default coverage -- Notice.

(1) Acting in the public interest, the department may petition the district court where an ambulance or paramedic provider operates or the district court with jurisdiction in Salt Lake County to appoint the department or an independent receiver to continue the operations of a provider upon any one of the following conditions:

(a) the provider ceases or intends to cease operations;

(b) the provider becomes insolvent;

(c) the department has initiated proceedings to revoke the provider's license and has determined that the lives, health, safety, or welfare of the population served within the provider's exclusive geographic service area are endangered because of the provider's action or inaction pending a full hearing on the license revocation; or

(d) the department has revoked the provider's license and has been unable to adequately arrange for another provider to take over the provider's exclusive geographic service area.

(2) If a licensed or designated provider ceases operations or is otherwise unable to provide services, the department may arrange for another licensed provider to provide services on a temporary basis until a license is issued.

(3) A licensed provider shall give the department 30 [~~days~~] days' notice of its intent to cease operations.

Section 32. Section 26B-4-132, which is renumbered from Section 26-8a-506 is renumbered and amended to read:

[~~26-8a-506~~]. 26B-4-132. Investigations for enforcement of part.

(1) The department may, for the purpose of ascertaining compliance with the provisions of this [~~chapter~~] part, enter and inspect on a routine basis the business premises and equipment of a person:

(a) with a designation, permit, or license; or

(b) who holds himself out to the general public as providing a service for which a designation, permit, or license is required under Section [~~26-8a-301~~] 26B-4-115.

(2) Before conducting an inspection under Subsection (1), the department shall, after identifying the person in charge:

(a) give proper identification;

(b) describe the nature and purpose of the inspection; and

(c) if necessary, explain the authority of the department to conduct the inspection.

(3) In conducting an inspection under Subsection (1), the department may, after meeting the requirements of Subsection (2):

(a) inspect records, equipment, and vehicles; and

(b) interview personnel.

(4) An inspection conducted under Subsection (1) shall be during regular operational hours.

Section 33. Section 26B-4-133, which is renumbered from Section 26-8a-507 is renumbered and amended to read:

[~~26-8a-507~~]. 26B-4-133. Cease and desist orders.

The department may issue a cease and desist order to any person who:

(1) may be disciplined under Section [~~26-8a-503 or 26-8a-504~~] 26B-4-129 or 26B-4-130; or

(2) otherwise violates this [~~chapter~~] part or any rules adopted under this [~~chapter~~] part.

Section 34. Section 26B-4-134, which is renumbered from Section 26-8a-601 is renumbered and amended to read:

[~~26-8a-601~~]. 26B-4-134. Persons and activities exempt from civil liability.

(1) (a) Except as provided in Subsection (1)(b), a licensed physician, physician's assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written instructions to any of the following is not liable for any civil damages as a result of issuing the instructions:

(i) an individual licensed or certified under Section [~~26-8a-302~~] 26B-4-116;

(ii) an individual who uses a fully automated external defibrillator, as defined in Section [~~26-8b-102~~] 26B-4-301; or

(iii) an individual who administers CPR, as defined in Section [~~26-8b-102~~] 26B-4-301.

(b) The liability protection described in Subsection (1)(a) does not apply if the instructions given were the result of gross negligence or willful misconduct.

(2) An individual licensed or certified under Section [~~26-8a-302~~] 26B-4-116, during either training or after licensure or certification, a licensed physician, a physician assistant, or a registered nurse who, gratuitously and in good faith, provides emergency medical instructions or renders emergency medical care authorized by this [~~chapter~~] part is not liable for any civil damages as a

result of any act or omission in providing the emergency medical instructions or medical care, unless the act or omission is the result of gross negligence or willful misconduct.

(3) An individual licensed or certified under Section [~~26-8a-302~~] 26B-4-116 is not subject to civil liability for failure to obtain consent in rendering emergency medical services authorized by this [~~chapter~~] part to any individual who is unable to give his consent, regardless of the individual's age, where there is no other person present legally authorized to consent to emergency medical care, provided that the licensed individual acted in good faith.

(4) A principal, agent, contractor, employee, or representative of an agency, organization, institution, corporation, or entity of state or local government that sponsors, authorizes, supports, finances, or supervises any functions of an individual licensed or certified under Section [~~26-8a-302~~] 26B-4-116 is not liable for any civil damages for any act or omission in connection with the sponsorship, authorization, support, finance, or supervision of the licensed or certified individual where the act or omission occurs in connection with the licensed or certified individual's training or occurs outside a hospital where the life of a patient is in immediate danger, unless the act or omission is inconsistent with the training of the licensed or certified individual, and unless the act or omission is the result of gross negligence or willful misconduct.

(5) A physician or physician assistant who gratuitously and in good faith arranges for, requests, recommends, or initiates the transfer of a patient from a hospital to a critical care unit in another hospital is not liable for any civil damages as a result of such transfer where:

(a) sound medical judgment indicates that the patient's medical condition is beyond the care capability of the transferring hospital or the medical community in which that hospital is located; and

(b) the physician or physician assistant has secured an agreement from the receiving facility to accept and render necessary treatment to the patient.

(6) An individual who is a registered member of the National Ski Patrol System (NSPS) or a member of a ski patrol who has completed a course in winter emergency care offered by the NSPS combined with CPR for medical technicians offered by the American Red Cross or American Heart Association, or an equivalent course of instruction, and who in good faith renders emergency care in the course of ski patrol duties is not liable for civil damages as a result of any act or omission in rendering the emergency care, unless the act or omission is the result of gross negligence or willful misconduct.

(7) An emergency medical service provider who, in good faith, transports an individual against his will but at the direction of a law enforcement officer pursuant to Section [~~62A-15-629~~] 26B-5-331 is not liable for civil damages for transporting the individual.

Section 35. Section 26B-4-135, which is renumbered from Section 26-8a-602 is renumbered and amended to read:

[~~26-8a-602~~]. 26B-4-135. Notification of air ambulance policies and charges.

(1) For any patient who is in need of air medical transport provider services, an emergency medical service provider shall:

(a) provide the patient or the patient's representative with the information described in Subsection [~~26-8a-107~~] 26B-1-405(7)(a) before contacting an air medical transport provider; and

(b) if multiple air medical transport providers are capable of providing the patient with services, provide the patient or the patient's representative an opportunity to choose the air medical transport provider.

(2) Subsection (1) does not apply if the patient:

(a) is unconscious and the patient's representative is not physically present with the patient; or

(b) is unable, due to a medical condition, to make an informed decision about the choice of an air medical transport provider, and the patient's representative is not physically present with the patient.

Section 36. Section 26B-4-136, which is renumbered from Section 26-8a-603 is renumbered and amended to read:

[~~26-8a-603~~]. 26B-4-136. Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

(1) As used in this section:

(a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(b) "Local government entity" means a political subdivision that:

(i) is licensed as a ground ambulance provider under Part 4, Ambulance and Paramedic Providers; and

(ii) as of January 1, 2022, does not offer health insurance benefits to volunteer emergency medical service personnel.

(c) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

(d) "Political subdivision" means a county, a municipality, a limited purpose government entity described in Title 17B, Limited Purpose Local Government Entities - Local Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal

agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(e) "Qualifying association" means an association that represents two or more political subdivisions in the state.

(2) The Volunteer Emergency Medical Service Personnel Health Insurance Program shall promote recruitment and retention of volunteer emergency medical service personnel by making health insurance available to volunteer emergency medical service personnel.

(3) The department shall contract with a qualifying association to create, implement, and administer the Volunteer Emergency Medical Service Personnel Health Insurance Program described in this section.

(4) Participation in the program is limited to emergency medical service personnel who:

(a) are licensed under Section [~~26-8a-302~~] 26B-4-116 and are able to perform all necessary functions associated with the license;

(b) provide emergency medical services under the direction of a local governmental entity:

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period;

(ii) within a county of the third, fourth, fifth, or sixth class; and

(iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106;

(c) are not eligible for a health benefit plan through an employer or a spouse's employer;

(d) are not eligible for medical coverage under a government sponsored healthcare program; and

(e) reside in the state.

(5) (a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) Benefits available to program participants under PEHP are limited to health insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

(iii) if the program participant is no longer eligible for benefits, terminates on the last day of the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(6) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design and eligibility for the program.

(b) The department shall convene an advisory board:

(i) to advise the department on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 37. Section 26B-4-137, which is renumbered from Section 26-8c-102 is renumbered and amended to read:

[~~26-8c-102~~]. 26B-4-137. EMS Personnel Licensure Interstate Compact.

EMS PERSONNEL LICENSURE
INTERSTATE COMPACT

SECTION 1. PURPOSE

In order to protect the public through verification of competency and ensure accountability for patient care related activities all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs and paramedics. This Compact is intended to facilitate the day to day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This Compact is designed to achieve the following purposes and objectives:

1. Increase public access to EMS personnel;

2. Enhance the states' ability to protect the public's health and safety, especially patient safety;

3. Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;

4. Support licensing of military members who are separating from an active duty tour and their spouses;

5. Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action and significant investigatory information;

6. Promote compliance with the laws governing EMS personnel practice in each member state; and

7. Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

SECTION 2. DEFINITIONS

In this compact:

A. "Advanced Emergency Medical Technician (AEMT)" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

B. "Adverse Action" means: any administrative, civil, equitable or criminal action permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions and state court judgments enforcing adverse actions by the state EMS authority.

C. "Alternative program" means: a voluntary, non-disciplinary substance [~~abuse~~] use recovery program approved by a state EMS authority.

D. "Certification" means: the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

E. "Commission" means: the national administrative body of which all states that have enacted the compact are members.

F. "Emergency Medical Technician (EMT)" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

G. "Home State" means: a member state where an individual is licensed to practice emergency medical services.

H. "License" means: the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or a level in between EMT and paramedic.

I. "Medical Director" means: a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

J. "Member State" means: a state that has enacted this compact.

K. "Privilege to Practice" means: an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

L. "Paramedic" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

M. "Remote State" means: a member state in which an individual is not licensed.

N. "Restricted" means: the outcome of an adverse action that limits a license or the privilege to practice.

O. "Rule" means: a written statement by the interstate Commission promulgated pursuant to Section 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

P. "Scope of Practice" means: defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

Q. "Significant Investigatory Information" means:

1. investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

2. investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

R. "State" means: means any state, commonwealth, district, or territory of the United States.

S. "State EMS Authority" means: the board, office, or other agency with the legislative mandate to license EMS personnel.

SECTION 3. HOME STATE LICENSURE

A. Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

C. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

1. Currently requires the use of the National Registry of Emergency Medical Technicians

(NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

2. Has a mechanism in place for receiving and investigating complaints about individuals;

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

4. No later than five years after activation of the Compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. Sec. 731.202 and submit documentation of such as promulgated in the rules of the Commission; and

5. Complies with the rules of the Commission.

SECTION 4. COMPACT PRIVILEGE TO PRACTICE

A. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with Section 3.

B. To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

1. Be at least 18 years of age;

2. Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

3. Practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

D. Except as provided in Section 4 subsection C, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the Commission.

E. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

SECTION 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the Commission, and under the following circumstances:

1. The individual originates a patient transport in a home state and transports the patient to a remote state;

2. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

3. The individual enters a remote state to provide patient care and/or transport within that remote state;

4. The individual enters a remote state to pick up a patient and provide care and transport to a third member state;

5. Other conditions as determined by rules promulgated by the commission.

SECTION 6. RELATIONSHIP TO EMERGENCY

MANAGEMENT ASSISTANCE COMPACT

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact (EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this Compact conflicts with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

SECTION 7. VETERANS, SERVICE MEMBERS SEPARATING

FROM ACTIVE DUTY MILITARY, AND THEIR SPOUSES

A. Member states shall consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses.

C. All individuals functioning with a privilege to practice under this Section remain subject to the Adverse Actions provisions of Section VIII.

SECTION 8. ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

1. All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

2. An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

C. A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the Commission in accordance with the rules of the Commission.

D. A remote state may take adverse action on an individual's privilege to practice within that state.

E. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

F. A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

G. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

SECTION 9. ADDITIONAL
POWERS INVESTED

IN A MEMBER STATE'S EMS AUTHORITY

A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

1. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, and/or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

2. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

SECTION 10. ESTABLISHMENT
OF THE INTERSTATE

COMMISSION FOR EMS
PERSONNEL PRACTICE

A. The Compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

1. The Commission is a body politic and an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have and be limited to one (1) delegate. The responsible official of the state EMS authority or his designee shall be the delegate to this Compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the state will determine which entity will be responsible for assigning the delegate.

2. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section XII.

5. The Commission may convene in a closed, non-public meeting if the Commission must discuss:

a. Non-compliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigatory records compiled for law enforcement purposes;

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including but not limited to:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:

a. for the establishment and meetings of other committees; and

b. governing any general or specific delegation of any authority or function of the Commission;

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;

4. Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the Commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;

6. Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees;

7. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

8. The Commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any.

9. The Commission shall maintain its financial records in accordance with the bylaws.

10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

8. To sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

9. To establish a budget and make expenditures;

10. To borrow money;

11. To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

12. To provide and receive information from, and to cooperate with, law enforcement agencies;

13. To adopt and use an official seal; and

14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of EMS personnel licensure and practice.

E. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

F. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that

person.

SECTION 11. COORDINATED DATABASE

A. The Commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Significant investigatory information;

4. Adverse actions against an individual's license;

5. An indicator that an individual's privilege to practice is restricted, suspended or revoked;

6. Non-confidential information related to alternative program participation;

7. Any denial of application for licensure, and the reason(s) for such denial; and

8. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

D. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

E. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

SECTION 12. RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission; and

2. On the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules

may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable [~~attorney's~~] attorney fees.

C. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable [~~attorney's~~] attorney fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 14. DATE OF IMPLEMENTATION OF THE INTERSTATE

COMMISSION FOR EMS PERSONNEL PRACTICE AND

ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

B. Any state that joins the compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the compact becomes law in that state.

C. Any member state may withdraw from this compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 15. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

Section 38. Section 26B-4-150, which is renumbered from Section 26-8a-401 is renumbered and amended to read:

[~~26-8a-401~~]. 26B-4-150. State regulation of emergency medical services market -- License term.

(1) To ensure emergency medical service quality and minimize unnecessary duplication, the department shall regulate the emergency medical services market by creating and operating a statewide system that:

(a) consists of exclusive geographic service areas as provided in Section [~~26-8a-402~~] 26B-4-151; and

(b) establishes maximum rates as provided in Section [~~26-8a-403~~] 26B-4-152.

(2) A license issued or renewed under [~~this part~~] Sections 26B-4-150 through 26B-4-170 is valid for four years.

Section 39. Section 26B-4-151, which is renumbered from Section 26-8a-402 is renumbered and amended to read:

[~~26-8a-402~~]. 26B-4-151. Exclusive geographic service areas.

(1) Each ground ambulance provider license issued under [~~this part~~] Sections 26B-4-150 through 26B-4-170 shall be for an exclusive geographic service area as described in the license. Only the licensed ground ambulance provider may respond to an ambulance request that originates within the provider's exclusive geographic service area, except as provided in Subsection (5) and Section [~~26-8a-416~~] 26B-4-170.

(2) Each paramedic provider license issued under [~~this part~~] Sections 26B-4-150 through 26B-4-170 shall be for an exclusive geographic service area as

described in the license. Only the licensed paramedic provider may respond to a paramedic request that originates within the exclusive geographic service area, except as provided in Subsection (6) and Section [~~26-8a-416~~] 26B-4-170.

(3) Nothing in this section may be construed as either requiring or prohibiting that the formation of boundaries in a given location be the same for a licensed paramedic provider and a licensed ambulance provider.

(4) (a) A licensed ground ambulance or paramedic provider may, as necessary, enter into a mutual aid agreement to allow another licensed provider to give assistance in times of unusual demand, as that term is defined by the committee in rule.

(b) A mutual aid agreement shall include a formal written plan detailing the type of assistance and the circumstances under which it would be given.

(c) The parties to a mutual aid agreement shall submit a copy of the agreement to the department.

(d) Notwithstanding this Subsection (4), a licensed provider may not subcontract with another entity to provide services in the licensed provider's exclusive geographic service area.

(5) Notwithstanding Subsection (1), a licensed ground ambulance provider may respond to an ambulance request that originates from the exclusive geographic area of another provider:

(a) pursuant to a mutual aid agreement;

(b) to render assistance on a case-by-case basis to that provider; and

(c) as necessary to meet needs in time of disaster or other major emergency.

(6) Notwithstanding Subsection (2), a licensed paramedic provider may respond to a paramedic request that originates from the exclusive geographic area of another provider:

(a) pursuant to a mutual aid agreement;

(b) to render assistance on a case-by-case basis to that provider; and

(c) as necessary to meet needs in time of disaster or other major emergency.

(7) The department may, upon the renewal of a license, align the boundaries of an exclusive geographic area with the boundaries of a political subdivision:

(a) if the alignment is practical and in the public interest;

(b) if each licensed provider that would be affected by the alignment agrees to the alignment; and

(c) taking into consideration the requirements of:

(i) Section 11-48-103; and

(ii) Section [~~26-8a-408~~] 26B-4-162.

Section 40. Section 26B-4-152, which is renumbered from Section 26-8a-403 is renumbered and amended to read:

[~~26-8a-403~~]. 26B-4-152. Establishment of maximum rates.

(1) The department shall, after receiving recommendations under Subsection (2), establish maximum rates for ground ambulance providers and paramedic providers that are just and reasonable.

(2) The committee may make recommendations to the department on the maximum rates that should be set under Subsection (1).

(3) (a) The department shall prohibit ground ambulance providers and paramedic providers from charging fees for transporting a patient when the provider does not transport the patient.

(b) The provisions of Subsection (3)(a) do not apply to ambulance providers or paramedic providers in a geographic service area which contains a town as defined in Subsection 10-2-301(2)(f).

Section 41. Section 26B-4-153, which is renumbered from Section 26-8a-404 is renumbered and amended to read:

[~~26-8a-404~~]. 26B-4-153. Ground ambulance and paramedic licenses -- Application and department review.

(1) Except as provided in Section [~~26-8a-413~~] 26B-4-167, an applicant for a ground ambulance or paramedic license shall apply to the department for a license only by:

(a) submitting a completed application;

(b) providing information in the format required by the department; and

(c) paying the required fees, including the cost of the hearing officer.

(2) The department shall make rules establishing minimum qualifications and requirements for:

(a) personnel;

(b) capital reserves;

(c) equipment;

(d) a business plan;

(e) operational procedures;

(f) medical direction agreements;

(g) management and control; and

(h) other matters that may be relevant to an applicant's ability to provide ground ambulance or paramedic service.

(3) An application for a license to provide ground ambulance service or paramedic service shall be for all ground ambulance services or paramedic services arising within the geographic service area, except that an applicant may apply for a license for less than all ground ambulance services or all

paramedic services arising within an exclusive geographic area if it can demonstrate how the remainder of that area will be served.

(4) (a) A ground ambulance service licensee may apply to the department for a license to provide a higher level of service as defined by department rule if the application includes:

(i) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;

(ii) an assessment of field performance by the applicant's off-line director; and

(iii) an updated plan of operation demonstrating the ability of the applicant to provide the higher level of service.

(b) If the department determines that the applicant has demonstrated the ability to provide the higher level of service in accordance with Subsection (4)(a), the department shall issue a revised license reflecting the higher level of service and the requirements of Section [~~26-8a-408~~] 26B-4-162 do not apply.

(c) A revised license issued under Subsection (4)(b):

(i) may only affect the level of service that the licensee may provide; and

(ii) may not affect any other terms, conditions, or limitations of the original license.

(5) Upon receiving a completed application and the required fees, the department shall review the application and determine whether the application meets the minimum qualifications and requirements for licensure.

(6) The department may deny an application if it finds that it contains any materially false or misleading information, is incomplete, or if the application demonstrates that the applicant fails to meet the minimum qualifications and requirements for licensure under Subsection (2).

(7) If the department denies an application, it shall notify the applicant in writing setting forth the grounds for the denial. A denial may be appealed under Title 63G, Chapter 4, Administrative Procedures Act.

Section 42. Section 26B-4-154, which is renumbered from Section 26-8a-405 is renumbered and amended to read:

[~~26-8a-405~~]. 26B-4-154. Ground ambulance and paramedic licenses -- Agency notice of approval.

(1) Beginning January 1, 2004, if the department determines that the application meets the minimum requirements for licensure under Section [~~26-8a-404~~] 26B-4-153, the department shall issue a notice of the approved application to the applicant.

(2) A current license holder responding to a request for proposal under Section [~~26-8a-405.2~~] 26B-4-156 is considered an approved applicant for purposes of Section [~~26-8a-405.2~~] 26B-4-156 if the current license holder, prior to responding to the request for proposal, submits the following to the department:

(a) the information described in Subsections [~~26-8a-404~~] 26B-4-153(4)(a)(i) through (iii); and

(b) (i) if the license holder is a private entity, a financial statement, a pro forma budget and necessary letters of credit demonstrating a financial ability to expand service to a new service area; or

(ii) if the license holder is a governmental entity, a letter from the governmental entity's governing body demonstrating the governing body's willingness to financially support the application.

Section 43. Section 26B-4-155, which is renumbered from Section 26-8a-405.1 is renumbered and amended to read:

[~~26-8a-405.1~~]. 26B-4-155. Selection of provider by political subdivision.

(1) (a) Only an applicant approved under Section [~~26-8a-405~~] 26B-4-154 may respond to a request for a proposal issued in accordance with Section [~~26-8a-405.2~~] 26B-4-156 or Section [~~26-8a-405.4~~] 26B-4-158 by a political subdivision.

(b) A response to a request for proposal is subject to the maximum rates established by the department under Section [~~26-8a-403~~] 26B-4-152.

(c) A political subdivision may award a contract to an applicant in response to a request for proposal:

(i) in accordance with Section [~~26-8a-405.2~~] 26B-4-156; and

(ii) subject to Subsections (2) and (3).

(2) (a) The department shall issue a license to an applicant selected by a political subdivision under Subsection (1) unless the department finds that issuing a license to that applicant would jeopardize the health, safety, and welfare of the citizens of the geographic service area.

(b) A license issued under this Subsection (2):

(i) is for the exclusive geographic service area approved by the department in accordance with Subsection [~~26-8a-405.2~~] 26B-4-156(2);

(ii) is valid for four years;

(iii) is not subject to a request for license from another applicant under the provisions of Sections [~~26-8a-406 through 26-8a-409~~] 26B-4-160 through 26B-4-163 during the four-year term, unless the applicant's license is revoked under Section [~~26-8a-504~~] 26B-4-130;

(iv) is subject to revocation or revision under Subsection (3)(d); and

(v) is subject to supervision by the department under Sections [~~26-8a-503 and 26-8a-504~~] 26B-4-129 and 26B-4-130.

(3) Notwithstanding Subsection (2)(b), a political subdivision may terminate a contract described in Subsection (1)(c), with or without cause, if:

(a) the contract:

(i) is entered into on or after May 5, 2021; and

(ii) allows an applicant to provide 911 ambulance services;

(b) the political subdivision provides written notice to the applicant described in Subsection (3)(a)(ii) and the department:

(i) at least 18 months before the day on which the contract is terminated; or

(ii) within a period of time shorter than 18 months before the day on which the contract is terminated, if otherwise agreed to by the applicant and the department;

(c) the political subdivision selects another applicant to provide 911 ambulance services for the political subdivision in accordance with Section [~~26-8a-405.2~~] 26B-4-156;

(d) the department:

(i) revokes the license of the applicant described in Subsection (3)(a)(ii), or issues a new or revised license for the applicant described in Subsection (3)(a)(ii):

(A) in order to remove the area that is subject to the contract from the applicant's exclusive geographic service area; and

(B) to take effect the day on which the contract is terminated; and

(ii) issues a new or revised license for the applicant described in Subsection (3)(c):

(A) in order to allow the applicant to provide 911 ambulance services for the area described in Subsection (3)(d)(i)(A); and

(B) to take effect the day on which the contract is terminated; and

(e) the termination does not create an orphaned area.

(4) Except as provided in Subsection [~~26-8a-405.3~~] 26B-4-157(4)(a), the provisions of Sections [~~26-8a-406 through 26-8a-409~~] 26B-4-160 through 26B-4-163 do not apply to a license issued under this section.

Section 44. Section 26B-4-156, which is renumbered from Section 26-8a-405.2 is renumbered and amended to read:

[~~26-8a-405.2~~]. 26B-4-156. Selection of provider -- Request for competitive sealed proposal -- Public convenience and necessity.

(1) (a) A political subdivision may contract with an applicant approved under Section [~~26-8a-404~~] 26B-4-153 to provide services for the geographic service area that is approved by the department in accordance with Subsection (2), if:

(i) the political subdivision complies with the provisions of this section and Section [~~26-8a-405.3~~] 26B-4-157 if the contract is for 911 ambulance or paramedic services; or

(ii) the political subdivision complies with Sections [~~26-8a-405.3 and 26-8a-405.4~~] 26B-4-157 and 26B-4-158, if the contract is for non-911 services.

(b) (i) The provisions of this section and Sections [~~26-8a-405.1, 26-8a-405.3, and 26-8a-405.4~~] 26B-4-155, 26B-4-157, and 26B-4-158 do not require a political subdivision to issue a request for proposal for ambulance or paramedic services or non-911 services.

(ii) If a political subdivision does not contract with an applicant in accordance with this section and Section [~~26-8a-405.3~~] 26B-4-157, the provisions of Sections [~~26-8a-406 through 26-8a-409~~] 26B-4-160 through 26B-4-163 apply to the issuance of a license for ambulance or paramedic services in the geographic service area that is within the boundaries of the political subdivision.

(iii) If a political subdivision does not contract with an applicant in accordance with this section, Section [~~26-8a-405.3~~] 26B-4-157 and Section [~~26-8a-405.4~~] 26B-4-158, a license for the non-911 services in the geographic service area that is within the boundaries of the political subdivision may be issued:

(A) under the public convenience and necessity provisions of Sections [~~26-8a-406 through 26-8a-409~~] 26B-4-160 through 26B-4-163; or

(B) by a request for proposal issued by the department under Section [~~26-8a-405.5~~] 26B-4-159.

(c) (i) [~~For purposes of~~] As used in this Subsection (1)(c):

(A) "Fire district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, that:

(I) is located in a county of the first or second class; and

(II) provides fire protection, paramedic, and emergency services.

(B) "Participating municipality" means a city or town whose area is partly or entirely included within a county service area or fire district.

(C) "Participating county" means a county whose unincorporated area is partly or entirely included within a fire district.

(ii) A participating municipality or participating county may as provided in this section and Section [~~26-8a-405.3~~] 26B-4-157, contract with a provider for 911 ambulance or paramedic service.

(iii) If the participating municipality or participating county contracts with a provider for services under this section and Section [~~26-8a-405.3~~] 26B-4-157:

(A) the fire district is not obligated to provide the services that are included in the contract between the participating municipality or the participating county and the provider;

(B) the fire district may impose taxes and obligations within the fire district in the same manner as if the participating municipality or participating county were receiving all services offered by the fire district; and

(C) the participating municipality's and participating county's obligations to the fire district are not diminished.

(2) (a) The political subdivision shall submit the request for proposal and the exclusive geographic service area to be included in a request for proposal issued under Subsections (1)(a)(i) or (ii) to the department for approval prior to issuing the request for proposal. The department shall approve the request for proposal and the exclusive geographic service area:

(i) unless the geographic service area creates an orphaned area; and

(ii) in accordance with Subsections (2)(b) and (c).

(b) The exclusive geographic service area may:

(i) include the entire geographic service area that is within the political subdivision's boundaries;

(ii) include islands within or adjacent to other peripheral areas not included in the political subdivision that governs the geographic service area; or

(iii) exclude portions of the geographic service area within the political subdivision's boundaries if another political subdivision or licensed provider agrees to include the excluded area within their license.

(c) The proposed geographic service area for 911 ambulance or paramedic service shall demonstrate that non-911 ambulance or paramedic service will be provided in the geographic service area, either by the current provider, the applicant, or some other method acceptable to the department. The department may consider the effect of the proposed geographic service area on the costs to the non-911 provider and that provider's ability to provide only non-911 services in the proposed area.

Section 45. Section 26B-4-157, which is renumbered from Section 26-8a-405.3 is renumbered and amended to read:

[~~26-8a-405.3~~]. 26B-4-157. Use of competitive sealed proposals -- Procedure -- Appeal rights.

(1) (a) Competitive sealed proposals for paramedic or 911 ambulance services under Section [~~26-8a-405.2~~] 26B-4-156, or for non-911 services under Section [~~26-8a-405.4~~] 26B-4-158, shall be solicited through a request for proposal and the provisions of this section.

(b) The governing body of the political subdivision shall approve the request for proposal prior to the notice of the request for proposals under Subsection (1)(c).

(c) Notice of the request for proposals shall be published:

(i) by posting the notice for at least 20 days in at least five public places in the county; and

(ii) by posting the notice on the Utah Public Notice Website, created in Section 63A-16-601, for at least 20 days.

(2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiations.

(b) (i) Subsequent to the published notice, and prior to selecting an applicant, the political subdivision shall hold a presubmission conference with interested applicants for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements.

(ii) A political subdivision shall allow at least 90 days from the presubmission conference for the proposers to submit proposals.

(c) Subsequent to the presubmission conference, the political subdivision may issue addenda to the request for proposals. An addenda to a request for proposal shall be finalized and posted by the political subdivision at least 45 days before the day on which the proposal must be submitted.

(d) Offerors to the request for proposals shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and revisions may be permitted after submission and before a contract is awarded for the purpose of obtaining best and final offers.

(e) In conducting discussions, there shall be no disclosures of any information derived from proposals submitted by competing offerors.

(3) (a) (i) A political subdivision may select an applicant approved by the department under Section [~~26-8a-404~~] 26B-4-153 to provide 911 ambulance or paramedic services by contract to the most responsible offeror as defined in Section 63G-6a-103.

(ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the political subdivision, taking into consideration price and the evaluation factors set forth in the request for proposal.

(b) The applicants who are approved under Section [~~26-8a-405~~] 26B-4-154 and who are selected under this section may be the political subdivision issuing the request for competitive sealed proposals, or any other public entity or entities, any private person or entity, or any combination thereof.

(c) A political subdivision may reject all of the competitive proposals.

(4) In seeking competitive sealed proposals and awarding contracts under this section, a political subdivision:

(a) shall apply the public convenience and necessity factors listed in Subsections [~~26-8a-408~~] 26B-4-162(2) through (6);

(b) shall require the applicant responding to the proposal to disclose how the applicant will meet performance standards in the request for proposal;

(c) may not require or restrict an applicant to a certain method of meeting the performance standards, including:

(i) requiring ambulance medical personnel to also be a firefighter; or

(ii) mandating that offerors use fire stations or dispatch services of the political subdivision;

(d) shall require an applicant to submit the proposal:

(i) based on full cost accounting in accordance with generally accepted accounting principals; and

(ii) if the applicant is a governmental entity, in addition to the requirements of Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and in compliance with the State of Utah Legal Compliance Audit Guide; and

(e) shall set forth in the request for proposal:

(i) the method for determining full cost accounting in accordance with generally accepted accounting principles, and require an applicant to submit the proposal based on such full cost accounting principles;

(ii) guidelines established to further competition and provider accountability; and

(iii) a list of the factors that will be considered by the political subdivision in the award of the contract, including by percentage, the relative weight of the factors established under this Subsection (4)(e), which may include such things as:

(A) response times;

(B) staging locations;

(C) experience;

(D) quality of care; and

(E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).

(5) (a) Notwithstanding any provision of Title 63G, Chapter 6a, Utah Procurement Code, to the contrary, the provisions of Title 63G, Chapter 6a, Utah Procurement Code, apply to the procurement process required by this section, except as provided in Subsection (5)(c).

(b) A procurement appeals panel described in Section 63G-6a-1702 shall have jurisdiction to review and determine an appeal of an offeror under this section.

(c) (i) An offeror may appeal the solicitation or award as provided by the political subdivision's procedures. After all political subdivision appeal rights are exhausted, the offeror may appeal under the provisions of Subsections (5)(a) and (b).

(ii) A procurement appeals panel described in Section 63G-6a-1702 shall determine whether the solicitation or award was made in accordance with the procedures set forth in this section and Section [~~26-8a-405.2~~] 26B-4-156.

(d) The determination of an issue of fact by the appeals board shall be final and conclusive unless arbitrary and capricious or clearly erroneous as provided in Section 63G-6a-1705.

Section 46. Section 26B-4-158, which is renumbered from Section 26-8a-405.4 is renumbered and amended to read:

[~~26-8a-405.4~~]. 26B-4-158. Non-911 provider -- Finding of meritorious complaint -- Request for proposals.

(1) (a) This section applies to a non-911 provider license under this [~~chapter~~] part.

(b) The department shall, in accordance with Subsections (3) and (4):

(i) receive a complaint about a non-911 provider;

(ii) determine whether the complaint has merit;

(iii) issue a finding of:

(A) a meritorious complaint; or

(B) a non-meritorious complaint; and

(iv) forward a finding of a meritorious complaint to the governing body of the political subdivision:

(A) in which the non-911 provider is licensed; or

(B) that provides the non-911 services, if different from Subsection (1)(b)(iv)(A).

(2) (a) A political subdivision that receives a finding of a meritorious complaint from the department:

(i) shall take corrective action that the political subdivision determines is appropriate; and

(ii) shall, if the political subdivision determines corrective action will not resolve the complaint or is not appropriate:

(A) issue a request for proposal for non-911 service in the geographic service area if the political subdivision will not respond to the request for proposal; or

(B) (I) make a finding that a request for proposal for non-911 services is appropriate and the political subdivision intends to respond to a request for proposal; and

(II) submit the political subdivision's findings to the department with a request that the department issue a request for proposal in accordance with Section [~~26-8a-405.5~~] 26B-4-159.

(b) (i) If Subsection (2)(a)(ii)(A) applies, the political subdivision shall issue the request for proposal in accordance with Sections [~~26-8a-405.1 through 26-8a-405.3~~] 26B-4-155 through 26B-4-157.

(ii) If Subsection (2)(a)(ii)(B) applies, the department shall issue a request for proposal for non-911 services in accordance with Section [~~26-8a-405.5~~] 26B-4-159.

(3) The department shall make a determination under Subsection (1)(b) if:

(a) the department receives a written complaint from any of the following in the geographic service area:

(i) a hospital;

(ii) a health care facility;

(iii) a political subdivision; or

(iv) an individual; and

(b) the department determines, in accordance with Subsection (1)(b), that the complaint has merit.

(4) (a) If the department receives a complaint under Subsection (1)(b), the department shall request a written response from the non-911 provider concerning the complaint.

(b) The department shall make a determination under Subsection (1)(b) based on:

(i) the written response from the non-911 provider; and

(ii) other information that the department may have concerning the quality of service of the non-911 provider.

(c) (i) The department's determination under Subsection (1)(b) is not subject to an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of Subsection (1)(b).

Section 47. Section 26B-4-159, which is renumbered from Section 26-8a-405.5 is renumbered and amended to read:

[~~26-8a-405.5~~]. 26B-4-159. Use of competitive sealed proposals -- Procedure -- Appeal rights.

(1) (a) The department shall issue a request for proposal for non-911 services in a geographic service area if the department receives a request from a political subdivision under Subsection [~~26-8a-405.4~~] 26B-4-158(2)(a)(ii)(B) to issue a request for proposal for non-911 services.

(b) Competitive sealed proposals for non-911 services under Subsection (1)(a) shall be solicited through a request for proposal and the provisions of this section.

(c) (i) Notice of the request for proposals shall be published:

(A) at least once a week for three consecutive weeks in a newspaper of general circulation published in the county; or

(B) if there is no such newspaper, then notice shall be posted for at least 20 days in at least five public places in the county; and

(ii) in accordance with Section 45-1-101 for at least 20 days.

(2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiations.

(b) (i) Subsequent to the published notice, and prior to selecting an applicant, the department shall hold a presubmission conference with interested applicants for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements.

(ii) The department shall allow at least 90 days from the presubmission conference for the proposers to submit proposals.

(c) Subsequent to the presubmission conference, the department may issue addenda to the request for proposals. An addenda to a request for proposal shall be finalized and posted by the department at least 45 days before the day on which the proposal must be submitted.

(d) Offerors to the request for proposals shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and revisions may be permitted after submission and before a contract is awarded for the purpose of obtaining best and final offers.

(e) In conducting discussions, there shall be no disclosures of any information derived from proposals submitted by competing offerors.

(3) (a) (i) The department may select an applicant approved by the department under Section [~~26-8a-404~~] 26B-4-153 to provide non-911 services by contract to the most responsible offeror as defined in Section 63G-6a-103.

(ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the public, taking into consideration price and the evaluation factors set forth in the request for proposal.

(b) The applicants who are approved under Section [~~26-8a-405~~] 26B-4-154 and who are selected under this section may be the political subdivision responding to the request for competitive sealed proposals, or any other public entity or entities, any private person or entity, or any combination thereof.

(c) The department may reject all of the competitive proposals.

(4) In seeking competitive sealed proposals and awarding contracts under this section, the department:

(a) shall consider the public convenience and necessity factors listed in Subsections [~~26-8a-408~~] 26B-4-162(2) through (6);

(b) shall require the applicant responding to the proposal to disclose how the applicant will meet performance standards in the request for proposal;

(c) may not require or restrict an applicant to a certain method of meeting the performance standards, including:

(i) requiring ambulance medical personnel to also be a firefighter; or

(ii) mandating that offerors use fire stations or dispatch services of the political subdivision;

(d) shall require an applicant to submit the proposal:

(i) based on full cost accounting in accordance with generally accepted accounting principals; and

(ii) if the applicant is a governmental entity, in addition to the requirements of Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and in compliance with the State of Utah Legal Compliance Audit Guide; and

(e) shall set forth in the request for proposal:

(i) the method for determining full cost accounting in accordance with generally accepted accounting principles, and require an applicant to submit the proposal based on such full cost accounting principles;

(ii) guidelines established to further competition and provider accountability; and

(iii) a list of the factors that will be considered by the department in the award of the contract, including by percentage, the relative weight of the factors established under this Subsection (4)(e), which may include:

(A) response times;

(B) staging locations;

(C) experience;

(D) quality of care; and

(E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).

(5) A license issued under this section:

(a) is for the exclusive geographic service area approved by the department;

(b) is valid for four years;

(c) is not subject to a request for license from another applicant under the provisions of Sections [~~26-8a-406 through 26-8a-409~~] 26B-4-160 through 26B-4-163 during the four-year term, unless the applicant's license is revoked under Section [~~26-8a-504~~] 26B-4-130;

(d) is subject to supervision by the department under Sections [~~26-8a-503 and 26-8a-504~~] 26B-4-129 and 26B-4-130; and

(e) except as provided in Subsection (4)(a), is not subject to the provisions of Sections [~~26-8a-406 through 26-8a-409~~] 26B-4-160 through 26B-4-163.

Section 48. Section 26B-4-160, which is renumbered from Section 26-8a-406 is renumbered and amended to read:

[~~26-8a-406~~]. 26B-4-160. Ground ambulance and paramedic licenses -- Parties.

(1) When an applicant approved under Section [~~26-8a-404~~] 26B-4-153 seeks licensure under the provisions of Sections [~~26-8a-406 through 26-8a-409~~] 26B-4-160 through 26B-4-163, the department shall:

(a) issue a notice of agency action to the applicant to commence an informal administrative proceeding;

(b) provide notice of the application to all interested parties; and

(c) publish notice of the application, at the applicant's expense:

(i) once a week for four consecutive weeks, in a newspaper of general circulation in the geographic service area that is the subject of the application; and

(ii) in accordance with Section 45-1-101 for four weeks.

(2) An interested party has 30 days to object to an application.

(3) If an interested party objects, the presiding officer shall join the interested party as an indispensable party to the proceeding.

(4) The department may join the proceeding as a party to represent the public interest.

(5) Others who may be affected by the grant of a license to the applicant may join the proceeding, if the presiding officer determines that they meet the requirement of legal standing.

Section 49. Section 26B-4-161, which is renumbered from Section 26-8a-407 is renumbered and amended to read:

[~~26-8a-407~~]. 26B-4-161. Ground ambulance and paramedic licenses -- Proceedings.

(1) The presiding officer shall:

(a) commence an informal adjudicative proceeding within 120 days of receiving a completed application;

(b) meet with the applicant and objecting interested parties and provide no less than 120 days for a negotiated resolution, consistent with the criteria in Section [~~26-8a-408~~] 26B-4-162;

(c) set aside a separate time during the proceedings to accept public comment on the application; and

(d) present a written decision to the executive director if a resolution has been reached that satisfies the criteria in Section [~~26-8a-408~~] 26B-4-162.

(2) At any time during an informal adjudicative proceeding under Subsection (1), any party may request conversion of the informal adjudicative proceeding to a formal adjudicative proceeding in accordance with Section 63G-4-202.

(3) Upon conversion to a formal adjudicative proceeding, a hearing officer shall be assigned to the application as provided in Section [~~26-8a-409~~] 26B-4-163. The hearing office shall:

(a) set aside a separate time during the proceedings to accept public comment on the application;

(b) apply the criteria established in Section [~~26-8a-408~~] 26B-4-162; and

(c) present a recommended decision to the executive director in writing.

(4) The executive director may, as set forth in a final written order, accept, modify, reject, or remand the decision of a presiding or hearing officer after:

(a) reviewing the record;

(b) giving due deference to the officer's decision; and

(c) determining whether the criteria in Section [~~26-8a-408~~] 26B-4-162 have been satisfied.

Section 50. Section 26B-4-162, which is renumbered from Section 26-8a-408 is renumbered and amended to read:

[~~26-8a-408~~]. 26B-4-162. Criteria for determining public convenience and necessity.

(1) The criteria for determining public convenience and necessity is set forth in Subsections (2) through (6).

(2) Access to emergency medical services shall be maintained or improved. The officer shall consider the impact on existing services, including the impact on response times, call volumes, populations and exclusive geographic service areas served, and the ability of surrounding licensed providers to service their exclusive geographic service areas. The issuance or amendment of a license may not create an orphaned area.

(3) The quality of service in the area shall be maintained or improved. The officer shall consider the:

(a) staffing and equipment standards of the current licensed provider and the applicant;

(b) training and licensure levels of the current licensed provider's staff and the applicant's staff;

(c) continuing medical education provided by the current licensed provider and the applicant;

(d) levels of care as defined by department rule;

(e) plan of medical control; and

(f) the negative or beneficial impact on the regional emergency medical service system to provide service to the public.

(4) The cost to the public shall be justified. The officer shall consider:

(a) the financial solvency of the applicant;

(b) the applicant's ability to provide services within the rates established under Section [~~26-8a-403~~] 26B-4-152;

(c) the applicant's ability to comply with cost reporting requirements;

(d) the cost efficiency of the applicant; and

(e) the cost effect of the application on the public, interested parties, and the emergency medical services system.

(5) Local desires concerning cost, quality, and access shall be considered. The officer shall assess and consider:

(a) the existing provider's record of providing services and the applicant's record and ability to provide similar or improved services;

(b) locally established emergency medical services goals, including those established in Subsection (7);

(c) comment by local governments on the applicant's business and operations plans;

(d) comment by interested parties that are providers on the impact of the application on the parties' ability to provide emergency medical services;

(e) comment by interested parties that are local governments on the impact of the application on the citizens it represents; and

(f) public comment on any aspect of the application or proposed license.

(6) Other related criteria:

(a) the officer considers necessary; or

(b) established by department rule.

(7) Local governments shall establish cost, quality, and access goals for the ground ambulance and paramedic services that serve their areas.

(8) In a formal adjudicative proceeding, the applicant bears the burden of establishing that public convenience and necessity require the approval of the application for all or part of the exclusive geographic service area requested.

Section 51. Section 26B-4-163, which is renumbered from Section 26-8a-409 is renumbered and amended to read:

[~~26-8a-409~~]. 26B-4-163. Ground ambulance and paramedic licenses -- Hearing and presiding officers.

(1) The department shall set training standards for hearing officers and presiding officers.

(2) At a minimum, a presiding officer shall:

(a) be familiar with the theory and application of public convenience and necessity; and

(b) have a working knowledge of the emergency medical service system in the state.

(3) In addition to the requirements in Subsection (2), a hearing officer shall also be licensed to practice law in the state.

(4) The department shall provide training for hearing officer and presiding officer candidates in

the theory and application of public convenience and necessity and on the emergency medical system in the state.

(5) The department shall maintain a roster of no less than five individuals who meet the minimum qualifications for both presiding and hearing officers and the standards set by the department.

(6) The parties may mutually select an officer from the roster if the officer is available.

(7) If the parties cannot agree upon an officer under Subsection (4), the department shall randomly select an officer from the roster or from a smaller group of the roster agreed upon by the applicant and the objecting interested parties.

Section 52. Section 26B-4-164, which is renumbered from Section 26-8a-410 is renumbered and amended to read:

[~~26-8a-410~~]. 26B-4-164. Local approvals.

(1) Licensed ambulance providers and paramedic providers shall meet all local zoning and business licensing standards generally applicable to businesses operating within the jurisdiction.

(2) Publicly subsidized providers shall demonstrate approval of the taxing authority that will provide the subsidy.

(3) A publicly operated service shall demonstrate that the governing body has approved the provision of services to the entire exclusive geographic service area that is the subject of the license, including those areas that may lie outside the territorial or jurisdictional boundaries of the governing body.

Section 53. Section 26B-4-165, which is renumbered from Section 26-8a-411 is renumbered and amended to read:

[~~26-8a-411~~]. 26B-4-165. Limitation on repetitive applications.

A person who has previously applied for a license under Sections [~~26-8a-406 through 26-8a-409~~] 26B-4-160 through 26B-4-163 may not apply for a license for the same service that covers any exclusive geographic service area that was the subject of the prior application unless:

(1) one year has passed from the date of the issuance of a final decision under Section [~~26-8a-407~~] 26B-4-161; or

(2) all interested parties and the department agree that a new application is in the public interest.

Section 54. Section 26B-4-166, which is renumbered from Section 26-8a-412 is renumbered and amended to read:

[~~26-8a-412~~]. 26B-4-166. License for air ambulance providers.

(1) An applicant for an air ambulance provider shall apply to the department for a license only by:

(a) submitting a complete application;

(b) providing information in the format required by the department; and

(c) paying the required fees.

(2) The department may make rules establishing minimum qualifications and requirements for:

(a) personnel;

(b) capital reserves;

(c) equipment;

(d) business plan;

(e) operational procedures;

(f) resource hospital and medical direction agreements;

(g) management and control qualifications and requirements; and

(h) other matters that may be relevant to an applicant's ability to provide air ambulance services.

(3) Upon receiving a completed application and the required fees, the department shall review the application and determine whether the application meets the minimum requirements for licensure.

(4) The department may deny an application for an air ambulance if:

(a) the department finds that the application contains any materially false or misleading information or is incomplete;

(b) the application demonstrates that the applicant fails to meet the minimum requirements for licensure; or

(c) the department finds after inspection that the applicant does not meet the minimum requirements for licensure.

(5) If the department denies an application under this section, it shall notify the applicant in writing setting forth the grounds for the denial.

Section 55. Section 26B-4-167, which is renumbered from Section 26-8a-413 is renumbered and amended to read:

[~~26-8a-413~~]. 26B-4-167. License renewals.

(1) A licensed provider desiring to renew its license shall meet the renewal requirements established by department rule.

(2) The department shall issue a renewal license for a ground ambulance provider or a paramedic provider upon the licensee's application for a renewal and without a public hearing if:

(a) the applicant was licensed under the provisions of Sections [~~26-8a-406 through 26-8a-409~~] 26B-4-160 through 26B-4-163; and

(b) there has been:

(i) no change in controlling interest in the ownership of the licensee as defined in Section [~~26-8a-415~~] 26B-4-169;

(ii) no serious, substantiated public complaints filed with the department against the licensee during the term of the previous license;

(iii) no material or substantial change in the basis upon which the license was originally granted;

(iv) no reasoned objection from the committee or the department; and

(v) no change to the license type.

(3) (a) (i) The provisions of this Subsection (3) apply to a provider licensed under the provisions of Sections [~~26-8a-405.1 and 26-8a-405.2~~] 26B-4-155 and 26B-4-156.

(ii) A provider may renew its license if the provisions of Subsections (1) and (2) and this Subsection (3) are met.

(b) (i) The department shall issue a renewal license to a provider upon the provider's application for renewal for one additional four-year term if the political subdivision certifies to the department that the provider has met all of the specifications of the original bid.

(ii) If the political subdivision does not certify to the department that the provider has met all of the specifications of the original bid, the department may not issue a renewal license and the political subdivision shall enter into a public bid process under Sections [~~26-8a-405.1 and 26-8a-405.2~~] 26B-4-155 and 26B-4-156.

(c) (i) The department shall issue an additional renewal license to a provider who has already been issued a one-time renewal license under the provisions of Subsection (3)(b)(i) if the department and the political subdivision do not receive, prior to the expiration of the provider's license, written notice from an approved applicant informing the political subdivision of the approved applicant's desire to submit a bid for ambulance or paramedic service.

(ii) If the department and the political subdivision receive the notice in accordance with Subsection (3)(c)(i), the department may not issue a renewal license and the political subdivision shall enter into a public bid process under Sections [~~26-8a-405.1 and 26-8a-405.2~~] 26B-4-155 and 26B-4-156.

(4) The department shall issue a renewal license for an air ambulance provider upon the licensee's application for renewal and completion of the renewal requirements established by department rule.

Section 56. Section 26B-4-168, which is renumbered from Section 26-8a-414 is renumbered and amended to read:

[~~26-8a-414~~]. 26B-4-168. Annexations.

(1) A municipality shall comply with the provisions of this section if the municipality is licensed under this [~~chapter~~] part and desires to provide service to an area that is:

(a) included in a petition for annexation under Title 10, Chapter 2, Part 4, Annexation; and

(b) currently serviced by another provider licensed under this [~~chapter~~] part.

(2) (a) (i) At least 45 days prior to approving a petition for annexation, the municipality shall certify to the department that by the time of the approval of the annexation the municipality can meet or exceed the current level of service provided by the existing licensee for the annexed area by meeting the requirements of Subsections (2)(b)(ii)(A) through (D); and

(ii) no later than three business days after the municipality files a petition for annexation in accordance with Section 10-2-403, provide written notice of the petition for annexation to:

(A) the existing licensee providing service to the area included in the petition of annexation; and

(B) the department.

(b) (i) After receiving a certification under Subsection (2)(a), but prior to the municipality approving a petition for annexation, the department may audit the municipality only to verify the requirements of Subsections (2)(b)(ii)(A) through (D).

(ii) If the department elects to conduct an audit, the department shall make a finding that the municipality can meet or exceed the current level of service provided by the existing licensee for the annexed area if the department finds that the municipality has or will have by the time of the approval of the annexation:

(A) adequate trained personnel to deliver basic and advanced life support services;

(B) adequate apparatus and equipment to deliver emergency medical services;

(C) adequate funding for personnel and equipment; and

(D) appropriate medical controls, such as a medical director and base hospital.

(iii) The department shall submit the results of the audit in writing to the municipal legislative body.

(3) (a) If the department audit finds that the municipality meets the requirements of Subsection (2)(b)(ii), the department shall issue an amended license to the municipality and all other affected licensees to reflect the municipality's new boundaries after the department receives notice of the approval of the petition for annexation from the municipality in accordance with Section 10-2-425.

(b) (i) Notwithstanding the provisions of Subsection 63G-4-102(2)(k), if the department audit finds that the municipality fails to meet the requirements of Subsection (2)(b)(ii), the municipality may request an adjudicative proceeding under the provisions of Title 63G, Chapter 4, Administrative Procedures Act. The municipality may approve the petition for

annexation while an adjudicative proceeding requested under this Subsection (3)(b)(i) is pending.

(ii) The department shall conduct an adjudicative proceeding when requested under Subsection (3)(b)(i).

(iii) Notwithstanding the provisions of Sections [~~26-8a-404 through 26-8a-409~~] 26B-4-153 through 26B-4-163, in any adjudicative proceeding held under the provisions of Subsection (3)(b)(i), the department bears the burden of establishing that the municipality cannot, by the time of the approval of the annexation, meet the requirements of Subsection (2)(b)(ii).

(c) If, at the time of the approval of the annexation, an adjudicative proceeding is pending under the provisions of Subsection (3)(b)(i), the department shall issue amended licenses if the municipality prevails in the adjudicative proceeding.

Section 57. Section 26B-4-169, which is renumbered from Section 26-8a-415 is renumbered and amended to read:

[~~26-8a-415~~]. 26B-4-169. Changes in ownership.

(1) A licensed provider whose ownership or controlling ownership interest has changed shall submit information to the department, as required by department rule:

(a) to establish whether the new owner or new controlling party meets minimum requirements for licensure; and

(b) except as provided in Subsection (2), to commence an administrative proceeding to determine whether the new owner meets the requirement of public convenience and necessity under Section [~~26-8a-408~~] 26B-4-162.

(2) An administrative proceeding is not required under Subsection (1)(b) if:

(a) the change in ownership interest is among existing owners of a closely held corporation and the change does not result in a change in the management of the licensee or in the name of the licensee;

(b) the change in ownership in a closely held corporation results in the introduction of new owners, provided that:

(i) the new owners are limited to individuals who would be entitled to the equity in the closely held corporation by the laws of intestate succession had the transferor died intestate at the time of the transfer;

(ii) the majority owners on January 1, 1999, have been disclosed to the department by October 1, 1999, and the majority owners on January 1, 1999, retain a majority interest in the closely held corporation; and

(iii) the name of the licensed provider remains the same;

(c) the change in ownership is the result of one or more owners transferring their interests to a trust, limited liability company, partnership, or closely held corporation so long as the transferors retain control over the receiving entity;

(d) the change in ownership is the result of a distribution of an estate or a trust upon the death of the testator or the trustor and the recipients are limited to individuals who would be entitled to the interest by the laws of intestate succession had the transferor died intestate at the time of the transfer; or

(e) other similar changes that the department establishes, by rule, as having no significant impact on the cost, quality, or access to emergency medical services.

Section 58. Section 26B-4-170, which is renumbered from Section 26-8a-416 is renumbered and amended to read:

[~~26-8a-416~~]. 26B-4-170. Overlapping licenses.

(1) As used in this section:

(a) "Overlap" means two ground ambulance interfacility transport providers that are licensed at the same level of service in all or part of a single geographic service area.

(b) "Overlay" means two ground ambulance interfacility transport providers that are licensed at a different level of service in all or part of a single geographic service area.

(2) Notwithstanding the exclusive geographic service requirement of Section [~~26-8a-402~~] 26B-4-151, the department shall recognize overlap and overlay ground ambulance interfacility transport licenses that existed on or before May 4, 2022.

(3) The department may, without an adjudicative proceeding but with at least 30 days notice to providers in the same geographic service area, amend an existing overlay ground ambulance interfacility transport license solely to convert an overlay into an overlap if the existing ground ambulance interfacility transport licensed provider meets the requirements described in Subsection [~~26-8a-404~~] 26B-4-153(4).

(4) An amendment of a license under this section may not alter:

(a) other terms of the original license, including the applicable geographic service area; or

(b) the license of other providers that provide interfacility transport services in the geographic service area.

(5) Notwithstanding Subsection (2), any license for an overlap area terminates upon:

(a) relinquishment by the provider; or

(b) revocation by the department.

Section 59. Section 26B-4-201, which is renumbered from Section 26-61a-102 is

renumbered and amended to read:

Part 2. Cannabinoid Research and Medical Cannabis

[~~26-61a-102~~]. 26B-4-201. Definitions.

As used in this [~~chapter~~] part:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section [~~26-61-201~~] 26B-1-420.

(3) "Cannabis" means marijuana.

(4) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

(5) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(6) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

(7) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(8) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

(9) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

(10) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(11) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection [~~26-61a-201~~] 26B-4-213(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

(12) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

(13) "Department" means the Department of Health and Human Services.

(14) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section [~~26-61a-202~~] 26B-4-214; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection [~~26-61a-202~~] 26B-4-214(1)(b); or

(ii) an assigned employee of the facility described in Subsection [~~26-61a-202~~] 26B-4-214(1)(b)(ii).

(15) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

(16) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

(17) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

(18) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the state central patient portal facilitates.

(19) "Inventory control system" means the system described in Section 4-41a-103.

(20) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection [~~26-61a-502~~] 26B-4-230(4) or (5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

(21) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

(22) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card or provisional patient card as a result of the individual's recommendation, in accordance with Subsection [~~26-61a-106~~] 26B-4-204(1)(b).

(23) "Marijuana" means the same as that term is defined in Section 58-37-2.

(24) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(25) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

(26) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection(14)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection [~~26-61a-202~~] 26B-4-214(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection [~~26-61a-202~~] 26B-4-214(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

(27) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

(28) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section [~~26-61a-604~~] 26B-4-239; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

(29) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

(30) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

(31) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

(32) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

(33) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or

(ii) possesses medical cannabis or a medical cannabis device; and

(b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

(34) "Medical cannabis pharmacy agent" means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

(35) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

(36) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

(37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(38) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that, after December 1, 2022, does not exceed 30 ml;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape;

(I) a resin or wax; or

(J) an aerosol; or

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection (38)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection (38)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection (38)(a)(ii), except as provided in Subsection (38)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection (38)(a)(ii) after the legal use termination date;

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch; or

(iv) a liquid suspension that is branded as a beverage.

(39) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section [~~26-61a-104~~] 26B-4-203.

(40) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

(41) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section [~~26-61a-403~~] 26B-4-219.

(42) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

(43) "Qualified medical provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section [~~26-61a-106~~] 26B-4-204.

(44) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section [~~26-61a-109~~] 26B-1-310.

(45) "Qualifying condition" means a condition described in Section [~~26-61a-104~~] 26B-4-203.

(46) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

(47) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

(48) "Recommending qualifications" means that an individual:

(a) (i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(49) "State central patient portal" means the website the department creates, in accordance with Section [~~26-61a-601~~] 26B-4-236, to facilitate patient safety, education, and an electronic medical cannabis order.

(50) "State central patient portal medical provider" means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section [~~26-61a-602~~] 26B-4-237.

(51) "State electronic verification system" means the system described in Section [~~26-61a-103~~] 26B-4-202.

(52) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(53) "THC analog" means the same as that term is defined in Section 4-41-102.

(54) "Valid form of photo identification" means any of the following forms of identification that is either current or has expired within the previous six months:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a passport that another country issued.

Section 60. Section 26B-4-202, which is renumbered from Section 26-61a-103 is renumbered and amended to read:

[~~26-61a-103~~]. 26B-4-202. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section [~~26-61a-201~~] 26B-4-213;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, after an initial face-to-face visit with a patient described in Subsection [~~26-61a-201~~] 26B-4-213(4)(a)(iii),

treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines; and

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit.

(d) beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facility medical cannabis pharmacy recording, allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection [~~26-61a-501~~] 26B-4-229(10)(a), to:

(i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

(ii) record a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider; and

(iii) record a limited medical provider's renewal of the provider's previous recommendation;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this [~~chapter~~] part;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(g) provides access to and interaction with the state central patient portal;

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection [~~26-61a-502~~] 26B-4-230(6)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access

the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section [~~26-61a-703~~] 26B-4-222; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this [~~chapter~~] part authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 61. Section 26B-4-203, which is renumbered from Section 26-61a-104 is renumbered and amended to read:

[~~26-61a-104~~]. 26B-4-203. Qualifying condition.

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

(2) For the purposes of this [~~chapter~~] part, each of the following conditions is a qualifying condition:

(a) HIV or acquired immune deficiency syndrome;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer;

(e) cachexia;

(f) persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to:

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

(g) Crohn's disease or ulcerative colitis;

(h) epilepsy or debilitating seizures;

(i) multiple sclerosis or persistent and debilitating muscle spasms;

(j) post-traumatic stress disorder that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the United States Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation; or

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:

(A) a licensed board-eligible or board-certified psychiatrist;

(B) a licensed psychologist with a master's-level degree;

(C) a licensed clinical social worker with a master's-level degree; or

(D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing specialty and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(5)(g);

(k) autism;

(l) a terminal illness when the patient's remaining life expectancy is less than six months;

(m) a condition resulting in the individual receiving hospice care;

(n) a rare condition or disease that:

(i) affects less than 200,000 individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

(ii) is not adequately managed despite treatment attempts using:

(A) conventional medications other than opioids or opiates; or

(B) physical interventions;

(o) pain lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:

(i) conventional medications other than opioids or opiates; or

(ii) physical interventions;

(p) pain that is expected to last for two weeks or longer for an acute condition, including a surgical procedure, for which a medical professional may generally prescribe opioids for a limited duration, subject to Subsection [~~26-61a-201~~] 26B-4-213(5)(c); and

(q) a condition that the Compassionate Use Board approves under Section [~~26-61a-105~~] 26B-1-421, on an individual, case-by-case basis.

Section 62. Section 26B-4-204, which is renumbered from Section 26-61a-106 is renumbered and amended to read:

[~~26-61a-106~~]. 26B-4-204. Qualified medical provider registration -- Continuing education -- Treatment recommendation -- Limited medical provider.

(1) (a) (i) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.

(b) Beginning on the earlier of September 1, 2021, or the date on which the department gives notice that the electronic verification system is functionally capable as described in Subsection [~~26-61a-103~~] 26B-4-202(2)(d), an individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) if:

(i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:

(A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or

(B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and

(ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.

(c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:

(i) (A) that the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or

(B) that the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection [~~26-61a-201~~] 26B-4-213(3)(c).

(d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:

(i) the date of issuance;

(ii) the provider's name, address and contact information, controlled substance license information, and signature; and

(iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

(e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual meets the recommending qualifications;

(iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:

(A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, the Podiatric Physician Board;

(B) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(C) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

(D) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

(E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this [~~chapter~~] part;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 275 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

(b) A qualified medical provider may recommend a medical cannabis treatment to up to 600 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or

(ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.

(5) A recommending medical provider may recommend medical cannabis to an individual under this [~~chapter~~] part only in the course of a provider-patient relationship after the recommending medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the individual recommends a medical cannabis treatment.

(b) Notwithstanding Subsection (6)(a) and subject to Section [~~26-61a-116~~] 26B-4-223, a qualified medical provider or clinic or office that employs a qualified medical provider may advertise the following:

(i) a green cross;

(ii) the provider's or clinic's name and logo;

(iii) a qualifying condition that the individual treats;

(iv) that the individual is registered as a qualified medical provider and recommends medical cannabis; or

(v) a scientific study regarding medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license under the recommending qualifications;

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A recommending medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a recommending medical provider or pharmacy medical provider.

(10) (a) On or before November 1, 2021, a qualified medical provider shall report to the department, in a manner designated by the department:

(i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a qualified medical provider or offers medical cannabis recommendations to patients; and

(ii) the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation, either as an actual cash rate or, if the provider or entity bills insurance, an average cash rate.

(b) The department shall:

(i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):

(A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;

(B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and

(C) the fee amount described in Subsection (10)(a)(ii); and

(ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

Section 63. Section 26B-4-205, which is renumbered from Section 26-61a-107 is renumbered and amended to read:

[~~26-61a-107~~]. 26B-4-205. Standard of care -- Physicians and pharmacists not liable -- No private right of action.

(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

(a) civil or criminal liability; or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:

(i) (A) whom the department has registered as a qualified medical provider; or

(B) who makes a recommendation as a limited medical provider; and

(ii) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this [~~chapter~~] part; and

(b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

(i) whom the department has registered as a pharmacy medical provider; and

(ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this [~~chapter~~] part.

(3) Nothing in this section or [~~chapter~~] part reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

(4) (a) As used in this Subsection (4), "healthcare facility" means [~~the same as that term is~~] a health care facility as defined in Section [~~26-21-2~~] 26B-2-201.

(b) A healthcare facility may adopt restrictions on the possession, use, and storage of medical cannabis on the premises of the healthcare facility by a medical cannabis cardholder who resides at or is actively receiving treatment or care at the healthcare facility.

(c) An employee or agent of a healthcare facility described in this Subsection (4) is not subject to civil or criminal liability for carrying out employment duties, including:

(i) providing or supervising care to a medical cannabis cardholder; or

(ii) in accordance with a caregiver designation under Section [~~26-61a-202~~] 26B-4-214 for a medical cannabis cardholder residing at the healthcare facility, purchasing, transporting, or possessing medical cannabis for the relevant patient and in accordance with the designation.

(d) Nothing in this section requires a healthcare facility to adopt a restriction under Subsection (4)(b).

Section 64. Section 26B-4-206, which is renumbered from Section 26-61a-108 is renumbered and amended to read:

[~~26-61a-108~~]. 26B-4-206. Agreement with a tribe.

(1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.

(2) (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a medical cannabis pharmacy on tribal land located within the state.

(b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this [~~chapter~~] part.

(c) The governor shall ensure that an agreement described in Subsection (2)(a):

(i) is in writing;

(ii) is signed by:

(A) the governor; and

(B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;

(iii) states the effective date of the agreement;

(iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and

(v) includes any accommodation that the tribe makes:

(A) to which the tribe agrees; and

(B) that is reasonably related to the agreement.

(d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.

(e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:

(i) the chairs of the Native American Legislative Liaison Committee; and

(ii) the Office of Legislative Research and General Counsel.

Section 65. Section 26B-4-207, which is renumbered from Section 26-61a-111 is renumbered and amended to read:

[~~26-61a-111~~]. 26B-4-207. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees -- No effect on private employers.

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this [~~chapter~~] part, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat:

(i) an employee's use of medical cannabis in accordance with this [~~chapter~~] part or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of any prescribed controlled substance; and

(ii) an employee's status as a medical cannabis cardholder or an employee's medical cannabis recommendation from a qualified medical provider or limited provider in the same way the state or political subdivision treats an employee's prescriptions for any prescribed controlled substance.

(b) A state or political subdivision employee who has a valid medical cannabis card is not subject to retaliatory action, as that term is defined in Section 67-19a-101, for failing a drug test due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or otherwise adversely affected in the employee's job performance due to the use of medical cannabis.

(c) Subsections (2)(a) and (b) do not apply:

(i) where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position;

(ii) if the employee's position is dependent on a license or peace officer certification that is subject to federal regulations, including 18 U.S.C. Sec. 922(g)(3); or

(iii) if an employee described in Subsections 34A-2-102(1)(h)(ii) through (vi) uses medical cannabis during the 12 hours immediately preceding the employee's shift or during the employee's shift.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this [~~chapter~~] part; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this [~~chapter~~] part.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

(4) Nothing in this section requires a private employer to accommodate the use of medical cannabis or affects the ability of a private employer to have policies restricting the use of medical cannabis by applicants or employees.

Section 66. Section 26B-4-208, which is renumbered from Section 26-61a-112 is renumbered and amended to read:

[~~26-61a-112~~]. 26B-4-208. No insurance requirement.

Nothing in this [~~chapter~~] part requires an insurer, a third-party administrator, or an employer to pay or reimburse for cannabis, a cannabis product, or a medical cannabis device.

Section 67. Section 26B-4-209, which is renumbered from Section 26-61a-113 is renumbered and amended to read:

[~~26-61a-113~~]. 26B-4-209. No effect on use of hemp extract -- Cannabidiol -- Approved drugs.

(1) Nothing in this [~~chapter~~] part prohibits an individual from purchasing, selling, possessing, or using a cannabinoid product in accordance with Section 4-41-402.

(2) Nothing in this [~~chapter~~] part restricts or otherwise affects the prescription, distribution, or dispensing of a product that the United States Food and Drug Administration has approved.

Section 68. Section 26B-4-210, which is renumbered from Section 26-61a-114 is renumbered and amended to read:

[~~26-61a-114~~]. 26B-4-210. Severability clause.

(1) If any provision of this title or Laws of Utah 2018, Third Special Session, Chapter 1 or the application of any provision of this title or Laws of Utah 2018, Third Special Session, Chapter 1 to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remaining provisions of this title and Laws of Utah 2018, Third Special Session, Chapter 1 remain effective without the invalidated provision or application.

(2) The provisions of this title and Laws of Utah 2018, Third Special Session, Chapter 1 are severable.

Section 69. Section 26B-4-211, which is renumbered from Section 26-61a-115 is renumbered and amended to read:

[~~26-61a-115~~]. 26B-4-211. Analogous to prescribed controlled substances.

When an employee, officer, or agent of the state or a political subdivision makes a finding, determination, or otherwise considers an individual's possession or use of cannabis, a cannabis product, or a medical cannabis device, the employee, officer, or agent may not consider the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance, if the individual's possession or use complies with:

(1) this [~~chapter~~] part;

(2) Title 4, Chapter 41a, Cannabis Production Establishments; or

(3) Subsection 58-37-3.7(2) or (3).

Section 70. Section 26B-4-212, which is renumbered from Section 26-61-103 is renumbered and amended to read:

[~~26-61-103~~]. 26B-4-212. Institutional review board -- Approved study of cannabis, a cannabinoid product, or an expanded cannabinoid product.

(1) As used in this section:

(a) "Approved study" means a medical research study:

(i) the purpose of which is to investigate the medical benefits and risks of cannabinoid products; and

(ii) that is approved by an IRB.

(b) "Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(c) "Cannabinoid product" means the same as that term is defined in Section 58-37-3.6.

(d) "Cannabis" means the same as that term is defined in Section 58-37-3.6.

(e) "Expanded cannabinoid product" means the same as that term is defined in Section 58-37-3.6.

(f) "Institutional review board" or "IRB" means an institutional review board that is registered for human subject research by the United States Department of Health and Human Services.

[~~(1)~~] (2) A person conducting an approved study may, for the purposes of the study:

(a) process a cannabinoid product or an expanded cannabinoid product;

(b) possess a cannabinoid product or an expanded cannabinoid product; and

(c) administer a cannabinoid product, or an expanded cannabinoid product to an individual in accordance with the approved study.

[~~(2)~~] (3) A person conducting an approved study may:

(a) import cannabis, a cannabinoid product, or an expanded cannabinoid product from another state if:

(i) the importation complies with federal law; and

(ii) the person uses the cannabis, cannabinoid product, or expanded cannabinoid product in accordance with the approved study; or

(b) obtain cannabis, a cannabinoid product, or an expanded cannabinoid product from the National Institute on Drug Abuse.

[~~(3)~~] (4) A person conducting an approved study may distribute cannabis, a cannabinoid product, or an expanded cannabinoid product outside the state if:

(a) the distribution complies with federal law; and

(b) the distribution is for the purposes of, and in accordance with, the approved study.

Section 71. Section 26B-4-213, which is renumbered from Section 26-61a-201 is renumbered and amended to read:

[~~26-61a-201~~]. 26B-4-213. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) The department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section [~~26-61a-202~~] 26B-4-214 submits an application in accordance with this section or Section [~~26-61a-202~~] 26B-4-214:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection [~~26-61a-202~~] 26B-4-214(4).

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis card under this Subsection (1)(b), upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection [~~26-61a-501~~] 26B-4-229(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section [~~26-61a-105~~] 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider

recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section [~~26-61a-105~~] 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9);

(E) pays to the department a fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section [~~26-61a-203~~] 26B-4-215; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section [~~26-6a-105~~] 26B-1-421, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section [~~26-61a-202~~] 26B-4-214.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection [~~26-61a-202~~] 26B-4-214(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections [~~26-61a-106~~] 26B-4-204(1)(c) and (d).

(ii) If a recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-1-301, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the

immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:

(a) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and

(b) state in the recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) (A) six months for the first issuance, and, except as provided in Subsection (5)(a)(ii)(B), for a renewal; or

(B) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the recommending medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section [~~26-61a-104~~] 26B-4-203 expires after one year.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section [~~26-61a-104~~] 26B-4-203 if the medical cannabis cardholder no longer has the terminal illness.

(c) A medical cannabis card that the department issues in relation to acute pain as described in Section [~~26-61a-104~~] 26B-4-203 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section [~~26-61a-105~~] 26B-1-421.

(b) The recommending medical provider who made the underlying recommendation for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card through phone or video conference with the cardholder, at the recommending medical provider's discretion.

(c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this [~~chapter~~] part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this [~~chapter~~] part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis

product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(8) The department may revoke a medical cannabis card that the department issues under this section if the cardholder:

(a) violates this [~~chapter~~] part; or

(b) is convicted under state or federal law of, after March 17, 2021, a drug distribution offense.

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection [~~26-61a-104~~] 26B-4-203(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11) (a) On or before September 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section [~~26-61-102~~] 26B-4-201, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 72. Section 26B-4-214, which is renumbered from Section 26-61a-202 is renumbered and amended to read:

[~~26-61a-202~~]. 26B-4-214. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1) (a) A cardholder described in Section [~~26-61a-201~~] 26B-4-213 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a cardholder described in Section [~~26-61a-201~~] 26B-4-213 may designate one of the following types of facilities as one of the caregivers described in Subsection (1)(a):

(A) for a patient or resident, an assisted living facility, as that term is defined in Section [~~26-21-2~~] 26B-2-201;

(B) for a patient or resident, a nursing care facility, as that term is defined in Section [~~26-21-2~~] 26B-2-201; or

(C) for a patient, a general acute hospital, as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(ii) A facility may:

(A) assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b); and

(B) receive a medical cannabis shipment from a medical cannabis pharmacy or a medical cannabis courier on behalf of the medical cannabis cardholder within the facility who designated the facility as a caregiver.

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection [~~26-61a-201~~] 26B-4-213(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section [~~26-61a-201~~] 26B-4-213.

(d) (i) Beginning on the earlier of September 1, 2022, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis caregiver card under this Subsection (1)(d), upon the entry of a caregiver designation under Subsection (1) by a patient with a terminal illness described in Section [~~26-61a-104~~] 26B-4-203, the department shall issue to the designated caregiver an electronic conditional medical cannabis caregiver card, in accordance with this Subsection (1)(d).

(ii) A conditional medical cannabis caregiver card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis caregiver card application, or revokes the conditional medical cannabis caregiver card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this [~~chapter~~] part, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver; and

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis.

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsections (5)(b) and (3)(c)(i).

(c) If a cardholder described in Section [~~26-61a-201~~] 26B-4-213 designates an individual as a caregiver who already holds a medical cannabis caregiver card, the individual with the medical cannabis caregiver card:

(i) shall report to the department the information required of applicants under Subsection (5)(b) regarding the new designation;

(ii) if the individual makes the report described in Subsection (3)(c)(i), is not required to file an application for another medical cannabis caregiver card;

(iii) may receive an additional medical cannabis caregiver card in relation to each additional medical cannabis patient who designates the caregiver; and

(iv) is not subject to an additional background check.

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section [~~26-61a-203~~] 26B-4-215;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection [~~26-61a-201~~] 26B-4-213(9); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section [~~26-61a-201~~] 26B-4-213 who designated the applicant;

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder; and

(iv) any additional information that the department requests to assist in matching the application with the designating medical cannabis patient.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section [~~26-61a-201~~] 26B-4-213 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section [~~26-61a-201~~] 26B-4-213 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section [~~26-61a-201~~] 26B-4-213 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section [~~26-61a-201~~] 26B-4-213 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:

(a) violates this [~~chapter~~] part; or

(b) is convicted under state or federal law of:

(i) a felony drug distribution offense; or

(ii) after December 3, 2018, a misdemeanor drug distribution offense.

(9) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 73. Section 26B-4-215, which is renumbered from Section 26-61a-203 is renumbered and amended to read:

[~~26-61a-203~~]. 26B-4-215. Designated caregiver -- Guardian -- Criminal background check.

(1) Except for an applicant reapplying for a medical cannabis card within less than one year after the expiration of the applicant's previous medical cannabis card, each applicant for a medical cannabis guardian card under Section [~~26-61a-201~~] 26B-4-213 or a medical cannabis caregiver card under Section [~~26-61a-202~~] 26B-4-214 shall:

(a) submit to the department, at the time of application:

(i) a fingerprint card in a form acceptable to the Department of Public Safety; and

(ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(b) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an applicant who submits fingerprints under Subsection (1)(a) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 74. Section 26B-4-216, which is renumbered from Section 26-61a-204 is renumbered and amended to read:

[~~26-61a-204~~]. 26B-4-216. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.

(1) (a) A medical cannabis cardholder who possesses medical cannabis that the cardholder purchased under this [~~chapter~~] part:

(i) shall carry:

(A) at all times the cardholder's medical cannabis card; and

(B) with the medical cannabis, a label that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy and includes an identification number that links the medical cannabis to the inventory control system;

(ii) may possess up to the legal dosage limit of:

(A) unprocessed cannabis in medicinal dosage form; and

(B) a cannabis product in medicinal dosage form;

(iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii);

(iv) may only possess the medical cannabis in the container in which the cardholder received the medical cannabis from the medical cannabis pharmacy; and

(v) may not alter or remove any label described in Section 4-41a-602 from the container described in Subsection (1)(a)(iv).

(b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who possesses medical cannabis in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice the legal dosage limit is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of $1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A nonresident patient who possesses medical cannabis that is not in a medicinal dosage form is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense, is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(f) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-1-301.

(b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a provisional patient cardholder, or a nonresident patient may not use, in public view, medical cannabis or a cannabis product.

(c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of $1,000.

(3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

(a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

Section 75. Section 26B-4-217, which is renumbered from Section 26-61a-401 is renumbered and amended to read:

[~~26-61a-401~~]. 26B-4-217. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this [~~chapter~~] part; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(9) (a) As a condition precedent to registration and renewal of a medical cannabis pharmacy agent registration card, a medical cannabis pharmacy agent shall:

(i) complete at least one hour of continuing education regarding patient privacy and federal health information privacy laws that is offered by the department under Subsection (9)(b) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and the Board of Pharmacy.

(b) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (9).

(c) The pharmacist-in-charge described in Section [~~26-61a-403~~] 26B-4-219 shall ensure that each medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to the state electronic verification system is in compliance with this Subsection (9).

Section 76. Section 26B-4-218, which is renumbered from Section 26-61a-402 is renumbered and amended to read:

[~~26-61a-402~~]. 26B-4-218. Medical cannabis pharmacy agent registration card -- Rebuttable presumption.

(1) A medical cannabis pharmacy agent shall carry the individual's medical cannabis pharmacy agent registration card with the individual at all times when:

(a) the individual is on the premises of a medical cannabis pharmacy; and

(b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and a medical cannabis pharmacy.

(2) If an individual handling, at a medical cannabis pharmacy, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device or transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

(a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the individual's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), that the individual is engaging in illegal activity.

(3) (a) A medical cannabis pharmacy agent who fails to carry the agent's medical cannabis pharmacy agent registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

(A) guilty of an infraction; and

(B) is subject to a $100 fine; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a $750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant medical cannabis pharmacy of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant medical cannabis pharmacy a fine of up to $5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 77. Section 26B-4-219, which is renumbered from Section 26-61a-403 is renumbered and amended to read:

[~~26-61a-403~~]. 26B-4-219. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider or a state central patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this [~~chapter~~] part;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5) (a) Except as provided in Subsection (5)(b), a person may not advertise that the person or another person dispenses medical cannabis.

(b) Notwithstanding Subsection (5)(a) and subject to Section [~~26-61a-116~~] 26B-4-223, a registered pharmacy medical provider may advertise the following:

(i) a green cross;

(ii) that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

(iii) a scientific study regarding medical cannabis use.

Section 78. Section 26B-4-220, which is renumbered from Section 26-61a-701 is renumbered and amended to read:

[~~26-61a-701~~]. 26B-4-220. Enforcement -- Misdemeanor.

(1) Except as provided in Title 4, Chapter 41a, Cannabis Production Establishments, and Sections [~~26-61a-502, 26-61a-605, and 26-61a-607~~] 26B-4-230, 26B-4-240, and 26B-4-242, it is unlawful for a medical cannabis cardholder to sell or otherwise give to another medical cannabis cardholder cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, a medical cannabis device, or any cannabis residue remaining in or from a medical cannabis device.

(2) (a) Except as provided in Subsection (2)(b), a medical cannabis cardholder who violates Subsection (1) is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a $1,000 fine.

(b) An individual is not guilty under Subsection (2)(a) if the individual:

(i) (A) is a designated caregiver; and

(B) gives the product described in Subsection (1) to the medical cannabis cardholder who designated the individual as a designated caregiver; or

(ii) (A) is a medical cannabis guardian cardholder; and

(B) gives the product described in Subsection (1) to the relevant provisional patient cardholder.

(c) An individual who is guilty of a violation described in Subsection (2)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (2)(a).

Section 79. Section 26B-4-221, which is renumbered from Section 26-61a-702 is renumbered and amended to read:

[~~26-61a-702~~]. 26B-4-221. Enforcement -- Fine -- Citation.

(1) (a) The department may, for a medical cannabis pharmacy's or a medical cannabis courier's violation of this [~~chapter~~] part or an applicable administrative rule:

(i) revoke the medical cannabis pharmacy or medical cannabis courier license;

(ii) refuse to renew the medical cannabis pharmacy or medical cannabis courier license; or

(iii) assess the medical cannabis pharmacy or medical cannabis courier an administrative penalty.

(b) The department may, for a medical cannabis pharmacy agent's or medical cannabis courier agent's violation of this [~~chapter~~] part:

(i) revoke the medical cannabis pharmacy agent or medical cannabis courier agent registration card;

(ii) refuse to renew the medical cannabis pharmacy agent or medical cannabis courier agent registration card; or

(iii) assess the medical cannabis pharmacy agent or medical cannabis courier agent an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

(3) For a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, the department may:

(a) for a fine amount not already specified in law, assess the person a fine of up to $5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(4) The department may not revoke a medical cannabis pharmacy's license or a medical cannabis courier's license without first directing the medical cannabis pharmacy or the medical cannabis courier to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this [~~chapter~~] part, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(6) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or agent registration card; or

(b) suspend, revoke, or place on probation the person's license or agent registration card.

(7) (a) Except where a criminal penalty is expressly provided for a specific violation of this [~~chapter~~] part, if an individual violates a provision of this [~~chapter~~] part, the individual is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (7)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (7)(a).

Section 80. Section 26B-4-222, which is renumbered from Section 26-61a-703 is renumbered and amended to read:

[~~26-61a-703~~]. 26B-4-222. Report.

(1) By the November interim meeting each year beginning in 2020, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity of medical cannabis shipments that the state central patient portal facilitates;

(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

(m) an analysis of product availability in medical cannabis pharmacies.

(2) The department may not include personally identifying information in the report described in this section.

(3) During the 2022 legislative interim, the department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 81. Section 26B-4-223, which is renumbered from Section 26-61a-116 is renumbered and amended to read:

[~~26-61a-116~~]. 26B-4-223. Advertising.

(1) Except as provided in this [~~chapter~~] part, a person may not advertise regarding the recommendation, sale, dispensing, or transportation of medical cannabis.

(2) Notwithstanding any authorization to advertise regarding medical cannabis under this [~~chapter~~] part, the person advertising may not advertise:

(a) using promotional discounts or incentives;

(b) a particular medical cannabis product, medical cannabis device, or medicinal dosage form; or

(c) an assurance regarding an outcome related to medical cannabis treatment.

(3) Notwithstanding Subsection (1):

(a) a nonprofit organization that offers financial assistance for medical cannabis treatment to low-income patients may advertise the organization's assistance if the advertisement does not relate to a specific medical cannabis pharmacy or a specific medical cannabis product; and

(b) a medical cannabis pharmacy may provide information regarding subsidies for the cost of medical cannabis treatment to patients who affirmatively accept receipt of the subsidy information.

(4) To ensure that the name and logo of a licensee under this [~~chapter~~] part have a medical rather than a recreational disposition, the name and logo of the licensee:

(a) may include terms and images associated with:

(i) a medical disposition, including "medical," "medicinal," "medicine," "pharmacy," "apothecary," "wellness," "therapeutic," "health," "care," "cannabis," "clinic," "compassionate," "relief," "treatment," and "patient;" or

(ii) the plant form of cannabis, including "leaf," "flower," and "bloom";

(b) may not include:

(i) any term, statement, design representation, picture, or illustration that is associated with a recreational disposition or that appeals to children;

(ii) an emphasis on a psychoactive ingredient;

(iii) a specific cannabis strain; or

(iv) terms related to recreational marijuana, including "weed," "pot," "reefer," "grass," "hash," "ganga," "Mary Jane," "high," "buzz," "haze," "stoned," "joint," "bud," "smoke," "euphoria," "dank," "doobie," "kush," "frost," "cookies," "rec," "bake," "blunt," "combust," "bong," "budtender," "dab," "blaze," "toke," or "420."

(5) The department shall define standards for advertising authorized under this [~~chapter~~] part, including names and logos in accordance with Subsection (4), to ensure a medical rather than recreational disposition.

Section 82. Section 26B-4-224, which is renumbered from Section 26-61a-301 is renumbered and amended to read:

[~~26-61a-301~~]. 26B-4-224. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under [~~this part~~] Sections 26B-4-224 through 26B-4-228.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section [~~26-61a-305~~] 26B-4-228, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least $100,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section [~~26-61a-304~~] 26B-4-227;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this [~~chapter~~] part and with a relevant municipal or county law that is consistent with Section [~~26-61a-507~~] 26B-4-235; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504;

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and

(c) charge the licensee a fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5) (a) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(i) shall consult with the Department of Agriculture and Food regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a license to operate a cannabis cultivation facility if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6) (a) The department may revoke a license under [~~this part~~] Sections 26B-4-224 through 26B-4-228:

(i) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;

(ii) after the third the same violation of this [~~chapter~~] part in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution;

(iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this [~~chapter~~] part or the rules the department makes in accordance with this [~~chapter~~] part; or

(vi) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this [~~chapter~~] part.

(b) The department shall rescind a notice of an intent to issue a license under [~~this part~~] Sections

26B-4-224 through 26B-4-228 to an applicant or revoke a license issued under [~~this part~~] Sections 26B-4-224 through 26B-4-228 if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.

(7) (a) A person who receives a medical cannabis pharmacy license under this [~~chapter~~] part, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Patient Enterprise Fund.

(9) The department shall begin accepting applications under [~~this part~~] Sections 26B-4-224 through 26B-4-228 on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this [~~chapter~~] part; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 83. Section 26B-4-225, which is renumbered from Section 26-61a-302 is renumbered and amended to read:

[~~26-61a-302~~]. 26B-4-225. Medical cannabis pharmacy owners and directors -- Criminal background checks.

(1) Each applicant to whom the department issues a notice of intent to award a license to operate as a medical cannabis pharmacy shall submit, before the department may award the license, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 84. Section 26B-4-226, which is renumbered from Section 26-61a-303 is renumbered and amended to read:

[~~26-61a-303~~]. 26B-4-226. Renewal.

(1) The department shall renew a license under [~~this part~~] Sections 26B-4-224 through 26B-4-228 every year if, at the time of renewal:

(a) the licensee meets the requirements of Section [~~26-61a-301~~] 26B-4-224;

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section [~~26-61a-304~~] 26B-4-227 that the department approved under Subsection [~~26-61a-301~~] 26B-4-224(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section 63A-16-601.

(b) The department may establish criteria, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

(3) If the department has not completed the necessary processes to make a determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a license, the department may issue a conditional medical cannabis pharmacy license to a licensed medical cannabis pharmacy that has applied for license renewal under this section and paid the fee described in Subsection (1)(b).

Section 85. Section 26B-4-227, which is renumbered from Section 26-61a-304 is renumbered and amended to read:

[~~26-61a-304~~]. 26B-4-227. Operating plan.

A person applying for a medical cannabis pharmacy license shall submit to the department a proposed operation plan for the medical cannabis pharmacy that complies with this section and that includes:

(1) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

(2) a description of the credentials and experience of:

(a) each officer, director, or owner of the proposed medical cannabis pharmacy; and

(b) any highly skilled or experienced prospective employee;

(3) the medical cannabis pharmacy's employee training standards;

(4) a security plan;

(5) a description of the medical cannabis pharmacy's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system;

(6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis; and

(7) a description of the proposed medical cannabis pharmacy's strategic plan for opening the medical cannabis pharmacy, including gauging appropriate timing based on:

(a) the supply of medical cannabis and medical cannabis products, in consultation with the Department of Agriculture and Food; and

(b) the quantity and condition of the population of medical cannabis cardholders, in consultation with the department.

Section 86. Section 26B-4-228, which is renumbered from Section 26-61a-305 is renumbered and amended to read:

[~~26-61a-305~~]. 26B-4-228. Maximum number of licenses -- Home delivery medical cannabis pharmacies.

(1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue up to 15 medical cannabis pharmacy licenses in accordance with this section.

(b) If an insufficient number of qualified applicants apply for the available number of medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with Subsection (1)(c)(i), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Agriculture and Food and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i); and

(B) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A).

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and

(F) a strategic plan described in Subsection [~~26-61a-304~~] 26B-4-227(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section [~~26-61a-603~~] 26B-4-238; or

(B) a financial institution in accordance with Subsection [~~26-61a-603~~] 26B-4-238(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

(4) (a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(i) safely conduct transactions for medical cannabis shipments;

(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(iii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section [~~26-61a-603~~] 26B-4-238; or

(B) a financial institution in accordance with Subsection [~~26-61a-603~~] 26B-4-238(4).

(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (4)(a), including:

(i) the name and contact information of the payment provider;

(ii) the nature of the relationship between the prospective licensee and the payment provider;

(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(A) the prospective licensee; and

(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and

(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this [~~chapter~~] part.

Section 87. Section 26B-4-229, which is renumbered from Section 26-61a-501 is renumbered and amended to read:

[~~26-61a-501~~]. 26B-4-229. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section [~~26-61a-301~~] 26B-4-224; and

(ii) in accordance with the operating plan provided to the department under Section [~~26-61a-301~~] 26B-4-224 and, if applicable, Section [~~26-61a-304~~] 26B-4-227.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection (4):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department or the Department of Agriculture and Food performing an inspection under Section [~~26-61a-504~~] 26B-4-232; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(5) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection [~~26-61a-502~~] 26B-4-230(2).

(7) Except for an emergency situation described in Subsection [~~26-61a-201~~] 26B-4-213(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the requirement to provide the following information under Subsection (9)(b)(i) if the

information is already provided on the product label that a cannabis production establishment affixes:

(A) a unique identification number;

(B) directions for use and cautionary statements;

(C) amount and cannabinoid content; and

(D) a suggested use date.

(iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:

(A) the cannabinoid content;

(B) the suggested use date; and

(C) any other requirements that the department determines.

(iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (9)(b)(i).

(10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections [~~26-61a-106~~] 26B-4-204(1)(b) through (d):

(i) for a written order or an electronic order under circumstances that the department determines, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection [~~26-61a-201~~] 26B-4-213(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection [~~26-61a-502~~] 26B-4-230(4) or (5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(11) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 88. Section 26B-4-230, which is renumbered from Section 26-61a-502 is renumbered and amended to read:

[~~26-61a-502~~]. 26B-4-230. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this [~~chapter~~] part:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card;

(B) a department registration described in [~~Section 26-61a-201~~] Subsection 26B-4-213(10); and

(ii) a corresponding valid form of photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device to an individual described in Subsection [~~26-61a-201~~] 26B-4-213(2)(a)(i)(B) or to a minor described in Subsection [~~26-61a-201~~] 26B-4-213(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection [~~26-61a-105~~] 26B-1-421(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

(ii) to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

(3) An individual with a medical cannabis card:

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis in a medicinal dosage form; and

(ii) a cannabis product in a medicinal dosage form;

(b) may not purchase:

(i) more medical cannabis than described in Subsection (3)(a); or

(ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis; and

(c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

(4) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) information regarding the qualifying condition underlying the recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the recommending medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a) shall

document the directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.

(6) (a) A medical cannabis pharmacy shall:

(i) (A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

(B) if the verification in Subsection (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;

(ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

(iv) package any medical cannabis that is in a container that:

(A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section [~~26-61a-102~~] 26B-4-201;

(B) is tamper-resistant and tamper-evident; and

(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public; and

(v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection (6)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

(7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

(9) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(10) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

Section 89. Section 26B-4-231, which is renumbered from Section 26-61a-503 is renumbered and amended to read:

[~~26-61a-503~~]. 26B-4-231. Partial filling.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the recommending medical provider recommends, if the recommending medical provider recommended specific dosing parameters.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the recommending medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection [~~26-61a-502~~] 26B-4-230(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection [~~26-61a-502~~] 26B-4-230(4) or (5); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 90. Section 26B-4-232, which is renumbered from Section 26-61a-504 is renumbered and amended to read:

[~~26-61a-504~~]. 26B-4-232. Inspections.

(1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this [~~chapter~~] part, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) The department or the Department of Agriculture and Food may inspect the records, facility, and inventory of a medical cannabis pharmacy at any time during business hours in order to determine if the medical cannabis pharmacy complies with this [~~chapter~~] part and Title 4, Chapter 41a, Cannabis Production Establishments.

(3) An inspection under this section may include:

(a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above;

(b) questioning of any relevant individual;

(c) inspection of equipment, an instrument, a tool, or machinery, including a container or label;

(d) random sampling of medical cannabis by the Department of Agriculture and Food in accordance with rules described in Section 4-41a-701; or

(e) seizure of medical cannabis, medical cannabis devices, or educational material as evidence in a department investigation or inspection or in instances of compliance failure.

(4) In making an inspection under this section, the department or the Department of Agriculture and Food may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department, the Department of Agriculture and Food, or the authorized agents of the department or the Department of Agriculture and Food immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

(6) Notwithstanding any other provision of law, the department may temporarily store in any department facility the items the department seizes under Subsection (3)(e) until the department:

(a) determines that sufficient compliance justifies the return of the seized items; or

(b) disposes of the items in the same manner as a cannabis production establishment in accordance with Section 4-41a-405.

Section 91. Section 26B-4-233, which is renumbered from Section 26-61a-505 is renumbered and amended to read:

[~~26-61a-505~~]. 26B-4-233. Advertising.

(1) Except as provided in this section, a person may not advertise in any medium regarding a medical cannabis pharmacy or the dispensing of medical cannabis within the state.

(2) Subject to Section [~~26-61a-116~~] 26B-4-223, a medical cannabis pharmacy may:

(a) advertise an employment opportunity at the medical cannabis pharmacy;

(b) notwithstanding any municipal or county ordinance prohibiting signage, use signage on the outside of the medical cannabis pharmacy that:

(i) includes only:

(A) in accordance with Subsection [~~26-61a-116~~] 26B-4-223(4), the medical cannabis pharmacy's name, logo, and hours of operation; and

(B) a green cross; and

(ii) complies with local ordinances regulating signage;

(c) advertise in any medium:

(i) the pharmacy's name and logo;

(ii) the location and hours of operation of the medical cannabis pharmacy;

(iii) a service available at the medical cannabis pharmacy;

(iv) personnel affiliated with the medical cannabis pharmacy;

(v) whether the medical cannabis pharmacy is licensed as a home delivery medical cannabis pharmacy;

(vi) best practices that the medical cannabis pharmacy upholds; and

(vii) educational material related to the medical use of cannabis, as defined by the department;

(d) hold an educational event for the public or medical providers in accordance with Subsection (3) and the rules described in Subsection (4); and

(e) maintain on the medical cannabis pharmacy's website non-promotional information regarding the medical cannabis pharmacy's inventory.

(3) A medical cannabis pharmacy may not include in an educational event described in Subsection (2)(d):

(a) any topic that conflicts with this chapter part or Title 4, Chapter 41a, Cannabis Production Establishments;

(b) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(c) any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(d) a presenter other than the following:

(i) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(v) a medical practitioner, similar to the practitioners described in this Subsection (3)(d)(v), who is licensed in another state or country;

(vi) a state employee; or

(vii) if the presentation relates to a cannabis topic other than medical treatment or medical conditions, an individual whom the department approves based on the individual's background and credentials in the presented topic.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define:

(a) the educational material described in Subsection (2)(c)(vii); and

(b) the elements of and restrictions on the educational event described in Subsection (3), including:

(i) a minimum age of 21 years old for attendees; and

(ii) an exception to the minimum age for a medical cannabis patient cardholder who is at least 18 years old.

Section 92. Section 26B-4-234, which is renumbered from Section 26-61a-506 is renumbered and amended to read:

[~~26-61a-506~~]. 26B-4-234. Medical cannabis transportation.

(1) Only the following individuals may transport medical cannabis under this [~~chapter~~] part:

(a) a registered medical cannabis pharmacy agent;

(b) a registered medical cannabis courier agent;

(c) a registered pharmacy medical provider; or

(d) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card under this [~~chapter~~] part who is transporting a medical cannabis treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;

(b) includes origin and destination information for the medical cannabis that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the medical cannabis.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis to ensure that the medical cannabis remains safe for human consumption.

(b) The transportation described in Subsection (1)(a) is limited to transportation between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy; or

(ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

(4) (a) It is unlawful for an individual described in Subsection (1) to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an individual who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the individual described in Subsection (4)(a) is transporting more medical cannabis than the manifest identifies, except for a de minimis administrative error:

(i) this [~~chapter~~] part does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Section 93. Section 26B-4-235, which is renumbered from Section 26-61a-507 is renumbered and amended to read:

[~~26-61a-507~~]. 26B-4-235. Local control.

(1) The operation of a medical cannabis pharmacy:

(a) shall be a permitted use:

(i) in any zone, overlay, or district within the municipality or county except for a primarily residential zone; and

(ii) on land that the municipality or county has not zoned; and

(b) is subject to the land use regulations, as defined in Sections [~~10-9a-103~~] 26B-7-506 and 17-27a-103, that apply in the underlying zone.

(2) A municipality or county may not:

(a) on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis, deny or revoke:

(i) a land use permit, as that term is defined in Sections 10-9a-103 and 17-27a-103, to operate a medical cannabis pharmacy; or

(ii) a business license to operate a medical cannabis pharmacy;

(b) require a certain distance between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy;

(ii) a cannabis production establishment;

(iii) a retail tobacco specialty business, as that term is defined in Section [~~26-62-103~~] 26B-7-506; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a medical cannabis pharmacy that was not in effect on the day on which the medical cannabis pharmacy submitted a complete land use application.

(3) (a) A municipality or county may enact an ordinance that:

(i) is not in conflict with this [~~chapter~~] part; and

(ii) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.

(b) An ordinance that a municipality or county enacts under Subsection (3)(a) may not restrict the hours of operation from 7 a.m. to 10 p.m.

(4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Section 94. Section 26B-4-236, which is renumbered from Section 26-61a-601 is renumbered and amended to read:

[~~26-61a-601~~]. 26B-4-236. State central patient portal -- Department duties.

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

(a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;

(b) allow a medical cannabis patient cardholder to:

(i) obtain and download the cardholder's medical cannabis card;

(ii) review the cardholder's medical cannabis purchase history; and

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection [~~26-61a-201~~] 26B-4-213(12);

(c) if the cardholder's recommending medical provider recommended the use of medical cannabis without providing directions of use and dosing guidelines and the cardholder has not yet received the counseling or consultation required in Subsection [~~26-61a-502~~] 26B-4-230(4):

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order:

(i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or

(ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in person from the pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection [~~26-61a-502~~] 26B-4-230(2)(a) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical cannabis

caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this [~~chapter~~] part.

(3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

Section 95. Section 26B-4-237, which is renumbered from Section 26-61a-602 is renumbered and amended to read:

[~~26-61a-602~~]. 26B-4-237. State central patient portal medical provider.

(1) In relation to the state central patient portal:

(a) the department may only employ, as a state central patient portal medical provider:

(i) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act; or

(ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) if the department employs a state central patient portal medical provider, the department shall ensure that a state central patient portal medical provider is available during normal business hours.

(2) A state central patient portal medical provider may:

(a) provide consultations to medical cannabis cardholders and qualified medical providers; and

(b) determine dosing parameters in accordance with Subsection [~~26-61a-502~~] 26B-4-230(5).

Section 96. Section 26B-4-238, which is renumbered from Section 26-61a-603 is renumbered and amended to read:

[~~26-61a-603~~]. 26B-4-238. Payment provider for electronic medical cannabis transactions.

(1) A cannabis production establishment, a medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy seeking to use a payment provider shall submit to the Division of Finance and the state treasurer information regarding the payment provider the prospective licensee will use to conduct financial transactions related to medical cannabis, including:

(a) the name and contact information of the payment provider;

(b) the nature of the relationship between the establishment, pharmacy, or prospective pharmacy and the payment provider; and

(c) for a prospective home delivery medical cannabis pharmacy, the processes the prospective licensee and the payment provider have in place to safely and reliably conduct financial transactions for medical cannabis shipments.

(2) The Division of Finance shall, in consultation with the state treasurer:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish standards for identifying payment providers that demonstrate the functional and technical ability to safely conduct financial transactions related to medical cannabis, including medical cannabis shipments;

(b) review submissions the Division of Finance and the state treasurer receive under Subsection (1);

(c) approve a payment provider that meets the standards described in Subsection (2)(a); and

(d) establish a list of approved payment providers.

(3) Any licensed cannabis production establishment, licensed medical cannabis pharmacy, or medical cannabis courier may use a payment provider that the Division of Finance approves, in consultation with the state treasurer, to conduct transactions related to the establishment's, pharmacy's, or courier's respective medical cannabis business.

(4) If Congress passes legislation that allows a cannabis-related business to facilitate payments through or deposit funds in a financial institution, a cannabis production establishment or a medical cannabis pharmacy may facilitate payments through or deposit funds in a financial institution in addition to or instead of a payment provider that the Division of Finance approves, in consultation with the state treasurer, under this section.

Section 97. Section 26B-4-239, which is renumbered from Section 26-61a-604 is renumbered and amended to read:

[~~26-61a-604~~]. 26B-4-239. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this [~~chapter~~] part; and

(iii) an application fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(ii).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under [~~this part~~] Sections 26B-4-236 through 26B-4-242 if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this [~~chapter~~] part three times;

(c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this [~~chapter~~] part.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(15) (a) A medical cannabis courier license is not transferrable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

(i) concurrent with the report described in Subsection (15)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this [~~chapter~~] part; and

(iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

(16) (a) Except as provided in Subsection (15)(b), a person may not advertise regarding the transportation of medical cannabis.

(b) Notwithstanding Subsection (15)(a) and subject to Section [~~26-61a-116~~] 26B-4-223, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

(i) a green cross;

(ii) the pharmacy's or courier's name and logo; and

(iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section 98. Section 26B-4-240, which is renumbered from Section 26-61a-605 is renumbered and amended to read:

[~~26-61a-605~~]. 26B-4-240. Medical cannabis shipment transportation.

(1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.

(2) (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders that the state central patient portal facilitates.

(b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:

(i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and

(ii) provide regular oversight of the medical cannabis courier.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a medical cannabis shipment unless the individual is:

(a) a registered pharmacy medical provider;

(b) a registered medical cannabis pharmacy agent; or

(c) a registered agent of the medical cannabis courier described in Subsection (2).

(4) An individual transporting a medical cannabis shipment under Subsection (3) shall possess a physical or electronic transportation manifest that:

(a) includes a unique identifier that links the medical cannabis shipment to a relevant inventory control system;

(b) includes origin and destination information for the medical cannabis shipment the individual is transporting; and

(c) indicates the departure and estimated arrival times and locations of the individual transporting the medical cannabis shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in

collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this [~~chapter~~] part does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 99. Section 26B-4-241, which is renumbered from Section 26-61a-606 is renumbered and amended to read:

[~~26-61a-606~~]. 26B-4-241. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a medical cannabis courier agent unless:

(a) the individual is an employee of a licensed medical cannabis courier; and

(b) the department registers the individual as a medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and address of the medical cannabis courier;

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

(D) the submission required under Subsection (2)(b);

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution; and

(iii) pays the department a fee in an amount that, subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the

department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the medical cannabis shipment process; and

(iii) medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis courier agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection [~~26-61a-109~~] 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(6) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:

(a) violates the requirements of this [~~chapter~~] part; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:

(a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and

(b) the agent is handling a medical cannabis shipment.

(8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.

(9) (a) A medical cannabis courier agent who violates Subsection (7) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (9)(a).

Section 100. Section 26B-4-242, which is renumbered from Section 26-61a-607 is renumbered and amended to read:

[~~26-61a-607~~]. 26B-4-242. Home delivery of medical cannabis shipments.

(1) An individual may not receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from a home delivery medical cannabis pharmacy unless:

(a) the individual receiving the shipment presents:

(i) a valid form of photo identification; and

(ii) (A) a valid medical cannabis card under the same name that appears on the valid form of photo identification; or

(B) for a facility that a medical cannabis cardholder has designated as a caregiver under Subsection [~~26-61a-202~~] 26B-4-214(1)(b), evidence of the facility caregiver designation; and

(b) the delivery occurs at:

(i) the medical cannabis cardholder's home address that is on file in the state electronic verification system; or

(ii) the facility that the medical cannabis cardholder has designated as a caregiver under Subsection [~~26-61a-202~~] 26B-4-214(1)(b).

(2) Before a medical cannabis pharmacy agent or a medical cannabis courier agent distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection (1);

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in a manner such that the delivery of the shipment will later be recorded within a reasonable period in the electronic verification system.

(3) The medical cannabis courier shall:

(a) (i) store each medical cannabis shipment in a secure manner until the recipient medical cannabis cardholder receives the shipment or the medical cannabis courier returns the shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4); and

(ii) ensure that only a medical cannabis courier agent is able to access the medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

(b) return any undelivered medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has possessed the shipment for 10 business days; and

(c) return any medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to accept the shipment.

(4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered medical cannabis shipment that remains unopened, the home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

(b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the shipment by:

(i) rendering the shipment unusable and unrecognizable before transporting the shipment from the home delivery medical cannabis pharmacy; and

(ii) disposing of the shipment in accordance with:

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 101. Section 26B-4-301, which is renumbered from Section 26-10b-101 is renumbered and amended to read:

Part 3. Health Care Access

[~~26-10b-101~~]. 26B-4-301. Definitions.

As used in this [~~chapter~~] part:

(1) "Account" means the Automatic External Defibrillator Restricted Account, created in Section 26B-1-307.

(2) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to 21 U.S.C. Sec. 360(k);

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to a person's heart.

(3) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

[~~(1)~~] (4) "Committee" means the Primary Care Grant Committee described in Section [~~26-10b-106~~] 26B-1-410.

[~~(2)~~] (5) "Community based organization":

(a) means a private entity; and

(b) includes for profit and not for profit entities.

[~~(3)~~] (6) "Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or profession and enables that system, agency, or profession to work effectively in cross-cultural situations.

[~~(4) "Executive director" means the executive director of the department.~~]

(7) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the office.

[~~(5)~~] (8) "Health literacy" means the degree to which an individual has the capacity to obtain, process, and understand health information and services needed to make appropriate health decisions.

[~~(6)~~] (9) "Institutional capacity" means the ability of a community based organization to implement public and private contracts.

[~~(7)~~] (10) "Medically underserved population" means the population of an urban or rural area or a population group that the committee determines has a shortage of primary health care.

(11) "Office" means the Office of Emergency Medical Services and Preparedness within the department.

[~~(8)~~] (12) "Primary care grant" means a grant awarded by the department under Subsection [~~26-10b-102~~] 26B-4-310(1).

[~~(9)~~] (13) (a) "Primary health care" means:

(i) basic and general health care services given when a person seeks assistance to screen for or to prevent illness and disease, or for simple and common illnesses and injuries; and

(ii) care given for the management of chronic diseases.

(b) "Primary health care" includes:

(i) services of physicians, nurses, physician's assistants, and dentists licensed to practice in this state under Title 58, Occupations and Professions;

(ii) diagnostic and radiologic services;

(iii) preventive health services including perinatal services, well-child services, and other services that seek to prevent disease or its consequences;

(iv) emergency medical services;

(v) preventive dental services; and

(vi) pharmaceutical services.

[~~(10) "Program" means the primary care grant program created under this chapter.~~]

(14) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

Section 102. Section 26B-4-302, which is renumbered from Section 26-8b-201 is renumbered and amended to read:

[~~26-8b-201~~]. 26B-4-302. Authority to administer CPR or use an AED.

(1) A person may administer CPR on another person without a license, certificate, or other governmental authorization if the person reasonably believes that the other person is in sudden cardiac arrest.

(2) A person may use an AED on another person without a license, certificate, or other governmental authorization if the person reasonably believes that the other person is in sudden cardiac arrest.

Section 103. Section 26B-4-303, which is renumbered from Section 26-8b-202 is renumbered and amended to read:

[~~26-8b-202~~]. 26B-4-303. Immunity.

(1) Except as provided in Subsection (3), the following persons are not subject to civil liability for any act or omission relating to preparing to care for, responding to care for, or providing care to, another person who reasonably appears to be in sudden cardiac arrest:

(a) a person authorized, under Section [~~26-8b-201~~] 26B-4-302, to administer CPR, who:

(i) gratuitously and in good faith attempts to administer or administers CPR to another person; or

(ii) fails to administer CPR to another person;

(b) a person authorized, under Section [~~26-8b-201~~] 26B-4-302, to use an AED who:

(i) gratuitously and in good faith attempts to use or uses an AED; or

(ii) fails to use an AED;

(c) a person that teaches or provides a training course in administering CPR or using an AED;

(d) a person that acquires an AED;

(e) a person that owns, manages, or is otherwise responsible for the premises or conveyance where an AED is located;

(f) a person who retrieves an AED in response to a perceived or potential sudden cardiac arrest;

(g) a person that authorizes, directs, or supervises the installation or provision of an AED;

(h) a person involved with, or responsible for, the design, management, or operation of a CPR or AED program;

(i) a person involved with, or responsible for, reporting, receiving, recording, updating, giving, or distributing information relating to the ownership or location of an AED under [~~Part 3, Automatic External Defibrillator Databases~~] Sections 26B-4-304 through 26B-4-306; or

(j) a physician who gratuitously and in good faith:

(i) provides medical oversight for a public AED program; or

(ii) issues a prescription for a person to acquire or use an AED.

(2) This section does not relieve a manufacturer, designer, developer, marketer, or commercial distributor of an AED, or an accessory for an AED, of any liability.

(3) The liability protection described in Subsection (1) does not apply to an act or omission that constitutes gross negligence or willful misconduct.

Section 104. Section 26B-4-304, which is renumbered from Section 26-8b-301 is renumbered and amended to read:

[~~26-8b-301~~]. 26B-4-304. Reporting location of automatic external defibrillators.

(1) In accordance with Subsection (2) and except as provided in Subsection (3):

(a) a person who owns or leases an AED shall report the person's name, address, and telephone

number, and the exact location of the AED, in writing or by a web-based AED registration form, if available, to the emergency medical dispatch center that provides emergency dispatch services for the location where the AED is installed, if the person:

(i) installs the AED;

(ii) causes the AED to be installed; or

(iii) allows the AED to be installed; and

(b) a person who owns or leases an AED that is removed from a location where it is installed shall report the person's name, address, and telephone number, and the exact location from which the AED is removed, in writing or by a web-based AED registration form, if available, to the emergency medical dispatch center that provides emergency dispatch services for the location from which the AED is removed, if the person:

(i) removes the AED;

(ii) causes the AED to be removed; or

(iii) allows the AED to be removed.

(2) A report required under Subsection (1) shall be made within 14 days after the day on which the AED is installed or removed.

(3) Subsection (1) does not apply to an AED:

(a) at a private residence; or

(b) in a vehicle or other mobile or temporary location.

(4) A person who owns or leases an AED that is installed in, or removed from, a private residence may voluntarily report the location of, or removal of, the AED to the emergency medical dispatch center that provides emergency dispatch services for the location where the private residence is located.

(5) The department may not impose a penalty on a person for failing to comply with the requirements of this section.

Section 105. Section 26B-4-305, which is renumbered from Section 26-8b-302 is renumbered and amended to read:

[~~26-8b-302~~]. 26B-4-305. Distributors to notify of reporting requirements.

A person in the business of selling or leasing an AED shall, at the time the person provides, sells, or leases an AED to another person, notify the other person, in writing, of the reporting requirements described in Section [~~26-8b-301~~] 26B-4-304.

Section 106. Section 26B-4-306, which is renumbered from Section 26-8b-303 is renumbered and amended to read:

[~~26-8b-303~~]. 26B-4-306. Duties of emergency medical dispatch centers.

An emergency medical dispatch center shall:

(1) implement a system to receive and manage the information reported to the emergency medical dispatch center under Section [~~26-8b-301~~] 26B-4-304;

(2) record in the system described in Subsection (1), all information received under Section [~~26-8b-301~~] 26B-4-304 within 14 days after the day on which the information is received;

(3) inform a person who calls to report a potential incident of sudden cardiac arrest of the location of an AED located at the address of the potential sudden cardiac arrest;

(4) provide verbal instructions to a person described in Subsection (3) to:

(a) help a person determine if a patient is in cardiac arrest; and

(b) if needed:

(i) provide direction to start CPR;

(ii) offer instructions on how to perform CPR; or

(iii) offer instructions on how to use an AED, if one is available; and

(5) provide the information contained in the system described in Subsection (1), upon request, to the [~~bureau~~] office.

Section 107. Section 26B-4-307, which is renumbered from Section 26-8b-401 is renumbered and amended to read:

[~~26-8b-401~~]. 26B-4-307. Education and training.

(1) The [~~bureau~~] office shall work in cooperation with federal, state, and local agencies and schools, to encourage individuals to complete courses on the administration of CPR and the use of an AED.

(2) A person who owns or leases an AED shall encourage each person who is likely to use the AED to complete courses on the administration of CPR and the use of an AED.

Section 108. Section 26B-4-308, which is renumbered from Section 26-8b-402 is renumbered and amended to read:

[~~26-8b-402~~]. 26B-4-308. AEDs for demonstration purposes.

(1) Any AED used solely for demonstration or training purposes, which is not operational for emergency use is, except for the provisions of this section, exempt from the provisions of this [~~chapter~~] part.

(2) The owner of an AED described in Subsection (1) shall clearly mark on the exterior of the AED that the AED is for demonstration or training use only.

Section 109. Section 26B-4-309, which is renumbered from Section 26-8b-501 is renumbered and amended to read:

[~~26-8b-501~~]. 26B-4-309. Tampering with an AED prohibited -- Penalties.

A person is guilty of a class C misdemeanor if the person removes, tampers with, or otherwise disturbs an AED, AED cabinet or enclosure, or AED sign, unless:

(1) the person is authorized by the AED owner for the purpose of:

(a) inspecting the AED or AED cabinet or enclosure; or

(b) performing maintenance or repairs on the AED, the AED cabinet or enclosure, a wall or structure that the AED cabinet or enclosure is directly attached to, or an AED sign;

(2) the person is responding to, or providing care to, a potential sudden cardiac arrest patient; or

(3) the person acts in good faith with the intent to support, and not to violate, the recognized purposes of the AED.

Section 110. Section 26B-4-310, which is renumbered from Section 26-10b-102 is renumbered and amended to read:

[~~26-10b-102~~]. 26B-4-310. Department to award primary care grants -- Applications.

(1) Within appropriations specified by the Legislature for this purpose, the department may, in accordance with the recommendation of the committee, award a grant to a public or nonprofit entity to provide primary health care to a medically underserved population.

(2) When awarding a grant under Subsection (1), the department shall, in accordance with the committee's recommendation, consider:

(a) the content of a grant application submitted to the department;

(b) whether an application is submitted in the manner and form prescribed by the department; and

(c) the criteria established in Section [~~26-10b-103~~] 26B-4-311.

(3) The application for a grant under Subsection (2)(a) shall contain:

(a) a requested award amount;

(b) a budget; and

(c) a narrative plan of the manner in which the applicant intends to provide the primary health care described in Subsection (1).

Section 111. Section 26B-4-311, which is renumbered from Section 26-10b-103 is renumbered and amended to read:

[~~26-10b-103~~]. 26B-4-311. Content of primary care grant applications.

An applicant for a grant under [~~this chapter~~] Section 26B-4-310 shall include, in an application:

(1) a statement of specific, measurable objectives, and the methods the applicant will use to assess the achievement of those objectives;

(2) the precise boundaries of the area the applicant will serve, including a description of the medically underserved population the applicant will serve using the grant;

(3) the results of a need assessment that demonstrates that the population the applicant will serve has a need for the services provided by the applicant;

(4) a description of the personnel responsible for carrying out the activities of the grant along with a statement justifying the use of any grant funds for the personnel;

(5) evidence that demonstrates the applicant's existing financial and professional assistance and any attempts by the applicant to obtain financial and professional assistance;

(6) a list of services the applicant will provide;

(7) the schedule of fees, if any, the applicant will charge;

(8) the estimated number of individuals the applicant will serve with the grant award; and

(9) any other information required by the department in consultation with the committee.

Section 112. Section 26B-4-312, which is renumbered from Section 26-10b-104 is renumbered and amended to read:

[~~26-10b-104~~]. 26B-4-312. Process and criteria for awarding primary care grants.

(1) The department shall review and rank applications based on the criteria in this section and transmit the applications to the committee for review.

(2) The committee shall, after reviewing the applications transferred to the committee under Subsection (1), make recommendations to the executive director.

(3) The executive director shall, in accordance with the committee's recommendations, decide which applications to award grants under Subsection [~~26-10b-102~~] 26B-4-310(1).

(4) The department shall establish rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the application form, the process, and the criteria the department will use in reviewing, ranking, and awarding grants and contracts under this [~~chapter~~] part.

(5) When reviewing, ranking, and awarding a primary care grant under Subsection [~~26-10b-102~~] 26B-4-310(1), the department shall consider the extent to which an applicant:

(a) demonstrates that the area or a population group the applicant will serve under the application has a shortage of primary health care and that the primary health care will be located so that it provides assistance to the greatest number of individuals in the population group;

(b) utilizes other sources of funding, including private funding, to provide primary health care;

(c) demonstrates the ability and expertise to serve a medically underserved population;

(d) agrees to submit a report to the committee annually; and

(e) meets other criteria determined by the department in consultation with the committee.

(6) The department may use up to 5% of the funds appropriated by the Legislature to the primary care grant program [~~under this chapter~~] to pay the costs of administering the program.

Section 113. Section 26B-4-313, which is renumbered from Section 26-10b-107 is renumbered and amended to read:

[~~26-10b-107~~]. 26B-4-313. Community education and outreach contracts.

(1) The department may, as funding permits, contract with community based organizations for the purpose of developing culturally and linguistically appropriate programs and services for low income and medically underserved populations to accomplish one or more of the following:

(a) to educate individuals:

(i) to use private and public health care coverage programs, products, services, and resources in a timely, effective, and responsible manner;

(ii) to pursue preventive health care, health screenings, and disease management; and

(iii) to locate health care programs and services;

(b) to assist individuals to develop:

(i) personal health management;

(ii) self-sufficiency in daily care; and

(iii) life and disease management skills;

(c) to support translation of health materials and information;

(d) to facilitate an individual's access to primary care and providers, including mental health services; and

(e) to measure and report empirical results of the pilot project.

(2) When awarding a contract for community based services under Subsection (1), the department shall consider the extent to which the applicant:

(a) demonstrates that the area or a population group to be served under the application is a medically underserved population and that the services will be located to provide assistance to the greatest number of individuals residing in the area or included in the population group;

(b) utilizes other sources of funding, including private funding, to provide the services described in Subsection (1);

(c) demonstrates the ability and expertise to serve medically underserved populations, including individuals with limited English-speaking ability, single heads of households, the elderly, individuals with low income, and individuals with a chronic disease;

(d) meets other criteria determined by the department; and

(e) demonstrates the ability to empirically measure and report the results of all contract supported activities.

(3) The department may only award a contract under Subsection (1):

(a) in accordance with Title 63G, Chapter 6a, Utah Procurement Code;

(b) that contains the information described in Section [~~26-10b-103~~] 26B-4-311, relating to grants; and

(c) that complies with Subsections (4) and (5).

(4) An applicant under [~~this chapter~~] this section and Sections 26B-4-310 through 26B-4-312 shall demonstrate to the department that the applicant will not deny services to a person because of the person's inability to pay for the services.

(5) Subsection (4) does not preclude an applicant from seeking payment from the person receiving services, a third party, or a government agency if:

(a) the applicant is authorized to charge for the services; and

(b) the person, third party, or government agency is under legal obligation to pay for the services.

(6) The department shall maximize the use of federal matching funds received for services under Subsection (1) to fund additional contracts under Subsection (1).

Section 114. Section 26B-4-314, which is renumbered from Section 26-9-1 is renumbered and amended to read:

[~~26-9-1~~]. 26B-4-314. Assistance to rural communities by department.

The department shall assist rural communities in dealing with primary health care needs relating to recruiting health professionals, planning, and technical assistance. The department shall assist the communities, at their request, at any stage of development of new or expanded primary health care services and shall work with them to improve primary health care by providing information to increase the effectiveness of their systems, to decrease duplication and fragmentation of services, and to maximize community use of private gifts, and local, state, and federal grants and contracts.

Section 115. Section 26B-4-315, which is renumbered from Section 26-9-2 is renumbered and amended to read:

[~~26-9-2~~]. 26B-4-315. Responsibility of department for coordinating rural health programs.

The department shall be the lead agency responsible for coordinating rural health programs and shall [~~insure~~] ensure that resources available for rural health are efficiently and effectively used.

Section 116. Section 26B-4-316, which is renumbered from Section 26-9-3 is renumbered and amended to read:

[~~26-9-3~~]. 26B-4-316. Rural health development initiatives.

(1) (a) [~~The~~] University of Utah Health [~~Science Center~~] shall use any appropriations it receives for developing area health education centers to establish and maintain an area health education center program in accordance with this section.

(b) Implementation and execution of the area health education center program is contingent upon appropriations from the Legislature.

(2) (a) The area health education center program shall consist of a central program office at [~~the~~] University of Utah Health [~~Science Center~~]. The program office shall establish and operate a statewide, decentralized, regional program with emphasis on addressing rural health professions workforce education and training needs.

(b) The area health education center program shall have [~~five~~] three regional centers serving the following geographic areas:

(i) the northern center serving Box Elder, Cache, Davis, Rich, Weber, and Morgan counties;

(ii) the crossroads center serving Salt Lake, Wasatch, Summit, Tooele, and Utah[~~, and Davis~~] counties; and

(iii) the [~~central~~] southern center serving Juab, Millard, Piute, Sanpete, Sevier, [~~and~~] Wayne, [~~counties; (iv) the eastern center serving~~] Carbon, Daggett, Duchesne, Emery, Grand, San Juan, [~~and Uintah counties; and (v) the southwest center serving~~] Uintah, Beaver, Garfield, Iron, Kane, and Washington counties.

(3) The area health education center program shall attempt to acquire funding from state, local, federal, and private sources.

(4) Each area health education center shall provide community-based health professions education programming for the geographic area described in Subsection (2)(b) of this section.

Section 117. Section 26B-4-317, which is renumbered from Section 26-9-5 is renumbered and amended to read:

[~~26-9-5~~]. 26B-4-317. Rural County Health Care Special Service District Retirement Grant Program.

(1) As used in this section:

(a) "Participating employer" means an employer that was required to participate in the Utah State Retirement System under Section 49-12-201, 49-12-202, 49-13-201, or 49-13-202.

(b) "Retirement liability" means an obligation in excess of $750,000 owed to the Utah State Retirement Office by a rural county health care special service district as a participating employer.

(c) "Rural county health care special service district" means a special service district formed to provide health care in a third, fourth, fifth, or sixth class county as defined in Section 17-50-501.

(2) Because there is a compelling statewide public purpose in promoting health care in Utah's rural counties, and particularly in ensuring the continued existence and financial viability of hospital services provided by rural county health care special service districts, there is created a grant program to assist rural county health care special service districts in meeting a retirement liability.

(3) (a) Subject to legislative appropriation and this Subsection (3), the department shall make grants to rural county health care special service districts.

(b) To qualify for a grant, a rural county health care special service district shall:

(i) file a grant application with the department detailing:

(A) the name of the rural county health care special service district;

(B) the estimated total amount of the retirement liability;

(C) the grant amount that the rural county health care special service district is requesting; and

(D) the amount of matching funds to be provided by the rural county health care special service district to help fund the retirement liability as required by Subsection (3)(d); and

(ii) commit to provide matching funds as required by Subsection (3)(d).

(c) The department shall review each grant application and, subject to legislative appropriation, award grants to each rural health care special service district that qualifies for a grant under Subsection (3)(b).

(d) The department may not award a grant to a rural county health care special service district unless the rural county health care special service district commits to provide matching funds to the grant equal to at least 40% of the amount of the grant.

Section 118. Section 26B-4-318, which is renumbered from Section 26-10-2 is renumbered and amended to read:

[~~26-10-2~~]. 26B-4-318. Maternal and child health provided by department.

The department shall, as funding permits, provide for maternal and child health services and services for children with a disability if the individual needs the services and the individual cannot reasonably obtain the services from other sources.

Section 119. Section 26B-4-319, which is renumbered from Section 26-10-6 is renumbered and amended to read:

[~~26-10-6~~]. 26B-4-319. Testing of newborn infants.

(1) Except in the case where parents object on the grounds that they are members of a specified, well-recognized religious organization whose teachings are contrary to the tests required by this section, a newborn infant shall be tested for:

(a) phenylketonuria (PKU);

(b) other heritable disorders which may result in an intellectual or physical disability or death and for which:

(i) a preventive measure or treatment is available; and

(ii) there exists a reliable laboratory diagnostic test method;

(c) (i) an infant born in a hospital with 100 or more live births annually, hearing loss; and

(ii) an infant born in a setting other than a hospital with 100 or more live births annually, hearing loss; and

(d) critical congenital heart defects using pulse oximetry.

(2) In accordance with Section 26B-1-209, the department may charge fees for:

(a) materials supplied by the department to conduct tests required under Subsection (1);

(b) tests required under Subsection (1) conducted by the department;

(c) laboratory analyses by the department of tests conducted under Subsection (1); and

(d) the administrative cost of follow-up contacts with the parents or guardians of tested infants.

(3) Tests for hearing loss described in Subsection (1) shall be based on one or more methods approved by the Newborn Hearing Screening Committee created in Section 26B-1-432, including:

(a) auditory brainstem response;

(b) automated auditory brainstem response; and

(c) evoked otoacoustic emissions.

(4) Results of tests for hearing loss described in Subsection (1) shall be reported to:

(a) the department; and

(b) when results of tests for hearing loss under Subsection (1) suggest that additional diagnostic procedures or medical interventions are necessary:

(i) a parent or guardian of the infant;

(ii) an early intervention program administered by the department in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and

(iii) the Utah Schools for the Deaf and the Blind, created in Section 53E-8-201.

[~~(5) (a) There is established the Newborn Hearing Screening Committee.~~]

[~~(b) The committee shall advise the department on:~~]

[~~(i) the validity and cost of newborn infant hearing loss testing procedures; and~~]

[~~(ii) rules promulgated by the department to implement this section.~~]

[~~(c) The committee shall be composed of at least 11 members appointed by the executive director, including:~~]

[~~(i) one representative of the health insurance industry;~~]

[~~(ii) one pediatrician;~~]

[~~(iii) one family practitioner;~~]

[~~(iv) one ear, nose, and throat specialist nominated by the Utah Medical Association;~~]

[~~(v) two audiologists nominated by the Utah Speech-Language-Hearing Association;~~]

[~~(vi) one representative of hospital neonatal nurseries;~~]

[~~(vii) one representative of the Early Intervention Baby Watch Program administered by the department;~~]

[~~(viii) one public health nurse;~~]

[~~(ix) one consumer; and~~]

[~~(x) the executive director or the executive director's designee.~~]

[~~(d) Of the initial members of the committee, the executive director shall appoint as nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments shall be for four-year terms except:~~]

[~~(i) for those members who have been appointed to complete an unexpired term; and~~]

[~~(ii) as necessary to ensure that as nearly as possible the terms of half the appointments expire every two years.~~]

[~~(e) A majority of the members constitute a quorum, and a vote of the majority of the members present constitutes an action of the committee.~~]

[~~(f) The committee shall appoint a chairman from the committee's membership.~~]

[~~(g) The committee shall meet at least quarterly.~~]

[~~(h) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~]

[~~(i) Section 63A-3-106;~~]

[~~(ii) Section 63A-3-107; and~~]

[~~(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.~~]

[~~(i) The department shall provide staff for the committee.~~]

[~~(6) Before implementing the test required by Subsection (1)(d), the department shall conduct a~~

~~pilot program for testing newborns for critical congenital heart defects using pulse oximetry. The pilot program shall include the development of:~~]

[~~(a) appropriate oxygen saturation levels that would indicate a need for further medical follow-up; and~~]

[~~(b) the best methods for implementing the pulse oximetry screening in newborn care units.~~]

Section 120. Section 26B-4-320, which is renumbered from Section 26-10-7 is renumbered and amended to read:

[~~26-10-7~~]. 26B-4-320. Dental health programs -- Appointment of director.

The department shall establish and promote programs to protect and improve the dental health of the public. The executive director shall appoint a director of the dental health program who shall be a dentist licensed in the state with at least one year of training in an accredited school of public health or not less than two years of experience in public health dentistry.

Section 121. Section 26B-4-321, which is renumbered from Section 26-10-9 is renumbered and amended to read:

[~~26-10-9~~]. 26B-4-321. Immunizations -- Consent of minor to treatment.

(1) This section:

(a) is not intended to interfere with the integrity of the family or to minimize the rights of parents or children; and

(b) applies to a minor, who at the time care is sought is:

(i) married or has been married;

(ii) emancipated as provided for in Section 80-7-105;

(iii) a parent with custody of a minor child; or

(iv) pregnant.

(2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

(i) vaccinations against epidemic infections and communicable diseases as defined in Section [~~26-6-2~~] 26B-7-201; and

(ii) examinations and vaccinations required to attend school as provided in Title 53G, Public Education System -- Local Administration.

(b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the vaccinations described in Subsections (2)(a)(i) and (ii), and the vaccine for human papillomavirus only if:

(i) the minor represents to the health care provider that the minor is an abandoned minor as defined in Section 76-5-109.3; and

(ii) the health care provider makes a notation in the minor's chart that the minor represented to the health care provider that the minor is an abandoned minor under Section 76-5-109.3.

(c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a minor.

(3) The consent of the minor pursuant to this section:

(a) is not subject to later disaffirmance because of the minority of the person receiving the medical services;

(b) is not voidable because of minority at the time the medical services were provided;

(c) has the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as consent given by a person of full age and capacity; and

(d) does not require the consent of any other person or persons to authorize the medical services described in Subsections (2)(a) and (b).

(4) A health care provider who provides medical services to a minor in accordance with the provisions of this section is not subject to civil or criminal liability for providing the services described in Subsections (2)(a) and (b) without obtaining the consent of another person prior to rendering the medical services.

(5) This section does not remove the requirement for parental consent or notice when required by Section 76-7-304 or 76-7-304.5.

(6) The parents, parent, or legal guardian of a minor who receives medical services pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless the parents, parent, or legal guardian consented to the medical services.

Section 122. Section 26B-4-322, which is renumbered from Section 26-10-11 is renumbered and amended to read:

[~~26-10-11~~]. 26B-4-322. Children's Hearing Aid Program -- Rulemaking.

(1) The department shall offer a program to provide hearing aids to children who qualify under this section.

(2) The department shall provide hearing aids to a child who:

(a) is younger than six years old;

(b) is a resident of Utah;

(c) has been diagnosed with hearing loss by:

(i) an audiologist with pediatric expertise; and

(ii) a physician or physician assistant;

(d) provides documentation from an audiologist with pediatric expertise certifying that the child needs hearing aids;

(e) has obtained medical clearance by a medical provider for hearing aid fitting;

(f) does not qualify to receive a contribution that equals the full cost of a hearing aid from the state's

Medicaid program or the Utah Children's Health Insurance Program; and

(g) meets the financial need qualification criteria established by the department by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for participation in the program.

[~~(3) (a) There is established the Children's Hearing Aid Advisory Committee.~~]

[~~(b) The committee shall be composed of five members appointed by the executive director, and shall include:~~]

[~~(i) one audiologist with pediatric expertise;~~]

[~~(ii) one speech language pathologist;~~]

[~~(iii) one teacher, certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening and spoken language therapist;~~]

[~~(iv) one ear, nose, and throat specialist; and~~]

[~~(v) one parent whose child:~~]

[~~(A) is six years old or older; and~~]

[~~(B) has hearing loss.~~]

[~~(c) A majority of the members constitutes a quorum.~~]

[~~(d) A vote of the majority of the members, with a quorum present, constitutes an action of the committee.~~]

[~~(e) The committee shall elect a chair from its members.~~]

[~~(f) The committee shall:~~]

[~~(i) meet at least quarterly;~~]

[~~(ii) recommend to the department medical criteria and procedures for selecting children who may qualify for assistance from the account; and~~]

[~~(iii) review rules developed by the department.~~]

[~~(g) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with Sections 63A-3-106 and 63A-3-107 and rules made by the Division of Finance, pursuant to Sections 63A-3-106 and 63A-3-107.~~]

[~~(h) The department shall provide staff to the committee.~~]

[~~(4) (a) There is created within the General Fund a restricted account known as the "Children's Hearing Aid Program Restricted Account."~~]

[~~(b) The Children's Hearing Aid Program Restricted Account shall consist of:~~]

[~~(i) amounts appropriated to the account by the Legislature; and~~]

[~~(ii) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, or any other conveyance that may be made to the account from private sources.~~]

[~~(c) Upon appropriation, all actual and necessary operating expenses for the committee described in Subsection (3) shall be paid by the account.~~]

[~~(d) Upon appropriation, no more than 9% of the account money may be used for the department's expenses.~~]

[~~(e) If this account is repealed in accordance with Section 63I-1-226, any remaining assets in the account shall be deposited into the General Fund.~~]

[~~(5)~~] (3) (a) For each child who receives a hearing aid under Subsection (2), the department shall maintain a record of the cost of providing services to the child under this section.

(b) No more than six months after services are provided to a child under this section, the department shall send a letter to the family of the child who received services that includes information regarding:

(i) the total amount paid by the department to provide services to the child under this section; and

(ii) the process by which the family may donate all or part of the amount paid to provide services to the child to fund the Children's Hearing Aid Program.

(c) All donations made under Subsection [~~(6)~~] (4)(c) shall be deposited into the Children's Hearing Aid Program Restricted Account created in [~~Subsection (4)(a)~~] Section 26B-1-333.

[~~(6)~~] (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for:

(a) identifying the children who are financially eligible to receive services under the program;

(b) reviewing and paying for services provided to a child under the program; and

(c) an individual to donate to the program all or part of the cost of providing services to a child under this section, without regard to whether the donation is made in response to the letter described in Subsection [~~(5)~~] (3)(b).

Section 123. Section 26B-4-323, which is renumbered from Section 26-10-13 is renumbered and amended to read:

[~~26-10-13~~]. 26B-4-323. Reporting results of a test for hearing loss.

(1) As used in this section, "health care provider" means the same as that term is defined in Section 78B-3-403.

(2) Except as provided in Subsection (3), a health care provider shall report results of a test for hearing loss to the Utah Schools for the Deaf and the Blind if:

(a) the results suggest that additional diagnostic procedures or medical interventions are necessary; and

(b) the individual tested for hearing loss is under the age of 22.

(3) A health care provider may not make the report of an individual's results described in Subsection (2) if the health care provider receives a request to not make the report from:

(a) the individual, if the individual is not a minor; or

(b) the individual's parent or guardian, if the individual is a minor.

Section 124. Section 26B-4-324, which is renumbered from Section 26-47-103 is renumbered and amended to read:

[~~26-47-103~~]. 26B-4-324. Department to award grants for assistance to persons with bleeding disorders.

(1) [~~For purposes of~~] As used in this section:

(a) "Hemophilia services" means a program for medical care, including the costs of blood transfusions, and the use of blood derivatives and blood clotting factors.

(b) "Person with a bleeding disorder" means a person:

(i) who is medically diagnosed with hemophilia or a bleeding disorder;

(ii) who is not eligible for Medicaid or the Children's Health Insurance Program; and

(iii) who meets one or more of the following:

(A) the person's insurance coverage excludes coverage for hemophilia services;

(B) the person has exceeded the person's insurance plan's annual maximum benefits;

(C) the person has exceeded the person's annual or lifetime maximum benefits payable under private health insurance; or

(D) the premiums for the person's private insurance coverage, or cost sharing under private coverage, are greater than a percentage of the person's annual adjusted gross income as established by the department by administrative rule.

(2) (a) Within appropriations specified by the Legislature for this purpose, the department shall make grants to public and nonprofit entities who assist persons with bleeding disorders with the cost of obtaining hemophilia services or the cost of insurance premiums for coverage of hemophilia services.

(b) Applicants for grants under this section:

(i) shall be submitted to the department in writing; and

(ii) shall comply with Subsection (3).

(3) Applications for grants under this section shall include:

(a) a statement of specific, measurable objectives, and the methods to be used to assess the achievement of those objectives;

(b) a description of the personnel responsible for carrying out the activities of the grant along with a statement justifying the use of any grant funds for the personnel;

(c) letters and other forms of evidence showing that efforts have been made to secure financial and professional assistance and support for the services to be provided under the grant;

(d) a list of services to be provided by the applicant;

(e) the schedule of fees to be charged by the applicant; and

(f) other provisions as determined by the department.

(4) The department may accept grants, gifts, and donations of money or property for use by the grant program.

(5) The department shall establish rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the application form, process, and criteria it will use in awarding grants under this section.

Section 125. Section 26B-4-401, which is renumbered from Section 26-53-102 is renumbered and amended to read:

Part 4. School Health

[~~26-53-102~~]. 26B-4-401. Definitions.

As used in this [~~chapter~~] part:

(1) "Agent" means a coach, teacher, employee, representative, or volunteer.

(2) (a) "Amateur sports organization" means, except as provided in Subsection (2)(b):

(i) a sports team;

(ii) a public or private school;

(iii) a public or private sports league;

(iv) a public or private sports camp; or

(v) any other public or private organization that organizes, manages, or sponsors a sporting event for its members, enrollees, or attendees.

(b) "Amateur sports organization" does not include a professional:

(i) team;

(ii) league; or

(iii) sporting event.

(3) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

(a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and exercise.

(4) "Asthma action plan" means a written plan:

(a) developed with a school nurse, a student's parent or guardian, and the student's health care provider to help control the student's asthma; and

(b) signed by the student's:

(i) parent or guardian; and

(ii) health care provider.

(5) "Asthma emergency" means an episode of respiratory distress that may include symptoms such as wheezing, shortness of breath, coughing, chest tightness, or breathing difficulty.

[~~(3)~~] (6) "Child" means an individual who is under the age of 18.

(7) "Epinephrine auto-injector" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially fatal anaphylactic reaction.

(8) "Health care provider" means an individual who is licensed as:

(a) a physician under Title 58, Chapter 67, Utah Medical Practice Act;

(b) a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(c) an advanced practice registered nurse under Section 58-31b-302; or

(d) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(9) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(10) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

(11) "Physician" means the same as that term is defined in Section 58-67-102.

(12) "Qualified adult" means a person who:

(a) is 18 years of age or older; and

(b) (i) for purposes of administering an epinephrine auto-injector, has successfully completed the training program established in Section 26B-4-407; and

(ii) for purposes of administering stock albuterol, has successfully completed the training program established in Section 26B-4-408.

(13) "Qualified epinephrine auto-injector entity":

(a) means a facility or organization that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience anaphylaxis; and

(b) includes:

(i) recreation camps;

(ii) an education facility, school, or university;

(iii) a day care facility;

(iv) youth sports leagues;

(v) amusement parks;

(vi) food establishments;

(vii) places of employment; and

(viii) recreation areas.

[~~(4)~~] (14) "Qualified health care provider" means a health care provider who:

(a) is licensed under Title 58, Occupations and Professions; and

(b) may evaluate and manage a concussion within the health care provider's scope of practice.

(15) "Qualified stock albuterol entity" means a public or private school that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience an asthma emergency.

[~~(5)~~] (16) (a) "Sporting event" means any of the following athletic activities that is organized, managed, or sponsored by an organization:

(i) a game;

(ii) a practice;

(iii) a sports camp;

(iv) a physical education class;

(v) a competition; or

(vi) a tryout.

(b) "Sporting event" does not include:

(i) the issuance of a lift ticket or pass by a ski resort, the use of the ticket or pass, or a ski or snowboarding class or school at a ski resort, unless the skiing or snowboarding is part of a camp, team, or competition that is organized, managed, or sponsored by the ski resort;

(ii) as applied to a government entity, merely making available a field, facility, or other location owned, leased, or controlled by the government entity to an amateur sports organization or a child, regardless of whether the government entity charges a fee for the use; or

(iii) free play or recess taking place during school hours.

(17) "Stock albuterol" means a prescription inhaled medication:

(a) used to treat asthma; and

(b) that may be delivered through a device, including:

(i) an inhaler; or

(ii) a nebulizer with a mouthpiece or mask.

[~~(6)~~] (18) "Traumatic head injury" means an injury to the head arising from blunt trauma, an acceleration force, or a deceleration force, with one

of the following observed or self-reported conditions attributable to the injury:

(a) transient confusion, disorientation, or impaired consciousness;

(b) dysfunction of memory;

(c) loss of consciousness; or

(d) signs of other neurological or neuropsychological dysfunction, including:

(i) seizures;

(ii) irritability;

(iii) lethargy;

(iv) vomiting;

(v) headache;

(vi) dizziness; or

(vii) fatigue.

Section 126. Section 26B-4-402, which is renumbered from Section 26-10-5 is renumbered and amended to read:

[~~26-10-5~~]. 26B-4-402. Plan for school health services.

The department shall establish a plan for school health services for pupils in elementary and secondary schools. The department shall cooperate with the State Board of Education and local health departments in developing such plan and shall coordinate activities between these agencies. The plan may provide for the delivery of health services by and through intermediate and local school districts and local health departments.

Section 127. Section 26B-4-403, which is renumbered from Section 26-53-201 is renumbered and amended to read:

[~~26-53-201~~]. 26B-4-403. Adoption and enforcement of concussion and head injury policy -- Notice of policy to parent or guardian.

Each amateur sports organization shall:

(1) adopt and enforce a concussion and head injury policy that:

(a) is consistent with the requirements of Section [~~26-53-301~~] 26B-4-404; and

(b) describes the nature and risk of:

(i) a concussion or a traumatic head injury; and

(ii) continuing to participate in a sporting event after sustaining a concussion or a traumatic head injury;

(2) ensure that each agent of the amateur sports organization is familiar with, and has a copy of, the concussion and head injury policy; and

(3) before permitting a child to participate in a sporting event of the amateur sports organization:

(a) provide a written copy of the concussion and head injury policy to a parent or legal guardian of a child; and

(b) obtain the signature of a parent or legal guardian of the child, acknowledging that the parent or legal guardian has read, understands, and agrees to abide by, the concussion and head injury policy.

Section 128. Section 26B-4-404, which is renumbered from Section 26-53-301 is renumbered and amended to read:

[~~26-53-301~~]. 26B-4-404. Removal of child suspected of sustaining concussion or a traumatic head injury -- Medical clearance required before return to participation.

(1) An amateur sports organization, and each agent of the amateur sports organization, shall:

(a) immediately remove a child from participating in a sporting event of the amateur sports organization if the child is suspected of sustaining a concussion or a traumatic head injury; and

(b) prohibit the child described in Subsection (1)(a) from participating in a sporting event of the amateur sports organization until the child:

(i) is evaluated by a qualified health care provider who is trained in the evaluation and management of a concussion; and

(ii) provides the amateur sports organization with a written statement from the qualified health care provider described in Subsection (1)(b)(i) stating that:

(A) the qualified health care provider has, within three years before the day on which the written statement is made, successfully completed a continuing education course in the evaluation and management of a concussion; and

(B) the child is cleared to resume participation in the sporting event of the amateur sports organization.

(2) This section does not create a new cause of action.

Section 129. Section 26B-4-405, which is renumbered from Section 26-53-401 is renumbered and amended to read:

[~~26-53-401~~]. 26B-4-405. School nurses evaluating student injuries.

(1) A school nurse may assess a child who is suspected of sustaining a concussion or a traumatic head injury during school hours on school property regardless of whether the nurse has received specialized training in the evaluation and management of a concussion.

(2) A school nurse who does not meet the requirements of Subsections [~~26-53-301~~] 26B-4-404(1)(b)(i) and (1)(b)(ii)(A), but who assesses a child who is suspected of sustaining a concussion or traumatic head injury under Subsection (1):

(a) shall refer the child to a qualified health care provider who is trained in the evaluation and management of a concussion; and

(b) may not provide a written statement permitting the child to resume participation in free play or physical education class under Subsection [~~26-53-301~~] 26B-4-404(1)(b)(ii).

(3) A school nurse shall undergo training in the evaluation and management of a concussion, as funding allows.

Section 130. Section 26B-4-406, which is renumbered from Section 26-41-103 is renumbered and amended to read:

[~~26-41-103~~]. 26B-4-406. Voluntary participation.

(1) [~~This chapter does~~] Sections 26B-4-406 through 26B-4-411 do not create a duty or standard of care for:

(a) a person to be trained in the use and storage of epinephrine auto-injectors or stock albuterol; or

(b) except as provided in Subsection (5), a qualified epinephrine auto-injector entity to store epinephrine auto-injectors or a qualified stock albuterol entity to store stock albuterol on its premises.

(2) Except as provided in Subsections (3) and (5), a decision by a person to successfully complete a training program under Section [~~26-41-104 or 26-41-104.1~~] 26B-4-407 or 26B-4-408 and to make emergency epinephrine auto-injectors or stock albuterol available under the provisions of [~~this chapter~~] Sections 26B-4-406 through 26B-4-411 is voluntary.

(3) A school, school board, or school official may not prohibit or dissuade a teacher or other school employee at a primary or secondary school in the state, either public or private, from:

(a) completing a training program under Section [~~26-41-104 or 26-41-104.1~~] 26B-4-407 or 26B-4-408;

(b) possessing or storing an epinephrine auto-injector or stock albuterol on school property if:

(i) the teacher or school employee is a qualified adult; and

(ii) the possession and storage is in accordance with the training received under Section [~~26-41-104 or 26-41-104.1~~] 26B-4-407 or 26B-4-408; or

(c) administering an epinephrine auto-injector or stock albuterol to any person, if:

(i) the teacher or school employee is a qualified adult; and

(ii) the administration is in accordance with the training received under Section [~~26-41-104 or 26-41-104.1~~] 26B-4-407 or 26B-4-408.

(4) A school, school board, or school official may encourage a teacher or other school employee to volunteer to become a qualified adult.

(5) (a) Each primary or secondary school in the state, both public and private, shall make an emergency epinephrine auto-injector available to any teacher or other school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) This section does not require a school described in Subsection (5)(a) to keep more than one emergency epinephrine auto-injector on the school premises, so long as it may be quickly accessed by a teacher or other school employee, who is a qualified adult, in the event of an emergency.

(6) (a) Each primary or secondary school in the state, both public and private, may make stock albuterol available to any school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) A qualified adult may administer stock albuterol to a student who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan.

(c) This Subsection (6) may not be interpreted to relieve a student's parent or guardian of providing a student's medication or create an expectation that a school will have stock albuterol available.

(7) No school, school board, or school official shall retaliate or otherwise take adverse action against a teacher or other school employee for:

(a) volunteering under Subsection (2);

(b) engaging in conduct described in Subsection (3); or

(c) failing or refusing to become a qualified adult.

Section 131. Section 26B-4-407, which is renumbered from Section 26-41-104 is renumbered and amended to read:

[~~26-41-104~~]. 26B-4-407. Training in use and storage of epinephrine auto-injector.

(1) (a) Each primary and secondary school in the state, both public and private, shall make initial and annual refresher training, regarding the storage and emergency use of an epinephrine auto-injector, available to any teacher or other school employee who volunteers to become a qualified adult.

(b) The training described in Subsection (1)(a) may be provided by the school nurse, or other person qualified to provide such training, designated by the school district physician, the

medical director of the local health department, or the local emergency medical services director.

(2) A person who provides training under Subsection (1) or (6) shall include in the training:

(a) techniques for recognizing symptoms of anaphylaxis;

(b) standards and procedures for the storage and emergency use of epinephrine auto-injectors;

(c) emergency follow-up procedures, including calling the emergency 911 number and contacting, if possible, the student's parent and physician; and

(d) written materials covering the information required under this Subsection (2).

(3) A qualified adult shall retain for reference the written materials prepared in accordance with Subsection (2)(d).

(4) A public school shall permit a student to possess an epinephrine auto-injector or possess and self-administer an epinephrine auto-injector if:

(a) the student's parent or guardian signs a statement:

(i) authorizing the student to possess or possess and self-administer an epinephrine auto-injector; and

(ii) acknowledging that the student is responsible for, and capable of, possessing or possessing and self-administering an epinephrine auto-injector; and

(b) the student's health care provider provides a written statement that states that:

(i) it is medically appropriate for the student to possess or possess and self-administer an epinephrine auto-injector; and

(ii) the student should be in possession of the epinephrine auto-injector at all times.

(5) The department, in cooperation with the state superintendent of public instruction, shall design forms to be used by public and private schools for the parental and health care providers statements described in Subsection (4).

(6) (a) The department:

(i) shall approve educational programs conducted by other persons, to train:

(A) people under Subsection (6)(b) of this section, regarding the proper use and storage of emergency epinephrine auto-injectors; and

(B) a qualified epinephrine auto-injector entity regarding the proper storage and emergency use of epinephrine auto-injectors; and

(ii) may, as funding is available, conduct educational programs to train people regarding the use of and storage of emergency epinephrine auto-injectors.

(b) A person who volunteers to receive training as a qualified adult to administer an epinephrine auto-injector under the provisions of this Subsection (6) shall demonstrate a need for the training to the department, which may be based upon occupational, volunteer, or family circumstances, and shall include:

(i) camp counselors;

(ii) scout leaders;

(iii) forest rangers;

(iv) tour guides; and

(v) other persons who have or reasonably expect to have contact with at least one other person as a result of the person's occupational or volunteer status.

Section 132. Section 26B-4-408, which is renumbered from Section 26-41-104.1 is renumbered and amended to read:

[~~26-41-104.1~~]. 26B-4-408. Training in use and storage of stock albuterol.

(1) (a) Each primary and secondary school in the state, both public and private, shall make initial and annual refresher training regarding the storage and emergency use of stock albuterol available to a teacher or school employee who volunteers to become a qualified adult.

(b) The training described in Subsection (1)(a) shall be provided by the department.

(2) A person who provides training under Subsection (1) or (6) shall include in the training:

(a) techniques for recognizing symptoms of an asthma emergency;

(b) standards and procedures for the storage and emergency use of stock albuterol;

(c) emergency follow-up procedures, and contacting, if possible, the student's parent; and

(d) written materials covering the information required under this Subsection (2).

(3) A qualified adult shall retain for reference the written materials prepared in accordance with Subsection (2)(d).

(4) (a) A public or private school shall permit a student to possess and self-administer asthma medication if:

(i) the student's parent or guardian signs a statement:

(A) authorizing the student to self-administer asthma medication; and

(B) acknowledging that the student is responsible for, and capable of, self-administering the asthma medication; and

(ii) the student's health care provider provides a written statement that states:

(A) it is medically appropriate for the student to self-administer asthma medication and be in possession of asthma medication at all times; and

(B) the name of the asthma medication prescribed or authorized for the student's use.

(b) Section 53G-8-205 does not apply to the possession and self-administration of asthma medication in accordance with this section.

(5) The department, in cooperation with the state superintendent of public instruction, shall design forms to be used by public and private schools for the parental and health care provider statements described in Subsection (4).

(6) The department:

(a) shall approve educational programs conducted by other persons to train:

(i) people under Subsection (6)(b), regarding the proper use and storage of stock albuterol; and

(ii) a qualified stock albuterol entity regarding the proper storage and emergency use of stock albuterol; and

(b) may conduct educational programs to train people regarding the use of and storage of stock albuterol.

Section 133. Section 26B-4-409, which is renumbered from Section 26-41-105 is renumbered and amended to read:

[~~26-41-105~~]. 26B-4-409. Authority to obtain and use an epinephrine auto-injector or stock albuterol.

(1) A qualified adult who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse, may obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for:

(a) epinephrine auto-injectors for use in accordance with this [~~chapter~~] part; or

(b) stock albuterol for use in accordance with this [~~chapter~~] part.

(2) (a) A qualified adult may obtain an epinephrine auto-injector for use in accordance with this [~~chapter~~] part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(b) A qualified adult may obtain stock albuterol for use in accordance with this [~~chapter~~] part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(3) A qualified adult:

(a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section [~~26-41-104~~] 26B-4-407 after administering an epinephrine auto-injector.

(4) If a school nurse is not immediately available, a qualified adult:

(a) may immediately administer stock albuterol to an individual who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan; and

(b) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section [~~26-41-104.1~~] 26B-4-408 after administering stock albuterol.

(5) (a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain a supply of epinephrine auto-injectors or stock albuterol, respectively, from a pharmacist under Section 58-17b-1004, or a pharmacy intern under Section 58-17b-1004 for:

(i) storing:

(A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's premises; and

(B) stock albuterol on the qualified stock albuterol entity's premises; and

(ii) use by a qualified adult in accordance with Subsection (3) or (4).

(b) A qualified epinephrine auto-injector entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and

(ii) store epinephrine auto-injectors in accordance with the standards established by the department in Section [~~26-41-107~~] 26B-4-411.

(c) A qualified stock albuterol entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of stock albuterol available to a qualified adult; and

(ii) store stock albuterol in accordance with the standards established by the department in Section [~~26-41-107~~] 26B-4-411.

Section 134. Section 26B-4-410, which is renumbered from Section 26-41-106 is renumbered and amended to read:

[~~26-41-106~~]. 26B-4-410. Immunity from liability.

(1) The following, if acting in good faith, are not liable in any civil or criminal action for any act taken or not taken under the authority of [~~this chapter~~] Sections 26B-4-406 through 26B-4-411 with respect to an anaphylactic reaction or asthma emergency:

(a) a qualified adult;

(b) a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;

(c) a person who conducts training described in Section [~~26-41-104 or 26-41-104.1~~] 26B-4-407 or 26B-4-408;

(d) a qualified epinephrine auto-injector entity; and

(e) a qualified stock albuterol entity.

(2) Section 53G-9-502 does not apply to the administration of an epinephrine auto-injector or stock albuterol in accordance with this [~~chapter~~] part.

(3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Section 135. Section 26B-4-411, which is renumbered from Section 26-41-107 is renumbered and amended to read:

[~~26-41-107~~]. 26B-4-411. Administrative rulemaking authority.

The department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) establish and approve training programs in accordance with Sections [~~26-41-104 and 26-41-104.1~~] 26B-4-407 and 26B-4-408;

(2) establish a procedure for determining who is eligible for training as a qualified adult under Subsection [~~26-41-104~~] 26B-4-407(6)(b)(v); and

(3) establish standards for storage of:

(a) emergency auto-injectors by a qualified epinephrine auto-injector entity under Section [~~26-41-104~~] 26B-4-407; and

(b) stock albuterol by a qualified stock albuterol entity under Section [~~26-41-104.1~~] 26B-4-408.

Section 136. Section 26B-4-501, which is renumbered from Section 26-64-102 is renumbered and amended to read:

Part 5. Treatment Access

[~~26-64-102~~]. 26B-4-501. Definitions.

As used in this [~~chapter~~] part:

(1) "Controlled substance" means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) "Critical access hospital" means a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998).

(3) "Designated facility" means:

(a) a freestanding urgent care center;

(b) a general acute hospital; or

(c) a critical access hospital.

[~~(1)~~] (4) "Dispense" means the same as that term is defined in Section 58-17b-102.

[~~(2)~~] (5) "Division" means the Division of Professional Licensing created in Section 58-1-103.

[~~(3) "Local health department" means:~~]

[~~(a) a local health department, as defined in Section 26A-1-102; or~~]

[~~(b) a multicounty local health department, as defined in Section 26A-1-102.~~]

(6) "Emergency contraception" means the use of a substance, approved by the United States Food and Drug Administration, to prevent pregnancy after sexual intercourse.

(7) "Freestanding urgent care center" means the same as that term is defined in Section 59-12-801.

(8) "General acute hospital" means the same as that term is defined in Section 26B-2-201.

(9) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(10) "Health care provider" means:

(a) a physician, as defined in Section 58-67-102;

(b) an advanced practice registered nurse, as defined in Section 58-31b-102;

(c) a physician assistant, as defined in Section 58-70a-102; or

(d) an individual licensed to engage in the practice of dentistry, as defined in Section 58-69-102.

(11) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

(12) "Opiate" means the same as that term is defined in Section 58-37-2.

(13) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the

diagnosis or treatment of an opiate-related drug overdose.

(14) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

(15) "Overdose outreach provider" means:

(a) a law enforcement agency;

(b) a fire department;

(c) an emergency medical service provider, as defined in Section 26B-4-101;

(d) emergency medical service personnel, as defined in Section 26B-4-101;

(e) an organization providing treatment or recovery services for drug or alcohol use;

(f) an organization providing support services for an individual, or a family of an individual, with a substance use disorder;

(g) an organization providing substance use or mental health services under contract with a local substance abuse authority, as defined in Section 26B-5-101, or a local mental health authority, as defined in Section 26B-5-101;

(h) an organization providing services to the homeless;

(i) a local health department;

(j) an individual licensed to practice pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act; or

(k) an individual.

[~~(4)~~] (16) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

[~~(5)~~] (17) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

[~~(6)~~] (18) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

[~~(7)~~] (19) "Physician" means the same as that term is defined in Section 58-67-102.

(20) "Practitioner" means:

(a) a physician; or

(b) any other person who is permitted by law to prescribe emergency contraception.

[~~(8)~~] (21) "Prescribe" means the same as that term is defined in Section 58-17b-102.

[~~(9)~~] (22) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(23) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses, that may result in a pregnancy.

(24) "Victim of sexual assault" means any person who presents to receive, or receives, medical care in consequence of being subjected to sexual assault.

Section 137. Section 26B-4-502, which is renumbered from Section 26-21b-201 is renumbered and amended to read:

[~~26-21b-201~~]. 26B-4-502. Emergency contraception services for a victim of sexual assault.

(1) Except as provided in Subsection (2), a designated facility shall provide the following services to a victim of sexual assault:

(a) provide the victim with written and oral medical information regarding emergency contraception that is unbiased, accurate, and generally accepted by the medical community as being scientifically valid;

(b) orally inform the victim of sexual assault that the victim may obtain emergency contraception at the designated facility;

(c) offer a complete regimen of emergency contraception to a victim of sexual assault;

(d) provide, at the designated facility, emergency contraception to the victim of sexual assault upon her request;

(e) maintain a protocol, prepared by a physician, for the administration of emergency contraception at the designated facility to a victim of sexual assault; and

(f) develop and implement a written policy to ensure that a person is present at the designated facility, or on-call, who:

(i) has authority to dispense or prescribe emergency contraception, independently, or under the protocol described in Subsection (1)(e), to a victim of sexual assault; and

(ii) is trained to comply with the requirements of this section.

(2) A freestanding urgent care center is exempt from the requirements of Subsection (1) if:

(a) there is a general acute hospital or a critical access hospital within 30 miles of the freestanding urgent care center; and

(b) an employee of the freestanding urgent care center provides the victim with:

(i) written and oral medical information regarding emergency contraception that is

unbiased, accurate, and generally accepted by the medical community as being scientifically valid; and

(ii) the name and address of the general acute hospital or critical access hospital described in Subsection (2)(a).

(3) A practitioner shall comply with Subsection (4) with regard to a person who is a victim of sexual assault, if the person presents to receive medical care, or receives medical care, from the practitioner at a location that is not a designated facility.

(4) A practitioner described in Subsection (3) shall:

(a) provide the victim with written and oral medical information regarding emergency contraception that is unbiased, accurate, and generally accepted by the medical community as being scientifically valid; and

(b) (i) (A) orally inform the victim of sexual assault that the victim may obtain emergency contraception at the facility where the practitioner is located; and

(B) provide emergency contraception to the victim of sexual assault, if she requests emergency contraception; or

(ii) inform the victim of sexual assault of the nearest location where she may obtain emergency contraception.

(5) (a) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to enforce the provisions of this section.

(b) The department shall, in an expeditious manner, investigate any complaint received by the department regarding the failure of a health care facility to comply with a requirement of this section.

(c) If the department finds a violation of this section or any rules adopted under this section, the department may take one or more of the actions described in Section 26B-2-208.

Section 138. Section 26B-4-503, which is renumbered from Section 26-64-103 is renumbered and amended to read:

[~~26-64-103~~]. 26B-4-503. Voluntary participation.

[~~This chapter does~~] Sections 26B-4-504 through 26B-4-507 do not create a duty or standard of care for a person to prescribe or dispense a self-administered hormonal contraceptive.

Section 139. Section 26B-4-504, which is renumbered from Section 26-64-104 is renumbered and amended to read:

[~~26-64-104~~]. 26B-4-504. Authorization to dispense self-administered hormonal contraceptives.

Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense a self-administered hormonal contraceptive may dispense the self-administered hormonal contraceptive:

(1) to a patient who is 18 years old or older;

(2) pursuant to a standing prescription drug order made in accordance with Section [~~26-64-105~~] 26B-4-505;

(3) without any other prescription drug order from a person licensed to prescribe a self-administered hormonal contraceptive; and

(4) in accordance with the dispensing guidelines in Section [~~26-64-106~~] 26B-4-506.

Section 140. Section 26B-4-505, which is renumbered from Section 26-64-105 is renumbered and amended to read:

[~~26-64-105~~]. 26B-4-505. Standing prescription drug orders for a self-administered hormonal contraceptive.

A physician who is licensed to prescribe a self-administered hormonal contraceptive, including a physician acting in the physician's capacity as an employee of the department, or a medical director of a local health department, may issue a standing prescription drug order authorizing the dispensing of the self-administered hormonal contraceptive under Section [~~26-64-104~~] 26B-4-504 in accordance with a protocol that:

(1) requires the physician to specify the persons, by professional license number, authorized to dispense the self-administered hormonal contraceptive;

(2) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the self-administered hormonal contraceptive;

(3) requires those authorized by the physician to dispense the self-administered hormonal contraceptive to make and retain a record of each person to whom the self-administered hormonal contraceptive is dispensed, including:

(a) the name of the person;

(b) the drug dispensed; and

(c) other relevant information; and

(4) is approved by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 141. Section 26B-4-506, which is renumbered from Section 26-64-106 is renumbered and amended to read:

[~~26-64-106~~]. 26B-4-506. Guidelines for dispensing a self-administered hormonal contraceptive.

(1) A pharmacist or pharmacist intern who dispenses a self-administered hormonal contraceptive under [~~this chapter~~] Section 26B-4-504:

(a) shall obtain a completed self-screening risk assessment questionnaire, that has been approved

by the division in collaboration with the Board of Pharmacy and the Physicians Licensing Board, from the patient before dispensing the self-administered hormonal contraceptive;

(b) if the results of the evaluation in Subsection (1)(a) indicate that it is unsafe to dispense a self-administered hormonal contraceptive to a patient:

(i) may not dispense a self-administered hormonal contraceptive to the patient; and

(ii) shall refer the patient to a primary care or women's health care practitioner;

(c) may not continue to dispense a self-administered hormonal contraceptive to a patient for more than 24 months after the date of the initial prescription without evidence that the patient has consulted with a primary care or women's health care practitioner during the preceding 24 months; and

(d) shall provide the patient with:

(i) written information regarding:

(A) the importance of seeing the patient's primary care practitioner or women's health care practitioner to obtain recommended tests and screening; and

(B) the effectiveness and availability of long-acting reversible contraceptives as an alternative to self-administered hormonal contraceptives; and

(ii) a copy of the record of the encounter with the patient that includes:

(A) the patient's completed self-assessment tool; and

(B) a description of the contraceptives dispensed, or the basis for not dispensing a contraceptive.

(2) If a pharmacist dispenses a self-administered hormonal contraceptive to a patient, the pharmacist shall, at a minimum, provide patient counseling to the patient regarding:

(a) the appropriate administration and storage of the self-administered hormonal contraceptive;

(b) potential side effects and risks of the self-administered hormonal contraceptive;

(c) the need for backup contraception;

(d) when to seek emergency medical attention; and

(e) the risk of contracting a sexually transmitted infection or disease, and ways to reduce the risk of contraction.

(3) The division, in collaboration with the Board of Pharmacy and the Physicians Licensing Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the self-screening risk assessment questionnaire described in Subsection (1)(a).

Section 142. Section 26B-4-507, which is renumbered from Section 26-64-107 is renumbered and amended to read:

[~~26-64-107~~]. 26B-4-507. Limited civil liability.

A physician who issues a standing prescription drug order in accordance with Section [~~26-64-105~~] 26B-4-505 is not liable for any civil damages for acts or omissions resulting from the dispensing of a self-administered hormonal contraceptive under [~~this chapter~~] Sections 26B-4-504 through 26B-4-506.

Section 143. Section 26B-4-508, which is renumbered from Section 26-55-103 is renumbered and amended to read:

[~~26-55-103~~]. 26B-4-508. Voluntary participation.

[~~This chapter does~~] Sections 26B-4-509 through 26B-4-514 do not create a duty or standard of care for a person to prescribe or administer an opiate antagonist.

Section 144. Section 26B-4-509, which is renumbered from Section 26-55-104 is renumbered and amended to read:

[~~26-55-104~~]. 26B-4-509. Prescribing, dispensing, and administering an opiate antagonist -- Immunity from liability.

(1) (a) (i) For purposes of Subsection (1)(a)(ii), "a person other than a health care facility or health care provider" includes the following, regardless of whether the person has received funds from the department through the Opiate Overdose Outreach Pilot Program created in Section [~~26-55-107~~] 26B-4-512:

(A) a person described in Subsections [~~26-55-107~~] 26B-4-512(1)(a)(i)(A) through (1)(a)(i)(F); or

(B) an organization, defined by department rule made under Subsection [~~26-55-107~~] 26B-4-512(7)(e), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.

(ii) Except as provided in Subsection (1)(b), the following persons are not liable for any civil damages for acts or omissions made as a result of administering an opiate antagonist when the person acts in good faith to administer the opiate antagonist to an individual whom the person believes to be experiencing an opiate-related drug overdose event:

(A) an overdose outreach provider; or

(B) a person other than a health care facility or health care provider.

(b) A health care provider:

(i) is not immune from liability under Subsection (1)(a) when the health care provider is acting within the scope of the health care provider's responsibilities or duty of care; and

(ii) is immune from liability under Subsection (1)(a) if the health care provider is under no legal

duty to respond and otherwise complies with Subsection (1)(a).

(2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care provider who is licensed to prescribe an opiate antagonist may prescribe, including by a standing prescription drug order issued in accordance with Subsection [~~26-55-105~~] 26B-4-510(2), or dispense an opiate antagonist:

(a) (i) to an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(ii) for an individual described in Subsection (2)(a)(i), to a family member, friend, or other person, including a person described in Subsections [~~26-55-107~~] 26B-4-512(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist the individual; or

(iii) to an overdose outreach provider for:

(A) furnishing the opiate antagonist to an individual described in Subsection (2)(a)(i) or (ii), as provided in Section [~~26-55-106~~] 26B-4-511; or

(B) administering to an individual experiencing an opiate-related drug overdose event;

(b) without a prescriber-patient relationship; and

(c) without liability for any civil damages for acts or omissions made as a result of prescribing or dispensing the opiate antagonist in good faith.

(3) A health care provider who dispenses an opiate antagonist to an individual or an overdose outreach provider under Subsection (2)(a) shall provide education to the individual or overdose provider that includes written instruction on how to:

(a) recognize an opiate-related drug overdose event; and

(b) respond appropriately to an opiate-related drug overdose event, including how to:

(i) administer an opiate antagonist; and

(ii) ensure that an individual to whom an opiate antagonist has been administered receives, as soon as possible, additional medical care and a medical evaluation.

Section 145. Section 26B-4-510, which is renumbered from Section 26-55-105 is renumbered and amended to read:

[~~26-55-105~~]. 26B-4-510. Standing prescription drug orders for an opiate antagonist.

(1) Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense an opiate antagonist may dispense the opiate antagonist:

(a) pursuant to a standing prescription drug order made in accordance with Subsection (2); and

(b) without any other prescription drug order from a person licensed to prescribe an opiate antagonist.

(2) A physician who is licensed to prescribe an opiate antagonist, including a physician acting in the physician's capacity as an employee of the department, or a medical director of a local health department, as defined in Section [~~26A-1-102~~] 26B-4-512, may issue a standing prescription drug order authorizing the dispensing of the opiate antagonist under Subsection (1) in accordance with a protocol that:

(a) limits dispensing of the opiate antagonist to:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(ii) a family member of, friend of, or other person, including a person described in Subsections [~~26-55-107~~] 26B-4-512(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(iii) an overdose outreach provider for:

(A) furnishing to an individual who is at increased risk of experiencing an opiate-related drug overdose event, or to a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event, as provided in Section [~~26-55-106~~] 26B-4-511; or

(B) administering to an individual experiencing an opiate-related drug overdose event;

(b) requires the physician to specify the persons, by professional license number, authorized to dispense the opiate antagonist;

(c) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the opiate antagonist;

(d) requires those authorized by the physician to dispense the opiate antagonist to make and retain a record of each person to whom the opiate antagonist is dispensed, which shall include:

(i) the name of the person;

(ii) the drug dispensed; and

(iii) other relevant information; and

(e) is approved by the Division of Professional Licensing within the Department of Commerce by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 146. Section 26B-4-511, which is renumbered from Section 26-55-106 is renumbered and amended to read:

[~~26-55-106~~]. 26B-4-511. Overdose outreach providers.

Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502:

(1) an overdose outreach provider may:

(a) obtain an opiate antagonist dispensed on prescription by:

(i) a health care provider, in accordance with Subsections [~~26-55-104~~] 26B-4-509(2) and (3); or

(ii) a pharmacist or pharmacy intern, as otherwise authorized by Title 58, Chapter 17b, Pharmacy Practice Act;

(b) store the opiate antagonist; and

(c) furnish the opiate antagonist:

(i) (A) to an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(B) to a family member, friend, overdose outreach provider, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; and

(ii) without liability for any civil damages for acts or omissions made as a result of furnishing the opiate antagonist in good faith; and

(2) when furnishing an opiate antagonist under Subsection (1), an overdose outreach provider:

(a) shall also furnish to the recipient of the opiate antagonist:

(i) the written instruction under Subsection [~~26-55-104~~] 26B-4-504(3) received by the overdose outreach provider from the health care provider at the time the opiate antagonist was dispensed to the overdose outreach provider; or

(ii) if the opiate antagonist was dispensed to the overdose outreach provider by a pharmacist or pharmacy intern, any written patient counseling under Section 58-17b-613 received by the overdose outreach provider at the time of dispensing; and

(b) may provide additional instruction on how to recognize and respond appropriately to an opiate-related drug overdose event.

Section 147. Section 26B-4-512, which is renumbered from Section 26-55-107 is renumbered and amended to read:

[~~26-55-107~~]. 26B-4-512. Opiate Overdose Outreach Pilot Program -- Grants -- Annual reporting by grantees -- Rulemaking -- Annual reporting by department.

(1) As used in this section:

(a) "Persons that are in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event":

(i) means the following organizations:

(A) a law enforcement agency;

(B) the department or a local health department, as defined in Section 26A-1-102;

(C) an organization that provides drug or alcohol treatment services;

(D) an organization that provides services to the homeless;

(E) an organization that provides training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event;

(F) a school; or

(G) except as provided in Subsection (1)(a)(ii), any other organization, as defined by department rule made under Subsection (7)(e), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; and

(ii) does not mean:

(A) a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) a health care facility; or

(C) an individual.

(b) "School" means:

(i) a public school:

(A) for elementary or secondary education, including a charter school; or

(B) for other purposes;

(ii) a private school:

(A) for elementary or secondary education; or

(B) accredited for other purposes, including higher education or specialty training; or

(iii) an institution within the state system of higher education, as described in Section 53B-1-102.

(2) There is created within the department the "Opiate Overdose Outreach Pilot Program."

(3) The department may use funds appropriated for the program to:

(a) provide grants under Subsection (4);

(b) promote public awareness of the signs, symptoms, and risks of opioid misuse and overdose;

(c) increase the availability of educational materials and other resources designed to assist individuals at increased risk of opioid overdose, their families, and others in a position to help prevent or respond to an overdose event;

(d) increase public awareness of, access to, and use of opiate antagonist;

(e) update the department's Utah Clinical Guidelines on Prescribing Opioids and promote its use by prescribers and dispensers of opioids;

(f) develop a directory of substance misuse treatment programs and promote its dissemination to and use by opioid prescribers, dispensers, and others in a position to assist individuals at increased risk of opioid overdose;

(g) coordinate a multi-agency coalition to address opioid misuse and overdose; and

(h) maintain department data collection efforts designed to guide the development of opioid overdose interventions and track their effectiveness.

(4) No later than September 1, 2016, and with available funding, the department shall grant funds through the program to persons that are in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.

(5) Funds granted by the program:

(a) may be used by a grantee to:

(i) pay for the purchase by the grantee of an opiate antagonist; or

(ii) pay for the grantee's cost of providing training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event; and

(b) may not be used:

(i) to pay for costs associated with the storage or dispensing of an opiate antagonist; or

(ii) for any other purposes.

(6) Grantees shall report annually to the department on the use of granted funds in accordance with department rules made under Subsection (7)(d).

(7) No later than July 1, 2016, the department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:

(a) how to apply for a grant from the program;

(b) the criteria used by the department to determine whether a grant request is approved, including criteria providing that:

(i) grants are awarded to areas of the state, including rural areas, that would benefit most from the grant; and

(ii) no more than 15% of the total amount granted by the program is used to pay for grantees' costs of providing training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event;

(c) the criteria used by the department to determine the amount of a grant;

(d) the information a grantee shall report annually to the department under Subsection (6), including:

(i) the amount of opiate antagonist purchased and dispensed by the grantee during the reporting period;

(ii) the number of individuals to whom the opiate antagonist was dispensed by the grantee;

(iii) the number of lives known to have been saved during the reporting period as a result of opiate antagonist dispensed by the grantee; and

(iv) the manner in which the grantee shall record, preserve, and make available for audit by the department the information described in Subsections (7)(d)(i) through (7)(d)(iii); and

(e) as required by Subsection (1)(a)(i)(G), any other organization that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.

Section 148. Section 26B-4-513, which is renumbered from Section 26-55-108 is renumbered and amended to read:

[~~26-55-108~~]. 26B-4-513. Coprescription guidelines.

(1) As used in this section:

(a) "Controlled substance prescriber" means the same as that term is defined in Section 58-37-6.5.

(b) "Coprescribe" means to issue a prescription for an opiate antagonist with a prescription for an opiate.

(2) The department shall, in consultation with the Physicians Licensing Board created in Section 58-67-201, the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201, and the Division of Professional Licensing created in Section 58-1-103, establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, scientifically based guidelines for controlled substance prescribers to coprescribe an opiate antagonist to a patient.

Section 149. Section 26B-4-514, which is renumbered from Section 26-55-109 is renumbered and amended to read:

[~~26-55-109~~]. 26B-4-514. Opiate abuse prevention pamphlet.

(1) As funding is available, the department shall produce and distribute, in conjunction with the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health, a pamphlet about opiates that includes information regarding:

(a) the risk of dependency and addiction;

(b) methods for proper storage and disposal;

(c) alternative options for pain management;

(d) the benefits of and ways to obtain naloxone; and

(e) resources if the patient believes that the patient has a substance [~~abuse~~] use disorder.

(2) The pamphlet described in Subsection (1) shall be:

(a) evaluated periodically for effectiveness at conveying necessary information and revised accordingly;

(b) written in simple and understandable language; and

(c) available in English and other languages that the department determines to be appropriate and necessary.

Section 150. Section 26B-4-601, which is renumbered from Section 26-67-102 is renumbered and amended to read:

Part 6. Adult Autism Treatment Program

[~~26-67-102~~]. 26B-4-601. Definitions.

As used in this [~~chapter~~] part:

(1) "Adult Autism Treatment Account" means the Adult Autism Treatment Account created in Section [~~26-67-205~~] 26B-1-322.

(2) "Advisory committee" means the Adult Autism Treatment Program Advisory Committee created in Section [~~26B-1-204~~] 26B-1-424.

(3) "Applied behavior analysis" means the same as that term is defined in Section 31A-22-642.

(4) "Autism spectrum disorder" means the same as that term is defined in Section 31A-22-642.

(5) "Program" means the Adult Autism Treatment Program created in Section [~~26-67-201~~] 26B-4-602.

(6) "Qualified individual" means an individual who:

(a) is at least 22 years old;

(b) is a resident of the state;

(c) has been diagnosed by a qualified professional as having:

(i) an autism spectrum disorder; or

(ii) another neurodevelopmental disorder requiring significant supports through treatment using applied behavior analysis; and

(d) needs significant supports for a condition described in Subsection (6)(c), as demonstrated by formal assessments of the individual's:

(i) cognitive ability;

(ii) adaptive ability;

(iii) behavior; and

(iv) communication ability.

(7) "Qualified provider" means a provider that is qualified under Section [~~26-67-202~~] 26B-4-603 to provide services for the program.

Section 151. Section 26B-4-602, which is renumbered from Section 26-67-201 is renumbered and amended to read:

[~~26-67-201~~]. 26B-4-602. Adult Autism Treatment Program -- Creation -- Requirements -- Reporting.

(1) There is created within the department the Adult Autism Treatment Program.

(2) (a) The program shall be administered by the department in collaboration with the advisory committee.

(b) The program shall be funded only with money from the Adult Autism Treatment Account.

(3) (a) An individual may apply for a grant from the program by submitting to a qualified provider the information specified by the department under Subsection [~~26-67-204~~] 26B-4-604(5).

(b) As funding permits, the department shall award a grant from the program on behalf of an applicant in accordance with criteria established by the department, in collaboration with the advisory committee, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) A grant shall:

(i) be for a specific amount;

(ii) cover a specific period, not to exceed five years; and

(iii) be disbursed incrementally, if appropriate.

(d) The department shall transmit a grant awarded on behalf of an applicant to a qualified provider designated by the applicant.

(4) A qualified provider that receives a grant for the treatment of a qualified individual shall:

(a) use the grant only for treatment of the qualified individual;

(b) submit any reports that are required by the department; and

(c) notify the department within seven days if:

(i) the qualified individual:

(A) has not received treatment from the qualified provider for 10 consecutive days;

(B) is no longer receiving treatment from the qualified provider; or

(C) is no longer a qualified individual; or

(ii) the qualified provider is no longer a qualified provider.

(5) A qualified provider that receives a grant for the treatment of a qualified individual shall refund any amount to the department on a prorated basis for each day that:

(a) the qualified provider is no longer a qualified provider;

(b) the individual is no longer a qualified individual; or

(c) the qualified provider does not provide services to a qualified individual.

Section 152. Section 26B-4-603, which is renumbered from Section 26-67-203 is renumbered and amended to read:

[~~26-67-203~~]. 26B-4-603. Provider qualifications.

The department shall designate a provider as a qualified provider if the provider:

(1) is able to treat a qualified individual's condition through:

(a) one or more evidence-based treatments, including applied behavior analysis;

(b) individualized, client-centered treatment;

(c) any method that engages the qualified individual's family members in the treatment process; and

(d) measured development of the qualified individual's pre-vocational, vocational, and daily-living skills; and

(2) provides treatment to a qualified individual through:

(a) a behavior analyst licensed under Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act; or

(b) a psychologist who is licensed under Title 58, Chapter 61, Psychologist Licensing Act.

Section 153. Section 26B-4-604, which is renumbered from Section 26-67-204 is renumbered and amended to read:

[~~26-67-204~~]. 26B-4-604. Department rulemaking.

The department, in collaboration with the advisory committee, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) specify assessment tools and outcomes that a qualified provider may use to determine the types of supports that a qualified individual needs;

(2) define evidence-based treatments that a qualified individual may pay for with grant funding;

(3) establish criteria for awarding a grant under this [~~chapter~~] part;

(4) specify the information that an individual shall submit to demonstrate that the individual is a qualified individual;

(5) specify the information a provider shall submit to demonstrate that the provider is a qualified provider; and

(6) specify the content and timing of reports required from a qualified provider, including a report on actual and projected treatment outcomes for a qualified individual.

Section 154. Section 26B-4-701, which is renumbered from Section 26-46a-102 is renumbered and amended to read:

Part 7. Health Care Workforce

[~~26-46a-102~~]. 26B-4-701. Definitions.

As used in this [~~chapter~~] part:

(1) "Accredited clinical education program" means a clinical education program for a health care profession that is accredited by the Accreditation Council on Graduate Medical Education.

(2) "Accredited clinical training program" means a clinical training program that is accredited by an entity recognized within medical education circles as an accrediting body for medical education, advanced practice nursing education, physician assistance education, doctor of pharmacy education, dental education, or registered nursing education.

(3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(4) "Health care professionals in training" means medical students and residents, advance practice nursing students, physician assistant students, doctor of pharmacy students, dental students, and registered nursing students.

[~~(1)~~] (5) "Hospital" means a general acute hospital, as defined in [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~] Section 26B-2-201.

[~~(2)~~] (6) "Physician" means a person:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(3)~~] (7) "Rural county" means a county with a population of less than 50,000, as determined by:

(a) the most recent official census or census estimate of the United States Bureau of the Census; or

(b) the most recent population estimate for the county from the Utah Population Committee, if a population figure for the county is not available under Subsection [~~(3)~~] (7)(a).

[~~(4)~~] (8) "Rural hospital" means a hospital located within a rural county.

(9) "UMEC" means the Utah Medical Education Council created in Section 26B-4-706.

Section 155. Section 26B-4-702, which is renumbered from Section 26-46-102 is renumbered and amended to read:

[~~26-46-102~~]. 26B-4-702. Creation of Utah Health Care Workforce Financial Assistance Program -- Duties of department.

(1) As used in this section:

(a) "Eligible professional" means a geriatric professional or a health care professional who is eligible to participate in the program.

(b) "Geriatric professional" means a person who:

(i) is a licensed:

(A) health care professional;

(B) social worker;

(C) occupational therapist;

(D) pharmacist;

(E) physical therapist; or

(F) psychologist; and

(ii) is determined by the department to have adequate advanced training in geriatrics to prepare the person to provide specialized geriatric care within the scope of the person's profession.

(c) "Health care professional" means:

(i) a licensed:

(A) physician;

(B) physician assistant;

(C) nurse;

(D) dentist; or

(E) mental health therapist; or

(ii) another licensed health care professional designated by the department by rule.

(d) "Program" means the Utah Health Care Workforce Financial Assistance Program created in this section.

(e) "Underserved area" means an area designated by the department as underserved by health care professionals, based upon the results of a needs assessment developed by the department in consultation with the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section 26B-1-419.

[~~(1)~~] (2) There is created within the department the Utah Health Care Workforce Financial Assistance Program to provide, within funding appropriated by the Legislature for the following purposes:

(a) professional education scholarships and loan repayment assistance to health care professionals who locate or continue to practice in underserved areas; and

(b) loan repayment assistance to geriatric professionals who locate or continue to practice in underserved areas.

[~~(2)~~] (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the administration of the program, including rules that address:

(a) application procedures;

(b) eligibility criteria;

(c) selection criteria;

(d) service conditions, which at a minimum shall include professional service in an underserved area for a minimum period of time by any person receiving a scholarship or loan repayment assistance;

(e) penalties for failure to comply with service conditions or other terms of a scholarship or loan repayment contract;

(f) criteria for modifying or waiving service conditions or penalties in case of extreme hardship or other good cause; and

(g) administration of contracts entered into before the effective date of this act, between the department and scholarship or loan repayment recipients, as authorized by law.

[~~(3)~~] (4) The department may provide education loan repayment assistance to an eligible professional if the eligible professional:

(a) agrees to practice in an underserved area for the duration of the eligible professional's participation in the program; and

(b) submits a written commitment from the health care facility employing the eligible professional that the health care facility will provide education loan repayment assistance to the eligible professional in an amount equal to 20% of the total award amount provided to the eligible professional.

[~~(4)~~] (5) The department shall seek and consider the recommendations of the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section [~~26-46-103~~] 26B-1-419 as it develops and modifies rules to administer the program.

[~~(5)~~] (6) Funding for the program:

(a) shall be a line item within the appropriations act;

(b) shall be nonlapsing unless designated otherwise by the Legislature; and

(c) may be used to cover administrative costs of the program, including reimbursement expenses of the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section [~~26-46-103~~] 26B-1-419.

[~~(6)~~] (7) Refunds for loan repayment assistance, penalties for breach of contract, and other payments to the program are dedicated credits to the program.

[~~(7)~~] (8) The department shall prepare an annual report on the revenues, expenditures, and outcomes of the program.

Section 156. Section 26B-4-703, which is renumbered from Section 26-46a-103 is renumbered and amended to read:

[~~26-46a-103~~]. 26B-4-703. Rural Physician Loan Repayment Program -- Purpose -- Repayment limit -- Funding -- Reporting -- Rulemaking -- Advisory committee.

(1) There is created within the department the Rural Physician Loan Repayment Program to provide, within funding appropriated by the Legislature for this purpose, education loan

repayment assistance to physicians in accordance with Subsection (2).

(2) The department may enter into an education loan repayment assistance contract with a physician if:

(a) the physician:

(i) locates or continues to practice in a rural county; and

(ii) has a written commitment from a rural hospital that the hospital will provide education loan repayment assistance to the physician;

(b) the assistance provided by the program does not exceed the assistance provided by the rural hospital; and

(c) the physician is otherwise eligible for assistance under administrative rules adopted under Subsection (6).

(3) Funding for the program:

(a) shall be a line item within an appropriations act;

(b) may be used to pay for the per diem and travel expenses of the Rural Physician Loan Repayment Program Advisory Committee under Subsection [~~26-46a-104~~] 26B-1-423(5); and

(c) may be used to pay for department expenses incurred in the administration of the program:

(i) including administrative support provided to the Rural Physician Loan Repayment Program Advisory Committee created under Subsection [~~26-46a-104~~] 26B-1-423(7); and

(ii) in an amount not exceeding 10% of funding for the program.

(4) Refunds of loan repayment assistance, penalties for breach of contract, and other payments to the program are dedicated credits to the program.

(5) The department shall prepare an annual report of the program's revenues, expenditures, and outcomes.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the administration of the program, including rules that address:

(i) application procedures;

(ii) eligibility criteria;

(iii) verification of the amount provided by a rural hospital to a physician for repayment of the physician's education loans;

(iv) service conditions, which at a minimum shall include professional service by the physician in the rural hospital providing loan repayment assistance to the physician;

(v) selection criteria and assistance amounts;

(vi) penalties for failure to comply with service conditions or other terms of a loan repayment assistance contract; and

(vii) criteria for modifying or waiving service conditions or penalties in the case of extreme hardship or for other good cause.

(b) The department shall seek and consider the recommendations of the Rural Physician Loan Repayment Program Advisory Committee created [~~under Section 26-46a-104~~] in Section 26B-1-423 as it develops and modifies rules to administer the program.

Section 157. Section 26B-4-704, which is renumbered from Section 26-60-103 is renumbered and amended to read:

[~~26-60-103~~]. 26B-4-704. Scope of telehealth practice -- Enforcement.

(1) As used in this section:

(a) "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site.

(b) "Distant site" means the physical location of a provider delivering telemedicine services.

(c) "Originating site" means the physical location of a patient receiving telemedicine services.

(d) "Patient" means an individual seeking telemedicine services.

(e) (i) "Patient-generated medical history" means medical data about a patient that the patient creates, records, or gathers.

(ii) "Patient-generated medical history" does not include a patient's medical record that a healthcare professional creates and the patient personally delivers to a different healthcare professional.

(f) "Provider" means an individual who is:

(i) licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

(ii) licensed under Title 58, Occupations and Professions, to provide health care; or

(iii) licensed under Chapter 2, Part 1, Human Services Programs and Facilities.

(g) "Synchronous interaction" means real-time communication through interactive technology that enables a provider at a distant site and a patient at an originating site to interact simultaneously through two-way audio and video transmission.

(h) "Telehealth services" means the transmission of health-related services or information through the use of electronic communication or information technology.

(i) "Telemedicine services" means telehealth services:

(i) including:

(A) clinical care;

(B) health education;

(C) health administration;

(D) home health;

(E) facilitation of self-managed care and caregiver support; or

(F) remote patient monitoring occurring incidentally to general supervision; and

(ii) provided by a provider to a patient through a method of communication that:

(A) uses asynchronous store and forward transfer or synchronous interaction; and

(B) meets industry security and privacy standards, including compliance with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, and the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

[~~(1)~~] (2) A provider offering telehealth services shall:

(a) at all times:

(i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this [~~chapter~~] section and all other applicable laws and rules; and

(ii) be held to the same standards of practice as those applicable in traditional health care settings;

(b) if the provider does not already have a provider-patient relationship with the patient, establish a provider-patient relationship during the patient encounter in a manner consistent with the standards of practice, determined by the Division of Professional Licensing in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including providing the provider's licensure and credentials to the patient;

(c) before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:

(i) obtaining from the patient or another provider the patient's relevant clinical history; and

(ii) documenting the patient's relevant clinical history and current symptoms;

(d) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;

(e) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated;

(f) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records; and

(g) if the patient has a designated health care provider who is not the telemedicine provider:

(i) consult with the patient regarding whether to provide the patient's designated health care provider a medical record or other report containing an explanation of the treatment provided to the patient and the telemedicine provider's evaluation, analysis, or diagnosis of the patient's condition;

(ii) collect from the patient the contact information of the patient's designated health care provider; and

(iii) within two weeks after the day on which the telemedicine provider provides services to the patient, and to the extent allowed under HIPAA as that term is defined in Section [~~26-18-17~~] 26B-3-126, provide the medical record or report to the patient's designated health care provider, unless the patient indicates that the patient does not want the telemedicine provider to send the medical record or report to the patient's designated health care provider.

[~~(2)~~] (3) Subsection [~~(1)~~] (2)(g) does not apply to prescriptions for eyeglasses or contacts.

[~~(3)~~] (4) Except as specifically provided in Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act, and unless a provider has established a provider-patient relationship with a patient, a provider offering telemedicine services may not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of the following:

(a) an online questionnaire;

(b) an email message; or

(c) a patient-generated medical history.

[~~(4)~~] (5) A provider may not offer telehealth services if:

(a) the provider is not in compliance with applicable laws, rules, and regulations regarding the provider's licensed practice; or

(b) the provider's license under Title 58, Occupations and Professions, is not active and in good standing.

(6) (a) The Division of Professional Licensing created in Section 58-1-103 is authorized to enforce the provisions of this section as it relates to providers licensed under Title 58, Occupations and Professions.

(b) The department is authorized to enforce the provisions of:

(i) this section as it relates to providers licensed under this title; and

(ii) this section as it relates to providers licensed under Chapter 2, Part 1, Human Services Programs and Facilities.

Section 158. Section 26B-4-705, which is renumbered from Section 26-69-301 is renumbered and amended to read:

[~~26-69-301~~]. 26B-4-705. Utah Health Workforce Information Center.

(1) As used in this section:

(a) "Council" means the Utah Health Workforce Advisory Council created in Section 26B-1-425.

(b) "Health sector" means any place of employment where the primary function is the delivery of health care services.

(c) (i) "Health workforce" means the individuals, collectively and by profession, who deliver health care services or assist in the delivery of health care services.

(ii) "Health workforce" includes any health care professional who does not work in the health sector and any non-health care professional who works in the health sector.

[~~(1)~~] (2) There is created within the department the Utah Health Workforce Information Center.

[~~(2)~~] (3) The information center shall:

(a) under the guidance of the council, work with the Department of Commerce to collect data described in Section 58-1-112;

(b) analyze data from any available source regarding Utah's health workforce including data collected by the Department of Commerce under Section 58-1-112;

(c) send a report to the council regarding any analysis of health workforce data;

(d) conduct research on Utah's health workforce as directed by the council;

(e) notwithstanding the provisions of Subsection 35A-4-312(3), receive information obtained by the Department of Workforce Services under the provisions of Section 35A-4-312 for purposes consistent with the information center's duties, including identifying changes in Utah's health workforce numbers, types, and geographic distribution;

(f) project the demand for individuals to enter health care professions, including the nursing profession in accordance with Section 53B-26-202;

(g) subject to Section [~~26-3-7~~] 26B-8-406, share data with any appropriate person as determined by the information center; and

(h) conduct research and provide analysis for any state agency as approved by the executive director or the executive director's designee.

[~~(3)~~] (4) Notwithstanding any other provision of state law, the information center is authorized to obtain data from any state agency if:

(a) the council and the information center deem receiving the data necessary to perform a duty listed under Subsection [~~(2)~~] (3) or [~~26-69-202(1)~~] 26B-1-425(7); and

(b) the information center's access to the data will not:

(i) violate any federal statute or federal regulation; or

(ii) violate a condition a state agency must follow:

(A) to participate in a federal program; or

(B) to receive federal funds.

Section 159. Section 26B-4-706, which is renumbered from Section 26-69-402 is renumbered and amended to read:

[~~26-69-402~~]. 26B-4-706. Utah Medical Education Council.

(1) (a) There is created the Utah Medical Education Council, which is a subcommittee of the Utah Health Workforce Advisory Council.

(b) The membership of UMEC shall consist of the following appointed by the governor:

(i) the dean of the school of medicine at the University of Utah;

(ii) an individual who represents graduate medical education at the University of Utah;

(iii) an individual from each institution, other than the University of Utah, that sponsors an accredited clinical education program;

(iv) an individual from the health care insurance industry; and

(v) (A) three members of the general public who are not employed by or affiliated with any institution that offers, sponsors, or finances health care or medical education; and

(B) if the number of individuals appointed under Subsection (1)(b)(iii) is more than two, the governor may appoint an additional member of the public under this Subsection (1)(b)(v) for each individual the governor appoints under Subsection (1)(b)(iii) beyond two.

(2) Except as provided in Subsections (1)(b)(i) and (ii), no two council members may be employed by or affiliated with the same:

(a) institution of higher education;

(b) state agency outside of higher education; or

(c) private entity.

(3) The dean of the school of medicine at the University of Utah:

(a) shall chair UMEC;

(b) may not be counted in determining the existence of a quorum; and

(c) may only cast a vote on a matter before the council if the vote of the other council members results in a tied vote.

(4) UMEC shall annually elect a vice chair from UMEC's members.

(5) (a) Consistent with Subsection (6)(b), a majority of the members constitute a quorum.

(b) The action of a majority of a quorum is the action of UMEC.

(6) (a) Except as provided in Subsection (6)(b), members are appointed to four-year terms of office.

(b) Notwithstanding Subsection (6)(a), the governor shall, at the time of the initial appointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the members are appointed every two years.

(c) If a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term in the same manner as the original appointment was made.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The council shall provide staff for UMEC.

Section 160. Section 26B-4-707, which is renumbered from Section 26-69-403 is renumbered and amended to read:

[~~26-69-403~~]. 26B-4-707. Medical Education Program.

(1) There is created a Medical Education Program to be administered by UMEC in cooperation with the Division of Finance.

(2) The program shall be funded from money received for graduate medical education from:

(a) the federal Centers for Medicare and Medicaid Services or other federal agency;

(b) state appropriations; and

(c) donation or private contributions.

(3) All funding for this program shall be nonlapsing.

(4) Program money may only be expended if:

(a) approved by UMEC; and

(b) used for graduate medical education in accordance with Subsection [~~26-69-404~~] 26B-4-708(4).

Section 161. Section 26B-4-708, which is renumbered from Section 26-69-404 is renumbered and amended to read:

[~~26-69-404~~]. 26B-4-708. Duties of UMEC.

UMEC shall:

(1) seek private and public contributions for the program;

(2) determine the method for reimbursing institutions that sponsor health care professionals in training;

(3) determine the number and type of positions for health care professionals in training for which program money may be used;

(4) distribute program money for graduate medical education in a manner that:

(a) prepares postgraduate medical residents, as defined by the accreditation council on graduate medical education, for inpatient, outpatient, hospital, community, and geographically diverse settings;

(b) encourages the coordination of interdisciplinary clinical training among health care professionals in training;

(c) promotes stable funding for the clinical training of health care professionals in training; and

(d) only funds accredited clinical training programs; and

(5) advise on the implementation of the program.

Section 162. Section 26B-4-709, which is renumbered from Section 26-69-405 is renumbered and amended to read:

[~~26-69-405~~]. 26B-4-709. Powers of UMEC.

The UMEC may:

(1) appoint advisory committees of broad representation on interdisciplinary clinical education, workforce mix planning and projections, funding mechanisms, and other topics as is necessary;

(2) use federal money for necessary administrative expenses to carry out UMEC's duties and powers as permitted by federal law;

(3) distribute program money in accordance with Subsection [~~26-69-404~~] 26B-4-708(4); and

(4) as is necessary to carry out UMEC's duties under Section [~~26-69-404~~] 26B-4-708, adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 163. Section 26B-4-710, which is renumbered from Section 26-69-406 is renumbered and amended to read:

[~~26-69-406~~]. 26B-4-710. Rural residency training program.

(1) As used in this section:

(a) "Physician" means:

(i) an individual licensed to practice medicine under Title 58, Chapter 67, Utah Medical Practice Act or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) an individual licensed to practice dentistry under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act.

(b) "Rural residency training program" means an accredited clinical training program that places a physician into a rural county for a part or all of the physician's clinical training.

(2) Subject to appropriations from the Legislature, UMEC shall establish a pilot program to place physicians into rural residency training programs.

Section 164. Section 26B-4-711, which is renumbered from Section 26-69-407 is renumbered and amended to read:

[~~26-69-407~~]. 26B-4-711. Residency grant program.

(1) As used in this section:

(a) "D.O. program" means an osteopathic medical program that prepares a graduate to obtain licensure as a doctor of osteopathic medicine upon completing a state's licensing requirements.

(b) "M.D. program" means a medical education program that prepares a graduate to obtain licensure as a doctor of medicine upon completing a state's licensing requirements.

(c) "Residency program" means a program that provides training for graduates of a D.O. program or an M.D. program.

(2) UMEC shall develop a grant program where a sponsoring institution in Utah may apply for a grant to establish a new residency program or expand a current residency program.

(3) An applicant for a grant shall:

(a) provide the proposed specialty area for each grant funded residency position;

(b) identify where the grant funded residency position will provide care;

(c) (i) provide proof that the residency program is accredited by the Accreditation Council for Graduate Medical Education; or

(ii) identify what actions need to occur for the proposed residency program to become accredited by the Accreditation Council for Graduate Medical Education;

(d) identify how a grant funded residency position will be funded once the residency program exhausts the grant money;

(e) agree to implement selection processes for a residency position that treat applicants from D.O. programs and applicants from M.D. programs equally;

(f) agree to provide information identified by UMEC that relates to post-residency employment outcomes for individuals who work in grant funded residency positions; and

(g) provide any other information related to the grant application UMEC deems necessary.

(4) UMEC shall prioritize awarding grants to new or existing residency programs that will:

(a) address a workforce shortage, occurring in Utah, for a specialty; or

(b) serve an underserved population, including a rural population.

(5) Before November 1, 2023, and each November 1 thereafter, UMEC shall provide a written report to the Higher Education Appropriations Subcommittee describing:

(a) which sponsoring institutions received a grant;

(b) the number of residency positions created; and

(c) for each residency position created:

(i) the type of specialty;

(ii) where the residency position provides care; and

(iii) an estimated date of when a grant funded residency position will no longer need grant funding.

Section 165. Section 26B-4-712, which is renumbered from Section 26-69-408 is renumbered and amended to read:

[~~26-69-408~~]. 26B-4-712. Forensic psychiatrist fellowship grant.

(1) As used in this section, "forensic psychiatry" means the provision of services by an individual who:

(a) is a licensed physician;

(b) is board certified for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists; and

(c) uses scientific and clinical expertise in legal contexts involving the mental health of individuals.

(2) UMEC shall establish a grant program that will facilitate the creation of a single forensic psychiatrist fellowship program.

(3) An applicant for the grant shall:

(a) demonstrate how the applicant is best suited for developing a forensic psychiatry fellowship program, including:

(i) a description of resources that would be available to the program; and

(ii) any resources or staff that need to be acquired for the program;

(b) identify what needs to occur for the proposed residency program to become accredited by the Accreditation Council for Graduate Medical Education;

(c) provide an estimate of how many individuals would be trained in the program at any one time;

(d) provide any information related to the grant application UMEC deems necessary for awarding the grant; and

(e) if awarded the grant, agree to:

(i) enter into a contract with the Department of Corrections that the applicant will provide for the provision of forensic psychiatry services to an individual:

(A) who needs psychiatric services; and

(B) is under the Department of Corrections' jurisdiction;

(ii) ensure that any individual hired to provide forensic psychiatry services will comply with all relevant:

(A) national licensing requirements; and

(B) state licensing requirements under Title 58, Occupations and Professions.

Section 166. Section 26B-4-801, which is renumbered from Section 26-49-102 is renumbered and amended to read:

Part 8. Uniform Emergency Volunteer Health Practitioners Act

[~~26-49-102~~]. 26B-4-801. Definitions.

As used in this [~~chapter~~] part:

(1) "Disaster relief organization" means an entity that:

(a) provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners;

(b) is designated or recognized as a provider of the services described in Subsection (1)(a) under a disaster response and recovery plan adopted by:

(i) an agency of the federal government;

(ii) the department; or

(iii) a local health department; and

(c) regularly plans and conducts its activities in coordination with:

(i) an agency of the federal government;

(ii) the department; or

(iii) a local health department.

(2) "Emergency" means:

(a) a state of emergency declared by:

(i) the president of the United States;

(ii) the governor in accordance with Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; and

(iii) the chief executive officer of a political subdivision in accordance with Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, for a local emergency; or

(b) a public health emergency declared by:

(i) the executive director through a public health order in accordance with [~~Title 26, Utah Health Code~~] this title; or

(ii) a local health department for a location under the local health department's jurisdiction.

(3) "Emergency Management Assistance Compact" means the interstate compact approved by Congress by Public [~~Law~~] L. No. 104-321, 110 Stat. 3877 and adopted by Utah in Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact.

(4) "Entity" means a person other than an individual.

(5) "Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services.

(6) "Health practitioner" means an individual licensed under Utah law or another state to provide health or veterinary services.

(7) "Health services" means the provision of treatment, care, advice, guidance, other services, or supplies related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

(a) the following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

(i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; or

(ii) counseling, assessment, procedures, or other services;

(b) selling or dispensing a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(c) funeral, cremation, cemetery, or other mortuary services.

(8) "Host entity":

(a) means an entity operating in Utah that:

(i) uses volunteer health practitioners to respond to an emergency; and

(ii) is responsible during an emergency, for actually delivering health services to individuals or human populations, or veterinary services to animals or animal populations; and

(b) may include disaster relief organizations, hospitals, clinics, emergency shelters, health care provider offices, or any other place where volunteer health practitioners may provide health or veterinary services.

(9) (a) "License" means authorization by a state to engage in health or veterinary services that are unlawful without authorization.

(b) "License" includes authorization under this title to an individual to provide health or veterinary services based upon a national or state certification issued by a public or private entity.

(10) "Local emergency" means the same as that term is defined in Section 53-2a-203.

(11) "Local health department" means the same as that term is defined in Section 26A-1-102.

(12) "Public health emergency" means the same as that term is defined in Section [~~26-23b-102~~] 26B-7-301.

(13) "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the

principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority.

(14) "State" means:

(a) a state of the United States;

(b) the District of Columbia;

(c) Puerto Rico;

(d) the United States Virgin Islands; or

(e) any territory or insular possession subject to the jurisdiction of the United States.

(15) "Veterinary services" shall have the meaning provided for in Subsection 58-28-102(11).

(16) (a) "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services.

(b) "Volunteer health practitioner" does not include a practitioner who receives compensation under a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in Utah, unless the practitioner is:

(i) not a Utah resident; and

(ii) employed by a disaster relief organization providing services in Utah during an emergency.

Section 167. Section 26B-4-802, which is renumbered from Section 26-49-103 is renumbered and amended to read:

[~~26-49-103~~]. 26B-4-802. Applicability to volunteer health practitioners.

This [~~chapter~~] part applies to volunteer health practitioners who:

(1) are registered with a registration system that complies with Section [~~26-49-202~~] 26B-4-804; and

(2) provide health or veterinary services in Utah for a host entity during an emergency.

Section 168. Section 26B-4-803, which is renumbered from Section 26-49-201 is renumbered and amended to read:

[~~26-49-201~~]. 26B-4-803. Regulation of services during emergency.

(1) During an emergency, the [~~Department of Health~~] department or a local health department may limit, restrict, or otherwise regulate:

(a) the duration of practice by volunteer health practitioners;

(b) the geographical areas in which volunteer health practitioners may practice;

(c) the types of volunteer health practitioners who may practice; and

(d) any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(2) An order issued under Subsection (1) takes effect immediately, without prior notice or comment, and is not a rule within the meaning of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or an adjudication within the meaning of Title 63G, Chapter 4, Administrative Procedures Act.

(3) A host entity that uses volunteer health practitioners to provide health or veterinary services in Utah shall:

(a) to the extent practicable and in order to provide for the efficient and effective use of volunteer health practitioners, consult and coordinate its activities with:

(i) the [~~Department of Health~~] department;

(ii) local health departments; or

(iii) the Department of Agriculture and Food; [~~or~~] and

[~~(iv) the Department of Human Services; and~~]

(b) comply with all state and federal laws relating to the management of emergency health or veterinary services.

Section 169. Section 26B-4-804, which is renumbered from Section 26-49-202 is renumbered and amended to read:

[~~26-49-202~~]. 26B-4-804. Volunteer health practitioner registration systems.

(1) To qualify as a volunteer health practitioner registration system, the registration system shall:

(a) accept applications for the registration of volunteer health practitioners before or during an emergency;

(b) include information about the licensure and good standing of health practitioners that is accessible by authorized persons;

(c) be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this [~~chapter~~] part; and

(d) meet one of the following conditions:

(i) be an emergency system for advance registration of volunteer health practitioners established by a state and funded through the United States Department of Health and Human Services under Section 319I of the Public Health Services Act, 42 U.S.C. Sec. 247d-7b, as amended;

(ii) be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed under Section 2801 of the Public Health Services Act, 42 U.S.C. Sec. 300hh as amended;

(iii) be operated by a:

(A) disaster relief organization;

(B) licensing board;

(C) national or regional association of licensing boards or health practitioners;

(D) health facility that provides comprehensive inpatient and outpatient healthcare services, including tertiary care; or

(E) governmental entity; or

(iv) be designated by the [~~Department of Health~~] department as a registration system for purposes of this [~~chapter~~] part.

(2) (a) Subject to Subsection (2)(b), during an emergency, the [~~Department of Health~~] department, a person authorized to act on behalf of the [~~Department of Health~~] department, or a host entity shall confirm whether a volunteer health practitioner in Utah is registered with a registration system that complies with Subsection (1).

(b) The confirmation authorized under this Subsection (2) is limited to obtaining the identity of the practitioner from the system and determining whether the system indicates that the practitioner is licensed and in good standing.

(3) Upon request of a person authorized under Subsection (2), or a similarly authorized person in another state, a registration system located in Utah shall notify the person of the identity of a volunteer health practitioner and whether or not the volunteer health practitioner is licensed and in good standing.

(4) A host entity is not required to use the services of a volunteer health practitioner even if the volunteer health practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

Section 170. Section 26B-4-805, which is renumbered from Section 26-49-203 is renumbered and amended to read:

[~~26-49-203~~]. 26B-4-805. Recognition of volunteer health practitioners licensed in other states.

(1) During an emergency, a volunteer health practitioner registered with a registration system that complies with Section [~~26-49-202~~] 26B-4-804 and licensed and in good standing in the state upon which the practitioner's registration is based:

(a) may practice in Utah to the extent authorized by this [~~chapter~~] part as if the practitioner were licensed in Utah; and

(b) is exempt from:

(i) licensure in Utah; or

(ii) operating under modified scope of practice provisions in accordance with Subsections 58-1-307(4) and (5).

(2) A volunteer health practitioner qualified under Subsection (1) is not entitled to the protections of this [~~chapter~~] part if the practitioner is licensed in more than one state and any license of the practitioner:

(a) is suspended, revoked, or subject to an agency order limiting or restricting practice privileges; or

(b) has been voluntarily terminated under threat of sanction.

Section 171. Section 26B-4-806, which is renumbered from Section 26-49-204 is renumbered and amended to read:

[~~26-49-204~~]. 26B-4-806. No effect on credentialing and privileging.

(1) For purposes of this section:

(a) "Credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services.

(b) "Privileging" means the authorizing by an appropriate authority of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.

(2) This [~~chapter~~] part does not affect credentialing or privileging standards of a health facility, and does not preclude a health facility from waiving or modifying those standards during an emergency.

Section 172. Section 26B-4-807, which is renumbered from Section 26-49-205 is renumbered and amended to read:

[~~26-49-205~~]. 26B-4-807. Provision of volunteer health or veterinary services -- Administrative sanctions -- Authority of Division of Professional Licensing.

(1) Subject to Subsections (2) and (3), a volunteer health practitioner shall comply with the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other Utah laws.

(2) Except as otherwise provided in Subsection (3), this [~~chapter~~] part does not authorize a volunteer health practitioner to provide services that are outside the volunteer health practitioner's scope of practice, even if a similarly licensed practitioner in Utah would be permitted to provide the services.

(3) (a) In accordance with this section and Section 58-1-405, the Division of Professional Licensing may issue an order modifying or restricting the health or veterinary services that volunteer health practitioners may provide pursuant to this [~~chapter~~] part.

(b) An order under this subsection takes effect immediately, without prior notice or comment, and is not a rule within the meaning of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or a directive within the meaning of Title 63G, Chapter 4, Administrative Procedures Act.

(4) A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide under this [~~chapter~~] part.

(5) (a) A volunteer health practitioner does not engage in unauthorized practice unless the volunteer health practitioner has reason to know of any limitation, modification, or restriction under

this [~~chapter~~] part, Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, or that a similarly licensed practitioner in Utah would not be permitted to provide the services.

(b) A volunteer health practitioner has reason to know of a limitation, modification, or restriction, or that a similarly licensed practitioner in Utah would not be permitted to provide a service, if:

(i) the volunteer health practitioner knows the limitation, modification, or restriction exists or that a similarly licensed practitioner in Utah would not be permitted to provide the service; or

(ii) from all the facts and circumstances known to the volunteer health practitioner at the relevant time, a reasonable person would conclude that:

(A) the limitation, modification, or restriction exists; or

(B) a similarly licensed practitioner in Utah would not be permitted to provide the service.

(6) In addition to the authority granted by law of Utah other than this [~~chapter~~] part to regulate the conduct of volunteer health practitioners, the Division of Professional Licensing Act or other disciplinary authority in Utah:

(a) may impose administrative sanctions upon a volunteer health practitioner licensed in Utah for conduct outside of Utah in response to an out-of-state emergency;

(b) may impose administrative sanctions upon a volunteer health practitioner not licensed in Utah for conduct in Utah in response to an in-state emergency; and

(c) shall report any administrative sanctions imposed upon a volunteer health practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the volunteer health practitioner is known to be licensed.

(7) In determining whether or not to impose administrative sanctions under Subsection (6), the Division of Professional Licensing Act or other disciplinary authority shall consider the circumstances in which the conduct took place, including:

(a) any exigent circumstances; and

(b) the volunteer health practitioner's scope of practice, education, training, experience, and specialized skill.

Section 173. Section 26B-4-808, which is renumbered from Section 26-49-301 is renumbered and amended to read:

[~~26-49-301~~]. 26B-4-808. Relation to other laws.

(1) (a) This [~~chapter~~] part does not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than this [~~chapter~~] part.

(b) Except as otherwise provided in Subsection (2), this [~~chapter~~] part does not affect requirements for the use of health practitioners pursuant to Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact.

(2) An authorized representative of a party state may incorporate volunteer health practitioners into the emergency forces of Utah even if those volunteer health practitioners are not officers or employees of Utah, a political subdivision of Utah, or a municipality or other local government within Utah.

Section 174. Section 26B-4-809, which is renumbered from Section 26-49-401 is renumbered and amended to read:

[~~26-49-401~~]. 26B-4-809. Regulatory authority.

(1) The [~~Department of Health~~] department shall make rules by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Before adopting rules under Subsection (1), the [~~Department of Health~~] department shall consult and consider:

(a) the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact; and

(b) rules adopted by similarly empowered agencies in other states in order to promote uniformity of application of this [~~chapter~~] part and make the emergency response systems in the various states reasonably compatible.

Section 175. Section 26B-4-810, which is renumbered from Section 26-49-501 is renumbered and amended to read:

[~~26-49-501~~]. 26B-4-810. Limitations on civil liability for volunteer health practitioners.

Volunteer health practitioners who provide health or veterinary services pursuant to this chapter are immune from liability and civil damages as set forth in Section 58-13-2.

Section 176. Section 26B-4-811, which is renumbered from Section 26-49-601 is renumbered and amended to read:

[~~26-49-601~~]. 26B-4-811. Workers' compensation coverage.

(1) For purposes of this section, "injury" means a physical or mental injury or disease for which an employee of Utah who is injured or contracts the disease in the course of the employee's employment would be entitled to benefits under Title 34A, Chapter 2, Workers' Compensation Act.

(2) A volunteer health practitioner is considered a state employee for purposes of receiving workers' compensation medical benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

(3) The state shall provide workers' compensation benefits for a volunteer health practitioner under:

(a) Title 34A, Chapter 2, Workers' Compensation Act; and

(b) Title 34A, Chapter 3, Utah Occupational Disease Act.

(4) (a) In accordance with Section 34A-2-105, the workers' compensation benefits described in Subsection (3) are the exclusive remedy against the state or an officer, agent, or employee of the state, for all injuries and occupational diseases resulting from the volunteer health practitioner's services for the state.

(b) For purposes of Subsection (4)(a), the state is considered the employer of the volunteer health practitioner.

(5) To compute the workers' compensation benefits for a volunteer health practitioner described in Subsection (3), the average weekly wage of the volunteer health practitioner shall be the state's average weekly wage at the time of the emergency that is the basis for the volunteer health practitioner's workers' compensation claim.

(6) (a) The Labor Commission shall:

(i) adopt rules, enter into agreements with other states, or take other measures to facilitate the receipt of benefits for injury or death by volunteer health practitioners who reside in other states; and

(ii) consult with and consider the practices for filing, processing, and paying claims by agencies with similar authority in other states to promote uniformity of application of this chapter with other states that enact similar legislation.

(b) The Labor Commission may waive or modify requirements for filing, processing, and paying claims that unreasonably burden the volunteer health practitioners.

Section 177. Section 26B-4-812, which is renumbered from Section 26-49-701 is renumbered and amended to read:

[~~26-49-701~~]. 26B-4-812. Uniformity of application and construction.

In applying and construing this [~~chapter~~] part, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 178. Repealer.

This bill repeals:

Section 26-1-2, Definitions.

Section 26-1-7.5, Health advisory council.

Section 26-2-1, Short title.

Section 26-2-2, Definitions.

Section 26-4-1, Short title.

Section 26-5-2, Establishment of prevention programs by department.

Section 26-5-3, System for detecting and monitoring diseases established by department.

Section 26-5-4, Programs of community and professional education established by department.

Section 26-6-1, Short title.

Section 26-6-12, Rabies or other animal disease -- Investigation following order of quarantine.

Section 26-6-13, Rabies or other animal disease -- Authority of peace officer to kill or capture animals.

Section 26-6-14, Rabies or other animal disease -- Quarantine defined.

Section 26-6b-2, Definitions.

Section 26-8a-101, Title.

Section 26-8a-211, Report.

Section 26-8b-101, Title.

Section 26-8b-102, Definitions.

Section 26-8b-601, Title.

Section 26-8c-101, Title.

Section 26-8d-101, Title.

Section 26-9f-101, Title.

Section 26-9f-102, Definitions.

Section 26-9f-104, Duties and responsibilities.

Section 26-10-1, Definitions.

Section 26-15-1, Definitions.

Section 26-15-5.1, Exemptions to food handler requirements.

Section 26-15-12, Rules to implement statutes on smoking.

Section 26-15a-101, Title.

Section 26-15a-103, Duties.

Section 26-15a-107, Duties.

Section 26-15b-101, Title.

Section 26-15b-102, Definitions.

Section 26-15b-103, Permitting -- Fees.

Section 26-15b-104, Permits.

Section 26-15c-101, Title.

Section 26-15c-102, Definitions.

Section 26-15c-103, Permitting -- Fees.

Section 26-15c-104, Safety and health inspections and permits.

Section 26-18-1, Short title.

Section 26-18-2, Definitions.

Section 26-18-402.5, Nonlapsing Medicaid funds.

Section 26-18-501, Definitions.

Section 26-18-601, Title.

Section 26-18-602, Definitions.

Section 26-18-701, Definitions.

Section 26-18-702, Division and Department of Workforce Services compliance with adoption assistance interstate compact.

Section 26-18a-1, Definitions.

Section 26-18a-3, Purpose of committee.

Section 26-19-101, Title.

Section 26-20-1, Title.

Section 26-21-1, Title.

Section 26-21-4, Per diem and travel expenses of committee members.

Section 26-21-5, Duties of committee.

Section 26-21-100, Reserved.

Section 26-21-203, Department authorized to grant, deny, or revoke clearance -- Department may limit direct patient access.

Section 26-21-205, Department of Public Safety -- Retention of information -- Notification of Department of Health.

Section 26-21-206, Covered providers and covered contractors required to apply for clearance of certain individuals.

Section 26-21-207, Covered providers required to apply for clearance for certain individuals other than residents residing in residential settings -- Certain individuals other than residents prohibited from residing in residential settings without clearance.

Section 26-21-208, Application for clearance by individuals.

Section 26-21-210, No civil liability.

Section 26-21-301, Title.

Section 26-21-302, Definitions.

Section 26-21-304, Monitoring device -- Facility admission, patient discharge, and posted notice.

Section 26-21a-201, Short title.

Section 26-21b-101, Title.

Section 26-21b-102, Definitions.

Section 26-21b-301, Investigation and enforcement.

Section 26-21c-101, Title.

Section 26-21c-102, Definitions.

Section 26-21c-104, Presenting protocols upon inspection.

Section 26-23a-1, Definitions.

Section 26-23a-3, Penalties.

Section 26-23b-101, Title.

Section 26-25-2, Restrictions on use of data.

Section 26-25-3, Information considered privileged communications.

Section 26-25-4, Information held in confidence -- Protection of identities.

Section 26-25-5, Violation of chapter a misdemeanor -- Civil liability.

Section 26-26-1, "Institution" defined.

Section 26-26-2, Authorization for institutions to obtain impounded animals.

Section 26-26-4, Institution to pay transportation expense -- Restrictions on use of animals -- Fee.

Section 26-26-5, Records of animals required.

Section 26-26-6, Revocation of authorization.

Section 26-26-7, Adoption of rules by department -- Inspection and investigation of institutions.

Section 26-28-101, Title.

Section 26-31-101, Title.

Section 26-31-102, Definitions.

Section 26-31-202, Blood donation by a minor.

Section 26-33a-101, Short title.

Section 26-33a-103, Committee membership -- Terms -- Chair -- Compensation.

Section 26-34-1, Short title.

Section 26-34-2, Definition of death -- Determination of death.

Section 26-35a-101, Title.

Section 26-36b-101, Title.

Section 26-36c-101, Title.

Section 26-36d-101, Title.

Section 26-37a-101, Title.

Section 26-38-1, Title.

Section 26-38-2, Definitions.

Section 26-38-3.5, Smoking ban exemption for Native American ceremony.

Section 26-38-6, Local ordinances.

Section 26-38-7, Enforcement action by proprietors.

Section 26-38-8, Penalties.

Section 26-38-9, Enforcement of chapter.

Section 26-39-101, Title.

Section 26-39-203, Duties of the Child Care Center Licensing Committee.

Section 26-40-101, Title.

Section 26-41-101, Title.

Section 26-41-102, Definitions.

Section 26-43-101, Title.

Section 26-43-103, Disclosure of information.

Section 26-46-101, Definitions.

Section 26-46a-101, Title.

Section 26-47-101, Title.

Section 26-47-102, Prescription Drug Assistance Program.

Section 26-49-101, Title.

Section 26-50-101, Title.

Section 26-50-102, Definitions.

Section 26-51-101, Title.

Section 26-51-202, Public education concerning methamphetamine contamination.

Section 26-53-101, Title.

Section 26-54-101, Title.

Section 26-55-101, Title.

Section 26-55-102, Definitions.

Section 26-57-101, Title.

Section 26-57-102, Definitions.

Section 26-57-104, Labeling of nicotine products containing nicotine.

Section 26-58-101, Title.

Section 26-60-101, Title.

Section 26-60-102, Definitions.

Section 26-60-104, Enforcement.

Section 26-60-105, Study by Public Utilities, Energy, and Technology Interim Committee and Health Reform Task Force.

Section 26-61-101, Title.

Section 26-61-102, Definitions.

Section 26-61-202, Duties.

Section 26-61a-101, Title.

Section 26-62-101, Title.

Section 26-64-101, Title.

Section 26-66-101, Title.

Section 26-66-102, Definitions.

Section 26-66-201, Early Childhood Utah Advisory Council.

Section 26-66-203, Compensation.

Section 26-67-101, Title.

Section 26-68-101, Title.

Section 26-69-101, Definitions.

Section 26-69-202, Council and executive director duties.

Section 26-69-203, Members serve without pay -- Reimbursement for expenses.

Section 26-69-401, Definitions.

Section 26-70-101, Definitions.

Section 26A-1-101, Short title.

Section 26B-1-201.1, Transition to single state agency -- Transition plan.

Section 26B-1a-101, Definitions.

Section 26B-1a-102, Office of American Indian-Alaska Native Health and Family Services -- Creation -- Purpose.

Section 26B-1a-103, Director of the office -- Appointment -- Qualifications -- Staff.

Section 26B-1a-107, Liaison reporting.

Section 62A-1-104, Definitions.

Section 62A-1-123, Intergenerational poverty mitigation reporting.

Section 62A-1-201, Title.

Section 62A-2-101, Definitions.

Section 62A-3-101, Definitions.

Section 62A-4a-101.5, Juvenile services.

Section 62A-4a-210, Definitions.

Section 62A-5-206.8, Management of the Utah State Developmental Center Sustainability Fund.

Section 62A-5-401, Purpose.

Section 62A-5-403, Services for persons under 11 years of age.

Section 62A-5a-101, Policy statement.

Section 62A-5a-102, Definitions.

Section 62A-5a-104, Powers of council.

Section 62A-5a-105, Coordination of services for school-age children.

Section 62A-5b-101, Title.

Section 62A-6-101, Definitions.

Section 62A-11-103, Definitions.

Section 62A-11-301, Title.

Section 62A-11-601, Title.

Section 62A-11-701, Title.

Section 62A-11-702, Definitions.

Section 62A-14-101, Title.

Section 62A-15-101, Title.

Section 62A-15-102, Definitions.

Section 62A-15-201, Title.

Section 62A-15-645, Retrospective effect of provisions.

Section 62A-15-1001, Definitions.

Section 62A-15-1100, Definitions.

Section 62A-15-1301, Definitions.

Section 62A-15-1303, Statewide mental health crisis line and statewide warm line operational standards.

Section 62A-15-1401, Definitions.

Section 62A-15-1501, Definitions.

Section 62A-15-1601, Definitions.

Section 62A-15-1701, Definitions.

Section 62A-15-1801, Definitions.

Section 62A-16-101, Title.

Section 62A-17-101, Title.

Section 62A-18-101, Title.

Section 62A-18-102, Definitions.

Section 62A-18-103, Office of Quality and Design -- Creation.

Section 62A-18-104, Director of the office -- Appointment -- Qualifications.

Section 179. Coordinating S.B. 40 with H.B. 59 -- Substantive and technical amendments.

If this S.B. 40 and H.B. 59, First Responder Mental Health Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 26B-4-102(8) (renumbered from Section 26-8a-105) in this S.B. 40 to incorporate the amendments in Subsection 26-8a-206(3) in H.B. 59 to read as follows:

"(8) (a) develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services which shall include:

(i) ongoing training for agencies providing emergency services and counseling program volunteers;

(ii) critical incident stress debriefing for personnel at no cost to the emergency provider; and

(iii) advising the department on training requirements for licensure as a behavioral emergency services technician; and

(b) reimburse reasonable actual expenses, including mileage, incurred by a volunteer during the course of the volunteer's provision of critical incident stress services under Subsection (8)(a).".

Section 180. Coordinating S.B. 40 with H.B. 72 -- Substantive and technical amendments.

If this S.B. 40 and H.B. 72, Medical Cannabis Governance Revisions, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2023, as follows:

(1) with respect to the following sections, the amendments in H.B. 72 supersede the amendments made in this bill on May 3, 2023:

(a) Section 4-41a-801.1 (renumbered from Section 26-61a-702) in H.B. 72;

(b) Section 4-41a-109 (renumbered from Section 26-61a-116) in H.B. 72;

(c) Section 4-41a-1001 (renumbered from Section 26-61a-301) in H.B. 72;

(d) Section 4-41-1004 (renumbered from Section 26-61a-304) in H.B. 72;

(e) Section 4-41a-1005 (renumbered from Section 26-61a-305) in H.B. 72;

(f) Section 4-41a-1106 (renumbered from Section 26-61a-401) in H.B. 72;

(g) Section 4-41a-1101 (renumbered from Section 26-61a-501) in H.B. 72;

(h) Section 4-41a-1103 (renumbered from Section 26-61a-504) in H.B. 72;

(i) Section 4-41a-1104 (renumbered from Section 26-61a-505) in H.B. 72;

(j) Section 4-41a-1105 (renumbered from Section 26-61a-507) in H.B. 72;

(k) Section 4-41a-1202 (renumbered from Section 26-61a-604) in H.B. 72;

(l) Section 4-41a-1203 (renumbered from Section 26-61a-605) in H.B. 72; and

(m) Section 4-41a-1204 (renumbered from Section 26-61a-606) in H.B. 72;

(2) if H.B. 72 renumbers a section from Title 26 to Title 4 and S.B. 40 renumbers the same section from Title 26 to Title 26B, the renumbering of the section in H.B. 72 will supersede in the following sections:

(a) Section 4-41a-108 (renumbered from Section 26-61a-603) in H.B. 72;

(b) Section 4-41a-1002 (renumbered from Section 26-61a-302) in H.B. 72;

(c) Section 4-41a-1003 (renumbered from Section 26-61a-303) in H.B. 72;

(d) Section 4-41a-1101 (renumbered from Section 26-61a-501) in H.B. 72;

(e) Section 4-41a-1102 (renumbered from Section 26-61a-502) in H.B. 72;

(f) Section 4-41a-1107 (renumbered from Section 26-61a-402) in H.B. 72; and

(g) Section 4-41a-1205 (renumbered from Section 26-61a-607) in H.B. 72;

(3) if H.B. 72 renumbers a section reference from Title 26 to Title 4 and S.B. 40 renumbers the same section reference from Title 26 to Title 26B, the renumbering in H.B. 72 supersedes in the following sections:

(a) Section 4-41a-1003 (renumbered from Section 26-61a-303) in H.B. 72;

(b) Section 4-41a-1102 (renumbered from Section 26-61a-502) in H.B. 72;

(c) Section 26B-4-202 (renumbered from Section 26-61a-103) in S.B. 40;

(d) Section 26B-4-204 (renumbered from Section 26-61a-106) in S.B. 40;

(e) Section 26B-4-213 (renumbered from Section 26-61a-201) in S.B. 40;

(f) Section 26B-4-219 (renumbered from Section 26-61a-403) in S.B. 40;

(g) Section 26B-4-231 (renumbered from Section 26-61a-503) in S.B. 40; and

(h) Section 26B-4-236 (renumbered from Section 26-61a-601) in S.B. 40;

(4) in Subsection 4-41a-1106(3)(a)(ii) (renumbered from Subsection 26-61a-401(3)(a)(ii)) in H.B. 72, replacing the reference to Subsection 26-61a-109(5) with Subsection 4-41a-104(5);

(5) in Subsection 4-41a-1106(8)(b)(iii) (renumbered from Subsection 26-61a-401(8)(b)(iii)) in H.B. 72, replacing the reference to Subsection 26-61a-109(5) with Subsection 4-41a-104(5);

(6) by amending:

(a) Subsection 4-41a-1101(10)(c) (renumbered from Subsection 26-61a-501(10)(c)) in H.B. 72 to read:

"(c) unless the medical cannabis cardholder has had a consultation under Subsection [~~26-61a-502(4) or (5)~~] 26B-4-231(5) verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and";

(b) Subsection 4-41a-1102(1)(b)(i)(B) (renumbered from Subsection 26-61a-502(1)(b)(i)(B)) in H.B. 72 to read:

"(b) a [~~department~~] Department of Health and Human Services registration described in Subsection [~~26-61a-201(11);~~] 26B-4-213(10);";

(c) Subsection 4-41a-1202(13)(b) (renumbered from Subsection 26-61a-604(13)(b)) in H.B. 72 to read:

"(B) the licensee pays the department a license renewal fee in an amount that, subject to Subsection [~~26-61a-109~~] 4-41a-104(5), the department sets in accordance with Section 63J-1-504."; and

(d) Subsection 26B-4-220(1) (renumbered from Subsection 26-61a-701(1)) in S.B. 40 to read:

"(1) Except as provided in Title 4, Chapter 41a, Cannabis Production Establishments[~~, and Sections 26-61a-502, 26-61a-605, and 26-61a-607~~] and Pharmacies, it is unlawful for a medical cannabis cardholder to sell or otherwise give to another medical cannabis cardholder cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, a medical cannabis device, or any cannabis residue remaining in or from a medical cannabis device."; and

(7) having the renumbering of Section 26B-4-231 (renumbered from Section 26-61a-503) in S.B. 40, as implemented on May 3, 2023, supersede the renumbering of Section 26-61a-404 (renumbered from Section 26-61a-503) in H.B. 72.

Section 181. Coordinating S.B. 40 with S.B. 64 -- Substantive and technical amendments.

If this S.B. 40 and S.B. 64, Bureau of Emergency Medical Services Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication, on July 1, 2024, by:

(1) amending Section 26B-4-101, enacted on May 3, 2023, by this bill, to read:

"Reserved.";

(2) having S.B. 64 supersede the changes in this bill, as those changes went into effect on May 3, 2023, in the following sections:

(a) Section 53-2d-103 (renumbered from Section 26-8a-105) in S.B. 64, subject to the instructions in Section 183 of this bill;

(b) Section 53-2d-106 (renumbered from Section 26-8a-106) in S.B. 64;

(c) Section 53-2d-207 (renumbered from Section 26-8a-207) in S.B. 64;

(d) Section 53-2d-209 (renumbered from Section 26-8a-210) in S.B. 64;

(e) Section 53-2d-401 (renumbered from Section 26-8a-301) in S.B. 64;

(f) Section 53-2d-408 (renumbered from Section 26-8a-308) in S.B. 64;

(g) Section 53-2d-409 (renumbered from Section 26-8a-309) in S.B. 64;

(h) Section 53-2d-505.4 (renumbered from Section 26-8a-405.4) in S.B. 64;

(i) Section 53-2d-514 (renumbered from Section 26-8a-414) in S.B. 64;

(j) Section 53-2d-601 (renumbered from Section 26-8a-501) in S.B. 64;

(k) Section 53-2d-602 (renumbered from Section 26-8a-502) in S.B. 64;

(l) Section 53-2d-603 (renumbered from Section 26-8a-503) in S.B. 64;

(m) Section 53-2d-606 (renumbered from Section 26-8a-506) in S.B. 64;

(n) Section 53-2d-607 (renumbered from Section 26-8a-507) in S.B. 64;

(o) Section 53-2d-701 (renumbered from Section 26-8a-601) in S.B. 64; and

(p) Section 53-2d-807 (renumbered from Section 26-8b-402) in S.B. 64;

(3) changing the reference in Subsection 53-2d-701(7) (renumbered from Subsection 26-8a-601(7)) in S.B. 64 from "Section 62A-15-629" to "Section 26B-5-331"; and

(4) removing the following newly enacted subsections in Section 26B-4-301 (renumbered from Section 26-10b-101) of this bill:

(a) Subsections 26B-4-301(1) through (4);

(b) Subsection 26B-4-301(8); and

(c) Subsection 26B-4-301(14)..

Section 182. Coordinating S.B. 40 with S.B. 272 -- Substantive and technical amendments.

If this S.B. 40 and S.B. 272, Funds Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2023, by repealing Subsection 26B-4-301(1) (renumbered

from Subsection 26-10b-101(1)) in this S.B. 40, and renumbering the section accordingly..

Section 183. Coordinating S.B. 40 with H.B. 59 and S.B. 64 -- Substantive and technical amendments.

If this S.B. 40, H.B. 59, First Responder Mental Health Amendments, and S.B. 64, Bureau of Emergency Medical Services Amendments, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication, on July 1, 2024, by:

(1) renumbering Section 26B-4-102 (renumbered from Section 26-8a-105) in this bill to Section 53-2d-103; and

(2) amending Section 53-2d-103 (renumbered from Section 26-8a-105) in S.B. 64 to read:

"(1) The [~~department~~] bureau shall:

[~~(1)~~] (a) coordinate the emergency medical services within the state;

[~~(2)~~] (b) [~~administer this chapter and the rules established pursuant to it;~~] administer any programs and applicable rules created under this chapter;

[~~(3)~~] (c) establish a voluntary task force representing a diversity of emergency medical service providers to advise the [~~department~~] bureau and the committee on rules;

[~~(4)~~] (d) establish an emergency medical service personnel peer review board to advise the [~~department~~] bureau concerning discipline of emergency medical service personnel under this chapter; and

[~~(5)~~] (e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

[~~(a)~~] (i) license ambulance providers and paramedic providers;

[~~(b)~~] (ii) permit ambulances, emergency medical response vehicles, and nonemergency secured behavioral health transport vehicles, including approving an emergency vehicle operator's course in accordance with Section [~~26-8a-304~~] 53-2d-404;

[~~(c)~~] (iii) establish:

[~~(i)~~] (A) the qualifications for membership of the peer review board created by this section;

[~~(ii)~~] (B) a process for placing restrictions on a license while an investigation is pending;

[~~(iii)~~] (C) the process for the investigation and recommendation by the peer review board; and

[~~(iv)~~] (D) the process for determining the status of a license while a peer review board investigation is pending;

[~~(d)~~] (iv) establish application, submission, and procedural requirements for licenses, designations, and permits; and

[~~(e)~~] (v) establish and implement the programs, plans, and responsibilities as specified in other sections of this chapter.

(2) (a) The bureau shall share data related to the bureau's duties with the Department of Health and Human Services.

(b) The Department of Health and Human Services shall share data related to the bureau's duties with the bureau.

(c) All data collected by the bureau under this chapter is subject to Title 26B, Chapter 8, Part 4, Health Statistics, including data privacy protections.".

Section 184. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) not enroll this bill if any of the following bills do not pass:

(a) S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;

(b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and Data; or

(c) S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health; and

(2) in any new language added to the Utah Code by legislation passed during the 2023 General Session, replace any references to Titles 26 or 62A with the renumbered reference as it is renumbered in this bill.

CHAPTER 308
S. B. 41
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH AND HUMAN SERVICES RECODIFICATION -PREVENTION, SUPPORTS, SUBSTANCE USE AND MENTAL HEALTH

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill recodifies portions of the Utah Health Code and Utah Human Services Code.

Highlighted Provisions:

This bill:

- recodifies provisions regarding:
  - substance use and mental health;
  - long term services and supports, aging, and disabilities; and
  - public health and prevention; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

26B-5-101, as enacted by Laws of Utah 2022, Chapter 255
26B-6-101, as enacted by Laws of Utah 2022, Chapter 255
26B-7-101, as enacted by Laws of Utah 2022, Chapter 255

ENACTS:

26B-6-501, Utah Code Annotated 1953
26B-6-601, Utah Code Annotated 1953
26B-7-324, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26B-5-102, (Renumbered from 62A-15-103, as last amended by Laws of Utah 2022, Chapters 187, 255, and 415)
26B-5-103, (Renumbered from 62A-15-104, as last amended by Laws of Utah 2022, Chapter 255)
26B-5-104, (Renumbered from 62A-15-105, as last amended by Laws of Utah 2009, Chapter 75)
26B-5-105, (Renumbered from 62A-15-105.2, as enacted by Laws of Utah 2012, Chapter 305)
26B-5-106, (Renumbered from 62A-15-107, as last amended by Laws of Utah 2009, Chapter 75)
26B-5-107, (Renumbered from 62A-15-108, as last amended by Laws of Utah 2009, Chapter 75)
26B-5-108, (Renumbered from 62A-15-110, as last amended by Laws of Utah 2005, Chapter 71)
26B-5-109, (Renumbered from 62A-15-113, as enacted by Laws of Utah 2017, Chapter 315)
26B-5-110, (Renumbered from 62A-15-103.1, as enacted by Laws of Utah 2019, Chapter 440)
26B-5-111, (Renumbered from 62A-15-115, as enacted by Laws of Utah 2018, Chapter 414)
26B-5-112, (Renumbered from 62A-15-116, as last amended by Laws of Utah 2020, Chapter 303)
26B-5-113, (Renumbered from 62A-15-117, as enacted by Laws of Utah 2019, Chapter 446)
26B-5-114, (Renumbered from 62A-15-118, as enacted by Laws of Utah 2020, Chapter 303)
26B-5-115, (Renumbered from 62A-15-119, as renumbered and amended by Laws of Utah 2020, Chapter 29)
26B-5-116, (Renumbered from 62A-15-121, as enacted by Laws of Utah 2021, Chapter 277)
26B-5-117, (Renumbered from 62A-15-122, as enacted by Laws of Utah 2021, Chapter 278)
26B-5-118, (Renumbered from 62A-15-124, as enacted by Laws of Utah 2022, Chapter 149)
26B-5-119, (Renumbered from 62A-15-615, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-201, (Renumbered from 62A-15-202, as last amended by Laws of Utah 2022, Chapter 155)
26B-5-202, (Renumbered from 62A-15-203, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-203, (Renumbered from 62A-15-204, as last amended by Laws of Utah 2022, Chapter 155)
26B-5-204, (Renumbered from 62A-15-301, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-205, (Renumbered from 62A-15-401, as last amended by Laws of Utah 2022, Chapter 447)
26B-5-206, (Renumbered from 62A-15-403, as renumbered and amended by Laws of Utah 2022, Chapter 211)
26B-5-207, (Renumbered from 62A-15-501, as last amended by Laws of Utah 2009, Chapter 81)
26B-5-208, (Renumbered from 62A-15-502, as last amended by Laws of Utah 2005, Chapter 2)
26B-5-209, (Renumbered from 62A-15-503, as last amended by Laws of Utah 2020, Chapter 230)
26B-5-210, (Renumbered from 62A-15-504, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-301, (Renumbered from 62A-15-602, as last amended by Laws of Utah 2022, Chapters 187 and 374)
26B-5-302, (Renumbered from 62A-15-601, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-303, (Renumbered from 62A-15-603, as last amended by Laws of Utah 2018, Chapter 322)
26B-5-304, (Renumbered from 62A-15-613, as last amended by Laws of Utah 2021, Chapter 344)
26B-5-305, (Renumbered from 62A-15-614, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-306, (Renumbered from 62A-15-610, as last amended by Laws of Utah 2011, Chapter 366)
26B-5-307, (Renumbered from 62A-15-644, as last amended by Laws of Utah 2011, Chapter 366)
26B-5-308, (Renumbered from 62A-15-639, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-309, (Renumbered from 62A-15-640, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-310, (Renumbered from 62A-15-641, as last amended by Laws of Utah 2017, Chapter 408)
26B-5-311, (Renumbered from 62A-15-642, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-312, (Renumbered from 62A-15-643, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-313, (Renumbered from 62A-15-1002, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-314, (Renumbered from 62A-15-1003, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-315, (Renumbered from 62A-15-1004, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-316, (Renumbered from 62A-15-607, as last amended by Laws of Utah 2008, Chapter 3)
26B-5-317, (Renumbered from 62A-15-617, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-318, (Renumbered from 62A-15-619, as last amended by Laws of Utah 2011, Chapter 366)
26B-5-319, (Renumbered from 62A-15-604, as last amended by Laws of Utah 2015, Chapter 121)
26B-5-320, (Renumbered from 62A-15-621, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-321, (Renumbered from 62A-15-622, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-322, (Renumbered from 62A-15-623, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-323, (Renumbered from 62A-15-624, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-324, (Renumbered from 62A-15-608, as last amended by Laws of Utah 2011, Chapter 366)
26B-5-325, (Renumbered from 62A-15-609, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-326, (Renumbered from 62A-15-611, as last amended by Laws of Utah 2018, Chapter 330)
26B-5-327, (Renumbered from 62A-15-612, as last amended by Laws of Utah 2021, Chapter 382)
26B-5-330, (Renumbered from 62A-15-628, as last amended by Laws of Utah 2018, Chapter 322)
26B-5-331, (Renumbered from 62A-15-629, as last amended by Laws of Utah 2022, Chapters 341 and 374)
26B-5-332, (Renumbered from 62A-15-631, as last amended by Laws of Utah 2022, Chapter 374)
26B-5-333, (Renumbered from 62A-15-632, as repealed and reenacted by Laws of Utah 2021, Chapter 122)
26B-5-334, (Renumbered from 62A-15-634, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-335, (Renumbered from 62A-15-635, as last amended by Laws of Utah 2018, Chapter 322)
26B-5-336, (Renumbered from 62A-15-636, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-337, (Renumbered from 62A-15-637, as last amended by Laws of Utah 2019, Chapter 419)
26B-5-338, (Renumbered from 62A-15-638, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-339, (Renumbered from 62A-15-618, as last amended by Laws of Utah 2019, Chapters 256 and 419)
26B-5-340, (Renumbered from 62A-15-630, as last amended by Laws of Utah 2008, Chapter 3)

26B-5-341, (Renumbered from 62A-15-626, as last amended by Laws of Utah 2021, Chapter 262)
26B-5-342, (Renumbered from 62A-15-620, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-350, (Renumbered from 62A-15-630.4, as enacted by Laws of Utah 2019, Chapter 256)
26B-5-351, (Renumbered from 62A-15-630.5, as last amended by Laws of Utah 2021, Chapter 122)
26B-5-360, (Renumbered from 62A-15-625, as last amended by Laws of Utah 2021, Chapter 260)
26B-5-361, (Renumbered from 62A-15-627, as last amended by Laws of Utah 2022, Chapter 374)
26B-5-362, (Renumbered from 62A-15-646, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-363, (Renumbered from 62A-15-616, as last amended by Laws of Utah 2011, Chapter 366)
26B-5-364, (Renumbered from 62A-15-633, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-365, (Renumbered from 62A-15-801, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-366, (Renumbered from 62A-15-802, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-367, (Renumbered from 62A-15-647, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-370, (Renumbered from 62A-15-901, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-371, (Renumbered from 62A-15-902, as last amended by Laws of Utah 2011, Chapter 366)
26B-5-372, (Renumbered from 62A-15-605.5, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-380, (Renumbered from 62A-1-108.5, as last amended by Laws of Utah 2021, Chapter 262)
26B-5-401, (Renumbered from 62A-15-701, as last amended by Laws of Utah 2003, Chapter 195)
26B-5-402, (Renumbered from 62A-15-702, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-403, (Renumbered from 62A-15-703, as last amended by Laws of Utah 2021, Chapter 262)
26B-5-404, (Renumbered from 62A-15-704, as last amended by Laws of Utah 2008, Chapter 382)
26B-5-405, (Renumbered from 62A-15-705, as last amended by Laws of Utah 2021, Chapter 261)
26B-5-406, (Renumbered from 62A-15-706, as last amended by Laws of Utah 2011, Chapter 366)
26B-5-407, (Renumbered from 62A-15-707, as last amended by Laws of Utah 2008, Chapter 382)
26B-5-408, (Renumbered from 62A-15-708, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-409, (Renumbered from 62A-15-709, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-410, (Renumbered from 62A-15-710, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-411, (Renumbered from 62A-15-711, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
26B-5-412, (Renumbered from 62A-15-712, as last amended by Laws of Utah 2013, Chapter 167)
26B-5-413, (Renumbered from 62A-15-713, as last amended by Laws of Utah 2005, Chapter 71)
26B-5-501, (Renumbered from 62A-15-1202, as last amended by Laws of Utah 2018, Chapter 77)
26B-5-502, (Renumbered from 62A-15-1201, as enacted by Laws of Utah 2017, Chapter 408)
26B-5-503, (Renumbered from 62A-15-1203, as last amended by Laws of Utah 2018, Chapter 77)
26B-5-504, (Renumbered from 62A-15-1204, as enacted by Laws of Utah 2017, Chapter 408)
26B-5-505, (Renumbered from 62A-15-1205, as last amended by Laws of Utah 2018, Chapter 77)
26B-5-506, (Renumbered from 62A-15-1205.5, as enacted by Laws of Utah 2018, Chapter 77)
26B-5-507, (Renumbered from 62A-15-1206, as enacted by Laws of Utah 2017, Chapter 408)
26B-5-508, (Renumbered from 62A-15-1207, as last amended by Laws of Utah 2018, Chapter 77)
26B-5-509, (Renumbered from 62A-15-1207.5, as enacted by Laws of Utah 2018, Chapter 77)
26B-5-510, (Renumbered from 62A-15-1208, as enacted by Laws of Utah 2017, Chapter 408)

26B-5-511, (Renumbered from 62A-15-1209, as enacted by Laws of Utah 2017, Chapter 408)
26B-5-601, (Renumbered from 62A-17-102, as enacted by Laws of Utah 2013, Chapter 24)
26B-5-602, (Renumbered from 62A-17-103, as last amended by Laws of Utah 2017, Chapter 22)
26B-5-603, (Renumbered from 62A-17-104, as enacted by Laws of Utah 2013, Chapter 24)
26B-5-604, (Renumbered from 62A-17-105, as enacted by Laws of Utah 2013, Chapter 24)
26B-5-605, (Renumbered from 62A-17-106, as enacted by Laws of Utah 2013, Chapter 24)
26B-5-606, (Renumbered from 62A-15-1802, as enacted by Laws of Utah 2020, Chapter 304)
26B-5-607, (Renumbered from 62A-15-1803, as enacted by Laws of Utah 2020, Chapter 304)
26B-5-608, (Renumbered from 62A-15-1804, as enacted by Laws of Utah 2020, Chapter 304)
26B-5-609, (Renumbered from 62A-15-1402, as enacted by Laws of Utah 2018, Chapter 84)
26B-5-610, (Renumbered from 62A-15-1302, as last amended by Laws of Utah 2020, Chapter 303)
26B-5-611, (Renumbered from 62A-15-1101, as last amended by Laws of Utah 2022, Chapter 149)
26B-5-612, (Renumbered from 26-1-43, as enacted by Laws of Utah 2022, Chapter 253 and further amended by Revisor Instructions, Laws of Utah 2022, Chapter 189)
26B-6-102, (Renumbered from 62A-3-102, as last amended by Laws of Utah 1990, Chapter 181)
26B-6-103, (Renumbered from 62A-3-103, as last amended by Laws of Utah 1992, Chapter 104)
26B-6-104, (Renumbered from 62A-3-104, as last amended by Laws of Utah 2012, Chapter 347)
26B-6-105, (Renumbered from 62A-3-104.1, as last amended by Laws of Utah 2018, Chapter 256)
26B-6-106, (Renumbered from 62A-3-104.2, as last amended by Laws of Utah 1998, Chapter 254)
26B-6-107, (Renumbered from 62A-3-104.3, as last amended by Laws of Utah 2015, Chapter 255)
26B-6-108, (Renumbered from 62A-3-105, as last amended by Laws of Utah 2013, Chapter 110)
26B-6-109, (Renumbered from 62A-3-106, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-110, (Renumbered from 62A-3-106.5, as last amended by Laws of Utah 2008, Chapter 382)
26B-6-111, (Renumbered from 62A-3-107, as last amended by Laws of Utah 2010, Chapter 286)
26B-6-112, (Renumbered from 62A-3-107.5, as enacted by Laws of Utah 1996, Chapter 299)
26B-6-113, (Renumbered from 62A-3-108, as last amended by Laws of Utah 1998, Chapter 254)
26B-6-114, (Renumbered from 62A-3-109, as last amended by Laws of Utah 2008, Chapters 91 and 382)
26B-6-201, (Renumbered from 62A-3-301, as last amended by Laws of Utah 2022, Chapter 430)
26B-6-202, (Renumbered from 62A-3-302, as last amended by Laws of Utah 2017, Chapter 176)
26B-6-203, (Renumbered from 62A-3-303, as last amended by Laws of Utah 2017, Chapter 176)
26B-6-204, (Renumbered from 62A-3-304, as last amended by Laws of Utah 2008, Chapter 91)
26B-6-205, (Renumbered from 62A-3-305, as last amended by Laws of Utah 2022, Chapters 274, 335, and 415)
26B-6-206, (Renumbered from 62A-3-307, as repealed and reenacted by Laws of Utah 2008, Chapter 91)
26B-6-207, (Renumbered from 62A-3-308, as last amended by Laws of Utah 2008, Chapter 91)
26B-6-208, (Renumbered from 62A-3-309, as last amended by Laws of Utah 2013, Chapter 237)
26B-6-209, (Renumbered from 62A-3-311, as last amended by Laws of Utah 2008, Chapters 91 and 382)
26B-6-210, (Renumbered from 62A-3-311.1, as last amended by Laws of Utah 2022, Chapter 415)
26B-6-211, (Renumbered from 62A-3-311.5, as enacted by Laws of Utah 2008, Chapter 91)
26B-6-212, (Renumbered from 62A-3-312, as last amended by Laws of Utah 2022, Chapter 415)
26B-6-213, (Renumbered from 62A-3-314, as last amended by Laws of Utah 2007, Chapter 176)
26B-6-214, (Renumbered from 62A-3-315, as last amended by Laws of Utah 2017, Chapter 176)
26B-6-215, (Renumbered from 62A-3-316, as enacted by Laws of Utah 2002, Chapter 108)
26B-6-216, (Renumbered from 62A-3-317, as last amended by Laws of Utah 2017, Chapter 176)
26B-6-217, (Renumbered from 62A-3-320, as last amended by Laws of Utah 2017, Chapter 176)
26B-6-218, (Renumbered from 62A-3-321, as last amended by Laws of Utah 2017, Chapter 176)

26B-6-219, (Renumbered from 62A-3-322, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1)
26B-6-301, (Renumbered from 62A-14-102, as last amended by Laws of Utah 2013, Chapter 364)
26B-6-302, (Renumbered from 62A-14-103, as enacted by Laws of Utah 1999, Chapter 69)
26B-6-303, (Renumbered from 62A-14-104, as last amended by Laws of Utah 2009, Chapter 75)
26B-6-304, (Renumbered from 62A-14-105, as last amended by Laws of Utah 2022, Chapter 441)
26B-6-305, (Renumbered from 62A-14-107, as enacted by Laws of Utah 1999, Chapter 69)
26B-6-306, (Renumbered from 62A-14-108, as last amended by Laws of Utah 2022, Chapter 255)
26B-6-307, (Renumbered from 62A-14-109, as last amended by Laws of Utah 2012, Chapter 347)
26B-6-308, (Renumbered from 62A-14-110, as enacted by Laws of Utah 1999, Chapter 69)
26B-6-309, (Renumbered from 62A-14-111, as enacted by Laws of Utah 1999, Chapter 69)
26B-6-401, (Renumbered from 62A-5-101, as last amended by Laws of Utah 2020, Chapter 444)
26B-6-402, (Renumbered from 62A-5-102, as last amended by Laws of Utah 2020, Chapter 444)
26B-6-403, (Renumbered from 62A-5-103, as last amended by Laws of Utah 2011, Chapter 366)
26B-6-404, (Renumbered from 62A-5-104, as last amended by Laws of Utah 2012, Chapter 369)
26B-6-405, (Renumbered from 62A-5-105, as last amended by Laws of Utah 2013, Chapter 167)
26B-6-406, (Renumbered from 62A-5-106, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-407, (Renumbered from 62A-5-103.1, as last amended by Laws of Utah 2013, Chapter 125)
26B-6-408, (Renumbered from 62A-5-103.2, as last amended by Laws of Utah 2009, Chapter 29)
26B-6-409, (Renumbered from 62A-5-103.3, as enacted by Laws of Utah 2011, Chapter 169)
26B-6-410, (Renumbered from 62A-5-103.5, as last amended by Laws of Utah 2017, Chapter 181)
26B-6-411, (Renumbered from 62A-5-109, as last amended by Laws of Utah 2008, Chapter 3)
26B-6-412, (Renumbered from 62A-5-110, as last amended by Laws of Utah 2018, Chapter 88)
26B-6-413, (Renumbered from 62A-5-402, as last amended by Laws of Utah 2005, Chapter 61)
26B-6-502, (Renumbered from 62A-5-201, as last amended by Laws of Utah 2017, Chapter 211)
26B-6-503, (Renumbered from 62A-5-202, as last amended by Laws of Utah 2009, Chapter 75)
26B-6-504, (Renumbered from 62A-5-203, as last amended by Laws of Utah 1991, Chapter 207)
26B-6-505, (Renumbered from 62A-5-205, as last amended by Laws of Utah 1991, Chapter 207)
26B-6-506, (Renumbered from 62A-5-206, as last amended by Laws of Utah 2016, Chapter 300)
26B-6-507, (Renumbered from 62A-5-206.6, as last amended by Laws of Utah 2018, Chapter 404)
26B-6-508, (Renumbered from 62A-5-207, as last amended by Laws of Utah 2011, Chapter 366)
26B-6-509, (Renumbered from 62A-5-208, as last amended by Laws of Utah 1991, Chapter 207)
26B-6-510, (Renumbered from 62A-5-211, as enacted by Laws of Utah 2017, Chapter 211)
26B-6-602, (Renumbered from 62A-5-302, as last amended by Laws of Utah 2011, Chapter 366)
26B-6-603, (Renumbered from 62A-5-305, as last amended by Laws of Utah 2011, Chapter 366)
26B-6-604, (Renumbered from 62A-5-308, as last amended by Laws of Utah 2021, Chapter 261)
26B-6-605, (Renumbered from 62A-5-309, as last amended by Laws of Utah 2021, Chapter 261)
26B-6-606, (Renumbered from 62A-5-310, as last amended by Laws of Utah 2011, Chapter 366)
26B-6-607, (Renumbered from 62A-5-311, as last amended by Laws of Utah 2011, Chapter 366)
26B-6-608, (Renumbered from 62A-5-312, as last amended by Laws of Utah 2011, Chapter 366)
26B-6-609, (Renumbered from 62A-5-313, as last amended by Laws of Utah 2011, Chapter 366)
26B-6-610, (Renumbered from 62A-5-315, as last amended by Laws of Utah 2004, Chapter 114)
26B-6-611, (Renumbered from 62A-5-316, as last amended by Laws of Utah 2011, Chapter 366)
26B-6-612, (Renumbered from 62A-5-317, as last amended by Laws of Utah 2011, Chapter 366)

26B-6-613, (Renumbered from 62A-5-318, as last amended by Laws of Utah 2011, Chapter 366)
26B-6-701, (Renumbered from 62A-5-501, as enacted by Laws of Utah 2022, Chapter 220)
26B-6-702, (Renumbered from 62A-5-502, as enacted by Laws of Utah 2022, Chapter 220)
26B-6-703, (Renumbered from 62A-5-503, as enacted by Laws of Utah 2022, Chapter 220)
26B-6-704, (Renumbered from 62A-5-504, as enacted by Laws of Utah 2022, Chapter 220)
26B-6-705, (Renumbered from 62A-5-505, as enacted by Laws of Utah 2022, Chapter 220)
26B-6-801, (Renumbered from 62A-5b-102, as last amended by Laws of Utah 2019, Chapter 190)
26B-6-802, (Renumbered from 62A-5b-103, as last amended by Laws of Utah 2019, Chapter 190)
26B-6-803, (Renumbered from 62A-5b-104, as last amended by Laws of Utah 2019, Chapter 190)
26B-6-804, (Renumbered from 62A-5b-105, as last amended by Laws of Utah 2019, Chapter 190)
26B-6-805, (Renumbered from 62A-5b-106, as last amended by Laws of Utah 2019, Chapter 190)
26B-6-806, (Renumbered from 62A-6-102, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-807, (Renumbered from 62A-6-103, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-808, (Renumbered from 62A-6-104, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-809, (Renumbered from 62A-6-105, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-810, (Renumbered from 62A-6-106, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-811, (Renumbered from 62A-6-107, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-812, (Renumbered from 62A-6-108, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-813, (Renumbered from 62A-6-109, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-814, (Renumbered from 62A-6-110, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-815, (Renumbered from 62A-6-111, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-816, (Renumbered from 62A-6-112, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-817, (Renumbered from 62A-6-113, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-818, (Renumbered from 62A-6-114, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-819, (Renumbered from 62A-6-115, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-820, (Renumbered from 62A-6-116, as enacted by Laws of Utah 1988, Chapter 1)
26B-6-821, (Renumbered from 62A-5b-107, as renumbered and amended by Laws of Utah 2007, Chapter 22)
26B-7-102, (Renumbered from 26-10-3, as enacted by Laws of Utah 1981, Chapter 126)
26B-7-103, (Renumbered from 26-10-4, as enacted by Laws of Utah 1981, Chapter 126)
26B-7-104, (Renumbered from 26-10-5.5, as last amended by Laws of Utah 2016, Chapter 144)
26B-7-105, (Renumbered from 26-10-10, as last amended by Laws of Utah 2018, Chapters 58, 281, and 415)
26B-7-106, (Renumbered from 26-10-14, as enacted by Laws of Utah 2019, Chapter 124)
26B-7-107, (Renumbered from 26-10-15, as enacted by Laws of Utah 2021, Chapter 161)
26B-7-108, (Renumbered from 26-1-23.5, as renumbered and amended by Laws of Utah 1991, Chapter 112)
26B-7-109, (Renumbered from 26-1-26, as enacted by Laws of Utah 1981, Chapter 126)
26B-7-110, (Renumbered from 26-1-36, as last amended by Laws of Utah 2013, Chapters 43 and 167)
26B-7-111, (Renumbered from 26-1-38, as last amended by Laws of Utah 2015, Chapter 180)
26B-7-112, (Renumbered from 26-1-42, as enacted by Laws of Utah 2020, Chapter 211)
26B-7-113, (Renumbered from 26-7-1, as last amended by Laws of Utah 2011, Chapter 297)
26B-7-114, (Renumbered from 26-7-2, as last amended by Laws of Utah 2011, Chapter 192)
26B-7-115, (Renumbered from 26-7-4, as enacted by Laws of Utah 2008, Chapter 72)
26B-7-116, (Renumbered from 26-7-7, as last amended by Laws of Utah 2015, Chapter 451)
26B-7-117, (Renumbered from 26-7-8, as last amended by Laws of Utah 2018, Chapter 281)
26B-7-118, (Renumbered from 26-7-9, as last amended by Laws of Utah 2019, Chapter 186)
26B-7-119, (Renumbered from 26-7-11, as enacted by Laws of Utah 2020, Chapter 429)
26B-7-201, (Renumbered from 26-6-2, as last amended by Laws of Utah 2021, Chapter 437)
26B-7-202, (Renumbered from 26-6-3, as last amended by Laws of Utah 2021, Chapter 437)
26B-7-203, (Renumbered from 26-6-3.5, as last amended by Laws of Utah 2006, Chapter 116)
26B-7-204, (Renumbered from 26-6-4, as last amended by Laws of Utah 2006, Chapter 185)

26B-7-205, (Renumbered from 26-6-5, as last amended by Laws of Utah 1993, Chapter 179)
26B-7-206, (Renumbered from 26-6-6, as last amended by Laws of Utah 2008, Chapter 3)
26B-7-207, (Renumbered from 26-6-7, as last amended by Laws of Utah 1996, Chapter 211)
26B-7-208, (Renumbered from 26-6-8, as last amended by Laws of Utah 1996, Chapter 211)
26B-7-209, (Renumbered from 26-6-9, as repealed and reenacted by Laws of Utah 1996, Chapter 211)
26B-7-210, (Renumbered from 26-6-11, as enacted by Laws of Utah 1981, Chapter 126)
26B-7-211, (Renumbered from 26-6-15, as enacted by Laws of Utah 1981, Chapter 126)
26B-7-212, (Renumbered from 26-6-16, as enacted by Laws of Utah 1981, Chapter 126)
26B-7-213, (Renumbered from 26-6-17, as last amended by Laws of Utah 2019, Chapter 349)
26B-7-214, (Renumbered from 26-6-18, as last amended by Laws of Utah 2019, Chapter 349)
26B-7-215, (Renumbered from 26-6-19, as last amended by Laws of Utah 2019, Chapter 349)
26B-7-216, (Renumbered from 26-6-20, as last amended by Laws of Utah 2019, Chapter 349)
26B-7-217, (Renumbered from 26-6-27, as last amended by Laws of Utah 2022, Chapters 169, 335, 415, and 430)
26B-7-218, (Renumbered from 26-6-28, as last amended by Laws of Utah 2007, Chapter 38)
26B-7-219, (Renumbered from 26-6-29, as renumbered and amended by Laws of Utah 1996, Chapter 201)
26B-7-220, (Renumbered from 26-6-30, as last amended by Laws of Utah 2003, Chapter 171)
26B-7-221, (Renumbered from 26-6-31, as enacted by Laws of Utah 2012, Chapter 150)
26B-7-222, (Renumbered from 26-6-32, as last amended by Laws of Utah 2022, Chapter 169)
26B-7-223, (Renumbered from 26-6-42, as last amended by Laws of Utah 2022, Chapter 5 and further amended by Revisor Instructions, Laws of Utah 2022, Chapter 5)
26B-7-224, (Renumbered from 26-7-14, as last amended by Laws of Utah 2022, Chapter 430)
26B-7-225, (Renumbered from 26-8d-102, as enacted by Laws of Utah 2018, Chapter 104)
26B-7-226, (Renumbered from 26-8d-103, as enacted by Laws of Utah 2018, Chapter 104)
26B-7-227, (Renumbered from 26-5-1, as enacted by Laws of Utah 1981, Chapter 126)
26B-7-301, (Renumbered from 26-23b-102, as last amended by Laws of Utah 2022, Chapter 255)
26B-7-302, (Renumbered from 26-1-12, as last amended by Laws of Utah 1991, Chapter 112)
26B-7-303, (Renumbered from 26-6b-1, as last amended by Laws of Utah 2008, Chapter 382)
26B-7-304, (Renumbered from 26-6b-3, as last amended by Laws of Utah 2021, Chapter 437)
26B-7-305, (Renumbered from 26-6b-3.1, as last amended by Laws of Utah 2011, Chapter 297)
26B-7-306, (Renumbered from 26-6b-3.2, as enacted by Laws of Utah 2006, Chapter 185)
26B-7-307, (Renumbered from 26-6b-3.3, as last amended by Laws of Utah 2008, Chapter 115)
26B-7-308, (Renumbered from 26-6b-3.4, as last amended by Laws of Utah 2008, Chapters 3 and 115)
26B-7-309, (Renumbered from 26-6b-4, as last amended by Laws of Utah 2008, Chapter 115)
26B-7-310, (Renumbered from 26-6b-5, as last amended by Laws of Utah 2019, Chapter 349)
26B-7-311, (Renumbered from 26-6b-6, as last amended by Laws of Utah 2008, Chapter 115)
26B-7-312, (Renumbered from 26-6b-7, as enacted by Laws of Utah 1996, Chapter 211)
26B-7-313, (Renumbered from 26-6b-8, as last amended by Laws of Utah 2006, Chapter 185)
26B-7-314, (Renumbered from 26-6b-9, as last amended by Laws of Utah 2006, Chapter 185)
26B-7-315, (Renumbered from 26-6b-10, as enacted by Laws of Utah 1996, Chapter 211)
26B-7-316, (Renumbered from 26-23b-103, as enacted by Laws of Utah 2002, Chapter 155)
26B-7-317, (Renumbered from 26-23b-104, as last amended by Laws of Utah 2021, Chapter 437)
26B-7-318, (Renumbered from 26-23b-105, as enacted by Laws of Utah 2002, Chapter 155)
26B-7-319, (Renumbered from 26-23b-106, as enacted by Laws of Utah 2002, Chapter 155)
26B-7-320, (Renumbered from 26-23b-107, as enacted by Laws of Utah 2002, Chapter 155)

26B-7-321, (Renumbered from 26-23b-108, as last amended by Laws of Utah 2021, Chapter 437)
26B-7-322, (Renumbered from 26-23b-109, as enacted by Laws of Utah 2002, Chapter 155)
26B-7-323, (Renumbered from 26-23b-110, as last amended by Laws of Utah 2011, Chapter 55)
26B-7-401, (Renumbered from 26-15a-102, as last amended by Laws of Utah 2008, Chapter 382)
26B-7-402, (Renumbered from 26-15-2, as last amended by Laws of Utah 2021, Chapter 227)
26B-7-403, (Renumbered from 26-15-3, as last amended by Laws of Utah 2022, Chapter 415)
26B-7-404, (Renumbered from 26-15-4, as enacted by Laws of Utah 1981, Chapter 126)
26B-7-405, (Renumbered from 26-15-7, as enacted by Laws of Utah 1981, Chapter 126)
26B-7-406, (Renumbered from 26-15-8, as last amended by Laws of Utah 2011, Chapter 297)
26B-7-407, (Renumbered from 26-15-13, as last amended by Laws of Utah 2016, Chapter 303)
26B-7-408, (Renumbered from 26-31-201, as last amended by Laws of Utah 2011, Chapter 297 and renumbered and amended by Laws of Utah 2011, Chapter 90)
26B-7-409, (Renumbered from 26-51-201, as enacted by Laws of Utah 2008, Chapter 38)
26B-7-410, (Renumbered from 26-15a-104, as last amended by Laws of Utah 2008, Chapter 382)
26B-7-411, (Renumbered from 26-15a-105, as last amended by Laws of Utah 2014, Chapter 327)
26B-7-412, (Renumbered from 26-15a-106, as last amended by Laws of Utah 2020, Chapter 189)
26B-7-413, (Renumbered from 26-15-5, as last amended by Laws of Utah 2020, Chapter 189)
26B-7-414, (Renumbered from 26-15-9, as enacted by Laws of Utah 1981, Chapter 126)
26B-7-415, (Renumbered from 26-15b-105, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4)
26B-7-416, (Renumbered from 26-15c-105, as enacted by Laws of Utah 2021, Chapter 417)
26B-7-501, (Renumbered from 26-62-102, as last amended by Laws of Utah 2020, Chapters 302 and 347)
26B-7-502, (Renumbered from 26-15-11, as last amended by Laws of Utah 1994, Chapter 281)
26B-7-503, (Renumbered from 26-38-3, as last amended by Laws of Utah 2009, Chapter 383)
26B-7-504, (Renumbered from 26-43-102, as enacted by Laws of Utah 1998, Chapter 73)
26B-7-505, (Renumbered from 26-57-103, as last amended by Laws of Utah 2021, First Special Session, Chapter 12)
26B-7-506, (Renumbered from 26-62-103, as enacted by Laws of Utah 2018, Chapter 231)
26B-7-507, (Renumbered from 26-62-201, as last amended by Laws of Utah 2020, Chapter 347)
26B-7-508, (Renumbered from 26-62-202, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 18)
26B-7-509, (Renumbered from 26-62-203, as enacted by Laws of Utah 2018, Chapter 231)
26B-7-510, (Renumbered from 26-62-204, as enacted by Laws of Utah 2018, Chapter 231)
26B-7-511, (Renumbered from 26-62-205, as last amended by Laws of Utah 2021, Chapter 348)
26B-7-512, (Renumbered from 26-62-206, as enacted by Laws of Utah 2020, Chapter 347)
26B-7-513, (Renumbered from 26-62-207, as enacted by Laws of Utah 2020, Chapter 302)
26B-7-514, (Renumbered from 26-62-301, as last amended by Laws of Utah 2020, Chapter 347)
26B-7-515, (Renumbered from 26-62-302, as renumbered and amended by Laws of Utah 2018, Chapter 231)
26B-7-516, (Renumbered from 26-62-303, as enacted by Laws of Utah 2018, Chapter 231)
26B-7-517, (Renumbered from 26-62-304, as last amended by Laws of Utah 2022, Chapter 274)
26B-7-518, (Renumbered from 26-62-305, as last amended by Laws of Utah 2022, Chapter 274)
26B-7-519, (Renumbered from 26-62-306, as last amended by Laws of Utah 2021, Chapter 348)
26B-7-520, (Renumbered from 26-62-307, as renumbered and amended by Laws of Utah 2018, Chapter 231)
26B-7-521, (Renumbered from 26-62-401, as last amended by Laws of Utah 2021, Chapter 348)

Utah Code Sections Affected by Coordination Clause:
62A-17-102, as enacted by Laws of Utah 2013, Chapter 24

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-5-101 is amended to read:

CHAPTER 5. HEALTH CARE - SUBSTANCE USE AND MENTAL HEALTH

Part 1. General Provisions

26B-5-101. Chapter definitions.

[~~Reserved.~~]

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect the person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) "Director" means the director appointed under Section 26B-5-103.

(3) "Division" means the Division of Integrated Healthcare created in Section 26B-1-202.

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual's health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:

(a) direct mental health services;

(b) on-site intervention provided by a mobile crisis outreach team;

(c) the provision of safety and care plans;

(d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;

(e) referrals to other community resources;

(f) local mental health crisis lines; and

(g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(11) "Office" means the Office of Substance Use and Mental Health created in Section 26B-5-102.

(12) (a) "Public funds" means federal money received from the department, and state money appropriated by the Legislature to the department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance use or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services under substance use or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(14) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(15) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(16) "System of care" means a broad, flexible array of services and supports that:

(a) serve a child with or who is at risk for complex emotional and behavioral needs;

(b) are community based;

(c) are informed about trauma;

(d) build meaningful partnerships with families and children;

(e) integrate service planning, service coordination, and management across state and local entities;

(f) include individualized case planning;

(g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

Section 2. Section 26B-5-102, which is renumbered from Section 62A-15-103 is renumbered and amended to read:

[62A-15-103]. 26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.

(1) (a) The [~~division~~] Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance [~~abuse~~] use by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance [~~abuse~~] use;

(iii) promote or establish programs for the prevention of substance [~~abuse~~] use within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance [~~abuse~~] use disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance [~~abuse~~] use, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section [~~62A-15-1002~~] 26B-5-313;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance [~~abuse~~] use and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance [~~abuse~~] use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance [~~abuse~~] use and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance [~~abuse~~] use authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance [~~abuse~~] use services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance [~~abuse~~] use or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance [~~abuse~~] use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, [~~Licensure of~~] Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism, including data on:

(i) individuals who participate in a mental health or substance use treatment program while incarcerated and are convicted of another offense within two years after release from incarceration;

(ii) individuals who are ordered by a criminal court or the Board of Pardons and Parole to participate in a mental health or substance use treatment program and are convicted of another offense while participating in the treatment program or within two years after the day on which the treatment program ends;

(iii) the type of treatment provided to, and employment of, the individuals described in Subsections (2)(l)(i) and (ii); and

(iv) cost savings associated with recidivism reduction and the reduction in the number of inmates in the state;

(m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

(p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance [~~abuse~~] use during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance [~~abuse~~] use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance [~~abuse~~] use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance [~~abuse~~] use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm

safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance [~~abuse~~] use or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 3. Section 26B-5-103, which is renumbered from Section 62A-15-104 is renumbered and amended to read:

[~~62A-15-104~~]. 26B-5-103. Director -- Qualifications.

(1) The executive director shall appoint a director within the division to carry out all or part of the duties and responsibilities described in this part.

(2) The director appointed under Subsection (1) shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning substance [~~abuse~~] use and mental health.

Section 4. Section 26B-5-104, which is renumbered from Section 62A-15-105 is renumbered and amended to read:

[~~62A-15-105~~]. 26B-5-104. Authority and responsibilities of division.

The division shall set policy for its operation and for programs funded with state and federal money under Sections 17-43-201, 17-43-301, 17-43-304, and [~~62A-15-110~~] 26B-5-108. The division shall:

(1) in establishing rules, seek input from local substance abuse authorities, local mental health authorities, consumers, providers, advocates, division staff, and other interested parties as determined by the division;

(2) establish, by rule, minimum standards for local substance abuse authorities and local mental health authorities;

(3) establish, by rule, procedures for developing policies that ensure that local substance abuse authorities and local mental health authorities are given opportunity to comment and provide input on any new policy of the division or proposed changes in existing rules of the division;

(4) provide a mechanism for review of its existing policy, and for consideration of policy changes that are proposed by local substance abuse authorities or local mental health authorities;

(5) develop program policies, standards, rules, and fee schedules for the division; and

(6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules approving the form and content of substance abuse treatment, educational series, screening, and assessment that are described in Section 41-6a-501.

Section 5. Section 26B-5-105, which is renumbered from Section 62A-15-105.2 is renumbered and amended to read:

[~~62A-15-105.2~~]. 26B-5-105. Employment first emphasis on the provision of services.

(1) As used in this section, "recipient" means an individual who is:

(a) undergoing treatment for a substance [~~abuse~~] use problem; or

(b) suffers from a mental illness.

(2) When providing services to a recipient, the division shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law and memorandums of understanding between the division and other state entities that provide services to a recipient, give priority to providing services that assist an eligible recipient in obtaining and retaining meaningful and gainful employment that enables the recipient to earn sufficient income to:

(a) purchase goods and services;

(b) establish self-sufficiency; and

(c) exercise economic control of the recipient's life.

(3) The division shall develop a written plan to implement the policy described in Subsection (2) that includes:

(a) assessing the strengths and needs of a recipient;

(b) customizing strength-based approaches to obtaining employment;

(c) expecting, encouraging, providing, and rewarding:

(i) integrated employment in the workplace at competitive wages and benefits; and

(ii) self-employment;

(d) developing partnerships with potential employers;

(e) maximizing appropriate employment training opportunities;

(f) coordinating services with other government agencies and community resources;

(g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (2); and

(h) arranging sub-minimum wage work or volunteer work for an eligible recipient when employment at market rates cannot be obtained.

(4) The division shall, on an annual basis:

(a) set goals to implement the policy described in Subsection (2) and the plan described in Subsection (3);

(b) determine whether the goals for the previous year have been met; and

(c) modify the plan described in Subsection (3) as needed.

Section 6. Section 26B-5-106, which is renumbered from Section 62A-15-107 is renumbered and amended to read:

[~~62A-15-107~~]. 26B-5-106. Authority to assess fees.

The division may, with the approval of the Legislature and the executive director, establish fee schedules and assess fees for services rendered by the division.

Section 7. Section 26B-5-107, which is renumbered from Section 62A-15-108 is renumbered and amended to read:

[~~62A-15-108~~]. 26B-5-107. Formula for allocation of funds to local substance abuse authorities and local mental health authorities.

(1) (a) The division shall establish, by rule, formulas for allocating funds to local substance abuse authorities and local mental health authorities through contracts, to provide substance [~~abuse~~] use prevention and treatment services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, and mental health services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 3, Local Mental Health Authorities.

(b) The formulas shall provide for allocation of funds based on need. Determination of need shall be based on population unless the division establishes, by valid and accepted data, that other defined factors are relevant and reliable indicators of need.

(c) The formulas shall include a differential to compensate for additional costs of providing services in rural areas.

(2) The formulas established under Subsection (1) apply to all state and federal funds appropriated by the Legislature to the division for local substance abuse authorities and local mental health authorities, but does not apply to:

(a) funds that local substance abuse authorities and local mental health authorities receive from sources other than the division;

(b) funds that local substance abuse authorities and local mental health authorities receive from the division to operate specific programs within their jurisdictions which are available to all residents of the state;

(c) funds that local substance abuse authorities and local mental health authorities receive from the division to meet needs that exist only within their local areas; and

(d) funds that local substance abuse authorities and local mental health authorities receive from the division for research projects.

Section 8. Section 26B-5-108, which is renumbered from Section 62A-15-110 is renumbered and amended to read:

[~~62A-15-110~~]. 26B-5-108. Contracts for substance use and mental health services -- Provisions -- Responsibilities.

(1) If the division contracts with a local substance abuse authority or a local mental health authority to provide substance [~~abuse~~] use or mental health programs and services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, or Title 17, Chapter 43, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include at least the following provisions:

(a) that an independent auditor shall conduct any audit of the local substance abuse authority or its contract provider's programs or services and any audit of the local mental health authority or its contract provider's programs or services, pursuant to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(b) in addition to the requirements described in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the division:

(i) shall prescribe guidelines and procedures, in accordance with those formulated by the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of officers, directors, and specified employees of the private contract provider, to assure the state that no personal benefit is gained from travel or other expenses; and

(ii) may prescribe specific items to be addressed by that audit, depending upon the particular needs or concerns relating to the local substance abuse authority, local mental health authority, or contract provider at issue;

(c) the local substance abuse authority or its contract provider and the local mental health

authority and its contract provider shall invite and include all funding partners in its auditor's pre- and exit conferences;

(d) each member of the local substance abuse authority and each member of the local mental health authority shall annually certify that he has received and reviewed the independent audit and has participated in a formal interview with the provider's executive officers;

(e) requested information and outcome data will be provided to the division in the manner and within the time lines defined by the division; and

(f) all audit reports by state or county persons or entities concerning the local substance abuse authority or its contract provider, or the local mental health authority or its contract provider shall be provided to the executive director of the department, the local substance abuse authority or local mental health authority, and members of the contract provider's governing board.

(2) Each contract between the division and a local substance abuse authority or a local mental health authority shall authorize the division to withhold funds, otherwise allocated under Section [~~62A-15-108~~] 26B-5-107, to cover the costs of audits, attorney fees, and other expenditures associated with reviewing the expenditure of public funds by a local substance abuse authority or its contract provider or a local mental health authority or its contract provider, if there has been an audit finding or judicial determination that public funds have been misused by the local substance abuse authority or its contract provider or the local mental health authority or its contract provider.

Section 9. Section 26B-5-109, which is renumbered from Section 62A-15-113 is renumbered and amended to read:

[~~62A-15-113~~]. 26B-5-109. Local plan program funding.

(1) To facilitate the distribution of newly appropriated funds beginning from fiscal year 2018 for prevention, treatment, and recovery support services that reduce recidivism or reduce the per capita number of incarcerated offenders with a substance use disorder or a mental health disorder, the division shall:

(a) form an application review and fund distribution committee that includes:

(i) one representative of the Utah Sheriffs' Association;

(ii) one representative of the Statewide Association of Prosecutors of Utah;

(iii) two representatives from the division; and

(iv) two representatives from the Utah Association of Counties; and

(b) require the application review and fund distribution committee to:

(i) establish a competitive application process for funding of a local plan, as described in Sections 17-43-201(5)(b) and 17-43-301(6)(a)(ii);

(ii) establish criteria in accordance with Subsection (1) for the evaluation of an application;

(iii) ensure that the committee members' affiliate groups approve of the application process and criteria;

(iv) evaluate applications; and

(v) distribute funds to programs implemented by counties, local mental health authorities, or local substance abuse authorities.

(2) Demonstration of matching county funds is not a requirement to receive funds, but the application review committee may take into consideration the existence of matching funds when determining which programs to fund.

Section 10. Section 26B-5-110, which is renumbered from Section 62A-15-103.1 is renumbered and amended to read:

[~~62A-15-103.1~~]. 26B-5-110. Suicide Prevention Education Program -- Definitions -- Grant requirements.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(2) There is created a Suicide Prevention Education Program to fund suicide prevention education opportunities for federally licensed firearms dealers who operate a retail establishment open to the public and the dealers' employees.

(3) The division, in conjunction with the bureau, shall provide a grant to an employer described in Subsection (2) in accordance with the criteria provided in Subsection [~~62A-15-1101(7)(b)~~] 26B-5-611(8)(b).

(4) An employer may apply for a grant of up to $2,500 under the program.

Section 11. Section 26B-5-111, which is renumbered from Section 62A-15-115 is renumbered and amended to read:

[~~62A-15-115~~]. 26B-5-111. Mental health crisis response training.

(1) The division shall award grants to communities to conduct mental health crisis response training.

(2) For the application and award of the grants described in Subsection (1), the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that determine:

(a) the requirements and process for a community to apply for a grant; and

(b) the substantive mental health crisis response programs that qualify for the award of a grant.

Section 12. Section 26B-5-112, which is renumbered from Section 62A-15-116 is renumbered and amended to read:

[~~62A-15-116~~]. 26B-5-112. Mobile crisis outreach team expansion.

(1) [~~The~~] In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202, the division shall award grants for the development of:

(a) five mobile crisis outreach teams:

(i) in counties of the second, third, fourth, fifth, or sixth class; or

(ii) in counties of the first class, if no more than two mobile crisis outreach teams are operating or have been awarded a grant to operate in the county; and

(b) at least three mobile crisis outreach teams in counties of the third, fourth, fifth, or sixth class.

(2) A mobile crisis outreach team awarded a grant under Subsection (1) shall provide mental health crisis services 24 hours per day, 7 days per week, and every day of the year.

(3) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed mobile crisis outreach team will serve; and

(b) the percentage of matching funds the entity will provide to develop the proposed mobile crisis outreach team.

(4) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(5) [~~The~~] In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

Section 13. Section 26B-5-113, which is renumbered from Section 62A-15-117 is renumbered and amended to read:

[~~62A-15-117~~]. 26B-5-113. Medicaid reimbursement for school-based health services -- Report to Legislature.

(1) As used in this section, "individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(2) The division shall coordinate with the State Board of Education, the Department of Health, and stakeholders to address and develop recommendations related to:

(a) the expansion of Medicaid reimbursement for school-based health services, including how to expand Medicaid-eligible school-based services beyond the services for students with IEPs; and

(b) other areas concerning Medicaid reimbursement for school-based health services, including the time threshold for medically necessary IEP services.

[~~(3) The division, the State Board of Education, and the Department of Health shall jointly report the recommendations described in Subsection (2) to the Education Interim Committee on or before August 15, 2019.~~]

Section 14. Section 26B-5-114, which is renumbered from Section 62A-15-118 is renumbered and amended to read:

[~~62A-15-118~~]. 26B-5-114. Behavioral Health Receiving Center Grant Program.

(1) As used in this section:

(a) "Behavioral health receiving center" means a 23-hour nonsecure program or facility that is responsible for, and provides mental health crisis services to, an individual experiencing a mental health crisis.

(b) "Project" means a behavioral health receiving center project described in Subsection (2)(a).

(2) (a) (i) Before July 1, 2020, the division shall issue a request for proposals in accordance with this section to award a grant to one or more counties of the first or second class, as classified in Section 17-50-501, to, except as provided in Subsection (2)(a)(ii), develop and implement a behavioral health receiving center.

(ii) A grant awarded under Subsection (2)(a)(i) may not be used to purchase land for the behavioral health receiving center.

(b) The division shall award all grants under this section before December 31, 2020.

(3) The purpose of a project is to:

(a) increase access to mental health crisis services for individuals in the state who are experiencing a mental health crisis; and

(b) reduce the number of individuals in the state who are incarcerated or in a hospital emergency room while experiencing a mental health crisis.

(4) An application for a grant under this section shall:

(a) identify the population to which the behavioral health receiving center will provide mental health crisis services;

(b) identify the type of mental health crisis services the behavioral health receiving center will provide;

(c) explain how the population described in Subsection (4)(a) will benefit from the provision of mental health crisis services;

(d) provide details regarding:

(i) how the proposed project plans to provide mental health crisis services;

(ii) how the proposed project will ensure that consideration is given to the capacity of the behavioral health receiving center;

(iii) how the proposed project will ensure timely and effective provision of mental health crisis services;

(iv) the cost of the proposed project;

(v) any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the proposed project;

(vi) any plan to use funding sources in addition to a grant under this section for the proposed project;

(vii) the sustainability of the proposed project; and

(viii) the methods the proposed project will use to:

(A) protect the privacy of each individual who receives mental health crisis services from the behavioral health receiving center;

(B) collect nonidentifying data relating to the proposed project; and

(C) provide transparency on the costs and operation of the proposed project; and

(e) provide other information requested by the division to ensure that the proposed project satisfies the criteria described in Subsection (5).

(5) In evaluating an application for the grant, the division shall consider:

(a) the extent to which the proposed project will fulfill the purposes described in Subsection (3);

(b) the extent to which the population described in Subsection (4)(a) is likely to benefit from the proposed project;

(c) the cost of the proposed project;

(d) the extent to which any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the project, or additional funding sources available to the applicant for the proposed project, are likely to benefit the proposed project; and

(e) the viability and innovation of the proposed project.

(6) Before June 30, 2021, the division shall report to the Health and Human Services Interim Committee regarding:

(a) each county awarded a grant under this section; and

(b) the details of each project.

(7) Before June 30, 2023, the division shall report to the Health and Human Services Interim Committee regarding:

(a) data gathered in relation to each project;

(b) knowledge gained relating to the provision of mental health crisis services in a behavioral health receiving center;

(c) recommendations for the future use of mental health crisis services in behavioral health receiving centers; and

(d) obstacles encountered in the provision of mental health crisis services in a behavioral health receiving center.

Section 15. Section 26B-5-115, which is renumbered from Section 62A-15-119 is renumbered and amended to read:

[~~62A-15-119~~]. 26B-5-115. Safety Net Initiative.

(1) As used in this section, "individuals in underserved communities" means individuals living in culturally isolated communities in the state who may lack access to public assistance and other government services.

(2) There is created within the division the Safety Net Initiative to:

(a) implement strategies to increase awareness and reduce risk factors in order to improve the safety and well-being of individuals in underserved communities;

(b) coordinate with government agencies, nonprofit organizations, and interested individuals to provide open communication with individuals in underserved communities; and

(c) coordinate efforts to give individuals in underserved communities needed access to public assistance and other government services.

(3) The division may employ or contract with individuals, entities, and support staff as necessary to administer the duties required by this section.

Section 16. Section 26B-5-116, which is renumbered from Section 62A-15-121 is renumbered and amended to read:

[~~62A-15-121~~]. 26B-5-116. Suicide technical assistance program.

(1) As used in this section, "technical assistance" means training for the prevention of suicide.

(2) (a) Before July 1, 2021, and each subsequent July 1, the division shall solicit applications from health care organizations to receive technical assistance provided by the division.

(b) The division shall approve at least one but not more than six applications each year.

(c) The division shall determine which applicants receive the technical assistance before December 31 of each year.

(3) An application for technical assistance under this section shall:

(a) identify the population to whom the health care organization will provide suicide prevention services;

(b) identify how the health care organization plans to implement the skills and knowledge gained from the technical assistance;

(c) identify the health care organization's current resources used for the prevention of suicide;

(d) explain how the population described in Subsection (3)(a) will benefit from the health care organization receiving technical assistance;

(e) provide details regarding:

(i) how the health care organization will provide timely and effective suicide prevention services;

(ii) any existing or planned contracts or partnerships between the health care organization and other persons that are related to suicide prevention;

(iii) the methods the health care organization will use to:

(A) protect the privacy of each individual to whom the health care organization provides suicide prevention services; and

(B) collect non-identifying data; and

(f) provide other information requested by the division for the division to evaluate the application.

(4) In evaluating an application for technical assistance, the division shall consider:

(a) the extent to which providing technical assistance to the health care organization will fulfill the purpose of preventing suicides in the state;

(b) the extent to which the population described in Subsection (3)(a) is likely to benefit from the health care organization receiving the technical assistance;

(c) the cost of providing the technical assistance to the health care organization; and

(d) the extent to which any of the following are likely to benefit the heath care organization's ability to assist in preventing suicides in the state:

(i) existing or planned contracts or partnerships between the applicant and other persons to develop and implement other initiatives; or

(ii) additional funding sources available to the applicant for suicide prevention services.

(5) Before June 30, 2022, and each subsequent June 30, the division shall submit a written report to the Health and Human Services Interim Committee regarding each health care organization the division provided technical assistance to in the preceding year under this section.

(6) Before June 30, 2024, the division shall submit a written report to the Health and Human Services Interim Committee regarding:

(a) data gathered in relation to providing technical assistance to a health care organization;

(b) knowledge gained relating to providing technical assistance;

(c) recommendations for the future regarding how the state can better prevent suicides; and

(d) obstacles encountered when providing technical assistance.

Section 17. Section 26B-5-117, which is renumbered from Section 62A-15-122 is renumbered and amended to read:

[~~62A-15-122~~]. 26B-5-117. Early childhood mental health support grant program.

(1) As used in this section:

(a) "Child care" means the child care services defined in Section 35A-3-102 for a child during early childhood.

(b) "Child care provider" means a person who provides child care or mental health support or interventions to a child during early childhood.

(c) "Early childhood" means the time during which a child is zero to six years old.

(d) "Project" means a project to provide education and training to child care providers regarding evidence-based best practices for delivery of mental health support and interventions during early childhood.

(2) On or before July 1, 2021, the division shall issue a request for proposals in accordance with this section to award a grant to a public or nonprofit entity to implement a project.

(3) The purpose of a project is to facilitate education about early childhood mental health support and interventions.

(4) An application for a grant under this section shall provide details regarding:

(a) the education and training regarding early childhood mental health support and interventions that the proposed project will provide to child care providers;

(b) how the proposed project plans to provide the education and training to child care providers;

(c) the number of child care providers served by the proposed project;

(d) how the proposed project will ensure the education and training is effectively provided to child care providers;

(e) the cost of the proposed project; and

(f) the sustainability of the proposed project.

(5) In evaluating a project proposal for a grant under this section, the division shall consider:

(a) the extent to which the proposed project will fulfill the purpose described in Subsection (3);

(b) the extent to which child care providers that will be served by the proposed project are likely to benefit from the proposed project;

(c) the cost of the proposed project; and

(d) the viability of the proposed project.

[~~(6) Before June 30, 2022, the division shall report to the Health and Human Services Interim Committee regarding:~~]

[~~(a) each entity awarded a grant under this section; and~~]

[~~(b) the details of each project.~~]

[~~(7)~~] (6) Before June 30, 2024, the division shall report to the Health and Human Services Interim Committee regarding:

(a) any knowledge gained from providing the education and training regarding early childhood mental health support to child care providers;

(b) data gathered in relation to each project;

(c) recommendations for the future use of the education and training provided to child care providers; and

(d) obstacles encountered in providing the education and training to child care providers.

Section 18. Section 26B-5-118, which is renumbered from Section 62A-15-124 is renumbered and amended to read:

[~~62A-15-124~~]. 26B-5-118. Collaborative care grant program.

(1) As used in this section:

(a) "Applicant" means a small primary health care practice that applies for a grant under this section.

(b) "Care manager" means an individual who plans, directs, and coordinates health care services for a patient.

(c) "Collaborative care model" means a formal collaborative arrangement between a primary care physician, a mental health professional, and a care manager, to provide integrated physical and behavioral health services.

(d) "Mental health professional" means an individual licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, or Title 58, Chapter 61, Psychologist Licensing Act, or a psychiatrist.

(e) "Physician" means an individual licensed to practice as a physician or osteopath under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(f) "Primary care physician" means a physician that provides health services related to family medicine, internal medicine, pediatrics, obstetrics, gynecology, or geriatrics.

(g) "Program" means a program described in Subsection (2)(a).

(h) "Psychiatrist" means a physician who is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(i) "Small primary health care practice" means a medical practice of primary health care physicians that:

(i) includes 10 or fewer primary care physicians; or

(ii) is primarily based in a county of the third through sixth class, as classified in Section 17-50-501.

(2) (a) Before July 1, 2022, the division shall solicit applications from small primary health care practices for a grant to support or implement a program to provide integrated physical and behavioral health services under a collaborative care model.

(b) A grant under this section may be used to:

(i) hire and train staff to administer a program;

(ii) identify and formalize contractual relationships with mental health professionals and case managers to implement a program; or

(iii) purchase or upgrade software and other resources necessary to support or implement a program.

(c) The division shall approve at least one but not more than six applications each year.

(d) The division shall determine which applicants receive a grant under this section before December 31, 2022.

(3) An application for a grant under this section shall:

(a) identify the population to whom the applicant will provide services under a program;

(b) identify the small primary health care practice's current resources that are used to provide integrated physical and behavioral health services;

(c) explain how the population described in Subsection (3)(a) will benefit from the program;

(d) provide details regarding:

(i) how the applicant will provide timely and effective services under the program;

(ii) any existing or planned contracts or partnerships between the applicant and other persons that are related to a collaborative care model;

(iii) the methods the applicant will use to:

(A) protect the privacy of each individual to whom the applicant provides services under the program; and

(B) collect non-identifying data; and

(e) provide other information requested by the division for the division to evaluate the application.

(4) In evaluating an application for a grant under this section, the division shall consider:

(a) the extent to which providing the grant to the applicant will fulfill the purpose of providing increased integrated physical and behavioral health services; and

(b) the extent to which the population described in Subsection (3)(a) is likely to benefit from the applicant receiving the grant.

(5) Before July 1, 2023, the division shall submit a written report to the Health and Human Services Interim Committee regarding each applicant the division provided a grant to in the preceding year under this section.

(6) Before July 1, 2024, the division shall submit a written report to the Health and Human Services Interim Committee regarding:

(a) data gathered and knowledge gained in relation to providing grants to an applicant; and

(b) recommendations for how the state can better implement integrated physical and behavioral health services.

Section 19. Section 26B-5-119, which is renumbered from Section 62A-15-615 is renumbered and amended to read:

[~~62A-15-615~~]. 26B-5-119. Forms.

The division shall furnish the clerks of the [~~district courts~~] court with forms, blanks, warrants, and certificates, to enable [~~the district court~~] judges, with regularity and facility, to comply with the provisions of this chapter.

Section 20. Section 26B-5-201, which is renumbered from Section 62A-15-202 is renumbered and amended to read:

Part 2. Substance Use Disorder Intervention, Prevention, and Education

[~~62A-15-202~~]. 26B-5-201. Definitions.

As used in this part:

(1) "Juvenile substance [~~abuse~~] use offender" means any minor who has committed a drug or alcohol related offense under the jurisdiction of the juvenile court in accordance with Section 78A-6-103.

(2) "Local substance abuse authority" means a county legislative body designated to provide substance abuse services in accordance with Section 17-43-201.

(3) "Minor" means the same as that term is defined in Section 80-1-102.

(4) "Teen substance [~~abuse~~] use school" means any school established by the local substance abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an educational, interpersonal, skill-building experience for juvenile substance abuse offenders and their parents or legal guardians.

Section 21. Section 26B-5-202, which is renumbered from Section 62A-15-203 is renumbered and amended to read:

[~~62A-15-203~~]. 26B-5-202. Teen substance use schools -- Establishment.

The division or a local substance abuse authority, in cooperation with the Board of Juvenile Court Judges, may establish teen substance [~~abuse~~] use schools in the districts of the juvenile court.

Section 22. Section 26B-5-203, which is renumbered from Section 62A-15-204 is renumbered and amended to read:

[~~62A-15-204~~]. 26B-5-203. Court order to attend substance use school -- Assessments.

(1) In addition to any other disposition ordered by the juvenile court under Section 80-6-701, the court may order:

(a) a minor and the minor's parent or legal guardian to attend a teen substance [~~abuse~~] use school; and

(b) payment of an assessment in addition to any other fine imposed.

(2) All assessments collected shall be forwarded to the county treasurer of the county where the minor resides, to be used exclusively for the operation of a teen substance [~~abuse~~] use program.

Section 23. Section 26B-5-204, which is renumbered from Section 62A-15-301 is renumbered and amended to read:

[~~62A-15-301~~]. 26B-5-204. Commitment of minor to secure drug or alcohol facility or program -- Procedures -- Review.

(1) [~~For purposes of this part~~] As used in this section:

(a) "Approved treatment facility or program" means a public or private secure, inpatient facility or program that is licensed or operated by the department [~~or by the Department of Health~~] to provide drug or alcohol treatment or rehabilitation.

(b) "Drug or alcohol addiction" means that the person has a physical or psychological dependence on drugs or alcohol in a manner not prescribed by a physician.

(2) The parent or legal guardian of a minor under [~~the age of~~] 18 old years may submit that child, without the child's consent, to an approved treatment facility or program for treatment or rehabilitation of drug or alcohol addiction, upon application to a facility or program, and after a careful diagnostic inquiry is made by a neutral and detached fact finder, in accordance with the requirements of this section.

(3) The neutral fact finder who conducts the inquiry:

(a) shall be either a physician, psychologist, marriage and family therapist, psychiatric and mental health nurse specialist, or social worker licensed to practice in this state, who is trained and practicing in the area of substance [~~abuse~~] use; and

(b) may not profit, financially or otherwise, from the commitment of the child and may not be employed by the proposed facility or program.

(4) The review by a neutral fact finder may be conducted on the premises of the proposed treatment facility or program.

(5) The inquiry conducted by the neutral fact finder shall include a private interview with the

child, and an evaluation of the child's background and need for treatment.

(6) The child may be committed to the approved treatment facility or program if it is determined by the neutral fact finder that:

(a) the child is addicted to drugs or alcohol and because of that addiction poses a serious risk of harm to himself or others;

(b) the proposed treatment or rehabilitation is in the child's best interest; and

(c) there is no less restrictive alternative that would be equally as effective, from a clinical standpoint, as the proposed treatment facility or program.

(7) Any approved treatment facility or program that receives a child under this section shall conduct a periodic review, at intervals not to exceed 30 days, to determine whether the criteria described in Subsection (6) continue to exist.

(8) A minor committed under this section shall be released from the facility or program upon the request of his parent or legal guardian.

(9) Commitment of a minor under this section terminates when the minor reaches the age of 18 years old.

(10) Nothing in this section requires a program or facility to accept any person for treatment or rehabilitation.

(11) The parent or legal guardian who requests commitment of a minor under this section is responsible to pay any fee associated with the review required by this section and any necessary charges for commitment, treatment, or rehabilitation for a minor committed under this section.

(12) The child shall be released from commitment unless the report of the neutral fact finder is submitted to the juvenile court within 72 hours of commitment and approved by the court.

Section 24. Section 26B-5-205, which is renumbered from Section 62A-15-401 is renumbered and amended to read:

[~~62A-15-401~~]. 26B-5-205. Alcohol training and education seminar.

(1) As used in this [~~part~~] section:

(a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.

(b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and

(B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or

(ii) a business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee.

(c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

(d) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to:

(i) a retail manager as defined in Section 32B-1-701;

(ii) retail staff as defined in Section 32B-1-701; and

(iii) an individual who, as defined by division rule:

(A) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(B) sells beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) If the individual does not have a valid record that the individual has completed an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

(i) (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in Subsection (2)(a)(i) or (ii):

(I) if the individual is an employee, the day the individual begins employment;

(II) if the individual is an independent contractor, the day the individual is first hired; or

(III) if the individual holds an ownership interest in the licensee, the day that the individual first engages in an activity that would result in that individual being required to complete an alcohol training and education seminar; or

(B) complete an alcohol training and education seminar within the time periods specified in Subsection 32B-1-703(1) if the individual is described in Subsection (2)(a)(iii)(A) or (B); and

(ii) pay a fee:

(A) to the seminar provider; and

(B) that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to engage in an activity described in Subsection (2)(a).

(d) A record that an individual has completed an alcohol training and education seminar is valid for:

(i) three years from the day on which the record is issued for an individual described in Subsection (2)(a)(i) or (ii); and

(ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)(iii)(A) or (B).

(e) On and after July 1, 2011, to be considered as having completed an alcohol training and education seminar, an individual shall:

(i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or

(ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program. In developing the requirements by rule the division shall consider whether to require:

(i) authentication that the an individual accurately identifies the individual as taking the online course or test;

(ii) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

(iii) measures to track the actual time an individual taking the online course or test is actively engaged online;

(iv) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

(v) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;

(vi) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;

(vii) measures for the division to audit online courses or tests;

(viii) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;

(ix) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;

(x) an individual who takes an online course or test to use an e-signature; or

(xi) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.

(3) (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;

(ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section 32B-1-702.

(4) The division shall:

(a) (i) provide alcohol training and education seminars; or

(ii) certify one or more seminar providers;

(b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and

(B) alcohol's effect on the body and behavior;

(ii) recognizing the problem drinker or signs of intoxication;

(iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Services;

(iv) dealing with the problem customer, including ways to terminate sale or service; and

(v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;

(c) recertify each seminar provider every three years;

(d) monitor compliance with the curriculum described in Subsection (4)(b);

(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage Services;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

(g) provide the Department of Alcoholic Beverage Services on request a list of any seminar provider certified by the division; and

(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) define what constitutes under this section an individual who:

(i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;

(iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;

(iv) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(v) sells beer to a customer for consumption off the premises of an off-premise beer retailer;

(b) establish criteria for certifying and recertifying a seminar provider; and

(c) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

(6) A seminar provider shall:

(a) obtain recertification by the division every three years;

(b) ensure that an instructor used by the seminar provider:

(i) follows the curriculum established under this section; and

(ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days;

(ii) revoke the certification of the seminar provider;

(iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days from the date the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Section 25. Section 26B-5-206, which is renumbered from Section 62A-15-403 is renumbered and amended to read:

[~~62A-15-403~~]. 26B-5-206. Drinking while pregnant prevention media and education campaign.

(1) As used in this section:

(a) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(b) "Restricted account" means the Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(2) The advisory council shall:

(a) provide ongoing oversight of each media and education campaign funded through the restricted account;

(b) create a drinking while pregnant prevention workgroup consistent with guidelines the advisory council proposes related to the workgroup's membership and duties;

(c) create guidelines for how money appropriated for a media and education campaign can be used;

(d) include in the guidelines created under this Subsection (2) that a media and education campaign funded through the restricted account shall be:

(i) carefully researched;

(ii) developed for target groups; and

(iii) appropriate for target groups; and

(e) approve or deny each plan the division submits in accordance with Subsection (3).

(3) (a) Subject to appropriation from the Legislature and in accordance with this section, the division shall expend money from the restricted account to direct and fund one or more media and education campaigns designed to reduce the consumption of alcohol while pregnant.

(b) Before the division expends money from the restricted account for a media and education campaign, the division shall, in cooperation with the drinking while pregnant prevention workgroup created in accordance with Subsection (2), prepare and submit a plan to the advisory council that:

(i) describes the media and education campaign; and

(ii) details how the division intends to use money from the restricted account to fund the media and education campaign.

(c) If the advisory council approves the plan described in Subsection (3)(b), the division shall conduct the media and education campaign in accordance with the guidelines described in Subsection (2).

(4) The division shall submit to the Health and Human Services Interim Committee and the advisory council annually by no later than October 1, a written report detailing:

(a) the use of the money for the media and education campaigns conducted in accordance with Subsection (3); and

(b) the impact and result of the use of the money during the previous fiscal year ending June 30.

Section 26. Section 26B-5-207, which is renumbered from Section 62A-15-501 is renumbered and amended to read:

[~~62A-15-501~~]. 26B-5-207. DUI -- Legislative policy -- Rehabilitation treatment and evaluation -- Use of victim impact panels.

The Legislature finds that drivers impaired by alcohol or drugs constitute a major problem in this state and that the problem demands a comprehensive detection, intervention, education, and treatment program including emergency services, outpatient treatment, detoxification, residential care, inpatient care, medical and psychological care, social service care, vocational rehabilitation, and career counseling through public and private agencies. It is the policy of this state to provide those programs at the expense of persons convicted of driving while under the influence of intoxicating liquor or drugs. It is also the policy of this state to utilize victim impact panels to assist persons convicted of driving under the influence of intoxicating liquor or drugs to gain a full understanding of the severity of their offense.

Section 27. Section 26B-5-208, which is renumbered from Section 62A-15-502 is renumbered and amended to read:

[~~62A-15-502~~]. 26B-5-208. Penalty for DUI conviction -- Amounts.

(1) Courts of record and not of record may at sentencing assess against the defendant, in addition to any fine, an amount that will fully compensate agencies that treat the defendant for their costs in each case where a defendant is convicted of violating:

(a) Section 41-6a-502 or 41-6a-517;

(b) a criminal prohibition resulting from a plea bargain after an original charge of violating Section 41-6a-502; or

(c) an ordinance that complies with the requirements of Subsection 41-6a-510(1).

(2) The fee assessed shall be collected by the court or an entity appointed by the court.

Section 28. Section 26B-5-209, which is renumbered from Section 62A-15-503 is renumbered and amended to read:

[~~62A-15-503~~]. 26B-5-209. Assessments for DUI -- Use of money for rehabilitation programs, including victim impact panels -- Rulemaking power granted.

(1) (a) Assessments imposed under Section [~~62A-15-502~~] 26B-5-208 may, pursuant to court order:

(i) be collected by the clerk of the court in which the person was convicted; or

(ii) be paid directly to the licensed alcohol or drug treatment program.

(b) Assessments collected by the court under Subsection (1)(a)(i) shall be forwarded to a special nonlapsing account created by the county treasurer of the county in which the fee is collected.

(2) Assessments under Subsection (1) shall be used exclusively for the operation of licensed alcohol or drug rehabilitation programs and education, assessment, supervision, and other activities related to and supporting the rehabilitation of persons convicted of driving while under the influence of intoxicating liquor or drugs. A requirement of the rehabilitation program shall be participation with a victim impact panel or program providing a forum for victims of alcohol or drug related offenses and defendants to share experiences on the impact of alcohol or drug related incidents in their lives. The [~~Division of Substance Abuse and Mental Health~~] division shall establish guidelines to implement victim impact panels where, in the judgment of the licensed alcohol or drug program, appropriate victims are available,

and shall establish guidelines for other programs where such victims are not available.

(3) None of the assessments shall be maintained for administrative costs by the division.

Section 29. Section 26B-5-210, which is renumbered from Section 62A-15-504 is renumbered and amended to read:

[~~62A-15-504~~]. 26B-5-210. Policy -- Alternatives to incarceration.

It is the policy of this state to provide adequate and appropriate health and social services as alternatives to incarceration for public intoxication.

Section 30. Section 26B-5-301, which is renumbered from Section 62A-15-602 is renumbered and amended to read:

Part 3. Utah State Hospital and Other Mental Health Facilities

[~~62A-15-602~~]. 26B-5-301. Definitions.

As used in this part, [~~Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part 12, Essential Treatment and Intervention Act~~] Part 4, Commitment of Persons Under Age 18, and Part 5, Essential Treatment and Intervention:

(1) "Adult" means an individual 18 years old or older.

(2) "Approved treatment facility or program" means a mental health or substance use treatment provider that meets the goals and measurements described in Subsection [~~62A-15-103~~] 26B-5-110(2)(j).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section [~~62A-15-630.5~~] 26B-5-351.

(4) "Attending physician" means a physician licensed to practice medicine in this state who has primary responsibility for the care and treatment of the declarant.

(5) "Attorney-in-fact" means an adult properly appointed under this part to make mental health treatment decisions for a declarant under a declaration for mental health treatment.

[~~(4)~~] (6) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

[~~(5)~~] (7) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

[~~(6)~~] (8) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

[~~(7)~~] (9) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

[~~(8)~~] (10) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

[~~(9)~~] (11) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

[~~(10)~~] (12) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.

(13) "Incapable" means that, in the opinion of the court in a guardianship proceeding under Title 75, Utah Uniform Probate Code, or in the opinion of two physicians, a person's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to make mental health treatment decisions.

[~~(11)~~] (14) "Institution" means a hospital or a health facility licensed under Section [~~26-21-8~~] 26B-2-206.

[~~(12)~~] (15) "Local substance abuse authority" means the same as that term is defined in Section [~~62A-15-102~~] 26B-5-101 and described in Section 17-43-201.

[~~(13)~~] (16) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

[~~(14)~~] (17) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

[~~(15)~~] (18) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(19) "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, or admission to and retention in a facility for a period not to exceed 17 days.

[~~(16)~~] (20) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

[~~(17)~~] (21) "Physician" means an individual who is:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(18)~~] (22) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(23) "State hospital" means the Utah State Hospital established in Section 26B-5-302.

[~~(19)~~] (24) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual;

(e) engaging in harmful sexual conduct; or

(f) if not treated, suffering severe and abnormal mental, emotional, or physical distress that:

(i) is associated with significant impairment of judgment, reason, or behavior; and

(ii) causes a substantial deterioration of the individual's previous ability to function independently.

[~~(20)~~] (25) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 31. Section 26B-5-302, which is renumbered from Section 62A-15-601 is renumbered and amended to read:

[~~62A-15-601~~]. 26B-5-302. Utah State Hospital.

The Utah State Hospital is established and located in Provo, in Utah county. [~~For purposes of this part it is referred to as the "state hospital."~~]

Section 32. Section 26B-5-303, which is renumbered from Section 62A-15-603 is renumbered and amended to read:

[~~62A-15-603~~]. 26B-5-303. Administration of state hospital -- Division -- Authority.

(1) The division shall administer the state hospital as part of the state's comprehensive mental health program and, to the fullest extent possible, shall, as the state hospital's administrator, coordinate with local mental health authority programs.

(2) The division has the same powers, duties, rights, and responsibilities as, and shall perform the same functions that by law are conferred or required to be discharged or performed by, the state hospital.

(3) Supervision and administration of security responsibilities for the state hospital is vested in the division. The executive director shall designate, as special function officers, individuals with peace officer authority to perform special security functions for the state hospital.

(4) A director of a mental health facility that houses an involuntary patient or a patient committed by judicial order may establish secure areas, as provided in Section 76-8-311.1, within the mental health facility for the patient.

Section 33. Section 26B-5-304, which is renumbered from Section 62A-15-613 is renumbered and amended to read:

[~~62A-15-613~~]. 26B-5-304. Appointment of superintendent -- Qualifications -- Powers and responsibilities.

(1) The director, with the consent of the executive director, shall appoint a superintendent of the state hospital, who shall hold office at the will of the director.

(2) The superintendent shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning mental health.

(3) The superintendent has general responsibility for the buildings, grounds, and property of the state hospital.

(4) The superintendent shall appoint, with the approval of the director, as many employees as necessary for the efficient and economical care and management of the state hospital, and shall fix the employees' compensation and administer personnel functions according to the standards of the Division of Human Resource Management.

Section 34. Section 26B-5-305, which is renumbered from Section 62A-15-614 is renumbered and amended to read:

[~~62A-15-614~~]. 26B-5-305. Clinical director -- Appointment -- Conditions and procedure -- Duties.

(1) Whenever the superintendent is not qualified to be the clinical director of the state hospital under this section, [~~he~~] the superintendent shall, with the approval of the director of the division, appoint a clinical director who is licensed to practice medicine and surgery in this state, and who has had at least three years' training in a psychiatric residency program approved by the American Board of Psychiatry and Neurology, Inc., and who is eligible for certification by that board.

(2) The salary of the clinical director of the state hospital shall be fixed by the standards of the Division of Finance, to be paid in the same manner as the salaries of other employees.

(3) The clinical director shall perform such duties as directed by the superintendent and prescribed by the rules of the board, and shall prescribe and direct the treatment of patients and adopt sanitary measures for their welfare.

[~~(3)~~] (4) If the superintendent is qualified to be the clinical director, [~~he~~] the superintendent may assume the duties of the clinical director.

Section 35. Section 26B-5-306, which is renumbered from Section 62A-15-610 is renumbered and amended to read:

[~~62A-15-610~~]. 26B-5-306. Objectives of state hospital and other facilities -- Persons who may be admitted to state hospital.

(1) The objectives of the state hospital and other mental health facilities shall be to care for all persons within this state who are subject to the provisions of this chapter; and to furnish them with the proper attendance, medical treatment, seclusion, rest, restraint, amusement, occupation, and support that is conducive to their physical and mental well-being.

(2) Only the following persons may be admitted to the state hospital:

(a) persons 18 years [~~of age~~] old and older who meet the criteria necessary for commitment under this part and who have severe mental disorders for whom no appropriate, less restrictive treatment alternative is available;

(b) persons under 18 years [~~of age~~] old who meet the criteria necessary for commitment under [~~Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Part 4, Commitment of Persons under Age 18, and for whom no less restrictive alternative is available;

(c) persons adjudicated and found to be guilty with a mental illness under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

(d) persons adjudicated and found to be not guilty by reason of insanity who are under a subsequent commitment order because they have a mental illness and are a danger to themselves or others, under Section 77-16a-302;

(e) persons found incompetent to proceed under Section 77-15-6;

(f) persons who require an examination under Title 77, Utah Code of Criminal Procedure; and

(g) persons in the custody of the Department of Corrections, admitted in accordance with Section [~~62A-15-605.5~~] 26B-5-372, giving priority to those persons with severe mental disorders.

Section 36. Section 26B-5-307, which is renumbered from Section 62A-15-644 is renumbered and amended to read:

[~~62A-15-644~~]. 26B-5-307. Additional powers of director -- Reports and records of division.

(1) In addition to specific authority granted by other provisions of this part, the director has authority to prescribe the form of applications, records, reports, and medical certificates provided for under this part, and the information required to be contained therein, and to adopt rules that are not inconsistent with the provisions of this part that the director finds to be reasonably necessary for the proper and efficient commitment of persons with a mental illness.

(2) The division shall require reports relating to the admission, examination, diagnosis, release, or discharge of any patient and investigate complaints made by any patient or by any person on behalf of a patient.

(3) A local mental health authority shall keep a record of the names and current status of all persons involuntarily committed to it under this chapter.

Section 37. Section 26B-5-308, which is renumbered from Section 62A-15-639 is renumbered and amended to read:

[~~62A-15-639~~]. 26B-5-308. Standards for care and treatment.

Every patient is entitled to humane care and treatment and to medical care and treatment in

accordance with the prevailing standards accepted in medical practice, psychiatric nursing practice, social work practice, and the practice of clinical psychology.

Section 38. Section 26B-5-309, which is renumbered from Section 62A-15-640 is renumbered and amended to read:

[~~62A-15-640~~]. 26B-5-309. Mechanical restraints and medication -- Clinical record.

(1) Mechanical restraints may not be applied to a patient unless it is determined by the director or his designee to be required by the needs of the patient. Every use of a mechanical restraint and the reasons therefor shall be made a part of the patient's clinical record, under the signature of the director or his designee, and shall be reviewed regularly.

(2) In no event shall medication be prescribed for a patient unless it is determined by a physician to be required by the patient's medical needs. Every use of a medication and the reasons therefor shall be made a part of the patient's clinical record.

Section 39. Section 26B-5-310, which is renumbered from Section 62A-15-641 is renumbered and amended to read:

[~~62A-15-641~~]. 26B-5-310. Restrictions and limitations -- Civil rights and privileges.

(1) Subject to the general rules of the division, and except to the extent that the director or his designee determines that it is necessary for the welfare of the patient to impose restrictions, every patient is entitled to:

(a) communicate, by sealed mail or otherwise, with persons, including official agencies, inside or outside the facility;

(b) receive visitors; and

(c) exercise all civil rights, including the right to dispose of property, execute instruments, make purchases, enter contractual relationships, and vote, unless the patient has been adjudicated to be incompetent and has not been restored to legal capacity.

(2) When any right of a patient is limited or denied, the nature, extent, and reason for that limitation or denial shall be entered in the patient's treatment record. Any continuing denial or limitation shall be reviewed every 30 days and shall also be entered in that treatment record. Notice of that continuing denial in excess of 30 days shall be sent to the division, the appropriate local mental health authority, the appropriate local substance abuse authority, or an approved treatment facility or program, whichever is most applicable to the patient.

(3) Notwithstanding any limitations authorized under this section on the right of communication, each patient is entitled to communicate by sealed mail with the appropriate local mental health authority, the appropriate local substance abuse authority, an approved treatment facility or program, the division, the patient's attorney, and the court, if any, that ordered the patient's commitment or essential treatment. In no case may the patient be denied a visit with the legal counsel or clergy of the patient's choice.

(4) Local mental health authorities, local substance abuse authorities, and approved treatment facilities or programs shall provide reasonable means and arrangements for informing involuntary patients of their right to release as provided in this chapter, and for assisting them in making and presenting requests for release.

(5) Mental health facilities, local substance abuse authorities, and approved treatment facilities or programs shall post a statement, created by the division, describing a patient's rights under Utah law.

(6) Notwithstanding Section 53B-17-303, an individual committed under this chapter has the right to determine the final disposition of that individual's body after death.

Section 40. Section 26B-5-311, which is renumbered from Section 62A-15-642 is renumbered and amended to read:

[~~62A-15-642~~]. 26B-5-311. Habeas corpus.

Any individual detained pursuant to this part is entitled to the writ of habeas corpus upon proper petition by [~~himself~~] themselves or a friend, to the [~~district~~] court in the county in which [~~he~~] the individual is detained.

Section 41. Section 26B-5-312, which is renumbered from Section 62A-15-643 is renumbered and amended to read:

[~~62A-15-643~~]. 26B-5-312. Confidentiality of information and records -- Exceptions -- Penalty.

(1) All certificates, applications, records, and reports made for the purpose of this part, including those made on judicial proceedings for involuntary commitment, that directly or indirectly identify a patient or former patient or an individual whose commitment has been sought under this part, shall be kept confidential and may not be disclosed by any person except insofar as:

(a) the individual identified or his legal guardian, if any, or, if a minor, his parent or legal guardian shall consent;

(b) disclosure may be necessary to carry out the provisions of:

(i) this part; or

(ii) Section 53-10-208.1; or

(c) a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it, and that failure to make the disclosure would be contrary to the public interest.

(2) A person who knowingly or intentionally discloses any information not authorized by this section is guilty of a class B misdemeanor.

Section 42. Section 26B-5-313, which is renumbered from Section 62A-15-1002 is renumbered and amended to read:

[~~62A-15-1002~~]. 26B-5-313. Declaration for mental health treatment.

(1) An adult who is not incapable may make a declaration of preferences or instructions regarding [~~his~~] the adult's mental health treatment. The declaration may include, but is not limited to, consent to or refusal of specified mental health treatment.

(2) A declaration for mental health treatment shall designate a capable adult to act as attorney-in-fact to make decisions about mental health treatment for the declarant. An alternative attorney-in-fact may also be designated to act as attorney-in-fact if the original designee is unable or unwilling to act at any time. An attorney-in-fact who has accepted the appointment in writing may make decisions about mental health treatment on behalf of the declarant only when the declarant is incapable. The decisions shall be consistent with any instructions or desires the declarant has expressed in the declaration.

(3) A declaration is effective only if it is signed by the declarant and two capable adult witnesses. The witnesses shall attest that the declarant is known to them, signed the declaration in their presence, appears to be of sound mind and is not under duress, fraud, or undue influence. Persons specified in Subsection [~~62A-15-1003~~] 26B-5-314(6) may not act as witnesses.

(4) A declaration becomes operative when it is delivered to the declarant's physician or other mental health treatment provider and remains valid until it expires or is revoked by the declarant. The physician or provider is authorized to act in accordance with an operative declaration when the declarant has been found to be incapable. The physician or provider shall continue to obtain the declarant's informed consent to all mental health treatment decisions if the declarant is capable of providing informed consent or refusal.

(5) (a) An attorney-in-fact does not have authority to make mental health treatment decisions unless the declarant is incapable.

(b) An attorney-in-fact is not, solely as a result of acting in that capacity, personally liable for the cost of treatment provided to the declarant.

(c) Except to the extent that a right is limited by a declaration or by any federal law, an attorney-in-fact has the same right as the declarant to receive information regarding the proposed mental health treatment and to receive, review, and consent to disclosure of medical records relating to that treatment. This right of access does not waive any evidentiary privilege.

(d) In exercising authority under the declaration, the attorney-in-fact shall act consistently with the instructions and desires of the declarant, as expressed in the declaration. If the declarant's desires are unknown, the attorney-in-fact shall act in what [~~he~~] the attorney-in-fact, in good faith, believes to be the best interest of the declarant.

(e) An attorney-in-fact is not subject to criminal prosecution, civil liability, or professional disciplinary action for any action taken in good faith pursuant to a declaration for mental health treatment.

(6) (a) A declaration for mental health treatment remains effective for a period of three years or until revoked by the declarant. If a declaration for mental health treatment has been invoked and is in effect at the expiration of three years after its execution, the declaration remains effective until the declarant is no longer incapable.

(b) The authority of a named attorney-in-fact and any alternative attorney-in-fact continues in effect as long as the declaration appointing the attorney-in-fact is in effect or until the attorney-in-fact has withdrawn.

(7) A person may not be required to execute or to refrain from executing a declaration as a criterion for insurance, as a condition for receiving mental or physical health services, or as a condition of discharge from a facility.

Section 43. Section 26B-5-314, which is renumbered from Section 62A-15-1003 is renumbered and amended to read:

[~~62A-15-1003~~]. 26B-5-314. Physician and provider responsibilities -- Provision of services contrary to declaration -- Revocation.

(1) Upon being presented with a declaration, a physician shall make the declaration a part of the declarant's medical record. When acting under authority of a declaration, a physician shall comply with it to the fullest extent possible, consistent with reasonable medical practice, the availability of treatments requested, and applicable law. If the physician or other provider is unwilling at any time to comply with the declaration, the physician or provider shall promptly notify the declarant and the attorney-in-fact, and document the notification in the declarant's medical record.

(2) A physician or provider may subject a declarant to intrusive treatment in a manner contrary to the declarant's wishes, as expressed in a declaration for mental health treatment if:

(a) the declarant has been committed to the custody of a local mental health authority in accordance with [~~Part 6, Utah State Hospital and Other Mental Health Facilities~~] this part; or

(b) in cases of emergency endangering life or health.

(3) A declaration does not limit any authority provided in [~~Part 6, Utah State Hospital and Other Mental Health Facilities~~] this part, to take a person into custody, or admit or retain a person in the custody of a local mental health authority.

(4) A declaration may be revoked in whole or in part by the declarant at any time so long as the declarant is not incapable. That revocation is

effective when the declarant communicates the revocation to the attending physician or other provider. The attending physician or other provider shall note the revocation as part of the declarant's medical record.

(5) A physician who administers or does not administer mental health treatment according to and in good faith reliance upon the validity of a declaration is not subject to criminal prosecution, civil liability, or professional disciplinary action resulting from a subsequent finding that a declaration is invalid.

(6) None of the following persons may serve as an attorney-in-fact or as witnesses to the signing of a declaration:

(a) the declarant's attending physician or mental health treatment provider, or an employee of that physician or provider;

(b) an employee of the division; or

(c) an employee of a local mental health authority or any organization that contracts with a local mental health authority.

(7) An attorney-in-fact may withdraw by giving notice to the declarant. If a declarant is incapable, the attorney-in-fact may withdraw by giving notice to the attending physician or provider. The attending physician shall note the withdrawal as part of the declarant's medical record.

Section 44. Section 26B-5-315, which is renumbered from Section 62A-15-1004 is renumbered and amended to read:

[~~62A-15-1004~~]. 26B-5-315. Declaration for mental health treatment -- Form.

A declaration for mental health treatment shall be in substantially the following form:

DECLARATION FOR MENTAL HEALTH TREATMENT

I, _____, being an adult of sound mind, willfully and voluntarily make this declaration for mental health treatment, to be followed if it is determined by a court or by two physicians that my ability to receive and evaluate information effectively or to communicate my decisions is impaired to such an extent that I lack the capacity to refuse or consent to mental health treatment. "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, and admission to and retention in a mental health facility for a period up to 17 days.

I understand that I may become incapable of giving or withholding informed consent for mental health treatment due to the symptoms of a diagnosed mental disorder. These symptoms may include:

_____

PSYCHOACTIVE MEDICATIONS

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding psychoactive medications are as follows:_____ I consent to the administration of the following medications:

_____

in the dosages:

_____ considered appropriate by my attending physician.

_____approved by _____

as I hereby direct: _____

I do not consent to the administration of the following medications:

_____
_____
_____
_____
_____

CONVULSIVE TREATMENT

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding convulsive treatment are as follows:

_____ I consent to the administration of convulsive treatment of the following type:

_____,

the number of treatments to be:

_____determined by my attending physician.

_____ approved by _____

_____as follows: _____

I do not consent to the administration of convulsive treatment.

My reasons for consenting to or refusing convulsive treatment are as follows;

_____
_____
_____
_____
_____

ADMISSION TO AND RETENTION IN A MENTAL HEALTH FACILITY

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding admission to and retention in a mental health facility are as follows:

_____ I consent to being admitted to the following mental health facilities:

_____

I may be retained in the facility for a period of time:

_____determined by my attending physician.

_____approved by _____

_____no longer than _____

This directive cannot, by law, provide consent to retain me in a facility for more than 17 days.

ADDITIONAL REFERENCES OR INSTRUCTIONS

_____

_____

_____

_____

_____

ATTORNEY-IN-FACT

I hereby appoint:

NAME _____

ADDRESS _____

TELEPHONE # _____

to act as my attorney-in-fact to make decisions regarding my mental health treatment if I become incapable of giving or withholding informed consent for that treatment.

If the person named above refuses or is unable to act on my behalf, or if I revoke that person's authority to act as my attorney-in-fact, I authorize the following person to act as my alternative attorney-in-fact:

NAME _____

ADDRESS _____

TELEPHONE # _____

My attorney-in-fact is authorized to make decisions which are consistent with the wishes I have expressed in this declaration. If my wishes are not expressed, my attorney-in-fact is to act in good faith according to what he or she believes to be in my best interest.

_____

(Signature of Declarant/Date)

AFFIRMATION OF WITNESSES

We affirm that the declarant is personally known to us, that the declarant signed or acknowledged the declarant's signature on this declaration for mental health treatment in our presence, that the declarant appears to be of sound mind and does not appear to be under duress, fraud, or undue influence. Neither of us is the person appointed as attorney-in-fact by this document, the attending physician, an employee of the attending physician, an employee of the [~~Division~~] Office of Substance Abuse and Mental Health within the Department of Health and Human Services, an employee of a local mental health authority, or an employee of any organization that contracts with a local mental health authority.

Witnessed By:_____

_____

(Signature of Witness/Date) (Printed Name of Witness)_____

_____

(Signature of Witness/Date) (Printed Name of Witness)

ACCEPTANCE OF APPOINTMENT AS ATTORNEY-IN-FACT

I accept this appointment and agree to serve as attorney-in-fact to make decisions about mental health treatment for the declarant. I understand that I have a duty to act consistently with the desires of the declarant as expressed in the declaration. I understand that this document gives me authority to make decisions about mental health treatment only while the declarant is incapable as determined by a court or two physicians. I understand that the declarant may revoke this appointment, or the declaration, in whole or in part, at any time and in any manner, when the declarant is not incapable.

_____

_____

(Signature of Attorney-in-fact/Date) (Printed name)_____

_____

(Signature of Alternate Attorney-in-fact/Date) (Printed name)

NOTICE TO PERSON MAKING A DECLARATION FOR MENTAL HEALTH TREATMENT

This is an important legal document. It is a declaration that allows, or disallows, mental health treatment. Before signing this document, you should know that:

(1) this document allows you to make decisions in advance about three types of mental health treatment: psychoactive medication, convulsive therapy, and short-term (up to 17 days) admission to a mental health facility;

(2) the instructions that you include in this declaration will be followed only if a court or two physicians believe that you are incapable of otherwise making treatment decisions. Otherwise, you will be considered capable to give or withhold consent for treatment;

(3) you may also appoint a person as your attorney-in-fact to make these treatment decisions for you if you become incapable. The person you appoint has a duty to act consistently with your desires as stated in this document or, if not stated, to make decisions in accordance with what that person believes, in good faith, to be in your best interest. For the appointment to be effective, the person you appoint must accept the appointment in writing. The person also has the right to withdraw from acting as your attorney-in-fact at any time;

(4) this document will continue in effect for a period of three years unless you become incapable of participating in mental health treatment decisions. If this occurs, the directive will continue in effect until you are no longer incapable;

(5) you have the right to revoke this document in whole or in part, or the appointment of an attorney-in-fact, at any time you have not been determined to be incapable. YOU MAY NOT REVOKE THE DECLARATION OR APPOINTMENT WHEN YOU ARE CONSIDERED INCAPABLE BY A COURT OR

TWO PHYSICIANS. A revocation is effective when it is communicated to your attending physician or other provider; and

(6) if there is anything in this document that you do not understand, you should ask an attorney to explain it to you. This declaration is not valid unless it is signed by two qualified witnesses who are personally known to you and who are present when you sign or acknowledge your signature.

Section 45. Section 26B-5-316, which is renumbered from Section 62A-15-607 is renumbered and amended to read:

[~~62A-15-607~~]. 26B-5-316. Responsibility for cost of care.

(1) The division shall estimate and determine, as nearly as possible, the actual expense per annum of caring for and maintaining a patient in the state hospital, and that amount or portion of that amount shall be assessed to and paid by the applicant, patient, spouse, parents, child or children who are of sufficient financial ability to do so, or by the guardian of the patient who has funds of the patient that may be used for that purpose.

(2) In addition to the expenses described in Subsection (1), parents are responsible for the support of their child while the child is in the care of the state hospital pursuant to Title 78B, Chapter 12, Utah Child Support Act, and [~~Title 62A, Chapter 11, Recovery Services~~] Title 26B, Chapter 9, Recovery Services and Administration of Child Support.

Section 46. Section 26B-5-317, which is renumbered from Section 62A-15-617 is renumbered and amended to read:

[~~62A-15-617~~]. 26B-5-317. Expenses of voluntary patients.

The expense for the care and treatment of voluntary patients shall be assessed to and paid in the same manner and to the same extent as is provided for involuntary patients under the provisions of Section [~~62A-15-607~~] 26B-5-316.

Section 47. Section 26B-5-318, which is renumbered from Section 62A-15-619 is renumbered and amended to read:

[~~62A-15-619~~]. 26B-5-318. Liability of estate of person with a mental illness.

The provisions made in this part for the support of persons with a mental illness at public expense do not release the estates of those persons from liability for their care and treatment, and the division is authorized and empowered to collect from the estates of those persons any sums paid by the state in their behalf.

Section 48. Section 26B-5-319, which is renumbered from Section 62A-15-604 is renumbered and amended to read:

[~~62A-15-604~~]. 26B-5-319. Receipt of gift and personal property related to the transfer of persons from other institutions.

(1) The division may take and hold by gift, devise, or bequest real and personal property required for the use of the state hospital. With the approval of the governor the division may convert that property that is not suitable for the state hospital's use into money or property that is suitable for the state hospital's use.

(2) The state hospital is authorized to receive from any other institution within the department an individual committed to that institution, when a careful evaluation of the treatment needs of the individual and of the treatment programs available at the state hospital indicates that the transfer would be in the interest of that individual.

(3) (a) For the purposes of this Subsection (3), "contributions" means gifts, grants, devises, and donations.

(b) Notwithstanding the provisions of Subsection [~~62A-1-111~~] 26B-1-202(10), the state hospital is authorized to receive contributions and deposit the contributions into an interest-bearing restricted special revenue fund. The state treasurer may invest the fund, and all interest will remain in the fund.

(c) (i) Single expenditures from the fund in amounts of $5,000 or less shall be approved by the superintendent.

(ii) Single expenditures exceeding $5,000 must be preapproved by the superintendent and the division director.

(iii) Expenditures described in this Subsection (3) shall be used for the benefit of patients at the state hospital.

(d) Money and interest in the fund may not be used for items normally paid for by operating revenues or for items related to personnel costs without specific legislative authorization.

Section 49. Section 26B-5-320, which is renumbered from Section 62A-15-621 is renumbered and amended to read:

[~~62A-15-621~~]. 26B-5-320. Trespass -- Disturbance -- Penalty.

Any person who, without permission, enters any of the buildings or enclosures appropriated to the use of patients, or makes any attempt to do so, or enters anywhere upon the premises belonging to or used by the division, a local mental health authority, or the state hospital and commits, or attempts to commit, any trespass or depredation thereon, or any person who, either from within or without the enclosures, willfully annoys or disturbs the peace or quiet of the premises or of any patient therein, is guilty of a class B misdemeanor.

Section 50. Section 26B-5-321, which is renumbered from Section 62A-15-622 is renumbered and amended to read:

[~~62A-15-622~~]. 26B-5-321. Abduction of patient -- Penalty.

Any person who abducts a patient who is in the custody of a local mental health authority, or induces any patient to elope or escape from that

custody, or attempts to do so, or aids or assists therein, is guilty of a class B misdemeanor, in addition to liability for damages, or subject to other criminal charges.

Section 51. Section 26B-5-322, which is renumbered from Section 62A-15-623 is renumbered and amended to read:

[~~62A-15-623~~]. 26B-5-322. Criminal's escape -- Penalty.

Any person committed to the state hospital under the provisions of Title 77, Chapter 15, Inquiry into Sanity of Defendant, or Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, who escapes or leaves the state hospital without proper legal authority is guilty of a class A misdemeanor.

Section 52. Section 26B-5-323, which is renumbered from Section 62A-15-624 is renumbered and amended to read:

[~~62A-15-624~~]. 26B-5-323. Violations of this part -- Penalty.

Any person who willfully and knowingly violates any provision of this part, except where another penalty is provided by law, is guilty of a class C misdemeanor.

Section 53. Section 26B-5-324, which is renumbered from Section 62A-15-608 is renumbered and amended to read:

[~~62A-15-608~~]. 26B-5-324. Local mental health authority -- Supervision and treatment of persons with a mental illness.

(1) Each local mental health authority has responsibility for supervision and treatment of persons with a mental illness who have been committed to its custody under the provisions of this part, whether residing in the state hospital or elsewhere.

(2) The division, in administering and supervising the security responsibilities of the state hospital under its authority provided by Section [~~62A-15-603~~] 26B-5-303, shall enforce Sections [~~62A-15-620 through 62A-15-624~~] 26B-5-320 through 26B-5-323 and Section 26B-5-342 to the extent they pertain to the state hospital.

Section 54. Section 26B-5-325, which is renumbered from Section 62A-15-609 is renumbered and amended to read:

[~~62A-15-609~~]. 26B-5-325. Responsibility for education of school-aged children at the hospital -- Responsibility for noninstructional services.

(1) The State Board of Education is responsible for the education of school-aged children committed to the division.

(2) In order to fulfill its responsibility under Subsection (1), the board may contract with local school districts or other appropriate agencies to provide educational and related administrative services.

(3) Medical, residential, and other noninstructional services at the state hospital are the responsibility of the division.

Section 55. Section 26B-5-326, which is renumbered from Section 62A-15-611 is renumbered and amended to read:

[~~62A-15-611~~]. 26B-5-326. Allocation of state hospital beds -- Formula.

(1) As used in this section:

(a) "Adult beds" means the total number of patient beds located in the adult general psychiatric unit and the geriatric unit at the state hospital, as determined by the superintendent of the state hospital.

(b) "Mental health catchment area" means a county or group of counties governed by a local mental health authority.

(2) (a) The division shall establish by rule a formula to separately allocate to local mental health authorities adult beds for persons who meet the requirements of Subsection [~~62A-15-610~~] 26B-5-306(2)(a). Beginning on May 10, 2011, and ending on June 30, 2011, 152 beds shall be allocated to local mental health authorities under this section.

(b) The number of beds shall be reviewed and adjusted as necessary:

(i) on July 1, 2011, to restore the number of beds allocated to 212 beds as funding permits; and

(ii) on July 1, 2011, and every three years after July 1, 2011, according to the state's population.

(c) All population figures utilized shall reflect the most recent available population estimates from the Utah Population Committee.

(3) The formula established under Subsection (2) shall provide for allocation of beds based on:

(a) the percentage of the state's adult population located within a mental health catchment area; and

(b) a differential to compensate for the additional demand for hospital beds in mental health catchment areas that are located in urban areas.

(4) A local mental health authority may sell or loan its allocation of beds to another local mental health authority.

(5) The division shall allocate adult beds at the state hospital to local mental health authorities for their use in accordance with the formula established under this section. If a local mental health authority is unable to access a bed allocated to it under the formula established under Subsection (2), the division shall provide that local mental health authority with funding equal to the reasonable, average daily cost of an acute care bed purchased by the local mental health authority.

(6) The board shall periodically review and make changes in the formula established under Subsection (2) as necessary to accurately reflect changes in population.

Section 56. Section 26B-5-327, which is renumbered from Section 62A-15-612 is renumbered and amended to read:

[~~62A-15-612~~]. 26B-5-327. Allocation of pediatric state hospital beds -- Formula.

(1) As used in this section:

(a) "Mental health catchment area" means a county or group of counties governed by a local mental health authority.

(b) "Pediatric beds" means the total number of patient beds located in the children's unit and the youth units at the state hospital, as determined by the superintendent of the state hospital.

(2) On July 1, 1996, 72 pediatric beds shall be allocated to local mental health authorities under this section. The division shall review and adjust the number of pediatric beds as necessary every three years according to the state's population of persons under 18 years [~~of age~~] old. All population figures utilized shall reflect the most recent available population estimates from the Governor's Office of Planning and Budget.

(3) The allocation of beds shall be based on the percentage of the state's population of persons under [~~the age of~~] 18 years old located within a mental health catchment area. Each community mental health center shall be allocated at least one bed.

(4) A local mental health authority may sell or loan its allocation of beds to another local mental health authority.

(5) The division shall allocate 72 pediatric beds at the state hospital to local mental health authorities for their use in accordance with the formula established under this section. If a local mental health authority is unable to access a bed allocated to it under that formula, the division shall provide that local mental health authority with funding equal to the reasonable, average daily cost of an acute care bed purchased by the local mental health authority.

Section 57. Section 26B-5-330, which is renumbered from Section 62A-15-628 is renumbered and amended to read:

[~~62A-15-628~~]. 26B-5-330. Involuntary commitment -- Procedures.

(1) An adult may not be involuntarily committed to the custody of a local mental health authority except under the following provisions:

(a) emergency procedures for temporary commitment upon medical or designated examiner certification, as provided in Subsection [~~62A-15-629~~] 26B-5-331(1)(a);

(b) emergency procedures for temporary commitment without endorsement of medical or designated examiner certification, as provided in Subsection [~~62A-15-629~~] 26B-5-331(1)(b); or

(c) commitment on court order, as provided in Section [~~62A-15-631~~] 26B-5-332.

(2) A person under 18 years [~~of age~~] old may be committed to the physical custody of a local mental health authority only in accordance with the provisions of [~~Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Part 4, Commitment of Persons Under Age 18.

Section 58. Section 26B-5-331, which is renumbered from Section 62A-15-629 is renumbered and amended to read:

[~~62A-15-629~~]. 26B-5-331. Temporary commitment -- Requirements and procedures -- Rights.

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and

(ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's

designee shall document the change and release the patient.

(3) (a) A patient committed under this section may be held for a maximum of 24 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

(i) as described in Section [~~62A-15-631~~] 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection [~~62A-15-631~~] 26B-5-332(4);

(ii) the patient makes a voluntary application for admission; or

(iii) before expiration of the 24 hour period, a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies in writing that:

(A) the patient, due to mental illness, poses a substantial danger to self or others;

(B) additional time is necessary for evaluation and treatment of the patient's mental illness; and

(C) there is no appropriate less-restrictive alternative to commitment to evaluate and treat the patient's mental illness.

(b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays, Sundays, and legal holidays.

(c) Subsection (3)(a)(iii) applies to an adult patient.

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section [~~26-8a-305~~] 26B-4-119;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the adult is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section [~~26-8a-102~~] 26B-4-101.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) (a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.

(b) An adult patient committed under this section has the right to:

(i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and

(ii) see and communicate with an attorney.

(7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

(b) This section does not create a special duty of care.

Section 59. Section 26B-5-332, which is renumbered from Section 62A-15-631 is renumbered and amended to read:

[~~62A-15-631~~]. 26B-5-332. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the [~~district~~] court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number;

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based; and

(c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.

(2) Before issuing a judicial order, the court:

(a) shall require the applicant to consult with the appropriate local mental health authority at or before the hearing; and

(b) may direct a mental health professional from the local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report the existing facts to the court.

(3) The court may issue an order, directed to a mental health officer or peace officer, to immediately place a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as described in Section [~~62A-15-634~~] 26B-5-334, to be detained for the purpose of examination if:

(a) the court finds from the application, any other statements under oath, or any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a danger to self or others and requires involuntary commitment pending examination and hearing; or

(b) the proposed patient refuses to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily.

(4) (a) The court shall provide notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, to a proposed patient before, or upon, placement of the proposed patient in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court.

(b) The place of detention shall maintain a copy of the order of detention.

(5) (a) The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or the local mental health authority's designee, and any other persons whom the proposed patient or the court designates.

(b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall advise the persons that a hearing may be held within the time provided by law.

(c) If the proposed patient refuses to permit release of information necessary for provisions of notice under this subsection, the court shall determine the extent of notice.

(6) Proceedings for commitment of an individual under 18 years old to a local mental health authority may be commenced in accordance with [~~Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Part 4, Commitment of Persons Under Age 18.

(7) (a) The [~~district~~] court may, in the [~~district~~] court's discretion, transfer the case to any other district court within this state, if the transfer will not be adverse to the interest of the proposed patient.

(b) If a case is transferred under Subsection (7)(a), the parties to the case may be transferred and the local mental health authority may be substituted in accordance with Utah Rules of Civil Procedure, Rule 25.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or the local mental health authority's designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days after the day on which the designated examiners are appointed.

(10) (a) The designated examiners shall:

(i) conduct the examinations separately;

(ii) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place, including through telehealth, that is not likely to have a harmful effect on the proposed patient's health;

(iii) inform the proposed patient, if not represented by an attorney:

(A) that the proposed patient does not have to say anything;

(B) of the nature and reasons for the examination;

(C) that the examination was ordered by the court;

(D) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;

(E) that findings resulting from the examination will be made available to the court; and

(F) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and

(iv) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section [~~62A-15-625~~] 26B-5-360, or has acceptable programs available to the proposed patient without court proceedings.

(b) If a designated examiner reports orally under Subsection (10)(a), the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, the local mental health authority's designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, the local mental health authority's designee, or the medical examiner shall immediately report the determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including before the hearing, if the designated examiners or the local mental health authority or the local mental health authority's designee informs the court that the proposed patient:

(a) does not meet the criteria in Subsection (16);

(b) has agreed to voluntary commitment, as described in Section [~~62A-15-625~~] 26B-5-360;

(c) has acceptable options for treatment programs that are available without court proceedings; or

(d) meets the criteria for assisted outpatient treatment described in Section [~~62A-15-630.5~~] 26B-5-351.

(14) (a) Before the hearing, the court shall provide the proposed patient an opportunity to be represented by counsel, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing.

(b) In the case of an indigent proposed patient, the county in which the proposed patient resides or is found shall make payment of reasonable attorney fees for counsel, as determined by the court.

(15) (a) (i) The court shall afford the proposed patient, the applicant, and any other person to whom notice is required to be given an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses.

(ii) The court may, in the court's discretion, receive the testimony of any other person.

(iii) The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude any person not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each designated examiner to be given out of the presence of any other designated examiners.

(c) The court shall conduct the hearing in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient, while preserving the due process rights of the proposed patient.

(d) The court shall consider any relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under [~~Rule 1102,~~] Utah Rules of Evidence, Rule 1102.

(e) (i) A local mental health authority or the local mental health authority's designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

(G) medication records pertaining to the current commitment; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) The information described in Subsection (15)(e)(i) shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16) (a) The court shall order commitment of an adult proposed patient to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(i) the proposed patient has a mental illness;

(ii) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;

(iii) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;

(iv) there is no appropriate less-restrictive alternative to a court order of commitment; and

(v) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs.

(b) (i) If, at the hearing, the court determines that the proposed patient has a mental illness but does not meet the other criteria described in Subsection (16)(a), the court may consider whether the proposed patient meets the criteria for assisted outpatient treatment under Section [~~62A-15-630.5~~] 26B-5-351.

(ii) The court may order the proposed patient to receive assisted outpatient treatment in accordance with Section [~~62A-15-630.5~~] 26B-5-351 if, at the hearing, the court finds the proposed patient meets the criteria for assisted outpatient treatment under Section [~~62A-15-630.5~~] 26B-5-351.

(iii) If the court determines that neither the criteria for commitment under Subsection (16)(a) nor the criteria for assisted outpatient treatment under Section [~~62A-15-630.5~~] 26B-5-351 are met, the court shall dismiss the proceedings after the hearing.

(17) (a) (i) The order of commitment shall designate the period for which the patient shall be treated.

(ii) If the patient is not under an order of commitment at the time of the hearing, the patient's treatment period may not exceed six months without a review hearing.

(iii) Upon a review hearing, to be commenced before the expiration of the previous order of commitment, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the criteria described in Subsection (16) will last for an indeterminate period.

(b) (i) The court shall maintain a current list of all patients under the court's order of commitment and review the list to determine those patients who have been under an order of commitment for the court designated period.

(ii) At least two weeks before the expiration of the designated period of any order of commitment still in effect, the court that entered the original order of commitment shall inform the appropriate local mental health authority or the local mental health authority's designee of the expiration.

(iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local mental health authority or the local mental health authority's designee shall immediately reexamine the reasons upon which the order of commitment was based.

(iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from involuntary commitment and immediately report the discharge to the court.

(v) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c) (i) The local mental health authority or the local mental health authority's designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate commitment was based.

(ii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from the local mental health authority's or the local mental health authority designee's custody and immediately report the discharge to the court.

(iii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the local mental health authority or the local mental health authority's designee shall send a written report of the findings to the court.

(iv) A patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the decision to continue, and that the patient has the right to a review hearing by making a request to the court.

(v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18) (a) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days after the day on which the court order is entered.

(b) The petition shall allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient.

(c) Except as provided in Subsection (18)(b), the court shall, in all other respects, conduct the new hearing in the manner otherwise permitted.

(19) The county in which the proposed patient resides or is found shall pay the costs of all proceedings under this section.

Section 60. Section 26B-5-333, which is renumbered from Section 62A-15-632 is renumbered and amended to read:

[~~62A-15-632~~]. 26B-5-333. Circumstances under which conditions justifying initial involuntary commitment shall be considered to continue to exist.

(1) When an individual is involuntarily committed to the custody of a local mental health authority under Subsection [~~62A-15-631~~] 26B-5-332(16), the conditions justifying commitment under that Subsection shall be considered to continue to exist for purposes of continued treatment under Subsection [~~62A-15-631~~] 26B-5-332(17) or conditional release under Section [~~62A-15-637~~] 26B-5-337 if the court finds that:

(a) the patient is still mentally ill;

(b) there is no appropriate less restrictive alternative to a court order of involuntary commitment; and

(c) absent an order of involuntary commitment, the patient will likely pose a substantial danger to self or others.

(2) When an individual has been ordered to assisted outpatient treatment under Subsection [~~62A-15-630.5~~] 26B-5-351(14), the individual may be involuntarily committed to the custody of a local mental health authority under Subsection [~~62A-15-631~~] 26B-5-332(16) for purposes of continued treatment under Subsection [~~62A-15-631~~] 26B-5-332(17) or conditional release under Section [~~62A-15-637~~] 26B-5-337, if the court finds that:

(a) the patient is still mentally ill;

(b) there is no appropriate less-restrictive alternative to a court order of involuntary commitment; and

(c) based upon the patient's conduct and statements during the preceding six months, or the patient's failure to comply with treatment recommendations during the preceding six months, the court finds that absent an order of involuntary commitment, the patient is likely to pose a substantial danger to self or others.

(3) A patient whose treatment is continued or who is conditionally released under the terms of this section shall be maintained in the least restrictive environment available that can provide the patient with treatment that is adequate and appropriate.

Section 61. Section 26B-5-334, which is renumbered from Section 62A-15-634 is renumbered and amended to read:

[~~62A-15-634~~]. 26B-5-334. Detention pending placement in custody.

Pending commitment to a local mental health authority, a patient taken into custody or ordered to be committed pursuant to this part may be detained in the patient's home, a licensed foster home, or any other suitable facility under reasonable conditions prescribed by the local mental health authority. Except in an extreme emergency, the patient may not be detained in a nonmedical facility used for the detention of individuals charged with or convicted of criminal offenses. The local mental health authority shall take reasonable measures, including provision of medical care, as may be necessary to assure proper care of an individual temporarily detained pursuant to this section.

Section 62. Section 26B-5-335, which is renumbered from Section 62A-15-635 is renumbered and amended to read:

[~~62A-15-635~~]. 26B-5-335. Notice of commitment.

Whenever a patient has been temporarily, involuntarily committed to a local mental health authority under Section [~~62A-15-629~~] 26B-5-331 on the application of an individual other than the patient's legal guardian, spouse, or next of kin, the local mental health authority or a designee of the local mental health authority shall immediately notify the patient's legal guardian, spouse, or next of kin, if known.

Section 63. Section 26B-5-336, which is renumbered from Section 62A-15-636 is renumbered and amended to read:

[~~62A-15-636~~]. 26B-5-336. Periodic review -- Discharge.

Each local mental health authority or its designee shall, as frequently as practicable, examine or cause to be examined every person who has been committed to it. Whenever the local mental health authority or its designee determines that the conditions justifying involuntary commitment no longer exist, it shall discharge the patient. If the patient has been committed through judicial proceedings, a report describing that determination shall be sent to the clerk of the court where the proceedings were held.

Section 64. Section 26B-5-337, which is renumbered from Section 62A-15-637 is renumbered and amended to read:

[~~62A-15-637~~]. 26B-5-337. Release of patient to receive other treatment -- Placement in more restrictive environment -- Procedures.

(1) A local mental health authority or a designee of a local mental health authority may conditionally release an improved patient to less restrictive treatment when:

(a) the authority specifies the less restrictive treatment; and

(b) the patient agrees in writing to the less restrictive treatment.

(2) (a) Whenever a local mental health authority or a designee of a local mental health authority determines that the conditions justifying commitment no longer exist, the local mental health authority or the designee shall discharge the patient.

(b) If the discharged patient has been committed through judicial proceedings, the local mental health authority or the designee shall prepare a report describing the determination and shall send the report to the clerk of the court where the proceedings were held.

(3) (a) A local mental health authority or a designee of a local mental health authority is authorized to issue an order for the immediate placement of a current patient into a more restrictive environment, if:

(i) the local mental health authority or a designee of a local mental health authority has reason to believe that the patient's current environment is aggravating the patient's mental illness; or

(ii) the patient has failed to comply with the specified treatment plan to which the patient agreed in writing.

(b) An order for a more restrictive environment shall:

(i) state the reasons for the order;

(ii) authorize any peace officer to take the patient into physical custody and transport the patient to a facility designated by the local mental health authority;

(iii) inform the patient of the right to a hearing, the right to appointed counsel, and the other procedures described in Subsection [~~62A-15-631~~] 26B-5-332(14); and

(iv) prior to or upon admission to the more restrictive environment, or upon imposition of additional or different requirements as conditions for continued conditional release from inpatient care, copies of the order shall be delivered to:

(A) the patient;

(B) the person in whose care the patient is placed;

(C) the patient's counsel of record; and

(D) the court that entered the original order of commitment.

(c) If the patient was in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the patient or the patient's representative may request a hearing within 30 days of the change. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed pursuant to Section [~~62A-15-631~~] 26B-5-332, with the exception of Subsection [~~62A-15-631~~] 26B-5-332(16), unless, by the time set for the hearing, the patient is returned to the less restrictive environment or the patient withdraws the request for a hearing, in writing.

(d) The court shall:

(i) make findings regarding whether the conditions described in Subsections (3)(a) and (b) were met and whether the patient is in the least restrictive environment that is appropriate for the patient's needs; and

(ii) designate, by order, the environment for the patient's care and the period for which the patient shall be treated, which may not extend beyond expiration of the original order of commitment.

(4) Nothing contained in this section prevents a local mental health authority or its designee, pursuant to Section [~~62A-15-636~~] 26B-5-336, from discharging a patient from commitment or from placing a patient in an environment that is less restrictive than that ordered by the court.

Section 65. Section 26B-5-338, which is renumbered from Section 62A-15-638 is renumbered and amended to read:

[~~62A-15-638~~]. 26B-5-338. Reexamination of court order for commitment -- Procedures -- Costs.

(1) Any patient committed pursuant to Section [~~62A-15-631~~] 26B-5-332 is entitled to a reexamination of the order for commitment on the patient's own petition, or on that of the legal guardian, parent, spouse, relative, or friend, to the [~~district~~] court of the county in which the patient resides or is detained.

(2) Upon receipt of the petition, the court shall conduct or cause to be conducted by a mental health commissioner proceedings in accordance with Section [~~62A-15-631~~] 26B-5-332, except that those proceedings shall not be required to be conducted if the petition is filed sooner than six months after the issuance of the order of commitment or the filing of a previous petition under this section, provided that the court may hold a hearing within a shorter period of time if good cause appears. The costs of proceedings for such judicial determination shall be paid by the county in which the patient resided or was found prior to commitment, upon certification, by the clerk of the [~~district~~] court in the county where the proceedings are held, to the county legislative body that those proceedings were held and the costs incurred.

Section 66. Section 26B-5-339, which is renumbered from Section 62A-15-618 is renumbered and amended to read:

[~~62A-15-618~~]. 26B-5-339. Designated examiners.

(1) A designated examiner shall consider a proposed patient's mental health history when evaluating a proposed patient.

(2) A designated examiner may request a court order to obtain a proposed patient's mental health records if a proposed patient refuses to share this information with the designated examiner.

(3) A designated examiner, when evaluating a proposed patient for civil commitment, shall consider whether:

(a) a proposed patient has been under a court order for assisted outpatient treatment;

(b) the proposed patient complied with the terms of the assisted outpatient treatment order, if any; and

(c) whether assisted outpatient treatment is sufficient to meet the proposed patient's needs.

(4) A designated examiner shall be allowed a reasonable fee by the county legislative body of the county in which the proposed patient resides or is found, unless the designated examiner is otherwise paid.

Section 67. Section 26B-5-340, which is renumbered from Section 62A-15-630 is renumbered and amended to read:

[~~62A-15-630~~]. 26B-5-340. Mental health commissioners.

The court may appoint a mental health commissioner to assist in conducting commitment proceedings in accordance with Section 78A-5-107.

Section 68. Section 26B-5-341, which is renumbered from Section 62A-15-626 is renumbered and amended to read:

[~~62A-15-626~~]. 26B-5-341. Release from commitment.

(1) (a) Subject to Subsection (1)(b), a local mental health authority or the mental health authority's designee shall release from commitment any individual who, in the opinion of the local mental health authority or the mental health authority's designee, has recovered or no longer meets the criteria specified in Section [~~62A-15-631~~] 26B-5-332.

(b) A local mental health authority's inability to locate a committed individual may not be the basis for the individual's release, unless the court orders the release of the individual after a hearing.

(2) A local mental health authority or the mental health authority's designee may release from commitment any patient whose commitment is determined to be no longer advisable except as provided by Section [~~62A-15-705~~] 26B-5-405, but an effort shall be made to assure that any further supportive services required to meet the patient's needs upon release will be provided.

(3) When a patient has been committed to a local mental health authority by judicial process, the local mental health authority shall follow the procedures described in Sections [~~62A-15-636 and 62A-15-637~~] 26B-5-336 and 26B-5-337.

Section 69. Section 26B-5-342, which is renumbered from Section 62A-15-620 is renumbered and amended to read:

[~~62A-15-620~~]. 26B-5-342. Attempt to commit person contrary to requirements -- Penalty.

Any person who attempts to place another person in the custody of a local mental health authority contrary to the provisions of this part is guilty of a class B misdemeanor, in addition to liability in an action for damages, or subject to other criminal charges.

Section 70. Section 26B-5-350, which is renumbered from Section 62A-15-630.4 is renumbered and amended to read:

[~~62A-15-630.4~~]. 26B-5-350. Assisted outpatient treatment services.

(1) The local mental health authority or [~~its~~] the local mental health authority's designee shall provide assisted outpatient treatment, which shall include:

(a) case management; and

(b) an individualized treatment plan, created with input from the proposed patient when possible.

(2) A court order for assisted outpatient treatment does not create independent authority to forcibly medicate a patient.

Section 71. Section 26B-5-351, which is renumbered from Section 62A-15-630.5 is renumbered and amended to read:

[~~62A-15-630.5~~]. 26B-5-351. Assisted outpatient treatment proceedings.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need for assisted outpatient treatment may file, in the [~~district~~] court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number; and

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based.

(2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may require the applicant to consult with the appropriate local mental health

authority, and the court may direct a mental health professional from that local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report them to the court.

(b) The consultation described in Subsection (2)(a):

(i) may take place at or before the hearing; and

(ii) is required if the local mental health authority appears at the hearing.

(3) If the proposed patient refuses to submit to an interview described in Subsection (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a mental health officer or peace officer, to immediately place the proposed patient into the custody of a local mental health authority or in a temporary emergency facility, as provided in Section [~~62A-15-634~~] 26B-5-334, to be detained for the purpose of examination.

(4) Notice of commencement of proceedings for assisted outpatient treatment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, shall:

(a) be provided by the court to a proposed patient before, or upon, placement into the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority;

(b) be maintained at the proposed patient's place of detention, if any;

(c) be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or its designee, and any other person whom the proposed patient or the court shall designate; and

(d) advise that a hearing may be held within the time provided by law.

(5) The [~~district~~] court may, in its discretion, transfer the case to any other [~~district~~] court within this state, provided that the transfer will not be adverse to the interest of the proposed patient.

(6) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or its designee under court order for detention in order to complete an examination, the court shall appoint two designated examiners:

(a) who did not sign the assisted outpatient treatment application nor the certification described in Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(7) The court shall schedule a hearing to be held within 10 calendar days of the day on which the designated examiners are appointed.

(8) The designated examiners shall:

(a) conduct their examinations separately;

(b) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health;

(c) inform the proposed patient, if not represented by an attorney:

(i) that the proposed patient does not have to say anything;

(ii) of the nature and reasons for the examination;

(iii) that the examination was ordered by the court;

(iv) that any information volunteered could form part of the basis for the proposed patient to be ordered to receive assisted outpatient treatment; and

(v) that findings resulting from the examination will be made available to the court; and

(d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill. If the designated examiner reports orally, the designated examiner shall immediately send a written report to the clerk of the court.

(9) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(10) If the local mental health authority, its designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to an assisted outpatient treatment hearing no longer exist, the local mental health authority, its designee, or the medical examiner shall immediately report that determination to the court.

(11) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or its designee informs the court that the proposed patient does not meet the criteria in Subsection (14).

(12) Before the hearing, an opportunity to be represented by counsel shall be afforded to the proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing. In the case of an indigent proposed patient, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or is found.

(13) (a) All persons to whom notice is required to be given shall be afforded an opportunity to appear

at the hearing, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other individual. The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude all individuals not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient.

(d) The court shall consider all relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.

(e) (i) A local mental health authority or its designee, or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order, if any;

(B) admission notes, if any;

(C) the diagnosis, if any;

(D) doctor's orders, if any;

(E) progress notes, if any;

(F) nursing notes, if any; and

(G) medication records, if any.

(ii) The information described in Subsection (13)(e)(i) shall also be provided to the proposed patient's counsel:

(A) at the time of the hearing; and

(B) at any time prior to the hearing, upon request.

(14) The court shall order a proposed patient to assisted outpatient treatment if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(a) the proposed patient has a mental illness;

(b) there is no appropriate less-restrictive alternative to a court order for assisted outpatient treatment; and

(c) (i) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental health treatment, as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment; or

(ii) the proposed patient needs assisted outpatient treatment in order to prevent relapse or deterioration that is likely to result in the proposed patient posing a substantial danger to self or others.

(15) The court may order the applicant or a close relative of the patient to be the patient's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the patient's mental health treatment.

(16) In the absence of the findings described in Subsection (14), the court, after the hearing, shall dismiss the proceedings.

(17) (a) The assisted outpatient treatment order shall designate the period for which the patient shall be treated, which may not exceed 12 months without a review hearing.

(b) At a review hearing, the court may extend the duration of an assisted outpatient treatment order by up to 12 months, if:

(i) the court finds by clear and convincing evidence that the patient meets the conditions described in Subsection (14); or

(ii) (A) the patient does not appear at the review hearing;

(B) notice of the review hearing was provided to the patient's last known address by the applicant described in Subsection (1) or by a local mental health authority; and

(C) the patient has appeared in court or signed an informed waiver within the previous 18 months.

(c) The court shall maintain a current list of all patients under its order of assisted outpatient treatment.

(d) At least two weeks prior to the expiration of the designated period of any assisted outpatient treatment order still in effect, the court that entered the original order shall inform the appropriate local mental health authority or its designee.

(18) Costs of all proceedings under this section shall be paid by the county in which the proposed patient resides or is found.

(19) A court may not hold an individual in contempt for failure to comply with an assisted outpatient treatment order.

(20) As provided in Section 31A-22-651, a health insurance provider may not deny an insured the benefits of the insured's policy solely because the health care that the insured receives is provided under a court order for assisted outpatient treatment.

Section 72. Section 26B-5-360, which is renumbered from Section 62A-15-625 is renumbered and amended to read:

[~~62A-15-625~~]. 26B-5-360. Voluntary admission of adults.

(1) A local mental health authority, a designee of a local mental health authority, or another mental health facility may admit for observation, diagnosis, care, and treatment an adult who applies for voluntary admission and who has a mental illness or exhibits the symptoms of a mental illness.

(2) No adult may be committed to a local mental health authority against that adult's will except as provided in this chapter.

(3) An adult may be voluntarily admitted to a local mental health authority for treatment at the Utah State Hospital as a condition of probation or stay of sentence only after the requirements of Section 77-18-106 have been met.

Section 73. Section 26B-5-361, which is renumbered from Section 62A-15-627 is renumbered and amended to read:

[~~62A-15-627~~]. 26B-5-361. Release of voluntary adult -- Exceptions.

(1) Except as provided in Subsection (2), a mental health facility shall immediately release an adult patient:

(a) who is voluntarily admitted, as described in Section [~~62A-15-625~~] 26B-5-360, and who requests release, verbally or in writing; or

(b) whose release is requested in writing by the patient's legal guardian, parent, spouse, or adult next of kin.

(2) (a) An adult patient's release under Subsection (1) may be conditioned upon the agreement of the patient, if:

(i) the request for release is made by an individual other than the patient; or

(ii) the admitting local mental health authority, the designee of the local mental health authority, or the admitting mental health facility has cause to believe that release of the patient would be unsafe for the patient or others.

(b) (i) An adult patient's release may be postponed for up to 48 hours, excluding weekends and holidays, if the admitting local mental health authority, the designee of the local mental health authority, or the admitting mental health facility causes involuntary commitment proceedings to be commenced with the [~~district~~] court within the specified time period.

(ii) The admitting local mental health authority, the designee of the local mental health authority, or the admitting mental health facility shall provide written notice of the postponement and the reasons for the postponement to the patient without undue delay.

(3) A judicial proceeding for involuntary commitment may not be commenced with respect to a voluntary patient unless the patient requests release.

Section 74. Section 26B-5-362, which is renumbered from Section 62A-15-646 is renumbered and amended to read:

[~~62A-15-646~~]. 26B-5-362. Commitment and care of criminally insane.

Nothing contained in this part may be construed to alter or change the method presently employed for the commitment and care of the criminally insane as provided in Title 77, Chapter 15, Inquiry into Sanity of Defendant.

Section 75. Section 26B-5-363, which is renumbered from Section 62A-15-616 is renumbered and amended to read:

[~~62A-15-616~~]. 26B-5-363. Persons entering state mentally ill.

(1) A person who enters this state while mentally ill may be returned by a local mental health authority to the home of relatives or friends of that person with a mental illness, if known, or to a hospital in the state where that person with a mental illness is domiciled, in accordance with [~~Title 62A, Chapter 15, Part 8,~~] the Interstate Compact on Mental Health in Section 26B-5-365.

(2) This section does not prevent commitment of persons who are traveling through or temporarily residing in this state.

Section 76. Section 26B-5-364, which is renumbered from Section 62A-15-633 is renumbered and amended to read:

[~~62A-15-633~~]. 26B-5-364. Persons eligible for care or treatment by federal agency -- Continuing jurisdiction of state courts.

(1) If an individual committed pursuant to Section [~~62A-15-631~~] 26B-5-332 is eligible for care or treatment by any agency of the United States, the court, upon receipt of a certificate from a United States agency, showing that facilities are available and that the individual is eligible for care or treatment therein, may order the individual to be placed in the custody of that agency for care.

(2) When admitted to any facility or institution operated by a United States agency, within or without this state, the individual shall be subject to the rules and regulations of that agency.

(3) The chief officer of any facility or institution operated by a United States agency and in which the individual is hospitalized, shall, with respect to that individual, be vested with the same powers as the superintendent or director of a mental health facility, regarding detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction is retained in appropriate courts of this state at any time to inquire into the mental condition of an individual so hospitalized, and to determine the necessity for continuance of hospitalization, and every order of hospitalization issued pursuant to this section is so conditioned.

Section 77. Section 26B-5-365, which is renumbered from Section 62A-15-801 is renumbered and amended to read:

[~~62A-15-801~~]. 26B-5-365. Interstate Compact on Mental Health -- Compact provisions.

The Interstate Compact on Mental Health is hereby enacted and entered into with all other jurisdictions that legally join in the compact, which is, in form, substantially as follows:

INTERSTATE COMPACT
ON MENTAL HEALTH

The contracting states solemnly agree that:

Article I

The proper and expeditious treatment of the mentally ill can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability of furnishing that care and treatment bears no primary relation to the residence or citizenship of the patient but that the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal and constitutional basis for commitment or other appropriate care and treatment of the mentally ill under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states.

The appropriate authority in this state for making determinations under this compact is the director of the division or his designee.

Article II

As used in this compact:

(1) "After-care" means care, treatment, and services provided to a patient on convalescent status or conditional release.

(2) "Institution" means any hospital, program, or facility maintained by a party state or political subdivision for the care and treatment of persons with a mental illness.

(3) "Mental illness" means a psychiatric disorder as defined by the current Diagnostic and Statistical Manual of Mental Disorders, that substantially impairs a person's mental, emotional, behavioral, or related functioning to such an extent that he requires care and treatment for his own welfare, the welfare of others, or the community.

(4) "Patient" means any person subject to or eligible, as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact and constitutional due process requirements.

(5) "Receiving state" means a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be sent.

(6) "Sending state" means a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be sent.

(7) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(1) Whenever a person physically present in any party state is in need of institutionalization because of mental illness, he shall be eligible for care and treatment in an institution in that state, regardless of his residence, settlement, or citizenship qualifications.

(2) Notwithstanding the provisions of Subsection (1) of this article, any patient may be transferred to an institution in another state whenever there are factors, based upon clinical determinations, indicating that the care and treatment of that patient would be facilitated or improved by that action. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors to be considered include the patient's full record with due regard for the location of the patient's family, the character of his illness and its probable duration, and other factors considered appropriate by authorities in the party state and the director of the division, or his designee.

(3) No state is obliged to receive any patient pursuant to the provisions of Subsection (2) of this article unless the sending state has:

(a) given advance notice of its intent to send the patient;

(b) furnished all available medical and other pertinent records concerning the patient;

(c) given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient; and

(d) determined that the receiving state agrees to accept the patient.

(4) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(5) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and further transfer of the patient may be made as is deemed to be in the best interest of the patient, as determined by appropriate authorities in the receiving and sending states.

Article IV

(1) Whenever, pursuant to the laws of the state in which a patient is physically present, it is determined that the patient should receive after-care or supervision, that care or supervision may be provided in the receiving state. If the medical or other appropriate clinical authorities who have responsibility for the care and treatment of the patient in the sending state believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of providing the patient with after-care in the receiving state. That request for

investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge the patient would be placed, the complete medical history of the patient, and other pertinent documents.

(2) If the medical or other appropriate clinical authorities who have responsibility for the care and treatment of the patient in the sending state, and the appropriate authorities in the receiving state find that the best interest of the patient would be served, and if the public safety would not be jeopardized, the patient may receive after-care or supervision in the receiving state.

(3) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment as for similar local patients.

Article V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities both within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of that patient, he shall be detained in the state where found, pending disposition in accordance with the laws of that state.

Article VI

Accredited officers of any party state, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII

(1) No person may be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state has the effect of making the person a patient of the institution in the receiving state.

(2) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs among themselves.

(3) No provision of this compact may be construed to alter or affect any internal relationships among the departments, agencies, and officers of a party state, or between a party state and its subdivisions, as to the payment of costs or responsibilities.

(4) Nothing in this compact may be construed to prevent any party state or any of its subdivisions from asserting any right against any person, agency, or other entity with regard to costs for which that party state or its subdivision may be responsible under this compact.

(5) Nothing in this compact may be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care, or treatment of the mentally ill, or any statutory authority under which those agreements are made.

Article VIII

(1) Nothing in this compact may be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or with respect to any patient for whom he serves, except that when the transfer of a patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, a court of competent jurisdiction in the receiving state may make supplemental or substitute appointments. In that case, the court that appointed the previous guardian shall, upon being advised of the new appointment and upon the satisfactory completion of accounting and other acts as the court may require, relieve the previous guardian of power and responsibility to whatever extent is appropriate in the circumstances.

However, in the case of any patient having settlement in the sending state, a court of competent jurisdiction in the sending state has the sole discretion to relieve a guardian appointed by it or to continue his power and responsibility, as it deems advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(2) The term "guardian" as used in Subsection (1) of this article includes any guardian, trustee, legal committee, conservator, or other person or agency however denominated, who is charged by law with power to act for the person or property of a patient.

Article IX

(1) No provision of this compact except Article V applies to any person institutionalized while under sentence in a penal or correctional institution, while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness, he would be subject to incarceration in a penal or correctional institution.

(2) To every extent possible, it shall be the policy of party states that no patient be placed or detained in any prison, jail, or lockup, but shall, with all expedition, be taken to a suitable institutional facility for mental illness.

Article X

(1) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state, either in the capacity of sending or receiving state. The compact administrator, or his designee, shall deal with all matters relating to the compact and patients processed under the compact. In this

state the director of the division, or his designee shall act as the "compact administrator."

(2) The compact administrators of the respective party states have power to promulgate reasonable rules and regulations as are necessary to carry out the terms and provisions of this compact. In this state, the division has authority to establish those rules in accordance with the Utah Administrative Rulemaking Act.

(3) The compact administrator shall cooperate with all governmental departments, agencies, and officers in this state and its subdivisions in facilitating the proper administration of the compact and any supplementary agreement or agreements entered into by this state under the compact.

(4) The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of this compact. In the event that supplementary agreements require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, that agreement shall have no force unless approved by the director of the department or agency under whose jurisdiction the institution or facility is operated, or whose department or agency will be charged with the rendering of services.

(5) The compact administrator may make or arrange for any payments necessary to discharge financial obligations imposed upon this state by the compact or by any supplementary agreement entered into under the compact.

Article XI

Administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility, or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned find that those agreements will improve services, facilities, or institutional care and treatment of persons who are mentally ill. A supplementary agreement may not be construed to relieve a party state of any obligation that it otherwise would have under other provisions of this compact.

Article XII

This compact has full force and effect in any state when it is enacted into law in that state. Thereafter, that state is a party to the compact with any and all states that have legally joined.

Article XIII

A party state may withdraw from the compact by enacting a statute repealing the compact. Withdrawal takes effect one year after notice has been communicated officially and in writing to the compact administrators of all other party states. However, the withdrawal of a state does not change the status of any patient who has been sent to that state or sent out of that state pursuant to the compact.

Article XIV

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact are severable, and if any phrase, clause, sentence or provision is declared to be contrary to the constitution of the United States or the applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held to be contrary to the constitution of any party state the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 78. Section 26B-5-366, which is renumbered from Section 62A-15-802 is renumbered and amended to read:

[~~62A-15-802~~]. 26B-5-366. Interstate compact on mental health -- Requirement of conformity with this chapter.

All actions and proceedings taken under authority of this compact shall be in accordance with the procedures and constitutional requirements described in [~~Part 6, Utah State Hospital and Other Mental Health Facilities~~] this part.

Section 79. Section 26B-5-367, which is renumbered from Section 62A-15-647 is renumbered and amended to read:

[~~62A-15-647~~]. 26B-5-367. Severability.

If any one or more provision, section, subsection, sentence, clause, phrase, or word of this part, or the application thereof to any person or circumstance, is found to be unconstitutional the same is hereby declared to be severable and the balance of this part shall remain effective notwithstanding that unconstitutionality. The Legislature hereby declares that it would have passed this part, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.

Section 80. Section 26B-5-370, which is renumbered from Section 62A-15-901 is renumbered and amended to read:

[~~62A-15-901~~]. 26B-5-370. Establishment of the Utah Forensic Mental Health Facility.

The Utah Forensic Mental Health Facility is hereby established and shall be located on state land on the campus of the Utah State Hospital in Provo, Utah County.

Section 81. Section 26B-5-371, which is renumbered from Section 62A-15-902 is renumbered and amended to read:

[~~62A-15-902~~]. 26B-5-371. Utah Forensic Mental Health Facility -- Design and operation -- Security.

(1) The forensic mental health facility is a secure treatment facility.

(2) (a) The forensic mental health facility accommodates the following populations:

(i) prison inmates displaying mental illness[~~, as defined in Section 62A-15-602,~~] necessitating treatment in a secure mental health facility;

(ii) criminally adjudicated persons found guilty with a mental illness or guilty with a mental illness at the time of the offense undergoing evaluation for mental illness under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

(iii) criminally adjudicated persons undergoing evaluation for competency or found guilty with a mental illness or guilty with a mental illness at the time of the offense under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, who also have an intellectual disability;

(iv) persons undergoing evaluation for competency or found by a court to be incompetent to proceed in accordance with Title 77, Chapter 15, Inquiry into Sanity of Defendant, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;

(v) persons who are civilly committed to the custody of a local mental health authority in accordance with [~~Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities~~] this part, and who may not be properly supervised by the Utah State Hospital because of a lack of necessary security, as determined by the superintendent or the superintendent's designee; and

(vi) persons ordered to commit themselves to the custody of the [~~Division of Substance Abuse and Mental Health~~] division for treatment at the Utah State Hospital as a condition of probation or stay of sentence pursuant to Title 77, Chapter 18, The Judgment.

(b) Placement of an offender in the forensic mental health facility under any category described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's status as established by the court at the time of adjudication.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing for the allocation of beds to the categories described in Subsection (2)(a).

(3) The department shall:

(a) own and operate the forensic mental health facility;

(b) provide and supervise administrative and clinical staff; and

(c) provide security staff who are trained as psychiatric technicians.

(4) Pursuant to Subsection [~~62A-15-603~~] 26B-5-303(3) the executive director shall designate individuals to perform security functions for the state hospital.

Section 82. Section 26B-5-372, which is renumbered from Section 62A-15-605.5 is renumbered and amended to read:

[~~62A-15-605.5~~]. 26B-5-372. Admission of person in custody of Department of Corrections to state hospital -- Retransfer of person to Department of Corrections.

(1) The executive director of the Department of Corrections may request the director to admit a person who is in the custody of the Department of Corrections to the state hospital, if the clinical director within the Department of Corrections finds that the inmate has mentally deteriorated to the point that admission to the state hospital is necessary to ensure adequate mental health treatment. In determining whether that inmate should be placed in the state hospital, the director of the division shall consider:

(a) the mental health treatment needs of the inmate;

(b) the treatment programs available at the state hospital; and

(c) whether the inmate meets the requirements of Subsection [~~62A-15-610~~] 26B-5-306(2).

(2) If the director denies the admission of an inmate as requested by the clinical director within the Department of Corrections, the Board of Pardons and Parole shall determine whether the inmate will be admitted to the state hospital. The Board of Pardons and Parole shall consider:

(a) the mental health treatment needs of the inmate;

(b) the treatment programs available at the state hospital; and

(c) whether the inmate meets the requirements of Subsection [~~62A-15-610~~] 26B-5-306(2).

(3) The state hospital shall receive any person in the custody of the Department of Corrections when ordered by either the director or the Board of Pardons and Parole, pursuant to Subsection (1) or (2). Any person so transferred to the state hospital shall remain in the custody of the Department of Corrections, and the state hospital shall act solely as the agent of the Department of Corrections.

(4) Inmates transferred to the state hospital pursuant to this section shall be transferred back to the Department of Corrections through negotiations between the director and the director of the Department of Corrections. If agreement between the director and the director of the Department of Corrections cannot be reached, the Board of Pardons and Parole shall have final authority in determining whether a person will be transferred back to the Department of Corrections. In making that determination, that board shall consider:

(a) the mental health treatment needs of the inmate;

(b) the treatment programs available at the state hospital;

(c) whether the person continues to meet the requirements of Subsection [~~62A-15-610~~] 26B-5-306(2);

(d) the ability of the state hospital to provide adequate treatment to the person, as well as safety and security to the public; and

(e) whether, in the opinion of the director, in consultation with the clinical director of the state hospital, the person's treatment needs have been met.

Section 83. Section 26B-5-380, which is renumbered from Section 62A-1-108.5 is renumbered and amended to read:

[~~62A-1-108.5~~]. 26B-5-380. Mental illness and intellectual disability examinations -- Responsibilities of the department.

(1) In accomplishing the department's duties to conduct a competency evaluation under Title 77, Utah Code of Criminal Procedure, and a juvenile competency evaluation under Section 80-6-402, the department shall proceed as outlined in this section and within appropriations authorized by the Legislature.

(2) When the department is ordered by a court to conduct a competency evaluation, the department shall designate a forensic evaluator, selected under Subsection (4), to evaluate the defendant in the defendant's current custody or status.

(3) When the department is ordered by the juvenile court to conduct a juvenile competency evaluation under Section 80-6-402, the department shall:

(a) designate an examiner selected pursuant to Subsection (4) to evaluate the minor; and

(b) upon a finding of good cause and order of the court, designate a second examiner to evaluate the minor.

(4) The department shall establish criteria, in consultation with the Commission on Criminal and Juvenile Justice, and shall contract with persons to conduct competency evaluations and juvenile competency evaluations under Subsections (2) and (3)(b). In making this selection, the department shall follow the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(5) Nothing in this section prohibits the department, at the request of defense counsel or a prosecuting attorney in a criminal proceeding under Title 77, Utah Code of Criminal Procedure, and for good cause shown, from proposing a person who has not been previously selected under Subsection (4) to contract with the department to conduct the evaluation. In selecting that person, the criteria of the department established under Subsection (4) and the provisions of Title 63G, Chapter 6a, Utah Procurement Code, shall be met.

Section 84. Section 26B-5-401, which is renumbered from Section 62A-15-701 is renumbered and amended to read:

Part 4. Commitment of Persons Under Age 18

[~~62A-15-701~~]. 26B-5-401. Definitions.

[~~As~~] In addition to the definitions in Section 26B-5-301, as used in this part:

(1) "Child" means a person under 18 years [~~of age~~] old.

(2) "Commit" and "commitment" mean the transfer of physical custody in accordance with the requirements of this part.

(3) "Legal custody" means:

(a) the right to determine where and with whom the child shall live;

(b) the right to participate in all treatment decisions and to consent or withhold consent for treatment in which a constitutionally protected liberty or privacy interest may be affected, including antipsychotic medication, electroshock therapy, and psychosurgery; and

(c) the right to authorize surgery or other extraordinary medical care.

(4) "Physical custody" means:

(a) placement of a child in any residential or inpatient setting;

(b) the right to physical custody of a child;

(c) the right and duty to protect the child; and

(d) the duty to provide, or insure that the child is provided with, adequate food, clothing, shelter, and ordinary medical care.

(5) "Residential" means any out-of-home placement made by a local mental health authority, but does not include out-of-home respite care.

(6) "Respite care" means temporary, periodic relief provided to parents or guardians from the daily care of children with serious emotional disorders for the limited time periods designated by the division.

Section 85. Section 26B-5-402, which is renumbered from Section 62A-15-702 is renumbered and amended to read:

[~~62A-15-702~~]. 26B-5-402. Treatment and commitment of minors in the public mental health system.

A child is entitled to due process proceedings, in accordance with the requirements of this part, whenever the child:

(1) may receive or receives services through the public mental health system and is placed, by a local mental health authority, in a physical setting where his liberty interests are restricted, including residential and inpatient placements; or

(2) receives treatment in which a constitutionally protected privacy or liberty interest may be

affected, including the administration of antipsychotic medication, electroshock therapy, and psychosurgery.

Section 86. Section 26B-5-403, which is renumbered from Section 62A-15-703 is renumbered and amended to read:

[~~62A-15-703~~]. 26B-5-403. Residential and inpatient settings -- Commitment proceeding -- Child in physical custody of local mental health authority.

(1) A child may receive services from a local mental health authority in an inpatient or residential setting only after a commitment proceeding, for the purpose of transferring physical custody, has been conducted in accordance with the requirements of this section.

(2) That commitment proceeding shall be initiated by a petition for commitment, and shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant to the procedures and requirements of this section. If the findings described in Subsection (4) exist, the proceeding shall result in the transfer of physical custody to the appropriate local mental health authority, and the child may be placed in an inpatient or residential setting.

(3) The neutral and detached fact finder who conducts the inquiry:

(a) shall be a designated examiner[~~, as defined in Section 62A-15-602~~]; and

(b) may not profit, financially or otherwise, from the commitment or physical placement of the child in that setting.

(4) Upon determination by a fact finder that the following circumstances clearly exist, the fact finder may order that the child be committed to the physical custody of a local mental health authority:

(a) the child has a mental illness[~~, as defined in Section 62A-15-602~~];

(b) the child demonstrates a reasonable fear of the risk of substantial danger to self or others;

(c) the child will benefit from care and treatment by the local mental health authority; and

(d) there is no appropriate less-restrictive alternative.

(5) (a) The commitment proceeding before the neutral and detached fact finder shall be conducted in as informal manner as possible and in a physical setting that is not likely to have a harmful effect on the child.

(b) The child, the child's parent or legal guardian, the petitioner, and a representative of the appropriate local mental health authority:

(i) shall receive informal notice of the date and time of the proceeding; and

(ii) may appear and address the petition for commitment.

(c) The neutral and detached fact finder may, in the fact finder's discretion, receive the testimony of any other person.

(d) The fact finder may allow a child to waive the child's right to be present at the commitment proceeding, for good cause shown. If that right is waived, the purpose of the waiver shall be made a matter of record at the proceeding.

(e) At the time of the commitment proceeding, the appropriate local mental health authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the commitment proceeding, shall provide the neutral and detached fact finder with the following information, as it relates to the period of current admission:

(i) the petition for commitment;

(ii) the admission notes;

(iii) the child's diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(f) The information described in Subsection (5)(e) shall also be provided to the child's parent or legal guardian upon written request.

(g) (i) The neutral and detached fact finder's decision of commitment shall state the duration of the commitment. Any commitment to the physical custody of a local mental health authority may not exceed 180 days. Prior to expiration of the commitment, and if further commitment is sought, a hearing shall be conducted in the same manner as the initial commitment proceeding, in accordance with the requirements of this section.

(ii) At the conclusion of the hearing and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and the child's parent or legal guardian of that decision and of the reasons for ordering commitment.

(iii) The neutral and detached fact finder shall state in writing the basis of the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.

(6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in accordance with the procedures described in Section [~~62A-15-629~~] 26B-5-331 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

(7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental

health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services has legal custody of a child, that division shall retain legal custody for purposes of this part.

(8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs assessed pursuant to this section.

(9) Whenever application is made for commitment of a minor to a local mental health authority under any provision of this section by a person other than the child's parent or guardian, the local mental health authority or its designee shall notify the child's parent or guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled proceeding.

(10) (a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. With regard to a child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

(b) Upon receipt of the petition for appeal, the court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the court. The court shall then conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.

(c) Prior to the time of the appeal hearing, the appropriate local mental health authority, its designee, or the mental health professional who has been in charge of the child's care prior to commitment, shall provide the court and the designated examiner for the appeal hearing with the following information, as it relates to the period of current admission:

(i) the original petition for commitment;

(ii) admission notes;

(iii) diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) prior to the appeal hearing.

(e) The child, the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review the record and findings of the neutral and detached fact finder, the report of the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require the testimony of the neutral and detached fact finder, the designated examiner, the child, the child's parent or legal guardian, the person who brought the initial petition for commitment, or any other person whose testimony the court deems relevant. The court may allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that waiver is granted, the purpose shall be made a part of the court's record.

(11) Each local mental health authority has an affirmative duty to conduct periodic evaluations of the mental health and treatment progress of every child committed to its physical custody under this section, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.

(12) (a) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional may release an improved child to a less restrictive environment, as they determine appropriate. Whenever the local mental health authority or its designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the child shall be discharged and released to the child's parent or legal guardian. With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.

(b) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local authority or its designee and the child's current treating mental health professional has reason to believe that the less restrictive environment in which the child has been

placed is exacerbating the child's mental illness, or increasing the risk of harm to self or others.

(c) The written order described in Subsection (12)(b) shall include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional. Prior to admission to the more restrictive environment, copies of the order shall be personally delivered to the child, the child's parent or legal guardian, the administrator of the more restrictive environment, or the administrator's designee, and the child's former treatment provider or facility.

(d) If the child has been in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a review within 30 days of the change, by a neutral and detached fact finder as described in Subsection (3). The fact finder shall determine whether:

(i) the less restrictive environment in which the child has been placed is exacerbating the child's mental illness or increasing the risk of harm to self or others; or

(ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the fact finder shall designate that the child remain in the less restrictive environment.

(e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.

(13) Each local mental health authority or its designee, in conjunction with the child's current treating mental health professional shall discharge any child who, in the opinion of that local authority, or its designee, and the child's current treating mental health professional, no longer meets the criteria specified in Subsection (4), except as provided by Section [~~62A-15-705~~] 26B-5-405. The local authority and the mental health professional shall assure that any further supportive services required to meet the child's needs upon release will be provided.

(14) Even though a child has been committed to the physical custody of a local mental health authority under this section, the child is still entitled to additional due process proceedings, in accordance with Section [~~62A-15-704~~] 26B-5-704, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered. Those treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

Section 87. Section 26B-5-404, which is renumbered from Section 62A-15-704 is renumbered and amended to read:

[~~62A-15-704~~]. 26B-5-404. Invasive treatment -- Due process proceedings.

(1) For purposes of this section, "invasive treatment" means treatment in which a constitutionally protected liberty or privacy interest may be affected, including antipsychotic medication, electroshock therapy, and psychosurgery.

(2) The requirements of this section apply to all children receiving services or treatment from a local mental health authority, its designee, or its provider regardless of whether a local mental health authority has physical custody of the child or the child is receiving outpatient treatment from the local authority, its designee, or provider.

(3) (a) The division shall promulgate rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing due process procedures for children prior to any invasive treatment as follows:

(i) with regard to antipsychotic medications, if either the parent or child disagrees with that treatment, a due process proceeding shall be held in compliance with the procedures established under this Subsection (3);

(ii) with regard to psychosurgery and electroshock therapy, a due process proceeding shall be conducted pursuant to the procedures established under this Subsection (3), regardless of whether the parent or child agree or disagree with the treatment; and

(iii) other possible invasive treatments may be conducted unless either the parent or child disagrees with the treatment, in which case a due process proceeding shall be conducted pursuant to the procedures established under this Subsection (3).

(b) In promulgating the rules required by Subsection (3)(a), the division shall consider the advisability of utilizing an administrative law judge, court proceedings, a neutral and detached fact finder, and other methods of providing due process for the purposes of this section. The division shall also establish the criteria and basis for determining when invasive treatment should be administered.

Section 88. Section 26B-5-405, which is renumbered from Section 62A-15-705 is renumbered and amended to read:

[~~62A-15-705~~]. 26B-5-405. Commitment proceedings in juvenile court -- Criteria -- Custody.

(1) (a) Subject to Subsection (1)(b), a commitment proceeding for a child may be commenced by filing a written application with the juvenile court of the county in which the child resides or is found, in accordance with the procedures described in Section [~~62A-15-631~~] 26B-5-332.

(b) A commitment proceeding under this section may be commenced only after a commitment proceeding under Section [~~62A-15-703~~] 26B-5-403 has concluded without the child being committed.

(2) The juvenile court shall order commitment to the physical custody of a local mental health authority if, upon completion of the hearing and consideration of the record, the juvenile court finds by clear and convincing evidence that:

(a) the child has a mental illness[~~, as defined in Section 62A-15-602~~];

(b) the child demonstrates a risk of harm to the child or others;

(c) the child is experiencing significant impairment in the child's ability to perform socially;

(d) the child will benefit from the proposed care and treatment; and

(e) there is no appropriate less restrictive alternative.

(3) The juvenile court may not commit a child under Subsection (1) directly to the Utah State Hospital.

(4) The local mental health authority has an affirmative duty to:

(a) conduct periodic reviews of children committed to the local mental health authority's custody in accordance with this section; and

(b) release any child who has sufficiently improved so that the local mental health authority, or the local mental authority's designee, determines that commitment is no longer appropriate.

(5) If a child is committed to the custody of a local mental health authority, or the local mental health authority's designee, by the juvenile court, the local mental health authority, or the local mental health authority's designee, shall give the juvenile court written notice of the intention to release the child not fewer than five days before the day on which the child is released.

Section 89. Section 26B-5-406, which is renumbered from Section 62A-15-706 is renumbered and amended to read:

[~~62A-15-706~~]. 26B-5-406. Parent advocate.

The division shall establish the position of a parent advocate to assist parents of children with a mental illness who are subject to the procedures required by this part.

Section 90. Section 26B-5-407, which is renumbered from Section 62A-15-707 is renumbered and amended to read:

[~~62A-15-707~~]. 26B-5-407. Confidentiality of information and records -- Exceptions -- Penalty.

(1) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, all certificates, applications, records, and reports made for the purpose of this part that directly or indirectly identify a patient or former patient or an individual whose commitment has been sought under this part, shall be kept confidential and may not be disclosed by any person except as follows:

(a) the individual identified consents after reaching 18 years [~~of age~~] old;

(b) the child's parent or legal guardian consents;

(c) disclosure is necessary to carry out any of the provisions of this part; or

(d) a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it, and that failure to make the disclosure would be contrary to the public interest.

(2) A person who violates any provision of this section is guilty of a class B misdemeanor.

Section 91. Section 26B-5-408, which is renumbered from Section 62A-15-708 is renumbered and amended to read:

[~~62A-15-708~~]. 26B-5-408. Mechanical restraints -- Clinical record.

Mechanical restraints may not be applied to a child unless it is determined, by the local mental health authority or its designee in conjunction with the child's current treating mental health professional, that they are required by the needs of that child. Every use of a mechanical restraint and the reasons for that use shall be made a part of the child's clinical record, under the signature of the local mental health authority, its designee, and the child's current treating mental health professional.

Section 92. Section 26B-5-409, which is renumbered from Section 62A-15-709 is renumbered and amended to read:

[~~62A-15-709~~]. 26B-5-409. Habeas corpus.

Any child committed in accordance with Section [~~62A-15-703~~] 26B-5-403 is entitled to a writ of habeas corpus upon proper petition by himself or next of friend to the [~~district~~] court in the district in which he is detained.

Section 93. Section 26B-5-410, which is renumbered from Section 62A-15-710 is renumbered and amended to read:

[~~62A-15-710~~]. 26B-5-410. Restrictions and limitations -- Civil rights and privileges.

(1) Subject to the specific rules of the division, and except to the extent that the local mental health authority or its designee, in conjunction with the child's current treating mental health professional, determines that it is necessary for the welfare of the person to impose restrictions, every child committed to the physical custody of a local mental health authority under Section [~~62A-15-703~~] 26B-5-403 is entitled to:

(a) communicate, by sealed mail or otherwise, with persons, including official agencies, inside or outside of the facility;

(b) receive visitors; and

(c) exercise his civil rights.

(2) When any right of a child is limited or denied, the nature, extent, and reason for that limitation or denial shall be entered in the child's treatment record. Any continuing denial or limitation shall be reviewed every 30 days and shall also be entered in that treatment record. Notice of that continuing denial in excess of 30 days shall be sent to the division.

(3) Notwithstanding any limitations authorized under this section on the right of communication, each child committed to the physical custody of a local mental health authority is entitled to communicate by sealed mail with his attorney, the local mental health authority, its designee, his current treating mental health professional, and the court, if commitment was court ordered. In no case may the child be denied a visit with the legal counsel or clergy of his choice.

(4) Each local mental health authority shall provide appropriate and reasonable means and arrangements for informing children and their parents or legal guardians of their rights as provided in this part, and for assisting them in making and presenting requests for release.

(5) All local mental health facilities shall post a statement, promulgated by the division, describing patient's rights under Utah law.

Section 94. Section 26B-5-411, which is renumbered from Section 62A-15-711 is renumbered and amended to read:

[~~62A-15-711~~]. 26B-5-411. Standards for care and treatment.

Every child is entitled to humane care and treatment and to medical care and treatment in accordance with the prevailing standards accepted in medical practice, psychiatric nursing practice, social work practice, and the practice of clinical psychology.

Section 95. Section 26B-5-412, which is renumbered from Section 62A-15-712 is renumbered and amended to read:

[~~62A-15-712~~]. 26B-5-412. Responsibilities of the division.

(1) The division shall ensure that the requirements of this part are met and applied uniformly by local mental health authorities across the state.

(2) Because the division must, under Section [~~62A-15-103~~] 26B-5-102, contract with, review, approve, and oversee local mental health authority plans, and withhold funds from local mental health authorities and public and private providers for contract noncompliance or misuse of public funds, the division shall:

(a) require each local mental health authority to submit its plan to the division by May 1 of each year; and

(b) conduct an annual program audit and review of each local mental health authority in the state, and its contract provider.

(3) The annual audit and review described in Subsection (2)(b) shall, in addition to items determined by the division to be necessary and appropriate, include a review and determination regarding whether or not:

(a) public funds allocated to local mental health authorities are consistent with services rendered and outcomes reported by it or its contract provider; and

(b) each local mental health authority is exercising sufficient oversight and control over public funds allocated for mental health programs and services.

(4) The Legislature may refuse to appropriate funds to the division if the division fails to comply with the procedures and requirements of this section.

Section 96. Section 26B-5-413, which is renumbered from Section 62A-15-713 is renumbered and amended to read:

[~~62A-15-713~~]. 26B-5-413. Contracts with local mental health authorities -- Provisions.

When the division contracts with a local mental health authority to provide mental health programs and services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include at least the following provisions:

(1) that an independent auditor shall conduct any audit of the local mental health authority or its contract provider's programs or services, pursuant to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(2) in addition to the requirements described in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the division:

(a) shall prescribe guidelines and procedures, in accordance with those formulated by the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of officers, directors, and specified employees of the private contract provider, to assure the state that no personal benefit is gained from travel or other expenses; and

(b) may prescribe specific items to be addressed by that audit, depending upon the particular needs or concerns relating to the local mental health authority or contract provider at issue;

(3) the local mental health authority or its contract provider shall invite and include all funding partners in its auditor's pre- and exit conferences;

(4) each member of the local mental health authority shall annually certify that he has received and reviewed the independent audit and has participated in a formal interview with the provider's executive officers;

(5) requested information and outcome data will be provided to the division in the manner and within the timelines defined by the division;

(6) all audit reports by state or county persons or entities concerning the local mental health authority or its contract provider shall be provided to the executive director of the department, the local mental health authority, and members of the contract provider's governing board; and

(7) the local mental health authority or its contract provider will offer and provide mental health services to residents who are indigent and who meet state criteria for serious and persistent mental illness or severe emotional disturbance.

Section 97. Section 26B-5-501, which is renumbered from Section 62A-15-1202 is renumbered and amended to read:

Part 5. Essential Treatment and Intervention

[~~62A-15-1202~~]. 26B-5-501. Definitions.

[~~As~~] In addition to the definitions in Section 26B-5-301, as used in this part:

(1) "Emergency, life saving treatment" means treatment that is:

(a) provided at a licensed health care facility or licensed human services program;

(b) provided by a licensed health care professional;

(c) necessary to save the life of the patient; and

(d) required due to the patient's:

(i) use of an illegal substance; or

(ii) excessive use or misuse of a prescribed medication.

(2) "Essential treatment examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specifically qualified by training or experience in the diagnosis of substance use disorder; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of substance use disorder.

(3) "Relative" means an adult who is a spouse, parent, stepparent, grandparent, child, or sibling of an individual.

(4) "Serious harm" means the individual, due to substance use disorder, is at serious risk of:

(a) drug overdose;

(b) suicide;

(c) serious bodily self-injury;

(d) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter; or

(e) causing or attempting to cause serious bodily injury to another individual.

(5) "Substance use disorder" means the same as that term is defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Section 98. Section 26B-5-502, which is renumbered from Section 62A-15-1201 is renumbered and amended to read:

[~~62A-15-1201~~]. 26B-5-502. Statement of legislative intent.

To address the serious public health crisis of substance use disorder related deaths and life-threatening opioid addiction, and to allow and enable caring relatives to seek essential treatment and intervention, as may be necessary, on behalf of a sufferer of a substance use disorder, the Legislature enacts the Essential Treatment and Intervention Act.

Section 99. Section 26B-5-503, which is renumbered from Section 62A-15-1203 is renumbered and amended to read:

[~~62A-15-1203~~]. 26B-5-503. Petition for essential treatment -- Contents -- Commitment to pay.

(1) A relative seeking essential treatment and intervention for a sufferer of a substance use disorder may file a petition with the [~~district~~] court of the county in which the sufferer of the substance use disorder resides or is found.

(2) The petition shall include:

(a) the respondent's:

(i) legal name;

(ii) date of birth, if known;

(iii) social security number, if known; and

(iv) residence and current location, if known;

(b) the petitioner's relationship to the respondent;

(c) the name and residence of the respondent's legal guardian, if any and if known;

(d) a statement that the respondent:

(i) is suffering from a substance use disorder; and

(ii) if not treated for the substance use disorder presents a serious harm to self or others;

(e) the factual basis for the statement described in Subsection (2)(d); and

(f) at least one specified local substance abuse authority or approved treatment facility or program where the respondent may receive essential treatment.

(3) Any petition filed under this section:

(a) may be accompanied by proof of health insurance to provide for the respondent's essential treatment;

(b) shall be accompanied by a binding commitment to pay, signed by the petitioner or another individual, obligating the petitioner or other individual to pay all treatment costs beyond those covered by the respondent's health insurance policy for court-ordered essential treatment for the respondent; and

(c) may be accompanied by documentation of emergency, life saving treatment provided to the respondent.

(4) Nothing in this section alters the contractual relationship between a health insurer and an insured individual.

Section 100. Section 26B-5-504, which is renumbered from Section 62A-15-1204 is renumbered and amended to read:

[~~62A-15-1204~~]. 26B-5-504. Criteria for essential treatment and intervention.

A [~~district~~] court shall order an individual to undergo essential treatment for a substance use disorder when the [~~district~~] court determines by clear and convincing evidence that the individual:

(1) suffers from a substance use disorder;

(2) can reasonably benefit from the essential treatment;

(3) is unlikely to substantially benefit from a less-restrictive alternative treatment; and

(4) presents a serious harm to self or others.

Section 101. Section 26B-5-505, which is renumbered from Section 62A-15-1205 is renumbered and amended to read:

[~~62A-15-1205~~]. 26B-5-505. Proceeding for essential treatment -- Duties of court -- Disposition.

(1) A [~~district~~] court shall review the assertions contained in the verified petition described in Section [~~62A-15-1203~~] 26B-5-503.

(2) If the court determines that the assertions, if true, are sufficient to order the respondent to undergo essential treatment, the court shall:

(a) set an expedited date for a time-sensitive hearing to determine whether the court should order the respondent to undergo essential treatment for a substance use disorder;

(b) provide notice of:

(i) the contents of the petition, including all assertions made;

(ii) a copy of any order for detention or examination;

(iii) the date of the hearing;

(iv) the purpose of the hearing;

(v) the right of the respondent to be represented by legal counsel; and

(vi) the right of the respondent to request a preliminary hearing before submitting to an order for examination;

(c) provide notice to:

(i) the respondent;

(ii) the respondent's guardian, if any; and

(iii) the petitioner; and

(d) subject to the right described in Subsection (2)(b)(vi), order the respondent to be examined before the hearing date:

(i) by two essential treatment examiners; or

(ii) by one essential treatment examiner, if documentation before the court demonstrates that the respondent received emergency, life saving treatment:

(A) within 30 days before the day on which the petition for essential treatment and intervention was filed; or

(B) during the pendency of the petition for essential treatment and intervention.

(3) An essential treatment examiner shall examine the respondent to determine:

(a) whether the respondent meets each of the criteria described in Section [~~62A-15-1204~~] 26B-5-504;

(b) the severity of the respondent's substance use disorder, if any;

(c) what forms of treatment would substantially benefit the respondent, if the examiner determines that the respondent has a substance use disorder; and

(d) the appropriate duration for essential treatment, if essential treatment is recommended.

(4) An essential treatment examiner shall certify the examiner's findings to the court within 24 hours after completion of the examination.

(5) The court may, based upon the findings of an essential treatment examiner, terminate the proceedings and dismiss the petition.

(6) The parties may, at any time, make a binding stipulation to an essential treatment plan and submit that plan to the court for court order.

(7) At the hearing, the petitioner and the respondent may testify and may cross-examine witnesses.

(8) If, upon completion of the hearing, the court finds that the criteria in Section [~~62A-15-1204~~] 26B-5-504 are met, the court shall order essential treatment for an initial period that:

(a) does not exceed 360 days, subject to periodic review as provided in Section [~~62A-15-1206~~] 26B-5-507; and

(b) (i) is recommended by an essential treatment examiner; or

(ii) is otherwise agreed to at the hearing.

(9) The court shall designate the facility for the essential treatment, as:

(a) described in the petition;

(b) recommended by an essential treatment examiner; or

(c) agreed to at the hearing.

(10) The court shall issue an order that includes the court's findings and the reasons for the court's determination.

(11) The court may order the petitioner to be the respondent's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the respondent's essential treatment.

Section 102. Section 26B-5-506, which is renumbered from Section 62A-15-1205.5 is renumbered and amended to read:

[~~62A-15-1205.5~~]. 26B-5-506. Failure to comply with court order.

(1) The provisions of this section apply after a respondent has been afforded full due process rights, as provided in this Essential Treatment and Intervention Act, including notice, an opportunity to respond and appear at a hearing, and, as applicable, the court's finding that the evidence meets the clear and convincing standard, as described in Section [~~62A-15-1204~~] 26B-5-504, for a court to order essential treatment and intervention.

(2) When a respondent fails to comply with a court order issued under Subsection [~~62A-15-1205~~] 26B-5-505(2)(d) or (10), the court may:

(a) find the respondent in contempt under Subsection 78B-6-301(5); and

(b) issue a warrant of commitment under Section 78B-6-312.

(3) When a peace officer executes a warrant issued under this section, the officer shall take the respondent into protective custody and transport the respondent to the location specified by the court.

(4) Notwithstanding Subsection (3), if a peace officer determines through the peace officer's experience and training that taking the respondent into protective custody or transporting the respondent would increase the risk of substantial danger to the respondent or others, a peace officer may exercise discretion to not take the respondent into custody or transport the respondent, as permitted by policies and procedures established by the peace officer's law enforcement agency and any applicable federal or state statute, or case law.

Section 103. Section 26B-5-507, which is renumbered from Section 62A-15-1206 is renumbered and amended to read:

[~~62A-15-1206~~]. 26B-5-507. Periodic review -- Discharge.

A local substance abuse authority or an approved treatment facility or program that provides essential treatment shall:

(1) at least every 90 days after the day on which a patient is admitted, unless a court orders otherwise, examine or cause to be examined a patient who has been ordered to receive essential treatment;

(2) notify the patient and the patient's personal representative or guardian, if any, of the substance and results of the examination;

(3) discharge an essential treatment patient if the examination determines that the conditions justifying essential treatment and intervention no longer exist; and

(4) after discharging an essential treatment patient, send a report describing the reasons for discharge to the clerk of the court where the proceeding for essential treatment was held and to the patient's personal representative or guardian, if any.

Section 104. Section 26B-5-508, which is renumbered from Section 62A-15-1207 is renumbered and amended to read:

[~~62A-15-1207~~]. 26B-5-508. Seventy-two-hour emergency treatment pending a final court order.

(1) A court may order a respondent to be hospitalized for up to 72 hours if:

(a) an essential treatment examiner has examined the respondent and certified that the respondent meets the criteria described in Section [~~62A-15-1204~~] 26B-5-504; and

(b) the court finds by clear and convincing evidence that the respondent presents an imminent threat of serious harm to self or others as a result of a substance use disorder.

(2) An individual who is admitted to a hospital under this section shall be released from the hospital within 72 hours after admittance, unless a treating physician or essential treatment examiner determines that the individual continues to pose an imminent threat of serious harm to self or others.

(3) If a treating physician or essential treatment examiner makes the determination described in Subsection (2), the individual may be detained for as long as the threat of serious harm remains imminent, but not more than 10 days after the day on which the individual was hospitalized, unless a court orders otherwise.

(4) A treating physician or an essential treatment examiner shall, as frequently as practicable, examine an individual hospitalized under this

section and release the individual if it is determined that a threat of imminent serious harm no longer exists.

Section 105. Section 26B-5-509, which is renumbered from Section 62A-15-1207.5 is renumbered and amended to read:

[~~62A-15-1207.5~~]. 26B-5-509. Emergency, life saving treatment -- Temporary personal representative.

(1) When an individual receives emergency, life saving treatment:

(a) a licensed health care professional, at the health care facility where the emergency, life saving treatment is provided, may ask the individual who, if anyone, may be contacted and informed regarding the individual's treatment;

(b) a treating physician may hold the individual in the health care facility for up to 48 hours, if the treating physician determines that the individual poses a serious harm to self or others; and

(c) a relative of the individual may petition a court to be designated as the individual's personal representative, described in 45 C.F.R. Sec. 164.502(g), for the limited purposes of the individual's medical and mental health care related to a substance use disorder.

(2) The petition described in Subsection (1)(c) shall include:

(a) the respondent's:

(i) legal name;

(ii) date of birth, if known;

(iii) social security number, if known; and

(iv) residence and current location, if known;

(b) the petitioner's relationship to the respondent;

(c) the name and residence of the respondent's legal guardian, if any and if known;

(d) a statement that the respondent:

(i) is suffering from a substance use disorder; and

(ii) has received, within the last 72 hours, emergency, life saving treatment;

(e) the factual basis for the statement described in Subsection (2)(d); and

(f) the name of any other individual, if any, who may be designated as the respondent's personal representative.

(3) A court shall grant a petition for designation as a personal representative, ex parte, if it appears from the petition for designation as a court-designated personal representative that:

(a) the respondent is suffering from a substance use disorder;

(b) the respondent received emergency, life saving treatment within 10 days before the day on which the petition for designation as a personal representative is filed;

(c) the petitioner is a relative of the respondent; and

(d) no other individual is otherwise designated as the respondent's personal representative.

(4) When a court grants, ex parte, a petition for designation as a personal representative, the court:

(a) shall provide notice to the respondent;

(b) shall order the petitioner to be the respondent's personal representative for 10 days after the day on which the court designates the petitioner as the respondent's personal representative; and

(c) may extend the duration of the order:

(i) for good cause shown, after the respondent has been notified and given a proper and sufficient opportunity to respond; or

(ii) if the respondent consents to an extension.

Section 106. Section 26B-5-510, which is renumbered from Section 62A-15-1208 is renumbered and amended to read:

[~~62A-15-1208~~]. 26B-5-510. Confidentiality.

(1) The purpose of [~~Part 12, Essential Treatment and Intervention Act,~~] this part is to provide a process for essential treatment and intervention to save lives, preserve families, and reduce substance use disorder, including opioid addiction.

(2) An essential treatment petition and any other document filed in connection with the petition for essential treatment is confidential and protected.

(3) A hearing on an essential treatment petition is closed to the public, and only the following individuals and their legal counsel may be admitted to the hearing:

(a) parties to the petition;

(b) the essential treatment examiners who completed the court-ordered examination under Subsection [~~62A-15-1205~~] 26B-5-505(3);

(c) individuals who have been asked to give testimony; and

(d) individuals to whom notice of the hearing is required to be given under Subsection [~~62A-15-1205~~] 26B-5-505(2)(c).

(4) Testimony, medical evaluations, the petition, and other documents directly related to the adjudication of the petition and presented to the court in the interest of the respondent may not be construed or applied as an admission of guilt to a criminal offense.

(5) A court may, if applicable, enforce a previously existing warrant for a respondent or a warrant for a charge that is unrelated to the essential treatment petition filed under this part.

Section 107. Section 26B-5-511, which is renumbered from Section 62A-15-1209 is renumbered and amended to read:

[~~62A-15-1209~~]. 26B-5-511. Essential treatment for substance use disorder -- Rights of patient.

All applicable rights guaranteed to a patient by Sections [~~62A-15-641 and 62A-15-642~~] 26B-5-310 and 26B-5-311 shall be guaranteed to an individual who is ordered to undergo essential treatment for a substance use disorder.

Section 108. Section 26B-5-601, which is renumbered from Section 62A-17-102 is renumbered and amended to read:

Part 6. Mental Health Intervention and Treatment Programs

[~~62A-17-102~~]. 26B-5-601. Definitions.

As used in this [~~chapter~~] part:

(1) "211" means the abbreviated dialing code assigned by the Federal Communications Commission for consumer access to community information and referral services.

(2) "ACT team personnel" means a licensed psychiatrist or mental health therapist, or another individual, as determined by the division, who is part of an ACT team.

[~~(2)~~] (3) "Approved 211 service provider" means a public or nonprofit agency or organization designated by the department to provide 211 services.

(4) (a) "Assertive community treatment" means mental health services and on-site intervention that a person renders to an individual with a mental illness.

(b) "Assertive community treatment" includes the provision of assessment and treatment plans, rehabilitation, support services, and referrals to other community resources.

(5) "Assertive community treatment team" or "ACT team" means a mobile team of medical and mental health professionals that provides assertive community outreach treatment and, based on the individual circumstances of each case, coordinates with other medical providers and appropriate community resources.

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Mental illness" means the same as that term is defined in Section 26B-5-301.

(8) "Psychiatrist" means the same as that term is defined in Section 26B-1-328.

[~~(3)~~] (9) (a) "Utah 211" means an information and referral system that:

(i) maintains a database of:

(A) providers of health and human services; and

(B) volunteer opportunities and coordinators throughout the state;

(ii) assists individuals, families, and communities at no cost in identifying, understanding, and accessing the providers of health and human services; and

(iii) works collaboratively with state agencies, local governments, community-based organizations, not-for-profit organizations, organizations active in disaster relief, and faith-based organizations.

(b) "Utah 211" does not mean service provided by 911 and first responders.

Section 109. Section 26B-5-602, which is renumbered from Section 62A-17-103 is renumbered and amended to read:

[~~62A-17-103~~]. 26B-5-602. Designated approved 211 service provider -- Department responsibilities.

(1) The department shall designate an approved 211 service provider to provide information to Utah citizens about health and human services available in the citizen's community.

(2) Only a service provider approved by the department may provide 211 telephone services in this state.

(3) The department shall approve a 211 service provider after considering the following:

(a) the ability of the proposed 211 service provider to meet the national 211 standards recommended by the Alliance of Information and Referral Systems;

(b) the financial stability of the proposed 211 service provider;

(c) the community support for the proposed 211 service provider;

(d) the relationship between the proposed 211 service provider and other information and referral services; and

(e) other criteria as the department considers appropriate.

(4) The department shall coordinate with the approved 211 service provider and other state and local agencies to ensure the joint development and maintenance of a statewide information database for use by the approved 211 service provider.

Section 110. Section 26B-5-603, which is renumbered from Section 62A-17-104 is renumbered and amended to read:

[~~62A-17-104~~]. 26B-5-603. Utah 211 created -- Responsibilities.

(1) The designated 211 service provider described in Section [~~62A-17-102~~] 26B-5-601 shall be known as Utah 211.

(2) Utah 211 shall, as appropriations allow:

(a) by 2014:

(i) provide the services described in this Subsection (2) 24 hours a day, seven days a week;

(ii) abide by the key standards for 211 programs, as specified in the Standards for Professional Information and Referral Requirements for Alliance of Information Systems Accreditation and Operating 211 systems; and

(iii) be a point of entry for disaster-related information and referral;

(b) track types of calls received and referrals made;

(c) develop, coordinate, and implement a statewide information and referral system that integrates existing community-based structures with state and local agencies;

(d) provide information relating to:

(i) health and human services; and

(ii) volunteer opportunities;

(e) create an online, searchable database to provide information to the public about the health and human services provided by public or private entities throughout the state, and ensure that:

(i) the material on the searchable database is indexed:

(A) geographically to inform an individual about the health and human services provided in the area where the individual lives; and

(B) by type of service provided; and

(ii) the searchable database contains links to the Internet sites of any local provider of health and human services, if possible, and include:

(A) the name, address, and phone number of organizations providing health and human services in a county; and

(B) a description of the type of services provided;

(f) be responsible, in collaboration with state agencies, for raising community awareness about available health and human services; and

(g) host meetings on a quarterly basis until calendar year 2014, and on a biannual basis beginning in 2014, to seek input and guidance from state agencies, local governments, community-based organizations, not-for-profit organizations, and faith-based organizations.

Section 111. Section 26B-5-604, which is renumbered from Section 62A-17-105 is renumbered and amended to read:

[~~62A-17-105~~]. 26B-5-604. Other state agencies and local governments.

(1) A state agency or local government institution that provides health and human services, or a public or private entity receiving state-appropriated funds to provide health and human services, shall provide Utah 211 with information, in a form determined by Utah 211, about the services the agency or entity provides for inclusion in the statewide information and referral system.

(2) A state agency or local government institution that provides health and human services may not establish a new public telephone line or hotline, other than an emergency first responder hotline, to provide information or referrals unless the agency or institution first:

(a) consults with Utah 211 about using the existing 211 to provide access to the information or referrals; and

(b) assesses whether a new line or the existing 211 program would be more cost effective.

(3) Nothing in this section prohibits a state agency or local government institution from starting a public telephone line or hotline in an emergency situation.

(4) State agencies, local governments, community-based organizations, not-for-profit organizations, faith-based organizations, and businesses that engage in providing human services may contract with Utah 211 to provide specialized projects, including:

(a) public health campaigns;

(b) seasonal community services; and

(c) expanded point of entry services.

Section 112. Section 26B-5-605, which is renumbered from Section 62A-17-106 is renumbered and amended to read:

[~~62A-17-106~~]. 26B-5-605. Immunity from liability.

(1) Except as provided in Subsection (2), Utah 211, its employees, directors, officers, and information specialists are not liable to any person in a civil action for injury or loss as a result of an act or omission of Utah 211, its employees, directors, officers, or information specialists, in connection with:

(a) developing, adopting, implementing, maintaining, or operating the Utah 211 system;

(b) making Utah 211 available for use by the public; or

(c) providing 211 services.

(2) Utah 211, its employees, directors, officers, and information specialists shall be liable to any person in a civil action for an injury or loss resulting from willful or wanton misconduct.

Section 113. Section 26B-5-606, which is renumbered from Section 62A-15-1802 is renumbered and amended to read:

[~~62A-15-1802~~]. 26B-5-606. Division duties -- ACT team license creation.

(1) To promote the availability of assertive community treatment, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for ACT team personnel and ACT teams, that includes:

(a) the standards the division establishes under Subsection (2); and

(b) guidelines for:

(i) required training and experience of ACT team personnel; and

(ii) the coordination of assertive community treatment and other community resources.

(2) (a) The division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the certifications described in Subsection (1); and

(ii) create a statewide ACT team plan that:

(A) identifies statewide assertive community treatment needs, objectives, and priorities; and

(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide assertive community treatment.

(b) The division may delegate the ACT team plan requirement described in Subsection (2)(a)(ii) to a contractor with whom the division contracts to provide assertive community outreach treatment.

Section 114. Section 26B-5-607, which is renumbered from Section 62A-15-1803 is renumbered and amended to read:

[~~62A-15-1803~~]. 26B-5-607. Grants for development of an ACT team.

(1) The division shall award grants for the development of one ACT team to provide assertive community treatment to individuals in the state.

(2) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed ACT team will serve; and

(b) the percentage of matching funds the entity will provide to develop the proposed ACT team.

(3) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

Section 115. Section 26B-5-608, which is renumbered from Section 62A-15-1804 is renumbered and amended to read:

[~~62A-15-1804~~]. 26B-5-608. Housing assistance program for individuals discharged from the Utah State Hospital and receiving assertive community treatment.

(1) (a) The division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a housing assistance program in consultation with the Utah State Hospital, established in Section [~~62A-15-601~~] 26B-5-302, and one or more housing authorities, associations of governments, or nonprofit entities.

(b) The housing assistance program shall provide the housing assistance described in Subsection (1)(c) to individuals:

(i) who are discharged from the Utah State Hospital; and

(ii) who the division determines would benefit from assertive community treatment.

(c) The housing assistance provided under the housing assistance program may include:

(i) subsidizing rent payments for housing;

(ii) subsidizing the provision of temporary or transitional housing; or

(iii) providing money for one-time housing barrier assistance, including rental housing application fees, utility hookup fees, or rental housing security deposits.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for the operation of the housing assistance program described in Subsection (1).

(3) The division shall report to the Health and Human Services Interim Committee each year before November 30 regarding:

(a) the entities the division consulted with under Subsection (1)(a);

(b) the number of individuals who are benefitting from the housing assistance program described in Subsection (1);

(c) the type of housing assistance provided under the housing assistance program described in Subsection (1);

(d) the average monthly dollar amount provided to individuals under the housing assistance program described in Subsection (1); and

(e) recommendations regarding improvements or changes to the housing assistance program described in Subsection (1).

Section 116. Section 26B-5-609, which is renumbered from Section 62A-15-1402 is renumbered and amended to read:

[~~62A-15-1402~~]. 26B-5-609. Department and division duties -- MCOT license creation.

(1) As used in this section:

(a) "Commission" means the Behavioral Health Crisis Response Commission created in Section 63C-18-202.

(b) "Emergency medical service personnel" means the same as that term is defined in Section 26B-4-101.

(c) "Emergency medical services" means the same as that term is defined in Section 26B-4-101.

(d) "MCOT certification" means the certification created in this part for MCOT personnel and mental health crisis outreach services.

(e) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.

(f) "Mental health crisis" means a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious jeopardy to the individual's health or well-being; or

(ii) a danger to others.

(g) (i) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.

(ii) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.

(h) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

[~~(1)~~] (2) To promote the availability of comprehensive mental health crisis services throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and MCOTs, including:

(a) the standards the division establishes under Subsection [~~(2)~~] (3); and

(b) guidelines for:

(i) credit for training and experience; and

(ii) the coordination of:

(A) emergency medical services and mental health crisis services;

(B) law enforcement, emergency medical service personnel, and mobile crisis outreach teams; and

(C) temporary commitment in accordance with Section [~~62A-15-629~~] 26B-5-331.

[~~(2)~~] (3) (a) With recommendations from the commission, the division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the MCOT certification described in Subsection [~~(1)~~] (2); and

(ii) create a statewide MCOT plan that:

(A) identifies statewide mental health crisis services needs, objectives, and priorities; and

(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide mental health crisis services.

(b) The division may delegate the MCOT plan requirement described in Subsection [~~(2)(a)(ii)~~] (3)(a)(ii) to a contractor with which the division contracts to provide mental health crisis services.

Section 117. Section 26B-5-610, which is renumbered from Section 62A-15-1302 is renumbered and amended to read:

[~~62A-15-1302~~]. 26B-5-610. Contracts for statewide mental health crisis line and statewide warm line -- Crisis worker and certified peer support specialist qualification or certification -- Operational standards.

(1) As used in this section:

(a) "Certified peer support specialist" means an individual who:

(i) meets the standards of qualification or certification that the division sets, in accordance with Subsection (3); and

(ii) staffs the statewide warm line under the supervision of at least one mental health therapist.

(b) "Commission" means the Behavioral Health Crisis Response Commission created in Section 63C-18-202.

(c) "Crisis worker" means an individual who:

(i) meets the standards of qualification or certification that the division sets, in accordance with Subsection (3); and

(ii) staffs the statewide mental health crisis line, the statewide warm line, or a local mental health crisis line under the supervision of at least one mental health therapist.

(d) "Local mental health crisis line" means a phone number or other response system that is:

(i) accessible within a particular geographic area of the state; and

(ii) intended to allow an individual to contact and interact with a qualified mental or behavioral health professional.

(e) "Mental health crisis" means the same as that term is defined in Section 26B-5-609.

(f) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(g) "Statewide mental health crisis line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional 24 hours per day, 365 days per year.

(h) "Statewide warm line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional or a certified peer support specialist.

[~~(1)~~] (2) (a) The division shall enter into a new contract or modify an existing contract to manage

and operate, in accordance with this part, the statewide mental health crisis line and the statewide warm line.

(b) Through the contracts described in Subsection [~~(1)(a)~~] (2)(a) and in consultation with the commission, the division shall set standards of care and practice for:

(i) the mental health therapists and crisis workers who staff the statewide mental health crisis line; and

(ii) the mental health therapists, crisis workers, and certified peer support specialists who staff the statewide warm line.

[~~(2)~~] (3) (a) The division shall establish training and minimum standards for the qualification or certification of:

(i) crisis workers who staff the statewide mental health crisis line, the statewide warm line, and local mental health crisis lines; and

(ii) certified peer support specialists who staff the statewide warm line.

(b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to establish the training and minimum standards described in Subsection [~~(2)(a)~~] (3)(a).

(4) In consultation with the commission, the division shall ensure that:

(a) the following individuals are available to staff and answer calls to the statewide mental health crisis line 24 hours per day, 365 days per calendar year:

(i) mental health therapists; or

(ii) crisis workers;

(b) a sufficient amount of staff is available to ensure that when an individual calls the statewide mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the statewide mental health crisis line, an individual described in Subsection (4)(a) answers the call without the caller first:

(i) waiting on hold; or

(ii) being screened by an individual other than a mental health therapist or crisis worker;

(c) the statewide mental health crisis line has capacity to accept all calls that local mental health crisis lines route to the statewide mental health crisis line;

(d) the following individuals are available to staff and answer calls to the statewide warm line during the hours and days of operation set by the division under Subsection (5):

(i) mental health therapists;

(ii) crisis workers; or

(iii) certified peer support specialists;

(e) when an individual calls the statewide mental health crisis line, the individual's call may be transferred to the statewide warm line if the individual is not experiencing a mental health crisis; and

(f) when an individual calls the statewide warm line, the individual's call may be transferred to the statewide mental health crisis line if the individual is experiencing a mental health crisis.

(5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the hours and days of operation for the statewide warm line.

Section 118. Section 26B-5-611, which is renumbered from Section 62A-15-1101 is renumbered and amended to read:

[~~62A-15-1101~~]. 26B-5-611. Suicide prevention -- Reporting requirements.

(1) As used in this section:

(a) "Advisory Council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(c) "Coalition" means the Statewide Suicide Prevention Coalition created under Subsection (3).

(d) "Coordinator" means the state suicide prevention coordinator appointed under Subsection (2).

(e) "Fund" means the Governor's Suicide Prevention Fund created in Section 26B-1-325.

(f) "Intervention" means an effort to prevent a person from attempting suicide.

(g) "Legal intervention" means an incident in which an individual is shot by another individual who has legal authority to use deadly force.

(h) "Postvention" means intervention after a suicide attempt or a suicide death to reduce risk and promote healing.

(i) "Shooter" means an individual who uses a gun in an act that results in the death of the actor or another individual, whether the act was a suicide, homicide, legal intervention, act of self-defense, or accident.

[~~(1)~~] (2) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

[~~(2)~~] (3) The coordinator shall:

(a) establish a Statewide Suicide Prevention Coalition with membership from public and private organizations and Utah citizens; and

(b) appoint a chair and co-chair from among the membership of the coalition to lead the coalition.

[~~(3)~~] (4) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

(d) suicide prevention gatekeeper training;

(e) training to identify warning signs and to manage an at-risk individual's crisis;

(f) evidence-based intervention training;

(g) intervention skills training;

(h) postvention training; or

(i) a public education campaign to improve public awareness about warning signs of suicide and suicide prevention resources.

[~~(4)~~] (5) The coordinator shall coordinate with the following to gather statistics, among other duties:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the public education suicide prevention coordinator described in Section 53G-9-702;

[~~(c) the Department of Health;~~]

(c) applicable divisions and offices within the department;

(d) health care providers, including emergency rooms;

(e) federal agencies, including the Federal Bureau of Investigation;

(f) other unbiased sources; and

(g) other public health suicide prevention efforts.

[~~(5)~~] (6) The coordinator shall provide a written report to the Health and Human Services Interim Committee, at or before the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections [~~(1) and (3)~~] (2) and (4);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

[~~(6)~~] (7) The coordinator shall, in consultation with the bureau, implement and manage the operation of the firearm safety program described in Subsection [~~62A-15-103~~] 26B-5-102(3).

[~~(7)~~] (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) governing the implementation of the state suicide prevention program, consistent with this section; and

(b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program described in Section [~~62A-15-103.1~~] 26B-5-110, which shall include:

(i) attendance at the suicide prevention education course described in Subsection [~~62A-15-103~~] 26B-5-102(3); and

(ii) distribution of the firearm safety brochures or packets created in Subsection [~~62A-15-103~~] 26B-5-102(3), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.

[~~(8)~~] (9) As funding by the Legislature allows, the coordinator shall award grants, not to exceed a total of $100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice and Youth Services.

[~~(9)~~] (10) The coordinator and the coalition shall submit to the advisory council, no later than October 1 each year, a written report detailing the previous fiscal year's activities to fund, implement, and evaluate suicide prevention activities described in this section.

Section 119. Section 26B-5-612, which is renumbered from Section 26-1-43 is renumbered and amended to read:

[~~26-1-43~~]. 26B-5-612. Integrated behavioral health care grant program.

(1) As used in this section:

(a) "Integrated behavioral health care services" means coordinated physical and behavioral health care services for one patient.

(b) "Local mental health authority" means a local mental health authority described in Section 17-43-301.

(c) "Project" means a project described in Subsection (2).

(2) Before July 1 of each year, the department shall issue a request for proposals in accordance with this section to award a grant to a local mental health authority for development or expansion of a project to provide effective delivery of integrated behavioral health care services.

(3) To be considered for a grant award under Subsection (2), a local mental health authority shall submit an application to the department that:

(a) explains the benefits of integrated behavioral health care services to a patient who is receiving mental health or substance use disorder treatment;

(b) describes the local mental health authority's operational plan for delivery of integrated behavioral health care services under the proposed project and any data or evidence-based practices supporting the likely success of the operational plan;

(c) includes:

(i) the number of patients to be served by the local mental health authority's proposed project; and

(ii) the cost of the local mental health authority's proposed project; and

(d) provides details regarding:

(i) any plan to use funding sources in addition to the grant award under this section for the local mental health authority's proposed project;

(ii) any existing or planned contracts or partnerships between the local mental health authority and other individuals or entities to develop or implement the local mental health authority's proposed project; and

(iii) the sustainability and reliability of the local mental health authority's proposed project.

(4) In evaluating a local mental health authority's application under Subsection (3) to determine the grant award under Subsection (2), the department shall consider:

(a) how the local mental health authority's proposed project will ensure effective provision of integrated behavioral health care services;

(b) the cost of the local mental health authority's proposed project;

(c) the extent to which any existing or planned contracts or partnerships or additional funding sources described in the local mental health authority's application are likely to benefit the proposed project; and

(d) the sustainability and reliability of the local mental health authority's proposed project.

(5) Before July 1, 2025, the department shall report to the Health and Human Services Interim Committee regarding:

(a) any knowledge gained or obstacles encountered in providing integrated behavioral health care services under each project;

(b) data gathered in relation to each project; and

(c) recommendations for expanding a project statewide.

Section 120. Section 26B-6-101 is amended to read:

CHAPTER 6. LONG TERM SERVICES AND SUPPORTS, AGING, AND DISABILITIES

Part 1. Aging and Adult Services

26B-6-101. Chapter definitions.

[~~Reserved~~] As used in this chapter:

(1) "Adult" or "high risk adult" means a person 18 years old or older who experiences a condition:

(a) that places the person at a high risk of being unable to care for themselves:

(i) as determined by assessment; and

(ii) due to the onset of a physical or cognitive impairment or frailty; and

(b) for which the person is not eligible to receive services under:

(i) Part 4, Division of Services for People with Disabilities; or

(ii) Chapter 5, Health Care -- Substance Use and Mental Health.

(2) "Aging" and "aged" means a person 60 years old or older.

(3) "Area agency" means an area agency that provides services to the aged, high risk adults, or both within a planning and service area.

(4) "Area agency on aging" means a public or private nonprofit agency or office designated by the division to:

(a) operate within a planning and service area of the state; and

(b) develop and implement a broad range of services for the aged in the area described in Subsection (4)(a).

(5) "Area agency on high risk adults" means a public or private nonprofit agency or office designated by the division to:

(a) operate within a planning and service area of the state; and

(b) develop and implement services for high risk adults in the area described in Subsection (5)(a).

(6) "Board" means the Board of Aging and Adult Services created in Section 26B-1-426.

(7) "Director" means the director of the division.

(8) "Division" means the Division of Aging and Adult Services within the department.

(9) "Personal care attendant" means a person who:

(a) is selected by:

(i) an aged person;

(ii) an agent of an aged person;

(iii) a high risk adult; or

(iv) an agent of a high risk adult; and

(b) provides personal services to the:

(i) aged person described in Subsection (9)(a)(i); or

(ii) high risk adult described in Subsection (9)(a)(iii).

(10) "Personal services" means nonmedical care and support, including assisting a person with:

(a) meal preparation;

(b) eating;

(c) bathing;

(d) dressing;

(e) personal hygiene; or

(f) daily living activities.

(11) "Planning and service area" means a geographical area of the state designated by the division for purposes of planning, development, delivery, and overall administration of services for the aged or high risk adults.

(12) (a) "Public funds" means state or federal funds that are disbursed by:

(i) the department;

(ii) the division;

(iii) an area agency; or

(iv) an area agency on aging.

(b) "Public funds" includes:

(i) Medicaid funds; and

(ii) Medicaid waiver funds.

Section 121. Section 26B-6-102, which is renumbered from Section 62A-3-102 is renumbered and amended to read:

[~~62A-3-102~~]. 26B-6-102. Division created.

There is created a Division of Aging and Adult Services within the department, under the administration and general supervision of the executive director.

Section 122. Section 26B-6-103, which is renumbered from Section 62A-3-103 is renumbered and amended to read:

[~~62A-3-103~~]. 26B-6-103. Director of division -- Appointment -- Qualifications.

(1) The director of the division shall be appointed by the executive director with the concurrence of the board.

(2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning the aging and adult populations.

(3) The director is the administrative head of the division.

Section 123. Section 26B-6-104, which is renumbered from Section 62A-3-104 is renumbered and amended to read:

[~~62A-3-104~~]. 26B-6-104. Authority of division.

(1) The division is the sole state agency, as defined by the Older Americans Act of 1965, 42 U.S.C. 3001 et seq., to:

(a) serve as an effective and visible advocate for the aging and adult population of this state;

(b) develop and administer a state plan under the policy direction of the board; and

(c) take primary responsibility for state activities relating to provisions of the Older Americans Act of 1965, as amended.

(2) (a) The division has authority to designate:

(i) planning and service areas for the state; and

(ii) an area agency on aging within each planning and service area to design and implement a comprehensive and coordinated system of services and programs for the aged within appropriations from the Legislature.

(b) Designation as an area agency on aging may be withdrawn:

(i) upon request of the area agency on aging; or

(ii) upon noncompliance with the provisions of the:

(A) Older Americans Act of 1965, 42 U.S.C. Sec. 3001 et seq.;

(B) federal regulations enacted under the Older Americans Act of 1965, 42 U.S.C. Sec. 3001 et seq.;

(C) provisions of this chapter; or

(D) rules, policies, or procedures established by the division.

(3) (a) The division has the authority to designate:

(i) planning and service areas for the state; and

(ii) subject to Subsection (3)(b), an area agency on high risk adults within each planning and service area to design and implement a comprehensive and coordinated system of case management and programs for high risk adults within appropriations from the Legislature.

(b) For purposes of Subsection (3)(a)(ii), before October 1, 1998, the division shall designate as the area agency on high risk adults in a planning and service area:

(i) the area agency on aging that operates within the same geographic area if that agency requests, before July 1, 1998, to expand that agency's current contract with the division to include the responsibility of:

(A) being the area agency on high risk adults; or

(B) operating the area agency on high risk adults:

(I) through joint cooperation with one or more existing area agencies on aging; and

(II) without reducing geographical coverage in any service area; or

(ii) a public or private nonprofit agency or office if the area agency on aging that operates within the same geographic area has not made a request in accordance with Subsection (3)(b)(i).

(c) (i) Area agencies on high risk adults shall be in operation before July 1, 1999.

(ii) The division's efforts to establish area agencies on high risk adults shall start with counties with a population of more than 150,000 people.

(d) Designation as an area agency on high risk adults may be withdrawn:

(i) upon request by the area agency; or

(ii) upon noncompliance with:

(A) state law;

(B) federal law; or

(C) rules, policies, or procedures established by the division.

(4) (a) The division may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act:

(i) seek federal grants, loans, or participation in federal programs; and

(ii) receive and distribute state and federal funds for the division's programs and services to the aging and adult populations of the state.

(b) The division may not disburse public funds to a personal care attendant as payment for personal services rendered to an aged person or high risk adult, except as provided in Section [~~62A-3-104.3~~] 26B-6-107.

(5) The division has authority to establish, either directly or by contract, programs of advocacy, monitoring, evaluation, technical assistance, and public education to enhance the quality of life for aging and adult citizens of the state.

(6) In accordance with the rules of the division and Title 63G, Chapter 6a, Utah Procurement Code, the division may contract with:

(a) the governing body of an area agency to provide a comprehensive program of services; or

(b) public and private entities for special services.

(7) The division has authority to provide for collection, compilation, and dissemination of information, statistics, and reports relating to issues facing aging and adult citizens.

(8) The division has authority to prepare and submit reports regarding the operation and administration of the division to the department, the Legislature, and the governor, as requested.

(9) The division shall:

(a) implement and enforce policies established by the board governing all aspects of the division's programs for aging and adult persons in the state;

(b) in order to ensure compliance with all applicable state and federal statutes, policies, and procedures, monitor and evaluate programs provided by or under contract with:

(i) the division;

(ii) area agencies; and

(iii) an entity that receives funds from an area agency;

(c) examine expenditures of public funds;

(d) withhold funds from programs based on contract noncompliance;

(e) review and approve plans of area agencies in order to ensure:

(i) compliance with division policies; and

(ii) a statewide comprehensive program;

(f) in order to further programs for aging and adult persons and prevent duplication of services, promote and establish cooperative relationships with:

(i) state and federal agencies;

(ii) social and health agencies;

(iii) education and research organizations; and

(iv) other related groups;

(g) advocate for the aging and adult populations;

(h) promote and conduct research on the problems and needs of aging and adult persons;

(i) submit recommendations for changes in policies, programs, and funding to the:

(i) governor; and

(ii) Legislature; and

(j) (i) accept contributions to and administer the funds contained in the [~~"~~]Out and About[~~"~~] Homebound Transportation Assistance Fund created in Section [~~62A-3-110~~] 26B-1-323; and

(ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate the administration of the [~~"~~]Out and About[~~"~~] Homebound Transportation Assistance Fund in accordance with Section [~~62A-3-110~~] 26B-1-323.

Section 124. Section 26B-6-105, which is renumbered from Section 62A-3-104.1 is renumbered and amended to read:

[~~62A-3-104.1~~]. 26B-6-105. Powers and duties of area agencies -- Registration as a limited purpose entity.

(1) An area agency that provides services to an aged person, or a high risk adult shall within the area agency's respective jurisdiction:

(a) advocate by monitoring, evaluating, and providing input on all policies, programs, hearings, and levies that affect a person described in this Subsection (1);

(b) design and implement a comprehensive and coordinated system of services within a designated planning and service area;

(c) conduct periodic reviews and evaluations of needs and services;

(d) prepare and submit to the division plans for funding and service delivery for services within the designated planning and service area;

(e) establish, either directly or by contract, programs licensed under Chapter 2, [~~Licensure of~~] Part 1, Human Services Programs and Facilities;

(f) (i) appoint an area director;

(ii) prescribe the area director's duties; and

(iii) provide adequate and qualified staff to carry out the area plan described in Subsection (1)(d);

(g) establish rules not contrary to policies of the board and rules of the division, regulating local services and facilities;

(h) operate other services and programs funded by sources other than those administered by the division;

(i) establish mechanisms to provide direct citizen input, including an area agency advisory council with a majority of members who are eligible for services from the area agency;

(j) establish fee schedules; and

(k) comply with the requirements and procedures of:

(i) Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(2) Before disbursing any public funds, an area agency shall require that all entities receiving any public funds agree in writing that:

(a) the division may examine the entity's program and financial records; and

(b) the auditor of the local area agency may examine and audit the entity's program and financial records, if requested by the local area agency.

(3) An area agency on aging may not disburse public funds to a personal care attendant as payment for personal services rendered to an aged person or high risk adult, except as provided in Section [~~62A-3-104.3~~] 26B-6-107.

(4) (a) For the purpose of providing services pursuant to this part, a local area agency may receive:

(i) property;

(ii) grants;

(iii) gifts;

(iv) supplies;

(v) materials;

(vi) any benefit derived from the items described in Subsections (4)(a)(i) through (v); and

(vii) contributions.

(b) If a gift is conditioned upon the gift's use for a specified service or program, the gift shall be used for the specific service or program.

(5) (a) Area agencies shall award all public funds in compliance with:

(i) the requirements of Title 63G, Chapter 6a, Utah Procurement Code; or

(ii) a county procurement ordinance that requires procurement procedures similar to those described in Subsection (5)(a)(i).

(b) (i) If all initial bids on a project are rejected, the area agency shall publish a new invitation to bid.

(ii) If no satisfactory bid is received by the area agency described in Subsection (5)(b)(i), when the bids received from the second invitation are opened the area agency may execute a contract without requiring competitive bidding.

(c) (i) An area agency need not comply with the procurement provisions of this section when it disburses public funds to another governmental entity.

(ii) For purposes of this Subsection (5)(c), "governmental entity" means any political subdivision or institution of higher education of the state.

(d) (i) Contracts awarded by an area agency shall be for a:

(A) fixed amount; and

(B) limited period.

(ii) The contracts described in Subsection (5)(d)(i) may be modified due to changes in available funding for the same contract purpose without competition.

(6) Local area agencies shall comply with:

(a) applicable state and federal:

(i) statutes;

(ii) policies; and

(iii) audit requirements; and

(b) directives resulting from an audit described in Subsection (6)(a)(iii).

(7) (a) Each area agency shall register and maintain the area agency's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) An area agency that fails to comply with Subsection (7)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 125. Section 26B-6-106, which is renumbered from Section 62A-3-104.2 is renumbered and amended to read:

[~~62A-3-104.2~~]. 26B-6-106. Contracts for services.

When an area agency has established a plan to provide services authorized by this chapter, and those services meet standards fixed by rules of the board, the area agency may enter into a contract with the division for services to be furnished by that

area agency for an agreed compensation to be paid by the division.

Section 126. Section 26B-6-107, which is renumbered from Section 62A-3-104.3 is renumbered and amended to read:

[~~62A-3-104.3~~]. 26B-6-107. Disbursal of public funds -- Background check of a personal care attendant.

(1) [~~For purposes of~~] As used in this section, "office" means [~~the same as that term is defined in Section 62A-2-101~~] Office of Licensing within the department.

(2) Public funds may not be disbursed to a personal care attendant as payment for personal services rendered to an aged person or high risk adult unless the office approves the personal care attendant to have direct access and provide services to children or vulnerable adults pursuant to Section [~~62A-2-120~~] 26B-2-120.

(3) For purposes of Subsection (2), the office shall conduct a background check of a personal care attendant:

(a) who desires to receive public funds as payment for the personal services described in Subsection (2); and

(b) using the same procedures established for a background check of an applicant for a license under Section [~~62A-2-120~~] 26B-2-120.

Section 127. Section 26B-6-108, which is renumbered from Section 62A-3-105 is renumbered and amended to read:

[~~62A-3-105~~]. 26B-6-108. Matching requirements for state and federal Older American funds.

(1) Except as provided in Subsection (2), a local area agency on aging that receives state or federal Older Americans Act Supportive Services, Older Americans Act Congregate Meals, or Older Americans Act Home Delivered Meals related funds from the division to provide programs and services under this chapter shall match those funds in an amount at least equal to:

(a) 15% of service dollars; and

(b) 25% of administrative dollars.

(2) A local area agency on aging is not required to match cash-in-lieu funds related to the Home Delivered Meals program or congregate meals.

(3) A local area agency on aging may include services, property, or other in-kind contributions to meet the administrative dollars match but may only use cash to meet the service dollars match.

Section 128. Section 26B-6-109, which is renumbered from Section 62A-3-106 is renumbered and amended to read:

[~~62A-3-106~~]. 26B-6-109. Eligibility criteria.

Eligibility for services provided by the division directly or through contractual arrangements shall be determined by criteria established by the division and approved by the board.

Section 129. Section 26B-6-110, which is renumbered from Section 62A-3-106.5 is renumbered and amended to read:

[~~62A-3-106.5~~]. 26B-6-110. Agency responsible to investigate and provide services.

(1) [~~For purposes of~~] As used in this section, "responsible agency" means the agency responsible to investigate or provide services in a particular case under the rules established under Subsection (2)(a).

(2) In order to avoid duplication in responding to a report of alleged abuse, neglect, or exploitation of a vulnerable adult who resides in a long-term care facility, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish procedures to:

(a) determine whether Adult Protective Services or the Long-Term Care Ombudsman Program will be responsible to investigate or provide services in a particular case; and

(b) determine whether, and under what circumstances, the agency described in Subsection (2)(a) that is not the responsible agency will provide assistance to the responsible agency in a particular case.

(3) Notwithstanding Subsection (2), or the rules made pursuant to Subsection (2), Adult Protective Services shall be the agency within the division that is responsible for receiving all reports of alleged abuse, neglect, or exploitation of a vulnerable adult as provided in Section [~~62A-3-305~~] 26B-6-205.

Section 130. Section 26B-6-111, which is renumbered from Section 62A-3-107 is renumbered and amended to read:

[~~62A-3-107~~]. 26B-6-111. Requirements for establishing division policy.

(1) The board is the program policymaking body for the division and for programs funded with state and federal money under Sections [~~62A-3-104.1 and 62A-3-104.2~~] 26B-6-105 and 26B-6-106. In establishing policy and reviewing existing policy, the board shall seek input from local area agencies, consumers, providers, advocates, division staff, and other interested parties as determined by the board.

(2) The board shall establish, by rule, procedures for developing its policies which ensure that local area agencies are given opportunity to comment and provide input on any new policy of the board and on any proposed changes in the board's existing policy. The board shall also provide a mechanism for review of its existing policy and for consideration of policy changes that are proposed by those local area agencies.

(3) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 131. Section 26B-6-112, which is renumbered from Section 62A-3-107.5 is renumbered and amended to read:

[~~62A-3-107.5~~]. 26B-6-112. Allocation of funds to acquire facilities.

(1) (a) The board may make grants to local area agencies on aging to acquire facilities to provide community-based services for aged persons. Grants under this section shall be made solely from appropriations made to the division for implementation of this section.

(b) Acquisition of a facility may include acquisition of real property, construction of a new facility, acquisition of an existing facility, or alteration, renovation, or improvement of an existing facility.

(c) The local area agency may allocate grants received under this section to a local nonprofit or governmental agency that owns or operates a facility to provide community-based services for aged persons.

(2) A local area agency on aging or the local nonprofit or governmental agency that owns or operates the facility and receives grant money from the area agency shall provide a matching contribution of at least 25% of the grant funds it receives under this section. A matching contribution may include funds, services, property, or other in-kind contributions.

(3) In making grants under this section, the board may consider:

(a) the extent and availability of public and private funding to operate programs in the facility to be acquired and to provide for maintenance of that facility;

(b) the need for community-based services in the geographical area served by the area agency on aging;

(c) the availability of private and local funds to assist in acquisition, alteration, renovation, or improvement of the facility; and

(d) the extent and level of support for acquisition of the facility from local government officials, private citizens, interest groups, and others.

(4) Grants to local area agencies on aging and any local nonprofit or governmental agency that owns or operates a facility and receives grant money from the area agency under this section are subject to the oversight and control by the division described in Subsection [~~62A-3-104~~] 26B-6-104(8).

(5) It is the intent of the Legislature that the grants made under this section serve the statewide purpose of providing support for senior citizens throughout the state, and that the grants shall be made to serve as effectively as possible the facilities in greatest need of assistance.

Section 132. Section 26B-6-113, which is renumbered from Section 62A-3-108 is renumbered and amended to read:

[~~62A-3-108~~]. 26B-6-113. Allocation of funds to local area agencies -- Formulas.

(1) (a) The board shall establish by rule formulas for allocating funds to local area agencies through contracts to provide programs and services in accordance with this part based on need.

(b) Determination of need shall be based on the number of eligible persons located in the local area which the division is authorized to serve, unless federal regulations require otherwise or the board establishes, by valid and accepted data, that other defined factors are relevant and reliable indicators of need.

(c) Formulas established by the board shall include a differential to compensate for additional costs of providing services in rural areas.

(2) Formulas established under Subsection (1) shall be in effect on or before July 1, 1998, and apply to all state and federal funds appropriated by the Legislature to the division for local area agencies, but does not apply to:

(a) funds that local area agencies receive from sources other than the division;

(b) funds that local area agencies receive from the division to operate a specific program within its jurisdiction which is available to all residents of the state;

(c) funds that a local area agency receives from the division to meet a need that exists only within that local area; and

(d) funds that a local area agency receives from the division for research projects.

Section 133. Section 26B-6-114, which is renumbered from Section 62A-3-109 is renumbered and amended to read:

[~~62A-3-109~~]. 26B-6-114. Adjudicative proceedings.

Adjudicative proceedings held by, or relating to, the division or the board shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

Section 134. Section 26B-6-201, which is renumbered from Section 62A-3-301 is renumbered and amended to read:

Part 2. Abuse, Neglect, or Exploitation of a Vulnerable Adult

[~~62A-3-301~~]. 26B-6-201. Definitions.

As used in this part:

(1) "Abandonment" means any knowing or intentional action or failure to act, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary

food, clothing, shelter, or medical or other health care.

(2) "Abuse" means:

(a) knowingly or intentionally:

(i) attempting to cause harm;

(ii) causing harm; or

(iii) placing another in fear of harm;

(b) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult;

(c) emotional or psychological abuse;

(d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the Individual; or

(e) deprivation of life sustaining treatment, or medical or mental health treatment, except:

(i) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

(ii) when informed consent, as defined in Section 76-5-111, has been obtained.

(3) "Adult" means an individual who is 18 years old or older.

(4) "Adult protection case file" means a record, stored in any format, contained in a case file maintained by Adult Protective Services.

(5) "Adult Protective Services" means the unit within the division responsible to investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate protective services.

(6) "Capacity to consent" means the ability of an individual to understand and communicate regarding the nature and consequences of decisions relating to the individual, and relating to the individual's property and lifestyle, including a decision to accept or refuse services.

(7) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, resource management, or other necessities for pecuniary gain, by contract, or as a result of friendship, or who is otherwise in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

(8) "Counsel" means an attorney licensed to practice law in this state.

(9) "Database" means the statewide database maintained by the division under Section [~~62A-3-311.1~~] 26B-6-210.

(10) (a) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(b) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

(11) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

(12) "Elder adult" means an individual 65 years old or older.

(13) "Emergency" means a circumstance in which a vulnerable adult is at an immediate risk of death, serious physical injury, or serious physical, emotional, or financial harm.

(14) "Emergency protective services" means measures taken by Adult Protective Services under time-limited, court-ordered authority for the purpose of remediating an emergency.

(15) (a) "Emotional or psychological abuse" means knowing or intentional verbal or nonverbal conduct directed at a vulnerable adult that results in the vulnerable adult suffering mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(b) "Emotional or psychological abuse" includes intimidating, threatening, isolating, coercing, or harassing.

(c) "Emotional or psychological abuse" does not include verbal or non-verbal conduct by a vulnerable adult who lacks the capacity to intentionally or knowingly:

(i) engage in the conduct; or

(ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(16) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or 76-5b-202.

(17) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, serious physical injury, suffering, or distress inflicted knowingly or intentionally.

(18) "Inconclusive" means a finding by the division that there is not a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(19) "Intimidation" means communication through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or abuse.

(20) (a) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(i) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the expressed wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(iii) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(b) "Isolation" does not include an act:

(i) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(ii) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

(21) "Lacks capacity to consent" is as defined in Section 76-5-111.4.

(22) (a) "Neglect" means:

(i) (A) failure of a caretaker to provide necessary care, including nutrition, clothing, shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable adult, unless the vulnerable adult is able to provide or obtain the necessary care without assistance; or

(B) failure of a caretaker to provide protection from health and safety hazards or maltreatment;

(ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

(iv) knowing or intentional failure by a caretaker to carry out a prescribed treatment plan that causes or is likely to cause harm to the vulnerable adult;

(v) self-neglect by the vulnerable adult; or

(vi) abandonment by a caretaker.

(b) "Neglect" does not include conduct, or failure to take action, that is permitted or excused under Title 75, Chapter 2a, Advance Health Care Directive Act.

(23) "Physical injury" includes the damage and conditions described in Section 76-5-111.

(24) "Protected person" means a vulnerable adult for whom the court has ordered protective services.

(25) "Protective services" means services to protect a vulnerable adult from abuse, neglect, or exploitation.

(26) "Self-neglect" means the failure of a vulnerable adult to provide or obtain food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the vulnerable adult's well being when that failure is the result of the adult's mental or physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.

(27) "Serious physical injury" is as defined in Section 76-5-111.

(28) "Supported" means a finding by the division that there is a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(29) "Undue influence" occurs when a person:

(a) uses influence to take advantage of a vulnerable adult's mental or physical impairment; or

(b) uses the person's role, relationship, or power:

(i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult; or

(ii) to gain control deceptively over the decision making of the vulnerable adult.

(30) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(31) "Without merit" means a finding that abuse, neglect, or exploitation did not occur.

Section 135. Section 26B-6-202, which is renumbered from Section 62A-3-302 is renumbered and amended to read:

[~~62A-3-302~~]. 26B-6-202. Purpose of Adult Protective Services Program.

Subject to the rules made by the division under Section [~~62A-3-106.5~~] 26B-6-110, Adult Protective Services:

(1) shall investigate or cause to be investigated reports of alleged abuse, neglect, or exploitation of vulnerable adults;

(2) shall, where appropriate, provide short-term, limited protective services with the permission of

the affected vulnerable adult or the guardian or conservator of the vulnerable adult;

(3) shall, subject to Section [~~62A-3-320~~] 26B-6-217, provide emergency protective services; and

(4) may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and develop procedures and policies relating to:

(a) reporting and investigating incidents of abuse, neglect, or exploitation; and

(b) providing protective services to the extent that funds are appropriated by the Legislature for this purpose.

Section 136. Section 26B-6-203, which is renumbered from Section 62A-3-303 is renumbered and amended to read:

[~~62A-3-303~~]. 26B-6-203. Powers and duties of Adult Protective Services.

In addition to all other powers and duties that Adult Protective Services is given under this part, Adult Protective Services:

(1) shall maintain an intake system for receiving and screening reports;

(2) shall investigate referrals that meet the intake criteria;

(3) shall conduct assessments of vulnerability and functional capacity as it relates to an allegation of abuse, neglect, or exploitation of an adult who is the subject of a report;

(4) shall perform assessments based on protective needs and risks for a vulnerable adult who is the subject of a report;

(5) may address any protective needs by making recommendations to and coordinating with the vulnerable adult or by making referrals to community resources;

(6) may provide short-term, limited services to a vulnerable adult when family or community resources are not available to provide for the protective needs of the vulnerable adult;

(7) shall have access to facilities licensed by, or contracted with, the department [~~or the Department of Health~~] for the purpose of conducting investigations;

(8) shall be given access to, or provided with, written statements, documents, exhibits, and other items related to an investigation, including private, controlled, or protected medical or financial records of a vulnerable adult who is the subject of an investigation if:

(a) for a vulnerable adult who has the capacity to consent, the vulnerable adult signs a release of information; or

(b) for a vulnerable adult who lacks capacity to consent, an administrative subpoena is issued by Adult Protective Services;

(9) may initiate proceedings in a court of competent jurisdiction to seek relief necessary to carry out the provisions of this chapter;

(10) shall, subject to Section [~~62A-3-320~~] 26B-6-217, provide emergency protective services;

(11) may require all persons, including family members of a vulnerable adult and any caretaker, to cooperate with Adult Protective Services in carrying out its duties under this chapter, including the provision of statements, documents, exhibits, and other items that assist Adult Protective Services in conducting investigations and providing protective services;

(12) may require all officials, agencies, departments, and political subdivisions of the state to assist and cooperate within their jurisdictional power with the court, the division, and Adult Protective Services in furthering the purposes of this chapter;

(13) may conduct studies and compile data regarding abuse, neglect, and exploitation; and

(14) may issue reports and recommendations.

Section 137. Section 26B-6-204, which is renumbered from Section 62A-3-304 is renumbered and amended to read:

[~~62A-3-304~~]. 26B-6-204. Cooperation by caretaker.

A caretaker, facility, or other institution shall, regardless of the confidentiality standards of the caretaker, facility, or institution:

(1) report abuse, neglect, or exploitation of a vulnerable adult in accordance with this chapter;

(2) cooperate with any Adult Protective Services investigation;

(3) provide Adult Protective Services with access to records or documents relating to the vulnerable adult who is the subject of an investigation; or

(4) provide evidence in any judicial or administrative proceeding relating to a vulnerable adult who is the subject of an investigation.

Section 138. Section 26B-6-205, which is renumbered from Section 62A-3-305 is renumbered and amended to read:

[~~62A-3-305~~]. 26B-6-205. Reporting requirements -- Investigation -- Exceptions -- Immunity -- Penalties -- Nonmedical healing.

(1) Except as provided in Subsection (4), if an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(2) (a) If a peace officer or a law enforcement agency receives a report under Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult Protective Services.

(b) Adult Protective Services and the peace officer or the law enforcement agency shall coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide protection to the vulnerable adult.

(3) When a report under Subsection (1), or a subsequent investigation by Adult Protective Services, indicates that a criminal offense may have occurred against a vulnerable adult:

(a) Adult Protective Services shall notify the nearest local law enforcement agency regarding the potential offense; and

(b) the law enforcement agency shall initiate an investigation in cooperation with Adult Protective Services.

(4) Subject to Subsection (5), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession; or

(b) an attorney, or an individual employed by the attorney, if knowledge of the suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5) (a) When a member of the clergy receives information about abuse, neglect, or exploitation of a vulnerable adult from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse, neglect, or exploitation from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other efforts required by law to prevent further abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

(6) (a) As used in this Subsection (6), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult under Subsection (1); or

(ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding resulting from a report under Subsection (1).

(7) (a) An individual who in good faith makes a report under Subsection (1), or who otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is immune from civil and criminal liability in connection with the report or notification.

(b) A covered provider or covered contractor, as defined in Section [~~26-21-201~~] 26B-2-238, that knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency, under Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who was not reported to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(c) This Subsection (7) does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) If Adult Protective Services has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in accordance with this section, Adult Protective Services shall file a complaint with:

(a) the Division of Professional Licensing if the individual is a health care provider, as defined in Section 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

(b) If an individual is convicted under Subsection (9)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable adults.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a reasonable individual would not have reported suspected abuse, neglect, or exploitation of a vulnerable adult because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (9)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (9)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, or exploitation and willfully failed to report.

(10) Under circumstances not amounting to a violation of Section 76-8-508, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1), the individual who made the report under Subsection (1), a witness, or any other person cooperating with an investigation conducted in accordance with this chapter.

(11) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Section 139. Section 26B-6-206, which is renumbered from Section 62A-3-307 is renumbered and amended to read:

[~~62A-3-307~~]. 26B-6-206. Photographing, video, and audio taping.

Law enforcement or Adult Protective Services investigators may collect evidence regarding alleged abuse, neglect, or exploitation of a vulnerable adult by taking, or causing to be taken, photographs, video tape recordings, or audio or video tape accounts of a vulnerable adult, if the vulnerable adult:

(1) consents to the taking of the photographs, video tape recordings, or audio or video tape accounts; or

(2) lacks the capacity to give the consent described in Subsection (1).

Section 140. Section 26B-6-207, which is renumbered from Section 62A-3-308 is renumbered and amended to read:

[~~62A-3-308~~]. 26B-6-207. Peace officer's authority to transport -- Notification.

(1) A peace officer may remove and transport, or cause to have transported, a vulnerable adult to an appropriate medical or shelter facility, if:

(a) the officer has probable cause to believe that:

(i) by reason of abuse, neglect, or exploitation there exist exigent circumstances; and

(ii) the vulnerable adult will suffer serious physical injury or death if not immediately placed in a safe environment;

(b) the vulnerable adult refuses to consent or lacks capacity to consent; and

(c) there is not time to notify interested parties or to apply for a warrant or other court order.

(2) A peace officer described in Subsection (1) shall, within four hours after a vulnerable adult is transported to an appropriate medical or shelter facility:

(a) notify Adult Protective Services intake; and

(b) request that Adult Protective Services or the division file a petition with the court for an emergency protective order.

Section 141. Section 26B-6-208, which is renumbered from Section 62A-3-309 is renumbered and amended to read:

[~~62A-3-309~~]. 26B-6-208. Enforcement by division -- Duty of county or district attorney.

(1) It is the duty of the county or district attorney, as appropriate under Sections 17-18a-202 and 17-18a-203, to:

(a) assist and represent the division;

(b) initiate legal proceedings to protect vulnerable adults; and

(c) take appropriate action to prosecute the alleged offenders.

(2) If the county or district attorney fails to act upon the request of the division to provide legal assistance within five business days after the day on which the request is made:

(a) the division may request the attorney general to act; and

(b) the attorney general may, in the attorney general's discretion, assume the responsibilities and carry the action forward in place of the county or district attorney.

Section 142. Section 26B-6-209, which is renumbered from Section 62A-3-311 is renumbered and amended to read:

[~~62A-3-311~~]. 26B-6-209. Requests for records.

(1) Requests for records maintained by Adult Protective Services shall be made in writing to Adult Protective Services.

(2) Classification and disclosure of records shall be made in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 143. Section 26B-6-210, which is renumbered from Section 62A-3-311.1 is renumbered and amended to read:

[~~62A-3-311.1~~]. 26B-6-210. Statewide database -- Restricted use and access.

(1) The division shall maintain a database for reports of vulnerable adult abuse, neglect, or exploitation made pursuant to this part.

(2) The database shall include:

(a) the names and identifying data of the alleged abused, neglected, or exploited vulnerable adult and the alleged perpetrator;

(b) information regarding whether or not the allegation of abuse, neglect, or exploitation was found to be:

(i) supported;

(ii) inconclusive;

(iii) without merit; or

(iv) for reports for which the finding is made before May 5, 2008:

(A) substantiated; or

(B) unsubstantiated; and

(c) any other information that may be helpful in furthering the purposes of this part, as determined by the division.

(3) Information obtained from the database may be used only:

(a) for statistical summaries compiled by the department that do not include names or other identifying data;

(b) where identification of an individual as a perpetrator may be relevant in a determination regarding whether to grant or deny a license, privilege, or approval made by:

(i) the department;

(ii) the Division of Professional Licensing;

[~~(iii) the Bureau of Licensing, within the Department of Health;~~]

(iii) the Division of Licensing and Background Checks within the department;

(iv) the Bureau of Emergency Medical Services and Preparedness, within the [~~Department of Health~~] department, or a designee of the Bureau of Emergency Medical Services and Preparedness;

(v) any government agency specifically authorized by statute to access or use the information in the database; or

(vi) an agency of another state that performs a similar function to an agency described in Subsections (3)(b)(i) through (iv); or

(c) as otherwise specifically provided by law.

Section 144. Section 26B-6-211, which is renumbered from Section 62A-3-311.5 is renumbered and amended to read:

[~~62A-3-311.5~~]. 26B-6-211. Notice of supported finding -- Procedure for challenging finding -- Limitations.

(1) (a) Except as provided in Subsection (1)(b), within 15 days after the day on which the division makes a supported finding that a person committed abuse, neglect, or exploitation of a vulnerable adult, the division shall serve the person with a notice of agency action, in accordance with Subsections (2) and (3).

(b) The division may serve the notice described in Subsection (1)(a) within a reasonable time after the 15 day period described in Subsection (1)(a) if:

(i) the delay is necessary in order to:

(A) avoid impeding an ongoing criminal investigation or proceeding; or

(B) protect the safety of a person; and

(ii) the notice is provided before the supported finding is used as a basis to deny the person a license or otherwise adversely impact the person.

(2) The division shall cause the notice described in Subsection (1)(a) to be served by personal service or certified mail.

(3) The notice described in Subsection (1)(a) shall:

(a) indicate that the division has conducted an investigation regarding alleged abuse, neglect, or exploitation of a vulnerable adult by the alleged perpetrator;

(b) indicate that, as a result of the investigation described in Subsection (3)(a), the division made a supported finding that the alleged perpetrator committed abuse, neglect, or exploitation of a vulnerable adult;

(c) include a summary of the facts that are the basis for the supported finding;

(d) indicate that the supported finding may result in disqualifying the person from:

(i) being licensed, certified, approved, or employed by a government agency;

(ii) being employed by a service provider, person, or other entity that contracts with, or is licensed by, a government agency; or

(iii) qualifying as a volunteer for an entity described in Subsection (3)(d)(i) or (ii);

(e) indicate that, as a result of the supported finding, the alleged perpetrator's identifying information is listed in the database;

(f) indicate that the alleged perpetrator may request a copy of the report of the alleged abuse, neglect, or exploitation; and

(g) inform the alleged perpetrator of:

(i) the right described in Subsection (4)(a); and

(ii) the consequences of failing to exercise the right described in Subsection (4)(a) in a timely manner.

(4) (a) The alleged perpetrator has the right, within 30 days after the day on which the notice described in Subsection (1)(a) is served, to challenge the supported finding by filing a request for an informal adjudicative proceeding, under Title 63G, Chapter 4, Administrative Procedures Act.

(b) If the alleged perpetrator fails to file a request for an informal adjudicative proceeding within the time described in Subsection (4)(a), the supported finding will become final and will not be subject to challenge or appeal.

(5) At the hearing described in Subsection (4)(a), the division has the burden of proving, by a preponderance of the evidence, that the alleged perpetrator committed abuse, neglect, or exploitation of a vulnerable adult.

(6) Notwithstanding any provision of this section, an alleged perpetrator described in this section may not challenge a supported finding if a court of competent jurisdiction entered a finding in a proceeding to which the alleged perpetrator was a party, that the alleged perpetrator committed the abuse, neglect, or exploitation of a vulnerable adult, upon which the supported finding is based.

(7) A person who was listed in the database as a perpetrator before May 5, 2008, and who did not have an opportunity to challenge the division's finding that resulted in the listing, may at any time:

(a) request that the division reconsider the division's finding; or

(b) request an informal adjudicative proceeding, under Title 63G, Chapter 4, Administrative Procedures Act, to challenge the finding.

Section 145. Section 26B-6-212, which is renumbered from Section 62A-3-312 is renumbered and amended to read:

[~~62A-3-312~~]. 26B-6-212. Access to information in database.

The database and the adult protection case file:

(1) shall be made available to law enforcement agencies, the attorney general's office, city attorneys, the Division of Professional Licensing, and county or district attorney's offices;

(2) shall be released as required under Subsection 63G-2-202(4)(c); and

(3) may be made available, at the discretion of the division, to:

(a) subjects of a report as follows:

(i) a vulnerable adult named in a report as a victim of abuse, neglect, or exploitation, or that adult's attorney or legal guardian; and

(ii) a person identified in a report as having abused, neglected, or exploited a vulnerable adult, or that person's attorney; and

(b) persons involved in an evaluation or assessment of the vulnerable adult as follows:

(i) an employee or contractor of the department who is responsible for the evaluation or assessment of an adult protection case file;

(ii) a multidisciplinary team approved by the division to assist Adult Protective Services in the evaluation, assessment, and disposition of a vulnerable adult case;

(iii) an authorized person or agency providing services to, or responsible for, the care, treatment, assessment, or supervision of a vulnerable adult named in the report as a victim, when in the opinion of the division, that information will assist in the protection of, or provide other benefits to, the victim;

(iv) a licensing authority for a facility, program, or person providing care to a victim named in a report; and

(v) legally authorized protection and advocacy agencies when they represent a victim or have been requested by the division to assist on a case, including:

(A) the Office of Public Guardian, created in Section [~~62A-14-103~~] 26B-6-302; and

(B) the Long-Term Care Ombudsman Program, created in Section [~~62A-3-203~~] 26B-2-303.

Section 146. Section 26B-6-213, which is renumbered from Section 62A-3-314 is renumbered and amended to read:

[~~62A-3-314~~]. 26B-6-213. Private right of action -- Estate asset -- Attorney fees.

(1) A vulnerable adult who suffers harm or financial loss as a result of exploitation has a private right of action against the perpetrator.

(2) Upon the death of a vulnerable adult, any cause of action under this section shall constitute an asset of the estate of the vulnerable adult.

(3) If the plaintiff prevails in an action brought under this section, the court may order that the defendant pay the costs and reasonable attorney fees of the plaintiff.

(4) If the defendant prevails in an action brought under this section, the court may order that the plaintiff pay the costs and reasonable attorney fees of the defendant, if the court finds that the action was frivolous, unreasonable, or taken in bad faith.

Section 147. Section 26B-6-214, which is renumbered from Section 62A-3-315 is renumbered and amended to read:

[~~62A-3-315~~]. 26B-6-214. Protective services voluntary unless court ordered.

(1) Vulnerable adults who receive protective services under this part shall do so knowingly or voluntarily or upon district court order.

(2) Protective services may be provided without a court order for a vulnerable adult who has the capacity to consent and who requests or knowingly or voluntarily consents to those services. Protective services may also be provided for a vulnerable adult whose guardian or conservator with authority to consent does consent to those services. When short-term, limited protective services are provided, the division and the recipient, or the recipient's guardian or conservator, shall execute a written agreement setting forth the purposes and limitations of the services to be provided. If consent is subsequently withdrawn by the recipient, the recipient's guardian or conservator, or the court, services, including any investigation, shall cease.

(3) A court may order emergency protective services to be provided to a vulnerable adult who does not consent or who lacks capacity to consent to protective services in accordance with Section [~~62A-3-320~~] 26B-6-217.

Section 148. Section 26B-6-215, which is renumbered from Section 62A-3-316 is renumbered and amended to read:

[~~62A-3-316~~]. 26B-6-215. Costs incurred in providing of protective services.

Costs incurred in providing protective services are the responsibility of the vulnerable adult when:

(1) the vulnerable adult is financially able to pay for those services, according to rates established by the division, and that payment is provided for as part of the written agreement for services described in Section [~~62A-3-315~~] 26B-6-214;

(2) the vulnerable adult to be protected is eligible for those services from another governmental agency; or

(3) the court appoints a guardian or conservator and orders that the costs be paid from the vulnerable adult's estate.

Section 149. Section 26B-6-216, which is renumbered from Section 62A-3-317 is renumbered and amended to read:

[~~62A-3-317~~]. 26B-6-216. Venue for protective services proceedings.

Venue for all proceedings related to protective services and emergency protective services under this [~~chapter~~] part is in the county where the vulnerable adult resides or is present.

Section 150. Section 26B-6-217, which is renumbered from Section 62A-3-320 is renumbered and amended to read:

[~~62A-3-320~~]. 26B-6-217. Emergency protective services -- Forcible entry.

(1) Adult Protective Services shall, immediately upon court order, provide emergency protective services to a court-designated vulnerable adult.

(2) A court may, without notice, order emergency protective services immediately upon receipt of a petition for emergency protective services when a court finds that:

(a) the subject of the petition is a vulnerable adult;

(b) (i) the vulnerable adult does not have a court-appointed guardian or conservator; or

(ii) the guardian or conservator is not effectively performing the guardian's or conservator's duties;

(c) an emergency exists; and

(d) the welfare, safety, or best interests of the vulnerable adult requires emergency protective services.

(3) An emergency protective services order shall specifically designate the services that are approved and the facts that support the provision of those services.

(4) Services authorized in an emergency protective services order may include hospitalization, nursing, custodial care, or a change in residence.

(5) An emergency protective services order expires five business days after the day on which the court issues the order unless an appropriate party petitions for temporary guardianship pursuant to Section 75-5-310 or the division files a new petition for an emergency services order.

(6) If a petition for guardianship or an additional emergency protective services petition is filed within five business days after the day on which the court issues the original emergency protective services order, a court may extend the duration of the original order an additional 15 business days after the day on which the subsequent petition is filed to allow for a court hearing on the petition.

(7) To implement an emergency protective services order, a court may authorize forcible entry by a peace officer into the premises where the vulnerable adult may be found.

Section 151. Section 26B-6-218, which is renumbered from Section 62A-3-321 is renumbered and amended to read:

[~~62A-3-321~~]. 26B-6-218. Petition for injunctive relief when caretaker refuses to allow protective services.

(1) When a vulnerable adult is in need of protective services and the caretaker refuses to allow the provision of those services, the division may petition the court for injunctive relief prohibiting the caretaker from interfering with the provision of protective services.

(2) The division's petition under Subsection (1) shall allege facts sufficient to show that the vulnerable adult is in need of protective services, that the vulnerable adult either consents or lacks capacity to consent to those services, and that the caretaker refuses to allow the provision of those services.

(3) The court may, on appropriate findings and conclusions in accordance with Rule 65A, Utah Rules of Civil Procedure, issue an order enjoining the caretaker from interfering with the provision of protective services.

(4) The petition under Subsection (1) may be joined with a petition under Section [~~62A-3-320~~] 26B-6-217.

Section 152. Section 26B-6-219, which is renumbered from Section 62A-3-322 is renumbered and amended to read:

[~~62A-3-322~~]. 26B-6-219. Medical cannabis use by a vulnerable adult or guardian.

A peace officer or an employee or agent of the division may not solicit or provide, and a court may not order, emergency services for a vulnerable adult based solely on:

(1) the vulnerable adult's possession or use of cannabis in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(2) the guardian of the vulnerable adult assisting with the use of or possessing cannabis in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section 153. Section 26B-6-301, which is renumbered from Section 62A-14-102 is renumbered and amended to read:

Part 3. Office of Public Guardian

[~~62A-14-102~~]. 26B-6-301. Definitions.

As used in this [~~chapter~~] part:

(1) "Conservator" is as defined in Section 75-1-201.

(2) "Court" is as defined in Section 75-1-201.

(3) "Estate" is as defined in Section 75-1-201.

(4) "Guardian" is as defined in Section 75-1-201.

(5) "Incapacitated" means a person who has been determined by a court, pursuant to Section 75-5-303, to be incapacitated, as defined in Section 75-1-201, after the office has determined that the person is 18 years of age or older and suffers from a mental or physical impairment as part of the prepetition assessment in Section [~~62A-14-107~~] 26B-6-305.

(6) "Office" means the Office of Public Guardian.

(7) "Property" is as defined in Section 75-1-201.

(8) "Ward" means an incapacitated person for whom the office has been appointed as guardian or conservator.

Section 154. Section 26B-6-302, which is renumbered from Section 62A-14-103 is renumbered and amended to read:

[~~62A-14-103~~]. 26B-6-302. Office of Public Guardian -- Creation.

(1) There is created within the department the Office of Public Guardian which has the powers and duties provided in this [~~chapter~~] part.

(2) The office is under the administrative and general supervision of the executive director.

Section 155. Section 26B-6-303, which is renumbered from Section 62A-14-104 is renumbered and amended to read:

[~~62A-14-104~~]. 26B-6-303. Director of the office -- Appointment -- Qualifications.

(1) The director of the office shall be appointed by the executive director.

(2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning guardianship and conservatorship.

(3) The director is the administrative head of the office.

Section 156. Section 26B-6-304, which is renumbered from Section 62A-14-105 is renumbered and amended to read:

[~~62A-14-105~~]. 26B-6-304. Powers and duties of the office.

(1) The office shall:

(a) develop and operate a statewide program to:

(i) educate the public about the role and function of guardians and conservators;

(ii) educate guardians and conservators on:

(A) the duties of a guardian and a conservator; and

(B) standards set by the National Guardianship Association for guardians and conservators; and

(iii) serve as a guardian, conservator, or both for a ward upon appointment by a court when no other person is able and willing to do so and the office petitioned for or agreed in advance to the appointment;

(b) possess and exercise all the powers and duties specifically given to the office by virtue of being appointed as guardian or conservator of a ward, including the power to access a ward's records;

(c) review and monitor the personal and, if appropriate, financial status of each ward for whom the office has been appointed to serve as guardian or conservator;

(d) train and monitor each employee and volunteer, and monitor each contract provider to whom the office has delegated a responsibility for a ward;

(e) retain all court-delegated powers and duties for a ward;

(f) report on the personal and financial status of a ward as required by a court in accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property;

(g) handle a ward's funds in accordance with the department's trust account system;

(h) request that the department's audit plan, established pursuant to Section 63I-5-401, include the requirement of an annual audit of all funds and property held by the office on behalf of wards;

(i) maintain accurate records concerning each ward, the ward's property, and office services provided to the ward;

(j) make reasonable and continuous efforts to find a family member, friend, or other person to serve as a ward's guardian or conservator;

(k) after termination as guardian or conservator, distribute a ward's property in accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property; and

(l) submit recommendations for changes in state law and funding to the governor and the Legislature and report to the governor and Legislature, upon request.

(2) The office may:

(a) petition a court pursuant to Title 75, Chapter 5, Protection of Persons Under Disability and Their Property, to be appointed an incapacitated person's guardian, conservator, or both after conducting a prepetition assessment under Section [~~62A-14-107~~] 26B-6-305;

(b) develop and operate a statewide program to recruit, train, supervise, and monitor volunteers to assist the office in providing guardian and conservator services;

(c) delegate one or more responsibilities for a ward to an employee, volunteer, or contract provider, except as provided in Subsection [~~62A-14-107~~] 26B-6-305(1);

(d) solicit and receive private donations to provide guardian and conservator services under this [~~chapter~~] part; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) effectuate policy; and

(ii) carry out the office's role as guardian and conservator of wards as provided in this chapter.

Section 157. Section 26B-6-305, which is renumbered from Section 62A-14-107 is renumbered and amended to read:

[~~62A-14-107~~]. 26B-6-305. Prepetition assessment and plan.

(1) Before the office may file a petition in court to be appointed guardian or conservator of a person, the office shall:

(a) conduct a face-to-face needs assessment, by someone other than a volunteer, to determine whether the person suffers from a mental or physical impairment that renders the person substantially incapable of:

(i) caring for his personal safety;

(ii) managing his financial affairs; or

(iii) attending to and providing for such necessities as food, shelter, clothing, and medical care, to the extent that physical injury or illness may result;

(b) assess the financial resources of the person based on information supplied to the office at the time of assessment;

(c) inquire and, if appropriate, search to determine whether any other person may be willing and able to serve as the person's guardian or conservator; and

(d) determine the form of guardianship or conservatorship to request of a court, if any, giving preference to the least intensive form of guardianship or conservatorship, consistent with the best interests of the person.

(2) The office shall prepare an individualized guardianship or conservator plan for each ward within 60 days of appointment.

Section 158. Section 26B-6-306, which is renumbered from Section 62A-14-108 is renumbered and amended to read:

[~~62A-14-108~~]. 26B-6-306. Office volunteers.

(1) A person who desires to be an office volunteer shall:

(a) possess demonstrated personal characteristics of honesty, integrity, compassion, and concern for incapacitated persons; and

(b) upon request, submit information for a background check pursuant to Section 26B-1-211.

(2) An office volunteer may not receive compensation or benefits, but may be reimbursed by the office for expenses actually and reasonably incurred, consistent with Title 67, Chapter 20, Volunteer Government Workers Act.

(3) An office volunteer is immune from civil liability pursuant to Title 63G, Chapter 8, Immunity for Persons Performing Voluntary Services Act.

Section 159. Section 26B-6-307, which is renumbered from Section 62A-14-109 is renumbered and amended to read:

[~~62A-14-109~~]. 26B-6-307. Contract for services.

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the office may contract with one or more providers to perform guardian and conservator duties.

(2) The office shall review and monitor the services provided by a contract provider to a ward for whom the office has been appointed guardian or conservator.

Section 160. Section 26B-6-308, which is renumbered from Section 62A-14-110 is renumbered and amended to read:

[~~62A-14-110~~]. 26B-6-308. Court, legal, and other costs.

(1) The office may not be appointed as the guardian or conservator of a person unless the office petitioned for or agreed in advance to the appointment.

(2) Except as provided in Subsection (4), the court shall order the ward or the ward's estate to pay for the cost of services rendered under this chapter, including court costs and reasonable [~~attorneys'~~] attorney fees.

(3) If the office recovers [~~attorneys'~~] attorney fees under Subsection (2), the office shall transmit those fees to the attorneys who represented the ward or the office in connection with the ward's case.

(4) If a ward is indigent, the office shall provide guardian and conservator services free of charge and shall make reasonable efforts to secure pro bono legal services for the ward.

(5) Under no circumstances may court costs or [~~attorneys'~~] attorney fees be assessed to the office.

Section 161. Section 26B-6-309, which is renumbered from Section 62A-14-111 is renumbered and amended to read:

[~~62A-14-111~~]. 26B-6-309. Duty of the county attorney or district attorney.

(1) The attorney general shall advise the office on legal matters and represent the office in legal proceedings.

(2) Upon the request of the attorney general, a county attorney may represent the office in connection with the filing of a petition for appointment as guardian or conservator of an incapacitated person and with routine, subsequent appearances.

Section 162. Section 26B-6-401, which is renumbered from Section 62A-5-101 is renumbered and amended to read:

Part 4. Division of Services for People with Disabilities

[~~62A-5-101~~]. 26B-6-401. Definitions.

As used in this [~~chapter~~] part:

(1) "Approved provider" means a person approved by the division to provide home-based services.

(2) "Board" means the Utah State Developmental Center Board created under Section [~~62A-5-202.5~~] 26B-1-429.

(3) (a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.

(b) "Brain injury" does not include a deteriorating disease.

(4) "Designated intellectual disability professional" means:

(a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:

(i) (A) has at least one year of specialized training in working with persons with an intellectual disability; or

(B) has at least one year of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability; or

(b) a clinical social worker, certified social worker, marriage and family therapist, or professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, who:

(i) has at least two years of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability.

(5) "Deteriorating disease" includes:

(a) multiple sclerosis;

(b) muscular dystrophy;

(c) Huntington's chorea;

(d) Alzheimer's disease;

(e) ataxia; or

(f) cancer.

(6) "Developmental center" means the Utah State Developmental Center, established in accordance with Part [~~2~~] 5, Utah State Developmental Center.

(7) "Director" means the director of the Division of Services for People with Disabilities.

(8) "Direct service worker" means a person who provides services to a person with a disability:

(a) when the services are rendered in:

(i) the physical presence of the person with a disability; or

(ii) a location where the person rendering the services has access to the physical presence of the person with a disability; and

(b) (i) under a contract with the division;

(ii) under a grant agreement with the division; or

(iii) as an employee of the division.

(9) (a) "Disability" means a severe, chronic disability that:

(i) is attributable to:

(A) an intellectual disability;

(B) a condition that qualifies a person as a person with a related condition, as defined in 42 C.F.R. Sec. 435.1010;

(C) a physical disability; or

(D) a brain injury;

(ii) is likely to continue indefinitely;

(iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a substantial functional limitation in three or more of the following areas of major life activity:

(I) self-care;

(II) receptive and expressive language;

(III) learning;

(IV) mobility;

(V) self-direction;

(VI) capacity for independent living; or

(VII) economic self-sufficiency; or

(B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial limitation in three or more of the following areas:

(I) memory or cognition;

(II) activities of daily life;

(III) judgment and self-protection;

(IV) control of emotions;

(V) communication;

(VI) physical health; or

(VII) employment; and

(iv) requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that:

(A) may continue throughout life; and

(B) must be individually planned and coordinated.

(b) "Disability" does not include a condition due solely to:

(i) mental illness;

(ii) personality disorder;

(iii) deafness or being hard of hearing;

(iv) visual impairment;

(v) learning disability;

(vi) behavior disorder;

(vii) substance abuse; or

(viii) the aging process.

(10) "Division" means the Division of Services for People with Disabilities.

(11) "Eligible to receive division services" or "eligibility" means qualification, based on criteria established by the division, to receive services that are administered by the division.

(12) "Endorsed program" means a facility or program that:

(a) is operated:

(i) by the division; or

(ii) under contract with the division; or

(b) provides services to a person committed to the division under Part [~~3~~] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(13) "Licensed physician" means:

(a) an individual licensed to practice medicine under:

(i) Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(b) a medical officer of the United States Government while in this state in the performance of official duties.

(14) "Limited support services" means services that are administered by the division to individuals with a disability:

(a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for Medicare and Medicaid Services that permits the division to limit services to an individual who is eligible to receive division services; and

(b) through a program that:

(i) was not operated by the division on or before January 1, 2020; and

(ii) (A) limits the kinds of services that an individual may receive; or

(B) sets a maximum total dollar amount for program services provided to each individual.

(15) "Physical disability" means a medically determinable physical impairment that has resulted in the functional loss of two or more of a person's limbs.

(16) "Public funds" means state or federal funds that are disbursed by the division.

(17) "Resident" means an individual under observation, care, or treatment in an intermediate care facility for people with an intellectual disability.

(18) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Section [~~62A-5-206.7~~] 26B-1-331.

Section 163. Section 26B-6-402, which is renumbered from Section 62A-5-102 is renumbered and amended to read:

[~~62A-5-102~~]. 26B-6-402. Division of Services for People with Disabilities -- Creation -- Authority -- Direction -- Provision of services.

(1) There is created within the department the Division of Services for People with Disabilities, under the administrative direction of the executive director of the department.

(2) In accordance with this [~~chapter~~] part, the division has the responsibility to plan and deliver an appropriate array of services and supports to persons with disabilities and their families in this state.

(3) Within appropriations from the Legislature, the division shall provide services to any individual with a disability who is eligible to receive division services.

(4) (a) Except as provided in Subsection (4)(c), any new appropriations designated to serve eligible individuals waiting for services from the division shall be allocated, as determined by the division by rule based on the:

(i) severity of the disability;

(ii) urgency of the need for services;

(iii) ability of a parent or guardian to provide the individual with appropriate care and supervision; and

(iv) length of time during which the individual has not received services from the division.

(b) Funds from Subsection (4)(a) that are not spent by the division at the end of the fiscal year may be used as set forth in Subsection (7).

(c) Subsections (4)(a) and (b) do not apply to any new appropriations designated to provide limited support services.

(5) The division:

(a) has the functions, powers, duties, rights, and responsibilities described in Section [~~62A-5-103~~] 26B-6-403; and

(b) is authorized to work in cooperation with other state, governmental, and private agencies to carry out the responsibilities described in Subsection (5)(a).

(6) Within appropriations authorized by the Legislature, and to the extent allowed under Title XIX of the Social Security Act, the division shall ensure that the services and support that the division provides to an individual with a disability:

(a) are provided in the least restrictive and most enabling environment;

(b) ensure opportunities to access employment; and

(c) enable reasonable personal choice in selecting services and support that:

(i) best meet individual needs; and

(ii) promote:

(A) independence;

(B) productivity; and

(C) integration in community life.

(7) (a) Appropriations to the division are nonlapsing.

(b) After an individual stops receiving services under this section, the division shall use the funds that paid for the individual's services to provide services under this section to another eligible individual in an intermediate care facility transitioning to division services, if the funds were allocated under a program established under Section [~~26-18-3~~] 26B-3-108 to transition individuals with intellectual disabilities from an intermediate care facility.

(c) Except as provided in Subsection (7)(b), if an individual receiving services under Subsection (4)(a) ceases to receive those services, the division shall use the funds that were allocated to that individual to provide services to another eligible individual waiting for services as described in Subsection (4)(a).

(d) Funds unexpended by the division at the end of the fiscal year may be used only for one-time expenditures unless otherwise authorized by the Legislature.

(e) A one-time expenditure under this section:

(i) is not an entitlement;

(ii) may be withdrawn at any time; and

(iii) may provide short-term, limited services, including:

(A) respite care;

(B) service brokering;

(C) family skill building and preservation classes;

(D) after school group services; and

(E) other professional services.

Section 164. Section 26B-6-403, which is renumbered from Section 62A-5-103 is renumbered and amended to read:

[~~62A-5-103~~]. 26B-6-403. Responsibility and authority of division.

(1) For purposes of this section "administer" means to:

(a) plan;

(b) develop;

(c) manage;

(d) monitor; and

(e) conduct certification reviews.

(2) The division has the authority and responsibility to:

(a) administer an array of services and supports for persons with disabilities and their families throughout the state;

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish eligibility criteria for the services and supports described in Subsection (2)(a);

(c) consistent with Section [~~62A-5-206~~] 26B-6-506, supervise the programs and facilities of the Developmental Center;

(d) in order to enhance the quality of life for a person with a disability, establish either directly, or by contract with private, nonprofit organizations, programs of:

(i) outreach;

(ii) information and referral;

(iii) prevention;

(iv) technical assistance; and

(v) public awareness;

(e) supervise the programs and facilities operated by, or under contract with, the division;

(f) cooperate with other state, governmental, and private agencies that provide services to a person with a disability;

(g) subject to Subsection (3), ensure that a person with a disability is not deprived of that person's constitutionally protected rights without due process procedures designed to minimize the risk of error when a person with a disability is admitted to

an intermediate care facility for people with an intellectual disability, including:

(i) the developmental center; and

(ii) facilities within the community;

(h) determine whether to approve providers;

(i) monitor and sanction approved providers, as specified in the providers' contract;

(j) subject to Section [~~62A-5-103.5~~] 26B-6-410, receive and disburse public funds;

(k) review financial actions of a provider who is a representative payee appointed by the Social Security Administration;

(l) establish standards and rules for the administration and operation of programs conducted by, or under contract with, the division;

(m) approve and monitor division programs to insure compliance with the board's rules and standards;

(n) establish standards and rules necessary to fulfill the division's responsibilities under Part [~~2~~] 5, Utah State Developmental Center, and Part [~~3~~] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability, with regard to an intermediate care facility for people with an intellectual disability;

(o) assess and collect equitable fees for a person who receives services provided under this chapter;

(p) maintain records of, and account for, the funds described in Subsection (2)(o);

(q) establish and apply rules to determine whether to approve, deny, or defer the division's services to a person who is:

(i) applying to receive the services; or

(ii) currently receiving the services;

(r) in accordance with state law, establish rules:

(i) relating to an intermediate care facility for people with an intellectual disability that is an endorsed program; and

(ii) governing the admission, transfer, and discharge of a person with a disability;

(s) manage funds for a person residing in a facility operated by the division:

(i) upon request of a parent or guardian of the person; or

(ii) under administrative or court order; and

(t) fulfill the responsibilities described in [~~Chapter 5a, Coordinating Council for Persons with Disabilities~~] Section 26B-1-430.

(3) The due process procedures described in Subsection (2)(g):

(a) shall include initial and periodic reviews to determine the constitutional appropriateness of the placement; and

(b) with regard to facilities in the community, do not require commitment to the division.

Section 165. Section 26B-6-404, which is renumbered from Section 62A-5-104 is renumbered and amended to read:

[~~62A-5-104~~]. 26B-6-404. Director -- Qualifications -- Responsibilities.

(1) The director of the division shall be appointed by the executive director.

(2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in developmental disabilities, intellectual disabilities, and other disabilities.

(3) The director is the administrative head of the division.

(4) The director shall appoint the superintendent of the developmental center and the necessary and appropriate administrators for other facilities operated by the division with the concurrence of the executive director.

Section 166. Section 26B-6-405, which is renumbered from Section 62A-5-105 is renumbered and amended to read:

[~~62A-5-105~~]. 26B-6-405. Division responsibilities -- Policy mediation.

(1) The division shall establish its rules in accordance with:

(a) the policy of the Legislature as set forth by this [~~chapter~~] part; and

(b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The division shall:

(a) establish program policy for the division, the developmental center, and programs and facilities operated by or under contract with the division;

(b) establish rules for the assessment and collection of fees for programs within the division;

(c) no later than July 1, 2003, establish a graduated fee schedule based on ability to pay and implement the schedule with respect to service recipients and their families where not otherwise prohibited by federal law or regulation or not otherwise provided for in Section [~~62A-5-109~~] 26B-6-411;

(d) establish procedures to ensure that private citizens, consumers, private contract providers, allied state and local agencies, and others are provided with an opportunity to comment and provide input regarding any new policy or proposed revision to an existing policy;

(e) provide a mechanism for systematic and regular review of existing policy and for consideration of policy changes proposed by the persons and agencies described under Subsection (2)(d);

(f) establish and periodically review the criteria used to determine who may receive services from

the division and how the delivery of those services is prioritized within available funding;

(g) review implementation and compliance by the division with policies established by the board to ensure that the policies established by the Legislature in this chapter are carried out; and

(h) annually report to the executive director.

(3) The executive director shall mediate any differences which arise between the policies of the division and those of any other policy board or division in the department.

Section 167. Section 26B-6-406, which is renumbered from Section 62A-5-106 is renumbered and amended to read:

[~~62A-5-106~~]. 26B-6-406. Powers of other state agencies -- Severability.

Nothing in this part shall be construed to supersede or limit the authority granted by law to any other state agency. If any provision of this part, or the application of any provision to the person or circumstance, is held invalid, the remainder of this part shall not be affected.

Section 168. Section 26B-6-407, which is renumbered from Section 62A-5-103.1 is renumbered and amended to read:

[~~62A-5-103.1~~]. 26B-6-407. Program for provision of supported employment services.

(1) There is established a program for the provision of supported employment services to be administered by the division.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the implementation and administration of the program described in this section.

(3) In accordance with Subsection (4), within funds appropriated by the Legislature for the program described in this section, the division shall provide supported employment services to a person with a disability who:

(a) is eligible to receive services from the division;

(b) has applied for, and is waiting to, receive services from the division;

(c) is not receiving other ongoing services from the division;

(d) is not able to receive sufficient supported employment services from other sources;

(e) the division determines would substantially benefit from the provision of supported employment services; and

(f) does not require the provision of other ongoing services from the division in order to substantially benefit from the provision of supported employment services.

(4) (a) The division shall provide supported employment services under this section outside of the prioritization criteria established by the division for the receipt of other services from the division.

(b) The division shall establish criteria to determine the priority, between persons eligible for services under this section, for receiving services under this section.

(5) It is the intent of the Legislature that the services provided under the program described in this section:

(a) shall be provided separately from the Medicaid program described in Title XIX of the Social Security Act;

(b) may not be supported with Medicaid funds;

(c) may not be provided as part of a Medicaid waiver;

(d) do not constitute an entitlement of any kind; and

(e) may be withdrawn from a person at any time.

Section 169. Section 26B-6-408, which is renumbered from Section 62A-5-103.2 is renumbered and amended to read:

[~~62A-5-103.2~~]. 26B-6-408. Pilot Program for the Provision of Family Preservation Services.

(1) There is established a pilot program for the provision of family preservation services to a person with a disability and that person's family, beginning on July 1, 2007, and ending on July 1, 2009.

(2) The family preservation services described in Subsection (1) may include:

(a) family skill building classes;

(b) respite hours for class attendance; or

(c) professional intervention.

(3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the implementation and administration of this section.

(4) In accordance with Subsection (5), within funds appropriated by the Legislature for the pilot program described in this section, the division shall provide family preservation services to a person with a disability, and that person's family, if that person:

(a) is eligible to receive services from the division;

(b) has applied for, and is willing to receive, services from the division;

(c) is not receiving other ongoing services from the division;

(d) is not able to receive sufficient family preservation services from other sources;

(e) is determined by the division to be a person who would substantially benefit from the provision of family preservation services; and

(f) does not require the provision of other ongoing services from the division in order to substantially

benefit from the provision of family preservation services.

(5) (a) The division shall provide family preservation services under this section outside of the prioritization criteria established by the division for the receipt of other services from the division.

(b) The division shall establish criteria to determine the priority, between persons eligible for services under this section, for receiving services under this section.

(6) It is the intent of the Legislature that the services provided under the pilot program described in this section:

(a) shall be provided separately from the Medicaid program described in Title XIX of the Social Security Act;

(b) may not be supported with Medicaid funds;

(c) may not be provided as part of a Medicaid waiver;

(d) do not constitute an entitlement of any kind; and

(e) may be withdrawn from a person at any time.

Section 170. Section 26B-6-409, which is renumbered from Section 62A-5-103.3 is renumbered and amended to read:

[~~62A-5-103.3~~]. 26B-6-409. Employment first emphasis on the provision of services.

(1) When providing services to a person with a disability under this chapter, the division shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law, give priority to providing services that assist the person in obtaining and retaining meaningful and gainful employment that enables the person to:

(a) purchase goods and services;

(b) establish self-sufficiency; and

(c) exercise economic control of the person's life.

(2) The division shall develop a written plan to implement the policy described in Subsection (1) that includes:

(a) assessing the strengths and needs of a person with a disability;

(b) customizing strength-based approaches to obtaining employment;

(c) expecting, encouraging, providing, and rewarding:

(i) integrated employment in the workplace at competitive wages and benefits; and

(ii) self-employment;

(d) developing partnerships with potential employers;

(e) maximizing appropriate employment training opportunities;

(f) coordinating services with other government agencies and community resources;

(g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (1); and

(h) arranging sub-minimum wage work or volunteer work when employment at market rates cannot be obtained.

(3) The division shall, on an annual basis:

(a) set goals to implement the policy described in Subsection (1) and the plan described in Subsection (2);

(b) determine whether the goals for the previous year have been met; and

(c) modify the plan described in Subsection (2) as needed.

Section 171. Section 26B-6-410, which is renumbered from Section 62A-5-103.5 is renumbered and amended to read:

[~~62A-5-103.5~~]. 26B-6-410. Disbursal of public funds -- Background check of a direct service worker.

(1) For purposes of this section, "office" means the same as that term is defined in Section [~~62A-2-101~~] 26B-2-101.

(2) Public funds may not be disbursed to pay a direct service worker for personal services rendered to a person unless the office approves the direct service worker to have direct access and provide services to a child or a vulnerable adult pursuant to Section [~~62A-2-120~~] 26B-2-120.

(3) For purposes of Subsection (2), the office shall conduct a background check of a direct service worker:

(a) before public funds are disbursed to pay the direct service worker for the personal services described in Subsection (2); and

(b) using the same procedures established for a background check of an applicant for a license under Section [~~62A-2-120~~] 26B-2-120.

(4) A child who is in the legal custody of the department or any of the department's divisions may not be placed with a direct service worker unless, before the child is placed with the direct service worker, the direct service worker passes a background check, pursuant to the requirements of Subsection [~~62A-2-120~~] 26B-2-120(14).

(5) If a public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, contracts with the division to provide services:

(a) the provisions of this section are not applicable to a direct service worker employed by the public transit district; and

(b) the division may not reimburse the public transit district for services provided unless a direct

service worker hired or transferred internally after July 1, 2013, by the public transit district to drive a paratransit route:

(i) is approved by the office to have direct access to children and vulnerable adults in accordance with Section [~~62A-2-120~~] 26B-2-120; and

(ii) is subject to a background check established in a statute or rule governing a public transit district or other public transit district policy.

Section 172. Section 26B-6-411, which is renumbered from Section 62A-5-109 is renumbered and amended to read:

[~~62A-5-109~~]. 26B-6-411. Parent liable for cost and support of minor -- Guardian liable for costs.

(1) Parents of a person who receives services or support from the division, who are financially responsible, are liable for the cost of the actual care and maintenance of that person and for the support of the child in accordance with Title 78B, Chapter 12, Utah Child Support Act, and [~~Title 62A, Chapter 11,~~] Chapter 9, Part 1, Office of Recovery Services, until the person reaches 18 years [~~of age~~] old.

(2) A guardian of a person who receives services or support from the division is liable for the cost of actual care and maintenance of that person, regardless of his age, where funds are available in the guardianship estate established on his behalf for that purpose. However, if the person who receives services is a beneficiary of a trust created in accordance with Section [~~62A-5-110~~] 26B-6-412, or if the guardianship estate meets the requirements of a trust described in that section, the trust income prior to distribution to the beneficiary, and the trust principal are not subject to payment for services or support for that person.

(3) If, at the time a person who receives services or support from the division is discharged from a facility or program owned or operated by or under contract with the division, or after the death and burial of a resident of the developmental center, there remains in the custody of the division or the superintendent any money paid by a parent or guardian for the support or maintenance of that person, it shall be repaid upon demand.

Section 173. Section 26B-6-412, which is renumbered from Section 62A-5-110 is renumbered and amended to read:

[~~62A-5-110~~]. 26B-6-412. Discretionary trust for an individual with a disability -- Impact on state services.

(1) For purposes of this section:

(a) "Discretionary trust for an individual with a disability" means a trust:

(i) that is established for the benefit of an individual who, at the time the trust is created, is under [~~age~~] 65 years old and has a disability, as defined in 42 U.S.C. Sec. 1382c;

(ii) under which the trustee has discretionary power to determine distributions;

(iii) under which the individual may not control or demand payments unless an abuse of the trustee's duties or discretion is shown;

(iv) that contains the assets of the individual and is established for the benefit of the individual by the individual, a court, or a parent, grandparent, or legal guardian of the individual;

(v) that is irrevocable, except that the trust document may provide that the trust be terminated if the individual no longer has a disability, as defined in 42 U.S.C. Sec. 1382c;

(vi) that is invalid as to any portion funded by property that is or may be subject to a lien by the state; and

(vii) that provides that, upon the death of the individual, the state will receive all amounts remaining in the trust, up to an amount equal to the total medical assistance paid on behalf of the individual.

(b) "Medical assistance" means the same as that term is defined in Section [~~26-18-2~~] 26B-3-101.

(2) A state agency providing services or support to an individual with a disability may:

(a) waive application of Subsection (1)(a)(v) with respect to that individual if the state agency determines that application of the criteria would place an undue hardship upon that individual; and

(b) define, by rule, what constitutes "undue hardship" for purposes of this section.

(3) A discretionary trust for an individual with a disability is not liable for reimbursement or payment to the state or any state agency, for financial aid or services provided to that individual except:

(a) to the extent that the trust property has been distributed directly to or is otherwise under the control of the beneficiary with a disability; or

(b) as provided in Subsection (1)(a)(vi).

(4) Property, goods, and services that are purchased or owned by a discretionary trust for an individual with a disability and that are used or consumed by a beneficiary with a disability shall not be considered trust property that is distributed to or under the control of the beneficiary.

(5) The benefits that an individual with a disability is otherwise legally entitled to may not be reduced, impaired, or diminished in any way because of contribution to a discretionary trust for that individual.

(6) All state agencies shall disregard a discretionary trust for an individual with a disability as a resource when determining eligibility for services or support except as, and only to the extent that it is otherwise prohibited by federal law.

(7) This section applies to all discretionary trusts that meet the requirements contained in

Subsection (1) created before, on, or after July 1, 1994.

Section 174. Section 26B-6-413, which is renumbered from Section 62A-5-402 is renumbered and amended to read:

[~~62A-5-402~~]. 26B-6-413. Scope of home based services -- Purpose -- Principles -- Services for individuals younger than 11 years old.

(1) The purpose of this section is to provide support to families in their role as primary caregivers for family members with disabilities.

[~~(1)~~] (2) (a) To enable a person with a disability and the person's family to select services and supports that best suit their needs and preferences, the division shall, within appropriations from the Legislature, provide services and supports under this part by giving direct financial assistance to the parent or guardian of a person with a disability who resides at home.

(b) The dollar value of direct financial assistance is determined by the division based on:

(i) appropriations from the Legislature; and

(ii) the needs of the person with a disability.

(c) In determining whether to provide direct financial assistance to the family, the division shall consider:

(i) the family's preference; and

(ii) the availability of approved providers in the area where the family resides.

(d) If the division provides direct financial assistance, the division:

(i) shall require the family to account for the use of that financial assistance; and

(ii) shall tell the person with a disability or the person's parent or guardian how long the direct financial assistance is intended to provide services and supports before additional direct financial assistance is issued.

(e) Except for eligibility determination services directly connected to the provision of direct financial assistance, service coordination is not provided under this part by the division unless the person with a disability or the person's parent or guardian uses the direct financial assistance to purchase such services.

[~~(2)~~] (3) The following principles shall be used as the basis for supporting families who care for family members with disabilities:

(a) all children, regardless of disability, should reside in a family-like environment;

(b) families should receive the support they need to care for their children at home;

(c) services should:

(i) focus on the person with a disability;

(ii) take into consideration the family of the person described in Subsection [~~(2)~~] (3)(c)(i);

(iii) be sensitive to the unique needs, preferences, and strengths of individual families; and

(iv) complement and reinforce existing sources of help and support that are available to each family.

(4) Except as provided in Subsection (5), after June 30, 1996, the division may not provide residential services to persons with disabilities who are under 11 years old.

(5) The prohibition of Subsection (4) does not include residential services that are provided:

(a) for persons in the custody of the Division of Child and Family Services;

(b) under a plan for home-based services, including respite and temporary residential care or services provided by a professional parent under contract with the division; or

(c) after a written finding by the director that out-of-home residential placement is the most appropriate way to meet the needs of the person with disabilities and his family.

Section 175. Section 26B-6-501 is enacted to read:

Part 5. Utah State Developmental Center

26B-6-501. Definitions.

The definitions in Section 26B-6-401 apply to this part.

Section 176. Section 26B-6-502, which is renumbered from Section 62A-5-201 is renumbered and amended to read:

[~~62A-5-201~~]. 26B-6-502. Utah State Developmental Center.

(1) The intermediate care facility for people with an intellectual disability located in American Fork City, Utah County, shall be known as the "Utah State Developmental Center."

(2) Within appropriations authorized by the Legislature, the role and function of the developmental center is to:

(a) provide care, services, and treatment to persons described in Subsection (3); and

(b) provide the following services and support to persons with disabilities who do not reside at the developmental center:

(i) psychiatric testing;

(ii) specialized medical treatment and evaluation;

(iii) specialized dental treatment and evaluation;

(iv) family and client special intervention;

(v) crisis management;

(vi) occupational, physical, speech, and audiology services; and

(vii) professional services, such as education, evaluation, and consultation, for families, public organizations, providers of community and family support services, and courts.

(3) Except as provided in Subsection (6), within appropriations authorized by the Legislature, and notwithstanding the provisions of Part [~~3~~] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability, only the following persons may be residents of, be admitted to, or receive care, services, or treatment at the developmental center:

(a) persons with an intellectual disability;

(b) persons who receive services and supports under Subsection (2)(b); and

(c) persons who require at least one of the following services from the developmental center:

(i) continuous medical care;

(ii) intervention for conduct that is dangerous to self or others; or

(iii) temporary residential assessment and evaluation.

(4) (a) Except as provided in Subsection (6), the division shall, in the division's discretion:

(i) place residents from the developmental center into appropriate less restrictive placements; and

(ii) determine each year the number to be placed based upon the individual assessed needs of the residents.

(b) The division shall confer with parents and guardians to ensure the most appropriate placement for each resident.

(5) Except as provided in Subsection (7), within appropriations authorized by the Legislature, and notwithstanding the provisions of Subsection (3) and Part [~~3~~] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability, a person who is under 18 years [~~of age~~] old may be a resident of, admitted to, or receive care, services, or treatment at the developmental center only if the director certifies in writing that the developmental center is the most appropriate placement for that person.

(6) (a) If the division determines, pursuant to Utah's Community Supports Waiver for Individuals with Intellectual Disabilities and Other Related Conditions, that a person who otherwise qualifies for placement in an intermediate care facility for people with an intellectual disability should receive services in a home or community-based setting, the division shall:

(i) if the person does not have a legal representative or legal guardian:

(A) inform the person of any feasible alternatives under the waiver; and

(B) give the person the choice of being placed in an intermediate care facility for people with an intellectual disability or receiving services in a home or community-based setting; or

(ii) if the person has a legal representative or legal guardian:

(A) inform the legal representative or legal guardian of any feasible alternatives under the waiver; and

(B) give the legal representative or legal guardian the choice of having the person placed in an intermediate care facility for people with an intellectual disability or receiving services in a home or community-based setting.

(b) If a person chooses, under Subsection (6)(a)(i), to be placed in an intermediate care facility for people with an intellectual disability instead of receiving services in a home or community-based setting, the division shall:

(i) ask the person whether the person prefers to be placed in the developmental center rather than a private intermediate care facility for people with an intellectual disability; and

(ii) if the person expresses a preference to be placed in the developmental center:

(A) place the person in the developmental center if the cost of placing the person in the developmental center is equal to, or less than, the cost of placing the person in a private intermediate care facility for people with an intellectual disability; or

(B) (I) strongly consider the person's preference to be placed in the developmental center if the cost of placing the person in the developmental center exceeds the cost of placing the person in a private intermediate care facility for people with an intellectual disability; and

(II) place the person in the developmental center or a private intermediate care facility for people with an intellectual disability.

(c) If a legal representative or legal guardian chooses, under Subsection (6)(a)(ii), to have the person placed in an intermediate care facility for people with an intellectual disability instead of receiving services in a home or community-based setting, the division shall:

(i) ask the legal representative or legal guardian whether the legal representative or legal guardian prefers to have the person placed in the developmental center rather than a private intermediate care facility for people with an intellectual disability; and

(ii) if the legal representative or legal guardian expresses a preference to have the person placed in the developmental center:

(A) place the person in the developmental center if the cost of placing the person in the developmental center is equal to, or less than, the cost of placing the person in a private intermediate care facility for people with an intellectual disability; or

(B) (I) strongly consider the legal representative's or legal guardian's preference for the person's placement if the cost of placing the person in the developmental center exceeds the cost of placing the person in a private intermediate care facility for people with an intellectual disability; and

(II) place the person in the developmental center or a private intermediate care facility for people with an intellectual disability.

(7) The certification described in Subsection (5) is not required for a person who receives services and support under Subsection (2)(b).

Section 177. Section 26B-6-503, which is renumbered from Section 62A-5-202 is renumbered and amended to read:

[~~62A-5-202~~]. 26B-6-503. Developmental center within division.

The programs and facilities of the developmental center are within the division, and under the policy direction of the division.

Section 178. Section 26B-6-504, which is renumbered from Section 62A-5-203 is renumbered and amended to read:

[~~62A-5-203~~]. 26B-6-504. Operation, maintenance, and repair of developmental center buildings and grounds.

(1) The division shall operate, maintain, and repair the buildings, grounds, and physical properties of the developmental center. However, the roads and driveways on the grounds of the developmental center shall be maintained by the Department of Transportation.

(2) The division has authority to make improvements to the buildings, grounds, and physical properties of the developmental center, as it deems necessary for the care and safety of the residents.

Section 179. Section 26B-6-505, which is renumbered from Section 62A-5-205 is renumbered and amended to read:

[~~62A-5-205~~]. 26B-6-505. State Board of Education -- Education of children at developmental center.

(1) The State Board of Education is responsible for the education of school-aged children at the developmental center.

(2) In order to fulfill its responsibility under Subsection (1), the State Board of Education shall, where feasible, contract with local school districts or other appropriate agencies to provide educational and related administrative services.

(3) Medical, residential, and other services that are not the responsibility of the State Board of Education or other state agencies are the responsibility of the division.

Section 180. Section 26B-6-506, which is renumbered from Section 62A-5-206 is renumbered and amended to read:

[~~62A-5-206~~]. 26B-6-506. Powers and duties of division.

The powers and duties of the division, with respect to the developmental center are as follows:

(1) to establish rules, not inconsistent with law, for the government of the developmental center;

(2) to establish rules governing the admission and discharge of persons with an intellectual disability in accordance with state law;

(3) to employ necessary medical and other professional personnel to assist in establishing rules relating to the developmental center and to the treatment and training of persons with an intellectual disability at the center;

(4) to transfer a person who has been committed to the developmental center under Part [~~3~~] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability, to any other facility or program operated by or under contract with the division, after careful evaluation of the treatment needs of that person, if the facilities or programs available meet the needs indicated, and if transfer would be in the best interest of that person. A person transferred shall remain under the jurisdiction of the division;

(5) the developmental center may receive a person who meets the requirements of Subsection [~~62A-5-201~~] 26B-6-502(3) from any other facility or program operated by or under contract with the division, after careful evaluation of the treatment needs of that person, if the facility or programs of the developmental center meet those needs, and if transfer would be in the best interest of that person. A person so received by the developmental center remains under the jurisdiction of the division;

(6) to manage funds for a person residing in the developmental center, upon request by that person's parent or guardian, or upon administrative or court order;

(7) to charge and collect a fair and equitable fee from developmental center residents, parents who have the ability to pay, or guardians where funds for that purpose are available; and

(8) supervision and administration of security responsibilities for the developmental center is vested in the division. The executive director may designate, as special function officers, individuals to perform special security functions for the developmental center that require peace officer authority. Those special function officers may not become or be designated as members of the Public Safety Retirement System.

Section 181. Section 26B-6-507, which is renumbered from Section 62A-5-206.6 is renumbered and amended to read:

[~~62A-5-206.6~~]. 26B-6-507. Utah State Developmental Center land and water rights.

(1) As used in this section, "long-term lease" means:

(a) a lease with a term of five years or more; or

(b) a lease with a term of less than five years that may be unilaterally renewed by the lessee.

(2) (a) Notwithstanding Section 65A-4-1, any sale, long-term lease, or other disposition of real property, water rights, or water shares associated with the developmental center shall be conducted as provided in this Subsection (2).

(b) The board shall:

(i) approve the sale, long-term lease, or other disposition of real property, water rights, or water shares associated with the developmental center;

(ii) secure the approval of the Legislature before offering the real property, water rights, or water shares for sale, long-term lease, or other disposition; and

(iii) if the Legislature's approval is secured, as described in Subsection (2)(b)(ii), direct the Division of Facilities Construction and Management to convey, lease, or dispose of the real property, water rights, or water shares associated with the developmental center according to the board's determination.

Section 182. Section 26B-6-508, which is renumbered from Section 62A-5-207 is renumbered and amended to read:

[~~62A-5-207~~]. 26B-6-508. Superintendent -- Qualifications.

The superintendent of the developmental center, appointed in accordance with Subsection [~~62A-5-104~~] 26B-6-404(4), shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in developmental disabilities and intellectual disability.

Section 183. Section 26B-6-509, which is renumbered from Section 62A-5-208 is renumbered and amended to read:

[~~62A-5-208~~]. 26B-6-509. Powers and duties of superintendent.

The chief administrative officer of the developmental center is the superintendent, and has the following powers and duties:

(1) to manage the developmental center and administer the division's rules governing the developmental center;

(2) to hire, control, and remove all employees, and to fix their compensation according to state law; and

(3) with the approval of the division, to make any expenditures necessary in the performance of his duties.

Section 184. Section 26B-6-510, which is renumbered from Section 62A-5-211 is renumbered and amended to read:

[~~62A-5-211~~]. 26B-6-510. Dental services reporting.

The superintendent of the developmental center shall provide to the Health and Human Services Interim Committee an annual report that contains:

(1) a statewide assessment of resources that provide dental services for individuals with intellectual disabilities;

(2) an accounting of the funds appropriated to provide specialized dental treatment and evaluation under Subsection [~~62A-5-201~~] 26B-6-502(2)(b)(iii), including the number of individuals served and the services provided; and

(3) the progress toward the establishment of a financially independent dental clinic that:

(a) has a full-time dentist who has specialized training to treat an individual with an intellectual disability; and

(b) has the facility, equipment, and staff necessary to legally and safely perform dental procedures and examinations and to administer general anesthesia.

Section 185. Section 26B-6-601 is enacted to read:

Part 6. Admission to an Intermediate Care Facility for People with an Intellectual Disability

26B-6-601. Definitions.

The definitions in Section 26B-6-401 apply to this part.

Section 186. Section 26B-6-602, which is renumbered from Section 62A-5-302 is renumbered and amended to read:

[~~62A-5-302~~]. 26B-6-602. Division responsibility.

The division is responsible:

(1) for the supervision, care, and treatment of persons with an intellectual disability in this state who are committed to the division's jurisdiction under the provisions of this part; and

(2) to evaluate and determine the most appropriate, least restrictive setting for an individual with an intellectual disability.

Section 187. Section 26B-6-603, which is renumbered from Section 62A-5-305 is renumbered and amended to read:

[~~62A-5-305~~]. 26B-6-603. Residency requirements -- Transportation of person to another state.

(1) A person with an intellectual disability who has a parent or guardian residing in this state may be admitted to an intermediate care facility for people with an intellectual disability in accordance with the provisions of this part.

(2) If a person with an intellectual disability enters Utah from another state, the division may have that person transported to the home of a relative or friend located outside of this state, or to an appropriate facility in the state where the person with the intellectual disability is domiciled.

(3) This section does not prevent a person with an intellectual disability who is temporarily located in this state from being temporarily admitted or committed to an intermediate care facility for people with an intellectual disability in this state.

Section 188. Section 26B-6-604, which is renumbered from Section 62A-5-308 is renumbered and amended to read:

[~~62A-5-308~~]. 26B-6-604. Commitment -- Individual who is under 18 years old.

(1) The director of the division, or the director's designee, may commit an individual under 18 years old who has an intellectual disability or symptoms of an intellectual disability, to the division for observation, diagnosis, care, and treatment if that commitment is based on:

(a) an emergency commitment in accordance with Section [~~62A-5-311~~] 26B-6-607; or

(b) involuntary commitment in accordance with Section [~~62A-5-312~~] 26B-6-608.

(2) A proceeding for involuntary commitment under Subsection (1)(a) may be commenced by filing a written petition with the juvenile court under Section [~~62A-5-312~~] 26B-6-608.

(3) (a) A juvenile court has jurisdiction over the proceeding under Subsection (2) as described in Subsection 78A-6-103(2)(f).

(b) A juvenile court shall proceed with the written petition in the same manner and with the same authority as the district court.

(4) If an individual who is under 18 years old is committed to the custody of the Utah State Developmental Center by the juvenile court, the director or the director's designee shall give the juvenile court written notice of the intention to release the individual not fewer than five days before the day on which the individual is released.

Section 189. Section 26B-6-605, which is renumbered from Section 62A-5-309 is renumbered and amended to read:

[~~62A-5-309~~]. 26B-6-605. Commitment -- Individual who is 18 years old or older.

(1) The director, or the director's designee may commit to the division an individual 18 years old or older who has an intellectual disability, for observation, diagnosis, care, and treatment if that commitment is based on:

(a) involuntary commitment in accordance with Section [~~62A-5-312~~] 26B-6-608; or

(b) temporary emergency commitment in accordance with Section [~~62A-5-311~~] 26B-6-607.

(2) If an individual who is 18 years old or older is committed to the custody of the Utah State Developmental Center by the juvenile court, the director or the director's designee shall give the juvenile court written notice of the intention to release the individual not fewer than five days before the day on which the individual is released.

Section 190. Section 26B-6-606, which is renumbered from Section 62A-5-310 is renumbered and amended to read:

[~~62A-5-310~~]. 26B-6-606. Involuntary commitment.

An individual may not be involuntarily committed to an intermediate care facility for people with an intellectual disability except in accordance with Sections [~~62A-5-311 and 62A-5-312~~] 26B-6-607 and 26B-6-608.

Section 191. Section 26B-6-607, which is renumbered from Section 62A-5-311 is renumbered and amended to read:

[~~62A-5-311~~]. 26B-6-607. Temporary emergency commitment -- Observation and evaluation.

(1) The director of the division or his designee may temporarily commit an individual to the division and therefore, as a matter of course, to an intermediate care facility for people with an intellectual disability for observation and evaluation upon:

(a) written application by a responsible person who has reason to know that the individual is in need of commitment, stating:

(i) a belief that the individual has an intellectual disability and is likely to cause serious injury to self or others if not immediately committed;

(ii) personal knowledge of the individual's condition; and

(iii) the circumstances supporting that belief; or

(b) certification by a licensed physician or designated intellectual disability professional stating that the physician or designated intellectual disability professional:

(i) has examined the individual within a three-day period immediately preceding the certification; and

(ii) is of the opinion that the individual has an intellectual disability, and that because of the individual's intellectual disability is likely to injure self or others if not immediately committed.

(2) If the individual in need of commitment is not placed in the custody of the director or the director's designee by the person submitting the application, the director's or the director's designee may certify, either in writing or orally that the individual is in need of immediate commitment to prevent injury to self or others.

(3) Upon receipt of the application required by Subsection (1)(a) and the certifications required by Subsections (1)(b) and (2), a peace officer may take the individual named in the application and

certificates into custody, and may transport the individual to a designated intermediate care facility for people with an intellectual disability.

(4) (a) An individual committed under this section may be held for a maximum of 24 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time, the individual shall be released unless proceedings for involuntary commitment have been commenced under Section [~~62A-5-312~~] 26B-6-608.

(b) After proceedings for involuntary commitment have been commenced the individual shall be released unless an order of detention is issued in accordance with Section [~~62A-5-312~~] 26B-6-608.

(5) If an individual is committed to the division under this section on the application of any person other than the individual's legal guardian, spouse, parent, or next of kin, the director or his designee shall immediately give notice of the commitment to the individual's legal guardian, spouse, parent, or next of kin, if known.

Section 192. Section 26B-6-608, which is renumbered from Section 62A-5-312 is renumbered and amended to read:

[~~62A-5-312~~]. 26B-6-608. Involuntary commitment -- Procedures -- Necessary findings -- Periodic review.

(1) Any responsible person who has reason to know that an individual is in need of commitment, who has a belief that the individual has an intellectual disability, and who has personal knowledge of the conditions and circumstances supporting that belief, may commence proceedings for involuntary commitment by filing a written petition with the district court, or if the subject of the petition is less than 18 years [~~of age~~] old with the juvenile court, of the county in which the individual to be committed is physically located at the time the petition is filed. The application shall be accompanied by:

(a) a certificate of a licensed physician or a designated intellectual disability professional, stating that within a seven-day period immediately preceding the certification, the physician or designated intellectual disability professional examined the individual and believes that the individual has an intellectual disability and is in need of involuntary commitment; or

(b) a written statement by the petitioner that:

(i) states that the individual was requested to, but refused to, submit to an examination for an intellectual disability by a licensed physician or designated intellectual disability professional, and that the individual refuses to voluntarily go to the division or an intermediate care facility for people with an intellectual disability recommended by the division for treatment;

(ii) is under oath; and

(iii) sets forth the facts on which the statement is based.

(2) Before issuing a detention order, the court may require the petitioner to consult with personnel at the division or at an intermediate care facility for people with an intellectual disability and may direct a designated intellectual disability professional to interview the petitioner and the individual to be committed, to determine the existing facts, and to report them to the court.

(3) The court may issue a detention order and may direct a peace officer to immediately take the individual to an intermediate care facility for people with an intellectual disability to be detained for purposes of an examination if the court finds from the petition, from other statements under oath, or from reports of physicians or designated intellectual disability professionals that there is a reasonable basis to believe that the individual to be committed:

(a) poses an immediate danger of physical injury to self or others;

(b) requires involuntary commitment pending examination and hearing;

(c) the individual was requested but refused to submit to an examination by a licensed physician or designated intellectual disability professional; or

(d) the individual refused to voluntarily go to the division or to an intermediate care facility for people with an intellectual disability recommended by the division.

(4) (a) If the court issues a detention order based on an application that did not include a certification by a designated intellectual disability professional or physician in accordance with Subsection (1)(a), the director or his designee shall within 24 hours after issuance of the detention order, excluding Saturdays, Sundays, and legal holidays, examine the individual, report the results of the examination to the court and inform the court:

(i) whether the director or his designee believes that the individual has an intellectual disability; and

(ii) whether appropriate treatment programs are available and will be used by the individual without court proceedings.

(b) If the report of the director or his designee is based on an oral report of the examiner, the examiner shall immediately send the results of the examination in writing to the clerk of the court.

(5) Immediately after an individual is involuntarily committed under a detention order or under Section [~~62A-5-311~~] 26B-6-607, the director or his designee shall inform the individual, orally and in writing, of his right to communicate with an attorney. If an individual desires to communicate with an attorney, the director or his designee shall take immediate steps to assist the individual in contacting and communicating with an attorney.

(6) (a) Immediately after commencement of proceedings for involuntary commitment, the court

shall give notice of commencement of the proceedings to:

(i) the individual to be committed;

(ii) the applicant;

(iii) any legal guardian of the individual;

(iv) adult members of the individual's immediate family;

(v) legal counsel of the individual to be committed, if any;

(vi) the division; and

(vii) any other person to whom the individual requests, or the court designates, notice to be given.

(b) If an individual cannot or refuses to disclose the identity of persons to be notified, the extent of notice shall be determined by the court.

(7) That notice shall:

(a) set forth the allegations of the petition and all supporting facts;

(b) be accompanied by a copy of any detention order issued under Subsection (3); and

(c) state that a hearing will be held within the time provided by law, and give the time and place for that hearing.

(8) The court may transfer the case and the custody of the individual to be committed to any other district court within the state, if:

(a) there are no appropriate facilities for persons with an intellectual disability within the judicial district; and

(b) the transfer will not be adverse to the interests of the individual.

(9) (a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, after any order or commitment under a detention order, the court shall appoint two designated intellectual disability professionals to examine the individual. If requested by the individual's counsel, the court shall appoint a reasonably available, qualified person designated by counsel to be one of the examining designated intellectual disability professionals. The examinations shall be conducted:

(i) separately;

(ii) at the home of the individual to be committed, a hospital, an intermediate care facility for people with an intellectual disability, or any other suitable place not likely to have a harmful effect on the individual; and

(iii) within a reasonable period of time after appointment of the examiners by the court.

(b) The court shall set a time for a hearing to be held within 10 court days of the appointment of the examiners. However, the court may immediately terminate the proceedings and dismiss the application if, prior to the hearing date, the examiners, the director, or his designee informs the court that:

(i) the individual does not have an intellectual disability; or

(ii) treatment programs are available and will be used by the individual without court proceedings.

(10) (a) Each individual has the right to be represented by counsel at the commitment hearing and in all preliminary proceedings. If neither the individual nor others provide counsel, the court shall appoint counsel and allow sufficient time for counsel to consult with the individual prior to any hearing.

(b) If the individual is indigent, the county in which the individual was physically located when taken into custody shall pay reasonable attorney fees as determined by the court.

(11) The division or a designated intellectual disability professional in charge of the individual's care shall provide all documented information on the individual to be committed and to the court at the time of the hearing. The individual's attorney shall have access to all documented information on the individual at the time of and prior to the hearing.

(12) (a) The court shall provide an opportunity to the individual, the petitioner, and all other persons to whom notice is required to be given to appear at the hearing, to testify, and to present and cross-examine witnesses.

(b) The court may, in its discretion:

(i) receive the testimony of any other person;

(ii) allow a waiver of the right to appear only for good cause shown;

(iii) exclude from the hearing all persons not necessary to conduct the proceedings; and

(iv) upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiner.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the individual. The Utah Rules of Evidence apply, and the hearing shall be a matter of court record. A verbatim record of the proceedings shall be maintained.

(13) The court may order commitment if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that all of the following conditions are met:

(a) the individual to be committed has an intellectual disability;

(b) because of the individual's intellectual disability one or more of the following conditions exist:

(i) the individual poses an immediate danger of physical injury to self or others;

(ii) the individual lacks the capacity to provide the basic necessities of life, such as food, clothing, or shelter; or

(iii) the individual is in immediate need of habilitation, rehabilitation, care, or treatment to minimize the effects of the condition which poses a threat of serious physical or psychological injury to the individual, and the individual lacks the capacity to engage in a rational decision-making process concerning the need for habilitation, rehabilitation, care, or treatment, as evidenced by an inability to weigh the possible costs and benefits of the care or treatment and the alternatives to it;

(c) there is no appropriate, less restrictive alternative reasonably available; and

(d) the division or the intermediate care facility for people with an intellectual disability recommended by the division in which the individual is to be committed can provide the individual with treatment, care, habilitation, or rehabilitation that is adequate and appropriate to the individual's condition and needs.

(14) In the absence of any of the required findings by the court, described in Subsection (13), the court shall dismiss the proceedings.

(15) (a) The order of commitment shall designate the period for which the individual will be committed. An initial commitment may not exceed six months. Before the end of the initial commitment period, the administrator of the intermediate care facility for people with an intellectual disability shall commence a review hearing on behalf of the individual.

(b) At the conclusion of the review hearing, the court may issue an order of commitment for up to a one-year period.

(16) An individual committed under this part has the right to a rehearing, upon filing a petition with the court within 30 days after entry of the court's order. If the petition for rehearing alleges error or mistake in the court's findings, the court shall appoint one impartial licensed physician and two impartial designated intellectual disability professionals who have not previously been involved in the case to examine the individual. The rehearing shall, in all other respects, be conducted in accordance with this part.

(17) (a) The court shall maintain a current list of all individuals under its orders of commitment. That list shall be reviewed in order to determine those patients who have been under an order of commitment for the designated period.

(b) At least two weeks prior to the expiration of the designated period of any commitment order still in effect, the court that entered the original order shall inform the director of the division of the impending expiration of the designated commitment period.

(c) The staff of the division shall immediately:

(i) reexamine the reasons upon which the order of commitment was based and report the results of the examination to the court;

(ii) discharge the resident from involuntary commitment if the conditions justifying commitment no longer exist; and

(iii) immediately inform the court of any discharge.

(d) If the director of the division reports to the court that the conditions justifying commitment no longer exist, and the administrator of the intermediate care facility for people with an intellectual disability does not discharge the individual at the end of the designated period, the court shall order the immediate discharge of the individual, unless involuntary commitment proceedings are again commenced in accordance with this section.

(e) If the director of the division, or the director's designee reports to the court that the conditions designated in Subsection (13) still exist, the court may extend the commitment order for up to one year. At the end of any extension, the individual must be reexamined in accordance with this section, or discharged.

(18) When a resident is discharged under this subsection, the division shall provide any further support services available and required to meet the resident's needs.

Section 193. Section 26B-6-609, which is renumbered from Section 62A-5-313 is renumbered and amended to read:

[~~62A-5-313~~]. 26B-6-609. Transfer -- Procedures.

(1) The director of the division, or the director's designee, may place an involuntarily committed resident in appropriate care or treatment outside the intermediate care facility for people with an intellectual disability. During that placement, the order of commitment shall remain in effect, until the resident is discharged or the order is terminated.

(2) If the resident, or the resident's parent or guardian, objects to a proposed placement under this section, the resident may appeal the decision to the executive director or the executive director's designee. Those appeals shall be conducted in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act. If an objection is made, the proposed placement may not take effect until the committee holds that hearing and the executive director makes a final decision on the placement.

Section 194. Section 26B-6-610, which is renumbered from Section 62A-5-315 is renumbered and amended to read:

[~~62A-5-315~~]. 26B-6-610. Petition for reexamination.

(1) A resident committed under Section [~~62A-5-312~~] 26B-6-608, or his parent, spouse, legal guardian, relative, or attorney, may file a petition for reexamination with the district court of the county in which the resident is domiciled or detained.

(2) Upon receipt of that petition, the court shall conduct proceedings under Section [~~62A-5-312~~] 26B-6-608.

Section 195. Section 26B-6-611, which is renumbered from Section 62A-5-316 is renumbered and amended to read:

[~~62A-5-316~~]. 26B-6-611. Temporary detention.

(1) Pending removal to an intermediate care facility for people with an intellectual disability, an individual taken into custody or ordered to be committed under this part may be detained in the individual's home, or in some other suitable facility.

(2) The individual shall not, however, be detained in a nonmedical facility used for detention of individuals charged with or convicted of penal offenses, except in a situation of extreme emergency.

(3) The division shall take reasonable measures, as may be necessary, to assure proper care of an individual temporarily detained under this part.

Section 196. Section 26B-6-612, which is renumbered from Section 62A-5-317 is renumbered and amended to read:

[~~62A-5-317~~]. 26B-6-612. Authority to transfer resident.

(1) The administrator of an intermediate care facility for people with an intellectual disability, or the administrator's designee, may transfer or authorize the transfer of a resident to another intermediate care facility for people with an intellectual disability if, before the transfer, the administrator conducts a careful evaluation of the resident and the resident's treatment needs, and determines that a transfer would be in the best interest of that resident. If a resident is transferred, the administrator shall give immediate notice of the transfer to the resident's spouse, guardian, parent, or advocate or, if none of those persons are known, to the resident's nearest known relative.

(2) If a resident, or the resident's parent or guardian, objects to a proposed transfer under this section, the administrator shall conduct a hearing on the objection before a committee composed of persons selected by the administrator. That committee shall hear all evidence and make a recommendation to the administrator concerning the proposed transfer. The transfer may not take effect until the committee holds that hearing and the administrator renders a final decision on the proposed transfer.

Section 197. Section 26B-6-613, which is renumbered from Section 62A-5-318 is renumbered and amended to read:

[~~62A-5-318~~]. 26B-6-613. Involuntary treatment with medication -- Committee -- Findings.

(1) If, after commitment, a resident elects to refuse treatment with medication, the director, the administrator of the intermediate care facility for people with an intellectual disability, or a designee, shall submit documentation regarding the resident's proposed treatment to a committee composed of:

(a) a licensed physician experienced in treating persons with an intellectual disability, who is not directly involved in the resident's treatment or diagnosis, and who is not biased toward any one facility;

(b) a psychologist who is a designated intellectual disability professional who is not directly involved in the resident's treatment or diagnosis; and

(c) another designated intellectual disability professional of the facility for persons with an intellectual disability, or a designee.

(2) Based upon the court's finding, under Subsection [~~62A-5-312~~] 26B-6-608(13), that the resident lacks the ability to engage in a rational decision-making process regarding the need for habilitation, rehabilitation, care, or treatment, as demonstrated by evidence of inability to weigh the possible costs and benefits of treatment, the committee may authorize involuntary treatment with medication if it determines that:

(a) the proposed treatment is in the medical best interest of the resident, taking into account the possible side effects as well as the potential benefits of the medication; and

(b) the proposed treatment is in accordance with prevailing standards of accepted medical practice.

(3) In making the determination described in Subsection (2), the committee shall consider the resident's general history and present condition, the specific need for medication and its possible side effects, and any previous reaction to the same or comparable medication.

(4) Any authorization of involuntary treatment under this section shall be periodically reviewed in accordance with rules promulgated by the division.

Section 198. Section 26B-6-701, which is renumbered from Section 62A-5-501 is renumbered and amended to read:

Part 7. Disability Ombudsman

[~~62A-5-501~~]. 26B-6-701. Definitions.

[~~As~~] In addition to the definitions in Section 26B-6-401, as used in this part:

(1) "Complainant" means a person who initiates a complaint.

(2) "Complaint" means a complaint initiated with the ombudsman identifying a person who has violated the rights and privileges of an individual with a disability.

(3) "Ombudsman" means the ombudsman appointed in Section [~~62A-5-502~~] 26B-6-702.

(4) "Rights and privileges of an individual with a disability" means the rights and privileges of an individual with a disability described in Subsections [~~62A-5b-103~~] 26B-6-802(1) through (3).

Section 199. Section 26B-6-702, which is renumbered from Section 62A-5-502 is renumbered and amended to read:

[~~62A-5-502~~]. 26B-6-702. Disability ombudsman -- Purpose -- Appointment -- Qualifications -- Staff.

(1) There is created within the [~~division~~] department the position of disability ombudsman for the purpose of promoting, advocating, and ensuring the rights and privileges of an individual with a disability are upheld.

(2) The director shall appoint an ombudsman who has:

(a) recognized executive and administrative capacity; and

(b) experience in laws and policies regarding individuals with a disability.

(3) The ombudsman may hire staff as necessary to carry out the duties of the ombudsman under this part.

Section 200. Section 26B-6-703, which is renumbered from Section 62A-5-503 is renumbered and amended to read:

[~~62A-5-503~~]. 26B-6-703. Powers and duties of ombudsman.

The ombudsman shall:

(1) develop and maintain expertise in laws and policies governing the rights and privileges of an individual with a disability;

(2) provide training and information to private citizens, civic groups, governmental entities, and other interested parties across the state regarding:

(a) the role and duties of the ombudsman;

(b) the rights and privileges of an individual with a disability; and

(c) services available in the state to an individual with a disability;

(3) develop a website to provide the information described in Subsection (2) in a form that is easily accessible;

(4) receive, process, and investigate complaints in accordance with this part;

(5) review periodically the procedures of state entities that serve individuals with a disability;

(6) cooperate and coordinate with governmental entities and other organizations in the community in exercising the duties under this section, including the long-term care ombudsman program, created in Section [~~62A-3-203~~] 26B-2-303, and the child protection ombudsman, appointed under Section [~~62A-4a-208~~] 80-2-1104, when there is overlap between the responsibilities of the ombudsman and the long-term care ombudsman program or the child protection ombudsman;

(7) as appropriate, make recommendations to the division regarding rules to be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the ombudsman considers necessary to carry out the ombudsman's duties under this part;

(8) submit annually, by July 1, to the Health and Human Services Interim Committee, a report describing:

(a) the work of the ombudsman; and

(b) any recommendations for statutory changes to improve the effectiveness of the ombudsman in performing the duties under this section; and

(9) perform other duties required by law.

Section 201. Section 26B-6-704, which is renumbered from Section 62A-5-504 is renumbered and amended to read:

[~~62A-5-504~~]. 26B-6-704. Investigation of complaints -- Procedures -- Rulemaking.

(1) Except as provided in Subsection (3), the ombudsman shall, upon receipt of a complaint, investigate the complaint.

(2) An ombudsman's investigation of a complaint may include:

(a) a referral to a governmental entity or other services;

(b) the collection of facts, information, or documentation;

(c) holding an investigatory hearing; or

(d) an inspection of the premises of the person named in the complaint.

(3) (a) The ombudsman may decline to investigate a complaint.

(b) If the ombudsman declines to investigate a complaint, the ombudsman shall notify the complainant and the division of the declination.

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the ombudsman's process for:

(a) receiving and processing complaints; and

(b) conducting an investigation in accordance with this section.

Section 202. Section 26B-6-705, which is renumbered from Section 62A-5-505 is renumbered and amended to read:

[~~62A-5-505~~]. 26B-6-705. Confidentiality of materials relating to complaints or investigations -- Rulemaking.

(1) The division shall establish procedures by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure that a record maintained by the ombudsman is disclosed only at the discretion of and under the authority of the ombudsman.

(2) The identity of a complainant or a party named in the complaint may not be disclosed by the ombudsman unless:

(a) the complainant or a legal representative of the complainant consents to the disclosure;

(b) disclosure is ordered by a court of competent jurisdiction; or

(c) the disclosure is approved by the ombudsman and is made, as part of an investigation involving the complainant, to an agency or entity in the community that:

(i) has statutory responsibility for the complainant, over the action alleged in the complaint, or another party named in the complaint;

(ii) is able to assist the ombudsman to achieve resolution of the complaint; or

(iii) is able to provide expertise that would benefit the complainant.

(3) Neither the ombudsman nor the ombudsman's designee may be required to testify in court with respect to confidential matters, except as the court finds necessary to enforce this part.

Section 203. Section 26B-6-801, which is renumbered from Section 62A-5b-102 is renumbered and amended to read:

Part 8. Rights and Privileges of Minors and Individuals with a Disability

[~~62A-5b-102~~]. 26B-6-801. Definitions.

As used in this [~~chapter~~] part:

(1) "Disability" has the same meaning as defined in 42 U.S.C. Sec. 12102 of the Americans With Disabilities Act of 1990, as may be amended in the future, and 28 C.F.R. Sec. 36.104 of the Code of Federal Regulations, as may be amended in the future.

(2) "Informed consent" means consent that is voluntary and based on an understanding by the person to be sterilized of the nature and consequences of sterilization, the reasonably foreseeable risks and benefits of sterilization, and the available alternative methods of contraception.

(3) "Institutionalized" means residing in the Utah State Developmental Center, the Utah State Hospital, a residential facility for persons with a disability as defined in Sections 10-9a-103 and 17-27a-103, a group home for persons with a disability, a nursing home, or a foster care home or facility.

[~~(2)~~] (4) (a) "Service animal" includes any dog that:

(i) is trained, or is in training, to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability; and

(ii) performs work or tasks, or is in training to perform work or tasks, that are directly related to the individual's disability, including:

(A) assisting an individual who is blind or has low vision with navigation or other tasks;

(B) alerting an individual who is deaf or hard of hearing to the presence of people or sounds;

(C) providing non-violent protection or rescue work;

(D) pulling a wheelchair;

(E) assisting an individual during a seizure;

(F) alerting an individual to the presence of an allergen;

(G) retrieving an item for the individual;

(H) providing physical support and assistance with balance and stability; or

(I) helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors.

(b) "Service animal" does not include:

(i) an animal other than a dog, whether wild or domestic, trained or untrained; or

(ii) an animal used solely to provide:

(A) a crime deterrent;

(B) emotional support;

(C) well-being;

(D) comfort; or

(E) companionship.

(5) "Sterilization" means any medical procedure, treatment, or operation rendering an individual permanently incapable of procreation.

[~~(3)~~] (6) "Support animal" means an animal, other than a service animal, that qualifies as a reasonable accommodation under federal law for an individual with a disability.

Section 204. Section 26B-6-802, which is renumbered from Section 62A-5b-103 is renumbered and amended to read:

[~~62A-5b-103~~]. 26B-6-802. Rights and privileges of an individual with a disability.

(1) An individual with a disability has the same rights and privileges in the use of highways, streets, sidewalks, walkways, public buildings, public facilities, and other public areas as an individual who is not an individual with a disability.

(2) An individual with a disability has equal rights to accommodations, advantages, and facilities offered by common carriers, including air carriers, railroad carriers, motor buses, motor vehicles, water carriers, and all other modes of public conveyance in this state.

(3) An individual with a disability has equal rights to accommodations, advantages, and facilities offered by hotels, motels, lodges, and all other places of public accommodation in this state, and to places of amusement or resort to which the public is invited.

(4) (a) An individual with a disability has equal rights and access to public and private housing

accommodations offered for rent, lease, or other compensation in this state.

(b) This chapter does not require a person renting, leasing, or selling private housing or real property to modify the housing or property in order to accommodate an individual with a disability or to provide a higher degree of care for that individual than for someone who is not an individual with a disability.

(c) A person renting, leasing, or selling private housing or real property to an individual with a disability shall comply with the provisions of Section [~~62A-5b-104~~] 26B-6-803.

Section 205. Section 26B-6-803, which is renumbered from Section 62A-5b-104 is renumbered and amended to read:

[~~62A-5b-104~~]. 26B-6-803. Right to be accompanied by service animal or support animal -- Security deposits -- Discrimination -- Liability.

(1) (a) An individual with a disability has the right to be accompanied by a service animal, unless the service animal is a danger or nuisance to others as interpreted under the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

(i) in any of the places specified in Section [~~62A-5b-103~~] 26B-6-802; and

(ii) without additional charge for the service animal.

(b) An owner or lessor of private housing accommodations:

(i) may not, in any manner, discriminate against an individual with a disability on the basis of the individual's possession of a service animal or a support animal, including by charging an extra fee or deposit for a service animal or a support animal; and

(ii) may recover a reasonable cost to repair damage caused by a service animal or a support animal.

(2) An individual who is not an individual with a disability has the right to be accompanied by an animal that is in training to become a service animal or a police service canine, as defined in Section 53-16-102:

(a) in any of the places specified in Section [~~62A-5b-103~~] 26B-6-802; and

(b) without additional charge for the animal.

(3) An individual described in Subsection (1) or (2) is liable for any loss or damage the individual's accompanying service animal, support animal, or animal described in Subsection (2) causes or inflicts to the premises of a place specified in Section [~~62A-5b-103~~] 26B-6-802.

(4) Nothing in this section prohibits the exclusion, as permitted under federal law, of a service animal or a support animal from a place described in Section [~~62A-5b-103~~] 26B-6-802.

Section 206. Section 26B-6-804, which is renumbered from Section 62A-5b-105 is renumbered and amended to read:

[~~62A-5b-105~~]. 26B-6-804. Policy of state to employ individuals with a disability.

It is the policy of this state that an individual with a disability is employed in the state service, the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as an individual who is not an individual with a disability, unless it is shown that the particular disability prevents the performance of the work involved.

Section 207. Section 26B-6-805, which is renumbered from Section 62A-5b-106 is renumbered and amended to read:

[~~62A-5b-106~~]. 26B-6-805. Interference with rights provided in this part -- Misrepresentation of rights under this part.

(1) Any individual, or agent of any individual, who denies or interferes with the rights provided in this chapter is guilty of a class C misdemeanor.

(2) An individual is guilty of a class C misdemeanor if:

(a) the individual intentionally and knowingly falsely represents to another person that an animal is a service animal or a support animal;

(b) the individual knowingly and intentionally misrepresents a material fact to a health care provider for the purpose of obtaining documentation from the health care provider necessary to designate an animal as a service animal or a support animal; or

(c) the individual, except for an individual with a disability, uses an animal to gain treatment or benefits only provided for an individual with a disability.

(3) This section does not affect the enforceability of any criminal law, including Subsection 76-6-501(2).

(4) An agent of a protection and advocacy agency, acting in the agent's professional capacity and in compliance with 29 U.S.C. Sec. 794e et seq., 42 U.S.C. Sec. 15041 et seq., and 42 U.S.C. Sec. 1801 et seq., is not criminally liable under Subsection (2).

Section 208. Section 26B-6-806, which is renumbered from Section 62A-6-102 is renumbered and amended to read:

[~~62A-6-102~~]. 26B-6-806. Sterilization of persons 18 years old or older.

(1) It is lawful for a physician to sterilize a person who is 18 years [~~of age~~] old or older and who has the capacity to give informed consent.

(2) It is unlawful for a physician to sterilize a person who is 18 years [~~of age~~] old or older and who is institutionalized, unless:

(a) the physician, through careful examination and counseling, ensures that the person is capable

of giving informed consent and that no undue influence or coercion to consent has been placed on that person by nature of the fact that he is institutionalized; or

(b) the person is not capable of giving informed consent, a petition has been filed in accordance with Section [~~62A-6-107~~] 26B-6-811, and an order authorizing the sterilization has been entered by a court of competent jurisdiction.

(3) It is unlawful for a physician to sterilize a person who is 18 years [~~of age~~] old or older and who is not capable of giving informed consent unless a petition has been filed in accordance with Section [~~62A-6-107~~] 26B-6-811 and an order authorizing sterilization has been entered by a court of competent jurisdiction.

Section 209. Section 26B-6-807, which is renumbered from Section 62A-6-103 is renumbered and amended to read:

[~~62A-6-103~~]. 26B-6-807. Sterilization of persons under 18 years old.

It is unlawful for a physician to sterilize a person who is under 18 years [~~of age~~] old unless:

(1) the person is married or otherwise emancipated and the physician, through careful examination and counseling, ensures that the person is capable of giving informed consent. If that person is institutionalized, the physician shall also ensure that no undue influence or coercion to consent has been placed on the person by nature of the fact that [~~he~~] the person is institutionalized; or

(2) a petition has been filed in accordance with Section [~~62A-6-107~~] 26B-6-811, and an order authorizing sterilization has been entered by a court of competent jurisdiction.

Section 210. Section 26B-6-808, which is renumbered from Section 62A-6-104 is renumbered and amended to read:

[~~62A-6-104~~]. 26B-6-808. Emergency -- Medical necessity.

If an emergency situation exists that prevents compliance with Section [~~62A-6-102 or 62A-6-103~~] 26B-6-806 or 26B-6-807 because of medical necessity, if delay in performing the sterilization could result in serious physical injury or death to the person, the attending physician shall certify, in writing, the specific medical reasons that necessitated suspension of those requirements. That certified statement shall become a permanent part of the sterilized person's medical record.

Section 211. Section 26B-6-809, which is renumbered from Section 62A-6-105 is renumbered and amended to read:

[~~62A-6-105~~]. 26B-6-809. Persons who may give informed consent.

For purposes of this [~~chapter~~] part, the following persons may give informed consent to sterilization:

(1) a person who is the subject of sterilization, if [~~he~~] the person is capable of giving informed consent; and

(2) a person appointed by the court to give informed consent on behalf of a subject of sterilization who is incapable of giving informed consent.

Section 212. Section 26B-6-810, which is renumbered from Section 62A-6-106 is renumbered and amended to read:

[~~62A-6-106~~]. 26B-6-810. Declaration of capacity to give informed consent -- Hearing.

(1) A person who desires sterilization but whose capacity to give informed consent is questioned by any interested party may file a petition for declaration of capacity to give informed consent.

(2) If, after hearing all the relevant evidence, the court finds by a preponderance of the evidence that the person is capable of giving informed consent, the court shall enter an order declaring that the person has the capacity to give informed consent.

Section 213. Section 26B-6-811, which is renumbered from Section 62A-6-107 is renumbered and amended to read:

[~~62A-6-107~~]. 26B-6-811. Petition for order authorizing sterilization.

(1) A petition for an order authorizing sterilization may be filed by a person who desires sterilization, or by [~~his~~] the person's parent, spouse, guardian, custodian, or other interested party.

(2) The court shall adjudicate the petition for sterilization in accordance with Section [~~62A-6-108~~] 26B-6-812.

Section 214. Section 26B-6-812, which is renumbered from Section 62A-6-108 is renumbered and amended to read:

[~~62A-6-108~~]. 26B-6-812. Factors to be considered by court -- Evaluations -- Interview -- Findings of fact.

(1) If the court finds that the subject of sterilization is not capable of giving informed consent, the court shall consider, but not by way of limitation, the following factors concerning that person:

(a) the nature and degree of [~~his~~] the person's mental impairment, and the likelihood that the condition is permanent;

(b) the level of [~~his~~] the person's understanding regarding the concepts of reproduction and contraception, and whether [~~his~~] the person's ability to understand those concepts is likely to improve;

(c) [~~his~~] the person's capability for procreation or reproduction[~~. It is~~], with a rebuttable presumption that the ability to procreate and reproduce exists in a person of normal physical development;

(d) the potentially injurious physical and psychological effects from sterilization, pregnancy, childbirth, and parenthood;

(e) the alternative methods of birth control presently available including, but not limited to, drugs, intrauterine devices, education and training, and the feasibility of one or more of those methods as an alternative to sterilization;

(f) the likelihood that [~~he~~] the person will engage in sexual activity or could be sexually abused or exploited;

(g) the method of sterilization that is medically advisable, and least intrusive and destructive of [~~his~~] the person's rights to bodily and psychological integrity;

(h) the advisability of postponing sterilization until a later date; and

(i) the likelihood that [~~he~~] the person could adequately care and provide for a child.

(2) (a) The court may require that independent medical, psychological, and social evaluations of the subject of sterilization be made prior to ruling on a petition for sterilization.

(b) The court may appoint experts to perform those examinations and evaluations and may require the petitioner, to the extent of the petitioner's ability, to bear the costs incurred.

(3) (a) The court shall interview the subject of sterilization to determine [~~his~~] the person's understanding of and desire for sterilization.

(b) The expressed preference of the person shall be made a part of the record, and shall be considered by the court in rendering its decision.

(c) The court is not bound by the expressed preference of the subject of sterilization; however, if the person expresses a preference not to be sterilized, the court shall deny the petition unless the petitioner proves beyond a reasonable doubt that the person will suffer serious physical or psychological injury if the petition is denied.

(4) (a) When adjudicating a petition for sterilization the court shall determine, on the basis of all the evidence, what decision regarding sterilization would have been made by the subject of sterilization, if [~~he~~] the person were capable of giving informed consent to sterilization.

(b) The decision regarding sterilization shall be in the best interest of the person to be sterilized.

(5) If the court grants a petition for sterilization, [~~it~~] the court shall make appropriate findings of fact in support of its order.

Section 215. Section 26B-6-813, which is renumbered from Section 62A-6-109 is renumbered and amended to read:

[~~62A-6-109~~]. 26B-6-813. Advanced hearing.

On motion by the person seeking sterilization or by any other party to the proceeding, the court may advance hearing on the petition.

Section 216. Section 26B-6-814, which is renumbered from Section 62A-6-110 is renumbered and amended to read:

[~~62A-6-110~~]. 26B-6-814. Notice of hearing -- Service.

(1) A copy of the petition and notice of the hearing shall be served personally on the person to be sterilized not less than 20 days before the hearing date.

(2) The notice shall state the date, time, and place of the hearing, and shall specifically state that the hearing is to adjudicate either a petition for declaration of capacity to give informed consent to sterilization or a petition for sterilization.

(3) Notice shall be served on that person's parents, spouse, guardian, or custodian and on his attorney by the clerk of the court, by certified mail, not less than 10 days before the hearing date.

Section 217. Section 26B-6-815, which is renumbered from Section 62A-6-111 is renumbered and amended to read:

[~~62A-6-111~~]. 26B-6-815. Guardian ad litem -- Procedural rights.

(1) The court shall appoint an attorney to act as guardian ad litem to defend the rights and interests of the person to be sterilized.

(2) The person to be sterilized is entitled to appear and testify at the hearing, to examine and cross examine witnesses, and to compel the attendance of witnesses.

(3) (a) The person who is the subject of a sterilization proceeding may, on motion to the court and for good cause shown, waive the right to be present at the hearing.

(b) If the court grants that motion, the person shall be represented by a guardian ad litem at the hearing.

Section 218. Section 26B-6-816, which is renumbered from Section 62A-6-112 is renumbered and amended to read:

[~~62A-6-112~~]. 26B-6-816. Jury -- Rules of evidence -- Transcript -- Burden of proof.

(1) The petitioner is entitled to request a jury to hear the petition.

(2) The rules of evidence apply in any hearing on a petition for sterilization.

(3) A transcript shall be made of the hearing and shall be made a permanent part of the record.

[~~(2)~~] (4) The burden of producing evidence and the burden of proof shall be upon the petitioner to prove by clear and convincing evidence that the petition for or order authorizing sterilization should be granted.

Section 219. Section 26B-6-817, which is renumbered from Section 62A-6-113 is renumbered and amended to read:

[~~62A-6-113~~]. 26B-6-817. Appeal to Supreme Court -- Stay.

(1) Any party to a proceeding under this chapter may file a notice of appeal from any adverse decision with the Supreme Court in accordance with Rule 73, Utah Rules of Civil Procedure.

(2) The pendency of an appeal in the Supreme Court shall stay the proceedings until the appeal is finally determined.

Section 220. Section 26B-6-818, which is renumbered from Section 62A-6-114 is renumbered and amended to read:

[~~62A-6-114~~]. 26B-6-818. Treatment for therapeutic reasons unaffected.

Nothing in this chapter shall be construed to prevent the medical or surgical treatment, for sound therapeutic reasons, of any person by a physician or surgeon licensed by this state, which treatment may incidentally involve destruction of reproductive functions.

Section 221. Section 26B-6-819, which is renumbered from Section 62A-6-115 is renumbered and amended to read:

[~~62A-6-115~~]. 26B-6-819. Immunity.

(1) A physician, assistant, or any other person acting pursuant to an order authorizing sterilization, as provided in this [~~chapter~~] part, is not civilly or criminally liable for participation in or assistance to sterilization.

(2) This section does not apply to negligent acts committed in the performance of sterilization.

Section 222. Section 26B-6-820, which is renumbered from Section 62A-6-116 is renumbered and amended to read:

[~~62A-6-116~~]. 26B-6-820. Unauthorized sterilization -- Criminal penalty.

Except as authorized by this [~~chapter~~] part, any person who intentionally performs, encourages, assists in, or otherwise promotes the performance of a sterilization procedure for the purpose of destroying the power to procreate the human species, with knowledge that the provisions of this [~~chapter~~] part have not been met, is guilty of a third degree felony.

Section 223. Section 26B-6-821, which is renumbered from Section 62A-5b-107 is renumbered and amended to read:

[~~62A-5b-107~~]. 26B-6-821. Annual "White Cane Safety Day" proclaimed.

Each year the governor shall take notice of October 15 as White Cane Safety Day.

Section 224. Section 26B-7-101 is amended to read:

CHAPTER 7. PUBLIC HEALTH AND PREVENTION

Part 1. Health Promotion and Risk Reduction

26B-7-101. Definitions.

[~~Reserved~~] As used in this part:

(1) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

(2) "Maternal and child health services" means:

(a) the provision of educational, preventative, diagnostic, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward reducing infant mortality and improving the health of mothers and children provided, however, that nothing in this Subsection (2) shall be construed to allow any agency of the state to interfere with the rights of the parent of an unmarried minor in decisions about the providing of health information or services;

(b) the development, strengthening, and improvement of standards and techniques relating to the services and care;

(c) the training of personnel engaged in the provision, development, strengthening, or improvement of the services and care; and

(d) necessary administrative services connected with Subsections (2)(a), (b), and (c).

(3) "Minor" means a person under 18 years old.

(4) "Services to children with disabilities" means:

(a) the early location of children with a disability, provided that any program of prenatal diagnosis for the purpose of detecting the possible disease or disabilities of an unborn child will not be used for screening, but rather will be utilized only when there are medical or genetic indications that warrant diagnosis;

(b) the provision for children described in Subsection (4)(a), of preventive, diagnosis, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward the diagnosis of the condition of those children or toward the restoration of the children to maximum physical and mental health;

(c) the development, strengthening, and improvement of standards and techniques relating to services and care described in this Subsection (4);

(d) the training of personnel engaged in the provision, development, strengthening, or improvement of services and care described in this Subsection (4); and

(e) necessary administrative services connected with Subsections (4)(a), (b), and (c).

Section 225. Section 26B-7-102, which is renumbered from Section 26-10-3 is renumbered and amended to read:

[~~26-10-3~~]. 26B-7-102. Director of family health services programs.

The executive director may appoint a director of family health services programs who shall be a board certified pediatrician or obstetrician with at

least two years experience in public health programs.

Section 226. Section 26B-7-103, which is renumbered from Section 26-10-4 is renumbered and amended to read:

[~~26-10-4~~]. 26B-7-103. State plan for maternal and child health services.

The department shall prepare and submit a state plan for maternal and child health services as required by Title II of the Public Health Services Act. The plan shall be the official state plan for the state and shall be used as the basis for administration of Title V programs within the state.

Section 227. Section 26B-7-104, which is renumbered from Section 26-10-5.5 is renumbered and amended to read:

[~~26-10-5.5~~]. 26B-7-104. Child literacy -- Distribution of information kits.

(1) The Legislature recognizes that effective child literacy programs can have a dramatic long-term impact on each child's ability to:

(a) succeed in school;

(b) successfully compete in a global society; and

(c) become a productive, responsible citizen.

(2) (a) To help further this end, the department may make available to parents of new-born infants, as a resource, an information kit regarding child development, the development of emerging literacy skills, and activities which promote and enhance emerging literacy skills, including reading aloud to the child on a regular basis.

(b) The department shall seek private funding to help support this program.

(3) (a) The department may seek assistance from the State Board of Education and local hospitals in making the information kit available to parents on a voluntary basis.

(b) The department may also seek assistance from private entities in making the kits available to parents.

Section 228. Section 26B-7-105, which is renumbered from Section 26-10-10 is renumbered and amended to read:

[~~26-10-10~~]. 26B-7-105. Cytomegalovirus (CMV) public education and testing.

(1) As used in this section "CMV" means cytomegalovirus.

(2) The department shall establish and conduct a public education program to inform pregnant women and women who may become pregnant regarding:

(a) the incidence of CMV;

(b) the transmission of CMV to pregnant women and women who may become pregnant;

(c) birth defects caused by congenital CMV;

(d) methods of diagnosing congenital CMV; and

(e) available preventative measures.

(3) The department shall provide the information described in Subsection (2) to:

(a) child care programs licensed under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Chapter 2, Part 4, Child Care Licensing, and their employees;

(b) a person described in Subsection [~~26-39-403~~] 26B-2-405(1)(a)(iii) and Subsections [~~26-39-403~~] 26B-2-405(2)(a), (b), (c), (e), and (f);

(c) a person serving as a school nurse under Section 53G-9-204;

(d) a person offering health education in a school district;

(e) health care providers offering care to pregnant women and infants; and

(f) religious, ecclesiastical, or denominational organizations offering children's programs as a part of worship services.

(4) If a newborn infant fails the newborn hearing screening test(s) under Subsection [~~26-10-6~~] 26B-4-319(1), a medical practitioner shall:

(a) test the newborn infant for CMV before the newborn is 21 days [~~of age~~] old, unless a parent of the newborn infant objects; and

(b) provide to the parents of the newborn infant information regarding:

(i) birth defects caused by congenital CMV; and

(ii) available methods of treatment.

(5) The department shall provide to the family and the medical practitioner, if known, information regarding the testing requirements under Subsection (4) when providing results indicating that an infant has failed the newborn hearing screening test(s) under Subsection [~~26-10-6~~] 26B-4-319(1).

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of this section.

Section 229. Section 26B-7-106, which is renumbered from Section 26-10-14 is renumbered and amended to read:

[~~26-10-14~~]. 26B-7-106. Down syndrome diagnosis -- Information and support.

(1) The department shall provide contact information for state and national Down syndrome organizations that are nonprofit and that provide information and support services for parents, including first-call programs and information hotlines specific to Down syndrome, resource centers or clearinghouses, and other education and support programs for Down syndrome.

(2) The department shall:

(a) post the information described in Subsection (1) on the department's website; and

(b) create an informational support sheet with the information described in Subsection (1) and the web address described in Subsection (2)(a).

(3) A Down syndrome organization may request that the department include the organization's informational material and contact information on the website. The department may add the information to the website, if the information meets the description under Subsection (1).

(4) Upon request, the department shall provide a health care facility or health care provider a copy of the informational support sheet described in Subsection (2)(b) to give to a pregnant woman after the result of a prenatal screening or diagnostic test indicates the unborn child has or may have Down syndrome.

Section 230. Section 26B-7-107, which is renumbered from Section 26-10-15 is renumbered and amended to read:

[~~26-10-15~~]. 26B-7-107. Lead exposure public education and testing.

(1) The department shall establish a child blood lead epidemiology and surveillance program to:

(a) encourage pediatric health care providers to include a lead test in accordance with the department's recommendations under Subsection (2); and

(b) conduct a public education program to inform parents of children who are two years old or younger regarding:

(i) the effects of lead exposure in children;

(ii) the availability of free screening and testing for lead exposure; and

(iii) other available preventative measures.

(2) The department may recommend consideration of screening and testing during the first year or second year well child clinical visit.

(3) (a) The department shall provide the information described in Subsection (1) to organizations that regularly provide care or services for children who are 5 years old or younger.

(b) The department may work with the following organizations to share the information described in Subsection (1):

(i) a child care program licensed under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Chapter 2, Part 4, Child Care Licensing, and the employees of the child care program;

(ii) a health care facility licensed under [~~Title 26, Chapter 21~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection [~~Act~~];

(iii) a person providing child care under a program that is described in Subsection [~~26-39-403~~] 26B-2-405(2);

(iv) an individual offering health education in a school district, including a school nurse under Section 53G-9-204;

(v) a health care provider offering care to pregnant women and infants;

(vi) a religious, ecclesiastical, or denominational organization offering children's programs as a part of worship services;

(vii) an organization that advocates for public education, testing, and screening of children for lead exposure;

(viii) a local health department as defined in Section 26A-1-102; and

(ix) any other person that the department believes would advance public education regarding the effects of lead exposure on children.

(4) The department shall seek grant funding to fund the program created in this section.

Section 231. Section 26B-7-108, which is renumbered from Section 26-1-23.5 is renumbered and amended to read:

[~~26-1-23.5~~]. 26B-7-108. Rules for sale of drugs, cosmetics, and medical devices.

The department shall establish and enforce rules for the sale or distribution of human drugs, cosmetics, and medical devices. The rules adopted under this section shall be no more stringent than those established by federal law.

Section 232. Section 26B-7-109, which is renumbered from Section 26-1-26 is renumbered and amended to read:

[~~26-1-26~~]. 26B-7-109. Director of community health nursing appointed by executive director.

[~~There shall be within the department~~] The executive director shall appoint a director of community health nursing [~~appointed by the executive director~~] who shall develop, implement, monitor, and evaluate community health nursing standards and services and participate in the formulation of policies for administration of health services.

Section 233. Section 26B-7-110, which is renumbered from Section 26-1-36 is renumbered and amended to read:

[~~26-1-36~~]. 26B-7-110. Duty to establish program to reduce deaths and other harm from prescription opiates used for chronic noncancer pain.

(1) As used in this section, "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(2) In addition to the duties listed in Section [~~26-1-30~~] 26B-1-202, the department shall develop and implement a two-year program in coordination with the Division of Professional Licensing, the Utah Labor Commission, and the Utah attorney general, to:

(a) investigate the causes of and risk factors for death and nonfatal complications of prescription

opiate use and misuse in Utah for chronic pain by utilizing the Utah Controlled Substance Database created in Section 58-37f-201;

(b) study the risks, warning signs, and solutions to the risks associated with prescription opiate medications for chronic pain, including risks and prevention of misuse and diversion of those medications;

(c) provide education to health care providers, patients, insurers, and the general public on the appropriate management of chronic pain, including the effective use of medical treatment and quality care guidelines that are scientifically based and peer reviewed; and

(d) educate the public regarding:

(i) the purpose of the Controlled Substance Database established in Section 58-37f-201; and

(ii) the requirement that a person's name and prescription information be recorded on the database when the person fills a prescription for a schedule II, III, IV, or V controlled substance.

Section 234. Section 26B-7-111, which is renumbered from Section 26-1-38 is renumbered and amended to read:

~~[26-1-38]~~. 26B-7-111. Local health emergency assistance program.

(1) As used in this section:

(a) "Local health department" means the same as that term is defined in Section 26A-1-102.

(b) "Local health emergency" means an unusual event or series of events causing or resulting in a substantial risk or substantial potential risk to the health of a significant portion of the population within the boundary of a local health department, as determined by the local health department.

(c) "Program" means the local health emergency assistance program that the department is required to establish under this section.

(d) "Program fund" means money that the Legislature appropriates to the department for use in the program and other money otherwise made available for use in the program.

(2) The department shall establish, to the extent of funds appropriated by the Legislature or otherwise made available to the program fund, a local health emergency assistance program.

(3) Under the program, the department shall:

(a) provide a method for a local health department to seek reimbursement from the program fund for local health department expenses incurred in responding to a local health emergency;

(b) require matching funds from any local health department seeking reimbursement from the program fund;

(c) establish a method for apportioning money in the program fund to multiple local health departments when the total amount of concurrent requests for reimbursement by multiple local health departments exceeds the balance in the program fund; and

(d) establish by rule other provisions that the department considers necessary or advisable to implement the program.

(4) (a) (i) Subject to Subsection (4)(a)(ii), the department shall use money in the program fund exclusively for purposes of the program.

(ii) The department may use money in the program fund to cover its costs of administering the program.

(b) Money that the Legislature appropriates to the program fund is nonlapsing in accordance with Section 63J-1-602.1.

(c) Any interest earned on money in the program fund shall be deposited to the General Fund.

Section 235. Section 26B-7-112, which is renumbered from Section 26-1-42 is renumbered and amended to read:

~~[26-1-42]~~. 26B-7-112. Health care grant requests and funding.

(1) Any time the United States Department of Health and Human Services accepts grant applications, the department shall apply for a grant under Title X of the Public Health Service Act, 42 U.S.C. Sec. 300 et seq.

(2) (a) As part of the application described in Subsection (1), the department shall request that the United States Department of Health and Human Services waive the requirement of the department to comply with requirements found in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental consent.

(b) If the department's application described in Subsection (1) is denied, and at such time the United States Department of Health and Human Services creates a waiver application process, the department shall apply for a waiver from compliance with the requirements found in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental consent in order to be eligible for a grant under Title X of the Public Health Service Act, 42 U.S.C. Sec. 300 et seq.

(3) If the department receives a grant under Subsection (1), the department shall prioritize disbursement of grant funds in the prioritization order described in Subsection (4).

(4) (a) (i) When disbursing grant funds, the department shall give first priority to nonpublic entities that provide family planning services as well as other comprehensive services to enable women to give birth and parent or place for adoption.

(ii) The department shall give preference to entities described in Subsection (4)(a)(i) that:

(A) expand availability of prenatal and postnatal care in low-income and under-served areas of the state;

(B) provide support for a woman to carry a baby to term;

(C) emphasize the health and viability of the fetus; and

(D) provide education and maternity support.

(iii) If the department receives applications from qualifying nonpublic entities as described in Subsection (4)(a), the department shall disburse all of the grant funds to qualifying nonpublic entities described in Subsection (4)(a).

(b) If grant funds are not exhausted under Subsection (4)(a), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a), the department shall give second priority for grant funds to nonpublic entities that provide:

(i) family planning services; and

(ii) required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

(c) If grant funds are not exhausted under Subsections (4)(a) and (b), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a) or (b), the department shall give third priority for grant funds to public entities that provide family planning services, including state, county, or local community health clinics, and community action organizations.

(d) If grant funds are not exhausted under Subsections (4)(a), (b), and (c), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a), (b), or (c), the department shall give fourth priority for grant funds to nonpublic entities that provide family planning services but do not provide required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

Section 236. Section 26B-7-113, which is renumbered from Section 26-7-1 is renumbered and amended to read:

[~~26-7-1~~]. 26B-7-113. Identification of major risk factors by department -- Education of public -- Establishment of programs.

The department shall identify the major risk factors contributing to injury, sickness, death, and disability within the state and where it determines that a need exists, educate the public regarding these risk factors, and the department may establish programs to reduce or eliminate these factors except that such programs may not be established if adequate programs exist in the private sector.

Section 237. Section 26B-7-114, which is renumbered from Section 26-7-2 is renumbered and amended to read:

[~~26-7-2~~]. 26B-7-114. Office of Health Equity -- Duties.

(1) As used in this section:

(a) "Multicultural or minority health issue" means a health issue, including a mental and oral health issue, of particular interest to cultural, ethnic, racial, or other subpopulations, including:

(i) disparities in:

(A) disease incidence, prevalence, morbidity, mortality, treatment, and treatment response; and

(B) access to care; and

(ii) cultural competency in the delivery of health care.

(b) "Office" means the Office of Health [~~Disparities Reduction~~] Equity created in this section.

(2) There is created within the department the Office of Health [~~Disparities Reduction~~] Equity.

(3) The office shall:

(a) promote and coordinate the research, data production, dissemination, education, and health promotion activities of the following that relate to a multicultural or minority health issue:

(i) the department;

(ii) local health departments;

(iii) local mental health authorities;

(iv) public schools;

(v) community-based organizations; and

(vi) other organizations within the state;

(b) assist in the development and implementation of one or more programs to address a multicultural or minority health issue;

(c) promote the dissemination and use of information on a multicultural or minority health issue by minority populations, health care providers, and others;

(d) seek federal funding and other resources to accomplish the office's mission;

(e) provide technical assistance to organizations within the state seeking funding to study or address a multicultural or minority health issue;

(f) develop and increase the capacity of the office to:

(i) ensure the delivery of qualified timely culturally appropriate translation services across department programs; and

(ii) provide, when appropriate, linguistically competent translation and communication services for limited English proficiency individuals;

(g) provide staff assistance to any advisory committee created by the department to study a multicultural or minority health issue; and

(h) annually report to the Legislature on its activities and accomplishments.

Section 238. Section 26B-7-115, which is renumbered from Section 26-7-4 is renumbered and amended to read:

[~~26-7-4~~]. 26B-7-115. Utah Registry of Autism and Developmental Disabilities.

(1) As used in this section, "URADD" means the Utah Registry of Autism and Developmental Disabilities.

(2) The department may enter into an agreement with:

(a) the University of Utah or another person for the operation of URADD; and

(b) a person to conduct a public education campaign to:

(i) improve public awareness of the early warning signs of autism spectrum disorders and developmental disabilities; and

(ii) promote the early identification of autism spectrum disorders and developmental disabilities.

(3) URADD shall consist of a database that collects information on people in the state who have an autism spectrum disorder or a developmental disability.

(4) The purpose of URADD is to assist health care providers to:

(a) determine the risk factors and causes of autism spectrum disorders and developmental disabilities;

(b) plan for and develop resources, therapies, methods of diagnoses, and other services for people with an autism spectrum disorder or a developmental disability;

(c) facilitate measuring and tracking of treatment outcomes;

(d) gather statistics relating to autism spectrum disorders and developmental disabilities; and

(e) improve coordination and cooperation between agencies and other programs that provide services to people with an autism spectrum disorder or a developmental disability.

Section 239. Section 26B-7-116, which is renumbered from Section 26-7-7 is renumbered and amended to read:

[~~26-7-7~~]. 26B-7-116. Radon awareness campaign.

The department shall, in consultation with the Division of Waste Management and Radiation Control, develop a statewide electronic awareness campaign to educate the public regarding:

(1) the existence and prevalence of radon gas in buildings and structures;

(2) the health risks associated with radon gas;

(3) options for radon gas testing; and

(4) options for radon gas remediation.

Section 240. Section 26B-7-117, which is renumbered from Section 26-7-8 is renumbered and amended to read:

[~~26-7-8~~]. 26B-7-117. Syringe exchange and education.

(1) The following may operate a syringe exchange program in the state to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts:

(a) a government entity, including:

(i) the department;

(ii) a local health department[~~, as defined in Section 26A-1-102~~]; or

[~~(iii) the Division of Substance Abuse and Mental Health within the Department of Human Services; or~~]

[~~(iv)~~] (iii) a local substance abuse authority, as defined in Section [~~62A-15-102~~] 26B-5-101;

(b) a nongovernment entity, including:

(i) a nonprofit organization; or

(ii) a for-profit organization; or

(c) any other entity that complies with Subsections (2) and (4).

(2) An entity operating a syringe exchange program in the state shall:

(a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;

(b) ensure that a recipient of a new syringe is given verbal and written instruction on:

(i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human immunodeficiency virus; and

(ii) options for obtaining:

(A) services for the treatment of a substance use disorder;

(B) testing for a blood-borne disease; and

(C) an opiate antagonist [~~under Chapter 55, Opiate Overdose Response Act~~]; and

(c) report annually to the department the following information about the program's activities:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes; and

(iii) the number of new syringes provided in exchange for used syringes.

(3) No later than October 1, 2017, and every two years thereafter, the department shall report to the Legislature's Health and Human Services Interim Committee on:

(a) the activities and outcomes of syringe programs operating in the state, including:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes;

(iii) the number of new syringes provided in exchange for used syringes;

(iv) the impact of the programs on blood-borne infection rates; and

(v) the impact of the programs on the number of individuals receiving treatment for a substance use disorder;

(b) the potential for additional reductions in the number of syringes contaminated with blood-borne disease if the programs receive additional funding;

(c) the potential for additional reductions in state and local government spending if the programs receive additional funding;

(d) whether the programs promote illicit use of drugs; and

(e) whether the programs should be continued, continued with modifications, or terminated.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).

Section 241. Section 26B-7-118, which is renumbered from Section 26-7-9 is renumbered and amended to read:

[~~26-7-9~~]. 26B-7-118. Online public health education module for vaccine-preventable diseases.

(1) As used in this section:

(a) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(b) "Nonimmune" means that a child or an individual:

(i) has not received each vaccine required in Section 53G-9-305 and has not developed a natural immunity through previous illness to a vaccine-preventable disease, as documented by a health care provider;

(ii) cannot receive each vaccine required in Section 53G-9-305; or

(iii) is otherwise known to not be immune to a vaccine-preventable disease.

(c) "Vaccine-preventable disease" means an infectious disease that can be prevented by a vaccination required in Section 53G-9-305.

(2) The department shall develop an online education module regarding vaccine-preventable diseases:

(a) to assist a parent of a nonimmune child to:

(i) recognize the symptoms of vaccine-preventable diseases;

(ii) respond in the case of an outbreak of a vaccine-preventable disease;

(iii) protect children who contract a vaccine-preventable disease; and

(iv) prevent the spread of vaccine-preventable diseases;

(b) that contains only the following:

(i) information about vaccine-preventable diseases necessary to achieve the goals stated in Subsection (2)(a), including the best practices to prevent the spread of vaccine-preventable diseases;

(ii) recommendations to reduce the likelihood of a nonimmune individual contracting or transmitting a vaccine-preventable disease; and

(iii) information about additional available resources related to vaccine-preventable diseases and the availability of low-cost vaccines;

(c) that includes interactive questions or activities; and

(d) that is expected to take an average user 20 minutes or less to complete, based on user testing.

(3) In developing the online education module described in Subsection (2), the department shall consult with individuals interested in vaccination or vaccine-preventable diseases, including:

(a) representatives from organizations of health care professionals; and

(b) parents of nonimmune children.

(4) The department shall make the online education module described in Subsection (2) publicly available to parents through:

(a) a link on the department's website;

(b) county health departments, as that term is defined in Section 26A-1-102;

(c) local health departments, as that term is defined in Section 26A-1-102;

(d) local education agencies, as that term is defined in Section 53E-1-102; and

(e) other public health programs or organizations.

Section 242. Section 26B-7-119, which is renumbered from Section 26-7-11 is renumbered and amended to read:

[~~26-7-11~~]. 26B-7-119. Hepatitis C Outreach Pilot Program.

(1) As used in this section, "Hepatitis C outreach organization" means a private nonprofit organization that:

(a) has an established relationship with individuals who are at risk of acquiring acute Hepatitis C;

(b) helps individuals who need Hepatitis C treatment, but who do not qualify for payment of the treatment by the Medicaid program or another health insurer, to obtain treatment;

(c) has the infrastructure necessary for conducting Hepatitis C assessment, testing, and diagnosis, including clinical staff with the training and ability to provide:

(i) specimen collection for Hepatitis C testing;

(ii) clinical assessments;

(iii) consultation regarding blood-borne diseases; and

(iv) case management services for patient support during Hepatitis C treatment; or

(d) has a partnership with a health care facility that can provide clinical follow-up and medical treatment following Hepatitis C rapid antibody testing and confirmatory testing.

(2) There is created within the department the Hepatitis C Outreach Pilot Program.

(3) Before September 1, 2020, the department shall, as funding permits, make grants to Hepatitis C outreach organizations in accordance with criteria established by the department under Subsection (4).

(4) Before July 1, 2020, the department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) create application requirements for a grant from the program;

(b) establish criteria for determining:

(i) whether a grant is awarded, including criteria that ensure grants are awarded to areas of the state, including rural areas, that would benefit most from the grant; and

(ii) the amount of a grant; and

(c) specify reporting requirements for the recipient of a grant under this section.

(5) Before October 1, 2021, and before October 1 every year thereafter, the department shall submit a report to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee on the outcomes of the Hepatitis C Outreach Pilot Program.

Section 243. Section 26B-7-201, which is renumbered from Section 26-6-2 is renumbered and amended to read:

Part 2. Detection and Management of Chronic and Communicable Diseases and Public Health Emergencies

[~~26-6-2~~]. 26B-7-201. Definitions.

As used in this [~~chapter~~] part:

(1) "Ambulatory surgical center" [~~is as~~] means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(2) "Carrier" means an infected individual or animal who harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for man. The carrier state may occur in an individual with an infection that is inapparent throughout its course, commonly known as healthy or asymptomatic carrier, or during the incubation period, convalescence, and postconvalescence of an individual with a clinically recognizable disease, commonly known as incubatory carrier or convalescent carrier. Under either circumstance the carrier state may be of short duration, as a temporary or transient carrier, or long duration, as a chronic carrier.

(3) "Communicable disease" means illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host, either directly, as from an infected individual or animal, or indirectly, through an intermediate plant or animal host, vector, or the inanimate environment.

(4) "Communicable period" means the time or times during which an infectious agent may be transferred directly or indirectly from an infected individual to another individual, from an infected animal to [~~man~~] a human, or from an infected [~~man~~] human to an animal, including arthropods.

(5) "Contact" means an individual or animal having had association with an infected individual, animal, or contaminated environment so as to have had an opportunity to acquire the infection.

(6) "End stage renal disease facility" is as defined in Section [~~26-21-2~~] 26B-2-201.

(7) (a) "Epidemic" means the occurrence or outbreak in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source.

(b) The number of cases indicating an epidemic will vary according to the infectious agent, size, and type of population exposed, previous experience or lack of exposure to the disease, and time and place of occurrence.

(c) Epidemicity is considered to be relative to usual frequency of the disease in the same area, among the specified population, at the same season of the year.

(8) "General acute hospital" is as defined in Section [~~26-21-2~~] 26B-2-201.

(9) "Incubation period" means the time interval between exposure to an infectious agent and appearance of the first sign or symptom of the disease in question.

(10) "Infected individual" means an individual who harbors an infectious agent and who has manifest disease or inapparent infection. An infected individual is one from whom the infectious agent can be naturally acquired.

(11) "Infection" means the entry and development or multiplication of an infectious agent in the body of man or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest. The presence of living infectious agents on exterior surfaces of the body, or

upon articles of apparel or soiled articles, is not infection, but contamination of such surfaces and articles.

(12) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.

(13) "Infectious disease" means a disease of man or animals resulting from an infection.

(14) "Isolation" means the separation, for the period of communicability, of infected individuals or animals from others, in such places and under such conditions as to prevent the direct or indirect conveyance of the infectious agent from those infected to those who are susceptible or who may spread the agent to others.

(15) "Order of constraint" means the same as that term is defined in Section [~~26-23b-102~~] 26B-7-301.

(16) "Quarantine" means the restriction of the activities of well individuals or animals who have been exposed to a communicable disease during its period of communicability to prevent disease transmission.

(17) "School" means a public, private, or parochial nursery school, licensed or unlicensed day care center, child care facility, family care home, [~~headstart~~] Head Start program, kindergarten, elementary, or secondary school through grade 12.

(18) "Sexually transmitted disease" means those diseases transmitted through sexual intercourse or any other sexual contact.

(19) "Specialty hospital" is as defined in Section [~~26-21-2~~] 26B-2-201.

Section 244. Section 26B-7-202, which is renumbered from Section 26-6-3 is renumbered and amended to read:

[~~26-6-3~~]. 26B-7-202. Authority to investigate and control epidemic infections and communicable disease.

(1) Subject to Subsection (3) and the restrictions in this title, the department has authority to investigate and control the causes of epidemic infections and communicable disease, and shall provide for the detection, reporting, prevention, and control of communicable diseases and epidemic infections or any other health hazard which may affect the public health.

(2) (a) As part of the requirements of Subsection (1), the department shall distribute to the public and to health care professionals:

(i) medically accurate information about sexually transmitted diseases that may cause infertility and sterility if left untreated, including descriptions of:

(A) the probable side effects resulting from an untreated sexually transmitted disease, including infertility and sterility;

(B) medically accepted treatment for sexually transmitted diseases;

(C) the medical risks commonly associated with the medical treatment of sexually transmitted diseases; and

(D) suggested screening by a private physician or physician assistant; and

(ii) information about:

(A) public services and agencies available to assist individuals with obtaining treatment for the sexually transmitted disease;

(B) medical assistance benefits that may be available to the individual with the sexually transmitted disease; and

(C) abstinence before marriage and fidelity after marriage being the surest prevention of sexually transmitted disease.

(b) The information required by Subsection (2)(a):

(i) shall be distributed by the department and by local health departments free of charge;

(ii) shall be relevant to the geographic location in which the information is distributed by:

(A) listing addresses and telephone numbers for public clinics and agencies providing services in the geographic area in which the information is distributed; and

(B) providing the information in English as well as other languages that may be appropriate for the geographic area.

(c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written material that includes the information required by this Subsection (2).

(ii) In addition to the written materials required by Subsection (2)(c)(i), the department may distribute the information required by this Subsection (2) by any other methods the department determines is appropriate to educate the public, excluding public schools, including websites, toll free telephone numbers, and the media.

(iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the written pamphlet developed by the department, the written material shall include either a website, or a 24-hour toll free telephone number that the public may use to obtain that information.

(3) (a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department as described in this section in response to a declared public health emergency.

(b) A county governing body may at any time terminate by majority vote an order of constraint issued by the relevant local health department as described in this section in response to a declared public health emergency.

Section 245. Section 26B-7-203, which is renumbered from Section 26-6-3.5 is renumbered and amended to read:

[~~26-6-3.5~~]. 26B-7-203. Reporting AIDS and HIV infection -- Anonymous testing.

(1) Because of the nature and consequences of Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection, the department shall:

(a) require reporting of those conditions; and

(b) utilize contact tracing and other methods for "partner" identification and notification. The department shall, by rule, define individuals who are considered "partners" for purposes of this section.

(2) (a) The requirements of Subsection (1) do not apply to seroprevalence and other epidemiological studies conducted by the department.

(b) The requirements of Subsection (1) do not apply to, and anonymity shall be provided in, research studies conducted by universities or hospitals, under the authority of institutional review boards if those studies are funded in whole or in part by research grants and if anonymity is required in order to obtain the research grant or to carry out the research.

(3) For all purposes of [~~this chapter~~] Sections 26B-7-201 through 26B-7-223, Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection are considered communicable and infectious diseases.

(4) The department may establish or allow one site or agency within the state to provide anonymous testing.

(a) The site or agency that provides anonymous testing shall maintain accurate records regarding:

(i) the number of HIV positive individuals that it is able to contact or inform of their condition;

(ii) the number of HIV positive individuals who receive extensive counseling;

(iii) how many HIV positive individuals provide verifiable information for partner notification; and

(iv) how many cases in which partner notification is carried through.

(b) If the information maintained under Subsection (4)(a) indicates anonymous testing is not resulting in partner notification, the department shall phase out the anonymous testing program allowed by this Subsection (4).

Section 246. Section 26B-7-204, which is renumbered from Section 26-6-4 is renumbered and amended to read:

[~~26-6-4~~]. 26B-7-204. Involuntary examination, treatment, isolation, and quarantine.

(1) The following individuals or groups of individuals are subject to examination, treatment, quarantine, or isolation under a department order of restriction:

(a) an individual who is infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department or the local health department to prevent spread of the disease;

(b) an individual who is contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health and that could be spread to others if remedial action is not taken;

(c) an individual who is in a condition or suspected condition which, if exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed will pose a threat to public health; and

(d) an individual who is contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken.

(2) If an individual refuses to take action as required by the department or the local health department to prevent the spread of a communicable disease, infectious agent, or contamination, the department or the local health department may order involuntary examination, treatment, quarantine, or isolation of the individual and may petition the [~~district~~] court to order involuntary examination, treatment, quarantine, or isolation in accordance with [~~Title 26, Chapter 6b, Communicable Diseases -~~] Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases.

Section 247. Section 26B-7-205, which is renumbered from Section 26-6-5 is renumbered and amended to read:

[~~26-6-5~~]. 26B-7-205. Willful introduction of communicable disease a misdemeanor.

Any person who willfully or knowingly introduces any communicable or infectious disease into any county, municipality, or community is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.

Section 248. Section 26B-7-206, which is renumbered from Section 26-6-6 is renumbered and amended to read:

[~~26-6-6~~]. 26B-7-206. Duty to report individual suspected of having communicable disease.

The following shall report to the department or the local health department regarding any individual suffering from or suspected of having a disease that is communicable, as required by department rule:

(1) health care providers as defined in Section 78B-3-403;

(2) facilities licensed under [~~Title 26, Chapter 21,~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection [~~Act~~];

(3) health care facilities operated by the federal government;

(4) mental health facilities;

(5) care facilities licensed by the [~~Department of Human Services~~] department;

(6) nursing homes and other care facilities;

(7) dispensaries, clinics, or laboratories that diagnose, test, or otherwise care for individuals who are suffering from a disease suspected of being communicable;

(8) individuals who have knowledge of others who have a communicable disease;

(9) individuals in charge of schools having responsibility for any individuals who have a disease suspected of being communicable; and

(10) child care programs, as defined in Section [~~26-39-102~~] 26B-2-401.

Section 249. Section 26B-7-207, which is renumbered from Section 26-6-7 is renumbered and amended to read:

[~~26-6-7~~]. 26B-7-207. Designation of communicable diseases by department -- Establishment of rules for detection, reporting, investigation, prevention, and control.

The department may designate those diseases which are communicable, of concern to the public health, and reportable; and establish rules for the detection, reporting, investigation, prevention, and control of communicable diseases, epidemic infections, and other health hazards that affect the public health.

Section 250. Section 26B-7-208, which is renumbered from Section 26-6-8 is renumbered and amended to read:

[~~26-6-8~~]. 26B-7-208. Tuberculosis -- Duty of department to investigate, control, and monitor.

(1) The department shall conduct or oversee the investigation, control, and monitoring of suspected or confirmed tuberculosis infection and disease within the state. Local health departments shall investigate, control, and monitor suspected or confirmed tuberculosis infection and disease within their respective jurisdictions.

(2) A health care provider who treats an individual with suspected or confirmed tuberculosis shall treat the individual according to guidelines established by the department.

Section 251. Section 26B-7-209, which is renumbered from Section 26-6-9 is renumbered and amended to read:

[~~26-6-9~~]. 26B-7-209. Tuberculosis -- Testing of high risk individuals.

Individuals at high risk for tuberculosis shall be tested as required by department rule[~~. The department rule~~], which:

(1) shall establish criteria to identify individuals who are at high risk for tuberculosis; and

(2) may establish who is responsible for the costs of the testing.

Section 252. Section 26B-7-210, which is renumbered from Section 26-6-11 is renumbered and amended to read:

[~~26-6-11~~]. 26B-7-210. Rabies or other animal disease -- Investigation and order of quarantine.

(1) As used in this section, "quarantine" means strict confinement upon the private premises of the owners, under restraint by leash, closed cage or paddock of all animals specified by the order.

(2) (a) Whenever rabies or any other animal disease dangerous to the health of human beings is reported, the department shall investigate to determine whether such disease exists, and the probable area of the state in which man or beast is thereby endangered.

(b) If the department finds that such disease exists, a quarantine may be declared against all animals designated in the quarantine order and within the area specified in the order.

(c) If the quarantine is for the purpose of preventing the spread of rabies or hydrophobia, the order shall contain a warning to the owners of dogs within the quarantined area to confine or muzzle all dogs to prevent biting.

(d) Any dog not muzzled found running at large in a quarantined area or any dog known to have been removed from or escaped from such area, may be killed by any person without liability therefor.

(3) Following the order of quarantine the department shall make a thorough investigation as to the extent of the disease, the probable number of persons and beasts exposed, and the area involved.

(4) During the period any quarantine order is in force all peace officers may kill or capture and hold for further action by the department all animals in a quarantined area not held in restraint on private premises.

Section 253. Section 26B-7-211, which is renumbered from Section 26-6-15 is renumbered and amended to read:

[~~26-6-15~~]. 26B-7-211. Rabies or other animal disease -- Possession of animal in violation of part a misdemeanor.

Any person in possession of any animal being held in violation of [~~this chapter~~] Sections 26B-7-201 through 26B-7-223 is guilty of a class C misdemeanor.

Section 254. Section 26B-7-212, which is renumbered from Section 26-6-16 is renumbered and amended to read:

[~~26-6-16~~]. 26B-7-212. Sexually transmitted infections declared dangerous to public health.

Syphilis, gonorrhea, lymphogranuloma inguinale (venereum) and chancroid are hereby declared to be

contagious, infectious, communicable and dangerous to the public health.

Section 255. Section 26B-7-213, which is renumbered from Section 26-6-17 is renumbered and amended to read:

[~~26-6-17~~]. 26B-7-213. Sexually transmitted infections -- Examinations by authorities -- Treatment of infected persons.

State, county, and municipal health officers within their respective jurisdictions may make examinations of persons reasonably suspected of being infected with venereal disease. Persons infected with venereal disease shall be required to report for treatment to either a reputable physician or physician assistant and continue treatment until cured or to submit to treatment provided at public expense until cured.

Section 256. Section 26B-7-214, which is renumbered from Section 26-6-18 is renumbered and amended to read:

[~~26-6-18~~]. 26B-7-214. Sexually transmitted infections -- Consent of minor to treatment.

(1) A consent to medical care or services by a hospital or public clinic or the performance of medical care or services by a licensed physician or physician assistant executed by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as a consent given by a person of full legal age and capacity, the infancy of the minor and any contrary provision of law notwithstanding.

(2) The consent of the minor is not subject to later disaffirmance by reason of minority at the time it was given and the consent of no other person or persons shall be necessary to authorize hospital or clinical care or services to be provided to the minor by a licensed physician or physician assistant.

(3) The provisions of this section shall apply also to minors who profess to be in need of hospital or clinical care and services or medical care or services provided by a physician or physician assistant for suspected sexually transmitted disease, regardless of whether such professed suspicions are subsequently substantiated on a medical basis.

Section 257. Section 26B-7-215, which is renumbered from Section 26-6-19 is renumbered and amended to read:

[~~26-6-19~~]. 26B-7-215. Sexually transmitted infections -- Examination and treatment of persons in prison or jail.

(1) (a) All persons confined in any state, county, or city prison or jail shall be examined, and if infected, treated for venereal diseases by the health authorities.

(b) The prison authorities of every state, county, or city prison or jail shall make available to the health authorities such portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons suffering with venereal disease at the time of the expiration of their terms of imprisonment, shall be isolated and treated at public expense until cured.

(2) (a) The department may require persons suffering with venereal disease at the time of the expiration of their terms of imprisonment to report for treatment to a licensed physician or physician assistant or submit to treatment provided at public expense in lieu of isolation.

(b) Nothing in this section shall interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

Section 258. Section 26B-7-216, which is renumbered from Section 26-6-20 is renumbered and amended to read:

[~~26-6-20~~]. 26B-7-216. Serological testing of pregnant or recently delivered women.

(1) As used in this section, a "standard serological test" means a test for syphilis approved by the department and made at an approved laboratory.

[~~(1)~~] (2) (a) Every licensed physician and surgeon attending a pregnant or recently delivered woman for conditions relating to her pregnancy shall take or cause to be taken a sample of blood of the woman at the time of first examination or within 10 days thereafter.

(b) The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.

(c) The provisions of this section do not apply to any female who objects thereto on the grounds that she is a bona fide member of a specified, well recognized religious organization whose teachings are contrary to the tests.

[~~(2)~~] (3) (a) Every other person attending a pregnant or recently delivered woman, who is not permitted by law to take blood samples, shall within 10 days from the time of first attendance cause a sample of blood to be taken by a licensed physician or physician assistant.

(b) The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.

[~~(3)~~] (4) (a) An approved laboratory is a laboratory approved by the department according to its rules governing the approval of laboratories for the purpose of this title.

(b) In submitting the sample to the laboratory the physician or physician assistant shall designate whether it is a prenatal test or a test following recent delivery.

[~~(4) For the purpose of this chapter, a "standard serological test" means a test for syphilis approved by the department and made at an approved laboratory.~~]

(5) The laboratory shall transmit a detailed report of the standard serological test, showing the

result thereof to the physician or physician assistant.

Section 259. Section 26B-7-217, which is renumbered from Section 26-6-27 is renumbered and amended to read:

[~~26-6-27~~]. 26B-7-217. Information regarding communicable or reportable diseases confidentiality -- Exceptions.

(1) (a) Information collected [~~pursuant to this chapter~~] under Sections 26B-7-201 through 26B-7-223 in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under [~~this chapter~~] Sections 26B-7-201 through 26B-7-223 shall be held by the department and local health departments as strictly confidential.

(b) The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of [~~this chapter~~] Sections 26B-7-201 through 26B-7-223 and as follows:

(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, [~~his~~] the individual's next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention, or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the [~~age of~~] 18 years old, the information may be released to the Division of Child and Family Services within the [~~Department of Human Services~~] department in accordance with Section 80-2-602[~~. If~~], and if that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against the Individual, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;

(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;

(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;

(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;

(h) specific medical or epidemiological information may be released to a[~~"~~]health care provider[~~"~~] as defined in Section 78B-3-403, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78B-3-403, may be released to the department, the appropriate local health department, and the Division of Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care;

(j) specific medical or epidemiological information may be released in accordance with Section [~~26-6-31~~] 26B-7-221 if an individual is not identifiable; and

(k) specific medical or epidemiological information may be released to a state agency as defined in Section 67-27-102, to perform the analysis described in Subsection [~~26-6-32~~] 26B-7-222(4) if the state agency agrees to act in accordance with the requirements in this [~~chapter~~] part.

(3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease.

Section 260. Section 26B-7-218, which is renumbered from Section 26-6-28 is renumbered and amended to read:

[~~26-6-28~~]. 26B-7-218. Protection from examination in legal proceedings -- Exceptions.

(1) Except as provided in Subsection (2), an officer or employee of the department or of a local health department may not be examined in a legal

proceeding of any kind or character as to the existence or content of information retained pursuant to [~~this chapter~~] Sections 26B-7-201 through 26B-7-223 or obtained as a result of an investigation conducted pursuant to [~~this chapter~~] Sections 26B-7-201 through 26B-7-223, without the written consent of the individual who is identified in the information or, if that individual is deceased, the consent of [~~his~~] the individual's next-of-kin.

(2) This section does not restrict testimony and evidence provided by an employee or officer of the department or a local health department about:

(a) persons who are under restrictive actions taken by the department in accordance with Subsection [~~26-6-27~~] 26B-7-217(2)(e); or

(b) individuals or groups of individuals subject to examination, treatment, isolation, and quarantine actions under [~~Chapter 6b, Communicable Diseases -~~] Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases.

Section 261. Section 26B-7-219, which is renumbered from Section 26-6-29 is renumbered and amended to read:

[~~26-6-29~~]. 26B-7-219. Violation -- Penalty.

(1) Any individual or entity entitled to receive confidential information from the [~~Department of Health~~] department or a local health department under [~~this chapter~~] Sections 26B-7-201 through 26B-7-223, other than the individual identified in that information, who violates [~~this chapter~~] Sections 26B-7-201 through 26B-7-223 by releasing or making public confidential information, or by otherwise breaching the confidentiality requirements of [~~this chapter~~] Sections 26B-7-201 through 26B-7-223, is guilty of a class B misdemeanor.

(2) [~~This chapter does~~] Sections 26B-7-201 through 26B-7-223 do not apply to any individual or entity that holds or receives information relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under [~~this chapter~~] Sections 26B-7-201 through 26B-7-223, if that individual or entity has obtained the information from a source other than the department or a local health department.

Section 262. Section 26B-7-220, which is renumbered from Section 26-6-30 is renumbered and amended to read:

[~~26-6-30~~]. 26B-7-220. Exclusions from confidentiality requirements.

(1) The provisions of [~~this chapter~~] Sections 26B-7-201 through 26B-7-223 do not apply to:

(a) information that relates to an individual who is in the custody of the Department of Corrections, a county jail, or the Division of Juvenile Justice and Youth Services within the [~~Department of Human Services~~] department;

(b) information that relates to an individual who has been in the custody of the Department of Corrections, a county jail, or the Division of Juvenile Justice and Youth Services within the [~~Department of Human Services~~] department, if liability of either of those departments, a county, or a division, or of an employee of a department, division, or county, is alleged by that individual in a lawsuit concerning transmission of an infectious or communicable disease; or

(c) any information relating to an individual who willfully or maliciously or with reckless disregard for the welfare of others transmits a communicable or infectious disease.

(2) Nothing in [~~this chapter~~] Sections 26B-7-201 through 26B-7-223 limits the right of the individual identified in the information described in Subsection [~~26-6-27~~] 26B-7-217(1) to disclose that information.

Section 263. Section 26B-7-221, which is renumbered from Section 26-6-31 is renumbered and amended to read:

[~~26-6-31~~]. 26B-7-221. Public reporting of health care associated infections.

(1) (a) An ambulatory surgical facility, a general acute hospital, a specialty hospital, an end stage renal disease facility, and other facilities as required by rules of the Center for Medicare and Medicaid Services shall give the department access to the facility's data on the incidence and rate of health care associated infections that the facility submits to the National Healthcare Safety Network in the [~~Center~~] United States Centers for Disease Control and Prevention pursuant to the [~~Center~~] Centers for Medicare and Medicaid Services rules for infection reporting.

(b) Access to data under this Subsection (1) may include data sharing through the National Healthcare Safety Network.

(2) (a) The department shall, beginning May 1, 2013, use the data submitted by the facilities in accordance with Subsection (1) to compile an annual report on health care associated infections in ambulatory surgical facilities, general acute hospitals, and specialty hospitals for public distribution in accordance with the requirements of this subsection. The department shall publish the report on the department's website and the Utah Health Exchange.

(b) The department's report under this section shall:

(i) include the following health care associated infections as required by the Center for Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety Network in the [~~Center~~] Centers for Disease Control and Prevention:

(A) central line associated bloodstream infections;

(B) catheter associated urinary tract infections;

(C) surgical site infections from procedures on the colon or an abdominal hysterectomy;

(D) methicillin-resistant staphylococcus aureus bacteremia;

(E) clostridium difficile of the colon; and

(F) other health care associated infections when reporting is required by the Center for Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety Network in the [~~Center~~] Centers for Disease Control and Prevention;

(ii) include data on the rate of health care associated infections:

(A) for the infection types described in Subsection (2)(b)(i); and

(B) by health care facility or hospital;

(iii) include data on how the rate of health care associated infections in ambulatory surgical facilities, general acute hospitals, and specialty hospitals compares with the rates in other states;

(iv) in compiling the report described in Subsection (2)(a), use analytical methodologies that meet accepted standards of validity and reliability;

(v) clearly identify and acknowledge, in the report, the limitations of the data sources and analytic methodologies used to develop comparative facility or hospital information;

(vi) decide whether information supplied by a facility or hospital under Subsection (1) is appropriate to include in the report;

(vii) adjust comparisons among facilities and hospitals for patient case mix and other relevant factors, when appropriate; and

(viii) control for provider peer groups, when appropriate.

(3) Before posting or releasing the report described in Subsection (2)(a), the department shall:

(a) disclose to each ambulatory surgical facility, general acute hospital, and specialty hospital whose data is included in the report:

(i) the entire methodology for analyzing the data; and

(ii) the comparative facility or hospital information and other information the department has compiled for the facility or hospital; and

(b) give the facility or hospital 30 days to suggest corrections or add explanatory comments about the data.

(4) The department shall develop and implement effective safeguards to protect against the unauthorized use or disclosure of ambulatory surgical facility, general acute hospital, and specialty hospital data, including the dissemination of inconsistent, incomplete, invalid, inaccurate, or subjective data.

(5) The report described in Subsection (2)(a):

(a) may include data that compare and identify general acute hospitals, ambulatory surgical centers, and specialty hospitals;

(b) shall contain only statistical, non-identifying information and may not disclose the identity of:

(i) an employee of an ambulatory surgical facility, a general acute hospital, or a specialty hospital;

(ii) a patient; or

(iii) a health care provider licensed under Title 58, Occupations and Professions; and

(c) may not be used as evidence in a criminal, civil, or administrative proceeding.

(6) This section does not limit the department's authority to investigate and collect data regarding infections and communicable diseases under other provisions of state or federal law.

Section 264. Section 26B-7-222, which is renumbered from Section 26-6-32 is renumbered and amended to read:

[~~26-6-32~~]. 26B-7-222. Testing for COVID-19 for high-risk individuals at care facilities -- Collection and release of information regarding risk factors and comorbidities for COVID-19.

(1) As used in this section:

(a) "Care facility" means a facility described in Subsections [~~26-6-6~~] 26B-7-206(2) through (6).

(b) "COVID-19" means the same as that term is defined in Section 78B-4-517.

(2) (a) At the request of the department or a local health department, an individual who meets the criteria established by the department under Subsection (2)(b) shall submit to testing for COVID-19.

(b) The department:

(i) shall establish protocols to identify and test individuals who are present at a care facility and are at high risk for contracting COVID-19;

(ii) may establish criteria to identify care facilities where individuals are at high risk for COVID-19; and

(iii) may establish who is responsible for the costs of the testing.

(c) (i) The protocols described in Subsection (2)(b)(i) shall:

(A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care facility to refuse testing; and

(B) specify criteria for when an individual's refusal to submit to testing under Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

(ii) Notwithstanding any other provision of state law, a care facility may discharge a resident who declines testing requested by the department under Subsection (2)(a) if:

(A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the resident's refusal to submit to testing endangers the health or safety of other individuals at the care facility; and

(B) discharging the resident does not violate federal law.

(3) The department may establish protocols to collect information regarding the individual's age and relevant comorbidities from an individual who receives a positive test result for COVID-19.

(4) (a) The department shall publish deidentified information regarding comorbidities and other risk factors for COVID-19 in a manner that is accessible to the public.

(b) The department may work with a state agency as defined in Section 67-27-102, to perform the analysis or publish the information described in Subsection (4)(a).

Section 265. Section 26B-7-223, which is renumbered from Section 26-6-42 is renumbered and amended to read:

[~~26-6-42~~]. 26B-7-223. Department support for local education agency test to stay programs -- Department guidance for local education agencies.

(1) As used in this section:

(a) "Case threshold" means the same as that term is defined in Section 53G-9-210.

(b) "COVID-19" means the same as that term is defined in Section 53G-9-210.

(c) "Local education agency" or "LEA" means the same as that term is defined in Section 53G-9-210.

(d) "Test to stay program" means the same as that term is defined in Section 53G-9-210.

(2) At the request of an LEA, the department shall provide support for the LEA's test to stay program if a school in the LEA reaches the case threshold, including by providing:

(a) COVID-19 testing supplies;

(b) a mobile testing unit; and

(c) other support requested by the LEA related to the LEA's test to stay program.

(3) The department shall ensure that guidance the department provides to LEAs related to test to stay programs complies with Section 53G-9-210, including the determination of whether a school meets a case threshold described in Subsection 53G-9-210(3).

(4) Subsection (2) regarding the requirement to support an LEA's test to stay program does not apply after February 2, 2022, unless the test to stay requirement is triggered under Subsection 53G-9-210(2)(c).

Section 266. Section 26B-7-224, which is renumbered from Section 26-7-14 is renumbered and amended to read:

[~~26-7-14~~]. 26B-7-224. Study on violent incidents and fatalities involving substance abuse -- Report.

(1) As used in this section:

(a) "Drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance or alcohol was combined, that results in an individual requiring medical assistance.

(b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(c) "Violent incident" means:

(i) aggravated assault as described in Section 76-5-103;

(ii) child abuse as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;

(iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

(iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(v) a burglary offense described in Sections 76-6-202 through 76-6-204.5;

(vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;

(vii) a domestic violence offense, as defined in Section 77-36-1; and

(viii) any other violent offense, as determined by the department.

(2) In 2021 and continuing every other year, the department shall provide a report before October 1 to the Health and Human Services Interim Committee regarding the number of:

(a) violent incidents and fatalities that occurred in the state during the preceding calendar year that, at the time of occurrence, involved substance abuse;

(b) drug overdose events in the state during the preceding calendar year; and

(c) recommendations for legislation, if any, to prevent the occurrence of the events described in Subsections (2)(a) and (b).

[~~(3) Before October 1, 2020, the department shall:~~]

[~~(a) determine what information is necessary to complete the report described in Subsection (2) and from which local, state, and federal agencies the information may be obtained;~~]

[~~(b) determine the cost of any research or data collection that is necessary to complete the report described in Subsection (2);~~]

[~~(c) make recommendations for legislation, if any, that is necessary to facilitate the research or data collection described in Subsection (3)(b), including recommendations for legislation to assist with information sharing between local, state, federal, and private entities and the department; and~~]

[~~(d) report the findings described in Subsections (3)(a) through (c) to the Health and Human Services Interim Committee.~~]

[~~(4)~~] (3) The department may contract with another state agency, private entity, or research institution to assist the department with the report described in Subsection (2).

Section 267. Section 26B-7-225, which is renumbered from Section 26-8d-102 is renumbered and amended to read:

[~~26-8d-102~~]. 26B-7-225. Statewide stroke registry.

(1) The department shall establish and supervise a statewide stroke registry to:

(a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation of stroke;

(b) promote optimal care for stroke patients;

(c) alleviate unnecessary death and disability from stroke;

(d) encourage the efficient and effective continuum of patient care, including prevention, prehospital care, hospital care, and rehabilitative care; and

(e) minimize the overall cost of stroke.

(2) The department shall utilize the registry established under Subsection (1) to assess:

(a) the effectiveness of the data collected by the registry; and

(b) the impact of the statewide stroke registry on the provision of stroke care.

(3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) the data elements that general acute hospitals shall report to the registry; and

(ii) the time frame and format for reporting.

(b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics consistent with data elements used in nationally recognized data set platforms for stroke care.

(c) The department shall permit a general acute hospital to submit data required under this section through an electronic exchange of clinical health information that meets the standards established by the department under Section [~~26-1-37~~] 26B-8-411.

(4) A general acute hospital shall submit stroke data in accordance with rules established under Subsection (3).

(5) Data collected under this section shall be subject to [~~Chapter 3,~~] Chapter 8, Part 4, Health Statistics.

(6) No person may be held civilly liable for providing data to the department in accordance with this section.

Section 268. Section 26B-7-226, which is renumbered from Section 26-8d-103 is renumbered and amended to read:

[~~26-8d-103~~]. 26B-7-226. Statewide cardiac registry.

(1) The department shall establish and supervise a statewide cardiac registry to:

(a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation of cardiac diseases;

(b) promote optimal care for cardiac patients;

(c) alleviate unnecessary death and disability from cardiac diseases;

(d) encourage the efficient and effective continuum of patient care, including prevention, prehospital care, hospital care, and rehabilitative care; and

(e) minimize the overall cost of cardiac care.

(2) The department shall utilize the registry established under Subsection (1) to assess:

(a) the effectiveness of the data collected by the registry; and

(b) the impact of the statewide cardiac registry on the provision of cardiac care.

(3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) the data elements that general acute hospitals shall report to the registry; and

(ii) the time frame and format for reporting.

(b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics consistent with data elements used in nationally recognized data set platforms for cardiac care.

(c) The department shall permit a general acute hospital to submit data required under this section through an electronic exchange of clinical health information that meets the standards established by the department under Section [~~26-1-37~~] 26B-8-411.

(4) A general acute hospital shall submit cardiac data in accordance with rules established under Subsection (3).

(5) Data collected under this section shall be subject to [~~Chapter 3~~] Chapter 8, Part 4, Health Statistics.

(6) No person may be held civilly liable for providing data to the department in accordance with this section.

Section 269. Section 26B-7-227, which is renumbered from Section 26-5-1 is renumbered and amended to read:

[~~26-5-1~~]. 26B-7-227. Chronic disease control -- Establishing a prevention program -- Detection, monitoring, and community education.

(1) As used in this [~~chapter~~] section, "chronic disease" means an impairment or deviation from the normal functioning of the human body having one or more of the following characteristics:

[~~(1) It~~] (a) is permanent;

[~~(2) It~~] (b) leaves residual disability;

[~~(3) It~~] (c) is caused by nonreversible pathological alterations;

[~~(4) It~~] (d) requires special patient education and instruction for rehabilitation; or

[~~(5) It~~] (e) may require a long period of supervision, observation and care.

(2) The department shall establish and operate reasonable programs to prevent, delay, and detect the onset of chronic diseases including cancer, diabetes, cardiovascular and pulmonary diseases, genetic diseases, and such other chronic diseases as the department determines are important in promoting, protecting, and maintaining the public's health.

(3) (a) The department shall develop and maintain a system for detecting and monitoring chronic diseases within the state and shall investigate and determine the epidemiology of those conditions which contributed to preventable and premature sickness, or both, and to death and disability.

(b) The department shall consider the disease known as "lupus" a chronic disease subject to the detection and monitoring provisions of Subsection (3)(a).

(4) The department shall establish programs of community and professional education relevant to the detection, prevention, and control of chronic diseases.

Section 270. Section 26B-7-301, which is renumbered from Section 26-23b-102 is renumbered and amended to read:

Part 3. Treatment, Isolation, and Quarantine Procedures for Communicable Diseases

[~~26-23b-102~~]. 26B-7-301. Definitions.

As used in this [~~chapter~~] part:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

(b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

(2) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final diagnosis, and any pertinent lab results.

(3) "Epidemic or pandemic disease":

(a) means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy; and

(b) includes diseases designated by the department which have the potential to cause serious illness or death.

(4) "Exigent circumstances" means a significant change in circumstances following the expiration of a public health emergency declared in accordance with this title that:

(a) substantially increases the threat to public safety or health relative to the circumstances in existence when the public health emergency expired;

(b) poses an imminent threat to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the public health emergency expired.

(5) "First responder" means:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) emergency medical service personnel as defined in Section 26B-4-101;

(c) firefighters; and

(d) public health personnel having jurisdiction over the location where an individual subject to restriction is found.

[~~(5)~~] (6) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(6)~~] (7) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.

[~~(7)~~] (8) (a) "Order of constraint" means an order, rule, or regulation issued in response to a declared public health emergency under this [~~chapter~~] part, that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

(9) "Order of restriction" means an order issued by a department or a district court which requires an individual or group of individuals who are subject to restriction to submit to an examination, treatment, isolation, or quarantine.

[~~(8)~~] (10) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster.

(11) "Public health official" means:

(a) the executive director or the executive director's authorized representative; or

(b) the executive director of a local health department or the executive director's authorized representative.

[~~(9)~~] (12) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the department.

[~~(10)~~] (13) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

(14) "Subject to restriction" as applied to an individual, or a group of individuals, means the individual or group of individuals is:

(a) infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department to prevent spread of the disease;

(b) contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health, and that could be spread to others if remedial action is not taken;

(c) in a condition or suspected condition which, if the individual is exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed the individual will pose a threat to public health; or

(d) contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken.

Section 271. Section 26B-7-302, which is renumbered from Section 26-1-12 is renumbered and amended to read:

[~~26-1-12~~]. 26B-7-302. Executive director -- Power to order abatement of public health hazard.

If the executive director finds that a condition of filth, sanitation, or other health hazard exists which creates a clear present hazard to the public health and which requires immediate action to protect human health or safety, the executive director with the concurrence of the governor may order persons causing or contributing to the condition to reduce, discontinue, or ameliorate it to the extent that the public health hazard is eliminated.

Section 272. Section 26B-7-303, which is renumbered from Section 26-6b-1 is renumbered and amended to read:

[~~26-6b-1~~]. 26B-7-303. Applicability -- Administrative procedures.

(1) [~~This chapter applies~~] Sections 26B-7-304 through 26B-7-315 apply to involuntary examination, treatment, isolation, and quarantine actions applied to individuals or groups of individuals by the department or a local health department.

(2) The provisions of [~~this chapter~~] Sections 26B-7-304 through 26B-7-315 supersede the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(3) The [~~Department of Health~~] department may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of [~~this chapter~~] Sections 26B-7-304 through 26B-7-315.

Section 273. Section 26B-7-304, which is renumbered from Section 26-6b-3 is renumbered and amended to read:

[~~26-6b-3~~]. 26B-7-304. Order of restriction.

(1) Subject to Subsection (5), the department or a local health department having jurisdiction over the location where an individual or a group of individuals who are subject to restriction are found may:

(a) issue a written order of restriction for the individual or group of individuals pursuant to Section [~~26-1-30~~] 26B-1-202 or Subsection 26A-1-114(1)(b) upon compliance with the requirements of [~~this chapter~~] Sections 26B-7-304 through 26B-7-314; and

(b) issue a verbal order of restriction for an individual or group of individuals pursuant to Subsection (2)(c).

(2) (a) A department or local health department's determination to issue an order of restriction shall be based upon the totality of circumstances reported to and known by the department or local health department, including:

(i) observation;

(ii) information that the department or local health department determines is credible and reliable information; and

(iii) knowledge of current public health risks based on medically accepted guidelines as may be established by the [~~Department of Health~~] department by administrative rule.

(b) An order of restriction issued by the department or a local health department shall:

(i) in the opinion of the public health official, be for the shortest reasonable period of time necessary to protect the public health;

(ii) use the least intrusive method of restriction that, in the opinion of the department or local health department, is reasonable based on the totality of circumstances known to the department or local health department issuing the order of restriction;

(iii) be in writing unless the provisions of Subsection (2)(c) apply; and

(iv) contain notice of an individual's rights as required in Section [~~26-6b-3.3~~] 26B-7-307.

(c) (i) [~~A~~] The department or a local health department may issue a verbal order of restriction, without prior notice to the individual or group of individuals if the delay in imposing a written order of restriction would significantly jeopardize the department or local health department's ability to prevent or limit:

(A) the transmission of a communicable or possibly communicable disease that poses a threat to public health;

(B) the transmission of an infectious agent or possibly infectious agent that poses a threat to public health;

(C) the exposure or possible exposure of a chemical or biological agent that poses a threat to public health; or

(D) the exposure or transmission of a condition that poses a threat to public health.

(ii) A verbal order of restriction issued under [~~the provisions of~~] Subsection (2)(c)(i):

(A) is valid for 24 hours from the time the order of restriction is issued;

(B) may be verbally communicated to the individuals or group of individuals subject to restriction by a first responder;

(C) may be enforced by the first responder until the department or local health department is able to establish and maintain the place of restriction; and

(D) may only be continued beyond the initial 24 hours if a written order of restriction is issued pursuant to the provisions of Section [~~26-6b-3.3~~] 26B-7-307.

(3) Pending issuance of a written order of restriction under Section [~~26-6b-3.3~~] 26B-7-307, or judicial review of an order of restriction [~~by the district court pursuant to~~] under Section [~~26-6b-6~~] 26B-7-311, an individual who is subject to the order of restriction may be required to submit to involuntary examination, quarantine, isolation, or treatment in the individual's home, a hospital, or any other suitable facility under reasonable conditions prescribed by the department or local health department.

(4) The department or local health department that issued the order of restriction shall take reasonable measures, including the provision of medical care, as may be necessary to assure proper care related to the reason for the involuntary examination, treatment, isolation, or quarantine of an individual ordered to submit to an order of restriction.

(5) (a) The Legislature may at any time terminate by joint resolution an order of restriction issued by the department or local health department as described in this section in response to a declared public health emergency.

(b) A county governing body may at any time terminate by majority vote an order of restriction issued by the relevant local health department [~~as described in~~] under this section issued in response to a declared public health emergency.

Section 274. Section 26B-7-305, which is renumbered from Section 26-6b-3.1 is renumbered and amended to read:

[~~26-6b-3.1~~]. 26B-7-305. Consent to order of restriction -- Periodic review.

(1) (a) The department or a local health department shall either seek judicial review of an order of restriction under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311, or obtain the consent of an individual subject to an order of restriction.

(b) If the department or a local health department obtains consent, the consent shall be in writing and shall inform the individual or group of individuals:

(i) of the terms and duration of the order of restriction;

(ii) of the importance of complying with the order of restriction to protect the public's health;

(iii) that each individual has the right to agree to the order of restriction, or refuse to agree to the order of restriction and seek a judicial review of the order of restriction;

(iv) that for any individual who consents to the order of restriction:

(A) the order of restriction will not be reviewed by the [~~district~~] court unless the individual withdraws consent to the order of restriction in accordance with Subsection (1)(b)(iv)(B); and

(B) the individual shall notify the department or local health department in writing, with at least five business day's notice, if the individual intends to withdraw consent to the order of restriction; and

(v) that a breach of a consent agreement prior to the end of the order of restriction may subject the

individual to an involuntary order of restriction under Section [~~26-6b-3.2~~] 26B-7-306.

(2) (a) The department or local health department responsible for the care of an individual who has consented to the order of restriction shall periodically reexamine the reasons upon which the order of restriction was based. This reexamination shall occur at least once every six months.

(b) (i) If at any time, the department or local health department determines that the conditions justifying the order of restriction for either a group or an individual no longer exist, the department or local health department shall immediately discharge the individual or group from the order of restriction.

(ii) If the department or local health department determines that the conditions justifying the order of restriction continue to exist, the department or local health department shall send to the individual a written notice of:

(A) the department or local health department's findings, the expected duration of the order of restriction, and the reason for the decision; and

(B) the individual's right to a judicial review of the order of restriction by the [~~district~~] court if requested by the individual.

(iii) Upon request for judicial review by an individual, the department or local health department shall:

(A) file a petition [~~in district~~] with the court within five business days after the individual's request for a judicial review; and

(B) proceed under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311.

Section 275. Section 26B-7-306, which is renumbered from Section 26-6b-3.2 is renumbered and amended to read:

[~~26-6b-3.2~~]. 26B-7-306. Involuntary order of restriction -- Notice -- Effect of order during judicial review.

(1) If the department or local health department cannot obtain consent to the order of restriction from an individual, or if an individual withdraws consent to an order under Subsection [~~26-6b-3.1~~] 26B-7-305(1)(b)(iv)(B), the department or local health department shall:

(a) give the individual or group of individuals subject to the order of restriction a written notice of:

(i) the order of restriction and any supporting documentation; and

(ii) the individual's right to a judicial review of the order of restriction; and

(b) file a petition for a judicial review of the order of restriction under Section [~~26-6b-4~~] 26B-7-309 in [~~district~~] court within:

(i) five business days after issuing the written notice of the order of restriction; or

(ii) if consent has been withdrawn under Subsection [~~26-6b-3.1~~] 26B-7-305(1)(b)(iv)(B), within five business days after receiving notice of the individual's withdrawal of consent.

(2) (a) An order of restriction remains in effect during any judicial proceedings to review the order of restriction if the department or local health department files a petition for judicial review of the order of restriction [~~with the district~~] within the period of time required by this section.

(b) Law enforcement officers with jurisdiction in the area where the individual who is subject to the order of restriction can be located shall assist the department or local health department with enforcing the order of restriction.

Section 276. Section 26B-7-307, which is renumbered from Section 26-6b-3.3 is renumbered and amended to read:

[~~26-6b-3.3~~]. 26B-7-307. Contents of notice of order of restriction -- Rights of individuals.

(1) A written order of restriction issued by a department or local health department shall include the following information:

(a) the identity of the individual or a description of the group of individuals subject to the order of restriction;

(b) the identity or location of any premises that may be subject to restriction;

(c) the date and time for which the restriction begins and the expected duration of the restriction;

(d) the suspected communicable disease, infectious, chemical or biological agent, or other condition that poses a threat to public health;

(e) the requirements for termination of the order of restriction, such as necessary laboratory reports, the expiration of an incubation period, or the completion of treatment for the communicable disease;

(f) any conditions on the restriction, such as limitation of visitors or requirements for medical monitoring;

(g) the medical or scientific information upon which the restriction is based;

(h) a statement advising of the right to a judicial review of the order of restriction by the [~~district~~] court; and

(i) pursuant to Subsection (2), the rights of each individual subject to restriction.

(2) An individual subject to restriction has the following rights:

(a) the right to be represented by legal counsel in any judicial review of the order of restriction in accordance with Subsection [~~26-6b-4~~] 26B-7-309(3);

(b) the right to be provided with prior notice of the date, time, and location of any hearing concerning the order of restriction;

(c) the right to participate in any hearing, in a manner established by the court based on precautions necessary to prevent additional exposure to communicable or possibly communicable diseases or to protect the public health;

(d) the right to respond and present evidence and arguments on the individual's own behalf in any hearing;

(e) the right to cross examine witnesses; and

(f) the right to review and copy all records in the possession of the department that issued the order of restriction which relate to the subject of the written order of restriction.

(3) (a) Notwithstanding the provisions of Subsection (1), if the department or a local health department issues an order of restriction for a group of individuals, the department or local health department may modify the method of providing notice to the group or modify the information contained in the notice, if the public health official determines the modification of the notice is necessary to:

(i) protect the privacy of medical information of individuals in the group; or

(ii) provide notice to the group in a manner that will efficiently and effectively notify the individuals in the group within the period of time necessary to protect the public health.

(b) When the department or a local health department modifies notice to a group of individuals under Subsection (3)(a), the department or local health department shall provide each individual in the group with notice that complies with the provisions of Subsection (1) as soon as reasonably practical.

(4) (a) In addition to the rights of an individual described in Subsections (1) and (2), an individual subject to an order of restriction may not be terminated from employment if the reason for termination is based solely on the fact that the individual is or was subject to an order of restriction.

(b) The department or local health department issuing the order of restriction shall give the individual subject to the order of restriction notice of the individual's employment rights under Subsection (4)(a).

(c) An employer in the state, including an employer who is the state or a political subdivision of the state, may not violate the provisions of Subsection (4)(a).

Section 277. Section 26B-7-308, which is renumbered from Section 26-6b-3.4 is renumbered and amended to read:

[~~26-6b-3.4~~]. 26B-7-308. Medical records -- Privacy protections.

(1) (a) Health care providers as defined in Section 78B-3-403, health care facilities licensed under [~~Title 26, Chapter 21~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection, [~~Act,~~] and governmental entities, shall, when requested, provide the public health official and the individual subject to an order of restriction, a copy of medical records that are relevant to the order of restriction.

(b) The records requested under Subsection (1)(a) shall be provided as soon as reasonably possible after the request is submitted to the health care provider or health care facility, or as soon as reasonably possible after the health care provider or facility receives the results of any relevant diagnostic testing of the individual.

(2) (a) The production of records under the provisions of this section is for the benefit of the public health and safety of the citizens of the state. A health care provider or facility is encouraged to provide copies of medical records or other records necessary to carry out the purpose of [~~this chapter~~] Sections 26B-7-304 through 26B-7-314 free of charge.

(b) Notwithstanding the provisions of Subsection (2)(c), a health care facility that is a state governmental entity shall provide medical records or other records necessary to carry out the purposes of [~~this chapter~~] Sections 26B-7-304 through 26B-7-314, free of charge.

(c) If a health care provider or health care facility does not provide medical records free of charge under the provisions of Subsection (2)(a) or (b), the health care provider or facility may charge a fee for the records that does not exceed the presumed reasonable charges established for workers' compensation by administrative rule adopted by the Labor Commission.

(3) Medical records held by a court related to orders of restriction under [~~this chapter~~] Sections 26B-7-304 through 26B-7-314 shall be sealed by the [~~district~~] court at the conclusion of the case.

Section 278. Section 26B-7-309, which is renumbered from Section 26-6b-4 is renumbered and amended to read:

[~~26-6b-4~~]. 26B-7-309. Judicial review -- Required notice -- Representation by counsel -- Conduct of proceedings.

(1) The provisions of this section and Sections [~~26-6b-5~~] 26B-7-310 through [~~26-6b-7~~] 26B-7-312 apply if the department or a local health department issues an order for restriction, and:

(a) an individual subject to the order of restriction refuses to consent to the order of restriction;

(b) an individual subject to an order of restriction has withdrawn consent to an order of restriction under the provisions of Subsection [~~26-6b-3.1~~] 26B-7-305(1)(b)(iv)(B); or

(c) the department or local health department chooses to not attempt to obtain consent to an order of restriction and files an action for judicial review of the order of restriction.

(2) (a) If the individual who is subject to an order of restriction is in custody, the department or local health department, which is the petitioner, shall

provide to the individual written notice of the petition for judicial review of the order of restriction and hearings held pursuant to Sections [~~26-6b-5~~] 26B-7-310 through [~~26-6b-7~~] 26B-7-312 as soon as practicable, and shall send the notice to the legal guardian, legal counsel for the parties involved, and any other persons and immediate adult family members whom the individual or the [~~district~~] court designates.

(b) The notice described in Subsection (2)(a) shall advise these persons that a hearing may be held within the time provided by this [~~chapter~~] part.

[~~(b)~~] (c) If the individual has refused to permit release of information necessary for the provision of notice under this Subsection (2), the extent of notice shall be determined by the [~~district~~] court.

[~~(c)~~] (d) Notwithstanding the notice requirement in Subsection (2)(a), if the court determines that written notice to each individual in a group of individuals subject to an order of restriction is not practical considering the circumstances of the threat to public health, the court may order the department to provide notice to the individual or group of individuals in a manner determined by the court.

(3) (a) If the individual who is subject to an order of restriction is in custody, he shall be afforded an opportunity to be represented by counsel. If neither the individual nor others provide for counsel, the [~~district~~] court shall appoint counsel and allow counsel sufficient time to consult with the individual prior to the hearing. If the individual is indigent, the payment of reasonable attorney fees for counsel, as determined by the [~~district~~] court, shall be made by the county in which the individual resides or was found.

(b) The parties may appear at the hearings, to testify, and to present and cross-examine witnesses. The [~~district~~] court may, in its discretion, receive the testimony of any other individual.

(c) The [~~district~~] court may allow a waiver of the individual's right to appear only for good cause shown, and that cause shall be made a part of the court record.

(d) The [~~district~~] court may order that the individual participate in the hearing by telephonic or other electronic means if the individual's condition poses a health threat to those who physically attend the hearing or to others if the individual is transported to the court.

(4) The [~~district~~] court may, in its discretion, order that the individual be moved to a more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may transfer the proceedings to any other [~~district~~] court within this state where venue is proper, provided that the transfer will not be adverse to the legal interests of the individual.

(5) All persons to whom notice is required to be given may attend the hearings. The [~~district~~] court may exclude from the hearing all persons not necessary for the conduct of the proceedings.

(6) All hearings shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the health of the individual or others required to participate in the hearing.

(7) The [~~district~~] court shall receive all relevant and material evidence which is offered, subject to Utah Rules of Evidence.

(8) The [~~district~~] court may order law enforcement to assist the petitioner in locating the individuals subject to restriction and enforcing the order of restriction.

Section 279. Section 26B-7-310, which is renumbered from Section 26-6b-5 is renumbered and amended to read:

[~~26-6b-5~~]. 26B-7-310. Petition for judicial review of order of restriction -- Court-ordered examination period.

(1) (a) A department may petition for a judicial review of the department's order of restriction for an individual or group of individuals who are subject to restriction by filing a written petition with the [~~district~~] court of the county in which the individual or group of individuals reside or are located.

(b) (i) The county attorney for the county where the individual or group of individuals reside or are located shall represent the local health department in any proceedings under [~~this chapter~~] Sections 26B-7-304 through 26B-7-314.

(ii) The Office of the Attorney General shall represent the department when the petitioner is the [~~Department of Health~~] department in any proceedings under [~~this chapter~~] Sections 26B-7-304 through 26B-7-314.

(2) The petition under Subsection (1) shall be accompanied by:

(a) written affidavit of the department stating:

(i) a belief the individual or group of individuals are subject to restriction;

(ii) a belief that the individual or group of individuals who are subject to restriction are likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately restrained;

(iii) this failure would pose a threat to the public health; and

(iv) the personal knowledge of the individual's or group of individuals' condition or the circumstances that lead to that belief; and

(b) a written statement by a licensed physician or physician assistant indicating the physician or physician assistant finds the individual or group of individuals are subject to restriction.

(3) The court shall issue an order of restriction requiring the individual or group of individuals to

submit to involuntary restriction to protect the public health if the [~~district~~] court finds:

(a) there is a reasonable basis to believe that the individual's or group of individuals' condition requires involuntary examination, quarantine, treatment, or isolation pending examination and hearing; or

(b) the individual or group of individuals have refused to submit to examination by a health professional as directed by the department or to voluntarily submit to examination, treatment, quarantine, or isolation.

(4) If the individual or group of individuals who are subject to restriction are not in custody, the court may make its determination and issue its order of restriction in an ex parte hearing.

(5) At least 24 hours prior to the hearing required by Section [~~26-6b-6~~] 26B-7-311, the department which is the petitioner, shall report to the court, in writing, the opinion of qualified health care providers:

(a) regarding whether the individual or group of individuals are infected by or contaminated with:

(i) a communicable or possible communicable disease that poses a threat to public health;

(ii) an infectious agent or possibly infectious agent that poses a threat to public health;

(iii) a chemical or biological agent that poses a threat to public health; or

(iv) a condition that poses a threat to public health;

(b) that despite the exercise of reasonable diligence, the diagnostic studies have not been completed;

(c) whether the individual or group of individuals have agreed to voluntarily comply with necessary examination, treatment, quarantine, or isolation; and

(d) whether the petitioner believes the individual or group of individuals will comply without court proceedings.

Section 280. Section 26B-7-311, which is renumbered from Section 26-6b-6 is renumbered and amended to read:

[~~26-6b-6~~]. 26B-7-311. Court determination for an order of restriction after examination period.

(1) The [~~district~~] court shall set a hearing regarding the involuntary order of restriction of an individual or group of individuals, to be held within 10 business days of the issuance of its order of restriction issued pursuant to Section [~~26-6b-5~~] 26B-7-310, unless the petitioner informs the [~~district~~] court prior to this hearing that the individual or group of individuals:

(a) are not subject to restriction; or

(b) have stipulated to the issuance of an order of restriction.

(2) If the individual or an individual in a group of individuals has stipulated to the issuance of an order of restriction, the court may issue an order as provided in Subsection (6) for those individuals without further hearing.

(3) (a) If the examination report required in Section [~~26-6b-5~~] 26B-7-310 proves the individual or group of individuals are not subject to restriction, the court may without further hearing terminate the proceedings and dismiss the petition.

(b) The court may, after a hearing at which the individual or group of individuals are present in person or by telephonic or other electronic means and have had the opportunity to be represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90 days, if the court has reason to believe the individual or group of individuals are infected by or contaminated with:

(i) a communicable or possibly communicable disease that poses a threat to public health;

(ii) an infectious agent or possibly infectious agent that poses a threat to public health;

(iii) a chemical or biological agent that poses a threat to public health; or

(iv) a condition that poses a threat to public health, but, despite the exercise of reasonable diligence the diagnostic studies have not been completed.

(4) The petitioner shall, at the time of the hearing, provide the [~~district~~] court with the following items, to the extent that they have been issued or are otherwise available:

(a) the order of restriction issued by the petitioner;

(b) admission notes if any individual was hospitalized; and

(c) medical records pertaining to the current order of restriction.

(5) The information provided to the court under Subsection (4) shall also be provided to the individual's or group of individual's counsel at the time of the hearing, and at any time prior to the hearing upon request of counsel.

(6) (a) The [~~district~~] court shall order the individual and each individual in a group of individuals to submit to the order of restriction if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that:

(i) the individual or group of individuals are infected with a communicable disease or infectious agent, are contaminated with a chemical or biological agent, or are in a condition that poses a threat to public health;

(ii) there is no appropriate and less restrictive alternative to a court order of examination, quarantine, isolation, and treatment, or any of them;

(iii) the petitioner can provide the individual or group of individuals with treatment that is adequate and appropriate to the individual's or group of individuals' conditions and needs; and

(iv) it is in the public interest to order the individual or group of individuals to submit to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing the following factors:

(A) the personal or religious beliefs, if any, of the individual that are opposed to medical examination or treatment;

(B) the ability of the department to control the public health threat with treatment alternatives that are requested by the individual;

(C) the economic impact for the department if the individual is permitted to use an alternative to the treatment recommended by the department; and

(D) other relevant factors as determined by the court.

(b) If upon completion of the hearing the court does not find all of the conditions listed in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

(7) The order of restriction shall designate the period, subject to Subsection (8), for which the individual or group of individuals shall be examined, treated, isolated, or quarantined.

(8) (a) The order of restriction may not exceed six months without benefit of a [~~district~~] court review hearing.

(b) (i) The [~~district~~] court review hearing shall be held prior to the expiration of the order of restriction issued under Subsection (7).

(ii) At the review hearing the court may issue an order of restriction for up to an indeterminate period, if the [~~district~~] court enters a written finding in the record determining by clear and convincing evidence that the required conditions in Subsection (6) will continue for an indeterminate period.

Section 281. Section 26B-7-312, which is renumbered from Section 26-6b-7 is renumbered and amended to read:

[~~26-6b-7~~]. 26B-7-312. Periodic review of individuals under court order.

(1) (a) At least two weeks prior to the expiration of the designated period of any court order still in effect, the petitioner shall inform the court that issued the order that the order is about to expire.

(b) The petitioner shall immediately reexamine the reasons upon which the court's order was based.

(c) If the petitioner determines that the conditions justifying that order no longer exist, [~~it~~] the petitioner shall discharge the individual from involuntary quarantine, isolation, or treatment and report its action to the court for a termination of the order.

(d) [~~Otherwise~~] If the conditions justifying the order still exist, the court shall schedule a hearing prior to the expiration of [~~its~~] the court's order and proceed under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311.

(2) (a) The petitioner responsible for the care of an individual under a court order of involuntary quarantine, isolation, or treatment for an indeterminate period shall at six-month intervals reexamine the reasons upon which the order of indeterminate duration was based.

(b) If the petitioner determines that the conditions justifying that the court's order no longer exist, the petitioner shall discharge the individual from involuntary quarantine, isolation, or treatment and immediately report its action to the court for a termination of the order.

(c) If the petitioner determines that the conditions justifying the involuntary quarantine, isolation, or treatment continue to exist, the petitioner shall send a written report of those findings to the court.

(d) The petitioner shall notify the individual and his counsel of record in writing that the involuntary quarantine, isolation, or treatment will be continued, the reasons for that decision, and that the individual has the right to a review hearing by making a request to the court.

(e) Upon receiving the request for a review, the court shall immediately set a hearing date and proceed under Sections [~~26-6b-4~~] 26B-6-309 through [~~26-6b-6~~] 26B-6-311.

Section 282. Section 26B-7-313, which is renumbered from Section 26-6b-8 is renumbered and amended to read:

[~~26-6b-8~~]. 26B-7-313. Transportation of individuals subject to temporary or court-ordered restriction.

Transportation of an individual subject to an order of restriction to court, or to a place for examination, quarantine, isolation, or treatment pursuant a temporary order issued by a department or local health department, or pursuant to a court order, shall be conducted by the county sheriff where the individual is located.

Section 283. Section 26B-7-314, which is renumbered from Section 26-6b-9 is renumbered and amended to read:

[~~26-6b-9~~]. 26B-7-314. Examination, quarantine, isolation, and treatment costs.

If a local health department obtains approval from the [~~Department of Health~~] department, the costs that the local health department would otherwise have to bear for examination, quarantine, isolation, and treatment ordered under the provisions of [~~this chapter~~] Sections 26B-7-304 through 26B-7-314 shall be paid by the [~~Department of Health~~] department to the extent that the individual is unable to pay and that other sources and insurance do not pay.

Section 284. Section 26B-7-315, which is renumbered from Section 26-6b-10 is renumbered and amended to read:

[~~26-6b-10~~]. 26B-7-315. Severability.

[~~If any provision of this chapter,~~] With respect to Sections 26B-7-304 through 26B-7-314, if a provision or the application of [~~this chapter~~] a provision to any person or circumstance[~~,~~] is found to be unconstitutional, the provision that is found to be unconstitutional is severable and the balance of [~~this chapter remains~~] any sections not found to be unconstitutional remain effective, notwithstanding [~~that unconstitutionality~~] those sections found to be unconstitutional.

Section 285. Section 26B-7-316, which is renumbered from Section 26-23b-103 is renumbered and amended to read:

[~~26-23b-103~~]. 26B-7-316. Mandatory reporting requirements -- Contents of reports -- Penalties.

(1) (a) A health care provider shall report to the department any case of any person who the provider knows has a confirmed case of, or who the provider believes in his professional judgment is sufficiently likely to harbor any illness or health condition that may be caused by:

(i) bioterrorism;

(ii) epidemic or pandemic disease; or

(iii) novel and highly fatal infectious agents or biological toxins which might pose a substantial risk of a significant number of human fatalities or incidences of permanent or long-term disability.

(b) A health care provider shall immediately submit the report required by Subsection (1)(a) within 24 hours of concluding that a report is required under Subsection (1)(a).

(2) (a) A report required by this section shall be submitted electronically, verbally, or in writing to the department or appropriate local health department.

(b) A report submitted pursuant to Subsection (1) shall include, if known:

(i) diagnostic information on the specific illness or health condition that is the subject of the report, and, if transmitted electronically, diagnostic codes assigned to the visit;

(ii) the patient's name, date of birth, sex, race, occupation, and current home and work address and phone number;

(iii) the name, address, and phone number of the health care provider; and

(iv) the name, address, and phone number of the reporting individual.

(3) The department may impose a sanction against a health care provider for failure to make a report required by this section only if the department can show by clear and convincing evidence that a health care provider willfully failed to file a report.

Section 286. Section 26B-7-317, which is renumbered from Section 26-23b-104 is renumbered and amended to read:

[~~26-23b-104~~]. 26B-7-317. Authorization to report -- Declaration of a public health emergency -- Termination of a public health emergency -- Order of constraint.

(1) A health care provider is authorized to report to the department any case of a reportable emergency illness or health condition in any person when:

(a) the health care provider knows of a confirmed case; or

(b) the health care provider believes, based on the health care provider's professional judgment that a person likely harbors a reportable emergency illness or health condition.

(2) A report pursuant to this section shall include, if known:

(a) the name of the facility submitting the report;

(b) a patient identifier that allows linkage with the patient's record for follow-up investigation if needed;

(c) the date and time of visit;

(d) the patient's age and sex;

(e) the zip code of the patient's residence;

(f) the reportable illness or condition detected or suspected;

(g) diagnostic information and, if available, diagnostic codes assigned to the visit; and

(h) whether the patient was admitted to the hospital.

(3) (a) Subject to Subsections (3)(b) and (4), if the department determines that a public health emergency exists, the department may, with the concurrence of the governor and the executive director or in the absence of the executive director, the executive director's designee, declare a public health emergency, issue an order of constraint, and mandate reporting under this section for a limited reasonable period of time, as necessary to respond to the public health emergency.

(b) (i) During a public health emergency that has been in effect for more than 30 days, the department may not issue an order of constraint until the department has provided notice of the proposed action to the legislative emergency response committee no later than 24 hours before the department issues the order of constraint.

(ii) The department:

(A) shall provide the notice required by Subsection (3)(b)(i) using the best available method under the circumstances as determined by the executive director;

(B) may provide the notice required by Subsection (3)(b)(i) in electronic format; and

(C) shall provide the notice in written form, if practicable.

(c) The department may not mandate reporting under this subsection for more than 90 days.

(4) (a) Except as provided in Subsection (4)(b), a public health emergency declared by the department as described in Subsection (3) expires at the earliest of:

(i) the day on which the department or the governor finds that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by a joint resolution of the Legislature.

(b) (i) The Legislature, by joint resolution, may extend a public health emergency for a time period designated in the joint resolution.

(ii) If the Legislature extends a public health emergency as described in Subsection (4)(b)(i), the public health emergency expires on the date designated by the Legislature.

(c) Except as provided in Subsection (4)(d), if a public health emergency declared by the department expires as described in Subsection (4)(a) or (b), the department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (4)(c), subject to Subsection (4)(e), if the department finds that exigent circumstances exist, after providing notice to the Legislature, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (4)(d)(i) expires in accordance with Subsection (4)(a) or (b).

(e) If the Legislature terminates a public health emergency declared due to exigent circumstances as described in Subsection (4)(d)(i), the department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(5) During a declared public health emergency declared under this title:

(a) the Legislature may:

(i) at any time by joint resolution terminate an order of constraint issued by the department; or

(ii) by joint resolution terminate an order of constraint issued by a local health department in response to a public health emergency that has been in effect for more than 30 days; and

(b) a county legislative body may at any time terminate an order of constraint issued by a local health department in response to a declared public health emergency.

(6) (a) (i) If the department declares a public health emergency as described in this [~~chapter~~] part, and the department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the Legislature as described in this section, the department shall provide written notice to the speaker of the House of Representatives and the president of the Senate at least 10 days before the expiration of the public health emergency.

(ii) If a local health department declares a public health emergency as described in this [~~chapter~~] part, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the county governing body as described in this section, the local health department shall provide written notice to the county governing body at least 10 days before the expiration of the public health emergency.

(b) If the department provides notice as described in Subsection (6)(a)(i) for a public health emergency within the first 30 days from the initial declaration of the public health emergency, the speaker of the House of Representatives and the president of the Senate:

(i) shall poll the members of their respective bodies to determine whether the Legislature will extend the public health emergency; and

(ii) may jointly convene the committee created in Section 53-2a-218.

(c) If the department provides notice as described in Subsection (6)(a)(i) for a public health emergency that has been extended beyond the 30 days from the initial declaration of the public health emergency, the speaker of the House of Representatives and the president of the Senate shall jointly convene the committee created in Section 53-2a-218.

(7) If the committee created in Section 53-2a-218 is convened as described in Subsection (6), the committee shall conduct a public meeting to:

(a) discuss the nature of the public health emergency and conditions of the public health emergency;

(b) evaluate options for public health emergency response;

(c) receive testimony from individuals with expertise relevant to the current public health emergency;

(d) receive testimony from members of the public; and

(e) provide a recommendation to the Legislature whether to extend the public health emergency by joint resolution.

(8) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (8).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(9) (a) Unless the provisions of Subsection (3) apply, a health care provider is not subject to penalties for failing to submit a report under this section.

(b) If the provisions of Subsection (3) apply, a health care provider is subject to the penalties of Subsection [~~26-23b-103~~] 26B-7-316(3) for failure to make a report under this section.

Section 287. Section 26B-7-318, which is renumbered from Section 26-23b-105 is renumbered and amended to read:

[~~26-23b-105~~]. 26B-7-318. Pharmacy reporting requirements.

(1) Notwithstanding the provisions of Subsection [~~26-23b-103~~] 26B-7-316(1)(a), a pharmacist shall report unusual drug-related events as described in Subsection (2).

(2) Unusual drug-related events that require a report include:

(a) an unusual increase in the number of prescriptions filled for antimicrobials;

(b) any prescription that treats a disease that has bioterrorism potential if that prescription is unusual or in excess of the expected frequency; and

(c) an unusual increase in the number of requests for information about or sales of over-the-counter pharmaceuticals to treat conditions which may suggest the presence of one of the illnesses or conditions described in Section [~~26-23b-103~~] 26B-7-316 or [~~26-23b-104~~] 26B-7-317 and which are designated by department rule.

(3) (a) A pharmacist shall submit the report required by this section within 24 hours after the pharmacist suspects, in his professional judgement, that an unusual drug-related event has occurred.

(b) If a pharmacy is part of a health care facility subject to the reporting requirements of [~~this chapter~~] Sections 26B-7-316 through 26B-7-324, the pharmacist in charge shall make the report under this section on behalf of the health care facility.

(4) (a) The report required by this section shall be submitted in accordance with Subsection [~~26-23b-103~~] 26B-7-316(2)(a).

(b) A report shall include the name and location of the reporting pharmacist, the name and type of pharmaceuticals that are the subject of the unusual increase in use, and if known, the suspected illness or health condition that is the subject of the report.

(5) A pharmacist is subject to the penalties under Subsection [~~26-23b-103~~] 26B-7-316(3) for failing to make a report required by this section.

Section 288. Section 26B-7-319, which is renumbered from Section 26-23b-106 is renumbered and amended to read:

[~~26-23b-106~~]. 26B-7-319. Medical laboratory reporting requirements.

(1) Notwithstanding the provisions of Subsection [~~26-23b-103~~] 26B-7-316(1), the director of a medical laboratory located in this state is responsible for reporting results of a laboratory test that confirm a condition or illness described in Subsection [~~26-23b-103~~] 26B-7-316(1) within 24 hours after obtaining the results of the test. This reporting requirement also applies to results obtained on specimens sent to an out-of-state laboratory for analysis.

(2) The director of a medical laboratory located outside this state that receives a specimen obtained inside this state is responsible for reporting the results of any test that confirm a condition or illness described in Subsection [~~26-23b-103~~] 26B-7-316(1), within 24 hours of obtaining the results, provided that the laboratory that performs the test has agreed to the reporting requirements of this state.

(3) If a medical laboratory is part of a health care facility subject to the reporting requirements of [~~this chapter~~] Sections 26B-7-316 through 26B-7-324, the director of the medical laboratory

shall make the report required by this section on behalf of the health care facility.

(4) The report required by this section shall be submitted in accordance with Subsection [~~26-23b-103~~] 26B-7-316(2).

(5) The director of a medical laboratory is subject to the penalties of Subsection [~~26-23b-103~~] 26B-7-316(3) for failing to make a report required by this section.

Section 289. Section 26B-7-320, which is renumbered from Section 26-23b-107 is renumbered and amended to read:

[~~26-23b-107~~]. 26B-7-320. Exemptions from liability.

(1) A health care provider may not be discharged, suspended, disciplined, or harassed for making a report [~~pursuant to this chapter~~] under Sections 26B-7-316 through 26B-7-323.

(2) A health care provider may not incur any civil or criminal liability as a result of making any report under [~~this chapter~~] Sections 26B-7-316 through 26B-7-323 so long as the report is made in good faith.

Section 290. Section 26B-7-321, which is renumbered from Section 26-23b-108 is renumbered and amended to read:

[~~26-23b-108~~]. 26B-7-321. Investigation of suspected bioterrorism and diseases -- Termination of orders of constraint.

(1) Subject to Subsection (6), the department shall:

(a) ascertain the existence of cases of an illness or condition caused by the factors described in Subsections [~~26-23b-103~~] 26B-7-316(1) and [~~26-23b-104~~] 26B-7-317(1);

(b) investigate all such cases for sources of infection or exposure;

(c) ensure that any cases, suspected cases, and exposed persons are subject to proper control measures; and

(d) define the distribution of the suspected illness or health condition.

(2) (a) Acting on information received from the reports required by [~~this chapter~~] Sections 26B-7-316 through 26B-7-320, or other reliable information, the department shall identify all individuals thought to have been exposed to an illness or condition described in Subsection [~~26-23b-103~~] 26B-7-316(1).

(b) The department may request information from a health care provider concerning an individual's identifying information as described in Subsection [~~26-23b-103~~] 26B-7-316(2)(b) when:

(i) the department is investigating a potential illness or condition described in Subsection [~~26-23b-103~~] 26B-7-316(1) and the health care provider has not submitted a report to the department with the information requested; or

(ii) the department has received a report from a pharmacist under Section [~~26-23b-105~~] 26B-7-318, a medical laboratory under Section [~~26-23b-106~~] 26B-7-319, or another health care provider under Subsection [~~26-23b-104~~] 26B-7-317(1) and the department believes that further investigation is necessary to protect the public health.

(c) A health care provider shall submit the information requested under this section to the department within 24 hours after receiving a request from the department.

(3) The department shall counsel and interview identified individuals as appropriate to:

(a) assist in the positive identification of other cases and exposed individuals;

(b) develop information relating to the source and spread of the illness or condition; and

(c) obtain the names, addresses, phone numbers, or other identifying information of any other person from whom the illness or health condition may have been contracted and to whom the illness or condition may have spread.

(4) The department shall, for examination purposes, close, evacuate, or decontaminate any facility when the department reasonably believes that such facility or material may endanger the public health due to a condition or illness described in Subsection [~~26-23b-103~~] 26B-7-316(1).

(5) The department [~~will~~] shall destroy personally identifying health information about an individual collected by the department as a result of a report under [~~this chapter~~] Sections 26B-7-316 through 26B-7-322 upon the earlier of:

(a) the department's determination that the information is no longer necessary to carry out an investigation under [~~this chapter~~] Sections 26B-7-316 through 26B-7-324; or

(b) 180 days after the information is collected.

(6) (a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department in response to a declared public health emergency.

(b) A county governing body may at any time terminate by majority vote an order of constraint issued by the relevant local health department in response to a declared public health emergency.

Section 291. Section 26B-7-322, which is renumbered from Section 26-23b-109 is renumbered and amended to read:

[~~26-23b-109~~]. 26B-7-322. Enforcement.

The department may enforce the provisions of [~~this chapter~~] Sections 26B-7-316 through 26B-7-324 in accordance with existing enforcement laws and regulations.

Section 292. Section 26B-7-323, which is renumbered from Section 26-23b-110 is renumbered and amended to read:

[~~26-23b-110~~]. 26B-7-323. Information sharing with public safety authorities.

(1) [~~For purposes of~~] As used in this section, "public safety authority" means a local, state, or federal law enforcement authority including the Division of Emergency Management, emergency medical services personnel, and firefighters.

(2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records Access and Management Act:

(a) whenever a public safety authority suspects a case of a reportable illness or condition under the provisions of [~~this chapter~~] Sections 26B-7-316 through 26B-7-324, it shall immediately notify the department;

(b) whenever the department learns of a case of a reportable illness or condition under this [~~chapter~~] part that [~~it~~] the department reasonably believes has the potential to be caused by one of the factors listed in Subsection [~~26-23b-103~~] 26B-7-316(1), [~~it~~] the department shall immediately notify the appropriate public safety authority; and

(c) sharing of information reportable under [~~the provisions of this chapter~~] Sections 26B-7-316 through 26B-7-324 between persons authorized by [~~this chapter~~] Sections 26B-7-316 through 26B-7-324 shall be limited to information necessary for the treatment, control, investigation, and prevention of a public health emergency.

[~~(3) Except to the extent inconsistent with this chapter, Sections 26-6-27 and 26-6-28 apply to this chapter.~~]

Section 293. Section 26B-7-324 is enacted to read:

26B-7-324. Applicability of confidentiality provisions.

The provisions of Sections 26B-7-217 and 26B-7-218 apply to information collected under Sections 26B-7-316 through 26B-7-323 except to the extent that application of a provision in Section 26B-7-217 or 26B-7-218 is inconsistent with Sections 26B-7-316 through 26B-7-323.

Section 294. Section 26B-7-401, which is renumbered from Section 26-15a-102 is renumbered and amended to read:

Part 4. General Sanitation and Food Safety

[~~26-15a-102~~]. 26B-7-401. Definitions.

As used in this part:

(1) "Agricultural tourism activity" means the same as that term is defined in Section 78B-4-512.

(2) "Agritourism" means the same as that term is defined in Section 78B-4-512.

(3) "Agritourism food establishment" means a non-commercial kitchen facility where food is handled, stored, or prepared to be offered for sale on a farm in connection with an agricultural tourism activity.

(4) "Agritourism food establishment permit" means a permit issued by a local health department to the operator for the purpose of operating an agritourism food establishment.

[~~(1)~~] (5) "Back country food service establishment" means a federal or state licensed back country guiding or outfitting business that:

(a) provides food services; and

(b) meets department recognized federal or state food service safety regulations for food handlers.

[~~(2)~~] (6) "Certified food safety manager" means a manager of a food service establishment who:

(a) passes successfully a department-approved examination;

(b) successfully completes, every three years, renewal requirements established by department rule consistent with original certification requirements; and

(c) submits to the appropriate local health department the documentation required by Section [~~26-15a-106~~] 26B-7-412.

(7) "Farm" means a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

(8) "Food" means:

(a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

(b) chewing gum.

[~~(3)~~] (9) "Food service establishment" means any place or area within a business or organization where potentially hazardous foods, as defined by the department under Section 26B-7-410, are prepared and intended for individual portion service and consumption by the general public, whether the consumption is on or off the premises, and whether or not a fee is charged for the food.

[~~(4) "Local health department" means a local health department as defined in Subsection 26A-1-102(5).~~]

[~~(5) "Potentially hazardous foods" shall be defined by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(10) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility located in a private home and operated by a resident of the home where ready-to-eat food is handled, stored, prepared, or offered for sale.

(b) "Microenterprise home kitchen" does not include:

(i) a catering operation;

(ii) a cottage food operation;

(iii) a food truck;

(iv) an agritourism food establishment;

(v) a bed and breakfast; or

(vi) a residence-based group care facility.

(11) "Microenterprise home kitchen permit" means a permit issued by a local health department to the operator for the purpose of operating a microenterprise home kitchen.

(12) "Ready-to-eat" means:

(a) raw animal food that is cooked;

(b) raw fruits and vegetables that are washed;

(c) fruits and vegetables that are cooked for hot holding;

(d) a time or temperature control food that is cooked to the temperature and time required for the specific food in accordance with rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(e) a bakery item for which further cooking is not required for food safety.

(13) "Time or temperature control food" means food that requires time or temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

Section 295. Section 26B-7-402, which is renumbered from Section 26-15-2 is renumbered and amended to read:

[~~26-15-2~~]. 26B-7-402. Minimum rules of sanitation established by department.

The department shall establish and enforce, or provide for the enforcement of minimum rules of sanitation necessary to protect the public health. Such rules shall include, but not be limited to, rules necessary for the design, construction, operation, maintenance, or expansion of:

(1) restaurants and all places where food or drink is handled, sold or served to the public;

(2) public swimming pools;

(3) public baths including saunas, spas, massage parlors, and suntan parlors;

(4) public bathing beaches;

(5) schools which are publicly or privately owned or operated;

(6) recreational resorts, camps, and vehicle parks;

(7) amusement parks and all other centers and places used for public gatherings;

(8) mobile home parks and highway rest stops;

(9) construction or labor camps;

(10) jails, prisons and other places of incarceration or confinement;

(11) hotels and motels;

(12) lodging houses and boarding houses;

(13) service stations;

(14) barbershops and beauty shops, including a facility in which one or more individuals are engaged in:

(a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and Associated Professions Licensing Act; or

(b) styling hair in accordance with the exemption from licensure described in Section 58-11a-304(13);

(15) physician and dentist offices;

(16) public buildings and grounds;

(17) public conveyances and terminals; and

(18) commercial tanning facilities.

Section 296. Section 26B-7-403, which is renumbered from Section 26-15-3 is renumbered and amended to read:

[~~26-15-3~~]. 26B-7-403. Department to advise regarding the plumbing code.

(1) The department shall advise the Division of Professional Licensing and the Uniform Building Code Commission with respect to the adoption of a state construction code under Section 15A-1-204, including providing recommendations as to:

(a) a specific edition of a plumbing code issued by a nationally recognized code authority; and

(b) any amendments to a nationally recognized code.

(2) The department may enforce the plumbing code adopted under Section 15A-1-204.

(3) Section 58-56-9 does not apply to health inspectors acting under this section.

Section 297. Section 26B-7-404, which is renumbered from Section 26-15-4 is renumbered and amended to read:

[~~26-15-4~~]. 26B-7-404. Rules for wastewater disposal systems.

The department shall establish rules necessary to protect the public health for the design, and construction, operation and maintenance of individual wastewater disposal systems.

Section 298. Section 26B-7-405, which is renumbered from Section 26-15-7 is renumbered and amended to read:

[~~26-15-7~~]. 26B-7-405. Rules for controlling vector-borne diseases and pests.

(1) As used in this section:

(a) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the public health or well-being of the people within the state.

(b) "Vector" means any organism, such as insects or rodents, that transmits a pathogen that can affect public health.

(2) The department shall adopt rules to provide for the protection of the public health by controlling or preventing the spread of vector-borne diseases and infections and to control or reduce pests by the elimination of insanitary conditions which may include but not be limited to breeding areas, shelter, harborage or sources of food associated with such diseases or pests.

Section 299. Section 26B-7-406, which is renumbered from Section 26-15-8 is renumbered and amended to read:

[~~26-15-8~~]. 26B-7-406. Periodic evaluation of local health sanitation programs -- Minimum statewide enforcement standards -- Technical assistance.

(1) The department shall periodically evaluate the sanitation programs of local health departments to determine the levels of sanitation being maintained throughout the state.

(2) (a) The department shall ensure that each local health department's enforcement of the minimum rules of sanitation adopted under Section [~~26-15-2~~] 26B-7-402 for restaurants and other places where food or drink is handled meets or exceeds minimum statewide enforcement standards established by the department by administrative rule.

(b) Administrative rules adopted under Subsection (2)(a) shall include at least:

(i) the minimum number of periodic on-site inspections that shall be conducted by each local health department;

(ii) criteria for conducting additional inspections; and

(iii) standardized methods to be used by local health departments to assess compliance with the minimum rules of sanitation adopted under Section [~~26-15-2~~] 26B-7-402.

(c) The department shall help local health departments comply with the minimum statewide enforcement standards adopted under this Subsection (2) by providing technical assistance.

Section 300. Section 26B-7-407, which is renumbered from Section 26-15-13 is renumbered and amended to read:

[~~26-15-13~~]. 26B-7-407. Regulation of tanning facilities.

(1) For purposes of this section:

(a) "Minor" means [~~a person under 18 years of age~~] an individual who is younger than 18 years old.

(b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease.

(c) (i) "Tanning device" means equipment to which a tanning facility provides access that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including:

(A) a sunlamp; and

(B) a tanning booth or bed.

(ii) "Tanning device" does not include a phototherapy device.

(d) "Tanning facility" means a commercial location, place, area, structure, or business that provides access to a tanning device.

(2) A tanning facility shall:

(a) annually obtain a permit to do business as a tanning facility from the local health department with jurisdiction over the location in which the facility is located; and

(b) in accordance with Subsection (3) post a warning sign in a conspicuous location that is readily visible to a person about to use a tanning device.

(3) The posted warning and written consent required by Subsections (2) and (5) shall be developed by the department through administrative rules and shall include:

(a) that there are health risks associated with the use of a tanning device;

(b) that the facility may not allow a minor to use a tanning device unless the minor:

(i) has a written order from a physician; or

(ii) at each time of use is accompanied at the tanning facility by a parent or legal guardian who provides written consent authorizing the minor to use the tanning device.

(4) It is unlawful for any operator of a tanning facility to allow a minor to use a tanning device unless:

(a) the minor has a written order from a physician as defined in Section 58-67-102, to use a tanning device as a medical treatment; or

(b) (i) the minor's parent or legal guardian appears in person at the tanning facility each time that the minor uses a tanning device, except that the minor's parent or legal guardian is not required to remain at the facility for the duration of the use; and

(ii) the minor's parent or legal guardian signs the consent form required in Subsection (5).

(5) The written consent required by Subsection (4) shall be signed and dated each time the minor uses a tanning device at the facility, and shall include at least:

(a) information concerning the health risks associated with the use of a tanning device; and

(b) a statement that:

(i) the parent or legal guardian of the minor has read and understood the warnings given by the tanning facility, and consents to the minor's use of a tanning device; and

(ii) the parent or legal guardian agrees that the minor will use protective eye wear.

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

(a) minimum requirements a tanning facility shall satisfy to obtain a permit under Subsection (2);

(b) the written information concerning health risks a facility should include in the posted signs required by Subsection (3) and in the consent form required by Subsection (5);

(c) procedures a tanning facility shall implement to ensure a minor and the minor's parent or legal guardian comply with Subsections (4) and (5), including use of a statewide uniform form:

(i) for a parent or legal guardian to certify and give consent under Subsection (5); and

(ii) that clearly identifies the department's seal or other means to indicate that the form is an official form of the department; and

(d) the size, placement, and content of the sign a tanning facility must post under Subsection (2).

(7) (a) A violation of this section:

(i) is an infraction; and

(ii) may result in the revocation of a permit to do business as a tanning facility.

(b) If a person misrepresents to a tanning facility that the person is 18 years [~~of age~~] old or older, the person is guilty of an infraction.

(8) This section [~~supercedes~~] supersedes any ordinance enacted by the governing body of a political subdivision that:

(a) imposes restrictions on access to a tanning device by a person younger than [~~age~~] 18 years old that is not essentially identical to the provisions of this section; or

(b) that require the posting of warning signs at the tanning facility that are not essentially identical to the provisions of this section.

Section 301. Section 26B-7-408, which is renumbered from Section 26-31-201 is renumbered and amended to read:

[~~26-31-201~~]. 26B-7-408. Procurement and use of a blood product is a service and not a sale -- Blood donation by a minor.

(1) As used in this section:

(a) "Blood" means human blood.

(b) "Blood product" includes:

(i) whole blood;

(ii) blood plasma;

(iii) a blood derivative;

(iv) blood platelets; and

(v) blood clotting agents.

(2) The following are considered to be the rendition of a service by each participant and are not considered to be a sale:

[~~(1)~~] (a) the procurement, processing, distribution, or use of a blood product for the purpose of injecting or transfusing the blood product into the human body; and

[~~(2)~~] (b) the process of injecting or transfusing a blood product.

(3) A minor who is at least 16 years old may donate blood to a voluntary, noncompensatory blood donation program if a parent or legal guardian of the minor consents to the donation.

Section 302. Section 26B-7-409, which is renumbered from Section 26-51-201 is renumbered and amended to read:

[~~26-51-201~~]. 26B-7-409. Scientific standards for methamphetamine decontamination -- Public education concerning methamphetamine contamination.

(1) The department shall make rules adopting scientifically-based standards for methamphetamine decontamination.

(2) A local health department, as defined in Title 26A, Local Health Authorities, shall follow rules made by the department under Subsection (1) in administering Title 19, Chapter 6, Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.

(3) The department shall conduct a public education campaign to inform the public about potential health risks of methamphetamine contamination.

Section 303. Section 26B-7-410, which is renumbered from Section 26-15a-104 is renumbered and amended to read:

[~~26-15a-104~~]. 26B-7-410. Food service establishment requirements -- Enforcement -- Right of appeal -- Rulemaking -- Enforcement by local health departments.

(1) Each food service establishment in the state shall be managed by at least one full-time certified food safety manager at each establishment site, who need not be present at the establishment site during all its hours of operation.

(2) Within 60 days of the termination of a certified food safety manager's employment that results in the food service establishment no longer being in compliance with Subsection (1), the food service establishment shall:

(a) employ a new certified food safety manager; or

(b) designate another employee to become the establishment's certified food safety manager who shall commence a department-approved food safety manager training course.

(3) Compliance with the 60-day time period provided in Subsection (2) may be extended by the

local health department for reasonable cause, as determined by the department by rule.

(4) (a) The local health department may determine whether a food service establishment is in compliance with this section by visiting the establishment during regular business hours and requesting information and documentation about the employment of a certified food safety manager.

(b) If a violation of this section is identified, the local health department shall propose remedial action to bring the food service establishment into compliance.

(c) (i) A food service establishment receiving notice of a violation and proposed remedial action from a local health department may appeal the notice of violation and proposed remedial action pursuant to procedures established by the local health department, which shall be essentially consistent with the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(ii) Notwithstanding the provisions of Section 63G-4-402, an appeal of a local health department decision [~~to a district court~~] shall be conducted as an original, independent proceeding, and not as a review of the proceedings conducted by the local health department.

(iii) The [~~district~~] court shall give no deference to the findings or conclusions of the local health department.

(5) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a definition of "potentially hazardous foods" for purposes of this section and Section 26B-7-401; and

(ii) any provisions necessary to implement this section.

(b) The local health department with jurisdiction over the geographic area in which a food service establishment is located shall enforce the provisions of this section.

Section 304. Section 26B-7-411, which is renumbered from Section 26-15a-105 is renumbered and amended to read:

[~~26-15a-105~~]. 26B-7-411. Exemptions to food service establishment requirements.

(1) The following are not subject to the provisions of Section [~~26-15a-104~~] 26B-7-410:

(a) special events sponsored by municipal or nonprofit civic organizations, including food booths at school sporting events and little league athletic events and church functions;

(b) temporary event food services approved by a local health department;

(c) vendors and other food service establishments that serve only commercially prepackaged foods and beverages as defined by the department by rule;

(d) private homes not used as a commercial food service establishment;

(e) health care facilities licensed under Chapter [~~21~~] 2, Part 2, Health Care Facility Licensing and Inspection [~~Act~~];

(f) bed and breakfast establishments at which the only meal served is a continental breakfast as defined by the department by rule;

(g) residential child care providers;

(h) child care providers and programs licensed under [~~Chapter 39, Utah Child Care Licensing Act~~] Chapter 2, Part 4, Child Care Licensing;

(i) back country food service establishments;

(j) an event that is sponsored by a charitable organization, if, at the event, the organization:

(i) provides food to a disadvantaged group free of charge; and

(ii) complies with rules established by the department under Subsection (3); and

(k) a lowest risk or permitted food establishment category determined by a risk assessment evaluation established by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Nothing in this section may be construed as exempting a food service establishment described in Subsection (1) from any other applicable food safety laws of this state.

(3) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for charitable organizations providing food for free under Subsection (1)(j).

Section 305. Section 26B-7-412, which is renumbered from Section 26-15a-106 is renumbered and amended to read:

[~~26-15a-106~~]. 26B-7-412. Certified food safety manager.

(1) Before a person may manage a food service establishment as a certified food safety manager, that person shall submit documentation in the format prescribed by the department to the appropriate local health department indicating a passing score on a department-approved examination.

(2) To continue to manage a food service establishment, a certified food safety manager shall:

(a) successfully complete, every three years, renewal requirements established by department rule which are consistent with original certification requirements; and

(b) submit documentation in the format prescribed by the department within 30 days of the completion of renewal requirements to the appropriate local health department.

(3) A local health department may deny, revoke, or suspend the authority of a certified food safety

manager to manage a food service establishment or require the completion of additional food safety training courses for any one of the following reasons:

(a) submitting information required under Subsection (1) or (2) that is false, incomplete, or misleading;

(b) repeated violations of department or local health department food safety rules; or

(c) operating a food service establishment in a way that causes or creates a health hazard or otherwise threatens the public health, safety, or welfare.

(4) A determination of a local health department made pursuant to Subsection (3) may be appealed by a certified food safety manager in the same manner provided for in Subsection [~~26-15a-104~~] 26B-7-410(4).

(5) No person may use the title "certified food safety manager," or any other similar title, unless the person has satisfied the requirements of this [~~chapter~~] section.

(6) A local health department:

(a) may not charge a fee to accept or process the documentation described in Subsections (1) and (2);

(b) shall accept photocopies or electronic copies of the documentation described in Subsections (1) and (2); and

(c) shall allow an individual to submit the documentation described in Subsections (1) and (2) by mail, email, or in person.

(7) Certified food safety managers shall:

(a) establish and monitor compliance with practices and procedures in the food service establishments where they are employed to maintain compliance with department and local health department food safety rules; and

(b) perform such other duties that may be necessary to ensure food safety in the food service establishments where they are employed.

(8) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) statewide, uniform standards for certified food safety managers;

(ii) criteria for food safety certification examinations; and

(iii) any provisions necessary to implement this section.

(b) The department shall approve food safety certification examinations in accordance with this section.

(c) The local health department with jurisdiction over the geographic area in which a food service establishment is located shall enforce the provisions of this section.

Section 306. Section 26B-7-413, which is renumbered from Section 26-15-5 is renumbered and amended to read:

[~~26-15-5~~]. 26B-7-413. Requirements for food handlers -- Training program and testing requirements for permit -- Rulemaking -- Exceptions.

(1) As used in this section:

(a) "Approved food handler training program" means a training program described by this section and approved by the department.

(b) "Food handler" means a person who works with unpackaged food, food equipment or utensils, or food-contact surfaces for a food service establishment.

(c) "Food handler permit" means a permit issued by a local health department to allow a person to work as a food handler.

[~~(d) "Food service establishment" has the same meaning as provided in Section 26-15a-102.~~]

[~~(e)~~] (d) "Instructor" means an individual who is qualified to instruct an approved food handler program on behalf of a provider.

[~~(f)~~] (e) "Provider" means a person or entity that provides an approved food handler training program.

(2) A person may not work as a food handler for a food service establishment unless the person:

(a) successfully completes an approved food handler training program within 14 days after the day on which the person begins employment that includes food handler services; and

(b) obtains a food handler permit within 30 days after the day on which the person begins employment that includes food handler services.

(3) An approved food handler training program shall include:

(a) at least 75 minutes of training time;

(b) an exam, which requires a passing score of 75% and, except as provided in Subsection (11), consists of:

(i) 40 multiple-choice questions developed by the department, in consultation with local health departments; and

(ii) four content sections designated by rule of the department with 10 randomly selected questions for each content section; and

(c) upon completion, the awarding of a certificate of completion that is valid with any local health department in the state for 30 days after the day on which the certificate is issued:

(i) to a student who:

(A) completes the training; and

(B) passes the exam described in this Subsection (3) or an exam approved by the department in accordance with Subsection (11); and

(ii) which certificate of completion:

(A) includes student identifying information determined by department rule; and

(B) is delivered by mail or electronic means.

(4) (a) A person may obtain a food handler permit by:

(i) providing a valid certificate of completion of an approved food handler training program and an application, approved by the local health department, to a local health department; and

(ii) paying a food handler permit fee to the local health department.

(b) (i) A local health department may charge a food handler permit fee that is reasonable and that reflects the cost of managing the food safety program.

(ii) The department shall establish by rule the maximum amount a local health department may charge for the fee described in Subsection (4)(b)(i).

(5) A person working as a food handler for a food service establishment shall obtain a food handler permit:

(a) before handling any food;

(b) within 30 days of initial employment with a food service establishment; and

(c) within seven days of the expiration of an existing food handler permit.

(6) (a) A person who holds a valid food handler permit under this section may serve as a food handler throughout the state without restriction.

(b) A food handler permit granted after June 30, 2013, is valid for three years from the date of issuance.

(7) An individual may not serve as an instructor, unless the provider includes the individual on the provider's list of instructors.

(8) The department, in consultation with local health departments, shall:

(a) approve the content of an approved food handler training program required under Subsection (3);

(b) approve, as qualified, each provider; and

(c) in accordance with applicable rules made under Subsection (12), provide a means to authenticate:

(i) documents used in an approved food handler training program;

(ii) the identity of an approved instructor; and

(iii) an approved provider.

(9) An approved food handler training program shall:

(a) provide basic instruction on the Centers for Disease Control and Prevention's top five foodborne illness risk factors, including:

(i) improper hot and cold holding temperatures of potentially hazardous food;

(ii) improper cooking temperatures of food;

(iii) dirty or contaminated utensils and equipment;

(iv) poor employee health and hygiene; and

(v) food from unsafe sources;

(b) be offered through:

(i) a trainer-led class;

(ii) the Internet; or

(iii) a combination of a trainer-led class and the Internet;

(c) maintain a system to verify a certificate of completion of an approved food handler training program issued under Subsection (3) to the department, a local health department, and a food service establishment; and

(d) provide to the department unrestricted access to classroom training sessions and online course materials at any time for audit purposes.

(10) (a) A provider that provides an approved food handler training program may charge a reasonable fee.

(b) If a person or an entity is not approved by the department to provide an approved food handler training program, the person or entity may not represent, in connection with the person's or entity's name or business, including in advertising, that the person or entity is a provider of an approved food handler training program or otherwise represent that a program offered by the person or entity will qualify an individual to work as a food handler in the state.

(11) (a) Subject to the approval of the department every three years, a provider may use an exam that consists of questions that do not conform with the provisions of Subsection (3)(b), if:

(i) the provider complies with the provisions of this Subsection (11);

(ii) the provider pays a fee every three years to the department, which fee shall be determined by the department and shall reflect the cost of the review of the alternative test questions; and

(iii) an independent instructional design and testing expert provides a written report to the department containing a positive recommendation based on the expert's analysis as described in Subsection 11(b).

(b) (i) A provider may request approval of a different bank of test questions other than the questions developed under Subsection (3) by submitting to the department a proposed bank of at least 200 test questions organized by learning objective in accordance with Subsection (9)(a).

(ii) A provider proposing a different bank of test questions under this Subsection (11) shall contract with an independent instructional design and

testing expert approved by the department at the provider's expense to analyze the provider's bank of test questions to ensure the questions:

(A) effectively measure the applicant's knowledge of the required learning objectives; and

(B) meet the appropriate testing standards for question structure.

(c) If the department provides written notice to a provider that any test question of the provider's approved exam under this Subsection (11) inadequately tests the required learning objectives, the provider shall make required changes to the question within 30 days after the day on which written notice is received by the provider.

(d) A food handler exam offered by a provider may be:

(i) a written exam;

(ii) an online exam; or

(iii) an oral exam, if circumstances require, including when an applicant's language or reading abilities interfere with taking a written or online exam.

(e) A provider shall routinely rotate test questions from the test question bank, change the order of test questions in tests, and change the order of multiple-choice answers in test questions to discourage cheating.

(12) (a) When exercising rulemaking authority under this section the department shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall, by rule, establish requirements designed to inhibit fraud for an approved food handler training program described in this section.

(c) The requirements described in Subsection (12)(b) may include requirements to ensure that:

(i) an individual does not attempt to complete the program or exam in another individual's place;

(ii) an individual taking the approved food handler training program is focused on training material and actively engaged throughout the training period;

(iii) if the individual is unable to participate online because of technical difficulties, an approved food handler training program provides technical support, such as requiring a telephone number, email, or other method of communication to allow an individual taking the online course or test to receive assistance;

(iv) an approved food handler training program provider maintains a system to reduce fraud as to who completes an approved food handler training program, such as requiring a distinct online certificate with information printed on the certificate that identifies a person taking an online course or exam, or requiring measures to inhibit duplication of a certificate of completion or of a food handler permit;

(v) the department may audit an approved food handler training program;

(vi) an individual taking an online course or certification exam has the opportunity to provide an evaluation of the online course or test;

(vii) an approved food handler training program provider track the Internet protocol address or similar electronic location of an individual who takes an online course or certification exam;

(viii) an individual who takes an online course or exam uses an electronic signature; or

(ix) if the approved food handler training program provider learns that a certificate of completion does not accurately reflect the identity of the individual who took the online course or certification exam, an approved food handler training program provider invalidates the certificate of completion.

(13) An instructor is not required to satisfy any additional training requirements if the instructor:

(a) is an educator in a public or private school; and

(b) teaches a food program that includes food safety in a public or private school in which the instructor is an educator.

(14) (a) This section does not apply to an individual who handles food:

(i) at an event sponsored by a charitable organization where the organization provides food to a disadvantaged group free of charge; and

(ii) in compliance with rules established by the department under Subsection (2).

(b) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for individuals handling food at an event sponsored by a charitable organization under Subsection (14)(a).

Section 307. Section 26B-7-414, which is renumbered from Section 26-15-9 is renumbered and amended to read:

[~~26-15-9~~]. 26B-7-414. Impoundment of adulterated food products authorized.

The department and local health departments may impound any food products found in places where food or drink is handled, sold, or served to the public that is intended for but found to be adulterated and unfit for human consumption; and, upon five [~~days~~] days' notice and reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same if deemed necessary for the protection of the public health.

Section 308. Section 26B-7-415, which is renumbered from Section 26-15b-105 is renumbered and amended to read:

[~~26-15b-105~~]. 26B-7-415. Agritourism food establishment permits -- Permit requirements -- Inspections.

(1) As used in this section, "operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the farm.

(2) (a) A farm may not operate an agritourism food establishment unless the farm obtains a permit from the local health department that has jurisdiction over the area in which the farm is located.

(b) In accordance with Section 26A-1-121, and subject to the restrictions of this section, a local health department shall make standards and regulations relating to the permitting of an agritourism food establishment.

(c) In accordance with Section 26A-1-114, a local health department shall impose a fee for an agritourism food establishment permit in an amount that reimburses the local health department for the cost of regulating the agritourism food establishment.

(3) (a) A local health department with jurisdiction over an area in which a farm is located may grant an agritourism food establishment permit to the farm.

(b) Nothing in this section prevents a local health department from revoking an agritourism food establishment permit issued by the local health department if the operation of the agritourism food establishment violates the terms of the permit or the requirements of this section.

[~~(1)~~] (4) A farm may qualify for an agritourism food establishment permit if:

(a) poultry products that are served at the agritourism food establishment are slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

(b) meat not described in Subsection [~~(1)~~] (4)(a) that is served at the agritourism food establishment is slaughtered and processed in compliance with the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

(c) a kitchen facility used to prepare food for the agritourism food establishment meets the requirements established by the department;

(d) the farm operates the agritourism food establishment for no more than 14 consecutive days at a time; and

(e) the farm complies with the requirements of this section.

[~~(2)~~] (5) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for agritourism food establishments.

[~~(3)~~] (6) A local health department shall:

(a) ensure compliance with the rules described in Subsection [~~(2)~~] (5) when inspecting a kitchen facility;

(b) notwithstanding Section 26A-1-113, inspect the kitchen facility of a farm that requests an agritourism food establishment permit only:

(i) for an initial inspection, no more than one week before the agritourism food establishment is scheduled to begin operation;

(ii) for an unscheduled inspection:

(A) of an event scheduled to last no more than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation; or

(B) of an event scheduled to last longer than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation, or conducts the inspection during operating hours of the agritourism food establishment; or

(iii) for subsequent inspections if:

(A) the local health department provides the operator with reasonable advanced notice about an inspection; or

(B) the local health department has a valid reason to suspect that the agritourism food establishment is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and

(c) document the reason for any inspection after the permitting inspection, keep a copy of that documentation on file with the agritourism food establishment's permit, and provide a copy of that documentation to the operator.

[~~(4)~~] (7) An agritourism food establishment shall:

(a) take steps to avoid any potential contamination to:

(i) food;

(ii) equipment;

(iii) utensils; or

(iv) unwrapped single-service and single-use articles; and

(b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:

(i) symptoms associated with acute gastrointestinal illness; or

(ii) a communicable disease that is transmissible through food.

[~~(5)~~] (8) When making the rules described in Subsection [~~(2)~~] (5), the department may not make rules regarding:

(a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located;

(b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the

kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;

(c) the individuals allowed access to the food preparation areas, food storage, and washing areas, except during food preparation;

(d) display guards, covers, or containers for display foods, except to require that any food on display that is not protected from the direct line of a consumer's mouth by an effective means is not served or sold to any subsequent consumer;

(e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;

(f) reuse by an individual of drinking cups and tableware for multiple portions;

(g) utensils and equipment, except to require that utensils and equipment used in the home kitchen:

(i) retain their characteristic qualities under normal use conditions;

(ii) are properly sanitized after use; and

(iii) are maintained in a sanitary manner between uses;

(h) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;

(i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;

(j) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;

(k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;

(l) fixed temperature measuring devices or product mimicking sensors for the holding equipment for [~~time/temperature control~~] time or temperature controlled food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;

(m) fixed floor-mounted and table-mounted equipment except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

(n) dedicated laundry facilities, except to require that linens used for the agritourism food establishment are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;

(o) water, plumbing, drainage, and waste, except to require that sinks be supplied with hot water;

(p) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;

(q) lighting, except to require that food preparation areas are well lit by natural or artificial light whenever food is being prepared;

(r) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;

(s) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas during food service and food preparation;

(t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

(u) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;

(v) submission of plans and specifications before construction or remodel of a kitchen facility;

(w) the number and type of [~~time/temperature~~] time or temperature controlled food offered for sale;

(x) approved food sources, except those required by 9 C.F.R. Sec. 303.1;

(y) the use of an open air barbeque, grill, or outdoor wood-burning oven; or

(z) food safety certification, except any individual who is involved in the preparation, storage, or service of food in the agritourism food establishment shall hold a food handler permit as defined in Section [~~26-15-5~~] 26B-7-413.

[~~(6)~~] (9) An operator applying for an agritourism food establishment permit shall provide to the local health department:

(a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the agritourism food establishment; and

(b) written standard operating procedures that include:

(i) all food that will be stored, handled, and prepared;

(ii) the proposed procedures and methods of food preparation and handling;

(iii) procedures, methods, and schedules for cleaning utensils and equipment;

(iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining [~~time/temperature~~] time or temperature controlled food at the appropriate temperatures for each [~~time/temperature~~] time or temperature controlled food.

[~~(7)~~] (10) In addition to a fee charged under [~~Section 26-15b-103~~] Subsection (2), if the local health department is required to inspect the farm as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the farm has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the farm a fee for that inspection.

[~~(8)~~] (11) An agritourism food establishment permit:

(a) is nontransferable;

(b) is renewable on an annual basis;

(c) is restricted to the location listed on the permit; and

(d) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.

[~~(9)~~] (12) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

Section 309. Section 26B-7-416, which is renumbered from Section 26-15c-105 is renumbered and amended to read:

[~~26-15c-105~~]. 26B-7-416. Microenterprise home kitchen permits -- Fees -- Safety and health inspections -- Permit requirements.

(1) As used in this section, "operator" means an individual who resides in the private home and who manages or controls the microenterprise home kitchen.

(2) (a) An operator may not operate a microenterprise home kitchen unless the operator obtains a permit from the local health department that has jurisdiction over the area in which the microenterprise home kitchen is located.

(b) In accordance with Section 26A-1-121, and subject to the restrictions of this section, the department shall make standards and regulations relating to the permitting of a microenterprise home kitchen.

(c) In accordance with Section 26A-1-114, a local health department shall impose a fee for a microenterprise home kitchen permit in an amount that reimburses the local health department for the cost of regulating the microenterprise home kitchen.

(3) (a) A local health department with jurisdiction over an area in which a microenterprise home kitchen is located may grant a microenterprise home kitchen permit to the operator.

(b) Nothing in this section prevents a local health department from revoking a microenterprise home kitchen permit issued by the local health department if the operation of the microenterprise home kitchen violates the terms of the permit or this section.

[~~(1)~~] (4) An operator may qualify for a microenterprise home kitchen permit if:

(a) food that is served at the microenterprise home kitchen is processed in compliance with state and federal regulations;

(b) a kitchen facility used to prepare food for the microenterprise home kitchen meets the requirements established by the department;

(c) the microenterprise home kitchen operates only during the hours approved in the microenterprise home kitchen permit; and

(d) the microenterprise home kitchen complies with the requirements of this section.

[~~(2)~~] (5) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for microenterprise home kitchens.

[~~(3)~~] (6) A local health department shall:

(a) ensure compliance with the rules described in Subsection [~~(2)~~] (5) when inspecting a microenterprise home kitchen;

(b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that requests a microenterprise home kitchen permit only:

(i) for an initial inspection, no more than one week before the microenterprise home kitchen is scheduled to begin operation;

(ii) for an unscheduled inspection, if the local health department conducts the inspection:

(A) within three days before or after the day on which the microenterprise home kitchen is scheduled to begin operation; or

(B) during operating hours of the microenterprise home kitchen; or

(iii) for subsequent inspections if:

(A) the local health department provides the operator with reasonable advanced notice of the inspection; or

(B) the local health department has a valid reason to suspect that the microenterprise home kitchen is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and

(c) document the reason for any inspection after the initial inspection, keep a copy of that documentation on file with the microenterprise home kitchen's permit, and provide a copy of that documentation to the operator.

[~~(4)~~] (7) A microenterprise home kitchen shall:

(a) take steps to avoid any potential contamination to:

(i) food;

(ii) equipment;

(iii) utensils; or

(iv) unwrapped single-service and single-use articles;

(b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:

(i) symptoms associated with acute gastrointestinal illness; or

(ii) a communicable disease that is transmissible through food; and

(c) comply with the following requirements:

(i) time or temperature control food shall be prepared, cooked, and served on the same day;

(ii) food that is sold or provided to a customer may not be consumed onsite at the microenterprise home kitchen operation;

(iii) food that is sold or provided to a customer shall be picked up by the consumer or delivered within a safe time period based on holding equipment capacity;

(iv) food preparation may not involve processes that require a HACCP plan, or the production, service, or sale of raw milk or raw milk products;

(v) molluscan shellfish may not be served or sold;

(vi) the operator may only sell or provide food directly to consumers and may not sell or provide food to any wholesaler or retailer; and

(vii) the operator shall provide the consumer with a notification that, while a permit has been issued by the local health department, the kitchen may not meet all of the requirements of a commercial retail food establishment.

[~~(5)~~] (8) When making the rules described in Subsection [~~(2)~~] (5), the department may not make rules regarding:

(a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located in food preparation, food dispensing, and warewashing areas;

(b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;

(c) the individuals allowed access to the food preparation areas, food storage areas, and washing areas, except during food preparation;

(d) display guards, covers, or containers for display foods, except to require that ready-to-eat food is protected from contamination during storage, preparation, handling, transport, and display;

(e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;

(f) utensils and equipment, except to require that utensils and equipment used in the home kitchen:

(i) retain their characteristic qualities under normal use conditions;

(ii) are properly sanitized after use; and

(iii) are maintained in a sanitary manner between uses;

(g) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;

(h) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;

(i) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;

(j) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;

(k) fixed temperature measuring devices or product mimicking sensors for the holding equipment for time or temperature control food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;

(l) fixed floor-mounted and table-mounted equipment, except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

(m) dedicated laundry facilities, except to require that linens used for the microenterprise home kitchen are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;

(n) water, plumbing, drainage, and waste, except to require that:

(i) sinks be supplied with hot and cold potable water from:

(A) an approved public water system as defined in Section 19-4-102;

(B) if the local health department with jurisdiction over the microenterprise home kitchen has regulations regarding the safety of drinking water, a source that meets the local health department's regulations regarding the safety of drinking water; or

(C) a water source that is tested at least once per month for bacteriologic quality, and at least once in every three year period for lead and copper; and

(ii) food preparation and service is discontinued in the event of a disruption of potable water service;

(o) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;

(p) lighting, except to require that food preparations are well lit by natural or artificial light whenever food is being prepared;

(q) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;

(r) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas;

(s) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

(t) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;

(u) submission of plans and specifications before construction or remodel of a kitchen facility;

(v) the number and type of time or temperature controlled food offered for sale, except:

(i) a raw time or temperature controlled food such as raw fish, raw milk, and raw shellfish;

(ii) any food requiring special processes that would necessitate a HACCP plan; and

(iii) fish from waters of the state;

(w) approved food sources, except to require that:

(i) food in a hermetically sealed container is obtained from a regulated food processing plant;

(ii) liquid milk and milk products are obtained from sources that comply with Grade A standards specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) fish for sale or service are commercially and legally caught;

(iv) mushrooms picked in the wild are not offered for sale or service; and

(v) game animals offered for sale or service are raised, slaughtered, and processed according to rules governing meat and poultry as specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(x) the use of items produced under this [~~chapter~~] section; or

(y) the use of an open air barbeque, grill, or outdoor wood-burning oven.

[~~(6)~~] (9) An operator applying for a microenterprise home kitchen permit shall provide to the local health department:

(a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the microenterprise home kitchen; and

(b) written standard operating procedures that include:

(i) all food that will be stored, handled, and prepared;

(ii) the proposed procedures and methods of food preparation and handling;

(iii) procedures, methods, and schedules for cleaning utensils and equipment;

(iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining time or temperature controlled food at the appropriate temperatures for each time or temperature controlled food.

[~~(7)~~] (10) In addition to a fee charged under [~~Section 26-15c-103~~] Subsection (2), if the local health department is required to inspect the microenterprise home kitchen as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the microenterprise home kitchen has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the microenterprise home kitchen a fee for that inspection.

[~~(8)~~] (11) A microenterprise home kitchen permit:

(a) is nontransferable;

(b) is renewable on an annual basis;

(c) is restricted to the location and hours listed on the permit;

(d) shall include a statement that reads: "This location is permitted under modified FDA requirements."; and

(e) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.

[~~(9)~~] (12) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

Section 310. Section 26B-7-501, which is renumbered from Section 26-62-102 is renumbered and amended to read:

Part 5. Regulation of Smoking, Tobacco Products, and Nicotine Products

[~~26-62-102~~]. 26B-7-501. Definitions.

As used in this [~~chapter~~] part:

(1) "Community location" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

(2) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

[~~(2)~~] (3) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(4) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.

[~~(3)~~] (5) "Employee" means an employee of a tobacco retailer.

[~~(4)~~] (6) "Enforcing agency" means the [~~state Department of Health~~] department, or any local health department enforcing the provisions of this [~~chapter~~] part.

[~~(5)~~] (7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.

[~~(6)~~] (8) "Local health department" means the same as that term is defined in Section 26A-1-102.

(9) "Manufacture" includes:

(a) to cast, construct, or make electronic cigarettes; or

(b) to blend, make, process, or prepare an electronic cigarette substance.

(10) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:

(a) is prefilled by the electronic cigarette substance manufacturer; and

(b) the electronic cigarette manufacturer does not intend for a consumer to open.

(11) "Manufacturer sealed electronic cigarette product" means:

(a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not intend for a consumer to open or refill; or

(b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.

(12) "Nicotine" means the same as that term is defined in Section 76-10-101.

[~~(7)~~] (13) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(14) "Non-tobacco shisha" means any product that:

(a) does not contain tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

[~~(8)~~] (15) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this [~~chapter~~] part.

[~~(9)~~] (16) "Permit" means a tobacco retail permit issued under [~~this chapter~~] Section 26B-7-507.

(17) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

(a) buildings, offices, shops, elevators, or restrooms;

(b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;

(d) taverns as defined in Section 32B-1-102, or cabarets;

(e) shopping malls, retail stores, grocery stores, or arcades;

(f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;

(g) barber shops, hair salons, or laundromats;

(h) sports or fitness facilities;

(i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;

(j) (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and

(ii) any child care, other than child care as defined in Section 26B-2-401, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;

(k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;

(l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or the members' guests or families;

(m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

(n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;

(o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and

(p) a holder of a bar establishment license, as defined in Section 32B-1-102.

[~~(10)~~] (18) (a) "Proof of age" means:

(i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(ii) a valid identification that:

(A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;

(iv) a valid United States military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section 53-3-207.

(19) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

[~~(11)~~] (20) "Retail tobacco specialty business" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

(21) "Shisha" means any product that:

(a) contains tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

(22) "Smoking" means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:

(i) tobacco or any plant product intended for inhalation;

(ii) shisha or non-tobacco shisha;

(iii) nicotine;

(iv) a natural or synthetic tobacco substitute; or

(v) a natural or synthetic flavored tobacco product;

(c) using an electronic cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.

[~~(12)~~] (23) "Tax commission license" means a license issued by the State Tax Commission under:

(a) Section 59-14-201 to sell a cigarette at retail;

(b) Section 59-14-301 to sell a tobacco product at retail; or

(c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

[~~(13)~~] (24) "Tobacco product" means:

(a) a tobacco product as defined in Section 76-10-101; or

(b) tobacco paraphernalia as defined in Section 76-10-101.

[~~(14)~~] (25) "Tobacco retailer" means a person that is required to obtain a tax commission license.

Section 311. Section 26B-7-502, which is renumbered from Section 26-15-11 is renumbered and amended to read:

[~~26-15-11~~]. 26B-7-502. Statutes on smoking considered public health laws.

[~~Title 26, Chapter 38, Utah Indoor Clean Air Act,~~] Section 26B-7-503 is a public health law and shall be enforced by the department and local health departments.

Section 312. Section 26B-7-503, which is renumbered from Section 26-38-3 is renumbered and amended to read:

[~~26-38-3~~]. 26B-7-503. Utah Indoor Clean Air Act -- Restriction on smoking in public places and in specified places -- Exceptions -- Enforcement -- Penalties -- Local ordinances.

(1) Except as provided in [~~Subsection (2)~~] Subsections (2) and (3), smoking is prohibited in all enclosed indoor places of public access and publicly owned buildings and offices.

(2) Subsection (1) does not apply to:

(a) areas not commonly open to the public of owner-operated businesses having no employees other than the owner-operator;

(b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas of these facilities, including dining areas and lobby areas; and

(c) separate enclosed smoking areas:

(i) located in the passenger terminals of an international airport located in the city of the first class;

(ii) vented directly to the outdoors; and

(iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

(3) (a) A person is exempt from the restrictions of Subsection (1) if the person:

(i) is a member of an American Indian tribe whose members are recognized as eligible for the special programs and services provided by the United States to American Indians who are members of those tribes;

(ii) is an American Indian who actively practices an American Indian religion, the origin and interpretation of which is from a traditional American Indian culture;

(iii) is smoking tobacco using the traditional pipe of an American Indian tribal religious ceremony, of which tribe the person is a member, and is smoking the pipe as part of that ceremony; and

(iv) the ceremony is conducted by a pipe carrier, Indian spiritual person, or medicine person recognized by the tribe of which the person is a member and the Indian community.

(b) This Subsection (3) takes precedence over Subsection (1).

(c) A religious ceremony using a traditional pipe under this section is subject to any applicable state or local law, except as provided in this section.

(4) (a) An owner or the agent or employee of the owner of a place where smoking is prohibited under Subsection (1) who observes a person smoking in apparent violation of this section shall request the person to stop smoking.

(b) If the person fails to comply, the proprietor or the agent or employee of the proprietor shall ask the person to leave the premises.

(5) (a) A first violation of Subsection (1) is subject to a civil penalty of not more than $100.

(b) Any second or subsequent violation of Subsection (1) is subject to a civil penalty of not less than $100 and not more than $500.

(6) (a) The department and local health departments shall:

(i) enforce this section and shall coordinate their efforts to promote the most effective enforcement of this section; and

(ii) impose the penalties under Subsection (5) in accordance with this Subsection (6).

(b) When enforcing this section, the department and the local health departments shall notify persons of alleged violations of this part, conduct hearings, and impose penalties in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(c) The department shall adopt rules necessary and reasonable to implement the provisions of this section.

(7) Civil penalties collected under this section by:

(a) a local health department shall be paid to the treasurer of the county in which the violation was committed; and

(b) the department shall be deposited into the General Fund.

(8) (a) This section supersedes any ordinance enacted by the governing body of a political subdivision that restricts smoking in a place of public access as defined in Section 26B-7-501 and that is not essentially identical to the provisions of this section.

(b) This Subsection (8) does not supersede an ordinance enacted by the governing body of a political subdivision that restricts smoking in outdoor places of public access which are owned or operated by:

(i) a political subdivision as defined in Section 17B-1-102;

(ii) a state institution of higher education; or

(iii) a state institution of public education.

Section 313. Section 26B-7-504, which is renumbered from Section 26-43-102 is renumbered and amended to read:

[~~26-43-102~~]. 26B-7-504. Gathering of information related to cigarettes and tobacco products.

(1) The department shall obtain annually publicly available information regarding cigarettes and tobacco products from other states and sources concerning:

[~~(1)~~] (a) the presence of the following substances in detectable levels in a burned state and, if the cigarette or tobacco product is typically burned when consumed, in a burned state:

[~~(a)~~] (i) ammonia or ammonia compounds;

[~~(b)~~] (ii) arsenic;

[~~(c)~~] (iii) cadmium;

[~~(d)~~] (iv) formaldehyde; and

[~~(e)~~] (v) lead; and

[~~(2)~~] (b) a nicotine yield rating for the cigarette or tobacco product for which a rating has been developed.

(2) Information obtained by the department under Subsection (1) is a public record and may be disclosed in accordance with Section 63G-2-201 and disseminated generally by the department.

Section 314. Section 26B-7-505, which is renumbered from Section 26-57-103 is renumbered and amended to read:

[~~26-57-103~~]. 26B-7-505. Electronic cigarette products -- Labeling -- Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.

(1) The department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance that is not a

manufacturer sealed electronic cigarette substance regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(2) On or before January 1, 2021, the department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell a manufacturer sealed electronic cigarette product regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(3) (a) A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the requirements established by the department under Subsection (1).

(b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic cigarette product unless the manufacturer sealed electronic cigarette product complies with the requirements established by the department under Subsection (2).

(4) (a) A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the requirements established by the department under Subsections (1) and (2).

(b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.

(c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette product.

(5) A person may not advertise an electronic cigarette product as a tobacco cessation device.

(6) Any nicotine product shall contain the statement described in Subsection (7) if the nicotine product:

(a) (i) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal regulations; or

(ii) is not otherwise required under federal or state law to contain a nicotine warning; and

(b) contains nicotine.

(7) A statement shall appear on the exterior packaging of a nicotine product described in Subsection (6) as follows:

"This product contains nicotine."

Section 315. Section 26B-7-506, which is renumbered from Section 26-62-103 is renumbered and amended to read:

[~~26-62-103~~]. 26B-7-506. Regulation of tobacco retailers.

The regulation of a tobacco retailer is an exercise of the police powers of the state, and through delegation, to other governmental entities.

Section 316. Section 26B-7-507, which is renumbered from Section 26-62-201 is renumbered and amended to read:

[~~26-62-201~~]. 26B-7-507. Permitting requirement.

(1) (a) A tobacco retailer shall hold a valid tobacco retail permit issued in accordance with this [~~chapter~~] part by the local health department with jurisdiction over the physical location where the tobacco retailer operates.

(b) A tobacco retailer without a valid permit may not:

(i) place a tobacco product, an electronic cigarette product, or a nicotine product in public view;

(ii) display any advertisement related to a tobacco product, an electronic cigarette product, or a nicotine product that promotes the sale, distribution, or use of those products; or

(iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco, a tobacco product, an electronic cigarette product, or a nicotine product.

(2) A local health department may issue a permit under this [~~chapter~~] part for a tobacco retailer in the classification of:

(a) a general tobacco retailer; or

(b) a retail tobacco specialty business.

(3) A permit under this [~~chapter~~] part is:

(a) valid only for one physical location, including a vending machine;

(b) valid only at one fixed business address; and

(c) if multiple tobacco retailers are at the same address, separately required for each tobacco retailer.

Section 317. Section 26B-7-508, which is renumbered from Section 26-62-202 is renumbered and amended to read:

[~~26-62-202~~]. 26B-7-508. Permit application.

(1) A local health department shall issue a permit [~~under this chapter~~] for a tobacco retailer if the local health department determines that the applicant:

(a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and

(b) meets all requirements for a permit under this [~~chapter~~] part.

(2) An applicant for a permit shall:

(a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and

(b) pay all applicable fees described in Section [~~26-62-203~~] 26B-7-509.

(3) The application for a permit shall include:

(a) the name, address, and telephone number of each proprietor;

(b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;

(c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;

(d) evidence that the location for which a permit is sought has a valid tax commission license;

(e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:

(i) a provision of this [~~chapter~~] part;

[~~(ii) Chapter 38, Utah Indoor Clean Air Act;~~]

(ii) Section 26B-7-503;

(iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;

(iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

(vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product; and

(f) the dates of all violations disclosed under this Subsection (3).

(4) (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet of property used or zoned for agricultural or residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (4) if the retail tobacco specialty business meets the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).

(6) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this [~~chapter~~] part.

(b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

Section 318. Section 26B-7-509, which is renumbered from Section 26-62-203 is renumbered and amended to read:

[~~26-62-203~~]. 26B-7-509. Permit term and fees.

(1) (a) The term of a permit issued [~~under this chapter~~] to a retail tobacco specialty business is one year.

(b) The term of a permit issued [~~under this chapter~~] to a general tobacco retailer is two years.

(2) (a) A local health department may not issue a permit [~~under this chapter~~] until the applicant has paid a permit fee to the local health department of:

(i) $30 for a new permit;

(ii) $20 for a permit renewal; or

(iii) $30 for reinstatement of a permit that has been revoked, suspended, or allowed to expire.

(b) A local health department that collects fees under Subsection (2)(a) shall use the fees to administer the permit requirements [~~under this chapter~~] described in Sections 26B-7-506 through 26B-7-521.

(c) In addition to the fee described in Subsection (2)(a), a local health department may establish and collect a fee to perform a plan review for a retail tobacco specialty business permit.

(3) A permit holder may apply for a renewal of a permit no earlier than 30 days before the day on which the permit expires.

(4) A tobacco retailer that fails to renew a permit before the permit expires may apply to reinstate the permit by submitting to the local health department:

(a) the information required in Subsection [~~26-62-202~~] 26B-7-508(3) and, if applicable, Subsection [~~26-62-202~~] 26B-7-508(4);

(b) the fee for the reinstatement of a permit; and

(c) a signed affidavit affirming that the tobacco retailer has not violated the prohibitions in Subsection [~~26-62-201~~] 26B-7-507(1)(b) after the permit expired.

Section 319. Section 26B-7-510, which is renumbered from Section 26-62-204 is renumbered and amended to read:

[~~26-62-204~~]. 26B-7-510. Permit nontransferable.

(1) A permit is nontransferable.

(2) If the information described in Subsection [~~26-62-202~~] 26B-7-508(3) changes, a tobacco retailer:

(a) may not renew the permit; and

(b) shall apply for a new permit no later than 15 days after the information in Subsection [~~26-62-202~~] 26B-7-508(3) changes.

Section 320. Section 26B-7-511, which is renumbered from Section 26-62-205 is renumbered and amended to read:

[~~26-62-205~~]. 26B-7-511. Permit requirements for a retail tobacco specialty business.

(1) A retail tobacco specialty business shall:

(a) electronically verify proof of age for any individual that enters the premises of the business in accordance with [~~Part 4, Proof of Age Requirements~~] Section 26B-7-521;

(b) except as provided in Subsection 76-10-105.1(4), prohibit any individual from entering the business if the individual is under 21 years old; and

(c) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates:

(i) the prohibition on the presence of an individual under 21 years old in a retail tobacco specialty business in Subsection 76-10-105.1(4); and

(ii) the prohibition on the sale of tobacco products and electronic cigarette products to an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1, and 76-10-114.

(2) A retail tobacco specialty business may not:

(a) employ an individual under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product; or

(b) permit an employee under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product.

Section 321. Section 26B-7-512, which is renumbered from Section 26-62-206 is renumbered and amended to read:

[~~26-62-206~~]. 26B-7-512. Requirements for the sale of tobacco product, electronic cigarette product, or nicotine product.

(1) A tobacco retailer shall:

(a) provide the customer with an itemized receipt for each sale of a tobacco product, an electronic cigarette product, or a nicotine product that separately identifies:

(i) the name of the tobacco product, the electronic cigarette product, or the nicotine product;

(ii) the amount charged for each tobacco product, electronic cigarette product, or nicotine product; and

(iii) the date and time of the sale; and

(b) maintain an itemized transaction log for each sale of a tobacco product, an electronic cigarette product, or a nicotine product that separately identifies:

(i) the name of the tobacco product, the electronic cigarette product, or the nicotine product;

(ii) the amount charged for each tobacco product, electronic cigarette product, or nicotine product; and

(iii) the date and time of the sale.

(2) The itemized transaction log described in Subsection (1)(b) shall be:

(a) maintained for at least one year after the date of each transaction in the itemized transaction log;

(b) made available to an enforcing agency or a peace officer at the request of the enforcing agency or the peace officer; and

(c) in addition to any documentation required under Section 59-1-1406 and Subsection 59-14-805(2).

Section 322. Section 26B-7-513, which is renumbered from Section 26-62-207 is renumbered and amended to read:

[~~26-62-207~~]. 26B-7-513. Permit requirements for the sale of tobacco products and electronic cigarette products.

(1) A tobacco retailer shall:

(a) provide the customer with an itemized receipt for each sale of a tobacco product or an electronic cigarette product that separately identifies:

(i) the name of the tobacco product or the electronic cigarette product;

(ii) the amount charged for each tobacco product or electronic cigarette product; and

(iii) the time and date of the sale; and

(b) maintain an itemized transaction log for each sale of a tobacco product or an electronic cigarette product that separately identifies:

(i) the name of the tobacco product or the electronic cigarette product;

(ii) the amount charged for each tobacco product or electronic cigarette product; and

(iii) the date and time of the sale.

(2) The itemized transaction log described in Subsection (1)(b) shall be:

(a) maintained for at least one year after the date of each transaction in the itemized transaction log; and

(b) made available to an enforcing agency or a peace officer at the request of the enforcing agency

or the peace officer that is no less restrictive than the provisions in this part.

Section 323. Section 26B-7-514, which is renumbered from Section 26-62-301 is renumbered and amended to read:

[~~26-62-301~~]. 26B-7-514. Permit violation.

A person is in violation of the permit issued under this [~~chapter~~] part if the person violates:

(1) a provision of this [~~chapter~~] part;

(2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;

(3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;

(4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

(6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

Section 324. Section 26B-7-515, which is renumbered from Section 26-62-302 is renumbered and amended to read:

[~~26-62-302~~]. 26B-7-515. Enforcement by state and local health departments.

The department and local health departments shall enforce [~~this chapter~~] Sections 26B-7-506 through 26B-7-521 under the procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative proceeding, including:

(1) notifying a tobacco retailer of alleged violations [~~of this chapter~~];

(2) conducting hearings;

(3) determining violations [~~of this chapter~~]; and

(4) imposing civil administrative penalties.

Section 325. Section 26B-7-516, which is renumbered from Section 26-62-303 is renumbered and amended to read:

[~~26-62-303~~]. 26B-7-516. Inspection of retail tobacco businesses.

The department or a local health department may inspect a tobacco retailer to determine whether the tobacco retailer:

(1) continues to meet the qualifications for the permit issued under this [~~chapter~~] part;

(2) if applicable, continues to meet the requirements for a retail tobacco specialty business license issued under Section 10-8-41.6 or Section 17-50-333;

(3) engaged in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(4) violated any of the regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

(5) has violated any other provision of state law or local ordinance.

Section 326. Section 26B-7-517, which is renumbered from Section 26-62-304 is renumbered and amended to read:

[~~26-62-304~~]. 26B-7-517. Hearing -- Evidence of criminal conviction.

(1) At a civil hearing conducted under Section [~~26-62-302~~] 26B-7-515, evidence of the final criminal conviction of a tobacco retailer for violation of Section 76-10-114 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this [~~chapter~~] part for sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old is prima facie evidence of a violation of this [~~chapter~~] part.

(2) If the tobacco retailer is convicted of violating Section 76-10-114, the enforcing agency:

(a) shall assess an additional monetary penalty under this [~~chapter~~] part for the same offense for which the conviction was obtained; and

(b) shall revoke or suspend a permit in accordance with Section [~~26-62-305~~] 26B-7-518.

Section 327. Section 26B-7-518, which is renumbered from Section 26-62-305 is renumbered and amended to read:

[~~26-62-305~~]. 26B-7-518. Penalties.

(1) (a) If an enforcing agency determines that a person has violated the terms of a permit issued under this [~~chapter~~] part, the enforcing agency may impose the penalties described in this section.

(b) If multiple violations are found in a single inspection by an enforcing agency or a single investigation by a law enforcement agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as one single violation under Subsections (2), (3), and (4).

(2) Except as provided in Subsections (3) and (4), if a violation is found in an investigation by a law enforcement agency under Section 77-39-101 or an inspection by an enforcing agency, the enforcing agency shall:

(a) on a first violation at a retail location, impose a penalty of $1,000;

(b) on a second violation at the same retail location that occurs within one year of a previous violation, impose a penalty of $1,500;

(c) on a third violation at the same retail location that occurs within two years after two previous violations, impose:

(i) a suspension of the permit for 30 consecutive business days within 60 days after the day on which the third violation occurs; or

(ii) a penalty of $2,000; and

(d) on a fourth or subsequent violation within two years of three previous violations:

(i) impose a penalty of $2,000;

(ii) revoke a permit of the retailer; and

(iii) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

(3) If a violation is found in an investigation of a general tobacco retailer by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old and the violation is committed by the owner of the general tobacco retailer, the enforcing agency shall:

(a) on a first violation, impose a fine of $2,000 on the general tobacco retailer; and

(b) on the second violation for the same general tobacco retailer within one year of the first violation:

(i) impose a fine of $5,000; and

(ii) revoke the permit for the general tobacco retailer.

(4) If a violation is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old, the enforcing agency shall:

(a) on the first violation:

(i) impose a fine of $5,000; and

(ii) immediately suspend the permit for 30 consecutive days; and

(b) on the second violation at the same retail location within two years of the first violation:

(i) impose a fine of $10,000; and

(ii) revoke the permit for the retail tobacco specialty business.

(5) (a) Except when a transfer described in Subsection (6) occurs, a local health department may not issue a permit to:

(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3); or

(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (2), (3), or (4).

(b) A person whose permit:

(i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and

(ii) is revoked under this section may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.

(6) Violations of this [~~chapter~~] part, Section 10-8-41.6, or Section 17-50-333 that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:

(a) the tobacco retailer is transferred to a new proprietor; and

(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

Section 328. Section 26B-7-519, which is renumbered from Section 26-62-306 is renumbered and amended to read:

[~~26-62-306~~]. 26B-7-519. Recognition of tobacco retailer training program.

(1) In determining the amount of the monetary penalty to be imposed for a violation of this [~~chapter~~] part, a hearing officer shall reduce the civil penalty by at least 50% if the hearing officer determines that:

(a) the tobacco retailer has implemented a documented employee training program; and

(b) the employees have completed that training program within 30 days after the day on which each employee commences the duties of selling a tobacco product, an electronic cigarette product, or a nicotine product.

(2) (a) For the first offense at a location, if the hearing officer determines under Subsection (1) that the tobacco retailer has not implemented a documented training program with a written curriculum for employees at that location regarding compliance with this chapter, the hearing officer may suspend all or a portion of the penalty if:

(i) the tobacco retailer agrees to initiate a training program for employees at that location; and

(ii) the training program begins within 30 days after the hearing officer makes a determination under this Subsection (2)(a).

(b) If the hearing officer determines at a subsequent hearing that the tobacco retailer has not implemented the training program within the time period required under Subsection (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty, unless the tobacco retailer demonstrates good cause for an extension of time for implementation of the training program.

Section 329. Section 26B-7-520, which is renumbered from Section 26-62-307 is renumbered and amended to read:

[~~26-62-307~~]. 26B-7-520. Allocation of civil penalties.

Civil monetary penalties collected under [~~this chapter~~] Section 26B-7-518 shall be allocated as follows:

(1) if a local health department conducts an adjudicative proceeding under Section [~~26-62-302~~] 26B-7-515, the penalty shall be paid to the treasurer of the county in which the violation was committed, and transferred to the local health department; and

(2) if the department conducts a civil hearing under Section [~~26-62-302~~] 26B-7-515, the penalty shall be deposited in the state's General Fund, and may be appropriated by the Legislature to the department for use in enforcement of this [~~chapter~~] part.

Section 330. Section 26B-7-521, which is renumbered from Section 26-62-401 is renumbered and amended to read:

[~~26-62-401~~]. 26B-7-521. Verification of proof of age.

(1) As used in this section:

(a) "Employee" means an employee of a retail tobacco specialty business.

(b) "Electronic verification program" means a technology used by a retail tobacco specialty business to confirm proof of age for an individual.

(2) A retail tobacco specialty business shall require that an employee verify proof of age as provided in this section.

(3) To comply with Subsection (2), an employee shall:

(a) request the individual present proof of age; and

(b) verify the validity of the proof of age electronically in accordance with Subsection (4).

(4) A retail tobacco specialty business shall use an electronic verification program to assist the business in complying with the requirements of this section.

(5) (a) A retail tobacco specialty business may not disclose information obtained under this section except as provided under this part.

(b) Information obtained under this section:

(i) shall be kept for at least 180 days; and

(ii) is subject to inspection upon request by a peace officer or the representative of an enforcing agency.

(6) (a) If an employee does not verify proof of age under this section, the employee may not permit an individual to:

(i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

(ii) purchase a tobacco product or an electronic cigarette product.

(b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years old may be permitted to enter a retail tobacco specialty business if the individual is:

(i) accompanied by a parent or legal guardian who provides proof of age; or

(ii) (A) present at the retail tobacco specialty business solely for the purpose of providing a commercial service to the retail tobacco specialty business, including making a commercial delivery;

(B) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and

(C) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (6)(b)(ii)(A).

(7) To determine whether the individual described in Subsection (2) is 21 years old or older, the following may request an individual described in Subsection (2) to present proof of age:

(a) an employee;

(b) a peace officer; or

(c) a representative of an enforcing agency.

Section 331. Coordinating S.B. 41 with S.B. 272 -- Substantive and technical amendments.

If this S.B. 41 and S.B. 272, Funds Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2023, by amending Subsection 26B-5-601(8) (renumbered from Section 62A-17-102) in this S.B. 41 to read:

"(8) "Psychiatrist" means an individual who:

(a) is licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.".

Section 332. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) not enroll this bill if any of the following bills do not pass:

(a) S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;

(b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and Data; or

(c) S.B. 40, Health and Human Services Recodification – Health Care Delivery and Repeals; and

(2) in any new language added to the Utah Code by legislation passed during the 2023 General Session, replace any references to Title 26 or 62A with the renumbered reference as it is renumbered in this bill.

CHAPTER 309
S. B. 56
Passed February 17, 2023
Approved March 15, 2023
Effective May 3, 2023

CHILD WELFARE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill amends provisions of the Utah Juvenile Code related to child welfare.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the requirements for a member of the oversight team managing the psychotropic medication oversight pilot program for children in foster care;
- allows the Division of Child and Family Services to establish citizen review panels;
- describes the duties of a citizen review panel and authorizes a citizen review panel to access certain records and information to fulfill the panel's duties;
- establishes the Child Welfare Improvement Council as a citizen review panel;
- provides that, while an interstate compact request is ordered or pending, the court may not finalize a non-relative placement unless the court makes certain considerations;
- modifies the preferential consideration granted to a relative for placement of a child;
- removes a limit on the preferential consideration granted to a natural parent after 120 days following a shelter hearing;
- amends the circumstances under which the division is required to notify former foster parents when a child reenters temporary custody or the custody of the division;
- removes a provision related to the primary permanency plan for a child who is three years old or younger;
- repeals a provision related to the development of a volunteer network by the Division of Child and Family Services; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-2-503.5, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-1001, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-1101, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-3-301, as last amended by Laws of Utah 2022, Chapters 287, 334
80-3-302, as last amended by Laws of Utah 2022, Chapters 287, 334
80-3-303, as last amended by Laws of Utah 2022, Chapters 287, 335
80-3-307, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-3-405, as last amended by Laws of Utah 2022, Chapter 335
80-3-407, as last amended by Laws of Utah 2022, Chapters 287, 335
80-3-409, as last amended by Laws of Utah 2022, Chapters 287, 335

ENACTS:

80-3-111, Utah Code Annotated 1953

REPEALS:

78B-7-112, as last amended by Laws of Utah 2020, Chapter 142

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 80-2-503.5 is amended to read:

80-2-503.5. Psychotropic medication oversight pilot program.

(1) As used in this section, "psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.

(2) The division shall, through contract with the Department of Health and Human Services, establish and operate a psychotropic medication oversight pilot program for children in foster care to ensure that foster children are being prescribed psychotropic medication consistent with the foster children's needs.

(3) The division shall establish an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:

(a) an advanced practice registered nurse, as defined in Section 58-31b-102, [~~employed by~~] contracted with the Department of Health and Human Services; and

(b) a child psychiatrist.

(4) The oversight team shall monitor foster children:

(a) six years old or younger who are being prescribed one or more psychotropic medications; and

(b) seven years old or older who are being prescribed two or more psychotropic medications.

(5) The oversight team shall, upon request, be given information or records related to the foster child's health care history, including psychotropic medication history and mental and behavioral health history, from:

(a) the foster child's current or past caseworker;

(b) the foster child; or

(c) the foster child's:

(i) current or past health care provider;

(ii) natural parents; or

(iii) foster parents.

(6) The oversight team may review and monitor the following information about a foster child:

(a) the foster child's history;

(b) the foster child's health care, including psychotropic medication history and mental or behavioral health history;

(c) whether there are less invasive treatment options available to meet the foster child's needs;

(d) the dosage or dosage range and appropriateness of the foster child's psychotropic medication;

(e) the short-term or long-term risks associated with the use of the foster child's psychotropic medication; or

(f) the reported benefits of the foster child's psychotropic medication.

(7) (a) The oversight team may make recommendations to the foster child's health care providers concerning the foster child's psychotropic medication or the foster child's mental or behavioral health.

(b) The oversight team shall provide the recommendations made in Subsection (7)(a) to the foster child's parent or guardian after discussing the recommendations with the foster child's current health care providers.

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section.

(9) The division shall report to the Child Welfare Legislative Oversight Panel regarding the psychotropic medication oversight pilot program by October 1 of each even numbered year.

Section 2. Section 80-2-1001 is amended to read:

80-2-1001. Management Information System -- Contents -- Classification of records -- Access.

(1) The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation.

(2) The Management Information System shall:

(a) contain all key elements of each family's current child and family plan, including:

(i) the dates and number of times the plan has been administratively or judicially reviewed;

(ii) the number of times the parent failed the child and family plan; and

(iii) the exact length of time the child and family plan has been in effect; and

(b) alert child welfare caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.

(3) For a child welfare case, the Management Information System shall provide each child welfare caseworker and the Office of Licensing created in Section 62A-2-103, exclusively for the purposes of foster parent licensure and monitoring, with a complete history of each child in the child welfare caseworker's caseload, including:

(a) a record of all past action taken by the division with regard to the child and the child's siblings;

(b) the complete case history and all reports and information in the control or keeping of the division regarding the child and the child's siblings;

(c) the number of times the child has been in the protective custody, temporary custody, and custody of the division;

(d) the cumulative period of time the child has been in the custody of the division;

(e) a record of all reports of abuse or neglect received by the division with regard to the child's parent or guardian including:

(i) for each report, documentation of the:

(A) latest status; or

(B) final outcome or determination; and

(ii) information that indicates whether each report was found to be:

(A) supported;

(B) unsupported;

(C) substantiated;

(D) unsubstantiated; or

(E) without merit;

(f) the number of times the child's parent failed any child and family plan; and

(g) the number of different child welfare caseworkers who have been assigned to the child in the past.

(4) For child protective services cases, the Management Information System shall:

(a) monitor the compliance of each case with:

(i) division rule;

(ii) state law; and

(iii) federal law and regulation; and

(b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

(5) Information or a record contained in the Management Information System is:

(a) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) available only:

(i) to a person or government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information or record;

(ii) to a person who has specific statutory authorization to access the information or record for the purpose of assisting the state with state or federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need;

(iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:

(A) to comply with abuse and neglect registry checks requested by other states; or

(B) to the United States Department of Health and Human Services for purposes of maintaining an electronic national registry of supported or substantiated cases of abuse and neglect;

(iv) to the department, upon the approval of the executive director of the department, on a need-to-know basis; [~~or~~]

(v) as provided in Subsection (6) or Section 80-2-1002[~~.~~]; or

(vi) to a citizen review panel for the purpose of fulfilling the panel's duties as described in Section 80-2-1101.

(6) (a) The division may allow a division contract provider, court clerk designated by the Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe to have limited access to the Management Information System.

(b) A division contract provider or Indian tribe has access only to information about a person who is currently receiving services from the specific contract provider or Indian tribe.

(c) A court clerk may only have access to information necessary to comply with Subsection 78B-7-202(2).

(d) (i) The Office of Guardian Ad Litem may only access:

(A) the information that is entered into the Management Information System on or after July 1, 2004, and relates to a child or family where the Office of Guardian Ad Litem is appointed by a court to represent the interests of the child; or

(B) any abuse or neglect referral about a child or family where the office has been appointed by a court to represent the interests of the child, regardless of the date that the information is entered into the Management Information System.

(ii) The division may use the information in the Management Information System to screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the Office of Guardian Ad Litem.

(e) A contract provider or designated representative of the Office of Guardian Ad Litem or an Indian tribe who requests access to information contained in the Management Information System shall:

(i) take all necessary precautions to safeguard the security of the information contained in the Management Information System;

(ii) train its employees regarding:

(A) requirements for protecting the information contained in the Management Information System under this chapter and under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper release of information; and

(iii) monitor its employees to ensure that the employees protect the information contained in the Management Information System as required by law.

(7) The division shall take:

(a) all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information contained in the Management Information System; and

(b) reasonable precautions to ensure that the division's contract providers comply with Subsection (6).

Section 3. Section 80-2-1101 is amended to read:

80-2-1101. Citizen review panel -- Child Welfare Improvement Council -- Duties.

[~~(1) (a) There is established the Child Welfare Improvement Council composed of no more than 25 members who are appointed by the division.~~]

[~~(b) Except as required by Subsection (1)(c), as terms of current council members expire, the division shall appoint each new member or reappointed member to a four-year term.~~]

[~~(c) Notwithstanding the requirements of Subsection (1)(b), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.~~]

[~~(d) The council shall have geographic, economic, gender, cultural, and philosophical diversity.~~]

[~~(e) When a vacancy occurs in the membership for any reason, the division shall appoint the replacement for the unexpired term.~~]

[~~(2) The council shall elect a chairperson from the council's membership at least biannually.~~]

[~~(3)~~] (1) (a) The division may establish one or more citizen review panels to:

(i) assist and advise the division as determined by the division; and

(ii) comply with 42 U.S.C. Sec. 5106a(c).

(b) Each panel shall be composed of volunteer members, including former consumers of services, who broadly represent the geographic community or topic area for which the panel is established.

(c) A member [~~may not receive compensation or benefits for the member's service, but~~] of a citizen review panel may receive per diem and travel expenses in accordance with:

[~~(a)~~] (i) Section 63A-3-106;

[~~(b)~~] (ii) Section 63A-3-107; and

[~~(c)~~] (iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(d) The division shall provide staff to assist a citizen review panel in completing the panel's duties.

(e) (i) A citizen review panel member or division staff assisting a citizen review panel may not disclose to a person or government entity identifying information about a specific child protection case that is provided to the citizen review panel.

(ii) A citizen review panel member or division staff member who violates Subsection (1)(e)(i) may be subject to a civil fine not to exceed $500 for each violation.

[~~(4) (a) The council shall hold a public meeting quarterly.~~]

[~~(b) Within budgetary constraints, meetings may also be held on the call of the chair, or of a majority of the members.~~]

[~~(c) A majority of the members currently appointed to the council constitute a quorum at any meeting and the action of the majority of the members present shall be the action of the council.~~]

[~~(5) The council shall:~~]

[~~(a) advise the division on matters relating to abuse and neglect;~~]

[~~(b) recommend to the division how funds contained in the Children's Account, created in Section 80-2-501, should be allocated;~~]

[~~(c) conduct public hearings to receive public comment on an abuse or neglect prevention or treatment program under Section 80-2-503;~~]

[~~(d) provide comments to the division on a proposed amendment to performance standards in accordance with Section 80-2-1102; and~~]

[~~(e) provide community and professional input on the performance of the division.~~]

(2) There is established the Child Welfare Improvement Council as a citizen review panel.

(3) The division may designate a child fatality committee, created in Section 62A-16-202, as a citizen review panel.

(4) A citizen review panel designated by the division to fulfill the requirements of 42 U.S.C. Sec. 5106a:

(a) shall meet at least quarterly;

(b) may examine specific cases to evaluate the extent to which an agency is effectively discharging the agency's responsibilities in accordance with the state's plan submitted in accordance with 42 U.S.C. Sec. 5106a(b)(1) and the child protection standards set forth in 42 U.S.C. Sec. 5106a(b);

(c) shall annually review findings related to the division made by the Division of Continuous Quality Improvement created in Subsection 26B-1-204(3); and

(d) shall facilitate public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community.

Section 4. Section 80-3-111 is enacted to read:

80-3-111. Interstate compact -- Relative placement.

(1) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(a) the preferential consideration granted to a relative in Section 80-3-302;

(b) the rebuttable presumption in Section 80-3-302; and

(c) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(2) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 5. Section 80-3-301 is amended to read:

80-3-301. Shelter hearing -- Court considerations.

(1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a child within 72 hours, excluding weekends and holidays, after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in protective custody;

(c) emergency placement under Subsection 80-2a-202(5);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the individual to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding is instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the child welfare caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the juvenile court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other individual with relevant knowledge;

(ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections 80-3-302(7)(c) [~~through (e)~~] and (d), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel; and

(iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in protective custody, the division shall report to the juvenile court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 80-3-302(7)(c) [~~through (e)~~] and (d), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.

(b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 80-2a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child

and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:

(A) a parent or guardian;

(B) a member of the parent's household or the guardian's household; or

(C) an individual known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the parent or guardian is unable to have physical custody of the child;

(vii) the child is without any provision for the child's support;

(viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(ix) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(x) subject to Subsection 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(xi) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xii) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiv) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.

(b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

(11) If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.

(12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.

(14) (a) If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.

(b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.

(15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child.

Section 6. Section 80-3-302 is amended to read:

80-3-302. Shelter hearing -- Placement of a child.

(1) As used in this section:

(a) "Asserted an interest" means to communicate, verbally or in writing, to the division or the court, that the relative or friend is interested in becoming a placement for the child.

(b) [~~(a)~~] (i) "Natural parent," notwithstanding Section 80-1-102, means:

[~~(i)~~] (A) a biological or adoptive mother of the child;

[~~(ii)~~] (B) an adoptive father of the child; or

[~~(iii)~~] (C) a biological father of the child who:

[~~(A)~~] (I) was married to the child's biological mother at the time the child was conceived or born; or

[~~(B)~~] (II) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.

[~~(b)~~] (ii) "Natural parent" includes the individuals described in Subsection [~~(1)(a)~~] (1)(b) regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(2) (a) At the shelter hearing, if the juvenile court orders that a child be removed from the custody of the child's parent in accordance with Section 80-3-301, the juvenile court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.

(b) Subject to Subsection (7), if another natural parent requests custody under Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile court finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The juvenile court:

(i) shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;

(ii) shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 80-3-305, and check the Management Information System for any previous reports of abuse or neglect received by the division regarding the parent at issue;

(iii) may order the division to conduct any further investigation regarding the safety and appropriateness of the placement; and

(iv) may place the child in the temporary custody of the division, pending the juvenile court's determination regarding the placement.

(d) The division shall report the division's findings from an investigation under Subsection (2)(c), regarding the child in writing to the juvenile court.

(3) If the juvenile court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the juvenile court;

(b) the juvenile court may order:

(i) that the parent take custody subject to the supervision of the juvenile court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the juvenile court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The juvenile court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed with a relative under Subsections (6) through (9); or

(d) the child should be placed in the temporary custody of the division.

(5) (a) Legal custody of the child is not affected by an order entered under Subsection (2) or (3).

(b) To affect a previous court order regarding legal custody, the party shall petition the court for modification of legal custody.

(6) Subject to Subsection (7), if, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the juvenile court:

(a) shall, at that time, determine whether there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether there are relatives or friends who are willing and appropriate, in accordance with the requirements of this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to provide information regarding relatives or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection (6)(a).

(7) (a) (i) Subject to [~~Subsections~~] Subsection (7)(b) [~~through (d)~~], and if the provisions of this section are satisfied, the division and the juvenile court shall give preferential consideration to a relative's or a friend's request for placement of the child, if the placement is in the best interest of the child.

[~~(ii) For purposes of the preferential consideration under Subsection (7)(a)(i), there is a rebuttable presumption that placement of the child with a relative is in the best interest of the child.~~]

(ii) If a relative or friend verbally communicates to the division or court that the relative or friend is interested in becoming a placement for the child, the division or court shall make a written record of the communication and include that written record in the report the division submits at the initial dispositional hearing, a report the division submits under Section 80-3-408, or the court's legal file.

(b) (i) (A) The preferential consideration that the juvenile court or division initially grants a [~~relative or~~] friend under Subsection (7)(a)(i) expires 120 days after the day on which the shelter hearing occurs.

[~~(ii)~~] (B) After the day on which the time period described in Subsection [~~(7)(b)(i)~~] (7)(b)(i)(A) expires, the division or the juvenile court may not grant preferential consideration to a [~~relative or~~] friend, who has not obtained custody or asserted an interest in the child.

(ii) (A) Until eight months after the day on which the shelter hearing occurs, the preferential consideration that the juvenile court or division grants a relative under Subsection (7)(a)(i) is a rebuttable presumption that placement of the child with a relative is in the best interest of the child.

(B) After the rebuttable presumption described in Subsection (7)(b)(ii)(A) expires, the juvenile court or division shall give preferential consideration to a relative's request for placement of the child, if the placement is in the best interest of the child considering the totality of the circumstances.

(C) If a relative asserts an interest in becoming a placement for the child more than one year after the day on which the shelter hearing occurs, the juvenile court may not give the relative the preferential consideration described in Subsection (7)(b)(ii)(B).

[~~(c) (i) The preferential consideration that the juvenile court initially grants a natural parent under Subsection (2) is limited after 120 days after the day on which the shelter hearing occurs.~~]

[~~(ii) After the time period described in Subsection (7)(c)(i), the juvenile court shall base the juvenile court's custody decision on the best interest of the child.~~]

[~~(d)~~] (c) [~~Before the day on which the time period described in Subsection (7)(c)(i) expires, the~~] The following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:

(i) a noncustodial parent of the child;

(ii) a relative of the child;

(iii) subject to Subsection [~~(7)(e)~~] (7)(d), a friend if the friend is a licensed foster parent; and

(iv) other placements that are consistent with the requirements of law.

[~~(e)~~] (d) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:

(i) subject to Subsections [~~(7)(e)(ii)~~] (7)(d)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.

[~~(f)~~] (e) (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.

(ii) If the friend described in Subsection [~~(7)(f)(i)~~] (7)(e)(i) becomes licensed as a foster parent within the time frame described in Subsection (7)(b)(i), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.

(8) (a) If a relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection (6)(a), the juvenile court:

(i) shall make a specific finding regarding:

(A) the fitness of that relative or friend as a placement for the child; and

(B) the safety and appropriateness of placement with the relative or friend; and

(ii) may not consider a request for guardianship or adoption of the child by an individual who is not a relative of the child, or prevent the division from placing the child in the custody of a relative of the child in accordance with this part, until after the day on which the juvenile court makes the findings under Subsection (8)(a)(i).

(b) In making the finding described in Subsection (8)(a), the juvenile court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 80-2a-301(4) and (6);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305;

(iv) visit the relative's or friend's home;

(v) check the Management Information System for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the juvenile court; and

(vii) provide sufficient information so that the juvenile court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(c) The division may determine to conduct, or the juvenile court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement described in Subsection (8)(a).

(d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(9) (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection (8), and the juvenile court's determination regarding the appropriateness of the placement.

(b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(10) If a juvenile court places a child described in Subsection (6) with the child's relative or friend:

(a) the juvenile court shall:

(i) order the relative or friend take custody, subject to the continuing supervision of the juvenile court;

(ii) provide for reasonable parent-time with the parent or parents from whose custody the child is removed, unless parent-time is not in the best interest of the child; and

(iii) conduct a periodic review no less often than every six months, to determine whether:

(A) placement with a relative or friend continues to be in the child's best interest;

(B) the child should be returned home; or

(C) the child should be placed in the custody of the division;

(b) the juvenile court may enter an order:

(i) requiring the division to provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being; or

(ii) that the juvenile court considers necessary for the protection and best interest of the child; and

(c) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court[~~;~~].

(11) No later than 12 months after the day on which the child is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(12) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to a child placed with a previously noncustodial parent under Subsection (2) or with a relative or friend under Subsection (6).

(13) (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and

(ii) if the results of the criminal background check described in Subsection (13)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after the day on which the child is taken into physical custody under Subsection (13)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.

(b) Subsection (13)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection (13)(a) on the relative.

(14) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child.

(15) (a) If a child reenters the temporary custody or the custody of the division and [~~is placed in foster care,~~] the child is not placed with an individual who is a parent, relative, or friend, the division shall:

(i) notify the child's former foster parents; and

(ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child.

(b) If, after the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

(16) In determining the placement of a child, the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

(17) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the child's wishes.

(18) This section does not guarantee that an identified relative or friend will receive custody of the child.

(19) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 7. Section 80-3-303 is amended to read:

80-3-303. Post-shelter hearing placement of a child in division's temporary custody.

(1) If the juvenile court awards temporary custody of a child to the division under Section 80-3-302, or as otherwise permitted by law, the division shall determine ongoing placement of the child.

(2) In placing a child under Subsection (1), the division:

(a) except as provided in Subsections (2)(b) and (e), shall comply with the applicable background check provisions described in Section 80-3-302;

(b) is not required to receive approval from the juvenile court before making the placement;

(c) shall consider the preferential consideration and rebuttable presumption described in Subsection 80-3-302(7)(a);

(d) shall, within three days, excluding weekends and holidays, after the day on which the placement is made, give written notice to the juvenile court, and the parties to the proceedings, that the placement has been made;

(e) may place the child with a noncustodial parent, relative, or friend, using the same criteria established for an emergency placement under Section 80-2a-301, pending the results of:

(i) the background check described in Subsection 80-3-302(13)(a); and

(ii) evaluation with the noncustodial parent, relative, or friend to determine the individual's capacity to provide ongoing care to the child; and

(f) shall take into consideration the will of the child, if the child is of sufficient maturity to articulate the child's wishes in relation to the child's placement.

(3) If the division's placement decision differs from a child's express wishes and the child is of sufficient maturity to state the child's wishes in relation to the child's placement, the division shall:

(a) make written findings explaining why the division's decision differs from the child's wishes; and

(b) provide the written findings to the juvenile court and the child's attorney guardian ad litem.

(4) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 8. Section 80-3-307 is amended to read:

80-3-307. Child and family plan developed by division -- Parent-time and relative visitation.

(1) The division shall develop and finalize a child's child and family plan no more than 45 days after the day on which the child enters the temporary custody of the division.

(2) (a) The division may use an interdisciplinary team approach in developing a child and family plan.

(b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:

(i) mental health;

(ii) education; or

(iii) if appropriate, law enforcement.

(3) (a) The division shall involve all of the following in the development of a child's child and family plan:

(i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

(ii) the child;

(iii) the child's foster parents; and

(iv) if appropriate, the child's stepparent.

(b) Subsection (3)(a) does not prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being involved in the development of a child's child and family plan if the party or counsel's participation is otherwise permitted by law.

(c) In relation to all information considered by the division in developing a child and family plan, the division shall give additional weight and attention to the input of the child's natural and foster parents upon the involvement of the child's natural and foster parents under Subsections (3)(a)(i) and (iii).

(d) (i) The division shall make a substantial effort to develop a child and family plan with which the child's parents agree.

(ii) If a parent does not agree with a child and family plan:

(A) the division shall strive to resolve the disagreement between the division and the parent; and

(B) if the disagreement is not resolved, the division shall inform the court of the disagreement.

(4) A copy of the child and family plan shall, immediately upon completion, or as soon as reasonably possible thereafter, be provided to:

(a) the guardian ad litem;

(b) the child's natural parents; and

(c) the child's foster parents.

(5) A child and family plan shall:

(a) specifically provide for the safety of the child, in accordance with federal law;

(b) clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child;

(c) be specific to each child and the child's family, rather than general;

(d) include individualized expectations and contain specific time frames;

(e) except as provided in Subsection (6), address problems that:

(i) keep a child in the child's placement; and

(ii) keep a child from achieving permanence in the child's life;

(f) be designed to:

(i) minimize disruption to the normal activities of the child's family, including employment and school; and

(ii) as much as practicable, help the child's parent maintain or obtain employment; and

(g) set forth, with specificity, at least the following:

(i) the reason the child entered into protective custody or the division's temporary custody or custody;

(ii) documentation of:

(A) the reasonable efforts made to prevent placement of the child in protective custody or the division's temporary custody or custody; or

(B) the emergency situation that existed and that prevented the reasonable efforts described in Subsection (5)(g)(ii)(A), from being made;

(iii) the primary permanency plan for the child, as described in Section 80-3-406, and the reason for selection of the plan;

(iv) the concurrent permanency plan for the child, as described in Section 80-3-406, and the reason for the selection of the plan;

(v) if the plan is for the child to return to the child's family:

(A) specifically what the parents must do in order to enable the child to be returned home;

(B) specifically how the requirements described in Subsection (5)(g)(v)(A) may be accomplished; and

(C) how the requirements described in Subsection (5)(g)(v)(A) will be measured;

(vi) the specific services needed to reduce the problems that necessitated placing the child in protective custody or the division's temporary custody or custody;

(vii) the name of the individual who will provide for and be responsible for case management for the division;

(viii) subject to Subsection (10), a parent-time schedule between the natural parent and the child;

(ix) subject to Subsection (7), the health and mental health care to be provided to address any known or diagnosed mental health needs of the child;

(x) if residential treatment rather than a foster home is the proposed placement, a requirement for a specialized assessment of the child's health needs including an assessment of mental illness and behavior and conduct disorders;

(xi) social summaries that include case history information pertinent to case planning; and

(xii) subject to Subsection (12), a sibling visitation schedule.

(6) For purposes of Subsection (5)(e), a child and family plan may only include requirements that:

(a) address findings made by the court; or

(b) (i) are requested or consented to by a parent or guardian of the child; and

(ii) are agreed to by the division and the guardian ad litem.

(7) (a) Subject to Subsection (7)(b), in addition to the information required under Subsection (5)(g)(ix), a child and family plan shall include a specialized assessment of the medical and mental health needs of a child, if the child:

(i) is placed in residential treatment; and

(ii) has medical or mental health issues that need to be addressed.

(b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate medical or mental health diagnosis of the parent's child from a licensed practitioner of the parent's choice.

(8) (a) The division shall train the division's employees to develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the particular child and the child's family.

(b) The child's natural parents, foster parents, and if appropriate, stepparents, shall be kept informed of and supported to participate in important meetings and procedures related to the child's placement.

[~~(9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three years old or~~

~~younger, if the child and family plan is not to return the child home, the primary permanency plan described in Section 80-3-406 for the child shall be adoption.~~]

[~~(b) Notwithstanding Subsection (9)(a), if~~]

(9) If the division documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 80-3-301(6)(e) are not in the child's best interest, the court may order another planned permanent living arrangement in accordance with federal law.

(10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a court order issued in accordance with Subsection 80-3-406(9).

(b) Notwithstanding Subsection (10)(a), the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(i) protect the physical safety of the child;

(ii) protect the life of the child; or

(iii) consistent with Subsection (10)(c), prevent the child from being traumatized by contact with the parent.

(c) In determining whether the condition of the parent described in Subsection (10)(b) will traumatize a child, the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(i) the child's fear of the parent; and

(ii) the nature of the alleged abuse or neglect.

(11) If a child is in the division's temporary custody or custody, the division shall consider visitation with the child's grandparent if:

(a) the division determines the visitation to be in the best interest of the child;

(b) there are no safety concerns regarding the behavior or criminal background of the grandparent;

(c) allowing the grandparent visitation would not compete with or undermine the child's reunification plan;

(d) there is a substantial relationship between the grandparent and child; and

(e) the grandparent visitation will not unduly burden the foster parents.

(12) (a) The division shall incorporate into the child and family plan reasonable efforts to provide sibling visitation if:

(i) siblings are separated due to foster care or adoptive placement;

(ii) the sibling visitation is in the best interest of the child for whom the child and family plan is developed; and

(iii) the division has consent for sibling visitation from the guardian of the sibling.

(b) The division shall obtain consent for sibling visitation from the sibling's guardian if the criteria of Subsections (12)(a)(i) and (ii) are met.

Section 9. Section 80-3-405 is amended to read:

80-3-405. Dispositions after adjudication.

(1) [~~(a)~~] Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.

(2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(c) The juvenile court may order:

(i) protective supervision;

(ii) family preservation;

(iii) sibling visitation; or

(iv) other services.

(d) (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the natural parents of the minor.

(iii) An order under this Subsection (2)(d):

(A) shall remain in effect until the minor is 18 years old;

(B) is not subject to review under Section 78A-6-358; and

(C) may be modified by petition or motion as provided in Section 78A-6-357.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section 62A-15-701, of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(f) (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g) (i) Subject to Subsection 80-1-102(58)(b) and Section 80-3-304, the juvenile court may order that a minor:

(A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court shall consider:

(A) the desires of the minor;

(B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(h) The juvenile court may make other reasonable orders for the best interest of the minor.

(3) Upon an adjudication under this chapter, the juvenile court may not:

(a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice Services;

(b) assume the function of developing foster home services; or

(c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:

(i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;

(ii) based on the assessment described in Subsection (3)(c)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(iii) consents to legal custody of the minor being vested in the division.

(4) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

(5) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 10. Section 80-3-407 is amended to read:

80-3-407. Six-month review hearing -- Findings regarding reasonable efforts by division -- Findings regarding child and family plan compliance.

(1) If reunification efforts have been ordered by the juvenile court under Section 80-3-406, the juvenile court shall hold a hearing no more than six months after the day on which the minor is initially removed from the minor's home, in order for the juvenile court to determine whether:

[~~(1)~~] (a) the division has provided and is providing reasonable efforts to reunify the family in accordance with the child and family plan;

[~~(2)~~] (b) the parent has fulfilled or is fulfilling identified duties and responsibilities in order to comply with the requirements of the child and family plan; and

[~~(3)~~] (c) the division considered the preferential consideration and rebuttable presumption described in Subsections 80-3-302(7)(a) and 80-3-303(2)(c).

(2) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 11. Section 80-3-409 is amended to read:

80-3-409. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) If reunification services are ordered under Section 80-3-406, with regard to a minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.

(b) If reunification services are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services are ordered in accordance with Section 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the juvenile court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

(3) In making a determination under Subsection (2)(a), the juvenile court shall:

(a) review and consider:

(i) the report prepared by the division;

(ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;

(iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);

(iv) any evidence regarding the efforts or progress demonstrated by the parent; and

(v) the extent to which the parent cooperated and used the services provided; and

(b) attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(4) With regard to a case where reunification services are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the juvenile court under Section 80-3-406; and

(c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The juvenile court may order another planned permanent living arrangement other than reunification for a minor who is 16 years old or older upon entering the following findings:

(a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify the

minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

(b) the division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Section 80-2-308;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor is initially removed from the minor's home, in accordance with the provisions of Section 80-3-406.

(7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, beyond a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for the parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the juvenile court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the juvenile court specifies the time period in which it is likely that reunification will occur.

(d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.

(8) The juvenile court may, in the juvenile court's discretion:

(a) enter any additional order that the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (7); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor is terminated.

(9) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.

(b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 80-4-203(2).

(10) (a) Any party to an action may, at any time, petition the juvenile court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the juvenile court so determines, the juvenile court shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(11) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a juvenile court's ability to terminate reunification services at any time before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 80-2a-201 and 80-4-104.

(12) (a) Subject to Subsection (12)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on

termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (12)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the division to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.

(c) The juvenile court shall make a decision on a petition for termination of parental rights within 18 months after the day on which the minor is initially removed from the minor's home.

(13) (a) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.

(b) In considering appropriate placement options under Subsection (13)(a), the juvenile court shall provide preferential consideration to a relative's request for placement of the minor.

(14) (a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an opportunity to address the juvenile court or testify regarding permanency or placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.

(15) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 12. Repealer.

This bill repeals:

Section 78B-7-112, Division of Child and Family Services -- Development and assistance of volunteer network.

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Effective July 1, 2024

BUREAU OF EMERGENCY MEDICAL SERVICES AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill moves responsibilities regarding emergency medical services from the Department of Health and Human Services to the Department of Public Safety.

Highlighted Provisions:

This bill:

- moves responsibilities and oversight regarding emergency medical services from the Department of Health and Human Services to the Department of Public Safety;
- establishes the Bureau of Emergency Medical Services in statute; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

10-2-425, as last amended by Laws of Utah 2019, Chapter 159
11-48-103, as enacted by Laws of Utah 2021, Chapter 265
17B-2a-902, as last amended by Laws of Utah 2014, Chapter 189
26-6b-2, as last amended by Laws of Utah 2006, Chapter 185
26-9-4, as last amended by Laws of Utah 2017, Chapter 199
26-18-26, as enacted by Laws of Utah 2019, Chapter 265
26-21-32, as enacted by Laws of Utah 2019, Chapter 262
26-21-209, as last amended by Laws of Utah 2015, Chapter 307
26-23-6, as last amended by Laws of Utah 2022, Chapter 457
26-37a-102, as last amended by Laws of Utah 2016, Chapter 348
26-55-102, as last amended by Laws of Utah 2017, Chapter 392
26B-1-204, as renumbered and amended by Laws of Utah 2022, Chapter 255
34-55-102, as enacted by Laws of Utah 2019, Chapter 126
34A-2-102, as last amended by Laws of Utah 2019, Chapter 121
39-1-64, as enacted by Laws of Utah 2004, Chapter 82
41-1a-230.7, as enacted by Laws of Utah 2021, Chapter 395
41-6a-523, as last amended by Laws of Utah 2019, Chapter 349
53-1-104, as last amended by Laws of Utah 2013, Chapter 295
53-10-405, as last amended by Laws of Utah 2019, Chapter 349
53-21-101, as enacted by Laws of Utah 2022, Chapter 114
58-1-307, as last amended by Laws of Utah 2020, Chapter 339
58-1-509, as enacted by Laws of Utah 2019, Chapter 346
58-37-8, as last amended by Laws of Utah 2022, Chapters 116, 415 and 430
59-12-801, as last amended by Laws of Utah 2014, Chapter 50
62A-15-629, as last amended by Laws of Utah 2022, Chapters 341, 374
62A-15-1401, as last amended by Laws of Utah 2020, Chapter 303
63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451
63I-1-253, as last amended by Laws of Utah 2022, Chapters 10, 30, 31, 172, 173, 194, 218, 224, 229, 236, 254, 274, and 414
63I-2-226, as last amended by Laws of Utah 2022, Chapters 255, 365
63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370, and 409
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154
63M-7-209, as last amended by Laws of Utah 2022, Chapter 36
67-20-2, as last amended by Laws of Utah 2022, Chapters 346, 347 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 347
72-10-502, as last amended by Laws of Utah 2018, Chapter 35
76-3-203.11, as last amended by Laws of Utah 2020, Chapter 131
76-5-102.7, as last amended by Laws of Utah 2022, Chapters 117, 181
77-23-213, as last amended by Laws of Utah 2019, Chapter 349
78A-6-209, as last amended by Laws of Utah 2022, Chapters 335, 430
78B-4-501, as last amended by Laws of Utah 2018, Chapter 62
78B-5-902, as last amended by Laws of Utah 2022, Chapter 255
78B-5-904, as enacted by Laws of Utah 2021, Chapter 208
78B-8-401, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 16
80-3-404, as last amended by Laws of Utah 2022, Chapters 255, 334
80-3-504, as enacted by Laws of Utah 2022, Chapter 334

ENACTS:

53-2d-102, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53-2d-101, (Renumbered from 26-8a-102, as last amended by Laws of Utah 2022, Chapters 255, 351 and 404)
53-2d-103, (Renumbered from 26-8a-105, as last amended by Laws of Utah 2019, Chapter 265)
53-2d-104, (Renumbered from 26-8a-103, as last amended by Laws of Utah 2022, Chapter 255)
53-2d-105, (Renumbered from 26-8a-104, as last amended by Laws of Utah 2021, Chapters 237, 265)
53-2d-106, (Renumbered from 26-8a-106, as last amended by Laws of Utah 2017, Chapter 326)
53-2d-107, (Renumbered from 26-8a-107, as last amended by Laws of Utah 2022, Chapter 255)
53-2d-108, (Renumbered from 26-8a-108, as last amended by Laws of Utah 2021, Chapter 395)
53-2d-201, (Renumbered from 26-8a-201, as enacted by Laws of Utah 1999, Chapter 141)
53-2d-202, (Renumbered from 26-8a-202, as enacted by Laws of Utah 1999, Chapter 141)
53-2d-203, (Renumbered from 26-8a-203, as last amended by Laws of Utah 2022, Chapter 387)
53-2d-204, (Renumbered from 26-8a-204, as enacted by Laws of Utah 1999, Chapter 141)
53-2d-205, (Renumbered from 26-8a-205, as enacted by Laws of Utah 1999, Chapter 141)
53-2d-206, (Renumbered from 26-8a-206, as last amended by Laws of Utah 2021, Chapter 208)
53-2d-207, (Renumbered from 26-8a-207, as last amended by Laws of Utah 2020, Chapters 215, 230)
53-2d-208, (Renumbered from 26-8a-208, as last amended by Laws of Utah 2022, Chapter 255)
53-2d-209, (Renumbered from 26-8a-210, as enacted by Laws of Utah 2020, Chapter 215)
53-2d-210, (Renumbered from 26-8a-211, as enacted by Laws of Utah 2020, Chapter 215)
53-2d-211, (Renumbered from 26-8a-212, as enacted by Laws of Utah 2022, Chapter 404)
53-2d-301, (Renumbered from 26-8a-250, as enacted by Laws of Utah 2000, Chapter 305)
53-2d-302, (Renumbered from 26-8a-251, as last amended by Laws of Utah 2019, Chapter 349)
53-2d-303, (Renumbered from 26-8a-252, as enacted by Laws of Utah 2000, Chapter 305)
53-2d-304, (Renumbered from 26-8a-253, as last amended by Laws of Utah 2011, Chapter 297)
53-2d-305, (Renumbered from 26-8a-254, as enacted by Laws of Utah 2000, Chapter 305)
53-2d-401, (Renumbered from 26-8a-301, as last amended by Laws of Utah 2021, Chapter 237)
53-2d-402, (Renumbered from 26-8a-302, as last amended by Laws of Utah 2022, Chapters 255, 460)
53-2d-403, (Renumbered from 26-8a-303, as last amended by Laws of Utah 2019, Chapter 265)
53-2d-404, (Renumbered from 26-8a-304, as last amended by Laws of Utah 2019, Chapter 265)
53-2d-405, (Renumbered from 26-8a-305, as enacted by Laws of Utah 1999, Chapter 141)
53-2d-406, (Renumbered from 26-8a-306, as last amended by Laws of Utah 2021, Chapter 237)
53-2d-407, (Renumbered from 26-8a-307, as last amended by Laws of Utah 2021, Chapter 208)
53-2d-408, (Renumbered from 26-8a-308, as last amended by Laws of Utah 2017, Chapter 326)
53-2d-409, (Renumbered from 26-8a-309, as enacted by Laws of Utah 1999, Chapter 141)
53-2d-410, (Renumbered from 26-8a-310, as last amended by Laws of Utah 2022, Chapters 255, 335 and 415)
53-2d-410.5, (Renumbered from 26-8a-310.5, as enacted by Laws of Utah 2021, Chapter 237)
53-2d-501, (Renumbered from 26-8a-401, as last amended by Laws of Utah 2021, Chapter 265)
53-2d-502, (Renumbered from 26-8a-402, as last amended by Laws of Utah 2021, Chapter 265)
53-2d-503, (Renumbered from 26-8a-403, as last amended by Laws of Utah 2006, Chapter 209)
53-2d-504, (Renumbered from 26-8a-404, as last amended by Laws of Utah 2022, Chapter 351)
53-2d-505, (Renumbered from 26-8a-405, as last amended by Laws of Utah 2019, Chapter 390)
53-2d-505.1, (Renumbered from 26-8a-405.1, as last amended by Laws of Utah 2021, Chapter 265)
53-2d-505.2, (Renumbered from 26-8a-405.2, as last amended by Laws of Utah 2011, Chapter 297)
53-2d-505.3, (Renumbered from 26-8a-405.3, as last amended by Laws of Utah 2021, Chapter 355)
53-2d-505.4, (Renumbered from 26-8a-405.4, as last amended by Laws of Utah 2021, Chapter 265)
53-2d-505.5, (Renumbered from 26-8a-405.5, as last amended by Laws of Utah 2021, Chapter 265)

53-2d-506, (Renumbered from 26-8a-406, as last amended by Laws of Utah 2011, Chapter 297)
53-2d-507, (Renumbered from 26-8a-407, as last amended by Laws of Utah 2008, Chapter 382)
53-2d-508, (Renumbered from 26-8a-408, as last amended by Laws of Utah 2017, Chapter 326)
53-2d-509, (Renumbered from 26-8a-409, as last amended by Laws of Utah 2017, Chapter 326)
53-2d-510, (Renumbered from 26-8a-410, as last amended by Laws of Utah 2011, Chapter 297)
53-2d-511, (Renumbered from 26-8a-411, as last amended by Laws of Utah 2003, Chapter 213)
53-2d-512, (Renumbered from 26-8a-412, as enacted by Laws of Utah 1999, Chapter 141)
53-2d-513, (Renumbered from 26-8a-413, as last amended by Laws of Utah 2022, Chapter 274)
53-2d-514, (Renumbered from 26-8a-414, as last amended by Laws of Utah 2008, Chapter 382)
53-2d-515, (Renumbered from 26-8a-415, as enacted by Laws of Utah 1999, Chapter 141)
53-2d-516, (Renumbered from 26-8a-416, as last amended by Laws of Utah 2022, Chapter 351)
53-2d-601, (Renumbered from 26-8a-501, as last amended by Laws of Utah 2017, Chapter 326)
53-2d-602, (Renumbered from 26-8a-502, as last amended by Laws of Utah 2021, Chapter 237)
53-2d-602.1, (Renumbered from 26-8a-502.1, as enacted by Laws of Utah 2022, Chapter 457)
53-2d-603, (Renumbered from 26-8a-503, as last amended by Laws of Utah 2019, Chapter 346)
53-2d-604, (Renumbered from 26-8a-504, as last amended by Laws of Utah 2008, Chapter 382)
53-2d-605, (Renumbered from 26-8a-505, as enacted by Laws of Utah 1999, Chapter 141)
53-2d-606, (Renumbered from 26-8a-506, as last amended by Laws of Utah 2017, Chapter 326)
53-2d-607, (Renumbered from 26-8a-507, as enacted by Laws of Utah 1999, Chapter 141)
53-2d-701, (Renumbered from 26-8a-601, as last amended by Laws of Utah 2021, Chapter 237)
53-2d-702, (Renumbered from 26-8a-602, as enacted by Laws of Utah 2019, Chapter 262)
53-2d-703, (Renumbered from 26-8a-603, as enacted by Laws of Utah 2022, Chapter 347)
53-2d-801, (Renumbered from 26-8b-201, as enacted by Laws of Utah 2009, Chapter 22)
53-2d-802, (Renumbered from 26-8b-202, as enacted by Laws of Utah 2009, Chapter 22)
53-2d-803, (Renumbered from 26-8b-301, as last amended by Laws of Utah 2013, Chapter 98)
53-2d-804, (Renumbered from 26-8b-302, as enacted by Laws of Utah 2009, Chapter 22)
53-2d-805, (Renumbered from 26-8b-303, as last amended by Laws of Utah 2013, Chapter 98)
53-2d-806, (Renumbered from 26-8b-401, as enacted by Laws of Utah 2009, Chapter 22)
53-2d-807, (Renumbered from 26-8b-402, as enacted by Laws of Utah 2013, Chapter 98)
53-2d-808, (Renumbered from 26-8b-501, as enacted by Laws of Utah 2013, Chapter 98)
53-2d-809, (Renumbered from 26-8b-602, as last amended by Laws of Utah 2014, Chapter 109)
53-2d-901, (Renumbered from 26-8d-102, as enacted by Laws of Utah 2018, Chapter 104)
53-2d-902, (Renumbered from 26-8d-103, as enacted by Laws of Utah 2018, Chapter 104)
53-2d-903, (Renumbered from 26-8d-104, as last amended by Laws of Utah 2019, Chapter 349)
53-2d-904, (Renumbered from 26-8d-105, as last amended by Laws of Utah 2019, Chapter 349)
53-2e-101, (Renumbered from 26-8c-102, as enacted by Laws of Utah 2016, Chapter 97)

REPEALS:
26-8a-101, as enacted by Laws of Utah 1999, Chapter 141
26-8b-101, as enacted by Laws of Utah 2009, Chapter 22
26-8b-102, as last amended by Laws of Utah 2015, Chapter 411
26-8b-601, as enacted by Laws of Utah 2013, Chapter 99
26-8c-101, as enacted by Laws of Utah 2016, Chapter 97
26-8d-101, as enacted by Laws of Utah 2018, Chapter 104

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-425 is amended to read:

10-2-425. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

(1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404, shall:

(a) within 60 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5;

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment, the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

(ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;

(B) submit to the recorder of each other county a certified copy of the documents listed in Subsection (1)(b)(ii)(A); and

(C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections (1)(b)(ii)(A) and (B); and

(c) concurrently with Subsection (1)(b):

(i) send notice of the annexation or boundary adjustment to each affected entity; and

(ii) in accordance with Section [~~26-8a-414~~] 53-2d-514, file with the [~~Department of Health~~] Bureau of Emergency Medical Services:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and

(B) a copy of the approved final local entity plat.

(2) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a local district under Section 17B-1-416 or an automatic withdrawal from a local district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the local district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

(3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).

(4) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection (1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection (1) are met before that January 1; and

(b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

(5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:

(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and

(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).

(6) (a) As used in this Subsection (6):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is

moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 2. Section 11-48-103 is amended to read:

11-48-103. Provision of 911 ambulance services in municipalities and counties.

(1) The governing body of each municipality and county shall, subject to [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers,~~] Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers, ensure at least a minimum level of 911 ambulance services are provided:

(a) within the territorial limits of the municipality or county;

(b) by a ground ambulance provider, licensed by the [~~Department of Health~~] Bureau of Emergency Medical Services under [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers; and

(c) in accordance with rules established by the State Emergency Medical Services Committee under [~~Subsection 26-8a-104(8).~~] Subsection 53-2d-105(8).

(2) A municipality or county may:

(a) subject to Subsection (3), maintain and support 911 ambulance services for the municipality's or county's own jurisdiction; or

(b) contract to:

(i) provide 911 ambulance services to any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(ii) receive 911 ambulance services from any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(iii) jointly provide 911 ambulance services with any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or

(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

(3) (a) A municipality or county that maintains and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the [~~Department of Health~~] Bureau of Emergency Medical Services under [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers.

(b) [~~Subsections 26-8a-405~~] Subsections 53-2d-505 through [~~26-8a-405.3~~] 53-2d-505.3 do not apply to a license described in Subsection (3)(a).

Section 3. Section 17B-2a-902 is amended to read:

17B-2a-902. Provisions applicable to service areas.

(1) Each service area is governed by and has the powers stated in:

(a) this part; and

(b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to service areas.

(3) A service area is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:

(i) law enforcement services;

(ii) fire protection services;

(iii) 911 ambulance or paramedic services as defined in Section [~~26-8a-102~~] 53-2d-101 that are provided under a contract in accordance with Section [~~26-8a-405.2~~] 53-2d-505.2; or

(iv) emergency services.

(b) Subsection (5)(a) does not apply to:

(i) a fee charged or collected on an individual basis rather than a general basis;

(ii) a non-911 service as defined in Section [~~26-8a-102~~] 53-2d-101 that is provided under a contract in accordance with Section [~~26-8a-405.2~~] 53-2d-505.2;

(iii) an impact fee charged or collected for a public safety facility as defined in Section 11-36a-102; or

(iv) a service area that includes within the boundary of the service area a county of the fifth or sixth class.

Section 4. Section 26-6b-2 is amended to read:

26-6b-2. Definitions.

As used in this chapter:

(1) "Department" means the Department of Health or a local health department as defined in Section 26A-1-102.

(2) "First responder" means:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) emergency medical service personnel as defined in Section [~~26-8a-102~~] 53-2d-101;

(c) firefighters; and

(d) public health personnel having jurisdiction over the location where an individual subject to restriction is found.

(3) "Order of restriction" means an order issued by a department or a district court which requires an individual or group of individuals who are subject to restriction to submit to an examination, treatment, isolation, or quarantine.

(4) "Public health official" means:

(a) the executive director of the Department of Health, or the executive director's authorized representative; or

(b) the executive director of a local health department as defined in Section 26A-1-102, or the executive director's authorized representative.

(5) "Subject to restriction" as applied to an individual, or a group of individuals, means the individual or group of individuals is:

(a) infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department to prevent spread of the disease;

(b) contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health, and that could be spread to others if remedial action is not taken;

(c) in a condition or suspected condition which, if the individual is exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed the individual will pose a threat to public health; or

(d) contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken.

Section 5. Section 26-9-4 is amended to read:

26-9-4. Rural Health Care Facilities Account -- Source of revenues -- Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into the General Fund.

(1) As used in this section:

(a) "Emergency medical services" is as defined in Section [~~26-8a-102~~] 53-2d-101.

(b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

(c) "Fiscal year" means a one-year period beginning on July 1 of each year.

(d) "Freestanding urgent care center" is as defined in Section 59-12-801.

(e) "Nursing care facility" is as defined in Section 26-21-2.

(f) "Rural city hospital" is as defined in Section 59-12-801.

(g) "Rural county health care facility" is as defined in Section 59-12-801.

(h) "Rural county hospital" is as defined in Section 59-12-801.

(i) "Rural county nursing care facility" is as defined in Section 59-12-801.

(j) "Rural emergency medical services" is as defined in Section 59-12-801.

(k) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

(2) There is created a restricted account within the General Fund known as the "Rural Health Care Facilities Account."

(3) (a) The restricted account shall be funded by amounts appropriated by the Legislature.

(b) Any interest earned on the restricted account shall be deposited into the General Fund.

(4) Subject to Subsections (5) and (6), the State Tax Commission shall for a fiscal year distribute money deposited into the restricted account to each:

(a) county legislative body of a county that, on January 1, 2007, imposes a tax in accordance with Section 59-12-802 and has not repealed the tax; or

(b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance with Section 59-12-804 and has not repealed the tax.

(5) (a) Subject to Subsection (6), for purposes of the distribution required by Subsection (4), the State Tax Commission shall:

(i) estimate for each county and city described in Subsection (4) the amount by which the revenues collected from the taxes imposed under Sections

59-12-802 and 59-12-804 for fiscal year 2005-06 would have been reduced had:

(A) the amendments made by Laws of Utah 2007, Chapter 288, Sections 25 and 26, to Sections 59-12-802 and 59-12-804 been in effect for fiscal year 2005-06; and

(B) each county and city described in Subsection (4) imposed the tax under Sections 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

(ii) (A) for fiscal years ending before fiscal year 2018, calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by $555,000; and

(B) beginning in fiscal year 2018, calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by $218,809.33;

(iii) distribute to each county and city described in Subsection (4) an amount equal to the product of:

(A) the percentage calculated in accordance with Subsection (5)(a)(ii); and

(B) the amount appropriated by the Legislature to the restricted account for the fiscal year.

(b) The State Tax Commission shall make the estimations, calculations, and distributions required by Subsection (5)(a) on the basis of data collected by the State Tax Commission.

(6) If a county legislative body repeals a tax imposed under Section 59-12-802 or a city legislative body repeals a tax imposed under Section 59-12-804:

(a) the commission shall determine in accordance with Subsection (5) the distribution that, but for this Subsection (6), the county legislative body or city legislative body would receive; and

(b) after making the determination required by Subsection (6)(a), the commission shall:

(i) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is October 1:

(A) (I) distribute to the county legislative body or city legislative body 25% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 75% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;

(ii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is January 1:

(A) (I) distribute to the county legislative body or city legislative body 50% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 50% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;

(iii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is April 1:

(A) (I) distribute to the county legislative body or city legislative body 75% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 25% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund; or

(iv) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is July 1, beginning on that effective date and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund.

(7) (a) Subject to Subsection (7)(b) and Section 59-12-802, a county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6):

(i) for a county of the third or fourth class, to fund rural county health care facilities in that county; and

(ii) for a county of the fifth or sixth class, to fund:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

(D) rural county health care facilities in that county;

(E) rural health clinics in that county; or

(F) a combination of Subsections (7)(a)(ii)(A) through (E).

(b) A county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6) to a center, clinic, facility, or service described in Subsection (7)(a) as determined by the county legislative body.

(c) A center, clinic, facility, or service that receives a distribution in accordance with this

Subsection (7) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-802 may be expended.

(8) (a) Subject to Subsection (8)(b), a city legislative body shall distribute the money the city legislative body receives in accordance with Subsection (5) or (6) to fund rural city hospitals in that city.

(b) A city legislative body shall distribute a percentage of the money the city legislative body receives in accordance with Subsection (5) or (6) to each rural city hospital described in Subsection (8)(a) equal to the same percentage that the city legislative body distributes to that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on the December 31 immediately preceding the first day of the fiscal year for which the city legislative body receives the distribution in accordance with Subsection (5) or (6).

(c) A rural city hospital that receives a distribution in accordance with this Subsection (8) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-804 may be expended.

(9) Any money remaining in the Rural Health Care Facilities Account at the end of a fiscal year after the State Tax Commission makes the distributions required by this section shall lapse into the General Fund.

Section 6. Section 26-18-26 is amended to read:

26-18-26. Reimbursement for nonemergency secured behavioral health transport providers.

The department may not reimburse a nonemergency secured behavioral health transport provider that is designated under Section [~~26-8a-303~~] 53-2d-403.

Section 7. Section 26-21-32 is amended to read:

26-21-32. Notification of air ambulance policies and charges.

(1) For any patient who is in need of air medical transport provider services, a health care facility shall:

(a) provide the patient or the patient's representative with the information described in Subsection [~~26-8a-107(7)(a)~~] 53-2d-107(8)(a) before contacting an air medical transport provider; and

(b) if multiple air medical transport providers are capable of providing the patient with services, provide the patient or the patient's representative with an opportunity to choose the air medical transport provider.

(2) Subsection (1) does not apply if the patient:

(a) is unconscious and the patient's representative is not physically present with the patient; or

(b) is unable, due to a medical condition, to make an informed decision about the choice of an air medical transport provider, and the patient's representative is not physically present with the patient.

Section 8. Section 26-21-209 is amended to read:

26-21-209. Direct Access Clearance System database -- Contents -- Use.

(1) The department shall create and maintain a Direct Access Clearance System database, which:

(a) includes the names of individuals for whom [~~the department has received~~]:

(i) the department has received an application for clearance under this part; or

(ii) the Bureau of Emergency Medical Services has received an application for background clearance under Section [~~26-8a-310~~] 53-2d-410; and

(b) indicates whether an application is pending and whether clearance has been granted and retained for:

(i) an applicant under this part; and

(ii) an applicant for background clearance under Section [~~26-8a-310~~] 53-2d-410.

(2) (a) The department shall allow covered providers and covered contractors to access the database electronically.

(b) Data accessible to a covered provider or covered contractor is limited to the information under Subsections (1)(a)(i) and (1)(b)(i) for:

(i) covered individuals engaged by the covered provider or covered contractor; and

(ii) individuals:

(A) whom the covered provider or covered contractor could engage as covered individuals; and

(B) who have provided the covered provider or covered contractor with sufficient personal identification information to uniquely identify the individual in the database.

(c) (i) The department may establish fees, in accordance with Section 63J-1-504, for use of the database by a covered contractor.

(ii) The fees may include, in addition to any fees established by the department under Subsection 26-21-204(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

Section 9. Section 26-23-6 is amended to read:

26-23-6. Criminal and civil penalties and liability for violations.

(1) (a) Any person, association, corporation, or an officer of a person, an association, or a corporation,

who violates any provision of this chapter or lawful orders of the department or a local health department in a criminal proceeding is guilty of a class B misdemeanor for the first violation, and for any subsequent similar violation within two years, is guilty of a class A misdemeanor, except this section does not establish the criminal penalty for a violation of Section 26-23-5.5 [~~or Section 26-8a-502.1~~].

(b) Conviction in a criminal proceeding does not preclude the department or a local health department from assessment of any civil penalty, administrative civil money penalty or to deny, revoke, condition, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

(2) (a) Subject to Subsections (2)(c) and (d), any association, corporation, or an officer of an association or a corporation, who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:

(i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of $5,000 per violation; or

(ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of $5,000 per violation.

(b) Subject to Subsections (2)(c) and (d), an individual who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:

(i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of $150 per violation; or

(ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of $150 per violation.

(c) (i) Except as provided in Subsection (2)(c)(ii), a penalty described in Subsection (2)(a) or (b) may only be assessed against the same individual, association, or corporation one time in a calendar week.

(ii) Notwithstanding Subsection (2)(c)(i), an individual, an association, a corporation, or an officer of an association or a corporation, who willfully disregards or recklessly violates a provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department, may be assessed a penalty as described in Subsection (2)(a) for each day of violation if it is determined that the violation is likely to result in a serious threat to public health.

(d) Upon reasonable cause shown in judicial civil proceeding or an administrative action, a penalty imposed under this Subsection (2) may be waived or reduced.

(3) Assessment of any civil penalty or administrative penalty does not preclude the department or a local health department from seeking criminal penalties or to deny, revoke, impose conditions on, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

(4) In addition to any penalties imposed under Subsection (1), a person, association, corporation, or an officer of a person, an association, or a corporation, is liable for any expense incurred by the department in removing or abating any health or sanitation violations, including any nuisance, source of filth, cause of sickness, or dead animal.

Section 10. Section 26-37a-102 is amended to read:

26-37a-102. Definitions.

As used in this chapter:

(1) "Ambulance service provider" means:

(a) an ambulance provider as defined in Section 26-8a-102; or

(b) a non-911 service provider as defined in Section 26-8a-102.

(2) "Assessment" means the Medicaid ambulance service provider assessment established by this chapter.

(3) "Division" means the Division of Health Care Financing within the department.

(4) "Non-federal portion" means the non-federal share the division needs to seed amounts that will support fee-for-service ambulance service provider rates, as described in Section 26-37a-105.

(5) "Total transports" means the number of total ambulance transports applicable to a given fiscal year, as determined under Subsection [~~26-37a-104(5).~~] 26-37a-104(5).

Section 11. Section 26-55-102 is amended to read:

26-55-102. Definitions.

As used in this chapter:

(1) "Controlled substance" means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) "Dispense" means the same as that term is defined in Section 58-17b-102.

(3) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.

(4) "Health care provider" means:

(a) a physician, as defined in Section 58-67-102;

(b) an advanced practice registered nurse, as defined in Section 58-31b-102;

(c) a physician assistant, as defined in Section 58-70a-102; or

(d) an individual licensed to engage in the practice of dentistry, as defined in Section 58-69-102.

(5) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

(6) "Local health department" means:

(a) a local health department, as defined in Section 26A-1-102; or

(b) a multicounty local health department, as defined in Section 26A-1-102.

(7) "Opiate" means the same as that term is defined in Section 58-37-2.

(8) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of an opiate-related drug overdose.

(9) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

(10) "Overdose outreach provider" means:

(a) a law enforcement agency;

(b) a fire department;

(c) an emergency medical service provider, as defined in Section [~~26-8a-102~~] 53-2d-101;

(d) emergency medical service personnel, as defined in Section [~~26-8a-102~~] 53-2d-101;

(e) an organization providing treatment or recovery services for drug or alcohol use;

(f) an organization providing support services for an individual, or a family of an individual, with a substance use disorder;

(g) an organization providing substance use or mental health services under contract with a local substance abuse authority, as defined in Section 62A-15-102, or a local mental health authority, as defined in Section 62A-15-102;

(h) an organization providing services to the homeless;

(i) a local health department;

(j) an individual licensed to practice pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act; or

(k) an individual.

(11) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

(12) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(13) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

(14) "Prescribe" means the same as that term is defined in Section 58-17b-102.

Section 12. Section 26B-1-204 is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

(c) Health Advisory Council;

(d) Health Facility Committee;

[~~(e) State Emergency Medical Services Committee;~~]

[~~(f) Air Ambulance Committee;~~]

[~~(g)~~] (e) Health Data Committee;

[~~(h)~~] (f) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

[~~(i)~~] (g) Residential Child Care Licensing Advisory Committee;

[~~(j)~~] (h) Child Care Center Licensing Committee;

[~~(k)~~] (i) Primary Care Grant Committee;

[~~(l)~~] (j) Adult Autism Treatment Program Advisory Committee;

[~~(m)~~] (k) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

[~~(n)~~] (l) any boards, councils, or committees that are created by statute in:

(i) this title;

(ii) Title 26, Utah Health Code; or

(iii) Title 62A, Utah Human Services Code.

(3) The following divisions are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities; and

(c) relating to community health and well-being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; and

(v) the Office of Recovery Services.

(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with:

(a) this title;

(b) Title 26, Utah Health Code; and

(c) Title 62A, Utah Human Services Code.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in:

(a) this title;

(b) Title 26, Utah Health Code; or

(c) Title 62A, Utah Human Services Code.

Section 13. Section 34-55-102 is amended to read:

34-55-102. Definitions.

(1) "Emergency" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

(2) "Emergency services volunteer" means:

(a) a volunteer firefighter as defined in Section 49-16-102;

(b) an individual licensed under Section [~~26-8a-302~~] 53-2d-402; or

(c) an individual mobilized as part of a posse comitatus.

(3) "Employer" means a person, including the state or a political subdivision of the state, that has one or more workers employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(4) "Public safety agency" means a governmental entity that provides fire protection, law enforcement, ambulance, medical, or other emergency services.

Section 14. Section 34A-2-102 is amended to read:

34A-2-102. Definition of terms.

(1) As used in this chapter:

(a) "Average weekly wages" means the average weekly wages as determined under Section 34A-2-409.

(b) "Award" means a final order of the commission as to the amount of compensation due:

(i) an injured employee; or

(ii) a dependent of a deceased employee.

(c) "Compensation" means the payments and benefits provided for in this chapter or Chapter 3, Utah Occupational Disease Act.

(d) (i) "Decision" means a ruling of:

(A) an administrative law judge; or

(B) in accordance with Section 34A-2-801:

(I) the commissioner; or

(II) the Appeals Board.

(ii) "Decision" includes:

(A) an award or denial of a medical, disability, death, or other related benefit under this chapter or Chapter 3, Utah Occupational Disease Act; or

(B) another adjudicative ruling in accordance with this chapter or Chapter 3, Utah Occupational Disease Act.

(e) "Director" means the director of the division, unless the context requires otherwise.

(f) "Disability" means an administrative determination that may result in an entitlement to

compensation as a consequence of becoming medically impaired as to function. Disability can be total or partial, temporary or permanent, industrial or nonindustrial.

(g) "Division" means the Division of Industrial Accidents.

(h) "First responder" means:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) an emergency medical technician, as defined in Section [~~26-8c-102~~] 53-2e-101;

(iii) an advanced emergency medical technician, as defined in Section [~~26-8c-102~~] 53-2e-101;

(iv) a paramedic, as defined in Section [~~26-8c-102~~] 53-2e-101;

(v) a firefighter, as defined in Section 34A-3-113;

(vi) a dispatcher, as defined in Section 53-6-102; or

(vii) a correctional officer, as defined in Section 53-13-104.

(i) "Impairment" is a purely medical condition reflecting an anatomical or functional abnormality or loss. Impairment may be either temporary or permanent, industrial or nonindustrial.

(j) "Order" means an action of the commission that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

(k) (i) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of the employee's employment.

(ii) "Personal injury by accident arising out of and in the course of employment" does not include a disease, except as the disease results from the injury.

(l) "Safe" and "safety," as applied to employment or a place of employment, means the freedom from danger to the life or health of employees reasonably permitted by the nature of the employment.

(2) As used in this chapter and Chapter 3, Utah Occupational Disease Act:

(a) "Brother or sister" includes a half brother or sister.

(b) "Child" includes:

(i) a posthumous child; or

(ii) a child legally adopted prior to an injury.

Section 15. Section 39-1-64 is amended to read:

39-1-64. Extension of licenses for members of National Guard and reservists.

(1) As used in this section, "license" means any license issued under:

(a) Title 58, Occupations and Professions; and

(b) Section [~~26-8a-302~~] 53-2d-402.

(2) Any license held by a member of the National Guard or reserve component of the armed forces that expires while the member is on active duty shall be extended until 90 days after the member is discharged from active duty status.

(3) The licensing agency shall renew a license extended under Subsection (2) until the next date that the license expires or for the period that the license is normally issued, at no cost to the member of the National Guard or reserve component of the armed forces if all of the following conditions are met:

(a) the National Guard member or reservist requests renewal of the license within 90 days after being discharged;

(b) the National Guard member or reservist provides the licensing agency with a copy of the member's or reservist's official orders calling the member or reservist to active duty, and official orders discharging the member or reservist from active duty; and

(c) the National Guard member or reservist meets all the requirements necessary for the renewal of the license, except the member or reservist need not meet the requirements, if any, that relate to continuing education or training.

(4) The provisions of this section do not apply to regularly scheduled annual training.

Section 16. Section 41-1a-230.7 is amended to read:

41-1a-230.7. Registration checkoff for supporting emergency medical services and search and rescue operations.

(1) A person who applies for a motor vehicle registration or registration renewal may designate a voluntary contribution of $3 for the purpose of supporting:

(a) the Emergency Medical Services Grant Program; and

(b) the Search and Rescue Financial Assistance Program.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution and not as a motor vehicle or off-highway vehicle registration fee; and

(c) distributed equally to the Emergency Medical Services System Account created in Section [~~26-8a-108~~] 53-2d-108 and the Search and Rescue Financial Assistance Program created in Section 53-2a-1102 at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

(3) In addition to the administrative costs deducted under Subsection (2)(c), the division may deduct the first $1,000 collected to cover costs incurred to change the registration form.

Section 17. Section 41-6a-523 is amended to read:

41-6a-523. Persons authorized to draw blood -- Immunity from liability.

(1) (a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:

(i) a physician;

(ii) a physician assistant;

(iii) a registered nurse;

(iv) a licensed practical nurse;

(v) a paramedic;

(vi) as provided in Subsection (1)(b), emergency medical service personnel other than paramedics; or

(vii) a person with a valid permit issued by the Department of Health under Section 26-1-30.

(b) The [~~Department of Health~~] Bureau of Emergency Medical Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section [~~26-8a-102~~] 53-2d-101, are authorized to draw blood under Subsection (1)(a)(vi), based on the type of license under Section [~~26-8a-302~~] 53-2d-402.

(c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

(2) The following are immune from civil or criminal liability arising from drawing a blood sample from a person whom a peace officer has reason to believe is driving in violation of this chapter, if the sample is drawn in accordance with standard medical practice:

(a) a person authorized to draw blood under Subsection (1)(a); and

(b) if the blood is drawn at a hospital or other medical facility, the medical facility.

Section 18. Section 53-1-104 is amended to read:

53-1-104. Boards, bureaus, councils, divisions, and offices.

(1) The following are the policymaking boards and committees within the department:

(a) the State Emergency Medical Services Committee created in Section 53-2d-104;

(b) the Air Ambulance Committee created in Section 53-2d-107;

(c) the Driver License Medical Advisory Board, created in Section 53-3-303;

[~~(b)~~] (d) the Concealed Firearm Review Board, created in Section 53-5-703;

[~~(c)~~] (e) the Utah Fire Prevention Board, created in Section 53-7-203;

[~~(d)~~] (f) the Liquified Petroleum Gas Board, created in Section 53-7-304; and

[~~(e)~~] (g) the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.

(2) The following are the councils within the department:

(a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and

(b) the Motor Vehicle Safety Inspection Advisory Council, created in Section 53-8-203.

(3) The following are the divisions within the department:

(a) the Administrative Services Division, created in Section 53-1-203;

(b) the Management Information Services Division, created in Section 53-1-303;

(c) the Division of Emergency Management, created in Section 53-2a-103;

(d) the Driver License Division, created in Section 53-3-103;

(e) the Criminal Investigations and Technical Services Division, created in Section 53-10-103;

(f) the Peace Officer Standards and Training Division, created in Section 53-6-103;

(g) the State Fire Marshal Division, created in Section 53-7-103; and

(h) the Utah Highway Patrol Division, created in Section 53-8-103.

(4) The Office of Executive Protection is created in Section 53-1-112.

(5) The following are the bureaus within the department:

(a) the Bureau of Emergency Medical Services, created in Section 53-2d-102;

(b) the Bureau of Criminal Identification, created in Section 53-10-201;

[~~(b)~~] (c) the State Bureau of Investigation, created in Section 53-10-301;

[~~(c)~~] (d) the Bureau of Forensic Services, created in Section 53-10-401; and

[~~(d)~~] (e) the Bureau of Communications, created in Section 53-10-501.

Section 19. Section 53-2d-101, which is renumbered from Section 26-8a-102 is renumbered and amended to read:

CHAPTER 2d. Emergency Medical Services Act

Part 1. General Provisions

[~~26-8a-102~~]. 53-2d-101. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Account" means the Automatic External Defibrillator Restricted Account, created in Section 53-2d-809.

[~~(2)~~] (3) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section [~~26-8a-304~~] 53-2d-404 to operate in the state.

[~~(3)~~] (4) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under [~~Part 4, Ambulance and Paramedic Providers~~] Part 5, Ambulance and Paramedic Providers.

(5) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to 21 U.S.C. Sec. 360(k);

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to an individual's heart.

[~~(4)~~] (6) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302;

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(7) "Bureau" means the Bureau of Emergency Medical Services created in Section 53-2d-102.

(8) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

[~~(5)~~] (9) "Committee" means the State Emergency Medical Services Committee created by Section [~~26B-1-204~~] 53-2d-104.

[~~(6)~~] (10) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26-21-2.

(11) "Division" means the Division of Emergency Management created in Section 53-2a-103.

[~~(7)~~] (12) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

[~~(8)~~] (13) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section [~~26-8a-302~~] 53-2d-402 during transport.

(14) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the bureau.

[~~(9)~~] (15) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section [~~26-8a-302~~] 53-2d-402.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

[~~(10)~~] (16) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection [~~26-8a-303(1)(a);~~] 53-2d-403(1)(a); and

(c) emergency medical service personnel.

[~~(11)~~] (17) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections [~~(11)~~] (17)(a) through (c).

[~~(12)~~] (18) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section [~~26-8a-304~~] 53-2d-404.

[~~(13)~~] (19) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

[~~(14)~~] (20) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to [~~Part 4, Ambulance and Paramedic Providers~~] Part 5, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to [~~Part 4, Ambulance and Paramedic Providers~~] Part 5, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

[~~(15)~~] (21) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

[~~(16)~~] (22) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

[~~(17)~~] (23) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

[~~(18)~~] (24) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section [~~26-8a-305~~] 53-2d-405; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section [~~26-8a-303~~] 53-2d-403.

[~~(19)~~] (25) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under [~~Part 4, Ambulance and Paramedic Providers~~] Part 5, Ambulance and Paramedic Providers.

[~~(20)~~] (26) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.

[~~(21)~~] (27) "Political subdivision" means:

(a) a city, town, or metro township;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a local district created under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection [~~26-8a-405.2(2)(b)(ii);~~] 53-2d-505.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

(28) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

[~~(22)~~] (29) "Trauma" means an injury requiring immediate medical or surgical intervention.

[~~(23)~~] (30) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

[~~(24)~~] (31) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

[~~(25)~~] (32) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

[~~(26)~~] (33) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 20. Section 53-2d-102 is enacted to read:

53-2d-102. Bureau of Emergency Medical Services -- Creation -- Bureau chief appointment, qualifications, and compensation.

(1) There is created within the department the Bureau of Emergency Medical Services.

(2) The bureau shall be administered by a bureau chief appointed by the commissioner.

(3) The bureau chief shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The bureau chief acts under the supervision and control of the commissioner and may be removed from the position at the will of the commissioner.

(5) The bureau chief shall receive compensation as provided by Title 63A, Chapter 17, Utah State Personnel Management Act.

Section 21. Section 53-2d-103, which is renumbered from Section 26-8a-105 is renumbered and amended to read:

[~~26-8a-105~~]. 53-2d-103. Bureau duties -- Data sharing.

(1) The [~~department~~] bureau shall:

[~~(1)~~] (a) coordinate the emergency medical services within the state;

[~~(2)~~] (b) [~~administer this chapter and the rules established pursuant to it;~~] administer any programs and applicable rules created under this chapter;

[~~(3)~~] (c) establish a voluntary task force representing a diversity of emergency medical service providers to advise the [~~department~~] bureau and the committee on rules;

[~~(4)~~] (d) establish an emergency medical service personnel peer review board to advise the [~~department~~] bureau concerning discipline of emergency medical service personnel under this chapter; and

[~~(5)~~] (e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

[~~(a)~~] (i) license ambulance providers and paramedic providers;

[~~(b)~~] (ii) permit ambulances, emergency medical response vehicles, and nonemergency secured behavioral health transport vehicles, including approving an emergency vehicle operator's course in accordance with Section [~~26-8a-304~~] 53-2d-404;

[~~(c)~~] (iii) establish:

[~~(i)~~] (A) the qualifications for membership of the peer review board created by this section;

[~~(ii)~~] (B) a process for placing restrictions on a license while an investigation is pending;

[~~(iii)~~] (C) the process for the investigation and recommendation by the peer review board; and

[~~(iv)~~] (D) the process for determining the status of a license while a peer review board investigation is pending;

[~~(d)~~] (iv) establish application, submission, and procedural requirements for licenses, designations, and permits; and

[~~(e)~~] (v) establish and implement the programs, plans, and responsibilities as specified in other sections of this chapter.

(2) (a) The bureau shall share data related to the bureau's duties with the Department of Health and Human Services.

(b) The Department of Health and Human Services shall share data related to the bureau's duties with the bureau.

(c) All data collected by the bureau under this chapter is subject to Title 26, Chapter 3, Health Statistics, including data privacy protections.

Section 22. Section 53-2d-104, which is renumbered from Section 26-8a-103 is renumbered and amended to read:

[~~26-8a-103~~]. 53-2d-104. State Emergency Medical Services Committee -- Membership -- Expenses.

(1) [~~The~~] There is created the State Emergency Medical Services Committee [~~created by Section 26B-1-204 shall~~].

(2) The committee shall be composed of the following 19 members appointed by the governor, at least six of whom shall reside in a county of the third, fourth, fifth, or sixth class:

(a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

(i) one surgeon who actively provides trauma care at a hospital;

(ii) one rural physician involved in emergency medical care;

(iii) two physicians who practice in the emergency department of a general acute hospital; and

(iv) one pediatrician who practices in the emergency department or critical care unit of a general acute hospital or a children's specialty hospital;

(b) two representatives from private ambulance providers;

(c) one representative from an ambulance provider that is neither privately owned nor operated by a fire department;

(d) two chief officers from fire agencies operated by the following classes of licensed or designated emergency medical services providers: municipality, county, and fire district, provided that no class of medical services providers may have more than one representative under this Subsection [~~(1)(d)~~] (2)(d);

(e) one director of a law enforcement agency that provides emergency medical services;

(f) one hospital administrator;

(g) one emergency care nurse;

(h) one paramedic in active field practice;

(i) one emergency medical technician in active field practice;

(j) one certified emergency medical dispatcher affiliated with an emergency medical dispatch center;

(k) one licensed mental health professional with experience as a first responder;

(l) one licensed behavioral emergency services technician; and

(m) one consumer.

[~~(2)~~] (3) (a) Except as provided in Subsection [~~(2)(b)~~] (3)(b), members shall be appointed to a four-year term beginning July 1.

(b) Notwithstanding Subsection [~~(2)(a),~~] (3)(a), the governor:

(i) shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years;

(ii) may not reappoint a member for more than two consecutive terms; and

(iii) shall:

(A) initially appoint the second member under Subsection [~~(1)(b)~~] (2)(b) from a different private provider than the private provider currently serving under Subsection [~~(1)(b)~~] (2)(b); and

(B) thereafter stagger each replacement of a member in Subsection [~~(1)(b)~~] (2)(b) so that the member positions under Subsection [~~(1)(b)~~] (2)(b) are not held by representatives of the same private provider.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term.

[~~(3)~~] (4) (a) (i) Each January, the committee shall organize and select one of the committee's members as chair and one member as vice chair.

(ii) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(b) (i) The chair shall convene a minimum of four meetings per year.

(ii) The chair may call special meetings.

(iii) The chair shall call a meeting upon request of five or more members of the committee.

(c) (i) Nine members of the committee constitute a quorum for the transaction of business.

(ii) The action of a majority of the members present is the action of the committee.

[~~(4)~~] (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(5)~~] (6) Administrative services for the committee shall be provided by the [~~department~~] bureau.

Section 23. Section 53-2d-105, which is renumbered from Section 26-8a-104 is renumbered and amended to read:

[~~26-8a-104~~]. 53-2d-105. Committee advisory duties.

The committee shall adopt rules, with the concurrence of the [~~department~~] bureau, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(1) establish licensure, certification, and reciprocity requirements under Section [~~26-8a-302~~] 53-2d-402;

(2) establish designation requirements under Section [~~26-8a-303~~] 53-2d-403;

(3) promote the development of a statewide emergency medical services system under Section [~~26-8a-203~~] 53-2d-403;

(4) establish insurance requirements for ambulance providers;

(5) provide guidelines for requiring patient data under Section [~~26-8a-203~~] 53-2d-203;

(6) establish criteria for awarding grants under Section [~~26-8a-207~~] 53-2d-207;

(7) establish requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section [~~26-8a-306~~] 53-2d-403;

(8) select appropriate vendors to establish certification requirements for emergency medical dispatchers;

(9) establish the minimum level of service for 911 ambulance services provided under Section 11-48-103; and

(10) are necessary to carry out the responsibilities of the committee as specified in other sections of this chapter.

Section 24. Section 53-2d-106, which is renumbered from Section 26-8a-106 is renumbered and amended to read:

[~~26-8a-106~~]. 53-2d-106. Waiver of rules, education, and licensing requirements.

(1) Upon application, the [~~department~~] bureau, or the committee with the concurrence of the [~~department~~] bureau, may waive the requirements of a rule the [~~department~~] bureau, or the committee with the concurrence of the [~~department~~] bureau, has adopted if:

(a) the person applying for the waiver satisfactorily demonstrates that:

(i) the waiver is necessary for a pilot project to be undertaken by the applicant;

(ii) in the particular situation, the requirement serves no beneficial public purpose; or

(iii) circumstances warrant that waiver of the requirement outweighs the public benefit to be gained by adherence to the rule; and

(b) for a waiver granted under Subsection (1)(a)(ii) or (iii):

(i) the committee or [~~department~~] bureau extends the waiver to similarly situated persons upon application; or

(ii) the [~~department~~] bureau, or the committee with the concurrence of the [~~department~~] bureau, amends the rule to be consistent with the waiver.

(2) A waiver of education or licensing requirements may be granted to a veteran, as defined in Section 68-3-12.5, if the veteran:

(a) provides to the committee or [~~department~~] bureau documentation showing military education and training in the field in which licensure is sought; and

(b) successfully passes any examination required.

(3) No waiver may be granted under this section that is inconsistent with the provisions of this chapter.

Section 25. Section 53-2d-107, which is renumbered from Section 26-8a-107 is renumbered and amended to read:

[~~26-8a-107~~]. 53-2d-107. Air Ambulance Committee -- Membership -- Duties.

(1) [~~The~~] There is created the Air Ambulance Committee [~~created by Section 26B-1-204 shall be composed of the following members:~~].

(2) The Air Ambulance Committee is composed of the following members:

(a) the state emergency medical services medical director;

(b) one physician who:

(i) is licensed under:

(A) Title 58, Chapter 67, Utah Medical Practice Act;

(B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

(C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) actively provides trauma or emergency care at a Utah hospital; and

(iii) has experience and is actively involved in state and national air medical transport issues;

(c) one member from each level 1 and level 2 trauma center in the state of Utah, selected by the trauma center the member represents;

(d) one registered nurse who:

(i) is licensed under Title 58, Chapter 31b, Nurse Practice Act; and

(ii) currently works as a flight nurse for an air medical transport provider in the state of Utah;

(e) one paramedic who:

(i) is licensed under this chapter; and

(ii) currently works for an air medical transport provider in the state of Utah; and

(f) two members, each from a different for-profit air medical transport company operating in the state of Utah.

[~~(2)~~] (3) The state emergency medical services medical director shall appoint the physician member under Subsection [~~(1)(b)~~] (2)(b), and the physician shall serve as the chair of the Air Ambulance Committee.

[~~(3)~~] (4) The chair of the Air Ambulance Committee shall:

(a) appoint the Air Ambulance Committee members under Subsections [~~(1)(c)~~] (2)(c) through (f);

(b) designate the member of the Air Ambulance Committee to serve as the vice chair of the committee; and

(c) set the agenda for Air Ambulance Committee meetings.

[~~(4)~~] (5) (a) Except as provided in Subsection [~~(4)(b)~~] (5)(b), members shall be appointed to a two-year term.

(b) Notwithstanding Subsection [~~(4)(a)~~] (5)(a), the Air Ambulance Committee chair shall, at the time of appointment or reappointment, adjust the length of the terms of committee members to ensure that the terms of the committee members are staggered so that approximately half of the committee is reappointed every two years.

[~~(5)~~] (6) (a) A majority of the members of the Air Ambulance Committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the Air Ambulance Committee.

[~~(6)~~] (7) The Air Ambulance Committee shall, before November 30, 2019, and before November 30 of every odd-numbered year thereafter, provide recommendations to the Health and Human Services Interim Committee regarding the development of state standards and requirements related to:

(a) air medical transport provider licensure and accreditation;

(b) air medical transport medical personnel qualifications and training; and

(c) other standards and requirements to ensure patients receive appropriate and high-quality medical attention and care by air medical transport providers operating in the state of Utah.

[~~(7)~~] (8) (a) The [~~committee~~] Air Ambulance Committee shall prepare an annual report, using any data available to the [~~department~~] bureau and in consultation with the Insurance Department, that includes the following information for each air medical transport provider that operates in the state:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available to the [~~committee~~] Air Ambulance Committee, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer.

(b) When calculating the average charge under Subsection [~~(7)(a)(ii)~~] (8)(a)(ii), the [~~committee~~] Air Ambulance Committee shall distinguish between:

(i) a rotary wing provider and a fixed wing provider; and

(ii) any other differences between air medical transport service providers that may substantially affect the cost of the air medical transport service, as determined by the [~~committee~~] Air Ambulance Committee.

(c) The [~~department~~] bureau shall:

(i) post the [~~committee's~~] Air Ambulance Committee's findings under Subsection [~~(7)(a)~~] (8)(a) on the [~~department's~~] bureau's website; and

(ii) send the [~~committee's~~] Air Ambulance Committee's findings under Subsection [~~(7)(a)~~] (8)(a) to each emergency medical service provider, health care facility, and other entity that has regular contact with patients in need of air medical transport provider services.

[~~(8)~~] (9) An Air Ambulance Committee member may not receive compensation, benefits, per diem, or travel expenses for the member's service on the [~~committee~~] Air Ambulance Committee.

[~~(9)~~] (10) The Office of the Attorney General shall provide staff support to the Air Ambulance Committee.

[~~(10)~~] (11) The Air Ambulance Committee shall report to the Health and Human Services Interim Committee before November 30, 2023, regarding the sunset of this section in accordance with Section 63I-2-226.

Section 26. Section 53-2d-108, which is renumbered from Section 26-8a-108 is renumbered and amended to read:

[~~26-8a-108~~]. 53-2d-108. Emergency Medical Services System Account.

(1) There is created within the General Fund a restricted account known as the Emergency Medical Services System Account.

(2) The account consists of:

(a) interest earned on the account;

(b) appropriations made by the Legislature; and

(c) contributions deposited into the account in accordance with Section 41-1a-230.7.

(3) The [~~department~~] bureau shall use:

(a) an amount equal to 25% of the money in the account for administrative costs related to this chapter;

(b) an amount equal to 75% of the money in the account for grants awarded in accordance with Subsection [~~26-8a-207(3);~~] 53-2d-207(3); and

(c) all money received from the revenue source in Subsection (2)(c) for grants awarded in accordance with Subsection [~~26-8a-207(3)~~] 53-2d-207(3).

Section 27. Section 53-2d-201, which is renumbered from Section 26-8a-201 is renumbered and amended to read:

Part 2. Programs, Plans, and Duties

[~~26-8a-201~~]. 53-2d-201. Public awareness efforts.

The [~~department~~] bureau may:

(1) develop programs to inform the public of the emergency medical service system; and

(2) develop and disseminate emergency medical training programs for the public, which emphasize the prevention and treatment of injuries and illnesses.

Section 28. Section 53-2d-202, which is renumbered from Section 26-8a-202 is renumbered and amended to read:

[~~26-8a-202~~]. 53-2d-202. Emergency medical communications.

Consistent with federal law, the [~~department~~] bureau is the lead agency for coordinating the statewide emergency medical service communication systems under which emergency medical personnel, dispatch centers, and treatment facilities provide medical control and coordination between emergency medical service providers.

Section 29. Section 53-2d-203, which is renumbered from Section 26-8a-203 is renumbered and amended to read:

[~~26-8a-203~~]. 53-2d-203. Data collection.

(1) The committee shall specify the information that shall be collected for the emergency medical services data system established pursuant to Subsection (2).

(2) (a) The [~~department~~] bureau shall establish an emergency medical services data system, which shall provide for the collection of information, as defined by the committee, relating to the treatment and care of patients who use or have used the emergency medical services system.

(b) The committee shall coordinate with the Health Data Authority created in Title 26, Chapter 33a, Utah Health Data Authority Act, to create a report of data collected by the Health Data Committee under Section 26-33a-106.1 regarding:

(i) appropriate analytical methods;

(ii) the total amount of air ambulance flight charges in the state for a one-year period; and

(iii) of the total number of flights in a one-year period under Subsection (2)(b)(ii):

(A) the number of flights for which a patient had no personal responsibility for paying part of the flight charges;

(B) the number of flights for which a patient had personal responsibility to pay all or part of the flight charges;

(C) the range of flight charges for which patients had personal responsibility under Subsection (2)(b)(iii)(B), including the median amount for paid patient personal responsibility; and

(D) the name of any air ambulance provider that received a median paid amount for patient responsibility in excess of the median amount for all paid patient personal responsibility during the reporting year.

(c) The [~~department~~] bureau may share, with the [~~Department of Public Safety~~] department, information from the emergency medical services data system that:

(i) relates to traffic incidents; and

(ii) is for the improvement of traffic safety[~~;~~].

[~~(iii) may not be used for the prosecution of criminal matters; and~~]

[~~(iv) may not include any personally identifiable information.~~]

(d) Information shared under Subsection (2)(c) may not:

(i) be used for the prosecution of criminal matters; or

(ii) include any personally identifiable information.

(3) (a) On or before October 1, the department shall make the information in Subsection (2)(b) public and send the information in Subsection (2)(b) to public safety dispatchers and first responders in the state.

(b) Before making the information in Subsection (2)(b) public, the committee shall provide the air ambulance providers named in the report with the opportunity to respond to the accuracy of the information in the report under Section 26-33a-107.

(4) Persons providing emergency medical services:

(a) shall provide information to the department for the emergency medical services data system established pursuant to Subsection (2)(a);

(b) are not required to provide information to the department under Subsection (2)(b); and

(c) may provide information to the department under Subsection (2)(b) or (3)(b).

Section 30. Section 53-2d-204, which is renumbered from Section 26-8a-204 is renumbered and amended to read:

[~~26-8a-204~~]. 53-2d-204. Disaster coordination plan.

The [~~department~~] bureau shall develop and implement, in cooperation with state, federal, and local agencies empowered to oversee disaster response activities, plans to provide emergency medical services during times of disaster or emergency.

Section 31. Section 53-2d-205, which is renumbered from Section 26-8a-205 is renumbered and amended to read:

[~~26-8a-205~~]. 53-2d-205. Pediatric quality improvement program.

The [~~department~~] bureau shall establish a pediatric quality improvement resource program.

Section 32. Section 53-2d-206, which is renumbered from Section 26-8a-206 is renumbered and amended to read:

[~~26-8a-206~~]. 53-2d-206. Personnel stress management program.

(1) The [~~department~~] bureau shall develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services.

(2) This program shall include:

(a) ongoing training for agencies providing emergency services and counseling program volunteers;

(b) critical incident stress debriefing for personnel at no cost to the emergency provider; and

(c) advising the department on training requirements for licensure as a behavioral emergency services technician.

Section 33. Section 53-2d-207, which is renumbered from Section 26-8a-207 is renumbered and amended to read:

[~~26-8a-207~~]. 53-2d-207. Emergency Medical Services Grant Program.

(1) Funds appropriated to the department for the Emergency Medical Services Grant Program shall be used for improvement of delivery of emergency medical services and administrative costs as described in Subsection (2)(a).

(2) From the total amount of funds appropriated to the [~~department~~] bureau under Subsection (1), the [~~department~~] bureau shall use:

(a) an amount equal to 50% of the funds:

(i) to provide staff support; and

(ii) for other expenses incurred in:

(A) administration of grant funds; and

(B) other [~~department~~] bureau administrative costs under this chapter; and

(b) an amount equal to 50% of the funds to provide emergency medical services grants in accordance with Subsection (3).

(3) (a) A recipient of a grant under this section shall actively provide emergency medical services within the state.

(b) From the total amount of funds used to provide grants under Subsection (3), the [~~department~~] bureau shall distribute an amount equal to 21% as per capita block grants for use specifically related to the provision of emergency medical services to nonprofit prehospital emergency medical services providers that are either licensed or designated and to emergency medical services that are the primary emergency medical services for a service area. The [~~department~~] bureau shall determine the grant amounts by prorating available funds on a per capita basis by county as described in [~~department~~] bureau rule.

(c) Subject to Subsections (3)(d) through (f), the committee shall use the remaining grant funds to award competitive grants to licensed emergency medical services providers that provide emergency medical services within counties of the third through sixth class, in accordance with rules made by the committee.

(d) A grant awarded under Subsection (3)(c) shall be used:

(i) for the purchase of equipment, subject to Subsection (3)(e); or

(ii) for the recruitment, training, or retention of licensed emergency medical services providers.

(e) A recipient of a grant under Subsection (3)(c) may not use more than $100,000 in grant proceeds for the purchase of vehicles.

(f) A grant awarded for the purpose described in Subsection (3)(d)(ii) is ongoing for a period of up to three years.

(g) (i) If, after providing grants under Subsections (3)(c) through (f), any grant funds are unallocated at the end of the fiscal year, the committee shall distribute the unallocated grant funds as per capita block grants as described in Subsection (3)(b).

(ii) Any grant funds distributed as per capita grants under Subsection (3)(g)(i) are in addition to the amount described in Subsection (3)(b).

Section 34. Section 53-2d-208, which is renumbered from Section 26-8a-208 is renumbered and amended to read:

[~~26-8a-208~~]. 53-2d-208. Fees for training equipment rental, testing, and quality assurance reviews.

(1) The [~~department~~] bureau may charge fees, established pursuant to Section [~~26B-1-209~~] 63J-1-504:

(a) for the use of [~~department~~] bureau-owned training equipment;

(b) to administer tests and conduct quality assurance reviews; and

(c) to process an application for a designation, permit, or license.

(2) (a) Fees collected under Subsections (1)(a) and (b) shall be separate dedicated credits.

(b) Fees under Subsection (1)(a) may be used to purchase training equipment.

(c) Fees under Subsection (1)(b) may be used to administer tests and conduct quality assurance reviews.

Section 35. Section 53-2d-209, which is renumbered from Section 26-8a-210 is renumbered and amended to read:

[~~26-8a-210~~]. 53-2d-209. Regional Emergency Medical Services Liaisons -- Qualifications -- Duties.

(1) As used in this section:

(a) "Liaison" means a regional emergency medical services liaison hired under this section.

(b) "Rural county" means a county of the third, fourth, fifth, or sixth class.

(2) The [~~department~~] bureau shall hire five individuals to serve as regional emergency medical services liaisons to:

(a) serve the needs of rural counties in providing emergency medical services in accordance with this chapter;

(b) act as a liaison between the [~~department~~] bureau and individuals or entities responsible for emergency medical services in rural counties, including:

(i) emergency medical services providers;

(ii) local officials; and

(iii) local health departments or agencies;

(c) provide support and training to emergency medical services providers in rural counties;

(d) assist rural counties in utilizing state and federal grant programs for financing emergency medical services; and

(e) serve as emergency medical service personnel to assist licensed providers with ambulance staffing needs within rural counties.

(3) Each liaison hired under Subsection (2):

(a) shall reside in a rural county; and

(b) shall be licensed as:

(i) an advanced emergency medical technician as defined in Section [~~26-8c-102~~] 53-2e-101; or

(ii) a paramedic as defined in Section [~~26-8c-102~~] 53-2e-101.

(4) The department shall provide each liaison with a vehicle and other equipment in accordance with rules established by the department.

Section 36. Section 53-2d-210, which is renumbered from Section 26-8a-211 is renumbered and amended to read:

[~~26-8a-211~~]. 53-2d-210. Report.

The [~~department~~] bureau shall report to the Health and Human Services Interim Committee before November 30, 2022, regarding:

(1) the activities and accomplishments of the regional medical services liaisons hired under Section [~~26-8a-210~~] 53-2d-209;

(2) the efficacy of the emergency medical services grant program established in Section [~~26-8a-207~~] 53-2d-207, including grant distribution;

(3) the condition of emergency medical services within the state, including emergency medical services provider response times and personnel numbers; and

(4) the financial condition of the department, including department operational costs under this chapter.

Section 37. Section 53-2d-211, which is renumbered from Section 26-8a-212 is renumbered and amended to read:

[~~26-8a-212~~]. 53-2d-211. Community paramedicine program.

(1) A ground ambulance provider or a designated quick response provider, as designated in accordance with Section [~~26-8a-303~~] 53-2d-403, may develop and implement a community paramedicine program.

(2) (a) Before providing services, a community paramedicine program shall:

(i) implement training requirements as determined by the committee; and

(ii) submit a written community paramedicine operational plan to the [~~department~~] bureau that meets requirements established by the committee.

(b) A community paramedicine program shall report data, as determined by the committee, related to community paramedicine to the [~~department~~] bureau.

(3) A service provided as part of a community paramedicine program may not be billed to an individual or a health benefit plan as defined in Section 31A-1-301 unless:

(a) the service is provided in partnership with a health care facility as defined in Section 26-21-2; and

(b) the partnering health care facility is the person that bills the individual or health benefit plan.

(4) Nothing in this section affects any billing authorized under Section [~~26-8a-403~~] 53-2d-503.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 53-2d-105, the committee shall make rules to implement this section.

Section 38. Section 53-2d-301, which is renumbered from Section 26-8a-250 is renumbered and amended to read:

Part 3. Statewide Trauma System

[~~26-8a-250~~]. 53-2d-301. Establishment of statewide trauma system.

The [~~department~~] bureau shall establish and actively supervise a statewide trauma system to:

(1) promote optimal care for trauma patients;

(2) alleviate unnecessary death and disability from trauma and emergency illness;

(3) inform health care providers about trauma system capabilities;

(4) encourage the efficient and effective continuum of patient care, including prevention, prehospital care, hospital care, and rehabilitative care; and

(5) minimize the overall cost of trauma care.

Section 39. Section 53-2d-302, which is renumbered from Section 26-8a-251 is renumbered and amended to read:

[~~26-8a-251~~]. 53-2d-302. Trauma system advisory committee.

(1) There is created within the [~~department~~] bureau the trauma system advisory committee.

(2) (a) The committee shall be comprised of individuals knowledgeable in adult or pediatric trauma care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations.

(b) Representation on the committee shall be broad and balanced among the health care delivery systems in the state with no more than three representatives coming from any single delivery system.

(3) The committee shall:

(a) advise the [~~department~~] bureau regarding trauma system needs throughout the state;

(b) assist the [~~department~~] bureau in evaluating the quality and outcomes of the overall trauma system;

(c) review and comment on proposals and rules governing the statewide trauma system; and

(d) make recommendations for the development of statewide triage, treatment, transportation, and transfer guidelines.

(4) The [~~department~~] bureau shall:

(a) determine, by rule, the term and causes for removal of committee members;

(b) establish committee procedures and administration policies consistent with this chapter and department rule; and

(c) provide administrative support to the committee.

Section 40. Section 53-2d-303, which is renumbered from Section 26-8a-252 is renumbered and amended to read:

[~~26-8a-252~~]. 53-2d-303. Department duties.

In connection with the statewide trauma system established in Section [~~26-8a-250~~] 53-2d-301, the [~~department~~] bureau shall:

(1) establish a statewide trauma system plan that:

(a) identifies statewide trauma care needs, objectives, and priorities;

(b) identifies the equipment, facilities, personnel training, and other things necessary to create and maintain a statewide trauma system; and

(c) organizes and coordinates trauma care within defined geographic areas;

(2) support the statewide trauma system by:

(a) facilitating the coordination of prehospital, acute care, and rehabilitation services and providers through state regulation and oversight;

(b) facilitating the ongoing evaluation and refinement of the statewide trauma system;

(c) providing educational programs;

(d) encouraging cooperation between community organizations, health care facilities, public health officials, emergency medical service providers, and rehabilitation facilities for the development of a statewide trauma system;

(e) implementing a quality assurance program using information from the statewide trauma registry established pursuant to Section [~~26-8a-253~~] 53-2d-304;

(f) establishing trauma center designation requirements in accordance with Section [~~26-8a-254~~] 53-2d-305; and

(g) developing standards so that:

(i) trauma centers are categorized according to their capability to provide care;

(ii) trauma victims are triaged at the initial point of patient contact; and

(iii) trauma patients are sent to appropriate health care facilities.

Section 41. Section 53-2d-304, which is renumbered from Section 26-8a-253 is renumbered and amended to read:

[~~26-8a-253~~]. 53-2d-304. Statewide trauma registry and quality assurance program.

(1) The [~~department~~] bureau shall:

(a) establish and fund a statewide trauma registry to collect and analyze information on the incidence, severity, causes, and outcomes of trauma;

(b) establish, by rule, the data elements, the medical care providers that shall report, and the time frame and format for reporting;

(c) use the data collected to:

(i) improve the availability and delivery of prehospital and hospital trauma care;

(ii) assess trauma care delivery, patient care outcomes, and compliance with the requirements of this chapter and applicable department rules; and

(iii) regularly produce and disseminate reports to data providers, state government, and the public; and

(d) support data collection and abstraction by providing:

(i) a data collection system and technical assistance to each hospital that submits data; and

(ii) funding or, at the discretion of the [~~department~~] bureau, personnel for collection and abstraction for each hospital not designated as a trauma center under the standards established pursuant to Section [~~26-8a-254~~] 53-2d-305.

(2) (a) Each hospital shall submit trauma data in accordance with rules established under Subsection (1).

(b) A hospital designated as a trauma center shall submit data as part of the ongoing quality assurance program established in Section [~~26-8a-252~~] 53-2d-303.

(3) The department shall assess:

(a) the effectiveness of the data collected pursuant to Subsection (1); and

(b) the impact of the statewide trauma system on the provision of trauma care.

(4) Data collected under this section shall be subject to Title 26, Chapter 3, Health Statistics.

(5) No person may be held civilly liable for having provided data to the department in accordance with this section.

Section 42. Section 53-2d-305, which is renumbered from Section 26-8a-254 is renumbered and amended to read:

[~~26-8a-254~~]. 53-2d-305. Trauma center designations and guidelines.

(1) The [~~department~~] bureau, after seeking the advice of the trauma system advisory committee, shall establish by rule:

(a) trauma center designation requirements; and

(b) model state guidelines for triage, treatment, transportation, and transfer of trauma patients to the most appropriate health care facility.

(2) The [~~department~~] bureau shall designate as a trauma center each hospital that:

(a) voluntarily requests a trauma center designation; and

(b) meets the applicable requirements established pursuant to Subsection (1).

Section 43. Section 53-2d-401, which is renumbered from Section 26-8a-301 is renumbered and amended to read:

Part 4. Certificates, Designations, Permits, and Licenses

[~~26-8a-301~~]. 53-2d-401. General requirement.

(1) Except as provided in Section [~~26-8a-308~~] 53-2d-408 or [~~26-8b-201~~] 53-2d-801:

(a) an individual may not provide emergency medical services without a license or certification issued under Section [~~26-8a-302~~] 53-2d-402;

(b) a facility or provider may not hold itself out as a designated emergency medical service provider or nonemergency secured behavioral health transport provider without a designation issued under Section [~~26-8a-303~~] 53-2d-403;

(c) a vehicle may not operate as an ambulance, emergency response vehicle, or nonemergency secured behavioral health transport vehicle without a permit issued under Section [~~26-8a-304~~] 53-2d-404; and

(d) an entity may not respond as an ambulance or paramedic provider without the appropriate license issued under [~~Part 4, Ambulance and Paramedic Providers~~] Part 5, Ambulance and Paramedic Providers.

(2) Section [~~26-8a-502~~] 53-2d-602 applies to violations of this section.

Section 44. Section 53-2d-402, which is renumbered from Section 26-8a-302 is renumbered and amended to read:

[~~26-8a-302~~]. 53-2d-402. Licensure of emergency medical service personnel.

(1) To promote the availability of comprehensive emergency medical services throughout the state, the committee shall establish:

(a) initial and ongoing licensure and training requirements for emergency medical service personnel in the following categories:

(i) paramedic;

(ii) advanced emergency medical services technician;

(iii) emergency medical services technician;

(iv) behavioral emergency services technician; and

(v) advanced behavioral emergency services technician;

(b) a method to monitor the certification status and continuing medical education hours for emergency medical dispatchers; and

(c) guidelines for giving credit for out-of-state training and experience.

(2) The [~~department~~] bureau shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel;

(b) issue a license and license renewals to emergency medical service personnel other than emergency medical dispatchers; and

(c) verify the certification of emergency medical dispatchers.

(3) The [~~department~~] bureau shall coordinate with local mental health authorities described in Section 17-43-301 to develop and authorize initial and ongoing licensure and training requirements for licensure as a:

(a) behavioral emergency services technician; and

(b) advanced behavioral emergency services technician.

(4) As provided in Section [~~26-8a-502~~] 53-2d-602, an individual issued a license or certified under this section may only provide emergency medical services to the extent allowed by the license or certification.

(5) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section [~~26-8a-310~~] 53-2d-410.

(6) An individual may not be issued or retain a certification under this section unless the individual obtains and retains background clearance in accordance with Section [~~26-8a-310.5~~] 53-2d-410.5.

Section 45. Section 53-2d-403, which is renumbered from Section 26-8a-303 is renumbered and amended to read:

[~~26-8a-303~~]. 53-2d-403. Designation of emergency medical service providers and nonemergency secured behavioral health transport providers.

(1) To ensure quality emergency medical services, the committee shall establish designation requirements for:

(a) emergency medical service providers in the following categories:

(i) quick response provider;

(ii) resource hospital for emergency medical providers;

(iii) emergency medical service dispatch center;

(iv) emergency patient receiving facilities; and

(v) other types of emergency medical service providers as the committee considers necessary; and

(b) nonemergency secured behavioral health transport providers.

(2) The [~~department~~] bureau shall, based on the requirements in Subsection (1), issue designations to emergency medical service providers and nonemergency secured behavioral health transport providers listed in Subsection (1).

(3) As provided in Section [~~26-8a-502~~] 53-2d-602, an entity issued a designation under Subsection (2) may only function and hold itself out in accordance with its designation.

Section 46. Section 53-2d-404, which is renumbered from Section 26-8a-304 is renumbered and amended to read:

[~~26-8a-304~~]. 53-2d-404. Permits for emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

(1) (a) To ensure that emergency medical service vehicles and nonemergency secured behavioral health transport vehicles are adequately staffed, safe, maintained, properly equipped, and safely operated, the committee shall establish permit requirements at levels it considers appropriate in the following categories:

(i) ambulance;

(ii) emergency medical response vehicle; and

(iii) nonemergency secured behavioral health transport vehicle.

(b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a requirement that beginning on or after January 31, 2014, every operator of an ambulance or emergency medical response vehicle annually provide proof of the successful completion of an emergency vehicle operator's course approved by the [~~department~~] bureau for all ambulances and emergency medical response vehicle operators.

(2) The [~~department~~] bureau shall, based on the requirements established in Subsection (1), issue permits to emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

Section 47. Section 53-2d-405, which is renumbered from Section 26-8a-305 is renumbered and amended to read:

[~~26-8a-305~~]. 53-2d-405. Ambulance license required for emergency medical transport.

Except as provided in Section [~~26-8a-308~~] 53-2d-408, only an ambulance operating under a permit issued under Section [~~26-8a-304~~] 53-2d-404 may transport an individual who:

(1) is in an emergency medical condition;

(2) is medically or mentally unstable, requiring direct medical observation during transport;

(3) is physically incapacitated because of illness or injury and in need of immediate transport by emergency medical service personnel;

(4) is likely to require medical attention during transport;

(5) is being maintained on any type of emergency medical electronic monitoring;

(6) is receiving or has recently received medications that could cause a sudden change in

medical condition that might require emergency medical services;

(7) requires IV administration or maintenance, oxygen that is not patient-operated, or other emergency medical services during transport;

(8) needs to be immobilized during transport to a hospital, an emergency patient receiving facility, or mental health facility due to a mental or physical condition, unless the individual is in the custody of a peace officer and the primary purpose of the restraint is to prevent escape;

(9) needs to be immobilized due to a fracture, possible fracture, or other medical condition; or

(10) otherwise requires or has the potential to require a level of medical care that the committee establishes as requiring direct medical observation.

Section 48. Section 53-2d-406, which is renumbered from Section 26-8a-306 is renumbered and amended to read:

[~~26-8a-306~~]. 53-2d-406. Medical control.

(1) The committee shall establish requirements for the coordination of emergency medical services rendered by emergency medical service providers, including the coordination between prehospital providers, hospitals, emergency patient receiving facilities, and other appropriate destinations.

(2) The committee shall establish requirements for the medical supervision of emergency medical service providers to assure adequate physician oversight of emergency medical services and quality improvement.

Section 49. Section 53-2d-407, which is renumbered from Section 26-8a-307 is renumbered and amended to read:

[~~26-8a-307~~]. 53-2d-407. Patient destination.

(1) If an individual being transported by a ground or air ambulance is in a critical or unstable medical condition, the ground or air ambulance shall transport the patient to the trauma center or closest emergency patient receiving facility appropriate to adequately treat the patient.

(2) If the patient's condition is not critical or unstable as determined by medical control, the ground or air ambulance may transport the patient to the:

(a) hospital, emergency patient receiving facility, licensed mental health facility, or other medical provider chosen by the patient and approved by medical control as appropriate for the patient's condition and needs; or

(b) nearest hospital, emergency patient receiving facility, licensed mental health facility, or other medical provider approved by medical control as appropriate for the patient's condition and needs if the patient expresses no preference.

Section 50. Section 53-2d-408, which is renumbered from Section 26-8a-308 is renumbered and amended to read:

[~~26-8a-308~~]. 53-2d-408. Exemptions.

(1) The following persons may provide emergency medical services to a patient without being licensed under this chapter:

(a) out-of-state emergency medical service personnel and providers in time of disaster;

(b) an individual who gratuitously acts as a Good Samaritan;

(c) a family member;

(d) a private business if emergency medical services are provided only to employees at the place of business and during transport;

(e) an agency of the United States government if compliance with this chapter would be inconsistent with federal law; and

(f) police, fire, and other public service personnel if:

(i) emergency medical services are rendered in the normal course of the person's duties; and

(ii) medical control, after being apprised of the circumstances, directs immediate transport.

(2) An ambulance or emergency response vehicle may operate without a permit issued under Section [~~26-8a-304~~] 53-2d-404 in time of disaster.

(3) Nothing in this chapter or Title 58, Occupations and Professions, may be construed as requiring a license for an individual to administer cardiopulmonary resuscitation or to use a fully automated external defibrillator under Section [~~26-8b-201~~] 53-2d-801.

(4) Nothing in this chapter may be construed as requiring a license, permit, or designation for an acute care hospital, medical clinic, physician's office, or other fixed medical facility that:

(a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse; and

(b) treats an individual who has presented himself or was transported to the hospital, clinic, office, or facility.

Section 51. Section 53-2d-409, which is renumbered from Section 26-8a-309 is renumbered and amended to read:

[~~26-8a-309~~]. 53-2d-409. Out-of-state vehicles.

(1) An ambulance or emergency response vehicle from another state may not pick up a patient in Utah to transport that patient to another location in Utah or to another state without a permit issued under Section [~~26-8a-304~~] 53-2d-404 and, in the case of an ambulance, a license issued under [~~Part 4, Ambulance and Paramedic Providers~~] Part 5, Ambulance and Paramedic Providers.

(2) Notwithstanding Subsection (1), an ambulance or emergency response vehicle from another state may, without a permit or license:

(a) transport a patient into Utah; and

(b) provide assistance in time of disaster.

(3) The [~~department~~] bureau may enter into agreements with ambulance and paramedic providers and their respective licensing agencies from other states to assure the expeditious delivery of emergency medical services beyond what may be reasonably provided by licensed ambulance and paramedic providers, including the transportation of patients between states.

Section 52. Section 53-2d-410, which is renumbered from Section 26-8a-310 is renumbered and amended to read:

[~~26-8a-310~~]. 53-2d-410. Background clearance for emergency medical service personnel.

(1) Subject to Section [~~26-8a-310.5~~] 53-2d-410.5, the [~~department~~] bureau shall determine whether to grant background clearance for an individual seeking licensure or certification under Section [~~26-8a-302~~] 53-2d-402 from whom the [~~department~~] bureau receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The [~~department~~] bureau shall determine whether to deny or revoke background clearance for individuals for whom the department has previously granted background clearance.

(3) The [~~department~~] bureau shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the [~~department~~] bureau obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The [~~department~~] bureau shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the [~~department~~] bureau will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure or certification under Section [~~26-8a-302~~] 53-2d-402 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the [~~department~~] bureau may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in [~~Title 53, Chapter 10, Criminal Investigations and Technical Services Act~~] Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years old; or

(ii) the applicant:

(A) is over 28 years old; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 80-3-404;

(e) the department's Licensing Information System described in Section 80-2-1002;

(f) the department's database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;

(g) Division of Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the [~~department~~] bureau for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the [~~department~~] bureau shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The [~~department~~] bureau shall adopt measures to protect the security of information the department accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The [~~department~~] bureau may disclose personal identification information the [~~department~~] bureau receives under Subsection (1) to the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The [~~department~~] bureau may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other [~~department~~] bureau costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the department; and

(b) notify the [~~department~~] bureau upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(12) The [~~department~~] bureau shall use the Direct Access Clearance System database created under Section 26-21-209 to manage information about the background clearance status of each individual for whom the [~~department~~] bureau is required to make a determination under Subsection (1).

(13) Clearance granted for an individual licensed or certified under Section [~~26-8a-302~~] 53-2d-402 is valid until two years after the day on which the individual is no longer licensed or certified in Utah as emergency medical service personnel.

Section 53. Section 53-2d-410.5, which is renumbered from Section 26-8a-310.5 is renumbered and amended to read:

[~~26-8a-310.5~~]. 53-2d-410.5. Background check requirements for emergency medical dispatchers.

An emergency medical dispatcher seeking certification under Section [~~26-8a-302~~] 53-2d-402 shall undergo the background clearance process described in Section [~~26-8a-310~~] 53-2d-410 unless the emergency medical dispatcher can demonstrate that the emergency medical dispatcher has received and currently holds an approved Department of Public Safety background clearance.

Section 54. Section 53-2d-501, which is renumbered from Section 26-8a-401 is renumbered and amended to read:

Part 5. Ambulance and Paramedic Providers

[~~26-8a-401~~]. 53-2d-501. State regulation of emergency medical services market -- License term.

(1) To ensure emergency medical service quality and minimize unnecessary duplication, the [~~department~~] bureau shall regulate the emergency medical services market by creating and operating a statewide system that:

(a) consists of exclusive geographic service areas as provided in Section [~~26-8a-402~~] 53-2d-502; and

(b) establishes maximum rates as provided in Section [~~26-8a-403~~] 53-2d-503.

(2) A license issued or renewed under this part is valid for four years.

Section 55. Section 53-2d-502, which is renumbered from Section 26-8a-402 is renumbered and amended to read:

[~~26-8a-402~~]. 53-2d-502. Exclusive geographic service areas.

(1) (a) Each ground ambulance provider license issued under this part shall be for an exclusive geographic service area as described in the license.

(b) Only the licensed ground ambulance provider may respond to an ambulance request that originates within the provider's exclusive geographic service area, except as provided in Subsection (5) and Section [~~26-8a-416~~] 53-2d-516.

(2) (a) Each paramedic provider license issued under this part shall be for an exclusive geographic service area as described in the license.

(b) Only the licensed paramedic provider may respond to a paramedic request that originates within the exclusive geographic service area, except as provided in Subsection (6) and Section [~~26-8a-416~~] 53-2d-516.

(3) Nothing in this section may be construed as either requiring or prohibiting that the formation of boundaries in a given location be the same for a licensed paramedic provider and a licensed ambulance provider.

(4) (a) A licensed ground ambulance or paramedic provider may, as necessary, enter into a mutual aid agreement to allow another licensed provider to give assistance in times of unusual demand, as that term is defined by the committee in rule.

(b) A mutual aid agreement shall include a formal written plan detailing the type of assistance and the circumstances under which it would be given.

(c) The parties to a mutual aid agreement shall submit a copy of the agreement to the department.

(d) Notwithstanding this Subsection (4), a licensed provider may not subcontract with another entity to provide services in the licensed provider's exclusive geographic service area.

(5) Notwithstanding Subsection (1), a licensed ground ambulance provider may respond to an ambulance request that originates from the exclusive geographic area of another provider:

(a) pursuant to a mutual aid agreement;

(b) to render assistance on a case-by-case basis to that provider; and

(c) as necessary to meet needs in time of disaster or other major emergency.

(6) Notwithstanding Subsection (2), a licensed paramedic provider may respond to a paramedic request that originates from the exclusive geographic area of another provider:

(a) pursuant to a mutual aid agreement;

(b) to render assistance on a case-by-case basis to that provider; and

(c) as necessary to meet needs in time of disaster or other major emergency.

(7) The [~~department~~] bureau may, upon the renewal of a license, align the boundaries of an exclusive geographic area with the boundaries of a political subdivision:

(a) if the alignment is practical and in the public interest;

(b) if each licensed provider that would be affected by the alignment agrees to the alignment; and

(c) taking into consideration the requirements of:

(i) Section 11-48-103; and

(ii) Section [~~26-8a-408~~] 53-2d-508.

Section 56. Section 53-2d-503, which is renumbered from Section 26-8a-403 is renumbered and amended to read:

[~~26-8a-403~~]. 53-2d-503. Establishment of maximum rates.

(1) The [~~department~~] bureau shall, after receiving recommendations under Subsection (2), establish maximum rates for ground ambulance providers and paramedic providers that are just and reasonable.

(2) The committee may make recommendations to the [~~department~~] bureau on the maximum rates that should be set under Subsection (1).

(3) (a) The [~~department~~] bureau shall prohibit ground ambulance providers and paramedic providers from charging fees for transporting a patient when the provider does not transport the patient.

(b) The provisions of Subsection (3)(a) do not apply to ambulance providers or paramedic providers in a geographic service area which contains a town as defined in Subsection 10-2-301(2)(f).

Section 57. Section 53-2d-504, which is renumbered from Section 26-8a-404 is renumbered and amended to read:

[~~26-8a-404~~]. 53-2d-504. Ground ambulance and paramedic licenses -- Application and department review.

(1) Except as provided in Section [~~26-8a-413~~] 53-2d-513, an applicant for a ground ambulance or paramedic license shall apply to the [~~department~~] bureau for a license only by:

(a) submitting a completed application;

(b) providing information in the format required by the department; and

(c) paying the required fees, including the cost of the hearing officer.

(2) The [~~department~~] bureau shall make rules establishing minimum qualifications and requirements for:

(a) personnel;

(b) capital reserves;

(c) equipment;

(d) a business plan;

(e) operational procedures;

(f) medical direction agreements;

(g) management and control; and

(h) other matters that may be relevant to an applicant's ability to provide ground ambulance or paramedic service.

(3) An application for a license to provide ground ambulance service or paramedic service shall be for all ground ambulance services or paramedic services arising within the geographic service area, except that an applicant may apply for a license for less than all ground ambulance services or all paramedic services arising within an exclusive geographic area if it can demonstrate how the remainder of that area will be served.

(4) (a) A ground ambulance service licensee may apply to the [~~department~~] bureau for a license to provide a higher level of service as defined by [~~department~~] bureau rule if the application includes:

(i) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;

(ii) an assessment of field performance by the applicant's off-line director; and

(iii) an updated plan of operation demonstrating the ability of the applicant to provide the higher level of service.

(b) If the [~~department~~] bureau determines that the applicant has demonstrated the ability to provide the higher level of service in accordance with Subsection (4)(a), the [~~department~~] bureau shall issue a revised license reflecting the higher level of service and the requirements of Section 26-8a-408 do not apply.

(c) A revised license issued under Subsection (4)(b):

(i) may only affect the level of service that the licensee may provide; and

(ii) may not affect any other terms, conditions, or limitations of the original license.

(5) Upon receiving a completed application and the required fees, the [~~department~~] bureau shall review the application and determine whether the

application meets the minimum qualifications and requirements for licensure.

(6) The [~~department~~] bureau may deny an application if it finds that it contains any materially false or misleading information, is incomplete, or if the application demonstrates that the applicant fails to meet the minimum qualifications and requirements for licensure under Subsection (2).

(7) If the department denies an application, it shall notify the applicant in writing setting forth the grounds for the denial. A denial may be appealed under Title 63G, Chapter 4, Administrative Procedures Act.

Section 58. Section 53-2d-505, which is renumbered from Section 26-8a-405 is renumbered and amended to read:

[~~26-8a-405~~]. 53-2d-505. Ground ambulance and paramedic licenses -- Agency notice of approval.

(1) [~~Beginning January 1, 2004, if~~] If the [~~department~~] bureau determines that the application meets the minimum requirements for licensure under Section [~~26-8a-404~~] 53-2d-504, the [~~department~~] bureau shall issue a notice of the approved application to the applicant.

(2) A current license holder responding to a request for proposal under Section [~~26-8a-405.2~~] 53-2d-505.2 is considered an approved applicant for purposes of Section [~~26-8a-405.2~~] 53-2d-505.2 if the current license holder, prior to responding to the request for proposal, submits the following to the department:

(a) the information described in Subsections [~~26-8a-404(4)(a)(i)~~] 53-2d-504(4)(a)(i) through (iii); and

(b) (i) if the license holder is a private entity, a financial statement, a pro forma budget and necessary letters of credit demonstrating a financial ability to expand service to a new service area; or

(ii) if the license holder is a governmental entity, a letter from the governmental entity's governing body demonstrating the governing body's willingness to financially support the application.

Section 59. Section 53-2d-505.1, which is renumbered from Section 26-8a-405.1 is renumbered and amended to read:

[~~26-8a-405.1~~]. 53-2d-505.1. Selection of provider by political subdivision.

(1) (a) Only an applicant approved under Section [~~26-8a-405~~] 53-2d-505.1 may respond to a request for a proposal issued in accordance with Section [~~26-8a-405.2~~] 53-2d-505.2 or [~~Section 26-8a-405.4~~] 53-2d-505.4 by a political subdivision.

(b) A response to a request for proposal is subject to the maximum rates established by the [~~department~~] bureau under Section [~~26-8a-403~~] 53-2d-503.

(c) A political subdivision may award a contract to an applicant in response to a request for proposal:

(i) in accordance with Section [~~26-8a-405.2~~] 53-2d-505.2; and

(ii) subject to Subsections (2) and (3).

(2) (a) The [~~department~~] bureau shall issue a license to an applicant selected by a political subdivision under Subsection (1) unless the [~~department~~] bureau finds that issuing a license to that applicant would jeopardize the health, safety, and welfare of the citizens of the geographic service area.

(b) A license issued under this Subsection (2):

(i) is for the exclusive geographic service area approved by the [~~department~~] bureau in accordance with Subsection [~~26-8a-405.2(2)~~] 53-2d-505.2(2);

(ii) is valid for four years;

(iii) is not subject to a request for license from another applicant under the provisions of Sections [~~26-8a-406~~] 53-2d-506 through [~~26-8a-409~~] 53-2d-509 during the four-year term, unless the applicant's license is revoked under Section [~~26-8a-504~~] 53-2d-604;

(iv) is subject to revocation or revision under Subsection (3)(d); and

(v) is subject to supervision by the department under Sections [~~26-8a-503~~] 53-2d-603 and [~~26-8a-504~~] 53-2d-604.

(3) Notwithstanding Subsection (2)(b), a political subdivision may terminate a contract described in Subsection (1)(c), with or without cause, if:

(a) the contract:

(i) is entered into on or after May 5, 2021; and

(ii) allows an applicant to provide 911 ambulance services;

(b) the political subdivision provides written notice to the applicant described in Subsection (3)(a)(ii) and the [~~department~~] bureau:

(i) at least 18 months before the day on which the contract is terminated; or

(ii) within a period of time shorter than 18 months before the day on which the contract is terminated, if otherwise agreed to by the applicant and the department;

(c) the political subdivision selects another applicant to provide 911 ambulance services for the political subdivision in accordance with Section [~~26-8a-405.2~~] 53-2d-505.2;

(d) the [~~department~~] bureau:

(i) revokes the license of the applicant described in Subsection (3)(a)(ii), or issues a new or revised license for the applicant described in Subsection (3)(a)(ii):

(A) in order to remove the area that is subject to the contract from the applicant's exclusive geographic service area; and

(B) to take effect the day on which the contract is terminated; and

(ii) issues a new or revised license for the applicant described in Subsection (3)(c):

(A) in order to allow the applicant to provide 911 ambulance services for the area described in Subsection (3)(d)(i)(A); and

(B) to take effect the day on which the contract is terminated; and

(e) the termination does not create an orphaned area.

(4) Except as provided in Subsection [~~26-8a-405.3(4)(a),~~] 53-2d-505.3(4)(a) the provisions of Sections [~~26-8a-406~~] 53-2d-506 through [~~26-8a-409~~] 53-2d-509 do not apply to a license issued under this section.

Section 60. Section 53-2d-505.2, which is renumbered from Section 26-8a-405.2 is renumbered and amended to read:

[~~26-8a-405.2~~]. 53-2d-505.2. Selection of provider -- Request for competitive sealed proposal -- Public convenience and necessity.

(1) (a) A political subdivision may contract with an applicant approved under Section [~~26-8a-404~~] 53-2d-504 to provide services for the geographic service area that is approved by the department in accordance with Subsection (2), if:

(i) the political subdivision complies with the provisions of this section and Section [~~26-8a-405.3~~] 53-2d-505.3 if the contract is for 911 ambulance or paramedic services; or

(ii) the political subdivision complies with Sections [~~26-8a-405.3~~] 53-2d-505.3 and [~~26-8a-405.4~~] 53-2d-505.4, if the contract is for non-911 services.

(b) (i) The provisions of this section and Sections [~~26-8a-405.1~~] 53-2d-505.1, [~~26-8a-405.3~~] 53-2d-505.3, and [~~26-8a-405.4~~] 53-2d-505.4 do not require a political subdivision to issue a request for proposal for ambulance or paramedic services or non-911 services.

(ii) If a political subdivision does not contract with an applicant in accordance with this section and Section [~~26-8a-405.3~~] 53-2d-505.3, the provisions of Sections [~~26-8a-406~~] 53-2d-506 through [~~26-8a-409~~] 53-2d-509 apply to the issuance of a license for ambulance or paramedic services in the geographic service area that is within the boundaries of the political subdivision.

(iii) If a political subdivision does not contract with an applicant in accordance with this section, Section [~~26-8a-405.3~~] 53-2d-505.3, and Section [~~26-8a-405.4~~] 53-2d-505.4, a license for the non-911 services in the geographic service area that is within the boundaries of the political subdivision may be issued:

(A) under the public convenience and necessity provisions of Sections [~~26-8a-406~~] 53-2d-506 through [~~26-8a-409~~] 53-2d-509; or

(B) by a request for proposal issued by the department under Section [~~26-8a-405.5~~] 53-2d-505.5.

(c) (i) For purposes of this Subsection (1)(c):

(A) "Fire district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, that:

(I) is located in a county of the first or second class; and

(II) provides fire protection, paramedic, and emergency services.

(B) "Participating municipality" means a city or town whose area is partly or entirely included within a county service area or fire district.

(C) "Participating county" means a county whose unincorporated area is partly or entirely included within a fire district.

(ii) A participating municipality or participating county may as provided in this section and Section [~~26-8a-405.3~~] 53-2d-505.3, contract with a provider for 911 ambulance or paramedic service.

(iii) If the participating municipality or participating county contracts with a provider for services under this section and Section [~~26-8a-405.3~~] 53-2d-505.3:

(A) the fire district is not obligated to provide the services that are included in the contract between the participating municipality or the participating county and the provider;

(B) the fire district may impose taxes and obligations within the fire district in the same manner as if the participating municipality or participating county were receiving all services offered by the fire district; and

(C) the participating municipality's and participating county's obligations to the fire district are not diminished.

(2) (a) The political subdivision shall submit the request for proposal and the exclusive geographic service area to be included in a request for proposal issued under [~~Subsections~~] Subsection (1)(a)(i) or (ii) to the [~~department~~] bureau for approval prior to issuing the request for proposal.

(b) The department shall approve the request for proposal and the exclusive geographic service area:

(i) unless the geographic service area creates an orphaned area; and

(ii) in accordance with Subsections [~~(2)(b)~~] (2)(c) and [~~(c).~~] (d).

[~~(b)~~] (c) The exclusive geographic service area may:

(i) include the entire geographic service area that is within the political subdivision's boundaries;

(ii) include islands within or adjacent to other peripheral areas not included in the political

subdivision that governs the geographic service area; or

(iii) exclude portions of the geographic service area within the political subdivision's boundaries if another political subdivision or licensed provider agrees to include the excluded area within their license.

[~~(c)~~] (d) (i) The proposed geographic service area for 911 ambulance or paramedic service shall demonstrate that non-911 ambulance or paramedic service will be provided in the geographic service area, either by the current provider, the applicant, or some other method acceptable to the [~~department~~] bureau.

(ii) The [~~department~~] bureau may consider the effect of the proposed geographic service area on the costs to the non-911 provider and that provider's ability to provide only non-911 services in the proposed area.

Section 61. Section 53-2d-505.3, which is renumbered from Section 26-8a-405.3 is renumbered and amended to read:

[~~26-8a-405.3~~]. 53-2d-505.3. Use of competitive sealed proposals -- Procedure -- Appeal rights.

(1) (a) Competitive sealed proposals for paramedic or 911 ambulance services under Section [~~26-8a-405.2~~] 53-2d-505.2, or for non-911 services under Section [~~26-8a-405.4~~] 53-2d-505.4, shall be solicited through a request for proposal and the provisions of this section.

(b) The governing body of the political subdivision shall approve the request for proposal prior to the notice of the request for proposals under Subsection (1)(c).

(c) Notice of the request for proposals shall be published:

(i) by posting the notice for at least 20 days in at least five public places in the county; and

(ii) by posting the notice on the Utah Public Notice Website, created in Section 63A-16-601, for at least 20 days.

(2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiations.

(b) (i) Subsequent to the published notice, and prior to selecting an applicant, the political subdivision shall hold a presubmission conference with interested applicants for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements.

(ii) A political subdivision shall allow at least 90 days from the presubmission conference for the proposers to submit proposals.

(c) (i) Subsequent to the presubmission conference, the political subdivision may issue addenda to the request for proposals.

(ii) An [~~addenda~~] addendum to a request for proposal shall be finalized and posted by the political subdivision at least 45 days before the day on which the proposal must be submitted.

(d) Offerors to the request for proposals shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and revisions may be permitted after submission and before a contract is awarded for the purpose of obtaining best and final offers.

(e) In conducting discussions, there shall be no disclosures of any information derived from proposals submitted by competing offerors.

(3) (a) (i) A political subdivision may select an applicant approved by the [~~department~~] bureau under Section [~~26-8a-404~~] 53-2d-504 to provide 911 ambulance or paramedic services by contract to the most responsible offeror as defined in Section 63G-6a-103.

(ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the political subdivision, taking into consideration price and the evaluation factors set forth in the request for proposal.

(b) The applicants who are approved under Section [~~26-8a-405~~] 53-2d-505 and who are selected under this section may be the political subdivision issuing the request for competitive sealed proposals, or any other public entity or entities, any private person or entity, or any combination thereof.

(c) A political subdivision may reject all of the competitive proposals.

(4) In seeking competitive sealed proposals and awarding contracts under this section, a political subdivision:

(a) shall apply the public convenience and necessity factors listed in Subsections [~~26-8a-408(2)~~] 53-2d-508(2) through (6);

(b) shall require the applicant responding to the proposal to disclose how the applicant will meet performance standards in the request for proposal;

(c) may not require or restrict an applicant to a certain method of meeting the performance standards, including:

(i) requiring ambulance medical personnel to also be a firefighter; or

(ii) mandating that offerors use fire stations or dispatch services of the political subdivision;

(d) shall require an applicant to submit the proposal:

(i) based on full cost accounting in accordance with generally accepted accounting principals; and

(ii) if the applicant is a governmental entity, in addition to the requirements of Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and in compliance with the State of Utah Legal Compliance Audit Guide; and

(e) shall set forth in the request for proposal:

(i) the method for determining full cost accounting in accordance with generally accepted accounting principles, and require an applicant to submit the proposal based on such full cost accounting principles;

(ii) guidelines established to further competition and provider accountability; and

(iii) a list of the factors that will be considered by the political subdivision in the award of the contract, including by percentage, the relative weight of the factors established under this Subsection (4)(e), which may include such things as:

(A) response times;

(B) staging locations;

(C) experience;

(D) quality of care; and

(E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).

(5) (a) Notwithstanding any provision of Title 63G, Chapter 6a, Utah Procurement Code, to the contrary, the provisions of Title 63G, Chapter 6a, Utah Procurement Code, apply to the procurement process required by this section, except as provided in Subsection (5)(c).

(b) A procurement appeals panel described in Section 63G-6a-1702 shall have jurisdiction to review and determine an appeal of an offeror under this section.

(c) (i) (A) An offeror may appeal the solicitation or award as provided by the political subdivision's procedures.

(B) After all political subdivision appeal rights are exhausted, the offeror may appeal under [~~the provisions of~~] Subsections (5)(a) and (b).

(ii) A procurement appeals panel described in Section 63G-6a-1702 shall determine whether the solicitation or award was made in accordance with the procedures set forth in this section and Section [~~26-8a-405.2~~] 53-2d-505.2.

(d) The determination of an issue of fact by the appeals board shall be final and conclusive unless arbitrary and capricious or clearly erroneous as provided in Section 63G-6a-1705.

Section 62. Section 53-2d-505.4, which is renumbered from Section 26-8a-405.4 is renumbered and amended to read:

[~~26-8a-405.4~~]. 53-2d-505.4. Non-911 provider -- Finding of meritorious complaint -- Request for proposals.

(1) (a) This section applies to a non-911 provider license under this chapter.

(b) The [~~department~~] bureau shall, in accordance with Subsections (3) and (4):

(i) receive a complaint about a non-911 provider;

(ii) determine whether the complaint has merit;

(iii) issue a finding of:

(A) a meritorious complaint; or

(B) a non-meritorious complaint; and

(iv) forward a finding of a meritorious complaint to the governing body of the political subdivision:

(A) in which the non-911 provider is licensed; or

(B) that provides the non-911 services, if different from Subsection (1)(b)(iv)(A).

(2) (a) A political subdivision that receives a finding of a meritorious complaint from [~~the department:~~] the bureau shall take corrective action that the political subdivision determines is appropriate.

[~~(i) shall take corrective action that the political subdivision determines is appropriate; and~~]

[~~(ii)~~] (b) [~~shall, if the~~] A political subdivision that determines corrective action will not resolve the complaint or is not appropriate shall:

[~~(A)~~] (i) subject to Subsection (2)(c), issue a request for proposal for non-911 service in the geographic service area [~~if the political subdivision will not respond to the request for proposal~~]; or

[~~(B)~~] (ii) [~~(I)~~] (A) make a finding that a request for proposal for non-911 services is appropriate [~~and the political subdivision intends to respond to a request for proposal~~]; and

[~~(II)~~] (B) submit the political subdivision's findings to the [~~department~~] bureau with a request that the [~~department~~] bureau issue a request for proposal in accordance with Section [~~26-8a-405.5~~] 53-2d-505.5.

[~~(b)~~] (c) A political subdivision that issues a request for proposal under Subsection (2)(b)(i):

(i) may not respond to the request for proposal; and

(ii) shall issue the request for proposal in accordance with Sections 53-2d-505.1 through 53-2d-505.3.

[~~(i) If Subsection (2)(a)(ii)(A) applies, the political subdivision shall issue the request for proposal in accordance with Sections 26-8a-405.1 through 26-8a-405.3.~~]

[~~(ii)~~] (d) If [~~Subsection (2)(a)(ii)(B) applies~~] a political subdivision submits a request to the bureau described in Subsection (2)(b)(ii), the [~~department~~] bureau shall issue a request for proposal for non-911 services in accordance with Section 26-8a-405.5.

(3) The [~~department~~] bureau shall make a determination under Subsection (1)(b) if:

(a) the [~~department~~] bureau receives a written complaint from any of the following in the geographic service area:

(i) a hospital;

(ii) a health care facility;

(iii) a political subdivision; or

(iv) an individual; and

(b) the [~~department~~] bureau determines, in accordance with Subsection (1)(b), that the complaint has merit.

(4) (a) If the [~~department~~] bureau receives a complaint under Subsection (1)(b), the department shall request a written response from the non-911 provider concerning the complaint.

(b) The [~~department~~] bureau shall make a determination under Subsection (1)(b) based on:

(i) the written response from the non-911 provider; and

(ii) other information that the department may have concerning the quality of service of the non-911 provider.

(c) (i) The [~~department's~~] bureau's determination under Subsection (1)(b) is not subject to an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) The [~~department~~] bureau shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of Subsection (1)(b).

Section 63. Section 53-2d-505.5, which is renumbered from Section 26-8a-405.5 is renumbered and amended to read:

[~~26-8a-405.5~~]. 53-2d-505.5. Use of competitive sealed proposals -- Procedure -- Appeal rights.

(1) (a) The [~~department~~] bureau shall issue a request for proposal for non-911 services in a geographic service area if the [~~department~~] bureau receives a request from a political subdivision under Subsection [~~26-8a-405.4(2)(a)(ii)(B)~~] 53-2d-505.4(2)(d) to issue a request for proposal for non-911 services.

(b) Competitive sealed proposals for non-911 services under Subsection (1)(a) shall be solicited through a request for proposal and the provisions of this section.

(c) (i) Notice of the request for proposals shall be published:

(A) at least once a week for three consecutive weeks in a newspaper of general circulation published in the county; or

(B) if there is no such newspaper, then notice shall be posted for at least 20 days in at least five public places in the county; and

(ii) in accordance with Section 45-1-101 for at least 20 days.

(2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiations.

(b) (i) Subsequent to the published notice, and prior to selecting an applicant, the department shall hold a presubmission conference with interested applicants for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements.

(ii) The department shall allow at least 90 days from the presubmission conference for the proposers to submit proposals.

(c) (i) Subsequent to the presubmission conference, the department may issue addenda to the request for proposals.

(ii) An [~~addenda~~] addendum to a request for proposal shall be finalized and posted by the department at least 45 days before the day on which the proposal must be submitted.

(d) Offerors to the request for proposals shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and revisions may be permitted after submission and before a contract is awarded for the purpose of obtaining best and final offers.

(e) In conducting discussions, there shall be no disclosures of any information derived from proposals submitted by competing offerors.

(3) (a) (i) The [~~department~~] bureau may select an applicant approved by the [~~department~~] bureau under Section [~~26-8a-404~~] 53-2d-504 to provide non-911 services by contract to the most responsible offeror as defined in Section 63G-6a-103.

(ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the public, taking into consideration price and the evaluation factors set forth in the request for proposal.

(b) The applicants who are approved under Section [~~26-8a-405~~] 53-2d-504 and who are selected under this section may be the political subdivision responding to the request for competitive sealed proposals, or any other public entity or entities, any private person or entity, or any combination thereof.

(c) The [~~department~~] bureau may reject all of the competitive proposals.

(4) In seeking competitive sealed proposals and awarding contracts under this section, the [~~department~~] bureau:

(a) shall consider the public convenience and necessity factors listed in Subsections [~~26-8a-408(2)~~] 53-2d-508(2) through (6);

(b) shall require the applicant responding to the proposal to disclose how the applicant will meet performance standards in the request for proposal;

(c) may not require or restrict an applicant to a certain method of meeting the performance standards, including:

(i) requiring ambulance medical personnel to also be a firefighter; or

(ii) mandating that offerors use fire stations or dispatch services of the political subdivision;

(d) shall require an applicant to submit the proposal:

(i) based on full cost accounting in accordance with generally accepted accounting principals; and

(ii) if the applicant is a governmental entity, in addition to the requirements of Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and in compliance with the State of Utah Legal Compliance Audit Guide; and

(e) shall set forth in the request for proposal:

(i) the method for determining full cost accounting in accordance with generally accepted accounting principles, and require an applicant to submit the proposal based on such full cost accounting principles;

(ii) guidelines established to further competition and provider accountability; and

(iii) a list of the factors that will be considered by the department in the award of the contract, including by percentage, the relative weight of the factors established under this Subsection (4)(e), which may include:

(A) response times;

(B) staging locations;

(C) experience;

(D) quality of care; and

(E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).

(5) A license issued under this section:

(a) is for the exclusive geographic service area approved by the department;

(b) is valid for four years;

(c) is not subject to a request for license from another applicant under the provisions of Sections [~~26-8a-406~~] 53-2d-506 through [~~26-8a-409~~] 53-2d-509 during the four-year term, unless the applicant's license is revoked under Section [~~26-8a-504~~] 53-2d-604;

(d) is subject to supervision by the department under Sections [~~26-8a-503~~] 53-2d-603 and [~~26-8a-504~~] 53-2d-604; and

(e) except as provided in Subsection (4)(a), is not subject to the provisions of Sections [~~26-8a-406~~] 53-2d-506 through [~~26-8a-409~~] 53-2d-509.

Section 64. Section 53-2d-506, which is renumbered from Section 26-8a-406 is renumbered and amended to read:

[~~26-8a-406~~]. 53-2d-506. Ground ambulance and paramedic licenses -- Parties.

(1) When an applicant approved under Section [~~26-8a-404~~] 53-2d-504 seeks licensure under the provisions of Sections [~~26-8a-406~~] 53-2d-506 through [~~26-8a-409~~] 53-2d-509, the [~~department~~] bureau shall:

(a) issue a notice of agency action to the applicant to commence an informal administrative proceeding;

(b) provide notice of the application to all interested parties; and

(c) publish notice of the application, at the applicant's expense:

(i) once a week for four consecutive weeks, in a newspaper of general circulation in the geographic service area that is the subject of the application; and

(ii) in accordance with Section 45-1-101 for four weeks.

(2) An interested party has 30 days to object to an application.

(3) If an interested party objects, the presiding officer shall join the interested party as an indispensable party to the proceeding.

(4) The [~~department~~] bureau may join the proceeding as a party to represent the public interest.

(5) Others who may be affected by the grant of a license to the applicant may join the proceeding, if the presiding officer determines that they meet the requirement of legal standing.

Section 65. Section 53-2d-507, which is renumbered from Section 26-8a-407 is renumbered and amended to read:

[~~26-8a-407~~]. 53-2d-507. Ground ambulance and paramedic licenses -- Proceedings.

(1) The presiding officer shall:

(a) commence an informal adjudicative proceeding within 120 days of receiving a completed application;

(b) meet with the applicant and objecting interested parties and provide no less than 120 days for a negotiated resolution, consistent with the criteria in Section [~~26-8a-408~~] 53-2d-508;

(c) set aside a separate time during the proceedings to accept public comment on the application; and

(d) present a written decision to the executive director if a resolution has been reached that satisfies the criteria in Section [~~26-8a-408~~] 53-2d-508.

(2) At any time during an informal adjudicative proceeding under Subsection (1), any party may request conversion of the informal adjudicative proceeding to a formal adjudicative proceeding in accordance with Section 63G-4-202.

(3) (a) Upon conversion to a formal adjudicative proceeding, a hearing officer shall be assigned to the application as provided in Section [~~26-8a-409~~] 53-2d-509.

(b) The hearing office shall:

[~~(a)~~] (i) set aside a separate time during the proceedings to accept public comment on the application;

[~~(b)~~] (ii) apply the criteria established in Section [~~26-8a-408~~] 53-2d-508; and

[~~(c)~~] (iii) present a recommended decision to the executive director in writing.

(4) The executive director may, as set forth in a final written order, accept, modify, reject, or remand the decision of a presiding or hearing officer after:

(a) reviewing the record;

(b) giving due deference to the officer's decision; and

(c) determining whether the criteria in Section [~~26-8a-408~~] 53-2d-508 have been satisfied.

Section 66. Section 53-2d-508, which is renumbered from Section 26-8a-408 is renumbered and amended to read:

[~~26-8a-408~~]. 53-2d-508. Criteria for determining public convenience and necessity.

(1) The criteria for determining public convenience and necessity is set forth in Subsections (2) through (6).

(2) (a) Access to emergency medical services shall be maintained or improved.

(b) The officer shall consider the impact on existing services, including the impact on response times, call volumes, populations and exclusive geographic service areas served, and the ability of surrounding licensed providers to service their exclusive geographic service areas.

(c) The issuance or amendment of a license may not create an orphaned area.

(3) (a) The quality of service in the area shall be maintained or improved.

(b) The officer shall consider the:

[~~(a)~~] (i) staffing and equipment standards of the current licensed provider and the applicant;

[~~(b)~~] (ii) training and licensure levels of the current licensed provider's staff and the applicant's staff;

[~~(c)~~] (iii) continuing medical education provided by the current licensed provider and the applicant;

[~~(d)~~] (iv) levels of care as defined by department rule;

[~~(e)~~] (v) plan of medical control; and

[~~(f)~~] (vi) the negative or beneficial impact on the regional emergency medical service system to provide service to the public.

(4) (a) The cost to the public shall be justified.

(b) The officer shall consider:

[~~(a)~~] (i) the financial solvency of the applicant;

[~~(b)~~] (ii) the applicant's ability to provide services within the rates established under Section [~~26-8a-403~~] 53-2d-503;

[~~(c)~~] (iii) the applicant's ability to comply with cost reporting requirements;

[~~(d)~~] (iv) the cost efficiency of the applicant; and

[~~(e)~~] (v) the cost effect of the application on the public, interested parties, and the emergency medical services system.

(5) (a) Local desires concerning cost, quality, and access shall be considered.

(b) The officer shall assess and consider:

[~~(a)~~] (i) the existing provider's record of providing services and the applicant's record and ability to provide similar or improved services;

[~~(b)~~] (ii) locally established emergency medical services goals, including those established in Subsection (7);

[~~(c)~~] (iii) comment by local governments on the applicant's business and operations plans;

[~~(d)~~] (iv) comment by interested parties that are providers on the impact of the application on the parties' ability to provide emergency medical services;

[~~(e)~~] (v) comment by interested parties that are local governments on the impact of the application on the citizens it represents; and

[~~(f)~~] (vi) public comment on any aspect of the application or proposed license.

(6) Other related criteria:

(a) the officer considers necessary; or

(b) established by [~~department~~] bureau rule.

(7) Local governments shall establish cost, quality, and access goals for the ground ambulance and paramedic services that serve their areas.

(8) In a formal adjudicative proceeding, the applicant bears the burden of establishing that public convenience and necessity require the approval of the application for all or part of the exclusive geographic service area requested.

Section 67. Section 53-2d-509, which is renumbered from Section 26-8a-409 is renumbered and amended to read:

[~~26-8a-409~~]. 53-2d-509. Ground ambulance and paramedic licenses -- Hearing and presiding officers.

(1) The [~~department~~] bureau shall set training standards for hearing officers and presiding officers.

(2) At a minimum, a presiding officer shall:

(a) be familiar with the theory and application of public convenience and necessity; and

(b) have a working knowledge of the emergency medical service system in the state.

(3) In addition to the requirements in Subsection (2), a hearing officer shall also be licensed to practice law in the state.

(4) The [~~department~~] bureau shall provide training for hearing officer and presiding officer candidates in the theory and application of public convenience and necessity and on the emergency medical system in the state.

(5) The [~~department~~] bureau shall maintain a roster of no less than five individuals who meet the minimum qualifications for both presiding and hearing officers and the standards set by the [~~department~~] bureau.

(6) The parties may mutually select an officer from the roster if the officer is available.

(7) If the parties cannot agree upon an officer under Subsection (4), the [~~department~~] bureau shall randomly select an officer from the roster or from a smaller group of the roster agreed upon by the applicant and the objecting interested parties.

Section 68. Section 53-2d-510, which is renumbered from Section 26-8a-410 is renumbered and amended to read:

[~~26-8a-410~~]. 53-2d-510. Local approvals.

(1) Licensed ambulance providers and paramedic providers shall meet all local zoning and business licensing standards generally applicable to businesses operating within the jurisdiction.

(2) Publicly subsidized providers shall demonstrate approval of the taxing authority that will provide the subsidy.

(3) A publicly operated service shall demonstrate that the governing body has approved the provision of services to the entire exclusive geographic service area that is the subject of the license, including those areas that may lie outside the territorial or jurisdictional boundaries of the governing body.

Section 69. Section 53-2d-511, which is renumbered from Section 26-8a-411 is renumbered and amended to read:

[~~26-8a-411~~]. 53-2d-511. Limitation on repetitive applications.

A person who has previously applied for a license under Sections [~~26-8a-406~~] 53-2d-506 through [~~26-8a-409~~] 53-2d-509 may not apply for a license for the same service that covers any exclusive geographic service area that was the subject of the prior application unless:

(1) one year has passed from the date of the issuance of a final decision under Section [~~26-8a-407~~] 53-2d-507; or

(2) all interested parties and the department agree that a new application is in the public interest.

Section 70. Section 53-2d-512, which is renumbered from Section 26-8a-412 is renumbered and amended to read:

[~~26-8a-412~~]. 53-2d-512. License for air ambulance providers.

(1) An applicant for an air ambulance provider shall apply to the [~~department~~] bureau for a license only by:

(a) submitting a complete application;

(b) providing information in the format required by the [~~department~~] bureau; and

(c) paying the required fees.

(2) The [~~department~~] bureau may make rules establishing minimum qualifications and requirements for:

(a) personnel;

(b) capital reserves;

(c) equipment;

(d) business plan;

(e) operational procedures;

(f) resource hospital and medical direction agreements;

(g) management and control qualifications and requirements; and

(h) other matters that may be relevant to an applicant's ability to provide air ambulance services.

(3) Upon receiving a completed application and the required fees, the [~~department~~] bureau shall review the application and determine whether the application meets the minimum requirements for licensure.

(4) The [~~department~~] bureau may deny an application for an air ambulance if:

(a) the [~~department~~] bureau finds that the application contains any materially false or misleading information or is incomplete;

(b) the application demonstrates that the applicant fails to meet the minimum requirements for licensure; or

(c) the [~~department~~] bureau finds after inspection that the applicant does not meet the minimum requirements for licensure.

(5) If the [~~department~~] bureau denies an application under this section, it shall notify the applicant in writing setting forth the grounds for the denial.

Section 71. Section 53-2d-513, which is renumbered from Section 26-8a-413 is renumbered and amended to read:

[~~26-8a-413~~]. 53-2d-513. License renewals.

(1) A licensed provider desiring to renew its license shall meet the renewal requirements established by [~~department~~] bureau rule.

(2) The [~~department~~] bureau shall issue a renewal license for a ground ambulance provider or a paramedic provider upon the licensee's application for a renewal and without a public hearing if:

(a) the applicant was licensed under the provisions of Sections [~~26-8a-406~~] 53-2d-506 through [~~26-8a-409~~] 53-2d-509; and

(b) there has been:

(i) no change in controlling interest in the ownership of the licensee as defined in Section [~~26-8a-415~~] 53-2d-515;

(ii) no serious, substantiated public complaints filed with the department against the licensee during the term of the previous license;

(iii) no material or substantial change in the basis upon which the license was originally granted;

(iv) no reasoned objection from the committee or the department; and

(v) no change to the license type.

(3) (a) (i) The provisions of this Subsection (3) apply to a provider licensed under the provisions of Sections [~~26-8a-405.1~~] 53-2d-505.1 and [~~26-8a-405.2~~] 53-2d-505.2.

(ii) A provider may renew its license if the provisions of Subsections (1) and (2) and this Subsection (3) are met.

(b) (i) The [~~department~~] bureau shall issue a renewal license to a provider upon the provider's application for renewal for one additional four-year term if the political subdivision certifies to the [~~department~~] bureau that the provider has met all of the specifications of the original bid.

(ii) If the political subdivision does not certify to the [~~department~~] bureau that the provider has met all of the specifications of the original bid, the [~~department~~] bureau may not issue a renewal license and the political subdivision shall enter into a public bid process under Sections [~~26-8a-405.1~~] 53-2d-505.1 and [~~26-8a-405.2~~] 53-2d-505.2.

(c) (i) The [~~department~~] bureau shall issue an additional renewal license to a provider who has already been issued a one-time renewal license under the provisions of Subsection (3)(b)(i) if the [~~department~~] bureau and the political subdivision do not receive, prior to the expiration of the provider's license, written notice from an approved applicant informing the political subdivision of the approved applicant's desire to submit a bid for ambulance or paramedic service.

(ii) If the [~~department~~] bureau and the political subdivision receive the notice in accordance with Subsection (3)(c)(i), the [~~department~~] bureau may not issue a renewal license and the political subdivision shall enter into a public bid process under Sections [~~26-8a-405.1~~] 53-2d-505.1 and [~~26-8a-405.2~~] 53-2d-505.2.

(4) The [~~department~~] bureau shall issue a renewal license for an air ambulance provider upon the licensee's application for renewal and completion of the renewal requirements established by [~~department~~] bureau rule.

Section 72. Section 53-2d-514, which is renumbered from Section 26-8a-414 is renumbered and amended to read:

[~~26-8a-414~~]. 53-2d-514. Annexations.

(1) A municipality shall comply with the provisions of this section if the municipality is licensed under this chapter and desires to provide service to an area that is:

(a) included in a petition for annexation under Title 10, Chapter 2, Part 4, Annexation; and

(b) currently serviced by another provider licensed under this chapter.

(2) (a) (i) At least 45 days prior to approving a petition for annexation, the municipality shall certify to the [~~department~~] bureau that by the time of the approval of the annexation the municipality can meet or exceed the current level of service provided by the existing licensee for the annexed area by meeting the requirements of Subsections (2)(b)(ii)(A) through (D); and

(ii) no later than three business days after the municipality files a petition for annexation in accordance with Section 10-2-403, provide written notice of the petition for annexation to:

(A) the existing licensee providing service to the area included in the petition of annexation; and

(B) the [~~department~~] bureau.

(b) (i) After receiving a certification under Subsection (2)(a), but prior to the municipality approving a petition for annexation, the [~~department~~] bureau may audit the municipality only to verify the requirements of Subsections (2)(b)(ii)(A) through (D).

(ii) If the [~~department~~] bureau elects to conduct an audit, the [~~department~~] bureau shall make a finding that the municipality can meet or exceed the current level of service provided by the existing licensee for the annexed area if the [~~department~~] bureau finds that the municipality has or will have by the time of the approval of the annexation:

(A) adequate trained personnel to deliver basic and advanced life support services;

(B) adequate apparatus and equipment to deliver emergency medical services;

(C) adequate funding for personnel and equipment; and

(D) appropriate medical controls, such as a medical director and base hospital.

(iii) The [~~department~~] bureau shall submit the results of the audit in writing to the municipal legislative body.

(3) (a) If the [~~department~~] bureau audit finds that the municipality meets the requirements of Subsection (2)(b)(ii), the [~~department~~] bureau shall issue an amended license to the municipality and all other affected licensees to reflect the municipality's new boundaries after the [~~department~~] bureau receives notice of the approval of the petition for annexation from the municipality in accordance with Section 10-2-425.

(b) (i) Notwithstanding the provisions of Subsection 63G-4-102(2)(k), if the [~~department~~] bureau audit finds that the municipality fails to meet the requirements of Subsection (2)(b)(ii), the municipality may request an adjudicative proceeding under the provisions of Title 63G, Chapter 4, Administrative Procedures Act. []The municipality may approve the petition for

annexation while an adjudicative proceeding requested under this Subsection (3)(b)(i) is pending.

(ii) The [~~department~~] bureau shall conduct an adjudicative proceeding when requested under Subsection (3)(b)(i).

(iii) Notwithstanding the provisions of Sections [~~26-8a-404~~] 53-2d-504 through [~~26-8a-409~~] 53-2d-509, in any adjudicative proceeding held under the provisions of Subsection (3)(b)(i), the [~~department~~] bureau bears the burden of establishing that the municipality cannot, by the time of the approval of the annexation, meet the requirements of Subsection (2)(b)(ii).

(c) If, at the time of the approval of the annexation, an adjudicative proceeding is pending under the provisions of Subsection (3)(b)(i), the [~~department~~] bureau shall issue amended licenses if the municipality prevails in the adjudicative proceeding.

Section 73. Section 53-2d-515, which is renumbered from Section 26-8a-415 is renumbered and amended to read:

[~~26-8a-415~~]. 53-2d-515. Changes in ownership.

(1) A licensed provider whose ownership or controlling ownership interest has changed shall submit information to the [~~department~~] bureau, as required by [~~department~~] bureau rule:

(a) to establish whether the new owner or new controlling party meets minimum requirements for licensure; and

(b) except as provided in Subsection (2), to commence an administrative proceeding to determine whether the new owner meets the requirement of public convenience and necessity under Section [~~26-8a-408~~] 53-2d-508.

(2) An administrative proceeding is not required under Subsection (1)(b) if:

(a) the change in ownership interest is among existing owners of a closely held corporation and the change does not result in a change in the management of the licensee or in the name of the licensee;

(b) the change in ownership in a closely held corporation results in the introduction of new owners, provided that:

(i) the new owners are limited to individuals who would be entitled to the equity in the closely held corporation by the laws of intestate succession had the transferor died intestate at the time of the transfer;

(ii) the majority owners on January 1, 1999, have been disclosed to the department by October 1, 1999, and the majority owners on January 1, 1999, retain a majority interest in the closely held corporation; and

(iii) the name of the licensed provider remains the same;

(c) the change in ownership is the result of one or more owners transferring their interests to a trust, limited liability company, partnership, or closely held corporation so long as the transferors retain control over the receiving entity;

(d) the change in ownership is the result of a distribution of an estate or a trust upon the death of the testator or the trustor and the recipients are limited to individuals who would be entitled to the interest by the laws of intestate succession had the transferor died intestate at the time of the transfer; or

(e) other similar changes that the department establishes, by rule, as having no significant impact on the cost, quality, or access to emergency medical services.

Section 74. Section 53-2d-516, which is renumbered from Section 26-8a-416 is renumbered and amended to read:

[~~26-8a-416~~]. 53-2d-516. Overlapping licenses.

(1) As used in this section:

(a) "Overlap" means two ground ambulance interfacility transport providers that are licensed at the same level of service in all or part of a single geographic service area.

(b) "Overlay" means two ground ambulance interfacility transport providers that are licensed at a different level of service in all or part of a single geographic service area.

(2) Notwithstanding the exclusive geographic service requirement of Section [~~26-8a-402~~] 53-2d-502, the [~~department~~] bureau shall recognize overlap and overlay ground ambulance interfacility transport licenses that existed on or before May 4, 2022.

(3) The [~~department~~] bureau may, without an adjudicative proceeding but with at least 30 days notice to providers in the same geographic service area, amend an existing overlay ground ambulance interfacility transport license solely to convert an overlay into an overlap if the existing ground ambulance interfacility transport licensed provider meets the requirements described in Subsection [~~26-8a-404(4)~~] 53-2d-504(4).

(4) An amendment of a license under this section may not alter:

(a) other terms of the original license, including the applicable geographic service area; or

(b) the license of other providers that provide interfacility transport services in the geographic service area.

(5) Notwithstanding Subsection (2), any license for an overlap area terminates upon:

(a) relinquishment by the provider; or

(b) revocation by the department.

Section 75. Section 53-2d-601, which is renumbered from Section 26-8a-501 is

renumbered and amended to read:

Part 6. Enforcement Provisions

[~~26-8a-501~~]. 53-2d-601. Discrimination prohibited.

(1) No person licensed or designated pursuant to this chapter may discriminate in the provision of emergency medical services on the basis of race, sex, color, creed, or prior inquiry as to ability to pay.

(2) This chapter does not authorize or require medical assistance or transportation over the objection of an individual on religious grounds.

Section 76. Section 53-2d-602, which is renumbered from Section 26-8a-502 is renumbered and amended to read:

[~~26-8a-502~~]. 53-2d-602. Illegal activity.

(1) Except as provided in Section [~~26-8a-308~~] 53-2d-408 or [~~26-8b-201~~] 53-2d-201, a person may not:

(a) practice or engage in the practice, represent that the person is practicing or engaging in the practice, or attempt to practice or engage in the practice of any activity that requires a license, certification, or designation under this chapter unless that person is licensed, certified, or designated under this chapter; or

(b) offer an emergency medical service that requires a license, certification, or designation under this chapter unless the person is licensed, certified, or designated under this chapter.

(2) A person may not:

(a) advertise or represent that the person holds a license, certification, or designation required under this chapter, unless that person holds the license, certification, or designation under this chapter[~~.~~];

[~~(3)~~] (b) [~~A person may not~~] employ or permit any employee to perform any service for which a license or certification is required by this chapter, unless the person performing the service possesses the required license or certification under this chapter[~~.~~];

[~~(4)~~] (c) [~~A person may not wear,~~] display, sell, reproduce, or otherwise use any Utah Emergency Medical Services insignia without authorization from the [~~department.~~] bureau;

[~~(5)~~] (d) [~~A person may not~~] reproduce or otherwise use materials developed by the department for licensure or certification testing or examination without authorization from the [~~department.~~] bureau; or

[~~(6)~~] (e) [~~A person may not~~] willfully summon an ambulance or emergency response vehicle or report that one is needed when the person knows that the ambulance or emergency response vehicle is not needed.

(3) A violation of Subsection (1) or (2) is a class B misdemeanor.

[~~(7) A person who violates this section is subject to Section 26-23-6.~~]

Section 77. Section 53-2d-602.1, which is renumbered from Section 26-8a-502.1 is renumbered and amended to read:

[~~26-8a-502.1~~]. 53-2d-602.1. Prohibition on the use of "911".

(1) As used in this section:

(a) "Emergency services" means services provided by a person in response to an emergency.

(b) "Emergency services" includes:

(i) fire protection services;

(ii) paramedic services;

(iii) law enforcement services;

(iv) 911 ambulance or paramedic services, as defined in Section 26-8a-102; and

(v) any other emergency services.

(2) A person may not use "911" or other similar sequence of numbers in the person's name with the purpose to deceive the public that the person operates or represents emergency services, unless the person is authorized to provide emergency services.

(3) A violation of Subsection (2) is:

(a) a class C misdemeanor; and

(b) subject to a fine of up to $500 per violation.

Section 78. Section 53-2d-603, which is renumbered from Section 26-8a-503 is renumbered and amended to read:

[~~26-8a-503~~]. 53-2d-603. Discipline of emergency medical services personnel.

(1) The [~~department~~] bureau may refuse to issue a license or renewal, or revoke, suspend, restrict, or place on probation an individual's license if:

(a) the individual does not meet the qualifications for licensure under Section [~~26-8a-302~~] 53-2d-402;

(b) the individual has engaged in conduct, as defined by committee rule, that:

(i) is unprofessional;

(ii) is adverse to the public health, safety, morals, or welfare; or

(iii) would adversely affect public trust in the emergency medical service system;

(c) the individual has violated Section [~~26-8a-502~~] 53-2d-602 or other provision of this chapter;

(d) the individual has violated Section 58-1-509;

(e) a court of competent jurisdiction has determined the individual to be mentally incompetent for any reason; or

(f) the individual is unable to provide emergency medical services with reasonable skill and safety

because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated.

(2) (a) An action to revoke, suspend, restrict, or place a license on probation shall be done in:

(i) consultation with the peer review board created in Section [~~26-8a-105~~] 53-2d-103; and

(ii) accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the [~~department~~] bureau may issue a cease and desist order under Section [~~26-8a-507~~] 53-2d-607 to immediately suspend an individual's license pending an administrative proceeding to be held within 30 days if there is evidence to show that the individual poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

(3) An individual whose license has been suspended, revoked, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with any conditions imposed upon the license by statute, committee rule, or the terms of the suspension, revocation, or restriction.

[~~(4) In addition to taking disciplinary action under Subsection (1), the department may impose sanctions in accordance with Section 26-23-6.~~]

Section 79. Section 53-2d-604, which is renumbered from Section 26-8a-504 is renumbered and amended to read:

[~~26-8a-504~~]. 53-2d-604. Discipline of designated and licensed providers.

(1) The [~~department~~] bureau may refuse to issue a license or designation or a renewal, or revoke, suspend, restrict, or place on probation, an emergency medical service provider's license or designation if the provider has:

(a) failed to abide by terms of the license or designation;

(b) violated statute or rule;

(c) failed to provide services at the level or in the exclusive geographic service area required by the license or designation;

(d) failed to submit a renewal application in a timely fashion as required by department rule;

(e) failed to follow operational standards established by the committee; or

(f) committed an act in the performance of a professional duty that endangered the public or constituted gross negligence.

(2) (a) An action to revoke, suspend, restrict, or place a license or designation on probation shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist order under Section [~~26-8a-507~~] 53-2d-607 to immediately suspend a license or designation pending an administrative proceeding to be held within 30 days if there is evidence to show that the provider or facility poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

[~~(3) In addition to taking disciplinary action under Subsection (1), the department may impose sanctions in accordance with Section 26-23-6.~~]

Section 80. Section 53-2d-605, which is renumbered from Section 26-8a-505 is renumbered and amended to read:

[~~26-8a-505~~]. 53-2d-605. Service interruption or cessation -- Receivership -- Default coverage -- Notice.

(1) Acting in the public interest, the department may petition the district court where an ambulance or paramedic provider operates or the district court with jurisdiction in Salt Lake County to appoint the [~~department~~] bureau or an independent receiver to continue the operations of a provider upon any one of the following conditions:

(a) the provider ceases or intends to cease operations;

(b) the provider becomes insolvent;

(c) the [~~department~~] bureau has initiated proceedings to revoke the provider's license and has determined that the lives, health, safety, or welfare of the population served within the provider's exclusive geographic service area are endangered because of the provider's action or inaction pending a full hearing on the license revocation; or

(d) the [~~department~~] bureau has revoked the provider's license and has been unable to adequately arrange for another provider to take over the provider's exclusive geographic service area.

(2) If a licensed or designated provider ceases operations or is otherwise unable to provide services, the [~~department~~] bureau may arrange for another licensed provider to provide services on a temporary basis until a license is issued.

(3) A licensed provider shall give the department 30 days notice of its intent to cease operations.

Section 81. Section 53-2d-606, which is renumbered from Section 26-8a-506 is renumbered and amended to read:

[~~26-8a-506~~]. 53-2d-606. Investigations for enforcement of chapter.

(1) The [~~department~~] bureau may, for the purpose of ascertaining compliance with the provisions of this chapter, enter and inspect on a routine basis the business premises and equipment of a person:

(a) with a designation, permit, or license; or

(b) who holds himself out to the general public as providing a service for which a designation, permit, or license is required under Section [~~26-8a-301~~] 53-2d-401.

(2) Before conducting an inspection under Subsection (1), the [~~department~~] bureau shall, after identifying the person in charge:

(a) give proper identification;

(b) describe the nature and purpose of the inspection; and

(c) if necessary, explain the authority of the department to conduct the inspection.

(3) In conducting an inspection under Subsection (1), the [~~department~~] bureau may, after meeting the requirements of Subsection (2):

(a) inspect records, equipment, and vehicles; and

(b) interview personnel.

(4) An inspection conducted under Subsection (1) shall be during regular operational hours.

Section 82. Section 53-2d-607, which is renumbered from Section 26-8a-507 is renumbered and amended to read:

[~~26-8a-507~~]. 53-2d-607. Cease and desist orders.

The [~~department~~] bureau may issue a cease and desist order to any person who:

(1) may be disciplined under Section [~~26-8a-503~~] 53-2d-603 or [~~26-8a-504~~] 53-2d-604; or

(2) otherwise violates this chapter or any rules adopted under this chapter.

Section 83. Section 53-2d-701, which is renumbered from Section 26-8a-601 is renumbered and amended to read:

Part 7. Miscellaneous

[~~26-8a-601~~]. 53-2d-701. Persons and activities exempt from civil liability.

(1) (a) Except as provided in Subsection (1)(b), a licensed physician, physician's assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written instructions to any of the following is not liable for any civil damages as a result of issuing the instructions:

(i) an individual licensed or certified under Section [~~26-8a-302~~] 53-2b-402;

(ii) an individual who uses a fully automated external defibrillator[~~, as defined in Section 26-8b-102~~]; or

(iii) an individual who administers CPR[~~, as defined in Section 26-8b-102~~].

(b) The liability protection described in Subsection (1)(a) does not apply if the instructions given were the result of gross negligence or willful misconduct.

(2) An individual licensed or certified under Section [~~26-8a-302~~] 53-2d-402, during either training or after licensure or certification, a licensed physician, a physician assistant, or a registered nurse who, gratuitously and in good faith, provides emergency medical instructions or renders emergency medical care authorized by this chapter is not liable for any civil damages as a result of any act or omission in providing the emergency medical instructions or medical care, unless the act or omission is the result of gross negligence or willful misconduct.

(3) An individual licensed or certified under Section [~~26-8a-302~~] 53-2d-402 is not subject to civil liability for failure to obtain consent in rendering emergency medical services authorized by this chapter to any individual who is unable to give his consent, regardless of the individual's age, where there is no other person present legally authorized to consent to emergency medical care, provided that the licensed individual acted in good faith.

(4) A principal, agent, contractor, employee, or representative of an agency, organization, institution, corporation, or entity of state or local government that sponsors, authorizes, supports, finances, or supervises any functions of an individual licensed or certified under Section [~~26-8a-302~~] 53-2d-402 is not liable for any civil damages for any act or omission in connection with the sponsorship, authorization, support, finance, or supervision of the licensed or certified individual where the act or omission occurs in connection with the licensed or certified individual's training or occurs outside a hospital where the life of a patient is in immediate danger, unless the act or omission is inconsistent with the training of the licensed or certified individual, and unless the act or omission is the result of gross negligence or willful misconduct.

(5) A physician or physician assistant who gratuitously and in good faith arranges for, requests, recommends, or initiates the transfer of a patient from a hospital to a critical care unit in another hospital is not liable for any civil damages as a result of such transfer where:

(a) sound medical judgment indicates that the patient's medical condition is beyond the care capability of the transferring hospital or the medical community in which that hospital is located; and

(b) the physician or physician assistant has secured an agreement from the receiving facility to accept and render necessary treatment to the patient.

(6) An individual who is a registered member of the National Ski Patrol System [~~(NSPS)~~] or a member of a ski patrol who has completed a course in winter emergency care offered by the [~~NSPS~~] National Ski Patrol System combined with CPR for medical technicians offered by the American Red Cross or American Heart Association, or an equivalent course of instruction, and who in good faith renders emergency care in the course of ski patrol duties is not liable for civil damages as a

result of any act or omission in rendering the emergency care, unless the act or omission is the result of gross negligence or willful misconduct.

(7) An emergency medical service provider who, in good faith, transports an individual against his will but at the direction of a law enforcement officer pursuant to Section 62A-15-629 is not liable for civil damages for transporting the individual.

Section 84. Section 53-2d-702, which is renumbered from Section 26-8a-602 is renumbered and amended to read:

[~~26-8a-602~~]. 53-2d-702. Notification of air ambulance policies and charges.

(1) For any patient who is in need of air medical transport provider services, an emergency medical service provider shall:

(a) provide the patient or the patient's representative with the information described in Subsection [~~26-8a-107(7)(a)~~] 53-2d-107(7)(a) before contacting an air medical transport provider; and

(b) if multiple air medical transport providers are capable of providing the patient with services, provide the patient or the patient's representative an opportunity to choose the air medical transport provider.

(2) Subsection (1) does not apply if the patient:

(a) is unconscious and the patient's representative is not physically present with the patient; or

(b) is unable, due to a medical condition, to make an informed decision about the choice of an air medical transport provider, and the patient's representative is not physically present with the patient.

Section 85. Section 53-2d-703, which is renumbered from Section 26-8a-603 is renumbered and amended to read:

[~~26-8a-603~~]. 53-2d-703. Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

(1) As used in this section:

(a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(b) "Local government entity" means a political subdivision that:

(i) is licensed as a ground ambulance provider under [~~Part 4, Ambulance and Paramedic Providers~~] Part 5, Ambulance and Paramedic Providers; and

(ii) as of January 1, 2022, does not offer health insurance benefits to volunteer emergency medical service personnel.

(c) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

(d) "Political subdivision" means a county, a municipality, a limited purpose government entity described in Title 17B, Limited Purpose Local Government Entities - Local Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(e) "Qualifying association" means an association that represents two or more political subdivisions in the state.

(2) The Volunteer Emergency Medical Service Personnel Health Insurance Program shall promote recruitment and retention of volunteer emergency medical service personnel by making health insurance available to volunteer emergency medical service personnel.

(3) The [~~department~~] bureau shall contract with a qualifying association to create, implement, and administer the Volunteer Emergency Medical Service Personnel Health Insurance Program described in this section.

(4) Participation in the program is limited to emergency medical service personnel who:

(a) are licensed under Section [~~26-8a-302~~] 53-2d-402 and are able to perform all necessary functions associated with the license;

(b) provide emergency medical services under the direction of a local governmental entity:

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period;

(ii) within a county of the third, fourth, fifth, or sixth class; and

(iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106;

(c) are not eligible for a health benefit plan through an employer or a spouse's employer;

(d) are not eligible for medical coverage under a government sponsored healthcare program; and

(e) reside in the state.

(5) (a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) Benefits available to program participants under PEHP are limited to health insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

(iii) if the program participant is no longer eligible for benefits, terminates on the last day of

the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(6) (a) The [~~department~~] bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design and eligibility for the program.

(b) The [~~department~~] bureau shall convene an advisory board:

(i) to advise the [~~department~~] bureau on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 86. Section 53-2d-801, which is renumbered from Section 26-8b-201 is renumbered and amended to read:

Part 8. Utah Sudden Cardiac Arrest Survival Act

[~~26-8b-201~~]. 53-2d-801. Authority to administer CPR or use an AED.

[~~(1)~~] A person may:

(1) [~~may~~] administer CPR on another [~~person~~] individual without a license, certificate, or other governmental authorization if the person reasonably believes that the [~~other person~~] individual is in sudden cardiac arrest[~~.~~]; or

[~~(2) A person~~]

(2) [~~may~~] use an AED on another [~~person~~] individual without a license, certificate, or other governmental authorization if the person reasonably believes that the [~~other person~~] individual is in sudden cardiac arrest.

Section 87. Section 53-2d-802, which is renumbered from Section 26-8b-202 is renumbered and amended to read:

[~~26-8b-202~~]. 53-2d-802. Immunity.

(1) Except as provided in Subsection (3), the following persons are not subject to civil liability for any act or omission relating to preparing to care for, responding to care for, or providing care to, another [~~person~~] individual who reasonably appears to be in sudden cardiac arrest:

(a) a person authorized, under Section [~~26-8b-201~~] 53-2d-801, to administer CPR, who:

(i) gratuitously and in good faith attempts to administer or administers CPR to another person; or

(ii) fails to administer CPR to another person;

(b) a person authorized, under Section [~~26-8b-201~~] 53-2d-801, to use an AED who:

(i) gratuitously and in good faith attempts to use or uses an AED; or

(ii) fails to use an AED;

(c) a person that teaches or provides a training course in administering CPR or using an AED;

(d) a person that acquires an AED;

(e) a person that owns, manages, or is otherwise responsible for the premises or conveyance where an AED is located;

(f) a person who retrieves an AED in response to a perceived or potential sudden cardiac arrest;

(g) a person that authorizes, directs, or supervises the installation or provision of an AED;

(h) a person involved with, or responsible for, the design, management, or operation of a CPR or AED program;

(i) a person involved with, or responsible for, reporting, receiving, recording, updating, giving, or distributing information relating to the ownership or location of an AED under [~~Part 3, Automatic External Defibrillator Databases~~] Section 53-2d-803; or

(j) a physician who gratuitously and in good faith:

(i) provides medical oversight for a public AED program; or

(ii) issues a prescription for a person to acquire or use an AED.

(2) This section does not relieve a manufacturer, designer, developer, marketer, or commercial distributor of an AED, or an accessory for an AED, of any liability.

(3) The liability protection described in Subsection (1) does not apply to an act or omission that constitutes gross negligence or willful misconduct.

Section 88. Section 53-2d-803, which is renumbered from Section 26-8b-301 is renumbered and amended to read:

[~~26-8b-301~~]. 53-2d-803. Reporting location of automatic external defibrillators.

(1) In accordance with Subsection (2) and except as provided in Subsection (3):

(a) a person who owns or leases an AED shall report the person's name, address, and telephone number, and the exact location of the AED, in writing or by a web-based AED registration form, if available, to the emergency medical dispatch center that provides emergency dispatch services for the location where the AED is installed, if the person:

(i) installs the AED;

(ii) causes the AED to be installed; or

(iii) allows the AED to be installed; and

(b) a person who owns or leases an AED that is removed from a location where it is installed shall report the person's name, address, and telephone number, and the exact location from which the AED is removed, in writing or by a web-based AED registration form, if available, to the emergency medical dispatch center that provides emergency dispatch services for the location from which the AED is removed, if the person:

(i) removes the AED;

(ii) causes the AED to be removed; or

(iii) allows the AED to be removed.

(2) A report required under Subsection (1) shall be made within 14 days after the day on which the AED is installed or removed.

(3) Subsection (1) does not apply to an AED:

(a) at a private residence; or

(b) in a vehicle or other mobile or temporary location.

(4) A person who owns or leases an AED that is installed in, or removed from, a private residence may voluntarily report the location of, or removal of, the AED to the emergency medical dispatch center that provides emergency dispatch services for the location where the private residence is located.

(5) The department may not impose a penalty on a person for failing to comply with the requirements of this section.

Section 89. Section 53-2d-804, which is renumbered from Section 26-8b-302 is renumbered and amended to read:

[~~26-8b-302~~]. 53-2d-804. Distributors to notify of reporting requirements.

A person in the business of selling or leasing an AED shall, at the time the person provides, sells, or leases an AED to another person, notify the other person, in writing, of the reporting requirements described in Section [~~26-8b-301~~] 53-2d-803.

Section 90. Section 53-2d-805, which is renumbered from Section 26-8b-303 is renumbered and amended to read:

[~~26-8b-303~~]. 53-2d-805. Duties of emergency medical dispatch centers.

An emergency medical dispatch center shall:

(1) implement a system to receive and manage the information reported to the emergency medical dispatch center under Section [~~26-8b-301~~] 53-2d-803;

(2) record in the system described in Subsection (1), all information received under Section [~~26-8b-301~~] 53-2d-803 within 14 days after the day on which the information is received;

(3) inform [~~a person~~] an individual who calls to report a potential incident of sudden cardiac arrest of the location of an AED located at the address of the potential sudden cardiac arrest;

(4) provide verbal instructions to [~~a person~~] an individual described in Subsection (3) to:

(a) help [~~a person~~] the individual determine if a patient is in cardiac arrest; and

(b) if needed:

(i) provide direction to start CPR;

(ii) offer instructions on how to perform CPR; or

(iii) offer instructions on how to use an AED, if one is available; and

(5) provide the information contained in the system described in Subsection (1), upon request, to the bureau.

Section 91. Section 53-2d-806, which is renumbered from Section 26-8b-401 is renumbered and amended to read:

[~~26-8b-401~~]. 53-2d-806. Education and training.

(1) The bureau shall work in cooperation with federal, state, and local agencies and schools, to encourage individuals to complete courses on the administration of CPR and the use of an AED.

(2) A person who owns or leases an AED shall encourage each [~~person~~] individual who is likely to use the AED to complete courses on the administration of CPR and the use of an AED.

Section 92. Section 53-2d-807, which is renumbered from Section 26-8b-402 is renumbered and amended to read:

[~~26-8b-402~~]. 53-2d-807. AEDs for demonstration purposes.

(1) Any AED used solely for demonstration or training purposes, which is not operational for emergency use is, except for the provisions of this section, exempt from the provisions of this chapter.

(2) The owner of an AED described in Subsection (1) shall clearly mark on the exterior of the AED that the AED is for demonstration or training use only.

Section 93. Section 53-2d-808, which is renumbered from Section 26-8b-501 is renumbered and amended to read:

[~~26-8b-501~~]. 53-2d-808. Tampering with an AED prohibited -- Penalties.

A person is guilty of a class C misdemeanor if the person removes, tampers with, or otherwise disturbs an AED, AED cabinet or enclosure, or AED sign, unless:

(1) the person is authorized by the AED owner for the purpose of:

(a) inspecting the AED or AED cabinet or enclosure; or

(b) performing maintenance or repairs on the AED, the AED cabinet or enclosure, a wall or structure that the AED cabinet or enclosure is directly attached to, or an AED sign;

(2) the person is responding to, or providing care to, a potential sudden cardiac arrest patient; or

(3) the person acts in good faith with the intent to support, and not to violate, the recognized purposes of the AED.

Section 94. Section 53-2d-809, which is renumbered from Section 26-8b-602 is renumbered and amended to read:

[~~26-8b-602~~]. 53-2d-809. Automatic External Defibrillator Restricted Account.

(1) (a) There is created a restricted account within the General Fund known as the Automatic External Defibrillator Restricted Account to provide AEDs to entities under Subsection (4).

(b) The director of the bureau shall administer the account in accordance with rules made by the bureau in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The restricted account shall consist of money appropriated to the account by the Legislature.

(3) The director of the bureau shall distribute funds deposited in the account to eligible entities, under Subsection (4), for the purpose of purchasing:

(a) an AED;

(b) an AED carrying case;

(c) a wall-mounted AED cabinet; or

(d) an AED sign.

(4) Upon appropriation, the director of the bureau shall distribute funds deposited in the account, for the purpose of purchasing items under Subsection (3), to:

(a) a municipal department of safety that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;

(b) a municipal or county law enforcement agency that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;

(c) a state law enforcement agency that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;

(d) a school that offers instruction to grades kindergarten through 6;

(e) a school that offers instruction to grades 7 through 12; or

(f) a state institution of higher education.

(5) The director of the bureau shall distribute funds under this section to a municipality only if the municipality provides a match in funding for the total cost of items under Subsection (3):

(a) of 50% for the municipality, if the municipality is a city of first, second, or third class under Section 10-2-301; or

(b) of 75% for the municipality, other than a municipality described in Subsection (5)(a).

(6) The director of the bureau shall distribute funds under this section to a county only if the county provides a match in funding for the total cost of items under Subsection (3):

(a) of 50% for the county, if the county is a county of first, second, or third class under Section 17-50-501; or

(b) of 75% for the county, other than a county described in Subsection (6)(a).

(7) In accordance with rules made by the bureau, an entity described in Subsection (4) may apply to the director of the bureau to receive a distribution of funds from the account by filing an application with the bureau on or before October 1 of each year.

Section 95. Section 53-2d-901, which is renumbered from Section 26-8d-102 is renumbered and amended to read:

Part 9. Statewide Stroke and Cardiac Registries

[~~26-8d-102~~]. 53-2d-901. Statewide stroke registry.

(1) The [~~department~~] bureau shall establish and supervise a statewide stroke registry to:

(a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation of stroke;

(b) promote optimal care for stroke patients;

(c) alleviate unnecessary death and disability from stroke;

(d) encourage the efficient and effective continuum of patient care, including prevention, prehospital care, hospital care, and rehabilitative care; and

(e) minimize the overall cost of stroke.

(2) The [~~department~~] bureau shall utilize the registry established under Subsection (1) to assess:

(a) the effectiveness of the data collected by the registry; and

(b) the impact of the statewide stroke registry on the provision of stroke care.

(3) (a) The [~~department~~] bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) the data elements that general acute hospitals shall report to the registry; and

(ii) the time frame and format for reporting.

(b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics consistent with data elements used in nationally recognized data set platforms for stroke care.

(c) The department shall permit a general acute hospital to submit data required under this section through an electronic exchange of clinical health information that meets the standards established by the department under Section 26-1-37.

(4) A general acute hospital shall submit stroke data in accordance with rules established under Subsection (3).

(5) Data collected under this section shall be subject to Title 26, Chapter 3, Health Statistics.

(6) No person may be held civilly liable for providing data to the department in accordance with this section.

Section 96. Section 53-2d-902, which is renumbered from Section 26-8d-103 is renumbered and amended to read:

[~~26-8d-103~~]. 53-2d-902. Statewide cardiac registry.

(1) The [~~department~~] bureau shall establish and supervise a statewide cardiac registry to:

(a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation of cardiac diseases;

(b) promote optimal care for cardiac patients;

(c) alleviate unnecessary death and disability from cardiac diseases;

(d) encourage the efficient and effective continuum of patient care, including prevention, prehospital care, hospital care, and rehabilitative care; and

(e) minimize the overall cost of cardiac care.

(2) The [~~department~~] bureau shall utilize the registry established under Subsection (1) to assess:

(a) the effectiveness of the data collected by the registry; and

(b) the impact of the statewide cardiac registry on the provision of cardiac care.

(3) (a) The [~~department~~] bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) the data elements that general acute hospitals shall report to the registry; and

(ii) the time frame and format for reporting.

(b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics consistent with data elements used in nationally recognized data set platforms for cardiac care.

(c) The [~~department~~] bureau shall permit a general acute hospital to submit data required under this section through an electronic exchange of clinical health information that meets the standards established by the department under Section 26-1-37.

(4) A general acute hospital shall submit cardiac data in accordance with rules established under Subsection (3).

(5) Data collected under this section shall be subject to Title 26, Chapter 3, Health Statistics.

(6) No person may be held civilly liable for providing data to the [~~department~~] bureau in accordance with this section.

Section 97. Section 53-2d-903, which is renumbered from Section 26-8d-104 is renumbered and amended to read:

[~~26-8d-104~~]. 53-2d-903. Stroke registry advisory committee.

(1) There is created within the [~~department~~] bureau a stroke registry advisory committee.

(2) The stroke registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric stroke care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;

(b) advise the [~~department~~] bureau regarding the development and implementation of the stroke registry;

(c) assist the [~~department~~] bureau in evaluating the quality and outcomes of the stroke registry; and

(d) review and comment on proposals and rules governing the statewide stroke registry.

Section 98. Section 53-2d-904, which is renumbered from Section 26-8d-105 is renumbered and amended to read:

[~~26-8d-105~~]. 53-2d-904. Cardiac registry advisory committee.

(1) There is created within the [~~department~~] bureau a cardiac registry advisory committee.

(2) The cardiac registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric cardiac care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;

(b) advise the [~~department~~] bureau regarding the development and implementation of the cardiac registry;

(c) assist the [~~department~~] bureau in evaluating the quality and outcomes of the cardiac registry; and

(d) review and comment on proposals and rules governing the statewide cardiac registry.

Section 99. Section 53-2e-101, which is renumbered from Section 26-8c-102 is renumbered and amended to read:

CHAPTER 2e. EMS PERSONNEL LICENSURE INTERSTATE COMPACT

[~~26-8c-102~~]. 53-2e-101. EMS Personnel Licensure Interstate Compact.

EMS PERSONNEL LICENSURE INTERSTATE COMPACT

SECTION 1. PURPOSE

In order to protect the public through verification of competency and ensure accountability for patient care related activities all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs and paramedics. This Compact is intended to facilitate the day to day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This Compact is designed to achieve the following purposes and objectives:

1. Increase public access to EMS personnel;

2. Enhance the states' ability to protect the public's health and safety, especially patient safety;

3. Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;

4. Support licensing of military members who are separating from an active duty tour and their spouses;

5. Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action and significant investigatory information;

6. Promote compliance with the laws governing EMS personnel practice in each member state; and

7. Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

SECTION 2. DEFINITIONS

In this compact:

A. "Advanced Emergency Medical Technician (AEMT)" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

B. "Adverse Action" means: any administrative, civil, equitable or criminal action permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions and state court judgments enforcing adverse actions by the state EMS authority.

C. "Alternative program" means: a voluntary, non-disciplinary substance abuse recovery program approved by a state EMS authority.

D. "Certification" means: the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

E. "Commission" means: the national administrative body of which all states that have enacted the compact are members.

F. "Emergency Medical Technician (EMT)" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

G. "Home State" means: a member state where an individual is licensed to practice emergency medical services.

H. "License" means: the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or a level in between EMT and paramedic.

I. "Medical Director" means: a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

J. "Member State" means: a state that has enacted this compact.

K. "Privilege to Practice" means: an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

L. "Paramedic" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

M. "Remote State" means: a member state in which an individual is not licensed.

N. "Restricted" means: the outcome of an adverse action that limits a license or the privilege to practice.

O. "Rule" means: a written statement by the interstate Commission promulgated pursuant to Section 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

P. "Scope of Practice" means: defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

Q. "Significant Investigatory Information" means:

1. investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if

proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

2. investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

R. "State" means: means any state, commonwealth, district, or territory of the United States.

S. "State EMS Authority" means: the board, office, or other agency with the legislative mandate to license EMS personnel.

SECTION 3. HOME STATE LICENSURE

A. Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

C. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

1. Currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

2. Has a mechanism in place for receiving and investigating complaints about individuals;

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

4. No later than five years after activation of the Compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. Sec. 731.202 and submit documentation of such as promulgated in the rules of the Commission; and

5. Complies with the rules of the Commission.

SECTION 4. COMPACT PRIVILEGE TO PRACTICE

A. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with Section 3.

B. To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

1. Be at least 18 years of age;

2. Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

3. Practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

D. Except as provided in Section 4 subsection C, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the Commission.

E. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

SECTION 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the Commission, and under the following circumstances:

1. The individual originates a patient transport in a home state and transports the patient to a remote state;

2. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

3. The individual enters a remote state to provide patient care and/or transport within that remote state;

4. The individual enters a remote state to pick up a patient and provide care and transport to a third member state;

5. Other conditions as determined by rules promulgated by the commission.

SECTION 6. RELATIONSHIP TO EMERGENCY

MANAGEMENT ASSISTANCE COMPACT

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact

(EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this Compact conflicts with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

SECTION 7. VETERANS, SERVICE MEMBERS SEPARATING

FROM ACTIVE DUTY MILITARY, AND THEIR SPOUSES

A. Member states shall consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses.

C. All individuals functioning with a privilege to practice under this Section remain subject to the Adverse Actions provisions of Section VIII.

SECTION 8. ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

1. All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

2. An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

C. A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the Commission in accordance with the rules of the Commission.

D. A remote state may take adverse action on an individual's privilege to practice within that state.

E. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

F. A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

G. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non–public if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

SECTION 9. ADDITIONAL POWERS INVESTED

IN A MEMBER STATE'S EMS AUTHORITY

A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

1. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, and/or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

2. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

SECTION 10. ESTABLISHMENT OF THE INTERSTATE

COMMISSION FOR EMS PERSONNEL PRACTICE

A. The Compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

1. The Commission is a body politic and an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have and be limited to one (1) delegate. The responsible official of the state EMS authority or his designee shall be the delegate to this Compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the state will determine which entity will be responsible for assigning the delegate.

2. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section XII.

5. The Commission may convene in a closed, non-public meeting if the Commission must discuss:

a. Non-compliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigatory records compiled for law enforcement purposes;

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including but not limited to:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:

a. for the establishment and meetings of other committees; and

b. governing any general or specific delegation of any authority or function of the Commission;

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;

4. Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the Commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;

6. Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees;

7. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

8. The Commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any[.];

9. The Commission shall maintain its financial records in accordance with the bylaws[.]; and

10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

8. To sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

9. To establish a budget and make expenditures;

10. To borrow money;

11. To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

12. To provide and receive information from, and to cooperate with, law enforcement agencies;

13. To adopt and use an official seal; and

14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of EMS personnel licensure and practice.

E. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

F. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 11. COORDINATED DATABASE

A. The Commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Significant investigatory information;

4. Adverse actions against an individual's license;

5. An indicator that an individual's privilege to practice is restricted, suspended or revoked;

6. Non-confidential information related to alternative program participation;

7. Any denial of application for licensure, and the reason(s) for such denial; and

8. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

D. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

E. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

SECTION 12. RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission; and

2. On the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the compact shall be imposed only after all other means of

securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 14. DATE OF IMPLEMENTATION OF THE INTERSTATE

COMMISSION FOR EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

B. Any state that joins the compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the compact becomes law in that state.

C. Any member state may withdraw from this compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 15. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

Section 100. Section 53-10-405 is amended to read:

53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency -- Blood sample to be drawn by professional.

(1) (a) A saliva sample shall be obtained by the responsible agency under Subsection 53-10-404(5).

(b) The sample shall be obtained in a professionally acceptable manner, using appropriate procedures to ensure the sample is adequate for DNA analysis.

(2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the following:

(i) a physician;

(ii) a physician assistant;

(iii) a registered nurse;

(iv) a licensed practical nurse;

(v) a paramedic;

(vi) as provided in Subsection (2)(b), emergency medical service personnel other than paramedics; or

(vii) a person with a valid permit issued by the Department of Health and Human Services under Section [~~26-1-30~~] 26B-1-202.

(b) The Department of Health and Human Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section [~~26-8a-102~~] 53-2d-101, are authorized to draw blood under Subsection (2)(a)(vi), based on the type of license under Section [~~26-8a-302~~] 53-2d-402.

(c) A person authorized by this section to draw a blood sample may not be held civilly liable for drawing a sample in a medically acceptable manner.

(3) A test result or opinion based upon a test result regarding a DNA specimen may not be rendered inadmissible as evidence solely because of deviations from procedures adopted by the department that do not affect the reliability of the opinion or test result.

(4) A DNA specimen is not required to be obtained if:

(a) the court or the responsible agency confirms with the department that the department has previously received an adequate DNA specimen obtained from the person in accordance with this section; or

(b) the court determines that obtaining a DNA specimen would create a substantial and unreasonable risk to the health of the person.

Section 101. Section 53-21-101 is amended to read:

53-21-101. Definitions.

As used in this chapter:

(1) "Crime scene investigator technician" means an individual employed by a law enforcement agency to collect and analyze evidence from crime scenes and crime-related incidents.

(2) "Department" means the Department of Public Safety.

(3) "First responder" means:

(a) a law enforcement officer, as defined in Section 53-13-103;

(b) an emergency medical technician, as defined in Section [~~26-8c-102~~] 53-2e-101;

(c) an advanced emergency medical technician, as defined in Section [~~26-8c-102~~] 53-2e-101;

(d) a paramedic, as defined in Section [~~26-8c-102~~] 53-2e-101;

(e) a firefighter, as defined in Section 34A-3-113;

(f) a dispatcher, as defined in Section 53-6-102;

(g) a correctional officer, as defined in Section 53-13-104;

(h) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(i) a search and rescue worker under the supervision of a local sheriff;

(j) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

(k) a crime scene investigator technician; or

(l) a wildland firefighter.

(4) "First responder agency" means a local district, municipality, interlocal entity, or other political subdivision that employs a first responder to provide fire protection, paramedic, law enforcement, or emergency services.

(5) "Mental health resources" means:

(a) an assessment to determine appropriate mental health treatment that is performed by a mental health therapist;

(b) outpatient mental health treatment provided by a mental health therapist; or

(c) peer support services provided by a peer support specialist who is qualified to provide peer support services under Subsection 62A-15-103(2)(h).

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Plan" means a plan to implement or expand a program that provides mental health resources to first responders for which the division awards a grant under this chapter.

Section 102. Section 58-1-307 is amended to read:

58-1-307. Exemptions from licensure.

(1) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of their occupation or profession, subject to the stated circumstances and limitations, without being licensed under this title:

(a) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the individual holds a valid license to practice a

regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(b) a student engaged in activities constituting the practice of a regulated occupation or profession while in training in a recognized school approved by the division to the extent the activities are supervised by qualified faculty, staff, or designee and the activities are a defined part of the training program;

(c) an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified individuals;

(d) an individual residing in another state and licensed to practice a regulated occupation or profession in that state, who is called in for a consultation by an individual licensed in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(f) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(g) an individual licensed in a health care profession in another state who performs that profession while attending to the immediate needs of a patient for a reasonable period during which the patient is being transported from outside of this state, into this state, or through this state;

(h) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or group in any capacity except as a spectator;

(i) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event, together with any necessary preparatory and conclusionary periods; and

(j) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, provided:

(i) the spouse holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division; and

(ii) the license is current and the spouse is in good standing in the state of licensure.

(2) (a) A practitioner temporarily in this state who is exempted from licensure under Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice.

(b) Violation of a limitation imposed by this section constitutes grounds for removal of exempt status, denial of license, or other disciplinary proceedings.

(3) An individual who is licensed under a specific chapter of this title to practice or engage in an occupation or profession may engage in the lawful, professional, and competent practice of that occupation or profession without additional licensure under other chapters of this title, except as otherwise provided by this title.

(4) Upon the declaration of a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the president of the United States or other federal official requesting public health-related activities, the division in collaboration with the relevant board may:

(a) suspend the requirements for permanent or temporary licensure of individuals who are licensed in another state for the duration of the emergency while engaged in the scope of practice for which they are licensed in the other state;

(b) modify, under the circumstances described in this Subsection (4) and Subsection (5), the scope of practice restrictions under this title for individuals who are licensed under this title as:

(i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure Compact - Revised;

(iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

(iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b, Pharmacy Practice Act;

(v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

(vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist Practice Act; and

(vii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(c) suspend the requirements for licensure under this title and modify the scope of practice in the

circumstances described in this Subsection (4) and Subsection (5) for medical services personnel or paramedics required to be licensed under Section [~~26-8a-302~~] 53-2d-402;

(d) suspend requirements in Subsections 58-17b-620(3) through (6) which require certain prescriptive procedures;

(e) exempt or modify the requirement for licensure of an individual who is activated as a member of a medical reserve corps during a time of emergency as provided in Section 26A-1-126;

(f) exempt or modify the requirement for licensure of an individual who is registered as a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act; and

(g) in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exempt or modify the requirements for licensure of an individual engaged in one or more of the construction trades described in Chapter 55, Utah Construction Trades Licensing Act.

(5) Individuals exempt under Subsection (4)(c) and individuals operating under modified scope of practice provisions under Subsection (4)(b):

(a) are exempt from licensure or subject to modified scope of practice for the duration of the emergency;

(b) must be engaged in the distribution of medicines or medical devices in response to the emergency or declaration; and

(c) must be employed by or volunteering for:

(i) a local or state department of health; or

(ii) a host entity as defined in Section 26-49-102.

(6) In accordance with the protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health or a local health department shall coordinate with public safety authorities as defined in Subsection 26-23b-110(1) and may:

(a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance to prevent or treat a disease or condition that gave rise to, or was a consequence of, the emergency; or

(b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance:

(i) if necessary, to replenish a commercial pharmacy in the event that the commercial pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication is exhausted; or

(ii) for dispensing or direct administration to treat the disease or condition that gave rise to, or was a consequence of, the emergency by:

(A) a pharmacy;

(B) a prescribing practitioner;

(C) a licensed health care facility;

(D) a federally qualified community health clinic; or

(E) a governmental entity for use by a community more than 50 miles from a person described in Subsections (6)(b)(ii)(A) through (D).

(7) In accordance with protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health shall coordinate the distribution of medications:

(a) received from the strategic national stockpile to local health departments; and

(b) from local health departments to emergency personnel within the local health departments' geographic region.

(8) The Department of Health shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing, and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance in the event of a declaration of a national, state, or local emergency. The protocol shall establish procedures for the Department of Health or a local health department to:

(a) coordinate the distribution of:

(i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance received by the Department of Health from the strategic national stockpile to local health departments; and

(ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication received by a local health department to emergency personnel within the local health department's geographic region;

(b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance to the contact of a patient without a patient-practitioner relationship, if the contact's condition is the same as that of the physician's or physician assistant's patient; and

(c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication to an individual who:

(i) is working in a triage situation;

(ii) is receiving preventative or medical treatment in a triage situation;

(iii) does not have coverage for the prescription in the individual's health insurance plan;

(iv) is involved in the delivery of medical or other emergency services in response to the declared national, state, or local emergency; or

(v) otherwise has a direct impact on public health.

(9) The Department of Health shall give notice to the division upon implementation of the protocol established under Subsection (8).

Section 103. Section 58-1-509 is amended to read:

58-1-509. Patient consent for certain medical examinations.

(1) As used in this section:

(a) "Health care provider" means:

(i) an individual who is:

(A) a healthcare provider as defined in Section 78B-3-403; and

(B) licensed under this title;

(ii) emergency medical service personnel as defined in Section [~~26-8a-102~~] 53-2d-101; or

(iii) an individual described in Subsection 58-1-307(1)(b) or (c).

(b) "Patient examination" means a medical examination that requires contact with the patient's sexual organs.

(2) A health care provider may not perform a patient examination on an anesthetized or unconscious patient unless:

(a) the health care provider obtains consent from the patient or the patient's representative in accordance with Subsection (3);

(b) a court orders performance of the patient examination for the collection of evidence;

(c) the performance of the patient examination is within the scope of care for a procedure or diagnostic examination scheduled to be performed on the patient; or

(d) the patient examination is immediately necessary for diagnosis or treatment of the patient.

(3) To obtain consent to perform a patient examination on an anesthetized or unconscious patient, before performing the patient examination, the health care provider shall:

(a) provide the patient or the patient's representative with a written or electronic document that:

(i) is provided separately from any other notice or agreement;

(ii) contains the following heading at the top of the document in not smaller than 18-point bold face type: "CONSENT FOR EXAMINATION OF PELVIC REGION";

(iii) specifies the nature and purpose of the patient examination;

(iv) names one or more primary health care providers whom the patient or the patient's representative may authorize to perform the patient examination;

(v) states whether there may be a student or resident that the patient or the patient's representative authorizes to:

(A) perform an additional patient examination; or

(B) observe or otherwise be present at the patient examination, either in person or through electronic means; and

(vi) provides the patient or the patient's representative with a series of check boxes that allow the patient or the patient's representative to:

(A) consent to the patient examination for diagnosis or treatment and an additional patient examination performed by a student or resident for an educational or training purpose;

(B) consent to the patient examination only for diagnosis or treatment; or

(C) refuse to consent to the patient examination;

(b) obtain the signature of the patient or the patient's representative on the written or electronic document while witnessed by a third party; and

(c) sign the written or electronic document.

Section 104. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of [~~Chapter 37, Utah Controlled Substances Act~~] this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of [~~Chapter 37, Utah Controlled Substances Act~~] this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i)[~~, (ii), (iii), (iv), (v), and~~] through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section [~~26-8a-102~~] 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 105. Section 59-12-801 is amended to read:

59-12-801. Definitions.

As used in this part:

(1) "Emergency medical services" is as defined in Section [~~26-8a-102~~] 53-2d-101.

(2) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

(3) "Freestanding urgent care center" means a facility that provides outpatient health care service:

(a) on an as-needed basis, without an appointment;

(b) to the public;

(c) for the diagnosis and treatment of a medical condition if that medical condition does not require hospitalization or emergency intervention for a life threatening or potentially permanently disabling condition; and

(d) including one or more of the following services:

(i) a medical history physical examination;

(ii) an assessment of health status; or

(iii) treatment:

(A) for a variety of medical conditions; and

(B) that is commonly offered in a physician's office.

(4) "Nursing care facility" is as defined in Section 26-21-2.

(5) "Rural city hospital" means a hospital owned by a city that is located within a third, fourth, fifth, or sixth class county.

(6) "Rural county health care facility" means a:

(a) rural county hospital; or

(b) rural county nursing care facility.

(7) "Rural county hospital" means a hospital owned by a county that is:

(a) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

(8) "Rural county nursing care facility" means a nursing care facility owned by:

(a) a county that is:

(i) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(ii) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau; or

(b) a special service district if the special service district is:

(i) created for the purpose of operating the nursing care facility; and

(ii) within a county that is:

(A) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(B) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

(9) "Rural emergency medical services" means emergency medical services that are provided by a county that is:

(a) a fifth or sixth class county, as defined in Section 17-50-501; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

(10) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

Section 106. Section 62A-15-629 is amended to read:

62A-15-629. Temporary commitment -- Requirements and procedures -- Rights.

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and

(ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall document the change and release the patient.

(3) (a) A patient committed under this section may be held for a maximum of 24 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

(i) as described in Section 62A-15-631, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 62A-15-631(4);

(ii) the patient makes a voluntary application for admission; or

(iii) before expiration of the 24 hour period, a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies in writing that:

(A) the patient, due to mental illness, poses a substantial danger to self or others;

(B) additional time is necessary for evaluation and treatment of the patient's mental illness; and

(C) there is no appropriate less-restrictive alternative to commitment to evaluate and treat the patient's mental illness.

(b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays, Sundays, and legal holidays.

(c) Subsection (3)(a)(iii) applies to an adult patient.

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the adult is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section [~~26-8a-102~~] 53-2d-101.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) (a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.

(b) An adult patient committed under this section has the right to:

(i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and

(ii) see and communicate with an attorney.

(7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

(b) This section does not create a special duty of care.

Section 107. Section 62A-15-1401 is amended to read:

62A-15-1401. Definitions.

As used in this part:

(1) "Commission" means the Behavioral Health Crisis Response Commission created in Section 63C-18-202.

(2) "Emergency medical service personnel" means the same as that term is defined in Section [~~26-8a-102~~] 53-2d-101.

(3) "Emergency medical services" means the same as that term is defined in Section [~~26-8a-102~~] 53-2d-101.

(4) "MCOT certification" means the certification created in this part for MCOT personnel and mental health crisis outreach services.

(5) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.

(6) "Mental health crisis" means a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(a) serious jeopardy to the individual's health or well-being; or

(b) a danger to others.

(7) (a) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.

(b) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.

(8) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(9) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

Section 108. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Title 26 through 26B.

(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

[~~(2) Section 26-1-40 is repealed July 1, 2022.~~]

[~~(3)~~] (2) Section 26-1-41 is repealed July 1, 2026.

[~~(4)~~] (3) Section 26-1-43 is repealed December 31, 2025.

[~~(5)~~] (4) Section 26-7-10 is repealed July 1, 2025.

[~~(6)~~] (5) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

[~~(7)~~] (6) Section 26-7-14 is repealed December 31, 2027.

[~~(8) Section 26-8a-603 is repealed July 1, 2027.~~]

[~~(9)~~] (7) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

[~~(10)~~] (8) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(11)~~] (9) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.~~]

[~~(13)~~] (10) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(14)~~] (11) Section 26-18-27 is repealed July 1, 2025.

[~~(15)~~] (12) Section 26-18-28 is repealed June 30, 2027.

[~~(16)~~] (13) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(17)~~] (14) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

[~~(18)~~] (15) Section 26-33a-117 is repealed December 31, 2023.

[~~(19)~~] (16) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[~~(20)~~] (17) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[~~(21)~~] (18) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(22)~~] (19) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

[~~(23)~~] (20) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(24)~~] (21) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

[~~(25)~~] (22) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(26)~~] (23) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(27)~~] (24) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(28)~~] (25) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

[~~(29)~~] (26) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

[~~(30)~~] (27) Section 26-69-406 is repealed July 1, 2025.

[~~(31)~~] (28) Subsection [~~26B-1-204(2)(i),~~] 26B-1-204(2)(g), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(32)~~] (29) Subsection [~~26B-1-204(2)(k),~~] 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 109. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

[~~(3)~~] (4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

[~~(4)~~] (5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(5)~~] (6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(6)~~] (7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(7)~~] (8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(8)~~] (9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~] (10) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(10)~~] (11) [~~Subsection~~] Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(11)~~] (12) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(12)~~] (13) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(13)~~] (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(14)~~] (15) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(15)~~] (16) Section 53F-5-203 is repealed July 1, 2024.

[~~(16)~~] (17) Section 53F-5-213 is repealed July 1, 2023.

[~~(17)~~] (18) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(18)~~] (19) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(19)~~] (20) Section 53F-5-219, which creates the Local [~~INnovations~~] Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(20)~~] (21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(21)~~] (22) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(22)~~] (23) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2027.

[~~(23)~~] (24) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24)~~] (25) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 110. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26 through 26B.

[~~(1) Subsection 26-2-12.6(3), relating to the report for birth certificate fees, is repealed December 31, 2022.~~]

[~~(2)~~] (1) Subsection 26-7-8(3) is repealed January 1, 2027.

[~~(3) Section 26-8a-107 is repealed July 1, 2024.~~]

[~~(4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.~~]

[~~(5) Section 26-8a-211 is repealed July 1, 2023. (6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:~~]

[~~"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:~~]

[~~(i) which health insurers in the state the air medical transport provider contracts with;~~]

[~~(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and~~]

[~~(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".~~]

[~~(7)~~] (2) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

[~~(8)~~] (3) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

[~~(9)~~] (4) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(10)~~] (5) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(11)~~] (6) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

[~~(12)~~] (7) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(13) Subsection 26-61-202(4)(b) is repealed January 1, 2022.~~]

[~~(14) Subsection 26-61-202(5) is repealed January 1, 2022.~~]

[~~(15) Subsection 26B-1-204(2)(f), relating to the Air Ambulance Committee, is repealed July 1, 2024.~~]

Section 111. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(g), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

(3) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(2)~~] (5) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(3)~~] (6) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(4)~~] (7) Section 53B-8-114 is repealed July 1, 2024.

[~~(5)~~] (8) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(6)~~] (9) Section 53B-10-101 is repealed on July 1, 2027.

[~~(7)~~] (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(8)~~] (11) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(9)~~] (12) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(10)~~] (13) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(11)~~] (14) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(12)~~] (15) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~] (16) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(14)~~] (17) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(15)~~] (18) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(16)~~] (19) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(17)~~] (20) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.~~]

[~~(19) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.~~]

[~~(20) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.~~]

(21) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(22) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(23) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(24) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(25) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 112. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

[~~(8) The Emergency Medical Services Grant Program in Section 26-8a-207.~~]

[~~(9)~~] (8) The primary care grant program created in Section 26-10b-102.

[~~(10)~~] (9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

[~~(11)~~] (10) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

[~~(12)~~] (11) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

[~~(13)~~] (12) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

[~~(14)~~] (13) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

[~~(15)~~] (14) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

[~~(16)~~] (15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[~~(17)~~] (16) The Utah National Guard, created in Title 39, Militia and Armories.

[~~(18)~~] (17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

[~~(19)~~] (18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(19) The Emergency Medical Services Grant Program in Section 53-2d-207.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(30) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(31) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(32) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(34) The Traffic Noise Abatement Program created in Section 72-6-112.

(35) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(36) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(37) A state rehabilitative employment program, as provided in Section 78A-6-210.

(38) The Utah Geological Survey, as provided in Section 79-3-401.

(39) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(40) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(42) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(43) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 113. Section 63M-7-209 is amended to read:

63M-7-209. Trauma-informed justice program.

(1) As used in this section:

(a) "Committee" means the Multi-Disciplinary Trauma-Informed Committee created under Subsection (2).

(b) "First responder" includes:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) emergency medical service personnel, as defined in Section [~~26-8a-102~~] 53-2d-101; and

(iii) a firefighter.

(c) "Trauma-informed" means a policy, procedure, program, or practice that demonstrates an ability to minimize retraumatization associated with the criminal and juvenile justice system.

(d) "Victim" means the same as that term is defined in Section 77-37-2.

(2) (a) The commission shall create a committee known as the Multi-Disciplinary Trauma-Informed Committee to assist the commission in meeting the requirements of this section. The commission shall provide for the membership, terms, and quorum requirements of the committee, except that:

(i) at least one member of the committee shall be a victim;

(ii) the executive director of the Department of Health or the executive director's designee shall be on the committee;

(iii) the executive director of the Department of Human Services or the executive director's designee shall be on the committee; and

(iv) the commission shall terminate the committee on June 30, 2020.

(b) The commission shall use the Utah Office for Victims of Crime, the Utah Office on Domestic and Sexual Violence, and the Utah Council on Victims of Crime in meeting the requirements of this section.

(3) (a) The committee shall work with statewide coalitions, children's justice centers, and other stakeholders to complete, by no later than September 1, 2019, a review of current and recommended trauma-informed policies, procedures, programs, or practices in the state's criminal and juvenile justice system, including:

(i) reviewing the role of victim advocates and victim services in the criminal and juvenile justice system and:

(A) how to implement the option of a comprehensive, seamless victim advocate system that is based on the best interests of victims and assists a victim throughout the criminal and juvenile justice system or a victim's process of recovering from the trauma the victim experienced as a result of being a victim of crime; and

(B) recommending what minimum qualifications a victim advocate must meet, including recommending trauma-informed training or trauma-informed continuing education hours;

(ii) reviewing of best practice standards and protocols, including recommending adoption or creation of trauma-informed interview protocols, that may be used to train persons within the criminal and juvenile justice system concerning trauma-informed policies, procedures, programs, or practices, including training of:

(A) peace officers that is consistent with the training developed under Section 53-10-908;

(B) first responders;

(C) prosecutors;

(D) defense counsel;

(E) judges and other court personnel;

(F) the Board of Pardons and Parole and its personnel;

(G) the Department of Corrections, including Adult Probation and Parole; and

(H) others involved in the state's criminal and juvenile justice system;

(iii) recommending outcome based metrics to measure achievement related to trauma-informed policies, procedures, programs, or practices in the criminal and juvenile justice system;

(iv) recommending minimum qualifications and continuing education of individuals providing training, consultation, or administrative supervisory consultation within the criminal and juvenile justice system regarding trauma-informed policies, procedures, programs, or practices;

(v) identifying needs that are not funded or that would benefit from additional resources;

(vi) identifying funding sources, including outlining the restrictions on the funding sources, that may fund trauma-informed policies, procedures, programs, or practices;

(vii) reviewing which governmental entities should have the authority to implement recommendations of the committee; and

(viii) reviewing the need, if any, for legislation or appropriations to meet budget needs.

(b) Whenever the commission conducts a related survey, the commission, when possible, shall include how victims and their family members interact with Utah's criminal and juvenile justice system, including whether the victims and family members are treated with trauma-informed policies, procedures, programs, or practices throughout the criminal and juvenile justice system.

(4) The commission shall establish and administer a performance incentive grant program that allocates money appropriated by the Legislature to public or private entities:

(a) to provide advocacy and related service for victims in connection with the Board of Pardons and Parole process; and

(b) that have demonstrated experience and competency in the best practices and standards of trauma-informed care.

(5) The commission shall report to the Judiciary Interim Committee, at the request of the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee by no later than the September 2019 interim regarding the grant under Subsection (4), the committee's activities under this section, and whether the committee should be extended beyond June 30, 2020.

Section 114. Section 67-20-2 is amended to read:

67-20-2. Definitions.

As used in this chapter:

(1) "Agency" means:

(a) a department, institution, office, college, university, authority, division, board, bureau, commission, council, or other agency of the state;

(b) a county, city, town, school district, or special improvement or taxing district; or

(c) any other political subdivision.

(2) "Compensatory service worker" means a person who performs a public service with or without compensation for an agency as a condition or part of the person's:

(a) incarceration;

(b) plea;

(c) sentence;

(d) diversion;

(e) probation; or

(f) parole.

(3) "Emergency medical service volunteer" means an individual who:

(a) provides services as a volunteer under the supervision of a supervising agency or government officer; and

(b) at the time the individual provides the services described in Subsection (3)(a), is:

(i) an emergency medical technician volunteer, a paramedic volunteer, an ambulance volunteer, a volunteer firefighter, or another volunteer provider of emergency medical services; and

(ii) acting in the capacity of a volunteer described in Subsection (3)(b)(i).

(4) "IRS aggregate amount" means the fixed or determinable income aggregate amount described in 26 C.F.R. Sec. 1.6041-1(a)(1)(i)(A).

(5) (a) "Volunteer" means an individual who donates service without pay or other compensation except the following, as approved by the supervising agency:

(i) expenses actually and reasonably incurred;

(ii) a stipend for future higher education expenses, awarded from the National Service Trust under 45 C.F.R. Secs. 2526.10 and 2527.10;

(iii) a stipend, below the IRS aggregate amount, for:

(A) emergency volunteers, including emergency medical service volunteers, volunteer safety officers, and volunteer search and rescue team members; or

(B) non-emergency volunteers, including senior program volunteers and community event volunteers;

(iv) (A) health benefits provided through the supervising agency; or

(B) for a volunteer who participates in the Volunteer Emergency Medical Service Personnel Health Insurance Program described in Section [~~26-8a-603~~] 53-2d-703, health insurance provided through the program.

(v) passthrough stipends or other compensation provided to volunteers through a federal or state

program, including Americorp Seniors volunteers, consistent with 42 U.S.C. Sec. 5058;

(vi) stipends or other compensation, below the IRS aggregate amount, provided to volunteers from any person;

(vii) uniforms, identification, personal protective equipment, or safety equipment used by a volunteer only while volunteering for the supervising entity;

(viii) a nonpecuniary item not exceeding $50 in value;

(ix) nonpecuniary items, below the IRS aggregate amount, donated to the supervising agency with the express intent of benefitting a volunteer; or

(x) meals or gifts, not exceeding $50 in value, provided as part of a volunteers appreciation event by the volunteering agency.

(b) "Volunteer" does not include:

(i) a person participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter; or

(ii) a compensatory service worker.

(c) "Volunteer" includes a juror or potential juror appearing in response to a summons for a trial jury or grand jury.

(6) "Volunteer facilitator" means a business or nonprofit organization that, from individuals who have a relationship with the business or nonprofit organization, such as membership or employment, provides volunteers to an agency or facilitates volunteers volunteering with an agency.

(7) "Volunteer safety officer" means an individual who:

(a) provides services as a volunteer under the supervision of an agency; and

(b) at the time the individual provides the services to the supervising agency described in Subsection (7)(a), the individual is:

(i) exercising peace officer authority as provided in Section 53-13-102; or

(ii) if the supervising agency described in Subsection (7)(a) is a fire department:

(A) on the rolls of the supervising agency as a firefighter;

(B) not regularly employed as a firefighter by the supervising agency; and

(C) acting in a capacity that includes the responsibility for the extinguishment of fire.

(8) "Volunteer search and rescue team member" means an individual who:

(a) provides services as a volunteer under the supervision of a county sheriff; and

(b) at the time the individual provides the services to the county sheriff described in Subsection (8)(a), is:

(i) certified as a member of the county sheriff's search and rescue team; and

(ii) acting in the capacity of a member of the search and rescue team of the supervising county sheriff.

Section 115. Section 72-10-502 is amended to read:

72-10-502. Implied consent to chemical tests for alcohol or drugs -- Number of tests -- Refusal -- Person incapable of refusal -- Results of test available -- Who may give test -- Evidence -- Immunity from liability.

(1) (a) A person operating an aircraft in this state consents to a chemical test or tests of the person's breath, blood, urine, or oral fluids:

(i) for the purpose of determining whether the person was operating or in actual physical control of an aircraft while having a blood or breath alcohol content statutorily prohibited under Section 72-10-501, or while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 72-10-501, if the test is or tests are administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of an aircraft in violation of Section 72-10-501; or

(ii) if the person operating the aircraft is involved in an accident that results in death, serious injury, or substantial aircraft damage.

(b) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) The peace officer may order any or all tests of the person's breath, blood, urine, or oral fluids.

(iii) If an officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(c) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) If the person has been placed under arrest and has then been requested by a peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and refuses to submit to any chemical test, the person shall be warned by the peace officer requesting the test that a refusal to submit to the test is admissible in civil or criminal proceedings as provided under Subsection (8).

(b) Following this warning, unless the person immediately requests that the chemical test offered

by a peace officer be administered, a test may not be given.

(3) A person who is dead, unconscious, or in any other condition rendering the person incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the consent provided for in Subsection (1), and the test or tests may be administered whether the person has been arrested or not.

(4) Upon the request of the person who was tested, the results of the test or tests shall be made available to that person.

(5) (a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:

(i) a physician;

(ii) a registered nurse;

(iii) a licensed practical nurse;

(iv) a paramedic;

(v) as provided in Subsection (5)(b), emergency medical service personnel other than paramedics; or

(vi) a person with a valid permit issued by the Department of Health and Human Services under Section [~~26-1-30.~~] 26B-1-202.

(b) The Department of Health and Human Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section [~~26-8a-102~~] 53-2d-101, are authorized to draw blood under Subsection (5)(a)(v), based on the type of license under Section [~~26-8a-302~~] 53-2d-402.

(c) Subsection (5)(a) does not apply to taking a urine, breath, or oral fluid specimen.

(d) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer has reason to believe is flying in violation of this chapter if the sample is drawn in accordance with standard medical practice:

(i) a person authorized to draw blood under Subsection (5)(a); and

(ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

(6) (a) The person to be tested may, at the person's own expense, have a physician of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(7) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(8) If a person under arrest refuses to submit to a chemical test or tests or any additional test under this section, evidence of any refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating or in actual physical control of an aircraft while under the influence of alcohol, any drug, or combination of alcohol and any drug.

(9) The results of any test taken under this section or the refusal to be tested shall be reported to the Federal Aviation Administration by the peace officer requesting the test.

(10) Notwithstanding the provisions of this section, a blood test taken under this section is subject to Section 77-23-213.

Section 116. Section 76-3-203.11 is amended to read:

76-3-203.11. Reporting an overdose -- Mitigating factor.

It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah Controlled Substances Act, that the person or bystander:

(1) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(2) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section [~~26-8a-102~~] 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this section;

(3) provides in the report under Subsection (2) a functional description of the location of the actual overdose event that facilitates responding to the person experiencing the overdose event;

(4) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(5) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(6) committed the offense in the same course of events from which the reported overdose arose.

Section 117. Section 76-5-102.7 is amended to read:

76-5-102.7. Assault or threat of violence against health care provider, emergency medical service worker, or health facility employee, owner, or contractor -- Penalty.

(1) (a) As used in this section:

(i) "Assault" means an offense under Section 76-5-102.

(ii) "Emergency medical service worker" means an individual licensed under Section [~~26-8a-302~~] 53-2d-402.

(iii) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(iv) "Health facility" means:

(A) a health care facility as defined in Section 26-21-2; and

(B) the office of a private health care provider, whether for individual or group practice.

(v) "Health facility employee" means an employee, owner, or contractor of a health facility.

(vi) "Threat of violence" means an offense under Section 76-5-107.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits assault or threat of violence against a health care provider or emergency medical service worker if:

(i) the actor is not a prisoner or a detained individual;

(ii) the actor commits an assault or threat of violence;

(iii) the actor knew that the victim was a health care provider or emergency medical service worker; and

(iv) the health care provider or emergency medical service worker was performing emergency or life saving duties within the scope of his or her authority at the time of the assault or threat of violence.

(b) An actor commits assault or threat of violence against a health facility employee if:

(i) the actor is not a prisoner or a detained individual;

(ii) the actor commits an assault or threat of violence;

(iii) the actor knew that the victim was a health facility employee; and

(iv) the health facility employee was acting within the scope of the health facility employee's duties for the health facility.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:

(i) causes substantial bodily injury; and

(ii) acts intentionally or knowingly.

Section 118. Section 77-23-213 is amended to read:

77-23-213. Blood testing.

(1) As used in this section:

(a) "Law enforcement purpose" means duties that consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of this state's political subdivisions.

(b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classifications.

(2) A peace officer may require an individual to submit to a blood test for a law enforcement purpose only if:

(a) the individual or legal representative of the individual with authority to give consent gives oral or written consent to the blood test;

(b) the peace officer obtains a warrant to administer the blood test; or

(c) a judicially recognized exception to obtaining a warrant exists as established by the Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the Supreme Court of the United States.

(3) (a) Only the following, acting at the request of a peace officer, may draw blood to determine the blood's alcohol or drug content:

(i) a physician;

(ii) a physician assistant;

(iii) a registered nurse;

(iv) a licensed practical nurse;

(v) a paramedic;

(vi) as provided in Subsection (3)(b), emergency medical service personnel other than a paramedic; or

(vii) a person with a valid permit issued by the Department of Health and Human Services under Section 26-1-30.

(b) The Department of Health and Human Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section [~~26-8a-102~~] 53-2d-101, are authorized to draw blood under Subsection (3)(a)(vi), based on the type of license under Section [~~26-8a-302~~] 53-2d-402.

(c) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer requests, for law enforcement purposes, if the sample is

drawn in accordance with standard medical practice:

(i) a person authorized to draw blood under Subsection (3)(a); and

(ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

Section 119. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and administrative hearings in accordance with Section 80-2-707;

(e) the Office of Licensing for the purpose of conducting a background check in accordance with Section 62A-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the [~~Department of Health~~] Bureau of Emergency Medical Services to determine whether to grant, deny, or revoke background clearance under Section [~~26-8a-310~~] 53-2d-410 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section [~~26-8a-302~~] 53-2d-402, with the understanding that the [~~Department of Health~~] Bureau of Emergency Medical Services must provide the individual who committed the offense an opportunity to respond to any information gathered from the [~~Department of Health's~~] inspection of records before the [~~Department of Health~~] Bureau of Emergency Medical Services makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) If a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 120. Section 78B-4-501 is amended to read:

78B-4-501. Good Samaritan Law.

(1) As used in this section:

(a) "Child" means an individual of such an age that a reasonable person would perceive the individual as unable to open the door of a locked motor vehicle, but in any case younger than 18 years of age.

(b) "Emergency" means an unexpected occurrence involving injury, threat of injury, or illness to a person or the public, including motor vehicle accidents, disasters, actual or threatened discharges, removal or disposal of hazardous materials, and other accidents or events of a similar nature.

(c) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of an emergency.

(d) "First responder" means a state or local:

(i) law enforcement officer, as defined in Section 53-13-103;

(ii) firefighter, as defined in Section 34A-3-113; or

(iii) emergency medical service provider, as defined in Section [~~26-8a-102~~] 53-2d-101.

(e) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(2) A person who renders emergency care at or near the scene of, or during, an emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person rendering the emergency care, unless the person is grossly negligent or caused the emergency.

(3) (a) A person who gratuitously, and in good faith, assists a governmental agency or political subdivision in an activity described in Subsections (3)(a)(i) through (iii) is not liable for any civil damages or penalties as a result of any act or omission, unless the person rendering assistance is grossly negligent in:

(i) implementing measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health, or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigating and controlling suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act; and

(iii) responding to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the president of the United States or other federal official requesting public health-related activities.

(b) The immunity in this Subsection (3) is in addition to any immunity or protection in state or federal law that may apply.

(4) (a) A person who uses reasonable force to enter a locked and unattended motor vehicle to remove a confined child is not liable for damages in a civil action if all of the following apply:

(i) the person has a good faith belief that the confined child is in imminent danger of suffering physical injury or death unless the confined child is removed from the motor vehicle;

(ii) the person determines that the motor vehicle is locked and there is no reasonable manner in which the person can remove the confined child from the motor vehicle;

(iii) before entering the motor vehicle, the person notifies a first responder of the confined child;

(iv) the person does not use more force than is necessary under the circumstances to enter the motor vehicle and remove the confined child from the vehicle; and

(v) the person remains with the child until a first responder arrives at the motor vehicle.

(b) A person is not immune from civil liability under this Subsection (4) if the person fails to abide by any of the provisions of Subsection (4)(a) or commits any unnecessary or malicious damage to the motor vehicle.

Section 121. Section 78B-5-902 is amended to read:

78B-5-902. Definitions.

As used in this part:

(1) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting between a law enforcement officer, firefighter, emergency medical service provider, or rescue provider and a peer support team member.

(2) "Behavioral emergency services technician" means an individual who is licensed under Section [~~26-8a-302~~] 53-2d-402 as:

(a) a behavioral emergency services technician; or

(b) an advanced behavioral emergency services technician.

(3) "Emergency medical service provider or rescue unit peer support team member" means a person who is:

(a) an emergency medical service provider as defined in Section [~~26-8a-102~~] 53-2d-101, a regular or volunteer member of a rescue unit acting as an emergency responder as defined in Section 53-2a-502, or another person who has been trained in peer support skills; and

(b) designated by the chief executive of an emergency medical service agency or the chief of a rescue unit as a member of an emergency medical service provider's peer support team or as a member of a rescue unit's peer support team.

(4) "Law enforcement or firefighter peer support team member" means a person who is:

(a) a peace officer, law enforcement dispatcher, civilian employee, or volunteer member of a law enforcement agency, a regular or volunteer member of a fire department, or another person who has been trained in peer support skills; and

(b) designated by the commissioner of the Department of Public Safety, the executive director of the Department of Corrections, a sheriff, a police

chief, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

(5) "Trained" means a person who has successfully completed a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the Department of Health and Human Services, as applicable.

Section 122. Section 78B-5-904 is amended to read:

78B-5-904. Exclusions for certain communications.

In accordance with the Utah Rules of Evidence, a behavioral emergency services technician may refuse to disclose communications made by an individual during the delivery of behavioral emergency services as defined in Section [~~26-8a-102~~] 53-2d-101.

Section 123. Section 78B-8-401 is amended to read:

78B-8-401. Definitions.

As used in this part:

(1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions, and any body fluid visibly contaminated with blood.

(2) "COVID-19" means the same as that term is defined in Section 78B-4-517.

(3) "Disease" means Human Immunodeficiency Virus infection, acute or chronic Hepatitis B infection, Hepatitis C infection, COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome, and any other infectious disease specifically designated by the Labor Commission, in consultation with the Department of Health and Human Services, for the purposes of this part.

(4) "Emergency services provider" means:

(a) an individual licensed under Section [~~26-8a-302~~] 53-2d-402, a peace officer, local fire department personnel, or personnel employed by the Department of Corrections or by a county jail, who provide prehospital emergency care for an emergency services provider either as an employee or as a volunteer; or

(b) an individual who provides for the care, control, support, or transport of a prisoner.

(5) "First aid volunteer" means a person who provides voluntary emergency assistance or first aid medical care to an injured person prior to the arrival of an emergency medical services provider or peace officer.

(6) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(7) "Medical testing procedure" means a nasopharyngeal swab, a nasal swab, a capillary blood sample, a saliva test, or a blood draw.

(8) "Peace officer" means the same as that term is defined in Section 53-1-102.

(9) "Prisoner" means the same as that term is defined in Section 76-5-101.

(10) "Significant exposure" and "significantly exposed" mean:

(a) exposure of the body of one individual to the blood or body fluids of another individual by:

(i) percutaneous injury, including a needle stick, cut with a sharp object or instrument, or a wound resulting from a human bite, scratch, or similar force; or

(ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut, abrasion, dermatitis, or other damage;

(b) exposure of the body of one individual to the body fluids, including airborne droplets, of another individual if:

(i) the other individual displays symptoms known to be associated with COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome; or

(ii) other evidence exists that would lead a reasonable person to believe that the other individual may be infected with COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome; or

(c) exposure that occurs by any other method of transmission defined by the Labor Commission, in consultation with the Department of Health and Human Services, as a significant exposure.

Section 124. Section 80-3-404 is amended to read:

80-3-404. Finding of severe child abuse or neglect -- Order delivered to division -- Court records.

(1) If an abuse, neglect, or dependency petition is filed with the juvenile court that informs the juvenile court that the division has made a supported finding that an individual committed a severe type of child abuse or neglect, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding described in Subsection (1)(a) in a written order; and

(c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(2) The juvenile court shall make the finding described in Subsection (1):

(a) as part of the adjudication hearing;

(b) at the conclusion of the adjudication hearing; or

(c) as part of a court order entered under a written stipulation of the parties.

(3) In accordance with Section 80-2-707, a proceeding for adjudication of a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

(4) (a) The juvenile court shall make records of the juvenile court's findings under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26-39-402, 26B-1-211, and 62A-2-120, or for the purposes described in Sections [~~26-8a-310~~] 53-2d-410, 62A-2-121, or Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access.

(b) An appellate court shall make records of an appeal from the juvenile court's decision under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes described in Subsection (4)(a).

Section 125. Section 80-3-504 is amended to read:

80-3-504. Petition for substantiation -- Court findings -- Expedited hearing -- Records of an appeal.

(1) The division or an individual may file a petition for substantiation in accordance with Section 80-2-1004.

(2) If the division decides to file a petition for substantiation under Section 80-2-1004, the division shall file the petition no more than 14 days after the day on which the division makes the decision.

(3) At the conclusion of the hearing on a petition for substantiation, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding in a written order; and

(c) deliver a certified copy of the order to the division.

(4) If an individual whose name is listed on the Licensing Information System before May 6, 2002, files a petition for substantiation under Section 80-2-1004 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall:

(a) hear the matter on an expedited basis; and

(b) enter a final decision no later than 60 days after the day on which the petition for substantiation is filed.

(5) An appellate court shall make a record of an appeal from the juvenile court's decision under Subsection (3) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26-39-402, 62A-1-118, and 62A-2-120, or for the purposes described in Sections [~~26-8a-310~~] 53-2d-410, 62A-2-121, or Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access.

Section 126. Repealer.

This bill repeals:

Section 26-8a-101, Title.

Section 26-8b-101, Title.

Section 26-8b-102, Definitions.

Section 26-8b-601, Title.

Section 26-8c-101, Title.

Section 26-8d-101, Title.

Section 127. Effective date.

This bill takes effect on July 1, 2024.

Section 128. Revisor instructions.

The Legislature intends that when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) if a bill replaces a reference to the "Department of Health" with the "Department of Health and Human Services" and this S.B. 64 replaces the same reference to the "Department of Health" with the "Bureau of Emergency Medical Services," the naming conventions in this bill supersede;

(2) if this S.B. 64 renumbers a section from Title 26 to Title 53 and another bill renumbers the same section from Title 26 to Title 26B, the renumbering conventions in this bill supersede; and

(3) newly created references in other bills to the following chapters shall be renumbered to the appropriate reference in Title 53, Chapter 2d, Emergency Medical Services Act, and Title 53, Chapter 2e, EMS Personnel Licensure Interstate Compact:

(a) Title 26, Chapter 8a, Utah Emergency Medical Services System Act;

(b) Title 26, Chapter 8b, Utah Sudden Cardiac Arrest Survival Act;

(c) Title 26, Chapter 8c, Ems Personnel Licensure Interstate Compact; and

(d) Title 26, Chapter 8d, Utah Statewide Stroke and Cardiac Registry Act.

CHAPTER 311
S. B. 78
Passed February 15, 2023
Approved March 15, 2023
Effective May 3, 2023

NATUROPATHIC PHYSICIAN LICENSING AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill repeals and enacts provisions related to naturopathic physicians.

Highlighted Provisions:

This bill:

- defines terms;
- repeals the prohibition on a naturopathic physician from having an ownership interest in certain entities;
- prohibits a naturopathic physician from referring an individual to entities where the naturopathic physician or the physician's immediate family member has an ownership interest unless certain requirements are met;
- requires a naturopathic physician to comply with relevant federal laws regarding patient referrals and kick-backs; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-71-102, as last amended by Laws of Utah 2022, Chapter 440
58-71-801, as last amended by Laws of Utah 2005, Chapter 17

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-71-102 is amended to read:

58-71-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Acupuncture" means the same as that term is defined in Section 58-72-102.

(2) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(3) "Board" means the Naturopathic Physicians Licensing Board created in Section 58-71-201.

(4) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(5) "Diagnose" means:

(a) to examine in any manner another individual, parts of an individual's body, substances, fluids, or materials excreted, taken, or removed from an individual's body, or produced by an individual's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (5)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (5)(a); or

(d) to make an examination or determination as described in Subsection (5)(a) upon or from information supplied directly or indirectly by another individual, whether or not in the presence of the individual the examination or determination concerns.

(6) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled prescription drug, which:

(a) is applied topically or by injection associated with the performance of minor office procedures;

(b) has the ability to produce loss of sensation to a targeted area of an individual's body;

(c) does not cause loss of consciousness or produce general sedation; and

(d) is part of the competent practice of naturopathic medicine during minor office procedures.

(7) "Medical naturopathic assistant" means an unlicensed individual working under the direct and immediate supervision of a licensed naturopathic physician and engaged in specific tasks assigned by the licensed naturopathic physician in accordance with the standards and ethics of the profession.

(8) (a) "Minor office procedures" means:

(i) the use of operative, electrical, or other methods for repair and care of superficial lacerations, abrasions, and benign lesions;

(ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear;

(iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures; and

(iv) percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

(A) local anesthesia or a prescription drug described in Subsection (9)(d); or

(B) natural substances.

(b) "Minor office procedures" does not include:

(i) general or spinal anesthesia;

(ii) office procedures more complicated or extensive than those set forth in Subsection (8)(a);

(iii) procedures involving the eye; and

(iv) any office procedure involving nerves, veins, or arteries.

(9) "Natural medicine" means any:

(a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not designated a prescription drug or controlled substance;

(b) over-the-counter medication;

(c) other nonprescription substance, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law; or

(d) prescription drug:

(i) the prescription of which is consistent with the competent practice of naturopathic medicine;

(ii) that is not a controlled substance except for testosterone; and

(iii) that is not any of the following as determined by the federal Food and Drug Administration's general drug category list:

(A) an anticoagulant for the management of a bleeding disorder;

(B) an anticonvulsant;

(C) an antineoplastic;

(D) an antipsychotic;

(E) a barbiturate;

(F) a cytotoxic;

(G) a sedative;

(H) a sleeping drug;

(I) a tranquilizer; or

(J) any drug category added after April 1, 2022, unless the division determines the drug category to be consistent with the practice of naturopathic medicine under Section 58-71-203.

(10) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician.

(b) "Naturopathic childbirth" includes the use of:

(i) natural medicines; and

(ii) uncomplicated episiotomy.

(c) "Naturopathic childbirth" does not include the use of:

(i) forceps delivery;

(ii) general or spinal anesthesia;

(iii) caesarean section delivery; or

(iv) induced labor or abortion.

(11) (a) "Naturopathic mobilization therapy" means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body[~~;~~].

(b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier[~~; and~~].

(c) "Naturopathic mobilization therapy" does not include manipulation as used in [~~Title 58, Chapter 73, Chiropractic Physician Practice Act~~] Chapter 73, Chiropractic Physician Practice Act.

(12) (a) "Naturopathic physical medicine" means the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, and exercise.

(b) "Naturopathic physical medicine" does not include the practice of physical therapy or physical rehabilitation.

(13) "Naturopathic physician" means an individual licensed under this chapter to engage in the practice of naturopathic medicine.

[~~(13)~~] (14) "Practice of naturopathic medicine" means:

(a) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and natural therapies, to support and stimulate the patient's intrinsic self-healing processes by:

(i) using naturopathic childbirth, but only if:

(A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or ACNO's successor as determined by the division in collaboration with the board; and

(B) the licensee follows a written plan for naturopathic physicians practicing naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and specialty care and delivery is indicated, detailing the guidelines by which the naturopathic physician will:

(I) refer patients to the consulting physician; and

(II) consult with the consulting physician;

(ii) using naturopathic mobilization therapy;

(iii) using naturopathic physical medicine;

(iv) using minor office procedures;

(v) prescribing or administering natural medicine;

(vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;

(vii) prescribing barrier devices for contraception;

(viii) using dietary therapy;

(ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;

(x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;

(xi) taking of a history from and conducting of a physical examination upon a human patient; and

(xii) administering local anesthesia during the performance of a minor office procedure;

(b) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection [~~(13)(a)~~] (14)(a), whether or not for compensation; or

(c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care," "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that might cause a reasonable person to believe the individual using the designation is a licensed naturopathic physician.

[~~(14)~~] (15) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

[~~(15)~~] (16) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person licensed under this chapter or exempt from licensure under this chapter.

[~~(16)~~] (17) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

[~~(17)~~] (18) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-501.

[~~(18)~~] (19) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

Section 2. Section 58-71-801 is amended to read:

58-71-801. Disclosure of financial interest by licensee -- Kick-back prohibition.

(1) [~~Except as provided in Subsections (2) and (5), licensees under this chapter may not own, directly or indirectly~~] Except as provided in Subsection (2), a naturopathic physician may not refer an individual to any of the following entities where the naturopathic physician or a member of the naturopathic physician's immediate family has an ownership interest:

(a) [~~any~~] a pharmacy as defined in Section 58-17b-102 or pharmaceutical facility as defined in Section 58-17b-102; or

(b) a retail store, wholesaler, distributor, manufacturer, or facility of any other kind located in this state that is engaged in the sale, dispensing, delivery, distribution, or manufacture of homeopathic remedies, dietary supplements, or natural medicines.

(2) [~~A licensee may own or control less than 5% of the outstanding stock of a corporation whose ownership is prohibited under Subsection (1), if the stock of the corporation is publicly traded.~~]

(a) A naturopathic physician may refer an individual to an entity described in Subsection (1)(a) or (b) if:

(i) the entity's stock is publicly traded and the naturopathic physician owns less than 5% of the entity's outstanding stock; or

(ii) at the time of the referral, the naturopathic physician discloses in writing that the naturopathic physician or a member of the naturopathic physician's immediate family has an ownership interest in the entity.

(b) A disclosure described in Subsection (2)(a)(ii) shall include a statement informing the patient that the patient may choose to obtain a good or service from another entity.

(c) A naturopathic physician shall comply with any applicable federal laws regarding patient referrals and kick-backs that apply to a physician.

[~~(3) Licensees under this chapter may not refer patients, clients, or customers to any clinical laboratory, ambulatory or surgical care facilities, or other treatment or rehabilitation services such as physical therapy, cardiac rehabilitation, or radiology services in which the licensee or a member of the licensee's immediate family has any financial relationship as that term is described in 42 U.S.C. 1395nn, unless the licensee at the time of making the referral discloses that relationship, in writing, to the patient, client, or customer.~~]

[~~(4) The written disclosure under Subsection (3) shall also state the patient may choose any facility or service center for purpose of having the laboratory work or treatment service performed.~~]

[~~(5) Licensees under this chapter~~]

(3) A naturopathic physician may sell from [~~their offices~~] the naturopathic physician's office

homeopathic remedies or dietary supplements as defined in the Federal Food Drug and Cosmetic Act consistent with division rule.

CHAPTER 312
S. B. 86
Passed February 15, 2023
Approved March 15, 2023
Effective May 3, 2023

DRUG TESTING AND PARAPHERNALIA AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill concerns drug testing and paraphernalia.

Highlighted Provisions:

This bill:

- creates an exemption from liability under the Utah Controlled Substances Act for certain entities that temporarily possess a controlled or counterfeit substance in order to conduct a test on the substance for a certain reason;
- modifies the definition of "drug paraphernalia" to exclude certain testing products or equipment; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37-8, as last amended by Laws of Utah 2022, Chapters 116, 415 and 430
58-37a-3, as last amended by Laws of Utah 2011, Chapter 101

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of [~~Chapter 37, Utah Controlled Substances Act~~] this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of [~~Chapter 37, Utah Controlled Substances Act~~] this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print,

imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections ~~[(4)(a)(i), (ii), (iii), (iv), (v), and]~~ (4)(a)(i) through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or

administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; [~~or~~]

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment[~~.~~]; or

(c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and

law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 2. Section 58-37a-3 is amended to read:

58-37a-3. "Drug paraphernalia" defined.

(1) As used in this chapter, "drug paraphernalia" means any equipment, product, or material used, or intended for use, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, conceal, inject, ingest, inhale, or to otherwise introduce a controlled substance into the human body in violation of [~~Title 58, Chapter 37, Utah Controlled Substances Act, and includes, but is not limited to:~~] Chapter 37, Utah Controlled Substances Act.

[~~(1)~~] (2) "Drug paraphernalia" includes:

(a) kits used, or intended for use, in planting, propagating, cultivating, growing, or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;

[~~(2)~~] (b) kits used, or intended for use, in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

[~~(3)~~] (c) isomerization devices used, or intended for use, to increase the potency of any species of plant which is a controlled substance;

[~~(4)~~] (d) except as provided in Subsection (3), testing equipment used, or intended for use, to identify or to analyze the strength, effectiveness, or purity of a controlled substance;

[~~(5)~~] (e) scales and balances used, or intended for use, in weighing or measuring a controlled substance;

[~~(6)~~] (f) diluents and adulterants, such as quinine hydrochloride, mannitol, mannited, dextrose and lactose, used, or intended for use to cut a controlled substance;

[~~(7)~~] (g) separation gins and sifters used, or intended for use to remove twigs, seeds, or other impurities from marihuana;

[~~(8)~~] (h) blenders, bowls, containers, spoons and mixing devices used, or intended for use to compound a controlled substance;

[~~(9)~~] (i) capsules, balloons, envelopes, and other containers used, or intended for use to package small quantities of a controlled substance;

[~~(10)~~] (j) containers and other objects used, or intended for use to store or conceal a controlled substance;

[~~(11)~~] (k) hypodermic syringes, needles, and other objects used, or intended for use to parenterally inject a controlled substance into the human body, except as provided in Section 58-37a-5; and

[~~(12)~~] (l) objects used, or intended for use to ingest, inhale, or otherwise introduce a controlled substance into the human body, including but not limited to:

[~~(a)~~] (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

[~~(b)~~] (ii) water pipes;

[~~(c)~~] (iii) carburetion tubes and devices;

[~~(d)~~] (iv) smoking and carburetion masks;

[~~(e)~~] (v) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

[~~(f)~~] (vi) miniature cocaine spoons and cocaine vials;

[~~(g)~~] (vii) chamber pipes;

[~~(h)~~] (viii) carburetor pipes;

[~~(i)~~] (ix) electric pipes;

[~~(j)~~] (x) air-driven pipes;

[~~(k)~~] (xi) chillums;

[~~(l)~~] (xii) bongs; and

[~~(m)~~] (xiii) ice pipes or chillers.

(3) "Drug paraphernalia" does not include a testing product or equipment, including a fentanyl test strip, used or intended for use to determine whether a substance contains:

(a) a controlled substance that can cause physical harm or death; or

(b) a chemical or compound that can cause physical harm or death.

CHAPTER 313
S. B. 91
Passed February 16, 2023
Approved March 15, 2023
Effective May 3, 2023

MEDICAL CANNABIS REGULATION AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill amends provisions related to medical cannabis production.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- removes the cap on licenses for independent testing laboratories that test medical cannabis;
- repeals provisions related to industrial hemp waste;
- modifies labeling requirements including requiring additional warning labels for certain products;
- allows a cannabis production establishment to maintain a liquid cash account instead of a surety bond;
- requires heavy metal testing for medical cannabis vaporizer cartridges;
- allows the Department of Agriculture and Food to ban ingredients found in medical cannabis upon the recommendation of a public health authority;
- removes the requirement that a cannabis production establishment agent be employed by a cannabis production establishment in order to hold a cannabis production establishment agent registration card; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2022, Chapters 290, 452
4-41a-201, as last amended by Laws of Utah 2022, Chapter 290
4-41a-301, as last amended by Laws of Utah 2021, Chapter 350
4-41a-404, as last amended by Laws of Utah 2020, Chapter 12
4-41a-501, as last amended by Laws of Utah 2022, Chapter 290
4-41a-602, as last amended by Laws of Utah 2022, Chapter 290
4-41a-603, as last amended by Laws of Utah 2022, Chapter 290
4-41a-701, as last amended by Laws of Utah 2022, Chapter 290

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

[~~(e)~~] (f) toxins; or

[~~(f)~~] (g) foreign matter.

(2) (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

[~~(2)~~] (3) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26-61-201.

[~~(3)~~] (4) "Cannabis" means the same as that term is defined in Section 26-61a-102.

[~~(4)~~] (5) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural[~~, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state~~] cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.

[~~(5)~~] (6) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

[~~(6)~~] (7) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

[~~(7)~~] (8) "Cannabis cultivation facility agent" means an individual who[~~:~~]

[~~(a) is an employee of a cannabis cultivation facility; and~~]

[~~(b)~~] holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

[~~(8)~~] (9) "Cannabis derivative product" means a product made using cannabis concentrate.

[~~(9)~~] (10) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

[~~(10)~~] (11) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

[~~(11)~~] (12) "Cannabis processing facility agent" means an individual who[~~:~~]

[~~(a) is an employee of a cannabis processing facility; and~~]

[~~(b)~~] holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

[~~(12)~~] (13) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

[~~(13)~~] (14) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

[~~(14)~~] (15) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

[~~(15)~~] (16) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

[~~(16)~~] (17) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(17)~~] (18) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

[~~(18)~~] (19) "Department" means the Department of Agriculture and Food.

[~~(19) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.~~]

(20) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(21) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

(22) "Independent cannabis testing laboratory agent" means an individual who[~~:~~]

[~~(a) is an employee of an independent cannabis testing laboratory; and~~]

[~~(b)~~] holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

[~~(23) "Industrial hemp waste" means:~~]

[~~(a) a cannabinoid concentrate; or~~]

[~~(b) industrial hemp biomass.~~]

[~~(24)~~] (23) "Inventory control system" means a system described in Section 4-41a-103.

[~~(25)~~] (24) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

[~~(26)~~] (25) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

[~~(27)~~] (26) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

[~~(28)~~] (27) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

[~~(29)~~] (28) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

[~~(30)~~] (29) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

[~~(31)~~] (30) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

[~~(32)~~] (31) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.

[~~(33)~~] (32) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

[~~(34)~~] (33) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(35)~~] (34) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(36)~~] (35) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(37)~~] (36) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

[~~(38)~~] (37) "State electronic verification system" means the system described in Section 26-61a-103.

[~~(39) "Synthetic cannabinoid" means any cannabinoid that:~~]

[~~(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and~~]

[~~(b) is not a derivative cannabinoid.~~]

[~~(40)~~] (38) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

[~~(41)~~] (39) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(42)~~] (40) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

[~~(43)~~] (41) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 2. Section 4-41a-201 is amended to read:

4-41a-201. Cannabis production establishment -- License.

(1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a licensing process that the department initiates after March 17, 2021, the department, through the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:

(i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment;

(B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or

(C) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department or licensing board approves;

(iv) a statement that the applicant will obtain and maintain a liquid cash account with a financial institution or a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) $100,000 for each cannabis cultivation facility for which the applicant applies; or

(B) $50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the licensing board approves an application for a license under this section and Section 4-41a-201.1:

(a) the applicant shall pay the department:

(i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; or

(ii) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i); and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection (4)(b), a cannabis production establishment shall obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the licensing board receives more than one application for a cannabis production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.

(8) (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act, the licensing board:

(i) shall consult with the Department of Health regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.

(9) The licensing board may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;

(b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;

(f) if, after a change of ownership described in Subsection (15)(b), the board determines that the cannabis production establishment no longer meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; or

(g) for an independent cannabis testing laboratory, if the independent cannabis testing laboratory fails to substantially meet the performance standards described in Subsection (14)(b).

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.

(b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on or before January 1, 2020.

(13) (a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(14) (a) Notwithstanding this section, the department:

[~~(i) may not issue more than four licenses to operate an independent cannabis testing laboratory;~~]

[~~(ii)~~] (i) may operate or partner with a research university to operate an independent cannabis testing laboratory;

[~~(iii)~~] (ii) if the department operates or partners with a research university to operate an independent cannabis testing laboratory, may not cease operating or partnering with a research university to operate the independent cannabis testing laboratory unless:

(A) the department issues at least two licenses to independent cannabis testing laboratories; and

(B) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and

[~~(iv)~~] (iii) after ceasing department or research university operations under Subsection (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:

(A) fewer than two licensed independent cannabis testing laboratories are operating; or

(B) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

(b) (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an independent cannabis testing laboratory, including deadlines for testing completion.

(ii) A license that the department issues to an independent cannabis testing laboratory is

contingent upon substantial satisfaction of the performance standards described in Subsection (14)(b)(i), as determined by the board.

(15) (a) A cannabis production establishment license is not transferrable or assignable.

(b) If the ownership of a cannabis production establishment changes by 50% or more:

(i) the cannabis production establishment shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the board shall:

(A) conduct the application review described in Section 4-41a-201.1; and

(B) award a license to the cannabis production establishment for the remainder of the term of the cannabis production establishment's license before the ownership change if the cannabis production establishment meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; and

(iii) if the board approves the license application, notwithstanding Subsection (3), the cannabis production establishment shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 3. Section 4-41a-301 is amended to read:

4-41a-301. Cannabis production establishment agent -- Registration.

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent, regardless of whether the individual is a seasonal, temporary, or permanent employee.

(2) The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

(a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, a medical cannabis courier, a cannabis processing facility, or a cannabis cultivation facility.

(4) (a) The department shall, within 15 business days after the day on which the department receives a complete application from [~~a cannabis production establishment on behalf of~~] a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if [~~the cannabis production establishment~~] the prospective agent:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) [~~the name and location of a licensed cannabis production establishment where the prospective agent will act as the cannabis production establishment's agent~~] which cannabis production establishment agent designations the applicant desires; and

(C) the submission required under Subsection (4)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) [~~Except for an applicant reapplying for a cannabis production establishment agent registration card within less than one year after the expiration of the applicant's previous cannabis production establishment agent registration card, each~~] Each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.

(5) (a) The department shall designate, on an individual's cannabis production establishment agent registration card[~~:~~]

[~~(a) the name of the cannabis production establishment where the individual is registered as an agent; and~~]

[~~(b)~~] the type of cannabis production establishment for which the individual is authorized to act as an agent.

(b) When issuing a card under Subsection (5)(a) the department:

(i) may issue a cannabis production establishment agent registration card that contains both a cannabis processing facility designation and a cannabis cultivator facility designation; and

(ii) if the cannabis production establishment agent registration card will contain an independent cannabis testing laboratory designation, may not include any other designations.

(6) A cannabis production establishment agent shall comply with:

(a) a certification standard that the department develops; or

(b) a certification standard that the department has reviewed and approved.

(7) (a) The department shall ensure that the certification standard described in Subsection (6) includes training:

(i) in Utah medical cannabis law;

(ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

(iii) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and

(iv) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

(b) The department shall review the training described in Subsection (7)(a) annually or as often as necessary to ensure compliance with this section.

(8) For an individual who holds or applies for a cannabis production establishment agent registration card:

(a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and

(b) the department shall revoke or refuse to issue the card if the individual is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(9) (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.

(b) A cannabis production establishment agent may renew the agent's registration card if the agent:

(i) is eligible for a cannabis production establishment registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(10) A cannabis production establishment shall:

(a) maintain a list of each employee that holds a cannabis production establishment agent registration card; and

(b) provide the list to the department upon request.

Section 4. Section 4-41a-404 is amended to read:

4-41a-404. Medical cannabis transportation.

(1) (a) Only the following individuals may transport cannabis or a cannabis product under this chapter:

(i) a [~~registered~~] cannabis production establishment agent; or

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

(b) Only an agent of a cannabis cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an

independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment, an individual transporting cannabis or a cannabis product shall:

(a) be employed by the entity licensed under this chapter that is authorizing the transportation of the cannabis or cannabis product; and

(b) possess a transportation manifest that:

[~~(a)~~] (i) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;

[~~(b)~~] (ii) includes origin and destination information for any cannabis or cannabis product that the individual is transporting; and

[~~(c)~~] (iii) identifies the departure and arrival times and locations of the individual transporting the cannabis or cannabis product.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis or cannabis product to ensure that the cannabis or cannabis product remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis production establishment and another cannabis production establishment; and

(ii) between a cannabis processing facility and a medical cannabis pharmacy.

(4) (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis or cannabis product than the manifest identifies, except for a de minimis administrative error:

(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

(6) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Section 5. Section 4-41a-501 is amended to read:

4-41a-501. Cannabis cultivation facility -- Operating requirements.

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from the ground level of the cannabis cultivation facility perimeter.

(2) A cannabis cultivation facility shall use a unique identifier that is connected to the facility's inventory control system to identify:

(a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

(3) A cannabis cultivation facility shall identify cannabis biomass as cannabis byproduct or cannabis plant product before transferring the cannabis biomass from the facility.

(4) A cannabis cultivation facility shall either:

(a) ensure that a cannabis processing facility chemically or physically processes cannabis cultivation byproduct to produce a cannabis concentrate for incorporation into cannabis derivative products; or

(b) destroy cannabis cultivation byproduct in accordance with Section 4-41a-405.

[~~(5) A cannabis cultivation facility may not purchase or otherwise receive industrial hemp waste, except under limited circumstances in which the department determines there is a minimal risk of safety or security concern, as the department specifies in rules that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

Section 6. Section 4-41a-602 is amended to read:

4-41a-602. Cannabis product -- Labeling and child-resistant packaging.

(1) For any cannabis product that a cannabis processing facility processes or produces and for any raw cannabis that the facility packages, the facility shall:

(a) label the cannabis or cannabis product with a label that:

(i) clearly and unambiguously states that the cannabis product or package contains cannabis;

(ii) clearly displays the amount of total composite tetrahydrocannabinol, cannabidiol, and any known cannabinoid [~~described in Subsection 4-41a-701(4) in the labeled container~~] that is greater than 1% of the total cannabinoids contained in the cannabis or cannabis product as determined under Subsection 4-41a-701(4);

(iii) has a unique identification number that:

(A) is connected to the inventory control system; and

(B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;

(iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;

(v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and

(vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and

(b) package the raw cannabis or cannabis product in a medicinal dosage form in a container that:

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

(iv) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes; [~~and~~]

(v) includes a warning label that states:

(A) for a container labeled before July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."; [~~or~~]

(B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."[~~.~~]; or

(C) for a container labeled on or after January 1, 2024, "WARNING: Cannabis has intoxicating effects, may be addictive, and may increase risk of mental illness. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."; and

(vi) for raw cannabis or a cannabis product sold in a vaporizer cartridge labeled on or after May 3, 2023, includes a warning label that states:

(A) "WARNING: Vaping of cannabis-derived products has been associated with lung injury."; and

(B) "WARNING: Inhalation of cannabis smoke has been associated with lung injury.".

(2) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:

(a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and

(b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.

(3) For any cannabis product that contains [~~any derivative cannabinoid or synthetic cannabinoid~~] an artificially derived cannabinoid, the cannabis processing facility shall ensure that the label clearly:

(a) identifies each [~~derivative cannabinoid or synthetic cannabinoid~~] artificially derived cannabinoid; and

(b) identifies that each [~~derivative or synthetic cannabinoid is a derivative or synthetic cannabinoid~~] artificially derived cannabinoid is an artificially derived cannabinoid.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(a) shall make rules to establish:

(i) a standard labeling format that:

(A) complies with the requirements of this section; and

(B) ensures inclusion of a pharmacy label; and

(ii) additional requirements on packaging for cannabis and cannabis products to ensure safety and product quality; and

(b) may make rules to further define standards regarding images, words, phrases, or containers that may appeal to children under Subsection (1)(a)(v) or (1)(b)(ii).

Section 7. Section 4-41a-603 is amended to read:

4-41a-603. Cannabis product -- Product quality.

(1) A cannabis processing facility:

(a) may not produce a cannabis product in a physical form that:

(i) the facility knows or should know appeals to children;

(ii) is designed to mimic or could be mistaken for a candy product; or

(iii) for a cannabis product used in vaporization, includes a candy-like flavor or another flavor that

the facility knows or should know appeals to children; [~~and~~]

(b) notwithstanding Subsection (1)(a)(iii), may produce a concentrated oil with a flavor that the department approves to facilitate minimizing the taste or odor of cannabis[~~.~~]; and

(c) shall ensure that batch heavy metal testing is conducted on any vaporizer cartridge that is used with a cannabis product.

(2) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.

(3) A cannabis processing facility shall isolate [~~derivative cannabinoids and synthetic cannabinoids~~] any artificially derived cannabinoid to a purity of greater than 95%, as determined by an independent cannabis testing laboratory using liquid chromatography–mass spectroscopy or an equivalent method.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) adopt human safety standards for the manufacturing of cannabis products that are consistent with best practices for the use of cannabis; and

(b) further define standards regarding products that may appeal to children under Subsection (1)(a).

(5) Nothing in this section prohibits a sugar coating on a gelatinous cube, gelatinous rectangular cuboid, or lozenge to mask the product's taste, subject to the limitations on form and appearance described in Subsections (1)(a) and (4)(b).

Section 8. Section 4-41a-701 is amended to read:

4-41a-701. Cannabis and cannabis product testing.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(a) determine required adulterant tests for a cannabis plant product, cannabis concentrate, or cannabis product;

(b) determine the amount of any adulterant that is safe for human consumption;

(c) immediately ban or limit the presence of any ingredient in a medical cannabis product after receiving a recommendation to do so from a public health authority under Section 26B-1-102;

[~~(c)~~] (d) establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment; or

[~~(d)~~] (e) allow the propagation of testing results forward to derived product if the processing steps the cannabis production establishment uses to produce the product are unlikely to change the results of the test.

(2) The department may require testing for a toxin if:

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

(3) (a) A cannabis production establishment may not:

(i) incorporate cannabis concentrate into a cannabis derivative product until an independent cannabis testing laboratory tests the cannabis concentrate in accordance with department rule; or

(ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an independent cannabis testing laboratory tests a representative sample of the cannabis or cannabis product in accordance with department rule.

(b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product in accordance with department rule.

(4) Before the sale of a cannabis product, an independent cannabis testing laboratory shall identify and quantify any cannabinoid known to be present in a cannabis product.

(5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

(6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

CHAPTER 314
S. B. 104
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

MASTER PLAN FOR AGING

Chief Sponsor: Karen Kwan
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill amends provisions governing the Utah Commission on Aging.

Highlighted Provisions:

This bill:

- amends the duties and powers of the Utah Commission on Aging (commission);
- directs the commission to prepare and publish a 10-year master plan for aging; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-11-203, as last amended by Laws of Utah 2021, Chapter 196
63M-11-204, as last amended by Laws of Utah 2010, Chapter 323

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-11-203 is amended to read:

63M-11-203. Duties and powers of commission.

(1) The commission shall:

(a) fulfill the commission's purposes described in Section 63M-11-102;

(b) facilitate the communication and coordination of public and private entities that provide services to the aging population, including entities responsible for services related to:

(i) housing;

(ii) transportation;

(iii) caregiver support;

(iv) preventive health services;

(v) individuals with physical or developmental disabilities;

(vi) dementia and Alzheimer's disease; and

(vii) facility licensing;

(c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to the aging population;

(d) study and evaluate the policies, procedures, and programs implemented by other states that address the needs of the aging population;

(e) facilitate and conduct the research and study of issues related to aging, including emerging public health issues with a significant impact on the aging population;

(f) provide a forum for public comment on issues related to aging;

(g) provide public information on the aging population and the services available to the aging population;

(h) facilitate the provision of services to the aging population from the public and private sectors; and

(i) encourage state and local governments to analyze, plan, and prepare for the impacts of the aging population on services and operations.

(2) To accomplish the commission's duties, the commission may:

(a) request and receive from any state or local governmental agency or institution, summary information relating to the aging population, including:

(i) reports;

(ii) audits;

(iii) projections; and

(iv) statistics;

(b) apply for and accept grants or donations for uses consistent with the duties of the commission from public or private sources; and

(c) appoint special committees to advise and assist the commission.

(3) All funds received under Subsection (2)(b) shall be:

(a) accounted for and expended in compliance with the requirements of federal and state law; and

(b) continuously available to the commission to carry out the commission's duties.

(4) (a) A member of a special committee described in Subsection (2)(c):

(i) shall be appointed by the commission;

(ii) may be:

(A) a member of the commission; or

(B) an individual from the private or public sector; and

(iii) notwithstanding Section 63M-11-206, shall not receive any reimbursement or pay for any work done in relation to the special committee.

(b) A special committee described in Subsection (2)(c) shall report to the commission on the progress of the special committee.

(5) This chapter does not diminish the planning authority conferred on state, regional, and local governments by existing law.

Section 2. Section 63M-11-204 is amended to read:

63M-11-204. Annual report by the commission.

(1) (a) The commission shall annually prepare and publish a report directed to the:

[~~(a)~~] (i) governor; and

[~~(b)~~] (ii) Health and Human Services Interim Committee.

[~~(2)~~] (b) The report described in Subsection (1)(a) shall:

[~~(a)~~] (i) describe how the commission fulfilled its statutory purposes and duties during the year; and

[~~(b)~~] (ii) contain recommendations on how the state should act to address issues relating to the aging population.

(2) (a) The commission shall:

(i) prepare and publish a 10-year master plan with recommendations for services affecting the aging population; and

(ii) no later than November 1 of 2023, submit the master plan and the commission's work plan described in Subsection (2)(b) in writing to:

(A) the governor; and

(B) the Health and Human Services Interim Committee.

(b) For the master plan, the commission shall:

(i) identify and prioritize the commission's goals, objectives, performance measures, and strategies, whether existing or needed, to address demographic factors contributing to the needs of the state's aging population;

(ii) adopt a plan for the commission's work over the next three years to address priorities described in Subsection (2)(b)(i); and

(iii) identify redundancies in aging services across the state, including working groups or task forces, and local and state executive branch services, and make recommendations for consolidation.

(c) The plan adopted under Subsection (2)(b)(ii) shall describe which state, local, and private groups the commission has or intends to engage.

(3) Before July 1, 2026, the commission shall report to the Health and Human Services Interim Committee on:

(a) proposals for the future review of and updates to the master plan; and

(b) any proposed legislation concerning the master plan or the recommendations made in the master plan.

CHAPTER 315
S. B. 106
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

CAREGIVER COMPENSATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jennifer Dailey-Provost

LONG TITLE

General Description:

This bill addresses reimbursement for certain personal care services under Medicaid.

Highlighted Provisions:

This bill:

- defines terms;
- directs the Department of Health and Human Services to:
  - apply for an amendment to an existing waiver to the state Medicaid plan to implement a program to reimburse a parent or guardian who provides extraordinary personal care services to a waiver enrollee; and
  - make administrative rules defining personal care services that are extraordinary; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Department of Health and Human Services -- Long-term Services & Support -- Community Supports Waiver Services:
  - from Closing Nonlapsing, ($1,734,500).

This bill appropriates in fiscal year 2024:

- to the Department of Health and Human Services -- Long-term Services & Support -- Community Supports Waiver Services:
  - from Beginning Nonlapsing $1,734,500.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-426, as enacted by Laws of Utah 2021, Chapter 212

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-426 is amended to read:

26-18-426. Medicaid waiver expansion for extraordinary care reimbursement.

(1) As used in this section:

(a) "Existing home and community-based services waiver" means an existing home and community-based services waiver in the state that serves an individual:

(i) with an acquired brain injury;

(ii) with an intellectual or physical disability; or

(iii) who is 65 years old or older.

(b) "Guardian" means a person appointed by a court to manage the affairs of a living individual.

(c) "Parent" means a biological or adoptive parent of an individual.

(d) "Personal care services" means a service that:

(i) is furnished to an individual who is not an inpatient nor a resident of a hospital, nursing facility, intermediate care facility, or institution for mental diseases;

(ii) is authorized for an individual described in Subsection [~~(1)(b)(i)~~] (1)(d)(i) in accordance with a plan of treatment;

(iii) is provided by an individual who is qualified to provide the services; and

(iv) is furnished in a home or another community-based setting.

[~~(c)~~] (e) "Waiver enrollee" means an individual who is enrolled in an existing home and community-based services waiver.

(2) Before July 1, 2021, the department shall apply with CMS for an amendment to an existing home and community-based services waiver to implement a program to offer reimbursement to an individual who provides personal care services that constitute extraordinary care to a waiver enrollee who is the individual's spouse.

(3) If CMS approves the amendment described in Subsection (2), the department shall implement the program described in Subsection (2).

(4) The department shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, define "extraordinary care" for purposes of Subsection (2).

(5) Before July 1, 2023, the department shall apply with CMS for an amendment to an existing home and community-based services waiver to implement a program to offer reimbursement to an individual who provides personal care services that constitute extraordinary care to a waiver enrollee to whom the individual is a parent or guardian.

(6) If CMS approves the amendment described in Subsection (5), the department shall implement the program described in Subsection (5).

(7) The department shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, define "extraordinary care" for purposes of Subsection (5).

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.To Department of Health and Human Services -- Long-term Services & Support

From Closing Nonlapsing	(1,734,500)
Schedule of Programs:	
Community Supports Waiver Services	(1,734,500)

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.To Department of Health and Human Services -- Long-term Services & Support

From Beginning Nonlapsing	1,734,500
Schedule of Programs:	
Community Supports Waiver Services	1,734,500

The Legislature intends that the Department of Health and Human Services use up to $1,734,500 beginning nonlapsing balance from the Long-term Services & Support line item in FY 2024 to help fund the state costs of S.B. 106 Caregiver Compensation Amendments.

CHAPTER 316
S. B. 133
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

MODIFICATIONS TO MEDICAID COVERAGE

Chief Sponsor: Wayne A. Harper
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill addresses Medicaid for pregnant and postpartum women.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the state Medicaid program to request one or more Medicaid waivers or state plan amendments from the Centers for Medicare and Medicaid Services to:
  - expand eligibility for certain limited family planning services; and
  - extend the duration of postpartum coverage for certain women.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-417, as last amended by Laws of Utah 2019, Chapter 393

ENACTS:

26B-3-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-417 is amended to read:

26-18-417. Limited family planning services for low-income individuals.

(1) As used in this section:

(a) (i) "Family planning services" means family planning services that are provided under the state Medicaid program, including:

(A) sexual health education and family planning counseling; and

(B) other medical diagnosis, treatment, or preventative care routinely provided as part of a family planning service visit.

(ii) "Family planning services" do not include an abortion, as that term is defined in Section 76-7-301.

(b) "Low-income individual" means an individual who:

(i) has an income level that is equal to or below [~~95%~~] 185% of the federal poverty level; and

(ii) does not qualify for full coverage under the Medicaid program.

(2) Before [~~July 1, 2018~~] January 1, 2024, the division shall apply for a Medicaid waiver or a state plan amendment with CMS to:

(a) offer a program that provides family planning services to low-income individuals; and

(b) receive a federal match rate of 90% of state expenditures for family planning services provided under the waiver or state plan amendment.

Section 2. Section 26B-3-201 is enacted to read:

26B-3-201 (Codified as 26B-3-228). Medicaid coverage for certain postpartum women.

(1) As used in this section:

(a) "Extended postpartum period" means the period after a woman's pregnancy ends:

(i) beginning the day after the initial postpartum period; and

(ii) ending on the last day of the month that is 12 months after the day on which the woman's pregnancy ends.

(b) "Initial postpartum period" means the period:

(i) beginning on the day on which a woman's pregnancy ends; and

(ii) ending on the last day of the month that is 60 days after the day on which the woman's pregnancy ends.

(c) "Miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(2) Before July 1, 2023, the division shall request a waiver or state plan amendment to, in accordance with 42 U.S.C. Sec. 1396a(e)(16), provide continuous Medicaid coverage during the woman's extended postpartum period if:

(a) the woman is eligible for Medicaid during the woman's pregnancy; and

(b) the woman's pregnancy ended by way of:

(i) birth;

(ii) miscarriage;

(iii) stillbirth; or

(iv) an abortion that is permitted under Section 76-7a-201.

(3) If the request described in Subsection (2) is denied or is not approved by January 1, 2024, the division shall request a waiver or state plan amendment to, in accordance with 42 U.S.C. Sec. 1396a(e)(16), provide continuous Medicaid coverage during the woman's extended postpartum period if the woman is eligible for Medicaid during the woman's pregnancy.

CHAPTER 317
S. B. 137
Passed February 27, 2023
Approved March 15, 2023
Effective May 3, 2023

MEDICAL CANNABIS AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill enacts provisions related to medical cannabis.

Highlighted Provisions:

This bill:

- defines terms;
- requires the testing for terpene profiles for certain cannabis products;
- requires medical cannabis pharmacies to provide terpene information for certain cannabis products;
- modifies patient caps for qualified medical providers;
- for the initial issuance of a medical cannabis card, extends the expiration date from six months to one year unless the recommending medical provider provides a shorter expiration date;
- allows the Department of Health and Human Services to revoke a medical cannabis patient card if the recommending medical provider withdraws the provider's recommendation for medical cannabis;
- allows certain physician assistants to diagnose post-traumatic stress syndrome for the purpose of recommending medical cannabis;
- allows medical cannabis pharmacies to maintain a liquid cash account instead of a surety bond;
- allows the Compassionate Use Board to review the recommendation of a cannabis product that must be vaporized under certain circumstances;
- allows a recommending medical provider to provide an initial recommendation for medical cannabis virtually under certain circumstances;
- modifies continuing education requirements for qualified medical providers;
- allows an individual residing in certain care facilities to use an expired license to obtain medical cannabis;
- consolidates certain criminal background check requirements for guardians and caregivers;
- for publicly traded medical cannabis pharmacies, changes the ownership percentage an individual must have to be:
  - listed in an application for a license; or
  - required to submit a background check;
- repeals provisions related to the state central patient portal medical provider;
- removes the requirement that before an individual obtains a medical cannabis pharmacy agent card that the individual be employed by a medical cannabis pharmacy;
- removes the requirement that before an individual obtains a medical cannabis courier agent card that the individual be employed by a medical cannabis courier;
- authorizes a medical cannabis pharmacy to engage in targeted marketing; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-41a-701, as last amended by Laws of Utah 2022, Chapter 290
26-61-202, as last amended by Laws of Utah 2022, Chapter 415
26-61a-102, as last amended by Laws of Utah 2022, Chapters 290, 452
26-61a-103, as last amended by Laws of Utah 2022, Chapters 290, 415
26-61a-104, as last amended by Laws of Utah 2022, Chapters 277, 452
26-61a-105, as last amended by Laws of Utah 2022, Chapter 452
26-61a-106, as last amended by Laws of Utah 2022, Chapters 415, 452
26-61a-116, as enacted by Laws of Utah 2022, Chapter 452
26-61a-201, as last amended by Laws of Utah 2022, Chapters 198, 290 and 452
26-61a-202, as last amended by Laws of Utah 2022, Chapters 290, 452
26-61a-301, as last amended by Laws of Utah 2022, Chapter 290
26-61a-302, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
26-61a-401, as last amended by Laws of Utah 2022, Chapters 290, 415
26-61a-403, as last amended by Laws of Utah 2022, Chapters 415, 452
26-61a-501, as last amended by Laws of Utah 2022, Chapters 290, 415
26-61a-502, as last amended by Laws of Utah 2022, Chapter 290
26-61a-503, as last amended by Laws of Utah 2022, Chapter 415
26-61a-505, as last amended by Laws of Utah 2022, Chapter 452 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 290
26-61a-506, as last amended by Laws of Utah 2022, Chapter 415
26-61a-601, as last amended by Laws of Utah 2021, Chapter 337
26-61a-604, as last amended by Laws of Utah 2022, Chapters 290, 452
26-61a-606, as last amended by Laws of Utah 2022, Chapters 290, 415
26-61a-607, as last amended by Laws of Utah 2022, Chapter 452
58-17b-502, as last amended by Laws of Utah 2022, Chapter 465
58-67-502, as last amended by Laws of Utah 2021, Chapter 337
58-68-502, as last amended by Laws of Utah 2021, Chapter 337
78A-2-231, as last amended by Laws of Utah 2022, Chapter 256
80-3-110, as last amended by Laws of Utah 2022, Chapter 256

80-4-109, as enacted by Laws of Utah 2021, Chapter 261

ENACTS:
26-61a-117, Utah Code Annotated 1953
26-61a-206, Utah Code Annotated 1953

REPEALS:
26-61a-602, as last amended by Laws of Utah 2020, Chapter 354

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-701 is amended to read:

4-41a-701. Cannabis and cannabis product testing.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(a) determine required adulterant tests for a cannabis plant product, cannabis concentrate, or cannabis product;

(b) determine the amount of any adulterant that is safe for human consumption;

(c) establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment; or

(d) allow the propagation of testing results forward to derived product if the processing steps the cannabis production establishment uses to produce the product are unlikely to change the results of the test.

(2) The department may require testing for a toxin if:

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

(3) (a) A cannabis production establishment may not:

(i) incorporate cannabis concentrate into a cannabis derivative product until an independent cannabis testing laboratory tests the cannabis concentrate in accordance with department rule; or

(ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an independent cannabis testing laboratory tests a representative sample of the cannabis or cannabis product in accordance with department rule.

(b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product in accordance with department rule.

(4) Before the sale of a cannabis product, an independent cannabis testing laboratory shall:

(a) identify and quantify any cannabinoid known to be present in a cannabis product[.]; and

(b) test terpene profiles for the following products:

(i) raw cannabis; or

(ii) a cannabis product:

(A) contained in a vaporizer cartridge; or

(B) in concentrate form; and

(c) record the five highest terpene profiles tested under Subsection (4)(b).

(5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

(6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Section 2. Section 26-61-202 is amended to read:

26-61-202. Duties.

(1) The board shall review any available scientific research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:

(a) was conducted under a study approved by an IRB;

(b) was conducted or approved by the federal government; or

(c) (i) was conducted in another country; and

(ii) demonstrates, as determined by the board, a sufficient level of scientific reliability and significance to merit the board's review.

(2) Based on the research described in Subsection (1), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:

(a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;

(b) cannabis and cannabinoid dosage amounts and medical dosage forms;

(c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products with other treatments; and

(d) contraindications, adverse reactions, and potential side effects from use of cannabis, cannabinoid products, and expanded cannabinoid products.

(3) (a) Based on the board's evaluation under Subsection (2), the board shall develop guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include:

[(a)] (i) a list of medical conditions, if any, that the board determines are appropriate for treatment

with cannabis, a cannabis product, a cannabinoid product, or an expanded cannabinoid product;

[~~(b)~~] (ii) a list of contraindications, side effects, and adverse reactions that are associated with use of cannabis, cannabinoid products, or expanded cannabinoid products;

[~~(c)~~] (iii) a list of potential drug-drug interactions between medications that the United States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products; and

[~~(d)~~] (iv) any other guideline the board determines appropriate.

[~~(4)~~] (b) The board shall submit the guidelines described in Subsection (3) to the director of the Division of Professional Licensing.

[~~(5)~~] (c) Guidelines that the board develops under this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act.

(4) The board shall provide a report to the Health and Human Services Interim Committee regarding the board's work before October 1 of each year.

Section 3. Section 26-61a-102 is amended to read:

26-61a-102. Definitions.

As used in this chapter:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Advertise" or "advertising" means information provided by a medical cannabis pharmacy in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

[~~(2)~~] (3) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26-61-201.

[~~(3)~~] (4) "Cannabis" means marijuana.

[~~(4)~~] (5) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

[~~(5)~~] (6) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

[~~(6)~~] (7) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

[~~(7)~~] (8) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

[~~(8)~~] (9) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

[~~(9)~~] (10) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

[~~(10)~~] (11) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(11)~~] (12) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26-61a-201(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

[~~(12)~~] (13) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

(14) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility, the medical cannabis cardholder's home address; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

[~~(13)~~] (15) "Department" means the Department of Health.

[~~(14)~~] (16) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26-61a-202; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26-61a-202(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26-61a-202(1)(b)(ii).

[~~(15)~~] (17) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

[~~(16)~~] (18) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

[~~(17)~~] (19) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

(20) "Government issued photo identification" means any of the following forms of identification:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a foreign passport.

[~~(18)~~] (21) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a [~~medical cannabis cardholder's home address~~] delivery address to fulfill electronic orders that the state central patient portal facilitates.

[~~(19)~~] (22) "Inventory control system" means the system described in Section 4-41a-103.

[~~(20)~~] (23) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection 26-61a-502(4) [~~or (5)~~], recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

[~~(21)~~] (24) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

[~~(22)~~] (25) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card or provisional patient card as a result of the individual's recommendation, in accordance with Subsection 26-61a-106(1)(b).

[~~(23)~~] (26) "Marijuana" means the same as that term is defined in Section 58-37-2.

[~~(24)~~] (27) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[~~(25)~~] (28) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

[~~(26)~~] (29) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection[~~(14)(b),~~] (16)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26-61a-202(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26-61a-202(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

[~~(27)~~] (30) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

[~~(28)~~] (31) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 26-61a-604; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

[~~(29)~~] (32) "Medical cannabis courier agent" means an individual [~~who: (a) is an employee of a medical cannabis courier; and (b)~~] who holds a valid medical cannabis courier agent registration card issued by the department.

[~~(30)~~] (33) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

[~~(31)~~] (34) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(32)~~] (35) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(33)~~] (36) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or

(ii) possesses medical cannabis or a medical cannabis device; and

(b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

[~~(34)~~] (37) "Medical cannabis pharmacy agent" means an individual [~~who: (a) is an employee of a medical cannabis pharmacy; and (b)~~] who holds a valid medical cannabis pharmacy agent registration card issued by the department.

[~~(35)~~] (38) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

[~~(36)~~] (39) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a [~~medical cannabis cardholder's home address~~] delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[~~(37)~~] (40) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(38)~~] (41) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that, after December 1, 2022, does not exceed 30 ml;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape;

(I) a resin or wax; or

(J) an aerosol; or

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection [~~(38)~~] (41)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [~~(38)~~] (41)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection [~~(38)~~] (41)(a)(ii), except as provided in Subsection [~~(38)~~] (41)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection [~~(38)~~] (41)(a)(ii) after the legal use termination date;

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch; or

(iv) a liquid suspension that is branded as a beverage.

[~~(39)~~] (42) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

[~~(40)~~] (43) "Payment provider" means an entity that contracts with a cannabis production

establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

[~~(41)~~] (44) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

[~~(42)~~] (45) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[~~(43)~~] (46) "Qualified medical provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

[~~(44)~~] (47) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

[~~(45)~~] (48) "Qualifying condition" means a condition described in Section 26-61a-104.

[~~(46)~~] (49) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

[~~(47)~~] (50) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

[~~(48)~~] (51) "Recommending qualifications" means that an individual:

(a) (i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(49)~~] (52) "State central patient portal" means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.

[~~(50) "State central patient portal medical provider" means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section 26-61a-602.~~]

[~~(51)~~] (53) "State electronic verification system" means the system described in Section 26-61a-103.

(54) "Targeted marketing" means the promotion by a medical cannabis pharmacy of a medical cannabis product, medical cannabis brand, or a medical cannabis device using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information from the medical cannabis pharmacy;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event; or

(c) other marketing material that is physically available or digitally displayed in:

(i) a medical cannabis pharmacy; and

(ii) an area where only a medical cannabis cardholder has access.

[~~(52)~~] (55) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

[~~(53)~~] (56) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(54) "Valid form of photo identification" means any of the following forms of identification that is either current or has expired within the previous six months:~~]

[~~(a) a valid state-issued driver license or identification card;~~]

[~~(b) a valid United States federal-issued photo identification, including:~~]

[~~(i) a United States passport;~~]

[~~(ii) a United States passport card;~~]

[~~(iii) a United States military identification card; or~~]

[~~(iv) a permanent resident card or alien registration receipt card; or~~]

[~~(c) a passport that another country issued.~~]

Section 4. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that[~~, on or before March 1, 2020,~~] the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend[~~, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(a)(iii),~~] treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines; [~~and~~]

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit[~~.~~]; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(d) [~~beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facility medical cannabis pharmacy recording,~~] allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 26-61a-501(10)(a), to:

(i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

(ii) record a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider; [~~and~~]

(iii) record a limited medical provider's renewal of the provider's previous recommendation; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(g) provides access to and interaction with the state central patient portal;

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection [~~26-61a-502(6)(a)(ii)~~] 26-61a-502(5)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) [~~Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an~~] An employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) [~~Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a~~] A prescribing provider may access information in

the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26-61a-703; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 5. Section 26-61a-104 is amended to read:

26-61a-104. Qualifying condition.

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

(2) For the purposes of this chapter, each of the following conditions is a qualifying condition:

(a) HIV or acquired immune deficiency syndrome;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer;

(e) cachexia;

(f) persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to:

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

(g) Crohn's disease or ulcerative colitis;

(h) epilepsy or debilitating seizures;

(i) multiple sclerosis or persistent and debilitating muscle spasms;

(j) post-traumatic stress disorder that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the United States Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation; or

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:

(A) a licensed board-eligible or board-certified psychiatrist;

(B) a licensed psychologist with a master's-level degree;

(C) a licensed clinical social worker with a master's-level degree; [~~or~~]

(D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing specialty and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(5)(g); or

(E) a licensed physician assistant who is qualified to specialize in mental health care under Section 58-70a-501.1;

(k) autism;

(l) a terminal illness when the patient's remaining life expectancy is less than six months;

(m) a condition resulting in the individual receiving hospice care;

(n) a rare condition or disease that:

(i) affects less than 200,000 individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

(ii) is not adequately managed despite treatment attempts using:

(A) conventional medications other than opioids or opiates; or

(B) physical interventions;

(o) pain lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:

(i) conventional medications other than opioids or opiates; or

(ii) physical interventions;

(p) pain that is expected to last for two weeks or longer for an acute condition, including a surgical procedure, for which a medical professional may generally prescribe opioids for a limited duration, subject to Subsection 26-61a-201(5)(c); and

(q) a condition that the Compassionate Use Board approves under Section 26-61a-105, on an individual, case-by-case basis.

Section 6. Section 26-61a-105 is amended to read:

26-61a-105. Compassionate Use Board.

(1) (a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) [~~whom the appropriate board certifies~~] who are board certified by the American Board of Medical Specialties or an American Osteopathic Association Specialty Certifying Board in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, family medicine, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (1)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(2) (a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (2)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

(3) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's

qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) [~~review and approve or deny the use of a medical cannabis device for an individual described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the individual or minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;~~] when a qualified medical provider recommends that an individual described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection 26-61a-201(2)(c) be allowed to use a medical cannabis device or medical cannabis product to vaporize a medical cannabis treatment, review and approve or deny the use of the medical cannabis device or medical cannabis product;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7) (a) (i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:

(A) the department shall notify the Compassionate Use Board of the department's determination; and

(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to the Cannabis Research Review Board.

Section 7. Section 26-61a-106 is amended to read:

26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation -- Limited medical provider.

(1) (a) (i) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.

(b) [~~Beginning on the earlier of September 1, 2021, or the date on which the department gives notice that the electronic verification system is functionally capable as described in Subsection 26-61a-103(2)(d), an~~] An individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) if:

(i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:

(A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or

(B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and

(ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.

(c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:

(i) (A) that the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or

(B) that the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection 26-61a-201(3)(c).

(d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:

(i) the date of issuance;

(ii) the provider's name, address and contact information, controlled substance license information, and signature; and

(iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

(e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department [~~a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3)~~] an acknowledgment that the individual has completed four hours of continuing education related to medical cannabis;

(iii) provides to the department evidence that the individual meets the recommending qualifications;

(iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education [~~described in this Subsection (3)~~] related to medical cannabis in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

[~~(b) In accordance with Subsection (3)(a), a qualified medical provider shall:~~]

[~~(i) complete continuing education:~~]

[~~(A) regarding the topics described in Subsection (3)(d); and~~]

[~~(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and~~]

[~~(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:~~]

[~~(A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, the Podiatric Physician Board;~~]

[~~(B) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;~~]

[~~(C) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;~~]

[~~(D) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and~~]

[~~(E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.~~]

[~~(c)~~] (b) The department may, in consultation with the Division of Professional Licensing, develop [~~the~~] continuing education [~~described in this Subsection (3)~~] related to medical cannabis.

[~~(d)~~] (c) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

[~~(4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 275 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.~~]

[~~(b) A qualified medical provider may recommend a medical cannabis treatment to up to 600 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:~~]

[~~(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or~~]

[~~(ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.~~]

(4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 1.5% of the total amount of medical cannabis patient cardholders.

(b) If a qualified medical provider receives payment from an insurance plan for services provided under this chapter, then the patient whose insurance plan was billed does not count toward the 1.5% patient cap described in Subsection (4)(a).

(5) A recommending medical provider may recommend medical cannabis to an individual under this chapter only in the course of a provider-patient relationship after the recommending medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the individual recommends a medical cannabis treatment.

(b) Notwithstanding Subsection (6)(a) and subject to Section 26-61a-116, a qualified medical provider or clinic or office that employs a qualified medical provider may advertise the following:

(i) a green cross;

(ii) the provider's or clinic's name and logo;

(iii) a qualifying condition that the individual treats;

(iv) that the individual is registered as a qualified medical provider and recommends medical cannabis; or

(v) a scientific study regarding medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license under the recommending qualifications;

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A recommending medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a recommending medical provider or pharmacy medical provider.

(10) (a) On or before November 1, 2021, a qualified medical provider shall report to the department, in a manner designated by the department:

(i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a qualified medical provider or offers medical cannabis recommendations to patients; and

(ii) the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation, either as an actual cash rate or, if the provider or entity bills insurance, an average cash rate.

(b) The department shall:

(i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):

(A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;

(B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and

(C) the fee amount described in Subsection (10)(a)(ii); and

(ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

Section 8. Section 26-61a-116 is amended to read:

26-61a-116. Advertising.

(1) Except as provided in this chapter, a person may not advertise regarding the recommendation, sale, dispensing, or transportation of medical cannabis[~~.~~], including:

(a) a promotional discount or incentive;

(b) a particular medical cannabis product, medical cannabis device, medical cannabis brand, or medicinal dosage form; or

(c) an assurance of a medical outcome related to a medical cannabis treatment.

[~~(2) Notwithstanding any authorization to advertise regarding medical cannabis under this chapter, the person advertising may not advertise:~~]

[~~(a) using promotional discounts or incentives;~~]

[~~(b) a particular medical cannabis product, medical cannabis device, or medicinal dosage form; or~~]

[~~(c) an assurance regarding an outcome related to medical cannabis treatment.~~]

[~~(3)~~] (2) Notwithstanding Subsection (1):

(a) a nonprofit organization that offers financial assistance for medical cannabis treatment to low-income patients may advertise the organization's assistance if the advertisement does not relate to a specific medical cannabis pharmacy or a specific medical cannabis product; and

(b) a medical cannabis pharmacy may provide information regarding subsidies for the cost of medical cannabis treatment to patients who affirmatively accept receipt of the subsidy information.

[~~(4)~~] (3) To ensure that the name and logo of a licensee under this chapter have a medical rather than a recreational disposition, the name and logo of the licensee:

(a) may include terms and images associated with:

(i) a medical disposition, including "medical," "medicinal," "medicine," "pharmacy," "apothecary," "wellness," "therapeutic," "health," "care," "cannabis," "clinic," "compassionate," "relief," "treatment," and "patient;" or

(ii) the plant form of cannabis, including "leaf," "flower," and "bloom";

(b) may not include:

(i) any term, statement, design representation, picture, or illustration that is associated with a recreational disposition or that appeals to children;

(ii) an emphasis on a psychoactive ingredient;

(iii) a specific cannabis strain; or

(iv) terms related to recreational marijuana, including "weed," "pot," "reefer," "grass," "hash," "ganga," "Mary Jane," "high," "buzz," "haze," "stoned," "joint," "bud," "smoke," "euphoria," "dank," "doobie," "kush," "frost," "cookies," "rec," "bake," "blunt," "combust," "bong," "budtender," "dab," "blaze," "toke," or "420."

[~~(5)~~] (4) The department shall define standards for advertising authorized under this chapter, including names and logos in accordance with Subsection (4), to ensure a medical rather than recreational disposition.

Section 9. Section 26-61a-117 is enacted to read:

26-61a-117 (Codified as 26B-4-244). Government issued photo identification.

A government issued photo identification is valid for purposes of this chapter if the identification:

(1) is unexpired;

(2) expired within the previous six months; or

(3) is expired and belongs to an individual who:

(a) as reported by the individual's recommending medical provider is in hospice or has a terminal illness; or

(b) is a patient or resident of:

(i) an assisted living facility, as defined in Section 26-21-2;

(ii) a nursing care facility, as defined in Section 26-21-2; or

(iii) a general acute hospital, as defined in Section 26-21-2.

Section 10. Section 26-61a-201 is amended to read:

26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) [~~The department shall,~~] Subject to Section 26-61a-206, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202, the department shall:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(b) (i) [~~Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis card under this Subsection (1)(b), upon~~] Upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 26-61a-501(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203[~~; and~~].

[~~(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.~~]

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26-61a-202.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) [~~Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if~~] If the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's [~~valid form of~~] government issued photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26-61a-106(1)(c) and (d).

(ii) If a recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-1-301, may handle the

medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:

(a) visit with the patient face-to-face for an initial recommendation unless the patient:

(i) prefers a virtual visit; and

(ii) (A) is on hospice or has a terminal illness according to the patient's medical provider; or

(B) is a resident of an assisted living facility, as defined in Section 26-21-2, or a nursing care facility, as defined in Section 26-21-2;

(b) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's [~~valid form of identification~~] government issued photo identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during [~~an initial face-to-face~~] a visit with the patient; and

[~~(b)~~] (c) state in the recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) one year from the day the card is issued.

[~~(ii) (A) six months for the first issuance, and, except as provided in Subsection (5)(a)(ii)(B), for a renewal; or~~]

[~~(B) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the recommending medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.~~]

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 expires after one year.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(c) A medical cannabis card that the department issues in relation to acute pain as described in Section 26-61a-104 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26-61a-105.

(b) The recommending medical provider who made the underlying recommendation for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card through phone or video conference with the cardholder, at the recommending medical provider's discretion.

(c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(8) (a) The department may revoke a medical cannabis card that the department issues under this section if:

(i) the recommending medical provider withdraws the medical provider's recommendation for medical cannabis; or

(ii) the cardholder:

[~~(a)~~] (A) violates this chapter; or

[~~(b)~~] (B) is convicted under state or federal law of, after March 17, 2021, a drug distribution offense.

(b) The department may not refuse to issue a medical cannabis card to a patient solely based on a prior revocation under Subsection (8)(a)(i).

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11) (a) On or before September 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 11. Section 26-61a-202 is amended to read:

26-61a-202. Medical cannabis caregiver card -- Registration.

(1) (a) A cardholder described in Section 26-61a-201 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a cardholder described in Section 26-61a-201 may designate one of the following types of facilities as one of the caregivers described in Subsection (1)(a):

(A) for a patient or resident, an assisted living facility, as that term is defined in Section 26-21-2;

(B) for a patient or resident, a nursing care facility, as that term is defined in Section 26-21-2; or

(C) for a patient, a general acute hospital, as that term is defined in Section 26-21-2.

(ii) A facility may:

(A) assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b); and

(B) receive a medical cannabis shipment from a medical cannabis pharmacy or a medical cannabis courier on behalf of the medical cannabis cardholder within the facility who designated the facility as a caregiver.

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26-61a-201.

(d) (i) Beginning on the earlier of September 1, 2022, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis caregiver card under this Subsection (1)(d), upon the entry of a caregiver designation under Subsection (1) by a patient with a terminal illness described in Section 26-61a-104, the department shall issue to the designated caregiver an electronic conditional medical cannabis caregiver card, in accordance with this Subsection (1)(d).

(ii) A conditional medical cannabis caregiver card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis caregiver card application, or revokes the conditional medical cannabis caregiver card under [~~Subsection (8)~~] Section 26-61a-206.

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver; and

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis.

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsections (5)(b) and (3)(c)(i).

(c) If a cardholder described in Section 26-61a-201 designates an individual as a caregiver who already holds a medical cannabis caregiver card, the individual with the medical cannabis caregiver card:

(i) shall report to the department the information required of applicants under Subsection (5)(b) regarding the new designation;

(ii) if the individual makes the report described in Subsection (3)(c)(i), is not required to file an application for another medical cannabis caregiver card;

(iii) may receive an additional medical cannabis caregiver card in relation to each additional medical cannabis patient who designates the caregiver; and

(iv) is not subject to an additional background check.

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(9)[~~, and~~].

[~~(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.~~]

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant;

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder; and

(iv) any additional information that the department requests to assist in matching the application with the designating medical cannabis patient.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

[~~(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:~~]

[~~(a) violates this chapter; or~~]

[~~(b) is convicted under state or federal law of:~~]

[~~(i) a felony drug distribution offense; or~~]

[~~(ii) after December 3, 2018, a misdemeanor drug distribution offense.~~]

[~~(9)~~] (8) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 12. Section 26-61a-206 is enacted to read:

26-61a-206 (Codified as 26B-4-246). Denial or revocation of guardian card or caregiver card.

The department may deny or revoke a medical cannabis guardian card or a medical cannabis caregiver card if the applicant or cardholder:

(1) violates the requirements of this chapter; or

(2) unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application, has been convicted of any of the following under state or federal law:

(a) a drug distribution offense that is a felony within the preceding 10 years; or

(b) after December 3, 2018, a drug distribution offense that is a misdemeanor.

Section 13. Section 26-61a-301 is amended to read:

26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of [~~2~~] 10% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) [~~a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least $100,000~~] for each application that the applicant submits to the department, a statement from the applicant that the applicant will obtain and maintain:

(A) a performance bond in the amount of $100,000 issued by a surety authorized to transact surety business in the state; or

(B) a liquid cash account in the amount of $100,000 with a financial institution;

(iv) an operating plan that:

(A) complies with Section 26-61a-304;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section 26-61a-507; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant [~~obtains the performance bond described in~~] complies with the bond or liquid cash requirement described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504;

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and

(c) charge the licensee a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5) (a) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(i) shall consult with the Department of Agriculture and Food regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a license to operate a cannabis cultivation facility if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6) (a) The department may revoke a license under this part:

(i) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;

(ii) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution;

(iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter; or

(vi) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter.

(b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Patient Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 14. Section 26-61a-302 is amended to read:

26-61a-302. Medical cannabis pharmacy owners and directors -- Criminal background checks.

(1) Each applicant to whom the department issues a notice of intent to award a license to operate as a medical cannabis pharmacy shall submit, before the department may award the license, from each individual who has a financial or voting interest of [~~2~~] 10% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 15. Section 26-61a-401 is amended to read:

26-61a-401. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) [~~Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each~~] Each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next

Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(9) (a) As a condition precedent to registration and renewal of a medical cannabis pharmacy agent registration card, a medical cannabis pharmacy agent shall:

(i) complete at least one hour of continuing education regarding patient privacy and federal health information privacy laws that is offered by the department under Subsection (9)(b) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and the Board of Pharmacy.

(b) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (9).

(c) The pharmacist-in-charge described in Section 26-61a-403 shall ensure that each medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to the state electronic verification system is in compliance with this Subsection (9).

(10) A medical cannabis pharmacy shall:

(a) maintain a list of employees that have a medical cannabis pharmacy agent registration card; and

(b) provide the list to the department upon request.

Section 16. Section 26-61a-403 is amended to read:

26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider [~~or a state central patient portal medical provider~~] as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the

qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5) (a) Except as provided in Subsection (5)(b), a person may not advertise that the person or another person dispenses medical cannabis.

(b) Notwithstanding Subsection (5)(a) and subject to Section 26-61a-116, a registered pharmacy medical provider may advertise the following:

(i) a green cross;

(ii) that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

(iii) a scientific study regarding medical cannabis use.

Section 17. Section 26-61a-501 is amended to read:

26-61a-501. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, Section 26-61a-304.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection (4):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department or the Department of Agriculture and Food performing an inspection under Section 26-61a-504; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(5) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-61a-502(2).

(7) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:

(A) a unique identification number;

(B) directions for use and cautionary statements;

(C) amount and cannabinoid content; and

(D) a suggested use date.

(iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:

(A) the cannabinoid content;

(B) the suggested use date; and

(C) any other requirements that the department determines.

(iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (9)(b)(i).

(10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26-61a-106(1)(b) through (d):

(i) for a written order or an electronic order under circumstances that the department determines, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4), [~~or (5),~~] verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(11) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited

medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 18. Section 26-61a-502 is amended to read:

26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card;

(B) a department registration described in Section 26-61a-201(10); and

(ii) a corresponding [~~valid form of~~] government issued photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device or medical cannabis product to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5)(b).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

(ii) to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

(3) An individual with a medical cannabis card:

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis in a medicinal dosage form; and

(ii) a cannabis product in a medicinal dosage form;

(b) may not purchase:

(i) more medical cannabis than described in Subsection (3)(a); or

(ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis; and

(c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

(4) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) information regarding the qualifying condition underlying the recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (4)(a); and

(ii) [~~unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5),~~] after completing the review described in Subsection (4)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the recommending medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

[~~(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.~~]

[~~(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.~~]

[~~(6)~~] (5) (a) A medical cannabis pharmacy shall:

(i) (A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

(B) if the verification in Subsection [~~(6)(a)(i)~~] (5)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;

(ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

(iv) package any medical cannabis that is in a container that:

(A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26-61a-102;

(B) is tamper-resistant and tamper-evident; and

(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public; [~~and~~]

(v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption[~~.~~]; and

(vi) beginning January 1, 2024, for a cannabis product that is cannabis flower, vaporizer cartridges, or concentrate, provide the product's terpene profiles collected under Subsection 4-41a-602(4) at or before the point of sale.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection [~~(6)(a)(iv)~~] (5)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

[~~(7)~~] (6) (a) Except as provided in Subsection [~~(7)(b)~~] (6)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

[~~(8)~~] (7) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

[~~(9)~~] (8) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

[~~(10)~~] (9) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

Section 19. Section 26-61a-503 is amended to read:

26-61a-503. Partial filling.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the recommending medical provider recommends, if the recommending medical provider recommended specific dosing [~~parameters~~] guidelines.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the recommending medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing [~~parameters~~] guidelines, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing [~~parameters~~] guidelines for the partial fill under Subsection 26-61a-502(4) [~~or (5)~~]; and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 20. Section 26-61a-505 is amended to read:

26-61a-505. Advertising.

(1) Except as provided in this section, a person may not advertise in any medium regarding a medical cannabis pharmacy or the dispensing of medical cannabis within the state.

(2) [~~Subject to Section 26-61a-116, a~~] A medical cannabis pharmacy may:

(a) advertise an employment opportunity at the medical cannabis pharmacy;

(b) notwithstanding any municipal or county ordinance prohibiting signage, use signage on the outside of the medical cannabis pharmacy that:

(i) includes only:

(A) in accordance with Subsection [~~26-61a-116(4)~~] 26-61a-116(3), the medical cannabis pharmacy's name, logo, and hours of operation; and

(B) a green cross; and

(ii) complies with local ordinances regulating signage;

(c) advertise in any medium:

(i) the pharmacy's name and logo;

(ii) the location and hours of operation of the medical cannabis pharmacy;

(iii) a service available at the medical cannabis pharmacy;

(iv) personnel affiliated with the medical cannabis pharmacy;

(v) whether the medical cannabis pharmacy is licensed as a home delivery medical cannabis pharmacy;

(vi) best practices that the medical cannabis pharmacy upholds; and

(vii) educational material related to the medical use of cannabis, as defined by the department;

(d) hold an educational event for the public or medical providers in accordance with Subsection (3) and the rules described in Subsection (4); [~~and~~]

(e) maintain on the medical cannabis pharmacy's website non-promotional information regarding the medical cannabis pharmacy's inventory[~~.~~]; or

(f) engage in targeted marketing, as determined by the department through rule, for advertising a particular medical cannabis product, medical cannabis device, or medical cannabis brand.

(3) A medical cannabis pharmacy may not include in an educational event described in Subsection (2)(d):

(a) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis Production Establishments;

(b) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(c) any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(d) a presenter other than the following:

(i) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(v) a medical practitioner, similar to the practitioners described in this Subsection (3)(d)(v), who is licensed in another state or country;

(vi) a state employee; or

(vii) if the presentation relates to a cannabis topic other than medical treatment or medical conditions, an individual whom the department approves based on the individual's background and credentials in the presented topic.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define:

(a) the educational material described in Subsection (2)(c)(vii); and

(b) the elements of and restrictions on the educational event described in Subsection (3), including:

(i) a minimum age of 21 years old for attendees; and

(ii) an exception to the minimum age for a medical cannabis patient cardholder who is at least 18 years old.

Section 21. Section 26-61a-506 is amended to read:

26-61a-506. Medical cannabis transportation.

(1) Only the following individuals may transport medical cannabis under this chapter:

(a) a registered medical cannabis pharmacy agent;

(b) a registered medical cannabis courier agent;

(c) a registered pharmacy medical provider; or

(d) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card under this chapter who is transporting a medical cannabis treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall:

(a) be currently employed by the medical cannabis pharmacy or the medical cannabis courier that is authorizing the individual to transport the medical cannabis; and

(b) possess a transportation manifest that:

[~~(a)~~] (i) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;

[~~(b)~~] (ii) includes origin and destination information for the medical cannabis that the individual is transporting; and

[~~(c)~~] (iii) identifies the departure and arrival times and locations of the individual transporting the medical cannabis.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis to ensure that the medical cannabis remains safe for human consumption.

(b) The transportation described in Subsection (1)(a) is limited to transportation between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy; or

(ii) for a medical cannabis shipment, a [~~medical cannabis cardholder's home~~] delivery address.

(4) (a) It is unlawful for an individual described in Subsection (1) to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an individual who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the individual described in Subsection (4)(a) is transporting more medical cannabis than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Section 22. Section 26-61a-601 is amended to read:

26-61a-601. State central patient portal -- Department duties.

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

(a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;

(b) allow a medical cannabis patient cardholder to:

(i) obtain and download the cardholder's medical cannabis card;

(ii) review the cardholder's medical cannabis purchase history; and

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201(12);

(c) if the cardholder's recommending medical provider recommended the use of medical cannabis without providing directions of use and dosing guidelines and the cardholder has not yet received the counseling or consultation required in Subsection 26-61a-502(4):

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for [~~each state central patient portal medical provider and~~] each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order:

(i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or

(ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in person from the pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection 26-61a-502(2)(a) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.

(3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

Section 23. Section 26-61a-604 is amended to read:

26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of [~~2~~] 10% or greater in the proposed medical cannabis [~~pharmacy~~] courier; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(ii).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times;

(c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of [2] 10% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(15) (a) A medical cannabis courier license is not transferrable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

(i) concurrent with the report described in Subsection (15)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that

the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

(16) (a) Except as provided in Subsection [~~(15)(b)~~] (16)(b), a person may not advertise regarding the transportation of medical cannabis.

(b) Notwithstanding Subsection (15)(a) and subject to Section 26-61a-116, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

(i) a green cross;

(ii) the pharmacy's or courier's name and logo; and

(iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section 24. Section 26-61a-606 is amended to read:

26-61a-606. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a medical cannabis courier agent unless[~~: (a) the individual is an employee of a licensed medical cannabis courier; and (b)~~] the department registers the individual as a medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and address of the medical cannabis courier;

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

(D) the submission required under Subsection (2)(b);

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution; and

(iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) [~~Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each~~] Each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the

Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the medical cannabis shipment process; and

(iii) medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis courier agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(6) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:

(a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a [~~medical cannabis cardholder's home~~] delivery address; and

(b) the agent is handling a medical cannabis shipment.

(8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.

(9) (a) A medical cannabis courier agent who violates Subsection (7) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (9)(a).

(10) A medical cannabis courier shall:

(a) maintain a list of employees who have a medical cannabis courier agent card; and

(b) provide the list to the department upon request.

Section 25. Section 26-61a-607 is amended to read:

26-61a-607. Home delivery of medical cannabis shipments.

(1) An individual may not receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from a home delivery medical cannabis pharmacy unless:

(a) the individual receiving the shipment presents:

(i) a [~~valid form of photo identification~~] government issued photo identification; and

(ii) (A) a valid medical cannabis card under the same name that appears on the [~~valid form of photo identification~~] government issued photo identification; or

(B) for a facility that a medical cannabis cardholder has designated as a caregiver under Subsection 26-61a-202(1)(b), evidence of the facility caregiver designation; and

(b) the delivery occurs at:

(i) the [~~medical cannabis cardholder's home~~] delivery address that is on file in the state electronic verification system; or

(ii) the facility that the medical cannabis cardholder has designated as a caregiver under Subsection 26-61a-202(1)(b).

(2) (a) A medical cannabis pharmacy agent may not deliver a medical cannabis shipment on behalf of a home delivery medical cannabis pharmacy unless the medical cannabis pharmacy agent is currently employed by the home delivery medical cannabis pharmacy.

(b) A medical cannabis courier agent may not deliver a medical cannabis shipment on behalf of a medical cannabis courier unless the medical cannabis courier agent is currently employed by the medical cannabis courier.

(c) Before a medical cannabis pharmacy agent or a medical cannabis courier agent distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

[~~(a)~~] (i) verify the shipment information using the state electronic verification system;

[~~(b)~~] (ii) ensure that the individual satisfies the identification requirements in Subsection (1);

[~~(c)~~] (iii) verify that payment is complete; and

[~~(d)~~] (iv) record the completion of the shipment transaction in a manner such that the delivery of the shipment will later be recorded within a reasonable period in the electronic verification system.

(3) The medical cannabis courier shall:

(a) (i) store each medical cannabis shipment in a secure manner until the recipient medical cannabis cardholder receives the shipment or the medical cannabis courier returns the shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4); and

(ii) ensure that only a medical cannabis courier agent is able to access the medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

(b) return any undelivered medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has possessed the shipment for 10 business days; and

(c) return any medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to accept the shipment.

(4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered medical cannabis shipment that remains unopened, the home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

(b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the shipment by:

(i) rendering the shipment unusable and unrecognizable before transporting the shipment from the home delivery medical cannabis pharmacy; and

(ii) disposing of the shipment in accordance with:

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 26. Section 58-17b-502 is amended to read:

58-17b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of a pharmacy;

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

(m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;

(n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order;

(o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(p) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act[~~: (a)~~], when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy[~~; or~~].

[~~(b) when acting as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.~~]

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 27. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis; or

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy[~~; or~~].

[~~(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.~~]

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 28. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis; or

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy[~~; or~~].

[~~(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.~~]

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 29. Section 78A-2-231 is amended to read:

78A-2-231. Consideration of lawful use or possession of medical cannabis.

(1) As used in this section:

(a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(g) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection 26-61a-502(4) [~~or (5)~~].

(3) Notwithstanding Sections 77-18-105 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

Section 30. Section 80-3-110 is amended to read:

80-3-110. Consideration of cannabis during proceedings -- Drug testing.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(h) " Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In a proceeding under this chapter, in which the juvenile court makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's medical cannabis card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection 26-61a-502(4) [~~or (5)~~].

(3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of the child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of the child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

(6) If an individual, who is party to a proceeding under this chapter, is ordered by the juvenile court to submit to drug testing, or is referred by the division or a guardian ad litem for drug testing, the individual may not be ordered or referred for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

Section 31. Section 80-4-109 is amended to read:

80-4-109. Consideration of cannabis during proceedings.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(h) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In a proceeding under this chapter in which the juvenile court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) [~~or (5)~~].

(3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Section 32. Repealer.

This bill repeals:

Section 26-61a-602, State central patient portal medical provider.

CHAPTER 318
S. B. 140
Passed February 23, 2023
Approved March 15, 2023
Effective May 3, 2023

ADULT PROTECTIVE SERVICES AMENDMENTS

Chief Sponsor: Karen Kwan
House Sponsor: Sahara Hayes

LONG TITLE

General Description:

This bill amends provisions regarding the powers of Adult Protective Services.

Highlighted Provisions:

This bill:

- expands the circumstances under which Adult Protective Services may issue an administrative subpoena in relation to a vulnerable adult who is the subject of an investigation; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-3-303, as last amended by Laws of Utah 2017, Chapter 176

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-3-303 is amended to read:

62A-3-303. Powers and duties of Adult Protective Services.

In addition to all other powers and duties that Adult Protective Services is given under this part, Adult Protective Services:

(1) shall maintain an intake system for receiving and screening reports;

(2) shall investigate referrals that meet the intake criteria;

(3) shall conduct assessments of vulnerability and functional capacity as it relates to an allegation of abuse, neglect, or exploitation of an adult who is the subject of a report;

(4) shall perform assessments based on protective needs and risks for a vulnerable adult who is the subject of a report;

(5) may address any protective needs by making recommendations to and coordinating with the vulnerable adult or by making referrals to community resources;

(6) may provide short-term, limited services to a vulnerable adult when family or community resources are not available to provide for the protective needs of the vulnerable adult;

(7) shall have access to facilities licensed by, or contracted with, the department or the Department of Health and Human Services for the purpose of conducting investigations;

(8) shall be given access to, or provided with, written statements, documents, exhibits, and other items related to an investigation, including private, controlled, or protected medical or financial records of a vulnerable adult who is the subject of an investigation if:

(a) for a vulnerable adult who has the capacity to consent, the vulnerable adult signs a release of information; or

(b) [~~for a vulnerable adult who lacks capacity to consent,~~] an administrative subpoena is issued by Adult Protective Services[~~;~~]:

(i) for a vulnerable adult who has limited capacity to consent;

(ii) for a vulnerable adult whose legal guardian refuses to consent;

(iii) to a custodian of records or other items for a vulnerable adult, if the custodian refuses to allow access to the records or items without a subpoena; or

(iv) when the records or other items sought are reasonably necessary for Adult Protective Services to:

(A) investigate the alleged abuse, neglect, or exploitation of a vulnerable adult; or

(B) protect a vulnerable adult who may be the victim of abuse, neglect, or exploitation;

(9) may initiate proceedings in a court of competent jurisdiction to seek relief necessary to carry out the provisions of this chapter;

(10) shall, subject to Section 62A-3-320, provide emergency protective services;

(11) may require all persons, including family members of a vulnerable adult and any caretaker, to cooperate with Adult Protective Services in carrying out its duties under this chapter, including the provision of statements, documents, exhibits, and other items that assist Adult Protective Services in conducting investigations and providing protective services;

(12) may require all officials, agencies, departments, and political subdivisions of the state to assist and cooperate within their jurisdictional power with the court, the division, and Adult Protective Services in furthering the purposes of this chapter;

(13) may conduct studies and compile data regarding abuse, neglect, and exploitation; and

(14) may issue reports and recommendations.

CHAPTER 319
S. B. 155
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

LITIGATION PROCEED FUND AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill enacts requirements for the use of funds received from opioid litigation proceeds.

Highlighted Provisions:

This bill:

- designates the Office of Substance Use and Mental Health as the reporting entity for any settlement or other agreement that requires reporting on the use of opioid funds and describes the reporting requirements for governmental entities that receive opioid funds; and
- modifies the Opioid Litigation Proceeds Restricted Account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
51-9-801, as enacted by Laws of Utah 2020, Chapter 210

ENACTS:
26B-5-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-5-102 is enacted to read:

26B-5-102 (Codified as 26B-5-211). Administration of opioid litigation proceeds -- Requirements for governmental entities receiving opioid funds -- Reporting.

(1) As used in this section:

(a) "Office" means the Office of Substance Use and Mental Health within the department.

(b) "Opioid funds" means money received by the state or a political subdivision of the state as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.

(c) "Restricted account" means the Opioid Litigation Proceeds Restricted Account created in Section 51-9-801.

(2) Opioid funds may not be used to:

(a) reimburse expenditures that were incurred before the opioid funds were received by the governmental entity; or

(b) supplant or take the place of any funds that would otherwise have been expended for that purpose.

(3) The office shall serve as the reporting entity to receive, compile, and submit any reports related to opioid funds that are required by law, contract, or other agreement.

(4) The requirement described in Subsection (5) applies to:

(a) a recipient of opioid funds from the restricted account, in any year that opioid funds are received; and

(b) a political subdivision that received opioid funds.

(5) A person described in Subsection (4) shall provide an annual report to the office, in a form and by a date established by the office, that includes:

(a) an accounting of all opioid funds that were received by the person in the year;

(b) the number of individuals served through programs funded by the opioid funds, including the individuals' age, gender, and other demographic factors reported in a de-identified manner;

(c) the measures that were used to determine whether the program funded by the opioid funds achieved the intended outcomes; and

(d) if applicable, any information required to be submitted to the reporting entity under applicable law, contract, or other agreement.

(6) Beginning October 1, 2023, and on or before October 1 of each year thereafter, the office shall provide a written report that includes:

(a) the opening and closing balance of the restricted account for the previous fiscal year;

(b) the name of and amount received by each recipient of funds from the restricted account;

(c) a description of the intended use of each award, including the specific program, service, or resource funded, population served, and measures that the recipient used or will use to assess the impact of the award;

(d) a description of any finding or concern as to whether all opioid funds disbursed from the restricted account violated the prohibitions in Subsection (2) and, if applicable, complied with the requirements of a settlement agreement; and

(e) the performance indicators and progress toward improving outcomes and reducing mortality and other harms related to substance use disorders.

(7) The office shall provide the information that is received, compiled, and submitted under this section:

(a) to the Health and Human Services Interim Committee;

(b) to the Social Services Appropriations Subcommittee;

(c) if required under the terms of a settlement agreement under which opioid funds are received, to the administrator of the settlement agreement in accordance with the terms of the settlement agreement; and

(d) in a publicly accessible location on the department's website.

(8) The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 2. Section 51-9-801 is amended to read:

51-9-801. Opioid Litigation Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the Opioid Litigation [~~Settlement~~] Proceeds Restricted Account.

(2) The account consists of:

(a) any money deposited into the account in accordance with Subsection (3);

(b) interest earned on money in the account; and

(c) money appropriated to the account by the Legislature.

(3) Notwithstanding Sections 13-2-8 and 76-10-3114, after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in Subsection (3)(a) or (b), the following shall be deposited into the account:

(a) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids from a case designated as an opioid case by the attorney general in a legal services contract; and

(b) all money received by the attorney general or the Department of Commerce as a result of any multistate judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.

(4) Subject to appropriation by the Legislature, money in the account shall be used:

(a) to address the effects of alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids; or

(b) if applicable, in accordance with the terms of a settlement agreement described in Subsection (3)(a) or (b) entered into by the state.

CHAPTER 320
S. B. 163
Passed March 2, 2023
Approved March 15, 2023
Effective May 3, 2023

CHILD WELFARE MODIFICATIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill amends provisions regarding the placement of a child.

Highlighted Provisions:

This bill:

- defines terms;
- provides that it is the public policy of the state that, with certain conditions:
  - a parent retains the right to have contact with a child when the child is placed outside of the home; and
  - a child has the right to have contact with siblings when the child is placed apart from the child's siblings;
- directs a juvenile court to make certain findings regarding parent-time;
- requires that parent-time be under the least restrictive conditions necessary to protect the child;
- removes a provision related to the primary permanency plan for a child who is three years old or younger; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-2a-201, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-3-307, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-3-402, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-3-405, as last amended by Laws of Utah 2022, Chapter 335
80-3-406, as last amended by Laws of Utah 2022, Chapters 287, 334
80-3-407, as last amended by Laws of Utah 2022, Chapters 287, 335
80-3-409, as last amended by Laws of Utah 2022, Chapters 287, 335

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 80-2a-201 is amended to read:

80-2a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's child is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Before an adjudication of unfitness, government action in relation to a parent and the parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parent are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of a parent to conceive and raise the parent's child are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's child; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that:

(i) a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child[.];

(ii) a parent retains the right to have contact with the parent's child when the child is placed outside of

the parent's home, and parent-time should be ordered by a court so long as the contact is not contrary to the best interest of the child; and

(iii) a child has the right to have contact with the child's sibling when the child is placed outside of the home and apart from the child's sibling, and sibling visits should be ordered by a court unless the contact would be contrary to the safety or well-being of the child.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect. Therefore, the state, as parens patriae, has an interest in and responsibility to protect a child whose parent abuses the child or does not adequately provide for the child's welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's child.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, the division shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout the division's involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) If circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings, and when safe and appropriate, return the child to the child's parent or as a last resort, pursue another permanency plan.

(5) In determining and making reasonable efforts with regard to a child, under Section 80-2a-302, both the division's and the juvenile court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the juvenile court.

(6) In accordance with Subsections 80-2a-302(4) and 80-3-301(12), in cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the state has no duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, if appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.

(b) If the use or continuation of reasonable efforts, as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in Chapter 4, Termination and Restoration of Parental Rights, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.

(8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to Subsections 80-1-102(58)(b)(i) through (iii) and Sections 80-3-109 and 80-3-304.

Section 2. Section 80-3-307 is amended to read:

80-3-307. Child and family plan developed by division -- Parent-time and relative visitation.

(1) The division shall develop and finalize a child's child and family plan no more than 45 days after the day on which the child enters the temporary custody of the division.

(2) (a) The division may use an interdisciplinary team approach in developing a child and family plan.

(b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:

(i) mental health;

(ii) education; or

(iii) if appropriate, law enforcement.

(3) (a) The division shall involve all of the following in the development of a child's child and family plan:

(i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

(ii) the child;

(iii) the child's foster parents; and

(iv) if appropriate, the child's stepparent.

(b) Subsection (3)(a) does not prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being involved in the development of a child's child and family plan if the party or counsel's participation is otherwise permitted by law.

(c) In relation to all information considered by the division in developing a child and family plan, the division shall give additional weight and attention to the input of the child's natural and foster parents upon the involvement of the child's natural and foster parents under Subsections (3)(a)(i) and (iii).

(d) (i) The division shall make a substantial effort to develop a child and family plan with which the child's parents agree.

(ii) If a parent does not agree with a child and family plan:

(A) the division shall strive to resolve the disagreement between the division and the parent; and

(B) if the disagreement is not resolved, the division shall inform the court of the disagreement.

(4) A copy of the child and family plan shall, immediately upon completion, or as soon as reasonably possible thereafter, be provided to:

(a) the guardian ad litem;

(b) the child's natural parents; and

(c) the child's foster parents.

(5) A child and family plan shall:

(a) specifically provide for the safety of the child, in accordance with federal law;

(b) clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child;

(c) be specific to each child and the child's family, rather than general;

(d) include individualized expectations and contain specific time frames;

(e) except as provided in Subsection (6), address problems that:

(i) keep a child in the child's placement; and

(ii) keep a child from achieving permanence in the child's life;

(f) be designed to:

(i) minimize disruption to the normal activities of the child's family, including employment and school; and

(ii) as much as practicable, help the child's parent maintain or obtain employment; and

(g) set forth, with specificity, at least the following:

(i) the reason the child entered into protective custody or the division's temporary custody or custody;

(ii) documentation of:

(A) the reasonable efforts made to prevent placement of the child in protective custody or the division's temporary custody or custody; or

(B) the emergency situation that existed and that prevented the reasonable efforts described in Subsection (5)(g)(ii)(A), from being made;

(iii) the primary permanency plan for the child, as described in Section 80-3-406, and the reason for selection of the plan;

(iv) the concurrent permanency plan for the child, as described in Section 80-3-406, and the reason for the selection of the plan;

(v) if the plan is for the child to return to the child's family:

(A) specifically what the parents must do in order to enable the child to be returned home;

(B) specifically how the requirements described in Subsection (5)(g)(v)(A) may be accomplished; and

(C) how the requirements described in Subsection (5)(g)(v)(A) will be measured;

(vi) the specific services needed to reduce the problems that necessitated placing the child in protective custody or the division's temporary custody or custody;

(vii) the name of the individual who will provide for and be responsible for case management for the division;

(viii) subject to Subsection (10), a parent-time schedule between the natural parent and the child;

(ix) subject to Subsection (7), the health and mental health care to be provided to address any known or diagnosed mental health needs of the child;

(x) if residential treatment rather than a foster home is the proposed placement, a requirement for a specialized assessment of the child's health needs including an assessment of mental illness and behavior and conduct disorders;

(xi) social summaries that include case history information pertinent to case planning; and

(xii) subject to Subsection (12), a sibling visitation schedule.

(6) For purposes of Subsection (5)(e), a child and family plan may only include requirements that:

(a) address findings made by the court; or

(b) (i) are requested or consented to by a parent or guardian of the child; and

(ii) are agreed to by the division and the guardian ad litem.

(7) (a) Subject to Subsection (7)(b), in addition to the information required under Subsection (5)(g)(ix), a child and family plan shall include a specialized assessment of the medical and mental health needs of a child, if the child:

(i) is placed in residential treatment; and

(ii) has medical or mental health issues that need to be addressed.

(b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate medical or mental health diagnosis of the parent's child from a licensed practitioner of the parent's choice.

(8) (a) The division shall train the division's employees to develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the particular child and the child's family.

(b) The child's natural parents, foster parents, and if appropriate, stepparents, shall be kept informed of and supported to participate in important meetings and procedures related to the child's placement.

[~~(9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three years old or younger, if the child and family plan is not to return the child home, the primary permanency plan described in Section 80-3-406 for the child shall be adoption.~~]

[~~(b) Notwithstanding Subsection (9)(a), if~~]

(9) If the division documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 80-3-301(6)(e) are not in the child's best interest, the court may order another planned permanent living arrangement in accordance with federal law.

(10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a court order issued in accordance with Subsection 80-3-406(9).

(b) Notwithstanding Subsection (10)(a), the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(i) protect the physical safety of the child;

(ii) protect the life of the child; or

(iii) consistent with Subsection (10)(c), prevent the child from being traumatized by contact with the parent.

(c) In determining whether the condition of the parent described in Subsection (10)(b) will traumatize a child, the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(i) the child's fear of the parent; and

(ii) the nature of the alleged abuse or neglect.

(11) If a child is in the division's temporary custody or custody, the division shall consider visitation with the child's grandparent if:

(a) the division determines the visitation to be in the best interest of the child;

(b) there are no safety concerns regarding the behavior or criminal background of the grandparent;

(c) allowing the grandparent visitation would not compete with or undermine the child's reunification plan;

(d) there is a substantial relationship between the grandparent and child; and

(e) the grandparent visitation will not unduly burden the foster parents.

(12) (a) The division shall incorporate into the child and family plan reasonable efforts to provide sibling visitation if:

(i) siblings are separated due to foster care or adoptive placement;

(ii) the sibling visitation is in the best interest of the child for whom the child and family plan is developed; and

(iii) the division has consent for sibling visitation from the guardian of the sibling.

(b) The division shall obtain consent for sibling visitation from the sibling's guardian if the criteria of Subsections (12)(a)(i) and (ii) are met.

Section 3. Section 80-3-402 is amended to read:

80-3-402. Adjudication hearing -- Dispositional hearing time deadlines -- Scheduling of review and permanency hearing.

(1) If, at the adjudication hearing, the juvenile court finds, by clear and convincing evidence, that the allegations contained in the abuse, neglect, or dependency petition are true, the juvenile court shall conduct a dispositional hearing.

(2) (a) If, at the adjudication hearing, a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (2)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (2)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

[~~(2)~~] (3) The dispositional hearing may be held on the same date as the adjudication hearing, but shall be held no later than 30 calendar days after the day on which the adjudication hearing is held.

[~~(3)~~] (4) At the adjudication hearing or the dispositional hearing, the juvenile court shall schedule dates and times for:

(a) the six-month periodic review; and

(b) the permanency hearing.

[~~(4)~~] (5) If an abuse, neglect, or dependency petition is filed under this chapter and a petition for termination of parental rights is filed under Section 80-4-201, before the day on which a dispositional hearing is held on the abuse, neglect, or dependency petition, a party may request a hearing on whether reunification services are appropriate in accordance with the factors described in Subsections 80-3-406(5) and (7).

Section 4. Section 80-3-405 is amended to read:

80-3-405. Dispositions after adjudication.

(1) (a) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.

(2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(c) The juvenile court may order:

(i) protective supervision;

(ii) family preservation;

(iii) sibling visitation; or

(iv) other services.

(d) (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the natural parents of the minor.

(iii) An order under this Subsection (2)(d):

(A) shall remain in effect until the minor is 18 years old;

(B) is not subject to review under Section 78A-6-358; and

(C) may be modified by petition or motion as provided in Section 78A-6-357.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section 62A-15-701, of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(f) (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g) (i) Subject to Subsection 80-1-102(58)(b) and Section 80-3-304, the juvenile court may order that a minor:

(A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court shall consider:

(A) the desires of the minor;

(B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(h) The juvenile court may make other reasonable orders for the best interest of the minor.

(3) (a) At the dispositional hearing described in Subsection 80-3-402(3), if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (3)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (3)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

[~~(3)~~] (4) Upon an adjudication under this chapter, the juvenile court may not:

(a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice Services;

(b) assume the function of developing foster home services; or

(c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:

(i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;

(ii) based on the assessment described in Subsection [~~(3)(c)(i)~~] (4)(c)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(iii) consents to legal custody of the minor being vested in the division.

[~~(4)~~] (5) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

Section 5. Section 80-3-406 is amended to read:

80-3-406. Permanency plan -- Reunification services.

(1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

(a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family under Subsections (5) through (8).

(2) (a) The concurrent permanency plan shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court shall consider:

(i) the preference for kinship placement over nonkinship placement, including the rebuttable presumption described in Subsection 80-3-302(7)(a);

(ii) the potential for a guardianship placement if parental rights are terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(3) (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 80-3-409.

(b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:

(i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or

(ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.

(4) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The juvenile court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based on a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a minor; or

(B) child abuse homicide;

(iii) committed sexual abuse against the minor;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;

(e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the minor;

(f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the juvenile court determines should preclude reunification efforts or services.

(6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

(b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.

(7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the minor or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(9) (a) Subject to Subsections (9)(b) [~~and (c)~~] through (e), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:

(i) protect the physical safety of the minor;

(ii) protect the life of the minor; or

(iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:

(i) prove that the parent has not used legal or illegal substances; or

(ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.

(d) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(e) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (9)(e)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(10) (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:

(a) the juvenile court does not have any duty to order reunification services; and

(b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.

(12) (a) The juvenile court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute reasonable efforts on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 80-3-307(5)(g)(iii); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:

(i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).

(b) This section does not entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the juvenile court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the final permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the day on which reunification services are ordered:

(a) the juvenile court shall terminate reunification services; and

(b) the division shall petition the juvenile court for termination of parental rights.

(18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.

(19) (a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.

(b) The time limits described in this section are not tolled by the parent's absence.

(20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

Section 6. Section 80-3-407 is amended to read:

80-3-407. Six-month review hearing -- Findings regarding reasonable efforts by division -- Findings regarding child and family plan compliance.

(1) If reunification efforts have been ordered by the juvenile court under Section 80-3-406, the juvenile court shall hold a hearing no more than six months after the day on which the minor is initially removed from the minor's home, in order for the juvenile court to determine whether:

[~~(1)~~] (a) the division has provided and is providing reasonable efforts to reunify the family in accordance with the child and family plan;

[~~(2)~~] (b) the parent has fulfilled or is fulfilling identified duties and responsibilities in order to comply with the requirements of the child and family plan; and

[~~(3)~~] (c) the division considered the preferential consideration and rebuttable presumption described in Subsections 80-3-302(7)(a) and 80-3-303(2)(c).

(2) (a) At the hearing described in Subsection (1), if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (2)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (2)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

Section 7. Section 80-3-409 is amended to read:

80-3-409. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) If reunification services are ordered under Section 80-3-406, with regard to a minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.

(b) If reunification services are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services are ordered in accordance with Section 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the juvenile court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

(3) In making a determination under Subsection (2)(a), the juvenile court shall:

(a) review and consider:

(i) the report prepared by the division;

(ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;

(iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);

(iv) any evidence regarding the efforts or progress demonstrated by the parent; and

(v) the extent to which the parent cooperated and used the services provided; and

(b) attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(4) With regard to a case where reunification services are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the juvenile court under Section 80-3-406; and

(c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The juvenile court may order another planned permanent living arrangement other than reunification for a minor who is 16 years old or older upon entering the following findings:

(a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

(b) the division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Section 80-2-308;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor is initially removed from the minor's home, in accordance with the provisions of Section 80-3-406.

(7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, beyond a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for the parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the juvenile court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the juvenile court specifies the time period in which it is likely that reunification will occur.

(d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.

(8) (a) At the permanency hearing, if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (8)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (8)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(9) The juvenile court may, in the juvenile court's discretion:

(a) enter any additional order that the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through [~~(7)~~] (8); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor is terminated.

[~~(9)~~] (10) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.

(b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 80-4-203(2).

[~~(10)~~] (11) (a) Any party to an action may, at any time, petition the juvenile court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the juvenile court so determines, the juvenile court shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

[~~(11)~~] (12) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a juvenile court's ability to terminate reunification services at any time before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 80-2a-201 and 80-4-104.

[~~(12)~~] (13) (a) Subject to Subsection [~~(12)(b)~~] (13)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection [~~(12)(a)~~] (13)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the division to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.

(c) The juvenile court shall make a decision on a petition for termination of parental rights within 18 months after the day on which the minor is initially removed from the minor's home.

[~~(13)~~] (14) (a) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.

(b) In considering appropriate placement options under Subsection [~~(13)(a)~~] (14)(a), the juvenile court shall provide preferential consideration to a relative's request for placement of the minor.

[~~(14)~~] (15) (a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an opportunity to address the juvenile court or testify regarding permanency or placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.

CHAPTER 321
S. B. 171
Passed March 2, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH CARE PRACTITIONER LIABILITY AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill modifies a health care provider's liability under certain circumstances.

Highlighted Provisions:

This bill:

- modifies the duty of care, under certain circumstances, for a health care provider who deviates from medical norms or established practices;
- prohibits the Division of Professional Licensing from sanctioning a health care provider's license for deviating from medical norms or established practices under certain circumstances;
- allows a health care provider who deviates from medical norms or established practices to advertise if certain criteria are met; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-501, as last amended by Laws of Utah 2020, Chapters 289, 339
58-17b-502, as last amended by Laws of Utah 2022, Chapter 465

ENACTS:

78B-3-428, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-501 is amended to read:

58-1-501. Unlawful and unprofessional conduct.

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

(ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;

(b) (i) impersonating another licensee or practicing an occupation or profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same occupation or profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any occupation or profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any occupation or profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission;

(f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title; or

(g) aiding or abetting any other person to violate any statute, rule, or order regulating an occupation or profession under this title.

(2) (a) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

[~~(a)~~] (i) violating any statute, rule, or order regulating an occupation or profession under this title;

[~~(b)~~] (ii) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;

[~~(c)~~] (iii) subject to the provisions of Subsection (4), engaging in conduct that results in conviction, a

plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession;

[~~(d)~~] (iv) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

[~~(e)~~] (v) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession;

[~~(f)~~] (vi) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so;

[~~(g)~~] (vii) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

[~~(h)~~] (viii) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

[~~(i)~~] (ix) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

[~~(j)~~] (x) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's license;

[~~(k)~~] (xi) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

[~~(l)~~] (xii) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

[~~(m)~~] (xiii) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

[~~(i)~~] (A) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

[~~(ii)~~] (B) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

[~~(n)~~] (xiv) violating a provision of Section 58-1-501.5; or

[~~(o)~~] (xv) violating the terms of an order governing a license.

(b) "Unprofessional conduct" does not include:

(i) a health care provider, as defined in Section 78B-3-403 and who is licensed under this title, deviating from medical norms or established practices if the conditions described in Subsection (5) are met; and

(ii) notwithstanding Section 58-1-501.6, a health care provider advertising that the health care provider deviates from medical norms or established practices, including the maladies the health care provider treats, if the health care provider:

(A) does not guarantee any results regarding any health care service;

(B) fully discloses on the health care provider's website that the health care provider deviates from medical norms or established practices with a conspicuous statement; and

(C) includes the health care provider's contact information on the website.

(3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding commenced by the division under this title, a person subject to any of the unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.

(4) The following are not evidence of engaging in unprofessional conduct under Subsection [~~(2)(c)~~] (2)(a)(iii):

(a) an arrest not followed by a conviction; or

(b) a conviction for which an individual's incarceration has ended more than seven years before the date of the division's consideration, unless:

(i) after the incarceration the individual has engaged in additional conduct that results in another conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation; or

(ii) the conviction was for:

(A) a violent felony as defined in Section 76-3-203.5;

(B) a felony related to a criminal sexual act pursuant to Title 76, Chapter 5, Part 4, Sexual

Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; or

(C) a felony related to criminal fraud or embezzlement, including a felony pursuant to Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft.

(5) In accordance with Subsection (2)(b)(i), a health care provider may deviate from medical norms or established practices if:

(a) the health care provider does not deviate outside of the health care provider's scope of practice and possesses the education, training, and experience to competently and safely administer the alternative health care service;

(b) the health care provider does not provide an alternative health care service that is otherwise contrary to any state or federal law;

(c) the alternative health care service has reasonable potential to be of benefit to the patient to whom the alternative health care service is to be given;

(d) the potential benefit of the alternative health care service outweighs the known harms or side effects of the alternative health care service;

(e) the alternative health care service is reasonably justified under the totality of the circumstances;

(f) after diagnosis but before providing the alternative health care service:

(i) the health care provider educates the patient on the health care services that are within the medical norms and established practices;

(ii) the health care provider discloses to the patient that the health care provider is recommending an alternative health care service that deviates from medical norms and established practices;

(iii) the health care provider discusses the rationale for deviating from medical norms and established practices with the patient;

(iv) the health care provider discloses any potential risks associated with deviation from medical norms and established practices; and

(v) the patient signs and acknowledges a notice of deviation; and

(g) before providing an alternative health care service, the health care provider discloses to the patient that the patient may enter into an agreement describing what would constitute the health care provider's negligence related to deviation.

(6) As used in this section, "notice of deviation" means a written notice provided by a health care provider to a patient that:

(a) is specific to the patient;

(b) indicates that the health care provider is deviating from medical norms or established practices in the health care provider's recommendation for the patient's treatment;

(c) describes how the alternative health care service deviates from medical norms or established practices;

(d) describes the potential risks and benefits associated with the alternative health care service;

(e) describes the health care provider's reasonably justified rationale regarding the reason for the deviation; and

(f) provides clear and unequivocal notice to the patient that the patient is agreeing to receive the alternative health care service which is outside medical norms and established practices.

Section 2. Section 58-17b-502 is amended to read:

58-17b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of a pharmacy;

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

(m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;

(n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order;

(o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(p) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include[~~,~~]:

(a) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

[~~(a)~~] (i) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

[~~(b)~~] (ii) when acting as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services[~~,~~]; or

(b) if a pharmacist reasonably believes that a prescription drug will have adverse or harmful effects on an individual and warns the individual of the potential effects, filling a prescription prescribed by a health care provider who:

(i) is operating within the health care provider's scope of practice; and

(ii) is deviating from a medical norm or established practice in accordance with Subsection 58-1-501(2)(b)(i).

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 3. Section 78B-3-428 is enacted to read:

78B-3-428. Breach of duty for deviating from established practices.

(1) A health care provider does not breach the duty of care the heath care provider owes to a patient:

(a) to the extent any alleged breach is based on actions related to the health care provider's deviation from medical norms or established practices; and

(b) if the conditions described in Subsection 58-1-501(5) have been met.

(2) A health care facility is not vicariously liable for an action or claim described in Subsection (1)(a) if the conditions described in Subsection 58-1-501(5) have been met.

CHAPTER 322
S. B. 188
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

INMATE AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends and enacts provisions related to inmates in correctional facilities.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Health and Human Services to establish a pilot program for medical monitoring;
- requires the notification of an inmate's designated medical contact in certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

64-13-1, as last amended by Laws of Utah 2021, Chapters 85, 246 and 260
76-5-412, as last amended by Laws of Utah 2022, Chapter 181

ENACTS:

26B-4-301, Utah Code Annotated 1953
64-13-49, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-4-301 is enacted to read:

26B-4-301 (Codified as 26B-4-325). Medical care for inmates -- Reporting of statistics.

As used in this section:

(1) "Correctional facility" means a facility operated to house inmates in a secure or nonsecure setting:

(a) by the Department of Corrections; or

(b) under a contract with the Department of Corrections.

(2) "Health care facility" means the same as that term is defined in Section 26-21-2.

(3) "Inmate" means an individual who is:

(a) committed to the custody of the Department of Corrections; and

(b) housed at a correctional facility or at a county jail at the request of the Department of Corrections.

(4) "Medical monitoring technology" means a device, application, or other technology that can be used to improve health outcomes and the experience of care for patients, including evidence-based clinically evaluated software and devices that can be used to monitor and treat diseases and disorders.

(5) "Terminally ill" means the same as that term is defined in Section 31A-36-102.

(6) The department shall:

(a) for each health care facility owned or operated by the Department of Corrections, assist the Department of Corrections in complying with Section 64-13-39;

(b) create policies and procedures for providing services to inmates; and

(c) in coordination with the Department of Corrections, develop standard population indicators and performance measures relating to the health of inmates.

(7) Beginning July 1, 2023, and ending June 30, 2024, the department shall:

(a) evaluate and study the use of medical monitoring technology and create a plan for a pilot program that identifies:

(i) the types of medical monitoring technology that will be used during the pilot program; and

(ii) eligibility for participation in the pilot program; and

(b) make the indicators and performance measures described in Subsection (6)(c) available to the public through the Department of Corrections and the department websites.

(8) Beginning July 1, 2024, and ending June 30, 2029, the department shall implement the pilot program.

(9) The department shall submit to the Health and Human Services Interim Committee and the Law Enforcement and Criminal Justice Interim Committee:

(a) a report on or before October 1 of each year regarding the costs and benefits of the pilot program;

(b) a report that summarizes the indicators and performance measures described in Subsection (6)(c) on or before October 1, 2024; and

(c) an updated report before October 1 of each year that compares the indicators and population measures of the most recent year to the initial report described in Subsection (9)(b).

Section 2. Section 64-13-1 is amended to read:

64-13-1. Definitions.

As used in this chapter:

(1) "Behavioral health transition facility" means a nonsecure correctional facility operated by the department for the purpose of providing a

therapeutic environment for offenders receiving mental health services.

(2) "Case action plan" means a document developed by the Department of Corrections that identifies:

(a) the program priorities for the treatment of the offender, including the criminal risk factors as determined by risk, needs, and responsivity assessments conducted by the department; and

(b) clearly defined completion requirements.

(3) "Community correctional center" means a nonsecure correctional facility operated by the department, but does not include a behavioral health transition facility for the purposes of Section 64-13f-103.

(4) "Correctional facility" means any facility operated to house offenders in a secure or nonsecure setting:

(a) by the department; or

(b) under a contract with the department.

(5) "Criminal risk factors" means an individual's characteristics and behaviors that:

(a) affect the individual's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in a reduced risk of criminal behavior.

(6) "Department" means the Department of Corrections.

(7) "Direct supervision" means a housing and supervision system that is designed to meet the goals described in Subsection 64-13-14(5) and has the elements described in Subsection 64-13-14(6).

(8) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in any correctional facility, or any situation that presents immediate danger to the safety, security, and control of the department.

(9) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(10) "Evidence-informed" means a program or practice that is based on research and the experience and expertise of the department.

(11) "Executive director" means the executive director of the Department of Corrections.

(12) "Inmate" means an individual who is:

(a) committed to the custody of the department; and

(b) housed at a correctional facility or at a county jail at the request of the department.

(13) "Offender" means an individual who has been convicted of a crime for which the individual may be committed to the custody of the department and is at least one of the following:

(a) committed to the custody of the department;

(b) on probation; or

(c) on parole.

(14) "Restitution" means the same as that term is defined in Section 77-38b-102.

(15) "Risk and needs assessment" means an actuarial tool validated on criminal offenders that determines:

(a) an individual's risk of reoffending; and

(b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

(16) "Secure correctional facility" means any prison, penitentiary, or other institution operated by the department or under contract for the confinement of offenders, where force may be used to restrain an offender if the offender attempts to leave the institution without authorization.

(17) "Serious illness" means, as determined by the inmate's physician, an illness that substantially impairs the inmate's quality of life.

(18) "Serious injury" means, as determined by the inmate's physician, bodily injury that involves a substantial risk of death, prolonged unconsciousness, prolonged and obvious disfigurement, or prolonged loss or impairment of the function of a bodily member, organ, or mental faculty.

Section 3. Section 64-13-49 is enacted to read:

64-13-49. Inmate medical notification.

(1) As used in this section, "health care facility" means the same as that term is defined in Section 26-21-2.

(2) Upon intake of an inmate, a correctional facility shall provide the inmate with a form that allows the inmate to designate a contact to whom the correctional facility may release the inmate's medical information in compliance with applicable federal law and Title 63G, Chapter 2, Government Records Access and Management Act.

(3) A correctional facility shall, without compromising an investigation:

(a) attempt to notify an inmate's designated contact that the inmate sustained a serious injury or contracted a serious illness within five days after:

(i) the day on which the inmate sustains the serious injury or contracts the serious illness; or

(ii) if the inmate is transferred to a health care facility as a result of the serious injury or serious illness, the day on which the inmate is released from the health care facility;

(b) attempt to notify the designated contact within 24 hours after the death of the inmate and include the manner of death in the notification, if known; or

(c) attempt to notify the designated contact if the inmate's physician determines notification is necessary because the inmate has a medical condition that:

(i) renders the inmate incapable of making health care decisions; or

(ii) may result in the inmate reaching end-of-life.

(4) The notification described in Subsection (3)(a) shall, without compromising an investigation, describe:

(a) the serious injury or serious illness;

(b) the extent of the serious injury or serious illness;

(c) the medical treatment plan; and

(d) if applicable, the medical treatment recovery plan.

(5) The department shall create a policy that a staff member provide the notification described in Subsection (3) in a compassionate and professional manner.

Section 4. Section 76-5-412 is amended to read:

76-5-412. Custodial sexual relations -- Penalties -- Defenses and limitations.

(1) (a) As used in this section:

(i) "Actor" means:

(A) a law enforcement officer, as defined in Section 53-13-103;

(B) a correctional officer, as defined in Section 53-13-104;

(C) a special function officer, as defined in Section 53-13-105; or

(D) an employee of, or private provider or contractor for, the Department of Corrections or a county jail.

(ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

(iii) "Person in custody" means an individual, either an adult 18 years old or older, or a minor younger than 18 years old, who is:

(A) a prisoner, as defined in Section 76-5-101, and includes a prisoner who is in the custody of the Department of Corrections created under Section 64-13-2, but who is being housed at the Utah State Hospital established under Section 62A-15-601 or other medical facility;

(B) under correctional supervision, such as at a work release facility or as a parolee or probationer; or

(C) under lawful or unlawful arrest, either with or without a warrant.

(iv) "Private provider or contractor" means a person that contracts or enters into a memorandum of understanding with [~~the Department of Corrections or with a county jail~~] a governmental or private entity to provide services or functions that are part of the operation of the Department of Corrections or a county jail under state or local law.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits custodial sexual relations if the actor commits any of the acts under Subsection (2)(b):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (4); and

(ii) (A) the actor knows that the individual is a person in custody; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.

(b) Acts referred to in Subsection (2)(a) are:

(i) having sexual intercourse with a person in custody;

(ii) engaging in a sexual act with a person in custody involving the genitals of one individual and the mouth or anus of another individual; or

(iii) (A) causing the penetration, however slight, of the genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body; and

(B) intending to cause substantial emotional or bodily pain to any individual.

(c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years old, a violation of Subsection (2) is a second degree felony.

(c) If the act committed under Subsection (3) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) The offenses referred to in Subsection (2)(a)(i) and Subsection 76-5-412.2(2)(a)(i) are:

(a) Section 76-5-401, unlawful sexual activity with a minor;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403, forcible sodomy;

(g) Section 76-5-403.1, sodomy on a child;

(h) Section 76-5-404, forcible sexual abuse;

(i) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child; or

(j) Section 76-5-405, aggravated sexual assault.

(5) (a) It is not a defense to the commission of, or the attempt to commit, the offense of custodial sexual relations under Subsection (2) if the person in custody is younger than 18 years old, that the actor:

(i) mistakenly believed the person in custody to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the person in custody.

(b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).

(6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

CHAPTER 323
S. B. 193
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

PHARMACEUTICAL AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses certain prescription drugs.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a health insurer from taking certain actions with respect to a clinician-administered drug; and
- authorizes a physician to issue orders regarding methadone under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
31A-22-658, Utah Code Annotated 1953
58-37-23, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-658 is enacted to read:

31A-22-658. Provider administered drugs.

(1) As used in this section:

(a) "Clinician-administered drug" means an outpatient prescription drug as defined in Section 58-17b-102 that:

(i) cannot reasonably be self-administered by the patient to whom the drug is prescribed or by an individual assisting the patient with self-administration;

(ii) is typically administered:

(A) by a health care provider; and

(B) in a physician's office or a health care facility as defined in Section 26-21-2; and

(iii) is not a vaccine.

(b) "Health insurer" means a person who offers health care insurance, including a health maintenance organization as defined in Section 31A-8-101.

(2) A health insurer may not require a pharmacy to dispense a clinician-administered drug directly to an enrollee with the intention that the enrollee will transport the drug to a health care provider for administering.

Section 2. Section 58-37-23 is enacted to read:

58-37-23. Methadone orders authorized.

(1) As used in this section:

(a) "Emergency medical order" means a medical order as defined in Section 58-17b-102 for up to a 72-hour supply of methadone.

(b) "General acute hospital" means the same as that term is defined in Section 26-21-2.

(c) "Qualified pharmacy" means a pharmacy that is located on the premises of a general acute hospital that is licensed as a:

(i) class A pharmacy as defined in Section 58-17b-102; or

(ii) class B pharmacy as defined in Section 58-17b-102.

(d) "Qualified practitioner" means a practitioner who:

(i) is registered with the United States Drug Enforcement Administration to issue an emergency medical order; and

(ii) is working at a general acute hospital.

(2) A qualified practitioner may issue an emergency medical order to a qualified pharmacy to dispense up to a 72-hour supply of methadone on behalf of the qualified practitioner:

(a) to relieve acute withdrawal symptoms while the qualified practitioner makes arrangements to refer the patient for substance use disorder treatment; and

(b) in accordance with 21 C.F.R. Sec. 1306.07 and applicable regulation or guidance issued by the United States Drug Enforcement Administration regarding an emergency medical order.

CHAPTER 324
S. B. 197
Passed March 2, 2023
Approved March 15, 2023
Effective May 3, 2023

ANESTHESIA AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies requirements related to anesthesia and sedation provisions.

Highlighted Provisions:

This bill:

- allows an anesthesia provider who is providing ketamine for a non-anesthetic purpose to have an individual with airway training on site rather than in the procedure room.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-510, as enacted by Laws of Utah 2022, Chapter 379

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-510 is amended to read:

58-1-510. Anesthesia and sedation requirements -- Unprofessional conduct -- Whistleblower protection.

(1) As used in this section:

(a) "Anesthesia or sedation provider" means an individual who is licensed:

(i) under Chapter 5a, Podiatric Physician Licensing Act;

(ii) under Subsection 58-31b-301(2)(e);

(iii) under Chapter 67, Utah Medical Practice Act;

(iv) under Chapter 68, Utah Osteopathic Medical Practice Act; or

(v) as a dentist under Chapter 69, Dentist and Dental Hygienist Practice Act, and who has obtained the appropriate permit established by the division under Subsection 58-69-301(4).

(b) "Deep sedation" means a drug-induced depression of consciousness where an individual:

(i) cannot be easily aroused;

(ii) responds purposefully following repeated or painful stimulation;

(iii) may not be able to independently maintain ventilatory function;

(iv) may require assistance in maintaining a patent airway; and

(v) usually maintains cardiovascular function.

(c) "General anesthesia" means a drug-induced loss of consciousness where an individual:

(i) cannot be aroused, even by painful stimulation;

(ii) is often unable to maintain ventilatory function;

(iii) often requires assistance in maintaining a patent airway and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function; and

(iv) may not be able to maintain cardiovascular function.

(d) "General anesthetic" means a drug identified as a general anesthetic by the federal Food and Drug Administration.

(e) "Minimal sedation" means a drug-induced state where an individual:

(i) responds normally to verbal commands;

(ii) may have reduced cognitive function and physical coordination; and

(iii) maintains airway reflexes, ventilatory function, and cardiovascular function.

(f) "Moderate sedation" means a drug-induced depression of consciousness where an individual:

(i) responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation;

(ii) maintains a patent airway;

(iii) maintains spontaneous ventilation; and

(iv) usually maintains cardiovascular function.

(2) An anesthesia or sedation provider may not cause a patient to undergo moderate sedation, deep sedation, or general anesthesia, in an outpatient setting that is not an emergency department without:

(a) first providing the following information in writing and verbally:

(i) the level of anesthesia or sedation being administered;

(ii) the identity, type of license, and training of the provider who is performing the procedure for which the anesthesia or sedation will be administered;

(iii) the identity, type of license, and a description of the training described in Subsection (4) of the anesthesia or sedation provider who will be administering the anesthesia or sedation; and

(iv) a description of the monitoring that will occur during the sedation or anesthesia, including descriptions related to the monitoring of the patient's oxygenation, ventilation, and circulation;

(b) after complying with Subsection (2)(a), obtaining the patient's written and verbal consent regarding the procedure;

(c) having the training described in Subsection (4);

(d) directly supervising the patient;

(e) if the patient is a minor, having a current pediatric advanced life support certification;

(f) if the patient is an adult, having a current advanced cardiovascular life support certification;

(g) (i) having at least one individual in the procedure room who has advanced airway training and the knowledge and skills to recognize and treat airway complications and rescue a patient who entered a deeper than intended level of sedation; or

(ii) if the anesthesia or sedation provider is administering ketamine for a non-anesthetic purpose, having at least one individual on site and available who has advanced airway training and the knowledge and skills to recognize and treat airway complications and rescue a patient who entered a deeper than intended level of sedation;

(h) having access during the procedure to an advanced cardiac life support crash cart in the office with equipment that:

(i) is regularly maintained according to guidelines established by the American Heart Association; and

(ii) includes:

(A) a defibrillator;

(B) administrable oxygen;

(C) age appropriate airway equipment;

(D) positive pressure ventilation equipment; and

(E) unexpired emergency and reversal medications including naloxone for opioid sedation and flumazenil for benzodiazepine sedation;

(i) using monitors that meet basic standards set by the American Society of Anesthesiologists and continually monitoring ventilatory function with capnography unless precluded or invalidated by the nature of the patient, procedure, or equipment; and

(j) entering appropriate information into the patient's chart or medical record, which shall include:

(i) the patient's name;

(ii) the route and site the anesthesia or sedation was administered;

(iii) the time of anesthesia or sedation administration and the dosage;

(iv) the patient's periodic vital signs during the procedure; and

(v) the name of the individual who monitored the patient's oxygenation and ventilation.

(3) (a) An anesthesia or sedation provider who violates Subsection (2) or any rule created by the division to implement this section commits unprofessional conduct.

(b) An individual commits unprofessional conduct if the individual administers anesthesia or sedation for which the individual is not appropriately trained.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to create training and safety standards regarding the inducing of general anesthesia, deep sedation, and moderate sedation:

(i) for each license described in Subsection (1)(a);

(ii) that are based on standards created by nationally recognized organizations, such as the American Society of Anesthesiologists, the American Dental Association, or the American Association of Oral and Maxillofacial Surgeons; and

(iii) that include safety standards for general anesthetic use that are consistent with federal Food and Drug Administration guidance.

(b) For making rules described in Subsection (4)(a), the division shall consult with the applicable licensing boards and a board described in Sections 58-67-201, 58-68-201, and 58-69-201.

(5) The requirements of Subsection (2) do not apply to the practice of inducing minimal sedation.

(6) An employer may not take an adverse employment action against an employee if:

(a) the employee notifies the division of:

(i) a violation of this section; or

(ii) a violation of any rule created by the division to implement this section; and

(b) the employment action is based on the individual notifying the division of the violation.

CHAPTER 325
S. B. 198
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

HUMAN SERVICES FUND AND ACCOUNT AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Marsha Judkins

LONG TITLE

General Description:

This bill creates a new fund and account related to human services.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Licensed Provider Assessment Fund and describes how the fund is funded and how the fund may be used; and
- creates the Division of Services for People with Disabilities Restricted Account and describes how the fund is funded and how the fund may be used.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Health and Human Services -- Long-term Services & Support -- Services for People with Disabilities:
  - from Division of Services for People with Disabilities Restricted Account, $3,904,800.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
62A-2-129, Utah Code Annotated 1953
62A-5-112, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-2-129 is enacted to read:

62A-2-129 (Codified as 26B-1-334). Licensed Provider Assessment Fund -- Creation -- Deposits -- Uses.

(1) There is created an expendable special revenue fund known as the "Licensed Provider Assessment Fund" consisting of:

(a) the assessments collected under, and any interest and penalties levied with the administration of:

(i) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(ii) Title 26, Chapter 39, Utah Child Care Licensing Act; and

(iii) Title 62A, Chapter 2, Licensure of Programs and Facilities;

(b) money appropriated or otherwise made available by the Legislature; and

(c) any interest earned on the fund.

(2) Money in the fund may only be used by the department:

(a) for upgrades to and maintenance of licensing databases and applications;

(b) for training for providers and staff;

(c) to assist individuals during a facility shutdown; or

(d) for administrative expenses, if the administrative expenses for the fiscal year do not exceed 3% of the money deposited into the fund during the fiscal year.

Section 2. Section 62A-5-112 is enacted to read:

62A-5-112 (Codified as 26B-1-335). Division of Services for People with Disabilities Restricted Account.

(1) As used in this section, "account" means the Division of Services for People with Disabilities Restricted Account created in Subsection (2).

(2) There is created in the General Fund an account known as the "Division of Services for People with Disabilities Restricted Account."

(3) The account consists of:

(a) carry forward funds from the division's budget; and

(b) unexpended balances lapsed to the account from the division's budget.

(4) Subject to appropriation, the Department of Health and Human Services may expend funds from the account to serve individuals eligible for division services statewide.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To Department of Health and Human Services -- Long-term Services & Support

From Division of Services for People with Disabilities Restricted Account	3,904,800

Schedule of Programs:

Services for People with Disabilities	3,904,800

CHAPTER 326
S. B. 204
Passed February 28, 2023
Approved March 15, 2023
Effective May 3, 2023

AUTISM COVERAGE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill requires the Department of Health and Human Services to request a state plan amendment for the Medicaid program to provide coverage for autism treatment services.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the Department of Health and Human Services to request a state plan amendment for the Medicaid program to provide coverage for autism treatment services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-18-29, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-29 is enacted to read:

26-18-29 (Codified as 26B-3-225). Coverage for autism spectrum disorder.

(1) As used in this section:

(a) (i) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior.

(ii) "Applied behavior analysis" includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(b) "Autism spectrum disorder" means pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.

(c) "Behavioral health treatment" means counseling and treatment programs, including applied behavior analysis, that are:

(i) necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual; and

(ii) provided or supervised by:

(A) a board certified behavior analyst; or

(B) an individual licensed under Title 58, Occupations and Professions, whose scope of practice includes mental health services.

(d) "Diagnosis of autism spectrum disorder" means medically necessary assessments, evaluations, or tests:

(i) performed by:

(A) a licensed physician who is board certified in neurology, psychiatry, or pediatrics and has experience diagnosing autism spectrum disorder; or

(B) a licensed psychologist with experience diagnosing autism spectrum disorder; and

(ii) necessary to diagnose whether an individual has an autism spectrum disorder.

(e) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services considered medically necessary to determine the need or effectiveness of the medications.

(f) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(g) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(h) "Therapeutic care" means services provided by a licensed or certified speech therapist, occupational therapist, or physical therapist.

(i) (i) "Treatment for autism spectrum disorder" means evidence-based care and related equipment prescribed or ordered for an enrollee diagnosed with an autism spectrum disorder by a physician or a licensed psychologist described in Subsection (1)(d) who determines the care to be medically necessary.

(ii) "Treatment for autism spectrum disorder" includes:

(A) behavioral health treatment, provided or supervised by a person described in Subsection (1)(c)(ii);

(B) pharmacy care;

(C) psychiatric care;

(D) psychological care; and

(E) therapeutic care.

(2) The department shall request a state plan amendment with CMS to provide treatment for autism spectrum disorder for an enrollee diagnosed with autism spectrum disorder.

CHAPTER 327
S. B. 206
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH AND HUMAN SERVICES RECODIFICATION -CROSS REFERENCES, TITLES 4-31A

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill updates cross references to the Utah Health and Human Services Code in Titles 4 through 31A.

Highlighted Provisions:

This bill:

- makes technical updates in Titles 4 through 31A to cross references to the Utah Health and Human Services Code that are renumbered and amended in:
  - S.B. 38, Health and Human Services Recodification – Administration, Licensing, and Recovery Services;
  - S.B. 39, Health and Human Services Recodification – Health Care Assistance and Data;
  - S.B. 40, Health and Human Services Recodification – Health Care Delivery and Repeals; and
  - S.B. 41, Health and Human Services Recodification – Prevention, Supports, Substance Use and Mental Health; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

4-5-501, as last amended by Laws of Utah 2019, Chapter 32
4-41-103.3, as last amended by Laws of Utah 2022, Chapter 290
4-41-402, as last amended by Laws of Utah 2022, Chapter 290
4-41a-102, as last amended by Laws of Utah 2022, Chapters 290, 452
4-41a-103, as last amended by Laws of Utah 2020, Chapter 12
4-41a-201, as last amended by Laws of Utah 2022, Chapter 290
4-41a-204, as last amended by Laws of Utah 2021, Chapter 350
4-41a-403, as last amended by Laws of Utah 2021, Chapter 350
4-41a-404, as last amended by Laws of Utah 2020, Chapter 12
4-41a-406, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
7-1-1006, as last amended by Laws of Utah 2011, Chapter 344
7-26-102, as enacted by Laws of Utah 2020, Chapter 228
10-2-419, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-425, as last amended by Laws of Utah 2019, Chapter 159
10-8-41.6, as last amended by Laws of Utah 2022, Chapter 255
10-8-84.6, as enacted by Laws of Utah 2022, Chapter 21
10-8-85.5, as last amended by Laws of Utah 2012, Chapter 289
10-8-90, as last amended by Laws of Utah 2018, Chapter 467
10-9a-103, as last amended by Laws of Utah 2022, Chapters 355, 406
10-9a-520, as last amended by Laws of Utah 2013, Chapter 309
10-9a-528, as last amended by Laws of Utah 2021, Chapter 60
11-46-102, as enacted by Laws of Utah 2011, Chapter 130
11-48-101.5, as enacted by Laws of Utah 2021, Chapter 265
11-48-103, as enacted by Laws of Utah 2021, Chapter 265
13-5b-103, as enacted by Laws of Utah 2007, Chapter 172
13-59-102, as enacted by Laws of Utah 2021, Chapter 138
13-60-102, as enacted by Laws of Utah 2021, Chapter 361
13-60-103, as enacted by Laws of Utah 2021, Chapter 361
13-61-101 (Effective 12/31/23), as enacted by Laws of Utah 2022, Chapter 462
15-4-1, as last amended by Laws of Utah 2017, Chapter 340
15-4-6.7, as last amended by Laws of Utah 2017, Chapter 340
15A-1-208, as enacted by Laws of Utah 2011, Chapter 14
15A-2-105, as enacted by Laws of Utah 2011, Chapter 14
15A-3-102, as last amended by Laws of Utah 2019, Chapter 20
15A-3-103, as last amended by Laws of Utah 2020, Chapters 243, 441
15A-5-202, as last amended by Laws of Utah 2022, Chapter 28
15A-5-203, as last amended by Laws of Utah 2022, Chapter 350
17-22-2.5, as last amended by Laws of Utah 2018, Chapter 86
17-27a-103, as last amended by Laws of Utah 2022, Chapter 406
17-27a-519, as last amended by Laws of Utah 2013, Chapter 309
17-27a-525, as last amended by Laws of Utah 2021, Chapter 60
17-27a-1102, as enacted by Laws of Utah 2021, Chapter 244
17-43-102, as last amended by Laws of Utah 2022, Chapter 255

17-43-201, as last amended by Laws of Utah 2022, Chapter 255
17-43-204, as last amended by Laws of Utah 2016, Chapter 113
17-43-301, as last amended by Laws of Utah 2022, Chapter 255
17-43-303, as last amended by Laws of Utah 2004, Chapter 80
17-43-306, as enacted by Laws of Utah 2003, Chapter 100
17-50-318, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
17-50-333, as last amended by Laws of Utah 2022, Chapter 255
17-50-339, as enacted by Laws of Utah 2022, Chapter 21
17B-2a-818.5, as last amended by Laws of Utah 2022, Chapter 421
17B-2a-902, as last amended by Laws of Utah 2014, Chapter 189
18-1-3, as last amended by Laws of Utah 2007, Chapter 22
19-1-205, as enacted by Laws of Utah 1991, Chapter 112
19-1-206, as last amended by Laws of Utah 2022, Chapters 421, 443
19-4-115, as enacted by Laws of Utah 2022, Chapter 194
19-6-902, as last amended by Laws of Utah 2015, Chapter 451
20A-2-104, as last amended by Laws of Utah 2021, Chapter 100
20A-2-306, as last amended by Laws of Utah 2022, Chapter 121
20A-11-1202, as last amended by Laws of Utah 2020, Chapter 365
23-19-5.5, as last amended by Laws of Utah 2022, Chapter 58
23-19-14, as last amended by Laws of Utah 2018, Chapter 39
26-8a-102, as last amended by Laws of Utah 2022, Chapters 255, 351, and 404
26-8a-104, as last amended by Laws of Utah 2021, Chapters 237 and 265
26-8a-204, as enacted by Laws of Utah 1999, Chapter 141
26-8a-205, as enacted by Laws of Utah 1999, Chapter 141
26-8a-206, as last amended by Laws of Utah 2021, Chapter 208
26A-1-102, as last amended by Laws of Utah 2022, Chapter 255
26A-1-114, as last amended by Laws of Utah 2022, Chapters 39, 415 and 430
26A-1-116, as last amended by Laws of Utah 1991, Chapter 112 and renumbered and amended by Laws of Utah 1991, Chapter 269
26A-1-121, as last amended by Laws of Utah 2022, Chapter 255
26A-1-126, as last amended by Laws of Utah 2022, Chapter 415
26A-1-128, as last amended by Laws of Utah 2020, Chapter 347
30-1-12, as last amended by Laws of Utah 2022, Chapter 231
30-2-5, as last amended by Laws of Utah 2008, Chapter 3
30-3-5, as last amended by Laws of Utah 2022, Chapter 263
30-3-5.1, as last amended by Laws of Utah 1997, Chapter 232
30-3-5.4, as last amended by Laws of Utah 2022, Chapter 263
30-3-10, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
30-3-10.5, as last amended by Laws of Utah 2008, Chapter 3
30-3-38, as last amended by Laws of Utah 2022, Chapter 335
31A-1-301, as last amended by Laws of Utah 2022, Chapter 198
31A-4-106, as last amended by Laws of Utah 2018, Chapter 281
31A-4-107.5, as last amended by Laws of Utah 2018, Chapter 443
31A-8-104, as last amended by Laws of Utah 2018, Chapter 319
31A-15-103, as last amended by Laws of Utah 2019, Chapter 341
31A-22-305, as last amended by Laws of Utah 2022, Chapter 163
31A-22-305.3, as last amended by Laws of Utah 2022, Chapters 163, 198
31A-22-604, as last amended by Laws of Utah 2001, Chapter 116
31A-22-610, as last amended by Laws of Utah 2018, Chapter 443
31A-22-610.5, as last amended by Laws of Utah 2020, Chapter 32
31A-22-610.6, as last amended by Laws of Utah 2011, Chapter 284
31A-22-613.5, as last amended by Laws of Utah 2019, Chapter 439

RENUMBERS AND AMENDS:
13-60-104, (Renumbered from 13-60-201, as enacted by Laws of Utah 2021, Chapter 361)
13-60-105, (Renumbered from 13-60-202, as enacted by Laws of Utah 2021, Chapter 361)
13-60-106, (Renumbered from 13-60-301, as enacted by Laws of Utah 2021, Chapter 361)
13-60-203, (Renumbered from 26-45-102, as last amended by Laws of Utah 2022, Chapter 434)
13-60-204, (Renumbered from 26-45-103, as last amended by Laws of Utah 2022, Chapter 434)
13-60-205, (Renumbered from 26-45-104, as last amended by Laws of Utah 2022, Chapter 434)
13-60-206, (Renumbered from 26-45-105, as last amended by Laws of Utah 2022, Chapter 434)
13-60-207, (Renumbered from 26-45-106, as enacted by Laws of Utah 2002, Chapter 120)

Utah Code Sections Affected by Coordination Clause:

4-41a-201, as last amended by Laws of Utah 2022, Chapter 290
10-9a-528, as last amended by Laws of Utah 2021, Chapter 60
17-27a-525, as last amended by Laws of Utah 2021, Chapter 60
26-8a-102, as last amended by Laws of Utah 2022, Chapters 255, 351, and 404
26-8a-104, as last amended by Laws of Utah 2021, Chapters 237 and 265
26-8a-204, as enacted by Laws of Utah 1999, Chapter 141
26-8a-205, as enacted by Laws of Utah 1999, Chapter 141
26-8a-206, as last amended by Laws of Utah 2021, Chapter 208
26-8a-211, as enacted by Laws of Utah 2020, Chapter 215
53-2d-206, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-5-501 is amended to read:

4-5-501. Cottage food operations.

(1) For purposes of this chapter:

(a) "Cottage food operation" means a person who produces a cottage food product in a home kitchen .

(b) "Cottage food product" means a nonpotentially hazardous baked good, jam, jelly, or other nonpotentially hazardous food produced in a home kitchen.

(c) "Home kitchen" means a kitchen:

(i) designed and intended for use by the residents of a home; and

(ii) used by a resident of the home for the production of a cottage food product.

(d) "Potentially hazardous food" means:

(i) a food of animal origin;

(ii) raw seed sprouts; or

(iii) a food that requires time or temperature control, or both, for safety to limit pathogenic microorganism growth or toxin formation, as identified by the department in rule.

(2) The department shall adopt rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to protect public health and ensure a safe food supply.

(3) Rules adopted pursuant to Subsection (2) may not require:

(a) the use of a commercial surface such as a stainless steel counter or cabinet;

(b) the use of a commercial grade:

(i) sink;

(ii) dishwasher; or

(iii) oven;

(c) a separate kitchen for the cottage food operation; or

(d) the submission of plans and specifications before construction of, or remodel of, a cottage food production operation.

(4) The operator of a cottage food operation shall:

(a) register with the department as a cottage food operation before operating as a cottage food operation;

(b) hold a valid food handler's permit; and

(c) package a cottage food product with a label, as specified by the department in rule.

(5) Notwithstanding the provisions of Subsections 4-5-301(1)(a) and (c), the department shall issue a registration to an applicant for a cottage food operation if the applicant for the registration:

(a) pays the fees required by the department; and

(b) meets the requirements of this section.

(6) Notwithstanding the provisions of Section 26A-1-114, a local health department:

(a) does not have jurisdiction to regulate the production of food at a cottage food operation operating in compliance with this section, as long as the products are not offered to the public for consumption on the premises; and

(b) does have jurisdiction to investigate a cottage food operation in an investigation into the cause of a foodborne illness outbreak.

(7) A food service establishment as defined in Section [~~26-15a-102~~] 26B-7-401 may not use a product produced in a cottage food operation as an ingredient in a food that is prepared by the food establishment and offered by the food establishment to the public for consumption.

Section 2. Section 4-41-103.3 is amended to read:

4-41-103.3. Industrial hemp retailer permit.

(1) Except as provided in Subsection (4), a retailer permittee of the department may market or sell industrial hemp products.

(2) A person seeking an industrial hemp retailer permit shall provide to the department:

(a) the name of the person that is seeking to market or sell an industrial hemp product;

(b) the address of each location where the industrial hemp product will be sold; and

(c) written consent allowing a representative of the department to enter all premises where the person is selling an industrial hemp product for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp retailer permit.

(4) Any marketing for an industrial hemp product shall include a notice to consumers that the product is hemp and is not cannabis or medical cannabis, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201.

Section 3. Section 4-41-402 is amended to read:

4-41-402. Cannabinoid sales and use authorized.

(1) The sale or use of a cannabinoid product is prohibited:

(a) except as provided in this chapter; or

(b) unless the United States Food and Drug Administration approves the product.

(2) The department shall keep a list of registered cannabinoid products that the department has determined, in accordance with Section 4-41-403, are safe for human consumption.

(3) (a) A person may sell or use a cannabinoid product that is in the list of registered cannabinoid products described in Subsection (2).

(b) An individual may use cannabidiol or a cannabidiol product that is not in the list of registered cannabinoid products described in Subsection (2) if:

(i) the individual purchased the product outside the state; and

(ii) the product's contents do not violate Title 58, Chapter 37, Utah Controlled Substances Act.

(4) Any marketing for a cannabinoid product shall include a notice to consumers that the product is hemp or CBD and is not cannabis or medical cannabis, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201.

Section 4. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) toxins; or

(f) foreign matter.

(2) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section [~~26-61-201~~] 26B-1-420.

(3) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(4) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

(5) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(6) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(7) "Cannabis cultivation facility agent" means an individual who:

(a) is an employee of a cannabis cultivation facility; and

(b) holds a valid cannabis production establishment agent registration card.

(8) "Cannabis derivative product" means a product made using cannabis concentrate.

(9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(10) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(11) "Cannabis processing facility agent" means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

(12) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(13) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(14) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(15) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(16) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(17) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(18) "Department" means the Department of Agriculture and Food.

(19) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

(20) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(21) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

(22) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

(23) "Industrial hemp waste" means:

(a) a cannabinoid concentrate; or

(b) industrial hemp biomass.

(24) "Inventory control system" means a system described in Section 4-41a-103.

(25) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

(26) "Medical cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(27) "Medical cannabis card" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(28) "Medical cannabis pharmacy" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(29) "Medical cannabis pharmacy agent" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(30) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(31) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

(32) "Medical cannabis treatment" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(33) "Medicinal dosage form" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(34) "Qualified medical provider" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(35) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

(36) "Recommending medical provider" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(37) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

(38) "State electronic verification system" means the system described in Section [~~26-61a-103~~] 26B-4-202.

(39) "Synthetic cannabinoid" means any cannabinoid that:

(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and

(b) is not a derivative cannabinoid.

(40) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

(41) "THC analog" means the same as that term is defined in Section 4-41-102.

(42) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

(43) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 5. Section 4-41a-103 is amended to read:

4-41a-103. Inventory control system.

(1) Each cannabis production establishment and each medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.

(2) A cannabis production establishment and a medical cannabis pharmacy shall ensure that the inventory control system maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

(b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;

(c) includes a video recording system that:

(i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days; and

(d) preserves compatibility with the state electronic verification system described in Section [~~26-61a-103~~] 26B-4-202.

(3) A cannabis production establishment and a medical cannabis pharmacy shall allow the following to access the cannabis production establishment's or the medical cannabis pharmacy's inventory control system at any time:

(a) the department;

(b) the Department of Health and Human Services; and

(c) a financial institution that the Division of Finance validates, in accordance with Subsection (6).

(4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.

(b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

(6) (a) The Division of Finance shall, in consultation with the state treasurer:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:

(A) establish a process for validating financial institutions for access to an inventory control system in accordance with Subsections (3)(c) and (6)(b); and

(B) establish qualifications for the validation described in Subsection (6)(a)(i)(A);

(ii) review applications the Division of Finance receives in accordance with the process established under Subsection (6)(a)(i);

(iii) validate a financial institution that meets the qualifications described in Subsection (6)(a)(i); and

(iv) provide a list of validated financial institutions to the department and the Department of Health and Human Services.

(b) A financial institution that the Division of Finance validates under Subsection (6)(a):

(i) may only access an inventory control system for the purpose of reconciling transactions and other financial activity of cannabis production establishments, medical cannabis pharmacies, and medical cannabis couriers that use financial services that the financial institution provides;

(ii) may only access information related to financial transactions; and

(iii) may not access any identifying patient information.

Section 6. Section 4-41a-201 is amended to read:

4-41a-201. Cannabis production establishment -- License.

(1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a licensing process that the department initiates after March 17, 2021, the department, through the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department

shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:

(i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment;

(B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or

(C) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department or licensing board approves;

(iv) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) $100,000 for each cannabis cultivation facility for which the applicant applies; or

(B) $50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the licensing board approves an application for a license under this section and Section 4-41a-201.1:

(a) the applicant shall pay the department:

(i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; or

(ii) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i); and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection (4)(b), a cannabis production establishment shall obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the licensing board receives more than one application for a cannabis production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(8) (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, the licensing board:

(i) shall consult with the Department of Health and Human Services regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.

(9) The licensing board may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;

(b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;

(f) if, after a change of ownership described in Subsection (15)(b), the board determines that the cannabis production establishment no longer meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; or

(g) for an independent cannabis testing laboratory, if the independent cannabis testing laboratory fails to substantially meet the performance standards described in Subsection (14)(b).

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.

(b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on or before January 1, 2020.

(13) (a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(14) (a) Notwithstanding this section, the department:

(i) may not issue more than four licenses to operate an independent cannabis testing laboratory;

(ii) may operate or partner with a research university to operate an independent cannabis testing laboratory;

(iii) if the department operates or partners with a research university to operate an independent cannabis testing laboratory, may not cease operating or partnering with a research university to operate the independent cannabis testing laboratory unless:

(A) the department issues at least two licenses to independent cannabis testing laboratories; and

(B) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and

(iv) after ceasing department or research university operations under Subsection (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:

(A) fewer than two licensed independent cannabis testing laboratories are operating; or

(B) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

(b) (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an independent cannabis testing laboratory, including deadlines for testing completion.

(ii) A license that the department issues to an independent cannabis testing laboratory is contingent upon substantial satisfaction of the performance standards described in Subsection (14)(b)(i), as determined by the board.

(15) (a) A cannabis production establishment license is not transferrable or assignable.

(b) If the ownership of a cannabis production establishment changes by 50% or more:

(i) the cannabis production establishment shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the board shall:

(A) conduct the application review described in Section 4-41a-201.1; and

(B) award a license to the cannabis production establishment for the remainder of the term of the cannabis production establishment's license before the ownership change if the cannabis production establishment meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; and

(iii) if the board approves the license application, notwithstanding Subsection (3), the cannabis production establishment shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 7. Section 4-41a-204 is amended to read:

4-41a-204. Operating plan.

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility or, for a cannabis cultivation facility, no more than two facility locations, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section [~~26-61a-103~~] 26B-4-202;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3); and

(i) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection (2)(c)(i) or (c)(ii), a cannabis cultivation facility may not:

(i) for a facility that cultivates cannabis only indoors, use more than 100,000 total square feet of cultivation space;

(ii) for a facility that cultivates cannabis only outdoors, use more than four acres for cultivation; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may apply to the department for:

(A) a one-time, permanent increase of up to 20% of the limitation on the cannabis cultivation facility's cultivation space; or

(B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on the cannabis cultivation facility's cultivation space.

(ii) After conducting a review equivalent to the review described in Subsection 4-41a-205(2)(a), if the department determines that additional cultivation is needed, the department may:

(A) grant the one-time, permanent increase described in Subsection (2)(c)(i)(A); or

(B) grant the short-term increase described in Subsection (2)(c)(i)(B).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b), the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation.

(e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:

(i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and

(ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

(f) (i) The department may authorize a cannabis cultivation facility to operate at no more than two separate locations.

(ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two cannabis cultivation facility locations combined may not exceed the cultivation limitations described in this Subsection (2).

(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

(5) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

Section 8. Section 4-41a-403 is amended to read:

4-41a-403. Advertising.

(1) Except as provided in this section, a cannabis production establishment may not advertise to the general public in any medium.

(2) A cannabis production establishment may advertise an employment opportunity at the cannabis production establishment.

(3) A cannabis production establishment may maintain a website that:

(a) contains information about the establishment and employees; and

(b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.

(4) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:

(i) includes only:

(A) in accordance with Subsection (4)(b), the cannabis production establishment's name, logo, and hours of operation; and

(B) a green cross; and

(ii) complies with local ordinances regulating signage.

(b) The department shall define standards for a cannabis production establishment's name and logo to ensure a medical rather than recreational disposition.

(5) (a) A cannabis production establishment may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).

(b) A cannabis production establishment may not include in an educational event described in Subsection (5)(a):

(i) any topic that conflicts with this chapter or [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(iii) any marketing for a specific product from the cannabis production establishment or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(iv) a presenter other than the following:

(A) a cannabis production establishment agent;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) a state employee.

(c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

Section 9. Section 4-41a-404 is amended to read:

4-41a-404. Medical cannabis transportation.

(1) (a) Only the following individuals may transport cannabis or a cannabis product under this chapter:

(i) a registered cannabis production establishment agent; or

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

(b) Only an agent of a cannabis cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card under [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, who is transporting a medical cannabis treatment shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;

(b) includes origin and destination information for any cannabis or cannabis product that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis or cannabis product.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis or cannabis product to ensure that the cannabis or cannabis product remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis production establishment and another cannabis production establishment; and

(ii) between a cannabis processing facility and a medical cannabis pharmacy.

(4) (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis or cannabis product than the manifest identifies, except for a de minimis administrative error:

(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

(6) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Section 10. Section 4-41a-406 is amended to read:

4-41a-406. Local control.

(1) As used in this section:

(a) "Land use decision" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(b) "Land use permit" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(c) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(2) (a) If a municipality's or county's zoning ordinances provide for an industrial zone, the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one industrial zone in which the operation of a cannabis production establishment is a permitted use.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one agricultural zone in which the operation of a cannabis production establishment is a permitted use.

(c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.

(3) A municipality or county may not:

(a) on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis, deny or revoke:

(i) a land use permit to operate a cannabis production facility; or

(ii) a business license to operate a cannabis production facility;

(b) require a certain distance between a cannabis production establishment and:

(i) another cannabis production establishment;

(ii) a medical cannabis pharmacy;

(iii) a retail tobacco specialty business, as that term is defined in Section [~~26-62-103~~] 26B-7-501; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a cannabis production establishment that was not in effect on the day on which the cannabis production establishment submitted a complete land use application.

(4) An applicant for a land use permit to operate a cannabis production establishment shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Section 11. Section 7-1-1006 is amended to read:

7-1-1006. Inapplicable to certain official investigations.

(1) Sections 7-1-1002 and 7-1-1003 do not apply if an examination of a record is a part of an official investigation by:

(a) local police;

(b) a sheriff;

(c) a peace officer;

(d) a city attorney;

(e) a county attorney;

(f) a district attorney;

(g) the attorney general;

(h) the Department of Public Safety;

(i) the Office of Recovery Services of the Department of Health and Human Services;

(j) the Insurance Department;

(k) the Department of Commerce;

(l) the Benefit Payment Control Unit or the Payment Error Prevention Unit of the Department of Workforce Services;

(m) the state auditor;

(n) the State Tax Commission; or

(o) the Department of Health and Human Services or its designee, when undertaking an official investigation to determine whether an individual qualifies for certain assistance programs as provided in Section [~~26-18-2.5~~] 26B-3-106.

(2) Except for the Office of Recovery Services, if a governmental entity listed in Subsection (1) seeks a record, the entity shall obtain the record as follows:

(a) if the record is a nonprotected record, by request in writing that:

(i) certifies that an official investigation is being conducted; and

(ii) is signed by a representative of the governmental entity that is conducting the official investigation; or

(b) if the record is a protected record, by obtaining:

(i) a subpoena authorized by statute;

(ii) other legal process:

(A) ordered by a court of competent jurisdiction; and

(B) served upon the financial institution; or

(iii) written permission from all account holders of the account referenced in the record to be examined.

(3) If the Office of Recovery Services seeks a record, the Office of Recovery Services shall obtain the record pursuant to:

(a) Subsection [~~62A-11-104(1)(g)~~] 26B-9-104(1)(g);

(b) Section [~~62A-11-304.1~~] 26B-9-205;

(c) Section [~~62A-11-304.5~~] 26B-9-208; or

(d) Title IV, Part D of the Social Security Act as codified in 42 U.S.C. 651 et seq.

(4) A financial institution may not give notice to an account holder or person named or referenced within the record disclosed pursuant to Subsection (2)(a).

(5) In accordance with Section 7-1-1004, the governmental entity conducting the official investigation that obtains a record from a financial institution under this section shall reimburse the financial institution for costs reasonably and directly incurred by the financial institution.

Section 12. Section 7-26-102 is amended to read:

7-26-102. Definitions.

As used in this chapter:

(1) "Adult Protective Services" means the same as that term is defined in Section [~~62A-3-301~~] 26B-6-201.

(2) "Covered financial institution" means any of the following that operate in the state:

(a) a state or federally chartered:

(i) bank;

(ii) savings and loan association;

(iii) savings bank;

(iv) industrial bank;

(v) credit union;

(vi) trust company; or

(vii) depository institution; or

(b) a financial institution.

(3) "Financial exploitation" means:

(a) the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or other property of an individual; or

(b) an act or omission, including through a power of attorney, guardianship, or conservatorship of an individual, to:

(i) obtain control, through deception, intimidation, or undue influence, over the individual's money, assets, or other property to deprive the individual of the ownership, use, benefit, or possession of the individual's money, assets, or other property; or

(ii) convert the individual's money, assets, or other property to deprive the individual of the ownership, use, benefit, or possession of the individual's money, assets, or other property.

(4) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(5) "Qualified individual" means:

(a) a branch manager of a covered financial institution; or

(b) a director, officer, employee, agent, or other representative that a covered financial institution designates.

(6) "Third party associated with a vulnerable adult" means an individual:

(a) who is a parent, spouse, adult child, sibling, or other known family member of a vulnerable adult;

(b) whom a vulnerable adult authorizes the financial institution to contact;

(c) who is a co-owner, additional authorized signatory, or beneficiary on a vulnerable adult's account; or

(d) who is an attorney, trustee, conservator, guardian or other fiduciary whom a court or a government agency selects to manage some or all of the financial affairs of the vulnerable adult.

(7) "Transaction" means any of the following services that a covered financial institution provides:

(a) a transfer or request to transfer or disburse funds or assets in an account;

(b) a request to initiate a wire transfer, initiate an automated clearinghouse transfer, or issue a money order, cashier's check, or official check;

(c) a request to negotiate a check or other negotiable instrument;

(d) a request to change the ownership of, or access to, an account;

(e) a request to sell or transfer a security or other asset, or a request to affix a medallion stamp or

provide any form of guarantee or endorsement in connection with an attempt to sell or transfer a security or other asset, if the person selling or transferring the security or asset is not required to obtain a license under Section 61-1-3;

(f) a request for a loan, extension of credit, or draw on a line of credit;

(g) a request to encumber any movable or immovable property; or

(h) a request to designate or change the designation of beneficiaries to receive any property, benefit, or contract right.

(8) "Vulnerable adult" means:

(a) an individual who is 65 years [~~of age~~] old or older; or

(b) the same as that term is defined in Section [~~62A-3-301~~] 26B-6-201.

Section 13. Section 10-2-419 is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall provide notice of a public hearing described in Subsection (2)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;

(c) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection [~~(3)(d)~~] (3)(c); and

(ii) the Utah State Developmental Center Board, created under Section [~~62A-5-202.5~~] 26B-1-429, if any state-owned real property described in this Subsection [~~(3)(d)~~] (3)(c) is associated with the Utah State Developmental Center; and

(d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection [~~(3)(d)~~] (3)(c);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection,

paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

(5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(c)(i) or (ii).

(6) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

(7) (a) An ordinance adopted under Subsection (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 14. Section 10-2-425 is amended to read:

10-2-425. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

(1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404, shall:

(a) within 60 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5;

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment, the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

(ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;

(B) submit to the recorder of each other county a certified copy of the documents listed in Subsection (1)(b)(ii)(A); and

(C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections (1)(b)(ii)(A) and (B); and

(c) concurrently with Subsection (1)(b):

(i) send notice of the annexation or boundary adjustment to each affected entity; and

(ii) in accordance with Section [~~26-8a-414~~] 26B-4-168, file with the Department of Health and Human Services:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and

(B) a copy of the approved final local entity plat.

(2) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a local district under Section 17B-1-416 or an automatic withdrawal from a local district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the local district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

(3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).

(4) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection (1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection (1) are met before that January 1; and

(b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

(5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:

(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and

(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).

(6) (a) As used in this Subsection (6):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 15. Section 10-8-41.6 is amended to read:

10-8-41.6. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(f) "Local health department" means the same as that term is defined in Section 26A-1-102.

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(vi) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(j) "Tobacco product" means:

(i) a tobacco product as defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by delegation of the state's police powers to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7) (a) A retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 16. Section 10-8-84.6 is amended to read:

10-8-84.6. Prohibition on licensing or certification of child care programs.

(1) (a) As used in this section, "child care program" means a child care facility or program operated by a person who holds a license or certificate from the Department of Health and Human Services under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing.

(b) "Child care program" does not include a child care program for which a municipality provides oversight, as described in Subsection [~~26-39-403(2)(e)~~] 26B-2-405(2)(e).

(2) A municipality may not enact or enforce an ordinance that:

(a) imposes licensing or certification requirements for a child care program; or

(b) governs the manner in which child care is provided in a child care program.

(3) This section does not prohibit a municipality from:

(a) requiring a business license to operate a business within the municipality; or

(b) imposing requirements related to building, health, and fire codes.

Section 17. Section 10-8-85.5 is amended to read:

10-8-85.5. "Rental dwelling" defined -- Municipality may require a business

license or a regulatory business license and inspections -- Exception.

(1) As used in this section, "rental dwelling" means a building or portion of a building that is:

(a) used or designated for use as a residence by one or more persons; and

(b) (i) available to be rented, loaned, leased, or hired out for a period of one month or longer; or

(ii) arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one month or longer.

(2) (a) The legislative body of a municipality may by ordinance require the owner of a rental dwelling located within the municipality:

(i) to obtain a business license pursuant to Section 10-1-203; or

(ii) (A) to obtain a regulatory business license to operate and maintain the rental dwelling in accordance with Section 10-1-203.5; and

(B) to allow inspections of the rental dwelling as a condition of obtaining a regulatory business license.

(b) A municipality may not require an owner of multiple rental dwellings or multiple buildings containing rental dwellings to obtain more than one regulatory business license for the operation and maintenance of those rental dwellings.

(c) A municipality may not charge a fee for the inspection of a rental dwelling.

(d) If a municipality's inspection of a rental dwelling, allowed under Subsection (2)(a)(ii)(B), approves the rental dwelling for purposes of a regulatory business license, a municipality may not inspect that rental dwelling except as provided for in Section 10-1-203.5.

(3) A municipality may not:

(a) interfere with the ability of an owner of a rental dwelling to contract with a tenant concerning the payment of the cost of a utility or municipal service provided to the rental dwelling; or

(b) except as required under the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act, for a structural change to the rental dwelling, or as required in an ordinance adopted before January 1, 2008, require the owner of a rental dwelling to retrofit the rental dwelling with or install in the rental dwelling a safety feature that was not required when the rental dwelling was constructed.

(4) Nothing in this section shall be construed to affect the rights and duties established under Title 57, Chapter 22, Utah Fit Premises Act, or to restrict a municipality's ability to enforce its generally applicable health ordinances or building code, a local health department's authority under Title 26A, Chapter 1, Local Health Departments, or the [~~Utah Department of Health's~~] Department of Health and Human Service's authority under [~~Title 26, Utah Health Code~~] Title 26B, Utah Health and Human Services Code.

Section 18. Section 10-8-90 is amended to read:

10-8-90. Ownership and operation of hospitals.

(1) Each city of the third, fourth, or fifth class and each town of the state is authorized to construct, own, and operate hospitals and to join with other cities, towns, and counties in the construction, ownership, and operation of hospitals.

(2) (a) Beginning July 1, 2017, a hospital under Subsection (1) that owns a nursing care facility regulated under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and uses an intergovernmental transfer as that term is defined in Section [~~26-18-21~~] 26B-3-130 may not enter into a new agreement or arrangement to operate a nursing care facility in another city, town, or county without first entering into an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or other contract with the other city, town, or county to operate the nursing care facility.

(b) Subsection (2)(a) only applies to a city or town described in Subsection (1).

Section 19. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the [~~Utah~~] Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an

affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

(ii) a therapeutic school.

(15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the

land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(21) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(25) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(29) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(30) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

(32) "Land use permit" means a permit issued by a land use authority.

(33) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(34) "Legislative body" means the municipal council.

(35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities – Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(36) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(38) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(39) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(41) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

(42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(43) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(44) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(46) "Parcel" means any real property that is not a lot.

(47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(48) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(50) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

(51) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(52) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(57) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(58) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

[~~(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or~~]

[~~(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~]

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(59) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(60) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(61) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(62) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(64) "State" includes any department, division, or agency of the state.

(65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(67) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(68) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(69) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(71) "Unincorporated" means the area outside of the incorporated area of a city or town.

(72) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 20. Section 10-9a-520 is amended to read:

10-9a-520. Licensing of residences for persons with a disability.

The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the Department of Health and Human Services as provided in:

[~~(1) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for People with Disabilities; and~~]

[~~(2) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~]

(1) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(2) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

Section 21. Section 10-9a-528 is amended to read:

10-9a-528. Cannabis production establishments, medical cannabis pharmacies, and industrial hemp producer licensee.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

(c) "Medical cannabis pharmacy" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(2) (a) (i) A municipality may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:

(A) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and applicable jurisprudence; and

(B) this chapter.

(iii) A municipality may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health and Human Services has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section [~~26-61a-507~~] 26B-4-235.

(b) A municipality shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

Section 22. Section 11-46-102 is amended to read:

11-46-102. Definitions.

As used in this chapter:

(1) "Animal" means a cat or dog.

(2) "Animal control officer" means any person employed or appointed by a county or a municipality who is authorized to investigate violations of laws and ordinances concerning animals, to issue citations in accordance with Utah law, and take custody of animals as appropriate in the enforcement of the laws and ordinances.

(3) "Animal shelter" means a facility or program:

(a) providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution conducting research on animals, as defined in Section [~~26-26-1~~] 26B-1-236; or

(b) a private humane society or private animal welfare organization.

(4) "Person" means an individual, an entity, or a representative of an entity.

Section 23. Section 11-48-101.5 is amended to read:

11-48-101.5. Definitions.

As used in this chapter:

(1) (a) "911 ambulance services" means ambulance services rendered in response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance services" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

(2) "Municipality" means a city, town, or metro township.

(3) "Political subdivision" means a county, city, town, local district, or special district.

Section 24. Section 11-48-103 is amended to read:

11-48-103. Provision of 911 ambulance services in municipalities and counties.

(1) The governing body of each municipality and county shall, subject to [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, ensure at least a minimum level of 911 ambulance services are provided:

(a) within the territorial limits of the municipality or county;

(b) by a ground ambulance provider, licensed by the Department of Health and Human Services under [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System; and

(c) in accordance with rules established by the State Emergency Medical Services Committee under [~~Subsection 26-8a-104(8)~~] Section 26B-1-404.

(2) A municipality or county may:

(a) subject to Subsection (3), maintain and support 911 ambulance services for the municipality's or county's own jurisdiction; or

(b) contract to:

(i) provide 911 ambulance services to any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(ii) receive 911 ambulance services from any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(iii) jointly provide 911 ambulance services with any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or

(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

(3) (a) A municipality or county that maintains and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the Department of Health and Human Services under [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

(b) [~~Subsections 26-8a-405~~] Sections 26B-4-154 through [~~26-8a-405.3~~] 26B-4-157 do not apply to a license described in Subsection (3)(a).

Section 25. Section 13-5b-103 is amended to read:

13-5b-103. Contract negotiation standards.

(1) An integrated health system shall prohibit any employee or independent contractor of any division, subsidiary, or affiliate engaged in the business of health insurance from negotiating contracts on behalf of the integrated health care system's health care facilities, subject to licensing under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, with any other licensed health insurer in the state.

(2) An integrated health system shall prohibit the disclosure of contract pricing terms between the integrated health care system's health care facilities and other health insurers with the integrated health care system's divisions, subsidiaries, or affiliates which are engaged in the business of health insurance.

Section 26. Section 13-59-102 is amended to read:

13-59-102. Definitions.

As used in this chapter:

(1) "Enrollee" means the same as that term is defined in Section 31A-1-301.

(2) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(3) "Health care provider" means a person licensed to provide health care under:

(a) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

(b) Title 58, Occupations and Professions.

Section 27. Section 13-60-102 is amended to read:

Part 1. Genetic Information Privacy Act

13-60-102. Definitions.

As used in this [~~chapter~~] part:

(1) "Biological sample" means any human material known to contain DNA, including tissue, blood, urine, or saliva.

(2) "Consumer" means an individual who is a resident of the state.

(3) "Deidentified data" means data that:

(a) cannot reasonably be linked to an identifiable individual; and

(b) possessed by a company that:

(i) takes administrative and technical measures to ensure that the data cannot be associated with a particular consumer;

(ii) makes a public commitment to maintain and use data in deidentified form and not attempt to reidentify data; and

(iii) enters into legally enforceable contractual obligation that prohibits a recipient of the data from attempting to reidentify the data.

(4) "Direct-to-consumer genetic testing company" or "company" means an entity that:

(a) offers consumer genetic testing products or services directly to consumers; or

(b) collects, uses, or analyzes genetic data that a consumer provides to the entity.

(5) "DNA" means deoxyribonucleic acid.

(6) "Express consent" means a consumer's affirmative response to a clear, meaningful, and prominent notice regarding the collection, use, or disclosure of genetic data for a specific purpose.

(7) (a) "Genetic data" means any data, regardless of format, concerning a consumer's genetic characteristics.

(b) "Genetic data" includes:

(i) raw sequence data that result from sequencing all or a portion of a consumer's extracted DNA;

(ii) genotypic and phenotypic information obtained from analyzing a consumer's raw sequence data; and

(iii) self-reported health information regarding a consumer's health conditions that the consumer provides to a company that the company:

(A) uses for scientific research or product development; and

(B) analyzes in connection with the consumer's raw sequence data.

(c) "Genetic data" does not include deidentified data.

(8) "Genetic testing" means:

(a) a laboratory test of a consumer's complete DNA, regions of DNA, chromosomes, genes, or gene products to determine the presence of genetic characteristics of the consumer; or

(b) an interpretation of a consumer's genetic data.

Section 28. Section 13-60-103 is amended to read:

13-60-103. Limitations.

This [~~chapter~~] part does not apply to:

(1) protected health information that is collected by a covered entity or business associate as those terms are defined in 45 C.F.R. Parts 160 and 164;

(2) a public or private institution of higher education; or

(3) an entity owned or operated by a public or private institution of higher education.

Section 29. Section 13-60-104, which is renumbered from Section 13-60-201 is renumbered and amended to read:

[~~13-60-201~~]. 13-60-104. Consumer genetic information -- Privacy notice -- Consent -- Access -- Deletion -- Destruction.

(1) A direct-to-consumer genetic testing company shall:

(a) provide to a consumer:

(i) essential information about the company's collection, use, and disclosure of genetic data; and

(ii) a prominent, publicly available privacy notice that includes information about the company's data collection, consent, use, access, disclosure, transfer, security, retention, and deletion practices;

(b) obtain a consumer's initial express consent for collection, use, or disclosure of the consumer's genetic data that:

(i) clearly describes the company's use of the genetic data that the company collects through the company's genetic testing product or service;

(ii) specifies who has access to test results; and

(iii) specifies how the company may share the genetic data;

(c) if the company engages in any of the following, obtain a consumer's:

(i) separate express consent for:

(A) the transfer or disclosure of the consumer's genetic data to any person other than the company's vendors and service providers;

(B) the use of genetic data beyond the primary purpose of the company's genetic testing product or service; or

(C) the company's retention of any biological sample provided by the consumer following the company's completion of the initial testing service requested by the consumer;

(ii) informed consent in accordance with the Federal Policy for the Protection of Human Subjects, 45 C.F.R. Part 46, for transfer or disclosure of the consumer's genetic data to a third party for:

(A) research purposes; or

(B) research conducted under the control of the company for the purpose of publication or generalizable knowledge; and

(iii) express consent for:

(A) marketing to a consumer based on the consumer's genetic data; or

(B) marketing by a third party person to a consumer based on the consumer having ordered or purchased a genetic testing product or service;

(d) require valid legal process for the company's disclosure of a consumer's genetic data to law enforcement or any government entity without the consumer's express written consent;

(e) develop, implement, and maintain a comprehensive security program to protect a consumer's genetic data against unauthorized access, use, or disclosure; and

(f) provide a process for a consumer to:

(i) access the consumer's genetic data;

(ii) delete the consumer's account and genetic data; and

(iii) destroy the consumer's biological sample.

(2) Notwithstanding Subsection (1)(c)(iii), a direct-to-consumer genetic testing company with a first-party relationship to a consumer may, without obtaining the consumer's express consent, provide customized content or offers on the company's website or through the company's application or service.

Section 30. Section 13-60-105, which is renumbered from Section 13-60-202 is renumbered and amended to read:

[~~13-60-202~~]. 13-60-105. Prohibited disclosures.

A direct-to-consumer genetic testing company may not disclose a consumer's genetic data without the consumer's written consent to:

(1) an entity that offers health insurance, life insurance, or long-term care insurance; or

(2) an employer of the consumer.

Section 31. Section 13-60-106, which is renumbered from Section 13-60-301 is renumbered and amended to read:

[~~13-60-301~~]. 13-60-106. Enforcement powers of the attorney general.

(1) The attorney general may enforce this [~~chapter~~] part.

(2) The attorney general may initiate a civil enforcement action against a person for violating this [~~chapter~~] part.

(3) In an action to enforce this [~~chapter~~] part, the attorney general may recover:

(a) actual damages to the consumer;

(b) costs;

(c) attorney fees; and

(d) $2,500 for each violation of this [~~chapter~~] part.

Section 32. Section 13-60-203, which is renumbered from Section 26-45-102 is renumbered and amended to read:

Part 2. Genetic Testing and Procedure Privacy Act

[~~26-45-102~~]. 13-60-203. Definitions.

As used in this [~~chapter~~] part:

(1) "Blood relative" means an individual's biologically related:

(a) parent;

(b) grandparent;

(c) child;

(d) grandchild;

(e) sibling;

(f) uncle;

(g) aunt;

(h) nephew;

(i) niece; or

(j) first cousin.

(2) "DNA" means:

(a) deoxyribonucleic acid, ribonucleic acid, and chromosomes, which may be analyzed to detect heritable diseases or conditions, including the identification of carriers, predicting risk of disease, or establishing a clinical diagnosis; or

(b) proteins, enzymes, or other molecules associated with a genetic process, which may be modified, replaced in part or whole, superseded, or bypassed in function by a health or medical procedure.

(3) "DNA sample" means any human biological specimen from which DNA can be extracted, or DNA extracted from such specimen.

(4) "Employer" means the same as that term is defined in Section 34A-2-103.

(5) (a) "Genetic analysis" or "genetic test" means the testing, detection, or analysis of an identifiable individual's DNA that results in information that is derived from the presence, absence, alteration, or mutation of an inherited gene or genes, or the presence or absence of a specific DNA marker or markers.

(b) "Genetic analysis" or "genetic test" does not mean:

(i) a routine physical examination;

(ii) a routine chemical, blood, or urine analysis;

(iii) a test to identify the presence of drugs or HIV infection; or

(iv) a test performed due to the presence of signs, symptoms, or other manifestations of a disease, illness, impairment, or other disorder.

(6) "Genetic procedure" means any therapy, treatment, or medical procedure that is intended to:

(a) add, remove, alter, activate, change, or cause mutation in an individual's inherited DNA; or

(b) replace, supersede, or bypass a normal DNA function.

(7) "Health care insurance" means the same as that term is defined in Section 31A-1-301.

(8) (a) "Private genetic information" means any information about an identifiable individual that:

(i) is derived from:

(A) the presence, absence, alteration, or mutation of an inherited gene or genes; or

(B) the presence or absence of a specific DNA marker or markers; and

(ii) has been obtained:

(A) from a genetic test or analysis of the individual's DNA;

(B) from a genetic test or analysis of the DNA of a blood relative of the individual; or

(C) from a genetic procedure.

(b) "Private genetic information" does not include information that is derived from:

(i) a routine physical examination;

(ii) a routine chemical, blood, or urine analysis;

(iii) a test to identify the presence of drugs or HIV infection; or

(iv) a test performed due to the presence of signs, symptoms, or other manifestations of a disease, illness, impairment, or other disorder.

Section 33. Section 13-60-204, which is renumbered from Section 26-45-103 is renumbered and amended to read:

[~~26-45-103~~]. 13-60-204. Restrictions on employers.

(1) Except as provided in Subsection (2), an employer may not in connection with a hiring, promotion, retention, or other related decision:

(a) access or otherwise take into consideration private genetic information about an individual;

(b) request or require an individual to consent to a release for the purpose of accessing private genetic information about the individual;

(c) request or require an individual or the individual's blood relative to submit to:

(i) a genetic test; or

(ii) a genetic procedure; or

(d) inquire into or otherwise take into consideration the fact that an individual or the individual's blood relative has:

(i) taken or refused to take a genetic test; or

(ii) undergone or refused to undergo a genetic procedure.

(2) (a) Notwithstanding Subsection (1), an employer may seek an order compelling the disclosure of private genetic information held by an individual or third party pursuant to Subsection (2)(b) in connection with:

(i) an employment-related judicial or administrative proceeding in which the individual has placed his health at issue; or

(ii) an employment-related decision in which the employer has a reasonable basis to believe that the individual's health condition poses a real and unjustifiable safety risk requiring the change or denial of an assignment.

(b) (i) An order compelling the disclosure of private genetic information pursuant to this Subsection (2) may only be entered upon a finding that:

(A) other ways of obtaining the private information are not available or would not be effective; and

(B) there is a compelling need for the private genetic information which substantially outweighs the potential harm to the privacy interests of the individual.

(ii) An order compelling the disclosure of private genetic information pursuant to this Subsection (2) shall:

(A) limit disclosure to those parts of the record containing information essential to fulfill the objective of the order;

(B) limit disclosure to those persons whose need for the information is the basis of the order; and

(C) include such other measures as may be necessary to limit disclosure for the protection of the individual.

Section 34. Section 13-60-205, which is renumbered from Section 26-45-104 is renumbered and amended to read:

~~[26-45-104]~~. 13-60-205. Restrictions on health insurers.

(1) Except as provided in Subsection (2), an insurer offering health care insurance may not in connection with the offer or renewal of an insurance product or in the determination of premiums, coverage, renewal, cancellation, or any other underwriting decision that pertains directly to the individual or any group of which the individual is a member that purchases insurance jointly:

(a) access or otherwise take into consideration private genetic information about an asymptomatic individual;

(b) request or require an asymptomatic individual to consent to a release for the purpose of accessing private genetic information about the individual;

(c) request or require an asymptomatic individual or the individual's blood relative to submit to a genetic test;

(d) inquire into or otherwise take into consideration the fact that an asymptomatic individual or the individual's blood relative has taken or refused to take a genetic test;

(e) request or require an individual or the individual's blood relative to submit to a genetic procedure; or

(f) inquire into the results of a genetic procedure that an individual or the individual's blood relative undergoes.

(2) An insurer offering health care insurance:

(a) may request information regarding the necessity of a genetic test, but not the results of the test, if a claim for payment for the test has been made against an individual's health insurance policy;

(b) may request information regarding the necessity of a genetic procedure, including the results of the procedure, if a claim for payment for the procedure has been made against an individual's health insurance policy;

(c) may request that portion of private genetic information that is necessary to determine the insurer's obligation to pay for health care services where:

(i) the primary basis for rendering such services to an individual is the result of a genetic test; and

(ii) a claim for payment for such services has been made against the individual's health insurance policy;

(d) may only store information obtained under this Subsection (2) in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996; and

(e) may only use or otherwise disclose the information obtained under this Subsection (2) in

connection with a proceeding to determine the obligation of an insurer to pay for a genetic test or health care services, provided that, in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996, the insurer makes a reasonable effort to limit disclosure to the minimum necessary to carry out the purposes of the disclosure.

(3) (a) An insurer may, to the extent permitted by Subsection (2), seek an order compelling the disclosure of private genetic information held by an individual or third party.

(b) An order authorizing the disclosure of private genetic information pursuant to this Subsection (2) shall:

(i) limit disclosure to those parts of the record containing information essential to fulfill the objectives of the order;

(ii) limit disclosure to those persons whose need for the information is the basis for the order; and

(iii) include such other measures as may be necessary to limit disclosure for the protection of the individual.

(4) Nothing in this section may be construed as restricting the ability of an insurer to use information other than private genetic information to take into account the health status of an individual, group, or population in determining premiums or making other underwriting decisions.

(5) Nothing in this section may be construed as:

(a) requiring an insurer to pay for genetic testing or a genetic procedure; or

(b) prohibiting the use of step-therapy protocols.

(6) Information maintained by an insurer about an individual under this section may be redisclosed:

(a) to protect the interests of the insurer in detecting, prosecuting, or taking legal action against criminal activity, fraud, material misrepresentations, and material omissions;

(b) to enable business decisions to be made about the purchase, transfer, merger, reinsurance, or sale of all or part of the insurer's business; and

(c) to the commissioner of insurance upon formal request.

Section 35. Section 13-60-206, which is renumbered from Section 26-45-105 is renumbered and amended to read:

[~~26-45-105~~]. 13-60-206. Private right of action.

(1) (a) An individual whose legal rights arising under this [~~chapter~~] part have been violated after June 30, 2003, may recover damages and be granted equitable relief in a civil action.

(b) Subsection (1)(a) does not create a legal right prior to the Legislature enacting the right under this [~~chapter~~] part.

(2) Any insurance company or employer who violates the legal rights of an individual arising from this [~~chapter~~] part shall be liable to the individual for each separate violation in an amount equal to:

(a) actual damages sustained as a result of the violation;

(b) (i) $100,000 if the violation is the result of an intentional and willful act; or

(ii) punitive damages if the violation is the result of a malicious act; and

(c) reasonable attorneys' fees.

Section 36. Section 13-60-207, which is renumbered from Section 26-45-106 is renumbered and amended to read:

[~~26-45-106~~]. 13-60-207. Enforcement.

(1) Whenever the attorney general has reason to believe that any person is using or is about to use any method, act, or practice in violation of the provisions of this [~~chapter~~] part, and that proceedings would be in the public interest, the attorney general may bring an action against the person to restrain or enjoin the use of such method, act, or practice.

(2) In addition to restraining or enjoining the use of a method, act, or practice, the court may, after June 30, 2003, require the payment of:

(a) a civil fine of not more than $25,000 for each separate intentional violation; and

(b) reasonable costs of investigation and litigation, including reasonable attorneys' fees.

Section 37. Section 13-61-101 (Effective 12/31/23) is amended to read:

13-61-101 (Effective 12/31/23). Definitions.

As used in this chapter:

(1) "Account" means the Consumer Privacy Restricted Account established in Section 13-61-403.

(2) "Affiliate" means an entity that:

(a) controls, is controlled by, or is under common control with another entity; or

(b) shares common branding with another entity.

(3) "Aggregated data" means information that relates to a group or category of consumers:

(a) from which individual consumer identities have been removed; and

(b) that is not linked or reasonably linkable to any consumer.

(4) "Air carrier" means the same as that term is defined in 49 U.S.C. Sec. 40102.

(5) "Authenticate" means to use reasonable means to determine that a consumer's request to exercise the rights described in Section 13-61-201 is made by the consumer who is entitled to exercise those rights.

(6) (a) "Biometric data" means data generated by automatic measurements of an individual's unique biological characteristics.

(b) "Biometric data" includes data described in Subsection (6)(a) that are generated by automatic measurements of an individual's fingerprint, voiceprint, eye retinas, irises, or any other unique biological pattern or characteristic that is used to identify a specific individual.

(c) "Biometric data" does not include:

(i) a physical or digital photograph;

(ii) a video or audio recording;

(iii) data generated from an item described in Subsection (6)(c)(i) or (ii);

(iv) information captured from a patient in a health care setting; or

(v) information collected, used, or stored for treatment, payment, or health care operations as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.

(7) "Business associate" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(8) "Child" means an individual younger than 13 years old.

(9) "Consent" means an affirmative act by a consumer that unambiguously indicates the consumer's voluntary and informed agreement to allow a person to process personal data related to the consumer.

(10) (a) "Consumer" means an individual who is a resident of the state acting in an individual or household context.

(b) "Consumer" does not include an individual acting in an employment or commercial context.

(11) "Control" or "controlled" as used in Subsection (2) means:

(a) ownership of, or the power to vote, more than 50% of the outstanding shares of any class of voting securities of an entity;

(b) control in any manner over the election of a majority of the directors or of the individuals exercising similar functions; or

(c) the power to exercise controlling influence of the management of an entity.

(12) "Controller" means a person doing business in the state who determines the purposes for which and the means by which personal data are processed, regardless of whether the person makes the determination alone or with others.

(13) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(14) "Deidentified data" means data that:

(a) cannot reasonably be linked to an identified individual or an identifiable individual; and

(b) are possessed by a controller who:

(i) takes reasonable measures to ensure that a person cannot associate the data with an individual;

(ii) publicly commits to maintain and use the data only in deidentified form and not attempt to reidentify the data; and

(iii) contractually obligates any recipients of the data to comply with the requirements described in Subsections (14)(b)(i) and (ii).

(15) "Director" means the director of the Division of Consumer Protection.

(16) "Division" means the Division of Consumer Protection created in Section 13-2-1.

(17) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(18) "Health care facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(19) "Health care provider" means the same as that term is defined in Section [~~26-21-2~~] 78B-3-403.

(20) "Identifiable individual" means an individual who can be readily identified, directly or indirectly.

(21) "Institution of higher education" means a public or private institution of higher education.

(22) "Local political subdivision" means the same as that term is defined in Section 11-14-102.

(23) "Nonprofit corporation" means:

(a) the same as that term is defined in Section 16-6a-102; or

(b) a foreign nonprofit corporation as defined in Section 16-6a-102.

(24) (a) "Personal data" means information that is linked or reasonably linkable to an identified individual or an identifiable individual.

(b) "Personal data" does not include deidentified data, aggregated data, or publicly available information.

(25) "Process" means an operation or set of operations performed on personal data, including collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(26) "Processor" means a person who processes personal data on behalf of a controller.

(27) "Protected health information" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(28) "Pseudonymous data" means personal data that cannot be attributed to a specific individual without the use of additional information, if the additional information is:

(a) kept separate from the consumer's personal data; and

(b) subject to appropriate technical and organizational measures to ensure that the personal data are not attributable to an identified individual or an identifiable individual.

(29) "Publicly available information" means information that a person:

(a) lawfully obtains from a record of a governmental entity;

(b) reasonably believes a consumer or widely distributed media has lawfully made available to the general public; or

(c) if the consumer has not restricted the information to a specific audience, obtains from a person to whom the consumer disclosed the information.

(30) "Right" means a consumer right described in Section 13-61-201.

(31) (a) "Sale," "sell," or "sold" means the exchange of personal data for monetary consideration by a controller to a third party.

(b) "Sale," "sell," or "sold" does not include:

(i) a controller's disclosure of personal data to a processor who processes the personal data on behalf of the controller;

(ii) a controller's disclosure of personal data to an affiliate of the controller;

(iii) considering the context in which the consumer provided the personal data to the controller, a controller's disclosure of personal data to a third party if the purpose is consistent with a consumer's reasonable expectations;

(iv) the disclosure or transfer of personal data when a consumer directs a controller to:

(A) disclose the personal data; or

(B) interact with one or more third parties;

(v) a consumer's disclosure of personal data to a third party for the purpose of providing a product or service requested by the consumer or a parent or legal guardian of a child;

(vi) the disclosure of information that the consumer:

(A) intentionally makes available to the general public via a channel of mass media; and

(B) does not restrict to a specific audience; or

(vii) a controller's transfer of personal data to a third party as an asset that is part of a proposed or actual merger, an acquisition, or a bankruptcy in which the third party assumes control of all or part of the controller's assets.

(32) (a) "Sensitive data" means:

(i) personal data that reveals:

(A) an individual's racial or ethnic origin;

(B) an individual's religious beliefs;

(C) an individual's sexual orientation;

(D) an individual's citizenship or immigration status; or

(E) information regarding an individual's medical history, mental or physical health condition, or medical treatment or diagnosis by a health care professional;

(ii) the processing of genetic personal data or biometric data, if the processing is for the purpose of identifying a specific individual; or

(iii) specific geolocation data.

(b) "Sensitive data" does not include personal data that reveals an individual's:

(i) racial or ethnic origin, if the personal data are processed by a video communication service; or

(ii) if the personal data are processed by a person licensed to provide health care under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, or Title 58, Occupations and Professions, information regarding an individual's medical history, mental or physical health condition, or medical treatment or diagnosis by a health care professional.

(33) (a) "Specific geolocation data" means information derived from technology, including global position system level latitude and longitude coordinates, that directly identifies an individual's specific location, accurate within a radius of 1,750 feet or less.

(b) "Specific geolocation data" does not include:

(i) the content of a communication; or

(ii) any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

(34) (a) "Targeted advertising" means displaying an advertisement to a consumer where the advertisement is selected based on personal data obtained from the consumer's activities over time and across nonaffiliated websites or online applications to predict the consumer's preferences or interests.

(b) "Targeted advertising" does not include advertising:

(i) based on a consumer's activities within a controller's website or online application or any affiliated website or online application;

(ii) based on the context of a consumer's current search query or visit to a website or online application;

(iii) directed to a consumer in response to the consumer's request for information, product, a service, or feedback; or

(iv) processing personal data solely to measure or report advertising:

(A) performance;

(B) reach; or

(C) frequency.

(35) "Third party" means a person other than:

(a) the consumer, controller, or processor; or

(b) an affiliate or contractor of the controller or the processor.

(36) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the information's disclosure or use; and

(b) is the subject of efforts that are reasonable under the circumstances to maintain the information's secrecy.

Section 38. Section 15-4-1 is amended to read:

15-4-1. Definitions.

As used in this chapter:

(1) "Obligation" includes a liability in tort and contractual obligations[~~;~~].

(2) "Obligee" includes a creditor and a person having a right based on a tort[~~;~~].

(3) "Obligor" includes a debtor and a person liable for a tort[~~;~~].

(4) (a) "School fee" means a charge, deposit, rent, or other mandatory payment imposed by:

(i) a public school as defined in Section [~~26-39-102~~] 26B-2-401; or

(ii) a private school that provides education to students in any grade from kindergarten through grade 12.

(b) "School fee" includes:

(i) an admission fee;

(ii) a transportation charge; or

(iii) a charge, deposit, rent, or other mandatory payment imposed by a third party in connection with an activity or function sponsored by a school described in Subsection (4)(a).

(5) "Several obligors" means obligors severally bound for the same performance.

(6) "Waiver" means the act of not requiring an individual to pay an amount that the individual otherwise owes.

Section 39. Section 15-4-6.7 is amended to read:

15-4-6.7. Medical and miscellaneous expenses of minor children -- Collection and billing pursuant to court or administrative order of child support.

(1) When a court enters an order that provides for the payment of medical and dental expenses of a minor child under Section 30-3-5, 30-4-3, or 78B-12-111, or an administrative order under Section [~~62A-11-326~~] 26B-9-224, a provider who receives a copy of the order:

(a) at or before the time the provider renders medical or dental services to the minor child shall, upon request from either parent, separately bill each parent for the share of the medical and dental expenses that the parent is required to pay under the order; or

(b) within 30 days after the day on which the provider renders the medical or dental service, may not:

(i) make a claim for unpaid medical and dental expenses against a parent who has paid in full the share of the medical and dental expenses that the parent is required to pay under the order; or

(ii) make a negative credit report under Section 70C-7-107, or report of the debtor's repayment practices or credit history under Title 7, Chapter 14, Credit Information Exchange, regarding a parent who has paid in full the share of the medical and dental expenses that the parent is required to pay under the order.

(2) (a) When a court enters an order that provides for the payment of school fees of a minor child under Section 30-3-5 or 30-4-3:

(i) a provider who receives a copy of the order before the day on which the provider first issues a bill for a school fee shall, upon request from either parent, separately bill each parent for the share of the school fee that the parent is required to pay under the order;

(ii) a provider who receives a copy of the order, regardless of whether the provider receives the copy before, on, or after the day on which the provider first issues a bill for the school fee may not make a negative credit report under Section 70C-7-107, or report of the debtor's repayment practices or credit history under Title 7, Chapter 14, Credit Information Exchange, regarding a parent who has paid in full the share of the school fee that the parent is required to pay under the order; and

(iii) each parent is liable only for the share of the school fee that the parent is required to pay under the order.

(b) A provider may bill a parent for the parent's share of a minor child's school fee under an order described in Subsection (2)(a) regardless of whether the provider grants the other parent a waiver for all or a portion of the other parent's share of the minor child's school fee.

Section 40. Section 15A-1-208 is amended to read:

15A-1-208. Standards for specialized buildings.

(1) This chapter may not be implied to repeal or otherwise affect the authority granted to a state agency to make or administer standards for specialized buildings, as provided in:

(a) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(b) [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

(c) [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 4, Child Care Licensing;

(d) Title 64, Chapter 13, Department of Corrections – State Prison; or

(e) another statute that grants a state agency authority to make or administer other special standards.

(2) If a special standard conflicts with a code, the special standard prevails.

(3) This chapter does not apply to the administration of the statutes described in Subsection (1).

Section 41. Section 15A-2-105 is amended to read:

15A-2-105. Scope of application.

(1) To the extent that a construction code adopted under Section 15A–2–103 establishes a local administrative function or establishes a method of appeal which pursuant to Section 15A–1–207 is designated to be established by the compliance agency:

(a) that provision of the construction code is not included in the State Construction Code; and

(b) a compliance agency may establish provisions to establish a local administrative function or a method of appeal.

(2) (a) To the extent that a construction code adopted under Subsection (1) establishes a provision, standard, or reference to another code that by state statute is designated to be established or administered by another state agency, or a local city, town, or county jurisdiction:

(i) that provision of the construction code is not included in the State Construction Code; and

(ii) the state agency or local government has authority over that provision of the construction code.

(b) Provisions excluded under this Subsection (2) include:

(i) the International Property Maintenance Code;

(ii) the International Private Sewage Disposal Code, authority over which is reserved to the Department of Health and Human Services and the Department of Environmental Quality;

(iii) the International Fire Code, authority over which is reserved to the board, pursuant to Section 15A–1–403;

(iv) a day care provision that is in conflict with [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing, authority over which is designated to the [~~Utah~~] Department of Health and Human Services; and

(v) a wildland urban interface provision that goes beyond the authority under Section 15A–1–204, for the State Construction Code, authority over which is designated to the [~~Utah~~] Division of Forestry or to a local compliance agency.

(3) If a construction code adopted under Subsection 15A–2–103(1) establishes a provision that exceeds the scope described in Chapter 1, Part 2, State Construction Code Administration Act, to the extent the scope is exceeded, the provision is not included in the State Construction Code.

Section 42. Section 15A-3-102 is amended to read:

15A-3-102. Amendments to Chapters 1 through 3 of IBC.

(1) IBC, Section 106, is deleted.

(2) In IBC, Section 110, a new section is added as follows: " 110.3.5.1, Weather–resistant exterior wall envelope. An inspection shall be made of the weather–resistant exterior wall envelope as required by Section 1404.2, and flashing as required by Section 1404.4 to prevent water from entering the weather–resistive barrier."

(3) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or is dangerous or unsafe, the building official is authorized to stop work."

(4) In IBC, Section 202, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Utah Department of Health and Human Services where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code R432–13."

(5) In IBC, Section 202, the following definition is added for Assisted Living Facility: "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility."

(6) In IBC, Section 202, the definition for Foster Care Facilities is modified by deleting the word "Foster" and replacing it with the word "Child."

(7) In IBC, Section 202, the definition for "[F]Record Drawings" is modified by deleting the words "a fire alarm system" and replacing them with "any fire protection system."

(8) In IBC, Section 202, the following definition is added for Residential Treatment/Support Assisted Living Facility: "RESIDENTIAL TREATMENT/ SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides a group living environment for four or more residents licensed by the Department of Health and Human Services, and provides a protected living arrangement for ambulatory, non–restrained persons who are capable of achieving mobility sufficient to exit the

facility without the physical assistance of another person."

(9) In IBC, Section 202, the following definition is added for Type I Assisted Living Facility: "TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health and Human Services that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

(10) In IBC, Section 202, the following definition is added for Type II Assisted Living Facility: "TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health and Human Services that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

(11) In IBC, Section 305.2, the following changes are made:

(a) delete the words "more than five children older than 2 1/2 years of age" and replace with the words "five or more children 2 years of age or older";

(b) after the word "supervision" insert the words "child care services"; and

(c) add the following sentence at the end of the paragraph: "See Section 429, Day Care, for special requirements for day care."

(12) In IBC, Section 305.2.2 and 305.2.3, the word "five" is deleted and replaced with the word "four" in all places.

(13) A new IBC Section 305.2.4 is added as follows: "305.2.4 Child day care -- residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Sections 310.3 and 310.4 comply with the International Residential Code in accordance with Section R101.2."

(14) A new IBC Section 305.2.5 is added as follows: "305.2.5 Child care centers. Each of the following areas may be classified as accessory occupancies, if the area complies with Section 508.2:

1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs."

(15) In IBC, Table 307.1(1), footnote "d" is added to the row for Explosives, Division 1.4G in the column titled STORAGE - Solid Pounds (cubic feet).

(16) In IBC, Section 308.2, in the list of items under "This group shall include," the words "Type-I Large and Type-II Small, see Section 308.2.5" are added after "Assisted living facilities."

(17) In IBC, Section 308.2.4, all of the words after the first International Residential Code are deleted.

(18) A new IBC, Section 308.2.5 is added as follows:

"308.2.5 Group I-1 assisted living facility occupancy groups. The following occupancy groups shall apply to assisted living facilities:

Type I assisted living facilities with seventeen or more residents are Large Facilities classified as an Institutional Group I-1, Condition 1 occupancy.

Type II assisted living facilities with six to sixteen residents are Small Facilities classified as an Institutional Group I-1, Condition 2 occupancy. See Section 202 for definitions."

(19) In IBC, Section 308.3 Institutional Group I-2, the following changes are made:

(a) The words "more than five" are deleted and replaced with "four or more";

(b) The group "Assisted living facilities, Type-II Large" is added to the list of groups;

(c) The words "Foster care facilities" are deleted and replaced with the words "Child care facilities"; and

(d) The words "(both intermediate care facilities and skilled nursing facilities)" are added after "Nursing homes."

(20) In IBC, Section 308.3.2, the number "five" is deleted and replaced with the number "four" in each location.

(21) A new IBC, Section 308.3.3 is added as follows:

"308.3.3 Group I-2 assisted living facilities. Type II assisted living facilities with seventeen or more residents are Large Facilities classified as an

Institutional Group I-2, Condition 1 occupancy. See Section 202 for definitions."

(22) In IBC, Section 308.5, the words "more than five" are deleted and replaced with the words "five or more."

(23) In IBC, Section 308.5.1, the following changes are made:

(a) The words "more than five" are deleted and replaced with the words "five or more."

(b) The words "2-1/2 years or less of age" are deleted and replaced with "under the age of two."

(c) The following sentence is added at the end: "See Section 429 for special requirements for Day Care."

(24) In IBC, Sections 308.5.3 and 308.5.4, the words "five or fewer" are deleted and replaced with the words "four or fewer" in both places and the following sentence is added at the end: "See Section 429 for special requirements for Day Care."

(25) In IBC, Section 310.4, the following changes are made:

(a) The words "and single family dwellings complying with the IRC" are added after "Residential Group-3 occupancies."

(b) The words "Assisted Living Facilities, limited capacity" are added to the list of occupancies.

(26) In IBC, Section 310.4.1, the following changes are made:

(a) The words "other than Child Care" are inserted after the words "Care facilities" in the first sentence.

(b) All of the words after the first "International Residential Code" are deleted.

(c) The following sentence is added at the end of the last sentence: "See Section 429 for special requirements for Child Day Care."

(27) A new IBC Section 310.4.3 is added as follows: "310.4.3 Child Care. Areas used for child care purposes may be located in a residential dwelling unit under all of the following conditions and Section 429:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the Utah Department of Health and Human Services, as enacted under the authority of the Utah Code, [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator."

(28) A new IBC, Section 310.4.4 is added as follows: "310.4.4 Assisted living facilities. Type I assisted living facilities with two to five residents are Limited Capacity facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the International Residential Code. See Section 202 for definitions."

(29) In IBC, Section 310.5, the words "Type II Limited Capacity and Type I Small, see Section 310.5.3" are added after the words "assisted living facilities."

(30) A new IBC, Section 310.5.3, is added as follows: "310.5.3 Group R-4 Assisted living facility occupancy groups. The following occupancy groups shall apply to Assisted Living Facilities: Type II Assisted Living Facilities with two to five residents are Limited Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy. Type I assisted living facilities with six to sixteen residents are Small Facilities classified as Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

Section 43. Section 15A-3-103 is amended to read:

15A-3-103. Amendments to Chapters 4 through 6 of IBC.

(1) IBC Section 403.5.5 is deleted.

(2) In IBC, Section 407.2.5, the words "and assisted living facility" are added in the title and first sentence after the words "nursing home."

(3) In IBC, Section 407.2.6, the words "and assisted living facility" are added in the title after the words "nursing home."

(4) In IBC, Section 407.11, a new exception is added as follows: "Exception: An essential electrical system is not required in assisted living facilities."

(5) In IBC, Section 412.3.1, a new exception is added as follows: "Exception: Aircraft hangars of Type I or II construction that are less than 5,000 square feet (464.5m2) in area."

(6) A new IBC, Section 422.2.1 is added as follows: "422.2.1 Separations: Ambulatory care facilities licensed by the Department of Health and Human Services shall be separated from adjacent tenants with a fire partition having a minimum one hour fire-resistance rating. Any level below the level of exit discharge shall be separated from the level of exit discharge by a horizontal assembly having a minimum one hour fire-resistance rating.

Exception: A fire barrier is not required to separate the level of exit discharge when:

1. Such levels are under the control of the Ambulatory Care Facility.

2. Any hazardous spaces are separated by horizontal assembly having a minimum one hour fire-resistance rating."

(7) A new IBC Section 429, Day Care, is added as follows:

"429.1 Detailed Requirements. In addition to the occupancy and construction requirements in this

code, the additional provisions of this section shall apply to all Day Care in accordance with Utah Administrative Code R710-8 Day Care Rules.

429.2 Definitions.

429.2.1 Authority Having Jurisdiction (AHJ): State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority code official.

429.2.2 Day Care Facility: Any building or structure occupied by clients of any age who receive custodial care for less than 24 hours by individuals other than parents, guardians, relatives by blood, marriage or adoption.

429.2.3 Day Care Center: Providing care for five or more clients in a place other than the home of the person cared for. This would also include Child Care Centers, Out of School Time or Hourly Child Care Centers licensed by the Department of Health and Human Services.

429.2.4 Family Day Care: Providing care for clients listed in the following two groups:

429.2.4.1 Type 1: Services provided for five to eight clients in a home. This would also include a home that is certified by the Department of Health and Human Services as Residential Certificate Child Care or licensed as Family Child Care.

429.2.4.2 Type 2: Services provided for nine to sixteen clients in a home with sufficient staffing. This would also include a home that is licensed by the Department of Health and Human Services as Family Child Care.

429.2.5 R710-8: Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

429.3 Family Day Care.

429.3.1 Family Day Care units shall have on each floor occupied by clients, two separate means of egress, arranged so that if one is blocked the other will be available.

429.3.2 Family Day Care units that are located in the basement or on the second story shall be provided with two means of egress, one of which shall discharge directly to the outside.

429.3.2.1 Residential Certificate Child Care and Licensed Family Child Care with five to eight clients in a home, located on the ground level or in a basement, may use an emergency escape or rescue window as allowed in IFC, Chapter 10, Section 1030.

429.3.3 Family Day Care units shall not be located above the second story.

429.3.4 In Family Day Care units, clients under the age of two shall not be located above or below the first story.

429.3.4.1 Clients under the age of two may be housed above or below the first story where there is at least one exit that leads directly to the outside and complies with IFC, Section 1011 or Section 1012 or Section 1027.

429.3.5 Family Day Care units located in split entry/split level type homes in which stairs to the lower level and upper level are equal or nearly equal, may have clients housed on both levels when approved by the AHJ.

429.3.6 Family Day Care units shall have a portable fire extinguisher on each level occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be serviced in accordance with NFPA, Standard 10, Standard for Portable Fire Extinguishers.

429.3.7 Family Day Care units shall have single station smoke detectors in good operating condition on each level occupied by clients. Battery operated smoke detectors shall be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure continued operation of the smoke detectors.

429.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap, shall have at least one window or door approved for emergency escape.

429.3.9 Fire drills shall be conducted in Family Day Care units quarterly and shall include the complete evacuation from the building of all clients and staff. At least annually, in Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape or rescue window, if one is used as a substitute for one of the required means of egress.

429.4 Day Care Centers.

429.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements of the IBC, whichever is applicable for the type of Day Care Center.

429.4.2 Emergency Evacuation Drills shall be completed as required in IFC, Chapter 4, Section 405.

429.4.3 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

429.4.3.1 Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

429.4.4 Egress. All Group E child day care spaces with an occupant load of more than 10 shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1030.

429.4.5 All Group E Child Day Care Centers shall comply with Utah Administrative Code, R430-100 Child Care Centers, R430-60 Hourly Child Care Centers, and R430-70 Out of School Time.

429.5 Requirements for all Day Care.

429.5.1 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

429.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure."

(8) In IBC, Section 504.4, a new section is added as follows: "504.4.1 Group I-2 Assisted Living Facilities. Notwithstanding the allowable number of stories permitted by Table 504.4 Group I-2 Assisted Living Facilities of type VA, construction shall be allowed on each level of a two-story building when all of the following apply:

1. The total combined area of both stories does not exceed the total allowable area for a one-story, above grade plane building equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.

2. All other provisions that apply in Section 407 have been provided."

(9) A new IBC, Section 504.5, is added as follows: "504.5 Group 1-2 Secured areas in Assisted Living Facilities. In Type IIIB, IV, and V construction, all areas for the use and care of residents required to be secured shall be located on the level of exit discharge with door operations in compliance with Section 1010.1.9.7, as amended."

Section 44. Section 15A-5-202 is amended to read:

15A-5-202. Amendments and additions to IFC related to administration, permits, definitions, and general and emergency planning.

(1) For IFC, Chapter 1, Scope and Administration:

(a) IFC, Chapter 1, Section 102.5, is deleted and rewritten as follows:

"102.5 Application of residential code.

If a structure is designed and constructed in accordance with the International Residential Code, the provisions of this code apply only as follows:

1. The construction and design provisions of this code apply only to premises identification, fire apparatus access, fire hydrants and water supplies, and construction permits required by Section 105.7.

2. This code does not supercede the land use, subdivision, or development standards established by a local jurisdiction.

3. The administrative, operational, and maintenance provisions of this code apply."

(b) IFC, Chapter 1, Section 102.9, is deleted and rewritten as follows:

"102.9 Matters not provided for.

Requirements that are essential for the public safety of an existing or proposed activity, building or structure, or for the safety of the occupants thereof, which are not specifically provided for by this code, shall be determined by the fire code official on an emergency basis if:

(a) the facts known to the fire code official show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the fire code official.

102.9.1 Limitation of emergency order.

In issuing its emergency order, the fire code official shall:

(a) limit the order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare; and

(b) give immediate notice to the persons who are required to comply with the order, that includes a brief statement of the reasons for the fire code official's order.

101.9.2 Right to appeal emergency order.

If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the party shall have a right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section 109."

(c) IFC, Chapter 1, Section 105.4.1, Submittals, is amended to add the following after the last sentence:

"Fire sprinkler system layout may be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Water-Based System Layout. Fire alarm system layout may be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems."

(d) IFC, Chapter 1, Section 105.6.16, Flammable and combustible liquids, is amended to add the following section: "12. The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ."

(e) A new IFC, Chapter 1, Section 109.1.1, Application of residential code, is added as follows:

"109.1.1 Application of residential code.

For development regulated by a local jurisdiction's land use authority, the fire code official's interpretation of this code is subject to the advisory opinion process described in Utah Code, Section 13-43-205, and to a land use appeal authority appointed under Utah Code, Section 10-9a-701 or 17-27a-701."

(f) In IFC, Chapter 1, Section 109, a new Section 109.4, Notice of right to appeal, is added as follows: "At the time a fire code official makes an order, decision, or determination that relates to the application or interpretation of this chapter, the fire code official shall inform the person affected by the order, decision, or determination of the person's right to appeal under this section. Upon request, the fire code official shall provide a person affected

by an order, decision, or determination that relates to the application or interpretation of this chapter a written notice that describes the person's right to appeal under this section."

(g) IFC, Chapter 1, Section 110.3, Notice of violation, is deleted and rewritten as follows:

"110.3 Notice of violation.

If the fire code official determines that a building, premises, vehicle, storage facility, or outdoor area is in violation of this code or other pertinent laws or ordinances, the fire code official is authorized to prepare a written notice of violation that describes the conditions deemed unsafe and, absent immediate compliance, specifies a time for reinspection."

(2) For IFC, Chapter 2, Definitions:

(a) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Department of Health and Human Services where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code, R432-13, Freestanding Ambulatory Surgical Center Construction Rule."

(b) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Assisted Living Facility. "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility."

(c) IFC, Chapter 2, Section 202, General Definitions, FOSTER CARE FACILITIES is amended as follows: The word "Foster" is changed to the word "Child."

(d) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Group E, day care facilities, is amended as follows:

(i) On line three delete the word "five" and replace it with the word "four"; and

(ii) On line four after the word "supervision" add the words "child care centers."

(e) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Five or fewer children, is amended as follows: The word "five" is deleted and replaced with the word "four" in both places.

(f) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Five or fewer children in a dwelling unit, is amended as follows: The word "five" is deleted and replaced with the word "four" in both places.

(g) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, a new section is added as follows: "Child day care -- residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Residential Group R-3, or shall comply with the International Residential Code in accordance with Section R101.2."

(h) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, a new section is added as follows: "Child care centers. Each of the following areas may be classified as accessory occupancies:

1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs."

(i) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, is amended as follows: Insert "Type I" in front of the words "Assisted living facilities".

(j) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, Five or fewer persons receiving custodial care is amended as follows: On line four after "International Residential Code" the rest of the section is deleted.

(k) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-2, is amended as follows:

(i) On line three delete the word "five" and insert the word "three";

(ii) On line six the word "foster" is deleted and replaced with the word "child"; and

(iii) On line 10, after the words "Psychiatric hospitals", add the following to the list: "both intermediate nursing care and skilled nursing care facilities, ambulatory surgical centers with five or more operating rooms, and Type II assisted living facilities. Type II assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility".

(l) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-4, day care facilities, Classification as Group E, is amended as follows:

(i) On line two delete the word "five" and replace it with the word "four"; and

(ii) On line three delete the words "2 1/2 years or less of age" and replace with the words "under the age of two".

(m) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-4, day care facilities, Five or fewer occupants receiving care in a dwelling unit, is amended as follows: On lines one and three the word "five" is deleted and replaced with the word "four".

(n) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, the words "and single family dwellings complying with the IRC" are added after the word "Residential Group R-3 occupancies".

(o) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, Care facilities within a dwelling, is amended as follows: On line three after the word "dwelling" insert "other than child care".

(p) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, a new section is added as follows: "Child Care. Areas used for child care purposes may be located in a residential dwelling unit when all of the following conditions are met:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board;

2. Use is approved by the Department of Health and Human Services under the authority of Utah Code, [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or

1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and

1.3 Compliance with all zoning regulations of the local regulator."

(q) IFC, Chapter 2, Section 202, General Definitions, RECORD DRAWINGS, is amended as follows: Delete the words "a fire alarm system" and replace them with "any fire protection system".

(r) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Residential Treatment/Support Assisted Living Facility. "RESIDENTIAL TREATMENT/ SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides a group living environment for four or more residents licensed by the Department of Health and Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person."

(s) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Type I Assisted Living Facility. "TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health and Human Services that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

(t) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Type II Assisted Living Facility. "TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health and Human Services that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

Section 45. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: "An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(4)(a) and Utah Administrative Code, R652-122-1300, Minimum Standards for County Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;

(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or

(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of unsprinkled homes in the subdivision that are no larger than 10,000 square feet.

(vi) Exception: A single family dwelling does not require a fire sprinkler system if the dwelling:

(A) is located outside the wildland urban interface;

(B) is built in a one-lot subdivision; and

(C) has 50 feet of defensible space on all sides that limits the propensity of fire spreading from the dwelling to another property."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows:

""507.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the requirements described in Section 501.5."

(e) In IFC, Chapter 5, Section 510.1, Emergency responder radio coverage in new buildings, is amended by adding: "When required by the fire code official," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) In IFC, Chapter 6, Section 606.7, Elevator key location, is deleted and rewritten as follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key."

(b) In IFC, Chapter 6, Section 607.1, General, is amended as follows: On line three, after the word "Code", add the words "and NFPA 96".

(c) In IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that term is defined in Utah Code, Section [~~26-15c-102~~] 26B-7-401, for which the operator obtains a permit in accordance with Utah Code, Title 26, Chapter 15c, Microenterprise Home Kitchen Act."

(3) For IFC, Chapter 7, Fire and Smoke Protection Features, IFC, Chapter 7, Section 705.2, is amended to add the following: "Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms' doors with a rating of 20 minutes or less only."

Section 46. Section 17-22-2.5 is amended to read:

17-22-2.5. Fees of sheriff.

(1) (a) The legislative body of a county may set a fee for a service described in this section and charged by the county sheriff:

(i) in an ordinance adopted under Section 17-53-223; and

(ii) in an amount reasonably related to, but not exceeding, the actual cost of providing the service.

(b) If the legislative body of a county does not under Subsection (1)(a) set a fee charged by the county sheriff, the sheriff shall charge a fee in accordance with Subsections (2) through (7).

(2) Unless under Subsection (1) the legislative body of a county sets a fee amount for a fee described in this Subsection (2), the sheriff shall charge the following fees:

(a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and complaint, or garnishee execution, or other process by which an action or proceeding is commenced, on each defendant, including copies when furnished by plaintiff, $20;

(b) for taking or approving a bond or undertaking in any case in which he is authorized to take or approve a bond or undertaking, including justification, $5;

(c) for a copy of any writ, process or other paper when demanded or required by law, for each folio, 50 cents;

(d) for serving an attachment on property, or levying an execution, or executing an order of arrest or an order for the delivery of personal property, including copies when furnished by plaintiff, $50;

(e) for taking and keeping possession of and preserving property under attachment or execution

or other process, the amount the court orders to a maximum of $15 per day;

(f) for advertising property for sale on execution, or any judgment, or order of sale, exclusive of the cost of publication, $15;

(g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive of acknowledgment, $15, to be paid by the grantee;

(h) for recording each deed, conveyance, or other instrument affecting real estate, exclusive of the cost of recording, $10, to be paid by the grantee;

(i) for serving a writ of possession or restitution, and putting any person entitled to possession into possession of premises, and removing occupant, $50;

(j) for holding each trial of right of property, to include all services in the matter, except mileage, $35;

(k) for conducting, postponing, or canceling a sale of property, $15;

(l) for taking a prisoner in civil cases from prison before a court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100 miles, $2.50;

(m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100 miles, $2.50;

(n) for receiving and paying over money on execution or other process, as follows:

(i) if the amount collected does not exceed $1,000, 2% of this amount, with a minimum of $1; and

(ii) if the amount collected exceeds $1,000, 2% on the first $1,000 and 1-1/2% on the balance; and

(o) for executing in duplicate a certificate of sale, exclusive of filing it, $10.

(3) The fees allowed by Subsection (2)(f) for the levy of execution and for advertising shall be collected from the judgment debtor as part of the execution in the same manner as the sum directed to be made.

(4) When serving an attachment on property, an order of arrest, or an order for the delivery of personal property, the sheriff may only collect traveling fees for the distance actually traveled beyond the distance required to serve the summons if the attachment or those orders:

(a) accompany the summons in the action; and

(b) may be executed at the time of the service of the summons.

(5) (a) (i) When traveling generally to serve notices, orders, process, or other papers, the sheriff may receive, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, computed from the courthouse for each person served, to a maximum of 100 miles.

(ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may receive, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, computed from the post office where received for each person served, to a maximum of 100 miles.

(b) The sheriff may only charge one mileage fee if any two or more papers are required to be served in the same action or proceeding at the same time and at the same address.

(c) If it is necessary to make more than one trip to serve any notice, order, process, or other paper, the sheriff may not collect more than two additional mileage charges.

(6) (a) For transporting a patient to the Utah State Hospital or to or from a hospital or a mental health facility, as defined in Section [~~62A-15-602~~] 26B-5-301, when the cost of transportation is payable by private individuals, the sheriff may collect, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, to a maximum of 100 miles.

(b) If the sheriff requires assistance to transport the person, the sheriff may also charge the actual and necessary cost of that assistance.

(7) (a) Subject to Subsection (7)(b), for obtaining a saliva DNA specimen under Section 53-10-404, the sheriff shall collect the fee of $150 in accordance with Section 53-10-404.

(b) The fee amount described in Subsection (7)(a) may not be changed by a county legislative body under Subsection (1).

Section 47. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owner's association, public utility, or the [~~Utah~~] Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(15) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(16) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

(ii) a therapeutic school.

(17) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(18) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(19) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(20) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(21) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(22) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(23) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(25) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(26) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(27) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(28) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

(29) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(30) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(31) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(32) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(33) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(34) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(35) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(36) "Land use permit" means a permit issued by a land use authority.

(37) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(38) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(39) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(40) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(41) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(42) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(43) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(44) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section 17-27a-901.

(45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(46) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(47) "Nonconforming use" means a use of land that:

(a) legally existed before the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(48) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(49) "Parcel" means any real property that is not a lot.

(50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(51) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(52) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(53) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

(54) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed

professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

(55) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(56) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(57) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(58) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(59) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(60) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(61) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(62) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

[~~(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or~~]

[~~(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~]

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(63) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(64) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(65) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(66) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

(67) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(68) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(69) "State" includes any department, division, or agency of the state.

(70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (70)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 17-27a-523 if no new lot is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat;

(x) a deed or easement for a road, street, or highway purpose; or

(xi) any other division of land authorized by law.

(71) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(72) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(73) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(74) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(75) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(76) "Unincorporated" means the area outside of the incorporated area of a municipality.

(77) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(78) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 48. Section 17-27a-519 is amended to read:

17-27a-519. Licensing of residences for persons with a disability.

The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the Department of Health and Human Services as provided in:

[~~(1) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for People with Disabilities; and~~]

[~~(2) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~]

(1) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(2) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

Section 49. Section 17-27a-525 is amended to read:

17-27a-525. Cannabis production establishments and medical cannabis pharmacies.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

(c) "Medical cannabis pharmacy" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(2) (a) (i) A county may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A county may not regulate a medical cannabis pharmacy in conflict with:

(A) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and applicable jurisprudence; and

(B) this chapter.

(iii) A county may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health and Human Services has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a county shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section [~~26-61a-507~~] 26B-4-235.

(b) A county shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the county receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 17-27a-509.5(2).

Section 50. Section 17-27a-1102 is amended to read:

17-27a-1102. Definitions.

(1) "Animal feeding operation" means a lot or facility where the following conditions are met:

(a) animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(2) (a) "Commercial enterprise" means a building:

(i) used as a part of a business that manufactures goods, delivers services, or sells goods or services;

(ii) customarily and regularly used by the general public during the entire calendar year; and

(iii) connected to electric or water systems.

(b) "Commercial enterprise" does not include an agriculture operation.

(3) "County large concentrated animal feeding operation land use ordinance" means an ordinance adopted in accordance with Section 17-27a-1103.

(4) "Education institution" means a building in which any part is used:

(a) for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten;

(b) a state institution of higher education as defined in Section 53B-3-102; or

(c) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(5) "Health care facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(6) "Large concentrated animal feeding operation" means an animal feeding operation that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

(a) 700 mature dairy cows, whether milked or dry;

(b) 1,000 veal calves;

(c) 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including heifers, steers, bulls, and cow calf pairs;

(d) 2,500 swine each weighing 55 pounds or more;

(e) 10,000 swine each weighing less than 55 pounds;

(f) 500 horses;

(g) 10,000 sheep or lambs;

(h) 55,000 turkeys;

(i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;

(j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;

(k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;

(l) 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system; or

(m) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.

(7) "Manure" includes manure, bedding, compost, a raw material, or other material commingled with manure or set aside for disposal.

(8) "Public area" means land that:

(a) is owned by the federal government, the state, or a political subdivision with facilities that attract the public to congregate and remain in the area for significant periods of time;

(b) (i) is part of a public park, preserve, or recreation area that is owned or managed by the federal government, the state, a political subdivision, or a nongovernmental entity; and

(ii) has a cultural, archaeological, scientific, or historic significance or contains a rare or valuable ecological system, including a site recognized as a National Historic Landmark or Site; or

(c) is a cemetery.

(9) "Religious institution" means a building and grounds used at least monthly for religious services or ceremonies.

Section 51. Section 17-43-102 is amended to read:

17-43-102. Definitions.

As used in this chapter:

(1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(2) "Division" means the Division of Integrated Healthcare within the department.

Section 52. Section 17-43-201 is amended to read:

17-43-201. Local substance abuse authorities -- Responsibilities.

(1) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local substance abuse authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local substance abuse authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local substance abuse authority.

(b) Within legislative appropriations and county matching funds required by this section, and under the direction of the division, each local substance abuse authority shall:

(i) develop substance [~~abuse~~] use prevention and treatment services plans;

(ii) provide substance [~~abuse~~] use services to residents of the county; and

(iii) cooperate with efforts of the division to promote integrated programs that address an individual's substance [~~abuse~~] use, mental health, and physical healthcare needs, as described in Section [~~62A-15-103~~] 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section [~~26B-1-102~~] 26B-5-101, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide substance [~~abuse~~] use prevention and treatment services; or

(ii) create a united local health department that provides substance [~~abuse~~] use treatment services,

mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of substance [~~abuse~~] use services.

(c) Each agreement for joint substance [~~abuse~~] use services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined substance abuse authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined substance abuse authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined substance abuse authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint substance [~~abuse~~] use services may provide for joint operation of services and facilities or for operation of services and facilities under contract by one participating local substance abuse authority for other participating local substance abuse authorities.

(3) A county governing body may elect to combine the local substance abuse authority with the local mental health authority created in Part 3, Local Mental Health Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local substance abuse authority that joins a united local health department shall comply with this part.

(4) (a) Each local substance abuse authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for substance [~~abuse~~] use services, regardless of whether the services are provided by a private contract provider.

(b) Each local substance abuse authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance [~~abuse~~] use programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local substance abuse authorities with regard to programs and services.

(5) Each local substance abuse authority shall:

(a) review and evaluate substance [~~abuse~~] use prevention and treatment needs and services, including substance [~~abuse~~] use needs and services for individuals incarcerated in a county jail or other county correctional facility;

(b) annually prepare and submit to the division a plan approved by the county legislative body for funding and service delivery that includes:

(i) provisions for services, either directly by the substance abuse authority or by contract, for adults, youth, and children, including those incarcerated in a county jail or other county correctional facility; and

(ii) primary prevention, targeted prevention, early intervention, and treatment services;

(c) establish and maintain, either directly or by contract, programs licensed under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(d) appoint directly or by contract a full or part time director for substance [~~abuse~~] use programs, and prescribe the director's duties;

(e) provide input and comment on new and revised rules established by the division;

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance [~~abuse~~] use services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance [~~abuse~~] use programs and services in accordance with the provisions of [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(i) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(j) promote or establish programs for the prevention of substance [~~abuse~~] use within the community setting through community-based prevention programs;

(k) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(m) for persons convicted of driving under the influence in violation of Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

(i) a screening;

(ii) an assessment;

(iii) an educational series; and

(iv) substance [~~abuse~~] use treatment; and

(n) utilize proceeds of the accounts described in Subsection [~~62A-15-503(1)~~] 26B-5-209(1) to supplement the cost of providing the services described in Subsection (5)(m).

(6) Before disbursing any public funds, each local substance abuse authority shall require that each entity that receives any public funds from the local substance abuse authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the local substance abuse authority shall be subject to examination by:

(i) the division;

(ii) the local substance abuse authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide substance [~~abuse~~] use services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local substance abuse authority; and

(c) the entity will comply with the provisions of Subsection (4)(b).

(7) A local substance abuse authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(8) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-203.

(b) Public funds received for the provision of services pursuant to the local substance abuse plan may not be used for any other purpose except those authorized in the contract between the local substance abuse authority and the provider for the provision of plan services.

(9) Subject to the requirements of the federal Substance Abuse Prevention and Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure that all substance [~~abuse~~] use treatment programs that receive public funds:

(a) accept and provide priority for admission to a pregnant woman or a pregnant minor; and

(b) if admission of a pregnant woman or a pregnant minor is not possible within 24 hours of the time that a request for admission is made, provide a comprehensive referral for interim services that:

(i) are accessible to the pregnant woman or pregnant minor;

(ii) are best suited to provide services to the pregnant woman or pregnant minor;

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

(iv) shall include a referral for:

(A) prenatal care; and

(B) counseling on the effects of alcohol and drug use during pregnancy.

(10) If a substance [~~abuse~~] use treatment program described in Subsection (9) is not able to accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of the time that request for admission is made, the local substance abuse authority shall contact the Division of Integrated Healthcare for assistance in providing services to the pregnant woman or pregnant minor.

Section 53. Section 17-43-204 is amended to read:

17-43-204. Fees for substance abuse services -- Responsibility for cost of service if rendered by authority to nonresident -- Authority may receive funds from other sources.

(1) Each local substance abuse authority shall charge a fee for substance [~~abuse~~] use services, except that substance [~~abuse~~] use services may not be refused to any person because of inability to pay.

(2) If a local substance abuse authority, through its designated provider, provides a service described in Subsection 17-43-201(5) to a person who resides within the jurisdiction of another local substance abuse authority, the local substance

abuse authority in whose jurisdiction the person resides is responsible for the cost of that service if its designated provider has authorized the provision of that service.

(3) A local substance abuse authority and entities that contract with a local substance abuse authority to provide substance [~~abuse~~] use services may receive funds made available by federal, state, or local health, substance [~~abuse~~] use, mental health, education, welfare, or other agencies, in accordance with the provisions of this part and [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section 54. Section 17-43-301 is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) As used in this section:

(a) "Assisted outpatient treatment" means the same as that term is defined in Section [~~62A-15-602~~] 26B-5-301.

(b) "Crisis worker" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

(c) "Local mental health crisis line" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Public funds" means the same as that term is defined in Section 17-43-303.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

(2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the division to promote integrated programs that address an individual's substance [~~abuse~~] use, mental health, and physical healthcare needs, as described in Section [~~62A-15-103~~] 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section 26B-1-102, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

(3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance [~~abuse~~] use treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority

for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section [~~62A-15-630.5~~] 26B-5-351;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under [~~Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section [~~62A-15-1302~~] 26B-5-610;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section [~~62A-15-1302~~] 26B-5-610; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services, as described in Section [~~62A-15-630.4~~] 26B-5-350, to a resident of the county who has been ordered under Section [~~62A-15-630.5~~] 26B-5-351 to receive assisted outpatient treatment.

Section 55. Section 17-43-303 is amended to read:

17-43-303. Definition of "public funds" -- Responsibility for oversight of public funds -- Mental health programs and services.

(1) As used in this section, "public funds":

(a) means:

(i) federal money received from the department or the Department of Health and Human Services; and

(ii) state money appropriated by the Legislature to the department, the Department of Health and Human Services, a county governing body, or a local mental health authority for the purposes of providing mental health programs or services; and

(b) includes that federal and state money:

(i) even after the money has been transferred by a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for the local mental health authority; and

(ii) while in the possession of the private provider.

(2) Each local mental health authority is responsible for oversight of all public funds received by it, to determine that those public funds are utilized in accordance with federal and state law, the rules and policies of the department and the Department of Health and Human Services, and the provisions of any contract between the local mental health authority and the department, the Department of Health and Human Services, or a private provider. That oversight includes requiring that neither the contract provider, as described in Subsection (1), nor any of its employees:

(a) violate any applicable federal or state criminal law;

(b) knowingly violate any applicable rule or policy of the department or Department of Health and Human Services, or any provision of contract between the local mental health authority and the department, the Department of Health and Human Services, or the private provider;

(c) knowingly keep any false account or make any false entry or erasure in any account of or relating to the public funds;

(d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating to public funds;

(e) fail to ensure competent oversight for lawful disbursement of public funds;

(f) appropriate public funds for an unlawful use or for a use that is not in compliance with contract provisions; or

(g) knowingly or intentionally use public funds unlawfully or in violation of a governmental contract provision, or in violation of state policy.

(3) A local mental health authority that knew or reasonably should have known of any of the circumstances described in Subsection (2), and that fails or refuses to take timely corrective action in good faith shall, in addition to any other penalties provided by law, be required to make full and complete repayment to the state of all public funds improperly used or expended.

(4) Any public funds required to be repaid to the state by a local mental health authority pursuant to Subsection (3), based upon the actions or failure of the contract provider, may be recovered by the local mental health authority from its contract provider, in addition to the local mental health authority's costs and [~~attorney's~~] attorney fees.

Section 56. Section 17-43-306 is amended to read:

17-43-306. Fees for mental health services -- Responsibility for cost of service if rendered by authority to nonresident -- Authority may receive funds from other sources.

(1) Each local mental health authority shall charge a fee for mental health services, except that mental health services may not be refused to any person because of inability to pay.

(2) If a local mental health authority, through its designated provider, provides a service described in Section 17-43-301 to a person who resides within the jurisdiction of another local mental health authority, the local mental health authority in whose jurisdiction the person resides is responsible for the cost of that service if its designated provider has authorized the provision of that service.

(3) A local mental health authority and entities that contract with a local mental health authority to provide mental health services may receive funds made available by federal, state, or local health, substance [~~abuse~~] use, mental health, education, welfare, or other agencies, in accordance with the provisions of this part and [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section 57. Section 17-50-318 is amended to read:

17-50-318. Mental health and substance use services.

Each county shall provide mental health and substance [~~abuse~~] use services in accordance with [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section 58. Section 17-50-333 is amended to read:

17-50-333. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(f) "Local health department" means the same as that term is defined in Section 26A-1-102.

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(vi) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(j) "Tobacco product" means:

(i) the same as that term is defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by the delegation of the state's police power to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7) (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 59. Section 17-50-339 is amended to read:

17-50-339. Prohibition on licensing or certification of child care programs.

(1) (a) As used in this section, "child care program" means a child care facility or program operated by a person who holds a license or certificate from the Department of Health and Human Services under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing.

(b) "Child care program" does not include a child care program for which a county provides oversight, as described in Subsection [~~26-39-403(2)(e)~~] 26B-2-405(2)(e).

(2) A county may not enact or enforce an ordinance that:

(a) imposes licensing or certification requirements for a child care program; or

(b) governs the manner in which care is provided in a child care program.

(3) This section does not prohibit a county from:

(a) requiring a business license to operate a business within the county; or

(b) imposing requirements related to building, health, and fire codes.

Section 60. Section 17B-2a-818.5 is amended to read:

17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section [~~26-40-115~~] 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employee's dependents during the duration of the contract by submitting to the public transit district a written statement that:

(i) the contractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the public transit district.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the public transit district or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection [~~26-40-115(2)~~] 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section [~~26-18-402~~] 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 61. Section 17B-2a-902 is amended to read:

17B-2a-902. Provisions applicable to service areas.

(1) Each service area is governed by and has the powers stated in:

(a) this part; and

(b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to service areas.

(3) A service area is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:

(i) law enforcement services;

(ii) fire protection services;

(iii) 911 ambulance or paramedic services as defined in Section [~~26-8a-102~~] 26B-4-101 that are provided under a contract in accordance with Section [~~26-8a-405.2~~] 26B-4-156; or

(iv) emergency services.

(b) Subsection (5)(a) does not apply to:

(i) a fee charged or collected on an individual basis rather than a general basis;

(ii) a non-911 service as defined in Section [~~26-8a-102~~] 26B-4-101 that is provided under a contract in accordance with Section [~~26-8a-405.2~~] 26B-4-156;

(iii) an impact fee charged or collected for a public safety facility as defined in Section 11-36a-102; or

(iv) a service area that includes within the boundary of the service area a county of the fifth or sixth class.

Section 62. Section 18-1-3 is amended to read:

18-1-3. Dogs attacking domestic animals, service animals, hoofed protected wildlife, or domestic fowls.

Any person may injure or kill a dog while:

(1) the dog is attacking, chasing, or worrying:

(a) a domestic animal having a commercial value;

(b) a service animal, as defined in Section [~~62A-5b-102~~] 26B-6-801; or

(c) any species of hoofed protected wildlife;

(2) the dog is attacking domestic fowls; or

(3) the dog is being pursued for committing an act described in Subsection (1) or (2).

Section 63. Section 19-1-205 is amended to read:

19-1-205. Assumption of responsibilities.

The department assumes all the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Division of Environmental Health, the Air Conservation Committee, the Solid and Hazardous Waste Committee, the Utah Safe Drinking Water Committee, and the Water Pollution Control Committee previously vested in the Department of Health and Human Services and its executive director:

(1) including programs for individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies; but

(2) excluding all other sanitation programs, which shall be administered by the Department of Health and Human Services.

Section 64. Section 19-1-206 is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section [~~26-40-115~~] 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to

the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection [~~26-40-115(2)~~] 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section [~~26-18-402~~] 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 65. Section 19-4-115 is amended to read:

19-4-115. Drinking water quality in schools and child care centers.

(1) As used in this section:

(a) "Action level" means a lead concentration equal to five parts per billion.

(b) "Certified laboratory" means a laboratory certified by the Department of Health and Human Services that analyzes drinking water for lead.

(c) "Child care center" means:

(i) a center based child care, as defined in Section [~~26-39-102~~] 26B-2-401; or

(ii) an exempt provider, as defined in Section [~~26-39-102~~] 26B-2-401.

(d) "Consumable tap" means a sink or fountain used for consumption of water or food preparation.

(e) "School" means a public or private:

(i) elementary school or secondary school;

(ii) preschool; or

(iii) kindergarten.

(2) (a) A school shall, and a child care center may test the school's or child care center's consumable taps for lead by no later than December 31, 2023.

(b) In conducting a test under this Subsection (2), a school or child care center shall:

(i) comply with current state testing guidelines for reducing lead in drinking water in schools and child care centers; and

(ii) submit a sample to a certified laboratory that has entered into a memorandum of understanding with the division as described in Subsection (3).

(c) Notwithstanding Subsection (2)(a), if a school or child care center has conducted a test for lead in drinking water in a consumable tap of the school or child care center on or after January 1, 2016, but before May 4, 2022, the school or child care center:

(i) is not required to conduct a test under Subsection (2)(a) on the previously sampled consumable tap;

(ii) if the test described in this Subsection (2)(c) finds a lead level for a consumable tap equals or exceeds the action level, shall take steps to stop the use of the consumable tap or to reduce the lead level below the action level as described in Subsection (5); and

(iii) by no later than the end of the time period established under Subsection (4)(c), shall report to the division:

(A) the findings of the test described in this Subsection (2)(c); and

(B) any steps taken under Subsection (2)(c)(ii).

(3) (a) The division shall enter into a memorandum of understanding with one or more certified laboratories under which the division pays the costs of testing a sample submitted by a school or child care center in accordance with Subsection (2).

(b) Subject to appropriations, the division shall pay the costs of testing in the order that a sample is submitted to the certified laboratory.

(c) A certified laboratory shall report test results for a sample submitted in accordance with Subsection (2) to:

(i) the school or child care center that submitted the sample; and

(ii) the division.

(4) (a) If after paying the costs of testing under Subsection (3) there remains money appropriated under this section, the division may issue grants to schools and child care centers for costs associated with taking action under Subsection (5).

(b) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) to establish a procedure for a school or child care center applying for a grant under Subsection (4)(a); and

(ii) for what constitutes steps to reduce the lead level below the action level as described in Subsection (5).

(c) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the time period to take steps to reduce the lead level below the action level as described in Subsection (5).

(5) If a test result of a consumable tap under Subsection (2) results in a lead level that equals or exceeds the action level, the school or child care center shall:

(a) within the time period established under Subsection (4)(c) take steps to stop the use of the consumable tap or to reduce the lead level below the action level; and

(b) report the steps taken under Subsection (5)(a) to the division within 30 days after taking the steps.

(6) After the time period established under Subsection (4)(c) has ended, the division shall post on a public website for at least five years from the day on which the division receives the information:

(a) the test results for a test taken under Subsection (2); and

(b) the steps taken as required under Subsection (5).

Section 66. Section 19-6-902 is amended to read:

19-6-902. Definitions.

As used in this part:

(1) "Board" means the Waste Management and Radiation Control Board, as defined in Section 19-1-106, within the Department of Environmental Quality.

(2) "Certified decontamination specialist" means an individual who has met the standards for certification as a decontamination specialist and has been certified by the board under Subsection 19-6-906(2).

(3) "Contaminated" or "contamination" means:

(a) polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards; or

(b) that a property is polluted by hazardous materials as a result of the use, production, or presence of methamphetamine in excess of decontamination standards adopted by the Department of Health and Human Services under Section [~~26-51-201~~] 26B-7-409.

(4) "Contamination list" means a list maintained by the local health department of properties:

(a) reported to the local health department under Section 19-6-903; and

(b) determined by the local health department to be contaminated.

(5) (a) "Decontaminated" means property that at one time was contaminated, but the contaminants have been removed.

(b) "Decontaminated" for a property that was contaminated by the use, production, or presence of methamphetamine means that the property satisfies decontamination standards adopted by the Department of Health and Human Services under Section [~~26-51-201~~] 26B-7-409.

(6) "Hazardous materials":

(a) has the same meaning as "hazardous or dangerous material" as defined in Section 58-37d-3; and

(b) includes any illegally manufactured controlled substances.

(7) "Health department" means a local health department under Title 26A, Local Health Authorities.

(8) "Owner of record":

(a) means the owner of real property as shown on the records of the county recorder in the county where the property is located; and

(b) may include an individual, financial institution, company, corporation, or other entity.

(9) "Property":

(a) means any real property, site, structure, part of a structure, or the grounds surrounding a structure; and

(b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

(10) "Reported property" means property that is the subject of a law enforcement report under Section 19-6-903.

Section 67. Section 20A-2-104 is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) (a) As used in this section:

(i) "Candidate for public office" means an individual:

(A) who files a declaration of candidacy for a public office;

(B) who files a notice of intent to gather signatures under Section 20A-9-408; or

(C) employed by, under contract with, or a volunteer of, an individual described in Subsection (1)(a)(i)(A) or (B) for political campaign purposes.

(ii) "Dating violence" means the same as that term is defined in Section 78B-7-402 and the federal Violence Against Women Act of 1994, as amended.

(iii) "Domestic violence" means the same as that term is defined in Section 77-36-1 and the federal Violence Against Women Act of 1994, as amended.

(b) An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America?
Yes No

If you checked "no" to the above question, do not complete this form.

Will you be 18 years of age on or before election day?
Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to vote?
Yes No

If you checked "no" to both of the prior two questions, do not complete this form.

Name of Voter

_____
First Middle Last

Utah Driver License or Utah Identification Card Number_____

Date of Birth _____

Street Address of Principal Place of Residence

_____
City County State Zip Code

Telephone Number (optional) _____

Email Address (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)

_____
City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)

☐ Unaffiliated (no political party preference)

Other (Please specify)_____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

_____
Voter's Signature

_____(month/day/year).

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

_____

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to $2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY

Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

_----------

(c) Beginning May 1, 2022, the voter registration form described in Subsection (1)(b) shall include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(b) The county clerk may transfer a superseded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section [~~26-33a-102~~] 26B-8-501, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party;

(vi) a candidate for public office, or an employee, independent contractor, or volunteer of a candidate for public office; or

(vii) a person, or an agent, employee, or independent contractor of the person, who:

(A) provides the year of birth of a registered voter that is obtained from the list of registered voters only to a person who is a qualified person;

(B) verifies that a person, described in Subsection (4)(a)(vii)(A), to whom a year of birth that is obtained from the list of registered voters is provided, is a qualified person;

(C) ensures, using industry standard security measures, that the year of birth of a registered voter that is obtained from the list of registered voters may not be accessed by a person other than a qualified person;

(D) verifies that each qualified person, other than a qualified person described in Subsection (4)(a)(i), (v), or (vi), to whom the person provides the year of birth of a registered voter that is obtained from the list of registered voters, will only use the year of birth to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the person provides the year of birth of a registered voter that is obtained from the list of registered voters, will only use the year of birth in the qualified person's capacity as a government official or government employee; and

(F) verifies that each qualified person described in Subsection (4)(a)(v) or (vi), to whom the person provides the year of birth of a registered voter that is obtained from the list of registered voters, will only use the year of birth for a political purpose of the political party or candidate for public office.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the years of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the years of birth;

(D) a list of the purposes for which the qualified person may use the year of birth of a registered voter that is obtained from the list of registered voters;

(E) a statement that the year of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk may not disclose the year of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(i) is not a qualified person or a person described in Subsection (4)(l); or

(ii) will provide or use the year of birth in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(h) to a person other than:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee; or

(ii) except as provided in Subsection (7) and subject to Subsection (4)(e), a person described in Subsection (4)(a)(v) or (vi) for a political purpose.

(e) When disclosing a record or information under Subsection (4)(d)(ii), the lieutenant governor or county clerk shall exclude the information described in Subsection 63G-2-302(1)(j), other than the year of birth.

(f) The lieutenant governor or a county clerk may not disclose a withholding request form, described in Subsections (7) and (8), submitted by an individual, or information obtained from that form, to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(g) A person is guilty of a class A misdemeanor if the person:

(i) obtains the year of birth of a registered voter from the list of registered voters under false pretenses;

(ii) uses or provides the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is not permitted by law;

(iii) obtains a voter registration record described in Subsection 63G-2-302(1)(k) under false pretenses;

(iv) uses or provides information obtained from a voter registration record described in Subsection 63G-2-302(1)(k) in a manner that is not permitted by law;

(v) unlawfully discloses or obtains a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8); or

(vi) unlawfully discloses or obtains information from a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8).

(h) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter:

(i) submits a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private;

(ii) requests on the voter's voter registration form that the voter's voter registration record be classified as a private record; or

(iii) submits a withholding request form described in Subsection (7) and any required verification.

(i) The lieutenant governor or a county clerk may not disclose to a person described in Subsection (4)(a)(v) or (vi) a voter registration record, or information obtained from a voter registration record, if the record is withheld under Subsection (7).

(j) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who violates a provision of this section, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of:

(A) records obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(B) records from which information is obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) $200.

(k) A qualified person may not obtain, provide, or use the year of birth of a registered voter, if the year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the year of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the year of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) or (vi) and obtains, provides, or uses the year of birth for a political purpose of the political party or candidate for public office; or

(iv) is a qualified person described in Subsection (4)(a)(vii) and obtains, provides, or uses the year of birth to provide the year of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

(l) The lieutenant governor or a county clerk may provide a year of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(m) A person described in Subsection (4)(a)(v) or (vi) may not use or disclose information from a voter registration record for a purpose other than a political purpose.

(5) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks of the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that an individual may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

(7) The lieutenant governor or a county clerk shall withhold from a person, other than a person described in Subsection (4)(a)(i), the voter registration record, and information obtained from the voter registration record, of an individual:

(a) who submits a withholding request form, with the voter registration record or to the lieutenant governor or a county clerk, if:

(i) the individual indicates on the form that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence; or

(ii) the individual indicates on the form and provides verification that the individual, or an individual who resides with the individual, is:

(A) a law enforcement officer;

(B) a member of the armed forces, as defined in Section 20A-1-513;

(C) a public figure; or

(D) protected by a protective order or protection order; or

(b) whose voter registration record was classified as a private record at the request of the individual before May 12, 2020.

(8) (a) The lieutenant governor shall design and distribute the withholding request form described in Subsection (7) to each election officer and to each agency that provides a voter registration form.

(b) An individual described in Subsection (7)(a)(i) is not required to provide verification, other than the individual's attestation and signature on the withholding request form, that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence.

(c) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for providing the verification described in Subsection (7)(a)(ii).

(9) An election officer or an employee of an election officer may not encourage an individual to submit, or discourage an individual from submitting, a withholding request form.

Section 68. Section 20A-2-306 is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) (a) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

_____

Street City County State Zip

What is your current phone number (optional)?_____

What is your current email address (optional)?_____

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to return this form within that time:

– you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

– if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

_____

Signature of Voter

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."

(b) Beginning May 1, 2022, the form described in Subsection (3)(a) shall also include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

(5) Beginning on or before January 1, 2022, the lieutenant governor shall make available to a county clerk United States Social Security Administration data received by the lieutenant governor regarding deceased individuals.

(6) A county clerk shall, within ten business days after the day on which the county clerk receives the information described in Subsection (5) or Subsections [~~26-2-13(11) and (12)~~] 26B-8-114(11) and (12) relating to a decedent whose name appears on the official register, remove the decedent's name from the official register.

(7) Ninety days before each primary and general election the lieutenant governor shall compare the information the lieutenant governor has received under Subsection [~~26-2-13(11)~~] 26B-8-114(11) with the official register of voters to ensure that all deceased voters have been removed from the official register.

Section 69. Section 20A-11-1202 is amended to read:

20A-11-1202. Definitions.

As used in this part:

(1) "Applicable election officer" means:

(a) a county clerk, if the email relates only to a local election; or

(b) the lieutenant governor, if the email relates to an election other than a local election.

(2) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection.

(3) "Campaign contribution" means any of the following when done for a political purpose or to advocate for or against a ballot proposition:

(a) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to a filing entity;

(b) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to a filing entity;

(c) any transfer of funds from another reporting entity to a filing entity;

(d) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(e) remuneration from:

(i) any organization or the organization's directly affiliated organization that has a registered lobbyist; or

(ii) any agency or subdivision of the state, including a school district; or

(f) an in-kind contribution.

(4) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation agency that receives its revenues from conduct of its commercial operations.

(b) "Commercial interlocal cooperation agency" does not mean an interlocal cooperation agency that receives some or all of its revenues from:

(i) government appropriations;

(ii) taxes;

(iii) government fees imposed for regulatory or revenue raising purposes; or

(iv) interest earned on public funds or other returns on investment of public funds.

(5) "Expenditure" means:

(a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(c) a transfer of funds between a public entity and a candidate's personal campaign committee;

(d) a transfer of funds between a public entity and a political issues committee; or

(e) goods or services provided to or for the benefit of a candidate, a candidate's personal campaign committee, or a political issues committee for political purposes at less than fair market value.

(6) "Filing entity" means the same as that term is defined in Section 20A-11-101.

(7) "Governmental interlocal cooperation agency" means an interlocal cooperation agency that receives some or all of its revenues from:

(a) government appropriations;

(b) taxes;

(c) government fees imposed for regulatory or revenue raising purposes; or

(d) interest earned on public funds or other returns on investment of public funds.

(8) "Influence" means to campaign or advocate for or against a ballot proposition.

(9) "Interlocal cooperation agency" means an entity created by interlocal agreement under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(10) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(11) "Political purposes" means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate for public office at any caucus, political convention, primary, or election; or

(b) judge standing for retention at any election.

(12) "Proposed initiative" means an initiative proposed in an application filed under Section 20A-7-202 or 20A-7-502.

(13) "Proposed referendum" means a referendum proposed in an application filed under Section 20A-7-302 or 20A-7-602.

(14) (a) "Public entity" includes the state, each state agency, each county, municipality, school district, local district, governmental interlocal cooperation agency, and each administrative subunit of each of them.

(b) "Public entity" does not include a commercial interlocal cooperation agency.

(c) "Public entity" includes local health departments created under [~~Title 26, Chapter 1, Department of Health Organization~~] Title 26A, Local Health Authorities.

(15) (a) "Public funds" means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.

(b) "Public funds" does not include money donated to a public entity by a person or entity.

(16) (a) "Public official" means an elected or appointed member of government with authority to make or determine public policy.

(b) "Public official" includes the person or group that:

(i) has supervisory authority over the personnel and affairs of a public entity; and

(ii) approves the expenditure of funds for the public entity.

(17) "Reporting entity" means the same as that term is defined in Section 20A-11-101.

(18) (a) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "State agency" includes the legislative branch, the Utah Board of Higher Education, each institution of higher education board of trustees, and each higher education institution.

Section 70. Section 23-19-5.5 is amended to read:

23-19-5.5 (Codified as 23A-4-1102). Issuance of license, permit, or tag prohibited for failure to pay child support.

(1) As used in this section:

(a) "Child support" means the same as that term is defined in Section [~~62A-11-401~~] 26B-9-301.

(b) "Delinquent on a child support obligation" means that:

(i) an individual owes at least $2,500 on an arrearage obligation of child support based on an administrative or judicial order;

(ii) the individual has not obtained a judicial order staying enforcement of the individual's obligation on the amount in arrears; and

(iii) the office has obtained a statutory judgment lien pursuant to Section [~~62A-11-312.5~~] 26B-9-214.

(c) "Office" means the Office of Recovery Services created in Section [~~62A-11-102~~] 26B-9-103.

(d) "Wildlife license agent" means a person authorized under Section 23-19-15 to sell a license, permit, or tag in accordance with this chapter.

(2) (a) An individual who is delinquent on a child support obligation may not apply for, obtain, or

attempt to obtain a license, permit, or tag required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation issued in accordance with a rule made by the Wildlife Board under this title.

(b) (i) An individual who applies for, obtains, or attempts to obtain a license, permit, or tag in violation of Subsection (2)(a) violates Section 23-19-5.

(ii) A license, permit, or tag obtained in violation of Subsection (2)(a) is invalid.

(iii) An individual who takes protected wildlife with an invalid license, permit, or tag violates Section 23-20-3.

(3) (a) The license, permit, and tag restrictions in Subsection (2)(a) remain effective until the office notifies the division that the individual who is delinquent on a child support obligation has:

(i) paid the delinquency in full; or

(ii) except as provided in Subsection (3)(d), complied for at least 12 consecutive months with a payment schedule entered into with the office.

(b) A payment schedule under Subsection (3)(a) shall provide that the individual:

(i) pay the current child support obligation in full each month; and

(ii) pays an additional amount as assessed by the office pursuant to Section [~~62A-11-320~~] 26B-9-219 towards the child support arrears.

(c) Except as provided in Subsection (3)(d), if an individual fails to comply with the payment schedule described in Subsection (3)(b), the office may notify the division and the individual is considered to be an individual who is delinquent on a child support obligation and cannot obtain a new license, permit, or tag without complying with this Subsection (3).

(d) If an individual fails to comply with the payment schedule described in Subsection (3)(b) for one month of the 12-month period because of a transition to new employment, the individual may obtain a license, permit, or tag and is considered in compliance with this Subsection (3) if the individual:

(i) provides the office with information regarding the individual's new employer within 30 days from the day on which the missed payment was due;

(ii) pays the missed payment within 30 days from the day on which the missed payment was due; and

(iii) complies with the payment schedule for all other payments owed for child support within the 12-month period.

(4) (a) The division or a wildlife license agent may not knowingly issue a license, permit, or tag under this title to an individual identified by the office as delinquent on a child support obligation until notified by the office that the individual has complied with Subsection (3).

(b) The division is not required to hold or reserve a license, permit, or tag opportunity withheld from an individual pursuant to Subsection (4)(a) for purposes of reissuance to that individual upon compliance with Subsection (3).

(c) The division may immediately reissue to another qualified person a license, permit, or tag opportunity withheld from an individual identified by the office as delinquent on a child support obligation pursuant to Subsection (4)(a).

(5) The office and division shall automate the process for the division or a wildlife license agent to be notified whether an individual is delinquent on a child support obligation or has complied with Subsection (3).

(6) The office is responsible to provide any administrative or judicial review required incident to the division issuing or denying a license, permit, or tag to an individual under Subsection (4).

(7) The denial or withholding of a license, permit, or tag under this section is not a suspension or revocation of license and permit privileges for purposes of:

(a) Section 23-19-9;

(b) Subsection 23-20-4(1); and

(c) Section 23-25-6.

(8) This section does not modify a court action to withhold, suspend, or revoke a recreational license under Sections [~~62A-11-107~~] 26B-9-108 and 78B-6-315.

Section 71. Section 23-19-14 is amended to read:

23-19-14 (Codified as 23A-4-303). Persons residing in certain institutions authorized to fish without license.

(1) The Division of Wildlife Resources shall permit a person to fish without a license if:

(a) (i) the person resides in:

(A) the Utah State Developmental Center in American Fork;

(B) the state hospital;

(C) a veterans hospital;

(D) a veterans nursing home;

(E) a mental health center;

(F) an intermediate care facility for people with an intellectual disability;

(G) a group home licensed by the Department of Health and Human Services and operated under contract with the Division of Services for People with Disabilities;

(H) a group home or other community-based placement licensed by the Department of Health and Human Services and operated under contract with the Division of Juvenile Justice and Youth Services;

(I) a private residential facility for at-risk youth licensed by the Department of Health and Human Services; or

(J) another similar institution approved by the division; or

(ii) the person is a youth who participates in a work camp operated by the Division of Juvenile Justice and Youth Services;

(b) the person is properly supervised by a representative of the institution; and

(c) the institution obtains from the division a certificate of registration that specifies:

(i) the date and place where the person will fish; and

(ii) the name of the institution's representative who will supervise the person fishing.

(2) The institution shall apply for the certificate of registration at least 10 days before the fishing outing.

(3) (a) An institution that receives a certificate of registration authorizing at-risk youth to fish shall provide instruction to the youth on fishing laws and regulations.

(b) The division shall provide educational materials to the institution to assist it in complying with Subsection (3)(a).

Section 72. Section 26-8a-102 is amended to read:

26-8a-102. Reserved for coordination.

Reserved

[~~As used in this chapter:~~]

[~~(1) (a) "911 ambulance or paramedic services" means:~~]

[~~(i) either:~~]

[~~(A) 911 ambulance service;~~]

[~~(B) 911 paramedic service; or~~]

[~~(C) both 911 ambulance and paramedic service; and~~]

[~~(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.~~]

[~~(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.~~]

[~~(2) "Ambulance" means a ground, air, or water vehicle that:~~]

[~~(a) transports patients and is used to provide emergency medical services; and~~]

[~~(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.~~]

[~~(3) "Ambulance provider" means an emergency medical service provider that:~~]

[~~(a) transports and provides emergency medical care to patients; and~~]

[~~(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.~~]

[~~(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.~~]

[~~(b) "Behavioral emergency services" does not include engaging in the:~~]

[~~(i) practice of mental health therapy as defined in Section 58-60-102;~~]

[~~(ii) practice of psychology as defined in Section 58-61-102;~~]

[~~(iii) practice of clinical social work as defined in Section 58-60-202;~~]

[~~(iv) practice of certified social work as defined in Section 58-60-202;~~]

[~~(v) practice of marriage and family therapy as defined in Section 58-60-302;~~]

[~~(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or~~]

[~~(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.~~]

[~~(5) "Committee" means the State Emergency Medical Services Committee created by Section 26B-1-204.~~]

[~~(6) "Community paramedicine" means medical care:~~]

[~~(a) provided by emergency medical service personnel; and~~]

[~~(b) provided to a patient who is not:~~]

[~~(i) in need of ambulance transportation; or~~]

[~~(ii) located in a health care facility as defined in Section 26-21-2.~~]

[~~(7) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.~~]

[~~(8) "Emergency medical condition" means:~~]

[~~(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:~~]

[~~(i) placing the individual's health in serious jeopardy;~~]

[~~(ii) serious impairment to bodily functions; or~~]

[~~(iii) serious dysfunction of any bodily organ or part; or~~]

[~~(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.~~]

[~~(9) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 26-8a-302.~~]

[~~(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.~~]

[~~(10) "Emergency medical service providers" means:~~]

[~~(a) licensed ambulance providers and paramedic providers;~~]

[~~(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and~~]

[~~(c) emergency medical service personnel.~~]

[~~(11) "Emergency medical services" means:~~]

[~~(a) medical services;~~]

[~~(b) transportation services;~~]

[~~(c) behavioral emergency services; or~~]

[~~(d) any combination of the services described in Subsections (11)(a) through (c).~~]

[~~(12) "Emergency medical service vehicle" means a land, air, or water vehicle that is:~~]

[~~(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and~~]

[~~(b) required to be permitted under Section 26-8a-304.~~]

[~~(13) "Governing body":~~]

[~~(a) means the same as that term is defined in Section 11-42-102; and~~]

[~~(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.~~]

[~~(14) "Interested party" means:~~]

[~~(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;~~]

[~~(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or~~]

[~~(c) the department when acting in the interest of the public.~~]

[~~(15) "Level of service" means the level at which an ambulance provider type of service is licensed as:~~]

[~~(a) emergency medical technician;~~]

[~~(b) advanced emergency medical technician; or~~]

[~~(c) paramedic.~~]

[~~(16) "Medical control" means a person who provides medical supervision to an emergency medical service provider.~~]

[~~(17) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).~~]

[~~(18) "Nonemergency secured behavioral health transport" means an entity that:~~]

[~~(a) provides nonemergency secure transportation services for an individual who:~~]

[~~(i) is not required to be transported by an ambulance under Section 26-8a-305; and~~]

[~~(ii) requires behavioral health observation during transport between any of the following facilities:~~]

[~~(A) a licensed acute care hospital;~~]

[~~(B) an emergency patient receiving facility;~~]

[~~(C) a licensed mental health facility; and~~]

[~~(D) the office of a licensed health care provider; and~~]

[~~(b) is required to be designated under Section 26-8a-303.~~]

[~~(19) "Paramedic provider" means an entity that:~~]

[~~(a) employs emergency medical service personnel; and~~]

[~~(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.~~]

[~~(20) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.~~]

[~~(21) "Political subdivision" means:~~]

[~~(a) a city, town, or metro township;~~]

[~~(b) a county;~~]

[~~(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);~~]

[~~(d) a local district created under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;~~]

[~~(e) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii); or~~]

[~~(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.~~]

[~~(22) "Trauma" means an injury requiring immediate medical or surgical intervention.~~]

[~~(23) "Trauma system" means a single, statewide system that:~~]

[~~(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and~~]

[~~(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.~~]

[~~(24) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.~~]

[~~(25) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:~~]

[~~(a) direct the care of patients; and~~]

[~~(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.~~]

[~~(26) "Type of service" means the category at which an ambulance provider is licensed as:~~]

[~~(a) ground ambulance transport;~~]

[~~(b) ground ambulance interfacility transport; or~~]

[~~(c) both ground ambulance transport and ground ambulance interfacility transport.~~]

Section 73. Section 26-8a-104 is amended to read:

26-8a-104. Reserved for coordination.

Reserved

[~~The committee shall adopt rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:~~]

[~~(1) establish licensure, certification, and reciprocity requirements under Section 26-8a-302;~~]

[~~(2) establish designation requirements under Section 26-8a-303;~~]

[~~(3) promote the development of a statewide emergency medical services system under Section 26-8a-203;~~]

[~~(4) establish insurance requirements for ambulance providers;~~]

[~~(5) provide guidelines for requiring patient data under Section 26-8a-203;~~]

[~~(6) establish criteria for awarding grants under Section 26-8a-207;~~]

[~~(7) establish requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 26-8a-306;~~]

[~~(8) select appropriate vendors to establish certification requirements for emergency medical dispatchers;~~]

[~~(9) establish the minimum level of service for 911 ambulance services provided under Section 11-48-103; and~~]

[~~(10) are necessary to carry out the responsibilities of the committee as specified in other sections of this chapter.~~]

Section 74. Section 26-8a-204 is amended to read:

26-8a-204. Reserved for coordination.

Reserved

[~~The department shall develop and implement, in cooperation with state, federal, and local agencies empowered to oversee disaster response activities, plans to provide emergency medical services during times of disaster or emergency.~~]

Section 75. Section 26-8a-205 is amended to read:

26-8a-205. Reserved for coordination.

Reserved

[~~The department shall establish a pediatric quality improvement resource program.~~]

Section 76. Section 26-8a-206 is amended to read:

26-8a-206 (Codified as 53-2d-206). Reserved for coordination.

Reserved

[~~(1) The department shall develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services.~~]

[~~(2) This program shall include:~~]

[~~(a) ongoing training for agencies providing emergency services and counseling program volunteers;~~]

[~~(b) critical incident stress debriefing for personnel at no cost to the emergency provider; and~~]

[~~(c) advising the department on training requirements for licensure as a behavioral emergency services technician.~~]

Section 77. Section 26A-1-102 is amended to read:

26A-1-102. Definitions.

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part 2, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

(4) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(5) "Local health department" means:

(a) a single county local health department;

(b) a multicounty local health department;

(c) a united local health department; or

(d) a multicounty united local health department.

(6) "Mental health authority" means a local mental health authority created in Section 17-43-301.

(7) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.

(8) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.

(9) (a) "Order of constraint" means an order, rule, or regulation issued by a local health department in response to a declared public health emergency under this chapter that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in a certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

(10) "Public health emergency" means the same as that term is defined in Section [~~26-23b-102~~] 26B-7-301.

(11) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.

(12) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

(13) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.

(14) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

(b) includes a multicounty united local health department.

Section 78. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under [~~Title 26, Chapter 15a, Food Safety Manager Certification Act~~] Title 26B, Chapter 7, Part 5, General Sanitation and Food Safety, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section [~~26-23b-108~~] 26B-7-321; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d) (i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 4, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9) (a) During a public health emergency declared under this chapter or under [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 4, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

Section 79. Section 26A-1-116 is amended to read:

26A-1-116. Allocation of state funds to local health departments -- Formula.

(1) (a) The [~~Departments of Health and~~] Department of Health and Human Services and the Department of Environmental Quality shall each establish by rule a formula for allocating state funds by contract to local health departments.

(b) This formula shall provide for allocation of funds based on need.

(c) Determination of need shall be based on population unless the department making the rule establishes by valid and accepted data that other defined factors are relevant and reliable indicators of need.

(d) The formula shall include a differential to compensate for additional costs of providing services in rural areas.

(2) (a) The formulas established under Subsection (1) shall be in effect on or before July 1, 1991.

(b) The formulas apply to all state funds appropriated by the Legislature to the [~~Departments of Health and~~] Department of Health and Human Services and the Department of Environmental Quality for local health departments.

(c) The formulas do not apply to funds a local health department receives from:

(i) sources other than the [~~Departments of Health and~~] Department of Health and Human Services and the Department of Environmental Quality; and

(ii) the [~~Departments of Health and~~] Department of Health and Human Services and the Department of Environmental Quality:

(A) to operate a specific program within the local health department's boundaries which program is available to all residents of the state;

(B) to meet a need that exists only within the local health department's boundaries; and

(C) to engage in research projects.

Section 80. Section 26A-1-121 is amended to read:

26A-1-121. Standards and regulations adopted by local board -- Local standards not more stringent than federal or state standards -- Administrative and judicial review of actions.

(1) (a) Subject to Subsection (1)(g), the board may make standards and regulations:

(i) not in conflict with rules of the department or the Department of Environmental Quality; and

(ii) necessary for the promotion of public health, environmental health quality, injury control, and the prevention of outbreaks and spread of communicable and infectious diseases.

(b) The standards and regulations under Subsection (1)(a):

(i) supersede existing local standards, regulations, and ordinances pertaining to similar subject matter;

(ii) except where specifically allowed by federal law or state statute, may not be more stringent than those established by federal law, state statute, or administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) notwithstanding Subsection (1)(b)(ii), may be more stringent than those established by federal law, state statute, or administrative rule adopted by the department if the standard or regulation is:

(A) in effect on February 1, 2022; and

(B) not modified or amended after February 1, 2022.

(c) The board shall provide public hearings prior to the adoption of any regulation or standard.

(d) Notice of any public hearing shall be published at least twice throughout the county or counties served by the local health department. The publication may be in one or more newspapers, if the notice is provided in accordance with this Subsection (1)(d).

(e) The hearings may be conducted by the board at a regular or special meeting, or the board may appoint hearing officers who may conduct hearings in the name of the board at a designated time and place.

(f) A record or summary of the proceedings of a hearing shall be taken and filed with the board.

(g) (i) During a declared public health emergency declared under this chapter or under [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 4, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(A) except as provided in Subsection (1)(h), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(B) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(C) a county governing body may at any time terminate, by majority vote of the governing body, an order of constraint issued by a local health department in response to a declared public health emergency.

(ii) (A) For a local health department that serves more than one county, the approval described in Subsection (1)(g)(i)(A) is required for the chief executive officer for which the order of constraint is applicable.

(B) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (1)(g)(i)(C) for the county served by the county governing body.

(h) (i) Notwithstanding Subsection (1)(g)(i)(A), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (1)(g)(i)(A) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (1)(h)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued

as described in Subsection (1)(h)(i) within 72 hours of issuance of the order of constraint.

(i) (i) During a public health emergency declared as described in this title:

(A) a local health department may not impose an order of constraint on a public gathering that applies to a religious gathering differently than the order of constraint applies to any other relevantly similar gathering; and

(B) an individual, while acting or purporting to act within the course and scope of the individual's official local health department capacity, may not prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title, or impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(ii) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (1)(i).

(iii) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(A) is in furtherance of a compelling government interest; and

(B) is the least restrictive means of furthering that compelling government interest.

(iv) Notwithstanding Subsections (1)(i)(i) and (ii), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(j) If a local health department declares a public health emergency as described in this chapter, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the local legislative body, the local health department shall provide written notice to the local legislative body at least 10 days before the expiration of the public health emergency.

(2) (a) A person aggrieved by an action or inaction of the local health department relating to the public health shall have an opportunity for a hearing with the local health officer or a designated representative of the local health department. The board shall grant a subsequent hearing to the person upon the person's written request.

(b) In an adjudicative hearing, a member of the board or the hearing officer may administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name of the board requiring the testimony of witnesses and the production of evidence relevant to a matter in the hearing. The local health department shall make a written record of the hearing, including findings of facts and conclusions of law.

(c) Judicial review of a final determination of the local board may be secured by a person adversely affected by the final determination, or by the department or the Department of Environmental Quality, by filing a petition in the district court within 30 days after receipt of notice of the board's final determination.

(d) The petition shall be served upon the secretary of the board and shall state the grounds upon which review is sought.

(e) The board's answer shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the board's findings of fact, conclusions of law, and order.

(f) The appellant and the board are parties to the appeal.

(g) The department and the Department of Environmental Quality may become a party by intervention as in a civil action upon showing cause.

(h) A further appeal may be taken to the Court of Appeals under Section 78A-4-103.

(3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a local health department board to make standards and regulations in accordance with Subsection (1)(a) for:

(a) emergency rules made in accordance with Section 63G-3-304; or

(b) items not regulated under federal law, state statute, or state administrative rule.

Section 81. Section 26A-1-126 is amended to read:

26A-1-126. Medical reserve corps.

(1) In addition to the duties listed in Section 26A-1-114, a local health department may establish a medical reserve corps in accordance with this section.

(2) The purpose of a medical reserve corps is to enable a local health authority to respond with appropriate health care professionals to a national, state, or local emergency, a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the president of the United States or other federal official requesting public health related activities.

(3) (a) A local health department may train health care professionals who participate in a medical reserve corps to respond to an emergency or declaration for public health related activities pursuant to Subsection (2).

(b) When an emergency or request for public health related activities has been declared in accordance with Subsection (2), a local health department may activate a medical reserve corps for the duration of the emergency or declaration for public health related activities.

(4) For purposes of this section, a medical reserve corps may include persons who:

(a) are licensed under Title 58, Occupations and Professions, and who are operating within the scope of their practice;

(b) are exempt from licensure, or operating under modified scope of practice provisions in accordance with Subsections 58-1-307(4) and (5); and

(c) within the 10 years preceding the declared emergency, held a valid license, in good standing in Utah, for one of the occupations described in Subsection 58-13-2(1), but the license is not currently active.

(5) (a) Notwithstanding the provisions of Subsections 58-1-307(4)(a) and (5)(b) the local health department may authorize a person described in Subsection (4) to operate in a modified scope of practice as necessary to respond to the declaration under Subsection (2).

(b) A person operating as a member of an activated medical reserve corps or training as a member of a medical reserve corps under this section:

(i) shall be volunteering for and supervised by the local health department;

(ii) shall comply with the provisions of this section;

(iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and

(iv) shall carry a certificate issued by the local health department which designates the individual as a member of the medical reserve corps during the duration of the emergency or declaration for public health related activities pursuant to Subsection (2).

(6) The local department of health may access the Division of Professional Licensing database for the purpose of determining if a person's current or expired license to practice in the state was in good standing.

(7) The local department of health shall maintain a registry of persons who are members of a medical reserve corps. The registry of the medical reserve corps shall be made available to the public and to the Division of Professional Licensing.

Section 82. Section 26A-1-128 is amended to read:

26A-1-128. Tobacco, electronic cigarette, and nicotine product permits -- Enforcement.

A local health department:

(1) shall enforce the requirements of [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products;

(2) may enforce licensing requirements for entities that hold a business license to sell a tobacco product, an electronic cigarette product, or a nicotine product under Section 10-8-41.6 or Section 17-50-333; and

(3) may recommend to a municipality or county that the business license of a retail tobacco specialty business be suspended or revoked for a violation of Section 10-8-41.6, Section 17-50-333, or [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products.

Section 83. Section 30-1-12 is amended to read:

30-1-12. Clerk to file license and certificate -- Designation as vital record.

(1) (a) The license, together with the certificate of the individual officiating at the marriage, shall be filed and preserved by the clerk, and shall be recorded by the clerk in a book kept for that purpose, or by electronic means.

(b) The record shall be properly indexed in the names of the parties so married.

(2) An individual may use a diacritical mark, as defined in Section [~~26-2-4~~] 26B-8-103, on a marriage license.

(3) A transcript shall be promptly certified and transmitted by the clerk to the state registrar of vital statistics.

(4) The license and the certificate of the individual officiating at the marriage are vital records as defined in Section [~~26-2-2~~] 26B-8-101 and are subject to the inspection requirements described in Section [~~26-2-22~~] 26B-8-125.

Section 84. Section 30-2-5 is amended to read:

30-2-5. Separate debts.

(1) Neither spouse is personally liable for the separate debts, obligations, or liabilities of the other:

(a) contracted or incurred before marriage;

(b) contracted or incurred during marriage, except family expenses as provided in Section 30-2-9;

(c) contracted or incurred after divorce or an order for separate maintenance under this title, except the spouse is personally liable for that portion of the expenses incurred on behalf of a minor child for reasonable and necessary medical and dental expenses, and other similar necessities as provided in a court order under Section 30-3-5, 30-4-3, or 78B-12-212, or an administrative order under Section [~~62A-11-326~~] 26B-9-224; or

(d) ordered by the court to be paid by the other spouse under Section 30-3-5 or 30-4-3 and not in conflict with Section 15-4-6.5 or 15-4-6.7.

(2) The wages, earnings, property, rents, or other income of one spouse may not be reached by a creditor of the other spouse to satisfy a debt,

obligation, or liability of the other spouse, as described under Subsection (1).

Section 85. Section 30-3-5 is amended to read:

30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Alimony -- Nonmeritorious petition for modification.

(1) As used in this section:

(a) "Cohabit" means to live together, or to reside together on a regular basis, in the same residence and in a relationship of a romantic or sexual nature.

(b) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage:

(i) engaging in sexual relations with an individual other than the party's spouse;

(ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or a child;

(iii) knowingly and intentionally causing the other party or a child to reasonably fear life-threatening harm; or

(iv) substantially undermining the financial stability of the other party or the child.

(c) "Length of the marriage" means, for purposes of alimony, the number of years from the day on which the parties are legally married to the day on which the petition for divorce is filed with the court.

(2) When a decree of divorce is rendered, the court may include in the decree of divorce equitable orders relating to the children, property, debts or obligations, and parties.

(3) The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of a dependent child, including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

(b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for a dependent child; and

(ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with Section 30-3-5.4 that will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;

(c) in accordance with Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders;

(d) provisions for income withholding in accordance with [~~Title 62A, Chapter 11, Recovery Services~~] Title 26B, Chapter 9, Recovery Services and Administration of Child Support; and

(e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.

(4) (a) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of a dependent child, necessitated by the employment or training of the custodial parent.

(b) If the court determines that the circumstances are appropriate and that the dependent child would be adequately cared for, the court may include an order allowing the noncustodial parent to provide child care for the dependent child, necessitated by the employment or training of the custodial parent.

(5) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of a child and the child's support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.

(6) Child support, custody, visitation, and other matters related to a child born to the parents after entry of the decree of divorce may be added to the decree by modification.

(7) (a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

(8) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

(9) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court may award to the prevailing party:

(a) actual attorney fees incurred;

(b) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, which may include:

(i) court costs;

(ii) child care expenses;

(iii) transportation expenses actually incurred;

(iv) lost wages, if ascertainable; and

(v) counseling for a child or parent if ordered or approved by the court;

(c) make-up parent time consistent with the best interest of the child; and

(d) any other appropriate equitable remedy.

(10) (a) The court shall consider at least the following factors in determining alimony:

(i) the financial condition and needs of the recipient spouse;

(ii) the recipient's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse;

(iii) the ability of the payor spouse to provide support;

(iv) the length of the marriage;

(v) whether the recipient spouse has custody of a minor child requiring support;

(vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and

(vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage.

(b) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.

(c) The court may, when fault is at issue, close the proceedings and seal the court records.

(d) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection (10)(a). However, the court shall consider all relevant facts and equitable principles and may, in the court's discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no child has been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(e) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.

(f) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(g) In determining alimony when a marriage of short duration dissolves, and no child has been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(11) (a) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not expressly stated in the divorce decree or in the findings that the court entered at the time of the divorce decree.

(b) A party's retirement is a substantial material change in circumstances that is subject to a petition to modify alimony, unless the divorce decree, or the findings that the court entered at the time of the divorce decree, expressly states otherwise.

(c) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

(d) (i) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in Subsection (10) or this Subsection (11).

(ii) The court may consider the subsequent spouse's financial ability to share living expenses.

(iii) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

(e) (i) Except as provided in Subsection (11)(e)(iii), the court may not order alimony for a period of time longer than the length of the marriage.

(ii) If a party is ordered to pay temporary alimony during the pendency of the divorce action, the period of time that the party pays temporary alimony shall be counted towards the period of time for which the party is ordered to pay alimony.

(iii) At any time before the termination of alimony, the court may find extenuating circumstances or good cause that justify the payment of alimony for a longer period of time than the length of the marriage.

(12) (a) Except as provided in Subsection (12)(b), unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse.

(b) If the remarriage of the former spouse is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.

(13) If a party establishes that a current spouse cohabits with another individual during the pendency of the divorce action, the court:

(a) may not order the party to pay temporary alimony to the current spouse; and

(b) shall terminate any order that the party pay temporary alimony to the current spouse.

(14) (a) Subject to Subsection (14)(b), the court shall terminate an order that a party pay alimony to a former spouse if the party establishes that, after the order for alimony is issued, the former spouse cohabits with another individual even if the former spouse is not cohabiting with the individual when the party paying alimony files the motion to terminate alimony.

(b) A party paying alimony to a former spouse may not seek termination of alimony under Subsection (14)(a), later than one year from the day on which the party knew or should have known that the former spouse has cohabited with another individual.

Section 86. Section 30-3-5.1 is amended to read:

30-3-5.1. Provision for income withholding in child support order.

Whenever a court enters an order for child support, it shall include in the order a provision for withholding income as a means of collecting child support as provided in [~~Title 62A, Chapter 11, Recovery Services~~] Title 26B, Chapter 9, Recovery Services and Administration of Child Support.

Section 87. Section 30-3-5.4 is amended to read:

30-3-5.4. Designation of primary and secondary health, dental, or hospital insurance coverage.

(1) As used in this section, "health, hospital, or dental insurance plan" has the same meaning as "health care insurance" as defined in Section 31A-1-301.

(2) (a) A decree of divorce rendered in accordance with Section 30-3-5, an order for medical expenses rendered in accordance with Section 78B-12-212, and an administrative order under Section [~~62A-11-326~~] 26B-9-224 shall, in accordance with Subsection (2)(b)(ii), designate which parent's health, hospital, or dental insurance plan is primary coverage and which parent's health, hospital, or dental insurance plan is secondary coverage for a dependent child.

(b) The provisions of the court order required by Subsection (2)(a) shall:

(i) take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans; and

(ii) include the following language:

"If, at any point in time, a dependent child is covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent's Name) shall be primary coverage for the dependent child and the health, hospital, or dental insurance plan of (Other Parent's Name) shall be secondary coverage for the dependent child. If a parent remarries and his or her dependent child is not covered by that parent's health, hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried parent and shall retain the same designation as the primary or secondary plan of the dependent child."

(c) A decree of divorce or related court order may not modify the language required by Subsection (2)(b)(ii).

(d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical expenses including co-payments, deductibles, and co-insurance not covered by health insurance between the parents in accordance with Subsections 30-3-5(3)(a) and 78B-12-212(7).

(3) In designating primary coverage pursuant to Subsection (2), a court may take into account:

(a) the birth dates of the parents;

(b) a requirement in a court order, if any, for one of the parents to maintain health insurance coverage for a dependent child;

(c) the parent with physical custody of the dependent child; or

(d) any other factor the court considers relevant.

Section 88. Section 30-3-10 is amended to read:

30-3-10. Custody of a child -- Custody factors.

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may

consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;

(h) the parent's reasons for having relinquished custody or parent-time in the past;

(i) duration and depth of desire for custody or parent-time;

(j) the parent's religious compatibility with the child;

(k) the parent's financial responsibility;

(l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;

(m) who has been the primary caretaker of the child;

(n) previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community;

(o) the relative benefit of keeping siblings together;

(p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;

(q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and

(r) any other factor the court finds relevant.

(3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;

(b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(4) (a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(5) (a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(b) (i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent-time otherwise.

(ii) The desires of a child 14 years [~~of age~~] old or older shall be given added weight, but is not the single controlling factor.

(c) (i) If an interview with a child is conducted by the court pursuant to Subsection (5)(b), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that

an interview with a child is the only method to ascertain the child's desires regarding custody.

(6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

(8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(9) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(10) In considering the past conduct and demonstrated moral standards of each party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

(b) discriminate against a parent because of the parent's status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section [~~26-61a-102~~] 26B-4-201;

(iii) medical cannabis courier agent, as that term is defined in Section [~~26-61a-102~~] 26B-4-201; or

(iv) medical cannabis cardholder in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section 89. Section 30-3-10.5 is amended to read:

30-3-10.5. Payments of support, maintenance, and alimony.

(1) All monthly payments of support, maintenance, or alimony provided for in the order or decree shall be due on the first day of each month for purposes of Section 78B-12-112, child support services pursuant to [~~Title 62A, Chapter 11, Part 3, Child Support Services Act~~] Title 26B, Chapter 9, Part 2, Child Support Services, income withholding services pursuant to [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and other income withholding procedures pursuant to [~~Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases~~] Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases.

(2) For purposes of child support services and income withholding pursuant to [~~Title 62A, Chapter 11, Part 3, Child Support Services Act, and Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, child support is not considered past due until the first day of the following month.

(3) For purposes other than those specified in Subsections (1) and (2), support shall be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the order or decree provides for a different time for payment.

Section 90. Section 30-3-38 is amended to read:

30-3-38. Expedited Parent-time Enforcement Program.

(1) There is established an Expedited Parent-time Enforcement Program in the third judicial district to be administered by the Administrative Office of the Courts.

(2) As used in this section:

(a) "Mediator" means a person who:

(i) is qualified to mediate parent-time disputes under criteria established by the Administrative Office of the Courts; and

(ii) agrees to follow billing guidelines established by the Administrative Office of the Courts and this section.

(b) "Services to facilitate parent-time" or "services" means services designed to assist families in resolving parent-time problems through:

(i) counseling;

(ii) supervised parent-time;

(iii) neutral drop-off and pick-up;

(iv) educational classes; and

(v) other related activities.

(3) (a) If a parent files a motion in the third district court alleging that court-ordered parent-time rights are being violated, the clerk of the court, after assigning the case to a judge, shall refer the case to the administrator of this program for assignment to a mediator, unless a parent is incarcerated or otherwise unavailable. Unless the court rules otherwise, a parent residing outside of the state is not unavailable. The director of the program for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.

(b) Upon receipt of a case, the mediator shall:

(i) meet with the parents to address parent-time issues within 15 days of the motion being filed;

(ii) assess the situation;

(iii) facilitate an agreement on parent-time between the parents; and

(iv) determine whether a referral to a service provider under Subsection (3)(c) is warranted.

(c) While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Health and Human Services for services to facilitate parent-time if:

(i) the services may be of significant benefit to the parents; or

(ii) (A) a mediated agreement between the parents is unlikely; and

(B) the services may facilitate an agreement.

(d) At any time during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the program for referral to the judge or court commissioner to whom the case was assigned under Subsection (3)(a) if:

(i) a written agreement between the parents is reached; or

(ii) the parents are unable to reach an agreement through mediation and:

(A) the parents have received services to facilitate parent-time;

(B) both parents object to receiving services to facilitate parent-time; or

(C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

(e) Upon receiving a case from the administrator of the program, a judge or court commissioner may:

(i) review the agreement of the parents and, if acceptable, sign it as an order;

(ii) order the parents to receive services to facilitate parent-time;

(iii) proceed with the case; or

(iv) take other appropriate action.

(4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a child who is the subject of a parent-time order against the other parent or a member of the other parent's household to a mediator or service provider, the mediator or service provider shall immediately report that information to:

(i) the judge assigned to the case who may immediately issue orders and take other appropriate action to resolve the allegation and protect the child; and

(ii) the Division of Child and Family Services within the Department of Health and Human Services in the manner required by Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports.

(b) If an allegation under Subsection (4)(a) is made against a parent with parent-time rights or a member of that parent's household, parent-time by that parent shall, pursuant to an order of the court, be supervised until:

(i) the allegation has been resolved; or

(ii) a court orders otherwise.

(c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to mediate parent-time problems and a service provider may continue to provide services to facilitate parent-time unless otherwise ordered by a court.

(5) (a) The Department of Health and Human Services may contract with one or more entities in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide:

(i) services to facilitate parent-time;

(ii) case management services; and

(iii) administrative services.

(b) An entity who contracts with the Department of Health and Human Services under Subsection (5)(a) shall:

(i) be qualified to provide one or more of the services listed in Subsection (5)(a); and

(ii) agree to follow billing guidelines established by the Department of Health and Human Services and this section.

(6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

(i) reduced to a sum certain;

(ii) divided equally between the parents; and

(iii) charged against each parent taking into account the ability of that parent to pay under billing guidelines adopted in accordance with this section.

(b) A judge may order a parent to pay an amount in excess of that provided for in Subsection (6)(a) if the parent:

(i) failed to participate in good faith in mediation or services to facilitate parent-time; or

(ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

(c) (i) The cost of mediation and services to facilitate parent-time may be charged to parents at periodic intervals.

(ii) Mediation and services to facilitate parent-time may only be terminated on the ground of nonpayment if both parents are delinquent.

(7) (a) The Judicial Council may make rules to implement and administer the provisions of this program related to mediation.

(b) The Department of Health and Human Services may make rules to implement and administer the provisions of this program related to services to facilitate parent-time.

(8) (a) The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.

(b) The Department of Health and Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.

(c) The Administrative Office of the Courts and the Department of Health and Human Services may adopt joint outcome measures and file joint reports to satisfy the requirements of Subsections (7)(a) and (b).

(9) The Department of Health and Human Services shall, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, apply for federal funds as available.

Section 91. Section 31A-1-301 is amended to read:

31A-1-301. Definitions.

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) a fixed indemnity contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(d) For purposes of a national licensing registry, "accident and health insurance" is the same as "accident and health or sickness insurance."

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" means the same as that term is defined in Subsection (182).

(4) "Adult" means an individual who is 18 years old or older.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or

continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-501(1), as a condition to the release of that person from confinement.

(13) "Binder" means the same as that term is defined in Section 31A-21-102.

(14) "Blanket insurance policy" or "blanket contract" means a group insurance policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

(a) a corporation;

(b) an association;

(c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) "Business of insurance" means the same as that term is defined in Subsection (95).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

(a) Section 31A-8-205; or

(b) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

(a) an insurer:

(i) owned by a parent organization; and

(ii) whose purpose is to insure risks of the parent organization and other risks as authorized under:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

(a) an insured under a group insurance policy; or

(b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

(ii) by common management;

(iii) through the ownership of voting securities; or

(iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) "Controlled insurer" means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) "Controlling person" means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) "Controlling producer" means a producer who directly or indirectly controls an insurer.

(33) "Corporate governance annual disclosure" means a report an insurer or insurance group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual Disclosure Act.

(34) (a) "Corporation" means an insurance corporation, except when referring to:

(i) a corporation doing business:

(A) as:

(I) an insurance producer;

(II) a surplus lines producer;

(III) a limited line producer;

(IV) a consultant;

(V) a managing general agent;

(VI) a reinsurance intermediary;

(VII) a third party administrator; or

(VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) "Mutual" or "mutual corporation" means a mutual insurance corporation.

(c) "Stock corporation" means a stock insurance corporation.

(35) (a) "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) "Creditable coverage" includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section [~~26-18-3~~] 26B-3-108;

(ii) the Children's Health Insurance Program under Section [~~26-40-106~~] 26B-3-904; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. No.

101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No. 109-415.

(36) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(37) (a) "Credit insurance" means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) "Credit insurance" includes:

(i) credit accident and health insurance;

(ii) credit life insurance;

(iii) credit property insurance;

(iv) credit unemployment insurance;

(v) guaranteed automobile protection insurance;

(vi) involuntary unemployment insurance;

(vii) mortgage accident and health insurance;

(viii) mortgage guaranty insurance; and

(ix) mortgage life insurance.

(38) "Credit life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(39) "Creditor" means a person, including an insured, having a claim, whether:

(a) matured;

(b) unmatured;

(c) liquidated;

(d) unliquidated;

(e) secured;

(f) unsecured;

(g) absolute;

(h) fixed; or

(i) contingent.

(40) "Credit property insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

(41) "Credit unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(42) (a) "Crop insurance" means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

(i) provided by the private insurance market; or

(ii) subsidized by the Federal Crop Insurance Corporation.

(b) "Crop insurance" includes multiperil crop insurance.

(43) (a) "Customer service representative" means a person that provides an insurance service and insurance product information:

(i) for the customer service representative's:

(A) producer;

(B) surplus lines producer; or

(C) consultant employer; and

(ii) to the customer service representative's employer's:

(A) customer;

(B) client; or

(C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative's producer, surplus lines producer, or consultant employer.

(44) "Deadline" means a final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order; and

(b) by which a required filing or payment must be received by the department.

(45) "Deemer clause" means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner's failure to take a specific action.

(46) "Degree of relationship" means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(47) "Department" means the Insurance Department.

(48) "Director" means a member of the board of directors of a corporation.

(49) "Disability" means a physiological or psychological condition that partially or totally limits an individual's ability to:

(a) perform the duties of:

(i) that individual's occupation; or

(ii) an occupation for which the individual is reasonably suited by education, training, or experience; or

(b) perform two or more of the following basic activities of daily living:

(i) eating;

(ii) toileting;

(iii) transferring;

(iv) bathing; or

(v) dressing.

(50) "Disability income insurance" means the same as that term is defined in Subsection (86).

(51) "Domestic insurer" means an insurer organized under the laws of this state.

(52) "Domiciliary state" means the state in which an insurer:

(a) is incorporated;

(b) is organized; or

(c) in the case of an alien insurer, enters into the United States.

(53) (a) "Eligible employee" means:

(i) an employee who:

(A) works on a full-time basis; and

(B) has a normal work week of 30 or more hours; or

(ii) a person described in Subsection (53)(b).

(b) "Eligible employee" includes:

(i) an owner, sole proprietor, or partner who:

(A) works on a full-time basis;

(B) has a normal work week of 30 or more hours; and

(C) employs at least one common employee; and

(ii) an independent contractor if the individual is included under a health benefit plan of a small employer.

(c) "Eligible employee" does not include, unless eligible under Subsection (53)(b):

(i) an individual who works on a temporary or substitute basis for a small employer;

(ii) an employer's spouse who does not meet the requirements of Subsection (53)(a)(i); or

(iii) a dependent of an employer who does not meet the requirements of Subsection (53)(a)(i).

(54) "Emergency medical condition" means a medical condition that:

(a) manifests itself by acute symptoms, including severe pain; and

(b) would cause a prudent layperson possessing an average knowledge of medicine and health to reasonably expect the absence of immediate medical attention through a hospital emergency department to result in:

(i) placing the layperson's health or the layperson's unborn child's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part.

(55) "Employee" means:

(a) an individual employed by an employer; or

(b) an individual who meets the requirements of Subsection (53)(b).

(56) "Employee benefits" means one or more benefits or services provided to:

(a) an employee; or

(b) a dependent of an employee.

(57) (a) "Employee welfare fund" means a fund:

(i) established or maintained, whether directly or through a trustee, by:

(A) one or more employers;

(B) one or more labor organizations; or

(C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.

(58) "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

(59) (a) "Enrollee" means:

(i) a policyholder;

(ii) a certificate holder;

(iii) a subscriber; or

(iv) a covered individual:

(A) who has entered into a contract with an organization for health care; or

(B) on whose behalf an arrangement for health care has been made.

(b) "Enrollee" includes an insured.

(60) "Enrollment date," with respect to a health benefit plan, means:

(a) the first day of coverage; or

(b) if there is a waiting period, the first day of the waiting period.

(61) "Enterprise risk" means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause:

(a) the insurer's risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

(62) (a) "Escrow" means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) "Escrow" does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

(63) "Escrow agent" means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

(64) (a) "Excludes" is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term "excludes" are representative examples for use in interpretation of this title.

(65) "Exclusion" means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

(66) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

(67) (a) "Filed" means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A-3-103; or

(B) rule.

(b) "Filed" does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (67)(a).

(68) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial certification;

(l) a licensee annual statement;

(m) a licensee renewal application;

(n) an advertisement;

(o) a binder; or

(p) an outline of coverage.

(69) "First party insurance" means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

(70) (a) "Fixed indemnity insurance" means accident and health insurance written to provide a

fixed amount for a specified event relating to or resulting from an illness or injury.

(b) "Fixed indemnity insurance" includes hospital confinement indemnity insurance.

(71) "Foreign insurer" means an insurer domiciled outside of this state, including an alien insurer.

(72) (a) "Form" means one of the following prepared for general use:

(i) a policy;

(ii) a certificate;

(iii) an application;

(iv) an outline of coverage; or

(v) an endorsement.

(b) "Form" does not include a document specially prepared for use in an individual case.

(73) "Franchise insurance" means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

(74) "General lines of authority" include:

(a) the general lines of insurance in Subsection (75);

(b) title insurance under one of the following sublines of authority:

(i) title examination, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers' compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

(75) "General lines of insurance" include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

(76) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

(a) (i) to an employee; or

(ii) to a dependent of an employee; and

(b) (i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

(77) (a) "Group insurance policy" means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

(78) "Group-wide supervisor" means the commissioner or other regulatory official designated as the group-wide supervisor for an internationally active insurance group under Section 31A-16-108.6.

(79) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

(80) (a) "Health benefit plan" means a policy, contract, certificate, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care, including major medical expense coverage.

(b) "Health benefit plan" does not include:

(i) coverage only for accident or disability income insurance, or any combination thereof;

(ii) coverage issued as a supplement to liability insurance;

(iii) liability insurance, including general liability insurance and automobile liability insurance;

(iv) workers' compensation or similar insurance;

(v) automobile medical payment insurance;

(vi) credit-only insurance;

(vii) coverage for on-site medical clinics;

(viii) other similar insurance coverage, specified in federal regulations issued pursuant to Pub. L. No. 104-191, under which benefits for health care services are secondary or incidental to other insurance benefits;

(ix) the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(A) limited scope dental or vision benefits;

(B) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; or

(C) other similar limited benefits, specified in federal regulations issued pursuant to Pub. L. No. 104-191;

(x) the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of benefits and any exclusion of benefits under any health plan, and the benefits are paid with respect to an event without regard to whether benefits are provided under any health plan:

(A) coverage only for specified disease or illness; or

(B) fixed indemnity insurance;

(xi) the following if offered as a separate policy, certificate, or contract of insurance:

(A) Medicare supplemental health insurance as defined under the Social Security Act, 42 U.S.C. Sec. 1395ss(g)(1);

(B) coverage supplemental to the coverage provided under United States Code, Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); or

(C) similar supplemental coverage provided to coverage under a group health insurance plan;

(xii) short-term limited duration health insurance; and

(xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.

(81) "Health care" means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

(a) a professional service;

(b) a personal service;

(c) a facility;

(d) equipment;

(e) a device;

(f) supplies; or

(g) medicine.

(82) (a) "Health care insurance" or "health insurance" means insurance providing:

(i) a health care benefit; or

(ii) payment of an incurred health care expense.

(b) "Health care insurance" or "health insurance" does not include accident and health insurance providing a benefit for:

(i) replacement of income;

(ii) short-term accident;

(iii) fixed indemnity;

(iv) credit accident and health;

(v) supplements to liability;

(vi) workers' compensation;

(vii) automobile medical payment;

(viii) no-fault automobile;

(ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

(83) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(84) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec. 155.20.

(85) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(86) "Income replacement insurance" or "disability income insurance" means insurance written to provide payments to replace income lost from accident or sickness.

(87) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

(88) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

(89) "Independently procured insurance" means insurance procured under Section 31A-15-104.

(90) "Individual" means a natural person.

(91) "Inland marine insurance" includes insurance covering:

(a) property in transit on or over land;

(b) property in transit over water by means other than boat or ship;

(c) bailee liability;

(d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and

(e) personal and commercial property floaters.

(92) "Insolvency" or "insolvent" means that:

(a) an insurer is unable to pay the insurer's obligations as the obligations are due;

(b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer's admitted assets are less than the insurer's liabilities.

(93) (a) "Insurance" means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(b) "Insurance" includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss

through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

(94) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(95) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club;

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy offering title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections (95)(a) through (h) in a manner designed to evade this title.

(96) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

(97) "Insurance group" means the persons that comprise an insurance holding company system.

(98) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

(99) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c) (i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

(100) (a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

(i) a policyholder;

(ii) a subscriber;

(iii) a member; and

(iv) a beneficiary.

(b) The definition in Subsection (100)(a):

(i) applies only to this title;

(ii) does not define the meaning of "insured" as used in an insurance policy or certificate; and

(iii) includes an enrollee.

(101) (a) "Insurer," "carrier," "insurance carrier," or "insurance company" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan;

(v) a person purporting or intending to do an insurance business as a principal on that person's own account; and

(vi) a health maintenance organization.

(b) "Insurer," "carrier," "insurance carrier," or "insurance company" does not include a governmental entity.

(102) "Interinsurance exchange" means the same as that term is defined in Subsection (163).

(103) "Internationally active insurance group" means an insurance holding company system:

(a) that includes an insurer registered under Section 31A-16-105;

(b) that has premiums written in at least three countries;

(c) whose percentage of gross premiums written outside the United States is at least 10% of its total gross written premiums; and

(d) that, based on a three-year rolling average, has:

(i) total assets of at least $50,000,000,000; or

(ii) total gross written premiums of at least $10,000,000,000.

(104) "Involuntary unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(105) "Large employer," in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least 51 employees on business days during the preceding calendar year; and

(b) employs at least one employee on the first day of the plan year.

(106) "Late enrollee," with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

(107) "Late enrollment," with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

(108) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a specified legal expense.

(b) "Legal expense insurance" includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) "Legal expense insurance" does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

(109) (a) "Liability insurance" means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) "Liability insurance" includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

(110) (a) "License" means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) "License" includes a certificate of authority issued to an insurer.

(111) (a) "Life insurance" means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

(112) "Limited license" means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

(113) "Limited line credit insurance" includes the following forms of insurance:

(a) credit life;

(b) credit accident and health;

(c) credit property;

(d) credit unemployment;

(e) involuntary unemployment;

(f) mortgage life;

(g) mortgage guaranty;

(h) mortgage accident and health;

(i) guaranteed automobile protection; and

(j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

(114) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

(115) "Limited line insurance" includes:

(a) bail bond;

(b) limited line credit insurance;

(c) legal expense insurance;

(d) motor club insurance;

(e) car rental related insurance;

(f) travel insurance;

(g) crop insurance;

(h) self-service storage insurance;

(i) guaranteed asset protection waiver;

(j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

(116) "Limited lines authority" includes the lines of insurance listed in Subsection (115).

(117) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

(118) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

(A) expenses incurred;

(B) indemnity;

(C) prepayment; or

(D) another method;

(iii) for one or more necessary or medically necessary services that are:

(A) diagnostic;

(B) preventative;

(C) therapeutic;

(D) rehabilitative;

(E) maintenance; or

(F) personal care; and

(iv) that may be issued by:

(A) an insurer;

(B) a fraternal benefit society;

(C) (I) a nonprofit health hospital; and

(II) a medical service corporation;

(D) a prepaid health plan;

(E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections (118)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

(A) a group or individual annuity or rider; or

(B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

(A) cognitive impairment; or

(B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

(A) disease; or

(B) accident;

(ix) limited benefit health coverage;

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

(I) benefits; or

(II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement; or

(xi) limited long-term care as defined in Section 31A-22-2002.

(119) "Managed care organization" means a person:

(a) licensed as a health maintenance organization under Chapter 8, Health Maintenance Organizations and Limited Health Plans; or

(b) (i) licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(C) Chapter 14, Foreign Insurers; and

(ii) that requires an enrollee to use, or offers incentives, including financial incentives, for an enrollee to use, network providers.

(120) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

(121) "Member" means a person having membership rights in an insurance corporation.

(122) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

(123) "Mortgage accident and health insurance" means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

(124) "Mortgage guaranty insurance" means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

(125) "Mortgage life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

(126) "Motor club" means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections (126)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

(127) "Mutual" means a mutual insurance corporation.

(128) "NAIC" means the National Association of Insurance Commissioners.

(129) "NAIC liquidity stress test framework" means a NAIC publication that includes:

(a) a history of the NAIC's development of regulatory liquidity stress testing;

(b) the scope criteria applicable for a specific data year; and

(c) the liquidity stress test instructions and reporting templates for a specific data year, as

adopted by the NAIC and as amended by the NAIC in accordance with NAIC procedures.

(130) "Network plan" means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

(131) "Network provider" means a health care provider who has an agreement with a managed care organization to provide health care services to an enrollee with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.

(132) "Nonparticipating" means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

(133) "Ocean marine insurance" means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

(134) "Order" means an order of the commissioner.

(135) "ORSA guidance manual" means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.

(136) "ORSA summary report" means a confidential high-level summary of an insurer or insurance group's own risk and solvency assessment.

(137) "Outline of coverage" means a summary that explains an accident and health insurance policy.

(138) "Own risk and solvency assessment" means an insurer or insurance group's confidential internal assessment:

(a) (i) of each material and relevant risk associated with the insurer or insurance group;

(ii) of the insurer or insurance group's current business plan to support each risk described in Subsection (138)(a)(i); and

(iii) of the sufficiency of capital resources to support each risk described in Subsection (138)(a)(i); and

(b) that is appropriate to the nature, scale, and complexity of an insurer or insurance group.

(139) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

(140) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

(141) "Person" includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

(142) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

(143) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec. 1002(16)(B).

(144) "Plan year" means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection (144)(a) or (b), the calendar year.

(145) (a) "Policy" means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

(146) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

(147) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy offering life insurance over a period of years.

(148) "Policy summary" means a synopsis describing the elements of a life insurance policy.

(149) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

(150) "Preexisting condition," with respect to health care insurance:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

(151) (a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c) (i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

(152) "Principal officers" for a corporation means the officers designated under Subsection 31A-5-203(3).

(153) "Proceeding" includes an action or special statutory proceeding.

(154) "Professional liability insurance" means insurance against legal liability incident to the practice of a profession and provision of a professional service.

(155) (a) "Property insurance" means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) "Property insurance" does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

(156) "Qualified long-term care insurance contract" or "federally tax qualified long-term care insurance contract" means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

(157) "Qualified United States financial institution" means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

(158) (a) "Rate" means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) "Rate" does not include a minimum premium.

(159) (a) "Rate service organization" means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) "Rate service organization" does not include:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

(160) "Rating manual" means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

(161) (a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) "Rebate" does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

(162) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service's post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

(163) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

(164) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the "ceding insurer"; and

(b) the insurer assuming the risk as the:

(i) "assuming insurer"; or

(ii) "assuming reinsurer."

(165) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

(166) "Residential dwelling liability insurance" means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

(167) (a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

(168) "Rider" means an endorsement to:

(a) an insurance policy; or

(b) an insurance certificate.

(169) "Scope criteria" means the designated exposure bases and minimum magnitudes for a specified data year that are used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress test framework for that data year.

(170) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

(171) (a) "Security" means a:

(i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections (171)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

(172) "Securityholder" means a specified person who owns a security of a person, including:

(a) common stock;

(b) preferred stock;

(c) debt obligations; and

(d) any other security convertible into or evidencing the right of any of the items listed in this Subsection (172).

(173) (a) "Self-insurance" means an arrangement under which a person provides for spreading the person's own risks by a systematic plan.

(b) "Self-insurance" includes:

(i) an arrangement under which a governmental entity undertakes to indemnify an employee for liability arising out of the employee's employment; and

(ii) an arrangement under which a person with a managed program of self-insurance and risk management undertakes to indemnify the person's affiliate, subsidiary, director, officer, or employee for liability or risk that arises out of the person's relationship with the affiliate, subsidiary, director, officer, or employee.

(c) "Self-insurance" does not include:

(i) an arrangement under which a number of persons spread their risks among themselves; or

(ii) an arrangement with an independent contractor.

(174) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

(175) "Short-term limited duration health insurance" means a health benefit product that:

(a) after taking into account any renewals or extensions, has a total duration of no more than 36 months; and

(b) has an expiration date specified in the contract that is less than 12 months after the original effective date of coverage under the health benefit product.

(176) "Significant break in coverage" means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

(177) (a) "Small employer" means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(i) (A) employed at least one but not more than 50 eligible employees on business days during the preceding calendar year; or

(B) if the employer did not exist for the entirety of the preceding calendar year, reasonably expects to employ an average of at least one but not more than 50 eligible employees on business days during the current calendar year;

(ii) employs at least one employee on the first day of the plan year; and

(iii) for an employer who has common ownership with one or more other employers, is treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

(b) "Small employer" does not include an owner or a sole proprietor that does not employ at least one employee.

(178) "Special enrollment period," in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(179) (a) "Subsidiary" of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary's domicile requires to be owned by directors or others.

(180) Subject to Subsection (92)(b), "surety insurance" includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal's obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

(181) (a) "Surplus" means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) "Permanent surplus" means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) "Excess surplus" means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer's or health organization's minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

(182) "Third party administrator" or "administrator" means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternals; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

(183) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

(184) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

(185) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

(186) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

(187) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

(188) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage described in Subsection (155).

(189) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

(190) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

(191) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 92. Section 31A-4-106 is amended to read:

31A-4-106. Provision of health care.

(1) As used in this section, "health care provider" has the same definition as in Section 78B-3-403.

(2) Except under Subsection (3) or (4), unless authorized to do so or employed by someone authorized to do so under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternals, or Chapter 14, Foreign Insurers, a person may not:

(a) directly or indirectly provide health care;

(b) arrange for health care;

(c) manage or administer the provision or arrangement of health care;

(d) collect advance payments for health care; or

(e) compensate a provider of health care.

(3) Subsection (2) does not apply to:

(a) a natural person or professional corporation that alone or with others professionally associated with the natural person or professional corporation, and except as provided in Subsection (3)(e), without receiving consideration for services in advance of the need for a particular service, provides the service personally with the aid of nonprofessional assistants;

(b) a health care facility as defined in Section [~~26-21-2~~] 26B-2-201 that:

(i) is licensed or exempt from licensing under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(ii) does not engage in health care insurance as defined under Section 31A-1-301;

(c) a person who files with the commissioner a certificate from the United States Department of Labor, or other evidence satisfactory to the commissioner, showing that the laws of Utah are preempted under Section 514 of the Employee Retirement Income Security Act of 1974 or other federal law;

(d) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, who arranges for the insurance of all services under:

(i) Subsection (2) by an insurer authorized to do business in Utah; or

(ii) Section 31A-15-103; or

(e) notwithstanding the provisions of Subsection (3)(a), a natural person or professional corporation that alone or with others professionally associated with the natural person or professional corporation enters into a medical retainer agreement in accordance with Section 31A-4-106.5.

(4) A person may not provide administrative or management services for another person subject to Subsection (2) and not exempt under Subsection (3) unless the person:

(a) is an authorized insurer under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternals, or Chapter 14, Foreign Insurers; or

(b) complies with Chapter 25, Third Party Administrators.

(5) An insurer or person who provides, administers, or manages health care insurance under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternals, or Chapter 14, Foreign Insurers, may not enter into a contract that limits a health care provider's ability to advise the health care provider's patients or clients fully about treatment options or other issues that affect the health care of the health care provider's patients or clients.

Section 93. Section 31A-4-107.5 is amended to read:

31A-4-107.5. Penalty for failure of a regulated health insurance entity to fulfill duties related to state claims for Medicaid payment or recovery.

(1) For purposes of this section, "regulated health insurance entity" means a health insurance entity, as defined in Section [~~26-19-102~~] 26B-3-1001, that is subject to regulation by the department.

(2) If a regulated health insurance entity fails to comply with the provisions of Section [~~26-19-301~~] 26B-3-1004:

(a) the commissioner may revoke or suspend, in whole or in part, a license, certificate of authority, registration, or other authority that is granted by the commissioner to the regulated health insurance entity; and

(b) the regulated health insurance entity is subject to the penalties and procedures provided for in Section 31A-2-308.

Section 94. Section 31A-8-104 is amended to read:

31A-8-104. Determination of ability to provide services.

(1) The commissioner may not issue a certificate of authority to an applicant for a certificate of authority under this chapter unless the applicant demonstrates to the commissioner that the applicant has:

(a) the willingness and potential ability to furnish the proposed health care services in a manner to assure both availability and accessibility of adequate personnel and facilities and continuity of service; and

(b) arrangements for an ongoing quality of health care assurance program concerning health care processes and outcomes.

(2) (a) In accordance with Sections 31A-2-203 and 31A-2-204, the commissioner may order an independent audit or examination by one or more technical experts to determine an applicant's ability to provide the proposed health care services as described in Subsection (1).

(b) In accordance with Section 31A-2-205, an applicant shall reimburse the commissioner for the reasonable cost of an independent audit or examination.

(3) Licensing under this chapter does not exempt an organization from any licensing requirement applicable under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

Section 95. Section 31A-15-103 is amended to read:

31A-15-103. Surplus lines insurance -- Unauthorized insurers.

(1) Notwithstanding Section 31A-15-102, when this state is the home state as defined in Section 31A-3-305, a nonadmitted insurer may make an insurance contract for coverage of a person in this state and on a risk located in this state, subject to the limitations and requirements of this section.

(2) (a) For a contract made under this section, the insurer may, in this state:

(i) inspect the risks to be insured;

(ii) collect premiums;

(iii) adjust losses; and

(iv) do another act reasonably incidental to the contract.

(b) An act described in Subsection (2)(a) may be done through:

(i) an employee; or

(ii) an independent contractor.

(3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on behalf of an insurer that has no certificate of authority.

(b) Insurance placed with a nonadmitted insurer shall be placed by a surplus lines producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

(c) The commissioner may by rule prescribe how a surplus lines producer may:

(i) pay or permit the payment, commission, or other remuneration on insurance placed by the surplus lines producer under authority of the surplus lines producer's license to one holding a license to act as an insurance producer; and

(ii) advertise the availability of the surplus lines producer's services in procuring, on behalf of a person seeking insurance, a contract with a nonadmitted insurer.

(4) For a contract made under this section, a nonadmitted insurer is subject to Sections 31A-23a-402, 31A-23a-402.5, and 31A-23a-403 and the rules adopted under those sections.

(5) A nonadmitted insurer may not issue workers' compensation insurance coverage to an employer located in this state, except:

(a) for stop loss coverage issued to an employer securing workers' compensation under Subsection 34A-2-201(2);

(b) a cannabis production establishment as defined in Section 4-41a-102; or

(c) a medical cannabis pharmacy as defined in Section [~~26-61a-102~~] 26B-4-201.

(6) (a) The commissioner may by rule prohibit making a contract under Subsection (1) for a specified class of insurance if authorized insurers provide an established market for the class in this state that is adequate and reasonably competitive.

(b) The commissioner may by rule place a restriction or a limitation on and create special procedures for making a contract under Subsection (1) for a specified class of insurance if:

(i) there have been abuses of placements in the class; or

(ii) the policyholders in the class, because of limited financial resources, business experience, or knowledge, cannot protect their own interests adequately.

(c) The commissioner may prohibit an individual insurer from making a contract under Subsection (1) and all insurance producers from dealing with the insurer if:

(i) the insurer willfully violates:

(A) this section;

(B) Section 31A-4-102, 31A-23a-402, 31A-23a-402.5, or 31A-26-303; or

(C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);

(ii) the insurer fails to pay the fees and taxes specified under Section 31A-3-301; or

(iii) the commissioner has reason to believe that the insurer is:

(A) in an unsound condition;

(B) operated in a fraudulent, dishonest, or incompetent manner; or

(C) in violation of the law of its domicile.

(d) (i) The commissioner may issue one or more lists of nonadmitted foreign insurers whose:

(A) solidity the commissioner doubts; or

(B) practices the commissioner considers objectionable.

(ii) The commissioner shall issue one or more lists of nonadmitted foreign insurers the commissioner considers to be reliable and solid.

(iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner may issue other relevant evaluations of nonadmitted insurers.

(iv) An action may not lie against the commissioner or an employee of the department for a written or oral communication made in, or in connection with the issuance of, a list or evaluation described in this Subsection (6)(d).

(e) A foreign nonadmitted insurer shall be listed on the commissioner's "reliable" list only if the nonadmitted insurer:

(i) delivers a request to the commissioner to be on the list;

(ii) establishes satisfactory evidence of good reputation and financial integrity;

(iii) (A) delivers to the commissioner a copy of the nonadmitted insurer's current annual statement certified by the insurer and, each subsequent year, delivers to the commissioner a copy of the nonadmitted insurer's annual statement within 60 days after the day on which the nonadmitted insurer files the annual statement with the insurance regulatory authority where the nonadmitted insurer is domiciled; or

(B) files the nonadmitted insurer's annual statements with the National Association of Insurance Commissioners and the nonadmitted insurer's annual statements are available electronically from the National Association of Insurance Commissioners;

(iv) (A) is in substantial compliance with the solvency standards in Chapter 17, Part 6, Risk-Based Capital, or maintains capital and surplus of at least $15,000,000, whichever is greater; or

(B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group of alien individual insurers, maintains a trust fund that:

(I) shall be in an amount not less than $50,000,000 as security to its full amount for all policyholders and creditors in the United States of each member of the group;

(II) may consist of cash, securities, or investments of substantially the same character and quality as those which are "qualified assets" under Section 31A-17-201; and

(III) may include as part of this trust arrangement a letter of credit that qualifies as acceptable security under Section 31A-17-404.1; and

(v) for an alien insurer not domiciled in the United States or a territory of the United States, is listed on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners International Insurers Department.

(7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly or without reasonable investigation of the financial condition and general reputation of the insurer, place insurance under this section with:

(i) a financially unsound insurer;

(ii) an insurer engaging in unfair practices; or

(iii) an otherwise substandard insurer.

(b) A surplus line producer may place insurance under this section with an insurer described in Subsection (7)(a) if the surplus line producer:

(i) gives the applicant notice in writing of the known deficiencies of the insurer or the limitations on the surplus line producer's investigation; and

(ii) explains the need to place the business with that insurer.

(c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the surplus line producer for at least five years.

(d) To be financially sound, an insurer shall satisfy standards that are comparable to those applied under the laws of this state to an authorized insurer.

(e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed substandard.

(8) (a) A policy issued under this section shall:

(i) include a description of the subject of the insurance; and

(ii) indicate:

(A) the coverage, conditions, and term of the insurance;

(B) the premium charged the policyholder;

(C) the premium taxes to be collected from the policyholder; and

(D) the name and address of the policyholder and insurer.

(b) If the direct risk is assumed by more than one insurer, the policy shall state:

(i) the names and addresses of all insurers; and

(ii) the portion of the entire direct risk each assumes.

(c) A policy issued under this section shall have attached or affixed to the policy the following statement: "The insurer issuing this policy does not hold a certificate of authority to do business in this state and thus is not fully subject to regulation by the Utah insurance commissioner. This policy receives no protection from any of the guaranty associations created under Title 31A, Chapter 28, Guaranty Associations."

(9) Upon placing a new or renewal coverage under this section, a surplus lines producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the insurance consisting either of:

(a) the policy as issued by the insurer; or

(b) if the policy is not available upon placing the coverage, a certificate, cover note, or other confirmation of insurance complying with Subsection (8).

(10) If the commissioner finds it necessary to protect the interests of insureds and the public in this state, the commissioner may by rule subject a policy issued under this section to as much of the regulation provided by this title as is required for a comparable policy written by an authorized foreign insurer.

(11) (a) A surplus lines transaction in this state shall be examined to determine whether it complies with:

(i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;

(ii) the solicitation limitations of Subsection (3);

(iii) the requirement of Subsection (3) that placement be through a surplus lines producer;

(iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

(v) the policy form requirements of Subsections (8) and (10).

(b) The examination described in Subsection (11)(a) shall take place as soon as practicable after the transaction. The surplus lines producer shall submit to the examiner information necessary to conduct the examination within a period specified by rule.

(c) (i) The examination described in Subsection (11)(a) may be conducted by the commissioner or by an advisory organization created under Section 31A-15-111 and authorized by the commissioner to conduct these examinations. The commissioner is not required to authorize an additional advisory organization to conduct an examination under this Subsection (11)(c).

(ii) The commissioner's authorization of one or more advisory organizations to act as examiners under this Subsection (11)(c) shall be:

(A) by rule; and

(B) evidenced by a contract, on a form provided by the commissioner, between the authorized advisory organization and the department.

(d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall collect a stamping fee of an amount not to exceed 1% of the policy premium payable in connection with the transaction.

(B) A stamping fee collected by the commissioner shall be deposited in the General Fund.

(C) The commissioner shall establish a stamping fee by rule.

(ii) A stamping fee collected by an advisory organization is the property of the advisory organization to be used in paying the expenses of the advisory organization.

(iii) Liability for paying a stamping fee is as required under Subsection 31A-3-303(1) for taxes imposed under Section 31A-3-301.

(iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If a stamping fee is not paid when due, the commissioner or advisory organization may impose a penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until full payment of the stamping fee.

(e) The commissioner, representatives of the department, advisory organizations, representatives and members of advisory organizations, authorized insurers, and surplus lines insurers are not liable for damages on account of statements, comments, or recommendations made in good faith in connection with their duties under this Subsection (11)(e) or under Section 31A-15-111.

(f) An examination conducted under this Subsection (11) and a document or materials related to the examination are confidential.

(12) (a) For a surplus lines insurance transaction in the state entered into on or after May 13, 2014, if an audit is required by the surplus lines insurance policy, a surplus lines insurer:

(i) shall exercise due diligence to initiate an audit of an insured, to determine whether additional premium is owed by the insured, by no later than six months after the expiration of the term for which premium is paid; and

(ii) may not audit an insured more than three years after the surplus lines insurance policy expires.

(b) A surplus lines insurer that does not comply with this Subsection (12) may not charge or collect additional premium in excess of the premium agreed to under the surplus lines insurance policy.

Section 96. Section 31A-22-305 is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

(c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least $25,000 per person and $500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by the workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by any benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years old who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a), (b), and (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(l) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means; or

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed $2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of

the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection [~~(10)(m)~~] (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding

arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(11) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for uninsured motorist coverage shall be commenced within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

Section 97. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured

motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) $10,000 for one person in any one accident; and

(ii) at least $20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may recover underinsured motorist benefits under any one other policy in which they are described as a covered person.

(ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(iii) (A) A covered person may recover benefits from no more than two additional policies, one

additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iv) A covered person's recovery under any available policies may not exceed the full amount of damages.

(v) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.

(vi) The primary and the secondary coverage may not be set off against the other.

(vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(viii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by a workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person younger than 18 years old who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the last liability policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding

arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (8).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means; or

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award,

the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(r) may not exceed $2,500 unless Subsection (9)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section 98. Section 31A-22-604 is amended to read:

31A-22-604. Reimbursement by insurers of Medicaid benefits.

(1) As used in this section, "Medicaid" means the program under Title XIX of the federal Social Security Act.

(2) Any accident and health insurer, including a group accident and health insurance plan, as defined in Section 607(1), Federal Employee Retirement Income Security Act of 1974, or health maintenance organization as defined in Section 31A–8–101, is prohibited from considering the availability or eligibility for medical assistance in this or any other state under Medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders, or certificate holders.

(3) To the extent that payment for covered expenses has been made under the state Medicaid program for health care items or services furnished to an individual in any case when a third party has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by any other party for those health care items or services.

(4) [~~Title 26, Chapter 19, Medical Benefits Recovery Act~~] Title 26B, Chapter 3, Part 10, Medical Benefits Recovery, applies to reimbursement of insurers of Medicaid benefits.

Section 99. Section 31A-22-610 is amended to read:

31A-22-610. Dependent coverage from moment of birth or adoption.

(1) As used in this section:

(a) "Child" means, in connection with any adoption, or placement for adoption of the child, an individual who is younger than 18 years [~~of age~~] old as of the date of the adoption or placement for adoption.

(b) "Placement for adoption" means the assumption and retention by a person of a legal obligation for total or partial support of a child in anticipation of the adoption of the child.

(2) (a) Except as provided in Subsection (5), if an accident and health insurance policy provides coverage for any members of the policyholder's or certificate holder's family, the policy shall provide that any health insurance benefits applicable to dependents of the insured are applicable on the same basis to:

(i) a newly born child from the moment of birth; and

(ii) an adopted child:

(A) beginning from the moment of birth, if placement for adoption occurs within 30 days of the child's birth; or

(B) beginning from the date of placement, if placement for adoption occurs 30 days or more after the child's birth.

(b) The coverage described in this Subsection (2):

(i) is not subject to any preexisting conditions; and

(ii) includes any injury or sickness, including the necessary care and treatment of medically diagnosed:

(A) congenital defects;

(B) birth abnormalities; or

(C) prematurity.

(c) (i) Subject to Subsection (2)(c)(ii), a claim for services for a newly born child or an adopted child may be denied until the child is enrolled.

(ii) Notwithstanding Subsection (2)(c)(i), an otherwise eligible claim denied under Subsection (2)(c)(i) is eligible for payment and may be resubmitted or reprocessed once a child is enrolled pursuant to Subsection (2)(d) or (e).

(d) If the payment of a specific premium is required to provide coverage for a child of a policyholder or certificate holder, for there to be coverage for the child, the policyholder or certificate holder shall enroll:

(i) a newly born child within 30 days after the date of birth of the child; or

(ii) an adopted child within 30 days after the day of placement of adoption.

(e) If the payment of a specific premium is not required to provide coverage for a child of a policyholder or certificate holder, for the child to receive coverage the policyholder or certificate holder shall enroll a newly born child or an adopted child no later than 30 days after the first notification of denial of a claim for services for that child.

(3) (a) The coverage required by Subsection (2) as to children placed for the purpose of adoption with a policyholder or certificate holder continues in the same manner as it would with respect to a child of the policyholder or certificate holder unless:

(i) the placement is disrupted prior to legal adoption; and

(ii) the child is removed from placement.

(b) The coverage required by Subsection (2) ends if the child is removed from placement prior to being legally adopted.

(4) The provisions of this section apply to employee welfare benefit plans as defined in Section [~~26-19-102~~] 26B-3-1001.

(5) If an accident and health insurance policy that is not subject to the special enrollment rights described in 45 C.F.R. Sec. 146.117(b) provides coverage for one individual, the insurer may choose to:

(a) provide coverage according to this section; or

(b) allow application, subject to the insurer's underwriting criteria for:

(i) a newborn;

(ii) an adopted child; or

(iii) a child placed for adoption.

Section 100. Section 31A-22-610.5 is amended to read:

31A-22-610.5. Dependent coverage.

(1) As used in this section, "child" has the same meaning as defined in Section 78B-12-102.

(2) (a) Any individual or group accident and health insurance policy or managed care organization contract that provides coverage for a policyholder's or certificate holder's dependent:

(i) may not terminate coverage of an unmarried dependent by reason of the dependent's age before the dependent's 26th birthday; and

(ii) shall, upon application, provide coverage for all unmarried dependents up to age 26.

(b) The cost of coverage for unmarried dependents 19 to 26 years [~~of age~~] old shall be included in the premium on the same basis as other dependent coverage.

(c) This section does not prohibit the employer from requiring the employee to pay all or part of the cost of coverage for unmarried dependents.

(d) An individual or group health insurance policy or managed care organization shall continue in force coverage for a dependent through the last day of the month in which the dependent ceases to be a dependent:

(i) if premiums are paid; and

(ii) notwithstanding Sections 31A-22-618.6 and 31A-22-618.7.

(3) (a) When a parent is required by a court or administrative order to provide health insurance coverage for a child, an accident and health insurer may not deny enrollment of a child under the accident and health insurance plan of the child's parent on the grounds the child:

(i) was born out of wedlock and is entitled to coverage under Subsection (4);

(ii) was born out of wedlock and the custodial parent seeks enrollment for the child under the custodial parent's policy;

(iii) is not claimed as a dependent on the parent's federal tax return;

(iv) does not reside with the parent; or

(v) does not reside in the insurer's service area.

(b) A child enrolled as required under Subsection (3)(a)(iv) is subject to the terms of the accident and health insurance plan contract pertaining to services received outside of an insurer's service area.

(4) When a child has accident and health coverage through an insurer of a noncustodial parent, and when requested by the noncustodial or custodial parent, the insurer shall:

(a) provide information to the custodial parent as necessary for the child to obtain benefits through that coverage, but the insurer or employer, or the agents or employees of either of them, are not civilly or criminally liable for providing information in compliance with this Subsection (4)(a), whether the information is provided pursuant to a verbal or written request;

(b) permit the custodial parent or the service provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(c) make payments on claims submitted in accordance with Subsection (4)(b) directly to the custodial parent, the child who obtained benefits, the provider, or the state Medicaid agency.

(5) When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall:

(a) permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to an enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application of the child's other parent, the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec. 651 through 669, the child support enforcement program; and

(c) (i) when the child is covered by an individual policy, not disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(A) the court or administrative order is no longer in effect; or

(B) the child is or will be enrolled in comparable accident and health coverage through another insurer which will take effect not later than the effective date of disenrollment; or

(ii) when the child is covered by a group policy, not disenroll or eliminate coverage of the child unless the employer is provided with satisfactory written evidence, which evidence is also provided to the insurer, that Subsection (8)(c)(i), (ii), or (iii) has happened.

(6) An insurer may not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for accident and health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

(7) Insurers may not reduce their coverage of pediatric vaccines below the benefit level in effect on May 1, 1993.

(8) When a parent is required by a court or administrative order to provide health coverage, which is available through an employer doing business in this state, the employer shall:

(a) permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage of the child, enroll the child under family coverage upon application by the child's other parent, by the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec. 651 through 669, the child support enforcement program;

(c) not disenroll or eliminate coverage of the child unless the employer is provided satisfactory written evidence that:

(i) the court order is no longer in effect;

(ii) the child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or

(iii) the employer has eliminated family health coverage for all of its employees; and

(d) withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and to pay this amount to the insurer.

(9) An order issued under Section [~~62A-11-326.1~~] 26B-9-225 may be considered a "qualified medical support order" for the purpose of enrolling a dependent child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

(10) This section does not affect any insurer's ability to require as a precondition of any child being covered under any policy of insurance that:

(a) the parent continues to be eligible for coverage;

(b) the child shall be identified to the insurer with adequate information to comply with this section; and

(c) the premium shall be paid when due.

(11) This section applies to employee welfare benefit plans as defined in Section [~~26-19-102~~] 26B-3-1001.

(12) (a) A policy that provides coverage to a child of a group member may not deny eligibility for coverage to a child solely because:

(i) the child does not reside with the insured; or

(ii) the child is solely dependent on a former spouse of the insured rather than on the insured.

(b) A child who does not reside with the insured may be excluded on the same basis as a child who resides with the insured.

Section 101. Section 31A-22-610.6 is amended to read:

31A-22-610.6. Special enrollment for individuals receiving premium assistance.

(1) As used in this section:

(a) "Premium assistance" means assistance under [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance, in the payment of premium.

(b) "Qualified beneficiary" means an individual who is approved to receive premium assistance.

(2) Subject to the other provisions in this section, an individual may enroll under this section at a time outside of an employer health benefit plan open enrollment period, regardless of previously waiving coverage, if the individual is:

(a) a qualified beneficiary who is eligible for coverage as an employee under the employer health benefit plan; or

(b) a dependent of the qualified beneficiary who is eligible for coverage under the employer health benefit plan.

(3) To be eligible to enroll outside of an open enrollment period, an individual described in

Subsection (2) shall enroll in the employer health benefit plan by no later than 30 days from the day on which the qualified beneficiary receives initial written notification, after July 1, 2008, that the qualified beneficiary is eligible to receive premium assistance.

(4) An individual described in Subsection (2) may enroll under this section only in an employer health benefit plan that is available at the time of enrollment to similarly situated eligible employees or dependents of eligible employees.

(5) Coverage under an employer health benefit plan for an individual described in Subsection (2) may begin as soon as the first day of the month immediately following enrollment of the individual in accordance with this section.

(6) This section does not modify any requirement related to premiums that applies under an employer health benefit plan to a similarly situated eligible employee or dependent of an eligible employee under the employer health benefit plan.

(7) An employer health benefit plan may require an individual described in Subsection (2) to satisfy a preexisting condition waiting period that:

(a) is allowed under the Health Insurance Portability and Accountability Act; and

(b) is not longer than 12 months.

Section 102. Section 31A-22-613.5 is amended to read:

31A-22-613.5. Price and value comparisons of health insurance.

(1) (a) This section applies to all health benefit plans.

(b) Subsection (2) applies to:

(i) all health benefit plans; and

(ii) coverage offered to state employees under Subsection 49-20-202(1)(a).

(2) The commissioner shall promote informed consumer behavior and responsible health benefit plans by requiring an insurer issuing a health benefit plan to provide to all enrollees, before enrollment in the health benefit plan, written disclosure of:

(a) restrictions or limitations on prescription drugs and biologics, including:

(i) the use of a formulary;

(ii) co-payments and deductibles for prescription drugs; and

(iii) requirements for generic substitution;

(b) coverage limits under the plan;

(c) any limitation or exclusion of coverage, including:

(i) a limitation or exclusion for a secondary medical condition related to a limitation or exclusion from coverage; and

(ii) easily understood examples of a limitation or exclusion of coverage for a secondary medical condition;

(d) (i) (A) each drug, device, and covered service that is subject to a preauthorization requirement as defined in Section 31A-22-650; or

(B) if listing each device or covered service in accordance with Subsection (2)(d)(i)(A) is too numerous to list separately, all devices or covered services in a particular category where all devices or covered services have the same preauthorization requirement;

(ii) each requirement for authorization as defined in Section 31A-22-650 for:

(A) each drug, device, or covered service described in Subsection (2)(d)(i)(A); and

(B) each category of devices or covered services described in Subsection (2)(d)(i)(B); and

(iii) sufficient information to allow a network provider or enrollee to submit all of the information to the insurer necessary to meet each requirement for authorization described in Subsection (2)(d)(ii);

(e) whether the insurer permits an exchange of the adoption indemnity benefit in Section 31A-22-610.1 for infertility treatments, in accordance with Subsection 31A-22-610.1(1)(c)(ii) and the terms associated with the exchange of benefits; and

(f) whether the insurer provides coverage for telehealth services in accordance with Section ~~[26-18-13.5]~~ 26B-3-123 and terms associated with that coverage.

(3) An insurer shall provide the disclosure required by Subsection (2) in writing to the commissioner:

(a) upon commencement of operations in the state; and

(b) anytime the insurer amends any of the following described in Subsection (2):

(i) treatment policies;

(ii) practice standards;

(iii) restrictions;

(iv) coverage limits of the insurer's health benefit plan or health insurance policy; or

(v) limitations or exclusions of coverage including a limitation or exclusion for a secondary medical condition related to a limitation or exclusion of the insurer's health insurance plan.

(4) (a) An insurer shall provide the enrollee with notice of an increase in costs for prescription drug coverage due to a change in benefit design under Subsection (2)(a):

(i) either:

(A) in writing; or

(B) on the insurer's website; and

(ii) at least 30 days prior to the date of the implementation of the increase in cost, or as soon as reasonably possible.

(b) If under Subsection (2)(a) a formulary is used, the insurer shall make available to prospective enrollees and maintain evidence of the fact of the disclosure of:

(i) the drugs included;

(ii) the patented drugs not included;

(iii) any conditions that exist as a precedent to coverage; and

(iv) any exclusion from coverage for secondary medical conditions that may result from the use of an excluded drug.

(c) The commissioner shall develop examples of limitations or exclusions of a secondary medical condition that an insurer may use under Subsection (2)(c).

(5) Examples of a limitation or exclusion of coverage provided under this section or otherwise are for illustrative purposes only, and the failure of a particular fact situation to fall within the description of an example does not, by itself, support a finding of coverage.

(6) An insurer shall:

(a) post the information described in Subsection (2)(d) on the insurer's website and provider portal;

(b) if requested by an enrollee, provide the enrollee with the information required by this section by mail or email; and

(c) if requested by a network provider for a specific drug, device, or covered service, provide the network provider with the information described in Subsection (2)(d) for the drug, device, or covered service by mail or email.

Section 103. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) The actions affecting Section 13-61-101 (Effective 12/31/23) take effect on December 31, 2023.

Section 104. Coordinating S.B. 206 with H.B. 72 -- Renumbering and superseding.

If this S.B. 206 and H.B. 72, Medical Cannabis Governance Revisions, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2023, as follows:

(1) changes in H.B. 72 supersede the changes in this bill, as those changes went into effect on May 3, 2023, in the following sections:

(a) Section 4-41a-201;

(b) Section 10-9a-528; and

(c) Section 17-27a-525;

(2) changing the reference to "Section 26-61a-102" in Subsection 10-9a-528(1)(c) in this bill to "Section 26B-4-201"; and

(3) changing the reference to "Section 26-61a-102" in Subsection 17-27a-525(1)(c) in this bill to "Section 26B-4-201"..

Section 105. Coordinating S.B. 206 with S.B. 64 -- Technical amendments.

If this S.B. 206 and S.B. 64, Bureau of Emergency Medical Services Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2024, by having changes in S.B. 64 supersede the changes in this bill, as those changes went into effect on May 3, 2023, in the following sections:

(1) Section 53-2d-101 (renumbered from Section 26-8a-102) in S.B. 64;

(2) Section 53-2d-105 (renumbered from Section 26-8a-104) in S.B. 64;

(3) Section 53-2d-204 (renumbered from Section 26-8a-204) in S.B. 64;

(4) Section 53-2d-205 (renumbered from Section 26-8a-205) in S.B. 64;

(5) Section 53-2d-206 (renumbered from Section 26-8a-206) in S.B. 64, subject to the instructions in Section 106 of this bill; and

(6) Section 53-2d-210 (renumbered from Section 26-8a-211) in S.B. 64..

Section 106. Coordinating S.B. 206 with H.B. 59 and S.B. 64 -- Technical amendments.

If this S.B. 206, H.B. 59, First Responder Mental Health Amendments, and S.B. 64, Bureau of Emergency Medical Services Amendments, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication, on July 1, 2024, by:

(1) renumbering Section 26-8a-206 in this bill to Section 53-2d-206; and

(2) amending Section 53-2d-206 in S.B. 64 to read:

"(1) The [~~department~~] bureau shall develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services.

(2) This program shall include:

(a) ongoing training for agencies providing emergency services and counseling program volunteers;

(b) critical incident stress debriefing for personnel at no cost to the emergency provider; and

(c) advising the department on training requirements for licensure as a behavioral emergency services technician.

(3) The department shall reimburse reasonable actual expenses, including mileage, incurred by a volunteer during the course of the volunteer's

provision of critical incident stress services under this section.".

Section 107. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if any of the following bills do not pass:

(1) S.B. 38, Health and Human Services Recodification – Administration, Licensing, and Recovery Services;

(2) S.B. 39, Health and Human Services Recodification – Health Care Assistance and Data;

(3) S.B. 40, Health and Human Services Recodification – Health Care Delivery and Repeals; or

(4) S.B. 41, Health and Human Services Recodification – Prevention, Supports, Substance Use and Mental Health.

CHAPTER 328
S. B. 207
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH AND HUMAN SERVICES RECODIFICATION -CROSS REFERENCES, TITLES 31A-58

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill updates cross references to the Utah Health and Human Services Code in Titles 31A through 58.

Highlighted Provisions:

This bill:

- makes technical updates in Titles 31A through 58 to cross references to the Utah Health and Human Services Code that are renumbered and amended in:
  - S.B. 38, Health and Human Services Recodification – Administration, Licensing, and Recovery Services;
  - S.B. 39, Health and Human Services Recodification – Health Care Assistance and Data;
  - S.B. 40, Health and Human Services Recodification – Health Care Delivery and Repeals; and
  - S.B. 41, Health and Human Services Recodification – Prevention, Supports, Substance Use and Mental Health; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

31A-22-614.5, as last amended by Laws of Utah 2017, Chapter 168
31A-22-625, as last amended by Laws of Utah 2014, Chapters 290, 300
31A-22-633, as last amended by Laws of Utah 2013, Chapter 167
31A-22-636, as last amended by Laws of Utah 2022, Chapter 198
31A-22-645, as enacted by Laws of Utah 2017, Chapter 168
31A-22-649, as enacted by Laws of Utah 2018, Chapter 119
31A-22-649.5, as last amended by Laws of Utah 2021, Chapters 19, 404 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 404
31A-22-651, as enacted by Laws of Utah 2019, Chapter 256
31A-22-1016, as enacted by Laws of Utah 2019, Chapter 341
31A-22-1602, as last amended by Laws of Utah 2009, Chapter 349
31A-23a-402, as last amended by Laws of Utah 2019, Chapter 193
31A-23b-102, as last amended by Laws of Utah 2018, Chapter 319
31A-23b-211, as last amended by Laws of Utah 2014, Chapter 425
31A-26-301.6, as last amended by Laws of Utah 2020, Chapter 32
31A-45-402, as enacted by Laws of Utah 2017, Chapter 292
31A-45-501, as last amended by Laws of Utah 2021, Chapter 252
32B-1-102, as last amended by Laws of Utah 2022, Chapter 447
32B-1-703, as renumbered and amended by Laws of Utah 2019, Chapter 403
32B-2-208, as enacted by Laws of Utah 2010, Chapter 276
32B-10-702, as enacted by Laws of Utah 2010, Chapter 276
34-55-102, as enacted by Laws of Utah 2019, Chapter 126
34A-2-102, as last amended by Laws of Utah 2019, Chapter 121
34A-2-111, as last amended by Laws of Utah 2015, Chapter 258
34A-2-417, as last amended by Laws of Utah 2018, Chapter 443
34A-2-418, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
34A-2-422, as last amended by Laws of Utah 2018, Chapter 443
34A-3-201, as renumbered and amended by Laws of Utah 2020, Fifth Special Session, Chapter 5
34A-11-102, as enacted by Laws of Utah 2002, Chapter 120
35A-1-102, as last amended by Laws of Utah 2018, Chapters 415, 427
35A-3-103, as last amended by Laws of Utah 2022, Chapter 255
35A-3-207, as last amended by Laws of Utah 2015, Chapter 221
35A-3-212, as enacted by Laws of Utah 2022, Chapter 21
35A-3-308, as last amended by Laws of Utah 2015, Chapter 221
35A-3-401, as last amended by Laws of Utah 2015, Chapters 72, 189 and 221
35A-3-603, as last amended by Laws of Utah 2020, Chapter 29
35A-9-202, as enacted by Laws of Utah 2022, Chapter 36
35A-15-102, as last amended by Laws of Utah 2022, Chapters 316, 348
39-1-64, as enacted by Laws of Utah 2004, Chapter 82
41-1a-230.5, as last amended by Laws of Utah 2021, Chapter 378
41-1a-230.7, as enacted by Laws of Utah 2021, Chapter 395
41-1a-422, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, 255, 259, 335, 451, and 456
41-6a-404, as last amended by Laws of Utah 2021, Chapters 211, 216

41-6a-501, as last amended by Laws of Utah 2022, Chapter 116
41-6a-502.5, as last amended by Laws of Utah 2022, Chapters 134, 415
41-6a-505, as last amended by Laws of Utah 2022, Chapters 116, 134 and 137
41-6a-517, as last amended by Laws of Utah 2022, Chapter 116
41-6a-523, as last amended by Laws of Utah 2019, Chapter 349
41-6a-1717, as enacted by Laws of Utah 2013, Chapter 251
41-22-8, as last amended by Laws of Utah 2022, Chapter 68
49-11-1401, as last amended by Laws of Utah 2021, Chapter 193
49-12-202, as last amended by Laws of Utah 2021, Chapter 193
49-13-202, as last amended by Laws of Utah 2021, Chapter 193
49-20-201, as last amended by Laws of Utah 2022, Chapter 347
49-20-401, as last amended by Laws of Utah 2022, Chapter 302
49-20-414, as last amended by Laws of Utah 2019, Chapter 249
49-20-421, as last amended by Laws of Utah 2021, Chapter 255
51-2a-102, as last amended by Laws of Utah 2017, Chapter 441
51-7-2, as last amended by Laws of Utah 2022, Chapters 186, 298
51-9-201, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
51-9-203, as last amended by Laws of Utah 2020, Chapters 302, 347
52-4-205, as last amended by Laws of Utah 2022, Chapters 237, 290, 332, 335, 422, and 478
53-1-106, as last amended by Laws of Utah 2021, Chapters 344, 360
53-2a-218, as enacted by Laws of Utah 2021, Chapter 437
53-2c-102, as enacted by Laws of Utah 2020, Third Special Session, Chapter 1
53-3-102, as last amended by Laws of Utah 2022, Chapter 162
53-3-105, as last amended by Laws of Utah 2022, Chapters 146, 259
53-3-106, as last amended by Laws of Utah 2022, Chapters 92, 255
53-3-205, as last amended by Laws of Utah 2022, Chapter 46
53-3-207, as last amended by Laws of Utah 2022, Chapter 158
53-3-214.7, as last amended by Laws of Utah 2021, Chapter 378
53-3-214.8, as last amended by Laws of Utah 2003, Chapter 30
53-3-804, as last amended by Laws of Utah 2021, Chapter 191
53-3-805, as last amended by Laws of Utah 2022, Chapter 158
53-5-707, as last amended by Laws of Utah 2021, Chapters 12, 277
53-10-102, as last amended by Laws of Utah 2022, Chapters 192, 447
53-10-104, as last amended by Laws of Utah 2018, Chapter 169
53-10-108, as last amended by Laws of Utah 2022, Chapters 192, 255
53-10-202, as last amended by Laws of Utah 2021, Chapter 103
53-10-208.1, as last amended by Laws of Utah 2021, Chapter 159
53-10-403, as last amended by Laws of Utah 2022, Chapters 116, 430
53-10-405, as last amended by Laws of Utah 2019, Chapter 349
53-10-802, as renumbered and amended by Laws of Utah 2022, Chapter 430
53-10-804, as renumbered and amended by Laws of Utah 2022, Chapter 430
53-13-105, as last amended by Laws of Utah 2022, Chapter 10
53-13-110, as last amended by Laws of Utah 2022, Chapter 335
53-21-101, as enacted by Laws of Utah 2022, Chapter 114
53B-1-111, as enacted by Laws of Utah 2016, Chapter 45
53B-17-301, as last amended by Laws of Utah 2015, Chapter 72
53B-17-903, as enacted by Laws of Utah 2022, Chapter 452
53B-17-1203, as last amended by Laws of Utah 2020, Chapter 365
53B-26-202, as last amended by Laws of Utah 2022, Chapter 224
53B-28-202, as last amended by Laws of Utah 2022, Chapter 335
53B-28-303, as last amended by Laws of Utah 2022, Chapter 335
53E-1-201, as last amended by Laws of Utah 2022, Chapters 147, 229, 274, 285, 291, 354, and 461
53E-3-503, as last amended by Laws of Utah 2020, Chapters 330, 408
53E-8-405, as renumbered and amended by Laws of Utah 2018, Chapter 1
53E-8-408, as last amended by Laws of Utah 2019, Chapter 186
53E-9-301, as last amended by Laws of Utah 2020, Chapter 408
53E-9-307, as last amended by Laws of Utah 2020, Chapter 408
53E-9-308, as last amended by Laws of Utah 2022, Chapter 335
53F-2-415, as last amended by Laws of Utah 2022, Chapter 409
53F-2-522, as enacted by Laws of Utah 2020, Chapter 202
53F-4-401, as last amended by Laws of Utah 2022, Chapter 316
53F-5-207, as last amended by Laws of Utah 2022, Chapter 36
53G-6-302, as last amended by Laws of Utah 2022, Chapter 335
53G-6-601, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-8-802, as last amended by Laws of Utah 2022, Chapter 399

53G-9-211, as enacted by Laws of Utah 2021, Chapter 309
53G-9-301, as last amended by Laws of Utah 2022, Chapter 255
53G-9-303, as last amended by Laws of Utah 2021, Chapter 258
53G-9-304, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-9-402, as last amended by Laws of Utah 2019, Chapter 293
53G-9-404, as repealed and reenacted by Laws of Utah 2019, Chapter 87
53G-9-502, as last amended by Laws of Utah 2019, Chapter 293
53G-9-702, as last amended by Laws of Utah 2021, Chapter 105
58-1-112, as enacted by Laws of Utah 2022, Chapter 224
58-1-307, as last amended by Laws of Utah 2020, Chapter 339
58-1-312, as enacted by Laws of Utah 2020, Chapter 93
58-1-405, as enacted by Laws of Utah 2008, Chapter 242
58-1-501.5, as last amended by Laws of Utah 2008, Chapter 250
58-1-501.7, as last amended by Laws of Utah 2020, Chapter 354
58-1-509, as enacted by Laws of Utah 2019, Chapter 346
58-4a-102, as enacted by Laws of Utah 2020, Chapter 107
58-5a-102, as last amended by Laws of Utah 2022, Chapter 290
58-5a-103, as last amended by Laws of Utah 2018, Chapter 247
58-9-610, as last amended by Laws of Utah 2009, Chapters 68, 223
58-9-616, as enacted by Laws of Utah 2018, Chapter 326
58-11a-501, as last amended by Laws of Utah 2016, Chapters 238, 274
58-13-2, as last amended by Laws of Utah 2022, Chapter 241
58-13-2.6, as last amended by Laws of Utah 2008, Chapter 76
58-13-3, as last amended by Laws of Utah 2022, Chapter 241
58-13-5, as last amended by Laws of Utah 2013, Chapter 278
58-15-303, as renumbered and amended by Laws of Utah 2022, Chapter 415
58-17b-102, as last amended by Laws of Utah 2021, Chapters 127, 340
58-17b-302, as last amended by Laws of Utah 2022, Chapter 353
58-17b-309, as last amended by Laws of Utah 2022, Chapter 353
58-17b-309.7, as last amended by Laws of Utah 2021, Chapter 340
58-17b-501, as last amended by Laws of Utah 2018, Chapter 295
58-17b-502, as last amended by Laws of Utah 2022, Chapter 465
58-17b-503, as last amended by Laws of Utah 2022, Chapter 465
58-17b-507, as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 202
58-17b-602, as last amended by Laws of Utah 2017, Chapter 384
58-17b-606, as last amended by Laws of Utah 2010, Chapter 101
58-17b-620, as last amended by Laws of Utah 2022, Chapters 255, 465

Utah Code Sections Affected by Coordination Clause:
58-17b-302, as last amended by Laws of Utah 2022, Chapter 353

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-614.5 is amended to read:

31A-22-614.5. Uniform claims processing -- Electronic exchange of health information.

(1) (a) Except as provided in Subsection (1)(c), an insurer offering health insurance shall use a uniform claim form and uniform billing and claim codes.

(b) Beginning January 1, 2011, all health benefit plans, and dental and vision plans, shall provide for the electronic exchange of uniform:

(i) eligibility and coverage information; and

(ii) coordination of benefits information.

(c) For purposes of Subsection (1)(a), "health insurance" does not include a policy or certificate that provides benefits solely for:

(i) income replacement; or

(ii) long-term care.

(2) (a) The uniform electronic standards and information required in Subsection (1) shall be adopted and approved by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) When adopting rules under this section the commissioner:

(i) shall:

(A) consult with national and state organizations involved with the standardized exchange of health data, and the electronic exchange of health data, to develop the standards for the use and electronic exchange of uniform:

(I) claim forms;

(II) billing and claim codes;

(III) insurance eligibility and coverage information; and

(IV) coordination of benefits information; and

(B) meet federal mandatory minimum standards following the adoption of national requirements for transaction and data elements in the federal Health Insurance Portability and Accountability Act;

(ii) may not require an insurer or administrator to use a specific software product or vendor; and

(iii) may require an insurer who participates in the all payer database created under Section [~~26-33a-106.1~~] 26B-8-504 to allow data regarding demographic and insurance coverage information to be electronically shared with the state's designated secure health information master person index to be used:

(A) in compliance with data security standards established by:

(I) the federal Health Insurance Portability and Accountability Act; and

(II) the electronic commerce agreements established in a business associate agreement; and

(B) for the purpose of coordination of health benefit plans.

(3) (a) The commissioner shall coordinate the administrative rules adopted under the provisions of this section with the administrative rules adopted by the Department of Health and Human Services for the implementation of the standards for the electronic exchange of clinical health information under Section [~~26-1-37~~] 26B-8-411. The department shall establish procedures for developing the rules adopted under this section, which ensure that the Department of Health and Human Services is given the opportunity to comment on proposed rules.

(b) (i) The commissioner may provide information to health care providers regarding resources available to a health care provider to verify whether a health care provider's practice management software system meets the uniform electronic standards for data exchange required by this section.

(ii) The commissioner may provide the information described in Subsection (3)(b)(i) by partnering with:

(A) a not-for-profit, broad based coalition of state health care insurers and health care providers who are involved in the electronic exchange of the data required by this section; or

(B) some other person that the commissioner determines is appropriate to provide the information described in Subsection (3)(b)(i).

(c) The commissioner shall regulate any fees charged by insurers to the providers for:

(i) uniform claim forms;

(ii) electronic billing; or

(iii) the electronic exchange of clinical health information permitted by Section [~~26-1-37~~] 26B-8-411.

(4) This section does not require a person to provide information concerning an employer self-insured employee welfare benefit plan as defined in 29 U.S.C. Sec. 1002(1).

Section 2. Section 31A-22-625 is amended to read:

31A-22-625. Catastrophic coverage of mental health conditions.

(1) As used in this section:

(a) (i) "Catastrophic mental health coverage" means coverage in a health benefit plan that does not impose a lifetime limit, annual payment limit, episodic limit, inpatient or outpatient service limit, or maximum out-of-pocket limit that places a greater financial burden on an insured for the evaluation and treatment of a mental health condition than for the evaluation and treatment of a physical health condition.

(ii) "Catastrophic mental health coverage" may include a restriction on cost sharing factors, such as deductibles, copayments, or coinsurance, before reaching a maximum out-of-pocket limit.

(iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket limit for physical health conditions and another maximum out-of-pocket limit for mental health conditions, except that if separate out-of-pocket limits are established, the out-of-pocket limit for mental health conditions may not exceed the out-of-pocket limit for physical health conditions.

(b) (i) "50/50 mental health coverage" means coverage in a health benefit plan that pays for at least 50% of covered services for the diagnosis and treatment of mental health conditions.

(ii) "50/50 mental health coverage" may include a restriction on:

(A) episodic limits;

(B) inpatient or outpatient service limits; or

(C) maximum out-of-pocket limits.

(c) "Large employer" is as defined in 42 U.S.C. Sec. 300gg-91.

(d) (i) "Mental health condition" means a condition or disorder involving mental illness that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as periodically revised.

(ii) "Mental health condition" does not include the following when diagnosed as the primary or substantial reason or need for treatment:

(A) a marital or family problem;

(B) a social, occupational, religious, or other social maladjustment;

(C) a conduct disorder;

(D) a chronic adjustment disorder;

(E) a psychosexual disorder;

(F) a chronic organic brain syndrome;

(G) a personality disorder;

(H) a specific developmental disorder or learning disability; or

(I) an intellectual disability.

(e) "Small employer" is as defined in 42 U.S.C. Sec. 300gg-91.

(2) (a) At the time of purchase and renewal, an insurer shall offer to a small employer that it insures or seeks to insure a choice between:

(i) (A) catastrophic mental health coverage; or

(B) federally qualified mental health coverage as described in Subsection (3); and

(ii) 50/50 mental health coverage.

(b) In addition to complying with Subsection (2)(a), an insurer may offer to provide:

(i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels that exceed the minimum requirements of this section; or

(ii) coverage that excludes benefits for mental health conditions.

(c) A small employer may, at its option, regardless of the employer's previous coverage for mental health conditions, choose either:

(i) coverage offered under Subsection (2)(a)(i);

(ii) 50/50 mental health coverage; or

(iii) coverage offered under Subsection (2)(b).

(d) An insurer is exempt from the 30% index rating restriction in Section 31A-30-106.1 and, for the first year only that the employer chooses coverage that meets or exceeds catastrophic mental health coverage, the 15% annual adjustment restriction in Section 31A-30-106.1, for a small employer with 20 or less enrolled employees who chooses coverage that meets or exceeds catastrophic mental health coverage.

(3) (a) An insurer shall offer a large employer mental health and substance use disorder benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec. 300gg-26, and federal regulations adopted pursuant to that act.

(b) An insurer shall provide in an individual or small employer health benefit plan, mental health and substance use disorder benefits in compliance with Sections 2705 and 2711 of the Public Health Service Act, 42 U.S.C. Sec. 300gg-26, and federal regulations adopted pursuant to that act.

(4) (a) An insurer may provide catastrophic mental health coverage to a small employer through a managed care organization or system in a manner consistent with Chapter 8, Health Maintenance Organizations and Limited Health Plans, regardless of whether the insurance policy uses a managed care organization or system for the treatment of physical health conditions.

(b) (i) Notwithstanding any other provision of this title, an insurer may:

(A) establish a closed panel of providers for catastrophic mental health coverage; and

(B) refuse to provide a benefit to be paid for services rendered by a nonpanel provider unless:

(I) the insured is referred to a nonpanel provider with the prior authorization of the insurer; and

(II) the nonpanel provider agrees to follow the insurer's protocols and treatment guidelines.

(ii) If an insured receives services from a nonpanel provider in the manner permitted by Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the average amount paid by the insurer for comparable services of panel providers under a noncapitated arrangement who are members of the same class of health care providers.

(iii) This Subsection (4)(b) may not be construed as requiring an insurer to authorize a referral to a nonpanel provider.

(c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a mental health condition shall be rendered:

(i) by a mental health therapist as defined in Section 58-60-102; or

(ii) in a health care facility:

(A) licensed or otherwise authorized to provide mental health services pursuant to:

(I) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

(II) [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; and

(B) that provides a program for the treatment of a mental health condition pursuant to a written plan.

(5) The commissioner may prohibit an insurance policy that provides mental health coverage in a manner that is inconsistent with this section.

(6) The commissioner may adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to ensure compliance with this section.

Section 3. Section 31A-22-633 is amended to read:

31A-22-633. Exemptions from standards.

Notwithstanding the provisions of [~~Title 31A, Insurance Code~~] this title, any accident and health insurer or health maintenance organization may offer a choice of coverage that is less or different than is otherwise required by applicable state law if:

(1) the Department of Health and Human Services offers a choice of coverage as part of a Medicaid waiver under [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance, which includes:

(a) less or different coverage than the basic coverage;

(b) less or different coverage than is otherwise required in an insurance policy or health maintenance organization contract under applicable state law; or

(c) less or different coverage than required by Subsection 31A-22-605(4)(b); and

(2) the choice of coverage offered by the carrier:

(a) is the same or similar coverage as the coverage offered by the Department of Health and Human Services under Subsection (1);

(b) is offered to the same or similar population as the coverage offered by the Department of Health and Human Services under Subsection (1); and

(c) contains an explanation for each insured of coverage exclusions and limitations.

Section 4. Section 31A-22-636 is amended to read:

31A-22-636. Standardized health insurance information cards.

(1) As used in this section, "insurer" means:

(a) an insurer governed by this part as described in Section 31A-22-600;

(b) a health maintenance organization governed by Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(c) a third party administrator; and

(d) notwithstanding Subsection 31A-1-103(3)(f) and Section 31A-22-600, a health, medical, or conversion policy offered under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(2) In accordance with Subsection (3), an insurer shall use and issue a health benefit plan information card for the insurer's enrollees upon the purchase or renewal of, or enrollment in, a health benefit plan.

(3) The health benefit plan information card shall include:

(a) the covered person's name;

(b) the name of the carrier and the carrier network name;

(c) the contact information for the carrier or health benefit plan administrator;

(d) general information regarding copayments and deductibles; and

(e) an indication of whether the health benefit plan is regulated by the state.

(4) (a) The commissioner shall work with the Department of Health and Human Services, the Health Data Authority, health care providers groups, and with state and national organizations that develop uniform standards for the electronic exchange of health insurance claims or uniform standards for the electronic exchange of clinical health records.

(b) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adopt standardized electronic interchange technology.

(c) After rules are adopted under Subsection (4)(a), health care providers and their licensing boards under Title 58, Occupations and Professions, and health facilities licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, shall work together to implement the adoption of card swipe technology.

Section 5. Section 31A-22-645 is amended to read:

31A-22-645. Alcohol and drug dependency treatment.

(1) An insurer offering a health benefit plan providing coverage for alcohol or drug dependency treatment may require an inpatient facility to be licensed by:

(a) (i) the Department of Health and Human Services, under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) the Department of Health and Human Services; or

(b) for an inpatient facility located outside the state, a state agency similar to one described in Subsection (1)(a).

(2) For inpatient coverage provided pursuant to Subsection (1), an insurer may require an inpatient facility to be accredited by the following:

(a) the Joint Commission; and

(b) one other nationally recognized accrediting agency.

Section 6. Section 31A-22-649 is amended to read:

31A-22-649. Coverage of telepsychiatric consultations.

(1) As used in this section:

(a) "Telehealth services" means the same as that term is defined in Section [~~26-60-102~~] 26B-4-704.

(b) "Telepsychiatric consultation" means a consultation between a physician and a board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in the state, that utilizes:

(i) the health records of the patient, provided from the patient or the referring physician;

(ii) a written, evidence-based patient questionnaire; and

(iii) telehealth services that meet industry security and privacy standards, including compliance with the:

(A) Health Insurance Portability and Accountability Act; and

(B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

(2) Beginning January 1, 2019, a health benefit plan that offers coverage for mental health services shall:

(a) provide coverage for a telepsychiatric consultation during or after an initial visit between the patient and a referring in-network physician;

(b) provide coverage for a telepsychiatric consultation from an out-of-network board certified psychiatrist if a telepsychiatric consultation is not made available to a physician within seven business days after the initial request is made by the physician to an in-network provider of telepsychiatric consultations; and

(c) reimburse for the services described in Subsections (2)(a) and (b) at the equivalent in-network or out-of-network rate set by the health benefit plan after taking into account cost-sharing that may be required under the health benefit plan.

(3) A single telepsychiatric consultation includes all contacts, services, discussion, and information review required to complete an individual request from a referring physician for a patient.

(4) An insurer may satisfy the requirement to cover a telepsychiatric consultation described in Subsection (2)(a) for a patient by:

(a) providing coverage for behavioral health treatment, as defined in Section 31A-22-642, in person or using telehealth services; and

(b) ensuring that the patient receives an appointment for the behavioral health treatment in person or using telehealth services on a date that is within seven business days after the initial request is made by the in-network referring physician.

(5) A referring physician who uses a telepsychiatric consultation for a patient shall, at the time that the questionnaire described in Subsection (1)(b)(ii) is completed, notify the patient that:

(a) the referring physician plans to request a telepsychiatric consultation; and

(b) additional charges to the patient may apply.

(6) (a) An insurer may receive a temporary waiver from the department from the requirements in this section if the insurer demonstrates to the department that the insurer is unable to provide the benefits described in this section due to logistical reasons.

(b) An insurer that receives a waiver from the department under Subsection (6)(a) is subject to the requirements of this section beginning July 1, 2019.

(7) This section does not limit an insurer from engaging in activities that ensure payment integrity or facilitate review and investigation of improper practices by health care providers.

Section 7. Section 31A-22-649.5 is amended to read:

31A-22-649.5. Insurance parity for telemedicine services -- Method of technology used.

(1) As used in this section:

(a) "Mental health condition" means a mental disorder or a substance-related disorder that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as periodically revised.

(b) "Telemedicine services" means the same as that term is defined in Section [~~26-60-102~~] 26B-4-704.

(2) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market, the small group market, or the large group market shall:

(a) provide coverage for:

(i) telemedicine services that are covered by Medicare; and

(ii) treatment of a mental health condition through telemedicine services if:

(A) the health benefit plan provides coverage for the treatment of the mental health condition through in-person services; and

(B) the health benefit plan determines treatment of the mental health condition through telemedicine services meets the appropriate standard of care; and

(b) reimburse a network provider that provides the telemedicine services described in Subsection (2)(a) at a negotiated commercially reasonable rate.

(3) (a) Notwithstanding Section 31A-45-303, a health benefit plan providing coverage under Subsection (2)(a) may not impose originating site restrictions, geographic restrictions, or distance-based restrictions.

(b) A network provider that provides the telemedicine services described in Subsection (2)(a) may utilize any synchronous audiovisual technology for the telemedicine services that is compliant with the federal Health Insurance Portability and Accountability Act of 1996.

Section 8. Section 31A-22-651 is amended to read:

31A-22-651. Insurance coverage for assisted outpatient treatment.

(1) As used in this section, "assisted outpatient treatment" means the same as that term is defined in Section [~~62A-15-602~~] 26B-5-301.

(2) A health insurance provider may not deny an insured the benefits of the insured's policy solely because the health care that the insured receives is provided under a court order for assisted outpatient treatment, as provided in Section [~~62A-15-630.5~~] 26B-5-351.

Section 9. Section 31A-22-1016 is amended to read:

31A-22-1016. Workers' compensation coverage for medical cannabis operations.

A licensed and admitted workers' compensation insurer may issue coverage to:

(1) a cannabis production establishment as defined in Section 4-41a-102; or

(2) a medical cannabis pharmacy as defined in Section [~~26-61a-102~~] 26B-4-201.

Section 10. Section 31A-22-1602 is amended to read:

31A-22-1602. Genetic testing restrictions.

Except as provided under Section 31A-22-620, with respect to a matter related to genetic testing and private genetic information, an insurer shall comply with the applicable provisions of [~~Title 26, Chapter 45~~] Title 13, Chapter 60, Part 2, Genetic Testing and Procedure Privacy Act, including Section [~~26-45-104~~] 13-60-205.

Section 11. Section 31A-23a-402 is amended to read:

31A-23a-402. Unfair marketing practices -- Communication -- Unfair discrimination -- Coercion or intimidation -- Restriction on choice.

(1) (a) (i) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete:

(A) a person who is or should be licensed under this title;

(B) an employee or producer of a person described in Subsection (1)(a)(i)(A);

(C) a person whose primary interest is as a competitor of a person licensed under this title; and

(D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

(ii) As used in this Subsection (1), "false or misleading information" includes:

(A) assuring the nonobligatory payment of future dividends or refunds of unused premiums in any specific or approximate amounts, but reporting fully and accurately past experience is not false or misleading information; and

(B) with intent to deceive a person examining it:

(I) filing a report;

(II) making a false entry in a record; or

(III) wilfully refraining from making a proper entry in a record.

(iii) A licensee under this title may not:

(A) use any business name, slogan, emblem, or related device that is misleading or likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee already in business; or

(B) use any name, advertisement, or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency and the Children's Health Insurance Program created in [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program:

(I) is responsible for the insurance sales activities of the person;

(II) stands behind the credit of the person;

(III) guarantees any returns on insurance products of or sold by the person; or

(IV) is a source of payment of any insurance obligation of or sold by the person.

(iv) A person who is not an insurer may not assume or use any name that deceptively implies or suggests that person is an insurer.

(v) A person other than persons licensed as health maintenance organizations under Chapter 8, Health Maintenance Organizations and Limited Health Plans, may not use the term "Health Maintenance Organization" or "HMO" in referring to itself.

(b) A licensee's violation creates a rebuttable presumption that the violation was also committed by the insurer if:

(i) the licensee under this title distributes cards or documents, exhibits a sign, or publishes an advertisement that violates Subsection (1)(a), with reference to a particular insurer:

(A) that the licensee represents; or

(B) for whom the licensee processes claims; and

(ii) the cards, documents, signs, or advertisements are supplied or approved by that insurer.

(2) (a) A title insurer, individual title insurance producer, or agency title insurance producer or any officer or employee of the title insurer, individual title insurance producer, or agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give, directly or indirectly, as an inducement to obtaining any title insurance business:

(i) any rebate, reduction, or abatement of any rate or charge made incident to the issuance of the title insurance;

(ii) any special favor or advantage not generally available to others;

(iii) any money or other consideration, except if approved under Section 31A-2-405; or

(iv) material inducement.

(b) "Charge made incident to the issuance of the title insurance" includes escrow charges, and any other services that are prescribed in rule by the Title and Escrow Commission after consultation with the commissioner and subject to Section 31A-2-404.

(c) An insured or any other person connected, directly or indirectly, with the transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to in Subsection (2)(a), including:

(i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(iii) a builder;

(iv) an attorney; or

(v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

(3) (a) An insurer may not unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage, except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved.

(b) Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, blanket, or franchise policy, and the terms of those policies are not unfairly discriminatory merely because they are more favorable than in similar individual policies.

(4) (a) This Subsection (4) applies to:

(i) a person who is or should be licensed under this title;

(ii) an employee of that licensee or person who should be licensed;

(iii) a person whose primary interest is as a competitor of a person licensed under this title; and

(iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

(b) A person described in Subsection (4)(a) may not commit or enter into any agreement to participate in any act of boycott, coercion, or intimidation that:

(i) tends to produce:

(A) an unreasonable restraint of the business of insurance; or

(B) a monopoly in that business; or

(ii) results in an applicant purchasing or replacing an insurance contract.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an insurer or licensee under this chapter, another person who is required to pay for insurance as a condition for the conclusion of a contract or other transaction or for the exercise of any right under a contract.

(ii) A person requiring coverage may reserve the right to disapprove the insurer or the coverage selected on reasonable grounds.

(b) The form of corporate organization of an insurer authorized to do business in this state is not a reasonable ground for disapproval, and the commissioner may by rule specify additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from declining an application for insurance.

(6) A person may not make any charge other than insurance premiums and premium financing charges for the protection of property or of a security interest in property, as a condition for obtaining, renewing, or continuing the financing of a purchase of the property or the lending of money on the security of an interest in the property.

(7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of agency to the principal on demand.

(b) A licensee whose license is suspended, limited, or revoked under Section 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the commissioner on demand.

(8) (a) A person may not engage in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice:

(i) is misleading;

(ii) is deceptive;

(iii) is unfairly discriminatory;

(iv) provides an unfair inducement; or

(v) unreasonably restrains competition.

(b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an unfair method of competition or unfair or deceptive act or practice after a finding that the method of competition, the act, or the practice:

(i) is misleading;

(ii) is deceptive;

(iii) is unfairly discriminatory;

(iv) provides an unfair inducement; or

(v) unreasonably restrains competition.

Section 12. Section 31A-23b-102 is amended to read:

31A-23b-102. Definitions.

As used in this chapter:

(1) "Enroll" and "enrollment" mean to:

(a) (i) obtain personally identifiable information about an individual; and

(ii) inform an individual about accident and health insurance plans or public programs offered on an exchange;

(b) solicit insurance; or

(c) submit to the exchange:

(i) personally identifiable information about an individual; and

(ii) an individual's selection of a particular accident and health insurance plan or public program offered on the exchange.

(2) "Navigator":

(a) means a person who facilitates enrollment in an exchange by offering to assist, or who advertises any services to assist, with:

(i) the selection of and enrollment in a qualified health plan or a public program offered on an exchange; or

(ii) applying for premium subsidies through an exchange; and

(b) includes a person who is an in-person assister or a certified application counselor as described in federal regulations or guidance issued under PPACA.

(3) "Personally identifiable information" is as defined in 45 C.F.R. Sec. 155.260.

(4) "Public programs" means the state Medicaid program in [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance, and [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program.

(5) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) "Solicit" means the same as that term is defined in Section 31A-23a-102.

Section 13. Section 31A-23b-211 is amended to read:

31A-23b-211. Exceptions to navigator licensing.

(1) For purposes of this section:

(a) "Negotiate" is as defined in Section 31A-23a-102.

(b) "Sell" is as defined in Section 31A-23a-102.

(c) "Solicit" is as defined in Section 31A-23a-102.

(2) The commissioner may not require a license as a navigator of:

(a) a person who is employed by or contracts with:

(i) a health care facility that is licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, to assist an individual with enrollment in a public program or an application for premium subsidy; or

(ii) the state, a political subdivision of the state, an entity of a political subdivision of the state, or a public school district to assist an individual with enrollment in a public program or an application for premium subsidy;

(b) a federally qualified health center as defined by Section 1905(1)(2)(B) of the Social Security Act which assists an individual with enrollment in a public program or an application for premium subsidy;

(c) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, if the person is licensed in the appropriate line of authority to sell, solicit, or negotiate accident and health insurance plans;

(d) an officer, director, or employee of a navigator:

(i) who does not receive compensation or commission from an insurer issuing an insurance contract, an agency administering a public program, an individual who enrolled in a public program or insurance product, or an exchange; and

(ii) whose activities:

(A) are executive, administrative, managerial, clerical, or a combination thereof;

(B) only indirectly relate to the sale, solicitation, or negotiation of insurance, or the enrollment in a public program offered through the exchange;

(C) are in the capacity of a special agent or agency supervisor assisting an insurance producer or navigator;

(D) are limited to providing technical advice and assistance to a licensed insurance producer or navigator; or

(E) do not include the sale, solicitation, or negotiation of insurance, or the enrollment in a public program;

(e) a person who does not sell, solicit, or negotiate insurance and is not directly or indirectly compensated by an insurer issuing an insurance contract, an agency administering a public program, an individual who enrolled in a public program or insurance product, or an exchange, including:

(i) an employer, association, officer, director, employee, or trustee of an employee trust plan who is engaged in the administration or operation of a program:

(A) of employee benefits for the employer's or association's own employees or the employees of a subsidiary or affiliate of an employer or association; and

(B) that involves the use of insurance issued by an insurer or enrollment in a public health plan on an exchange;

(ii) an employee of an insurer or organization employed by an insurer who is engaging in the inspection, rating, or classification of risk, or the supervision of training of insurance producers; or

(iii) an employee who counsels or advises the employee's employer with regard to the insurance interests of the employer, or a subsidiary or business affiliate of the employer; and

(f) an Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health Care Improvement Act, which assists a person with enrollment in a public program or an application for a premium subsidy.

(3) The exemption from licensure under Subsections (2)(a), (b), and (f) does not apply if a person described in Subsections (2)(a), (b), and (f) enrolls a person in a private insurance plan.

(4) The commissioner may by rule exempt a class of persons from the license requirement of Subsection 31A-23b-201(1) if:

(a) the functions performed by the class of persons do not require:

(i) special competence;

(ii) special trustworthiness; or

(iii) regulatory surveillance made possible by licensing; or

(b) other existing safeguards make regulation unnecessary.

Section 14. Section 31A-26-301.6 is amended to read:

31A-26-301.6. Health care claims practices.

(1) As used in this section:

(a) "Health care provider" means a person licensed to provide health care under:

(i) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

(ii) Title 58, Occupations and Professions.

(b) "Insurer" means an admitted or authorized insurer, as defined in Section 31A-1-301, and includes:

(i) a health maintenance organization; and

(ii) a third party administrator that is subject to this title, provided that nothing in this section may be construed as requiring a third party administrator to use its own funds to pay claims that have not been funded by the entity for which the third party administrator is paying claims.

(c) "Provider" means a health care provider to whom an insurer is obligated to pay directly in connection with a claim by virtue of:

(i) an agreement between the insurer and the provider;

(ii) a health insurance policy or contract of the insurer; or

(iii) state or federal law.

(2) An insurer shall timely pay every valid insurance claim submitted by a provider in accordance with this section.

(3) (a) Except as provided in Subsection (4), within 30 days of the day on which the insurer receives a written claim, an insurer shall:

(i) pay the claim; or

(ii) deny the claim and provide a written explanation for the denial.

(b) (i) Subject to Subsection (3)(b)(ii), the time period described in Subsection (3)(a) may be extended by 15 days if the insurer:

(A) determines that the extension is necessary due to matters beyond the control of the insurer; and

(B) before the end of the 30-day period described in Subsection (3)(a), notifies the provider and insured in writing of:

(I) the circumstances requiring the extension of time; and

(II) the date by which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(ii) If an extension is necessary due to a failure of the provider or insured to submit the information necessary to decide the claim:

(A) the notice of extension required by this Subsection (3)(b) shall specifically describe the required information; and

(B) the insurer shall give the provider or insured at least 45 days from the day on which the provider or insured receives the notice before the insurer denies the claim for failure to provide the information requested in Subsection (3)(b)(ii)(A).

(4) (a) In the case of a claim for income replacement benefits, within 45 days of the day on which the insurer receives a written claim, an insurer shall:

(i) pay the claim; or

(ii) deny the claim and provide a written explanation of the denial.

(b) Subject to Subsections (4)(d) and (e), the time period described in Subsection (4)(a) may be extended for 30 days if the insurer:

(i) determines that the extension is necessary due to matters beyond the control of the insurer; and

(ii) before the expiration of the 45-day period described in Subsection (4)(a), notifies the insured of:

(A) the circumstances requiring the extension of time; and

(B) the date by which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(c) Subject to Subsections (4)(d) and (e), the time period for complying with Subsection (4)(a) may be extended for up to an additional 30 days from the day on which the 30-day extension period provided in Subsection (4)(b) ends if before the day on which the 30-day extension period ends, the insurer:

(i) determines that due to matters beyond the control of the insurer a decision cannot be rendered within the 30-day extension period; and

(ii) notifies the insured of:

(A) the circumstances requiring the extension; and

(B) the date as of which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(d) A notice of extension under this Subsection (4) shall specifically explain:

(i) the standards on which entitlement to a benefit is based; and

(ii) the unresolved issues that prevent a decision on the claim.

(e) If an extension allowed by Subsection (4)(b) or (c) is necessary due to a failure of the insured to submit the information necessary to decide the claim:

(i) the notice of extension required by Subsection (4)(b) or (c) shall specifically describe the necessary information; and

(ii) the insurer shall give the insured at least 45 days from the day on which the insured receives the notice before the insurer denies the claim for failure to provide the information requested in Subsection (4)(b) or (c).

(5) If a period of time is extended as permitted under Subsection (3)(b), (4)(b), or (4)(c), due to an insured or provider failing to submit information necessary to decide a claim, the period for making the benefit determination shall be tolled from the date on which the notification of the extension is sent to the insured or provider until the date on which the insured or provider responds to the request for additional information.

(6) An insurer shall pay all sums to the provider or insured that the insurer is obligated to pay on the claim, and provide a written explanation of the insurer's decision regarding any part of the claim that is denied within 20 days of receiving the information requested under Subsection (3)(b), (4)(b), or (4)(c).

(7) (a) Whenever an insurer makes a payment to a provider on any part of a claim under this section, the insurer shall also send to the insured an explanation of benefits paid.

(b) Whenever an insurer denies any part of a claim under this section, the insurer shall also send to the insured:

(i) a written explanation of the part of the claim that was denied; and

(ii) notice of the adverse benefit determination review process established under Section 31A-22-629.

(c) This Subsection (7) does not apply to a person receiving benefits under the state Medicaid program as defined in Section [~~26-18-2~~] 26B-3-101, unless required by the Department of Health and Human Services or federal law.

(8) (a) A late fee shall be imposed on:

(i) an insurer that fails to timely pay a claim in accordance with this section; and

(ii) a provider that fails to timely provide information on a claim in accordance with this section.

(b) The late fee described in Subsection (8)(a) shall be determined by multiplying together:

(i) the total amount of the claim the insurer is obliged to pay;

(ii) the total number of days the response or the payment is late; and

(iii) 0.033% daily interest rate.

(c) Any late fee paid or collected under this Subsection (8) shall be separately identified on the documentation used by the insurer to pay the claim.

(d) For purposes of this Subsection (8), "late fee" does not include an amount that is less than $1.

(9) Each insurer shall establish a review process to resolve claims-related disputes between the insurer and providers.

(10) An insurer or person representing an insurer may not engage in any unfair claim settlement practice with respect to a provider. Unfair claim settlement practices include:

(a) knowingly misrepresenting a material fact or the contents of an insurance policy in connection with a claim;

(b) failing to acknowledge and substantively respond within 15 days to any written communication from a provider relating to a pending claim;

(c) denying or threatening to deny the payment of a claim for any reason that is not clearly described in the insured's policy;

(d) failing to maintain a payment process sufficient to comply with this section;

(e) failing to maintain claims documentation sufficient to demonstrate compliance with this section;

(f) failing, upon request, to give to the provider written information regarding the specific rate and terms under which the provider will be paid for health care services;

(g) failing to timely pay a valid claim in accordance with this section as a means of influencing, intimidating, retaliating, or gaining an advantage over the provider with respect to an unrelated claim, an undisputed part of a pending claim, or some other aspect of the contractual relationship;

(h) failing to pay the sum when required and as required under Subsection (8) when a violation has occurred;

(i) threatening to retaliate or actual retaliation against a provider for the provider applying this section;

(j) any material violation of this section; and

(k) any other unfair claim settlement practice established in rule or law.

(11) (a) The provisions of this section shall apply to each contract between an insurer and a provider for the duration of the contract.

(b) Notwithstanding Subsection (11)(a), this section may not be the basis for a bad faith insurance claim.

(c) Nothing in Subsection (11)(a) may be construed as limiting the ability of an insurer and a provider from including provisions in their contract that are more stringent than the provisions of this section.

(12) (a) Pursuant to Chapter 2, Part 2, Duties and Powers of Commissioner, the commissioner may conduct examinations to determine an insurer's level of compliance with this section and impose sanctions for each violation.

(b) The commissioner may adopt rules only as necessary to implement this section.

(c) The commissioner may establish rules to facilitate the exchange of electronic confirmations when claims-related information has been received.

(d) Notwithstanding Subsection (12)(b), the commissioner may not adopt rules regarding the review process required by Subsection (9).

(13) Nothing in this section may be construed as limiting the collection rights of a provider under Section 31A-26-301.5.

(14) Nothing in this section may be construed as limiting the ability of an insurer to:

(a) recover any amount improperly paid to a provider or an insured:

(i) in accordance with Section 31A-31-103 or any other provision of state or federal law;

(ii) within 24 months of the amount improperly paid for a coordination of benefits error;

(iii) within 12 months of the amount improperly paid for any other reason not identified in Subsection (14)(a)(i) or (ii); or

(iv) within 36 months of the amount improperly paid when the improper payment was due to a recovery by Medicaid, Medicare, the Children's Health Insurance Program, or any other state or federal health care program;

(b) take any action against a provider that is permitted under the terms of the provider contract and not prohibited by this section;

(c) report the provider to a state or federal agency with regulatory authority over the provider for unprofessional, unlawful, or fraudulent conduct; or

(d) enter into a mutual agreement with a provider to resolve alleged violations of this section through mediation or binding arbitration.

(15) A health care provider may only seek recovery from the insurer for an amount improperly paid by the insurer within the same time frames as Subsections (14)(a) and (b).

(16) (a) An insurer may offer the remittance of payment through a credit card or other similar arrangement.

(b) (i) A health care provider may elect not to receive remittance through a credit card or other similar arrangement.

(ii) An insurer:

(A) shall permit a health care provider's election described in Subsection (16)(b)(i) to apply to the health care provider's entire practice; and

(B) may not require a health care provider's election described in Subsection (16)(b)(i) to be made on a patient-by-patient basis.

(c) An insurer may not require a health care provider or insured to accept remittance through a credit card or other similar arrangement.

Section 15. Section 31A-45-402 is amended to read:

31A-45-402. Alcohol and drug dependency treatment.

(1) A managed care organization offering a health benefit plan providing coverage for alcohol or drug dependency treatment may require an inpatient facility to be licensed by:

(a) (i) the Department of Health and Human Services, under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) the Department of Health and Human Services; or

(b) for an inpatient facility located outside the state, a state agency similar to one described in Subsection (1)(a).

(2) For inpatient coverage provided pursuant to Subsection (1), a managed care organization may require an inpatient facility to be accredited by the following:

(a) the Joint Commission; and

(b) one other nationally recognized accrediting agency.

Section 16. Section 31A-45-501 is amended to read:

31A-45-501. Access to health care providers.

(1) As used in this section:

(a) "Class of health care provider" means a health care provider or a health care facility regulated by the state within the same professional, trade, occupational, or certification category established under Title 58, Occupations and Professions, or within the same facility licensure category established under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title

26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(b) "Covered health care services" or "covered services" means health care services for which an enrollee is entitled to receive under the terms of a managed care organization contract.

(c) "Credentialed staff member" means a health care provider with active staff privileges at an independent hospital or federally qualified health center.

(d) "Federally qualified health center" means as defined in the Social Security Act, 42 U.S.C. Sec. 1395x.

(e) "Independent hospital" means a general acute hospital or a critical access hospital that:

(i) is either:

(A) located 20 miles or more from any other general acute hospital or critical access hospital; or

(B) licensed as of January 1, 2004;

(ii) is licensed pursuant to [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

(iii) is controlled by a board of directors of which 51% or more reside in the county where the hospital is located; and

(iv) (A) the hospital's board of directors is ultimately responsible for the policy and financial decisions of the hospital; or

(B) the hospital is licensed for 60 or fewer beds and is not owned, in whole or in part, by an entity that owns or controls a health maintenance organization if the hospital is a contracting facility of the organization.

(f) "Noncontracting provider" means an independent hospital, federally qualified health center, or credentialed staff member that has not contracted with a managed care organization to provide health care services to enrollees of the managed care organization.

(2) Except for a managed care organization that is under the common ownership or control of an entity with a hospital located within 10 paved road miles of an independent hospital, a managed care organization shall pay for covered health care services rendered to an enrollee by an independent hospital, a credentialed staff member at an independent hospital, or a credentialed staff member at his local practice location if:

(a) the enrollee:

(i) lives or resides within 30 paved road miles of the independent hospital; or

(ii) if Subsection (2)(a)(i) does not apply, lives or resides in closer proximity to the independent hospital than a contracting hospital;

(b) the independent hospital is located prior to December 31, 2000 in a county with a population density of less than 100 people per square mile, or the independent hospital is located in a county with a population density of less than 30 people per square mile; and

(c) the enrollee has complied with the prior authorization and utilization review requirements otherwise required by the managed care organization contract.

(3) A managed care organization shall pay for covered health care services rendered to an enrollee at a federally qualified health center if:

(a) the enrollee:

(i) lives or resides within 30 paved road miles of the federally qualified health center; or

(ii) if Subsection (3)(a)(i) does not apply, lives or resides in closer proximity to the federally qualified health center than a contracting provider;

(b) the federally qualified health center is located in a county with a population density of less than 30 people per square mile; and

(c) the enrollee has complied with the prior authorization and utilization review requirements otherwise required by the managed care organization contract.

(4) (a) A managed care organization shall reimburse a noncontracting provider or the enrollee for covered services rendered pursuant to Subsection (2) a like dollar amount as the managed care organization pays to contracting providers under a noncapitated arrangement for comparable services.

(b) A managed care organization shall reimburse a federally qualified health center or the enrollee for covered services rendered pursuant to Subsection (3) a like amount as paid by the managed care organization under a noncapitated arrangement for comparable services to a contracting provider in the same class of health care providers as the provider who rendered the service.

(5) (a) A noncontracting independent hospital may not balance bill a patient when the managed care organization reimburses a noncontracting independent hospital or an enrollee in accordance with Subsection (4)(a).

(b) A noncontracting federally qualified health center may not balance bill a patient when the federally qualified health center or the enrollee receives reimbursement in accordance with Subsection (4)(b).

(6) A noncontracting provider may only refer an enrollee to another noncontracting provider so as to obligate the enrollee's managed care organization to pay for the resulting services if:

(a) the noncontracting provider making the referral or the enrollee has received prior authorization from the organization for the referral; or

(b) the practice location of the noncontracting provider to whom the referral is made:

(i) is located in a county with a population density of less than 25 people per square mile; and

(ii) is within 30 paved road miles of:

(A) the place where the enrollee lives or resides; or

(B) the independent hospital or federally qualified health center at which the enrollee may receive covered services pursuant to Subsection (2) or (3).

(7) Notwithstanding this section, a managed care organization may contract directly with an independent hospital, federally qualified health center, or credentialed staff member.

(8) (a) A managed care organization that violates any provision of this section is subject to sanctions as determined by the commissioner in accordance with Section 31A-2-308.

(b) Violations of this section include:

(i) failing to provide the notice required by Subsection (8)(d) by placing the notice in any managed care organization's provider list that is supplied to enrollees, including any website maintained by the managed care organization;

(ii) failing to provide notice of an enrollee's rights under this section when:

(A) an enrollee makes personal contact with the managed care organization by telephone, electronic transaction, or in person; and

(B) the enrollee inquires about the enrollee's rights to access an independent hospital or federally qualified health center; and

(iii) refusing to reprocess or reconsider a claim, initially denied by the managed care organization, when the provisions of this section apply to the claim.

(c) The commissioner shall, pursuant to Chapter 2, Part 2, Duties and Powers of Commissioner:

(i) adopt rules as necessary to implement this section;

(ii) identify in rule:

(A) the counties with a population density of less than 100 people per square mile;

(B) independent hospitals as defined in Subsection (1)(e); and

(C) federally qualified health centers as defined in Subsection (1)(d).

(d) (i) A managed care organization shall:

(A) use the information developed by the commissioner under Subsection (8)(c) to identify the rural counties, independent hospitals, and federally qualified health centers that are located in the managed care organization's service area; and

(B) include the providers identified under Subsection (8)(d)(i)(A) in the notice required in Subsection (8)(d)(ii).

(ii) The managed care organization shall provide the following notice, in bold type, to enrollees as specified under Subsection (8)(b)(i), and shall keep the notice current:

"You may be entitled to coverage for health care services from the following noncontracted providers if you live or reside within 30 paved road miles of the listed providers, or if you live or reside in closer proximity to the listed providers than to your contracted providers:

This list may change periodically, please check on our website or call for verification. Please be advised that if you choose a noncontracted provider you will be responsible for any charges not covered by your health insurance plan.

If you have questions concerning your rights to see a provider on this list you may contact your managed care organization at _____. If the managed care organization does not resolve your problem, you may contact the Office of Consumer Health Assistance in the Insurance Department, toll free."

(e) A person whose interests are affected by an alleged violation of this section may contact the Office of Consumer Health Assistance and request assistance, or file a complaint as provided in Section 31A-2-216.

Section 17. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section [~~62A-15-401~~] 26B-5-205.

(6) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(8) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility; or

(vi) an arena;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(9) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(10) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(11) (a) "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume; and

(B) no more than 5% of alcohol by volume or 4% by weight;

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may contain:

(i) hops extract; or

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient.

(c) "Beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(12) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail

License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(13) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(14) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(15) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(16) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(17) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(18) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(20) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(21) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.

(22) "Commissioner" means a member of the commission.

(23) "Community location" means:

(a) a public or private school;

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(24) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(25) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(26) "Controlled group of manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(27) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(28) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(29) "Crime involving moral turpitude" is as defined by the commission by rule.

(30) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

(31) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(34) "Director," unless the context requires otherwise, means the director of the department.

(35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(36) (a) Subject to Subsection (36)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (36) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

(37) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

(38) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(39) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(40) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(41) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

(42) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(43) (a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

(b) "Flavored malt beverage" is considered liquor for purposes of this title.

(44) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(45) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(46) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(47) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(48) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

(49) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(50) (a) "Heavy beer" means a product that:

(i) contains more than 5% alcohol by volume; and

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" is considered liquor for the purposes of this title.

(51) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

(52) (a) "Hotel" means a commercial lodging establishment that:

(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

(C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection (52)(a); and

(ii) has one or more privately owned dwelling units.

(53) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(54) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(55) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(56) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(57) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

(58) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

(59) "Intoxicated" means that a person:

(a) is significantly impaired as to the person's mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections (59)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

(60) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(61) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License;

(d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

(62) "Licensee" means a person who holds a license.

(63) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(64) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(65) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(66) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(67) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(68) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(69) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(70) "Lounge or bar area" is as defined by rule made by the commission.

(71) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

(72) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(73) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(74) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(75) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

(76) "Minor" means an individual under 21 years old.

(77) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

(78) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(79) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(80) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

(81) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(82) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(83) "Opaque" means impenetrable to sight.

(84) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(85) "Package agent" means a person who holds a package agency.

(86) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

(87) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

(88) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(89) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (89)(a) through (f); or

(ii) a package agent.

(90) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(91) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(92) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

(93) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

(94) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(95) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

(96) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act;

(II) in accordance with the laws of the state in which it is issued; or

(III) in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(97) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Spa Sublicense.

(98) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(99) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(100) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection (100)(a) to a third party for the third party's event.

(101) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(102) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(103) "Residence" means a person's principal place of abode within Utah.

(104) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

(105) "Resort" means the same as that term is defined in Section 32B-8-102.

(106) "Resort facility" is as defined by the commission by rule.

(107) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(108) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

(109) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

(110) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(111) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

(112) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

(113) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool; or

(v) a home school.

(114) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

(115) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

(116) "Serve" means to place an alcoholic product before an individual.

(117) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (117)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

(118) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

(119) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(120) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

(121) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

(122) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Spa Sublicense.

(123) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(124) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

(125) "Sports center" is as defined by the commission by rule.

(126) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(127) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

(128) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(129) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

(130) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

(131) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a spa sublicense.

(132) "Supplier" means a person who sells an alcoholic product to the department.

(133) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(134) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(135) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(136) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(137) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(138) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(139) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 18. Section 32B-1-703 is amended to read:

32B-1-703. Alcohol training and education for off-premise consumption.

(1) (a) A local authority that issues an off-premise beer retailer license to a business to sell beer at retail for off-premise consumption shall require the following to have a valid record that the individual completed an alcohol training and education seminar in the time periods required by Subsection (1)(b):

(i) an off-premise retail manager; or

(ii) off-premise retail staff.

(b) If an individual on the date the individual becomes staff to an off-premise beer retailer does not have a valid record that the individual has completed an alcohol training and education seminar for purposes of this part, the individual shall complete an alcohol training and education seminar within 30 days of the day on which the individual becomes staff of an off-premise beer retailer.

(c) Section [~~62A-15-401~~] 26B-5-205 governs the validity of a record that an individual has completed an alcohol training and education seminar required by this part.

(2) In accordance with Section 32B-1-702, a local authority may immediately suspend the license of an off-premise beer retailer that allows an individual to work as an off-premise retail manager without having a valid record that the individual completed an alcohol training and education seminar in accordance with Subsection (1).

Section 19. Section 32B-2-208 is amended to read:

32B-2-208. Services of State Health Laboratory.

The State Health Laboratory shall make its services available to the department when necessary. The department shall pay for the services from the Liquor Control Fund to the Department of Health and Human Services.

Section 20. Section 32B-10-702 is amended to read:

32B-10-702. Definitions.

As used in this part, "health care facility" means a facility that is licensed by the Department of Health and Human Services under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

Section 21. Section 34-55-102 is amended to read:

34-55-102. Definitions.

(1) "Emergency" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

(2) "Emergency services volunteer" means:

(a) a volunteer firefighter as defined in Section 49-16-102;

(b) an individual licensed under Section [~~26-8a-302~~] 26B-4-116; or

(c) an individual mobilized as part of a posse comitatus.

(3) "Employer" means a person, including the state or a political subdivision of the state, that has one or more workers employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(4) "Public safety agency" means a governmental entity that provides fire protection, law enforcement, ambulance, medical, or other emergency services.

Section 22. Section 34A-2-102 is amended to read:

34A-2-102. Definitions.

(1) As used in this chapter:

(a) "Average weekly wages" means the average weekly wages as determined under Section 34A-2-409.

(b) "Award" means a final order of the commission as to the amount of compensation due:

(i) an injured employee; or

(ii) a dependent of a deceased employee.

(c) "Compensation" means the payments and benefits provided for in this chapter or Chapter 3, Utah Occupational Disease Act.

(d) (i) "Decision" means a ruling of:

(A) an administrative law judge; or

(B) in accordance with Section 34A-2-801:

(I) the commissioner; or

(II) the Appeals Board.

(ii) "Decision" includes:

(A) an award or denial of a medical, disability, death, or other related benefit under this chapter or Chapter 3, Utah Occupational Disease Act; or

(B) another adjudicative ruling in accordance with this chapter or Chapter 3, Utah Occupational Disease Act.

(e) "Director" means the director of the division, unless the context requires otherwise.

(f) "Disability" means an administrative determination that may result in an entitlement to compensation as a consequence of becoming medically impaired as to function. Disability can be total or partial, temporary or permanent, industrial or nonindustrial.

(g) "Division" means the Division of Industrial Accidents.

(h) "First responder" means:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) an emergency medical technician, as defined in Section [~~26-8c-102~~] 26B-4-137;

(iii) an advanced emergency medical technician, as defined in Section [~~26-8c-102~~] 26B-4-137;

(iv) a paramedic, as defined in Section [~~26-8c-102~~] 26B-4-137;

(v) a firefighter, as defined in Section 34A-3-113;

(vi) a dispatcher, as defined in Section 53-6-102; or

(vii) a correctional officer, as defined in Section 53-13-104.

(i) "Impairment" is a purely medical condition reflecting an anatomical or functional abnormality or loss. Impairment may be either temporary or permanent, industrial or nonindustrial.

(j) "Order" means an action of the commission that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

(k) (i) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of the employee's employment.

(ii) "Personal injury by accident arising out of and in the course of employment" does not include a disease, except as the disease results from the injury.

(l) "Safe" and "safety," as applied to employment or a place of employment, means the freedom from danger to the life or health of employees reasonably permitted by the nature of the employment.

(2) As used in this chapter and Chapter 3, Utah Occupational Disease Act:

(a) "Brother or sister" includes a half brother or sister.

(b) "Child" includes:

(i) a posthumous child; or

(ii) a child legally adopted prior to an injury.

Section 23. Section 34A-2-111 is amended to read:

34A-2-111. Managed health care programs -- Other safety programs.

(1) As used in this section:

(a) (i) "Health care provider" means a person who furnishes treatment or care to persons who have suffered bodily injury.

(ii) "Health care provider" includes:

(A) a hospital;

(B) a clinic;

(C) an emergency care center;

(D) a physician;

(E) a nurse;

(F) a nurse practitioner;

(G) a physician's assistant;

(H) a paramedic; or

(I) an emergency medical technician.

(b) "Physician" means any health care provider licensed under:

(i) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) Title 58, Chapter 24b, Physical Therapy Practice Act;

(iii) Title 58, Chapter 67, Utah Medical Practice Act;

(iv) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(v) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

(vi) Title 58, Chapter 70a, Utah Physician Assistant Act;

(vii) Title 58, Chapter 71, Naturopathic Physician Practice Act;

(viii) Title 58, Chapter 72, Acupuncture Licensing Act;

(ix) Title 58, Chapter 73, Chiropractic Physician Practice Act; and

(x) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.

(c) "Preferred health care facility" means a facility:

(i) that is a health care facility as defined in Section [~~26-21-2~~] 26B-2-201; and

(ii) designated under a managed health care program.

(d) "Preferred provider physician" means a physician designated under a managed health care program.

(e) "Self-insured employer" is as defined in Section 34A-2-201.5.

(2) (a) A self-insured employer and insurance carrier may adopt a managed health care program to provide employees the benefits of this chapter or Chapter 3, Utah Occupational Disease Act, beginning January 1, 1993. The plan shall comply with this Subsection (2).

(b) (i) A preferred provider program may be developed if the preferred provider program allows a selection by the employee of more than one physician in the health care specialty required for treating the specific problem of an industrial patient.

(ii) (A) Subject to the requirements of this section, if a preferred provider program is developed by an insurance carrier or self-insured employer, an employee is required to use:

(I) preferred provider physicians; and

(II) preferred health care facilities.

(B) If a preferred provider program is not developed, an employee may have free choice of health care providers.

(iii) The failure to do the following may, if the employee has been notified of the preferred provider program, result in the employee being obligated for any charges in excess of the preferred provider allowances:

(A) use a preferred health care facility; or

(B) initially receive treatment from a preferred provider physician.

(iv) Notwithstanding the requirements of Subsections (2)(b)(i) through (iii), a self-insured employer or other employer may:

(A) (I) (Aa) have its own health care facility on or near its worksite or premises; and

(Bb) continue to contract with other health care providers; or

(II) operate a health care facility; and

(B) require employees to first seek treatment at the provided health care or contracted facility.

(v) An employee subject to a preferred provider program or employed by an employer having its own health care facility may procure the services of any qualified health care provider:

(A) for emergency treatment, if a physician employed in the preferred provider program or at the health care facility is not available for any reason;

(B) for conditions the employee in good faith believes are nonindustrial; or

(C) when an employee living in a rural area would be unduly burdened by traveling to:

(I) a preferred provider physician; or

(II) a preferred health care facility.

(c) (i) (A) An employer, insurance carrier, or self-insured employer may enter into contracts with the following for the purposes listed in Subsection (2)(c)(i)(B):

(I) health care providers;

(II) medical review organizations; or

(III) vendors of medical goods, services, and supplies including medicines.

(B) A contract described in Subsection (2)(c)(i)(A) may be made for the following purposes:

(I) insurance carriers or self-insured employers may form groups in contracting for managed health care services with health care providers;

(II) peer review;

(III) methods of utilization review;

(IV) use of case management;

(V) bill audit;

(VI) discounted purchasing; and

(VII) the establishment of a reasonable health care treatment protocol program including the implementation of medical treatment and quality care guidelines that are:

(Aa) scientifically based;

(Bb) peer reviewed; and

(Cc) consistent with standards for health care treatment protocol programs that the commission shall establish by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including the authority of the commission to approve a health care treatment protocol program before it is used or disapprove a health care treatment protocol program that does not comply with this Subsection (2)(c)(i)(B)(VII).

(ii) An insurance carrier may make any or all of the factors in Subsection (2)(c)(i) a condition of insuring an entity in its insurance contract.

(3) (a) In addition to a managed health care program, an insurance carrier may require an employer to establish a work place safety program if the employer:

(i) has an experience modification factor of 1.00 or higher, as determined by the National Council on Compensation Insurance; or

(ii) is determined by the insurance carrier to have a three-year loss ratio of 100% or higher.

(b) A workplace safety program may include:

(i) a written workplace accident and injury reduction program that:

(A) promotes safe and healthful working conditions; and

(B) is based on clearly stated goals and objectives for meeting those goals; and

(ii) a documented review of the workplace accident and injury reduction program each calendar year delineating how procedures set forth in the program are met.

(c) A written workplace accident and injury reduction program permitted under Subsection (3)(b)(i) should describe:

(i) how managers, supervisors, and employees are responsible for implementing the program;

(ii) how continued participation of management will be established, measured, and maintained;

(iii) the methods used to identify, analyze, and control new or existing hazards, conditions, and operations;

(iv) how the program will be communicated to all employees so that the employees are informed of work-related hazards and controls;

(v) how workplace accidents will be investigated and corrective action implemented; and

(vi) how safe work practices and rules will be enforced.

(d) For the purposes of a workplace accident and injury reduction program of an eligible employer described in Subsection 34A-2-103(7)(f), the workplace accident and injury reduction program shall:

(i) include the provisions described in Subsections (3)(b) and (c), except that the employer shall conduct a documented review of the workplace accident and injury reduction program at least semiannually delineating how procedures set forth in the workplace accident and injury reduction program are met; and

(ii) require a written agreement between the employer and all contractors and subcontractors on a project that states that:

(A) the employer has the right to control the manner or method by which the work is executed;

(B) if a contractor, subcontractor, or any employee of a contractor or subcontractor violates the workplace accident and injury reduction program, the employer maintains the right to:

(I) terminate the contract with the contractor or subcontractor;

(II) remove the contractor or subcontractor from the work site; or

(III) require that the contractor or subcontractor not permit an employee that violates the workplace accident and injury reduction program to work on the project for which the employer is procuring work; and

(C) the contractor or subcontractor shall provide safe and appropriate equipment subject to the right of the employer to:

(I) inspect on a regular basis the equipment of a contractor or subcontractor; and

(II) require that the contractor or subcontractor repair, replace, or remove equipment the employer determines not to be safe or appropriate.

(4) The premiums charged to any employer who fails or refuses to establish a workplace safety program pursuant to Subsection (3)(b)(i) or (ii) may be increased by 5% over any existing current rates and premium modifications charged that employer.

Section 24. Section 34A-2-417 is amended to read:

34A-2-417. Claims and benefits -- Time limits for filing -- Burden of proof.

(1) (a) Except with respect to prosthetic devices or in a permanent total disability case, an employee is entitled to be compensated for a medical expense if:

(i) the medical expense is:

(A) reasonable in amount; and

(B) necessary to treat the industrial accident; and

(ii) the employee submits or makes a reasonable attempt to submit the medical expense:

(A) to the employee's employer or insurance carrier for payment; and

(B) within one year from the later of:

(I) the day on which the medical expense is incurred; or

(II) the day on which the employee knows or in the exercise of reasonable diligence should have known that the medical expense is related to the industrial accident.

(b) For an industrial accident that occurs on or after July 1, 1988, and is the basis of a claim for a medical expense, an employee is entitled to be compensated for the medical expense if the employee meets the requirements of Subsection (1)(a).

(2) (a) A claim described in Subsection (2)(b) is barred, unless the employee:

(i) files an application for hearing with the Division of Adjudication no later than six years from the date of the accident; and

(ii) by no later than 12 years from the date of the accident, is able to meet the employee's burden of proving that the employee is due the compensation claimed under this chapter.

(b) Subsection (2)(a) applies to a claim for compensation for:

(i) temporary total disability benefits;

(ii) temporary partial disability benefits;

(iii) permanent partial disability benefits; or

(iv) permanent total disability benefits.

(c) The commission may enter an order awarding or denying an employee's claim for compensation under this chapter within a reasonable time period beyond 12 years from the date of the accident, if:

(i) the employee complies with Subsection (2)(a); and

(ii) 12 years from the date of the accident:

(A) (I) the employee is fully cooperating in a commission approved reemployment plan; and

(II) the results of that commission approved reemployment plan are not known; or

(B) the employee is actively adjudicating issues of compensability before the commission.

(3) A claim for death benefits is barred unless an application for hearing is filed within one year of the date of death of the employee.

(4) (a) (i) Subject to Subsections (2)(c) and (4)(b), after an employee files an application for hearing within six years from the date of the accident, the Division of Adjudication may enter an order to show cause why the employee's claim should not be dismissed because the employee has failed to meet the employee's burden of proof to establish an

entitlement to compensation claimed in the application for hearing.

(ii) The order described in Subsection (4)(a)(i) may be entered on the motion of the:

(A) Division of Adjudication;

(B) employee's employer; or

(C) employer's insurance carrier.

(b) Under Subsection (4)(a), the Division of Adjudication may dismiss a claim:

(i) without prejudice; or

(ii) with prejudice only if:

(A) the Division of Adjudication adjudicates the merits of the employee's entitlement to the compensation claimed in the application for hearing; or

(B) the employee fails to comply with Subsection (2)(a)(ii).

(c) If a claim is dismissed without prejudice under Subsection (4)(b), the employee is subject to the time limits under Subsection (2)(a) to claim compensation under this chapter.

(5) A claim for compensation under this chapter is subject to a claim or lien for recovery under Section [~~26-19-401~~] 26B-3-1009.

Section 25. Section 34A-2-418 is amended to read:

34A-2-418. Awards -- Medical, nursing, hospital, and burial expenses -- Artificial means and appliances.

(1) In addition to the compensation provided in this chapter or Chapter 3, Utah Occupational Disease Act, and subject to Subsection 34A-2-407(11), the employer or the insurance carrier shall pay reasonable sums for medical, nurse, and hospital services, for medicines, and for artificial means, appliances, and prostheses necessary to treat the injured employee.

(2) The employer and the insurance carrier are not required to pay or reimburse for cannabis, a cannabis product, or a medical cannabis device, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201.

(3) If death results from the injury, the employer or the insurance carrier shall pay the burial expenses in ordinary cases as established by rule.

(4) If a compensable accident results in the breaking of or loss of an employee's artificial means or appliance including eyeglasses, the employer or insurance carrier shall provide a replacement of the artificial means or appliance.

(5) An administrative law judge may require the employer or insurance carrier to maintain the artificial means or appliances or provide the employee with a replacement of any artificial means or appliance for the reason of breakage, wear and tear, deterioration, or obsolescence.

(6) An administrative law judge may, in unusual cases, order, as the administrative law judge considers just and proper, the payment of additional sums:

(a) for burial expenses; or

(b) to provide for artificial means or appliances.

Section 26. Section 34A-2-422 is amended to read:

34A-2-422. Compensation exempt from execution -- Transfer of payment rights.

(1) For purposes of this section:

(a) "Payment rights under workers' compensation" means the right to receive compensation under this chapter or Chapter 3, Utah Occupational Disease Act, including the payment of a workers' compensation claim, award, benefit, or settlement.

(b) (i) Subject to Subsection (1)(b)(ii), "transfer" means:

(A) a sale;

(B) an assignment;

(C) a pledge;

(D) an hypothecation; or

(E) other form of encumbrance or alienation for consideration.

(ii) "Transfer" does not include the creation or perfection of a security interest in a right to receive a payment under a blanket security agreement entered into with an insured depository institution, in the absence of any action to:

(A) redirect the payments to:

(I) the insured depository institution; or

(II) an agent or successor in interest to the insured depository institution; or

(B) otherwise enforce a blanket security interest against the payment rights.

(2) Compensation before payment:

(a) is exempt from:

(i) all claims of creditors; and

(ii) attachment or execution; and

(b) shall be paid only to employees or their dependents, except as provided in Sections [~~26-19-401~~] 26B-3-1009 and 34A-2-417.

(3) (a) Subject to Subsection (3)(b), beginning April 30, 2007, a person may not:

(i) transfer payment rights under workers' compensation; or

(ii) accept or take any action to provide for a transfer of payment rights under workers' compensation.

(b) A person may take an action prohibited under Subsection (3)(a) if the commission approves the transfer of payment rights under workers' compensation:

(i) before the transfer of payment rights under workers' compensation takes effect; and

(ii) upon a determination by the commission that:

(A) the person transferring the payment rights under workers' compensation received before executing an agreement to transfer those payment rights:

(I) adequate notice that the transaction involving the transfer of payment rights under workers' compensation involves the transfer of those payment rights; and

(II) an explanation of the financial consequences of and alternatives to the transfer of payment rights under workers' compensation in sufficient detail that the person transferring the payment rights under workers' compensation made an informed decision to transfer those payment rights; and

(B) the transfer of payment rights under workers' compensation is in the best interest of the person transferring the payment rights under workers' compensation taking into account the welfare and support of that person's dependents.

(c) The approval by the commission of the transfer of a person's payment rights under workers' compensation is a full and final resolution of the person's payment rights under workers' compensation that are transferred:

(i) if the commission approves the transfer of the payment rights under workers' compensation in accordance with Subsection (3)(b); and

(ii) once the person no longer has a right to appeal the decision in accordance with this title.

Section 27. Section 34A-3-201 is amended to read:

34A-3-201. Definitions.

(1) As used in this part:

(a) "COVID-19" means the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "First responder" means:

(i) a first responder as defined in Section 34A-2-102;

(ii) an individual employed by:

(A) a health care facility as defined in Section [~~26-21-2~~] 26B-2-201;

(B) an office of a physician, chiropractor, or dentist;

(C) a nursing home;

(D) a retirement facility;

(E) a home health care provider;

(F) a pharmacy;

(G) a facility that performs laboratory or medical testing on human specimens; or

(H) an entity similar to the entities listed in Subsections (1)(b)(ii)(A) through (G);

(iii) an individual employed by, working with, or working at the direction of a local health department; or

(iv) a volunteer, as defined in Section 67-20-2, providing services to a local health department in accordance with Title 67, Chapter 20, Volunteer Government Workers Act.

(c) "Physician" means an individual licensed under:

(i) Title 58, Chapter 67, Utah Medical Practice Act;

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) Title 58, Chapter 70a, Utah Physician Assistant Act; or

(iv) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.

(d) "Utah minimum wage" means the highest wage designated as Utah's minimum wage under Title 34, Chapter 40, Utah Minimum Wage Act.

(2) For purposes of this part, an individual is diagnosed with COVID-19 if the individual:

(a) through laboratory testing of a specimen the individual provides, tests positive for the virus that causes COVID-19; and

(b) is diagnosed with COVID-19 by a physician.

Section 28. Section 34A-11-102 is amended to read:

34A-11-102. Restrictions on employers.

With respect to matters related to genetic testing and private genetic information, an employer shall comply with Section [~~26-45-103~~] 13-60-204 and the other applicable provisions of [~~Title 26, Chapter 45~~] Title 13, Chapter 60, Part 2, Genetic Testing and Procedure Privacy Act.

Section 29. Section 35A-1-102 is amended to read:

35A-1-102. Definitions.

Unless otherwise specified, as used in this title:

(1) "Client" means an individual who the department has determined to be eligible for services or benefits under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(2) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(3) "Economic service area" means an economic service area established in accordance with Chapter 2, Economic Service Areas.

(4) "Employment assistance" means services or benefits provided by the department under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(5) "Employment center" is a location in an economic service area where the services provided by an economic service area under Section 35A-2-201 may be accessed by a client.

(6) "Employment counselor" means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Economic Service Areas.

(7) "Employment plan" means a written agreement between the department and a client that describes:

(a) the relationship between the department and the client;

(b) the obligations of the department and the client; and

(c) the result if an obligation is not fulfilled by the department or the client.

(8) "Executive director" means the executive director of the department appointed under Section 35A-1-201.

(9) "Government entity" means the state or any county, municipality, local district, special service district, or other political subdivision or administrative unit of the state, a state institution of higher education as defined in Section 53B-2-101, or a local education agency as defined in Section 53G-7-401.

(10) "Public assistance" means:

(a) services or benefits provided under Chapter 3, Employment Support Act;

(b) medical assistance provided under [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance;

(c) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act;

(d) SNAP benefits; and

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the federal Food Stamp Program.

(12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or privilege available under SNAP.

(13) "Stabilization" means addressing the basic living, family care, and social or psychological needs of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.

(14) "Vulnerable populations" means children or adults with a life situation that substantially affects that individual's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

Section 30. Section 35A-3-103 is amended to read:

35A-3-103. Department responsibilities.

The department shall:

(1) administer public assistance programs assigned by the Legislature and the governor;

(2) determine eligibility for public assistance programs in accordance with the requirements of this chapter;

(3) cooperate with the federal government in the administration of public assistance programs;

(4) administer state employment services;

(5) provide for the compilation of necessary or desirable information, statistics, and reports;

(6) perform other duties and functions required by law;

(7) monitor the application of eligibility policy;

(8) develop personnel training programs for effective and efficient operation of the programs administered by the department;

(9) provide refugee resettlement services in accordance with Section 35A-3-701;

(10) provide child care assistance for children in accordance with Part 2, Office of Child Care;

(11) provide services that enable an applicant or recipient to qualify for affordable housing in cooperation with:

(a) the Utah Housing Corporation;

(b) the Housing and Community Development Division; and

(c) local housing authorities;

(12) administer the Medicaid Eligibility Quality Control function in accordance with 42 C.F.R. Sec. 431.812; and

(13) conduct non-clinical eligibility hearings and issue final decisions in adjudicative proceedings, including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for medical assistance eligibility under:

(a) [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance; or

(b) [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program.

Section 31. Section 35A-3-207 is amended to read:

35A-3-207. Community-based prevention programs.

(1) As used in this section:

(a) "political subdivision" means a town, city, county, or school district;

(b) "qualified sponsor" means a:

(i) political subdivision;

(ii) community nonprofit, religious, or charitable organization;

(iii) regional or statewide nonprofit organization; or

(iv) private for profit or nonprofit child care organization with experience and expertise in operating community-based prevention programs described in Subsection (2) and that are licensed under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities.

(2) Within appropriations from the Legislature, the department may provide grants to qualified sponsors for community-based prevention programs that:

(a) support parents in their primary care giving role to children;

(b) provide positive alternatives to idleness for school-aged children when school is not in session; and

(c) support other community-based prevention programs.

(3) In awarding a grant under this section, the department shall:

(a) request proposals for funding from potential qualified sponsors; and

(b) ensure that each dollar of funds from political subdivisions or private funds is matched for each dollar received from the department.

(4) In meeting the matching requirements under Subsection (3), the department may consider the value of in-kind contributions, including materials, supplies, paid labor, volunteer labor, and the incremental increase in building maintenance and operation expenses incurred attributable to the prevention program.

(5) In awarding a grant under this section, the department shall consider:

(a) the cash portion of the proposed match in relation to the financial resources of the qualified sponsor; and

(b) the extent to which the qualified sponsor has:

(i) consulted and collaborated with parents of children who are likely to participate, local parent-teacher organizations, and other parent organizations;

(ii) identified at-risk factors that will be addressed through the proposed prevention program;

(iii) identified protective factors and developmental assets that will be supported and strengthened through the proposed prevention program; and

(iv) encouraged the financial support of parents and the organizations described in Subsection (5)(b)(i).

(6) The department shall award at least 50% of the grants under this section to organizations described in Subsection (1)(b)(iv).

(7) The department may not allow the use of federal funds as matching funds under this act.

Section 32. Section 35A-3-212 is amended to read:

35A-3-212. Use of COVID-19 relief funds -- Grants to child care providers -- Reporting requirements.

(1) As used in this section:

(a) "COVID-19 relief funds" means federal funds provided to the office under:

(i) the American Rescue Plan Act, Pub. L. No. 117-2;

(ii) the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136; or

(iii) the Coronavirus Response and Relief Supplemental Appropriations Act, Pub. L. No. 116-260.

(b) "Eligible child care provider" means:

(i) a child care provider that enters into a contract with an employer to provide child care for the employer's employees, either on-site or off-site of the employer's place of business; or

(ii) a regulated residential child care provider.

(c) (i) "Employer" means:

(A) a public employer;

(B) a private employer; or

(C) a cooperative organized for the purpose of providing child care for members' employees.

(ii) "Employer" includes a local education agency, as defined in Section 53E-1-102.

(d) "Regulated residential child care provider" means a person who holds a license or certificate from the Department of Health and Human Services to provide residential child care in accordance with [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing.

(2) (a) Subject to availability of funds and requirements under applicable federal law, the office shall use COVID-19 relief funds to provide grants to eligible child care providers to assist in paying start-up costs associated with the provision of child care.

(b) The office shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish criteria and procedures for applying for and awarding grants under this Subsection (2).

(3) In fiscal years 2022 through 2024, the office shall submit to the department, for inclusion in the department's annual written report described in Section 35A-1-109, an annual report that provides:

(a) a complete accounting of the COVID-19 relief funds expended by the office during the previous fiscal year;

(b) a description of the services, projects, and programs funded by the office with COVID-19 relief funds during the previous fiscal year, including the amount of COVID-19 relief funds allocated to each service, project, or program; and

(c) information regarding the outcomes and effectiveness of the services, projects, and programs funded by the office with COVID-19 relief funds during the previous fiscal year.

Section 33. Section 35A-3-308 is amended to read:

35A-3-308. Adoption services -- Printed information -- Supports provided.

(1) The department may provide assistance under this section to an applicant who is pregnant and is not receiving cash assistance at the beginning of the third trimester of pregnancy.

(2) For a pregnant applicant, the department shall:

(a) refer the applicant for appropriate prenatal medical care, including maternal health services provided under [~~Title 26, Chapter 10, Family Health Services~~] Title 26B, Chapter 7, Part 1, Health Promotion and Risk Reduction;

(b) inform the applicant of free counseling about adoption from licensed child placement agencies and licensed attorneys; and

(c) offer the applicant the adoption information packet described in Subsection (3).

(3) The department shall publish an adoption information packet that:

(a) is easy to understand;

(b) contains geographically indexed materials on the public and private organizations that provide adoption assistance;

(c) lists the names, addresses, and telephone numbers of licensed child placement agencies and licensed attorneys who place children for adoption;

(d) explains that private adoption is legal and that the law permits adoptive parents to reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to pregnancy; and

(e) describes the services available to the applicant under this section.

(4) (a) A recipient remains eligible for assistance under this section, even though the recipient relinquishes a child for adoption, if the adoption is in accordance with Sections 78B-6-120 through 78B-6-122.

(b) The assistance provided under this section may include:

(i) reimbursement for expenses associated with care and confinement during pregnancy as provided in Subsection (5); and

(ii) for a maximum of 12 months from the date of relinquishment, coordination of services to assist the recipient in:

(A) receiving appropriate educational and occupational assessment and planning;

(B) enrolling in appropriate education or training programs, including high school completion and adult education programs;

(C) enrolling in programs that provide assistance with job readiness, employment counseling, finding employment, and work skills;

(D) finding suitable housing;

(E) receiving medical assistance, under [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance, if the recipient is otherwise eligible; and

(F) receiving counseling and other mental health services.

(5) (a) Except as provided in Subsection (5)(b), a recipient under this section is eligible to receive an amount equal to the maximum monthly amount of cash assistance paid under this part to one person for up to 12 consecutive months from the date of relinquishment.

(b) If a recipient is otherwise eligible to receive cash assistance under this part, the recipient is eligible to receive an amount equal to the increase in cash assistance the recipient would have received but for the relinquishment for up to 12 consecutive months from the date of relinquishment.

(6) (a) To remain eligible for assistance under this section, a recipient shall:

(i) with the cooperation of the department, develop and implement an employment plan that includes goals for achieving self-sufficiency and that describes the action the recipient will take concerning education and training to achieve full-time employment;

(ii) if the recipient does not have a high school diploma, enroll in high school or an alternative to high school and demonstrate progress toward graduation; and

(iii) make a good faith effort to meet the goals of the employment plan as described in Section 35A-3-304.

(b) Cash assistance provided to a recipient before the recipient relinquishes a child for adoption is part of the state plan.

(c) Assistance provided under Subsection (5):

(i) shall be provided for with state funds; and

(ii) may not be counted when determining subsequent eligibility for cash assistance under this chapter.

(d) The time limit provisions of Section 35A-3-306 apply to cash assistance provided under the state plan.

(e) The department shall monitor a recipient's compliance with this section.

(f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the state plan.

Section 34. Section 35A-3-401 is amended to read:

35A-3-401. General Assistance.

(1) (a) The department may provide General Assistance to individuals who are:

(i) not receiving cash assistance under Part 3, Family Employment Program, or Supplemental Security Income; and

(ii) unemployable according to standards established by the department.

(b) (i) General Assistance described in Subsection (1)(a) may include payment in cash or in kind.

(ii) The department may provide General Assistance up to an amount that is no more than the existing payment level for an otherwise similarly situated recipient receiving cash assistance under Part 3, Family Employment Program.

(iii) Funding for General Assistance is nonlapsing.

(c) The department shall establish asset limitations for a General Assistance applicant.

(d) (i) General Assistance may be granted to meet special nonrecurrent needs of an applicant for the federal Supplemental Security Income for the Aged, Blind, and Disabled program provided under 20 C.F.R. Sec. 416, if the applicant agrees to reimburse the department for assistance advanced to the applicant while awaiting the determination of eligibility by the Social Security Administration.

(ii) (A) Reimbursements to the department described in Subsection (1)(d)(i) up to and including $250,000 collected in a fiscal year shall be used by the department to administer the General Assistance program and provide General Assistance to eligible applicants.

(B) Reimbursements to the department described in Subsection (1)(d)(i) over $250,000 collected in a fiscal year shall be deposited into the General Fund.

(iii) General Assistance payments may not be made to a recipient currently receiving:

(A) cash assistance; or

(B) Supplemental Security Income for the Aged, Blind, and Disabled.

(e) (i) General Assistance may be used for the reasonable cost of burial for a recipient if heirs or relatives are not financially able to assume this expense.

(ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed, Section [~~26-4-25~~] 26B-8-225 applies.

(iii) The department shall fix the cost of a reasonable burial and conditions under which burial expenditures may be made.

(2) The department may cooperate with any governmental unit or agency, or any private nonprofit agency, in establishing work projects to provide employment for employable persons.

Section 35. Section 35A-3-603 is amended to read:

35A-3-603. Civil liability for overpayment.

(1) A provider, recipient, or other person who receives an overpayment shall, regardless of fault, return the overpayment or repay its value to the department immediately:

(a) upon receiving written notice of the overpayment from the department; or

(b) upon discovering the overpayment, if that occurs before receiving notice.

(2) (a) Except as provided under Subsection (2)(b), interest on the unreturned balance of the overpayment shall accrue at the rate of 1% a month.

(b) If the overpayment was not the fault of the person receiving it, that person is not liable for interest on the unreturned balance.

(c) In accordance with federal law and rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be recovered through deductions from cash assistance, General Assistance, SNAP benefits, other cash-related assistance provided to a recipient under this chapter, or other means provided by federal law.

(3) A person who knowingly assists a recipient, provider, or other person in obtaining an overpayment is jointly and severally liable for the overpayment.

(4) (a) In proving civil liability for overpayment under this section, or Section 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally, knowingly, and recklessly" are defined in Section 76-2-103, by false statement, misrepresentation, impersonation, or other

fraudulent means, including committing any of the acts or omissions described in Sections 76-8-1203, 76-8-1204, or 76-8-1205.

(b) If fault is established under Subsection (4)(a), Section 35A-3-605, or Title 76, Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an overpayment is subject to:

(i) a civil penalty of 10% of the amount of the overpayment, except for overpayments related to assistance for child care services;

(ii) a civil penalty of 50% of the amount of the overpayment for overpayments related to assistance for child care services;

(iii) disqualification from receiving cash assistance from the Family Employment Program created in Section 35A-3-302 and the General Assistance program under Section 35A-3-401, if the overpayment was obtained from either of those programs, for the period described in Subsection (4)(c); and

(iv) disqualification from SNAP, if the overpayment was received from SNAP, for the period described in Subsection (4)(c).

(c) Unless otherwise provided by federal law, the period of a disqualification under [~~Subsection~~] Subsections (4)(b)(iii) and (iv) is for:

(i) 12 months for a first offense;

(ii) 24 months for a second offense; and

(iii) permanently for a third offense.

(5) (a) Except as provided under Subsection (5)(b), if an action is filed, the department may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.

(b) If the repayment obligation arose from an administrative error by the department, the department may not recover attorney fees and costs.

(6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the person from whom repayment is sought, the court shall assess an additional sum as considered appropriate as punitive damages up to the amount of repayment being sought.

(7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.

(8) Jurisdiction over benefits is continuous.

(9) This chapter does not preclude the Department of Health and Human Services from carrying out its responsibilities under [~~Title 26, Chapter 19, Medical Benefits Recovery Act, and Chapter 20, Utah False Claims Act~~] Title 26B, Chapter 3, Part 10, Medical Benefits Recovery, and Title 26B, Chapter 3, Part 11, Utah False Claims Act.

Section 36. Section 35A-9-202 is amended to read:

35A-9-202. Intergenerational poverty report.

(1) The department shall annually prepare an intergenerational poverty report for inclusion in the department's annual written report described in Section 35A-1-109.

(2) The intergenerational poverty report shall:

(a) report on the data, findings, and potential uses of the intergenerational poverty tracking system described in Section 35A-9-201;

(b) describe policies, procedures, and programs that the department has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty;

(c) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty; and

(d) include the following reports:

(i) the report described in Section 9-1-210 by the Department of Cultural and Community Engagement;

(ii) the report described in Section [~~26-1-44~~] 26B-1-218 by the Department of Health and Human Services; and

(iii) the report described in Section 53E-1-206 by the State Board of Education[~~;~~]. [~~and~~]

[~~(iv) the report described in Section 62A-1-123 by the Department of Health and Human Services.~~]

Section 37. Section 35A-15-102 is amended to read:

35A-15-102. Definitions.

As used in this chapter:

(1) "Board" means the School Readiness Board, created in Section 35A-15-201.

(2) "Economically disadvantaged" means to be eligible to receive free or reduced price lunch.

(3) "Eligible home-based educational technology provider" means a provider that offers a home-based educational technology program to develop the school readiness skills of an eligible student.

(4) (a) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(b) "Eligible LEA" includes a program exempt from licensure under Subsection [~~26-39-403(2)(c)~~] 26B-2-405(2)(e).

(5) (a) "Eligible private provider" means a child care program that:

(i) is licensed under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing; or

(ii) except as provided in Subsection (5)(b)(ii), is exempt from licensure under Section [~~26-39-403~~] 26B-2-405.

(b) "Eligible private provider" does not include:

(i) residential child care, as defined in Section [~~26-39-102~~] 26B-2-401; or

(ii) a program exempt from licensure under Subsection [~~26-39-403(2)(e)~~] 26B-2-405(2)(e).

(6) "Eligible student" means a student:

(a) (i) who is age three, four, or five; and

(ii) is not eligible for enrollment under Subsection 53G-4-402(6); and

(b) (i) (A) who is economically disadvantaged; and

(B) whose parent or legal guardian reports that the student has experienced at least one risk factor;

(ii) is an English learner; or

(iii) is in foster care.

(7) "Evaluation" means an evaluation conducted in accordance with Section 35A-15-303.

(8) "High quality school readiness program" means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 35A-15-202.

(9) "Investor" means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 35A-15-402 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

(10) "Kindergarten assessment" means the kindergarten entry assessment described in Section 53G-7-203.

(11) "Kindergarten transition plan" means a plan that supports the smooth transition of a preschool student to kindergarten and includes communication and alignment among the preschool, program, parents, and K-12 personnel.

(12) "Local Education Agency" or "LEA" means a school district or charter school.

(13) "Performance outcome measure" means:

(a) indicators, as determined by the board, on the school readiness assessment and the kindergarten assessment; or

(b) for a results-based contract, the indicators included in the contract.

(14) "Results-based contract" means a contract that:

(a) is entered into in accordance with Section 35A-15-402;

(b) includes a performance outcome measure; and

(c) is between the board, a provider of a high quality school readiness program, and an investor.

(15) "Risk factor" means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child's household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child's home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

(i) the primary language spoken in a child's home is a language other than English; or

(j) having at least one parent who has not completed high school.

(16) "School readiness assessment" means the same as that term is defined in Section 53E-4-314.

(17) "Tool" means the tool developed in accordance with Section 35A-15-303.

Section 38. Section 39-1-64 is amended to read:

39-1-64. Extension of licenses for members of National Guard and reservists.

(1) As used in this section, "license" means any license issued under:

(a) Title 58, Occupations and Professions; and

(b) Section [~~26-8a-302~~] 26B-4-116.

(2) Any license held by a member of the National Guard or reserve component of the armed forces that expires while the member is on active duty shall be extended until 90 days after the member is discharged from active duty status.

(3) The licensing agency shall renew a license extended under Subsection (2) until the next date that the license expires or for the period that the license is normally issued, at no cost to the member of the National Guard or reserve component of the

armed forces if all of the following conditions are met:

(a) the National Guard member or reservist requests renewal of the license within 90 days after being discharged;

(b) the National Guard member or reservist provides the licensing agency with a copy of the member's or reservist's official orders calling the member or reservist to active duty, and official orders discharging the member or reservist from active duty; and

(c) the National Guard member or reservist meets all the requirements necessary for the renewal of the license, except the member or reservist need not meet the requirements, if any, that relate to continuing education or training.

(4) The provisions of this section do not apply to regularly scheduled annual training.

Section 39. Section 41-1a-230.5 is amended to read:

41-1a-230.5. Registration checkoff for promoting and supporting organ donation.

(1) A person who applies for a motor vehicle registration or registration renewal may designate a voluntary contribution of $2 for the purpose of promoting and supporting organ donation.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution to the Allyson Gamble Organ Donation Contribution Fund created in Section [~~26-18b-101~~] 26B-1-312 and not as a motor vehicle registration fee; and

(c) transferred to the Allyson Gamble Organ Donation Contribution Fund created in Section [~~26-18b-101~~] 26B-1-312 at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

Section 40. Section 41-1a-230.7 is amended to read:

41-1a-230.7. Registration checkoff for supporting emergency medical services and search and rescue operations.

(1) A person who applies for a motor vehicle registration or registration renewal may designate a voluntary contribution of $3 for the purpose of supporting:

(a) the Emergency Medical Services Grant Program; and

(b) the Search and Rescue Financial Assistance Program.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution and not as a motor vehicle or off-highway vehicle registration fee; and

(c) distributed equally to the Emergency Medical Services System Account created in Section [~~26-8a-108~~] 26B-1-306 and the Search and Rescue Financial Assistance Program created in Section 53-2a-1102 at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

(3) In addition to the administrative costs deducted under Subsection (2)(c), the division may deduct the first $1,000 collected to cover costs incurred to change the registration form.

Section 41. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Outdoor Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Outdoor Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section [~~26-21a-302~~] 26B-1-313 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) [~~Upon~~] upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section [~~26-21a-302~~] 26B-1-313 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 80-2-502 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section [~~26-21a-304~~] 26B-1-314 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section [~~26-58-102~~] 26B-1-321;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(EE) the Latino Community Support Restricted Account created in Section 13-1-16;

(FF) the Allyson Gamble Organ Donation Contribution Fund created in Section [~~26-18b-101~~] 26B-1-312;

(GG) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Uniform School Fund;

(HH) the Governor's Suicide Prevention Fund created in Section [~~62A-15-1103~~] 26B-1-325 to support the Live On suicide prevention campaign administered by the Division of Integrated Healthcare; or

(II) the State Park Fees Restricted Account created in Section 79-4-402 to support the Division of State Parks' dark sky initiative.

(ii) (A) For a veterans special group license plate described in Subsection (4) or 41-1a-421(1)(a)(v), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor"

means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), an applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(ii) An applicant for a historical special group license plate is not required to make a donation to the Utah State Historical Society if the historical special group license plate is for a vintage vehicle that has a model year of 1980 or older.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months before registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 42. Section 41-6a-404 is amended to read:

41-6a-404. Accident reports -- When confidential -- Insurance policy information -- Use as evidence -- Penalty for false information.

(1) As used in this section:

(a) "Accompanying data" means all materials gathered by the investigating peace officer in an accident investigation including:

(i) the identity of witnesses and, if known, contact information;

(ii) witness statements;

(iii) photographs and videotapes;

(iv) diagrams; and

(v) field notes.

(b) "Agent" means:

(i) a person's attorney;

(ii) a person's insurer;

(iii) a general acute hospital, as defined in Section [~~26-21-2~~] 26B-2-201, that:

(A) has an emergency room; and

(B) is providing or has provided emergency services to the person in relation to the accident; or

(iv) any other individual or entity with signed permission from the person to receive the person's accident report.

(2) (a) Except as provided in Subsections (3) and (7), all accident reports required in this part to be filed with the department:

(i) are without prejudice to the reporting individual;

(ii) are protected and for the confidential use of the department or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(iii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) An investigating peace officer shall include in an accident report an indication as to whether the accident occurred on a highway designated as a livestock highway in accordance with Section 72-3-112 if the accident resulted in the injury or death of livestock.

(3) (a) Subject to the provisions of this section, the department or the responsible law enforcement agency employing the peace officer that investigated the accident shall disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i) and (ii);

(iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator who:

(A) represents an individual described in Subsections (3)(a)(i) through (iii); and

(B) demonstrates that the representation of the individual described in Subsections (3)(a)(i) through (iii) is directly related to the accident that is the subject of the accident report.

(b) The responsible law enforcement agency employing the peace officer that investigated the accident:

(i) shall in compliance with Subsection (3)(a):

(A) disclose an accident report; or

(B) upon written request disclose an accident report and its accompanying data within 10 business days from receipt of a written request for disclosure; or

(ii) may withhold an accident report, and any of its accompanying data if disclosure would jeopardize an ongoing criminal investigation or criminal prosecution.

(c) In accordance with Subsection (3)(a), the department or the responsible law enforcement agency employing the investigating peace officer shall disclose whether any person or vehicle involved in an accident reported under this section was covered by a vehicle insurance policy, and the name of the insurer.

(d) Information provided to a member of the press or broadcast news media under Subsection (3)(a)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (3)(d)(i).

(e) The department shall disclose to any requesting person the following vehicle accident history information, excluding personal identifying information, in bulk electronic form:

(i) any vehicle identifying information that is electronically available, including the make, model year, and vehicle identification number of each vehicle involved in an accident;

(ii) the date of the accident; and

(iii) any electronically available data which describes the accident, including a description of any physical damage to the vehicle.

(f) The department may establish a fee under Section 63J-1-504 based on the fair market value of the information for providing bulk vehicle accident history information under Subsection (3)(e).

(4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section may not be used as evidence in any civil or criminal trial arising out of an accident.

(b) (i) Upon demand of any party to the trial or upon demand of any court, the department shall furnish a certificate showing that a specified accident report has or has not been made to the department in compliance with law.

(ii) If the report has been made, the certificate furnished by the department shall show:

(A) the date, time, and location of the accident;

(B) the names and addresses of the drivers;

(C) the owners of the vehicles involved; and

(D) the investigating peace officers.

(iii) The reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (5).

(5) A person who gives information in reports as required in this part knowing or having reason to believe that the information is false is guilty of a class A misdemeanor.

(6) The department and the responsible law enforcement agency employing the investigating peace officer may charge a reasonable fee

determined by the department under Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report and any of its accompanying data under Subsections (3)(a) and (b).

(7) (a) The Office of State Debt Collection, the Division of Risk Management, and the Department of Transportation may, in the performance of the regular duties of each respective division or department, disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) an owner of a vehicle involved in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsection (7)(a)(i) or (ii); or

(iv) an insurer that provides motor vehicle insurance to a person described in Subsection (7)(a)(i) or (iii).

(b) A disclosure under Subsection (7)(a) does not change the classification of the record as a protected record under Section 63G-2-305.

Section 43. Section 41-6a-501 is amended to read:

41-6a-501. Definitions.

(1) As used in this part:

(a) "Actual physical control" is determined by a consideration of the totality of the circumstances, but does not include a circumstance in which:

(i) the person is asleep inside the vehicle;

(ii) the person is not in the driver's seat of the vehicle;

(iii) the engine of the vehicle is not running;

(iv) the vehicle is lawfully parked; and

(v) under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence of alcohol, a drug, or the combined influence of alcohol and any drug.

(b) "Assessment" means an in-depth clinical interview with a licensed mental health therapist:

(i) used to determine if a person is in need of:

(A) substance abuse treatment that is obtained at a substance abuse program;

(B) an educational series; or

(C) a combination of Subsections (1)(b)(i)(A) and (B); and

(ii) that is approved by the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.

(c) "Driving under the influence court" means a court that is approved as a driving under the influence court by the [~~Utah~~] Judicial Council according to standards established by the Judicial Council.

(d) "Drug" or "drugs" means:

(i) a controlled substance as defined in Section 58-37-2;

(ii) a drug as defined in Section 58-17b-102; or

(iii) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a motor vehicle.

(e) "Educational series" means an educational series obtained at a substance abuse program that is approved by the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.

(f) "Negligence" means simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

(g) "Novice learner driver" means an individual who:

(i) has applied for a Utah driver license;

(ii) has not previously held a driver license in this state or another state; and

(iii) has not completed the requirements for issuance of a Utah driver license.

(h) "Screening" means a preliminary appraisal of a person:

(i) used to determine if the person is in need of:

(A) an assessment; or

(B) an educational series; and

(ii) that is approved by the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.

(i) "Serious bodily injury" means bodily injury that creates or causes:

(i) serious permanent disfigurement;

(ii) protracted loss or impairment of the function of any bodily member or organ; or

(iii) a substantial risk of death.

(j) "Substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.

(k) "Substance abuse treatment program" means a state licensed substance abuse program.

(l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in Section 41-6a-102; and

(ii) "Vehicle" or "motor vehicle" includes:

(A) an off-highway vehicle as defined under Section 41-22-2; and

(B) a motorboat as defined in Section 73-18-2.

(2) As used in Section 41-6a-503:

(a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:

(i) driving under the influence under Section 41-6a-502;

(ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under:

(I) Section 41-6a-512; and

(II) Section 41-6a-528; or

(B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;

(iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;

(iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

(v) Section 76-5-207;

(vi) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

(viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of conviction is reduced under Section 76-3-402;

(ix) refusal of a chemical test under Subsection 41-6a-520(7); or

(x) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

(b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

(i) enhancement of penalties under this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(ii) expungement under Title 77, Chapter [~~40~~] 40a, Expungement.

(c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent of a conviction even if the charge has been subsequently dismissed in accordance with the Utah Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

(i) this part;

(ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

(iii) negligently operating a vehicle resulting in death under Section 76-5-207.

(3) As used in Section 41-6a-505, "controlled substance" does not include an inactive metabolite of a controlled substance.

Section 44. Section 41-6a-502.5 is amended to read:

41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing requirements.

(1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of impaired driving under this section if:

(a) the defendant completes court ordered probation requirements; or

(b) (i) the prosecutor agrees as part of a negotiated plea; and

(ii) the court finds the plea to be in the interest of justice.

(2) A conviction entered under this section is a class B misdemeanor.

(3) (a) (i) If the entry of an impaired driving plea is based on successful completion of probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

(ii) If the defendant fails to appear before the court and establish successful completion of the court ordered probation requirements under Subsection (1)(a), the court shall enter an amended conviction of Section 41-6a-502.

(iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of conviction.

(b) The court may enter a conviction of impaired driving immediately under Subsection (1)(b).

(4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor violation of Section 41-6a-502 as impaired driving under this section is a reduction of one degree.

(5) (a) The court shall notify the Driver License Division of each conviction entered under this section.

(b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving while impaired, in whole or in part, by a prescribed controlled substance.

(6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series, or obtain substance abuse treatment or do a combination of those things, apply to a conviction entered under this section.

(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under this section as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsections 41-6a-505(1), (3), (5), and (7).

(7) (a) Except as provided in Subsection (7)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court.

(b) The provisions of Subsection (7)(a) do not apply to a report concerning:

(i) a CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(8) The provisions of this section are not available:

(a) to a person who has a prior conviction as that term is defined in Subsection 41-6a-501(2); or

(b) where there is admissible evidence that the individual:

(i) had a blood or breath alcohol level of .16 or higher;

(ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance; or

(iii) had a combination of two or more controlled substances in the person's body that were not:

(A) prescribed by a licensed physician; or

(B) recommended in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section 45. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502 where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than five days; or

(B) impose a jail sentence of not less than two days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than $700;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party;

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (1)(b)(i) and (ii).

(2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may

suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i) (A) impose a jail sentence of not less than two days; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than $700;

(vi) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(vii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (3)(b)(i) through (iii).

(4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).

(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

(5) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 20 days;

(B) impose a jail sentence of not less than 10 days in addition to home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or

(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (5)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;

(viii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (5)(b)(i) and (ii).

(6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (7)(b)(i) and (ii).

(8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

(9) Under Subsection 41-6a-503(3), if the court suspends the execution of a prison sentence and places the defendant on probation where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the person's body that were not recommended in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed, the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 120 days;

(c) home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(10) (a) For Subsection (9) or Subsection 41-6a-503(3)(a), the court:

(i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(ii) may impose an order requiring the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

(11) Under Subsection 41-6a-503(3), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 60 days;

(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.

(ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8).

(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.

(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

(13) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device or remote alcohol monitor as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 46. Section 41-6a-517 is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) (a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(b) Subsection (2)(a) does not apply to a person that has 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused;

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years old or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years old or older but under 21 years old on the date of arrest:

(a) suspend, until the person is 21 years old or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years old or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years old on the date of arrest:

(a) suspend, until the person is 21 years old, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years old, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years old or older but under 21 years old at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years old or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years old and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a).

(13) (a) The court shall notify the Driver License Division if a person fails to complete all court

ordered screening and assessment, educational series, and substance abuse treatment.

(b) Subject to Subsection 53-3-218(3), upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years old or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division, in a manner specified by the division, the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division, in a manner specified by the division, if a person fails to complete all requirements of a 24-7 sobriety program.

(d) (i) (A) Upon receiving the notification described in Subsection (15)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was suspended under this section or under Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under this section is based.

(ii) (A) Upon receiving the notification described in Subsection (15)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or under Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under this section is based.

Section 47. Section 41-6a-523 is amended to read:

41-6a-523. Persons authorized to draw blood -- Immunity from liability.

(1) (a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:

(i) a physician;

(ii) a physician assistant;

(iii) a registered nurse;

(iv) a licensed practical nurse;

(v) a paramedic;

(vi) as provided in Subsection (1)(b), emergency medical service personnel other than paramedics; or

(vii) a person with a valid permit issued by the Department of Health and Human Services under Section [~~26-1-30~~] 26B-1-202.

(b) The Department of Health and Human Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section [~~26-8a-102~~] 26B-4-101, are authorized to draw blood under Subsection (1)(a)(vi), based on the type of license under Section [~~26-8a-302~~] 26B-4-116.

(c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

(2) The following are immune from civil or criminal liability arising from drawing a blood sample from a person whom a peace officer has reason to believe is driving in violation of this chapter, if the sample is drawn in accordance with standard medical practice:

(a) a person authorized to draw blood under Subsection (1)(a); and

(b) if the blood is drawn at a hospital or other medical facility, the medical facility.

Section 48. Section 41-6a-1717 is amended to read:

41-6a-1717. Smoking in a vehicle prohibited when child is present -- Penalty -- Enforcement.

(1) As used in this section, "smoking" has the same meaning as defined in Section [~~26-38-2~~] 26B-7-501.

(2) (a) Except as provided in Subsection (2)(b), smoking is prohibited in a motor vehicle if a child who is 15 years [~~of age~~] old or younger is a passenger in the vehicle.

(b) A person may smoke in a motor vehicle while a child who is 15 years [~~of age~~] old or younger is a passenger in the vehicle if the person:

(i) is operating a convertible or open-body type motor vehicle; and

(ii) the roof on the convertible or open-body type motor vehicle is in the open-air mode.

(3) A person who violates this section is guilty of an infraction and is subject to a maximum fine of $45.

(4) Until July 1, 2014, a peace officer may not issue a citation to an individual for a violation of this section but shall issue the individual a warning informing the individual that smoking is prohibited in a motor vehicle if a child who is 15 years [~~of age~~] old or younger is a passenger in the vehicle.

(5) The court may suspend the fine for a violation of this section if:

(a) the person has not previously been convicted of a violation of this section; and

(b) the person proves to the court that the person has enrolled in a smoking cessation program.

(6) Enforcement of this section by a state or local law enforcement officer shall be only as a secondary action when the vehicle has been detained for a suspected violation by any person in the vehicle of Title 41, Motor Vehicles, other than this section, or for another offense.

(7) A violation of this section may not be used as a basis for or evidence of child abuse or neglect.

Section 49. Section 41-22-8 is amended to read:

41-22-8. Registration fees.

(1) The division, after notifying the commission, shall establish the fees that shall be paid in accordance with this chapter, subject to the following:

(a) (i) Except as provided in Subsection (1)(a)(ii) or (iii), the fee for each off-highway vehicle registration may not exceed $35.

(ii) The fee for each snowmobile registration may not exceed $26.

(iii) The fee for each street-legal all-terrain vehicle may not exceed $72.

(b) The fee for each duplicate registration card may not exceed $3.

(c) The fee for each duplicate registration sticker may not exceed $5.

(2) A fee may not be charged for an off-highway vehicle that is owned and operated by the United States Government, this state, or its political subdivisions.

(3) (a) In addition to the fees under this section, Section 41-22-33, and Section 41-22-34, the Motor Vehicle Division shall require a person to pay one dollar to register an off-highway vehicle under Section 41-22-3.

(b) The Motor Vehicle Division shall deposit the fees the Motor Vehicle Division collects under Subsection (3)(a) into the Spinal Cord and Brain Injury Rehabilitation Fund described in Section [~~26-54-102~~] 26B-1-319.

Section 50. Section 49-11-1401 is amended to read:

49-11-1401. Forfeiture of retirement benefits for employees for employment related offense convictions -- Notifications -- Investigations -- Appeals.

(1) As used in this section:

(a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced in accordance with the plea agreement or reduced or dismissed in accordance with the plea agreement or the plea in abeyance agreement.

(b) "Employee" means a member of a system or plan administered by the board.

(c) (i) "Employment related offense" means a felony committed during employment or the term of an elected or appointed office with a participating employer that is:

(A) during the performance of the employee's duties;

(B) within the scope of the employee's employment; or

(C) under color of the employee's authority.

(ii) "Employment related offense" does not include any federal offense for conduct that is lawful under [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(2) (a) Notwithstanding any other provision of this title, an employee shall forfeit accrual of service credit, employer retirement related contributions, including employer contributions to the employer sponsored defined contribution plans, or other retirement related benefits from a system or plan under this title in accordance with this section.

(b) The forfeiture of retirement related benefits under Subsection (2)(a) does not include the employee's contribution to a defined contribution plan.

(3) An employee shall forfeit the benefits described under Subsection (2)(a):

(a) if the employee is convicted of an employment related offense;

(b) beginning on the day on which the employment related offense occurred; and

(c) until the employee is either:

(i) re-elected or reappointed to office; or

(ii) (A) terminated from the position for which the employee was found to have committed an employment related offense; and

(B) rehired or hired as an employee who is eligible to be a member of a Utah state retirement system or plan.

(4) The employee's participating employer shall:

(a) immediately notify the office:

(i) if an employee is charged with an offense that is or may be an employment related offense under this section; and

(ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is or may be an employment related offense under this section; and

(b) if the employee is convicted of an offense that may be an employment related offense:

(i) conduct an investigation, which may rely on the conviction, to determine:

(A) whether the conviction is for an employment related offense; and

(B) the date on which the employment related offense was initially committed; and

(ii) after the period of time for an appeal by an employee under Subsection (5), immediately notify the office of the employer's determination under this Subsection (4)(b).

(5) An employee may appeal the employee's participating employer's determination under Subsection (4)(b) in accordance with the participating employer's procedures for appealing agency action, including Title 63G, Chapter 4, Administrative Procedures Act, if applicable.

(6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the attorney general's office, or the state auditor may notify the office and the employee's participating employer if an employee is charged with an offense that is or may be an employment related offense under this section.

(b) If the employee's participating employer receives a notification under Subsection (6)(a), the participating employer shall immediately report to the entity that provided the notification under Subsection (6)(a):

(i) if the employee is acquitted of the offense;

(ii) if the employee is convicted of an offense that may be an employment related offense; and

(iii) when the participating employer has concluded the participating employer's duties under this section if the employee is convicted, including conducting an investigation, making a determination under Subsection (4)(b) that the conviction was for an employment related offense, and notifying the office under Subsection (7).

(c) The notifying entity under Subsection (6)(a) may assist the employee's participating employer with the investigation and determination described under Subsection (4)(b).

(7) Upon receiving a notification from a participating employer that the participating employer has made a determination under Subsection (4)(b) that the conviction was for an employment related offense, the office shall immediately forfeit any service credit, employer retirement related contributions, including employer contributions to the employer sponsored contribution plans, or other retirement related benefits accrued by or made for the benefit of the employee, beginning on the date of the initial employment related offense determined under Subsection (4)(b).

(8) This section applies to an employee who is convicted on or after the effective date of this act for an employment related offense.

(9) The board may make rules to implement this section.

(10) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

Section 51. Section 49-12-202 is amended to read:

49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Exceptions -- Nondiscrimination requirements.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to participation in this system, a participating employer may provide or participate in public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for the participating employer's employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system prior to January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for the employer's employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3, Charter School Authorization, and does not elect to participate in accordance with Section 53G-5-407;

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (4); or

(d) an employer that is licensed as a nursing care facility under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (4).

(3) An employer who did not become a participating employer in this system prior to July 1, 1986, may not participate in this system.

(4) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (4)(a):

(i) is a one-time election made no later than the time specified under Subsection (4)(a);

(ii) shall be documented by a resolution adopted by the governing body of the special service district;

(iii) is irrevocable; and

(iv) applies to the special service district as the employer and to all employees of the special service district.

(c) The governing body of the special service district may offer employee benefit plans for special service district's employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(5) (a) If a participating employer purchases service credit on behalf of a regular full-time employee for service rendered prior to the participating employer's admission to this system, the participating employer shall:

(i) purchase service credit in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered; and

(ii) comply with the provisions of Section 49-11-403, except for the requirement described in Subsection 49-11-403(2)(a).

(b) For a purchase made under this Subsection (5), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

Section 52. Section 49-13-202 is amended to read:

49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Nondiscrimination requirements -- Service credit purchases.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to participation in this system, a participating employer may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for the participating employer's employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for the employer's employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3, Charter School Authorization, and does not elect to participate in accordance with Section 53G-5-407;

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (5);

(d) an employer that is licensed as a nursing care facility under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (5); or

(e) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.

(3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).

(4) (a) An employer may, by resolution of the employer's governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

(iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (5)(a):

(i) is a one-time election made no later than the time specified under Subsection (5)(a);

(ii) shall be documented by a resolution adopted by the governing body of the employer;

(iii) is irrevocable; and

(iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all employees of that employer.

(c) The employer making an election under Subsection (5)(a) may offer employee benefit plans for the employer's employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(6) (a) If a participating employer purchases service credit on behalf of a regular full-time employee for service rendered prior to the participating employer's admission to this system, the participating employer shall:

(i) purchase service credit in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered; and

(ii) comply with the provisions of Section 49-11-403, except for the requirement described in Subsection 49-11-403(2)(a).

(b) For a purchase made under this Subsection (6), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

Section 53. Section 49-20-201 is amended to read:

49-20-201. Program participation -- Eligibility -- Optional for certain groups.

(1) (a) The state shall participate in the program on behalf of the state's employees.

(b) Other employers, including political subdivisions and educational institutions, are eligible, but are not required, to participate in the program on behalf of their employees.

(2) (a) As provided in Subsection [~~26-40-110(5)~~] 26B-3-908(5), the Department of Health and Human Services may participate in the program for the purpose of providing health and dental benefits to children enrolled in the Utah Children's Health Insurance Program created in [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program.

(b) If the Department of Health and Human Services participates in the program under the provisions of this Subsection (2), all insurance risk associated with the Utah Children's Health Insurance Program shall be the responsibility of the Department of Health and Human Services and not the program or the office.

(3) Volunteer emergency medical service personnel are eligible to participate in the program in accordance with Section [~~26-8a-603~~] 26B-4-136.

(4) A covered individual shall be eligible for coverage after termination of employment under rules adopted by the board.

(5) Only the following are eligible for Medicare supplement coverage under this chapter upon becoming eligible for Medicare Part A and Part B coverage:

(a) retirees;

(b) members;

(c) participants;

(d) employees who have medical employee benefit plan coverage at the time of their retirement; and

(e) current spouses of those who are eligible under Subsections (5)(a) through (d).

Section 54. Section 49-20-401 is amended to read:

49-20-401. Program -- Powers and duties.

(1) The program shall:

(a) act as a self-insurer of employee benefit plans and administer those plans;

(b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;

(c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;

(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;

(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;

(f) obtain an annual actuarial review of all health and dental benefit plans and a periodic review of all other employee benefit plans;

(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;

(h) annually submit a budget and audited financial statements to the governor and Legislature that includes total projected benefit costs and administrative costs;

(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;

(j) submit, in advance, the program's recommended benefit adjustments for state employees to:

(i) the Legislature; and

(ii) the director of the state Division of Human Resource Management;

(k) determine benefits and rates, upon approval of the board, for multi-employer risk pools, retiree coverage, and conversion coverage;

(l) determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees;

(m) administer benefits and rates, upon ratification of the board, for single-employer risk pools;

(n) request proposals for one or more out-of-state provider networks and a dental health plan administered by a third-party carrier at least once every three years for the purposes of:

(i) stimulating competition for the benefit of covered individuals;

(ii) establishing better geographical coverage of medical care services; and

(iii) providing coverage for both active and retired covered individuals;

(o) for a proposal that meets the criteria specified in a request for proposals and is accepted by the program:

(i) offer the proposal to active and retired state-covered individuals; and

(ii) at the option of the covered employer, offer the proposal to active and retired covered individuals of other covered employers;

(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health and Human Services if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program;

(q) establish rules and procedures governing the admission of political subdivisions or educational institutions and their employees to the program;

(r) (i) contract directly with medical providers to provide services for covered individuals at commercially competitive rates; and

(ii) (A) discontinue the preferred network, which offers in-network access to all in-state hospitals, for the state risk pool created in Subsection 49-20-202(1)(a) for plan years starting on or after July 1, 2022; and

(B) for an employee in the state risk pool who fails to elect one of the remaining networks before July 1, 2022, enroll the employee and the employee's dependents into the network that best reflects the utilization pattern of that employee and the employee's dependents;

(s) (i) require state employees and the state employees' dependents to participate in the electronic exchange of clinical health records in accordance with Section [~~26-1-37~~] 26B-8-411 unless the enrollee opts out of participation; and

(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time;

(t) at the request of a procurement unit, as that term is defined in Section 63G-6a-103, that administers benefits to program recipients who are not covered by [~~Title 26, Utah Health Code~~] Title 26B, Utah Health and Human Services Code, provide services for:

(i) drugs;

(ii) medical devices; or

(iii) other types of medical care; and

(u) take additional actions necessary or appropriate to carry out the purposes of this chapter.

(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.

(b) The board shall approve administrative costs and report the administrative costs to the governor and the Legislature.

(3) The Division of Human Resource Management shall include the benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection 63A-17-307(5)(a).

(4) The program may establish a partnership with a public entity in a different state to purchase or share services related to the administration of medical benefits if:

(a) the program receives approval for the partnership from the board; and

(b) the partnership:

(i) creates cost savings for Utah;

(ii) does not commingle state funds with funds of the public entity in the other state; and

(iii) does not pose a greater actuarial risk to Utah than the program has already assumed.

Section 55. Section 49-20-414 is amended to read:

49-20-414. Telemedicine services -- Reimbursement -- Reporting.

(1) As used in this section:

(a) "Network provider" means a health care provider who has an agreement with the program to provide health care services to a patient with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.

(b) "Telemedicine services" means the same as that term is defined in Section [~~26-60-102~~] 26B-4-704.

(2) This section applies to the risk pool established for the state under Subsection 49-20-201(1)(a).

(3) The program shall, at the provider's request, reimburse a network provider for medically appropriate telemedicine services at a commercially reasonable rate.

(4) Before November 1, 2019, the program shall report to the Legislature's Public Utilities, Energy, and Technology Interim Committee and Health Reform Task Force on:

(a) the result of the reimbursement requirement described in Subsection (3);

(b) existing and potential uses of telehealth and telemedicine services;

(c) issues of reimbursement to a provider offering telehealth and telemedicine services;

(d) potential rules or legislation related to:

(i) providers offering and insurers reimbursing for telehealth and telemedicine services; and

(ii) increasing access to health care, increasing the efficiency of health care, and decreasing the costs of health care; and

(e) telemedicine services that the program declined to cover because the telemedicine services that were requested were not medically appropriate.

Section 56. Section 49-20-421 is amended to read:

49-20-421. Prescription discount program.

(1) As used in this section:

(a) "Diabetes" means:

(i) complete insulin deficiency or type 1 diabetes;

(ii) insulin resistant with partial insulin deficiency or type 2 diabetes; or

(iii) elevated blood glucose levels induced by pregnancy or gestational diabetes.

(b) "Discount program" means a process developed by the program that allows participants to purchase a qualified prescription at a discounted, post-rebate rate.

(c) "Epinephrine auto-injector" means the same as that term is defined in Section [~~26-41-102~~] 26B-4-401.

(d) "Individual with diabetes" means an individual who has been diagnosed with diabetes and who uses insulin to treat diabetes.

(e) "Insulin" means a prescription drug that contains insulin.

(f) "Participant" means a resident of Utah who:

(i) has a qualified condition;

(ii) does not receive health coverage under the program; and

(iii) enrolls in the discount program.

(g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(h) "Qualified condition" means the individual:

(i) uses insulin to treat diabetes; or

(ii) has a prescription or a standing prescription drug order for an epinephrine auto-injector issued under Section 58-17b-1005.

(i) "Qualified prescription" means:

(i) insulin; or

(ii) epinephrine auto-injector.

(j) "Rebate" means the same as that term is defined in Section 31A-46-102.

(2) Notwithstanding Subsection 49-20-201(1), and for the purpose of the discount program only, the program shall offer a discount program that allows participants to purchase a qualified prescription at a discounted, post-rebate price when a rebate is available.

(3) The discount program described in Subsection (2) shall:

(a) provide a participant with a card or electronic document that identifies the participant as eligible

for the discount on a qualified prescription related to the participant's qualified condition;

(b) provide a participant with information about pharmacies that will honor the discount;

(c) allow a participant to purchase a qualified prescription at a discounted, post-rebate price; and

(d) provide a participant with instructions to pursue a reimbursement of the purchase price from the participant's health insurer.

(4) The discount program shall charge a price for a qualified prescription that allows the program to retain only enough of any rebate for the qualified prescription to make the state risk pool whole for providing a discounted qualified prescription to participants.

Section 57. Section 51-2a-102 is amended to read:

51-2a-102. Definitions.

As used in this chapter:

(1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

(2) "Audit" means an examination that:

(a) is performed in accordance with generally accepted government auditing standards, or for a nonprofit corporation or a governmental nonprofit corporation, in accordance with generally accepted auditing standards; and

(b) conforms to the uniform classification of accounts established or approved by the state auditor or any other classification of accounts established by any federal government agency.

(3) "Audit report" means:

(a) the financial statements presented in conformity with generally accepted accounting principles;

(b) the auditor's opinion on the financial statements;

(c) a statement by the auditor expressing positive assurance of compliance with state fiscal laws identified by the state auditor;

(d) a copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments to be considered by management; and

(e) management's response to the specific recommendations.

(4) "Compilation" means information presented in the form of financial statements presented in conformity with generally accepted accounting principles that are the representation of management without the accountant undertaking to express any assurances on the statements.

(5) "Fiscal report" means providing information detailing revenues and expenditures of all funds in a format prescribed by the state auditor.

(6) "Governing board" means:

(a) the governing board of each political subdivision;

(b) the governing board of each interlocal organization having the power to tax or to expend public funds;

(c) the governing board of any local mental health authority established under the authority of [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(d) the governing board of any substance abuse authority established under the authority of [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(e) the governing board of any area agency established under the authority of [~~Title 62A, Chapter 3, Aging and Adult Services~~] Title 26B, Chapter 6, Part 1, Aging and Adult Services;

(f) the board of directors of any nonprofit corporation that receives an amount of money requiring an accounting report under Section 51-2a-201.5;

(g) the governing board, as that term is defined in Section 11-13a-102, of a governmental nonprofit corporation;

(h) the governing board of any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes; and

(i) in municipalities organized under an optional form of municipal government, the municipal legislative body.

(7) "Governmental nonprofit corporation" means the same as that term is defined in Section 11-13a-102.

(8) "Nonprofit corporation" does not include a governmental nonprofit corporation.

(9) "Review" means performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements for them to be in conformity with generally accepted accounting principles.

Section 58. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

The following funds are exempt from this chapter:

(1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(2) funds of the Utah State Retirement Board;

(3) funds of the Utah Housing Corporation;

(4) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-801;

(5) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(6) the State Post-Retirement Benefits Trust Fund;

(7) the funds of the Utah Educational Savings Plan;

(8) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(9) the funds in the Navajo Trust Fund;

(10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(11) the funds in the Employers' Reinsurance Fund;

(12) the funds in the Uninsured Employers' Fund;

(13) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section [~~62A-5-206.7~~] 26B-1-331;

(14) the funds in the Risk Management Fund created in Section 63A-4-201; and

(15) the Utah fund of funds created in Section 63N-6-401.

Section 59. Section 51-9-201 is amended to read:

51-9-201. Creation of Tobacco Settlement Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Tobacco Settlement Restricted Account."

(2) The account shall earn interest.

(3) The account shall consist of:

(a) on and after July 1, 2007, 60% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998; and

(b) interest earned on the account.

(4) To the extent that funds will be available for appropriation in a given fiscal year, those funds shall be appropriated from the account in the following order:

(a) $66,600 to the Office of the Attorney General for ongoing enforcement and defense of the Tobacco Settlement Agreement;

(b) $18,500 to the State Tax Commission for ongoing enforcement of business compliance with the Tobacco Tax Settlement Agreement;

(c) $11,022,900 to the Department of Health and Human Services for:

(i) children in the Medicaid program created in [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance, and the Children's Health Insurance Program created in Section [~~26-40-103~~] 26B-3-902; and

(ii) for restoration of dental benefits in the Children's Health Insurance Program;

(d) $3,277,100 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television, and with a preference in funding given to tobacco-related programs;

(e) $193,700 to the Administrative Office of the Courts and $2,325,400 to the Department of Health and Human Services for the statewide expansion of the drug court program;

(f) $4,000,000 to the Utah Board of Higher Education for the University of Utah Health Sciences Center to benefit the health and well-being of Utah citizens through in-state research, treatment, and educational activities; and

(g) any remaining funds as directed by the Legislature through appropriation.

Section 60. Section 51-9-203 is amended to read:

51-9-203. Requirements for tobacco and electronic cigarette programs.

(1) To be eligible to receive funding under this part for a tobacco prevention, reduction, cessation, or control program, an organization, whether private, governmental, or quasi-governmental, shall:

(a) submit a request to the Department of Health and Human Services containing the following information:

(i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound management and periodic evaluation of the campaign's relevance to the intended audience, particularly in campaigns directed toward youth, including audience awareness of the campaign and recollection of the main message;

(ii) for school-based education programs to prevent and reduce youth smoking, the request shall describe how the program will be effective in preventing and reducing youth smoking;

(iii) for community-based programs to prevent and reduce smoking, the request shall demonstrate that the proposed program:

(A) has a comprehensive strategy with a clear mission and goals;

(B) provides for committed, caring, and professional leadership; and

(C) if directed toward youth:

(I) offers youth-centered activities in youth accessible facilities;

(II) is culturally sensitive, inclusive, and diverse;

(III) involves youth in the planning, delivery, and evaluation of services that affect them; and

(IV) offers a positive focus that is inclusive of all youth; and

(iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which tobacco products and electronic cigarette products, as those terms are defined in Section 76-10-101, are available to individuals under 21 years old;

(b) agree, by contract, to file an annual written report with the Department of Health and Human Services that contains the following:

(i) the amount funded;

(ii) the amount expended;

(iii) a description of the program or campaign and the number of adults and youth who participated;

(iv) specific elements of the program or campaign meeting the applicable criteria set forth in Subsection (1)(a); and

(v) a statement concerning the success and effectiveness of the program or campaign;

(c) agree, by contract, to not use any funds received under this part directly or indirectly, to:

(i) engage in any lobbying or political activity, including the support of, or opposition to, candidates, ballot questions, referenda, or similar activities; or

(ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to enforce:

(A) the provisions of the Master Settlement Agreement;

(B) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Title 26B, Chapter 7, Part 6, Regulation of Smoking, Tobacco Products, and Nicotine Products;

(C) [~~Title 26, Chapter 62, Part 3, Enforcement~~] Sections 26B-7-514 through 26B-7-520; and

(D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and

(d) agree, by contract, to repay the funds provided under this part if the organization:

(i) fails to file a timely report as required by Subsection (1)(b); or

(ii) uses any portion of the funds in violation of Subsection (1)(c).

(2) The Department of Health and Human Services shall review and evaluate the success and effectiveness of any program or campaign that receives funding pursuant to a request submitted under Subsection (1). The review and evaluation:

(a) shall include a comparison of annual smoking trends;

(b) may be conducted by an independent evaluator; and

(c) may be paid for by funds appropriated from the account for that purpose.

(3) An organization that fails to comply with the contract requirements set forth in Subsection (1) shall:

(a) repay the state as provided in Subsection (1)(d); and

(b) be disqualified from receiving funds under this part in any subsequent fiscal year.

(4) The attorney general shall be responsible for recovering funds that are required to be repaid to the state under this section.

(5) Nothing in this section may be construed as applying to funds that are not appropriated under this part.

Section 61. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments; or

(r) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection [~~62A-16-301(1)(a)~~] 26B-1-506(1)(a), and the responses to the report described in Subsections [~~62A-16-301(2) and (4)~~] 26B-1-506(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection [~~62A-16-301(1)(a)~~] 26B-1-506(1)(a), and the responses to the report described in Subsections [~~62A-16-301(2) and (4)~~] 26B-1-506(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section [~~26-7-13~~] 26B-1-403, to review and discuss an individual case, as described in Subsection [~~26-7-13(10)~~] 26B-1-403(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section [~~26-61a-105~~] 26B-1-421 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section [~~26-61a-105~~] 26B-1-421;

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(83);

(h) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market; and

(i) a meeting of the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 62. Section 53-1-106 is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Division of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702;

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact;

(i) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:

(i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;

(ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and

(iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211; and

(k) provide for the security and protection of public officials, public officials' staff, and the capitol hill complex in accordance with the provisions of this part.

(2) (a) The department shall establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) All fees not established in statute shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section [~~26-28-120~~] 26B-8-319.

Section 63. Section 53-2a-218 is amended to read:

53-2a-218. Legislative Emergency Response Committee.

(1) There is created an ad hoc committee known as the Legislative Emergency Response Committee.

(2) (a) The committee membership includes:

(i) the same membership as the Executive Appropriations Committee as constituted at the time the committee is convened;

(ii) between four and six additional members designated by the speaker of the House of Representatives, chosen from the following:

(A) one or more members of the House of Representatives that serve as chair or vice-chair of a legislative committee with a subject matter focus relevant to the current emergency;

(B) one or more members of the House of Representatives with relevant expertise or experience relevant to the current emergency; or

(C) one or more members of the House of Representatives from a minority party that serves on a relevant legislative committee or that has expertise and experience relevant to the current emergency; and

(iii) between four and six additional members designated by the president of the Senate, chosen from the following:

(A) one or more members of the Senate that serve as chair or vice-chair of a legislative committee with a subject matter focus relevant to the current emergency;

(B) one or more members of the Senate with relevant expertise or experience relevant to the current emergency; or

(C) one or more members of the Senate from a minority party that serves on a relevant legislative committee or that has expertise and experience relevant to the current emergency.

(b) The speaker of the House of Representatives and the president of the Senate shall coordinate to ensure they each appoint the same number of legislators as described under Subsections (2)(a)(ii) and (iii).

(3) The speaker of the House of Representatives and the president of the Senate shall serve as chairs of the committee.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the committee.

(5) (a) If the governor declares a state of emergency as described in this chapter, and the governor finds that the emergency conditions warrant an extension of the state of emergency beyond the 30-day term or another date designated by the Legislature as described in Section 53-2a-206, the governor shall provide written notice to the speaker of the House of Representatives and the president of the Senate at least 10 days before the expiration of the state of emergency.

(b) If the speaker of the House of Representatives and the president of the Senate receive notice as described in Subsection (5)(a) for a state of emergency within the first 30 days from the initial declaration of the state of emergency, or from the Department of Health and Human Services as described in Section [~~26-23b-104~~] 26B-7-317, or from a local health department as described in Section 26A-1-121, the speaker of the House of Representatives and the president of the Senate:

(i) shall poll the members of their respective bodies to determine whether the Legislature will extend the state of emergency; and

(ii) may jointly convene the committee.

(c) If the speaker of the House of Representatives and the president of the Senate receive notice as described in Subsection (5)(a) for a state of emergency that has been extended beyond 30 days from the initial declaration of a state of emergency, the speaker of the House of Representatives and the president of the Senate shall jointly convene the committee.

(6) If the committee is convened as described in Subsection (5), the committee shall conduct a public meeting to:

(a) discuss the nature of the emergency and conditions of the emergency;

(b) evaluate options for emergency response;

(c) receive testimony from individuals with expertise relevant to the current emergency;

(d) receive testimony from members of the public; and

(e) provide a recommendation to the Legislature whether to extend the state of emergency by joint resolution.

Section 64. Section 53-2c-102 is amended to read:

53-2c-102. Definitions.

(1) "Commission" means the Public Health and Economic Emergency Commission created in Section 53-2c-201.

(2) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(3) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(4) "Elective surgery or procedure" means a surgery or procedure that is not medically necessary to correct a serious medical condition or preserve the life of a patient.

(5) "Epidemic or pandemic disease" means the same as that term is defined in Section [~~26-23b-102~~] 26B-7-301.

(6) "Local ordinance or order" means an ordinance, order, or other regulation enacted or issued by a local government entity.

(7) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition:

(a) that is caused by epidemic or pandemic disease;

(b) that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability; and

(c) for which the governor has declared a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

Section 65. Section 53-3-102 is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Autocycle" means a motor vehicle that:

(a) is designed to travel with three or fewer wheels in contact with the ground; and

(b) is equipped with:

(i) a steering mechanism;

(ii) seat belts; and

(iii) seating that does not require the operator to straddle or sit astride the motor vehicle.

(2) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(3) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(4) "Commercial driver instruction permit" or "CDIP" means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(5) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

(6) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a motor vehicle record described in Subsection (30).

(7) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(8) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(9) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(10) "Director" means the division director appointed under Section 53-3-103.

(11) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(12) "Division" means the Driver License Division of the department created in Section 53-3-103.

(13) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(14) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(15) (a) "Driver" means an individual who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or federal law.

(16) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(17) "Electronic license certificate" means the evidence, in an electronic format as described in Section 53-3-235, of a privilege granted under this chapter to drive a motor vehicle.

(18) "Extension" means a renewal completed in a manner specified by the division.

(19) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(20) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(21) "Human driver" means the same as that term is defined in Section 41-26-102.1.

(22) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

(23) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the [~~U.S.~~] United States Department of Health and Human Services in the Federal Register.

(24) "License" means the privilege to drive a motor vehicle.

(25) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes:

(i) a regular license certificate;

(ii) a limited-term license certificate;

(iii) a driving privilege card;

(iv) a CDL license certificate;

(v) a limited-term CDL license certificate;

(vi) a temporary regular license certificate;

(vii) a temporary limited-term license certificate; and

(viii) an electronic license certificate created in Section 53-3-235.

(26) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

(27) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

(28) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

(29) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(30) "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

(31) "Motorboat" means the same as that term is defined in Section 73-18-2.

(32) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(33) "Office of Recovery Services" means the Office of Recovery Services, created in Section [~~62A-11-102~~] 26B-9-103.

(34) "Operate" means the same as that term is defined in Section 41-1a-102.

(35) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

(36) "Penalty accounts receivable" means a fine, restitution, forfeiture, fee, surcharge, or other financial penalty imposed on an individual by a court or other government entity.

(37) (a) "Private passenger carrier" means any motor vehicle for hire that is:

(i) designed to transport 15 or fewer passengers, including the driver; and

(ii) operated to transport an employee of the person that hires the motor vehicle.

(b) "Private passenger carrier" does not include:

(i) a taxicab;

(ii) a motor vehicle driven by a transportation network driver as defined in Section 13-51-102;

(iii) a motor vehicle driven for transportation network services as defined in Section 13-51-102; and

(iv) a motor vehicle driven for a transportation network company as defined in Section 13-51-102 and registered with the Division of Consumer Protection as described in Section 13-51-104.

(38) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

(39) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

(40) "Renewal" means to validate a license certificate so that it expires at a later date.

(41) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

(42) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections (42)(b)(i) through (iii).

(43) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

(44) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

(45) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

(46) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 66. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

The following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is $52.

(2) An original provisional license application for a class D license under Section 53-3-205 is $39.

(3) An original limited term license application under Section 53-3-205 is $32.

(4) An original application for a motorcycle endorsement under Section 53-3-205 is $18.

(5) An original application for a taxicab endorsement under Section 53-3-205 is $14.

(6) A learner permit application under Section 53-3-210.5 is $19.

(7) A renewal of a class D license under Section 53-3-214 is $52 unless Subsection (12) applies.

(8) A renewal of a provisional license application for a class D license under Section 53-3-214 is $52.

(9) A renewal of a limited term license application under Section 53-3-214 is $32.

(10) A renewal of a motorcycle endorsement under Section 53-3-214 is $18.

(11) A renewal of a taxicab endorsement under Section 53-3-214 is $14.

(12) A renewal of a class D license for an individual 65 and older under Section 53-3-214 is $27.

(13) An extension of a class D license under Section 53-3-214 is $42 unless Subsection (17) applies.

(14) An extension of a provisional license application for a class D license under Section 53-3-214 is $42.

(15) An extension of a motorcycle endorsement under Section 53-3-214 is $18.

(16) An extension of a taxicab endorsement under Section 53-3-214 is $14.

(17) An extension of a class D license for an individual 65 and older under Section 53-3-214 is $22.

(18) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is $52.

(19) A commercial class A, B, or C license skills test is $78.

(20) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is $9.

(21) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is $9.

(22) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is $9.

(23) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is $26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is $52.

(24) A retake of a CDL endorsement test provided for in Section 53-3-205 is $9.

(25) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is $23.

(26) (a) A license reinstatement application under Section 53-3-205 is $40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is $45 in addition to the fee under Subsection (26)(a).

(27) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is $255.

(b) This administrative fee is in addition to the fees under Subsection (26).

(28) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is $8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(29) A rescheduling fee under Section 53-3-205 or 53-3-407 is $25.

(30) (a) Except as provided under Subsections (30)(b) and (c), an identification card application under Section 53-3-808 is $23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(c) A fee may not be charged for an identification card application if the individual applying:

(i) (A) has not been issued a Utah driver license;

(B) is indigent; and

(C) is at least 18 years old; or

(ii) submits written verification that the individual is homeless, as defined in Section [~~26-18-411~~] 26B-3-207, a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(A) a homeless shelter, as defined in Section 35A-16-305;

(B) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(C) the Department of Workforce Services; or

(D) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(31) (a) An extension of a regular identification card under Subsection 53-3-807(4) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(b) The fee described in Subsection (31)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section [~~26-18-411~~] 26B-3-207, or a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(i) a homeless shelter, as defined in Section 35A-16-305;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services;

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section [~~26-2-12.6~~] 26B-8-113; or

(v) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(32) (a) An extension of a regular identification card under Subsection 53-3-807(5) is $23.

(b) The fee described in Subsection (32)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section [~~26-18-411~~] 26B-3-207, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 35A-16-305;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services; or

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section [~~26-2-12.6~~] 26B-8-113.

(33) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(34) An original mobility vehicle permit application under Section 41-6a-1118 is $30.

(35) A renewal of a mobility vehicle permit under Section 41-6a-1118 is $30.

(36) A duplicate mobility vehicle permit under Section 41-6a-1118 is $12.

(37) An original driving privilege card application under Section 53-3-207 is $32.

(38) A renewal of a driving privilege card application under Section 53-3-207 is $23.

Section 67. Section 53-3-106 is amended to read:

53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

(d) any appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited [~~in~~] into the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of $45 of the fees collected under Subsection 53-3-105(25) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of ~~$45~~, $100 shall be deposited into the State Laboratory Drug Testing Account created in Section 26B-1-304.

(6) All money received under Subsection 41-6a-1406(6)(c)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate $100,000 annually from the account to the state medical examiner appointed under Section [~~26-4-4~~] 26B-8-202 for use in carrying out duties related to highway crash deaths under Subsection [~~26-4-7(1)~~] 26B-8-205(1).

(8) The division shall remit the fees collected under Subsection 53-3-105(31) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health and Human Services, on or before December 31, the amount the department expects to collect under Subsection 53-3-105(25) in the next fiscal year.

Section 68. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for an original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months after the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months after the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application for a commercial class A, B, or C license entitles the applicant to:

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(18);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(19) within six months after the date of application;

(c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months after the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is

compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(19).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class D license expires on the birth date of the applicant in the eighth year after the year the license certificate was issued.

(ii) An original provisional class D license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(iii) Except as provided in Subsection (7)(f), a limited term class D license expires on the birth date of the applicant in the fifth year the license certificate was issued.

(b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a license expires on the birth date of the licensee in the eighth year after the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and an endorsement to the regular license certificate held by an individual described in Subsection (7)(e)(ii), that expires during the time period the individual is stationed outside of the state, is valid until 90 days after the individual's orders are terminated, the individual is discharged, or the individual's assignment is changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to an individual:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, an applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's sex;

(D) (I) documentary evidence of the applicant's valid social security number;

(II) written proof that the applicant is ineligible to receive a social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for an individual who:

(Aa) does not qualify for a social security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the applicant is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that the applicant is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had a license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had a license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Unless the applicant provides acceptable verification of homelessness as described in rules made by the division, an applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) An applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on the division's computerized records an applicant's:

(i) (A) social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of an applicant's name, birth date, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application is treated as an original application; and

(ii) license and endorsement fees is assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from an applicant previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license is accompanied by the additional fee or fees specified in Section 53-3-105.

(13) An individual who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) An applicant who applies for an original license or renewal of a license agrees that the individual's license is subject to a suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section [~~26-28-102~~] 26B-8-301, the names and addresses of all applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all applicants who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of Corrections, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(18) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(19) An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(20) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(21) (a) An applicant who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the applicant:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of an individual described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for an individual to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 69. Section 53-3-207 is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "Driving privilege" means the privilege granted under this chapter to drive a motor vehicle.

(b) "Governmental entity" means the state or a political subdivision of the state.

(c) "Health care professional" means:

(i) a licensed physician, physician assistant, nurse practitioner, or mental health therapist; or

(ii) any other licensed health care professional the division designates by rule made in accordance

with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Political subdivision" means any county, city, town, school district, public transit district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(e) "Invisible condition" means a physical or mental condition that may interfere with an individual's ability to communicate with a law enforcement officer, including:

(i) a communication impediment;

(ii) hearing loss;

(iii) blindness or a visual impairment;

(iv) autism spectrum disorder;

(v) a drug allergy;

(vi) Alzheimer's disease or dementia;

(vii) post-traumatic stress disorder;

(viii) traumatic brain injury;

(ix) schizophrenia;

(x) epilepsy;

(xi) a developmental disability;

(xii) Down syndrome;

(xiii) diabetes;

(xiv) a heart condition; or

(xv) any other condition approved by the department.

(f) "Invisible condition identification symbol" means a symbol or alphanumeric code that indicates that an individual is an individual with an invisible condition.

(g) "State" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every individual privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege card indicating the type or class of motor vehicle the individual may drive.

(b) An individual may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the individual;

(vi) a photograph or other facsimile of the individual's signature;

(vii) an indication whether the individual intends to make an anatomical gift under [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the individual states that the individual is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205 and provides verification that the individual was granted an honorable or general discharge from the United States Armed Forces, an indication that the individual is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to an individual younger than 21 years old on a portrait-style format as required in Subsection (7)(b) is not required to include an indication that the individual is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the individual's social security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) The size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) The division shall include or affix an invisible condition identification symbol on an individual's regular license certificate, limited-term license certificate, or driving privilege card if the individual, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) signs a waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on the individual's driving record or the Utah Criminal Justice Information System under this chapter; and

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's regular license certificate, limited-term license certificate, or driving privilege card or the individual's information in the Utah Criminal Justice Information System.

(b) As part of the form described in Subsection (4)(a), the department shall advise the individual that by submitting the signed waiver, the individual consents to the release of the individual's medical information to any person described in Subsections (4)(a)(iii)(A) through (C), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's regular license certificate, limited-term license certificate, or driving privilege card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued regular license certificate, limited-term license certificate, or driving privilege card, require the individual to provide subsequent written verification described in Subsection (4)(a)(ii) to include the invisible condition identification symbol on the individual's renewed or extended regular license certificate, limited-term license certificate, or driving privilege card.

(d) The inclusion of an invisible condition identification symbol on an individual's license certificate, limited-term license certificate, or driving privilege card in accordance with Subsection (4)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

(e) For each individual issued a regular license certificate, limited-term license certificate, or driving privilege card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

(f) Except as provided in this section, the division may not release the information described in Subsection (4)(e).

(g) Within 30 days after the day on which the division receives an individual's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection (4)(e); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(5) As provided in Section 63G-2-302, the information described in Subsection (4)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(6) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the individual to drive a motor vehicle while the division is completing the division's investigation to determine whether the individual is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection (6) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the individual's immediate possession while driving a motor vehicle, and the temporary regular license certificate or temporary limited-term license certificate is invalid when the individual's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which the temporary regular license certificate or temporary limited-term license certificate is not valid as a temporary license.

(d) (i) Except as provided in Subsection (6)(d)(ii), the division may not issue a temporary driving privilege card or other temporary permit to an applicant for a driving privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

(7) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any individual younger than 21 years old by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to an individual younger than 21 years old by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or

driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 21 years old.

(8) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

(a) that the limited-term license certificate is temporary; and

(b) the limited-term license certificate's expiration date.

(9) (a) The division shall only issue a driving privilege card to an individual whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

(i) use of a format, color, font, or other means; and

(ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(10) The provisions of Subsection (7)(b) do not apply to a learner permit, temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

(11) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(12) (a) A governmental entity may not accept a driving privilege card as proof of personal identification.

(b) A driving privilege card may not be used as a document providing proof of an individual's age for any government required purpose.

(13) An individual who violates Subsection (2)(b) is guilty of an infraction.

(14) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Section 70. Section 53-3-214.7 is amended to read:

53-3-214.7. License or identification card checkoff for promoting and supporting organ donation.

(1) A person who applies for a license or identification card or a renewal of a license or identification card may designate a voluntary contribution of $2 for the purpose of promoting and supporting organ donation.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution to the Allyson Gamble Organ Donation Contribution Fund created in Section [~~26-18b-101~~] 26B-1-312 and not as a license fee; and

(c) transferred to the Allyson Gamble Organ Donation Contribution Fund created in Section [~~26-18b-101~~] 26B-1-312 at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

Section 71. Section 53-3-214.8 is amended to read:

53-3-214.8. License or identification card checkoff for public transportation for seniors or people with disabilities.

(1) A person who applies for a license or identification card or a renewal of a license or identification card may designate a voluntary contribution of $1 for public transportation assistance for seniors or people with disabilities.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution to the "Out and About" Homebound Transportation Assistance Fund created in Section [~~62A-3-110~~] 26B-1-323 to provide public transportation assistance for seniors or people with disabilities and not as a license fee; and

(c) transferred to the "Out and About" Homebound Transportation Assistance Fund created in Section [~~62A-3-110~~] 26B-1-323 at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

Section 72. Section 53-3-804 is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.

(1) To apply for a regular identification card or limited-term identification card, an applicant shall:

(a) be a Utah resident;

(b) have a Utah residence address; and

(c) appear in person at any license examining station.

(2) An applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) (i) social security number; or

(ii) written proof that the applicant is ineligible to receive a social security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that the applicant is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States Armed Forces, verification that the applicant has received an honorable or general discharge from the United States Armed Forces, and an indication whether the applicant does or does not authorize sharing the information with the state Department of Veterans and Military Affairs.

(3) (a) The requirements of Section 53-3-234 apply to this section for each individual, age 16 and older, applying for an identification card.

(b) Refusal to consent to the release of information under Section 53-3-234 shall result in the denial of the identification card.

(4) An individual person who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

(5) (a) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(b) A person who holds a regular or limited term Utah driver license and chooses to relinquish the person's driving privilege may apply for an identification card under this chapter, provided:

(i) the driver:

(A) no longer qualifies for a driver license for failure to meet the requirement in Section 53-3-304; or

(B) makes a personal decision to permanently discontinue driving; and

(ii) the driver:

(A) submits an application to the division on a form approved by the division in person, through electronic means, or by mail;

(B) affirms their intention to permanently discontinue driving; and

(C) surrenders to the division the driver license certificate; and

(iii) the division possesses a digital photograph of the driver obtained within the preceding 10 years.

(c) (i) The division shall waive the fee under Section 53-3-105 for an identification card for an original identification card application under this Subsection (5).

(ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose driving privilege is suspended or revoked.

(6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of Corrections, the names and addresses of all applicants who, under Subsection (2)(k), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

Section 73. Section 53-3-805 is amended to read:

53-3-805. Identification card -- Contents -- Specifications.

(1) As used in this section:

(a) "Health care professional" means the same as that term is defined in Section 53-3-207.

(b) "Invisible condition" means the same as that term is defined in Section 53-3-207.

(c) "Invisible condition identification symbol" means the same as that term is defined in Section 53-3-207.

(2) (a) The division shall issue an identification card that bears:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) a photograph of the individual;

(v) a photograph or other facsimile of the individual's signature;

(vi) an indication whether the individual intends to make an anatomical gift under [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act; and

(vii) if the individual states that the individual is a veteran of the United States military on the application for an identification card in accordance with Section 53-3-804 and provides verification that the individual received an honorable or general discharge from the United States Armed Forces, an indication that the individual is a United States military veteran for a regular identification card or a limited-term identification card issued on or after July 1, 2011.

(b) An identification card issued by the division may not bear the individual's [~~Social Security~~] social security number or place of birth.

(3) (a) The card shall be of an impervious material, resistant to wear, damage, and alteration.

(b) Except as provided under Section 53-3-806, the size, form, and color of the card is prescribed by the commissioner.

(4) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(5) (a) The division shall include or affix an invisible condition identification symbol on an individual's identification card if the individual, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) submits a signed waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on the individual's driving record or the Utah Criminal Justice Information System under this chapter; and

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's regular license certificate, limited-term license certificate, or driving privilege card or the individual's information in the Utah Criminal Justice Information System.

(b) As part of the form described in Subsection (5)(a), the department shall advise the individual that by submitting the request and signed waiver, the individual consents to the release of the individual's medical information to any person described in Subsections (5)(a)(iii)(A) through (C), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's identification card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued identification card, require the individual to provide subsequent written verification described in Subsection (5)(a)(ii) to include the invisible condition identification symbol on the individual's extended identification card.

(d) The inclusion of an invisible condition identification symbol on an individual's identification card in accordance with Subsection (5)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

(e) For each individual issued an identification card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

(f) Except as provided in this section, the division may not release the information described in Subsection (5)(e).

(g) Within 30 days after the day on which the division receives an individual's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection (5)(e); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(6) As provided in Section 63G-2-302, the information described in Subsection (5)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(7) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated by the applicant in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section [~~26-28-102~~] 26B-8-301, the names and addresses of all individuals who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform applicants of anatomical gift options, procedures, and benefits.

(8) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all individuals who indicate their status as a veteran under Subsection 53-3-804(2)(l).

(9) The division and the division's employees are not liable, as a result of false or inaccurate information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(10) (a) The division may issue a temporary regular identification card to an individual while the individual obtains the required documentation to establish verification of the information described in Subsections 53-3-804(2)(a), (b), (c), (d), and (i)(i).

(b) A temporary regular identification card issued under this Subsection (10) shall be recognized and grant the individual the same privileges as a regular identification card.

(c) A temporary regular identification card issued under this Subsection (10) is invalid:

(i) when the individual's regular identification card has been issued;

(ii) when, for good cause, an applicant's application for a regular identification card has been refused; or

(iii) upon expiration of the temporary regular identification card.

Section 74. Section 53-5-707 is amended to read:

53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.

(1) (a) An applicant for a concealed firearm permit shall pay a fee of $25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional $10 for the additional cost of processing a nonresident application.

(c) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

(d) Concealed firearm permit renewal fees for active duty service members and the spouse of an active duty service member shall be waived.

(2) The renewal fee for the permit is $20. A nonresident shall pay an additional $5 for the additional cost of processing a nonresidential renewal.

(3) The replacement fee for the permit is $10.

(4) (a) The late fee for the renewal permit is $7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section and Section 53-5-707.5.

(c) Funds in the account may only be used to cover costs relating to:

(i) the issuance of concealed firearm permits under this part; or

(ii) the programs described in Subsection [~~62A-15-103(3)~~] 26B-5-102(3) and Section [~~62A-15-1101~~] 26B-5-611.

(d) No later than 90 days after the end of the fiscal year 50% of the fund balance shall be transferred to the Suicide Prevention and Education Fund, created in Section [~~62A-15-1104~~] 26B-1-326.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section 53-5-707.5.

Section 75. Section 53-10-102 is amended to read:

53-10-102. Definitions.

As used in this chapter:

(1) "Administration of criminal justice" means performance of any of the following: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

(2) "Alcoholic beverage" means the same as that term is defined in Section 32B-1-102.

(3) "Alcoholic product" means the same as that term is defined in Section 32B-1-102.

(4) "Bureau" means the Bureau of Criminal Identification within the department, created in Section 53-10-201.

(5) "Commission" means the Alcoholic Beverage Services Commission.

(6) "Communications services" means the technology of reception, relay, and transmission of information required by a public safety agency in the performance of the public safety agency's duty.

(7) "Conviction record" means criminal history information indicating a record of a criminal charge that has led to a declaration of guilt of an offense.

(8) "Criminal history record information" means information on an individual consisting of identifiable descriptions and notations of:

(a) arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising from any of them; and

(b) sentencing, correctional supervision, and release.

(9) "Criminal justice agency" means a court or a government agency or subdivision of a government agency that administers criminal justice under a statute, executive order, or local ordinance and that allocates greater than 50% of its annual budget to the administration of criminal justice.

(10) "Criminalist" means the scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the natural sciences in law-science matters.

(11) "Department" means the Department of Public Safety.

(12) "Director" means the division director appointed under Section 53-10-103.

(13) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

(14) "Executive order" means an order of the president of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access to the order.

(15) "Forensic" means dealing with the application of scientific knowledge relating to criminal evidence.

(16) "Mental defective" means an individual who, by a district court, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is found:

(a) to be a danger to himself or herself or others;

(b) to lack the mental capacity to contract or manage the individual's own affairs;

(c) to be incompetent by a court in a criminal case; or

(d) to be incompetent to stand trial or found not guilty by reason or lack of mental responsibility.

(17) "Missing child" means an individual under 18 years old who is missing from the individual's home environment or a temporary placement facility for any reason and whose location cannot be determined by the person responsible for the individual's care.

(18) "Missing person" means the same as that term is defined in Section [~~26-2-27~~] 26B-8-130.

(19) "Pathogens" means disease-causing agents.

(20) "Physical evidence" means something submitted to the bureau to determine the truth of a matter using scientific methods of analysis.

(21) "Qualifying entity" means a business, organization, or a governmental entity that employs persons or utilizes volunteers who deal with:

(a) national security interests;

(b) fiduciary trust over money; or

(c) the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

Section 76. Section 53-10-104 is amended to read:

53-10-104. Division duties.

The division shall:

(1) provide and coordinate the delivery of support services to law enforcement agencies;

(2) maintain and provide access to criminal records for use by law enforcement agencies;

(3) publish law enforcement and statistical data;

(4) maintain dispatch and communications services for public safety communications centers and provide emergency medical, fire suppression, highway maintenance, public works, and law enforcement communications for municipal, county, state, and federal agencies;

(5) analyze evidence from crime scenes and crime-related incidents for criminal prosecution;

(6) provide criminalistic laboratory services to federal, state, and local law enforcement agencies, prosecuting attorneys[~~,~~] and agencies, and public defenders, with the exception of those services provided by the state medical examiner in accordance with [~~Title 26, Chapter 4, Utah Medical Examiner Act~~] Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

(7) establish satellite laboratories as necessary to provide criminalistic services;

(8) safeguard the public through licensing and regulation of activities that impact public safety, including concealed weapons, emergency vehicles, and private investigators;

(9) provide investigative assistance to law enforcement and other government agencies;

(10) collect and provide intelligence information to criminal justice agencies;

(11) investigate crimes that jeopardize the safety of the citizens, as well as the interests, of the state;

(12) regulate and investigate laws pertaining to the sale and distribution of liquor;

(13) make rules to implement this chapter;

(14) perform the functions specified in this chapter;

(15) comply with the requirements of Section 11-40-103;

(16) comply with the requirements of Sections 72-10-602 and 72-10-603; and

(17) develop and maintain a secure database of cold cases within the Utah Criminal Justice Information System pursuant to Section 53-10-115.

Section 77. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "Clone" means to copy a subscription or subscription data from a rap back system, including associated criminal history record information, from a qualified entity to another qualified entity.

(b) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(c) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(d) "Volunteer Employee Criminal History System" or "VECHS" means a system that allows the bureau and the Federal Bureau of Investigation to provide criminal history record information to a qualifying entity, including a non-governmental qualifying entity.

(e) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Except as provided in Subsection (17), dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for the qualifying entity's own employees or volunteers and individuals who have applied for employment with or to serve as a volunteer for the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) the office of the lieutenant governor for the purpose of conducting a background check on an individual applying to be a notary public under Section 46-1-3;

(k) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(l) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(k) shall specifically authorize access to data, limit the use of

data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check and a nationwide background check shall provide to the bureau:

(i) personal identifying information for the subject of the background check;

(ii) a fingerprint card for the subject of the background check; and

(iii) the fee required by Subsection (15).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) may only be:

(i) available to individuals involved in the hiring or background investigation of the job applicant, employee, notary applicant, or as authorized under federal or state law;

(ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) (i) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:

(A) request a copy of the information received; and

(B) respond to and challenge the accuracy of any information received.

(ii) An individual who is the subject of a background check and who receives a copy of the information described in Subsection (4)(g)(i) may use the information only for the purpose of reviewing, responding to, or challenging the accuracy of the information.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or the division's employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).

(5) (a) Except as provided in Subsection (5)(b), (c), (d), or (e), or as otherwise authorized under state law, criminal history record information obtained from division files may be used only for the purposes for which the information was provided.

(b) A criminal history provided to an agency under Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection [~~62A-5-103.5(5)~~] 26B-6-410(5), provide a criminal history record to the state agency or the agency's designee.

(e) Criminal history record information obtained from a national source may be disseminated if the dissemination is authorized by a policy issued by the Criminal Justice Information Services Division or other federal law.

(6) (a) A qualifying entity under Subsection (2)(c) may submit fingerprints to the bureau and the Federal Bureau of Investigation for a local and national background check under the provisions of the National Child Protection Act of 1993, 42 U.S.C. Sec. 5119 et seq.

(b) A qualifying entity under Subsection (2)(c) that submits fingerprints under Subsection (6)(a):

(i) shall meet all VECHS requirements for using VECHS; and

(ii) may only submit fingerprints for an employee, volunteer, or applicant who has resided in Utah for the seven years before the day on which the qualifying entity submits the employee's, volunteer's, or applicant's fingerprints.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so the information cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to a criminal justice agency's needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the bureau of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Chapter 10, Part 2, Bureau of Criminal Identification.

(17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap Back System subscription with a qualifying entity, the division may, upon request from another qualifying entity, clone the subscription to the requesting qualifying entity if:

(i) the requesting qualifying entity requests the clone:

(A) for the purpose of evaluating whether the individual should be permitted to obtain or retain a

license for, or serve as an employee or volunteer in a position in which the individual is responsible for, the care, treatment, training, instruction, supervision, or recreation of children, the elderly, or individuals with disabilities; or

(B) for the same purpose as the purpose for which the original qualifying entity requested the criminal history record information;

(ii) the requesting qualifying entity is expressly authorized by statute to obtain criminal history record information for the individual who is the subject of the request;

(iii) before requesting the clone, the requesting qualifying entity obtains a signed waiver, containing the information described in Subsection (4)(b), from the individual who is the subject of the request;

(iv) the requesting qualifying entity or the individual pays any applicable fees set by the division in accordance with Section 63J-1-504; and

(v) the requesting qualifying entity complies with the requirements described in Subsection (4)(g).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regulating the process described in this Subsection (17).

(18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation approves the use of the FBI Rap Back System for the purpose described in Subsection (17)(a)(i) under the conditions described in Subsection (17).

(b) Subsection (17) does not apply to the extent that implementation of the provisions of Subsection (17) are contrary to the requirements of the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

(19) (a) Information received by a qualifying entity under Subsection (17) may only be disclosed and used as described in Subsection (4)(e).

(b) A person who disseminates or uses information received under Subsection (17) for a purpose other than those described in Subsection (4)(e) is subject to the penalties described in this section and is also subject to civil liability.

(c) A qualifying entity is not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (17).

Section 78. Section 53-10-202 is amended to read:

53-10-202. Criminal identification -- Duties of bureau.

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

(a) are fugitives from justice;

(b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate;

(c) statistics concerning the use of force by law enforcement officers in accordance with the Federal Bureau of Investigation's standards; and

(d) other statistics required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons as provided in Sections [~~26-2-27~~] 26B-8-130 and 53G-6-602, and stolen vehicles,

vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520;

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security when new entries are made in accordance with the requirements of Section 53-3-205.5;

(16) review and approve or disapprove applications for license renewal that meet the requirements for renewal; and

(17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal.

Section 79. Section 53-10-208.1 is amended to read:

53-10-208.1. Magistrates and court clerks to supply information.

(1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

(a) all dispositions of criminal matters, including:

(i) guilty pleas;

(ii) convictions;

(iii) dismissals;

(iv) acquittals;

(v) pleas held in abeyance;

(vi) judgments of not guilty by reason of insanity;

(vii) judgments of guilty with a mental illness;

(viii) finding of mental incompetence to stand trial; and

(ix) probations granted;

(b) orders of civil commitment under the terms of Section [~~62A-15-631~~] 26B-5-332;

(c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

(d) protective orders issued after notice and hearing, pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

(iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

(v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

(a) adjudicated as a mental defective; or

(b) involuntarily committed to a mental institution in accordance with Subsection [~~62A-15-631(16)~~] 26B-5-332(16).

(3) The record described in Subsection (2) shall include:

(a) an agency record identifier;

(b) the individual's name, sex, race, and date of birth; and

(c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

Section 80. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through

December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section [~~26-28-116~~] 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16- or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, Subsection 76-8-309(2);

(xv) a felony violation of assault on an elected official, Section 76-8-315;

(xvi) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xix) a felony violation of sexual battery, Section 76-9-702.1;

(xx) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xxi) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxiv) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxv) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxvi) commercial obstruction, Subsection 76-10-2402(2);

(xxvii) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxix) violation of condition for release after arrest under Section 78B-7-802.

(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:

(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or

(b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or after July 1, 2002, for an offense under Subsection (2).

Section 81. Section 53-10-405 is amended to read:

53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency -- Blood sample to be drawn by professional.

(1) (a) A saliva sample shall be obtained by the responsible agency under Subsection 53-10-404(5).

(b) The sample shall be obtained in a professionally acceptable manner, using appropriate procedures to ensure the sample is adequate for DNA analysis.

(2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the following:

(i) a physician;

(ii) a physician assistant;

(iii) a registered nurse;

(iv) a licensed practical nurse;

(v) a paramedic;

(vi) as provided in Subsection (2)(b), emergency medical service personnel other than paramedics; or

(vii) a person with a valid permit issued by the Department of Health and Human Services under Section [~~26-1-30~~] 26B-1-202.

(b) The Department of Health and Human Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section [~~26-8a-102~~] 26B-4-101, are authorized to draw blood under Subsection (2)(a)(vi), based on the type of license under Section [~~26-8a-302~~] 26B-4-116.

(c) A person authorized by this section to draw a blood sample may not be held civilly liable for drawing a sample in a medically acceptable manner.

(3) A test result or opinion based upon a test result regarding a DNA specimen may not be rendered inadmissible as evidence solely because of deviations from procedures adopted by the department that do not affect the reliability of the opinion or test result.

(4) A DNA specimen is not required to be obtained if:

(a) the court or the responsible agency confirms with the department that the department has previously received an adequate DNA specimen obtained from the person in accordance with this section; or

(b) the court determines that obtaining a DNA specimen would create a substantial and unreasonable risk to the health of the person.

Section 82. Section 53-10-802 is amended to read:

53-10-802. Request for testing -- Mandatory testing -- Liability for costs.

(1) (a) An alleged victim of a sexual offense, the parent or guardian of an alleged victim who is a minor, or the guardian of an alleged victim who is a vulnerable adult as defined in Section [~~62A-3-301~~] 26B-6-201 may request that the alleged sexual offender against whom the indictment, information, or petition is filed or regarding whom the arrest has been made be tested to determine whether the alleged offender is an HIV positive individual.

(b) If the alleged victim under Subsection (1)(a) has requested that the alleged offender be tested, the alleged offender shall submit to being tested not later than 48 hours after an information or indictment is filed or an order requiring a test is signed.

(c) If the alleged victim under Subsection (1)(a) requests that the alleged offender be tested more than 48 hours after an information or indictment is filed, the offender shall submit to being tested not later than 24 hours after the request is made.

(d) As soon as practicable, the results of the test conducted pursuant to this section shall be provided to:

(i) the alleged victim who requested the test;

(ii) the parent or guardian of the alleged victim, if the alleged victim is a minor;

(iii) the legal guardian of the alleged victim if the victim is a vulnerable adult as defined in Section [~~62A-3-301~~] 26B-6-201;

(iv) the alleged offender; and

(v) the parent or legal guardian of the alleged offender, if the offender is a minor.

(e) If follow-up testing is medically indicated, the results of follow-up testing of the alleged offender shall be sent as soon as practicable to:

(i) the alleged victim;

(ii) the parent or guardian of the alleged victim if the alleged victim is a minor;

(iii) the legal guardian of the alleged victim, if the victim is a vulnerable adult as defined in Section [~~62A-3-301~~] 26B-6-201;

(iv) the alleged offender; and

(v) the parent or legal guardian of the alleged offender, if the alleged offender is a minor.

(2) If the mandatory test has not been conducted, and the alleged offender or alleged minor offender is already confined in a county jail, state prison, or a secure youth corrections facility, the alleged offender shall be tested while in confinement.

(3) (a) The secure youth corrections facility or county jail shall cause the blood specimen of the alleged offender under Subsection (1) confined in that facility to be taken and shall forward the specimen to:

(i) the Department of Health and Human Services; or

(ii) an alternate testing facility, as determined by the secure youth corrections facility or county jail, if testing under Subsection (3)(a)(i) is unavailable.

(b) The entity that receives the specimen under Subsection (3)(a) shall provide the result to the prosecutor as soon as practicable for release to the parties as described in Subsection (1)(d) or (e).

(4) The Department of Corrections shall cause the blood specimen of the alleged offender defined in Subsection (1) confined in any state prison to be taken and shall forward the specimen to the Department of Health and Human Services as provided in Section 64-13-36.

(5) The alleged offender who is tested is responsible upon conviction for the costs of testing,

unless the alleged offender is indigent. The costs will then be paid by the Department of Health and Human Services from the General Fund.

Section 83. Section 53-10-804 is amended to read:

53-10-804. Victim notification and counseling.

(1) (a) The Department of Health of Human Services shall provide the victim who requests testing of the alleged sexual offender's human immunodeficiency virus status counseling regarding HIV disease and referral for appropriate health care and support services.

(b) If the local health department in whose jurisdiction the victim resides and the Department of Health and Human Services agree, the Department of Health and Human Services shall forward a report of the alleged sexual offender's human immunodeficiency virus status to the local health department and the local health department shall provide the victim who requests the test with the test results, counseling regarding HIV disease, and referral for appropriate health care and support services.

(2) Notwithstanding the provisions of Section [~~26-6-27~~] 26B-7-217, the Department of Health and Human Services and a local health department acting pursuant to an agreement made under Subsection (1) may disclose to the victim the results of the alleged sexual offender's human immunodeficiency virus status as provided in this section.

Section 84. Section 53-13-105 is amended to read:

53-13-105. Special function officer.

(1) (a) "Special function officer" means a sworn and certified peace officer performing specialized investigations, service of legal process, security functions, or specialized ordinance, rule, or regulatory functions.

(b) "Special function officer" includes:

(i) state military police;

(ii) constables;

(iii) port-of-entry agents as defined in Section 72-1-102;

(iv) authorized employees or agents of the Department of Transportation assigned to administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;

(v) school district security officers;

(vi) Utah State Hospital security officers designated pursuant to Section [~~62A-15-603~~] 26B-5-303;

(vii) Utah State Developmental Center security officers designated pursuant to [~~Subsection 62A-5-206(8)~~] Section 26B-6-506;

(viii) fire arson investigators for any political subdivision of the state;

(ix) ordinance enforcement officers employed by municipalities or counties may be special function officers;

(x) employees of the Department of Natural Resources who have been designated to conduct supplemental enforcement functions as a collateral duty;

(xi) railroad special agents deputized by a county sheriff under Section 17-30-2 or 17-30a-104, or appointed pursuant to Section 56-1-21.5;

(xii) auxiliary officers, as described by Section 53-13-112;

(xiii) special agents, process servers, and investigators employed by city attorneys;

(xiv) criminal tax investigators designated under Section 59-1-206; and

(xv) all other persons designated by statute as having special function officer authority or limited peace officer authority.

(2) (a) A special function officer may exercise that spectrum of peace officer authority that has been designated by statute to the employing agency, and only while on duty, and not for the purpose of general law enforcement.

(b) If the special function officer is charged with security functions respecting facilities or property, the powers may be exercised only in connection with acts occurring on the property where the officer is employed or when required for the protection of the employer's interest, property, or employees.

(c) A special function officer may carry firearms only while on duty, and only if authorized and under conditions specified by the officer's employer or chief administrator.

(3) (a) A special function officer may not exercise the authority of a special function officer until:

(i) the officer has satisfactorily completed an approved basic training program for special function officers as provided under Subsection (4); and

(ii) the chief law enforcement officer or administrator has certified this fact to the director of the division.

(b) City and county constables and their deputies shall certify their completion of training to the legislative governing body of the city or county they serve.

(4) (a) The agency that the special function officer serves may establish and maintain a basic special function course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall consist of no fewer than 40 hours per year and may be conducted by the agency's own staff or by other agencies.

(5) (a) An individual shall be 19 years old or older before being certified or employed as a special function officer.

(b) A special function officer who is under 21 years old may only work as a correctional officer in accordance with Section 53-13-104.

Section 85. Section 53-13-110 is amended to read:

53-13-110. Duties to investigate specified instances of abuse or neglect.

In accordance with the requirements of Section 80-2-703, law enforcement officers shall investigate alleged instances of abuse or neglect of a child that occur while the child is in the custody of the Division of Child and Family Services, within the Department of Health and Human Services.

Section 86. Section 53-21-101 is amended to read:

53-21-101. Definitions.

As used in this chapter:

(1) "Crime scene investigator technician" means an individual employed by a law enforcement agency to collect and analyze evidence from crime scenes and crime-related incidents.

(2) "Department" means the Department of Public Safety.

(3) "First responder" means:

(a) a law enforcement officer, as defined in Section 53-13-103;

(b) an emergency medical technician, as defined in Section [~~26-8c-102~~] 26B-4-137;

(c) an advanced emergency medical technician, as defined in Section [~~26-8c-102~~] 26B-4-137;

(d) a paramedic, as defined in Section [~~26-8c-102~~] 26B-4-137;

(e) a firefighter, as defined in Section 34A-3-113;

(f) a dispatcher, as defined in Section 53-6-102;

(g) a correctional officer, as defined in Section 53-13-104;

(h) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(i) a search and rescue worker under the supervision of a local sheriff;

(j) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

(k) a crime scene investigator technician; or

(l) a wildland firefighter.

(4) "First responder agency" means a local district, municipality, interlocal entity, or other political subdivision that employs a first responder to provide fire protection, paramedic, law enforcement, or emergency services.

(5) "Mental health resources" means:

(a) an assessment to determine appropriate mental health treatment that is performed by a mental health therapist;

(b) outpatient mental health treatment provided by a mental health therapist; or

(c) peer support services provided by a peer support specialist who is qualified to provide peer support services under Subsection [~~62A-15-103(2)(h)~~] 26B-5-102(2)(h).

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Plan" means a plan to implement or expand a program that provides mental health resources to first responders for which the division awards a grant under this chapter.

Section 87. Section 53B-1-111 is amended to read:

53B-1-111. Organ donation notification.

(1) As used in this section:

(a) "Donor" means the same as that term is defined in Section [~~26-28-102~~] 26B-4-137.

(b) "Donor registry" means the same as that term is defined in Section [~~26-28-102~~] 26B-4-137.

(c) "Institution of higher education" means an institution as described in Section 53B-3-102.

(2) (a) An institution of higher education shall distribute, twice each academic year to each enrolled student:

(i) an electronic message notifying each student of the option to register as a donor by selecting the Internet link described in Subsection (2)(a)(ii); and

(ii) through the electronic message described in Subsection (2)(a)(i) an Internet link to a website for a donor registry established under Section [~~26-28-120~~] 26B-8-319.

(b) An institution of higher education may also provide to students information on donor registry by other electronic, printed, or in-person means.

Section 88. Section 53B-17-301 is amended to read:

53B-17-301. Unclaimed dead bodies -- Notice to school of medicine at the University of Utah -- Preservation of dead bodies.

(1) A county shall, within 24 hours after assuming custody of an unclaimed body for which the county is required to provide burial under Section [~~26-4-25~~] 26B-8-225, provide notice of the county's custody of the body to the dean of the school of medicine at the University of Utah.

(2) The notice described in Subsection (1) shall specify the body's probable cause of death.

(3) Subject to Section [~~26-4-25~~] 26B-8-225, the county shall, at the request of the dean of the school of medicine at the University of Utah, forward the body to the university, at the university's expense, within 24 hours of receiving the dean's request.

(4) The school of medicine at the University of Utah shall, for a body it receives under Subsection (3):

(a) properly embalm and preserve the body for at least 60 days; and

(b) upon request, release the body to a person with priority to control the disposition of the body under Section 58-9-602.

Section 89. Section 53B-17-903 is amended to read:

53B-17-903. Education in pain treatment.

The University of Utah School of Medicine shall ensure that any licensed physicians who oversee fellowship training to specialize in pain treatment are qualified medical providers, as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

Section 90. Section 53B-17-1203 is amended to read:

53B-17-1203. SafeUT and School Safety Commission established -- Members.

(1) There is created the SafeUT and School Safety Commission composed of the following members:

(a) one member who represents the Office of the Attorney General, appointed by the attorney general;

(b) one member who represents the Utah public education system, appointed by the State Board of Education;

(c) one member who represents the Utah system of higher education, appointed by the board;

(d) one member who represents the [~~Utah~~] Department of Health and Human Services, appointed by the executive director of the Department of Health and Human Services;

(e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(f) one member of the Senate, appointed by the president of the Senate;

(g) one member who represents the University Neuropsychiatric Institute, appointed by the chair of the commission;

(h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;

(i) one member who represents the [~~Utah~~] Department of Health and Human Services who has experience in youth services or treatment services, appointed by the executive director of the Department of Health and Human Services; and

(j) two members of the public, appointed by the chair of the commission.

(2) (a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.

(b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.

(3) (a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

(4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(5) Formal action by the commission requires a majority vote of a quorum.

(6) (a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The Office of the Attorney General shall provide staff support to the commission.

Section 91. Section 53B-26-202 is amended to read:

53B-26-202. Nursing initiative -- Reporting requirements -- Proposals -- Funding.

(1) Every even-numbered year, the Utah Health Workforce Information Center created in Section [~~26-69-301~~] 26B-4-705 shall:

(a) project the demand, by license classification, for individuals to enter a nursing profession in each region;

(b) receive input from at least one medical association in developing the projections described in Subsection (1)(a); and

(c) report the projections described in Subsection (1)(a) to:

(i) the board; and

(ii) the Higher Education Appropriations Subcommittee.

(2) To receive funding under this section, on or before January 5, an eligible program shall submit to the Higher Education Appropriations Subcommittee, through the budget process for the board, as applicable, a proposal that describes:

(a) a program of instruction offered by the eligible program that is responsive to a projection described in Subsection (1)(a);

(b) the following information about the eligible program:

(i) expected student enrollment;

(ii) attainment rates;

(iii) job placement rates; and

(iv) passage rates for exams required for licensure for a nursing profession;

(c) the instructional cost per full-time equivalent student enrolled in the eligible program;

(d) financial or in-kind contributions to the eligible program from:

(i) the health care industry; or

(ii) an institution; and

(e) a funding request, including justification for the request.

(3) The Higher Education Appropriations Subcommittee shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal:

(A) contains the elements described in Subsection (2);

(B) expands the capacity to meet the projected demand described in Subsection (1)(a); and

(C) has health care industry or institution support; and

(ii) the program of instruction described in the proposal:

(A) is cost effective;

(B) has support from the health care industry or an institution; and

(C) has high passage rates on exams required for licensure for a nursing profession;

(b) determine the extent to which to fund the proposal; and

(c) make an appropriation recommendation to the Legislature on the amount of money determined under Subsection (3)(b) to the eligible program's institution.

(4) An institution that receives funding under this section shall use the funding to increase the number of students enrolled in the eligible program for which the institution receives funding.

(5) On or before November 1 of each year, the board shall report to the Higher Education Appropriations Subcommittee on the elements described in Subsection (2) for each eligible program funded under this section.

Section 92. Section 53B-28-202 is amended to read:

53B-28-202. Confidentiality of information -- Disclosure of confidential communication.

(1) Except as provided in Subsection (2), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a person may not disclose a confidential communication.

(2) A person may disclose a confidential communication if:

(a) the victim gives written and informed consent to the disclosure;

(b) the person has an obligation to disclose the confidential communication under Section [~~62A-3-305~~] 26B-6-205, 80-2-602, or 78B-3-502;

(c) the disclosure is required by federal law; or

(d) a court of competent jurisdiction orders the disclosure.

Section 93. Section 53B-28-303 is amended to read:

53B-28-303. Institution engagement with a law enforcement agency -- Articulable and significant threat -- Notification to victim.

(1) (a) An institution shall keep confidential from a law enforcement agency a covered allegation reported to the institution by the victim of the covered allegation.

(b) Notwithstanding Subsection (1)(a), an institution may engage with a law enforcement agency in response to a covered allegation described in Subsection (1)(a):

(i) if the victim consents to the institution engaging with the law enforcement agency; or

(ii) in accordance with Subsection (2).

(2) (a) Subject to Subsection (3), an institution that receives a report described in Subsection (1)(a) may engage with a law enforcement agency in response to the covered allegation if the institution determines, in accordance with Subsection (2)(b), that the information in the covered allegation creates an articulable and significant threat to individual or campus safety at the institution.

(b) To determine whether the information in a covered allegation creates an articulable and significant threat described in Subsection (2)(a), the institution shall consider, if the information is known to the institution, at least the following factors:

(i) whether the circumstances of the covered allegation suggest an increased risk that the alleged perpetrator will commit an additional act of sexual violence or other violence;

(ii) whether the alleged perpetrator has an arrest history that indicates a history of sexual violence or other violence;

(iii) whether records from the alleged perpetrator's previous postsecondary institution indicate that the alleged perpetrator has a history of sexual violence or other violence;

(iv) whether the alleged perpetrator is alleged to have threatened further sexual violence or other violence against the victim or another individual;

(v) whether the act of sexual violence was committed by more than one alleged perpetrator;

(vi) whether the circumstances of the covered allegation suggest there is an increased risk of

future acts of sexual violence under similar circumstances;

(vii) whether the act of sexual violence was perpetrated with a weapon; and

(viii) the age of the victim.

(3) An institution shall:

(a) before engaging with a law enforcement agency in accordance with Subsection (2), provide notice to the victim of the following:

(i) the institution's intent to engage with a law enforcement agency;

(ii) the law enforcement agency with which the institution intends to engage; and

(iii) the reason the institution made the determination described in Subsection (2); and

(b) in engaging with a law enforcement agency under Subsection (2):

(i) maintain the confidentiality of the victim; and

(ii) disclose the minimum information required to appropriately address the threat described in Subsection (2)(a).

(4) Nothing in this section supersedes:

(a) an obligation described in Section [~~62A-3-305~~] 26B-6-205, 80-2-602, or 78B-3-502; or

(b) a requirement described in Part 2, Confidential Communications for Institutional Advocacy Services Act.

Section 94. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-2-522 regarding mental health screening programs;

(l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(m) the report described in Section 53F-4-407 by the state board on UPSTART;

(n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(p) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

(q) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(r) the report described in Section 53G-7-221 by the State Board of Education regarding innovation plans; and

(s) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(d) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(e) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(g) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(h) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(i) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

(j) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

(k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

(l) the report described in Section [~~62A-15-117~~] 26B-5-113 by the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health, the State Board of Education, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 95. Section 53E-3-503 is amended to read:

53E-3-503. Education of individuals in custody of or receiving services from certain state agencies -- Establishment of coordinating council -- Advisory councils.

(1) (a) The state board is directly responsible for the education of all individuals who are:

(i) (A) younger than 21 years old; or

(B) eligible for special education services as described in Chapter 7, Part 2, Special Education Program; and

(ii) (A) receiving services from the Department of Health and Human Services;

(B) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent resides within the state; or

(C) being held in a juvenile detention facility.

(b) The state board shall:

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the distribution of funds for the education of individuals described in Subsection (1)(a); and

(ii) expend funds appropriated for the education of youth in custody in the following order of priority:

(A) for students in a facility described in Subsection (1)(a)(ii) who are not included in an LEA's average daily membership; and

(B) for students in a facility described in Subsection (1)(a)(ii) who are included in an LEA's average daily membership and who may benefit from additional educational support services.

(c) Subject to future budget constraints, the amount appropriated for the education of youth in custody under this section shall increase annually based on the following:

(i) the percentage of enrollment growth of students in kindergarten through grade 12; and

(ii) changes to the value of the weighted pupil unit as defined in Section 53F-4-301.

(2) Subsection (1)(a)(ii)(B) does not apply to an individual taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.

(3) The state board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the state board shall retain responsibility for the programs.

(4) The Legislature shall establish and maintain separate education budget categories for youth in custody or who are under the jurisdiction of the following state agencies:

(a) detention centers and the Divisions of Juvenile Justice and Youth Services and Child and Family Services;

(b) the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health; and

(c) the Division of Services for People with Disabilities.

(5) (a) The Department of Health and Human Services and the state board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice and Youth Services and the Division of Child and Family Services.

(b) The Department of Health and Human Services and the state board may appoint similar councils for those in the custody of the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health or the Division of Services for People with Disabilities.

(6) A school district contracting to provide services under Subsection (3) shall establish an

advisory council to plan, coordinate, and review education and treatment programs for individuals held in custody in the district.

Section 96. Section 53E-8-405 is amended to read:

53E-8-405. Collaboration with Department of Health and Human Services.

The Utah Schools for the Deaf and the Blind shall collaborate with the Department of Health and Human Services to provide services to children with disabilities who are younger than three years [~~of age~~] old in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

Section 97. Section 53E-8-408 is amended to read:

53E-8-408. Educational services for an individual with a hearing loss.

(1) Subject to Subsection (2), the Utah Schools for the Deaf and the Blind shall provide educational services to an individual:

(a) who seeks to receive the educational services; and

(b) (i) whose results of a test for hearing loss are reported to the Utah Schools for the Deaf and the Blind in accordance with Section [~~26-10-6~~] 26B-4-319 or [~~26-10-13~~] 26B-4-323; or

(ii) who has been diagnosed with a hearing loss by a physician or an audiologist.

(2) If the individual who will receive the services described in Subsection (1) is a minor, the Utah Schools for the Deaf and the Blind may not provide the services to the individual until after receiving permission from the individual's parent.

Section 98. Section 53E-9-301 is amended to read:

53E-9-301. Definitions.

As used in this part:

(1) "Adult student" means a student who:

(a) is at least 18 years old;

(b) is an emancipated student; or

(c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.

(2) "Aggregate data" means data that:

(a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;

(b) do not reveal personally identifiable student data; and

(c) are collected in accordance with state board rule.

(3) (a) "Biometric identifier" means a:

(i) retina or iris scan;

(ii) fingerprint;

(iii) human biological sample used for valid scientific testing or screening; or

(iv) scan of hand or face geometry.

(b) "Biometric identifier" does not include:

(i) a writing sample;

(ii) a written signature;

(iii) a voiceprint;

(iv) a photograph;

(v) demographic data; or

(vi) a physical description, such as height, weight, hair color, or eye color.

(4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:

(a) based on an individual's biometric identifier; and

(b) used to identify the individual.

(5) "Data breach" means an unauthorized release of or unauthorized access to personally identifiable student data that is maintained by an education entity.

(6) "Data governance plan" means an education entity's comprehensive plan for managing education data that:

(a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;

(b) describes the role, responsibility, and authority of an education entity data governance staff member;

(c) provides for necessary technical assistance, training, support, and auditing;

(d) describes the process for sharing student data between an education entity and another person;

(e) describes the education entity's data expungement process, including how to respond to requests for expungement;

(f) describes the data breach response process; and

(g) is published annually and available on the education entity's website.

(7) "Education entity" means:

(a) the state board;

(b) a local school board;

(c) a charter school governing board;

(d) a school district;

(e) a charter school; or

(f) the Utah Schools for the Deaf and the Blind.

(8) "Expunge" means to seal or permanently delete data, as described in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under Section 53E-9-306.

(9) "General audience application" means an Internet website, online service, online application, mobile application, or software program that:

(a) is not specifically intended for use by an audience member that attends kindergarten or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from 1 to 12; and

(b) is not subject to a contract between an education entity and a third-party contractor.

(10) "Local education agency" or "LEA" means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

(11) "Metadata dictionary" means a record that:

(a) defines and discloses all personally identifiable student data collected and shared by the education entity;

(b) comprehensively lists all recipients with whom the education entity has shared personally identifiable student data, including:

(i) the purpose for sharing the data with the recipient;

(ii) the justification for sharing the data, including whether sharing the data was required by federal law, state law, or a local directive; and

(iii) how sharing the data is permitted under federal or state law; and

(c) without disclosing personally identifiable student data, is displayed on the education entity's website.

(12) "Necessary student data" means data required by state statute or federal law to conduct the regular activities of an education entity, including:

(a) name;

(b) date of birth;

(c) sex;

(d) parent contact information;

(e) custodial parent information;

(f) contact information;

(g) a student identification number;

(h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;

(i) courses taken and completed, credits earned, and other transcript information;

(j) course grades and grade point average;

(k) grade level and expected graduation date or graduation cohort;

(l) degree, diploma, credential attainment, and other school exit information;

(m) attendance and mobility;

(n) drop-out data;

(o) immunization record or an exception from an immunization record;

(p) race;

(q) ethnicity;

(r) tribal affiliation;

(s) remediation efforts;

(t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening described in Section 53G-9-404;

(u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section [~~26-7-4~~] 26B-7-115;

(v) student injury information;

(w) a disciplinary record created and maintained as described in Section 53E-9-306;

(x) juvenile delinquency records;

(y) English language learner status; and

(z) child find and special education evaluation data related to initiation of an IEP.

(13) (a) "Optional student data" means student data that is not:

(i) necessary student data; or

(ii) student data that an education entity may not collect under Section 53E-9-305.

(b) "Optional student data" includes:

(i) information that is:

(A) related to an IEP or needed to provide special needs services; and

(B) not necessary student data;

(ii) biometric information; and

(iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.

(14) "Parent" means:

(a) a student's parent;

(b) a student's legal guardian; or

(c) an individual who has written authorization from a student's parent or legal guardian to act as a parent or legal guardian on behalf of the student.

(15) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.

(b) "Personally identifiable student data" includes:

(i) a student's first and last name;

(ii) the first and last name of a student's family member;

(iii) a student's or a student's family's home or physical address;

(iv) a student's email address or other online contact information;

(v) a student's telephone number;

(vi) a student's social security number;

(vii) a student's biometric identifier;

(viii) a student's health or disability data;

(ix) a student's education entity student identification number;

(x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

(16) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.

(17) (a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

(18) "Student data manager" means:

(a) the state student data officer; or

(b) an individual designated as a student data manager by an education entity under Section 53E-9-303, who fulfills the duties described in Section 53E-9-308.

(19) (a) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or student data.

(b) "Targeted advertising" does not include advertising to a student:

(i) at an online location based upon that student's current visit to that location; or

(ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

(20) "Third-party contractor" means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

(21) "Written consent" means written authorization to collect or share a student's student data, from:

(a) the student's parent, if the student is not an adult student; or

(b) the student, if the student is an adult student.

Section 99. Section 53E-9-307 is amended to read:

53E-9-307. Securing and cataloguing student data.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(1) using reasonable data industry best practices, prescribe the maintenance and protection of stored student data by:

(a) an education entity;

(b) the Utah Registry of Autism and Developmental Disabilities, described in Section [~~26-7-4~~] 26B-7-115, for student data obtained under Section 53E-9-308; and

(c) a third-party contractor; and

(2) state requirements for an education entity's metadata dictionary.

Section 100. Section 53E-9-308 is amended to read:

53E-9-308. Sharing student data -- Prohibition -- Requirements for student data manager -- Authorized student data sharing.

(1) (a) Except as provided in Subsection (1)(b), an education entity, including a student data manager, may not share personally identifiable student data without written consent.

(b) An education entity, including a student data manager, may share personally identifiable student data:

(i) in accordance with the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h;

(ii) as required by federal law; and

(iii) as described in Subsections (3), (5), and (6).

(2) A student data manager shall:

(a) authorize and manage the sharing, outside of the student data manager's education entity, of personally identifiable student data for the education entity as described in this section;

(b) act as the primary local point of contact for the state student data officer described in Section 53E-9-302; and

(c) fulfill other responsibilities described in the data governance plan of the student data manager's education entity.

(3) A student data manager may share a student's personally identifiable student data with a caseworker or representative of the Department of Health and Human Services if:

(a) the Department of Health and Human Services is:

(i) legally responsible for the care and protection of the student, including the responsibility to investigate a report of educational neglect, as provided in Subsection 80-2-701(5); or

(ii) providing services to the student;

(b) the student's personally identifiable student data is not shared with a person who is not authorized:

(i) to address the student's education needs; or

(ii) by the Department of Health and Human Services to receive the student's personally identifiable student data; and

(c) the Department of Health and Human Services maintains and protects the student's personally identifiable student data.

(4) The Department of Health and Human Services, a school official, or the Utah Juvenile Court may share personally identifiable student data to improve education outcomes for youth:

(a) in the custody of, or under the guardianship of, the Department of Health and Human Services;

(b) receiving services from the Division of Juvenile Justice and Youth Services;

(c) in the custody of the Division of Child and Family Services;

(d) receiving services from the Division of Services for People with Disabilities; or

(e) under the jurisdiction of the Utah Juvenile Court.

(5) (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.

(b) A person who receives personally identifiable student data under Subsection (5)(a) may not use the personally identifiable student data outside of the use described in the subpoena.

(6) (a) A student data manager may share student data, including personally identifiable student data, in response to a request to share student data for the purpose of research or evaluation, if the student data manager:

(i) verifies that the request meets the requirements of 34 C.F.R. Sec. 99.31(a)(6);

(ii) submits the request to the education entity's research review process; and

(iii) fulfills the instructions that result from the review process.

(b) (i) In accordance with state and federal law, and subject to Subsection (6)(b)(ii), the state board shall share student data, including personally identifiable student data, as requested by the Utah Registry of Autism and Developmental Disabilities described in Section [~~26-7-4~~] 26B-7-115.

(ii) (A) At least 30 days before the state board shares student data in accordance with Subsection (6)(b)(i), the education entity from which the state board received the student data shall provide notice to the parent of each student for which the state board intends to share student data.

(B) The state board may not, for a particular student, share student data as described in Subsection (6)(b)(i) if the student's parent requests that the state board not share the student data.

(iii) A person who receives student data under Subsection (6)(b)(i):

(A) shall maintain and protect the student data in accordance with state board rule described in Section 53E-9-307;

(B) may not use the student data for a purpose not described in Section [~~26-7-4~~] 26B-7-115; and

(C) is subject to audit by the state student data officer described in Section 53E-9-302.

Section 101. Section 53F-2-415 is amended to read:

53F-2-415. Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking.

(1) As used in this section:

(a) "Qualifying personnel" means a school counselor or other counselor, school psychologist or other psychologist, school social worker or other social worker, or school nurse who:

(i) is licensed; and

(ii) collaborates with educators and a student's parent on:

(A) early identification and intervention of the student's academic and mental health needs; and

(B) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

(b) "Telehealth services" means the same as that term is defined in Section [~~26-60-102~~] 26B-4-704.

(2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide in a school targeted school-based mental health support, including clinical services and trauma-informed care, through:

(i) employing qualifying personnel; or

(ii) entering into contracts for services provided by qualifying personnel, including telehealth services.

(b) (i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school culture, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3):

(a) based on the formula described in Subsection (2)(b); and

(b) if the state board approves the LEA's plan before April 1, 2020, in an amount of money that the LEA equally matches using local money, unrestricted state money, or money distributed to the LEA under Section 53G-7-1303.

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to:

(a) employ qualifying personnel; or

(b) enter into contracts for services provided by qualified personnel, including telehealth services.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position, the LEA's reason for discontinuing the position; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to:

(a) 2% of an appropriation under this section for costs related to the administration of the provisions of this section; and

(b) $1,500,000 in nonlapsing balances from fiscal year 2022 for the purposes described in this section to provide scholarships for up to four years to certain LEA employees, as defined by the state board, for education and training to become a school social worker, a school psychologist, or other school-based mental health worker.

(10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:

(a) the SafeUT Crisis Line described in Section 53B-17-1202; or

(b) youth suicide prevention programs described in Section 53G-9-702.

Section 102. Section 53F-2-522 is amended to read:

53F-2-522. Public education mental health screening.

(1) As used in this section:

(a) "Division" means the Division of [~~Substance Abuse and Mental Health.~~] Integrated Healthcare within the Department of Health and Human Services.

(b) "Participating LEA" means an LEA that has an approved screening program described in this section.

(c) "Participating student" means a student in a participating LEA who participates in a mental health screening program.

(d) "Qualifying parent" means a parent:

(i) of a participating student who, based on the results of a screening program, would benefit from resources that cannot be provided to the participating student in the school setting; and

(ii) who qualifies for financial assistance to pay for the resources under rules made by the state board.

(e) "Screening program" means a student mental health screening program selected by a participating LEA and approved by the state board in consultation with the division.

(2) A participating LEA may implement a mental health screening for participating students using an evidence-based screening program.

(3) The state board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) a process for a participating LEA to submit a selected screening program to the state board for approval;

(ii) in accordance with Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, who may access and use a participating student's screening data; and

(iii) a requirement and a process for appropriate LEA or school personnel to attend annual training related to administering the screening program;

(b) in consultation with the division, approve an evidence-based student mental health screening program selected by a participating LEA that:

(i) is age appropriate for each grade in which the screening program is administered;

(ii) screens for the mental health conditions determined by the state board and division; and

(iii) is an effective tool for identifying whether a student has a mental health condition that requires intervention; and

(c) on or before November 30 of each year, submit a report on the screening programs to:

(i) the State Suicide Prevention Coalition created under Subsection [~~62A-15-1101(2)~~] 26B-5-611(2); and

(ii) the Education Interim Committee in accordance with Section 53E-1-201.

(4) A participating LEA shall:

(a) in accordance with rules made by the state board under Subsection (3)(a), submit a selected screening program to the state board for approval;

(b) administer a screening program to participating students in the participating LEA;

(c) obtain prior written consent from a student's parent, that complies with Section 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, before the participating LEA administers the screening program to a participating student; and

(d) if results of a participating student's screening indicate a potential mental health condition, notify the parent of the participating student of:

(i) the participating student's results; and

(ii) resources available to the participating student, including any services that can be provided by the school mental health provider or by a partnering entity.

(5) (a) Within appropriations made by the Legislature for this purpose, the state board may distribute funds to a participating LEA to use to assist a qualifying parent to pay for resources described in Subsection (4)(d)(ii) that cannot be provided by a school mental health professional in the school setting.

(b) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(i) determining whether a parent is eligible to receive the financial support described in Subsection (5)(a); and

(ii) applying for and distributing the financial support described in Subsection (5)(a).

(6) A school employee trained in accordance with rules made by the state board under Subsection (3)(a)(iii), who administers an approved mental health screening in accordance with this section in good faith, is not liable in a civil action for an act taken or not taken under this section.

Section 103. Section 53F-4-401 is amended to read:

53F-4-401. Definitions.

As used in this part:

(1) "Contractor" means the educational technology provider selected by the state board under Section 53F-4-402.

(2) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(3) "Preschool child" means a child who is:

(a) four or five years old; and

(b) not eligible for enrollment under Subsection 53G-4-402(6).

(4) (a) "Private preschool provider" means a child care program that:

(i) (A) is licensed under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing; or

(B) except as provided in Subsection (4)(b)(ii), is exempt from licensure under Section [~~26-39-403~~] 26B-2-405; and

(ii) meets other criteria as established by the state board, consistent with Utah Constitution, Article X, Section 1.

(b) "Private preschool provider" does not include:

(i) a residential certificate provider described in Section [~~26-39-402~~] 26B-2-404; or

(ii) a program exempt from licensure under Subsection [~~26-39-403(2)(c)~~] 26B-2-405(2)(c).

(5) "Public preschool" means a preschool program that is provided by a school district or charter school.

(6) "Qualifying participant" means a preschool child who:

(a) resides within the boundaries of a qualifying school as determined under Section 53G-6-302; or

(b) is enrolled in a qualifying preschool.

(7) "Qualifying preschool" means a public preschool or private preschool provider that:

(a) serves preschool children covered by child care subsidies funded by the Child Care and Development Block Grant Program authorized under 42 U.S.C. Secs. 9857-9858r;

(b) participates in a federally assisted meal program that provides funds to licensed child care centers as authorized under Section 53E-3-501; or

(c) is located within the boundaries of a qualifying school.

(8) "Qualifying school" means a school district elementary school that:

(a) has at least 50% of students who were eligible to receive free or reduced lunch the previous school year;

(b) is a school with a high percentage, as determined by the Department of Workforce Services through rule and based on the previous school year enrollments, of students experiencing intergenerational poverty; or

(c) is located in one of the following school districts:

(i) Beaver School District;

(ii) Carbon School District;

(iii) Daggett School District;

(iv) Duchesne School District;

(v) Emery School District;

(vi) Garfield School District;

(vii) Grand School District;

(viii) Iron School District;

(ix) Juab School District;

(x) Kane School District;

(xi) Millard School District;

(xii) Morgan School District;

(xiii) North Sanpete School District;

(xiv) North Summit School District;

(xv) Piute School District;

(xvi) Rich School District;

(xvii) San Juan School District;

(xviii) Sevier School District;

(xix) South Sanpete School District;

(xx) South Summit School District;

(xxi) Tintic School District;

(xxii) Uintah School District; or

(xxiii) Wayne School District.

(9) "UPSTART" means the project established by Section 53F-4-402 that uses a home-based educational technology program to develop school readiness skills of preschool children.

Section 104. Section 53F-5-207 is amended to read:

53F-5-207. Intergenerational Poverty Interventions Grant Program -- Definitions -- Grant requirements -- Reporting requirements.

(1) As used in this section:

(a) "Eligible student" means a student who is classified as a child affected by intergenerational poverty.

(b) "Intergenerational poverty" has the same meaning as in Section 35A-9-102.

(c) "LEA governing board" means a local school board or a charter school governing board.

(d) "Local education agency" or "LEA" means a school district or charter school.

(e) "Program" means the Intergenerational Poverty Interventions Grant Program created in Subsection (2).

(2) The Intergenerational Poverty Interventions Grant Program is created to provide grants to eligible LEAs to fund additional educational opportunities at eligible LEAs, for eligible students, outside of the regular school day offerings.

(3) Subject to future budget constraints, the state board shall distribute to LEAs money appropriated for the program in accordance with this section.

(4) The state board shall:

(a) solicit proposals from LEA governing boards to receive money under the program; and

(b) award grants to an LEA governing board on behalf of an LEA based on criteria described in Subsection (5).

(5) In awarding a grant under Subsection (4), the state board shall consider:

(a) the percentage of an LEA's students that are classified as children affected by intergenerational poverty;

(b) the level of administrative support and leadership at an eligible LEA to effectively implement, monitor, and evaluate the program; and

(c) an LEA's commitment and ability to work with the Department of Workforce Services, the Department of Health and Human Services, [~~the Department of Human Services,~~] and the juvenile courts to provide services to the LEA's eligible students.

(6) To receive a grant under the program on behalf of an LEA, an LEA governing board shall submit a proposal to the state board detailing:

(a) the LEA's strategy to implement the program, including the LEA's strategy to improve the academic achievement of children affected by intergenerational poverty;

(b) the LEA's strategy for coordinating with and engaging the Department of Workforce Services to provide services for the LEA's eligible students;

(c) the number of students the LEA plans to serve, categorized by age and intergenerational poverty status;

(d) the number of students, eligible students, and schools the LEA plans to fund with the grant money; and

(e) the estimated cost per student.

(7) (a) The state board shall annually prepare, for inclusion in the State Superintendent's Annual Report described in Section 53E-1-203, a report on:

(i) the progress of LEA programs using grant money;

(ii) the progress of LEA programs in improving the academic achievement of children affected by intergenerational poverty; and

(iii) the LEA's coordination efforts with the Department of Workforce Services, the Department of Health and Human Services, [~~the Department of Human Services,~~] and the juvenile courts.

(b) The state board shall provide the report described in Subsection (7)(a) to the Education Interim Committee upon request.

(c) An LEA that receives grant money pursuant to this section shall provide to the state board information that is necessary for the state board's report described in Subsection (7)(a).

(8) The state board may use up to 8.5% of the money appropriated for the program in accordance with this section for administration and evaluation of the program.

Section 105. Section 53G-6-302 is amended to read:

53G-6-302. Child's school district of residence -- Determination -- Responsibility for providing educational services.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(b) "Human services program" means the same as that term is defined in Section [~~62A-2-101~~] 26B-2-101.

(c) "Supervision" means a minor child is:

(i) receiving services from a state agency, local mental health authority, or substance abuse authority with active involvement or oversight; and

(ii) engaged in a human services program that is properly licensed or certified and has provided the school district receiving the minor child with an education plan that complies with the requirements of Section [~~62A-2-108.1~~] 26B-2-116.

(2) The school district of residence of a minor child whose custodial parent resides within Utah is:

(a) the school district in which the custodial parent resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency, local mental health authority, or substance abuse authority;

(ii) while under the supervision of a private or public agency which is in compliance with Section [~~62A-2-127~~] 26B-2-131 and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the state board;

(iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the state board; or

(v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.

(3) A minor child whose custodial parent does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the state board, if:

(a) the child is married or an emancipated minor under Subsection (2)(b)(v);

(b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53G-6-303;

(c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the policies of the school and school district in which attendance is sought; or

(d) it is established to the satisfaction of the local school board that:

(i) the child's parent moves from the state;

(ii) the child's parent executes a power of attorney under Section 75-5-103 that:

(A) meets the requirements of Subsection (4); and

(B) delegates powers regarding care, custody, or property, including schooling, to a responsible adult with whom the child resides;

(iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the district;

(iv) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(v) the child is prepared to abide by the policies of the school and school district in which attendance is sought; and

(vi) the child's attendance in the school will not be detrimental to the school or school district.

(4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees or other charges relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(5) A power of attorney does not confer legal guardianship.

(6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

Section 106. Section 53G-6-601 is amended to read:

53G-6-601. Definitions.

As used in this part:

(1) "Division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(2) "Missing child" has the same meaning as provided in Section [~~26-2-27~~] 26B-8-130.

(3) "State registrar" means the State Registrar of Vital Statistics within the Department of Health and Human Services.

Section 107. Section 53G-8-802 is amended to read:

53G-8-802. State Safety and Support Program -- State board duties -- LEA duties.

(1) There is created the State Safety and Support Program.

(2) The state board shall:

(a) develop in conjunction with the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health model student safety and support policies for an LEA, including:

(i) evidence-based procedures for the assessment of and intervention with an individual whose behavior poses a threat to school safety;

(ii) procedures for referrals to law enforcement; and

(iii) procedures for referrals to a community services entity, a family support organization, or a health care provider for evaluation or treatment;

(b) provide training:

(i) in school safety;

(ii) in evidence-based approaches to improve school climate and address and correct bullying behavior;

(iii) in evidence-based approaches in identifying an individual who may pose a threat to the school community;

(iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness;

(v) on permitted disclosures of student data to law enforcement and other support services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

(vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections 53E-9-203 and 53E-9-305; and

(vii) for administrators on rights and prohibited acts under:

(A) Chapter 9, Part 6, Bullying and Hazing;

(B) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.;

(C) Title IX of Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(D) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.; and

(E) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;

(c) conduct and disseminate evidence-based research on school safety concerns;

(d) disseminate information on effective school safety initiatives;

(e) encourage partnerships between public and private sectors to promote school safety;

(f) provide technical assistance to an LEA in the development and implementation of school safety initiatives;

(g) in conjunction with the Department of Public Safety, develop and make available to an LEA a model critical incident response training program that includes protocols for conducting a threat assessment, and ensuring building security during an incident;

(h) provide space for the public safety liaison described in Section 53-1-106 and the school-based mental health specialist described in Section [~~62A-15-103~~] 26B-5-102;

(i) create a model school climate survey that may be used by an LEA to assess stakeholder perception of a school environment and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:

(i) requiring an LEA to:

(A) create or adopt and disseminate a school climate survey; and

(B) disseminate the school climate survey;

(ii) recommending the distribution method, survey frequency, and sample size of the survey; and

(iii) specifying the areas of content for the school climate survey; and

(j) collect aggregate data and school climate survey results from each LEA.

(3) Nothing in this section requires an individual to respond to a school climate survey.

(4) The state board shall require an LEA to:

(a) (i) review data from the state board-facilitated surveys containing school climate data for each school within the LEA; and

(ii) based on the review described in Subsection (4)(a)(i):

(A) revise practices, policies, and training to eliminate harassment and discrimination in each school within the LEA;

(B) adopt a plan for harassment- and discrimination-free learning; and

(C) host outreach events or assemblies to inform students and parents of the plan adopted under Subsection (4)(a)(ii)(B);

(b) no later than September 1 of each school year, send a notice to each student, parent, and LEA staff member stating the LEA's commitment to maintaining a school climate that is free of harassment and discrimination; and

(c) report to the state board:

(i) no later than August 1, 2023, on the LEA's plan adopted under Subsection (4)(a)(ii)(B); and

(ii) after August 1, 2023, annually on the LEA's implementation of the plan and progress.

Section 108. Section 53G-9-211 is amended to read:

53G-9-211. Therapy animal handling -- Policy.

(1) As used in this section:

(a) "Animal-assisted intervention" means an intervention designed to promote improvement in an individual's physical, social, emotional, or cognitive functioning through interactions with a specially trained animal.

(b) "Local education agency" means a school district or charter school.

(c) (i) "Therapy animal" means an animal that:

(A) provides affection and comfort to an individual for emotional support;

(B) is accompanied by a therapy animal handler; and

(C) is trained to provide animal-assisted intervention.

(ii) "Therapy animal" does not include a service animal or support animal as those terms are defined in Section [~~62A-5b-102~~] 26B-6-801.

(d) "Therapy animal handler" means an individual who is trained to handle a therapy animal for animal-assisted interventions.

(2) (a) If a school within a local education agency provides animal-assisted interventions through therapy animals, the local education agency shall adopt a policy for proper handling of a therapy animal on school grounds.

(b) The policy described in Subsection (2)(a) shall include:

(i) local or national certification or registration requirements for a therapy animal and therapy animal handler;

(ii) guidelines for when a therapy animal and therapy animal handler are allowed on school grounds;

(iii) notice requirements for parents, students, and school faculty and staff regarding the use of a therapy animal on school grounds; and

(iv) guidelines to prevent students and staff who have an animal allergy or are uncomfortable around animals from interacting with a therapy animal on school grounds.

(3) This section does not require a school to allow the use of a therapy animal.

Section 109. Section 53G-9-301 is amended to read:

53G-9-301. Definitions.

As used in this part:

(1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(2) "Health official" means an individual designated by a local health department from within the local health department to consult and counsel parents and licensed health care providers, in accordance with Subsection 53G-9-304(2)(a).

(3) "Health official designee" means a licensed health care provider designated by a local health department, in accordance with Subsection 53G-9-304(2)(b), to consult with parents, licensed health care professionals, and school officials.

(4) "Immunization" or "immunize" means a process through which an individual develops an immunity to a disease, through vaccination or natural exposure to the disease.

(5) "Immunization record" means a record relating to a student that includes:

(a) information regarding each required vaccination that the student has received, including the date each vaccine was administered, verified by:

(i) a licensed health care provider;

(ii) an authorized representative of a local health department;

(iii) an authorized representative of the department;

(iv) a registered nurse; or

(v) a pharmacist;

(b) information regarding each disease against which the student has been immunized by previously contracting the disease; and

(c) an exemption form identifying each required vaccination from which the student is exempt, including all required supporting documentation described in Section 53G-9-303.

(6) "Legally responsible individual" means:

(a) a student's parent;

(b) the student's legal guardian;

(c) an adult brother or sister of a student who has no legal guardian; or

(d) the student, if the student:

(i) is an adult; or

(ii) is a minor who may consent to treatment under Section [~~26-10-9~~] 26B-4-321.

(7) "Licensed health care provider" means a health care provider who is licensed under Title 58, Occupations and Professions, as:

(a) a medical doctor;

(b) an osteopathic doctor;

(c) a physician assistant; or

(d) an advanced practice registered nurse.

(8) "Local health department" means the same as that term is defined in Section 26A-1-102.

(9) "Required vaccines" means vaccines required by department rule described in Section 53G-9-305.

(10) "School" means any public or private:

(a) elementary or secondary school through grade 12;

(b) preschool;

(c) child care program, as that term is defined in Section [~~26-39-102~~] 26B-2-401;

(d) nursery school; or

(e) kindergarten.

(11) "Student" means an individual who attends a school.

(12) "Vaccinating" or "vaccination" means the administration of a vaccine.

(13) "Vaccination exemption form" means a form, described in Section 53G-9-304, that documents and verifies that a student is exempt from the requirement to receive one or more required vaccines.

(14) "Vaccine" means the substance licensed for use by the United States Food and Drug Administration that is injected into or otherwise administered to an individual to immunize the individual against a communicable disease.

Section 110. Section 53G-9-303 is amended to read:

53G-9-303. Grounds for exemption from required vaccines -- Renewal.

(1) A student is exempt from the requirement to receive a vaccine required under Section 53G-9-305 if the student qualifies for a medical or personal exemption from the vaccination under Subsection (2) or (3).

(2) A student qualifies for a medical exemption from a vaccination required under Section 53G-9-305 if the student's legally responsible individual provides to the student's school:

(a) a completed vaccination exemption form; and

(b) a written notice signed by a licensed health care provider stating that, due to the physical condition of the student, administration of the vaccine would endanger the student's life or health.

(3) A student qualifies for a personal exemption from a vaccination required under Section 53G-9-305 if the student's legally responsible individual provides to the student's school a completed vaccination exemption form, stating that the student is exempt from the vaccination because of a personal or religious belief.

(4) (a) A vaccination exemption form submitted under this section is valid for as long as the student remains at the school to which the form first is presented.

(b) If the student changes schools before the student is old enough to enroll in kindergarten, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:

(i) the student enrolls in kindergarten; or

(ii) the student turns six years old.

(c) If the student changes schools after the student is old enough to enroll in kindergarten but before the student is eligible to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:

(i) the student enrolls in grade 7; or

(ii) the student turns 12 years old.

(d) If the student changes schools after the student is old enough to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the student completes grade 12.

(e) Notwithstanding Subsections (4)(b) and (c), a vaccination exemption form obtained through completion of the online education module created in Section [~~26-7-9~~] 26B-7-118 is valid for at least two years.

(5) An LEA that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (1) to participate in an in-person learning option based upon the student's vaccination status.

(6) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

Section 111. Section 53G-9-304 is amended to read:

53G-9-304. Vaccination exemption form.

(1) The department shall:

(a) develop a vaccination exemption form that includes only the following information:

(i) identifying information regarding:

(A) the student to whom an exemption applies; and

(B) the legally responsible individual who claims the exemption for the student and signs the vaccination exemption form;

(ii) an indication regarding the vaccines to which the exemption relates;

(iii) a statement that the claimed exemption is for:

(A) a medical reason; or

(B) a personal or religious belief; and

(iv) an explanation of the requirements, in the event of an outbreak of a disease for which a required vaccine exists, for a student who:

(A) has not received the required vaccine; and

(B) is not otherwise immune from the disease; and

(b) provide the vaccination exemption form created in this Subsection (1) to local health departments.

(2) (a) Each local health department shall designate one or more individuals from within the local health department as a health official to consult, regarding the requirements of this part, with:

(i) parents, upon the request of parents;

(ii) school principals and administrators; and

(iii) licensed health care providers.

(b) A local health department may designate a licensed health care provider as a health official designee to provide the services described in Subsection (2)(a).

(3) (a) To receive a vaccination exemption form described in Subsection (1), a legally responsible individual shall complete the online education module described in Section [~~26-7-9~~] 26B-7-118, permitting an individual to:

(i) complete any requirements online; and

(ii) download and print the vaccine exemption form immediately upon completion of the requirements.

(b) A legally responsible individual may decline to take the online education module and obtain a vaccination exemption form from a local health department if the individual:

(i) requests and receives an in-person consultation at a local health department from a health official or a health official designee regarding the requirements of this part; and

(ii) pays any fees established under Subsection (4)(b).

(4) (a) Neither the department nor any other person may charge a fee for the exemption form offered through the online education module in Subsection (3)(a).

(b) A local health department may establish a fee of up to $25 to cover the costs of providing an in-person consultation.

Section 112. Section 53G-9-402 is amended to read:

53G-9-402. Rules for examinations prescribed by the Department of Health and Human Services -- Notification of impairment.

(1) (a) Each local school board shall implement policies as prescribed by the Department of Health and Human Services for vision, dental, abnormal spinal curvature, and hearing examinations of students attending the district's schools.

(b) Under guidelines of the Department of Health and Human Services, qualified health professionals shall provide instructions, equipment, and materials for conducting the examinations.

(c) The policies shall include exemption provisions for students whose parents contend the examinations violate their personal beliefs.

(2) The school shall notify, in writing, a student's parent of any impairment disclosed by the examinations.

Section 113. Section 53G-9-404 is amended to read:

53G-9-404. Public education vision screening.

(1) As used in this section:

(a) "Health care professional" means an individual licensed under:

(i) Title 58, Chapter 16a, Utah Optometry Practice Act;

(ii) Title 58, Chapter 31b, Nurse Practice Act, if the individual is licensed for the practice of advance practice registered nursing, as defined in Section 58-31b-102;

(iii) Title 58, Chapter 42a, Occupational Therapy Practice Act;

(iv) Title 58, Chapter 67, Utah Medical Practice Act;

(v) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(vi) Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) "Qualifying child" means a child who:

(i) attends an LEA;

(ii) is at least three years old; and

(iii) is not yet 16 years old.

(c) "Tier one vision screening" means a lower-level evaluation of an individual's vision, as determined by Department of Health and Human Services rule.

(d) "Tier two vision screening" means an individual, higher-level evaluation of an individual's vision, as determined by Department of Health and Human Services rule.

(2) The Department of Health and Human Services shall oversee public education vision screening, as described in this section.

(3) A child who is less than nine years old and has not yet attended public school in the state shall, before attending a public school in the state, provide:

(a) a completed vision screening form, described in Subsection (5)(a)(i), that is signed by a health care professional; or

(b) a written statement signed by a parent that the child will not be screened before attending public school in the state.

(4) The Department of Health and Human Services shall prepare and provide:

(a) training for a school nurse who supervises an LEA tier one vision screening clinic; and

(b) an online training module for a potential volunteer for an LEA tier one vision screening clinic.

(5) (a) The Department of Health and Human Services shall provide a template for:

(i) a form for use by a health care professional under Subsection (3)(a) to certify that a child has received an adequate vision screening; and

(ii) a referral form used for the referral and follow up of a qualifying child after a tier one or tier two vision screening.

(b) A template described in Subsection (5)(a) shall include the following statement: "A screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(6) The Department of Health and Human Services shall make rules to:

(a) generally provide for and require the administration of tier one vision screening in accordance with this section, including an opt-out process;

(b) describe standards and procedures for tier one vision screening, including referral and follow up protocols and reporting a student's significant vision impairment results to the Utah Schools for the Deaf and the Blind;

(c) outline the qualifications of and parameters for the use of an outside entity to supervise an LEA tier one vision screening clinic when an LEA does not have a school nurse to supervise an LEA tier one vision screening clinic;

(d) determine when a potential volunteer at an LEA tier one vision screening clinic has a conflict of interest, including if the potential volunteer could profit financially from volunteering;

(e) determine the regularity of tier one vision screening in order to ensure that a qualifying child receives tier one vision screening at particular intervals; and

(f) provide for tier two vision screening for a qualifying child, including:

(i) in coordination with the state board, determining mandatory and optional tier two vision screening for a qualifying child;

(ii) identification of and training for an individual who provides tier two vision screening;

(iii) (A) the creation of a symptoms questionnaire that includes questions for a nonprofessionally trained individual to identify an eye focusing or tracking problem as well as convergence insufficiency of a qualifying child; and

(B) protocol on how to administer the symptoms questionnaire in coordination with tier two vision screening;

(iv) general standards, procedures, referral, and follow up protocol; and

(v) aggregate reporting requirements.

(7) (a) In accordance with Department of Health and Human Services oversight and rule and Subsection (7)(b), an LEA shall conduct free tier one vision screening clinics for all qualifying children who attend the LEA or a school within the LEA.

(b) If the parent of a qualifying child requests that the qualifying child not participate in a tier one or tier two vision screening, an LEA may not require the qualifying child to receive the tier one or tier two vision screening.

(8) (a) Except as provided in Subsection (8)(b), a school nurse shall supervise an LEA tier one vision screening clinic as well as provide referral and followup services.

(b) If an LEA does not have a school nurse to supervise an LEA tier one vision screening clinic, an LEA may, in accordance with Department of Health and Human Services rule, use an outside entity to supervise an LEA tier one vision screening clinic.

(9) (a) An LEA shall ensure that a volunteer who assists with an LEA tier one vision screening clinic:

(i) (A) is trained by a school nurse; or

(B) demonstrates successful completion of the training module described in Subsection (4)(b);

(ii) complies with the requirements of Subsection (9)(c); and

(iii) is supervised by a school nurse or, in accordance with Subsection (8)(b), an outside entity.

(b) In accordance with Department of Health and Human Services rule, an LEA may exclude a person from volunteering at an LEA tier one vision screening clinic if the person has a conflict of interest, including if the person could profit financially from volunteering.

(c) A volunteer who assists with an LEA tier one vision screening clinic may not market, advertise, or promote a business in connection with assisting at the LEA tier one vision screening clinic.

(d) A volunteer who assists with an LEA tier one vision screening clinic is not liable for damages that result from an act or omission related to the LEA tier one vision screening clinic, if the act or omission is not willful or grossly negligent.

Section 114. Section 53G-9-502 is amended to read:

53G-9-502. Administration of medication to students -- Prerequisites -- Immunity from liability -- Applicability.

(1) A public or private school that holds any classes in grades kindergarten through 12 may provide for the administration of medication to any student during periods when the student is under the control of the school, subject to the following conditions:

(a) the local school board, charter school governing board, or the private equivalent, after consultation with the Department of Health and Human Services and school nurses shall adopt policies that provide for:

(i) the designation of volunteer employees who may administer medication;

(ii) proper identification and safekeeping of medication;

(iii) the training of designated volunteer employees by the school nurse;

(iv) maintenance of records of administration; and

(v) notification to the school nurse of medication that will be administered to students; and

(b) medication may only be administered to a student if:

(i) the student's parent has provided a current written and signed request that medication be

administered during regular school hours to the student; and

(ii) the student's licensed health care provider has prescribed the medication and provides documentation as to the method, amount, and time schedule for administration, and a statement that administration of medication by school employees during periods when the student is under the control of the school is medically necessary.

(2) Authorization for administration of medication by school personnel may be withdrawn by the school at any time following actual notice to the student's parent.

(3) School personnel who provide assistance under Subsection (1) in substantial compliance with the licensed health care provider's written prescription and the employers of these school personnel are not liable, civilly or criminally, for:

(a) any adverse reaction suffered by the student as a result of taking the medication; and

(b) discontinuing the administration of the medication under Subsection (2).

(4) Subsections (1) through (3) do not apply to:

(a) the administration of glucagon in accordance with Section 53G-9-504;

(b) the administration of a seizure rescue medication in accordance with Section 53G-9-505; or

(c) the administration of an opiate antagonist in accordance with [~~Title 26, Chapter 55, Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access.

Section 115. Section 53G-9-702 is amended to read:

53G-9-702. Youth suicide prevention programs -- State board to develop model programs.

(1) As used in the section:

(a) "Elementary grades" means:

(i) kindergarten through grade 5; and

(ii) if the associated middle or junior high school does not include grade 6, grade 6.

(b) "Intervention" means an effort to prevent a student from attempting suicide.

(c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Public education suicide prevention coordinator" means an individual designated by the state board as described in Subsection (4).

(f) "Secondary grades" means:

(i) grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, grade 6.

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section [~~62A-15-1101~~] 26B-5-611.

(2) In collaboration with the public education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program, which, in collaboration with the training, programs, and initiatives described in Section 53G-9-607, shall include programs and training to address:

(a) for elementary grades and secondary grades:

(i) life-affirming education, including on the concepts of resiliency, healthy habits, self-care, problem solving, and conflict resolution;

(ii) methods of strengthening the family; and

(iii) methods of strengthening a youth's relationships in the school and community; and

(b) for secondary grades:

(i) prevention of youth suicide;

(ii) decreasing the risk of suicide among youth who are:

(A) not accepted by family for any reason, including lesbian, gay, bisexual, transgender, or questioning youth; or

(B) suffer from bullying;

(iii) youth suicide intervention; and

(iv) postvention for family, students, and faculty.

(3) Each school district and charter school shall ensure that the youth suicide prevention program described in Subsection (2):

(a) considers appropriate coordination with the following prevention programs:

(i) the prevention of bullying and cyber-bullying, as those terms are defined in Section 53G-9-601; and

(ii) the prevention of underage drinking of alcohol and substance abuse under Section 53G-10-406; and

(b) includes provisions to ensure that the school district or charter school promptly communicates with the parent or guardian of a student in accordance with Section 53G-9-604.

(4) The state board shall:

(a) designate a public education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and Human Services and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsections (2)(a) and (b).

(5) The public education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools; and

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator.

(6) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

(7) (a) Subject to legislative appropriation, the state board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The state board shall ensure that an LEA's allocation of funds from the board's distribution of money under Subsection (7)(a) provides an amount equal to at least $1,000 per school.

(c) (i) A school shall use money allocated to the school under Subsection (7)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

(8) An LEA may not charge indirect costs to the program.

Section 116. Section 58-1-112 is amended to read:

58-1-112. Data collection.

(1) As used in this section:

(a) "Council" means the Utah Health Workforce Advisory Council created in Section [~~26-69-201~~] 26B-1-425.

(b) "Information center" means the Utah Health Workforce Information Center created in Section [~~26-69-301~~] 26B-4-705.

(2) (a) In accordance with Subsection [~~26-69-301(2)(a)~~] 26B-4-705(2)(a), the department shall work with the information center to identify relevant data pertaining to a profession described in Subsection (3).

(b) The data should focus on:

(i) identifying workforce shortages;

(ii) identifying labor market indicators;

(iii) determining the educational background of a licensee; and

(iv) determining whether Utah is retaining a stable health workforce.

(c) After the council approves data to be collected, the department shall request the data from a licensee when a licensee applies for a license or renews the licensee's license.

(d) The department shall send the obtained data to the information center.

(e) A licensee may not be denied a license for failing to provide the data described in Subsection (2)(c) to the department.

(3) (a) The department shall prioritize data collection for each profession licensed under:

(i) Chapter 31b, Nurse Practice Act;

(ii) Chapter 60, Mental Health Professional Practice Act;

(iii) Chapter 61, Psychologist Licensing Act;

(iv) Chapter 67, Utah Medical Practice Act;

(v) Chapter 68, Utah Osteopathic Medical Practice Act;

(vi) Chapter 69, Dentist and Dental Hygienist Practice Act; or

(vii) Chapter 70a, Utah Physician Assistant Act.

(b) After the department has collected data for each profession described in Subsection (3)(a), the department shall collect data for each profession licensed under:

(i) Chapter 5a, Podiatric Physician Licensing Act;

(ii) Chapter 17b, Pharmacy Practice Act;

(iii) Chapter 24b, Physical Therapy Practice Act;

(iv) Chapter 40, Recreational Therapy Practice Act;

(v) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

(vi) Chapter 42a, Occupational Therapy Practice Act;

(vii) Chapter 44a, Nurse Midwife Practice Act;

(viii) Chapter 54, Radiologic Technologist, Radiologist Assistant, and Radiology Practical Technician Licensing Act; or

(ix) Chapter 57, Respiratory Care Practices Act.

(c) The department shall collect data in accordance with this section for any health-related occupation or profession that is regulated by the department and is not described in Subsection (3)(a) or (b) if:

(i) funding is available;

(ii) the council has identified a need for the data; and

(iii) data has been collected for each profession described in Subsections (3)(a) and (3)(b).

Section 117. Section 58-1-307 is amended to read:

58-1-307. Exemptions from licensure.

(1) Except as otherwise provided by statute or rule, the following individuals may engage in the

practice of their occupation or profession, subject to the stated circumstances and limitations, without being licensed under this title:

(a) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the individual holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(b) a student engaged in activities constituting the practice of a regulated occupation or profession while in training in a recognized school approved by the division to the extent the activities are supervised by qualified faculty, staff, or designee and the activities are a defined part of the training program;

(c) an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified individuals;

(d) an individual residing in another state and licensed to practice a regulated occupation or profession in that state, who is called in for a consultation by an individual licensed in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(f) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(g) an individual licensed in a health care profession in another state who performs that profession while attending to the immediate needs of a patient for a reasonable period during which the patient is being transported from outside of this state, into this state, or through this state;

(h) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or group in any capacity except as a spectator;

(i) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event, together with any necessary preparatory and conclusionary periods; and

(j) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, provided:

(i) the spouse holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division; and

(ii) the license is current and the spouse is in good standing in the state of licensure.

(2) (a) A practitioner temporarily in this state who is exempted from licensure under Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice.

(b) Violation of a limitation imposed by this section constitutes grounds for removal of exempt status, denial of license, or other disciplinary proceedings.

(3) An individual who is licensed under a specific chapter of this title to practice or engage in an occupation or profession may engage in the lawful, professional, and competent practice of that occupation or profession without additional licensure under other chapters of this title, except as otherwise provided by this title.

(4) Upon the declaration of a national, state, or local emergency, a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the president of the United States or other federal official requesting public health-related activities, the division in collaboration with the relevant board may:

(a) suspend the requirements for permanent or temporary licensure of individuals who are licensed in another state for the duration of the emergency while engaged in the scope of practice for which they are licensed in the other state;

(b) modify, under the circumstances described in this Subsection (4) and Subsection (5), the scope of practice restrictions under this title for individuals who are licensed under this title as:

(i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure Compact - Revised;

(iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

(iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b, Pharmacy Practice Act;

(v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

(vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist Practice Act; and

(vii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(c) suspend the requirements for licensure under this title and modify the scope of practice in the circumstances described in this Subsection (4) and Subsection (5) for medical services personnel or paramedics required to be licensed under Section [~~26-8a-302~~] 26B-4-116;

(d) suspend requirements in Subsections 58-17b-620(3) through (6) which require certain prescriptive procedures;

(e) exempt or modify the requirement for licensure of an individual who is activated as a member of a medical reserve corps during a time of emergency as provided in Section 26A-1-126;

(f) exempt or modify the requirement for licensure of an individual who is registered as a volunteer health practitioner as provided in [~~Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act~~] Title 26B, Chapter 4, Part 8, Uniform Emergency Volunteer Health Practitioners Act; and

(g) in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exempt or modify the requirements for licensure of an individual engaged in one or more of the construction trades described in Chapter 55, Utah Construction Trades Licensing Act.

(5) Individuals exempt under Subsection (4)(c) and individuals operating under modified scope of practice provisions under Subsection (4)(b):

(a) are exempt from licensure or subject to modified scope of practice for the duration of the emergency;

(b) must be engaged in the distribution of medicines or medical devices in response to the emergency or declaration; and

(c) must be employed by or volunteering for:

(i) a local or state department of health; or

(ii) a host entity as defined in Section [~~26-49-102~~] 26B-4-801.

(6) In accordance with the protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health and Human Services or a local health department shall coordinate with public safety authorities as defined in Subsection [~~26-23b-110(1)~~] 26B-7-323(1) and may:

(a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance to prevent or treat a disease or condition that gave rise to, or was a consequence of, the emergency; or

(b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance:

(i) if necessary, to replenish a commercial pharmacy in the event that the commercial pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication is exhausted; or

(ii) for dispensing or direct administration to treat the disease or condition that gave rise to, or was a consequence of, the emergency by:

(A) a pharmacy;

(B) a prescribing practitioner;

(C) a licensed health care facility;

(D) a federally qualified community health clinic; or

(E) a governmental entity for use by a community more than 50 miles from a person described in Subsections (6)(b)(ii)(A) through (D).

(7) In accordance with protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health and Human Services shall coordinate the distribution of medications:

(a) received from the strategic national stockpile to local health departments; and

(b) from local health departments to emergency personnel within the local health departments' geographic region.

(8) The Department of Health and Human Services shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing, and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance in the event of a declaration of a national, state, or local emergency. The protocol shall establish procedures for the Department of Health and Human Services or a local health department to:

(a) coordinate the distribution of:

(i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance received by the Department of Health and Human Services from the strategic national stockpile to local health departments; and

(ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication received by a local health department to emergency personnel within the local health department's geographic region;

(b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance to the contact of a patient without a patient-practitioner relationship, if the contact's condition is the same as that of the physician's or physician assistant's patient; and

(c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral, an antibiotic,

or other non-controlled prescription medication to an individual who:

(i) is working in a triage situation;

(ii) is receiving preventative or medical treatment in a triage situation;

(iii) does not have coverage for the prescription in the individual's health insurance plan;

(iv) is involved in the delivery of medical or other emergency services in response to the declared national, state, or local emergency; or

(v) otherwise has a direct impact on public health.

(9) The Department of Health and Human Services shall give notice to the division upon implementation of the protocol established under Subsection (8).

Section 118. Section 58-1-312 is amended to read:

58-1-312. Organ donation notification.

(1) As used in this section:

(a) "Donor" means the same as that term is defined in Section [~~26-28-102~~] 26B-8-301.

(b) "Donor registry" means the same as that term is defined in Section [~~26-28-102~~] 26B-8-301.

(2) At the same time the division issues a new license to a licensee in accordance with Subsection 58-1-301(4), and at the same time the division notifies a licensee that the licensee's license is due for renewal in accordance with Subsection 58-1-308(3)(a), the division shall distribute to the licensee, by email using the most recent email address furnished to the division by the licensee, a message notifying the licensee of the option to register as a donor and providing the licensee an Internet link to a website for a donor registry established under Section [~~26-28-120~~] 26B-8-319.

Section 119. Section 58-1-405 is amended to read:

58-1-405. Provisions of volunteer health or veterinary services -- Division authority.

In accordance with Section [~~26-49-205~~] 26B-4-807, the division may pursue actions against a volunteer health practitioner operating under [~~Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act~~] Title 26B, Chapter 4, Part 8, Uniform Emergency Volunteer Health Practitioners Act.

Section 120. Section 58-1-501.5 is amended to read:

58-1-501.5. Anatomic pathology services -- Billing violations.

(1) As used in this section, the following definitions apply:

(a) (i) "Anatomic pathology services" including "technical or professional component of anatomic pathology services" means:

(A) histopathology or surgical pathology, meaning the gross examination of, histologic processing of, or microscopic examination of human organ tissue performed by a physician or under the supervision of a physician;

(B) cytopathology, meaning the examination of human cells, from fluids, aspirates, washings, brushings, or smears, including the pap test examination performed by a physician or under the supervision of a physician;

(C) hematology, meaning the microscopic evaluation of human bone marrow aspirates and biopsies performed by a physician or under the supervision of a physician and peripheral human blood smears when the attending or treating physician or other practitioner of the healing arts or a technologist requests that a blood smear be reviewed by a pathologist;

(D) subcellular pathology and molecular pathology; and

(E) blood bank services performed by a pathologist.

(ii) "Anatomic pathology services" including "technical or professional component of anatomic pathology services" does not include the initial collection or packaging of a sample for transport.

(b) "Clinical laboratory" or "laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of human beings or the assessment of the health of human beings.

(c) "Health care facility" has the meaning provided in Section [~~26-21-2~~] 26B-2-201.

(d) "Health care provider" includes:

(i) an advanced practice registered nurse licensed under Chapter 31b, Nurse Practice Act;

(ii) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act;

(iii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act;

(iv) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;

(v) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act;

(vi) an osteopathic physician and surgeon licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(vii) a podiatric physician licensed under Chapter 5a, Podiatric Physician Licensing Act;

(viii) a physician and surgeon licensed under Chapter 67, Utah Medical Practice Act; and

(ix) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act.

(e) "Insurer" includes:

(i) any entity offering accident and health insurance as defined in Section 31A-1-301;

(ii) workers' compensation benefits;

(iii) a health maintenance organization; or

(iv) any self-insurance, as defined in Section 31A-1-301, that offers health care insurance or benefits.

(2) (a) A health care provider who orders anatomic pathology services for a patient from an independent physician or laboratory may not directly or indirectly mark up, charge a commission, or make a profit on the anatomic pathology service provided by the independent physician or laboratory.

(b) Nothing in Subsection (2)(a):

(i) restricts the ability of a health care provider, who has not performed or supervised either the technical or professional component of the anatomic pathology service, to obtain payment for services related solely to the collection and packaging of a sample and administrative billing costs; or

(ii) restricts the ability of the lab function in the Department of Health and Human Services to bill for services.

(3) A health care provider when billing a patient directly for anatomic pathology services provided by an independent physician or laboratory shall furnish an itemized bill which conforms with the billing practices of the American Medical Association that conspicuously discloses the charge for each anatomic pathology service, physician or laboratory name, and address for each anatomic pathology service rendered to the patient by the physician or laboratory that performed the anatomic pathology service.

(4) The disclosure to be made under Subsection (3) shall not be required when the anatomic pathology service is being ordered by a hospital, a laboratory performing either the professional or technical component of the service, or a physician performing either the professional or technical component of the service, a public health clinic, or a state or federal agency.

(5) Failure to comply with the requirements of this section shall be considered to be unprofessional conduct.

Section 121. Section 58-1-501.7 is amended to read:

58-1-501.7. Standards of conduct for prescription drug education -- Academic and commercial detailing.

(1) For purposes of this section:

(a) "Academic detailing":

(i) means a health care provider who is licensed under this title to prescribe or dispense a prescription drug and employed by someone other than a pharmaceutical manufacturer:

(A) for the purpose of countering information provided in commercial detailing; and

(B) to disseminate educational information about prescription drugs to other health care providers in an effort to better align clinical practice with scientific research; and

(ii) does not include a health care provider who:

(A) is disseminating educational information about a prescription drug as part of teaching or supervising students or graduate medical education students at an institution of higher education or through a medical residency program;

(B) is disseminating educational information about a prescription drug to a patient or a patient's representative; or

(C) is acting within the scope of practice for the health care provider regarding the prescribing or dispensing of a prescription drug.

(b) "Commercial detailing" means an educational practice employed by a pharmaceutical manufacturer in which clinical information and evidence about a prescription drug is shared with health care professionals.

(c) "Manufacture" is as defined in Section 58-37-2.

(d) "Pharmaceutical manufacturer" is a person who manufactures a prescription drug.

(2) (a) Except as provided in Subsection (3), the provisions of this section apply to an academic detailer beginning July 1, 2013.

(b) An academic detailer and a commercial detailer who educate another health care provider about prescription drugs through written or oral educational material is subject to federal regulations regarding:

(i) false and misleading advertising in 21 C.F.R., Part 201 (2007);

(ii) prescription drug advertising in 21 C.F.R., Part 202 (2007); and

(iii) the federal Office of the Inspector General's Compliance Program Guidance for Pharmaceutical Manufacturers issued in April 2003, as amended.

(c) A person who is injured by a violation of this section has a private right of action against a person engaged in academic detailing, if:

(i) the actions of the person engaged in academic detailing, that are a violation of this section, are:

(A) the result of gross negligence by the person; or

(B) willful and wanton behavior by the person; and

(ii) the damages to the person are reasonable, foreseeable, and proximately caused by the violations of this section.

(3) (a) For purposes of this Subsection, "accident and health insurance":

(i) means the same as that term is defined in Section 31A-1-301; and

(ii) includes a self-funded health benefit plan and an administrator for a self-funded health benefit plan.

(b) This section does not apply to a person who engages in academic detailing if that person is engaged in academic detailing on behalf of:

(i) a person who provides accident and health insurance, including when the person who provides accident and health insurance contracts with or offers:

(A) the state Medicaid program, including the Primary Care Network within the state's Medicaid program;

(B) the Children's Health Insurance Program created in Section [~~26-40-103~~] 26B-3-902;

(C) a Medicare plan; or

(D) a Medicare supplement plan;

(ii) a hospital as defined in Section [~~26-21-2~~] 26B-2-201;

(iii) any class of pharmacy as defined in Section 58-17b-102, including any affiliated pharmacies;

(iv) an integrated health system as defined in Section 13-5b-102; or

(v) a medical clinic.

(c) This section does not apply to communicating or disseminating information about a prescription drug for the purpose of conducting research using prescription drugs at a health care facility as defined in Section [~~26-21-2~~] 26B-2-201, or a medical clinic.

Section 122. Section 58-1-509 is amended to read:

58-1-509. Patient consent for certain medical examinations.

(1) As used in this section:

(a) "Health care provider" means:

(i) an individual who is:

(A) a healthcare provider as defined in Section 78B-3-403; and

(B) licensed under this title;

(ii) emergency medical service personnel as defined in Section [~~26-8a-102~~] 26B-4-101; or

(iii) an individual described in Subsection 58-1-307(1)(b) or (c).

(b) "Patient examination" means a medical examination that requires contact with the patient's sexual organs.

(2) A health care provider may not perform a patient examination on an anesthetized or unconscious patient unless:

(a) the health care provider obtains consent from the patient or the patient's representative in accordance with Subsection (3);

(b) a court orders performance of the patient examination for the collection of evidence;

(c) the performance of the patient examination is within the scope of care for a procedure or diagnostic examination scheduled to be performed on the patient; or

(d) the patient examination is immediately necessary for diagnosis or treatment of the patient.

(3) To obtain consent to perform a patient examination on an anesthetized or unconscious patient, before performing the patient examination, the health care provider shall:

(a) provide the patient or the patient's representative with a written or electronic document that:

(i) is provided separately from any other notice or agreement;

(ii) contains the following heading at the top of the document in not smaller than 18-point bold face type: "CONSENT FOR EXAMINATION OF PELVIC REGION";

(iii) specifies the nature and purpose of the patient examination;

(iv) names one or more primary health care providers whom the patient or the patient's representative may authorize to perform the patient examination;

(v) states whether there may be a student or resident that the patient or the patient's representative authorizes to:

(A) perform an additional patient examination; or

(B) observe or otherwise be present at the patient examination, either in person or through electronic means; and

(vi) provides the patient or the patient's representative with a series of check boxes that allow the patient or the patient's representative to:

(A) consent to the patient examination for diagnosis or treatment and an additional patient examination performed by a student or resident for an educational or training purpose;

(B) consent to the patient examination only for diagnosis or treatment; or

(C) refuse to consent to the patient examination;

(b) obtain the signature of the patient or the patient's representative on the written or electronic document while witnessed by a third party; and

(c) sign the written or electronic document.

Section 123. Section 58-4a-102 is amended to read:

58-4a-102. Definitions.

As used in this chapter:

(1) "Diversion agreement" means a written agreement entered into by a licensee and the division that describes the requirements of the licensee's monitoring regimen and that was entered into before May 12, 2020.

(2) "Licensee" means an individual licensed to practice under:

(a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) Title 58, Chapter 17b, Pharmacy Practice Act;

(c) Title 58, Chapter 28, Veterinary Practice Act;

(d) Title 58, Chapter 31b, Nurse Practice Act;

(e) Title 58, Chapter 67, Utah Medical Practice Act;

(f) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(g) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; or

(h) Title 58, Chapter 70a, Utah Physician Assistant Act.

(3) "Program" means the Utah Professionals Health Program.

(4) "Program contract" means a written agreement entered into by a licensee and the division that allows the licensee to participate in the program.

(5) "Substance use disorder" means the same as that term is defined in Section [~~62A-15-1202~~] 26B-5-501.

Section 124. Section 58-5a-102 is amended to read:

58-5a-102. Definitions.

In addition to the definitions under Section 58-1-102, as used in this chapter:

(1) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

(2) "Indirect supervision" means the same as that term is defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.

(4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions by all appropriate and lawful means, subject to Section 58-5a-103.

(5) "Unlawful conduct" includes:

(a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

(b) for an individual who is not licensed under this chapter:

(i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or

(ii) implying or representing that the individual is qualified to practice podiatry.

(6) (a) "Unprofessional conduct" includes, for an individual licensed under this chapter:

(i) the conduct that constitutes unprofessional conduct under Section 58-1-501;

(ii) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;

(iii) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;

(iv) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;

(v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;

(vi) unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section 58-37-2;

(vii) gross incompetency in the practice of podiatry;

(viii) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

(ix) willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due;

(x) willfully using false or fraudulent advertising;

(xi) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(xii) falsely making an entry in, or altering, a medical record with the intent to conceal:

(A) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(B) conduct described in Subsections (6)(a)(i) through (xi) or Subsection 58-1-501(1); or

(xiii) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(b) "Unprofessional conduct" does not include, in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201, recommending the use of medical cannabis within the scope of a practice of podiatry.

Section 125. Section 58-5a-103 is amended to read:

58-5a-103. Scope of practice.

(1) Subject to the provisions of this section, an individual licensed as a podiatric physician under this chapter may perform a surgical procedure on a bone of the foot or ankle.

(2) Except as provided in Subsections (3) and (4), an individual licensed as a podiatric physician under this chapter may not perform:

(a) an ankle fusion;

(b) a massive ankle reconstruction; or

(c) a reduction of a trimalleolar ankle fracture.

(3) An individual licensed as a podiatric physician under this chapter who meets the requirements described in Subsection (4) may only:

(a) treat a fracture of the tibia if at least one portion of the fracture line enters the ankle joint;

(b) treat a foot or ankle condition using hardware, including screws, plates, staples, pins, and wires, if at least one portion of the hardware system is attached to a bony structure at or below the ankle mortise; and

(c) place hardware for the treatment of soft tissues in the foot or ankle no more proximal than the distal 10 centimeters of the tibia.

(4) Subject to Subsection (3), an individual licensed as a podiatric physician under this chapter may only perform a procedure described in Subsection (2) if the individual:

(a) (i) graduated on or after June 1, 2006, from a three-year residency program in podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on Podiatric Medical Education; and

(ii) is board certified in reconstructive rearfoot and ankle surgery by the American Board of Foot and Ankle Surgery;

(b) (i) graduated on or after June 1, 2006, from a three-year residency program in podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on Podiatric Medical Education;

(ii) is board qualified in reconstructive rearfoot ankle surgery by the American Board of Foot and Ankle Surgery; and

(iii) provides the division documentation that the podiatric physician has completed training or experience, which the division determines is acceptable, in standard or advanced rearfoot and ankle procedures; or

(c) (i) graduated before June 1, 2006, from a residency program in podiatric medicine and surgery that was at least two years in length and that was accredited, at the time of graduation, by the Council on Podiatric Medical Education;

(ii) (A) is board certified in reconstructive rearfoot ankle surgery by the American Board of Foot and Ankle Surgery;

(B) if the residency described in Subsection (4)(c)(i) is a PSR-24 24-month podiatric surgical residency, provides proof that the individual completed the residency, to a hospital that is accredited by the Joint Commission, and meets the hospital's credentialing criteria for foot and ankle surgery; or

(C) in addition to the residency described in Subsection (4)(c)(i), has completed a fellowship in foot and ankle surgery that was accredited by the Council on Podiatric Medical Education at the time of completion; and

(iii) provides the division documentation that the podiatric physician has completed training and experience, which the division determines is acceptable, in standard or advanced rearfoot and ankle procedures.

(5) An individual licensed as a podiatric physician under this chapter may not perform an amputation proximal to Chopart's joint.

(6) An individual licensed as a podiatric physician under this chapter may not perform a surgical treatment on an ankle, on a governing structure of the foot or ankle above the ankle, or on a structure related to the foot or ankle above the ankle, unless the individual performs the surgical treatment:

(a) in an ambulatory surgical facility, a general acute hospital, or a specialty hospital, as defined in Section [~~26-21-2~~] 26B-2-201; and

(b) subject to review by a quality care review body that includes qualified, licensed physicians and surgeons.

Section 126. Section 58-9-610 is amended to read:

58-9-610. Cremation procedures.

(1) A funeral service establishment may not cremate human remains until the funeral service establishment:

(a) completes and files a death certificate with the office of vital statistics and the county health department as indicated on the regular medical certificate of death or the coroner's certificate; and

(b) complies with the provisions of Section [~~26-4-29~~] 26B-8-230.

(2) (a) A funeral service establishment may not cremate human remains with a pacemaker or other battery-powered, potentially hazardous implant in place.

(b) (i) An authorizing agent for the cremation of human remains is responsible for informing the funeral service establishment in writing on the cremation authorization form about the presence of a pacemaker or other battery-powered, potentially hazardous implant in the human remains to be cremated.

(ii) (A) Except as provided in Subsection (2)(b)(ii)(B), the authorizing agent is responsible to

ensure that a pacemaker or other battery-powered, potentially hazardous implant is removed prior to cremation.

(B) If the authorizing agent informs the funeral service establishment of the presence of a pacemaker or other battery-powered, potentially hazardous implant under Subsection (2)(b)(i), and the funeral service establishment fails to have the pacemaker or other battery-powered, potentially hazardous implant removed prior to cremation, then the funeral service establishment is liable for all resulting damages.

(3) Only authorized persons are permitted in the crematory while human remains are in the crematory area awaiting cremation, being cremated, or being removed from the cremation chamber.

(4) (a) Simultaneous cremation of the human remains of more than one person within the same cremation chamber or processor is not allowed, unless the funeral service establishment has received specific written authorization to do so from the authorizing agent of each person to be cremated.

(b) The written authorization, described in Subsection (4)(a), exempts the funeral license establishment from liability for co-mingling of the cremated remains during the cremation process.

(5) A funeral service establishment shall:

(a) verify the identification of human remains as indicated on a cremation container immediately before placing the human remains in the cremation chamber;

(b) attach a metal identification tag to the cremation container;

(c) remove the identification tag from the cremation container; and

(d) place the identification tag near the cremation chamber control where the identification tag shall remain until the cremation process is complete.

(6) Upon completion of a cremation, the funeral service establishment shall:

(a) in so far as is possible, remove all of the recoverable residue of the cremation process from the cremation chamber;

(b) separate all other residue from the cremation process from remaining bone fragments, in so far as possible, and process the bone fragments so as to reduce them to unidentifiable particles; and

(c) remove anything other than the unidentifiable bone particles from the cremated residuals, as far as is possible, and dispose of that material.

(7) (a) A funeral service establishment shall pack cremated remains, including the identification tag described in Subsection (5), in a temporary container or urn ordered by the authorizing agent.

(b) The container or urn shall be packed in clean packing materials and not be contaminated with any other object, unless otherwise directed by the authorizing agent.

(c) If the cremated remains cannot fit within the designated temporary container or urn, the funeral service establishment shall:

(i) return the excess to the authorizing agent or the agent's representative in a separate container; and

(ii) mark both containers or urns on the outside with the name of the deceased person and an indication that the cremated remains of the named decedent are in both containers or urns.

(8) (a) If the cremated remains are to be shipped, then the funeral services establishment shall pack the designated temporary container or urn in a suitable, sturdy container.

(b) The funeral service establishment shall have the remains shipped only by a method that:

(i) has an available internal tracing system; and

(ii) provides a receipt signed by the person accepting delivery.

Section 127. Section 58-9-616 is amended to read:

58-9-616. Procedure for alkaline hydrolysis.

(1) A funeral service establishment may not perform alkaline hydrolysis on human remains until the funeral service establishment:

(a) completes and files a death certificate with the Office of Vital Records and Statistics and the county health department as indicated on the regular medical certificate of death or the coroner's certificate; and

(b) complies with the provisions of Section [~~26-4-29~~] 26B-8-230.

(2) While human remains are in the area where alkaline hydrolysis takes place, both before and during the alkaline hydrolysis process and while being removed from the alkaline hydrolysis chamber, only authorized persons are permitted in the area.

(3) Simultaneous alkaline hydrolysis of the human remains of more than one person within the same alkaline hydrolysis chamber is not allowed.

(4) A funeral service establishment shall:

(a) verify the identification of human remains as indicated on an alkaline hydrolysis container immediately before performing alkaline hydrolysis;

(b) attach an identification tag to the alkaline hydrolysis container;

(c) remove the identification tag from the alkaline hydrolysis container; and

(d) place the identification tag near the alkaline hydrolysis chamber where the identification tag shall remain until the alkaline hydrolysis process is complete.

(5) Upon completion of the alkaline hydrolysis process, the funeral service establishment shall:

(a) dispose of liquid remains in accordance with state and local requirements;

(b) to the extent possible, remove all of the recoverable residue of the remains of the alkaline hydrolysis process from the alkaline hydrolysis chamber;

(c) separate all other residue from the alkaline hydrolysis process from remaining bone fragments, to the extent possible, and process the bone fragments so as to reduce them to unidentifiable particles; and

(d) remove anything other than the unidentifiable bone particles from the remains of the alkaline hydrolysis process, to the extent possible, and dispose of that material.

(6) (a) A funeral service establishment shall pack the remains of the alkaline hydrolysis process, which consist of the unidentifiable bone particles and the identification tag described in Subsection (4), in an urn or temporary container ordered by the authorizing agent.

(b) The urn or temporary container shall be packed in clean packing materials and not be contaminated with any other object, unless otherwise directed by the authorizing agent.

(c) If the remains of the alkaline hydrolysis process cannot fit within the designated urn or temporary container, the funeral service establishment shall:

(i) return the excess remains to the authorizing agent or the agent's representative in a separate urn or temporary container; and

(ii) mark both urns or temporary containers on the outside with the name of the decedent and an indication that the remains of the named decedent are in both urns or temporary containers.

(7) (a) If the remains are to be shipped, the funeral service establishment shall pack the designated temporary container or urn in a suitable, sturdy container.

(b) The funeral service establishment shall have the remains shipped only by a method that:

(i) has an available tracking system; and

(ii) provides a receipt signed by the person accepting delivery.

Section 128. Section 58-11a-501 is amended to read:

58-11a-501. Unprofessional conduct.

Unprofessional conduct includes:

(1) failing as a licensed school to obtain or maintain accreditation as required by rule;

(2) failing as a licensed school to comply with the standards of accreditation applicable to such schools;

(3) failing as a licensed school to provide adequate instruction to enrolled students;

(4) failing as an apprentice supervisor to provide direct supervision to the apprentice;

(5) failing as an instructor to provide direct supervision to students who are providing services to an individual under the instructor's supervision;

(6) failing as an apprentice supervisor to comply with division rules relating to apprenticeship programs under this chapter;

(7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an unsanitary condition;

(8) failing to comply with [~~Title 26, Utah Health Code~~] Title 26B, Utah Health and Human Services Code;

(9) failing to display licenses or certificates as required under Section 58-11a-305;

(10) failing to comply with physical facility requirements established by rule;

(11) failing to maintain mechanical or electrical equipment in safe operating condition;

(12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths, showers, or saunas;

(13) prescribing or administering prescription drugs;

(14) failing to comply with all applicable state and local health or sanitation laws;

(15) engaging in any act or practice in a professional capacity that is outside the applicable scope of practice;

(16) engaging in any act or practice in a professional capacity which the licensee is not competent to perform through education or training;

(17) in connection with the use of a chemical exfoliant, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license:

(a) using any acid, concentration of an acid, or combination of treatments which violates the standards established by rule;

(b) removing any layer of skin deeper than the stratum corneum of the epidermis; or

(c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;

(18) in connection with the sanding of the skin, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license, removing any layer of skin deeper than the stratum corneum of the epidermis;

(19) using as a barber, cosmetologist/barber, or nail technician any laser procedure or intense, pulsed light source, except that nothing in this chapter precludes an individual licensed under this chapter from using a nonprescriptive laser device; or

(20) failing to comply with a judgment order from a court of competent jurisdiction resulting from the failure to pay outstanding tuition or education costs incurred to comply with this chapter.

Section 129. Section 58-13-2 is amended to read:

58-13-2. Emergency care rendered by licensee.

(1) A person licensed under Title 58, Occupations and Professions, to practice as any of the following health care professionals, who is under no legal duty to respond, and who in good faith renders emergency care at the scene of an emergency gratuitously and in good faith, is not liable for any civil damages as a result of any acts or omissions by the person in rendering the emergency care:

(a) osteopathic physician;

(b) physician and surgeon;

(c) naturopathic physician;

(d) dentist or dental hygienist;

(e) chiropractic physician;

(f) physician assistant;

(g) optometrist;

(h) nurse licensed under Section 58-31b-301 or 58-31d-102;

(i) podiatrist;

(j) certified nurse midwife;

(k) respiratory care practitioner;

(l) pharmacist, pharmacy technician, and pharmacy intern;

(m) direct-entry midwife licensed under Section 58-77-301;

(n) veterinarian; or

(o) acupuncturist licensed under Chapter 72, Acupuncture Licensing Act.

(2) This Subsection (2) applies to a health care professional:

(a) (i) described in Subsection (1); and

(ii) who is under no legal duty to respond to the circumstances described in Subsection (3);

(b) who is:

(i) (A) activated as a member of a medical reserve corps as described in Section 26A-1-126 during the time of an emergency or declaration for public health related activities as provided in Subsection 26A-1-126(2); or

(B) participating in training to prepare the medical reserve corps to respond to a declaration of an emergency or request for public health related activities pursuant to Subsection 26A-1-126(2);

(ii) acting within the scope of:

(A) the health care professional's license; or

(B) practice as modified under Subsection 58-1-307(4) or Section 26A-1-126; and

(iii) acting in good faith without compensation or remuneration as defined in Subsection 58-13-3(2); or

(c) who is acting as a volunteer health practitioner under [~~Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act~~] Title 26B, Chapter 4, Part 8, Uniform Emergency Volunteer Health Practitioners Act.

(3) A health care professional described in Subsection (2) is not liable for any civil damages as a result of any acts or omissions by the health care professional in rendering care as a result of:

(a) implementation of measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(b) investigating and controlling suspected bioterrorism and disease as set out in [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 4, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases; and

(c) responding to a national, state, or local emergency, a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(4) The immunity in Subsection (3) is in addition to any immunity or protection in state or federal law that may apply.

(5) For purposes of Subsection (2)(b)(iii) remuneration does not include:

(a) food supplied to the volunteer;

(b) clothing supplied to the volunteer to help identify the volunteer during the time of the emergency; or

(c) other similar support for the volunteer.

Section 130. Section 58-13-2.6 is amended to read:

58-13-2.6. Emergency care rendered by a person or health care facility.

(1) For purposes of this section:

(a) "Emergency" means an unexpected occurrence involving injury, the threat of injury, or illness to a person or the public due to:

(i) a natural disaster;

(ii) bioterrorism;

(iii) an act of terrorism;

(iv) a pandemic; or

(v) other event of similar nature.

(b) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of an emergency.

(c) "Person" [~~is~~] means the same as that term is defined in Subsection [~~26-21-2(18)~~] 26B-2-201(18).

(2) (a) A person who, in good faith, assists governmental agencies or political subdivisions with the activities described in Subsection (2)(b) is not liable for civil damages or penalties as a result of any act or omission unless the person rendering the assistance:

(i) is grossly negligent;

(ii) caused the emergency; or

(iii) has engaged in criminal conduct.

(b) The following activities are protected from liability in accordance with Subsection (2)(a):

(i) implementing measures to control the causes of epidemic, pandemic, communicable diseases, or other conditions significantly affecting public health, as necessary to protect the public health in accordance with Title 26A, Chapter 1, Local Health Departments;

(ii) investigating, controlling, and treating suspected bioterrorism or disease in accordance with [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 4, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases;

(iii) responding to:

(A) a national, state, or local emergency;

(B) a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301; or

(C) a declaration by the President of the United States or other federal official requesting public health related activities; and

(iv) providing a facility for use by a governmental agency or political subdivision to distribute pharmaceuticals or administer vaccines to the public.

(c) Subsection (2)(a) applies to a person even if that person has:

(i) a duty to respond; or

(ii) an expectation of payment or remuneration.

(3) The immunity in Subsection (2) is in addition to any immunity protections that may apply in state or federal law.

Section 131. Section 58-13-3 is amended to read:

58-13-3. Qualified immunity -- Health professionals -- Charity care.

(1) (a) (i) The Legislature finds many residents of this state do not receive medical care and preventive health care because they lack health insurance or because of financial difficulties or cost.

(ii) The Legislature also finds that many physicians, charity health care facilities, and other health care professionals in this state would be willing to volunteer medical and allied services without compensation if they were not subject to the high exposure of liability connected with providing these services.

(b) The Legislature therefore declares that its intention in enacting this section is to encourage the provision of uncompensated volunteer charity health care in exchange for a limitation on liability for the health care facilities and health care professionals who provide those volunteer services.

(2) As used in this section:

(a) "Continuing education requirement" means the requirement for hours of continuing education, established by the division, with which a health care professional must comply to renew the health care professional's license under the applicable chapter described in Subsection (2)(c).

(b) "Health care facility" means any clinic or hospital, church, or organization whose primary purpose is to sponsor, promote, or organize uncompensated health care services for people unable to pay for health care services.

(c) "Health care professional" means a person licensed under:

(i) Chapter 5a, Podiatric Physician Licensing Act;

(ii) Chapter 16a, Utah Optometry Practice Act;

(iii) Chapter 17b, Pharmacy Practice Act;

(iv) Chapter 24b, Physical Therapy Practice Act;

(v) Chapter 31b, Nurse Practice Act;

(vi) Chapter 40, Recreational Therapy Practice Act;

(vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

(viii) Chapter 42a, Occupational Therapy Practice Act;

(ix) Chapter 44a, Nurse Midwife Practice Act;

(x) Chapter 49, Dietitian Certification Act;

(xi) Chapter 60, Mental Health Professional Practice Act;

(xii) Chapter 67, Utah Medical Practice Act;

(xiii) Chapter 68, Utah Osteopathic Medical Practice Act;

(xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;

(xv) Chapter 70a, Utah Physician Assistant Act;

(xvi) Chapter 71, Naturopathic Physician Practice Act;

(xvii) Chapter 72, Acupuncture Licensing Act; and

(xviii) Chapter 73, Chiropractic Physician Practice Act.

(d) "Remuneration or compensation":

(i) (A) means direct or indirect receipt of any payment by a health care professional or health

care facility on behalf of the patient, including payment or reimbursement under Medicare or Medicaid, or under the state program for the medically indigent on behalf of the patient; and

(B) compensation, salary, or reimbursement to the health care professional from any source for the health care professional's services or time in volunteering to provide uncompensated health care; and

(ii) does not mean:

(A) any grant or donation to the health care facility used to offset direct costs associated with providing the uncompensated health care such as:

(I) medical supplies;

(II) drugs; or

(III) a charitable donation that is restricted for charitable services at the health care facility; or

(B) incidental reimbursements to the volunteer such as:

(I) food supplied to the volunteer;

(II) clothing supplied to the volunteer to help identify the volunteer during the time of volunteer services;

(III) mileage reimbursement to the volunteer; or

(IV) other similar support to the volunteer.

(3) A health care professional who provides health care treatment at or on behalf of a health care facility is not liable in a medical malpractice action if:

(a) the treatment was within the scope of the health care professional's license under this title;

(b) neither the health care professional nor the health care facility received compensation or remuneration for the treatment;

(c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and

(d) prior to rendering services:

(i) the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation; and

(ii) the patient consented in writing to waive any right to sue for professional negligence except for acts or omissions which are grossly negligent or are willful and wanton.

(4) A health care facility which sponsors, promotes, or organizes the uncompensated care is not liable in a medical malpractice action for acts and omissions if:

(a) the health care facility meets the requirements in Subsection (3)(b);

(b) the acts and omissions of the health care facility were not grossly negligent or willful and wanton; and

(c) the health care facility has posted, in a conspicuous place, a notice that in accordance with this section the health care facility is not liable for any civil damages for acts or omissions except for those acts or omissions that are grossly negligent or are willful and wanton.

(5) A health care professional who provides health care treatment at a federally qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health Care Improvement Act, is not liable in a medical malpractice action if:

(a) the treatment was within the scope of the health care professional's license under this title;

(b) the health care professional:

(i) does not receive compensation or remuneration for treatment provided to any patient that the provider treats at the federally qualified health center, the Indian health clinic, or the Urban Indian Health Center; and

(ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the treatment provided at the federally qualified health center, the Indian health clinic, or the Urban Indian Health Center;

(c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and

(d) prior to rendering services:

(i) the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation; and

(ii) the patient consented in writing to waive any right to sue for professional negligence except for acts or omissions that are grossly negligent or are willful and wanton.

(6) Immunity from liability under this section does not extend to the use of general anesthesia or care that requires an overnight stay in a general acute or specialty hospital licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(7) The provisions of Subsection (5) apply to treatment provided by a healthcare professional on or after May 13, 2014.

(8) A health care professional:

(a) may, in accordance with Subsection (8)(b), fulfill up to 15% of the health care professional's continuing education requirement with hours the health care professional spends providing health care treatment described in Subsection (3) or (5); and

(b) subject to Subsection (8)(a), earns one hour of the health care professional's continuing education requirement for every four documented hours of volunteer health care treatment.

Section 132. Section 58-13-5 is amended to read:

58-13-5. Information relating to adequacy and quality of medical care -- Immunity from liability.

(1) As used in this section, "health care provider" has the same meaning as defined in Section 78B-3-403.

(2) (a) The division, and the boards within the division that act regarding the health care providers defined in this section, shall adopt rules to establish procedures to obtain information concerning the quality and adequacy of health care rendered to patients by those health care providers.

(b) It is the duty of an individual licensed under Title 58, Occupations and Professions, as a health care provider to furnish information known to him with respect to health care rendered to patients by any health care provider licensed under Title 58, Occupations and Professions, as the division or a board may request during the course of the performance of its duties.

(3) A health care facility as defined in Section [~~26-21-2~~] 26B-2-201 which employs, grants privileges to, or otherwise permits a licensed health care provider to engage in licensed practice within the health care facility, and any professional society of licensed health care providers, shall report any of the following events in writing to the division within 60 days after the event occurs regarding the licensed health care provider:

(a) terminating employment of an employee for cause related to the employee's practice as a licensed health care provider;

(b) terminating or restricting privileges for cause to engage in any act or practice related to practice as a licensed health care provider;

(c) terminating, suspending, or restricting membership or privileges associated with membership in a professional association for acts of unprofessional, unlawful, incompetent, or negligent conduct related to practice as a licensed health care provider;

(d) subjecting a licensed health care provider to disciplinary action for a period of more than 30 days;

(e) a finding that a licensed health care provider has violated professional standards or ethics;

(f) a finding of incompetence in practice as a licensed health care provider;

(g) a finding of acts of moral turpitude by a licensed health care provider; or

(h) a finding that a licensed health care provider is engaged in abuse of alcohol or drugs.

(4) This section does not prohibit any action by a health care facility, or professional society comprised primarily of licensed health care providers to suspend, restrict, or revoke the employment, privileges, or membership of a health care provider.

(5) The data and information obtained in accordance with this section is classified as a "protected" record under Title 63G, Chapter 2, Government Records Access and Management Act.

(6) (a) Any person or organization furnishing information in accordance with this section in response to the request of the division or a board, or voluntarily, is immune from liability with respect to information provided in good faith and without malice, which good faith and lack of malice is presumed to exist absent clear and convincing evidence to the contrary.

(b) The members of the board are immune from liability for any decisions made or actions taken in response to information acquired by the board if those decisions or actions are made in good faith and without malice, which good faith and lack of malice is presumed to exist absent clear and convincing evidence to the contrary.

(7) An individual who is a member of a hospital administration, board, committee, department, medical staff, or professional organization of health care providers, and any hospital, other health care entity, or professional organization conducting or sponsoring the review, is immune from liability arising from participation in a review of a health care provider's professional ethics, medical competence, moral turpitude, or substance abuse.

(8) This section does not exempt a person licensed under Title 58, Occupations and Professions, from complying with any reporting requirements established under state or federal law.

Section 133. Section 58-15-303 is amended to read:

58-15-303. Exemptions to chapter.

(1) In addition to the exemptions described in Section 58-1-307, this chapter does not apply to:

(a) a facility of a recognized church or denomination that cares for the sick and suffering by mental or spiritual means if no drug or material remedy is used in the care provided; or

(b) the superintendent of the Utah State Developmental Center described in Section [~~62A-5-201~~] 26B-6-502.

(2) Any facility or person exempted under this section shall comply with each statute and rule on sanitation and life safety.

Section 134. Section 58-17b-102 is amended to read:

58-17b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

(3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) (a) "Closed-door pharmacy" means a pharmacy that:

(i) provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company; or

(ii) engages exclusively in the practice of telepharmacy and does not serve walk-in retail customers.

(b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner,

patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(26) (a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections (26)(a)(i), (ii), (iii), and (iv).

(b) "Drug" does not include dietary supplements.

(27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a

record and executed or adopted by a person with the intent to sign the record.

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health and Human Services under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35) (a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

(39) (a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

(42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

(ii) eliminating or reducing a patient's symptoms; or

(iii) arresting or slowing a disease process.

(b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

(46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(48) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(52) "Pharmacy benefits manager or coordinator" means a person or entity that provides a pharmacy benefits management service as defined in Section 31A-46-102 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

(55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule; or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

(56) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

(57) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and, when appropriate, the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy;

(m) formulary management intervention;

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with [~~Title 26, Chapter 64, Family Planning Access Act~~] Title 26B, Chapter 4, Part 5, Treatment Access; and

(o) issuing a prescription in accordance with Section 58-17b-627.

(58) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

(59) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

(60) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

(61) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(62) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(63) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(64) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(65) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection (65)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

(66) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

(67) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

(68) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(69) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

(70) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

(71) "Supportive personnel" means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

(72) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(73) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

(74) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 135. Section 58-17b-302 is amended to read:

58-17b-302. License required -- License classifications for pharmacy facilities.

(1) A license is required to act as a pharmacy, except:

(a) as specifically exempted from licensure under Section 58-1-307;

(b) for the operation of a medical cannabis pharmacy under [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(c) to operate a licensed dispensing practice under Chapter 88, Part 2, Dispensing Practice.

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

(a) class A pharmacy;

(b) class B pharmacy;

(c) class C pharmacy;

(d) class D pharmacy;

(e) class E pharmacy; or

(f) dispensing medical practitioner clinic pharmacy.

(3) (a) Each place of business shall require a separate license.

(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

(4) (a) The division may further define or supplement the classifications of pharmacies.

(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

Section 136. Section 58-17b-309 is amended to read:

58-17b-309. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the acts or practices described in this section without being licensed under this chapter:

(1) a person selling or providing contact lenses in accordance with Section 58-16a-801;

(2) an animal shelter that:

(a) under the indirect supervision of a veterinarian, stores, handles, or administers a drug used for euthanising an animal; and

(b) under the indirect supervision of a veterinarian who is under contract with the animal shelter, stores, handles, or administers a rabies vaccine;

(3) an overdose outreach provider, as defined in Section [~~26-55-102~~] 26B-4-501, that obtains, stores, or furnishes an opiate antagonist in accordance with [~~Title 26, Chapter 55, Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access; and

(4) a dispensing practitioner, as defined in Section 58-88-201, dispensing a drug under Chapter 88, Part 2, Dispensing Practice.

Section 137. Section 58-17b-309.7 is amended to read:

58-17b-309.7. Opioid treatment program.

(1) As used in this section:

(a) "Covered provider" means an individual who is licensed to engage in:

(i) the practice of advanced practice registered nursing as defined in Section 58-31b-102;

(ii) the practice of registered nursing as defined in Section 58-31b-102; or

(iii) practice as a physician assistant as defined in Section 58-70a-102.

(b) "Opioid treatment program" means a program or practitioner that is:

(i) engaged in dispensing an opiate medication assisted treatment for opioid use disorder;

(ii) registered under 21 U.S.C. Sec. 823(g)(1);

(iii) licensed by the Office of Licensing within the Department of Health and Human Services created in Section [~~62A-2-103~~] 26B-2-103; and

(iv) certified by the federal Substance Abuse and Mental Health Services Administration in accordance with 42 C.F.R. 8.11.

(2) A covered provider may dispense opiate medication assisted treatment at an opioid treatment program if the covered provider:

(a) is operating under the direction of a pharmacist;

(b) dispenses the opiate medication assisted treatment under the direction of a pharmacist; and

(c) acts in accordance with division rule made under Subsection (3).

(3) The division shall, in consultation with practitioners who work in an opioid treatment program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines under which a covered provider may dispense opiate medication assisted treatment to a patient in an opioid treatment program under this section.

Section 138. Section 58-17b-501 is amended to read:

58-17b-501. Unlawful conduct.

"Unlawful conduct" includes:

(1) knowingly preventing or refusing to permit an authorized agent of the division to conduct an inspection pursuant to Section 58-17b-103;

(2) failing to deliver the license, permit, or certificate to the division upon demand, if it has been revoked, suspended, or refused;

(3) (a) using the title "pharmacist," "druggist," "pharmacy intern," "pharmacy technician," or a term having similar meaning, except by a person licensed as a pharmacist, pharmacy intern, or pharmacy technician; or

(b) conducting or transacting business under a name that contains, as part of that name, the words "drugstore," "pharmacy," "drugs," "medicine store," "medicines," "drug shop," "apothecary," "prescriptions," or a term having a similar meaning, or in any manner advertising, otherwise describing, or referring to the place of the conducted business or profession, unless the place is a pharmacy issued a license by the division, except an establishment selling nonprescription drugs and supplies may display signs bearing the words "packaged drugs," "drug sundries," or "nonprescription drugs," and is not considered to be a pharmacy or drugstore by reason of the display;

(4) buying, selling, causing to be sold, or offering for sale, a drug or device that bears, or the package bears or originally did bear, the inscription "sample," "not for resale," "for investigational or experimental use only," or other similar words, except when a cost is incurred in the bona fide acquisition of an investigational or experimental drug;

(5) using to a person's own advantages or revealing to anyone other than the division, board, and its authorized representatives, or to the courts, when relevant to a judicial or administrative proceeding under this chapter, information acquired under authority of this chapter or concerning a method of process that is a trade secret;

(6) procuring or attempting to procure a drug or to have someone else procure or attempt to procure a drug:

(a) by fraud, deceit, misrepresentation, or subterfuge;

(b) by forgery or alteration of a prescription or a written order;

(c) by concealment of a material fact;

(d) by use of a false statement in a prescription, chart, order, or report; or

(e) by theft;

(7) filling, refilling, or advertising the filling or refilling of prescriptions for a consumer or patient residing in this state if the person is not licensed:

(a) under this chapter; or

(b) in the state from which he is dispensing;

(8) requiring an employed pharmacist, pharmacy intern, pharmacy technician, or authorized supportive personnel to engage in conduct in violation of this chapter;

(9) being in possession of a prescription drug for an unlawful purpose;

(10) dispensing a prescription drug to a person who does not have a prescription from a practitioner, except as permitted under[~~:~~] Title 26B, Chapter 4, Part 5, Treatment Access;

[~~(a) Title 26, Chapter 55, Opiate Overdose Response Act; or~~]

[~~(b) Title 26, Chapter 64, Family Planning Access Act;~~]

(11) dispensing a prescription drug to a person who the person dispensing the drug knows or should know is attempting to obtain drugs by fraud or misrepresentation;

(12) selling, dispensing, distributing, or otherwise trafficking in prescription drugs when not licensed to do so or when not exempted from licensure; and

(13) a person using a prescription drug or controlled substance that was not lawfully prescribed for the person by a practitioner.

Section 139. Section 58-17b-502 is amended to read:

58-17b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of a pharmacy;

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

(m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;

(n) failing to act in accordance with [~~Title 26, Chapter 64, Family Planning Access Act~~] Title 26B, Chapter 4, Part 5, Treatment Access, when dispensing a self-administered hormonal contraceptive under a standing order;

(o) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(p) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include, in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(a) when registered as a pharmacy medical provider, as that term is defined in Section [~~26-61a-102~~] 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(b) when acting as a state central patient portal medical provider, as that term is defined in Section [~~26-61a-102~~] 26B-4-201, providing state central patient portal medical provider services.

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 140. Section 58-17b-503 is amended to read:

58-17b-503. Exception to unprofessional conduct.

(1) For purposes of this section:

(a) "Licensed intermediate care facility for people with an intellectual disability" means an intermediate care facility for people with an intellectual disability that is licensed as a nursing care facility or a small health care facility under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(b) "Nursing care facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(c) "Unit pack" means a tamper-resistant nonreusable single-dose single-drug package with identification that indicates the lot number and expiration date for the drug.

(2) A pharmacist may accept and redistribute an unused drug, or part of it, after it has left the premises of the pharmacy:

(a) in accordance with Part 9, Charitable Prescription Drug Recycling Act;

(b) if:

(i) the drug was prescribed to a patient in a nursing care facility, licensed intermediate care facility for people with an intellectual disability, or state prison facility, county jail, or state hospital;

(ii) the drug was stored under the supervision of a licensed health care provider according to manufacturer recommendations;

(iii) the drug is in a unit pack or in the manufacturer's sealed container;

(iv) the drug was returned to the original dispensing pharmacy;

(v) the drug was initially dispensed by a licensed pharmacist or licensed pharmacy intern; and

(vi) accepting back and redistributing of the drug complies with federal Food and Drug Administration and Drug Enforcement Administration regulations; or

(c) if:

(i) the pharmacy has attempted to deliver the drug to a patient or a patient's agent via the United States Postal Service, a licensed common carrier, or supportive personnel;

(ii) the drug is returned to the pharmacy by the same person or carrier that attempted to deliver the drug; and

(iii) in accordance with United States Food and Drug Administration regulations and rules established by the division, a pharmacist at the pharmacy determines that the drug has not been adversely affected by the drug's attempted delivery and return.

Section 141. Section 58-17b-507 is amended to read:

58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from unlawful or unprofessional conduct.

(1) As used in this section:

(a) "Opiate antagonist" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(b) "Opiate-related drug overdose event" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(2) A person licensed under this chapter that dispenses an opiate antagonist to an individual with a prescription for an opiate antagonist, to an overdose outreach provider with a prescription for an opiate antagonist, or pursuant to a standing prescription drug order issued in accordance with Subsection [~~26-55-105(2)~~] 26B-4-510(2) is not liable for any civil damages resulting from the outcomes of the eventual administration of the opiate antagonist to an individual who another individual believes is experiencing an opiate-related drug overdose event.

(3) The provisions of this section and [~~Title 26, Chapter 55, Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

(4) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to a person, including a person described in Subsections [~~26-55-107(1)(a)(i)(A)~~] 26B-4-512(1)(a)(i)(A) through (1)(a)(i)(F), on behalf of an individual if the person obtaining the opiate antagonist has a prescription for the opiate antagonist from a licensed prescriber or the opiate antagonist is dispensed pursuant to a standing prescription drug order issued in accordance with Subsection [~~26-55-105(2)~~] 26B-4-510(2).

(5) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to an overdose outreach provider if the overdose outreach provider has a prescription for the opiate antagonist from a

licensed prescriber issued pursuant to Subsection [~~26-55-104(2)(a)(iii)~~] 26B-4-509(2)(a)(iii).

Section 142. Section 58-17b-602 is amended to read:

58-17b-602. Prescription orders -- Information required -- Alteration -- Labels -- Signatures -- Dispensing in pharmacies.

(1) Except as provided in Section 58-1-501.3, the minimum information that shall be included in a prescription order, and that may be defined by rule, is:

(a) the prescriber's name, address, and telephone number, and, if the order is for a controlled substance, the patient's age and the prescriber's DEA number;

(b) the patient's name and address or, in the case of an animal, the name of the owner and species of the animal;

(c) the date of issuance;

(d) the name of the medication or device prescribed and dispensing instructions, if necessary;

(e) the directions, if appropriate, for the use of the prescription by the patient or animal and any refill, special labeling, or other instructions;

(f) the prescriber's signature if the prescription order is written;

(g) if the order is an electronically transmitted prescription order, the prescribing practitioner's electronic signature; and

(h) if the order is a hard copy prescription order generated from electronic media, the prescribing practitioner's electronic or manual signature.

(2) The requirement of Subsection (1)(a) does not apply to prescription orders dispensed for inpatients by hospital pharmacies if the prescriber is a current member of the hospital staff and the prescription order is on file in the patient's medical record.

(3) Unless it is for a Schedule II controlled substance, a prescription order may be dispensed by a pharmacist or pharmacy intern upon an oral prescription of a practitioner only if the oral prescription is promptly reduced to writing.

(4) (a) Except as provided under Subsection (4)(b), a pharmacist or pharmacy intern may not dispense or compound any prescription of a practitioner if the prescription shows evidence of alteration, erasure, or addition by any person other than the person writing the prescription.

(b) A pharmacist or pharmacy intern dispensing or compounding a prescription may alter or make additions to the prescription after receiving permission of the prescriber and may make entries or additions on the prescription required by law or necessitated in the compounding and dispensing procedures.

(5) (a) Each drug dispensed shall have a label securely affixed to the container indicating the following minimum information:

(i) the name, address, and telephone number of the pharmacy;

(ii) the serial number of the prescription as assigned by the dispensing pharmacy;

(iii) the filling date of the prescription or its last dispensing date;

(iv) the name of the patient, or in the case of an animal, the name of the owner and species of the animal;

(v) the name of the prescriber;

(vi) the directions for use and cautionary statements, if any, which are contained in the prescription order or are needed;

(vii) except as provided in Subsection (7), the trade, generic, or chemical name, amount dispensed and the strength of dosage form, but if multiple ingredient products with established proprietary or nonproprietary names are prescribed, those products' names may be used; and

(viii) the beyond use date.

(b) The requirements described in Subsections (5)(a)(i) through (vi) do not apply to a label on the container of a drug that a health care provider administers to a patient at:

(i) a pharmaceutical administration facility; or

(ii) a hospital licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(6) A hospital pharmacy that dispenses a prescription drug that is packaged in a multidose container to a hospital patient may provide the drug in the multidose container to the patient when the patient is discharged from the hospital if:

(a) the pharmacy receives a discharge order for the patient; and

(b) the pharmacy labels the drug with the:

(i) patient's name;

(ii) drug's name and strength;

(iii) directions for use of the drug, if applicable; and

(iv) pharmacy's name and phone number.

(7) If the prescriber specifically indicates the name of the prescription product should not appear on the label, then any of the trade, generic, chemical, established proprietary, and established nonproprietary names and the strength of dosage form may not be included.

(8) Prescribers are encouraged to include on prescription labels the information described in Section 58-17b-602.5 in accordance with the provisions of that section.

(9) A pharmacy may only deliver a prescription drug to a patient or a patient's agent:

(a) in person at the pharmacy; or

(b) via the United States Postal Service, a licensed common carrier, or supportive personnel, if the pharmacy takes reasonable precautions to ensure the prescription drug is:

(i) delivered to the patient or patient's agent; or

(ii) returned to the pharmacy.

Section 143. Section 58-17b-606 is amended to read:

58-17b-606. Restrictive drug formulary prohibited.

(1) As used in this section:

(a) "Generic form" means a prescription drug that is available in generic form and has an A rating in the United States Pharmacopeia and Drug Index.

(b) "Legend drug" has the same meaning as prescription drug.

(c) "Restrictive drug formulary" means a list of legend drugs, other than drugs for cosmetic purposes, that are prohibited by the Department of Health and Human Services from dispensation, but are approved by the Federal Food and Drug Administration.

(2) A practitioner may prescribe legend drugs in accordance with this chapter that, in his professional judgment and within the lawful scope of his practice, he considers appropriate for the diagnosis and treatment of his patient.

(3) Except as provided in Subsection (4), the Department of Health and Human Services may not maintain a restrictive drug formulary that restricts a physician's ability to treat a patient with a legend drug that has been approved and designated as safe and effective by the Federal Food and Drug Administration, except for drugs for cosmetic purposes.

(4) When a multisource legend drug is available in the generic form, the Department of Health and Human Services may only reimburse for the generic form of the drug unless the treating physician demonstrates to the Department of Health and Human Services a medical necessity for dispensing the nongeneric, brand-name legend drug.

(5) The Department of Health and Human Services pharmacists may override the generic mandate provisions of Subsection (4) if a financial benefit will accrue to the state.

(6) This section does not affect the state's ability to exercise the exclusion options available under the Federal Omnibus Budget Reconciliation Act of 1990.

Section 144. Section 58-17b-620 is amended to read:

58-17b-620. Prescriptions issued within the public health system.

(1) As used in this section:

(a) "Department of Health and Human Services" means the Department of Health and Human Services created in Section 26B-1-201.

(b) "Health department" means either the Department of Health and Human Services or a local health department.

(c) "Local health departments" mean the local health departments created in Title 26A, Chapter 1, Local Health Departments.

(2) When it is necessary to treat a reportable disease or non-emergency condition that has a direct impact on public health, a health department may implement the prescription procedure described in Subsection (3) for a prescription drug that is not a controlled substance for use in:

(a) a clinic; or

(b) a remote or temporary off-site location, including a triage facility established in the community, that provides:

(i) treatment for sexually transmitted infections;

(ii) fluoride treatment;

(iii) travel immunization;

(iv) preventative treatment for an individual with latent tuberculosis infection;

(v) preventative treatment for an individual at risk for an infectious disease that has a direct impact on public health when the treatment is indicated to prevent the spread of disease or to mitigate the seriousness of infection in the exposed individual; or

(vi) other treatment as defined by the Department of Health and Human Services by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) In a circumstance described in Subsection (2), an individual with prescriptive authority may write a prescription for each contact, as defined in Section [~~26-6-2~~] 26B-7-201, of a patient of the individual with prescriptive authority without a face-to-face exam, if:

(a) the individual with prescriptive authority is treating the patient for a reportable disease or non-emergency condition having a direct impact on public health; and

(b) the contact's condition is the same as the patient of the individual with prescriptive authority.

(4) The following prescription procedure shall be carried out in accordance with the requirements of Subsection (5) and may be used only in the circumstances described under Subsections (2) and (3):

(a) a physician writes and signs a prescription for a prescription drug, other than a controlled substance, without the name and address of the patient and without the date the prescription is provided to the patient; and

(b) the physician authorizes a registered nurse employed by the health department to complete the

prescription written under this Subsection (4) by inserting the patient's name and address, and the date the prescription is provided to the patient, in accordance with the physician's standing written orders and a written health department protocol approved by the physician and the medical director of the state Department of Health and Human Services.

(5) A physician assumes responsibility for all prescriptions issued under this section in the physician's name.

(6) (a) All prescription forms to be used by a physician and health department in accordance with this section shall be serially numbered according to a numbering system assigned to that health department.

(b) All prescriptions issued shall contain all information required under this chapter and rules adopted under this chapter.

(7) Notwithstanding Sections 58-17b-302 and 58-17b-309, a nurse who is employed by a health department and licensed under Chapter 31b, Nurse Practice Act, may dispense a drug to treat a sexually transmitted infection if the drug is:

(a) a prepackaged drug as defined in Section 58-17b-802;

(b) dispensed under a prescription authorized by this section;

(c) provided at a location that is described in Subsection (2)(a) or (b) and operated by the health department;

(d) provided in accordance with a dispensing standard that is issued by a physician who is employed by the health department; and

(e) if applicable, in accordance with requirements established by the division in collaboration with the board under Subsection (8).

(8) The division may make rules in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish specific requirements regarding the dispensing of a drug under Subsection (7).

Section 145. Coordinating S.B. 207 with H.B. 72 -- Superseding amendment.

If this S.B. 207 and H.B. 72, Medical Cannabis Governance Revisions, both pass and become law, it is the intent of the Legislature that the amendments to Section 58-17b-302 in H.B. 72 supersede the amendments to Section 58-17b-302 in this bill when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication on July 1, 2023..

Section 146. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if any of the following bills do not pass:

(a) S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;

(b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and Data;

(c) S.B. 40, Health and Human Services Recodification - Health Care Delivery and Repeals; or

(d) S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health.

CHAPTER 329
S. B. 208
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH AND HUMAN SERVICES RECODIFICATION -CROSS REFERENCES, TITLES 58-63J

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill updates cross references to the Utah Health and Human Services Code in Titles 58 through 63J.

Highlighted Provisions:

This bill:

- makes technical updates in Titles 58 through 63J to cross references to the Utah Health and Human Services Code that are renumbered and amended in:
  - S.B. 38, Health and Human Services Recodification – Administration, Licensing, and Recovery Services;
  - S.B. 39, Health and Human Services Recodification – Health Care Assistance and Data;
  - S.B. 40, Health and Human Services Recodification – Health Care Delivery and Repeals; and
  - S.B. 41, Health and Human Services Recodification – Prevention, Supports, Substance Use and Mental Health; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

58-17b-622, as last amended by Laws of Utah 2021, Chapter 340
58-17b-701, as last amended by Laws of Utah 2013, Chapter 364
58-17b-902, as last amended by Laws of Utah 2022, Chapters 253, 255
58-17b-1002, as enacted by Laws of Utah 2020, Chapter 372
58-17b-1004, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
58-28-502, as last amended by Laws of Utah 2022, Chapter 103
58-31b-102, as last amended by Laws of Utah 2022, Chapter 277
58-31b-305, as last amended by Laws of Utah 2019, Chapter 447
58-31b-401, as last amended by Laws of Utah 2021, Chapter 404
58-31b-502, as last amended by Laws of Utah 2022, Chapter 290
58-31b-703, as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 202
58-37-3.6, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
58-37-3.7, as last amended by Laws of Utah 2021, Chapters 337, 350 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 337
58-37-3.8, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
58-37-3.9, as last amended by Laws of Utah 2021, Chapter 350
58-37-6.5, as last amended by Laws of Utah 2021, Chapter 337
58-37-7, as last amended by Laws of Utah 2018, Chapter 145
58-37-8, as last amended by Laws of Utah 2022, Chapters 116, 415 and 430
58-37-19, as enacted by Laws of Utah 2019, Chapter 130
58-37-22, as enacted by Laws of Utah 2021, Chapter 165
58-37f-102, as last amended by Laws of Utah 2013, Chapter 130
58-37f-201, as last amended by Laws of Utah 2022, Chapter 116
58-37f-301, as last amended by Laws of Utah 2021, Chapters 104, 315
58-37f-702, as last amended by Laws of Utah 2019, Chapter 128
58-41-4, as last amended by Laws of Utah 2022, Chapter 415
58-57-7, as last amended by Laws of Utah 2011, Chapter 340
58-60-114, as last amended by Laws of Utah 2022, Chapter 335
58-60-509, as last amended by Laws of Utah 2022, Chapter 335
58-61-602, as last amended by Laws of Utah 2021, Chapter 283
58-61-704, as last amended by Laws of Utah 2022, Chapter 415
58-61-713, as last amended by Laws of Utah 2022, Chapter 335
58-67-302, as last amended by Laws of Utah 2020, Chapter 339
58-67-304, as last amended by Laws of Utah 2020, Chapters 12, 339
58-67-502, as last amended by Laws of Utah 2021, Chapter 337
58-67-601, as last amended by Laws of Utah 2017, Chapter 299
58-67-702, as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 202
58-68-302, as last amended by Laws of Utah 2020, Chapter 339
58-68-304, as last amended by Laws of Utah 2020, Chapters 12, 339
58-68-502, as last amended by Laws of Utah 2021, Chapter 337
58-68-601, as last amended by Laws of Utah 2017, Chapter 299

58-68-702, as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 202
58-69-601, as last amended by Laws of Utah 2013, Chapter 364
58-69-702, as enacted by Laws of Utah 2016, Chapter 207 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 207
58-70a-102, as last amended by Laws of Utah 2021, Chapters 312, 313
58-70a-303, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
58-70a-503, as last amended by Laws of Utah 2022, Chapter 290
58-70a-505, as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 202
58-71-601, as last amended by Laws of Utah 2013, Chapter 364
58-80a-601, as renumbered and amended by Laws of Utah 2010, Chapter 127
58-85-104, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
58-88-201, as enacted by Laws of Utah 2022, Chapter 353
59-1-210, as last amended by Laws of Utah 2010, Chapter 278
59-1-403, as last amended by Laws of Utah 2022, Chapter 447
59-2-1901, as enacted by Laws of Utah 2019, Chapter 453
59-10-529, as last amended by Laws of Utah 2021, Chapter 260
59-10-1004, as renumbered and amended by Laws of Utah 2006, Chapter 223
59-10-1308, as last amended by Laws of Utah 2010, Chapter 278
59-10-1320, as enacted by Laws of Utah 2018, Chapter 414
59-12-102, as last amended by Laws of Utah 2021, Chapters 64, 367 and 414 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 367
59-12-103, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433
59-12-104.10, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
59-12-801, as last amended by Laws of Utah 2014, Chapter 50
59-14-807, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
61-1-13, as last amended by Laws of Utah 2020, Chapter 77
61-1-201, as enacted by Laws of Utah 2018, Chapter 159
63A-5b-303, as last amended by Laws of Utah 2022, Chapters 169, 421
63A-5b-607, as last amended by Laws of Utah 2022, Chapters 169, 443
63A-5b-910, as last amended by Laws of Utah 2022, Chapter 421
63A-9-701, as last amended by Laws of Utah 2003, Chapter 22
63A-13-102, as last amended by Laws of Utah 2022, Chapter 255
63A-13-204, as last amended by Laws of Utah 2016, Chapters 222, 348
63A-13-301, as last amended by Laws of Utah 2016, Chapter 225
63A-16-803, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-806, as last amended by Laws of Utah 2022, Chapter 169
63A-17-1001, as renumbered and amended by Laws of Utah 2021, Chapter 344
63B-16-401, as last amended by Laws of Utah 2013, Chapter 465
63C-9-403, as last amended by Laws of Utah 2022, Chapters 421, 443
63C-18-102, as last amended by Laws of Utah 2020, Chapter 303
63C-18-202, as last amended by Laws of Utah 2021, Chapter 76
63C-18-203, as last amended by Laws of Utah 2021, Chapter 76
63G-2-202, as last amended by Laws of Utah 2021, Chapter 231
63G-2-302, as last amended by Laws of Utah 2022, Chapters 169, 334
63G-2-305, as last amended by Laws of Utah 2022, Chapters 11, 109, 198, 201, 303, 335, 388, 391, and 415
63G-3-501, as last amended by Laws of Utah 2022, Chapter 443
63G-4-102, as last amended by Laws of Utah 2022, Chapter 307
63G-7-201, as last amended by Laws of Utah 2021, Chapter 352
63I-1-262, as last amended by Laws of Utah 2022, Chapters 34, 35, 149, 257, and 335
63I-2-262, as last amended by Laws of Utah 2022, Chapters 114, 334
63J-1-315, as last amended by Laws of Utah 2022, Chapter 255

RENUMBERS AND AMENDS:

63A-5b-1109, (Renumbered from 26-29-1, as last amended by Laws of Utah 2022, Chapter 421)

REPEALS AND REENACTS:

63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451
63I-2-226, as last amended by Laws of Utah 2022, Chapters 255, 365

Utah Code Sections Affected by Coordination Clause:

63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451
63I-1-262, as last amended by Laws of Utah 2022, Chapters 34, 35, 149, 257, and 335
63I-2-226, as last amended by Laws of Utah 2022, Chapters 255 and 365

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-17b-622 is amended to read:

58-17b-622. Pharmacy benefit management services -- Auditing of pharmacy records -- Appeals.

(1) For purposes of this section:

(a) "Audit" means a review of the records of a pharmacy by or on behalf of an entity that finances or reimburses the cost of health care services or pharmaceutical products.

(b) "Audit completion date" means:

(i) for an audit that does not require an on-site visit at the pharmacy, the date on which the pharmacy, in response to the initial audit request, submits records or other documents to the entity conducting the audit, as determined by:

(A) postmark or other evidence of the date of mailing; or

(B) the date of transmission if the records or other documents are transmitted electronically; and

(ii) for an audit that requires an on-site visit at a pharmacy, the date on which the auditing entity completes the on-site visit, including any follow-up visits or analysis which shall be completed within 60 days after the day on which the on-site visit begins.

(c) "Entity" includes:

(i) a pharmacy benefits manager or coordinator;

(ii) a health benefit plan;

(iii) a third party administrator as defined in Section 31A-1-301;

(iv) a state agency; or

(v) a company, group, or agent that represents, or is engaged by, one of the entities described in Subsections (1)(c)(i) through (iv).

(d) "Fraud" means an intentional act of deception, misrepresentation, or concealment in order to gain something of value.

(e) "Health benefit plan" means:

(i) a health benefit plan as defined in Section 31A-1-301; or

(ii) a health, dental, medical, Medicare supplement, or conversion program offered under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(2) (a) Except as provided in Subsection (2)(b), this section applies to:

(i) a contract for the audit of a pharmacy entered into, amended, or renewed on or after July 1, 2012; and

(ii) an entity that conducts an audit of the pharmacy records of a pharmacy licensed under this chapter.

(b) This section does not apply to an audit of pharmacy records:

(i) for a federally funded prescription drug program, including:

(A) the state Medicaid program;

(B) the Medicare Part D program;

(C) a Department of Defense prescription drug program; and

(D) a Veterans Affairs prescription drug program; or

(ii) when fraud or other intentional and willful misrepresentation is alleged and the pharmacy audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation.

(3) (a) An audit that involves clinical or professional judgment shall be conducted by or in consultation with a pharmacist who is employed by or working with the auditing entity and who is licensed in the state or another state.

(b) If an audit is conducted on site at a pharmacy, the entity conducting the audit:

(i) shall give the pharmacy 10 days advanced written notice of:

(A) the audit; and

(B) the range of prescription numbers or a date range included in the audit; and

(ii) may not audit a pharmacy during the first five business days of the month, unless the pharmacy agrees to the timing of the audit.

(c) An entity may not audit claims:

(i) submitted more than 18 months prior to the audit, unless:

(A) required by federal law; or

(B) the originating prescription is dated in the preceding six months; or

(ii) that exceed 200 selected prescription claims.

(4) (a) An entity may not:

(i) include dispensing fees in the calculations of overpayments unless the prescription is considered a misfill;

(ii) recoup funds for prescription clerical or recordkeeping errors, including typographical errors, scrivener's errors, and computer errors on a required document or record unless the audit entity is alleging fraud or other intentional or willful misrepresentation and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation;

(iii) recoup funds for refills dispensed in accordance with Section 58-17b-608.1, unless the health benefit plan does not cover the prescription drug dispensed by the pharmacy;

(iv) collect any funds, charge-backs, or penalties until the audit and all appeals are final, unless the

audit entity is alleging fraud or other intentional or willful misrepresentation and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation; or

(v) recoup funds or collect any funds, charge-backs, or penalties from a pharmacy in response to a request for audit unless the pharmacy confirms to the entity the date on which the pharmacy received the request for audit.

(b) Auditors shall only have access to previous audit reports on a particular pharmacy if the previous audit was conducted by the same entity except as required for compliance with state or federal law.

(5) A pharmacy subject to an audit:

(a) may use one or more of the following to validate a claim for a prescription, refill, or change in a prescription:

(i) electronic or physical copies of records of a health care facility, or a health care provider with prescribing authority;

(ii) any prescription that complies with state law;

(iii) the pharmacy's own physical or electronic records; or

(iv) the physical or electronic records, or valid copies of the physical or electronic records, of a practitioner or health care facility as defined in Section [~~26-21-2~~] 26B-2-201; and

(b) may not be required to provide the following records to validate a claim for a prescription, refill, or change in a prescription:

(i) if the prescription was handwritten, the physical handwritten version of the prescription; or

(ii) a note from the practitioner regarding the patient or the prescription that is not otherwise required for a prescription under state or federal law.

(6) (a) (i) An entity that audits a pharmacy shall establish:

(A) a maximum time for the pharmacy to submit records or other documents to the entity following receipt of an audit request for records or documents; and

(B) a maximum time for the entity to provide the pharmacy with a preliminary audit report following submission of records under Subsection (6)(a)(i)(A).

(ii) The time limits established under Subsections (6)(a)(i)(A) and (B):

(A) shall be identical; and

(B) may not be less than seven days or more than 60 days.

(iii) An entity that audits a pharmacy may not, after the audit completion date, request additional records or other documents from the pharmacy to complete the preliminary audit report described in Subsection (6)(b).

(b) An entity that audits a pharmacy shall provide the pharmacy with a preliminary audit report, delivered to the pharmacy or its corporate office of record, within the time limit established under Subsection (6)(a)(i)(B).

(c) (i) Except as provided in Subsection (6)(c)(ii), a pharmacy has 30 days following receipt of the preliminary audit report to respond to questions, provide additional documentation, and comment on and clarify findings of the audit.

(ii) An entity may grant a reasonable extension under Subsection (6)(c)(i) upon request by the pharmacy.

(iii) Receipt of the report under Subsection (6)(c)(i) shall be determined by:

(A) postmark or other evidence of the date of mailing; or

(B) the date of transmission if the report is transmitted electronically.

(iv) If a dispute exists between the records of the auditing entity and the pharmacy, the records maintained by the pharmacy shall be presumed valid for the purpose of the audit.

(7) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall allow:

(a) the pharmacy to resubmit a claim using any commercially reasonable method, including fax, mail, or electronic claims submission provided that the period of time when a claim may be resubmitted has not expired under the rules of the plan sponsor; and

(b) the health benefit plan or other entity that finances or reimburses the cost of health care services or pharmaceutical products to rerun the claim if the health benefit plan or other entity chooses to rerun the claim at no cost to the pharmacy.

(8) (a) Within 60 days after the completion of the appeals process under Subsection (9), a final audit report shall be delivered to the pharmacy or its corporate office of record.

(b) The final audit report shall include a disclosure of any money recovered by the entity that conducted the audit.

(9) (a) An entity that audits a pharmacy shall establish a written appeals process for appealing a preliminary audit report and a final audit report, and shall provide the pharmacy with notice of the written appeals process.

(b) If the pharmacy benefit manager's contract or provider manual contains the information required by this Subsection (9), the requirement for notice is met.

Section 2. Section 58-17b-701 is amended to read:

58-17b-701. Mentally incompetent or incapacitated pharmacist -- Division action and procedures.

(1) As used in this section:

(a) "Incapacitated person" is a person who is incapacitated, as defined in Section 75-1-201.

(b) "Mental illness" is as defined in Section [~~62A-15-602~~] 26B-5-301.

(2) If a court of competent jurisdiction determines a pharmacist is an incapacitated person, or that the pharmacist has a mental illness and is unable to safely engage in the practice of pharmacy, the director shall immediately suspend the license of the pharmacist upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the pharmacist, in writing, of the suspension.

(3) (a) If the division and a majority of the board find reasonable cause to believe a pharmacist, who is not determined judicially to be an incapacitated person or to have a mental illness, is incapable of practicing pharmacy with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the pharmacist with a notice of hearing on the sole issue of the capacity of the pharmacist to competently and safely engage in the practice of pharmacy.

(b) The hearing shall be conducted under Section 58-1-109 and Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).

(4) (a) Every pharmacist who accepts the privilege of being licensed under this chapter gives consent to:

(i) submitting at the pharmacist's own expense to an immediate mental or physical examination when directed in writing by the division, with the consent of a majority of the board, to do so; and

(ii) the admissibility of the reports of the examining practitioner's testimony or examination in any proceeding regarding the license of the pharmacist, and waives all objections on the ground the reports constitute a privileged communication.

(b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:

(i) the pharmacist has a mental illness, is incapacitated or otherwise unable to practice pharmacy with reasonable skill and safety; and

(ii) immediate action by the division and the board is necessary to prevent harm to the pharmacist's patients or the general public.

(c) (i) Failure of a pharmacist to submit to the examination ordered under this section is a ground for the division's immediate suspension of the pharmacist's license by written order of the director.

(ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the pharmacist and was not related directly to the illness or incapacity of the pharmacist.

(5) (a) A pharmacist whose license is suspended under Subsection (2) or (4) has the right to a hearing to appeal the suspension within 10 days after the license is suspended.

(b) The hearing held under this Subsection (5) shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the pharmacist's patients or the general public.

(6) A pharmacist whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the pharmacist, under procedures established by division rule, regarding any change in the pharmacist's condition, to determine whether:

(a) the pharmacist is or is not able to safely and competently engage in the practice of pharmacy; and

(b) the pharmacist is qualified to have the pharmacist's licensure to practice under this chapter restored completely or in part.

Section 3. Section 58-17b-902 is amended to read:

58-17b-902. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a drug used in chemotherapy to destroy cancer cells.

(3) "Charitable clinic" means a charitable nonprofit corporation that:

(a) holds a valid exemption from federal income taxation issued under Section 501(a), Internal Revenue Code;

(b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to an individual not residing or confined at a facility owned or operated by the charitable nonprofit corporation:

(i) advice;

(ii) counseling;

(iii) diagnosis;

(iv) treatment;

(v) surgery; or

(vi) care or services relating to the preservation or maintenance of health; and

(d) has a licensed outpatient pharmacy.

(4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable clinic.

(5) "County health department" means the same as that term is defined in Section 26A-1-102.

(6) "Donated prescription drug" means a prescription drug that an eligible donor or individual donates to an eligible pharmacy under the program.

(7) "Eligible donor" means a donor that donates a prescription drug from within the state and is:

(a) a nursing care facility;

(b) an assisted living facility;

(c) a licensed intermediate care facility for people with an intellectual disability;

(d) a manufacturer;

(e) a pharmaceutical wholesale distributor;

(f) an eligible pharmacy; or

(g) a physician's office.

(8) "Eligible pharmacy" means a pharmacy that:

(a) is registered by the division as eligible to participate in the program; and

(b) (i) is licensed in the state as a Class A retail pharmacy; or

(ii) is operated by:

(A) a county;

(B) a county health department;

(C) a pharmacy under contract with a county health department;

(D) the Department of Health and Human Services created in Section 26B-1-201; or

(E) a charitable clinic.

(9) (a) "Eligible prescription drug" means a prescription drug, described in Section 58-17b-904, that is not:

(i) except as provided in Subsection (9)(b), a controlled substance; or

(ii) a drug that can only be dispensed to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements.

(b) "Eligible prescription drug" includes a medication-assisted treatment drug that may be accepted, transferred, and dispensed under the program in accordance with federal law.

(10) "Licensed intermediate care facility for people with an intellectual disability" means the same as that term is defined in Section 58-17b-503.

(11) "Medically indigent individual" means an individual who:

(a) (i) does not have health insurance; and

(ii) lacks reasonable means to purchase prescribed medications; or

(b) (i) has health insurance; and

(ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed medications.

(12) "Medication-assisted treatment drug" means buprenorphine prescribed to treat substance use withdrawal symptoms or an opiate use disorder.

(13) "Nursing care facility" means the same as that term is defined in Section [~~26-18-501~~] 26B-2-201.

(14) "Physician's office" means a fixed medical facility that:

(a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse, licensed under [~~Title 58, Occupations and Professions~~] this title; and

(b) treats an individual who presents at, or is transported to, the facility.

(15) "Program" means the Charitable Prescription Drug Recycling Program created in Section 58-17b-903.

(16) "Unit pack" means the same as that term is defined in Section 58-17b-503.

(17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(18) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502.

Section 4. Section 58-17b-1002 is amended to read:

58-17b-1002. Definitions.

As used in this part:

(1) "Epinephrine auto-injector" means the same as that term is defined in Section [~~26-41-102~~] 26B-4-401.

(2) "Local health department" means the same as that term is defined in Section 26A-1-102.

(3) "Physician" means the same as that term is defined in Section 58-67-102.

(4) "Qualified adult" means the same as that term is defined in Section [~~26-41-102~~] 26B-4-401.

(5) "Qualified epinephrine auto-injector entity" means the same as that term is defined in Section [~~26-41-102~~] 26B-4-401.

(6) "Qualified stock albuterol entity" means the same as that term is defined in Section [~~26-41-102~~] 26B-4-401.

(7) "Stock albuterol" means the same as that term is defined in Section [~~26-41-102~~] 26B-4-401.

Section 5. Section 58-17b-1004 is amended to read:

58-17b-1004. Authorization to dispense an epinephrine auto-injector and stock albuterol pursuant to a standing order.

(1) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy intern may dispense an epinephrine auto-injector:

(a) (i) to a qualified adult for use in accordance with [~~Title 26, Chapter 41, Emergency Response for Life-threatening Conditions~~] Title 26B, Chapter 4, Part 4, School Health; or

(ii) to a qualified epinephrine auto-injector entity for use in accordance with [~~Title 26, Chapter 41, Emergency Response for Life-threatening Conditions~~] Title 26B, Chapter 4, Part 4, School Health;

(b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;

(c) without any other prescription drug order from a person licensed to prescribe an epinephrine auto-injector; and

(d) in accordance with the dispensing guidelines in Section 58-17b-1006.

(2) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy intern may dispense stock albuterol:

(a) (i) to a qualified adult for use in accordance with [~~Title 26, Chapter 41, Emergency Response for Life-threatening Conditions~~] Title 26B, Chapter 4, Part 4, School Health; or

(ii) to a qualified stock albuterol entity for use in accordance with [~~Title 26, Chapter 41, Emergency Response for Life-threatening Conditions~~] Title 26B, Chapter 4, Part 4, School Health;

(b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;

(c) without any other prescription drug order from a person licensed to prescribe stock albuterol; and

(d) in accordance with the dispensing guidelines in Section 58-17b-1006.

Section 6. Section 58-28-502 is amended to read:

58-28-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definitions in Section 58-1-501:

(a) applying unsanitary methods or procedures in the treatment of any animal, contrary to rules adopted by the board and approved by the division;

(b) procuring any fee or recompense on the assurance that a manifestly incurable diseased condition of the body of an animal can be permanently cured;

(c) selling any biologics containing living or dead organisms or products or such organisms, except in a manner which will prevent indiscriminate use of such biologics;

(d) swearing falsely in any testimony or affidavit, relating to, or in the course of, the practice of veterinary medicine, surgery, or dentistry;

(e) willful failure to report any dangerous, infectious, or contagious disease, as required by law;

(f) willful failure to report the results of any medical tests, as required by law, or rule adopted pursuant to law;

(g) violating Chapter 37, Utah Controlled Substances Act;

(h) delegating tasks to unlicensed assistive personnel in violation of standards of the profession and in violation of Subsection (2); and

(i) making any unsubstantiated claim of superiority in training or skill as a veterinarian in the performance of professional services.

(2) (a) "Unprofessional conduct" does not include the following:

(i) delegating to a veterinary technologist, while under the indirect supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technologist by the veterinarian;

(ii) delegating to a state certified veterinary technician, while under the direct or indirect supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if the veterinarian provides written or oral instructions to the state certified veterinary technician;

(iii) delegating to a veterinary technician, while under the direct supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technician by the veterinarian;

(iv) delegating to a veterinary assistant, under the immediate supervision of a licensed veterinarian, tasks that are consistent with the standards and ethics of the profession;

(v) delegating to an individual described in Subsection 58-28-307(16), under the direct supervision of a licensed veterinarian, the administration of a sedative drug for teeth floating; or

(vi) discussing the effects of the following on an animal with the owner of an animal:

(A) a cannabinoid or industrial hemp product, as those terms are defined in Section 4-41-102; or

(B) THC or medical cannabis, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201.

(b) The delegation of tasks permitted under Subsections (2)(a)(i) through (v) does not include:

(i) diagnosing;

(ii) prognosing;

(iii) surgery; or

(iv) prescribing drugs, medicines, or appliances.

(3) Notwithstanding any provision of this section, a veterinarian licensed under this chapter is not prohibited from engaging in a discussion described in Subsection (2)(a)(vi).

Section 7. Section 58-31b-102 is amended to read:

58-31b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Applicant" means an individual who applies for licensure or certification under this chapter by submitting a completed application for licensure or certification and the required fees to the department.

(3) "Approved education program" means a nursing education program that is accredited by an accrediting body for nursing education that is approved by the United States Department of Education.

(4) "Board" means the Board of Nursing created in Section 58-31b-201.

(5) "Diagnosis" means the identification of and discrimination between physical and psychosocial signs and symptoms essential to the effective execution and management of health care.

(6) "Examinee" means an individual who applies to take or does take any examination required under this chapter for licensure.

(7) "Licensee" means an individual who is licensed or certified under this chapter.

(8) "Long-term care facility" means any of the following facilities licensed by the [~~Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Department of Health and Human Services pursuant to Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection:

(a) a nursing care facility;

(b) a small health care facility;

(c) an intermediate care facility for people with an intellectual disability;

(d) an assisted living facility Type I or II; or

(e) a designated swing bed unit in a general hospital.

(9) "Medication aide certified" means a certified nurse aide who:

(a) has a minimum of 2,000 hours experience working as a certified nurse aide;

(b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and

(c) is certified by the division as a medication aide certified.

(10) (a) "Practice as a medication aide certified" means the limited practice of nursing under the supervision, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient care that requires minimal or limited specialized or general knowledge, judgment, and skill, to an individual who:

(i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual disability; and

(ii) is in a regulated long-term care facility.

(b) "Practice as a medication aide certified":

(i) includes:

(A) providing direct personal assistance or care; and

(B) administering routine medications to patients in accordance with a formulary and protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not include assisting a resident of an assisted living facility, a long term care facility, or an intermediate care facility for people with an intellectual disability to self administer a medication, as regulated by the Department of [~~Health~~] Health and Human Services by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Practice of advanced practice registered nursing" means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

(a) maintenance and promotion of health and prevention of disease;

(b) diagnosis, treatment, correction, consultation, and referral;

(c) prescription or administration of prescription drugs or devices including:

(i) local anesthesia;

(ii) Schedule III-V controlled substances; and

(iii) Subject to Section 58-31b-803, Schedule II controlled substances; or

(d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:

(i) preanesthesia preparation and evaluation including:

(A) performing a preanesthetic assessment of the patient;

(B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and

(C) selecting, ordering, or administering appropriate medications;

(ii) anesthesia induction, maintenance, and emergence, including:

(A) selecting and initiating the planned anesthetic technique;

(B) selecting and administering anesthetics and adjunct drugs and fluids; and

(C) administering general, regional, and local anesthesia;

(iii) postanesthesia follow-up care, including:

(A) evaluating the patient's response to anesthesia and implementing corrective actions; and

(B) selecting, ordering, or administering the medications and studies listed in this Subsection (11)(d);

(iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:

(A) emergency airway management;

(B) advanced cardiac life support; and

(C) the establishment of peripheral, central, and arterial invasive lines; and

(v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care professional":

(A) means a health care professional practicing within the scope of the health care professional's license, requests anesthesia services for a specific patient; and

(B) does not require an advanced practice registered nurse specializing as a certified registered nurse anesthetist to obtain additional authority to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.

(12) "Practice of nursing" means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment, and requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences. "Practice of nursing" includes:

(a) initiating and maintaining comfort measures;

(b) promoting and supporting human functions and responses;

(c) establishing an environment conducive to well-being;

(d) providing health counseling and teaching;

(e) collaborating with health care professionals on aspects of the health care regimen;

(f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee;

(g) delegating nursing tasks that may be performed by others, including an unlicensed assistive personnel; and

(h) supervising an individual to whom a task is delegated under Subsection (12)(g) as the individual performs the task.

(13) "Practice of practical nursing" means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as provided in this Subsection (13) by an individual licensed under this chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

(a) contributing to the assessment of the health status of individuals and groups;

(b) participating in the development and modification of the strategy of care;

(c) implementing appropriate aspects of the strategy of care;

(d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and

(e) participating in the evaluation of responses to interventions.

(14) "Practice of registered nursing" means performing acts of nursing as provided in this Subsection (14) by an individual licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by division rule made in accordance with

Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered nursing acts include:

(a) assessing the health status of individuals and groups;

(b) identifying health care needs;

(c) establishing goals to meet identified health care needs;

(d) planning a strategy of care;

(e) prescribing nursing interventions to implement the strategy of care;

(f) implementing the strategy of care;

(g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;

(h) evaluating responses to interventions;

(i) teaching the theory and practice of nursing; and

(j) managing and supervising the practice of nursing.

(15) "Registered nurse apprentice" means an individual licensed under Subsection 58-31b-301(2)(b) who is learning and engaging in the practice of registered nursing under the indirect supervision of an individual licensed under:

(a) Subsection 58-31b-301(2)(c), (e), or (f);

(b) Chapter 67, Utah Medical Practice Act; or

(c) Chapter 68, Utah Osteopathic Medical Practice Act.

(16) "Routine medications":

(a) means established medications administered to a medically stable individual as determined by a licensed health care practitioner or in consultation with a licensed medical practitioner; and

(b) is limited to medications that are administered by the following routes:

(i) oral;

(ii) sublingual;

(iii) buccal;

(iv) eye;

(v) ear;

(vi) nasal;

(vii) rectal;

(viii) vaginal;

(ix) skin ointments, topical including patches and transdermal;

(x) premeasured medication delivered by aerosol/nebulizer; and

(xi) medications delivered by metered hand-held inhalers.

(17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-501.

(18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of title, who is delegated a task by a licensed nurse as permitted by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards of the profession.

(19) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 8. Section 58-31b-305 is amended to read:

58-31b-305. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license or certification under this chapter in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles the division administers.

(2) The division shall renew the license of a licensee who, at the time of renewal:

(a) completes and submits an application for renewal in a form prescribed by the division;

(b) pays a renewal fee established by the division under Section 63J-1-504;

(c) views a suicide prevention video described in Section 58-1-601 and submits proof in the form required by the division; and

(d) meets continuing competency requirements as established by rule.

(3) In addition to the renewal requirements under Subsection (2), a person licensed as an advanced practice registered nurse shall be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of that qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

(4) In addition to the requirements described in Subsections (2) and (3), an advanced practice registered nurse licensee specializing in psychiatric mental health nursing who, as of the day on which the division originally issued the licensee's license had not completed the division's clinical practice requirements in psychiatric and mental health nursing, shall, to qualify for renewal:

(a) if renewing less than two years after the day on which the division originally issued the license, demonstrate satisfactory progress toward completing the clinical practice requirements; or

(b) have completed the clinical practice requirements.

(5) Each license or certification automatically expires on the expiration date shown on the license

or certification unless renewed in accordance with Section 58-1-308.

(6) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2)(d) continuing education that an advanced practice registered nurse completes in accordance with Section [~~26-61a-106~~] 26B-4-204.

Section 9. Section 58-31b-401 is amended to read:

58-31b-401. Grounds for denial of licensure or certification and disciplinary proceedings.

(1) (a) As used in this section, "licensed" or "license" includes certified or certification under this chapter.

(b) A term or condition applied to the word "nurse" under this section applies to a medication aide certified.

(2) Grounds for refusal to issue a license to an applicant, for refusal to renew the license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

(3) (a) (i) Subject to Subsection (7), if a court of competent jurisdiction determines a nurse is incapacitated as defined in Section 75-1-201 or that the nurse has a mental illness, as defined in Section [~~62A-15-602~~] 26B-5-301, and is unable to safely engage in the practice of nursing, the director shall immediately suspend the license of the nurse upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending.

(ii) The director shall promptly notify the nurse in writing of a suspension under Subsection (3)(a)(i).

(b) (i) Subject to Subsection (7), if the division and the majority of the board find reasonable cause to believe a nurse who is not determined judicially to be an incapacitated person or to have a mental illness, is incapable of practicing nursing with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the nurse with a notice of hearing on the sole issue of the capacity of the nurse to competently, safely engage in the practice of nursing.

(ii) Except as provided in Subsection (4), the hearing described in Subsection (3)(b)(i) shall be conducted under Section 58-1-109 and Title 63G, Chapter 4, Administrative Procedures Act.

(4) (a) Every nurse who accepts the privilege of being licensed under this chapter gives consent to:

(i) submitting to an immediate mental or physical examination, at the nurse's expense and by a division-approved practitioner selected by the nurse when directed in writing by the division and a majority of the board to do so; and

(ii) the admissibility of the reports of the examining practitioner's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

(b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:

(i) the nurse has a mental illness, is incapacitated, or otherwise unable to practice nursing with reasonable skill and safety; and

(ii) immediate action by the division and the board is necessary to prevent harm to the nurse's patients or the general public.

(c) (i) Failure of a nurse to submit to the examination ordered under this section is a ground for the division's immediate suspension of the nurse's license by written order of the director.

(ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the nurse and was not related directly to the illness or incapacity of the nurse.

(5) (a) A nurse whose license is suspended under Subsection (3) or (4)(c) has the right to a hearing to appeal the suspension within 10 days after the license is suspended.

(b) The hearing held under this Subsection (5) shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the nurse's patients or the general public.

(6) A nurse whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the nurse, under procedures established by division rule, regarding any change in the nurse's condition, to determine whether:

(a) the nurse is or is not able to safely and competently engage in the practice of nursing; and

(b) the nurse is qualified to have the nurse's license to practice under this chapter restored completely or in part.

(7) The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

(8) Section 63G-2-206 may not be construed as limiting the authority of the division to report

current significant investigative information to the coordinated licensure information system for transmission to party states as required of the division by Article VII of the Nurse Licensure Compact – Revised in Section 58-31e-102.

Section 10. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

(n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

(o) violating Section 58-31b-801;

(p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(q) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1); or

(r) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(2) "Unprofessional conduct" does not include, in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when registered as a qualified medical provider, or acting as a limited medical provider, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 11. Section 58-31b-703 is amended to read:

58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful conduct.

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(c) "Opiate antagonist" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections [~~26-55-107(1)(a)(i)(A)~~] 26B-4-512(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to [~~Subsection 26-55-104(2)(a)(iii)~~] Section 26B-4-509.

(3) The provisions of this section and [~~Title 26, Chapter 55, Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 12. Section 58-37-3.6 is amended to read:

58-37-3.6. Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.

(1) As used in this section:

(a) "Cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(d) "Expanded cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(e) "Medicinal dosage form" means:

(i) a tablet;

(ii) a capsule;

(iii) a concentrated oil;

(iv) a liquid suspension;

(v) a transdermal preparation; or

(vi) a sublingual preparation.

(f) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with [~~Title 26, Chapter 61, Cannabinoid Research Act.~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section 13. Section 58-37-3.7 is amended to read:

58-37-3.7. Medical cannabis decriminalization.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(c) "Legal dosage limit" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(d) "Medical cannabis card" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(e) "Medical cannabis device" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(f) "Medicinal dosage form" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(g) "Nonresident patient" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(h) "Qualifying condition" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.

(2) Before July 1, 2021, including during the period between January 1, 2021, and March 17, 2021, an individual is not guilty under this chapter for the use or possession of marijuana,

tetrahydrocannabinol, or marijuana drug paraphernalia if:

(a) at the time of the arrest or citation, the individual:

(i) for possession, was a medical cannabis cardholder; or

(ii) for use, was a medical cannabis patient cardholder or a minor with a provisional patient card under the supervision of a medical cannabis guardian cardholder; and

(b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(A) unprocessed cannabis in a medicinal dosage form; or

(B) a cannabis product in a medicinal dosage form; and

(ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(3) A nonresident patient is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(i) unprocessed cannabis in a medicinal dosage form; or

(ii) a cannabis product in a medicinal dosage form; and

(b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(4) (a) There is a rebuttable presumption against an allegation of use or possession of marijuana or tetrahydrocannabinol if:

(i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the sample; and

(ii) the individual provides evidence that the individual possessed or used cannabidiol or a cannabidiol product.

(b) The presumption described in Subsection (4)(a) may be rebutted with evidence that the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized under:

(i) Section 4-41-402; or

(ii) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(5) (a) An individual is not guilty under this chapter for the use or possession of marijuana drug paraphernalia if the drug paraphernalia is a medical cannabis device.

(b) Nothing in this section prohibits a person, either within the state or outside the state, from selling a medical cannabis device within the state.

(c) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis Production Establishments, or [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, to qualify for the protections of this section to sell a medical cannabis device.

Section 14. Section 58-37-3.8 is amended to read:

58-37-3.8. Enforcement.

(1) A law enforcement officer, as that term is defined in Section 53-13-103, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, may not expend any state or local resources, including the officer's time, to:

(a) effect any arrest or seizure of cannabis, as that term is defined in Section [~~26-61a-102~~] 26B-4-201, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that the activity is in compliance with the state medical cannabis laws;

(b) enforce a law that restricts an individual's right to acquire, own, or possess a firearm based solely on the individual's possession or use of cannabis in accordance with state medical cannabis laws; or

(c) provide any information or logistical support related to an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

(2) An agency or political subdivision of the state may not take an adverse action against a person for providing a professional service to a medical cannabis pharmacy, as that term is defined in Section [~~26-61a-102~~] 26B-4-201, the state central patient portal, as that term is defined in Section [~~26-61a-102~~] 26B-4-201, or a cannabis production establishment, as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.

Section 15. Section 58-37-3.9 is amended to read:

58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

(a) "Cannabis" means marijuana.

(b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(d) "Medical cannabis cardholder" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(e) "Medical cannabis device" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(f) "Medicinal dosage form" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or

(ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in Subsection (2)(a)(i); and

(b) an individual is not guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, and [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or

(ii) possesses a medical cannabis device with the intent to engage in any of the conduct described in Subsection (2)(b)(i).

(3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or heating of medical cannabis.

(b) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, does not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.

(c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or engages in any other conduct described in Subsection (3)(b):

(i) does not possess the cannabis in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(ii) is, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b):

(A) for the first offense, guilty of an infraction and subject to a fine of up to $100; and

(B) for a second or subsequent offense, subject to charges under this chapter.

(4) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41a, Cannabis Production Establishments, or [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, is not, based on the conduct underlying that penalty or conviction, subject to a penalty described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

(5) (a) Nothing in this section prohibits a person, either within the state or outside the state, from selling a medical cannabis device within the state.

(b) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis Production Establishments, or [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, to qualify for the protections of this section to sell a medical cannabis device.

Section 16. Section 58-37-6.5 is amended to read:

58-37-6.5. Continuing education for controlled substance prescribers.

(1) For the purposes of this section:

(a) "Controlled substance prescriber" means an individual, other than a veterinarian, who:

(i) is licensed to prescribe a controlled substance under [~~Title 58, Chapter 37, Utah Controlled Substances Act~~] this chapter; and

(ii) possesses the authority, in accordance with the individual's scope of practice, to prescribe schedule II controlled substances and schedule III controlled substances that are applicable to opioid narcotics, hypnotic depressants, or psychostimulants.

(b) "D.O." means an osteopathic physician and surgeon licensed under [~~Title 58,~~] Chapter 68, Utah Osteopathic Medical Practice Act.

(c) "FDA" means the United States Food and Drug Administration.

(d) "M.D." means a physician and surgeon licensed under [~~Title 58,~~] Chapter 67, Utah Medical Practice Act.

(e) "SBIRT" means the Screening, Brief Intervention, and Referral to Treatment approach used by the federal Substance Abuse and Mental Health Services Administration or defined by the division, in consultation with the [~~Division of Substance Abuse~~] Office of Substance Use and

Mental Health, by administrative rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Beginning with the licensing period that begins after January 1, 2014, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours per licensing period that satisfy the requirements of Subsection (3).

(b) (i) Beginning with the licensing period that begins after January 1, 2024, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours in an SBIRT-training class that satisfies the requirements of Subsection (4).

(ii) Completion of the SBIRT-training class, in compliance with Subsection (2)(b)(i), fulfills the continuing education hours requirement in Subsection (3) for the licensing period in which the class was completed.

(iii) A controlled substance prescriber:

(A) need only take the SBIRT-training class once during the controlled substance prescriber's licensure in the state; and

(B) shall provide a completion record of the SBIRT-training class in order to be reimbursed for SBIRT services to patients, in accordance with Sections [~~26-18-22~~] 26B-3-131 and 49-20-416.

(3) A controlled substance prescriber shall complete at least 3.5 hours of continuing education in one or more controlled substance prescribing classes, except dentists who shall complete at least two hours, that satisfy the requirements of Subsections (4) and (6).

(4) A controlled substance prescribing class shall:

(a) satisfy the division's requirements for the continuing education required for the renewal of the controlled substance prescriber's respective license type;

(b) be delivered by an accredited or approved continuing education provider recognized by the division as offering continuing education appropriate for the controlled substance prescriber's respective license type; and

(c) include a postcourse knowledge assessment.

(5) An M.D. or D.O. completing continuing professional education hours under Subsection (4) shall complete those hours in classes that qualify for the American Medical Association Physician's Recognition Award Category 1 Credit.

(6) The 3.5 hours of the controlled substance prescribing classes under Subsection (4) shall include educational content covering the following:

(a) the scope of the controlled substance abuse problem in Utah and the nation;

(b) all elements of the FDA Blueprint for Prescriber Education under the FDA's Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation Strategy, as published July 9, 2012, or as it may be subsequently revised;

(c) the national and Utah-specific resources available to prescribers to assist in appropriate controlled substance and opioid prescribing;

(d) patient record documentation for controlled substance and opioid prescribing;

(e) office policies, procedures, and implementation; and

(f) some training regarding medical cannabis, as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(7) (a) The division, in consultation with the Utah Medical Association Foundation, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (4) and (6) for an M.D. or D.O.

(b) The division, in consultation with the applicable professional licensing boards, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (4) and (6) for a controlled substance prescriber other than an M.D. or D.O.

(c) The division may by rule establish a committee that may audit compliance with the Utah Risk Evaluation and Mitigation Strategy (REMS) Educational Programming Project grant, that satisfies the educational content requirements of Subsections (4) and (6) for a controlled substance prescriber.

(d) The division shall consult with the Department of [~~Health~~] Health and Human Services regarding the medical cannabis training described in Subsection (6)(f).

(8) A controlled substance prescribing class required under this section:

(a) may be held:

(i) in conjunction with other continuing professional education programs; and

(ii) online; and

(b) does not increase the total number of state-required continuing professional education hours required for prescriber licensing.

(9) The division may establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(10) A controlled substance prescriber who, on or after July 1, 2017, obtains a waiver to treat opioid dependency with narcotic medications, in accordance with the Drug Addiction Treatment Act of 2000, 21 U.S.C. Sec. 823 et seq., may use the waiver to satisfy the 3.5 hours of the continuing education requirement under Subsection (3) for two consecutive licensing periods.

Section 17. Section 58-37-7 is amended to read:

58-37-7. Labeling and packaging controlled substance -- Informational pamphlet for opiates.

(1) A person licensed pursuant to this act may not distribute a controlled substance unless it is packaged and labeled in compliance with the requirements of Section 305 of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(2) No person except a pharmacist for the purpose of filling a prescription shall alter, deface, or remove any label affixed by the manufacturer.

(3) Whenever a pharmacist sells or dispenses any controlled substance on a prescription issued by a practitioner, the pharmacist shall affix to the container in which the substance is sold or dispensed:

(a) a label showing the:

(i) pharmacy name and address;

(ii) serial number; and

(iii) date of initial filling;

(b) the prescription number, the name of the patient, or if the patient is an animal, the name of the owner of the animal and the species of the animal;

(c) the name of the practitioner by whom the prescription was written;

(d) any directions stated on the prescription; and

(e) any directions required by rules and regulations promulgated by the department.

(4) Whenever a pharmacist sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate, a pharmacist shall affix a warning to the container or the lid for the container in which the substance is sold or dispensed that contains the following text:

(a) "Caution: Opioid. Risk of overdose and addiction"; or

(b) any other language that is approved by the Department of [~~Health~~] Health and Human Services.

(5) (a) A pharmacist who sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate shall, if available from the Department of [~~Health~~] Health and Human Services, prominently display at the point of sale the informational pamphlet developed by the Department of [~~Health~~] Health and Human Services under Section [~~26-55-109~~] 26B-4-514.

(b) The board and the Department of [~~Health~~] Health and Human Services shall encourage pharmacists to use the informational pamphlet to engage in patient counseling regarding the risks associated with taking opiates.

(c) The requirement in Subsection (5)(a) does not apply to a pharmacist if the pharmacist is unable to obtain the informational pamphlet from the Department of [~~Health~~] Health and Human Services for any reason.

(6) A person may not alter the face or remove any label so long as any of the original contents remain.

(7) (a) An individual to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner and the owner of any animal for which any controlled substance has been prescribed, sold, or dispensed by a veterinarian may lawfully possess it only in the container in which it was delivered to the individual by the person selling or dispensing it.

(b) It is a defense to a prosecution under this subsection that the person being prosecuted produces in court a valid prescription for the controlled substance or the original container with the label attached.

Section 18. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance

analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall

additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to

exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section [~~26-8a-102~~] 26B-4-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 19. Section 58-37-19 is amended to read:

58-37-19. Opiate prescription consultation.

(1) As used in this section:

(a) "Hospice" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(b) "Initial opiate prescription" means a prescription for an opiate to a patient who:

(i) has never previously been issued a prescription for an opiate; or

(ii) was previously issued a prescription for an opiate, but the date on which the current prescription is being issued is more than one year after the date on which an opiate was previously prescribed or administered to the patient.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under this chapter.

(2) Except as provided in Subsection (3), a prescriber may not issue an initial opiate prescription without discussing with the patient, or the patient's parent or guardian if the patient is under 18 years [~~of age~~] old and is not an emancipated minor:

(a) the risks of addiction and overdose associated with opiate drugs;

(b) the dangers of taking opiates with alcohol, benzodiazepines, and other central nervous system depressants;

(c) the reasons why the prescription is necessary;

(d) alternative treatments that may be available; and

(e) other risks associated with the use of the drugs being prescribed.

(3) This section does not apply to a prescription for:

(a) a patient who is currently in active treatment for cancer;

(b) a patient who is receiving hospice care from a licensed hospice; or

(c) a medication that is being prescribed to a patient for the treatment of the patient's substance abuse or opiate dependence.

Section 20. Section 58-37-22 is amended to read:

58-37-22. Electronic prescriptions for controlled substances.

(1) Beginning January 1, 2022, each prescription issued for a controlled substance shall be transmitted electronically as an electronic prescription unless the prescription is:

(a) for a patient residing in an assisted living facility as that term is defined in Section [~~26-21-2~~] 26B-2-201, a long-term care facility as that term is defined in Section 58-31b-102, or a correctional facility as that term is defined in Section 64-13-1;

(b) issued by a veterinarian licensed under [~~Title 58,~~] Chapter 28, Veterinary Practice Act;

(c) dispensed by a Department of Veterans Affairs pharmacy;

(d) issued during a temporary technical or electronic failure at the practitioner's or pharmacy's location; or

(e) issued in an emergency situation.

(2) The division, in collaboration with the appropriate boards that govern the licensure of the licensees who are authorized by the division to prescribe or to dispense controlled substances, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) require that controlled substances prescribed or dispensed under Subsection (1)(d) indicate on the prescription that the prescribing practitioner or the pharmacy is experiencing a technical difficulty or an electronic failure;

(b) define an emergency situation for purposes of Subsection (1)(e);

(c) establish additional exemptions to the electronic prescription requirements established in this section;

(d) establish guidelines under which a prescribing practitioner or a pharmacy may obtain an extension of up to two additional years to comply with Subsection (1);

(e) establish a protocol to follow if the pharmacy that receives the electronic prescription is not able to fill the prescription; and

(f) establish requirements that comply with federal laws and regulations for software used to issue and dispense electronic prescriptions.

(3) Beginning July 1, 2024, a pharmacy software program for receiving an electronic prescription for a controlled substance shall be capable of electronically transferring a prescription to a different pharmacy:

(a) upon the request of the patient or the practitioner;

(b) with the approval of a pharmacist at the originating pharmacy; and

(c) if the prescription is unfilled.

Section 21. Section 58-37f-102 is amended to read:

58-37f-102. Definitions.

(1) The definitions in Section 58-37-2 apply to this chapter.

(2) As used in this chapter:

(a) "Board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(b) "Business associate" is as defined under the HIPAA privacy, security, and breach notification rules in 45 C.F.R. 164.502(a), 164.504(e), and 164.532(d) and (e).

(c) "Database" means the controlled substance database created in Section 58-37f-201.

(d) "De-identified" is as defined in 45 C.F.R. 164.502(d) and 164.514(a), (b), and (c).

(e) "Health care facility" is as defined in Section [~~26-21-2~~] 26B-2-201.

(f) "Mental health therapist" is as defined in Section 58-60-102.

(g) "Pharmacy" or "pharmaceutical facility" is as defined in Section 58-17b-102.

(h) "Prospective patient" means an individual who:

(i) is seeking medical advice, medical treatment, or medical services from a practitioner; and

(ii) the practitioner described in Subsection (2)(h)(i) is considering accepting as a patient.

(i) "Substance abuse treatment program" is as defined in Section [~~62A-2-101~~] 26B-2-101.

Section 22. Section 58-37f-201 is amended to read:

58-37f-201. Controlled substance database -- Creation -- Purpose.

(1) There is created within the division a controlled substance database.

(2) The division shall administer and direct the functioning of the database in accordance with this chapter.

(3) The division may, under state procurement laws, contract with another state agency or a private entity to establish, operate, or maintain the database.

(4) The division shall, in collaboration with the board, determine whether to operate the database within the division or contract with another entity to operate the database, based on an analysis of costs and benefits.

(5) The purpose of the database is to contain:

(a) the data described in Section 58-37f-203 regarding prescriptions for dispensed controlled substances;

(b) data reported to the division under Section [~~26-21-26~~] 26B-2-225 regarding poisoning or overdose;

(c) data reported to the division under Subsection 41-6a-502(4) or 41-6a-502.5(5)(b) regarding convictions for driving under the influence of a prescribed controlled substance or impaired driving; and

(d) data reported to the division under Subsection 58-37-8(1)(e) or 58-37-8(2)(g) regarding certain violations of [~~the~~] Chapter 37, Utah Controlled Substances Act.

(6) The division shall maintain the database in an electronic file or by other means established by the division to facilitate use of the database for identification of:

(a) prescribing practices and patterns of prescribing and dispensing controlled substances;

(b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;

(c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance;

(d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy;

(e) individuals admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance; and

(f) individuals convicted for:

(i) driving under the influence of a prescribed controlled substance that renders the individual incapable of safely operating a vehicle;

(ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

(iii) certain violations of [~~the~~] Chapter 37, Utah Controlled Substances Act.

Section 23. Section 58-37f-301 is amended to read:

58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) a board member if:

(i) the board member is assigned to monitor a licensee on probation; and

(ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;

(d) a person the division authorizes to obtain that information on behalf of the Utah Professionals Health Program established in Subsection 58-4a-103(1) if:

(i) the person the division authorizes is limited to obtaining information from the database regarding the person whose conduct is the subject of the division's consideration; and

(ii) the conduct that is the subject of the division's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;

(e) in accordance with a written agreement entered into with the department, employees of the Department of [~~Health~~] Health and Human Services:

(i) whom the director of the Department of [~~Health~~] Health and Human Services assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

(ii) when the information is requested by the Department of [~~Health~~] Health and Human Services in relation to a person or provider whom

the Department of [~~Health~~] Health and Human Services suspects may be improperly obtaining or providing a controlled substance; or

(iii) in the medical examiner's office;

(f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of [~~Health~~] Health and Human Services, who is not an employee of the Department of [~~Health~~] Health and Human Services, whom the director of the Department of [~~Health~~] Health and Human Services assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of [~~Health~~] Health and Human Services, if:

(i) the designee provides explicit information to the Department of [~~Health~~] Health and Human Services regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of [~~Health~~] Health and Human Services for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services;

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of [~~Health~~] Health and Human Services; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, and not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(g) in accordance with a written agreement entered into with the department and the Department of [~~Health~~] Health and Human Services, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of [~~Health~~] Health and Human Services under the provisions of Section [~~26-18-405~~] 26B-3-202 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of [~~Health~~] Health and Human Services to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

(h) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(7) with respect to the employee;

(j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(7) with respect to the employee;

(k) a licensed pharmacist having authority to dispense a controlled substance, or a licensed pharmacy intern or pharmacy technician working under the general supervision of a licensed pharmacist, to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance;

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacy, practitioner, or health care facility; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacy, practitioner, or health care facility;

(iii) reporting to the controlled substance database; or

(iv) verifying the accuracy of the data submitted to the controlled substance database on behalf of a pharmacy where the licensed pharmacist, pharmacy intern, or pharmacy technician is employed;

(l) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

(m) subject to Subsection (7), a probation or parole officer, employed by the Department of Corrections or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

(n) employees of the Office of Internal Audit [~~and Program Integrity~~] within the Department of [~~Health~~] Health and Human Services who are engaged in their specified duty of ensuring Medicaid program integrity under Section [~~26-18-2.3~~] 26B-3-104;

(o) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(o), from the database;

(p) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(q) an individual under Subsection (2)(p) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

(r) the inspector general, or a designee of the inspector general, of the Office of Inspector General

of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers;

(s) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment;

(t) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending policies to reduce the frequency of opioid use fatalities;

(u) a licensed pharmacist who is authorized by a managed care organization as defined in Section 31A-1-301 to access the information on behalf of the managed care organization, if:

(i) the managed care organization believes that an enrollee of the managed care organization has obtained or provided a controlled substance in violation of a medication management program contract between the enrollee and the managed care organization; and

(ii) the managed care organization included a description of the medication management program in the enrollee's outline of coverage described in Subsection 31A-22-605(7); and

(v) the Utah Medicaid Fraud Control Unit of the attorney general's office for the purpose of investigating active cases, in exercising the unit's authority to investigate and prosecute Medicaid fraud, abuse, neglect, or exploitation under 42 U.S.C. Sec. 1396b(q).

(3) (a) A practitioner described in Subsection (2)(h) may designate one or more employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;

(ii) establish the information to be provided by an emergency department employee under Subsection (4); and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

(c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency department of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed or privileged to work in the emergency department;

(ii) is treating an emergency department patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency department and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency department employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency department under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the hospital as an individual authorized to access the information on behalf of the emergency department practitioner;

(ii) the hospital operating the emergency department provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third

party and that notice of the individual's direction to discontinue will be provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

(6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(m).

(8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

(a) to protect patient privacy;

(b) to reduce inappropriate access; and

(c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an emergency department.

(9) Any person who knowingly and intentionally accesses the database without express authorization under this section is guilty of a class A misdemeanor.

Section 24. Section 58-37f-702 is amended to read:

58-37f-702. Reporting prescribed controlled substance poisoning or overdose to a practitioner.

(1) (a) The division shall take the actions described in Subsection (1)(b) if the division receives a report from a general acute hospital under Section [~~26-21-26~~] 26B-2-225 regarding admission to a general acute hospital for poisoning or overdose involving a prescribed controlled substance.

(b) The division shall, within three business days after the day on which a report in Subsection (1)(a) is received:

(i) attempt to identify, through the database, each practitioner who may have prescribed the controlled substance to the patient; and

(ii) provide each practitioner identified under Subsection [~~(1)(a)~~] (1)(b)(i) with:

(A) a copy of the report provided by the general acute hospital under Section [~~26-21-26~~] 26B-2-225; and

(B) the information obtained from the database that led the division to determine that the practitioner receiving the information may have prescribed the controlled substance to the person named in the report.

(2) (a) When the division receives a report from the medical examiner under Section [~~26-4-10.5~~] 26B-8-210 regarding a death caused by poisoning or overdose involving a prescribed controlled substance, for each practitioner identified by the medical examiner under Subsection [~~26-4-10.5(1)(c)~~] 26B-8-210(1)(c), the division:

(i) shall, within five business days after the day on which the division receives the report, provide the practitioner with a copy of the report; and

(ii) may offer the practitioner an educational visit to review the report.

(b) A practitioner may decline an educational visit described in Subsection (2)(a)(ii).

(c) The division may not use, in a licensing investigation or action by the division:

(i) information from an educational visit described in Subsection (2)(a)(ii); or

(ii) a practitioner's decision to decline an educational visit described in Subsection (2)(a)(ii).

(3) It is the intent of the Legislature that the information provided under Subsection (1) or (2) is provided for the purpose of assisting the practitioner in:

(a) discussing with the patient or others issues relating to the poisoning or overdose;

(b) advising the patient or others of measures that may be taken to avoid a future poisoning or overdose; and

(c) making decisions regarding future prescriptions written for the patient or others.

(4) Any record created by the division as a result of an educational visit described in Subsection (2)(a)(ii) is a protected record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(5) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the

licensing fee described in Subsection 58-37-6(1)(b) to pay the startup and ongoing costs of the division for complying with the requirements of this section.

Section 25. Section 58-41-4 is amended to read:

58-41-4. Exemptions from chapter.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of speech-language pathology and audiology subject to the stated circumstances and limitations without being licensed under this chapter:

(a) a qualified person licensed in this state under any law existing in this state prior to May 13, 1975, engaging in the profession for which the person is licensed;

(b) a medical doctor, physician, physician assistant, or surgeon licensed in this state, engaging in his or her specialty in the practice of medicine;

(c) a hearing aid dealer or salesperson selling, fitting, adjusting, and repairing hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid dealer may not conduct audiologic testing on persons younger than 18 years old except under the direct supervision of an audiologist licensed under this chapter;

(d) a person who has obtained a valid and current credential issued by the State Board of Education while specifically performing the functions of a speech-language pathologist or audiologist solely within the confines of, under the direction and jurisdiction of, and in the academic interest of the school employing the person;

(e) a person employed as a speech-language pathologist or audiologist by federal government agencies or subdivisions or, prior to July 1, 1989, by state or local government agencies or subdivisions, while specifically performing speech-language pathology or audiology services solely within the confines of, under the direction and jurisdiction of, and in the specific interest of the agency or subdivision;

(f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or monetary or other compensation, without being licensed;

(g) a person employed by an accredited college or university as a speech-language pathologist or audiologist performing the services or functions described in this chapter if the services or functions are:

(i) performed solely as an assigned teaching function of the person's employment;

(ii) solely in academic interest and pursuit as a function of the person's employment;

(iii) in no way for the person's own interest; and

(iv) provided for no fee, monetary or otherwise, other than the person's agreed institutional salary;

(h) a person pursuing a course of study leading to a degree in speech-language pathology or audiology while enrolled in an accredited college or university, provided:

(i) those activities constitute an assigned, directed, and supervised part of the person's curricular study, and in no other interest;

(ii) that all examinations, tests, histories, charts, progress notes, reports, correspondence, documents, and records the person produces be identified clearly as having been conducted and prepared by a student in training;

(iii) that the person is obviously identified and designated by appropriate title clearly indicating the person's training status; and

(iv) that the person does not hold out directly or indirectly to the public or otherwise represent that the person is qualified to practice independently;

(i) a person trained in elementary audiometry and qualified to perform basic audiometric tests while employed by and under the direct supervision of a licensed medical doctor to perform solely for the licensed medical doctor, the elementary conventional audiometric tests of air conduction screening, air conduction threshold testing, and tympanometry;

(j) a person performing the functions of a speech-language pathologist or audiologist for the sole purpose of obtaining required professional experience under the provisions of this chapter and only during the period the person is obtaining the required professional experience, if the person:

(i) meets all training requirements; and

(ii) is professionally responsible to and under the supervision of a speech-language pathologist or audiologist who holds the CCC or a state license in speech-language pathology or audiology;

(k) a corporation, partnership, trust, association, group practice, or similar organization engaging in speech-language pathology or audiology services without certification or license, if acting only through employees or consisting only of persons who are licensed under this chapter;

(l) a person who is not a resident of this state performing speech-language pathology or audiology services in this state if:

(i) the services are performed for no more than one month in any calendar year in association with a speech-language pathologist or audiologist licensed under this chapter; and

(ii) the person meets the qualifications and requirements for application for licensure described in Section 58-41-5;

(m) a person certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf, from providing the services or performing the functions the person is certified to perform; and

(n) a person who is:

(i) trained in newborn hearing screening as described in rules made by the Department of

Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) [~~is~~] working under the indirect supervision of a licensed audiologist responsible for a newborn hearing screening program established by the Department of Health and Human Services under Section [~~26-10-6~~] 26B-4-319.

(2) No person is exempt from the requirements of this chapter who performs or provides any services as a speech-language pathologist or audiologist for which a fee, salary, bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who engages any part of his professional work for a fee practicing in conjunction with, by permission of, or apart from his position of employment as speech-language pathologist or audiologist in any branch or subdivision of local, state, or federal government or as otherwise identified in this section.

Section 26. Section 58-57-7 is amended to read:

58-57-7. Exemptions from licensure.

(1) (a) For purposes of Subsection (2)(b), "qualified" means an individual who is a registered polysomnographic technologist or a Diplomate certified by the American Board of Sleep Medicine.

(b) For purposes of Subsections (2)(f) and (g), "supervision" means one of the following will be immediately available for consultation in person or by phone:

(i) a practitioner;

(ii) a respiratory therapist;

(iii) a Diplomate of the American Board of Sleep Medicine; or

(iv) a registered polysomnographic technologist.

(2) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of respiratory therapy subject to the stated circumstances and limitations without being licensed under this chapter:

(a) any person who provides gratuitous care for a member of his immediate family without representing himself as a licensed respiratory care practitioner;

(b) any person who is a licensed or qualified member of another health care profession, if this practice is consistent with the accepted standards of the profession and if the person does not represent himself as a respiratory care practitioner;

(c) any person who serves in the Armed Forces of the United States or any other agency of the federal government and is engaged in the performance of his official duties;

(d) any person who acts under a certification issued pursuant to [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, while providing emergency medical services;

(e) any person who delivers, installs, or maintains respiratory related durable medical equipment and who gives instructions regarding the use of that equipment in accordance with Subsections 58-57-2(3) and (6), except that this exemption does not include any clinical evaluation or treatment of the patient;

(f) any person who is working in a practitioner's office, acting under supervision; and

(g) a polysomnographic technician or trainee, acting under supervision, as long as the technician or trainee administers the following only in a sleep lab, sleep center, or sleep facility:

(i) oxygen titration; and

(ii) positive airway pressure that does not include mechanical ventilation.

(3) Nothing in this chapter permits a respiratory care practitioner to engage in the unauthorized practice of other health disciplines.

Section 27. Section 58-60-114 is amended to read:

58-60-114. Confidentiality -- Exemptions.

(1) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a mental health therapist under this chapter may not disclose any confidential communication with a client or patient without the express written consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

(c) a person authorized to consent to the disclosure of the confidential communication by the client or patient in a written document:

(i) that is signed by the client or the patient; and

(ii) in which the client's or the patient's signature is reasonably verifiable.

(2) A mental health therapist under this chapter is not subject to Subsection (1) if:

(a) the mental health therapist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under [~~Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult~~] Title 26B, Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(ii) reporting under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section [~~26-6-6~~] 26B-7-206;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 28. Section 58-60-509 is amended to read:

58-60-509. Confidentiality -- Exemptions.

(1) A licensee under this part may not disclose any confidential communication with a client or patient without the express consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

(c) the authorized agent of a client or patient.

(2) A licensee under this part is not subject to Subsection (1) if:

(a) the licensee is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under [~~Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult~~] Title 26B, Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(ii) reporting under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section [~~26-6-6~~] 26B-7-206;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 29. Section 58-61-602 is amended to read:

58-61-602. Confidentiality -- Exemptions.

(1) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a psychologist under this chapter may not disclose any confidential communication with a client or patient without the express written consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

(c) a person authorized to consent to the disclosure of the confidential communication by the client or patient in a written document:

(i) that is signed by the client or the patient; and

(ii) in which the client's or the patient's signature is reasonably verifiable.

(2) A psychologist under this chapter is not subject to Subsection (1) if:

(a) the psychologist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under [~~Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult~~] Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

(ii) reporting under [~~Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements~~] Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section [~~26-6-6~~] 26B-7-206;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 30. Section 58-61-704 is amended to read:

58-61-704. Term of license or registration.

(1) (a) The division shall issue each license under this part with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensed individual shall show satisfactory evidence of renewal requirements as required under this part.

(3) Each license or registration expires on the expiration date shown on the license unless renewed by the licensed individual in accordance with Section 58-1-308.

(4) (a) A registration as a registered behavior specialist or a registered assistant behavior specialist:

(i) expires on the day the individual is no longer employed in accordance with Subsection 58-61-705(5)(d) or (6)(d); and

(ii) may not be renewed.

(b) The Department of [~~Human Services~~] Health and Human Services, or an organization contracted with a division of the Department of [~~Human Services~~] Health and Human Services, shall notify the Division of Professional Licensing when a person registered under this part is no longer employed as a registered behavior specialist or a registered assistant behavior specialist.

Section 31. Section 58-61-713 is amended to read:

58-61-713. Confidentiality -- Exemptions.

(1) A behavior analyst or behavior specialist under this chapter may not disclose any confidential communication with a client or patient without the express written consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

(c) a person authorized to consent to the disclosure of the confidential communication by the client or patient in a written document:

(i) that is signed by the client or the patient; and

(ii) in which the client's or the patient's signature is reasonably verifiable.

(2) A behavior analyst or behavior specialist is not subject to Subsection (1) if:

(a) the behavior analyst or behavior specialist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under [~~Title 62A, Chapter 3, Part 3~~] Title 26B, Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(ii) reporting under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section [~~26-6-6~~] 26B-7-206;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Utah Rules of Evidence, Rule 506; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 32. Section 58-67-302 is amended to read:

58-67-302. Qualifications for licensure.

(1) An applicant for licensure as a physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-67-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of medicine from an LCME accredited medical school or college; or

(ii) if the applicant graduated from a medical school or college located outside the United States or its territories, submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

(e) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in a program approved by the ACGME, the Royal College of Physicians and Surgeons, the College of Family Physicians of Canada, or any similar body in the United States or Canada approved by the division in collaboration with the board; or

(ii) (A) has successfully completed 12 months of resident training in an ACGME approved program after receiving a degree of doctor of medicine as required under Subsection (1)(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as a physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as a physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME approved progressive resident training program within the state;

(f) pass the licensing examination sequence required by division rule made in collaboration with the board;

(g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(h) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure;

(i) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

(j) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as a physician and surgeon by endorsement who is currently licensed to practice medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district, or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of medicine in any state, district, or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through (d), (1)(e)(i), and (1)(g) through (j);

(d) have passed the licensing examination sequence required in Subsection [~~(1)(e)~~] (1)(f) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice history review, and comprehensive assessments, if requested by the division in collaboration with the board; and

(g) produce satisfactory evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require the following requirements for licensure:

(a) a post-residency board certification; or

(b) a cognitive test when the physician reaches a specified age, unless:

(i) the screening is based on evidence of cognitive changes associated with aging that are relevant to physician performance;

(ii) the screening is based on principles of medical ethics;

(iii) physicians are involved in the development of standards for assessing competency;

(iv) guidelines, procedures, and methods of assessment, which may include cognitive screening, are relevant to physician practice and to the physician's ability to perform the tasks specifically required in the physician's practice environment;

(v) the primary driver for establishing assessment results is the ethical obligation of the profession to the health of the public and patient safety;

(vi) the goal of the assessment is to optimize physician competency and performance through education, remediation, and modifications to a physician's practice environment or scope;

(vii) a credentialing committee determines that public health or patient safety is directly threatened, the screening permits a physician to retain the right to modify the physician's practice environment to allow the physician to continue to provide safe and effective care;

(viii) guidelines, procedures, and methods of assessment are transparent to physicians and physicians' representatives, if requested by a physician or a physician's representative, and physicians are made aware of the specific methods used, performance expectations and standards against which performance will be judged, and the possible outcomes of the screening or assessment;

(ix) education or remediation practices that result from screening or assessment procedures are:

(A) supportive of physician wellness;

(B) ongoing; and

(C) proactive; and

(x) procedures and screening mechanisms that are distinctly different from for cause assessments do not result in undue cost or burden to senior physicians providing patient care.

Section 33. Section 58-67-304 is amended to read:

58-67-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(i);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of [~~Health~~] Health and Human Services in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of [~~Health~~] Health and Human Services in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections [~~26-61a-106~~] 26B-4-204 and [~~26-61a-403~~] 26B-4-219.

Section 34. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(d) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section [~~26-61a-102~~] 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section [~~26-61a-102~~] 26B-4-201, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 35. Section 58-67-601 is amended to read:

58-67-601. Mentally incompetent or incapacitated physician.

(1) As used in this section:

(a) "Incapacitated person" means a person who is incapacitated, as defined in Section 75-1-201.

(b) "Mental illness" means the same as that term is defined in Section [~~62A-15-602~~] 26B-5-301.

(c) "Physician" means an individual licensed under this chapter.

(2) If a court of competent jurisdiction determines a physician is an incapacitated person or that the physician has a mental illness and is unable to safely engage in the practice of medicine, the director shall immediately suspend the license of the physician upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the physician, in writing, of the suspension.

(3) (a) If the division and a majority of the board find reasonable cause to believe a physician, who is not determined judicially to be an incapacitated person or to have a mental illness, is incapable of practicing medicine with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the physician with a notice of hearing on the sole issue of the capacity of the physician to competently and safely engage in the practice of medicine.

(b) The hearing shall be conducted under Section 58-1-109, and Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).

(4) (a) Every physician who accepts the privilege of being licensed under this chapter gives consent to:

(i) submitting at the physician's own expense to an immediate mental or physical examination when directed in writing by the division and a majority of the board to do so; and

(ii) the admissibility of the reports of the examining physician's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

(b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:

(i) the physician has a mental illness, is incapacitated, or otherwise unable to practice medicine with reasonable skill and safety; and

(ii) immediate action by the division and the board is necessary to prevent harm to the physician's patients or the general public.

(c) (i) Failure of a physician to submit to the examination ordered under this section is a ground for the division's immediate suspension of the physician's license by written order of the director.

(ii) The division may enter the order of suspension without further compliance with Title

63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the physician and was not related directly to the illness or incapacity of the physician.

(5) (a) A physician whose license is suspended under Subsection (2) or (3) has the right to a hearing to appeal the suspension within 10 days after the license is suspended.

(b) The hearing held under this subsection shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the physician's patients or the general public.

(6) A physician whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the physician, under procedures established by division rule, regarding any change in the physician's condition, to determine whether:

(a) the physician is or is not able to safely and competently engage in the practice of medicine; and

(b) the physician is qualified to have the physician's license to practice under this chapter restored completely or in part.

Section 36. Section 58-67-702 is amended to read:

58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(c) "Opiate antagonist" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections [~~26-55-107(1)(a)(i)(A)~~] 26B-4-512(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection [~~26-55-104(2)(a)(iii)~~] 26B-4-509 (2)(a)(iii).

(3) The provisions of this section and [~~Title 26, Chapter 55, Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 37. Section 58-68-302 is amended to read:

58-68-302. Qualifications for licensure.

(1) An applicant for licensure as an osteopathic physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-68-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as an osteopathic physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of osteopathic medicine from an AOA approved medical school or college; or

(ii) submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board, if the applicant is graduated from an osteopathic medical school or college located outside of the United States or its territories which at the time of the applicant's graduation, met criteria for accreditation by the AOA;

(e) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in an ACGME or AOA

approved program after receiving a degree of doctor of osteopathic medicine required under Subsection (1)(d); or

(ii) (A) has successfully completed 12 months of resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine as required under Subsection (1)(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME or AOA approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as an osteopathic physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME or AOA approved progressive resident training program within the state;

(f) pass the licensing examination sequence required by division rule, as made in collaboration with the board;

(g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

(h) meet with the board and representatives of the division, if requested for the purpose of evaluating the applicant's qualifications for licensure;

(i) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

(j) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as an osteopathic physician and surgeon by endorsement who is currently licensed to practice osteopathic medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of osteopathic medicine in any state, district or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the day on which the applicant applied for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through (d), (1)(e)(i), and (1)(g) through (j);

(d) have passed the licensing examination sequence required in Subsection (1)(f) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice review history, and physical and psychological assessments, if requested by the division in collaboration with the board; and

(g) produce evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the health care facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require a:

(a) post-residency board certification; or

(b) a cognitive test when the physician reaches a specified age, unless the test reflects the standards described in Subsections 58-67-302(5)(b)(i) through (x).

Section 38. Section 58-68-304 is amended to read:

58-68-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(i);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(j); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of [~~Health~~] Health and Human Services in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of [~~Health~~] Health and Human Services in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections [~~26-61a-106~~] 26B-4-204 and [~~26-61a-403~~] 26B-4-219.

Section 39. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5;

(d) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section [~~26-61a-102~~] 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section [~~26-61a-102~~] 26B-4-201, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 40. Section 58-68-601 is amended to read:

58-68-601. Mentally incompetent or incapacitated osteopathic physician.

(1) As used in this section:

(a) "Incapacitated person" means a person who is incapacitated, as defined in Section 75-1-201.

(b) "Licensee" means an individual licensed under this chapter.

(c) "Mental illness" means the same as that term is defined in Section [~~62A-15-602~~] 26B-5-301.

(2) If a court of competent jurisdiction determines a licensee is an incapacitated person or that the licensee has a mental illness and is unable to safely engage in the practice of medicine, the director shall immediately suspend the license of the licensee upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the licensee, in writing, of the suspension.

(3) (a) If the division and a majority of the board find reasonable cause to believe a licensee, who is not determined judicially to be an incapacitated person or to have a mental illness, is incapable of practicing osteopathic medicine with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the licensee with a notice of hearing on the sole issue of the capacity of the licensee to competently and safely engage in the practice of medicine.

(b) The hearing shall be conducted under Section 58-1-109, and Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).

(4) (a) Every individual who accepts the privilege of being licensed under this chapter gives consent to:

(i) submitting at the licensee's own expense to an immediate mental or physical examination when directed in writing by the division and a majority of the board to do so; and

(ii) the admissibility of the reports of the examining physician's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

(b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:

(i) the licensee has a mental illness, is incapacitated, or otherwise unable to practice medicine with reasonable skill and safety; and

(ii) immediate action by the division and the board is necessary to prevent harm to the licensee's patients or the general public.

(c) (i) Failure of a licensee to submit to the examination ordered under this section is a ground for the division's immediate suspension of the licensee's license by written order of the director.

(ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the licensee and was not related directly to the illness or incapacity of the licensee.

(5) (a) A licensee whose license is suspended under Subsection (2) or (3) has the right to a hearing to appeal the suspension within 10 days after the license is suspended.

(b) The hearing held under this subsection shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the licensee's patients or the general public.

(6) A licensee whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the licensee, under procedures established by division rule, regarding any change in the licensee's condition, to determine whether:

(a) the licensee is or is not able to safely and competently engage in the practice of medicine; and

(b) the licensee is qualified to have the licensee's license to practice under this chapter restored completely or in part.

Section 41. Section 58-68-702 is amended to read:

58-68-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(c) "Opiate antagonist" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections [~~26-55-107(1)(a)(i)(A)~~] 26B-4-512(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection [~~26-55-104(2)(a)(iii)~~] 26B-4-504(2)(a)(iii).

(3) The provisions of this section and [~~Title 26, Chapter 55, Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 42. Section 58-69-601 is amended to read:

58-69-601. Mentally incompetent or incapacitated dentist or dental hygienist.

(1) As used in this section:

(a) "Incapacitated person" means a person who is incapacitated, as defined in Section 75-1-201.

(b) "Mental illness" is as defined in Section [~~62A-15-602~~] 26B-5-301.

(2) If a court of competent jurisdiction determines a dentist or dental hygienist is an incapacitated person or that the dentist or hygienist has a mental illness and is unable to safely engage in the practice of dentistry or dental hygiene, the director shall immediately suspend the license of the dentist or dental hygienist upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the dentist or dental hygienist, in writing, of the suspension.

(3) (a) If the division and a majority of the board find reasonable cause to believe a dentist or dental hygienist, who is not determined judicially to be an incapacitated person or to have a mental illness, is incapable of practicing dentistry or dental hygiene with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the dentist or dental hygienist with a notice of hearing on the sole issue of the capacity of the dentist or dental hygienist to competently and safely engage in the practice of dentistry or dental hygiene.

(b) The hearing shall be conducted under Section 58-1-109 and Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).

(4) (a) Every dentist or dental hygienist who accepts the privilege of being licensed under this chapter gives consent to:

(i) submitting at the dentist or dental hygienist's own expense to an immediate mental or physical examination when directed in writing by the division and a majority of the board to do so; and

(ii) the admissibility of the reports of the examining practitioner's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

(b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:

(i) the dentist or dental hygienist has a mental illness, is incapacitated, or otherwise unable to practice dentistry or dental hygiene with reasonable skill and safety; and

(ii) immediate action by the division and the board is necessary to prevent harm to the dentist's or dental hygienist's patients or the general public.

(c) (i) Failure of a dentist or dental hygienist to submit to the examination ordered under this section is a ground for the division's immediate suspension of the dentist's or dental hygienist's license by written order of the director.

(ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the dentist or dental hygienist and was not related directly to the illness or incapacity of the dentist or dental hygienist.

(5) (a) A dentist or dental hygienist whose license is suspended under Subsection (2) or (3) has the right to a hearing to appeal the suspension within 10 days after the license is suspended.

(b) The hearing held under this subsection shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the dentist's or dental hygienist's patients or the general public.

(6) A dentist or dental hygienist whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the dentist or dental hygienist, under procedures established by division rule, regarding any change in the dentist's or dental hygienist's condition, to determine whether:

(a) the dentist or dental hygienist is or is not able to safely and competently engage in the practice of dentistry or dental hygiene; and

(b) the dentist or dental hygienist is qualified to have the dentist or dental hygienist's licensure to practice under this chapter restored completely or in part.

Section 43. Section 58-69-702 is amended to read:

58-69-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(c) "Opiate antagonist" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist by an individual licensed under this chapter to engage in the practice of dentistry is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections [~~26-55-107(1)(a)(i)(A)~~] 26B-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection [~~26-55-104(2)(a)(iii)~~] 26B-4-509 (2)(a)(iii).

(3) The provisions of this section and [~~Title 26, Chapter 55, Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 44. Section 58-70a-102 is amended to read:

58-70a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Physician Assistant Licensing Board created in Section 58-70a-201.

(2) "Competence" means possessing the requisite cognitive, non-cognitive, and communicative abilities and qualities to perform effectively within the scope of practice of the physician assistant's practice while adhering to professional and ethical standards.

(3) "Health care facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(4) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(5) "Physician" means the same as that term is defined in Section 58-67-102.

(6) "Physician assistant" means an individual who is licensed to practice under this chapter.

(7) "Practice as a physician assistant" means the professional activities and conduct of a physician assistant, also known as a PA, in diagnosing, treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity, pain, or other condition under the provisions of this chapter.

(8) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.

(9) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-70a-502.

(10) "Unprofessional conduct" means "unprofessional conduct":

(a) as defined in Sections 58-1-501 and 58-70a-503; and

(b) as further defined by the division by rule.

Section 45. Section 58-70a-303 is amended to read:

58-70a-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensee shall show compliance with continuing education renewal requirements.

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

(4) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2) continuing education that a physician assistant completes in accordance with Section [~~26-61a-106~~] 26B-4-204.

Section 46. Section 58-70a-503 is amended to read:

58-70a-503. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(d) in a practice that has physician assistant ownership interests, failure to allow a physician the independent final decision making authority on treatment decisions for the physician's patient;

(e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1); and

(g) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(2) (a) "Unprofessional conduct" does not include, in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201, recommending the use of medical cannabis.

(b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2)(a).

Section 47. Section 58-70a-505 is amended to read:

58-70a-505. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(c) "Opiate antagonist" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section [~~26-55-102~~] 26B-4-501.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections [~~26-55-107(1)(a)(i)(A)~~] 26B-4-512(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection [~~26-55-104(2)(a)(iii)~~] 26B-4-509 (2)(a)(iii).

(3) The provisions of this section and [~~Title 26, Chapter 55, Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 48. Section 58-71-601 is amended to read:

58-71-601. Mentally incompetent or incapacitated naturopathic physician.

(1) As used in this section:

(a) "Incapacitated person" means a person who is incapacitated, as defined in Section 75-1-201.

(b) "Mental illness" is as defined in Section [~~62A-15-602~~] 26B-5-303.

(2) If a court of competent jurisdiction determines a naturopathic physician is an incapacitated person or that the physician has a mental illness and is unable to safely engage in the practice of medicine, the director shall immediately suspend the license of the naturopathic physician upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the naturopathic physician, in writing, of the suspension.

(3) (a) If the division and a majority of the board find reasonable cause to believe a naturopathic physician, who is not determined judicially to be an incapacitated person or to have a mental illness, is incapable of practicing medicine with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the naturopathic physician with a notice of hearing on the sole issue of the capacity of the naturopathic physician to competently and safely engage in the practice of medicine.

(b) The hearing shall be conducted under Section 58-1-109, and Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).

(4) (a) Every naturopathic physician who accepts the privilege of being licensed under this chapter gives consent to:

(i) submitting at the physician's own expense to an immediate mental or physical examination when directed in writing by the division and a majority of the board to do so; and

(ii) the admissibility of the reports of the examining physician's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

(b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:

(i) the naturopathic physician has a mental illness, is incapacitated, or otherwise unable to practice medicine with reasonable skill and safety; and

(ii) immediate action by the division and the board is necessary to prevent harm to the naturopathic physician's patients or the general public.

(c) (i) Failure of a naturopathic physician to submit to the examination ordered under this section is a ground for the division's immediate suspension of the naturopathic physician's license by written order of the director.

(ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the naturopathic physician and was not related directly to the illness or incapacity of the naturopathic physician.

(5) (a) A naturopathic physician whose license is suspended under Subsection (2) or (3) has the right to a hearing to appeal the suspension within 10 days after the license is suspended.

(b) The hearing held under this subsection shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the naturopathic physician's patients or the general public.

(6) A naturopathic physician whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the naturopathic physician, under procedures established by division rule, regarding any change in the naturopathic physician's condition, to determine whether:

(a) the physician is or is not able to safely and competently engage in the practice of medicine; and

(b) the physician is qualified to have the physician's license to practice under this chapter restored completely or in part.

Section 49. Section 58-80a-601 is amended to read:

58-80a-601. Priority for certified medical language interpreter.

The [~~Department of Health and the Department of Human Services~~] Department of Health and Human Services may give priority to contracting with companies that use certified medical language interpreters.

Section 50. Section 58-85-104 is amended to read:

58-85-104. Standard of care -- Medical practitioners not liable -- No private right of action.

(1) It is not a breach of the applicable standard of care for a physician, other licensed health care provider, or hospital to treat an eligible patient with an investigational drug or investigational device under this chapter.

(2) A physician, other licensed health care provider, or hospital that treats an eligible patient

with an investigational drug or investigational device under this chapter may not, for any harm done to the eligible patient by the investigational drug or device, be subject to:

(a) civil liability;

(b) criminal liability; or

(c) licensure sanctions under:

(i) for a physician:

(A) [~~Title 58,~~] Chapter 67, Utah Medical Practice Act; or

(B) [~~Title 58,~~] Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) for the other licensed health care provider, the act governing the other licensed health care provider's license; or

(iii) for the hospital, [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(3) This chapter does not:

(a) require a manufacturer of an investigational drug or investigational device to agree to make an investigational drug or investigational device available to an eligible patient or an eligible patient's physician;

(b) require a physician to agree to:

(i) administer an investigational drug to an eligible patient under this chapter; or

(ii) treat an eligible patient with an investigational device under this chapter; or

(c) create a private right of action for an eligible patient:

(i) against a physician or hospital, for the physician's or hospital's refusal to:

(A) administer an investigational drug to an eligible patient under this chapter; or

(B) treat an eligible patient with an investigational device under this chapter; or

(ii) against a manufacturer, for the manufacturer's refusal to provide an eligible patient with an investigational drug or an investigational device under this chapter.

Section 51. Section 58-88-201 is amended to read:

58-88-201. Definitions.

As used in this part:

(1) (a) "Dispense" means the delivery by a prescriber of a prescription drug or device to a patient, including the packaging, labeling, and security necessary to prepare and safeguard the drug or device for supplying to a patient.

(b) "Dispense" does not include:

(i) prescribing or administering a drug or device; or

(ii) delivering to a patient a sample packaged for individual use by a licensed manufacturer or re-packager of a drug or device.

(2) "Dispensing practitioner" means an individual who:

(a) is currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) an advanced practice registered nurse under Subsection 58-31b-301(2)(d); or

(iv) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(b) is authorized by state law to prescribe and administer drugs in the course of professional practice; and

(c) practices at a licensed dispensing practice.

(3) "Drug" means the same as that term is defined in Section 58-17b-102.

(4) "Health care practice" means:

(a) a health care facility as defined in Section [~~26-21-2~~] 26B-2-201; or

(b) the offices of one or more private prescribers, whether for individual or group practice.

(5) "Licensed dispensing practice" means a health care practice that is licensed as a dispensing practice under Section 58-88-202.

Section 52. Section 59-1-210 is amended to read:

59-1-210. General powers and duties.

The powers and duties of the commission are as follows:

(1) to sue and be sued in its own name;

(2) to adopt rules and policies consistent with the Constitution and laws of this state to govern the commission, executive director, division directors, and commission employees in the performance of their duties;

(3) to adopt rules and policies consistent with the Constitution and laws of the state, to govern county boards and officers in the performance of any duty relating to assessment, equalization, and collection of taxes;

(4) to prescribe the use of forms relating to the assessment of property for state or local taxation, the equalization of those assessments, the reporting of property or income for state or local taxation purposes, or for the computation of those taxes and the reporting of any information, statistics, or data required by the commission;

(5) to administer and supervise the tax laws of the state;

(6) to prepare and maintain from year to year a complete record of all lands subject to taxation in this state, and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims;

(7) to exercise general supervision over assessors and county boards of equalization including the authority to enforce Section 59-2-303.1, and over other county officers in the performance of their duties relating to the assessment of property and collection of taxes, so that all assessments of property are just and equal, according to fair market value, and that the tax burden is distributed without favor or discrimination;

(8) to reconvene any county board of equalization which, when reconvened, may only address business approved by the commission and extend the time for which any county board of equalization may sit for the equalization of assessments;

(9) to confer with, advise, and direct county treasurers, assessors, and other county officers in matters relating to the assessment and equalization of property for taxation and the collection of taxes;

(10) to provide for and hold annually at such time and place as may be convenient a district or state convention of county assessors, auditors, and other county officers to consider and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative to taxation and methods of assessment, to which county assessors and other officers called to attend shall attend at county expense;

(11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the penalties, liabilities, and punishments of public officers, persons, and officers or agents of corporations for failure or neglect to comply with the statutes governing the reporting, assessment, and taxation of property;

(12) to cause complaints to be made in the proper court seeking removal from office of assessors, auditors, members of county boards, and other assessing, taxing, or disbursing officers, who are guilty of official misconduct or neglect of duty;

(13) to require county attorneys to immediately institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the laws relating to the assessment and taxation of property in their respective counties;

(14) to require any person to furnish any information required by the commission to ascertain the value and the relative burden borne by all kinds of property in the state, and to require from all state and local officers any information necessary for the proper discharge of the duties of the commission;

(15) to examine all records relating to the valuation of property of any person;

(16) to subpoena witnesses to appear and give testimony and produce records relating to any matter before the commission;

(17) to cause depositions of witnesses to be taken as in civil actions at the request of the commission or any party to any matter or proceeding before the commission;

(18) to authorize any member or employee of the commission to administer oaths and affirmations in any matter or proceeding relating to the exercise of the powers and duties of the commission;

(19) to visit periodically each county of the state, to investigate and direct the work and methods of local assessors and other officials in the assessment, equalization, and taxation of property, and to ascertain whether the law requiring the assessment of all property not exempt from taxation, and the collection of taxes, have been properly administered and enforced;

(20) to carefully examine all cases where evasion or violation of the laws for assessment and taxation of property is alleged, to ascertain whether existing laws are defective or improperly administered;

(21) to furnish to the governor from time to time such assistance and information as the governor requires;

(22) to transmit to the governor and to each member of the Legislature recommendations as to legislation which will correct or eliminate defects in the operation of the tax laws and will equalize the burden of taxation within the state;

(23) to correct any error in any assessment made by it at any time before the tax is due and report the correction to the county auditor, who shall enter the corrected assessment upon the assessment roll;

(24) to compile and publish statistics relating to taxation in the state and prepare and submit an annual budget to the governor for inclusion in the state budget to be submitted to the Legislature;

(25) to perform any further duties imposed by law, and exercise all powers necessary in the performance of its duties;

(26) to adopt a schedule of fees assessed for services provided by the commission, unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the cost of services provided. Each fee established in this manner shall be submitted to and approved by the Legislature as part of the commission's annual appropriations request. The commission may not charge or collect any fee proposed in this manner without approval by the Legislature;

(27) to comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings; and

(28) to distribute the money deposited into the Rural Health Care Facilities Account as required by Section [~~26-9-4~~] 26B-1-308.

Section 53. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township; or

(ii) the military installation development authority created in Section 63H-1-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the

environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of [~~Human Services~~] Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections [~~26-18-2.5~~] 26B-3-106 and [~~26-40-105~~] 26B-3-903, the commission shall provide an eligibility worker with the Department of [~~Health~~] Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of [~~Health~~] Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections [~~26-18-2.5~~] 26B-3-106 and [~~26-40-105~~] 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee,

or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 54. Section 59-2-1901 is amended to read:

59-2-1901. Definitions.

As used in this section:

(1) "Active component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

(2) "Active duty claimant" means a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who:

(a) performed qualifying active duty military service; and

(b) applies for an exemption described in Section 59-2-1902.

(3) "Adjusted taxable value limit" means:

(a) for the calendar year that begins on January 1, 2015, $252,126; or

(b) for each calendar year after the calendar year that begins on January 1, 2015, the amount of the adjusted taxable value limit for the previous year plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the previous year by the actual percent change in the consumer price index during the previous calendar year.

(4) "Consumer price index" means the same as that term is described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(5) "Deceased veteran with a disability" means a deceased individual who was a veteran with a disability at the time the individual died.

(6) "Military entity" means:

(a) the United States Department of Veterans Affairs;

(b) an active component of the United States Armed Forces; or

(c) a reserve component of the United States Armed Forces.

(7) "Primary residence" includes the residence of a individual who does not reside in the residence if the individual:

(a) does not reside in the residence because the individual is admitted as an inpatient at a health care facility as defined in Section [~~26-55-102~~] 26B-4-501; and

(b) otherwise meets the requirements of this part.

(8) "Qualifying active duty military service" means at least 200 days, regardless of whether consecutive, in any continuous 365-day period of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, if the days of active duty military service:

(a) were completed in the year before an individual applies for an exemption described in Section 59-2-1902; and

(b) have not previously been counted as qualifying active duty military service for purposes

of qualifying for an exemption described in Section 59-2-1902 or applying for the exemption described in Section 59-2-1902.

(9) "Statement of disability" means the statement of disability described in Section 59-2-1904.

(10) "Reserve component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

(11) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

(12) "Veteran claimant" means one of the following individuals who applies for an exemption described in Section 59-2-1903:

(a) a veteran with a disability;

(b) the unmarried surviving spouse:

(i) of a deceased veteran with a disability; or

(ii) a veteran who was killed in action or died in the line of duty; or

(c) a minor orphan:

(i) of a deceased veteran with a disability; or

(ii) a veteran who was killed in action or died in the line of duty.

(13) "Veteran who was killed in action or died in the line of duty" means an individual who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that individual had a disability at the time that individual was killed in action or died in the line of duty.

(14) "Veteran with a disability" means an individual with a disability who, during military training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, as determined by a military entity.

Section 55. Section 59-10-529 is amended to read:

59-10-529. Overpayment of tax -- Credits -- Refunds.

(1) If there has been an overpayment of any tax imposed by this chapter, the amount of overpayment is credited as follows:

(a) against an income tax due from a taxpayer;

(b) against:

(i) the amount of a judgment against a taxpayer, including a final judgment or order requiring payment of a fine or of restitution to a victim under Title 77, Chapter 38b, Crime Victims Restitution Act, obtained through due process of law by an entity of state or local government; or

(ii) subject to Subsection (4)(a)(i), a child support obligation that is due or past due, as determined by the Office of Recovery Services in the Department of [~~Human Services~~] Health and Human Services and after notice and an opportunity for an adjudicative proceeding, as provided in Subsection (4)(a)(iii); or

(c) subject to Subsections (3), (5), (6), and (7), as bail to ensure the appearance of a taxpayer before the appropriate authority to resolve an outstanding warrant against the taxpayer for which bail is due, if a court of competent jurisdiction has not approved an alternative form of payment.

(2) If a balance remains after an overpayment is credited in accordance with Subsection (1), the balance shall be refunded to the taxpayer.

(3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture:

(a) that is due and related to a warrant that is outstanding on or after February 16, 1984; and

(b) in accordance with Subsections (5) and (6).

(4) (a) The amount of an overpayment may be credited against an obligation described in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the taxpayer's last-known address or the address on file under Section [~~62A-11-304.4~~] 26B-9-207, stating:

(i) the amount of child support that is due or past due as of the date of the notice or other specified date;

(ii) that any overpayment shall be applied to reduce the amount of due or past-due child support specified in the notice; and

(iii) that the taxpayer may contest the amount of past-due child support specified in the notice by filing a written request for an adjudicative proceeding with the office within 15 days of the notice being sent.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of Recovery Services shall establish rules to implement this Subsection (4), including procedures, in accordance with the other provisions of this section, to ensure:

(i) prompt reimbursement to a taxpayer of any amount of an overpayment that was credited against a child support obligation in error; and

(ii) prompt distribution of properly credited funds to the obligee parent.

(5) The amount of an overpayment may be credited against bail described in Subsection (1)(c) if:

(a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail, appear, or otherwise satisfy the terms of a citation, summons, or court order; and

(b) a notice of intent to apply the overpayment as bail on the issued warrant has been sent to the

taxpayer's current address on file with the commission.

(6) (a) (i) The commission shall deliver an overpayment applied as bail to the court that issued the warrant of arrest.

(ii) The clerk of the court is authorized to endorse the check or commission warrant of payment on behalf of the payees and deposit the money in the court treasury.

(b) (i) The court receiving an overpayment applied as bail shall order withdrawal of the warrant for arrest of the taxpayer if:

(A) the case is a case for which a personal appearance of the taxpayer is not required; and

(B) the dollar amount of the overpayment represents the full dollar amount of bail.

(ii) In a case except for a case described in Subsection (6)(b)(i):

(A) the court receiving the overpayment applied as bail is not required to order the withdrawal of the warrant of arrest of the taxpayer during the 40-day period; and

(B) the taxpayer may be arrested on the warrant.

(c) (i) If a taxpayer fails to respond to the notice required by Subsection (5)(b), or to resolve the warrant within 40 days after the notice is sent under Subsection (5)(b), the overpayment applied as bail is forfeited.

(ii) A court may issue another warrant or allow the original warrant to remain in force if:

(A) the taxpayer has not complied with an order of the court;

(B) the taxpayer has failed to appear and respond to a criminal charge for which a personal appearance is required; or

(C) the taxpayer has paid partial but not full bail in a case for which a personal appearance is not required.

(d) If the alleged violations named in a warrant are later resolved in favor of the taxpayer, the bail amount shall be remitted to the taxpayer.

(7) The fine and bail forfeiture provisions of this section apply to all warrants, fines, fees, and surcharges issued in cases charging a taxpayer with a felony, a misdemeanor, or an infraction described in this section, which are outstanding on or after February 16, 1984.

(8) If the amount allowed as a credit for tax withheld from a taxpayer exceeds the tax to which the credit relates, the excess is considered an overpayment.

(9) (a) Subject to Subsection (9)(b), a taxpayer shall claim a credit or refund of an overpayment that is attributable to a net operating loss carry back or carry forward within three years after the day on which the return for the taxable year of the net operating loss is due.

(b) The three-year period described in Subsection (9)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection (9)(a).

(10) If there is no tax liability for a period in which an amount is paid under this chapter, the amount is an overpayment.

(11) If a tax under this chapter is assessed or collected after the expiration of the applicable period of limitation, that amount is an overpayment.

(12) (a) A taxpayer may file a claim for a credit or refund of an overpayment within two years after the day on which a notice of change, notice of correction, or amended return is required to be filed with the commission if the taxpayer is required to:

(i) report a change or correction in income reported on the taxpayer's federal income tax return;

(ii) report a change or correction that is treated in the same manner as if the change or correction were an overpayment for federal income tax purposes; or

(iii) file an amended return with the commission.

(b) If a report or amended return is not filed within 90 days after the day on which the report or amended return is due, interest on any resulting refund or credit ceases to accrue after the 90-day period.

(c) The amount of the credit or refund may not exceed the amount of the reduction in tax attributable to the federal change, correction, or items amended on the taxpayer's amended federal income tax return.

(d) Except as provided in Subsection (12)(a), this Subsection (12) does not affect the amount or the time within which a claim for credit or refund may be filed.

(13) A credit or refund may not be allowed or made if an overpayment is less than $1.

(14) In the case of an overpayment of tax by an employer under Part 4, Withholding of Tax, an employer shall receive a refund or credit only to the extent that the amount of the overpayment is not deducted and withheld from wages under this chapter.

(15) (a) If a taxpayer that is allowed a refund under this chapter dies, the commission may make payment to the personal representative of the taxpayer's estate.

(b) If there is no personal representative of the taxpayer's estate, the commission may make payment to those persons that establish entitlement to inherit the property of the decedent in the proportions established in Title 75, Utah Uniform Probate Code.

(16) If an overpayment relates to a change in net income described in Subsection 59-10-536(2)(a), a

credit may be allowed or a refund paid any time before the expiration of the period within which a deficiency may be assessed.

(17) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

(18) A pass-through entity may claim a refund of qualifying excess withholding in accordance with Section 59-10-1403.3 in lieu of a pass-though entity taxpayer claiming a tax credit under Section 59-7-614.4 or Section 59-10-1103.

Section 56. Section 59-10-1004 is amended to read:

59-10-1004. Tax credit for cash contributions to sheltered workshops.

(1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due the state under Section 59-10-104 there shall be a nonrefundable tax credit allowed for cash contributions made by a claimant, estate, or trust within the taxable year to nonprofit rehabilitation sheltered workshop facilities for persons with a disability operating in Utah that are certified by the Department of [~~Human Services~~] Health and Human Services as a qualifying facility.

(2) The allowable tax credit is an amount equal to 50% of the aggregate amount of the cash contributions to the qualifying rehabilitation facilities, but the allowed tax credit may not exceed $200.

(3) The amount of contribution claimed as a tax credit under this section may not also be claimed as a charitable deduction in determining net taxable income.

Section 57. Section 59-10-1308 is amended to read:

59-10-1308. Children's organ transplants contribution -- Credit to Kurt Oscarson Children's Organ Transplant Account.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution to the Kurt Oscarson Children's Organ Transplant Account created by Section [~~26-18a-4~~] 26B-1-311.

(2) The commission shall:

(a) determine annually the total amount of contributions designated in accordance with this section; and

(b) credit the amount described in Subsection (2)(a) to the Kurt Oscarson Children's Organ Transplant Account created by Section [~~26-18a-4~~] 26B-1-311.

Section 58. Section 59-10-1320 is amended to read:

59-10-1320. Contribution to the Governor's Suicide Prevention Fund.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution to the Governor's Suicide Prevention Fund as provided in this part.

(2) The commission shall:

(a) determine annually the total amount of contributions designated in accordance with this section; and

(b) credit the amount described in Subsection (2)(a) to the Governor's Suicide Prevention Fund created by Section [~~62A-15-1103~~] 26B-1-325.

Section 59. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d);

(e) Subsection 59-12-103(2)(e)(i)(A)(I);

(f) Section 59-12-204;

(g) Section 59-12-401;

(h) Section 59-12-402;

(i) Section 59-12-402.1;

(j) Section 59-12-703;

(k) Section 59-12-802;

(l) Section 59-12-804;

(m) Section 59-12-1102;

(n) Section 59-12-1302;

(o) Section 59-12-1402;

(p) Section 59-12-1802;

(q) Section 59-12-2003;

(r) Section 59-12-2103;

(s) Section 59-12-2213;

(t) Section 59-12-2214;

(u) Section 59-12-2215;

(v) Section 59-12-2216;

(w) Section 59-12-2217;

(x) Section 59-12-2218;

(y) Section 59-12-2219; or

(z) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section [~~62A-3-101~~] 26B-6-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase

price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

(21) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (112).

(25) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(26) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(27) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(28) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(29) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (29)(a) and (b).

(30) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

(31) "Construction materials" means any tangible personal property that will be converted into real property.

(32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(34) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(35) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (35)(b)(i) through (v);

(c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (35)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(36) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(37) "Digital audio–visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(38) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(39) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(40) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(41) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section [~~26-21-2~~] 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(42) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(43) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(45) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (45)(b)(i) through (vi).

(46) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(47) "Employee" means the same as that term is defined in Section 59-10-401.

(48) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(49) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(50) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(51) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(52) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(53) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(54) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(56) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(59) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(60) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(61) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(62) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(63) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(64) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(65) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(66) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(67) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (67)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(68) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(69) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (69)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (69)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(70) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(71) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (71)(a) through (g); or

(j) person similar to a person described in Subsections (71)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(72) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(73) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(74) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (74)(a)(i) and the termination point described in Subsection (74)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (75)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(76) "Model 1 seller" means a seller registered under the agreement that has selected a certified

service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(77) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (77)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(79) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(80) "Modular home" means a modular unit as defined in Section 15A-1-302.

(81) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(82) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(83) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(84) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(85) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(86) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (86)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(88) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(89) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (89)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or

movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (89)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (130)(c).

(90) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(91) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(92) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(93) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(94) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(95) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(96) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; [~~or~~]

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (96)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(97) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (98)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(99) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(100) (a) Except as provided in Subsection (100)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(101) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(102) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(103) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(104) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(105) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(106) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(107) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(108) "Rental" means the same as that term is defined in Subsection (60).

(109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(110) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(111) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (111)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(112) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(114) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(116) "Sale at retail" means the same as that term is defined in Subsection (113).

(117) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(118) "Sales price" means the same as that term is defined in Subsection (104).

(119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (119)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(120) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(121) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(122) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (122)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(123) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section [~~62A-3-101~~] 26B-6-101.

(124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(125) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(126) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(127) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(128) "State" means the state of Utah, its departments, and agencies.

(129) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(131) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (131)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

(132) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(133) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or

leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(134) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(135) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (135)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(136) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (136)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

(137) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (137)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (137)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

(138) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(139) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(140) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(141) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(142) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (143)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(144) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (143).

(145) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(146) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(148) "Watercraft" means a vessel as defined in Section 73-18-2.

(149) "Wind energy" means wind used as the sole source of energy to produce electricity.

(150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 60. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are imposed on amounts

paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and

records the seller keeps in the regular course of business for nontax purposes.

(g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(e)(i)(A)(I).

(i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(e)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection

(4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue

described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through (D).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant revenue.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(ii) As used in this Subsection (8)(d), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(vi).

(vi) The commission shall annually deposit the amount described in Subsection (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(vii) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b), and in

addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(e).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section [~~26-36b-208~~] 26B-1-315.

(13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

(15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(e)(i)(A)(I).

Section 61. Section 59-12-104.10 is amended to read:

59-12-104.10. Exemption from sales tax for cannabis.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(c) "Medical cannabis device" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(d) "Medical cannabis pharmacy" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(e) "Medicinal dosage form" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(2) In addition to the exemptions described in Section 59-12-104, the sale by a licensed medical cannabis pharmacy of the following is not subject to the taxes this chapter imposes:

(a) cannabis in a medicinal dosage form; or

(b) a cannabis product in a medicinal dosage form.

(3) The sale of a medical cannabis device by a medical cannabis pharmacy is subject to the taxes this chapter imposes.

Section 62. Section 59-12-801 is amended to read:

59-12-801. Definitions.

As used in this part:

(1) "Emergency medical services" is as defined in Section [~~26-8a-102~~] 26B-4-101.

(2) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

(3) "Freestanding urgent care center" means a facility that provides outpatient health care service:

(a) on an as-needed basis, without an appointment;

(b) to the public;

(c) for the diagnosis and treatment of a medical condition if that medical condition does not require hospitalization or emergency intervention for a life threatening or potentially permanently disabling condition; and

(d) including one or more of the following services:

(i) a medical history physical examination;

(ii) an assessment of health status; or

(iii) treatment:

(A) for a variety of medical conditions; and

(B) that is commonly offered in a physician's office.

(4) "Nursing care facility" is as defined in Section [~~26-21-2~~] 26B-2-201.

(5) "Rural city hospital" means a hospital owned by a city that is located within a third, fourth, fifth, or sixth class county.

(6) "Rural county health care facility" means a:

(a) rural county hospital; or

(b) rural county nursing care facility.

(7) "Rural county hospital" means a hospital owned by a county that is:

(a) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

(8) "Rural county nursing care facility" means a nursing care facility owned by:

(a) a county that is:

(i) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(ii) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau; or

(b) a special service district if the special service district is:

(i) created for the purpose of operating the nursing care facility; and

(ii) within a county that is:

(A) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(B) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

(9) "Rural emergency medical services" means emergency medical services that are provided by a county that is:

(a) a fifth or sixth class county, as defined in Section 17-50-501; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

(10) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

Section 63. Section 59-14-807 is amended to read:

59-14-807. Electronic Cigarette Substance and Nicotine Product Tax Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account consists of:

(a) revenues collected from the tax imposed by Section 59-14-804; and

(b) amounts appropriated by the Legislature.

(3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account:

(a) $2,000,000 which shall be allocated to the local health departments by the Department of [~~Health~~] Health and Human Services using the formula created in accordance with Section 26A-1-116;

(b) $2,000,000 to the Department of [~~Health~~] Health and Human Services for statewide cessation programs and prevention education;

(c) $1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;

(d) $3,000,000 which shall be allocated to the local health departments by the Department of [~~Health~~] Health and Human Services using the formula created in accordance with Section 26A-1-116;

(e) $5,084,200 to the State Board of Education for school-based prevention programs; and

(f) $2,000,000 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television.

(4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section [~~26-57-103~~] 26B-7-505;

(ii) the labeling requirement described in Section [~~26-57-104~~] 26B-7-505; and

(iii) the penalty provisions described in Section [~~26-62-305~~] 26B-7-518.

(b) The Department of [~~Health~~] Health and Human Services shall use the money received in accordance with Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section [~~26-7-10~~] 26B-1-428.

(c) The local health departments shall use the money received in accordance with Subsection (3)(d) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection (3)(e) to distribute to local education agencies to pay for:

(i) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(ii) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b).

(5) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account after the distribution described in Subsection (3) may only be used for programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

Section 64. Section 61-1-13 is amended to read:

61-1-13. Definitions.

(1) As used in this chapter:

(a) "Affiliate" means a person that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with a person specified.

(b) (i) "Agent" means an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities.

(ii) "Agent" does not include an individual who represents:

(A) an issuer, who receives no commission or other remuneration, directly or indirectly, for effecting or attempting to effect purchases or sales of securities in this state, and who effects transactions:

(I) in securities exempted by Subsection 61-1-14(1)(a), (b), (c), or (g);

(II) exempted by Subsection 61-1-14(2);

(III) in a covered security as described in Sections 18(b)(3) and 18(b)(4)(F) of the Securities Act of 1933; or

(IV) with existing employees, partners, officers, or directors of the issuer; or

(B) a broker-dealer in effecting transactions in this state limited to those transactions described in Section 15(h)(2) of the Securities Exchange Act of 1934.

(iii) A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if the partner, officer, director, or person otherwise comes within the definition of "agent."

(iv) "Agent" does not include a person described in Subsection (3).

(c) (i) "Broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account.

(ii) "Broker-dealer" does not include:

(A) an agent;

(B) an issuer;

(C) a depository institution or trust company;

(D) a person who has no place of business in this state if:

(I) the person effects transactions in this state exclusively with or through:

(Aa) the issuers of the securities involved in the transactions;

(Bb) other broker-dealers;

(Cc) a depository institution, whether acting for itself or as a trustee;

(Dd) a trust company, whether acting for itself or as a trustee;

(Ee) an insurance company, whether acting for itself or as a trustee;

(Ff) an investment company, as defined in the Investment Company Act of 1940, whether acting for itself or as a trustee;

(Gg) a pension or profit-sharing trust, whether acting for itself or as a trustee; or

(Hh) another financial institution or institutional buyer, whether acting for itself or as a trustee; or

(II) during any period of 12 consecutive months the person does not direct more than 15 offers to sell or buy into this state in any manner to persons other than those specified in Subsection (1)(c)(ii)(D)(I), whether or not the offeror or an offeree is then present in this state;

(E) a general partner who organizes and effects transactions in securities of three or fewer limited partnerships, of which the person is the general partner, in any period of 12 consecutive months;

(F) a person whose participation in transactions in securities is confined to those transactions made by or through a broker-dealer licensed in this state;

(G) a person who is a principal broker or associate broker licensed in this state and who effects transactions in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(H) a person effecting transactions in commodity contracts or commodity options;

(I) a person described in Subsection (3); or

(J) other persons as the division, by rule or order, may designate, consistent with the public interest and protection of investors, as not within the intent of this Subsection (1)(c).

(d) "Buy" or "purchase" means a contract for purchase of, contract to buy, or acquisition of a security or interest in a security for value.

(e) "Commission" means the Securities Commission created in Section 61-1-18.5.

(f) "Commodity" means, except as otherwise specified by the division by rule:

(i) an agricultural, grain, or livestock product or byproduct, except real property or a timber, agricultural, or livestock product grown or raised on real property and offered or sold by the owner or lessee of the real property;

(ii) a metal or mineral, including a precious metal, except a numismatic coin whose fair market value is at least 15% greater than the value of the metal it contains;

(iii) a gem or gemstone, whether characterized as precious, semi-precious, or otherwise;

(iv) a fuel, whether liquid, gaseous, or otherwise;

(v) a foreign currency; and

(vi) all other goods, articles, products, or items of any kind, except a work of art offered or sold by art dealers, at public auction or offered or sold through a private sale by the owner of the work.

(g) (i) "Commodity contract" means an account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise.

(ii) A commodity contract offered or sold shall, in the absence of evidence to the contrary, be presumed to be offered or sold for speculation or investment purposes.

(iii) (A) A commodity contract may not include a contract or agreement that requires, and under which the purchaser receives, within 28 calendar days from the payment in good funds any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

(B) A purchaser is not considered to have received physical delivery of the total amount of each commodity to be purchased under the contract or agreement when the commodity or commodities are held as collateral for a loan or are subject to a lien of any person when the loan or lien arises in connection with the purchase of each commodity or commodities.

(h) (i) "Commodity option" means an account, agreement, or contract giving a party to the option the right but not the obligation to purchase or sell one or more commodities or one or more commodity contracts, or both whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty, or otherwise.

(ii) "Commodity option" does not include an option traded on a national securities exchange registered:

(A) with the Securities and Exchange Commission; or

(B) on a board of trade designated as a contract market by the Commodity Futures Trading Commission.

(i) "Depository institution" means the same as that term is defined in Section 7-1-103.

(j) "Director" means the director of the division appointed in accordance with Section 61-1-18.

(k) "Division" means the Division of Securities established by Section 61-1-18.

(l) "Executive director" means the executive director of the Department of Commerce.

(m) "Federal covered adviser" means a person who:

(i) is registered under Section 203 of the Investment Advisers Act of 1940; or

(ii) is excluded from the definition of "investment adviser" under Section 202(a)(11) of the Investment Advisers Act of 1940.

(n) "Federal covered security" means a security that is a covered security under Section 18(b) of the Securities Act of 1933 or rules or regulations promulgated under Section 18(b) of the Securities Act of 1933.

(o) "Fraud," "deceit," and "defraud" are not limited to their common-law meanings.

(p) "Guaranteed" means guaranteed as to payment of principal or interest as to debt securities, or dividends as to equity securities.

(q) (i) "Investment adviser" means a person who:

(A) for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities; or

(B) for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

(ii) "Investment adviser" includes a financial planner or other person who:

(A) as an integral component of other financially related services, provides the investment advisory services described in Subsection (1)(q)(i) to others as part of a business;

(B) holds the person out as providing the investment advisory services described in Subsection (1)(q)(i) to others; or

(C) holds the person out as a financial adviser, financial consultant, or any other similar title as the division may specify in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in any way as to imply that the person is generally engaged in an investment advisory business, including a person who does not hold a securities license and uses a title described in this Subsection (1)(q)(ii)(C) in any advertising or marketing material.

(iii) "Investment adviser" does not include:

(A) an investment adviser representative;

(B) a depository institution or trust company;

(C) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of the profession;

(D) a broker-dealer or its agent whose performance of these services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for the services;

(E) a publisher of a bona fide newspaper, news column, news letter, news magazine, or business or financial publication or service, of general, regular, and paid circulation, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client;

(F) a person who is a federal covered adviser;

(G) a person described in Subsection (3); or

(H) such other persons not within the intent of this Subsection (1)(q) as the division may by rule or order designate.

(r) (i) "Investment adviser representative" means a partner, officer, director of, or a person occupying a similar status or performing similar functions, or other individual, except clerical or ministerial personnel, who:

(A) (I) is employed by or associated with an investment adviser who is licensed or required to be licensed under this chapter; or

(II) has a place of business located in this state and is employed by or associated with a federal covered adviser; and

(B) does any of the following:

(I) makes a recommendation or otherwise renders advice regarding securities;

(II) manages accounts or portfolios of clients;

(III) determines which recommendation or advice regarding securities should be given;

(IV) solicits, offers, or negotiates for the sale of or sells investment advisory services; or

(V) supervises employees who perform any of the acts described in this Subsection (1)(r)(i)(B).

(ii) "Investment adviser representative" does not include a person described in Subsection (3).

(s) "Investment contract" includes:

(i) an investment in a common enterprise with the expectation of profit to be derived through the essential managerial efforts of someone other than the investor; or

(ii) an investment by which:

(A) an offeree furnishes initial value to an offerer;

(B) a portion of the initial value is subjected to the risks of the enterprise;

(C) the furnishing of the initial value is induced by the offerer's promises or representations that give rise to a reasonable understanding that a valuable benefit of some kind over and above the initial value will accrue to the offeree as a result of the operation of the enterprise; and

(D) the offeree does not receive the right to exercise practical and actual control over the managerial decisions of the enterprise.

(t) "Isolated transaction" means not more than a total of two transactions that occur anywhere during six consecutive months.

(u) (i) "Issuer" means a person who issues or proposes to issue a security or has outstanding a security that it has issued.

(ii) With respect to a preorganization certificate or subscription, "issuer" means the one or more promoters of the person to be organized.

(iii) "Issuer" means the one or more persons performing the acts and assuming duties of a

depositor or manager under the provisions of the trust or other agreement or instrument under which the security is issued with respect to:

(A) interests in trusts, including collateral trust certificates, voting trust certificates, and certificates of deposit for securities; or

(B) shares in an investment company without a board of directors.

(iv) With respect to an equipment trust certificate, a conditional sales contract, or similar securities serving the same purpose, "issuer" means the person by whom the equipment or property is to be used.

(v) With respect to interests in partnerships, general or limited, "issuer" means the partnership itself and not the general partner or partners.

(vi) With respect to certificates of interest or participation in oil, gas, or mining titles or leases or in payment out of production under the titles or leases, "issuer" means the owner of the title or lease or right of production, whether whole or fractional, who creates fractional interests therein for the purpose of sale.

(v) (i) "Life settlement interest" means the entire interest or a fractional interest in any of the following that is the subject of a life settlement:

(A) a policy; or

(B) the death benefit under a policy.

(ii) "Life settlement interest" does not include the initial purchase from the owner by a life settlement provider.

(w) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(x) "Person" means:

(i) an individual;

(ii) a corporation;

(iii) a partnership;

(iv) a limited liability company;

(v) an association;

(vi) a joint-stock company;

(vii) a joint venture;

(viii) a trust where the interests of the beneficiaries are evidenced by a security;

(ix) an unincorporated organization;

(x) a government; or

(xi) a political subdivision of a government.

(y) "Precious metal" means the following, whether in coin, bullion, or other form:

(i) silver;

(ii) gold;

(iii) platinum;

(iv) palladium;

(v) copper; and

(vi) such other substances as the division may specify by rule.

(z) "Promoter" means a person who, acting alone or in concert with one or more persons, takes initiative in founding or organizing the business or enterprise of a person.

(aa) (i) Except as provided in Subsection (1)(aa)(ii), "record" means information that is:

(A) inscribed in a tangible medium; or

(B) (I) stored in an electronic or other medium; and

(II) retrievable in perceivable form.

(ii) This Subsection (1)(aa) does not apply when the context requires otherwise, including when "record" is used in the following phrases:

(A) "of record";

(B) "official record"; or

(C) "public record."

(bb) (i) "Sale" or "sell" includes a contract for sale of, contract to sell, or disposition of, a security or interest in a security for value.

(ii) "Offer" or "offer to sell" includes an attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

(iii) The following are examples of the definitions in Subsection (1)(bb)(i) or (ii):

(A) a security given or delivered with or as a bonus on account of a purchase of a security or any other thing, is part of the subject of the purchase, and is offered and sold for value;

(B) a purported gift of assessable stock is an offer or sale as is each assessment levied on the stock;

(C) an offer or sale of a security that is convertible into, or entitles its holder to acquire or subscribe to another security of the same or another issuer is an offer or sale of that security, and also an offer of the other security, whether the right to convert or acquire is exercisable immediately or in the future;

(D) a conversion or exchange of one security for another constitutes an offer or sale of the security received in a conversion or exchange, and the offer to buy or the purchase of the security converted or exchanged;

(E) securities distributed as a dividend wherein the person receiving the dividend surrenders the right, or the alternative right, to receive a cash or property dividend is an offer or sale;

(F) a dividend of a security of another issuer is an offer or sale; or

(G) the issuance of a security under a merger, consolidation, reorganization, recapitalization, reclassification, or acquisition of assets constitutes the offer or sale of the security issued as well as the offer to buy or the purchase of a security

surrendered in connection therewith, unless the sole purpose of the transaction is to change the issuer's domicile.

(iv) The terms defined in Subsections (1)(bb)(i) and (ii) do not include:

(A) a good faith gift;

(B) a transfer by death;

(C) a transfer by termination of a trust or of a beneficial interest in a trust;

(D) a security dividend not within Subsection (1)(bb)(iii)(E) or (F); or

(E) a securities split or reverse split.

(cc) "Securities Act of 1933," "Securities Exchange Act of 1934," and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after the effective date of this chapter.

(dd) "Securities Exchange Commission" means the United States Securities Exchange Commission created by the Securities Exchange Act of 1934.

(ee) (i) "Security" means a:

(A) note;

(B) stock;

(C) treasury stock;

(D) bond;

(E) debenture;

(F) evidence of indebtedness;

(G) certificate of interest or participation in a profit-sharing agreement;

(H) collateral-trust certificate;

(I) preorganization certificate or subscription;

(J) transferable share;

(K) investment contract;

(L) burial certificate or burial contract;

(M) voting-trust certificate;

(N) certificate of deposit for a security;

(O) certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(P) commodity contract or commodity option;

(Q) interest in a limited liability company;

(R) life settlement interest; or

(S) in general, an interest or instrument commonly known as a "security," or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase an item listed in Subsections (1)(ee)(i)(A) through (R).

(ii) "Security" does not include:

(A) an insurance or endowment policy or annuity contract under which an insurance company promises to pay money in a lump sum or periodically for life or some other specified period;

(B) an interest in a limited liability company in which the limited liability company is formed as part of an estate plan where all of the members are related by blood or marriage, or the person claiming this exception can prove that all of the members are actively engaged in the management of the limited liability company; or

(C) (I) a whole long-term estate in real property;

(II) an undivided fractionalized long-term estate in real property that consists of 10 or fewer owners; or

(III) an undivided fractionalized long-term estate in real property that consists of more than 10 owners if, when the real property estate is subject to a management agreement:

(Aa) the management agreement permits a simple majority of owners of the real property estate to not renew or to terminate the management agreement at the earlier of the end of the management agreement's current term, or 180 days after the day on which the owners give notice of termination to the manager; and

(Bb) the management agreement prohibits, directly or indirectly, the lending of the proceeds earned from the real property estate or the use or pledge of its assets to a person or entity affiliated with or under common control of the manager.

(iii) For purposes of Subsection (1)(ee)(ii)(B), evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company, or the right to participate in management, may not establish, without more, that all members are actively engaged in the management of the limited liability company.

(ff) "State" means a state, territory, or possession of the United States, the District of Columbia, and Puerto Rico.

(gg) (i) "Undivided fractionalized long-term estate" means the same as that term is defined in Section 57-29-102.

(ii) "Undivided fractionalized long-term estate" does not include a joint tenancy.

(hh) "Undue influence" means that a person uses a relationship or position of authority, trust, or confidence:

(i) that is unrelated to a relationship created:

(A) in the ordinary course of making investments regulated under this chapter; or

(B) by a licensee providing services under this chapter;

(ii) that results in:

(A) an investor perceiving the person as having heightened credibility, personal trustworthiness, or dependability; or

(B) the person having special access to or control of an investor's financial resources, information, or circumstances; and

(iii) to:

(A) exploit the trust, dependence, or fear of the investor;

(B) knowingly assist or cause another to exploit the trust, dependence, or fear of the investor; or

(C) gain control deceptively over the decision making of the investor.

(ii) "Vulnerable adult" means the same as that term is defined in Section [~~62A-3-301~~] 26B-6-201.

(jj) "Whole long-term estate" means a person owns or persons through joint tenancy own real property through a fee estate.

(kk) "Working days" means 8 a.m. to 5 p.m., Monday through Friday, exclusive of legal holidays listed in Section 63G-1-301.

(2) A term not defined in this section shall have the meaning as established by division rule. The meaning of a term neither defined in this section nor by rule of the division shall be the meaning commonly accepted in the business community.

(3) (a) This Subsection (3) applies to the offer or sale of a real property estate exempted from the definition of security under Subsection (1)(ee)(ii)(C).

(b) A person who, directly or indirectly receives compensation in connection with the offer or sale as provided in this Subsection (3) of a real property estate is not an agent, broker-dealer, investment adviser, or investment adviser representative under this chapter if that person is licensed under Chapter 2f, Real Estate Licensing and Practices Act, as:

(i) a principal broker;

(ii) an associate broker; or

(iii) a sales agent.

Section 65. Section 61-1-201 is amended to read:

61-1-201. Definitions.

As used in this part:

(1) "Adult Protective Services" means the same as that term is defined in Section [~~62A-3-301~~] 26B-6-201.

(2) "Eligible adult" means:

(a) an individual who is 65 years [~~of age~~] old or older; or

(b) a vulnerable adult as defined in Section [~~62A-3-301~~] 26B-6-201.

(3) "Financial exploitation of an eligible adult" means:

(a) the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or other property of an eligible adult; or

(b) an act or omission, including through a power of attorney, guardianship, or conservatorship of an eligible adult, to:

(i) obtain control, through deception, intimidation, or undue influence, over an eligible adult's money, assets, or other property to deprive the eligible adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or other property; or

(ii) convert an eligible adult's money, assets, or other property to deprive the eligible adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or other property.

(4) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(5) "Qualified individual" means:

(a) an agent;

(b) an investment adviser representative; or

(c) an individual who serves in a supervisory, compliance, or legal capacity for a broker-dealer or an investment adviser.

Section 66. Section 63A-5b-303 is amended to read:

63A-5b-303. Duties and authority of division.

(1) (a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees

of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities:

(A) to implement the state building energy efficiency program under Section 63A-5b-1002; and

(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection [~~62A-5-206.6(2)~~] 26B-6-507(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed $500,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3) (a) The division may not supervise or control the allocation of space for an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

(e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts referred to in Subsection 78A-2-108(3).

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 67. Section 63A-5b-607 is amended to read:

63A-5b-607. Health insurance requirements -- Penalties.

(1) As used in this section:

(a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:

(i) works at least 30 hours per calendar week; and

(ii) meets the employer eligibility waiting period for qualified health insurance coverage provided by the employer.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section [~~26-40-115~~] 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract with the division if the prime contract is in an aggregate amount of $2,000,000 or more; and

(b) a subcontractor of a contractor of a design or construction contract with the division if the subcontract is in an aggregate amount of $1,000,000 or more.

(3) The requirements of this section do not apply to a contractor or subcontractor if:

(a) the application of this section jeopardizes the division's receipt of federal funds;

(b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

(c) the contract is the result of an emergency procurement.

(4) A person who intentionally uses a change order, contract modification, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor that is subject to the requirements of this section shall:

(i) make and maintain an offer of qualified health coverage for the contractor's eligible employees and the eligible employees' dependents; and

(ii) submit to the director a written statement demonstrating that the contractor is in compliance with Subsection (5)(a)(i).

(b) A statement under Subsection (5)(a)(ii):

(i) shall be from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(ii) may not be created more than one year before the day on which the contractor submits the statement to the director.

(c) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the division.

(6) (a) A contractor that is subject to the requirements of this section shall:

(i) ensure that each contract the contractor enters with a subcontractor that is subject to the requirements of this section requires the subcontractor to obtain and maintain an offer of qualified health coverage for the subcontractor's eligible employees and the eligible employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement demonstrating that the subcontractor offers qualified health coverage to eligible employees and eligible employees' dependents.

(b) A statement under Subsection (6)(a)(ii):

(i) shall be from:

(A) an actuary selected by the subcontractor or the subcontractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(ii) may not be created more than one year before the day on which the contractor obtains the statement from the subcontractor.

(7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage during the duration of the contract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage as required in this section.

(b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health coverage during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage as required in this section.

(8) The division shall make rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures for a contractor and a subcontractor to demonstrate compliance with this section, including:

(A) a provision that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;

(B) a provision that a contractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (5); and

(C) a provision that a subcontractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (6);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website for the department to post the commercially equivalent benchmark for the qualified health coverage that is provided by the Department of [~~Health~~] Health and Human Services in accordance with Subsection [~~26-40-115(2)~~] 26B-3-909(2).

(9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(10) (a) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(b) If a contractor or subcontractor provides the documents and information described in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health coverage.

(11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to an eligible employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (11)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5) or (6); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An eligible employee has a private right of action against the employee's employer only as provided in this Subsection (11).

(12) The director shall cause money collected from the imposition and collection of a penalty under this section to be deposited into the Medicaid Restricted Account created by Section [~~26-18-402~~] 26B-1-309.

(13) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(14) An employer's waiting period for an employee to become eligible for qualified health coverage may not extend beyond the first day of the calendar month following 60 days after the day on which the employee is hired.

(15) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (11)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 68. Section 63A-5b-910 is amended to read:

63A-5b-910. Disposition of proceeds received by division from sale of vacant division-owned property.

(1) (a) Except as provided in Section [~~62A-5-206.7~~] 26B-1-331, the division shall pay into the state treasury the money received from the transfer of ownership or lease of vacant division-owned property.

(b) Money paid into the state treasury under Subsection (1)(a):

(i) becomes a part of the funds provided by law for carrying out the building program of the state; and

(ii) is appropriated for the purpose described in Subsection (1)(b)(i).

(2) The proceeds from the transfer of ownership or lease of vacant division-owned property belonging to or used by a particular state agency shall, to the extent practicable, be expended for the construction of buildings or in the performance of other work for the benefit of that state agency.

Section 69. Section 63A-5b-1109, which is renumbered from Section 26-29-1 is renumbered and amended to read:

[~~26-29-1~~]. 63A-5b-1109. Buildings and facilities to which chapter applies -- Standards available to interested parties -- Division of Facilities Construction and Management staff to advise, review, and approve plans when possible.

(1) (a) The standards in this [~~chapter~~] section apply to all buildings and facilities used by the public that are constructed or remodeled in whole or in part by the use of state funds, or the funds of any political subdivision of the state.

(b) All of those buildings and facilities constructed in Utah after May 12, 1981, shall conform to the standard prescribed in this [~~chapter~~] section except buildings, facilities, or portions of them, not intended for public use, including:

(i) caretaker dwellings;

(ii) service buildings; and

(iii) heating plants.

(2) This [~~chapter~~] section applies to temporary or emergency construction as well as permanent buildings.

(3) (a) The standards established in this [~~chapter~~] section apply to the remodeling or alteration of any existing building or facility within the jurisdictions set forth in this [~~chapter~~] section where the remodeling or alteration will affect an area of the building or facility in which there are architectural barriers for persons with a physical disability.

(b) If the remodeling involves less than 50% of the space of the building or facility, only the areas being remodeled need comply with the standards.

(c) If remodeling involves 50% or more of the space of the building or facility, the entire building or facility shall be brought into compliance with the standards.

(4) (a) All individuals and organizations are encouraged to apply the standards prescribed in this [~~chapter~~] section to all buildings used by the public, but that are financed from other than public funds.

(b) The Division of Facilities Construction and Management shall:

(i) make the standards established by this [~~chapter~~] section available to interested individuals and organizations; and

(ii) upon request and to the extent possible, make available the services of the Division of Facilities Construction and Management staff to advise, review, and approve plans and specifications in order to comply with the standards of this [~~chapter~~] section.

(5) (a) This section is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of incoordination, and aging.

(b) This section is intended to make all buildings and facilities covered by this section accessible to, and functional for, persons with a physical disability.

(6) The standards of this section are the current edition of planning and design criteria to prevent architectural barriers for the aged and persons with a physical disability, as promulgated by the Division of Facilities Construction and Management.

(7) The responsibility for adoption of the planning and design criteria referred to in this section, and enforcement of this section shall be as follows:

(a) where state school funds are utilized, the State Board of Education;

(b) where state funds are utilized, the Division of Facilities Construction and Management; and

(c) where funds of political subdivisions are utilized, the governing board of the county or municipality in which the building or facility is located.

Section 70. Section 63A-9-701 is amended to read:

63A-9-701. Subscription to motor pool by certain local government entities.

(1) The following local government entities may subscribe to the central motor pool service provided by the division subject to the conditions established in Subsection (2):

(a) local health departments as defined in Title 26A, Chapter 1, Part 1, Local Health Department Act;

(b) local substance abuse authorities as defined in Section 17-43-201;

(c) local area agencies, as authorized by Section [~~62A-3-104~~] 26B-6-104, or their subcontractors who are local governmental or public entities; and

(d) local mental health authorities as defined in Section 17-43-301.

(2) The local government entities outlined in Subsection (1) may subscribe to the central motor pool service provided by the division only if:

(a) the director of the local government entity determines it will result in substantial cost savings or increased efficiency to the local government entity; and

(b) the central motor pool has sufficient vehicles available.

Section 71. Section 63A-13-102 is amended to read:

63A-13-102. Definitions.

As used in this chapter:

(1) "Abuse" means:

(a) an action or practice that:

(i) is inconsistent with sound fiscal, business, or medical practices; and

(ii) results, or may result, in unnecessary Medicaid related costs; or

(b) reckless or negligent upcoding.

(2) "Claimant" means a person that:

(a) provides a service; and

(b) submits a claim for Medicaid reimbursement for the service.

(3) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(4) "Division" means the Division of [~~Medicaid and Health Financing~~] Integrated Healthcare, created in Section [~~26-18-2.1~~] 26B-3-102.

(5) "Extrapolation" means a method of using a mathematical formula that takes the audit results from a small sample of Medicaid claims and projects those results over a much larger group of Medicaid claims.

(6) "Fraud" means an intentional or knowing:

(a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a claim, reimbursement, or services; or

(b) [~~a~~] violation of a provision of Sections [~~26-20-3~~] 26B-3-1102 through [~~26-20-7~~] 26B-3-1106.

(7) "Fraud unit" means the Medicaid Fraud Control Unit of the attorney general's office.

(8) "Health care professional" means a person licensed under:

(a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) Title 58, Chapter 17b, Pharmacy Practice Act;

(d) Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) Title 58, Chapter 31b, Nurse Practice Act;

(f) Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

(h) Title 58, Chapter 42a, Occupational Therapy Practice Act;

(i) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(j) Title 58, Chapter 49, Dietitian Certification Act;

(k) Title 58, Chapter 60, Mental Health Professional Practice Act;

(l) Title 58, Chapter 67, Utah Medical Practice Act;

(m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

(o) Title 58, Chapter 70a, Utah Physician Assistant Act; and

(p) Title 58, Chapter 73, Chiropractic Physician Practice Act.

(9) "Inspector general" means the inspector general of the office, appointed under Section 63A-13-201.

(10) "Office" means the Office of Inspector General of Medicaid Services, created in Section 63A-13-201.

(11) "Provider" means a person that provides:

(a) medical assistance, including supplies or services, in exchange, directly or indirectly, for Medicaid funds; or

(b) billing or recordkeeping services relating to Medicaid funds.

(12) "Upcoding" means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking into account reasonable opinions derived from official published coding definitions, would result in a lower Medicaid payment or reimbursement.

(13) (a) "Waste" means the act of using or expending a resource carelessly, extravagantly, or to no purpose.

(b) "Waste" includes an activity that:

(i) does not constitute abuse or necessarily involve a violation of law; and

(ii) relates primarily to mismanagement, an inappropriate action, or inadequate oversight.

Section 72. Section 63A-13-204 is amended to read:

63A-13-204. Selection and review of claims.

(1) (a) The office shall periodically select and review a representative sample of claims submitted for reimbursement under the state Medicaid program to determine whether fraud, waste, or abuse occurred.

(b) The office shall limit its review for waste and abuse under Subsection (1)(a) to 36 months prior to the date of the inception of the investigation or 72 months if there is a credible allegation of fraud. In the event the office or the fraud unit determines that there is fraud as defined in Section 63A-13-102, then the statute of limitations defined in [~~Subsection 26-20-15(1)~~] Section 26B-3-1115 shall apply.

(2) The office may directly contact the recipient of record for a Medicaid reimbursed service to determine whether the service for which reimbursement was claimed was actually provided to the recipient of record.

(3) The office shall:

(a) generate statistics from the sample described in Subsection (1) to determine the type of fraud, waste, or abuse that is most advantageous to focus on in future audits or investigations;

(b) ensure that the office, or any entity that contracts with the office to conduct audits:

(i) has on staff or contracts with a medical or dental professional who is experienced in the treatment, billing, and coding procedures used by the type of provider being audited; and

(ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if the provider that is the subject of the audit disputes the findings of the audit;

(c) ensure that a finding of overpayment or underpayment to a provider is not based on extrapolation, unless:

(i) there is a determination that the level of payment error involving the provider exceeds a 10% error rate:

(A) for a sample of claims for a particular service code; and

(B) over a three year period of time;

(ii) documented education intervention has failed to correct the level of payment error; and

(iii) the value of the claims for the provider, in aggregate, exceeds $200,000 in reimbursement for a particular service code on an annual basis; and

(d) require that any entity with which the office contracts, for the purpose of conducting an audit of a service provider, shall be paid on a flat fee basis for identifying both overpayments and underpayments.

(4) (a) If the office, or a contractor on behalf of the department:

(i) intends to implement the use of extrapolation as a method of auditing claims, the department shall, prior to adopting the extrapolation method of auditing, report its intent to use extrapolation:

(A) to the Social Services Appropriations Subcommittee; and

(B) as required under Section 63A-13-502; and

(ii) determines Subsections (3)(c)(i) through (iii) are applicable to a provider, the office or the contractor may use extrapolation only for the service code associated with the findings under Subsections (3)(c)(i) through (iii).

(b) (i) If extrapolation is used under this section, a provider may, at the provider's option, appeal the results of the audit based on:

(A) each individual claim; or

(B) the extrapolation sample.

(ii) Nothing in this section limits a provider's right to appeal the audit under Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

Section 73. Section 63A-13-301 is amended to read:

63A-13-301. Access to records -- Retention of designation under Government Records Access and Management Act.

(1) In order to fulfill the duties described in Section 63A-13-202, and in the manner provided in Subsection (4), the office shall have unrestricted access to all records of state executive branch entities, all local government entities, and all providers relating, directly or indirectly, to:

(a) the state Medicaid program;

(b) state or federal Medicaid funds;

(c) the provision of Medicaid related services;

(d) the regulation or management of any aspect of the state Medicaid program;

(e) the use or expenditure of state or federal Medicaid funds;

(f) suspected or proven fraud, waste, or abuse of state or federal Medicaid funds;

(g) Medicaid program policies, practices, and procedures;

(h) monitoring of Medicaid services or funds; or

(i) a fatality review of a person who received Medicaid funded services.

(2) The office shall have access to information in any database maintained by the state or a local government to verify identity, income, employment status, or other factors that affect eligibility for Medicaid services.

(3) The records described in Subsections (1) and (2) include records held or maintained by the department, the division, the Department of [~~Human Services~~] Health and Human Services, the Department of Workforce Services, a local health department, a local mental health authority, or a school district. The records described in Subsection (1) include records held or maintained by a provider. When conducting an audit of a provider, the office shall, to the extent possible, limit the records accessed to the scope of the audit.

(4) A record, described in Subsection (1) or (2), that is accessed or copied by the office:

(a) may be reviewed or copied by the office during normal business hours, unless otherwise requested by the provider or health care professional under Subsection (4)(b);

(b) unless there is a credible allegation of fraud, shall be accessed, reviewed, and copied in a manner, on a day, and at a time that is minimally disruptive to the health care professional's or provider's care of patients, as requested by the health care professional or provider;

(c) may be submitted electronically;

(d) may be submitted together with other records for multiple claims; and

(e) if it is a government record, shall retain the classification made by the entity responsible for the record, under Title 63G, Chapter 2, Government Records Access and Management Act.

(5) Except as provided in Subsection (7), notwithstanding any provision of state law to the contrary, the office shall have the same access to all records, information, and databases to which the department or the division has access.

(6) The office shall comply with the requirements of federal law, including the Health Insurance Portability and Accountability Act of 1996 and 42 C.F.R., Part 2, relating to the office's:

(a) access, review, retention, and use of records; and

(b) use of information included in, or derived from, records.

(7) The office's access to data held by the Health Data Committee:

(a) is not subject to this section; and

(b) is subject to [~~Title 26, Chapter 33a, Utah Health Data Authority Act~~] Title 26B, Chapter 8, Part 5, Utah Health Data Authority.

Section 74. Section 63A-16-803 is amended to read:

63A-16-803. Single sign-on citizen portal -- Creation.

(1) The division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:

(a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The division shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:

(a) access and submit an application for:

(i) medical and support programs including:

(A) a medical assistance program administered under [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance, including Medicaid;

(B) the Children's Health Insurance Program under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program;

(C) the Primary Care Network as defined in Section [~~26-18-416~~] 26B-3-211; and

(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;

(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;

(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;

(iv) employment with a state agency;

(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;

(vi) a birth or death certificate under [~~Title 26, Chapter 2, Utah Vital Statistics Act~~] Title 26B, Chapter 8, Part 1, Vital Statistics; and

(vii) a hunting or fishing license under Title 23, Chapter 19, Licenses, Permits, and Tags;

(b) access the individual's:

(i) transcripts from an institution of higher education described in Section 53B-2-101; and

(ii) immunization records maintained by the [~~Utah~~] Department of [~~Health~~] Health and Human Services;

(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration, with the Motor Vehicle Division of the State Tax Commission;

(d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income Tax Act, beginning December 1, 2020;

(e) access information about positions available for employment with the state; and

(f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4).

(3) The division shall develop the single sign-on citizen portal using an open platform that:

(a) facilitates participation in the portal by a state entity;

(b) allows for optional participation in the portal by a political subdivision of the state; and

(c) contains a link to the State Tax Commission website.

(4) In developing the single sign-on citizen portal, the department shall consult with:

(a) each state executive branch agency that administers a program, provides a service, or manages applicable information described in Subsection (2);

(b) the Utah League of Cities and Towns;

(c) the Utah Association of Counties; and

(d) other appropriate state executive branch agencies.

(5) The division shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.

Section 75. Section 63A-17-806 is amended to read:

63A-17-806. Definitions -- Infant at Work Pilot Program -- Administration -- Report.

(1) As used in this section:

(a) "Eligible employee" means an employee who has been employed by the Department of [~~Health~~] Health and Human Services for a minimum of:

(i) 12 consecutive months; and

(ii) 1,250 hours, excluding paid time off during the 12-month period immediately preceding the day on which the employee applies for participation in the program.

(b) "Infant" means a baby that is at least six weeks of age and no more than six months of age.

(c) "Parent" means:

(i) a biological or adoptive parent of an infant; or

(ii) an individual who has an infant placed in the individual's foster care by the Division of Child and Family Services.

(d) "Program" means the Infant at Work Pilot Program established in this section.

(2) There is created the Infant at Work Pilot Program for eligible employees.

(3) The program shall:

(a) allow an eligible employee to bring the eligible employee's infant to work subject to the provisions of this section;

(b) be administered by the division; and

(c) be implemented for a minimum of one year.

(4) The division shall establish an application process for eligible employees of the Department of [~~Health~~] Health and Human Services to apply to the program that includes:

(a) a process for evaluating whether an eligible employee's work environment is appropriate for an infant;

(b) guidelines for infant health and safety; and

(c) guidelines regarding an eligible employee's initial and ongoing participation in the program.

(5) If the division approves the eligible employee for participation in the program, the eligible employee shall have the sole responsibility for the care and safety of the infant at the workplace.

(6) The division may not require the Department of [~~Health~~] Health and Human Services to designate or set aside space for an eligible employee's infant other than the eligible employee's existing work space.

(7) The division, in consultation with the Department of [~~Health~~] Health and Human Services, shall make rules that the department determines necessary to establish the program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) On or before June 30, 2022, the division, in consultation with the Department of [~~Health~~] Health and Human Services, shall submit a written report to the Business and Labor Interim Committee that describes the efficacy of the program, including any recommendations for additional legislative action.

Section 76. Section 63A-17-1001 is amended to read:

63A-17-1001. Controlled substances and alcohol use prohibited.

Except as provided in [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, an employee may not:

(1) manufacture, dispense, possess, use, distribute, or be under the influence of a controlled substance or alcohol during work hours or on state property except where legally permissible;

(2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol if the activity prevents:

(a) state agencies from receiving federal grants or performing under federal contracts of $25,000 or more; or

(b) the employee to perform his services or work for state government effectively as regulated by the rules of the executive director in accordance with Section 63A-17-1002; or

(3) refuse to submit to a drug or alcohol test under Section 63A-17-1004.

Section 77. Section 63B-16-401 is amended to read:

63B-16-401. Authorizations to acquire, sell, lease, or exchange property.

(1) It is the intent of the Legislature that:

(a) the Southeast Applied Technology Campus of the Utah College of Applied Technology and Utah State University Eastern may cooperatively enter into negotiations with a nonstate entity and complete a real property exchange to acquire an applied technology facility in Price;

(b) no state funds be used for any portion of this project; and

(c) the college may request state funds for operations and maintenance costs and capital improvements to the extent that the college is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(2) It is the intent of the Legislature that:

(a) the Mountainland Applied Technology Campus of the Utah College of Applied Technology may exercise its option to purchase additional property in northern Utah County adjacent to property purchased with the appropriation in Chapter 367, Item 41, Laws of Utah 2006;

(b) the purchase be financed through donations, institutional funds, a land exchange involving Lehi City and the Utah Transit Authority, or some combination of donations, institutional funds, and a land exchange involving Lehi City and the Utah Transit Authority for future development of a commuter rail station;

(c) the purchase be conducted under the direction of the director of the Division of Facilities Construction and Management; and

(d) no state funds be used for any portion of this purchase.

(3) It is the intent of the Legislature that:

(a) the Department of Human Services Complex located at 120 North 200 West, Salt Lake City, Utah be sold for $11,000,000;

(b) that the proceeds from the sale be used to:

(i) payoff the outstanding bond on the Human Services Complex;

(ii) purchase the Brigham Young University Salt Lake Center located at 3760 South Highland Drive, Salt Lake City, Utah for up to $6,000,000 for occupancy by the Utah State Board of Education Schools for the Deaf and Blind; and

(iii) the remaining funds be used to remodel the Salt Lake Center; and

(c) the Division of Facilities[,] Construction and Management enter into a lease with the buyer of the Human Services Complex for and on behalf of the Department of Health and Human Services that allows the Department of Health and Human Services to continue to occupy the complex for the period of time needed for the state to purchase, construct, or lease a replacement facility for the Department of Health and Human Services.

Section 78. Section 63C-9-403 is amended to read:

63C-9-403. Contracting power of executive director -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section [~~26-40-115~~] 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the health benefit plan's actuarial value meets the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the executive director.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of [~~Health~~] Health and Human Services, in accordance with Subsection [~~26-40-115(2)~~] 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section [~~26-18-402~~] 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including the administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 79. Section 63C-18-102 is amended to read:

63C-18-102. Definitions.

As used in this chapter:

(1) "Commission" means the Behavioral Health Crisis Response Commission created in Section 63C-18-202.

(2) "Local mental health crisis line" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

(3) "Statewide mental health crisis line" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

(4) "Statewide warm line" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

Section 80. Section 63C-18-202 is amended to read:

63C-18-202. Commission established -- Members.

(1) There is created the Behavioral Health Crisis Response Commission, composed of the following members:

(a) the executive director of the University Neuropsychiatric Institute;

(b) the governor or the governor's designee;

(c) the director of the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health;

(d) one representative of the Office of the Attorney General, appointed by the attorney general;

(e) one member of the public, appointed by the chair of the commission and approved by the commission;

(f) two individuals who are mental or behavioral health clinicians licensed to practice in the state, appointed by the chair of the commission and approved by the commission, at least one of whom is an individual who:

(i) is licensed as a physician under:

(A) Title 58, Chapter 67, Utah Medical Practice Act;

(B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

(C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(g) one individual who represents a county of the first or second class, appointed by the Utah Association of Counties;

(h) one individual who represents a county of the third, fourth, or fifth class, appointed by the Utah Association of Counties;

(i) one individual who represents the Utah Hospital Association, appointed by the chair of the commission;

(j) one individual who represents law enforcement, appointed by the chair of the commission;

(k) one individual who has lived with a mental health disorder, appointed by the chair of the commission;

(l) one individual who represents an integrated health care system that:

(i) is not affiliated with the chair of the commission; and

(ii) provides inpatient behavioral health services and emergency room services to individuals in the state;

(m) one individual who represents an accountable care organization, as defined in Section [~~26-18-423~~] 26B-3-219, with a statewide membership base;

(n) three members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;

(o) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party;

(p) one individual who represents 911 call centers and public safety answering points, appointed by the chair of the commission;

(q) one individual who represents Emergency Medical Services, appointed by the chair of the commission;

(r) one individual who represents the mobile wireless service provider industry, appointed by the chair of the commission;

(s) one individual who represents rural telecommunications providers, appointed by the chair of the commission;

(t) one individual who represents voice over internet protocol and land line providers, appointed by the chair of the commission; and

(u) one individual who represents the Utah League of Cities and Towns, appointed by the chair of the commission.

(2) On December 31, 2022:

(a) the number of members described in Subsection (1)(n) and the number of members described in Subsection (1)(o) is reduced to one, with no restriction relating to party membership; and

(b) the members described in Subsections (1)(p) through (u) are removed from the commission.

(3) (a) The executive director of the University Neuropsychiatric Institute is the chair of the commission.

(b) The chair of the commission shall appoint a member of the commission to serve as the vice chair of the commission, with the approval of the commission.

(c) The chair of the commission shall set the agenda for each commission meeting.

(4) (a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

(5) (a) Except as provided in Subsection (5)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service on the commission.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The Office of the Attorney General shall provide staff support to the commission.

Section 81. Section 63C-18-203 is amended to read:

63C-18-203. Commission duties -- Reporting requirements.

(1) The commission shall:

(a) identify a method to integrate existing local mental health crisis lines to ensure each individual who accesses a local mental health crisis line is connected to a qualified mental or behavioral health professional, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line;

(b) study how to establish and implement a statewide mental health crisis line and a statewide warm line, including identifying:

(i) a statewide phone number or other means for an individual to easily access the statewide mental health crisis line, including a short code for text messaging and a three-digit number for calls;

(ii) a statewide phone number or other means for an individual to easily access the statewide warm line, including a short code for text messaging and a three-digit number for calls;

(iii) a supply of:

(A) qualified mental or behavioral health professionals to staff the statewide mental health crisis line; and

(B) qualified mental or behavioral health professionals or certified peer support specialists to staff the statewide warm line; and

(iv) a funding mechanism to operate and maintain the statewide mental health crisis line and the statewide warm line;

(c) coordinate with local mental health authorities in fulfilling the commission's duties described in Subsections (1)(a) and (b); and

(d) recommend standards for the certifications described in Section [~~62A-15-1302~~] 26B-5-610.

(2) In preparation for the implementation of the statewide 988 hotline, the commission shall study and make recommendations regarding:

(a) crisis line practices and needs, including:

(i) quality and timeliness of service;

(ii) service volume projections;

(iii) a statewide assessment of crisis line staffing needs, including required certifications; and

(iv) a statewide assessment of technology needs;

(b) primary duties performed by crisis line workers;

(c) coordination or redistribution of secondary duties performed by crisis line workers, including responding to non-emergency calls;

(d) establishing a statewide 988 hotline:

(i) in accordance with federal law;

(ii) that ensures the efficient and effective routing of calls to an appropriate crisis center; and

(iii) that includes directly responding to calls with trained personnel and the provision of acute mental health, crisis outreach, and stabilization services;

(e) opportunities to increase operational and technological efficiencies and effectiveness between 988 and 911, utilizing current technology;

(f) needs for interoperability partnerships and policies related to 911 call transfers and public safety responses;

(g) standards for statewide mobile crisis outreach teams, including:

(i) current models and projected needs;

(ii) quality and timeliness of service;

(iii) hospital and jail diversions; and

(iv) staffing and certification;

(h) resource centers, including:

(i) current models and projected needs; and

(ii) quality and timeliness of service;

(i) policy considerations related to whether the state should:

(i) manage, operate, and pay for a complete behavioral health system; or

(ii) create partnerships with private industry; and

(j) sustainable funding source alternatives, including:

(i) charging a 988 fee, including a recommendation on the fee amount;

(ii) General Fund appropriations;

(iii) other government funding options;

(iv) private funding sources;

(v) grants;

(vi) insurance partnerships, including coverage for support and treatment after initial call and triage; and

(vii) other funding resources.

(3) The commission shall:

(a) before December 31, 2021, present an initial report on the matters described in Subsection (2),

including any proposed legislation, to the Executive Appropriations Committee; and

(b) before December 31, 2022, present a final report on the items described in Subsection (2), including any proposed legislation, to the Executive Appropriations Committee.

(4) The duties described in Subsection (2) are removed on December 31, 2022.

(5) The commission may conduct other business related to the commission's duties described in this section.

(6) The commission shall consult with the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health regarding the standards and operation of the statewide mental health crisis line and the statewide warm line, in accordance with [~~Title 62A, Chapter 15, Part 13, Statewide Mental Health Crisis Line and Statewide Warm Line~~] Section 26B-5-610.

Section 82. Section 63G-2-202 is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) Except as provided in Subsection (11)(a), a governmental entity:

(a) shall, upon request, disclose a private record to:

(i) the subject of the record;

(ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(iii) the legal guardian of a legally incapacitated individual who is the subject of the record;

(iv) any other individual who:

(A) has a power of attorney from the subject of the record;

(B) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section [~~26-33a-102~~] 26B-8-501, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(v) any person to whom the record must be provided pursuant to:

(A) court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; and

(b) may disclose a private record described in Subsections 63G-2-302(1)(j) through (m), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:

(i) voter registration; or

(ii) the administration of an election.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, physician assistant, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (11)(b), a governmental entity shall disclose a protected record to:

(a) the person that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(w).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(a)(v).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section [~~62A-3-312~~] 26B-6-212.

(11) (a) A private, protected, or controlled record described in Section [~~62A-16-301~~] 26B-1-506 shall be disclosed as required under:

(i) Subsections [~~62A-16-301(1)(b), (2), and (4)(c)~~] 26B-1-506(1)(b), (2), and (4)(c); and

(ii) Subsections [~~62A-16-302(1) and (6)~~] 26B-1-507(1) and (6).

(b) A record disclosed under Subsection (11)(a) shall retain its character as private, protected, or controlled.

Section 83. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section

72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);

(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); and

(dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section [~~62A-3-102~~] 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 84. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access,

including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of [~~Human Services~~] Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be

covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section [~~62A-3-311.1~~] 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section [~~26-39-501~~] 26B-2-408:

(a) information or records held by the Department of [~~Health~~] Health and Human Services related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of [~~Health~~] Health and Human Services from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of [~~Health~~] Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of [~~Health~~] Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section [~~62A-2-101~~] 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating

an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict

access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a); and

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding.

Section 85. Section 63G-3-501 is amended to read:

63G-3-501. Administrative Rules Review and General Oversight Committee.

(1) (a) There is created an Administrative Rules Review and General Oversight Committee of the following 10 permanent members:

(i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and

(ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.

(b) Each permanent member shall serve:

(i) for a two-year term; or

(ii) until the permanent member's successor is appointed.

(c) (i) A vacancy exists when a permanent member ceases to be a member of the Legislature, or when a permanent member resigns from the committee.

(ii) When a vacancy exists:

(A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or

(B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

(iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.

(d) (i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.

(ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

(e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules.

(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.

(2) The office shall submit a copy of each issue of the bulletin to the committee.

(3) (a) The committee shall exercise continuous oversight of the rulemaking process.

(b) The committee shall examine each rule, including any rule made according to the emergency rulemaking procedure described in Section 63G-3-304, submitted by an agency to determine:

(i) whether the rule is authorized by statute;

(ii) whether the rule complies with legislative intent;

(iii) the rule's impact on the economy and the government operations of the state and local political subdivisions;

(iv) the rule's impact on affected persons;

(v) the rule's total cost to entities regulated by the state;

(vi) the rule's benefit to the citizens of the state; and

(vii) whether adoption of the rule requires legislative review or approval.

(c) The committee may examine and review:

(i) any executive order issued pursuant to Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act;

(ii) any public health order issued during a public health emergency declared in accordance with ~~[Title 26, Utah Health Code, or]~~ Title 26A, Local Health Authorities, or Title 26B, Utah Health and Human Services Code; or

(iii) an agency's policies that:

(A) affect a class of persons other than the agency; or

(B) are contrary to legislative intent.

(d) (i) To carry out these duties, the committee may examine any other issues that the committee considers necessary.

(ii) Notwithstanding anything to the contrary in this section, the committee may not examine an agency's internal policies, procedures, or practices.

(iii) The committee may also notify and refer rules to the chairs of the interim committee that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(e) An agency shall respond to a request from the committee for:

(i) an agency's policy described in Subsection (3)(c)(iii); or

(ii) information related to an agency's policy described in Subsection (3)(c)(iii).

(f) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.

(4) When the committee reviews an existing rule, the committee chairs shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency whose existing rule is being reviewed to participate as nonvoting, ex officio members with the committee.

(5) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

(6) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

(7) (a) The committee may prepare written findings of the committee's review of a rule, policy, practice, or procedure and may include any recommendation, including:

(i) legislative action; or

(ii) action by a standing committee or interim committee.

(b) When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:

(i) the committee's findings, if any; and

(ii) a request that the agency notify the committee of any changes the agency makes to the rule.

(c) The committee shall provide a copy of the committee's findings described in Subsection (7)(a), if any, to:

(i) any member of the Legislature, upon request;

(ii) any person affected by the rule, upon request;

(iii) the president of the Senate;

(iv) the speaker of the House of Representatives;

(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency whose rule, policy, practice, or procedure is the subject of the finding; and

(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency that made the rule.

(8) (a) (i) The committee may submit a report on the committee's review under this section to each member of the Legislature at each regular session.

(ii) The report shall include:

(A) any finding or recommendation the committee made under Subsection (7);

(B) any action an agency took in response to a committee recommendation; and

(C) any recommendation by the committee for legislation.

(b) If the committee receives a recommendation not to reauthorize a rule, as described in Subsection 63G-3-301(13)(b), and the committee recommends to the Legislature reauthorization of the rule, the committee shall submit a report to each member of the Legislature detailing the committee's decision.

(c) If the committee recommends legislation, the committee may prepare legislation for consideration by the Legislature at the next general session.

Section 86. Section 63G-4-102 is amended to read:

63G-4-102. Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission,

termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, values, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1);

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action;

(v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act;

(w) state environmental studies and related decisions by the Department of Transportation approving state or locally funded projects, or judicial review of the action;

(x) the suspension of operations under Subsection 32B-1-304(3); or

(y) the issuance of a determination of violation by the Governor's Office of Economic Opportunity under Section 11-41-104.

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

(11) Subsection (2)(w), regarding action taken based on state environmental studies and policies of the Department of Transportation, applies to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order before May 14, 2019.

Section 87. Section 63G-7-201 is amended to read:

63G-7-201. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Sections 26B-7-316 through 26B-7-324;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section [~~26-1-30~~] 26B-1-202, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is

not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity;

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road; or

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-101.

Section 88. Section 63I-1-226 is repealed and reenacted to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26B-1-230, related to governmental entities requiring COVID-19 vaccines, is repealed July 1, 2024.

(4) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(5) Section 26B-1-319, which creates the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(6) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(7) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(8) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(9) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(10) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(11) Section 26B-1-415, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(12) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(13) Section 26B-1-417, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(14) Section 26B-1-418, which creates the Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(15) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2026.

(16) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(17) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(18) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(19) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(20) Section 26B-2-309, related to assisted living facility transfers, is repealed July 1, 2023.

(21) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

(22) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(23) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

(24) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

(25) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(26) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

(27) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

(28) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

(29) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2024.

(30) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.

(31) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

(32) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.

(33) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2023.

(34) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

(35) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4) is repealed.

(36) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

(37) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

(38) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

(39) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

(40) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

(41) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 89. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates: Title 62.

[~~(1) Section 62A-3-209 is repealed July 1, 2023.~~]

[~~(2) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2027.~~]

[~~(3) Subsections 62A-15-116(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.~~]

[~~(4) Section 62A-15-118 is repealed December 31, 2023.~~]

[~~(5) Section 62A-15-124 is repealed December 31, 2024.~~]

[~~(6) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.~~]

[~~(7) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.~~]

[~~(8) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:~~]

[~~(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;~~]

[~~(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;~~]

[~~(c) Subsection 62A-15-1303(1), the language that states "In consultation with the commission," is repealed;~~]

[~~(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; and~~]

[~~(e) Subsection 62A-15-1702(6) is repealed.~~]

Section 90. Section 63I-2-226 is repealed and reenacted to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(f), related to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26B-1-405, related to the Air Ambulance Committee, is repealed on July 1, 2024.

(3) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(4) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(5) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-4-135(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(7) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(8) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

(9) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

Section 91. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates: Title 62.

[~~(1) Section 62A-4a-1003.5, relating to the Management Information System, is repealed September 1, 2022.~~]

[~~(2) Subsection 62A-5-103.1(6) is repealed January 1, 2023.~~]

[~~(3) Section 62A-15-122 is repealed January 2, 2025~~]

[~~(4) Title 62A, Chapter 15, Part 19, Mental Health Crisis Intervention Council, is repealed January 1, 2023.~~]

Section 92. Section 63J-1-315 is amended to read:

63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account -- Transfers of Medicaid growth savings -- Base budget adjustments.

(1) As used in this section:

(a) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(b) "Division" means the Division of [~~Medicaid and Health Financing~~] Integrated Healthcare created in Section [~~26-18-2.1~~] 26B-3-102.

(c) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section [~~26-18-2~~] 26B-3-101.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

(3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (6), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements the proposal developed under Section [~~26-18-405~~] 26B-3-202 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

(4) The Division of Finance shall calculate the amount to be transferred under Subsection (3):

(a) before transferring revenue from the General Fund revenue surplus to:

(i) the General Fund Budget Reserve Account under Section 63J-1-312;

(ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in Section 63J-1-314; and

(iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63N-3-106; and

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

(5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

(b) The Division of Finance may not spend the hold back amount for debt service under Subsection (5)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection (3), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

(d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back the General Fund balance for debt service authorized by this Subsection (5) before making any transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other designation or allocation of General Fund revenue surplus.

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63N-3-106, transfers to the Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

(7) The Legislature may appropriate money from the Medicaid Growth Reduction and Budget Stabilization Account only:

(a) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; and

(b) for the Medicaid program.

(8) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 93. Coordinating S.B. 208 with H.B. 26 -- Substantive and technical amendment.

If this S.B. 208 and H.B. 26, License Plate Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on January 1, 2024, as follows:

(1) the amendments to Section 63I-2-226 in this bill supersede the amendments to Section 63I-2-226 in H.B. 26;

(2) add the language "Section 26B-1-302 is repealed on July 1, 2024." as a subsection to Section 63I-2-226 in this bill, numerically according to title placement;

(3) add the language "Section 26B-1-313 is repealed on July 1, 2024." as a subsection to Section 63I-2-226 in this bill, numerically according to title placement;

(4) add the language "Section 26B-1-314 is repealed on July 1, 2024." as a subsection to Section 63I-2-226 in this bill, numerically according to title placement; and

(5) add the language "Section 26B-1-321 is repealed on July 1, 2024." as a subsection to Section 63I-2-226 in this bill, numerically according to title placement..

Section 94. Coordinating S.B. 208 with H.B. 36 -- Substantive and technical amendment.

If this S.B. 208 and H.B. 36, Long Term Care Ombudsman Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, omit Subsection 63I-1-226(20), relating to assisted living facility transfers, from this bill..

Section 95. Coordinating S.B. 208 with H.B. 48 -- Substantive and technical amendment.

If this S.B. 208 and H.B. 48, Early Childhood Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 63I-1-226 in this bill supersede the amendments to Section 63I-1-226 in H.B. 48; and

(2) Subsection 63I-1-226(15) in this S.B. 208 is amended to read:

"(15) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.".

Section 96. Coordinating S.B. 208 with H.B. 66 -- Substantive and technical amendment.

If this S.B. 208 and H.B. 66, Behavioral Health Crisis Response Commission Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 63I-1-226 in this bill supersede the amendments to Section 63I-1-226 in H.B. 66;

(2) the amendments to Section 63I-1-262 in this bill supersede the amendments to Section 63I-1-262 in H.B. 66;

(3) Subsection 63I-1-226(7) in this S.B. 208 is amended to read:

"(7) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.";

(4) Subsection 63I-1-226(25) in this S.B. 208 is amended to read:

"(25) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.";

(5) Subsection 63I-1-226(32) in this S.B. 208 is amended to read:

"(32) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.";

(6) Subsection 63I-1-226(33) in this S.B. 208 is amended to read:

"(33) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.";

(7) Subsection 63I-1-226(35) in this S.B. 208 is amended to read:

"(35) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.";

(8) add the language "Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026." as a subsection to Section 63I-1-226 in this bill, numerically according to title placement;

(9) add the language "Section 62A-15-116.5 is repealed December 31, 2026." as a subsection to Section 63I-1-226 in this bill, numerically according to title placement after Section 62A-15-116.5 has been technically renumbered to Title 26B, in accordance with the Revisor Instructions in this bill; and

(10) add the language "Section 62A-15-125 is repealed December 31, 2026." as a subsection to Section 63I-1-226 in this bill, numerically according to title placement after Section 62A-15-125 has been technically renumbered to Title 26B, in accordance with the Revisor Instructions in this bill..

Section 97. Coordinating S.B. 208 with H.B. 131 -- Substantive and technical amendment.

If this S.B. 208 and H.B. 131, Vaccine Passport Prohibition, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, omit Subsection 63I-1-226(3), related to governmental entities requiring COVID-19 vaccines, from this bill..

Section 98. Coordinating S.B. 208 with H.B. 248 -- Substantive and technical amendment.

If this S.B. 208 and H.B. 248, Mental Health Services for Adults, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 63I-1-262 in this bill supersede the amendments to Section 63I-1-262 in H.B. 248; and

(2) add the following language as a subsection to Section 63I-1-226 in this bill, numerically according to title placement:

"In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed."..

Section 99. Coordinating S.B. 208 with H.B. 429 -- Substantive and technical amendment.

If this S.B. 208 and H.B. 429, Pregnant and Postpartum Inmate Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 63I-1-226 in this bill supersede the amendments to Section 63I-1-226 in H.B. 429; and

(2) add the language "Subsection 26B-1-401, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed on July 1, 2026." as a subsection to Section 63I-1-226 in this bill, numerically according to title placement..

Section 100. Coordinating S.B. 208 with H.B. 437 -- Substantive and technical amendment.

If this S.B. 208 and H.B. 437, Health Services Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 63I-2-226 in this bill supersede the amendments to Section 63I-2-226 in H.B. 437;

(2) add the language "Section 26-10-16 is repealed July 1, 2024." as a subsection to Section 63I-2-226 in this bill, numerically according to title placement after Section 26-10-16 has been

technically renumbered to Title 26B, in accordance with the Revisor Instructions in this bill; and

(3) add the language "Section 26-18-29 is repealed July 1, 2024." as a subsection to Section 63I-2-226 in this bill, numerically according to title placement after Section 26-18-29 has been technically renumbered to Title 26B, in accordance with the Revisor Instructions in this bill..

Section 101. Coordinating S.B. 208 with H.B. 487 -- Substantive and technical amendment.

If this S.B. 208 and H.B. 487, Sickle Cell Disease, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 63I-2-226 in this bill supersede the amendments to Section 63I-2-226 in H.B. 487; and

(2) add the language "Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025." as a subsection to Section 63I-2-226 in this bill, numerically according to title placement..

Section 102. Coordinating S.B. 208 with S.B. 64 -- Substantive and technical amendment.

If this S.B. 208 and S.B. 64, Bureau of Emergency Medical Services Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2024, as follows:

(1) the amendments to Section 63I-1-226 in this bill supersede the amendments to Section 63I-1-226 in S.B. 64;

(2) Subsection 63I-1-226(2) in this S.B. 208 is amended to read:

"(2) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.";

(3) Subsection 63I-1-226(30) in this bill, relating to the Volunteer Emergency Medical Service Personnel Health Insurance Program, be omitted;

(4) Subsection 63I-2-226(1) in this bill, relating to the Air Ambulance Committee, be omitted;

(5) Subsection 63I-2-226(2) in this bill, relating to the Air Ambulance Committee, be omitted; and

(6) Subsection 63I-2-226(6) in this bill, relating to the Air Ambulance Committee, be omitted..

Section 103. Coordinating S.B. 208 with S.B. 123 -- Substantive and technical amendment.

If this S.B. 208 and S.B. 123, Boards and Commissions Modifications, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 63I-1-226 in this bill supersede the amendments to Section 63I-1-226 in S.B. 123;

(2) Subsection 63I-1-226(2) in this S.B. 208 is amended to read:

"(2) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.";

(3) Subsection 63I-1-226(1) in this bill, relating to the Residential Child Care Licensing Advisory Committee, be omitted; and

(4) Subsection 63I-1-226(11) in this bill, relating to the Residential Child Care Licensing Advisory Committee, be omitted..

Section 104. Coordinating S.B. 208 with S.B. 126 -- Substantive and technical amendment.

If this S.B. 208 and S.B. 126, Hospital Assessment Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 63I-1-226 in this bill supersede the amendments to Section 63I-1-226 in S.B. 126; and

(2) Subsection 63I-1-226(29) in this S.B. 208 is amended to read:

"(29) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.".

Section 105. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) not enroll this bill if any of the following bills do not pass:

(a) S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;

(b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and Data;

(c) S.B. 40, Health and Human Services Recodification - Health Care Delivery and Repeals; or

(d) S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health; and

(2) in any new language added to the Utah Code by legislation passed during the 2023 General Session, replace any references to Titles 26 or 62A with the renumbered reference as it is renumbered in this bill.

CHAPTER 330
S. B. 209
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

HEALTH AND HUMAN SERVICES RECODIFICATION -CROSS REFERENCES, TITLES 63J-80

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill updates cross references to the Utah Health and Human Services Code in Titles 63J through 80.

Highlighted Provisions:

This bill:

- makes technical updates in Titles 63J through 80 to cross references to the Utah Health and Human Services Code that are renumbered and amended in:
  - S.B. 38, Health and Human Services Recodification – Administration, Licensing, and Recovery Services;
  - S.B. 39, Health and Human Services Recodification – Health Care Assistance and Data;
  - S.B. 40, Health and Human Services Recodification – Health Care Delivery and Repeals; and
  - S.B. 41, Health and Human Services Recodification – Prevention, Supports, Substance Use and Mental Health; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

63J-1-601, as last amended by Laws of Utah 2022, Chapters 68, 451
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154
63J-5-206, as last amended by Laws of Utah 2018, Chapter 467
63J-7-102, as last amended by Laws of Utah 2022, Chapters 224, 451 and 456
63M-7-204, as last amended by Laws of Utah 2022, Chapter 187
63M-7-209, as last amended by Laws of Utah 2022, Chapter 36
63M-7-216, as enacted by Laws of Utah 2020, Chapter 200
63M-7-301, as last amended by Laws of Utah 2022, Chapter 255
63M-7-303, as last amended by Laws of Utah 2022, Chapter 211
63M-13-202, as last amended by Laws of Utah 2020, Chapter 354
64-13-37, as enacted by Laws of Utah 1993, Chapter 277
64-13-39, as enacted by Laws of Utah 1995, Chapter 353
64-13-39.5, as last amended by Laws of Utah 2009, Chapter 355
64-13-44, as enacted by Laws of Utah 2013, Chapter 256
67-3-1, as last amended by Laws of Utah 2022, Chapter 307
67-3-11, as last amended by Laws of Utah 2022, Chapter 255
67-5-1, as last amended by Laws of Utah 2022, Chapter 222
67-5-16, as last amended by Laws of Utah 2022, Chapter 335
67-20-2, as last amended by Laws of Utah 2022, Chapters 346, 347 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 347
71-11-5, as last amended by Laws of Utah 2018, Chapter 39
72-6-107.5, as last amended by Laws of Utah 2022, Chapters 421, 443
72-9-103, as last amended by Laws of Utah 2017, Chapter 96
72-10-502, as last amended by Laws of Utah 2018, Chapter 35
75-1-107, as last amended by Laws of Utah 2003, Chapter 49
75-2a-103, as last amended by Laws of Utah 2022, Chapter 277
75-2a-106, as last amended by Laws of Utah 2021, Chapter 223
75-3-104.5, as last amended by Laws of Utah 2020, Chapter 205
75-3-803, as last amended by Laws of Utah 2018, Chapter 443
75-3-805, as last amended by Laws of Utah 2018, Chapter 443
75-5-309, as last amended by Laws of Utah 2018, Chapter 455
75-5-311, as last amended by Laws of Utah 2018, Chapter 455
75-7-508, as last amended by Laws of Utah 2018, Chapter 443
75-7-509, as last amended by Laws of Utah 2004, Chapters 72, 90 and renumbered and amended by Laws of Utah 2004, Chapter 89
75-7-511, as last amended by Laws of Utah 2018, Chapter 443
76-3-203.11, as last amended by Laws of Utah 2020, Chapter 131
76-5-102.6, as last amended by Laws of Utah 2022, Chapter 181
76-5-102.7, as last amended by Laws of Utah 2022, Chapters 117, 181
76-5-102.9, as last amended by Laws of Utah 2022, Chapter 181
76-5-112.5, as last amended by Laws of Utah 2022, Chapter 181

76-5-113, as last amended by Laws of Utah 2022, Chapter 181
76-5-412, as last amended by Laws of Utah 2022, Chapter 181
76-5b-201, as last amended by Laws of Utah 2022, Chapters 181, 185
76-6-106, as last amended by Laws of Utah 2012, Chapter 135
76-6-702, as last amended by Laws of Utah 2017, Chapters 462, 467
76-7-301, as last amended by Laws of Utah 2021, Chapter 262
76-7-305, as last amended by Laws of Utah 2022, Chapter 181
76-7-305.5, as last amended by Laws of Utah 2020, Chapter 251
76-7-306, as repealed and reenacted by Laws of Utah 2011, Chapter 277
76-7-313, as last amended by Laws of Utah 2019, Chapters 124, 208
76-7-314, as last amended by Laws of Utah 2019, Chapter 208
76-8-311.1, as last amended by Laws of Utah 2020, Chapter 396
76-8-311.3, as last amended by Laws of Utah 2020, Chapters 302, 347
76-8-1202, as last amended by Laws of Utah 1997, Chapter 174
76-9-307, as last amended by Laws of Utah 2009, Chapter 110
76-9-704, as last amended by Laws of Utah 2007, Chapters 60, 231
76-10-101, as last amended by Laws of Utah 2022, Chapter 199
76-10-526, as last amended by Laws of Utah 2021, Chapters 166, 277
76-10-528, as last amended by Laws of Utah 2022, Chapter 159
76-10-1311, as last amended by Laws of Utah 2008, Chapter 382
76-10-1312, as last amended by Laws of Utah 2011, Chapter 70
76-10-1602, as last amended by Laws of Utah 2022, Chapters 181, 185
76-10-2204, as enacted by Laws of Utah 2019, Chapter 377
76-10-3105, as renumbered and amended by Laws of Utah 2013, Chapter 187
77-15-6, as last amended by Laws of Utah 2018, Chapter 147
77-15a-104, as last amended by Laws of Utah 2018, Chapter 281
77-15a-105, as enacted by Laws of Utah 2003, Chapter 11
77-16a-101, as last amended by Laws of Utah 2011, Chapter 366
77-16a-202, as last amended by Laws of Utah 2011, Chapter 366
77-16a-203, as last amended by Laws of Utah 2011, Chapter 366
77-16a-204, as last amended by Laws of Utah 2011, Chapter 366
77-16a-302, as last amended by Laws of Utah 2011, Chapter 366
77-18-102, as enacted by Laws of Utah 2021, Chapter 260
77-18-106, as enacted by Laws of Utah 2021, Chapter 260
77-19-204, as enacted by Laws of Utah 2004, Chapter 137
77-19-205, as enacted by Laws of Utah 2004, Chapter 137
77-19-206, as enacted by Laws of Utah 2004, Chapter 137
77-23-213, as last amended by Laws of Utah 2019, Chapter 349
77-32b-103, as last amended by Laws of Utah 2022, Chapters 328, 359
77-40a-305, as last amended by Laws of Utah 2022, Chapter 384 and renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-306, as enacted by Laws of Utah 2022, Chapter 250
78A-2-231, as last amended by Laws of Utah 2022, Chapter 256
78A-2-301, as last amended by Laws of Utah 2022, Chapters 276, 384
78A-5-201, as last amended by Laws of Utah 2022, Chapter 187
78A-6-103, as last amended by Laws of Utah 2022, Chapters 155, 335
78A-6-208, as last amended by Laws of Utah 2021, Chapter 261
78A-6-209, as last amended by Laws of Utah 2022, Chapters 335, 430
78A-6-356, as last amended by Laws of Utah 2022, Chapters 334, 470
78B-3-403, as last amended by Laws of Utah 2022, Chapters 356, 415
78B-3-405, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-3-701, as last amended by Laws of Utah 2009, Chapter 110
78B-4-501, as last amended by Laws of Utah 2018, Chapter 62
78B-5-618, as last amended by Laws of Utah 2022, Chapter 327
78B-5-902, as last amended by Laws of Utah 2022, Chapter 255
78B-5-904, as enacted by Laws of Utah 2021, Chapter 208
78B-6-103, as last amended by Laws of Utah 2022, Chapter 335
78B-6-113, as last amended by Laws of Utah 2017, Chapter 280
78B-6-124, as last amended by Laws of Utah 2022, Chapter 335
78B-6-128, as last amended by Laws of Utah 2022, Chapter 335
78B-6-131, as last amended by Laws of Utah 2022, Chapter 335
78B-6-142, as last amended by Laws of Utah 2020, Chapter 201
78B-7-205, as last amended by Laws of Utah 2020, Chapter 142
78B-7-603, as last amended by Laws of Utah 2022, Chapter 142
78B-8-401, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 16
78B-8-402, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 16

78B-8-404, as last amended by Laws of Utah 2017, Chapter 185
78B-10-106, as last amended by Laws of Utah 2022, Chapter 335
78B-12-102, as last amended by Laws of Utah 2021, Chapter 111
78B-12-111, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-112, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-113, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-216, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-402, as last amended by Laws of Utah 2019, Chapter 136
78B-14-103, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
78B-14-501, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-14-605, as last amended by Laws of Utah 2015, Chapter 45
78B-14-703, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
78B-14-704, as and further amended by Revisor Instructions, Laws of Utah 2013 Chapter 245
78B-15-104, as last amended by Laws of Utah 2021, Chapter 261
78B-15-107, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-24-203, as enacted by Laws of Utah 2022, Chapter 326
78B-24-307, as enacted by Laws of Utah 2022, Chapter 326
78B-24-308, as enacted by Laws of Utah 2022, Chapter 326
79-2-404, as last amended by Laws of Utah 2022, Chapters 421, 443
80-1-102, as last amended by Laws of Utah 2022, Chapters 155, 185, 217, 255, 326, 334, and 430
80-1-103, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-2-501, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-603, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-604, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-802, as enacted by Laws of Utah 2022, Chapter 334
80-2-803, as enacted by Laws of Utah 2022, Chapter 334
80-2-804, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-909, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-1001, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-1002, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-1005, as last amended by Laws of Utah 2022, Chapters 187, 255 and 430 and renumbered and amended by Laws of Utah 2022, Chapter 334
80-2a-202, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2a-301, as last amended by Laws of Utah 2022, Chapter 287 and renumbered and amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 334
80-3-110, as last amended by Laws of Utah 2022, Chapter 256
80-3-204, as last amended by Laws of Utah 2022, Chapter 335
80-3-302, as last amended by Laws of Utah 2022, Chapters 287, 334
80-3-305, as last amended by Laws of Utah 2022, Chapter 334
80-3-404, as last amended by Laws of Utah 2022, Chapters 255, 334
80-3-405, as last amended by Laws of Utah 2022, Chapter 335
80-3-504, as enacted by Laws of Utah 2022, Chapter 334
80-4-109, as enacted by Laws of Utah 2021, Chapter 261
80-4-302, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-4-501, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-6-402, as last amended by Laws of Utah 2022, Chapter 152
80-6-403, as last amended by Laws of Utah 2022, Chapter 152
80-6-608, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-706, as enacted by Laws of Utah 2021, Chapter 261
80-6-801, as enacted by Laws of Utah 2021, Chapter 261

Utah Code Sections Affected by Coordination Clause:
63M-7-303, as last amended by Laws of Utah 2022, Chapter 211
78A-2-231, as last amended by Laws of Utah 2022, Chapter 256
80-3-110, as last amended by Laws of Utah 2022, Chapter 256
80-4-109, as enacted by Laws of Utah 2021, Chapter 261

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-1-601 is amended to read:

63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing accounts and funds --

Institutions of higher education to report unexpended balances.

(1) As used in this section:

(a) "Education grant subrecipient" means a nonfederal entity that:

(i) receives a subaward from the State Board of Education to carry out at least part of a federal or state grant program; and

(ii) does not include an individual who is a beneficiary of the federal or state grant program.

(b) "Transaction control number" means the unique numerical identifier established by the Department of [~~Health~~] Health and Human Services to track each medical claim and indicates the date on which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

(i) enterprise funds;

(ii) internal service funds;

(iii) fiduciary funds;

(iv) capital projects funds;

(v) discrete component unit funds;

(vi) debt service funds; and

(vii) permanent funds;

(b) those appropriations from a fund or account or appropriations to a program that are designated as nonlapsing under Section 63J-1-602.1 or 63J-1-602.2;

(c) expendable special revenue funds, unless specifically directed to close out the fund in the fund's enabling legislation;

(d) acquisition and development funds appropriated to the Division of State Parks or the Division of Outdoor Recreation;

(e) funds encumbered to pay purchase orders issued before May 1 for capital equipment if delivery is expected before June 30; and

(f) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63J-1-603.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made before June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of appropriations for the years in which the obligation was incurred.

(d) Amounts may not be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, a claim processed under the authority of [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Division of [~~Health Care Financing~~] Integrated Healthcare receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the Division of [~~Health Care Financing~~] Integrated Healthcare records on each claim invoice is the date of receipt.

(5) (a) For purposes of this chapter, a claim processed in accordance with Title 35A, Chapter 13, Utah State Office of Rehabilitation Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Utah State Office of Rehabilitation receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the date on which the Utah State Office of Rehabilitation receives the claim invoice.

(ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this section.

(6) (a) For purposes of this chapter, a reimbursement request received from an education grant subrecipient:

(i) is not a liability or expense to the state for budgetary purposes, unless the State Board of Education receives the claim within the time periods described in Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the State Board of Education records on a claim invoice is the date of receipt.

(7) Any balance from an appropriation to a state institution of higher education that remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by the September 1 following the close of the fiscal year.

Section 2. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section [~~26-1-38~~] 26B-7-111.

(14) The Children with Cancer Support Restricted Account created in Section [~~26-21a-304~~] 26B-1-314.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section [~~26-40-108~~] 26B-3-906.

(16) The Children with Heart Disease Support Restricted Account created in Section[~~26-58-102~~] 26B-1-321.

(17) The Technology Development Restricted Account created in Section 31A-3-104.

(18) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(19) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(20) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(21) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(22) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(23) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(24) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(34) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

(35) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(36) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(37) The DNA Specimen Restricted Account created in Section 53-10-407.

(38) The Canine Body Armor Restricted Account created in Section 53-16-201.

(39) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(40) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(41) A certain portion of money collected for administrative costs under the School Institutional

Trust Lands Management Act, as provided under Section 53C-3-202.

(42) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(44) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(47) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(48) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(49) The Relative Value Study Restricted Account created in Section 59-9-105.

(50) The Cigarette Tax Restricted Account created in Section 59-14-204.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(52) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(53) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

(54) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302.

(55) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

(56) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.

(57) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(58) The Immigration Act Restricted Account created in Section 63G-12-103.

(59) Money received by the military installation development authority, as provided in Section 63H-1-504.

(60) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(61) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(62) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(63) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(64) The Motion Picture Incentive Account created in Section 63N-8-103.

(65) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(66) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(67) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

(78) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 3. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

[~~(8) The Emergency Medical Services Grant Program in Section 26-8a-207.~~]

[~~(9) The primary care grant program created in Section 26-10b-102.~~]

[~~(10) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).~~]

[~~(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.~~]

[~~(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.~~]

[~~(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.~~]

[~~(14) The Utah Medical Education Council for the:~~]

[~~(a) administration of the Utah Medical Education Program created in Section 26-69-403;~~]

[~~(b) provision of medical residency grants described in Section 26-69-407; and~~]

[~~(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.~~]

(8) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(9) The Emergency Medical Services Grant Program in Section 26B-4-107.

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

[~~(15)~~] (16) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

[~~(16)~~] (17) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[~~(17)~~] (18) The Utah National Guard, created in Title 39, Militia and Armories.

[~~(18)~~] (19) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

[~~(19)~~] (20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(20)~~] (21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(21)~~] (22) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(22)~~] (23) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

[~~(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.~~]

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(30) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(31) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(32) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(34) The Traffic Noise Abatement Program created in Section 72-6-112.

(35) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(36) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(37) A state rehabilitative employment program, as provided in Section 78A-6-210.

(38) The Utah Geological Survey, as provided in Section 79-3-401.

(39) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(40) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(42) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(43) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 4. Section 63J-5-206 is amended to read:

63J-5-206. Intergovernmental transfers for Medicaid.

(1) Subject to Subsections (2) and (3), an intergovernmental transfer program under Section [~~26-18-21~~] 26B-3-130 is subject to the same review provisions as a federal funds request under this chapter.

(2) Notwithstanding Subsection (1), if a new intergovernmental transfer program created under Subsection [~~26-18-21(3)~~] 26B-3-130(3) will result in the state receiving total payments of $10,000,000 or more per year from the federal government, the intergovernmental transfer program is subject to the same review provisions as a high impact federal funds request in Subsections 63J-5-204(3), (4), and (5).

(3) (a) Beginning on July 1, 2017, an intergovernmental transfer program created before July 1, 2017, is subject to the federal funds review process of Section 63J-5-201 for periods after July 1, 2017.

(b) The addition of a new participant into an existing intergovernmental transfer program, or the addition by the department of a nursing care facility or a non-state government entity to the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, is not subject to the requirements of this section.

Section 5. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a Fiduciary Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the Income Tax Fund or Uniform School Fund as free revenue;

(f) in-kind donations;

(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;

(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;

(i) a grant received by an agency from another agency or political subdivision;

(j) a grant to the Utah Dairy Commission created in Section 4-22-103;

(k) a grant to the Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(l) a grant to the Utah State Railroad Museum Authority created in Section 63H-5-102;

(m) a grant to the Utah Housing Corporation created in Section 63H-8-201;

(n) a grant to the Utah State Fair Corporation created in Section 63H-6-103;

(o) a grant to the Utah State Retirement Office created in Section 49-11-201;

(p) a grant to the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(q) a grant to the Utah Communications Authority created in Section 63H-7a-201;

(r) a grant to the Medical Education Program created in Section [~~26-69-403~~] 26B-4-707;

(s) a grant to the Utah Capital Investment Corporation created in Section 63N-6-301;

(t) a grant to the Utah Charter School Finance Authority created in Section 53G-5-602;

(u) a grant to the State Building Ownership Authority created in Section 63B-1-304; or

(v) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

(a) the governor has declared a state of emergency; and

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 6. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies

recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection [~~62A-15-103(2)(l)~~] 26B-5-102(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209;

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection [~~62A-15-103(2)(n)~~] 26B-5-102(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection [~~62A-15-103(2)(n)~~] 26B-5-102(2)(n) by each mental health or substance use treatment program; and

(y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 7. Section 63M-7-209 is amended to read:

63M-7-209. Trauma-informed justice program.

(1) As used in this section:

(a) "Committee" means the Multi-Disciplinary Trauma-Informed Committee created under Subsection (2).

(b) "First responder" includes:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) emergency medical service personnel, as defined in Section [~~26-8a-102~~] 26B-4-101; and

(iii) a firefighter.

(c) "Trauma-informed" means a policy, procedure, program, or practice that demonstrates an ability to minimize retraumatization associated with the criminal and juvenile justice system.

(d) "Victim" means the same as that term is defined in Section 77-37-2.

(2) (a) The commission shall create a committee known as the Multi-Disciplinary Trauma-Informed Committee to assist the commission in meeting the requirements of this section. The commission shall provide for the membership, terms, and quorum requirements of the committee, except that:

(i) at least one member of the committee shall be a victim;

(ii) the executive director of the Department of [~~Health~~] Health and Human Services or the executive director's designee shall be on the committee; and

[~~(iii) the executive director of the Department of Human Services or the executive director's designee shall be on the committee; and~~]

[~~(iv)~~] (iii) the commission shall terminate the committee on June 30, 2020.

(b) The commission shall use the Utah Office for Victims of Crime, the Utah Office on Domestic and Sexual Violence, and the Utah Council on Victims of Crime in meeting the requirements of this section.

(3) (a) The committee shall work with statewide coalitions, children's justice centers, and other stakeholders to complete, by no later than September 1, 2019, a review of current and recommended trauma-informed policies, procedures, programs, or practices in the state's criminal and juvenile justice system, including:

(i) reviewing the role of victim advocates and victim services in the criminal and juvenile justice system and:

(A) how to implement the option of a comprehensive, seamless victim advocate system

that is based on the best interests of victims and assists a victim throughout the criminal and juvenile justice system or a victim's process of recovering from the trauma the victim experienced as a result of being a victim of crime; and

(B) recommending what minimum qualifications a victim advocate must meet, including recommending trauma-informed training or trauma-informed continuing education hours;

(ii) reviewing of best practice standards and protocols, including recommending adoption or creation of trauma-informed interview protocols, that may be used to train persons within the criminal and juvenile justice system concerning trauma-informed policies, procedures, programs, or practices, including training of:

(A) peace officers that is consistent with the training developed under Section 53-10-908;

(B) first responders;

(C) prosecutors;

(D) defense counsel;

(E) judges and other court personnel;

(F) the Board of Pardons and Parole and its personnel;

(G) the Department of Corrections, including Adult Probation and Parole; and

(H) others involved in the state's criminal and juvenile justice system;

(iii) recommending outcome based metrics to measure achievement related to trauma-informed policies, procedures, programs, or practices in the criminal and juvenile justice system;

(iv) recommending minimum qualifications and continuing education of individuals providing training, consultation, or administrative supervisory consultation within the criminal and juvenile justice system regarding trauma-informed policies, procedures, programs, or practices;

(v) identifying needs that are not funded or that would benefit from additional resources;

(vi) identifying funding sources, including outlining the restrictions on the funding sources, that may fund trauma-informed policies, procedures, programs, or practices;

(vii) reviewing which governmental entities should have the authority to implement recommendations of the committee; and

(viii) reviewing the need, if any, for legislation or appropriations to meet budget needs.

(b) Whenever the commission conducts a related survey, the commission, when possible, shall include how victims and their family members interact with Utah's criminal and juvenile justice system, including whether the victims and family members are treated with trauma-informed policies, procedures, programs, or practices throughout the criminal and juvenile justice system.

(4) The commission shall establish and administer a performance incentive grant program that allocates money appropriated by the Legislature to public or private entities:

(a) to provide advocacy and related service for victims in connection with the Board of Pardons and Parole process; and

(b) that have demonstrated experience and competency in the best practices and standards of trauma-informed care.

(5) The commission shall report to the Judiciary Interim Committee, at the request of the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee by no later than the September 2019 interim regarding the grant under Subsection (4), the committee's activities under this section, and whether the committee should be extended beyond June 30, 2020.

Section 8. Section 63M-7-216 is amended to read:

63M-7-216. Prosecutorial data collection -- Policy transparency.

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) (i) "Criminal case" means a case where an offender is charged with an offense for which a mandatory court appearance is required under the Uniform Bail Schedule.

(ii) "Criminal case" does not mean a case for criminal non-support under Section 76-7-201 or any proceeding involving collection or payment of child support, medical support, or child care expenses by or on behalf of the Office of Recovery Services under Section [~~62A-11-107~~] 26B-9-108 or 76-7-202.

(c) "Offense tracking number" means a distinct number applied to each criminal offense by the Bureau of Criminal Identification.

(d) "Pre-filing diversion" means an agreement between a prosecutor and an individual prior to being charged with a crime, before an information or indictment is filed, in which the individual is diverted from the traditional criminal justice system into a program of supervision and supportive services in the community.

(e) "Post-filing diversion" is as described in Section 77-2-5.

(f) "Prosecutorial agency" means the Office of the Attorney General and any city, county, or district attorney acting as a public prosecutor.

(g) "Publish" means to make aggregated data available to the general public.

(2) Beginning July 1, 2021, all prosecutorial agencies within the state shall submit the following

data with regards to each criminal case referred to it from a law enforcement agency to the commission for compilation and analysis:

(a) the defendant's:

(i) full name;

(ii) offense tracking number;

(iii) date of birth; and

(iv) zip code;

(b) referring agency;

(c) whether the prosecutorial agency filed charges, declined charges, initiated a pre-filing diversion, or asked the referring agency for additional information;

(d) if charges were filed, the case number and the court in which the charges were filed;

(e) all charges brought against the defendant;

(f) whether bail was requested and, if so, the requested amount;

(g) the date of initial discovery disclosure;

(h) whether post-filing diversion was offered and, if so, whether it was entered;

(i) if post-filing diversion or other plea agreement was accepted, the date entered by the court; and

(j) the date of conviction, acquittal, plea agreement, dismissal, or other disposition of the case.

(3) (a) The information required by Subsection (2), including information that was missing or incomplete at the time of an earlier submission but is presently available, shall be submitted within 90 days of the last day of March, June, September, and December of each year for the previous 90-day period in the form and manner selected by the commission.

(b) If the last day of the month is a Saturday, Sunday, or state holiday, the information shall be submitted on the next working day.

(4) The prosecutorial agency shall maintain a record of all information collected and transmitted to the commission for 10 years.

(5) The commission shall include in the plan required by Subsection 63M-7-204(1)(k) an analysis of the data received, comparing and contrasting the practices and trends among and between prosecutorial agencies in the state. The Law Enforcement and Criminal Justice Interim Committee may request an in-depth analysis of the data received annually. Any request shall be in writing and specify which data points the report shall focus on.

(6) The commission may provide assistance to prosecutorial agencies in setting up a method of collecting and reporting data required by this section.

(7) Beginning January 1, 2021, all prosecutorial agencies shall publish specific office policies. If the agency does not maintain a policy on a topic in this subsection, the agency shall affirmatively disclose that fact. Policies shall be published online on the following topics:

(a) screening and filing criminal charges;

(b) plea bargains;

(c) sentencing recommendations;

(d) discovery practices;

(e) prosecution of juveniles, including whether to prosecute a juvenile as an adult;

(f) collection of fines and fees;

(g) criminal and civil asset forfeiture practices;

(h) services available to victims of crime, both internal to the prosecutorial office and by referral to outside agencies;

(i) diversion programs; and

(j) restorative justice programs[~~; and~~].

(8) (a) A prosecutorial agency not in compliance with this section by July 1, 2022, in accordance with the commission's guidelines may not receive grants or other funding intended to assist with bringing the agency into compliance with this section. In addition, any funds received for the purpose of bringing the agency into compliance with this section shall be returned to the source of the funding.

(b) Only funding received from the commission by a prosecutorial agency specifically intended to assist the agency with compliance with this section may be recalled.

Section 9. Section 63M-7-301 is amended to read:

63M-7-301. Definitions -- Creation of council -- Membership -- Terms.

(1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) one elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of Integrated Healthcare or the director's designee;

(e) the state superintendent of public instruction or the superintendent's designee;

(f) the executive director of the Department of Health and Human Services or the executive director's designee;

(g) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice and Youth Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

(n) the state court administrator or the state court administrator's designee;

(o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) one prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

(t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection [~~62A-15-1101(2)~~] 26B-5-611(3);

(u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

(v) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

(w) in addition to the voting members described in Subsections (2)(a) through (v), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (v) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;

(iv) one resident of the state who represents prevention professionals;

(v) one resident of the state who represents treatment professionals;

(vi) one resident of the state who represents the physical health care field;

(vii) one resident of the state who is a criminal defense attorney;

(viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;

(ix) one resident of the state who represents local law enforcement agencies;

(x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and

(xi) one resident of the state who is certified by the Division of Integrated Healthcare as a peer support specialist as described in Subsection [~~62A-15-103(2)(h)~~] 26B-5-102(2)(h).

(3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the council.

Section 10. Section 63M-7-303 is amended to read:

63M-7-303. Duties of council.

(1) The Utah Substance Use and Mental Health Advisory Council shall:

(a) provide leadership and generate unity for Utah's ongoing efforts to reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(b) recommend and coordinate the creation, dissemination, and implementation of statewide policies to address substance use and mental health disorders;

(c) facilitate planning for a balanced continuum of substance use and mental health disorder prevention, treatment, and justice services;

(d) promote collaboration and mutually beneficial public and private partnerships;

(e) coordinate recommendations made by any committee created under Section 63M-7-302;

(f) analyze and provide an objective assessment of all proposed legislation concerning substance use, mental health, and related issues;

(g) coordinate the implementation of Section 77-18-104 and related provisions in Subsections

77-18-103(2)(c) and (d), as provided in Section 63M-7-305;

(h) comply with Sections 32B-2-306 and [~~62A-15-403~~] 26B-5-206; and

(i) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section [~~62A-15-1101~~] 26B-5-611.

(2) The council shall meet quarterly or more frequently as determined necessary by the chair.

(3) The council shall report the council's recommendations annually to the commission, governor, the Legislature, and the Judicial Council.

Section 11. Section 63M-13-202 is amended to read:

63M-13-202. Duties of the commission.

(1) The responsibilities of the commission include:

(a) supporting Utah parents and families, who have family members that are in early childhood, by providing comprehensive and accurate information regarding the availability of voluntary services that are available to children in early childhood from state agencies and other private and public entities;

(b) facilitating improved coordination between state agencies and community partners that provide services to children in early childhood;

(c) sharing and analyzing information regarding early childhood issues in the state;

(d) developing and coordinating a comprehensive delivery system of services for children in early childhood that addresses the following four areas:

(i) family support and safety;

(ii) health and development;

(iii) early learning; and

(iv) economic development; and

(e) identifying opportunities for and barriers to the alignment of standards, rules, policies, and procedures across programs and agencies that support children in early childhood.

(2) To fulfill the responsibilities described in Subsection (1), the commission shall:

(a) directly engage with parents, families, community members, and public and private service providers to identify and address:

(i) the quality, effectiveness, and availability of existing services for children in early childhood and the coordination of those services;

(ii) gaps and barriers to entry in the provision of services for children in early childhood; and

(iii) community-based solutions in improving the quality, effectiveness, and availability of services for children in early childhood;

(b) seek regular and ongoing feedback from a wide range of entities and individuals that use or provide services for children in early childhood, including entities and individuals that use, represent, or provide services for any of the following:

(i) children in early childhood who live in urban, suburban, or rural areas of the state;

(ii) children in early childhood with varying socioeconomic backgrounds;

(iii) children in early childhood with varying ethnic or racial heritage;

(iv) children in early childhood from various geographic areas of the state; and

(v) children in early childhood with special needs;

(c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to children in early childhood;

(d) study and evaluate the effectiveness of policies, procedures, and programs implemented by other states and nongovernmental entities that address the needs of children in early childhood;

(e) identify policies, procedures, and programs that are impeding efforts to help children in early childhood in the state and recommend and implement changes to those policies, procedures, and programs;

(f) identify policies, procedures, and programs related to children in early childhood in the state that are inefficient or duplicative and recommend and implement changes to those policies, procedures, and programs;

(g) recommend policy, procedure, and program changes to address the needs of children in early childhood;

(h) develop methods for using interagency information to inform comprehensive policy and budget decisions relating to early childhood services;

(i) develop, recommend, and coordinate a comprehensive delivery system of services for children in early childhood; and

(j) develop strategies and monitor efforts concerning:

(i) increasing school readiness;

(ii) improving access to child care and early education programs; and

(iii) improving family and community engagement in early childhood education and development.

(3) In fulfilling the duties of the commission, the commission shall collaborate with the Early Childhood Utah Advisory Council created in Section [~~26-66-201~~] 26B-1-422.

(4) In fulfilling the commission's duties, the commission may:

(a) request and receive, from any state or local governmental agency or institution, information

relating to early childhood, including reports, audits, projections, and statistics; and

(b) appoint special advisory groups to advise and assist the commission.

(5) Members of a special advisory group described in Subsection (4)(b):

(a) shall be appointed by the commission;

(b) may include:

(i) members of the commission; and

(ii) individuals from the private or public sector; and

(c) may not receive reimbursement or pay for work done in relation to the special advisory group.

(6) A special advisory group created in accordance with Subsection (4)(b) shall report to the commission on the progress of the special advisory group.

Section 12. Section 64-13-37 is amended to read:

64-13-37. Department authorized to test offenders for communicable disease.

(1) As used in this section, "communicable disease" means:

(a) an illness due to a specific infectious agent or its toxic products, which arises through transmission of that agent or its products from a reservoir to a susceptible host either directly, as from an infected person or animal, or indirectly, through an intermediate plant or animal host, vector, or the inanimate environment; and

(b) a disease designated by the Department of [~~Health~~] Health and Human Services by rule as a communicable disease in accordance with Section [~~26-6-7~~] 26B-7-207.

(2) The department may:

(a) test an offender for a communicable disease upon admission or within a reasonable time after admission to a correctional facility; and

(b) periodically retest the offender for a communicable disease during the time the offender is in the custody of the department.

Section 13. Section 64-13-39 is amended to read:

64-13-39. Standards for health care facilities.

All health care facilities, as defined in Section [~~26-21-2~~] 26B-2-201, owned or operated by the department shall apply for and meet the requirements for accreditation by the National Commission for Correctional Health Care. The department shall begin the application process in a timely manner to facilitate accreditation of the health care facilities of the department on or before January 1, 1996. Inspections to ensure compliance and accreditation shall be conducted by staff of the national commission.

Section 14. Section 64-13-39.5 is amended to read:

64-13-39.5. Definitions -- Health care for chronically or terminally ill offenders -- Notice to health care facility.

(1) As used in this section:

(a) "Department or agency" means the Utah Department of Corrections or a department of corrections or government entity responsible for placing an offender in a facility located in Utah.

(b) "Chronically ill" has the same meaning as in Section 31A-36-102.

(c) "Facility" means an assisted living facility as defined in [~~Subsection 26-21-2(5)~~] Section 26B-2-201 and a nursing care facility as defined in [~~Subsection 26-21-2(17)~~] Section 26B-2-201, except that transitional care units and other long term care beds owned or operated on the premises of acute care hospitals or critical care hospitals are not facilities for the purpose of this section.

(d) "Offender" means an inmate whom the department or agency has given an early release, pardon, or parole due to a chronic or terminal illness.

(e) "Terminally ill" has the same meaning as in Section 31A-36-102.

(2) If an offender from Utah or any other state is admitted as a resident of a facility due to the chronic or terminal illness, the department or agency placing the offender shall:

(a) provide written notice to the administrator of the facility no later than 15 days prior to the offender's admission as a resident of a facility, stating:

(i) the offense for which the offender was convicted and a description of the actual offense;

(ii) the offender's status with the department or agency;

(iii) that the information provided by the department or agency regarding the offender shall be provided to employees of the facility no later than 10 days prior to the offender's admission to the facility; and

(iv) the contact information for:

(A) the offender's parole officer and also a point of contact within the department or agency, if the offender is on parole; and

(B) a point of contact within the department or agency, if the offender is not under parole supervision but was given an early release or pardon due to a chronic or terminal illness;

(b) make available to the public on the Utah Department of Corrections' website and upon request:

(i) the name and address of the facility where the offender resides; and

(ii) the date the offender was placed at the facility; and

(c) provide a training program for employees who work in a facility where offenders reside, and if the offender is placed at the facility by:

(i) the Utah Department of Corrections, the department shall provide the training program for the employees; and

(ii) by a department or agency from another state, that state's department or agency shall arrange with the Utah Department of Corrections to provide the training required by this Subsection (2), if training has not already been provided by the Utah Department of Corrections, and shall provide to the Utah Department of Corrections any necessary compensation for this service.

(3) The administrator of the facility shall:

(a) provide residents of the facility or their guardians notice that a convicted felon is being admitted to the facility no later than 10 days prior to the offender's admission to the facility;

(b) advise potential residents or their guardians of persons under Subsection (2) who are current residents of the facility; and

(c) provide training, offered by the Utah Department of Corrections, in the safe management of offenders for all employees.

(4) The Utah Department of Corrections shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(a) a consistent format and procedure for providing notification to facilities and information to the public in compliance with Subsection (2); and

(b) a training program, in compliance with Subsection (3) for employees, who work at facilities where offenders reside to ensure the safety of facility residents and employees.

Section 15. Section 64-13-44 is amended to read:

64-13-44. Posthumous organ donations by inmates.

(1) As used in this section:

(a) "Document of gift" [~~has the same meaning as in Section 26-28-102~~] means the same as that term is defined in Section 26B-8-301.

(b) "Sign" [~~has the same meaning as in Section 26-28-102~~] means the same as that term is defined in Section 26B-8-301.

(2) (a) The Utah Department of Corrections shall make available to each inmate a document of gift form that allows an inmate to indicate the inmate's desire to make an anatomical gift if the inmate dies while in the custody of the department.

(b) If the inmate chooses to make an anatomical gift after death, the inmate shall complete a document of gift in accordance with the requirements of [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act.

(c) The department shall maintain a record of the document of gift that an inmate provides to the department.

(3) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the department may, upon request, release to an organ procurement organization, as defined in Section [~~26-28-102~~] 26B-8-301, the names and addresses of all inmates who complete and sign the document of gift form indicating they intend to make an anatomical gift.

(4) The making of an anatomical gift by an inmate under this section shall comply with [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act.

(5) Notwithstanding anything in this section, the department shall not be considered to be an inmate's "guardian" for the purposes of [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act.

Section 16. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if

necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act[~~, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~]; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or

suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) The state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

Section 17. Section 67-3-11 is amended to read:

67-3-11. Health care price transparency tool -- Transparency tool requirements.

(1) The state auditor shall create a health care price transparency tool:

(a) subject to appropriations from the Legislature and any available funding from third-party sources;

(b) with technical support from the Public Employees' Benefit and Insurance Program created in Section 49-20-103, the Department of Health and Human Services, and the Insurance Department; and

(c) in accordance with the requirements in Subsection (2).

(2) A health care price transparency tool created by the state auditor under this section shall:

(a) present health care price information for consumers in a manner that is clear and accurate;

(b) be available to the public in a user-friendly manner;

(c) incorporate existing data collected under Section [~~26-33a-106.1~~] 26B-8-504;

(d) incorporate data collected under Section [~~26-61a-106~~] 26B-4-204, regarding fees for qualified medical providers recommending medical cannabis, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201;

(e) group billing codes for common health care procedures;

(f) be updated on a regular basis; and

(g) be created and operated in accordance with all applicable state and federal laws.

(3) The state auditor may make the health care pricing data from the health care price transparency tool available to the public through an application program interface format if the data meets state and federal data privacy requirements.

(4) (a) Before making a health care price transparency tool available to the public, the state auditor shall:

(i) seek input from the Health Data Committee created in Section 26B-1-204 on the overall accuracy and effectiveness of the reports provided by the health care price transparency tool; and

(ii) establish procedures to give data providers a 30-day period to review pricing information before the state auditor publishes the information on the health care price transparency tool.

(b) If the state auditor complies with the requirements of Subsection (4)(a), the health care price transparency tool is not subject to the requirements of Section [~~26-33a-107~~] 26B-8-506.

(5) Each year in which a health care price transparency tool is operational, the state auditor shall report to the Health and Human Services Interim Committee before November 1 of that year:

(a) the utilization of the health care price transparency tool; and

(b) policy options for improving access to health care price transparency data.

Section 18. Section 67-5-1 is amended to read:

67-5-1. General duties.

(1) The attorney general shall:

(a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of process as necessary to execute the judgment;

(d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(iii) deliver this information to the attorney general's successor in office;

(f) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district and county attorneys' offices, including the authority described in Subsection (2);

(g) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(i) in accordance with Section 67-5-1.1, to the Legislature or either house;

(ii) to any state officer, board, or commission; and

(iii) to any county attorney or district attorney;

(h) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(i) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(j) when the property of a judgment debtor in any judgment mentioned in Subsection (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(k) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(l) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(m) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of [~~Title 26, Chapter 20, Utah False Claims Act~~] Title 26B, Chapter 3, Part 11, Utah False Claims Act;

(s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

(i) in health care facilities that receive payments under the state Medicaid program;

(ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

(iii) who are receiving medical assistance under the Medicaid program as defined in Section [~~26-18-2~~] 26B-3-101 in a noninstitutional or other setting;

(t) (i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(A) cost the state more than $500,000; or

(B) require the state to take legally binding action that would cost more than $500,000 to implement; and

(ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(u) (i) submit a written report to the committees described in Subsection (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (1)(u), including any:

(A) settlements reached;

(B) consent decrees entered;

(C) judgments issued;

(D) preliminary injunctions issued;

(E) temporary restraining orders issued; or

(F) formal or informal policies of the Office of the Attorney General to not enforce a law; and

(ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:

(A) the Legislative Management Committee;

(B) the Judiciary Interim Committee; and

(C) the Law Enforcement and Criminal Justice Interim Committee;

(v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(ii) any other information or analysis requested by the rate committee;

(w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(i) the constitutionality of a state statute;

(ii) the validity of legislation; or

(iii) any action of the Legislature; and

(z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

(A) establish outreach to the tribes and affected counties and communities; and

(B) foster better relations and a cooperative framework; and

(ii) annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

(B) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (1)(z)(i).

(2) (a) The attorney general may require a district attorney or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge.

(b) The attorney general may review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county attorney or district attorney of the jurisdiction where the incident occurred and the county attorney or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months after the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county attorney or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county attorney or district attorney of the jurisdiction where the incident occurred.

(c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:

(i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;

(ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;

(iii) access to all evidence gathered or collected in relation to the investigation; and

(iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.

(d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.

(e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).

Section 19. Section 67-5-16 is amended to read:

67-5-16. Child protective services investigators within attorney general's office -- Authority -- Training.

(1) The attorney general may employ, with the consent of the Division of Child and Family Services within the Department of [~~Human Services~~] Health and Human Services, and in accordance with Section 80-2-703, child protective services investigators to investigate alleged instances of abuse or neglect of a child that occur while a child is in the custody of the Division of Child and Family Services. Those investigators may also investigate reports of abuse or neglect of a child by an employee of the Department of [~~Human Services~~] Health and Human Services, or involving a person or entity licensed to provide substitute care for children in the custody of the Division of Child and Family Services.

(2) Attorneys who represent the Division of Child and Family Services under Section 67-5-17, and child protective services investigators employed by the attorney general under Subsection (1), shall be trained on and implement into practice the following items, in order of preference and priority:

(a) the priority of maintaining a child safely in the child's home, whenever possible;

(b) the importance of:

(i) kinship placement, in the event the child is removed from the home; and

(ii) keeping sibling groups together, whenever practicable and in the best interests of the children;

(c) the preference for kinship adoption over nonkinship adoption, if the parent-child relationship is legally terminated;

(d) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(e) the use of an individualized permanency goal, only as a last resort.

Section 20. Section 67-20-2 is amended to read:

67-20-2. Definitions.

As used in this chapter:

(1) "Agency" means:

(a) a department, institution, office, college, university, authority, division, board, bureau, commission, council, or other agency of the state;

(b) a county, city, town, school district, or special improvement or taxing district; or

(c) any other political subdivision.

(2) "Compensatory service worker" means a person who performs a public service with or without compensation for an agency as a condition or part of the person's:

(a) incarceration;

(b) plea;

(c) sentence;

(d) diversion;

(e) probation; or

(f) parole.

(3) "Emergency medical service volunteer" means an individual who:

(a) provides services as a volunteer under the supervision of a supervising agency or government officer; and

(b) at the time the individual provides the services described in Subsection (3)(a), is:

(i) an emergency medical technician volunteer, a paramedic volunteer, an ambulance volunteer, a volunteer firefighter, or another volunteer provider of emergency medical services; and

(ii) acting in the capacity of a volunteer described in Subsection (3)(b)(i).

(4) "IRS aggregate amount" means the fixed or determinable income aggregate amount described in 26 C.F.R. Sec. 1.6041-1(a)(1)(i)(A).

(5) (a) "Volunteer" means an individual who donates service without pay or other compensation except the following, as approved by the supervising agency:

(i) expenses actually and reasonably incurred;

(ii) a stipend for future higher education expenses, awarded from the National Service Trust under 45 C.F.R. Secs. 2526.10 and 2527.10;

(iii) a stipend, below the IRS aggregate amount, for:

(A) emergency volunteers, including emergency medical service volunteers, volunteer safety officers, and volunteer search and rescue team members; or

(B) non-emergency volunteers, including senior program volunteers and community event volunteers;

(iv) (A) health benefits provided through the supervising agency; or

(B) for a volunteer who participates in the Volunteer Emergency Medical Service Personnel Health Insurance Program described in Section [~~26-8a-603~~] 26B-4-136, health insurance provided through the program.

(v) passthrough stipends or other compensation provided to volunteers through a federal or state program, including Americorp Seniors volunteers, consistent with 42 U.S.C. Sec. 5058;

(vi) stipends or other compensation, below the IRS aggregate amount, provided to volunteers from any person;

(vii) uniforms, identification, personal protective equipment, or safety equipment used by a volunteer only while volunteering for the supervising entity;

(viii) a nonpecuniary item not exceeding $50 in value;

(ix) nonpecuniary items, below the IRS aggregate amount, donated to the supervising agency with the express intent of benefitting a volunteer; or

(x) meals or gifts, not exceeding $50 in value, provided as part of a volunteers appreciation event by the volunteering agency.

(b) "Volunteer" does not include:

(i) a person participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter; or

(ii) a compensatory service worker.

(c) "Volunteer" includes a juror or potential juror appearing in response to a summons for a trial jury or grand jury.

(6) "Volunteer facilitator" means a business or nonprofit organization that, from individuals who have a relationship with the business or nonprofit organization, such as membership or employment, provides volunteers to an agency or facilitates volunteers volunteering with an agency.

(7) "Volunteer safety officer" means an individual who:

(a) provides services as a volunteer under the supervision of an agency; and

(b) at the time the individual provides the services to the supervising agency described in Subsection (7)(a), the individual is:

(i) exercising peace officer authority as provided in Section 53-13-102; or

(ii) if the supervising agency described in Subsection (7)(a) is a fire department:

(A) on the rolls of the supervising agency as a firefighter;

(B) not regularly employed as a firefighter by the supervising agency; and

(C) acting in a capacity that includes the responsibility for the extinguishment of fire.

(8) "Volunteer search and rescue team member" means an individual who:

(a) provides services as a volunteer under the supervision of a county sheriff; and

(b) at the time the individual provides the services to the county sheriff described in Subsection (8)(a), is:

(i) certified as a member of the county sheriff's search and rescue team; and

(ii) acting in the capacity of a member of the search and rescue team of the supervising county sheriff.

Section 21. Section 71-11-5 is amended to read:

71-11-5. Operation of homes -- Rulemaking authority -- Selection of administrator.

(1) The department shall, subject to the approval of the executive director:

(a) establish appropriate criteria for the admission and discharge of residents for each home, subject to the requirements in Section 71-11-6 and criteria set by the United States Department of Veterans Affairs;

(b) establish a schedule of charges for each home in cases where residents have available resources;

(c) establish standards for the operation of the homes not inconsistent with standards set by the United States Department of Veterans Affairs;

(d) make rules to implement this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(e) ensure that the homes are licensed in accordance with [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and 38 U.S.C. Sec. 1742(a).

(2) The department shall, after reviewing recommendations of the board, appoint an administrator for each home.

Section 22. Section 72-6-107.5 is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section [~~26-40-115~~] 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to

the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of [~~Health~~] Health and Human Services, in accordance with Subsection [~~26-40-115(2)~~] 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section [~~26-18-402~~] 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 23. Section 72-9-103 is amended to read:

72-9-103. Rulemaking -- Motor vehicle liability coverage for certain motor carriers -- Adjudicative proceedings.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:

(a) adopting by reference in whole or in part the Federal Motor Carrier Safety Regulations including minimum security requirements for motor carriers;

(b) specifying the equipment required to be carried in each tow truck, including limits on loads that may be moved based on equipment capacity and load weight; and

(c) providing for the necessary administration and enforcement of this chapter.

(2) (a) Notwithstanding Subsection (1)(a), the department shall not require a motor carrier to comply with 49 C.F.R. Part 387 Subpart B if the motor carrier is:

(i) engaging in or transacting the business of transporting passengers by an intrastate commercial vehicle that has a seating capacity of no more than 30 passengers; and

(ii) a licensed child care provider under Section [~~26-39-401~~] 26B-2-403.

(b) Policies containing motor vehicle liability coverage for a motor carrier described under Subsection (2)(a) shall require minimum coverage of:

(i) $1,000,000 for a vehicle with a seating capacity of up to 20 passengers; or

(ii) $1,500,000 for a vehicle with a seating capacity of up to 30 passengers.

(3) The department shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Section 24. Section 72-10-502 is amended to read:

72-10-502. Implied consent to chemical tests for alcohol or drugs -- Number of tests -- Refusal -- Person incapable of refusal -- Results of test available -- Who may give test -- Evidence -- Immunity from liability.

(1) (a) A person operating an aircraft in this state consents to a chemical test or tests of the person's breath, blood, urine, or oral fluids:

(i) for the purpose of determining whether the person was operating or in actual physical control of an aircraft while having a blood or breath alcohol content statutorily prohibited under Section 72-10-501, or while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 72-10-501, if the test is or tests are administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of an aircraft in violation of Section 72-10-501; or

(ii) if the person operating the aircraft is involved in an accident that results in death, serious injury, or substantial aircraft damage.

(b) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) The peace officer may order any or all tests of the person's breath, blood, urine, or oral fluids.

(iii) If an officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(c) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer,

and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) If the person has been placed under arrest and has then been requested by a peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and refuses to submit to any chemical test, the person shall be warned by the peace officer requesting the test that a refusal to submit to the test is admissible in civil or criminal proceedings as provided under Subsection (8).

(b) Following this warning, unless the person immediately requests that the chemical test offered by a peace officer be administered, a test may not be given.

(3) A person who is dead, unconscious, or in any other condition rendering the person incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the consent provided for in Subsection (1), and the test or tests may be administered whether the person has been arrested or not.

(4) Upon the request of the person who was tested, the results of the test or tests shall be made available to that person.

(5) (a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:

(i) a physician;

(ii) a registered nurse;

(iii) a licensed practical nurse;

(iv) a paramedic;

(v) as provided in Subsection (5)(b), emergency medical service personnel other than paramedics; or

(vi) a person with a valid permit issued by the Department of [~~Health~~] Health and Human Services under Section [~~26-1-30~~] 26B-1-202.

(b) The Department of [~~Health~~] Health and Human Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section [~~26-8a-102~~] 26B-4-101, are authorized to draw blood under Subsection (5)(a)(v), based on the type of license under Section [~~26-8a-302~~] 26B-4-116.

(c) Subsection (5)(a) does not apply to taking a urine, breath, or oral fluid specimen.

(d) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer has reason to believe is flying in violation of this chapter if the sample is drawn in accordance with standard medical practice:

(i) a person authorized to draw blood under Subsection (5)(a); and

(ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

(6) (a) The person to be tested may, at the person's own expense, have a physician of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(7) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(8) If a person under arrest refuses to submit to a chemical test or tests or any additional test under this section, evidence of any refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating or in actual physical control of an aircraft while under the influence of alcohol, any drug, or combination of alcohol and any drug.

(9) The results of any test taken under this section or the refusal to be tested shall be reported to the Federal Aviation Administration by the peace officer requesting the test.

(10) Notwithstanding the provisions of this section, a blood test taken under this section is subject to Section 77-23-213.

Section 25. Section 75-1-107 is amended to read:

75-1-107. Evidence of death or status.

(1) In addition to the rules of evidence in courts of general jurisdiction, the following rules relating to a determination of death and status apply:

(a) Death occurs when an individual is determined to be dead as provided in [~~Title 26, Chapter 34, Uniform Determination of Death Act~~] Section 26B-8-132.

(b) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie evidence of the fact, place, date, and time of death and the identity of the decedent.

(c) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that an individual is missing, detained, dead, or alive is prima facie evidence of the status and of the dates, circumstances, and places disclosed by the record or report.

(d) In the absence of prima facie evidence of death under Subsection (1)(b) or (c), the fact of death may

be established by clear and convincing evidence, including circumstantial evidence.

(e) An individual whose death is not established under Subsection (1)(a), (b), (c) or (d) who is absent for a continuous period of five years, during which the individual has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is presumed to be dead. The individual's death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

(f) In the absence of evidence disputing the time of death stated on a document described in Subsection (1)(b) or (c), a document described in Subsection (1)(b) or (c) that states a time of death 120 hours or more after the time of death of another individual, however the time of death of the other individual is determined, establishes by clear and convincing evidence that the individual survived the other individual by 120 hours.

(2) The right and duty to control the disposition of a deceased person shall be governed by Sections 58-9-601 through 58-9-604.

Section 26. Section 75-2a-103 is amended to read:

75-2a-103. Definitions.

As used in this chapter:

(1) "Adult" means an individual who is:

(a) at least 18 years [~~of age~~] old; or

(b) an emancipated minor.

(2) "Advance health care directive":

(a) includes:

(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or

(ii) an expression of preferences about health care decisions;

(b) may take one of the following forms:

(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or

(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and

(c) does not include a POLST order.

(3) "Agent" means an adult designated in an advance health care directive to make health care decisions for the declarant.

(4) "APRN" means an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)(e);

(b) an independent practitioner;

(c) acting under a consultation and referral plan with a physician; and

(d) acting within the scope of practice for that individual, as provided by law, rule, and specialized certification and training in that individual's area of practice.

(5) "Best interest" means that the benefits to the person resulting from a treatment outweigh the burdens to the person resulting from the treatment, taking into account:

(a) the effect of the treatment on the physical, emotional, and cognitive functions of the person;

(b) the degree of physical pain or discomfort caused to the person by the treatment or the withholding or withdrawal of treatment;

(c) the degree to which the person's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the person by subjecting the person to humiliation and dependency;

(d) the effect of the treatment on the life expectancy of the person;

(e) the prognosis of the person for recovery with and without the treatment;

(f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and

(g) the religious beliefs and basic values of the person receiving treatment, to the extent these may assist the decision maker in determining the best interest.

(6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular person as agent.

(7) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.

(8) "Default surrogate" means the adult who may make decisions for an individual when either:

(a) an agent or guardian has not been appointed; or

(b) an agent is not able, available, or willing to make decisions for an adult.

(9) "Emergency medical services provider" means a person that is licensed, designated, or certified under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

(10) "Generally accepted health care standards":

(a) is defined only for the purpose of:

(i) this chapter and does not define the standard of care for any other purpose under Utah law; and

(ii) enabling health care providers to interpret the statutory form set forth in Section 75-2a-117; and

(b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:

(i) will not prevent or reduce the deterioration in the health or functional status of an individual;

(ii) will not prevent the impending death of an individual; or

(iii) will impose more burden on the individual than any expected benefit to the person.

(11) "Health care" means any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

(12) "Health care decision":

(a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;

(b) includes:

(i) selection and discharge of a health care provider and a health care facility;

(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and

(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and

(c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.

(13) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:

(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;

(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and

(c) the ability to communicate a decision.

(14) "Health care facility" means:

(a) a health care facility as defined in [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.

(15) "Health care provider" means the same as that term is defined in Section 78B-3-403, except that "health care provider" does not include an emergency medical services provider.

(16) (a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping an individual comfortable.

(17) "Minor" means an individual who:

(a) is under 18 years old; and

(b) is not an emancipated minor.

(18) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

(19) "Physician assistant" means an individual licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(20) "POLST order" means an order, on a form designated by the Department of [~~Health~~] Health and Human Services under Section 75-2a-106, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.

(21) "Reasonably available" means:

(a) readily able to be contacted without undue effort; and

(b) willing and able to act in a timely manner considering the urgency of the circumstances.

(22) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections (22)(a) through (c) are unknown, the best interest of the adult.

(23) "Surrogate" means a health care decision maker who is:

(a) an appointed agent;

(b) a default surrogate under the provisions of Section 75-2a-108; or

(c) a guardian.

Section 27. Section 75-2a-106 is amended to read:

75-2a-106. Emergency medical services -- POLST order.

(1) A POLST order may be created by or on behalf of a person as described in this section.

(2) A POLST order shall, in consultation with the person authorized to consent to the order pursuant to this section, be prepared by:

(a) the physician, APRN, or, subject to Subsection (11), physician assistant of the person to whom the POLST order relates; or

(b) a health care provider who:

(i) is acting under the supervision of a person described in Subsection (2)(a); and

(ii) is:

(A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; or

(D) another health care provider, designated by rule as described in Subsection (10).

(3) A POLST order shall be signed:

(a) personally, by the physician, APRN, or, subject to Subsection (11), physician assistant of the person to whom the POLST order relates; and

(b) (i) if the person to whom the POLST order relates is an adult with health care decision making capacity, by:

(A) the person; or

(B) an adult who is directed by the person to sign the POLST order on behalf of the person;

(ii) if the person to whom the POLST order relates is an adult who lacks health care decision making capacity, by:

(A) the surrogate with the highest priority under Section 75-2a-111;

(B) the majority of the class of surrogates with the highest priority under Section 75-2a-111; or

(C) a person directed to sign the POLST order by, and on behalf of, the persons described in Subsection (3)(b)(ii)(A) or (B); or

(iii) if the person to whom the POLST order relates is a minor, by a parent or guardian of the minor.

(4) If a POLST order relates to a minor and directs that life sustaining treatment be withheld or withdrawn from the minor, the order shall include a certification by two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in the best interest of the minor.

(5) A POLST order:

(a) shall be in writing, on a form designated by the Department of [~~Health~~] Health and Human Services;

(b) shall state the date on which the POLST order was made;

(c) may specify the level of life sustaining care to be provided to the person to whom the order relates; and

(d) may direct that life sustaining care be withheld or withdrawn from the person to whom the order relates.

(6) A health care provider or emergency medical service provider, licensed or certified under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, is immune from civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

(a) complying with a POLST order in good faith; or

(b) providing life sustaining treatment to a person when a POLST order directs that the life sustaining treatment be withheld or withdrawn.

(7) To the extent that the provisions of a POLST order described in this section conflict with the provisions of an advance health care directive made under Section 75-2a-107, the provisions of the POLST order take precedence.

(8) An adult, or a parent or guardian of a minor, may revoke a POLST order by:

(a) orally informing emergency service personnel;

(b) writing "void" across the POLST order form;

(c) burning, tearing, or otherwise destroying or defacing:

(i) the POLST order form; or

(ii) a bracelet or other evidence of the POLST order;

(d) asking another adult to take the action described in this Subsection (8) on the person's behalf;

(e) signing or directing another adult to sign a written revocation on the person's behalf;

(f) stating, in the presence of an adult witness, that the person wishes to revoke the order; or

(g) completing a new POLST order.

(9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks health care decision making capacity may only revoke a POLST order if the revocation is consistent with the substituted judgment standard.

(b) Except as provided in Subsection (9)(c), a surrogate who has authority under this section to sign a POLST order may revoke a POLST order, in accordance with Subsection (9)(a), by:

(i) signing a written revocation of the POLST order; or

(ii) completing and signing a new POLST order.

(c) A surrogate may not revoke a POLST order during the period of time beginning when an

emergency service provider is contacted for assistance, and ending when the emergency ends.

(10) (a) The Department of [~~Health~~] Health and Human Services shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) create the forms and systems described in this section; and

(ii) develop uniform instructions for the form established in Section 75-2a-117.

(b) The Department of [~~Health~~] Health and Human Services may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate health care professionals, in addition to those described in Subsection (2)(b)(ii), who may prepare a POLST order.

(c) The Department of [~~Health~~] Health and Human Services may assist others with training of health care professionals regarding this chapter.

(11) A physician assistant may not prepare or sign a POLST order, unless the physician assistant is permitted to prepare or sign the POLST order under the physician assistant's delegation of services agreement, as defined in Section 58-70a-102.

(12) (a) Notwithstanding any other provision of this section:

(i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to any signature required on the POLST order; and

(ii) a verbal confirmation satisfies the requirement for a signature from an individual under Subsection (3)(b)(ii) or (iii), if:

(A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the POLST order in person or electronically would require significant difficulty or expense; and

(B) a licensed health care provider witnesses the verbal confirmation and signs the POLST order attesting that the health care provider witnessed the verbal confirmation.

(b) The health care provider described in Subsection (12)(a)(ii)(B):

(i) may not be the same individual who signs the POLST order under Subsection (3)(a); and

(ii) shall verify, in accordance with HIPAA as defined in Section [~~26-18-17~~] 26B-3-126, the identity of the individual who is providing the verbal confirmation.

Section 28. Section 75-3-104.5 is amended to read:

75-3-104.5. Notice to the Office of Recovery Services.

Within 30 days after the day on which a person files an application or a petition for probate under this chapter for a decedent who was at least 55 years old, the court shall provide notice of the application or petition to the Office of Recovery Services created in Section [~~62A-1-105~~] 26B-9-103 for purposes of presentation or enforcement of a lien or claim under Section [~~26-19-405~~] 26B-3-1013.

Section 29. Section 75-3-803 is amended to read:

75-3-803. Limitations on presentation of claims.

(1) All claims against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision of it, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented within the earlier of the following dates:

(a) one year after the decedent's death; or

(b) within the time provided by Subsection 75-3-801(2) for creditors who are given actual notice, and where notice is published, within the time provided in Subsection 75-3-801(1) for all claims barred by publication.

(2) In all events, claims barred by the nonclaim statute at the decedent's domicile are also barred in this state.

(3) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any of its subdivisions, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(a) a claim based on a contract with the personal representative within three months after performance by the personal representative is due; or

(b) any other claim within the later of three months after it arises, or the time specified in Subsection (1)(a).

(4) Nothing in this section affects or prevents:

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(b) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which the decedent or the personal representative is protected by liability insurance;

(c) collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate; or

(d) medical assistance recovery under [~~Title 26, Chapter 19, Medical Benefits Recovery Act~~]

Title 26B, Chapter 3, Part 10, Medical Benefits Recovery.

(5) If a personal representative has not been timely appointed in accordance with this chapter, one may be appointed for the limited purposes of Subsection (4)(b) for any claim timely brought against the decedent.

Section 30. Section 75-3-805 is amended to read:

75-3-805. Classification of claims.

(1) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(a) reasonable funeral expenses;

(b) costs and expenses of administration;

(c) debts and taxes with preference under federal law;

(d) reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent, and medical assistance if Section [~~26-19-405~~] 26B-3-1013 applies;

(e) debts and taxes with preference under other laws of this state; and

(f) all other claims.

(2) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

Section 31. Section 75-5-309 is amended to read:

75-5-309. Notices in guardianship proceedings.

(1) In a proceeding for the appointment or removal of a guardian of an incapacitated person other than the appointment of an emergency guardian or temporary suspension of a guardian, notice of hearing shall be given to each of the following:

(a) the ward or the person alleged to be incapacitated and spouse, parents, and adult children of the ward or person;

(b) any person who is serving as guardian or conservator or who has care and custody of the ward or person;

(c) in case no other person is notified under Subsection (1)(a), at least one of the closest adult relatives, if any can be found;

(d) any guardian appointed by the will of the parent who died later or spouse of the incapacitated person; and

(e) Adult Protective Services if Adult Protective Services has received a referral under [~~Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult~~] Title 26B, Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult, concerning the welfare of the ward or person alleged to be incapacitated or concerning the guardian or conservator or proposed guardian or conservator.

(2) The notice shall be in plain language and large type and the form shall have the final approval of the Judicial Council. The notice shall indicate the time and place of the hearing, the possible adverse consequences to the person receiving notice of rights, a list of rights, including the person's own or a court appointed counsel, and a copy of the petition.

(3) Notice shall be served personally on the alleged incapacitated person and the person's spouse and parents if they can be found within the state. Notice to the spouse and parents, if they cannot be found within the state, and to all other persons except the alleged incapacitated person shall be given as provided in Section 75-1-401. Waiver of notice by the person alleged to be incapacitated is not effective unless the person attends the hearing or the person's waiver of notice is confirmed in an interview with the visitor appointed pursuant to Section 75-5-303.

Section 32. Section 75-5-311 is amended to read:

75-5-311. Who may be guardian -- Priorities.

(1) As used in this section:

(a) "Specialized care professional" means a person who is certified as a National Certified Guardian or National Master Guardian by the Center for Guardianship Certification or similar organization.

(b) "Suitable institution" means any nonprofit or for profit corporation, partnership, sole proprietorship, or other type of business organization that is owned, operated by, or employs a specialized care professional.

(2) The court shall appoint a guardian in accordance with the incapacitated person's most recent nomination, unless that person is disqualified or the court finds other good cause why the person should not serve as guardian. That nomination shall have been made prior to the person's incapacity, shall be in writing and shall be signed by the person making the nomination. The nomination shall be in substantially the following form:

Nomination of Guardian by an Adult

I, (Name), being of sound mind and not acting under duress, fraud, or other undue influence, do hereby nominate (Name, current residence, and relationship, if any, of the nominee) to serve as my guardian in the event that after the date of this instrument I become incapacitated.

Executed at _____ (city, state)

on this _____ day of _____

_____

(Signature)

(3) Except as provided in Subsection (2), persons who are not disqualified have priority for appointment as guardian in the following order:

(a) a person who has been nominated by the incapacitated person, by any means other than that described in Subsection (2), if the incapacitated person was 14 years [~~of age~~] old or older when the nomination was executed and, in the opinion of the court, that person acted with sufficient mental capacity to make the nomination;

(b) the spouse of the incapacitated person;

(c) an adult child of the incapacitated person;

(d) a parent of the incapacitated person, including a person nominated by will, written instrument, or other writing signed by a deceased parent;

(e) any relative of the incapacitated person with whom he has resided for more than six months prior to the filing of the petition;

(f) a person nominated by the person who is caring for him or paying benefits to him;

(g) a specialized care professional, so long as the specialized care professional does not:

(i) profit financially or otherwise from or receive compensation for acting in that capacity, except for the direct costs of providing guardianship or conservatorship services; or

(ii) otherwise have a conflict of interest in providing those services;

(h) any competent person or suitable institution; or

(i) the Office of Public Guardian under [~~Title 62A, Chapter 14, Office of Public Guardian Act~~] Title 26B, Chapter 6, Part 3, Office of Public Guardian.

Section 33. Section 75-7-508 is amended to read:

75-7-508. Notice to creditors.

(1) (a) A trustee for an inter vivos revocable trust, upon the death of the settlor, may publish a notice to creditors:

(i) once a week for three successive weeks in a newspaper of general circulation in the county where the settlor resided at the time of death; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (1)(a) shall:

(i) provide the trustee's name and address; and

(ii) notify creditors:

(A) of the deceased settlor; and

(B) to present their claims within three months after the date of the first publication of the notice or be forever barred from presenting the claim.

(2) A trustee shall give written notice by mail or other delivery to any known creditor of the deceased settlor, notifying the creditor to present the creditor's claim within 90 days from the published notice if given as provided in Subsection (1) or within 60 days from the mailing or other delivery of the notice, whichever is later, or be forever barred. Written notice shall be the notice described in Subsection (1) or a similar notice.

(3) (a) If the deceased settlor received medical assistance, as defined in Section [~~26-19-102~~] 26B-3-1001, at any time after the age of 55, the trustee for an inter vivos revocable trust, upon the death of the settlor, shall mail or deliver written notice to the Director of the Office of Recovery Services, on behalf of the Department of [~~Health~~] Health and Human Services, to present any claim under Section [~~26-19-405~~] 26B-3-1013 within 60 days from the mailing or other delivery of notice, whichever is later, or be forever barred.

(b) If the trustee does not mail notice to the director of the Office of Recovery Services on behalf of the department in accordance with Subsection (3)(a), the department shall have one year from the death of the settlor to present its claim.

(4) The trustee is not liable to any creditor or to any successor of the deceased settlor for giving or failing to give notice under this section.

(5) The notice to creditors shall be valid against any creditor of the trust and also against any creditor of the estate of the deceased settlor.

Section 34. Section 75-7-509 is amended to read:

75-7-509. Limitations on presentation of claims.

(1) All claims against a deceased settlor which arose before the death of the deceased settlor, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the deceased settlor's estate, the trustee, the trust estate, and the beneficiaries of the deceased settlor's trust, unless presented within the earlier of the following:

(a) one year after the settlor's death; or

(b) the time provided by Subsection 75-7-508(2) or (3) for creditors who are given actual notice, and where notice is published, within the time provided in Subsection 75-7-508(1) for all claims barred by publication.

(2) In all events, claims barred by the nonclaim statute at the deceased settlor's domicile are also barred in this state.

(3) All claims against a deceased settlor's estate or trust estate which arise at or after the death of the settlor, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis are barred against the deceased settlor's estate, the trustee, the trust estate, and the beneficiaries of the deceased settlor, unless presented as follows:

(a) a claim based on a contract with the trustee within three months after performance by the trustee is due; or

(b) any other claim within the later of three months after it arises, or the time specified in Subsection (1).

(4) Nothing in this section affects or prevents:

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the deceased settlor's estate or the trust estate;

(b) to the limits of the insurance protection only, any proceeding to establish liability of the deceased settlor or the trustee for which he is protected by liability insurance;

(c) collection of compensation for services rendered and reimbursement for expenses advanced by the trustee or by the attorney or accountant for the trustee of the trust estate; or

(d) the right to recover medical assistance provided to the settlor under [~~Title 26, Chapter 19, Medical Benefits Recovery Act~~] Title 26B, Chapter 3, Part 10, Medical Benefits Recovery.

Section 35. Section 75-7-511 is amended to read:

75-7-511. Classification of claims.

(1) If the applicable assets of the deceased settlor's estate or trust estate are insufficient to pay all claims in full, the trustee shall make payment in the following order:

(a) reasonable funeral expenses;

(b) costs and expenses of administration;

(c) debts and taxes with preference under federal law;

(d) reasonable and necessary medical and hospital expenses of the last illness of the deceased settlor, including compensation of persons attending the deceased settlor, and medical assistance if Section [~~26-19-405~~] 26B-3-1013 applies;

(e) debts and taxes with preference under other laws of this state; and

(f) all other claims.

(2) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

Section 36. Section 76-3-203.11 is amended to read:

76-3-203.11. Reporting an overdose -- Mitigating factor.

It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah Controlled Substances Act, that the person or bystander:

(1) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(2) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section [~~26-8a-102~~] 26B-4-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this section;

(3) provides in the report under Subsection (2) a functional description of the location of the actual overdose event that facilitates responding to the person experiencing the overdose event;

(4) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(5) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(6) committed the offense in the same course of events from which the reported overdose arose.

Section 37. Section 76-5-102.6 is amended to read:

76-5-102.6. Propelling object or substance at a correctional or peace officer -- Penalties.

(1) (a) As used in this section, "infectious agent" means the same as that term is defined in Section [~~26-6-2~~] 26B-7-201.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits the offense of propelling an object or substance at a correctional or peace officer if the actor:

(a) is a prisoner or a detained individual; and

(b) throws or otherwise propels an object or substance at a peace officer, a correctional officer, or an employee or volunteer, including a health care provider.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if:

(i) the object or substance causes substantial bodily injury to the peace officer, the correctional officer, or the employee or volunteer, including a health care provider; or

(ii) (A) the object or substance is:

(I) blood, urine, semen, or fecal material;

(II) an infectious agent or a material that carries an infectious agent;

(III) vomit or a material that carries vomit; or

(IV) the actor's saliva, and the actor knows the actor is infected with HIV, hepatitis B, or hepatitis C; and

(B) the object or substance comes into contact with any portion of the officer's, employee's, volunteer's, or health care provider's face, including the eyes or mouth, or comes into contact with any open wound on the officer's, employee's, volunteer's, or health care provider's body.

(4) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law than under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 38. Section 76-5-102.7 is amended to read:

76-5-102.7. Assault or threat of violence against health care provider, emergency medical service worker, or health facility employee, owner, or contractor -- Penalty.

(1) (a) As used in this section:

(i) "Assault" means an offense under Section 76-5-102.

(ii) "Emergency medical service worker" means an individual licensed under Section [~~26-8a-302~~] 26B-4-116.

(iii) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(iv) "Health facility" means:

(A) a health care facility as defined in Section [~~26-21-2~~] 26B-2-201; and

(B) the office of a private health care provider, whether for individual or group practice.

(v) "Health facility employee" means an employee, owner, or contractor of a health facility.

(vi) "Threat of violence" means an offense under Section 76-5-107.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits assault or threat of violence against a health care provider or emergency medical service worker if:

(i) the actor is not a prisoner or a detained individual;

(ii) the actor commits an assault or threat of violence;

(iii) the actor knew that the victim was a health care provider or emergency medical service worker; and

(iv) the health care provider or emergency medical service worker was performing emergency or [~~life saving~~] lifesaving duties within the scope of his or her authority at the time of the assault or threat of violence.

(b) An actor commits assault or threat of violence against a health facility employee if:

(i) the actor is not a prisoner or a detained individual;

(ii) the actor commits an assault or threat of violence;

(iii) the actor knew that the victim was a health facility employee; and

(iv) the health facility employee was acting within the scope of the health facility employee's duties for the health facility.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:

(i) causes substantial bodily injury; and

(ii) acts intentionally or knowingly.

Section 39. Section 76-5-102.9 is amended to read:

76-5-102.9. Propelling a bodily substance or material -- Penalties.

(1) (a) As used in this section:

(i) "Bodily substance or material" means:

(A) saliva, blood, urine, semen, or fecal material;

(B) an infectious agent or a material that carries an infectious agent; or

(C) vomit or a material that carries vomit.

(ii) "Infectious agent" means the same as that term is defined in Section [~~26-6-2~~] 26B-7-201.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits propelling a bodily substance or material if the actor knowingly or intentionally throws or otherwise propels a bodily substance or material at another individual.

(3) (a) A violation of Subsection (2) is a class B misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A misdemeanor if:

(i) the bodily substance or material is the actor's saliva and the actor knows the actor is infected with HIV, hepatitis B, or hepatitis C; or

(ii) the bodily substance or material comes into contact with any portion of the other individual's face, including the eyes or mouth, or comes into contact with any open wound on the other individual's body.

(4) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law than under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 40. Section 76-5-112.5 is amended to read:

76-5-112.5. Endangerment of a child or vulnerable adult.

(1) (a) As used in this section:

(i) (A) "Chemical substance" means:

(I) a substance intended to be used as a precursor in the manufacture of a controlled substance;

(II) a substance intended to be used in the manufacture of a controlled substance; or

(III) any fumes or by-product resulting from the manufacture of a controlled substance.

(B) Intent under this Subsection (1)(a)(i) may be demonstrated by:

(I) the use, quantity, or manner of storage of the substance; or

(II) the proximity of the substance to other precursors or to manufacturing equipment.

(ii) "Child" means an individual who is under 18 years old.

(iii) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(iv) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(v) "Exposed to" means that the child or vulnerable adult:

(A) is able to access an unlawfully possessed:

(I) controlled substance; or

(II) chemical substance;

(B) has the reasonable capacity to access drug paraphernalia; or

(C) is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance.

(vi) "Prescription" means the same as that term is defined in Section 58-37-2.

(vii) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits endangerment of a child or vulnerable adult if the actor knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia.

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if:

(i) the actor engages in the conduct described in Subsection (2); and

(ii) as a result of the conduct described in Subsection (2), the child or the vulnerable adult suffers bodily injury, substantial bodily injury, or serious bodily injury.

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first degree felony if:

(i) the actor engages in the conduct described in Subsection (2); and

(ii) as a result of the conduct described in Subsection (2), the child or the vulnerable adult dies.

(4) (a) Notwithstanding Subsection (3), a child may not be subjected to delinquency proceedings for a violation of Subsection (2) unless:

(i) the child is 15 years old or older; and

(ii) the other child who is exposed to or inhales, ingests, or has contact with the controlled substance, chemical substance, or drug paraphernalia, is under 12 years old.

(b) It is an affirmative defense to a violation of this section that the controlled substance:

(i) was obtained by lawful prescription or in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(ii) is used or possessed by the individual to whom the controlled substance was lawfully prescribed or recommended to under [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(5) The penalties described in this section are separate from, and in addition to, the penalties and enhancements described in Title 58, Occupations and Professions.

(6) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 41. Section 76-5-113 is amended to read:

76-5-113. Surreptitious administration of certain substances -- Definitions -- Penalties -- Defenses.

(1) (a) As used in this section:

(i) "Administer" means the introduction of a substance into the body by injection, inhalation, ingestion, or by any other means.

(ii) "Alcoholic beverage" means the same as that term is defined in Section 32B-1-102.

(iii) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(iv) "Deleterious substance" means a substance which, if administered, would likely cause bodily injury.

(v) "Health care provider" means the same as that term is defined in Section [~~26-23a-1~~] 78B-3-403.

(vi) "Poisonous" means a substance which, if administered, would likely cause serious bodily injury or death.

(vii) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(viii) "Serious bodily injury" means the same as that term is defined in Section 19-2-115.

(ix) "Substance" means a controlled substance, poisonous substance, or deleterious substance.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits surreptitious administration of a certain substance if the actor, surreptitiously or by means of fraud, deception, or misrepresentation, causes an individual to unknowingly consume or receive the administration of:

(a) any poisonous, deleterious, or controlled substance; or

(b) any alcoholic beverage.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the substance is a poisonous substance, regardless of whether the substance is a controlled substance or a prescription drug;

(b) a third degree felony if the substance is not within the scope of Subsection (3)(a), and is a controlled substance or a prescription drug; or

(c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic beverage.

(4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

(i) provided the appropriate administration of a prescription drug; and

(ii) acted on the reasonable belief that the actor's conduct was in the best interest of the well-being of the individual to whom the prescription drug was administered.

(b) (i) The defendant shall file and serve on the prosecuting attorney a notice in writing of the defendant's intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the trial.

(ii) The notice shall specifically identify the factual basis for the defense and the names and addresses of the witnesses the defendant proposes to examine to establish the defense.

(c) (i) The prosecuting attorney shall file and serve the defendant with a notice containing the names and addresses of the witnesses the prosecutor proposes to examine in order to contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a).

(ii) This notice shall be filed or served not more than 10 days after receipt of the defendant's notice under Subsection (4)(b), or at another time as the court may direct.

(d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c) entitles the opposing party to a continuance to allow for preparation.

(ii) If the court finds that a party's failure to comply is the result of bad faith, it may impose appropriate sanctions.

(5) (a) This section does not diminish the scope of authorized health care by a health care provider.

(b) Conduct in violation of Subsection (2) may also constitute a separate offense.

Section 42. Section 76-5-412 is amended to read:

76-5-412. Custodial sexual relations -- Penalties -- Defenses and limitations.

(1) (a) As used in this section:

(i) "Actor" means:

(A) a law enforcement officer, as defined in Section 53-13-103;

(B) a correctional officer, as defined in Section 53-13-104;

(C) a special function officer, as defined in Section 53-13-105; or

(D) an employee of, or private provider or contractor for, the Department of Corrections or a county jail.

(ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

(iii) "Person in custody" means an individual, either an adult 18 years old or older, or a minor younger than 18 years old, who is:

(A) a prisoner, as defined in Section 76-5-101, and includes a prisoner who is in the custody of the Department of Corrections created under Section 64-13-2, but who is being housed at the Utah State Hospital established under Section [~~62A-15-601~~] 26B-5-302 or other medical facility;

(B) under correctional supervision, such as at a work release facility or as a parolee or probationer; or

(C) under lawful or unlawful arrest, either with or without a warrant.

(iv) "Private provider or contractor" means a person that contracts with the Department of Corrections or with a county jail to provide services or functions that are part of the operation of the Department of Corrections or a county jail under state or local law.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits custodial sexual relations if the actor commits any of the acts under Subsection (2)(b):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (4); and

(ii) (A) the actor knows that the individual is a person in custody; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.

(b) Acts referred to in Subsection (2)(a) are:

(i) having sexual intercourse with a person in custody;

(ii) engaging in a sexual act with a person in custody involving the genitals of one individual and the mouth or anus of another individual; or

(iii) (A) causing the penetration, however slight, of the genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body; and

(B) intending to cause substantial emotional or bodily pain to any individual.

(c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years old, a violation of Subsection (2) is a second degree felony.

(c) If the act committed under Subsection (3) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) The offenses referred to in Subsection (2)(a)(i) and Subsection 76-5-412.2(2)(a)(i) are:

(a) Section 76-5-401, unlawful sexual activity with a minor;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403, forcible sodomy;

(g) Section 76-5-403.1, sodomy on a child;

(h) Section 76-5-404, forcible sexual abuse;

(i) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child; or

(j) Section 76-5-405, aggravated sexual assault.

(5) (a) It is not a defense to the commission of, or the attempt to commit, the offense of custodial sexual relations under Subsection (2) if the person in custody is younger than 18 years old, that the actor:

(i) mistakenly believed the person in custody to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the person in custody.

(b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).

(6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 43. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits sexual exploitation of a minor when the actor knowingly possesses or intentionally views child pornography.

(3) (a) A violation of Subsection (2) is a second degree felony.

(b) It is a separate offense under this section:

(i) for each minor depicted in the child pornography; and

(ii) for each time the same minor is depicted in different child pornography.

(4) (a) It is an affirmative defense to a charge of violating this section that no minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(b) For a charge of violating this section, it is an affirmative defense that:

(i) the defendant:

(A) did not solicit the child pornography from the minor depicted in the child pornography;

(B) is not more than two years older than the minor depicted in the child pornography; and

(C) upon request of a law enforcement agent or the minor depicted in the child pornography, removes from an electronic device or destroys the child pornography and all copies of the child pornography in the defendant's possession; and

(ii) the child pornography does not depict an offense under Chapter 5, Part 4, Sexual Offenses.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child pornography on tangible or intangible property, or of detecting and reporting the presence of child pornography on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child pornography during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child pornography during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child pornography during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of [~~Human Services~~] Health and Human Services who is required to view child pornography within the scope of the employee's employment; or

(g) an attorney who is required to view child pornography within the scope of the attorney's responsibility to represent the Department of [~~Human Services~~] Health and Human Services, including the divisions and offices within the Department of [~~Human Services~~] Health and Human Services.

Section 44. Section 76-6-106 is amended to read:

76-6-106. Criminal mischief.

(1) As used in this section, "critical infrastructure" includes:

(a) information and communication systems;

(b) financial and banking systems;

(c) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed guideways, or other transportation systems intended for the transportation of persons or property;

(d) any public utility service, including the power, energy, and water supply systems;

(e) sewage and water treatment systems;

(f) health care facilities as listed in Section [~~26-21-2~~] 26B-2-201, and emergency fire, medical, and law enforcement response systems;

(g) public health facilities and systems;

(h) food distribution systems; and

(i) other government operations and services.

(2) A person commits criminal mischief if the person:

(a) under circumstances not amounting to arson, damages or destroys property with the intention of defrauding an insurer;

(b) intentionally and unlawfully tampers with the property of another and as a result:

(i) recklessly endangers:

(A) human life; or

(B) human health or safety; or

(ii) recklessly causes or threatens a substantial interruption or impairment of any critical infrastructure;

(c) intentionally damages, defaces, or destroys the property of another; or

(d) recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing.

(3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.

(ii) A violation of Subsection (2)(b)(i)(A) is a class A misdemeanor.

(iii) A violation of Subsection (2)(b)(i)(B) is a class B misdemeanor.

(iv) A violation of Subsection (2)(b)(ii) is a second degree felony.

(b) Any other violation of this section is a:

(i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $5,000 in value;

(ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $1,500 but is less than $5,000 in value;

(iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of $500 but is less than $1,500 in value; and

(iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than $500 in value.

(4) In determining the value of damages under this section, or for computer crimes under Section 76-6-703, the value of any item, computer, computer network, computer property, computer services, software, or data includes the measurable value of the loss of use of the items and the measurable cost to replace or restore the items.

(5) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred in responding to a violation of Subsection (2)(b)(ii), unless the court states on the record the reasons why the reimbursement would be inappropriate.

Section 45. Section 76-6-702 is amended to read:

76-6-702. Definitions.

As used in this part:

(1) "Access" means to directly or indirectly use, attempt to use, instruct, communicate with, cause input to, cause output from, or otherwise make use of any resources of a computer, computer system, computer network, or any means of communication with any of them.

(2) "Authorization" means having the express or implied consent or permission of the owner, or of the person authorized by the owner to give consent or permission to access a computer, computer system, or computer network in a manner not exceeding the consent or permission.

(3) "Computer" means any electronic device or communication facility that stores, processes, transmits, or facilitates the transmission of data.

(4) "Computer network" means:

(a) the interconnection of communication or telecommunication lines between:

(i) computers; or

(ii) computers and remote terminals; or

(b) the interconnection by wireless technology between:

(i) computers; or

(ii) computers and remote terminals.

(5) "Computer property" includes electronic impulses, electronically produced data, information, financial instruments, software, or programs, in either machine or human readable form, any other tangible or intangible item relating to a computer, computer system, computer network, and copies of any of them.

(6) "Computer system" means a set of related, connected or unconnected, devices, software, or other related computer equipment.

(7) "Computer technology" includes:

(a) a computer;

(b) a computer network;

(c) computer hardware;

(d) a computer system;

(e) a computer program;

(f) computer services;

(g) computer software; or

(h) computer data.

(8) "Confidential" means data, text, or computer property that is protected by a security system that clearly evidences that the owner or custodian intends that it not be available to others without the owner's or custodian's permission.

(9) "Critical infrastructure" includes:

(a) a financial or banking system;

(b) any railroad, airline, airport, airway, highway, bridge, waterway, fixed guideway, or other transportation system intended for the transportation of persons or property;

(c) any public utility service, including a power, energy, gas, or water supply system;

(d) a sewage or water treatment system;

(e) a health care facility, as that term is defined in Section [~~26-21-2~~] 26B-2-201;

(f) an emergency fire, medical, or law enforcement response system;

(g) a public health facility or system;

(h) a food distribution system;

(i) a government computer system or network;

(j) a school; or

(k) other government facilities, operations, or services.

(10) "Denial of service attack" means an attack or intrusion that is intended to disrupt legitimate access to, or use of, a network resource, a machine, or computer technology.

(11) "Financial instrument" includes any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, electronic fund transfer, automated clearing house transaction, credit card, or marketable security.

(12) (a) "Identifying information" means a person's:

(i) social security number;

(ii) driver license number;

(iii) nondriver governmental identification number;

(iv) bank account number;

(v) student identification number;

(vi) credit or debit card number;

(vii) personal identification number;

(viii) unique biometric data;

(ix) employee or payroll number;

(x) automated or electronic signature; or

(xi) computer password.

(b) "Identifying information" does not include information that is lawfully available from publicly available information, or from federal, state, or local government records lawfully made available to the general public.

(13) "Information" does not include information obtained:

(a) through use of:

(i) an electronic product identification or tracking system; or

(ii) other technology used by a retailer to identify, track, or price goods; and

(b) by a retailer through the use of equipment designed to read the electronic product identification or tracking system data located within the retailer's location.

(14) "Interactive computer service" means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet or a system operated, or services offered, by a library or an educational institution.

(15) "License or entitlement" includes:

(a) licenses, certificates, and permits granted by governments;

(b) degrees, diplomas, and grades awarded by educational institutions;

(c) military ranks, grades, decorations, and awards;

(d) membership and standing in organizations and religious institutions;

(e) certification as a peace officer;

(f) credit reports; and

(g) another record or datum upon which a person may be reasonably expected to rely in making decisions that will have a direct benefit or detriment to another.

(16) "Security system" means a computer, computer system, network, or computer property that has some form of access control technology implemented, such as encryption, password protection, other forced authentication, or access control designed to keep out unauthorized persons.

(17) "Services" include computer time, data manipulation, and storage functions.

(18) "Service provider" means a telecommunications carrier, cable operator, computer hardware or software provider, or a provider of information service or interactive computer service.

(19) "Software" or "program" means a series of instructions or statements in a form acceptable to a computer, relating to the operations of the computer, or permitting the functioning of a computer system in a manner designed to provide results including system control programs, application programs, or copies of any of them.

Section 46. Section 76-7-301 is amended to read:

76-7-301. Definitions.

As used in this part:

(1) (a) "Abortion" means:

(i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;

(ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or

(iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(3) "Abuse" means the same as that term is defined in Section 80-1-102.

(4) "Department" means the Department of [~~Health~~] Health and Human Services.

(5) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

(6) "Gestational age" means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman.

(7) "Hospital" means:

(a) a general hospital licensed by the department according to [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(b) a clinic or other medical facility to the extent that such clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to the pregnant woman and the unborn child as would be provided for the particular medical procedures undertaken by a general hospital licensed by the department.

(8) "Information module" means the pregnancy termination information module prepared by the department.

(9) "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

(10) "Minor" means an individual who is:

(a) under 18 years old;

(b) unmarried; and

(c) not emancipated.

(11) (a) "Partial birth abortion" means an abortion in which the person performing the abortion:

(i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech

presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(ii) performs the overt act, other than completion of delivery, that kills the partially living fetus.

(b) "Partial birth abortion" does not include the dilation and evacuation procedure involving dismemberment prior to removal, the suction curettage procedure, or the suction aspiration procedure for abortion.

(12) "Physician" means:

(a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act;

(b) an osteopathic physician licensed to practice osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(c) a physician employed by the federal government who has qualifications similar to a person described in Subsection (12)(a) or (b).

(13) (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

(iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Section 47. Section 76-7-305 is amended to read:

76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains from the woman on whom the abortion is to be performed a voluntary and informed written consent that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:

(a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;

(b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the pregnant woman viewed the entire information module;

(c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):

(i) documents that the pregnant woman viewed the entire information module;

(ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and

(iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;

(d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:

(i) the nature of the proposed abortion procedure;

(ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the fetus;

(iii) the risks and alternatives to the abortion procedure or treatment;

(iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;

(v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(vi) the medical risks associated with carrying her child to term;

(vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and

(viii) when the result of a prenatal screening or diagnostic test indicates that the unborn child has or may have Down syndrome, the Department of [~~Health~~] Health and Human Services website containing the information described in Section [~~26-10-14~~] 26B-7-106, including the information on the informational support sheet; and

(e) after the pregnant woman views the entire information module, a staff member of the abortion clinic or hospital provides to the pregnant woman:

(i) on a document that the pregnant woman may take home:

(A) the address for the department's website described in Section 76-7-305.5; and

(B) a statement that the woman may request, from a staff member of the abortion clinic or hospital where the woman viewed the information module, a printed copy of the material on the department's website;

(ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman; and

(iii) a copy of the form described in Subsection [~~26-21-33(3)(a)(i)~~] 26B-2-232(3)(a)(i) regarding the disposition of the aborted fetus.

(3) Before performing an abortion, the physician who is to perform the abortion shall:

(a) in a face-to-face consultation, provide the information described in Subsection (2)(d), unless the attending physician or referring physician is the individual who provided the information required under Subsection (2)(d); and

(b) (i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection (2) and this Subsection (3) was provided in accordance with the requirements of Subsection (2) and this Subsection (3);

(ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

(iii) ensure that:

(A) the woman has received the information described in Subsections [~~26-21-33(3) and (4)~~] 26B-2-232(3) and (4); and

(B) if the woman has a preference for the disposition of the aborted fetus, the woman has informed the health care facility of the woman's decision regarding the disposition of the aborted fetus.

(4) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(5) If an ultrasound is performed on a woman before an abortion is performed, the individual who performs the ultrasound, or another qualified individual, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection (5)(c), if the woman requests it.

(6) The information described in Subsections (2), (3), and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

(7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

(8) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as described in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years old or younger.

(9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

(10) (a) The department shall provide an ultrasound, in accordance with the provisions of Subsection (5)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection (10)(a) to the department.

(11) A physician is not guilty of violating this section if:

(a) the information described in Subsection (2) is provided less than 72 hours before the physician performs the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Section 48. Section 76-7-305.5 is amended to read:

76-7-305.5. Requirements for information module and website.

(1) In order to ensure that a woman's consent to an abortion is truly an informed consent, the department shall, in accordance with the requirements of this section, develop an information module and maintain a public website.

(2) The information module and public website described in Subsection (1) shall:

(a) be scientifically accurate, comprehensible, and presented in a truthful, nonmisleading manner;

(b) present adoption as a preferred and positive choice and alternative to abortion;

(c) be produced in a manner that conveys the state's preference for childbirth over abortion;

(d) state that the state prefers childbirth over abortion;

(e) state that it is unlawful for any person to coerce a woman to undergo an abortion;

(f) state that any physician who performs an abortion without obtaining the woman's informed consent or without providing her a private medical consultation in accordance with the requirements of this section, may be liable to her for damages in a civil action at law;

(g) provide a geographically indexed list of resources and public and private services available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth, and while the child is dependent, including:

(i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

(ii) services and supports available under Section 35A-3-308;

(iii) other financial aid that may be available during an adoption;

(iv) services available from public adoption agencies, private adoption agencies, and private attorneys whose practice includes adoption; and

(v) the names, addresses, and telephone numbers of each person listed under this Subsection (2)(g);

(h) describe the adoption-related expenses that may be paid under Section 76-7-203;

(i) describe the persons who may pay the adoption related expenses described in Subsection (2)(h);

(j) except as provided in Subsection (4), describe the legal responsibility of the father of a child to assist in child support, even if the father has agreed to pay for an abortion;

(k) except as provided in Subsection (4), describe the services available through the Office of Recovery Services, within the Department of [~~Human Services~~] Health and Human Services, to establish and collect the support described in Subsection (2)(j);

(l) state that private adoption is legal;

(m) describe and depict, with pictures or video segments, the probable anatomical and physiological characteristics of an unborn child at two-week gestational increments from fertilization to full term, including:

(i) brain and heart function;

(ii) the presence and development of external members and internal organs; and

(iii) the dimensions of the fetus;

(n) show an ultrasound of the heartbeat of an unborn child at:

(i) four weeks from conception;

(ii) six to eight weeks from conception; and

(iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;

(o) describe abortion procedures used in current medical practice at the various stages of growth of the unborn child, including:

(i) the medical risks associated with each procedure;

(ii) the risk related to subsequent childbearing that are associated with each procedure; and

(iii) the consequences of each procedure to the unborn child at various stages of fetal development;

(p) describe the possible detrimental psychological effects of abortion;

(q) describe the medical risks associated with carrying a child to term;

(r) include relevant information on the possibility of an unborn child's survival at the two-week gestational increments described in Subsection (2)(m);

(s) except as provided in Subsection (5), include:

(i) information regarding substantial medical evidence from studies concluding that an unborn child who is at least 20 weeks gestational age may be capable of experiencing pain during an abortion procedure; and

(ii) the measures that will be taken in accordance with Section 76-7-308.5;

(t) explain the options and consequences of aborting a medication-induced abortion;

(u) include the following statement regarding a medication-induced abortion, "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but have not yet taken the second drug and have questions regarding the health of your fetus or are questioning your decision to terminate your pregnancy, you should consult a physician immediately.";

(v) inform a pregnant woman that she has the right to view an ultrasound of the unborn child, at no expense to her, upon her request;

(w) inform a pregnant woman that she has the right to:

(i) determine the final disposition of the remains of the aborted fetus;

(ii) unless the woman waives this right in writing, wait up to 72 hours after the abortion procedure is performed to make a determination regarding the disposition of the aborted fetus before the health care facility may dispose of the fetal remains;

(iii) receive information about options for disposition of the aborted fetus, including the method of disposition that is usual and customary for a health care facility; and

(iv) for a medication-induced abortion, return the aborted fetus to the health care facility for disposition; and

(x) provide a digital copy of the form described in Subsection [~~26-21-33(3)(a)(i)~~] 26B-2-232(3)(a)(i); and

(y) be in a typeface large enough to be clearly legible.

(3) The information module and website described in Subsection (1) may include a toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and description of services, agencies, and adoption attorneys in the locality of the caller.

(4) The department may develop a version of the information module and website that omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of rape.

(5) The department may develop a version of the information module and website that omits the information described in Subsection (2)(s) for a viewer who will have an abortion performed:

(a) on an unborn child who is less than 20 weeks gestational age at the time of the abortion; or

(b) on an unborn child who is at least 20 weeks gestational age at the time of the abortion, if:

(i) the abortion is being performed for a reason described in Subsection 76-7-302(3)(b)(i) or (ii); and

(ii) due to a serious medical emergency, time does not permit compliance with the requirement to provide the information described in Subsection (2)(s).

(6) The department and each local health department shall make the information module and the website described in Subsection (1) available at no cost to any person.

(7) The department shall make the website described in Subsection (1) available for viewing on the department's website by clicking on a conspicuous link on the home page of the website.

(8) The department shall ensure that the information module is:

(a) available to be viewed at all facilities where an abortion may be performed;

(b) interactive for the individual viewing the module, including the provision of opportunities to answer questions and manually engage with the module before the module transitions from one substantive section to the next;

(c) produced in English and may include subtitles in Spanish or another language; and

(d) capable of being viewed on a tablet or other portable device.

(9) After the department releases the initial version of the information module, for the use described in Section 76-7-305, the department shall:

(a) update the information module, as required by law; and

(b) present an updated version of the information module to the Health and Human Services Interim Committee for the committee's review and

recommendation before releasing the updated version for the use described in Section 76-7-305.

Section 49. Section 76-7-306 is amended to read:

76-7-306. Refusal to participate, admit, or treat for abortion based on religious or moral grounds -- Cause of action.

(1) As used in this section:

(a) "Health care facility" is as defined in Section [~~26-21-2~~] 26B-2-201.

(b) "Health care provider" means an individual who is an employee of, has practice privileges at, or is otherwise associated with a health care facility.

(2) A health care provider may, on religious or moral grounds, refuse to perform or participate in any way, in:

(a) an abortion; or

(b) a procedure that is intended to, or likely to, result in the termination of a pregnancy.

(3) Except as otherwise required by law, a health care facility may refuse, on religious or moral grounds, to:

(a) admit a patient for an abortion procedure or another procedure that is intended to, or likely to, result in the termination of a pregnancy; or

(b) perform for a patient an abortion procedure or another procedure that is intended to, or likely to, result in the termination of a pregnancy.

(4) A health care provider's refusal under Subsection (2) and a health care facility's refusal under Subsection (3) may not be the basis for civil liability or other recriminatory action.

(5) A health care facility, employer, or other person may not take an adverse action against a health care provider for exercising the health care provider's right of refusal described in Subsection (2), or for bringing or threatening to bring an action described in Subsection (6), including:

(a) dismissal;

(b) demotion;

(c) suspension;

(d) discipline;

(e) discrimination;

(f) harassment;

(g) retaliation;

(h) adverse change in status;

(i) termination of, adverse alteration of, or refusal to renew an association or agreement; or

(j) refusal to provide a benefit, privilege, raise, promotion, tenure, or increased status that the health care provider would have otherwise received.

(6) A person who is adversely impacted by conduct prohibited in Subsection (5) may bring a civil action for equitable relief, including reinstatement, and for damages. A person who brings an action under this section must commence the action within three years after the day on which the cause of action arises.

Section 50. Section 76-7-313 is amended to read:

76-7-313. Department's enforcement responsibility -- Physician's report to department.

(1) In order for the department to maintain necessary statistical information and ensure enforcement of the provisions of this part:

(a) any physician performing an abortion must obtain and record in writing:

(i) the age, marital status, and county of residence of the woman on whom the abortion was performed;

(ii) the number of previous abortions performed on the woman described in Subsection (1)(a)(i);

(iii) the hospital or other facility where the abortion was performed;

(iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;

(v) the pathological description of the unborn child;

(vi) the given gestational age of the unborn child;

(vii) the date the abortion was performed;

(viii) the measurements of the unborn child, if possible to ascertain; and

(ix) the medical procedure used to abort the unborn child; and

(b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Each physician who performs an abortion shall provide the following to the department within 30 days after the day on which the abortion is performed:

(a) the information described in Subsection (1);

(b) a copy of the pathologist's report described in Section 76-7-309;

(c) an affidavit:

(i) indicating whether the required consent was obtained pursuant to Sections 76-7-305 and 76-7-305.5;

(ii) described in Subsection (3), if applicable; and

(iii) indicating whether at the time the physician performed the abortion, the physician had any knowledge that the pregnant woman sought the abortion solely because the unborn child had or may have had Down syndrome; and

(d) a certificate indicating:

(i) whether the unborn child was or was not viable, as defined in Subsection 76-7-302(1), at the time of the abortion;

(ii) whether the unborn child was older than 18 weeks gestational age at the time of the abortion; and

(iii) if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than 18 weeks gestational age at the time of the abortion, the reason for the abortion.

(3) If the information module or the address to the website is not provided to a pregnant woman, the physician who performs the abortion on the woman shall, within 10 days after the day on which the abortion is performed, provide to the department an affidavit that:

(a) specifies the information that was not provided to the woman; and

(b) states the reason that the information was not provided to the woman.

(4) All information supplied to the department shall be confidential and privileged pursuant to [~~Title 26, Chapter 25, Confidential Information Release~~] Section 26B-1-229.

(5) The department shall pursue all administrative and legal remedies when the department determines that a physician or a facility has not complied with the provisions of this part.

Section 51. Section 76-7-314 is amended to read:

76-7-314. Violations of abortion laws -- Classifications.

(1) A willful violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311, or 76-7-312 is a felony of the third degree.

(2) A violation of Section 76-7-326 is a felony of the third degree.

(3) A violation of Section 76-7-302.5 or 76-7-314.5 is a felony of the second degree.

(4) A violation of any other provision of this part, including Subsections 76-7-305(2)(a) through (c), and (e), is a class A misdemeanor.

(5) The Department of [~~Health~~] Health and Human Services shall report a physician's violation of any provision of this part to the Physicians Licensing Board, described in Section 58-67-201.

(6) Any person with knowledge of a physician's violation of any provision of this part may report the violation to the Physicians Licensing Board, described in Section 58-67-201.

(7) In addition to the penalties described in this section, the department may take any action described in Section [~~26-21-11~~] 26B-2-208 against an abortion clinic if a violation of this chapter occurs at the abortion clinic.

Section 52. Section 76-8-311.1 is amended to read:

76-8-311.1. Secure areas -- Items prohibited -- Penalty.

(1) In addition to the definitions in Section 76-10-501, as used in this section:

(a) "Correctional facility" has the same meaning as defined in Section 76-8-311.3.

(b) "Explosive" has the same meaning as defined for "explosive, chemical, or incendiary device" defined in Section 76-10-306.

(c) "Law enforcement facility" means a facility which is owned, leased, or operated by a law enforcement agency.

(d) "Mental health facility" has the same meaning as defined in Section [~~62A-15-602~~] 26B-5-301.

(e) (i) "Secure area" means any area into which certain persons are restricted from transporting any firearm, ammunition, dangerous weapon, or explosive.

(ii) A "secure area" may not include any area normally accessible to the public.

(2) (a) A person in charge of the State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm, ammunition, dangerous weapon, or explosive.

(b) Subsections (2)(a), (3), (4), (5), and (6) apply to higher education secure area hearing rooms referred to in Subsections 53B-3-103(2)(a)(ii) and (b).

(3) At least one notice shall be prominently displayed at each entrance to an area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4) (a) Provisions shall be made to provide a secure weapons storage area so that persons entering the secure area may store their weapons prior to entering the secure area.

(b) The entity operating the facility shall be responsible for weapons while they are stored in the storage area.

(5) It is a defense to any prosecution under this section that the accused, in committing the act made criminal by this section, acted in conformity with the facility's rule or policy established pursuant to this section.

(6) (a) Any person who knowingly or intentionally transports into a secure area of a facility any firearm, ammunition, or dangerous weapon is guilty of a third degree felony.

(b) Any person violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a secure area of a facility.

Section 53. Section 76-8-311.3 is amended to read:

76-8-311.3. Items prohibited in correctional and mental health facilities -- Penalties.

(1) As used in this section:

(a) "Contraband" means any item not specifically prohibited for possession by offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

(b) "Controlled substance" means any substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(c) "Correctional facility" means:

(i) any facility operated by or contracting with the Department of Corrections to house offenders in either a secure or nonsecure setting;

(ii) any facility operated by a municipality or a county to house or detain criminal offenders;

(iii) any juvenile detention facility; and

(iv) any building or grounds appurtenant to the facility or lands granted to the state, municipality, or county for use as a correctional facility.

(d) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(f) "Mental health facility" means the same as that term is defined in Section [~~62A-15-602~~] 26B-5-301.

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Offender" means a person in custody at a correctional facility.

(i) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(j) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(2) Notwithstanding Section 76-10-500, a correctional or mental health facility may provide by rule that no firearm, ammunition, dangerous weapon, implement of escape, explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any quantity may be:

(a) transported to or upon a correctional or mental health facility;

(b) sold or given away at any correctional or mental health facility;

(c) given to or used by any offender at a correctional or mental health facility; or

(d) knowingly or intentionally possessed at a correctional or mental health facility.

(3) It is a defense to any prosecution under this section if the accused in committing the act made criminal by this section with respect to:

(a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

(c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) a mental health facility, acted in conformity with the policy of the mental health facility.

(4) (a) An individual who transports to or upon a correctional facility, or into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape with intent to provide or sell it to any offender, is guilty of a second degree felony.

(b) An individual who provides or sells to any offender at a correctional facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.

(c) An offender who possesses at a correctional facility, or a detainee who possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.

(d) An individual who, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses at a correctional facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a third degree felony.

(e) An individual violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or mental health facility.

(5) (a) An individual is guilty of a third degree felony who, without the permission of the authority operating the correctional facility or secure area of a mental health facility, knowingly transports to or upon a correctional facility or into a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine, whether or not lawfully prescribed for the offender; or

(iii) poison in any quantity.

(b) An individual is guilty of a third degree felony who knowingly violates correctional or mental health facility policy or rule by providing or selling to any offender at a correctional facility or detainee within a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine, whether or not lawfully prescribed for the offender; or

(iii) poison in any quantity.

(c) An inmate is guilty of a third degree felony who, in violation of correctional or mental health

facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine, other than medicine provided by the facility's health care providers in compliance with facility policy; or

(iii) poison in any quantity.

(d) An individual is guilty of a class A misdemeanor who, with the intent to directly or indirectly provide or sell any tobacco product, electronic cigarette product, or nicotine product to an offender, directly or indirectly:

(i) transports, delivers, or distributes any tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of any correctional facility;

(ii) solicits, requests, commands, coerces, encourages, or intentionally aids another person to transport any tobacco product, electronic cigarette product, or nicotine product to an offender or on any correctional facility, if the person is acting with the mental state required for the commission of an offense; or

(iii) facilitates, arranges, or causes the transport of any tobacco product, electronic cigarette product, or nicotine product in violation of this section to an offender or on the grounds of any correctional facility.

(e) An individual is guilty of a class A misdemeanor who, without the permission of the authority operating the correctional or mental health facility, fails to declare or knowingly possesses at a correctional facility or in a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine; or

(iii) poison in any quantity.

(f) (i) Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B misdemeanor who, without the permission of the authority operating the correctional facility, knowingly engages in any activity that would facilitate the possession of any contraband by an offender in a correctional facility.

(ii) The provisions of Subsection (5)(d) regarding any tobacco product, electronic cigarette product, or nicotine product take precedence over this Subsection (5)(f).

(g) Exemptions may be granted for worship for Native American inmates pursuant to Section 64-13-40.

(6) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.

(7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing any tobacco product, electronic cigarette product, or nicotine product to offenders is a class A misdemeanor.

Section 54. Section 76-8-1202 is amended to read:

76-8-1202. Application of part.

(1) This part does not apply to offenses by providers under the state's Medicaid program that are actionable under [~~Title 26, Chapter 20, Utah False Claims Act~~] Title 26B, Chapter 3, Part 11, Utah False Claims Act.

(2) (a) Section 35A-1-503 applies to criminal actions taken under this part.

(b) The repayment of funds or other benefits obtained in violation of the provisions of this chapter shall not constitute a defense or grounds for dismissal of a criminal action.

Section 55. Section 76-9-307 is amended to read:

76-9-307. Injury to service animals -- Penalties.

(1) As used in this section:

(a) "Disability" has the same meaning as defined in Section [~~62A-5b-102~~] 26B-6-801.

(b) "Search and rescue dog" means a dog:

(i) with documented training to locate persons who are:

(A) lost, missing, or injured; or

(B) trapped under debris as the result of a natural or man-made event; and

(ii) affiliated with an established search and rescue dog organization.

(c) "Service animal" means:

(i) a service animal as defined in Section [~~62A-5b-102~~] 26B-6-801; or

(ii) a search and rescue dog.

(2) It is a class A misdemeanor for a person to knowingly, intentionally, or recklessly cause substantial bodily injury or death to a service animal.

(3) It is a class A misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from causing:

(a) any substantial bodily injury or the death of a service animal; or

(b) the service animal's subsequent inability to function as a service animal as a result of the animal's attacking, chasing, or harassing the service animal.

(4) It is a class B misdemeanor for a person to chase or harass a service animal.

(5) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from chasing or harassing a service animal while it is carrying out its functions as a service animal, to the extent that the animal temporarily interferes with the service animal's ability to carry out its functions.

(6) (a) A service animal is exempt from quarantine or other animal control ordinances if it bites any person while it is subject to an offense under Subsection (2), (3), (4), or (5).

(b) The owner of the service animal or the person with a disability whom the service animal serves shall make the animal available for examination at any reasonable time and shall notify the local health officer if the animal exhibits any abnormal behavior.

(7) In addition to any other penalty, a person convicted of any violation of this section is liable for restitution to the owner of the service animal or the person with a disability whom the service animal serves for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

(8) If the act committed under this section amounts to an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 56. Section 76-9-704 is amended to read:

76-9-704. Abuse or desecration of a dead human body -- Penalties.

(1) For purposes of this section, "dead human body" includes any part of a human body in any stage of decomposition, including ancient human remains as defined in Section 9-8-302.

(2) A person is guilty of abuse or desecration of a dead human body if the person intentionally and unlawfully:

(a) fails to report the finding of a dead human body to a local law enforcement agency;

(b) disturbs, moves, removes, conceals, or destroys a dead human body or any part of it;

(c) disinters a buried or otherwise interred dead human body, without authority of a court order;

(d) dismembers a dead human body to any extent, or damages or detaches any part or portion of a dead human body; or

(e) (i) commits or attempts to commit upon any dead human body any act of sexual penetration, regardless of the sex of the actor and of the dead human body; and

(ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of the dead human body.

(3) A person does not violate this section if when that person directs or carries out procedures regarding a dead human body, that person complies with:

(a) Title 9, Chapter 8, Part 3, Antiquities;

(b) [~~Title 26, Chapter 4, Utah Medical Examiner Act~~] Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

(c) [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

(e) Title 58, Chapter 9, Funeral Services Licensing Act; or

(f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.

(4) (a) Failure to report the finding of a dead human body as required under Subsection (2)(a) is a class B misdemeanor.

(b) Abuse or desecration of a dead human body as described in Subsections (2)(b) through (e) is a third degree felony.

Section 57. Section 76-10-101 is amended to read:

76-10-101. Definitions.

As used in this part:

(1) (a) "Alternative nicotine product" means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a tobacco product, that:

(i) contains nicotine;

(ii) is intended for human consumption;

(iii) is not purchased with a prescription from a licensed physician; and

(iv) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Alternative nicotine product" includes:

(i) pure nicotine;

(ii) snortable nicotine;

(iii) dissolvable salts, orbs, pellets, sticks, or strips; and

(iv) nicotine-laced food and beverage.

(c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.

(2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco

wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette.

(3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).

(4) (a) "Electronic cigarette" means:

(i) any electronic oral device:

(A) that provides an aerosol or a vapor of nicotine or other substance; and

(B) which simulates smoking through the use or inhalation of the device;

(ii) a component of the device described in Subsection (4)(a)(i); or

(iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).

(b) "Electronic cigarette" includes an oral device that is:

(i) composed of a heating element, battery, or electronic circuit; and

(ii) marketed, manufactured, distributed, or sold as:

(A) an e-cigarette;

(B) an e-cigar;

(C) an e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).

(c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.

(6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

(7) (a) "Flavored electronic cigarette product" means an electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product.

(b) "Flavored electronic cigarette product" includes an electronic cigarette product that has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice.

(c) "Flavored electronic cigarette product" does not include an electronic cigarette product that:

(i) has a taste or smell of only tobacco, mint, or menthol; or

(ii) has been approved by an order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i).

(8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.

(9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.

(10) (a) "Nontherapeutic nicotine device" means a device that:

(i) has a pressurized canister that is used to administer nicotine to the user through inhalation or intranasally;

(ii) is not purchased with a prescription from a licensed physician; and

(iii) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic nicotine nasal spray.

(11) "Nontherapeutic nicotine device substance" means a substance that:

(a) contains nicotine;

(b) is sold in a cartridge for use in a nontherapeutic nicotine device;

(c) is not purchased with a prescription from a licensed physician; and

(d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

(13) "Place of business" includes:

(a) a shop;

(b) a store;

(c) a factory;

(d) a public garage;

(e) an office;

(f) a theater;

(g) a recreation hall;

(h) a dance hall;

(i) a poolroom;

(j) a cafe;

(k) a cafeteria;

(l) a cabaret;

(m) a restaurant;

(n) a hotel;

(o) a lodging house;

(p) a streetcar;

(q) a bus;

(r) an interurban or railway passenger coach;

(s) a waiting room; and

(t) any other place of business.

(14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an electronic cigarette substance.

(15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.

(16) "Retail tobacco specialty business" means the same as that term is defined in Section [~~26-62-102~~] 26B-7-501.

(17) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

(18) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette substance, or a nontherapeutic nicotine device substance into the human body.

(b) "Tobacco paraphernalia" includes:

(i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) water pipes;

(iii) carburetion tubes and devices;

(iv) smoking and carburetion masks;

(v) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;

(vi) chamber pipes;

(vii) carburetor pipes;

(viii) electric pipes;

(ix) air-driven pipes;

(x) chillums;

(xi) bongs; and

(xii) ice pipes or chillers.

(c) "Tobacco paraphernalia" does not include matches or lighters.

(19) "Tobacco product" means:

(a) a cigar;

(b) a cigarette; or

(c) tobacco in any form, including:

(i) chewing tobacco; and

(ii) any substitute for tobacco, including flavoring or additives to tobacco.

(20) "Tobacco retailer" means:

(a) a general tobacco retailer, as that term is defined in Section [~~26-62-102~~] 26B-7-501; or

(b) a retail tobacco specialty business.

Section 58. Section 76-10-526 is amended to read:

76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.

(2) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection (2).

(3) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

(4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the social security number or any other identification number of the individual receiving the firearm.

(5) (a) The dealer shall send the information required by Subsection (4) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection (4) and

has received approval from the bureau under Subsection (7).

(6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

(7) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, and the temporary restricted file created under Section 53-5c-301, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(8) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

(9) (a) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction where the individual resides.

(b) Subsection (9)(a) does not apply to an individual prohibited from purchasing a firearm solely due to placement on the temporary restricted list under Section 53-5c-301.

(c) A law enforcement agency that receives information from the bureau under Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that includes:

(i) based on the information the bureau provides to the law enforcement agency under Subsection (9)(a), the number of cases that involve an individual who is prohibited from purchasing, possessing, or transferring a firearm as a result of a conviction for an offense involving domestic violence; and

(ii) of the cases described in Subsection (9)(c)(i):

(A) the number of cases the law enforcement agency investigates; and

(B) the number of cases the law enforcement agency investigates that result in a criminal charge.

(d) The bureau shall:

(i) compile the information from the reports described in Subsection (9)(c);

(ii) omit or redact any identifying information in the compilation; and

(iii) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section.

(b) The fee described under Subsection (12)(a) remains in effect until changed by the bureau through the process described in Section 63J-1-504.

(c) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

(13) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(14) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background

check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification.

(b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

(15) A dealer engaged in the business of selling, leasing, or otherwise transferring any firearm shall:

(a) make the firearm safety brochure described in Subsection [~~62A-15-103(3)~~] 26B-5-102(3) available to a customer free of charge; and

(b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under Subsection [~~62A-15-103(3)~~] 26B-5-102(3) to a customer purchasing a shotgun, short barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be accompanied by a gun lock at the time of purchase.

Section 59. Section 76-10-528 is amended to read:

76-10-528. Carrying a dangerous weapon while under influence of alcohol or drugs unlawful.

(1) It is a class B misdemeanor for an actor to carry a dangerous weapon while under the influence of:

(a) alcohol as determined by the actor's blood or breath alcohol concentration in accordance with Subsections 41-6a-502(1)(a) through (c); or

(b) a controlled substance as defined in Section 58-37-2.

(2) This section does not apply to:

(a) an actor carrying a dangerous weapon that is either securely encased, as defined in this part, or not within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person;

(b) an actor who uses or threatens to use force in compliance with Section 76-2-402;

(c) an actor carrying a dangerous weapon in the actor's residence or the residence of another with the consent of the individual who is lawfully in possession;

(d) an actor under the influence of cannabis or a cannabis product, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201, if the actor's use of the cannabis or cannabis product complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(e) an actor who:

(i) has a valid prescription for a medication approved by the federal Food and Drug Administration for the treatment of attention deficit disorder or attention deficit hyperactivity disorder; and

(ii) takes the medication described in Subsection (2)(e)(i) as prescribed.

(3) It is not a defense to prosecution under this section that the actor:

(a) is licensed in the pursuit of wildlife of any kind; or

(b) has a valid permit to carry a concealed firearm.

Section 60. Section 76-10-1311 is amended to read:

76-10-1311. Mandatory testing -- Retention of offender medical file -- Civil liability.

(1) A person who has entered a plea of guilty, a plea of no contest, a plea of guilty and mentally ill, or been found guilty for violation of Section 76-10-1302, 76-10-1303, or 76-10-1313 shall be required to submit to a mandatory test to determine if the offender is an HIV positive individual. The mandatory test shall be required and conducted prior to sentencing.

(2) If the mandatory test has not been conducted prior to sentencing, and the convicted offender is already confined in a county jail or state prison, such person shall be tested while in confinement.

(3) The local law enforcement agency shall cause the blood specimen of the offender as defined in Subsection (1) confined in county jail to be taken and tested.

(4) The Department of Corrections shall cause the blood specimen of the offender defined in Subsection (1) confined in any state prison to be taken and tested.

(5) The local law enforcement agency shall collect and retain in the offender's medical file the following data:

(a) the HIV infection test results;

(b) a copy of the written notice as provided in Section 76-10-1312;

(c) photographic identification; and

(d) fingerprint identification.

(6) The local law enforcement agency shall classify the medical file as a private record pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section 63G-2-304.

(7) The person tested shall be responsible for the costs of testing, unless the person is indigent. The costs will then be paid by the local law enforcement agency or the Department of Corrections from the General Fund.

(8) (a) The laboratory performing testing shall report test results to only designated officials in the Department of Corrections, the Department of [~~Health~~] Health and Human Services, and the local law enforcement agency submitting the blood specimen.

(b) Each department or agency shall designate those officials by written policy.

(c) Designated officials may release information identifying an offender under Section 76-10-1302, 76-10-1303, or 76-10-1313 who has tested HIV positive as provided under Subsection 63G-2-202(1) and for purposes of prosecution pursuant to Section 76-10-1309.

(9) (a) An employee of the local law enforcement agency, the Department of Corrections, or the Department of [~~Health~~] Health and Human Services who discloses the HIV test results under this section is not civilly liable except when disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202.

(b) An employee of the local law enforcement agency, the Department of Corrections, or the Department of [~~Health~~] Health and Human Services who discloses the HIV test results under this section is not civilly or criminally liable, except when disclosure constitutes a knowing violation of Section 63G-2-801.

(10) When the medical file is released as provided in Section 63G-2-803, the local law enforcement agency, the Department of Corrections, or the Department of [~~Health~~] Health and Human Services or its officers or employees are not liable for damages for release of the medical file.

Section 61. Section 76-10-1312 is amended to read:

76-10-1312. Notice to offender of HIV positive test results.

(1) A person convicted under Section 76-10-1302, 76-10-1303, or 76-10-1313 who has tested positive for the HIV infection shall be notified of the test results in person by:

(a) the local law enforcement agency;

(b) the Department of Corrections, for offenders confined in any state prison;

(c) the state Department of [~~Health~~] Health and Human Services; or

(d) an authorized representative of any of the agencies listed in this Subsection (1).

(2) The notice under Subsection (1) shall contain the signature of the HIV positive person, indicating the person's receipt of the notice, the name and signature of the person providing the notice, and:

(a) the date of the test;

(b) the positive test results;

(c) the name of the HIV positive individual; and

(d) the following language:

"A person who has been convicted of prostitution under Section 76-10-1302, patronizing a prostitute under Section 76-10-1303, or sexual solicitation under Section 76-10-1313 after being tested and diagnosed as an HIV positive individual and either had actual knowledge that the person is an HIV positive individual or the person has previously been convicted of any of the criminal offenses listed above is guilty of a third degree felony under Section 76-10-1309."

(3) Failure to provide this notice, or to provide the notice in the manner or form prescribed under this section, does not create any civil liability and does not create a defense to any prosecution under this part.

(4) Upon conviction under Section 76-10-1309, and as a condition of probation, the offender shall receive treatment and counseling for HIV infection and drug abuse as provided in [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health.

Section 62. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources Code of Utah, or Section 23-20-4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by [~~Title 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12~~] Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a threat of terrorism, Section 76-5-107.3;

(l) a criminal homicide offense, as described in Section 76-5-201;

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human trafficking of a child, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor or aggravated sexual exploitation of a minor, Sections 76-5b-201 and 76-5b-201.1;

(p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

(q) causing a catastrophe, Section 76-6-105;

(r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

(s) burglary of a vehicle, Section 76-6-204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

(u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

(v) theft, Section 76-6-404;

(w) theft by deception, Section 76-6-405;

(x) theft by extortion, Section 76-6-406;

(y) receiving stolen property, Section 76-6-408;

(z) theft of services, Section 76-6-409;

(aa) forgery, Section 76-6-501;

(bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and 76-6-506.6;

(cc) deceptive business practices, Section 76-6-507;

(dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;

(ee) bribery of a labor official, Section 76-6-509;

(ff) defrauding creditors, Section 76-6-511;

(gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;

(hh) unlawful dealing with property by fiduciary, Section 76-6-513;

(ii) bribery or threat to influence contest, Section 76-6-514;

(jj) making a false credit report, Section 76-6-517;

(kk) criminal simulation, Section 76-6-518;

(ll) criminal usury, Section 76-6-520;

(mm) fraudulent insurance act, Section 76-6-521;

(nn) retail theft, Section 76-6-602;

(oo) computer crimes, Section 76-6-703;

(pp) identity fraud, Section 76-6-1102;

(qq) mortgage fraud, Section 76-6-1203;

(rr) sale of a child, Section 76-7-203;

(ss) bribery to influence official or political actions, Section 76-8-103;

(tt) threats to influence official or political action, Section 76-8-104;

(uu) receiving bribe or bribery by public servant, Section 76-8-105;

(vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

(ww) official misconduct, Sections 76-8-201 and 76-8-202;

(xx) obstruction of justice, Section 76-8-306;

(yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;

(zz) false or inconsistent material statements, Section 76-8-502;

(aaa) false or inconsistent statements, Section 76-8-503;

(bbb) written false statements, Section 76-8-504;

(ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(fff) tampering with evidence, Section 76-8-510.5;

(ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist Disclosure and Regulation Act;

(hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;

(iii) unemployment insurance fraud, Section 76-8-1301;

(jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;

(lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;

(mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

(ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(cccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 63. Section 76-10-2204 is amended to read:

76-10-2204. Duty to report drug diversion.

(1) As used in this section:

(a) "Diversion" means a practitioner's transfer of a significant amount of drugs to another for an unlawful purpose.

(b) "Drug" means a Schedule II or Schedule III controlled substance, as defined in Section 58-37-4, that is an opiate.

(c) "HIPAA" means the same as that term is defined in Section [~~26-18-17~~] 26B-3-126.

(d) "Opiate" means the same as that term is defined in Section 58-37-2.

(e) "Practitioner" means an individual:

(i) licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice; or

(ii) employed by a person who is licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice or standard operations.

(f) "Significant amount" means an aggregate amount equal to, or more than, 500 morphine milligram equivalents calculated in accordance with guidelines developed by the Centers for Disease Control and Prevention (CDC).

(2) An individual is guilty of a class B misdemeanor if the individual:

(a) knows that a practitioner is involved in diversion; and

(b) knowingly fails to report the diversion to a peace officer or law enforcement agency.

(3) Subsection (2) does not apply to the extent that an individual is prohibited from reporting by 42 C.F.R. Part 2 or HIPAA.

Section 64. Section 76-10-3105 is amended to read:

76-10-3105. Exempt activities.

(1) This act may not be construed to prohibit:

(a) the activities of any public utility to the extent that those activities are subject to regulation by the public service commission, the state or federal department of transportation, the federal energy regulatory commission, the federal communications commission, the interstate commerce commission, or successor agencies;

(b) the activities of any insurer, insurance producer, independent insurance adjuster, or rating organization including, but not limited to, making or participating in joint underwriting or reinsurance arrangements, to the extent that those activities are subject to regulation by the commissioner of insurance;

(c) the activities of securities dealers, issuers, or agents, to the extent that those activities are subject to regulation under the laws of either this state or the United States;

(d) the activities of any state or national banking institution, to the extent that the activities are regulated or supervised by state government officers or agencies under the banking laws of this state or by federal government officers or agencies under the banking laws of the United States;

(e) the activities of any state or federal savings and loan association to the extent that those activities are regulated or supervised by state government officers or agencies under the banking laws of this state or federal government officers or agencies under the banking laws of the United States;

(f) the activities of a political subdivision to the extent authorized or directed by state law, consistent with the state action doctrine of federal antitrust law; or

(g) the activities of an emergency medical service provider licensed under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, to the extent that those activities are regulated by state government officers or agencies under that act.

(2) (a) The labor of a human being is not a commodity or article of commerce.

(b) Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of these organizations from lawfully carrying out their legitimate objects; nor may these organizations or membership in them be held to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

(3) (a) As used in this section, an entity is also a municipality if the entity was formed under Title 11, Chapter 13, Interlocal Cooperation Act, prior to January 1, 1981, and the entity is:

(i) a project entity as defined in Section 11-13-103;

(ii) an electric interlocal entity as defined in Section 11-13-103; or

(iii) an energy services interlocal entity as defined in Section 11-13-103.

(b) The activities of the entities under Subsection (3)(a) are authorized or directed by state law.

Section 65. Section 77-15-6 is amended to read:

77-15-6. Commitment on finding of incompetency to stand trial -- Subsequent hearings -- Notice to prosecuting attorneys.

(1) (a) Except as provided in Subsection (5), if after a hearing a court finds a defendant to be incompetent to proceed, the court shall order the defendant committed to the department for restoration treatment.

(b) The court may recommend but may not order placement of the defendant. The court may, however, order that the defendant be placed in a secure setting rather than a nonsecure setting. Following restoration screening, the department's designee shall designate and inform the court of the specific placement and restoration treatment program for the defendant.

(c) Restoration treatment shall be of sufficient scope and duration to:

(i) restore the individual to competency; or

(ii) determine whether the individual can be restored to competency in the foreseeable future.

(d) A defendant whom a court determines is incompetent to proceed may not be held for restoration treatment longer than:

(i) the time reasonably necessary to determine whether there is a substantial probability that the defendant will become competent to stand trial in the foreseeable future, or that the defendant cannot become competent to stand trial in the foreseeable future; and

(ii) the maximum period of incarceration that the defendant could receive if the defendant were convicted of the most severe offense of the offenses charged.

(2) (a) A defendant who is receiving restoration treatment shall receive a progress toward competency evaluation, by:

(i) a forensic evaluator, designated by the department; and

(ii) an additional forensic evaluator, if requested by a party and paid for by the requesting party.

(b) A forensic evaluator shall complete a progress toward competency evaluation and submit a report within 90 days after the day on which the forensic evaluator receives the commitment order. If the forensic evaluator is unable to complete the report within 90 days, the forensic evaluator shall provide to the court and counsel a summary progress statement that informs the court that additional time is necessary to complete the report, in which case the examiner shall have up to an additional 45 days to provide the full report.

(c) The report shall:

(i) assess whether the defendant is exhibiting false or exaggerated physical or psychological symptoms;

(ii) describe any diagnostic instruments, methods, and observations used by the examiner to make the determination;

(iii) state the forensic evaluator's opinion as to the effect of any false or exaggerated symptoms on the defendant's competency to stand trial;

(iv) assess the facility's or program's capacity to provide appropriate restoration treatment for the defendant;

(v) assess the nature of restoration treatment provided to the defendant;

(vi) assess what progress the defendant has made toward competency restoration, with respect to the factors identified by the court in its initial order;

(vii) describe the defendant's current level of intellectual or developmental disability and need for treatment, if any; and

(viii) assess the likelihood of restoration to competency, the amount of time estimated to achieve competency, or the amount of time estimated to determine whether restoration to competency may be achieved.

(3) The court on its own motion or upon motion by either party or the department may appoint an additional forensic evaluator to conduct a progress toward competency evaluation. If the court appoints an additional forensic evaluator upon motion of a party, that party shall pay the costs of the additional forensic evaluator.

(4) Within 15 days after the day on which the court receives the forensic evaluator's report of the progress toward competency evaluation, the court shall hold a hearing to review the defendant's competency. At the hearing, the burden of proving that the defendant is competent to stand trial is on the proponent of competency. Following the hearing, the court shall determine by a preponderance of evidence whether the defendant is:

(a) competent to stand trial;

(b) incompetent to proceed, with a substantial probability that the defendant may become competent in the foreseeable future; or

(c) incompetent to proceed, without a substantial probability that the defendant may become competent in the foreseeable future.

(5) (a) If the court determines that the defendant is competent to stand trial, the court shall:

(i) proceed with the trial or other procedures as may be necessary to adjudicate the charges; and

(ii) order that the defendant be returned to the placement and status that the defendant was in at the time when the petition for the adjudication of competency was filed, unless the court determines that a different placement is more appropriate.

(b) If the court determines that the defendant is not competent to proceed but that there is a substantial probability that the defendant may become competent in the foreseeable future, the court may order that the defendant remain committed to the department or the department's designee for the purpose of restoration treatment.

(c) If the court determines that the defendant is incompetent to proceed and that there is not a substantial probability that the defendant may become competent in the foreseeable future, the court shall order the defendant released from commitment to the department, unless the prosecutor informs the court that commitment proceedings pursuant to [~~Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, will be initiated. These commitment proceedings must be initiated within seven days after the day on which the court makes the determination described in Subsection (4)(c), unless the court finds that there is good cause to delay the initiation of the civil commitment proceedings. The court may order the defendant to remain in the commitment of the department until the civil commitment proceedings conclude. If the defendant is civilly committed, the department shall notify the court that adjudicated the defendant incompetent to proceed at least 10 days before any release of the committed individual.

(6) If a court, under Subsection (5)(b), extends a defendant's commitment, the court shall schedule a competency review hearing for the earlier of:

(a) the department's best estimate of when the defendant may be restored to competency; or

(b) three months after the day on which the court determined under Subsection (5)(b) to extend the defendant's commitment.

(7) If a defendant is not competent to proceed by the day of the competency review hearing that

follows the extension of a defendant's commitment, a court shall:

(a) except for a defendant charged with crimes listed in Subsection (8), order a defendant:

(i) released; or

(ii) temporarily detained pending civil commitment proceedings under the same terms as described in Subsection (5)(c); and

(b) terminate the defendant's commitment to the department for restoration treatment.

(8) If the defendant has been charged with aggravated murder, murder, attempted murder, manslaughter, or a first degree felony and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the hearing held pursuant to Subsection (6), the court may extend the commitment for a period not to exceed 9 months for the purpose of restoration treatment, with a mandatory review hearing at the end of the 9-month period.

(9) If at the 9-month review hearing described in Subsection (8), the court determines that the defendant is not competent to proceed, the court shall:

(a) order the defendant, except for a defendant charged with aggravated murder or murder, to be:

(i) released; or

(ii) temporarily detained pending civil commitment proceedings under the same terms as provided in Subsection (5)(c); and

(b) terminate the defendant's commitment to the department for restoration treatment.

(10) If the defendant has been charged with aggravated murder or murder and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the 9-month review hearing described in Subsection (8), the court may extend the commitment for a period not to exceed 24 months for the purpose of restoration treatment.

(11) If the court extends the defendant's commitment term under Subsection (10), the court shall hold a hearing no less frequently than at 12-month intervals following the extension for the purpose of determining the defendant's competency status.

(12) If, at the end of the 24-month commitment period described in Subsection (10), the court determines that the defendant is not competent to proceed, the court shall:

(a) order the defendant to be:

(i) released; or

(ii) temporarily detained pending civil commitment proceedings under the same terms as provided in Subsection (5)(c); and

(b) terminate the defendant's commitment to the department for restoration treatment.

(13) Neither release from a pretrial incompetency commitment under the provisions of this section nor civil commitment requires dismissal of criminal charges. The court may retain jurisdiction over the criminal case and may order periodic reviews.

(14) A defendant who is civilly committed pursuant to [~~Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, may still be adjudicated competent to stand trial under this chapter.

(15) (a) The remedy for a violation of the time periods specified in this section, other than those specified in Subsection (5)(c), (7), (9), or (12), shall be a motion to compel the hearing, or mandamus, but not release from detention or dismissal of the criminal charges.

(b) The remedy for a violation of the time periods specified in Subsection (5)(c), (7), (9), or (12), or is not dismissal of the criminal charges.

(16) In cases in which the treatment of the defendant is precluded by court order for a period of time, that time period may not be considered in computing time limitations under this section.

(17) (a) At any time that the defendant becomes competent to stand trial, the clinical director of the hospital, the department, or the department's designee shall certify that fact to the court.

(b) The court shall conduct a competency review hearing:

(i) within 15 working days after the day on which the court receives the certification described in Subsection (17)(a); or

(ii) within 30 working days after the day on which the court receives the certification described in Subsection (17)(a), if the court determines that more than 15 days are necessary for good cause related to the defendant's competency.

(18) The court may order a hearing or rehearing at any time on its own motion or upon recommendations of the clinical director of the hospital or other facility or the department.

(19) Notice of a hearing on competency to stand trial shall be given to the prosecuting attorney. If the hearing is held in the county where the defendant is confined, notice shall also be given to the prosecuting attorney for that county.

Section 66. Section 77-15a-104 is amended to read:

77-15a-104. Hearing -- Notice -- Stay of proceeding -- Examinations of defendant -- Scope of examination -- Report -- Procedures.

(1) (a) If a defendant proposes to offer evidence concerning or argue that he qualifies for an

exemption from the death penalty under Subsection 77-15a-101(1) or (2), the defendant shall file and serve the prosecuting attorney with written notice of his intention as soon as practicable, but not fewer than 60 days before trial.

(b) If the defendant wishes to claim the exemption provided in Subsection 77-15a-101(2), the defendant shall file and serve the prosecuting attorney with written notice of his intention as soon as practicable, but not fewer than 60 days before trial.

(2) When notice is given under Subsection (1), the court raises the issue, or a motion is filed regarding Section 77-15a-101, the court may stay all proceedings in order to address the issue.

(3) (a) The court shall order the Department of [~~Human Services~~] Health and Human Services to appoint at least two mental health experts to examine the defendant and report to the court. The experts:

(i) may not be involved in the current treatment of the defendant; and

(ii) shall have expertise in intellectual disability assessment.

(b) Upon appointment of the experts, the defendant or other party as directed by the court shall provide information and materials to the examiners relevant to a determination of the defendant's intellectual disability, including copies of the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) The court may make the necessary orders to provide the information listed in Subsection (3)(b) to the examiners.

(d) The court may provide in its order appointing the examiners that custodians of mental health records pertaining to the defendant shall provide those records to the examiners without the need for consent of the defendant or further order of the court.

(e) Prior to examining the defendant, examiners shall specifically advise the defendant of the limits of confidentiality as provided under Section 77-15a-106.

(4) During any examinations under Subsection (3), unless the court directs otherwise, the defendant shall be retained in the same custody or status he was in at the time the examination was ordered.

(5) The experts shall in the conduct of their examinations and in their reports to the court consider and address:

(a) whether the defendant is intellectually disabled as defined in Section 77-15a-102;

(b) the degree of any intellectual disability the expert finds to exist;

(c) whether the defendant is intellectually disabled as specified in Subsection 77-15a-101(2); and

(d) the degree of any intellectual disability the expert finds to exist.

(6) (a) The experts examining the defendant shall provide written reports to the court, the prosecution, and the defense within 60 days of the receipt of the court's order, unless the expert submits to the court a written request for additional time in accordance with Subsection (6)(c).

(b) The reports shall provide to the court and to prosecution and defense counsel the examiners' written opinions concerning the intellectual disability of the defendant.

(c) If an examiner requests of the court additional time, the examiner shall provide the report to the court and counsel within 90 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the examination and provide the report.

(7) Any written report submitted by an expert shall:

(a) identify the specific matters referred for evaluation;

(b) describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each;

(c) state the expert's clinical observations, findings, and opinions; and

(d) identify the sources of information used by the expert and present the basis for the expert's clinical findings and opinions.

(8) Within 30 days after receipt of the report from the Department of [~~Human Services~~] Health and Human Services, but not later than five days before hearing, or at any other time the court directs, the prosecuting attorney shall file and serve upon the defendant a notice of witnesses the prosecuting attorney proposes to call in rebuttal.

(9) (a) Except pursuant to Section 77-15a-105, this chapter does not prevent any party from producing any other testimony as to the mental condition of the defendant.

(b) Expert witnesses who are not appointed by the court are not entitled to compensation under Subsection (10).

(10) (a) Expenses of examinations of the defendant ordered by the court under this section shall be paid by the Department of [~~Human Services~~] Health and Human Services.

(b) Travel expenses associated with any court-ordered examination that are incurred by the defendant shall be charged by the Department of [~~Human Services~~] Health and Human Services to the county where prosecution is commenced.

(11) (a) When the report is received, the court shall set a date for a hearing to determine if the exemption under Section 77-15a-101 applies. The

hearing shall be held and the judge shall make the determination within a reasonable time prior to jury selection.

(b) Prosecution and defense counsel may subpoena to testify at the hearing any person or organization appointed by the Department of [~~Human Services~~] Health and Human Services to conduct the examination and any independent examiner.

(c) The court may call any examiner to testify at the hearing who is not called by the parties. If the court calls an examiner, counsel for the parties may cross-examine that examiner.

(12) (a) A defendant is presumed not to be intellectually disabled unless the court, by a preponderance of the evidence, finds the defendant to be intellectually disabled. The burden of proof is upon the proponent of intellectual disability at the hearing.

(b) A finding of intellectual disability does not operate as an adjudication of intellectual disability for any purpose other than exempting the person from a sentence of death in the case before the court.

(13) (a) The defendant is presumed not to possess the mental deficiencies listed in Subsection 77-15a-101(2) unless the court, by a preponderance of the evidence, finds that the defendant has significant subaverage general intellectual functioning that exists concurrently with significant deficiencies in adaptive functioning and that this functioning was manifested prior to age 22. The burden of proof is upon the proponent of that proposition.

(b) If the court finds by a preponderance of the evidence that the defendant has significant subaverage general intellectual functioning that exists concurrently with significant deficiencies in adaptive functioning and that this functioning was manifested prior to age 22, then the burden is upon the state to establish that any confession by the defendant which the state intends to introduce into evidence is supported by substantial evidence independent of the confession.

(14) (a) If the court finds the defendant intellectually disabled, it shall issue an order:

(i) containing findings of fact and conclusions of law, and addressing each of the factors in Subsections (5)(a) and (b); and

(ii) stating that the death penalty is not a sentencing option in the case before the court.

(b) If the court finds by a preponderance of the evidence that the defendant possesses the mental deficiencies listed in Subsection 77-15a-101(2) and that the state fails to establish that any confession is supported by substantial evidence independent of the confession, the state may proceed with its case and:

(i) introduce the confession into evidence, and the death penalty will not be a sentencing option in the case; or

(ii) not introduce into evidence any confession or the fruits of a confession that the court has found is not supported by substantial evidence independent of the confession, and the death penalty will be a sentencing option in the case.

(c) (i) A finding by the court regarding whether the defendant qualifies for an exemption under Section 77-15a-101 is a final determination of that issue for purposes of this chapter.

(ii) The following questions may not be submitted to the jury by instruction, special verdict, argument, or other means:

(A) whether the defendant is intellectually disabled for purposes of this chapter; and

(B) whether the defendant possesses the mental deficiencies specified in Subsection 77-15a-101(2).

(iii) This chapter does not prevent the defendant from submitting evidence of intellectual disability or other mental deficiency to establish a mental condition as a mitigating circumstance under Section 76-3-207.

(15) A ruling by the court that the defendant is exempt from the death penalty may be appealed by the state pursuant to Section 77-18a-1.

(16) Failure to comply with this section does not result in the dismissal of criminal charges.

Section 67. Section 77-15a-105 is amended to read:

77-15a-105. Defendant's wilful failure to cooperate -- Expert testimony regarding intellectual disability is barred.

(1) If the defendant files notice, raises the issue, or intends to present evidence or make an argument that the defendant is exempt from the death penalty under this chapter, the defendant shall make himself available and fully cooperate in any examination by mental health experts appointed by the Department of [~~Human Services~~] Health and Human Services and any other independent examiners for the defense or the prosecution.

(2) If the defendant wilfully fails to make himself available and fully cooperate in the examination, and that failure is established to the satisfaction of the court, the defendant is barred from presenting expert testimony relating to any exemption from the death penalty under this chapter.

Section 68. Section 77-16a-101 is amended to read:

77-16a-101. Definitions.

As used in this chapter:

(1) "Board" means the Board of Pardons and Parole established under Section 77-27-2.

(2) "Department" means the Department of [~~Human Services~~] Health and Human Services.

(3) "Executive director" means the executive director of the Department of [~~Human Services~~] Health and Human Services.

(4) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, or organization that contracts with a local mental health authority.

(5) "Mental illness" is as defined in Section 76-2-305.

(6) "Offender with a mental illness" means an individual who has been adjudicated guilty with a mental illness, including an individual who has an intellectual disability.

(7) "UDC" means the Department of Corrections.

Section 69. Section 77-16a-202 is amended to read:

77-16a-202. Person found guilty with a mental illness -- Commitment to department -- Admission to Utah State Hospital.

(1) In sentencing and committing an offender with a mental illness to the department under Subsection 77-16a-104(3)(a), the court shall:

(a) sentence the offender to a term of imprisonment and order that he be committed to the department and admitted to the Utah State Hospital for care and treatment until transferred to UDC in accordance with Sections 77-16a-203 and 77-16a-204, making provision for readmission to the Utah State Hospital whenever the requirements and conditions of Section 77-16a-204 are met; or

(b) sentence the offender to a term of imprisonment and order that the offender be committed to the department for care and treatment for no more than 18 months, or until the offender's condition has been stabilized to the point that commitment to the department and admission to the Utah State Hospital is no longer necessary to ensure adequate mental health treatment, whichever occurs first. At the expiration of that time, the court may recall the sentence and commitment, and resentence the offender. A commitment and retention of jurisdiction under this Subsection (1)(b) shall be specified in the sentencing order. If that specification is not included in the sentencing order, the offender shall be committed in accordance with Subsection (1)(a).

(2) The court may not retain jurisdiction, under Subsection (1)(b), over the sentence of an offender with a mental illness who has been convicted of a capital felony. In capital cases, the court shall make the findings required by this section after the capital sentencing proceeding mandated by Section 76-3-207.

(3) When an offender is committed to the department and admitted to the Utah State Hospital under Subsection (1)(b), the department shall provide the court with reports of the offender's mental health status every six months. Those reports shall be prepared in accordance with the requirements of Section 77-16a-203. Additionally, the court may appoint an independent examiner to assess the mental health status of the offender.

(4) The period of commitment to the department and admission to the Utah State Hospital, and any subsequent retransfers to the Utah State Hospital made pursuant to Section 77-16a-204 may not exceed the maximum sentence imposed by the court. Upon expiration of that sentence, the administrator of the facility where the offender is located may initiate civil proceedings for involuntary commitment in accordance with [~~Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

Section 70. Section 77-16a-203 is amended to read:

77-16a-203. Review of offenders with a mental illness committed to department -- Recommendations for transfer to Department of Corrections.

(1) (a) The executive director shall designate a review team of at least three qualified staff members, including at least one licensed psychiatrist, to evaluate the mental condition of each offender with a mental illness committed to it in accordance with Section 77-16a-202, at least once every six months.

(b) If the offender has an intellectual disability, the review team shall include at least one individual who is a designated intellectual disability professional, as defined in Section [~~62A-5-101~~] 26B-6-401.

(2) At the conclusion of its evaluation, the review team described in Subsection (1) shall make a report to the executive director:

(a) regarding the offender's:

(i) current mental condition;

(ii) progress since commitment; and

(iii) prognosis; and

(b) that includes a recommendation regarding whether the offender with a mental illness should be:

(i) transferred to UDC; or

(ii) remain in the custody of the department.

(3) (a) The executive director shall notify the UDC medical administrator and the board's mental health adviser that an offender with a mental illness is eligible for transfer to UDC if the review team finds that the offender:

(i) no longer has a mental illness; or

(ii) has a mental illness and may continue to be a danger to self or others, but can be controlled if adequate care, medication, and treatment are provided by UDC; and

(iii) the offender's condition has been stabilized to the point that commitment to the department and admission to the Utah State Hospital are no longer necessary to ensure adequate mental health treatment.

(b) The administrator of the mental health facility where the offender is located shall provide the UDC medical administrator with a copy of the reviewing staff's recommendation and:

(i) all available clinical facts;

(ii) the diagnosis;

(iii) the course of treatment received at the mental health facility;

(iv) the prognosis for remission of symptoms;

(v) the potential for recidivism;

(vi) an estimation of the offender's dangerousness, either to self or others; and

(vii) recommendations for future treatment.

Section 71. Section 77-16a-204 is amended to read:

77-16a-204. UDC acceptance of transfer of persons found guilty with a mental illness -- Retransfer from UDC to department for admission to the Utah State Hospital.

(1) The UDC medical administrator shall designate a transfer team of at least three qualified staff members, including at least one licensed psychiatrist, to evaluate the recommendation made by the department's review team pursuant to Section 77-16a-203. If the offender has an intellectual disability, the transfer team shall include at least one person who has expertise in testing and diagnosis of people with intellectual disabilities.

(2) The transfer team shall concur in the recommendation if the transfer team determines that UDC can provide the offender with a mental illness with adequate mental health treatment.

(3) The UDC transfer team and medical administrator shall recommend the facility in which the offender should be placed and the treatment to be provided in order for the offender's mental condition to remain stabilized to the director of the Division of Institutional Operations, within the Department of Corrections.

(4) In the event that the department and UDC do not agree on the transfer of an offender with a mental illness, the administrator of the mental health facility where the offender is located shall notify the mental health adviser for the board, in writing, of the dispute. The mental health adviser shall be provided with copies of all reports and recommendations. The board's mental health adviser shall make a recommendation to the board on the transfer and the board shall issue its decision within 30 days.

(5) UDC shall notify the board whenever an offender with a mental illness is transferred from the department to UDC.

(6) When an offender with a mental illness sentenced under Section 77-16a-202, who has been transferred from the department to UDC, and accepted by UDC, is evaluated and it is determined that the offender's mental condition has deteriorated or that the offender has become mentally unstable, the offender may be readmitted to the Utah State Hospital in accordance with the findings and procedures described in Section [~~62A-15-605.5~~] 26B-5-372.

(7) Any person readmitted to the Utah State Hospital pursuant to Subsection (6) shall remain in the custody of UDC, and the state hospital shall act solely as the agent of UDC.

(8) An offender with a mental illness who has been readmitted to the Utah State Hospital pursuant to Subsection (6) shall be transferred back to UDC in accordance with the provisions of Section 77-16a-203.

Section 72. Section 77-16a-302 is amended to read:

77-16a-302. Persons found not guilty by reason of insanity -- Disposition.

(1) Upon a verdict of not guilty by reason of insanity, the court shall conduct a hearing within 10 days to determine whether the defendant currently has a mental illness. The defense counsel and prosecutors may request further evaluations and present testimony from those examiners.

(2) After the hearing and upon consideration of the record, the court shall order the defendant committed to the department if it finds by clear and convincing evidence that:

(a) the defendant has a mental illness; and

(b) because of that mental illness the defendant presents a substantial danger to self or others.

(3) The period of commitment described in Subsection (2) may not exceed the period for which the defendant could be incarcerated had the defendant been convicted and received the maximum sentence for the crime of which the defendant was accused. At the time that period expires, involuntary civil commitment proceedings may be instituted in accordance with [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health.

Section 73. Section 77-18-102 is amended to read:

77-18-102. Definitions.

As used in this chapter:

(1) "Assessment" means, except as provided in Section 77-18-104, the same as the term "risk and needs assessment" in Section 77-1-3.

(2) "Board" means the Board of Pardons and Parole.

(3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(5) "Convicted" means the same as that term is defined in Section 76-3-201.

(6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(7) "Default" means the same as that term is defined in Section 77-32b-102.

(8) "Delinquent" means the same as that term is defined in Section 77-32b-102.

(9) "Department" means the Department of Corrections created in Section 64-13-2.

(10) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

(11) "Restitution" means the same as that term is defined in Section 77-38b-102.

(12) "Screening" means, except as provided in Section 77-18-104, a tool or questionnaire that is designed to determine whether an individual needs further assessment or any additional resource or referral for treatment.

(13) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of Licensing within the Department of [~~Human Services~~] Health and Human Services.

Section 74. Section 77-18-106 is amended to read:

77-18-106. Treatment at the Utah State Hospital -- Condition of probation or stay of sentence.

The court may order as a condition of probation, or a stay of sentence, that the defendant be voluntarily admitted to the custody of the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health for treatment at the Utah State Hospital only if the superintendent of the Utah State Hospital, or the superintendent's designee, certifies to the court that:

(1) the defendant is appropriate for, and can benefit from, treatment at the Utah State Hospital;

(2) there is space at the Utah State Hospital for treatment of the defendant; and

(3) individuals described in Subsection [~~62A-15-610(2)(g)~~] 26B-5-306(2)(g) are receiving priority for treatment over the defendant.

Section 75. Section 77-19-204 is amended to read:

77-19-204. Order for hearing -- Examinations of inmate -- Scope of examination and report.

(1) When a court has good reason to believe an inmate sentenced to death is incompetent to be executed, it shall stay the execution and shall order the Department of [~~Human Services~~] Health and Human Services to examine the inmate and report to the court concerning the inmate's mental condition.

(2) (a) The inmate subject to examination under Subsection (1) shall be examined by at least two mental health experts who are not involved in the inmate's current treatment.

(b) The Department of Corrections shall provide information and materials to the examiners relevant to a determination of the inmate's competency to be executed.

(3) The inmate shall make himself available and fully cooperate in the examination by the Department of [~~Human Services~~] Health and Human Services and any other independent examiners for the defense or the state.

(4) The examiners shall in the conduct of their examinations and in their reports to the court consider and address, in addition to any other factors determined to be relevant by the examiners:

(a) the inmate's awareness of the fact of the inmate's impending execution;

(b) the inmate's understanding that the inmate is to be executed for the crime of murder;

(c) the nature of the inmate's mental disorder, if any, and its relationship to the factors relevant to the inmate's competency; and

(d) whether psychoactive medication is necessary to maintain or restore the inmate's competency.

(5) The examiners who are examining the inmate shall each provide an initial report to the court and the attorneys for the state and the inmate within 60 days of the receipt of the court's order. The report shall inform the court of the examiner's opinion concerning the competency of the inmate to be executed, or, in the alternative, the examiner may inform the court in writing that additional time is needed to complete the report. If the examiner informs the court that additional time is needed, the examiner shall have up to an additional 30 days to provide the report to the court and counsel. The examiner shall provide the report within 90 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the examination and provide the report.

(6) (a) All interviews with the inmate conducted by the examiners shall be videotaped, unless otherwise ordered by the court for good cause shown. The Department of Corrections shall provide the videotaping equipment and facilitate the videotaping of the interviews.

(b) Immediately following the videotaping, the videotape shall be provided to the attorney for the state, who shall deliver it as soon as practicable to the judge in whose court the competency determination is pending.

(c) The court shall grant counsel for the state and for the inmate, and examiners who are examining the inmate under this part access to view the videotape at the court building where the court is located that is conducting the competency determination under this part.

(7) Any written report submitted by an examiner shall:

(a) identify the specific matters referred for evaluation;

(b) describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each;

(c) state the examiner's clinical observations, findings, and opinions on each issue referred for examination by the court, and indicate specifically those issues, if any, on which the examiner could not give an opinion; and

(d) identify the sources of information used by the examiner and present the basis for the examiner's clinical findings and opinions.

(8) (a) When the reports are received, the court shall set a date for a competency hearing, which shall be held within not less than five and not more than 15 days, unless the court extends the time for good cause.

(b) Any examiner directed by the Department of [~~Human Services~~] Health and Human Services to conduct the examination may be subpoenaed to provide testimony at the hearing. If the examiners are in conflict as to the competency of the inmate, all of them should be called to testify at the hearing if they are reasonably available.

(c) The court may call any examiner to testify at the hearing who is not called by the parties. An examiner called by the court may be cross-examined by counsel for the parties.

(9) (a) An inmate shall be presumed competent to be executed unless the court, by a preponderance of the evidence, finds the inmate incompetent to be executed. The burden of proof is upon the proponent of incompetency at the hearing.

(b) An adjudication of incompetency to be executed does not operate as an adjudication of the inmate's incompetency to give informed consent for medical treatment or for any other purpose, unless specifically set forth in the court order.

(10) (a) If the court finds the inmate incompetent to be executed, its order shall contain findings addressing each of the factors in Subsections (4)(a) through (d).

(b) The order finding the inmate incompetent to be executed shall be delivered to the Department of [~~Human Services~~] Health and Human Services, and shall be accompanied by:

(i) copies of the reports of the examiners filed with the court pursuant to the order of examination, if not provided previously;

(ii) copies of any of the psychiatric, psychological, or social work reports submitted to the court relative to the mental condition of the inmate; and

(iii) any other documents made available to the court by either the defense or the state, pertaining to the inmate's current or past mental condition.

(c) A copy of the order finding the inmate incompetent to be executed shall be delivered to the Department of Corrections.

Section 76. Section 77-19-205 is amended to read:

77-19-205. Procedures on finding of incompetency to be executed -- Subsequent hearings -- Notice to attorneys.

(1) (a) (i) If after the hearing under Section 77-19-204 the inmate is found to be incompetent to be executed, the court shall continue the stay of execution and the inmate shall receive appropriate mental health treatment.

(ii) Appropriate mental health treatment under Subsection (1)(a)(i) does not include the forcible administration of psychoactive medication for the sole purpose of restoring the inmate's competency to be executed.

(b) The court shall order the executive director of the Department of [~~Human Services~~] Health and Human Services to provide periodic assessments to the court regarding the inmate's competency to be executed.

(c) The inmate shall be held in secure confinement, either at the prison or the State Hospital, as agreed upon by the executive director of the Department of Corrections and the executive director of the Department of [~~Human Services~~] Health and Human Services. If the inmate remains at the prison, the Department of [~~Human Services~~] Health and Human Services shall consult with the Department of Corrections regarding the inmate's mental health treatment.

(2) (a) The examiner or examiners designated by the executive director of the Department of [~~Human Services~~] Health and Human Services to assess the inmate's progress toward competency may not be involved in the routine treatment of the inmate.

(b) The examiner or examiners shall each provide a full report to the court and counsel for the state and the inmate within 90 days of receipt of the court's order. If any examiner is unable to complete the assessment within 90 days, that examiner shall provide to the court and counsel for the state and the inmate a summary progress report which informs the court that additional time is necessary to complete the assessment, in which case the examiner has up to an additional 90 days to provide the full report, unless the court enlarges the time for good cause. The full report shall assess:

(i) the facility's or program's capacity to provide appropriate treatment for the inmate;

(ii) the nature of treatments provided to the inmate;

(iii) what progress toward restoration of competency has been made;

(iv) the inmate's current level of mental disorder and need for treatment, if any; and

(v) the likelihood of restoration of competency and the amount of time estimated to achieve it.

(3) The court on its own motion or upon motion by either party may order the Department of [~~Human Services~~] Health and Human Services to appoint

additional mental health examiners to examine the inmate and advise the court on the inmate's current mental status and progress toward competency restoration.

(4) (a) Upon receipt of the full report, the court shall hold a hearing to determine the inmate's current status. At the hearing, the burden of proving that the inmate is competent is on the proponent of competency.

(b) Following the hearing, the court shall determine by a preponderance of evidence whether the inmate is competent to be executed.

(5) (a) If the court determines that the inmate is competent to be executed, it shall enter findings and shall proceed under Subsection 77-19-202(2)(c).

(b) (i) If the court determines the inmate is still incompetent to be executed, the inmate shall continue to receive appropriate mental health treatment, and the court shall hold hearings no less frequently than at 18-month intervals for the purpose of determining the defendant's competency to be executed.

(ii) Continued appropriate mental health treatment under Subsection (1)(a)(i) does not include the forcible administration of psychoactive medication for the sole purpose of restoring the inmate's competency to be executed.

(6) (a) If at any time the clinical director of the Utah State Hospital or the primary treating mental health professional determines that the inmate has been restored to competency, he shall notify the court.

(b) The court shall conduct a hearing regarding the inmate's competency to be executed within 30 working days of the receipt of the notification under Subsection (6)(a), unless the court extends the time for good cause. The court may order a hearing or rehearing at any time on its own motion.

(7) Notice of a hearing on competency to be executed shall be given to counsel for the state and for the inmate, as well as to the office of the prosecutor who prosecuted the inmate on the original capital charge.

Section 77. Section 77-19-206 is amended to read:

77-19-206. Expenses -- Allocation.

The Department of [~~Human Services~~] Health and Human Services and the Department of Corrections shall each pay 1/2 of the costs of any examination of the inmate conducted pursuant to Sections 77-19-204 and 77-19-205 to determine if an inmate is competent to be executed.

Section 78. Section 77-23-213 is amended to read:

77-23-213. Blood testing.

(1) As used in this section:

(a) "Law enforcement purpose" means duties that consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of this state's political subdivisions.

(b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classifications.

(2) A peace officer may require an individual to submit to a blood test for a law enforcement purpose only if:

(a) the individual or legal representative of the individual with authority to give consent gives oral or written consent to the blood test;

(b) the peace officer obtains a warrant to administer the blood test; or

(c) a judicially recognized exception to obtaining a warrant exists as established by the Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the Supreme Court of the United States.

(3) (a) Only the following, acting at the request of a peace officer, may draw blood to determine the blood's alcohol or drug content:

(i) a physician;

(ii) a physician assistant;

(iii) a registered nurse;

(iv) a licensed practical nurse;

(v) a paramedic;

(vi) as provided in Subsection (3)(b), emergency medical service personnel other than a paramedic; or

(vii) a person with a valid permit issued by the Department of [~~Health~~] Health and Human Services under Section [~~26-1-30~~] 26B-1-202.

(b) The Department of [~~Health~~] Health and Human Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section [~~26-8a-102~~] 26B-4-101, are authorized to draw blood under Subsection (3)(a)(vi), based on the type of license under Section [~~26-8a-302~~] 26B-4-116.

(c) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer requests, for law enforcement purposes, if the sample is drawn in accordance with standard medical practice:

(i) a person authorized to draw blood under Subsection (3)(a); and

(ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

Section 79. Section 77-32b-103 is amended to read:

77-32b-103. Establishment of a criminal accounts receivable -- Responsibility -- Payment schedule -- Delinquency or default.

(1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or acceptance of a plea

in abeyance, the court shall enter an order to establish a criminal accounts receivable for the defendant.

(b) The court is not required to create a criminal accounts receivable for the defendant under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there are no other fines or fees to be assessed against the defendant.

(c) Subject to Subsection 77-38b-205(5), if the court does not create a criminal accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to establish a criminal accounts receivable for the defendant at the time the court enters an order for restitution under Section 77-38b-205.

(2) After establishing a criminal accounts receivable for a defendant, the court shall:

(a) if a prison sentence is imposed and not suspended for the defendant:

(i) accept any payment for the criminal accounts receivable that is tendered on the date of sentencing; and

(ii) transfer the responsibility of receiving, distributing, and processing payments for the criminal accounts receivable to the Office of State Debt Collection; and

(b) for all other cases:

(i) retain the responsibility for receiving, processing, and distributing payments for the criminal accounts receivable until the court enters a civil accounts receivable or civil judgment of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) record each payment by the defendant on the case docket.

(c) For a criminal accounts receivable that a court retains responsibility for receiving, processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may establish rules to require a defendant to pay the cost, or a portion of the cost, for an electronic payment fee that is charged by a financial institution for the use of a credit or debit card to make payments towards the criminal accounts receivable.

(3) (a) Upon entering an order for a criminal accounts receivable, the court shall establish a payment schedule for the defendant to make payments towards the criminal accounts receivable.

(b) In establishing the payment schedule for the defendant, the court shall consider:

(i) the needs of the victim if the criminal accounts receivable includes an order for restitution under Section 77-38b-205;

(ii) the financial resources of the defendant, as disclosed in the financial declaration under Section 77-38b-204 or in evidence obtained by subpoena under Subsection 77-38b-402(1)(b);

(iii) the burden that the payment schedule will impose on the defendant regarding the other reasonable obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and method of payment; and

(vi) any other circumstance that the court determines is relevant.

(4) A payment schedule for a criminal accounts receivable does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

(5) If the court orders restitution under Section 77-38b-205, or makes another financial decision, after sentencing that increases the total amount owed in a defendant's case, the defendant's criminal accounts receivable balance shall be adjusted to include any new amount ordered by the court.

(6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as defined in Section 64-13-1, or the defendant is involuntarily committed under Section [~~62A-15-631~~] 26B-5-332:

(i) all payments for a payment schedule shall be suspended for the period of time that the defendant is incarcerated or involuntarily committed, unless the court, or the board if the defendant is under the jurisdiction of the board, expressly orders the defendant to make payments according to the payment schedule; and

(ii) the defendant shall provide the court with notice of the incarceration or involuntary commitment.

(b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day in which the defendant is released from incarceration or commitment.

Section 80. Section 77-40a-305 is amended to read:

77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.

(1) (a) The petitioner shall file a petition for expungement, in accordance with the Utah Rules of Criminal Procedure, that includes the identification number for the certificate of eligibility described in Subsection 77-40a-304(1)(d)(ii).

(b) Information on a certificate of eligibility is incorporated into a petition by reference to the identification number for the certificate of eligibility.

(2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall obtain a certificate of eligibility from the bureau.

(b) A court may not accept a petition for expungement if the certificate of eligibility is no

longer valid as described in Subsection 77-40a-304(1)(d)(i).

(3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a traffic conviction without obtaining a certificate of eligibility if:

(a) (i) for a class C misdemeanor or infraction, at least three years have elapsed from the day on which the petitioner was convicted; or

(ii) for a class B misdemeanor, at least four years have elapsed from the day on which the petitioner was convicted; and

(b) all convictions in the case for the traffic conviction are for traffic offenses.

(4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a record for a conviction related to cannabis possession without a certificate of eligibility if the petition demonstrates that:

(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section [~~26-61a-102~~] 26B-4-201; and

(b) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (4)(a).

(5) (a) The court shall provide notice of a filing of a petition and certificate of eligibility to the prosecutorial office that handled the court proceedings within three days after the day on which the petitioner's filing fee is paid or waived.

(b) If there were no court proceedings, the court shall provide notice of a filing of a petition and certificate of eligibility to the county attorney's office in the jurisdiction where the arrest occurred.

(c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where the arrest occurred shall immediately notify the city attorney's office that the county attorney's office has received a notice of a filing of a petition for expungement.

(6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall make a reasonable effort to provide notice to any victim of the conviction or charge.

(b) The notice under Subsection (6)(a) shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(7) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 35 days after the day on which the notice of the filing of the petition is sent by the court to the prosecuting attorney.

(8) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(9) The petitioner may respond in writing to any objections filed by the prosecuting attorney or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after the day on which the objection or response is received.

(10) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(b) The prosecuting attorney shall notify the victim of the date set for the hearing.

(c) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(d) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(11) If no objection is received within 60 days from the day on which the petition for expungement is filed with the court, the expungement may be granted without a hearing.

Section 81. Section 77-40a-306 is amended to read:

77-40a-306. Order of expungement.

(1) If a petition is filed in accordance with Section 77-40a-305, the court shall issue an order of expungement if the court finds, by clear and convincing evidence, that:

(a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecuting attorney provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section [~~26-61a-102~~] 26B-4-201; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (1)(d)(i);

(e) if an objection is received, the petition for expungement is for a charge dismissed in accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used for enhancement, there is good cause for the court to grant the expungement; and

(f) the interests of the public would not be harmed by granting the expungement.

(2) (a) If the court denies a petition described in Subsection (1)(c) because the prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of eligibility if charges are not refiled within 180 days after the day on which the court denies the petition.

(b) A prosecuting attorney who opposes an expungement of a case dismissed without prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecuting attorney is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (1)(c).

(3) If the court grants a petition described in Subsection (1)(e), the court shall make the court's findings in a written order.

(4) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be, or should not have been, issued under Section 77-40a-302 or 77-40a-303.

Section 82. Section 78A-2-231 is amended to read:

78A-2-231. Consideration of lawful use or possession of medical cannabis.

(1) As used in this section:

(a) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(b) "Directions of use" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(c) "Dosing guidelines" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(d) "Medical cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(e) "Medical cannabis card" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(f) "Medical cannabis device" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(g) "Recommending medical provider" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection [~~26-61a-502~~] 26B-4-230(4) or (5).

(3) Notwithstanding Sections 77-18-105 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(b) Subsection 58-37-3.7(2) or (3).

Section 83. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is $375.

(b) The fee for filing a complaint or petition is:

(i) $90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $375 if the claim for damages or amount in interpleader is $10,000 or more;

(iv) $325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) $35 for a motion for temporary separation order filed under Section 30-3-4.5;

(vi) $125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112; and

(vii) $35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) $60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) $55 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $170 if the original petition is filed under Subsection (1)(a), the claim for relief is $10,000 or more, or the party seeks relief other than monetary damages; and

(iv) $130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $120 if the claim for relief exclusive of court costs, interest, and attorney fees is $7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) $240 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) $80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is $240.

(i) The fee for filing a petition for expungement is $150.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited into the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is $35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is $35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the State Tax Commission is $30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the State Tax Commission, is $50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is $35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is $35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is $100.

(r) The fee for filing any accounting required by law is:

(i) $15 for an estate valued at $50,000 or less;

(ii) $30 for an estate valued at $75,000 or less but more than $50,000;

(iii) $50 for an estate valued at $112,000 or less but more than $75,000;

(iv) $90 for an estate valued at $168,000 or less but more than $112,000; and

(v) $175 for an estate valued at more than $168,000.

(s) The fee for filing a demand for a civil jury is $250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is $35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is $35.

(v) The fee for a petition to open a sealed record is $35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is $5.

(ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7, Emancipation, is $50.

(y) The fee for a certificate issued under Section [~~26-2-25~~] 26B-8-128 is $8.

(z) The fee for a certified copy of a document is $4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

(bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of expenditures.

(cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of the public to conduct a limited amount of searches on the Xchange database without having to pay a monthly subscription fee.

(dd) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(ee) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ff) The filing fees under this section may not be charged to the state, the state's agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to $3,750,000 of the revenue deposited into the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited into the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the

receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the state court administrator or a municipality shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the state court administrator for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

(4) (a) The requirement of a fee for filing a petition for expungement under Subsection (1)(i) is suspended from May 4, 2022, to June 30, 2023.

(b) An individual may not be charged a fee for filing a petition for expungement during the time period described in Subsection (4)(a).

Section 84. Section 78A-5-201 is amended to read:

78A-5-201. Creation and expansion of existing drug court programs -- Definition of drug court program -- Criteria for participation in drug court programs -- Reporting requirements.

(1) There may be created a drug court program in any judicial district that demonstrates:

(a) the need for a drug court program; and

(b) the existence of a collaborative strategy between the court, prosecutors, defense counsel, corrections, and substance abuse treatment services to reduce substance abuse by offenders.

(2) The collaborative strategy in each drug court program shall:

(a) include monitoring and evaluation components to measure program effectiveness; and

(b) be submitted to, for the purpose of coordinating the disbursement of funding, the:

(i) executive director of the Department of [~~Human Services~~] Health and Human Services;

(ii) executive director of the Department of Corrections; and

(iii) state court administrator.

(3) (a) Funds disbursed to a drug court program shall be allocated as follows:

(i) 87% to the Department of [~~Human Services~~] Health and Human Services for testing, treatment, and case management; and

(ii) 13% to the Administrative Office of the Courts for increased judicial and court support costs.

(b) This provision does not apply to federal block grant funds.

(4) A drug court program shall include continuous judicial supervision using a cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment services, juvenile court probation, and the Division of Child and Family Services as appropriate to promote public safety, protect participants' due process rights, and integrate substance abuse treatment with justice system case processing.

(5) Screening criteria for participation in a drug court program shall include:

(a) a plea to, conviction of, or adjudication for a nonviolent drug offense or drug-related offense;

(b) an agreement to frequent alcohol and other drug testing;

(c) participation in one or more substance abuse treatment programs; and

(d) an agreement to submit to sanctions for noncompliance with drug court program requirements.

(6) (a) The Judicial Council shall develop rules prescribing eligibility requirements for participation in adult criminal drug courts.

(b) Acceptance of an offender into a drug court shall be based on a risk and needs assessment, without regard to the nature of the offense.

(c) A plea to, conviction of, or adjudication for a felony offense is not required for participation in a drug court program.

Section 85. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

(2) The juvenile court has original jurisdiction over any proceeding concerning:

(a) a child who is an abused child, neglected child, or dependent child;

(b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(c) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(e) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(f) the treatment or commitment of a minor who has an intellectual disability;

(g) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(h) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(i) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(j) the treatment or commitment of a child with a mental illness;

(k) the commitment of a child to a secure drug or alcohol facility in accordance with Section [~~62A-15-301~~] 26B-5-204;

(l) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(m) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(n) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(o) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(i) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(ii) has run away from home; and

(p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court.

(3) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection (2)(p).

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or

without merit, in accordance with Section 80-3-404.

(7) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 86. Section 78A-6-208 is amended to read:

78A-6-208. Mental health evaluations -- Duty of administrator.

(1) The chief administrative officer of the juvenile court, with the approval of the board, and the executive director of the Department of [~~Health~~] Health and Human Services, and director of the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health shall from time to time agree upon an appropriate plan:

(a) for obtaining mental health services and health services for the juvenile court from the state and local health departments and programs of mental health; and

(b) for assistance by the Department of [~~Health~~] Health and Human Services or the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health in securing for the juvenile court special health, mental health, juvenile competency evaluations, and related services including community mental health services not already available from the Department of [~~Health~~] Health and Human Services and the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health.

(2) The Legislature may provide an appropriation to the Department of [~~Health~~] Health and Human Services and the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health for the services under Subsection (1).

Section 87. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and administrative hearings in accordance with Section 80-2-707;

(e) the [~~Office of Licensing~~] Division of Licensing and Background Checks for the purpose of conducting a background check in accordance with Section [~~62A-2-120~~] 26B-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of [~~Health~~] Health and Human Services for the purpose of evaluating under the provisions of Subsection [~~26-39-404(3)~~] 26B-2-406(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of [~~Health's~~] Health and Human Services' inspection of records before the Department of [~~Health~~] Health and Human Services makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of [~~Health~~] Health and Human Services to determine whether an individual meets the background screening requirements of [~~Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access~~] Sections 26B-2-238 through 26B-2-241, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of [~~Health's~~] Health and Human Services' inspection of records before the Department of [~~Health~~] Health and Human Services makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of [~~Health~~] Health and Human Services to determine whether to grant, deny, or revoke background clearance under Section [~~26-8a-310~~] 26B-4-124 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section [~~26-8a-302~~] 26B-4-116, with the understanding that the Department of [~~Health~~] Health and Human Services must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of [~~Health's~~] Health and Human Services' inspection

of records before the Department of [~~Health~~] Health and Human Services makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) If a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 88. Section 78A-6-356 is amended to read:

78A-6-356. Child support obligation when custody of a child is vested in an individual or institution.

(1) As used in this section:

(a) "Office" means the Office of Recovery Services.

(b) "State custody" means that a child is in the custody of a state department, division, or agency, including secure care.

(2) Under this section, a juvenile court may not issue a child support order against an individual unless:

(a) the individual is served with notice that specifies the date and time of a hearing to determine the financial support of a specified child;

(b) the individual makes a voluntary appearance; or

(c) the individual submits a waiver of service.

(3) Except as provided in Subsection (11), when a juvenile court places a child in state custody or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the juvenile court:

(a) shall order the child's parent, guardian, or other obligated individual to pay child support for each month the child is in state custody or cared for under a grant of guardianship;

(b) shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and

(c) may refer the establishment of a child support order to the office.

(4) When a juvenile court chooses to refer a case to the office to determine support obligation amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the juvenile court shall:

(a) make the referral within three working days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(b) inform the child's parent, guardian, or other obligated individual of:

(i) the requirement to contact the office within 30 days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(ii) the penalty described in Subsection (6) for failure to contact the office.

(5) Liability for child support ordered under Subsection (3) shall accrue:

(a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which the juvenile court holds the hearing described in Subsection (2)(a) if there is no existing child support order for the child; or

(b) beginning on the day the child is removed from the child's home, including time spent in detention or sheltered care, if the child is removed after having been returned to the child's home from state custody.

(6) (a) If the child's parent, guardian, or other obligated individual contacts the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a), the child support order may not include a judgment for past due support for more than two months.

(b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the liability of support to begin to accrue from the date of the proceeding referenced in Subsection (3) if:

(i) the court informs the child's parent, guardian, or other obligated individual, as described in Subsection (4)(b), and the parent, guardian, or other obligated individual fails to contact the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a); and

(ii) the office took reasonable steps under the circumstances to contact the child's parent, guardian, or other obligated individual within 30 days after the last day on which the parent, guardian, or other obligated individual was required to contact the office to facilitate the establishment of a child support order.

(c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken reasonable steps if the office:

(i) has a signed, returned receipt for a certified letter mailed to the address of the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established; or

(ii) has had a documented conversation, whether by telephone or in person, with the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established.

(7) In collecting arrears, the office shall comply with Section [~~62A-11-320~~] 26B-9-219 in setting a payment schedule or demanding payment in full.

(8) (a) Unless a court orders otherwise, the child's parent, guardian, or other obligated individual shall pay the child support to the office.

(b) The clerk of the juvenile court, the office, or the department and the department's divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as social security payments or railroad retirement payments made in the name of or for the benefit of the child.

(9) An existing child support order payable to a parent or other individual shall be assigned to the department as provided in Section [~~62A-1-117~~] 26B-9-111.

(10) (a) Subsections (4) through (9) do not apply if legal custody of a child is vested by the juvenile court in an individual.

(b) (i) If legal custody of a child is vested by the juvenile court in an individual, the court may order the child's parent, guardian, or other obligated individual to pay child support to the individual in whom custody is vested.

(ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.

(11) The juvenile court may not order an individual to pay child support for a child in state custody if:

(a) the individual's only form of income is a government-issued disability benefit;

(b) the benefit described in Subsection (11)(a) is issued because of the individual's disability, and not the child's disability; and

(c) the individual provides the juvenile court and the office evidence that the individual meets the requirements of Subsections (11)(a) and (b).

(12) (a) The child's parent or another obligated individual is not responsible for child support for the period of time that the child is removed from the child's home by the Division of Child and Family Services if:

(i) the juvenile court finds that there were insufficient grounds for the removal of the child; and

(ii) the child is returned to the home of the child's parent or guardian based on the finding described in Subsection (12)(a)(i).

(b) If the juvenile court finds insufficient grounds for the removal of the child under Subsection (12)(a), but that the child is to remain in state custody, the juvenile court shall order that the child's parent or another obligated individual is responsible for child support beginning on the day on which it became improper to return the child to the home of the child's parent or guardian.

(13) After the juvenile court or the office establishes an individual's child support obligation ordered under Subsection (3), the office shall waive the obligation without further order of the juvenile court if:

(a) the individual's child support obligation is established under the low income table in Section 78B-12-302 or 78B-12-304; or

(b) the individual's only source of income is a means-tested, income replacement payment of aid, including:

(i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program; or

(ii) cash benefits received under General Assistance, social security income, or social security disability income.

Section 89. Section 78B-3-403 is amended to read:

78B-3-403. Definitions.

As used in this part:

(1) "Audiologist" means a person licensed to practice audiology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

(2) "Certified social worker" means a person licensed to practice as a certified social worker under Section 58-60-205.

(3) "Chiropractic physician" means a person licensed to practice chiropractic under Title 58, Chapter 73, Chiropractic Physician Practice Act.

(4) "Clinical social worker" means a person licensed to practice as a clinical social worker under Section 58-60-205.

(5) "Commissioner" means the commissioner of insurance as provided in Section 31A-2-102.

(6) "Dental hygienist" means a person licensed to engage in the practice of dental hygiene as defined in Section 58-69-102.

(7) "Dental care provider" means any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders dental care or professional services as a dentist, dental hygienist, or other person rendering similar care and services relating to or arising out of the practice of dentistry or the practice of dental hygiene, and the officers, employees, or agents of any of the above acting in the course and scope of their employment.

(8) "Dentist" means a person licensed to engage in the practice of dentistry as defined in Section 58-69-102.

(9) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(10) "Future damages" includes a judgment creditor's damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering.

(11) "Health care" means any act or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement.

(12) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, health care facilities owned or operated by health maintenance organizations, and end stage renal disease facilities.

(13) "Health care provider" includes any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders health care or professional services as a hospital, health care facility, physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech-language pathologist, clinical social worker, certified social worker, social service worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons and officers, employees, or agents of any of the above acting in the course and scope of their employment.

(14) "Hospital" means a public or private institution licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(15) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.

(16) "Licensed direct-entry midwife" means a person licensed under the Direct-entry Midwife Act to engage in the practice of direct-entry midwifery as defined in Section 58-77-102.

(17) "Licensed practical nurse" means a person licensed to practice as a licensed practical nurse as provided in Section 58-31b-301.

(18) "Malpractice action against a health care provider" means any action against a health care provider, whether in contract, tort, breach of warranty, wrongful death, or otherwise, based upon alleged personal injuries relating to or arising out of health care rendered or which should have been rendered by the health care provider.

(19) "Marriage and family therapist" means a person licensed to practice as a marriage therapist or family therapist under Sections 58-60-305 and 58-60-405.

(20) "Naturopathic physician" means a person licensed to engage in the practice of naturopathic medicine as defined in Section 58-71-102.

(21) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife under Section 58-44a-301.

(22) "Optometrist" means a person licensed to practice optometry under Title 58, Chapter 16a, Utah Optometry Practice Act.

(23) "Osteopathic physician" means a person licensed to practice osteopathy under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(24) "Patient" means a person who is under the care of a health care provider, under a contract, express or implied.

(25) "Periodic payments" means the payment of money or delivery of other property to a judgment creditor at intervals ordered by the court.

(26) "Pharmacist" means a person licensed to practice pharmacy as provided in Section 58-17b-301.

(27) "Physical therapist" means a person licensed to practice physical therapy under Title 58, Chapter 24b, Physical Therapy Practice Act.

(28) "Physical therapist assistant" means a person licensed to practice physical therapy, within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical Therapy Practice Act.

(29) "Physician" means a person licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act.

(30) "Physician assistant" means a person licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(31) "Podiatric physician" means a person licensed to practice podiatry under Title 58, Chapter 5a, Podiatric Physician Licensing Act.

(32) "Practitioner of obstetrics" means a person licensed to practice as a physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(33) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

(34) "Registered nurse" means a person licensed to practice professional nursing as provided in Section 58-31b-301.

(35) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother, child,

grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes relationships that are created as a result of adoption.

(36) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact, person designated to make decisions on behalf of a patient under a medical power of attorney, or other legal agent of the patient.

(37) "Social service worker" means a person licensed to practice as a social service worker under Section 58-60-205.

(38) "Speech-language pathologist" means a person licensed to practice speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

(39) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.

(40) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

Section 90. Section 78B-3-405 is amended to read:

78B-3-405. Amount of award reduced by amounts of collateral sources available to plaintiff -- No reduction where subrogation right exists -- Collateral sources defined -- Procedure to preserve subrogation rights -- Evidence admissible -- Exceptions.

(1) In all malpractice actions against health care providers as defined in Section 78B-3-403 in which damages are awarded to compensate the plaintiff for losses sustained, the court shall reduce the amount of the award by the total of all amounts paid to the plaintiff from all collateral sources which are available to him. No reduction may be made for collateral sources for which a subrogation right exists as provided in this section nor shall there be a reduction for any collateral payment not included in the award of damages.

(2) Upon a finding of liability and an awarding of damages by the trier of fact, the court shall receive evidence concerning the total amounts of collateral sources which have been paid to or for the benefit of the plaintiff or are otherwise available to him. The court shall also take testimony of any amount which has been paid, contributed, or forfeited by, or on behalf of the plaintiff or members of his immediate family to secure his right to any collateral source benefit which he is receiving as a result of his injury, and shall offset any reduction in the award by those amounts. Evidence may not be received and a reduction may not be made with respect to future collateral source benefits except as specified in Subsection (5).

(3) For purposes of this section "collateral source" means payments made to or for the benefit of the plaintiff for:

(a) medical expenses and disability payments payable under the United States Social Security Act, any federal, state, or local income disability act, or any other public program, except the federal programs which are required by law to seek subrogation;

(b) any health, sickness, or income replacement insurance, automobile accident insurance that provides health benefits or income replacement coverage, and any other similar insurance benefits, except life insurance benefits available to the plaintiff, whether purchased by the plaintiff or provided by others;

(c) any contract or agreement of any person, group, organization, partnership, or corporation to provide, pay for, or reimburse the costs of hospital, medical, dental, or other health care services, except benefits received as gifts, contributions, or assistance made gratuitously; and

(d) any contractual or voluntary wage continuation plan provided by employers or any other system intended to provide wages during a period of disability.

(4) To preserve subrogation rights for amounts paid or received prior to settlement or judgment, a provider of collateral sources shall, at least 30 days before settlement or trial of the action, serve a written notice upon each health care provider against whom the malpractice action has been asserted. The written notice shall state:

(a) the name and address of the provider of collateral sources;

(b) the amount of collateral sources paid;

(c) the names and addresses of all persons who received payment; and

(d) the items and purposes for which payment has been made.

(5) Evidence is admissible of government programs that provide payments or benefits available in the future to or for the benefit of the plaintiff to the extent available irrespective of the recipient's ability to pay. Evidence of the likelihood or unlikelihood that the programs, payments, or benefits will be available in the future is also admissible. The trier of fact may consider the evidence in determining the amount of damages awarded to a plaintiff for future expenses.

(6) A provider of collateral sources is not entitled to recover any amount of benefits from a health care provider, the plaintiff, or any other person or entity as reimbursement for collateral source payments made prior to settlement or judgment, including any payments made under [~~Title 26, Chapter 19, Medical Benefits Recovery Act~~] Title 26B, Chapter 3, Part 10, Medical Benefits Recovery, except to the extent that subrogation rights to amounts paid prior to settlement or judgment are preserved as provided in this section.

(7) All policies of insurance providing benefits affected by this section are construed in accordance with this section.

Section 91. Section 78B-3-701 is amended to read:

78B-3-701. Definitions.

As used in this part:

(1) "Disability" has the same meaning as defined in Section [~~62A-5b-102~~] 26B-6-801.

(2) "Search and rescue dog" means a dog:

(a) with documented training to locate persons who are:

(i) lost, missing, or injured; or

(ii) trapped under debris as the result of a natural or man-made event; and

(b) affiliated with an established search and rescue dog organization.

(3) "Service animal" means:

(a) a service animal, as defined in Section [~~62A-5b-102~~] 26B-6-801; or

(b) a search and rescue dog.

Section 92. Section 78B-4-501 is amended to read:

78B-4-501. Good Samaritan Law.

(1) As used in this section:

(a) "Child" means an individual of such an age that a reasonable person would perceive the individual as unable to open the door of a locked motor vehicle, but in any case younger than 18 years of age.

(b) "Emergency" means an unexpected occurrence involving injury, threat of injury, or illness to a person or the public, including motor vehicle accidents, disasters, actual or threatened discharges, removal or disposal of hazardous materials, and other accidents or events of a similar nature.

(c) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of an emergency.

(d) "First responder" means a state or local:

(i) law enforcement officer, as defined in Section 53-13-103;

(ii) firefighter, as defined in Section 34A-3-113; or

(iii) emergency medical service provider, as defined in Section [~~26-8a-102~~] 26B-4-101.

(e) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(2) A person who renders emergency care at or near the scene of, or during, an emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person rendering the emergency care, unless the person is grossly negligent or caused the emergency.

(3) (a) A person who gratuitously, and in good faith, assists a governmental agency or political subdivision in an activity described in Subsections (3)(a)(i) through (iii) is not liable for any civil damages or penalties as a result of any act or omission, unless the person rendering assistance is grossly negligent in:

(i) implementing measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health, or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigating and controlling suspected bioterrorism and disease as set out in [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases; and

(iii) responding to a national, state, or local emergency, a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the president of the United States or other federal official requesting public health-related activities.

(b) The immunity in this Subsection (3) is in addition to any immunity or protection in state or federal law that may apply.

(4) (a) A person who uses reasonable force to enter a locked and unattended motor vehicle to remove a confined child is not liable for damages in a civil action if all of the following apply:

(i) the person has a good faith belief that the confined child is in imminent danger of suffering physical injury or death unless the confined child is removed from the motor vehicle;

(ii) the person determines that the motor vehicle is locked and there is no reasonable manner in which the person can remove the confined child from the motor vehicle;

(iii) before entering the motor vehicle, the person notifies a first responder of the confined child;

(iv) the person does not use more force than is necessary under the circumstances to enter the motor vehicle and remove the confined child from the vehicle; and

(v) the person remains with the child until a first responder arrives at the motor vehicle.

(b) A person is not immune from civil liability under this Subsection (4) if the person fails to abide by any of the provisions of Subsection (4)(a) or commits any unnecessary or malicious damage to the motor vehicle.

Section 93. Section 78B-5-618 is amended to read:

78B-5-618. Patient access to medical records -- Third party access to medical records.

(1) As used in this section:

(a) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(b) "Indigent individual" means an individual whose household income is at or below 100% of the federal poverty level as defined in Section [~~26-18-3.9~~] 26B-3-113.

(c) "Inflation" means the unadjusted Consumer Price Index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers.

(d) "Qualified claim or appeal" means a claim or appeal under any:

(i) provision of the Social Security Act as defined in Section 67-11-2; or

(ii) federal or state financial needs-based benefit program.

(2) Pursuant to Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records from a health care provider when that health care provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.

(3) When a health care provider is not governed by Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records unless access to the records is restricted by law or judicial order.

(4) A health care provider who provides a paper or electronic copy of a patient's records to the patient or the patient's personal representative:

(a) shall provide the copy within the deadlines required by the Health Insurance Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec. 164.524(b); and

(b) may charge a reasonable cost-based fee provided that the fee includes only the cost of:

(i) copying, including the cost of supplies for and labor of copying; and

(ii) postage, when the patient or patient's personal representative has requested the copy be mailed.

(5) Except for records provided by a health care provider under Section [~~26-1-37~~] 26B-8-411, a health care provider who provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:

(a) shall provide the copy within 30 days after receipt of notice; and

(b) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:

(i) $30 per request for locating a patient's records;

(ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;

(iii) the cost of postage when the requester has requested the copy be mailed;

(iv) if requested, the health care provider will certify the record as a duplicate of the original for a fee of $20; and

(v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

(6) Except for records provided under Section [~~26-1-37~~] 26B-8-411, a contracted third party service that provides medical records, other than a health care provider under Subsections (4) and (5), who provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:

(a) shall provide the copy within 30 days after the request; and

(b) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:

(i) $30 per request for locating a patient's records;

(ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;

(iii) the cost of postage when the requester has requested the copy be mailed;

(iv) if requested, the health care provider or the health care provider's contracted third party service will certify the record as a duplicate of the original for a fee of $20; and

(v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

(7) A health care provider or the health care provider's contracted third party service shall deliver the medical records in the electronic medium customarily used by the health care provider or the health care provider's contracted third party service or in a universally readable image such as portable document format:

(a) if the patient, patient's personal representative, or a third party authorized to receive the records requests the records be delivered in an electronic medium; and

(b) the original medical record is readily producible in an electronic medium.

(8) (a) Except as provided in Subsections (8)(b) and (c), the per page fee in Subsections (4), (5), and (6) applies to medical records reproduced electronically or on paper.

(b) The per page fee for producing a copy of records in an electronic medium shall be 50% of the per page fee otherwise provided in this section, regardless of whether the original medical records are stored in electronic format.

(c) (i) A health care provider or a health care provider's contracted third party service shall

deliver the medical records in the electronic medium customarily used by the health care provider or the health care provider's contracted third party service or in a universally readable image, such as portable document format, if the patient, patient's personal representative, patient's attorney, legal representative, or a third party authorized to receive the records, requests the records be delivered in an electronic medium.

(ii) An entity providing requested information under Subsection (8)(c)(i):

(A) shall provide the requested information within 30 days; and

(B) may not charge a fee for the electronic copy that exceeds $150 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format.

(9) (a) On January 1 of each year, the state treasurer shall adjust the following fees for inflation:

(i) the fee for providing patient's records under:

(A) Subsections (5)(b)(i) through (ii); and

(B) Subsections (6)(b)(i) through (ii); and

(ii) the maximum amount that may be charged for an electronic copy under Subsection (8)(c)(ii)(B).

(b) On or before January 30 of each year, the state treasurer shall:

(i) certify the inflation-adjusted fees and maximum amounts calculated under this section; and

(ii) notify the Administrative Office of the Courts of the information described in Subsection (9)(b)(i) for posting on the court's website.

(10) Notwithstanding Subsections (4) through (6), if a request for a medical record is accompanied by documentation of a qualified claim or appeal, a health care provider or the health care provider's contracted third party service:

(a) may not charge a fee for the first copy of the record for each date of service that is necessary to support the qualified claim or appeal in each calendar year;

(b) for a second or subsequent copy in a calendar year of a date of service that is necessary to support the qualified claim or appeal, may charge a reasonable fee that may not:

(i) exceed 60 cents per page for paper photocopies;

(ii) exceed a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes;

(iii) include an administrative fee or additional service fee related to the production of the medical record; or

(iv) exceed the fee provisions for an electronic copy under Subsection (8)(c); and

(c) shall provide the health record within 30 days after the day on which the request is received by the health care provider.

(11) (a) Except as otherwise provided in Subsections (4) through (6), a health care provider or the health care provider's contracted third party service shall waive all fees under this section for an indigent individual.

(b) A health care provider or the health care provider's contracted third party service may require the indigent individual or the indigent individual's authorized representative to provide proof that the individual is an indigent individual by executing an affidavit.

(c) (i) An indigent individual that receives copies of a medical record at no charge under this Subsection (11) is limited to one copy for each date of service for each health care provider, or the health care provider's contracted third party service, in each calendar year.

(ii) Any request for additional copies in addition to the one copy allowed under Subsection (11)(c) is subject to the fee provisions described in Subsection (10).

(12) By January 1, 2023, a health care provider and all of the health care provider's contracted third party health related services shall accept a properly executed form described in [~~Title 26, Chapter 70, Standard Health Record Access Form~~] Section 26B-8-514.

Section 94. Section 78B-5-902 is amended to read:

78B-5-902. Definitions.

As used in this part:

(1) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting between a law enforcement officer, firefighter, emergency medical service provider, or rescue provider and a peer support team member.

(2) "Behavioral emergency services technician" means an individual who is licensed under Section [~~26-8a-302~~] 26B-4-116 as:

(a) a behavioral emergency services technician; or

(b) an advanced behavioral emergency services technician.

(3) "Emergency medical service provider or rescue unit peer support team member" means a person who is:

(a) an emergency medical service provider as defined in Section [~~26-8a-102~~] 26B-4-101, a regular or volunteer member of a rescue unit acting as an emergency responder as defined in Section 53-2a-502, or another person who has been trained in peer support skills; and

(b) designated by the chief executive of an emergency medical service agency or the chief of a rescue unit as a member of an emergency medical

service provider's peer support team or as a member of a rescue unit's peer support team.

(4) "Law enforcement or firefighter peer support team member" means a person who is:

(a) a peace officer, law enforcement dispatcher, civilian employee, or volunteer member of a law enforcement agency, a regular or volunteer member of a fire department, or another person who has been trained in peer support skills; and

(b) designated by the commissioner of the Department of Public Safety, the executive director of the Department of Corrections, a sheriff, a police chief, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

(5) "Trained" means a person who has successfully completed a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the Department of Health and Human Services, as applicable.

Section 95. Section 78B-5-904 is amended to read:

78B-5-904. Exclusions for certain communications.

In accordance with the Utah Rules of Evidence, a behavioral emergency services technician may refuse to disclose communications made by an individual during the delivery of behavioral emergency services as defined in Section [~~26-8a-102~~] 26B-4-101.

Section 96. Section 78B-6-103 is amended to read:

78B-6-103. Definitions.

As used in this part:

(1) "Adoptee" means a person who:

(a) is the subject of an adoption proceeding; or

(b) has been legally adopted.

(2) "Adoption" means the judicial act that:

(a) creates the relationship of parent and child where it did not previously exist; and

(b) except as provided in Subsections 78B-6-138(2) and (4), terminates the parental rights of any other person with respect to the child.

(3) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(4) "Adoption service provider" means:

(a) a child-placing agency;

(b) a licensed counselor who has at least one year of experience providing professional social work services to:

(i) adoptive parents;

(ii) prospective adoptive parents; or

(iii) birth parents; or

(c) the Office of Licensing within the Department of [~~Human Services~~] Health and Human Services.

(5) "Adoptive parent" means an individual who has legally adopted an adoptee.

(6) "Adult" means an individual who is 18 years of age or older.

(7) "Adult adoptee" means an adoptee who is 18 years of age or older and was adopted as a minor.

(8) "Adult sibling" means an adoptee's brother or sister, who is 18 years of age or older and whose birth mother or father is the same as that of the adoptee.

(9) "Birth mother" means the biological mother of a child.

(10) "Birth parent" means:

(a) a birth mother;

(b) a man whose paternity of a child is established;

(c) a man who:

(i) has been identified as the father of a child by the child's birth mother; and

(ii) has not denied paternity; or

(d) an unmarried biological father.

(11) "Child-placing agency" means an agency licensed to place children for adoption under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities.

(12) "Cohabiting" means residing with another person and being involved in a sexual relationship with that person.

(13) "Division" means the Division of Child and Family Services, within the Department of [~~Human Services~~] Health and Human Services, created in Section 80-2-201.

(14) "Extra-jurisdictional child-placing agency" means an agency licensed to place children for adoption by a district, territory, or state of the United States, other than Utah.

(15) "Genetic and social history" means a comprehensive report, when obtainable, that contains the following information on an adoptee's birth parents, aunts, uncles, and grandparents:

(a) medical history;

(b) health status;

(c) cause of and age at death;

(d) height, weight, and eye and hair color;

(e) ethnic origins;

(f) where appropriate, levels of education and professional achievement; and

(g) religion, if any.

(16) "Health history" means a comprehensive report of the adoptee's health status at the time of placement for adoption, and medical history, including neonatal, psychological, physiological, and medical care history.

(17) "Identifying information" means information that is in the possession of the office and that contains the name and address of a pre-existing parent or an adult adoptee, or other specific information that by itself or in reasonable conjunction with other information may be used to identify a pre-existing parent or an adult adoptee, including information on a birth certificate or in an adoption document.

(18) "Licensed counselor" means an individual who is licensed by the state, or another state, district, or territory of the United States as a:

(a) certified social worker;

(b) clinical social worker;

(c) psychologist;

(d) marriage and family therapist;

(e) clinical mental health counselor; or

(f) an equivalent licensed professional of another state, district, or territory of the United States.

(19) "Man" means a male individual, regardless of age.

(20) "Mature adoptee" means an adoptee who is adopted when the adoptee is an adult.

(21) "Office" means the Office of Vital Records and Statistics within the Department of [~~Health~~] Health and Human Services operating under [~~Title 26, Chapter 2, Utah Vital Statistics Act~~] Title 26B, Chapter 8, Part 1, Vital Statistics.

(22) "Parent," for purposes of Section 78B-6-119, means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment for adoption is required under Sections 78B-6-120 through 78B-6-122.

(23) "Potential birth father" means a man who:

(a) is identified by a birth mother as a potential biological father of the birth mother's child, but whose genetic paternity has not been established; and

(b) was not married to the biological mother of the child described in Subsection (23)(a) at the time of the child's conception or birth.

(24) "Pre-existing parent" means:

(a) a birth parent; or

(b) an individual who, before an adoption decree is entered, is, due to an earlier adoption decree, legally the parent of the child being adopted.

(25) "Prospective adoptive parent" means an individual who seeks to adopt an adoptee.

(26) "Relative" means:

(a) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or first cousin of a child's parent; and

(b) in the case of a child defined as an "Indian child" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, an "extended family member" as defined by that statute.

(27) "Unmarried biological father" means a man who:

(a) is the biological father of a child; and

(b) was not married to the biological mother of the child described in Subsection (27)(a) at the time of the child's conception or birth.

Section 97. Section 78B-6-113 is amended to read:

78B-6-113. Prospective adoptive parent not a resident -- Preplacement requirements.

(1) When an adoption petition is to be finalized in this state with regard to any prospective adoptive parent who is not a resident of this state at the time a child is placed in that person's home, the prospective adoptive parent shall comply with the provisions of Sections 78B-6-128 and 78B-6-130.

(2) Except as provided in Subsection 78B-6-131(2), in addition to the other requirements of this section, before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of [~~Human Services~~] Health and Human Services shall comply with Section 78B-6-131.

Section 98. Section 78B-6-124 is amended to read:

78B-6-124. Persons who may take consents and relinquishments.

(1) A consent or relinquishment by a birth mother or an adoptee shall be signed before:

(a) a judge of any court that has jurisdiction over adoption proceedings;

(b) subject to Subsection (6), a person appointed by the judge described in Subsection (1)(a) to take consents or relinquishments; or

(c) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments, if the consent or relinquishment grants legal custody of the child to a child-placing agency or an extra-jurisdictional child-placing agency.

(2) If the consent or relinquishment of a birth mother or adoptee is taken out of state it shall be signed before:

(a) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments, if the consent or relinquishment grants legal custody of the child to a child-placing agency or an extra-jurisdictional child-placing agency;

(b) subject to Subsection (6), a person authorized or appointed to take consents or relinquishments by a court of this state that has jurisdiction over adoption proceedings;

(c) a court that has jurisdiction over adoption proceedings in the state where the consent or relinquishment is taken; or

(d) a person authorized, under the laws of the state where the consent or relinquishment is taken, to take consents or relinquishments of a birth mother or adoptee.

(3) The consent or relinquishment of any other person or agency as required by Section 78B-6-120 may be signed before a Notary Public or any person authorized to take a consent or relinquishment under Subsection (1) or (2).

(4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments, shall certify to the best of his information and belief that the person executing the consent or relinquishment has read and understands the consent or relinquishment and has signed it freely and voluntarily.

(5) A person executing a consent or relinquishment is entitled to receive a copy of the consent or relinquishment.

(6) A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:

(a) notarized; or

(b) witnessed by two individuals who are not members of the birth mother's or the adoptee's immediate family.

(7) Except as provided in Subsection [~~62A-2-108.6(2)~~] 26B-2-127(2), a transfer of relinquishment from one child-placing agency to another child-placing agency shall be signed before a Notary Public.

Section 99. Section 78B-6-128 is amended to read:

78B-6-128. Preplacement adoptive evaluations -- Exceptions.

(1) (a) Except as otherwise provided in this section, a child may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.

(b) Except as provided in Section 78B-6-131, the court may, at any time, authorize temporary placement of a child in a prospective adoptive home pending completion of a preplacement adoptive evaluation described in this section.

(c) (i) Subsection (1)(a) does not apply if a pre-existing parent has legal custody of the child to be adopted and the prospective adoptive parent is related to that child or the pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the court otherwise requests the preplacement adoption.

(ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.

(d) (i) The preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent.

(ii) If the prospective adoptive parent has previously received custody of a child for the purpose of adoption, the preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent and after the placement of the previous child with the prospective adoptive parent.

(2) The preplacement adoptive evaluation shall include:

(a) a criminal history background check regarding each prospective adoptive parent and any other adult living in the prospective home, prepared no earlier than 18 months immediately preceding placement of the child in accordance with the following:

(i) if the child is in state custody, each prospective adoptive parent and any other adult living in the prospective home shall submit fingerprints to the Department of [~~Human Services~~] Health and Human Services, which shall perform a criminal history background check in accordance with Section [~~62A-2-120~~] 26B-2-120; or

(ii) subject to Subsection (3), if the child is not in state custody, an adoption service provider or an attorney representing a prospective adoptive parent shall submit fingerprints from the prospective adoptive parent and any other adult living in the prospective home to the Criminal and Technical Services Division of Public Safety for a regional and nationwide background check, to the Office of Licensing within the Department of [~~Human Services~~] Health and Human Services for a background check in accordance with Section [~~62A-2-120~~] 26B-2-120, or to the Federal Bureau of Investigation;

(b) a report containing all information regarding reports and investigations of child abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other adult living in the prospective home, obtained no earlier than 18 months immediately preceding the day on which the child is placed in the prospective home, pursuant to waivers executed by each prospective adoptive parent and any other adult living in the prospective home, that:

(i) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is a resident of Utah, is prepared by the Department of [~~Human Services~~] Health and Human Services from the records of the Department of [~~Human Services~~] Health and Human Services; or

(ii) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is not a resident of Utah, prepared by the Department of [~~Human Services~~] Health and Human Services, or a similar agency in another state, district, or territory of the United States, where each prospective adoptive parent and any other adult living in the prospective home resided in the five years immediately preceding the day on which the child is placed in the prospective adoptive home;

(c) in accordance with Subsection (6), a home study conducted by an adoption service provider that is:

(i) an expert in family relations approved by the court;

(ii) a certified social worker;

(iii) a clinical social worker;

(iv) a marriage and family therapist;

(v) a psychologist;

(vi) a social service worker, if supervised by a certified or clinical social worker;

(vii) a clinical mental health counselor; or

(viii) an Office of Licensing employee within the Department of [~~Human Services~~] Health and Human Services who is trained to perform a home study; and

(d) in accordance with Subsection (7), if the child to be adopted is a child who is in the custody of any public child welfare agency, and is a child who has a special need as defined in Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department of [~~Human Services~~] Health and Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement adoptive evaluations for children with special needs.

(3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable to the court that will:

(a) preserve the chain of custody of the results; and

(b) not permit tampering with the results by a prospective adoptive parent or other interested party.

(4) In order to comply with Subsection (3), the manner in which the criminal history background check is submitted shall be approved by the court.

(5) Except as provided in Subsection 78B-6-131(2), in addition to the other requirements of this section, before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of [~~Human Services~~] Health and Human Services shall comply with Section 78B-6-131.

(6) (a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed to practice under the laws of:

(i) this state; or

(ii) the state, district, or territory of the United States where the prospective adoptive parent or other person living in the prospective adoptive home resides.

(b) Neither the Department of [~~Human Services~~] Health and Human Services nor any of the department's divisions may proscribe who qualifies as an expert in family relations or who may conduct a home study under Subsection (2)(c).

(c) The home study described in Subsection (2)(c) shall be a written document that contains the following:

(i) a recommendation to the court regarding the suitability of the prospective adoptive parent for placement of a child;

(ii) a description of in-person interviews with the prospective adoptive parent, the prospective adoptive parent's children, and other individuals living in the home;

(iii) a description of character and suitability references from at least two individuals who are not related to the prospective adoptive parent and with at least one individual who is related to the prospective adoptive parent;

(iv) a medical history and a doctor's report, based upon a doctor's physical examination of the prospective adoptive parent, made within two years before the date of the application; and

(v) a description of an inspection of the home to determine whether sufficient space and facilities exist to meet the needs of the child and whether basic health and safety standards are maintained.

(7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the responsibility of the adopting parent.

(8) The person conducting the preplacement adoptive evaluation shall, in connection with the preplacement adoptive evaluation, provide the prospective adoptive parent with literature approved by the Division of Child and Family Services relating to adoption, including information relating to:

(a) the adoption process;

(b) developmental issues that may require early intervention; and

(c) community resources that are available to the prospective adoptive parent.

(9) A copy of the preplacement adoptive evaluation shall be filed with the court.

Section 100. Section 78B-6-131 is amended to read:

78B-6-131. Child in custody of state -- Placement.

(1) Notwithstanding Sections 78B-6-128 through 78B-6-130, and except as provided in

Subsection (2), a child who is in the legal custody of the state may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the child is placed with the prospective foster parent or the prospective adoptive parent:

(a) a fingerprint based FBI national criminal history records check is conducted on the prospective foster parent, prospective adoptive parent, and any other adult residing in the household;

(b) the Department of [~~Human Services~~] Health and Human Services conducts a check of the child abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect;

(c) the Department of [~~Human Services~~] Health and Human Services conducts a check of the child abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection (1)(b) resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(d) each person required to undergo a background check described in this section passes the background check, pursuant to the provisions of Section [~~62A-2-120~~] 26B-2-120.

(2) The requirements under Subsection (1) do not apply to the extent that:

(a) federal law or rule permits otherwise; or

(b) the requirements would prohibit the division or a court from placing a child with:

(i) a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303; or

(ii) a relative, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (1).

Section 101. Section 78B-6-142 is amended to read:

78B-6-142. Adoption order from foreign country.

(1) Except as otherwise provided by federal law, an adoption order rendered to a resident of this state that is made by a foreign country shall be recognized by the courts of this state and enforced as if the order were rendered by a court in this state.

(2) A person who adopts a child in a foreign country may register the order in this state. A petition for registration of a foreign adoption order may be combined with a petition for a name change. If the court finds that the foreign adoption order meets the requirements of Subsection (1), the court shall order the state registrar to:

(a) file the order pursuant to Section 78B-6-137; and

(b) file a certificate of birth for the child pursuant to Section [~~26-2-28~~] 26B-8-131.

(3) If a clerk of the court is unable to establish the fact, time, and place of birth from the documentation provided, a person holding a direct, tangible, and legitimate interest as described in Subsection [~~26-2-22(3)(a) or (b)~~] 26B-8-125(3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth pursuant to Subsection [~~26-2-15(1)~~] 26B-8-119(1).

Section 102. Section 78B-7-205 is amended to read:

78B-7-205. Service -- Income withholding -- Expiration.

(1) If the court enters an ex parte child protective order or a child protective order, the court shall:

(a) make reasonable efforts to ensure that the order is understood by the petitioner and the respondent, if present;

(b) as soon as possible transmit the order to the county sheriff for service; and

(c) by the end of the next business day after the order is entered, transmit electronically a copy of the order to any law enforcement agency designated by the petitioner and to the statewide domestic violence network described in Section 78B-7-113.

(2) The county sheriff shall serve the order and transmit verification of service to the statewide domestic violence network described in Section 78B-7-113 in an expeditious manner. Any law enforcement agency may serve the order and transmit verification of service to the statewide domestic violence network if the law enforcement agency has contact with the respondent or if service by that law enforcement agency is in the best interests of the child.

(3) When an order is served on a respondent in a jail, prison, or other holding facility, the law enforcement agency managing the facility shall notify the petitioner of the respondent's release. Notice to the petitioner consists of a prompt, good faith effort to provide notice, including mailing the notice to the petitioner's last-known address.

(4) Child support orders issued as part of a child protective order are subject to mandatory income withholding under [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases~~] Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases.

(5) (a) A child protective order issued against a respondent who is a parent, stepparent, guardian, or custodian of the child who is the subject of the

order expires 150 days after the day on which the order is issued unless a different date is set by the court.

(b) The court may not set a date on which a child protective order described in Subsection (5)(a) expires that is more than 150 days after the day on which the order is issued without a finding of good cause.

(c) The court may review and extend the expiration date of a child protective order described in Subsection (5)(a), but may not extend the expiration date more than 150 days after the day on which the order is issued without a finding of good cause.

(d) Notwithstanding Subsections (5)(a) through (c), a child protective order is not effective after the day on which the child who is the subject of the order turns 18 years old and the court may not extend the expiration date of a child protective order to a date after the day on which the child who is the subject of the order turns 18 years old.

(6) A child protective order issued against a respondent who is not a parent, stepparent, guardian, or custodian of the child who is the subject of the order expires on the day on which the child turns 18 years old.

Section 103. Section 78B-7-603 is amended to read:

78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for a protective order or a petition to modify a protective order that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of a protective order is required, a court may:

(a) without notice, immediately issue an ex parte cohabitant abuse protective order or modify a protective order ex parte as the court considers necessary to protect the petitioner and all parties named to be protected in the petition; or

(b) upon notice, issue a protective order or modify an order after a hearing, regardless of whether the respondent appears.

(2) A court may grant the following relief without notice in a protective order or a modification issued ex parte:

(a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;

(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;

(d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:

(i) the petitioner's residence or any designated family or household member's residence;

(ii) the petitioner's school or any designated family or household member's school;

(iii) the petitioner's or any designated family or household member's place of employment;

(iv) the petitioner's place of worship or any designated family or household member's place of worship; or

(v) any specified place frequented by the petitioner or any designated family or household member;

(e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:

(i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;

(f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(h) order the respondent to maintain an existing wireless telephone contract or account;

(i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;

(j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-2-803;

(k) prohibit the respondent from physically injuring, threatening to injure, or taking possession of a household animal that is owned or kept by the petitioner;

(l) prohibit the respondent from physically injuring or threatening to injure a household animal that is owned or kept by the respondent;

(m) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

(n) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in a cohabitant abuse protective order or a modification of an order after notice and hearing, regardless of whether the respondent appears:

(a) grant the relief described in Subsection (2); and

(b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

(4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section 78B-7-117.

(5) Following the cohabitant abuse protective order hearing, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the cohabitant abuse protective order is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the cohabitant abuse protective order to the local law enforcement agency or agencies designated by the petitioner;

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113; and

(e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:

(i) an agency record identifier;

(ii) the individual's name, sex, race, and date of birth;

(iii) the issue date, conditions, and expiration date for the protective order; and

(iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

(6) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil offenses, as follows:

(a) criminal offenses are those under Subsections (2)(a) through (g), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and

(b) civil offenses are those under Subsections (2)(h) through (l), Subsection (3)(a) as it refers to Subsections (2)(h) through (l), and Subsection (3)(b).

(7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases~~] Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

(8) (a) The county sheriff that receives the order from the court, under Subsection (5), shall provide expedited service for protective orders issued in accordance with this part, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(9) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

(10) A court may modify or vacate a protective order or any provisions in the protective order after notice and hearing, except that the criminal provisions of a cohabitant abuse protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the cohabitant abuse protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the cohabitant abuse protective order.

(11) A protective order may be modified without a showing of substantial and material change in circumstances.

(12) A civil provision of a protective order described in Subsection (6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding that is pending between the parties to the protective order action if:

(a) the parties stipulate in writing or on the record to dismiss or modify a civil provision of the protective order; or

(b) the court in the divorce, parentage, custody, or guardianship proceeding finds good cause to dismiss or modify the civil provision.

Section 104. Section 78B-8-401 is amended to read:

78B-8-401. Definitions.

As used in this part:

(1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions, and any body fluid visibly contaminated with blood.

(2) "COVID-19" means the same as that term is defined in Section 78B-4-517.

(3) "Disease" means Human Immunodeficiency Virus infection, acute or chronic Hepatitis B infection, Hepatitis C infection, COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome, and any other infectious disease specifically designated by the Labor Commission, in consultation with the Department of [~~Health~~] Health and Human Services, for the purposes of this part.

(4) "Emergency services provider" means:

(a) an individual licensed under Section [~~26-8a-302~~] 26B-4-116, a peace officer, local fire department personnel, or personnel employed by the Department of Corrections or by a county jail, who provide prehospital emergency care for an emergency services provider either as an employee or as a volunteer; or

(b) an individual who provides for the care, control, support, or transport of a prisoner.

(5) "First aid volunteer" means a person who provides voluntary emergency assistance or first aid medical care to an injured person prior to the arrival of an emergency medical services provider or peace officer.

(6) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(7) "Medical testing procedure" means a nasopharyngeal swab, a nasal swab, a capillary blood sample, a saliva test, or a blood draw.

(8) "Peace officer" means the same as that term is defined in Section 53-1-102.

(9) "Prisoner" means the same as that term is defined in Section 76-5-101.

(10) "Significant exposure" and "significantly exposed" mean:

(a) exposure of the body of one individual to the blood or body fluids of another individual by:

(i) percutaneous injury, including a needle stick, cut with a sharp object or instrument, or a wound resulting from a human bite, scratch, or similar force; or

(ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut, abrasion, dermatitis, or other damage;

(b) exposure of the body of one individual to the body fluids, including airborne droplets, of another individual if:

(i) the other individual displays symptoms known to be associated with COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome; or

(ii) other evidence exists that would lead a reasonable person to believe that the other individual may be infected with COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome; or

(c) exposure that occurs by any other method of transmission defined by the Labor Commission, in consultation with the Department of [~~Health~~] Health and Human Services, as a significant exposure.

Section 105. Section 78B-8-402 is amended to read:

78B-8-402. Petition -- Disease testing -- Notice -- Payment for testing.

(1) An emergency services provider or first aid volunteer who is significantly exposed during the course of performing the emergency services provider's duties or during the course of performing emergency assistance or first aid, or a health care provider acting in the course and scope of the health care provider's duties as a health care provider may:

(a) request that the person to whom the emergency services provider, first aid volunteer, or health care provider was significantly exposed voluntarily submit to testing; or

(b) petition the district court or a magistrate for an order requiring that the person to whom the emergency services provider, first aid volunteer, or health care provider was significantly exposed submit to testing to determine the presence of a disease and that the results of that test be disclosed to the petitioner by the Department of [~~Health~~] Health and Human Services.

(2) (a) A law enforcement agency may submit on behalf of the petitioner by electronic or other means an ex parte request for a warrant ordering a medical testing procedure of the respondent.

(b) The court or magistrate shall issue a warrant ordering the respondent to submit to a medical

testing procedure within two hours, and that reasonable force may be used, if necessary, if the court or magistrate finds that:

(i) the petitioner was significantly exposed during the course of performing the petitioner's duties as an emergency services provider, first aid volunteer, or health care provider;

(ii) the respondent refused to give consent to the medical testing procedure or is unable to give consent;

(iii) there may not be an opportunity to obtain a sample at a later date; and

(iv) a delay in administering available FDA-approved post-exposure treatment or prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis.

(c) (i) If the petitioner requests that the court order the respondent to submit to a blood draw, the petitioner shall request a person authorized under Section 41-6a-523 to perform the blood draw.

(ii) If the petitioner requests that the court order the respondent to submit to a medical testing procedure, other than a blood draw, the petitioner shall request that a qualified medical professional, including a physician, a physician's assistant, a registered nurse, a licensed practical nurse, or a paramedic, perform the medical testing procedure.

(d) (i) A sample drawn in accordance with a warrant following an ex parte request shall be sent to the Department of [~~Health~~] Health and Human Services for testing.

(ii) If the Department of [~~Health~~] Health and Human Services is unable to perform a medical testing procedure ordered by the court under this section, a qualified medical laboratory may perform the medical testing procedure if:

(A) the Department of [~~Health~~] Health and Human Services requests that the medical laboratory perform the medical testing procedure; and

(B) the result of the medical testing procedure is provided to the Department of [~~Health~~] Health and Human Services.

(3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the petitioner may file a petition with the district court seeking an order to submit to testing and to disclose the results in accordance with this section.

(4) (a) The petition described in Subsection (3) shall be accompanied by an affidavit in which the petitioner certifies that the petitioner has been significantly exposed to the individual who is the subject of the petition and describes that exposure.

(b) The petitioner shall submit to testing to determine the presence of a disease, when the petition is filed or within three days after the petition is filed.

(5) The petitioner shall cause the petition required under this section to be served on the person who the petitioner is requesting to be tested in a manner that will best preserve the confidentiality of that person.

(6) (a) The court shall set a time for a hearing on the matter within 10 days after the petition is filed and shall give the petitioner and the individual who is the subject of the petition notice of the hearing at least 72 hours prior to the hearing.

(b) The individual who is the subject of the petition shall also be notified that the individual may have an attorney present at the hearing and that the individual's attorney may examine and cross-examine witnesses.

(c) The hearing shall be conducted in camera.

(7) The district court may enter an order requiring that an individual submit to testing, including a medical testing procedure, for a disease if the court finds probable cause to believe:

(a) the petitioner was significantly exposed; and

(b) the exposure occurred during the course of the emergency services provider's duties, the provision of emergency assistance or first aid by a first aid volunteer, or the health care provider acting in the course and scope of the provider's duties as a health care provider.

(8) The court may order that the use of reasonable force is permitted to complete an ordered test if the individual who is the subject of the petition is a prisoner.

(9) The court may order that additional, follow-up testing be conducted and that the individual submit to that testing, as it determines to be necessary and appropriate.

(10) The court is not required to order an individual to submit to a test under this section if it finds that there is a substantial reason, relating to the life or health of the individual, not to enter the order.

(11) (a) Upon order of the district court that an individual submit to testing for a disease, that individual shall report to the designated local health department to provide the ordered specimen within five days after the day on which the court issues the order, and thereafter as designated by the court, or be held in contempt of court.

(b) The court shall send the order to the Department of [~~Health~~] Health and Human Services and to the local health department ordered to conduct or oversee the test.

(c) Notwithstanding the provisions of Section [~~26-6-27~~] 26B-7-217, the Department of [~~Health~~] Health and Human Services and a local health department may disclose the test results pursuant to a court order as provided in this section.

(d) Under this section, anonymous testing as provided under Section [~~26-6-3.5~~] 26B-7-203 may not satisfy the requirements of the court order.

(12) The local health department or the Department of [~~Health~~] Health and Human Services shall inform the subject of the petition and

the petitioner of the results of the test and advise both parties that the test results are confidential. That information shall be maintained as confidential by all parties to the action.

(13) The court, the court's personnel, the process server, the Department of [~~Health~~] Health and Human Services, local health department, and petitioner shall maintain confidentiality of the name and any other identifying information regarding the individual tested and the results of the test as they relate to that individual, except as specifically authorized by this chapter.

(14) (a) Except as provided in Subsection (14)(b), the petitioner shall remit payment for each test performed in accordance with this section to the entity that performs the procedure.

(b) If the petitioner is an emergency services provider, the agency that employs the emergency services provider shall remit payment for each test performed in accordance with this section to the entity that performs the procedure.

(15) The entity that obtains a specimen for a test ordered under this section shall cause the specimen and the payment for the analysis of the specimen to be delivered to the Department of [~~Health~~] Health and Human Services for analysis.

(16) If the individual is incarcerated, the incarcerating authority shall either obtain a specimen for a test ordered under this section or shall pay the expenses of having the specimen obtained by a qualified individual who is not employed by the incarcerating authority.

(17) The ex parte request or petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.

Section 106. Section 78B-8-404 is amended to read:

78B-8-404. Department authority -- Rules.

The Labor Commission, in consultation with the Department of [~~Health~~] Health and Human Services, has authority to establish rules necessary for the purposes of Subsections 78B-8-401(2) and (8).

Section 107. Section 78B-10-106 is amended to read:

78B-10-106. Exceptions to privilege.

(1) There is no privilege under Section 78B-10-104 for a mediation communication that is:

(a) in an agreement evidenced by a record signed by all parties to the agreement;

(b) available to the public under Title 63G, Chapter 2, Government Records Access and Management Act, or made during a mediation session which is open, or is required by law to be open, to the public;

(c) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(d) intentionally used to plan a crime, attempt to commit or commit a crime, or to conceal an ongoing crime or ongoing criminal activity;

(e) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;

(f) except as otherwise provided in Subsection (3), sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a party based on conduct occurring during a mediation; or

(g) subject to the reporting requirements in Section [~~62A-3-305~~] 26B-6-205 or 80-2-602.

(2) There is no privilege under Section 78B-10-104 if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that:

(a) the evidence is not otherwise available;

(b) there is a need for the evidence that substantially outweighs the interest in protecting confidentiality; and

(c) the mediation communication is sought or offered in:

(i) a court proceeding involving a felony or misdemeanor; or

(ii) except as otherwise provided in Subsection (3), a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

(3) A mediator may not be compelled to provide evidence of a mediation communication referred to in Subsection (1)(f) or (2)(c)(ii).

(4) If a mediation communication is not privileged under Subsection (1) or (2), only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under Subsection (1) or (2) does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

Section 108. Section 78B-12-102 is amended to read:

78B-12-102. Definitions.

As used in this chapter:

(1) "Adjusted gross income" means income calculated under Subsection 78B-12-204(1).

(2) "Administrative agency" means the Office of Recovery Services or the Department of [~~Human Services~~] Health and Human Services.

(3) "Administrative order" means an order that has been issued by the Office of Recovery Services, the Department of [~~Human Services~~] Health and Human Services, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.

(4) "Base child support award" means the award that may be ordered and is calculated using the

guidelines before additions for medical expenses and work-related child care costs.

(5) "Base combined child support obligation table," "child support table," "base child support obligation table," "low income table," or "table" means the appropriate table in Part 3, Tables.

(6) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

(7) "Child" means:

(a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(8) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(9) "Child support order" or "support order" means a judgment, decree, or order of a tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, or otherwise that:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

(c) establishes child support or registers a child support order under Chapter 14, Utah Uniform Interstate Family Support Act.

(10) "Child support services" or "IV-D child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

(11) "Court" means the district court or juvenile court.

(12) "Guidelines" means the directions for the calculation and application of child support in Part 2, Calculation and Adjustment.

(13) "Health care coverage" means coverage under which medical services are provided to a dependent child through:

(a) fee for service;

(b) a health maintenance organization;

(c) a preferred provider organization;

(d) any other type of private health insurance; or

(e) public health care coverage.

(14) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

(15) "Joint physical custody" means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support.

(16) "Medical expenses" means health and dental expenses and related insurance costs.

(17) "Obligee" means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.

(18) "Obligor" means a person owing a duty of support.

(19) "Office" means the Office of Recovery Services within the Department of [~~Human Services~~] Health and Human Services.

(20) "Parent" includes a natural parent, or an adoptive parent.

(21) "Pregnancy expenses" means an amount equal to:

(a) the sum of a pregnant mother's:

(i) health insurance premiums while pregnant that are not paid by an employer or government program; and

(ii) medical costs related to the pregnancy, incurred after the date of conception and before the pregnancy ends; minus

(b) any portion of the amount described in Subsection (21)(a) that a court determines is equitable based on the totality of the circumstances, not including any amount paid by the mother or father of the child.

(22) "Split custody" means that each parent has physical custody of at least one of the children.

(23) "State" includes a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

(24) "Temporary" means a period of time that is projected to be less than 12 months in duration.

(25) "Third party" means an agency or a person other than the biological or adoptive parent or a child who provides care, maintenance, and support to a child.

(26) "Tribunal" means the district court, the Department of [~~Human Services~~] Health and Human Services, Office of Recovery Services, or court or administrative agency of a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

(27) "Work-related child care costs" means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent under Section 78B-12-215.

(28) "Worksheets" means the forms used to aid in calculating the base child support award.

Section 109. Section 78B-12-111 is amended to read:

78B-12-111. Court order -- Medical expenses of dependent children -- Assigning responsibility for payment -- Insurance coverage -- Income withholding.

The court shall include the following in its order:

(1) a provision assigning responsibility for the payment of reasonable and necessary medical expenses for the dependent children;

(2) a provision requiring the purchase and maintenance of appropriate insurance for the medical expenses of dependent children, if coverage is or becomes available at a reasonable cost; and

(3) provisions for income withholding, in accordance with [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases,and Part 5, Income Withholding in Non IV-D Cases~~] Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases.

Section 110. Section 78B-12-112 is amended to read:

78B-12-112. Payment under child support order -- Judgment.

(1) All monthly payments of child support shall be due on the 1st day of each month pursuant to [~~Title 62A, Chapter 11, Part 3, Child Support Services Act, Part 4, Income Withholding in IV-D Cases, and Part 5, Income Withholding in Non IV-D Cases~~] Title 26B, Chapter 9, Part 2, Child Support Services, Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases.

(2) For purposes of child support services and income withholding pursuant to [~~Title 62A, Chapter 11, Part 3, Child Support Services Act, and Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, child support is not considered past due until the 1st day of the following month. For purposes other than those specified in Subsection (1) support shall be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the order or decree provides for a different time for payment.

(3) Each payment or installment of child or spousal support under any support order, as defined by Section 78B-12-102, is, on and after the date it is due:

(a) a judgment with the same attributes and effect of any judgment of a district court, except as provided in Subsection (4);

(b) entitled, as a judgment, to full faith and credit in this and in any other jurisdiction; and

(c) not subject to retroactive modification by this or any other jurisdiction, except as provided in Subsection (4).

(4) A child or spousal support payment under a support order may be modified with respect to any period during which a modification is pending, but only from the date of service of the pleading on the obligee, if the obligor is the petitioner, or on the obligor, if the obligee is the petitioner. If the tribunal orders that the support should be modified, the effective date of the modification shall be the month following service on the parent whose support is affected. Once the tribunal determines that a modification is appropriate, the tribunal shall order a judgment to be entered for any difference in the original order and the modified amount for the period from the service of the pleading until the final order of modification is entered.

(5) The judgment provided for in Subsection (3)(a), to be effective and enforceable as a lien against the real property interest of any third party relying on the public record, shall be docketed in the district court in accordance with Sections 78B-5-202 and [~~62A-11-312.5~~] 26B-9-214.

Section 111. Section 78B-12-113 is amended to read:

78B-12-113. Enforcement of right of support.

(1) (a) The obligee may enforce his right of support against the obligor. The office may proceed pursuant to this chapter or any other applicable statute on behalf of:

(i) the Department of [~~Human Services~~] Health and Human Services;

(ii) any other department or agency of this state that provides public assistance, as defined by

Subsection [~~62A-11-303(3)~~] 26B-9-201(4), to enforce the right to recover public assistance; or

(iii) the obligee, to enforce the obligee's right of support against the obligor.

(b) Whenever any court action is commenced by the office to enforce payment of the obligor's support obligation, the attorney general or the county attorney of the county of residence of the obligee shall represent the office.

(2) (a) A person may not commence an action, file a pleading, or submit a written stipulation to the court, without complying with Subsection (2)(b), if the purpose or effect of the action, pleading, or stipulation is to:

(i) establish paternity;

(ii) establish or modify a support obligation;

(iii) change the court-ordered manner of payment of support;

(iv) recover support due or owing; or

(v) appeal issues regarding child support laws.

(b) (i) When taking an action described in Subsection (2)(a), a person must file an affidavit with the court at the time the action is commenced, the pleading is filed, or the stipulation is submitted stating whether child support services have been or are being provided under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., on behalf of a child who is a subject of the action, pleading, or stipulation.

(ii) If child support services have been or are being provided, under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., the person shall mail a copy of the affidavit and a copy of the pleading or stipulation to the Office of the Attorney General, Child Support Division.

(iii) If notice is not given in accordance with this Subsection (2), the office is not bound by any decision, judgment, agreement, or compromise rendered in the action. For purposes of appeals, service must be made on the Office of the Director for the Office of Recovery Services.

(c) If IV-D services have been or are being provided, that person shall join the office as a party to the action, or mail or deliver a written request to the Office of the Attorney General, Child Support Division asking the office to join as a party to the action. A copy of that request, along with proof of service, shall be filed with the court. The office shall be represented as provided in Subsection (1)(b).

(3) Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out the duties under this chapter.

Section 112. Section 78B-12-216 is amended to read:

78B-12-216. Reduction for extended parent-time.

(1) The base child support award shall be:

(a) reduced by 50% for each child for time periods during which the child is with the noncustodial parent by order of the court or by written agreement of the parties for at least 25 of any 30 consecutive days of extended parent-time; or

(b) 25% for each child for time periods during which the child is with the noncustodial parent by order of the court, or by written agreement of the parties for at least 12 of any 30 consecutive days of extended parent-time.

(2) If the dependent child is a client of cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program, any agreement by the parties for reduction of child support during extended parent-time shall be approved by the administrative agency.

(3) Normal parent-time and holiday visits to the custodial parent shall not be considered extended parent-time.

(4) For cases receiving IV-D child support services in accordance with [~~Title 62A, Chapter 11, Part 1, Office of Recovery Services, Part 3, Child Support Services Act, and Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part 1, Office of Recovery Services, Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, to receive the adjustment the noncustodial parent shall provide written documentation of the extended parent-time schedule, including the beginning and ending dates, to the Office of Recovery Services in the form of either a court order or a voluntary written agreement between the parties.

(5) If the noncustodial parent complies with Subsection (4), owes no past-due support, and pays the full, unadjusted amount of current child support due for the month of scheduled extended parent-time and the following month, the Office of Recovery Services shall refund the difference from the child support due to the custodial parent or the state, between the full amount of current child support received during the month of extended parent-time and the adjusted amount of current child support due:

(a) from current support received in the month following the month of scheduled extended parent-time; or

(b) from current support received in the month following the month written documentation of the scheduled extended parent-time is provided to the office, whichever occurs later.

(6) If the noncustodial parent complies with Subsection (4), owes past-due support, and pays the full, unadjusted amount of current child support due for the month of scheduled extended parent-time, the Office of Recovery Services shall apply the difference, from the child support due to the custodial parent or the state, between the full amount of current child support received during the month of extended parent-time and the adjusted

amount of current child support due, to the past-due support obligation in the case.

(7) For cases not receiving IV-D child support services in accordance with [~~Title 62A, Chapter 11, Part 1, Office of Recovery Services, Part 3, Child Support Services Act, and Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part 1, Office of Recovery Services, Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, any potential adjustment of the support payment during the month of extended visitation or any refund that may be due to the noncustodial parent from the custodial parent, shall be resolved between the parents or through the court without involvement by the Office of Recovery Services.

(8) For purposes of this section the per child amount to which the abatement applies shall be calculated by dividing the base child support award by the number of children included in the award.

(9) The reduction in this section does not apply to parents with joint physical custody obligations calculated in accordance with Section 78B-12-208.

Section 113. Section 78B-12-402 is amended to read:

78B-12-402. Duties -- Report -- Staff.

(1) The advisory committee shall review the child support guidelines to ensure the application of the guidelines results in the determination of appropriate child support award amounts.

(2) The advisory committee shall submit, in accordance with Section 68-3-14, a written report to the legislative Judiciary Interim Committee on or before October 1, 2021, and then on or before October 1 of every fourth year subsequently.

(3) The advisory committee's report shall include recommendations of the majority of the advisory committee, as well as specific recommendations of individual members of the advisory committee.

(4) Staff for the advisory committee shall be provided from the existing budget of the Department of [~~Human Services~~] Health and Human Services.

Section 114. Section 78B-14-103 is amended to read:

78B-14-103. State tribunal and support enforcement agency.

(1) The district court and the Utah Department of [~~Human Services~~] Health and Human Services are the tribunals of this state.

(2) The Utah Department of [~~Human Services~~] Health and Human Services is the state support enforcement agency.

Section 115. Section 78B-14-501 is amended to read:

78B-14-501. Employer's receipt of income-withholding order of another state.

An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support-enforcement agency, to the person defined as the obligor's employer under [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Part 5, Income Withholding in Non IV-D Cases~~] Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases, without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

Section 116. Section 78B-14-605 is amended to read:

78B-14-605. Notice of registration of order.

(1) When a support order or income-withholding order issued in another state, or a foreign support order, is registered, the registering tribunal of this state shall notify the nonregistering party. The notice shall be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) A notice shall inform the nonregistering party:

(a) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) that a hearing to contest the validity or enforcement of the registered order shall be requested within 20 days after notice, unless the registered order is under Section 78B-14-707;

(c) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(d) of the amount of any alleged arrearages.

(3) If the registering party asserts that two or more orders are in effect, a notice shall also:

(a) identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(b) notify the nonregistering party of the right to a determination of which is the controlling order;

(c) state that the procedures provided in Subsection (2) apply to the determination of which is the controlling order; and

(d) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(4) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the

obligor's employer pursuant to [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases.

Section 117. Section 78B-14-703 is amended to read:

78B-14-703. Relationship of Department of Health and Human Services to United States central authority.

The Utah Department of [~~Human Services~~] Health and Human Services is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

Section 118. Section 78B-14-704 is amended to read:

78B-14-704. Initiation by Department of Health and Human Services of support proceeding under convention.

(1) In a support proceeding under this part, the Utah Department of [~~Human Services~~] Health and Human Services shall:

(a) transmit and receive applications; and

(b) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

(2) The following support proceedings are available to an obligee under the convention:

(a) recognition or recognition and enforcement of a foreign support order;

(b) enforcement of a support order issued or recognized in this state;

(c) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;

(d) establishment of a support order if recognition of a foreign support order is refused under Subsection 78B-14-708(2)(b), (d), or (i);

(e) modification of a support order of a tribunal of this state; and

(f) modification of a support order of a tribunal of another state or a foreign country.

(3) The following support proceedings are available under the convention to an obligor against which there is an existing support order:

(a) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;

(b) modification of a support order of a tribunal of this state; and

(c) modification of a support order of a tribunal of another state or a foreign country.

(4) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention.

Section 119. Section 78B-15-104 is amended to read:

78B-15-104. Jurisdiction -- Authority of Office of Recovery Services -- Dismissal of petition.

(1) (a) Except as provided in Subsection 78A-6-104(1)(a)(i), the district court has original jurisdiction over any action brought under this chapter.

(b) If the juvenile court has concurrent jurisdiction under Subsection 78A-6-104(1)(a)(i) over a paternity action filed in the district court, the district court may transfer jurisdiction over the paternity action to the juvenile court.

(2) The Office of Recovery Services is authorized to establish paternity in accordance with this chapter, [~~Title 62A, Chapter 11, Recovery Services~~] Title 26B, Chapter 9, Recovery Services and Administration of Child Support, and Title 63G, Chapter 4, Administrative Procedures Act.

(3) A court shall, without adjudicating paternity, dismiss a petition that is filed under this chapter by an unmarried biological father if he is not entitled to consent to the adoption of the child under Sections 78B-6-121 and 78B-6-122.

Section 120. Section 78B-15-107 is amended to read:

78B-15-107. Effect.

An adjudication or declaration of paternity shall be filed with the state registrar in accordance with Section [~~26-2-5~~] 26B-8-104.

Section 121. Section 78B-24-203 is amended to read:

78B-24-203. Prohibited custody transfer.

(1) Except as provided in Subsection (2), a parent or guardian of a child, or an individual with whom a child has been placed for adoption, may not transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child.

(2) A parent or guardian of a child or an individual with whom a child has been placed for adoption may transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child only through:

(a) adoption or guardianship;

(b) judicial award of custody;

(c) placement by or through a child-placing agency;

(d) other judicial or tribal action; or

(e) safe relinquishment under [~~Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child~~] Title 80, Chapter 4, Part 5, Safe Relinquishment of a Newborn Child.

(3) (a) A person may not receive custody of a child, or act as an intermediary in a transfer of custody of a child, if the person knows or reasonably should know the transfer violates Subsection (1).

(b) This subsection does not apply if the person as soon as practicable after the transfer, notifies the Division of Child and Family Services of the transfer or takes appropriate action to establish custody under Subsection (2).

(4) A violation of this section is a class B misdemeanor.

(5) A violation of Subsection (1) is not established solely because a parent or guardian that transfers custody of a child does not regain custody.

Section 122. Section 78B-24-307 is amended to read:

78B-24-307. Child-placing agency compliance.

(1) The Office of Licensing, created in Section [~~62A-2-103~~] 26B-2-103, may investigate an allegation that a child-placing agency has failed to comply with this part and commence an action for injunctive or other relief or initiate administrative proceedings against the child-placing agency to enforce this part.

(2) (a) The Office of Licensing may initiate a proceeding to determine whether a child-placing agency has failed to comply with this part.

(b) If the Office of Licensing finds that the child-placing agency has failed to comply, the Office of Licensing may suspend or revoke the child-placing agency's license or take other action permitted by law of the state.

Section 123. Section 78B-24-308 is amended to read:

78B-24-308. Rulemaking authority.

The Office of Licensing, created in Section [~~62A-2-103~~] 26B-2-103, may adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections 78B-24-303, 78B-24-304, 78B-24-305, and 78B-24-306.

Section 124. Section 79-2-404 is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section [~~26-40-115~~] 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the Department of [~~Health~~] Health and Human Services, in accordance with Subsection [~~26-40-115(2)~~] 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section [~~26-18-402~~] 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 125. Section 80-1-102 is amended to read:

80-1-102. Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

(9) "Child placing" means the same as that term is defined in Section [~~62A-2-101~~] 26B-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section [~~62A-2-101~~] 26B-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(37) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

(39) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(45) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(47) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(50) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

(53) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii) (A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

(55) "Mobile crisis outreach team" means the same as that term is defined in Section [~~62A-15-102~~] 26B-5-101.

(56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

(57) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(58) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other

party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(59) "Neglected child" means a child who has been subjected to neglect.

(60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, guardian, or custodian.

(61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

(63) "Physical abuse" means abuse that results in physical injury or damage to a child.

(64) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(65) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(69) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(70) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

(73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

(76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78) (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(79) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (39), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(80) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

(84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(85) "Status offense" means an offense that would not be an offense but for the age of the offender.

(86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

(87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred .

(88) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

(89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

(90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(91) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (93)(a) and (b).

(94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(95) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(96) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(97) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

(98) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 126. Section 80-1-103 is amended to read:

80-1-103. Cooperation of political subdivisions and public or private agencies and organizations.

(1) Every county, municipality, and school district, and the Department of [~~Human Services~~] Health and Human Services, the Division of Juvenile Justice and Youth Services, the Division of Child and Family Services, [~~the Department of Health, the Division of Substance Abuse~~] the Office of Substance Use and Mental Health, the State Board of Education, and state and local law enforcement officers, shall render all assistance and cooperation within their jurisdiction and power to further the provisions of this title.

(2) A juvenile court is authorized to seek the cooperation of all agencies and organizations, public or private, whose objective is the protection or aid of minors.

Section 127. Section 80-2-501 is amended to read:

80-2-501. Children's Account.

(1) There is created a restricted account within the General Fund known as the "Children's Account."

(2) The account shall be funded by:

(a) appropriations to the account by the Legislature;

(b) revenues received under Section [~~26-2-12.5~~] 26B-8-112; and

(c) transfers, grants, gifts, bequests, or any money made available from any source for the abuse and neglect prevention programs described in Subsection 80-2-503(3).

(3) The Legislature shall appropriate money in the account to the division.

(4) (a) The director shall consult with the executive director of the department before using the funds in the account as described in this section.

(b) Except as provided in Subsection (5), the account may be used only to implement prevention programs described in Section 80-2-503, and may only be allocated to an entity that provides a one-to-one match, comprising a match from the community of at least 50% in cash and up to 50% in in-kind donations, which is 25% of the total funding received from the account.

(5) Upon recommendation of the executive director of the department and the council, the division may reduce or waive the match requirements described in Subsection (4) for an entity, if the division determines that imposing the requirements would prohibit or limit the provision of services needed in a particular geographic area.

Section 128. Section 80-2-603 is amended to read:

80-2-603. Fetal alcohol syndrome or spectrum disorder and drug dependency reporting requirements.

(1) As used in this section:

(a) "Health care provider" means:

(i) an individual licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act;

(B) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(C) Title 58, Chapter 67, Utah Medical Practice Act;

(D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) Title 58, Chapter 77, Direct-Entry Midwife Act; or

(ii) an unlicensed individual who practices midwifery.

(b) "Newborn child" means a child who is 30 days old or younger.

(c) "Recommending medical provider" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(d) (i) "Substance abuse" means, except as provided in Subsection (1)(d)(ii), the same as that term is defined in Section 80-1-102.

(ii) "Substance abuse" does not include use of drugs or other substances that are:

(A) obtained by lawful prescription and used as prescribed; or

(B) obtained in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and used as recommended by a recommending medical provider.

(2) A health care provider who attends the birth of a newborn child or cares for a newborn child and determines the following, shall report the determination to the division as soon as possible:

(a) the newborn child:

(i) is adversely affected by the child's mother's substance abuse during pregnancy;

(ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or

(iii) demonstrates drug or alcohol withdrawal symptoms; or

(b) the parent of the newborn child or a person responsible for the child's care demonstrates functional impairment or an inability to care for the child as a result of the parent's or person's substance abuse.

(3) The physician-patient privilege does not:

(a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or

(b) constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report under this section.

Section 129. Section 80-2-604 is amended to read:

80-2-604. Death of a child reporting requirements.

(1) A person who has reason to believe that a child has died as a result of abuse or neglect shall report that fact to:

(a) the local law enforcement agency; and

(b) the appropriate medical examiner in accordance with [~~Title 26, Chapter 4, Utah Medical Examiner Act~~] Title 26B, Chapter 8, Part 2, Utah Medical Examiner.

(2) After receiving a report described in Subsection (1):

(a) the local law enforcement agency shall report to the county attorney or district attorney as provided under Section 17-18a-202 or 17-18a-203; and

(b) the medical examiner shall investigate and report the medical examiner's findings to:

(i) the police;

(ii) the appropriate county attorney or district attorney;

(iii) the attorney general's office;

(iv) the division; and

(v) if the institution making the report is a hospital, to the hospital.

Section 130. Section 80-2-802 is amended to read:

80-2-802. Division child placing and adoption services -- Restrictions on placement of a child.

(1) Except as provided in Subsection (3), the division may provide adoption services and, as a licensed child-placing agency under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities, engage in child placing in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.

(2) The division shall base the division's decision for placement of an adoptable child for adoption on the best interest of the adoptable child.

(3) The division may not:

(a) in accordance with Subsection [~~62A-2-108.6(6)~~] 26B-2-127(6), place a child for adoption, either temporarily or permanently, with an individual who does not qualify for adoptive placement under Sections 78B-6-102, 78B-6-117, and 78B-6-137;

(b) consider a potential adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under Section 78B-6-146 as a condition of placing a child with a potential adoptive parent; or

(c) except as required under the Indian Child Welfare Act, 25 U.S.C. Secs. 1901 through 1963, base the division's decision for placement of an adoptable child on the race, color, ethnicity, or national origin of either the child or the potential adoptive parent.

(4) The division shall establish a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing that, subject to Subsection (3) and Section 78B-6-117, priority of placement shall be provided to a family in which a couple is legally married under the laws of the state.

(5) Subsections (3) and (4) do not limit the placement of a child with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 131. Section 80-2-803 is amended to read:

80-2-803. Division promotion of adoption -- Adoption research and informational pamphlet.

The division shall:

(1) [~~in accordance with Section 62A-2-126,~~] actively promote the adoption of all children in the division's custody who have a final plan for termination of parental rights under Section 80-3-409 or a primary permanency plan of adoption;

(2) develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children;

(3) obtain information or conduct research regarding prior adoptive families to determine what families may do to be successful with an adoptive child;

(4) make the information or research described in Subsection (3) available to potential adoptive parents;

(5) prepare a pamphlet that explains the information that a child-placing agency is required to provide a potential adoptive parent under [~~Subsection 62A-2-126(2)(b)~~] Section 78B-24-303;

(6) regularly distribute copies of the pamphlet described in Subsection (5) to child-placing agencies; and

(7) respond to an inquiry made as a result of the notice provided by a child-placing agency under [~~Subsection 62A-2-126(2)(b)~~] Section 78B-24-303.

Section 132. Section 80-2-804 is amended to read:

80-2-804. Adoptive placement time frame -- Division contracts with child-placing agencies.

(1) Subject to this part, for a child who has a primary permanency plan of adoption or for whom a final plan for pursuing termination of parental rights is approved in accordance with Section 80-3-409, the division shall make intensive efforts to place the child in an adoptive home within 30 days after the earlier of the day on which:

(a) the final plan is approved; or

(b) the primary permanency plan is established.

(2) If within the time periods described in Subsection (1) the division is unable to locate a suitable adoptive home, the division shall[~~, in accordance with Section 62A-2-126,~~]contract with a variety of child-placing agencies licensed under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities, to search for an appropriate adoptive home for the child, and to place the child for adoption.

Section 133. Section 80-2-909 is amended to read:

80-2-909. Existing authority for child placement continues.

Any person who, under any law of this state other than this part or the Interstate Compact on the Placement of Children established under Section 80-2-905, has authority to make or assist in making the placement of a child, shall continue to have the ability lawfully to make or assist in making that placement, and the provisions of Sections [~~62A-2-108.6, 62A-2-115.1, 62A-2-115.2, 62A-2-126, 62A-2-127~~] 26B-2-127, 26B-2-131, 26B-2-132, 26B-2-133, Subsections 80-2-802(3)(a) and (4) and 80-2-803(1), (2), and (5) through (7), and Title 78B, Chapter 6, Part 1, Utah Adoption Act, continue to apply.

Section 134. Section 80-2-1001 is amended to read:

80-2-1001. Management Information System -- Contents -- Classification of records -- Access.

(1) The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation.

(2) The Management Information System shall:

(a) contain all key elements of each family's current child and family plan, including:

(i) the dates and number of times the plan has been administratively or judicially reviewed;

(ii) the number of times the parent failed the child and family plan; and

(iii) the exact length of time the child and family plan has been in effect; and

(b) alert child welfare caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.

(3) For a child welfare case, the Management Information System shall provide each child welfare caseworker and the Office of Licensing created in Section [~~62A-2-103~~] 26B-2-103, exclusively for the purposes of foster parent

licensure and monitoring, with a complete history of each child in the child welfare caseworker's caseload, including:

(a) a record of all past action taken by the division with regard to the child and the child's siblings;

(b) the complete case history and all reports and information in the control or keeping of the division regarding the child and the child's siblings;

(c) the number of times the child has been in the protective custody, temporary custody, and custody of the division;

(d) the cumulative period of time the child has been in the custody of the division;

(e) a record of all reports of abuse or neglect received by the division with regard to the child's parent or guardian including:

(i) for each report, documentation of the:

(A) latest status; or

(B) final outcome or determination; and

(ii) information that indicates whether each report was found to be:

(A) supported;

(B) unsupported;

(C) substantiated;

(D) unsubstantiated; or

(E) without merit;

(f) the number of times the child's parent failed any child and family plan; and

(g) the number of different child welfare caseworkers who have been assigned to the child in the past.

(4) For child protective services cases, the Management Information System shall:

(a) monitor the compliance of each case with:

(i) division rule;

(ii) state law; and

(iii) federal law and regulation; and

(b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

(5) Information or a record contained in the Management Information System is:

(a) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) available only:

(i) to a person or government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information or record;

(ii) to a person who has specific statutory authorization to access the information or record for the purpose of assisting the state with state or federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need;

(iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:

(A) to comply with abuse and neglect registry checks requested by other states; or

(B) to the United States Department of Health and Human Services for purposes of maintaining an electronic national registry of supported or substantiated cases of abuse and neglect;

(iv) to the department, upon the approval of the executive director of the department, on a need-to-know basis; or

(v) as provided in Subsection (6) or Section 80-2-1002.

(6) (a) The division may allow a division contract provider, court clerk designated by the Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe to have limited access to the Management Information System.

(b) A division contract provider or Indian tribe has access only to information about a person who is currently receiving services from the specific contract provider or Indian tribe.

(c) A court clerk may only have access to information necessary to comply with Subsection 78B-7-202(2).

(d) (i) The Office of Guardian Ad Litem may only access:

(A) the information that is entered into the Management Information System on or after July 1, 2004, and relates to a child or family where the Office of Guardian Ad Litem is appointed by a court to represent the interests of the child; or

(B) any abuse or neglect referral about a child or family where the office has been appointed by a court to represent the interests of the child, regardless of the date that the information is entered into the Management Information System.

(ii) The division may use the information in the Management Information System to screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the Office of Guardian Ad Litem.

(e) A contract provider or designated representative of the Office of Guardian Ad Litem or an Indian tribe who requests access to information contained in the Management Information System shall:

(i) take all necessary precautions to safeguard the security of the information contained in the Management Information System;

(ii) train its employees regarding:

(A) requirements for protecting the information contained in the Management Information System

under this chapter and under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper release of information; and

(iii) monitor its employees to ensure that the employees protect the information contained in the Management Information System as required by law.

(7) The division shall take:

(a) all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information contained in the Management Information System; and

(b) reasonable precautions to ensure that the division's contract providers comply with Subsection (6).

Section 135. Section 80-2-1002 is amended to read:

80-2-1002. Licensing Information System -- Contents -- Classification of records -- Access -- Unlawful release -- Penalty.

(1) (a) The division shall maintain a sub-part of the Management Information System as the Licensing Information System to be used:

(i) for licensing purposes; or

(ii) as otherwise provided by law.

(b) Notwithstanding Subsection (1)(a), the department's access to information in the Management Information System for the licensure and monitoring of a foster parent is governed by Sections 80-2-1001 and [~~62A-2-121~~] 26B-2-121.

(2) The Licensing Information System shall include only the following information:

(a) the name and other identifying information of the alleged perpetrator in a supported finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

(b) a notation to the effect that an investigation regarding the alleged perpetrator described in Subsection (2)(a) is pending;

(c) the information described in Subsection (3);

(d) consented-to supported findings by an alleged perpetrator under Subsection 80-2-708(3)(a)(iii);

(e) a finding from the juvenile court under Section 80-3-404; and

(f) the information in the licensing part of the division's Management Information System as of May 6, 2002.

(3) Subject to Section 80-2-1003, upon receipt of a finding from the juvenile court under Section 80-3-404, the division shall:

(a) promptly amend the Licensing Information System to include the finding; and

(b) enter the finding in the Management Information System.

(4) Information or a record contained in the Licensing Information System is:

(a) a protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, accessible only:

(i) to the Office of Licensing created in Section [~~62A-2-103~~] 26B-2-103:

(A) for licensing purposes; or

(B) as otherwise specifically provided for by law;

(ii) to the division to:

(A) screen an individual at the request of the Office of Guardian Ad Litem at the time the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and annually throughout the time that the individual remains with the Office of Guardian Ad Litem; and

(B) respond to a request for information from an individual whose name is listed in the Licensing Information System;

(iii) to a person designated by the Department of Health and [~~approved by the Department of~~] Human Services, only for the following purposes:

(A) licensing a child care program or provider;

(B) determining whether an individual associated with a child care facility, program, or provider, who is exempt from being licensed or certified by the [~~Department of Health under Title 26, Chapter 39, Utah Child Care Licensing Act~~] Department of Health and Human Services under Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported finding of a severe type of child abuse or neglect; or

(C) determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect;

(iv) to a person designated by the Department of Workforce Services and approved by the Department of [~~Human Services~~] Health and Human Services for the purpose of qualifying a child care provider under Section 35A-3-310.5;

(v) as provided in Section [~~62A-2-121~~] 26B-2-121; or

(vi) to the department or another person, as provided in this chapter.

(5) A person designated by the Department of [~~Health~~] Health and Human Services or the Department of Workforce Services under Subsection (4) shall adopt measures to:

(a) protect the security of the Licensing Information System; and

(b) strictly limit access to the Licensing Information System to persons allowed access by statute.

(6) The department shall approve a person allowed access by statute to information or a record contained in the Licensing Information System and provide training to the person with respect to:

(a) accessing the Licensing Information System;

(b) maintaining strict security; and

(c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the improper release of information.

(7) (a) Except as authorized by this chapter, a person may not request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of this Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801 and 80-2-1005.

Section 136. Section 80-2-1005 is amended to read:

80-2-1005. Classification of reports of alleged abuse or neglect -- Confidential identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful release and use -- Penalty.

(1) Except as otherwise provided in this chapter or Chapter 2a, Removal and Protective Custody of a Child, a report made under Part 6, Child Abuse and Neglect Reports, and any other information in the possession of the division obtained as a result of the report is a private, protected, or controlled record under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) the subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or the public prosecutor's deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Individual, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the department or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection [~~62A-15-103(2)(p)~~] 26B-5-102(2)(p).

(2) In accordance with Section 80-2-608 and except as provided in Section 80-2-611, the division and a law enforcement agency shall ensure the anonymity of the person who makes the initial report under Part 6, Child Abuse and Neglect Reports, and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.

(3) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G, Chapter 2,

Government Records Access and Management Act, if the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(a) identify the referent;

(b) impede a criminal investigation; or

(c) endanger an individual's safety.

(4) A child-placing agency or person who receives a report from the division under Subsection (1)(m) may provide the report to:

(a) the subject of the report;

(b) a person who is performing a preplacement adoptive evaluation in accordance with Sections 78B-6-128 and 78B-6-130;

(c) to a licensed child-placing agency; or

(d) an attorney seeking to facilitate an adoption.

(5) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

(6) (a) Except as provided in Subsection (6)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection (6)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (6)(b)(i), the court may receive the report into evidence upon a finding on the record of good cause.

(7) (a) A person may not:

(i) willfully permit, or aid and abet, the release of data or information in the possession of the division or contained in the Management Information System in violation of this part or Part 6, Child Abuse and Neglect Reports; or

(ii) if the person is not listed in Subsection (1), request another person to obtain or release a report or other information that the other person obtained under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii) knowing the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C misdemeanor.

Section 137. Section 80-2a-202 is amended to read:

80-2a-202. Removal of a child by a peace officer or child welfare caseworker -- Search warrants -- Protective custody and temporary care of a child.

(1) A peace officer or child welfare caseworker may remove a child or take a child into protective custody, temporary custody, or custody in accordance with this section.

(2) (a) Except as provided in Subsection (2)(b), a peace officer or a child welfare caseworker may not enter the home of a child whose case is not under the jurisdiction of the juvenile court, remove a child from the child's home or school, or take a child into protective custody unless:

(i) there exist exigent circumstances sufficient to relieve the peace officer or the child welfare caseworker of the requirement to obtain a search warrant under Subsection (3);

(ii) the peace officer or child welfare caseworker obtains a search warrant under Subsection (3);

(iii) the peace officer or child welfare caseworker obtains a court order after the child's parent or guardian is given notice and an opportunity to be heard; or

(iv) the peace officer or child welfare caseworker obtains the consent of the child's parent or guardian.

(b) A peace officer or a child welfare caseworker may not take action under Subsection (2)(a) solely on the basis of:

(i) educational neglect, truancy, or failure to comply with a court order to attend school; or

(ii) the possession or use, in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201.

(3) (a) The juvenile court may issue a warrant authorizing a peace officer or a child welfare caseworker to search for a child and take the child into protective custody if it appears to the juvenile court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace officer or another individual, and upon the examination of other witnesses if required by the juvenile court, that there is probable cause to believe that:

(i) there is a threat of substantial harm to the child's health or safety;

(ii) it is necessary to take the child into protective custody to avoid the harm described in Subsection (3)(a)(i); and

(iii) it is likely that the child will suffer substantial harm if the child's parent or guardian is given notice and an opportunity to be heard before the child is taken into protective custody.

(b) In accordance with Section 77-23-210, a peace officer making the search under Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the child.

(4) (a) A child welfare caseworker may take action under Subsection (2) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.

(b) (i) Before taking a child into protective custody, and if possible and consistent with the child's safety and welfare, a child welfare caseworker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

(ii) In determining whether the services described in Subsection (4)(b)(i) are reasonably available, the child welfare caseworker shall consider the child's health, safety, and welfare as the paramount concern.

(iii) If the child welfare caseworker determines the services described in Subsection (4)(b)(i) are reasonably available, the services shall be utilized.

(5) (a) If a peace officer or a child welfare caseworker takes a child into protective custody under Subsection (2), the peace officer or child welfare caseworker shall:

(i) notify the child's parent or guardian in accordance with Section 80-2a-203; and

(ii) release the child to the care of the child's parent or guardian or another responsible adult, unless:

(A) the child's immediate welfare requires the child remain in protective custody; or

(B) the protection of the community requires the child's detention in accordance with Chapter 6, Part 2, Custody and Detention.

(b) (i) If a peace officer or child welfare caseworker is executing a warrant under Subsection (3), the peace officer or child welfare caseworker shall take the child to:

(A) a shelter facility; or

(B) if the division makes an emergency placement under Section 80-2a-301, the emergency placement.

(ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility under Subsection (5)(b)(i), the peace officer or the child welfare caseworker shall promptly file a written report that includes the child's information, on a form provided by the division, with the shelter facility.

(c) A child removed or taken into protective custody under this section may not be placed or kept in detention pending court proceedings, unless the child may be held in detention under Chapter 6, Part 2, Custody and Detention.

(6) (a) The juvenile court shall issue a warrant authorizing a peace officer or a child welfare worker to search for a child who is missing, has been abducted, or has run away, and take the child into physical custody if the juvenile court determines that the child is missing, has been abducted, or has run away from the protective custody, temporary custody, or custody of the division.

(b) If the juvenile court issues a warrant under Subsection (6)(a):

(i) the division shall notify the child's parent or guardian who has a right to parent-time with the child in accordance with Subsection 80-2a-203(5)(a);

(ii) the court shall order:

(A) the law enforcement agency that has jurisdiction over the location from which the child ran away to enter a record of the warrant into the National Crime Information Center database within 24 hours after the time in which the law enforcement agency receives a copy of the warrant; and

(B) the division to notify the law enforcement agency described in Subsection (6)(b)(ii)(A) of the order described in Subsection (6)(b)(ii)(A); and

(c) the court shall specify the location to which the peace officer or the child welfare caseworker shall transport the child.

Section 138. Section 80-2a-301 is amended to read:

80-2a-301. Division's emergency placement of a child -- Background checks.

(1) The division may place a child in an emergency placement if:

(a) the child welfare caseworker makes the determination that:

(i) the child's home is unsafe;

(ii) removal is necessary under Section 80-2a-202; and

(iii) the child's custodial parent or guardian will agree to not remove the child from the home of the individual that serves as the placement and not have any contact with the child until after the time at which the shelter hearing is held under Section 80-3-301;

(b) an individual, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the individual described in Subsection (1)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the individual meets the criteria for an emergency placement under Subsection (2);

(ii) the individual agrees to not allow the custodial parent or guardian to have any contact with the child until after the time at which the shelter hearing is held unless authorized by the division in writing;

(iii) the individual agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the individual agrees to allow the division and the child's guardian ad litem to have access to the child;

(v) the individual is informed and understands that the division may continue to search for other possible placements for long-term care of the child, if needed;

(vi) the individual is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

(vii) the child is comfortable with the individual.

(2) Except as provided in Subsection (4), before the day on which the division places a child in an emergency placement, the division:

(a) may request the name of a reference and may contact the reference to determine whether:

(i) the individual identified as a reference would place a child in the home of the emergency placement; and

(ii) there are any other relatives or friends to consider as a possible emergency or long-term placement for the child;

(b) in accordance with Subsection (4)(a), shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation described in Subsection (2)(a);

(c) (i) if the emergency placement will be with a relative, shall comply with the background check provisions described in Subsection (6); or

(ii) if the emergency placement will be with an individual other than a noncustodial parent or relative, shall comply with the background check provisions described in Subsection (7) for adults living in the household where the child will be placed;

(d) shall complete a limited home inspection of the home where the emergency placement is made; and

(e) shall require the child welfare caseworker to have the emergency placement approved by a supervisor designated by the division.

(3) (a) The division shall apply the following order of preference when determining the person with whom a child will be placed in an emergency placement, provided that the individual is able and willing to care for the child:

(i) a noncustodial parent of the child in accordance with Section 80-3-302;

(ii) a relative;

(iii) subject to Subsection (3)(b), a friend designated by the custodial parent, guardian, or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iv) a former foster placement designated by the division;

(v) a foster placement, that is not a former foster placement, designated by the division; and

(vi) a shelter facility designated by the division.

(b) In determining whether a friend is a willing and appropriate temporary emergency placement for a child, the division:

(i) subject to Subsections (3)(b)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent or legal guardian of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child, if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the division's basis for removing the child under Section 80-2a-202 is sexual abuse of the child.

(4) (a) The division may, pending the outcome of the investigation described in Subsections (4)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation before the day on which the division makes the emergency placement, the division:

(i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

(ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and

(iii) has the custodial parent or guardian sign an emergency placement agreement.

(b) Either before or after the day on which the division makes an emergency placement with the

noncustodial parent of the child, the division may conduct the investigation described in Subsection (2)(a) in relation to the noncustodial parent.

(c) Before, or within one day, excluding weekends and holidays, after the day on which the division places a child in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:

(i) background check of the noncustodial parent, under Subsection (6); and

(ii) inspection of the home where the emergency placement is made.

(5) After an emergency placement, the child welfare caseworker must:

(a) respond to the emergency placement's calls within one hour after the call is received if the custodial parent or guardian attempts to make unauthorized contact with the child or attempts to remove the child from the emergency placement;

(b) complete all removal paperwork, including the notice provided to the child's custodial parent or guardian under Section 80-3-301;

(c) if the child is not placed with a noncustodial parent, relative, or friend, file a report with the child welfare caseworker's supervisor that explains why a different placement is in the child's best interest;

(d) contact the attorney general to schedule a shelter hearing;

(e) complete the placement procedures required in Section 80-3-302; and

(f) continue to search for other relatives as a possible long-term placement for the child, if needed.

(6) (a) The background check described in Subsections (2)(c)(i) and (4)(c)(i) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check; and

(ii) a search of the Management Information System.

(b) The division shall determine whether an individual passes the background check described in Subsection (6)(a) in accordance with Section [~~62A-2-120~~] 26B-2-120.

(c) Notwithstanding Subsection (6)(b), the division may not place a child with an individual who is prohibited by court order from having access to the child.

(7) (a) The background check described in Subsection (2)(c)(ii) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check;

(ii) a federal name-based criminal background check; and

(iii) a search of the Management Information System.

(b) The division shall determine whether an individual passes the background check described in Subsection (7)(a) in accordance with Section [~~62A-2-120~~] 26B-2-120.

(c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection (7)(a), and the individual contests the denial, the individual shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(d) (i) Within 15 calendar days after the day on which the name-based background checks are completed, the division shall require the individual to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(ii) If the individual fails to provide the fingerprints and written permission described in Subsection (7)(d)(i), the child shall immediately be removed from the child's home.

Section 139. Section 80-3-110 is amended to read:

80-3-110. Consideration of cannabis during proceedings -- Drug testing.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(e) "Dosing guidelines" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(f) "Medical cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(g) "Medical cannabis cardholder" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(h) " Recommending medical provider" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(2) In a proceeding under this chapter, in which the juvenile court makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation

from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's medical cannabis card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection [~~26-61a-502~~] 26B-4-230(4) or (5).

(3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of the child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of the child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's recommending medical provider or through a consultation described in Subsection [~~26-61a-502~~] 26B-4-230(4) or (5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

(6) If an individual, who is party to a proceeding under this chapter, is ordered by the juvenile court to submit to drug testing, or is referred by the division or a guardian ad litem for drug testing, the individual may not be ordered or referred for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

Section 140. Section 80-3-204 is amended to read:

80-3-204. Protective custody of a child after a petition is filed -- Grounds.

(1) When an abuse, neglect, or dependency petition is filed, the juvenile court shall apply, in addressing the petition, the least restrictive means and alternatives available to accomplish a compelling state interest and to prevent irretrievable destruction of family life as described in Subsections 80-2a-201(1) and (7)(a) and Section 80-4-104.

(2) After an abuse, neglect, or dependency petition is filed, if the child who is the subject of the petition is not in protective custody, a juvenile court may order that the child be removed from the child's home or otherwise taken into protective custody if the juvenile court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

(ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other individual known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to Subsection 80-1-102(58)(b) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant is an abandoned infant, as defined in Section 80-4-203;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

(3) (a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact is prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (2)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by an individual known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact is prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(4) (a) For purposes of Subsection (2), if the division files an abuse, neglect, or dependency petition, the juvenile court shall consider the division's safety and risk assessments described in Section 80-2-403 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 80-2-403 to the juvenile court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 80-3-301.

(5) In the absence of one of the factors described in Subsection (2), a juvenile court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian;

(c) disability of the parent or guardian, as defined in Section 57-21-2; or

(d) the possession or use, in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201.

(6) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in detention, unless the child may be admitted to detention under Chapter 6, Part 2, Custody and Detention.

(7) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 80-2a-202.

(8) (a) Except as provided in Subsection (8)(b), a juvenile court and the division may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (8)(a), a juvenile court or the division may remove a child under conditions that would otherwise be prohibited

under Subsection (8)(a) if failure to take an action described under Subsection (8)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 141. Section 80-3-302 is amended to read:

80-3-302. Shelter hearing -- Placement of a child.

(1) As used in this section:

(a) "Natural parent," notwithstanding Section 80-1-102, means:

(i) a biological or adoptive mother of the child;

(ii) an adoptive father of the child; or

(iii) a biological father of the child who:

(A) was married to the child's biological mother at the time the child was conceived or born; or

(B) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.

(b) "Natural parent" includes the individuals described in Subsection (1)(a) regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(2) (a) At the shelter hearing, if the juvenile court orders that a child be removed from the custody of the child's parent in accordance with Section 80-3-301, the juvenile court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.

(b) Subject to Subsection (7), if another natural parent requests custody under Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile court finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The juvenile court:

(i) shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;

(ii) shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 80-3-305, and check the Management Information System for any previous reports of abuse or neglect received by the division regarding the parent at issue;

(iii) may order the division to conduct any further investigation regarding the safety and appropriateness of the placement; and

(iv) may place the child in the temporary custody of the division, pending the juvenile court's determination regarding the placement.

(d) The division shall report the division's findings from an investigation under Subsection (2)(c), regarding the child in writing to the juvenile court.

(3) If the juvenile court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the juvenile court;

(b) the juvenile court may order:

(i) that the parent take custody subject to the supervision of the juvenile court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the juvenile court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The juvenile court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed with a relative under Subsections (6) through (9); or

(d) the child should be placed in the temporary custody of the division.

(5) (a) Legal custody of the child is not affected by an order entered under Subsection (2) or (3).

(b) To affect a previous court order regarding legal custody, the party shall petition the court for modification of legal custody.

(6) Subject to Subsection (7), if, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the juvenile court:

(a) shall, at that time, determine whether there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether there are relatives or friends who are willing and appropriate, in accordance with the requirements of this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to provide

information regarding relatives or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection (6)(a).

(7) (a) (i) Subject to Subsections (7)(b) through (d) and if the provisions of this section are satisfied, the division and the juvenile court shall give preferential consideration to a relative's or a friend's request for placement of the child, if the placement is in the best interest of the child.

(ii) For purposes of the preferential consideration under Subsection (7)(a)(i), there is a rebuttable presumption that placement of the child with a relative is in the best interest of the child.

(b) (i) The preferential consideration that the juvenile court or division initially grants a relative or friend under Subsection (7)(a)(i) expires 120 days after the day on which the shelter hearing occurs.

(ii) After the day on which the time period described in Subsection (7)(b)(i) expires, the division or the juvenile court may not grant preferential consideration to a relative or friend, who has not obtained custody or asserted an interest in the child.

(c) (i) The preferential consideration that the juvenile court initially grants a natural parent under Subsection (2) is limited after 120 days after the day on which the shelter hearing occurs.

(ii) After the time period described in Subsection (7)(c)(i), the juvenile court shall base the juvenile court's custody decision on the best interest of the child.

(d) Before the day on which the time period described in Subsection (7)(c)(i) expires, the following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:

(i) a noncustodial parent of the child;

(ii) a relative of the child;

(iii) subject to Subsection (7)(e), a friend if the friend is a licensed foster parent; and

(iv) other placements that are consistent with the requirements of law.

(e) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:

(i) subject to Subsections (7)(e)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.

(f) (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.

(ii) If the friend described in Subsection (7)(f)(i) becomes licensed as a foster parent within the time frame described in Subsection (7)(b), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.

(8) (a) If a relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection (6)(a), the juvenile court:

(i) shall make a specific finding regarding:

(A) the fitness of that relative or friend as a placement for the child; and

(B) the safety and appropriateness of placement with the relative or friend; and

(ii) may not consider a request for guardianship or adoption of the child by an individual who is not a relative of the child, or prevent the division from placing the child in the custody of a relative of the child in accordance with this part, until after the day on which the juvenile court makes the findings under Subsection (8)(a)(i).

(b) In making the finding described in Subsection (8)(a), the juvenile court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a

noncustodial parent that are described in Subsections 80-2a-301(4) and (6);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305;

(iv) visit the relative's or friend's home;

(v) check the Management Information System for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the juvenile court; and

(vii) provide sufficient information so that the juvenile court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(c) The division may determine to conduct, or the juvenile court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement described in Subsection (8)(a).

(d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(9) (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection (8), and the juvenile court's determination regarding the appropriateness of the placement.

(b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(10) If a juvenile court places a child described in Subsection (6) with the child's relative or friend:

(a) the juvenile court shall:

(i) order the relative or friend take custody, subject to the continuing supervision of the juvenile court;

(ii) provide for reasonable parent-time with the parent or parents from whose custody the child is removed, unless parent-time is not in the best interest of the child; and

(iii) conduct a periodic review no less often than every six months, to determine whether:

(A) placement with a relative or friend continues to be in the child's best interest;

(B) the child should be returned home; or

(C) the child should be placed in the custody of the division;

(b) the juvenile court may enter an order:

(i) requiring the division to provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being; or

(ii) that the juvenile court considers necessary for the protection and best interest of the child; and

(c) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court;

(11) No later than 12 months after the day on which the child is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(12) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to a child placed with a previously noncustodial parent under Subsection (2) or with a relative or friend under Subsection (6).

(13) (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and

(ii) if the results of the criminal background check described in Subsection (13)(a)(i) would prohibit the relative from having direct access to the child under Section [~~62A-2-120~~] 26B-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after the day on which the child is taken into physical custody under Subsection (13)(a)(ii)(A), give written notice to the juvenile

court, and all parties to the proceedings, of the division's action.

(b) Subsection (13)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection (13)(a) on the relative.

(14) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child.

(15) (a) If a child reenters the temporary custody or the custody of the division and is placed in foster care, the division shall:

(i) notify the child's former foster parents; and

(ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child.

(b) If, after the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

(16) In determining the placement of a child, the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

(17) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the child's wishes.

(18) This section does not guarantee that an identified relative or friend will receive custody of the child.

Section 142. Section 80-3-305 is amended to read:

80-3-305. Criminal background checks necessary before out-of-home placement of a child.

(1) Subject to Subsection (3), upon ordering removal of a child from the custody of the child's parent and placing that child in the temporary custody or custody of the division before the division places a child in out-of-home care, the juvenile court shall require the completion of a nonfingerprint-based background check by the Utah Bureau of Criminal Identification regarding the proposed placement.

(2) (a) Except as provided in Subsection (4), the division or the Office of Guardian Ad Litem may request, or the juvenile court upon the juvenile court's own motion, may order, the Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC).

(b) (i) Except as provided in Subsection (4), upon request by the division or the Office of Guardian ad Litem, or upon the juvenile court's order, an individual subject to the requirements of Subsection (1) shall submit fingerprints and shall be subject to an FBI fingerprint background check.

(ii) The child may be temporarily placed, pending the outcome of the background check described in Subsection (2)(b)(i).

(c) (i) Except as provided in Subsection (2)(c)(ii), the cost of the investigations described in Subsection (2)(a) shall be borne by whoever is to receive placement of the child.

(ii) The division may pay all or part of the cost of the investigations described in Subsection (2)(a).

(3) Except as provided in Subsection (5), a child who is in the protective custody, temporary custody, or custody of the division may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the child is placed with the prospective foster parent or the prospective adoptive parent:

(a) a fingerprint based FBI national criminal history records check is conducted on the prospective foster parent or prospective adoptive parent and any other adult residing in the household;

(b) the department conducts a check of the abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately before the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of a severe type of abuse or neglect;

(c) the department conducts a check of the abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection (3)(b) resided in the five years immediately before the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of a severe type of abuse or neglect; and

(d) each individual required to undergo a background check described in this Subsection (3) passes the background check, in accordance with the provisions of Section [~~62A-2-120~~] 26B-2-120.

(4) Subsections (2)(a) and (b) do not apply to a child who is placed with a noncustodial parent or relative under Section 80-2a-301, 80-3-302, or 80-3-303, unless the juvenile court finds that compliance with Subsection (2)(a) or (b) is necessary to ensure the safety of the child.

(5) The requirements under Subsection (3) do not apply to the extent that:

(a) federal law or rule permits otherwise; or

(b) the requirements would prohibit the division or a juvenile court from placing a child with:

(i) a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303; or

(ii) a relative, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (3).

Section 143. Section 80-3-404 is amended to read:

80-3-404. Finding of severe child abuse or neglect -- Order delivered to division -- Court records.

(1) If an abuse, neglect, or dependency petition is filed with the juvenile court that informs the juvenile court that the division has made a supported finding that an individual committed a severe type of child abuse or neglect, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding described in Subsection (1)(a) in a written order; and

(c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(2) The juvenile court shall make the finding described in Subsection (1):

(a) as part of the adjudication hearing;

(b) at the conclusion of the adjudication hearing; or

(c) as part of a court order entered under a written stipulation of the parties.

(3) In accordance with Section 80-2-707, a proceeding for adjudication of a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

(4) (a) The juvenile court shall make records of the juvenile court's findings under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections [~~26-39-402, 26B-1-211, and 62A-2-120~~] 26B-1-211, 26B-2-120, and 26B-2-404, or for the purposes described in Sections [~~26-8a-310, 62A-2-121, or Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access~~] 26B-2-121, 26B-2-238 through 26B-2-241, or 26B-4-124.

(b) An appellate court shall make records of an appeal from the juvenile court's decision under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes described in Subsection (4)(a).

Section 144. Section 80-3-405 is amended to read:

80-3-405. Dispositions after adjudication.

(1) (a) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.

(2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(c) The juvenile court may order:

(i) protective supervision;

(ii) family preservation;

(iii) sibling visitation; or

(iv) other services.

(d) (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an

individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the natural parents of the minor.

(iii) An order under this Subsection (2)(d):

(A) shall remain in effect until the minor is 18 years old;

(B) is not subject to review under Section 78A-6-358; and

(C) may be modified by petition or motion as provided in Section 78A-6-357.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section [~~62A-15-701~~] 26B-5-401, of a local mental health authority, in accordance with the procedures and requirements of [~~Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(f) (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with [~~Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability~~] Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g) (i) Subject to Subsection 80-1-102(58)(b) and Section 80-3-304, the juvenile court may order that a minor:

(A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court shall consider:

(A) the desires of the minor;

(B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(h) The juvenile court may make other reasonable orders for the best interest of the minor.

(3) Upon an adjudication under this chapter, the juvenile court may not:

(a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice and Youth Services;

(b) assume the function of developing foster home services; or

(c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:

(i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;

(ii) based on the assessment described in Subsection (3)(c)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(iii) consents to legal custody of the minor being vested in the division.

(4) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

Section 145. Section 80-3-504 is amended to read:

80-3-504. Petition for substantiation -- Court findings -- Expedited hearing -- Records of an appeal.

(1) The division or an individual may file a petition for substantiation in accordance with Section 80-2-1004.

(2) If the division decides to file a petition for substantiation under Section 80-2-1004, the division shall file the petition no more than 14 days after the day on which the division makes the decision.

(3) At the conclusion of the hearing on a petition for substantiation, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding in a written order; and

(c) deliver a certified copy of the order to the division.

(4) If an individual whose name is listed on the Licensing Information System before May 6, 2002, files a petition for substantiation under Section 80-2-1004 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall:

(a) hear the matter on an expedited basis; and

(b) enter a final decision no later than 60 days after the day on which the petition for substantiation is filed.

(5) An appellate court shall make a record of an appeal from the juvenile court's decision under Subsection (3) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections [~~26-39-402, 62A-1-118, and 62A-2-120,~~] 26B-1-211, 26B-2-120, and 26B-2-404, or for the purposes described in Sections [~~26-8a-310, 62A-2-121, or Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access~~] 26B-2-121, 26B-2-238 through 26B-2-241, or 26B-4-124.

Section 146. Section 80-4-109 is amended to read:

80-4-109. Consideration of cannabis during proceedings.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(e) "Dosing guidelines" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(f) "Medical cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(g) "Medical cannabis cardholder" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(h) "Qualified medical provider" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(2) In a proceeding under this chapter in which the juvenile court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection [~~26-61a-502~~] 26B-4-230(4) or (5).

(3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection [~~26-61a-502~~] 26B-4-230(4) or (5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Section 147. Section 80-4-302 is amended to read:

80-4-302. Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person

having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Section 80-4-203.

(2) In determining whether a parent or parents are unfit or have neglected a child the juvenile court shall consider:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; or

(h) any other circumstance, conduct, or condition that the court considers relevant in the determination of whether a parent or parents are unfit or have neglected the child.

(3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against a parent because of or otherwise consider the parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201 or a medical cannabis device, in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

(5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

(6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

(7) The following circumstances are prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 148. Section 80-4-501 is amended to read:

80-4-501. Definitions.

As used in this part:

(1) "Hospital" means a general acute hospital, as that term is defined in Section [~~26-21-2~~] 26B-2-201, that is:

(a) equipped with an emergency room;

(b) open 24 hours a day, seven days a week; and

(c) employs full-time health care professionals who have emergency medical services training.

(2) "Newborn child" means a child who is approximately 30 days old or younger, as determined within a reasonable degree of medical certainty.

Section 149. Section 80-6-402 is amended to read:

80-6-402. Procedure -- Standard.

(1) When a written motion is filed in accordance with Section 80-6-401 raising the issue of a minor's competency to proceed, or when the juvenile court raises the issue of a minor's competency to proceed, the juvenile court shall stay all proceedings under this chapter .

(2) (a) If a motion for inquiry is opposed by either party, the juvenile court shall, before granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion.

(b) If the juvenile court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, the juvenile court shall:

(i) enter an order for an evaluation of the minor's competency to proceed; and

(ii) set a date for a hearing on the issue of the minor's competency.

(3) After the granting of a motion, and before a full competency hearing, the juvenile court may order the department to evaluate the minor and to report to the juvenile court concerning the minor's mental condition.

(4) The minor shall be evaluated by a forensic evaluator who:

(a) has experience in juvenile forensic evaluations and juvenile brain development;

(b) if it becomes apparent that the minor is not competent due to an intellectual disability or related condition, has experience in intellectual disability or related conditions; and

(c) is not involved in the current treatment of the minor.

(5) The petitioner or other party, as directed by the juvenile court, shall provide all information and materials relevant to a determination of the minor's competency to the department within seven days of the juvenile court's order, including:

(a) the motion;

(b) the arrest or incident reports pertaining to the charged offense;

(c) the minor's known delinquency history information;

(d) the minor's probation record relevant to competency;

(e) known prior mental health evaluations and treatments; and

(f) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the minor's education.

(6) (a) The minor's parent or guardian, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem, shall cooperate, by executing releases of information when necessary, in providing the relevant information and materials to the forensic evaluator, including:

(i) medical records;

(ii) prior mental evaluations; or

(iii) records of diagnosis or treatment of substance abuse disorders.

(b) The minor shall cooperate, by executing a release of information when necessary, in providing the relevant information and materials to the forensic evaluator regarding records of diagnosis or treatment of a substance abuse disorder.

(7) (a) In conducting the evaluation and in the report determining if a minor is competent to proceed, the forensic evaluator shall inform the juvenile court of the forensic evaluator's opinion whether:

(i) the minor has a present ability to consult with counsel with a reasonable degree of rational understanding; and

(ii) the minor has a rational as well as factual understanding of the proceedings.

(b) In evaluating the minor, the forensic evaluator shall consider the minor's present ability to:

(i) understand the charges or allegations against the minor;

(ii) communicate facts, events, and states of mind;

(iii) understand the range of possible penalties associated with the allegations against the minor;

(iv) engage in reasoned choice of legal strategies and options;

(v) understand the adversarial nature of the proceedings against the minor;

(vi) manifest behavior sufficient to allow the juvenile court to proceed;

(vii) testify relevantly; and

(viii) any other factor determined to be relevant to the forensic evaluator.

(8) (a) The forensic evaluator shall provide an initial report to the juvenile court, the prosecuting and defense attorneys, and the attorney guardian ad litem, if applicable, within 30 days of the receipt of the juvenile court's order.

(b) If the forensic evaluator informs the juvenile court that additional time is needed, the juvenile court may grant, taking into consideration the custody status of the minor, up to an additional 15 days to provide the report to the juvenile court and counsel.

(c) The forensic evaluator must provide the report within 45 days from the receipt of the juvenile court's order unless, for good cause shown, the juvenile court authorizes an additional period of time to complete the evaluation and provide the report.

(d) The report shall inform the juvenile court of the forensic evaluator's opinion concerning the minor's competency.

(9) If the forensic evaluator's opinion is that the minor is not competent to proceed, the report shall indicate:

(a) the nature of the minor's:

(i) mental illness;

(ii) intellectual disability or related condition; or

(iii) developmental immaturity;

(b) the relationship of the minor's mental illness, intellectual disability, related condition, or developmental immaturity to the minor's incompetence;

(c) whether there is a substantial likelihood that the minor may attain competency in the foreseeable future;

(d) the amount of time estimated for the minor to achieve competency if the minor undergoes competency attainment treatment, including medication;

(e) the sources of information used by the forensic evaluator; and

(f) the basis for clinical findings and opinions.

(10) Regardless of whether a minor consents to a competency evaluation, any statement made by the minor in the course of the competency evaluation, any testimony by the forensic evaluator based upon any statement made by the minor in the competency evaluation, and any other fruits of the statement made by the minor in the competency evaluation:

(a) may not be admitted in evidence against the minor in a proceeding under this chapter, except the statement may be admitted on an issue respecting the mental condition on which the minor has introduced evidence; and

(b) may be admitted where relevant to a determination of the minor's competency.

(11) Before evaluating the minor for a competency evaluation, a forensic evaluator shall specifically advise the minor, and the minor's parent or guardian if reasonably available, of the limits of confidentiality as provided under Subsection (10).

(12) When the report is received, the juvenile court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the juvenile court enlarges the time for good cause.

(13) (a) A minor shall be presumed competent unless the juvenile court, by a preponderance of the evidence, finds the minor not competent to proceed.

(b) The burden of proof is upon the proponent of incompetency to proceed.

(14) (a) Following the hearing, the juvenile court shall determine by a preponderance of evidence whether the minor is:

(i) competent to proceed;

(ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or

(iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.

(b) If the juvenile court enters a finding described in Subsection (14)(a)(i), the juvenile court shall proceed with the proceedings in the minor's case.

(c) If the juvenile court enters a finding described in Subsection (14)(a)(ii), the juvenile court shall proceed in accordance with Section 80-6-403.

(d) (i) If the juvenile court enters a finding described in Subsection (14)(a)(iii), the juvenile court shall terminate the competency proceeding, dismiss the charges against the minor without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecutor informs the court that commitment proceedings will be initiated in accordance with:

(A) [~~Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability~~] Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability;

(B) if the minor is 18 years old or older, [~~Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities~~] Title 26B, Chapter 5, Part 3, Utah State Hospital and Other Mental Health Facilities; or

(C) if the minor is a child, [~~Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(ii) The commitment proceedings described in Subsection (14)(d)(i) shall be initiated within seven days after the day on which the juvenile court enters the order under Subsection (14)(a), unless the court enlarges the time for good cause shown.

(iii) The juvenile court may order the minor to remain in custody until the commitment proceedings have been concluded.

(15) If the juvenile court finds the minor not competent to proceed, the juvenile court's order shall contain findings addressing each of the factors in Subsection (7)(b).

Section 150. Section 80-6-403 is amended to read:

80-6-403. Disposition on finding of not competent to proceed -- Subsequent hearings -- Notice to prosecuting attorneys.

(1) If the juvenile court determines that the minor is not competent to proceed, and there is a substantial likelihood that the minor may attain competency in the foreseeable future, the juvenile court shall notify the department of the finding and allow the department 30 days to develop an attainment plan for the minor.

(2) The attainment plan shall include:

(a) any services or treatment the minor has been or is currently receiving that are necessary to attain competency;

(b) any additional services or treatment the minor may require to attain competency;

(c) an assessment of the parent, custodian, or guardian's ability to access or provide any recommended treatment or services;

(d) any special conditions or supervision that may be necessary for the safety of the minor or others during the attainment period; and

(e) the likelihood that the minor will attain competency and the amount of time likely required for the minor to attain competency.

(3) The department shall provide the attainment plan to the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem at least three days before the competency disposition hearing.

(4) (a) During the attainment period, the minor shall remain in the least restrictive appropriate setting.

(b) A finding of not competent to proceed does not grant authority for a juvenile court to place a minor in the custody of a division of the department, or create eligibility for services from the Division of Services for People With Disabilities.

(c) If the juvenile court orders the minor to be held in detention during the attainment period, the juvenile court shall make the following findings on the record:

(i) the placement is the least restrictive appropriate setting;

(ii) the placement is in the best interest of the minor;

(iii) the minor will have access to the services and treatment required by the attainment plan in the placement; and

(iv) the placement is necessary for the safety of the minor or others.

(d) A juvenile court shall terminate an order of detention related to the pending proceeding for a minor who is not competent to proceed in that matter if:

(i) the most severe allegation against the minor if committed by an adult is a class B misdemeanor;

(ii) more than 60 days have passed after the day on which the juvenile court adjudicated the minor not competent to proceed; and

(iii) the minor has not attained competency.

(5) (a) At any time that the minor becomes competent to proceed during the attainment period, the department shall notify the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem.

(b) The juvenile court shall hold a hearing with 15 business days of notice from the department described in Subsection (5)(a).

(6) (a) If at any time during the attainment period the juvenile court finds that there is not a substantial probability that the minor will attain competency in the foreseeable future, the juvenile court shall terminate the competency proceeding, dismiss the petition or information without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecuting attorney or any other individual informs the juvenile court that commitment proceedings will be initiated in accordance with:

(i) [~~Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability~~] Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability;

(ii) if the minor is 18 years old or older, [~~Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities~~] Title 26B, Chapter 5, Part 3, Utah State Hospital and Other Mental Health Facilities; or

(iii) if the minor is a child, [~~Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(b) The prosecuting attorney shall initiate the proceedings described in Subsection (6)(a) within seven days after the juvenile court's order, unless the juvenile court enlarges the time for good cause shown.

(7) During the attainment period, the juvenile court may order a hearing or rehearing at anytime on the juvenile court's own motion or upon recommendation of any interested party or the department.

(8) (a) Within three months of the juvenile court's approval of the attainment plan, the department shall provide a report on the minor's progress towards competence.

(b) The report described in Subsection (8)(a) shall address the minor's:

(i) compliance with the attainment plan;

(ii) progress towards competency based on the issues identified in the original competency evaluation; and

(iii) current mental illness, intellectual disability or related condition, or developmental immaturity, and need for treatment, if any, and whether there is substantial likelihood of the minor attaining competency within six months.

(9) (a) Within 30 days of receipt of the report, the juvenile court shall hold a hearing to determine the minor's current status.

(b) At the hearing, the burden of proving the minor is competent is on the proponent of competency.

(c) The juvenile court shall determine by a preponderance of the evidence whether the minor is competent to proceed.

(10) If the minor has not attained competency after the initial three month attainment period but is showing reasonable progress towards attainment of competency, the juvenile court may extend the attainment period up to an additional three months.

(11) The department shall provide an updated juvenile competency evaluation at the conclusion of the six month attainment period to advise the juvenile court on the minor's current competency status.

(12) If the minor does not attain competency within six months after the juvenile court initially finds the minor not competent to proceed, the court shall terminate the competency proceedings and dismiss the petition or information filed without prejudice, unless good cause is shown that there is a substantial likelihood the minor will attain competency within one year from the initial finding of not competent to proceed.

(13) In the event a minor has an unauthorized leave lasting more than 24 hours, the attainment period shall toll until the minor returns.

(14) (a) Regardless of whether a minor consents to attainment, any statement made by the minor in the course of attainment, any testimony by the forensic evaluator based upon any statement made by the minor in the course of attainment, and any other fruits of a statement made by the minor in the course of attainment:

(i) may not be admitted in evidence against the minor in a proceeding under this chapter, except the statement may be admitted on an issue respecting the mental condition on which the minor has introduced evidence; and

(ii) may be admitted where relevant to a determination of the minor's competency.

(b) Before evaluating the minor during the attainment period, a forensic evaluator shall specifically advise the minor, and the minor's parent or guardian if reasonably available, of the limits of confidentiality provided in Subsection (14)(a).

Section 151. Section 80-6-608 is amended to read:

80-6-608. When photographs, fingerprints, or HIV infection tests may be taken -- Distribution -- DNA collection -- Reimbursement.

(1) The division shall take a photograph and fingerprints of a minor who is:

(a) 14 years old or older at the time of the alleged commission of an offense that would be a felony if the minor were 18 years old or older; and

(b) admitted to a detention facility for the alleged commission of the offense.

(2) The juvenile court shall order a minor who is 14 years old or older at the time that the minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to have the minor's fingerprints taken at a detention facility or a local law enforcement agency if the minor is:

(a) adjudicated for an offense that would be a class A misdemeanor if the minor were 18 years old or older; or

(b) adjudicated for an offense that would be a felony if the minor were 18 years old or older and the minor was not admitted to a detention facility.

(3) The juvenile court shall take a photograph of a minor who is:

(a) 14 years old or older at the time the minor was alleged to have committed an offense that would be a felony or a class A misdemeanor if the minor were 18 years old or older; and

(b) adjudicated for the offense described in Subsection (3)(a).

(4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.

(5) HIV testing shall be conducted on a minor who is taken into custody after having been adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon the request of:

(a) the victim;

(b) the parent or guardian of a victim who is younger than 14 years old; or

(c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section [~~62A-3-301~~] 26B-6-201.

(6) HIV testing shall be conducted on a minor against whom a petition has been filed or a pickup order has been issued for the commission of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses:

(a) upon the request of:

(i) the victim;

(ii) the parent or guardian of a victim who is younger than 14 years old; or

(iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section [~~62A-3-301~~] 26B-6-201; and

(b) in which:

(i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

(ii) the juvenile court has found probable cause to believe that the alleged victim has been exposed to HIV infection as a result of the alleged offense.

(7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger than 14 years old without the consent of the juvenile court.

(8) (a) Photographs taken under this section may be distributed or disbursed to:

(i) state and local law enforcement agencies;

(ii) the judiciary; and

(iii) the division.

(b) Fingerprints may be distributed or disbursed to:

(i) state and local law enforcement agencies;

(ii) the judiciary;

(iii) the division; and

(iv) agencies participating in the Western Identification Network.

(9) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the juvenile court as described in Subsection 53-10-403(3).

(b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4), by:

(i) designated employees of the juvenile court; or

(ii) if the minor is committed to the division, designated employees of the division.

(c) The responsible agency under Subsection (9)(b) shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(e) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under Section 80-6-710 and for treatment ordered under Section 80-3-403.

Section 152. Section 80-6-706 is amended to read:

80-6-706. Treatment -- Commitment to local mental health authority or Utah State Developmental Center.

(1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order:

(a) a nonresidential, diagnostic assessment for the minor, including a risk assessment for substance use disorder, mental health, psychological, or sexual behavior;

(b) the minor to be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(c) other care for the minor.

(2) For purposes of receiving the examination, treatment, or care described in Subsection (1), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(3) In determining whether to order the examination, treatment, or care described in Subsection (1), the juvenile court shall consider:

(a) the desires of the minor;

(b) if the minor is a child, the desires of the minor's parent or guardian; and

(c) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(4) (a) If the juvenile court orders examination, treatment, or care for a child under Subsection (1) and the child is committed to the division under Subsection 80-6-703(2), the division shall:

(i) take reasonable measures to notify the child's parent or guardian of any non-emergency health treatment or care scheduled for the child;

(ii) include the child's parent or guardian as fully as possible in making health care decisions for the child; and

(iii) defer to the child's parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well-being are not unreasonably compromised by the parent's or guardian's decision.

(b) The division shall notify the parent or guardian of a child within five business days after a child committed to the division receives emergency health care or treatment.

(c) The division shall use the least restrictive means to accomplish the care and treatment of a child described under Subsection (1).

(5) If a child is adjudicated for an offense under Section 80-6-701, the juvenile court may commit the child to the physical custody, as defined in Section [~~62A-15-701~~] 26B-5-401, of a local mental health authority in accordance with the procedures and requirements in [~~Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(6) (a) If a minor is adjudicated for an offense under Section 80-6-701, and the minor has an intellectual disability, the juvenile court may commit the minor to the Utah State Developmental Center in accordance with [~~Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability~~] Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(b) The juvenile court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (6)(a).

Section 153. Section 80-6-801 is amended to read:

80-6-801. Commitment to local mental health authority or Utah State Developmental Center.

(1) If a child is committed by the juvenile court to the physical custody, as defined in Section [~~62A-15-701~~] 26B-5-401, of a local mental health authority, or the local mental health authority's designee, [~~Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18, shall govern the commitment and release of the minor.

(2) If a minor is committed to the Utah State Developmental Center, [~~Title 62A, Chapter 5, Services for People with Disabilities~~] Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, shall govern the commitment and release of the minor.

Section 154. Coordinating S.B. 209 with H.B. 72 -- Renumbering and superseding amendments.

If this S.B. 209 and H.B. 72, Medical Cannabis Governance Revisions, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2023, by amending:

(1) Subsection 78A-2-231(2)(c)(ii) to read:

"(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26B-4-230(5).";

(2) Subsection 80-3-110(2)(c)(ii) to read:

"(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26B-4-230(5).";

(3) Subsection 80-3-110(4)(a) to read:

"for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's recommending medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26B-4-230(5) ; or";

(4) Subsection 80-4-109(2)(c)(ii) to read:

"(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26B-4-230(5).; and

(5) Subsection 80-4-109(4)(a) to read:

"(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26B-4-230(5); or".

Section 155. Coordinating S.B. 209 with S.B. 272 -- Substantive and technical amendments.

If this S.B. 209 and S.B. 272, Funds Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2023, by omitting the changes to Subsection 63M-7-303(1)(h) in this bill.

Section 156. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if any of the following bills do not pass:

(a) S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;

(b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and Data;

(c) S.B. 40, Health and Human Services Recodification - Health Care Delivery and Repeals; or

(d) S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health.

CHAPTER 331
S. B. 214
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

UTAH FALSE CLAIMS ACT AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends provisions of the Utah False Claims Act.

Highlighted Provisions:

This bill:

- amends the definition of a medical benefit to include payments made to any licensed health care provider.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-20-2, as last amended by Laws of Utah 2007, Chapter 48

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-20-2 is amended to read:

26-20-2. Definitions.

As used in this chapter:

(1) "Benefit" means the receipt of money, goods, or any other thing of pecuniary value.

(2) "Claim" means any request or demand for money or property:

(a) made to any:

(i) employee, officer, or agent of the state;

(ii) contractor with the state; or

(iii) grantee or other recipient, whether or not under contract with the state; and

(b) if:

(i) any portion of the money or property requested or demanded was issued from or provided by the state; or

(ii) the state will reimburse the contractor, grantee, or other recipient for any portion of the money or property.

(3) "False statement" or "false representation" means a wholly or partially untrue statement or representation which is:

(a) knowingly made; and

(b) a material fact with respect to the claim.

(4) "Health care provider" means the same as that term is defined in Section 26-1-37.

[~~(4)~~] (5) "Knowing" and "knowingly":

(a) for purposes of criminal prosecutions for violations of this chapter, is one of the culpable mental states described in Subsection 26-20-9(1); and

(b) for purposes of civil prosecutions for violations of this chapter, is the required culpable mental state as defined in Subsection 26-20-9.5(1).

[~~(5)~~] (6) "Medical benefit" means a benefit paid or payable to:

(a) a health care provider; or

(b) a recipient or a provider under a program administered by the state under:

[~~(a)~~] (i) Titles V and XIX of the federal Social Security Act;

[~~(b)~~] (ii) Title X of the federal Public Health Services Act;

[~~(c)~~] (iii) the federal Child Nutrition Act of 1966 as amended by P.L. 94-105; and

[~~(d)~~] (iv) any programs for medical assistance of the state.

[~~(6)~~] (7) "Person" means an individual, corporation, unincorporated association, professional corporation, partnership, or other form of business association.

CHAPTER 332
S. B. 217
Passed March 2, 2023
Approved March 15, 2023
Effective January 1, 2024

CHILDREN'S HEALTH COVERAGE AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill creates alternative eligibility requirements for the Children's Health Insurance Program.

Highlighted Provisions:

This bill:

- modifies definitions;
- creates alternative eligibility requirements for the Children's Health Insurance Program;
- allows the department to create a waiting list for applicants eligible under the alternative eligibility requirements;
- specifies what benefits a child may receive if eligible under the alternative eligibility requirements;
- limits enrollment for children who are eligible under the alternative eligibility requirements;
- creates the Alternative Eligibility Expendable Revenue Fund; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Health and Human Services -- Alternative Eligibility Expendable Revenue Fund as an ongoing appropriation:
  - from General Fund, $4,500,000.

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

26-40-102, as last amended by Laws of Utah 2019, Chapter 393
26-40-105, as last amended by Laws of Utah 2019, Chapter 393
63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451

ENACTS:

26-40-117, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-40-102 is amended to read:

26-40-102. Definitions.

As used in this chapter:

(1) "Child" means a person who is under 19 years [~~of age~~] old.

[~~(2) "Eligible child" means a child who qualifies for enrollment in the program as provided in Section 26-40-105.~~]

[~~(3)~~] (2) "Member" means a child enrolled in the program.

[~~(4)~~] (3) "Plan" means the department's plan submitted to the United States Department of Health and Human Services pursuant to 42 U.S.C. Sec. 1397ff.

[~~(5)~~] (4) "Program" means the Utah Children's Health Insurance Program created by this chapter.

(5) "Traditionally eligible child" means, subject to limitations created by the federal government, a child who is:

(a) a citizen of the United States;

(b) a qualified non-citizen;

(c) a Supplemental Security Income recipient living in the United States on August 22, 1996, that meets the federal government's criteria for one of the grand-fathered Supplemental Security Income recipient non-citizen groups; or

(d) a lawfully present child.

Section 2. Section 26-40-105 is amended to read:

26-40-105. Eligibility.

(1) [~~A child is eligible to~~] A traditionally eligible child may enroll in the program if the child:

(a) is a bona fide Utah resident;

[~~(b) is a citizen or legal resident of the United States;~~]

[~~(c) is under 19 years of age;~~]

[~~(d)~~] (b) does not have access to or coverage under other health insurance, including any coverage available through a parent or legal guardian's employer;

[~~(e)~~] (c) is ineligible for Medicaid benefits;

[~~(f)~~] (d) resides in a household whose gross family income, as defined by rule, is at or below 200% of the federal poverty level; and

[~~(g)~~] (e) is not an inmate of a public institution or a patient in an institution for mental diseases.

(2) A child who qualifies for enrollment in the program under Subsection (1) may not be denied enrollment due to a diagnosis or pre-existing condition.

(3) (a) The department shall determine eligibility and send notification of the eligibility decision within 30 days after receiving the application for coverage.

(b) If the department cannot reach a decision because the applicant fails to take a required action, or because there is an administrative or other

emergency beyond the department's control, the department shall:

(i) document the reason for the delay in the applicant's case record; and

(ii) inform the applicant of the status of the application and time frame for completion.

(4) The department may not close enrollment in the program for a child who is eligible to enroll in the program under the provisions of Subsection (1).

(5) The program shall:

(a) apply for grants to make technology system improvements necessary to implement a simplified enrollment and renewal process in accordance with Subsection (5)(b); and

(b) if funding is available, implement a simplified enrollment and renewal process.

Section 3. Section 26-40-117 is enacted to read:

26-40-117 (Codified as 26B-3-910). Alternative eligibility -- Report -- Alternative Eligibility Expendable Revenue Fund.

(1) A child who is not a traditionally eligible child may enroll in the program if:

(a) the child:

(i) has been living in the state for at least 180 days before the day on which the child applies for the program; and

(ii) meets the requirements described in Subsections 26-40-105(1)(a) through (e); and

(b) the child's parent has unsubsidized employment.

(2) (a) Enrollment under Subsection (1) is subject to funds in the Alternative Eligibility Expendable Revenue Fund.

(b) The department may create a waiting list for enrollment under Subsection (2)(a) if eligible applicants exceed funds in the Alternative Eligibility Expendable Revenue Fund.

(3) Notwithstanding Section 26-40-106, the program benefits, coverage, and cost sharing for a child enrolled under this section shall be equal to the benefits, coverage, and cost sharing provided to a child who:

(a) is eligible under Subsection 26-40-105(1); and

(b) resides in a household that has a gross family income equal to 200% of the federal poverty level.

(4) Notwithstanding Section 26-40-108, program services provided to a child enrolled under this section shall be funded by the Alternative Eligibility Expendable Revenue Fund.

(5) Each year the department enrolls a child in the program under this section, the department shall submit a report to the Health and Human Services Interim Committee before November 30 detailing:

(a) the number of individuals served under the program;

(b) average duration of coverage for individuals served under the program;

(c) the cost of the program; and

(d) any benefits of the program, including data showing:

(i) percentage of enrolled individuals who had well-child visits with a primary care practitioner at recommended ages;

(ii) percentage of enrolled individuals who received a comprehensive or periodic oral evaluation;

(iii) percentage of enrolled individuals who received recommended immunizations at recommended ages;

(iv) rate of emergency department visits per 1,000 member months;

(v) rate of medication adherence to treat chronic conditions; and

(vi) a comparison of utilization patterns before and after enrollment.

(6) (a) There is created an expendable special revenue fund known as the "Alternative Eligibility Expendable Revenue Fund."

(b) The Alternative Eligibility Expendable Revenue Fund shall consist of:

(i) appropriations by the Legislature;

(ii) any other funds received as donations for the fund; and

(iii) interest earned on the account.

(c) If the balance of the Alternative Eligibility Expendable Revenue Fund exceeds $4,500,000, state funds shall be transferred from the Alternative Eligibility Expendable Revenue Fund to the General Fund in an amount equal to the amount needed to reduce the balance of the Alternative Eligibility Expendable Revenue Fund to $4,500,000.

(d) Money in the Alternative Eligibility Expendable Revenue Fund shall be used to provide benefits to a child enrolled in the program under this section.

Section 4. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Title 26 through 26B.

(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(2) Section 26-1-40 is repealed July 1, 2022.

(3) Section 26-1-41 is repealed July 1, 2026.

(4) Section 26-1-43 is repealed December 31, 2025.

(5) Section 26-7-10 is repealed July 1, 2025.

(6) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(7) Section 26-7-14 is repealed December 31, 2027.

(8) Section 26-8a-603 is repealed July 1, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Section 26-18-28 is repealed June 30, 2027.

(16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(17) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(18) Section 26-33a-117 is repealed December 31, 2023.

(19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(24) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

(25) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(26) Section 26-40-117, regarding alternative eligibility, is repealed July 1, 2028.

[~~(26)~~] (27) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(27)~~] (28) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(28)~~] (29) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

[~~(29)~~] (30) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

[~~(30)~~] (31) Section 26-69-406 is repealed July 1, 2025.

[~~(31)~~] (32) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(32)~~] (33) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services - Alternative Eligibility Expendable Revenue Fund

From General Fund	4,500,000
Schedule of Programs:	
Alternative Eligibility Expendable Revenue Fund	4,500,000

Section 6. Effective date.

This bill takes effect on January 1, 2024.

Section 7. Coordinating S.B. 217 with S.B. 208 -- Substantive and technical amendments.

If this S.B. 217 and S.B. 208, Health and Human Services Recodification - Cross References, Titles 58-63J, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on January 1, 2024, as follows:

(1) the amendments to Section 63I-1-226 in S.B. 208 supersede the amendments to Section 63I-1-226 in this bill; and

(2) add the language "Section 26-40-117, regarding alternative eligibility, is repealed July 1, 2028." as a subsection to Section 63I-1-226 in this bill, numerically according to title placement after Section 26-40-117 has been technically renumbered to Title 26B, in accordance with the revisor instructions in S.B. 208.

CHAPTER 333
S. B. 229
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

CHILD SUPPORT INSURANCE COVERAGE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends the Utah Child Support Act as it relates to insurance coverage for a child.

Highlighted Provisions:

This bill:

- mandates that a child support order include language requiring both parents to provide health care and insurance coverage for the medical expenses of a child;
- requires both parents to provide health care and insurance coverage for the medical expenses of a child even if language to that effect does not appear in the child support order;
- authorizes a court to deviate from these requirements only for good cause or agreement of the parents; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-5.4, as last amended by Laws of Utah 2022, Chapter 263
78B-12-102, as last amended by Laws of Utah 2021, Chapter 111
78B-12-212, as last amended by Laws of Utah 2022, Chapter 263

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-5.4 is amended to read:

30-3-5.4. Designation of primary and secondary health, dental, or hospital insurance coverage.

(1) As used in this section, "health, hospital, or dental insurance plan" has the same meaning as "health care insurance" as defined in Section 31A-1-301.

(2) (a) A decree of divorce rendered in accordance with Section 30-3-5, an order for medical expenses rendered in accordance with Section 78B-12-212, and an administrative order under Section 62A-11-326 shall, in accordance with Subsection (2)(b)(ii), designate which parent's health, hospital, or dental insurance plan is primary coverage and which parent's health, hospital, or dental insurance plan is secondary coverage for a dependent child.

(b) The provisions of the court order required by Subsection (2)(a) shall:

(i) take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans; and

(ii) include the following language:

"If, at any point in time, a dependent child is covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent's Name) shall be primary coverage for the dependent child and the health, hospital, or dental insurance plan of (Other Parent's Name) shall be secondary coverage for the dependent child. If a parent remarries and his or her dependent child is not covered by that parent's health, hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried parent and shall retain the same designation as the primary or secondary plan of the dependent child."

(c) A decree of divorce or related court order may not modify the language required by Subsection (2)(b)(ii).

(d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical expenses including co-payments, deductibles, and co-insurance not covered by health insurance between the parents in accordance with Subsections 30-3-5(3)(a) and [~~78B-12-212(7)~~] 78B-12-212(2)(e).

(3) In designating primary coverage pursuant to Subsection (2), a court may take into account:

(a) the birth dates of the parents;

(b) a requirement in a court order, if any, for one of the parents to maintain health insurance coverage for a dependent child;

(c) the parent with physical custody of the dependent child; or

(d) any other factor the court considers relevant.

Section 2. Section 78B-12-102 is amended to read:

78B-12-102. Definitions.

As used in this chapter:

(1) "Adjusted gross income" means income calculated under Subsection 78B-12-204(1).

(2) "Administrative agency" means the Office of Recovery Services or the Department of Health and Human Services.

(3) "Administrative order" means an order that has been issued by the Office of Recovery Services, the Department of Health and Human Services, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.

(4) "Base child support award" means the award that may be ordered and is calculated using the

guidelines before additions for medical expenses and work-related child care costs.

(5) "Base combined child support obligation table," "child support table," "base child support obligation table," "low income table," or "table" means the appropriate table in Part 3, Tables.

(6) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

(7) "Child" means:

(a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(8) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(9) "Child support order" or "support order" means a judgment, decree, or order of a tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, or otherwise that:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

(c) establishes child support or registers a child support order under Chapter 14, Utah Uniform Interstate Family Support Act.

(10) "Child support services" or "IV-D child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

(11) "Court" means the district court or juvenile court.

(12) "Guidelines" means the directions for the calculation and application of child support in Part 2, Calculation and Adjustment.

(13) "Health care coverage" means coverage under which medical services are provided to a [~~dependent~~] child through:

(a) fee for service;

(b) a health maintenance organization;

(c) a preferred provider organization;

(d) any other type of private health insurance; or

(e) public health care coverage.

(14) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

(15) "Joint physical custody" means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support.

(16) "Medical expenses" means health and dental expenses and related insurance costs.

(17) "Obligee" means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.

(18) "Obligor" means a person owing a duty of support.

(19) "Office" means the Office of Recovery Services within the Department of Health and Human Services.

(20) "Parent" includes a natural parent, or an adoptive parent.

(21) "Pregnancy expenses" means an amount equal to:

(a) the sum of a pregnant mother's:

(i) health insurance premiums while pregnant that are not paid by an employer or government program; and

(ii) medical costs related to the pregnancy, incurred after the date of conception and before the pregnancy ends; minus

(b) any portion of the amount described in Subsection (21)(a) that a court determines is equitable based on the totality of the circumstances, not including any amount paid by the mother or father of the child.

(22) "Split custody" means that each parent has physical custody of at least one of the children.

(23) "State" includes a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

(24) "Temporary" means a period of time that is projected to be less than 12 months in duration.

(25) "Third party" means an agency or a person other than the biological or adoptive parent or a child who provides care, maintenance, and support to a child.

(26) "Tribunal" means the district court, the Department of Health and Human Services, Office of Recovery Services, or court or administrative agency of a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

(27) "Work-related child care costs" means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent under Section 78B-12-215.

(28) "Worksheets" means the forms used to aid in calculating the base child support award.

Section 3. Section 78B-12-212 is amended to read:

78B-12-212. Medical expenses.

(1) [~~A~~] Except as provided in Subsection (3), a child support order issued or modified in this state on or after [~~July 1, 2018~~] May 3, 2023, shall require compliance with [~~this section~~] the requirements described in Subsection (2) as of the effective date of the child support order [~~unless the court makes specific findings as to good cause to deviate from the requirements of this section~~].

(2) [~~(a) The court~~] A child support order shall:

(a) order that the parents provide health care coverage for the medical expenses of a [~~minor child~~ be provided by a parent.] child;

(b) [~~The court shall order that a parent~~] order that the parents provide insurance for the medical expenses of a [~~minor~~] child if insurance is available to [~~that parent~~] the parents at a reasonable cost[~~.~~];

(c) [~~The court shall, in accordance with Section 30-3-5~~] in accordance with Subsection 30-3-5(3)(b)(ii) and Section 30-3-5.4, designate which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary if, at any time, a [~~dependent~~] child is covered by both parents' health, hospital, or dental insurance plans[~~.~~];

(d) require each parent to share equally the out-of-pocket costs of the premium actually paid by a parent for the child's portion of insurance; and

(e) in accordance with Subsection 30-3-5(3)(a), include a provision that requires each parent to equally share all reasonable and necessary uninsured and unreimbursed medical and dental expenses incurred for a child, including co-payments, co-insurance, and deductibles.

(3) A court may deviate from the requirements described in Subsection (2) if:

(a) the court makes specific findings establishing good cause for the deviation; or

(b) subject to the court's approval, the parents agree which parent shall provide insurance for the child.

[~~(3)~~] (4) In determining [~~which parent shall be ordered to maintain insurance for medical expenses~~] whether to take the action described in Subsection (3), the court [~~or administrative agency~~] may consider [~~the~~]:

(a) the reasonableness of the cost;

(b) the availability of a group insurance policy;

(c) the coverage of the policy; [~~and~~] or

(d) the preference of the custodial parent.

(5) Subject to Subsection (3), if a child support order does not contain the requirements described in Subsection (2):

(a) the parents are nonetheless subject to the requirements described in Subsection (2), as applicable; and

(b) for purposes of Subsection (2)(c), the insurance plan of the parent whose birthday falls first in the calendar year is primary, and the insurance plan of the parent whose birthday falls second in the calendar year is secondary.

[~~(4) The order shall require each parent to share equally the out-of-pocket costs of the premium actually paid by a parent for the child's portion of insurance unless the court finds good cause to order otherwise.~~]

[~~(5)~~] (6) (a) The parent who provides [~~the~~] insurance [~~coverage~~] may receive credit against the base child support award or recover the other parent's share of the child's portion of the premium.

(b) If the parent does not have insurance but another member of the parent's household provides insurance [~~coverage~~] for the child, the parent may receive credit against the base child support award or recover the other parent's share of the child's portion of the premium.

[~~(6)~~] (7) (a) The child's portion of the premium is a per capita share of the premium actually paid.

(b) The premium expense for a child shall be calculated by dividing the premium amount by the number of persons covered under the policy and multiplying the result by the number of children in the instant case.

[~~(7) The order shall, in accordance with Subsection 30-3-5(3)(a), include a cash medical support provision that requires each parent to equally share all reasonable and necessary uninsured and unreimbursed medical and dental expenses incurred for a dependent child, including~~

~~deductibles and copayments unless the court finds good cause to order otherwise.~~]

(8) (a) The parent [~~ordered to maintain~~] maintaining health care coverage or insurance shall provide verification of coverage to the other parent, or to the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., upon initial enrollment of the [~~dependent~~] child, and after initial enrollment on or before January 2 of each calendar year.

(b) The parent shall notify the other parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar days of the date the parent first knew or should have known of the change.

(9) A parent who incurs medical expenses shall provide written verification of the cost and payment of medical expenses to the other parent within 30 days of payment.

(10) In addition to any other sanctions provided by the court, a parent incurring medical expenses may be denied the right to receive credit for the expenses or to recover the other parent's share of the expenses if that parent fails to comply with Subsections (8) and (9).

CHAPTER 334
S. B. 237
Passed March 1, 2023
Approved March 15, 2023
Effective May 3, 2023

DENTAL HYGIENIST AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill amends provisions related to the practice of dental hygiene.

Highlighted Provisions:

This bill:

- authorizes the practice of dental hygiene in a public health setting without general supervision and without a collaborative practice agreement with a dentist under certain conditions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-69-801, as last amended by Laws of Utah 2016, Chapter 348

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-69-801 is amended to read:

58-69-801. Dental hygienist -- Limitations on practice.

A dental hygienist licensed under this chapter may only practice dental hygiene:

(1) in an accredited dental or dental hygienist school to teach and demonstrate the practice of dental hygiene;

(2) for a public health agency;

(3) under the supervision of a dentist, for an employee leasing company or temporary personnel service company providing employees to a dentist or other person lawfully providing dental services:

(a) under the indirect supervision of a dentist licensed under this chapter at any time the dental hygienist is administering an anesthetic or analgesia as permitted under this chapter or division rules made under this chapter;

(b) under the general supervision of a dentist licensed under this chapter within the office of the supervising dentist and upon patients of record of the supervising dentist; and

(c) under the general supervision of a dentist licensed under this chapter, and the practice is conducted outside of the office of the supervising dentist, if:

(i) the dental hygiene work performed is authorized by the supervising dentist as a part of and in accordance with the supervising dentist's current treatment plan for the patient;

(ii) no anesthetic or analgesia is used;

(iii) the supervising dentist has determined the patient's general health and oral health are so that the dental hygiene work can be performed under general supervision and with an acceptable level of risk or injury as determined by the supervising dentist;

(iv) the supervising dentist accepts responsibility for the dental hygiene work performed under general supervision; and

(v) (A) the dental hygienist's work is performed on a patient who is homebound or within a hospital, nursing home, or public health agency or institution; and

(B) the patient is the supervising dentist's patient of record and the dentist has examined the patient within six months prior to the patient's receiving treatment from a dental hygienist under this Subsection (3); [~~or~~]

(4) under a written agreement with a dentist who is licensed under this chapter and who is a Utah resident if:

(a) the dental hygienist practices in a public health setting;

(b) the dentist is available in person, by phone, or by electronic communication;

(c) the agreement provides that the dental hygienist shall refer a patient with a dental need beyond the dental hygienist's scope of practice to a licensed dentist; and

(d) the dental hygienist obtains from each patient an informed consent form that provides that treatment by a dental hygienist is not a substitute for a dental examination by a dentist[~~.~~]; or

(5) notwithstanding any other provision of this chapter, without general supervision and without a collaborative practice agreement with a dentist if:

(a) the dental hygienist engages in the practice of dental hygiene in a public health setting;

(b) prior to engaging in the practice of dental hygiene in a public health setting, the dental hygienist notifies the division on a one-time basis in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the dental hygienist will engage in the practice of dental hygiene in a public health setting;

(c) the dental hygienist assumes liability for the work done by the dental hygienist while engaging in the practice of dental hygiene in a public health setting;

(d) the dental hygienist has liability insurance for the work done by the dental hygienist while engaging in the practice of dental hygiene in a public health setting; and

(e) the dental hygienist:

(i) refers to a licensed dentist any patient with a dental need beyond the dental hygienist's scope of practice encountered while engaging in the practice of dental hygiene in a public health setting; and

(ii) sends to the licensed dentist all dental records for the patient generated by the dental hygienist.

CHAPTER 335
S. B. 267
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

BRAIN INJURY AND NEURO-REHABILITATION FUNDS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Brian S. King

LONG TITLE

General Description:

This bill amends provisions related to the Traumatic Brain Injury Fund, the Spinal Cord and Brain Injury Rehabilitation Fund, and related advisory committees.

Highlighted Provisions:

This bill:

- renames the Traumatic Brain Injury Fund as the "Brain Injury Fund" and amends fund provisions;
- renames the Traumatic Brain Injury Advisory Committee as the "Brain Injury Advisory Committee" and amends committee membership requirements;
- renames the Spinal Cord and Brain Injury Rehabilitation Fund as the "Neuro-Rehabilitation Fund" and amends fund provisions;
- renames the Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee as the "Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee" and amends committee provisions; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

26-50-102, as enacted by Laws of Utah 2008, Chapter 325
26-50-201, as last amended by Laws of Utah 2013, Chapter 400
26-50-202, as last amended by Laws of Utah 2016, Chapter 168
26-54-102, as last amended by Laws of Utah 2019, Chapter 405
26-54-103, as last amended by Laws of Utah 2022, Chapter 255
41-1a-1201, as last amended by Laws of Utah 2022, Chapter 259
41-6a-1406, as last amended by Laws of Utah 2022, Chapter 92
41-22-8, as last amended by Laws of Utah 2022, Chapter 68
63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451
63I-1-241, as last amended by Laws of Utah 2022, Chapters 68, 92, 104, and 110

REPEALS:

26-50-101, as enacted by Laws of Utah 2008, Chapter 325

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-50-102 is amended to read:

26-50-102. Definitions.

As used in this chapter:

(1) "Committee" means the advisory committee created by the executive director pursuant to Section 26-50-202.

(2) "Fund" means the [~~Traumatic~~] Brain Injury Fund created in Section 26-50-201.

Section 2. Section 26-50-201 is amended to read:

26-50-201. Brain Injury Fund.

(1) There is created an expendable special revenue fund [~~entitled the Traumatic~~] known as the Brain Injury Fund.

(2) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and

(b) additional amounts as appropriated by the Legislature.

(3) The fund shall be administered by the executive director.

(4) Fund money may be used to:

(a) educate the general public and professionals regarding understanding, treatment, and prevention of [~~traumatic~~] brain injury;

(b) provide access to evaluations and coordinate short-term care to assist an individual in identifying services or support needs, resources, and benefits for which the individual may be eligible;

(c) develop and support an information and referral system for persons with a [~~traumatic~~] brain injury and their families; and

(d) provide grants to persons or organizations to provide the services described in Subsections (4)(a), (b), and (c).

(5) Not less that 50% of the fund shall be used each fiscal year to directly assist individuals who meet the qualifications described in Subsection (6).

(6) An individual who receives services either paid for from the fund, or through an organization under contract with the fund, shall:

(a) be a resident of Utah;

(b) have been diagnosed by a qualified professional as having a [~~traumatic~~] brain injury which results in impairment of cognitive or physical function; and

(c) have a need that can be met within the requirements of this chapter.

(7) The fund may not duplicate any services or support mechanisms being provided to an individual by any other government or private agency.

(8) All actual and necessary operating expenses for the committee and staff shall be paid by the fund.

(9) The fund may not be used for medical treatment, long-term care, or acute care.

Section 3. Section 26-50-202 is amended to read:

26-50-202. Brain Injury Advisory Committee -- Membership -- Time limit.

(1) On or after July 1 of each year, the executive director may create a [~~Traumatic~~] Brain Injury Advisory Committee of not more than nine members.

(2) The committee shall be composed of members of the community who are familiar with [~~traumatic~~] brain injury, its causes, diagnosis, treatment, rehabilitation, and support services, including:

(a) persons with a [~~traumatic~~] brain injury;

(b) family members of a person with a [~~traumatic~~] brain injury;

(c) representatives of an association which advocates for persons with [~~traumatic~~] brain injuries;

(d) specialists in a profession that works with brain injury patients; and

(e) department representatives.

(3) The department shall provide staff support to the committee.

(4) (a) If a vacancy occurs in the committee membership for any reason, a replacement may be appointed for the unexpired term.

(b) The committee shall elect a chairperson from the membership.

(c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the committee.

(d) The committee may adopt bylaws governing the committee's activities.

(e) A committee member may be removed by the executive director:

(i) if the member is unable or unwilling to carry out the member's assigned responsibilities; or

(ii) for good cause.

(5) The committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) Not later than November 30 of each year the committee shall provide a written report summarizing the activities of the committee to the executive director [~~of the department~~].

(8) The committee shall cease to exist on December 31 of each year, unless the executive director determines it necessary to continue.

Section 4. Section 26-54-102 is amended to read:

26-54-102. Neuro-Rehabilitation Fund -- Creation -- Administration -- Uses.

(1) As used in this section, a "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:

(a) provides rehabilitation services to individuals in the state:

(i) who have a [~~traumatic~~] spinal cord or brain injury that tends to be [~~nonprogressive or nondeteriorating~~] non-progressive or non-deteriorating; and

(ii) who require post-acute care;

(b) employs licensed therapy clinicians;

(c) has at least five [~~years~~] years' experience operating a post-acute care rehabilitation clinic in the state; and

(d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

(2) There is created an expendable special revenue fund known as the "[~~Spinal Cord and Brain Injury Rehabilitation~~] Neuro-Rehabilitation Fund."

(3) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(b) a portion of the impound fee as designated in Section 41-6a-1406;

(c) the fees collected by the Motor Vehicle Division under Subsections 41-1a-1201(9) and 41-22-8(3); and

(d) amounts appropriated by the Legislature.

(4) The fund shall be administered by the executive director [~~of the department~~], in consultation with the advisory committee created in Section 26-54-103.

(5) Fund money shall be used to:

(a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide rehabilitation services to individuals who have a [~~traumatic~~] spinal cord or brain injury that tends to be [~~nonprogressive or nondeteriorating~~] non-progressive or non-deteriorating, including:

(i) (A) physical, occupational, and speech therapy; and

(B) other services as determined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the advisory committee created in Section 26-54-103; and

(ii) equipment for use in the qualified charitable clinic; and

(b) pay for operating expenses of the advisory committee created [~~by~~] in Section 26-54-103, including the advisory committee's staff.

Section 5. Section 26-54-103 is amended to read:

26-54-103. Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee -- Creation -- Membership -- Terms -- Duties.

(1) There is created a [~~Spinal Cord and Brain Injury Rehabilitation~~] Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee.

(2) The advisory committee shall be composed of 11 members as follows:

(a) the executive director, or the executive director's designee;

(b) two survivors, or family members of a survivor, of a [~~traumatic~~] brain injury appointed by the governor;

(c) two survivors, or family members of a survivor, of a [~~traumatic~~] spinal cord injury appointed by the governor;

(d) one [~~traumatic~~] brain injury or spinal cord injury professional appointed by the governor who, at the time of appointment and throughout the professional's term on the committee, does not receive a financial benefit from the fund;

(e) two parents of a child with a [~~nonprogressive~~] non-progressive neurological condition appointed by the governor;

(f) (i) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor; or

(ii) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor;

(g) a member of the House of Representatives appointed by the speaker of the House of Representatives; and

(h) a member of the Senate appointed by the president of the Senate.

(3) (a) The term of advisory committee members shall be four years. If a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(b) The committee shall elect a chairperson from the membership.

(c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum is present at an open meeting, the action of the majority of members shall be the action of the advisory committee.

(d) The terms of the advisory committee shall be staggered so that members appointed under Subsections (2)(b), (d), and (f) shall serve an initial two-year term and members appointed under Subsections (2)(c), (e), and (g) shall serve four-year terms. Thereafter, members appointed to the advisory committee shall serve four-year terms.

(4) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules adopted by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The advisory committee shall:

(a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee to follow in recommending distribution of money from the [~~fund~~] Neuro-Rehabilitation Fund created in Section 26-54-102 and the Pediatric Neuro-Rehabilitation Fund created in Section 26-54-102.5 to assist qualified IRC 501(c)(3) charitable clinics, as defined in Sections 26-54-102 and 26-54-102.5;

(b) identify, evaluate, and review the quality of care available to:

(i) individuals with spinal cord and brain injuries through qualified IRC 501(c)(3) charitable clinics, as defined in Section 26-54-102; or

(ii) children with [~~nonprogressive~~] non-progressive neurological conditions through qualified IRC 501(c)(3) charitable clinics, as defined in Section 26-54-102.5; and

(c) explore, evaluate, and review other possible funding sources and make a recommendation to the Legislature regarding sources that would provide adequate funding for the advisory committee to accomplish its responsibilities under this section.

(7) Operating expenses for the advisory committee, including the committee's staff, shall be paid for only with money from:

(a) the [~~Spinal Cord and Brain Injury Rehabilitation~~] Neuro-Rehabilitation Fund created in Section 26-54-102;

(b) the Pediatric Neuro-Rehabilitation Fund created in Section 26-54-102.5; or

(c) both funds.

Section 6. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (6), (7), (8), and (9) and Sections 41-1a-422, 41-1a-1220, 41-1a-1221, and 41-1a-1223 all fees collected under this part shall be deposited into the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), and (7) and Section 41-1a-1212 may be used by the commission to cover the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.

(4) In accordance with Section 63J-1-602.2, all funds available to the commission for the purchase and distribution of license plates and decals are nonlapsing.

(5) (a) Except as provided in Subsections (3) and (5)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(c) Fifty cents of the registration fee imposed under Subsection 41-1a-1206(1)(i) for each vintage vehicle that has a model year of 1981 or newer may be used by the commission to cover the costs incurred in enforcing and administering this part.

(6) (a) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited into the Transportation Investment Fund of 2005 created [~~under~~] in Section 72-2-124:

(i) $30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), (4), and (7);

(ii) $21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) $2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) $23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) $24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); and

(vi) $1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Transportation Investment Fund of 2005 created [~~by~~] in Section 72-2-124:

(i) $23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) $23 of each registration fee collected under Subsection 41-1a-1206(2)(a)(ii).

(7) (a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(8) (a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(9) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited into the [~~Spinal Cord and Brain Injury Rehabilitation~~] Neuro-Rehabilitation Fund created in Section 26-54-102.

Section 7. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section

41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4) (a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is:

(i) removed or impounded as described in Subsection (1); or

(ii) removed or impounded by any law enforcement or government entity.

(b) Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(c) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this [~~subsection~~] Subsection (4).

(e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6) (a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of $400; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b) (i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) $147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) $20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited [~~in~~] into the [~~Spinal Cord and Brain Injury Rehabilitation Fund~~] Neuro-Rehabilitation Fund created in Section 26-54-102; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection [~~5(a)~~] (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) For an impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103, the Motor Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard motor as described in Section 41-1a-1103.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11) (a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 8. Section 41-22-8 is amended to read:

41-22-8. Registration fees.

(1) The division, after notifying the commission, shall establish the fees that shall be paid in accordance with this chapter, subject to the following:

(a) (i) Except as provided in Subsection (1)(a)(ii) or (iii), the fee for each off-highway vehicle registration may not exceed $35.

(ii) The fee for each snowmobile registration may not exceed $26.

(iii) The fee for each street-legal all-terrain vehicle may not exceed $72.

(b) The fee for each duplicate registration card may not exceed $3.

(c) The fee for each duplicate registration sticker may not exceed $5.

(2) A fee may not be charged for an off-highway vehicle that is owned and operated by the United States Government, this state, or its political subdivisions.

(3) (a) In addition to the fees under this section, Section 41-22-33, and Section 41-22-34, the Motor Vehicle Division shall require a person to pay one dollar to register an off-highway vehicle under Section 41-22-3.

(b) The Motor Vehicle Division shall deposit the fees the Motor Vehicle Division collects under Subsection (3)(a) into the [~~Spinal Cord and Brain Injury Rehabilitation~~] Neuro-Rehabilitation Fund described in Section 26-54-102.

Section 9. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26 through 26B.

(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

[~~(2) Section 26-1-40 is repealed July 1, 2022.~~]

[~~(3)~~] (2) Section 26-1-41 is repealed July 1, 2026.

[~~(4)~~] (3) Section 26-1-43 is repealed December 31, 2025.

[~~(5)~~] (4) Section 26-7-10 is repealed July 1, 2025.

[~~(6)~~] (5) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

[~~(7)~~] (6) Section 26-7-14 is repealed December 31, 2027.

[~~(8)~~] (7) Section 26-8a-603 is repealed July 1, 2027.

[~~(9)~~] (8) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

[~~(10)~~] (9) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(11)~~] (10) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.~~]

[~~(13)~~] (11) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(14)~~] (12) Section 26-18-27 is repealed July 1, 2025.

[~~(15)~~] (13) Section 26-18-28 is repealed June 30, 2027.

[~~(16)~~] (14) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(17)~~] (15) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

[~~(18)~~] (16) Section 26-33a-117 is repealed December 31, 2023.

[~~(19)~~] (17) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[~~(20)~~] (18) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[~~(21)~~] (19) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(22)~~] (20) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

[~~(23)~~] (21) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(24)~~] (22) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

[~~(25)~~] (23) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(26)~~] (24) Section 26-50-202, which creates the [~~Traumatic~~] Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(27)~~] (25) [~~Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund~~] Title 26, Chapter 54, Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(28)~~] (26) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

[~~(29)~~] (27) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

[~~(30)~~] (28) Section 26-69-406 is repealed July 1, 2025.

[~~(31)~~] (29) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(32)~~] (30) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 10. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection 41-1a-1201(9), related to the [~~Spinal Cord and Brain Injury Rehabilitation~~] Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2027:

(a) Subsection 41-6a-102(31) that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection [~~41-6a-1406(6)(c)(iii)~~] 41-6a-1406(6)(b)(iii), related to the [~~Spinal Cord and Brain Injury Rehabilitation~~] Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and [~~41-22-10(1)(a)~~] 41-22-10(1), which authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the [~~Spinal Cord and Brain Injury Rehabilitation~~] Neuro-Rehabilitation Fund, is repealed January 1, 2025.

Section 11. Repealer.

This bill repeals:

Section 26-50-101, Title.

Section 12. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace references added during the 2023 General Session as follows:

(1) replace "Traumatic Brain Injury Fund" with "Brain Injury Fund";

(2) replace "Traumatic Brain Injury Advisory Committee" with "Brain Injury Advisory Committee";

(3) replace "Spinal Cord and Brain Injury Rehabilitation Fund" with "Neuro-Rehabilitation Fund"; and

(4) replace "Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee" with "Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee".

CHAPTER 336
S. B. 269
Passed March 3, 2023
Approved March 15, 2023
Effective May 3, 2023

CHRONIC CONDITIONS SUPPORT AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill requires the Department of Health and Human Services to apply for a Medicaid waiver to provide additional services for individuals with certain conditions.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Health and Human Services to apply for a Medicaid waiver to provide additional services for individuals with certain conditions; and
- creates a reporting requirement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
26-18-430, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-430 is enacted to read:

26-18-430 (Codified as 26B-3-226). Medicaid waiver for rural healthcare for chronic conditions.

(1) As used in this section:

(a) "Qualified condition" means:

(i) diabetes;

(ii) high blood pressure;

(iii) congestive heart failure;

(iv) asthma;

(v) obesity;

(vi) chronic obstructive pulmonary disease; or

(vii) chronic kidney disease.

(b) "Qualified enrollee" means an individual who:

(i) is enrolled in the Medicaid program;

(ii) has been diagnosed as having a qualified condition; and

(iii) is not enrolled in an accountable care organization.

(2) Before January 1, 2024, the department shall apply for a Medicaid waiver with the Centers for Medicare and Medicaid Services to implement the coverage described in Subsection (3) for a three-year pilot program.

(3) If the waiver described in Subsection (2) is approved, the Medicaid program shall contract with a single entity to provide coordinated care for the following services to each qualified enrollee:

(a) a telemedicine platform for the qualified enrollee to use;

(b) an in-home initial visit to the qualified enrollee;

(c) daily remote monitoring of the qualified enrollee's qualified condition;

(d) all services in the qualified enrollee's language of choice;

(e) individual peer monitoring and coaching for the qualified enrollee;

(f) available access for the qualified enrollee to video-enabled consults and voice-enabled consults 24 hours a day, seven days a week;

(g) in-home biometric monitoring devices to monitor the qualified enrollee's qualified condition; and

(h) at-home medication delivery to the qualified enrollee.

(4) The Medicaid program may not provide the coverage described in Subsection (3) until the waiver is approved.

(5) Each year the waiver is active, the department shall submit a report to the Health and Human Services Interim Committee before November 30 detailing:

(a) the number of patients served under the waiver;

(b) the cost of the waiver; and

(c) any benefits of the waiver, including an estimate of:

(i) the reductions in emergency room visits or hospitalizations;

(ii) the reductions in 30-day hospital readmissions for the same diagnosis;

(iii) the reductions in complications related to qualified conditions; and

(iv) any improvements in health outcomes from baseline assessments.

CHAPTER 337
H. B. 92
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

STATE MUSHROOM DESIGNATION

Chief Sponsor: Christine F. Watkins
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies provisions relating to state symbols.

Highlighted Provisions:

This bill:

▶ designates the porcini as the state mushroom.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-601, as last amended by Laws of Utah 2022, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-601 is amended to read:

63G-1-601. State symbols.

(1) Utah's state animal is the elk.

(2) Utah's state bird is the sea gull.

(3) Utah's state bird of prey is the golden eagle.

(4) Utah's state centennial astronomical symbol is the Beehive Cluster located in the constellation of Cancer the Crab.

(5) Utah's state centennial star is Dubhe, one of the seven bright stars composing the Big Dipper in the constellation Ursa Major.

(6) Utah's state centennial tartan, which honors the first Scots known to have been in Utah and those Utahns of Scottish heritage, shall have a pattern or repeating-half-sett of white-2, blue-6, red-6, blue-4, red-6, green-18, red-6, and white-4 to represent the tartan worn anciently by the Logan and Skene clans, with the addition of a white stripe.

(7) Utah's state cooking pot is the dutch oven.

(8) Utah's state dinosaur is the Utahraptor.

(9) Utah's state emblem is the beehive.

(10) Utah's state emblem of service and sacrifice of lives lost by members of the military in defense of our freedom is the "Honor and Remember" flag, which consists of:

(a) a red field covering the top two-thirds of the flag;

(b) a white field covering the bottom one-third of the flag, which contains the words "honor" and "remember";

(c) a blue star overlaid by a gold star with a thin white border in the center of the flag spanning the red field and the white field; and

(d) a representation of a folded United States flag beneath the blue and gold stars with three tongues of flame emanating from its top point into the center of the gold star.

(11) Utah's state firearm is the John M. Browning designed M1911 automatic pistol.

(12) Utah's state fish is the Bonneville cutthroat trout.

(13) Utah's state flower is the sego lily.

(14) Utah's state folk dance is the square dance, the folk dance that is called, cued, or prompted to the dancers and includes squares, rounds, clogging, contra, line, and heritage dances.

(15) Utah's state fossil is the Allosaurus.

(16) Utah's state fruit is the cherry.

(17) Utah's state gem is topaz, as is prominently found in the Thomas Mountain Range in Juab County, Utah.

(18) Utah's state grass is Indian rice grass.

(19) Utah's state hymn is "Utah We Love Thee" by Evan Stephens.

(20) Utah's state insect is the honeybee.

(21) Utah's state military museum is the Fort Douglas Military Museum.

(22) Utah's state mineral is copper.

(23) Utah's state motto is "Industry."

(24) Utah's state mushroom is the porcini.

[~~(24)~~] (25) Utah's state railroad museum is Ogden Union Station.

[~~(25)~~] (26) Utah's state reptile is the Gila Monster (Heloderma suspectum), whose habitat includes Southwest Utah.

[~~(26)~~] (27) Utah's state rock is coal.

[~~(27)~~] (28) Utah's state song is "Utah This is the Place" by Sam and Gary Francis.

[~~(28)~~] (29) Utah's state stone is honeycomb calcite, which originates in Duchesne County, Utah.

[~~(29)~~] (30) Utah's state tree is the quaking aspen.

[~~(30)~~] (31) Utah's state vegetable is the Spanish sweet onion.

[~~(31)~~] (32) Utah's historic state vegetable is the sugar beet.

[~~(32)~~] (33) Utah's state winter sports are skiing and snowboarding.

[~~(33)~~] (34) Utah's state works of art are Native American rock art.

[~~(34)~~] (35) Utah's state work of land art is the Spiral Jetty.

CHAPTER 338
H. B. 137
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

STATE CRUSTACEAN DESIGNATION

Chief Sponsor: Rosemary T. Lesser
Senate Sponsor: Jen Plumb
Cosponsors: Gay Lynn Bennion
Joel K. Briscoe
Jennifer Dailey-Provost
Steve Eliason
Sahara Hayes
Marsha Judkins
Ashlee Matthews
Carol S. Moss
Doug Owens
Judy Weeks Rohner
Angela Romero
Andrew Stoddard
Mark A. Wheatley

LONG TITLE

General Description:

This bill designates the state crustacean.

Highlighted Provisions:

This bill:

- designates the brine shrimp as the state crustacean.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-601, as last amended by Laws of Utah 2022, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-601 is amended to read:

63G-1-601. State symbols.

(1) Utah's state animal is the elk.

(2) Utah's state bird is the sea gull.

(3) Utah's state bird of prey is the golden eagle.

(4) Utah's state centennial astronomical symbol is the Beehive Cluster located in the constellation of Cancer the Crab.

(5) Utah's state centennial star is Dubhe, one of the seven bright stars composing the Big Dipper in the constellation Ursa Major.

(6) Utah's state centennial tartan, which honors the first Scots known to have been in Utah and those Utahns of Scottish heritage, shall have a pattern or repeating-half-sett of white-2, blue-6, red-6, blue-4, red-6, green-18, red-6, and white-4 to represent the tartan worn anciently by the Logan and Skene clans, with the addition of a white stripe.

(7) Utah's state cooking pot is the dutch oven.

(8) Utah's state dinosaur is the Utahraptor.

(9) Utah's state emblem is the beehive.

(10) Utah's state emblem of service and sacrifice of lives lost by members of the military in defense of our freedom is the "Honor and Remember" flag, which consists of:

(a) a red field covering the top two-thirds of the flag;

(b) a white field covering the bottom one-third of the flag, which contains the words "honor" and "remember";

(c) a blue star overlaid by a gold star with a thin white border in the center of the flag spanning the red field and the white field; and

(d) a representation of a folded United States flag beneath the blue and gold stars with three tongues of flame emanating from its top point into the center of the gold star.

(11) Utah's state firearm is the John M. Browning designed M1911 automatic pistol.

(12) Utah's state fish is the Bonneville cutthroat trout.

(13) Utah's state flower is the sego lily.

(14) Utah's state folk dance is the square dance, the folk dance that is called, cued, or prompted to the dancers and includes squares, rounds, clogging, contra, line, and heritage dances.

(15) Utah's state fossil is the Allosaurus.

(16) Utah's state fruit is the cherry.

(17) Utah's state gem is topaz, as is prominently found in the Thomas Mountain Range in Juab County, Utah.

(18) Utah's state grass is Indian rice grass.

(19) Utah's state hymn is "Utah We Love Thee" by Evan Stephens.

(20) Utah's state insect is the honeybee.

(21) Utah's state military museum is the Fort Douglas Military Museum.

(22) Utah's state mineral is copper.

(23) Utah's state motto is "Industry."

(24) Utah's state railroad museum is Ogden Union Station.

(25) Utah's state reptile is the Gila Monster (Heloderma suspectum), whose habitat includes Southwest Utah.

(26) Utah's state rock is coal.

(27) Utah's state song is "Utah This is the Place" by Sam and Gary Francis.

(28) Utah's state stone is honeycomb calcite, which originates in Duchesne County, Utah.

(29) Utah's state tree is the quaking aspen.

(30) Utah's state vegetable is the Spanish sweet onion.

(31) Utah's historic state vegetable is the sugar beet.

(32) Utah's state winter sports are skiing and snowboarding.

(33) Utah's state works of art are Native American rock art.

(34) Utah's state work of land art is the Spiral Jetty.

(35) Utah's state crustacean is the Artemia franciscana, or brine shrimp.

CHAPTER 339
H. B. 166
Passed February 24, 2023
Approved March 17, 2023
Effective May 3, 2023

MENTAL HEALTH PROFESSIONAL LICENSING AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions of the Mental Health Professional Practice Act.

Highlighted Provisions:

This bill:

- amends the requirements for the provision of remote, transitional mental health therapy and substance use disorder counseling;
- allows for the provision of remote mental health therapy and substance use disorder counseling, subject to certain conditions;
- modifies requirements related to the training hours required for licensure as a:
  - clinical social worker;
  - marriage and family therapist; or
  - clinical mental health counselor; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-60-107, as last amended by Laws of Utah 2021, Chapter 313
58-60-205, as last amended by Laws of Utah 2022, Chapters 345, 466
58-60-207, as last amended by Laws of Utah 2020, Chapter 339
58-60-305, as last amended by Laws of Utah 2022, Chapters 345, 416 and 466
58-60-405, as last amended by Laws of Utah 2022, Chapters 345, 416 and 466

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-60-107 is amended to read:

58-60-107. Exemptions from licensure.

(1) Except as modified in Section 58-60-103, the exemptions from licensure in Section 58-1-307 apply to this chapter.

(2) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of practice as a mental health therapist, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) the following when practicing within the scope of the license held:

(i) a physician and surgeon or osteopathic physician and surgeon licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) an advanced practice registered nurse, specializing in psychiatric mental health nursing, licensed under Chapter 31b, Nurse Practice Act;

(iii) a psychologist licensed under Chapter 61, Psychologist Licensing Act; and

(iv) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act, and specializing in mental health care under Section 58-70a-501.1;

(b) a recognized member of the clergy while functioning in a ministerial capacity as long as the member of the clergy does not represent that the member of the clergy is, or use the title of, a license classification in Subsection 58-60-102(5);

(c) an individual who is offering expert testimony in a proceeding before a court, administrative hearing, deposition upon the order of a court or other body having power to order the deposition, or a proceeding before a master, referee, or alternative dispute resolution provider;

(d) an individual engaged in performing hypnosis who is not licensed under this title in a profession which includes hypnosis in its scope of practice, and who:

(i) (A) induces a hypnotic state in a client for the purpose of increasing motivation or altering lifestyles or habits, such as eating or smoking, through hypnosis;

(B) consults with a client to determine current motivation and behavior patterns;

(C) prepares the client to enter hypnotic states by explaining how hypnosis works and what the client will experience;

(D) tests clients to determine degrees of suggestibility;

(E) applies hypnotic techniques based on interpretation of consultation results and analysis of client's motivation and behavior patterns; and

(F) trains clients in self-hypnosis conditioning;

(ii) may not:

(A) engage in the practice of mental health therapy;

(B) use the title of a license classification in Subsection 58-60-102(5); or

(C) use hypnosis with or treat a medical, psychological, or dental condition defined in generally recognized diagnostic and statistical manuals of medical, psychological, or dental disorders;

(e) an individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program;

(f) an individual holding an earned doctoral degree or master's degree in social work, marriage

and family therapy, or clinical mental health counseling, who is employed by an accredited institution of higher education and who conducts research and teaches in that individual's professional field, but only if the individual does not engage in providing or supervising professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services;

(g) an individual in an on-the-job training program approved by the division while under the supervision of qualified persons;

(h) an individual providing general education in the subjects of alcohol, drug use, or substance use disorders, including prevention;

(i) an individual providing advice or counsel to another individual in a setting of their association as friends or relatives and in a nonprofessional and noncommercial relationship, if there is no compensation paid for the advice or counsel; and

(j) an individual who is licensed, in good standing, to practice mental health therapy or substance use disorder counseling in a state or territory of the United States outside of Utah may provide short term transitional mental health therapy remotely or short term transitional substance use disorder counseling remotely to a client in Utah [~~only~~] if:

(i) the individual is present in the state or territory where the individual is licensed to practice mental health therapy or substance use disorder counseling;

(ii) the client relocates to Utah;

(iii) the client is a client of the individual immediately before the client relocates to Utah;

(iv) the individual provides the short term transitional mental health therapy or short term transitional substance use disorder counseling remotely to the client only during the [~~45~~] 90 day period beginning on the day on which the client relocates to Utah;

(v) within [~~10 days~~] one day after the day on which the [~~client relocates to~~] individual first provides mental health therapy or substance use disorder counseling remotely to the client in Utah, the individual provides written notice to the division of the individual's intent to provide short term transitional mental health therapy or short term transitional substance use disorder counseling remotely to the client; and

(vi) the individual does not engage in unlawful conduct or unprofessional conduct.

(3) (a) As used in this Subsection (3):

(i) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(ii) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(b) Except as otherwise provided in an interstate compact enacted under this title, an individual who is licensed, in good standing, to practice mental health therapy or substance use disorder counseling in a state or territory of the United States outside of Utah, and who provides mental health therapy remotely or substance use disorder counseling remotely to a client in Utah:

(i) may not prescribe a prescription drug for a client in Utah unless the individual is licensed in Utah to prescribe the prescription drug;

(ii) shall, before providing mental health therapy remotely or substance use disorder counseling remotely to a client in Utah, be aware of:

(A) how to access emergency services and resources in Utah; and

(B) all applicable laws and rules regarding the required or permitted reporting or disclosing of confidential client communications;

(iii) shall, within one day after the day on which the individual first provides mental health therapy remotely or substance use disorder counseling remotely to a client in Utah, submit to the division a signed notice, in the form required by the division, notifying the division that the individual is providing therapy or counseling under the exemption in this Subsection (3); and

(iv) shall obtain a Utah license:

(A) within nine months after the day on which the individual first provides mental health therapy remotely or substance use disorder counseling remotely to a client in Utah; or

(B) if at any time the individual provides mental health therapy remotely or substance use disorder counseling remotely to more than one client in Utah.

(4) The division shall report to the Health and Human Services Interim Committee at or before the committee's October 2026 meeting regarding the exemption described in Subsection (3), including information about any complaints the division has received concerning individuals who have provided therapy or counseling under that exemption.

Section 2. Section 58-60-205 is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education

or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

(d) have completed a minimum of 3,000 hours of clinical social work training as defined by division rule under Section 58-1-203:

[~~(i) in not less than two years;~~]

[~~(ii)~~] (i) under the supervision of a supervisor approved by the division in collaboration with the board who is a:

(A) clinical mental health counselor;

(B) psychiatrist;

(C) psychologist;

(D) registered psychiatric mental health nurse practitioner;

(E) marriage and family therapist; or

(F) clinical social worker; and

[~~(iii)~~] (ii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than [~~100~~] 75 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor described in Subsection [~~(1)(d)(ii)~~] (1)(d)(i);

(f) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203;

(g) pass the examination requirement established by rule under Section 58-1-203; and

(h) if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

(d) pass the examination requirement established by rule under Section 58-1-203.

(3) (a) An applicant for certification as a certified social worker intern shall meet the requirements of Subsections (2)(a)[~~, (b), and~~] through (c).

(b) Certification under Subsection (3)(a) is limited to the time necessary to pass the examination required under Subsection (2)(d) or six months, whichever occurs first.

(c) A certified social worker intern may provide mental health therapy under the general supervision, as defined by rule, of a supervisor described in Subsection [~~(1)(d)(ii)~~] (1)(d)(i).

(4) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (4); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum; and

(d) pass the examination requirement established by rule under Section 58-1-203.

(5) The division shall ensure that the rules for an examination described under Subsections (1)(g), (2)(d), and (4)(d) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

Section 3. Section 58-60-207 is amended to read:

58-60-207. Scope of practice -- Limitations.

(1) (a) A clinical social worker may engage in all acts and practices defined as the practice of clinical social work without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(b) A clinical social worker may not supervise more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.

(2) To the extent an individual is professionally prepared by the education and training track completed while earning a master's or doctor of social work degree, a licensed certified social worker may engage in all acts and practices defined as the practice of certified social work consistent with the licensee's education, clinical training, experience, and competence:

(a) under supervision of an individual described in Subsection [~~58-60-205(1)(d)(ii)~~] 58-60-205(1)(d)(i) and as an employee of another person when engaged in the practice of mental health therapy;

(b) without supervision and in private and independent practice or as an employee of another person, if not engaged in the practice of mental health therapy;

(c) including engaging in the private, independent, unsupervised practice of social work as a self-employed individual, in partnership with other mental health therapists, as a professional corporation, or in any other capacity or business entity, so long as he does not practice unsupervised psychotherapy; and

(d) supervising social service workers as provided by division rule.

Section 4. Section 58-60-305 is amended to read:

58-60-305. Qualifications for licensure.

(1) All applicants for licensure as marriage and family therapists shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

(d) have completed a minimum of 3,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203:

[~~(i) in not less than two years;~~]

[~~(ii)~~] (i) under the supervision of a mental health therapist supervisor who meets the requirements of Section 58-60-307;

[~~(iii)~~] (ii) obtained after completion of the education requirement in Subsection (1)(c); and

[~~(iv)~~] (iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection [~~(1)(c)(i) or (1)(c)(ii)~~] (1)(c), which training may be included as part of the 3,000 hours of training described in Subsection (1)(d), and of which documented evidence demonstrates not less than [~~100~~] 75 of the supervised hours were obtained during direct, personal supervision, as defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307;

(f) pass the examination requirement established by division rule under Section 58-1-203; and

(g) if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) All applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a)[~~, (b), and~~] through (c).

(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than two years from the date the minimum requirement for training is completed, unless the individual presents

satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed four years past the date the minimum supervised clinical training requirement has been completed.

Section 5. Section 58-60-405 is amended to read:

58-60-405. Qualifications for licensure.

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of:

(i) a master's or doctorate degree conferred to the applicant in:

(A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs; or

(B) clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation; and

(ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i);

(d) have completed a minimum of 3,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203:

[~~(i) in not less than two years;~~]

[~~(ii)~~] (i) under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board;

[~~(iii)~~] (ii) obtained after completion of the education requirement in Subsection (1)(c); and

[~~(iv)~~] (iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than [~~100~~] 75 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule;

(f) pass the examination requirement established by division rule under Section 58-1-203; and

(g) if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a)[~~, (b), and~~] through (c).

(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than two year from the date the minimum requirement for training is completed.

(c) The time period under Subsection (2)(b) may be extended to a maximum of four years past the date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the appropriate board that the individual is:

(i) making reasonable progress toward passing of the qualifying examination for that profession; or

(ii) otherwise on a course reasonably expected to lead to licensure.

(3) Notwithstanding Subsection (1)(c), an applicant satisfies the education requirement described in Subsection (1)(c) if the applicant submits documentation verifying:

(a) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(b) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i); and

(c) that the applicant received a passing score that is valid and in good standing on:

(i) the National Counselor Examination; and

(ii) the National Clinical Mental Health Counseling Examination.

CHAPTER 340
H. B. 209
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

PARTICIPATION IN EXTRACURRICULAR ACTIVITIES AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions amending student participation in extracurricular activities.

Highlighted Provisions:

This bill:

- defines terms;
- allows a private school student, a home school student, a charter school student, or an online school student to participate in extracurricular activities outside of the student's public school of residence under certain circumstances;
- prohibits a public school from participation in an athletics association that does not collect a birth certificate or other identifying documents during the registration process;
- allows athletes without access to a birth certificate to provide alternative documentation to an athletic association in certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-703, as last amended by Laws of Utah 2019, Chapter 293
53G-6-704, as last amended by Laws of Utah 2019, Chapter 293
53G-6-705, as last amended by Laws of Utah 2019, Chapter 293
53G-6-1001, as enacted by Laws of Utah 2022, Chapter 478
53G-7-1102, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-703 is amended to read:

53G-6-703. Private school and home school students' participation in extracurricular activities in a public school.

(1) As used in this section:

(a) "Academic eligibility requirements" means the academic eligibility requirements that a home school student is required to meet to participate in an extracurricular activity in a public school.

(b) "Association" means the same as that term is defined in Section 53G-7-1101.

(c) "Extracurricular activity" means the same as that term is defined in Section 53G-7-501.

(d) "Initial establishment of eligibility requirements" means an association's eligibility requirements, policies, procedures, and transfer rules that a school student in grade 9 or 10 must meet, and to which the student is bound, to participate on a high school sports team when the student:

(i) attends the high school in which the student is selected for membership on a high school sports team; or

(ii) does not attend the high school in which the student tries out for and is selected for membership on a high school sports team.

[~~(b)~~] (e) "Minor" means the same as that term is defined in Section 53G-6-201.

[~~(c)~~] (f) "Parent" means the same as that term is defined in Section 53G-6-201.

[~~(d)~~] (g) "Principal" means the principal of the school in which a home school student participates or intends to participate in an extracurricular activity.

(2) (a) A minor who is enrolled in a private school or a home school [~~shall be~~] is eligible to participate in an extracurricular activity at a public school as provided in this section.

(b) A private school student may only participate in an extracurricular activity at a public school that is not offered by the student's private school.

(c) (i) Except as provided in Subsection (2)(d), a private school student or a home school student may only participate in an extracurricular activity at:

[~~(i)~~] (A) the school [~~within whose~~] with attendance boundaries within which the student's custodial parent resides; or

[~~(ii)~~] (B) the school from which the student withdrew for the purpose of attending a private or home school.

(ii) A private school student or a home school student retains the ability to participate in an extracurricular activity at a school described in Subsection (2)(c)(i) if the student did not initially establish the student's eligibility at another school in grade 9 or 10.

(d) A school other than a school described in Subsection (2)(c)(i) [~~or (ii)~~] may allow a private school student or a home school student to participate in an extracurricular activity [~~other than:~~] that the public school sponsors and supports if:

(i) for an interscholastic competition of athletic teams [~~sponsored and supported by a public school; or~~], the private school student or the home school student meets the initial establishment of eligibility requirements;

(ii) for an interscholastic contest or competition for music, drama, or forensic groups or teams [~~sponsored and supported by a public school.~~], the private school student, subject to Subsection (2)(b), or the home school student meets the entry requirements for participation;

(iii) the private school student or the home school student meets the eligibility requirements under this section; and

(iv) the private school student or the home school student meets the enrollment requirements for public school in accordance with Part 4, School District Enrollment.

(3) (a) Except as provided in Subsections (4) through (13), a private school student or a home school student [~~shall be~~] is eligible to participate in an extracurricular activity at a public school consistent with eligibility standards:

(i) applied to a fully enrolled public school student;

(ii) of the public school where the private school student or the home school student participates in an extracurricular activity; and

(iii) for the extracurricular activity in which the private school or the home school student participates.

(b) A school district or public school may not impose additional requirements on a private school student or a home school student to participate in an extracurricular activity that are not imposed on a fully enrolled public school student.

(c) (i) A private school student or a home school student who participates in an extracurricular activity at a public school shall pay the same fees as required of a fully enrolled public school student to participate in an extracurricular activity.

(ii) If a local school board or a charter school governing board imposes a mandatory student activity fee for a student enrolled in a public school, the fee may be imposed on a private school student or a home school student who participates in an extracurricular activity at the public school if the same benefits of paying the mandatory student activity fee that are available to a fully enrolled public school student are available to a private school student or a home school student who participates in an extracurricular activity at the public school.

(4) Eligibility requirements based on school attendance are not applicable to a home school student.

(5) A home school student meets academic eligibility requirements to participate in an extracurricular activity if:

(a) the student is mastering the material in each course or subject being taught; and

(b) the student is maintaining satisfactory progress towards achievement or promotion.

(6) (a) To establish a home school student's academic eligibility, a parent, teacher, or organization providing instruction to the student shall submit an affidavit to the principal indicating the student meets academic eligibility requirements.

(b) Upon submission of an affidavit pursuant to Subsection (6)(a), a home school student shall:

(i) be considered to meet academic eligibility requirements; and

(ii) retain academic eligibility for all extracurricular activities during the activity season for which the affidavit is submitted, until:

(A) a panel established under Subsection (10) determines the home school student does not meet academic eligibility requirements; or

(B) the person who submitted the affidavit under Subsection (6)(a) provides written notice to the school principal that the student no longer meets academic eligibility requirements.

(7) (a) A home school student who loses academic eligibility pursuant to Subsection (6)(b)(ii)(B) may not participate in an extracurricular activity until the person who submitted the affidavit under Subsection (6)(a) provides written notice to the school principal that the home school student has reestablished academic eligibility.

(b) If a home school student reestablishes academic eligibility pursuant to Subsection (7)(a), the home school student may participate in extracurricular activities for the remainder of the activity season for which an affidavit was submitted under Subsection (6)(a).

(8) A person who has probable cause to believe a home school student does not meet academic eligibility requirements may submit an affidavit to the principal:

(a) asserting the home school student does not meet academic eligibility requirements; and

(b) providing information indicating that the home school student does not meet the academic eligibility requirements.

(9) A principal shall review the affidavit submitted under Subsection (8), and if the principal determines it contains information which constitutes probable cause to believe a home school student may not meet academic eligibility requirements, the principal shall request a panel established pursuant to Subsection (10) to verify the student's compliance with academic eligibility requirements.

(10) (a) A school district superintendent shall:

(i) appoint a panel of three individuals to verify a home school student's compliance with academic eligibility requirements when requested by a principal pursuant to Subsection (9); and

(ii) select the panel members from nominees submitted by national, state, or regional organizations whose members are home school students and parents.

(b) Of the members appointed to a panel under Subsection (10)(a):

(i) one member shall have experience teaching in a public school as a licensed teacher and in home schooling high school-age students;

(ii) one member shall have experience teaching in a higher education institution and in home schooling; and

(iii) one member shall have experience in home schooling high school-age students.

(11) A panel appointed under Subsection (10):

(a) shall review the affidavit submitted under Subsection (8);

(b) may confer with the person who submitted the affidavit under Subsection (8);

(c) shall request the home school student to submit test scores or a portfolio of work documenting the student's academic achievement to the panel;

(d) shall review the test scores or portfolio of work; and

(e) shall determine whether the home school student meets academic eligibility requirements.

(12) A home school student who meets academic eligibility requirements pursuant to Subsection (11), retains academic eligibility for all extracurricular activities during the activity season for which an affidavit is submitted pursuant to Subsection (6).

(13) (a) A panel's determination that a home school student does not comply with academic eligibility requirements is effective for an activity season and all extracurricular activities that have academic eligibility requirements.

(b) A home school student who is not in compliance with academic eligibility requirements as determined by a panel appointed under Subsection (11) may seek to establish academic eligibility under this section for the next activity season.

(14) (a) A public school student who has been declared to be academically ineligible to participate in an extracurricular activity and who subsequently enrolls in a home school shall lose eligibility for participation in the extracurricular activity until the student:

(i) demonstrates academic eligibility by providing test results or a portfolio of the student's work to the school principal, provided that a student may not reestablish academic eligibility under this Subsection (14)(a) during the same activity season in which the student was declared to be academically ineligible;

(ii) returns to public school and reestablishes academic eligibility; or

(iii) enrolls in a private school and establishes academic eligibility.

(b) A public school student who has been declared to be behaviorally ineligible to participate in an extracurricular activity and who subsequently enrolls in a home school shall lose eligibility for participation in the extracurricular activity until the student meets eligibility standards as provided in Subsection (3).

(15) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a private school student [~~and~~] or a home school student [~~shall be~~] is eligible to try out for and participate in the activity as provided in this section.

(16) (a) If a student exits a public school to enroll in a private school or a home school mid-semester or during an activity season, and the student desires to participate in an extracurricular activity at the public school, the public school shall issue an interim academic assessment based on the student's work in each class.

(b) A student's academic eligibility to participate in an extracurricular activity under the circumstances described in Subsection (16)(a) [~~shall be based~~] is dependent on the student meeting public school academic eligibility standards at the time of exiting public school.

(c) A student may appeal an academic eligibility determination made under Subsection (16)(b) in accordance with procedures for appealing a public school student's academic eligibility.

Section 2. Section 53G-6-704 is amended to read:

53G-6-704. Charter school students' participation in extracurricular activities at other public schools.

(1) As used in this section:

(a) "Association" means the same as that term is defined in Section 53G-7-1101.

(b) "Extracurricular activity" means the same as that term is defined in Section 53G-7-501.

(c) "Initial establishment of eligibility requirements" means the same as that term is defined in Section 53G-6-703.

[~~(1)~~] (2) A charter school student is eligible to participate in an extracurricular activity not offered by the student's charter school at:

(a) the school [~~within whose~~] with attendance boundaries within which the student's custodial parent resides, if, for an interscholastic competition of athletic teams, the student did not initially establish the student's eligibility at another public school in grade 9 or 10;

(b) the public school from which the student withdrew for the purpose of attending a charter school; or

(c) a public school that is not a charter school if the student's charter school is located on the campus of the public school or has local school board approval to locate on the campus of the public school.

[~~(2)~~] (3) In addition to the public schools listed in Subsection [~~(1),~~] (2), the state board may establish

rules to allow a charter school student to participate in an extracurricular activity at a public school other than a public school listed in Subsection [~~(1).~~] (2).

[~~(3)~~] (4) A school other than a school described in Subsection [~~(1)(a), (b), or (c)~~] (2) may allow a charter school student to participate in [~~extracurricular activities other than:~~] an extracurricular activity a public school sponsors and supports if:

(a) for interschool competitions of athletic teams [~~sponsored and supported by a public school; or~~], the charter school student meets the initial establishment of eligibility requirements;

(b) for interschool contests or competitions for music, drama, or forensic groups or teams [~~sponsored and supported by a public school.~~], the charter school student meets the entry requirements for participation;

(c) the charter school student meets the eligibility requirements under this section; and

(d) the charter school student meets the enrollment requirements for public school in accordance with Part 4, School District Enrollment.

[~~(4)~~] (5) A charter school student is eligible for an extracurricular [~~activities~~] activity at a public school consistent with eligibility standards as applied to full-time students of the public school.

[~~(5)~~] (6) A school district or a public school may not impose additional requirements on a charter school student to participate in an extracurricular [~~activities~~] activity that are not imposed on full-time students of the public school.

[~~(6)~~] (7) (a) The state board shall make rules establishing fees for charter school students' participation in an extracurricular [~~activities~~] activity at school district schools.

(b) The rules shall provide that:

(i) charter school students pay the same fees as other students to participate in an extracurricular [~~activities~~] activity;

(ii) charter school students are eligible for fee waivers pursuant to Section 53G-7-504;

(iii) for each charter school student who participates in an extracurricular activity at a school district school, the charter school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) a charter school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or a school divided by total student enrollment of the school district or the school.

(c) In determining a charter school's share of the costs of an extracurricular activity under Subsections [~~(6)(b)(iii) and (iv)~~] (7)(b)(iii) and (iv), the state board may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

[~~(7)~~] (8) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a charter school student is eligible to try out for and participate in the activity as provided in this section.

Section 3. Section 53G-6-705 is amended to read:

53G-6-705. Online students' participation in extracurricular activities.

(1) As used in this section:

(a) "Association" means the same as that term is defined in Section 53G-7-1101.

(b) "Extracurricular activity" means the same as that term is defined in Section 53G-7-501.

(c) "Initial establishment of eligibility requirements" means the same as that term is defined in Section 53G-6-703.

[~~(a)~~] (d) "Online education" means the use of information and communication technologies to deliver educational opportunities to a student in a location other than a school.

[~~(b)~~] (e) "Online student" means a student who:

(i) participates in an online education program sponsored or supported by the state board, a school district, or a charter school; and

(ii) generates funding for the school district or the school pursuant to Subsection 53F-2-102(4) and rules of the state board.

(2) An online student is eligible to participate in an extracurricular [~~activities~~] activity at:

(a) the school [~~within whose~~] with attendance boundaries within which the student's custodial parent resides, if, for an interscholastic competition of athletic teams, the student did not initially establish the student's eligibility at another public school in grade 9 or 10; or

(b) the public school from which the student withdrew for the purpose of participating in an online education program.

(3) A public school other than a school described in Subsection [~~(2)(a) or (b)~~] (2) may allow an online student to participate in an extracurricular [~~activities other than~~] activity that the public school sponsors and supports if:

(a) for interschool competitions of athletic teams sponsored and supported by a public school[~~; or~~], the online school student meets the initial establishment of eligibility requirements;

(b) for interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school[~~.~~], the online school student meets the entry requirements for participation;

(c) the online school student meets the eligibility requirements under this section; and

(d) the online school student meets the enrollment requirements for public school in accordance with Part 4, School District Enrollment.

(4) An online student is eligible [~~for~~] to participate in an extracurricular [~~activities~~] activity at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on an online school student to participate in an extracurricular [~~activities~~] activity that are not imposed on full-time students of the public school.

(6) (a) The state board shall make rules establishing fees for an online school student's participation in an extracurricular [~~activities~~] activity at school district schools.

(b) The rules shall provide that:

(i) online school students pay the same fees as other students to participate in an extracurricular [~~activities~~] activity;

(ii) online school students are eligible for fee waivers pursuant to Section 53G-7-504;

(iii) for each online school student who participates in an extracurricular activity at a school district school, the online school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) an online school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.

(c) In determining an online school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the state board may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, an online student is eligible to try out for and participate in the activity as provided in this section.

Section 4. Section 53G-6-1001 is amended to read:

53G-6-1001. Definitions.

As used in this part:

(1) "Athletic association" means an association, as that term is defined in Section 53G-7-1101.

(2) "Birth certificate" means an official record of an individual's date of birth, place of birth, sex, and parentage, including a supplementary certificate of birth or birth certificate amendment and amendment history as provided in Sections 26-2-10 and 26-2-11.

[~~(2)~~] (3) "Commission" means the School Activity Eligibility Commission created in Section 53G-6-1003.

(4) "Does not correspond with the sex designation" means that a student's sex designation for an interscholastic activity in which a student seeks participation does not correspond with the sex designation on the student's birth certificate or an amendment, including the amendment history, to the student's birth certificate that the Division of Vital Records and Statistics provides.

[~~(3)~~] (5) "Female-designated" means that an interscholastic activity is designated specifically for female students.

[~~(4)~~] (6) "Gender-designated" means that an interscholastic activity or facility is designated specifically for female or male students.

[~~(5)~~] (7) "Gender identity" means the same as that term is defined in Section 34A-5-102.

[~~(6)~~] (8) "Interscholastic activity" means an activity in which a student represents the student's school in the activity in competition against another school.

[~~(7)~~] (9) "Male-designated" means that an interscholastic activity is designated specifically for male students.

[~~(8)~~] (10) "Student" means a student who is enrolled in a public school that participates in interscholastic activities.

Section 5. Section 53G-7-1102 is amended to read:

53G-7-1102. Public schools prohibited from membership.

(1) A public school may not be a member of or pay dues to an association that:

(a) is not in compliance [~~on or after July 1, 2017,~~] with:

[~~(a)~~] (i) this part;

[~~(b)~~] (ii) Title 52, Chapter 4, Open and Public Meetings Act;

[~~(c)~~] (iii) Title 63G, Chapter 2, Government Records Access and Management Act; and

[~~(d)~~] (iv) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act[~~.~~];

(b) does not collect each student's birth certificate, as that term is defined in Section 53G-6-1001, or equivalent documentation, as described in Subsection (2), to determine eligibility as a condition of the association's registration process for an athletic team, event, or category; or

(c) does not require a student to provide the athlete's date of birth and sex as a condition of the registration process for an athletic team, event, or category.

(2) Except as provided in Subsection (3), for a student who is homeless or not a United States citizen and who is unable to provide a birth certificate, the association may collect the student's:

(a) state-issued identification document, including a driver's license or passport; or

(b) federally recognized identification document, including a document that the Department of Homeland Security issues.

(3) Subsection (1)(b) or (2) do not apply to an association for a student who is a homeless child or youth, as defined in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Sec. 11431 et seq.

(4) Nothing in this section limits or impairs an LEA's requirement to verify a student's initial review of eligibility to participate in an athletic team, event, or category under applicable state or federal law or state board rule, including the student's:

(a) residency status;

(b) age;

(c) sex, verified by the student's birth certificate as that term is defined in Section 53G-6-1001;

(d) academic requirements; or

(e) school enrollment capacity.

[~~(2)~~] (5) Unless otherwise specified, an association's compliance with or an association employee or officer's compliance with the provisions described in Subsection (1) does not alter:

(a) the association's public or private status; or

(b) the public or private employment status of the employee or officer.

CHAPTER 341
H. B. 378
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

FIREWORKS AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions regarding the discharge of fireworks.

Highlighted Provisions:

This bill:

- provides that fireworks may be discharged between 11 a.m. and 11 p.m. on January 1.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-7-225, as last amended by Laws of Utah 2018, Chapter 189

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-7-225 is amended to read:

53-7-225. Times for sale and discharge of fireworks -- Criminal penalty -- Permissible closure of certain areas -- Maps and signage.

(1) Except as provided in Section 53-7-221, this section supersedes any other code provision regarding the sale or discharge of fireworks.

(2) A person may sell class C common state approved explosives in the state as follows:

(a) beginning on June 24 and ending on July 25;

(b) beginning on December 29 and ending on December 31; and

(c) two days before and on the Chinese New Year's eve.

(3) A person may not discharge class C common state approved explosives in the state except as follows:

(a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the hours are 11 a.m. to midnight:

(i) beginning on July 2 and ending on July 5; and

(ii) beginning on July 22 and ending on July 25;

(b) (i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day; or

(ii) if New Year's eve is on a Sunday and the county, municipality, or metro township determines to celebrate New Year's eve on the prior Saturday, then a person may discharge class C common state approved explosives on that prior Saturday within the county, municipality, or metro township; [~~and~~]

(c) between the hours of 11 a.m. and 11 p.m. on January 1; and

[~~(c)~~] (d) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the following day.

(4) A person is guilty of an infraction, punishable by a fine of up to $1,000, if the person discharges a class C common state approved explosive:

(a) outside the legal discharge dates and times described in Subsection (3); or

(b) in an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b).

(5) (a) Except as provided in Subsection (5)(b) or (c), a county, a municipality, a metro township, or the state forester may not prohibit a person from discharging class C common state approved explosives during the permitted periods described in Subsection (3).

(b) (i) As used in this Subsection (5)(b), "negligent discharge":

(A) means the improper use and discharge of a class C common state approved explosive; and

(B) does not include the date or location of discharge or the type of explosive used.

(ii) A municipality or metro township may prohibit:

(A) the discharge of class C common state approved explosives in certain areas with hazardous environmental conditions, in accordance with Subsection 15A-5-202.5(1)(b); or

(B) the negligent discharge of class C common state approved explosives.

(iii) A county may prohibit the negligent discharge of class C common state approved explosives.

(c) The state forester may prohibit the discharge of class C common state approved explosives as provided in Subsection 15A-5-202.5(1)(b) or Section 65A-8-212.

(6) If a municipal legislative body, the state forester, or a metro township legislative body provides a map to a county identifying an area in which the discharge of fireworks is prohibited due to a historical hazardous environmental condition under Subsection 15A-5-202.5(1)(b), the county shall, before June 1 of that same year:

(a) create a county-wide map, based on each map the county has received, indicating each area within the county in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b);

(b) provide the map described in Subsection (6)(a) to:

(i) each retailer that sells fireworks within the county; and

(ii) the state fire marshal; and

(c) publish the map on the county's website.

(7) A retailer that sells fireworks shall display:

(a) a sign that:

(i) is clearly visible to the general public in a prominent location near the point of sale;

(ii) indicates the legal discharge dates and times described in Subsection (3); and

(iii) indicates the criminal charge and fine associated with discharge:

(A) outside the legal dates and times described in Subsection (3); and

(B) within an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b); and

(b) the map that the county provides, in accordance with Subsection (6)(b).

CHAPTER 342
H. B. 411
Passed March 1, 2023
Approved March 17, 2023
Effective May 3, 2023

STUDENT BEHAVIORAL HEALTH SERVICES AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions for supporting student mental health in schools.

Highlighted Provisions:

This bill:

- defines terms;
- allows behavioral health support personnel to support school mental health professionals;
- requires the State Board of Education to provide guidance to local education agencies for staffing structure and support; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-415, as last amended by Laws of Utah 2022, Chapter 409
53F-5-218, as last amended by Laws of Utah 2022, Chapter 476

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-415 is amended to read:

53F-2-415. Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking.

(1) As used in this section:

(a) "Behavioral health support personnel" means an individual who:

(i) works under the direct supervision of qualifying personnel to:

(A) support and track a student's progress and access to and completion of school curriculum; and

(B) support students by prompting, redirecting, encouraging, and reinforcing positive behaviors;

(ii) is not certified or licensed in mental health; and

(iii) meets the professional qualifications as defined by state board rule;

[~~(a)~~] (b) "Qualifying personnel" means a school counselor or other counselor, a school psychologist or other psychologist, a school social worker or other social worker, or a school nurse who:

(i) is licensed; and

(ii) collaborates with educators and a student's parent on:

(A) early identification and intervention of the student's academic and mental health needs; and

(B) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

[~~(b)~~] (c) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide [~~in a school~~] targeted school-based mental health support, including clinical services and trauma-informed care, through:

(i) employing qualifying personnel; [~~or~~]

(ii) employing behavioral health support personnel; or

[~~(ii)~~] (iii) entering into contracts for services provided by qualifying personnel, including telehealth services.

(b) (i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(iii) The state board shall provide guidance for LEAs regarding the training, qualifications, roles, and scopes of practice for qualifying personnel and behavioral health support personnel that incorporates parent consent and partnership as key components in addressing the mental health and behavioral health needs of students.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school [~~culture~~] climate, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3)[~~:~~]

[~~(a)~~], based on the formula described in Subsection (2)(b)[~~, and~~].

[~~(b) if the state board approves the LEA's plan before April 1, 2020, in an amount of money that the LEA equally matches using local money, unrestricted state money, or money distributed to the LEA under Section 53G-7-1303.~~]

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to:

(a) employ qualifying personnel;

(b) employ behavioral health support personnel; or

[~~(b)~~] (c) enter into contracts for services provided by qualified personnel, including telehealth services.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position or a behavioral health support personnel position, the LEA's reason for discontinuing the [~~position~~] positions; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to:

(a) 2% of an appropriation under this section for costs related to the administration of the provisions of this section; and

(b) $1,500,000 in nonlapsing balances from fiscal year 2022 for the purposes described in this section to provide scholarships for up to four years to certain LEA employees, as defined by the state board, for education and training to become a school social worker, a school psychologist, or other school-based mental health worker.

(10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:

(a) the SafeUT Crisis Line described in Section 53B-17-1202; or

(b) youth suicide prevention programs described in Section 53G-9-702.

Section 2. Section 53F-5-218 is amended to read:

53F-5-218. Grow Your Own Teacher and School Counselor Pipeline Program.

(1) As used in this section:

(a) "Paraprofessional" means an individual who:

(i) works with students in an LEA as a paraprofessional or in a similar teaching assistant position; and

(ii) is not licensed to teach.

(b) "Program" means the Grow Your Own Teacher and School Counselor Pipeline Program that this section creates.

(c) "School counselor" means an educator who is:

(i) licensed as a school counselor in accordance with state board rule; and

(ii) assigned to provide direct and indirect services to students in accordance with a school counseling program model that the state board provides.

(d) "School counselor assistant" means a student who is:

(i) enrolled in an accredited bachelor's degree program in a related field; and

(ii) completing the student's practicum experience in a school counseling department under the supervision of a licensed school counselor.

(e) "School counselor intern" means a student who is:

(i) enrolled in an accredited school counselor master's degree program; and

(ii) completing the student's hours of a supervised counseling internship by applying appropriate school counseling techniques under the supervision of a licensed school counselor.

(f) "Teacher" means an educator who has an assignment to teach in a classroom.

(2) The Grow Your Own Teacher and School Counselor Pipeline Program is a competitive grant program created to provide funding to LEAs to award scholarships to paraprofessionals, teachers, school counselor assistants, and school counselor interns within the LEA for education and training to become licensed teachers or licensed school counselors.

(3) (a) The state board shall use money appropriated for the program to provide funding to LEAs that are awarded grants under the program

to award scholarships to eligible candidates [~~whom principals within the LEA nominate, in an amount that the state board determines.~~].

(b) The state board shall:

(i) determine the amount of an award an LEA receives under the program; and

(ii) prioritize the amount of an award an LEA receives based upon an LEA's identified need.

(c) The principal within the participating LEA shall nominate a candidate for the scholarship awarded under this section.

(4) An LEA that participates in the program may select a candidate for a scholarship award if:

(a) the candidate is a resident of the state; and

(b) (i) for a paraprofessional:

(A) a school district or a charter school has employed the candidate as a paraprofessional for at least one year before entering the program; or

(B) subject to Subsection (5), the candidate has experience outside of the school district, the charter school, or the state that is equivalent to the experience described in Subsection [~~(4)(b) (i)(A);~~] (4)(b)(i)(A);

(ii) for a teacher, the candidate:

(A) was a paraprofessional who was awarded a scholarship;

(B) was offered employment as a teacher before the teacher completed the training to become a professionally licensed teacher; and

(C) is working as a teacher for the same LEA where the teacher previously worked as a paraprofessional and was awarded the scholarship.

(iii) for a school counselor assistant, the candidate:

(A) is enrolled in a bachelor's degree program in a related field; and

(B) demonstrates a commitment to continue the school counselor assistant's education after graduation in school counseling; or

(iv) for a school counselor intern, the candidate is enrolled in [~~an accredited~~] a school counselor master's degree program accredited by:

(A) the Council for Accreditation of Counseling and Related Educational Programs; or

(B) another regionally recognized accrediting body that meets the state board's standards for school counselor education programs.

(5) The percentage of an LEA's paraprofessional scholarship recipients who are eligible for a scholarship using equivalent experience under Subsection (4)(b)(i)(B) may not exceed 20%.

(6) A scholarship award under the program may only be used for:

(a) tuition, books, fees, and certification tests for required coursework and licensure;

(b) stipends for mentors or school counselor assistants; and

(c) if the LEA pays 0.15 of a full-time equivalent and all employee benefits, payment of a 0.35 full-time equivalent for:

(i) a paraprofessional, up to one semester of student teaching; or

(ii) a school counselor assistant or school counselor intern, up to two semesters of practicum or internship hours.

(7) A paraprofessional scholarship recipient must be continuously employed as a paraprofessional by the paraprofessional's LEA while pursuing a degree using scholarship money under the program.

(8) The state board shall make rules in accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules regarding:

(a) grant and scholarship application procedures;

(b) procedures for distributing scholarship money;

(c) assignment and eligibility of qualified mentors;

(d) stipends for mentors or school counselor assistants;

(e) administrative costs for regional education service agencies, as that term is defined in Section 53G-4-410; and

(f) eligibility requirements for potential candidates for scholarships regarding the completion of the Free Application for Federal Student Aid and the acceptance of other grants, tuition or fee waivers, and scholarships offered to the candidate.

CHAPTER 343
H. B. 465
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

PUBLIC SCHOOL LIBRARY TRANSPARENCY AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill addresses transparency regarding materials accessible to students in public school libraries.

Highlighted Provisions:

This bill:

- requires local education agencies that provide school libraries to provide an online platform that allows a parent to view information regarding materials the parent's child borrows from the school library; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-4-402, as last amended by Laws of Utah 2021, Chapters 84, 262, 324, and 345
53G-5-405, as last amended by Laws of Utah 2020, Chapter 192

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(7) A local school board:

(a) may establish and support school libraries[.]; and

(b) shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the

parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the LEA uses or through a separate platform; and

(ii) (A) for a school district with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a school district with fewer than 1,000 enrolled students, no later than August 1, 2026.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63A-16-601; and

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(24) A local school board shall:

(a) make curriculum that the school district uses readily accessible and available for a parent to view;

(b) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (24)(a); and

(c) include on the school district's website information about how to access the information described in Subsection (24)(a).

Section 2. Section 53G-5-405 is amended to read:

53G-5-405. Application of statutes and rules to charter schools.

(1) A charter school shall operate in accordance with its charter agreement and is subject to this public education code and other state laws applicable to public schools, except as otherwise provided in this chapter and other related provisions.

(2) (a) Except as provided in [~~Subsection~~] Subsections (2)(b) and (2)(c), state board rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(c) If a charter school provides access to a school library, the charter school governing board shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the charter school uses or through a separate platform; and

(ii) (A) for a charter school with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a charter school with fewer than 1,000 enrolled students, no later than August 1, 2026.

(3) The following provisions of this public education code, and rules adopted under those provisions, do not apply to a charter school:

(a) Section 53E-4-408, requiring an independent evaluation of instructional materials;

(b) Section 53G-4-409, requiring the use of activity disclosure statements;

(c) Sections 53G-7-304 and 53G-7-306, pertaining to fiscal procedures of school districts and local school boards;

(d) Section 53G-7-606, requiring notification of intent to dispose of textbooks;

(e) Section 53G-7-1202, requiring the establishment of a school community council; and

(f) Section 53G-10-404, requiring annual presentations on adoption.

(4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Section 63G-6a-103.

(5) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53G-5-404.

(7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the state board for consideration.

(ii) The state board shall consider the recommendations of the State Charter School Board and respond within 60 days.

CHAPTER 344
H. B. 468
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

EMPLOYMENT SCREENING REQUIREMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses employment background screening requirements.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- when hiring a mental health professional, prohibits certain public employers and public employer contractors from:
  - considering certain arrests or criminal convictions; or
  - denying employment based on certain criminal convictions or participation in substance use treatment;
- when hiring a mental health professional, prohibits a private employer from excluding an applicant from an interview for a juvenile adjudication, certain arrests, or an expunged criminal offense;
- modifies the Office of Licensing's (office) background and screening processes for an individual applying to work in a program with direct access to a child or vulnerable adult;
- exempts certain individuals employed by the Department of Health and Human Services from the office's background and screening processes;
- requires the office to conduct a comprehensive review of an applicant's background check if the applicant is applying to work in a program as a peer support provider or mental health professional;
- requires the office to deny an applicant's application upon certain background check findings;
- provides administrative rulemaking authority; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

34-52-102, as last amended by Laws of Utah 2019, Chapter 371
34-52-201, as last amended by Laws of Utah 2022, Chapter 447
62A-2-120, as last amended by Laws of Utah 2022, Chapters 185, 335, 430, and 468
62A-5-103.5, as last amended by Laws of Utah 2017, Chapter 181

ENACTS:

34-52-302, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

34-52-201, as last amended by Laws of Utah 2022, Chapter 447

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-52-102 is amended to read:

34-52-102. Definitions.

As used in this chapter:

(1) "Applicant" means an individual who provides information to a public employer or private employer for the purpose of obtaining employment.

(2) (a) "Criminal conviction" means a verdict or finding of guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.

(b) "Criminal conviction" does not include an expunged criminal conviction.

(3) "Juvenile adjudication" means:

(a) a finding by a court that the facts in a petition or criminal information alleging an individual committed an offense when the individual was younger than 18 years old have been proved; or

(b) an admission or plea of no contest under Section 80-6-306.

(4) "Mental health professional applicant" means an individual who:

(a) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and

(b) provides information to a public employer or private employer for the purpose of obtaining employment that requires a license under Title 58, Chapter 60, Mental Health Professional Practice Act.

[~~(3)~~] (5) (a) "Private employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(b) "Private employer" does not include a public employer.

[~~(4)~~] (6) "Public employer" means an employer that is:

(a) the state or any administrative subunit of the state, including a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of state government;

(b) a state institution of higher education; or

(c) a municipal corporation, county, municipality, school district, local district, special service district, or other political subdivision of the state.

Section 2. Section 34-52-201 is amended to read:

34-52-201. Public employer requirements.

(1) [~~A~~] Except as provided in Subsections (3) and (6), a public employer may not:

(a) exclude an applicant from an initial interview because of:

(i) a past criminal conviction[.]; or

(ii) if the applicant is a mental health professional applicant, an arrest for an offense that occurred before the applicant was 18 years old or a past juvenile adjudication;

(b) make an inquiry related to an applicant's expunged criminal history;

(c) when making a hiring decision regarding a mental health professional applicant, consider:

(i) an arrest for an offense that occurred before the mental health professional applicant was 18 years old;

(ii) an arrest not followed by a criminal conviction or juvenile adjudication;

(iii) a juvenile adjudication; or

(iv) a past criminal conviction if:

(A) the sentence for the criminal conviction is terminated; and

(B) the mental health professional applicant was not incarcerated for the past criminal conviction or the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment; or

(d) deny a mental health professional applicant employment based on a past criminal conviction that does not bear a direct relationship to the mental health professional applicant's ability to safely or competently perform the duties of employment.

(2) A public employer excludes an applicant from an initial interview under Subsection (1) if the public employer:

[~~(a) requires an applicant to disclose, on an employment application, a criminal conviction;~~]

[~~(b) requires an applicant to disclose, before an initial interview, a criminal conviction; or~~]

[~~(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction.~~]

(a) requires an applicant to disclose a criminal conviction:

(i) on an employment application;

(ii) before an initial interview; or

(iii) if no interview is conducted, before making a conditional offer of employment; or

(b) requires an applicant who is a mental health professional applicant to disclose an arrest for an offense that occurred before the applicant was 18 years old or a juvenile adjudication:

(i) on an employment application;

(ii) before an initial interview; or

(iii) if no interview is conducted, before making a conditional offer of employment.

(3) A public employer may not deny a mental health professional applicant employment that requires the mental health professional applicant to provide substance use treatment based on:

(a) the mental health professional applicant's participation in substance use treatment; or

(b) a past criminal conviction for a nonviolent drug offense if:

(i) the sentence for the criminal conviction is terminated; and

(ii) (A) the mental health professional applicant was not incarcerated for the past criminal conviction; or

(B) the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment.

[~~(3) (a) A public employer may not make any inquiry related to an applicant's expunged criminal history.~~]

[~~(b)~~] (4) An applicant seeking employment from a public employer may answer a question related to an expunged criminal record as though the action underlying the expunged criminal record never occurred.

[~~(4)~~] (5) [~~Subject to~~] Except as provided in Subsections (1) through (3), [~~nothing in this section prevents~~] this section does not prevent a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction history during an initial interview or after an initial interview; or

(b) considering an applicant's criminal conviction history when making a hiring decision.

[~~(5)~~] (6) (a) Subsections (1) through [~~(3)~~] (4) do not apply:

[~~(a)~~] (i) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction history;

[~~(b)~~] (ii) to a public employer that is a law enforcement agency;

[~~(c)~~] (iii) to a public employer that is part of the criminal or juvenile justice system;

[~~(d)~~] (iv) to a public employer seeking a nonemployee volunteer;

[~~(e)~~] (v) to a public employer that works with children or vulnerable adults;

[~~(f)~~] (vi) to the Department of Alcoholic Beverage Services created in Section 32B-2-203;

[~~(g)~~] (vii) to the State Tax Commission;

[~~(h)~~] (viii) to a public employer whose primary purpose is performing financial or fiduciary functions; [~~and~~] or

[~~(i)~~] (ix) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.

(b) Subsections (1)(c)(iv) and (1)(d) do not apply to a criminal conviction for:

(i) a violent felony as defined in Section 76-3-203.5; or

(ii) a felony related to a criminal sexual act under Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act.

(c) Subsections (1)(a)(ii), (1)(c), (1)(d), and (3) apply to a person under contract with a public employer.

Section 3. Section 34-52-302 is enacted to read:

34-52-302. Private employer requirements when hiring a mental health professional.

(1) Except as provided in Subsection (4), a private employer may not exclude a mental health professional applicant from an initial interview because of:

(a) an arrest for an offense that occurred before the mental health professional applicant was 18 years old;

(b) a juvenile adjudication; or

(c) an expunged criminal offense.

(2) A private employer excludes a mental health professional applicant from an initial interview under Subsection (1) if the private employer requires the mental health professional applicant to disclose an arrest for an offense that occurred before the mental health professional applicant was 18 years old, a juvenile adjudication, or an expunged criminal offense:

(a) on an employment application;

(b) before an initial interview; or

(c) if no interview is conducted, before making a conditional offer of employment.

(3) Except as provided in Subsections (1) and (2), this section does not prevent a private employer from:

(a) asking a mental health professional applicant for information about the mental health professional applicant's criminal conviction history during an initial interview or after an initial interview; or

(b) considering a mental health professional applicant's criminal conviction history when making a hiring decision.

(4) Subsections (1) and (2) do not apply:

(a) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction history;

(b) to a private employer that is part of the criminal or juvenile justice system;

(c) to a private employer seeking a nonemployee volunteer;

(d) to a private employer that works with children or vulnerable adults; or

(e) to a private employer whose primary purpose is performing financial or fiduciary functions.

Section 4. Section 62A-2-120 is amended to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means, notwithstanding Section 62A-2-101:

(A) [~~the same as that term is defined in Section 62A-2-101;~~] an individual who applies for an initial license or certification or a license or certification renewal under this chapter;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) an individual who transports a child for a youth transportation company;

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home[~~,~~] that is licensed or certified by the office[~~, with the child or vulnerable adult who is receiving services~~]; or

(G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not [~~mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.~~] include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services; or

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Certified peer support specialist" means the same as that term is defined in Section 62A-15-1301.

(e) "Criminal finding" means a record of:

(i) an arrest or a warrant for an arrest;

(ii) charges for a criminal offense; or

(iii) a criminal conviction.

[~~(d)~~] (f) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(g) "Mental health professional" means an individual who:

(i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and

(ii) engaged in the practice of mental health therapy.

(h) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(iv) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry; or

(v) a state child abuse or neglect registry.

(i) (i) "Peer support specialist" means an individual who:

(A) has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder; and

(B) uses personal experience to provide support, guidance, or services to promote resiliency and recovery.

(ii) "Peer support specialist" includes a certified peer support specialist.

(iii) "Peer support specialist" does not include a mental health professional.

[~~(e)~~] (j) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.

(2) [~~(a)~~] Except as provided in Subsection [~~(13),~~] (12), an applicant or a representative shall submit the following to the office:

[~~(i)~~] (a) personal identifying information;

[~~(ii)~~] (b) a fee established by the office under Section 63J-1-504; [~~and~~]

[~~(iii)~~] (c) a disclosure form, specified by the office, for consent for:

[~~(A)~~] (i) an initial background check upon submission of the information described [~~under~~] in this Subsection [~~(2)(a)~~] (2);

[~~(B)~~] (ii) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

[~~(C)~~] (iii) a background check when the office determines that reasonable cause exists; and

[~~(D)~~] (iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4)[.]; and

[~~(b)~~] (d) [~~In addition to the requirements described in Subsection (2)(a),~~] if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in [~~Subsection (2)(a)~~] Subsections (2)(a) through (c) is submitted to the office, [~~the office may require the applicant to submit~~] documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the [~~Department of Human Services,~~] Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) if the applicant is applying to become a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001 for:

(A) the applicant; and

(B) any adult living in the applicant's home;

(v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

[~~(iv)~~] (vi) search the [~~Department of Human Services,~~] Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

[~~(v)~~] (vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

[~~(vi)~~] (viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described [~~under Subsection (2)(a)~~] in Subsection (2);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an [~~approved~~] applicant under this section to ensure that [~~an approved~~] the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of [~~each license and~~] each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall:

(i) search the [~~Department of Human Services,~~] Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection [~~(2)(a)~~] (2) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice [~~from the office that a license has expired or an~~] that an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) [~~After~~] Except as provided in Subsection (5)(b), after conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of [~~any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:~~]:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

[~~(ii)~~] (B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

[~~(iii) prostitution;~~]

[~~(iv) an offense included in:~~]

[~~(A) Title 76, Chapter 5, Offenses Against the Individual;~~]

[~~(B) Section 76-5b-201, Sexual Exploitation of a Minor;~~]

[~~(C) Section 76-5b-201.1, Aggravated Sexual Exploitation of a Minor; or~~]

[~~(D) Title 76, Chapter 7, Offenses Against the Family;~~]

(C) sexual solicitation;

(D) an offense included in Title 76, Chapter 5, Offenses Against the Individual, Title 76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4, Enticement of a Minor, or Title 76, Chapter 7, Offenses Against the Family;

[~~(v)~~] (E) aggravated arson, as described in Section 76-6-103;

[~~(vi)~~] (F) aggravated burglary, as described in Section 76-6-203;

[~~(vii)~~] (G) aggravated robbery, as described in Section 76-6-302;

[~~(viii)~~] (H) identity fraud crime, as described in Section 76-6-1102; [~~or~~]

(I) sexual battery, as described in Section 76-9-702.1; or

(J) a violent offense committed in the presence of a child, as described in Section 76-3-203.10; or

[~~(ix)~~] (ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in [~~Subsections (5)(a)(i) through (viii).~~] Subsection (5)(a)(i).

[~~(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).~~]

[~~(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).~~]

(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider, a mental health professional, or in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (6).

(6) [~~(a)~~] The office shall conduct a comprehensive review of an applicant's background check if the applicant:

[~~(i)~~] (a) has a felony or class A misdemeanor conviction for an offense described in Subsection (5) with a date of conviction that is more than three years before the date on which the applicant submits the information described in Subsection (2);

(b) [~~has an open court case or a conviction for any felony offense,~~] has a felony charge or conviction for an offense not described in Subsection [~~(5)(a), with a date of conviction that is~~] (5) with a date of charge or conviction that is no more than 10 years before the date on which the applicant submits the application under Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

[~~(ii) has an open court case or a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;~~]

[~~(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);~~]

[~~(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);~~]

[~~(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;~~]

[~~(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;~~]

[~~(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 80-3-404;~~]

[~~(viii)~~]

(c) has a class B misdemeanor or class C misdemeanor conviction for an offense described in Subsection (5) with a date of conviction that is more than three years after, and no more than 10 years before, the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(d) has a misdemeanor conviction for an offense not described in Subsection (5) with a date of conviction that is no more than three years before the date on which the applicant submits information described in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(e) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5);

(f) appears on the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry;

(g) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

[~~(A)~~] (i) under 28 years old; or

[~~(B)~~] (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection [~~(5)(a);~~] (5);

[~~(ix)~~] (h) has a pending charge for an offense described in Subsection [~~(5)(a); or~~] (5);

[~~(x) is an applicant described in Subsection (5)(c).~~]

(i) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing;

(j) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing;

(k) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the finding;

(l) (i) is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years before the day on which the applicant submits the information described in Subsection (2):

(A) has a felony or misdemeanor charge or conviction;

(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1; or

(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504;

(m) (i) (A) is seeking a position in a congregate care program;

(B) is seeking to become a prospective foster or adoptive parent; or

(C) is an applicant described in Subsection (1)(a)(i)(F); and

(ii) (A) has an infraction conviction for conduct that constitutes an offense or violation described in Subsection (5)(a)(i)(A) or (B);

(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(E) has a listing on the registry check described in Subsection (13)(a) as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102; or

(n) is seeking to become a prospective foster or adoptive parent and has, or has an adult living with

the applicant who has, a conviction, finding, or listing described in Subsection (6)(m)(ii).

[~~(b)~~] (7) (a) The comprehensive review [~~described in Subsection (6)(a)~~] shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; and

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying[~~; and~~].

[~~(ix) any other pertinent information presented to or publicly available to the committee members.~~]

[~~(c)~~] (b) At the conclusion of the comprehensive review [~~described in Subsection (6)(a)~~], the office shall deny an application to an applicant if the office finds:

(i) that approval would likely create a risk of harm to a child or a vulnerable adult[~~.~~]; or

(ii) an individual is prohibited from having direct access to a child or vulnerable adult by court order.

[~~(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:~~]

[~~(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and~~]

[~~(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).~~]

[~~(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).~~]

[~~(7) Subject to Subsection (10), the~~] (8) The office shall approve an application to an applicant who is not denied under [~~Subsection (5), (6), or (14).~~] this section.

[~~(8)~~] (9) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection [~~(12),~~] (11), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant [~~under Subsection (7)~~] under this section.

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection [~~(12)~~] (11), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant [~~under Subsection (7)~~] under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with [~~Subsections (5) through (7)~~] this section.

[~~(9)~~] (10) (a) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult [~~unless, subject to Subsection (10)~~] without being directly supervised unless:

[~~(a)~~] (i) the individual is associated with the licensee or department contractor and the department conducts a background screening in accordance with this section[~~:~~];

[~~(i) the individual's application is approved by the office under this section;~~]

[~~(ii) the individual's application is conditionally approved by the office under Subsection (8); or~~]

[~~(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;~~]

[~~(B) the office has not determined whether to approve the applicant's application; and~~]

[~~(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;~~]

[~~(b) (i) the individual is associated with the licensee or department contractor;~~]

[~~(ii) the individual has a current background screening approval issued by the office under this section;~~]

[~~(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:~~]

[~~(A) the individual was charged with an offense described in Subsection (5)(a);~~]

[~~(B) the individual is listed in the Licensing Information System, described in Section 80-2-1002;~~]

[~~(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;~~]

[~~(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 80-3-404; or~~]

[~~(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and~~]

[~~(iv) the individual is directly supervised by an individual who:~~]

[~~(A) has a current background screening approval issued by the office under this section; and~~]

[~~(B) is associated with the licensee or department contractor;~~]

[~~(c) the individual:~~]

[~~(i) is not associated with the licensee or department contractor; and~~]

[~~(ii) is directly supervised by an individual who:~~]

[~~(A) has a current background screening approval issued by the office under this section; and~~]

[~~(B) is associated with the licensee or department contractor;~~]

[~~(d)~~] (ii) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

[~~(e)~~] (iii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

[~~(f)~~] (iv) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

[~~(g)~~] (v) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

[~~(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.~~]

[~~(11)~~] (b) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

[~~(12)~~] (11) (a) Within 30 days after the day on which [~~the office receives the background check information for an applicant, the office shall give notice of the clearance status to:~~] the applicant submits the information described in Subsection (2), the office shall notify the applicant of any potentially disqualifying criminal findings or non-criminal findings.

[~~(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and~~]

[~~(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.~~]

[~~(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).~~]

[~~(c)~~] (b) If the notice under Subsection [~~(12)(a)~~] (11)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

[~~(d)~~] (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of the office's background check decision described in Subsection [~~(12)(c)~~] (11)(b); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

[~~(13)~~] (12) (a) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is exempt from this section.

(b) [~~This~~] The exemption described in Subsection (12)(a) does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

[~~(14)~~] (13) (a) Except as provided in Subsection [~~(14)(b),~~] (13)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program[~~, an applicant for a one-time adoption,~~] or an applicant seeking to [~~provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home~~] become a prospective foster or adoptive parent, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the

applicant applied to be a foster [~~parent~~] or adoptive parent, to determine whether the prospective foster [~~parent or prospective~~] or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection [~~(14)(a)(i)~~] (13)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster [~~parent~~] or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection [~~(14)(a)~~] (13)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through [~~(9),~~] (10), the office shall deny a clearance to an applicant seeking a position in a congregate care program[~~, an applicant for a one-time adoption,~~] or an applicant to become a prospective foster [~~parent, or an applicant to become a prospective~~] or adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, [~~as described in Section 76-5b-201~~] described in Title 76, Chapter 5b, Sexual Exploitation Act;

(P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(Q) aggravated arson, as described in Section 76-6-103;

(R) aggravated burglary, as described in Section 76-6-203;

(S) aggravated robbery, as described in Section 76-6-302; [~~or~~]

(T) lewdness involving a child, as described in Section 76-9-702.5;

(U) incest, as described in Section 76-7-102; or

(V) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection [~~(14)(c)(i)~~] (13)(c)(i).

(d) Notwithstanding Subsections (5) through [~~(9),~~] (10), the office shall deny a license or license renewal to [~~a~~] an individual seeking a position in a congregate care program or a prospective foster [~~parent or a prospective~~] or adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the [~~applicant~~] individual was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection [~~(6)(a)~~] (6), the office shall conduct the comprehensive review of an applicant's background check [~~pursuant to~~] under this section if the registry

check described in Subsection [~~(14)(a)~~] (13)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6) and (7); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services for purposes of approval or denial of an application for a prospective foster or adoptive parent.

Section 5. Section 62A-5-103.5 is amended to read:

62A-5-103.5. Disbursal of public funds -- Background check of a direct service worker.

(1) For purposes of this section, "office" means the same as that term is defined in Section 62A-2-101.

(2) Public funds may not be disbursed to pay a direct service worker for personal services rendered to a person unless the office approves the direct service worker to have direct access and provide services to a child or a vulnerable adult pursuant to Section 62A-2-120.

(3) For purposes of Subsection (2), the office shall conduct a background check of a direct service worker:

(a) before public funds are disbursed to pay the direct service worker for the personal services described in Subsection (2); and

(b) using the same procedures established for a background check of an applicant for a license under Section 62A-2-120.

(4) A child who is in the legal custody of the department or any of the department's divisions may not be placed with a direct service worker unless, before the child is placed with the direct service worker, the direct service worker passes a background check[~~, pursuant to the requirements of Subsection 62A-2-120(14)~~] under Section 62A-2-120.

(5) If a public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, contracts with the division to provide services:

(a) the provisions of this section are not applicable to a direct service worker employed by the public transit district; and

(b) the division may not reimburse the public transit district for services provided unless a direct service worker hired or transferred internally after July 1, 2013, by the public transit district to drive a paratransit route:

(i) is approved by the office to have direct access to children and vulnerable adults in accordance with Section 62A-2-120; and

(ii) is subject to a background check established in a statute or rule governing a public transit district or other public transit district policy.

Section 6. Coordinating H.B. 468 with H.B. 60 -- Technical and substantive amendments.

If this H.B. 468 and H.B. 60, Juvenile Justice Modifications, both pass and become law, it is the intent of the Legislature that when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication on October 1, 2023, Section 34-52-201 be amended to read:

"(1) [~~A~~] Except as provided in Subsections (3) and (6), a public employer may not:

(a) exclude an applicant from an initial interview because of:

(i) a past criminal conviction[~~.~~] or juvenile adjudication; or

(ii) if the applicant is a mental health professional applicant, an arrest for an offense that occurred before the applicant was 18 years old;

(b) make an inquiry related to an applicant's expunged criminal or juvenile delinquency history;

(c) when making a hiring decision regarding a mental health professional applicant, consider:

(i) an arrest for an offense that occurred before the mental health professional applicant was 18 years old;

(ii) an arrest not followed by a criminal conviction or juvenile adjudication;

(iii) a juvenile adjudication; or

(iv) a past criminal conviction if:

(A) the sentence for the criminal conviction is terminated; and

(B) the mental health professional applicant was not incarcerated for the past criminal conviction or the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment; or

(d) deny a mental health professional applicant employment based on a past criminal conviction that does not bear a direct relationship to the mental health professional applicant's ability to safely or competently perform the duties of employment.

(2) A public employer excludes an applicant from an initial interview under Subsection (1) if the public employer:

[~~(a) requires an applicant to disclose, on an employment application, a criminal conviction;~~]

[~~(b) requires an applicant to disclose, before an initial interview, a criminal conviction; or~~]

[~~(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction.~~]

(a) requires an applicant to disclose a criminal conviction or juvenile adjudication:

(i) on an employment application;

(ii) before an initial interview; or

(iii) if no interview is conducted, before making a conditional offer of employment; or

(b) requires an applicant who is a mental health professional applicant to disclose an arrest for an offense that occurred before the applicant was 18 years old:

(i) on an employment application;

(ii) before an initial interview; or

(iii) if no interview is conducted, before making a conditional offer of employment.

(3) A public employer may not deny a mental health professional applicant employment that requires the mental health professional applicant to provide substance use treatment based on:

(a) the mental health professional applicant's participation in substance use treatment; or

(b) a past criminal conviction for a nonviolent drug offense if:

(i) the sentence for the criminal conviction is terminated; and

(ii) (A) the mental health professional applicant was not incarcerated for the past

criminal conviction; or

(B) the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment.

[~~(3) (a) A public employer may not make any inquiry related to an applicant's expunged criminal history.~~]

[~~(b)~~] (4) An applicant seeking employment from a public employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.

[~~(4) Subject to~~] (5) Except as provided in Subsections (1) through (3), [~~nothing in this section prevents~~] this section does not prevent a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction or juvenile delinquency history during an initial interview or after an initial interview; or

(b) considering an applicant's criminal conviction or juvenile delinquency history when making a hiring decision.

[~~(5)~~] (6)(a) Subsections (1) through [~~(3)~~] (4) do not apply:

[~~(a)~~] (i) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction or juvenile delinquency history;

[~~(b)~~] (ii) to a public employer that is a law enforcement agency;

[~~(c)~~] (iii) to a public employer that is part of the criminal or juvenile justice system;

[~~(d)~~] (iv) to a public employer seeking a nonemployee volunteer;

[~~(e)~~] (v) to a public employer that works with children or vulnerable adults;

[~~(f)~~] (vi) to the Department of Alcoholic Beverage Services created in Section 32B-2-203;

[~~(g)~~] (vii) to the State Tax Commission;

[~~(h)~~] (viii) to a public employer whose primary purpose is performing financial or fiduciary functions; [~~and~~] or

[~~(i)~~] (ix) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.

(b) Subsections (1)(c)(iv) and (1)(d) do not apply to a criminal conviction for:

(i) a violent felony as defined in Section 76-3-203.5; or

(ii) a felony related to a criminal sexual act under Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act.

(c) Subsections (1)(a)(ii), (1)(c), (1)(d), and (3) apply to a person under contract with a public employer.".

CHAPTER 345
H. B. 469
Passed March 1, 2023
Approved March 17, 2023
Effective May 3, 2023

WILDLIFE RELATED AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses issues related to wildlife hunting, fishing, and habitat.

Highlighted Provisions:

This bill:

- requires the Division of Wildlife Resources to notify the Division of Professional License of a suspension of the privilege to hunt or fish;
- addresses hunting with an air rifle;
- addresses the taking of cougars;
- modifies provisions related to use of trail cameras;
- creates the Wildlife Land and Water Acquisition Program;
- modifies provisions related to cooperative wildlife management units;
- addresses rulemaking by the Division of Professional Licensing;
- addresses when the Division of Professional Licensing is to refuse to issue, refuse to renew, or revoke a registration related to hunting guides and outfitters;
- provides for certain fees; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Department of Natural Resources – Wildlife Land and Water Acquisition Program, as an ongoing appropriation:
  - from the General Fund, $1,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

23-13-18, as last amended by Laws of Utah 2021, Chapter 177
23-19-9, as last amended by Laws of Utah 2021, Chapter 57
23-19-17, as last amended by Laws of Utah 2007, Chapter 187
23-19-22.5, as last amended by Laws of Utah 2007, Chapter 187
23-19-24, as last amended by Laws of Utah 2007, Chapter 187
23-19-26, as last amended by Laws of Utah 2007, Chapter 187
23-19-47, as last amended by Laws of Utah 2007, Chapter 187
23-19-49, as enacted by Laws of Utah 2022, Chapter 102
23-23-2, as last amended by Laws of Utah 2005, Chapter 112
23-23-3, as last amended by Laws of Utah 2005, Chapter 112
23-23-6, as repealed and reenacted by Laws of Utah 1997, Chapter 258
23-23-7, as last amended by Laws of Utah 2005, Chapter 112
23-23-10, as last amended by Laws of Utah 2000, Chapter 44
58-79-401, as last amended by Laws of Utah 2020, Chapters 316, 376
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154

ENACTS:

23-21-8, Utah Code Annotated 1953
58-79-103, Utah Code Annotated 1953

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 23-13-18 is amended to read:

23-13-18 (Codified as 23A-5-307). Use of a computer or other device to remotely hunt wildlife prohibited -- Trail cameras.

(1) A person may not use a computer or other device to remotely control the aiming and discharge of a firearm or other weapon for hunting an animal.

(2) A person who violates Subsection (1) is guilty of a class A misdemeanor.

(3) (a) As used in this Subsection (3), "trail camera" means a device that is not held or manually operated by a person and is [~~used to capture~~] capable of capturing images, video, or location data of wildlife using heat or motion to trigger the device.

(b) A trail camera using internal data storage and not capable of transmitting data is permitted for use on private lands for the purposes of taking protected wildlife.

(c) A trail camera may not be used to take wildlife on public land during the period beginning on July 31 and ending on December 31.

(d) A trail camera is prohibited on public land during the period beginning on July 31 and ending on December 31, except for use by:

(i) the division for monitoring or research;

(ii) a land management agency in the course of the land management agency's regular duties;

(iii) any of the following conducting research in conjunction with the division:

(A) a non-governmental organization;

(B) an educational institution; or

(C) other person;

(iv) monitoring active agricultural operations including the take of a bear or cougar that is causing livestock depredation; or

(v) a municipality participating in a program addressing urban deer.

[~~(b)~~] (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board [~~shall~~] may make rules regulating the use of trail cameras.

[~~(c) The division shall provide an annual report to the Natural Resources, Agriculture, and Environment Interim Committee regarding rules made or changed in accordance with this Subsection (3).~~]

Section 2. Section 23-19-9 is amended to read:

23-19-9 (Codified as 23A-4-1106). Suspension of license or permit privileges -- Suspension of certificates of registration.

(1) As used in this section:

(a) "License or permit privileges" means the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit issued by the division.

(b) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.

(2) A hearing officer, appointed by the division, may suspend a person's license or permit privileges if:

(a) in a court of law, the person:

(i) is convicted of:

(A) violating this title or a rule of the Wildlife Board;

(B) killing or injuring domestic livestock or a livestock guardian dog while engaged in an activity regulated under this title;

(C) violating Section 76-6-111; or

(D) violating Section 76-10-508 while engaged in an activity regulated under this title;

(ii) enters into a plea in abeyance agreement, in which the person pleads guilty or no contest to an offense listed in Subsection (2)(a)(i), and the plea is held in abeyance; or

(iii) is charged with committing an offense listed in Subsection (2)(a)(i), and the person enters into a diversion agreement which suspends the prosecution of the offense; and

(b) the hearing officer determines the person committed the offense intentionally, knowingly, or recklessly, as defined in Section 76-2-103.

(3) (a) The Wildlife Board shall make rules establishing guidelines that a hearing officer shall consider in determining:

(i) the type of license or permit privileges to suspend; and

(ii) the duration of the suspension.

(b) The Wildlife Board shall ensure that the guidelines established under Subsection (3)(a) are consistent with Subsections (4), (5), and (6).

(4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a person's license or permit privileges according to Subsection (2) for a period of time not to exceed:

(a) seven years for:

(i) a felony conviction;

(ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a felony, the prosecution of which is suspended pursuant to a diversion agreement;

(b) five years for:

(i) a class A misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class A misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement;

(c) three years for:

(i) a class B misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class B misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement; and

(d) one year for:

(i) a class C misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor, when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class C misdemeanor, the prosecution of which is suspended according to a diversion agreement.

(5) The hearing officer may double a suspension period established in Subsection (4) for offenses:

(a) committed in violation of an existing suspension or revocation order issued by the courts, division, or Wildlife Board; or

(b) involving the unlawful taking of a trophy animal, as defined in Section 23-13-2.

(6) (a) A hearing officer may suspend, according to Subsection (2), a person's license or permit privileges for a particular license or permit only once for each single criminal episode, as defined in Section 76-1-401.

(b) If a hearing officer addresses two or more single criminal episodes in a hearing, the suspension periods of any license or permit privileges of the same type suspended, according to Subsection (2), may run consecutively.

(c) If a hearing officer suspends, according to Subsection (2), license or permit privileges of the type that have been previously suspended by a court, a hearing officer, or the Wildlife Board and the suspension period has not expired, the suspension periods may run consecutively.

(7) (a) A hearing officer, appointed by the division, may suspend a person's privilege of applying for, purchasing, and exercising the benefits conferred by a certificate of registration if:

(i) the hearing officer determines the person intentionally, knowingly, or recklessly, as defined in Section 76-2-103, violated:

(A) this title;

(B) a rule or order of the Wildlife Board;

(C) the terms of a certificate of registration; or

(D) the terms of a certificate of registration application or agreement; or

(ii) the person, in a court of law:

(A) is convicted of an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration;

(B) pleads guilty or no contest to an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and the plea is held in abeyance in accordance with a plea in abeyance agreement; or

(C) is charged with an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and prosecution of the offense is suspended in accordance with a diversion agreement.

(b) All certificates of registration for the harvesting of brine shrimp eggs, as defined in Section 59-23-3, shall be suspended by a hearing officer, if the hearing officer determines the holder of the certificates of registration has violated Section 59-23-5.

(8) (a) The director shall appoint a qualified person as a hearing officer to perform the adjudicative functions provided in this section.

(b) The director may not appoint a division employee who investigates or enforces wildlife violations.

(9) (a) The courts may suspend, in criminal sentencing, a person's privilege to apply for, purchase, or exercise the benefits conferred by a license, permit, or certificate of registration.

(b) The courts shall promptly notify the division of any suspension orders or recommendations entered.

(c) The division, upon receiving notification of suspension from the courts, shall prohibit the person from applying for, purchasing, or exercising the benefits conferred by a license, permit, or certification of registration for the duration and of the type specified in the court order.

(d) The hearing officer shall consider any recommendation made by a sentencing court concerning suspension before issuing a suspension order.

(10) (a) A person may not apply for, purchase, possess, or attempt to exercise the benefits conferred by any permit, license, or certificate of registration specified in an order of suspension while that order is in effect.

(b) Any license possessed or obtained in violation of the order shall be considered invalid.

(c) A person who violates Subsection (10)(a) is guilty of a class B misdemeanor.

(11) Before suspension under this section, a person shall be:

(a) given written notice of any action the division intends to take; and

(b) provided with an opportunity for a hearing.

(12) (a) A person may file an appeal of a hearing officer's decision with the Wildlife Board.

(b) The Wildlife Board shall review the hearing officer's findings and conclusions and any written documentation submitted at the hearing.

(c) The Wildlife Board may:

(i) take no action;

(ii) vacate or remand the decision; or

(iii) amend the period or type of suspension.

(13) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry privileges consistent with Title 23, Chapter 25, Wildlife Violator Compact.

(14) Within 30 days after the day on which an individual's privilege to hunt or fish is suspended under this title, the division shall report to the Division of Professional Licensing the:

(a) identifying information for the individual; and

(b) time period of the suspension.

[~~(14)~~] (15) The Wildlife Board may make rules to implement this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 23-19-17 is amended to read:

23-19-17 (Codified as 23A-4-401). Resident fishing and hunting license -- Use of fee.

(1) A resident, after paying the fee established by the Wildlife Board, may obtain, as provided by the Wildlife Board's rules, a combination license to:

(a) fish;

(b) hunt for small game; [~~and~~]

(c) hunt or trap cougar during a period beginning on January 1 and ending on December 31; and

[~~(c)~~] (d) apply for or obtain a big game, [~~cougar,~~] bear, or turkey hunting permit.

(2) Up to $1 of the combination license fee may be used for the hunter education program for any of the following:

(a) instructor and student training;

(b) assisting local organizations with development;

(c) maintenance of existing facilities; or

(d) operation and maintenance of the hunter education program.

(3) (a) Up to 50 cents of the combination license fee may be used for the upland game program to:

(i) acquire pen-raised birds; or

(ii) capture and transplant upland game species.

(b) The combination license fee revenue designated for the upland game program by Subsection (3)(a) is in addition to any combination license fee revenue that may be used for the upland game program as provided by Sections 23-19-43 and 23-19-47.

Section 4. Section 23-19-22.5 is amended to read:

23-19-22.5 (Codified as 23A-4-704). Bear hunting permit.

(1) A person 12 years of age or older, upon paying the [~~cougar or~~] bear hunting permit fee established by the Wildlife Board and possessing a valid hunting or combination license, may apply for or obtain a permit to take [~~cougar or~~] bear as provided by rules and proclamations of the Wildlife Board.

(2) A person 11 years of age may apply for or obtain a [~~cougar or~~] bear hunting permit consistent with the requirements of Subsection (1) if that person's 12th birthday falls within the calendar year in which the permit is issued.

(3) One dollar of each [~~cougar or~~] bear permit fee collected from a resident shall be used for the hunter education program.

Section 5. Section 23-19-24 is amended to read:

23-19-24 (Codified as 23A-4-706). Resident hunting license -- Use of fee.

(1) A resident, after paying the fee established by the Wildlife Board, may obtain a hunting license.

(2) A hunting license authorizes the licensee to, according to this title and the Wildlife Board's rules and proclamations:

(a) take small game; [~~and~~]

(b) hunt or trap cougar during a period beginning on January 1 and ending on December 31; and

[~~(b)~~] (c) apply for or obtain a big game, [~~cougar,~~] bear, or turkey hunting permit.

(3) Up to $1 of the hunting license fee may be used for the hunter education program.

(4) (a) Up to 50 cents of the hunting license fee may be used for the upland game program to:

(i) acquire pen-raised birds; or

(ii) capture and transplant upland game species.

(b) The hunting license fee revenue designated for the upland game program by Subsection (4)(a) is in addition to any hunting license fee revenue that may be used for the upland game program as provided by Sections 23-19-43 and 23-19-47.

Section 6. Section 23-19-26 is amended to read:

23-19-26 (Codified as 23A-4-707). Nonresident hunting license -- Use of fee.

(1) A nonresident, after paying the fee established by the Wildlife Board, may obtain a hunting license.

(2) A hunting license authorizes the licensee to, according to this title and the Wildlife Board's rules and proclamations:

(a) take small game; [~~and~~]

(b) hunt or trap cougar during a period beginning on January 1 and ending on December 31; and

[~~(b)~~] (c) apply for or obtain a big game, [~~cougar,~~] bear, or turkey hunting permit.

(3) (a) Up to 50 cents of the hunting license fee may be used for the upland game program to:

(i) acquire pen-raised birds; or

(ii) capture and transplant upland game species.

(b) The hunting license fee revenue designated for the upland game program by Subsection (3)(a) is in addition to any hunting license fee revenue that may be used for the upland game program as provided by Sections 23-19-43 and 23-19-47.

Section 7. Section 23-19-47 is amended to read:

23-19-47 (Codified as 23A-3-208). Portion of revenue from license, permit, stamp, certificate of registration, and Wildlife Heritage certificate fees deposited in Wildlife Habitat Account.

(1) Fifty cents of the fee charged for any of the following licenses or stamps shall be deposited in the Wildlife Habitat Account created in Section 23-19-43:

(a) a one-day fishing license; or

(b) a one-day fishing stamp.

(2) Three dollars and fifty cents of the fee charged for any of the following licenses or permits shall be

deposited in the Wildlife Habitat Account created in Section 23-19-43:

(a) a fishing license, except any one-day fishing license;

(b) a hunting license;

(c) a combination license;

(d) a furbearer license; or

(e) a fishing permit, except any fish stamp.

(3) Four dollars and seventy-five cents of the fee charged for any of the following certificates of registration, permits, or Wildlife Heritage certificates shall be deposited in the Wildlife Habitat Account created in Section 23-19-43:

(a) a certificate of registration for the dedicated hunter program, except a certificate of registration issued to a lifetime licensee;

(b) a big game permit;

(c) a bear permit;

[~~(d) a cougar permit;~~]

[~~(e)~~] (d) a turkey permit;

[~~(f)~~] (e) a muskrat permit; or

[~~(g)~~] (f) a Wildlife Heritage certificate.

Section 8. Section 23-19-49 is amended to read:

23-19-49 (Codified as 23A-4-702). Air rifle hunting.

(1) As used in this section:

(a) "Division" means the Division of Wildlife Resources.

(b) "Pre-charged pneumatic air rifle" means a rifle that fires a single projectile with compressed air released from a chamber:

(i) built into the rifle; and

(ii) pressurized at a minimum of 2,000 pounds per square inch from an external high compression device or source, such as a hand pump, compressor, or scuba tank.

(2) [~~(a)~~] An individual [~~shall obtain a permit issued under this section before using~~] may use a pre-charged pneumatic air rifle to hunt:

(a) a species of protected wildlife designated by the Wildlife Board;

(b) a cottontail rabbit;

(c) a snowshoe hare; or

(d) a turkey, with a fall turkey permit.

[~~(b) The Wildlife Board shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate which species of wildlife may be hunted with the use of a pre-charged pneumatic air rifle.~~]

(3) The division shall review [~~the funding available for the regulation of~~] available funding to pay the costs of regulating hunting with pre-charged pneumatic air rifles, including eligibility for federal excise taxes, and report the division's findings to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November 2024 interim committee meeting.

Section 9. Section 23-21-8 is enacted to read:

23-21-8 (Codified as 23A-6-205). Wildlife Land and Water Acquisition Program.

(1) As used in this section, "program" means the Wildlife Land and Water Acquisition Program created in Subsection (2).

(2) There is created a program known as the "Wildlife Land and Water Acquisition Program" under which the division may lease or acquire land or water assets that achieve one or more of the following:

(a) protect and enhance wildlife populations;

(b) provide the public the opportunity to hunt, trap, or fish; and

(c) conserve, protect, and enhance wildlife habitat.

(3) In making a decision as to whether to lease or acquire land or water assets, the division shall:

(a) consult the relevant state or county resource management plan;

(b) prioritize leases or acquisitions that involve land that:

(i) is adjacent to land already owned by the division; or

(ii) provides access to other public land;

(c) develop a management plan for the land or water asset in a manner consistent with Section 23-21-2.1; and

(d) facilitate grazing as a management tool if consistent with the management plan described in Subsection (3)(c).

(4) The division shall annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee regarding how the division expends money in the program.

Section 10. Section 23-23-2 is amended to read:

23-23-2 (Codified as 23A-7-101). Definitions.

As used in this chapter:

(1) "Cooperative wildlife management unit" or "unit" means a generally contiguous area of land open for hunting small game, waterfowl, [~~cougar,~~] turkey, or big game which is registered in accordance with this chapter and rules of the Wildlife Board.

(2) (a) "Cooperative wildlife management unit agent" means a person appointed by a landowner,

landowner association, or landowner association operator to perform the functions described in Section 23-23-9.

(b) For purposes of this chapter, a cooperative wildlife management unit agent may not:

(i) be appointed by the division or the state;

(ii) be an employee or agent of the division;

(iii) receive compensation from the division or the state to act as a cooperative wildlife management unit agent; or

(iv) act as a peace officer or perform any duties of a peace officer without qualifying as a peace officer under Title 53, Chapter 13, Peace Officer Classifications.

(3) "Cooperative wildlife management unit authorization" means a card, label, ticket, or other identifying document authorizing the possessor to hunt small game or waterfowl in a cooperative wildlife management unit.

(4) "Cooperative wildlife management unit permit" means a permit authorizing the possessor to hunt [~~cougar,~~] turkey[~~,~~] or big game in a cooperative wildlife management unit.

(5) "Division" means the Division of Wildlife Resources.

(6) "Landowner association" means a landowner or an organization of owners of private lands who operates a cooperative wildlife management unit.

(7) (a) "Landowner association operator" means a person designated by a landowner association to operate the cooperative wildlife management unit.

(b) For purposes of this chapter, a landowner association operator may not:

(i) be appointed by the division; or

(ii) be an employee or agent of the division.

Section 11. Section 23-23-3 is amended to read:

23-23-3 (Codified as 23A-7-102). Rulemaking authority of Wildlife Board.

The Wildlife Board is authorized to make and enforce rules applicable to cooperative wildlife management units organized for the hunting of small game, waterfowl, [~~cougar,~~] turkey, or big game that in its judgment are necessary to administer and enforce the provisions of this chapter.

Section 12. Section 23-23-6 is amended to read:

23-23-6 (Codified as 23A-7-203). Season dates -- Boundaries -- Review by councils and board.

(1) The Wildlife Board shall establish season dates and boundaries for each cooperative wildlife management unit except as provided in Subsection (2).

(2) (a) A season date for a cooperative wildlife management unit that provides one buck deer permit or more per every 640 acres shall begin on September 1 and end on October 31.

(b) A cooperative wildlife management unit that provides less than one buck deer permit per every 640 acres may select the following season date options:

(i) beginning on September 1 and ending on October 31; or

(ii) beginning on September 11 and ending on November 10.

(c) In accordance with Subsection 23-14-18(3), if the season dates specified in this Subsection (2) start on a Sunday, the season date shall begin on the Saturday before.

[~~(2)~~] (3) Season dates may differ from general statewide season dates.

[~~(3)~~] (4) At least every five years, cooperative wildlife management units containing public land will be reviewed by the regional advisory councils and the Wildlife Board.

Section 13. Section 23-23-7 is amended to read:

23-23-7 (Codified as 23A-7-204). Permits -- Acreage and lands that may be included -- Posting of boundaries.

(1) The division shall provide cooperative wildlife management unit authorizations for hunting small game or waterfowl to the cooperative wildlife management unit, free of charge.

(2) At least 50% of the cooperative wildlife management unit authorizations for hunting small game or waterfowl provided to a cooperative wildlife management unit shall be offered for sale to the general public at the times and places designated on the application for a certificate of registration.

(3) (a) Cooperative wildlife management units organized for hunting small game or waterfowl shall consist of private land.

(b) At least 75% of the acreage within the boundaries of each cooperative wildlife management unit organized for the hunting of small game or waterfowl shall be open to hunting by holders of valid authorizations.

(4) (a) The Wildlife Board may establish the maximum number of permits that may be issued per acre, except as provided in Subsection (4)(b).

(b) A cooperative wildlife management unit shall issue one buck deer permit or less per every 320 acres to be eligible to receive buck deer permits.

[~~(4)~~] (5) (a) The division may issue cooperative wildlife management unit permits for hunting [~~cougar,~~] turkey[~~,~~] or big game to permittees:

(i) qualifying through a public drawing; or

(ii) named by the cooperative wildlife management unit operator.

(b) The Wildlife Board may specify by rule those persons who are eligible to draw a cooperative wildlife management unit permit in a public drawing.

[~~(5)~~] (6) (a) Cooperative wildlife management units organized for hunting [~~cougar,~~] turkey[~~,~~] or big game shall consist of private land to the extent practicable. Public land may be included within a cooperative wildlife management unit if:

(i) the public land is completely surrounded by private land or is otherwise inaccessible to the general public;

(ii) including public land is necessary to establish a readily identifiable boundary; or

(iii) including public land is necessary to achieve [~~cougar,~~] turkey[~~,~~] or big game management objectives.

(b) If any public land is included within a cooperative wildlife management unit:

(i) the landowner association shall meet applicable federal or state land use requirements on the public land; and

(ii) the Wildlife Board shall increase the number of permits or hunting opportunities made available to the general public to reflect the proportion of public lands to private lands within the cooperative wildlife management unit.

[~~(6)~~] (7) Each landowner association shall:

(a) clearly post all boundaries of the unit by displaying signs containing information prescribed by rule of the Wildlife Board at the locations specified in Subsection 23-20-14(1)(d); and

(b) provide a written copy of its guidelines to each holder of an authorization or permit.

Section 14. Section 23-23-10 is amended to read:

23-23-10 (Codified as 23A-7-208). Possession of permits and licenses by hunter -- Restrictions.

(1) A person may not hunt in a cooperative wildlife management unit without having in his or her possession:

(a) a valid cooperative wildlife management unit authorization or permit or other permit as authorized by the wildlife board; and

(b) the necessary hunting licenses, tags, and stamps.

(2) A cooperative wildlife management unit authorization or permit:

(a) entitles the holder to hunt only in the unit specified on the authorization or permit pursuant to rules and proclamations of the Wildlife Board and does not entitle the holder to hunt on any other private or public land; and

(b) constitutes written permission for trespass as required under Section 23-20-14.

(3) A cooperative wildlife management unit may address the number of individuals a cooperative wildlife management unit permit holder may select as companions, except that a cooperative wildlife management unit shall allow, at a minimum, one companion to accompany free of charge the cooperative wildlife management unit permit holder.

Section 15. Section 58-79-103 is enacted to read:

58-79-103. Hunting guide and outfitter rules.

Before enacting, amending, repealing, or otherwise modifying a rule made under this chapter, in addition to complying with Section 58-1-106 and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall consult with the Division of Wildlife Resources.

Section 16. Section 58-79-401 is amended to read:

58-79-401. Grounds for denial of registration -- Disciplinary proceedings.

(1) Grounds for refusing to issue a registration to an applicant, for refusing to renew the registration of a registrant, for revoking, suspending, restricting, or placing on probation the registration of a registrant, for issuing a public or private reprimand to a registrant, and for issuing a cease and desist order under this chapter shall be in accordance with the provisions applicable to a licensee under Section 58-1-401.

(2) (a) The division shall refuse to issue a registration to an applicant and shall refuse to renew or shall revoke the registration of a registrant during the time period the Division of Wildlife Resources suspends the applicant's or registrant's privilege to hunt or fish under Title 23, Wildlife Resources Code of Utah.

(b) If the Division of Wildlife Resources suspends the privilege to hunt or fish under Title 23, Wildlife Resources Code of Utah, of the chief executive officer of an entity under which an applicant or registrant provides hunting guide services or outfitting services, during the time period that the chief executive officer's privilege to hunt or fish is suspended, the division shall refuse to issue a registration to the applicant and shall refuse to renew or shall revoke the registration of the registrant.

(c) If the Division of Wildlife Resources suspends the privilege to hunt or fish under Title 23, Wildlife Resources Code of Utah, of a registrant under which an applicant or registrant provides hunting guide services or outfitting services, during the time period that the registrant's privilege to hunt or fish is suspended, the division shall refuse to issue a registration to the applicant and shall refuse to renew or shall revoke the registration of the registrant.

Section 17. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The Wildlife Land and Water Acquisition Program created in Section 23-21-8.

[~~(8)~~] (9) The Emergency Medical Services Grant Program in Section 26-8a-207.

[~~(9)~~] (10) The primary care grant program created in Section 26-10b-102.

[~~(10)~~] (11) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

[~~(11)~~] (12) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

[~~(12)~~] (13) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

[~~(13)~~] (14) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

[~~(14)~~] (15) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

[~~(15)~~] (16) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

[~~(16)~~] (17) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[~~(17)~~] (18) The Utah National Guard, created in Title 39, Militia and Armories.

[~~(18)~~] (19) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

[~~(19)~~] (20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(20)~~] (21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(21)~~] (22) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(22)~~] (23) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

[~~(23)~~] (24) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

[~~(24)~~] (25) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

[~~(25)~~] (26) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[~~(26)~~] (27) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

[~~(27)~~] (28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(28)~~] (29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

[~~(29)~~] (30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[~~(30)~~] (31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[~~(31)~~] (32) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(32)~~] (33) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

[~~(33)~~] (34) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(34)~~] (35) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(35)~~] (36) The money appropriated from the Navajo Water Rights Negotiation Account to the

Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(36)~~] (37) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(37)~~] (38) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(38)~~] (39) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(39)~~] (40) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(40)~~] (41) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(41)~~] (42) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(42)~~] (43) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

[~~(43)~~] (44) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 18. Division of Wildlife Resources fees.

The Legislature intends that the Department of Natural Resources, Division of Wildlife Resources is authorized to charge the following two fees in the amounts shown:

(1) instead of a variable fee for resident or nonresident dedicated hunter hourly labor buyout, a fee of $40 per hour; and

(2) a nonresident draw application fee of $16.

Section 19. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources -- Wildlife Land and Water Acquisition Program

From General Fund 1,000,000

Schedule of Programs:

Wildlife Land and Water Acquisition Program 1,000,000

The Legislature intends that the ongoing appropriation to the Wildlife Land and Water Acquisition Program, created in this bill, be nonlapsing and that it be expended only for the purposes of the Wildlife Land and Water Acquisition Program.

Section 20. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) The actions affecting the following sections take effect on August 1, 2024:

(a) Section 23-23-6;

(b) Section 23-23-7; and

(c) Section 23-23-10.

CHAPTER 346
H. B. 475
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

COMMUNICATION CREDITS REQUIREMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends certain graduation requirements.

Highlighted Provisions:

This bill:

- adds a communications graduation requirement; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-4-204, as last amended by Laws of Utah 2019, Chapters 186, 226

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-4-204 is amended to read:

53E-4-204. Standards and graduation requirements.

(1) The state board shall establish rigorous core standards for Utah public schools and graduation requirements under Section 53E-3-501 for grades 9 through 12 that:

(a) are consistent with state law and federal regulations;

(b) use competency-based standards and assessments;

(c) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; and

(d) include graduation requirements in language arts, mathematics, and science that exceed:

(i) 3.0 units in language arts[~~,~~] including up to 0.5 units emphasizing verbal communication completed in a course or a school sponsored activity;

(ii) 2.0 units in mathematics[~~,~~]; and

(iii) 2.0 units in science.

(2) The state board shall establish competency-based standards and assessments for elective courses.

CHAPTER 347
H. B. 477
Passed March 1, 2023
Approved March 17, 2023
Effective May 3, 2023

FULL-DAY KINDERGARTEN AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Kirk A. Cullimore
Cosponsors: Carl R. Albrecht
Gay Lynn Bennion
Joel K. Briscoe
Tyler Clancy
Jennifer Dailey-Provost
James A. Dunnigan
Steve Eliason
Joseph Elison
Brett Garner
Matthew H. Gwynn
Katy Hall
Sahara Hayes
Sandra Hollins
Dan N. Johnson
Marsha Judkins
Brian S. King
Rosemary T. Lesser
Ashlee Matthews
Carol S. Moss
Jefferson Moss
Doug Owens
Karen M. Peterson
Susan Pulsipher
Judy Weeks Rohner
Angela Romero
Andrew Stoddard
Jordan D. Teuscher
Mark A. Wheatley

LONG TITLE

General Description:

This bill makes full-day kindergarten available for all local education agencies with an option for half-day kindergarten.

Highlighted Provisions:

This bill:

- amends provisions related to scholarship amounts tied to the length of a kindergarten class;
- amends funding formulas related to kindergarten to reflect a full-day length of a kindergarten class;
- requires local education agency governing boards to provide an optional half-day kindergarten class upon request;
- amends provisions regarding a requirement for a kindergarten assessment;
- repeals an optional expanded kindergarten program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-7-402, as last amended by Laws of Utah 2022, Chapter 262
53F-2-302, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 9
53F-2-302.1, as last amended by Laws of Utah 2022, Chapter 1
53G-7-203, as last amended by Laws of Utah 2022, Chapter 316

REPEALS:

53F-2-507, as last amended by Laws of Utah 2022, Chapter 316

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-7-402 is amended to read:

53E-7-402. Special Needs Opportunity Scholarship Program.

(1) There is established the Special Needs Opportunity Scholarship Program under which a parent may apply to a scholarship granting organization on behalf of the parent's student for a scholarship to help cover the cost of a scholarship expense.

(2) (a) A scholarship granting organization shall:

(i) award, in accordance with this part, scholarships to eligible students; and

(ii) determine the amount of a scholarship in accordance with Subsection (3).

(b) In awarding scholarships, a scholarship granting organization shall give priority to an eligible student described in Subsection 53E-7-401(1)(a) by:

(i) establishing an August 10 deadline for an eligible student described in Subsection 53E-7-401(1)(b) to apply for a scholarship; and

(ii) awarding a scholarship to an eligible student described in Subsection 53E-7-401(1)(b) only if funds exist after awarding scholarships to all eligible students described in Subsection 53E-7-401(1)(a) who have applied and qualify.

(c) Subject to available funds, a scholarship awarded to an eligible student described in Subsection 53E-7-401(1)(b) shall be for a similar term as a scholarship awarded to the eligible student's sibling.

(3) A scholarship granting organization shall determine a full-year scholarship award to pay for the cost of one or more scholarship expenses in an amount not more than:

(a) for an eligible student described in Subsection 53E-7-401(1)(a) who is[~~:~~]

[~~(i)~~] in grades 1 through 12 with an IEP and whose family income is:

[~~(A)~~] (i) at or below 185% of the federal poverty level, the value of the weighted pupil unit multiplied by 2.5;

[~~(B)~~] (ii) between 185% and 555% of the federal poverty level, the value of the weighted pupil unit multiplied by two; or

[~~(C)~~] (iii) above 555% of the federal poverty level, the value of the weighted pupil unit multiplied by 1.5;

(b) for a fiscal year before July 1, 2023, for an eligible student who is:

[~~(ii)~~] (i) in grades 1 through 12 and who does not have an IEP, the value of the weighted pupil unit;

[~~(iii)~~] (ii) in kindergarten with an IEP, the value of the weighted pupil unit; or

[~~(iv)~~] (iii) in kindergarten and who does not have an IEP, half the value of the weighted pupil unit; [~~or~~]

[~~(b)~~] (c) for a fiscal year beginning on or after July 1, 2023, for an eligible student in kindergarten or grades 1 through 12, the value of the weighted pupil unit; or

(d) for an eligible student described in Subsection 53E-7-401(1)(b), half the value of the weighted pupil unit.

(4) Eligibility for a scholarship as determined by a multidisciplinary evaluation team under this program does not establish eligibility for an IEP under the Individuals with Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419, and is not binding on any LEA that is required to provide an IEP under the Individuals with Disabilities Education Act.

(5) The scholarship granting organizations shall prepare and disseminate information on the program to a parent applying for a scholarship on behalf of a student.

Section 2. Section 53F-2-302 is amended to read:

53F-2-302. Determination of weighted pupil units.

(1) The number of weighted pupil units in the Minimum School Program for each year is the total of the units for each school district and, subject to Subsection [~~(4)~~] (5), charter school, determined [~~as follows:~~] in accordance with this section.

[~~(1)~~] (2) The number of weighted pupil units is computed by adding the average daily membership of all pupils of the school district or charter school attending schools, other than [~~kindergarten and~~] self-contained classes for children with a disability.

[~~(2)~~] (3) (a) Except as provided in Subsection (3)(b), for a fiscal year beginning on or after July 1, 2023, the number of weighted pupil units for kindergarten students shall be computed by adding the average daily membership of all pupils of the school district or charter school enrolled in kindergarten.

(b) The number of weighted pupil units is computed by [~~adding~~] multiplying the average daily membership [~~of all pupils of the school district or charter school enrolled in kindergarten and multiplying the total~~] for the number of students who are enrolled in kindergarten for less than the equivalent length of the schedule for grades 1 through 3, based on the October 1 data described in Section 53F-2-302, by .55.

[~~(a) In those school districts or charter schools that do not hold kindergarten for a full nine-month term, the local school board or charter school governing board may approve a shorter term of nine weeks' duration.~~]

[~~(b) Upon LEA governing board approval, the number of pupils in average daily membership at the short-term kindergarten shall be counted for the purpose of determining the number of units allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding nine weeks, compared to the total number of days schools are held in that school district or charter school in the regular school year.~~]

[~~(3)~~] (4) (a) The state board shall use prior year plus growth to determine average daily membership in distributing money under the Minimum School Program where the distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

(b) Under prior year plus growth, kindergarten through grade 12 average daily membership for the current year is based on the actual kindergarten through grade 12 average daily membership for the previous year plus an estimated percentage growth factor.

(c) The growth factor is the percentage increase in total average daily membership on the first school day of October in the current year as compared to the total average daily membership on the first school day of October of the previous year.

[~~(4)~~] (5) In distributing funds to charter schools under this section, charter school pupils shall be weighted, where applicable, as follows:

[~~(a) .55 for kindergarten pupils;~~]

[~~(b)~~] (a) except as provided in Subsection (3)(b), .9 for pupils in [~~grades 1~~] kindergarten through grade 6;

[~~(c)~~] (b) .99 for pupils in grades 7 through 8; and

[~~(d)~~] (c) 1.2 for pupils in grades 9 through 12.

[~~(5) Notwithstanding Subsection (3)(c):~~]

[~~(a) for the 2020-2021 school year the state board may use a count of average daily membership on any day or days of the current school year in 2020 to calculate a growth factor for the 2020-2021 school year; and~~]

[~~(b) when calculating the growth factor as described in Subsection (5)(a), the state board shall comply with all applicable federal requirements.~~]

Section 3. Section 53F-2-302.1 is amended to read:

53F-2-302.1. Enrollment Growth Contingency Program.

(1) As used in this section:

(a) "Program funds" means money appropriated under the Enrollment Growth Contingency Program.

(b) "Student enrollment count" means the enrollment count on the first school day of October, as described in Subsection [~~53F-2-302(3)~~] 53F-2-302(4).

(2) There is created the Enrollment Growth Contingency Program to mitigate funding impacts on an LEA resulting from student enrollment irregularities during fiscal years 2021, 2022, and 2023.

(3) Subject to legislative appropriations, the state board, in consultation with the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget, shall use program funds to:

(a) for fiscal years 2021, 2022, and 2023 and for an LEA that has declining enrollment, pay costs associated with Subsection [~~53F-2-302(3)~~] 53F-2-302(4) to hold LEA funding distributions at the prior year's average daily membership;

(b) for fiscal year 2022, fund ongoing impacts of student enrollment changes in the 2021-2022 academic year, including:

(i) assigning additional weighted pupil units to an LEA experiencing a net growth in weighted pupil units over the fiscal year 2022 base allocations associated with student enrollment increases following the student enrollment count; and

(ii) at the request of an LEA that experienced a significant decline in student enrollment during the 2020-2021 academic year, pre-fund significantly higher anticipated student enrollment growth before the student enrollment count; and

(c) for fiscal years 2022 and 2023, with any remaining weighted pupil units, pay other weighted pupil unit related costs in accordance with Section 53F-2-205.

(4) If the state board pre-funds anticipated student enrollment growth under Subsection (3)(b)(ii), the state board shall:

(a) verify the LEA's enrollment after the student enrollment count; and

(b) balance funds as necessary based on the actual increase in student enrollment.

Section 4. Section 53G-7-203 is amended to read:

53G-7-203. Kindergartens -- Establishment -- Funding -- Assessment.

(1) Kindergartens are an integral part of the state's public education system.

(2) (a) Each [~~local school~~] LEA governing board shall provide kindergarten classes free of charge for kindergarten children residing within the district or attending the charter school.

(b) Each LEA governing board shall provide a half-day kindergarten option for a student if the student's parent requests a half-day option.

[~~(b)~~] (c) Nothing in this Subsection (2):

(i) allows an LEA governing board to require a student to participate in a full-day kindergarten program;

(ii) modifies the non-compulsory status of kindergarten under Title 53G, Chapter 6, Part 2, Compulsory Education; or

(iii) requires a student who only attends a half day of kindergarten to participate in dual enrollment under Section 53G-6-702.

(3) Kindergartens established under Subsection (2) shall receive state money under Title 53F, Public Education System -- Funding.

(4) (a) The state board shall:

(i) develop and collect data from a kindergarten [~~entry and exit assessments~~] assessment that the board selects by rule; and

(ii) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the administration of and reporting regarding the [~~assessments~~] assessment described in Subsection (4)(a)(i).

(b) An LEA shall:

(i) administer the [~~entry and exit assessments~~] assessment described in Subsection (4)(a) to each kindergarten student; and

(ii) report to the state board the results of the [~~entry and exit assessments~~] assessment described in Subsection (4)(b)(i) in relation to each kindergarten student in the LEA.

(5) Beginning with the 2022-2023 school year, the state board shall require LEAs to report average daily membership for all kindergarten students who attend kindergarten on a schedule that is equivalent in length to the schedule for grades 1 through 3 with the October 1 data described in Section 53F-2-302.

Section 5. Repealer.

This bill repeals:

Section 53F-2-507, Enhanced kindergarten early intervention program.

CHAPTER 348
H. B. 489
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

EDUCATOR PAID PROFESSIONAL HOURS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions regarding additional paid professional hours that may be available to educators.

Highlighted Provisions:

This bill:

- amends provisions regarding a paid professional hours plan that educators submit;
- clarifies the availability of paid professional hours to educators that begin employment during the school year on a prorated basis; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-7-203, as enacted by Laws of Utah 2022, Chapter 386

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-7-203 is amended to read:

53F-7-203. Paid professional hours for educators.

(1) Subject to legislative appropriations, the state board shall provide funding to each LEA to provide additional paid professional hours to the following educators in accordance with this section:

(a) general education and special education teachers;

(b) counselors;

(c) school administration;

(d) school specialists;

(e) student support;

(f) school psychologists;

(g) speech language pathologists; and

(h) audiologists.

(2) The state board shall distribute funds appropriated to the state board under Subsection 53F-9-204(6) to each LEA in proportion to the number of educators described in Subsection (1) within the LEA.

(3) An LEA shall use funding under this section to provide paid professional hours that:

(a) provide educators with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging state academic standards; and

(b) may include activities that:

(i) improve and increase an educator's:

(A) knowledge of the academic subjects the educator teaches;

(B) time to plan and prepare daily lessons based on student needs;

(C) understanding of how students learn; and

(D) ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on the analysis;

(ii) are an integral part of broad school-wide and LEA-wide educational improvement plans;

(iii) allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;

(iv) advance educator understanding of:

(A) effective and evidence-based instructional strategies; and

(B) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of educators;

(v) are aligned with, and directly related to, academic goals of the school or LEA; and

(vi) include instruction in the use of data and assessments to inform and instruct classroom practice.

(4) (a) An educator shall:

[~~(a)~~] (i) on or before the [~~first~~] fifth day of instruction in a given school year, create a plan, in consultation with the educator's principal, on how the educator plans to use paid professional hours provided under this section during the school year; and

[~~(b)~~] (ii) before the end of a given school year, provide a written statement to the educator's principal of how the educator used paid professional hours provided under this section during the school year.

(b) (i) Subsection (4)(a)(i) does not limit an educator who begins employment after the fifth day of instruction in a given year from receiving paid professional hours under this section.

(ii) An LEA may prorate the paid professional hours of an educator who begins employment after the fifth day of instruction in a given year according to the portion of the school year for which the LEA employs the educator.

CHAPTER 349
H. B. 494
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

EDUCATION REPORTING AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill repeals requirements regarding the disposal of textbooks.

Highlighted Provisions:

This bill:

- amends a reporting requirement for the Digital Teaching and Learning Grant Program; and
- repeals a section that requires:
  - local education agencies to notify all other local education agencies before disposing of undamaged textbooks; and
  - the State Board of Education to make rules regarding the disposal of textbooks.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-510, as last amended by Laws of Utah 2022, Chapter 408

REPEALS:

53G-7-606, as last amended by Laws of Utah 2019, Chapters 223, 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-510 is amended to read:

53F-2-510. Digital Teaching and Learning Grant Program.

(1) As used in this section:

(a) "Advisory committee" means the committee established by the state board under Subsection [~~(7)(b)~~] (6)(b).

(b) "Digital readiness assessment" means an assessment provided by the state board that:

(i) is completed by an LEA analyzing an LEA's readiness to incorporate comprehensive digital teaching and learning; and

(ii) informs the preparation of an LEA's plan for incorporating comprehensive digital teaching and learning.

(c) "High quality professional learning" means the professional learning standards described in Section 53G-11-303.

(d) "Implementation assessment" means an assessment that analyzes an LEA's implementation of an LEA plan, including identifying areas for improvement, obstacles to implementation, progress toward the achievement of stated goals, and recommendations going forward.

(e) "LEA plan" means an LEA's plan to implement a digital teaching and learning program that meets the requirements of this section and requirements set forth by the state board and the advisory committee.

(f) "Program" means the Digital Teaching and Learning Grant Program created and described in Subsections (5) through (10).

(g) "Utah Education and Telehealth Network" or "UETN" means the Utah Education and Telehealth Network created in Section 53B-17-105.

(2) (a) The state board shall establish a digital teaching and learning task force to develop a funding proposal to present to the Legislature for digital teaching and learning in elementary and secondary schools.

(b) The digital teaching and learning task force shall include representatives of:

(i) the state board;

(ii) UETN;

(iii) LEAs; and

(iv) the Governor's Education Excellence Commission.

(3) As funding allows, the state board shall develop a master plan for a statewide digital teaching and learning program, including the following:

(a) a statement of purpose that describes the objectives or goals the state board will accomplish by implementing a digital teaching and learning program;

(b) a forecast for fundamental components needed to implement a digital teaching and learning program, including a forecast for:

(i) student and teacher devices;

(ii) Wi-Fi and wireless compatible technology;

(iii) curriculum software;

(iv) assessment solutions;

(v) technical support;

(vi) change management of LEAs;

(vii) high quality professional learning;

(viii) Internet delivery and capacity; and

(ix) security and privacy of users;

(c) a determination of the requirements for:

(i) statewide technology infrastructure; and

(ii) local LEA technology infrastructure;

(d) standards for high quality professional learning related to implementing and maintaining a digital teaching and learning program;

(e) a statewide technical support plan that will guide the implementation and maintenance of a digital teaching and learning program, including standards and competency requirements for technical support personnel;

(f) (i) a grant program for LEAs; or

(ii) a distribution formula to fund LEA digital teaching and learning programs;

(g) in consultation with UETN, an inventory of the state public education system's current technology resources and other items and a plan to integrate those resources into a digital teaching and learning program;

(h) an ongoing evaluation process that is overseen by the state board;

(i) proposed rules that incorporate the principles of the master plan into the state's public education system as a whole; and

(j) a plan to ensure long-term sustainability that:

(i) accounts for the financial impacts of a digital teaching and learning program; and

(ii) facilitates the redirection of LEA savings that arise from implementing a digital teaching and learning program.

(4) UETN shall:

(a) in consultation with the state board, conduct an inventory of the state public education system's current technology resources and other items as determined by UETN, including software;

(b) perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program, including the infrastructure needed for the state board, UETN, and LEAs; and

(c) as funding allows, provide infrastructure and technology support for school districts and charter schools.

(5) There is created the Digital Teaching and Learning Grant Program to improve educational outcomes in public schools by effectively incorporating comprehensive digital teaching and learning technology.

(6) The state board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules for the administration of the program, including rules requiring:

(i) an LEA to complete a digital readiness assessment the first time an LEA applies for the grant;

(ii) [~~an LEA plan to include~~] measures to ensure that the LEA monitors and implements technology with best practices[~~, including the recommended use for effectiveness~~]; and

(iii) [~~an LEA plan to include~~] robust goals for learning outcomes and appropriate measurements of goal achievement; [~~and~~]

[~~(iv) an LEA to demonstrate that the LEA plan can be fully funded by grant funds or a combination of grant and local funds;~~]

(b) establish an advisory committee to make recommendations on the program and LEA plan requirements and report to the state board; and

(c) in accordance with this section, approve LEA plans and award grants.

(7) (a) The state board shall, subject to legislative appropriations, award a grant to an LEA:

(i) that submits an LEA plan that meets the requirements described in Subsection (8); and

(ii) for which the LEA's leadership and management members have completed a digital teaching and learning leadership and implementation training as provided in Subsection (7)(b).

(b) The state board or its designee shall provide the training described in Subsection (7)(a)(ii).

(8) The state board shall establish requirements of an LEA plan that shall include:

(a) the results of the LEA's digital readiness assessment and a proposal to remedy an obstacle to implementation or other issues identified in the assessment;

(b) [~~a proposal to provide~~] high quality professional learning for educators in the use of digital teaching and learning technology;

(c) [~~a proposal for~~] leadership training and management restructuring, if necessary, for successful implementation;

(d) [~~clearly identified~~] targets for improved student achievement, student learning, and college readiness through digital teaching and learning; and

(e) any other requirement established by the state board in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including an application process and metrics to analyze the quality of a proposed LEA plan.

(9) The state board or the state board's designee shall establish an interactive dashboard available to each LEA that is awarded a grant for the LEA to track and report the LEA's long-term, intermediate, and direct outcomes in real time and for the LEA to use to create customized reports.

(10) (a) There is no federal funding, federal requirement, federal education agreement, or national program included or related to this state adopted program.

(b) Any inclusion of federal funding, federal requirement, federal education agreement, or national program shall require separate express approval as provided in Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(11) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall contract with an independent evaluator to:

(a) support each LEA that receives a grant as part of the program to complete an implementation assessment for each year that the LEA participates;

(b) report the findings of an implementation assessment to the state board; and

(c) submit to the state board recommendations to resolve issues that an implementation assessment raises.

(12) The state board or the state board's designee shall review an implementation assessment and review each participating LEA's progress from the previous year, as applicable.

(13) The state board shall establish interventions for an LEA that does not make progress on implementation of the LEA's implementation plan, including:

(a) nonrenewal of, or time period extensions for, the LEA's grant;

(b) reduction of funds; or

(c) other interventions to assist the LEA.

(14) (a) To implement an LEA plan, a contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or other agreement with one or more providers of technology powered learning solutions and one or more providers of wireless networking solutions may be entered into by:

(i) UETN, in cooperation with or on behalf of, as applicable, the state board, the state board's designee, or an LEA; or

(ii) an LEA.

(b) A contract or agreement entered into under Subsection (14)(a) may be a contract or agreement that:

(i) UETN enters into with a provider and payment for services is directly appropriated by the Legislature, as funds are available, to UETN;

(ii) UETN enters into with a provider and pays for the provider's services and is reimbursed for payments by an LEA that benefits from the services;

(iii) UETN negotiates the terms of on behalf of an LEA that enters into the contract or agreement directly with the provider and the LEA pays directly for the provider's services; or

(iv) an LEA enters into directly, pays a provider, and receives preapproved reimbursement from a UETN fund established for this purpose.

(c) If an LEA does not reimburse UETN in a reasonable time for services received under a contract or agreement described in Subsection (14)(b), the state board shall pay the balance due to UETN from the LEA's funds received under Chapter 2, State Funding -- Minimum School Program.

(d) If UETN negotiates or enters into an agreement as described in Subsection (14)(b)(ii) or (14)(b)(iii), and UETN enters into an additional agreement with an LEA that is associated with the agreement described in Subsection (14)(b)(ii) or (14)(b)(iii), the associated agreement may be treated by UETN and the LEA as a cooperative procurement, as that term is defined in Section 63G-6a-103, regardless of whether the associated agreement satisfies the requirements of Section 63G-6a-2105.

Section 2. Repealer.

This bill repeals:

Section 53G-7-606, Disposal of textbooks.

CHAPTER 350
H. B. 555
Passed March 1, 2023
Approved March 17, 2023
Effective May 3, 2023

TALENT READY UTAH PROGRAM MODIFICATIONS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill makes changes to provisions related to internships and apprenticeships.

Highlighted Provisions:

This bill:

- provides that a public school student participating in a youth apprenticeship is considered a volunteer government worker for purposes of workers' compensation and risk management;
- provides that an internship through an institution of higher education or public or private school may be with compensation;
- provides that an intern participating in an internship through an institution of higher education or public school is considered a volunteer government worker for purposes of workers' compensation and risk management;
- creates an apprenticeship intermediary position to foster relationships between the Talent Ready Utah Program, local education agencies, and industry partners;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-16-401, as last amended by Laws of Utah 2020, Chapter 365
53B-16-403, as last amended by Laws of Utah 1997, Chapter 10
53B-34-103, as renumbered and amended by Laws of Utah 2022, Chapter 362
53G-7-901, as last amended by Laws of Utah 2020, Chapter 374
53G-7-903, as last amended by Laws of Utah 2020, Chapter 354

ENACTS:

35A-6-104.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-6-104.5 is enacted to read:

35A-6-104.5. Youth apprenticeships -- Workers' compensation -- Risk management.

(1) As used in this section, "youth apprentice" means an individual who is:

(a) participating in a youth apprenticeship; and

(b) enrolled in a public school.

(2) A youth apprentice is considered to be a volunteer government worker of the public school in which the individual is enrolled, solely for purposes of:

(a) receiving workers' compensation medical benefits; and

(b) coverage by the Risk Management Fund created in Section 63A-4-201.

(3) Receipt of medical benefits under Subsection (2) shall be the exclusive remedy against the school and the cooperating employer for all injuries and occupational diseases as provided under Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

Section 2. Section 53B-16-401 is amended to read:

53B-16-401. Definitions.

As used in this part:

(1) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through an institution of higher education, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(2) "Institution of higher education" means any component of the state system of higher education as defined under Section 53B-1-102 that is authorized by the board to offer internship programs, and any private institution of higher education which offers internship programs under this part.

(3) "Intern" means a student enrolled in a work experience and career exploration program under Section 53B-16-402 that is sponsored by an institution of higher education, involving both classroom instruction and work experience with a cooperating employer, [~~for which the student receives no compensation~~] regardless of whether the student receives compensation.

(4) "Internship" means the work experience segment of an intern's work experience and career exploration program sponsored by an institution of higher education, performed under the direct supervision of a cooperating employer.

Section 3. Section 53B-16-403 is amended to read:

53B-16-403. Interns -- Workers' compensation medical benefits -- Risk management.

(1) An intern participating in an internship under Section 53B-16-402 is considered to be a volunteer worker of the sponsoring institution of higher education solely for purposes of:

(a) receiving workers' compensation medical benefits[~~.~~]; and

(b) coverage by the Risk Management Fund created in Section 63A-4-201.

(2) Receipt of medical benefits under Subsection (1) shall be the exclusive remedy against the institution and the cooperating employer for all injuries and occupational diseases as provided under Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

Section 4. Section 53B-34-103 is amended to read:

53B-34-103. Talent Ready Utah Program.

(1) There is created the Talent Ready Utah Program administered by the commissioner.

(2) The commissioner, with the approval of the board, shall appoint a director of the talent program.

(3) The director of the talent program:

(a) shall appoint, with the approval of the commissioner, an apprenticeship intermediary, to carry out the duties described in Subsection (5); and

(b) may appoint other staff with the approval of the commissioner.

(4) The talent program shall coordinate with the talent board to:

(a) further education and industry alignment in the state;

(b) coordinate the development of new education programs that align with industry demand;

(c) coordinate or partner with other state agencies to administer grant programs;

(d) promote the inclusion of industry partners in education;

(e) provide outreach and information to employers regarding workforce programs and initiatives;

(f) develop and analyze stackable credential programs;

(g) determine efficiencies among workforce providers;

(h) map available workforce programs focusing on programs that successfully create high-paying jobs; and

(i) support initiatives of the talent board.

(5) The apprenticeship intermediary appointed by the director under Subsection (3) shall, in coordination with the talent program and at the direction of the talent board, foster relationships between industry partners, local education agencies, and the talent program, including by:

(a) increasing awareness for the talent program;

(b) recruiting industry partners;

(c) connecting high school students to participating employers, apprenticeship opportunities, and work-based learning opportunities;

(d) working with local education agencies to:

(i) integrate talent program apprenticeship opportunities and work-based learning opportunities;

(ii) connect high school students with higher education opportunities;

(e) training mentors at participating employers in vocational education practices for youth;

(f) holding meetings with education partners and industry partners to discuss curriculum needs and industry needs;

(g) working with institutions of higher education and local education agencies to ensure industry-recognized credential programs are fully stackable; and

(h) performing other duties as directed by the talent board.

Section 5. Section 53G-7-901 is amended to read:

53G-7-901. Definitions.

As used in this part:

(1) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through a school, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(2) "Intern" means a student enrolled in a school-sponsored work experience and career exploration program under Section 53G-7-902 involving both classroom instruction and work experience with a cooperating employer, [~~for which the student receives no compensation~~] regardless of whether the student receives compensation.

(3) "Internship" means the work experience segment of an intern's school-sponsored work experience and career exploration program, performed under the direct supervision of a cooperating employer.

(4) "Internship safety agreement" means the agreement between a public or private school and a cooperating employer in accordance with Section 53G-7-904.

(5) "Private school" means a school serving any of grades 7 through 12 which is not part of the public education system.

(6) "Public school" means:

(a) a public school district;

(b) an applied technology center or applied technology service region;

(c) the Schools for the Deaf and the Blind; or

(d) other components of the public education system authorized by the state board to offer internships.

Section 6. Section 53G-7-903 is amended to read:

53G-7-903. Interns -- Workers' compensation medical benefits -- Risk management.

(1) An intern participating in an internship under Section 53G-7-902 is considered to be a volunteer government worker of the sponsoring public school, or an employee of the sponsoring private school, solely for purposes of:

(a) receiving workers' compensation medical benefits[.]; and

(b) for an intern participating through a sponsoring public school, coverage by the Risk Management Fund created in Section 63A-4-201.

(2) Receipt of medical benefits under Subsection (1) shall be the exclusive remedy against the school and the cooperating employer for all injuries and occupational diseases as provided under Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

CHAPTER 351
S. B. 46
Passed February 17, 2023
Approved March 17, 2023
Effective May 3, 2023

STATE HOLIDAY MODIFICATIONS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions related to state holidays.

Highlighted Provisions:

This bill:

- modifies annual commemorations to include Diwali.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-401, as last amended by Laws of Utah 2022, Chapter 14

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-401 is amended to read:

63G-1-401. Commemorative periods.

(1) The following days shall be commemorated annually:

(a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history;

(b) Day of Remembrance for Incarceration of Japanese Americans, on February 19, in remembrance of the incarceration of Japanese Americans during World War II;

(c) Utah State Flag Day, on March 9;

(d) Vietnam Veterans Recognition Day, on March 29;

(e) Utah Railroad Workers Day, on May 10;

(f) Dandy-Walker Syndrome Awareness Day, on May 11;

(g) Armed Forces Day, on the third Saturday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

(h) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;

(i) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;

(j) Navajo Code Talker Day, on August 14;

(k) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

(i) encourage individuals to make child safety a priority;

(ii) remember the importance of continued efforts to reunite missing children with their families; and

(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;

(l) Constitution Day, on September 17;

(m) POW/MIA Recognition Day, on the third Friday in September;

(n) Diwali, on the fifteenth day of the Hindu lunisolar month of Kartik, known as Lakshmi puja, or the Hindu festival of lights;

[~~(n)~~] (o) Victims of Communism Memorial Day, on November 7;

[~~(o)~~] (p) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

[~~(p)~~] (q) Bill of Rights Day, on December 15.

(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(g) and (m).

(3) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(4) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(5) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(6) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(9) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

(10) The month of October shall be commemorated annually as Italian-American Heritage Month.

(11) The month of November shall be commemorated annually as American Indian Heritage Month.

(12) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

(a) educate the public about avalanche awareness and safety;

(b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and

(c) honor Utah residents who have lost their lives in avalanches, including those who lost their lives working to prevent avalanches.

CHAPTER 352
S. B. 55
Passed February 27, 2023
Approved March 17, 2023
Effective May 3, 2023

PUBLIC SCHOOL INSTRUCTIONAL MATERIAL REQUIREMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Melissa G. Ballard

LONG TITLE

General Description:

This bill addresses requirements related to the approval of materials for classroom use and certain policies.

Highlighted Provisions:

This bill:

- defines terms;
- requires a process for a local school board or charter school governing board to follow if the board chooses to adopt or approve instructional materials for classroom use across the school district or charter school;
- requires local school boards and charter school governing boards to adopt policies to provide guidance to educators on the use of certain learning materials that have not been adopted or approved under the open process;
- requires that contracts for online or digital learning materials include a requirement for notice if the provider changes the content of the materials; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-4-402, as last amended by Laws of Utah 2021, Chapters 84, 262, 324, and 345
53G-5-404, as last amended by Laws of Utah 2021, Chapter 324

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who

are at least five years old before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) at least 10 days before the public hearing, be:

(A) published[~~:~~]

[~~(I)~~] in a newspaper of general circulation in the area[~~;~~] and

[~~(II)~~] on the Utah Public Notice Website created in Section 63A-16-601; and

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in [~~Subsections (21)(a)(i)(A), (B), and (C)~~] Subsection (21)(a)(i).

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(24) (a) As used in this Subsection (24):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii) (A) "Instructional material" means learning material that a local school board adopts and approves for use within the LEA.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class or another class with required instructional material that is not subject to selection by the local school board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a local school board has not considered and adopted, approved, or prohibited for classroom use within the LEA.

(b) A local school board shall:

[~~(a)~~] (i) make [~~curriculum~~] instructional material that the school district uses readily accessible and available for a parent to view;

[~~(b)~~] (ii) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection [~~(24)(a)~~] (24)(b)(i); and

[~~(c)~~] (iii) include on the school district's website information about how to access the information described in Subsection [~~(24)(a)~~] (24)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a local school board shall:

(i) establish an open process, involving educators and parents of students enrolled in the LEA, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection (24)(c)(i), the board:

(A) before the meetings described in Subsection (24)(c)(ii)(B), posts the recommended learning material online to allow for public review or, for copyrighted material, makes the recommended learning material available at the LEA for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provides an opportunity for educators whom the LEA employs and parents of students enrolled in the LEA to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A local school board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If an LEA contracts with another party to provide online or digital materials, the LEA shall include in the contract a requirement that the provider give notice to the LEA any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection (24) requires a local school board to review all learning materials used within the LEA.

Section 2. Section 53G-5-404 is amended to read:

53G-5-404. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall:

(i) make the same annual reports required of other public schools under this public education code, including an annual financial audit report described in Section 53G-4-404;

(ii) ensure that the charter school meets the data and reporting standards described in Section 53E-3-501; and

(iii) use fund and program accounting methods and standardized account codes capable of producing financial reports that comply with:

(A) generally accepted accounting principles;

(B) the financial reporting requirements applicable to LEAs established by the state board under Section 53E-3-501; and

(C) accounting report standards established by the state auditor as described in Section 51-2a-301.

(b) Before, and as a condition for opening a charter school:

(i) a charter school shall:

(A) certify to the authorizer that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); or

(B) if the authorizer requires, conduct a performance demonstration to verify that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); and

(ii) the authorizer shall certify to the state board that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii).

(c) A charter school shall file the charter school's annual financial audit report with the Office of the

State Auditor within six months of the end of the fiscal year.

(d) For the limited purpose of compliance with federal and state law governing use of public education funds, including restricted funds, and making annual financial audit reports under this section, a charter school is a government entity governed by the public education code.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter agreement.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by its charter agreement.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance, including:

(a) general liability, errors and omissions, and directors and officers liability coverage through completion of the closure of a charter school under Section 53G-5-504; and

(b) tail coverage or closeout insurance covering at least one year after closure of the charter school.

(9) Beginning on July 1, 2014, a charter school, including a charter school that has not yet opened, shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice before the charter school enters the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license is suspended or revoked by the state board under Section 53E-6-604.

(11) (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(c) If a charter school is an operating charter school with affiliated satellite charter schools, as defined in Section 53G-5-303:

(i) the operating charter school shall register as a limited purpose entity as defined in Section 67-1a-15;

(ii) each affiliated satellite charter school is not required to register separately from the operating charter school; and

(iii) the operating charter school shall:

(A) register on behalf of each affiliated satellite charter school; and

(B) when submitting entity registry information under Section 67-1a-15 on behalf of each affiliated satellite charter school, identify and distinguish registry information for each affiliated satellite, including the address of each affiliated satellite charter school and the name and contact information of a primary contact for each affiliated satellite charter school.

(12) (a) As used in this Subsection (12), "contracting entity" means a person with which a charter school contracts.

(b) A charter school shall provide to the charter school's authorizer any information or documents requested by the authorizer, including documents held by a subsidiary of the charter school or a contracting entity:

(i) to confirm the charter school's compliance with state or federal law governing the charter school's finances or governance; or

(ii) to carry out the authorizer's statutory obligations, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.

(c) A charter school shall comply with a request described in Subsection (12)(b), including after an authorizer recommends closure of the charter school or terminates the charter school's contract.

(d) Documents held by a contracting entity or subsidiary of a charter school that are necessary to demonstrate the charter school's compliance with state or federal law are the property of the charter school.

(e) A charter school shall include in an agreement with a subsidiary of the charter school or a contracting entity a provision that stipulates that documents held by the subsidiary or a contracting entity, that are necessary to demonstrate the charter school's financial compliance with federal or state law, are the property of the charter school.

(13) For each grading period and for each course in which a student is enrolled, a charter school shall issue a grade or performance report to the student:

(a) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(b) in accordance with the charter school's adopted grading or performance standards and criteria.

(14) (a) As used in this Subsection (14):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii) (A) "Instructional material" means learning material that a charter school governing board adopts and approves for use within the charter school.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class or another class with required instructional material that is not subject to selection by the charter school governing board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a charter school governing board has not considered and adopted, approved, or prohibited for classroom use within the charter school.

(b) A charter school shall:

[~~(a)~~] (i) make [~~curriculum~~] instructional material that the charter school uses readily accessible and available for a parent to view;

[~~(b)~~] (ii) annually notify a parent of a student enrolled in the charter school of how to access the information described in Subsection [~~(14)(a)~~] (14)(b)(i); and

[~~(c)~~] (iii) include on the charter school's website information about how to access the information described in Subsection [~~(14)(a)~~] (14)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a charter school governing board shall:

(i) establish an open process, involving educators and parents of students enrolled in the charter school, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection (14)(c)(i), the charter school governing board:

(A) before the public meetings described in Subsection (14)(c)(ii)(B), posts the recommended learning materials online to allow for public review or, for copyrighted material, makes the recommended learning material available at the charter school for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provide an opportunity for educators whom the charter school employs and parents of students enrolled in the charter school to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A charter school governing board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If a charter school contracts with another party to provide online or digital materials, the charter school shall include in the contract a requirement that the provider give notice to the charter school any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection (14) requires a charter school governing board to review all learning materials used within the charter school.

CHAPTER 353
S. B. 77
Passed March 1, 2023
Approved March 17, 2023
Effective May 3, 2023

EDUCATION SCHOLARSHIP AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill amends provisions related to scholarships for elementary and secondary education.

Highlighted Provisions:

This bill:

- amends a scholarship granting organization's time period for submitting an audit report to the State Board of Education (state board);
- requires the state auditor to perform regular audits of certain scholarships;
- prohibits private schools from charging a scholarship student more in fees than other students based solely upon the scholarship student being a scholarship recipient;
- provides the state board additional time to fulfill procurement and contract obligations under certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-7-405, as last amended by Laws of Utah 2022, Chapters 262, 456
53E-7-408, as last amended by Laws of Utah 2022, Chapter 262
53F-4-303, as last amended by Laws of Utah 2019, Chapter 186
67-3-1, as last amended by Laws of Utah 2022, Chapter 307

ENACTS:

53F-6-401, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-7-405 is amended to read:

53E-7-405. Program donations -- Scholarship granting organization requirements.

(1) A person that makes a donation to a scholarship granting organization to help fund scholarships through the program may be eligible to receive a nonrefundable tax credit as described in Sections 59-7-625 and 59-10-1041.

(2) In accordance with Section 53E-7-404, an organization may enter into an agreement with the state board to be a scholarship granting organization.

(3) A scholarship granting organization shall:

(a) accept program donations and allow a person that makes a program donation to designate a qualifying school to which the donation shall be directed for scholarships;

(b) adopt an application process in accordance with Subsection (5);

(c) review scholarship applications and determine scholarship awards;

(d) allocate scholarship money to a scholarship student's parent or, on the parent's behalf, to a qualifying school in which the scholarship student is enrolled;

(e) adopt a process, with state board approval, that allows a parent to use a scholarship to pay for a nontuition scholarship expense for the scholarship student;

(f) ensure that during the state fiscal year:

(i) at least 92% of the scholarship granting organization's revenue from program donations is spent on scholarships;

(ii) up to 5% of the scholarship granting organization's revenue from program donations is spent on administration of the program;

(iii) up to 3% of the scholarship granting organization's revenue from program donations is spent on marketing and fundraising costs; and

(iv) all revenue from program donations' interest or investments is spent on scholarships;

(g) carry forward no more than 40% of the scholarship granting organization's program donations from the state fiscal year in which the scholarship granting organization received the program donations to the following state fiscal year;

(h) at the end of a state fiscal year, remit to the state treasurer donation amounts greater than the amount described in Subsection (3)(g);

(i) prohibit a scholarship granting organization employee or officer from handling, managing, or processing program donations, if, based on a criminal background check conducted by the state board in accordance with Section 53E-7-404, the state board identifies the employee or officer as posing a risk to the appropriate use of program donations;

(j) ensure that a scholarship can be transferred during the school year to a different qualifying school that accepts the scholarship student;

(k) report to the state board on or before October 1 of each year the following information, prepared by a certified public accountant:

(i) the name and address of the scholarship granting organization;

(ii) the total number and total dollar amount of program donations that the scholarship granting organization received during the previous calendar year;

(iii) (A) the total number and total dollar amount of scholarships the scholarship granting

organization awarded during the previous state fiscal year to eligible students described in Subsection 53E-7-401(1)(a); and

(B) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous state fiscal year to eligible students described in Subsection 53E-7-401(1)(b); and

(iv) the percentage of first-time scholarship recipients who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

(l) issue tax credit certificates as described in Section 53E-7-407; and

(m) require a parent to notify a scholarship granting organization if the parent's scholarship recipient:

(i) receives scholarship money for tuition expenses; and

(ii) does not have continuing enrollment and attendance at a qualifying school.

(4) The state treasurer shall deposit the money described in Subsection (3)(h) into the Income Tax Fund.

(5) (a) An application for a scholarship shall contain an acknowledgment by the applicant's parent that the qualifying school selected by the parent for the applicant to attend using a scholarship is capable of providing the level of disability services required for the student.

(b) A scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of disability services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship recipient if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(c) Upon acceptance of a scholarship, the parent assumes full financial responsibility for the education of the scholarship recipient.

(d) Acceptance of a scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) A scholarship granting organization shall demonstrate the scholarship granting organization's financial accountability by annually submitting to the state board a financial information report that:

(a) complies with the uniform financial accounting standards described in Section 53E-7-404; and

(b) is prepared by a certified public accountant.

(7) (a) If a scholarship granting organization allocates $500,000 or more in scholarships annually through the program, the scholarship granting organization shall:

(i) contract for an annual audit, conducted by a certified public accountant who is independent from:

(A) the scholarship granting organization; and

(B) the scholarship granting organization's accounts and records pertaining to program donations; and

(ii) in accordance with Subsection (7)(b), report the results of the audit to the state board for review.

(b) For the report described in Subsection (7)(a)(ii), the scholarship granting organization shall:

(i) include the scholarship granting organization's financial statements in a format that meets generally accepted accounting standards; and

(ii) submit the report to the state board no later than [~~180~~] 120 days after the last day [~~of a scholarship granting organization's~~] of the state fiscal year.

(c) The certified public accountant shall conduct an audit described in Subsection (7)(a)(i) in accordance with generally accepted auditing standards and rules made by the state board.

(d) (i) The state board shall review a report submitted under this section and may request that the scholarship granting organization revise or supplement the report if the report is not in compliance with the provisions of this Subsection (7) or rules adopted by the state board.

(ii) A scholarship granting organization shall provide a revised report or supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (7)(d)(i).

(8) (a) A scholarship granting organization may not allocate scholarship money to a qualifying school if:

(i) the scholarship granting organization determines that the qualifying school intentionally

or substantially misrepresented information on overpayment;

(ii) the qualifying school fails to refund an overpayment in a timely manner; or

(iii) the qualifying school routinely fails to provide scholarship recipients with promised educational goods or services.

(b) A scholarship granting organization shall notify a scholarship recipient if the scholarship granting organization stops allocation of the recipient's scholarship money to a qualifying school under Subsection (8)(a).

(9) If a scholarship recipient transfers to another qualifying school during the school year, the scholarship granting organization may prorate scholarship money between the qualifying schools according to the time the scholarship recipient spends at each school.

(10) A scholarship granting organization may not:

(a) award a scholarship to a relative of the scholarship granting organization's officer or employee; or

(b) allocate scholarship money to a qualifying school at which the scholarship recipient has a relative who is an officer or an employee of the qualifying school.

Section 2. Section 53E-7-408 is amended to read:

53E-7-408. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement as adopted by the state board, or obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(A) the audit shall be performed in accordance with generally accepted auditing standards;

(B) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(C) the audited financial statements shall be as of a period within the last 12 months; and

(ii) submit the audit report or report of the agreed upon procedure to the state board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. 2000d;

(d) meet state and local health and safety laws and codes;

(e) provide a written disclosure to the parent of each prospective student, before the student is enrolled, of:

(i) the special education services that will be provided to the student, including the cost of those services;

(ii) tuition costs;

(iii) additional fees a parent will be required to pay during the school year; and

(iv) the skill or grade level of the curriculum in which the prospective student will participate;

(f) (i) administer an annual assessment of each scholarship student's academic progress; and

(ii) report the results of the assessment described in Subsection (1)(f)(i) to the scholarship student's parent;

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to provide instruction:

(A) in the subject or subjects taught; and

(B) to the special needs students taught;

(h) maintain documentation demonstrating that teachers at the private school meet the qualifications described in Subsection (1)(g);

(i) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold a current Utah educator license issued by the state board under Chapter 6, Education Professional Licensure;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

(j) provide to the parent of a scholarship student the relevant credentials of the teachers who will be teaching the scholarship student.

(2) A private school is not eligible to enroll scholarship students if:

(a) the private school requires a student to sign a contract waiving the student's rights to transfer to another qualifying school during the school year;

(b) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; [~~or~~]

(c) the report of the agreed upon procedures submitted under Subsection (1)(b) shows that the

private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b)[.]; or

(d) the private school charges a scholarship student more in tuition or fees than another student based solely upon the scholarship student being a scholarship recipient under this part.

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the state board.

(6) The state board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) publish on the state board's website, a list of private schools approved under this section.

(7) A private school approved under this section that changes ownership shall:

(a) submit a new application to the state board; and

(b) demonstrate that the private school continues to meet the eligibility requirements of this section.

Section 3. Section 53F-4-303 is amended to read:

53F-4-303. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) [~~(A)~~] contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement, as adopted by the state board, or obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

[~~(I)~~] (A) the audit shall be performed in accordance with generally accepted auditing standards;

[~~(II)~~] (B) the financial statements shall be presented in accordance with generally accepted accounting principles; and

[~~(III)~~] (C) the audited financial statements shall be as of a period within the last 12 months; [~~or~~] and

[~~(B) contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement, as adopted by the state board; and~~]

(ii) submit the audit report or report of the agreed upon procedure to the state board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) provide a written disclosure to the parent of each prospective student, before the student is enrolled of:

(i) the special education services that will be provided to the student, including the cost of those services;

(ii) tuition costs;

(iii) additional fees a parent will be required to pay during the school year; and

(iv) the skill or grade level of the curriculum that the student will be participating in;

(f) (i) administer an annual assessment of each scholarship student's academic progress;

(ii) report the results of the assessment described in Subsection (1)(f)(i) to the student's parent; and

(iii) make the results available to the assessment team evaluating the student pursuant to Subsection 53F-4-302(6);

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:

(A) in the subjects taught; and

(B) to the special needs students taught;

(h) maintain documentation demonstrating that teachers at the private school meet the qualifications described in Subsection (1)(g);

(i) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

(j) provide to [~~parents~~] the parent of the scholarship student the relevant credentials of the

teachers who will be teaching [~~their students~~] the scholarship student.

(2) A private school is not eligible to enroll scholarship students if:

(a) the private school requires a student to sign a contract waiving the student's rights to transfer to another eligible private school during the school year;

(b) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; [~~or~~]

(c) the report of the agreed upon procedure submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b)[~~.~~]; or

(d) the private school charges a scholarship student more in tuition or fees than another student based solely upon the scholarship student being a scholarship recipient under this part.

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the state board by May 1 of the school year preceding the school year in which it intends to enroll scholarship students.

(6) The state board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) [~~make available to the public a list of the eligible private schools~~] publish on the state board's website, a list of private schools approved under this section.

(7) An approved eligible private school that changes ownership shall[~~;~~]:

(a) submit a new application to the state board; and

(b) demonstrate that [~~it~~] the private school continues to meet the eligibility requirements of this section.

Section 4. Section 53F-6-401 is enacted to read:

53F-6-401 (Codified as 53F-6-501). Procurement flexibility.

For the year 2023, if the state board determines that it is not feasible to successfully meet a procurement and contracting deadline in this part, the state board may extend the deadline by no more than 90 days.

Section 5. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed

through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements[,] and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide

comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release

a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) [~~The~~] Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Special Needs Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

CHAPTER 354
S. B. 81
Passed February 22, 2023
Approved March 17, 2023
Effective May 3, 2023

PROPERTY TAX DEFERRAL REVISIONS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions related to property tax deferral.

Highlighted Provisions:

This bill:

- modifies defined terms;
- addresses when deferred property taxes come due;
- allows a surviving spouse to take ownership of residential property without triggering an obligation to repay deferred property taxes;
- clarifies the requirements for recording and maintaining a lien securing payment of deferred property taxes;
- for certain deferrals, requires the owner be current on all property tax and tax notice charges;
- establishes penalties for providing false information to a county related to a deferral or an abatement; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1801, as last amended by Laws of Utah 2022, Chapter 242
59-2-1802, as last amended by Laws of Utah 2022, Chapter 242
59-2-1804, as last amended by Laws of Utah 2022, Chapter 242
63I-2-263, as last amended by Laws of Utah 2022, Chapters 63, 209, 240, 242, 264, 354, and 435
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154

ENACTS:

59-2-1802.5, Utah Code Annotated 1953
59-2-1806, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1801 is amended to read:

59-2-1801. Definitions.

As used in this part:

(1) "Abatement" means a tax abatement described in Section 59-2-1803.

(2) "Deferral" means a [~~tax deferral described in~~] postponement of a tax due date granted in accordance with Section 59-2-1802 or 59-2-1802.5.

(3) "Eligible owner" means an owner of an attached or a detached single-family residence:

(a) (i) who is 75 years old or older on or before December 31 of the year in which the individual applies for a deferral under this part;

[~~(b)~~] (ii) whose household income does not exceed 200% of the maximum household income certified to a homeowner's credit described in Section 59-2-1208; and

[~~(c)~~] (iii) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the owner's residence for the preceding calendar year[~~.~~]; or

(b) that is a trust described in Section 59-2-1805 if the grantor of the trust is an individual described in Subsection (3)(a).

(4) "Household" means the same as that term is defined in Section 59-2-1202.

(5) "Household income" means the same as that term is defined in Section 59-2-1202.

(6) "Household liquid resources" means the following resources that are not included in an individual's household income and held by one or more members of the individual's household:

(a) cash on hand;

(b) money in a checking or savings account;

(c) savings certificates; and

(d) stocks or bonds[~~; and~~].

[~~(e) lump sum payments.~~]

(7) "Indigent individual" is a poor individual as described in Utah Constitution, Article XIII, Section 3, Subsection (4), who:

(a) (i) is at least 65 years old; or

(ii) is less than 65 years old and:

(A) the county finds that extreme hardship would prevail on the individual if the county does not defer or abate the individual's taxes; or

(B) the individual has a disability;

(b) has a total household income, as defined in Section 59-2-1202, of less than the maximum household income certified to a homeowner's credit described in Section 59-2-1208;

(c) resides for at least 10 months of the year in the residence that would be subject to the requested abatement or deferral; and

(d) cannot pay the tax assessed on the individual's residence when the tax becomes due.

(8) "Property taxes due" means the taxes due on an indigent individual's property:

(a) for which a county granted an abatement under Section 59-2-1803; and

(b) for the calendar year for which the county grants the abatement.

(9) "Property taxes paid" means an amount equal to the sum of:

(a) the amount of property taxes the indigent individual paid for the taxable year for which the indigent individual applied for the abatement; and

(b) the amount of the abatement the county grants under Section 59-2-1803.

(10) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a spouse of any of these individuals.

(11) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

Section 2. Section 59-2-1802 is amended to read:

59-2-1802. Tax deferral -- County discretion to grant deferral -- Creation of lien and due date.

(1) (a) In accordance with this part and after receiving an application and giving notice to the taxpayer, a county may [~~defer~~] grant a deferral of a tax on residential property[~~, allowing the taxpayer to pay the tax at a later date~~].

(b) In determining [~~a deferral~~] whether to grant an application for a deferral under this section, a county shall consider an asset transferred to a relative by an applicant for deferral, if the transfer took place during the three years [~~prior to~~] before the day on which the applicant applied for deferral.

(2) A county may grant a deferral described in Subsection (1) at any time:

(a) after the holder of each mortgage or trust deed outstanding on the property gives written approval of the application; and

(b) if the applicant is not the owner of income-producing assets that could be liquidated to pay the tax.

[~~(3) In accordance with this part, if the conditions described in Subsection (4) are satisfied, a county:~~]

[~~(a) on or after January 1, 2022, may defer a tax on an attached single-family residence or a detached single-family residence; or~~]

[~~(b) on or after January 1, 2025, shall defer a tax on an attached single-family residence or a detached single-family residence.~~]

[~~(4) The conditions described in Subsection (3) are as follows:~~]

[~~(a) the owner of the single-family residence is:~~]

[~~(i) an eligible owner; or~~]

[~~(ii) a trust described in Section 59-2-1805 for which the grantor is an eligible owner;~~]

[~~(b) the single-family residence was the eligible owner's primary residence as of January 1 of the year for which the eligible owner applies for a deferral;~~]

[~~(c) (i) subject to Subsection (5), the value of the single-family residence for the year for which the eligible owner applies for a deferral is no greater than 100% of the median property value of attached and detached single-family residences within the county; or~~]

[~~(ii) the eligible owner has owned the single-family residence for a continuous 20 year period as of January 1 of the year for which the eligible owner applies for a deferral; and~~]

[~~(d) the holder of each mortgage or trust deed outstanding on the single-family residence gives written approval of the deferral.~~]

[~~(5) The values described in Subsection (4)(c) are based on the county assessment roll for the county in which the single-family residence is located.~~]

[~~(6) For purposes of Subsection (4)(c)(ii), if a single-family residence is transferred between an eligible owner and a trust described in Section 59-2-1805, ownership is considered continuous if the eligible owner is the grantor of the trust.~~]

[~~(7) Taxes deferred by the county accumulate with interest as a lien against the residential property, as described in Subsection (8), until the owner sells or otherwise disposes of the residential property.~~]

[~~(8) Deferred taxes under this section:~~]

[~~(a) bear interest at an interest rate equal to 50% of the rate described in Subsections 59-2-1331(2)(c) and (d); and~~]

[~~(b) have the same status as a lien as described in Sections 59-2-1301 and 59-2-1325.~~]

[~~(9) If the owner of residential property that is granted deferral under this section is an indigent individual, during the period of deferral the county may not subject the residential property to a tax sale.~~]

[~~(10) (a) Upon written application from a county in a form prescribed by the commission, the commission shall reimburse the county for the amount of any tax that the county defers in accordance with Subsections (3) through (6).~~]

[~~(b) The commission may not reimburse a county for:~~]

[~~(i) an amount of a tax before the county grants the eligible owner a deferral of the tax; or~~]

[~~(ii) a tax assessed after December 31, 2026.~~]

[~~(11) A county that receives money in accordance with this section for a deferred tax shall:~~]

[~~(a) distribute the money to the taxing entities in the same proportion the county would have distributed the revenue from the deferred tax; and~~]

[~~(b) repay the money:~~]

[~~(i) in an amount equal to the amount necessary to satisfy the lien described in Subsection (7) as of the earlier of:~~]

[~~(A) the day on which the county repays the money; or~~]

[~~(B) the day on which the lien described in Subsection (7) is satisfied; and~~]

[~~(ii) no later than June 30 of the calendar year immediately following the calendar year in which the lien described in Subsection (7) is satisfied.~~]

[~~(12) The commission shall deposit money received under this section into the General Fund.~~]

(3) (a) Taxes deferred under this part accumulate with interest and applicable recording fees as a lien against the residential property.

(b) A lien described in this Subsection (3) has the same legal status as a lien described in Section 59-2-1325.

(c) To release the lien described in this Subsection (3), an owner shall pay the total amount subject to the lien:

(i) upon the owner selling or otherwise disposing of the residential property; or

(ii) when the residential property is no longer the owner's primary residence.

(d) (i) Notwithstanding Subsection (3)(c), an owner that receives a deferral does not have to pay the deferred taxes and applicable recording fees when the residential property transfers:

(A) to the owner's surviving spouse as a result of the owner's death; or

(B) between the owner and a trust described in Section 59-2-1805 for which the owner is the grantor.

(ii) After the residential property transfers to the owner's surviving spouse, the deferred taxes and applicable recording fees are due:

(A) upon the surviving spouse selling or otherwise disposing of the residential property; or

(B) when the residential property is no longer the surviving spouse's primary residence.

(e) When the deferral period ends:

(i) the lien becomes due as a property tax subject to the collection procedures described in Section 59-2-1331; and

(ii) the date of levy is the date that the deferral period ends.

(4) (a) If a county grants an owner more than one deferral for the same single-family residence, the county is not required to submit for recording more than one lien.

(b) Each subsequent deferral relates back to the date of the initial lien filing.

(5) (a) For each residential property for which the county grants a deferral, the treasurer shall maintain a record that is an itemized account of the total amount subject to the lien for deferred property taxes.

(b) The record described in this Subsection (5) is the official record of the amount of the lien.

(6) Taxes deferred under this part bear interest at a rate equal to 50% of the rate described in Subsections 59-2-1331(2)(c) and (d).

Section 3. Section 59-2-1802.5 is enacted to read:

59-2-1802.5. Nondiscretionary tax deferral for elderly property owners.

(1) An eligible owner may apply for a deferral under this section if:

(a) the eligible owner uses the single-family residence as the eligible owner's primary residence as of January 1 of the year for which the eligible owner applies for the deferral;

(b) with respect to the single-family residence, there are no:

(i) delinquent property taxes;

(ii) delinquent tax notice charges; or

(iii) outstanding penalties, interest, or administrative costs related to a delinquent property tax or a delinquent tax notice charge;

(c) (i) the value of the single-family residence for which the eligible owner applies for the deferral is no greater than the median property value of:

(A) attached single-family residences within the county, if the single-family residence is an attached single-family residence; or

(B) detached single-family residences within the county, if the single-family residence is a detached single-family residence; or

(ii) the eligible owner has owned the single-family residence for a continuous 20-year period as of January 1 of the year for which the eligible owner applies for the deferral; and

(d) the holder of each mortgage or trust deed outstanding on the single-family residence gives written approval of the deferral.

(2) If the conditions in Subsection (1) are satisfied and the applicant complies with the other applicable provisions of this part:

(a) a county shall defer the property tax on an attached single-family residence or a detached single-family residence for an application of deferral made on or after January 1, 2024; and

(b) a county may defer the property tax on an attached single-family residence or a detached single-family residence for an application of deferral made before January 1, 2024.

(3) The values described in Subsection (1)(c) are based on the county assessment roll for the county in which the single-family residence is located.

(4) For purposes of Subsection (1)(c)(ii), ownership is considered continuous regardless of whether the single-family residence is transferred between an eligible owner who is an individual and an eligible owner that is a trust.

(5) (a) Upon application from a county in a form prescribed by the commission, the commission shall reimburse the county for the amount of any tax that the county defers in accordance with this section.

(b) The commission may not reimburse a county:

(i) before the county approves the deferral; or

(ii) for a tax assessed after December 31, 2026.

(c) A county that receives money in accordance with this Subsection (5) shall:

(i) distribute the money to the taxing entities in the same proportion the county would have distributed the revenue from the deferred tax; and

(ii) repay the money no later than 30 days after the day on which the deferral lien is satisfied.

(d) The commission shall deposit money received under Subsection (5)(c)(ii) into the General Fund.

Section 4. Section 59-2-1804 is amended to read:

59-2-1804. Application for tax deferral or tax abatement.

(1) (a) Except as provided in Subsection (1)(b) or (2), an applicant for deferral or abatement for the current tax year shall annually file an application on or before September 1 with the county in which the applicant's property is located.

(b) If a county finds good cause exists, the county may extend until December 31 the deadline described in Subsection (1)(a).

(c) An indigent individual may apply and potentially qualify for deferral, abatement, or both.

(2) (a) A county shall extend the default application deadline by one additional year if the applicant had been approved for a deferral under this part in the prior year; or

(b) the county determines that:

(i) the applicant or a member of the applicant's immediate family had an illness or injury that prevented the applicant from filing the application on or before the default application deadline;

(ii) a member of the applicant's immediate family died during the calendar year of the default application deadline;

(iii) the failure of the applicant to file the application on or before the default application deadline was beyond the reasonable control of the applicant; or

(iv) denial of an application would be unjust or unreasonable.

[~~(2)~~] (3) (a) An applicant shall include in an application a signed statement that describes the eligibility of the applicant for deferral or abatement.

(b) For an application for a deferral under [~~Subsection 59-2-1802(3)~~] Section 59-2-1802.5, the requirements described in Subsection [~~(2)(a)~~] (3)(a) include:

(i) proof that the applicant resides at the single-family residence for which the applicant seeks the deferral;

(ii) proof of age; and

(iii) proof of household income.

[~~(3)~~] (4) Both spouses shall sign an application if the application seeks a deferral or abatement on a residence:

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

[~~(4)~~] (5) If an applicant is dissatisfied with a county's decision on the applicant's application for deferral or abatement, the applicant may appeal the decision to the commission in accordance with Section 59-2-1006.

[~~(5)~~] (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 5. Section 59-2-1806 is enacted to read:

59-2-1806. Fraudulent or negligent representation -- Penalties and interest.

(1) If a county determines that a person knowingly provided false information to the county related to a requirement under this part, the county shall:

(a) deny or revoke any deferral or abatement related to the false information; and

(b) recover by assessment the amount of the claimed or granted deferral or abatement, plus interest that accrues at a rate of 1% per month beginning the day on which the person knowingly provided the false information.

(2) If a county determines that a person negligently provided false information to the county related to a requirement under this part, the county shall:

(a) reduce by 10% the amount of any deferral or abatement for which the person is eligible and that relates to the false information; and

(b) recover by assessment the amount of any deferral or abatement the county approved in reliance on the false information that exceeds the amount to which the person is entitled, plus interest

that accrues at a rate of 1% per month beginning the day on which the deferral or abatement was approved.

Section 6. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Subsection 63A-17-304(1)(c) is repealed July 1, 2022.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) Section 63G-1-502 is repealed July 1, 2022.

(6) The following sections regarding the World War II Memorial Commission are repealed July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

[~~(7) Title 63H, Chapter 5, Utah State Railroad Museum Authority, is repealed on July 1, 2022.~~]

[~~(8)~~] (7) Section 63H-7a-303 is repealed July 1, 2024.

[~~(9)~~] (8) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(10)~~] (9) Subsection [~~63J-1-602.2(44)~~] 63J-1-602.2(43), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

[~~(11)~~] (10) Sections 63M-7-213 and 63M-7-213.5 are repealed January 1, 2023.

[~~(12)~~] (11) Section 63M-7-217 is repealed July 1, 2022.

[~~(13)~~] (12) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(14)~~] (13) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 7. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The Emergency Medical Services Grant Program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

(15) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(30) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(31) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(32) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(34) The Traffic Noise Abatement Program created in Section 72-6-112.

(35) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(36) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(37) A state rehabilitative employment program, as provided in Section 78A-6-210.

(38) The Utah Geological Survey, as provided in Section 79-3-401.

(39) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(40) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(42) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(43) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section [~~59-2-1802~~] 59-2-1802.5.

Section 8. Retrospective operation.

This bill provides retrospective operation to January 1, 2023.

CHAPTER 355
S. B. 82
Passed February 16, 2023
Approved March 17, 2023
Effective May 3, 2023

SALES TAX AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions of the sale and use tax license requirements.

Highlighted Provisions:

This bill:

- clarifies that the commission requires a seller to renew an exemption certificate when more than 12–months elapse between transactions between a seller or certified provider and a purchaser.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59–12–106, as last amended by Laws of Utah 2021, Chapter 16

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-106 is amended to read:

59-12-106. Definitions -- Sales and use tax license requirements -- Penalty -- Application process and requirements -- No fee -- Bonds -- Presumption of taxability -- Exemption certificates -- Exemption certificate license number to accompany contract bids.

(1) As used in this section:

(a) "Applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section.

(b) "Application" means an application for a license under this section.

(c) "Fiduciary of the applicant" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Fiduciary of the licensee" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) "License" means a license under this section.

(f) "Licensee" means a person that is licensed under this section by the commission.

(g) "Special event" means an event that lasts six months or less where taxable sales occur.

(2) (a) It is unlawful for any person required to collect a tax under this chapter to engage in business within the state without first having obtained a license to do so.

(b) The license described in Subsection (2)(a):

(i) shall be granted and issued by the commission;

(ii) is not assignable;

(iii) is valid only for the person in whose name the license is issued;

(iv) is valid until:

(A) the person described in Subsection (2)(b)(iii):

(I) ceases to do business; or

(II) changes that person's business address; or

(B) the license is revoked by the commission; and

(v) subject to Subsection (2)(d), shall be granted by the commission only upon an application that:

(A) states the name and address of the applicant; and

(B) provides other information the commission may require.

(c) At the time an applicant makes an application under Subsection (2)(b)(v), the commission shall notify the applicant of the responsibilities and liability of a business owner successor under Section 59-12-112.

(d) The commission shall review an application and determine whether the applicant:

(i) meets the requirements of this section to be issued a license; and

(ii) is required to post a bond with the commission in accordance with Subsections (2)(e) and (f) before the applicant may be issued a license.

(e) (i) Except as provided in Subsection (2)(e)(iii), an applicant shall post a bond with the commission before the commission may issue the applicant a license if:

(A) a license under this section was revoked for a delinquency under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) there is a delinquency in paying a tax under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter.

(ii) If the commission determines it is necessary to ensure compliance with this chapter, the commission may require a licensee to:

(A) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (2)(f); or

(B) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.

(iii) The commission may waive the bond requirement described in Subsection (2)(e)(i), if the applicant is in compliance with a payment agreement that:

(A) relates to the delinquency; and

(B) is approved by the commission.

(f) (i) A bond required by Subsection (2)(e) shall be:

(A) executed by:

(I) for an applicant, the applicant as principal, with a corporate surety; or

(II) for a licensee, the licensee as principal, with a corporate surety; and

(B) payable to the commission conditioned upon the faithful performance of all of the requirements of this chapter including:

(I) the payment of any tax under this chapter;

(II) the payment of any:

(Aa) penalty as provided in Section 59-1-401; or

(Bb) interest as provided in Section 59-1-402; or

(III) any other obligation of the:

(Aa) applicant under this chapter; or

(Bb) licensee under this chapter.

(ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the amount of a bond required by Subsection (2)(e) on the basis of:

(A) commission estimates of:

(I) an applicant's tax liability under this chapter; or

(II) a licensee's tax liability under this chapter; and

(B) any amount of a delinquency described in Subsection (2)(f)(iii).

(iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection (2)(f)(ii)(B):

(A) for an applicant, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; or

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; and

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) for a licensee, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the licensee;

(Bb) a fiduciary of the licensee; or

(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the licensee;

(Bb) a fiduciary of the licensee; and

(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter.

(iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection (2)(e) may not:

(A) be less than $25,000; or

(B) exceed $500,000.

(g) Subject to Subsection (2)(h), if business is transacted at two or more separate places by one person, a separate license for each place of business is required.

(h) A license is not required for any person that is:

(i) engaged exclusively in the business of selling commodities that are exempt from taxation under this chapter; or

(ii) exempt from collecting sales and use tax under Section 59-12-104 and the place of business is a special event.

(i) (i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provisions of this chapter.

(ii) A license may not be issued to a licensee described in Subsection (2)(i)(i) until the licensee has complied with the requirements of this chapter, including:

(A) paying any:

(I) tax due under this chapter;

(II) penalty as provided in Section 59-1-401; or

(III) interest as provided in Section 59-1-402; and

(B) posting a bond in accordance with Subsections (2)(e) and (f).

(j) Any person required to collect a tax under this chapter within this state without having secured a license to do so is guilty of a criminal violation as provided in Section 59-1-401.

(k) A license shall be issued to the person by the commission without a license fee.

(l) (i) The commission shall include on an application for a temporary sales tax license and special event sales tax return the following statement:

"You are not required to complete or return this form or to collect sales and use tax if you are not regularly engaged in the business of selling the items you are offering at this event or all of the items that you are selling at this event are exempt from sales and use tax under Section 59-12-104."

(ii) The notice described in Subsection (2)(l)(i) shall be in bold font no smaller than the font of the main content and shall appear at the top of the application form.

(3) (a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for delivery in this state is sold for storage, use, or other consumption in this state unless the person selling the property, item, or service has taken from the purchaser an exemption certificate:

(i) bearing the name and address of the purchaser; and

(ii) providing that the property, item, or service was exempted under Section 59-12-104.

(b) An exemption certificate described in Subsection (3)(a):

(i) shall contain information as prescribed by the commission; and

(ii) if a paper exemption certificate is used, shall be signed by the purchaser.

(c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable to collect a tax under this chapter if the seller or certified service provider obtains within 90 days after a transaction is complete:

(A) an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) the information required by Subsections (3)(a) and (b).

(ii) A seller or certified service provider that does not obtain the exemption certificate or information described in Subsection (3)(c)(i) with respect to a transaction is allowed 120 days after the commission requests the seller or certified service provider to substantiate the exemption to:

(A) establish that the transaction is not subject to taxation under this chapter by a means other than providing an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the information required by Subsections (3)(a) and (b), taken in good faith.

(iii) For purposes of Subsection (3)(c)(ii)(B), an exemption certificate is taken in good faith if the exemption certificate claims an exemption that:

(A) was allowed by statute on the date of the transaction in the jurisdiction of the location of the transaction;

(B) could be applicable to that transaction; and

(C) is reasonable for the purchaser's type of business.

(d) Except as provided in Subsection (3)(e), a seller or certified service provider that takes an exemption certificate from a purchaser in accordance with this Subsection (3) with respect to a transaction is not liable to collect a tax under this chapter on that transaction.

(e) Subsection (3)(d) does not apply to a seller or certified service provider if the commission establishes through an audit that the seller or certified service provider:

(i) knew or had reason to know at the time the purchaser provided the seller or certified service provider the information described in Subsection (3)(a) or (b) that the information related to the exemption claimed was materially false; or

(ii) otherwise knowingly participated in activity intended to purposefully evade the tax due on the transaction.

(f) (i) Subject to Subsection (3)(f)(ii) and except as provided in Subsections (3)(f)(iii) and (iv), if there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission may not require the seller or certified service provider to:

(A) renew an exemption certificate;

(B) update an exemption certificate; or

(C) update a data element of an exemption certificate.

(ii) For purposes of Subsection (3)(f)(i), a recurring business relationship exists if no more than a 12-month period elapses between transactions between a seller or certified service provider and a purchaser.

(iii) Notwithstanding any other provision of this Subsection, the commission shall require a seller to renew an exemption certificate if more than 12-months have elapsed between transactions between a seller or certified service provider and a purchaser.

[~~(iii)~~] (iv) If there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission shall require an exemption certificate the seller or certified service provider takes from the purchaser to meet the requirements of Subsections (3)(a) and (b).

(4) A person filing a contract bid with the state or a political subdivision of the state for the sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1) shall include with the bid the number of the license issued to that person under Subsection (2).

Section 2. Retrospective operation.

This bill provides retrospective operation to January 1, 2023.

CHAPTER 356
S. B. 83
Passed February 28, 2023
Approved March 17, 2023
Effective May 3, 2023

PUBLIC EDUCATION FUNDING EQUALIZATION

Chief Sponsor: Lincoln Fillmore
House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill requires the inclusion of an appropriation to the Local Levy Growth Account in public education budget legislation under certain circumstances.

Highlighted Provisions:

This bill:

- requires the inclusion of an appropriation to the Local Levy Growth Account in public education budget legislation under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-208, as last amended by Laws of Utah 2022, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-208 is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units);

(iii) the Adult Education Program, described in Section 53F-2-401;

(iv) state support of pupil transportation, described in Section 53F-2-402;

(v) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vi) the Concurrent Enrollment Program, described in Section 53F-2-409; and

(vii) the gang prevention and intervention program, described in Section 53F-2-410; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

(3) If the Executive Appropriations Committee includes in the public education base budget or the final public education budget an increase in the value of the WPU in excess of the amounts described in Subsection (1)(a), the Executive Appropriations Committee shall also include an appropriation to the Local Levy Growth Account established in Section 53F-9-305 in an amount equivalent to at least 0.5% of the total amount appropriated for WPUs in the relevant budget.

CHAPTER 357
S. B. 84
Passed February 16, 2023
Approved March 17, 2023
Effective May 3, 2023

HOUSING AND TRANSIT REINVESTMENT ZONE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill amends provisions related to housing and transit reinvestment zones.

Highlighted Provisions:

This bill:

- amends definitions;
- amends provisions related to the objectives and required characteristics of a housing and transit reinvestment zone;
- restricts how much land a proponent county may own within a housing and transit reinvestment zone;
- requires a housing and transit reinvestment zone proposal to include certain maps of the proposed area;
- requires the Governor's Office of Economic Opportunity to provide notice to certain relevant entities after receiving a housing and transit reinvestment zone proposal;
- requires the State Tax Commission to provide feedback to a housing and transit reinvestment zone regarding the State Tax Commission's ability to administer the tax implications of the proposal;
- amends the membership of the housing and transit reinvestment zone committee;
- amends provisions regarding circumstances in which certain counties are allowed to submit a proposal for a housing and transit reinvestment zone;
- provides a property owner near a public transit hub in a county with a small public transit district with certain vested development rights if the county failed to submit an application for a housing and transit reinvestment zone before a certain deadline; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63N-3-602, as last amended by Laws of Utah 2022, Chapters 68, 433
63N-3-603, as last amended by Laws of Utah 2022, Chapters 21, 406 and 433
63N-3-604, as last amended by Laws of Utah 2022, Chapter 433
63N-3-605, as last amended by Laws of Utah 2022, Chapter 433

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-3-602 is amended to read:

63N-3-602. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

(4) "Base year" means, for a proposed housing and transit reinvestment zone area, a year beginning the first day of the calendar quarter determined by the last equalized tax roll before the adoption of the housing and transit reinvestment zone.

(5) "Bus rapid transit" means a high-quality bus-based transit system that delivers fast and efficient service that may include dedicated lanes, busways, traffic signal priority, off-board fare collection, elevated platforms, and enhanced stations.

(6) "Bus rapid transit station" means an existing station, stop, or terminal, or a proposed station, stop, or terminal that is specifically identified in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan:

(a) along an existing bus rapid transit line; or

(b) along an extension to an existing bus rapid transit line or new bus rapid transit line.

[~~(6)~~] (7) (a) "Commuter rail" means a heavy-rail passenger rail transit facility operated by a large public transit district.

(b) "Commuter rail" does not include a light-rail passenger rail facility of a large public transit district.

[~~(7) "Commuter rail station" means a station, stop, or terminal along an existing commuter rail line, or along an extension to an existing commuter rail line or new commuter rail line that is included in a metropolitan planning organization's adopted long-range transportation plan.~~]

(8) "Commuter rail station" means an existing station, stop, or terminal, or a proposed station, stop, or terminal, which has been specifically identified in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan:

(a) along an existing commuter rail line;

(b) along an extension to an existing commuter rail line or new commuter rail line; or

(c) along a fixed guideway extension from an existing commuter rail line.

[~~(8)~~] (9) (a) "Developable area" means the portion of land within a housing and transit reinvestment zone available for development and construction of business and residential uses.

(b) "Developable area" does not include portions of land within a housing and transit reinvestment zone that are allocated to:

(i) parks;

(ii) recreation facilities;

(iii) open space;

(iv) trails;

(v) publicly-owned roadway facilities; or

(vi) other public facilities.

[~~(9)~~] (10) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together, as a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.

[~~(10)~~] (11) "Enhanced development" means the construction of mixed uses including housing, commercial uses, and related facilities.

[~~(11)~~] (12) "Enhanced development costs" means extra costs associated with structured parking costs, vertical construction costs, horizontal construction costs, life safety costs, structural costs, conveyor or elevator costs, and other costs incurred due to the increased height of buildings or enhanced development.

(13) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

[~~(12)~~] (14) "Horizontal construction costs" means the additional costs associated with earthwork, over excavation, utility work, transportation infrastructure, and landscaping to achieve enhanced development in the housing and transit reinvestment zone.

[~~(13)~~] (15) "Housing and transit reinvestment zone" means a housing and transit reinvestment zone created pursuant to this part.

[~~(14)~~] (16) "Housing and transit reinvestment zone committee" means a housing and transit reinvestment zone committee created pursuant to Section 63N-3-605.

[~~(15)~~] (17) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(16)~~] (18) "Light rail" means a passenger rail public transit system with right-of-way and fixed rails:

(a) dedicated to exclusive use by light-rail public transit vehicles;

(b) that may cross streets at grade; and

(c) that may share parts of surface streets.

(19) "Light rail station" means an existing station, stop, or terminal or a proposed station, stop, or terminal, which has been specifically identified in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan:

(a) along an existing light rail line; or

(b) along an extension to an existing light rail line or new light rail line.

[~~(17)~~] (20) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

[~~(18)~~] (21) "Mixed use development" means development with a mix of multi-family residential use and at least one additional land use.

[~~(19)~~] (22) "Municipality" means the same as that term is defined in Section 10-1-104.

[~~(20)~~] (23) "Participant" means the same as that term is defined in Section 17C-1-102.

[~~(21)~~] (24) "Participation agreement" means the same as that term is defined in Section 17C-1-102, except that the agency may not provide and the person may not receive a direct subsidy.

[~~(22)~~] (25) "Public transit county" means a county that has created a small public transit district.

[~~(23)~~] (26) "Public transit hub" means a public transit depot or station where four or more routes serving separate parts of the county-created transit district stop to transfer riders between routes.

[~~(24)~~] (27) "Sales and use tax base year" means a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a housing and transit reinvestment zone is established.

[~~(25)~~] (28) "Sales and use tax boundary" means a boundary created as described in Section 63N-3-604, based on state sales and use tax collection that corresponds as closely as reasonably practicable to the housing and transit reinvestment zone boundary.

[~~(26)~~] (29) "Sales and use tax increment" means the difference between:

(a) the amount of state sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and

(b) the amount of state sales and use tax revenue that was generated from that same area during the sales and use tax base year.

[~~(27)~~] (30) "Sales and use tax revenue" means revenue that is generated from the tax imposed under Section 59-12-103.

[~~(28)~~] (31) "Small public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(29)~~] (32) "Tax [~~commission~~] Commission" means the State Tax Commission created in Section 59-1-201.

[~~(30)~~] (33) "Tax increment" means the difference between:

(a) the amount of property tax revenue generated each tax year by a taxing entity from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(b) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

[~~(31)~~] (34) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

[~~(32)~~] (35) "Vertical construction costs" means the additional costs associated with construction above four stories and structured parking to achieve enhanced development in the housing and transit reinvestment zone.

Section 2. Section 63N-3-603 is amended to read:

63N-3-603. Applicability, requirements, and limitations on a housing and transit reinvestment zone.

(1) A housing and transit reinvestment zone proposal created under this part shall promote the following objectives:

(a) higher utilization of public transit;

(b) increasing availability of housing, including affordable housing, and fulfillment of moderate income housing plans;

(c) improving efficiencies in parking and transportation, including walkability of communities near public transit facilities;

(d) overcoming development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives;

[~~(c)~~] (e) conservation of water resources through efficient land use;

[~~(d)~~] (f) improving air quality by reducing fuel consumption and motor vehicle trips;

[~~(e)~~] (g) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;

[~~(f)~~] (h) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2);

[~~(g)~~] (i) increasing access to employment and educational opportunities; and

[~~(h)~~] (j) increasing access to child care.

(2) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:

(a) except as provided in Subsection (3), at least 10% of the proposed dwelling units within the housing and transit reinvestment zone are affordable housing units;

(b) at least 51% of the developable area within the housing and transit reinvestment zone includes residential uses with, except as provided in Subsection (4)(c), an average of 50 dwelling units per acre or greater;

(c) mixed-use development; and

(d) a mix of dwelling units to ensure that a reasonable percentage of the dwelling units has more than one bedroom.

(3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).

(4) (a) A municipality may only propose a housing and transit reinvestment zone at a commuter rail station, and a public transit county may only propose a housing and transit reinvestment zone at a public transit hub, that:

(i) subject to Subsection (5)(a):

(A) (I) except as provided in Subsection (4)(a)(i)(A)(II), for a municipality, does not exceed a 1/3 mile radius of a commuter rail station;

(II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, with an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code, does not exceed a 1/2 mile radius of a commuter rail station located within the opportunity zone; or

(III) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and

(B) has a total area of no more than 125 noncontiguous acres;

(ii) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

(b) A municipality or public transit county may only propose a housing and transit reinvestment zone at a light rail station or bus rapid transit station that:

(i) subject to Subsection (5):

(A) does not exceed:

(I) except as provided in Subsection (4)(b)(i)(A)(II) or (III), a 1/4 mile radius of a bus rapid transit station or light rail station;

(II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, a 1/2 mile radius of a light rail station located in an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code; or

(III) a 1/2 mile radius of a light rail station located within a master-planned development of 500 acres or more; and

(B) has a total area of no more than 100 noncontiguous acres;

(ii) subject to Subsection (4)(c) and Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 15 consecutive years on each parcel within a 30-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

(c) For a housing and transit reinvestment zone proposed by a public transit county at a public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at a bus rapid transit station, if the proposed housing density within the housing and transit reinvestment zone is between 39 and 49 dwelling units per acre, the maximum capture of each taxing entity's tax increment above the base year is 60%.

(d) A municipality that is a city of the first class with a population greater than 150,000 in a county of the first class as described in Subsections (4)(a)(i)(A)(II) and (4)(b)(i)(A)(II) may only propose one housing and transit reinvestment zone within an opportunity zone.

(e) A county of the first class may not propose a housing and transit reinvestment zone that includes an area that is part of a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, until the project area is dissolved pursuant to Section 17C-1-702.

(5) (a) For a housing and transit reinvestment zone for a commuter rail station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a)(i).

(b) For a housing and transit reinvestment zone for a light rail or bus rapid transit station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(b)(i).

(6) The notice of commencement of collection of tax increment required in Subsection (4)(a)(iii) or (4)(b)(iii) shall be sent by mail or electronically to:

(a) the tax commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the housing and transit reinvestment zone is located;

(e) each taxing entity affected by the collection of tax increment from the housing and transit reinvestment zone; and

(f) the Governor's Office of Economic Opportunity.

(7) (a) The maximum number of housing and transit reinvestment zones at light rail stations is eight in any given county.

(b) [~~The~~] Within a county of the first class, the maximum number of housing and transit reinvestment zones at bus rapid transit stations is three [~~in~~] [~~any given county~~].

(8) (a) This Subsection (8) applies to a specified county, as defined in Section 17-27a-408, that has created a small public transit district on or before January 1, 2022.

(b) (i) A county described in Subsection (8)(a) shall, in accordance with Section 63N-3-604, prepare and submit to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone on or before December 31, 2022.

(ii) A county described in Subsection (8)(a) that, on December 31, 2022, was noncompliant under Section 17-27a-408 for failure to demonstrate in the county's moderate income housing report that the county complied with Subsection (8)(b)(i), may cure the deficiency in the county's moderate income housing report by submitting satisfactory proof to the Housing and Community Development Division that, notwithstanding the deadline in Subsection (8)(b)(i), the county has submitted to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone.

(c) (i) A county described in Subsection (8)(a) may not propose a housing and transit reinvestment zone if more than 15% of the acreage within the housing and transit reinvestment zone boundary is owned by the county.

(ii) For purposes of determining the percentage of acreage owned by the county as described in Subsection (8)(c)(i), a county may exclude any acreage owned that is used for highways, bus rapid transit, light rail, or commuter rail within the boundary of the housing and transit reinvestment zone.

(d) To accomplish the objectives described in Subsection (1), if a county described in Subsection

(8)(a) has failed to comply with Subsection (8)(b)(i) by failing to submit an application before December 31, 2022, an owner of undeveloped property who has submitted a land use application to the county on or before December 31, 2022, and is within a 1/3 mile radius of a public transit hub in a county described in Subsection (8)(a), including parcels that are bisected by the 1/3 mile radius, shall have the right to develop and build a mixed-use development including the following:

(i) excluding the parcels devoted to commercial uses as described in Subsection (8)(d)(ii), at least 39 dwelling units per acre on average over the developable area, with at least 10% of the dwelling units as affordable housing units;

(ii) commercial uses including office, retail, educational, and healthcare in support of the mixed-use development constituting up to 1/3 of the total planned gross building square footage of the subject parcels; and

(iii) any other infrastructure element necessary or reasonable to support the mixed-use development, including parking infrastructure, streets, sidewalks, parks, and trails.

Section 3. Section 63N-3-604 is amended to read:

63N-3-604. Process for a proposal of a housing and transit reinvestment zone -- Analysis.

(1) Subject to approval of the housing and transit reinvestment zone committee as described in Section 63N-3-605, in order to create a housing and transit reinvestment zone, a municipality or public transit county that has general land use authority over the housing and transit reinvestment zone area, shall:

(a) prepare a proposal for the housing and transit reinvestment zone that:

(i) demonstrates that the proposed housing and transit reinvestment zone will meet the objectives described in Subsection 63N-3-603(1);

(ii) explains how the municipality or public transit county will achieve the requirements of Subsection 63N-3-603(2)(a);

(iii) defines the specific transportation infrastructure needs, if any, and proposed improvements;

(iv) defines the boundaries of:

(A) the housing and transit reinvestment zone; and

(B) the sales and use tax boundary corresponding to the housing and transit reinvestment zone boundary, as described in Section 63N-3-610;

(v) includes maps of the proposed housing and transit reinvestment zone to illustrate:

(A) the proposed boundary and radius from a public transit hub;

(B) proposed housing density within the housing and transit reinvestment zone; and

(C) existing zoning and proposed zoning changes related to the housing and transit reinvestment zone;

[~~(v)~~] (vi) identifies any development impediments that prevent the development from being a market-rate investment and proposed strategies for addressing each one;

[~~(vi)~~] (vii) describes the proposed development plan, including the requirements described in Subsections 63N-3-603(2) and (4);

[~~(vii)~~] (viii) establishes a base year and collection period to calculate the tax increment within the housing and transit reinvestment zone;

[~~(viii)~~] (ix) establishes a sales and use tax base year to calculate the sales and use tax increment within the housing and transit reinvestment zone;

[~~(ix)~~] (x) describes projected maximum revenues generated and the amount of tax increment capture from each taxing entity and proposed expenditures of revenue derived from the housing and transit reinvestment zone;

[~~(x)~~] (xi) includes an analysis of other applicable or eligible incentives, grants, or sources of revenue that can be used to reduce the finance gap;

[~~(xi)~~] (xii) evaluates possible benefits to active and public transportation availability and impacts on air quality;

[~~(xii)~~] (xiii) proposes a finance schedule to align expected revenue with required financing costs and payments; [~~and~~]

[~~(xiii)~~] (xiv) provides a pro-forma for the planned development including the cost differential between surface parked multi-family development and enhanced development that satisfies the requirements described in Subsections 63N-3-603(2), (3), and (4); and

(xv) for a housing and transit reinvestment zone at a commuter rail station, light rail station, or bus rapid transit station that is proposed and not in public transit service operation as of the date of submission of the proposal, demonstrates that the proposed station is:

(A) included in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan; and

(B) reasonably anticipated to be constructed in the near future; and

(b) submit the housing and transit reinvestment zone proposal to the Governor's Office of Economic Opportunity.

(2) As part of the proposal described in Subsection (1), a municipality or public transit county shall study and evaluate possible impacts of a proposed housing and transit reinvestment zone on parking within the city and housing and transit reinvestment zone.

(3) (a) After receiving the proposal as described in Subsection (1)(b), the Governor's Office of Economic Opportunity shall[~~,~~]:

(i) within 14 days after the date on which the Governor's Office of Economic Opportunity receives the proposal described in Subsection (1)(b), provide notice of the proposal to all affected taxing entities, including the Tax Commission, cities, counties, school districts, and metropolitan planning organizations; and

(ii) at the expense of the proposing municipality or public transit county as described in Subsection (5), contract with an independent entity to perform the gap analysis described in Subsection (3)(b).

(b) The gap analysis required in Subsection (3)(a)(ii) shall include:

(i) a description of the planned development;

(ii) a market analysis relative to other comparable project developments included in or adjacent to the municipality or public transit county absent the proposed housing and transit reinvestment zone;

(iii) an evaluation of the proposal to and a determination of the adequacy and efficiency of the proposal;

(iv) an evaluation of the proposed increment capture needed to cover the enhanced development costs associated with the housing and transit reinvestment zone proposal and enable the proposed development to occur; and

(v) based on the market analysis and other findings, an opinion relative to the [~~minimum~~] appropriate amount of potential public financing reasonably determined to be necessary to achieve the objectives described in Subsection 63N-3-603(1).

(c) After receiving notice from the Governor's Office of Economic Opportunity of a proposed housing and transit reinvestment zone as described in Subsection (3)(a)(i), the Tax Commission shall:

(i) evaluate the feasibility of administering the tax implications of the proposal; and

(ii) provide a letter to the Governor's Office of Economic Opportunity describing any challenges in the administration of the proposal, or indicating that the Tax Commission can feasibly administer the proposal.

(4) After receiving the results from the analysis described in Subsection (3)(b), the municipality or public transit county proposing the housing and transit reinvestment zone may:

(a) amend the housing and transit reinvestment zone proposal based on the findings of the analysis described in Subsection (3)(b) and request that the Governor's Office of Economic Opportunity submit the amended housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee; or

(b) request that the Governor's Office of Economic Opportunity submit the original housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee.

(5) (a) The Governor's Office of Economic Opportunity may accept, as a dedicated credit, up to $20,000 from a municipality or public transit county for the costs of the gap analysis described in Subsection (3)(b).

(b) The Governor's Office of Economic Opportunity may expend funds received from a municipality or public transit county as dedicated credits to pay for the costs associated with the gap analysis described in Subsection (3)(b).

Section 4. Section 63N-3-605 is amended to read:

63N-3-605. Housing and Transit Reinvestment Zone Committee -- Creation.

(1) For any housing and transit reinvestment zone proposed under this part, there is created a housing and transit reinvestment zone committee with membership described in Subsection (2).

(2) Each housing and transit reinvestment zone committee shall consist of the following members:

(a) one representative from the Governor's Office of Economic Opportunity, designated by the executive director of the Governor's Office of Economic Opportunity;

(b) one representative from each municipality that is a party to the proposed housing and transit reinvestment zone, designated by the chief executive officer of each respective municipality;

(c) a member of the Transportation Commission created in Section 72-1-301;

(d) a member of the board of trustees of a large public transit district;

[~~(c) one representative from the Department of Transportation created in Section 72-1-201, designated by the executive director of the Department of Transportation;~~]

[~~(d) one representative from a large public transit district that serves the proposed housing and transit reinvestment zone area, designated by the chair of the board of trustees of a large public transit district;~~]

(e) one individual from the Office of the State Treasurer, designated by the state treasurer;

(f) one member designated by the president of the Senate;

(g) one member designated by the speaker of the House of Representatives;

[~~(h) one individual from the tax commission, designated by the executive director of the tax commission;~~]

[~~(i)~~] (h) one member designated by the chief executive officer of each county affected by the housing and transit reinvestment zone;

[~~(j)~~] (i) one representative designated by the school superintendent from the school district affected by the housing and transit reinvestment zone; and

[~~(k)~~] (j) one representative, representing the largest participating local taxing entity, after the municipality, county, and school district.

(3) The individual designated by the Governor's Office of Economic Opportunity as described in Subsection (2)(a) shall serve as chair of the housing and transit reinvestment zone committee.

(4) (a) A majority of the members of the housing and transit reinvestment zone committee constitutes a quorum of the housing and transit reinvestment zone committee.

(b) An action by a majority of a quorum of the housing and transit reinvestment zone committee is an action of the housing and transit reinvestment zone committee.

(5) After the Governor's Office of Economic Opportunity receives the results of the analysis described in Section 63N-3-604, and after the Governor's Office of Economic Opportunity has received a request from the submitting municipality or public transit county to submit the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee, the Governor's Office of Economic Opportunity shall notify each of the entities described in Subsection (2) of the formation of the housing and transit reinvestment zone committee.

(6) (a) The chair of the housing and transit reinvestment zone committee shall convene a public meeting to consider the proposed housing and transit reinvestment zone.

(b) A meeting of the housing and transit reinvestment zone committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(7) (a) The proposing municipality or public transit county shall present the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee in a public meeting.

(b) The housing and transit reinvestment zone committee shall:

(i) evaluate and verify whether the elements of a housing and transit reinvestment zone described in Subsections 63N-3-603(2) and (4) have been met; and

(ii) evaluate the proposed housing and transit reinvestment zone relative to the analysis described in Subsection 63N-3-604(2).

(8) (a) Subject to Subsection (8)(b), the housing and transit reinvestment zone committee may:

(i) request changes to the housing and transit reinvestment zone proposal based on the analysis, characteristics, and criteria described in Section 63N-3-604; or

(ii) vote to approve or deny the proposal.

(b) Before the housing and transit reinvestment zone committee may approve the housing and transit reinvestment zone proposal, the municipality or public transit county proposing the housing and transit reinvestment zone shall ensure that the area of the proposed housing and transit reinvestment zone is zoned in such a manner to accommodate the requirements of a housing and transit reinvestment zone described in this section and the proposed development.

(9) If a housing and transit reinvestment zone is approved by the committee:

(a) the proposed housing and transit reinvestment zone is established according to the terms of the housing and transit reinvestment zone proposal;

(b) affected local taxing entities are required to participate according to the terms of the housing and transit reinvestment zone proposal; and

(c) each affected taxing municipality is required to participate at the same rate as a participating county.

(10) A housing and transit reinvestment zone proposal may be amended by following the same procedure as approving a housing and transit reinvestment zone proposal.

CHAPTER 358
S. B. 92
Passed February 15, 2023
Approved March 17, 2023
Effective November 1, 2023

SPECIAL LICENSE PLATE DESIGNATION

Chief Sponsor: Jen Plumb
House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill creates the Great Salt Lake Preservation support special group license plate.

Highlighted Provisions:

This bill:

- creates the Great Salt Lake Preservation support special group license plate;
- directs revenue generated by the support special group license plate to be deposited into the Sovereign Lands Management Account to enhance preservation of the Great Salt Lake watershed and ecosystem; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-418, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, and 451
41-1a-422, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, 255, 259, 335, 451, and 456
65A-5-1, as last amended by Laws of Utah 2022, Chapter 54

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of Outdoor Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiii) programs that support children with heart disease;

(xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

(xxviii) programs that promote motorcycle safety awareness;

(xxix) organizations that promote clean air through partnership, education, and awareness;

(xxx) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities;

(xxxi) organizations dedicated to facilitating, connecting, registering, and advocating for organ donors and donor families;

(xxxii) public education on behalf of the Kiwanis International clubs;

(xxxiii) the Live On suicide prevention campaign; [~~or~~]

(xxxiv) the Division of State Parks to advance the Utah State Parks dark sky initiative[~~.~~]; or

(xxxv) the Division of Forestry, Fire, and State Lands to protect the Great Salt Lake.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection

41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 2. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Outdoor Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Outdoor Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 80-2-502 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(EE) the Latino Community Support Restricted Account created in Section 13-1-16;

(FF) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101;

(GG) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Uniform School Fund;

(HH) the Governor's Suicide Prevention Fund created in Section 62A-15-1103 to support the Live On suicide prevention campaign administered by the Division of Integrated Healthcare; [~~or~~]

(II) the State Park Fees Restricted Account created in Section 79-4-402 to support the Division of State Parks' dark sky initiative[.]; or

(JJ) the Sovereign Lands Management Account created in Section 65A-5-1 to support the Division of Forestry, Fire, and State Lands' efforts to benefit and conserve the Great Salt Lake watershed and ecosystem.

(ii) (A) For a veterans special group license plate described in Subsection (4) or 41-1a-421(1)(a)(v), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section

63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), an applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(ii) An applicant for a historical special group license plate is not required to make a donation to the Utah State Historical Society if the historical special group license plate is for a vintage vehicle that has a model year of 1980 or older.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months before registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 3. Section 65A-5-1 is amended to read:

65A-5-1. Sovereign Lands Management Account.

(1) There is created within the General Fund a restricted account known as the "Sovereign Lands Management Account."

(2) The Sovereign Lands Management Account shall consist of the following:

(a) the revenues derived from sovereign lands, except for revenues deposited into the Great Salt Lake Account under Section 65A-5-1.5;

(b) that portion of the revenues derived from mineral leases on other lands managed by the division necessary to recover management costs;

(c) revenues derived from the Great Salt Lake Preservation support special group license plate described in Sections 41-1a-418 and 41-1a-422;

[~~(c)~~] (d) fees deposited by the division; and

[~~(d)~~] (e) amounts deposited into the account in accordance with Section 59-23-4.

(3) (a) The expenditures of the division relating directly to the management of sovereign lands shall be funded by appropriation by the Legislature from the Sovereign Lands Management Account or other sources.

(b) Money in the Sovereign Lands Management Account may be used only for the direct benefit of sovereign lands, including the management of sovereign lands.

(c) In appropriating money from the Sovereign Lands Management Account, the Legislature shall prefer appropriations that benefit the sovereign land from which the money is derived unless compelling circumstances require that money be appropriated for sovereign land other than the sovereign land from which the money is derived.

(4) The division shall use the amount deposited into the account under Subsection (2)(d) for the Great Salt Lake as described in Section 65A-10-8 as directed by the Great Salt Lake Advisory Council created in Section 73-30-201.

Section 4. Effective date.

This bill takes effect on November 1, 2023.

CHAPTER 359
S. B. 103
Passed March 2, 2023
Approved March 17, 2023
Effective May 3, 2023

STUDENT GRADUATION ATTIRE MODIFICATIONS

Chief Sponsor: Karen Kwan
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill allows individuals to wear cultural attire during graduation ceremonies.

Highlighted Provisions:

This bill:

- allows all public school students to wear items of religious or cultural significance as part of their graduation attire.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-4-414, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-4-414 is enacted to read:

53G-4-414. Religious or cultural attire at school graduation ceremonies.

(1) As used in this section:

(a) "Adornment" means something that a student attaches to or wears with, but does not replace, graduation attire.

(b) "Cultural" means recognized practices and traditions of a certain group of people.

(c) "Graduation attire" means attire that an LEA requires a student to wear as part of the dress code for a graduation ceremony.

(d) "Graduation ceremony" means a high school graduation ceremony.

(2) A student may wear recognized items of cultural or religious significance as an adornment at a graduation ceremony.

(3) (a) Notwithstanding Subsection (2), an LEA may prohibit a student from wearing an item of adornment that is likely to cause a substantial disruption of, or material interference with, the graduation ceremony.

(b) Any prohibition imposed by an LEA on a student's item of cultural or religious significance worn as an adornment shall be by the least restrictive means necessary to accomplish a specifically identified compelling governmental interest.

(4) An individual may bring a violation of this section to the state board in accordance with the process described in Subsection 53E-3-401(8)(d).

(5) Nothing in this section limits an LEA's authority related to student expression under applicable federal and state law.

(6) Nothing in this section shall limit or impair the rights of a qualifying student under Section 53G-4-412 to wear tribal regalia to a graduation ceremony.

CHAPTER 360
S. B. 108
Passed February 16, 2023
Approved March 17, 2023
Effective May 3, 2023

ANIMAL SHELTER REVISIONS

Chief Sponsor: Michael K. McKell
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill establishes requirements for animal shelters that euthanize animals.

Highlighted Provisions:

This bill:

- modifies definitions;
- addresses the methods by which an animal shelter or animal control officer may euthanize an animal;
- requires an animal shelter that euthanizes animals to adopt a euthanasia policy and training program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-46-102, as enacted by Laws of Utah 2011, Chapter 130
11-46-103, as enacted by Laws of Utah 2011, Chapter 130

ENACTS:

11-46-401, Utah Code Annotated 1953
11-46-402, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-46-102 is amended to read:

11-46-102. Definitions.

As used in this chapter:

(1) (a) "Animal" means a cat or dog.

(b) "Animal" does not include livestock, as that term is defined in Section 4-1-109.

(2) "Animal control officer" means any person employed or appointed by a county or a municipality who is authorized to investigate violations of laws and ordinances concerning animals, to issue citations in accordance with Utah law, and to take custody of animals as appropriate in the enforcement of [~~the~~] laws and ordinances concerning animals.

(3) (a) "Animal shelter" means a facility or program[~~:~~] that provides services for stray, lost, or unwanted animals, including holding and placing the animals for adoption.

[~~(a) providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution conducting research on animals, as defined in Section 26-26-1; or~~]

[~~(b) a private humane society or private animal welfare organization.~~]

(b) "Animal shelter" includes a private humane society or private animal welfare organization.

(c) "Animal shelter" does not include an institution, as that term is defined in Section 26-26-1, that is conducting research on animals.

(4) "Person" means an individual, an entity, or a representative of an entity.

Section 2. Section 11-46-103 is amended to read:

11-46-103. Stray animals.

(1) Each municipal or county animal control officer shall hold or cause to be held at an animal shelter any unidentified or unclaimed stray animal in safe and humane custody for a minimum of five business days after the time of impound and prior to making any final disposition of the animal.

[~~(2) A record of each animal held shall be maintained. The record shall include:~~]

(2) An animal shelter shall ensure that a record of each held animal is maintained that includes the:

(a) date of impound;

(b) date of disposition; and

(c) method of disposition, which may be:

(i) placement in an adoptive home or other transfer of the animal, which shall be in [~~compliance~~] accordance with Part 2, Animal Shelter Pet Sterilization Act;

(ii) return to [~~its~~] the animal's owner;

(iii) placement in a community cat program as defined in Section 11-46-302; or

(iv) euthanasia in accordance with Part 4, Euthanasia of Shelter Animals.

(3) An unidentified or unclaimed stray animal may be euthanized [~~prior to~~] before the completion of the five working day minimum holding period to prevent unnecessary suffering due to serious injury or disease[~~,~~] if the euthanasia [~~is in compliance~~] complies with:

(a) written agency or department policies and procedures[~~, and with~~];

(b) [~~any~~] local ordinances [~~allowing the euthanasia.~~]; and

(c) Part 4, Euthanasia of Shelter Animals.

(4) An unidentified or unclaimed stray animal shall be returned to [~~its~~] the animal's owner upon:

(a) the establishment of proof of ownership;

(b) compliance with the requirements of [~~local animal control~~] applicable local ordinances; and

(c) compliance with Part 2, Animal Shelter Pet Sterilization Act.

Section 3. Section 11-46-401 is enacted to read:

Part 4. Euthanasia of Shelter Animals

11-46-401. Euthanasia of shelter animals -- Permitted methods.

(1) Subject to Subsection (2), and except as provided in Subsection (3), on or after October 1, 2023, an animal shelter may euthanize an animal only by administering a drug that the U.S. Food and Drug Administration has approved for the euthanasia of an animal, as that term is defined in this chapter.

(2) An animal shelter may euthanize an animal only by:

(a) intravenous injection by hypodermic needle;

(b) intraperitoneal injection by hypodermic needle; or

(c) if an animal is unconscious, intracardial injection by hypodermic needle.

(3) (a) Subsection (1) does not apply to an animal control officer who, subject to Subsection (3)(b), euthanizes an animal in an emergency situation outside of an animal shelter's facility or place of business.

(b) If an animal control officer euthanizes an animal in an emergency situation, the officer shall use, in the officer's judgment, the most humane method available to the officer.

Section 4. Section 11-46-402 is enacted to read:

11-46-402. Animal shelter euthanasia training -- Documentation.

(1) If an animal shelter performs euthanasia on animals, the animal shelter shall:

(a) adopt a policy for euthanasia that mandates procedures that comply with the applicable provisions of this part;

(b) adopt a euthanasia training program; and

(c) require each person who conducts or assists with euthanasia on behalf of the animal shelter to attend a euthanasia training program at least once every two years.

(2) An animal shelter described in Subsection (1) shall:

(a) ensure that the euthanasia training program is taught by a veterinarian who is licensed in accordance with Title 58, Chapter 28, Veterinary Practice Act; and

(b) maintain a record of training dates and who attended.

CHAPTER 361
S. B. 121
Passed March 1, 2023
Approved March 17, 2023
Effective July 1, 2023

CAR-SHARING AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies provisions relating to motor vehicles shared though a car-sharing business platform.

Highlighted Provisions:

This bill:

- enacts provisions relating to business platforms that connect motor vehicle owners with drivers to enable the sharing of motor vehicles for consideration;
- enacts consumer protection provisions relating to a car-sharing program, including:
  - required disclosures on a car-sharing agreement;
  - driver requirements; and
  - records of a car-sharing program;
- enacts provisions relating to liability and insurance for claims arising during the period a shared vehicle is used under a car-sharing program;
- prohibits certain local taxes, fees, and charges on peer-to-peer car sharing;
- amends provisions related to taxes on peer-to-peer car sharing;
- clarifies the taxes a marketplace facilitator is required to collect and remit;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-12-102, as last amended by Laws of Utah 2021, Chapters 64, 367 and 414 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 367
59-12-103, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433
59-12-107.6, as enacted by Laws of Utah 2019, Chapter 486
59-12-602, as last amended by Laws of Utah 2020, Chapter 407
59-12-603, as last amended by Laws of Utah 2020, Chapter 407
59-12-1201, as last amended by Laws of Utah 2016, Chapters 184, 291

ENACTS:

11-26-401, Utah Code Annotated 1953
13-48a-101, Utah Code Annotated 1953
13-48a-102, Utah Code Annotated 1953
13-48a-201, Utah Code Annotated 1953
13-48a-202, Utah Code Annotated 1953
13-48a-203, Utah Code Annotated 1953
13-48a-204, Utah Code Annotated 1953
13-48a-205, Utah Code Annotated 1953
13-48a-301, Utah Code Annotated 1953
13-48a-302, Utah Code Annotated 1953
13-48a-303, Utah Code Annotated 1953
13-48a-304, Utah Code Annotated 1953
13-48a-305, Utah Code Annotated 1953
13-48a-306, Utah Code Annotated 1953
13-48a-307, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-26-401 is enacted to read:

CHAPTER 26. LIMITATIONS ON LOCAL TAXES AND FEES

Part 4. Car Sharing Taxes, Fees, and Charges

11-26-401. Definitions -- Prohibition on car sharing program taxes, fees, and other charges.

(1) As used in this part:

(a) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(b) "County" means the same as that term is defined in Section 17-50-101.

(c) "Municipality" means a city or a town.

(d) "Political subdivision" means the same as that term is defined in Section 11-14-102.

(e) "Rental" means the same as the terms "lease" or "rental" are defined in Section 59-12-102.

(2) A county, municipality, or other political subdivision may not impose a tax, fee, or charge on the gross proceeds or gross income of a car sharing transaction that the jurisdiction does not impose on other transactions involving the rental of a motor vehicle without a driver.

Section 2. Section 13-48a-101 is enacted to read:

CHAPTER 48a. CAR-SHARING PROGRAMS

Part 1. General Provisions

13-48a-101. Definitions.

As used in this chapter:

(1) (a) "Car sharing" means the authorized use of a motor vehicle:

(i) by an individual other than the owner of the motor vehicle; and

(ii) through a peer-to-peer car-sharing program.

(b) "Car sharing" does not mean the business of providing private passenger motor vehicles to the public as used in Section 31A-22-311.

(2) (a) "Car-sharing agreement" means an agreement:

(i) applicable to a shared vehicle owner and a shared vehicle driver; and

(ii) that governs a shared vehicle driver's use of a shared vehicle through a car-sharing program.

(b) "Car-sharing agreement" does not mean:

(i) a rental agreement, as defined in Section 31A-22-311; or

(ii) a short-term rental as that term is defined in Section 59-12-602.

(3) "Car-sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car-sharing start time, if applicable, as documented by the governing car-sharing agreement.

(4) "Car-sharing period" means the period of time that:

(a) (i) begins at the car-sharing delivery period; or

(ii) if there is no car-sharing delivery period, begins at the car-sharing start time; and

(b) ends at the car-sharing termination time.

(5) (a) "Car-sharing program" or "peer-to-peer car-sharing program" means a business platform that connects motor vehicle owners with drivers to enable the sharing of motor vehicles for consideration.

(b) "Car-sharing program" does not mean:

(i) a motor vehicle rental company, as defined in Section 13-48-102; or

(ii) a rental company, as defined in Section 31A-22-311.

(6) "Car-sharing start time" means the time when a shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of the shared vehicle is scheduled to begin, as documented in the records of the car-sharing program.

(7) "Car-sharing termination time" means the earliest of the following events:

(a) the expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car-sharing agreement, if the shared vehicle is delivered to the location agreed upon in the car-sharing agreement;

(b) when the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a car-sharing program, which alternatively agreed upon location shall be incorporated into the car-sharing agreement; and

(c) when the shared vehicle owner or shared vehicle owner's authorized designee takes possession and control of the shared vehicle.

(8) "Individual-owned shared vehicle" means:

(a) for a motor vehicle purchased in the state, a shared vehicle for which applicable sales tax and use tax was paid on the purchase; or

(b) for a motor vehicle not purchased in the state, a shared vehicle for which:

(i) an applicable use tax was paid to this state on the purchase; or

(ii) sales tax or use tax was paid on the purchase in the jurisdiction in which the motor vehicle was purchased.

(9) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(10) "Shared vehicle" means a motor vehicle that is available for use by an individual other than the shared vehicle owner through a car-sharing program.

(11) (a) "Shared vehicle driver" means an individual who has been authorized to drive a shared vehicle by the shared vehicle owner under a car-sharing program.

(b) "Shared vehicle driver" does not mean a renter, as defined in Section 31A-22-311.

(12) (a) "Shared vehicle owner" means:

(i) the registered owner of a motor vehicle made available for car sharing; or

(ii) a person designated by the registered owner of a motor vehicle made available for car sharing.

(b) "Shared vehicle owner" does not mean a rental company, as defined in Section 31A-22-311.

Section 3. Section 13-48a-102 is enacted to read:

13-48a-102. Limits on reach of chapter.

Nothing in this chapter:

(1) limits the liability of a car-sharing program for an act or omission of the car-sharing program that results in injury to a person as a result of the use of a shared vehicle through a car-sharing program; or

(2) limits the ability of the car-sharing program, by contract, to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the car-sharing program resulting from a breach of the terms and conditions of the car-sharing agreement.

Section 4. Section 13-48a-201 is enacted to read:

Part 2. Consumer Protection Provisions

13-48a-201. Notification about possible violation of lienholder agreement.

(1) As used in this section, "lienholder agreement" means an agreement between the owner of a motor vehicle and another person under which the other person has a lien against the motor vehicle.

(2) At the time that the owner of a motor vehicle registers to make the owner's motor vehicle available for sharing through a car-sharing program, the car-sharing program shall notify the owner that the use of the owner's motor vehicle

through the car-sharing program, including without physical damage coverage, may violate the terms of a lienholder agreement that the motor vehicle may be subject to.

Section 5. Section 13-48a-202 is enacted to read:

13-48a-202. Safety recalls.

(1) At the time that the owner of a motor vehicle registers to make the owner's motor vehicle available for sharing through a car-sharing program, the car-sharing program shall:

(a) verify that the shared vehicle does not have any safety recalls for which the repairs have not been made; and

(b) notify the motor vehicle owner of the requirements under Subsections (2), (3), and (4).

(2) An owner of a motor vehicle may not register to make the owner's motor vehicle available for sharing through a car-sharing program if:

(a) the owner has received an actual notice of a safety recall applicable to the motor vehicle; and

(b) the safety recall repair has not been made.

(3) A shared vehicle owner who receives an actual notice of a safety recall applicable to the shared vehicle during the time that the shared vehicle is made available for sharing through a car-sharing program shall, as soon as practicably possible after receiving the notice, remove the shared vehicle from availability for sharing through the car-sharing program until the safety recall repair is made.

(4) A shared vehicle owner who receives an actual notice of a safety recall applicable to the shared vehicle during the time that the shared vehicle is in the possession of a shared vehicle driver under a car-sharing agreement shall, as soon as practicably possible after receiving the notice, notify the car-sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

Section 6. Section 13-48a-203 is enacted to read:

13-48a-203. Required disclosures for a car-sharing agreement.

A car-sharing agreement shall disclose to the shared vehicle owner and the shared vehicle driver:

(1) a right of the car-sharing company to seek indemnification from the shared vehicle owner or shared vehicle driver for economic loss resulting from a breach of the car-sharing agreement;

(2) that a motor vehicle liability insurance policy issued to the shared vehicle owner or shared vehicle driver does not provide a defense or indemnification for any claim asserted by the car-sharing company;

(3) that the car-sharing program's insurance policy covering the shared vehicle owner and the shared vehicle driver is in effect only during the car-sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car-sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

(4) of the daily rate, fees, and, if applicable, insurance or protection package costs that are charged to the shared vehicle owner or shared vehicle driver;

(5) that the shared vehicle owner's motor vehicle liability insurance policy may not provide coverage for the shared vehicle;

(6) of an emergency telephone number to contact personnel capable of fielding roadside assistance or other customer service inquiries; and

(7) whether there are conditions under which a shared vehicle driver must maintain a personal automobile insurance policy with certain applicable coverage limits on a primary basis in order to book a shared vehicle.

Section 7. Section 13-48a-204 is enacted to read:

13-48a-204. Records relating to the use of shared vehicles.

(1) A car-sharing program shall collect and verify records pertaining to the use of a shared vehicle, including times used, car-sharing period pick up and drop off locations, fees paid by the shared vehicle driver, and revenues received by the shared vehicle owner, and provide that information upon request to the shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation, settlement, negotiation, or litigation.

(2) The car-sharing program shall retain the records for a time period not less than two years.

Section 8. Section 13-48a-205 is enacted to read:

13-48a-205. GPS or other special equipment.

(1) A car-sharing program:

(a) has sole responsibility for any GPS or other special equipment that the car-sharing company places on or in a shared vehicle to monitor the shared vehicle or facilitate the car-sharing agreement; and

(b) shall agree to indemnify and hold harmless the shared vehicle owner for any damage to the shared vehicle that:

(i) is a result of damage to or theft of equipment described in Subsection (1)(a);

(ii) occurs during the car-sharing period; and

(iii) is not caused by the shared vehicle owner.

(2) A car-sharing program may seek indemnity from a shared vehicle driver for any loss of or damage to equipment described in Subsection (1)(a) that occurs during the car-sharing period.

Section 9. Section 13-48a-301 is enacted to read:

Part 3. Liability and Insurance for Covered Loss from Operation of Shared Vehicle

13-48a-301. Car-sharing company assumption of liability for a covered loss -- Exception.

(1) Except as provided in Subsection (2), a car-sharing program shall assume liability of a shared vehicle owner for bodily injury or property damage to third parties or personal injury protection losses during the car-sharing period in an amount stated in the car-sharing agreement, which amount may not be less than those set forth in Section 31A-22-304.

(2) Notwithstanding the definition of car-sharing termination time, the assumption of liability under Subsection (1) does not apply to a shared vehicle owner when:

(a) a shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the car-sharing program before the car-sharing period in which the loss occurred; or

(b) acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car-sharing agreement.

(3) Notwithstanding the definition of car-sharing termination time, the assumption of liability under Subsection (1) would apply to bodily injury, property damage, or personal injury protection losses by damaged third parties required by Section 31A-22-304.

Section 10. Section 13-48a-302 is enacted to read:

13-48a-302. Motor vehicle liability insurance.

(1) A car-sharing program shall ensure that, during each car-sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides coverage in amounts no less than the minimum amounts set forth in Section 31A-22-304, and:

(a) recognizes that the shared vehicle insured under the policy is made available and used through a car-sharing program; or

(b) does not exclude use of a shared vehicle by a shared vehicle driver.

(2) The insurance described in Subsection (1) may be satisfied by motor vehicle liability insurance maintained by:

(a) a shared vehicle owner;

(b) a shared vehicle driver;

(c) a car-sharing program; or

(d) a shared vehicle owner, a shared vehicle driver, and a car-sharing program.

(3) The insurance described in Subsection (1) that is satisfying the insurance requirement of Subsection (1) shall be primary during each car-sharing period and in the event that a claim occurs in another state with minimum financial responsibility limits higher than those in Section 31A-22-304, during the car-sharing period, the coverage maintained under Subsection (2) shall satisfy the difference in minimum coverage amounts, up to the applicable policy limits.

(4) The insurer, insurers, or car-sharing program providing coverage under Subsection (1) or (2) shall assume primary liability for a claim when:

(a) a dispute exists as to who was in control of the shared motor vehicle at the time of the loss and the car-sharing program does not have available, did not retain, or fails to provide the information required by Section 13-48a-203; or

(b) a dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location as required under Section 13-48a-101.

(5) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with Subsection (2) has lapsed or does not provide the required coverage, insurance maintained by the car-sharing program shall provide the coverage required by Subsection (1) beginning with the first dollar of a claim and have the duty to defend the claim except under circumstances set forth in Subsection 13-48a-301(2).

(6) Coverage under an automobile insurance policy maintained by the car-sharing program is not dependent on another automobile insurer first denying a claim, nor shall another automobile insurance policy be required to first deny a claim.

Section 11. Section 13-48a-303 is enacted to read:

13-48a-303. Certain abilities of insurance companies preserved.

(1) (a) A motor vehicle liability insurance policy may exclude coverage and a duty to defend or indemnify with respect to a claim arising during a motor vehicle's use as a shared vehicle, based on the motor vehicle's use as a shared vehicle.

(b) Coverage that may be excluded as provided in Subsection (1) includes coverage for:

(i) bodily injury or property damage suffered by a third party;

(ii) a claim covered by uninsured motorist coverage described in Section 31A-22-305;

(iii) a claim covered by underinsured motorist coverage described in Section 31A-22-305.5;

(iv) a claim covered by personal injury protection coverage and benefits described in Section 31A-22-307;

(v) a claim for medical payments;

(vi) a claim for comprehensive physical damage; and

(vii) a claim for collision physical damage.

(2) Nothing in this chapter invalidates, limits, or restricts the ability of an insurance company under other applicable law to:

(a) underwrite an insurance policy; or

(b) cancel or fail to renew an insurance policy.

(3) Nothing in this chapter invalidates or limits a provision in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use, that excludes coverage for a motor vehicle made available for rent, sharing, hire, or any business use.

Section 12. Section 13-48a-304 is enacted to read:

13-48a-304. Insurable interest -- Insurance to cover various liabilities -- No liability to maintain certain insurance.

(1) Notwithstanding any other provision of law, a car-sharing program has an insurable interest in a shared vehicle during the car-sharing period.

(2) A car-sharing program may own and maintain as the named insured one or more policies of motor vehicle insurance that provide coverage for:

(a) a liability assumed by the car-sharing program under a car-sharing agreement;

(b) a liability of the shared vehicle owner;

(c) a liability of the shared vehicle driver; or

(d) damage or loss to a shared vehicle.

(3) Nothing in this section requires a car-sharing program to maintain insurance coverage for the car-sharing program's liability under this chapter.

Section 13. Section 13-48a-305 is enacted to read:

13-48a-305. Recovery for claim excluded from insurance policy.

An insurance company that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of the insurance company's policy shall have the right to seek recovery against the motor vehicle insurer of the car-sharing program if the claim is:

(1) made against the shared vehicle owner or shared vehicle driver for a loss or injury that occurs during the car-sharing period; and

(2) excluded under the terms of the policy of the insurance company that defends or indemnifies the claim.

Section 14. Section 13-48a-306 is enacted to read:

13-48a-306. Exemption from liability based on operation of a car-sharing program or on vehicle ownership.

Consistent with 49 U.S.C. Sec. 30106, a car-sharing program and a shared vehicle owner are exempt from vicarious liability under any state or local law that imposes liability solely based on vehicle ownership.

Section 15. Section 13-48a-307 is enacted to read:

13-48a-307. Driver license requirement and records.

(1) A car-sharing program may not enter into a car-sharing agreement with a driver unless the driver who will operate the shared vehicle:

(a) holds a driver license issued under the applicable law of this state that authorizes the driver to operate vehicles of the class of the shared vehicle;

(b) is a nonresident who:

(i) has a driver license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and

(ii) is at least the same age as that required of a resident to drive; or

(c) otherwise is specifically authorized to drive vehicles of the class of the shared vehicle.

(2) A car-sharing program shall keep a record of:

(a) the name and address of the shared vehicle driver;

(b) the number of the driver license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

(c) the place of issuance of the driver license.

Section 16. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d);

(e) Subsection 59-12-103(2)(e)(i)(A)(I);

(f) Section 59-12-204;

(g) Section 59-12-401;

(h) Section 59-12-402;

(i) Section 59-12-402.1;

(j) Section 59-12-703;

(k) Section 59-12-802;

(l) Section 59-12-804;

(m) Section 59-12-1102;

(n) Section 59-12-1302;

(o) Section 59-12-1402;

(p) Section 59-12-1802;

(q) Section 59-12-2003;

(r) Section 59-12-2103;

(s) Section 59-12-2213;

(t) Section 59-12-2214;

(u) Section 59-12-2215;

(v) Section 59-12-2216;

(w) Section 59-12-2217;

(x) Section 59-12-2218;

(y) Section 59-12-2219; or

(z) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(21) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

[~~(20)~~] (22) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection [~~(20)(a)(i)~~] (22)(a)(i).

[~~(21)~~] (23) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

[~~(22)~~] (24) (a) Subject to Subsection [~~(22)(b)~~] (24)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

[~~(23)~~] (25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

[~~(24)~~] (26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection [~~(57)~~] (60) or residential use under Subsection [~~(112)~~] (115).

[~~(25)~~] (27) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection [~~(25)(b)(i)~~] (27)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

[~~(26)~~] (28) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

[~~(27)~~] (29) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

[~~(28)~~] (30) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

[~~(29)~~] (31) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections [~~(29)(a)~~] (31)(a) and (b).

[~~(30)~~] (32) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection [~~(30)(a)~~] (32)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection [~~(30)(a)~~] (32)(a).

[~~(31)~~] (33) "Construction materials" means any tangible personal property that will be converted into real property.

[~~(32)~~] (34) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

[~~(33)~~] (35) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection [~~(33)(a)(i)~~] (35)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

[~~(34)~~] (36) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

[~~(35)~~] (37) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections [~~(35)(b)(i)~~] (37)(b)(i) through (v);

(c) (i) except as provided in Subsection [~~(35)(c)(ii)~~] (37)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections [~~(35)(c)(i)(A)~~] (37)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

[~~(36)~~] (38) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

[~~(37)~~] (39) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

[~~(38)~~] (40) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

[~~(39)~~] (41) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

[~~(40)~~] (42) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

[~~(41)~~] (43) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection [~~(41)(a)(ii)(B)~~] (43)(a)(ii)(B); or

(D) a person similar to a person described in Subsections [~~(41)(a)(ii)(A)~~] (43)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

[~~(42)~~] (44) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

[~~(43)~~] (45) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections [~~(43)(a)(i)(A)~~] (45)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

[~~(44)~~] (46) (a) Except as provided in Subsection [~~(44)(c)~~] (46)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection [~~(44)(a)~~] (46)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

[~~(45)~~] (47) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections [~~(45)(b)(i)~~] (47)(b)(i) through (vi).

[~~(46)~~] (48) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

[~~(47)~~] (49) "Employee" means the same as that term is defined in Section 59-10-401.

[~~(48)~~] (50) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

[~~(49)~~] (51) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

[~~(50)~~] (52) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

[~~(51)~~] (53) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection [~~(96)(b)(iii)~~] (99)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

[~~(52)~~] (54) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection [~~(52)(a)(iii)~~] (54)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

[~~(53)~~] (55) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

[~~(54)~~] (56) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

[~~(55)~~] (57) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative

Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

[~~(56)~~] (58) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(59) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

[~~(57)~~] (60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection [~~(57)(d)(i)~~] (60)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

[~~(58)~~] (61) (a) Except as provided in Subsection [~~(58)(b)~~] (61)(b), "installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

[~~(59)~~] (62) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

[~~(60)~~] (63) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code[~~.~~]; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection [~~(60)(e)(iii)~~] (63)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

[~~(61)~~] (64) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

[~~(62)~~] (65) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

[~~(63)~~] (66) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

[~~(64)~~] (67) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

[~~(65)~~] (68) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

[~~(66)~~] (69) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

[~~(67)~~] (70) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection [~~(67)(b)(i)~~] (70)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

[~~(68)~~] (71) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

[~~(69)~~] (72) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or

otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection [~~(69)(a)(i)~~] (72)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection [~~(69)(a)~~] (72)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

[~~(70)~~] (73) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

[~~(71)~~] (74) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections [~~(71)(a)~~] (74)(a) through (g); or

(j) person similar to a person described in Subsections [~~(71)(a)~~] (74)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(72)~~] (75) "Mobile home" means the same as that term is defined in Section 15A-1-302.

[~~(73)~~] (76) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[~~(74)~~] (77) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection [~~(74)(a)(i)~~] (77)(a)(i) and the termination point described in Subsection [~~(74)(a)(ii)~~] (77)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

[~~(75)~~] (78) (a) Except as provided in Subsection [~~(75)(c)~~] (78)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection [~~(75)(a)~~] (78)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

[~~(76)~~] (79) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

[~~(77)~~] (80) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection [~~(77)(b)~~] (80)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

[~~(78)~~] (81) (a) Subject to Subsection [~~(78)(b)~~] (81)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection [~~(78)(a)~~] (81)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

[~~(79)~~] (82) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

[~~(80)~~] (83) "Modular home" means a modular unit as defined in Section 15A-1-302.

[~~(81)~~] (84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

[~~(82)~~] (85) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

[~~(83)~~] (86) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

[~~(84)~~] (87) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

[~~(85)~~] (88) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

[~~(86)~~] (89) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection [~~(86)(a)~~] (89)(a), the transmission of a coded radio signal includes a transmission by message or sound.

[~~(87)~~] (90) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

[~~(88)~~] (91) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

[~~(89)~~] (92) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection [~~(89)(c)(iii)~~] (92)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection [~~(89)(b)(ii)~~] (92)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections [~~(89)(c)(iii)(A)~~] (92)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection [~~(130)(c)~~] (136)(c).

[~~(90)~~] (93) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

[~~(91)~~] (94) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[~~(92)~~] (95) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

[~~(93)~~] (96) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

[~~(94)~~] (97) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

[~~(95)~~] (98) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

[~~(96)~~] (99) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection [~~(96)(c)~~] (99)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; [~~or~~]

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections [~~(96)(b)(ii)(A)(I)~~] (99)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [~~(96)(b)(ii)(A)~~] (99)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

[~~(97)~~] (100) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

[~~(98)~~] (101) (a) Except as provided in Subsection [~~(98)(b)(ii)~~] (101)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection [~~(98)(c)~~] (101)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection [~~(98)(b)(iii)(A)~~] (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection [~~(98)(b)(iii)~~] (101)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

[~~(99)~~] (102) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

[~~(100)~~] (103) (a) Except as provided in Subsection [~~(100)(b)~~] (103)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

[~~(101)~~] (104) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

[~~(102)~~] (105) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

[~~(103)~~] (106) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

[~~(104)~~] (107) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection [~~(104)(b)(iv)(A)(I)~~] (107)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

[~~(105)~~] (108) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

[~~(106)~~] (109) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

[~~(107)~~] (110) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

[~~(108)~~] (111) "Rental" means the same as that term is defined in Subsection [~~(60)~~] (63).

[~~(109)~~] (112) (a) Except as provided in Subsection [~~(109)(b)~~] (112)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

[~~(110)~~] (113) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

[~~(111)~~] (114) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the

individual residing at the institution rather than the institution.

(b) For purposes of Subsection [~~(111)(a)(i)~~] (114)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

[~~(112)~~] (115) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

[~~(113)~~] (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

[~~(114)~~] (117) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

[~~(115)~~] (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

[~~(116)~~] (119) "Sale at retail" means the same as that term is defined in Subsection [~~(113)~~] (116).

[~~(117)~~] (120) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

[~~(118)~~] (121) "Sales price" means the same as that term is defined in Subsection [~~(104)~~] (107).

[~~(119)~~] (122) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection [~~(119)(a)(i)(B)~~] (122)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

[~~(120)~~] (123) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

[~~(121)~~] (124) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

[~~(122)~~] (125) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection [~~(122)(a)~~] (125)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

[~~(123)~~] (126) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(127) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

(128) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

(129) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

[~~(124)~~] (130) (a) Subject to Subsections [~~(124)(b)~~] (130)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections [~~(124)(b)(i)~~] (130)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

[~~(125)~~] (131) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

[~~(126)~~] (132) "Solar energy" means the sun used as the sole source of energy for producing electricity.

[~~(127)~~] (133) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

[~~(128)~~] (134) "State" means the state of Utah, its departments, and agencies.

[~~(129)~~] (135) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

[~~(130)~~] (136) (a) Except as provided in Subsection [~~(130)(d)~~] (136)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections [~~(130)(c)(i)~~] (136)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

[~~(131)~~] (137) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection [~~(131)(b)~~] (137)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection [~~(131)(a)~~] (137)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(131)(b)(i)~~] (137)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection [~~(131)(c)~~] (137)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(131)(b)(i)~~] (137)(b)(i) through (vi).

[~~(132)~~] (138) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

[~~(133)~~] (139) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

[~~(134)~~] (140) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

[~~(135)~~] (141) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection [~~(135)(a)(i)~~] (141)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [~~(135)(a)~~] (141)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

[~~(136)~~] (142) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection [~~(136)(b)~~] (142)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(136)(a)~~] (142)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(136)(b)(i)~~] (142)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [~~(136)(c)~~] (142)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(136)(b)(i)~~] (142)(b)(i) through (ix).

[~~(137)~~] (143) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection [~~(137)(b)~~] (143)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(137)(a)~~] (143)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(137)(b)(i)~~] (142)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection [~~(137)(c)~~] (142)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(137)(b)(i)~~] (142)(b)(i) through (xxv).

[~~(138)~~] (144) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

[~~(139)~~] (145) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

[~~(140)~~] (146) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

[~~(141)~~] (147) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

[~~(142)~~] (148) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

[~~(143)~~] (149) (a) Subject to Subsection [~~(143)(b)~~] (149)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection [~~(143)(a)~~] (149)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

[~~(144)~~] (150) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection [~~(143)~~] (149).

[~~(145)~~] (151) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

[~~(146)~~] (152) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

[~~(147)~~] (153) (a) Except as provided in Subsection [~~(147)(b)~~] (153)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

[~~(148)~~] (154) "Watercraft" means a vessel as defined in Section 73-18-2.

[~~(149)~~] (155) "Wind energy" means wind used as the sole source of energy to produce electricity.

[~~(150)~~] (156) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 17. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g) and subject to Subsection [~~(2)(k)~~] (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection [~~(2)(e) or (f)~~] (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared

vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v) (A) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

[~~(e)~~] (f) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection [~~(2)(e)(iv)~~] (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection [~~(2)(e)(i)~~] (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection [~~(2)(e)(iii)~~] (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

[~~(f)~~] (g) (i) Except as otherwise provided in this chapter and subject to Subsections [~~(2)(f)(ii)~~] (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections [~~(2)(f)(i)~~] (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

[~~(g)~~] (h) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection [~~(2)(g)(i)~~] (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

[~~(h)~~] (i) Subject to Subsections [~~(2)(i) and (j)~~] (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

[~~(i)~~] (j) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

[~~(j)~~] (k) (i) For a tax rate described in Subsection [~~(2)(j)(ii)~~] (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection [~~(2)(j)(i)~~] (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

[~~(k)~~] (l) (i) For a location described in Subsection [~~(2)(k)(ii)~~] (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection [~~(2)(k)(i)~~] (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection [~~(2)(e)(i)(B)~~] (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection ~~[(2)(e)(i)(A)(I)]~~ (2)(f)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through (D).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant revenue.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection ~~[(2)(e)(i)(A)(I)]~~ (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(ii) As used in this Subsection (8)(d), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(vi).

(vi) The commission shall annually deposit the amount described in Subsection (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(vii) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year,

the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection [~~(2)(e)~~] (2)(f).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

(15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection [~~(2)(e)(i)(A)(I)~~] (2)(f)(i)(A)(I).

Section 18. Section 59-12-107.6 is amended to read:

59-12-107.6. Marketplace facilitator collection, remittance, and payment of sales tax obligation -- Marketplace seller collection, remittance, and payment of sales tax obligation -- Liability for collection.

(1) A marketplace facilitator shall pay or collect and remit [~~sales and use~~] taxes imposed by this chapter in accordance with Section 59-12-107:

(a) if the marketplace facilitator meets one or more of the criteria provided for in Subsection 59-12-107(2)(a) or (b); and

(b) on the sales the marketplace facilitator made on the marketplace facilitator's own behalf.

(2) (a) A marketplace facilitator shall pay or collect and remit [~~sales and use~~] taxes imposed by this chapter in accordance with Subsection (3) if the marketplace facilitator, in the previous calendar year or the current calendar year, makes sales of tangible personal property, products transferred

electronically, or services on the marketplace facilitator's own behalf or facilitates sales on behalf of one or more marketplace sellers:

(i) that exceed $100,000; or

(ii) in 200 or more separate transactions.

(b) For purposes of determining if a marketplace facilitator meets or exceeds one or both thresholds described in this Subsection (2), a marketplace facilitator shall separately total:

(i) the marketplace facilitator's sales; and

(ii) any sales the marketplace facilitator makes or facilitates for a marketplace seller.

(c) A marketplace facilitator without a physical presence in this state shall begin collecting and remitting the [~~sales and use~~] taxes imposed by this chapter no later than the first day of the calendar quarter that is at least 60 days after the day on which the marketplace facilitator meets or exceeds either threshold described in Subsection (2)(a).

(3) A marketplace facilitator described in Subsection (2) shall pay or collect and remit [~~sales and use~~] taxes imposed by this chapter for each sale that the marketplace facilitator:

(a) makes on the marketplace facilitator's own behalf; or

(b) makes or facilitates on behalf of a marketplace seller, regardless of:

(i) whether the marketplace seller has an obligation to pay or collect and remit [~~sales and use~~] taxes under Section 59-12-107;

(ii) whether the marketplace seller would have been required to pay or collect and remit [~~sales and use~~] taxes under Section 59-12-107 if the marketplace facilitator had not facilitated the sale; or

(iii) the amount of the sales price or the purchase price that accrues to or benefits the marketplace facilitator, the marketplace seller, or any other person.

(4) A marketplace facilitator shall comply with the procedures and requirements in this chapter and Chapter 1, General Taxation Policies, for sellers required to pay or collect and remit [~~sales and use~~] taxes except that the marketplace facilitator shall segregate, in the marketplace facilitator's books and records:

(a) the sales that the marketplace facilitator makes on the marketplace facilitator's own behalf; and

(b) the sales that the marketplace facilitator makes or facilitates on behalf of one or more marketplace sellers.

(5) (a) The commission may audit the marketplace facilitator for sales made or facilitated through the marketplace facilitator's marketplace on behalf of one or more marketplace sellers.

(b) The commission may not audit the marketplace seller for sales made or facilitated through the marketplace facilitator's marketplace on the marketplace seller's behalf.

(6) Nothing in this section prohibits a marketplace facilitator from providing in a marketplace facilitator's agreement with a marketplace seller for the recovery of [~~sales and use~~] taxes, and any related interest or penalties to the extent that a tax, interest, or penalty is assessed by the state in an audit of the marketplace facilitator on a retail sale:

(a) that a marketplace facilitator makes or facilitates on behalf of a marketplace seller; and

(b) for which the marketplace facilitator relied on incorrect or incomplete information provided by the marketplace seller.

(7) (a) Subject to Subsections (7)(b) and (c), a marketplace facilitator is not liable for failing to collect the taxes under this chapter for a sale on which the marketplace facilitator failed to collect [~~sales and use~~] taxes if the marketplace facilitator demonstrates, to the satisfaction of the commission, that:

(i) the marketplace facilitator made or facilitated the sale through the marketplace facilitator's marketplace on or before December 31, 2022;

(ii) the marketplace facilitator made or facilitated the sale on behalf of a marketplace seller and not on behalf of the marketplace facilitator;

(iii) the marketplace facilitator and the marketplace seller are not affiliates; and

(iv) the failure to collect [~~sales and use~~] taxes was due to a good faith error other than an error in sourcing.

(b) For purposes of Subsection (7)(a):

(i) for sales made or facilitated during the 2019 or 2020 calendar year, the marketplace facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that is equal to the error rate, but not to exceed a 7% error rate;

(ii) for sales made or facilitated during the 2021 calendar year, the marketplace facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that is equal to the error rate, but not to exceed a 5% error rate; and

(iii) for sales made or facilitated during the 2022 calendar year, the marketplace facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that is equal to the error rate, but not to exceed a 3% error rate.

(c) The commission shall calculate the percentages described in Subsection (7)(b):

(i) using the total [~~sales and use~~] taxes due on sales that:

(A) a marketplace facilitator made or facilitated in this state on behalf of one or more marketplace sellers during the calendar year that the sale for which the marketplace facilitator seeks relief was made or facilitated; and

(B) are sourced to the state; and

(ii) not including sales that the marketplace facilitator or the marketplace facilitator's affiliates directly made during the same calendar year.

(8) A marketplace seller shall pay or collect and remit [~~sales and use~~] taxes imposed by this chapter for a sale of tangible personal property, a product transferred electronically, or a service that the marketplace seller makes other than through a marketplace facilitator if:

(a) the sale is sourced to this state; and

(b) the marketplace seller's sales in this state, other than through a marketplace facilitator, in the previous calendar year or the current calendar year:

(i) exceed $100,000; or

(ii) occur in 200 or more separate transactions.

(9) (a) A marketplace seller may not pay or collect and remit [~~sales and use~~] taxes imposed by this chapter for any sale for which a marketplace facilitator is required to pay or collect and remit.

(b) A marketplace seller is not liable for a marketplace facilitator's failure to pay or collect and remit, or the marketplace facilitator's underpayment of, [~~sales and use~~] taxes imposed by this chapter for any sale for which a marketplace facilitator is required to pay or collect and remit the taxes imposed by this chapter.

(10) (a) A purchaser of tangible personal property, a product transferred electronically, or a service may file a claim for a refund with the marketplace facilitator if the purchaser overpaid [~~sales and use~~] taxes imposed under this chapter.

(b) No person may bring a class action against a marketplace facilitator in any court of the state on behalf of purchasers arising from or in any way related to an overpayment of [~~sales and use~~] taxes collected and remitted on sales made or facilitated by the marketplace facilitator on behalf of a marketplace seller, regardless of whether such claim is characterized as a tax refund claim.

(11) Nothing in this section affects the obligation of a purchaser to remit the use tax described in Subsection 59-12-107(2)(f) on any sale for which a marketplace facilitator or marketplace seller failed to collect and remit a tax imposed by this chapter.

Section 19. Section 59-12-602 is amended to read:

59-12-602. Definitions.

As used in this part:

(1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional significance, as defined by the Transportation Commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) "Airport facility" includes:

(i) an appurtenance to an airport, including a fixed guideway that provides transportation service to or from the airport;

(ii) a control tower, including a radar system;

(iii) a public area of an airport; or

(iv) a terminal facility.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(5) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

(6) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

(7) (a) Except as provided in Subsection (7)(b), "off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(b) "Off-highway vehicle" does not include a vehicle that is a motor vehicle under Section 41-1a-102.

(8) "Motorcycle" means the same as that term is defined in Section 41-22-2.

(9) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

(10) (a) Except as provided in Subsection (10)(c), "recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is pulled by another vehicle.

(b) "Recreational vehicle" includes:

(i) a travel trailer;

(ii) a camping trailer; and

(iii) a fifth wheel trailer.

(c) "Recreational vehicle" does not include a vehicle that is a motor vehicle under Section 41-1a-102.

(11) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or fast-food service where food is prepared for immediate consumption.

(b) "Restaurant" does not include:

(i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and

(ii) a theater that sells food items, but not a dinner theater.

(12) (a) "Short-term rental" means a lease or rental that is 30 days or less.

(b) "Short-term rental" does not include car sharing as that term is defined in Section 13-48a-101.

(13) "Snowmobile" means the same as that term is defined in Section 41-22-2.

(14) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

Section 20. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) beginning on January 1, 2021, a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food; [~~and~~]

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i)[~~.~~]; and

(v) beginning on July 1, 2023, if a county legislative body of any county imposes a tax under Subsection (1)(a)(i), a tax at the same rate applies to car sharing, except for:

(A) car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) car sharing for more than 30 days.

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) A county of the first class shall expend at least $450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where

necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 21. Section 59-12-1201 is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) (a) Except as provided in [~~Subsection (3)~~] Subsections (3) and (4), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) Beginning on July 1, 2023, a tax imposed under Subsection (1) applies at the same rate to car sharing, except for:

(a) car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(b) car sharing for more than 30 days.

[~~(3)~~] (4) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

[~~(4)~~] (5) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection [~~(4)(a)(i)~~] (5)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(c) Except as provided under Subsection [~~(4)(b)~~] (5)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

Section 22. Effective date.

This bill takes effect on July 1, 2023.

Section 23. Retrospective operation.

The changes to the following sections have retrospective operation to January 1, 2019, for a transaction that is the subject of an appeal pending on or filed after January 1, 2023:

(1) Section 59-12-602;

(2) Section 59-12-603; and

(3) Section 59-12-1201.

CHAPTER 362
S. B. 151
Passed February 17, 2023
Approved March 17, 2023
Effective May 3, 2023

FOOD PREPARATION AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill amends provisions of the Home Consumption and Homemade Food Act related to homemade food produced by minors.

Highlighted Provisions:

This bill:

- defines terms;
- exempts a direct-to-sale farmers market comprising only minor producers or minor-operated businesses from certain regulations; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-5a-102, as enacted by Laws of Utah 2018, Chapter 377
4-5a-103, as enacted by Laws of Utah 2018, Chapter 377
4-5a-104, as enacted by Laws of Utah 2018, Chapter 377

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-5a-102 is amended to read:

4-5a-102. Definitions.

For purposes of this chapter:

(1) (a) "Commercial establishment" means a wholesale or retail business that displays, sells, manufactures, processes, packs, holds, or stores food, drugs, devices, or cosmetics.

(b) "Commercial establishment" does not include a:

(i) direct-to-sale location; or

(ii) direct-to-sale farmers market.

(2) "Direct-to-sale farmers market" means a public or private facility or area where producers gather on a regular basis to sell directly to an informed final consumer fresh food, locally grown products, and other food items that have not been certified, licensed, regulated, or inspected by state or local authorities.

(3) "Direct-to-sale location" means a farm, ranch, direct-to-sale farmers market, home, office, or any location agreed upon by both a producer and the informed final consumer where a producer sells a food or food product to an informed final consumer.

(4) "Home consumption" means the use or ingestion of homemade food or a homemade food product within a private home by a family member, an employee, or a nonpaying guest.

(5) "Homemade food product" means a food product that is prepared in a private home kitchen that can be used, or prepared for use, as food or nonalcoholic drink, subject to the limitation described in Subsection 4-5a-105(1).

(6) "Informed final consumer" means an individual who:

(a) purchases the product directly from the producer;

(b) does not resell the product; and

(c) has been informed that the product is not certified, licensed, regulated, or inspected by the state.

(7) "Minor-operated business" means a business that is operated by an individual who is:

(a) under 18 years old; and

(b) not regularly engaged in selling items.

(8) "Minor producer" means a producer that is:

(a) an individual; and

(b) under 18 years old.

[~~(7)~~] (9) "Producer" means a person who harvests or produces homemade food or a homemade food product.

Section 2. Section 4-5a-103 is amended to read:

4-5a-103. Regulation of a direct-to-sale farmers market.

(1) [~~A~~] Except as provided in Subsection (4), a direct-to-sale farmers market selling homemade food under this chapter shall:

(a) display signage indicating to an informed final consumer that the homemade food and food products sold by producers at the market have not been certified, licensed, regulated, or inspected by state or local authorities; and

(b) only include products for sale that have not been certified, licensed, regulated, or inspected by state or local authorities.

(2) If the direct-to-sale farmers market is in any way associated with a farmers market as defined in Subsection 4-5-102(6), the direct-to-sale farmers market section selling homemade food under this chapter shall comply with the following requirements:

(a) the direct-to-sale farmers market section shall be separated from the farmers market section; and

(b) the separate direct-to-sale farmers market section shall include signs or other markings clearly

indicating which space is the farmers market space offering inspected items for sale and which space is the direct-to-sale farmers market space offering items that are uninspected.

(3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the signage described in Subsection (1).

(4) The requirements described in Subsection (1) do not apply to a direct-to-sale farmers market comprising only minor producers or minor-operated businesses.

Section 3. Section 4-5a-104 is amended to read:

4-5a-104. Home producer direct sales -- Exempt from regulation.

(1) A producer is exempt from state, county, or city licensing, permitting, certification, inspection, packaging, and labeling requirements, except as described in this section, related to the preparation, serving, use, consumption, or storage of food and food products if:

(a) the producer complies with the requirements of this chapter; and

(b) the homemade food or homemade food product is:

(i) produced and sold within the state;

(ii) sold directly to an informed final consumer;

(iii) for personal or home consumption; and

(iv) not exempted under Subsection 4-5a-105(1).

(2) Notwithstanding Subsection (1), a producer shall comply with business license requirements pursuant to Section 10-1-203.

(3) [~~Food~~] Except as provided in Subsection (6), food or food products sold under this section shall be labeled with:

(a) the producer's name and address;

(b) a disclosure statement indicating that the product is:

(i) not for resale; and

(ii) processed and prepared without state or local inspection; and

(c) a statement listing whether the food or food product contains, or was prepared in a location that also handles, common allergens including milk, soy, wheat, eggs, peanuts or tree nuts, fish, or shellfish.

(4) (a) Except as provided in Subsection (4)(b), homemade food or a homemade food product that is exempt from certain regulations as described in this chapter may not be sold to, or used by, a restaurant or commercial establishment.

(b) A producer may sell a raw, unprocessed fruit or vegetable to a restaurant or commercial establishment.

(5) A producer selling homemade food or homemade food products exempt under this section shall inform the final consumer that the food or food product is not certified, licensed, regulated, or inspected by the state or any county or city.

(6) The requirements described in Subsection (3) do not apply to a direct sale by a home producer comprising only minor producers.

CHAPTER 363
S. B. 157
Passed February 23, 2023
Approved March 17, 2023
Effective May 3, 2023

PERSONAL PROPERTY TAX AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses assessment and taxation of noncapitalized personal property.

Highlighted Provisions:

This bill:

- repeals the election for assessment and taxation of noncapitalized personal property according to a schedule.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

REPEALS:

59-2-108, as last amended by Laws of Utah 2020, Chapter 38

Be it enacted by the Legislature of the state of Utah:

Section 1. Repealer.

This bill repeals:

Section 59-2-108, Election for assessment and taxation of noncapitalized personal property according to a schedule.

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2023.

CHAPTER 364
S. B. 159
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

OCCUPATIONAL INJURIES AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses provisions related to occupational injuries and diseases.

Highlighted Provisions:

This bill:

- modifies requirements for calculating add-on fees under a medical workers' compensation claim;
- modifies the circumstances under which a firefighter is presumed to have contracted certain cancers during the course of the firefighter's employment;
- requires the Division of Industrial Accidents to conduct a study regarding cancers commonly caused in the course of a firefighter's employment;
- includes a sunset date and reporting requirements for the study; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-1-309, as repealed and reenacted by Laws of Utah 2019, Chapter 15
34A-3-113, as last amended by Laws of Utah 2022, Chapter 346
63I-2-234, as last amended by Laws of Utah 2021, Chapter 82

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-1-309 is amended to read:

34A-1-309. Add-on fees.

(1) As used in this section:

(a) "Carrier" means:

(i) a workers' compensation insurance carrier[,];

(ii) the Uninsured Employers' Fund, an employer that does not carry workers' compensation insurance[,]; or

(iii) a self-insured employer as defined in Section 34A-2-201.5.

(b) "Indemnity compensation" means a workers' compensation claim for indemnity benefits that arises from or may arise from a denial of a medical claim.

(c) "Medical claim" means a workers' compensation claim for medical expenses or recommended medical care.

(d) "Unconditional denial" means a carrier's denial of a medical claim:

(i) after the carrier completes an investigation; or

(ii) 90 days after the day on which the claim was submitted to the carrier.

(2) (a) The commission may award an add-on fee to a claimant to be paid by the carrier if:

(i) a medical claim is at issue;

(ii) the carrier issues an unconditional denial of the medical claim;

(iii) the claimant hires an attorney to represent the claimant during the formal adjudicative process before the commission;

(iv) after the carrier issues the unconditional denial, the commission orders the carrier or the carrier agrees to pay the medical claim; and

(v) any award of indemnity compensation in the case is less than $5,000.

(b) An award of an add-on fee under this section is in addition to:

(i) the amount awarded for the medical claim or indemnity compensation; and

(ii) any amount for attorney fees agreed upon between the claimant and the claimant's attorney.

(c) An award under this section is governed by the law in effect at the time the claimant files an application for hearing with the Division of Adjudication.

(d) (i) Medical expenses awarded as part of a medical claim under this section shall be calculated in accordance with the amount the carrier is required to pay under the rules established by the commission under Subsection 34A-2-407(9).

(ii) If the medical expenses awarded under this section are not set forth in the rules described in Subsection 34A-2-407(9), the medical expenses shall be calculated based on the amount the carrier paid or is contractually required to pay to the medical provider, whichever is greater.

(3) If the commission awards an add-on fee under this section, the commission shall award the add-on fee in the following amount:

(a) the lesser of 25% of the medical expenses the commission awards to the claimant or $25,000, for a case that is resolved at the commission level;

(b) the lesser of 30% of the medical expenses the Utah Court of Appeals awards to the claimant or $30,000, for a case that is resolved on appeal before the Utah Court of Appeals; or

(c) the lesser of 35% of the medical expenses that the Utah Supreme Court awards to the claimant or $35,000, for a case that is resolved on appeal before the Utah Supreme Court.

(4) If a court invalidates any portion of this section, the entire section is invalid.

Section 2. Section 34A-3-113 is amended to read:

34A-3-113. Presumption of workers' compensation benefits for firefighters -- Study.

(1) As used in this section:

(a) (i) "Firefighter" means a member, including a volunteer member, as described in Subsection 67-20-2(7)(b)(ii), or a member paid on call, of a fire department or other organization that provides fire suppression and other fire-related service who is responsible for or is in a capacity that includes responsibility for the extinguishment of fires.

(ii) "Firefighter" does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

(b) "Presumptive cancer" means one or more of the following cancers:

(i) pharynx;

(ii) esophagus;

(iii) lung; and

(iv) mesothelioma.

(2) If a firefighter who contracts a presumptive cancer meets the requirements of Subsection (3), there is a rebuttable presumption that:

(a) the presumptive cancer was contracted arising out of and in the course of employment; and

(b) the presumptive cancer was not contracted by a willful act of the firefighter.

(3) To be entitled to the rebuttable presumption described in Subsection (2), the firefighter shall:

(a) during the time of employment as a firefighter, [~~the firefighter undergoes~~] undergo annual physical examinations;

(b) [~~the firefighter shall~~] have been employed as a firefighter for eight years or more and regularly responded to firefighting or emergency calls within the eight-year period; and

(c) if [~~a~~] the firefighter has used tobacco, [~~the firefighter provides~~] provide documentation from a physician that indicates that the firefighter has not used tobacco for the eight years preceding reporting the presumptive cancer to the employer or division.

(4) A presumption established under this section may be rebutted by a preponderance of the evidence.

(5) If a firefighter who contracts a presumptive cancer is employed as a firefighter by more than one employer and qualifies for the presumption under Subsection (2), and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to risk of the presumptive cancer are liable under this chapter [~~pursuant to~~] under Section 34A-3-105.

(6) A cause of action subject to the presumption under this section is considered to arise on the date [~~after May 12, 2015,~~] that the employee:

(a) suffers disability from the occupational disease;

(b) knows, or in the exercise of reasonable diligence should have known, that the occupational disease is caused by employment; and

(c) files a claim as provided in Section 34A-3-108.

(7) (a) The division shall conduct a study to determine whether cancers other than the cancers listed in Subsection (1)(b) are commonly contracted in the course of a firefighter's employment.

(b) In conducting the study, the division shall:

(i) consider cancer latency periods; and

(ii) consult with:

(A) associations representing firefighters;

(B) fire departments; and

(C) the Rocky Mountain Center for Occupational and Environmental Health created in Section 53B-30-203.

(c) Before November 30, 2024, the division shall provide a report to the Business and Labor Interim Committee summarizing the results of the study and any recommendations for legislation.

Section 3. Section 63I-2-234 is amended to read:

63I-2-234. Repeal dates: Title 34A.

(1) Section 34A-2-107.3 is repealed May 15, 2025.

(2) Subsection 34A-3-113(7) relating to a study is repealed on January 1, 2025.

CHAPTER 365
S. B. 160
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

BLOCKCHAIN LIABILITY AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill creates a judicial cause of action for the reversal of certain transactions occurring on a blockchain.

Highlighted Provisions:

This bill:

- defines terms;
- creates a cause of action for fraudulent transactions that have been committed on a blockchain that has specific technology implemented to allow reversal of transactions; and
- authorizes the Attorney General's Office to operate a node on a blockchain that allows the Attorney General's Office to reverse a fraudulent transaction on a blockchain.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
67-5-39, Utah Code Annotated 1953
78B-3-112, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-5-39 is enacted to read:

67-5-39. Sheriff Node Program.

(1) As used in this section:

(a) "Blockchain" means the same as that term is defined in Section 78B-3-112.

(b) "Reversible blockchain" means the same as that term is defined in Section 78B-3-112.

(c) "Sheriff node" means a computer that:

(i) is connected to a reversible blockchain;

(ii) is administered by the Office of the Attorney General; and

(iii) allows the Office of the Attorney General to reverse a mistaken or fraudulent transaction upon receipt of:

(A) a court order issued under Section 78B-3-112; or

(B) an award issued in a valid and binding arbitration.

(d) "Transaction" means the same as that term is defined in Section 78B-3-112.

(2) (a) There is created a program known as the "Sheriff Node Program" within the Office of the Attorney General to operate a sheriff node on a reversible blockchain.

(b) The attorney general shall administer the program with funds available for this purpose.

(3) The attorney general shall operate the program only to reverse a transaction on a reversible blockchain upon receipt of:

(a) a court order issued under Section 78B-3-112; or

(b) an award issued in a valid and binding arbitration.

(4) The attorney general may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the program, including to:

(a) establish the number of reversible blockchains for which the attorney general may administer a sheriff node;

(b) charge and assess fees and costs for the operation of a sheriff node on a reversible blockchain;

(c) establish criteria for determining the validity of an arbitration award; and

(d) establish other rules reasonably necessary to efficiently carry out the sheriff node program.

Section 2. Section 78B-3-112 is enacted to read:

78B-3-112. Action for mistaken or fraudulent transaction on a reversible blockchain.

(1) As used in this section:

(a) "Blockchain" means a digital ledger of transactions:

(i) that is distributed across multiple nodes;

(ii) that is mathematically verified; and

(iii) where the validity of transactions is maintained by consensus of nodes.

(b) "Blockchain administrator" means a person that is responsible for maintaining and overseeing a blockchain.

(c) "Division" means the Division of Consumer Protection created in Section 13-2-1.

(d) "Fraudulent transaction" means a transaction that a person undertakes with the intent to deceive another person, including a transaction that involves:

(i) false representation;

(ii) omissions of material fact; or

(iii) the use of a false or stolen identity.

(e) "Node" means a computer connected to a blockchain.

(f) "Proof of identity" means government-issued identification that contains the following information:

(i) a person's name;

(ii) an individual's date of birth;

(iii) a person's address, which is:

(A) for an individual, a residential or business street address;

(B) for an individual who does not have a residential or business street address, a Post Office box number or the residential or business street address of next of kin or of another contact individual; or

(C) for a person other than an individual, the principal place of business; and

(iv) an identification number, which is:

(A) for a United States person, a taxpayer identification number; or

(B) for a non-United States person, a taxpayer identification number, passport number and country of issuance, alien identification card number, or the number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

(g) "Reversible blockchain" means a blockchain that:

(i) requires the blockchain's users to:

(A) provide proof of identity to the blockchain administrator;

(B) acknowledge and agree that all transactions occurring on the blockchain are subject to reversal by a sheriff node; and

(C) agree to be subject to jurisdiction of a court in Utah; and

(ii) requires the blockchain administrator to:

(A) verify a user's identity by checking the user's proof of identity against government-issued identification databases; and

(B) maintain records of a user's proof of identity for a minimum of five years.

(h) "Sheriff node" means the same as that term is defined in Section 67-5-39.

(i) "Transaction" means the transfer of digital assets, rights, privileges, or obligations from one person to another that occurs on a blockchain.

(j) (i) "User" means a person that interacts with a blockchain.

(ii) "User" includes a person that is:

(A) sending or receiving transactions;

(B) accessing data stored on the blockchain;

(C) participating in consensus or governance mechanisms;

(D) running a node on the blockchain;

(E) interacting with smart contracts or decentralized applications; or

(F) holding or managing digital assets.

(2) A plaintiff may bring a cause of action against a person to reverse:

(a) a fraudulent transaction if:

(i) the transaction occurred on a reversible blockchain;

(ii) the plaintiff entered into the transaction with reasonable reliance on the person's:

(A) fraudulent representation;

(B) omission of material fact; or

(C) use of a false or stolen identity; and

(iii) the plaintiff was injured as a result of that reasonable reliance; or

(b) a mistaken transaction if:

(i) the transaction occurs on a reversible blockchain;

(ii) the transaction resulted in a transfer of assets:

(A) to the wrong recipient; or

(B) in the wrong amount; and

(iii) the recipient's refusal to return the assets resulted in the unjust enrichment of the recipient.

(3) Upon a finding of a mistaken or fraudulent transaction, the court shall issue an order to the Office of the Attorney General to reverse the transaction in accordance with Section 67-5-39.

CHAPTER 366
S. B. 161
Passed February 24, 2023
Approved March 17, 2023
Effective May 3, 2023

ADVANCED AIR MOBILITY REVISIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill creates a study for the Department of Transportation regarding advanced air mobility.

Highlighted Provisions:

This bill:

- requires the Department of Transportation to study the following items related to advanced air mobility, including:
  - vertiport locations and infrastructure;
  - implementation strategies of advanced air mobility technologies;
  - unmanned traffic management infrastructure; and
  - the creation of an advanced air mobility sandbox;
- requires the Department of Transportation to provide a report to the Transportation Interim Committee;
- instructs the Department of Transportation to use existing departmental funds to cover the costs of the study; and
- amends provisions related to preemption of local land use authority pertaining to advanced air mobility.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-14-103, as last amended by Laws of Utah 2022, Chapter 99

ENACTS:

72-1-217, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-1-217 is enacted to read:

72-1-217. Department of Transportation study items.

(1) The department shall carry out transportation studies described in this section as resources allow.

(2) (a) The department shall study items related to advanced air mobility as described in this Subsection (2).

(b) The department shall study vertiport locations and infrastructure, including:

(i) identification of suitable locations for vertiport infrastructure and parking infrastructure for vertiports in metropolitan areas;

(ii) identification of commuter rail stations that may be suitable for vertiport placement; and

(iii) identification of underutilized parking lots and parking structures for vertiport infrastructure placement.

(c) The department shall study best practices and implementation of advanced air mobility technologies, including:

(i) seeking input through community engagement;

(ii) state and local regulations;

(iii) unmanned aircraft system traffic management; and

(iv) weather reporting and monitoring for advanced air mobility safety.

(d) The department shall study unmanned aircraft traffic management infrastructure, including:

(i) unmanned aircraft system traffic management development, implementation, procedures, policies, and infrastructure; and

(ii) obtaining a full understanding of unmanned aircraft system traffic management, including:

(A) designation of airspace for advanced air mobility;

(B) creation of geographic categorical areas;

(C) identifying the appropriate number and location of advanced air mobility sensors; and

(D) other state specific details regarding unmanned aircraft system traffic management.

(e) The department shall study the creation of an advanced air mobility sandbox, including:

(i) potential locations for the sandbox testing area and desirable attributes of a suitable sandbox location;

(ii) requirements to create a geographical advanced air mobility testing area and the parameters for the types of technology that may be utilized in the testing area; and

(iii) testing and studying different types of advanced air mobility transportation of manned and unmanned aerial vehicles, including:

(A) aerial vehicle size;

(B) aerial vehicles that carry cargo, including medical cargo;

(C) commercial aerial vehicles; and

(D) public transportation aerial vehicles.

(f) On or before September 30, 2023, the department shall provide a report to the Transportation Interim Committee of the department's findings from the study items described in Subsections (2)(b) through (2)(e).

(g) The department may only use existing funds to cover the expenses incurred from the study of items described in Subsections (2)(b) through (2)(e).

Section 2. Section 72-14-103 is amended to read:

72-14-103. Preemption of local ordinance.

(1) A political subdivision of the state, or an entity within a political subdivision of the state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft or the private use of an advanced air mobility system, unless:

(a) authorized by this chapter; or

(b) the political subdivision or entity is an airport operator that enacts the law, rule, or ordinance to govern:

(i) the operation of an unmanned aircraft or an advanced air mobility system within the geographic boundaries of the airport over which the airport operator has authority; or

(ii) the takeoff or landing of an unmanned aircraft or an aircraft operated as part of an advanced air mobility system at the airport over which the airport operator has authority.

(2) A political subdivision may not enter into an agreement to grant or permit an exclusive right to one or more vertiport owners or operators.

[~~(2)~~] (3) This chapter supersedes any law, ordinance, or rule enacted by a political subdivision of the state before July 1, 2017.

CHAPTER 367
S. B. 165
Passed February 21, 2023
Approved March 17, 2023
Effective May 3, 2023

CONCEALED FIREARM REVIEW BOARD SUNSET EXTENSION

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill extends the repeal date of the Concealed Firearm Review Board.

Highlighted Provisions:

This bill:

- amends the repeal date of the Concealed Firearm Review Board from July 1, 2023, to July 1, 2024; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2022, Chapters 10, 30, 31, 172, 173, 194, 218, 224, 229, 236, 254, 274, and 414

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, [~~2023~~] 2024.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(7) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(10) [~~Subsection~~] Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(11) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(12) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(14) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(15) Section 53F-5-203 is repealed July 1, 2024.

(16) Section 53F-5-213 is repealed July 1, 2023.

(17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(19) Section 53F-5-219, which creates the Local [~~INnovations~~] Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(20) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(21) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(22) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2027.

(23) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

(24) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

CHAPTER 368
S. B. 167
Passed March 1, 2023
Approved March 17, 2023
Effective May 3, 2023

STATEWIDE ONLINE EDUCATION PROGRAM MODIFICATIONS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Kera Birkeland

LONG TITLE

General Description:

This bill amends provisions of the Statewide Online Education Program (SOEP).

Highlighted Provisions:

This bill:

- requires the state board to provide longer notice periods for changes to the approval process for a certified online course provider;
- prohibits the state board from unenrolling a student under certain circumstances;
- establishes a deadline for making a payment to an authorized online course provider;
- establishes requirements for calculating a projected legislative appropriation for enrollment of students in the SOEP;
- requires the state board to create approval processes for new course offerings by an authorized online course provider;
- imposes requirements on the state board for conducting certain site visits;
- requires the state board to create an additional educator license type; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-6-201, as last amended by Laws of Utah 2020, Chapters 365, 408
53F-4-501, as last amended by Laws of Utah 2021, Chapters 362, 413
53F-4-502, as last amended by Laws of Utah 2021, Chapter 362
53F-4-503, as last amended by Laws of Utah 2021, Chapter 362
53F-4-504, as last amended by Laws of Utah 2021, Chapter 413
53F-4-505, as last amended by Laws of Utah 2021, Chapter 362
53F-4-507, as last amended by Laws of Utah 2019, Chapter 186
53F-4-514, as last amended by Laws of Utah 2021, Chapter 413
53F-4-518, as enacted by Laws of Utah 2022, Chapter 395

REPEALS:

53F-4-515, as renumbered and amended by Laws of Utah 2018, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-6-201 is amended to read:

53E-6-201. State board licensure.

(1) [~~To be fully implemented by July 1, 2020, and, if technology and funds are available, the~~] The state board shall establish in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a system for educator licensing that includes:

(a) an associate educator license that permits an individual to provide educational services in a public school while working to meet the requirements of a professional educator license;

(b) a professional educator license that permits an individual to provide educational services in a public school after demonstrating that the individual meets licensure requirements established in state board rule; [~~and~~]

(c) an LEA-specific educator license issued by the state board at the request of an LEA's governing body that is valid for an individual to provide educational services in the requesting LEA's schools[~~.~~]; and

(d) beginning in the 2023-2024 school year, a provider-specific license issued by the state board at the request of an authorized online course provider described in Subsection 53F-4-504 that:

(i) is valid for an individual to provide educational services to a student enrolled in an online course described in 53F-4-503; and

(ii) contains eligibility criteria that is no more stringent than the requirements for a license described in Subsection (1)(c).

(2) An individual employed in a position that requires licensure by the state board shall hold the license that is appropriate to the position.

(3) (a) The state board may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rank, endorse, or otherwise classify licenses and establish the criteria for obtaining, retaining, and reinstating licenses.

(b) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the state board requirements for retaining a license is exempt from tuition, except for a semester registration fee established by the Utah Board of Higher Education, if:

(i) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and

(ii) enrollments are determined by each institution under rules and guidelines established by the Utah Board of Higher Education in accordance with findings of fact that space is available for the educator's enrollment.

Section 2. Section 53F-4-501 is amended to read:

53F-4-501. Definitions.

As used in this part:

(1) "Authorized online course provider" means the entities listed in Subsection 53F-4-504(1).

[~~(1)~~] (2) (a) "Certified online course provider" means a provider that the state board approves to offer courses through the Statewide Online Education Program.

(b) "Certified online course provider" does not include an entity described in Subsections 53F-4-504(1)(a) through (c).

[~~(2)~~] (3) "Credit" means credit for a high school course, or the equivalent for a middle school course, as determined by the state board.

[~~(3)~~] (4) "Eligible student" means a student:

(a) who intends to take a course for middle school or high school credit; and

(b) (i) who is enrolled in [~~a district school or charter school~~] an LEA in Utah; or

(ii) (A) who attends a private school or home school; and

(B) whose custodial parent is a resident of Utah.

[~~(4)~~] (5) "High school" means grade 9, 10, 11, or 12.

[~~(5)~~] (6) "Middle school" means grade 7 or 8.

[~~(6)~~] (7) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology, regardless of whether the student participates in the course at home, at a school, at another location, or any combination of these.

[~~(7)~~] (8) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

[~~(8)~~] (9) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

[~~(9)~~] (10) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

Section 3. Section 53F-4-502 is amended to read:

53F-4-502. Statewide Online Education Program created -- Designated as program of the public education system -- Purposes.

(1) The Statewide Online Education Program is created to enable an eligible student to, through the completion of publicly funded online courses:

(a) earn high school graduation credit; or

(b) earn middle school credit.

(2) Pursuant to Utah Constitution, Article X, Section 2, the Statewide Online Education Program is designated as a program of the public education system.

(3) The purposes of [~~an online school~~] the Statewide Online Education Program are to:

(a) provide a student with access to online learning options regardless of where the student attends school, whether a public, private, or home school;

(b) provide [~~high quality~~] digital learning options for a student regardless of language, residence, family income, or special needs;

(c) provide online learning options to allow a student to acquire the knowledge and technology skills necessary in a digital world;

(d) utilize the power and scalability of technology to customize education so that a student may learn in the student's own style preference and at the student's own pace;

(e) utilize technology to remove the constraints of traditional classroom learning, allowing a student to access learning virtually at any time and in any place and giving the student the flexibility to take advantage of the student's peak learning time;

(f) provide personalized learning, where a student can spend as little or as much time as the student needs to master the material;

(g) provide greater access to self-paced programs enabling a high achieving student to accelerate academically, while a struggling student may have additional time and help to gain competency;

(h) allow a student to customize the student's schedule to better meet the student's academic goals;

(i) provide quality learning options to better prepare a student for post-secondary education and vocational or career opportunities; and

(j) allow a student to have an individualized educational experience.

[~~(4) The program created under this part shall be known as the "Statewide Online Education Program."~~]

[~~(5)~~] (4) The program name, "Statewide Online Education Program," shall be used in the dissemination of information on the program.

Section 4. Section 53F-4-503 is amended to read:

53F-4-503. Option to enroll in online courses offered through the Statewide Online Education Program.

(1) Subject to Subsections (2), (3), and (9), an eligible student may enroll in an online course offered through the Statewide Online Education Program if:

(a) the student meets the course prerequisites;

(b) the course is open for enrollment;

(c) the online course is aligned with the student's plan for college and career readiness;

(d) the online course is consistent with the student's IEP, if the student has an IEP; and

(e) the online course is consistent with the student's international baccalaureate program, if the student is participating in an international baccalaureate program.

(2) (a) Except as provided in Subsection (2)(b), an eligible student may enroll in online courses for no more than six credits per school year.

(b) An eligible student may enroll in an online course for middle school credit for no more than two credits per school year if the eligible student:

(i) does not have a primary LEA of enrollment; and

(ii) is enrolled in a private school.

(3) (a) An eligible student who has a primary LEA of enrollment may enroll in an online course for middle school credit [~~beginning January 1, 2022~~].

(b) An eligible student who does not have a primary LEA of enrollment may enroll in an online course for middle school credit [~~beginning in the 2022-2023 school year~~].

(4) Notwithstanding Subsection (2):

(a) a student's primary LEA of enrollment may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or

(b) upon the request of an eligible student, the state board may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.

(5) An eligible student's primary LEA of enrollment:

(a) in conjunction with the student and the student's parent, is responsible for preparing and implementing a plan for college and career readiness for the eligible student, as provided in Section 53E-2-304; and

(b) shall assist an eligible student in scheduling courses in accordance with the student's plan for college and career readiness, graduation requirements, and the student's post-secondary plans.

(6) An eligible student's primary LEA of enrollment may not:

(a) impose restrictions on a student's selection of an online course that fulfills graduation requirements and is consistent with the student's plan for college and career readiness or post-secondary plans; or

(b) give preference to an online course or authorized online course provider.

(7) The state board, including an employee of the state board, may not give preference to an online course or authorized online course provider.

(8) (a) Except as provided in Subsection (8)(b), a person may not provide an inducement or incentive to a public school student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection (8)(a):

(i) "Inducement or incentive" does not mean:

(A) instructional materials or software necessary to take an online course; or

(B) access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the public school student.

(9) If the program lacks sufficient legislative appropriations to fund the enrollment in online courses for all eligible students who do not have a primary LEA of enrollment, the state board shall prioritize funding the enrollment of an eligible student who intends to graduate from high school during the school year in which the student enrolls in an online course.

Section 5. Section 53F-4-504 is amended to read:

53F-4-504. Authorized online course providers -- Certified online course providers.

(1) The following entities are known as an authorized online course provider and may offer online courses to eligible students through the Statewide Online Education Program:

(a) a charter school or district school created exclusively for the purpose of serving students online;

(b) an LEA program, approved by the LEA governing board, that is created exclusively for the purpose of serving students online;

(c) a program of an institution of higher education listed in Section 53B-2-101 that:

(i) offers secondary school level courses; and

(ii) is created exclusively for the purpose of serving students online; and

(d) [~~beginning in the 2021-2022 school year,~~] a certified online course provider.

(2) The state board shall approve an online course provider as a certified online course provider if the online course provider:

(a) complies with the application procedures described in Section 53F-4-514;

(b) meets the standards described in Section 53F-4-514; and

(c) has prior experience offering online courses to secondary students.

(3) The state board may revoke the approval described in Subsection (2) if the state board:

(a) finds that a certified online course provider is not complying with the requirements described in Section 53F-4-514[.];

(b) provides written notice describing the findings of non-compliance to the certified online course provider;

(c) provides the certified online course provider with at least 60 days to remedy the findings of non-compliance;

(d) reevaluates the findings of non-compliance at least 60 days after the certified online course provider's remedy period described in Subsection (3)(c); and

(e) finds after reevaluation that the certified online course provider has failed to satisfactorily remedy the findings of non-compliance.

Section 6. Section 53F-4-505 is amended to read:

53F-4-505. Payment for an online course.

(1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1 credit online course is:

(a) $200 for the following courses, except a concurrent enrollment course:

(i) financial literacy;

(ii) health;

(iii) fitness for life; and

(iv) computer literacy;

(b) $200 for driver education;

(c) $250 for a course that meets core standards for Utah public schools in fine arts or career and technical education, except a concurrent enrollment course;

(d) $300 for the following courses:

(i) a course that meets core standards for Utah public schools requirements in social studies, except a concurrent enrollment course; and

(ii) a world language course, except a concurrent enrollment course;

(e) $350 for the following courses:

(i) a course that meets core standards for Utah public schools requirements for language arts, mathematics, or science; and

(ii) a concurrent enrollment course; and

(f) $250 for a course not described in Subsections (1)(a) through (e).

(2) If a course meets the requirements of more than one course fee category described in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.

(3) [~~Beginning with the 2013-14 school year, the~~] The online course fees described in Subsection (1) shall be adjusted each school year in accordance with the percentage change in value of the weighted pupil unit from the previous school year.

(4) An [~~online learning provider~~] authorized online course provider shall receive payment for an online course as follows:

(a) for a .5 credit online course, 50% of the online course fee after the withdrawal period described in Section 53F-4-506;

(b) for a 1 credit online course, 25% of the online course fee after the withdrawal period described in Section 53F-4-506 and 25% of the online course fee upon the beginning of the second .5 credit of the online course; and

(c) if a student completes a 1 credit online course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, 50% of the online course fee.

(5) (a) If a student fails to complete a 1 credit course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, the student may continue to be enrolled in the course until the student graduates from high school.

(b) To encourage an authorized online course provider to provide remediation to a student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the need for credit recovery, an authorized online course provider shall receive a payment equal to 30% of the online course fee if the student completes the online course:

(i) for a high school online course, before the student graduates from high school; or

(ii) for a middle school online course, before the student completes middle school.

(6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a school district or charter school may:

(a) negotiate a fee with an authorized online course provider for an amount up to the amount prescribed in Subsections (1) through (3); and

(b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).

(7) An authorized online course provider who contracts with a vendor for the acquisition of online course content or online course instruction may negotiate the payment for the vendor's service independent of the fees specified in Subsections (1) through (3).

(8) The state board may not remove a student from an online course if the student is eligible for continued enrollment in the online course under Subsection (5).

Section 7. Section 53F-4-507 is amended to read:

53F-4-507. State board to deduct funds and make payments -- Plan for the payment of online courses taken by private and home school students.

(1) [~~For a fiscal year that begins on or after July 1, 2018, and subject~~] Subject to future budget constraints, the Legislature shall adjust the appropriation for the Statewide Online Education Program based on:

(a) the anticipated increase of eligible home school and private school students enrolled in the Statewide Online Education Program; and

(b) the value of the weighted pupil unit.

(2) Notwithstanding Subsection (1) and subject to future budget constraints, the Legislature shall:

(a) consider enrollment projections provided by the authorized online course providers to account for enrollment growth during the appropriations process;

(b) provide a supplemental appropriation to adequately fund the Statewide Online Education Program when the enrollment amount exceeds the projected enrollment amounts provided by the authorized online course providers; and

(c) in the fiscal year beginning July 1, 2025, keep all other appropriations for the Statewide Online Education Program separate from the appropriations described in Section 53F-4-518.

[~~(2)~~] (3) (a) The state board shall deduct money from funds allocated to the student's primary LEA of enrollment under Chapter 2, State Funding -- Minimum School Program, to pay for online course fees.

(b) Money shall be deducted under Subsection [~~(2)~~] (3)(a) in the amount and at the time an authorized online course provider qualifies to receive payment for an online course provided to a public education student, not to exceed 90 days after qualification, as provided in Subsection 53F-4-505(4).

(c) Beginning July 1, 2023, the state board shall deduct money from funds allocated for course fees for a private school or home school student in the amount and at the time an authorized online course provider qualifies to receive payment for an online course, not to exceed 90 days after qualification.

[~~(3)~~] (4) From money deducted under Subsection [~~(2)~~] (3), the state board shall make payments to the student's authorized online course provider as provided in Section 53F-4-505.

[~~(4)~~] (5) The Legislature shall establish a plan[~~, which shall take effect beginning on July 1, 2013,~~] for the payment of online courses taken by a private school or home school student.

Section 8. Section 53F-4-514 is amended to read:

53F-4-514. State board -- Rulemaking -- Fees.

(1) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall provide a delayed effective date that is after the school year has ended for a change to an administrative rule related to the Statewide Online Education Program if the change would require an authorized online course provider to make program changes during the school year.

[~~(1)~~] (2) The state board shall make rules in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(a) [~~establish~~] a course credit acknowledgement form and procedures for completing and submitting to the state board a course credit acknowledgement;

(b) [~~establish~~] procedures for the administration of a statewide assessment to a student enrolled in an online course; and

(c) [~~establish~~] protocols for an online course provider to obtain approval to become a certified online course provider, including:

(i) the application procedure for an online course provider to obtain approval to become a certified online course provider; [~~and~~]

(ii) the standards that a certified online course provider and any online course the certified online course provider offers shall meet[~~.~~];

(d) in accordance with Title 53E, Chapter 4, Academic Standards, Assessments, and Materials, criteria for an authorized online course provider to submit for approval an online course that does not have an existing state board course code;

(e) no later than July 1, 2024, a process within existing systems at the state board to allow a certified online course provider access to an educator's licensing, endorsement, certification, and assignment information if the educator is teaching an online course for the certified online course provider;

(f) in consultation with the authorized online course providers, the parameters for conducting a site visit including:

(i) a definition for the term site visit;

(ii) the minimum amount of time required for:

(A) notice to an authorized online course provider of a site visit; and

(B) an authorized online course provider to prepare for a site visit;

(iii) the documents, data, and artifacts subject to inspection during a site visit; and

(iv) a process to ensure a site visit allows for observation of instruction without interfering with the instruction.

[~~(2)~~] (3) (a) When establishing the standards described in Subsection [~~(1)(c)(ii),~~] (2)(c)(ii) the state board shall:

(i) establish rules and minimum standards regarding accreditation;

(ii) require an online course to be aligned with the core standards described in Section 53E-4-202;

(iii) require proof that a national organization responsible for college athletics endorses:

(A) the certified online course provider; or

(B) the online course that a certified online course provider offers;

(iv) permit an open-entry, open-exit method of instructional delivery that allows a student the flexibility to:

(A) schedule in response to individual needs or requirements;

(B) demonstrate competency when the student has mastered knowledge and skills;

(C) begin or end study at any time; and

(D) progress through course material at the student's own pace; and

(v) except as provided in Subsection (4), require an individual who teaches a course for a certified online course provider to hold a teaching license issued by the state board.

(b) When establishing the standards described in Subsection [~~(1)(c)(ii)~~] (2)(c)(ii), the state board may not:

(i) specify a minimum duration for an online course;

(ii) specify a minimum amount of time that a student must spend in an online course; or

(iii) limit the class size of an online course.

(4) If an individual possesses a provider-specific license described in Section 53E-6-201, the state board may not prohibit the individual from teaching an online course for an authorized online course provider while the individual is in the process of obtaining an endorsement or additional license issued by the state board.

[~~(3)~~] (5) The state board may establish a fee, in accordance with Section 63J-1-504, in an amount to pay the costs to the state board of the application approval process and the monitoring of a certified online course provider's compliance with the standards described in Subsection [~~(1)(c)(ii)~~] (2)(c)(ii).

[~~(4)~~] (6) (a) Fee revenue collected in accordance with Subsection [~~(3)~~] (5) shall be:

[~~(b)~~] (i) deposited into the Uniform School Fund as a dedicated credit; and

[~~(c)~~] (ii) used to pay the costs to the state board of reviewing certified online course providers' applications and compliance with the standards described in Subsection [~~(1)(c)(ii)~~] (2)(c)(ii).

Section 9. Section 53F-4-518 is amended to read:

53F-4-518. Small school student access to college and career readiness courses.

Subject to legislative appropriations and notwithstanding Subsections 53F-4-509(2) and (3), [~~in lieu of a deduction described in Subsection 53F-4-507(2),~~] the state board shall:

(1) use funds from an appropriation for the Statewide Online Education Program to pay for an online course fee described in Section 53F-4-505 for a student who is enrolled in a public high school that enrolls fewer than 1,000 students[.]; and

(2) after the funds described in Subsection (1) have been expended, make a deduction as described in Subsection 53F-4-507(3).

Section 10. Repealer.

This bill repeals:

Section 53F-4-515, Review by legislative auditor general.

CHAPTER 369
S. B. 168
Passed March 1, 2023
Approved March 17, 2023
Effective May 3, 2023

STATE AGENCY CAPITAL DEVELOPMENT FUND

Chief Sponsor: David G. Buxton
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill creates a capital projects fund to facilitate administration and funding processes of the Division of Facilities Construction and Management for capital development projects for state agencies.

Highlighted Provisions:

This bill:

- creates a capital projects fund called the State Agency Capital Development Fund to fund the design, renovation, and construction of state agency facilities, except for institutions of higher education;
- requires the Division of Facilities Construction and Management to present a five-year building plan to the Infrastructure and General Government Appropriations Subcommittee;
- requires the Infrastructure and General Government Appropriations Subcommittee to recommend to the Legislature appropriations from the State Agency Capital Development Fund for capital projects for state agencies;
- requires proceeds from the sale or lease of state agency buildings to be deposited into the State Agency Capital Development Fund;
- replaces references to the State Building Board to refer to the Division of Facilities Construction and Management; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-29-4, as enacted by Laws of Utah 1981, Chapter 126
32B-2-505, as last amended by Laws of Utah 2021, Chapter 382
53B-20-104, as last amended by Laws of Utah 2012, Chapter 242
63A-1-107, as renumbered and amended by Laws of Utah 1993, Chapter 212
63A-1-108, as last amended by Laws of Utah 2005, Chapter 169
63A-5b-910, as last amended by Laws of Utah 2022, Chapter 421
63B-3-301, as last amended by Laws of Utah 2022, Chapter 447
63B-6-502, as last amended by Laws of Utah 2021, Chapter 280
63B-10-401, as last amended by Laws of Utah 2010, Chapter 278
63B-12-301, as enacted by Laws of Utah 2003, Chapter 302
63B-13-301, as enacted by Laws of Utah 2004, Chapter 364
63B-17-401, as last amended by Laws of Utah 2016, Chapter 222
63B-18-301, as last amended by Laws of Utah 2018, Chapter 39
63G-6a-107.7, as enacted by Laws of Utah 2020, Chapter 257
63G-6a-107.8, as enacted by Laws of Utah 2020, Chapter 257
79-4-607, as enacted by Laws of Utah 2021, Chapter 160

ENACTS:

63A-5b-407, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-29-4 is amended to read:

26-29-4. Enforcement of chapter.

The responsibility for adoption of the planning and design criteria referred to in Section 26-29-3, and enforcement of this chapter shall be as follows:

(1) where state school funds are utilized, the State Board of Education[~~.~~];

(2) where state funds are utilized, the [~~State Building Board.~~] Division of Facilities Construction and Management; and

(3) where funds of political subdivisions are utilized, the governing board of the county or municipality in which the building or facility is located.

Section 2. Section 32B-2-505 is amended to read:

32B-2-505. Reporting requirements -- Building plan and market survey required -- Department performance measures.

(1) In 2018 and each year thereafter, the department shall present a five-year building plan to the Infrastructure and General Government Appropriations Subcommittee that describes the department's anticipated property acquisition, building, and remodeling for the five years following the day on which the department presents the five-year building plan.

(2) (a) In 2018 and every other year thereafter, the department shall complete a market survey to inform the department's five-year building plan described in Subsection (1).

(b) The department shall:

(i) provide a copy of each market survey to the Infrastructure and General Government Appropriations Subcommittee and the Business and Labor Interim Committee; and

(ii) upon request, appear before the Infrastructure and General Government Appropriations Subcommittee to present the results of the market survey.

(3) For fiscal year 2018-19 and each fiscal year thereafter, before the fiscal year begins, the

Governor's Office of Planning and Budget, in consultation with the department and the Office of the Legislative Fiscal Analyst, shall establish performance measures and goals to evaluate the department's operations during the fiscal year.

(4) (a) The department may not submit a request to the [~~State Building Board~~] Division of Facilities Construction and Management for a capital development project unless the department first obtains approval from the Governor's Office of Planning and Budget.

(b) In determining whether to grant approval for a request described in Subsection (4)(a), the Governor's Office of Planning and Budget shall evaluate the extent to which the department met the performance measures and goals described in Subsection (3) during the previous fiscal year.

Section 3. Section 53B-20-104 is amended to read:

53B-20-104. Buildings and facilities -- Board approval of construction and purchases -- Rules.

(1) The board shall approve all new construction, repair, or purchase of educational and general buildings and facilities financed from any source at all institutions subject to the jurisdiction of the board.

(2) An institution may not submit plans or specifications to the [~~State Building Board~~] Division of Facilities Construction and Management for the construction or alteration of buildings, structures, or facilities or for the purchases of equipment or fixtures for the structure without the authorization of the board.

(3) The board shall make rules establishing the conditions under which facilities may be eligible to request state funds for operations and maintenance.

(4) Before approving the purchase of a building, the board shall:

(a) determine whether or not the building will be eligible for state funds for operations and maintenance by applying the rules adopted under Subsection (3); and

(b) if the annual request for state funding for operations and maintenance will be greater than $100,000, notify the speaker of the House, the president of the Senate, and the cochairs of the Infrastructure and General Government subcommittee of the Legislature's Joint Appropriation Committee.

Section 4. Section 63A-1-107 is amended to read:

63A-1-107. Administrative support to building ownership authority.

The executive director shall provide administrative support and staff services to the [~~State Building Board and the~~] State Building Ownership Authority.

Section 5. Section 63A-1-108 is amended to read:

63A-1-108. Powers and duties of other agencies assigned to executive director.

Powers and duties assigned by other provisions of this title to the Division of Finance, the [~~State Building Board~~] Division of Facilities Construction and Management, or other agencies or divisions of the department, and not specifically assigned by this chapter, shall be assigned to the executive director with the approval of the governor.

Section 6. Section 63A-5b-407 is enacted to read:

63A-5b-407. State Agency Capital Development Fund -- Creation -- Process.

(1) (a) There is created a capital projects fund known as the State Agency Capital Development Fund.

(b) The State Agency Capital Development Fund and this section do not apply to an institution of higher education.

(2) The State Agency Capital Development Fund is funded from the following sources:

(a) one-time appropriations made to the State Agency Capital Development Fund by the Legislature;

(b) ongoing appropriations made by the Legislature; or

(c) revenue received from the sale, lease, or disposition of any state agency building or property associated with the implementation of the Statewide Master Plan for State Agencies as described in Subsection (7).

(3) Subject to Subsection (4), and subject to appropriation by the Legislature, the division may use the money deposited into the State Agency Capital Development Fund for capital development projects, capital improvement projects, and to design, renovate, or construct facilities for state agencies.

(4) (a) Before the division spends or commits money from the State Agency Capital Development Fund, in accordance with Sections 63A-5b-402, 63A-5b-405, and 63A-5b-501, the division shall present to the Infrastructure and General Government Appropriations Subcommittee:

(i) a description of each project for which the division will spend the money; and

(ii) the amount of money needed for each project.

(b) Following a presentation described in Subsection (4)(a), the Infrastructure and General Government Appropriations Subcommittee shall recommend to the Legislature appropriations of money from the State Agency Capital Development Fund to the division for approved projects in the division's plan.

(c) In accordance with this section, the division is required to receive legislative approval through an appropriations act in order to expend money in the

State Agency Capital Development Fund for a capital development project.

(5) In the 2024 General Session of the Legislature, and each year thereafter, and in accordance with Sections 63A-5b-402, 63A-5b-405, and 63A-5b-501, the division shall present a five-year building plan to the Infrastructure and General Government Appropriations Subcommittee that describes the division's anticipated plan for designing, renovating, or building state agency facilities.

(6) The division may not submit a request to the Infrastructure and General Government Appropriations Subcommittee for funding from the State Agency Capital Development Fund unless:

(a) the project complies with the Statewide Master Plan for State Agencies; and

(b) the division first obtains approval from the Governor's Office of Planning and Budget.

(7) If a building is vacated by an agency and the agency moves to another building, proceeds from the sale or lease of the vacated building:

(a) may not be used by the agency or otherwise absorbed into the agency's budget; and

(b) shall be deposited into the State Agency Capital Development Fund described in this section.

Section 7. Section 63A-5b-910 is amended to read:

63A-5b-910. Disposition of proceeds received by division from sale of vacant division-owned property.

(1) (a) Except as provided in Section 62A-5-206.7, the division shall pay into the state treasury the money received from the transfer of ownership or lease of vacant division-owned property.

(b) Money paid into the state treasury under Subsection (1)(a):

(i) becomes a part of the funds provided by law for carrying out the building program of the state; and

(ii) is appropriated for the purpose described in Subsection (1)(b)(i).

(2) [~~The~~] Except as described in Subsection 63A-5b-407(7), the proceeds from the transfer of ownership or lease of vacant division-owned property belonging to or used by a particular state agency shall, to the extent practicable, be expended for the construction of buildings or in the performance of other work for the benefit of that state agency.

Section 8. Section 63B-3-301 is amended to read:

63B-3-301. Legislative intent -- Additional projects.

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget, may seek out the most cost effective and prudent lease purchase plans available to the state and may, pursuant to Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

(a) the lease purchase obligation; or

(b) lease rental payments under the lease purchase obligation.

(2) It is the intent of the Legislature that the Department of Transportation dispose of surplus real properties and use the proceeds from those properties to acquire or construct through the Division of Facilities Construction and Management a new District Two Complex.

(3) It is the intent of the Legislature that the [~~State Building Board~~] Division of Facilities Construction and Management allocate funds from the Capital Improvement appropriation and donations to cover costs associated with the upgrade of the Governor's Residence that go beyond the restoration costs which can be covered by insurance proceeds.

(4) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $10,600,000 for the construction of a Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Natural Resources not be increased to fund these lease payments.

(5) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $8,300,000 for the acquisition of the office buildings currently occupied by the Department of

Environmental Quality and approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake City, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(6) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $9,000,000 for the acquisition or construction of up to two field offices for the Department of Health and Human Services in the southwestern portion of Salt Lake County, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(7) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in which participation interests may be created, to provide up to $5,000,000 for the acquisition or construction of up to 13 stores for the Department of Alcoholic Beverage Services, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Alcoholic Beverage Services not be increased to fund these lease payments.

(8) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in Salt Lake City, becomes law, it is the intent of the Legislature that:

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of Planning and Budget, and the [~~State Building Board~~] Division of Facilities Construction and Management participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

(b) although this review will not affect the funding authorization issued by the 1994 Legislature, it is expected that Division of Facilities Construction and Management will give proper attention to concerns raised in these reviews and make appropriate design changes pursuant to the review.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services, develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services;

(b) the development process use existing prototype proposals unless it can be quantifiably demonstrated that the proposals cannot be used;

(c) the facility is designed so that with minor modifications, it can accommodate detention, observation and assessment, transition, and secure programs as needed at specific geographical locations;

(d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to design and construct one facility and design the other;

(ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services shall:

(A) determine the location for the facility for which design and construction are fully funded; and

(B) in conjunction with the Division of Facilities Construction and Management, determine the best methodology for design and construction of the fully funded facility;

(e) the Division of Facilities Construction and Management submit the prototype as soon as possible to the Infrastructure and General Government Appropriations Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for review;

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm;

(g) the other facility be designed and constructed under the existing Division of Facilities Construction and Management process;

(h) that both facilities follow the program needs and specifications as identified by Division of Facilities Construction and Management and the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and

(i) the fully funded facility should be ready for occupancy by September 1, 1995.

(11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair Park Master Study be used by the Division of Facilities Construction and Management to develop a master plan for the State Fair Park that:

(a) identifies capital facilities needs, capital improvement needs, building configuration, and other long term needs and uses of the State Fair Park and its buildings; and

(b) establishes priorities for development, estimated costs, and projected timetables.

(12) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of State Parks, formerly known as the Division of Parks and Recreation, and surrounding counties, develop a master plan and general program for the phased development of Antelope Island;

(b) the master plan:

(i) establish priorities for development;

(ii) include estimated costs and projected time tables; and

(iii) include recommendations for funding methods and the allocation of responsibilities between the parties; and

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General Government Appropriations Subcommittee.

(13) It is the intent of the Legislature to authorize the University of Utah to use:

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct the Biology Research Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(14) It is the intent of the Legislature to authorize Utah State University to use:

(a) federal and other funds to plan, design, and construct the Bee Lab under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) donated and other nonappropriated funds to plan, design, and construct an Athletic Facility addition and renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) donated and other nonappropriated funds to plan, design, and construct a renovation to the Nutrition and Food Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) federal and private funds to plan, design, and construct the Millville Research Facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

(a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office and Learning Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) institutional funds to plan, design, and construct the relocation and expansion of a temporary maintenance compound under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) institutional funds to plan, design, and construct the Alder Amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature to authorize Southern Utah University to use:

(a) federal funds to plan, design, and construct a Community Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct a stadium expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(17) It is the intent of the Legislature to authorize the Department of Corrections to use donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional Facility in Gunnison under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City to plan and design an Armory in Provo, Utah, under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(19) It is the intent of the Legislature that the Utah Department of Transportation use $250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

(20) It is the intent of the Legislature that the Ogden-Weber Applied Technology Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building and purchase equipment for use in that building that could be used in metal trades or other programs in other Applied Technology Centers.

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

(22) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Board of Education, the Board of Regents, and the [~~Utah State Building Board~~] Division of Facilities Construction and Management;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 9. Section 63B-6-502 is amended to read:

63B-6-502. Other capital facility authorizations and intent language.

(1) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Health Science Lab Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) the gymnastics facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(2) It is the intent of the Legislature that Southern Utah University use institutional funds to plan, design, and construct a science center addition under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah Valley State College use institutional funds to plan, design, and construct a student center addition under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) (a) It is the intent of the Legislature that the Division of Facilities Construction and Management lease property at the Draper Prison to an entity for the purpose of constructing recycling and transfer facilities to employ inmates if the following conditions are satisfactorily met:

(i) the entity assures continuous employment of state inmates;

(ii) the lease with the entity provides an appropriate return to the state;

(iii) the lease has an initial term of not to exceed 20 years;

(iv) the lease protects the state from all liability;

(v) the entity guarantees that no adverse environmental impact will occur;

(vi) the state retains the right to:

(A) monitor the types of wastes that are processed; and

(B) prohibit the processing of types of wastes that are considered to be a risk to the state or surrounding property uses;

(vii) the lease provides for adequate security arrangements;

(viii) the entity assumes responsibility for any taxes or fees associated with the facility; and

(ix) the entity assumes responsibility for bringing utilities to the site and any state expenditures for roads, etc. are considered in establishing the return to the state.

(b) Except as provided in Subsections (4)(c) and (d), the facility may be constructed without direct supervision by the Division of Facilities Construction and Management.

(c) Notwithstanding Subsection (4)(b), the Division of Facilities Construction and Management shall:

(i) review the design, plans, and specifications of the project; and

(ii) approve them if they are appropriate.

(d) Notwithstanding Subsection (4)(b), the Division of Facilities Construction and Management may:

(i) require that the project be submitted to the local building official for plan review and inspection; and

(ii) inspect the project.

(5) It is the intent of the Legislature that:

(a) the $221,497.86 authorized for the Capitol Hill Day Care Center in Subsection (4) of Laws of Utah 1992, Chapter 304, Section 56, be used for general capital improvements; and

(b) the [~~Building Board~~] Division of Facilities Construction and Management should, in allocating the $221,497.86, if appropriate under the Board's normal allocation and prioritization process, give preference to projects for the Division of State Parks, formerly known as the Division of Parks and Recreation.

Section 10. Section 63B-10-401 is amended to read:

63B-10-401. Other capital facility authorizations and intent language.

(1) It is the intent of the Legislature that:

(a) Utah State University use institutional funds to plan, design, and construct an expansion of the HPER Building under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(2) It is the intent of the Legislature that:

(a) the University of Utah use institutional funds to plan, design, and construct the Moran Eye Center II project under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(3) It is the intent of the Legislature that:

(a) the University of Utah use institutional funds to plan, design, and construct the E. E. Jones Medical Science Addition under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(4) It is the intent of the Legislature that:

(a) the University of Utah use institutional funds to plan, design, and construct a Museum of Natural History under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(5) It is the intent of the Legislature that:

(a) Dixie College use institutional funds to plan, design, and construct the Hurricane Education Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the college may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(6) It is the intent of the Legislature that:

(a) Southern Utah University use institutional funds to plan, design, and construct the Shakespearean Festival Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the college may not request state funds for operations and maintenance.

(7) It is the intent of the Legislature that:

(a) the Department of Corrections use donations to plan, design, and construct the Wasatch Family History Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the department may request state funds for operations and maintenance.

(8) It is the intent of the Legislature that:

(a) the Department of Workforce Services use $1,186,700 from its Special Administrative Expense Account created in Section 35A-4-506 to plan, design, and construct an addition to the Cedar City Employment Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated; and

(b) the department may request state funds for operations and maintenance.

(9) It is the intent of the Legislature that the Division of Facilities Construction and Management, acting on behalf of the Department of Natural Resources, may enter into a lease purchase agreement with Carbon County to provide needed space for agency programs in the area if the Department of Natural Resources obtains the approval of the [~~State Building Board~~] Division of Facilities Construction and Management by demonstrating that the lease purchase will be a benefit to the state and that the lease, including operation and maintenance costs, can be funded within existing agency budgets.

Section 11. Section 63B-12-301 is amended to read:

63B-12-301. Other capital facilities authorizations.

(1) It is the intent of the Legislature that:

(a) Utah State University use institutional funds to plan, design, and construct an addition to the Laboratory Research Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(2) It is the intent of the Legislature that:

(a) Utah State University use institutional funds to plan, design, and construct an addition to the Biology/Natural Resources Building under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(3) It is the intent of the Legislature that:

(a) Snow College use grants and loans from the Community Impact Board together with other institutional funds to plan, design, and construct an addition to the Activities Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project;

(c) before proceeding with the project, the Board of Regents and the [~~State Building Board~~] Division of Facilities Construction and Management review and approve the scope and funding of the project; and

(d) the college may request state funds for operations and maintenance to the extent that the college is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(4) (a) It is the intent of the Legislature that the Division of Facilities Construction and Management sell the state's interest in the Iron County Correction Facility to Iron County for $2,000,000 according to the terms specified in this Subsection (4).

(b) Iron County will pay the state $1,550,000 in cash.

(c) To pay the $450,000 balance of the purchase price, Iron County will:

(i) provide office space for the Department of Corrections' Adult Probation and Parole in the Iron County Correction Facility for 10 years at no cost to the state of Utah, at an estimated value of $45,000 per year for a total [~~10 year~~] 10-year value of $450,000; and

(ii) contract with the Department of Corrections to house 15 state prisoners in the Iron County Correctional Facility for at least five years.

(d) (i) The Department of Corrections shall select the 15 prisoners to house at the Iron County Correctional Facility from beds currently under contract in other counties.

(ii) Nothing in this section may be construed to authorize or require the Department of Corrections to increase the number of prisoners currently housed in county correctional facilities on state contract.

(e) If the Department of Corrections' Adult Probation and Parole chooses, for whatever reason, not to use the office space offered by Iron County, Iron County is not liable for, and need not pay, the state the value of that estimated rent.

Section 12. Section 63B-13-301 is amended to read:

63B-13-301. Lease-purchase authorizations.

(1) It is the intent of the Legislature that the Mountainland Applied Technology Campus of the Utah College of Applied Technology may use existing funds to enter into a lease-purchase agreement with Alpine School District for the acquisition of the Pacific Avenue Applied Technology Facility costing up to $2,900,000.

(2) It is further the intent of the Legislature that a lease may not be executed until the [~~State Building Board~~] Division of Facilities Construction and Management has determined that the lease-purchase option is less costly to the state than the current lease.

Section 13. Section 63B-17-401 is amended to read:

63B-17-401. Authorizations to acquire or exchange property.

The Legislature intends that:

(1) the Division of Facilities Construction and Management, acting on behalf of the Department of Natural Resources, may enter into a lease purchase agreement with Uintah County to provide needed space for agency programs in the area;

(2) the agreement shall involve a trade at fair market value between the Division of Facilities Construction and Management and Uintah County of the following two properties:

(a) that portion of the current Uintah County complex that is owned by the state, located at 147 East Main Street, Vernal, Utah, which currently houses the Department of Natural Resources and other state agencies; and

(b) a parcel of land owned by Uintah County, located at approximately 318 North Vernal Avenue, Vernal, Utah, which would become the location of the needed space under the lease purchase agreement;

(3) before entering into an agreement with Uintah County, the Division of Facilities Construction and Management shall ensure that all other state agencies in the Uintah County complex stay in their current location or receive adequate replacement space, with the terms of any replacement space acceptable to each state agency;

(4) before entering into an agreement with Uintah County, the Department of Natural Resources shall obtain the approval of the [~~State Building Board~~] Division of Facilities Construction and Management; and

(5) the [~~State Building Board~~] Division of Facilities Construction and Management may approve the agreement only if the Department of Natural Resources demonstrates that the lease purchase will be a benefit to the state.

Section 14. Section 63B-18-301 is amended to read:

63B-18-301. Authorizations to design and construct capital facilities using institutional or agency funds.

(1) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use institutional funds to plan and design an ambulatory care complex;

(b) this authorization and the existence of plans and designs do not guarantee nor improve the chances for legislative approval of the remainder of the building in any subsequent year; and

(c) no state funds be used for any portion of this planning and design.

(2) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $64,445,000 in donations to plan, design, and construct a replacement and expansion of the Eccles School of Business Building, with 135,000 new square feet;

(b) no state funds be used for any portion of this project unless expressly appropriated for this purpose or approved in a general obligation bond bill; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(3) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $8,689,000 in donations to plan, design, and construct a renovation of the Kennecott Building, with 19,400 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(4) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $30,737,000 in donations to plan, design, and construct a Sorenson Arts and Education Complex, with 85,400 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(5) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $4,477,500 in donations to plan, design, and construct a Meldrum Civil Engineering Building, with 11,800 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(6) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, negotiate with a private developer to develop the Universe Project on land west of the university football stadium;

(b) before entering into a contract with the developer, the university shall:

(i) present the final contract terms to the Legislature's Executive Appropriations Committee;

(ii) obtain the approval of the [~~State Building Board~~] Division of Facilities Construction and Management; and

(iii) the [~~State Building Board~~] Division of Facilities Construction and Management may approve the agreement only if the university demonstrates that the contract terms will be a benefit to the state;

(c) no state funds be used for any portion of this project; and

(d) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(7) The Legislature intends that:

(a) Utah Valley University may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $2,650,000 in grants and institutional funds to plan, design, and construct a Business Resource Center, with 12,000 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(8) The Legislature intends that:

(a) Utah Valley University may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $1,200,000 in donations and institutional funds to plan, design, and construct a track and field facility;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is

able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(9) The Legislature intends that:

(a) Utah Valley University may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $600,000 in institutional funds to plan, design, and construct intramural playing fields;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(10) The Legislature intends that:

(a) Southern Utah University may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $2,000,000 in donations to plan, design, and construct a baseball and soccer complex upgrade;

(b) no state funds be used for any portion of this project; and

(c) the university may not request state funds for operation and maintenance costs or capital improvements.

(11) The Legislature intends that:

(a) the Department of Natural Resources may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $3,000,000 in federal grants to plan, design, and construct an interagency fire dispatch center, with 10,000 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the department may not request state funds for operation and maintenance costs or capital improvements.

(12) The Legislature intends that:

(a) the Department of Natural Resources may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $7,500,000 in federal grants to plan, design, and construct a curation facility in Vernal, with 21,000 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the department may not request state funds for operation and maintenance costs or capital improvements.

(13) The Legislature intends that:

(a) the Department of Natural Resources may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $650,000 in federal grants to plan, design, and construct an expansion to the seed warehouse at the Great Basin Research Center, with 9,000 new square feet;

(b) no state funds be used for any portion of this project unless expressly appropriated for this purpose; and

(c) the department may not request state funds for operation and maintenance costs or capital improvements.

(14) The Legislature intends that:

(a) the Department of Veterans and Military Affairs may, subject to requirements in Title 63A, Chapter 5b, Administration of State Facilities, use $3,500,000 in federal grants to plan, design, and construct improvements at the Veterans Cemetery, with 15,000 new square feet;

(b) no state funds be used for any portion of this project unless expressly appropriated for this purpose; and

(c) the department may not request state funds for operation and maintenance costs or capital improvements.

Section 15. Section 63G-6a-107.7 is amended to read:

63G-6a-107.7. Procurement rules.

(1) (a) Subject to Subsection (1)(b), the rulemaking authority for a procurement unit shall make rules relating to the management and control of procurements and procurement procedures by the procurement unit.

(b) [~~Building board~~] Facilities division rules governing procurement of construction projects, design professional services, and leases apply to the procurement of construction projects, design professional services, and leases of real property, respectively, by the [~~Division of Facilities Construction and Management~~] facilities division.

(2) A rulemaking authority may not adopt rules, policies, or regulations that are inconsistent with this chapter.

(3) An individual or body that makes rules as required or authorized in this chapter shall make the rules:

(a) in accordance with Chapter 3, Utah Administrative Rulemaking Act, if the individual or body is subject to Chapter 3, Utah Administrative Rulemaking Act; or

(b) in accordance with the established process for making rules or their equivalent, if the individual or body is not subject to Chapter 3, Utah Administrative Rulemaking Act.

(4) The rules of the rulemaking authority for the executive branch procurement unit shall require, for each contract and request for proposals, the inclusion of a clause that requires the issuing procurement unit, for the duration of the contract, to make available contact information of the winning contractor to the Department of Workforce Services in accordance with Section 35A-2-203. This requirement does not preclude a contractor

from advertising job openings in other forums throughout the state.

(5) The Department of Transportation may make rules governing the procurement of a highway construction project or highway improvement project.

(6) The rulemaking authority for a public transit district may make rules governing the procurement of a transit construction project or a transit improvement project.

Section 16. Section 63G-6a-107.8 is amended to read:

63G-6a-107.8. Facilities division report to legislative interim committee.

The [~~building board~~] facilities division shall make a report on or before July 1 of each year to a legislative interim committee designated by the Legislative Management Committee, created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made by the [~~building board~~] facilities division under this chapter.

Section 17. Section 79-4-607 is amended to read:

79-4-607. Utahraptor State Park.

(1) As used in this section, "Dalton Wells" means the land located in the area known as Dalton Wells and fully described by the map and legal description on file with the division.

(2) The division may:

(a) receive donations of land or facilities in the Dalton Wells area for the creation of, and inclusion within, Utahraptor State Park;

(b) engage in land transfers for land in the Dalton Wells area for inclusion in Utahraptor State Park; or

(c) purchase land or facilities in the Dalton Wells area for inclusion in Utahraptor State Park.

(3) Utahraptor State Park shall be included within the state park system.

(4) The division may not open Utahraptor State Park to the public for use as a state park until the division has received sufficient funding from the [~~State Building Board~~] Division of Facilities Construction and Management or from the General Fund to provide for capital improvements and any necessary land acquisitions.

(5) Land acquisitions and capital investments will be made at the park in a way that allows Utahraptor State Park to remain financially self-sustaining.

(6) Ongoing operations at Utahraptor State Park shall be funded through the Division of Parks and Recreation's restricted fees account.

CHAPTER 370
S. B. 172
Passed March 1, 2023
Approved March 17, 2023
Effective May 3, 2023

VEHICLE SALES AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill allows a licensed vehicle dealer to sell and deliver a vehicle to a buyer at the buyer's home or place of business.

Highlighted Provisions:

This bill:

- allows a licensed vehicle dealer to:
  - sell a vehicle to a buyer without the buyer being required to appear in person to one of the dealer's places of business;
  - enter into a purchase contract, collect an electronic signature, and collect payment electronically; and
  - deliver a purchased vehicle to a buyer at the buyer's home, place of business, or another location under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-3-210, as last amended by Laws of Utah 2020, Chapter 367

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-3-210 is amended to read:

41-3-210. License holders -- Prohibitions, allowances, and requirements.

(1) The holder of any license issued under this chapter may not:

(a) intentionally publish, display, or circulate any advertising that is misleading or inaccurate in any material fact or that misrepresents any of the products sold, manufactured, remanufactured, handled, or furnished by a licensee;

(b) intentionally publish, display, or circulate any advertising without identifying the seller as the licensee by including in the advertisement the full name under which the licensee is licensed or the licensee's number assigned by the division;

(c) violate this chapter or the rules made by the administrator;

(d) violate any law of the state respecting commerce in motor vehicles or any rule respecting commerce in motor vehicles made by any licensing or regulating authority of the state;

(e) engage in business as a new motor vehicle dealer, special equipment dealer, used motor vehicle dealer, motor vehicle crusher, or body shop without having in effect a bond as required in this chapter;

(f) act as a dealer, dismantler, crusher, manufacturer, transporter, remanufacturer, or body shop without maintaining a principal place of business;

(g) unless the licensee is a special equipment dealer who sells a new special equipment motor vehicle with a gross vehicle weight of 12,000 or more pounds after installing special equipment on the motor vehicle:

(i) engage in a business respecting the selling or exchanging of new or new and used motor vehicles for which the licensee is not licensed; and

(ii) unless the licensee is a direct-sale manufacturer, sell or exchange a new motor vehicle for which the licensee does not have a franchise;

(h) dismantle or transport to a crusher for crushing or other disposition any motor vehicle without first obtaining a dismantling or junk permit under Section 41-1a-1009, 41-1a-1010, or 41-1a-1011;

(i) as a new motor vehicle dealer, special equipment dealer, or used motor vehicle dealer fail to give notice of sales or transfers as required in Section 41-3-301;

(j) advertise or otherwise represent, or knowingly allow to be advertised or represented on the licensee's behalf or at the licensee's place of business, that no down payment is required in connection with the sale of a motor vehicle when a down payment is required and the buyer is advised or induced to finance a down payment by a loan in addition to any other loan financing the remainder of the purchase price of the motor vehicle;

(k) as a crusher, crush or shred a motor vehicle brought to the crusher without obtaining proper evidence of ownership of the motor vehicle; proper evidence of ownership is a certificate of title endorsed according to law or a dismantling or junk permit issued under Section 41-1a-1009, 41-1a-1010, or 41-1a-1011;

(l) as a manufacturer or remanufacturer assemble a motor vehicle that does not comply with construction, safety, or vehicle identification number standards fixed by law or rule of any licensing or regulating authority;

(m) as anyone other than a salesperson or a direct-sale manufacturer salesperson licensed under this chapter, be present on a dealer display space and contact prospective customers to promote the sale of the dealer's vehicles;

(n) subject to Subsection (14), sell, display for sale, or offer for sale motor vehicles at any location other than the principal place of business, or additional places of business licensed under this chapter; [~~this provision is construed to prevent dealers, salespersons, or any other representative of a dealership from selling, displaying, or offering~~

~~motor vehicles for sale from their homes or other unlicensed locations;~~]

(o) (i) as a dealer, dismantler, body shop, or manufacturer, maintain a principal place of business or additional place of business that shares any common area with a business or activity not directly related to motor vehicle commerce; or

(ii) maintain any places of business that share any common area with another dealer, dismantler, body shop, or manufacturer;

(p) withhold delivery of license plates obtained by the licensee on behalf of a customer for any reason, including nonpayment of any portion of the vehicle purchase price or down payment;

(q) issue a temporary permit for any vehicle that has not been sold by the licensee;

(r) alter a temporary permit in any manner;

(s) operate any principal place of business or additional place of business in a location that does not comply with local ordinances, including zoning ordinances;

(t) sell, display for sale, offer for sale, or exchange any new motor vehicle if the licensee does not:

(i) have a new motor vehicle dealer's license or a direct-sale manufacturer's license under Section 41-3-202; and

(ii) unless the licensee is a direct-sale manufacturer, possess a franchise from the manufacturer of the new motor vehicle sold, displayed for sale, offered for sale, or exchanged by the licensee;

(u) as a new motor vehicle dealer or used motor vehicle dealer, encourage or conspire with any person who has not obtained a salesperson's or a direct-sale manufacturer salesperson's license to solicit for prospective purchasers;

(v) as a direct-sale manufacturer, engage in business as a direct-sale manufacturer without having:

(i) an authorized service center; or

(ii) a principal place of business; or

(w) possess a franchise that is not expressed in writing, if the franchise allows the sale or exchange of a new trailer that:

(i) is not designed for human habitation;

(ii) has a gross vehicle weight rating of less than 26,000 pounds; and

(iii) is not designed to carry a motorboat as defined in Section 73-18-2.

(2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor home, ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange the vehicle as the make designated by the final stage manufacturer, except in those specific situations where the licensee:

(i) possesses a franchise from the initial or first stage manufacturer, presumably the manufacturer of the motor vehicle's chassis; or

(ii) manufactured the initial or first stage of the motor vehicle.

(b) Sales of multiple stage manufactured motor vehicles shall include the transfer to the purchaser of a valid manufacturer's statement or certificate of origin from each manufacturer under Section 41-3-301.

(3) Each licensee, except salespersons, shall maintain and make available for inspection by peace officers and employees of the division:

(a) a record of every motor vehicle bought, or exchanged by the licensee or received or accepted by the licensee for sale or exchange;

(b) a record of every used part or used accessory bought or otherwise acquired;

(c) a record of every motor vehicle bought or otherwise acquired and wrecked or dismantled by the licensee;

(d) all buyers' orders, contracts, odometer statements, temporary permit records, financing records, and all other documents related to the purchase, sale, or consignment of motor vehicles; and

(e) a record of the name and address of the person to whom any motor vehicle or motor vehicle body, chassis, or motor vehicle engine is sold or otherwise disposed of and a description of the motor vehicle by year, make, and vehicle identification number.

(4) Each licensee required by this chapter to keep records shall:

(a) be kept by the licensee at least for five years; and

(b) furnish copies of those records upon request to any peace officer or employee of the division during reasonable business hours.

(5) (a) A manufacturer, distributor, distributor representative, or factory representative may not induce or attempt to induce by means of coercion, intimidation, or discrimination any dealer to:

(i) accept delivery of any motor vehicle, parts, or accessories or any other commodity or commodities, including advertising material not ordered by the dealer;

(ii) order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of the motor vehicle as publicly advertised by the manufacturer;

(iii) order from any person any parts, accessories, equipment, machinery, tools, appliances, or any other commodity;

(iv) enter into an agreement with the manufacturer, distributor, distributor representative, or factory representative of any of them, or to do any other act unfair to the dealer by threatening to cancel any franchise or contractual agreement between the manufacturer, distributor,

distributor branch, or factory branch and the dealer;

(v) refuse to deliver to any dealer having a franchise or contractual arrangement for the retail sale of new and unused motor vehicles sold or distributed by the manufacturer, distributor, distributor branch or factory branch, any motor vehicle, publicly advertised for immediate delivery within 60 days after the dealer's order is received;

(vi) unfairly, without regard to the equities of the dealer, cancel the franchise of any motor vehicle dealer; the nonrenewal of a franchise or selling agreement without cause and written notice is a violation of this subsection and is an unfair cancellation; or

(vii) waive or forbear the right of the dealer, if the dealer offers for sale, sells, or exchanges cargo/utility trailers, to protest the establishment or relocation of a dealer who offers for sale, sells, or exchanges cargo/utility trailers of the same line-make in the relevant market area of the established dealer.

(b) For the purpose of Subsection (5)(a)(vii):

(i) "Cargo/utility trailer" means a trailer that:

(A) is not designed for human habitation;

(B) has a gross vehicle weight rating of less than 26,000 pounds; and

(C) is not designed to carry a motorboat as defined in Section 73-18-2.

(ii) "Relevant market area" means:

(A) for a dealership located in a county that has a population of less than 225,000, the county in which the dealership is located and the area within a 15-mile radius of the dealership; or

(B) for a dealership located in a county that has a population of 225,000 or more, the area within a 10-mile radius of the dealership.

(6) A dealer may not assist an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, or by allowing use of his facilities or dealer license number, or by any other means.

(7) (a) The holder of any new motor vehicle dealer or direct-sale manufacturer license issued under this chapter may not sell any new motor vehicle to:

(i) another dealer licensed under this chapter who does not hold a valid franchise for the make of new motor vehicles sold, unless the selling dealer licenses and titles the new motor vehicle to the purchasing dealer; or

(ii) any motor vehicle leasing or rental company located within this state, or who has any branch office within this state, unless the dealer licenses and titles the new motor vehicle to the purchasing, leasing, or rental company.

(b) Subsection (7)(a)(i) does not apply to the sale of a new incomplete motor vehicle with a gross vehicle weight of 12,000 or more pounds to a special equipment dealer licensed under this chapter.

(8) A dealer licensed under this chapter may not take on consignment any new motor vehicle from anyone other than a new motor vehicle dealer, factory, or distributor who is licensed and, if required, franchised to distribute or sell that make of motor vehicle in this or any other state.

(9) A body shop licensed under this chapter may not assist an unlicensed body shop in unlawful activity through active or passive means or by allowing use of its facilities, name, body shop number, or by any other means.

(10) A used motor vehicle dealer licensed under this chapter may not advertise, offer for sale, or sell a new motor vehicle that has been driven less than 7,500 miles by obtaining a title only to the vehicle and representing it as a used motor vehicle.

(11) (a) Except as provided in Subsection (11)(c), or in cases of undue hardship or emergency as provided by rule by the division, a dealer or salesperson licensed under this chapter may not, on consecutive days of Saturday and Sunday, sell, offer for sale, lease, or offer for lease a motor vehicle.

(b) Each day a motor vehicle is sold, offered for sale, leased, or offered for lease in violation of Subsection (11)(a) and each motor vehicle sold, offered for sale, leased, or offered for lease in violation of Subsection (11)(a) shall constitute a separate offense.

(c) The provisions of Subsection (11)(a) shall not apply to a dealer participating in a trade show or exhibition if:

(i) there are five or more dealers participating in the trade show or exhibition; and

(ii) the trade show or exhibition takes place at a location other than the principal place of business of one of the dealers participating in the trade show or exhibition.

(12) For purposes of imposing the sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, a licensee issuing a temporary permit under Section 41-3-302 shall separately identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act.

(13) (a) A dismantler or dealer engaged in the business of dismantling motor vehicles for the sale of parts or salvage shall identify any vehicles or equipment used by the dismantler or dealer for transporting parts or salvage on the highways.

(b) The identification required under Subsection (13)(a) shall:

(i) include the name, address, and license number of the dismantler or dealer; and

(ii) be conspicuously displayed on both sides of the vehicle or equipment in clearly legible letters and numerals not less than two inches in height.

(14) (a) Subject to Subsection (14)(b), a licensed vehicle dealer may:

(i) sell a vehicle to a buyer without the buyer being required to appear in person at one of the dealer's licensed places of business;

(ii) collect a buyer's signature or electronic signature on a purchase contract and related purchase documents;

(iii) collect payment electronically; and

(iv) deliver:

(A) a new motor vehicle to a buyer at the buyer's home or place of business, or at one of the dealer's licensed places of business; or

(B) a used motor vehicle to a buyer at a location mutually agreed upon by the buyer and the dealer.

(b) A vehicle purchase contract is not executed until the contract is countersigned by the licensed dealer at one of the dealer's licensed places of business.

(c) Except as provided in this Subsection (14), Subsection (1)(n) is construed to prevent a dealer, salesperson, or any other representative of a dealership from selling, displaying, or offering a motor vehicle for sale from the dealer's, salesperson's, or any other representative's home or other unlicensed location.

CHAPTER 371
S. B. 173
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act and related provisions.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- prohibits a public transit district from allowing advertising on a transit vehicle that promotes an alcoholic product;
- modifies the proximity within which a hotel licensee may be to a community location;
- clarifies hotel and resort licensee room service requirements;
- modifies provisions related to flavored beer, heavy beer, and other malt beverages;
- establishes a process for the Department of Alcoholic Beverage Services (department) to approve a manufacturer's sale or distribution of beer that contains certain flavoring;
- prohibits a manufacturer from selling or distributing beer that contains certain flavoring without the department's approval;
- clarifies penalties applicable to a manufacturer who sells or distributes beer that contains certain flavoring without the department's approval;
- requires the department to reject labeling or packaging for a malted beverage that is likely to cause a person to believe the malted beverage is a nonalcoholic beverage under certain circumstances;
- addresses minor ownership in an entity that applies for an alcohol license, package agency, or permit;
- prohibits the department from purchasing or stocking spirituous liquor in a container smaller than 200 milliliters except for certain purposes;
- modifies alcohol training and education requirements for certain staff of an alcohol licensee;
- requires the Alcoholic Beverage Services Commission (commission) to provide information regarding an off-premise beer retailer licensee's sale of an alcoholic product to a minor to the Department of Public Safety and requires the Department of Public Safety to manage the information;
- modifies alcohol license renewal fee requirements;
- removes provisions requiring the clerk of the court to notify the department of violations of the Alcoholic Beverage Control Act or alcohol-related local ordinances;
- prohibits storage of an alcoholic beverage for sale if a person is not authorized to sell the alcoholic beverage;
- modifies license forfeiture requirements for retail licensees that cease operations;
- allows certain restaurant venues to obtain an on-premise banquet license for the same premises as a restaurant license;
- limits the number of on-premise banquet licenses the commission may issue to a restaurant venue;
- addresses the proximity within which a restaurant venue on-premise banquet license may be to a community location;
- allows a hotel or resort to obtain an off-premise beer retailer state license;
- allows a restaurant patron who is escorted by a restaurant employee to carry an unfinished drink from the dispensing area to the dining area;
- modifies serving size requirements for hard cider;
- modifies requirements for master full-service restaurant licensees;
- exempts resort sublicenses from the commission's calculation regarding the total number of retail licenses issued;
- exempts a certain number of full-service restaurant licenses from the population quota applicable to full-service restaurant licenses;
- exempts a certain number of bar establishment licenses from the population quota applicable to bar establishment licenses;
- modifies requirements for certain equity licensees to maintain a substantial recreational facility;
- provides that an equity licensee may have more than one dispensing structure on the equity licensee's premises;
- increases the number of airport lounge licenses the commission may issue for an international airport;
- allows the commission to issue a certain number of airport lounge licenses to a domestic airport;
- requires a person who transports liquor to a domestic airport to obtain a liquor transport license;
- modifies department notice requirements for, and the process for issuance of, an event permit;
- allows the commission to deem certain licenses forfeited for the licensee's failure to meet change in ownership notice requirements;
- modifies the time period within which a local industry representative licensee and liquor warehousing licensee is required to notify the department regarding change of ownership;
- modifies provisions related to management agreements concerning a business that is utilizing an alcohol license;
- clarifies provisions related to alcohol inventory transfer agreements;
- creates reporting requirements;
- includes a sunset date; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
32B-1-102, as last amended by Laws of Utah 2022, Chapter 447
32B-1-202, as last amended by Laws of Utah 2021, Chapter 291
32B-1-202.1, as last amended by Laws of Utah 2022, Chapter 447
32B-1-206, as last amended by Laws of Utah 2020, Chapter 219
32B-1-304, as last amended by Laws of Utah 2021, Chapter 291
32B-1-603, as last amended by Laws of Utah 2022, Chapter 447
32B-1-606, as last amended by Laws of Utah 2022, Chapter 447
32B-1-608, as enacted by Laws of Utah 2010, Chapter 276
32B-1-703, as renumbered and amended by Laws of Utah 2019, Chapter 403
32B-1-705, as renumbered and amended by Laws of Utah 2019, Chapter 403
32B-2-202, as last amended by Laws of Utah 2022, Chapter 447
32B-2-303, as last amended by Laws of Utah 2011, Chapter 307
32B-4-202, as last amended by Laws of Utah 2016, Chapter 176
32B-4-418, as enacted by Laws of Utah 2010, Chapter 276
32B-5-304, as last amended by Laws of Utah 2022, Chapter 447
32B-5-309, as last amended by Laws of Utah 2022, Chapter 447
32B-6-203, as last amended by Laws of Utah 2019, Chapter 403
32B-6-205.2, as last amended by Laws of Utah 2022, Chapter 447
32B-6-206, as last amended by Laws of Utah 2019, Chapter 403
32B-6-305.2, as last amended by Laws of Utah 2022, Chapter 447
32B-6-403, as last amended by Laws of Utah 2018, Chapter 249
32B-6-404, as last amended by Laws of Utah 2018, Chapter 249
32B-6-406, as last amended by Laws of Utah 2020, Chapter 219
32B-6-503, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 3
32B-6-603, as last amended by Laws of Utah 2020, Chapter 219
32B-6-605, as last amended by Laws of Utah 2022, Chapter 447
32B-6-905.1, as last amended by Laws of Utah 2022, Chapter 447
32B-6-1005, as last amended by Laws of Utah 2022, Chapter 447
32B-7-409, as enacted by Laws of Utah 2020, Chapter 219
32B-8-401, as last amended by Laws of Utah 2020, Chapter 219
32B-8b-102, as last amended by Laws of Utah 2020, Chapter 219
32B-8b-301, as last amended by Laws of Utah 2022, Chapter 447
32B-8d-103, as last amended by Laws of Utah 2022, Chapter 447
32B-8d-205, as last amended by Laws of Utah 2022, Chapter 447
32B-9-202, as last amended by Laws of Utah 2016, Chapter 35
32B-11-209, as enacted by Laws of Utah 2010, Chapter 276
32B-11-210, as enacted by Laws of Utah 2016, Chapter 266
32B-11-609, as enacted by Laws of Utah 2010, Chapter 276
32B-12-302, as enacted by Laws of Utah 2010, Chapter 276
32B-17-102, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 3
32B-18-204, as renumbered and amended by Laws of Utah 2022, Chapter 447
32B-18-205, as enacted by Laws of Utah 2022, Chapter 447
62A-15-401, as last amended by Laws of Utah 2022, Chapter 447
63I-2-232, as last amended by Laws of Utah 2021, Chapter 291

ENACTS:
32B-1-603.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport or domestic airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(8) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility; [~~or~~]

(vi) an arena; or

(vii) a restaurant venue;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(9) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(10) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(11) (a) "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume; and

(B) no more than 5% of alcohol by volume or 4% by weight;

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may contain:

(i) hops extract; [~~or~~]

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient[~~.~~]; or

(iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:

(A) is used in the production of beer;

(B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and

(C) does not contribute more than 10% of the overall alcohol content of the beer.

(c) "Beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(12) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(13) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(14) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(15) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(16) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(17) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(18) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(20) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(21) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.

(22) "Commissioner" means a member of the commission.

(23) "Community location" means:

(a) a public or private school;

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(24) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(25) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(26) "Controlled group of manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(27) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(28) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(29) "Crime involving moral turpitude" is as defined by the commission by rule.

(30) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

(31) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(34) "Director," unless the context requires otherwise, means the director of the department.

(35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(36) (a) Subject to Subsection (36)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (36) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

(37) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

(38) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(39) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(40) "Domestic airport" means an airport that:

(a) has at least 15,000 commercial airline passenger boardings in any five-year period;

(b) receives scheduled commercial passenger aircraft service; and

(c) is not an international airport.

[~~(40)~~] (41) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

[~~(41)~~] (42) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

[~~(42)~~] (43) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

[~~(43)~~] (44) (a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

(b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

(c) "Flavored malt beverage" does not include beer or heavy beer.

(d) "Flavored malt beverage" is considered liquor for purposes of this title.

[~~(44)~~] (45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

[~~(45)~~] (46) "Full-service restaurant license" means a license issued in accordance with Chapter

5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

[~~(46)~~] (47) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

[~~(47)~~] (48) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

[~~(48)~~] (49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

[~~(49)~~] (50) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(50)~~] (51) (a) "Heavy beer" means a product that:

(i) (A) contains more than 5% alcohol by volume; [~~and~~]

(B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes more than 10% of the overall alcohol content of the product; or

(C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and has a label or packaging that is rejected under Subsection 32B-1-606(3)(b); and

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume, contain a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the heavy beer.

(c) "Heavy beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsections (51)(a)(i)(B) and (51)(b), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

[~~(b)~~] (d) "Heavy beer" is considered liquor for the purposes of this title.

[~~(51)~~] (52) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

[~~(52)~~] (53) (a) "Hotel" means a commercial lodging establishment that:

(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

(C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection [~~(52)(a);~~] (53)(a); and

(ii) has one or more privately owned dwelling units.

[~~(53)~~] (54) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

[~~(54)~~] (55) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

[~~(55)~~] (56) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

[~~(56)~~] (57) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

[~~(57)~~] (58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

[~~(58)~~] (59) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

[~~(59)~~] (60) "Intoxicated" means that a person:

(a) is significantly impaired as to the person's mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections [~~(59)(a)(i)~~] (60)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

[~~(60)~~] (61) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

[~~(61)~~] (62) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License;

(d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

[~~(62)~~] (63) "Licensee" means a person who holds a license.

[~~(63)~~] (64) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

[~~(64)~~] (65) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

[~~(65)~~] (66) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

[~~(66)~~] (67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

[~~(67)~~] (68) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

[~~(68)~~] (69) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for

storage, sale, or distribution of liquor regardless of amount.

[~~(69)~~] (70) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

[~~(70)~~] (71) "Lounge or bar area" is as defined by rule made by the commission.

[~~(71)~~] (72) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

[~~(72)~~] (73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

[~~(73)~~] (74) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

[~~(74)~~] (75) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

[~~(75)~~] (76) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

[~~(76)~~] (77) "Minor" means an individual under 21 years old.

[~~(77)~~] (78) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

[~~(78)~~] (79) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

[~~(79)~~] (80) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

[~~(80)~~] (81) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

[~~(81)~~] (82) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

[~~(82)~~] (83) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

[~~(83)~~] (84) "Opaque" means impenetrable to sight.

[~~(84)~~] (85) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

[~~(85)~~] (86) "Package agent" means a person who holds a package agency.

[~~(86)~~] (87) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

[~~(87)~~] (88) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

[~~(88)~~] (89) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

[~~(89)~~] (90) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections [~~(89)(a)~~] (90)(a) through (f); or

(ii) a package agent.

[~~(90)~~] (91) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

[~~(91)~~] (92) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

[~~(92)~~] (93) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

[~~(93)~~] (94) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

[~~(94)~~] (95) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

[~~(95)~~] (96) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

[~~(96)~~] (97) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act;

(II) in accordance with the laws of the state in which it is issued; or

(III) in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

[~~(97)~~] (98) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Spa Sublicense.

[~~(98)~~] (99) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

[~~(99)~~] (100) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

[~~(100)~~] (101) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection [~~(100)(a)~~] (101)(a) to a third party for the third party's event.

[~~(101)~~] (102) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

[~~(102)~~] (103) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

[~~(103)~~] (104) "Residence" means a person's principal place of abode within Utah.

[~~(104)~~] (105) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

[~~(105)~~] (106) "Resort" means the same as that term is defined in Section 32B-8-102.

[~~(106)~~] (107) "Resort facility" is as defined by the commission by rule.

[~~(107)~~] (108) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

[~~(108)~~] (109) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

[~~(109)~~] (110) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

[~~(110)~~] (111) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(112) "Restaurant venue" means a room within a restaurant that:

(a) is located on the licensed premises of a restaurant licensee;

(b) is separated from the area within the restaurant for a patron's consumption of food by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a patron in the area within the restaurant for a patron's consumption of food; and

(c) (i) has at least 1,000 square feet that:

(A) may be reserved for a banquet; and

(B) accommodates at least 75 individuals; or

(ii) if the restaurant is located in a small or unincorporated locality, has an appropriate amount of space, as determined by the commission, that may be reserved for a banquet.

[~~(111)~~] (113) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

[~~(112)~~] (114) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

[~~(113)~~] (115) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool; or

(v) a home school.

[~~(114)~~] (116) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

[~~(115)~~] (117) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

[~~(116)~~] (118) "Serve" means to place an alcoholic product before an individual.

[~~(117)~~] (119) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection [~~(117)(b)~~] (119)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

[~~(118)~~] (120) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

[~~(119)~~] (121) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

[~~(120)~~] (122) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

[~~(121)~~] (123) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

[~~(122)~~] (124) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Spa Sublicense.

[~~(123)~~] (125) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

[~~(124)~~] (126) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

[~~(125)~~] (127) "Sports center" is as defined by the commission by rule.

[~~(126)~~] (128) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

[~~(127)~~] (129) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

[~~(128)~~] (130) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

[~~(129)~~] (131) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

[~~(130)~~] (132) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

[~~(131)~~] (133) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a spa sublicense.

[~~(132)~~] (134) "Supplier" means a person who sells an alcoholic product to the department.

[~~(133)~~] (135) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

[~~(134)~~] (136) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

[~~(135)~~] (137) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

[~~(136)~~] (138) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

[~~(137)~~] (139) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

[~~(138)~~] (140) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

[~~(139)~~] (141) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-1-202 is amended to read:

32B-1-202. Proximity to community location.

(1) As used in this section:

(a) (i) "Outlet" means:

(A) a state store;

(B) a package agency; or

(C) a retail licensee.

(ii) "Outlet" does not include:

(A) an airport lounge licensee; or

(B) a restaurant.

(b) "Restaurant" means:

(i) a full-service restaurant licensee;

(ii) a limited-service restaurant licensee; [~~or~~]

(iii) a beer-only restaurant licensee[~~.~~]; or

(iv) a restaurant venue on-premise banquet licensee.

(2) (a) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance of the proposed outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest patron entrance of the proposed outlet to the nearest property boundary of the community location.

(b) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 300 feet of the proposed restaurant, as measured from the nearest patron entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed restaurant, measured in a straight line from the nearest patron entrance of the proposed restaurant to the nearest property boundary of the community location.

(3) (a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse, the property is used for a different purpose.

(b) An outlet or a restaurant that has continuously operated at a location since before January 1, 2007, is considered to have a previously approved variance.

(4) An outlet or restaurant that holds a license on May 12, 2020, and operates in accordance with the proximity requirements in effect at the time the commission issued the license or operates under a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant or an outlet or a restaurant with the same type of license as that outlet or restaurant may operate at the premises regardless of whether:

(a) the outlet or restaurant changes ownership;

(b) the property on which the outlet or restaurant is located changes ownership; or

(c) there is a lapse of one year or less in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(5) (a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(b) The provisions of this Subsection (5) apply regardless of when the outlet's or restaurant's license is issued.

(6) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.

Section 3. Section 32B-1-202.1 is amended to read:

32B-1-202.1. Proximity for certain hotel and arena licensees.

(1) As used in this section, "hotel" means the same as that term is defined in Section 32B-8b-102.

(2) The commission may issue a hotel license for a proposed location that does not meet the proximity requirements under Section 32B-1-202, if:

(a) the proposed hotel is:

(i) located in a city classified as a city of the first class under Section 10-2-301;

(ii) within [~~600~~] 650 feet of two community locations, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of each community location;

(iii) not within 300 feet of a community location, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; and

(iv) not within 200 feet of a community location, as measured in a straight line from the nearest patron entrance of the proposed hotel to the nearest property boundary of the community location;

(b) the proposed sublicensed premises of a bar establishment sublicense under the hotel license:

(i) is on the second or higher floor of a hotel;

(ii) is not accessible at street level; and

(iii) is only accessible to an individual who passes through another area of the hotel in which the bar establishment sublicense is located; and

(c) the applicant meets all other criteria under this title for the hotel license.

(3) The commission may issue authority to operate as a package agency to a hotel licensee who meets the requirements described in Subsection (2).

(4) (a) The commission may issue an arena license for a proposed location that does not meet the proximity requirements described in Section 32B-1-202, if, on the day before the day on which

the commission issues the license, each proposed sublicense of the arena license:

(i) operates as an outlet or restaurant; and

(ii) (A) operates on the proposed sublicense premises under a variance to one or more proximity requirements in accordance with Section 32B-1-202; or

(B) has been in operation on the proposed sublicense premises for at least 10 years.

(b) After the commission issues an arena license in accordance with Subsection (4)(a), the commission may not issue the arena licensee an additional sublicense.

Section 4. Section 32B-1-206 is amended to read:

32B-1-206. Advertising prohibited -- Exceptions.

(1) (a) The department may not advertise liquor, except:

(i) the department may provide for an appropriate sign in the window or on the front of a state store or package agency denoting that it is a state authorized liquor retail facility;

(ii) the department or a package agency may provide a printed price list to the public;

(iii) the department may authorize the use of price posting and floor stacking of liquor within a state store;

(iv) subject to Subsection (1)(b), the department may provide a listing of the address and telephone number of a state store in one or more printed or electronic directories available to the general public; and

(v) subject to Subsection (1)(b), a package agency may provide a listing of its address and telephone number in one or more printed or electronic directories available to the general public.

(b) A listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of a telephone directory may not be displayed in an advertisement or other promotional format.

(2) (a) The department may not advertise an alcoholic product on a billboard.

(b) A package agency may not advertise an alcoholic product on a billboard, except to the extent allowed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) The department may not display liquor or a price list in a window or showcase visible to passersby.

(b) A package agency may not display liquor or a price list in a window or showcase visible to passersby, except to the extent allowed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A public transit district, as defined in Section 17B-2a-802, may not allow advertising on a transit vehicle, as defined in Section 17B-2a-802, that promotes an alcoholic product.

[~~(4)~~] (5) Advertising of an alcoholic product may not:

(a) promote the intoxicating effects of alcohol; or

(b) emphasize the high alcohol content of the alcoholic product.

[~~(5)~~] (6) Except to the extent prohibited by this title, the advertising of an alcoholic product is allowed under guidelines established by the commission by rule.

[~~(6)~~] (7) The advertising or use of any means or media to offer an alcoholic product to the general public without charge is prohibited.

Section 5. Section 32B-1-304 is amended to read:

32B-1-304. Qualifications for a package agency, license, or permit -- Minors.

(1) (a) Except as provided in Subsection (7), the commission may not issue a package agency, license, or permit to a person who has been convicted of:

(i) within seven years before the day on which the commission issues the package agency, license, or permit, a felony under a federal law or state law;

(ii) within four years before the day on which the commission issues the package agency, license, or permit:

(A) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or

(B) a crime involving moral turpitude; or

(iii) on two or more occasions within the five years before the day on which the package agency, license, or permit is issued, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.

(b) If the person is a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of an offense described in Subsection (1)(a):

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(vii) a member who owns at least 20% of the limited liability company.

(c) Except as provided in Subsection (7), the proscription under Subsection (1)(a) applies if a person who is employed to act in a supervisory or managerial capacity for a package agency, licensee, or permittee has been convicted of an offense described in Subsection (1)(a).

(2) Except as described in Section 32B-8-501, the commission may immediately suspend or revoke a package agency, license, or permit, and terminate a package agency agreement, if a person described in Subsection (1):

(a) after the day on which the package agency, license, or permit is issued, is found to have been convicted of an offense described in Subsection (1)(a) before the package agency, license, or permit is issued; or

(b) on or after the day on which the package agency, license, or permit is issued:

(i) is convicted of an offense described in Subsection (1)(a)(i) or (ii); or

(ii) (A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) Except as described in Section 32B-8-501, the director may take emergency action by immediately suspending the operation of the package agency, licensee, or permittee for the period during which a criminal matter is being adjudicated if a person described in Subsection (1):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i) or (ii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not issue a package agency, license, or permit to a person who has had any type of agency, license, or permit issued under this title revoked within the last three years.

(ii) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if a partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the corporation, or member who owns at least 20% of the limited liability company is or was:

(A) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of a limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(b) The commission may not issue a package agency, [~~licence~~] license, or permit to a partnership, corporation, or limited liability company if any of the following had any type of agency, license, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) a partner or managing agent of a partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation; or

(iii) a manager or member who owns at least 20% of a limited liability company.

(c) The commission may not issue a package agency, license, or permit to a person acting in an individual capacity if that person was:

(i) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of the limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(5) (a) The commission may not issue a package agency, license, or permit to a minor.

(b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(iii) a manager or member who owns at least 20% of the limited liability company.

(c) For purposes of Subsection (5)(b), the commission may not consider a minor's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for

the package agency, license, or permit unless the minor would exercise direct decision-making control over the package agency, license, or permit.

(6) Except as described in Section 32B-8-501, if a package agent, licensee, or permittee no longer possesses the qualifications required by this title for obtaining a package agency, license, or permit, the commission may terminate the package agency agreement, or revoke the license or permit.

(7) (a) If the licensee is a resort licensee:

(i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the resort, as the commission defines in rule; and

(ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the resort licensee or in relation to a sublicense of the resort license.

(b) If the permittee is a public service permittee under Chapter 10, Special Use Permit Act:

(i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the airline, railroad, or other public conveyance, as the commission defines in rule; and

(ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the public service permittee.

Section 6. Section 32B-1-603 is amended to read:

32B-1-603. Power of the commission and department to classify flavored malt beverages.

(1) The commission and department shall regulate a flavored malt beverage as liquor.

(2) (a) The department shall make available to the public on the Internet a list of the flavored malt beverages authorized to be sold in this state as liquor.

(b) The list described in Subsection (2)(a) shall be updated at least quarterly.

(3) (a) A manufacturer shall file, under penalty of perjury, a report with the department listing each flavored malt beverage manufactured by the manufacturer that the manufacturer wants to distribute in this state subject to the manufacturer holding:

(i) a brewery manufacturing license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License; or

(ii) a certificate of approval.

(b) A manufacturer may not distribute or sell in this state a flavored malt beverage if the manufacturer does not list the flavored malt beverage in a filing with the department in accordance with this Subsection (3) before distributing or selling the flavored malt beverage.

(4) The department may require a manufacturer of a flavored malt beverage to provide the department with a copy of the following filed with the federal Alcohol and Tobacco Tax and Trade Bureau, pursuant to 27 C.F.R. Sec. 25.55:

(a) a statement of process; or

(b) a formula.

(5) (a) A manufacturer of an alcoholic product that the department is classifying or proposes to classify as a flavored malt beverage may submit evidence to the department that the manufacturer's alcoholic product should not be treated as [~~liquor~~] a flavored malt beverage under this section because [~~no formula for the alcoholic product is required to be filed for a reason described in:~~] the alcoholic product is beer or heavy beer.

[~~(i) Subsection 32B-1-102(43)(a)(ii), as shown by a determination issued by the federal Alcohol and Tobacco Tax and Trade Bureau; or~~]

[~~(ii) Subsection 32B-1-102(43)(a)(iii).~~]

(b) The department shall review the evidence submitted by the manufacturer under this Subsection (5).

(c) The department shall make available to the public on the Internet a list of the alcoholic products authorized under this Subsection (5) to be sold as beer in this state.

(d) A decision of the department under this Subsection (5) may be appealed to the commission.

Section 7. Section 32B-1-603.5 is enacted to read:

32B-1-603.5. Requirements for beer flavorings -- Procedure for approval -- Department review.

(1) A manufacturer of a beer that contains a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent as described in Subsection 32B-1-102(11)(b)(iii) may not sell or distribute the beer in the state unless the manufacturer obtains:

(a) the department's approval to sell or distribute the beer under this section; and

(b) the department's approval of the label and packaging of the beer under Sections 32B-1-604 through 32B-1-606.

(2) (a) To obtain approval to sell or distribute a beer that contains a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent as described in Subsection 32B-1-102(11)(b)(iii), the manufacturer of the beer shall submit an application to the department for approval.

(b) The application shall require:

(i) a copy of:

(A) the statement of process and formula filed with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 for the beer; and

(B) the formula approval from the federal Alcohol and Tobacco Tax and Trade Bureau for the beer;

(ii) a complete list of each propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent in the beer;

(iii) a description of the total amount of alcohol each propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent contributes to the beer; and

(iv) other information required by the department to determine whether the beer complies with Subsection 32B-1-102(11)(b)(iii).

(3) The department may:

(a) assess a fee established under Section 63J-1-504 for reviewing an application for approval under this section; and

(b) approve a manufacturer's application to sell or distribute a beer that contains a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent after determining that the beer complies with Subsection 32B-1-102(11)(b)(iii).

(4) If a manufacturer of a beer revises the formula for the beer that the department approved for sale or distribution, the manufacturer shall obtain the department's approval for the revised formula before selling or distributing the beer.

(5) (a) The department may revoke a previous approval under this section upon determining that the beer is not in compliance with this title or the rules of the commission.

(b) The department shall notify the manufacturer that applied for an approval under this section at least 30 business days before the day on which the approval is revoked.

(c) Within 20 business days after the day on which a manufacturer receives the notice under Subsection (5)(b), the manufacturer may present a written argument or evidence to the department regarding why the revocation should not occur.

(6) (a) A manufacturer that applies for approval under this section may appeal a denial or revocation of the approval to the commission.

(b) During the period in which a manufacturer appeals a denial or revocation to the commission under Subsection (6)(a), the denial or revocation remains in force.

(7) (a) Before July 1, 2024, the department shall review each beer that is sold or distributed in this state to determine whether the beer complies with Subsection 32B-1-102(11) and this part.

(b) Before November 30, 2024, the department shall provide a report to the Business and Labor Interim Committee regarding:

(i) the process used to conduct the review;

(ii) the results of the review; and

(iii) any recommendations for legislation based on the results.

Section 8. Section 32B-1-606 is amended to read:

32B-1-606. Special procedure for approval of labeling and packaging for certain malted beverages.

(1) A manufacturer of a malted beverage may not distribute or sell the malted beverage in the state until the day on which the manufacturer receives approval of the labeling and packaging of the malted beverage from the department in accordance with:

(a) Sections 32B-1-604 and 32B-1-605; and

(b) this section, if the malted beverage is labeled or packaged in a manner that is:

(i) similar to a label or packaging used for a nonalcoholic beverage; or

(ii) likely to confuse or mislead a patron to believe the malted beverage is a nonalcoholic beverage.

(2) The department may not approve the labeling and packaging of a malted beverage described in Subsection (1) unless, in addition to the requirements of Section 32B-1-604, the labeling and packaging complies with the following:

(a) the front of the label on the malted beverage bears a prominently displayed label or a firmly affixed sticker that provides the following information in a font that measures at least three millimeters high and is in obvious and clearly visible contrast to the background of the text:

(i) the statement:

(A) "alcoholic beverage"; or

(B) "contains alcohol"; and

(ii) the alcohol content of the malted beverage, if the alcohol content is not otherwise provided:

(A) in a serving facts statement on the container; and

(B) in a format allowed by the Federal Alcohol and Tobacco Tax Trade Bureau;

(b) the packaging of the malted beverage prominently includes, either imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging in a font that measures at least three millimeters high and is in obvious and clearly visible contrast to the background of the text, the statement:

(i) "alcoholic beverage"; or

(ii) "contains alcohol";

(c) a statement required [~~by~~] under Subsection (2)(a) or (b) appears in a format required [~~by~~] under rule made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(d) a statement of alcohol content required [~~by~~] under Subsection (2)(a)(ii):

(i) states the alcohol content as a percentage of alcohol by volume or by weight; and

(ii) is in a format required [~~by~~] under rule made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The department:

(a) may reject a label or packaging for a malted beverage that appears designed to obscure the information required [~~by~~] under Subsection (2)[~~.~~]; and

(b) shall reject a label or packaging for a malted beverage to be sold by an off-premise beer retailer if the label or packaging for the malted beverage complies with Subsection (2) but remains so similar to a label or packaging used on a well-known or widely available nonalcoholic beverage that the label or packaging for the malted beverage is likely to confuse or mislead a patron to believe the malted beverage is a nonalcoholic beverage.

(4) To determine whether a malted beverage is described in Subsection (1) and subject to this section, the department may consider in addition to other factors one or more of the following factors:

(a) whether the coloring, carbonation, and packaging of the malted beverage:

(i) is similar to those of a nonalcoholic beverage or product; or

(ii) can be confused with a nonalcoholic beverage;

(b) whether the malted beverage possesses a character and flavor distinctive from a traditional malted beverage;

(c) whether the malted beverage:

(i) is prepackaged;

(ii) contains high levels of caffeine and other additives; and

(iii) is marketed as a beverage that is specifically designed to provide energy;

(d) whether the malted beverage contains added sweetener or sugar substitutes; or

(e) whether the malted beverage contains an added fruit flavor or other flavor that masks the taste of a traditional malted beverage.

Section 9. Section 32B-1-608 is amended to read:

32B-1-608. Disciplinary proceeding for violation.

A person who violates this part:

(1) is subject to a disciplinary proceeding under Chapter 3, Disciplinary Actions and Enforcement Act[~~.~~]; and

(2) may be subject to penalties under Chapter 4, Criminal Offenses and Procedure Act.

Section 10. Section 32B-1-703 is amended to read:

32B-1-703. Alcohol training and education for off-premise consumption.

(1) (a) A local authority that issues an off-premise beer retailer license to a business to sell beer at retail for off-premise consumption shall require the following to have a valid record that the individual completed an alcohol training and education seminar in the time periods required by Subsection (1)(b):

(i) an off-premise retail manager; or

(ii) off-premise retail staff.

(b) If an individual on the date the individual becomes staff to an off-premise beer retailer does not have a valid record that the individual has completed an alcohol training and education seminar for purposes of this part, the individual shall complete an alcohol training and education seminar [~~within 30 days of~~] in accordance with Section 62A-15-401 before the day on which the individual [~~becomes~~] begins work as staff of an off-premise beer retailer.

(c) An off-premise beer retailer may not permit an individual who is not in compliance with Subsection (1)(b) to:

(i) directly supervise the sale of beer to a customer for consumption off the premises of the off-premise beer retailer; or

(ii) sell beer to a customer for consumption off the premises of the off-premise beer retailer.

[~~(c) Section 62A-15-401 governs the validity of a record that an individual has completed an alcohol training and education seminar required by this part.~~]

(2) A licensee that violates this section is subject to Section 32B-1-702.

[~~(2) In accordance with Section 32B-1-702, a local authority may immediately suspend the license of an off-premise beer retailer that allows an individual to work as an off-premise retail manager without having a valid record that the individual completed an alcohol training and education seminar in accordance with Subsection (1).~~]

Section 11. Section 32B-1-705 is amended to read:

32B-1-705. Tracking certain enforcement actions.

(1) For each violation of a provision of this title involving the sale of an alcoholic product to a minor that staff of a retail licensee or off-premise beer retailer commits, the commission shall:

(a) maintain a record of the violation until the record is expunged in accordance with Subsection (3);

(b) include in the record described in Subsection (1)(a):

(i) the name of the individual who committed the violation;

(ii) the name of the retail licensee or off-premise beer retailer; and

(iii) the date of the adjudication of the violation; and

(c) provide the information described in Subsection (1)(b) to the Department of Public Safety within 30 days after the day on which the violation is adjudicated.

(2) (a) The Department of Public Safety shall develop and operate a system to collect, analyze, maintain, track, and disseminate the information that the Department of Public Safety receives in accordance with Subsection (1).

(b) The Department of Public Safety shall make the system described in Subsection (2)(a) available to:

(i) assist the commission in assessing penalties under this title; and

(ii) inform a retail licensee or off-premise beer retailer of an individual who has a violation history in the system.

(3) The commission and the Department of Public Safety shall expunge each record in the system described in Subsection (2) that relates to an individual if the individual does not violate a provision of this title related to the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the individual's last violation related to the sale of an alcoholic product to a minor was adjudicated.

Section 12. Section 32B-2-202 is amended to read:

32B-2-202. Powers and duties of the commission.

(1) The commission shall:

(a) consistent with the policy established by the Legislature by statute, act as a general policymaking body on the subject of alcoholic product control;

(b) adopt and issue policies, rules, and procedures;

(c) set policy by written rules that establish criteria and procedures for:

(i) issuing, denying, not renewing, suspending, or revoking a package agency, license, permit, or certificate of approval; and

(ii) determining the location of a state store, package agency, or retail licensee;

(d) decide within the limits, and under the conditions imposed by this title, the number and location of state stores, package agencies, and retail licensees in the state;

(e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses, sublicenses, permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product:

(i) a package agency;

(ii) a full-service restaurant license;

(iii) a master full-service restaurant license;

(iv) a limited-service restaurant license;

(v) a master limited-service restaurant license;

(vi) a bar establishment license;

(vii) an airport lounge license;

(viii) an on-premise banquet license;

(ix) a resort license, which includes four or more sublicenses;

(x) an on-premise beer retailer license;

(xi) a reception center license;

(xii) a beer-only restaurant license;

(xiii) a hotel license, which includes three or more sublicenses;

(xiv) an arena license, which includes three or more sublicenses;

(xv) a hospitality amenity license;

(xvi) subject to Subsection (5), a single event permit;

(xvii) subject to Subsection (5), a temporary beer event permit;

(xviii) a special use permit;

(xix) a manufacturing license;

(xx) a liquor warehousing license;

(xxi) a beer wholesaling license;

(xxii) a liquor transport license;

(xxiii) an off-premise beer retailer state license;

(xxiv) a master off-premise beer retailer state license;

(xxv) one of the following that holds a certificate of approval:

(A) an out-of-state brewer;

(B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and

(C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; and

(xxvi) a spa sublicense;

(f) issue, deny, suspend, or revoke the following conditional licenses:

(i) a conditional retail license as defined in Section 32B-5-205; and

(ii) a conditional off-premise beer retailer state license as defined in Section 32B-7-406;

(g) prescribe the duties of the department in assisting the commission in issuing a package agency, license, permit, or certificate of approval under this title;

(h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;

(i) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;

(j) issue and distribute price lists showing the price to be paid by a purchaser for each class, variety, or brand of liquor kept for sale by the department;

(k) (i) require the director to follow sound management principles; and

(ii) require periodic reporting from the director to ensure that:

(A) sound management principles are being followed; and

(B) policies established by the commission are being observed;

(l) (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and

(ii) do the things necessary to support the department in properly performing the department's duties;

(m) obtain temporarily and for special purposes the services of an expert or person engaged in the practice of a profession, or a person who possesses a needed skill if:

(i) considered expedient; and

(ii) approved by the governor;

(n) prescribe by rule the conduct, management, and equipment of premises upon which an alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

(o) make rules governing the credit terms of beer sales within the state to retail licensees; and

(p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take disciplinary action against a person subject to administrative action.

(2) Consistent with the policy established by the Legislature by statute, the power of the commission to do the following is plenary, except as otherwise provided by this title, and not subject to review:

(a) establish a state store;

(b) issue authority to act as a package agent or operate a package agency; and

(c) issue, deny, or deem forfeit a license, permit, or certificate of approval.

(3) (a) Subject to [~~Subsection~~] Subsections (3)(b) and (c), the commission may[~~: (i)~~] make rules permitting and establishing the parameters of a late license renewal[~~; and~~].

[~~(ii) establish a fee, in accordance with Section 63J-1-504, for a late license renewal.~~]

(b) The commission may not allow for the late renewal of a license after the later of:

(i) the tenth day of the month after the month in which the license type is required to be renewed; or

(ii) if the tenth day of the month after the month in which the license type is required to be renewed falls on a Saturday, Sunday, or state or federal holiday, the first business day after the Saturday, Sunday, or holiday.

(c) The fee for a late license renewal is $300.

(4) If the commission is authorized or required to make a rule under this title, the commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) Notwithstanding Subsections (1)(e)(xvi) and (xvii), the director or deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.

Section 13. Section 32B-2-303 is amended to read:

32B-2-303. Purchase of liquor.

[~~(1) The~~]

(1) [~~department may not purchase or stock spirituous liquor in a container smaller than 200 milliliters, except as otherwise allowed by the commission.~~] The department may only:

(a) purchase or stock spirituous liquor in a container smaller than 200 milliliters for the purpose of furnishing the spirituous liquor to a public service permittee issued a permit under Chapter 10, Part 3, Public Service Permit; and

(b) furnish spirituous liquor in a container smaller than 200 milliliters to a public service permittee issued a permit under Chapter 10, Part 3, Public Service Permit.

(2) (a) An order by the department for the purchase of liquor, or a cancellation by the department of an order of liquor:

(i) shall be executed in writing by the department; and

(ii) is not valid or binding unless executed in writing.

(b) The department shall maintain a copy of an order or cancellation on file for at least three years.

(c) An electronic record satisfies Subsections (2)(a) and (b) pursuant to Title 46, Chapter 4, Uniform Electronic Transactions Act.

Section 14. Section 32B-4-202 is amended to read:

32B-4-202. Duties to enforce this title.

[~~(1)~~] It is the duty of the following to diligently enforce this title in their respective capacities:

[~~(a)~~] (1) the governor;

[~~(b)~~] (2) a commissioner;

[~~(c)~~] (3) the director;

[~~(d)~~] (4) an official, inspector, or department employee;

[~~(e)~~] (5) a prosecuting official of the state or its political subdivisions;

[~~(f)~~] (6) a county, city, town, or metro township;

[~~(g)~~] (7) a peace officer, sheriff, deputy sheriff, constable, marshal, or law enforcement official;

[~~(h)~~] (8) a state health official; and

[~~(i)~~] (9) a clerk of the court.

[~~(2) Immediately upon conviction of a person for violation of this title or of a local ordinance relating to an alcoholic product, it is the duty of the clerk of the court to notify the department of the conviction in writing on forms supplied by the department.~~]

Section 15. Section 32B-4-418 is amended to read:

32B-4-418. Unlawful storage.

It is unlawful for a person to store:

(1) liquor on premises for which the person is authorized to sell beer for on-premise consumption, but for which the person is not licensed under this title to sell liquor[~~.~~]; or

(2) an alcoholic beverage for sale on premises for which the person is not licensed or otherwise authorized under this title to sell the alcoholic beverage.

Section 16. Section 32B-5-304 is amended to read:

32B-5-304. Portions in which alcoholic product may be sold.

(1) (a) A retail licensee may sell, offer for sale, or furnish spirituous liquor that is a primary spirituous liquor only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title.

(b) A retail license is not required to dispense spirituous liquor through a calibrated metered dispensing system if the spirituous liquor is:

(i) a secondary flavoring ingredient;

(ii) used as a flavoring on a dessert; or

(iii) used to set aflame a food dish, drink, or dessert.

(c) A retail licensee that dispenses spirituous liquor that is a secondary flavoring ingredient shall:

(i) designate a location where the retail licensee stores secondary flavoring ingredients on the floor plan the retail licensee submits to the department; and

(ii) clearly and conspicuously label each secondary flavoring ingredient's container "flavorings".

(d) A patron may have no more than 2.5 ounces of spirituous liquor at a time.

(2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an individual portion that does not exceed 5 ounces per glass or individual portion.

(ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to a patron in more than one glass if the total amount of wine does not exceed 5 ounces.

(b) (i) A retail licensee may sell, offer for sale, or furnish wine in a container not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

(ii) A retail licensee may sell, offer for sale, or furnish wine in a container not to exceed 750 milliliters at a price fixed by the commission to a table of less than four persons.

[~~(3)~~] (c) Notwithstanding Subsections (2)(a) and (b), a retail licensee may sell, offer for sale, or furnish hard cider that contains no more than 5% of alcohol by volume in a sealed container not to exceed 16 ounces.

(3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a retail licensee may sell, offer for sale, or furnish beer for on-premise consumption:

(A) in an open original container; and

(B) in a container on draft.

(ii) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a)(i):

(A) in a size of container that exceeds two liters; or

(B) to an individual patron in a size of container that exceeds one liter.

(b) A retail licensee may sell, offer for sale, or furnish beer for off-premise consumption:

(i) in a sealed container; and

(ii) in a size of container that does not exceed two liters.

(c) A retail licensee may sell, offer for sale, or furnish a flight of beer to an individual patron if the total amount of beer does not exceed 16 ounces.

Section 17. Section 32B-5-309 is amended to read:

32B-5-309. Ceasing operation.

(1) Except as provided in Subsection (8), a retail licensee may not close or cease operation for a period longer than 240 hours, unless:

(a) the retail licensee notifies the department in writing at least seven days before the day on which the retail licensee closes or ceases operation; and

(b) the closure or cessation of operation is first approved by the department.

(2) Notwithstanding Subsection (1), in the case of emergency closure, a retail licensee shall immediately notify the department by telephone.

(3) (a) The department may authorize an initial closure or cessation of operation of a retail licensee for a period not to exceed 60 days.

(b) Upon written request of the retail licensee and a showing of good cause, the department may extend the initial period described in Subsection (3)(a) for a period not to exceed the greater of:

(i) 30 days; or

(ii) the number of days until the day on which the commission holds the commission's next regularly scheduled meeting.

(4) A closure or cessation of operation may not exceed the time limits described in Subsection (3) without commission approval.

(5) A notice required under this section shall include:

(a) the dates of closure or cessation of operation;

(b) the reason for the closure or cessation of operation; and

(c) the date on which the retail licensee will reopen or resume operation.

(6) [~~Failure of~~] If a retail licensee fails to provide notice and to obtain department approval before closure or cessation of operation [~~results in an automatic forfeiture of~~], the commission may:

(a) suspend, revoke, or deem forfeited the retail license; [~~and~~] or

(b) deem the unused portion of the retail license fee for the remainder of the retail license year [~~effective immediately~~] forfeited.

(7) [~~Failure of~~] If a retail licensee fails to reopen or resume operation by the [~~approved date results in an automatic forfeiture of~~] date approved under Subsections (3) and (4), the commission may:

(a) suspend, revoke, or deem forfeited the retail license; [~~and~~] or

(b) deem the unused portion of the retail license fee for the remainder of the retail license year forfeited.

(8) This section does not apply to:

(a) an on-premise beer retailer who is not a tavern;

(b) an airport lounge licensee; or

(c) a hospitality amenity licensee.

(9) For purposes of this section, the department may not base a determination that a retail licensee has ceased operation solely upon the retail licensee's lack of sales.

Section 18. Section 32B-6-203 is amended to read:

32B-6-203. Commission's power to issue full-service restaurant license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a full-service restaurant license from the commission in accordance with this part.

(2) The commission may issue a full-service restaurant license to establish full-service restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a full-service restaurant.

(3) Subject to Section 32B-1-201:

(a) [~~The~~] the commission may not issue a total number of full-service restaurant licenses that at any time exceeds the [~~number~~] sum of:

(i) 30; and

(ii) the number determined by dividing the population of the state by 4,467[~~.~~];

(b) [~~The~~] the commission may issue a seasonal full-service restaurant license in accordance with Section 32B-5-206[~~.~~]; and

(c) (i) [~~If~~] if the location, design, and construction of a hotel may require more than one full-service restaurant sales location within the hotel to serve the public convenience, the commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as many as three full-service restaurant locations within the hotel under one full-service restaurant license if:

(A) the hotel has a minimum of 150 guest rooms; and

(B) the locations under the full-service restaurant license are:

(I) within the same hotel; and

(II) on premises that are managed or operated, and owned or leased, by the full-service restaurant licensee[~~.~~]; and

(ii) [~~A~~] except for a hotel, a facility [~~other than a hotel~~] shall have a separate full-service restaurant license for each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not issue a full-service restaurant license for premises that do not meet the proximity requirements of Subsection 32B-1-202(2).

(5) To be licensed as a full-service restaurant, a person shall maintain at least 70% of the restaurant's gross revenues from the sale of food, which does not include:

(a) mix for an alcoholic product; or

(b) a service charge.

Section 19. Section 32B-6-205.2 is amended to read:

32B-6-205.2. Specific operational requirements for a full-service restaurant

license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a full-service restaurant licensee;

(ii) individual staff of a full-service restaurant licensee; or

(iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A full-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a full-service restaurant licensee.

(4) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A full-service restaurant licensee may not furnish an alcoholic product for on-premise consumption except after:

(i) the patron to whom the full-service restaurant licensee furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the full-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the full-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

[~~(ii) If~~]

(ii) (A) Subject to Subsection (5)(b)(ii)(B), if the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, [~~an employee of the full-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall~~] the patron may transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(B) An employee of the full-service restaurant licensee shall escort a patron who transports an unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is five ounces or less.

(c) Notwithstanding Section 32B-5-307, a full-service restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

(d) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product on the full-service restaurant licensee's licensed premises only if the patron is seated at:

(a) a table that is located in a dining area or dispensing area;

(b) a counter that is located in a dining area or dispensing area; or

(c) a dispensing structure located in a dispensing area.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than

two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) In accordance with the provisions of this section, an individual who is at least 21 years old may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years old and working as an employee of the full-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the full-service restaurant licensee when the full-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the full-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the full-service restaurant licensee; and

(B) located immediately adjacent to the premises of the full-service restaurant licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A full-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A full-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(13) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a full-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a full-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once annually.

(15) A full-service restaurant licensee may lease to a patron of the full-service restaurant licensee a locked storage space:

(a) that the commission considers proper for the storage of wine; and

(b) for the storage of wine that:

(i) the patron purchases from the full-service restaurant licensee; and

(ii) only the full-service restaurant licensee or staff of the full-service restaurant licensee may remove from the locker for the patron's use in accordance with this title, including:

(A) service and consumption on licensed premises as described in Section 32B-5-306; or

(B) removal from the full-service retail licensee's licensed premises in accordance with Section 32B-5-307.

Section 20. Section 32B-6-206 is amended to read:

32B-6-206. Master full-service restaurant license.

(1) (a) The commission may issue a master full-service restaurant license that authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on premises at multiple locations as full-service

restaurants if the person applying for the master full-service restaurant license:

(i) owns each of the full-service restaurants;

(ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of a full-service restaurant under the master full-service restaurant license separately meets the requirements of this part; and

(iii) the master full-service restaurant license includes at least five full-service restaurant locations.

(b) The person seeking a master full-service restaurant license shall designate which full-service restaurant locations the person seeks to have under the master full-service restaurant license.

(c) A full-service restaurant location under a master full-service restaurant license is considered separately licensed for purposes of this title, except as provided in this section.

(2) A master full-service restaurant license and each location designated under Subsection (1) are considered a single full-service restaurant license for purposes of Subsection 32B-6-203(3)(a).

(3) (a) A master full-service restaurant license expires on October 31 of each year.

(b) To renew a person's master full-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(4) (a) The nonrefundable application fee for a master full-service restaurant license is $330.

(b) (i) The initial license fee for a master full-service restaurant license is [~~$10,000~~] $5,000 plus a separate initial license fee for each newly licensed full-service restaurant license under the master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(b).

(ii) The department may prorate the $5,000 initial license fee based on the number of months out of a year the master full-service restaurant licensee is licensed before the day on which the master full-service restaurant license expires.

(c) [~~The renewal fee for a~~] To renew a master full-service restaurant license [~~is $1,000 plus a~~] the master full-service restaurant licensee shall pay a separate renewal fee for each full-service license under the master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(c).

(5) A new location may be added to a master full-service restaurant license after the master full-service restaurant license is issued if:

(a) the master full-service restaurant licensee pays a nonrefundable application fee of $330; and

(b) including payment of the initial license fee, the location separately meets the requirements of this part.

(6) (a) A master full-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master full-service restaurant license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master full-service restaurant licensee at the time of the change; or

(ii) within 30 days of the change, if the master full-service restaurant licensee is transferring management personnel from one location to another location covered by the master full-service restaurant licensee.

(b) A location covered by a master full-service restaurant license shall keep [~~its~~] the location's own records on [~~its~~] the location's premises so that the department may audit the records.

(c) A master full-service restaurant licensee may not transfer alcoholic products between different locations covered by the master full-service restaurant license.

(7) [~~(a)~~] If there is a violation of this title at a location covered by a master full-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

[~~(i)~~] (a) the single location under a master full-service restaurant license;

[~~(ii)~~] (b) individual staff of the location under the master full-service restaurant license; or

[~~(iii)~~] (c) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

[~~(b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master full-service restaurant licensee or individual staff of the master full-service restaurant licensee if during a period beginning on November 1 and ending October 31:~~]

[~~(i) at least 25% of the locations covered by the master full-service restaurant license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or~~]

[~~(ii) at least 50% of the locations covered by the master full-service restaurant license have been found by the commission to have violated this title.~~]

(8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master full-service restaurant license under this section.

Section 21. Section 32B-6-305.2 is amended to read:

32B-6-305.2. Specific operational requirements for a limited-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements,

a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a limited-service restaurant licensee;

(ii) individual staff of a limited-service restaurant licensee; or

(iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A limited-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a limited-service restaurant licensee.

(4) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A limited-service restaurant licensee may not furnish an alcoholic product for on-premise consumption except after:

(i) the patron to whom the limited-service restaurant licensee furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the limited-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the limited-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

[~~(ii) If~~]

(ii) (A) Subject to Subsection (5)(b)(ii)(B), if the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, [~~an employee of the limited-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall~~] the patron may transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(B) An employee of the limited-service restaurant licensee shall escort a patron who transports an unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is 5 ounces or less.

(c) Notwithstanding Section 32B-5-307, a limited-service restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

(d) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product on the limited-service restaurant licensee's licensed premises only if the patron is seated at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than

two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) In accordance with the provisions of this section, an individual who is at least 21 years old may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years old and working as an employee of the limited-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the limited-service restaurant licensee when the limited-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the limited-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the limited-service restaurant licensee; and

(B) located immediately adjacent to the premises of the limited-service restaurant licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A limited-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A limited-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(13) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a limited-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a limited-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a limited-service restaurant licensee at least once each calendar year.

Section 22. Section 32B-6-403 is amended to read:

32B-6-403. Commission's power to issue bar establishment license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on [~~its~~] the person's premises as a bar establishment licensee, the person shall first obtain a bar establishment license from the commission in accordance with this part.

(2) The commission may issue a bar establishment license to establish bar establishment licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated by a bar establishment licensee.

(3) Subject to Section 32B-1-201:

[~~(a) (i) before July 1, 2018, the commission may not issue a total number of bar establishment licenses that at any time exceeds the number determined by dividing the population of the state by 7,850; and~~]

(a) [~~(ii) beginning on July 1, 2018,~~] the commission may not issue a total number of bar establishment licenses that at any time exceeds the [~~number~~] sum of:

(i) 15; and

(ii) the number determined by dividing the population of the state by 10,200;

(b) the commission may issue a seasonal bar establishment license in accordance with Section 32B-5-206 to[~~: (i) a dining club licensee; or (ii)~~] a bar licensee;

(c) [~~(i) if the location, design, and construction of a hotel may require more than one dining club license or bar license location within the hotel to serve the public convenience,~~] the commission may authorize as many as three bar establishment license locations within [~~the~~] a hotel under one bar establishment license if:

[~~(A)~~] (i) the location, design, and construction of the hotel requires more than one bar license location within the hotel to serve the public convenience;

(ii) the hotel has a minimum of 150 guest rooms;

[~~(B)~~] (iii) all locations under the bar establishment license are:

[~~(I)~~] (A) within the same hotel; and

[~~(II)~~] (B) on premises that are managed or operated, and owned or leased, by the bar establishment licensee; [~~and~~]

[~~(C) the locations under the bar establishment license operate under the same type of bar establishment license; and~~]

(d) the commission may authorize up to five dispensing structures under one equity license if the locations under the equity license:

(i) are connected by a private roadway to which the equity licensee, each member of the equity licensee, and each guest has a legal right of access; and

(ii) are managed or operated, and owned or leased, by the equity licensee;

[~~(ii)~~] (e) except for a facility operating in accordance with Subsection (3)(d) or a hotel, a facility [~~other than a hotel~~] shall have a separate bar establishment license for each bar establishment license location where an alcoholic product is sold, offered for sale, or furnished;

[~~(d)~~] (f) when a business establishment undergoes a change of ownership, the commission may issue a bar establishment license to the new owner of the business establishment notwithstanding that there is no bar establishment license available under Subsection (3)(a) if:

(i) the primary business activity at the business establishment before and after the change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

(ii) before the change of ownership there are two or more licensed premises on the business establishment that operate under a retail license, with at least one of the retail licenses being a bar establishment license;

(iii) subject to Subsection [~~(3)(e),~~] (3)(g) the licensed premises of the bar establishment license issued under this Subsection [~~(3)(d)~~] (3)(f) is at the same location where the bar establishment license licensed premises was located before the change of ownership; and

(iv) the person who is the new owner of the business establishment qualifies for the bar establishment license, except for there being no bar establishment license available under Subsection (3)(a); and

[~~(e)~~] (g) if a bar establishment licensee of a bar establishment license issued under Subsection [~~(3)(d)~~] (3)(f) requests a change of location, the bar establishment licensee may retain the bar establishment license after the change of location only if on the day on which the bar establishment licensee seeks a change of location a bar establishment license is available under Subsection (3)(a).

Section 23. Section 32B-6-404 is amended to read:

32B-6-404. Types of bar license.

(1) To obtain an equity license, in addition to meeting the other requirements of this part, a person shall:

(a) whether incorporated or unincorporated:

(i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

(ii) have members;

(iii) limit access to its licensed premises to a member or a guest of the member; and

(iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

(b) except as provided in Subsection (8), own, maintain, or operate a substantial recreational facility in conjunction with a club house such as:

(i) a golf course; or

(ii) a tennis facility;

(c) have at least 50% of the total membership having an equal share of the equity of the entity or a right to redemption or refund at the equal value; and

(d) if there is more than one class of membership, have at least one class of membership that entitles each member in that class to an equal share of the equity of the entity or a right to redemption or refund at the equal value.

(2) To obtain a fraternal license, in addition to meeting the other requirements of this part, a person shall:

(a) whether incorporated or unincorporated:

(i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

(ii) have members;

(iii) limit access to its licensed premises to a member or a guest of the member; and

(iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

(b) have no capital stock;

(c) exist solely for:

(i) the benefit of its members and their beneficiaries; and

(ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on through voluntary activity of its members in their local lodges;

(d) have a representative form of government;

(e) have a lodge system in which:

(i) there is a supreme governing body;

(ii) subordinate to the supreme governing body are local lodges, however designated, into which individuals are admitted as members in accordance with the laws of the fraternal;

(iii) the local lodges are required by the laws of the fraternal to hold regular meetings at least monthly; and

(iv) the local lodges regularly engage in one or more programs involving member participation to implement the purposes of Subsection (2)(c); and

(f) own or lease a building or space in a building used for lodge activities.

(3) To obtain a dining club license, in addition to meeting the other requirements of this part, a person shall:

(a) maintain at least the following percentages of its total club business from the sale of food, not including mix for alcoholic products, or service charges:

(i) for a dining club license that is issued as an original license on or after July 1, 2011, 60%; and

(ii) for a dining club license that is issued on or before June 30, 2011:

(A) 50% on or before June 30, 2012; and

(B) 60% on and after July 1, 2012; and

(b) obtain a determination by the commission that the person will operate as a dining club licensee, as part of which the commission may consider:

(i) the square footage and seating capacity of the premises;

(ii) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a lounge or bar area;

(iii) whether full meals including appetizers, main courses, and desserts are served;

(iv) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person who is located on the premise of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;

(v) whether the entertainment provided at the premises is suitable for minors; and

(vi) the club management's ability to manage and operate a dining club license including:

(A) management experience;

(B) past dining club licensee or restaurant management experience; and

(C) the type of management scheme used by the dining club license.

(4) To obtain a bar license, a person is required to meet the requirements of this part except those listed in Subsection (1), (2), or (3).

(5) (a) At the time that the commission issues a bar establishment license, the commission shall designate the type of bar establishment license for which the person qualifies.

(b) If requested by a bar establishment licensee, the commission may approve a change in the type of bar establishment license in accordance with rules made by the commission.

(6) To the extent not prohibited by law, this part does not prevent a dining club licensee or bar licensee from restricting access to the licensed premises on the basis of an individual:

(a) paying a fee; or

(b) agreeing to being on a list of individuals who have access to the licensed premises.

(7) (a) (i) On or after July 1, 2017, the commission may not issue or renew a dining club license.

(ii) No later than July 1, 2018, the department shall convert each dining club license to a full-service restaurant license or a bar license in accordance with the provisions of this Subsection (7).

(b) (i) (A) A person licensed as a dining club on July 1, 2017, shall notify the department no later than May 31, 2018, whether the person elects to be licensed as a full-service restaurant or a bar.

(B) No later than July 1, 2018, the department shall convert a dining club license to a full-service restaurant license or a bar license in accordance with the dining club licensee's election under Subsection (7)(b)(i)(A).

(ii) If a dining club licensee fails to timely notify the department in accordance with Subsection (7)(b)(i), the dining club license is automatically converted to a full-service restaurant license on July 1, 2018.

(c) Subject to Section 32B-6-404.1, after a dining club license converts to a full-service restaurant

license or a bar license, the retail licensee shall operate under the provisions that govern the full-service restaurant license or the bar license, as applicable.

(d) After a dining club license converts to a full-service restaurant license or a bar license in accordance with this Subsection (7):

(i) the full-service restaurant license is not considered in determining the total number of full-service restaurant licenses available under Section 32B-6-203; or

(ii) the bar license is not considered in determining the total number of bar establishment licenses available under Section 32B-6-403.

(e) Except as provided in Subsections (7)(a) and (b), before July 1, 2018, the commission may not issue a full-service restaurant license, a limited-service restaurant license, or a beer-only restaurant license to a person who holds a dining club license on May 9, 2017, for the same premises.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing a procedure by which a dining club licensee elects and converts to a full-service restaurant licensee or a bar licensee under this Subsection (7).

(8) Subsection (1)(b) does not apply to a person who renews an equity license issued before January 1, 2020, if the person did not meet the requirements under Subsection (1)(b) at the time the equity license was issued.

Section 24. Section 32B-6-406 is amended to read:

32B-6-406. Specific operational requirements for a bar establishment license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a bar establishment licensee and staff of the bar establishment licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a bar establishment licensee;

(ii) individual staff of a bar establishment licensee; or

(iii) both a bar establishment licensee and staff of the bar establishment licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a bar licensee shall display in a conspicuous place at the entrance to the licensed premises a sign that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the bar licensee is a bar and that no one under 21 years of age is allowed.

(3) (a) In addition to complying with Section 32B-5-302, a bar establishment licensee shall maintain for a minimum of three years:

(i) a record required by Section 32B-5-302; and

(ii) a record maintained or used by the bar establishment licensee, as the department requires.

(b) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (3).

(c) The department shall audit the records of a bar establishment licensee at least once annually.

(4) (a) A bar establishment licensee may not sell, offer for sale, or furnish liquor on the licensed premises on any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) A bar establishment licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer license.

(c) (i) Notwithstanding Subsections (4)(a) and (b), a bar establishment licensee shall keep its licensed premises open for one hour after the bar establishment licensee ceases the sale and furnishing of an alcoholic product during which time a patron of the bar establishment licensee may finish consuming:

(A) a single drink containing spirituous liquor;

(B) except as provided in Subsection (4)(c)(i)(C), a single serving of wine not exceeding five ounces;

(C) a single serving not exceeding 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;

[~~(C)~~] (D) a single serving of heavy beer;

[~~(D)~~] (E) a single serving [~~of beer~~] not exceeding 26 ounces of beer; or

[~~(E)~~] (F) a single serving of a flavored malt beverage.

(ii) A bar establishment licensee is not required to remain open:

(A) after all patrons have vacated the premises; or

(B) during an emergency.

(5) (a) A minor:

(i) may not be admitted into, use, or be in the licensed premises of:

(A) a dining club licensee unless accompanied by an individual who is 21 years of age or older; or

(B) a bar licensee, except to the extent provided for under Section 32B-6-406.1;

(ii) may only be admitted into, use, or be in the lounge or bar area of an equity licensee's or fraternal licensee's licensed premises:

(A) when accompanied by an individual who is 21 years of age or older; and

(B) momentarily while en route to another area of the licensee's premises; and

(iii) may not remain or sit in the lounge or bar area of an equity licensee's or fraternal licensee's licensed premises.

(b) Notwithstanding Section 32B-5-308, a bar establishment licensee may not employ a minor to:

(i) work in a lounge or bar area of an equity licensee, fraternal licensee, or dining club licensee; or

(ii) handle an alcoholic product.

(c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed premises of a bar licensee.

(d) Nothing in this part or Section 32B-5-308 precludes a local authority from being more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a bar establishment licensee.

(6) A bar establishment licensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have two spirituous liquor drinks before the bar establishment licensee patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) A bar establishment licensee shall have available on the premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold, offered for sale, or furnished by the bar establishment licensee including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(9) Subject to Section 32B-5-309, a bar establishment licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:

(a) the person to whom the bar establishment licensee rents or leases the premises agrees in writing to comply with this title as if the person is the bar establishment licensee, except for a requirement related to making or maintaining a record; and

(b) the bar establishment licensee takes reasonable steps to ensure that the person complies with this section as provided in Subsection (9)(a).

(10) If a bar establishment licensee is an equity licensee or fraternal licensee, the bar establishment licensee shall comply with Section 32B-6-407.

(11) If a bar establishment licensee is a dining club licensee or bar licensee, the bar establishment licensee shall comply with Section 32B-1-407.

(12) (a) A bar establishment licensee shall own or lease premises suitable for the bar establishment licensee's activities.

(b) A bar establishment licensee may not maintain licensed premises in a manner that barricades or conceals the bar establishment licensee's operation.

Section 25. Section 32B-6-503 is amended to read:

32B-6-503. Commission's power to issue airport lounge license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as an airport lounge licensee, the person shall first obtain an airport lounge license from the commission in accordance with this part.

(2) [~~The~~] Subject to Subsection (3), the commission may issue an airport lounge license:

(a) to establish airport lounge licensed premises beyond the security point at an international airport or a domestic airport; and

(b) in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on licensed premises operated as an airport lounge.

(3) (a) The commission may not issue more than [~~13~~] 26 airport lounge licenses for an international airport at any time.

(b) The commission may not issue a total number of domestic airport airport lounge licenses that at any time exceeds three.

Section 26. Section 32B-6-603 is amended to read:

32B-6-603. Commission's power to issue on-premise banquet license -- Contracts as host.

(1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product in connection with the person's banquet and room service activities at one of the following, the person shall first obtain an on-premise banquet license in accordance with this part:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility; [~~or~~]

(vi) an arena[~~.~~]; or

(vii) a restaurant venue.

(b) This part does not prohibit an alcoholic product on the premises of a person listed in Subsection (1)(a) to the extent otherwise permitted by this title.

(c) This section does not prohibit a person who applies for an on-premise banquet license to also apply for a package agency if otherwise qualified.

(2) The commission may issue an on-premise banquet license to establish on-premise banquet licensees in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room service activities operated by an on-premise banquet licensee.

(3) Subject to Section 32B-1-201, the commission [~~may not~~]:

(a) may not issue a total number of restaurant venue on-premise banquet licenses that at any time exceeds 25; and

(b) may not issue a total number of on-premise banquet licenses that at any time [~~exceed~~] exceeds the number determined by dividing the population of the state by 28,765.

(4) Pursuant to a contract between the host of a banquet and an on-premise banquet licensee:

(a) the host of the banquet may request an on-premise banquet licensee to provide an alcoholic product served at the banquet; and

(b) an on-premise banquet licensee may provide an alcoholic product served at the banquet.

(5) At a banquet, an on-premise banquet licensee may furnish an alcoholic product:

(a) without charge to a patron at a banquet, except that the host of the banquet shall pay for an alcoholic product furnished at the banquet; or

(b) with a charge to a patron at the banquet.

(6) To be licensed as an on-premise banquet, a person shall maintain at least 50% of the person's total annual banquet gross receipts from the sale of food, which does not include:

(a) mix for an alcoholic product; or

(b) a charge in connection with the furnishing of an alcoholic product.

Section 27. Section 32B-6-605 is amended to read:

32B-6-605. Specific operational requirements for on-premise banquet license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) an on-premise banquet licensee;

(ii) individual staff of an on-premise banquet licensee; or

(iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, convention center, performing arts facility, [~~or arena~~] arena, or restaurant venue that is the basis for the on-premise banquet license.

(3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

(i) an authorized representative of the commission or the department; or

(ii) a law enforcement officer.

(4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall make and maintain the records the commission or department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).

(5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the location of the banquet.

(b) Except as provided in Subsection 32B-5-307(4), a host of a banquet, a patron, or a person other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet.

(c) Notwithstanding Subsections 32B-5-307(3) and (5) and except as provided in Subsection 32B-5-307(4), a patron at a banquet may not bring an alcoholic product into or onto, or remove an alcoholic product from, the premises of a banquet.

(6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (6)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

(i) shall store the alcoholic product in the on-premise banquet licensee's approved locked storage area; and

(ii) may use the alcoholic product at more than one banquet.

(7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not employ a minor to sell, furnish, or dispense an alcoholic product in connection with the on-premise banquet licensee's banquet and room service activities.

(8) An on-premise banquet licensee:

(a) may provide room service in portions described in Section 32B-5-304;

(b) may not sell, offer for sale, or furnish an alcoholic product at a banquet or in connection with room service any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.; and

(c) notwithstanding Section 32B-5-305, may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if the alcoholic product:

(i) is not a spirituous liquor; and

(ii) is in an unopened container not to exceed 750 milliliters.

(9) (a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (9)(a).

(10) (a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

(11) A staff person of an on-premise banquet licensee shall remain at the banquet at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the banquet.

(12) (a) Room service of an alcoholic product to a guest room or privately owned dwelling unit of a hotel or resort facility shall be provided in person by staff of an on-premise banquet licensee only to an adult guest in the guest room or privately owned dwelling unit.

(b) An alcoholic product may not be left outside a guest room or privately owned dwelling unit for retrieval by a guest or resident.

(13) An on-premise banquet licensee may not maintain a minibar.

Section 28. Section 32B-6-905.1 is amended to read:

32B-6-905.1. Specific operational requirements for a beer-only restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a beer-only restaurant licensee;

(ii) individual staff of a beer-only restaurant licensee; or

(iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

(i) as a flavoring on a dessert; or

(ii) in the preparation of a flaming food dish, drink, or dessert.

(3) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes beer on the premises.

(b) A beverage tab described in this Subsection (3) shall state the type and amount of each beer ordered or consumed.

(4) A beer-only restaurant licensee may not make an individual's willingness to serve beer a condition of employment as a server with a beer-only restaurant licensee.

(5) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(6) (a) A beer-only restaurant licensee may not furnish beer for on-premise consumption except after:

(i) the patron to whom the beer-only restaurant licensee furnishes the beer is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the beer-only restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (6)(b), consume the food at the same location where the patron is seated and furnished the beer.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or furnish to the patron one portion of beer as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the beer-only restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

[~~(ii) If~~]

(ii) (A) Subject to Subsection (6)(b)(ii)(B), if the patron does not finish the patron's beer before moving to a seat in the dining area, [~~an employee of the beer-only restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall~~] the patron may transport any unfinished portion of the patron's beer to the patron's seat in the dining area.

(B) An employee of the beer-only restaurant licensee shall escort a patron who transports an unfinished portion of the patron's beer to the patron's seat in the dining area.

(c) Notwithstanding Section 32B-5-307, a beer-only restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

(d) A beer-only restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(7) A patron may consume a beer on the beer-only licensee's licensed premises only at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

(8) A patron may not have more than two beers at a time before the patron.

(9) In accordance with the provisions of this section, an individual who is at least 21 years old may consume food and beverages in a dispensing area.

(10) (a) Except as provided in Subsection (10)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years old and working as an employee of the beer-only restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the beer-only restaurant licensee when the beer-only restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the beer-only restaurant licensee's premises in which the minor is permitted to be.

(11) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the beer-only restaurant licensee; and

(B) located immediately adjacent to the premises of the beer-only restaurant licensee; and

(b) any instrument or equipment used to dispense the beer is located in an area described in Subsection (11)(a).

(12) (a) A beer-only restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-902(1)(b)(i)(A), (B), or (C), regardless of how any other dispensing area in the

licensed premises satisfies the requirements for a dispensing area.

(13) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

(14) (a) In addition to the requirements described in Section 32B-5-302, a beer-only restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a beer-only restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a beer-only restaurant licensee at least once annually.

Section 29. Section 32B-6-1005 is amended to read:

32B-6-1005. Specific operational requirements for hospitality amenity license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hospitality amenity licensee and staff of the hospitality amenity licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the hospitality amenity licensee;

(ii) individual staff of the hospitality amenity licensee; or

(iii) both the hospitality amenity licensee and staff of the hospitality amenity licensee.

(2) (a) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product:

(i) to a hospitality guest; and

(ii) for consumption in or on the hospitality amenity licensee's licensed premises.

(b) (i) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product that is not spirituous liquor in or on:

(A) licensed premises physically separated from an area to which a hospitality guest or the public has access by a permanent or temporary structure or barrier; or

(B) licensed premises described in Subsection (2)(b)(ii).

(ii) A hospitality amenity licensee may sell, offer for sale, or furnish spirituous liquor in or on licensed premises that:

(A) allows access only through the use of a key or code; and

(B) fills the entirety of a physically and permanently enclosed area within the hotel or resort.

(c) Spirituous liquor may not be in or on the licensed premises described in Subsection (2)(b)(i)(A) of a hospitality amenity licensee, except for use:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish or dessert.

(d) A hospitality amenity licensee may not allow self-service of an alcoholic product in or on the hospitality amenity licensee's licensed premises.

(3) (a) Subject to Subsections (3)(b) and (c), a hospitality guest may not have more than two alcoholic products of any kind at a time before the hospitality guest.

(b) A hospitality guest may not have more than one spirituous liquor drink at a time before the hospitality guest.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (3)(a).

(4) A hospitality amenity licensee shall make food available at all times that the licensee sells, offers for sale, furnishes, or allows the consumption of an alcoholic product on the licensed premises.

(5) (a) A hospitality amenity licensee may not sell, offer for sale, or furnish an alcoholic product any day during a period that:

(i) begins at 1:00 a.m.; and

(ii) ends at 9:59 a.m.

(b) A hospitality amenity licensee shall remain open for one hour after the licensee ceases to sell and furnish an alcoholic product, during which time a hospitality guest in or on the hospitality amenity licensed premises may finish consuming:

(i) a single drink containing spirituous liquor;

(ii) except as provided in Subsection (5)(b)(iii), a single serving of wine not exceeding five ounces;

(iii) a single serving not exceeding 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;

[~~(iii)~~] (iv) a single serving of heavy beer;

[~~(iv)~~] (v) a single serving [~~of beer~~] not exceeding 26 ounces of beer; or

[~~(v)~~] (vi) a single serving of a flavored malt beverage.

(c) A hospitality amenity licensee is not required to remain open:

(i) after all individuals have vacated the licensee's licensed premises; or

(ii) during an emergency.

(6) (a) Notwithstanding Section 32B-5-305, a hospitality amenity licensee may provide a hospitality guest up to two single servings of an

alcoholic product free of charge or at a reduced rate, if:

(i) the alcoholic product is not a spirituous liquor; and

(ii) the hospitality amenity licensee offers the alcohol product:

(A) to all hospitality guests;

(B) during a specific time; and

(C) on the hospitality amenity licensee's licensed premises.

(b) Before a hospitality amenity licensee provides an alcoholic product free of charge or at a reduced rate as described in Subsection (6)(a), the licensee shall provide the department with advance notice of the event, in accordance with commission rules that permit a licensee to provide a single notice for a reoccurring event or multiple events.

(7) A hospitality amenity licensee may permit a hospitality guest to purchase an alcoholic product through a charge to the hospitality guest's lodging accommodations.

(8) (a) Notwithstanding Section 32B-5-307, a hospitality guest, or a person other than the hospitality amenity licensee or staff of the hospitality amenity licensee, may not remove an alcoholic product from the hospitality amenity licensee's licensed premises.

(b) Notwithstanding Subsection 32B-5-307(3), a hospitality guest may not bring an alcoholic product within the hospitality amenity licensee's licensed premises.

(9) A hospitality amenity licensee shall display at each entrance to the licensee's licensed premises a conspicuous sign that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that entry is limited to individuals who are hospitality guests, as defined in this title.

(10) A hospitality amenity licensee may not permit a minor to enter the licensee's licensed premises at any time during which an alcoholic product is sold, offered for sale, furnished, or consumed, unless the minor is accompanied at all times on the licensed premises by a hospitality guest.

(11) A staff person of a hospitality amenity licensee shall remain on the licensed premises at all times when an alcoholic product is sold, offered for sale, furnished, or consumed in or on the licensed premises.

(12) A hospitality amenity licensee may transfer an alcoholic product to or from another licensee within the boundary of the hotel or within the boundary of the resort building, if:

(a) the hospitality amenity licensee and each licensee involved in the transfer tracks the transfer of the alcoholic product; and

(b) the alcoholic product is in a sealed, unopened container.

(13) (a) In addition to the requirements described in Section 32B-5-302, a hospitality amenity licensee shall maintain each of the following records for at least three years:

(i) a record required under Section 32B-5-302; and

(ii) a record that the commission requires a hospitality amenity licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a hospitality amenity licensee at least once annually.

Section 30. Section 32B-7-409 is amended to read:

32B-7-409. Multiple licenses on same premises.

(1) Except as provided in Subsection (2), the commission may not issue and one or more licensees may not hold an off-premise beer retailer state license for the same licensed premises or adjacent licensed premises as a retail licensee, unless the licensed premises:

(a) are separated by a permanent, opaque, floor-to-ceiling wall;

(b) each have a separate entrance to the licensed premises; and

(c) each have separate restroom facilities on the licensed premises.

(2) (a) The commission may issue and an off-premise beer retailer state licensee may hold more than one type of license for the same licensed premises or adjacent licensed premises, if:

[~~(a)~~] (i) a manufacturing licensee is located on or adjacent to the licensed premises; and

[~~(b)~~] (ii) a package agency is located on or adjacent to the licensed premises.

(b) Notwithstanding Subsection (1), the commission may issue an off-premise beer retailer state license to a hotel or resort.

Section 31. Section 32B-8-401 is amended to read:

32B-8-401. Specific operational requirements for resort license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee, staff of the resort licensee, and a sublicensee or a person otherwise operating under a sublicense shall comply with this section.

(b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the resort licensee;

(ii) individual staff of the resort licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the resort licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the resort licensee; or

(v) any combination of the persons listed in Subsections (1)(b)(i) through (iv).

(2) (a) A resort licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on sublicensed premises;

(ii) pursuant to a permit issued under this title; [~~or~~]

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency[~~.~~]; or

(iv) through room service.

(b) A resort licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a), shall sell, offer for sale, or furnish the alcoholic product:

(i) if on a sublicense premises, in accordance with the operational requirements described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; [~~and~~]

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency[~~.~~]; and

(iv) if through room service, in accordance with Subsection (5).

(3) A resort licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the resort license and each of the resort licensee's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

(4) (a) A resort licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license shall complete the alcohol training and education seminar.

(5) (a) Room service of an alcoholic product to a lodging accommodation of a resort licensee shall be provided in person by staff of the resort licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

Section 32. Section 32B-8b-102 is amended to read:

32B-8b-102. Definitions.

As used in this chapter:

(1) "Boundary of a hotel" means the physical boundary of one or more contiguous parcels of real property owned or managed by the same person and on which a hotel is located.

(2) "Hotel" means one or more buildings that:

(a) comprise a hotel, as defined by the commission;

(b) are owned or managed by the same person or by a person who has a majority interest in or can direct or exercise control over the management or policy of the person who owns or manages any other building under the hotel license within the boundary of the hotel;

(c) primarily operate to provide lodging accommodations;

[~~(d) provide room service within the boundary of the hotel meeting the requirements of this title;~~]

[~~(e)~~] (d) have on-premise banquet space and provide on-premise banquet service within the boundary of the hotel meeting the requirements of this title;

[~~(f)~~] (e) have a restaurant or bar establishment within the boundary of the hotel meeting the requirements of this title; and

[~~(g)~~] (f) have at least 40 rooms as temporary sleeping accommodations for compensation.

Section 33. Section 32B-8b-301 is amended to read:

32B-8b-301. Specific operational requirements for hotel license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the hotel licensee;

(ii) individual staff of the hotel licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the hotel licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the hotel licensee; or

(v) any combination of the persons listed in this Subsection (1)(b).

(2) (a) A hotel licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on sublicensed premises;

(ii) pursuant to a permit issued under this title; [~~or~~]

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency[~~.~~]; or

(iv) through room service.

(b) A hotel licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:

(i) if on sublicensed premises, in accordance with the operational requirements described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; [~~and~~]

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency[~~.~~]; and

(iv) if through room service, in accordance with Subsection (4).

(c) Notwithstanding the other provisions of this Subsection (2) and except as provided in Section 32B-8d-104, a hotel licensee may not permit a patron to carry an alcoholic product off the premises of a sublicense in violation of Section 32B-5-307 or off an area designated under a permit.

(3) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.

(4) (a) Room service of an alcoholic product to a lodging accommodation of a hotel licensee shall be provided in person by staff of the hotel licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

(5) A hotel licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the hotel license and each of the hotel license's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

Section 34. Section 32B-8d-103 is amended to read:

32B-8d-103. Commission's power to issue a sublicense.

(1) Before a person as a sublicensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicensed premises, the person shall first obtain a sublicense from the commission in accordance with:

(a) this chapter;

(b) Chapter 8, Resort License Act;

(c) Chapter 8b, Hotel License Act; and

(d) Chapter 8c, Arena License Act.

(2) (a) The commission may issue to a person a sublicense to allow the storage, sale, offering for sale, furnishing, or consumption of an alcoholic product on the premises of the sublicense, if the person is:

(i) a principal licensee; or

(ii) a person seeking a principal license, contingent on the issuance of the principal license.

(b) The commission may not:

(i) issue a sublicense that is separate from a principal license; or

(ii) issue a single sublicense that covers more than one outlet in or on the boundaries of the principal licensee.

(3) [~~(a) Except as provided in Subsection (3)(b), when~~] When determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to that sublicense.

[~~(b) If a resort license includes a sublicense that before the issuance of the resort license was a retail license that was not a bar establishment license, the commission shall include the sublicense as a license in calculating the total number of licenses issued under the provisions applicable to the sublicense.~~]

(4) If a principal licensee seeks to add a sublicense after the commission issues the person's principal license, the principal licensee shall file with the department:

(a) a nonrefundable $300 application fee;

(b) an initial license fee of $2,250, which the commission shall refund if the commission does not issue the proposed sublicense;

(c) written consent of the local authority;

(d) a copy of:

(i) the principal licensee's current business; and

(ii) the proposed sublicensee's current business license, if the relevant political subdivision determines that the proposed sublicensee's business license is separate from the principal licensee's business license;

(e) evidence that the proposed sublicensed premises is entirely within the boundary of the principal license;

(f) a description, floor plan, and boundary map of the proposed sublicensed premises designating:

(i) each location at which the principal licensee proposes that an alcoholic product be stored; and

(ii) each location from which the principal licensee proposes that an alcoholic product be sold, furnished, or consumed;

(g) evidence that the principal licensee carries:

(i) public liability insurance in an amount and form satisfactory to the department; and

(ii) dramshop insurance coverage in the amount required by Section 32B-5-201 that covers the proposed sublicense;

(h) a signed consent form stating that the principal licensee will permit any authorized representative of the commission or department, or any law enforcement officer, to have an unrestricted right to enter the proposed sublicensed premises;

(i) if the principal licensee is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and

(j) any other information the commission or department may require.

Section 35. Section 32B-8d-205 is amended to read:

32B-8d-205. Specific operational requirements for a spa sublicense.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee, staff of the resort licensee, a hotel licensee, and staff of the hotel licensee, shall comply with this section.

(b) A spa sublicensee or a person otherwise operating under a spa sublicense and staff of a spa sublicensee or a person otherwise operating under a spa sublicense shall comply with:

(i) Chapter 5, Part 3, Retail Licensee Operational Requirements as if the spa sublicensee is a retail licensee, unless a provision conflicts with this chapter; and

(ii) this chapter.

(c) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a resort licensee;

(ii) staff of a resort licensee;

(iii) a hotel licensee;

(iv) staff of a hotel licensee;

(v) a spa sublicensee or person otherwise operating under a spa sublicense;

(vi) individual staff of a spa sublicensee or person otherwise operating under a spa sublicense; or

(vii) any combination of the persons listed in Subsections (1)(c)(i) through (vi).

(2) (a) For purposes of the spa sublicense, the corresponding resort licensee or hotel licensee shall ensure that a record is maintained or used for the spa sublicense:

(i) as the department requires; and

(ii) for a minimum period of three years.

(b) A spa sublicensee record is subject to inspection by an authorized representative of the commission and the department.

(c) A resort licensee or a hotel licensee shall allow the department, through a compliance officer of the department, to audit the records for a spa sublicense at the times the department considers advisable.

(d) The department shall audit the records for a spa sublicense at least once annually.

(e) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (2).

(3) (a) A spa sublicensee or person operating under a spa sublicense may not sell, offer for sale, or furnish liquor at a spa during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) A spa sublicensee or person operating under a spa sublicense may sell, offer for sale, or furnish beer during the hours specified in Chapter 6, Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer.

(c) (i) Notwithstanding Subsections (3)(a) and (b), a spa shall remain open for one hour after the spa ceases the sale and furnishing of an alcoholic product during which time a person at the spa may finish consuming:

(A) a single drink containing spirituous liquor;

(B) except as provided in Subsection (3)(c)(i)(C), a single serving of wine not exceeding five ounces;

(C) a single serving not exceeding 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;

[~~(C)~~] (D) a single serving of heavy beer;

[~~(D)~~] (E) a single serving [~~of beer~~] not exceeding 26 ounces of beer; or

[~~(E)~~] (F) a single serving of a flavored malt beverage.

(ii) A spa is not required to remain open:

(A) after all individuals have vacated the spa sublicensee's sublicensed premises; or

(B) during an emergency.

(4) (a) A minor may not be admitted into, use, or be on the sublicensed premises of a spa sublicense unless accompanied by an individual 21 years old or older.

(b) A minor permitted under Subsection (4)(a) to be admitted into, use, or be on the sublicensed premises of a spa sublicense:

(i) may only be admitted into or be on a lounge or bar area of the spa sublicensee's sublicensed

premises momentarily while en route to another area of the spa; and

(ii) may not remain or sit in the lounge or bar area of the spa sublicensee's sublicensed premises.

(5) A spa sublicensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the spa sublicensee's sublicensed premises.

(6) (a) Subject to the other provisions of this Subsection (6), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A spa patron may not have two spirituous liquor drinks before the spa patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under this Subsection (6).

(7) (a) An alcoholic product may only be consumed at a table or counter.

(b) An alcoholic product may not be served to or consumed by a patron at a dispensing structure.

(8) (a) A spa sublicensee or person operating under a spa sublicense shall have available on the spa sublicense's sublicensed premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold or furnished by the spa sublicensee including:

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

(b) A charge or fee made in connection with the sale, service, or consumption of liquor may be stated in food or alcoholic product menus including:

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

(9) (a) A resort licensee or hotel licensee shall own or lease premises suitable for the spa sublicense's activities.

(b) A resort licensee or hotel licensee may not maintain premises in a manner that barricades or conceals the spa sublicense's operation.

(10) Subject to the other provisions of this section, a spa sublicensee or person operating under a spa sublicense may not sell an alcoholic product to or allow an individual to be admitted to or use the spa sublicensee's sublicensed premises other than:

(a) a resident; or

(b) a customer.

Section 36. Section 32B-9-202 is amended to read:

32B-9-202. Duties before issuing event permit.

(1) (a) Before the director may issue an event permit, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the director as to whether the director should issue an event permit.

(b) The department shall [~~forward~~] provide the information and recommendations described in Subsection (1)(a) to the director [~~and the Compliance, Licensing, and Enforcement Subcommittee~~] to aid in the director's determination.

(2) Before issuing an event permit, the director shall:

(a) determine that the person filed a complete application and is in compliance with:

(i) Section 32B-9-201; and

(ii) the relevant part under this chapter for the type of event permit for which the person is applying;

(b) determine that the person is not disqualified under Section 32B-1-304;

(c) consider the purpose of the organization or its local lodge, chapter, or other local unit;

(d) consider the times, dates, location, estimated attendance, nature, and purpose of the event;

(e) to minimize the risk of minors being sold or furnished alcohol or adults being overserved alcohol at the event, determine that adequate and appropriate control measures and adequate and appropriate enforcement measures are in place at the event to assure that minors will not be sold or furnished alcohol and that adults will not be overserved, except that adequate and appropriate control and enforcement measures may be different for small, large, indoor, or outdoor events;

(f) determine that the event permit is not being sought by the person as a means to circumvent other applicable requirements of this title, notwithstanding that the applicant may hold one or more licenses issued under this title;

(g) consider, for the period of three years before the date of the event, the violation history of:

(i) the applicant; and

(ii) the venue where the event will be held;

(h) provide the information and recommendations described in Subsection (1) to, and obtain the approval of, the Compliance, Licensing, and Enforcement Subcommittee [~~before issuing an event permit~~];

(i) notify each commissioner [~~at least three business days~~] before the director issues the event permit in accordance with Subsection (3); and

(j) consider any other factor the director considers necessary.

(3) (a) [~~The~~] Except as provided in Subsections (3)(d) and (e), the director shall [~~inform~~] notify each commissioner of the director's preliminary decision to issue or deny the issuance of an event permit three business days before the day on which the decision is to be final.

(b) The preliminary decision becomes a final decision of the director unless:

(i) [~~unless~~] within three business days [~~of receipt of~~] after the day on which the notice is received at least three of the commissioners request a meeting to discuss whether the event permit should be issued; or

(ii) the director modifies or revokes the preliminary decision to issue or deny issuance of the event permit.

(c) If three or more of the commissioners request a meeting[~~,~~]:

(i) the applicant for the event permit shall be notified; and

(ii) the commission shall:

[~~(i)~~] (A) [~~shall~~] hold a meeting on the application for an event permit no later than the next regularly scheduled meeting of the commission; and

[~~(ii)~~] (B) [~~shall~~] issue the event permit if the applicant meets the requirements of this chapter or [~~shall~~] deny issuance of the event permit if the applicant fails to meet the requirements of this chapter.

(d) The commission may waive the three business day notice period described in Subsection (3)(a) on behalf of a commissioner.

[~~(d)~~] (e) (i) [~~Notwithstanding the other provisions of this Subsection (3), the~~] The director may at any time refer an application for an event permit directly to the commission for a determination as to whether an event permit should be issued or denied.

[~~(e)~~] (ii) For purposes of this title, an event permit issued by the commission is to be treated the same as an event permit issued by the director.

(f) If the commission finds that an event permit was improperly issued or that the permittee has violated this chapter, the commission may take any action permitted under this title.

(4) Once the director issues an event permit, the department shall send a copy of the approved application and the event permit by written or electronic means to the state and local law enforcement authorities at least three days before the event.

(5) The director shall provide the commission a monthly report of the actions taken by the director under this part.

(6) If authorized by the director, the deputy director may act on behalf of the director for purposes of issuing an event permit under this chapter.

Section 37. Section 32B-11-209 is amended to read:

32B-11-209. Notifying department of change in ownership.

The commission may suspend [~~or~~], revoke, or deem forfeited a manufacturing license if the manufacturing licensee does not immediately notify the department of a change in:

(1) ownership of the manufacturing licensee;

(2) for a corporate owner, the:

(a) corporate officers or directors; or

(b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(3) for a limited liability company:

(a) managers; or

(b) members owning at least 20% of the limited liability company.

Section 38. Section 32B-11-210 is amended to read:

32B-11-210. Tasting provided by manufacturing licensee.

(1) As used in this section:

(a) "Parcel" means the same identifiable contiguous unit of property that is treated as separate for valuation or zoning purposes and includes an improvement on that unit of property.

(b) "Taste" means an amount of an alcoholic product provided by a manufacturing licensee for consumption under this section.

(2) A manufacturing licensee may provide for a tasting in accordance with this section.

(3) Before conducting a tasting, the manufacturing licensee shall provide the department:

(a) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202 as if the manufacturing licensee were a retail licensee;

(b) a floor plan, and boundary map where applicable, of the premises of the manufacturing licensee, including any:

(i) consumption area; and

(ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic product to be tasted;

(c) evidence that the manufacturing licensee is carrying public liability insurance in an amount and form satisfactory to the department;

(d) evidence that the manufacturing licensee is carrying dramshop insurance coverage in an amount and form satisfactory to the department; and

(e) any other information the commission or department may require.

(4) A manufacturing licensee may not sell, offer for sale, or furnish a taste on any day during the period that:

(a) begins at midnight; and

(b) ends at 10:59 a.m.

(5) A person who serves a taste on behalf of the manufacturing licensee shall complete an alcohol training and education seminar as if the person were employed by a retail licensee.

(6) (a) A manufacturing licensee shall establish a distinct area for consumption of a taste outside the view of minors on the licensed premises and in which minors are not allowed during the time period when tasting occurs.

(b) The distinct area for consumption for a taste established under this Subsection (6) shall be in the same building as where the manufacturing licensee produces alcoholic product, in a building on the same parcel as the building where the manufacturing licensee produces alcoholic product, or in a patio or similar area immediately adjacent to a building described in this Subsection (6)(b).

(7) (a) A manufacturing licensee shall have substantial food available that is served on the licensed premises to an individual consuming a taste.

(b) The commission may define what constitutes "substantial food" by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the rule may not require culinary facilities for food preparation that are equivalent to a restaurant or dining club.

(8) A manufacturing licensee shall charge an individual for a taste and may not sell, offer for sale, or furnish a taste at less than the cost of the taste to a retail licensee.

(9) (a) A manufacturing licensee may provide a taste in more than one container except that the aggregate total of the taste in all of the containers may not exceed:

(i) [~~5 ounces of wine~~] for a winery manufacturing licensee[~~;~~]:

(A) except as provided in Subsection (9)(a)(i)(B), five ounces of wine; or

(B) 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;

(ii) for a distillery manufacturing licensee, 2.5 ounces of spirituous liquor [~~for a distillery manufacturing licensee~~]; or

(iii) for a brewery manufacturing licensee, 16 ounces of beer, heavy beer, or flavored malt beverages [~~for a brewery manufacturing licensee~~].

(b) A manufacturing licensee may not allow an individual to participate in more than one tasting within a calendar day.

(10) A manufacturing licensee may provide a taste of alcoholic product that is:

(a) manufactured by the manufacturing licensee; and

(b) purchased by the manufacturing licensee from:

(i) a state store or package agency; or

(ii) for beer, the off-premise retail licensee described in Subsection 32B-11-503(4)(c).

(11) (a) A manufacturing licensee shall display in a prominent place in the location where tastes are consumed a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health and Human Services at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(b) (i) The text described in Subsections (11)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (11)(a)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (11)(a) shall be in the same font size.

(c) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this Subsection (11).

(12) A manufacturing licensee shall provide educational information as defined by rule by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as part of the tasting.

(13) A manufacturing licensee that conducts tastings under a scientific or educational use permit issued by the commission as of May 10, 2016, shall comply with this section by no later than December 31, 2016, in conducting a tasting. In accordance with Subsection 32B-10-206(1)(c), effective no later than January 1, 2017, the commission shall take action on a scientific or educational use permit used by a manufacturing licensee to conduct tastings.

Section 39. Section 32B-11-609 is amended to read:

32B-11-609. Notifying department of change in ownership.

The commission may suspend [~~or~~], revoke, or deem forfeited a local industry representative license if a local industry representative licensee does not [~~immediately~~] notify the department, within 60 days after the day on which the change occurs, of a change in:

(1) ownership of the business;

(2) for a corporate owner, the:

(a) corporate officers or directors; or

(b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(3) for a limited liability company:

(a) managers; or

(b) members owning at least 20% of the limited liability company.

Section 40. Section 32B-12-302 is amended to read:

32B-12-302. Notifying the department of change in ownership.

The commission may suspend [~~or~~], revoke, or deem forfeited a liquor warehousing license if a liquor warehouser licensee does not [~~immediately~~] notify the department, within 60 days after the day on which the change occurs, of a change in:

(1) ownership of the liquor warehouser licensee;

(2) for a corporate owner, the:

(a) corporate officers or directors; or

(b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(3) for a limited liability company:

(a) managers; or

(b) members owning at least 20% of the limited liability company.

Section 41. Section 32B-17-102 is amended to read:

32B-17-102. Definitions.

As used in this chapter:

(1) "Airport licensee" means a person who holds a valid:

(a) retail license for premises located at an international airport or domestic airport; or

(b) special use permit for premises located at an international airport or domestic airport.

(2) "Central receiving and distribution center" means a facility that:

(a) operates at an international airport or domestic airport;

(b) receives goods and supplies delivered to the international airport or domestic airport for an airport licensee;

(c) screens the goods and supplies described in Subsection (2)(b) for security purposes; and

(d) distributes the goods and supplies described in Subsection (2)(b) to the airport licensee for whom the goods and supplies were delivered.

Section 42. Section 32B-18-204 is amended to read:

32B-18-204. Notifying department of change in ownership.

The commission may suspend [~~or~~], revoke, or deem forfeited an alcohol license if the alcohol licensee does not notify the department, within 60 days after the day on which the change occurs, of a change in:

(1) ownership of the business entity holding the alcohol license;

(2) for a corporate owner, the:

(a) corporate officers or directors of the alcohol licensee; or

(b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(3) for a limited liability company:

(a) managers of the limited liability company; or

(b) members owning at least 20% of the limited liability company.

Section 43. Section 32B-18-205 is amended to read:

32B-18-205. Management agreements -- Inventory transfers.

(1) (a) A management agreement may provide for the sharing of revenue from a business utilizing an alcohol license, including revenue from the sale of an alcoholic product, if, regardless of which party holds the alcohol license, [~~all parties to the management agreement qualify under Section 32B-1-304 to hold the license.~~] neither the owner nor operator is disqualified from holding the license for a previous violation of this title.

(b) The parties to a management agreement shall submit to the department:

(i) a copy of the management agreement; and

(ii) any other information the department requires.

(c) If there is a material change to the management agreement submitted to the department under Subsection (1)(b), the parties to the management agreement shall submit to the department the following within 30 days after the day on which the change occurs:

(i) a copy of the changed management agreement; and

(ii) any other information the department requires.

(2) (a) Notwithstanding any other provision of this title, in connection with a change of ownership described in Section 32B-18-202 or an asset sale of an alcohol licensee, the parties to the transaction may enter into an inventory transfer agreement.

(b) The inventory transfer agreement described in Subsection (2)(a) may allow for the transfer of inventory between parties regardless of whether the parties hold or are applying for the same retail license.

(3) In accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the requirements of:

(a) a management agreement; or

(b) an inventory transfer agreement.

Section 44. Section 62A-15-401 is amended to read:

62A-15-401. Alcohol training and education seminar.

(1) As used in this [~~part~~] section:

(a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.

(b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and

(B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or

(ii) a business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee.

(c) "Licensee staff" means a retail manager, retail staff, an off-premise retail manager, or off-premise retail staff.

[~~(c)~~] (d) "Off-premise beer retailer" is as defined in Section 32B-1-102.

(e) "Off-premise retail manager" means the same as that term is defined in Section 32B-1-701.

(f) "Off-premise retail staff" means the same as that term is defined in Section 32B-1-701.

(g) "Retail manager" means the same as that term is defined in Section 32B-1-701.

(h) "Retail staff" means the same as that term is defined in Section 32B-1-701.

[~~(d)~~] (i) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to[~~:~~] licensee staff.

[~~(i) a retail manager as defined in Section 32B-1-701;~~]

[~~(ii) retail staff as defined in Section 32B-1-701; and~~]

[~~(iii) an individual who, as defined by division rule:~~]

[~~(A) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or~~]

[~~(B) sells beer to a customer for consumption off the premises of an off-premise beer retailer.~~]

(b) [~~If the~~] An individual who does not have a valid record that the individual has completed an alcohol training and education seminar[~~, an individual described in Subsection (2)(a)~~] shall:

(i) complete an alcohol training and education seminar before the day on which the individual begins work as licensee staff of a licensee; and

[~~(i) (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in Subsection (2)(a)(i) or (ii):~~]

[~~(I) if the individual is an employee, the day the individual begins employment;~~]

[~~(II) if the individual is an independent contractor, the day the individual is first hired; or~~]

[~~(III) if the individual holds an ownership interest in the licensee, the day that the individual first engages in an activity that would result in that individual being required to complete an alcohol training and education seminar; or~~]

[~~(B) complete an alcohol training and education seminar within the time periods specified in Subsection 32B-1-703(1) if the individual is described in Subsection (2)(a)(iii)(A) or (B); and~~]

(ii) pay a fee[~~: (A)~~] to the seminar provider[~~; and (B)~~] that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to [~~engage in an activity described in Subsection (2)(a)~~] act as licensee staff.

(d) A record that [~~an individual~~] licensee staff has completed an alcohol training and education seminar is valid for[~~: (i)~~] three years [~~from~~] after the day on which the record is issued [~~for an individual described in Subsection (2)(a)(i) or (ii); and~~].

[~~(ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)(iii)(A) or (B).~~]

(e) [~~On and after July 1, 2011, to~~] To be considered as having completed an alcohol training and education seminar, an individual shall:

(i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or

(ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) (i) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program.

(ii) In developing the requirements by rule, the division shall consider whether to require:

[~~(i)~~] (A) authentication that the an individual accurately identifies the individual as taking the online course or test;

[~~(ii)~~] (B) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

[~~(iii)~~] (C) measures to track the actual time an individual taking the online course or test is actively engaged online;

[~~(iv)~~] (D) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

[~~(v)~~] (E) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;

[~~(vi)~~] (F) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;

[~~(vii)~~] (G) measures for the division to audit online courses or tests;

[~~(viii)~~] (H) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;

[~~(ix)~~] (I) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;

[~~(x)~~] (J) an individual who takes an online course or test to use an e-signature; or

[~~(xi)~~] (K) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.

(3) (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;

(ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section 32B-1-702.

(4) The division shall:

(a) (i) provide alcohol training and education seminars; or

(ii) certify one or more seminar providers;

(b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and

(B) alcohol's effect on the body and behavior;

(ii) recognizing the problem drinker or signs of intoxication;

(iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Services;

(iv) dealing with the problem customer, including ways to terminate sale or service; and

(v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;

(c) recertify each seminar provider every three years;

(d) monitor compliance with the curriculum described in Subsection (4)(b);

(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage Services;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

(g) provide the Department of Alcoholic Beverage Services on request a list of any seminar provider certified by the division; and

(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

[~~(a) define what constitutes under this section an individual who:~~]

[~~(i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;~~]

[~~(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;~~]

[~~(iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;~~]

[~~(iv) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or~~]

[~~(v) sells beer to a customer for consumption off the premises of an off-premise beer retailer;~~]

[~~(b)~~] (a) establish criteria for certifying and recertifying a seminar provider; and

[~~(c)~~] (b) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

(6) A seminar provider shall:

(a) obtain recertification by the division every three years;

(b) ensure that an instructor used by the seminar provider:

(i) follows the curriculum established under this section; and

(ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days after the day on which the suspension begins;

(ii) revoke the certification of the seminar provider;

(iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days [~~from the date~~] after the day on which the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Section 45. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates: Title 32B.

[~~(1) Subsection 32B-1-102(9) is repealed July 1, 2022.~~]

[~~(2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.~~]

[~~(3) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.~~]

[~~(4) Section 32B-6-205 is repealed July 1, 2022.~~]

[~~(5) Subsection 32B-6-205.2(16) is repealed July 1, 2022.~~]

[~~(6) Section 32B-6-205.3 is repealed July 1, 2022.~~]

[~~(7) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.~~]

[~~(8) Section 32B-6-305 is repealed July 1, 2022.~~]

[~~(9) Subsection 32B-6-305.2(15) is repealed July 1, 2022.~~]

[~~(10) Section 32B-6-305.3 is repealed July 1, 2022.~~]

[~~(11) Section 32B-6-404.1 is repealed July 1, 2022.~~]

[~~(12) Section 32B-6-409 is repealed July 1, 2022.~~]

[~~(13) Subsection 32B-6-703(2)(e)(iii) is repealed July 1, 2022.~~]

[~~(14) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.~~]

[~~(15) Section 32B-6-905 is repealed July 1, 2022.~~]

[~~(16) Subsection 32B-6-905.1(15) is repealed July 1, 2022.~~]

[~~(17) Section 32B-6-905.2 is repealed July 1, 2022.~~]

[~~(18) Subsection 32B-8d-104(3) is repealed July 1, 2022.~~] Subsection 32B-1-603.5(7), regarding the Department of Alcoholic Beverage Services' review of beer that is sold or distributed in the state, is repealed December 31, 2024.

CHAPTER 372
S. B. 175
Passed March 2, 2023
Approved March 17, 2023
Effective July 1, 2023

RURAL TRANSPORTATION INFRASTRUCTURE FUND

Chief Sponsor: Derrin R. Owens
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill creates the Rural Transportation Infrastructure Fund for highway projects in certain cities, towns, and counties.

Highlighted Provisions:

This bill:

- defines terms;
- requires certain revenue from vehicle registration fees to be transferred to the Rural Transportation Infrastructure Fund;
- creates an expendable special revenue fund called the Rural Transportation Infrastructure Fund;
- provides for administration for and distribution from the fund; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Department of Transportation -- Rural Transportation Infrastructure Fund, as a one-time appropriation:
  - from the General Fund, One-time, $40,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-1201, as last amended by Laws of Utah 2022, Chapter 259

ENACTS:

72-2-133, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (6), (7), (8), [~~and~~] (9), and (10) and Sections 41-1a-422, 41-1a-1220, 41-1a-1221, and 41-1a-1223, all fees collected under this part shall be deposited into the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), and (7) and Section 41-1a-1212 may be used by the commission to cover the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.

(4) In accordance with Section 63J-1-602.2, all funds available to the commission for the purchase and distribution of license plates and decals are nonlapsing.

(5) (a) Except as provided in Subsections (3) and (5)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(c) Fifty cents of the registration fee imposed under Subsection 41-1a-1206(1)(i) for each vintage vehicle that has a model year of 1981 or newer may be used by the commission to cover the costs incurred in enforcing and administering this part.

(6) (a) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited into the Transportation Investment Fund of 2005 created under Section 72-2-124:

(i) $30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), (4), and (7);

(ii) $21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) $2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) $23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) $24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); and

(vi) $1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) $23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) $23 of each registration fee collected under Subsection 41-1a-1206(2)(a)(ii).

(7) (a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5

shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(8) (a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(9) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited into the Spinal Cord and Brain Injury Rehabilitation Fund created in Section 26-54-102.

(10) (a) Beginning on January 1, 2024, subject to Subsection (10)(b), $2 of each registration fee imposed under Section 41-1a-1206 shall be deposited into the Rural Transportation Infrastructure Fund created in Section 72-2-133.

(b) Beginning on January 1, 2025, and each January 1 thereafter, the amount described in Subsection (10)(a) shall be annually adjusted by taking the amount deposited the previous year and adding an amount equal to the greater of:

(i) an amount calculated by multiplying the amount deposited the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(ii) 0.

(c) The amounts calculated as described in Subsection (10)(b) shall be rounded up to the nearest 1 cent.

Section 2. Section 72-2-133 is enacted to read:

72-2-133. Rural Transportation Infrastructure Fund -- Creation -- Uses.

(1) As used in this section:

(a) "Graveled road" means the same as that term is defined in Section 72-2-108.

(b) "Paved road" means the same as that term is defined in Section 72-2-108.

(c) "Qualifying county" means a county that:

(i) is a county of the third through sixth class;

(ii) has imposed a local option sales and use tax pursuant to:

(A) Section 59-12-2217;

(B) Section 59-12-2218; or

(C) Section 59-12-2219; and

(iii) has not imposed a local option sales and use tax pursuant to Section 59-12-2220 on or before January 1, 2023.

(d) "Qualifying municipality" means a municipality located within a qualifying county.

(e) "Qualifying recipient" means qualifying county or a qualifying municipality.

(f) "Road mile" means the same as that term is defined in Section 72-2-108.

(g) "Weighted mileage" means the same as that term is defined in Section 72-2-108.

(2) There is created in the Transportation Fund an expendable special revenue fund called the Rural Transportation Infrastructure Fund.

(3) The Rural Transportation Infrastructure Fund shall be funded by:

(a) deposits into the fund as described in Subsection 41-1a-1201(10);

(b) appropriations by the Legislature; and

(c) other deposits into the fund.

(4) The department shall administer the fund.

(5) Beginning on January 1, 2024, the department shall annually distribute revenue in the fund among qualifying recipients in the following manner:

(a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Census Bureau estimate, whichever is most recent, except that if population estimates are not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Committee.

(6) A qualifying recipient may only use funds distributed as described in this section in the same manner as class B and class C road funds distributed in accordance with Section 72-2-108.

(7) (a) Before November 1 of each year, the State Tax Commission shall notify the department and indicate which counties are qualifying counties.

(b) After receiving the notification described in Subsection (7)(a), the department shall distribute funds for the following year to the municipalities and counties that were identified as qualifying recipients in the notification described in Subsection (7)(a).

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which

the money is transferred must be authorized by an appropriation.

ITEM 1

To Department of Transportation -- Rural Transportation Infrastructure Fund

From General Fund, One-time	40,000,000

Schedule of Programs:

Rural Transportation Infrastructure Fund	40,000,000

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2023.

(2) The amendments to Section 41-1a-1201 in this bill take effect on January 1, 2024.

CHAPTER 373
S. B. 183
Passed February 28, 2023
Approved March 17, 2023
Effective July 1, 2023

EDUCATOR SALARY AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steven J. Lund
Cosponsors: Nate Blouin
Luz Escamilla
Don L. Ipson
John D. Johnson
Karen Kwan
Ann Millner
Derrin R. Owens
Stephanie Pitcher
Jen Plumb
Kathleen A. Riebe
Scott D. Sandall
Chris H. Wilson
Ronald M. Winterton

LONG TITLE

General Description:

This bill makes additions to the appropriations calculation of certain educator salary programs.

Highlighted Provisions:

This bill:

- adds an appropriation adjustment for the educator salary adjustments and the Teacher Salary Supplement Program;
- modifies what constitutes an eligible teacher for purposes of the educator salary adjustments and the Teacher Salary Supplement Program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-405, as last amended by Laws of Utah 2022, Chapter 415
53F-2-504, as last amended by Laws of Utah 2021, Chapter 328

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-405 is amended to read:

53F-2-405. Educator salary adjustments.

(1) As used in this section, "educator" means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) (i) a license issued by the state board; and

(ii) a position as a:

(A) classroom teacher;

(B) speech pathologist;

(C) librarian or media specialist;

(D) preschool teacher;

(E) mentor teacher;

(F) teacher specialist or teacher leader;

(G) guidance counselor;

(H) audiologist;

(I) psychologist; or

(J) social worker; or

(b) (i) a license issued by the Division of Professional Licensing; and

(ii) a position as a social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

(3) Money appropriated to the state board for educator salary adjustments shall be distributed to school districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

(4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) the amount of the salary adjustment shall be the same for each full-time-equivalent educator position in the school district, charter school, or the Utah Schools for the Deaf and the Blind;

(b) an individual who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the individual works as an educator; [~~and~~]

(c) a salary adjustment may not be awarded [~~only to~~] if an educator [~~who~~] has received [~~a satisfactory~~] an unsatisfactory rating [~~or above~~] on the educator's three most recent [~~evaluation.~~] evaluations; and

(d) for a fiscal year beginning on or after July 1, 2024, the amount of the salary adjustment is equal to:

(i) the amount of salary adjustment in the preceding fiscal year; and

(ii) a percentage increase that is equal to the percentage increase in the value of the WPU in the preceding fiscal year.

(5) The state board may make rules as necessary to administer this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

(i) maintain educator salary adjustments provided in prior years; and

(ii) provide educator salary adjustments to new employees.

(b) Money appropriated for educator salary adjustments shall include money for the following employer-paid benefits:

(i) retirement;

(ii) worker's compensation;

(iii) social security; and

(iv) Medicare.

(7) (a) Subject to future budget constraints, the Legislature shall:

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments shall include salary adjustments for school administrators as specified in Subsection (7)(a).

(c) In distributing and awarding salary adjustments for school administrators, the state board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

Section 2. Section 53F-2-504 is amended to read:

53F-2-504. Teacher Salary Supplement Program.

(1) As used in this section:

(a) "Eligible teacher" means a teacher who:

(i) has a qualifying educational background or qualifying teaching background;

(ii) has a supplement-approved assignment that corresponds to the teacher's qualifying educational background or qualifying teaching background;

(iii) qualifies for the teacher's supplement-approved assignment in accordance with state board rule; and

(iv) (A) is a new employee; or

(B) has not received [~~at least a satisfactory~~] an unsatisfactory rating on the teacher's three most recent [~~evaluation~~] evaluations.

(b) "Field of computer science" means:

(i) computer science; or

(ii) computer information technology.

(c) "Field of science" means:

(i) integrated science;

(ii) chemistry;

(iii) physics;

(iv) physical science; or

(v) general science.

(d) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of science;

(iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

(e) "Qualifying teaching background" means:

(i) the teacher has been teaching the same supplement-approved assignment in Utah public schools for at least 10 years; or

(ii) the teacher has a professional deaf education license issued by the state board.

(f) "Supplement-approved assignment" means an assignment to teach:

(i) a secondary school level mathematics course;

(ii) integrated science in grade 7 or 8;

(iii) chemistry;

(iv) physics;

(v) computer science;

(vi) special education; or

(vii) deaf education.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements for eligible teachers provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) The annual salary supplement for an eligible teacher who is assigned full-time to a supplement-approved assignment is:

(i) for a fiscal year beginning before July 1, 2023, $4,100 and funded through an appropriation described in Subsection (2); and

(ii) for a fiscal year beginning on or after July 1, 2023, the amount equal to:

(A) the amount of the annual salary supplement in the preceding fiscal year; and

(B) a percentage increase that is equal to the percentage increase in the value of the WPU in the preceding fiscal year.

(b) An eligible teacher who is assigned part-time to a supplement-approved assignment shall receive a partial salary supplement based on the number of hours worked in the supplement-approved assignment.

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher is an eligible teacher;

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers.

(5) An eligible teacher shall apply to the state board, as provided by the board to receive the salary supplement authorized in this section in accordance with state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) The state board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying educational background on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(ii) A teacher shall provide transcripts and other documentation to the state board in order for the state board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying teaching background on the basis that the teacher has a qualifying teaching background.

(ii) The teacher shall provide to the state board evidence to verify that the teacher has a qualifying teaching background.

(7) (a) The state board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The state board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher.

(b) The salary supplement is part of an eligible teacher's base pay, subject to eligible teacher's qualification as an eligible teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the state board may distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 374
S. B. 194
Passed March 1, 2023
Approved March 17, 2023
Effective July 1, 2023

HIGHER EDUCATION FUNDING AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies provisions related to higher education.

Highlighted Provisions:

This bill:

- authorizes certain public and private entities to provide money to the Higher Education Student Success Endowment;
- creates the Utah Higher Education Savings Board of Trustees to act as fiduciary for the Utah Educational Savings Plan;
- allows the board to hold a closed meeting to discuss certain fiduciary or commercial information; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

52-4-103, as last amended by Laws of Utah 2022, Chapter 422
52-4-205, as last amended by Laws of Utah 2022, Chapters 237, 290, 332, 335, 422, and 478
53B-1-301, as last amended by Laws of Utah 2022, Chapters 147, 274 and 370
53B-7-801, as enacted by Laws of Utah 2022, Chapter 186
53B-7-802, as enacted by Laws of Utah 2022, Chapter 186
53B-8a-102.5, as last amended by Laws of Utah 2020, Chapter 365
53B-8a-104, as last amended by Laws of Utah 2010, Chapter 6
53B-8a-105, as last amended by Laws of Utah 2011, Chapter 46

ENACTS:

53B-7-804, Utah Code Annotated 1953
53B-7-805, Utah Code Annotated 1953

REPEALS:

53B-11-101, as enacted by Laws of Utah 1987, Chapter 167
53B-11-102, as last amended by Laws of Utah 1989, Chapter 22
53B-11-103, as enacted by Laws of Utah 1987, Chapter 167
53B-12-101, as last amended by Laws of Utah 2022, Chapter 186
53B-12-102, as last amended by Laws of Utah 2020, Chapter 365
53B-12-103, as enacted by Laws of Utah 1987, Chapter 167
53B-12-104, as last amended by Laws of Utah 2010, Chapter 324
53B-12-105, as enacted by Laws of Utah 1987, Chapter 167
53B-12-106, as enacted by Laws of Utah 1987, Chapter 167
53B-12-107, as last amended by Laws of Utah 2019, Chapter 324
53B-12-108, as enacted by Laws of Utah 1987, Chapter 167
53B-12-109, as enacted by Laws of Utah 2022, Chapter 186

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) (a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

(a) electronic mail;

(b) instant messaging;

(c) electronic chat;

(d) text messaging, as that term is defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) "Fiduciary or commercial information" means information:

(a) related to any subject if disclosure:

(i) would conflict with a fiduciary obligation; or

(ii) is prohibited by insider trading provisions; or

(b) that is commercial in nature including:

(i) account owners or borrowers;

(ii) demographic data;

(iii) contracts and related payments;

(iv) negotiations;

(v) proposals or bids;

(vi) investments;

(vii) management of funds;

(viii) fees and charges;

(ix) plan and program design;

(x) investment options and underlying investments offered to account owners;

(xi) marketing and outreach efforts;

(xii) financial plans; or

(xiii) reviews and audits excluding the final report required under Section 53B-8a-111.

[~~(6)~~] (7) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering;

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or

(iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:

(A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or

(B) the conversation pertains only to day-to-day management and operation of the public transit district.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

[~~(7)~~] (8) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

[~~(8)~~] (9) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

[~~(9)~~] (10) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;

(iii) the Utah Independent Redistricting Commission; and

(iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity; or

(v) the following Legislative Management subcommittees, which are established in Section

36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

[~~(10)~~] (11) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

[~~(11)~~] (12) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken.

[~~(12)~~] (13) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

[~~(13)~~] (14) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii) or (9)(c)(v).

[~~(14)~~] (15) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 2. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education [~~Assistance Authority~~] Savings Board of Trustees and its appointed board of directors, discussing fiduciary or commercial information [~~as defined in Section 53B-12-102~~];

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code,

during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments; or

(r) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105;

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(83);

(h) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market; and

(i) a meeting of the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 3. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board on performance;

(e) the report described in Section 53B-8-201 by the board on the Opportunity Scholarship Program;

(f) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

[~~(g) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;~~]

[~~(h)~~] (g) the report described in Section 53B-13a-103 by the board on the Utah Promise Program;

[~~(i)~~] (h) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

[~~(j)~~] (i) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals;

[~~(k)~~] (j) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council; and

[~~(l)~~] (k) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; and

(c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

(b) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(c) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 4. Section 53B-7-801 is amended to read:

53B-7-801. Definitions.

[~~As used in this part:~~]

[~~(1) "Authority" means the Utah Higher Education Assistance Authority.~~]

[~~(2) "Endowment"~~] As used in this part, "endowment" means the Higher Education Student Success Endowment created in Section 53B-7-802.

Section 5. Section 53B-7-802 is amended to read:

53B-7-802. Higher Education Student Success Endowment.

(1) There is created the Higher Education Student Success Endowment.

(2) The endowment consists of:

(a) the proceeds from divestment of the [~~authority's~~] dissolved Utah Higher Education Assistance Authority's loan portfolio [~~in accordance with Section 53B-12-109~~];

(b) appropriations made to the endowment by the Legislature, if any;

(c) income from the investment of the endowment; and

(d) other revenues received from other sources.

(3) The board shall account for the receipt and expenditures of endowment money in accordance with the policies and guidance of the Division of Finance.

(4) (a) (i) The state treasurer shall invest the endowment money with the primary goal of providing for stability, income, and growth of the principal.

(ii) The state treasurer may deduct any administrative costs incurred in managing endowment assets from earnings before distributing the earnings.

(b) Nothing in this section requires a specific outcome in investing.

(c) The state treasurer may employ professional asset managers to assist in the investment of assets of the endowment.

(d) The state treasurer may only provide compensation to asset managers from earnings generated by the endowment's investments.

(e) The state treasurer shall invest and manage the endowment assets as a prudent investor would, by:

(i) considering the purposes, terms, distribution requirements, and other circumstances of the endowment; and

(ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(f) In determining whether or not the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:

(i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and

(ii) evaluate the state treasurer's investment and management decisions respecting individual assets not in isolation, but in context of an endowment portfolio as a whole as a part of an overall investment strategy that has risk and return objectives reasonably suited to the endowment.

(5) (a) The endowment shall earn interest.

(b) The state treasurer shall deposit the interest or other revenue earned from investment of the endowment into the endowment.

(6) The board:

(a) may expend money from the endowment for programs that:

(i) advance the system priorities as established in Subsection 53B-1-402(2)(a); and

(ii) support prospective students or current students enrolled at an institution, as described in Section 53B-2-101; and

(b) may not expend money from the endowment for a capital expenditure, including the construction or lease of a capital facility or operation and maintenance of a capital facility.

(7) The board shall ensure that:

(a) money deposited into the endowment is irrevocable and is expended only for programs that advance the system priorities as established in Subsection 53B-1-402(2)(a); and

(b) creditors of the board of directors may not seize, attach, or otherwise obtain assets of the endowment.

Section 6. Section 53B-7-804 is enacted to read:

53B-7-804. State grants to the authority.

To the extent otherwise allowed, a state entity may grant money or property to the endowment.

Section 7. Section 53B-7-805 is enacted to read:

53B-7-805. Gifts to the endowment.

A person may make a contribution, gift, grant, bequest, or devise, or loans to the endowment.

Section 8. Section 53B-8a-102.5 is amended to read:

53B-8a-102.5. Definitions for part.

As used in this part:

(1) "Administrative fund" means the money used to administer the Utah Educational Savings Plan.

(2) "Board" means [~~the board of directors of the Utah Educational Savings Plan, which is the Utah Board of Higher Education acting in the Utah Board of Higher Education's capacity as the Utah Higher Education Assistance Authority under Title 53B, Chapter 12, Higher Education Assistance Authority~~] the Utah Education Savings Board of Trustees created in Section 53B-8a-105.

(3) "Endowment fund" means the endowment fund established under Section 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

(4) "Executive director" means the administrator appointed to administer and manage the Utah Educational Savings Plan.

(5) "Federally insured depository institution" means an institution whose deposits and accounts

are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation and the National Credit Union Administration.

(6) "Grantor trust" means a trust, the income of which is for the benefit of the grantor under Section 677, Internal Revenue Code.

(7) "Higher education costs" means qualified higher education expenses as defined in Section 529(e)(3), Internal Revenue Code.

(8) "Owner of the grantor trust" means one or more individuals who are treated as an owner of a trust under Section 677, Internal Revenue Code, if that trust is a grantor trust.

(9) "Program fund" means the program fund created under Section 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

(10) "Qualified investment" means an amount invested in accordance with an account agreement established under this part.

(11) "Tuition and fees" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment.

Section 9. Section 53B-8a-104 is amended to read:

53B-8a-104. Office facilities, clerical, and administrative support for the Utah Educational Savings Plan.

(1) The [~~board~~] Utah Board of Higher Education shall provide to the plan, by agreement, administrative [~~and clerical~~] support and office facilities and space.

(2) Reasonable charges or fees may be levied against the plan pursuant to the agreement for the services provided by the [~~board~~] Utah Board of Higher Education.

Section 10. Section 53B-8a-105 is amended to read:

53B-8a-105. Powers and duties of board.

(1) There is created the Utah Education Savings Board of Trustees.

(2) The Utah Board of Higher Education shall:

(a) appoint the members of the board as follows:

(i) not more than three members from the Utah Board of Higher Education; and

(ii) at least four public members, each of whom possesses skills in one or more of the following:

(A) investments;

(B) accounting;

(C) finance;

(D) banking;

(E) education;

(F) technology; or

(G) financial operations; and

(b) designate a member appointed under Subsection (2)(a) as chair.

(3) Each board member serves at the pleasure of the Utah Board of Higher Education.

[~~(1)~~] (4) The board has all powers necessary to carry out and effectuate the purposes, objectives, and provisions of this chapter pertaining to the plan.

(5) The board shall act as a fiduciary of the plan with:

(a) a duty of care to act solely in the best interest of the plan's account owners and beneficiaries;

(b) a duty of loyalty putting the plan's interest ahead of other interests; and

(c) a duty to invest with care, skill, prudence, and diligence.

[~~(2)~~] (6) The duties, responsibilities, funds, liabilities, and expenses of the board in oversight and governance of the plan shall be maintained separate and apart from the [~~board's~~] Utah Board of Higher Education's other duties, responsibilities, funds, liabilities, and expenses.

[~~(3)~~] (7) The board shall [~~make policies governing the~~]:

(a) make policies governing the administration of the plan; and

[~~(b) appointment and duties of the plan's executive director.~~]

(b) amend policies related to board governance.

[~~(4)~~] (8) (a) The board may appoint advisory committees to aid the board in fulfilling its duties and responsibilities.

(b) An advisory committee member may receive compensation and be reimbursed for reasonable expenses incurred in the performance of the member's official duties as determined by the board.

(9) The board may appoint a board of directors known as the Board of Directors of the Utah Education Savings Plan to carry out the obligation of separation of functions required under Subsection (6).

(10) If the board creates a board of directors under Subsection (9):

(a) the board of directors shall consist of at least five members; and

(b) no more than two-thirds of the members of the board of directors may simultaneously serve as a member of the board.

Section 11. Repealer.

This bill repeals:

Section 53B-11-101, Establishment of Student Loan Fund.

Section 53B-11-102, Use of Student Loan Fund.

Section 53B-11-103, Student loan insurance program -- Board is successor to authority

of Coordinating Council -- Maintenance of insurance program.

Section 53B-12-101, Utah Higher Education Assistance Authority designated -- Powers.

Section 53B-12-102, Separation of duties, responsibilities, funds, liabilities, and expenses -- Appointment of board of directors -- No state or local debt -- Minors eligible for loans.

Section 53B-12-103, Gifts by persons, corporations, and associations -- Tax deduction.

Section 53B-12-104, Guarantee Fund -- Sources -- Use -- Valuation and restoration of assets -- Other funds.

Section 53B-12-105, Agreement with loan holders -- Terms unalterable.

Section 53B-12-106, Guarantee agreements and expenses limited to funds of the authority.

Section 53B-12-107, Annual report -- Annual audit -- Reimbursement of state auditor.

Section 53B-12-108, State grants to the authority.

Section 53B-12-109, Dissolution of authority -- Higher Education Student Success Endowment.

Section 12. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 375
S. B. 205
Passed February 28, 2023
Approved March 17, 2023
Effective May 3, 2023

CONSUMER PROTECTION EDUCATION AND TRAINING FUND AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill amends provisions related to the Consumer Protection Education and Training Fund.

Highlighted Provisions:

This bill:

- increases the maximum allowable balance held by the Consumer Protection Education and Training Fund at the close of a fiscal year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-8, as last amended by Laws of Utah 2013, Chapters 124, 400

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-8 is amended to read:

13-2-8. Consumer Protection Education and Training Fund.

(1) There is created an expendable special revenue fund known as the "Consumer Protection Education and Training Fund."

(2) (a) Unless otherwise provided by a chapter listed in Section 13-2-1, all money not distributed as consumer restitution that is received by the division from administrative fines and settlements, from criminal restitution, or from civil damages, forfeitures, penalties, and settlements when the division receives the money on its own behalf and not in a representative capacity, shall be deposited into the fund.

(b) Any portion of the fund may be maintained in an interest-bearing account.

(c) All interest earned on fund money shall be deposited into the fund.

(3) Notwithstanding Title 63J, Chapter 1, Budgetary Procedures Act, the division may use the fund with the approval of the executive director of the Department of Commerce in a manner consistent with the duties of the division under this chapter for:

(a) consumer protection education for members of the public;

(b) equipment for and training of division personnel;

(c) publication of consumer protection brochures, laws, policy statements, or other material relevant to the division's enforcement efforts; and

(d) investigation and litigation undertaken by the division.

(4) If the balance in the fund exceeds [~~$500,000~~] $1,000,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.

CHAPTER 376
S. B. 222
Passed March 2, 2023
Approved March 17, 2023
Effective May 3, 2023

EFFECTIVE TEACHERS IN HIGH POVERTY SCHOOLS INCENTIVE PROGRAM AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill amends requirements of the Effective Teachers in High Poverty Schools Incentive Program.

Highlighted Provisions:

This bill:

- modifies defined terms;
- clarifies that eligibility is calculated for all students in the same course; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-513, as last amended by Laws of Utah 2022, Chapter 232

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-513 is amended to read:

53F-2-513. Effective Teachers in High Poverty Schools Incentive Program -- Salary bonus -- Evaluation.

(1) As used in this section:

(a) "Benchmark assessment" means the assessment described in Sections 53E-4-307 and 53E-4-307.5.

[~~(a)~~] (b) "Cohort" means a group of students, defined by the year in which the group enters kindergarten.

[~~(b)~~] (c) "Eligible teacher" means a general education or special education teacher who is employed as a teacher in kindergarten through grade 8 in a high poverty school at the time the teacher is considered by the state board for a salary bonus, and:

(i) a full school year before the school year the eligible teacher is being considered by the state board for a salary bonus under this section, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, either:

(A) achieves a median growth percentile of 70 or higher while teaching in grade 4 through 8 at any public school in the state a course for which a standards assessment is administered as described in Section 53E-4-303; or

(B) achieves at least 85% of students whose progress is assessed as typical or better at the end of the year assessment while teaching kindergarten or grade 1, 2, or 3 at any public school in the state at which a benchmark assessment is administered [~~as described in Section 53F-2-503 or Section 53E-4-307.5~~]; and

[~~(ii) for a salary bonus awarded in the 2021-2022 school year, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, either:~~]

[~~(A) in the 2018-2019 school year, achieves a median growth percentile of 70 or higher while teaching in grade 4 through 8 at any public school in the state a course for which a standards assessment is administered as described in Section 53E-4-303; or~~]

[~~(B) in the 2018-2019 school year, achieves at least 85% of students whose progress is assessed as typical or better at the end of the year assessment while teaching grade 1, 2, or 3 at any public school in the state at which a benchmark assessment is administered as described in Section 53F-2-503; or~~]

[~~(iii)~~] (ii) for a salary bonus awarded to a grade 4 teacher in the 2022-2023 school year, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, teaches grade 4 and achieves the criteria under the method that the state board creates as described in Subsection (2)(b)(iv).

[~~(c)~~] (d) "High poverty school" means a public school:

(i) in which, during the previous school year, based on October 1 enrollment as of the year-end data submission:

(A) more than 20% of the enrolled students are classified as children affected by intergenerational poverty; or

(B) 70% or more of the enrolled students qualify for free or reduced lunch; or

(ii) (A) that has previously met the criteria described in Subsection [~~(1)(c)(i)(A)~~] (1)(d)(i)(A) and for each school year since meeting that criteria at least 15% of the enrolled students at the public school have been classified as children affected by intergenerational poverty; or

(B) that has previously met the criteria described in Subsection [~~(1)(c)(i)(B)~~] (1)(d)(i)(A) and for each school year since meeting that criteria at least 60% of the enrolled students at the public school have qualified for free or reduced lunch[~~;~~].

[~~(iii) for the 2020-2021 school year, that met the criteria described in Subsection (1)(c)(i) or (ii) in the 2018-2019 school year; or~~]

[~~(iv) for the 2021-2022 school year, that met the criteria described in Subsection (1)(c)(i) or (ii) in the 2019-2020 school year.~~]

[~~(d)~~] (e) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

[~~(e)~~] (f) "Median growth percentile" means a number that describes the comparative effectiveness of a teacher in helping the teacher's students achieve growth in a year by identifying the median student growth percentile of all the students a teacher instructs for each standards assessment or benchmark assessment.

[~~(f)~~] (g) "Program" means the Effective Teachers in High Poverty Schools Incentive Program created in Subsection (2).

(h) "Standards assessment" means the assessments described in Section 53E-4-303.

[~~(g)~~] (i) "Student growth percentile" is a number that describes where a student ranks in comparison to the student's cohort.

(2) (a) The Effective Teachers in High Poverty Schools Incentive Program is created to provide an annual salary bonus for an eligible teacher.

(b) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

(i) the administration of the program;

(ii) payment of a salary bonus;

(iii) application requirements; and

(iv) a method for:

(A) norm-referencing available reading assessment data for grade 4; and

(B) for using the data described in Subsection (2)(b)(iv)(A) to set criteria for the purpose of determining teacher eligibility for salary bonuses awarded in the 2022-2023 school year for teachers in grade 4.

(c) The state board shall make an annual salary bonus payment in a fiscal year that begins on July 1, 2017, and each fiscal year thereafter in which money is appropriated for the program.

(d) The state board shall make a partial payment of the annual salary bonus described in Subsection (2)(c), to an eligible teacher who has a part-time assignment in a regular or special education classroom at an eligible school, based on the number of hours the eligible teacher works in the classroom assignment.

(3) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to fund the program.

(b) Money appropriated for the program shall include money for the following employer-paid benefits:

(i) social security; and

(ii) Medicare.

(4) (a) (i) [~~A charter school or school district school~~] An LEA shall annually apply to the state board on behalf of an eligible teacher for an eligible teacher to receive an annual salary bonus each year that the teacher is an eligible teacher.

(ii) A teacher need not be an eligible teacher in consecutive years to receive the increased annual salary bonus described in Subsection (4)(b).

(b) The annual salary bonus for an eligible teacher is $7,000.

(c) A public school that applies on behalf of an eligible teacher under Subsection (4)(a)(i) shall pay half of the salary bonus described in Subsection (4)(b) each year the eligible teacher is awarded the salary bonus.

(d) The state board shall award a salary bonus to an eligible teacher based on the order that an application from a public school on behalf of the eligible teacher is received.

(5) The state board shall:

(a) determine if a teacher is an eligible teacher;

(b) verify, as needed, the determinations made under Subsection (5)(a) with the school district and school district administrators; and

(c) publish a list of high poverty schools.

(6) The state board shall:

(a) distribute money from the program to [~~school districts and charter schools~~] an LEA in accordance with this section and state board rule; and

(b) include the employer-paid benefits described in Subsection (3)(b) in addition to the salary bonus amount described in Subsection (4)(b).

(7) Money received from the program shall be used by [~~a school district or charter school~~] an LEA to provide an annual salary bonus equal to the amount specified in Subsection (4)(b) for each eligible teacher and to pay affiliated employer-paid benefits described in Subsection (3)(b).

(8) (a) After the third year salary bonus payments are made, and each succeeding year, the state board shall evaluate the extent to which a salary bonus described in this section improves recruitment and retention of effective teachers in high poverty schools by examining turnover rates of teachers who receive the salary bonus compared to teachers who do not receive the salary bonus.

(b) Each year that the state board conducts an evaluation described in Subsection (8)(a), the state board shall, in accordance with Section 68-3-14, submit a report on the results of the evaluation to the Education Interim Committee on or before November 30.

(9) A public school shall annually notify a teacher:

(a) of the teacher's median growth percentile; and

(b) how the teacher's median growth percentile is calculated.

(10) Notwithstanding this section, if the appropriation for the program is insufficient to cover the costs associated with salary bonuses, the state board may limit or reduce a salary bonus.

CHAPTER 377
S. B. 225
Passed March 1, 2023
Approved March 17, 2023
Effective May 3, 2023

COMMERCIAL EMAIL ACT

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill enacts the Utah Commercial Email Act.

Highlighted Provisions:

This bill:

- enacts the Utah Commercial Email Act (act) that:
  - prohibits an advertiser or a person initiating an email from sending unauthorized or misleading commercial emails from this state or to an email address within this state;
  - creates a cause of action for the electronic mail service provider, the recipient of the unsolicited commercial email, and any person whose brand, trademark, email address, or domain name is used without permission to recover damages related to unauthorized or misleading commercial emails;
  - provides for enforcement of the act by the Division of Consumer Protection; and
  - permits the prevailing party to recover attorney fees and costs in an action related to unauthorized or misleading commercial emails;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Superseded 12/31/23), as last amended by Laws of Utah 2022, Chapter 201
13-2-1 (Effective 12/31/23), as last amended by Laws of Utah 2022, Chapters 201, 462

ENACTS:

13-63-101, Utah Code Annotated 1953
13-63-201, Utah Code Annotated 1953
13-63-202, Utah Code Annotated 1953
13-63-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 (Superseded 12/31/23) is amended to read:

13-2-1 (Superseded 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act; [~~and~~]

(w) Chapter 57, Maintenance Funding Practices Act[~~.~~];

(x) Chapter 63, Utah Commercial Email Act.

Section 2. Section 13-2-1 (Effective 12/31/23) is amended to read:

13-2-1 (Effective 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act;

(w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]

(x) Chapter 61, Utah Consumer Privacy Act[~~.~~]; and

(y) Chapter 63, Utah Commercial Email Act.

Section 3. Section 13-63-101 is enacted to read:

CHAPTER 63 (CODIFIED AS CHAPTER 65). UTAH COMMERCIAL EMAIL ACT

Part 1. General Provisions

13-63-101 (Codified as 13-65-101). Definitions.

As used in this chapter:

(1) "Advertiser" means a person who advertises the person's product, service, or website through the use of commercial email.

(2) "Commercial email" means an email used primarily to:

(a) advertise or promote a commercial website, product, or service; or

(b) solicit money, property, or personal information.

(3) "Division" means the Division of Consumer Protection.

(4) "Domain name" means any alphanumeric designation that is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(5) "Electronic mail service provider" means a company or a service that provides routing, relaying, handling, storage, or support for email addresses and email inboxes.

(6) "Header information" means information attached to an email, including:

(a) the originating domain name;

(b) the originating email address;

(c) the destination;

(d) the routing information; and

(e) any other information that appears in the header line identifying, or purporting to identify, a person initiating the message.

(7) "Initiate" means an act of:

(a) originating, transmitting, or sending commercial email; or

(b) promising, paying, or providing other consideration for another person to originate, transmit, or send a commercial email.

(8) (a) "Initiator" means a person who:

(i) originates, transmits, or sends commercial email; or

(ii) promises, pays, or provides other consideration for another person to originate, transmit, or send a commercial email.

(b) "Initiator" does not include a person whose activities are a routine conveyance.

(9) "Preexisting or current business relationship" means a situation where the recipient has:

(a) made an inquiry and provided an email address; or

(b) made an application, a purchase, or a transaction, with or without consideration, related to a product or a service offered by the advertiser.

(10) "Recipient" means an addressee of an unsolicited email.

(11) "Routine conveyance" means an Internet service provider's or email provider's automatic

electronic mail message processes, including routing, relaying, handling, or storing through an automatic technical process, for which a person other than the Internet service provider or email provider has identified the electronic mail message recipients and provided the recipients' addresses.

(12) "Unsolicited commercial email" means a commercial email sent by an advertiser to a recipient that:

(a) has not provided direct consent to the advertiser to receive the commercial email; and

(b) does not have a preexisting or current relationship with the advertiser.

(13) "Utah email address" means an email address that is:

(a) provided by an electronic mail service provider that sends bills for providing and maintaining that email address to a mailing address in this state;

(b) ordinarily accessed from a computer located in this state; or

(c) provided to an individual who is currently a resident of this state.

Section 4. Section 13-63-201 is enacted to read:

Part 2. Restrictions on Commercial Email

13-63-201 (Codified as 13-65-201). Prohibited uses of email.

An advertiser or an initiator may not knowingly initiate or advertise in a commercial email sent from this state or sent to a Utah email address if:

(1) the commercial email contains or is accompanied by a third party's domain name without the permission of the third party;

(2) the commercial email contains or is accompanied by false, misrepresented, or forged header information, even if the commercial email contains truthful identifying information for the advertiser in the body of the email; or

(3) the commercial email has a subject line that is likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the identity of the advertiser, the contents, or the subject matter of the commercial email.

Section 5. Section 13-63-202 is enacted to read:

13-63-202 (Codified as 13-65-202). Cause of action.

(1) (a) The following persons may bring a claim against an advertiser or initiator who violates Section 13-63-201:

(i) an electronic mail service provider;

(ii) a recipient of an unsolicited commercial email; or

(iii) a person whose brand, trademark, email address, or domain name an advertiser or initiator uses, without authorization, in the header information.

(b) There is a rebuttable presumption that a commercial email that violates Section 13-63-201 is an unsolicited commercial email.

(c) The burden of proving that a commercial email is not an unsolicited commercial email is on the defendant.

(2) (a) A person described in Subsection (1)(a)(i) or (ii) may recover:

(i) actual damages; and

(ii) except as provided in Subsection (2)(c), liquidated damages of $1,000 for each unsolicited commercial email transmitted in violation of Section 13-63-201.

(b) If an addressee of an unsolicited commercial email has more than one email address to which an advertiser or an initiator sends an unsolicited commercial email, the addressee is considered a separate recipient for each email address to which the advertiser or the initiator sends the unsolicited commercial email.

(c) If a court finds that an advertiser or an initiator used due diligence to establish and implement practices and procedures to effectively prevent unsolicited commercial emails in violation of this chapter, the court shall reduce the liquidated damages to $100 for each unsolicited commercial email transmitted in violation of Section 13-63-201.

(3) A person described in Subsection (1)(a)(iii) may recover:

(a) actual damages; and

(b) liquidated damages in an amount equal to the lesser of:

(i) $1,000 for each commercial email transmitted in violation of this chapter that uses, without authorization, a person's brand, trademark, email address, or domain name in the header information; and

(ii) $2,000,000.

(4) The prevailing party in an action brought under this section may recover reasonable attorney fees and costs.

(5) (a) Defendants in an action under this section are jointly and severally liable.

(b) There is no cause of action under this section against an electronic mail service provider who is involved only in the routine conveyance of commercial email over the email service provider's computer network.

Section 6. Section 13-63-203 is enacted to read:

13-63-203 (Codified as 13-65-203). Enforcement.

(1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.

(2) The attorney general, upon request, shall give legal advice to, and act as counsel for, the division in the exercise of the division's responsibilities under this chapter.

(3) (a) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(i) the division director may impose an administrative fine of up to $2,500 for each violation of this chapter; and

(ii) the division may bring an action in a court of competent jurisdiction to enforce a provision of this chapter.

(b) In a court action by the division to enforce a provision of this chapter, the court may:

(i) declare that an act or practice violates a provision of this chapter;

(ii) issue an injunction for a violation of this chapter;

(iii) order disgorgement of any money received in violation of this chapter;

(iv) order payment of disgorged money to an injured purchaser or consumer;

(v) impose a fine of up to $2,500 for each violation of this chapter; or

(vi) award any other relief that the court deems reasonable and necessary.

(4) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(5) (a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of no more than $5,000 for each violation.

(b) A civil penalty authorized under this section may be imposed in any civil action brought by the attorney general on behalf of the division.

(6) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund created in Section 13-2-8.

Section 7. Effective date.

This bill takes effect on May 3, 2023, with the exception of Section 13-2-1 (Effective 12/31/23), which takes effect on December 31, 2023.

CHAPTER 378
S. B. 227
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

SCHOOL BOARD ETHICS COMPLAINT INVESTIGATION REQUIREMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill addresses the process for an ethics complaint regarding a local school board member.

Highlighted Provisions:

This bill:

- clarifies the process for an ethics complaint regarding a local school board member;
- prohibits a school district from establishing a local political subdivision ethics commission;
- requires that an ethics complaint against a local school board member be reviewed by the Political Subdivisions Ethics Review Commission; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-15-103, as renumbered and amended by Laws of Utah 2018, Chapter 461

ENACTS:

53G-4-206, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-4-206 is enacted to read:

53G-4-206. Ethics complaint -- Political Subdivisions Ethics Review Commission.

A person may file a complaint for an alleged violation of Title 67, Chapter 16, Utah Public Officers, and Employees, Ethics Act, by a member of a local school board in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission.

Section 2. Section 63A-15-103 is amended to read:

63A-15-103. Local ethics commission permitted -- Filing requirements.

(1) A political subdivision, other than a municipality described in Section 10-3-1311, [~~or~~] a county described in Section 17-16a-11, or a school district may establish a local political subdivision ethics commission within the political subdivision to review a complaint against a political subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) A political subdivision other than a school district may enter into an interlocal agreement with another political subdivision, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, to establish a local political subdivision ethics commission to review a complaint against a political subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(3) (a) A person filing a complaint for an ethics violation of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, shall file the complaint with:

(i) a local political subdivision ethics commission, if the political subdivision has established a local political subdivision ethics commission under Subsection (1) or (2); or

(ii) the commission if the political subdivision has not established a local political subdivision ethics commission or is a school district.

(b) A political subdivision that receives a complaint described in Subsection (3)(a) may:

(i) accept the complaint if the political subdivision has established a local political subdivision ethics commission in accordance with Subsection (1) or (2); or

(ii) forward the complaint to the commission:

(A) regardless of whether the political subdivision has established a local political subdivision ethics commission; [~~or~~]

(B) if the political subdivision has not established a local political subdivision ethics commission[~~.~~]; or

(C) if the complaint is regarding a member of a local school board as defined in Section 53E-1-102.

CHAPTER 379
S. B. 239
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

GOLDEN SPIKE HIGHWAY DESIGNATION

Chief Sponsor: Scott D. Sandall
House Sponsor: Thomas W. Peterson

LONG TITLE

General Description:

This bill renames a portion of Route 13 and a portion of Route 83 as the Golden Spike/Lincoln Memorial Highway.

Highlighted Provisions:

This bill:

- renames a portion of Route 13 and a portion of Route 83 as the Golden Spike/Lincoln Memorial Highway;
- requires the Department of Transportation to make the highway designation on future state highway maps; and
- requires the Department of Transportation to, only when signs need replacement, replace signs along the highway to reflect the name designation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

72-4-220, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-4-220 is enacted to read:

72-4-220. Golden Spike/Lincoln Memorial Highway.

(1) There is established the Golden Spike/Lincoln Memorial Highway comprising a section of Route 13 beginning in Brigham City at the Route 13 and Interstate Highway 15 interchange westerly to the Route 13, Route 83, and 4800 West intersection in Corrine, then a section of Route 83 beginning in Corrine at the Route 13, Route 83, and 4800 West intersection westerly to the Route 83 and Golden Spike Drive intersection.

(2) In addition to other official designations, the Department of Transportation shall designate the portions of the highways identified in Subsection (1) as the Golden Spike/Lincoln Memorial Highway on future state highway maps.

(3) The Department of Transportation shall, when signs along the portions of highway described in Subsection (1) need to be replaced and not sooner, install appropriate signs along the portions of the highways described in Subsection (1) indicating the designation of the portions of the highways as the Golden Spike/Lincoln Memorial Highway.

CHAPTER 380
S. B. 258
Passed March 3, 2023
Approved March 17, 2023
Effective May 3, 2023

UPSTART PROGRAM AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends and enacts provisions of the UPSTART program.

Highlighted Provisions:

This bill:

- defines terms;
- moves the UPSTART program into the Economic Opportunity Act, under the Governor's Office of Economic Opportunity (office);
- amends procurement standards for a home-based technology program for the UPSTART program;
- requires the office to use procurement processes to contract with certain providers;
- amends criteria for evaluating home-based technology program providers;
- expands program participation to:
  - all Utah preschool children;
  - residential certificate preschool providers; and
  - the Head Start program;
- amends standards and requirements for home-based educational technology providers;
- requires school boards to make the program accessible for schools that seek to participate in the program;
- provides for an existing contract between the State Board of Education and a contractor to be transferred to the office;
- requires the Department of Workforce Services to identify families for the program;
- requires the office to determine costs associated with the program, including:
  - implementing campaigns and referrals to solicit families to participate in the program; and
  - technology costs;
- amends audit reporting requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-15-202, as last amended by Laws of Utah 2022, Chapter 348
53E-1-201, as last amended by Laws of Utah 2022, Chapters 147, 229, 274, 285, 291, 354, and 461
53E-4-308, as last amended by Laws of Utah 2022, Chapter 461
63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370, and 409

RENUMBERS AND AMENDS:

63N-20-101, (Renumbered from 53F-4-401, as last amended by Laws of Utah 2022, Chapter 316)
63N-20-102, (Renumbered from 53F-4-402, as last amended by Laws of Utah 2019, Chapters 186, 342)
63N-20-103, (Renumbered from 53F-4-403, as last amended by Laws of Utah 2019, Chapter 342)
63N-20-104, (Renumbered from 53F-4-404, as last amended by Laws of Utah 2022, Chapter 316)
63N-20-106, (Renumbered from 53F-4-406, as last amended by Laws of Utah 2022, Chapter 316)
63N-20-107, (Renumbered from 53F-4-407, as last amended by Laws of Utah 2019, Chapters 186, 324 and 342)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-15-202 is amended to read:

35A-15-202. Elements of a high quality school readiness program.

(1) A high quality school readiness program that an eligible LEA or eligible private provider runs shall include:

(a) an evidence-based curriculum that is aligned with all of the developmental domains and academic content areas defined in the Utah core standards for preschool that the State Board of Education adopts, and that incorporates:

(i) intentional and differentiated instruction in whole group, small group, and child-directed learning; and

(ii) intentional instruction in key areas of literacy and numeracy, as determined by the State Board of Education, that:

(A) is teacher led or through a partnership with a contractor as defined in Section [~~53F-4-401~~] 63N-20-101;

(B) includes specific [~~literary~~] literacy and numeracy skills, such as phonological awareness; and

(C) includes provider monitoring and ongoing professional learning and coaching;

(b) ongoing, focused, and intensive professional development for staff of the school readiness program;

(c) ongoing assessment of a student's educational growth and development that:

(i) is aligned to the Utah core standards for preschool that the State Board of Education adopts; and

(ii) evaluates student progress to inform instruction;

(d) administration of the school readiness assessment to each student;

(e) for a preschool program that an eligible LEA runs, a class size that does not exceed 20 students, with one adult for every 10 students in the class;

(f) ongoing program evaluation and data collection to monitor program goal achievement and implementation of required program components;

(g) family engagement, including ongoing communication between home and school, and parent education opportunities based on each family's circumstances;

(h) only lead teachers who, by the lead teacher's second year, obtain at least:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field; and

(i) a kindergarten transition plan.

(2) A high quality school readiness program that a home-based educational technology provider runs shall[~~:~~] meet the requirements as described in Title 63N, Chapter 20, Part 1, UPSTART.

[~~(a) be an evidence-based and age appropriate individualized interactive instruction assessment and feedback technology program that teaches eligible students early learning skills needed to be successful upon entry into kindergarten;~~]

[~~(b) require regular parental engagement with the student in the student's use of the home-based educational technology program;~~]

[~~(c) be aligned with the Utah core standards for preschool that the State Board of Education adopts;~~]

[~~(d) require the administration of a pre- and post-assessment of each student whose parent or legal guardian consents to the assessment that, for a home-based technology program that receives funding under this part, is designated by the board in accordance with Section 35A-15-402; and~~]

[~~(e) require technology providers to ensure successful implementation and utilization of the technology program.~~]

Section 2. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-2-522 regarding mental health screening programs;

(l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(m) the report described in Section [~~53F-4-407~~] 63N-20-107 by [~~the state board~~] the Governor's Office of Economic Opportunity on UPSTART;

(n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(p) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

(q) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(r) the report described in Section 53G-7-221 by the State Board of Education regarding innovation plans; and

(s) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(d) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(e) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(g) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(h) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(i) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

(j) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

(k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

(l) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 3. Section 53E-4-308 is amended to read:

53E-4-308. Unique student identifier -- Coordination of higher education and public education information technology systems -- Coordination of preschool and public education information technology systems.

(1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:

(a) is not assigned to any former or current student; and

(b) does not incorporate personal information, including a birth date or Social Security number.

(2) The state board, through the state superintendent, shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.

(3) The state board and the Utah Board of Higher Education, in collaboration with the Utah Data Research Center created in Section 53B-33-201, shall:

(a) coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53B-1-109; and

(b) coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

(4) (a) The state board and the Department of Workforce Services shall coordinate assignment of a unique student identifier to each student enrolled in a program described in Title 35A, Chapter 15, Preschool Programs.

(b) A unique student identifier assigned to a student under Subsection (4)(a) shall remain the student's unique student identifier used by the state board when the student enrolls in a public school in kindergarten or a later grade.

(c) The Governor's Office of Economic Opportunity, the state board, the Department of Workforce Services, and a contractor as defined in Section [~~53F-4-401~~] 63N-20-101, shall coordinate access to the unique student identifier of a preschool student who later attends an LEA.

Section 4. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

[~~(1) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.~~]

[~~(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~]

[~~(2)~~] (1) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(3)~~] (2) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(4)~~] (3) Section 53B-8-114 is repealed July 1, 2024.

[~~(5)~~] (4) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(6)~~] (5) Section 53B-10-101 is repealed on July 1, 2027.

[~~(7)~~] (6) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(8)~~] (7) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(9)~~] (8) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(10)~~] (9) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(11)~~] (10) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(12)~~] (11) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~] (12) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(14)~~] (13) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(15)~~] (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(16)~~] (15) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(17)~~] (16) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.~~]

[~~(19) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.~~]

[~~(20) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.~~]

[~~(21)~~] (17) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (18) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (19) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (20) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (21) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 5. Section 63N-20-101, which is renumbered from Section 53F-4-401 is renumbered and amended to read:

CHAPTER 20. UPSTART

[~~53F-4-401~~]. 63N-20-101. Definitions.

As used in this part:

(1) "Contractor" means the educational technology provider [~~selected by the state board~~] that the Governor's Office of Economic Opportunity selects under Section [~~53F-4-402~~] 63N-20-102.

(2) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

[~~(2) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.~~]

(3) "Preschool child" means a child who is:

(a) four or five years old; and

(b) not eligible for enrollment under Subsection 53G-4-402(6).

(4) (a) "Private preschool provider" means a child care program that:

(i) (A) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act[~~;~~] or,

[~~(B)~~] except as provided in Subsection [~~(4)(b)(ii),~~] (4)(b), is exempt from licensure under Section 26-39-403; and

[~~(ii)~~] (B) meets other criteria as established by the [~~state board~~] office, consistent with Utah Constitution, Article X, Section 1[~~.~~]; or

(ii) is a residential certificate provider described in Section 26-39-402.

(b) "Private preschool provider" does not include[.]

[~~(i) a residential certificate provider described in Section 26-39-402; or~~]

[~~(ii)~~] a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) "Public preschool" means a preschool program that is provided by a school district [~~or~~], a charter school[.], or the Head Start program.

(6) "State board" means the State Board of Education.

[~~(6) "Qualifying participant" means a preschool child who:~~]

[~~(a) resides within the boundaries of a qualifying school as determined under Section 53G-6-302; or~~]

[~~(b) is enrolled in a qualifying preschool.~~]

[~~(7) "Qualifying preschool" means a public preschool or private preschool provider that:~~]

[~~(a) serves preschool children covered by child care subsidies funded by the Child Care and Development Block Grant Program authorized under 42 U.S.C. Secs. 9857-9858r;~~]

[~~(b) participates in a federally assisted meal program that provides funds to licensed child care centers as authorized under Section 53E-3-501; or~~]

[~~(c) is located within the boundaries of a qualifying school.~~]

[~~(8) "Qualifying school" means a school district elementary school that:~~]

[~~(a) has at least 50% of students who were eligible to receive free or reduced lunch the previous school year;~~]

[~~(b) is a school with a high percentage, as determined by the Department of Workforce Services through rule and based on the previous school year enrollments, of students experiencing intergenerational poverty; or~~]

[~~(c) is located in one of the following school districts:~~]

[~~(i) Beaver School District;~~]

[~~(ii) Carbon School District;~~]

[~~(iii) Daggett School District;~~]

[~~(iv) Duchesne School District;~~]

[~~(v) Emery School District;~~]

[~~(vi) Garfield School District;~~]

[~~(vii) Grand School District;~~]

[~~(viii) Iron School District;~~]

[~~(ix) Juab School District;~~]

[~~(x) Kane School District;~~]

[~~(xi) Millard School District;~~]

[~~(xii) Morgan School District;~~]

[~~(xiii) North Sanpete School District;~~]

[~~(xiv) North Summit School District;~~]

[~~(xv) Piute School District;~~]

[~~(xvi) Rich School District;~~]

[~~(xvii) San Juan School District;~~]

[~~(xviii) Sevier School District;~~]

[~~(xix) South Sanpete School District;~~]

[~~(xx) South Summit School District;~~]

[~~(xxi) Tintic School District;~~]

[~~(xxii) Uintah School District; or~~]

[~~(xxiii) Wayne School District.~~]

[~~(9)~~] (7) "UPSTART" means the [~~project established by~~] statewide program created in Section [~~53F-4-402~~] 63N-20-102 that uses a home-based educational technology program and parent engagement to develop school readiness skills of preschool children.

Section 6. Section 63N-20-102, which is renumbered from Section 53F-4-402 is renumbered and amended to read:

[~~53F-4-402~~]. 63N-20-102. UPSTART program to develop school readiness skills of preschool children.

(1) UPSTART, a [~~project~~] statewide program that uses a home-based educational technology program and parent engagement to develop school readiness skills of preschool children, is established within the public education system.

(2) UPSTART is created to:

(a) provide preschool children across the state access to a home-based educational technology program with strong parental involvement;

[~~(a) evaluate the effectiveness of giving preschool children access, at home, to interactive individualized instruction delivered by computers and the Internet to prepare them academically for success in school; and~~]

[~~(b) test the feasibility of scaling a home-based curriculum in reading, math, and science delivered by computers and the Internet to all preschool children in Utah.~~]

(b) develop the school readiness of preschool children across the state; and

(c) deliver curriculum in reading, math, and science to preschool children across the state.

(3) (a) The [~~state board~~] office shall contract with an educational technology provider, [~~selected through a request for proposals process,~~] in accordance with Title 63G, Chapter 6a, Utah Procurement Code, for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

(b) The office shall assume the rights and duties of the state board in any contract into which the state board entered with a contractor that exists on May 3, 2023:

(i) to ensure continuity of the UPSTART program; and

(ii) until the office secures a contract with a contractor in accordance with Subsection (a).

[~~(b)~~] (c) Every five years, the [~~state board~~] office may issue a new [~~request for proposals~~] competitive procurement to meet the requirements described in this section.

(4) [~~A~~] The office shall ensure that a home-based educational technology program for preschool children [~~shall meet~~] meets the following standards:

(a) the contractor shall have:

(i) at least three years of experience in implementing a home-based educational technology program for preschool children; and

(ii) a randomized controlled trial and other external evaluations that support the efficacy of the home-based educational technology program for preschool children;

(b) the contractor shall provide [~~computer-assisted~~] individualized software instruction for preschool children [~~on a home computer connected by the Internet to a centralized file storage facility~~] in the home;

[~~(b)~~] (c) the contractor shall:

(i) provide technical support to families for the installation and operation of the instructional software; and

(ii) provide for the installation of a computer, a tablet, or other electronic or peripheral equipment, and Internet access [~~in homes of qualifying participants described in Subsection 53F-4-404(3)(d);~~]:

(A) in homes of participants who are eligible to receive free or reduced lunch; and

(B) for participating private preschool providers, including residential certificate providers, based upon need;

[~~(c)~~] (d) the contractor shall have the capability of doing the following through the Internet:

(i) communicating with parents;

(ii) updating the instructional software;

(iii) validating user access;

(iv) collecting usage data;

(v) storing research data; and

(vi) producing reports for parents, schools, and the Legislature;

[~~(d)~~] (e) the program shall include the following components:

(i) [~~computer-assisted,~~] individualized software instruction in reading, mathematics, and science[~~;~~] that:

(A) aligns with the Utah core standards for preschool that the state board adopts;

(B) aligns with Head Start Early Learning Outcomes Framework implemented in accordance with the Head Start Act, 42 U.S.C. Sec. 9801 et seq.;

(C) the Council of Administrators of Special Education endorses; and

(D) meets the United States Department of Education benchmarks for evidence-based programs;

(ii) a multisensory reading tutoring program; and

(iii) a validated [~~computer~~] adaptive reading test that does not require the presence of trained adults to administer and is an accurate indicator of reading readiness of children who cannot read;

[~~(e)~~] (f) the contractor shall have the capability to quickly and efficiently modify, improve, and support the product; and

[~~(f)~~] (g) the contractor shall work in cooperation with public preschool or private preschool provider personnel who will provide administrative and technical support of the program as provided in Section [~~53F-4-403~~] 63N-20-103;

(h) the contractor shall implement the program throughout the state in both urban and rural areas as provided in Section 63N-20-104;

[~~(g) the contractor shall solicit families to participate in the program as provided in Section 53F-4-404; and~~]

[~~(h)~~] (i) in implementing the home-based educational technology program, the contractor shall seek the advice and expertise [~~of~~] from early childhood education professionals [~~within~~] and stakeholders, including the Utah System of Higher Education, the state board, public and private preschool providers, local school board members, teachers, and parents on issues such as:

(i) soliciting families to participate in the program as provided in Section 63N-20-104;

(ii) providing training to families; and

(iii) motivating families to regularly use the instructional software.

(5) The contract shall provide funding for a home-based educational technology program for preschool children, subject to the appropriation of money by the Legislature for UPSTART.

(6) The [~~state board~~] office shall evaluate a proposal based [~~on~~] only upon the following criteria:

(a) whether the home-based educational technology program meets the standards specified in Subsection (4)[~~;~~] and Section 63N-20-104;

(b) audit and evaluation results under Section 63N-20-106, if:

(i) the office has previously awarded a contract to the home-based educational technology program provider under this part; or

(ii) the state board has previously awarded a contract to the home-based educational technology program provider for UPSTART;

[~~(b)~~] (c) the results of an independent evaluation of the home-based educational technology program;

[~~(c) the experience of the home-based educational technology program provider; and~~]

(d) the per pupil cost of the home-based educational technology program[~~.~~]; and

(e) any of the following specifically related to a criterion described in Subsections (6)(a) through (d):

(i) the experience of the home-based educational technology provider;

(ii) the demonstrated abilities of the home-based educational technology provider;

(iii) the general functionality of the home-based educational technology provider;

(iv) the implementation of the home-based educational technology provider; and

(v) the applicant's interview; and

(7) In evaluating a competitive procurement under Subsection (6), the office may not subdivide a standard or criteria described in Subsection (4) or (6), including an item related to cost, to require information not required under this chapter.

Section 7. Section 63N-20-103, which is renumbered from Section 53F-4-403 is renumbered and amended to read:

[~~53F-4-403~~]. 63N-20-103. School district participation in UPSTART.

(1) A school district [~~may participate in UPSTART if the local school board agrees, or a~~] shall ensure that UPSTART is available to all schools within the school district.

(2) A public or a private preschool provider may participate in UPSTART if the public or private preschool provider agrees[~~,~~] to work in cooperation with the contractor to provide administrative and technical support for UPSTART.

[~~(2) A contractor may require a local school board or private preschool provider participating in UPSTART to enter into an agreement with the contractor to:~~]

(3) Each local school board or public or private provider participating in UPSTART may enter into an agreement with a contractor to:

(a) dictate targets for program usage and terms for failure to meet those targets;

(b) determine data sharing terms; and

(c) agree to other reasonable terms required for successful implementation.

Section 8. Section 63N-20-104, which is renumbered from Section 53F-4-404 is renumbered and amended to read:

[~~53F-4-404~~]. 63N-20-104. Family participation in UPSTART -- Priority enrollment.

(1) The contractor shall[~~:~~], in partnership with the office,

[~~(a)~~] solicit families to participate in UPSTART through a public information campaign, outreach programs, and referrals from [~~participating~~] local school districts[~~; and~~], and participating preschool providers.

[~~(b) work with the Department of Workforce Services and the state board to solicit participation from families of qualifying participants to participate in UPSTART.~~]

(2) For purposes of Subsection (1), to the extent allowed by federal and state privacy laws, the Department of Workforce Services shall:

(a) identify preschool children and families across the state who may benefit from UPSTART; and

(b) provide information regarding UPSTART participation to the identified families.

[~~(2) Preschool children who participate in UPSTART shall:~~]

[~~(a) be from families with diverse socioeconomic and ethnic backgrounds;~~]

[~~(b) reside in different regions of the state in both urban and rural areas; and~~]

[~~(c) be given preference to participate if the preschool children are qualifying participants.~~]

(3) (a) In a contract entered into with an educational technology provider as described in Section [~~53F-4-402~~] 63N-20-102, the [~~state board~~] office shall require the provider to prioritize enrollment of [~~qualified~~] participants based on a first come, first served basis.

[~~(b) The state board shall provide a list of qualifying schools and qualifying preschools and other applicable information to the contractor for verification of qualifying participants.~~]

[~~(c)~~] (b) The contractor shall annually provide participant information to the [~~state board~~] office as part of the verification process.

[~~(d)~~] (c) A [~~qualifying~~] participant may obtain a computer [~~and~~], a tablet, or other electronic or peripheral equipment on loan and receive free Internet service for the duration of the [~~qualified~~] participant's participation in UPSTART if the [~~qualifying~~] participant:

(i) is eligible to receive free or reduced lunch; and

(ii) the [~~qualifying~~] participant participates in UPSTART at home.

(4) In a contract with an educational technology provider as described in Section 63N-20-102, the office shall determine the cost of UPSTART based on the following:

(a) a defined recruitment plan to solicit families to participate in UPSTART, including through a public information campaign and referrals that prioritize participants who:

(i) are eligible for child care subsidies under the Child Care and Development Block Grant program, 42 U.S.C. Secs. 9857-9858r;

(ii) are eligible for a federally assisted meal program that provides funds to licensed child care centers as authorized under Section 53E-3-501; or

(iii) meet other criteria based on state need as the office establishes;

(b) adaptive software;

(c) parent engagement and resources;

(d) validated assessment;

(e) educational technology, including a computer, a tablet, or other electronic or peripheral equipment, and Internet for eligible participants; and

(f) reporting for stakeholders, including parents, schools, and the Legislature.

[~~(4) (a) The contractor shall make the home-based educational technology program available to families at a cost agreed upon by the state board and the contractor if the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation.~~]

[~~(b) The state board and the contractor shall annually post on their websites information on purchasing a home-based educational technology program as provided in Subsection (4)(a).~~]

[~~(c)~~] (5) A preschool child may only participate in UPSTART through legislative funding once.

Section 9. Section 63N-20-106, which is renumbered from Section 53F-4-406 is renumbered and amended to read:

[~~53F-4-406~~]. 63N-20-106. Audit and evaluation.

(1) The state auditor shall every three years:

(a) conduct an audit of the contractor's use of funds for UPSTART; or

(b) contract with an independent certified public accountant to conduct an audit.

(2) The [~~state board~~] office shall:

(a) require [~~by contract that~~] the contractor [~~will~~] to open [~~its~~] the contractor's books and records relating to [~~its~~] the contractor's expenditure of funds [~~pursuant to the contract~~] to the state auditor or the state auditor's designee;

(b) reimburse the state auditor for the actual and necessary costs of the audit; and

(c) contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the home-based educational technology program [~~for preschool children~~].

(3) The evaluator described in Subsection (2)(c) shall use, among other indicators, assessment scores from an assessment described in Section 53G-7-203 to evaluate whether the contractor has effectively prepared preschool children for academic success as described in Section [~~53F-4-402~~] 63N-20-102.

(4) Of the money appropriated by the Legislature for UPSTART, [~~excluding funds used to provide computers, peripheral equipment, and Internet service to families,~~] no more than 7.5% of the appropriation not to exceed $600,000 may be used for the evaluation and administration of the program.

Section 10. Section 63N-20-107, which is renumbered from Section 53F-4-407 is renumbered and amended to read:

[~~53F-4-407~~]. 63N-20-107. Annual report.

(1) The [~~state board~~] office shall make a report on UPSTART in accordance with Section 53E-1-201.

(2) The report shall:

(a) address the extent to which UPSTART is accomplishing the program's purposes [~~for which it was established as specified~~] as described in Section [~~53F-4-402~~] 63N-20-102; and

(b) include the following information:

(i) the number of families:

[~~(A) volunteering to participate in the program;~~]

[~~(B) selected to participate in the program;~~]

[~~(C) requesting computers; and~~]

[~~(D) furnished computers;~~]

(A) participating in the program;

(B) who receive computers, tablets, or other electronic or peripheral equipment, and Internet service; and

(ii) the number of private preschool providers and public preschool providers participating in the program;

(iii) the frequency of use of the instructional software;

(iv) obstacles encountered with software usage, hardware, or providing technical assistance to families;

(v) student performance on entry and exit kindergarten assessments conducted by school districts and charter schools for students who participated in the home-based educational technology program and those who did not participate in the program; and

(vi) as available, the evaluation of the program conducted pursuant to Section [~~53F-4-406~~] 63N-20-106.

CHAPTER 381
S. B. 265
Passed March 1, 2023
Approved March 17, 2023
Effective July 1, 2023

EDUCATION DATA PRIVACY AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill amends provisions regarding the sharing of student data.

Highlighted Provisions:

This bill:

- prohibits the sharing of certain student data;
- extends a deadline for the state board regarding data integration with a local education agency (LEA);
- prohibits an education entity from sharing student data with a federal agency, except as required by federal law; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53B-28-505, as enacted by Laws of Utah 2022, Chapter 461
53B-28-506 (Effective 01/01/24), as enacted by Laws of Utah 2022, Chapter 461
53E-3-511, as last amended by Laws of Utah 2019, Chapter 186
53E-9-302, as last amended by Laws of Utah 2020, Chapter 408
53E-9-308, as last amended by Laws of Utah 2022, Chapter 335

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-28-505 is amended to read:

53B-28-505. Third-party contractors.

(1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.

(2) When contracting with a third-party contractor on or after January 1, 2024, an education entity, or a government agency contracting on behalf of an education entity, shall:

(a) ensure that the contract terms comply with the standards the board establishes under Subsection 53B-28-502(5); and

(b) require the following provisions in the contract:

(i) requirements and restrictions related to the collection, use, storage, or sharing of student data by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and board rule;

(ii) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;

(iii) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;

(iv) except as provided in Subsection (4) and if required by the education entity, provisions that prohibit the secondary use of personally identifiable student data by the third-party contractor; and

(v) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.

(3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.

(4) A third-party contractor may:

(a) use student data for adaptive learning or customized student learning purposes;

(b) market an educational application or product to a student if the third-party contractor does not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;

(c) use a recommendation engine to recommend to a student:

(i) content that relates to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party; or

(ii) services that relate to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party;

(d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party;

(e) use student data to allow or improve operability and functionality of the third-party contractor's application; or

(f) identify for a student nonprofit institutions of higher education or scholarship providers that are seeking students who meet specific criteria:

(i) regardless of whether the identified nonprofit institutions of higher education or scholarship

providers provide payment or other consideration to the third-party contractor; and

(ii) only if the third-party contractor obtains authorization in writing from:

(A) the student's parent, if the student is a minor; or

(B) the student.

(5) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall return or delete upon the education entity's request all personally identifiable student data under the control of the education entity unless a student or a minor student's parent consents to the maintenance of the personally identifiable student data.

(6) (a) A third-party contractor may not:

(i) except as provided in Subsection (6)(b), sell student data;

(ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or

(iii) use student data for targeted advertising.

(b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a third-party contractor if the third-party contractor remains in compliance with this section.

(7) The provisions of this section do not:

(a) apply to the use of a general audience application, including the access of a general audience application with login credentials created by a third-party contractor's application;

(b) apply if the student data is shared in accordance with the education entity's directory information policy, as described in 34 C.F.R. Sec. 99.37;

(c) apply to the providing of Internet service; or

(d) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.

(8) A provision of this section that relates to a student's student data does not apply to a third-party contractor if the education entity or third-party contractor obtains authorization from the following individual, in writing, to waive that provision:

(a) the student's parent, if the student is a minor; or

(b) the student.

Section 2. Section 53B-28-506 (Effective 01/01/24) is amended to read:

53B-28-506 (Effective 01/01/24). Penalties.

(1) [~~(a) An institution that contracts with a third-party contractor that~~] A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

[~~(i)~~] (a) except as provided in Subsection [~~(1)(b),~~] (1)(d), may not enter into a future contract with [~~the third-party contractor~~] an institution; and

[~~(ii)~~] (b) may be required by the board to pay a civil penalty of up to $25,000.

(c) may be required to pay:

(i) an institution's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(ii) any expense incurred by the institution as result of the unauthorized sharing or use of student data.

[~~(b)~~] (d) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

(i) the education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

(ii) the third-party contractor demonstrates:

(A) if the third-party contractor is under contract with the education entity, current compliance with this part; or

(B) an ability to comply with the requirements of this part.

[~~(c) The board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.~~]

[~~(d)~~] (e) The board may bring an action in the district court of the county in which the office of the education entity is located, if necessary, to enforce payment of the civil penalty described in Subsection [~~(1)(a)(ii).~~] (1)(b).

[~~(e)~~] (f) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

(2) (a) A student or a minor student's parent may bring an action against [~~an institution~~] a third-party contractor in a court of competent jurisdiction for damages caused by a knowing or reckless violation of Section 53B-28-505 by a third-party contractor [~~that the institution contracts with under 53B-28-505~~].

(b) If the court finds that a third-party contractor has violated Section 53B-28-505, the court may [~~order the institution to pay~~] award to the parent or student:

(i) damages; and

(ii) costs.

Section 3. Section 53E-3-511 is amended to read:

53E-3-511. Student Achievement Backpack -- Utah Student Record Store.

(1) As used in this section:

(a) "Authorized LEA user" means a teacher or other person who is:

(i) employed by an LEA that provides instruction to a student; and

(ii) authorized to access data in a Student Achievement Backpack through the Utah Student Record Store.

(b) "Statewide assessment" means the same as that term is defined in Section 53E-4-301.

(c) "Student Achievement Backpack" means, for a student from kindergarten through grade 12, a complete learner profile that:

(i) is in electronic format;

(ii) follows the student from grade to grade and school to school; and

(iii) is accessible by the student's parent or an authorized LEA user.

(d) "Utah Student Record Store" means a repository of student data collected from LEAs as part of the state's longitudinal data system that is:

(i) managed by the state board;

(ii) cloud-based; and

(iii) accessible via a web browser to authorized LEA users.

(2) (a) The state board shall use the state board's robust, comprehensive data collection system, which collects longitudinal student transcript data from LEAs and the unique student identifiers as described in Section 53E-4-308, to allow the following to access a student's Student Achievement Backpack:

(i) the student's parent; and

(ii) each LEA that provides instruction to the student.

(b) The state board shall ensure that a Student Achievement Backpack:

(i) provides a uniform, transparent reporting mechanism for individual student progress;

(ii) provides a complete learner history for postsecondary planning;

(iii) provides a teacher with visibility into a student's complete learner profile to better inform instruction and personalize education;

(iv) assists a teacher or administrator in diagnosing a student's learning needs through the use of data already collected by the state board;

(v) facilitates a student's parent taking an active role in the student's education by simplifying access to the student's complete learner profile; and

(vi) serves as additional disaster mitigation for LEAs by using a cloud-based data storage and collection system.

(3) Using existing information collected and stored in the state board's data warehouse, the state board shall create the Utah Student Record Store where an authorized LEA user may:

(a) access data in a Student Achievement Backpack relevant to the user's LEA or school; or

(b) request student records to be transferred from one LEA to another.

(4) The state board shall implement security measures to ensure that:

(a) student data stored or transmitted to or from the Utah Student Record Store is secure and confidential pursuant to the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; [~~and~~]

(b) an authorized LEA user may only access student data that is relevant to the user's LEA or school[~~.~~]; and

(c) except as provided in Section 53E-9-308, an authorized LEA user shares only aggregate or de-identified data.

(5) A student's parent may request the student's Student Achievement Backpack from the LEA or the school in which the student is enrolled.

(6) An authorized LEA user may access student data in a Student Achievement Backpack, which shall include the following data, or request that the data be transferred from one LEA to another:

(a) student demographics;

(b) course grades;

(c) course history; and

(d) results of a statewide assessment.

(7) An authorized LEA user may access student data in a Student Achievement Backpack, which shall include the data listed in Subsections (6)(a) through (d) and the following data, or request that the data be transferred from one LEA to another:

(a) section attendance;

(b) the name of a student's teacher for classes or courses the student takes;

(c) teacher qualifications for a student's teacher, including years of experience, degree, license, and endorsement;

(d) results of statewide assessments;

(e) a student's writing sample that is written for a writing assessment administered pursuant to Section 53E-4-303;

(f) student growth scores on a statewide assessment, as applicable;

(g) a school's grade assigned pursuant to Chapter 5, Part 2, School Accountability System;

(h) results of benchmark assessments of reading administered pursuant to Section 53E-4-307; and

(i) a student's reading level at the end of grade 3.

(8) No later than [~~June 30, 2017~~] July 1, 2024, the state board shall ensure that data collected in the Utah Student Record Store for a Student Achievement Backpack is integrated into each LEA's student information system and is made available to a student's parent and an authorized LEA user in an easily accessible viewing format.

Section 4. Section 53E-9-302 is amended to read:

53E-9-302. State student data protection governance.

(1) (a) An education entity or a third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to administer this part, including student data protection standards for public education employees, student aides, and volunteers.

(2) The state board shall oversee the preparation and maintenance of:

(a) a statewide data governance plan; and

(b) a state-level metadata dictionary.

(3) As described in this Subsection (3), the state board shall establish advisory groups to oversee student data protection in the state and make recommendations to the state board regarding student data protection[~~.~~] including:

(a) [~~The state board shall establish~~] a student data policy advisory group:

(i) that is composed of members from:

(A) the Legislature;

(B) the state board and state board employees; and

(C) one or more LEAs;

(ii) to discuss and make recommendations to the state board regarding:

(A) enacted or proposed legislation; and

(B) state and local student data protection policies across the state;

(iii) that reviews and monitors the state student data governance plan; and

(iv) that performs other tasks related to student data protection as designated by the state board.

(b) [~~The state board shall establish~~] a student data governance advisory group:

(i) that is composed of the state student data officer and other state board employees; and

(ii) that performs duties related to state and local student data protection, including:

(A) overseeing data collection and usage by state board program offices; and

(B) preparing and maintaining the state board's student data governance plan under the direction of the student data policy advisory group.

(c) [~~The state board shall establish~~] a student data users advisory group:

(i) that is composed of members who use student data at the local level; and

(ii) that provides feedback and suggestions on the practicality of actions proposed by the student data policy advisory group and the student data governance advisory group.

(4) (a) The state board shall designate a state student data officer.

(b) The state student data officer shall:

(i) act as the primary point of contact for state student data protection administration in assisting the state board to administer this part;

(ii) ensure compliance with student privacy laws throughout the public education system, including:

(A) providing training and support to applicable state board and LEA employees; and

(B) producing resource materials, model plans, and model forms for local student data protection governance, including a model student data collection notice;

(iii) investigate complaints of alleged violations of this part;

(iv) report violations of this part to:

(A) the state board;

(B) an applicable education entity; and

(C) the student data policy advisory group; and

(v) act as a state level student data manager.

(5) The state board shall designate:

(a) at least one support manager to assist the state student data officer; and

(b) a student data protection auditor to assist the state student data officer.

(6) The state board shall establish a research review process for a request for data for the purpose of research or evaluation.

Section 5. Section 53E-9-308 is amended to read:

53E-9-308. Sharing student data -- Prohibition -- Requirements for student data manager -- Authorized student data sharing.

(1) (a) Except as provided in Subsection (1)(b), an education entity, including a student data manager, may not:

(i) share personally identifiable student data without written consent[~~.~~]; or

(ii) share student data with a federal agency.

(b) An education entity, including a student data manager, may share personally identifiable student data:

(i) in accordance with the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h;

(ii) as required by federal law; and

(iii) as described in Subsections (3), (5), and (6).

(2) A student data manager shall:

(a) authorize and manage the sharing, outside of the student data manager's education entity, of personally identifiable student data for the education entity as described in this section;

(b) act as the primary local point of contact for the state student data officer described in Section 53E-9-302; and

(c) fulfill other responsibilities described in the data governance plan of the student data manager's education entity.

(3) A student data manager may share a student's personally identifiable student data with a caseworker or representative of the [~~Department of Human Services~~] Department of Health and Human Services if:

(a) the [~~Department of Human Services~~] Department of Health and Human Services is:

(i) legally responsible for the care and protection of the student, including the responsibility to investigate a report of educational neglect, as provided in Subsection 80-2-701(5); or

(ii) providing services to the student;

(b) the student's personally identifiable student data is not shared with a person who is not authorized:

(i) to address the student's education needs; or

(ii) by the [~~Department of Human Services~~] Department of Health and Human Services to receive the student's personally identifiable student data; and

(c) the [~~Department of Human Services~~] Department of Health and Human Services maintains and protects the student's personally identifiable student data.

(4) The [~~Department of Human Services~~] Department of Health and Human Services, a school official, or the Utah Juvenile Court may share personally identifiable student data to improve education outcomes for youth:

(a) in the custody of, or under the guardianship of, the [~~Department of Human Services~~] Department of Health and Human Services;

(b) receiving services from the Division of Juvenile Justice Services;

(c) in the custody of the Division of Child and Family Services;

(d) receiving services from the Division of Services for People with Disabilities; or

(e) under the jurisdiction of the Utah Juvenile Court.

(5) (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.

(b) A person who receives personally identifiable student data under Subsection (5)(a) may not use the personally identifiable student data outside of the use described in the subpoena.

(6) (a) A student data manager may share student data, including personally identifiable student data, in response to a request to share student data for the purpose of research or evaluation, if the student data manager:

(i) verifies that the request meets the requirements of 34 C.F.R. Sec. 99.31(a)(6);

(ii) submits the request to the education entity's research review process; and

(iii) fulfills the instructions that result from the review process.

(b) (i) In accordance with state and federal law, and subject to Subsection (6)(b)(ii), the state board shall share student data, including personally identifiable student data, as requested by the Utah Registry of Autism and Developmental Disabilities described in Section 26-7-4.

(ii) (A) At least 30 days before the state board shares student data in accordance with Subsection (6)(b)(i), the education entity from which the state board received the student data shall provide notice to the parent of each student for which the state board intends to share student data.

(B) The state board may not, for a particular student, share student data as described in Subsection (6)(b)(i) if the student's parent requests that the state board not share the student data.

(iii) A person who receives student data under Subsection (6)(b)(i):

(A) shall maintain and protect the student data in accordance with state board rule described in Section 53E-9-307;

(B) may not use the student data for a purpose not described in Section 26-7-4; and

(C) is subject to audit by the state student data officer described in Section 53E-9-302.

Section 6. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2023.

(2) The actions affecting Section 53B-28-506 (Effective 01/01/24) take effect on January 1, 2024.

CHAPTER 382
H. B. 57
Passed February 28, 2023
Approved March 20, 2023
Effective May 3, 2023

LAW ENFORCEMENT INVESTIGATION AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill concerns procedures and requirements related to law enforcement investigations.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- establishes law enforcement reporting requirements for reverse-location warrants;
- requires the State Commission on Criminal and Juvenile Justice to receive, compile, and publish data concerning reverse-location warrants;
- provides that a law enforcement agency not in compliance with reverse-location warrant reporting requirements may not receive grants from the State Commission on Criminal and Juvenile Justice;
- revises law enforcement warrant notification requirements and procedures for certain owners of devices or information;
- places restrictions on and establishes procedures for law enforcement access to reverse-location information;
- requires, with a sunset provision, a specified notice for certain warrant applications; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-16-1002, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390
63I-2-277, as last amended by Laws of Utah 2016, Chapter 348
63M-7-204, as last amended by Laws of Utah 2022, Chapter 187
63M-7-218, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390
77-23c-101.2, as last amended by Laws of Utah 2019, Chapter 479 and renumbered and amended by Laws of Utah 2019, Chapter 362 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 479
77-23c-102, as last amended by Laws of Utah 2022, Chapter 274
77-23c-103, as last amended by Laws of Utah 2021, Chapter 42
77-23c-104, as last amended by Laws of Utah 2021, Chapter 42

ENACTS:

53-22-101, Utah Code Annotated 1953
77-23f-101, Utah Code Annotated 1953
77-23f-102, Utah Code Annotated 1953
77-23f-103, Utah Code Annotated 1953
77-23f-104, Utah Code Annotated 1953
77-23f-105, Utah Code Annotated 1953
77-23f-106, Utah Code Annotated 1953
77-23f-107, Utah Code Annotated 1953
77-23f-108, Utah Code Annotated 1953
77-23f-109, Utah Code Annotated 1953

REPEALS:

77-23c-101.1, as enacted by Laws of Utah 2019, Chapter 362

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-22-101 is enacted to read:

CHAPTER 22 (CODIFIED AS CHAPTER 23). REPORTING REQUIREMENTS FOR REVERSE-LOCATION WARRANTS

53-22-101 (Codified as 53-23-101). Reporting requirements for reverse-location warrants.

(1) As used in this section:

(a) "Anonymized" means the same as that term is defined in Section 77-23f-101.

(b) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(c) "Electronic device" means the same as that term is defined in Section 77-23f-101.

(d) "Law enforcement agency" means the same as that term is defined in Section 77-23c-101.2.

(e) "Reverse-location information" means the same as that term is defined in Section 77-23f-101.

(f) "Reverse-location warrant" means a warrant seeking reverse-location information under Section 77-23f-102, 77-23f-103, or 77-23f-104.

(2) (a) Beginning January 1, 2024, a law enforcement agency shall annually on or before April 30 submit a report to the commission with the following data for the previous calendar year:

(i) the number of reverse-location warrants requested by the law enforcement agency under Section 77-23f-102, 77-23f-103, or 77-23f-104;

(ii) the number of reverse-location warrants that a court or magistrate granted after a request described in Subsection (2)(a)(i);

(iii) the number of investigations that used information obtained under a reverse-location warrant to investigate a crime that was not the subject of the reverse-location warrant;

(iv) the number of times reverse-location information was obtained under an exception listed in Section 77-23f-106;

(v) the warrant identification number for each warrant described under Subsection (2)(a)(ii) or (iii); and

(vi) the number of electronic devices for which anonymized electronic device data was obtained under each reverse-location warrant described under Subsection (2)(a)(ii).

(b) A law enforcement agency shall compile the report described in Subsection (2)(a) for each year in the standardized format developed by the commission under Subsection (4).

(3) If a reverse-location warrant is requested by a multijurisdictional team of law enforcement officers, the reporting requirement in this section is the responsibility of the commanding agency or governing authority of the multijurisdictional team.

(4) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish on the commission's website a report of the data described in Subsection (2).

Section 2. Section 63A-16-1002 is amended to read:

63A-16-1002. Criminal justice database.

(1) The commission shall oversee the creation and management of a [~~Criminal Justice Database~~] criminal justice database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 24-4-118, forfeiture reporting requirements;

(e) Section 41-6a-511, courts to collect and maintain data;

(f) Section 53-22-101, reporting requirements for reverse-location warrants;

(g) Section 63M-7-214, law enforcement agency grant reporting;

[~~(g)~~] (h) Section 63M-7-216, prosecutorial data collection;

[~~(h)~~] (i) Section 64-13-21, supervision of sentenced offenders placed in community;

[~~(i)~~] (j) Section 64-13-25, standards for programs;

[~~(j)~~] (k) Section 64-13-45, department reporting requirements;

[~~(k)~~] (l) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

[~~(l)~~] (m) Section 77-7-8.5, use of tactical groups;

[~~(m)~~] (n) Section 77-20-103, release data requirements;

[~~(n)~~] (o) Section 77-22-2.5, court orders for criminal investigations;

[~~(o)~~] (p) Section 78A-2-109.5, court demographics reporting; and

[~~(p)~~] (q) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023.

Section 3. Section 63I-2-277 is amended to read:

63I-2-277. Repeal dates: Title 77.

Subsections 77-23f-102(2)(a)(ii) and 77-23f-103(2)(a)(ii), which require a notice for certain reverse-location search warrant applications, are repealed January 1, 2033.

Section 4. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 62A-15-103(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209;

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 62A-15-103(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 62A-15-103(2)(n) by each mental health or substance use treatment program; [~~and~~]

(y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees[~~.~~]; and

(z) receive, compile, and publish on the commission's website the data provided under Section 53-22-101.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 5. Section 63M-7-218 is amended to read:

63M-7-218. State grant requirements.

Beginning July 1, 2023, the commission may not award any grant of state funds to any entity subject to, and not in compliance with, the reporting requirements in Subsections 63A-16-1002(5)(a) through [~~(o)~~] (p).

Section 6. Section 77-23c-101.2 is amended to read:

CHAPTER 23c. ELECTRONIC INFORMATION PRIVACY ACT

77-23c-101.2. Definitions.

As used in this chapter:

(1) "Electronic communication service" means a service that provides to users of the service the ability to send or receive wire or electronic communications.

(2) "Electronic device" means a device that enables access to or use of an electronic communication service, remote computing service, or location information service.

(3) (a) "Electronic information [~~or data~~]" means information or data including a sign, signal, writing, image, sound, or intelligence of any nature transmitted or stored in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(b) "Electronic information [~~or data~~]" includes the location information, stored data, or transmitted data of an electronic device.

(c) "Electronic information [~~or data~~]" does not include:

(i) a wire or oral communication;

(ii) a communication made through a tone-only paging device; or

(iii) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of money.

(4) "Law enforcement agency" means:

(a) an entity of the state or a political subdivision of the state that exists to primarily prevent, detect, or prosecute crime and enforce criminal statutes or ordinances; or

(b) an individual or entity acting for or on behalf of an entity described in Subsection (4)(a).

(5) (a) "Location information" means [~~information, obtained by means of a tracking device, concerning the~~] information concerning the geographical location of an electronic device that, in whole or in part, is generated or derived from or obtained by the operation of an electronic device or the operation of a software application on an electronic device.

(b) "Location information" includes past, current, and future location information.

(6) "Location information service" means the provision of a global positioning service or other mapping, location, or directional information service.

(7) "Oral communication" means the same as that term is defined in Section 77-23a-3.

(8) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.

(9) "Transmitted data" means electronic information [~~or data~~] that is transmitted wirelessly:

(a) from an electronic device to another electronic device without the use of an intermediate connection or relay; or

(b) from an electronic device to a nearby antenna or from a nearby antenna to an electronic device.

(10) "Wire communication" means the same as that term is defined in Section 77-23a-3.

Section 7. Section 77-23c-102 is amended to read:

77-23c-102. Electronic information privacy -- Warrant required for disclosure -- Exceptions.

(1) (a) Except as provided in Subsection (2) or (4), for a criminal investigation or prosecution, a law enforcement agency may not obtain, without a search warrant issued by a court upon probable cause:

(i) the location information, stored data, or transmitted data of an electronic device; or

(ii) electronic information [~~or data~~] transmitted by the owner of the electronic information [~~or data~~]:

(A) to a provider of a remote computing service; or

(B) through a provider of an electronic communication service.

(b) Except as provided in Subsection (1)(c), a law enforcement agency may not use, copy, or disclose, for any purpose, the location information, stored data, or transmitted data of an electronic device, or electronic information [~~or data~~] provided by a provider of a remote computing service or an electronic communication service, that:

(i) is not the subject of the warrant; and

(ii) is collected as part of an effort to obtain the location information, stored data, or transmitted data of an electronic device, or electronic information [~~or data~~] provided by a provider of a remote computing service or an electronic communication service that is the subject of the warrant in Subsection (1)(a).

(c) A law enforcement agency may use, copy, or disclose the transmitted data of an electronic device used to communicate with the electronic device that is the subject of the warrant if the law enforcement agency reasonably believes that the transmitted data is necessary to achieve the objective of the warrant.

(d) The electronic information [~~or data~~] described in Subsection (1)(b) shall be destroyed in an unrecoverable manner by the law enforcement agency as soon as reasonably possible after the electronic information [~~or data~~] is collected.

(2) (a) A law enforcement agency may obtain location information without a warrant for an electronic device:

(i) in accordance with Section 53-10-104.5;

(ii) if the device is reported stolen by the owner;

(iii) with the informed, affirmative consent of the owner or user of the electronic device;

(iv) in accordance with a judicially recognized exception to warrant requirements;

(v) if the owner has voluntarily and publicly disclosed the location information; or

(vi) from a provider of a remote computing service or an electronic communications service if the provider voluntarily discloses the location information:

(A) under a belief that an emergency exists involving an imminent risk to an individual of death, serious physical injury, sexual abuse, live-streamed sexual exploitation, kidnapping, or human trafficking; or

(B) that is inadvertently discovered by the provider and appears to pertain to the commission of a felony, or of a misdemeanor involving physical violence, sexual abuse, or dishonesty.

(b) A law enforcement agency may obtain stored data or transmitted data from an electronic device or electronic information [~~or data~~] transmitted by the owner of the electronic information [~~or data~~] to a provider of a remote computing service or through a provider of an electronic communication service, without a warrant:

(i) with the informed consent of the owner of the electronic device or electronic information [~~or data~~];

(ii) in accordance with a judicially recognized exception to warrant requirements; or

(iii) subject to Subsection (2)(a)(vi)(B), from a provider of a remote computing service or an electronic communication service if the provider voluntarily discloses the stored or transmitted data as otherwise permitted under 18 U.S.C. Sec. 2702.

(c) A prosecutor may obtain a judicial order as described in Section 77-22-2.5 for the purposes described in Section 77-22-2.5.

(3) A provider of an electronic communication service or a remote computing service, the provider's officers, employees, or agents, or other specified persons may not be held liable for providing information, facilities, or assistance in good faith reliance on the terms of the warrant issued under this section or without a warrant in accordance with Subsection (2).

(4) Nothing in this chapter:

(a) limits or affects the disclosure of public records under Title 63G, Chapter 2, Government Records Access and Management Act;

(b) affects the rights of an employer under Subsection 34-48-202(1)(e) or an administrative rule adopted under Section 63A-16-205; or

(c) limits the ability of a law enforcement agency to receive or use information, without a warrant or subpoena, from the National Center for Missing and Exploited Children under 18 U.S.C. Sec. 2258A.

Section 8. Section 77-23c-103 is amended to read:

77-23c-103. Notification required -- Exceptions -- Delayed notification.

(1) (a) Except as provided in [~~Subsection (2), if~~] Subsection (1)(b) or (2), a law enforcement agency that executes a warrant [~~in accordance with~~] under Subsection 77-23c-102(1) or 77-23c-104(3)[~~, the law enforcement agency shall notify~~] shall serve the owner of the electronic device or electronic information [~~or data~~] specified in the warrant with a notice described in Subsection (3):

(i) within 90 days after the day on which the electronic device or the electronic [~~data or~~]

information is obtained by the law enforcement agency but in no case [~~shall the law enforcement agency notify the owner~~] more than three days after the day on which the investigation is concluded[~~.~~]; or

[~~(b) The notification described in Subsection (1)(a) shall state:~~]

[~~(i) that a warrant was applied for and granted;~~]

[~~(ii) the kind of warrant issued;~~]

[~~(iii) the period of time during which the collection of the electronic information or data was authorized;~~]

[~~(iv) the offense specified in the application for the warrant;~~]

[~~(v) the identity of the law enforcement agency that filed the application; and~~]

[~~(vi) the identity of the judge who issued the warrant.~~]

[~~(c) For the notification requirement described in Subsection (1)(a), the time period under Subsection (1)(a) begins on the day after the day on which the owner of the electronic device or electronic information or data specified in the warrant is known, or could be reasonably identified, by the law enforcement agency.~~]

(ii) if the owner of the electronic device or electronic information specified in the warrant is unknown to the law enforcement agency, within 90 days after the day on which the law enforcement agency identifies, or reasonably could identify, the owner.

(b) A law enforcement agency is not required to serve a notice described in Subsection (1)(a) to the owner of the electronic device or electronic information if the owner is located outside of the United States.

(2) (a) (i) A law enforcement agency seeking a warrant in accordance with Subsection 77-23c-102(1)(a) or 77-23c-104(3) may submit a request, and the court may grant permission, to delay [~~the notification required by~~] service of the notice required under Subsection (1) for a period not to exceed 30 days, if the court determines that there is reasonable cause to believe that the notification may:

[~~(a)~~] (A) endanger the life or physical safety of an individual;

[~~(b)~~] (B) cause a person to flee from prosecution;

[~~(c)~~] (C) lead to the destruction of or tampering with evidence;

[~~(d)~~] (D) intimidate a potential witness; or

[~~(e)~~] (E) otherwise seriously jeopardize an investigation or unduly delay a trial.

[~~(3)~~] (ii) When a delay of notification is granted under Subsection (2)(a)(i) and upon application by the law enforcement agency, the court may grant additional extensions of up to 30 days each.

[~~(4) (a)~~] (b) (i) A law enforcement agency that seeks a warrant for an electronic device or electronic information [~~or data~~] in accordance with Subsection 77-23c-102(1)(a) or 77-23c-104(3) may submit a request to the court, and the court may grant permission, to delay [~~a notification under Subsection (2)~~] service of the notice required under Subsection (1), if the purpose of delaying the notification is to apprehend an individual:

[~~(i)~~] (A) who is a fugitive from justice under Section 77-30-13; and

[~~(ii)~~] (B) for whom an arrest warrant has been issued for a violent felony offense as defined in Section 76-3-203.5.

[~~(b)~~] (ii) (A) The court may grant the request under Subsection [~~(4)(a)~~] (2)(b)(i) to delay notification until the individual who is a fugitive from justice under Section 77-30-13 is apprehended by the law enforcement agency.

[~~(c)~~] (B) A law enforcement agency shall [~~issue a notification described in Subsection (5)~~] serve the notice required under Subsection (1) to the owner of the electronic device or electronic information [~~or data~~] within 14 days after the day on which the law enforcement agency apprehends the individual described in Subsection [~~(4)(a)~~] (2)(b)(i).

[~~(5) Upon expiration of the period of delayed notification granted under Subsection (2) or (3), or upon the apprehension of an individual described in Subsection (4)(a), the law enforcement agency shall serve upon or deliver by first-class mail, or by other means if delivery is impracticable, to the owner of the electronic device or electronic information or data a copy of the warrant together with notice that:~~]

[~~(a) states with reasonable specificity the nature of the law enforcement inquiry; and~~]

[~~(b) contains:~~]

[~~(i) the information described in Subsection (1)(b);~~]

[~~(ii) a statement that notification of the search was delayed;~~]

[~~(iii) the name of the court that authorized the delay of notification; and~~]

[~~(iv) a reference to the provision of this chapter that allowed the delay of notification.~~]

[~~(6) A law enforcement agency is not required to notify the owner of the electronic device or electronic information or data if the owner is located outside of the United States.~~]

(3) A notice required under Subsection (1) shall include:

(a) a copy of the warrant; and

(b) a written statement identifying:

(i) the offense specified in the warrant application;

(ii) the identity of the law enforcement agency that filed the application;

(iii) the date on which the electronic information was obtained; and

(iv) the number and length of any authorized delays in serving the notice required under Subsection (1), including, if applicable, the name of the court that authorized the delay and a reference to the provision of this chapter that permitted the delay.

(4) A law enforcement agency shall serve the notice required under Subsection (1) to the owner of the electronic device or electronic information by:

(a) personal service on the owner;

(b) first-class mail to the owner's last-known address; or

(c) other reasonable means if the owner's last-known address is unknown.

Section 9. Section 77-23c-104 is amended to read:

77-23c-104. Third-party electronic information.

(1) As used in this section, "subscriber record" means a record or information of a provider of an electronic communication service or remote computing service that reveals the subscriber's or customer's:

(a) name;

(b) address;

(c) local and long distance telephone connection record, or record of session time and duration;

(d) length of service, including the start date;

(e) type of service used;

(f) telephone number, instrument number, or other subscriber or customer number or identification, including a temporarily assigned network address; and

(g) means and source of payment for the service, including a credit card or bank account number.

(2) Except as provided in Chapter 22, Subpoena Powers for Aid of Criminal Investigation and Grants of Immunity or Section 77-23f-105, a law enforcement agency may not obtain, use, copy, or disclose a subscriber record.

(3) A law enforcement agency may not obtain, use, copy, or disclose, for a criminal investigation or prosecution, any record or information, other than a subscriber record, of a provider of an electronic communication service or remote computing service related to a subscriber or customer without a warrant.

(4) Notwithstanding Subsections (2) and (3), a law enforcement agency may obtain, use, copy, or disclose a subscriber record, or other record or information related to a subscriber or customer, without an investigative subpoena or a warrant:

(a) with the informed, affirmed consent of the subscriber or customer;

(b) in accordance with a judicially recognized exception to warrant requirements;

(c) if the subscriber or customer voluntarily discloses the record in a manner that is publicly accessible; or

(d) if the provider of an electronic communication service or remote computing service voluntarily discloses the record:

(i) under a belief that an emergency exists involving the imminent risk to an individual of:

(A) death;

(B) serious physical injury;

(C) sexual abuse;

(D) live-streamed sexual exploitation;

(E) kidnapping; or

(F) human trafficking;

(ii) that is inadvertently discovered by the provider, if the record appears to pertain to the commission of:

(A) a felony; or

(B) a misdemeanor involving physical violence, sexual abuse, or dishonesty; or

(iii) subject to Subsection 77-23c-104(4)(d)(ii), as otherwise permitted under 18 U.S.C. Sec. 2702.

(5) A provider of an electronic communication service or remote computing service, or the provider's officers, employees, agents, or other specified persons may not be held liable for providing information, facilities, or assistance in good faith reliance on the terms of a warrant issued under this section, or without a warrant in accordance with Subsection (3).

Section 10. Section 77-23f-101 is enacted to read:

CHAPTER 23f. ACCESS TO REVERSE-LOCATION INFORMATION

77-23f-101. Definitions.

As used in this chapter:

(1) "Anonymized" means that the identifying information connected to an electronic device has been rendered anonymous in a manner such that the subject, including an individual, household, device, or Internet protocol address, is not identifiable to a law enforcement agency.

(2) "Cell site" means transmission or reception equipment, including a base-station antenna, that connects an electronic device to a network.

(3) "Cell site record" means the cell site location information of an electronic device that corresponds to a specific cell site and time frame.

(4) "Electronic device" means a device that enables access to or use of a location information service or can otherwise create or provide location information.

(5) "Geofence" means a specified geographic area defined by a virtual perimeter or geographic coordinates.

(6) "Identifying information" means information tied to an electronic device that identifies the user's or owner's:

(a) name;

(b) address;

(c) phone number;

(d) email; or

(e) other identifying information that would identify the owner or user of the electronic device.

(7) "Law enforcement agency" means the same as that term is defined in Section 77-23c-101.2.

(8) "Location information" means the same as that term is defined in Section 77-23c-101.2.

(9) "Reverse-location information" means historical location information for:

(a) a defined time period;

(b) a defined or undefined area; and

(c) a defined or undefined number of electronic devices, for which the identities of the owners or users of the electronic devices are unknown to law enforcement.

Section 11. Section 77-23f-102 is enacted to read:

77-23f-102. Obtaining reverse-location information within a geofence -- Warrant required for disclosure -- Procedure.

(1) Except as provided in Section 77-23f-106, for a criminal investigation or prosecution, a law enforcement agency may not obtain reverse-location information for electronic devices within a geofence unless:

(a) the law enforcement agency obtains a search warrant as provided under this section; and

(b) (i) the investigation or prosecution involves:

(A) a felony;

(B) a class A misdemeanor that involves harm or a risk of harm to a person, a violation of Title 23, Wildlife Resources Code of Utah, or is part of a pattern of criminal activity; or

(C) a class B misdemeanor that involves harm or a risk of harm to a person, the unlawful taking of protected wildlife, or is part of a pattern of criminal activity; or

(ii) the law enforcement agency can demonstrate an imminent, ongoing threat to public safety.

(2) To obtain reverse-location information inside of a geofence, a law enforcement agency shall:

(a) include with the sworn warrant application:

(i) a map or other visual depiction that represents the geofence for which the warrant is seeking information; and

(ii) the following language at the beginning of the application in a legible font no smaller than other text appearing in the application:

"NOTICE: This warrant application seeks judicial authorization for the disclosure of reverse-location information of electronic devices near a crime at or near the time of the crime. If authorized, the warrant allows law enforcement to obtain historical location information of all devices within the area described in the warrant during the specified time from entities in possession of the relevant data. The electronic devices captured in the warrant may be owned or used by both alleged criminal perpetrators and individuals not involved in the commission of a crime. For this reason, any warrant issued must require the anonymization of all devices associated with the reverse-location information."; and

(b) establish probable cause to believe that evidence of a crime will be found within the geofence and within a specified period of time.

(3) If a court grants a warrant under Subsection (2), the court shall require that all electronic device data provided pursuant to the warrant be anonymized before the reverse-location information is released to the law enforcement agency.

Section 12. Section 77-23f-103 is enacted to read:

77-23f-103. Obtaining reverse-location information based on cell site records -- Warrant required for disclosure -- Procedure.

(1) Except as provided in Section 77-23f-106, for a criminal investigation or prosecution, a law enforcement agency may not obtain reverse-location information based on cell site records unless:

(a) the law enforcement agency obtains a search warrant as provided under this section; and

(b) (i) the investigation or prosecution involves:

(A) a felony;

(B) a class A misdemeanor that involves harm or risk of harm to a person, a violation of Title 23, Wildlife Resources Code of Utah, or is part of a pattern of criminal activity; or

(C) a class B misdemeanor that involves harm or risk of harm to a person, the unlawful taking of protected wildlife, or is part of a pattern of criminal activity; or

(ii) the law enforcement agency can demonstrate an imminent, ongoing threat to public safety.

(2) To obtain cell-site based reverse-location information, a law enforcement agency shall:

(a) include with the sworn warrant application:

(i) a visual depiction or written description that identifies:

(A) the crime scene location and any other areas of interest related to the crime;

(B) the location of cell sites from which the reverse-location information is sought; and

(C) the distance between the locations described in Subsections (2)(a)(i)(A) and (B); and

(ii) the following language at the beginning of the application in a legible font no smaller than other text appearing in the application:

"NOTICE: This warrant application seeks judicial authorization for the disclosure of reverse-location information of electronic devices near a crime at or near the time of the crime. If authorized, the warrant allows law enforcement to obtain historical location information of all devices within the area described in the warrant during the specified time from entities in possession of the relevant data. The electronic devices captured in the warrant may be owned or used by both alleged criminal perpetrators and individuals not involved in the commission of a crime. For this reason, any warrant issued must require the anonymization of all devices associated with the reverse-location information."; and

(b) establish probable cause to believe that evidence of a crime will be found within the cell site records described in Subsection (2)(a)(i) and within a specified period of time.

(3) If a court grants a warrant under Subsection (2), the court shall require that all electronic device data provided pursuant to the warrant be anonymized before the reverse-location information is released to the law enforcement agency.

Section 13. Section 77-23f-104 is enacted to read:

77-23f-104. Obtaining additional reverse-location information -- Warrant required for disclosure -- Procedure.

(1) If, after executing a warrant described in Section 77-23f-102 or 77-23f-103, a law enforcement agency seeks to obtain reverse-location information beyond the parameters of the warrant obtained under Section 77-23f-102 or 77-23f-103, the law enforcement agency shall:

(a) include in the sworn warrant application the specific electronic devices identified in the anonymized data for which the law enforcement agency seeks additional reverse-location information;

(b) establish probable cause to believe that evidence of a crime will be found within a specified period of time; and

(c) affirm that the crime described in Subsection (1)(b) is:

(i) the same crime or directly related to the crime that was the subject of the warrant obtained under Section 77-23f-102 or 77-23f-103; or

(ii) a crime subject to the judicially recognized plain view exception to the warrant requirement.

(2) If a court grants a warrant under Subsection (1), the court shall require that all electronic device data provided pursuant to the warrant be anonymized before the reverse-location information is released to the law enforcement agency.

Section 14. Section 77-23f-105 is enacted to read:

77-23f-105. Obtaining identifying information connected to reverse-location information -- Warrant required for disclosure -- Procedure.

To obtain identifying information for an electronic device identified pursuant to a warrant obtained under Section 77-23f-102, 77-23f-103, or 77-23f-104, a law enforcement agency shall establish in the sworn warrant application probable cause to believe that the electronic device was used or otherwise implicated in a crime.

Section 15. Section 77-23f-106 is enacted to read:

77-23f-106. Exceptions to reverse-location warrant requirements.

(1) Notwithstanding any other provision in this chapter, a law enforcement agency may obtain reverse-location information without a warrant:

(a) in accordance with Section 53-10-104.5; or

(b) in accordance with a judicially recognized exception to warrant requirements.

(2) Nothing in this chapter:

(a) limits or affects the disclosure of public records under Title 63G, Chapter 2, Government Records Access and Management Act;

(b) affects the rights of an employer under Subsection 34-48-202(1)(e) or an administrative rule adopted under Section 63A-16-205; or

(c) limits the ability of a law enforcement agency to receive or use information, without a warrant or subpoena, from the National Center for Missing and Exploited Children under 18 U.S.C. Sec. 2258A.

Section 16. Section 77-23f-107 is enacted to read:

77-23f-107. Use, disclosure, and destruction of reverse-location information -- Anonymization.

(1) (a) A law enforcement agency may not use, copy, or disclose, for any purpose, reverse-location information obtained under a warrant under Section 77-23f-102, 77-23f-103, or 77-23f-104 that:

(i) is not related to the crime that is the subject of the warrant; and

(ii) is collected as part of an effort to obtain the reverse-location information of an electronic device that is related to the crime that is the subject of the warrant obtained under Section 77-23f-102, 77-23f-103, or 77-23f-104.

(b) The law enforcement agency shall destroy in an unrecoverable manner the reverse-location information described in Subsection (1)(a) as soon as reasonably possible after the criminal case is declined for prosecution or, if criminal charges are filed, the final disposition of the criminal case.

(2) (a) Reverse-location information obtained under Section 77-23f-102, 77-23f-103, or 77-23f-104 may not be:

(i) compared with, merged with, linked to, or in any way electronically or otherwise connected to a source of electronic data, including a database or file, containing one or more points of data that includes the location information provided by an electronic device; or

(ii) used in any other criminal investigation or prosecution.

(b) Subsection (2)(a)(i) does not apply if all the electronic data, including the reverse-location information, is obtained for the purpose of investigating the same criminal incident.

(3) A person or entity that provides reverse-location information under this chapter shall ensure that the reverse-location information is anonymized before the reverse-location information is provided to a law enforcement agency.

Section 17. Section 77-23f-108 is enacted to read:

77-23f-108. Notifications required -- Exceptions --Delayed notification.

(1) (a) Except as provided in Subsection (1)(b) or (2), a law enforcement agency that executes a warrant under Section 77-23f-105 shall serve a notice described in Subsection (3) on the owner of the electronic device for which identifying information was obtained:

(i) within 90 days after the day on which the identifying information is obtained by the law enforcement agency, but in no case more than three days after the day on which the investigation is concluded; or

(ii) if the owner of the electronic device for which the identifying information specified in the warrant is unknown to the law enforcement agency, within 90 days after the day on which the law enforcement agency identifies, or reasonably could identify, the owner.

(b) A law enforcement agency is not required to serve a notice described in Subsection (1)(a) to the owner of the electronic device for which identifying information was obtained if the owner is located outside of the United States.

(2) (a) (i) A law enforcement agency seeking a warrant in accordance with Section 77-23f-105 may submit a request, and the court may grant permission, to delay service of the notice required under Subsection (1) for a period not to exceed 30 days, if the court determines that there is reasonable cause to believe that the notification may:

(A) endanger the life or physical safety of an individual;

(B) cause a person to flee from prosecution;

(C) lead to the destruction of or tampering with evidence;

(D) intimidate a potential witness; or

(E) otherwise seriously jeopardize an investigation or unduly delay a trial.

(ii) When a delay of notification is granted under Subsection (2)(a)(i) and upon application by the law enforcement agency, the court may grant additional extensions of up to 30 days each.

(b) (i) A law enforcement agency that seeks a warrant in accordance with Section 77-23f-105 may submit a request to the court, and the court may grant permission, to delay service of the notice required under Subsection (1), if the purpose of delaying the notification is to apprehend an individual:

(A) who is a fugitive from justice under Section 77-30-13; and

(B) for whom an arrest warrant has been issued for a violent felony offense as defined in Section 76-3-203.5.

(ii) (A) The court may grant the request under Subsection (2)(b)(i) to delay notification until the individual who is a fugitive from justice under Section 77-30-13 is apprehended by the law enforcement agency.

(B) A law enforcement agency shall serve the notice required under Subsection (1) to the owner of the electronic device within 14 days after the day on which the law enforcement agency apprehends the individual described in Subsection (2)(b)(i).

(3) A notice required under Subsection (1) shall include:

(a) a copy of the warrant; and

(b) a written statement identifying:

(i) the offense specified in the warrant application;

(ii) the identity of the law enforcement agency that filed the application;

(iii) the date on which the location information or identifying information was obtained; and

(iv) the number and length of any authorized delays in serving the notice required under Subsection (1), including, if applicable, the name of the court that authorized the delay and a reference to the provision of this chapter that permitted the delay.

(4) A law enforcement agency shall serve the notice required under Subsection (1) to the owner of the electronic device by:

(a) personal service on the owner;

(b) first-class mail to the owner's last-known address; or

(c) other reasonable means if the owner's last-known address is unknown.

Section 18. Section 77-23f-109 is enacted to read:

77-23f-109. Exclusion of records.

Reverse-location information or identifying information obtained in violation of the provisions of this chapter shall be subject to the rules governing exclusion as if the records were obtained in violation of the Fourth Amendment to the United States Constitution and Utah Constitution, Article I, Section 14.

Section 19. Repealer.

This bill repeals:

Section 77-23c-101.1, Title.

CHAPTER 383
H. B. 61
Passed March 2, 2023
Approved March 20, 2023
Effective May 3, 2023

SCHOOL SAFETY REQUIREMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Don L. Ipson
Cosponsors: Cheryl K. Acton
Dan N. Johnson
Karianne Lisonbee
Karen M. Peterson

LONG TITLE

General Description:

This bill addresses school safety and security issues.

Highlighted Provisions:

This bill:

- defines terms;
- creates a state security chief position within the Department of Public Safety;
- requires each county sheriff to identify an individual within the sheriff's office to coordinate between the county sheriff's office, the state security chief, and certain police chiefs within the county;
- creates the School Security Task Force;
- requires the task force to develop the qualifications, duties, and scope of authority of the state security chief;
- requires the board to issue a request for proposals for firearm detection software and allows an LEA to enter into a contract to use the software;
- provides for the board to administer a grant program for certain school safety and security services and materials;
- requires every public primary and secondary school to conduct a threat assessment and designate a school safety specialist;
- modifies certain contracts concerning school resource officers, including the handling of certain student offenses;
- creates requirements for policies concerning school resource officers;
- adds components to the board's model critical response training program; and
- makes technical and conforming amendments.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the State Board of Education – Contracted Initiatives and Grants, as a one-time appropriation:
  - from the Income Tax Fund, One-Time, $75,000,000;
- to the State Board of Education – Policy, Communication, & Oversight:
  - from the Income Tax Fund, $3,660,000; and
- to the Department of Public Safety – Programs and Operations:
  - from the General Fund, $283,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-8-701, as last amended by Laws of Utah 2019, Chapter 293
53G-8-702, as last amended by Laws of Utah 2021, Chapter 279
53G-8-703, as last amended by Laws of Utah 2019, Chapter 293
53G-8-802, as last amended by Laws of Utah 2022, Chapter 399
63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370, and 409

ENACTS:

53-22-101, Utah Code Annotated 1953
53-22-102, Utah Code Annotated 1953
53-22-103, Utah Code Annotated 1953
53-22-104, Utah Code Annotated 1953
53F-4-208, Utah Code Annotated 1953
53F-5-220, Utah Code Annotated 1953
53G-8-701.5, Utah Code Annotated 1953
53G-8-703.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-22-101 is enacted to read:

CHAPTER 22. SCHOOL SECURITY ACT

53-22-101. School Security Act -- Definitions.

As used in this chapter:

(1) "Public school" means the same as that term is defined in Section 53G-9-205.1.

(2) "School resource officer" or "SRO" means a law enforcement officer hired by a public school in accordance with Section 53G-8-703.

(3) "State security chief" means an individual appointed by the commissioner under Section 53-22-102.

Section 2. Section 53-22-102 is enacted to read:

53-22-102. State security chief -- Creation -- Appointment.

(1) There is created within the department a state security chief.

(2) The state security chief:

(a) is appointed by the commissioner with the approval of the governor;

(b) is subject to the supervision and control of the commissioner;

(c) may be removed at the will of the commissioner;

(d) shall be qualified by experience and education to:

(i) enforce the laws of this state relating to school safety;

(ii) perform duties prescribed by the commissioner; and

(iii) enforce rules made under this chapter.

(3) The duties and responsibilities of the state security chief shall be determined by the Commissioner of Public Safety in conjunction with the School Security Task Force created in Section 53-22-104.

Section 3. Section 53-22-103 is enacted to read:

53-22-103. County sheriff responsibilities -- Coordination.

Each county sheriff shall identify an individual within the sheriff's office to coordinate security responsibilities between the state security chief, the county sheriff's office, and the corresponding police chiefs whose jurisdiction includes a public school within the county.

Section 4. Section 53-22-104 is enacted to read:

53-22-104. School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration.

(1) There is created a School Security Task Force composed of the following 18 members:

(a) the House chair of the Law Enforcement and Criminal Justice Interim Committee, who shall serve as chair, and who shall ensure that at least three members of the task force are parents of children in Utah schools;

(b) the House chair of the Criminal Code Evaluation Task Force;

(c) a member of the Senate, appointed by the president of the Senate;

(d) the state superintendent of the State Board of Education or the state superintendent's designee;

(e) the school safety specialist to the State Board of Education;

(f) the public safety liaison described in Section 53-1-106;

(g) the commissioner of the Department of Public Safety or the commissioner's designee;

(h) the director of the Utah Division of Juvenile Justice Youth Services or the director's designee;

(i) a member of the Utah School Superintendents Association, selected by the president of the association;

(j) two members of the Chiefs of Police Association, one from a city of the first or second class and one from a city of the third, fourth, fifth, or sixth class, selected by the president of the association;

(k) two members of the Sheriffs Association, one from a county of the first, second, or third class and one from a county of the fourth, fifth, or sixth class, selected by the president of the association;

(l) a representative from the Utah Association of Public Charter Schools selected by the president of the association;

(m) a representative from a school district, selected by the chair;

(n) an expert in school security, selected by the chair;

(o) a member of a local law enforcement agency recommended by the commissioner of the Department of Public Safety; and

(p) a member of the SafeUT and School Safety Commission, selected by the chair.

(2) The task force shall:

(a) determine the specific qualifications, duties, and responsibilities of the state security chief created in Section 53-22-102;

(b) create statewide standardized training requirements and hiring policies for school resource officers;

(c) review and revise, if necessary, the model critical incident response training program developed under Section 53G-8-802;

(d) develop training standards for active threats and emergency response in schools;

(e) recommend standards for the use of school security specialists;

(f) recommend safety and security protocols for the design, construction, and reconstruction of new and existing schools;

(g) develop legislation to accomplish Subsections (a) through (e) for introduction in the 2024 General Session; and

(h) prepare a report and present any legislation developed to the Law Enforcement and Criminal Justice Interim Committee by November 30, 2023.

(3) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(4) The Office of Legislative Research and General Counsel shall provide staff for the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with:

(i) Section 36-2-2;

(ii) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses; and

(iii) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator may not receive compensation for the member's work associated with the task force but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(6) This task force expires December 31, 2023.

Section 5. Section 53F-4-208 is enacted to read:

53F-4-208. State board procurement for school security software.

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals, on or before June 15, 2023, and enter a contract with a private vendor for firearm detection software to detect and alert district personnel and first responders about the presence of visible, unholstered firearms on school property.

(2) The contract described in Subsection (1) shall require the firearm detection software to be:

(a) developed in the United States without the use of any third-party or open-source data;

(b) protected by an awarded patent that includes a training database populated with frames of actual videos of firearms taken in relevant environments across diverse industries;

(c) designated as qualified anti-terrorism technology under the federal SAFETY Act, 6 U.S.C. Sec. 441 et seq.;

(d) designed to integrate with existing security camera infrastructure at school districts;

(e) managed directly by the contracted vendor through a constantly monitored operations center that is staffed by highly trained analysts in order to rapidly communicate possible threats to end users; and

(f) successfully deployed in other states, school districts, and commercial users.

(3) An LEA may enter into the contract described in Subsection (1) for firearm detection software at the LEA's schools.

Section 6. Section 53F-5-220 is enacted to read:

53F-5-220. School Safety and Support Grant Program -- Rulemaking.

(1) The state board may award a grant to an LEA in response to an LEA request for proposal to provide a school with:

(a) school resource officer services;

(b) school safety specialists and school safety specialist training;

(c) safety and security training by law enforcement agencies for school employees;

(d) interoperable communication hardware, software, equipment maintenance, and training for first responder communication systems;

(e) enhanced physical security at a school upon completion of the school's threat assessment;

(f) first-aid kits for classrooms; or

(g) bleeding control kits.

(2) An LEA may not apply for a grant under this section to fund services already in place, but an LEA may submit a request for proposal to fund an expansion of or enhancement to existing services.

(3) The state board shall prioritize grant funding for LEAs with low student counts that have designated a school safety specialist in each school.

(4) The state board may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this section.

Section 7. Section 53G-8-701 is amended to read:

53G-8-701. Definitions.

As used in this part:

(1) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(2) "Public school" means the same as that term is defined in Section 53G-9-205.1.

[~~(2)~~] (3) "School resource officer" or "SRO" means a law enforcement officer, as defined in Section 53-13-103, who contracts with or whose law enforcement agency contracts with an LEA to provide law enforcement services for the LEA.

(4) "School safety specialist" means a school employee who is responsible for supporting school safety initiatives including the threat assessment described in Subsection 53G-8-802(2)(g)(i).

Section 8. Section 53G-8-701.5 is enacted to read:

53G-8-701.5. Threat assessment and school safety specialist.

Every public primary and secondary school shall:

(1) conduct a threat assessment as described in Subsection 53G-8-802(2)(g)(i); and

(2) designate a school safety specialist.

Section 9. Section 53G-8-702 is amended to read:

53G-8-702. School resource officer training -- Curriculum.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that prepare and make available a training program for school principals, school personnel, and school resource officers to attend.

(2) To create the curriculum and materials for the training program described in Subsection (1), the state board shall:

(a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;

(b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;

(c) consult with a nationally recognized organization that provides resources and training for school resource officers;

[~~(c)~~] (d) solicit input from local law enforcement and other interested community stakeholders; and

[~~(d)~~] (e) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.

(3) The training program described in Subsection (1) may include training on the following:

(a) childhood and adolescent development;

(b) responding age-appropriately to students;

(c) working with disabled students;

(d) techniques to de-escalate and resolve conflict;

(e) cultural awareness;

(f) restorative justice practices;

(g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;

(h) student privacy rights;

(i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;

(j) strategies to reduce juvenile justice involvement;

(k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure;

(l) developing and supporting successful relationships with students; and

(m) legal parameters of searching and questioning students on school property.

(4) The state board shall work together with the Department of Public Safety, the State Commission on Criminal and Juvenile Justice, and state and local law enforcement to establish policies, [~~and~~] procedures, [~~that govern~~] and training requirements for school resource officers.

Section 10. Section 53G-8-703 is amended to read:

53G-8-703. Contracts between an LEA and law enforcement for school resource officer services -- Requirements.

(1) An LEA may contract with a local law enforcement agency [~~or an individual~~] to provide school resource officer services at the LEA [~~if the LEA governing board reviews and approves the contract~~].

(2) [~~If an LEA contracts~~] An LEA contract with a law enforcement agency [~~or an individual~~] to provide SRO services at the LEA[~~, the LEA governing board~~] shall require in the contract:

(a) an acknowledgment by the law enforcement agency [~~or the individual~~] that an SRO hired under the contract shall:

(i) provide for and maintain a safe, healthy, and productive learning environment in a school;

(ii) act as a positive role model to students;

(iii) work to create a cooperative, proactive, and problem-solving partnership between law enforcement and the LEA;

(iv) emphasize the use of restorative approaches to address negative behavior; and

(v) at the request of the LEA, teach a vocational law enforcement class;

(b) a description of the shared understanding of the LEA and the law enforcement agency [~~or individual~~] regarding the roles and responsibilities of law enforcement and the LEA to:

(i) maintain safe schools;

(ii) improve school climate; and

(iii) support educational opportunities for students;

(c) a designation of student offenses that, in accordance with Section 53G-8-211, the SRO:

(i) may refer to the juvenile court;

(ii) [~~the SRO~~] shall confer with the LEA to resolve[~~, including an offense that:~~]; and

[~~(i) is a minor violation of the law; and~~]

[~~(ii) would not violate the law if the offense was committed by an adult;~~]

[~~(d)~~] (iii) [~~a designation of student offenses that are administrative issues that an SRO~~] shall refer to a school administrator for resolution [~~in accordance with Section 53G-8-211~~] as an administrative issue with the understanding that the SRO will be informed of the outcome of the administrative issue;

[~~(e)~~] (d) a detailed description of the rights of a student under state and federal law with regard to:

(i) searches;

(ii) questioning;

(iii) arrests; and

[~~(iii)~~] (iv) information privacy;

[~~(f)~~] (e) a detailed description of:

(i) job assignment and duties[~~;~~], including:

(A) the school to which the SRO will be assigned;

(B) the hours the SRO is expected to be present at the school;

(C) the point of contact at the school;

(D) specific responsibilities for providing and receiving information; and

(E) types of records to be kept, and by whom;

(ii) training requirements; and

(iii) other expectations of the SRO and school administration in relation to law enforcement at the LEA;

[~~(g)~~] (f) that an SRO who is hired under the contract and the principal at the school where an SRO will be working, or the principal's designee, will jointly complete the SRO training described in Section 53G-8-702; [~~and~~]

[~~(h) if the contract is between an LEA and a law enforcement agency, that:~~]

[~~(i)~~] (g) that both parties agree to jointly discuss SRO applicants; and

[~~(ii)~~] (h) that the law enforcement agency will, at least annually, seek out and accept feedback from an LEA about an SRO's performance.

Section 11. Section 53G-8-703.2 is enacted to read:

53G-8-703.2. LEA establishment of SRO policy -- Public comment.

(1) An LEA shall establish an SRO policy.

(2) The SRO policy described in Subsection (1) shall include:

(a) the contract described in Section 53G-8-703; and

(b) all other procedures and requirements governing the relationship between the LEA and an SRO.

(3) Before implementing the SRO policy described in Subsection (1), the LEA shall present the SRO policy at a public meeting and receive public comment on the SRO policy.

Section 12. Section 53G-8-802 is amended to read:

53G-8-802. State Safety and Support Program -- State board duties -- LEA duties.

(1) There is created the State Safety and Support Program.

(2) The state board shall:

(a) develop in conjunction with the Division of Substance Abuse and Mental Health model student safety and support policies for an LEA, including:

(i) evidence-based procedures for the assessment of and intervention with an individual whose behavior poses a threat to school safety;

(ii) procedures for referrals to law enforcement; and

(iii) procedures for referrals to a community services entity, a family support organization, or a health care provider for evaluation or treatment;

(b) provide training:

(i) in school safety;

(ii) in evidence-based approaches to improve school climate and address and correct bullying behavior;

(iii) in evidence-based approaches in identifying an individual who may pose a threat to the school community;

(iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness;

(v) on permitted disclosures of student data to law enforcement and other support services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

(vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections 53E-9-203 and 53E-9-305; and

(vii) for administrators on rights and prohibited acts under:

(A) Chapter 9, Part 6, Bullying and Hazing;

(B) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.;

(C) Title IX of Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(D) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.; and

(E) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;

(c) conduct and disseminate evidence-based research on school safety concerns;

(d) disseminate information on effective school safety initiatives;

(e) encourage partnerships between public and private sectors to promote school safety;

(f) provide technical assistance to an LEA in the development and implementation of school safety initiatives;

(g) in conjunction with the Department of Public Safety, develop and make available to an LEA a model critical incident response training program that includes:

(i) protocols for conducting a threat assessment, and ensuring building security during an incident, as required in Section 53G-8-701.5;

(ii) standardized response protocol terminology for use throughout the state;

(iii) protocols for planning and safety drills; and

(iv) recommendations for safety equipment for schools including amounts and types of first aid supplies;

(h) provide space for the public safety liaison described in Section 53-1-106 and the school-based mental health specialist described in Section 62A-15-103;

(i) create a model school climate survey that may be used by an LEA to assess stakeholder perception of a school environment and, in accordance with

Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:

(i) requiring an LEA to:

(A) create or adopt and disseminate a school climate survey; and

(B) disseminate the school climate survey;

(ii) recommending the distribution method, survey frequency, and sample size of the survey; and

(iii) specifying the areas of content for the school climate survey; and

(j) collect aggregate data and school climate survey results from each LEA.

(3) Nothing in this section requires an individual to respond to a school climate survey.

(4) The state board shall require an LEA to:

(a) (i) review data from the state board-facilitated surveys containing school climate data for each school within the LEA; and

(ii) based on the review described in Subsection (4)(a)(i):

(A) revise practices, policies, and training to eliminate harassment and discrimination in each school within the LEA;

(B) adopt a plan for harassment- and discrimination-free learning; and

(C) host outreach events or assemblies to inform students and parents of the plan adopted under Subsection (4)(a)(ii)(B);

(b) no later than September 1 of each school year, send a notice to each student, parent, and LEA staff member stating the LEA's commitment to maintaining a school climate that is free of harassment and discrimination; and

(c) report to the state board:

(i) no later than August 1, 2023, on the LEA's plan adopted under Subsection (4)(a)(ii)(B); and

(ii) after August 1, 2023, annually on the LEA's implementation of the plan and progress.

Section 13. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-22-104 is repealed December 31, 2023.

(2) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(2)~~] (3) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(3)~~] (4) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(4)~~] (5) Section 53B-8-114 is repealed July 1, 2024.

[~~(5)~~] (6) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(6)~~] (7) Section 53B-10-101 is repealed on July 1, 2027.

[~~(7)~~] (8) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(8)~~] (9) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(9)~~] (10) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(10)~~] (11) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(11)~~] (12) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(12)~~] (13) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~] (14) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(14)~~] (15) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(15)~~] (16) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(16)~~] (17) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(17)~~] (18) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (19) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

[~~(19)~~] (20) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

[~~(20)~~] (21) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

[~~(21)~~] (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (26) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 14. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -- Contracted Initiatives and Grants

From Public Education Economic Stabilization Restricted

Account, One-Time	75,000,000

Schedule of Programs:

School Safety and Support Grant Program	75,000,000

The Legislature intends that:

(1) $72,000,000 of the appropriation under this item be used for the grant program described in Section 53F-5-220;

(2) $3,000,000 of the appropriation under this item be used for the procurement described in Section 53F-4-208 of this bill; and

(3) under Section 63J-1-603, the one-time appropriation provided under this item not lapse at the close of fiscal year 2024 and the use of any nonlapsing funds is limited to the purposes described in Subsections (1) and (2) of this item.

ITEM 2

To State Board of Education — Policy, Communication, & Oversight

From Income Tax Fund	3,660,000

Schedule of Programs:

Student Support Services	3,660,000

The Legislature intends that the appropriation under this item be used to fulfill requirements under this bill for school safety specialists and training.

ITEM 3

To Department of Public Safety -- Programs and Operations

From General Fund	283,000

Schedule of Programs:

Department Commissioner's Office	283,000

CHAPTER 384
H. B. 62
Passed February 10, 2023
Approved March 20, 2023
Effective May 3, 2023

DRIVING UNDER THE INFLUENCE MODIFICATIONS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill amends provisions related to an ignition interlock system and driving under the influence.

Highlighted Provisions:

This bill:

- prohibits the Driver License Division from suspending a driver license unless the person fails to complete certain requirements as an ignition interlock restricted driver;
- amends offenses eligible for the 24-7 sobriety program;
- prohibits a court from ordering an ignition interlock system from a specific provider;
- imposes certain monitoring requirements for an ignition interlock system;
- amends administrative rule requirements regarding ignition interlock system providers;
- provides procedures for a person to petition to remove an ignition interlock restriction due to a medical condition;
- amends the revocation period for a refusal to submit to a chemical test under certain circumstances;
- provides in some circumstances that a person may elect to become an ignition interlock restricted driver after:
  - a refusal of a chemical test; or
  - a criminal conviction based on a refusal to submit to a chemical test;
- provides in some circumstances that a license revocation period may be shortened based on participation in a 24-7 sobriety program;
- amends individuals who are eligible for the 24-7 sobriety program;
- removes the requirement for a person to complete a risk assessment in connection with certain ignition interlock requirements;
- amends provisions relating to ignition interlock system providers; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-509, as last amended by Laws of Utah 2022, Chapter 116
41-6a-518, as last amended by Laws of Utah 2022, Chapter 272
41-6a-518.2, as last amended by Laws of Utah 2022, Chapter 116
41-6a-521, as last amended by Laws of Utah 2019, Chapter 77
41-6a-521.1, as enacted by Laws of Utah 2020, Chapter 177
53-3-223, as last amended by Laws of Utah 2022, Chapter 116
53-3-1007, as last amended by Laws of Utah 2016, Chapter 149

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-509 is amended to read:

41-6a-509. Driver license suspension or revocation for a driving under the influence violation.

(1) (a) The Driver License Division shall, if the person is 21 years old or older at the time of arrest:

[~~(a)~~] (i) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502 or 76-5-102.1; or

[~~(b)~~] (ii) revoke for a period of two years the license of a person if:

[~~(i)~~] (A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

[~~(ii)~~] (B) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation.

(b) (i) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete 120 days of the interlock restriction.

(ii) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), and the person fails to complete the full 120 days of interlock restriction, the Driver License Division:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 53-3-223(10)(a).

(c) (i) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i)

unless the person fails to complete three years of the interlock restriction under Subsection 41-6a-521(7).

(ii) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), and the person fails to complete the full three years of interlock restriction, the Driver License Division:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 41-6a-521(7).

(2) The Driver License Division shall, if the person is 19 years old or older but under 21 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old or for a period of one year, whichever is longer, if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;

(b) deny the person's application for a license or learner's permit until the person is 21 years old if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (9).

(5) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(9) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207.

(b) If the court suspends or revokes the person's license under this Subsection (9), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(10) (a) The court shall notify the Driver License Division if a person fails to complete all court ordered:

(i) screenings;

(ii) assessments;

(iii) educational series;

(iv) substance abuse treatment; and

(v) hours of work in a compensatory-service work program.

(b) Subject to Subsection 53-3-218(3), upon receiving the notification described in Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

(11) (a) A court that reported a conviction of a violation of Section 41-6a-502[~~, 76-5-102.1, or 76-5-207~~] to the Driver License Division may shorten the suspension or revocation period imposed under Subsection (1) before completion of the suspension or revocation period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension or revocation period in accordance with the requirements of this Subsection (11), the court shall forward the order shortening the person's suspension or revocation period to the Driver License Division in a manner specified by the division.

(c) The court shall notify the Driver License Division, in a manner specified by the Driver License Division, if a person fails to complete all requirements of a 24-7 sobriety program.

(d) (i) (A) Upon receiving the notification described in Subsection (11)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was previously suspended under this section or Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under Section 41-6a-502[~~, 76-5-102.1, or 76-5-207~~] is based.

(ii) (A) Upon receiving the notification described in Subsection (11)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under Section 41-6a-502[~~, 76-5-102.1, or 76-5-207~~] is based.

Section 2. Section 41-6a-518 is amended to read:

41-6a-518. Ignition interlock devices -- Use and monitoring -- Probationer to pay cost -- Indigency -- Fee.

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Employer verification" means written verification from the employer that:

(i) the employer is aware that the employee is an interlock restricted driver;

(ii) the vehicle the employee is operating for employment purposes is not made available to the employee for personal use;

(iii) the business entity that employs the employee is not entirely or partly owned or controlled by the employee;

(iv) the employer's auto insurance company is aware that the employee is an interlock restricted driver; and

(v) the employee has been added to the employer's auto insurance policy as an operator of the vehicle.

(c) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver's breath alcohol concentration.

(d) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, the court shall require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds .02 grams or greater.

(b) If a person convicted of violating Section 41-6a-502 was [~~under the age of 21~~] younger than 21 years old when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2), the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

(ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.

(d) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

(e) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation does not involve alcohol.

(3) (a) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

[~~(a)~~] (i) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

[~~(b)~~] (ii) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

[~~(c)~~] (iii) immediately notify the Driver License Division and the person's probation provider of the order; [~~and~~]

[~~(d)~~] (iv) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order[~~.~~]; and

(v) order the probationer to have the ignition interlock system installed and regularly monitored by an ignition interlock system provider licensed under Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(b) A court may not order a probationer to use a specific ignition interlock system provider.

(4) (a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.

(b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).

(c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.

(d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.

(5) (a) Any probationer required to install an ignition interlock system shall, every 60 days or more frequently as the court may order, have the system monitored by the manufacturer or dealer of the system or the manufacturer's or dealer's authorized agent:

(i) [~~for~~] to determine the ignition interlock system's proper use and accuracy [~~at least semiannually and more frequently as the court may order.~~]; and

(ii) to collect information on all attempts to start the motor vehicle with a measurable breath alcohol concentration that were prevented by the ignition interlock system, including the date and time of each attempt.

(b) (i) A report of the monitoring described in Subsection (5)(a) shall be issued by the manufacturer or dealer or the manufacturer's or dealer's authorized agent to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing [~~and~~], maintaining, and monitoring the system.

(b) A probationer may not be excluded from this section for inability to pay the costs, unless:

(i) the probationer files an affidavit of indigency in accordance with Section 78A-2-302; and

(ii) the court enters a finding that the probationer is indigent.

(c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.

(d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).

(7) (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle without installation of an ignition interlock system only if:

(i) the motor vehicle is used in the course and scope of employment;

(ii) the employer has been notified that the employee is restricted; and

(iii) the employee has employer verification in the employee's possession while operating the employer's motor vehicle.

(b) (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.

(ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.

(c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7).

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards under Subsection (8)(a) shall require that the system:

(i) not impede the safe operation of the motor vehicle;

(ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;

(iii) require a deep lung breath sample as a measure of breath alcohol concentration;

(iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds .02 grams or greater;

(v) work accurately and reliably in an unsupervised environment;

(vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments;

(viii) collect information on all attempts to start a motor vehicle that were prevented by an ignition interlock system, including the date and time of each attempt; and

[~~(viii)~~] (ix) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.

(e) (i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.

(ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

(f) The commissioner shall require a provider of an ignition interlock system certified in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(9) A violation of this section is a class C misdemeanor.

(10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Section 3. Section 41-6a-518.2 is amended to read:

41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system -- Exemptions.

(1) As used in this section:

(a) "Ignition interlock system" means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).

(b) (i) "Interlock restricted driver" means a person who:

(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;

(B) within the last 18 months has been convicted of a violation under Section 41-6a-502, Subsection 41-6a-520(7), or Section 76-5-102.1;

(C) (I) within the last three years has been convicted of an offense which would be a conviction as defined under Section 41-6a-501; and

(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Subsection 41-6a-501(2);

(D) within the last three years has been convicted of a violation of this section;

(E) within the last three years has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520;

(F) within the last three years has been convicted of a violation of Section 41-6a-502, Subsection 41-6a-520(7), or Section 76-5-102.1 and was under [~~the age of~~] 21 years old at the time the offense was committed;

(G) within the last six years has been convicted of a felony violation of Section 41-6a-502, Subsection 41-6a-520(7), or Section 76-5-102.1 for an offense that occurred after May 1, 2006; or

(H) within the last 10 years has been convicted of a violation of Section 76-5-207 for an offense that occurred after May 1, 2006.

(ii) "Interlock restricted driver" does not include a person:

(A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517;

(B) whose conviction described in Subsection (1)(b)(i)(B) or (F) is a conviction under Section 41-6a-502 that does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing that the conviction does not involve alcohol; or

(C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) is a conviction under Section 41-6a-502 that does not involve alcohol and the ignition interlock restriction is removed as described in Subsection (7).

(2) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.

(3) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(4) An interlock restricted driver who operates or is in actual physical control of a vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

(5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

(a) the interlock restricted driver operated or was in actual physical control of a vehicle owned by the interlock restricted driver's employer;

(b) the interlock restricted driver had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection (5)(a);

(c) the interlock restricted driver had on the interlock restricted driver's person, or in the vehicle, at the time of operation or physical control employer verification, as defined in Subsection 41-6a-518(1); and

(d) the operation or actual physical control described in Subsection (5)(a) was in the scope of the interlock restricted driver's employment.

(6) The affirmative defense described in Subsection (5) does not apply to:

(a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

(b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

(7) (a) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual's offense did not involve alcohol.

(b) If the division is able to establish that an individual's offense did not involve alcohol, the division may remove the ignition interlock restriction.

(8) (a) (i) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual has a medical condition that prohibits the individual from providing a deep lung breath sample.

(ii) In support of a petition under Subsection (8)(a)(i), the individual shall provide documentation from a physician that describes the individual's medical condition and whether the individual's medical condition would prohibit the individual from being able to provide a deep breath lung sample.

(b) If the division is able to establish that an individual is unable to provide a deep breath lung sample as a result of a medical condition, the division may remove the ignition interlock restriction.

Section 4. Section 41-6a-521 is amended to read:

41-6a-521. Revocation hearing for refusal -- Appeal.

(1) (a) A person who has been notified of the Driver License Division's intention to revoke the person's license under Section 41-6a-520 is entitled to a hearing.

(b) A request for the hearing shall be made in writing within 10 calendar days after the day on which notice is provided.

(c) Upon request in a manner specified by the Driver License Division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest.

(d) If the person does not make a request for a hearing before the Driver License Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state is revoked beginning on the 45th day after the date of arrest:

(i) for a person 21 years [~~of age~~] old or older on the date of arrest, for a period of:

(A) except as provided in Subsection (1)(d)(i)(B) or (9), 18 months[~~, unless Subsection (1)(d)(i)(B) applies~~]; or

(B) 36 months[~~, if the arrest was made on or after July 1, 2009, and the person has had a previous~~] if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction [~~for an offense that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; [~~or~~]

(II) conviction [~~for an offense that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207; or

(ii) for a person under 21 years [~~of age~~] old on the date of arrest:

(A) except as provided in Subsection (1)(d)(ii)(B), until the person is 21 years [~~of age~~] old or for a period of two years, whichever is longer[~~, if the arrest was made on or after July 1, 2011, unless Subsection (1)(d)(ii)(B) applies~~]; or

(B) until the person is 21 years [~~of age~~] old or for a period of 36 months, whichever is longer, [~~if the arrest was made on or after July 1, 2009, and the person has had a previous~~] if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction [~~for an offense that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

(II) conviction for an offense [~~that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502; [~~or~~]

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207.

[~~(iii) for a person that was arrested prior to July 1, 2009, for the suspension periods in effect prior to July 1, 2009.~~]

(2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person, the hearing shall be conducted by the Driver License Division in:

(i) the county in which the offense occurred; or

(ii) a county which is adjacent to the county in which the offense occurred.

(b) The Driver License Division may hold a hearing in some other county if the Driver License Division and the person both agree.

(3) The hearing shall be documented and shall cover the issues of:

(a) whether a peace officer had reasonable grounds to believe that a person was operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or 53-3-231; and

(b) whether the person refused to submit to the test or tests under Section 41-6a-520.

(4) (a) In connection with the hearing, the division or its authorized agent:

(i) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; and

(ii) shall issue subpoenas for the attendance of necessary peace officers.

(b) The Driver License Division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(5) (a) If after a hearing, the Driver License Division determines that the person was requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails to appear before the Driver License Division as required in the notice, the Driver License Division shall revoke the person's license or permit to operate a motor vehicle in Utah beginning on the date the hearing is held:

(i) for a person 21 years [~~of age~~] old or older on the date of arrest, for a period of:

(A) except as provided in Subsection (5)(a)(i)(B) or (9), 18 months [~~unless Subsection (5)(a)(i)(B) applies~~]; or

(B) 36 months[~~, if the arrest was made on or after July 1, 2009, and the person has had a previous~~] if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction [~~for an offense that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; [~~or~~]

(II) conviction [~~for an offense that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207; or

(ii) for a person under 21 years of age on the date of arrest:

(A) except as provided in Subsection (5)(a)(ii)(B), until the person is 21 years [~~of age~~] old or for a period of two years, whichever is longer[~~, for an arrest that was made on or after July 1, 2011, and unless Subsection (5)(a)(ii)(B) applies~~]; or

(B) until the person is 21 years [~~of age~~] old or for a period of 36 months, whichever is longer, if [~~the arrest was made on or after July 1, 2009, and the person has had a previous~~] the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction [~~for an offense that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; [~~or~~]

(II) conviction [~~for an offense that occurred within the previous 10 years from the date of arrest~~] under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502; [~~or~~]

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207.

[~~(iii) for a person that was arrested prior to July 1, 2009, for the revocation periods in effect prior to July 1, 2009.~~]

(b) The Driver License Division shall also assess against the person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(c) The fee shall be cancelled if the person obtains an unappealed court decision following a proceeding allowed under Subsection (2) that the revocation was improper.

(6) (a) Any person whose license has been revoked by the Driver License Division under this section following an administrative hearing may seek judicial review.

(b) Judicial review of an informal adjudicative proceeding is a trial.

(c) Venue is in the district court in the county in which the offense occurred.

(7) If the Driver License Division revokes a person's driving privilege under Subsection (1)(d)(i)(A) or (5)(a)(i)(A), the person may petition the division and elect to become an ignition interlock restricted driver after the driver serves at least 90 days of the revocation if the person:

(a) has a valid driving privilege, with the exception of the revocation under Subsection (1)(d)(i)(A) or (5)(a)(i)(A);

(b) installs an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007;

(c) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27);

(d) pays the appropriate original license fees under Section 53-3-105; and

(e) completes the license application process including successful completion of required testing.

(8) (a) A person who elects to become an ignition interlock restricted driver under Subsection (7) shall remain an ignition interlock restricted driver for a period of three years.

(b) If the person described under Subsection (8)(a) removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the three-year ignition interlock restriction period and does not install a new ignition interlock device from the same or a different ignition interlock provider within 24 hours:

(i) the person's driving privilege shall be revoked under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) for a period of 18 months from the date the ignition interlock device was removed from the vehicle;

(ii) no days may be subtracted from the 18-month revocation period under Subsection (8)(b)(i) for any days the person was in compliance with the interlock restriction under Subsection (7);

(iii) the person is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

(iv) the person may not elect to become an ignition interlock restricted driver under this section.

(9) (a) Notwithstanding the provisions in Subsection (1)(d)(i)(A) or (5)(a)(i)(A), the division shall reinstate a person's driving privilege before completion of the revocation period imposed under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) if:

(i) the reporting court notifies the Driver License Division that the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5;

(ii) the person has served at least 90 days of the revocation under Subsection (1)(d)(i)(A) or (5)(a)(i)(A); and

(iii) the person has a valid driving privilege, with the exception of the revocation under Subsection (1)(d)(i)(A) or (5)(a)(i)(A).

(b) If a person's driving privilege is reinstated under Subsection (9)(a), the person is required to:

(i) install an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007;

(ii) pay the license reinstatement application fees described in Subsections 53-3-105(26) and (27);

(iii) pay the appropriate original license fees under Section 53-3-105; and

(iv) complete the license application process including successful completion of required testing.

(c) If the reporting court notifies the Driver License Division that a person has failed to complete all requirements of the 24-7 sobriety program, the division:

(i) shall revoke the person's driving privilege under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) for a period of 18 months from the date of the notice; and

(ii) may not subtract any days from the 18-month revocation period for:

(A) days during which the person's driving privilege previously was revoked; or

(B) days during which the person was compliant with the 24-7 sobriety program.

Section 5. Section 41-6a-521.1 is amended to read:

41-6a-521.1. Driver license denial or revocation for a criminal conviction for a refusal to submit to a chemical test violation.

(1) [~~The~~] Except as provided in Subsection (7) or (8), the Driver License Division shall, if the person is 21 years [~~of age~~] old or older at the time of arrest:

(a) revoke for a period of 18 months the operator's license of a person convicted for the first time under Subsection 41-6a-520(7); or

(b) revoke for a period of 36 months the license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current refusal to submit to a chemical test violation under Subsection 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation.

(2) The Driver License Division shall, if the person is under 21 years of age at the time of arrest:

(a) revoke the person's driver license until the person is 21 years of age or for a period of two years, whichever is longer; [~~or~~]

(b) revoke the person's driver license until the person is 21 years of age or for a period of 36 months, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current refusal to submit to a chemical test violation under Subsection 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation; or

(c) if the person has not been issued an operator license:

(i) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of two years, whichever is longer; or

(ii) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of 36 months, whichever is longer, if:

(A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(B) the current refusal to submit to a chemical test violation under Subsection 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation.

(3) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (5).

(4) The Driver License Division shall subtract from any revocation period the number of days for which a license was previously revoked under Section [~~53-3-221~~] 41-6a-521 if the previous revocation was based on the same occurrence upon which the record of conviction under Subsection 41-6a-520(7) is based.

(5) (a) (i) In addition to any other penalties provided in this section, a court may order the driver license of a person who is convicted of a violation of Subsection 41-6a-520(7) to be revoked

for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional revocation period provided in this Subsection (5) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Subsection 41-6a-520(7).

(b) If the court suspends or revokes the person's license under this Subsection (5), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(6) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered:

(A) screening;

(B) assessment;

(C) educational series;

(D) substance abuse treatment; and

(E) hours of work in a compensatory-service work program; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification described in Subsection (6)(a), the Driver License Division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(7) (a) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), the Driver License Division may not revoke the operator's license as described in Subsection (1)(a) unless the person fails to complete three years of the interlock restriction under Subsection 41-6a-521(7).

(b) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7) and the person fails to complete the full three years of interlock restriction, the Driver License Division:

(i) shall revoke the operator's license as described in Subsection (1)(a), effective on the date the ignition interlock was removed from the vehicle; and

(ii) may not subtract any days from the revocation period under Subsection (7)(b)(i) for days during which the person was compliant with the interlock restriction under Subsection 41-6a-521(7).

(8) (a) The Driver License Division may shorten a person's revocation period imposed under Subsection (1) before the completion of the person's revocation period if:

(i) the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5; and

(ii) the reporting court:

(A) shortens the person's operator's license revocation period due to the person's participation in or successful completion of a 24-7 sobriety program; and

(B) forwards the order shortening the person's operator's license revocation period to the Driver License Division in the manner specified by the Driver License Division.

(b) A reporting court shall notify the Driver License Division, in the manner specified by the Driver License Division, if a person fails to complete all requirements of a 24-7 sobriety program.

(c) Upon receiving a notification described in Subsection (8)(b), for a first offense, the Driver License Division:

(i) shall revoke the person's operator's license for a period of 18 months from the date of the notice; and

(ii) may not subtract any days from the revocation period under Subsection (8)(c)(i) for which the operator's license was previously revoked under this section or Section 41-6a-521, or suspended under Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under this section is based.

(d) Upon receiving a notification described in Subsection (8)(b), for a second or subsequent offense, the Driver License Division:

(i) shall revoke the person's operator's license for a period of three years from the date of the notice; and

(ii) may not subtract any days from the revocation period under Subsection (8)(d)(i) for which the operator's license was previously revoked under this section or Section 41-6a-521, or suspended under Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under this section is based.

Section 6. Section 53-3-223 is amended to read:

53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207 shall, and the existence of a blood alcohol content

sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) a copy of the citation issued for the offense;

(b) a signed report in a manner specified by the division indicating the chemical test results, if any; and

(c) any other basis for the peace officer's determination that the person has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207.

(6) (a) Upon request in a manner specified by the division, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under Subsection (5).

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207;

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years old or older at the time of arrest, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

(B) two years beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years old at the time of arrest:

(A) suspend the person's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the 45th day after the date of arrest for a first suspension; or

(II) until the person is 21 years old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the person's application for a license or learner's permit:

(I) for a period of six months beginning on the 45th day after the date of the arrest for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502, 41-6a-517,

76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 45th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If a person's license is reinstated under this Subsection (7)(b), the person is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

(iv) The driver license reinstatements authorized under this Subsection (7)(b) only apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

(8) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(9) (a) Notwithstanding the provisions in Subsection [~~(7)(a)(i) or (ii)~~] (7)(a)(i), the division shall reinstate a person's license before completion of the suspension period imposed under Subsection [~~(7)(a)(i) or (ii)~~] (7)(a)(i) if:

(i) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5; and

(ii) the person has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i).

(b) If a person's license is reinstated under Subsection (9)(a), the person is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

(10) (a) If the division suspends a person's license for an alcohol related offense under Subsection (7)(a)(i)(A), the person may petition the division and elect to become an ignition interlock restricted driver if the person:

(i) has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i)(A);

[~~(ii) completes a risk assessment approved by the division that:~~]

[~~(A) is completed after the date of the arrest for which the person is suspended under Subsection (7)(a)(i)(A); and~~]

[~~(B) identifies the person as a low risk offender;~~]

[~~(iii)~~] (ii) installs an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and

[~~(iv)~~] (iii) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27).

(b) (i) The person shall remain an ignition interlock restricted driver for a period of 120 days from the original effective date of the suspension under Subsection (7)(a)(i)(A).

(ii) If the person removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the 120 day ignition interlock restriction period and does not install a new ignition interlock device from the same or a different provider within 24 hours:

[~~(i)~~] (A) the person's driver license shall be suspended under Subsection (7)(a)(i)(A) for the remainder of the 120 day ignition interlock restriction period;

[~~(ii)~~] (B) the person is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

[~~(iii)~~] (C) the person may not elect to become an ignition interlock restricted driver under this section.

(c) If a person elects to become an ignition interlock restricted driver under Subsection (10)(a), the provisions under Subsection (7)(b) do not apply.

Section 7. Section 53-3-1007 is amended to read:

53-3-1007. Ignition interlock system provider -- Notification to the division upon installation or removal of an ignition interlock system -- Monitoring and reporting requirements -- Penalties.

(1) An ignition interlock system provider who installs an ignition interlock system on [~~a person's~~] an individual's vehicle shall:

(a) provide proof of installation to the [~~person~~] individual; and

(b) electronically notify the division of installation of an ignition interlock system on the [~~person's~~] individual's vehicle.

(2) An ignition interlock system provider shall electronically notify the division if [~~a person~~] an individual has:

(a) removed an ignition interlock system from the [~~person's~~] individual's vehicle[~~.~~];

(b) attempted to start the motor vehicle with a measurable breath alcohol concentration, and the attempt to start the motor vehicle was prevented by the ignition interlock system, including the date and time of each attempt; or

(c) failed to report to the ignition interlock provider for the purpose of monitoring the device every 60 days, or more frequently if ordered by the court as described in Subsection 41-6a-518(5)(a).

(3) If an individual is an interlock restricted driver and the individual removes an ignition interlock system as described in Subsection (2)(a), the division shall:

(a) suspend the [~~person's~~] individual's driving privilege for the duration of the restriction period as defined in Section 41-6a-518.2; and

(b) notify the [~~person~~] individual of the suspension period in place and the requirements for reinstatement of the driving privilege with respect to the ignition interlock restriction suspension.

(4) The division shall clear a suspension described in Subsection (3) upon:

(a) receipt of payment of the fee or fees required under Section 53-3-105; and

(b) (i) receipt of electronic notification from an ignition interlock system provider showing proof of the installation of an ignition interlock system on the [~~person's~~] individual's vehicle or the vehicle the [~~person~~] individual will be operating;

(ii) if the [~~person~~] individual does not own a vehicle or will not be operating a vehicle owned by another individual:

(A) electronic verification that the [~~person~~] individual does not have a vehicle registered in the [~~person's~~] individual's name in the state; and

(B) receipt of employer verification, as defined in Subsection 41-6a-518(1); or

(iii) if the [~~person~~] individual is not a resident of Utah, electronic verification that the [~~person~~] individual is licensed in the [~~person's~~] individual's state of residence or is in the process of obtaining a license in the [~~person's~~] individual's state of residence.

(5) If Subsection (4)(b)(ii) applies, the division shall every six months:

(a) electronically verify the [~~person~~] individual does not have a vehicle registered in the [~~person's~~] individual's name in the state; and

(b) require the [~~person~~] individual to provide updated documentation described in Subsection (4)(b)(ii).

(6) If the [~~person~~] individual described in Subsection (5) does not provide the required documentation described in Subsection (4)(b)(ii), the division shall suspend the [~~person's~~] individual's driving privilege until:

(a) the division receives payment of the fee or fees required under Section 53-3-105; and

(b) (i) the division:

(A) receives electronic notification from an ignition interlock system provider showing proof of the installation of an ignition interlock system on the [~~person's~~] individual's vehicle or the vehicle the [~~person~~] individual will be operating; or

(B) if the [~~person~~] individual does not own a vehicle or will not be operating a vehicle owned by another individual, receives electronic verification that the [~~person~~] individual does not have a vehicle registered in the [~~person's~~] individual's name in the state, and receives employer verification, as defined in Subsection 41-6a-518(1); or

(ii) if the [~~person~~] individual is not a resident of Utah, electronic verification that the [~~person~~] individual is licensed in the [~~person's~~] individual's state of residence or is in the process of obtaining a license in the [~~person's~~] individual's state of residence.

(7) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division shall suspend the license of any [~~person~~] individual without receiving a record of the [~~person's~~] individual's conviction of crime seven days after receiving electronic notification from an ignition interlock system provider that [~~a person~~] an individual has removed an ignition interlock system from the [~~person's~~] individual's vehicle or a vehicle owned by another individual and operated by the [~~person~~] individual if the [~~person~~] individual is an interlock restricted driver until:

(a) the division receives payment of the fee or fees specified in Section 53-3-105; and

(b) (i) (A) the division receives electronic notification from an ignition interlock system provider showing new proof of the installation of an ignition interlock system on the [~~person's~~] individual's vehicle or the vehicle the [~~person~~] individual will be operating; or

(B) if the [~~person~~] individual does not own a vehicle or will not be operating a vehicle owned by another individual, the division receives electronic verification that the [~~person~~] individual does not have a vehicle registered in the [~~person's~~] individual's name in the state, and receives employer verification, as defined in Subsection 41-6a-518(1);

(ii) if the [~~person~~] individual is not a resident of Utah, the division receives electronic verification that the [~~person~~] individual is licensed in the [~~person's~~] individual's state of residence or is in the

process of obtaining a license in the [~~person's~~] individual's state of residence; or

(iii) the [~~person's~~] individual's interlock restricted period has expired.

(8) (a) Upon receipt of a notice described in Subsection (2)(b) or (2)(c), the division shall extend the individual's ignition interlock restriction period by 60 days.

(b) The division shall notify the individual of the modified ignition interlock restriction period described in Subsection (8)(a).

[~~(8)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) procedures for certification and regulation of ignition interlock system providers;

(b) acceptable documentation for proof of the installation of an ignition interlock device;

(c) procedures for an ignition interlock system provider to electronically notify the division;

(d) procedures for an ignition interlock system provider to provide monitoring of an ignition interlock system and reporting the results of monitoring;

(e) procedures for the removal of an ignition interlock restriction if the individual is unable to provide a deep lung breath sample as a result of a medical condition and is unable to properly use an ignition interlock system as described in Subsection 41-6a-518.2(8); and

[~~(d)~~] (f) policies and procedures for the administration of the ignition interlock system program created under this section.

CHAPTER 385
H. B. 94
Passed February 21, 2023
Approved March 20, 2023
Effective May 3, 2023

REVERSE MORTGAGE AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill makes changes to reverse mortgage requirements.

Highlighted Provisions:

This bill:

- amends the age requirement for a reverse mortgage borrower;
- amends requirements for a prospective borrower to meet with an independent housing counselor;
- changes the requirement for a cooling off period from seven days to five days;
- provides that certain prerequisites for initiating foreclosure proceedings do not apply if the borrower is deceased;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-28-202, as enacted by Laws of Utah 2015, Chapter 290
57-28-204, as enacted by Laws of Utah 2015, Chapter 290
57-28-207, as enacted by Laws of Utah 2015, Chapter 290
57-28-304, as last amended by Laws of Utah 2016, Chapter 305

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-28-202 is amended to read:

57-28-202. Borrower requirements.

A borrower shall:

(1) (a) for a home equity conversion mortgage insured by the Federal Housing Administration under Title 1 of the National Housing Act, 12 U.S.C. Sec. 1715z-20, be 62 years [~~of age~~] old or older; and

(b) for proprietary loans not insured by the Federal Housing Administration, be 55 years old or older; and

(2) occupy the dwelling that secures the reverse mortgage as a principal residence.

Section 2. Section 57-28-204 is amended to read:

57-28-204. Independent counseling.

(1) As used in this section:

(a) "Federally insured loan borrower" means a borrower described in Subsection 57-28-202(1)(a).

(b) "Non-federally insured loan borrower" means a borrower described in Subsection 57-28-202(1)(b).

(2) [~~Before a prospective borrower signs a reverse mortgage application, the~~] A prospective borrower shall meet with an independent housing counselor[~~.~~]:

(a) for a federally-insured loan borrower, before the Federal Housing Administration assigns a case number to the borrower's loan; and

(b) for a non-federally insured loan borrower, before the prospective borrower signs a reverse mortgage application.

[~~(2)~~] (3) During the meeting described in Subsection [~~(1)~~] (2):

(a) the prospective borrower and the independent housing counselor shall discuss the financial impacts of a reverse mortgage, including:

(i) options other than a reverse mortgage that are or may become available to the prospective borrower;

(ii) other home equity conversion options that are or may become available to the prospective borrower, including sale-leaseback financing, a deferred payment loan, and a property tax deferral; and

(iii) the financial implications, specific to the prospective borrower, of entering into a reverse mortgage; and

(b) the independent housing counselor shall give the prospective borrower a written disclosure that states that a reverse mortgage may:

(i) have tax consequences;

(ii) affect the prospective borrower's eligibility for assistance under certain state and federal programs; and

(iii) impact the prospective borrower's estate and heirs.

Section 3. Section 57-28-207 is amended to read:

57-28-207. Cooling off period -- Closing.

(1) After a prospective borrower accepts, in writing, a lender's written commitment to make a reverse mortgage, the lender may not bind the prospective borrower to the reverse mortgage earlier than [~~seven~~] five days after the day on which the prospective borrower gives the written acceptance to the lender.

(2) During the [~~seven-day~~] five-day period described in Subsection (1), the lender may not require the prospective borrower to close or otherwise proceed with the reverse mortgage.

(3) A prospective borrower may not waive the provisions of this section.

Section 4. Section 57-28-304 is amended to read:

57-28-304. Foreclosure.

(1) [~~Before~~] Except as provided in Subsection (2), before a person initiates foreclosure proceedings on a reverse mortgage, the person shall:

[~~(1)~~] (a) send the borrower, by certified mail, return receipt requested, written notice that states the grounds for default and foreclosure; and

[~~(2)~~] (b) provide the borrower at least 30 days after the day on which the person sends the notice described in Subsection [~~(1)~~] (1)(a) to cure the borrower's default.

(2) This section does not apply if the borrower is deceased.

CHAPTER 386
H. B. 103
Passed February 10, 2023
Approved March 20, 2023
Effective May 3, 2023

WEAPON POSSESSION WHILE UNDER THE INFLUENCE AMENDMENTS

Chief Sponsor: Jason B. Kyle
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill amends provisions related to who can carry a dangerous weapon.

Highlighted Provisions:

This bill:

- amends provisions related to who can carry a dangerous weapon.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-528, as last amended by Laws of Utah 2022, Chapter 159

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-528 is amended to read:

76-10-528. Carrying a dangerous weapon while under influence of alcohol or drugs unlawful.

(1) It is a class B misdemeanor for an actor to carry a dangerous weapon while under the influence of:

(a) alcohol as determined by the actor's blood or breath alcohol concentration in accordance with Subsections 41-6a-502(1)(a) through (c); or

(b) a controlled substance as defined in Section 58-37-2.

(2) This section does not apply to:

(a) an actor carrying a dangerous weapon that is either securely encased, as defined in this part, or not within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person;

(b) an actor who uses or threatens to use force in compliance with Section 76-2-402;

(c) an actor carrying a dangerous weapon in the actor's residence or the residence of another with the consent of the individual who is lawfully in possession;

(d) an actor under the influence of cannabis or a cannabis product, as those terms are defined in Section 26-61a-102, if the actor's use of the cannabis or cannabis product complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(e) an actor who:

(i) has a valid prescription for a controlled substance [~~for a medication approved by the federal Food and Drug Administration for the treatment of attention deficit disorder or attention deficit hyperactivity disorder;~~] [~~and~~];

(ii) takes the [~~medication~~] controlled substance described in Subsection (2)(e)(i) as prescribed; and

(iii) after taking the controlled substance, the actor:

(A) is not a danger to the actor or another individual; or

(B) is capable of safely handling a dangerous weapon.

(3) It is not a defense to prosecution under this section that the actor:

(a) is licensed in the pursuit of wildlife of any kind; or

(b) has a valid permit to carry a concealed firearm.

CHAPTER 387
H. B. 107
Passed March 1, 2023
Approved March 20, 2023
Effective May 3, 2023

CONCEALED WEAPONS PERMIT FEE AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill amends who is eligible for a waiver to a concealed weapons permit fee.

Highlighted Provisions:

This bill:

- defines terms; and
- waives the fee for a school employee to obtain a concealed weapons permit in certain circumstances.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2024:

- To the Department of Public Safety – Bureau of Criminal Identification, as an ongoing appropriation:
  - from the Income Tax Fund, $23,700.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-702, as last amended by Laws of Utah 2013, Chapter 280
53-5-707, as last amended by Laws of Utah 2021, Chapters 12, 277

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-5-702 is amended to read:

53-5-702. Definitions.

In addition to the definitions in Section 76-10-501, as used in this part:

(1) "Active duty service member" means a person on active military duty with the United States military and includes full time military active duty, military reserve active duty, and national guard military active duty service members stationed in Utah.

(2) "Active duty service member spouse" means a person recognized by the military as the spouse of an active duty service member and who resides with the active duty service member in Utah.

(3) "Board" means the Concealed Firearm Review Board created in Section 53-5-703.

(4) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(5) "Commissioner" means the commissioner of the Department of Public Safety.

(6) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:

(a) a finding of guilt based on evidence presented to a judge or jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(e) a pending diversion agreement; or

(f) a conviction which has been reduced pursuant to Section 76-3-402.

(7) "School employee" means an employee of a public school district, charter school, or private school whose duties, responsibilities, or assignments require the employee to be physically present on a school's campus at least half of the days on which school is held during a school year.

(8) "School year" means the period of time designated by a local school board, charter school governing board, or private school as the school year for high school, middle school, or elementary school students.

Section 2. Section 53-5-707 is amended to read:

53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.

(1) (a) An applicant for a concealed firearm permit shall pay a fee of $25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional $10 for the additional cost of processing a nonresident application.

(c) The bureau shall waive the initial fee for an applicant who is:

(i) [~~is~~] a law enforcement officer under Section 53-13-103[~~.~~];

[~~(d)~~] (ii) [~~Concealed firearm permit renewal fees for~~] an active duty service [~~members and~~] member;

(iii) the spouse of an active duty service member [~~shall be waived~~]; or

(iv) a school employee.

(2) The renewal fee for the permit is $20. A nonresident shall pay an additional $5 for the additional cost of processing a nonresidential renewal.

(3) The replacement fee for the permit is $10.

(4) (a) The late fee for the renewal permit is $7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section and Section 53-5-707.5.

(c) Funds in the account may only be used to cover costs relating to:

(i) the issuance of concealed firearm permits under this part; or

(ii) the programs described in Subsection 62A-15-103(3) and Section 62A-15-1101.

(d) No later than 90 days after the end of the fiscal year 50% of the fund balance shall be transferred to the Suicide Prevention and Education Fund, created in Section 62A-15-1104.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section 53-5-707.5.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Public Safety - Bureau of Criminal Identification

From Income Tax Fund	$23,700
Schedule of Programs:	
Non-Government/Other Services	$23,700

CHAPTER 388
H. B. 110
Passed February 2, 2023
Approved March 20, 2023
Effective May 3, 2023

WASTE TIRE RECYCLING FUND AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to waste tire recycling.

Highlighted Provisions:

This bill:

- repeals provisions related to certain municipal landfill deposits; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-807, as last amended by Laws of Utah 2022, Chapters 336 and 454
19-6-816.5, as enacted by Laws of Utah 2022, Chapter 454

REPEALS:

19-6-808.5, as enacted by Laws of Utah 2022, Chapter 454

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-6-807 is amended to read:

19-6-807. Waste Tire Recycling Fund.

(1) There is created an expendable special revenue fund entitled the "Waste Tire Recycling Fund."

(2) The fund shall consist of:

(a) the proceeds of:

(i) a fee imposed under Section 19-6-805; and

(ii) a fee imposed under Section 19-6-806; and

(b) penalties collected under this part[~~; and~~].

[~~(c) money paid into the account under Section 19-6-808.5.~~]

(3) Money in the fund shall be used for:

(a) partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires as provided in this part; and

(b) payment of administrative costs of local health departments as provided in Section 19-6-817[~~; and~~].

[~~(c) payment to a county pusuant to Section 19-6-808.5.~~]

(4) The Legislature may appropriate money from the fund to pay for:

(a) the costs of the Department of Environmental Quality in administering and enforcing this part; and

(b) other operational costs of the Department of Environmental Quality, if the Legislature estimates there is a deficit in the Department of Environmental Quality's budget for the current or next fiscal year.

Section 2. Section 19-6-816.5 is amended to read:

19-6-816.5. Fund balance maintenance.

(1) As used in this section:

(a) "Qualified recycler" means a recycler who is qualified to receive a partial reimbursement under Section 19-6-809 during a fiscal year for which there are surplus funds.

(b) "Surplus funds" means, at the end of a fiscal year, money in the fund in excess of $2,000,000 after all partial reimbursements and payments to local health departments[~~, and all payments to a county~~] as provided in this part have been paid.

(2) At the end of a fiscal year, the Division of Finance shall use surplus funds to make payments to qualified recyclers equal to $10 for each ton of waste tires, material derived from waste tires, or chipped tires, for which the recycler received a partial reimbursement under Subsection 19-6-809(2).

(3) If the surplus funds are insufficient to make the payments described in Subsection (2), the Division of Finance shall prorate the amount per ton that is paid to each qualified recycler.

(4) The Division of Finance may not make [~~any~~] a payment under this section that would cause the balance of the fund to be less than $2,000,000.

Section 3. Repealer.

This bill repeals:

Section 19-6-808.5, Municipal landfill deposits.

CHAPTER 389
H. B. 120
Passed February 10, 2023
Approved March 20, 2023
Effective May 3, 2023

WEAPON POSSESSION AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions relating to the possession of a weapon.

Highlighted Provisions:

This bill:

- amends the definition of a Category II restricted person relating to domestic violence.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-503, as last amended by Laws of Utah 2021, Chapter 262

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-503 is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of any violent felony as defined in Section 76-3-203.5;

(ii) is on probation or parole for any felony;

(iii) is on parole from secure care, as defined in Section 80-1-102;

(iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5;

(v) is an alien who is illegally or unlawfully in the United States; or

(vi) is on probation for a conviction of possessing:

(A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

(B) a controlled substance analog; or

(C) a substance listed in Section 58-37-4.2.

(b) A Category II restricted person is a person who:

(i) has been convicted of any felony;

(ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(v) has been found not guilty by reason of insanity for a felony offense;

(vi) has been found mentally incompetent to stand trial for a felony offense;

(vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(viii) has been dishonorably discharged from the armed forces;

(ix) has renounced the individual's citizenship after having been a citizen of the United States;

(x) is a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that:

(A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or

(B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or

(xi) has been convicted of the commission or attempted commission of misdemeanor assault under Section 76-5-102 or aggravated assault under Section 76-5-103 against a current or former spouse, parent, guardian, individual with whom the restricted person shares a child in common, individual who is cohabitating or has cohabitated with the restricted person as a spouse, parent, or guardian, or against an individual similarly situated to a spouse, parent, or guardian of the restricted person.

(c) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(i) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to antitrust

violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(ii) a conviction or an adjudication under Section 80-6-701 which, [~~according to~~] in accordance with the law of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned, or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(d) As used in this section, a conviction for misdemeanor assault under Subsection (1)(b)(xi), does not include a conviction which, in accordance with the law of the jurisdiction in which the conviction occurred, has been expunged, set aside, reduced to an infraction by court order, pardoned, or regarding which the person's civil rights have been restored, unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

[~~(d)~~] (e) It is the burden of the defendant in a criminal case to provide evidence that a conviction or an adjudication under Section 80-6-701 is subject to an exception provided in Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or the adjudication is not subject to that exception.

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

(6) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section 24-3-103;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (8)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

(9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person any information that the person knows to be materially false information with intent to deceive

the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (9) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

CHAPTER 390
H. B. 140
Passed March 3, 2023
Approved March 20, 2023
Effective July 1, 2023

STANDARD RESPONSE PROTOCOL TO ACTIVE THREATS IN SCHOOLS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Chris H. Wilson
Cosponsors: Cheryl K. Acton
Karianne Lisonbee
Karen M. Peterson
Ryan D. Wilcox

LONG TITLE

General Description:

This bill codifies and expands on existing administrative rules related to required emergency drills in public schools.

Highlighted Provisions:

This bill:

- defines terms;
- codifies portions of existing administrative rules made by the State Board of Education (state board) regarding required emergency preparedness plans, emergency response plans, training, and drills; and
- grants certain rulemaking authority to the state board.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53G-8-803, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-8-803 is enacted to read:

53G-8-803. Standard response protocol to active threats in schools.

The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) require an LEA or school to develop emergency preparedness plans and emergency response plans that include developmentally appropriate training for students and adults regarding:

(a) active threats;

(b) emergency preparedness;

(c) drills as required under Subsection 15A-5-202.5; and

(d) standard response protocols coordinated with community stakeholders;

(2) identify the necessary components of emergency preparedness and response plans, including underlying standard response protocols and emerging best practices for an emergency; and

(3) define what constitutes an "active threat" and "developmentally appropriate" for purposes of the emergency response training described in this section.

Section 2. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 391
H. B. 141
Passed February 10, 2023
Approved March 20, 2023
Effective May 3, 2023

DRIVER LICENSE TEST AMENDMENTS

Chief Sponsor: Gay Lynn Bennion
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill requires the Driver License Division to begin administering certain examinations in languages other than English.

Highlighted Provisions:

This bill:

- allows the Driver License Division to begin administering certain examinations in languages other than English;
- allows an individual to take certain driver license examinations in the individual's preferred language, subject to availability, for the individual's initial application and first renewal application for a driver license;
- allows a translator for certain driver license examinations in certain circumstances;
- requires a report from the Driver License Division to the Transportation Interim Committee; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-206, as last amended by Laws of Utah 2022, Chapters 16, 105

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-206 is amended to read:

53-3-206. Examination of applicant's physical and mental fitness to drive a motor vehicle.

(1) The division shall examine every applicant for a license, including a test of the applicant's:

(a) eyesight either:

(i) by the division; or

(ii) by allowing the applicant to furnish to the division a statement from a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(b) ability to read and understand highway signs regulating, warning, and directing traffic;

(c) ability to read and understand simple English used in highway traffic and directional signs;

(d) knowledge of the state traffic laws;

(e) other physical and mental abilities the division finds necessary to determine the applicant's fitness to drive a motor vehicle safely on the highways; and

(f) ability to exercise ordinary and responsible control driving a motor vehicle, as determined by actual demonstration or other indicator.

(2) (a) [~~Notwithstanding~~] Subject to Subsection (2)(d), and notwithstanding the provisions of Subsection (1) or any other provision of law, the division shall allow [~~a refugee, an approved asylee, or a covered humanitarian parolee~~] an individual to take an examination of the [~~person's~~] individual's knowledge of the state traffic laws in the [~~person's native~~] individual's preferred language:

(i) if the individual is a refugee, an approved asylee, or a covered humanitarian parolee:

[~~(i)~~] (A) the first time the [~~person~~] individual applies for a limited-term license certificate; and

[~~(ii)~~] (B) the first time the [~~person~~] individual applies for a renewal of a limited-term license certificate[~~,~~]; and

(ii) for any other individual applying for a class D license certificate:

(A) the first time the individual applies for a class D license certificate; and

(B) the first time the individual applies for a renewal of a class D license certificate.

(b) (i) Upon the second renewal of a refugee's, an approved asylee's, or a covered humanitarian parolee's limited-term license certificate for a refugee, an approved asylee, or a covered humanitarian parolee that has taken the knowledge exam in the [~~person's native~~] individual's preferred language under Subsection (2)(a), the division shall re-examine the [~~person's~~] individual's knowledge of the state traffic laws in English.

(ii) Upon the second renewal of an individual's class D license certificate of an individual who has taken the knowledge exam in the individual's preferred language under Subsection (2)(a)(ii), the division shall re-examine the individual's knowledge of the state traffic laws in English.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing the procedures and requirements for [~~a refugee, an approved asylee, or a covered humanitarian parolee to take an~~] the examination of the [~~person's~~] individual's knowledge of the state traffic laws in the [~~person's native~~] individual's preferred language.

(d) (i) Beginning on July 1, 2023, for a class D license certificate, except for a driving privilege card issued under Section 53-3-207, the division shall administer the written knowledge examination in as many languages as reasonably possible given budgetary and other constraints.

(ii) If the division is unable to administer the written knowledge examination in a particular language, an individual may take an examination with the assistance of a translator approved by the division.

(iii) If an individual takes the examination with the assistance of a translator, the individual is responsible for the costs of the translator.

(e) In order to provide the services described in Subsection (2)(d)(i), the division may contract with a private vendor to provide the translation services or technology.

(3) (a) For an applicant for an original or a renewal of a class D license, other than a driving privilege card or a limited term license certificate, the division shall provide the examination of [~~a person's~~] an individual's knowledge of the state traffic laws in five commonly spoken languages in the state, other than English, as determined under Subsection (3)(c).

(b) An applicant for an original or a renewal of a class D license, other than a driving privilege card or a limited term license certificate, may request to take the examination of the [~~person's~~] individual's knowledge of the state traffic laws in a language other than English, if the requested language is one of five commonly spoken languages in the state as determined under Subsection (3)(c).

(c) (i) The Division of Multicultural Affairs created in Section 9-21-201 shall recommend five commonly spoken languages in the state, other than English, for examination of [~~a person's~~] an individual's knowledge of the state traffic laws.

(ii) The division shall offer the examination of [~~a person's~~] an individual's knowledge of the state traffic laws in the five commonly spoken languages, other than English, recommended by the Division of Multicultural Affairs created in Section 9-21-201.

(4) The division shall determine whether any facts exist that would bar granting a license under Section 53-3-204.

(5) The division shall examine each applicant according to the class of license applied for.

(6) An applicant for a CDL shall meet all additional requirements of Part 4, Uniform Commercial Driver License Act, of this chapter.

(7) The division shall provide a report to the Transportation Interim Committee on or before October 1, 2023, regarding the written knowledge examination in languages other than English, including:

(a) costs associated with the program;

(b) the number of languages provided;

(c) the likelihood of adding additional languages in the future; and

(d) other information the division finds relevant.

CHAPTER 392
H. B. 165
Passed February 16, 2023
Approved March 20, 2023
Effective May 3, 2023

FIREARM DISCHARGE ON PRIVATE PROPERTY AMENDMENTS

Chief Sponsor: Trevor Lee
Senate Sponsor: Jacob L. Anderegg
Cosponsors: Katy Hall
Colin W. Jack
Tim Jimenez
Dan N. Johnson
Karianne Lisonbee

LONG TITLE

General Description:

This bill addresses liability resulting from the discharge of a firearm on private property.

Highlighted Provisions:

This bill:

- defines terms;
- provides that a private property occupant is not liable for the discharge of a firearm on the property by an individual in lawful possession of the firearm under certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5a-103, as enacted by Laws of Utah 2010, Chapter 339

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-5a-103 is amended to read:

53-5a-103. Discharge of firearm on private property -- Liability.

(1) As used in this section:

(a) "Firearm possessor" means an individual who may lawfully possess a firearm.

(b) "Property occupant" means:

(i) a private property owner; or

(ii) a person who has the right to occupy a private property under an agreement.

(2) Except as provided under Subsection [~~(2)~~] (3), a [~~private~~] property [~~owner~~] occupant, who knowingly allows [~~a person who has a permit to carry a concealed firearm under Section 53-5-704~~] a firearm possessor to lawfully bring [~~the~~] a firearm onto the [~~owner's~~] occupant's property, is not civilly or criminally liable for any damage or harm resulting from the discharge of the firearm by the [~~permit holder~~] firearm possessor while on the [~~owner's~~] occupant's property.

[~~(2)~~] (3) Subsection [~~(1)~~] (2) does not apply if the property [~~owner~~] occupant solicits, requests, commands, encourages, or intentionally aids the [~~concealed firearm permit holder~~] firearm possessor in discharging the firearm while on the [~~owner's~~] occupant's property for a purpose other than the lawful defense of an individual on the property.

(4) This section does not alter the responsibilities a tenant owes to a landlord under the terms of the lease agreement entered into between the tenant and landlord.

CHAPTER 393
H. B. 192
Passed February 10, 2023
Approved March 20, 2023
Effective May 3, 2023

TRAFFIC VIOLATION AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill expands the availability of a deferred prosecution for certain traffic infractions.

Highlighted Provisions:

This bill:

- expands the availability of a deferred prosecution for certain traffic infractions to certain individuals if the individual completes a traffic school course as part of the deferred prosecution agreement;
- requires an applicant for deferred prosecution to complete a traffic school course in certain circumstances;
- requires the Department of Public Safety to contract with one or more traffic school providers to create a traffic school program;
- grants rulemaking authority to the Department of Public Safety to make rules related to the establishment of a traffic school program;
- requires a traffic citation to include information about the individual's possible eligibility for deferred prosecution; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-2-4.2, as last amended by Laws of Utah 2022, Chapter 136
77-7-20, as last amended by Laws of Utah 2021, Chapter 431
78A-7-301, as last amended by Laws of Utah 2022, Chapters 136, 276

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-2-4.2 is amended to read:

77-2-4.2. Compromise of traffic charges -- Deferred prosecution of traffic infractions -- Limitations.

(1) As used in this section:

(a) "Compromise" means referral of an individual charged with a traffic violation to traffic school or other school, class, or remedial or rehabilitative program.

(b) "Deferral period" means the 12-month period following the date on which an individual submits an application for deferred prosecution.

(c) "Deferred prosecution" means the deferral of prosecution of an individual charged with a traffic infraction if the individual complies with the requirements described in Subsection (5).

(d) "Felony traffic violation" means a violation of Title 41, Chapter 6a, Traffic Code, amounting to a felony.

(e) "Moving traffic infraction" means a traffic infraction that occurs when a vehicle is in motion on a highway.

(f) (i) "Traffic infraction" means a violation of Title 41, Chapter 6a, Traffic Code, or a local traffic ordinance that is an infraction.

(ii) "Traffic infraction" does not include an offense that is a misdemeanor or a felony.

(g) "Traffic school deferred prosecution" means a deferred prosecution for which completion of traffic school is required as a condition of the application.

[~~(g)~~] (h) "Traffic violation" means any charge for which a fine may be voluntarily remitted in lieu of appearance, by citation or information, of a violation of:

(i) Title 41, Chapter 6a, Traffic Code, amounting to:

(A) a class B misdemeanor;

(B) a class C misdemeanor; or

(C) an infraction; or

(ii) any local traffic ordinance.

(2) Any compromise of a traffic violation shall be done pursuant to a plea in abeyance agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, and Subsection (3), except:

(a) when the criminal prosecution is dismissed pursuant to Section 77-2-4;

(b) when there is a plea by the defendant to and entry of a judgment by a court for the offense originally charged or for an amended charge; or

(c) when there is a deferred plea of no contest as provided in Subsection (5).

(3) In all cases which are compromised pursuant to a plea in abeyance:

(a) the court, taking into consideration the offense charged, shall collect a plea in abeyance fee which shall:

(i) be subject to the same surcharge as if imposed on a criminal fine;

(ii) be allocated subject to the surcharge as if paid as a criminal fine under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation; and

(iii) be not more than $25 greater than the fine designated in the Uniform Fine Schedule; or

(b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic school or other school, class, or rehabilitative program shall be collected, which surcharge shall:

(i) be computed, assessed, collected, and remitted in the same manner as if the traffic school fee and surcharge had been imposed as a criminal fine and surcharge; and

(ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation.

(4) If a written plea in abeyance agreement is provided, or the defendant requests a written accounting, an itemized statement of all amounts assessed by the court shall be provided, including:

(a) the Uniform Fine Schedule amount;

(b) the amount of any surcharges being assessed; and

(c) the amount of the plea in abeyance fee.

(5) (a) (i) Except as provided in Subsection (5)(b), an individual who receives a citation for a moving traffic infraction may apply for deferred prosecution.

(ii) A court may not require an individual to appear in-person to apply for a deferred prosecution in accordance with this Subsection (5).

(b) The following may not apply for or be granted a deferred prosecution as described in this section:

(i) an individual under 21 years old;

(ii) an individual with a commercial driver license;

(iii) an individual who has not been issued a current Utah driver license;

(iv) an individual who has been convicted of a felony traffic violation, traffic violation, or traffic infraction within the 24 months immediately preceding the date of the application for deferred prosecution;

(v) an individual charged with two or more moving traffic infractions related to the same episode or occurrence;

(vi) an individual charged with multiple traffic infractions related to the same episode or occurrence if any of the offenses is a misdemeanor or felony traffic violation;

(vii) an individual charged with one or more traffic infractions if none of the traffic infractions are moving traffic violations;

(viii) an individual charged with any traffic infraction or traffic violation that is part of an episode or occurrence involving a traffic accident;

(ix) an individual charged with a moving traffic violation that is for speeding 20 miles per hour or more above the posted speed limit;

(x) an individual charged with a moving violation that is for speeding at a speed of 100 miles per hour or more; or

(xi) an individual who is currently within a deferral period related to a separate episode or occurrence.

(6) (a) Except as provided in Subsection (6)(b), and upon availability of the traffic school program described in Subsection (11), if an individual completes a traffic school course as described in Subsection (11) within 28 days after the date the individual applies for traffic school deferred prosecution, an individual may apply for and be granted a traffic school deferred prosecution if:

(i) the individual has one or fewer moving traffic infraction convictions in the 24 months immediately preceding the current citation;

(ii) the individual received a citation for more than one but less than three moving traffic infractions from the same incident or occurrence;

(iii) the individual was involved in an accident during the commission of the traffic infraction, other than an accident resulting in serious bodily injury, as defined in Section 41-6a-401.3, or death; or

(iv) the individual received a citation for speeding between 20 and 30 miles per hour over the legal speed limit if the speeding violation is not more than double the legal speed limit.

(b) The following may not apply for or be granted a traffic school deferred prosecution in accordance with this Subsection (6):

(i) an individual to whom more than one of the conditions in Subsection (6)(a) apply;

(ii) an individual under 21 years old;

(iii) an individual with a commercial driver license;

(iv) an individual who has not been issued a current Utah driver license;

(v) an individual who has been convicted of a felony traffic violation or traffic violation within the 24 months immediately preceding the date of the application for deferred prosecution;

(vi) an individual charged with three or more moving traffic infractions related to the same episode or occurrence; or

(vii) an individual charged with multiple traffic infractions related to the same episode or occurrence if any of the offenses is a misdemeanor or felony traffic violation.

(c) A court may not require an individual to appear in-person to apply for traffic school deferred prosecution in accordance with this Subsection (6).

[~~(c)~~] (7) An individual who applies for deferred prosecution or traffic school deferred prosecution shall:

[~~(i)~~] (a) apply through an online application process developed by the Administrative Office of the Courts;

[~~(ii)~~] (b) pay the relevant fine, as provided by the uniform fine schedule described in Section 76-3-301.5, associated with each traffic infraction for which the individual was charged;

[~~(iii)~~] (c) pay an administrative fee as established by the judicial council; and

[~~(iv)~~] (d) enter a deferred plea of no contest as described in Subsection [~~(5)(e).~~] (9).

[~~(d)~~] (8) An individual who receives a traffic citation shall:

[~~(i)~~] (a) comply with Section 77-7-19; [~~or~~]

[~~(ii)~~] (b) apply for deferred prosecution as described in Subsection [~~(5)(e)~~] (7) no sooner than five and no later than 21 days after receiving the citation[~~.~~]; or

(c) for a traffic school deferred prosecution as described in Subsection (6), apply for deferred prosecution as described in Subsection (7) no later than 28 days after submitting an application into the deferred prosecution system.

[~~(e)~~] (9) If an eligible individual applies for deferred prosecution, the court shall:

[~~(i)~~] (a) record the deferred plea of no contest;

[~~(ii)~~] (b) not enter the deferred plea of no contest unless the individual fails to comply with the terms of the deferred prosecution; and

[~~(iii)~~] (c) if the individual fails to comply with the terms of the deferred prosecution, enter a judgment of conviction as described in Subsection [~~(5)(f)(ii).~~] (10)(b).

[~~(f)~~] (10) [~~(i)~~] (a) Except as provided in Subsection [~~(5)(f)(ii)~~] (10)(b), if an individual enters a deferred plea of no contest as described in Subsection [~~(5)(e)(iv)~~] (7)(d) and is not convicted of another traffic violation, felony traffic violation, or traffic infraction during the deferral period:

[~~(A)~~] (i) the prosecutor may not prosecute the individual for the traffic infraction subject to the deferred prosecution;

[~~(B)~~] (ii) the court may not enter judgment of conviction against the individual or impose a sentence for the traffic infraction; and

[~~(C)~~] (iii) the court shall dismiss each traffic infraction to which the individual entered a deferred plea of no contest.

[~~(ii)~~] (b) If an individual enters a deferred plea of no contest as described in Subsection [~~(5)(e)(iv)~~] (7)(d) and is convicted of another a traffic violation within the deferral period, the court shall enter judgment of conviction against the individual for each traffic infraction to which the individual entered a deferred plea of no contest.

[~~(g)~~] (c) (i) A prosecutor may not amend a charge from an infraction to a misdemeanor:

(A) if the infraction offense has the same elements as the misdemeanor offense; or

(B) for the sole purpose of prohibiting an individual from applying for deferred prosecution.

(ii) A deferred prosecution is not a prosecution for purposes of Section 76-1-403.

[~~(h)~~] (d) (i) The judicial council shall set and periodically adjust the fee described in Subsection [~~(5)(e)(iii)~~] (7)(c) in an amount that the judicial council determines to be necessary to cover the cost to implement, operate, and maintain the deferred prosecution program described in this Subsection (5).

(ii) The state treasurer shall deposit the revenue generated from the administrative fee described in Subsection [~~(5)(e)(iii)~~] (7)(c) into the Justice Court Technology, Security, and Training Account created in Section 78A-7-301.

(11) (a) The Department of Public Safety may enter into a contract with a traffic school provider to establish a traffic school course as described in this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Public Safety may make rules necessary to establish a traffic school program, including:

(i) establishing requirements and standards for the curriculum of a traffic school program;

(ii) establishing a fee for an individual to enroll and complete the traffic school course; and

(iii) creating a method to electronically transmit the completion of the course to the relevant court as required in Subsection (11)(c).

(c) The Department of Public Safety shall ensure than any traffic school program created under this Subsection (11) includes the ability for the traffic school provider to electronically transmit successful completion of the traffic school course to the relevant court.

(d) The Department of Public Safety shall ensure that the traffic school program required under this Subsection (11) is established no later than November 1, 2023.

(e) After the Department of Public Safety enters into a contract with a traffic school provider as described in this Subsection (11), no later than March 1, 2024, the Administrative Office of the Courts shall coordinate with the traffic school provider to ensure the traffic school provider and the Administrative Office of the Courts:

(i) establish the traffic school program as described in this Subsection (11); and

(ii) establish means by which completion of the traffic school course may be verified electronically.

Section 2. Section 77-7-20 is amended to read:

77-7-20. Service of citation on defendant -- Filing in court -- Electronic filing -- Contents of citations.

(1) Except as provided in Subsection (4), a peace officer or other authorized official who issues a citation pursuant to Section 77-7-18 shall give the citation to the individual cited and shall, within five business days, electronically file the data from Subsections (2)(a) through (2)(h) with the court specified in the citation. The data transmission shall use the court's electronic filing interface. A nonconforming filing is not effective.

(2) The citation issued under authority of this chapter shall contain the following data:

(a) the name, address, and phone number of the court before which the individual is to appear;

(b) the name and date of birth of the individual cited;

(c) a brief description of the offense charged;

(d) the date, time, and place at which the offense is alleged to have occurred;

(e) the date on which the citation was issued;

(f) the name of the peace officer or official who issued the citation, and the name of the arresting individual if a private party made the arrest and the citation was issued in lieu of taking the arrested individual before a magistrate;

(g) the time and date on or date range during which the individual is to appear or a statement that the court will notify the individual of the time to appear;

(h) whether the offense is a domestic violence offense; [~~and~~]

(i) language informing the individual that the individual may be eligible for deferred prosecution under Section 77-2-4.2, including a link to a website with information regarding deferred prosecution; and

[~~(i)~~] (j) a notice containing substantially the following language:

READ CAREFULLY

This citation is not an information and will not be used as an information without your consent. If an information is filed you will be provided a copy by the court. You MUST appear in court on or before the time set in this citation or as directed by the court. IF YOU FAIL TO APPEAR, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

(3) By electronically filing the data with the court, the peace officer or official affirms to the court that:

(a) the citation or information, including the summons and complaint, was served upon the defendant in accordance with the law;

(b) the defendant committed the offense described in the served documents; and

(c) the court to which the defendant was directed to appear has jurisdiction over the offense charged.

(4) (a) If a citing law enforcement officer is not reasonably able to access the efiling system, the citation need not be filed electronically if being filed with a justice court.

(b) The court may accept an electronic filing received after five business days if:

(i) the defendant consents to the filing; and

(ii) the court finds the interests of justice would be best served by accepting the filing.

Section 3. Section 78A-7-301 is amended to read:

78A-7-301. Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

(1) There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

(2) The state treasurer shall deposit in the account:

(a) money collected from the surcharge established in Subsection 78A-7-122(4)(b)(iii); and

(b) the administrative fee from a deferred prosecution or traffic school deferred prosecution under Subsection 77-2-4.2(5) or (6).

(3) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for:

(a) audit, technology, security, and training needs in justice courts throughout the state;

(b) additional compensation for presiding judges and associate presiding judges for justice courts under Section 78A-7-209.5; and

(c) costs to implement, operate, and maintain deferred prosecution and traffic school deferred prosecution pursuant to [~~Subsection 77-2-4.2(5)~~] Subsections 77-2-4.2(5) and (6).

CHAPTER 394
H. B. 216
Passed February 28, 2023
Approved March 20, 2023
Effective July 1, 2024

BUSINESS AND CHANCERY COURT AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses the establishment of the Business and Chancery Court.

Highlighted Provisions:

This bill:

- defines terms;
- establishes the Business and Chancery Court;
- addresses the postjudgment interest rate for judgments of the Business and Chancery Court;
- addresses retention elections for judges of the Business and Chancery Court;
- addresses salaries for judges of the Business and Chancery Court;
- provides that the Business and Chancery Court is not geographically divided into districts;
- provides the number of judges of the Business and Chancery Court;
- amends the membership of the Judicial Council to include a member from the Business and Chancery Court;
- amends provisions regarding the administration of the courts to address the creation of the Business and Chancery Court;
- addresses a judicial hiring freeze for judges of the Business and Chancery Court;
- provides that the Business and Chancery Court is a trial court with statewide jurisdiction;
- addresses the organization and status of the Business and Chancery Court;
- addresses the jurisdiction of the Business and Chancery Court;
- provides that the Business and Chancery Court is the trier of fact and law in an action before the Business and Chancery Court;
- addresses a demand for a jury trial in the Business and Chancery Court;
- addresses the administration of the Business and Chancery Court, including:
  - the terms for judges of the Business and Chancery Court;
  - the presiding judge and associate presiding judge of the Business and Chancery Court; and
  - staff and management of the Business and Chancery Court;
- addresses the location and facilities of the Business and Chancery Court;
- enacts a civil fee for the Business and Chancery Court;
- addresses decisions and rulings by the Business and Chancery Court;
- addresses the selection process for judges of the Business and Chancery Court, including the creation of the Business and Chancery Court Nominating Commission;
- amends provisions regarding the Judicial Conduct Commission; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

15-1-4, as last amended by Laws of Utah 2018, Chapter 30
20A-12-201, as last amended by Laws of Utah 2022, Chapter 202
63A-5b-303, as last amended by Laws of Utah 2022, Chapters 169, 421
67-8-2, as last amended by Laws of Utah 2022, Chapter 276
77-38-502, as enacted by Laws of Utah 2020, Chapter 112
78A-1-101, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-1-102, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-2-103, as last amended by Laws of Utah 2018, Chapter 25
78A-2-104, as last amended by Laws of Utah 2021, Chapter 262
78A-2-107, as last amended by Laws of Utah 2018, Chapters 25, 200
78A-2-108, as last amended by Laws of Utah 2018, Chapter 25
78A-2-110, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-2-113, as enacted by Laws of Utah 2010, Chapter 175
78A-2-202, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-2-204, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-2-208, as last amended by Laws of Utah 2016, Chapter 126
78A-2-211, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-2-213, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-2-802, as last amended by Laws of Utah 2022, Chapter 334
78A-5-107, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-10-103, as last amended by Laws of Utah 2016, Third Special Session, Chapter 7
78A-10-104, as last amended by Laws of Utah 2010, Chapter 134 and last amended by Coordination Clause, Laws of Utah 2010, Chapter 134
78A-10-301, as enacted by Laws of Utah 2008, Chapter 3
78A-10-302, as last amended by Laws of Utah 2010, Chapter 134
78A-10-303, as last amended by Laws of Utah 2010, Chapter 134
78A-10-304, as enacted by Laws of Utah 2008, Chapter 3
78A-10-305, as repealed and reenacted by Laws of Utah 2010, Chapter 286

78A-11-102, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-11-103, as last amended by Laws of Utah 2020, Chapters 352, 373
78A-11-106, as last amended by Laws of Utah 2018, Chapter 25

ENACTS:
78A-1-103.5, Utah Code Annotated 1953
78A-2-301.1, Utah Code Annotated 1953
78A-5a-101, Utah Code Annotated 1953
78A-5a-102, Utah Code Annotated 1953
78A-5a-103, Utah Code Annotated 1953
78A-5a-104, Utah Code Annotated 1953
78A-5a-105, Utah Code Annotated 1953
78A-5a-201, Utah Code Annotated 1953
78A-5a-202, Utah Code Annotated 1953
78A-5a-203, Utah Code Annotated 1953
78A-5a-204, Utah Code Annotated 1953
78A-5a-205, Utah Code Annotated 1953
78A-5a-301, Utah Code Annotated 1953
78A-5a-302, Utah Code Annotated 1953
78A-10-101.5, Utah Code Annotated 1953
78A-10-401, Utah Code Annotated 1953
78A-10-402, Utah Code Annotated 1953
78A-10-403, Utah Code Annotated 1953
78A-10-404, Utah Code Annotated 1953
78A-10-405, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15-1-4 is amended to read:

15-1-4. Interest on judgments.

(1) As used in this section, "federal postjudgment interest rate" means the interest rate established for the federal court system under 28 U.S.C. Sec. 1961, as amended.

(2) (a) Except as provided in Subsection (2)(b), a judgment rendered on a lawful contract shall conform to the contract and shall bear the interest agreed upon by the parties, which shall be specified in the judgment.

(b) A judgment rendered on a deferred deposit loan subject to Title 7, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act, shall bear interest at the rate imposed under Subsection (3)(a) on an amount not exceeding the sum of:

(i) the total of the principal balance of the deferred deposit loan;

(ii) interest at the rate imposed by the deferred deposit loan agreement for a period not exceeding 10 weeks as provided in Subsection 7-23-401(4);

(iii) costs;

(iv) attorney fees; and

(v) other amounts allowed by law and ordered by the court.

(3) (a) Except as otherwise provided by law, or as governed by Subsection (4), all other final civil and criminal judgments of the district court [~~and~~], the justice court, and the Business and Chancery Court shall bear interest at the federal postjudgment interest rate as of January 1 of each year, plus 2%.

(b) The postjudgment interest rate in effect at the time of the judgment shall remain the interest rate for the duration of the judgment.

(c) The interest on criminal judgments shall be calculated on the total amount of the judgment.

(d) Interest paid on state revenue shall be deposited in accordance with Section 63A-3-505.

(e) Interest paid on revenue to a county or municipality shall be paid to the general fund of the county or municipality.

(4) A judgment under $10,000 in an action regarding the purchase of goods and services shall bear interest from the date on which the district court [~~or~~], the justice court, or the Business and Chancery Court enters the judgment at 10% plus the federal postjudgment interest rate in effect on January 1 of the year in which the judgment is entered.

Section 2. Section 20A-12-201 is amended to read:

20A-12-201. Judicial appointees -- Retention elections.

(1) (a) Each judicial appointee to a court is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.

(b) After the first retention election:

(i) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and

(ii) each judge of other courts shall be on the regular general election ballot for an unopposed retention election every sixth year.

(2) (a) Each justice or judge of a court of record who wishes to retain office shall, in the year the justice or judge is subject to a retention election:

(i) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and

(ii) pay a filing fee of $50.

(b) (i) Each justice court judge who wishes to retain office shall, in the year the justice court judge is subject to a retention election:

(A) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and

(B) pay a filing fee of $25 for each judicial office.

(ii) If a justice court judge is appointed or elected to more than one judicial office, the declaration of candidacy shall identify all of the courts included in the same general election.

(iii) If a justice court judge is appointed or elected to more than one judicial office, filing a declaration of candidacy in one county in which one of those courts is located is valid for the courts in any other county.

(3) (a) The lieutenant governor shall, no later than August 31 of each regular general election year:

(i) transmit a certified list containing the names of the justices of the Supreme Court [~~and~~], judges of the Court of Appeals, and judges of the Business and Chancery Court declaring their candidacy to the county clerk of each county; and

(ii) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office.

(b) Each county clerk shall place the names of justices and judges standing for retention election in the nonpartisan section of the ballot.

(4) (a) At the general election, the ballots shall contain:

(i) at the beginning of the judicial retention section of the ballot, the following statement:

"Visit judges.utah.gov to learn about the Judicial Performance Evaluation Commission's recommendations for each judge"; and

(ii) as to each justice or judge of any court to be voted on in the county, the following question:

"Shall _____(name of justice or judge) be retained in the office of _____? (name of office, such as "Justice of the Supreme Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the Business and Chancery Court of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county) County or (name of municipality)")

Yes ()

No ()."

(b) If a justice court exists by means of an interlocal agreement under Section 78A-7-102, the ballot question for the judge shall include the name of that court.

(5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge is retained for the term of office provided by law.

(b) If the justice or judge does not receive more yes votes than no votes, the justice or judge is not retained, and a vacancy exists in the office on the first Monday in January after the regular general election.

(6) A justice or judge not retained is ineligible for appointment to the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) (a) If a justice court judge is standing for retention for one or more judicial offices in a county in which the judge is a county justice court judge or a municipal justice court judge in a town or municipality of the fourth or fifth class, as described in Section 10-2-301, or any combination thereof, the election officer shall place the judge's name on the county ballot only once for all judicial offices for which the judge seeks to be retained.

(b) If a justice court judge is standing for retention for one or more judicial offices in a municipality of the first, second, or third class, as described in Section 10-2-301, the election officer shall place the judge's name only on the municipal ballot for the voters of the municipality that the judge serves.

Section 3. Section 63A-5b-303 is amended to read:

63A-5b-303. Duties and authority of division.

(1) (a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities:

(A) to implement the state building energy efficiency program under Section 63A-5b-1002; and

(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 62A-5-206.6(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed $500,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3) (a) The division may not supervise or control the allocation of space for an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

(e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts [~~referred to in Subsection 78A-2-108(3)~~] described in Section 78A-2-108.

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 4. Section 67-8-2 is amended to read:

67-8-2. Salaries of judges established annually in appropriations act -- Bases of salaries -- Additional compensation.

(1) The salaries of judges of courts of record, as described in Section 78A-1-101, shall be set annually by the Legislature in an appropriations act.

(2) Judicial salaries shall be based on the following percentages of the salary of a district court judge:

(a) juvenile court judges: 100%;

(b) Business and Chancery Court judges: 100%;

[~~(b)~~] (c) Court of Appeals judges: 105%; and

[~~(c)~~] (d) justices of the Supreme Court: 110%.

(3) (a) A salary described in Subsection (2) does not include additional compensation provided for a presiding judge or associate presiding judge under:

(i) Section 78A-3-101;

(ii) Section 78A-4-102;

(iii) Section 78A-5-106;

(iv) Section 78A-5a-202; or

[~~(iv)~~] (v) Section 78A-6-203.

(b) Compensation described in Subsection (3)(a) does not constitute a salary for purposes of Utah Constitution, Article VIII, Section 14.

Section 5. Section 77-38-502 is amended to read:

77-38-502. Definitions.

As used in this part:

(1) "Certifying entity" means any of the following:

(a) a law enforcement agency, as defined in Section 77-7a-103;

(b) a prosecutor, as defined in Section 77-22-4.5;

(c) a court[~~, as defined~~] described in Section 78A-1-101;

(d) any other authority that has responsibility for the detection, investigation, or prosecution of a qualifying crime or criminal activity; and

(e) an agency that has criminal detection or investigative jurisdiction in the agency's respective areas of expertise, including:

(i) the Division of Child and Family Services; and

(ii) the Labor Commission.

(2) "Certifying official" means:

(a) the head of the certifying entity;

(b) a person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency;

(c) a judge; or

(d) any other certifying official defined under 8 C.F.R. Sec. 214.14.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(4) (a) "Qualifying criminal activity" means the same as that term is defined in 8 C.F.R. Sec. 214.14.

(b) "Qualifying criminal activity" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal activity described in Subsection (4)(a), and the attempt, conspiracy, or solicitation to commit any of those offenses.

Section 6. Section 78A-1-101 is amended to read:

78A-1-101. Courts of this state -- Courts of record.

(1) The following are the courts [~~of justice~~] of this state:

(a) the Supreme Court;

(b) the Court of Appeals;

(c) the Business and Chancery Court;

[~~(c)~~] (d) the district courts;

[~~(d)~~] (e) the juvenile courts; and

[~~(e)~~] (f) the justice courts.

(2) All courts are courts of record, except the justice courts, which are courts not of record.

Section 7. Section 78A-1-102 is amended to read:

78A-1-102. Trial courts of record -- Geographical divisions.

(1) The district and juvenile courts [~~shall be~~] are divided into eight geographical divisions:

[~~(1)~~] (a) First Judicial District [~~-~~], which includes Box Elder, Cache, and Rich Counties;

[~~(2)~~] (b) Second Judicial District [~~-~~], which includes Weber, Davis, and Morgan Counties;

[~~(3)~~] (c) Third Judicial District [~~-~~], which includes Salt Lake, Summit, and Tooele Counties;

[~~(4)~~] (d) Fourth Judicial District [~~-~~], which includes Utah, Wasatch, Juab, and Millard Counties;

[~~(5)~~] (e) Fifth Judicial District [~~-~~], which includes Beaver, Iron, and Washington Counties;

[~~(6)~~] (f) Sixth Judicial District [~~-~~], which includes Garfield, Kane, Piute, Sanpete, Sevier, and Wayne Counties;

[~~(7)~~] (g) Seventh Judicial District [~~-~~], which includes Carbon, Emery, Grand, and San Juan Counties; and

[~~(8)~~] (h) Eighth Judicial District [~~-~~], which includes Daggett, Duchesne, and Uintah Counties.

(2) The Business and Chancery Court is not divided into geographical divisions.

Section 8. Section 78A-1-103.5 is enacted to read:

78A-1-103.5. Number of Business and Chancery Court judges.

The Business and Chancery Court shall consist of one judge.

Section 9. Section 78A-2-103 is amended to read:

78A-2-103. Definitions.

As used in this chapter:

(1) "Conference" means the annual statewide judicial conference established by Section 78A-2-111.

(2) "Council" means the Judicial Council [~~established by Article VIII, Sec. 12, Utah Constitution~~].

(3) "Courts" mean all courts of this state, including all courts of record and not of record.

(4) "Judicial Council" means the Judicial Council established by Utah Constitution, Article VIII, Section 12.

Section 10. Section 78A-2-104 is amended to read:

78A-2-104. Judicial Council -- Creation -- Members -- Terms and election -- Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.

(1) The Judicial Council[~~, established by Article VIII, Section 12, Utah Constitution, shall be~~] is composed of:

(a) the chief justice of the Supreme Court;

(b) one member elected by the justices of the Supreme Court;

(c) one member elected by the judges of the Court of Appeals;

(d) one member elected by the judges of the Business and Chancery Court;

[~~(d)~~] (e) six members elected by the judges of the district courts;

[~~(e)~~] (f) three members elected by the judges of the juvenile courts;

[~~(f)~~] (g) three members elected by the justice court judges; and

[~~(g)~~] (h) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Utah State Bar in good standing at the time of election by the Board of Commissioners.

(2) The Judicial Council shall have a seal.

(3) (a) The chief justice of the Supreme Court shall act as presiding officer of the [~~council~~] Judicial Council and chief administrative officer for the courts.

(b) The chief justice shall vote only in the case of a tie.

[~~(b)~~] (4) (a) All members of the [~~council~~] Judicial Council shall serve for three-year terms.

[~~(i)~~] (b) If a [~~council~~] Judicial Council member should die, resign, retire, or otherwise fail to complete a term of office, the appropriate constituent group shall elect a member to complete the term of office.

[~~(ii)~~] (c) In courts having more than one member, the members shall be elected to staggered terms.

[~~(iii)~~]

(d) The [~~person~~] individual elected by the Board of Commissioners under Subsection (1)(h) may complete a three-year term of office on the Judicial Council even though the [~~person~~] individual ceases to be a member or ex officio member of the Board of Commissioners.

(e) The [~~person~~] individual elected by the Board of Commissioners under Subsection (1)(h) shall be an active member of the Utah State Bar in good standing for the entire term of the Judicial Council.

[~~(c)~~] (f) Elections [~~shall be~~] are held under rules made by the Judicial Council.

[~~(4)~~] (5) (a) The [~~council~~] Judicial Council is responsible for the development of uniform administrative policy for the courts throughout the state.

(b) The presiding officer of the Judicial Council is responsible for the implementation of the policies developed by the [~~council~~] Judicial Council and for the general management of the courts, with the aid of the state court administrator.

(c) The [~~council~~] Judicial Council has authority and responsibility to:

[~~(a)~~] (i) establish and assure compliance with policies for the operation of the courts, including uniform rules and forms; and

[~~(b)~~] (ii) publish and submit to the governor, the chief justice of the Supreme Court, and the Legislature an annual report of the operations of the courts, which shall include financial and statistical data and may include suggestions and recommendations for legislation.

[~~(5)~~] (6) The [~~council~~] Judicial Council shall establish standards for the operation of the courts of the state, including[~~, but not limited to,~~] facilities, court security, support services, and staff levels for judicial and support personnel.

[~~(6)~~] (7) The [~~council~~] Judicial Council shall by rule:

(a) establish the time and manner for destroying court records, including computer records[~~, and shall~~]; and

(b) establish retention periods for [~~these~~] court records.

[~~(7)~~] (8) (a) Consistent with the requirements of judicial office and security policies, the [~~council~~] Judicial Council shall establish procedures to govern the assignment of state vehicles to public officers of the judicial branch.

(b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and may be assigned for unlimited use, within the state only.

[~~(8)~~] (9) (a) The [~~council~~] Judicial Council shall:

(i) advise judicial officers and employees concerning ethical issues; and [~~shall~~]

(ii) establish procedures for issuing informal and formal advisory opinions on [~~these~~] ethical issues.

(b) Compliance with an informal opinion is evidence of good faith compliance with the Code of Judicial Conduct.

(c) A formal opinion constitutes a binding interpretation of the Code of Judicial Conduct.

[~~(9)~~] (10) (a) The [~~council~~] Judicial Council shall establish written procedures authorizing the presiding officer of the [~~council~~] Judicial Council to appoint judges of courts of record by special or general assignment to serve temporarily in another level of court in a specific court or generally within that level.

(b) The appointment [~~shall be for a specific period and shall be~~] under Subsection (10)(a) shall be:

(i) for a specific period of time; and

(ii) reported to the [~~council~~] Judicial Council.

[~~(b)~~] (c) [~~These procedures shall be developed~~] The Judicial Council shall develop the procedures described in this Subsection (10) in accordance with Subsection [~~78A-2-107(10)~~] 78A-2-107(2) regarding the temporary appointment of judges.

[~~(10)~~] (11) (a) The Judicial Council may by rule designate municipalities in addition to those designated by statute as a location of a trial court of record.

(b) There shall be at least one court clerk's office open during regular court hours in each county.

(c) Any trial court of record may hold court in any municipality designated as a location of a court of record.

[~~(11)~~] (12) The Judicial Council shall by rule determine whether the administration of a court [~~shall be~~] is the obligation of the Administrative Office of the Courts or whether the Administrative Office of the Courts should contract with local government for court support services.

[~~(12)~~] (13) The Judicial Council may by rule direct that a district court location be administered from another court location within the county.

[~~(13)~~] (14) (a) The Judicial Council shall:

(i) establish the Office of Guardian Ad Litem[~~,~~] in accordance with Title 78A, Chapter 2, Part 8, Guardian Ad Litem; and

(ii) establish and supervise a Guardian Ad Litem Oversight Committee.

(b) The Guardian Ad Litem Oversight Committee described in Subsection [~~(13)(a)(ii)~~] (14)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection [~~(13)(a)(i)~~] (14)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and federal law, regulation, policy, and court rules.

[~~(14)~~] (15) The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Health and Human Services, the part of the state case registry that contains records of each support order established or modified in the state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

Section 11. Section 78A-2-107 is amended to read:

78A-2-107. Court administrator -- Powers, duties, and responsibilities.

Under the general supervision of the presiding officer of the Judicial Council, and within the policies established by the [~~council,~~] the Judicial Council:

(1) the state court administrator shall:

[~~(1)~~] (a) organize and administer all of the nonjudicial activities of the courts;

[~~(2)~~] (b) assign, supervise, and direct the work of the nonjudicial officers of the courts;

[~~(3)~~] (c) implement the standards, policies, and rules established by the [~~council~~] Judicial Council;

[~~(4)~~] (d) formulate and administer a system of personnel administration, including in-service training programs;

[~~(5)~~] (e) prepare and administer the state judicial budget, fiscal, accounting, and procurement activities for the operation of the courts of record[~~, and~~];

(f) assist [~~justices'~~] justice courts in [~~their~~] budgetary, fiscal, and accounting procedures;

[~~(6)~~] (g) conduct studies of the business of the courts, including the preparation of recommendations and reports relating to [~~them~~] the studies;

[~~(7)~~] (h) develop uniform procedures for the management of court business, including the management of court calendars;

[~~(8)~~] (i) maintain liaison with the governmental and other public and private groups having an interest in the administration of the courts;

[~~(9)~~] (j) establish uniform policy concerning vacations and sick leave for judges and nonjudicial officers of the courts;

[~~(10)~~] (k) establish uniform hours for court sessions throughout the state [~~and may, with the consent of the presiding officer of the Judicial Council, call and appoint justices or judges of courts of record to serve temporarily as Court of Appeals, district court, or juvenile court judges and set reasonable compensation for their services~~];

[~~(11)~~] (l) when necessary for administrative reasons, change the county for trial of any case if no party to the litigation files timely objections to this change;

[~~(12)~~] (m) [~~(a)~~] (i) organize and administer a program of continuing education for judges and support staff, including training for justice court judges; and

[~~(b)~~] (ii) ensure that any training or continuing education described in Subsection [~~(12)(a)~~] (1)(m)(i) complies with Title 63G, Chapter 22, State Training and Certification Requirements;

[~~(13)~~] (n) provide for an annual meeting for each level of the courts of record[~~,~~] and the annual judicial conference; and

[~~(14)~~] (o) perform other duties as assigned by the presiding officer of the [~~council.~~] Judicial Council; and

(2) with the consent of the presiding officer of the Judicial Council, the state court administrator may:

(a) call and appoint a justice or judge of a court of record to serve temporarily as a judge of the Court of Appeals, the Business and Chancery Court, a district court, or a juvenile court; and

(b) set reasonable compensation for the service of a justice or judge under Subsection (2)(a).

Section 12. Section 78A-2-108 is amended to read:

78A-2-108. Assistants for state court administrator -- Appointment of trial court executives.

(1) The state court administrator, with the approval of the presiding officer of the [~~council~~] Judicial Council, is responsible for the establishment of positions and salaries of assistants as necessary to enable the state court administrator to perform the powers and duties vested in the state court administrator by this chapter, including the positions of appellate court administrator, business and chancery court administrator, district court administrator, juvenile court administrator, and [~~justices'~~] justice court administrator[~~, whose appointments shall be made by the state court administrator~~].

(2) The state court administrator shall appoint an appellate court administrator, a business and chancery court administrator, a district court administrator, a juvenile court administrator, and a justice court administrator with the concurrence of the respective boards as established by the [~~council~~] Judicial Council.

[~~(2)~~] (3) (a) The district court administrator, with the concurrence of the presiding judge of a district or the district court judge in single judge districts, may appoint a trial court executive in each district [~~a trial court executive~~].

(b) The trial court executive may appoint, subject to budget limitations, necessary support personnel including clerks, research clerks, secretaries, and other persons required to carry out the work of the court.

(c) The trial court executive shall supervise the work of all nonjudicial court staff and serve as administrative officer of the district.

[~~(3)~~] (4) Administrators and assistants appointed under this section [~~shall be~~] are known collectively as the Administrative Office of the Courts.

Section 13. Section 78A-2-110 is amended to read:

78A-2-110. Databases for judicial boards.

(1) As used in this section, "judicial board" means any judicial branch board, commission, council, committee, working group, task force, study group, advisory group, or other body with a defined limited membership that is created to operate for more than six months by:

(a) the constitution[~~, by~~];

(b) statute[~~, by~~];

(c) judicial order[~~, by~~];

(d) any justice or judge[~~, by~~];

(e) the Judicial Council[~~, or by~~];

(f) the state court administrator, a district court administrator, trial court executive, or a business and chancery court administrator; or [~~by~~]

(g) any clerk or administrator in the judicial branch of state government.

(2) The Judicial Council shall designate [~~a person from its staff~~] an individual from the Judicial Council's staff to maintain a computerized [~~data base~~] database containing information about all judicial boards.

(3) The [~~person~~] individual designated to maintain the [~~data base~~] database shall:

(a) ensure that the [~~data base~~] database contains:

[~~(a)~~] (i) the name of the judicial board;

[~~(b)~~] (ii) the statutory or constitutional authority for the creation of the judicial board;

[~~(c)~~] (iii) the court or other judicial entity under whose jurisdiction the judicial board operates or with which the judicial board is affiliated, if any;

[~~(d)~~] (iv) the name, address, gender, telephone number, and county of each [~~person~~] individual currently serving on the judicial board, along with a notation of all vacant or unfilled positions;

[~~(e)~~] (v) the title of the position held by the [~~person~~] individual who appointed each member of the judicial board;

[~~(f)~~] (vi) the length of the term to which each member of the judicial board was appointed and the month and year that each judicial board member's term expires;

[~~(g)~~] (vii) the organization, interest group, profession, local government entity, or geographic area that the member of the judicial board represents, if any;

[~~(h)~~] (viii) whether or not the judicial board allocates state or federal funds and the amount of those funds allocated during the last fiscal year;

[~~(i)~~] (ix) whether the judicial board is a policy board or an advisory board;

[~~(j)~~] (x) whether or not the judicial board has or exercises rulemaking authority; and

[~~(k)~~] (xi) any compensation and expense reimbursement that members of the executive board are authorized to receive[~~.~~];

[~~(4) The person designated to maintain the data base shall:~~]

[~~(a)~~] (b) make the information contained in the [~~data base~~] database available to the public upon request; [~~and~~]

[~~(b)~~] (c) cooperate with other entities of state government to publish the data or useful summaries of the data[~~.~~];

[~~(5)~~]

[~~(a)~~] (d) [~~The person designated to maintain the data bases shall~~] prepare, publish, and distribute an annual report by April 1 of each year that includes, as of March 1 of that year:

(i) the total number of judicial boards;

(ii) the name of each of those judicial boards and the court, council, administrator, executive, or clerk under whose jurisdiction the executive board operates or with which the judicial board is affiliated, if any;

(iii) for each court, council, administrator, executive, or clerk, the total number of judicial boards under the jurisdiction of or affiliated with that court, council, administrator, executive, or clerk;

(iv) the total number of members for each of those judicial boards;

(v) whether each board is a policymaking board or an advisory board and the total number of policy boards and the total number of advisory boards; and

(vi) the compensation, if any, paid to the members of each of those judicial boards[~~.~~]; and

[~~(b)~~] (e) [~~The person designated to maintain the data bases shall~~] distribute copies of the report described in Subsection (3)(d) to:

(i) the chief justice of the Utah Supreme Court;

(ii) the state court administrator;

(iii) the governor;

(iv) the president of the Utah Senate;

(v) the speaker of the Utah House;

(vi) the Office of Legislative Research and General Counsel; and

(vii) any other persons who request a copy of the annual report.

Section 14. Section 78A-2-113 is amended to read:

78A-2-113. Judicial hiring freeze authorized.

(1) As used in this section, "General Fund budget deficit" means a situation where General Fund appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

(2) During a General Fund budget deficit, the governor, president of the Senate, speaker of the House, and chief justice of the Supreme Court, may, by unanimous vote, implement a judicial hiring freeze for judicial vacancies for:

(a) a juvenile court district with three or more juvenile court judges;

(b) a district court district with three or more district court judges;

(c) all Business and Chancery Court judges;

[~~(c)~~] (d) all appellate court judges; or

[~~(d)~~] (e) any combination of Subsections (2)(a) through [~~(c)~~] (d).

(3) In implementing a judicial hiring freeze, the governor, president of the Senate, speaker of the House, and chief justice of the Supreme Court shall:

(a) establish the length of that hiring freeze; and

(b) ensure that the hiring freeze lasts at least 90 days, but not longer than the last day of the annual general session of the Legislature.

Section 15. Section 78A-2-202 is amended to read:

78A-2-202. Authority of court.

(1) [~~All courts of justice have~~] A court of this state has the authority necessary to exercise [~~their~~] the court's jurisdiction.

(2) If a procedure for an action is not established, a process may be adopted that conforms with the apparent intent of the statute or rule of procedure.

Section 16. Section 78A-2-204 is amended to read:

78A-2-204. Judicial Council to approve court seals.

The Judicial Council shall approve a seal for all courts of [~~justice~~] this state.

Section 17. Section 78A-2-208 is amended to read:

78A-2-208. Sittings of courts -- To be public -- Notice to public of recording -- Right to exclude in certain cases.

(1) The sittings of every court [~~of justice~~] of this state are public, except as provided in Subsections (3) and (4).

(2) The Judicial Council shall require that notice be given to the public that the proceedings are being recorded when an electronic or digital recording system is being used during court proceedings.

(3) The court may, in [~~its~~] the court's discretion, during the examination of a witness exclude any and all other witnesses in the proceedings.

(4) In an action of divorce, criminal conversation, seduction, abortion, rape, or assault with intent to commit rape, the court may, in [~~its~~] the court's discretion, exclude all persons who do not have a direct interest in the proceedings, except jurors, witnesses and officers of the court.

Section 18. Section 78A-2-211 is amended to read:

78A-2-211. Court days.

[~~Courts of justice~~] All courts of this state are open and judicial business may be transacted on any day, except as provided in Section 78A-2-212.

Section 19. Section 78A-2-213 is amended to read:

78A-2-213. Proceedings unaffected by vacancy in office of judge.

No proceeding in any court of [~~justice~~] this state is affected by a vacancy in the office of all or any of the judges[~~,~~] or by the failure of a term of a judge.

Section 20. Section 78A-2-301.1 is enacted to read:

78A-2-301.1. Civil fee for Business and Chancery Court.

(1) A party shall pay a fee of $500 at the time that the party files:

(a) a civil complaint or petition in the Business and Chancery Court; or

(b) a motion to transfer an action from the district court to the Business and Chancery Court.

(2) The fee described in Subsection (1) is in addition to any filing fee that a party must pay under Section 78A-2-301.

(3) All fees collected under this section are paid to the General Fund.

Section 21. Section 78A-2-802 is amended to read:

78A-2-802. Office of Guardian Ad Litem -- Appointment of director -- Duties of director -- Contracts in second, third, and fourth districts.

(1) There is created the Office of Guardian Ad Litem under the direct supervision of the Guardian

Ad Litem Oversight Committee described in Subsection [~~78A-2-104(13)~~] 78A-2-104(14).

(2) (a) The Guardian Ad Litem Oversight Committee shall appoint one individual to serve full time as the guardian ad litem director for the state.

(b) The guardian ad litem director shall:

(i) serve at the pleasure of the Guardian Ad Litem Oversight Committee, in consultation with the state court administrator;

(ii) be an attorney licensed to practice law in this state and selected on the basis of:

(A) professional ability;

(B) experience in abuse, neglect, and dependency proceedings;

(C) familiarity with the role, purpose, and function of guardians ad litem in both juvenile and district courts; and

(D) ability to develop training curricula and reliable methods for data collection and evaluation; and

(iii) before or immediately after the director's appointment, be trained in nationally recognized standards for an attorney guardian ad litem.

(3) The guardian ad litem director shall:

(a) establish policy and procedure for the management of a statewide guardian ad litem program;

(b) manage the guardian ad litem program to assure that a minor receives qualified guardian ad litem services in an abuse, neglect, or dependency proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with state and federal law and policy;

(c) develop standards for contracts of employment and contracts with independent contractors, and employ or contract with attorneys licensed to practice law in this state, to act as attorney guardians ad litem in accordance with Section 78A-2-803;

(d) develop and provide training programs for volunteers in accordance with the United States Department of Justice National Court Appointed Special Advocates Association standards;

(e) develop and update a guardian ad litem manual that includes:

(i) best practices for an attorney guardian ad litem; and

(ii) statutory and case law relating to an attorney guardian ad litem;

(f) develop and provide a library of materials for the continuing education of attorney guardians ad litem and volunteers;

(g) educate court personnel regarding the role and function of guardians ad litem;

(h) develop needs assessment strategies, perform needs assessment surveys, and ensure that guardian ad litem training programs correspond with actual and perceived needs for training;

(i) design and implement evaluation tools based on specific objectives targeted in the needs assessments described in Subsection (3)(h);

(j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee and the Child Welfare Legislative Oversight Panel created in Section 36-33-102 regarding:

(i) the development, policy, and management of the statewide guardian ad litem program;

(ii) the training and evaluation of attorney guardians ad litem and volunteers; and

(iii) the number of minors served by the office;

(k) hire, train, and supervise investigators; and

(l) administer the program of private attorney guardians ad litem established under Section 78A-2-705.

(4) A contract of employment or independent contract described in Subsection (3)(c) shall provide that an attorney guardian ad litem in the second, third, and fourth judicial districts devote the attorney guardian's ad litem full time and attention to the role of attorney guardian ad litem, having no clients other than the minors whose interest the attorney guardian ad litem represents within the guardian ad litem program.

Section 22. Section 78A-5-107 is amended to read:

78A-5-107. Court commissioners -- Qualifications -- Appointment -- Functions governed by rule.

(1) (a) Court commissioners are quasi-judicial officers of courts of record and have limited judicial authority as provided by this section and rules of the Judicial Council.

(b) Court commissioners serve full-time and are subject to the restrictions of Section 78A-2-221, which prohibits the practice of law.

(2) (a) The Judicial Council shall appoint court commissioners with the concurrence of a majority of the judges of trial courts in the district the court commissioner primarily serves.

(b) The Judicial Council may assign court commissioners appointed under this section to serve in one or more judicial districts.

(3) A person appointed as a court commissioner shall have the following qualifications:

(a) be 25 years [~~of age~~] old or older;

(b) be a citizen of the United States;

(c) be a resident of this state while serving as court commissioner;

(d) be admitted to the practice of law in this state; and

(e) possess ability and experience in the areas of law in which the commissioner will be serving.

(4) A court commissioner shall take and subscribe to the oath of office as required by Article IV, Sec. 10, Utah Constitution, prior to assuming the duties of the office.

(5) Court commissioners shall:

(a) comply with applicable constitutional and statutory provisions, court rules and procedures, and rules of the Judicial Council;

(b) comply with the Code of Judicial Conduct to the same extent as full-time judges; and

(c) successfully complete orientation and education programs as required by the Judicial Council.

(6) The presiding judge of the district the commissioner primarily serves:

(a) shall develop a performance plan for the court commissioner and annually conduct an evaluation of the commissioner's performance, and shall provide the plan and evaluations to the Judicial Council upon request; and

(b) is responsible for the day-to-day supervision of the court commissioner.

(7) The Judicial Council shall:

(a) establish by rule procedures for the investigation and review of complaints and the discipline and removal of court commissioners; and

(b) evaluate court commissioners under the requirements of Subsection [~~78A-2-104(5)~~] 78A-2-104(6).

(8) The Judicial Council shall make uniform statewide rules defining the duties and authority of court commissioners for each level of court they serve. The rules shall not exceed constitutional limitations upon the delegation of judicial authority. The rules shall at a minimum establish:

(a) types of cases and matters commissioners may hear;

(b) types of orders commissioners may recommend;

(c) types of relief commissioners may recommend; and

(d) procedure for timely judicial review of recommendations and orders made by court commissioners.

Section 23. Section 78A-5a-101 is enacted to read:

CHAPTER 5a. BUSINESS AND CHANCERY COURT

Part 1. General Provisions

78A-5a-101. Definitions.

(1) "Action" means a lawsuit or case commenced in a court.

(2) (a) "Asset" means property of all kinds, real or personal and tangible or intangible.

(b) "Asset" includes:

(i) cash, except for any reasonable compensation or salary for services rendered;

(ii) stock or other investments;

(iii) goodwill;

(iv) an ownership interest;

(v) a license;

(vi) a cause of action; and

(vii) any similar property.

(3) "Beneficial shareholder" means the same as that term is defined in Section 16-10a-1301.

(4) "Blockchain" means a cryptographically secured, chronological, and decentralized consensus ledger or consensus database maintained via Internet, peer-to-peer network, or other interaction.

(5) "Blockchain technology" means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.

(6) "Board" means the board of directors or trustees of a corporation.

(7) "Business" means any enterprise carried on for the purpose of gain or economic profit.

(8) (a) "Business organization" means an organization in any form that is primarily engaged in business.

(b) "Business organization" includes:

(i) an association;

(ii) a corporation;

(iii) a joint stock company;

(iv) a joint venture;

(v) a limited liability company;

(vi) a mutual fund trust;

(vii) a partnership; or

(viii) any other similar form of an organization described in Subsections (8)(b)(i) through (vii).

(c) "Business organization" does not include a governmental entity as defined in Section 63G-7-102.

(9) "Claim" means a written demand or assertion in an action.

(10) "Consumer contract" means a contract entered into by a consumer for the purchase of goods or services for personal, family, or household purposes.

(11) "Court" means the Business and Chancery Court established in Section 78A-5a-102.

(12) "Decentralized autonomous organization" means an organization that is created by a smart

contract deployed on a permissionless blockchain that implements specific decision-making or governance rules enabling individuals to coordinate themselves in a decentralized fashion.

(13) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(14) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(15) "Health care" means the same as that term is defined in Section 78B-3-403.

(16) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(17) "Monetary damages" does not include:

(a) punitive or exemplary damages;

(b) prejudgment or postjudgment interest; or

(c) attorney fees or costs.

(18) "Officer" means an individual designated by a board, or other governing body of a business organization, to act on behalf of the business organization.

(19) "Owner" means a person who, directly or indirectly, owns or controls an ownership interest in a business organization regardless of whether the person owns or controls the ownership interest through another person, a power of attorney, or another business organization.

(20) "Ownership interest" means an interest owned in a business organization, including any shares, membership interest, partnership interest, or governance or transferable interest.

(21) "Permissionless blockchain" means a public distributed ledger that allows an individual to transact and produce blocks in accordance with the blockchain protocol, whereby the validity of the block is not determined by the identity of the producer.

(22) "Personal injury" means a physical or mental injury, including wrongful death.

(23) "Professional" means an individual whose profession requires a license, registration, or certification on the basis of experience, education, testing, or training.

(24) "Security" means the same as that term is defined in Section 61-1-13.

(25) "Shareholder" means the record shareholder or the beneficial shareholder.

(26) "Smart contract" means code deployed on a permissionless blockchain that consists of a set of predefined instructions executed in a distributed manner by the nodes of an underlying blockchain network that produces a change on the blockchain network.

(27) "Record shareholder" means the same as that term is defined in Section 16-10a-1301.

(28) "Trustee" means a person that holds or administers an ownership interest on behalf of a third party.

Section 24. Section 78A-5a-102 is enacted to read:

78A-5a-102. Establishment of the Business and Chancery Court -- Organization and status.

(1) There is established the Business and Chancery Court for the state.

(2) The Business and Chancery Court is a court of record.

(3) The Business and Chancery Court is a trial court with limited and statewide jurisdiction over actions and claims as described in Section 78A-5a-103.

(4) The Business and Chancery Court is of equal status with the district and juvenile courts of the state.

(5) The Business and Chancery Court is established as a forum for the resolution of all matters properly brought before the Business and Chancery Court and consistent with applicable constitutional and statutory requirements of due process.

(6) The Business and Chancery Court shall have a seal.

(7) The judges and clerks of the Business and Chancery Court have the power to administer oaths and affirmations.

Section 25. Section 78A-5a-103 is enacted to read:

78A-5a-103. Concurrent jurisdiction of the Business and Chancery Court -- Exceptions.

(1) The Business and Chancery Court has jurisdiction, concurrent with the district court, over an action:

(a) seeking monetary damages of at least $300,000 or seeking solely equitable relief; and

(b) (i) with a claim arising from:

(A) a breach of a contract;

(B) a breach of a fiduciary duty;

(C) a dispute over the internal affairs or governance of a business organization;

(D) the sale, merger, or dissolution of a business organization;

(E) the sale of substantially all of the assets of a business organization;

(F) the receivership or liquidation of a business organization;

(G) a dispute over liability or indemnity between or among owners of the same business organization;

(H) a dispute over liability or indemnity of an officer or owner of a business organization;

(I) a tortious or unlawful act committed against a business organization, including an act of unfair competition, tortious interference, or misrepresentation or fraud;

(J) a dispute between a business organization and an insurer regarding a commercial insurance policy;

(K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

(L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade Secrets Act;

(M) the misappropriation of intellectual property;

(N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or confidentiality agreement, regardless of whether the agreement is oral or written;

(O) a relationship between a franchisor and a franchisee;

(P) the purchase or sale of a security or an allegation of security fraud;

(Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous organization;

(R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or

(S) a contract with a forum selection clause for a chancery, business, or commercial court of this state or any other state;

(ii) with a malpractice claim concerning services that a professional provided to a business organization; or

(iii) that is a shareholder derivative action.

(2) The Business and Chancery Court may exercise supplemental jurisdiction over all claims in an action that the Business and Chancery Court has jurisdiction under Subsection (1), except that the Business and Chancery Court may not exercise jurisdiction over:

(a) any claim arising from:

(i) a consumer contract;

(ii) a personal injury, including any personal injury relating to or arising out of health care rendered or which should have been rendered by the health care provider;

(iii) a wrongful termination of employment or a prohibited or discriminatory employment practice;

(iv) a violation of Title 13, Chapter 7, Civil Rights;

(v) Title 30, Husband and Wife;

(vi) Title 63G, Chapter 4, Administrative Procedures Act;

(vii) Title 78B, Chapter 6, Part 1, Utah Adoption Act;

(viii) Title 78B, Chapter 6, Part 5, Eminent Domain;

(ix) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer;

(x) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(xi) Title 78B, Chapter 12, Utah Child Support Act;

(xii) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(xiii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;

(xiv) Title 78B, Chapter 15, Uniform Parentage Act;

(xv) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act; or

(xvi) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act; or

(b) any criminal matter, unless the criminal matter is an act or omission of contempt that occurs in an action before the Business and Chancery Court.

Section 26. Section 78A-5a-104 is enacted to read:

78A-5a-104. Trier of fact and law -- Demand for jury trial.

(1) The Business and Chancery Court is the trier of fact and law in an action before the Business and Chancery Court.

(2) The Business and Chancery Court shall transfer an action to the district court if a party to the action demands a trial by jury in accordance with the Utah Rules of Civil Procedure.

Section 27. Section 78A-5a-105 is enacted to read:

78A-5a-105. Venue for the Business and Chancery Court.

(1) Title 78B, Chapter 3a, Venue for Civil Actions, does not apply to an action brought in the Business and Chancery Court.

(2) Any requirement in the Utah Code to file or bring an action in a specific district or county does not apply to an action brought in the Business and Chancery Court.

Section 28. Section 78A-5a-201 is enacted to read:

Part 2. Administration

78A-5a-201. Judges of the Business and Chancery Court -- Terms.

(1) A judge of the Business and Chancery Court is appointed to initially serve until the first general election held more than three years after the day on which the appointment is effective.

(2) After the initial term described in Subsection (1), the term of office of a judge of the Business and

Chancery Court is six years and commences on the first Monday in January following the date of election.

(3) A judge of the Business and Chancery Court whose term expires may serve, upon request of the Judicial Council, until a successor is appointed and qualified.

Section 29. Section 78A-5a-202 is enacted to read:

78A-5a-202. Presiding judge - Associate presiding judge -- Compensation -- Powers -- Duties.

(1) (a) The judges of the Business and Chancery Court shall elect a presiding judge from among the members of the court by majority vote of all judges.

(b) The presiding judge shall receive $2,000 per annum as additional compensation for the period served as presiding judge.

(2) The presiding judge has the following authority and responsibilities, consistent with the policies of the Judicial Council:

(a) implementing policies of the Judicial Council; and

(b) exercising powers and performing administrative duties as authorized by the Judicial Council.

(3) (a) If the Business and Chancery Court has more than two judges, the judges of the Business and Chancery Court may elect an associate presiding judge from among the members of the court by majority vote of all judges.

(b) The associate presiding judge shall receive $1,000 per annum as additional compensation for the period served as associate presiding judge.

(4) (a) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge.

(b) The associate presiding judge shall perform other duties assigned by the presiding judge.

Section 30. Section 78A-5a-203 is enacted to read:

78A-5a-203. Administrative system -- Case management -- Clerk of the court -- Employees.

(1) (a) There is established the State Business and Chancery Court Administrative System.

(b) The Judicial Council shall administer the operation of the State Business and Chancery Court Administrative System.

(2) The Business and Chancery Court shall develop a case management system that:

(a) ensures judicial accountability for the just and timely disposition of cases; and

(b) provides each judge of the Business and Chancery Court a full judicial workload that accommodates differences in the subject matter or complexity of cases assigned to different judges of the Business and Chancery Court.

(3) The clerk of the Business and Chancery Court shall:

(a) take charge of and safely keep the court seal;

(b) take charge of and safely keep or dispose of all books, papers, and records filed or deposited with the clerk and all other records required by law or the rules of the Judicial Council;

(c) issue all notices, processes, and summonses as authorized by law;

(d) keep a record of all proceedings, actions, orders, judgments, and decrees of the court;

(e) supervise the deputy clerks as required to perform the duties of the clerk's office; and

(f) perform other duties as required by the presiding judge, the business and chancery court administrator, applicable law, and the rules of the Judicial Council.

(4) All employees, except judges of the Business and Chancery Court, are selected, promoted, and discharged through the state courts personnel system for the Business and Chancery Court under the direction and rules of the Judicial Council.

Section 31. Section 78A-5a-204 is enacted to read:

78A-5a-204. Location of the Business and Chancery Court -- Court facilities -- Costs.

(1) The Business and Chancery Court is located in Salt Lake City.

(2) The Business and Chancery Court may perform any of the Business and Chancery Court's functions in any location within the state.

(3) The Judicial Council shall provide, from appropriations made by the Legislature, court space suitable for the conduct of court business for the Business and Chancery Court.

(4) The Judicial Council may, in order to carry out the Judicial Council's obligation to provide facilities for the Business and Chancery Court, lease space to be used by the Business and Chancery Court.

(5) A lease or reimbursement for the Business and Chancery Court must comply with the standards of the Division of Facilities Construction and Management that are applicable to state agencies.

(6) The cost of salaries, travel, and training required for the discharge of the duties of judges, secretaries of judges or court executives, court executives, and court reporters for the Business and Chancery Court are paid from appropriations made by the Legislature.

Section 32. Section 78A-5a-205 is enacted to read:

78A-5a-205. Court sessions.

The Business and Chancery Court shall hold court at least once in each quarter of the year.

Section 33. Section 78A-5a-301 is enacted to read:

Part 3. Business and Chancery Court Proceedings

78A-5a-301. Publication of decisions and orders.

The Business and Chancery Court shall:

(1) publish all final decisions and orders issued by the Business and Chancery Court; and

(2) make all final decisions and orders public on the Utah Courts' website.

Section 34. Section 78A-5a-302 is enacted to read:

78A-5a-302. Tentative ruling before oral argument.

The Business and Chancery Court shall provide the parties with a proposed ruling on each motion within 48 hours before the day on which oral argument is held on the motion.

Section 35. Section 78A-10-101.5 is enacted to read:

78A-10-101.5. Definitions.

As used in this part:

(1) "Commissioner" means a member appointed to a judicial nominating commission.

(2) "Judicial nominating commission" means a commission created under Section 78A-10-201, 78A-10-301, or 78A-10-402.

Section 36. Section 78A-10-103 is amended to read:

78A-10-103. Procedures governing meetings of judicial nominating commissions.

(1) The Commission on Criminal and Juvenile Justice shall:

(a) in consultation with the Judicial Council, enact rules establishing procedures governing the meetings of [~~the judicial nominating commissions~~] a judicial nominating commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) ensure that those procedures include:

(i) a minimum recruitment period of at least 30 days but not more than 90 days, unless fewer than nine applications are received for a judicial vacancy, in which case the recruitment period may be extended up to 30 days;

(ii) standards for maintaining the confidentiality of the applications and related documents;

(iii) standards governing the release of applicant names before nomination;

(iv) standards for destroying the records of the names of applicants, applications, and related documents upon completion of the nominating process;

(v) an opportunity for public comment concerning the nominating process, qualifications for judicial office, and individual applicants;

(vi) evaluation criteria for the selection of judicial nominees;

(vii) procedures for taking summary minutes at [~~nominating commission meetings~~] a judicial nominating commission meeting;

(viii) procedures for simultaneously forwarding the names of nominees to the governor, the president of the Senate, and the Office of Legislative Research and General Counsel;

(ix) standards governing a nominating commissioner's disqualification and inability to serve; and

(x) procedures that require the Administrative Office of the Courts to immediately inform the governor when a judge is removed, resigns, or retires.

(2) In determining which of the applicants are the most qualified, [~~the nominating commissions~~] a judicial nominating commission shall determine by a majority vote of the commissioners present which of the applicants best possess the ability, temperament, training, and experience that qualifies them for the office.

(3) (a) Except as provided under Subsection (3)(b):

(i) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy;

(ii) the business and chancery court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and

[~~(ii)~~] (iii) [~~trial court nominating commissions~~] a district and juvenile court nominating commission shall certify to the governor a list of the five most qualified applicants per vacancy.

(b) If a judicial nominating commission is considering applicants for more than one judicial vacancy existing at the same time and for the same court, the judicial nominating commission shall include one additional applicant for each additional vacancy in the court in the list of applicants the judicial nominating commission certifies to the governor.

(4) [~~Nominating commissions~~] A judicial nominating commission shall ensure that the list of applicants submitted to the governor:

(a) meet the qualifications required by law to fill the office; and

(b) are willing to serve.

(5) In determining which of the applicants are the most qualified, [~~nominating commissions~~] a judicial nominating commission may not decline to submit a candidate's name to the governor merely because:

(a) the judicial nominating commission had declined to submit that candidate's name to the governor to fill a previous vacancy;

(b) a previous judicial nominating commission had declined to submit that candidate's name to the governor; or

(c) that judicial nominating commission or a previous judicial nominating commission had submitted the applicant's name to the governor and the governor selected someone else to fill the vacancy.

(6) A judicial nominating commission may not nominate a justice or judge who was not retained by the voters for the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) [~~Judicial nominating commissions are~~] A judicial nominating commission is exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

Section 37. Section 78A-10-104 is amended to read:

78A-10-104. Convening of judicial nominating commissions -- Certification to governor of nominees -- Meetings to investigate prospective candidates.

(1) Unless a hiring freeze is implemented in accordance with Section 78A-2-113, the governor shall ensure that:

(a) the recruitment period to fill a judicial vacancy begins 235 days before the effective date of a vacancy, unless sufficient notice is not given, in which case the recruitment period shall begin within 10 days of receiving notice;

(b) the recruitment period is a minimum of 30 days but not more than 90 days, unless fewer than nine applications are received, in which case the recruitment period may be extended up to 30 days; and

(c) the chair of the judicial nominating commission having authority over the vacancy shall convene a meeting not more than 10 days after the close of the recruitment period.

(2) The time limits in Subsection (1) shall begin to run the day the hiring freeze ends.

(3) The judicial nominating commission may:

(a) meet as necessary to perform [~~its~~] the judicial nominating commission's function; and

(b) investigate prospective candidates.

(4) Not later than 45 days after convening[~~, the~~]:

(a) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy;

(b) the business and chancery court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and

[~~(b)~~] (c) [~~trial court~~] a district and juvenile court nominating commission shall certify to the governor a list of the five most qualified applicants per vacancy.

(5) The governor shall fill the vacancy within 30 days after receiving the list of nominees.

(6) If the governor fails to fill the vacancy within 30 days of receiving the list of nominees from the judicial nominating commission, the chief justice of the Supreme Court shall, within 20 days, appoint [~~a person~~] an individual from the list of nominees certified to the governor.

(7) A judicial nominating commission may not nominate [~~a person~~] an individual who has served on a judicial nominating commission within six months of the date that the commission was last convened.

Section 38. Section 78A-10-301 is amended to read:

Part 3. District and Juvenile Court Nominating Commissions

78A-10-301. Definitions -- Creation.

(1) As used in this part:

(a) "Commission" means a district and juvenile court nominating commission created in Subsection (2).

(b) "Commissioner" means a member of a district and juvenile court nominating commission created in Subsection (2).

(2) There is created a [~~Trial Court Nominating Commission~~] district and juvenile court nominating commission for each geographical division of the [~~trial courts of record~~] district and juvenile courts under Section 78A-1-102.

[~~(2)~~] (3) [~~The Trial Court Nominating Commission~~] A commission shall nominate judges of the district court and the juvenile court within [~~its~~] the commission's geographical division.

Section 39. Section 78A-10-302 is amended to read:

78A-10-302. Membership.

(1) [~~The Trial Court Nominating Commission~~] A district and juvenile court nominating commission shall consist of seven commissioners, each appointed by the governor to serve a single four-year term.

(2) Each commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah;

(c) be a resident of the geographic division to be served by the commission to which the commissioner is appointed; and

(d) serve until the commissioner's successor is appointed.

(3) The governor may not appoint:

(a) a commissioner to serve successive terms;

(b) a member of the Legislature to serve as a member of a [~~Trial Court Nominating Commission~~] commission; or

(c) more than four commissioners from the same political party to a [~~Trial Court Nominating Commission~~] commission.

(4) The governor shall appoint two commissioners from a list of nominees provided by the Utah State Bar.

(5) The Utah State Bar shall submit:

(a) six nominees from Districts 2, 3, and 4; and

(b) four nominees from Districts 1, 5, 6, 7, and 8.

(6) The governor may reject any list and request a new list of nominees.

(7) The governor may not appoint more than four persons who are members of the Utah State Bar to a [~~Trial Court Nominating Commission~~] commission.

(8) The chief justice of the Supreme Court shall appoint another member of the Judicial Council to serve as an ex officio, nonvoting member of each [~~Trial Court Nominating Commission~~] commission.

(9) The governor shall appoint the chair of each [~~Trial Court Nominating Commission~~] commission from among [~~its~~] the commission's membership.

Section 40. Section 78A-10-303 is amended to read:

78A-10-303. Procedure.

(1) Four commissioners are a quorum.

(2) The governor shall appoint a member of the governor's staff to serve as staff to each [~~Trial Court Nominating Commission~~] commission.

(3) The governor shall:

(a) ensure that each [~~Trial Court Nominating Commission~~] commission follows the rules promulgated by the Commission on Criminal and Juvenile Justice; and

(b) resolve any questions regarding those rules.

(4) A [~~member of a Trial Court Nominating Commission~~] commissioner who is also a member of the Utah State Bar may recuse [~~himself~~] oneself if there is a conflict of interest that makes the member unable to serve.

Section 41. Section 78A-10-304 is amended to read:

78A-10-304. Vacancies.

(1) The governor shall fill any vacancy on [~~the Trial Court Nominating Commission~~] a commission.

(2) If a commissioner is disqualified or otherwise unable to serve, the governor shall appoint a new commissioner of the same political party as the unavailable commissioner.

(3) If a vacancy occurs among commission members who are also members of the Utah State Bar, the governor shall replace that commissioner with [~~a person~~] an individual from a list of nominees submitted by the Utah State Bar as provided in Section 78A-10-302.

(4) The governor shall ensure that each [~~person~~] individual who is appointed to fill any vacancy in the office of commissioner, other than a vacancy caused by expiration of term, is a member of the same political party as the commissioner whom the [~~person~~] individual replaced.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term of the commissioner being replaced and may not be reappointed.

Section 42. Section 78A-10-305 is amended to read:

78A-10-305. Expenses -- Per diem and travel.

A [~~member~~] commissioner may not receive compensation or benefits for the [~~member's~~] commissioner's service[,] but may receive per diem and travel expenses in accordance with:

(1) Section 63A-3-106;

(2) Section 63A-3-107; and

(3) rules made by the Division of Finance [~~pursuant to~~] in accordance with Sections 63A-3-106 and 63A-3-107.

Section 43. Section 78A-10-401 is enacted to read:

Part 4. Business and Chancery Court Nominating Commission

78A-10-401. Definitions.

As used in this part:

(1) "Commission" means the Business and Chancery Court Nominating Commission created in Section 78A-10-402.

(2) "Commissioner" means an individual appointed by the governor to serve on the Business and Chancery Court Nominating Commission.

Section 44. Section 78A-10-402 is enacted to read:

78A-10-402. Creation.

(1) There is created the Business and Chancery Court Nominating Commission.

(2) The Business and Chancery Court Nominating Commission shall nominate individuals to fill judicial vacancies on the Business and Chancery Court.

Section 45. Section 78A-10-403 is enacted to read:

78A-10-403. Membership -- Appointment -- Vacancies -- Removal.

(1) (a) The Business and Chancery Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

(b) The commission shall consist of at least two commissioners who are members of the Utah State Bar.

(2) Each commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah; and

(c) serve until the commissioner's successor is appointed.

(3) (a) For the appointment of a commissioner who is a member of the Utah State Bar:

(i) the Utah State Bar shall submit to the governor a list of six nominees to serve as a commissioner; and

(ii) the governor shall appoint a commissioner from the list of nominees provided by the Utah State Bar.

(b) The governor may:

(i) reject the list submitted by the Utah State Bar under Subsection (3)(a); and

(ii) request a new list of nominees from the Utah State Bar.

(4) The governor may not appoint:

(a) a commissioner to serve successive terms;

(b) a member of the Legislature to serve as a member of the commission; or

(c) more than four individuals who are from the same political party to the commission.

(5) The chief justice of the Supreme Court shall appoint a member of the Judicial Council to serve as an ex officio, nonvoting member of the commission.

(6) The governor shall appoint the chair of the commission from among the membership of the commission.

(7) (a) The governor shall fill any vacancy in the commission caused by the expiration of a commissioner's term.

(b) If there is a vacancy among the commissioners who are members of the Utah State Bar, the governor shall replace that commissioner with an individual from a list of nominees submitted by the Utah State Bar in accordance with Subsection (3).

(8) (a) If a commissioner is disqualified or is otherwise unable to serve, the governor shall appoint a replacement commissioner:

(i) to fill the vacancy for the unexpired term of the unavailable commissioner; and

(ii) who is from the same political party as the unavailable commissioner.

(b) A replacement commissioner appointed under Subsection (8)(a) may not be reappointed upon the expiration of the term of service.

(9) The governor shall ensure that each individual who is appointed to fill any vacancy on the commission is a member of the same political party as the commissioner whom the individual replaced.

Section 46. Section 78A-10-404 is enacted to read:

78A-10-404. Procedure -- Staff -- Rules -- Recusal.

(1) Four commissioners are a quorum.

(2) The governor shall appoint a member of the governor's staff to serve as staff to the commission.

(3) The governor shall:

(a) ensure that the commission follows the rules promulgated by the State Commission on Criminal and Juvenile Justice under Section 78A-10-103; and

(b) resolve any questions regarding the rules described in Subsection (3)(a).

(4) A commissioner who is a member of the Utah State Bar may recuse oneself if there is a conflict of interest that makes the commissioner unable to serve.

Section 47. Section 78A-10-405 is enacted to read:

78A-10-405. Expenses -- Per diem and travel.

A commissioner may not receive compensation or benefits for the commissioner's service but may receive per diem and travel expenses in accordance with:

(1) Section 63A-3-106;

(2) Section 63A-3-107; and

(3) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 48. Section 78A-11-102 is amended to read:

78A-11-102. Definitions.

As used in this chapter:

(1) "Commission" means the Judicial Conduct Commission established by Utah Constitution Article VIII, Section 13, and this chapter.

(2) (a) "Complaint" includes:

(i) a written complaint against a judge; or

(ii) an allegation based on reliable information received in any form, from any source, that alleges, or from which a reasonable inference can be drawn that a judge is in violation of any provision of Utah Constitution Article VIII, Section 13.

(b) "Complaint" does not include an allegation initiated by the commission or its staff.

(3) "Investigation" means an inquiry into an allegation of misconduct, including a search for and examination of evidence concerning the allegations, which begins upon the receipt of a complaint and is completed when either the complaint is dismissed by a majority vote of the commission or when an order is sent to the Supreme Court for its review in accordance with Utah Constitution Article VIII, Section 13.

(4) "Judge" includes the chief justice of the Supreme Court, a justice of the Supreme Court, [~~an appellate court judge~~] a judge of the Court of Appeals, a judge of the Business and Chancery Court, a district court judge, an active senior judge, a juvenile court judge, a justice court judge, an active senior justice court judge, and a judge pro tempore of any court of this state.

Section 49. Section 78A-11-103 is amended to read:

78A-11-103. Judicial Conduct Commission -- Members -- Terms -- Vacancies -- Voting -- Power of chair.

(1) (a) The membership of the commission consists of the following 11 members:

[~~(a)~~] (i) two members of the House of Representatives to be appointed by the speaker of the House of Representatives for a four-year term, not more than one of whom may be of the same political party as the speaker;

[~~(b)~~] (ii) two members of the Senate to be appointed by the president of the Senate for a four-year term, not more than one of whom may be of the same political party as the president;

[~~(c)~~] (iii) two members of, and in good standing with, the Utah State Bar, who shall be appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may reside in the same judicial district;

[~~(d)~~] (iv) three persons not members of the Utah State Bar, who shall be appointed by the governor, with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, for four-year terms, not more than two of whom may be of the same political party as the governor; and

[~~(e)~~] (v) subject to Subsection (1)(b), two judges to be appointed by a majority of the Utah Supreme Court for a four-year term[~~, neither of whom may:~~].

(b) The two judges appointed under Subsection (1)(a)(v) may not:

(i) be a member of the Utah Supreme Court;

(ii) serve on the same level of court [~~as the other~~]; and

(iii) [~~if trial judges,~~] serve primarily in the same judicial district [~~as the other~~] if the judges are district or juvenile court judges.

(2) (a) The terms of the members shall be staggered so that approximately half of the commission expires every two years.

(b) Members of the commission may not serve longer than eight years.

(3) The commission shall establish guidelines and procedures for the disqualification of any member from consideration of any matter. A judge who is a member of the commission or the Supreme Court may not participate in any proceedings involving the judge's own removal or retirement.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the appointing authority for that position for the unexpired term.

(b) If the appointing authority fails to appoint a replacement, the commissioners who have been appointed may act as a commission under all the provisions of this section.

(5) Six members of the commission shall constitute a quorum. Any action of a majority of the quorum constitutes the action of the commission.

(6) (a) At each commission meeting, the chair and executive director shall schedule all complaints to be heard by the commission and present any information from which a reasonable inference can be drawn that a judge has committed misconduct so that the commission may determine by majority vote of a quorum whether the executive director shall draft a written complaint in accordance with Subsection 78A-11-102(2)(b).

(b) The chair and executive director may not act to dismiss any complaint without a majority vote of a quorum of the commission.

(c) A member of the commission described in Subsection [~~(1)(d)~~] (1)(a)(iv) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(7) It is the responsibility of the chair and the executive director to ensure that the commission complies with the procedures of the commission.

(8) The chair shall be nonvoting except in the case of a tie vote.

(9) The chair shall be allowed the actual expenses of secretarial services, the expenses of services for either a court reporter or a transcriber of electronic tape recordings, and other necessary administrative expenses incurred in the performance of the duties of the commission.

(10) Upon a majority vote of the quorum, the commission may:

(a) employ an executive director, legal counsel, investigators, and other staff to assist the commission; and

(b) incur other reasonable and necessary expenses within the authorized budget of the commission and consistent with the duties of the commission.

(11) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

Section 50. Section 78A-11-106 is amended to read:

78A-11-106. Criminal investigation of a judge -- Administrative leave.

(1) (a) (i) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a

misdemeanor or felony under state or federal law has been committed by a judge other than the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to the chief justice of the Supreme Court.

(ii) (A) Unless the allegation is plainly frivolous, the commission shall also immediately refer the allegation of criminal misconduct and any information relevant to the potential criminal violation to the local prosecuting attorney having jurisdiction to investigate and prosecute the crime.

(B) If the local prosecuting attorney receiving the allegation of criminal misconduct of a judge practices before that judge on a regular basis, or has a conflict of interest in investigating the crime, the local prosecuting attorney shall refer the allegation of criminal misconduct to another local or state prosecutor who would not have the same disability or conflict.

(C) The commission may concurrently proceed with its investigation of the complaint without waiting for the resolution of the criminal investigation by the prosecuting attorney.

(b) The chief justice of the Supreme Court may place [~~a justice of the Supreme Court, an appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore~~] a judge on administrative leave with or without pay if the chief justice has a reasonable basis to believe that the alleged crime occurred, that the [~~justice of the Supreme Court, appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore~~] judge committed the crime, and that the crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.

(2) (a) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a misdemeanor or felony under state or federal law has been committed by the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to two justices of the Supreme Court and the local prosecuting attorney in accordance with Subsection (1)(a)(ii).

(b) Two justices of the Supreme Court may place the chief justice of the Supreme Court on administrative leave with or without pay if the two justices have a reasonable basis to believe that the alleged crime occurred, that the chief justice committed the crime, and that the crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.

(3) (a) If a judge is or has been criminally charged or indicted for a class A misdemeanor or any felony under state or federal law and if the Supreme Court has not already acted under Subsection (1) or (2), the appropriate member or members of the Supreme Court as provided in Subsection (1) or (2), shall place the judge on administrative leave with or without pay pending the outcome of the criminal proceeding.

(b) The state court administrator shall, for the duration of the administrative leave, withhold all employer and employee contributions required under Sections 49-17-301 and 49-18-301.

(c) If the judge is not convicted of the criminal charge, and if after an investigation and final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or compensation for the period of administrative leave, and all contributions withheld under Subsection (3)(b) shall be deposited in accordance with Sections 49-17-301 and 49-18-301.

(4) The chief justice of the Supreme Court or two justices of the Supreme Court who ordered the judge on administrative leave shall order the reinstatement of the judge:

(a) if the prosecutor to whom the allegations are referred by the commission determines no charge or indictment should be filed; or

(b) after final disposition of the criminal case, if the judge is not convicted of a criminal charge and if the commission has not ordered the removal of the judge.

Section 51. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

(2) The enactment in this bill of Section 78A-5a-103 takes effect on October 1, 2024.

Section 52. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 251, Court Amendments, does not pass.

CHAPTER 395
H. B. 219
Passed March 3, 2023
Approved March 20, 2023
Effective March 20, 2023

FIREARMS REGULATIONS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill declares that the state will not enforce certain federal firearms regulations.

Highlighted Provisions:

This bill:

- declares the state's commitment to the Second Amendment to the United States Constitution; and
- declares that the state and its political subdivisions will not enforce federal regulations that purport to restrict or ban certain firearms, ammunition, or firearms accessories.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
53-5a-201, Utah Code Annotated 1953
53-5a-202, Utah Code Annotated 1953
53-5a-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-5a-201 is enacted to read:

Part 2. Federal Firearm Enforcement Limitation Act

53-5a-201. Findings.

To protect and preserve the individual right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution and Utah Constitution, Article I, Section 6, the Legislature makes the following findings:

(1) the Tenth Amendment to the United States Constitution guarantees to the state and the state's people all powers not granted to the federal government elsewhere in the United States Constitution and reserves to the state and people of Utah certain powers as those powers were understood at the time that Utah was admitted to statehood;

(2) the guarantee of powers to the state and the state's people under the Tenth Amendment is a matter of contract between the state and people of Utah and the United States as of the time of statehood;

(3) the Ninth Amendment to the United States Constitution guarantees to the people rights not granted in the United States Constitution and reserves to the people of Utah certain rights as those rights were understood at the time that Utah was admitted to statehood;

(4) the guarantee of rights to the people under the Ninth Amendment is a matter of contract between the state and people of Utah and the United States as of the time of statehood;

(5) the Second Amendment to the United States Constitution reserves to the people the right to keep and bear arms as that right was understood at the time that Utah was admitted to statehood, and the guarantee of the right is a matter of contract between the state and people of Utah and the United States as of the time of statehood; and

(6) the Utah Constitution clearly secures to Utah citizens, and prohibits unconstitutional government interference with, the right of individual Utah citizens to keep and bear arms.

Section 2. Section 53-5a-202 is enacted to read:

53-5a-202. Definitions.

As used in this part:

(1) (a) "Federal regulation" means a federal executive order, rule, or regulation that infringes upon, prohibits, restricts, or requires individual licensure for, or registration of, the purchase, ownership, possession, transfer, or use of a firearm, ammunition, or firearm accessory.

(b) "Federal regulation" does not include:

(i) a federal firearm statute; or

(ii) a federal executive order, rule, or regulation that is incorporated into the Utah Code by reference.

(2) "Firearm" means the same as that term is defined in Section 76-10-501.

(3) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(4) "Political subdivision" means a city, town, metro township, county, local district, or water conservancy district.

Section 3. Section 53-5a-203 is enacted to read:

53-5a-203. Prohibition on enforcement.

(1) A law enforcement officer, state employee, or employee of a political subdivision is prohibited from implementing, enforcing, assisting, or cooperating in the enforcement of a federal regulation on firearms, firearm accessories, or ammunition.

(2) An employee of the state or a political subdivision may not expend public funds or allocate public resources for the enforcement of a federal regulation on firearms, firearm accessories, or ammunition.

(3) Notwithstanding Subsection (1) or (2), this section does not prohibit or otherwise limit a law

enforcement officer, state employee, or employee of a political subdivision from:

(a) cooperating, communicating, or collaborating with a federal agency if the primary purpose of the cooperation is not the investigation or enforcement of a federal regulation on firearms, ammunition, or firearm accessories;

(b) serving on or participating in:

(i) a federal law enforcement task force or program if:

(A) investigation and prosecution of state or federal firearms regulations are part of the duties of the task force or program; or

(B) the law enforcement officer, state employee, or employee of the political subdivision is compensated by federal funds; or

(ii) a state law enforcement task force or program that:

(A) receives federal funding; or

(B) has participation from federal law enforcement officials; or

(c) referring an investigation to a federal law enforcement agency if the law enforcement officer, state employee, or political subdivision employee reasonably believes that a federal law regarding firearms, ammunition, or firearm accessories has been violated.

(4) This section does not apply to:

(a) a law enforcement officer or state employee employed by or assisting:

(i) the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201;

(ii) the Peace Officer Standards and Training Division created in Section 53-6-103; or

(iii) the Utah National Guard or the Utah State Defense Force created in Title 39A, National Guard and Militia Act; or

(b) an individual who:

(i) is appointed as a Special Assistant U.S. Attorney under 18 U.S.C. Sec. 925D; or

(ii) is assisting another individual that is appointed as a Special Assistant U.S. Attorney under 18 U.S.C. Sec. 925D.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 396
H. B. 223
Passed March 2, 2023
Approved March 20, 2023
Effective July 1, 2023

DRUG AND ALCOHOL ENFORCEMENT AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill addresses enforcement of drug- and alcohol-related provisions.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Public Safety to use the Alcoholic Beverage Control Act Enforcement Fund to maintain a certain number of drug enforcement officers, State Bureau of Investigation officers, and social workers;
- increases the deposits made into the Alcoholic Beverage Control Act Enforcement Fund and the Alcoholic Beverage Enforcement and Treatment Restricted Account; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund, as an ongoing appropriation:
  - from the General Fund, ($1,320,000).

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

32B-2-305, as last amended by Laws of Utah 2022, Chapter 453
59-15-109, as last amended by Laws of Utah 2021, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-2-305 is amended to read:

32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.

(1) As used in this section:

(a) "Alcohol-related law enforcement officer" [~~is as~~] means the same as that term is defined in Section 32B-1-201.

(b) "Drug-related law enforcement officer" means a law enforcement officer employed by the Department of Public Safety who has enforcement of drug-related offenses as a primary responsibility.

(c) "Enforcement ratio" [~~is as~~] means the same as that term is defined in Section 32B-1-201.

[~~(c)~~] (d) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.

(e) "SBI drug-related law enforcement officer" means a law enforcement officer employed by the State Bureau of Investigation within the Department of Public Safety who has investigation of drug-related offenses as a primary responsibility.

(f) "Social worker" means an individual licensed under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, and employed by the Department of Public Safety who has provision of caseworker services to individuals under 21 years old as a primary responsibility.

(2) There is created an expendable special revenue fund known as the "Alcoholic Beverage Control Act Enforcement Fund."

(3) (a) The fund consists of:

(i) deposits made under Subsection (4); and

(ii) interest earned on the fund.

(b) (i) The fund shall earn interest.

(ii) Interest on the fund shall be deposited into the fund.

(4) After the deposit made under Section 32B-2-304 for the school lunch program, the department shall deposit [~~0.875%~~] 1.695% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the fund to be:

(a) used by the Department of Public Safety as provided in Subsection (5); and

(b) reallocated to the General Fund as described in Subsection (6).

(5) (a) The Department of Public Safety shall expend money from the fund to:

(i) supplement appropriations by the Legislature so that the Department of Public Safety maintains a sufficient number of alcohol-related law enforcement officers such that [~~beginning on July 1, 2012,~~] each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section 32B-1-201[~~.~~]; and

(ii) maintain at least:

(A) 10 drug-related law enforcement officers;

(B) eight SBI drug-related law enforcement officers; and

(C) two social workers.

(b) [~~Beginning July 1, 2012, four~~] Four of the alcohol-related law enforcement officers described in Subsection (5)(a)(i) shall have as a primary focus the enforcement of this title in relationship to restaurants.

(6) For fiscal year 2023, the Division of Finance shall deposit into the General Fund $3 million of unspent money in the fund.

Section 2. Section 59-15-109 is amended to read:

59-15-109. Tax money to be paid to state treasurer.

(1) Except as provided in Subsection (2), taxes collected under this chapter shall be paid by the

commission to the state treasurer daily for deposit as follows:

(a) the greater of the following shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403:

(i) an amount calculated by:

(A) determining an amount equal to [~~40%~~] 50% of the revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made; and

(B) subtracting $30,000 from the amount determined under Subsection (1)(a)(i)(A); or

(ii) $4,350,000; and

(b) the revenue collected in excess of the amount deposited in accordance with Subsection (1)(a) shall be deposited into the General Fund.

(2) [~~For a fiscal year beginning on or after July 1, 2020, the~~] The state treasurer shall annually deposit into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403 an amount equal to the amount of revenue generated in the current fiscal year by the portion of the tax imposed under Section 59-15-101 that exceeds:

(a) $12.80 per 31-gallon barrel for beer imported or manufactured:

(i) on or after July 1, 2003; and

(ii) for sale, use, or distribution in this state; and

(b) a proportionate rate to the rate described in Subsection (2)(a) for:

(i) any quantity of beer other than a 31-gallon barrel; or

(ii) the fractional parts of a 31-gallon barrel.

(3) (a) The commission shall notify the entities described in Subsection (3)(b) not later than the September 1 preceding the fiscal year of the deposit of:

(i) the amount of the proceeds of the beer excise tax collected in accordance with this section for the fiscal year two years preceding the fiscal year of deposit; and

(ii) an amount equal to [~~40%~~] 50% of the amount listed in Subsection (3)(a)(i).

(b) The notification required by Subsection (3)(a) shall be sent to:

(i) the Governor's Office of Planning and Budget; and

(ii) the Legislative Fiscal Analyst.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 1

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund

From General Fund	(1,320,000)
Schedule of Programs:	
Alcoholic Beverage Control Act Enforcement Fund	(1,320,000)

Section 4. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 397
H. B. 225
Passed February 28, 2023
Approved March 20, 2023
Effective May 3, 2023

FIREARM POSSESSION AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses provisions regarding firearm restrictions.

Highlighted Provisions:

This bill:

- requires agencies to run a background check when returning a firearm to an individual from evidence;
- requires a court that reports criminal information to the Criminal Investigations and Technical Service Division to provide the relationship between the victim and the perpetrator in certain circumstances;
- amends the definition of a "restricted person";
- classifies an alien in the state on a nonimmigrant visa in certain circumstances as a restricted person not able to possess, own, or purchase a firearm;
- requires the Bureau of Criminal Identification to inform the local law enforcement agency with jurisdiction over a firearms dealer when a restricted person attempts to purchase a firearm from that dealer;
- clarifies that a restricted person may not use an antique firearm for an activity regulated under the Wildlife Resources Code of Utah; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

24-3-103, as last amended by Laws of Utah 2021, Chapter 230
53-10-208.1, as last amended by Laws of Utah 2021, Chapter 159
53-10-213, as last amended by Laws of Utah 2020, Chapter 142
76-10-501, as last amended by Laws of Utah 2015, Chapters 212, 406
76-10-503, as last amended by Laws of Utah 2021, Chapter 262
76-10-526, as last amended by Laws of Utah 2021, Chapters 166, 277

Utah Code Sections Affected by Coordination Clause:

76-10-503, as last amended by Laws of Utah 2021, Chapter 262

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 24-3-103 is amended to read:

24-3-103. Disposition of property.

(1) If a prosecuting attorney determines that seized property no longer needs to be retained for court proceedings, the prosecuting attorney may:

(a) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;

(b) petition the court for an order transferring ownership of [~~any~~] weapons to the agency with custody for the agency's use and disposal in accordance with Section 24-3-103.5, if the owner:

(i) is the individual who committed the offense for which the weapon was seized; or

(ii) may not lawfully possess the weapon; or

(c) notify the agency with custody of the property or contraband that:

(i) the property may be returned to the rightful owner if the rightful owner may lawfully possess the property; or

(ii) the contraband may be disposed of or destroyed.

(2) Before returning a firearm to an individual, the agency returning the firearm shall confirm, through the Bureau of Criminal Identification, that the individual is eligible to lawfully possess and receive firearms.

[~~(2)~~] (3) The agency shall exercise due diligence in attempting to notify the rightful owner of the property to advise the owner that the property is to be returned.

[~~(3)~~] (4) (a) For a computer determined to be contraband, a court may order the reasonable extraction and return of specifically described personal digital data to the rightful owner.

(b) The law enforcement agency shall determine a reasonable cost to extract the data.

(c) At the time of the request to extract the data, the owner of the computer shall pay the agency the cost to extract the data.

[~~(4)~~] (5) (a) Before an agency may release seized property to a person claiming ownership of the property, the person shall establish in accordance with Subsection [~~(4)(b)~~] (5)(b) that the person:

(i) is the rightful owner; and

(ii) may lawfully possess the property.

(b) The person shall establish ownership under Subsection [~~(4)(a)~~] (5)(a) by providing to the agency:

(i) identifying proof or documentation of ownership of the property; or

(ii) a notarized statement if proof or documentation is not available.

[~~(5)~~] (6) (a) When seized property is returned to the owner, the owner shall sign a receipt listing in detail the property that is returned.

(b) The agency shall:

(i) retain a copy of the receipt; and

(ii) provide a copy of the receipt to the owner.

[~~(6)~~] (7) (a) Except as provided in Subsection [~~(6)(b)~~] (7)(b), if the agency is unable to locate the rightful owner of the property or the rightful owner is not entitled to lawfully possess the property, the agency may:

(i) apply the property to a public interest use;

(ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(iii) destroy the property if the property is unfit for a public interest use or for sale.

(b) If the property described in Subsection [~~(6)(a)~~] (7)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 24-3-103.5.

[~~(7)~~] (8) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

(a) permission to apply the property or the proceeds to public interest use; and

(b) the designation and approval of the public interest use of the property or the proceeds.

[~~(8)~~] (9) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

Section 2. Section 53-10-208.1 is amended to read:

53-10-208.1. Magistrates and court clerks to supply information.

(1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days after the day of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

(a) all dispositions of criminal matters, including:

(i) guilty pleas;

(ii) convictions;

(iii) dismissals;

(iv) acquittals;

(v) pleas [~~held~~] in abeyance;

(vi) judgments of not guilty by reason of insanity;

(vii) judgments of guilty with a mental illness;

(viii) finding of mental incompetence to stand trial; and

(ix) probations granted;

(b) orders of civil commitment under the terms of Section 62A-15-631;

(c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

(d) protective orders issued after notice and hearing, pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

(iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

(v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii), (v), or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate or clerk of a court shall include available information regarding whether the conviction for assault resulted from an assault against an individual:

(a) who is included in at least one of the relationship categories described in Subsection 76-10-503(1)(b)(xi); or

(b) with whom none of the relationships described in Subsection 76-10-503(1)(b)(xi) apply.

[~~(2)~~] (3) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

(a) adjudicated as a mental defective; or

(b) involuntarily committed to a mental institution in accordance with Subsection 62A-15-631(16).

[~~(3)~~] (4) The record described in Subsection [~~(2)~~] (3) shall include:

(a) an agency record identifier;

(b) the individual's name, sex, race, and date of birth; and

(c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

Section 3. Section 53-10-213 is amended to read:

53-10-213. Reporting requirements.

(1) The bureau shall submit the record received from the court in accordance with Subsection 78B-7-603(5)(e) to the National Crime Information Center within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

(2) The bureau shall submit the record received from the court in accordance with Subsection [~~53-10-208.1(2)~~] 53-10-208.1(3) to the National Instant Criminal Background Check System within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

Section 4. Section 76-10-501 is amended to read:

76-10-501. Definitions.

As used in this part:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; or

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(3) (a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

(ii) readily accessible for immediate use.

(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.

(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.

(5) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection (5)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

(C) bizarre; or

(ii) because of the firearm's association with an historical:

(A) figure;

(B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

(6) (a) "Dangerous weapon" means:

(i) a firearm; or

(ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

(i) the location and circumstances in which the object was used or possessed;

(ii) the primary purpose for which the object was made;

(iii) the character of the wound, if any, produced by the object's unlawful use;

(iv) the manner in which the object was unlawfully used;

(v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(vi) the lawful purposes for which the object may be used.

(c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.

(7) (a) "Dating relationship" means a romantic or intimate relationship between individuals.

(b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

[~~(7)~~] (8) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

[~~(8)~~] (9) "Enter" means intrusion of the entire body.

[~~(9)~~] (10) "Federal Firearms Licensee" means a person who:

(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held.

[~~(10)~~] (11) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.

[~~(11)~~] (12) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

[~~(12)~~] (13) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

[~~(13)~~] (14) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.

[~~(14)~~] (15) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

[~~(15)~~] (16) "Prohibited area" means a place where it is unlawful to discharge a firearm.

[~~(16)~~] (17) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

[~~(17)~~] (18) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

[~~(18)~~] (19) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

[~~(19)~~] (20) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

[~~(20)~~] (21) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

[~~(21)~~] (22) "Shoulder arm" means a firearm that is designed to be fired while braced against the shoulder.

[~~(22)~~] (23) "Slug" means a single projectile discharged from a shotgun shell.

[~~(23)~~] (24) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

[~~(24)~~] (25) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 5. Section 76-10-503 is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of [~~any~~] a violent felony as defined in Section 76-3-203.5;

(ii) is on probation or parole for [~~any~~] a felony;

(iii) is on parole from secure care, as defined in Section 80-1-102;

(iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5;

(v) is an alien who is illegally or unlawfully in the United States; or

(vi) is on probation for a conviction of possessing:

(A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

(B) a controlled substance analog; or

(C) a substance listed in Section 58-37-4.2.

(b) A Category II restricted person is a person who:

(i) has been convicted of [~~any~~] a felony;

(ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(v) has been found not guilty by reason of insanity for a felony offense;

(vi) has been found mentally incompetent to stand trial for a felony offense;

(vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(viii) has been dishonorably discharged from the armed forces;

(ix) has renounced the individual's citizenship after having been a citizen of the United States;

(x) is a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that:

(A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or

(B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; [~~or~~]

(xi) except as provided in Subsection (1)(d), has been convicted of the commission or attempted commission of assault under Section 76-5-102 or aggravated assault under Section 76-5-103 against an individual:

(A) who is a current or former spouse, parent, or guardian[~~,~~];

(B) [~~individual~~] with whom the restricted person shares a child in common[~~,~~];

(C) [~~individual~~] who is cohabitating or has cohabitated with the restricted person as a spouse, parent, or guardian[~~,~~];

(D) involved in a dating relationship with the restricted person within the last five years; or

(E) [~~against an individual~~] similarly situated to a spouse, parent, or guardian of the restricted person; or

(xii) is an alien who has been admitted to the United States under a nonimmigrant visa as defined in 8 U.S.C. Sec. 1101(a)(26).

(c) (i) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

[~~(i)~~] (A) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

[~~(ii)~~] (B) a conviction or an adjudication under Section 80-6-701 which, [~~according to~~] in accordance with the law of the jurisdiction in which [~~it~~] the conviction or adjudication occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

[~~(d)~~] (ii) It is the burden of the defendant in a criminal case to provide evidence that a conviction or an adjudication under Section 80-6-701 is subject to an exception provided in Subsection (1)(c)(i), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or the adjudication is not subject to that exception.

(d) A person is not a restricted person for a conviction under Subsection (1)(b)(xi)(D) if:

(i) five years have elapsed from the later of:

(A) the day on which the conviction is entered;

(B) the day on which the person is released from incarceration following the conviction; or

(C) the day on which the person's probation for the conviction is successfully terminated;

(ii) the person only has a single conviction for assault as described in Subsection (1)(b)(xi)(D); and

(iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers,

or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) [~~any~~] a firearm is guilty of a second degree felony; or

(b) [~~any~~] a dangerous weapon other than a firearm is guilty of a third degree felony.

(3) [~~A~~] Except as provided in Subsection (4), a Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) [~~any~~] a firearm is guilty of a third degree felony; or

(b) [~~any~~] a dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A Category II restricted person may possess, use, or have under the person's control a firearm or dangerous weapon if:

(a) the person is a Category II restricted person solely due to Subsection (1)(b)(xii);

(b) the person has been admitted to the United States under a nonimmigrant visa solely for lawful hunting or sporting purposes;

(c) the person is in possession of a valid hunting license or permit; and

(d) the possession, use, or control of the firearm or dangerous weapon is directly related to the lawful hunting or sporting purposes described in Subsection (4)(b).

[~~(4)~~] (5) A person may be subject to the restrictions of both categories at the same time.

(6) A Category I or Category II restricted person may not use an antique firearm for an activity regulated under Title 23, Wildlife Resources Code of Utah.

[~~(5)~~] (7) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control [~~any~~] a dangerous weapon, the penalties of that section control.

[~~(6)~~] (8) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

[~~(7)~~] (9) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section 24-3-103;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection [~~(7)(a)~~] (9)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

[~~(8)~~] (10) (a) A person may not sell, transfer, or otherwise dispose of [~~any~~] a firearm or dangerous weapon to [~~any~~] a person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection [~~(8)(a)~~] (10)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves [~~any~~] a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves [~~any~~] a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for [~~any~~] an unlawful purpose, is guilty of a class A misdemeanor.

[~~(9)~~] (11) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person [~~any~~] information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection [~~(9)~~] (11) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Section 6. Section 76-10-526 is amended to read:

76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.

(2) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection (2).

(3) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

(4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the social security number or any other identification number of the individual receiving the firearm.

(5) (a) The dealer shall send the information required by Subsection (4) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection (4) and has received approval from the bureau under Subsection (7).

(6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

(7) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, and the temporary restricted file created under Section 53-5c-301, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(8) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

(9) (a) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall:

(i) within 24 hours after determining that the purchaser is prohibited from purchasing, possessing, or transferring a firearm, notify the law enforcement agency in the jurisdiction where the dealer is located; and

(ii) inform the law enforcement agency in the jurisdiction where the individual resides.

(b) Subsection (9)(a) does not apply to an individual prohibited from purchasing a firearm solely due to placement on the temporary restricted list under Section 53-5c-301.

(c) A law enforcement agency that receives information from the bureau under Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that includes:

(i) based on the information the bureau provides to the law enforcement agency under Subsection (9)(a), the number of cases that involve an individual who is prohibited from purchasing, possessing, or transferring a firearm as a result of a

conviction for an offense involving domestic violence; and

(ii) of the cases described in Subsection (9)(c)(i):

(A) the number of cases the law enforcement agency investigates; and

(B) the number of cases the law enforcement agency investigates that result in a criminal charge.

(d) The bureau shall:

(i) compile the information from the reports described in Subsection (9)(c);

(ii) omit or redact any identifying information in the compilation; and

(iii) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section.

(b) The fee described under Subsection (12)(a) remains in effect until changed by the bureau through the process described in Section 63J-1-504.

(c) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

(13) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(14) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification.

(b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

(15) A dealer engaged in the business of selling, leasing, or otherwise transferring [~~any~~] a firearm shall:

(a) make the firearm safety brochure described in Subsection 62A-15-103(3) available to a customer free of charge; and

(b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under Subsection 62A-15-103(3) to a customer purchasing a shotgun, short barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be accompanied by a gun lock at the time of purchase.

Section 7. Coordinating H.B. 225 with H.B. 120 -- Technical and substantive amendment.

If this H.B. 225 and H.B. 120, Weapon Possession Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 76-10-503(1)(d)(ii) in this H.B. 225 to read:

"(ii) the person only has a single conviction for misdemeanor assault as described in Subsection (1)(b)(xi)(D); and".

CHAPTER 398
H. B. 226
Passed March 1, 2023
Approved March 20, 2023
Effective July 1, 2023

SALE OF A FIREARM AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill addresses the sale of a firearm.

Highlighted Provisions:

This bill:

- directs the Bureau of Criminal Identification to create an online process that allows an individual involved in the sale of a firearm to determine if the other party to the sale has a valid concealed carry permit or the firearm has been reported as stolen; and
- includes a sunset date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-1-276, as last amended by Laws of Utah 2019, Chapters 136, 440

ENACTS:

76-10-526.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-276 is amended to read:

63I-1-276. Repeal dates: Title 76.

Section 76-10-526.1, relating to an information check before the private sale of a firearm, is repealed July 1, 2025.

Section 2. Section 76-10-526.1 is enacted to read:

76-10-526.1. Information check before private sale of firearm.

(1) As used in this section:

(a) "Governmental entity" means the state and the state's political subdivisions.

(b) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(c) "Personally identifiable information" means the same as that term is defined in Section 63D-2-102.

(2) Subject to Subsections (3) and (4), the bureau shall create an online process that allows an individual who is selling or purchasing a firearm to voluntarily determine:

(a) if the other individual involved in the sale of the firearm has a valid concealed carry permit; or

(b) based on the serial number of the firearm, if the firearm is reported as stolen.

(3) Subsection (2) does not apply to a federal firearms licensee or dealer.

(4) The bureau may not:

(a) provide information related to a request under Subsection (2) to a law enforcement agency; or

(b) collect a user's personally identifiable information under Subsection (2).

(5) A governmental entity may not require an individual who is selling or purchasing a firearm to use the process under Subsection (2).

(6) If an individual uses the process under Subsection (2), the individual is not required, based on the information the individual receives from the bureau, to make a report to a law enforcement agency.

(7) After responding to a request under Subsection (2), the bureau shall immediately dispose of all information related to the request.

(8) (a) This section does not create a civil cause of action arising from the sale or purchase of a firearm under this section.

(b) An individual's failure to use the process under Subsection (2) is not evidence of the individual's negligence in a civil cause of action.

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 399
H. B. 236
Passed February 16, 2023
Approved March 20, 2023
Effective May 3, 2023

DRIVING UNDER THE INFLUENCE TESTING AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends provisions related to immunity from civil or criminal liability arising from drawing a blood sample from a person whom a peace officer has reason to believe is driving under the influence.

Highlighted Provisions:

This bill:

- extends to a law enforcement agency immunity to civil and criminal liability arising from drawing a blood sample from a person whom a peace officer has reason to believe is driving under the influence if the blood draw is performed in a secure area within a law enforcement facility and in accordance with standard medical practice.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-523, as last amended by Laws of Utah 2019, Chapter 349

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-523 is amended to read:

41-6a-523. Persons authorized to draw blood -- Immunity from liability.

(1) (a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:

(i) a physician;

(ii) a physician assistant;

(iii) a registered nurse;

(iv) a licensed practical nurse;

(v) a paramedic;

(vi) as provided in Subsection (1)(b), emergency medical service personnel other than paramedics; or

(vii) a person with a valid permit issued by the Department of Health and Human Services under Section 26-1-30.

(b) The Department of Health and Human Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 26-8a-102, are authorized to draw blood under Subsection (1)(a)(vi), based on the type of license under Section 26-8a-302.

(c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

(2) The following are immune from civil or criminal liability arising from drawing a blood sample from a person whom a peace officer has reason to believe is driving in violation of this chapter, if the sample is drawn in accordance with standard medical practice, and pursuant to a warrant or with the consent of the individual:

(a) a person authorized to draw blood under Subsection (1)(a); [~~and~~]

(b) if the blood is drawn at a hospital or other medical facility, the medical facility[~~.~~]; or

(c) if the blood is drawn at a law enforcement facility in a secure area not accessible by the public, the law enforcement agency.

CHAPTER 400
H. B. 247
Passed February 24, 2023
Approved March 20, 2023
Effective May 3, 2023

ALCOHOL CONTROL AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- modifies definitions;
- provides a penalty for altering, destroying, or concealing certain records that are relevant to an official proceeding under the Alcoholic Beverage Control Act;
- requires certain licensees under the Alcoholic Beverage Control Act to, after receiving notice of a certain civil or criminal action, retain records relevant to the action;
- describes the circumstances under which there is prima facie evidence that a person is liable for an injury or death that results from the intoxication of another individual; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-1-102, as last amended by Laws of Utah 2022, Chapter 447
32B-4-505, as last amended by Laws of Utah 2019, Chapter 189
32B-5-202, as last amended by Laws of Utah 2022, Chapter 447
32B-5-302, as enacted by Laws of Utah 2010, Chapter 276
32B-6-205.2, as last amended by Laws of Utah 2022, Chapter 447
32B-6-305.2, as last amended by Laws of Utah 2022, Chapter 447
32B-6-406, as last amended by Laws of Utah 2020, Chapter 219
32B-6-605, as last amended by Laws of Utah 2022, Chapter 447
32B-6-706, as last amended by Laws of Utah 2022, Chapter 447
32B-6-905.1, as last amended by Laws of Utah 2022, Chapter 447
32B-6-1005, as last amended by Laws of Utah 2022, Chapter 447
32B-15-201, as enacted by Laws of Utah 2010, Chapter 276

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(8) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility; or

(vi) an arena;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(9) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(10) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(11) (a) "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume; and

(B) no more than 5% of alcohol by volume or 4% by weight;

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may contain:

(i) hops extract; or

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient.

(c) "Beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(12) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(13) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(14) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(15) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(16) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(17) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(18) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(20) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(21) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.

(22) "Commissioner" means a member of the commission.

(23) "Community location" means:

(a) a public or private school;

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(24) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(25) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(26) "Controlled group of manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(27) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(28) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(29) "Crime involving moral turpitude" is as defined by the commission by rule.

(30) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

(31) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(34) "Director," unless the context requires otherwise, means the director of the department.

(35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(36) (a) Subject to Subsection (36)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (36) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

(37) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

(38) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(39) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(40) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(41) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

(42) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(43) (a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

(b) "Flavored malt beverage" is considered liquor for purposes of this title.

(44) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(45) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(46) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(47) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(48) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

(49) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(50) (a) "Heavy beer" means a product that:

(i) contains more than 5% alcohol by volume; and

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" is considered liquor for the purposes of this title.

(51) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

(52) (a) "Hotel" means a commercial lodging establishment that:

(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

(C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection (52)(a); and

(ii) has one or more privately owned dwelling units.

(53) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(54) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(55) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(56) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(57) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

(58) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

(59) "Intoxicated" or "intoxication" means that [~~a person:~~] an individual [~~(a) is significantly impaired as to the person's mental or physical functions~~] exhibits plain and easily observable outward manifestations of behavior or physical signs produced by or as a result of the use of:

[~~(i)~~] (a) an alcoholic product;

[~~(ii)~~] (b) a controlled substance;

[~~(iii)~~] (c) a substance having the property of releasing toxic vapors; or

[~~(iv)~~] (d) a combination of products or substances described in Subsections [~~(59)(a)(i) through (iii); and~~] (59)(a) through (c).

[~~(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.~~]

(60) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(61) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License;

(d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

(62) "Licensee" means a person who holds a license.

(63) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(64) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(65) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(66) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(67) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(68) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(69) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(70) "Lounge or bar area" is as defined by rule made by the commission.

(71) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

(72) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(73) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(74) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(75) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

(76) "Minor" means an individual under 21 years old.

(77) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

(78) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(79) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(80) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

(81) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(82) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(83) "Opaque" means impenetrable to sight.

(84) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(85) "Package agent" means a person who holds a package agency.

(86) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

(87) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

(88) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(89) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (89)(a) through (f); or

(ii) a package agent.

(90) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(91) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(92) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

(93) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

(94) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(95) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

(96) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act;

(II) in accordance with the laws of the state in which it is issued; or

(III) in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(97) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Spa Sublicense.

(98) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(99) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(100) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection (100)(a) to a third party for the third party's event.

(101) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(102) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(103) "Residence" means a person's principal place of abode within Utah.

(104) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

(105) "Resort" means the same as that term is defined in Section 32B-8-102.

(106) "Resort facility" is as defined by the commission by rule.

(107) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(108) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

(109) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

(110) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(111) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

(112) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

(113) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool; or

(v) a home school.

(114) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

(115) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

(116) "Serve" means to place an alcoholic product before an individual.

(117) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (117)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

(118) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

(119) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(120) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

(121) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

(122) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Spa Sublicense.

(123) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(124) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

(125) "Sports center" is as defined by the commission by rule.

(126) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(127) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

(128) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(129) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

(130) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

(131) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a spa sublicense.

(132) "Supplier" means a person who sells an alcoholic product to the department.

(133) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(134) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(135) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(136) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(137) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(138) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(139) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-4-505 is amended to read:

32B-4-505. Obstructing a search, official proceeding, or investigation.

(1) A person who is in the premises or has charge over premises may not refuse or fail to admit to the premises or obstruct the entry of any of the following who demands entry when acting under this title:

(a) a commissioner;

(b) an authorized representative of the commission or department; or

(c) a law enforcement officer.

(2) A person who is in the premises or has charge of the premises may not interfere with any of the following who is conducting an investigation under this title at the premises:

(a) a commissioner;

(b) an authorized representative of the commission or department; or

(c) a law enforcement officer.

(3) After receiving written notice of an official proceeding or investigation under Chapter 15, Alcoholic Product Liability Act, or a criminal proceeding or investigation for a violation of Section 41-6a-502 or 41-6a-517, a person may not knowingly alter, destroy, conceal, or remove a record that is relevant to the official proceeding or investigation.

(4) A person [~~is guilty of a class A misdemeanor if, believing~~] who believes that an official proceeding or investigation is pending or about to be instituted under this title[~~, that person:~~] may not:

(a) [~~alters, destroys, conceals, or removes~~] alter, destroy, conceal, or remove a record with a purpose to impair the record's verity or availability in the proceeding or investigation; or

(b) [~~makes, presents, or uses~~] make, present, or use anything that the person knows to be false with [~~a~~] the purpose to deceive any of the following who may be engaged in [~~a~~] the proceeding or investigation [~~under this title~~]:

(i) a commissioner;

(ii) an authorized representative of the commission or department;

(iii) a law enforcement officer; or

(iv) [~~other~~] another person.

(5) (a) Except as provided in Subsection (5)(b), a violation of Subsection (1), (2), or (3) is a class B misdemeanor.

(b) A violation of Subsection (3) is a class A misdemeanor if the record is relevant to an official proceeding or investigation for a violation of Section 32B-4-404.

(c) A violation of Subsection (4) is a class A misdemeanor.

Section 3. Section 32B-5-202 is amended to read:

32B-5-202. Renewal requirements.

(1) A retail license expires each year on the day specified in the relevant chapter or part for that type of retail license.

(2) (a) To renew a person's retail license, a retail licensee shall, on or before the day specified in the relevant chapter or part for the type of retail license that the person seeks to renew, submit:

(i) a completed renewal application in a form prescribed by the department;

(ii) a renewal fee in the amount specified in the relevant chapter or part for the type of retail license that the person seeks to renew; [~~and~~]

(iii) a responsible alcohol service plan if, since the retail licensee's most recent application or renewal, the retail licensee:

(A) made substantial changes to the retail licensee's responsible alcohol service plan; or

(B) violated a provision of this chapter[~~.~~]; and

(iv) a certification in a form prescribed by the department of the retail licensee's compliance with Section 32B-5-302.

(b) The department may audit a retail licensee's responsible alcohol service plan.

(3) Failure to meet the renewal requirements results in an automatic forfeiture of the retail license effective on the day on which the existing retail license expires.

Section 4. Section 32B-5-302 is amended to read:

32B-5-302. Recordkeeping -- Retention.

(1) (a) A retail licensee shall make and maintain a record showing in detail:

[~~(a)~~] (i) quarterly expenditures made separately for:

[~~(i)~~] (A) malt or brewed beverages;

[~~(ii)~~] (B) liquor;

[~~(iii)~~] (C) set-ups;

[~~(iv)~~] (D) food; and

[~~(v)~~] (E) any other item required by the department; and

[~~(b)~~] (ii) sales made separately for:

[~~(i)~~] (A) malt or brewed beverages;

[~~(ii)~~] (B) set-ups;

[~~(iii)~~] (C) food; and

[~~(iv)~~] (D) any other item required by the department.

[~~(2)~~] (b) A retail licensee shall make and maintain a record required by Subsection (1)(a):

[~~(a)~~] (i) in a form approved by the department; and

[~~(b)~~] (ii) current for each three-month period.

[~~(3)~~] (c) A retail licensee shall support an expenditure by:

[~~(a)~~] (i) a delivery ticket;

[~~(b)~~] (ii) an invoice;

[~~(c)~~] (iii) a receipted bill;

[~~(d)~~] (iv) a canceled check;

[~~(e)~~] (v) a petty cash voucher; or

[~~(f)~~] (vi) other sustaining datum or memorandum.

[~~(4)~~] (d) In addition to a record required under Subsection [~~(1)~~] (1)(a), a retail licensee shall make and maintain any other record the department may require.

(2) After receiving written notice of an official proceeding or investigation under Chapter 15, Alcoholic Product Liability Act, or a criminal proceeding or investigation for a violation of Section 41-6a-502 or 41-6a-517, a retail licensee shall retain a record that is relevant to the proceeding or investigation, including any video surveillance, for a period of at least two years after the day on which the notice is received.

[~~(5)~~] (3) (a) A record of a retail licensee is subject to inspection by an authorized representative of the commission [~~and~~] or the department.

(b) A retail licensee shall allow the department, through an auditor or examiner of the department, to audit the records of the retail licensee at times the department considers advisable.

[~~(6)~~] (4) [~~Section~~] Sections 32B-1-205 [~~applies~~] and 32B-4-505 apply to a record required to be made or maintained in accordance with this section.

Section 5. Section 32B-6-205.2 is amended to read:

32B-6-205.2. Specific operational requirements for a full-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a full-service restaurant licensee;

(ii) individual staff of a full-service restaurant licensee; or

(iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A full-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a full-service restaurant licensee.

(4) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A full-service restaurant licensee may not furnish an alcoholic product for on-premise consumption except after:

(i) the patron to whom the full-service restaurant licensee furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the full-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the full-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the full-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is five ounces or less.

(c) Notwithstanding Section 32B-5-307, a full-service restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

(d) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product on the full-service restaurant licensee's licensed premises only if the patron is seated at:

(a) a table that is located in a dining area or dispensing area;

(b) a counter that is located in a dining area or dispensing area; or

(c) a dispensing structure located in a dispensing area.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than

two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) In accordance with the provisions of this section, an individual who is at least 21 years old may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years old and working as an employee of the full-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the full-service restaurant licensee when the full-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the full-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the full-service restaurant licensee; and

(B) located immediately adjacent to the premises of the full-service restaurant licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A full-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A full-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(13) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a full-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by [~~Section~~] Subsection 32B-5-302(1); and

(ii) a record that the commission requires a full-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once annually.

(15) A full-service restaurant licensee may lease to a patron of the full-service restaurant licensee a locked storage space:

(a) that the commission considers proper for the storage of wine; and

(b) for the storage of wine that:

(i) the patron purchases from the full-service restaurant licensee; and

(ii) only the full-service restaurant licensee or staff of the full-service restaurant licensee may remove from the locker for the patron's use in accordance with this title, including:

(A) service and consumption on licensed premises as described in Section 32B-5-306; or

(B) removal from the full-service retail licensee's licensed premises in accordance with Section 32B-5-307.

Section 6. Section 32B-6-305.2 is amended to read:

32B-6-305.2. Specific operational requirements for a limited-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements,

a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a limited-service restaurant licensee;

(ii) individual staff of a limited-service restaurant licensee; or

(iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A limited-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a limited-service restaurant licensee.

(4) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A limited-service restaurant licensee may not furnish an alcoholic product for on-premise consumption except after:

(i) the patron to whom the limited-service restaurant licensee furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the limited-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the limited-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the limited-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is 5 ounces or less.

(c) Notwithstanding Section 32B-5-307, a limited-service restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

(d) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product on the limited-service restaurant licensee's licensed premises only if the patron is seated at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) In accordance with the provisions of this section, an individual who is at least 21 years old may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years old and working as an employee of the limited-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the limited-service restaurant licensee when the limited-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the limited-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the limited-service restaurant licensee; and

(B) located immediately adjacent to the premises of the limited-service restaurant licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A limited-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A limited-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(13) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a limited-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by [~~Section~~] Subsection 32B-5-302(1); and

(ii) a record that the commission requires a limited-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a limited-service restaurant licensee at least once each calendar year.

Section 7. Section 32B-6-406 is amended to read:

32B-6-406. Specific operational requirements for a bar establishment license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a bar establishment licensee and staff of the bar establishment licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a bar establishment licensee;

(ii) individual staff of a bar establishment licensee; or

(iii) both a bar establishment licensee and staff of the bar establishment licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a bar licensee shall display in a conspicuous place at the entrance to the licensed premises a sign that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the bar licensee is a bar and that no one under 21 years [~~of age~~] old is allowed.

(3) (a) In addition to complying with Section 32B-5-302, a bar establishment licensee shall maintain for a minimum of three years:

(i) a record required by [~~Section~~] Subsection 32B-5-302(1); and

(ii) a record maintained or used by the bar establishment licensee, as the department requires.

(b) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (3).

(c) The department shall audit the records of a bar establishment licensee at least once annually.

(4) (a) A bar establishment licensee may not sell, offer for sale, or furnish liquor on the licensed premises on any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) A bar establishment licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer license.

(c) (i) Notwithstanding Subsections (4)(a) and (b), a bar establishment licensee shall keep its licensed premises open for one hour after the bar establishment licensee ceases the sale and furnishing of an alcoholic product during which time a patron of the bar establishment licensee may finish consuming:

(A) a single drink containing spirituous liquor;

(B) a single serving of wine not exceeding five ounces;

(C) a single serving of heavy beer;

(D) a single serving of beer not exceeding 26 ounces; or

(E) a single serving of a flavored malt beverage.

(ii) A bar establishment licensee is not required to remain open:

(A) after all patrons have vacated the premises; or

(B) during an emergency.

(5) (a) A minor:

(i) may not be admitted into, use, or be in the licensed premises of:

(A) a dining club licensee unless accompanied by an individual who is 21 years [~~of age~~] old or older; or

(B) a bar licensee, except to the extent provided for under Section 32B-6-406.1;

(ii) may only be admitted into, use, or be in the lounge or bar area of an equity licensee's or fraternal licensee's licensed premises:

(A) when accompanied by an individual who is 21 years [~~of age~~] old or older; and

(B) momentarily while en route to another area of the licensee's premises; and

(iii) may not remain or sit in the lounge or bar area of an equity licensee's or fraternal licensee's licensed premises.

(b) Notwithstanding Section 32B-5-308, a bar establishment licensee may not employ a minor to:

(i) work in a lounge or bar area of an equity licensee, fraternal licensee, or dining club licensee; or

(ii) handle an alcoholic product.

(c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed premises of a bar licensee.

(d) Nothing in this part or Section 32B-5-308 precludes a local authority from being more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a bar establishment licensee.

(6) A bar establishment licensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have two spirituous liquor drinks before the bar establishment licensee patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) A bar establishment licensee shall have available on the premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold, offered for sale, or furnished by the bar establishment licensee including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(9) Subject to Section 32B-5-309, a bar establishment licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:

(a) the person to whom the bar establishment licensee rents or leases the premises agrees in writing to comply with this title as if the person is the bar establishment licensee, except for a requirement related to making or maintaining a record; and

(b) the bar establishment licensee takes reasonable steps to ensure that the person complies with this section as provided in Subsection (9)(a).

(10) If a bar establishment licensee is an equity licensee or fraternal licensee, the bar establishment licensee shall comply with Section 32B-6-407.

(11) If a bar establishment licensee is a dining club licensee or bar licensee, the bar establishment licensee shall comply with Section 32B-1-407.

(12) (a) A bar establishment licensee shall own or lease premises suitable for the bar establishment licensee's activities.

(b) A bar establishment licensee may not maintain licensed premises in a manner that barricades or conceals the bar establishment licensee's operation.

Section 8. Section 32B-6-605 is amended to read:

32B-6-605. Specific operational requirements for on-premise banquet license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) an on-premise banquet licensee;

(ii) individual staff of an on-premise banquet licensee; or

(iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, convention center, performing arts facility, or arena that is the basis for the on-premise banquet license.

(3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

(i) an authorized representative of the commission or the department; or

(ii) a law enforcement officer.

(4) (a) An on-premise banquet licensee is not subject to [~~Section~~] Subsection 32B-5-302(1), but shall make and maintain the records described in Subsection 32B-5-302(2) and the records the commission or department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).

(5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the location of the banquet.

(b) Except as provided in Subsection 32B-5-307(4), a host of a banquet, a patron, or a person other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet.

(c) Notwithstanding Subsections 32B-5-307(3) and (5) and except as provided in Subsection 32B-5-307(4), a patron at a banquet may not bring an alcoholic product into or onto, or remove an alcoholic product from, the premises of a banquet.

(6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (6)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

(i) shall store the alcoholic product in the on-premise banquet licensee's approved locked storage area; and

(ii) may use the alcoholic product at more than one banquet.

(7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not employ a minor to sell, furnish, or dispense an alcoholic product in connection with the on-premise banquet licensee's banquet and room service activities.

(8) An on-premise banquet licensee:

(a) may provide room service in portions described in Section 32B-5-304;

(b) may not sell, offer for sale, or furnish an alcoholic product at a banquet or in connection with room service any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.; and

(c) notwithstanding Section 32B-5-305, may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if the alcoholic product:

(i) is not a spirituous liquor; and

(ii) is in an unopened container not to exceed 750 milliliters.

(9) (a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (9)(a).

(10) (a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

(11) A staff person of an on-premise banquet licensee shall remain at the banquet at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the banquet.

(12) (a) Room service of an alcoholic product to a guest room or privately owned dwelling unit of a hotel or resort facility shall be provided in person by staff of an on-premise banquet licensee only to an adult guest in the guest room or privately owned dwelling unit.

(b) An alcoholic product may not be left outside a guest room or privately owned dwelling unit for retrieval by a guest or resident.

(13) An on-premise banquet licensee may not maintain a minibar.

Section 9. Section 32B-6-706 is amended to read:

32B-6-706. Specific operational requirements for on-premise beer retailer license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) an on-premise beer retailer;

(ii) individual staff of an on-premise beer retailer; or

(iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

(2) (a) An on-premise beer retailer is not subject to [~~Section~~] Subsection 32B-5-302(1), but shall make and maintain the records described in Subsection 32B-5-302(2) and the records the department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (2).

(3) Notwithstanding Section 32B-5-303, an on-premise beer retailer may not store or sell liquor on its licensed premises.

(4) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at the on-premise beer retailer's licensed premises during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) (i) Notwithstanding Subsection (4)(a), a tavern shall remain open for one hour after the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may finish consuming a single serving of beer not exceeding 26 ounces.

(ii) A tavern is not required to remain open:

(A) after all patrons have vacated the premises; or

(B) during an emergency.

(5) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a tavern.

(6) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) Violation of Subsection (6)(a)(i) is a class A misdemeanor.

(b) (i) If an on-premise beer retailer purchases beer under this Subsection (6) from a beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the on-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the on-premise beer retailer as provided in Section 32B-13-301.

(ii) Violation of Subsection (6)(b)(i) is a class B misdemeanor.

(7) A tavern shall comply with Section 32B-1-407.

Section 10. Section 32B-6-905.1 is amended to read:

32B-6-905.1. Specific operational requirements for a beer-only restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a beer-only restaurant licensee;

(ii) individual staff of a beer-only restaurant licensee; or

(iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

(i) as a flavoring on a dessert; or

(ii) in the preparation of a flaming food dish, drink, or dessert.

(3) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes beer on the premises.

(b) A beverage tab described in this Subsection (3) shall state the type and amount of each beer ordered or consumed.

(4) A beer-only restaurant licensee may not make an individual's willingness to serve beer a condition of employment as a server with a beer-only restaurant licensee.

(5) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(6) (a) A beer-only restaurant licensee may not furnish beer for on-premise consumption except after:

(i) the patron to whom the beer-only restaurant licensee furnishes the beer is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the beer-only restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (6)(b), consume the food at the same location where the patron is seated and furnished the beer.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or furnish to the patron one portion of beer as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the beer-only restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's beer before moving to a seat in the dining area, an employee of the beer-only restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's beer to the patron's seat in the dining area.

(c) Notwithstanding Section 32B-5-307, a beer-only restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

(d) A beer-only restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(7) A patron may consume a beer on the beer-only licensee's licensed premises only at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

(8) A patron may not have more than two beers at a time before the patron.

(9) In accordance with the provisions of this section, an individual who is at least 21 years old may consume food and beverages in a dispensing area.

(10) (a) Except as provided in Subsection (10)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years old and working as an employee of the beer-only restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the beer-only restaurant licensee when the beer-only restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the beer-only restaurant licensee's premises in which the minor is permitted to be.

(11) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the

dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the beer-only restaurant licensee; and

(B) located immediately adjacent to the premises of the beer-only restaurant licensee; and

(b) any instrument or equipment used to dispense the beer is located in an area described in Subsection (11)(a).

(12) (a) A beer-only restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-902(1)(b)(i)(A), (B), or (C), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(13) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

(14) (a) In addition to the requirements described in Section 32B-5-302, a beer-only restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by [~~Section~~] Subsection 32B-5-302(1); and

(ii) a record that the commission requires a beer-only restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a beer-only restaurant licensee at least once annually.

Section 11. Section 32B-6-1005 is amended to read:

32B-6-1005. Specific operational requirements for hospitality amenity license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hospitality amenity licensee and staff of the hospitality amenity licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the hospitality amenity licensee;

(ii) individual staff of the hospitality amenity licensee; or

(iii) both the hospitality amenity licensee and staff of the hospitality amenity licensee.

(2) (a) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product:

(i) to a hospitality guest; and

(ii) for consumption in or on the hospitality amenity licensee's licensed premises.

(b) (i) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product that is not spirituous liquor in or on:

(A) licensed premises physically separated from an area to which a hospitality guest or the public has access by a permanent or temporary structure or barrier; or

(B) licensed premises described in Subsection (2)(b)(ii).

(ii) A hospitality amenity licensee may sell, offer for sale, or furnish spirituous liquor in or on licensed premises that:

(A) allows access only through the use of a key or code; and

(B) fills the entirety of a physically and permanently enclosed area within the hotel or resort.

(c) Spirituous liquor may not be in or on the licensed premises described in Subsection (2)(b)(i)(A) of a hospitality amenity licensee, except for use:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish or dessert.

(d) A hospitality amenity licensee may not allow self-service of an alcoholic product in or on the hospitality amenity licensee's licensed premises.

(3) (a) Subject to Subsections (3)(b) and (c), a hospitality guest may not have more than two alcoholic products of any kind at a time before the hospitality guest.

(b) A hospitality guest may not have more than one spirituous liquor drink at a time before the hospitality guest.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (3)(a).

(4) A hospitality amenity licensee shall make food available at all times that the licensee sells, offers for sale, furnishes, or allows the consumption of an alcoholic product on the licensed premises.

(5) (a) A hospitality amenity licensee may not sell, offer for sale, or furnish an alcoholic product any day during a period that:

(i) begins at 1:00 a.m.; and

(ii) ends at 9:59 a.m.

(b) A hospitality amenity licensee shall remain open for one hour after the licensee ceases to sell and furnish an alcoholic product, during which time

a hospitality guest in or on the hospitality amenity licensed premises may finish consuming:

(i) a single drink containing spirituous liquor;

(ii) a single serving of wine not exceeding five ounces;

(iii) a single serving of heavy beer;

(iv) a single serving of beer not exceeding 26 ounces; or

(v) a single serving of a flavored malt beverage.

(c) A hospitality amenity licensee is not required to remain open:

(i) after all individuals have vacated the licensee's licensed premises; or

(ii) during an emergency.

(6) (a) Notwithstanding Section 32B-5-305, a hospitality amenity licensee may provide a hospitality guest up to two single servings of an alcoholic product free of charge or at a reduced rate, if:

(i) the alcoholic product is not a spirituous liquor; and

(ii) the hospitality amenity licensee offers the alcohol product:

(A) to all hospitality guests;

(B) during a specific time; and

(C) on the hospitality amenity licensee's licensed premises.

(b) Before a hospitality amenity licensee provides an alcoholic product free of charge or at a reduced rate as described in Subsection (6)(a), the licensee shall provide the department with advance notice of the event, in accordance with commission rules that permit a licensee to provide a single notice for a reoccurring event or multiple events.

(7) A hospitality amenity licensee may permit a hospitality guest to purchase an alcoholic product through a charge to the hospitality guest's lodging accommodations.

(8) (a) Notwithstanding Section 32B-5-307, a hospitality guest, or a person other than the hospitality amenity licensee or staff of the hospitality amenity licensee, may not remove an alcoholic product from the hospitality amenity licensee's licensed premises.

(b) Notwithstanding Subsection 32B-5-307(3), a hospitality guest may not bring an alcoholic product within the hospitality amenity licensee's licensed premises.

(9) A hospitality amenity licensee shall display at each entrance to the licensee's licensed premises a conspicuous sign that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that entry is limited to individuals who are hospitality guests, as defined in this title.

(10) A hospitality amenity licensee may not permit a minor to enter the licensee's licensed premises at any time during which an alcoholic product is sold, offered for sale, furnished, or consumed, unless the minor is accompanied at all times on the licensed premises by a hospitality guest.

(11) A staff person of a hospitality amenity licensee shall remain on the licensed premises at all times when an alcoholic product is sold, offered for sale, furnished, or consumed in or on the licensed premises.

(12) A hospitality amenity licensee may transfer an alcoholic product to or from another licensee within the boundary of the hotel or within the boundary of the resort building, if:

(a) the hospitality amenity licensee and each licensee involved in the transfer tracks the transfer of the alcoholic product; and

(b) the alcoholic product is in a sealed, unopened container.

(13) (a) In addition to the requirements described in Section 32B-5-302, a hospitality amenity licensee shall maintain each of the following records for at least three years:

(i) a record required under [~~Section~~] Subsection 32B-5-302(1); and

(ii) a record that the commission requires a hospitality amenity licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a hospitality amenity licensee at least once annually.

Section 12. Section 32B-15-201 is amended to read:

32B-15-201. Liability for injuries and damage resulting from distribution of alcoholic products -- Prima facie evidence.

(1) (a) Except as provided in Subsections 32B-15-202(2) and (3), a person described in Subsection (1)(b) is liable for:

(i) any and all injury and damage, except punitive damages to:

(A) a third person; or

(B) the heir, as defined in Section 78B-3-105, of [~~that~~] the third person; or

(ii) the death of a third person.

(b) A person is liable under Subsection (1)(a) if:

(i) the person directly gives, sells, or otherwise provides an alcoholic product:

(A) to a person described in Subsection (1)(b)(ii); and

(B) as part of the commercial sale, storage, service, manufacture, distribution, or consumption of an alcoholic product;

(ii) those actions cause the intoxication of:

(A) an individual under [~~the age of~~] 21 years old;

(B) an individual who is apparently under the influence of [~~intoxicating alcoholic products or drugs~~] an alcoholic product or drug;

(C) an individual whom the person furnishing the alcoholic product knew or should have known from the circumstances was under the influence of [~~intoxicating alcoholic products or drugs~~] an alcoholic product or drug; or

(D) an individual who is a known interdicted person; and

(iii) the injury or death described in Subsection (1)(a) results from the intoxication of the individual who is provided the alcoholic product.

(c) It is prima facie evidence that a person is liable under Subsection (1)(a) for an injury or death that results from the intoxication of an individual described in Subsection (1)(b)(ii)(B) or (C) if:

(i) the person directly gives, sells, or otherwise provides the individual the last alcoholic product the individual consumes before the injury or death described in Subsection (1)(b)(iii);

(ii) the individual consumes the alcoholic product at the location where the person directly gives, sells, or otherwise provides the individual the alcoholic product;

(iii) the injury or death occurs within 30 minutes after the time at which the individual leaves, and within a 10 mile radius of, the location where the person gives, sells, or otherwise provides the individual the alcoholic product; and

(iv) the individual is charged with a criminal violation of Section 41-6a-502 for driving under the influence of an alcoholic product in relation to the injury or death.

(2) (a) A person 21 years [~~of age~~] old or older who is described in Subsection (2)(b) is liable for:

(i) any and all injury and damage, except punitive damages to:

(A) a third person; or

(B) the heir, as defined in Section 78B-3-105, of [~~that~~] the third person; or

(ii) the death of the third person.

(b) A person is liable under Subsection (2)(a) if:

(i) [~~that~~] the person directly gives or otherwise provides an alcoholic product to an individual who the person knows or should have known is under [~~the age of~~] 21 years old;

(ii) those actions caused the intoxication of the individual provided the alcoholic product;

(iii) the injury or death described in Subsection (2)(a) results from the intoxication of the individual who is provided the alcoholic product; and

(iv) the person is not liable under Subsection (1), because the person did not directly give or provide the alcoholic product as part of the commercial sale, storage, service, manufacture, distribution, or consumption of an alcoholic product.

(3) This section does not apply to a business licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act, to sell beer at retail only for off-premise consumption.

CHAPTER 401
H. B. 251
Passed February 27, 2023
Approved March 20, 2023
Effective July 1, 2024

COURT AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to courts.

Highlighted Provisions:

This bill:

- amends provisions related to civil actions in the district court in the following titles:
  - Title 3, Uniform Agricultural Cooperative Association Act;
  - Title 7, Financial Institutions Act;
  - Title 16, Corporations;
  - Title 31A, Insurance Code;
  - Title 35A, Utah Workforce Services Code;
  - Title 48, Unincorporated Business Entity Act;
  - Title 57, Real Estate;
  - Title 61, Securities Division - Real Estate Division;
  - Title 70, Trademarks and Trade Names;
  - Title 70A, Uniform Commercial Code; and
  - Title 78B, Judicial Code;
- enacts a venue provision for the Commissioner of Financial Institutions;
- enacts a venue provision for the Commissioner of the Insurance Department;
- enacts Title 78B, Chapter 3a, Venue for Civil Actions;
- defines terms related to the venue of a civil action;
- clarifies the applicability of Title 78B, Chapter 3a, Venue for Civil Actions;
- addresses the transfer of venue for a civil action;
- clarifies the residence of a business organization for purposes of venue;
- amends venue provisions for various types of civil actions;
- amends provisions related to judgments entered by the district court or justice court;
- amends provisions related to a mileage allowance for a judgment debtor;
- amends provisions related to contempt by a nonjudicial officer;
- amends provisions related to the filing of a notice of lis pendens;
- repeals statutes related to court venue, jurisdiction, and procedure;
- repeals statutes related to a change of venue; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

3-1-20, as last amended by Laws of Utah 1994, Chapter 202
3-1-20.1, as enacted by Laws of Utah 2003, Chapter 70
7-1-703, as last amended by Laws of Utah 2017, Chapter 169
7-2-2, as last amended by Laws of Utah 2014, Chapter 189
7-2-5, as last amended by Laws of Utah 1983, Chapter 8
7-2-6, as last amended by Laws of Utah 2015, Chapter 258
7-2-9, as last amended by Laws of Utah 2010, Chapter 378
7-2-10, as last amended by Laws of Utah 2010, Chapter 378
7-5-13, as last amended by Laws of Utah 1989, Chapter 267
7-23-401, as last amended by Laws of Utah 2020, Chapter 121
16-6a-117, as enacted by Laws of Utah 2000, Chapter 300
16-6a-703, as last amended by Laws of Utah 2008, Chapter 364
16-6a-710, as last amended by Laws of Utah 2008, Chapter 364
16-6a-809, as last amended by Laws of Utah 2001, Chapters 9, 127
16-6a-1405, as last amended by Laws of Utah 2015, Chapter 240
16-6a-1414, as enacted by Laws of Utah 2000, Chapter 300
16-6a-1416, as enacted by Laws of Utah 2000, Chapter 300
16-6a-1417, as enacted by Laws of Utah 2000, Chapter 300
16-6a-1604, as last amended by Laws of Utah 2008, Chapter 364
16-6a-1609, as last amended by Laws of Utah 2002, Chapter 197
16-10a-126, as enacted by Laws of Utah 1992, Chapter 277
16-10a-303, as enacted by Laws of Utah 1992, Chapter 277
16-10a-703, as last amended by Laws of Utah 2008, Chapter 364
16-10a-720, as last amended by Laws of Utah 2010, Chapter 378
16-10a-1330, as last amended by Laws of Utah 2010, Chapter 378
16-10a-1430, as enacted by Laws of Utah 1992, Chapter 277
16-10a-1434, as last amended by Laws of Utah 2010, Chapter 378
16-10a-1532, as last amended by Laws of Utah 2000, Chapter 131
16-10a-1604, as last amended by Laws of Utah 2008, Chapter 364
16-11-13, as last amended by Laws of Utah 2000, Chapter 261
16-16-202, as enacted by Laws of Utah 2008, Chapter 363
16-16-1203, as enacted by Laws of Utah 2008, Chapter 363

16-16-1206, as enacted by Laws of Utah 2008, Chapter 363
16-16-1210, as enacted by Laws of Utah 2008, Chapter 363
24-1-103, as last amended by Laws of Utah 2021, Chapter 230
31A-2-305, as last amended by Laws of Utah 1997, Chapter 296
31A-5-414, as enacted by Laws of Utah 1985, Chapter 242
31A-5-415, as last amended by Laws of Utah 2000, Chapter 300
31A-15-211, as enacted by Laws of Utah 1992, Chapter 258
31A-16-107.5, as renumbered and amended by Laws of Utah 2015, Chapter 244
31A-16-110, as last amended by Laws of Utah 1986, Chapter 204
31A-16-111, as last amended by Laws of Utah 2000, Chapter 114
31A-16-112, as enacted by Laws of Utah 2015, Chapter 244
31A-16-117, as enacted by Laws of Utah 2015, Chapter 244
31A-17-610, as last amended by Laws of Utah 2007, Chapter 309
31A-27a-105, as last amended by Laws of Utah 2020, Chapter 32
31A-27a-201, as last amended by Laws of Utah 2014, Chapters 290, 300
31A-27a-206, as enacted by Laws of Utah 2007, Chapter 309
31A-27a-207, as enacted by Laws of Utah 2007, Chapter 309
31A-27a-209, as enacted by Laws of Utah 2007, Chapter 309
31A-44-501, as enacted by Laws of Utah 2016, Chapter 270
35A-4-308, as renumbered and amended by Laws of Utah 1996, Chapter 240
35A-4-314, as enacted by Laws of Utah 2013, Chapter 473
48-1d-111, as enacted by Laws of Utah 2013, Chapter 412
48-1d-116, as enacted by Laws of Utah 2013, Chapter 412
48-1d-901, as enacted by Laws of Utah 2013, Chapter 412
48-1d-902, as enacted by Laws of Utah 2013, Chapter 412
48-1d-903, as enacted by Laws of Utah 2013, Chapter 412
48-1d-909, as enacted by Laws of Utah 2013, Chapter 412
48-1d-1003, as enacted by Laws of Utah 2013, Chapter 412
48-1d-1310, as enacted by Laws of Utah 2013, Chapter 412
48-2e-204, as enacted by Laws of Utah 2013, Chapter 412
48-2e-209, as enacted by Laws of Utah 2013, Chapter 412
48-2e-801, as enacted by Laws of Utah 2013, Chapter 412
48-2e-802, as enacted by Laws of Utah 2013, Chapter 412
48-2e-803, as enacted by Laws of Utah 2013, Chapter 412
48-2e-808, as enacted by Laws of Utah 2013, Chapter 412
48-2e-1103, as enacted by Laws of Utah 2013, Chapter 412
48-3a-204, as enacted by Laws of Utah 2013, Chapter 412
48-3a-209, as enacted by Laws of Utah 2013, Chapter 412
48-3a-701, as enacted by Laws of Utah 2013, Chapter 412
48-3a-702, as enacted by Laws of Utah 2013, Chapter 412
48-3a-703, as enacted by Laws of Utah 2013, Chapter 412
48-3a-704, as enacted by Laws of Utah 2013, Chapter 412
48-3a-707, as enacted by Laws of Utah 2013, Chapter 412
48-3a-1003, as enacted by Laws of Utah 2013, Chapter 412
48-3a-1111, as enacted by Laws of Utah 2013, Chapter 412
57-8-44, as last amended by Laws of Utah 2014, Chapter 116
57-8a-301, as last amended by Laws of Utah 2014, Chapter 116
57-17-5, as last amended by Laws of Utah 2015, Chapter 258
57-19-20, as last amended by Laws of Utah 2008, Chapter 382
57-21-11, as last amended by Laws of Utah 1997, Chapter 375
57-22-6, as last amended by Laws of Utah 2017, Chapter 203
57-23-7, as enacted by Laws of Utah 1992, Chapter 169
57-23-8, as last amended by Laws of Utah 2008, Chapter 382
57-29-303, as enacted by Laws of Utah 2016, Chapter 381
57-29-304, as enacted by Laws of Utah 2016, Chapter 381
61-1-20, as last amended by Laws of Utah 2016, Chapter 401
61-1-105, as enacted by Laws of Utah 2011, Chapter 318
61-2-203, as last amended by Laws of Utah 2021, Chapter 259
61-2c-403, as last amended by Laws of Utah 2009, Chapter 372
61-2f-403, as last amended by Laws of Utah 2017, Chapter 182
61-2f-407, as last amended by Laws of Utah 2018, Chapter 213
61-2g-501, as last amended by Laws of Utah 2018, Chapter 213
70-3a-309, as enacted by Laws of Utah 2010, Chapter 200
70-3a-402, as last amended by Laws of Utah 2010, Chapter 200
70-3a-405, as enacted by Laws of Utah 2002, Chapter 318
70A-8-409.1, as last amended by Laws of Utah 2012, Chapter 386

70A-9a-513.5, as enacted by Laws of Utah 2015, Chapter 228
78A-6-350, as renumbered and amended by Laws of Utah 2021, Chapter 261
78B-1-132, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-5-201, as last amended by Laws of Utah 2014, Chapters 114, 151
78B-5-202, as last amended by Laws of Utah 2014, Chapter 151
78B-5-206, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-110, as last amended by Laws of Utah 2019, Chapter 491
78B-6-313, as enacted by Laws of Utah 2008, Chapter 3
78B-6-1303, as last amended by Laws of Utah 2016, Chapter 306
78B-6-1904, as last amended by Laws of Utah 2016, Chapter 222
78B-6-1905, as enacted by Laws of Utah 2014, Chapter 310
78B-21-102, as enacted by Laws of Utah 2017, Chapter 431

ENACTS:
7-1-106, Utah Code Annotated 1953
31A-1-401, Utah Code Annotated 1953
78B-3a-101, Utah Code Annotated 1953
78B-3a-102, Utah Code Annotated 1953
78B-3a-103, Utah Code Annotated 1953
78B-3a-104, Utah Code Annotated 1953
78B-3a-206, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
78B-3a-201, (Renumbered from 78B-3-307, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-3a-202, (Renumbered from 78B-3-301, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-3a-203, (Renumbered from 78B-3-302, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-3a-204, (Renumbered from 78B-3-303, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-3a-205, (Renumbered from 78B-3-304, as renumbered and amended by Laws of Utah 2008, Chapter 3)

REPEALS:
3-1-20.2, as enacted by Laws of Utah 2003, Chapter 70
16-6a-1415, as last amended by Laws of Utah 2008, Chapter 364
16-10a-1431, as last amended by Laws of Utah 2008, Chapter 364
34-34-14, as enacted by Laws of Utah 1969, Chapter 85
78B-3-305, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-3-306, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-3-308, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-3-309, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-3-310, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-3-311, as renumbered and amended by Laws of Utah 2008, Chapter 3

Utah Code Sections Affected by Coordination Clause:
31A-5-414, as enacted by Laws of Utah 1985, Chapter 242
31A-5-415, as last amended by Laws of Utah 2000, Chapter 300
31A-16-111, as last amended by Laws of Utah 2000, Chapter 114

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 3-1-20 is amended to read:

3-1-20. Voluntary dissolution -- Distribution of assets -- Proceedings.

(1) (a) An association may be dissolved:

(i) at a regular meeting, or a special meeting called for that purpose;

(ii) after 30 days advance notice of the time, place, and object of the meeting is served on the members of the association as prescribed in the bylaws; and

(iii) by a two-thirds vote of the members voting.

(b) (i) The members shall elect a committee of three members to act as trustees on behalf of the association, and the trustees shall liquidate and distribute the association's assets within the time fixed by the members.

(ii) The trustees may bring and defend actions necessary to protect and enforce the rights of the association.

(iii) Any vacancies in the trusteeship may be filled by the remaining trustees.

(2) (a) If an association dissolves pursuant to this section, the trustees, a creditor, a member, or the attorney general may bring an action [~~in the district court in the county where the principal place of business of the association is located~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) [~~The~~] If an action is brought against an association under Subsection (2)(a), the court may specify:

(i) appropriate notice of the time and place for the submission of claims against the association, which notice may require creditors of and claimants against the association to submit accounts and demands in writing at the specified place by a specific day[~~, which date shall be~~] that is at least 40 days from the date of service or first publication of the notice;

(ii) the payment or satisfaction of claims and demands against the association, or the retention of money for such purpose;

(iii) the administration of trusts or the disposition of the property held in trust by or for the association;

(iv) the sale and disposition of any remaining property of the association and the distribution or division of the property or its proceeds among the members or persons entitled to them; and

(v) other matters related to the dissolution.

(c) All orders and judgments [~~shall be~~] are binding upon the association, [~~its~~] the association's property and assets, trustees, members, creditors, and all claimants against [~~it~~] the association.

(3) On dissolution, the assets of the association [~~shall be~~] are distributed in the following manner and order:

(a) to pay the association's debts and expenses;

(b) to return to any investors the par value of their capital;

(c) to pay patrons on a pro rata basis the amount of any patronage capital credited to their accounts; and

(d) if there is a surplus, to distribute [~~it~~] the surplus among those patrons who have been members of the association at any time during the last five years preceding dissolution or for a longer period of time if determined by the board of directors to be practicable, on the basis of patronage during that period.

(4) After the final settlement by the trustees, the association [~~shall be~~] is considered dissolved and shall cease to exist.

(5) The trustees shall make a report in duplicate of the proceedings held under this section, which shall be signed, acknowledged, and filed as required for the filing of the articles of incorporation.

(6) This section shall apply to all associations incorporated in this state.

Section 2. Section 3-1-20.1 is amended to read:

3-1-20.1. Grounds and procedure for judicial dissolution.

(1) [~~An association may be dissolved in a proceeding by the attorney general~~] The attorney general may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve an association if it is established that the association:

(a) obtained its articles of incorporation through fraud; or

(b) has continued to exceed or abuse the authority conferred upon [~~it~~] the association by law.

(2) [~~An association may be dissolved in a proceeding brought by a shareholder~~] A shareholder may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve an association if it is established that:

(a) the directors are deadlocked in the management of the association affairs, the members are unable to break the deadlock, irreparable injury to the association is threatened or being suffered, or the business and affairs of the association can no longer be conducted to the advantage of the members generally, because of the deadlock;

(b) the directors, or those in control of the association, have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) the members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired on the election of their successors; or

(d) the association's assets are being misapplied or wasted.

(3) [~~An association may be dissolved in a proceeding by a creditor~~] A creditor may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve an association if it is established that:

(a) the creditor's claim has been reduced to a judgment, the execution on the judgment has been returned unsatisfied, and the association is insolvent; or

(b) the association is insolvent and the association has admitted in writing that the creditor's claim is due and owing.

(4) [~~An association may be dissolved in a proceeding by the association to have its~~] An association may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to have the association's voluntary dissolution continued under court supervision.

(5) If an action is brought under this section, it is not necessary to make members parties to the action to dissolve the association unless relief is sought against the members individually.

(6) In an action to dissolve an association, a court may:

(a) issue injunctions;

(b) appoint a receiver or a custodian pendente lite with all powers and duties the court directs; or

(c) take other action required to preserve the association's assets wherever located and carry on the business of the association until a full hearing can be held.

Section 3. Section 7-1-106 is enacted to read:

7-1-106. Venue for action or petition brought by commissioner.

If the commissioner brings an action in the district court under this title, the commissioner shall bring the action:

(1) in accordance with Title 78B, Chapter 3a, Venue for Civil Actions; or

(2) in the county where the office of the commissioner is located.

Section 4. Section 7-1-703 is amended to read:

7-1-703. Restrictions on acquisition of institutions and holding companies -- Enforcement.

(1) Unless the commissioner gives prior written approval under Section 7-1-705, a person may not:

(a) acquire, directly or indirectly, control of a depository institution or depository institution holding company subject to the jurisdiction of the department;

(b) vote the stock of a depository institution or depository institution holding company subject to the jurisdiction of the department acquired in violation of Section 7-1-705;

(c) acquire all or a material portion of the assets of a depository institution or a depository institution holding company subject to the jurisdiction of the department;

(d) assume all or a material portion of the deposit liabilities of a depository institution subject to the jurisdiction of the department;

(e) take any action that causes a depository institution to become a subsidiary of a depository institution holding company subject to the jurisdiction of the department;

(f) take any action that causes a person other than an individual to become a depository institution holding company subject to the jurisdiction of the department;

(g) acquire, directly or indirectly, the voting or nonvoting securities of a depository institution or a depository institution holding company subject to the jurisdiction of the department if the acquisition would result in the person obtaining more than 20% of the authorized voting securities of the institution if the nonvoting securities were converted into voting securities; or

(h) merge or consolidate with a depository institution or depository institution holding company subject to the jurisdiction of the department.

(2) (a) A person who willfully violates this section or a rule or order issued by the department under this section is subject to a civil penalty of not more than $1,000 per day during which the violation continues.

(b) The commissioner may assess the civil penalty after giving notice and opportunity for hearing.

(c) The commissioner shall collect the civil penalty by bringing an action [~~in the district court of the county in which the office of the commissioner is located.~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(d) An applicant for approval of an acquisition is considered to have consented to the jurisdiction and venue of the court by filing an application for approval.

(3) The commissioner may secure injunctive relief to prevent a change in control or impending violation of this section.

(4) The commissioner may lengthen or shorten any time period specified in Section 7-1-705 if the commissioner finds it necessary to protect the public interest.

(5) The commissioner may exempt a class of financial institutions from this section by rule if the commissioner finds the exception to be in the public interest.

(6) The prior approval of the commissioner under Section 7-1-705 is not required for the acquisition by a person other than an individual of voting securities or assets of a depository institution or a depository institution holding company that are acquired by foreclosure or otherwise in the ordinary course of collecting a debt previously contracted in good faith if these voting securities or assets are divested within two years of acquisition. The commissioner may, upon application, extend the two-year period of divestiture for up to three additional one-year periods if, in the commissioner's judgment, the extension would not be detrimental to the public interest. The commissioner may adopt rules to implement the intent of this Subsection (6).

(7) (a) An out-of-state depository institution without a branch in Utah, or an out-of-state depository institution holding company without a depository institution in Utah, may acquire:

(i) a Utah depository institution only if it has been in existence for at least five years; or

(ii) a Utah branch of a depository institution only if the branch has been in existence for at least five years.

(b) For purposes of Subsection (7)(a), a depository institution chartered solely for the purpose of acquiring another depository institution is considered to have been in existence for the same period as the depository institution to be acquired, so long as it does not open for business at any time before the acquisition.

(c) The commissioner may waive the restriction in Subsection (7)(a) in the case of a depository institution that is subject to, or is in danger of becoming subject to, supervisory action under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, or, if applicable, the equivalent provisions of federal law or the law of the institution's home state.

(d) The restriction in Subsection (7)(a) does not apply to an acquisition of, or merger transaction between, affiliate depository institutions.

Section 5. Section 7-2-2 is amended to read:

7-2-2. Action to review the commissioner's actions -- Supervision of actions of commissioner in possession -- Authority of commissioner and court.

[~~(1) The district court for the county in which the principal office of the institution or other person is~~

~~situated has jurisdiction in the liquidation or reorganization of the institution or other person of which the commissioner has taken possession under this chapter or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies. As used in this chapter, "court" means the court given jurisdiction by this provision.~~]

[~~(2)~~] (1) Before taking possession of an institution or other person under [~~his~~] the commissioner's jurisdiction, or within a reasonable time after taking possession of an institution or other person without court order, as provided in this chapter, the commissioner shall [~~cause to be commenced in the appropriate district court, an action to provide the court supervisory jurisdiction~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to provide the court with supervisory jurisdiction to review the actions of the commissioner.

[~~(3)~~] (2) (a) The actions of the commissioner are subject to review of the court.

(b) The court [~~has jurisdiction to hear all objections to the actions of the commissioner and~~] may:

(i) hear all objections to the actions of the commissioner; and

(ii) rule upon all motions and actions coming before [~~it~~] the court.

(c) Standing to seek review of any action of the commissioner or any receiver or liquidator appointed by [~~him~~] the commissioner is limited to persons whose rights, claims, or interests in the institution would be adversely affected by the action.

[~~(4)~~] (3) (a) The authority of the commissioner under this chapter is of an administrative and not judicial receivership.

(b) The court may not overrule a determination or decision of the commissioner if it is not arbitrary, capricious, fraudulent, or contrary to law.

(c) If the court overrules an action of the commissioner, the matter shall be remanded to the commissioner for a new determination by [~~him~~] the commissioner, and the new determination shall be subject to court review.

Section 6. Section 7-2-5 is amended to read:

7-2-5. Appointment of receiver or assignment for creditors -- Notice required -- Commissioner taking possession.

[~~No receiver may be~~]

(1) A receiver may not be appointed by any court and [~~no~~] a deed or assignment for the benefit of creditors may not be filed in [~~any district court~~] a court within this state for any institution or other person under the jurisdiction of the commissioner, except upon notice to the commissioner, unless because of urgent necessity the court determines that it is necessary to do so to preserve the assets of the institution.

(2) The commissioner may, within five days after service of the notice upon [~~him~~] the commissioner, take possession of the institution, in which case no further proceedings shall be had upon the application for the appointment of a receiver or under the deed of assignment, or, if a receiver has been appointed or the assignee has entered upon the administration of his trust, the appointment shall be vacated or the assignee shall be removed upon application of the commissioner to the court by which the receiver was appointed or in which the assignment was filed, and the commissioner shall proceed to administer the assets of the institution as provided in this chapter.

Section 7. Section 7-2-6 is amended to read:

7-2-6. Possession by commissioner -- Notice -- Presentation, allowance, and disallowance of claims -- Objections to claims.

(1) (a) Possession of an institution by the commissioner commences when notice of taking possession is:

(i) posted in each office of the institution located in this state; or

(ii) delivered to a controlling person or officer of the institution.

(b) All notices, records, and other information regarding possession of an institution by the commissioner may be kept confidential, and all court records and proceedings relating to the commissioner's possession may be sealed from public access if:

(i) the commissioner finds it is in the best interests of the institution and its depositors not to notify the public of the possession by the commissioner;

(ii) the deposit and withdrawal of funds and payment to creditors of the institution is not suspended, restricted, or interrupted; and

(iii) the court approves.

(2) (a) (i) Within 15 days after taking possession of an institution or other person under the jurisdiction of the department, the commissioner shall publish a notice to all persons who may have claims against the institution or other person to file proof of their claims with the commissioner before a date specified in the notice.

(ii) The filing date shall be at least 90 days after the date of the first publication of the notice.

(iii) The notice shall be published:

(A) (I) in a newspaper of general circulation in each city or county in which the institution or other person, or any subsidiary or service corporation of the institution, maintains an office; and

(II) published again approximately 30 days and 60 days after the date of the first publication; and

(B) as required in Section 45-1-101 for 60 days.

(b) (i) (A) Within 60 days of taking possession of a depository institution, the commissioner shall send a similar notice to all persons whose identity is reflected in the books or records of the institution as depositors or other creditors, secured or unsecured, parties to litigation involving the institution pending at the date the commissioner takes possession of the institution, and all other potential claimants against the institution whose identity is reasonably ascertainable by the commissioner from examination of the books and records of the institution.

(B) No notice is required in connection with accounts or other liabilities of the institution that will be paid in full or be fully assumed by another depository institution or trust company.

(C) The notice shall specify a filing date for claims against the institution not less than 60 days after the date of mailing.

(D) Claimants whose claims against the institution have been assumed by another depository institution or trust company pursuant to a merger or purchase and assumption agreement with the commissioner, or a federal deposit insurance agency appointed as receiver or liquidator of the institution, shall be notified of the assumption of their claims and the name and address of the assuming party within 60 days after the claim is assumed.

(E) Unless a purchase and assumption or merger agreement requires otherwise, the assuming party shall give all required notices.

(F) Notice shall be mailed to the address appearing in the books and records of the institution.

(ii) (A) Inadvertent or unintentional failure to mail a notice to any person entitled to written notice under this paragraph does not impose any liability on the commissioner or any receiver or liquidator appointed by [~~him~~] the commissioner beyond the amount the claimant would be entitled to receive if the claim had been timely filed and allowed.

(B) The commissioner or any receiver or liquidator appointed by [~~him~~] the commissioner are not liable for failure to mail notice unless the claimant establishes that [~~it~~] the claimant had no knowledge of the commissioner taking possession of the institution until after all opportunity had passed for obtaining payment through filing a claim with the commissioner, receiver, or liquidator.

(c) Upon good cause shown, the court [~~having~~] with supervisory jurisdiction under Section 7-2-2 may extend the time in which the commissioner may serve any notice required by this chapter.

(d) (i) The commissioner has the sole power to adjudicate any claim against the institution, its property or other assets, tangible or intangible, and to settle or compromise claims within the priorities set forth in Section 7-2-15.

(ii) Any action of the commissioner is subject to judicial review as provided in Subsection (9).

(e) (i) A receiver or liquidator of the institution appointed by the commissioner has all the duties, powers, authority, and responsibilities of the commissioner under this section.

(ii) All claims against the institution shall be filed with the receiver or liquidator within the applicable time specified in this section and the receiver or liquidator shall adjudicate the claims as provided in Subsection (2)(d).

(f) The procedure established in this section is the sole remedy of claimants against an institution or its assets in the possession of the commissioner.

(3) With respect to a claim which appears in the books and records of an institution or other person in the possession of the commissioner as a secured claim, which, for purposes of this section is a claim that constitutes an enforceable, perfected lien, evidenced in writing, on the assets or other property of the institution:

(a) The commissioner shall allow or disallow each secured claim filed on or before the filing date within 30 days after receipt of the claim and shall notify each secured claimant by certified mail or in person of the basis for, and any conditions imposed on, the allowance or disallowance.

(b) For all allowed secured claims, the commissioner shall be bound by the terms, covenants, and conditions relating to the assets or other property subject to the claim, as set forth in the note, bond, or other security agreement which evidences the secured claim, unless the commissioner has given notice to the claimant of [~~his~~] the commissioner's intent to abandon the assets or other property subject to the secured claim at the time the commissioner gave the notice described in Subsection (3)(a).

(c) No petition for lifting the stay provided by Section 7-2-7 may be filed with respect to a secured claim before the claim has been filed and allowed or disallowed by the commissioner in accordance with Subsection (3)(a).

(4) With respect to all other claims other than secured claims:

(a) Each claim filed on or before the filing date shall be allowed or disallowed within 180 days after the final publication of notice.

(b) If notice of disallowance is not served upon the claimant by the commissioner within 210 days after the date of final publication of notice, the claim is considered disallowed.

(c) (i) The rights of claimants and the amount of a claim shall be determined as of the date the commissioner took possession of the institution under this chapter.

(ii) Claims based on contractual obligations of the institution in existence on the date of possession may be allowed unless the obligation of the institution is dependent on events occurring after the date of possession, or the amount or worth of the

claim cannot be determined before any distribution of assets of the institution is made to claimants having the same priority under Section 7-2-15.

(d) (i) An unliquidated claim against the institution, including claims based on alleged torts for which the institution would have been liable on the date the commissioner took possession of the institution and any claims for a right to an equitable remedy for breach of performance by the institution, may be filed in an estimated amount.

(ii) The commissioner may disallow or allow the claim in an amount determined by the commissioner, settle the claim in an amount approved by the court, or, in [~~his~~] the commissioner's discretion, refer the claim to the court [~~designated by Section 7-2-2~~] with supervisory jurisdiction under Section 7-2-2 for determination in accordance with procedures designated by the court.

(iii) If the institution held on the date of possession by the commissioner a policy of insurance that would apply to the liability asserted by the claimant, the commissioner, or any receiver appointed by [~~him~~] the commissioner may assign to the claimant all rights of the institution under the insurance policy in full satisfaction of the claim.

[~~(ii)~~] (iv) If the commissioner finds there are or may be issues of fact or law as to the validity of a claim, liquidated or unliquidated, or its proper allowance or disallowance under the provisions of this chapter, [~~he~~] the commissioner may appoint a hearing examiner to conduct a hearing and to prepare and submit recommended findings of fact and conclusions of law for final consideration by the commissioner.

(v) The hearing shall be conducted as provided in rules or regulations issued by the commissioner.

(vi) The decision of the commissioner shall be based on the record before the hearing examiner and information the commissioner considers relevant and shall be subject to judicial review as provided in Subsection (9).

(e) A claim may be disallowed if it is based on actions or documents intended to deceive the commissioner or any receiver or liquidator appointed by [~~him~~] the commissioner.

(f) The commissioner may defer payment of any claim filed on behalf of a person who was at any time in control of the institution within the meaning of Section 7-1-103, pending the final determination of all claims of the institution against that person.

(g) The commissioner or any receiver appointed by [~~him~~] the commissioner may disallow a claim that seeks a dollar amount if it is determined by the court [~~having~~] with supervisory jurisdiction under Section 7-2-2 that the commissioner or receiver or conservator will not have any assets with which to pay the claim under the priorities established by Section 7-2-15.

(h) The commissioner may adopt rules to establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed against an institution under this chapter.

(i) (i) In establishing alternative dispute resolution processes, the commissioner shall strive for procedures that are expeditious, fair, independent, and low cost.

(ii) The commissioner shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

(j) The commissioner may establish both binding and nonbinding processes, which may be conducted by any government or private party, but all parties, including the claimant and the commissioner or any receiver appointed by [~~him~~] the commissioner, must agree to the use of the process in a particular case.

(5) (a) Claims filed after the filing date are disallowed, unless:

(i) the claimant who did not file [~~his~~] the claimant's claim timely demonstrates that [~~he~~] the claimant did not have notice or actual knowledge of the proceedings in time to file a timely proof of claim; and

(ii) proof of the claim was filed prior to the last distribution of assets.

(b) [~~For the purpose of this subsection only, late filed claims~~] Claims filed late may be allowed under Subsection (5)(a)(ii) if proof was filed before the final distribution of assets of the institution to claimants of the same priority and are payable only out of the remaining assets of the institution.

[~~(b)~~] (c) A late filed claim may be disallowed under any other provision of this section.

(6) Debts owing to the United States or to any state or its subdivisions as a penalty or forfeiture are not allowed, except for the amount of the pecuniary loss sustained by the act, transaction, or proceeding out of which the penalty or forfeiture arose.

(7) Except as otherwise provided in Subsection 7-2-15(1)(a), interest accruing on any claim after the commissioner has taken possession of an institution or other person under this chapter may be disallowed.

(8) (a) A claim against an institution or its assets based on a contract or agreement may be disallowed unless the agreement:

(i) is in writing;

(ii) is otherwise a valid and enforceable contract; and

(iii) has continuously, from the time of its execution, been an official record of the institution.

(b) The requirements of this Subsection (8) do not apply to claims for goods sold or services rendered to an institution in the ordinary course of business by trade creditors who do not customarily use written agreements or other documents.

(9) (a) (i) Objection to any claim allowed or disallowed may be made by any depositor or other

claimant by filing a written objection with the commissioner within 30 days after service of the notice of allowance or disallowance.

(ii) The commissioner shall present the objection to the court for hearing and determination upon written notice to the claimant and to the filing party.

(iii) The notice shall set forth the time and place of hearing.

(iv) After the 30-day period, no objection may be filed.

(v) This Subsection (9) does not apply to secured claims allowed under Subsection (3).

(b) The hearing shall be based on the record before the commissioner and any additional evidence the court allowed to provide the parties due process of law.

(c) (i) The court may not reverse or otherwise modify the determination of the commissioner with respect to the claim unless [~~it~~] the court finds the determination of the commissioner to be arbitrary, capricious, or otherwise contrary to law.

(ii) The burden of proof is on the party objecting to the determination of the commissioner.

(d) An appeal from any final judgment of the court with respect to a claim may be taken as provided by law by the claimant, the commissioner, or any person having standing to object to the allowance or disallowance of the claim.

(10) (a) If a claim against the institution has been asserted in any judicial, administrative, or other proceeding pending at the time the commissioner took possession of the institution under this chapter or under Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, the claimant shall file copies of all documents of record in the pending proceeding with the commissioner within the time for filing claims as provided in Subsection (2).

(b) [~~Such a claim~~] A claim under Subsection (10)(a) shall be allowed or disallowed within 90 days of the receipt of the complete record of the proceedings.

(c) No application to lift the stay of a pending proceeding shall be filed until the claim has been allowed or disallowed.

(d) The commissioner may petition the court [~~designated by Section 7-2-2~~] with supervisory jurisdiction under Section 7-2-2 to lift the stay to determine whether the claim should be allowed or disallowed.

(11) (a) All claims allowed by the commissioner and not disallowed or otherwise modified by the court under Subsection (9), if not paid within 30 days after allowance, shall be evidenced by a certificate payable only out of the assets of the institution in the possession of the commissioner, subject to the priorities set forth in Section 7-2-15.

(b) This provision does not apply to a secured claim allowed by the commissioner under Subsection (3)(a).

Section 8. Section 7-2-9 is amended to read:

7-2-9. Conservatorship, receivership, or liquidation of institution -- Appointment of receiver -- Review of actions.

(1) (a) Upon taking possession of the institution, the commissioner may appoint a receiver to perform the duties of the commissioner.

(b) Subject to any limitations, conditions, or requirements specified by the commissioner and approved by the court, a receiver shall have all the powers and duties of the commissioner under this chapter and the laws of this state to act as a conservator, receiver, or liquidator of the institution.

(c) Actions of the commissioner in appointing a receiver shall be subject to review only as provided in Section 7-2-2.

(2) (a) (i) If the deposits of the institution are to any extent insured by a federal deposit insurance agency, the commissioner may appoint that agency as receiver.

(ii) After receiving notice in writing of the acceptance of the appointment, the commissioner shall file a certificate of appointment in the commissioner's office and with the clerk of the [~~district~~] court.

(iii) After the filing of the certificate, the possession of all assets, business, and property of the institution is considered transferred from the institution and the commissioner to the agency, and title to all assets, business, and property of the institution is vested in the agency without the execution of any instruments of conveyance, assignment, transfer, or endorsement.

(b) (i) If a federal deposit insurance agency accepts an appointment as receiver, it has all the powers and privileges provided by the laws of this state and the United States with respect to the conservatorship, receivership, or liquidation of an institution and the rights of its depositors, and other creditors, including authority to make an agreement for the purchase of assets and assumption of deposit and other liabilities by another depository institution or take other action authorized by Title 12 of the United States Code to maintain the stability of the banking system.

(ii) Such action by a federal deposit insurance agency may be taken upon approval by the court, with or without prior notice.

(iii) Such actions or agreements may be disapproved, amended, or rescinded only upon a finding by the court that the decisions or actions of the receiver are arbitrary, capricious, fraudulent, or contrary to law.

(iv) In the event of any conflict between state and federal law, including provisions for adjudicating claims against the institution or receiver, the receiver shall comply with the federal law and any

resulting violation of state law does not by itself constitute grounds for the court to disapprove the actions of the receiver or impose any penalty for such violation.

(c) (i) The commissioner or any receiver appointed by [~~him~~] the commissioner shall possess all the rights and claims of the institution against any person whose breach of fiduciary duty or violations of the laws of this state or the United States applicable to depository institutions may have caused or contributed to a condition which resulted in any loss incurred by the institution or to its assets in the possession of the commissioner or receiver.

(ii) As used in this Subsection (2)(c), fiduciary duty includes those duties and standards applicable under statutes and laws of this state and the United States to a director, officer, or other party employed by or rendering professional services to a depository institution whose deposits are insured by a federal deposit insurance agency.

(iii) Upon taking possession of an institution, no person other than the commissioner or receiver shall have standing to assert any such right or claim of the institution, including its depositors, creditors, or shareholders unless the right or claim has been abandoned by the commissioner or receiver with approval of the court.

(iv) Any judgment based on the rights and claims of the commissioner or receiver shall have priority in payment from the assets of the judgment debtors.

(d) For the purposes of this section, the term "federal deposit insurance agency" shall include the Federal Deposit Insurance Corporation, the National Credit Union Administration and any departments thereof or successors thereto, and any other federal agency authorized by federal law to act as a conservator, receiver, and liquidator of a federally insured depository institution, including the Resolution Trust Corporation and any department thereof or successor thereto.

(3) (a) The receiver may employ assistants, agents, accountants, and legal counsel.

(b) If the receiver is not a federal deposit insurance agency, the compensation to be paid such assistants, agents, accountants, and legal counsel shall be approved by the commissioner.

(c) All expenses incident to the receivership shall be paid out of the assets of the institution.

(d) If a receiver is not a federal deposit insurance agency, the receiver and any assistants and agents shall provide bond or other security specified by the commissioner and approved by the court for the faithful discharge of all duties and responsibilities in connection with the receivership including the accounting for money received and paid.

(e) The cost of the bond shall be paid from the assets of the institution.

(f) Suit may be maintained on the bond by the commissioner or by any person injured by a breach of the condition of the bond.

(4) (a) Upon the appointment of a receiver for an institution in possession pursuant to this chapter, the commissioner and the department are exempt from liability or damages for any act or omission of any receiver appointed pursuant to this section.

(b) This section does not limit the right of the commissioner to prescribe and enforce rules regulating a receiver in carrying out its duties with respect to an institution subject to the jurisdiction of the department.

(c) Any act or omission of the commissioner or of any federal deposit insurance agency as a receiver appointed by [~~him~~] the commissioner while acting pursuant to this chapter shall be deemed to be the exercise of a discretionary function within the meaning of Section 63G-7-301 of the laws of this state or Section 28 U.S.C. 2680(a) of the laws of the United States.

(5) (a) Actions, decisions, or agreements of a receiver under this chapter, other than allowance or disallowance of claims under Section 7-2-6, [~~shall be~~] are subject to judicial review [~~only as follows~~] if:

[~~(a)~~] (i) [~~A petition for review shall be filed with the court having jurisdiction under Section 7-2-2 not more than 90 days after the date~~] a petition is filed in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, within 90 days after the day on which the act, decision, or agreement became effective or its terms are filed with the court[.]; and

[~~(b)~~] (ii) [~~The petition shall state~~] the petition states in simple, concise, and direct terms the facts and principles of law upon which the petitioner claims the act, decision, or agreement of the receiver was or would be arbitrary, capricious, fraudulent, or contrary to law and how the petitioner is or may be damaged thereby.

(b) The court shall dismiss any petition which fails to allege that the petitioner would be directly injured or damaged by the act, decision, or agreement which is the subject of the petition.

(c) Rule 11 of the Utah Rules of Civil Procedure shall apply to all parties with respect to the allegations set forth in a petition or response.

[~~(c)~~] (d) The receiver shall have 30 days after [~~service of the petition within which~~] the day on which the petition is served to respond.

[~~(d)~~] (e) All further proceedings are to be conducted in accordance with the Utah Rules of Civil Procedure.

(6) All notices required under this section shall be made in accordance with the Utah Rules of Civil Procedure and served upon the attorney general of the state of Utah, the commissioner of financial institutions, the receiver of the institution appointed under this chapter, and upon the designated representative of any party in interest who requests in writing such notice.

Section 9. Section 7-2-10 is amended to read:

7-2-10. Inventory of assets -- Listings of claims -- Report of proceedings -- Filing -- Inspection.

(1) As soon as is practical after taking possession of an institution the commissioner, or any receiver or liquidator appointed by [~~him~~] the commissioner, shall make or cause to be made in duplicate an inventory of its assets, one copy to be filed in [~~his~~] the commissioner's office and one with the clerk of the [~~district~~] court.

(2) Upon the expiration of the time fixed for presentation of claims the commissioner, or any receiver or liquidator appointed by [~~him~~] the commissioner, shall make in duplicate a full and complete list of the claims presented, including and specifying claims disallowed by [~~him~~] the commissioner, of which one copy shall be filed in [~~his~~] the commissioner's office and one copy in the office of the clerk of the [~~district~~] court.

(3) The commissioner, or any receiver or liquidator appointed by [~~him~~] the commissioner, shall in like manner make and file supplemental lists showing all claims presented after the filing of the first list.

(4) The supplemental lists shall be filed every six months and at least 15 days before the declaration of any dividend.

(5) At the time of the order for final distribution the commissioner, or any receiver or liquidator appointed by [~~him~~] the commissioner, shall make a report in duplicate of the proceeding, showing the disposition of the assets and liabilities of the institution, one copy to be filed in [~~his~~] the commissioner's office and one with the clerk of the [~~district~~] court.

(6) The accounting, inventory, and lists of claims shall be open at all reasonable times for inspection.

(7) Any objection to any report or accounting shall be filed with the clerk of the [~~district~~] court within 30 days after the report of accounting has been filed by the commissioner, or any receiver or liquidator appointed by [~~him,~~] the commissioner, and shall be subject to judicial review only as provided in Section 7-2-9.

Section 10. Section 7-5-13 is amended to read:

7-5-13. Collective investment funds.

(1) A person authorized to engage in the trust business in this state may:

(a) establish collective investment funds that authorize participation by fiduciary or trust accounts of the trust company, its affiliates, or both; and

(b) participate in collective investment funds established by an affiliate of the trust company, if:

(i) the affiliate is authorized under the laws of its chartering authority to establish a collective investment fund in which its affiliates may participate; and

(ii) the plan establishing the collective investment fund specifically authorized the participation.

(2) Funds held by a trust company may be invested collectively in a collective investment fund in accordance with the rules prescribed by the appropriate governmental regulatory agency or agencies, if this investment is not specifically prohibited under the instrument, judgment, decree, or order creating the regulatory relationship.

(3) Unless ordered to do so by a court [~~of competent jurisdiction~~], a trust company operating collective investment funds is not required to render a court accounting with regard to those funds[~~; but it may, by application to the district court,~~] but the trust company may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to secure approval of such an accounting on such conditions as the court may establish.

(4) This section applies to all relationships in existence on or after May 1, 1989.

Section 11. Section 7-23-401 is amended to read:

7-23-401. Operational requirements for deferred deposit loans.

(1) If a deferred deposit lender extends a deferred deposit loan, the deferred deposit lender shall:

(a) post in a conspicuous location on its premises that can be viewed by a person seeking a deferred deposit loan:

(i) a complete schedule of any interest or fees charged for a deferred deposit loan that states the interest and fees using dollar amounts;

(ii) a number the person can call to make a complaint to the department regarding the deferred deposit loan; and

(iii) a list of states where the deferred deposit lender is registered or authorized to offer deferred deposit loans through the Internet or other electronic means;

(b) enter into a written contract for the deferred deposit loan;

(c) conspicuously disclose in the written contract:

(i) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least $5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;

(ii) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;

(iii) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the

person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;

(iv) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed; and

(v) (A) the name and address of a designated agent required to be provided the department under Subsection 7-23-201(2)(d)(vi); and

(B) a statement that service of process may be made to the designated agent;

(d) provide the person seeking the deferred deposit loan:

(i) a copy of the written contract described in Subsection (1)(c); and

(ii) written notice that the person seeking the deferred deposit loan is eligible to enter into an extended payment plan described in Section 7-23-403;

(e) orally review with the person seeking the deferred deposit loan the terms of the deferred deposit loan including:

(i) the amount of any interest rate or fee;

(ii) the date on which the full amount of the deferred deposit loan is due;

(iii) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least $5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;

(iv) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;

(v) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan; and

(vi) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed;

(f) comply with the following as in effect on the date the deferred deposit loan is extended:

(i) Truth in Lending Act, 15 U.S.C. Sec. 1601 et seq., and its implementing federal regulations;

(ii) Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691, and its implementing federal regulations;

(iii) Bank Secrecy Act, 12 U.S.C. Sec. 1829b, 12 U.S.C. Sec. 1951 through 1959, and 31 U.S.C. Sec. 5311 through 5332, and its implementing regulations; and

(iv) Title 70C, Utah Consumer Credit Code;

(g) in accordance with Subsection (6), make an inquiry to determine whether a person attempting to receive a deferred deposit loan has the ability to repay the deferred deposit loan in the ordinary course, which may include rollovers or extended payment plans as allowed under this chapter;

(h) in accordance with Subsection (7), receive a signed acknowledgment from a person attempting to receive a deferred deposit loan that the person has the ability to repay the deferred deposit loan, which may include rollovers or extended payment plans as allowed by this chapter; and

(i) report the original loan amount, payment in full, or default of a deferred deposit loan to a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a, in accordance with procedures established by the consumer reporting agency.

(2) If a deferred deposit lender extends a deferred deposit loan through the Internet or other electronic means, the deferred deposit lender shall provide the information described in Subsection (1)(a) to the person receiving the deferred deposit loan:

(a) in a conspicuous manner; and

(b) prior to the person entering into the deferred deposit loan.

(3) A deferred deposit lender that engages in a deferred deposit loan shall permit a person receiving a deferred deposit loan to:

(a) make partial payments in increments of at least $5 on the principal owed on the deferred deposit loan at any time prior to maturity without incurring additional charges above the charges provided in the written contract; and

(b) rescind the deferred deposit loan without incurring any charges by returning the deferred deposit loan amount to the deferred deposit lender on or before 5 p.m. the next business day following the deferred deposit loan transaction.

(4) A deferred deposit lender that engages in a deferred deposit loan may not:

(a) collect additional interest on a deferred deposit loan with an outstanding principal balance 10 weeks after the day on which the deferred deposit loan is executed;

(b) roll over a deferred deposit loan without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;

(c) roll over a deferred deposit loan if the rollover requires a person to pay the amount owed by the person under a deferred deposit loan in whole or in part more than 10 weeks from the day on which the deferred deposit loan is first executed;

(d) extend a new deferred deposit loan to a person on the same business day that the person makes a payment on another deferred deposit loan if:

(i) the payment results in the principal of that deferred deposit loan being paid in full; and

(ii) the combined terms of the original deferred deposit loan and the new deferred deposit loan total more than 10 weeks of consecutive interest;

(e) avoid the limitations of Subsections (4)(a) and (4)(c) by extending a new deferred deposit loan whose proceeds are used to satisfy or refinance any portion of an existing deferred deposit loan;

(f) threaten to use or use the criminal process in any state to collect on the deferred deposit loan;

(g) in connection with the collection of money owed on a deferred deposit loan, communicate with a person who owes money on a deferred deposit loan at the person's place of employment if the person or the person's employer communicates, orally or in writing, to the deferred deposit lender that the person's employer prohibits the person from receiving these communications;

(h) modify by contract the venue provisions in [~~Title 78B, Chapter 3, Actions and Venue~~] Title 78B, Chapter 3a, Venue for Civil Actions; or

(i) avoid the requirements of Subsection 7-23-403(1)(c) by extending an interest-bearing loan within seven calendar days before the day on which the 10-week period ends.

(5) Notwithstanding Subsections (4)(a) and (f), a deferred deposit lender that is the holder of a check used to obtain a deferred deposit loan that is dishonored may use the remedies and notice procedures provided in Chapter 15, Dishonored Instruments, except that the issuer, as defined in Section 7-15-1, of the check may not be:

(a) asked by the holder to pay the amount described in Subsection 7-15-1(6)(a)(iii) as a condition of the holder not filing a civil action; or

(b) held liable for the damages described in Subsection 7-15-1(7)(b)(vi).

(6) (a) The inquiry required by Subsection (1)(g) applies solely to the initial period of a deferred deposit loan transaction with a person and does not apply to any rollover or extended payment plan of a deferred deposit loan.

(b) Subject to Subsection (6)(c), a deferred deposit lender is in compliance with Subsection (1)(g) if the deferred deposit lender, at the time of the initial period of the deferred deposit loan transaction:

(i) obtains one of the following regarding the person seeking the deferred deposit loan:

(A) a consumer report, as defined in 15 U.S.C. Sec. 1681a, from a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a; or

(B) written proof or verification of income from the person seeking the deferred deposit loan; or

(ii) relies on the prior repayment history with the deferred deposit lender from the records of the deferred deposit lender.

(c) If a person seeking a deferred deposit loan has not previously received a deferred deposit loan from that deferred deposit lender, to be in compliance with Subsection (1)(g), the deferred deposit lender, at the time of the initial period of the deferred deposit loan transaction, shall obtain a consumer report, as defined in 15 U.S.C. Sec. 1681a, from a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a.

(7) A deferred deposit lender is in compliance with Subsection (1)(h) if the deferred deposit lender obtains from the person seeking the deferred deposit loan a signed acknowledgment that is in 14-point bold font, that the person seeking the deferred deposit loan has:

(a) reviewed the payment terms of the deferred deposit loan agreement;

(b) received a disclosure that a deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is first executed;

(c) received a disclosure explaining the extended payment plan options; and

(d) acknowledged the ability to repay the deferred deposit loan in the ordinary course, which may include rollovers, or extended payment plans as allowed under this chapter.

(8) (a) Before initiating a civil action against a person who owes money on a deferred deposit loan, a deferred deposit lender shall provide the person at least 30 days notice of default, describing that:

(i) the person must remedy the default; and

(ii) the deferred deposit lender may initiate a civil action against the person if the person fails to cure the default within the 30-day period or through an extended payment plan meeting the requirements of Section 7-23-403.

(b) A deferred deposit lender may provide the notice required under this Subsection (8):

(i) by sending written notice to the address provided by the person to the deferred deposit lender;

(ii) by sending an electronic transmission to a person if electronic contact information is provided to the deferred deposit lender; or

(iii) pursuant to the Utah Rules of Civil Procedure.

(c) A notice under this Subsection (8), in addition to complying with Subsection (8)(a), shall:

(i) be in English, if the initial transaction is conducted in English;

(ii) state the date by which the person must act to enter into an extended payment plan;

(iii) explain the procedures the person must follow to enter into an extended payment plan;

(iv) subject to Subsection 7-23-403(7), if the deferred deposit lender requires the person to make

an initial payment to enter into an extended payment plan:

(A) explain the requirement; and

(B) state the amount of the initial payment and the date the initial payment shall be made;

(v) state that the person has the opportunity to enter into an extended payment plan for a time period meeting the requirements of Subsection 7-23-403(2)(b); and

(vi) include the following amounts:

(A) the remaining balance on the original deferred deposit loan;

(B) the total payments made on the deferred deposit loan;

(C) any charges added to the deferred deposit loan amount allowed pursuant to this chapter; and

(D) the total amount due if the person enters into an extended payment plan.

Section 12. Section 16-6a-117 is amended to read:

16-6a-117. Judicial relief.

(1) (a) A director, officer, delegate, or member may petition [~~the applicable district~~] a court to take an action provided in Subsection (1)(b) if for any reason it is impractical or impossible for a nonprofit corporation in the manner prescribed by this chapter[~~, its~~] or the nonprofit corporation's articles of incorporation[~~,~~] or bylaws to:

(i) call or conduct a meeting of [~~its~~] the nonprofit corporation's members, delegates, or directors; or

(ii) otherwise obtain the consent of [~~its~~] the nonprofit corporation's members, delegates, or directors.

(b) If a petition is filed under Subsection (1)(a), the [~~applicable district~~] court, in the manner [~~it~~] the court finds fair and equitable under the circumstances, may order that:

(i) a meeting be called; or

(ii) a written consent or other form of obtaining the vote of members, delegates, or directors be authorized.

[~~(c) For purposes of this section, the applicable district court is:~~]

[~~(i) the district court of the county in this state where the nonprofit corporation's principal office is located; or~~]

[~~(ii) if the nonprofit corporation has no principal office in this state:~~]

[~~(A) the district court of the county in which the registered office is located; or~~]

[~~(B) if the nonprofit corporation has no registered office in this state, the district court in and for Salt Lake County.~~]

(2) (a) A court [~~specified in Subsection (1)~~] shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all persons who would be entitled to notice of a meeting held pursuant to this chapter, the articles of incorporation, or bylaws.

(b) The method of notice described in Subsection (1) complies with this section whether or not the method of notice:

(i) results in actual notice to all persons described in Subsection (2)(a); or

(ii) conforms to the notice requirements that would otherwise apply.

(c) In a proceeding under this section, the court may determine who are the members or directors of a nonprofit corporation.

(3) An order issued pursuant to this section may dispense with any requirement relating to the holding of or voting at meetings or obtaining votes that would otherwise be imposed by this chapter[~~, the~~] or the nonprofit corporation's articles of incorporation, or bylaws, including any requirement as to:

(a) quorums; or

(b) the number or percentage of votes needed for approval.

(4) (a) Whenever practical, any order issued pursuant to this section shall limit the subject matter of a meeting or other form of consent authorized to items the resolution of which will or may enable the nonprofit corporation to continue managing [~~its~~] the nonprofit corporation's affairs without further resort to this section, including amendments to the articles of incorporation or bylaws.

(b) Notwithstanding Subsection (4)(a), an order under this section may authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, or sale of assets of a nonprofit corporation.

(5) A meeting or other method of obtaining the vote of members, delegates, or directors conducted pursuant to and that complies with an order issued under this section:

(a) is for all purposes a valid meeting or vote, as the case may be; and

(b) shall have the same force and effect as if it complied with every requirement imposed by this chapter[~~, the~~] or the nonprofit corporation's articles of incorporation[~~,~~] or bylaws.

(6) In addition to a meeting held under this section, a court-ordered meeting may be held pursuant to Section 16-6a-703.

Section 13. Section 16-6a-703 is amended to read:

16-6a-703. Court-ordered meeting.

[~~(1) (a) Upon an application described in Subsection (1)(b) the holding of a meeting of the members may be summarily ordered by:~~]

[~~(i) the district court of the county in this state where the nonprofit corporation's principal office is located; or~~]

[~~(ii) if the nonprofit corporation has no principal office in this state, the district court in and for Salt Lake County.~~]

[~~(b) Subsection (1)(a) applies to an application by:~~]

(1) [~~(i)~~] (a) [~~any~~] A voting member entitled to participate in an annual meeting may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if an annual meeting was required to be held and was not held within 15 months after:

[~~(A)~~] (i) the corporation's last annual meeting; or

[~~(B)~~] (ii) if there has been no annual meeting, the date of incorporation[~~; or~~].

[~~(ii)~~] (b) [~~any~~] A person who participated in a call of or demand for a special meeting effective under Subsection 16-6a-702(1)[~~,~~] may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if:

[~~(A)~~] (i) notice of the special meeting was not given within 30 days after[~~:~~]

[~~(I)~~] the date of the call[~~;~~] or

[~~(II)~~] the date the last of the demands necessary to require the calling of the meeting was received by the nonprofit corporation pursuant to Subsection 16-6a-702(1)(b); or

[~~(B)~~] (ii) the special meeting was not held in accordance with the notice.

(2) If a petition is filed under this section, the court may summarily order the holding of a meeting of the members.

[~~(2)~~] (3) A court that orders a meeting under Subsection [~~(1)~~] (2) may:

(a) fix the time and place of the meeting;

(b) determine the members entitled to participate in the meeting;

(c) specify a record date for determining members entitled to notice of and to vote at the meeting;

(d) prescribe the form and content of the notice of the meeting;

(e) (i) fix the quorum required for specific matters to be considered at the meeting; or

(ii) direct that the votes represented at the meeting constitute a quorum for action on the specific matters to be considered at the meeting; and

(f) enter other orders necessary or appropriate to accomplish the holding of the meeting.

Section 14. Section 16-6a-710 is amended to read:

16-6a-710. Members' list for meeting and action by written ballot.

(1) (a) Unless otherwise provided by the bylaws, after fixing a record date for a notice of a meeting or for determining the members entitled to take action by written ballot, a nonprofit corporation shall prepare a list of the names of all [~~its~~] the nonprofit corporation's members who are:

(i) (A) entitled to notice of the meeting; and

(B) to vote at the meeting; or

(ii) to take the action by written ballot.

(b) The list required by Subsection (1) shall:

(i) be arranged by voting group;

(ii) be alphabetical within each voting group;

(iii) show the address of each member entitled to notice of, and to vote at, the meeting or to take such action by written ballot; and

(iv) show the number of votes each member is entitled to vote at the meeting or by written ballot.

(2) (a) If prepared in connection with a meeting of the members, the members' list required by Subsection (1) shall be available for inspection by any member entitled to vote at the meeting:

(i) (A) beginning the earlier of:

(I) 10 days before the meeting for which the list was prepared; or

(II) two business days after notice of the meeting is given; and

(B) continuing through the meeting, and any adjournment of the meeting; and

(ii) (A) at the nonprofit corporation's principal office; or

(B) at a place identified in the notice of the meeting in the city where the meeting will be held.

(b) (i) The nonprofit corporation shall make the members' list required by Subsection (1) available at the meeting.

(ii) Any member entitled to vote at the meeting or an agent or attorney of a member entitled to vote at the meeting is entitled to inspect the members' list at any time during the meeting or any adjournment.

(c) A member entitled to vote at the meeting, or an agent or attorney of a member entitled to vote at the meeting, is entitled on written demand to inspect and, subject to Subsection 16-6a-1602(3) and Subsections 16-6a-1603(2) and (3), to copy a members' list required by Subsection (1):

(i) during:

(A) regular business hours; and

(B) the period it is available for inspection; and

(ii) at the member's expense.

(3) (a) [~~On application of a~~] A member of a nonprofit corporation[~~, the applicable district court may take an action described in Subsection (3)(b)~~] may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if

the nonprofit corporation refuses to allow a member entitled to vote at the meeting or by the written ballot, or an agent or attorney of a member entitled to vote at the meeting or by the written ballot, to inspect or copy the members' list during the period [~~it~~] the nonprofit corporation is required to be available for inspection under Subsection (2).

(b) [~~Under Subsection (3)(a), the applicable~~] If a petition is filed under Subsection (3)(a), the court may:

(i) summarily order the inspection or copying of the members' list at the nonprofit corporation's expense; and

(ii) until the inspection or copying is complete:

(A) postpone or adjourn the meeting for which the members' list was prepared; or

(B) postpone the time when the nonprofit corporation must receive written ballots in connection with which the members' list was prepared.

[~~(c) For purposes of this Subsection (3), the applicable court is:~~]

[~~(i) the district court of the county in this state where the nonprofit corporation's principal office is located; or~~]

[~~(ii) if the nonprofit corporation has no principal office in this state, the district court in and for Salt Lake County.~~]

(4) If a court orders inspection or copying of a members' list pursuant to Subsection (3), unless the nonprofit corporation proves that it refused inspection or copying of the list in good faith because it had a reasonable basis for doubt about the right of the member or the agent or attorney of the member to inspect or copy the members' list:

(a) the court shall order the nonprofit corporation to pay the member's costs, including reasonable counsel fees, incurred in obtaining the order;

(b) the court may order the nonprofit corporation to pay the member for any damages the member incurred; and

(c) the court may grant the member any other remedy afforded the member by law.

(5) If a court orders inspection or copying of a members' list pursuant to Subsection (3), the court may impose reasonable restrictions on the use or distribution of the list by the member.

(6) Failure to prepare or make available the members' list does not affect the validity of action taken at the meeting or by means of the written ballot.

Section 15. Section 16-6a-809 is amended to read:

16-6a-809. Removal of directors by judicial proceeding.

(1) (a) [~~The applicable~~] A court may remove a director [~~in a proceeding commenced either~~], in an action brought by the nonprofit corporation or by voting members holding at least 10% of the votes entitled to be cast in the election of the director's successor, if the court finds that:

(i) the director engaged in:

(A) fraudulent or dishonest conduct; or

(B) gross abuse of authority or discretion with respect to the nonprofit corporation; or

(ii) (A) a final judgment has been entered finding that the director has violated a duty set forth in Section 16-6a-822; and

(B) removal is in the best interests of the nonprofit corporation.

[~~(b) For purposes of this Subsection (1), the applicable court is the:~~]

[~~(i) district court of the county in this state where a nonprofit corporation's principal office is located; or~~]

[~~(ii) if the nonprofit corporation has no principal office in this state:~~]

[~~(A) the district court of the county in which its registered office is located; or~~]

[~~(B) if the nonprofit corporation has no registered office, the district court for Salt Lake County.~~]

(2) The court that removes a director may bar the director for a period prescribed by the court from:

(a) reelection;

(b) reappointment; or

(c) designation.

(3) If voting members commence a proceeding under Subsection (1), the voting members shall make the nonprofit corporation a party defendant.

(4) A director who is removed pursuant to this section may deliver to the division for filing a statement to that effect pursuant to Section 16-6a-1608.

Section 16. Section 16-6a-1405 is amended to read:

16-6a-1405. Effect of dissolution.

(1) A dissolved nonprofit corporation continues its corporate existence but may not carry on any activities except as is appropriate to wind up and liquidate its affairs, including:

(a) collecting its assets;

(b) returning, transferring, or conveying assets held by the nonprofit corporation upon a condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, in accordance with the condition;

(c) transferring, subject to any contractual or legal requirements, its assets as provided in or authorized by its articles of incorporation or bylaws;

(d) discharging or making provision for discharging its liabilities; and

(e) doing every other act necessary to wind up and liquidate its assets and affairs.

(2) Dissolution of a nonprofit corporation does not:

(a) transfer title to the nonprofit corporation's property including title to water rights, water conveyance facilities, or other assets of a nonprofit corporation organized to divert or distribute water to its members;

(b) subject its directors or officers to standards of conduct different from those prescribed in this chapter;

(c) change quorum or voting requirements for its board of directors or members;

(d) change provisions for selection, resignation, or removal of its directors or officers, or both;

(e) change provisions for amending its bylaws or its articles of incorporation;

(f) prevent commencement of a proceeding by or against the nonprofit corporation in its corporate name; or

(g) abate or suspend a proceeding pending by or against the nonprofit corporation on the effective date of dissolution.

(3) Nothing in this section may be applied in a manner inconsistent with a court's power of judicial dissolution exercised in accordance with Section 16-6a-1414 [~~or 16-6a-1415~~].

Section 17. Section 16-6a-1414 is amended to read:

16-6a-1414. Grounds and procedure for judicial dissolution.

(1) [~~A nonprofit corporation may be dissolved in a proceeding by the~~] The attorney general or the division director may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a nonprofit corporation if it is established that:

(a) the nonprofit corporation obtained [~~its~~] the nonprofit corporation's articles of incorporation through fraud; or

(b) the nonprofit corporation has continued to exceed or abuse the authority conferred upon [~~it~~] the nonprofit corporation by law.

(2) [~~A nonprofit corporation may be dissolved in a proceeding by a member or director~~] A member or director of a nonprofit corporation may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve the nonprofit corporation if it is established that:

(a) (i) the directors are deadlocked in the management of the corporate affairs;

(ii) the members, if any, are unable to break the deadlock; and

(iii) irreparable injury to the nonprofit corporation is threatened or being suffered;

(b) the directors or those in control of the nonprofit corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) the members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(d) the corporate assets are being misapplied or wasted.

(3) [~~A nonprofit corporation may be dissolved in a proceeding by a creditor~~] A creditor may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a nonprofit corporation if it is established that:

(a) (i) the creditor's claim has been reduced to judgment;

(ii) the execution on the judgment has been returned unsatisfied; and

(iii) the nonprofit corporation is insolvent; or

(b) (i) the nonprofit corporation is insolvent; and

(ii) the nonprofit corporation has admitted in writing that the creditor's claim is due and owing.

(4) If an action is brought under this section, it is not necessary to make directors or members parties to the action to dissolve the nonprofit corporation unless relief is sought against the members individually.

(5) In an action under this section, the court may:

(a) issue injunctions;

(b) appoint a receiver or a custodian pendente lite with all powers and duties the court directs; or

(c) take other action required to preserve the nonprofit corporation's assets wherever located and carry on the business of the nonprofit corporation until a full hearing can be held.

[~~(4)~~] (6) [~~(a)~~] If a nonprofit corporation has been dissolved by voluntary or administrative action taken under this part:

[~~(i)~~] (a) the nonprofit corporation may bring a proceeding to wind up and liquidate its business and affairs under judicial supervision in accordance with Section 16-6a-1405; and

[~~(ii)~~] (b) the attorney general, a director, a member, or a creditor may bring a proceeding to wind up and liquidate the affairs of the nonprofit corporation under judicial supervision in accordance with Section 16-6a-1405, upon establishing the grounds set forth in Subsections (1) through (3).

[~~(b) As used in Sections 16-6a-1415 through 16-6a-1417:~~]

[~~(i) a "judicial proceeding to dissolve the nonprofit corporation" includes a proceeding brought under this Subsection (4); and~~]

[~~(ii) a "decree of dissolution" includes an order of a court entered in a proceeding under this Subsection (4) that directs that the affairs of a nonprofit corporation shall be wound up and liquidated under judicial supervision.~~]

Section 18. Section 16-6a-1416 is amended to read:

16-6a-1416. Receivership or custodianship.

(1) As used in this section:

(a) "Decree of dissolution" includes an order of a court entered in a proceeding under Subsection 16-6a-1414(4) that directs that the affairs of a nonprofit corporation be wound up and liquidated under judicial supervision.

(b) "Judicial proceeding to dissolve the nonprofit corporation" includes a proceeding brought under Subsection 16-6a-1414(4).

[~~(1)~~] (2) (a) A court in a judicial proceeding brought to dissolve a nonprofit corporation may appoint:

(i) one or more receivers to wind up and liquidate the affairs of the nonprofit corporation; or

(ii) one or more custodians to manage the affairs of the nonprofit corporation.

(b) Before appointing a receiver or custodian, the court shall hold a hearing, after giving notice to:

(i) all parties to the proceeding; and

(ii) any interested persons designated by the court.

(c) The court appointing a receiver or custodian has exclusive jurisdiction over the nonprofit corporation and all of its property, wherever located.

(d) The court may appoint as a receiver or custodian:

(i) an individual;

(ii) a domestic or foreign corporation authorized to conduct affairs in this state; or

(iii) a domestic or foreign nonprofit corporation authorized to conduct affairs in this state.

(e) The court may require the receiver or custodian to post bond, with or without sureties, in an amount specified by the court.

[~~(2)~~] (3) The court shall describe the powers and duties of the receiver or custodian in its appointing order that may be amended from time to time. Among other powers the receiver shall have the power to:

(a) dispose of all or any part of the property of the nonprofit corporation, wherever located:

(i) at a public or private sale; and

(ii) if authorized by the court; and

(b) sue and defend in the receiver's own name as receiver of the nonprofit corporation in all courts.

[~~(3)~~] (4) The custodian may exercise all of the powers of the nonprofit corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the nonprofit corporation in the best interests of its members and creditors.

[~~(4)~~] (5) If doing so is in the best interests of the nonprofit corporation and its members and creditors, the court may:

(a) during a receivership, redesignate the receiver as a custodian; and

(b) during a custodianship, redesignate the custodian as a receiver.

[~~(5)~~] (6) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made from the assets of the nonprofit corporation or proceeds from the sale of the assets to:

(a) the receiver;

(b) the custodian; or

(c) the receiver's or custodian's attorney.

Section 19. Section 16-6a-1417 is amended to read:

16-6a-1417. Decree of dissolution.

(1) As used in this section:

(a) "Decree of dissolution" includes an order of a court entered in a proceeding under Subsection 16-6a-1414(4) that directs that the affairs of a nonprofit corporation be wound up and liquidated under judicial supervision.

(b) "Judicial proceeding to dissolve the nonprofit corporation" includes a proceeding brought under Subsection 16-6a-1414(4).

[~~(1)~~] (2) If after a hearing the court determines that one or more grounds for judicial dissolution described in Section 16-6a-1414 exist:

(a) the court may enter a decree:

(i) dissolving the nonprofit corporation; and

(ii) specifying the effective date of the dissolution; and

(b) the clerk of the court shall deliver a certified copy of the decree to the division which shall file it accordingly.

[~~(2)~~] (3) After entering the decree of dissolution, the court shall direct:

(a) the winding up and liquidation of the nonprofit corporation's affairs in accordance with Section 16-6a-1405; and

(b) the giving of notice to:

(i) (A) the nonprofit corporation's registered agent; or

(B) the division if it has no registered agent; and

(ii) to claimants in accordance with Sections 16-6a-1406 and 16-6a-1407.

[~~(3)~~] (4) The court's order or decision may be appealed as in other civil proceedings.

Section 20. Section 16-6a-1604 is amended to read:

16-6a-1604. Court-ordered inspection of corporate records.

(1) (a) A director or member may [~~petition the applicable court~~] bring a petition in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against a nonprofit corporation if:

(i) [~~a~~] the nonprofit corporation refuses to allow a director or member, or the director's or member's agent or attorney, to inspect or copy any records that the director or member is entitled to inspect or copy under Subsection 16-6a-1602(1); and

(ii) the director or member complies with Subsection 16-6a-1602(1).

(b) [~~If petitioned~~] If a petition is filed under Subsection (1)(a), the court may summarily order the inspection or copying of the records demanded at the nonprofit corporation's expense on an expedited basis.

(2) (a) A director or member may [~~petition the applicable court~~] bring a petition in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against a nonprofit corporation if:

(i) [~~a~~] the nonprofit corporation refuses to allow a director or member, or the director's or member's agent or attorney, to inspect or copy any records that the director or member is entitled to inspect or copy pursuant to Subsections 16-6a-1602(2) and (3) within a reasonable time following the director's or member's demand; and

(ii) the director or member complies with Subsections 16-6a-1602(2) and (3).

(b) [~~If the court is petitioned~~] If a petition is brought under Subsection (2)(a), the court may summarily order the inspection or copying of the records demanded.

(3) If a court orders inspection or copying of the records demanded under Subsection (1) or (2), unless the nonprofit corporation proves that [~~it~~] the nonprofit corporation refused inspection or copying in good faith because [~~it~~] the nonprofit corporation had a reasonable basis for doubt about the right of the director or member, or the director's or member's agent or attorney, to inspect or copy the records demanded:

(a) the court shall also order the nonprofit corporation to pay the director's or member's costs, including reasonable counsel fees, incurred to obtain the order;

(b) the court may order the nonprofit corporation to pay the director or member for any damages the member incurred;

(c) if inspection or copying is ordered pursuant to Subsection (2), the court may order the nonprofit corporation to pay the director's or member's inspection and copying expenses; and

(d) the court may grant the director or member any other remedy provided by law.

(4) If a court orders inspection or copying of records demanded, [~~it~~] the court may impose reasonable restrictions on the use or distribution of the records by the demanding director or member.

[~~(5) For purposes of this section, the applicable court is:~~]

[~~(a) the district court of the county in this state where the nonprofit corporation's principal office is located; or~~]

[~~(b) if the nonprofit corporation has no principal office in this state, the district court in and for Salt Lake County.~~]

Section 21. Section 16-6a-1609 is amended to read:

16-6a-1609. Interrogatories by division.

(1) (a) The division may give interrogatories reasonably necessary to ascertain whether a nonprofit corporation has complied with the provisions of this chapter applicable to the nonprofit corporation to:

(i) any domestic or foreign nonprofit corporation subject to the provisions of this chapter; and

(ii) to any officer or director of a nonprofit corporation described in Subsection (1)(a)(i).

(b) The interrogatories described in this Subsection (1) shall be answered within:

(i) 30 days after the mailing of the interrogatories; or

(ii) additional time as fixed by the division.

(c) The answers to the interrogatories shall be:

(i) full and complete; and

(ii) made in writing.

(d) (i) If the interrogatories are directed to an individual, the interrogatories shall be answered by the individual.

(ii) If directed to a nonprofit corporation, the interrogatories shall be answered by:

(A) the chair of the board of directors of the nonprofit corporation;

(B) all of the nonprofit corporation's directors;

(C) one of the nonprofit corporation's officers; or

(D) any other person authorized to answer the interrogatories as the nonprofit corporation's agent.

(e) (i) The division need not file any document to which the interrogatories relate until the interrogatories are answered as provided in this section.

(ii) Notwithstanding Subsection (1)(e)(i), the division need not file a document to which the interrogatory relates if the answers to the interrogatory disclose that the document is not in conformity with the provisions of this chapter.

(f) The division shall certify to the attorney general, for such action as the attorney general considers appropriate, all interrogatories and answers to interrogatories that disclose a violation of this chapter.

(2) (a) Interrogatories given by the division under Subsection (1), and the answers to interrogatories, may not be open to public inspection.

(b) The division may not disclose any facts or information obtained from the interrogatories or answers to the interrogatories, except:

(i) as the official duties of the division may require the facts or information to be made public; or

(ii) in the event the interrogatories or the answers to the interrogatories are required for evidence in any criminal proceedings or in any other action by this state.

(3) Each domestic or foreign nonprofit corporation that knowingly fails or refuses to answer truthfully and fully, within the time prescribed by Subsection (1), interrogatories given to the domestic or foreign nonprofit corporation by the division in accordance with Subsection (1) is guilty of a class C misdemeanor and, upon conviction, shall be punished by a fine of not more than $500.

(4) Each officer and director of a domestic or foreign nonprofit corporation who knowingly fails or refuses to answer truthfully and fully, within the time prescribed by Subsection (1), interrogatories given to the officer or director by the division in accordance with Subsection (1) is guilty of a class B misdemeanor and, upon conviction, shall be punished by a fine of not more than $1,000.

(5) The attorney general may enforce this section [~~in an action brought in:~~] by bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

[~~(a) the district court of the county in this state where the nonprofit corporation's principal office or registered office is located; or~~]

[~~(b) if the nonprofit corporation has no principal or registered office in this state, in the district court in and for Salt Lake County.~~]

Section 22. Section 16-10a-126 is amended to read:

16-10a-126. Petition for review of division's refusal to file document.

(1) (a) If the division refuses to file a document delivered to [~~it~~] the division for filing, the domestic or foreign corporation for which the filing was requested, or [~~its representative, within 30 days after the effective date of the notice of refusal given by the division pursuant to Subsection 16-10a-125(3), may appeal the refusal to the district court of the county where the corporation's principal office is or will be located, or if there is none in this state, the county where its registered office is or will be located~~] the corporation's representative, may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel the filing of the document.

(b) A domestic or foreign corporation, or the corporation's representative, shall file a petition under Subsection (1)(a) within 30 days after the day on which the division gives notice of the refusal under Subsection 16-10a-125(3).

(c) The [~~appeal is commenced by petitioning the court to compel the filing of the document and by attaching to the petition~~] petition under Subsection (1)(a) shall include a copy of the document and the division's notice of refusal.

(2) [~~The~~] If a petition is filed under Subsection (1), the court may summarily order the division to file the document or take other action the court considers appropriate.

(3) The court's final decision [~~may be appealed~~] is appealable as in any other civil proceedings.

Section 23. Section 16-10a-303 is amended to read:

16-10a-303. Ultra vires.

(1) Except as provided in Subsection (2), the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.

(2) A corporation's power to act may be challenged:

(a) in [~~a proceeding~~] an action by a shareholder against the corporation to enjoin the act;

(b) in [~~a proceeding~~] an action by the corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation; or

(c) in [~~a proceeding~~] an action by the attorney general under Section 16-10a-1430.

(3) In a shareholder's [~~proceeding~~] action under Subsection (2)(a) to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss, other than anticipated profits, suffered by the corporation or another party because of enjoining the unauthorized act.

Section 24. Section 16-10a-703 is amended to read:

16-10a-703. Court-ordered meeting.

(1) [~~The district court of the county in this state where a corporation's principal office is located or, if it has no principal office in this state, the district court for Salt Lake County~~] A court may summarily order a meeting of shareholders to be held:

(a) [~~on application of any~~] upon a petition by a shareholder of the corporation entitled to participate in an annual meeting or any director of the corporation, if an annual meeting was not held within 15 months after its last annual meeting, or if

there has been no annual meeting, the date of incorporation; or

(b) [~~on application of any person~~] upon a petition by a person who participated in a call of or demand for a special meeting effective under Subsection 16-10a-702(1), if:

(i) notice of the special meeting was not given within 60 days after the date of the call or the date the last of the demands necessary to require the calling of the meeting was delivered to the corporation pursuant to Subsection 16-10a-702(1)(b), as the case may be; or

(ii) the special meeting was not held in accordance with the notice.

(2) The court may fix the time and place of the meeting, state whether or not it is an annual or special meeting, determine the shares entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the votes represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary or appropriate to accomplish the purpose or purposes of holding the meeting.

Section 25. Section 16-10a-720 is amended to read:

16-10a-720. Shareholders' list for meeting.

(1) (a) After fixing a record date for a shareholders' meeting, a corporation shall prepare a list of the names of all [~~its~~] the corporation's shareholders who are entitled to be given notice of the meeting.

(b) The list shall be arranged by voting group, and within each voting group by class or series of shares.

(c) The list shall be alphabetical within each class or series and shall show the address of, and the number of shares held by, each shareholder.

(2) (a) The shareholders' list shall be available for inspection by any shareholder, beginning on the earlier of 10 days before the meeting for which the list was prepared or two business days after notice of the meeting is given and continuing through the meeting and any meeting adjournments, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held.

(b) A shareholder or a shareholder's agent or attorney is entitled on written demand to the corporation and, subject to the requirements of Subsections 16-10a-1602(3) and (7), and the provisions of Subsections 16-10a-1603(2) and (3), to inspect and copy the list, during regular business hours and during the period [~~it~~] the list is available for inspection.

(3) The corporation shall make the shareholders' list available at the meeting, and any shareholder, or any shareholder's agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment, for any purposes germane to the meeting.

(4) If the corporation refuses to allow a shareholder, or the shareholder's agent or attorney, to inspect the shareholders' list before or at the meeting, or to copy the list as permitted by Subsection (2), [~~the district court of the county where a corporation's principal office is located, or, if it has none in this state, the district court for Salt Lake County, on application of the shareholder, may~~] a court may, upon the petition of a shareholder:

(a) summarily order the inspection or copying at the corporation's expense [~~and may~~]; and

(b) postpone the meeting for which the list was prepared until the inspection or copying is complete.

(5) If a court orders inspection or copying of the shareholders' list pursuant to Subsection (4), unless the corporation proves that [~~it~~] the corporation refused inspection or copying of the list in good faith because [~~it~~] the corporation had a reasonable basis for doubt about the right of the shareholder or the shareholder's agent or attorney to inspect or copy the shareholders' list:

(a) the court shall also order the corporation to pay the shareholder's costs, including reasonable counsel fees, incurred to obtain the order;

(b) the court may order the corporation to pay the shareholder for any damages incurred; and

(c) the court may grant the shareholder any other remedy afforded by law.

(6) If a court orders inspection or copying of the shareholders' list pursuant to Subsection (4), the court may impose reasonable restrictions on the use or distribution of the list by the shareholder.

(7) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.

Section 26. Section 16-10a-1330 is amended to read:

16-10a-1330. Judicial appraisal of shares -- Court action.

(1) (a) If a demand for payment under Section 16-10a-1328 remains unresolved, the corporation shall [~~commence a proceeding~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, within 60 days after receiving the payment demand contemplated by Section 16-10a-1328, [~~and petition~~] for the court to determine the fair value of the shares and the amount of interest.

(b) If the corporation does not [~~commence the proceeding~~] bring an action within the 60-day period, [~~it~~] the corporation shall pay each dissenter whose demand remains unresolved the amount demanded.

[~~(2) The corporation shall commence the proceeding described in Subsection (1) in the~~

~~district court of the county in this state where the corporation's principal office, or if it has no principal office in this state, Salt Lake County. If the corporation is a foreign corporation, it shall commence the proceeding in the county in this state where the principal office of the domestic corporation merged with, or whose shares were acquired by, the foreign corporation was located, or, if the domestic corporation did not have its principal office in this state at the time of the transaction, in Salt Lake County.~~]

[~~(3)~~] (2) (a) The corporation shall make all dissenters who have satisfied the requirements of Sections 16-10a-1321, 16-10a-1323, and 16-10a-1328, whether or not they are residents of this state whose demands remain unresolved, parties to the [~~proceeding commenced~~] action brought under Subsection [~~(2)~~] (1) as an action against their shares.

(b) All such dissenters who are named as parties shall be served with a copy of the [~~petition~~] complaint.

(c) (i) Service on each dissenter may be by registered or certified mail to the address stated in [~~his~~] the dissenter's payment demand made pursuant to Section 16-10a-1328.

(ii) If no address is stated in the payment demand, service may be made at the address stated in the payment demand given pursuant to Section 16-10a-1323.

(iii) If no address is stated in the payment demand, service may be made at the address shown on the corporation's current record of shareholders for the record shareholder holding the dissenter's shares.

(iv) Service may also be made otherwise as provided by law.

[~~(4)~~] (3) (a) The jurisdiction of the court in which the [~~proceeding is commenced~~] action filed under Subsection [~~(2)~~] (1) is plenary and exclusive.

(b) The court may appoint one or more persons as appraisers to receive evidence and recommend decision on the question of fair value.

(c) The appraisers have the powers described in the order appointing them, or in any amendment to it.

(d) The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

[~~(5)~~] (4) Each dissenter made a party to the [~~proceeding commenced~~] action filed under Subsection [~~(2)~~] (1) is entitled to judgment:

(a) for the amount, if any, by which the court finds that the fair value of [~~his~~] the dissenter's shares, plus interest, exceeds the amount paid by the corporation pursuant to Section 16-10a-1325; or

(b) for the fair value, plus interest, of the dissenter's after-acquired shares for which the corporation elected to withhold payment under Section 16-10a-1327.

Section 27. Section 16-10a-1430 is amended to read:

16-10a-1430. Grounds and procedure for judicial dissolution.

(1) [~~A corporation may be dissolved in a proceeding by the attorney general or the division director~~] The attorney general or the division director may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a corporation if it is established that:

(a) the corporation obtained its articles of incorporation through fraud; or

(b) the corporation has continued to exceed or abuse the authority conferred upon [~~it~~] the corporation by law.

(2) [~~A corporation may be dissolved in a proceeding by a shareholder~~] A shareholder may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a corporation if it is established that:

(a) the directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;

(b) the directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) the shareholders are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(d) the corporate assets are being misapplied or wasted.

(3) [~~A corporation may be dissolved in a proceeding by a creditor~~] A creditor may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a corporation if it is established that:

(a) the creditor's claim has been reduced to judgment, the execution on the judgment has been returned unsatisfied, and the corporation is insolvent; or

(b) the corporation is insolvent and the corporation has admitted in writing that the creditor's claim is due and owing.

(4) [~~A corporation may be dissolved in a proceeding by the corporation to have its~~] A corporation may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve the corporation by voluntary dissolution continued under court supervision.

(5) If an action is brought under this section, it is not necessary to make shareholders parties to the

action to dissolve a corporation unless relief is sought against them individually.

(6) In a proceeding under this section, a court may:

(a) issue injunctions;

(b) appoint a receiver or custodian pendente lite with all powers and duties the court directs; or

(c) take other action required to preserve the corporate assets wherever located and carry on the business of the corporation until a full hearing can be held.

Section 28. Section 16-10a-1434 is amended to read:

16-10a-1434. Election to purchase in lieu of dissolution.

(1) In [~~a proceeding~~] an action under Subsection 16-10a-1430(2) to dissolve a corporation that has no shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association, the corporation may elect, or if it fails to elect, one or more shareholders may elect to purchase all shares of the corporation owned by the petitioning shareholder, at the fair value of the shares, determined as provided in this section. An election pursuant to this section is irrevocable unless the court determines that it is equitable to set aside or modify the election.

(2) (a) An election to purchase pursuant to this section may be filed with the court at any time within 90 days after the filing of the [~~petition~~] action under Subsection 16-10a-1430(2) or at any later time as the court in its discretion may allow. If the corporation files an election with the court within the 90-day period, or at any later time allowed by the court, to purchase all shares of the corporation owned by the petitioning shareholder, the corporation shall purchase the shares in the manner provided in this section.

(b) If the corporation does not file an election with the court within the time period, but an election to purchase all shares of the corporation owned by the petitioning shareholder is filed by one or more shareholders within the time period, the corporation shall, within 10 days after the later of:

(i) the end of the time period allowed for the filing of elections to purchase under this section; or

(ii) notification from the court of an election by shareholders to purchase all shares of the corporation owned by the petitioning shareholder as provided in this section, give written notice of the election to purchase to all shareholders of the corporation, other than the petitioning shareholder. The notice shall state the name and number of shares owned by the petitioning shareholder and the name and number of shares owned by each electing shareholder. The notice shall advise any recipients who have not participated in the election of their right to join in the election to purchase shares in accordance with this section, and of the date by which any notice of intent to participate must be filed with the court.

(c) Shareholders who wish to participate in the purchase of shares from the petitioning shareholder shall file notice of their intention to join in the purchase by the electing shareholders, no later than 30 days after the effective date of the corporation's notice of their right to join in the election to purchase.

(d) All shareholders who have filed with the court an election or notice of their intention to participate in the election to purchase the shares of the corporation owned by the petitioning shareholder thereby become irrevocably obligated to participate in the purchase of shares from the petitioning shareholders upon the terms and conditions of this section, unless the court otherwise directs.

(e) After an election has been filed by the corporation or one or more shareholders, the [~~proceedings~~] action under Subsection 16-10a-1430(2) may not be discontinued or settled, nor may the petitioning shareholder sell or otherwise dispose of any shares of the corporation, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioning shareholders, to permit any discontinuance, settlement, sale, or other disposition.

(3) If, within 60 days after the earlier of:

(a) the corporation's filing of an election to purchase all shares of the corporation owned by the petitioning shareholder; or

(b) the corporation's mailing of a notice to its shareholders of the filing of an election by the shareholders to purchase all shares of the corporation owned by the petitioning shareholder, the petitioning shareholder and electing corporation or shareholders reach agreement as to the fair value and terms of purchase of the petitioning shareholder's shares, the court shall enter an order directing the purchase of petitioner's shares, upon the terms and conditions agreed to by the parties.

(4) If the parties are unable to reach an agreement as provided for in Subsection (3), upon application of any party the court shall stay the proceedings under Subsection 16-10a-1430(2) and determine the fair value of the petitioning shareholder's shares as of the day before the date on which the [~~petition~~] action under Subsection 16-10a-1430(2) was filed or as of any other date the court determines to be appropriate under the circumstances and based on the factors the court determines to be appropriate.

(5) (a) Upon determining the fair value of the shares of the corporation owned by the petitioning shareholder, the court shall enter an order directing the purchase of the shares upon terms and conditions the court determines to be appropriate. The terms and conditions may include payment of the purchase price in installments, where necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional costs, fees, and expenses

awarded by the court, and an allocation of shares among shareholders if the shares are to be purchased by shareholders.

(b) In allocating the petitioning shareholders' shares among holders of different classes of shares, the court shall attempt to preserve the existing distribution of voting rights among holders of different share classes to the extent practicable. The court may direct that holders of a specific class or classes may not participate in the purchase. The court may not require any electing shareholder to purchase more of the shares of the corporation owned by the petitioning shareholder than the number of shares that the purchasing shareholder may have set forth in his election or notice of intent to participate filed with the court as the maximum number of shares he is willing to purchase.

(c) Interest may be allowed at the rate and from the date determined by the court to be equitable. However, if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, interest may not be allowed.

(d) If the court finds that the petitioning shareholder had probable grounds for relief under Subsection 16-10a-1430(2)(b) or (d), it may award to the petitioning shareholder reasonable fees and expenses of counsel and experts employed by the petitioning shareholder.

(6) Upon entry of an order under Subsection (3) or (5), the court shall dismiss the [~~petition~~] action to dissolve the corporation under Section 16-10a-1430, and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, except the right to receive the amounts awarded to him by the court. The award is enforceable in the same manner as any other judgment.

(7) (a) The purchase ordered pursuant to Subsection (5) shall be made within 10 days after the date the order becomes final, unless before that time the corporation files with the court a notice of its intention to adopt articles of dissolution pursuant to Sections 16-10a-1402 and 16-10a-1403. The articles of dissolution must then be adopted and filed within 50 days after notice.

(b) Upon filing of the articles of dissolution, the corporation is dissolved in accordance with the provisions of Sections 16-10a-1405 through 16-10a-1408, and the order entered pursuant to Subsection (5) is no longer of any force or effect. However, the court may award the petitioning shareholder reasonable fees and expenses in accordance with the provisions of Subsection (5)(d). The petitioning shareholder may continue to pursue any claims previously asserted on behalf of the corporation.

(8) Any payment by the corporation pursuant to an order under Subsection (3) or (5), other than an award of fees and expenses pursuant to Subsection (5)(d), is subject to the provisions of Section 16-10a-640.

Section 29. Section 16-10a-1532 is amended to read:

16-10a-1532. Appeal from revocation.

[~~(1) A foreign corporation may appeal the division's revocation of its authority to transact business in this state to the district court of the county in this state where the last registered or principal office of the corporation was located or in Salt Lake County, within 30 days after the notice of revocation is mailed under Section 16-10a-1531. The foreign corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the corporation's application for authority to transact business, and any amended applications, each as filed with the division, and the division's notice of revocation.~~]

[~~(2)~~] (1) If the division revokes a foreign corporation's authority to transact business in this state, the foreign corporation may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to set aside the revocation.

(2) A foreign corporation shall file a petition under Subsection (1) within 30 days after the day on which the division gives notice of the revocation under Section 16-10a-1531.

(3) The petition under Subsection (1) shall include a copy of the foreign corporation's application for authority to transact business, any amended applications for authority to transact business, and the division's notice of revocation.

(4) [~~The~~] If a petition is filed under Subsection (1), the court may summarily order the division to reinstate the authority of the foreign corporation to transact business in this state or [~~it~~] the court may take any other action [~~it~~] the court considers appropriate.

[~~(3)~~] (5) The court's final decision [~~may be appealed~~] is appealable as in other civil proceedings.

Section 30. Section 16-10a-1604 is amended to read:

16-10a-1604. Court-ordered inspection.

(1) (a) If a corporation does not allow a shareholder or director, or the shareholder's or director's agent or attorney, who complies with Subsection 16-10a-1602(1) to inspect or copy any records required by that subsection to be available for inspection, [~~the district court of the county in this state in which the corporation's principal office is located, or in Salt Lake County if it has no principal office in this state, may~~] the shareholder or director may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) If a petition is filed under Subsection (1)(a), a court may summarily order inspection and copying of the records demanded at the corporation's expense[~~, on application of the shareholder or director denied access to the records~~].

(2) (a) If a corporation does not within a reasonable time allow a shareholder or director, or the shareholder's or director's agent or attorney,

who complies with Subsections 16-10a-1602(2) and (3), to inspect and copy any records which [~~he~~] the shareholder or director is entitled to inspect or copy by this part, [~~then upon application of the shareholder or director denied access to the records, the district court of the county in this state where the corporation's principal office is located or, if it has no principal office in this state, the district court for Salt Lake County, may~~] the shareholder or director may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) If a petition is filed under Subsection (2)(a), the court may summarily order the inspection or copying of the records demanded.

(c) The court shall dispose of [~~an application~~] a petition under this subsection on an expedited basis.

(3) If a court orders inspection or copying of records demanded, [~~it~~] the court shall also order the corporation to pay the shareholder's or director's costs incurred to obtain the order, including reasonable counsel fees, unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the shareholder or director, or the shareholder's or director's agent or attorney, to inspect the records demanded.

(4) If a court orders inspection or copying of records demanded, [~~it~~] the court may:

(a) impose reasonable restrictions on the use or distribution of the records by the demanding shareholder or director;

(b) order the corporation to pay the shareholder or director for any damages incurred as a result of the corporation's denial if the court determines that the corporation did not act in good faith in refusing to allow the inspection or copying;

(c) if inspection or copying is ordered pursuant to Subsection (2), order the corporation to pay the expenses of inspection and copying if the court determines that the corporation did not act in good faith in refusing to allow the inspection or copying; and

(d) grant the shareholder or director any other available legal remedy.

Section 31. Section 16-11-13 is amended to read:

16-11-13. Purchase or redemption of shares of disqualified shareholder.

(1) (a) The articles of incorporation may provide for the purchase or redemption of the shares of any shareholder upon the failure to qualify or disqualification of that shareholder, or the same may be provided in the bylaws or by private agreement.

(b) In the absence of such a provision in the articles of incorporation, the bylaws, or by private agreement, the professional corporation shall purchase the shares of a shareholder who is not qualified to own shares in the corporation within 90 days after the failure to qualify or disqualification of the shareholder.

(2) The price for shares purchased under this section shall be their reasonable fair value as of the date of failure to qualify or disqualification of the shareholder.

(3) (a) If the professional corporation fails to purchase shares as required by Subsection (1), any disqualified shareholder or personal representative of a disqualified shareholder may [~~bring an action in the district court of the county in which the principal office or place of practice of the professional corporation is located for the enforcement of this section. The court shall have power to~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for the enforcement of this section.

(b) In an action under Subsection (3)(a), the court may:

(i) award the plaintiff the reasonable fair value of [~~his shares, or within its jurisdiction, may order~~] the plaintiff's shares; or

(ii) within the court's jurisdiction, order the liquidation of the professional corporation.

(c) [~~Further, if~~] If the plaintiff is successful in the action, [~~he shall be~~] the plaintiff is entitled to recover a reasonable attorney's fee and costs.

(4) The professional corporation shall repurchase shares as required by this section without regard to restrictions upon the repurchase of shares provided by Title 16, Chapter 10a, Utah Revised Business Corporation Act.

Section 32. Section 16-16-202 is amended to read:

16-16-202. Signing and filing of records pursuant to judicial order.

(1) If a person required by this chapter to sign or deliver a record to the division for filing does not [~~do so, the district court, upon petition of an aggrieved person, may order~~] sign or deliver the record to the division for filing, the court may order, upon the petition of an aggrieved person:

(a) the person to sign the record and deliver [~~it~~] the record to the division for filing; or

(b) delivery of the unsigned record to the division for filing.

(2) An aggrieved person under Subsection (1), other than the limited cooperative association or foreign cooperative to which the record pertains, shall make the association or foreign cooperative a party to the action brought to obtain the order.

(3) An unsigned record filed pursuant to this section is effective.

Section 33. Section 16-16-1203 is amended to read:

16-16-1203. Judicial dissolution.

[~~The district court may dissolve a limited cooperative association or order any action that~~

~~under the circumstances is appropriate and equitable.~~]

(1) [~~in a proceeding initiated by the attorney general,~~] The attorney general may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a limited cooperative association if:

(a) the association obtained [~~its~~] the association's articles of organization through fraud; or

(b) the association has continued to exceed or abuse the authority conferred upon [~~it~~] the corporation by law[~~; or~~].

(2) [~~in a proceeding initiated by a member,~~] A member may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a limited cooperative association if:

(a) the directors are deadlocked in the management of the association's affairs, the members are unable to break the deadlock, and irreparable injury to the association is occurring or is threatened because of the deadlock;

(b) the directors or those in control of the association have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) the members are deadlocked in voting power and have failed to elect successors to directors whose terms have expired for two consecutive periods during which annual members meetings were held or were to be held; or

(d) the assets of the association are being misapplied or wasted.

(3) If an action is brought under this section, a court may dissolve a limited cooperative association or order an action that under the circumstances is appropriate or equitable.

Section 34. Section 16-16-1206 is amended to read:

16-16-1206. Winding up.

(1) A limited cooperative association continues after dissolution only for purposes of winding up [~~its~~] the association's activities.

(2) In winding up a limited cooperative association's activities, the board of directors shall cause the association to:

(a) discharge [~~its~~] the association's liabilities, settle and close [~~its~~] the association's activities, and marshal and distribute [~~its~~] the association's assets;

(b) preserve the association or its property as a going concern for no more than a reasonable time;

(c) prosecute and defend actions and proceedings;

(d) transfer association property; and

(e) perform other necessary acts.

(3) After dissolution and upon application of a limited cooperative association, a member, or a holder of financial rights, [~~the district court~~] a court may order judicial supervision of the winding up of the association, including the appointment of a person to wind up the association's activities, if:

(a) after a reasonable time, the association has not wound up [~~its~~] the association's activities; or

(b) the applicant establishes other good cause.

(4) If a person is appointed pursuant to Subsection (3) to wind up the activities of a limited cooperative association, the association shall promptly deliver to the division for filing an amendment to the articles of organization to reflect the appointment.

Section 35. Section 16-16-1210 is amended to read:

16-16-1210. Court proceeding.

(1) [~~Upon application~~] Upon a petition by a dissolved limited cooperative association that has published a notice under Section 16-16-1209, [~~the district court in the county where the association's principal office is located or, if the association does not have a principal office in this state where its designated office in this state is located,~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, may determine the amount and form of security to be provided for payment of claims against the association that are contingent, have not been made known to the association, or are based on an event occurring after the effective date of dissolution but that, based on the facts known to the association, are reasonably anticipated to arise after the effective date of dissolution.

(2) Not later than 10 days after filing [~~an application~~] a petition under Subsection (1), a dissolved limited cooperative association shall give notice of the proceeding to each known claimant holding a contingent claim.

(3) (a) The court may appoint a representative in a proceeding brought under this section to represent all claimants whose identities are unknown.

(b) The dissolved limited cooperative association shall pay reasonable fees and expenses of the representative, including all reasonable attorney and expert witness fees.

(4) Provision by the dissolved limited cooperative association for security in the amount and the form ordered by the court satisfies the association's obligations with respect to claims that are contingent, have not been made known to the association, or are based on an event occurring after the effective date of dissolution, and the claims may not be enforced against a member that received a distribution.

Section 36. Section 24-1-103 is amended to read:

24-1-103. Venue.

[~~(1)~~] In addition to the venue provided for under [~~Title 78B, Chapter 3, Part 3, Place of Trial -- Venue~~] Title 78B, Chapter 3a, Venue for Civil Actions, or any other provisions of law, a proceeding

under this title may be maintained in the judicial district in which:

[~~(a)~~] (1) the property is seized;

[~~(b)~~] (2) any part of the property is found; or

[~~(c)~~] (3) a civil or criminal action could be maintained against a claimant for the offense subjecting the property to forfeiture under this title.

[~~(2) A claimant may obtain a change of venue under Section 78B-3-309.~~]

Section 37. Section 31A-1-401 is enacted to read:

Part 4. Venue

31A-1-401. Venue for action or petition filed by commissioner.

If the commissioner brings an action under this title in the district court, the commissioner shall bring the action:

(1) in accordance with Title 78B, Chapter 3a, Venue for Civil Actions; or

(2) in Salt Lake County.

Section 38. Section 31A-2-305 is amended to read:

31A-2-305. Immunity from prosecution.

(1) (a) If a natural person declines to appear, testify, or produce any record or document in any proceeding instituted by the commissioner or in obedience to the subpoena of the commissioner, the commissioner may [~~apply to a judge of the district court where the proceeding is held~~] petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an order to the person to attend, testify, or produce records or documents as requested by the commissioner.

(b) In the event a witness asserts a privilege against self-incrimination, testimony and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of Immunity.

(2) If a person claims the privilege against self-incrimination and refuses to appear, testify, or produce documents in response to probative evidence against [~~him~~] the person in a proceeding to revoke or suspend [~~his~~] the person's license, and if the testimony or documents would have been admissible as evidence in a court of law except for the Fifth Amendment privilege, the refusal to appear, testify, or produce documents is, for noncriminal proceedings only, rebuttable evidence of the facts on which the proceeding is based.

Section 39. Section 31A-5-414 is amended to read:

31A-5-414. Transactions in which directors and others are interested.

(1) Any material transaction between an insurance corporation and one or more of its directors or officers, or between an insurance corporation and any other person in which one or more of its directors or officers or any person controlling the corporation has a material interest, is voidable by the corporation unless all the following exist:

(a) At the time the transaction is entered into it is fair to the interests of the corporation.

(b) The transaction has, with full knowledge of its terms and of the interests involved, been approved in advance by the board or by the shareholders.

(c) The transaction has been reported to the commissioner immediately after approval by the board or the shareholders.

(2) A director, whose interest or status makes the transaction subject to this section, may be counted in determining a quorum for a board meeting approving a transaction under Subsection (1)(b), but may not vote. Approval requires the affirmative vote of a majority of those present.

(3) (a) The commissioner may by rule exempt certain types of transactions from the reporting requirement of Subsection (1)(c).

(b) The commissioner has standing to bring an action on behalf of an insurer to have a contract in violation of Subsection (1) declared void. [~~Such an action shall be brought in the Third Judicial District Court for Salt Lake County.~~]

Section 40. Section 31A-5-415 is amended to read:

31A-5-415. Officers', directors', and employees' liability and indemnification.

(1) (a) Section 16-10a-841 applies to the liabilities of directors of a stock corporation.

(b) Subsection 16-6a-825(3) applies to loans to trustees and officers of a mutual.

(c) A director who votes for or assents to a violation of Subsection 16-6a-825(3) or Section 16-10a-842 is jointly and severally liable to the corporation for any loss on the distribution.

(2) (a) Title 16, Chapter 10a, Part 9, Indemnification, applies to stock and mutual corporations, but no indemnification may be paid until 30 or more days after sending a notice to the commissioner of the full details of the proposed indemnification.

(b) The commissioner may bring an action [~~in Third Judicial District Court for Salt Lake County~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to have such indemnification enjoined.

(c) The court may enjoin the indemnification to the extent [~~it~~] the indemnification would render the insurer in a hazardous condition, or exacerbate an existing financially hazardous condition.

Section 41. Section 31A-15-211 is amended to read:

31A-15-211. Enforcement authority.

(1) (a) The commissioner is authorized to use the powers established for the department under this title to enforce the laws of this state not specifically

preempted by the Liability Risk Retention Act of 1986, including the commissioner's administrative authority to investigate, issue subpoena, conduct depositions and hearings, issue orders, impose monetary penalties and seek injunctive relief.

(b) With regard to any investigation, administrative proceedings, or litigation, the commissioner shall rely on the procedural laws of this state.

(2) (a) Whenever the commissioner determines that any person, risk retention group, purchasing group, or insurer of a purchasing group has violated, is violating, or is about to violate any provision of this part or any other insurance law of this state applicable to the person or entity, or that the person or entity has failed to comply with a lawful order of the commissioner, [~~he~~] the commissioner may, in addition to any other lawful remedies or penalties, [~~file a complaint in the Third District Court of Salt Lake County~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin and restrain any person, risk retention group, purchasing group, or insurer from engaging in the violation, or to compel compliance with the order of the commissioner. [~~The court has jurisdiction of the proceeding and has the power to enter a judgment and order for injunctive or other relief.~~]

(b) [~~In any action by the commissioner under this subsection~~] In an action by the commissioner under Subsection (2)(a), service of process shall be made upon the director of the Division of Corporations and Commercial Code who shall forward the order, pleadings, or other process to the person, risk retention group, purchasing group, or insurer in accordance with the procedures specified in Section 31A-14-204.

(c) Nothing in this section may be construed to limit or abridge the authority of the commissioner to seek injunctive relief in any district court of the United States as provided in Section 31A-15-213.

(3) In an action under this section, a court has the power to enter a judgment and order for injunctive or other relief.

Section 42. Section 31A-16-107.5 is amended to read:

31A-16-107.5. Examination of registered insurers.

(1) Subject to the limitation contained in this section and the powers which the commissioner has under Chapter 2, Administration of the Insurance Laws, relating to the examination of insurers, the commissioner has the power to examine an insurer registered under Section 31A-16-105 and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by the insurance holding company system on a consolidated basis.

(2) (a) The commissioner may order an insurer registered under Section 31A-16-105 to produce the records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to determine compliance with this chapter.

(b) To determine compliance with this chapter, the commissioner may order an insurer registered under Section 31A-16-105 to produce information not in the possession of the insurer if the insurer can obtain access to the information pursuant to contractual relationships, statutory obligations, or other methods.

(c) If an insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of the information.

(d) Whenever it appears to the commissioner that the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a penalty of $5,000 for each day's delay, or may suspend or revoke the insurer's license.

(3) The commissioner may retain, at the registered insurer's expense, attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff, if they are necessary to assist in the conduct of the examination under Subsection (1). Any persons so retained are under the direction and control of the commissioner and shall act in a purely advisory capacity.

(4) A registered insurer who produces records, books, and papers under Subsection [~~(1)~~] (2) for examination is liable for and shall pay the expense of the examination under Section 31A-2-205.

(5) If an insurer fails to comply with an order issued under this section, the commissioner may:

(a) examine the affiliates to obtain the information; or

(b) issue subpoenas, administer oaths, and examine under oath any person for purposes of determining compliance with this section.

(6) (a) Upon the failure or refusal of any person to obey a subpoena under Subsection (5), the commissioner may [~~petition the Third District Court of Salt Lake County~~] petition a court to enter an order compelling the witness to appear and testify or produce documentary evidence.

(b) A person shall be obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state.

(c) A person subpoenaed is entitled to the same fees and mileage[~~, if claimed, as a witness in the Third District Court of Salt Lake County, which fees,~~] as a witness under Section 78B-1-119.

(d) Fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and [~~their~~] the witness's testimony, shall be itemized and charged against, and be paid by, the company being examined.

Section 43. Section 31A-16-110 is amended to read:

31A-16-110. Enjoining violations -- Voting securities acquired in violation of law or rule.

(1) (a) Whenever it appears to the commissioner that any insurer or any director, officer, employee, or agent of an insurer has committed or is about to commit a violation of this chapter or any rule or order issued by the commissioner under this chapter, the commissioner may [~~apply to the district court of the county in which the principal office of the insurer is located, or if the insurer has no principal office in this state, then to the Third District Court of Salt Lake County,~~] petition a court for an order enjoining the insurer or a director, officer, employee, or agent of the insurer from the violation.

(b) The commissioner may also request other equitable relief which the nature of the case and the interest of the insurer's policyholders, creditors, and shareholders or the public require.

(2) (a) No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this chapter or any rule or order issued by the commissioner under this chapter, may be voted at any shareholders' meeting, or may be counted for quorum purposes.

(b) Any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though those securities were not issued and outstanding.

(c) However, no action taken at that shareholders' meeting is invalidated by the voting of those securities, unless the action would materially affect control of the insurer or unless the [~~district~~] court has ordered that voting invalidates the action.

(d) If an insurer or the commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this chapter or any rule or order issued by the commissioner under this chapter, the insurer or the commissioner may [~~apply to the Third District Court of Salt Lake County or to the district court for the county in which the insurer has its principal place of business,~~] petition a court to enjoin any offer, request, invitation, or agreement of acquisition which is made in contravention of Section 31A-16-103 or any rule or order issued by the commissioner under this chapter to enjoin the voting of that acquired security.

(e) [~~This court order may also~~] On a petition under Subsection (2)(d), a court may:

(i) void any vote of that security if the vote has already been cast at any meeting of shareholders[~~, and the court may~~]; and

(ii) grant other equitable relief which the nature of the case and the interests of the insurer's policyholders, creditors, and shareholders or the public require.

[~~(3) Upon the application of the insurer or the commissioner, if a person has acquired or is proposing to acquire any voting securities in violation of this chapter or of any rule or order issued by the commissioner under this chapter, the Third District Court of Salt Lake County or the district court for the county in which the insurer has its principal place of business may, upon the notice which the court deems appropriate,~~]

(3) (a) If a person has acquired or is proposing to acquire any voting securities in violation of this chapter or in violation of a rule or order issued by the commissioner under this chapter, the insurer or the commissioner may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) If a petition is filed under Subsection (3)(a), a court may:

(i) seize or sequester any voting securities of the insurer owned directly or indirectly by that person[~~, and~~]; and

(ii) issue orders with respect to that person and those securities which the court considers appropriate to effectuate the provisions of this chapter.

(c) A petitioner under Subsection (3)(a) shall provide notice that the court deems appropriate.

(4) For the purposes of this chapter, the situs of the ownership of the securities of domestic insurers is considered to be in this state.

Section 44. Section 31A-16-111 is amended to read:

31A-16-111. Required sale of improperly acquired stock -- Penalties.

(1) If the commissioner finds that the acquiring person has not substantially complied with the requirements of this chapter in acquiring control of a domestic insurer, the commissioner may require the acquiring person to sell the acquiring person's stock of the domestic insurer in the manner specified in Subsection (2).

(2) (a) The commissioner shall effect the sale required by Subsection (1) in the manner which, under the particular circumstances, appears most likely to result in the payment of the full market value for the stock by persons who have the collective competence, experience, financial resources, and integrity to obtain approval under Subsection 31A-16-103(8).

(b) Sales made under this section are subject to approval by [~~the Third Judicial District Court for Salt Lake County~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, which court has the authority to effect the terms of the sale.

(3) The proceeds from sales made under this section shall be distributed first to the person required by this section to sell the stock, but only up

to the amount originally paid by the person for the securities. Additional sale proceeds shall be paid to the General Fund.

(4) The person required to sell and persons related to or affiliated with the seller may not purchase the stock at the sale conducted under this section.

(5) (a) A director or officer of an insurance holding company system violates this chapter if the director or officer knowingly:

(i) participates in or assents to a transaction or investment that:

(A) has not been properly reported or submitted pursuant to:

(I) Subsections 31A-16-105(1) and (2); or

(II) Subsection 31A-16-106(1)(b); or

(B) otherwise violates this chapter; or

(ii) permits any of the officers or agents of the insurer to engage in a transaction or investment described in Subsection (5)(a)(i).

(b) A director or officer in violation of Subsection (5)(a) shall pay, in the director's or officer's individual capacity, a civil penalty of not more than $20,000 per violation:

(i) upon a finding by the commissioner of a violation; and

(ii) after notice and hearing before the commissioner.

(c) In determining the amount of the civil penalty under Subsection (5)(b), the commissioner shall take into account:

(i) the appropriateness of the penalty with respect to the gravity of the violation;

(ii) the history of previous violations; and

(iii) any other matters that justice requires.

(6) (a) When it appears to the commissioner that any insurer or any director, officer, employee, or agent of the insurer, has committed a willful violation of this chapter, the commissioner may [~~cause criminal proceedings to be instituted:~~] refer the violation to the appropriate prosecutor.

[~~(i) (A) in the district court for the county in this state in which the principal office of the insurer is located; or~~]

[~~(B) if the insurer has no principal office in this state, in the Third District Court for Salt Lake County; and~~]

[~~(ii) against the insurer or the responsible director, officer, employee, or agent of the insurer.~~]

(b) (i) An insurer that willfully violates this chapter may be fined not more than $20,000.

(ii) Any individual who willfully violates this chapter is guilty of a third degree felony, and upon conviction may be:

(A) fined in that person's individual capacity not more than $5,000;

(B) imprisoned; or

(C) both fined and imprisoned.

(7) This section does not limit the other sanctions applicable to violations of this title under Section 31A-2-308.

Section 45. Section 31A-16-112 is amended to read:

31A-16-112. Sanctions.

(1) (a) Notwithstanding Section 31A-2-308, the following sanctions apply:

(i) An insurer failing, without just cause, to file a registration statement required by this chapter is required, after notice and hearing, to pay a penalty of $10,000 for each day's delay, to be recovered by the commissioner and the penalty so recovered shall be paid into the General Fund.

(ii) The maximum penalty under this section is $250,000.

(b) The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

(2) (a) A director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly shall permit any of the officers or agents of the insurer to engage in transactions or make investments that have not been properly reported or submitted pursuant to Subsection 31A-16-105(1), 31A-16-106(1)(b), or 31A-16-106(2), or that violates this chapter, shall pay, in the director's or officer's individual capacity, a civil forfeiture of not more than $10,000 per violation, notwithstanding Section 31A-2-308, after notice and hearing before the commissioner.

(b) In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(3) (a) Whenever it appears to the commissioner that any insurer subject to this chapter or a director, officer, employee, or agent of the insurer has engaged in any transaction or entered into a contract that is subject to Section 31A-16-106 and that would not have been approved had the approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract.

(b) After notice and hearing, the commissioner may also order the insurer to void any contract and restore the status quo if the action is in the best interest of the policyholders, creditors, or the public.

(4) (a) Whenever it appears to the commissioner that an insurer or any director, officer, employee, or

agent of the insurer has committed a willful violation of this chapter, the commissioner may refer the [~~case~~] violation to the appropriate prosecutor. [~~Venue for the criminal action shall be in the Third District Court of Salt Lake County, against the insurer or the responsible director, officer, employee, or agent of the insurer.~~]

(b) An insurer that willfully violates this chapter may be fined not more than $250,000 notwithstanding Section 31A-2-308.

(c) An individual who willfully violates this chapter may be fined in the individual's individual capacity not more than $100,000 notwithstanding Section 31A-2-308 and is guilty of a third-degree felony.

(5) (a) An officer, director, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements, false reports, or false filings with the intent to deceive the commissioner in the performances of the commissioner's duties under this chapter, is guilty of a third-degree felony.

(b) Any fines imposed shall be paid by the officer, director, or employee in the officer's, director's, or employee's individual capacity.

(6) Whenever it appears to the commissioner that a person has committed a violation of Section 31A-16-103 and that prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with Section 31A-27-503.

Section 46. Section 31A-16-117 is amended to read:

31A-16-117. Judicial review -- Mandamus.

(1) A person aggrieved by an act, determination, rule, or order or any other action of the commissioner pursuant to this chapter may seek judicial review in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) The filing of an appeal pursuant to this section shall stay the application of any rule, order, or other action of the commissioner to the appealing party unless the court, after giving party notice and an opportunity to be heard, determines that a stay would be detrimental to the interest of policyholders, shareholders, creditors, or the public.

(3) A person aggrieved by a failure of the commissioner to act or make a determination required by this chapter may petition [~~the Third District Court of~~] the district court in Salt Lake County for writ in the nature of a mandamus or a peremptory mandamus directing the commissioner to act or make a determination.

Section 47. Section 31A-17-610 is amended to read:

31A-17-610. Foreign insurers or health organizations.

(1) (a) Any foreign insurer or health organization shall, upon the written request of the commissioner, submit to the commissioner an RBC report as of the end of the most recent calendar year by the later of:

(i) the date an RBC report would be required to be filed by a domestic insurer or health organization under this part; or

(ii) 15 days after the request is received by the foreign insurer or health organization.

(b) Any foreign insurer or health organization shall, at the written request of the commissioner, promptly submit to the commissioner a copy of any RBC plan that is filed with the insurance commissioner of any other state.

(2) (a) The commissioner may require a foreign insurer or health organization to file an RBC plan with the commissioner if:

(i) there is a company action level event, regulatory action level event, or authorized control level event with respect to the foreign insurer or health organization as determined under:

(A) the RBC statute applicable in the state of domicile of the insurer or health organization; or

(B) if no RBC statute is in force in that state, under this part; and

(ii) the insurance commissioner of the state of domicile of the foreign insurer or health organization fails to require the foreign insurer or health organization to file an RBC plan in the manner specified under:

(A) that state's RBC statute; or

(B) if no RBC statute is in force in that state, under Section 31A-17-603.

(b) If the commissioner requires a foreign insurer or health organization to file an RBC plan, the failure of the foreign insurer or health organization to file the RBC plan with the commissioner is grounds to order the insurer or health organization to cease and desist from writing new insurance business in this state.

(3) The commissioner may [~~make application to the Third District Court for Salt Lake County~~] petition a court as permitted under Section 31A-27a-901 with respect to the liquidation of property of a foreign insurer or health organization found in this state if:

(a) a mandatory control level event occurs with respect to any foreign insurer or health organization; and

(b) no domiciliary receiver has been appointed with respect to the foreign insurer or health organization under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign insurer or health organization.

Section 48. Section 31A-27a-105 is amended to read:

31A-27a-105. Jurisdiction.

(1) (a) A delinquency proceeding under this chapter may not be commenced by a person other than the commissioner of this state.

(b) No court has jurisdiction to entertain, hear, or determine a delinquency proceeding commenced by any person other than the commissioner of this state.

(2) Other than in accordance with this chapter, a court of this state has no jurisdiction to entertain, hear, or determine any complaint:

(a) requesting the liquidation, rehabilitation, seizure, sequestration, or receivership of an insurer; or

(b) requesting a stay, an injunction, a restraining order, or other relief preliminary to, incidental to, or relating to a delinquency proceeding.

(3) (a) The receivership court, as of the commencement of a delinquency proceeding under this chapter, has exclusive jurisdiction of all property of the insurer, wherever located, including property located outside the territorial limits of the state.

(b) The receivership court has original but not exclusive jurisdiction of all civil proceedings arising:

(i) under this chapter; or

(ii) in or related to a delinquency proceeding under this chapter.

(4) In addition to other grounds for jurisdiction provided by the law of this state, a court of this state having jurisdiction of the subject matter has jurisdiction over a person served pursuant to the Utah Rules of Civil Procedure or other applicable provisions of law in an action brought by the receiver if the person served:

(a) in an action resulting from or incident to a relationship with the insurer described in this Subsection (4)(a), is or has been an agent, broker, or other person who has at any time:

(i) written a policy of insurance for an insurer against which a delinquency proceeding is instituted; or

(ii) acted in any manner whatsoever on behalf of an insurer against which a delinquency proceeding is instituted;

(b) in an action on or incident to a reinsurance contract described in this Subsection (4)(b):

(i) is or has been an insurer or reinsurer who has at any time entered into the contract of reinsurance with an insurer against which a delinquency proceeding is instituted; or

(ii) is an intermediary, agent, or broker of or for the reinsurer, or with respect to the contract;

(c) in an action resulting from or incident to a relationship with the insurer described in this Subsection (4)(c), is or has been an officer, director, manager, trustee, organizer, promoter, or other person in a position of comparable authority or influence over an insurer against which a delinquency proceeding is instituted;

(d) in an action concerning assets described in this Subsection (4)(d), is or was at the time of the institution of the delinquency proceeding against the insurer, holding assets in which the receiver claims an interest on behalf of the insurer; or

(e) in any action on or incident to the obligation described in this Subsection (4)(e), is obligated to the insurer in any way whatsoever.

(5) (a) Subject to Subsection (5)(b), service shall be made upon the person named in the petition in accordance with the Utah Rules of Civil Procedure.

(b) In lieu of service under Subsection (5)(a), upon application to the receivership court, service may be made in such a manner as the receivership court directs whenever it is satisfactorily shown by the commissioner's affidavit:

(i) in the case of a corporation, that the officers of the corporation cannot be served because they have departed from the state or have otherwise concealed themselves with intent to avoid service;

(ii) in the case of an insurer whose business is conducted, at least in part, by an attorney-in-fact, managing general agent, or other similar entity including a reciprocal, Lloyd's association, or interinsurance exchange, that the individual attorney-in-fact, managing general agent, or other entity, or its officers of the corporate attorney-in-fact cannot be served because of the individual's departure or concealment; or

(iii) in the case of a natural person, that the person cannot be served because of the person's departure or concealment.

(6) If the receivership court on motion of any party finds that an action should as a matter of substantial justice be tried in a forum outside this state, the receivership court may enter an [~~appropriate~~] order to stay further proceedings on the action in this state.

(7) (a) Nothing in this chapter deprives a reinsurer of any contractual right to pursue arbitration except:

(i) as to a claim against the estate; and

(ii) in regard to a contract rejected by the receiver under Section 31A-27a-113.

(b) A party in arbitration may bring a claim or counterclaim against the estate, but the claim or counterclaim is subject to this chapter.

[~~(8) An action authorized by this chapter shall be brought in the Third District Court for Salt Lake County.~~]

[~~(9)~~] (8) (a) At any time after an order is entered pursuant to Section 31A-27a-201, 31A-27a-301, or 31A-27a-401, the commissioner or receiver may

transfer the case to the county of the principal office of the person proceeded against.

(b) In the event of a transfer under this Subsection [~~(9)~~] (8), the court in which the proceeding is commenced shall, upon application of the commissioner or receiver, direct its clerk to transmit the court's file to the clerk of the court to which the case is to be transferred.

(c) After a transfer under this Subsection [~~(9)~~] (8), the proceeding shall be conducted in the same manner as if [~~it~~] the proceeding had been commenced in the court to which the matter is transferred.

[~~(10)~~] (9) (a) Except as provided in Subsection [~~(10)(c)~~] (9)(c), a person may not intervene in a liquidation proceeding in this state for the purpose of seeking or obtaining payment of a judgment, lien, or other claim of any kind.

(b) Except as provided in Subsection [~~(10)(c)~~] (9)(c), the claims procedure set for this chapter constitute the exclusive means for obtaining payment of claims from the liquidation estate.

(c) (i) An affected guaranty association or the affected guaranty association's representative may intervene as a party as a matter of right and otherwise appear and participate in any court proceeding concerning a liquidation proceeding against an insurer.

(ii) Intervention by an affected guaranty association or by an affected guaranty association's designated representative conferred by this Subsection [~~(10)(c)~~] (9)(c) may not constitute grounds to establish general personal jurisdiction by the courts of this state.

(iii) An intervening affected guaranty association or the affected guaranty association's representative are subject to the receivership court's jurisdiction for the limited purpose for which the affected guaranty association intervenes.

[~~(11)~~] (10) (a) Notwithstanding the other provisions of this section, this chapter does not confer jurisdiction on the receivership court to resolve coverage disputes between an affected guaranty association and those asserting claims against the affected guaranty association resulting from the initiation of a receivership proceeding under this chapter, except to the extent that the affected guaranty association otherwise expressly consents to the jurisdiction of the receivership court pursuant to a plan of rehabilitation or liquidation that resolves its obligations to covered policyholders.

(b) The determination of a dispute with respect to the statutory coverage obligations of an affected guaranty association by a court or administrative agency or body with jurisdiction in the affected guaranty association's state of domicile is binding and conclusive as to the affected guaranty association's claim in the liquidation proceeding.

[~~(12)~~] (11) Upon the request of the receiver, the receivership court or the presiding judge of the [~~Third District Court for Salt Lake County~~] court with jurisdiction under Title 78A, Judiciary and Judicial Administration, may order that one judge hear all cases and controversies arising out of or related to the delinquency proceeding.

[~~(13)~~] (12) A delinquency proceeding is exempt from any program maintained for the early closure of civil actions.

[~~(14)~~] (13) In a proceeding, case, or controversy arising out of or related to a delinquency proceeding, to the extent there is a conflict between the Utah Rules of Civil Procedure and this chapter, the provisions of this chapter govern the proceeding, case, or controversy.

Section 49. Section 31A-27a-201 is amended to read:

31A-27a-201. Receivership court's seizure order.

(1) The commissioner may [~~file in the Third District Court for Salt Lake County a petition~~] petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration:

(a) with respect to:

(i) an insurer domiciled in this state;

(ii) an unauthorized insurer; or

(iii) pursuant to Section 31A-27a-901, a foreign insurer;

(b) alleging that:

(i) there exists grounds that would justify a court order for a formal delinquency proceeding against the insurer under this chapter; and

(ii) the interests of policyholders, creditors, or the public will be endangered by delay; and

(c) setting forth the contents of a seizure order considered necessary by the commissioner.

(2) (a) Upon a filing under Subsection (1), the receivership court may issue the requested seizure order:

(i) immediately, ex parte, and without notice or hearing;

(ii) that directs the commissioner to take possession and control of:

(A) all or a part of the property, accounts, and records of an insurer; and

(B) the premises occupied by the insurer for transaction of the insurer's business; and

(iii) that until further order of the receivership court, enjoins the insurer and its officers, managers, agents, and employees from disposition of its property and from the transaction of its business except with the written consent of the commissioner.

(b) A person having possession or control of and refusing to deliver any of the records or assets of a person against whom a seizure order is issued under this Subsection (2) is guilty of a class B misdemeanor.

(3) (a) A petition that requests injunctive relief:

(i) shall be verified by the commissioner or the commissioner's designee; and

(ii) is not required to plead or prove irreparable harm or inadequate remedy at law.

(b) The commissioner shall provide only the notice that the receivership court may require.

(4) (a) The receivership court shall specify in the seizure order the duration of the seizure, which shall be the time the receivership court considers necessary for the commissioner to ascertain the condition of the insurer.

(b) The receivership court may from time to time:

(i) hold a hearing that the receivership court considers desirable:

(A) (I) on motion of the commissioner;

(II) on motion of the insurer; or

(III) on its own motion; and

(B) after the notice the receivership court considers appropriate; and

(ii) extend, shorten, or modify the terms of the seizure order.

(c) The receivership court shall vacate the seizure order if the commissioner fails to commence a formal proceeding under this chapter after having had a reasonable opportunity to commence a formal proceeding under this chapter.

(d) An order of the receivership court pursuant to a formal proceeding under this chapter vacates the seizure order.

(5) Entry of a seizure order under this section does not constitute a breach or an anticipatory breach of a contract of the insurer.

(6) (a) An insurer subject to an ex parte seizure order under this section may petition the receivership court at any time after the issuance of a seizure order for a hearing and review of the basis for the seizure order.

(b) The receivership court shall hold the hearing and review requested under this Subsection (6) not more than 15 days after the day on which the request is received or as soon thereafter as the court may allow.

(c) A hearing under this Subsection (6):

(i) may be held privately in chambers; and

(ii) shall be held privately in chambers if the insurer proceeded against requests that [~~it~~] the hearing be private.

(7) (a) If, at any time after the issuance of a seizure order, it appears to the receivership court that a person whose interest is or will be substantially affected by the seizure order did not appear at the hearing and has not been served, the receivership court may order that notice be given to the person.

(b) An order under this Subsection (7) that notice be given may not stay the effect of a seizure order previously issued by the receivership court.

(8) Whenever the commissioner makes a seizure as provided in Subsection (2), on the demand of the commissioner, it shall be the duty of the sheriff of a county of this state, and of the police department of a municipality in the state to furnish the commissioner with necessary deputies or officers to assist the commissioner in making and enforcing the seizure order.

(9) The commissioner may appoint a receiver under this section. The insurer shall pay the costs and expenses of the receiver appointed.

Section 50. Section 31A-27a-206 is amended to read:

31A-27a-206. Confidentiality.

(1) (a) Except as provided in Subsection (1)(b), in a delinquency proceeding or a judicial review under Section 31A-27a-201:

(i) all records of the insurer, department files, court records and papers, and other documents, so far as they pertain to or are a part of the record of the proceedings, are confidential; and

(ii) a clerk of the court shall hold a paper filed with the clerk in a confidential file as permitted by law.

[~~(ii) a paper filed with the clerk of the Third District Court for Salt Lake County shall be held by the clerk in a confidential file as permitted by law.~~]

(b) The items listed in Subsection (1)(a) are subject to Subsection (1)(a):

(i) except to the extent necessary to obtain compliance with an order entered in connection with the proceeding; and

(ii) unless and until:

(A) the [~~Third District Court for Salt Lake County~~] court, after hearing argument in chambers, orders otherwise;

(B) the insurer requests that the matter be made public; or

(C) the commissioner applies for an order under Section 31A-27a-207.

(2) (a) If the recipient agrees to maintain the confidentiality of the document, material, or other information, the commissioner or rehabilitator may share a document, materials, or other information in the possession, custody, or control of the department, pertaining to an insurer that is the subject of a delinquency proceeding under this chapter with:

(i) another state, federal, and international regulatory agency;

(ii) the National Association of Insurance Commissioners and its affiliates or subsidiaries;

(iii) a state, federal, and international law enforcement authority;

(iv) an auditor appointed by the receivership court in accordance with Section 31A-27a-805; or

(v) a representative of an affected guaranty association.

(b) If the domiciliary receiver believes that certain information is sensitive, the receiver may share that information subject to a continuation of the confidentiality obligations beyond the period allowed in Subsection (3).

(c) This section does not limit the power of the commissioner to disclose information under other applicable law.

(3) (a) A domiciliary receiver shall permit a commissioner or a guaranty association of another state to obtain a listing of policyholders and certificate holders residing in the requestor's state, including current addresses and summary policy information, if the commissioner or the guaranty association of another state agrees:

(i) to maintain the confidentiality of the record; and

(ii) that the record will be used only for regulatory or guaranty association purposes.

(b) Access to a record under this Subsection (3) may be limited to normal business hours.

(c) If the domiciliary receiver believes that certain information described in this Subsection (3) is sensitive and disclosure might cause a diminution in recovery, the receiver may apply for a protective order imposing additional restrictions on access.

(4) (a) The confidentiality obligations imposed by this section shall end upon the entry of an order of liquidation against the insurer, unless:

(i) otherwise agreed to by the parties; or

(ii) pursuant to an order of the receivership court.

(b) A continuation of confidentiality as provided in Subsection (2) does not apply to an insurer record necessary for a guaranty association to discharge its statutory responsibilities.

(5) A waiver of an applicable privilege or claim of confidentiality does not occur as a result of a disclosure, or any sharing of documents, materials, or other information, made pursuant to this section.

Section 51. Section 31A-27a-207 is amended to read:

31A-27a-207. Grounds for rehabilitation or liquidation.

(1) The commissioner may [~~file in the Third District Court for Salt Lake County a petition~~] petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, with respect to an insurer domiciled in this state or an unauthorized insurer for an order of rehabilitation or liquidation on any one or more of the following grounds:

(a) the insurer is impaired;

(b) the insurer is insolvent;

(c) subject to Subsection (2), the insurer is about to become insolvent;

(d) (i) the insurer neglects or refuses to comply with an order of the commissioner to make good within the time prescribed by law any deficiency;

(ii) if a stock company, if its capital and minimum required surplus is impaired; or

(iii) if a company other than a stock company, if its surplus is impaired;

(e) the insurer, its parent company, its subsidiary, or its affiliate:

(i) converts, wastes, or conceals property of the insurer; or

(ii) otherwise improperly disposes of, dissipates, uses, releases, transfers, sells, assigns, hypothecates, or removes the property of the insurer;

(f) the insurer is in such condition that the insurer could not meet the requirements for organization and authorization as required by law, except as to the amount of:

(i) the original surplus required of a stock company under Sections 31A-5-211 and 31A-8-209; and

(ii) the surplus required of a company other than a stock company in excess of the minimum surplus required to be maintained;

(g) the insurer, its parent company, its subsidiary, or its affiliate:

(i) conceals, removes, alters, destroys, or fails to establish and maintain records and other pertinent material adequate for the determination of the financial condition of the insurer by examination under Section 31A-2-203; or

(ii) fails to properly administer claims or maintain claims records that are adequate for the determination of its outstanding claims liability;

(h) at any time after the issuance of an order under Subsection 31A-2-201(4), or at the time of instituting a proceeding under this chapter, it appears to the commissioner that upon good cause shown, it is not in the best interest of the policyholders, creditors, or the public to proceed with the conduct of the business of the insurer;

(i) the insurer is in such condition that the further transaction of business would be hazardous financially, according to Subsection 31A-17-609(3) or otherwise, to its policyholders, creditors, or the public;

(j) there is reasonable cause to believe that:

(i) there has been:

(A) embezzlement from the insurer;

(B) wrongful sequestration or diversion of the insurer's property;

(C) forgery or fraud affecting the insurer; or

(D) other illegal conduct in, by, or with respect to the insurer; and

(ii) the act described in Subsection (1)(j)(i) if established would endanger assets in an amount threatening the solvency of the insurer;

(k) control of the insurer is in a person who is:

(i) dishonest;

(ii) untrustworthy; or

(iii) so lacking in insurance company managerial experience or capability as to be hazardous to policyholders, creditors, or the public;

(l) if:

(i) a person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director, trustee, employee, shareholder, or other person:

(A) refuses to be examined under oath by the commissioner concerning the insurer's affairs, whether in this state or elsewhere; or

(B) if examined under oath, refuses to divulge pertinent information reasonably known to the person; and

(ii) after reasonable notice of the facts described in Subsection (1)(l)(i), the insurer fails promptly and effectively to terminate:

(A) the employment or status of the person; and

(B) all of the person's influence on management;

(m) after demand by the commissioner under Section 31A-2-203 or under this chapter, the insurer fails to promptly make available for examination:

(i) any of its own property, accounts, or records; or

(ii) so far as it pertains to the insurer, property, accounts, or records of:

(A) a subsidiary or related company within the control of the insurer; or

(B) a person having executive authority in the insurer;

(n) without first obtaining the written consent of the commissioner, the insurer:

(i) transfers, or attempts to transfer, in a manner contrary to Section 31A-5-508 or 31A-16-103, substantially its entire property or business; or

(ii) enters into a transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person;

(o) the insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator, sequestrator, or similar fiduciary of the insurer or its property otherwise than as authorized under the insurance laws of this state;

(p) within the previous five years the insurer willfully and continuously violates:

(i) its charter or articles of incorporation;

(ii) its bylaws;

(iii) an insurance law of this state; or

(iv) a valid order of the commissioner;

(q) the insurer fails to pay within 60 days after the due date:

(i) (A) an obligation to any state or any subdivision of a state; or

(B) a judgment entered in any state, if the court in which the judgment is entered has jurisdiction over the subject matter; and

(ii) except that nonpayment is not a ground until 60 days after a good faith effort by the insurer to contest the obligation has been terminated, whether it is before the commissioner or in the courts;

(r) the insurer systematically:

(i) engages in the practice of:

(A) reaching settlements with and obtaining releases from claimants; and

(B) unreasonably delaying payment, or failing to pay the agreed-upon settlements; or

(ii) attempts to compromise with claimants or other creditors on the ground that it is financially unable to pay its claims or obligations in full;

(s) the insurer fails to file its annual report or other financial report required by statute within the time allowed by law;

(t) the board of directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities specified in Section 31A-27a-104, request or consent to rehabilitation or liquidation under this chapter;

(u) (i) the insurer does not comply with its domiciliary state's requirements for issuance to it of a certificate of authority; or

(ii) the insurer's certificate of authority is revoked by its state of domicile; or

(v) when authorized by Chapter 17, Part 6, Risk-Based Capital.

(2) For purposes of this section, an insurer is about to become insolvent if it is reasonably anticipated that the insurer will not have liquid assets to meet its current obligations for the next 90 days.

Section 52. Section 31A-27a-209 is amended to read:

31A-27a-209. Effect of order of rehabilitation or liquidation.

(1) The filing or recording of an order of receivership with the following imparts the same notice as a deed, bill of sale, or other evidence of title filed or recorded would have imparted:

(a) the [~~Third District Court for Salt Lake County~~] court;

(b) the recorder of deeds of the county in which the principal business of the insurer is conducted; or

(c) in the case of real estate, with the recorder of deeds of the county where the property is located.

(2) The filing of a petition commencing delinquency proceedings under this chapter or the entry of an order of seizure, rehabilitation, or liquidation does not constitute a breach or an anticipatory breach of any contract or lease of the insurer.

(3) (a) The receiver may appoint one or more special deputies.

(b) A special deputy:

(i) has the powers and responsibilities of the receiver granted under this section, unless specifically limited by the receiver; and

(ii) serves at the pleasure of the receiver.

(c) The receiver may employ or contract with:

(i) legal counsel;

(ii) one or more actuaries;

(iii) one or more accountants;

(iv) one or more appraisers;

(v) one or more consultants;

(vi) one or more clerks;

(vii) one or more assistants; and

(viii) other personnel as may be considered necessary.

(d) A special deputy or other person with whom the receiver contracts under this Subsection (3):

(i) is considered to be an agent of the commissioner only in the commissioner's capacity as receiver; and

(ii) is not considered an agent of the state.

(e) The provisions of any law governing the procurement of goods and services by the state do not apply to a contract entered into by the commissioner as receiver.

(f) The compensation of a special deputy, employee, or contractor and all expenses of taking possession of the insurer and of conducting the receivership shall be:

(i) determined by the receiver, with the approval of the receivership court in accordance with Section 31A-27a-115; and

(ii) paid out of the property of the insurer.

(g) (i) If the receiver, in the receiver's sole discretion, considers it necessary to the proper performance of the receiver's duties under this chapter, the receiver may appoint an advisory committee of policyholders, claimants, or other creditors including guaranty associations.

(ii) The committee described in this Subsection (3)(g) serves:

(A) at the pleasure of the receiver; and

(B) without compensation and without reimbursement for expenses.

(iii) The receiver or the receivership court in proceedings conducted under this chapter may not appoint any other committee of any nature.

Section 53. Section 31A-44-501 is amended to read:

31A-44-501. Application for court order for rehabilitation or liquidation.

(1) The department may request that the attorney general petition [~~a district court in the state~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, or a federal bankruptcy court that has exercised jurisdiction over a provider's facility, for an order that appoints a trustee to rehabilitate or liquidate the facility if:

(a) the department determines that:

(i) the provider is financially unsound or is unable to meet the income or available cash projections described in the provider's disclosure statement; and

(ii) the provider's ability to fully perform the provider's obligations under a continuing care contract is endangered; or

(b) the provider is bankrupt, insolvent, or has filed for protection from creditors under a federal or state reorganization, bankruptcy, or insolvency law.

(2) A court that evaluates a petition filed under Subsection (1) regarding a provider:

(a) shall evaluate the best interests of a person that has contracted with the provider; and

(b) may require the proceeds of a lien imposed under Section 31A-44-601 to be used to pay an entrance fee to another facility on behalf of a resident of the provider's facility.

Section 54. Section 35A-4-308 is amended to read:

35A-4-308. Bonds to ensure compliance.

(1) (a) The division, whenever [~~it~~] the division considers it necessary to ensure compliance with this chapter, may require any employer, subject to the contribution imposed hereunder, to deposit with [~~it~~] the division any bond or security as the division shall determine.

(b) The bond or security may be sold by the division at public sale, if it becomes necessary, in order to recover any tax, interest, or penalty due.

(c) Notice of the sale may be served upon the employer who deposited the securities personally or by mail. If by mail, notice sent to the last-known address as the same appears in the records of the division is sufficient for purposes of this requirement.

(d) Upon the sale, the surplus, if any, above the amounts due, shall be returned to the employer who deposited the security.

(2) (a) If an employer fails to comply with Subsection (1), [~~the district court of the county in which the employer resides or in which the employer employs workers~~] a court shall, upon the commencement of a suit by the division for that purpose, enjoin the employer from further employing workers in this state or continuing in business until the employer has complied with Subsection (1).

(b) Upon filing of a suit for such purpose by the division, the court shall set a date for hearing and cause notice to be served upon the employer. The hearing shall be not less than five nor more than 15 days from the service of the notice.

Section 55. Section 35A-4-314 is amended to read:

35A-4-314. Disclosure of information for debt collection -- Court order -- Procedures -- Use of information restrictions -- Penalties.

(1) The division shall disclose to a creditor who has obtained judgment against a debtor the name and address of the last known employer of the debtor if:

(a) the judgment creditor obtains a court order requiring disclosure of the information as described in Subsection (2); and

(b) the judgment creditor completes the requirements described in Subsection (3), including entering into a written agreement with the division.

(2) (a) A court shall grant an order to disclose the information described in Subsection (1) if, under the applicable Utah Rules of Civil Procedure:

(i) the judgment creditor files a motion with the court, which includes a copy of the judgment, and serves a copy of the motion to the judgment debtor and the division;

(ii) the judgment debtor and the division have the opportunity to respond to the motion; and

(iii) the court denies or overrules any objection to disclosure in the judgment debtor's and the division's response.

(b) A court may not grant an order to disclose the information described in Subsection (1), if the court finds that the division has established that disclosure will have a negative effect on:

(i) the willingness of employers to report wage and employment information; or

(ii) the willingness of individuals to file claims for unemployment benefits.

(c) The requirements of Subsection 63G-2-202(7) and Section 63G-2-207 do not apply to information sought through a court order as described in this section.

(3) If a court order is granted in accordance with this section, a judgment creditor shall:

(a) provide to the division a copy of the order requiring the disclosure;

(b) enter into a written agreement with the division, in a form approved by the division;

(c) pay the division a reasonable fee that reflects the cost for processing the request as established by department rule; and

(d) comply with the data safeguard and security measures described in 20 C.F.R. Sec. 603.9 with respect to information received from the division under this section.

(4) If a judgment creditor complies with Subsection (3), the division shall provide the information to the judgment creditor within 14 business days after the day on which the creditor complies with Subsection (3).

(5) A judgment creditor may not:

(a) use the information obtained under this section for a purpose other than satisfying the judgment between the creditor and debtor; or

(b) disclose or share the information with any other person.

(6) The division may audit a judgment creditor or other party receiving information under this section for compliance with the data safeguard and security measures described in 20 C.F.R. Sec. 603.9.

(7) If a judgment creditor or other party fails to comply with the data safeguard and security measures under 20 C.F.R. Sec. 603.9, the judgment creditor or other party is subject to a civil penalty of no more than $10,000 enforceable by the Utah Office of the Attorney General as follows:

(a) the attorney general, on the attorney general's own behalf or on behalf of the division, [~~may file an action in district court~~] may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the civil penalty; and

(b) if the attorney general prevails in enforcing the civil penalty against the judgment creditor or other party:

(i) the attorney general is entitled to an award for reasonable attorney fees, court costs, and investigative expenses; and

(ii) the civil penalty shall be deposited into the special administrative expense account described in Subsection 35A-4-506(1).

Section 56. Section 48-1d-111 is amended to read:

48-1d-111. Signing and filing pursuant to judicial order.

(1) If a person required by this chapter to sign a record or deliver a record to the division for filing under this chapter does not do so, any other person that is aggrieved may petition [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to order:

(a) the person to sign the record;

(b) the person to deliver the record to the division for filing; or

(c) the division to file the record unsigned.

(2) If a petitioner under Subsection (1) is not the partnership or foreign limited liability partnership to which the record pertains, the petitioner shall make the partnership or foreign limited liability partnership a party to the action.

(3) A record filed under Subsection (1)(c) is effective without being signed.

Section 57. Section 48-1d-116 is amended to read:

48-1d-116. Duty of division to file -- Review of refusal to file -- Transmission of information by division.

(1) The division shall file a record delivered to the division for filing which satisfies this chapter. The duty of the division under this section is ministerial.

(2) When the division files a record, the division shall record it as filed on the date and at the time of its delivery. After filing a record, the division shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing and, in the case of a statement of denial, also to the partnership to which the statement pertains.

(3) If the division refuses to file a record, the division, not later than 15 business days after the record is delivered, shall:

(a) return the record or notify the person that submitted the record of the refusal; and

(b) provide a brief explanation in a record of the reason for the refusal.

(4) (a) If the division refuses to file a record, the person that submitted the record may petition [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel filing of the record.

(b) The record and the explanation of the division of the refusal to file must be attached to the petition.

(c) The court may decide the matter in a summary proceeding.

(5) The filing of or refusal to file a record does not create a presumption that the information contained in the record is correct or incorrect.

(6) Except as otherwise provided by Section 16-17-301 or by law other than this chapter, the division may deliver any record to a person by delivering it:

(a) in person to the person that submitted it;

(b) to the address of the person's registered agent;

(c) to the principal office of the person; or

(d) to another address the person provides to the division for delivery.

Section 58. Section 48-1d-901 is amended to read:

48-1d-901. Events causing dissolution.

A partnership is dissolved, and [~~its~~] the partnership's activities and affairs must be wound up, upon the occurrence of any of the following:

(1) in a partnership at will, the partnership has notice of a person's express will to withdraw as a partner, other than a partner that has dissociated under Subsections 48-1d-701(2) through (10), but, if the person specifies a withdrawal date later than the date the partnership had notice, on the later date;

(2) in a partnership for a definite term or particular undertaking:

(a) within 90 days after a person's dissociation by death or otherwise under Subsections 48-1d-701(6) through (10) or wrongful dissociation under Subsection 48-1d-702(2), the affirmative vote or consent of at least half of the remaining partners to wind up the partnership's activities and affairs, for which purpose a person's rightful dissociation pursuant to Subsection 48-1d-702(2)(b)(i) constitutes the expression of that partner's consent to wind up the partnership's activities and affairs;

(b) the express consent of all the partners to wind up the partnership's activities and affairs; or

(c) the expiration of the term or the completion of the undertaking;

(3) an event or circumstance that the partnership agreement states causes dissolution;

(4) [~~on application~~] upon a petition brought by a partner, the entry [~~by the district court of an order~~] of a court order dissolving the partnership on the ground that:

(a) the conduct of all or substantially all the partnership's activities and affairs is unlawful;

(b) the economic purpose of the partnership is likely to be unreasonably frustrated;

(c) another partner has engaged in conduct relating to the partnership's activities and affairs which makes it not reasonably practicable to carry on the business in partnership with that partner; or

(d) it is not otherwise reasonably practicable to carry on the partnership's activities and affairs in conformity with the partnership agreement;

(5) [~~on application~~] upon a petition brought by a transferee, the entry [~~by the district court of an order~~] of a court order dissolving the partnership on the ground that it is equitable to wind up the partnership's activities and affairs:

(a) after the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(b) at any time, if the partnership was a partnership at will at the time of the transfer or

entry of the charging order that gave rise to the transfer; or

(6) the passage of 90 consecutive days during which the partnership does not have at least two partners.

Section 59. Section 48-1d-902 is amended to read:

48-1d-902. Winding up.

(1) (a) A dissolved partnership shall wind up [~~its~~] the partnership's activities and affairs [~~and, except~~].

(b) Except as otherwise provided in Section 48-1d-903, [~~the partnership~~] a partnership only continues after dissolution [~~only~~] for the purpose of winding up.

(2) In winding up [~~its~~] a partnership's activities and affairs, the partnership:

(a) shall discharge the partnership's debts, obligations, and other liabilities, settle and close the partnership's activities and affairs, and marshal and distribute the assets of the partnership; and

(b) may:

(i) deliver to the division for filing a statement of dissolution stating the name of the partnership and that the partnership is dissolved;

(ii) preserve the partnership's activities and affairs and property as a going concern for a reasonable time;

(iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(iv) transfer the partnership's property;

(v) settle disputes by mediation or arbitration;

(vi) deliver to the division for filing a statement of termination stating the name of the partnership and that the partnership is terminated; and

(vii) perform other acts necessary or appropriate to the winding up.

(3) A person whose dissociation as a partner resulted in dissolution may participate in winding up as if still a partner, unless the dissociation was wrongful.

(4) If a dissolved partnership does not have a partner and no person has the right to participate in winding up under Subsection (3), the personal or legal representative of the last person to have been a partner may wind up the partnership's activities and affairs. If the representative does not exercise that right, a person to wind up the partnership's activities and affairs may be appointed by the consent of transferees owning a majority of the rights to receive distributions at the time the consent is to be effective. A person appointed under this Subsection (4) has the powers of a partner under Section 48-1d-904 but is not liable for the debts, obligations, and other liabilities of the partnership solely by reason of having or exercising those powers or otherwise acting to wind up the partnership's activities and affairs.

(5) [~~On the application of~~] Upon a petition brought by any partner or person entitled under Subsection (3) to participate in winding up, [~~the district~~] a court may order judicial supervision of the winding up of a dissolved partnership, including the appointment of a person to wind up the partnership's activities and affairs, if:

(a) the partnership does not have a partner, and within a reasonable time following the dissolution no person has been appointed under Subsection (4); or

(b) the applicant establishes other good cause.

Section 60. Section 48-1d-903 is amended to read:

48-1d-903. Rescinding dissolution.

(1) A partnership may rescind [~~its~~] the partnership's dissolution, unless a statement of termination applicable to the partnership is effective or [~~the district~~] the court has entered an order under Subsection 48-1d-901(4) or (5) dissolving the partnership.

(2) Rescinding dissolution under this section requires:

(a) the affirmative vote or consent of each partner;

(b) if a statement of dissolution applicable to the partnership has been filed by the division but has not become effective, delivery to the division for filing of a statement of withdrawal under Section 48-1d-114 applicable to the statement of dissolution; and

(c) if a statement of dissolution applicable to the partnership is effective, the delivery to the division for filing of a statement of correction under Section 48-1d-115 stating that dissolution has been rescinded under this section.

(3) If a partnership rescinds [~~its~~] the partnership's dissolution:

(a) the partnership resumes carrying on its activities and affairs as if dissolution had never occurred;

(b) subject to Subsection (3)(c), any liability incurred by the partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Section 61. Section 48-1d-909 is amended to read:

48-1d-909. Court proceedings.

(1) (a) A dissolved limited liability partnership that has published a notice under Section 48-1d-908 may [~~file an application with the district court in the county where the dissolved limited~~

~~liability partnership's principal office is located or, if the principal office is not located in this state, where the office of its registered agent is located,~~] petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the dissolved limited liability partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited liability partnership, are reasonably expected to arise after the effective date of dissolution.

(b) Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection 48-1d-907(3).

(2) [~~Not~~] No later than 10 days after the filing of an application under Subsection (1), the dissolved limited liability partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the dissolved limited liability partnership.

(3) (a) In any proceeding under this section, the [~~district~~] court may appoint a guardian ad litem to represent all claimants whose identities are unknown.

(b) The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability partnership.

(4) A dissolved limited liability partnership that provides security in the amount and form ordered by the [~~district~~] court under Subsection (1) satisfies the dissolved limited liability partnership's obligations with respect to claims that are contingent, have not been made known to the dissolved limited liability partnership, or are based on an event occurring after the effective date of dissolution, and the claims may not be enforced against a partner or transferee who receives assets in liquidation.

(5) This section applies only to a debt, obligation, or other liability incurred while a partnership was a limited liability partnership.

Section 62. Section 48-1d-1003 is amended to read:

48-1d-1003. Required notice or approval.

(1) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger must give the notice or obtain the approval to be a party to an interest exchange, conversion, or domestication.

(2) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this part becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains [~~an appropriate order of the district court~~] a court order specifying the disposition of the property.

(3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

Section 63. Section 48-1d-1310 is amended to read:

48-1d-1310. Purchase of interest upon death, incapacity, or disqualification of member.

(1) Subject to this part, one or more of the following may provide for the purchase of a partner's interest in a professional services partnership upon the death, incapacity, or disqualification of the partner:

(a) the partnership agreement; or

(b) a private agreement.

(2) In the absence of a provision described in Subsection (1), a professional services partnership shall purchase the interest of a partner who is deceased, incapacitated, or no longer qualified to own an interest in the professional services partnership within 90 days after the day on which the professional services partnership is notified of the death, incapacity, or disqualification.

(3) If a professional services partnership purchases a partner's interest under Subsection (2), the professional services company shall purchase the interest at a price that is the reasonable fair market value as of the date of death, incapacity, or disqualification.

(4) If a professional services partnership fails to purchase a partner's interest as required by Subsection (2) at the end of the 90-day period described in Subsection (2), [~~one of the following may bring an action in the district court of the county in which the principal office or place of practice of the professional services partnership is located~~] the following persons may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce Subsection (2):

(a) the personal representative of a deceased partner;

(b) the guardian or conservator of an incapacitated partner; or

(c) the disqualified partner.

(5) A court in which an action is brought under Subsection (4) may:

(a) award the person bringing the action the reasonable fair market value of the interest; or

(b) within [~~its~~] the court's jurisdiction, order the liquidation of the professional services partnership.

(6) If a person described in Subsections (4)(a) through (c) is successful in an action under Subsection (4), the court shall award the person reasonable attorney's fees and costs.

Section 64. Section 48-2e-204 is amended to read:

48-2e-204. Signing and filing pursuant to judicial order.

(1) If a person required by this chapter to sign a record or deliver a record to the division for filing under this chapter does not do so, any other person that is aggrieved may petition [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to order:

(a) the person to sign the record;

(b) the person to deliver the record to the division for filing; or

(c) the division to file the record unsigned.

(2) If the petitioner under Subsection (1) is not the limited partnership or foreign limited partnership to which the record pertains, the petitioner shall make the limited partnership or foreign limited partnership a party to the action.

(3) A record filed under Subsection (1)(c) is effective without being signed.

Section 65. Section 48-2e-209 is amended to read:

48-2e-209. Duty of division to file -- Review of refusal to file -- Transmission of information by the division.

(1) The division shall file a record delivered to the division for filing which satisfies this chapter. The duty of the division under this section is ministerial.

(2) When the division files a record, the division shall record it as filed on the date and at the time of its delivery. After filing a record, the division shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing.

(3) If the division refuses to file a record, the division, not later than 15 business days after the record is delivered, shall:

(a) return the record or notify the person that submitted the record of the refusal; and

(b) provide a brief explanation in a record of the reason for the refusal.

(4) (a) If the division refuses to file a record, the person that submitted the record may petition [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel filing of the record.

(b) The record and the explanation of the division of the refusal to file must be attached to the petition.

(c) The court may decide the matter in a summary proceeding.

(5) The filing of or refusal to file a record does not create a presumption that the information contained in the filing is correct or incorrect.

(6) Except as otherwise provided by Section 16-17-301 or by law other than this chapter, the division may deliver any record to a person by delivering it:

(a) in person to the person that submitted it;

(b) to the address of the person's registered agent;

(c) to the principal office of the person; or

(d) to another address the person provides to the division for delivery.

Section 66. Section 48-2e-801 is amended to read:

48-2e-801. Events causing dissolution.

(1) A limited partnership is dissolved, and [~~its~~] the limited partnership's activities and affairs must be wound up, upon the occurrence of any of the following:

(a) an event or circumstance that the partnership agreement states causes dissolution;

(b) the affirmative vote or consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective;

(c) after the dissociation of a person as a general partner:

(i) if the limited partnership has at least one remaining general partner, the vote or consent to dissolve the limited partnership not later than 90 days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the vote or consent is to be effective; or

(ii) if the limited partnership does not have a remaining general partner, the passage of 90 days after the dissociation, unless before the end of the period:

(A) consent to continue the activities and affairs of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

(B) at least one person is admitted as a general partner in accordance with the consent;

(d) the passage of 90 consecutive days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner;

(e) the passage of 90 consecutive days during which the limited partnership has only one partner, unless before the end of the period:

(i) the limited partnership admits at least one person as a partner;

(ii) if the previously sole remaining partner is only a general partner, the limited partnership admits the person as a limited partner; and

(iii) if the previously sole remaining partner is only a limited partner, the limited partnership admits a person as a general partner;

(f) [~~on application~~] upon a petition brought by a partner, the entry [~~by the district court of an order~~] of a court order dissolving the limited partnership on the grounds that:

(i) the conduct of all or substantially all the limited partnership's activities and affairs is unlawful; or

(ii) it is not reasonably practicable to carry on the limited partnership's activities and affairs in conformity with the partnership agreement; or

(g) the signing and filing of a statement of administrative dissolution by the division under Section 48-2e-810.

(2) If an event occurs that imposes a deadline on a limited partnership under Subsection (1) and before the limited partnership has met the requirements of the deadline, another event occurs that imposes a different deadline on the limited partnership under Subsection (1):

(a) the occurrence of the second event does not affect the deadline caused by the first event; and

(b) the limited partnership's meeting of the requirements of the first deadline does not extend the second deadline.

Section 67. Section 48-2e-802 is amended to read:

48-2e-802. Winding up.

(1) (a) A dissolved limited partnership shall wind up [~~its~~] the limited partnership's activities and affairs[~~, and, except~~].

(b) Except as otherwise provided in Section 48-2e-803, the limited partnership only continues after dissolution [~~only~~] for the purpose of winding up.

(2) In winding up [~~its~~] the limited partnership's activities and affairs, the limited partnership:

(a) shall discharge the limited partnership's debts, obligations, and other liabilities, settle and close the limited partnership's activities and affairs, and marshal and distribute the assets of the limited partnership; and

(b) may:

(i) amend its certificate of limited partnership to state that the limited partnership is dissolved;

(ii) preserve the limited partnership activities, affairs, and property as a going concern for a reasonable time;

(iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(iv) transfer the limited partnership's property;

(v) settle disputes by mediation or arbitration;

(vi) deliver to the division for filing a statement of termination stating the name of the limited partnership and that the limited partnership is terminated; and

(vii) perform other acts necessary or appropriate to the winding up.

(3) (a) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities and affairs may be appointed by the affirmative vote or consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective.

(b) A person appointed under this Subsection (3):

[~~(a)~~] (i) has the powers of a general partner under Section 48-2e-804 but is not liable for the debts, obligations, and other liabilities of the limited partnership solely by reason of having or exercising those powers or otherwise acting to wind up the dissolved limited partnership's activities and affairs; and

[~~(b)~~] (ii) shall deliver promptly to the division for filing an amendment to the certificate of limited partnership stating:

[~~(i)~~] (A) that the limited partnership does not have a general partner;

[~~(ii)~~] (B) the name and street and mailing addresses of the person; and

[~~(iii)~~] (C) that the person has been appointed pursuant to this subsection to wind up the limited partnership.

[~~(4) On the application of any~~]

(4) Upon a petition brought by a partner, [~~the district~~] a court may order judicial supervision of the winding up of a dissolved limited partnership, including the appointment of a person to wind up the limited partnership's activities and affairs, if:

(a) the limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to Subsection (3); or

(b) the applicant establishes other good cause.

Section 68. Section 48-2e-803 is amended to read:

48-2e-803. Rescinding dissolution.

(1) A limited partnership may rescind [~~its~~] the limited partnership's dissolution, unless a statement of termination applicable to the limited partnership is effective, [~~the district~~] a court has entered an order under Subsection 48-2e-801(1)(f) dissolving the limited partnership, or the division has dissolved the limited partnership under Section 48-2e-810.

(2) Rescinding dissolution under this section requires:

(a) the affirmative vote or consent of each partner; and

(b) if the limited partnership has delivered to the division for filing an amendment to the certificate of limited partnership stating that the partnership is dissolved and if:

(i) the amendment is not effective, the filing by the limited partnership of a statement of withdrawal under Section 48-2e-207 applicable to the amendment; or

(ii) the amendment is effective, the delivery by the limited partnership to the division for filing of an amendment to the certificate of limited partnership stating that the dissolution has been rescinded under this section.

(3) If a limited partnership rescinds [~~its~~] the limited partnership's dissolution:

(a) the limited partnership resumes carrying on [~~its~~] the limited partnership's activities and affairs as if dissolution had never occurred;

(b) subject to Subsection (3)(c), any liability incurred by the limited partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Section 69. Section 48-2e-808 is amended to read:

48-2e-808. Court proceedings.

(1) (a) A dissolved limited partnership that has published a notice under Section 48-2e-807 may [~~file an application with the district court in the county where the dissolved limited partnership's principal office is located, or, if the principal office is not located in this state, where the office of its registered agent is located,~~] petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the dissolved limited partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited partnership, are reasonably expected to arise after the effective date of dissolution.

(b) Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection 48-2e-807(3).

(2) [~~Not~~] No later than 10 days after the filing of an application under Subsection (1), the dissolved limited partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the dissolved limited partnership.

(3) (a) In a proceeding brought under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown.

(b) The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited partnership.

(4) A dissolved limited partnership that provides security in the amount and form ordered by the court under Subsection (1) satisfies the dissolved limited partnership's obligations with respect to claims that are contingent, have not been made known to the dissolved limited partnership, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a partner or transferee that received assets in liquidation.

Section 70. Section 48-2e-1103 is amended to read:

48-2e-1103. Required notice or approval.

(1) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger must give the notice or obtain the approval to be a party to an interest exchange, conversion, or domestication.

(2) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this part becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains [~~an appropriate order of the district court~~] a court order specifying the disposition of the property.

(3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

Section 71. Section 48-3a-204 is amended to read:

48-3a-204. Signing and filing pursuant to judicial order.

(1) If a person required by this chapter to sign a record or deliver a record to the division for filing under this chapter does not do so, any other person that is aggrieved may petition [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to order:

(a) the person to sign the record;

(b) the person to deliver the record to the division for filing; or

(c) the division to file the record unsigned.

(2) If a petitioner under Subsection (1) is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the limited liability company or foreign limited liability company a party to the action.

(3) A record filed under Subsection (1)(c) is effective without being signed.

Section 72. Section 48-3a-209 is amended to read:

48-3a-209. Duty of division to file -- Review of refusal to file -- Transmission of information by division.

(1) The division shall file a record delivered to the division for filing which satisfies this chapter. The duty of the division under this section is ministerial.

(2) When the division files a record, the division shall record it as filed on the date and at the time of its delivery. After filing a record, the division shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing and, in the case of a statement of denial, also to the limited liability company to which the statement pertains.

(3) If the division refuses to file a record, the division shall, not later than 15 business days after the record is delivered:

(a) return the record or notify the person that submitted the record of the refusal; and

(b) provide a brief explanation in a record of the reason for the refusal.

(4) (a) If the division refuses to file a record, the person that submitted the record may petition [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel filing of the record.

(b) The record and the explanation of the division of the refusal to file must be attached to the petition.

(c) The court may decide the matter in a summary proceeding.

(5) The filing of or refusal to file a record does not create a presumption that the information contained in the record is correct or incorrect.

(6) Except as otherwise provided by Section 16-17-301 or by law other than this chapter, the division may deliver any record to a person by delivering it:

(a) in person to the person that submitted it;

(b) to the address of the person's registered agent;

(c) to the principal office of the person; or

(d) to another address the person provides to the division for delivery.

Section 73. Section 48-3a-701 is amended to read:

48-3a-701. Events causing dissolution.

A limited liability company is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

(1) an event or circumstance that the operating agreement states causes dissolution;

(2) the consent of all the members;

(3) the passage of 90 consecutive days during which the limited liability company has no members unless:

(a) consent to admit at least one specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective; and

(b) at least one person becomes a member in accordance with the consent;

(4) [~~on application by~~] upon a petition brought by a member, the entry [~~by the district court of an order~~] of a court order dissolving the limited liability company on the grounds that:

(a) the conduct of all or substantially all of the limited liability company's activities and affairs is unlawful; or

(b) it is not reasonably practicable to carry on the limited liability company's activities and affairs in conformity with the certificate of organization and the operating agreement;

(5) [~~on application by~~] upon a petition brought by a member, the entry [~~by the district court of an order~~] of a court order dissolving the limited liability company on the grounds that the managers or those members in control of the limited liability company:

(a) have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(b) have acted, are acting, or will act in a manner that is oppressive and was, is, or will be directly harmful to the applicant; or

(6) the signing and filing of a statement of administrative dissolution by the division under Subsection 48-3a-708(3).

Section 74. Section 48-3a-702 is amended to read:

48-3a-702. Election to purchase in lieu of dissolution.

(1) (a) In a proceeding under Subsection 48-3a-701(5) to dissolve a limited liability company, the limited liability company may elect or, if [~~it~~] the limited liability company fails to elect, one or more members may elect to purchase the interest in the limited liability company owned by the applicant member at the fair market value of the interest, determined as provided in this section.

(b) An election pursuant to this Subsection (1) is irrevocable unless [~~the district~~] a court determines that it is equitable to set aside or modify the election.

(2) (a) An election to purchase pursuant to this section may be filed with [~~the district~~] a court at any

time within 90 days after the filing of the petition in a proceeding under Subsection 48-3a-701(5) or at any later time as the [~~district~~] court in [~~its~~] the court's discretion may allow.

(b) If the limited liability company files an election with [~~the district~~] a court within the 90-day period, or at any later time allowed by the [~~district~~] court, to purchase the interest in the limited liability company owned by the applicant member, the limited liability company shall purchase the interest in the manner provided in this section.

(3) (a) If the limited liability company does not file an election with [~~the district~~] a court within the time period, but an election to purchase the interest in the limited liability company owned by the applicant member is filed by one or more members within the time period, the limited liability company shall, within 10 days after the later of the end of the time period allowed for the filing of elections to purchase under this section or notification from the [~~district~~] court of an election by members to purchase the interest in the limited liability company owned by the applicant member as provided in this section, give written notice of the election to purchase to all members of the limited liability company, other than the applicant member.

(b) The notice shall state the name and the percentage interest in the limited liability company owned by the applicant member and the name and the percentage interest in the limited liability company owned by each electing member.

(c) The notice shall advise any recipients who have not participated in the election of their right to join in the election to purchase the interest in the limited liability company in accordance with this section and of the date by which any notice of intent to participate must be filed with the [~~district~~] court.

(4) Members who wish to participate in the purchase of the interest in the limited liability company of the applicant member must file notice of their intention to join in the purchase by electing members no later than 30 days after the effective date of the limited liability company's notice of their right to join in the election to purchase.

(5) All members who have filed with the [~~district~~] court an election or notice of their intention to participate in the election to purchase the interest in the limited liability company of the applicant member thereby become irrevocably obligated to participate in the purchase of the interest from the applicant member upon the terms and conditions of this section, unless the [~~district~~] court otherwise directs.

(6) After an election has been filed by the limited liability company or one or more members, the proceedings under Subsection 48-3a-701(5) may not be discontinued or settled, nor may the applicant member sell or otherwise dispose of the applicant member's interest in the limited liability company, unless the [~~district~~] court determines that it would be equitable to the limited liability company and the members, other than the applicant member, to permit any discontinuance, settlement, sale, or other disposition.

(7) If, within 60 days after the earlier of the limited liability company filing of an election to purchase the interest in the limited liability company of the applicant member or the limited liability company's mailing of a notice to its members of the filing of an election by the members to purchase the interest in the limited liability company of the applicant member, the applicant member and electing limited liability company or members reach agreement as to the fair market value and terms of the purchase of the applicant member's interest, the [~~district~~] court shall enter an order directing the purchase of the applicant member's interest, upon the terms and conditions agreed to by the parties.

(8) If the parties are unable to reach an agreement as provided for in Subsection (7), upon application of any party, the [~~district~~] court shall stay the proceedings under Subsection 48-3a-701(5) and determine the fair market value of the applicant member's interest in the limited liability company as of the day before the date on which the petition under Subsection 48-3a-701(5) was filed or as of any other date the [~~district~~] court determines to be appropriate under the circumstances and based on the factors the [~~district~~] court determines to be appropriate.

(9) (a) Upon determining the fair market value of the interest in the limited liability company of the applicant member, the [~~district~~] court shall enter an order directing the purchase of the interest in the limited liability company upon terms and conditions the [~~district~~] court determines to be appropriate.

(b) The terms and conditions may include payment of the purchase price in installments, where necessary in the interest of equity, provision for security to assure payment of the purchase price and any additional costs, fees, and expenses awarded by the [~~district~~] court, and an allocation of the interest in the limited liability company among members if the interest in the limited liability company is to be purchased by members.

(10) (a) In allocating the applicant member's interest in the limited liability company among holders of different classes of members, the [~~district~~] court shall attempt to preserve the existing distribution of voting rights among member classes to the extent practicable.

(b) The [~~district~~] court may direct that holders of a specific class or classes may not participate in the purchase.

(c) The [~~district~~] court may not require any electing member to purchase more of the interest in the limited liability company owned by the applicant member than the percentage interest that the purchasing member may have set forth in the purchasing member's election or notice of intent to participate filed with the [~~district~~] court.

(11) (a) Interest may be allowed at the rate and from the date determined by the [~~district~~] court to be equitable.

(b) However, if the [~~district~~] court finds that the refusal of the applicant member to accept an offer of payment was arbitrary or otherwise not in good faith, interest may not be allowed.

(12) If the [~~district~~] court finds that the applicant member had probable ground for relief under Subsection 48-3a-701(5), the [~~district~~] court may award to the applicant member reasonable fees and expenses of counsel and experts employed by the applicant member.

(13) (a) Upon entry of an order under Subsection (7) or (9), the [~~district~~] court shall dismiss the petition to dissolve the limited liability company under Subsection 48-3a-701(5) and the applicant member shall no longer have any rights or status as a member of the limited liability company, except the right to receive the amounts awarded to the applicant member by the [~~district~~] court.

(b) The award is enforceable in the same manner as any other judgment.

(14) (a) The purchase ordered pursuant to Subsection (9) shall be made within 10 days after the date the order becomes final, unless before that time the limited liability company files with the [~~district~~] court a notice of [~~its~~] the limited liability company's intention to file a statement of dissolution.

(b) The statement of dissolution must then be adopted and filed within 60 days after notice.

(15) (a) Upon filing of a statement of dissolution, the limited liability company is dissolved and shall be wound up pursuant to Section 48-3a-703, and the order entered pursuant to Subsection (9) is no longer of any force or effect.

(b) However, the [~~district~~] court may award the applicant member reasonable fees and expenses in accordance with Subsection (12).

(c) The applicant member may continue to pursue any claims previously asserted on behalf of the limited liability company.

(16) Any payment by the limited liability company pursuant to an order under Subsection (7) or (9), other than an award of fees and expenses pursuant to Subsection (12), is subject to the provisions of Sections 48-3a-405 and 48-3a-406.

Section 75. Section 48-3a-703 is amended to read:

48-3a-703. Winding up.

(1) (a) A dissolved limited liability company shall wind up [~~its~~] the limited liability company's activities and affairs [~~and, except~~].

(b) Except as otherwise provided in Section 48-3a-704, the limited liability company only continues after dissolution [~~only~~] for the purpose of winding up.

(2) In winding up [~~its~~] the limited liability company's activities and affairs, a limited liability company:

(a) shall discharge the limited liability company's debts, obligations, and other liabilities, settle and close the limited liability company's activities and affairs, and marshal and distribute the assets of the limited liability company; and

(b) may:

(i) deliver to the division for filing a statement of dissolution stating the name of the limited liability company and that the limited liability company is dissolved;

(ii) preserve the limited liability company activities, affairs, and property as a going concern for a reasonable time;

(iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(iv) transfer the limited liability company's property;

(v) settle disputes by mediation or arbitration;

(vi) deliver to the division for filing a statement of termination stating the name of the limited liability company and that the limited liability company is terminated; and

(vii) perform other acts necessary or appropriate to the winding up.

(3) (a) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities and affairs of the limited liability company.

(b) If the person does so, the person has the powers of a sole manager under Subsection 48-3a-407(3) and is deemed to be a manager for the purposes of Subsection 48-3a-304(1).

(4) If the legal representative under Subsection (3) declines or fails to wind up the limited liability company's activities and affairs, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this Subsection (4):

(a) has the powers of a sole manager under Subsection 48-3a-407(3) and is deemed to be a manager for the purposes of Subsection 48-3a-304(1); and

(b) shall promptly deliver to the division for filing an amendment to the limited liability company's certificate of organization stating:

(i) that the limited liability company has no members;

(ii) the name and street and mailing addresses of the person; and

(iii) that the person has been appointed pursuant to this subsection to wind up the limited liability company.

(5) A [~~district~~] court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the limited liability company's activities and affairs:

(a) [~~on application of a member, if the applicant~~] upon a petition by a member if the member establishes good cause;

(b) [~~on the application of a transferee,~~] upon a petition by a transferee if:

(i) the company does not have any members;

(ii) the legal representative of the last person to have been a member declines or fails to wind up the limited liability company's activities; and

(iii) within a reasonable time following the dissolution a person has not been appointed pursuant to Subsection (4); or

(c) in connection with a proceeding under Subsection 48-3a-701(4) or (5).

Section 76. Section 48-3a-704 is amended to read:

48-3a-704. Rescinding dissolution.

(1) A limited liability company may rescind [~~its~~] the limited liability company's dissolution, unless a statement of termination applicable to the limited liability company is effective, [~~the district court~~] a court has entered an order under Subsection 48-3a-701(4) or (5) dissolving the limited liability company, or the division has dissolved the limited liability company under Section 48-3a-708.

(2) Rescinding dissolution under this section requires:

(a) the consent of each member;

(b) if a statement of dissolution applicable to the limited liability company has been filed by the division but has not become effective, the delivery to the division for filing of a statement of withdrawal under Section 48-3a-207 applicable to the statement of dissolution; and

(c) if a statement of dissolution applicable to the limited liability company is effective, the delivery to the division for filing of a statement of correction under Section 48-3a-208 stating that dissolution has been rescinded under this section.

(3) If a limited liability company rescinds its dissolution:

(a) the limited liability company resumes carrying on its activities and affairs as if dissolution had never occurred;

(b) subject to Subsection (3)(c), any liability incurred by the limited liability company after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Section 77. Section 48-3a-707 is amended to read:

48-3a-707. Court proceedings.

(1) (a) A dissolved limited liability company that has published a notice under Section 48-3a-706 may [~~file an application with district court in the county where the dissolved limited liability company's principal office is located, or, if the principal office is not located in this state, where the office of its registered agent is located,~~] petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the limited liability company, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited liability company, are reasonably expected to arise after the effective date of dissolution.

(b) Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection 48-3a-706(3).

(2) [~~Not~~] No later than 10 days after the filing of an application under Subsection (1), the dissolved limited liability company shall give notice of the proceeding to each claimant holding a contingent claim known to the limited liability company.

(3) (a) In any proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown.

(b) The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability company.

(4) A dissolved limited liability company that provides security in the amount and form ordered by the court under Subsection (1) satisfies the limited liability company's obligations with respect to claims that are contingent, have not been made known to the limited liability company, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a member or transferee that received assets in liquidation.

Section 78. Section 48-3a-1003 is amended to read:

48-3a-1003. Required notice or approval.

(1) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger must give the notice or obtain the approval to be a party to an interest exchange, conversion, or domestication.

(2) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this part becomes effective may not, as a result of the transaction, be diverted from the objects for which it

was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains [~~an appropriate order of the district court~~] a court order specifying the disposition of the property.

(3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

Section 79. Section 48-3a-1111 is amended to read:

48-3a-1111. Purchase of interest upon death, incapacity, or disqualification of member.

(1) Subject to this part, one or more of the following may provide for the purchase of a member's interest in a professional services company upon the death, incapacity, or disqualification of the member:

(a) the certificate of organization;

(b) the operating agreement; or

(c) a private agreement.

(2) In the absence of a provision described in Subsection (1), a professional services company shall purchase the interest of a member who is deceased, incapacitated, or no longer qualified to own an interest in the professional services company within 90 days after the day on which the professional services company is notified of the death, incapacity, or disqualification.

(3) If a professional services company purchases a member's interest under Subsection (2), the professional services company shall purchase the interest at a price that is the reasonable fair market value as of the date of death, incapacity, or disqualification.

(4) If a professional services company fails to purchase a member's interest as required by Subsection (2) at the end of the 90-day period described in Subsection (2), [~~one of the following may bring an action in the district court of the county in which the principal office or place of practice of the professional services company is located~~] the following persons may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce Subsection (2):

(a) the personal representative of a deceased member;

(b) the guardian or conservator of an incapacitated member; or

(c) the disqualified member.

(5) A court in which an action is brought under Subsection (4) may:

(a) award the person bringing the action the reasonable fair market value of the interest; or

(b) within [~~its~~] the court's jurisdiction, order the liquidation of the professional services company.

(6) If a person described in Subsections (4)(a) through (c) is successful in an action under Subsection (4), the court shall award the person reasonable attorney's fees and costs.

Section 80. Section 57-8-44 is amended to read:

57-8-44. Lien in favor of association of unit owners for assessments and costs of collection.

(1) (a) Except as provided in Section 57-8-13.1, an association of unit owners has a lien on a unit for:

(i) an assessment;

(ii) except as provided in the declaration, fees, charges, and costs associated with collecting an unpaid assessment, including:

(A) court costs and reasonable attorney fees;

(B) late charges;

(C) interest; and

(D) any other amount that the association of unit owners is entitled to recover under the declaration, this chapter, or an administrative or judicial decision; and

(iii) a fine that the association of unit owners imposes against a unit owner in accordance with Section 57-8-37, if:

(A) the time for appeal described in Subsection 57-8-37(5) has expired and the unit owner did not file an appeal; or

(B) the unit owner timely filed an appeal under Subsection 57-8-37(5) and [~~the district~~] a court issued a final order upholding a fine imposed under Subsection 57-8-37(1).

(b) The recording of a declaration constitutes record notice and perfection of a lien described in Subsection (1)(a).

(2) If an assessment is payable in installments, a lien described in Subsection (1)(a)(i) is for the full amount of the assessment from the time the first installment is due, unless the association of unit owners otherwise provides in a notice of assessment.

(3) An unpaid assessment or fine accrues interest at the rate provided:

(a) in Subsection 15-1-1(2); or

(b) in the governing documents, if the governing documents provide for a different interest rate.

(4) A lien under this section has priority over each other lien and encumbrance on a unit except:

(a) a lien or encumbrance recorded before the declaration is recorded;

(b) a first or second security interest on the unit secured by a mortgage or deed of trust that is recorded before a recorded notice of lien by or on behalf of the association of unit owners; or

(c) a lien for real estate taxes or other governmental assessments or charges against the unit.

(5) A lien under this section is not subject to Title 78B, Chapter 5, Part 5, Utah Exemptions Act.

(6) Unless the declaration provides otherwise, if two or more associations of unit owners have liens for assessments on the same unit, the liens have equal priority, regardless of when the liens are created.

Section 81. Section 57-8a-301 is amended to read:

57-8a-301. Lien in favor of association for assessments and costs of collection.

(1) (a) Except as provided in Section 57-8a-105, an association has a lien on a lot for:

(i) an assessment;

(ii) except as provided in the declaration, fees, charges, and costs associated with collecting an unpaid assessment, including:

(A) court costs and reasonable attorney fees;

(B) late charges;

(C) interest; and

(D) any other amount that the association is entitled to recover under the declaration, this chapter, or an administrative or judicial decision; and

(iii) a fine that the association imposes against a lot owner in accordance with Section 57-8a-208, if:

(A) the time for appeal described in Subsection 57-8a-208(5) has expired and the lot owner did not file an appeal; or

(B) the lot owner timely filed an appeal under Subsection 57-8a-208(5) and [~~the district~~] a court issued a final order upholding a fine imposed under Subsection 57-8a-208(1).

(b) The recording of a declaration constitutes record notice and perfection of a lien described in Subsection (1)(a).

(2) If an assessment is payable in installments, a lien described in Subsection (1)(a)(i) is for the full amount of the assessment from the time the first installment is due, unless the association otherwise provides in a notice of assessment.

(3) An unpaid assessment or fine accrues interest at the rate provided:

(a) in Subsection 15-1-1(2); or

(b) in the declaration, if the declaration provides for a different interest rate.

(4) A lien under this section has priority over each other lien and encumbrance on a lot except:

(a) a lien or encumbrance recorded before the declaration is recorded;

(b) a first or second security interest on the lot secured by a mortgage or trust deed that is recorded before a recorded notice of lien by or on behalf of the association; or

(c) a lien for real estate taxes or other governmental assessments or charges against the lot.

(5) A lien under this section is not subject to Title 78B, Chapter 5, Part 5, Utah Exemptions Act.

(6) Unless the declaration provides otherwise, if two or more associations have liens for assessments on the same lot, the liens have equal priority, regardless of when the liens are created.

Section 82. Section 57-17-5 is amended to read:

57-17-5. Failure to return deposit or prepaid rent or to give required notice -- Recovery of deposit, penalty, costs, and attorney fees.

(1) If an owner or the owner's agent fails to comply with the requirements described in Subsection 57-17-3(5), the renter may:

(a) recover from the owner:

(i) if the owner or the owner's agent failed to timely return the balance of the renter's deposit, the full deposit;

(ii) if the owner or the owner's agent failed to timely return the balance of the renter's prepaid rent, the full amount of the prepaid rent; and

(iii) a civil penalty of $100; and

(b) file an action [~~in district court~~] to enforce compliance with the provisions of this section.

(2) In an action under Subsection (1)(b), the court shall award costs and attorney fees to the prevailing party if the court determines that the opposing party acted in bad faith.

(3) A renter is not entitled to relief under this section if the renter fails to serve a notice in accordance with Subsection 57-17-3(3).

(4) This section does not preclude an owner or a renter from recovering other damages to which the owner or the renter is entitled.

Section 83. Section 57-19-20 is amended to read:

57-19-20. Injunctive relief -- Cease and desist order.

(1) Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter, and that it would be in the public interest to stop those acts or practices, the director may either:

(a) seek injunctive relief as provided in Rule 65A, Utah Rules of Civil Procedure; or

(b) issue an administrative cease and desist order.

(2) If an administrative cease and desist order is issued pursuant to Subsection (1), the person upon whom the order is served may, within 10 days after receiving the order, request that a hearing be held before an administrative law judge. If a request for a hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act. Pending the hearing, the order remains in effect.

(3) (a) If, at the hearing, a finding is made that there has been a violation of this chapter, the director, with the concurrence of the executive director, may issue an order making the cease and desist order permanent.

(b) If no hearing is requested, and if the person fails to cease the act or practice, or after discontinuing the act or practice again commences [~~it~~] the act or practice, the director shall [~~file suit in the district court of the county in which the act or practice occurred, or where the person resides or carries on business,~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin and restrain the person from violating this chapter.

(4) (a) Whether or not the director has issued a cease and desist order, the attorney general, in the name of the state or of the director, may bring an action [~~in any court of competent jurisdiction~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin any act or practice constituting a violation of any provision of this chapter, and to enforce compliance with this chapter or any rule or order under this chapter.

(b) Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted.

Section 84. Section 57-21-11 is amended to read:

57-21-11. Relief granted -- Civil penalties -- Enforcement of final order.

(1) Under Sections 57-21-9 and 57-21-10, if the director, presiding officer, commissioner, Appeals Board, or court finds reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur, the director, presiding officer, commissioner, Appeals Board, or court may order, as considered appropriate:

(a) the respondent to cease any discriminatory housing practice;

(b) actual damages, reasonable attorneys' fees and costs to the aggrieved person; and

(c) any permanent or temporary injunction, temporary restraining order, or other appropriate order.

(2) In addition to the relief granted to an aggrieved person under Subsection (1), in order to vindicate the public interest, the director, presiding officer, or court may also assess civil penalties against the respondent in an amount not exceeding:

(a) $10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(b) $25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the complaint; or

(c) $50,000 if the respondent has been adjudged to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the filing of this complaint.

(3) The time periods in Subsections (2)(b) and (c) may be disregarded if the acts constituting the discriminatory housing practice are committed by the same natural person who has previously been adjudged to have committed a discriminatory housing practice.

(4) The division may [~~file a petition in a district court of competent jurisdiction~~] petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for:

(a) the enforcement of a final department order; and

(b) for any appropriate temporary relief or restraining order necessary for the enforcement of a final commission order.

Section 85. Section 57-22-6 is amended to read:

57-22-6. Renter remedies for deficient condition of residential rental unit.

(1) As used in this section:

(a) "Corrective period" means:

(i) for a standard of habitability, three calendar days; and

(ii) for a requirement imposed by a rental agreement, 10 calendar days.

(b) "Deficient condition" means a condition of a residential rental unit that:

(i) violates a standard of habitability or a requirement of the rental agreement; and

(ii) is not caused by:

(A) the renter, the renter's family, or the renter's guest or invitee; and

(B) a use that would violate:

(I) the rental agreement; or

(II) a law applicable to the renter's use of the residential rental unit.

(c) "Notice of deficient condition" means the notice described in Subsection (2).

(d) "Rent abatement remedy" means the remedy described in Subsection (4)(a)(i).

(e) "Renter remedy" means:

(i) a rent abatement remedy; or

(ii) a repair and deduct remedy.

(f) "Repair and deduct remedy" means the remedy described in Subsection (4)(a)(ii).

(g) "Standard of habitability" means a standard:

(i) relating to the condition of a residential rental unit; and

(ii) that an owner is required to ensure that the residential rental unit meets as required under Subsection 57-22-3(1) or Subsection 57-22-4(1)(a) or (b)(i), (ii), or (iii).

(2) (a) If a renter believes that the renter's residential rental unit has a deficient condition, the renter may give the owner written notice as provided in Subsection (2)(b).

(b) A notice under Subsection (2)(a) shall:

(i) describe each deficient condition;

(ii) state that the owner has the corrective period, stated in terms of the applicable number of days, to correct each deficient condition;

(iii) state the renter remedy that the renter has chosen if the owner does not, within the corrective period, take substantial action toward correcting each deficient condition;

(iv) provide the owner permission to enter the residential rental unit to make corrective action; and

(v) be served on the owner as provided in:

(A) Section 78B-6-805; or

(B) the rental agreement.

(3) (a) As used in this Subsection (3), "dangerous condition" means a deficient condition that poses a substantial risk of:

(i) imminent loss of life; or

(ii) significant physical harm.

(b) If a renter believes that the renter's residential rental unit has a dangerous condition, the renter may notify the owner of the dangerous condition by any means that is reasonable under the circumstances.

(c) An owner shall:

(i) within 24 hours after receiving notice under Subsection (3)(b) of a dangerous condition, commence remedial action to correct the dangerous condition; and

(ii) diligently pursue remedial action to completion.

(d) Notice under Subsection (3)(b) of a dangerous condition does not constitute a notice of deficient condition, unless the notice also meets the requirements of Subsection (2).

(4) (a) Subject to Subsection (4)(b), if an owner fails to take substantial action, before the end of the corrective period, toward correcting a deficient condition described in a notice of deficient condition:

(i) if the renter chose the rent abatement remedy in the notice of deficient condition:

(A) the renter's rent is abated as of the date of the notice of deficient condition to the owner;

(B) the rental agreement is terminated;

(C) the owner shall immediately pay to the renter:

(I) the entire security deposit that the renter paid under the rental agreement; and

(II) a prorated refund for any prepaid rent, including any rent the renter paid for the period after the date on which the renter gave the owner the notice of deficient condition; and

(D) the renter shall vacate the residential rental unit within 10 calendar days after the expiration of the corrective period; or

(ii) if the renter chose the repair and deduct remedy in the notice of deficient condition, and subject to Subsection (4)(c), the renter:

(A) may:

(I) correct the deficient condition described in the notice of deficient condition; and

(II) deduct from future rent the amount the renter paid to correct the deficient condition, not to exceed an amount equal to two months' rent; and

(B) shall:

(I) maintain all receipts documenting the amount the renter paid to correct the deficient condition; and

(II) provide a copy of those receipts to the owner within five calendar days after the beginning of the next rental period.

(b) A renter is not entitled to a renter remedy if the renter is not in compliance with all requirements under Section 57-22-5.

(c) (i) If a residential rental unit is not fit for occupancy, an owner may:

(A) determine not to correct a deficient condition described in a notice of deficient condition; and

(B) terminate the rental agreement.

(ii) If an owner determines not to correct a deficient condition and terminates the rental agreement under Subsection (4)(c)(i):

(A) the owner shall:

(I) notify the renter in writing no later than the end of the corrective period; and

(II) within 10 calendar days after the owner terminates the rental agreement, pay to the renter:

(Aa) any prepaid rent, prorated as provided in Subsection (4)(c)(ii)(B); and

(Bb) any deposit due the renter;

(B) the rent shall be prorated to the date the owner terminates the rental agreement under Subsection (4)(c)(i); and

(C) the renter may not be required to vacate the residential rental unit sooner than 10 calendar days after the owner notifies the renter under Subsection (4)(c)(ii)(A)(I).

(5) (a) After the corrective period expires, a renter may bring [~~an action in district court~~] an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the renter remedy that the renter chose in the notice of deficient condition.

(b) In an action under Subsection (5)(a), the court shall endorse on the summons that the owner is required to appear and defend the action within three business days.

(c) If, in an action under Subsection (5)(a), the court finds that the owner unjustifiably refused to correct a deficient condition or failed to use due diligence to correct a deficient condition, the renter is entitled to any damages, in addition to the applicable renter remedy.

(d) An owner who disputes that a condition of the residential rental unit violates a requirement of the rental agreement may file a counterclaim in an action brought against the owner under Subsection (5)(a).

(6) An owner may not be held liable under this chapter for a claim for mental suffering or anguish.

(7) In an action under this chapter, the court may award costs and reasonable attorney fees to the prevailing party.

Section 86. Section 57-23-7 is amended to read:

57-23-7. Investigatory powers and proceedings of division.

(1) The division may:

(a) make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule or order made by the division under this chapter; and

(b) require or permit any person to file a statement in writing, under oath or otherwise as the division determines, as to all the facts and circumstances concerning the matter to be investigated.

(2) For the purpose of any investigation or proceeding under this chapter:

(a) the division may administer oaths or affirmations; and

(b) upon its own motion or upon the request of any party, the division may:

(i) subpoena witnesses;

(ii) compel their attendance;

(iii) take evidence; and

(iv) require the production of any matter which is relevant to the investigation, including:

(A) the existence, description, nature, custody, condition and location of any books, documents, or other tangible records;

(B) the identity and location of persons having knowledge of relevant facts; or

(C) any other matter reasonably calculated to lead to the discovery of material evidence.

(3) Upon failure of any person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected by the subpoena or information sought to be discovered under the subpoena, the division may [~~apply to the district court~~] petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an order compelling compliance.

Section 87. Section 57-23-8 is amended to read:

57-23-8. Enforcement powers of division -- Cease and desist orders.

(1) (a) If the director has reason to believe that any person has been or is engaging in conduct violating this chapter, or has violated any lawful order or rule of the division, the director shall issue and serve upon the person a cease and desist order. The director may also order the person to take whatever affirmative actions the director determines to be necessary to carry out the purposes of this chapter.

(b) The person served with an order under Subsection (1)(a) may request an adjudicative proceeding within 10 days after receiving the order. The cease and desist order remains in effect pending the hearing.

(c) The division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, if the person served requests a hearing.

(2) (a) After the hearing the director may issue a final order making the cease and desist order permanent if the director finds there has been a violation of this chapter.

(b) If no hearing is requested and the person served does not obey the director's order, the director may [~~file suit~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, in the name of the Department of Commerce and the Division of Real Estate to enjoin the person from violating this chapter. [~~The action shall be filed in the district court in the county in which the conduct occurred, where the person served with the cease and desist order either resides or carries on business.~~]

(3) The remedies and action provided in this section are not exclusive but are in addition to any

other remedies or actions available under Section 57-23-10.

Section 88. Section 57-29-303 is amended to read:

57-29-303. Investigatory powers and proceedings of division.

(1) The division may:

(a) conduct a public or private investigation to determine whether a person has violated or is about to violate a provision of this chapter; and

(b) require or allow a person to file a written statement with the division that relates to the facts and circumstances concerning a matter to be investigated.

(2) For the purpose of an investigation or proceeding under this chapter, the division may:

(a) administer oaths or affirmations; and

(b) upon the division's own initiative or upon the request of any party:

(i) subpoena a witness;

(ii) compel a witness's attendance;

(iii) take evidence; or

(iv) require the production, within 10 business days, of any information or item that is relevant to the investigation, including:

(A) the existence, description, nature, custody, condition, and location of any books, electronic records, documents, or other tangible records;

(B) the identity and location of any person who has knowledge of relevant facts; or

(C) any other information or item that is reasonably calculated to lead to the discovery of material evidence.

(3) If a person fails to obey a subpoena or other request made in accordance with this section, the division may [~~file an action in district court~~] petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an order compelling compliance.

Section 89. Section 57-29-304 is amended to read:

57-29-304. Enforcement.

(1) (a) If the director believes that a person has been or is engaging in conduct that violates this chapter, the director:

(i) shall issue and serve upon the person a cease and desist order; and

(ii) may order the person to take any action necessary to carry out the purposes of this chapter.

(b) (i) A person served with an order under Subsection (1)(a) may request a hearing within 10 days after the day on which the person is served.

(ii) (A) If a person requests a hearing in accordance with Subsection (1)(b)(i), the director shall schedule a hearing to take place no more than 30 days after the day on which the director receives the request.

(B) The cease and desist order remains in effect pending the hearing.

(iii) If the director fails to schedule a hearing in accordance with Subsection (1)(b)(ii)(A), the cease and desist order is vacated.

(c) The division shall conduct a hearing described in Subsection (1)(b) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) After a hearing described in Subsection (1)(b):

(a) if the director finds that the person violated this chapter, the director may issue a final order making the cease and desist order permanent; or

(b) if the director finds that the person did not violate this chapter, the director shall vacate the cease and desist order.

(3) If a person served with an order under Subsection (1)(a) does not request a hearing and the person fails to comply with the director's order, the director may [~~file suit in district court~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, in the name of the Department of Commerce and the Division of Real Estate to enjoin the person from violating this chapter.

(4) The remedies and action provided in this section are not exclusive but are in addition to any other remedies or actions available under Section 57-29-305.

Section 90. Section 61-1-20 is amended to read:

61-1-20. Enforcement.

(1) Whenever it appears to the director that a person has engaged, is engaging, or is about to engage in an act or practice constituting a violation of this chapter or a rule or order under this chapter, in addition to specific powers granted in this chapter:

(a) the director may issue an order directing the person to appear before the commission and show cause why an order should not be issued directing the person to cease and desist from engaging in the act or practice, or doing an act in furtherance of the activity;

(b) the order to show cause shall state the reasons for the order and the date of the hearing;

(c) the director shall promptly serve a copy of the order to show cause upon a person named in the order;

(d) the commission shall hold a hearing on the order to show cause no sooner than 10 business days after the order is issued;

(e) after a hearing, the commission may:

(i) issue an order to cease and desist from engaging in an act or practice constituting a violation of this chapter or a rule or order under this chapter;

(ii) impose a fine in an amount determined after considering the factors set forth in Section 61-1-31;

(iii) order disgorgement;

(iv) order restitution;

(v) order rescission;

(vi) bar or suspend that person from associating with a licensed broker-dealer or investment adviser in this state; and

(vii) impose a combination of sanctions in this Subsection (1)(e).

(2) (a) The director may bring an action in the appropriate [~~district~~] court of this state or the appropriate court of another state to enjoin an act or practice and to enforce compliance with this chapter or a rule or order under this chapter.

(b) Upon a proper showing in an action brought under this section, the court may:

(i) issue a permanent or temporary, prohibitory or mandatory injunction;

(ii) issue a restraining order or writ of mandamus;

(iii) enter a declaratory judgment;

(iv) appoint a receiver or conservator for the defendant or the defendant's assets;

(v) order disgorgement;

(vi) order rescission;

(vii) order restitution;

(viii) impose a fine in an amount determined after considering the factors set forth in Section 61-1-31; and

(ix) enter any other relief the court considers just.

(c) The court may not require the division to post a bond in an action brought under this Subsection (2).

(3) An order issued under Subsection (1) shall be accompanied by written findings of fact and conclusions of law.

(4) When determining the severity of a sanction to be imposed under this section, the commission or court shall consider whether:

(a) the person against whom the sanction is to be imposed exercised undue influence; or

(b) the person against whom the sanction is imposed under this section knows or should know that an investor in the investment that is the grounds for the sanction is a vulnerable adult.

Section 91. Section 61-1-105 is amended to read:

61-1-105. Remedies for employee bringing action.

(1) As used in this section, "actual damages" means damages for injury or loss caused by a violation of Section 61-1-104.

(2) (a) An employee who alleges a violation of Section 61-1-104 may bring [~~a civil~~] an action for injunctive relief, actual damages, or both, in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) An employee may not bring [~~a civil~~] an action under this section more than:

(i) four years after the day on which the violation of Section 61-1-104 occurs; or

(ii) two years after the date when facts material to the right of action are known or reasonably should be known by the employee alleging a violation of Section 61-1-104.

[~~(3) An employee may bring an action under this section in the district court for the county where:~~]

[~~(a) the alleged violation occurs;~~]

[~~(b) the employee resides; or~~]

[~~(c) the person against whom the civil complaint is filed resides or has a principal place of business.~~]

[~~(4)~~] (3) To prevail in an action brought under this section, an employee shall establish, by a preponderance of the evidence, that the employee has suffered an adverse action because the employee, or a person acting on the employee's behalf, engaged or intended to engage in an activity protected under Section 61-1-104.

[~~(5)~~] (4) A court may award as relief for an employee prevailing in an action brought under this section:

(a) reinstatement with the same fringe benefits and seniority status that the individual would have had, but for the adverse action;

(b) two times the amount of back pay otherwise owed to the individual, with interest;

(c) compensation for litigation costs, expert witness fees, and reasonable attorney fees;

(d) actual damages; or

(e) any combination of the remedies listed in this Subsection [~~(5)~~] (4).

[~~(6)~~] (5) (a) An employer may file a counter claim against an employee who files a civil action under this section seeking attorney fees and costs incurred by the employer related to the action filed by the employee and the counter claim.

(b) The court may award an employer who files a counter claim under this Subsection [~~(6)~~] (5) attorney fees and costs if the court finds that:

(i) there is no reasonable basis for the civil action filed by the employee; or

(ii) the employee is not protected under Section 61-1-104 because:

(A) the employee engaged in an act described in Subsections 61-1-104(2)(a) through (c); or

(B) Subsection 61-1-104(2)(d) applies.

Section 92. Section 61-2-203 is amended to read:

61-2-203. Adjudicative proceedings -- Citation authority.

(1) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding under a chapter the division administers.

(2) The division may initiate an adjudicative proceeding through:

(a) a notice of agency action; or

(b) a notice of formal or informal proceeding.

(3) The provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to the issuance of a citation under Subsection (4), unless a licensee or another person authorized by law to contest the validity or correctness of a citation commences an adjudicative proceeding contesting the citation.

(4) In addition to any other statutory penalty for a violation related to an occupation or profession regulated under this title, the division may issue a citation to a person who, upon inspection or investigation, the division concludes to have violated:

(a) Subsection 61-2c-201(1), which requires licensure;

(b) Subsection 61-2c-201(4), which requires licensure;

(c) Subsection 61-2c-205(3), which requires notification of a change in specified information regarding a licensee;

(d) Subsection 61-2c-205(4), which requires notification of a specified legal action;

(e) Subsection 61-2c-301(1)(g), which prohibits failing to respond to the division within the required time period;

(f) Subsection 61-2c-301(1)(h), which prohibits making a false representation to the division;

(g) Subsection 61-2c-301(1)(i), which prohibits taking a dual role in a transaction;

(h) Subsection 61-2c-301(1)(l), which prohibits engaging in false or misleading advertising;

(i) Subsection 61-2c-301(1)(t), which prohibits advertising the ability to do licensed work if unlicensed;

(j) Subsection 61-2c-302(5), which requires a mortgage entity to create and file a quarterly report of condition;

(k) Subsection 61-2e-201(1), which requires registration;

(l) Subsection 61-2e-203(4), which requires a notification of a change in ownership;

(m) Subsection 61-2e-307(1)(c), which prohibits use of an unregistered fictitious name;

(n) Subsection 61-2e-401(1)(c), which prohibits failure to respond to a division request;

(o) Subsection 61-2f-201(1), which requires licensure;

(p) Subsection 61-2f-206(1), which requires registration;

(q) Subsection 61-2f-301(1), which requires notification of a specified legal action;

(r) Subsection 61-2f-401(1)(a), which prohibits making a substantial misrepresentation;

(s) Subsection 61-2f-401(3), which prohibits undertaking real estate while not affiliated with a principal broker;

(t) Subsection 61-2f-401(9), which prohibits failing to keep specified records and prohibits failing to make the specified records available for division inspection;

(u) Subsection 61-2f-401(12), which prohibits false, misleading, or deceptive advertising;

(v) Subsection 61-2f-401(18), which prohibits failing to respond to a division request;

(w) Subsection 61-2g-301(1), which requires licensure;

(x) Subsection 61-2g-405(3), which requires making records required to be maintained available to the division;

(y) Subsection 61-2g-501(2)(c), which requires a person to respond to a division request in an investigation within 10 days after the day on which the request is served;

(z) Subsection 61-2g-502(2)(f), which prohibits using a nonregistered fictitious name;

(aa) a rule made pursuant to any Subsection listed in this Subsection (4);

(bb) an order of the division; or

(cc) an order of the commission or board that oversees the person's profession.

(5) (a) In accordance with Subsection (10), the division may assess a fine against a person for a violation of a provision listed in Subsection (4), as evidenced by:

(i) an uncontested citation;

(ii) a stipulated settlement; or

(iii) a finding of a violation in an adjudicative proceeding.

(b) The division may, in addition to or in lieu of a fine under Subsection (5)(a), order the person to cease and desist from an activity that violates a provision listed in Subsection (4).

(6) Except as provided in Subsection (8)(d), the division may not use a citation to effect a license:

(a) denial;

(b) probation;

(c) suspension; or

(d) revocation.

(7) (a) A citation issued by the division shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the statute, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days after the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time period specified in the citation.

(b) The division may issue a notice in lieu of a citation.

(8) (a) A citation becomes final:

(i) if within 20 calendar days after the day on which the citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation; or

(ii) if the director or the director's designee conducts a hearing pursuant to a timely request for a hearing and issues an order finding that a violation has occurred.

(b) The division may extend, for cause, the 20-day period to contest a citation.

(c) A citation that becomes the final order of the division due to a person's failure to timely request a hearing is not subject to further agency review.

(d) (i) The division may refuse to issue, refuse to renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(ii) The failure of a license applicant to comply with a citation after the citation becomes final is a ground for denial of the license application.

(9) (a) The division may not issue a citation under this section after the expiration of one year after the day on which the violation occurs.

(b) The division may issue a notice to address a violation that is outside of the one-year citation period.

(10) The director or the director's designee shall assess a fine with a citation in an amount that is no more than:

(a) for a first offense, $1,000;

(b) for a second offense, $2,000; and

(c) for each offense subsequent to a second offense, $2,000 for each day of continued offense.

(11) (a) An action for a first or second offense for which the division has not issued a final order does not preclude the division from initiating a subsequent action for a second or subsequent offense while the preceding action is pending.

(b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(12) (a) If a person does not pay a penalty, the director may collect the unpaid penalty by:

(i) referring the matter to a collection agency; or

(ii) bringing [~~an action in the district court of the county: (A) where the person resides; or (B) where the office of the director is located~~] an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) A county attorney or the attorney general of the state shall provide legal services to the director in an action to collect the penalty.

(c) A court may award reasonable attorney fees and costs to the division in an action the division brings to enforce the provisions of this section.

Section 93. Section 61-2c-403 is amended to read:

61-2c-403. Cease and desist orders.

(1) (a) The director may issue and serve by certified mail, or by personal service, on a person an order to cease and desist from an act if:

(i) the director has reason to believe that the person has been engaged, is engaging in, or is about to engage in the act constituting a violation of this chapter; and

(ii) it appears to the director that it would be in the public interest to stop the act.

(b) Within 10 days after service of the order, the party named in the order may request a hearing to be held in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(c) Pending a hearing requested under Subsection (1)(b), a cease and desist order shall remain in effect.

(2) (a) After the hearing described in Subsection (1), if the director finds that an act of the person violates this chapter, the director:

(i) shall issue an order making the cease and desist order permanent; and

(ii) may impose another disciplinary action under Section 61-2c-402.

(b) [~~(i)~~] The director may [~~file suit~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, in the name of the division to enjoin and restrain a person on whom an order is served under this section from violating this chapter if:

[~~(A)~~] (i) [~~(I)~~] (A) the person does not request a hearing under Subsection (1); or

[~~(II)~~] (B) a permanent cease and desist order is issued against the person following a hearing or stipulation; and

[~~(B)~~] (ii) [~~(I)~~] (A) the person fails to cease the act; or

[~~(II)~~] (B) after discontinuing the act, the person again commences the act.

[~~(ii) The suit described in Subsection (2)(b)(i) shall be filed in the district court in the county:~~]

[~~(A) in which the act occurs;~~]

[~~(B) where the individual resides; or~~]

[~~(C) where the individual or entity carries on business.~~]

(3) The cease and desist order issued under this section may not interfere with or prevent the prosecution of a remedy or action enforcement under this chapter.

(4) An individual who violates a cease and desist order issued under this section is guilty of a class A misdemeanor.

Section 94. Section 61-2f-403 is amended to read:

61-2f-403. Mishandling of trust money.

(1) The division may audit principal brokers' trust accounts or other accounts in which a licensee maintains trust money under this chapter. If the division's audit shows, in the opinion of the division, gross mismanagement, commingling, or misuse of money, the division, with the concurrence of the commission, may order at the division's expense a complete audit of the account by a certified public accountant, or take other action in accordance with Section 61-2f-404.

(2) If the commission finds under Subsection (1) that gross mismanagement, comingling, or misuse of money occurred, the commission, with concurrence of the division, may then order the licensee to reimburse the division for the cost of the audit described in Subsection (1).

(3) The licensee may obtain agency review by the executive director or judicial review of any division order.

(4) (a) If it appears that a person has grossly mismanaged, commingled, or otherwise misused trust money, the division, with or without prior administrative proceedings, may bring an action[~~: (i) in the district court of the district where: (A) the person resides; (B) the person maintains a place of business; or (C) the act or practice occurred or is about to occur; and (ii)~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin the act or practice and to enforce compliance with this chapter or any rule or order under this chapter.

(b) Upon a proper showing, a court shall grant injunctive relief or a temporary restraining order, and may appoint a receiver or conservator. The division is not required to post a bond in any court proceeding.

Section 95. Section 61-2f-407 is amended to read:

61-2f-407. Remedies and action for violations.

(1) (a) The director shall issue and serve upon a person an order directing that person to cease and desist from an act if:

(i) the director has reason to believe that the person has been engaging, is about to engage, or is engaging in the act constituting a violation of this chapter; and

(ii) it appears to the director that it would be in the public interest to stop the act.

(b) Within 10 days after the day on which the order is served, the person upon whom the order is served may request a hearing.

(c) Pending a hearing requested under Subsection (1)(b), a cease and desist order shall remain in effect.

(d) If a request for a hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(2) (a) After a hearing requested under Subsection (1), if the commission and the director agree that an act of the person violates this chapter, the director:

(i) shall issue an order making the order issued under Subsection (1) permanent; and

(ii) may impose another disciplinary action under Section 61-2f-404.

(b) The director shall [~~file suit~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, in the name of the Department of Commerce and the Division of Real Estate[~~, in the district court in the county in which an act described in Subsection (1) occurs or where the person resides or carries on business,~~] to enjoin and restrain the person from violating this chapter if:

(i) (A) a hearing is not requested under Subsection (1); and

(B) the person fails to cease the act described in Subsection (1); or

(ii) after discontinuing the act described in Subsection (1), the person again commences the act.

[~~(c) A district court of this state has jurisdiction of an action brought under this section.~~]

[~~(d)~~] (c) Upon a proper showing in an action brought under this section or upon a conviction under Section 76-6-1203, the court may:

(i) issue a permanent or temporary, prohibitory or mandatory injunction;

(ii) issue a restraining order or writ of mandamus;

(iii) enter a declaratory judgment;

(iv) appoint a receiver or conservator for the defendant or the defendant's assets;

(v) order disgorgement;

(vi) order rescission;

(vii) impose a civil penalty not to exceed the greater of:

(A) $5,000 for each violation; or

(B) the amount of any gain or economic benefit derived from a violation; and

(viii) enter any other relief the court considers just.

[~~(e)~~] (d) The court may not require the division to post a bond in an action brought under this Subsection (2).

(3) A license, certificate, or registration issued by the division to any person convicted of a violation of Section 76-6-1203 is automatically revoked.

(4) A remedy or action provided in this section does not limit, interfere with, or prevent the prosecution of another remedy or action, including a criminal proceeding.

Section 96. Section 61-2g-501 is amended to read:

61-2g-501. Enforcement -- Investigation -- Orders -- Hearings.

(1) (a) The division may conduct a public or private investigation of the actions of:

(i) a person registered, licensed, or certified under this chapter;

(ii) an applicant for registration, licensure, or certification;

(iii) an applicant for renewal of registration, licensure, or certification; or

(iv) a person required to be registered, licensed, or certified under this chapter.

(b) The division may initiate an agency action against a person described in Subsection (1)(a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to:

(i) impose disciplinary action;

(ii) deny issuance to an applicant of:

(A) an original registration, license, or certification; or

(B) a renewal of a registration, license, or certification; or

(iii) issue a cease and desist order as provided in Subsection (3).

(2) (a) The division may:

(i) administer an oath or affirmation;

(ii) issue a subpoena that requires:

(A) the attendance and testimony of a witness; or

(B) the production of evidence;

(iii) take evidence; and

(iv) require the production of a book, paper, contract, record, document, information, or evidence relevant to the investigation described in Subsection (1).

(b) The division may serve a subpoena by certified mail.

(c) A failure to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served is considered to be a separate violation of this chapter, including:

(i) failing to respond to a subpoena as a witness;

(ii) withholding evidence; or

(iii) failing to produce a book, paper, contract, document, information, or record.

(d) (i) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(ii) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

(e) (i) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, information, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, information, or record in a universally readable format.

(ii) If a person fails to pay the costs described in Subsection (2)(e)(i) when due, the person's license, certification, or registration is automatically suspended:

(A) beginning the day on which the payment of costs is due; and

(B) ending the day on which the costs are paid.

(3) (a) The director shall issue and serve upon a person an order directing that person to cease and desist from an act if:

(i) the director has reason to believe that the person has been engaging, is about to engage, or is engaging in the act constituting a violation of this chapter; and

(ii) it appears to the director that it would be in the public interest to stop the act.

(b) Within 10 days after the day on which the order is served, the person upon whom the order is served may request a hearing.

(c) Pending a hearing requested under Subsection (3)(b), a cease and desist order shall remain in effect.

(d) If a request for hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(4) (a) After a hearing requested under Subsection (3), if the board and division concur that an act of the person violates this chapter, the board, with the concurrence of the division:

(i) shall issue an order making the cease and desist order permanent; and

(ii) may impose another disciplinary action under Section 61-2g-502.

(b) The director shall [~~commence an action~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, in the name of the Department of Commerce and Division of Real Estate[~~, in the district court in the county in which an act described in Subsection (3) occurs or where the individual resides or carries on business,~~] to enjoin and restrain the individual from violating this chapter if:

(i) (A) a hearing is not requested under Subsection (3); and

(B) the individual fails to cease the act described in Subsection (3); or

(ii) after discontinuing the act described in Subsection (3), the individual again commences the act.

(5) A remedy or action provided in this section does not limit, interfere with, or prevent the prosecution of another remedy or action, including a criminal proceeding.

(6) (a) Except as provided in Subsection (6)(b), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:

(i) four years after the day on which the violation is reported to the division; or

(ii) 10 years after the day on which the violation occurred.

(b) The division may commence a disciplinary action under this chapter after the time period described in Subsection (6)(a) expires if:

(i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the individual subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (6)(a).

Section 97. Section 70-3a-309 is amended to read:

70-3a-309. Cybersquatting.

(1) (a) A person is liable in a civil action by the owner of a mark, including a personal name, which is a mark for purposes of this section, if, without regard to the goods or services of the person or the mark's owner, the person:

(i) has a bad faith intent to profit from the mark, including a personal name; and

(ii) for any length of time registers, acquires, traffics in, or uses a domain name in, or belonging to any person in, this state that:

(A) in the case of a mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to the mark;

(B) in the case of a famous mark that is famous at the time of registration of the domain name, is identical or confusingly similar to or dilutive of the mark; or

(C) is a trademark, word, or name protected by reason of 18 U.S.C. Sec. 706 or 36 U.S.C. Sec. 220506.

(b) (i) In determining whether a person has a bad faith intent described in Subsection (1)(a), a court may consider all relevant factors, including:

(A) the trademark or other intellectual property rights of the person, if any, in the domain name;

(B) the extent to which the domain name consists of the legal name of the person or a name that is otherwise commonly used to identify that person;

(C) the person's prior use, if any, of the domain name in connection with the bona fide offering of any goods or services;

(D) the person's bona fide noncommercial or fair use of the mark in a site accessible under the domain name;

(E) the person's intent to divert consumers from the mark owner's online location to a site accessible under the domain name that could harm the goodwill represented by the mark, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site;

(F) the person's offer to transfer, sell, or otherwise assign, or solicitation of the purchase, transfer, or assignment of the domain name to the mark owner or any third party for financial gain without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services, or the person's prior conduct indicating a pattern of such conduct;

(G) the person's provision of material and misleading false contact information when applying for the registration of the domain name, the person's intentional failure to maintain accurate contact information, or the person's prior conduct indicating a pattern of such conduct;

(H) the person's registration or acquisition of multiple domain names that the person knows are identical or confusingly similar to another's mark that is distinctive at the time of registration of the domain names, or is dilutive of another's famous mark that is famous at the time of registration of the domain names, without regard to the goods or services of the person or the mark owner; and

(I) the extent to which the mark incorporated in the person's domain name registration is or is not distinctive and famous.

(ii) Bad faith intent described in Subsection (1)(a) may not be found in any case in which the court determines that the person believed and had

reasonable grounds to believe that the use of the domain name was a fair use or otherwise lawful.

(c) In a civil action involving the registration, trafficking, or use of a domain name under this section, a court may order the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.

(d) (i) A person is liable for using a domain name under Subsection (1)(a) only if that person is the domain name registrant or that registrant's authorized licensee, affiliate, domain name registrar, domain name registry, or other domain name registration authority that knowingly assists a violation of this chapter by the registrant.

(ii) A person may not be held liable under this section absent a showing of bad faith intent to profit from the registration or maintenance of the domain name.

(iii) For purposes of this section, a "showing of bad faith intent to profit" shall be interpreted in the same manner as under 15 U.S.C. Sec. 1114(2)(D)(iii).

(e) As used in this section, the term "traffics in" refers to transactions that include sales, purchases, loans, pledges, licenses, exchanges of currency, and any other transfer for consideration or receipt in exchange for consideration.

(2) (a) The owner of a mark registered with the U.S. Patent and Trademark Office or under this chapter may [~~file an in rem civil action~~] bring an in rem civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against a domain name [~~in the district court~~] if the owner is located in the state and if:

(i) the domain name violates any right of the owner of a mark registered in the Patent and Trademark Office or registered under this chapter; and

(ii) the court finds that the owner:

(A) is not able to obtain personal jurisdiction over a person who would be a defendant in a civil action under Subsection (1); or

(B) through due diligence was not able to find a person who would be a defendant in a civil action under Subsection (1) by:

(I) sending a notice of the alleged violation and intent to proceed under this Subsection (2)(a) to the registrant of the domain name at the postal and e-mail address provided by the registrant to the registrar; and

(II) publishing notice of the action as the court may direct promptly after filing the action.

(b) Completion of the actions required by Subsection (2)(a)(ii) constitutes service of process.

(c) In an in rem action under this Subsection (2), a domain name is considered to be located in the judicial district in which:

(i) the domain name registrar, registry, or other domain name authority that registered or assigned the domain name is located; or

(ii) documents sufficient to establish control and authority regarding the disposition of the registration and use of the domain name are deposited with the court.

(d) (i) The remedies in an in rem action under this Subsection (2) are limited to a court order for the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.

(ii) Upon receipt of written notification of a filed, stamped copy of a complaint filed by the owner of a mark in the [~~district~~] court under this Subsection (2), the domain name registrar, domain name registry, or other domain name authority shall:

(A) expeditiously deposit with the court documents sufficient to establish the court's control and authority regarding the disposition of the registration and use of the domain name to the court; and

(B) not transfer, suspend, or otherwise modify the domain name during the pendency of the action, except upon order of the court.

(iii) The domain name registrar or registry or other domain name authority is not liable for injunctive or monetary relief under this section, except in the case of bad faith or reckless disregard, which includes a willful failure to comply with a court order.

(3) The civil actions and remedies established by Subsection (1) and the in rem action established in Subsection (2) do not preclude any other applicable civil action or remedy.

(4) The in rem jurisdiction established under Subsection (2) does not preclude any other jurisdiction, whether in rem or personal.

Section 98. Section 70-3a-402 is amended to read:

70-3a-402. Infringement.

(1) Subject to Section 70-3a-104 and Subsection (2), any person is liable in a civil action brought by the registrant for any and all of the remedies provided in Section 70-3a-404, if that person:

(a) uses a reproduction, counterfeit, copy, or colorable imitation of a mark registered under this chapter:

(i) without the consent of the registrant; and

(ii) in connection with the sale, distribution, offering for sale, or advertising of any goods or services on or in connection with which that use is likely to cause confusion, mistake, or to deceive as to the source of origin, nature, or quality of those goods or services; or

(b) reproduces, counterfeits, copies, or colorably imitates any mark and applies the reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or

advertisements intended to be used upon or in connection with the sale or other distribution in this state of goods or services.

(2) Under Subsection (1)(b), the registrant is not entitled to recover profits or damages unless the act described in Subsection (1)(b) has been committed with the intent:

(a) to cause confusion or mistake; or

(b) to deceive.

(3) In a civil action for a violation of Section 70-3a-309:

(a) the plaintiff may recover court costs and reasonable attorney fees; and

(b) the plaintiff may elect, at any time before final judgment is entered by the [~~district~~] court, to recover, instead of actual damages and profits, an award of statutory damages in the amount of not less than $1,000 and not more than $100,000 per domain name, as the court considers just.

(4) Statutory damages awarded under Subsection (3)(b) are presumed to be $100,000 per domain name if there is a pattern and practice of infringements committed willfully for commercial gain.

Section 99. Section 70-3a-405 is amended to read:

70-3a-405. Forum for actions regarding registration -- Service on out-of-state registrants.

(1) (a) [~~An action to require the cancellation of a mark registered under this chapter shall be brought in a district court of this state.~~] A person may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to require the cancellation of a mark registered under this chapter.

(b) The division may not be made a party to an action filed under Subsection (1)(a), except that the division may intervene in an action filed under Subsection (1)(a).

(2) In any action brought against a nonresident registrant, service may be effected upon the nonresident registrant in accordance with the procedures established for service upon nonresident corporations and business entities under Section 16-10a-1511.

Section 100. Section 70A-8-409.1 is amended to read:

70A-8-409.1. Replacement of lost, destroyed, or wrongfully taken share certificate of a land company or a water company.

(1) [~~For purposes of~~] As used in this section:

(a) "Affected share" means the share represented by a share certificate that is lost, destroyed, or wrongfully taken.

(b) "Company" means a land company or a water company.

(c) "Distribution area" means:

(i) for a water company, the geographic area where the water company distributes water; or

(ii) for a land company, the geographic area owned by the land company.

(d) "Original share certificate" means a share certificate that is alleged to be lost, destroyed, or wrongfully taken.

(e) "Person" means:

(i) an individual;

(ii) a corporation;

(iii) a business entity;

(iv) a political subdivision of the state, including a municipality;

(v) an agency of the state; or

(vi) an agency of the federal government.

(f) "Replacement share certificate" means a share certificate issued to replace a share certificate that is lost, destroyed, or wrongfully taken.

(g) "Share certificate" means a certificated share of stock in a company.

(2) (a) This section applies to the replacement of a lost, destroyed, or wrongfully taken share certificate.

(b) Unless the articles of incorporation or bylaws of a company address the replacement of a lost, destroyed, or wrongfully taken share certificate, this section governs the replacement of a lost, destroyed, or wrongfully taken share certificate.

(3) A company shall issue a replacement share certificate to a person claiming to be the owner of a share certificate that is lost, destroyed, or wrongfully taken, and cancel the original share certificate on the records of the company, if:

(a) the person represents to the company that the original share certificate is lost, destroyed, or wrongfully taken;

(b) (i) (A) the person is the registered owner of the affected share; and

(B) before the company receives notice that the share certificate has been acquired by a protected purchaser, the person requests that a replacement share certificate be issued; or

(ii) (A) the person is not the registered owner of the affected share; and

(B) the person establishes ownership of the affected share, including by presenting to the company written documentation that demonstrates to the reasonable satisfaction of the company that the person is the rightful owner of the affected share through purchase, gift, inheritance, foreclosure, bankruptcy, or reorganization;

(c) the assessments to which the affected share is subject are paid current;

(d) except as provided in Subsection (5), the person files with the company a sufficient

indemnity bond or other security acceptable to the company; and

(e) the person satisfies any other reasonable requirement imposed by the company, including the payment of a reasonable transfer fee.

(4) (a) If after a replacement share certificate is issued a protected purchaser of the original share certificate presents the original share certificate for registration of transfer, the company shall register the transfer unless an overissue would result.

(b) If an overissue would result when there is a registration of transfer of an original share certificate, a company may recover the replacement share certificate from the person to whom it is issued, or any person taking under that person, except a protected purchaser.

(c) If a company elects to follow the procedures of Subsection (5), to assert an ownership interest in the affected share, a protected purchaser shall file a written notice of objection within the 60-day period described in Subsection (5)(d). A protected purchaser's failure to file a written notice of objection within the 60-day period eliminates any claim of the protected purchaser.

(5) As an alternative to requiring an indemnity bond or other acceptable security under Subsection (3)(d), a company is considered to have followed a fair and reasonable procedure without the necessity of a written policy or bylaw otherwise required by Section 16-6a-609, if the company follows the following procedure:

(a) The company shall publish written notice at least once a week for three consecutive weeks:

(i) (A) in a newspaper of general circulation in the area that reasonably includes the distribution area of the company; and

(B) as required in Section 45-1-101;

(ii) with at least seven days between each publication date under Subsection (5)(a)(i)(A); and

(iii) beginning no later than 20 days after submission of the request to issue the replacement share certificate.

(b) The company shall post written notice in at least three conspicuous places within the distribution area of the company.

(c) No later than 20 days after the day on which the company receives a request to issue a replacement share certificate, the company shall mail written notice:

(i) to the last known address of the owner of the affected share shown on the records of the company;

(ii) if a company maintains a record of who pays annual assessments, to any person who, within the five-year period immediately preceding the day the written notice is mailed, pays an assessment levied against the affected share; and

(iii) to any person that has notified the company in writing of an interest in the affected share, including a financial institution.

(d) A notice required under Subsections (5)(a) through (c) shall:

(i) identify the person who is requesting that a replacement share certificate be issued;

(ii) state that an interested person may file a written notice of objection with the company; and

(iii) state that unless a written notice of objection to the issuance of a replacement share certificate is filed within 60 days after the last day of publication under Subsection (5)(a)(i)(A), including a written notice of objection from a protected purchaser:

(A) a replacement share certificate will be issued to the person requesting that the replacement share certificate be issued; and

(B) the original share certificate will be permanently canceled on the records of the company.

(e) A notice of objection under Subsection (5)(d) shall:

(i) state the basis for objecting to the claim of ownership of the affected share;

(ii) identify a person that the objecting person believes has a stronger claim of ownership to the affected share; and

(iii) be accompanied by written evidence that reasonably documents the basis of the objection to the claim of ownership.

(f) If the company receives a notice of objection within the 60-day period described in Subsection (5)(d), the company may review the disputed claim and:

(i) deny in writing the objection to the claim of ownership and issue a replacement share certificate to the person requesting the replacement share certificate;

(ii) accept in writing a claim of ownership asserted by a notice of objection and issue a replacement share certificate to the person the objecting person asserts owns the affected share;

(iii) file an interpleader action in accordance with Utah Rules of Civil Procedure, Rule 22, joining the persons claiming an interest in the affected share and depositing a replacement share certificate with the court; or

(iv) require the persons claiming an interest in the affected share to resolve the ownership dispute.

(g) Upon receipt, the company shall act in accordance with:

(i) a written agreement acceptable to the company among the persons who claim interest in the affected share; or

(ii) a court order declaring ownership in the affected share.

(h) The following are entitled to receive from a nonprevailing person the costs for resolution of a

dispute under this Subsection (5), including reasonable attorney fees when attorney fees are necessary:

(i) a prevailing person; and

(ii) the company, if the company acts in good faith.

(i) The person requesting that a replacement share certificate be issued shall reimburse the company for the costs reasonably incurred by the company under this Subsection (5) that are not paid under this Subsection (5)(i) including:

(i) legal and other professional fees; and

(ii) costs incurred by the company in response to a notice of objection.

(j) A company shall comply with this Subsection (5) before issuance of a replacement share certificate:

(i) upon request from the person requesting a replacement share certificate be issued; and

(ii) if the person requesting the replacement share certificate provides indemnification satisfactory to the company against liability and costs of proceeding under this Subsection (5).

(k) A determination made under this Subsection (5) is considered to be a final and conclusive determination of ownership of a disputed replacement share certificate.

(6) (a) A company shall:

(i) make a decision to approve or deny the issuance of a replacement share certificate in writing; and

(ii) deliver the written decision to:

(A) the person requesting a replacement share certificate be issued;

(B) a person who files a notice of objection under Subsection (5); and

(C) any other person the company determines is involved in the request for a replacement share certificate.

(b) A person may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against a company for judicial review of a decision by the company under Subsection (6)(a).

[~~(b) A decision of a company described in Subsection (6)(a) is subject to de novo judicial review in the district court in which the company has its principal place of business.~~]

(c) (i) A person may not seek judicial review under Subsection (6)(b) more than 30 days after the day on which the written decision is delivered under Subsection (6)(a).

(ii) If no action for judicial review is filed within the 30-day period, absent fraud, the issuance of a replacement share certificate or the decision to not issue a replacement share certificate is final and conclusive evidence of ownership of the affected share.

(d) (i) In a judicial action brought under this Subsection (6), the prevailing person as determined by court order, is entitled to payment by a nonprevailing person of:

(A) the costs of successfully defending its ownership claim; and

(B) reasonable attorney fees.

(ii) Notwithstanding Subsection (6)(d)(i), an award of costs or attorney fees may not be granted against a company if the company acts in good faith.

Section 101. Section 70A-9a-513.5 is amended to read:

70A-9a-513.5. Termination of wrongfully filed financing statement -- Reinstatement.

(1) As used in this section:

(a) "Established filer" means a person that:

(i) regularly causes records to be communicated to the filing office for filing and has provided the filing office with current contact information and information sufficient to establish its identity; or

(ii) satisfies either of the following conditions:

(A) the filing office has issued the person credentials for access to online filing services; or

(B) the person has established an account for payment of filing fees, regardless of whether the account is used in a particular transaction.

(b) "Filing office" means the same as that term is defined in Section 70A-9a-102, except that it does not include a county recorder office.

(2) A person identified as debtor in a filed financing statement may deliver to the filing office the debtor's notarized affidavit, signed under penalty of perjury, that identifies the financing statement by file number, indicates the affiant's mailing address, and states that the affiant believes that the filed record identifying the affiant as debtor was not authorized and was caused to be communicated to the filing office with the intent to harass or defraud the affiant. The filing office shall adopt a form of affidavit for use under this section. The filing office may reject an affidavit described in this Subsection (2) if:

(a) the affidavit is incomplete; or

(b) the filing office reasonably believes that the affidavit was communicated to the filing office with the intent to harass or defraud, or for any other unlawful purpose.

(3) Subject to Subsection (10), if an affidavit is delivered to the filing office under Subsection (2), the filing office shall promptly file a termination statement with respect to the financing statement identified in the affidavit. The termination statement must identify by its file number the initial financing statement to which it relates and must indicate that it was filed pursuant to this

section. A termination statement filed under this Subsection (3) is not effective until 14 days after it is filed.

(4) The filing office may not charge a fee for the filing of an affidavit under Subsection (2) or a termination statement under Subsection (3). The filing office may not return any fee paid for filing the financing statement identified in the affidavit, whether or not the financing statement is reinstated under Subsection (7).

(5) On the same day that a filing office files a termination statement under Subsection (3), it shall send to the secured party of record for the financing statement to which the termination statement relates a notice stating that the termination statement has been filed and will become effective 14 days after filing. The notice shall be sent by mail to the address provided for the secured party of record in the financing statement or by electronic mail to the electronic mail address provided by the secured party of record, if any.

(6) (a) A secured party that believes in good faith that the filed record identified in an affidavit delivered to the filing office under Subsection (2) was authorized and was not caused to be communicated to the filing office with the intent to harass or defraud the affiant may:

(i) before the termination statement takes effect under Subsection (3), request the filing office to review the filed record concerning whether the filed record was filed with the intent to harass or defraud; or

(ii) regardless of whether the affiant seeks a review under Subsection (6)(a)(i), file an action against the filing office seeking reinstatement of the financing statement to which the filed record relates.

(b) Within 10 days after being served with process in an action under this Subsection (6), the filing office shall file a notice indicating that the action has been commenced. The notice shall indicate the file number of the initial financing statement to which it relates.

(c) If the affiant is not named as a defendant in the action described in Subsection (6)(a)(ii), the secured party shall send a copy of the complaint to the affiant at the address indicated in the affidavit. [~~The exclusive venue for the action shall be in the Third District Court.~~] A party may petition the court to consider the matter on an expedited basis.

(d) An action under this Subsection (6) must be filed before the expiration of six months after the date on which the termination statement filed under Subsection (3) becomes effective.

(7) If, in an action under Subsection (6), the court determines that the financing statement should be reinstated, the filing office shall promptly file a record that identifies by its file number the initial financing statement to which the record relates and indicates that the financing statement has been reinstated.

(8) Upon the filing of a record reinstating a financing statement under Subsection (7), the effectiveness of the financing statement is reinstated and the financing statement shall be considered never to have been terminated under this section. A continuation statement filed as provided in Subsection 70A-9a-515(4) after the effective date of a termination statement filed under Subsection (3) or (10) becomes effective if the financing statement is reinstated.

(9) If, in an action under Subsection (6), the court determines that the filed record identified in an affidavit delivered to the filing office under Subsection (2) was unauthorized and was caused to be communicated to the filing office with the intent to harass or defraud the affiant, the filing office and the affiant may recover from the secured party that filed the action the costs and expenses, including reasonable attorney fees, that the filing office and the affiant incurred in the action. This recovery is in addition to any recovery to which the affiant is entitled under Section 70A-9a-625.

(10) If an affidavit delivered to a filing office under Subsection (2) relates to a filed record communicated to the filing office by an established filer, the filing office shall promptly send to the secured party of record a notice stating that the affidavit has been delivered to the filing office and that the filing office is conducting an administrative review to determine whether the record was unauthorized and was caused to be communicated with the intent to harass or defraud the affiant. The notice shall be sent by mail to the address provided for the secured party in the financing statement or sent by electronic mail to the electronic mail address provided by the secured party of record, if any, and a copy shall be sent in the same manner to the affiant. The administrative review shall be conducted on an expedited basis and the filing office may require the affiant and the secured party of record to provide any additional information that the filing office considers appropriate. If the filing office concludes that the record was not authorized and was caused to be communicated with the intent to harass or defraud the affiant, the filing office shall promptly file a termination statement under Subsection (3) that will be effective immediately and send to the secured party of record the notice required by Subsection (5). The secured party may thereafter file an action for reinstatement under Subsection (6), and Subsections (7) through (9) are applicable.

Section 102. Section 78A-6-350 is amended to read:

78A-6-350. Venue -- Dismissal without adjudication on merits.

(1) Notwithstanding [~~Title 78B, Chapter 3, Part 3, Place of Trial -- Venue~~] Title 78B, Chapter 3a, Venue for Civil Actions, a proceeding for a minor's case in the juvenile court shall be commenced in the court of the district in which:

(a) for a proceeding under Title 80, Chapter 6, Juvenile Justice:

(i) the minor is living or found; or

(ii) the alleged offense occurred; or

(b) for all other proceedings, the minor is living or found.

(2) If a party seeks to transfer a case to another district after a petition has been filed in the juvenile court, the juvenile court may transfer the case in accordance with the Utah Rules of Juvenile Procedure.

(3) The dismissal of a petition in one district where the dismissal is without prejudice and where there has been no adjudication upon the merits may not preclude refiling within the same district or another district where there is venue for the case.

Section 103. Section 78B-1-132 is amended to read:

78B-1-132. Employer not to discharge or threaten employee for responding to subpoena -- Criminal penalty -- Civil action by employee.

(1) An employer may not deprive an employee of employment or threaten or otherwise coerce the employee regarding employment because the employee attends a deposition or hearing in response to a subpoena.

(2) Any employer who violates this section is guilty of criminal contempt and upon conviction may be fined not more than $500 or imprisoned not more than six months or both.

(3) (a) If an employer violates this section, in addition to any other remedy, the employee may bring [~~a civil action in district court~~] an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee.

(b) Damages recoverable may not exceed lost wages for six weeks.

(c) If the employee prevails, the employee shall be allowed reasonable attorney fees.

Section 104. Section 78B-3a-101 is enacted to read:

CHAPTER 3a. VENUE FOR CIVIL ACTIONS

Part 1. General Provisions

78B-3a-101. Definitions.

As used in this chapter:

(1) (a) "Action" means a lawsuit or case that is commenced in a court.

(b) "Action" does not include a criminal action as defined in Section 77-1-3.

(2) "Business organization" means:

(a) an association;

(b) a corporation;

(c) an institution, as that term is defined in Section 7-1-103;

(d) a joint stock company;

(e) a joint venture;

(f) a limited liability company;

(g) a mutual fund trust;

(h) a partnership; or

(i) any other similar form of organization described in Subsections (2)(a) through (h).

(3) "Cause of action" means the act or omission giving rise to the action.

(4) "Principal place of business" means the place where the business organization's officers direct, control, and coordinate the business organization's activities regardless of whether the place is located in this state.

(5) "Registered office" means the place within this state that the business organization designated as the business organization's registered office in the most recent document on file with the Division of Corporations and Commercial Code.

Section 105. Section 78B-3a-102 is enacted to read:

78B-3a-102. Applicability of this chapter -- Venue for the Business and Chancery Court.

(1) Except as otherwise provided by another provision of the Utah Code, a plaintiff shall bring an action in accordance with the requirements of this chapter.

(2) The requirements of this chapter do not apply to an action brought in the Business and Chancery Court.

Section 106. Section 78B-3a-103 is enacted to read:

78B-3a-103. Transfer of venue.

(1) A court may transfer venue in accordance with Rule 42 of the Utah Rules of Civil Procedure.

(2) A court to which an action is transferred has the same jurisdiction as if the action had been originally brought in that court.

Section 107. Section 78B-3a-104 is enacted to read:

78B-3a-104. Residence of a business organization.

For purposes of this chapter, the residence of a business organization is:

(1) the county where the business organization's principal place of business is located;

(2) the county where the business organization's registered office is located if the business organization does not have a principal place of business in the state; or

(3) Salt Lake County if the business organization does not have a principal place of business or a registered office in the state.

Section 108. Section 78B-3a-201, which is renumbered from Section 78B-3-307 is renumbered and amended to read:

Part 2. Venue Requirements

[~~78B-3-307~~]. 78B-3a-201. All actions -- Exceptions.

(1) [~~In all other cases an action shall be tried~~] Except as otherwise provided by this chapter or another provision of the Utah Code, a plaintiff shall bring an action in the county in which:

(a) the cause of action arises; or

(b) any defendant resides at the commencement of the action.

[~~(2) If the defendant is a corporation, any county in which the corporation has its principal office or a place of business shall be considered the county in which the corporation resides.~~]

[~~(3)~~] (2) If none of the defendants [~~resides~~] reside in this state, [~~the action may be commenced and tried~~] the plaintiff may bring the action in any county designated by the plaintiff in the complaint.

[~~(4)~~] (3) If the defendant is about to depart from the state, [~~the action may be tried~~] the plaintiff may bring the action in any county where any of the parties resides or service is had.

Section 109. Section 78B-3a-202, which is renumbered from Section 78B-3-301 is renumbered and amended to read:

[~~78B-3-301~~]. 78B-3a-202. Actions involving real property.

(1) [~~Actions for the following causes involving real property shall be tried in the county in which the subject of the action, or some part,~~] A plaintiff shall bring the following actions involving real property in the county in which the real property, or some part of the real property, is situated:

(a) for the recovery of real property[~~,~~] or of an estate or interest in the property;

(b) for the determination, in any form, of the right or interest in the real property;

(c) for injuries to real property;

(d) for the partition of real property; and

(e) for the foreclosure of all liens and mortgages on real property.

(2) If the real property is situated [~~partly in one county and partly in another, the plaintiff may select either of the counties, and the county selected is the proper county for the trial of the action~~] in more than one county, the plaintiff may bring the action in any county in which the real property is situated.

Section 110. Section 78B-3a-203, which is renumbered from Section 78B-3-302 is renumbered and amended to read:

[~~78B-3-302~~]. 78B-3a-203. Actions to recover fines or penalties -- Actions against public officers.

(1) [~~Actions to recover fines or penalties shall be tried~~] A plaintiff shall bring an action to recover a fine or penalty in the county where [~~the cause, or some part of the cause, arose.~~]:

(a) the cause of action arises; or

(b) some part of the cause of action arises.

(2) If a fine, penalty, or forfeiture imposed by statute is imposed for an offense committed on a lake, river, or other stream of water situated in two or more counties, [~~the action may be brought~~] the plaintiff may bring the action in any county bordering on the lake, river, or stream opposite to the place where the offense was committed.

(3) Except as otherwise provided by law, a plaintiff shall bring an action against a public officer, or the public officer's designee, [~~shall be tried~~] in the county where the [~~cause arose~~] cause of action arises.

Section 111. Section 78B-3a-204, which is renumbered from Section 78B-3-303 is renumbered and amended to read:

[~~78B-3-303~~]. 78B-3a-204. Actions against a county.

(1) [~~An action against a county may be commenced and tried~~] Except as otherwise provided in Subsection (2), a plaintiff shall bring an action against a county in the county.

(2) If the action is brought by another county, [~~the action may be commenced and tried in~~] the county may bring the action in any county not a party to the action.

Section 112. Section 78B-3a-205, which is renumbered from Section 78B-3-304 is renumbered and amended to read:

[~~78B-3-304~~]. 78B-3a-205. Actions on written contracts.

[~~An action~~] A plaintiff shall bring an action on a contract signed in this state to perform an obligation [~~may be commenced and tried in the following venues~~] in:

(1) [~~If~~] if the action is to enforce an interest in real property securing a consumer's obligation, [~~the action may be brought only in~~] the county where the real property is located or where the defendant resides[~~.~~]; or

(2) [~~An action~~] if the action is to enforce an interest other than under Subsection (1) [~~may be brought in~~], the county where the obligation is to be performed, the contract was signed, or in which the defendant resides.

Section 113. Section 78B-3a-206 is enacted to read:

78B-3a-206. Transitory actions.

(1) Except for a transitory action under Subsection (2), a plaintiff shall bring a transitory action arising outside the state in the county where the defendant resides if the action is brought in this state.

(2) A plaintiff shall bring a transitory action arising outside the state in favor of residents of this state in the county where:

(a) the plaintiff resides; or

(b) the principal defendant resides.

Section 114. Section 78B-5-201 is amended to read:

78B-5-201. Definitions -- Judgment recorded in Registry of Judgments.

(1) [~~For purposes of this part~~] As used in this part, "Registry of Judgments" means the index where a judgment is filed and searchable by the name of the judgment debtor through electronic means or by tangible document.

(2) On or after July 1, 1997, a judgment entered [~~in a district court~~] by a court of this state does not create a lien upon or affect the title to real property unless the judgment is filed in the Registry of Judgments of the office of the clerk of the district court of the county in which the property is located.

(3) (a) On or after July 1, 2002, except as provided in Subsection (3)(b), a judgment entered [~~in a district court~~] by a court of this state does not create a lien upon or affect the title to real property unless the judgment or an abstract of judgment is recorded in the office of the county recorder in which the real property of the judgment debtor is located.

(b) State agencies are exempt from the recording requirement of Subsection (3)(a).

(4) In addition to the requirements of Subsections (2) and (3)(a), any judgment that is filed in the Registry of Judgments on or after September 1, 1998, or any judgment or abstract of judgment that is recorded in the office of a county recorder after July 1, 2002, shall include:

(a) the information identifying the judgment debtor as required under Subsection (4)(b) on the judgment or abstract of judgment; or

(b) a copy of the separate information statement of the judgment creditor that contains:

(i) the correct name and last-known address of each judgment debtor and the address at which each judgment debtor received service of process;

(ii) the name and address of the judgment creditor;

(iii) the amount of the judgment as filed in the Registry of Judgments;

(iv) if known, the judgment debtor's Social Security number, date of birth, and driver's license number if a natural person; and

(v) whether or not a stay of enforcement has been ordered by the court and the date the stay expires.

(5) For the information required in Subsection (4), the judgment creditor shall:

(a) provide the information on the separate information statement if known or available to the judgment creditor from its records, its attorney's records, or the court records in the action in which the judgment was entered; or

(b) state on the separate information statement that the information is unknown or unavailable.

(6) (a) Any judgment that requires payment of money and is entered [~~in a district court~~] by a court of this state on or after September 1, 1998, or any judgment or abstract of judgment recorded in the office of a county recorder after July 1, 2002, that does not include the debtor identifying information as required in Subsection (4) is not a lien until a separate information statement of the judgment creditor is recorded in the office of a county recorder in compliance with Subsections (4) and (5).

(b) The separate information statement of the judgment creditor referred to in Subsection (6)(a) shall include:

(i) the name of any judgment creditor, debtor, assignor, or assignee;

(ii) the date on which the judgment was recorded in the office of the county recorder as described in Subsection (4); and

(iii) the county recorder's entry number and book and page of the recorded judgment.

(7) A judgment that requires payment of money recorded on or after September 1, 1998, but prior to July 1, 2002, has as its priority the date of entry, except as to parties with actual or constructive knowledge of the judgment.

(8) A judgment or notice of judgment wrongfully filed against real property is subject to Title 38, Chapter 9, Wrongful Lien Act.

(9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.

(b) The document described in Subsection (9)(a) shall include:

(i) the date of the release, assignment, renewal, or extension;

(ii) the name of any judgment creditor, debtor, assignor, or assignee; and

(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):

(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and

(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

Section 115. Section 78B-5-202 is amended to read:

78B-5-202. Duration of judgment -- Judgment as a lien upon real property -- Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child support orders.

(1) Judgments shall continue for eight years from the date of entry in a court unless previously satisfied or unless enforcement of the judgment is stayed in accordance with law.

(2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of judgment by a district court creates a lien upon the real property of the judgment debtor, not exempt from execution, owned or acquired during the existence of the judgment, located in the county in which the judgment is entered.

(3) An abstract of judgment issued by the court in which the judgment is entered may be filed in any court of this state and shall have the same force and effect as a judgment entered in that court.

(4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in [~~the small claims division of any court~~] a small claims action may not qualify as a lien upon real property unless abstracted to [~~the civil division of~~] the district court and recorded in accordance with Subsection (3).

(5) (a) If any judgment is appealed, upon deposit with the court where the notice of appeal is filed of cash or other security in a form and amount considered sufficient by the court that rendered the judgment to secure the full amount of the judgment, together with ongoing interest and any other anticipated damages or costs, including attorney fees and costs on appeal, the lien created by the judgment shall be terminated as provided in Subsection (5)(b).

(b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court shall enter an order terminating the lien created by the judgment and granting the judgment creditor a perfected lien in the deposited security as of the date of the original judgment.

(6) (a) A child support order or a sum certain judgment for past due support may be enforced:

(i) within four years after the date the youngest child reaches majority; or

(ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.

(b) The longer period of duration shall apply in every order.

(c) A sum certain judgment may be renewed to extend the duration.

(7) (a) After July 1, 2002, a judgment entered by [~~a district court or a justice court in the state~~] a district court, a justice court, or the Business and Chancery Court, becomes a lien upon real property if:

(i) the judgment or an abstract of the judgment containing the information identifying the judgment debtor as described in Subsection 78B-5-201(4)(b) is recorded in the office of the county recorder; or

(ii) the judgment or an abstract of the judgment and a separate information statement of the judgment creditor as described in Subsection 78B-5-201(5) is recorded in the office of the county recorder.

(b) The judgment shall run from the date of entry by the [~~district court or justice~~] court.

(c) The real property subject to the lien includes all the real property of the judgment debtor:

(i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

(ii) owned or acquired at any time by the judgment debtor during the time the judgment is effective.

(d) State agencies are exempt from the recording requirement of Subsection (7)(a).

(8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the judgment debtor in the judgment index in the office of the county recorder as required in Section 17-21-6.

(b) A judgment containing a legal description shall also be abstracted in the appropriate tract index in the office of the county recorder.

(9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.

(b) The document described in Subsection (9)(a) shall include:

(i) the date of the release, assignment, renewal, or extension;

(ii) the name of any judgment creditor, debtor, assignor, or assignee; and

(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):

(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and

(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

Section 116. Section 78B-5-206 is amended to read:

78B-5-206. Mileage allowance for judgment debtor required to appear.

(1) A judgment debtor legally required to appear before a district court [~~or a master~~] or the Business and Chancery Court to answer concerning the debtor's property is entitled, on a sufficient showing

of need, to mileage of 15 cents per mile for each mile actually and necessarily traveled in going only, to be paid by the judgment creditor at whose instance the judgment debtor was required to appear.

(2) The judgment creditor is not required to make any payment for such mileage until the judgment debtor has actually appeared before the court [~~or master~~].

Section 117. Section 78B-6-110 is amended to read:

78B-6-110. Notice of adoption proceedings.

(1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman:

(i) is considered to be on notice that a pregnancy and an adoption proceeding regarding the child may occur; and

(ii) has a duty to protect his own rights and interests.

(b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to his child only as provided in this section or Section 78B-6-110.5.

(2) Notice of an adoption proceeding shall be served on each of the following persons:

(a) any person or agency whose consent or relinquishment is required under Section 78B-6-120 or 78B-6-121, unless that right has been terminated by:

(i) waiver;

(ii) relinquishment;

(iii) actual or implied consent; or

(iv) judicial action;

(b) any person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics within the Department of Health and Human Services, in accordance with Subsection (3);

(c) any legally appointed custodian or guardian of the adoptee;

(d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the petition;

(e) the adoptee's spouse, if any;

(f) any person who, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, is recorded on the birth certificate as the child's father, with the knowledge and consent of the mother;

(g) a person who is:

(i) openly living in the same household with the child at the time the consent is executed or relinquishment made; and

(ii) holding himself out to be the child's father; and

(h) any person who is married to the child's mother at the time she executes her consent to the adoption or relinquishes the child for adoption, unless the court finds that the mother's spouse is not the child's father under Section 78B-15-607.

(3) (a) In order to preserve any right to notice, an unmarried biological father shall, consistent with Subsection (3)(d):

(i) initiate proceedings in a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(ii) file a notice of commencement of the proceedings described in Subsection (3)(a)(i) with the office of vital statistics within the Department of Health and Human Services.

(b) If the unmarried, biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in trial pursuant to Section [~~78B-3-307~~] 78B-3a-201.

(c) The Department of Health and Human Services shall provide forms for the purpose of filing the notice described in Subsection (3)(a)(ii), and make those forms available in the office of the county health department in each county.

(d) When the state registrar of vital statistics receives a completed form, the registrar shall:

(i) record the date and time the form was received; and

(ii) immediately enter the information provided by the unmarried biological father in the confidential registry established by Subsection 78B-6-121(3)(c).

(e) The action and notice described in Subsection (3)(a):

(i) may be filed before or after the child's birth; and

(ii) shall be filed prior to the mother's:

(A) execution of consent to adoption of the child; or

(B) relinquishment of the child for adoption.

(4) Notice provided in accordance with this section need not disclose the name of the mother of the child who is the subject of an adoption proceeding.

(5) The notice required by this section:

(a) may be served at any time after the petition for adoption is filed, but may not be served on a birth mother before she has given birth to the child who is the subject of the petition for adoption;

(b) shall be served at least 30 days prior to the final dispositional hearing;

(c) shall specifically state that the person served shall fulfill the requirements of Subsection (6)(a) within 30 days after the day on which the person receives service if the person intends to intervene in or contest the adoption;

(d) shall state the consequences, described in Subsection (6)(b), for failure of a person to file a motion for relief within 30 days after the day on which the person is served with notice of an adoption proceeding;

(e) is not required to include, nor be accompanied by, a summons or a copy of the petition for adoption;

(f) shall state where the person may obtain a copy of the petition for adoption; and

(g) shall indicate the right to the appointment of counsel for a party whom the court determines is indigent and at risk of losing the party's parental rights.

(6) (a) A person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:

(i) within 30 days after the day on which the person was served with notice of the adoption proceeding;

(ii) setting forth specific relief sought; and

(iii) accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.

(b) A person who fails to fully and strictly comply with all of the requirements described in Subsection (6)(a) within 30 days after the day on which the person was served with notice of the adoption proceeding:

(i) waives any right to further notice in connection with the adoption;

(ii) forfeits all rights in relation to the adoptee; and

(iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.

(7) Service of notice under this section shall be made as follows:

(a) (i) Subject to Subsection (5)(e), service on a person whose consent is necessary under Section 78B-6-120 or 78B-6-121 shall be in accordance with the provisions of the Utah Rules of Civil Procedure.

(ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court shall designate the content of the notice regarding the identity of the parties.

(iii) The notice described in this Subsection (7)(a) may not include the name of a person seeking to adopt the adoptee.

(b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient.

(ii) If the service described in Subsection (7)(b)(i) cannot be completed after two attempts, the court may issue an order providing for service by publication, posting, or by any other manner of service.

(c) Notice to a person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics in the Department of Health and Human Services in accordance with the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the last address filed with the registrar.

(8) The notice required by this section may be waived in writing by the person entitled to receive notice.

(9) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption.

(10) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or persons seeking to adopt the adoptee.

(11) Except as to those persons whose consent to an adoption is required under Section 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the person served to:

(a) intervene in the adoption; and

(b) present evidence to the court relevant to the best interest of the child.

Section 118. Section 78B-6-313 is amended to read:

78B-6-313. Contempt of process of nonjudicial officer -- Procedure.

(1) If a person, officer, referee, arbitrator, board, or committee with the authority to compel the attendance of witnesses or the production of documents issues a subpoena and the person to whom the subpoena is issued refuses to appear or produce the documents ordered, the person shall be considered in contempt.

(2) (a) The person, officer, referee, arbitrator, board, or committee may report the person to whom the subpoena is issued to the [~~judge of the district~~] court.

(b) The court may then issue a warrant of attachment or order to show cause to compel the person's appearance.

(3) When a person charged has been brought up or has appeared, the person's contempt may be purged in the same manner as other contempts mentioned in this part.

Section 119. Section 78B-6-1303 is amended to read:

78B-6-1303. Lis pendens -- Notice.

(1) (a) Any party to an action filed in the United States District Court for the District of Utah, the United States Bankruptcy Court for the District of Utah, [~~or a Utah district court~~] a district court of this state, or the Business and Chancery Court of

this state, that affects the title to, or the right of possession of, real property may file a notice of pendency of action.

(b) A party that chooses to file a notice of pendency of action shall:

(i) first, file the notice with the court that has jurisdiction of the action; and

(ii) second, record a copy of the notice filed with the court with the county recorder in the county where the property or any portion of the property is located.

(c) A person may not file a notice of pendency of action unless a case has been filed and is pending in [~~a United States or Utah district court~~] the United States District Court for the District of Utah, the United States Bankruptcy Court for the District of Utah, a district court of this state, or the Business and Chancery Court of this state.

(2) The notice shall contain:

(a) the caption of the case, with the names of the parties and the case number;

(b) the object of the action or defense; and

(c) the specific legal description of only the property affected.

(3) From the time of filing the notice, a purchaser, an encumbrancer of the property, or any other party in interest that may be affected by the action is considered to have constructive notice of pendency of action.

Section 120. Section 78B-6-1904 is amended to read:

78B-6-1904. Action -- Enforcement -- Remedies -- Damages.

(1) (a) A target who has received a demand letter asserting patent infringement in bad faith, or a person aggrieved by a violation of this part, may bring an action [~~in district court~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) The court may award the following remedies to a target who prevails in an action brought pursuant to this part:

[~~(a)~~] (i) equitable relief;

[~~(b)~~] (ii) actual damages;

[~~(c)~~] (iii) costs and fees, including reasonable attorney fees; and

[~~(d)~~] (iv) punitive damages in an amount to be established by the court, of not more than the greater of $50,000 or three times the total of damages, costs, and fees.

(2) (a) The attorney general may conduct civil investigations and bring civil actions pursuant to this part.

(b) In an action brought by the attorney general under this part, the court may award or impose any relief [~~it~~] the court considers prudent, including the following:

[~~(a)~~] (i) equitable relief;

[~~(b)~~] (ii) statutory damages of not less than $750 per demand letter distributed in bad faith; and

[~~(c)~~] (iii) costs and fees, including reasonable attorney fees, to the attorney general.

(3) This part may not be construed to limit other rights and remedies available to the state or to any person under any other law.

(4) A demand letter or assertion of a patent infringement that includes a claim for relief arising under 35 U.S.C. Sec. 271(e)(2) is not subject to the provisions of this part.

(5) The attorney general shall annually provide an electronic report to the Executive Appropriations Committee regarding the number of investigations and actions brought under this part. The report shall include:

(a) the number of investigations commenced;

(b) the number of actions brought under the provisions of this part;

(c) the current status of actions brought under Subsection (5)(b); and

(d) final resolution of actions brought under this part, including any recovery under Subsection (2).

Section 121. Section 78B-6-1905 is amended to read:

78B-6-1905. Bond.

(1) Upon motion by a target and a finding by the court that a target has established a reasonable likelihood that a sponsor has made a bad faith assertion of patent infringement in a demand letter in violation of this part, the court shall require the sponsor to post a bond in an amount equal to a good faith estimate of the target's costs to litigate the claim under this part and amounts reasonably likely to be recovered under Subsections [~~78B-6-1904(1)(b) and (c)~~] 78B-6-1904(1)(b)(ii) and (iii), conditioned upon payment of any amounts finally determined to be due to the target.

(2) A hearing on the appropriateness and amount of a bond under this section shall be held if either party requests it.

(3) A bond ordered pursuant to this section may not exceed $250,000. The court may waive the bond requirement if it finds the sponsor has available assets equal to the amount of the proposed bond or for other good cause shown.

Section 122. Section 78B-21-102 is amended to read:

78B-21-102. Definitions.

As used in this chapter:

(1) "Affiliate" means:

(a) with respect to an individual:

(i) a companion of the individual;

(ii) a lineal ancestor or descendant, whether by blood or adoption, of:

(A) the individual; or

(B) a companion of the individual;

(iii) a companion of an ancestor or descendant described in Subsection (1)(a)(ii);

(iv) a sibling, aunt, uncle, great aunt, great uncle, first cousin, niece, nephew, grandniece, or grandnephew of the individual, whether related by the whole or the half blood or adoption, or a companion of a sibling, aunt, uncle, great aunt, great uncle, first cousin, niece, nephew, grandniece, or grandnephew of the individual; or

(v) any other individual occupying the residence of the individual; and

(b) with respect to a person other than an individual:

(i) another person that directly or indirectly controls, is controlled by, or is under common control with the person;

(ii) an officer, director, manager, member, partner, employee, or trustee or other fiduciary of the person; or

(iii) a companion of, or an individual occupying the residence of, an individual described in Subsection (1)(b)(i) or (ii).

(2) "Companion" means:

(a) the spouse of an individual;

(b) the domestic partner of an individual; or

(c) another individual in a civil union with an individual.

(3) "Court" means a [~~district court in the state~~] court of this state with jurisdiction over the action under Title 78A, Judiciary and Judicial Administration.

(4) "Executory contract" means a contract, including a lease, under which each party has an unperformed obligation and the failure of a party to complete performance would constitute a material breach.

(5) "Governmental unit" means an office, department, division, bureau, board, commission, or other agency of this state or a subdivision of this state.

(6) "Lien" means an interest in property that secures payment or performance of an obligation.

(7) "Mortgage" means a record, however denominated, that creates or provides for a consensual lien on real property or rents, even if the mortgage also creates or provides for a lien on personal property.

(8) "Mortgagee" means a person entitled to enforce an obligation secured by a mortgage.

(9) "Mortgagor" means a person that grants a mortgage or a successor in ownership of the real property described in the mortgage.

(10) "Owner" means the person for whose property a receiver is appointed.

(11) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(12) "Proceeds" means the following property:

(a) whatever is acquired on the sale, lease, license, exchange, or other disposition of receivership property;

(b) whatever is collected on, or distributed on account of, receivership property;

(c) rights arising out of receivership property;

(d) to the extent of the value of receivership property, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to the property; or

(e) to the extent of the value of receivership property and to the extent payable to the owner or mortgagee, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to the property.

(13) "Property" means all of a person's right, title, and interest, both legal and equitable, in real and personal property, tangible and intangible, wherever located and however acquired. The term includes proceeds, products, offspring, rents, or profits of or from the property.

(14) "Receiver" means a person appointed by the court as the court's agent, and subject to the court's direction, to take possession of, manage, and, if authorized by this chapter or court order, transfer, sell, lease, license, exchange, collect, or otherwise dispose of receivership property.

(15) "Receivership" means a proceeding in which a receiver is appointed.

(16) "Receivership property" means the property of an owner that is described in the order appointing a receiver or a subsequent order. The term includes any proceeds, products, offspring, rents, or profits of or from the property.

(17) "Record" means, when used as a noun, information that is inscribed on a tangible medium or that is stored on an electronic or other medium and is retrievable in perceivable form.

(18) "Rents" means:

(a) sums payable for the right to possess or occupy, or for the actual possession or occupation of, real property of another person;

(b) sums payable to a mortgagor under a policy of rental-interruption insurance covering real property;

(c) claims arising out of a default in the payment of sums payable for the right to possess or occupy real property of another person;

(d) sums payable to terminate an agreement to possess or occupy real property of another person;

(e) sums payable to a mortgagor for payment or reimbursement of expenses incurred in owning, operating, and maintaining real property or constructing or installing improvements on real property; or

(f) other sums payable under an agreement relating to the real property of another person which constitute rents under law of the state other than this chapter.

(19) "Secured obligation" means an obligation the payment or performance of which is secured by a security agreement.

(20) "Security agreement" means an agreement that creates or provides for a lien.

(21) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic sound, symbol, or process.

Section 123. Repealer.

This bill repeals:

Section 3-1-20.2, Procedure for judicial dissolution.

Section 16-6a-1415, Procedure for judicial dissolution.

Section 16-10a-1431, Procedure for judicial dissolution.

Section 34-34-14, Jurisdiction.

Section 78B-3-305, Transitory actions -- Residence of corporations.

Section 78B-3-306, Arising without this state in favor of resident.

Section 78B-3-308, Change of venue -- Conditions precedent.

Section 78B-3-309, Grounds.

Section 78B-3-310, Court to which transfer is to be made.

Section 78B-3-311, Duty of clerk -- Fees and costs -- Effect on jurisdiction.

Section 124. Effective date.

This bill takes effect on July 1, 2024.

Section 125. Coordinating H.B. 251 with S.B. 129 -- Superseding technical and substantive amendments.

If this H.B. 251 and S.B. 129, Judiciary Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 31A-5-414 in H.B. 251 supersede the amendments to Section 31A-5-414 in S.B. 129;

(2) the amendments to Section 31A-5-415 in H.B. 251 supersede the amendments to Section 31A-5-415 in S.B. 129; and

(3) the amendments to Section 31A-16-111 in H.B. 251 supersede the amendments to Section 31A-16-111 in S.B. 129.

Section 126. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 216, Business and Chancery Court Amendments, does not pass.

CHAPTER 402
H. B. 255
Passed February 10, 2023
Approved March 20, 2023
Effective May 3, 2023

VEHICLE ACCIDENT REPORTS AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill requires the Department of Public Safety to provide an unredacted accident report to certain persons that contains the name, address, and phone number of each person involved in the accident.

Highlighted Provisions:

This bill:

- requires the Department of Public Safety or the investigating peace officer's law enforcement agency to provide an unredacted accident report to certain persons;
- provides that the unredacted accident report shall contain, among other items, the name, phone number, and address of each driver and person involved in the accident;
- allows a witness of the accident to request that the witness's address and phone number be excluded from the accident report;
- allows a party in a lawsuit arising from an accident to discover the witness's address and phone number; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-402, as last amended by Laws of Utah 2020, Chapter 74
41-6a-404, as last amended by Laws of Utah 2021, Chapters 211, 216

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-402 is amended to read:

41-6a-402. Accident reports -- Duty of operator and investigative officer to file.

(1) The department may require any operator of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to the apparent extent of $2,500 or more to file within 10 days after the request:

(a) a report of the accident to the department in a manner specified by the department; and

(b) a supplemental report when the original report is insufficient in the opinion of the department.

(2) The department may require witnesses of accidents to file reports to the department.

(3) (a) An accident report is not required under this section from any person who is physically incapable of making a report, during the period of incapacity.

(b) If the operator is physically incapable of making an accident report under this section and the operator is not the owner of the vehicle, the owner of the vehicle involved in the accident shall within 15 days after becoming aware of the accident make the report required of the operator under this section.

(4) (a) The department shall, upon request, supply to law enforcement agencies, justice court judges, sheriffs, garages, and other appropriate agencies or individuals forms for accident reports required under this part.

(b) A request for an accident report form under Subsection (4)(a) shall be made in a manner specified by the division.

(c) The accident reports shall contain:

(i) [~~provide~~] sufficient detail to disclose the cause[~~,~~] of the accident;

(ii) a description of conditions then existing [~~, and~~];

(iii) subject to Subsection (4)(d), the name, address, and phone number of each person involved in the accident, including a witness of the accident;

(iv) the [~~persons and~~] vehicles involved in the accident; and

[~~(ii)~~] (v) [~~contain~~] all of the information required that is available.

(d) (i) If a witness requests that the witness's address and phone number be excluded from the accident report, the investigating officer shall:

(A) exclude the witness's address and phone number from the accident report; and

(B) create a separate record with the witness's address and phone number.

(ii) The record described in Subsection (4)(d)(i) is discoverable in a lawsuit by a party that was involved in the accident, if the lawsuit arises from the accident.

(5) (a) A person shall file an accident report if required under this section.

(b) The department shall suspend the license or permit to operate a motor vehicle and any nonresident operating privileges of any person failing to file an accident report in accordance with this section.

(c) The suspension under Subsection (5)(b) shall be in effect until the report has been filed except that the department may extend the suspension not to exceed 30 days.

(6) (a) A peace officer who, in the regular course of duty, investigates a motor vehicle accident

described under Subsection (1) shall file an electronic copy of the report of the accident with the department within 10 days after completing the investigation.

(b) The accident report shall be made either at the time of and at the scene of the accident or later by interviewing participants or witnesses.

(7) The accident reports required to be filed with the department under this section and the information in them are protected and confidential and may be disclosed only as provided in Section 41-6a-404.

(8) (a) In addition to the reports required under this part, a local highway authority may, by ordinance, require that for each accident that occurs within its jurisdiction, the operator of a vehicle involved in an accident, or the owner of the vehicle involved in an accident, shall file with the local law enforcement agency a report of the accident or a copy of any report required to be filed with the department under this part.

(b) All reports are for the confidential use of the municipal department and are subject to the provisions of Section 41-6a-404.

(9) A violation of this section is an infraction.

Section 2. Section 41-6a-404 is amended to read:

41-6a-404. Accident reports -- When confidential -- Insurance policy information -- Use as evidence -- Penalty for false information.

(1) As used in this section:

(a) "Accompanying data" means all materials gathered by the investigating peace officer in an accident investigation including:

(i) the identity of witnesses and, if known, contact information;

(ii) witness statements;

(iii) photographs and videotapes;

(iv) diagrams; and

(v) field notes.

(b) "Agent" means:

(i) a person's attorney;

(ii) a person's insurer;

(iii) a general acute hospital, as defined in Section 26-21-2, that:

(A) has an emergency room; and

(B) is providing or has provided emergency services to the person in relation to the accident; or

(iv) any other individual or entity with signed permission from the person to receive the person's accident report.

(2) (a) Except as provided in Subsections (3) and (7), all accident reports required in this part to be filed with the department:

(i) are without prejudice to the reporting individual;

(ii) are protected and for the confidential use of the department or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(iii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) An investigating peace officer shall include in an accident report an indication as to whether the accident occurred on a highway designated as a livestock highway in accordance with Section 72-3-112 if the accident resulted in the injury or death of livestock.

(3) (a) Subject to the provisions of this section, the department or the responsible law enforcement agency employing the peace officer that investigated the accident shall disclose an unredacted accident report, containing the information described in Subsection 41-6a-402(4)(c), to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i) and (ii);

(iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator who:

(A) represents an individual described in Subsections (3)(a)(i) through (iii); and

(B) demonstrates that the representation of the individual described in Subsections (3)(a)(i) through (iii) is directly related to the accident that is the subject of the accident report.

(b) The responsible law enforcement agency employing the peace officer that investigated the accident:

(i) shall in compliance with Subsection (3)(a):

(A) disclose an accident report; or

(B) upon written request disclose an accident report and its accompanying data within 10 business days from receipt of a written request for disclosure; [~~or~~]

(ii) may withhold an accident report, and any of its accompanying data if disclosure would

jeopardize an ongoing criminal investigation or criminal prosecution[.]; or

(iii) may redact an individual's phone number or address from the accident report, if the disclosure of the information may endanger the life or physical safety of the individual, including when the individual is under witness protection.

(c) In accordance with Subsection (3)(a), the department or the responsible law enforcement agency employing the investigating peace officer shall disclose whether any person or vehicle involved in an accident reported under this section was covered by a vehicle insurance policy, and the name of the insurer.

(d) Information provided to a member of the press or broadcast news media under Subsection (3)(a)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (3)(d)(i).

(e) The department shall disclose to any requesting person the following vehicle accident history information, excluding personal identifying information, in bulk electronic form:

(i) any vehicle identifying information that is electronically available, including the make, model year, and vehicle identification number of each vehicle involved in an accident;

(ii) the date of the accident; and

(iii) any electronically available data which describes the accident, including a description of any physical damage to the vehicle.

(f) The department may establish a fee under Section 63J-1-504 based on the fair market value of the information for providing bulk vehicle accident history information under Subsection (3)(e).

(4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section may not be used as evidence in any civil or criminal trial arising out of an accident.

(b) (i) Upon demand of any party to the trial or upon demand of any court, the department shall furnish a certificate showing that a specified accident report has or has not been made to the department in compliance with law.

(ii) If the report has been made, the certificate furnished by the department shall show:

(A) the date, time, and location of the accident;

(B) [~~the names and addresses of the drivers;~~] subject to Subsections (4)(b)(iv) and (v), the name, phone number, and address of each person involved in the accident, including a witness of the accident;

(C) the owners of the vehicles involved; and

(D) the investigating peace officers.

(iii) The reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (5).

(iv) If a witness requests that the witness's address and phone number be excluded from the accident report, the investigating officer shall:

(A) exclude the witness's address and phone number from the accident report; and

(B) create a separate record of the witness's address and phone number.

(v) The record described in Subsection (4)(b)(iv) is discoverable in a lawsuit by a party that was involved in the accident if the lawsuit arises from the accident.

(5) A person who gives information in reports as required in this part knowing or having reason to believe that the information is false is guilty of a class A misdemeanor.

(6) The department and the responsible law enforcement agency employing the investigating peace officer may charge a reasonable fee determined by the department under Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report and any of its accompanying data under Subsections (3)(a) and (b).

(7) (a) The Office of State Debt Collection, the Division of Risk Management, and the Department of Transportation may, in the performance of the regular duties of each respective division or department, disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) an owner of a vehicle involved in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsection (7)(a)(i) or (ii); or

(iv) an insurer that provides motor vehicle insurance to a person described in Subsection (7)(a)(i) or (iii).

(b) A disclosure under Subsection (7)(a) does not change the classification of the record as a protected record under Section 63G-2-305.

CHAPTER 403
H. B. 258
Passed February 16, 2023
Approved March 20, 2023
Effective May 3, 2023

MOTOR VEHICLE LIGHT AMENDMENTS

Chief Sponsor: Judy Weeks Rohner
Senate Sponsor: Ann Millner
Cosponsors: Tyler Clancy
Joseph Elison
Tim Jimenez
Dan N. Johnson
Michael L. Kohler
Thomas W. Peterson
Stephen L. Whyte

LONG TITLE

General Description:

This bill requires a vehicle operator to have the vehicle's lights or lamps illuminated while the vehicle is being operated during certain times of day and driving conditions.

Highlighted Provisions:

This bill:

- requires a vehicle operator to ensure the vehicle headlights are illuminated while the vehicle is being operated on a highway any time:
  - from sunset to sunrise; and
  - when persons and vehicles are not clearly discernible at 1,000 feet ahead;
- provides that a vehicle operator driving a vehicle with automated lights complies with certain light requirements; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1603, as last amended by Laws of Utah 2015, Chapter 412

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1603 is amended to read:

41-6a-1603. Lights and illuminating devices -- Duty to display -- Time.

(1) (a) The operator of a vehicle shall [~~turn on~~] ensure the lamps or lights of the vehicle are illuminated while the vehicle is being operated on a highway at any time [~~from a half hour after sunset to a half hour before sunrise and at any other time when, due to~~]:

(i) from sunset to sunrise; or

(ii) [~~insufficient light or unfavorable atmospheric conditions,~~] when persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead[~~.~~] due to:

(A) insufficient light; or

(B) unfavorable atmospheric conditions.

(b) An operator of a vehicle driving with automated lights does not violate Subsection (1)(a) if:

(i) the vehicle's automated light function is operable and engaged; and

(ii) the automated feature has not been overridden or adjusted.

[~~(b)~~] (c) The lights, lighted lamps, and other lamps and illuminating devices under Subsection (1)(a) shall be lighted as respectively required for different classes of vehicles, subject to the exceptions for parked vehicles under Section 41-6a-1607.

(2) Whenever a requirement is made as to distance from which certain lamps and devices shall render objects visible or within which the lamps or devices shall be visible, the provisions apply during the times specified under Subsection (1)(a) for a vehicle without load on a straight, level, unlighted highway under normal atmospheric conditions, unless a different time or condition is expressly stated.

(3) Whenever a requirement is made as to the mounted height of lamps or devices it shall mean from the center of the lamp or device to the level ground upon which the vehicle stands when the vehicle is without a load.

(4) A violation of this section is an infraction.

CHAPTER 404
H. B. 266
Passed February 17, 2023
Approved March 20, 2023
Effective May 3, 2023

AMBER ALERT AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses the Amber Alert System.

Highlighted Provisions:

This bill:

- defines terms;
- specifies the criteria for when an Amber Alert may be issued; and
- gives the Department of Public Safety rulemaking authority to administer the Amber Alert System.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53-10-1001, Utah Code Annotated 1953
53-10-1002, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-1001 is enacted to read:

Part 10. Amber Alert System

53-10-1001. Definitions.

As used in this part:

(1) "Abduction of a child" means the taking, concealing, or detaining of a child without permission from an individual entitled to custody of the child.

(2) "Amber Alert" means an alert issued in accordance with America's Missing: Broadcast Emergency Response run by the bureau to assist a law enforcement agency in the recovery of an abducted child.

(3) "Child" means an individual under 18 years old.

(4) "Runaway" means the same as that term is defined in Section 80-1-102.

Section 2. Section 53-10-1002 is enacted to read:

53-10-1002. Amber Alert criteria.

(1) Except as provided in Subsection (2), if a law enforcement agency receives a report that an abduction of a child has occurred, including an abduction of a child by the child's parent or guardian, the investigating law enforcement agency may issue an Amber Alert if:

(a) the investigating law enforcement agency confirms that an abduction of the child has occurred;

(b) the investigating law enforcement agency believes there is a credible threat of imminent danger of serious bodily injury or death to the child; and

(c) there is sufficient descriptive information about the child, alleged abductor, or the circumstances surrounding the abduction to indicate that issuing an Amber Alert will assist in the safe recovery of the child or the apprehension of the abductor.

(2) A law enforcement agency may not issue an Amber Alert:

(a) for a reported runaway; or

(b) for the taking, concealing, or detaining of a child by the child's parent during a child custody dispute regarding the child, unless there is a credible threat of imminent danger of serious bodily injury or death to the child.

(3) The investigating law enforcement agency may use relevant law enforcement technology, including an automatic license plate reader system, to locate a vehicle that is being sought in connection with an issued Amber Alert.

(4) The department and the Department of Transportation may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies and procedures for the operation and maintenance of the Amber Alert System other than mobile network operations.

CHAPTER 405
H. B. 300
Passed February 16, 2023
Approved March 20, 2023
Effective May 3, 2023

VOLUNTARY FIREARM RESTRICTIONS AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses provisions regarding voluntary firearm restrictions.

Highlighted Provisions:

This bill:

- creates a voluntary firearm restricted list that allows an individual to request:
  - to be restricted from purchasing or possessing firearms indefinitely; and
  - removal from the list after 90 days;
- directs the Bureau of Criminal Identification (bureau) to create a process for an individual to request to be placed on or removed from the voluntary firearm restricted list;
- allows an individual seeking to be placed on a voluntary firearm restricted list to direct the individual's health care provider to deliver the individual's forms for inclusion on the list to the bureau;
- directs that when the bureau receives a request from an individual to be removed from a voluntary firearm restricted list, the bureau shall remove the individual after a certain time period after the day on which the individual requests the removal;
- removes the requirement for the bureau to enter the information received from an individual requesting to be placed on a voluntary firearm restricted list into the National Instant Criminal Background Check System; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5c-102, as last amended by Laws of Utah 2021, Chapter 166
53-5c-301, as enacted by Laws of Utah 2021, Chapter 166

ENACTS:

53-5c-302, Utah Code Annotated 1953

REPEALS:

53-5c-101, as enacted by Laws of Utah 2013, Chapter 188

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-5c-102 is amended to read:

53-5c-102. Definitions.

As used in this [~~part~~] chapter:

(1) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) "Cohabitant" means [~~a person~~] an individual who is 21 years [~~of age~~] old or older who resides in the same residence as the other party.

(3) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short barrel rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(4) "Health care provider" means a person:

(a) who provides health care or professional services related to health care; and

(b) is acting within the scope of the person's license, certification, practice, education, or training.

[~~(4)~~] (5) "Illegal firearm" means a firearm the ownership or possession of which is prohibited under state or federal law.

[~~(5)~~] (6) "Law enforcement agency" means a municipal or county police agency or an officer of that agency.

[~~(6)~~] (7) "Owner cohabitant" means a cohabitant who owns, in whole or in part, a firearm.

[~~(7) "Public interest use" means:~~]

[~~(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or~~]

[~~(b) donation to a bona fide charity.~~]

Section 2. Section 53-5c-301 is amended to read:

53-5c-301. Voluntary restrictions on firearm purchase and possession.

(1) An individual who is not a restricted person under Section 76-10-503 may voluntarily request to be restricted from the purchase [~~and~~] or possession of firearms [~~through a voluntary process~~].

(2) An individual requesting to be restricted under Subsection (1) may request placement on one of the following restricted lists:

(a) a restricted list that:

(i) restricts the individual from purchasing or possessing a firearm for 180 days with automatic removal of the individual from the restricted list at the end of the 180 days; and

(ii) allows the individual to request removal 30 days after the day on which the individual is added to the restricted list; or

(b) a restricted list that:

(i) restricts the individual from purchasing or possessing a firearm indefinitely; and

(ii) allows the individual to request removal 90 days after the day on which the individual is added to the restricted list.

[~~(2)~~] (3) (a) [~~The~~] Subject to Subsections (8) and (9), the bureau shall develop a process and forms for inclusion on, and removal from, a [~~temporary~~] restricted list as described in Subsection (2) to be maintained by the bureau.

(b) The bureau shall make the forms for inclusion and removal available by download through the bureau's website and require, at a minimum, the following information for the individual described in Subsection (1):

(i) name;

(ii) address;

(iii) date of birth;

(iv) contact information;

(v) [~~the~~] signature [~~of the individual~~]; and

(vi) (A) if the individual is entered on the restricted list as described in Subsection (2)(a), an acknowledgment of the statement in Subsection [~~(8)~~] (8)(a); or

(B) if the individual is entered on the restricted list as described in Subsection (2)(b), an acknowledgment of the statement in Subsection (8)(b).

[~~(3)~~] (4) (a) An individual requesting inclusion on [~~the temporary~~] a restricted list under Subsection (2) shall:

(i) deliver the completed form in person to a law enforcement agency; or

(ii) direct the individual's health care provider under Section 53-5c-302 to electronically deliver the individual's completed form to the bureau.

(b) The law enforcement agency described in Subsection [~~(3)(a).~~] (4)(a)(i):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a form from someone other than the individual named on the form; and

(iii) shall transmit the form electronically to the bureau through the Utah Criminal Justice Information System.

[~~(4)~~] (5) Upon receipt of a verified form provided under this section or Section 53-5c-302 requesting inclusion on [~~the temporary~~] a restricted list, the bureau shall, within 24 hours[~~: (a)~~], add the individual's name to the restricted list[~~; and~~].

[~~(b) enter the information in the National Instant Criminal Background Check System Indices, including:~~]

[~~(i) the date of the entry; and~~]

[~~(ii) that the restriction ends 180 days after the date of the entry.~~]

[~~(5) If the bureau does not receive a request for extension before the removal date, the bureau shall remove the individual from the temporary restricted list.~~]

(6) (a) [~~An individual who is added to the temporary restricted list~~] For an individual added to the restricted list described in Subsection (2)(a):

(i) the individual may not request removal from the restricted list unless the individual has been on the restricted list for at least 30 days[~~.~~];

[~~(b)~~] (ii) [~~The~~] the bureau shall remove [~~an~~] the individual from the restricted list 180 days after the day on which the individual was added to the restricted list, unless the individual [~~requests~~]:

(A) requests to be removed from the restricted list after 30 days;

(B) requests to remain on the restricted list[~~.~~]; or

(C) directs the individual's health care provider to request that the individual remain on the restricted list;

[~~(c)~~] (iii) [~~Requests~~] a request for [~~extensions~~] an extension shall be made in the same manner as the original request[~~.~~]; and

[~~(d)~~] (iv) [~~An~~] the individual may continue to request, or direct the individual's health care provider to continue to request, extensions every 180 days.

(b) For an individual added to a restricted list under Subsection (2)(b), the individual:

(i) may not request removal from the restricted list unless the individual has been on the restricted list for at least 90 days; and

(ii) shall remain on the restricted list, unless the bureau receives a request from the individual to have the individual's name removed from the restricted list.

(7) If an individual restricted under this section is a concealed firearm permit holder, the individual's permit shall be:

(a) suspended upon entry on the [~~temporary~~] restricted list; and

(b) reinstated upon removal from the restricted list, unless:

(i) the permit has been revoked, been suspended for a reason other than under this section, or has expired; or

(ii) the individual has become a restricted person under Section 76-10-503.

(8) (a) The form for an individual seeking to be placed on the restricted list described in Subsection (2)(a) shall have the following language prominently displayed before the signature:

ACKNOWLEDGMENT

"By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a restricted list that restricts my ability to purchase or possess firearms for a minimum of 30 days, and up to 6 months. I understand that by voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the restricted list

will be declined. I also understand that any time after 30 days, I may request removal from the [~~temporary~~] restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the restricted list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(b) The form for an individual seeking to be placed on the restricted list described in Subsection (2)(b) shall have the following language prominently displayed before the signature:

ACKNOWLEDGMENT

"By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a restricted list that restricts my ability to purchase or possess firearms indefinitely. I understand that by voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the restricted list will be declined. I also understand that any time after 90 days, I may request removal from the restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the restricted list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(9) (a) An individual requesting removal from [~~the temporary~~] a restricted list shall deliver a completed removal form in person to:

(i) the law enforcement agency that processed the inclusion form if the individual was placed on the restricted list under Subsection [~~(3)~~] (4)(a)(i); or

(ii) the individual's local law enforcement agency if the individual was placed on the restricted list under Subsection (4)(a)(ii).

(b) The law enforcement agency described in Subsection (9)(a):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a removal form from someone other than the individual named on the form; and

(iii) shall transmit the removal form electronically to the bureau through the Utah Criminal Justice Information System.

(10) Upon receipt of a verified removal form, the bureau shall, [~~within 24 hours~~] after three business days, remove the individual from the [~~temporary~~] restricted list and remove the information from the National Instant Criminal Background Check System.

(11) [~~Within~~] For an individual added to the restricted list under Subsection (2)(a), within 30 days before the 180-day removal deadline, the bureau shall notify the individual at the address listed on the [~~form and~~] inclusion form described in Subsection (4) and, if applicable, the law enforcement agency that processed the inclusion form, that the individual is due to be removed from the [~~temporary~~] restricted list, and the date on which the removal will occur, unless the individual requests an extension of up to 180 days.

(12) (a) A law enforcement agency that receives a request for inclusion under Subsection (4)(a)(i) shall:

(i) maintain the completed form and all subsequent completed forms in a separate file[~~.~~]; and

[~~(b) If the individual requests removal before the end of the 180 days, the law enforcement agency shall destroy the entire file within five days after transmission of the information to the bureau.~~]

[~~(c)~~] (ii) [~~If the individual does not request an extension after notification in accordance with Subsection (11), the law enforcement agency shall~~] for an individual added to the restricted list under Subsection (2)(a), destroy the entire file within five days after the date indicated in the notification if the individual does not request an extension after notification in accordance with Subsection (11).

(b) A law enforcement agency that receives a removal request under Subsection (9) shall destroy the entire file associated with the individual within five days after the day on which the information is transmitted to the bureau.

[~~(d)~~] (c) Upon removal of an individual from [~~the voluntary~~] a restricted list, the bureau shall destroy all records related to the inclusion and removal of the individual within five days after the day on which the individual was removed.

[~~(e)~~] (d) All forms and records created in accordance with this section are classified as private records in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(13) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 3. Section 53-5c-302 is enacted to read:

53-5c-302. Assistance from a health care provider -- Restricted list.

(1) An individual who is not a restricted person under Section 76-10-503 and is seeking inclusion on a restricted list under Section 53-5c-301 may direct the individual's health care provider to electronically deliver the individual's inclusion form described in Section 53-5c-301 to the bureau.

(2) In addition to the inclusion form described in Section 53-5c-301, the bureau shall create a form, available by download through the bureau's website, for:

(a) an individual who is directing a health care provider to electronically deliver the individual's inclusion form and require, at a minimum, the following information:

(i) the individual's signature;

(ii) the name of the individual's health care provider; and

(iii) the individual's acknowledgment of the statement in Subsection (4)(a); and

(b) a health care provider who is delivering an individual's inclusion forms and require, at a minimum, the following information for the health care provider:

(i) the health care provider's name;

(ii) the name of the health care provider's organization;

(iii) the health care provider's license or certification, including the license or certification number;

(iv) the health care provider's signature; and

(v) the health care provider's acknowledgment of the statement in Subsection (4)(b).

(3) (a) An individual who is directing a health care provider to electronically deliver the individual's inclusion form shall, in the presence of the health care provider, complete the forms described in Section 53-5c-301 and Subsection (2)(a).

(b) The health care provider:

(i) shall verify the individual's identity before accepting the forms;

(ii) may not accept forms from someone other than the individual named on the forms;

(iii) shall complete the form described in Subsection (2)(b); and

(iv) shall deliver the individual's and health care provider's forms electronically to the bureau.

(4) (a) The form described in Subsection (2)(a) shall have the following language prominently displayed before the signature:

ACKNOWLEDGMENT

"By presenting this completed form to my health care provider, I understand that I am requesting that my health care provider present my name to the Bureau of Criminal Identification to be placed on a restricted list that restricts my ability to purchase or possess firearms."

(b) The form described in Subsection (2)(b) shall have the following language prominently displayed before the signature:

ACKNOWLEDGMENT

"By presenting this completed form to the Bureau of Criminal Identification, I understand that I am acknowledging that I have verified the identity of [name of individual seeking inclusion on a restricted list] and have witnessed [name of individual] sign the form requesting that [name of individual] be placed on a restricted list that restricts [name of individual]'s ability to purchase or possess firearms. I affirm that [name of individual] is currently my patient, and I am a licensed health care provider acting within the scope of my license, certification, practice, education, or training."

(5) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 4. Repealer.

This bill repeals:

Section 53-5c-101, Title.

CHAPTER 406
H. B. 303
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

ELECTIONS RECORD AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends provisions relating to elections records.

Highlighted Provisions:

This bill:

- provides that certain non-identifying information from a withheld voter registration record be provided to political parties and candidates, to be used for a political purpose;
- in relation to the provision of information described in the preceding paragraph:
  - provides for a plan to provide notice to affected voters; and
  - provides penalties for obtaining, providing, or using the information in a manner that is prohibited by law;
- modifies the form used to request additional privacy protection to be consistent with the changes made in this bill;
- addresses the disclosure of certain information relating to a voter whose ballot is rejected; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-104, as last amended by Laws of Utah 2021, Chapter 100
20A-2-108, as last amended by Laws of Utah 2021, Chapter 100
20A-2-306, as last amended by Laws of Utah 2022, Chapter 121
20A-3a-401, as last amended by Laws of Utah 2022, Chapter 392
20A-6-105, as last amended by Laws of Utah 2021, Chapter 100

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-2-104 is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) [~~(a)~~] As used in this section:

[~~(i)~~] (a) "Candidate for public office" means an individual:

[~~(A)~~] (i) who files a declaration of candidacy for a public office;

[~~(B)~~] (ii) who files a notice of intent to gather signatures under Section 20A-9-408; or

[~~(C)~~] (iii) employed by, under contract with, or a volunteer of, an individual described in Subsection [~~(1)(a)(i)(A) or (B)~~] (1)(a)(i) or (ii) for political campaign purposes.

[~~(ii)~~] (b) "Dating violence" means the same as that term is defined in Section 78B-7-402 and the federal Violence Against Women Act of 1994, as amended.

[~~(iii)~~] (c) "Domestic violence" means the same as that term is defined in Section 77-36-1 and the federal Violence Against Women Act of 1994, as amended.

(d) "Hash Code" means a code generated by applying an algorithm to a set of data to produce a code that:

(i) uniquely represents the set of data;

(ii) is always the same if the same algorithm is applied to the same set of data; and

(iii) cannot be reversed to reveal the data applied to the algorithm.

(e) "Protected individual" means an individual:

(i) who submits a withholding request form with the individual's voter registration record, or to the lieutenant governor or a county clerk, if the individual indicates on the form that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence;

(ii) who submits a withholding request form with the individual's voter registration record, or to the lieutenant governor or a county clerk, if the individual indicates on the form and provides verification that the individual, or an individual who resides with the individual, is a law enforcement officer, a member of the armed forces as defined in Section 20A-1-513, a public figure, or protected by a protective order or protection order; or

(iii) whose voter registration record was classified as a private record at the request of the individual before May 12, 2020.

[~~(b)~~] (2) (a) An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America?
Yes No

If you checked "no" to the above question, do not complete this form.

Will you be 18 years of age on or before election day? Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to vote?
Yes No

If you checked "no" to both of the prior two questions, do not complete this form.

Name of Voter

_____

First Middle Last

Utah Driver License or Utah Identification Card Number_____

Date of Birth _____

Street Address of Principal Place of Residence

_____

_____

City County State Zip Code

Telephone Number (optional) _____

Email Address (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)_____

_____

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)

Unaffiliated (no political party preference) Other (Please specify)_____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

_____

Voter's Signature

_____(month/day/year).

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that [~~all~~] identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that [~~all~~] identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that [~~all~~] identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

_____

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to $2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR

TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY

Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

[~~(c)~~] (b) [~~Beginning May 1, 2022, the~~] The voter registration form described in Subsection [~~(1)(b)~~] (2)(a) shall include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

[~~(2)~~] (c) [~~(a)~~] (i) Except as provided under Subsection [~~(2)(b)~~] (2)(c)(ii), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

[~~(b)~~] (ii) The county clerk may transfer a superseded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26-33a-102, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party;

(vi) a candidate for public office, or an employee, independent contractor, or volunteer of a candidate for public office; [~~or~~]

(vii) a person described in Subsections (4)(a)(i) through (vi)[~~, or an agent, employee, or independent contractor of the person,~~] who, after obtaining a year of birth from the list of registered voters:

(A) provides the year of birth [~~of a registered voter that is obtained from the list of registered voters~~] only to a person [~~who is a qualified person~~] described in Subsections (4)(a)(i) through (vii);

(B) verifies that [~~a~~] the person[~~,~~] described in Subsection (4)(a)(vii)(A)[~~, to whom a year of birth that is obtained from the list of registered voters is provided,~~] [~~is a qualified person~~] is a person described in Subsections (4)(a)(i) through (vii);

(C) ensures, using industry standard security measures, that the year of birth [~~of a registered voter that is obtained from the list of registered voters~~] may not be accessed by a person other than a [~~qualified person~~] person described in Subsections (4)(a)(i) through (vii);

(D) verifies that each [~~qualified person, other than a qualified person described in Subsection (4)(a)(i), (v), or (vi),~~] person described in Subsections (4)(a)(ii) through (iv) to whom the person provides the year of birth [~~of a registered voter that is obtained from the list of registered voters,~~] will only use the year of birth to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each [~~qualified~~] person described in Subsection (4)(a)(i)[~~,~~] to whom the person provides the year of birth [~~of a registered voter that is obtained from the list of registered voters,~~] will only use the year of birth in the [~~qualified~~] person's capacity as a government official or government employee; and

(F) verifies that each [~~qualified~~] person described in Subsection (4)(a)(v) or (vi)[~~,~~] to whom the person provides the year of birth [~~of a registered voter that is obtained from the list of registered voters,~~] will

only use the year of birth for a political purpose of the political party or candidate for public office[.]; or

(viii) a person described in Subsection (4)(a)(v) or (vi) who, after obtaining information under Subsection (4)(n) and (o):

(A) provides the information only to another person described in Subsection (4)(a)(v) or (vi);

(B) verifies that the other person described in Subsection (4)(a)(viii)(A) is a person described in Subsection (4)(a)(v) or (vi);

(C) ensures, using industry standard security measures, that the information may not be accessed by a person other than a person described in Subsection (4)(a)(v) or (vi); and

(D) verifies that each person described in Subsection (4)(a)(v) or (vi) to whom the person provides the information will only use the information for a political purpose of the political party or candidate for public office.

(b) Notwithstanding Subsection 63G-2-302 (1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the years of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the years of birth;

(D) a list of the purposes for which the qualified person may use the year of birth of a registered voter that is obtained from the list of registered voters;

(E) a statement that the year of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk:

(i) may not disclose the year of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

[~~(i)~~] (A) is not a qualified person or a person described in Subsection (4)(l); or

[~~(ii)~~] (B) will provide or use the year of birth in a manner prohibited by law[.]; and

(ii) may not disclose information under Subsections (4)(n) or (o) to a person that the lieutenant governor or county clerk reasonably believes:

(A) is not a person described in Subsection (4)(a)(v) or (vi); or

(B) will provide or use the information in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(h) to a person other than:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee; or

(ii) [~~except as provided in Subsection (7) and~~] subject to Subsection (4)(e), a person described in Subsection (4)(a)(v) or (vi) for a political purpose.

(e) [~~(e)~~] (i) [~~When~~] Except as provided in Subsection (4)(e)(ii), when disclosing a record or information under Subsection (4)(d)(ii), the lieutenant governor or county clerk shall exclude the information described in Subsection 63G-2-302(1)(j), other than the year of birth.

(ii) If disclosing a record or information under Subsection (4)(d)(ii) in relation to the voter registration record of a protected individual, the lieutenant governor or county clerk shall comply with Subsections (4)(n) through (p).

(f) The lieutenant governor or a county clerk may not disclose a withholding request form, described in Subsections (7) and (8), submitted by an individual, or information obtained from that form, to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(g) A person is guilty of a class A misdemeanor if the person:

(i) obtains [~~the year of birth of a registered voter~~] from the list of registered voters, under false pretenses, the year of birth of a registered voter or information described in Subsection (4)(n) or (o);

(ii) uses or provides the year of birth of a registered voter, or information described in

Subsection (4)(n) or (o), that is obtained from the list of registered voters in a manner that is not permitted by law;

(iii) obtains a voter registration record described in Subsection 63G-2-302(1)(k) under false pretenses;

(iv) uses or provides information obtained from a voter registration record described in Subsection 63G-2-302(1)(k) in a manner that is not permitted by law;

(v) unlawfully discloses or obtains a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8); or

(vi) unlawfully discloses or obtains information from a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8).

(h) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter:

(i) submits a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private;

(ii) requests on the voter's voter registration form that the voter's voter registration record be classified as a private record; or

(iii) submits a withholding request form described in Subsection (7) and any required verification.

(i) [~~The~~] Except as provided in Subsections (4)(d)(ii) and (e)(ii), the lieutenant governor or a county clerk may not disclose to a person described in Subsection (4)(a)(v) or (vi) a voter registration record, or information obtained from a voter registration record, if the record is withheld under Subsection (7).

(j) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who violates a provision of this section, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of:

(A) records obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(B) records from which information is obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) $200.

(k) A qualified person may not obtain, provide, or use the year of birth of a registered voter, if the year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the year of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the year of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) or (vi) and obtains, provides, or uses the year of birth for a political purpose of the political party or candidate for public office; or

(iv) is a qualified person described in Subsection (4)(a)(vii) and obtains, provides, or uses the year of birth to provide the year of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

(l) The lieutenant governor or a county clerk may provide a year of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(m) A person described in Subsection (4)(a)(v) or (vi) may not use or disclose information from a voter registration record for a purpose other than a political purpose.

(n) Notwithstanding Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person described in Subsection (4)(a)(v) or (vi), include, from the record of a voter whose record is withheld under Subsection (7), the information described in Subsection (4)(o), if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person described in Subsection (4)(a)(v) or (vi); and

(ii) the qualified person described in Subsection (4)(a)(v) or (vi) signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the information;

(D) a list of the purposes for which the qualified person may use the information;

(E) a statement that the information may not be provided or used for a purpose other than a purpose described under Subsection (4)(n)(ii)(D);

(F) a statement that if the person obtains the information under false pretenses, or provides or uses the information in a manner that is prohibited by law, the person is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the information in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(o) Except as provided in Subsection (4)(p), the information that the lieutenant governor or a county clerk is required to provide, under Subsection (4)(n), from the record of a protected individual is:

(i) a single hash code, generated from a string of data that includes both the voter's voter identification number and residential address;

(ii) the voter's residential address;

(iii) the voter's mailing address, if different from the voter's residential address;

(iv) the party affiliation of the voter;

(v) the precinct number for the voter's residential address;

(vi) the voter's voting history; and

(vii) a designation of which age group, of the following age groups, the voter falls within:

(A) 25 or younger;

(B) 26 through 35;

(C) 36 through 45;

(D) 46 through 55;

(E) 56 through 65;

(F) 66 through 75; or

(G) 76 or older.

(p) The lieutenant governor or a county clerk may not disclose:

(i) information described in Subsection (4)(o) that, due to a small number of voters affiliated with a particular political party, or due to another reason, would likely reveal the identity of a voter if disclosed; or

(ii) the address described in Subsection (4)(o)(iii) if the lieutenant governor or the county clerk determines that the nature of the address would directly reveal sensitive information about the voter.

(q) A qualified person described in Subsection (4)(a)(v) or (vi), may not obtain, provide, or use the information described in Subsection (4)(n) or (o), except to the extent that the qualified person uses the information for a political purpose of a political party or candidate for public office.

(5) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks of the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that an individual may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

(7) The lieutenant governor or a county clerk shall withhold from a person, other than a person described in Subsection (4)(a)(i), the voter registration record, and information obtained from the voter registration record, of [~~an individual:~~] a protected individual.

[~~(a) who submits a withholding request form, with the voter registration record or to the lieutenant governor or a county clerk, if:~~]

[~~(i) the individual indicates on the form that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence; or~~]

[~~(ii) the individual indicates on the form and provides verification that the individual, or an individual who resides with the individual, is:~~]

[~~(A) a law enforcement officer;~~]

[~~(B) a member of the armed forces, as defined in Section 20A-1-513;~~]

[~~(C) a public figure; or~~]

[~~(D) protected by a protective order or protection order; or~~]

[~~(b) whose voter registration record was classified as a private record at the request of the individual before May 12, 2020.~~]

(8) (a) The lieutenant governor shall design and distribute the withholding request form described in Subsection (7) to each election officer and to each agency that provides a voter registration form.

(b) An individual described in Subsection [~~(7)(a)(i)~~] (1)(e)(i) is not required to provide verification, other than the individual's attestation and signature on the withholding request form, that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence.

(c) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for providing the verification described in Subsection [~~(7)(a)(ii)~~] (1)(e)(ii).

(9) An election officer or an employee of an election officer may not encourage an individual to

submit, or discourage an individual from submitting, a withholding request form.

(10) (a) The lieutenant governor shall make and execute a plan to provide notice to registered voters who are protected individuals, that includes the following information:

(i) that the voter's classification of the record as private remains in effect;

(ii) that certain non-identifying information from the voter's voter registration record may, under certain circumstances, be released to political parties and candidates for public office;

(iii) that the voter's name, driver license or identification card number, social security number, email address, phone number, and the voter's day, month, and year of birth will remain private and will not be released to political parties or candidates for public office;

(iv) that a county clerk will only release the information to political parties and candidates in a manner that does not associate the information with a particular voter; and

(v) that a county clerk may, under certain circumstances, withhold other information that the county clerk determines would reveal identifying information about the voter.

(b) The lieutenant governor may include in the notice described in this Subsection (10) a statement that a voter may obtain additional information on the lieutenant governor's website.

(c) The plan described in Subsection (10)(a) may include providing the notice described in Subsection (10)(a) by:

(i) publication on the Utah Public Notice Website, created in Section 63A-16-601;

(ii) publication on the lieutenant governor's website or a county's website;

(iii) posting the notice in public locations;

(iv) publication in a newspaper;

(v) sending notification to the voters by electronic means;

(vi) sending notice by other methods used by government entities to communicate with citizens; or

(vii) providing notice by any other method.

(d) The lieutenant governor shall provide the notice included in a plan described in this Subsection (10) before June 16, 2023.

Section 2. Section 20A-2-108 is amended to read:

20A-2-108. Driver license or state identification card registration form -- Transmittal of information.

(1) As used in this section, "qualifying form" means:

(a) a driver license application form; or

(b) a state identification card application form.

(2) The lieutenant governor and the Driver License Division shall design each qualifying form to include:

(a) the following question, which an applicant is required to answer: "Do you authorize the use of information in this form for voter registration purposes? YES____ NO____";

(b) the following statement:

"PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that [~~all~~] identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that [~~all~~] identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that [~~all~~] identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the

lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."; and

(c) [~~beginning May 1, 2022,~~] a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(3) The lieutenant governor and the Driver License Division shall ensure that a qualifying form contains:

(a) a place for an individual to affirm the individual's citizenship, voting eligibility, and Utah residency, and that the information provided in the form is true;

(b) a records disclosure that is similar to the records disclosure on a voter registration form described in Section 20A-2-104;

(c) a statement that if an applicant declines to register or preregister to vote, the fact that the applicant has declined to register or preregister will remain confidential and will be used only for voter registration purposes;

(d) a statement that if an applicant does register or preregister to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(e) if the applicant answers "yes" to the question described in Subsection (2)(a), a space where an individual may, if desired:

(i) indicate the individual's desired political affiliation from a listing of each registered political party, as defined in Section 20A-8-101;

(ii) specify a political party that is not listed under Subsection (3)(e)(i) with which the individual desires to affiliate; or

(iii) indicate that the individual does not wish to affiliate with a political party.

Section 3. Section 20A-2-306 is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) (a) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

_____

Street City County State Zip

What is your current phone number (optional)?_____

What is your current email address (optional)?_____

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

- if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

_____

Signature of Voter

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that [~~all~~] identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that [~~all~~] identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that [~~all~~] identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."

(b) [~~Beginning May 1, 2022, the~~] The form described in Subsection (3)(a) shall also include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

(5) Beginning on or before January 1, 2022, the lieutenant governor shall make available to a county clerk United States Social Security Administration data received by the lieutenant governor regarding deceased individuals.

(6) A county clerk shall, within ten business days after the day on which the county clerk receives the information described in Subsection (5) or Subsections 26-2-13(11) and (12) relating to a decedent whose name appears on the official register, remove the decedent's name from the official register.

(7) Ninety days before each primary and general election the lieutenant governor shall compare the information the lieutenant governor has received under Subsection 26-2-13(11) with the official register of voters to ensure that all deceased voters have been removed from the official register.

Section 4. Section 20A-3a-401 is amended to read:

20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice.

(1) This section governs ballots returned by mail or via a ballot drop box.

(2) (a) Poll workers shall open return envelopes containing manual ballots that are in the custody of the poll workers in accordance with Subsection (2)(b).

(b) The poll workers shall, first, compare the signature of the voter on the affidavit of the return envelope to the signature of the voter in the voter registration records.

(3) After complying with Subsection (2), the poll workers shall determine whether:

(a) the signatures correspond;

(b) the affidavit is sufficient;

(c) the voter is registered to vote in the correct precinct;

(d) the voter's right to vote the ballot has been challenged;

(e) the voter has already voted in the election;

(f) the voter is required to provide valid voter identification; and

(g) if the voter is required to provide valid voter identification, whether the voter has provided valid voter identification.

(4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll workers determine that:

(i) the signatures correspond;

(ii) the affidavit is sufficient;

(iii) the voter is registered to vote in the correct precinct;

(iv) the voter's right to vote the ballot has not been challenged;

(v) the voter has not already voted in the election; and

(vi) for a voter required to provide valid voter identification, that the voter has provided valid voter identification.

(b) If the poll workers make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not destroy the affidavit on the return envelope;

(ii) ensure that the ballot does not unfold and is not otherwise examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

(c) If the poll workers do not make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) disallow the vote;

(ii) without opening the return envelope, mark across the face of the return envelope:

(A) "Rejected as defective"; or

(B) "Rejected as not a registered voter"; and

(iii) place the return envelope, unopened, with the other rejected return envelopes.

(5) (a) If the poll workers reject an individual's ballot because the poll workers determine that the signature on the return envelope does not match the individual's signature in the voter registration records, the election officer shall contact the individual in accordance with Subsection (7) by mail, email, text message, or phone, and inform the individual:

(i) that the individual's signature is in question;

(ii) how the individual may resolve the issue; and

(iii) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(b).

(b) An affidavit described in Subsection (5)(a)(iii) shall include:

(i) an attestation that the individual voted the ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit; and

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes.

(c) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the election officer.

(d) An election officer who receives a signed affidavit under Subsection (5)(c) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-109; and

(ii) if the election officer receives the affidavit no later than 5 p.m. three days before the day on which the canvass begins, count the individual's ballot.

(6) If the poll workers reject an individual's ballot for any reason, other than the reason described in Subsection (5)(a), the election officer shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.

(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:

(a) if the election officer rejects the ballot before election day:

(i) one business day after the day on which the election officer rejects the ballot, if the election officer gives the notice by email or text message; or

(ii) two business days after the day on which the election officer rejects the ballot, if the election officer gives the notice by postal mail or phone;

(b) seven days after election day if the election officer rejects the ballot on election day; or

(c) seven days after the canvass if the election officer rejects the ballot after election day and before the end of the canvass.

(8) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless:

(a) the election officer receives a signed affidavit from the individual under Subsection (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's identity; and

(b) the affidavit described in Subsection (8)(a) is received, or the confirmation described in Subsection (8)(a) occurs, no later than 5 p.m. three days before the day on which the canvass begins.

(9) The election officer shall retain and preserve the return envelopes in the manner provided by law for the retention and preservation of ballots voted at that election.

(10) If, in response to a request, and in accordance with the requirements of law, an election officer discloses the name or address of voters whose ballots have been rejected and not yet resolved, the election officer shall:

(a) make the disclosure within two business days after the day on which the request is made;

(b) respond to each request in the order the requests were made; and

(c) make each disclosure in a manner, and within a period of time, that does not reflect favoritism to one requestor over another.

Section 5. Section 20A-6-105 is amended to read:

20A-6-105. Provisional ballot envelopes.

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

"AFFIRMATION

Are you a citizen of the United States of America?
Yes No

Will you be 18 years old on or before election day?
Yes No

If you checked "no" in response to either of the two above questions, do not complete this form.

Name of Voter _____
First Middle Last

Driver License or Identification Card Number ___

State of Issuance of Driver License or Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence

_____
City County State Zip Code

Telephone Number (optional) _____

Email Address (optional)_____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)

_____
City County State Zip Code

Voting Precinct (if known) _____

I, (please print your full name)_____do solemnly swear or affirm:

That I am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed

_____

Dated

_____

In accordance with Section 20A-3a-506, wilfully providing false information above is a class B misdemeanor under Utah law and is punishable by imprisonment and by fine.

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political

parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that [~~all~~] identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that [~~all~~] identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that [~~all~~] identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

_____

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to $2,500."

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number;

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted; and

(d) [~~beginning May 1, 2022,~~] an insert containing written instructions on how a voter may sign up to receive ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

CHAPTER 407
H. B. 313
Passed February 28, 2023
Approved March 20, 2023
Effective May 3, 2023

SUSPECT METAL AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill concerns the theft of certain types of property.

Highlighted Provisions:

This bill:

- provides an increased penalty for certain metal thefts; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-6-412, as last amended by Laws of Utah 2022, Chapter 201

Utah Code Sections Affected by Coordination Clause:

76-6-404, as enacted by Laws of Utah 1973, Chapter 196
76-6-404.5, as last amended by Laws of Utah 2001, Chapter 48
76-6-405, as last amended by Laws of Utah 2012, Chapter 156
76-6-406, as last amended by Laws of Utah 2022, Chapter 164
76-6-407, as enacted by Laws of Utah 1973, Chapter 196
76-6-408, as last amended by Laws of Utah 2022, Chapter 201
76-6-410, as enacted by Laws of Utah 1973, Chapter 196
76-6-602, as enacted by Laws of Utah 1979, Chapter 78

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-6-412 is amended to read:

76-6-412. Theft -- Classification of offenses -- Action for treble damages.

(1) Theft of property and services as provided in this chapter is punishable:

(a) as a second degree felony if the:

(i) value of the property or services is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) as a third degree felony if:

(i) the value of the property or services is or exceeds $1,500 but is less than $5,000;

(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the property or services is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (1)(b)(iii)(A) or (B);

(iv) (A) the value of property or services is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)(iii)(A) through (1)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) as a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property or services is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(iii)(A) through (1)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) as a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408(2) or 76-6-413(1), or commits theft of a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes, or a livestock guardian dog, is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 2. Coordinating H.B. 313 with H.B. 46 -- Substantive and technical amendments.

If this H.B. 313 and H.B. 46, Criminal Code Recodification and Cross References, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending:

(1) Subsection 76-6-404(3)(b)(ii) in H.B. 46 to read:

"(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;";

(2) Subsection 76-6-404.5(3)(b)(ii) in H.B. 46 to read:

"(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;";

(3) Subsection 76-6-405(3)(b)(ii) in H.B. 46 to read:

"(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;";

(4) Subsection 76-6-406(3)(b)(ii) in H.B. 46 to read:

"(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;";

(5) Subsection 76-6-407(3)(b)(ii) in H.B. 46 to read:

"(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;";

(6) Subsection 76-6-408(3)(b)(ii) in H.B. 46 to read:

"(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;";

(7) Subsection 76-6-410(3)(b)(ii) in H.B. 46 to read:

"(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;"; and

(8) Subsection 76-6-602(3)(b)(ii) in H.B. 46 to read:

"(ii) the merchandise is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;".

CHAPTER 408
H. B. 317
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

PRETRIAL RELEASE MODIFICATIONS

Chief Sponsor: Katy Hall
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to pretrial release.

Highlighted Provisions:

This bill:

- repeals statutes related to bail commissioners;
- defines terms related to bail and pretrial release;
- addresses the right to bail;
- amends provisions regarding pretrial release by a county sheriff or the county sheriff's designee;
- amends provisions regarding pretrial release by a judge or magistrate;
- provides that a magistrate or judge may not base a determination about pretrial release solely on the seriousness of the offense, or the type of offense, for which an individual is arrested or charged;
- addresses the modification of a pretrial status order when a defendant fails to appear at a required court appearance or when a defendant has not paid the amount of a financial condition within a certain period of time;
- grants an expedited right of appeal to a defendant who is ordered to be detained pretrial; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-32, as last amended by Laws of Utah 2022, Chapter 187
77-20-102, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-201, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-203, as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-204, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-205, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-207, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-208, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-301, as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-302, as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-401, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4

ENACTS:

77-20-209, Utah Code Annotated 1953

REPEALS:

10-3-921, as last amended by Laws of Utah 1990, Chapter 283
10-3-922, as last amended by Laws of Utah 1990, Chapter 283
17-32-1, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4
17-32-2, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4
17-32-3, as last amended by Laws of Utah 1990, Chapter 283
17-32-4, as last amended by Laws of Utah 1990, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-32 is amended to read:

17-22-32. County jail reporting requirements.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of a county jail.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

(A) being transported for medical care; or

(B) receiving medical care outside of a county jail.

(c) "Inmate" means an individual who is processed or booked into custody or housed in a county jail in the state.

(d) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) Each county jail shall submit a report to the commission before June 15 of each year that includes, for the preceding calendar year:

(a) the average daily inmate population each month;

(b) the number of inmates in the county jail on the last day of each month who identify as each race or ethnicity included in the Standards for Transmitting Race and Ethnicity published by the Untied States Federal Bureau of Investigation;

(c) the number of inmates booked into the county jail;

(d) the number of inmates held in the county jail each month on behalf of each of the following entities:

(i) the Bureau of Indian Affairs;

(ii) a state prison;

(iii) a federal prison;

(iv) the United States Immigration and Customs Enforcement;

(v) any other entity with which a county jail has entered a contract to house inmates on the entity's behalf;

(e) the number of inmates that are denied pretrial release and held in the custody of the county jail while the inmate awaited final disposition of the inmate's criminal charges;

(f) for each inmate booked into the county jail:

(i) the name of the agency that arrested the inmate;

(ii) the date and time the inmate was booked into and released from the custody of the county jail;

(iii) if the inmate was released from the custody of the county jail, the reason the inmate was released from the custody of the county jail;

(iv) if the inmate was released from the custody of the county jail on a financial condition, whether the financial condition was set by a [~~bail commissioner~~] county sheriff or a court;

(v) the number of days the inmate was held in the custody of the county jail before disposition of the inmate's criminal charges;

(vi) whether the inmate was released from the custody of the county jail before final disposition of the inmate's criminal charges; and

(vii) the state identification number of the inmate;

(g) the number of in-custody deaths that occurred at the county jail;

(h) for each in-custody death;

(i) the name, gender, race, ethnicity, age, and known or suspected medical diagnosis or disability, if any, of the deceased;

(ii) the date, time, and location of death;

(iii) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and

(iv) a brief description of the circumstances surrounding the death;

(i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(g);

(j) the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death;

(k) the county jail policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;

(ii) that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use or mental health disorder; and

(l) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) (a) Subsection (2) does not apply to a county jail if the county jail:

(i) collects and stores the data described in Subsection (2); and

(ii) enters into a memorandum of understanding with the commission that allows the commission to access the data described in Subsection (2).

(b) The memorandum of understanding described in Subsection (3)(a)(ii) shall include a provision to protect any information related to an ongoing investigation and comply with all applicable federal and state laws.

(c) If the commission accesses data from a county jail in accordance with Subsection (3)(a), the commission may not release a report prepared from that data, unless:

(i) the commission provides the report for review to:

(A) the county jail; and

(B) any arresting agency that is named in the report; and

(ii) (A) the county jail approves the report for release;

(B) the county jail reviews the report and prepares a response to the report to be published with the report; or

(C) the county jail fails to provide a response to the report within four weeks after the day on which the commission provides the report to the county jail.

(4) The commission shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law;

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year; and

(d) submit the compilation to the protection and advocacy agency designated by the governor before November 1 of each year.

(5) The commission may not provide access to or use a county jail's policies, procedures, or protocols

submitted under this section in a manner or for a purpose not described in this section.

(6) A report including only the names and causes of death of deceased inmates and the facility in which they were being held in custody shall be made available to the public.

Section 2. Section 77-20-102 is amended to read:

77-20-102. Definitions.

As used in this chapter:

(1) "Bail" means pretrial release.

(2) "Bail bond" means the same as that term is defined in Section 31A-35-102.

[~~(2)~~] (3) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

[~~(3)~~] (4) "Bail bond producer" means the same as that term is defined in Section 31A-35-102.

[~~(4) "Bail commissioner" means a bail commissioner appointed in accordance with Section 17-32-1.~~]

(5) "County jail official" means a county sheriff or the county sheriff's designee.

[~~(5)~~] (6) "Exonerate" means to release and discharge a surety, or a surety's bail bond producer, from liability for a bail bond.

[~~(6)~~] (7) "Financial condition" [~~or "monetary bail"~~] means any monetary condition that is imposed to secure an individual's pretrial release.

[~~(7)~~] (8) "Forfeiture" means:

(a) to divest an individual or surety from a right to the repayment of monetary bail; or

(b) to enforce a pledge of assets or real or personal property from an individual or surety used to secure an individual's pretrial release.

[~~(8)~~] (9) "Magistrate" means the same as that term is defined in Section 77-1-3.

(10) (a) "Material change in circumstances" includes:

(i) an unreasonable delay in prosecution that is not attributable to the defendant;

(ii) a material change in the risk that an individual poses to a victim, a witness, or the public if released due to the passage of time or any other relevant factor;

(iii) a material change in the conditions of release or the services that are reasonably available to the defendant if released;

(iv) a willful or repeated failure by the defendant to appear at required court appearances; or

(v) any other material change related to the defendant's risk of flight or danger to any other individual or to the community if released.

(b) "Material change in circumstances" does not include any fact or consideration that is known at the time that the pretrial status order is issued.

(11) "Monetary bail" means a financial condition.

[~~(9)~~] (12) "Own recognizance" means the release of an individual without any condition of release other than the individual's promise to:

(a) appear for all required court proceedings; and

(b) not commit any criminal offense.

[~~(10)~~] (13) "Pretrial detention hearing" means a hearing described in Section 77-20-206.

[~~(11)~~] (14) "Pretrial release" [~~or "bail"~~] means the release of an individual from law enforcement custody during the time the individual awaits trial or other resolution of criminal charges.

[~~(12)~~] (15) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures an individual's risk of flight and risk of anticipated criminal conduct while on pretrial release.

[~~(13)~~] (16) "Pretrial services program" means a program that is established to:

(a) gather information on individuals booked into a jail facility;

(b) conduct pretrial risk assessments; and

(c) supervise individuals granted pretrial release.

[~~(14)~~] (17) "Pretrial status order" means an order issued by a magistrate or judge that:

(a) releases the individual on the individual's own recognizance while the individual awaits trial or other resolution of criminal charges;

(b) sets the terms and conditions of the individual's pretrial release while the individual awaits trial or other resolution of criminal charges; or

(c) denies pretrial release and orders that the individual be detained while the individual awaits trial or other resolution of criminal charges.

[~~(15)~~] (18) "Principal" means the same as that term is defined in Section 31A-35-102.

[~~(16)~~] (19) "Surety" means a surety insurer or a bail bond agency.

[~~(17)~~] (20) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

[~~(18)~~] (21) "Temporary pretrial status order" means an order issued by a magistrate that:

(a) releases the individual on the individual's own recognizance until a pretrial status order is issued;

(b) sets the terms and conditions of the individual's pretrial release until a pretrial status order is issued; or

(c) denies pretrial release and orders that the individual be detained until a pretrial status order is issued.

[~~(19)~~] (22) "Unsecured bond" means an individual's promise to pay a financial condition if

the individual fails to appear for any required court appearance.

Section 3. Section 77-20-201 is amended to read:

77-20-201. Right to bail -- Capital felony.

(1) An individual charged with, or arrested for, a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with:

(a) a capital felony when [~~the court finds~~] there is substantial evidence to support the charge;

(b) a felony committed while on parole or on probation for a felony conviction, or while free on bail awaiting trial on a previous felony charge, when [~~the court finds~~] there is substantial evidence to support the current felony charge;

(c) a felony when there is substantial evidence to support the charge and the court finds, by clear and convincing evidence, that:

(i) the individual would constitute a substantial danger to any other individual or to the community[~~, or~~] after considering available conditions of release that the court may impose if the individual is released on bail; or

(ii) the individual is likely to flee the jurisdiction of the court[~~,~~] if the individual is released on bail;

(d) a felony when [~~the court finds~~] there is substantial evidence to support the charge and the court finds, by clear and convincing evidence, that the individual violated a material condition of release while previously on bail;

(e) a domestic violence offense if [~~the court finds~~]:

(i) [~~that~~] there is substantial evidence to support the charge; and

(ii) the court finds, by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence [~~if released on bail~~] after considering available conditions of release that the court may impose if the individual is released on bail;

(f) the offense of driving under the influence or driving with a measurable controlled substance in the body if:

(i) the offense results in death or serious bodily injury to an individual; [~~and~~]

[~~(ii) the court finds:~~]

[~~(A)~~] (ii) [~~that~~] there is substantial evidence to support the charge; and

[~~(B)~~] (iii) the court finds, by clear and convincing evidence, that the [~~person~~] individual would constitute a substantial danger to the community [~~if released on bail~~] after considering available conditions of release that the court may impose if the individual is released on bail; or

(g) a felony violation of Section 76-9-101 if:

(i) there is substantial evidence to support the charge; and

(ii) the court finds, by clear and convincing evidence, that the individual is not likely to appear for a subsequent court appearance.

(2) Notwithstanding any other provision of this section, there is a rebuttable presumption that an individual is a substantial danger to the community under Subsection [~~(1)(f)(ii)(B)~~] (1)(f)(iii):

(a) as long as the individual has a blood or breath alcohol concentration of .05 grams or greater if the individual is arrested for, or charged with, the offense of driving under the influence and the offense resulted in death or serious bodily injury to an individual; or

(b) if the individual has a measurable amount of controlled substance in the individual's body, the individual is arrested for, or charged with, the offense of driving with a measurable controlled substance in the body and the offense resulted in death or serious bodily injury to an individual.

(3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section 76-5-202, aggravated murder, is a capital felony unless:

(a) the prosecuting attorney files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecuting attorney has not filed a notice to seek the death penalty.

Section 4. Section 77-20-203 is amended to read:

77-20-203. County sheriff authority to release an individual from jail on own recognizance.

(1) As used in this section:

(a) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

(b) "Violent felony" means the same as that term is defined in Subsection 76-3-203.5(1)(c)(i).

(2) [~~A county sheriff or a bail commissioner~~] A county jail official may release an individual from a jail facility on the individual's own recognizance if:

(a) the individual was arrested without a warrant;

(b) the individual was not arrested for:

(i) a violent felony;

(ii) a qualifying offense;

(iii) the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual; or

(iv) an offense described in Subsection 76-9-101(4);

(c) law enforcement has not submitted a probable cause statement to a court or magistrate;

(d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(e) the individual qualifies for release under the written policy described in Subsection (3) for the county.

(3) (a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.

(b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.

(c) A county sheriff may include in the written policy the criteria for release relating to:

(i) criminal history;

(ii) prior instances of failing to appear for a mandatory court appearance;

(iii) current employment;

(iv) residency;

(v) ties to the community;

(vi) an offense for which the individual was arrested;

(vii) any potential criminal charges that have not yet been filed;

(viii) the individual's health condition;

(ix) any potential risks to a victim, a witness, or the public; and

(x) any other similar factor a sheriff determines is relevant.

(4) Nothing in this section prohibits a court and a county from entering into an agreement regarding release.

Section 5. Section 77-20-204 is amended to read:

77-20-204. County sheriff authority to release an individual from jail on monetary bail.

(1) As used in this section, "eligible felony offense" means a third degree felony violation under:

(a) Section 23-19-15;

(b) Section 23-20-4;

(c) Section 23-20-4.7;

(d) Title 76, Chapter 6, Part 4, Theft;

(e) Title 76, Chapter 6, Part 5, Fraud;

(f) Title 76, Chapter 6, Part 6, Retail Theft;

(g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

(h) Title 76, Chapter 6, Part 8, Library Theft;

(i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

(j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

(k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

(m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

(n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

(o) Title 76, Chapter 6a, Pyramid Scheme Act;

(p) Title 76, Chapter 7, Offenses Against the Family;

(q) Title 76, Chapter 7a, Abortion Prohibition;

(r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(s) Title 76, Chapter 9, Part 3, Cruelty to Animals;

(t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(u) Title 76, Chapter 9, Part 5, Libel; or

(v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

(2) Except as provided in Subsection (7)(a), [~~a bail commissioner~~] a county jail official may fix a financial condition for an individual if:

(a) (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;

(ii) the individual is arrested for, or charged with:

(A) a misdemeanor offense under state law; or

(B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;

(iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(iv) law enforcement has not submitted a probable cause statement to a magistrate; or

(b) (i) the individual is arrested for, or charged with, an eligible felony offense;

(ii) the individual is not on pretrial release for a separate criminal offense;

(iii) the individual is not on probation or parole;

(iv) the primary risk posed by the individual is the risk of failure to appear;

(v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(vi) law enforcement has not submitted a probable cause statement to a magistrate.

(3) [~~A bail commissioner~~] A county jail official may not fix a financial condition at a monetary amount that exceeds:

(a) $5,000 for an eligible felony offense;

(b) $1,950 for a class A misdemeanor offense;

(c) $680 for a class B misdemeanor offense;

(d) $340 for a class C misdemeanor offense;

(e) $150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or

(f) $80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.

(4) If an individual is arrested for more than one offense, and the [~~bail commissioner~~] county jail official fixes a financial condition for release:

(a) [~~the bail commissioner~~] the county jail official shall fix the financial condition at a single monetary amount; and

(b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the highest level of offense for which the individual is arrested.

(5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a financial condition fixed by a [~~bail commissioner~~] county jail official in accordance with this section.

(6) [~~If a bail commissioner~~] If a county jail official fixes a financial condition for an individual, law enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after the [~~bail commissioner~~] county jail official fixes the financial condition.

(7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:

(a) [~~a bail commissioner~~] a county jail official may not fix or modify a financial condition for an individual; and

(b) [~~if a bail commissioner~~] if a county jail official fixed a financial condition for the individual before the magistrate's review, the individual may no longer be released on the financial condition.

(8) Nothing in this section prohibits a court and a county from entering into an agreement regarding release.

Section 6. Section 77-20-205 is amended to read:

77-20-205. Pretrial release by a magistrate or judge.

(1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure, the magistrate shall issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges.

(b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges.

[~~(2) (a) Except as provided in Subsection (2)(c), at an individual's first appearance before the court, the magistrate or judge shall issue a pretrial status order that:~~]

[~~(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;~~]

[~~(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or~~]

[~~(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges.~~]

[~~(b) In making a determination under Subsection (2)(a), the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.~~]

[~~(c)~~] (2) (a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a pretrial status order at an individual's first appearance before the court.

(b) The magistrate or judge [~~shall~~] may delay the issuance of a pretrial status order [~~described in Subsection (2)(a)~~] at an individual's first appearance before the court:

(i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for pretrial detention as described in Section 77-20-206;

(ii) if a party requests a delay; or

(iii) if there is good cause to delay the issuance.

[~~(d)~~] (c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection [~~(2)(c)~~] (2)(b), the magistrate or judge shall extend the temporary pretrial status order until the issuance of a pretrial status order.

(3) (a) When a magistrate or judge issues a pretrial status order, the pretrial status order shall:

(i) release the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designate a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) order the individual to be detained during the time that individual awaits trial or other resolution of criminal charges.

(b) In making a determination about pretrial release in a pretrial status order, the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.

[~~(3)~~] (4) In making a determination about pretrial release [~~under Subsection (1) or (2)~~], a magistrate or judge shall impose only conditions of release that are reasonably available and necessary to reasonably ensure:

(a) the individual's appearance in court when required;

(b) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(c) the safety and welfare of the public; and

(d) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.

[~~(4)~~] (5) Except as provided in Subsection [~~(5)~~] (6), a magistrate or judge may impose a condition, or combination of conditions, [~~under Subsection (1) or (2)~~] for pretrial release that requires an individual to:

(a) not commit a federal, state, or local offense during the period of pretrial release;

(b) avoid contact with a victim of the alleged offense;

(c) avoid contact with a witness who:

(i) may testify concerning the alleged offense; and

(ii) is named in the pretrial status order;

(d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;

(e) submit to drug or alcohol testing;

(f) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(g) submit to electronic monitoring or location device tracking;

(h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(i) maintain employment or actively seek employment if unemployed;

(j) maintain or commence an education program;

(k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;

(l) comply with specified restrictions on personal associations, place of residence, or travel;

(m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(n) comply with a specified curfew;

(o) forfeit or refrain from possession of a firearm or other dangerous weapon;

(p) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a reasonable person would know that children congregate;

(q) comply with requirements for house arrest;

(r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(s) remain in custody of one or more designated individuals who agree to:

(i) supervise and report on the behavior and activities of the individual; and

(ii) encourage compliance with all court orders and attendance at all required court proceedings;

(t) comply with a financial condition; or

(u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection [~~(3)~~] (4).

[~~(5)~~] (6) (a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.

(b) The magistrate or judge may not order conditions of release that would require the county or municipality to provide services that are not currently available from the county or municipality.

(c) Notwithstanding Subsection [~~(5)(a)~~] (6)(a), the magistrate or judge may impose conditions of release not identified by the county or municipality so long as the condition does not require assistance or resources from the county or municipality.

[~~(6)~~] (7) (a) If the magistrate or judge determines that a financial condition, other than an unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall consider the individual's ability to pay when determining the amount of the financial condition.

(b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and [~~a bail commissioner~~] a county jail official fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:

(i) [~~the bail commissioner's~~] the county jail official's action to fix a financial condition; or

(ii) the amount of the financial condition that the individual was required to pay for pretrial release.

(c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.

[~~(7)~~] (8) In making a determination about pretrial release [~~under this section~~], the magistrate or judge may:

(a) rely upon information contained in:

(i) the indictment or information;

(ii) any sworn or probable cause statement or other information provided by law enforcement;

(iii) a pretrial risk assessment;

(iv) an affidavit of indigency described in Section 78B-22-201.5;

(v) witness statements or testimony; or

(vi) any other reliable record or source, including proffered evidence; and

(b) consider:

(i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:

(A) whether the offense is a violent offense; and

(B) the vulnerability of a witness or alleged victim;

(ii) the nature and circumstances of the individual, including the individual's:

(A) character;

(B) physical and mental health;

(C) family and community ties;

(D) employment status or history;

(E) financial resources;

(F) past criminal conduct;

(G) history of drug or alcohol abuse; and

(H) history of timely appearances at required court proceedings;

(iii) the potential danger to another individual, or individuals, posed by the release of the individual;

(iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense or offenses;

(v) the availability of:

(A) other individuals who agree to assist the individual in attending court when required; or

(B) supervision of the individual in the individual's community;

(vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(9) The magistrate or judge may not base a determination about pretrial release solely on the seriousness or type of offense that the individual is arrested for or charged with, unless the individual is arrested for or charged with a capital felony.

[~~(8)~~] (10) An individual arrested for violation of a jail release agreement, or a jail release court order, issued in accordance with Section 78B-7-802:

(a) may not be released before the individual's first appearance before a magistrate or judge; and

(b) may be denied pretrial release by the magistrate or judge [~~under Subsection (2)~~].

Section 7. Section 77-20-207 is amended to read:

77-20-207. Modification of pretrial status order -- Failure to appear.

(1) [~~A motion~~] A party may move to modify a pretrial status order [~~may be made~~]:

(a) [~~by a party~~] at any time after a pretrial status order is issued; and

(b) only upon a showing that there has been a material change in circumstances.

(2) (a) Notwithstanding Subsection (1), a defendant may move to modify a pretrial status order if:

(i) the magistrate or judge imposed a financial condition as a condition of release in the pretrial status order; and

(ii) the defendant is unable to pay the financial condition within seven days after the day on which the pretrial status order is issued.

(b) For a motion under Subsection (2)(a), there is a rebuttable presumption that the defendant does not have the ability to pay the financial condition.

[~~(2)~~] (3) (a) If a party makes a motion to modify the pretrial status order, the party shall provide notice to the opposing party sufficient to permit the opposing party to prepare for a hearing and to permit each alleged victim to be notified and be present.

(b) A hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.

[~~(3)~~] (4) In ruling upon a motion to modify a pretrial status order, the judge may:

(a) rely on information as provided in Subsection [~~77-20-205(7)~~] 77-20-205(8);

(b) base the judge's ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to pretrial release; and

(c) (i) for a motion to modify a pretrial status order under Subsection (1), modify the pretrial status

order, including the conditions of release, upon a finding that there has been a material change in circumstances[~~,~~]; or

(ii) for a motion to modify a pretrial status order under Subsection (2), modify the pretrial status order by reducing the amount of the financial condition or imposing nonfinancial conditions of release upon a finding that the defendant is unable to pay the amount of the financial condition in the pretrial status order.

(5) In modifying a pretrial status order upon a motion by a party or on the court's own motion, the court shall consider whether imposing a bail bond as a condition of release in a modified pretrial status order will increase the likelihood of the defendant's appearance when:

(a) the defendant was previously released on the defendant's own recognizance or on nonfinancial conditions;

(b) the defendant willfully failed to appear at a required court appearance or has failed to appear at a required court appearance more than once; and

(c) a bench warrant was issued.

(6) Subsections 77-20-205(3) through (10) apply to a determination about pretrial release in a modified pretrial status order.

Section 8. Section 77-20-208 is amended to read:

77-20-208. Release from conditions when charges not filed in specified time period.

(1) If a prosecuting attorney does not file an information, indictment, or a request to extend time under Subsection (2), within 120 days after the day on which a [~~bail commissioner~~] county jail official released the individual on a financial condition under Section 77-20-203 or within 120 days after the day on which a temporary pretrial status order was issued for the individual:

(a) the individual shall be relieved from any condition of pretrial release;

(b) the court shall refund any monetary bail in accordance with Subsection 77-20-402(5); and

(c) if a bail bond was used to post monetary bail, the bail bond shall be exonerated without further order of the court.

(2) A request to extend time shall:

(a) be served on:

(i) the individual and the individual's attorney; and

(ii) if a bail bond was used to post monetary bail, the surety; and

(b) except as provided in Subsection (3), be granted for a period of up to 60 days.

(3) The magistrate may grant a request to extend time for a period of up to 120 days upon a showing of good cause.

(4) Nothing in this section prohibits the filing of charges against an individual at any time.

Section 9. Section 77-20-209 is enacted to read:

77-20-209. Right to expedited appeal of pretrial detention.

If a magistrate or judge issues a pretrial status order that orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges, the individual has the right to an expedited appeal of the pretrial status order.

Section 10. Section 77-20-301 is amended to read:

77-20-301. Grounds for detaining or releasing defendant on conviction and prior to sentence.

(1) Upon conviction, by plea or trial, the court shall order that the convicted defendant who is waiting imposition or execution of sentence be detained, unless the court finds, by clear and convincing evidence, presented by the defendant that the defendant:

(a) is not likely to flee the jurisdiction of the court if released; and

(b) will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) If the court finds the defendant does not need to be detained, the court shall order the release of the defendant on suitable conditions, including conditions of release described in Subsection [~~77-20-205(4)~~] 77-20-205(5).

Section 11. Section 77-20-302 is amended to read:

77-20-302. Grounds for detaining defendant while appealing the defendant's conviction -- Conditions for release while on appeal.

(1) The court shall order that a defendant who has been found guilty of an offense in a court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the court finds:

(a) the appeal raises a substantial question of law or fact likely to result in:

(i) reversal;

(ii) an order for a new trial; or

(iii) a sentence that does not include a term of imprisonment in jail or prison;

(b) the appeal is not for the purpose of delay; and

(c) by clear and convincing evidence presented by the defendant, that the defendant:

(i) is not likely to flee the jurisdiction of the court if released; and

(ii) will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) (a) If the court makes a finding under Subsection (1) that justifies not detaining the defendant, the court shall order the release of the defendant, subject to only conditions of release that are reasonably available and necessary to reasonably ensure the appearance of the defendant as required and the safety of any other individual, property, and the community.

(b) The conditions under Subsection (2)(a) may include conditions described in Subsection [~~77-20-205(4)~~] 77-20-205(5).

(c) The court may, in the court's discretion, amend an order granting release to impose additional or different conditions of release.

(3) If the defendant is found guilty of an offense in a court not of record and files a timely notice of appeal in accordance with Subsection 78A-7-118(1) for a trial de novo, the court shall stay all terms of a sentence, unless at the time of sentencing the judge finds by a preponderance of the evidence that the defendant poses a danger to another person or the community.

(4) If a stay is ordered, the court may order postconviction restrictions on the defendant's conduct as appropriate, including:

(a) continuation of any pretrial restrictions or orders;

(b) sentencing protective orders under Section 78B-7-804;

(c) drug and alcohol use;

(d) use of an ignition interlock; and

(e) posting appropriate monetary bail.

(5) The provisions of Subsections (3) and (4) do not apply to convictions for an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(6) Any stay authorized by Subsection (3) is lifted upon the dismissal of the appeal by the district court.

Section 12. Section 77-20-401 is amended to read:

77-20-401. Payment of monetary bail to sheriff -- Specific payment methods.

(1) Subject to Subsection 77-20-402(2), if an individual has been required by a [~~bail commissioner~~] county jail official, or ordered by a magistrate or judge, to post monetary bail as a condition of pretrial release, the individual may post the amount of monetary bail with the [~~bail commissioner~~] county jail official:

(a) in money, by cash, certified or cashier's check, personal check with check guarantee card, money order, or credit card, if the [~~bail commissioner~~] county jail official has chosen to establish any of those options; or

(b) by a bail bond issued by a surety.

(2) [~~A bail commissioner~~] A county jail official shall deliver any monetary bail received under Subsection (1) to the appropriate court within three days after the day on which the monetary bail is received by the [~~bail commissioner~~] county jail official.

Section 13. Repealer.

This bill repeals:

Section 10-3-921, Fines -- Collection by bail commissioner -- Disposition.

Section 10-3-922, Term of bail commissioners -- Salary -- Bond and oath.

Section 17-32-1, Appointment of bail commissioners.

Section 17-32-2, Collection of fines by bail commissioners -- Disposition.

Section 17-32-3, Term of bail commissioners -- No additional compensation -- Bond and oath.

Section 17-32-4, Oaths and bonds to be filed.

CHAPTER 409
H. B. 322
Passed February 24, 2023
Approved March 20, 2023
Effective May 3, 2023

BUDGET REPORTING REQUIREMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses state agency budget reporting requirements.

Highlighted Provisions:

This bill:

- requires a state agency to submit a report to a legislative appropriations subcommittee that describes the agency's plan to expend the agency's nonlapsing appropriation balance;
- when a state agency is subject to an accountable budget process, requires the agency to evaluate the agency's internal budget processes and controls and report the results to a legislative appropriations subcommittee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63J-1-602, as last amended by Laws of Utah 2018, Chapter 469
63J-1-903, as enacted by Laws of Utah 2021, Chapter 421

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-1-602 is amended to read:

63J-1-602. Nonlapsing appropriations.

(1) The appropriations from a fund or account and appropriations to a program that are listed in Section 63J-1-602.1 or 63J-1-602.2 are nonlapsing.

(2) No appropriation from a fund or account or appropriation to a program may be treated as nonlapsing unless:

(a) it is listed in Section 63J-1-602.1 or 63J-1-602.2;

(b) it is designated in a condition of appropriation in the appropriations bill; or

(c) nonlapsing authority is granted under Section 63J-1-603.

(3) Each legislative appropriations subcommittee shall review the accounts and funds that have been granted nonlapsing authority under the provisions of this section or Section 63J-1-603.

(4) On or before October 1 of each calendar year, an agency shall submit to the legislative appropriations subcommittee with jurisdiction over the agency's budget a report that describes the agency's plan to expend any nonlapsing appropriations, including:

(a) if applicable, the results of the prior year's planned use of the agency's nonlapsing appropriations; and

(b) if the agency plans to save all or a portion of the agency's nonlapsing appropriations over multiple years to pay for an anticipated expense:

(i) the estimated cost of the expense; and

(ii) the number of years until the agency will accumulate the amount required to pay for the expense.

Section 2. Section 63J-1-903 is amended to read:

63J-1-903. Performance reporting and budget evaluation.

(1) The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst may develop an information system to collect, track, and publish agency performance measures.

(2) Each executive department agency shall:

(a) in consultation with the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst, develop performance measures to include in an appropriations act for each fiscal year; and

(b) on or before October 1 of each calendar year, provide to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst:

(i) any recommendations for legislative changes for the next fiscal year to the agency's previously adopted performance measures; and

(ii) a report of the final status of the agency's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

(3) Each judicial department agency shall:

(a) develop performance measures to include in an appropriations act for each fiscal year; and

(b) annually submit to the Office of the Legislative Fiscal Analyst a report that contains:

(i) any recommendations for legislative changes for the next fiscal year to the agency's previously adopted performance measures; and

(ii) the final status of the agency's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

(4) For each funding item, the executive department agency shall provide to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst:

(a) within 60 days after the day on which the Legislature adjourns a legislative session sine die:

(i) one or more proposed performance measures developed in consultation with the Governor's

Office of Planning and Budget and the Office of the Legislative Fiscal Analyst; and

(ii) a target for each performance measure described in Subsection (4)(a)(i); and

(b) on or before August 15 of each year after the close of the fiscal year in which the funding item was first funded, a report that includes:

(i) the status of each performance measure relative to the measure's target as described in Subsection (4)(a);

(ii) the actual amount the agency spent, if any, on the funding item; and

(iii) (A) the month and year in which the agency implemented the program or project associated with the funding item; or

(B) if the program or project associated with the funding item is not fully implemented, the month and year in which the agency anticipates fully implementing the program or project associated with the funding item.

(5) The Office of the Legislative Fiscal Analyst shall report the relevant performance measure information described in this section to the Executive Appropriations Committee and the appropriations subcommittees, as appropriate.

(6) Each executive department agency, when the agency's budget is subject to a legislative appropriations subcommittee's accountable budget process, shall:

(a) conduct a thorough evaluation of the agency's performance measures, internal budget process, and budget controls; and

(b) submit the results of the evaluation to the legislative appropriations subcommittee.

CHAPTER 410
H. B. 332
Passed March 1, 2023
Approved March 20, 2023
Effective July 1, 2023

FALLEN OFFICER MEMORIAL SCHOLARSHIP PROGRAM

Chief Sponsor: Tyler Clancy
Senate Sponsor: Curtis S. Bramble
Cosponsors: Nelson T. Abbott
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Bridger Bolinder
Walt Brooks
Joseph Elison
Matthew H. Gwynn
Katy Hall
Jon Hawkins
Marsha Judkins
Trevor Lee
A. Cory Maloy
Ashlee Matthews
Carol S. Moss
Karen M. Peterson
Thomas W. Peterson
Candice B. Pierucci
Judy Weeks Rohner
Mike Schultz
Casey Snider
Andrew Stoddard
R. Neil Walter
Douglas R. Welton
Ryan D. Wilcox

LONG TITLE

General Description:

This bill creates the Fallen Officer Memorial Scholarship Program to be administered by the Department of Public Safety.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Fallen Officer Memorial Scholarship Program to be administered by the Department of Public Safety to provide certain funds to children of public safety officers and firefighters who have died in the line of duty; and
- grants the Department of Public Safety rulemaking authority to administer the program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
53-17a-101, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-17a-101 is enacted to read:

CHAPTER 17a. FALLEN OFFICER MEMORIAL SCHOLARSHIP PROGRAM

53-17a-101. Fallen Officer Memorial Scholarship Program -- Rulemaking.

(1) As used in this section:

(a) "Child" means an individual who:

(i) is a natural or adopted child of a public safety officer or a firefighter who died in the line of duty; and

(ii) was under the age of 25 at the time of the public safety officer's or firefighter's death.

(b) "Died in the line of duty" means a death that is classified as a line-of-duty death under the provisions of Section 49-14-102, 49-15-102, 49-16-102, or 49-23-102.

(c) "Educational-related expenses" includes tuition, fees, books, and other expenses related to obtaining an education.

(d) "Firefighter" means the same as that term is defined in Section 34A-3-113.

(e) "Public safety officer" means an individual who:

(i) is employed as:

(A) a law enforcement officer in accordance with Section 53-13-103;

(B) a correctional officer in accordance with Section 53-13-104; or

(C) a special function officer in accordance with Section 53-13-105; and

(ii) in the course of the individual's employment, put the individual's life or personal safety at risk.

(2) This section creates the Fallen Officer Memorial Scholarship Program, to be administered by the department.

(3) Subject to legislative appropriations and Subsection (6), the department shall provide $5,000 per year for up to four years to an applicant who:

(a) is a child of a public safety officer or a firefighter who died in the line of duty;

(b) is 17 years old or older;

(c) certifies, on a form provided by the department, that the applicant agrees to use the funds entirely for educational-related expenses; and

(d) fulfills any other application requirement established by the department.

(4) Nothing in this section affects a child's ability to obtain a tuition waiver under Section 53B-8c-103.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

department may make rules necessary to administer this section, including:

(i) setting deadlines for receiving applications and supporting documentation; and

(ii) establishing the application process and an appeal process for the Fallen Officer Memorial Scholarship Program.

(b) The department shall include a disclosure on all applications and related materials that the amount of funds provided may be subject to funding or be reduced, in accordance with Subsection (6).

(6) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Income Tax Fund to the department for the costs associated with the Fallen Officer Memorial Scholarship Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the Fallen Officer Memorial Scholarship Program, the department may:

(i) reduce the amount of funds distributed to an applicant; or

(ii) distribute funds on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

Section 2. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 411
H. B. 339
Passed February 27, 2023
Approved March 20, 2023
Effective May 3, 2023

CRIME PENALTY AMENDMENTS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies offenses and penalties.

Highlighted Provisions:

This bill:

- defines terms;
- amends the penalty for vandalism committed on public lands;
- modifies the definition of voyeurism; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-107.5, as enacted by Laws of Utah 2019, Chapter 292

76-9-702.7, as last amended by Laws of Utah 2017, Chapter 364

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-6-107.5 is amended to read:

76-6-107.5. Vandalism of public lands.

(1) As used in this section:

(a) "Etching" means defacing, damaging, or destroying a hard surface by using a chemical, an abrasive object, a knife, or an engraving device.

(b) "Graffiti" means unauthorized printing, spraying, scratching, affixing, etching, or inscribing on property owned by the state regardless of the content or the nature of the material used in the commission of the act.

(c) "Public lands" means state or federally owned property that is held substantially in its natural state, including canyons, parks owned or managed by the state, national parks, land managed by the Bureau of Land Management, and other lands owned or maintained by a government entity for outdoor recreational use.

(2) An individual is guilty of public lands vandalism if the individual creates, or assists in creating, graffiti on any public lands or state-owned object permanently located on public lands.

(3) An individual convicted under Subsection (2) is guilty of:

(a) a class B misdemeanor; or

(b) if the individual was previously convicted of violating this section, a class A misdemeanor.

(4) If an individual is convicted of public lands vandalism, the court shall sentence the individual to a term of community service as follows:

(a) for a first conviction, the court shall sentence the individual to 100 hours of community service, to be completed within 90 days after the day on which the court issues the order;

(b) for a second conviction, the court shall sentence the individual to 200 hours of community service, to be completed within 180 days after the day on which the court issues the order; or

(c) for a third or subsequent conviction, the court shall sentence the individual to 300 hours of community service, to be completed within 270 days after the day on which the court issues the order.

(5) If an individual is enrolled in school or maintains full or part-time employment, the ordered community service may not be scheduled at a time the individual is scheduled to be in school or performing the individual's employment duties.

(6) A sentence of community service described in Subjection (4) shall, to the greatest extent possible, be for the benefit of public lands.

(7) If an individual is convicted of public lands vandalism, the court may impose a fine up to the full amount of the estimated cost to restore the damaged land, caused by the individual, to the land's original state.

(8) An individual who voluntarily, at the individual's own expense, and with the consent of the property owner, removes graffiti for which the individual is responsible shall be credited for costs ordered by the court under Subsection (7).

Section 2. Section 76-9-702.7 is amended to read:

76-9-702.7. Voyeurism offenses -- Penalties.

(1) A person is guilty of voyeurism who intentionally uses any type of technology to secretly or surreptitiously record, [~~video of a person~~] by video, photograph, or other means, an individual:

(a) for the purpose of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(b) without the knowledge or consent of the individual; and

(c) under circumstances in which the individual has a reasonable expectation of privacy.

(2) A violation of Subsection (1) is a class A misdemeanor, except that a violation of Subsection (1) committed against a child under 14 years of age is a third degree felony.

(3) Distribution or sale of any images, including in print, electronic, magnetic, or digital format, obtained under Subsection (1) by transmission, display, or dissemination is a third degree felony, except that if the violation of this Subsection (3)

includes images of a child under 14 years of age, the violation is a second degree felony.

(4) A person is guilty of voyeurism who, under circumstances not amounting to a violation of Subsection (1), views or attempts to view an individual, with or without the use of any instrumentality:

(a) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(b) without the knowledge or consent of the individual; and

(c) under circumstances in which the individual has a reasonable expectation of privacy.

(5) A violation of Subsection (4) is a class B misdemeanor, except that a violation of Subsection (4) committed against a child under 14 years of age is a class A misdemeanor.

CHAPTER 412
H. B. 348
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

PARTICIPATION WAIVER AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill clarifies how a school responds when a student refrains from participation in school due to a student's or a student's parent's religious belief or right of conscience.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies how a school responds when a student refrains from participation in school due to a student's or a student's parent's religious belief or right of conscience, consistent with Utah Constitution, Article I, Section 4;
- grants the State Board of Education rulemaking authority; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-10-203, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-10-205, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-10-203 is amended to read:

53G-10-203. Expressions of belief -- Discretionary time.

(1) Expression of personal beliefs by a student participating in school-directed curricula or activities may not be prohibited or penalized unless the expression unreasonably interferes with order or discipline, threatens the well-being of persons or property, or violates concepts of civility or propriety appropriate to a school setting.

(2) (a) As used in this section, "discretionary time" means noninstructional time during which a student is free to pursue personal interests.

(b) Free exercise of voluntary religious practice or freedom of speech by students during discretionary time shall not be denied unless the conduct unreasonably interferes with the ability of school officials to maintain order and discipline, unreasonably endangers persons or property, or violates concepts of civility or propriety appropriate to a school setting.

(3) Any limitation under [~~Sections 53G-10-203 and 53G-10-205~~] this section on student expression, practice, or conduct shall be by the least restrictive means necessary to satisfy the school's interests [~~as stated in those sections~~], or to satisfy another specifically identified compelling governmental interest.

Section 2. Section 53G-10-205 is amended to read:

53G-10-205. Waivers of participation.

(1) As used in this section[~~, "school"~~]:

(a) "School" means a public school.

(b) "Student" means a public school student in kindergarten through grade 12.

[~~(2) If a parent of a student, or a secondary student, determines that the student's participation in a portion of the curriculum or in an activity would require the student to affirm or deny a religious belief or right of conscience, or engage or refrain from engaging in a practice forbidden or required in the exercise of a religious right or right of conscience, the parent or the secondary student may request:~~]

[~~(a) a waiver of the requirement to participate; or~~]

[~~(b) a reasonable alternative that requires reasonably equivalent performance by the student of the secular objectives of the curriculum or activity in question.~~]

[~~(3)~~] (2) (a) In accordance with Utah Constitution, Article I, Section 4, a student may refrain from participation in any aspect of school that violates a religious belief or right of conscience of the student.

(b) A school may not, in any aspect of school:

(i) require or incentivize a student to affirm or deny the student's or the student's parent's religious belief or right of conscience;

(ii) engage a student in a practice that violates or is contrary to the student's or the student's parent's religious belief or right of conscience; or

(iii) penalize or discriminate against a student for refraining from participation due to the student's or the student's parent's religious belief or right of conscience.

(3) [~~The school shall~~] When a student refrains from participating in any aspect of school that violates the student's or the student's parent's religious belief or right of conscience, the school:

(a) shall promptly notify [~~a~~] the student's parent [~~if the secondary student makes a request under Subsection (2).~~];

(b) may offer an alternative that does not violate the student's or the student's parent's religious belief or right of conscience; and

(c) may not require the student or the student's parent to explain, defend, or justify the student's or the student's parent's religious belief or right of conscience.

(4) A student's parent may waive the student's participation in any aspect of school that violates

the student's or the student's parent's religious belief or right of conscience.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules consistent with this section.

[~~(4) If a request is made under Subsection (2), the school shall:~~]

[~~(a) waive the participation requirement;~~]

[~~(b) provide a reasonable alternative to the requirement; or~~]

[~~(c) notify the requesting party that participation is required.~~]

[~~(5) The school shall ensure that the provisions of Subsection 53G-10-203(3) are met in connection with any required participation under Subsection (4)(c).~~]

[~~(6) A student's academic or citizenship performance may not be penalized if the secondary student or the student's parent chooses to exercise a religious right or right of conscience in accordance with the provisions of this section.~~]

CHAPTER 413
H. B. 351
Passed March 1, 2023
Approved March 20, 2023
Effective May 3, 2023

COUNTY RECORDER MODIFICATIONS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions related to county recorders.

Highlighted Provisions:

This bill:

- defines terms;
- establishes the County Recorder Standards Board (board) for the purpose of making rules that establish statewide standards for county recorders;
- requires counties to establish an appeal authority to hear and decide appeals from a county recorder's application of rules made by the board;
- requires county recorders to comply with the board's rules and the county's appeal authority;
- describes the membership and appointment of board members;
- requires the Department of Commerce to provide staff support to the board;
- requires the board to report annually to the Legislature; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-21-1, as last amended by Laws of Utah 2014, Chapter 89

ENACTS:

17-50-340, Utah Code Annotated 1953
63C-29-101, Utah Code Annotated 1953
63C-29-201, Utah Code Annotated 1953
63C-29-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-21-1 is amended to read:

17-21-1. Recorder -- Document custody responsibility -- Compliance with rules made by the County Recorder Standards Board -- Compliance with county appeal authority.

The county recorder:

(1) is custodian of all recorded documents and records required by law to be recorded;

(2) shall comply with rules made by the County Recorder Standards Board under Section 63C-29-202, including rules that govern:

(a) the protection of recorded documents and records in the county recorder's custody;

(b) the electronic submission of plats, records, and other documents to the county recorder's office;

(c) the protection of privacy interests in the case of documents and records in the county recorder's custody; and

(d) the formatting, recording, and redaction of documents and records in the county recorder's custody;

(3) shall comply with the appeal authority established by the county legislative body in accordance with Section 17-50-340; and

(4) may adopt policies and procedures governing the office of the county recorder that do not conflict with this chapter or rules made by the County Recorder Standards Board under Section 63C-29-202.

[~~(2) shall establish policies and procedures that the recorder considers necessary to protect recorded documents and records in the recorder's custody, including determining the appropriate method for the public to obtain copies of the public record under Section 17-21-19 and supervision of those who search and make copies of the public record;~~]

[~~(3) may establish procedures and guidelines to govern the electronic submission of plats, records, and other documents to the county recorder's office consistent with Title 46, Chapter 4, Uniform Electronic Transactions Act, and Chapter 21a, Uniform Real Property Electronic Recording Act; and~~]

[~~(4) shall establish procedures to govern the electronic submission of plats, records, and other documents to the county recorder's office consistent with standards established under Chapter 21a, Uniform Real Property Electronic Recording Act, by:~~]

[~~(a) if in a county of the first or second class, July 1, 2016;~~]

[~~(b) if in a county of the third or fourth class, July 1, 2017; or~~]

[~~(c) if in a county of the fifth or sixth class, July 1, 2018.~~]

Section 2. Section 17-50-340 is enacted to read:

17-50-340. Establishment of county recorder appeal authority.

(1) On or before July 1, 2023, a county legislative body shall, by ordinance, establish an appeal authority to hear and decide appeals from a county recorder's application of rules made by the County Recorder Standards Board under Section 63C-29-201.

(2) This section:

(a) does not preclude an individual who seeks an appeal from a county recorder's decision from pursuing any other available remedy; and

(b) may not be construed as requiring an individual to exhaust administrative remedies with an appeal authority established under Subsection (1) before seeking any other available remedy.

Section 3. Section 63C-29-101 is enacted to read:

CHAPTER 29. COUNTY RECORDER STANDARDS BOARD

Part 1. General Provisions

63C-29-101 (Codified as 63C-30-101). Definitions.

As used in this chapter:

(1) "Board" means the County Recorder Standards Board created in Section 63C-29-201.

(2) "Department" means the Department of Commerce created in Section 13-1-2.

Section 4. Section 63C-29-201 is enacted to read:

Part 2. County Recorder Standards Board

63C-29-201 (Codified as 63C-30-201). County Recorder Standards Board created.

(1) There is created the County Recorder Standards Board.

(2) The board shall be composed of nine members as follows:

(a) one representative of the Utah Property Rights Coalition, appointed by the Utah Property Rights Coalition;

(b) one representative of the Utah Association of Counties, appointed by the Utah Association of Counties;

(c) one representative of the Utah Council of Land Surveyors, appointed by the Utah Council of Land Surveyors;

(d) one representative of the Utah Land Title Association, appointed by the Utah Land Title Association;

(e) one representative from the oil, gas, or mining industry, appointed jointly by the Utah Petroleum Association, the Utah Mining Association, and the Utah Association of Professional Landmen;

(f) one county recorder from a county of the first or second class, appointed by the Utah Association of County Recorders;

(g) one county recorder from a county of the third, fourth, fifth, or sixth class, appointed by the Utah Association of County Recorders;

(h) one attorney who is a member of the Utah State Bar, appointed by the Utah Association of County Recorders; and

(i) one attorney who is a member of the Utah State Bar, appointed by the Utah Association of Realtors.

(3) (a) If a vacancy occurs in the membership of the board, the member shall be replaced in the same manner in which the original appointment was made.

(b) A member shall serve a term of four years and until the member's successor is appointed and qualified.

(c) Notwithstanding Subsection (3)(b), at the time of appointment or reappointment, the department shall adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board members are appointed every two years.

(d) A board member may be appointed to more than one term.

(4) The board shall annually select a chair from among the board's members.

(5) (a) Five board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the board.

(6) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall provide staff support to the board.

Section 5. Section 63C-29-202 is enacted to read:

63C-29-202 (Codified as 63C-30-202). Duties of the board -- Reporting.

(1) The board shall:

(a) subject to Subsection (2), make rules that establish statewide standards for county recorders as the board deems necessary to reduce or eliminate inconsistencies, including rules for:

(i) the protection of recorded documents and records in a county recorder's custody, including appropriate methods for obtaining copies of a public record under Section 17-21-19, and the supervision of individuals who search and make copies of the public record;

(ii) the electronic submission of plats, records, and other documents to a county recorder's office;

(iii) the protection of privacy interests in the case of documents and records in a county recorder's custody; and

(iv) the formatting, recording, and redaction of documents and records in a county recorder's custody; and

(b) promote uniformity throughout the state with respect to the services provided by a county recorder.

(2) (a) The rules under Subsection (1)(a) shall:

(i) be made in accordance with Title 63G, Chapter 3, Administrative Rulemaking Act; and

(ii) be consistent with applicable state law, including:

(A) Title 17, Chapter 21, Recorder;

(B) Title 17, Chapter 21a, Uniform Real Property Electronic Recording Act;

(C) Title 46, Chapter 4, Uniform Electronic Transactions Act; and

(D) Title 57, Real Estate.

(b) The rules under Subsection (1)(a) may not require a county recorder to expend any additional funds.

(3) On or before October 1 of each year, the board shall submit a written report to the Political Subdivisions Interim Committee and the Business and Labor Interim Committee that includes:

(a) information regarding the operations and activities of the board; and

(b) any recommendations for legislation related to the services provided by county recorders, including recommendations for modification of the fees established in Section 17-21-18.5.

CHAPTER 414
H. B. 368
Passed February 24, 2023
Approved March 20, 2023
Effective May 3, 2023

INMATE IDENTIFICATION AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill requires the Department of Corrections to assist an inmate with access to identification materials.

Highlighted Provisions:

This bill:

- requires the Driver License Division to coordinate with the Department of Corrections in assisting an inmate in obtaining a temporary identification card, renewing or obtaining a duplicate of the inmate's driver license, or extending the inmate's regular identification card;
- requires the Department of Corrections to:
  - determine in the inmate's first 15 days of incarceration in a state correctional facility, and six months before an inmate's release, whether the inmate has a current state-issued identification and a copy of the inmate's birth certificate and social security card;
  - request a copy of the inmate's birth certificate or social security card; and
  - provide an inmate with necessary personal identification documentation for an application and to assist the inmate in applying for a temporary regular identification card, renewing a driver license or obtaining a duplicate driver license, or extending a regular identification card; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
53-3-214, as last amended by Laws of Utah 2019, Chapter 381
53-3-805, as last amended by Laws of Utah 2022, Chapter 158
64-13-1, as last amended by Laws of Utah 2021, Chapters 85, 246 and 260
64-13-10.6, as enacted by Laws of Utah 2015, Chapter 412

ENACTS:
64-13-10.4, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-214 is amended to read:

53-3-214. Renewal -- Fees required -- Extension without examination.

(1) (a) The holder of a valid license may renew the holder's license and any endorsement to the license by applying:

(i) at any time within six months before the license expires; or

(ii) more than six months prior to the expiration date if the applicant furnishes proof that the applicant will be absent from the state during the six-month period prior to the expiration of the license.

(b) The application for a renewal of, extension of, or any endorsement to a license shall be accompanied by a fee under Section 53-3-105.

(2) (a) Except as provided under Subsections (2)(b) and (3), upon application for renewal of a regular license certificate, provisional license, and any endorsement to a regular license certificate, the division shall reexamine each applicant as if for an original license and endorsement to the license, if applicable.

(b) Except as provided under Subsection (2)(c), upon application for renewal of a limited-term license certificate, limited-term provisional license certificate, and any endorsement to a limited-term license certificate, the division shall:

(i) reexamine each applicant as if for an original limited-term license certificate and endorsement to the limited-term license certificate, if applicable; and

(ii) verify through valid documentary evidence that the status by which the individual originally qualified for the limited-term license certificate has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(c) The division may waive any or all portions of the test designed to demonstrate the applicant's ability to exercise ordinary and reasonable control driving a motor vehicle.

(3) (a) (i) Except as provided under Subsections (3)(b) and (c), the division may renew or extend a regular license certificate or any endorsement to the regular license certificate for eight years without examination for licensees whose driving records for the eight years immediately preceding the determination of eligibility for extension show:

(A) no suspensions;

(B) no revocations;

(C) no conviction for reckless driving under Section 41-6a-528; and

(D) no more than six reportable violations in the preceding eight years.

(ii) Except as provided under Subsections (3)(b) and (c), the division may renew or extend a provisional license and any endorsement to a provisional license for eight years without examination for licensees whose driving records for the five years immediately preceding the determination of eligibility for extension show:

(A) no suspensions;

(B) no revocations;

(C) no conviction for reckless driving under Section 41-6a-528; and

(D) no more than four reportable violations in the preceding five years.

(iii) Except as provided under Subsections (3)(b) and (c), the division may renew or extend a limited term license and any endorsement to a limited term license for five years without examination for licensees whose driving records for the five years immediately preceding the determination of eligibility for extension show:

(A) no suspensions;

(B) no revocations;

(C) no conviction for reckless driving under Section 41-6a-528; and

(D) no more than four reportable violations in the preceding five years.

(b) Except as provided in Subsection (3)(g), after the expiration of a regular license certificate, a new regular license certificate and any endorsement to a regular license certificate may not be issued until the person has again passed the tests under Section 53-3-206 and paid the required fee.

(c) After the expiration of a limited-term license certificate, a new limited-term license certificate and any endorsement to a limited-term license certificate may not be issued until the person has:

(i) again passed the tests under Section 53-3-206 and paid the required fee; and

(ii) presented documentary evidence that the status by which the individual originally qualified for the limited-term license certificate has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(d) A person 65 years of age or older shall take and pass the eye examination specified in Section 53-3-206.

(e) An extension may not be granted to any person:

(i) who is identified by the division as having a medical impairment that may represent a hazard to public safety;

(ii) holding a CDL or limited-term CDL issued under Part 4, Uniform Commercial Driver License Act;

(iii) who is holding a limited-term license certificate; or

(iv) who is holding a driving privilege card issued in accordance with Section 53-3-207.

(f) The division shall allow extensions:

(i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105;

(ii) only if the applicant qualifies under this section; and

(iii) for only one extension.

(g) The division may waive any or all portions of the test designed to demonstrate the applicant's ability to exercise ordinary and reasonable control driving a motor vehicle.

(4) In accordance with this section, the division shall coordinate with the Department of Corrections in providing an inmate with access to a driver license certificate as described in Section 64-13-10.6.

Section 2. Section 53-3-805 is amended to read:

53-3-805. Identification card -- Contents -- Specifications.

(1) As used in this section:

(a) "Health care professional" means the same as that term is defined in Section 53-3-207.

(b) "Invisible condition" means the same as that term is defined in Section 53-3-207.

(c) "Invisible condition identification symbol" means the same as that term is defined in Section 53-3-207.

(2) (a) The division shall issue an identification card that bears:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) a photograph of the individual;

(v) a photograph or other facsimile of the individual's signature;

(vi) an indication whether the individual intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act; and

(vii) if the individual states that the individual is a veteran of the United States military on the application for an identification card in accordance with Section 53-3-804 and provides verification that the individual received an honorable or general discharge from the United States Armed Forces, an indication that the individual is a United States military veteran for a regular identification card or

a limited-term identification card issued on or after July 1, 2011.

(b) An identification card issued by the division may not bear the individual's Social Security number or place of birth.

(3) (a) The card shall be of an impervious material, resistant to wear, damage, and alteration.

(b) Except as provided under Section 53-3-806, the size, form, and color of the card is prescribed by the commissioner.

(4) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(5) (a) The division shall include or affix an invisible condition identification symbol on an individual's identification card if the individual, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) submits a signed waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on the individual's driving record or the Utah Criminal Justice Information System under this chapter; and

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's regular license certificate, limited-term license certificate, or driving privilege card or the individual's information in the Utah Criminal Justice Information System.

(b) As part of the form described in Subsection (5)(a), the department shall advise the individual that by submitting the request and signed waiver, the individual consents to the release of the individual's medical information to any person described in [~~Subsections (5)(a)(iii)(A) through (C)~~] Subsection (5)(a)(iii), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's identification card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued identification card, require the individual to provide subsequent written verification described in Subsection (5)(a)(ii) to include the invisible condition identification symbol on the individual's extended identification card.

(d) The inclusion of an invisible condition identification symbol on an individual's identification card in accordance with Subsection (5)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

(e) For each individual issued an identification card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

(f) Except as provided in this section, the division may not release the information described in Subsection (5)(e).

(g) Within 30 days after the day on which the division receives an individual's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection (5)(e); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(6) As provided in Section 63G-2-302, the information described in Subsection (5)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(7) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated by the applicant in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all individuals who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform applicants of anatomical gift options, procedures, and benefits.

(8) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all individuals who indicate their status as a veteran under Subsection 53-3-804(2)(l).

(9) The division and the division's employees are not liable, as a result of false or inaccurate information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(10) (a) The division may issue a temporary regular identification card to an individual while the individual obtains the required documentation to establish verification of the information described in Subsections 53-3-804(2)(a), (b), (c), (d), and (i)(i).

(b) A temporary regular identification card issued under this Subsection (10) shall be recognized and grant the individual the same privileges as a regular identification card.

(c) A temporary regular identification card issued under this Subsection (10) is invalid:

(i) when the individual's regular identification card has been issued;

(ii) when, for good cause, an applicant's application for a regular identification card has been refused; or

(iii) upon expiration of the temporary regular identification card.

(d) The division shall coordinate with the Department of Corrections in providing an inmate with a temporary regular identification card as described in Section 64-13-10.6.

Section 3. Section 64-13-1 is amended to read:

64-13-1. Definitions.

As used in this chapter:

(1) "Behavioral health transition facility" means a nonsecure correctional facility operated by the department for the purpose of providing a therapeutic environment for offenders receiving mental health services.

(2) "Case action plan" means a document developed by the Department of Corrections that identifies:

(a) the program priorities for the treatment of the offender, including the criminal risk factors as determined by risk, needs, and responsivity assessments conducted by the department; and

(b) clearly defined completion requirements.

(3) "Community correctional center" means a nonsecure correctional facility operated by the department, but does not include a behavioral health transition facility for the purposes of Section 64-13f-103.

(4) "Correctional facility" means any facility operated to house offenders in a secure or nonsecure setting:

(a) by the department; or

(b) under a contract with the department.

(5) "Criminal risk factors" means an individual's characteristics and behaviors that:

(a) affect the individual's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in a reduced risk of criminal behavior.

(6) "Department" means the Department of Corrections.

(7) "Direct supervision" means a housing and supervision system that is designed to meet the goals described in Subsection 64-13-14(5) and has the elements described in Subsection 64-13-14(6).

(8) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in any correctional facility, or any situation that presents immediate danger to the safety, security, and control of the department.

(9) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(10) "Evidence-informed" means a program or practice that is based on research and the experience and expertise of the department.

(11) "Executive director" means the executive director of the Department of Corrections.

(12) "Inmate" means an individual who is:

(a) committed to the custody of the department; and

(b) housed at a correctional facility or at a county jail at the request of the department.

(13) "Offender" means an individual who has been convicted of a crime for which the individual may be committed to the custody of the department and is at least one of the following:

(a) committed to the custody of the department;

(b) on probation; or

(c) on parole.

(14) "Restitution" means the same as that term is defined in Section 77-38b-102.

(15) "Risk and needs assessment" means an actuarial tool validated on criminal offenders that determines:

(a) an individual's risk of reoffending; and

(b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

(16) "Secure correctional facility" means any prison, penitentiary, or other institution operated by the department or under contract for the confinement of offenders, where force may be used to restrain an offender if the offender attempts to leave the institution without authorization.

(17) "State-issued driver license" means a driver license issued in accordance with Title 53,

Chapter 3, Part 2, Driver Licensing Act, or an equivalent issued by another state.

(18) "State-issued identification card" means an identification card issued in accordance with Title 53, Chapter 3, Part 8, Identification Card Act, or an equivalent issued by another state.

Section 4. Section 64-13-10.4 is enacted to read:

64-13-10.4. Entry of an inmate -- Identification application requests.

(1) (a) Within 15 days after the date on which an inmate enters incarceration in a state correctional facility, and, if applicable, approximately six months before the date of the inmate's anticipated release as described in Subsection 64-13-10.6(3), the department shall determine whether the inmate has:

(i) a certified copy of the inmate's birth certificate;

(ii) a copy of the inmate's social security card; and

(iii) a current state-issued driver license or state-issued identification card.

(b) For any document described in Subsection (1)(a) that the inmate does not possess, the department shall:

(i) inform the inmate that each document listed in Subsection (1)(a) may be required to obtain employment upon release;

(ii) inquire whether the inmate would like to apply for and obtain any of the documents described in Subsection (1)(a); and

(iii) (A) if the inmate accepts assistance in obtaining the documents described in Subsection (1)(a), subject to Subsection (5), provide the assistance described in Subsections (2) through (4) within 30 days after the date on which the inmate accepts assistance; or

(B) if the inmate refuses assistance in obtaining the documents described in Subsection (1)(a), maintain a record of the inmate's refusal in the department's electronic file management system.

(2) (a) If an inmate was born in the United States and accepts assistance in obtaining a certified copy of the inmate's birth certificate, the department shall:

(i) request that the inmate pay the fee for obtaining the certified copy of the inmate's birth certificate; or

(ii) if the department determines that the inmate is unable to pay the fee as described in Subsection (2)(a)(i), determine whether funds are available from a private donation and use the private donation to pay the fee.

(b) If funds are available to pay the fee for obtaining a certified copy of a birth certificate as described in Subsection (2)(a), the department shall request a certified copy of the inmate's birth certificate from the inmate's state of birth.

(3) If an inmate accepts assistance in obtaining a copy of the inmate's social security card and does not have a copy of the inmate's social security card, the department shall coordinate with the Social Security Administration in obtaining a copy of the inmate's social security card, unless the inmate previously requested the maximum number of yearly or lifetime requests.

(4) If an inmate accepts assistance in obtaining a state-issued identification card or driver license, the department shall follow the procedure described in Subsection 64-13-10.6(4).

(5) The requirements of this section do not apply if the inmate is not:

(a) a citizen of the United States; or

(b) a lawful resident of the United States who has legal authorization to work in the United States.

Section 5. Section 64-13-10.6 is amended to read:

64-13-10.6. Transition and reentry of an inmate at termination of incarceration.

(1) The department shall evaluate the case action plan and update the case action plan as necessary to prepare for the offender's transition from incarceration to release, including:

(a) establishing the supervision level and program needs, based on the offender's criminal risk factors;

(b) identifying barriers to the offender's ability to obtain housing, food, clothing, and transportation;

(c) identifying community-based treatment resources that are reasonably accessible to the offender; and

(d) establishing the initial supervision procedures and strategy for the offender's parole officer.

(2) The department shall notify the Board of Pardons and Parole not fewer than 30 days prior to an offender's release of:

(a) the offender's case action plan; and

(b) any specific conditions of parole necessary to better facilitate transition to the community.

(3) (a) At least six months before the projected date of an inmate's release from incarceration, if practicable, the department shall follow the procedures described in Section 64-13-10.4.

(b) If the department is notified of the inmate's release and the remaining term of incarceration is for less than six months, the department shall follow the procedures described in Section 64-13-10.4 as soon as practicable after the department receives notification of the inmate's release date.

(4) If the inmate's term of incarceration is for longer than six months, the department shall follow procedures described in Section 64-13-10.4:

(a) approximately six months before the date of the inmate's anticipated release, if the inmate's

term of incarceration is for longer than six months; or

(b) as soon as possible, upon notification of the inmate's release, if the release is in shorter than six months.

(5) (a) If an inmate accepts assistance in obtaining a current state-issued identification card or driver license, as described in Subsection 64-13-10.4(4), the department shall coordinate with the Driver License Division to:

(i) (A) obtain a duplicate of the inmate's state-issued driver license, as described in Section 53-3-215; or

(B) renew the inmate's state-issued driver license, if the inmate meets the criteria listed in Section 53-3-214; or

(ii) (A) extend the inmate's state-issued regular identification card, as described in Section 53-3-807; or

(B) issue the inmate a temporary regular identification card as described in Subsection 53-3-805(10), unless the inmate will live outside this state immediately upon release.

(b) (i) Subject to Subsection (5)(b)(ii), the department shall ensure that within the last seven days of the inmate's incarceration, the inmate meets with the Driver License Division to be issued a duplicate driver license, a renewed driver license, an extended regular identification card, or a temporary regular identification card, as described in Subsection (5)(a).

(ii) If an inmate is released from a facility other than a state correctional facility, the department shall coordinate with that correctional facility and the Driver License Division in assisting the inmate in meeting with the Driver License Division.

(c) Before the inmate meets with the Driver License Division, as described in Subsection (5)(b)(i), the department shall ensure that the inmate is provided all required documentation and information the department possesses for the inmate to obtain a document listed in Subsection (5)(a), including:

(i) all personal identification documentation; and

(ii) a voucher for payment toward any one of the documents listed in Subsection (5)(a), up to the cost of a temporary regular identification card described in Subsection 53-3-805(10).

(6) Subsections (4) and (5) do not apply to an inmate that is not:

(a) a citizen of the United States; or

(b) a lawful resident of the United States and has legal authorization to work in the United States.

CHAPTER 415
H. B. 369
Passed February 28, 2023
Approved March 20, 2023
Effective May 3, 2023

DUI AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends provisions related to driving under the influence and refusal of a chemical test.

Highlighted Provisions:

This bill:

- combines separate sections that include the elements of a driving under the influence offense into a single section;
- combines separate sections that include the elements of a refusal of a chemical test offense into a single section; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

24-4-102, as last amended by Laws of Utah 2022, Chapters 116, 274
31A-22-303, as last amended by Laws of Utah 2020, Chapter 76
41-6a-501, as last amended by Laws of Utah 2022, Chapter 116
41-6a-502, as last amended by Laws of Utah 2022, Chapter 415
41-6a-505, as last amended by Laws of Utah 2022, Chapters 116, 134 and 137
41-6a-518, as last amended by Laws of Utah 2022, Chapter 272
41-6a-518.2, as last amended by Laws of Utah 2022, Chapter 116
41-6a-520, as last amended by Laws of Utah 2022, Chapters 116, 134
41-6a-521.1, as enacted by Laws of Utah 2020, Chapter 177
41-6a-527, as last amended by Laws of Utah 2017, Chapter 181
41-6a-529, as last amended by Laws of Utah 2022, Chapter 116
53-3-218, as last amended by Laws of Utah 2022, Chapter 426
53-3-220, as last amended by Laws of Utah 2022, Chapter 116
53-3-227, as last amended by Laws of Utah 2008, Chapter 250
58-37f-201, as last amended by Laws of Utah 2022, Chapter 116
58-37f-703, as last amended by Laws of Utah 2016, Chapter 99
76-5-102.1, as enacted by Laws of Utah 2022, Chapter 116
76-5-207, as last amended by Laws of Utah 2022, Chapters 116, 181 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 116
77-2a-3, as last amended by Laws of Utah 2022, Chapter 116

ENACTS:

41-6a-520.1, Utah Code Annotated 1953

REPEALS:

41-6a-503, as last amended by Laws of Utah 2022, Chapters 116, 134 and 137

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 24-4-102 is amended to read:

24-4-102. Property subject to forfeiture.

(1) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:

(a) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; and

(b) seized proceeds.

(2) If seized property is used to facilitate an offense that is a violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:

(i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)(a);

(ii) a felony violation under Subsection 76-5-102.1(2)(b);

(iii) a violation under Section 76-5-207; or

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

(b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:

(i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:

(A) Section 41-6a-502;

(B) Section 41-6a-517;

(C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

(D) Section [~~41-6a-520~~] 41-6a-520.1;

(E) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(F) Section 76-5-102.1;

(G) Section 76-5-207; or

(H) a criminal prohibition as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through (G); or

(ii) the denial, suspension, revocation, or disqualification described in Subsections (3)(b)(i)(A) through (H):

(A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or disqualification; and

(B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in Subsections (3)(b)(i)(A) through (H).

(4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in accordance with the arrest.

Section 2. Section 31A-22-303 is amended to read:

31A-22-303. Motor vehicle liability coverage.

(1) (a) In addition to complying with the requirements of Chapter 21, Insurance Contracts in General, and [~~Chapter 22, Part 2, Liability Insurance in General~~] Part 2, Liability Insurance in General, a policy of motor vehicle liability coverage under Subsection 31A-22-302(1)(a) shall:

(i) name the motor vehicle owner or operator in whose name the policy was purchased, state that named insured's address, the coverage afforded, the premium charged, the policy period, and the limits of liability;

(ii) (A) if it is an owner's policy, designate by appropriate reference all the motor vehicles on which coverage is granted, insure the person named in the policy, insure any other person using any named motor vehicle with the express or implied permission of the named insured, and, except as provided in Section 31A-22-302.5, insure any person included in Subsection (1)(a)(iii) against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of these motor vehicles within the United States and Canada, subject to limits exclusive of interest and costs, for each motor vehicle, in amounts not less than the minimum limits specified under Section 31A-22-304; or

(B) if it is an operator's policy, insure the person named as insured against loss from the liability imposed upon him by law for damages arising out of the insured's use of any motor vehicle not owned by him, within the same territorial limits and with the same limits of liability as in an owner's policy under Subsection (1)(a)(ii)(A);

(iii) except as provided in Section 31A-22-302.5, insure persons related to the named insured by blood, marriage, adoption, or guardianship who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere, to the same extent as the named insured;

(iv) where a claim is brought by the named insured or a person described in Subsection (1)(a)(iii), the available coverage of the policy may not be reduced or stepped-down because:

(A) a permissive user driving a covered motor vehicle is at fault in causing an accident; or

(B) the named insured or any of the persons described in [~~this~~] Subsection (1)(a)(iii) driving a covered motor vehicle is at fault in causing an accident; and

(v) cover damages or injury resulting from a covered driver of a motor vehicle who is stricken by an unforeseeable paralysis, seizure, or other unconscious condition and who is not reasonably aware that paralysis, seizure, or other unconscious condition is about to occur to the extent that a person of ordinary prudence would not attempt to continue driving.

(b) The driver's liability under Subsection (1)(a)(v) is limited to the insurance coverage.

(c) (i) "Guardianship" under Subsection (1)(a)(iii) includes the relationship between a foster parent and a minor who is in the legal custody of the Division of Child and Family Services if:

(A) the minor resides in a foster home, as defined in Section 62A-2-101, with a foster parent who is the named insured; and

(B) the foster parent has signed to be jointly and severally liable for compensatory damages caused by the minor's operation of a motor vehicle in accordance with Section 53-3-211.

(ii) "Guardianship" as defined under this Subsection (1)(c) ceases to exist when a minor described in Subsection (1)(c)(i)(A) is no longer a resident of the named insured's household.

(2) (a) A policy containing motor vehicle liability coverage under Subsection 31A-22-302(1)(a) may:

(i) provide for the prorating of the insurance under that policy with other valid and collectible insurance;

(ii) grant any lawful coverage in addition to the required motor vehicle liability coverage;

(iii) if the policy is issued to a person other than a motor vehicle business, limit the coverage afforded

to a motor vehicle business or its officers, agents, or employees to the minimum limits under Section 31A-22-304, and to those instances when there is no other valid and collectible insurance with at least those limits, whether the other insurance is primary, excess, or contingent; and

(iv) if issued to a motor vehicle business, restrict coverage afforded to anyone other than the motor vehicle business or its officers, agents, or employees to the minimum limits under Section 31A-22-304, and to those instances when there is no other valid and collectible insurance with at least those limits, whether the other insurance is primary, excess, or contingent.

(b) (i) The liability insurance coverage of a permissive user of a motor vehicle owned by a motor vehicle business shall be primary coverage.

(ii) The liability insurance coverage of a motor vehicle business shall be secondary to the liability insurance coverage of a permissive user as specified under Subsection (2)(b)(i).

(3) Motor vehicle liability coverage need not insure any liability:

(a) under any workers' compensation law under Title 34A, Utah Labor Code;

(b) resulting from bodily injury to or death of an employee of the named insured, other than a domestic employee, while engaged in the employment of the insured, or while engaged in the operation, maintenance, or repair of a designated vehicle; or

(c) resulting from damage to property owned by, rented to, bailed to, or transported by the insured.

(4) An insurance carrier providing motor vehicle liability coverage has the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount of the settlement is deductible from the limits of liability specified under Section 31A-22-304.

(5) A policy containing motor vehicle liability coverage imposes on the insurer the duty to defend, in good faith, any person insured under the policy against any claim or suit seeking damages which would be payable under the policy.

(6) (a) If a policy containing motor vehicle liability coverage provides an insurer with the defense of lack of cooperation on the part of the insured, that defense is not effective against a third person making a claim against the insurer, unless there was collusion between the third person and the insured.

(b) If the defense of lack of cooperation is not effective against the claimant, after payment, the insurer is subrogated to the injured person's claim against the insured to the extent of the payment and is entitled to reimbursement by the insured after the injured third person has been made whole with respect to the claim against the insured.

(7) (a) A policy of motor vehicle coverage may limit coverage to the policy minimum limits under Section 31A-22-304 if the policy or a specifically reduced premium was extended to the insured upon express written declaration executed by the insured that the insured motor vehicle would not be operated by a person described in Subsection (7)(c) operating in a manner described in Subsection (7)(b)(i).

(b) (i) A policy of motor vehicle liability coverage may limit coverage as described in Subsection (7)(a) if the insured motor vehicle is operated by an individual described in Subsection (7)(c) if the individual described in Subsection (7)(c) is guilty of:

(A) driving under the influence as described in Section 41-6a-502;

(B) impaired driving as described in Section 41-6a-502.5; or

(C) operating a vehicle with a measurable controlled substance in the individual's body as described in Section 41-6a-517.

(ii) An individual's refusal to submit to a chemical test as described in [~~Section~~] Sections 41-6a-520 and 41-6a-520.1 is admissible evidence, but not conclusive, ~~that~~ the individual is guilty of an offense described in Subsection (7)(b)(i).

(c) A reduction in coverage as described in Subsection (7)(a) applies to the following individuals:

(i) the insured;

(ii) the spouse of the insured; or

(iii) if the individual has a separate policy as a secondary source of coverage, and:

(A) the individual is over the age of 21 and resides in the household of the insured; or

(B) the individual is a permissible user of the motor vehicle.

(d) A reduction in coverage as described in Subsection (7)(a) does not apply to an individual under the age of 21 who is a relative of the insured and a resident of the insured's household.

(8) (a) When a claim is brought exclusively by a named insured or a person described in Subsection (1)(a)(iii) and asserted exclusively against a named insured or an individual described in Subsection (1)(a)(iii), the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Once the claimant has elected to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of both parties and the defendant's liability insurer.

(c) (i) Unless otherwise agreed on in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a panel of three arbitrators.

(ii) Unless otherwise agreed on in writing by the parties, each party shall select an arbitrator. The arbitrators selected by the parties shall select a third arbitrator.

(d) Unless otherwise agreed on in writing by the parties, each party will pay the fees and costs of the arbitrator that party selects. Both parties shall share equally the fees and costs of the third arbitrator.

(e) Except as otherwise provided in this section, an arbitration procedure conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act, unless otherwise agreed on in writing by the parties.

(f) (i) Discovery shall be conducted in accordance with Rules 26b through 36, Utah Rules of Civil Procedure.

(ii) All issues of discovery shall be resolved by the arbitration panel.

(g) A written decision of two of the three arbitrators shall constitute a final decision of the arbitration panel.

(h) Prior to the rendering of the arbitration award:

(i) the existence of a liability insurance policy may be disclosed to the arbitration panel; and

(ii) the amount of all applicable liability insurance policy limits may not be disclosed to the arbitration panel.

(i) The amount of the arbitration award may not exceed the liability limits of all the defendant's applicable liability insurance policies, including applicable liability umbrella policies. If the initial arbitration award exceeds the liability limits of all applicable liability insurance policies, the arbitration award shall be reduced to an amount equal to the liability limits of all applicable liability insurance policies.

(j) The arbitration award is the final resolution of all claims between the parties unless the award was procured by corruption, fraud, or other undue means.

(k) If the arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitration panel may award reasonable fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(l) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(9) An at-fault driver or an insurer issuing a policy of insurance under this part that is covering an at-fault driver may not reduce compensation to an injured party based on the injured party not being covered by a policy of insurance that provides personal injury protection coverage under Sections 31A-22-306 through 31A-22-309.

Section 3. Section 41-6a-501 is amended to read:

41-6a-501. Definitions.

(1) As used in this part:

(a) "Actual physical control" is determined by a consideration of the totality of the circumstances, but does not include a circumstance in which:

(i) the person is asleep inside the vehicle;

(ii) the person is not in the driver's seat of the vehicle;

(iii) the engine of the vehicle is not running;

(iv) the vehicle is lawfully parked; and

(v) under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence of alcohol, a drug, or the combined influence of alcohol and any drug.

(b) "Assessment" means an in-depth clinical interview with a licensed mental health therapist:

(i) used to determine if a person is in need of:

(A) substance abuse treatment that is obtained at a substance abuse program;

(B) an educational series; or

(C) a combination of Subsections (1)(b)(i)(A) and (B); and

(ii) that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(c) "Driving under the influence court" means a court that is approved as a driving under the influence court by the Utah Judicial Council according to standards established by the Judicial Council.

(d) "Drug" or "drugs" means:

(i) a controlled substance as defined in Section 58-37-2;

(ii) a drug as defined in Section 58-17b-102; or

(iii) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a motor vehicle.

(e) "Educational series" means an educational series obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(f) "Negligence" means simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

(g) "Novice learner driver" means an individual who:

(i) has applied for a Utah driver license;

(ii) has not previously held a driver license in this state or another state; and

(iii) has not completed the requirements for issuance of a Utah driver license.

(h) "Screening" means a preliminary appraisal of a person:

(i) used to determine if the person is in need of:

(A) an assessment; or

(B) an educational series; and

(ii) that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(i) "Serious bodily injury" means bodily injury that creates or causes:

(i) serious permanent disfigurement;

(ii) protracted loss or impairment of the function of any bodily member or organ; or

(iii) a substantial risk of death.

(j) "Substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(k) "Substance abuse treatment program" means a state licensed substance abuse program.

(l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in Section 41-6a-102; and

(ii) "Vehicle" or "motor vehicle" includes:

(A) an off-highway vehicle as defined under Section 41-22-2; and

(B) a motorboat as defined in Section 73-18-2.

(2) As used in [~~Section 41-6a-503~~] Sections 41-6a-502 and 41-6a-520.1:

(a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:

(i) driving under the influence under Section 41-6a-502;

(ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under[~~:~~] Sections 41-6a-512 and 41-6a-528; or

[~~(I) Section 41-6a-512; and~~]

[~~(II) Section 41-6a-528; or~~]

(B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;

(iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;

(iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

(v) Section 76-5-207;

(vi) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

(viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of conviction is reduced under Section 76-3-402;

(ix) refusal of a chemical test under Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1); or

(x) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

(b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

(i) enhancement of penalties under this [~~Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving~~] part; and

(ii) expungement under [~~Title 77, Chapter 40, Expungement~~] Title 77, Chapter 40a, Expungement.

(c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent of a conviction even if the charge has been subsequently dismissed in accordance with the Utah Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

(i) this part;

(ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

(iii) negligently operating a vehicle resulting in death under Section 76-5-207.

(3) As used in Section 41-6a-505, "controlled substance" does not include an inactive metabolite of a controlled substance.

Section 4. Section 41-6a-502 is amended to read:

41-6a-502. Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration -- Penalties -- Reporting of convictions.

(1) [~~A person may not operate or be~~] An actor commits driving under the influence if the actor operates or is in actual physical control of a vehicle within this state if the [~~person~~] actor:

(a) has sufficient alcohol in the [~~person's~~] actor's body that a subsequent chemical test shows that the [~~person~~] actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the [~~person~~] actor incapable of safely operating a vehicle; or

(c) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation or actual physical control.

(2) (a) A violation of Subsection (1) is a class B misdemeanor.

(b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:

(i) has a passenger younger than 16 years old in the vehicle at the time of the offense;

(ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time of the offense;

(iii) the actor also violated Section 41-6a-712 or 41-6a-714 at the time of the offense; or

(iv) has one prior conviction within 10 years of:

(A) the current conviction under Subsection (1); or

(B) the commission of the offense upon which the current conviction is based.

(c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:

(i) the actor has two or more prior convictions each of which is within 10 years of:

(A) the current conviction; or

(B) the commission of the offense upon which the current conviction is based; or

(ii) the current conviction is at any time after a conviction of:

(A) a violation of Section 76-5-207;

(B) a felony violation of this section, Section 76-5-102.1, 41-6a-520.1, or a statute previously in effect in this state that would constitute a violation of this section; or

(C) any conviction described in Subsection (2)(c)(ii)(A) or (B) which judgment of conviction is reduced under Section 76-3-402.

[~~(2)~~] (3) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.

[~~(3)~~] (4) A violation of this section includes a violation under a local ordinance similar to this section adopted in compliance with Section 41-6a-510.

[~~(4)~~] (5) [~~Beginning on July 1, 2012, a~~] A court shall, monthly, send to the Division of Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving under the influence, in whole or in part, of a prescribed controlled substance.

[~~(5)~~] (6) An offense described in this section is a strict liability offense.

[~~(6)~~] (7) A guilty or no contest plea to an offense described in this section may not be held in abeyance.

(8) An actor is guilty of a separate offense under Subsection (1) for each passenger in the vehicle that is younger than 16 years old at the time of the offense.

Section 5. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502 where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than five days; or

(B) impose a jail sentence of not less than two days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than $700;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a),

other than the individual sentenced, order the individual sentenced to reimburse the party;

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (1)(b)(i) and (ii).

(2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i) (A) impose a jail sentence of not less than two days; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than $700;

(vi) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(vii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (3)(b)(i) through (iii).

(4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).

(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

(5) If an individual has a prior conviction as defined in [~~Subsection 41-6a-501(2)~~] Section 41-6a-501 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 20 days;

(B) impose a jail sentence of not less than 10 days in addition to home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or

(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (5)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;

(viii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (5)(b)(i) and (ii).

(6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in [~~Subsection 41-6a-501(2)~~] Section 41-6a-501 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (7)(b)(i) and (ii).

(8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the

requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

(9) Under Subsection [~~41-6a-503(3)~~] 41-6a-502(2)(c), if the court suspends the execution of a prison sentence and places the defendant on probation where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the person's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed, the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 120 days;

(c) home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(10) (a) For Subsection (9) or Subsection [~~41-6a-503(3)(a)~~] 41-6a-502(2)(c)(i), the court:

(i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(ii) may impose an order requiring the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

(11) Under Subsection [~~41-6a-503(3)~~] 41-6a-502(2)(c), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 60 days;

(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.

(ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8).

(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.

(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

(13) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device or remote alcohol monitor as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 6. Section 41-6a-518 is amended to read:

41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost -- Indigency -- Fee.

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Employer verification" means written verification from the employer that:

(i) the employer is aware that the employee is an interlock restricted driver;

(ii) the vehicle the employee is operating for employment purposes is not made available to the employee for personal use;

(iii) the business entity that employs the employee is not entirely or partly owned or controlled by the employee;

(iv) the employer's auto insurance company is aware that the employee is an interlock restricted driver; and

(v) the employee has been added to the employer's auto insurance policy as an operator of the vehicle.

(c) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated

without first determining the driver's breath alcohol concentration.

(d) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2) (a) In addition to any other penalties imposed under Sections [~~41-6a-503~~] 41-6a-502 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, the court shall require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds .02 grams or greater.

(b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in [~~Subsection 41-6a-501(2)~~] Section 41-6a-501, the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

(ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.

(d) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

(e) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation does not involve alcohol.

(3) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(a) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

(b) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

(c) immediately notify the Driver License Division and the person's probation provider of the order; and

(d) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order.

(4) (a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.

(b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).

(c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.

(d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.

(5) (a) Any probationer required to install an ignition interlock system shall have the system monitored by the manufacturer or dealer of the system for proper use and accuracy at least semiannually and more frequently as the court may order.

(b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing and maintaining the system.

(b) A probationer may not be excluded from this section for inability to pay the costs, unless:

(i) the probationer files an affidavit of indigency in accordance with Section 78A-2-302; and

(ii) the court enters a finding that the probationer is indigent.

(c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.

(d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).

(7) (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle without installation of an ignition interlock system only if:

(i) the motor vehicle is used in the course and scope of employment;

(ii) the employer has been notified that the employee is restricted; and

(iii) the employee has employer verification in the employee's possession while operating the employer's motor vehicle.

(b) (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.

(ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.

(c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7).

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards under Subsection (8)(a) shall require that the system:

(i) not impede the safe operation of the motor vehicle;

(ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;

(iii) require a deep lung breath sample as a measure of breath alcohol concentration;

(iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds .02 grams or greater;

(v) work accurately and reliably in an unsupervised environment;

(vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments; and

(viii) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.

(e) (i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.

(ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

(f) The commissioner shall require a provider of an ignition interlock system certified in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(9) A violation of this section is a class C misdemeanor.

(10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Section 7. Section 41-6a-518.2 is amended to read:

41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system.

(1) As used in this section:

(a) "Ignition interlock system" means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).

(b) (i) "Interlock restricted driver" means a person who:

(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;

(B) within the last 18 months has been convicted of a violation under Section 41-6a-502, Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1), or Section 76-5-102.1;

(C) (I) within the last three years has been convicted of an offense which would be a conviction as defined under Section 41-6a-501; and

(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in [~~Subsection 41-6a-501(2)~~] Section 41-6a-501;

(D) within the last three years has been convicted of a violation of this section;

(E) within the last three years has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520;

(F) within the last three years has been convicted of a violation of Section 41-6a-502, Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1), or Section

76-5-102.1 and was under the age of 21 at the time the offense was committed;

(G) within the last six years has been convicted of a felony violation of Section 41-6a-502, Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1), or Section 76-5-102.1 for an offense that occurred after May 1, 2006; or

(H) within the last 10 years has been convicted of a violation of Section 76-5-207 for an offense that occurred after May 1, 2006.

(ii) "Interlock restricted driver" does not include a person:

(A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517;

(B) whose conviction described in Subsection (1)(b)(i)(B) or (F) is a conviction under Section 41-6a-502 that does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing that the conviction does not involve alcohol; or

(C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) is a conviction under Section 41-6a-502 that does not involve alcohol and the ignition interlock restriction is removed as described in Subsection (7).

(2) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.

(3) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(4) An interlock restricted driver who operates or is in actual physical control of a vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

(5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

(a) the interlock restricted driver operated or was in actual physical control of a vehicle owned by the interlock restricted driver's employer;

(b) the interlock restricted driver had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection (5)(a);

(c) the interlock restricted driver had on the interlock restricted driver's person, or in the vehicle, at the time of operation or physical control employer verification, as defined in Subsection 41-6a-518(1); and

(d) the operation or actual physical control described in Subsection (5)(a) was in the scope of the interlock restricted driver's employment.

(6) The affirmative defense described in Subsection (5) does not apply to:

(a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

(b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

(7) (a) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual's offense did not involve alcohol.

(b) If the division is able to establish that an individual's offense did not involve alcohol, the division may remove the ignition interlock restriction.

Section 8. Section 41-6a-520 is amended to read:

41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report.

(1) (a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231;

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

(c) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(d) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a

defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in criminal prosecution, revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

(i) has been placed under arrest;

(ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

(iii) refuses to submit to any chemical test requested.

(b) (i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

(ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

(ii) the person had refused to submit to a chemical test or tests under Subsection (1).

(3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.

(4) (a) The person to be tested may, at the person's own expense, have a physician or a physician assistant of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.

[~~(7) A person is guilty of refusing a chemical test if a peace officer has issued the warning required in Subsection (2)(a) and the person refuses to submit to a test of the person's blood under Subsection (1) after a court has issued a warrant to draw and test the blood.~~]

[~~(8) A person who violates Subsection (7) commits an offense classified as a misdemeanor or felony in accordance with Subsections 41-6a-503(1), (2), and (3).~~]

[~~(9) As part of any sentence for a conviction of violating this section, the court shall impose the same sentencing as outlined for driving under the influence violations in Section 41-6a-505, based on whether this is a first, second, or subsequent conviction as defined by Subsection 41-6a-501(2), with the following modifications:~~]

[~~(a) any jail sentence shall be 24 consecutive hours more than would be required under Section 41-6a-505;~~]

[~~(b) any fine imposed shall be $100 more than would be required under Section 41-6a-505; and~~]

[~~(c) the court shall order one or more of the following:~~]

[~~(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;~~]

[~~(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or~~]

[~~(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.~~]

[~~(10) (a) The offense of refusal to submit to a chemical test under this section does not merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.~~]

[~~(b) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense of refusal to submit to a chemical test under this section may not be held in abeyance.~~]

Section 9. Section 41-6a-520.1 is enacted to read:

41-6a-520.1. Refusing a chemical test.

(1) An actor commits refusing a chemical test if:

(a) a peace officer issues the warning required in Subsection 41-6a-520(2)(a);

(b) a court issues a warrant to draw and test the blood; and

(c) after Subsections (1)(a) and (b), the actor refuses to submit to a test of the actor's blood.

(2) (a) A violation of Subsection (1) is a class B misdemeanor.

(b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:

(i) has a passenger younger than 16 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;

(ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;

(iii) also violated Section 41-6a-712 or 41-6a-714 at the time of the offense; or

(iv) has one prior conviction within 10 years of:

(A) the current conviction under Subsection (1); or

(B) the commission of the offense upon which the current conviction is based.

(c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:

(i) the actor has two or more prior convictions, each of which is within 10 years of:

(A) the current conviction; or

(B) the commission of the offense upon which the current conviction is based; or

(ii) the current conviction is at any time after a conviction of:

(A) a violation of Section 76-5-207;

(B) a felony violation of this section, Section 76-5-102.1, 41-6a-502, or a statute previously in effect in this state that would constitute a violation of this section; or

(C) any conviction described in Subsection (2)(c)(ii)(A) or (B) which judgment of conviction is reduced under Section 76-3-402.

(3) As part of any sentence for a conviction of violating this section, the court shall impose the same sentencing as outlined for driving under the influence violations in Section 41-6a-505, based on whether this is a first, second, or subsequent conviction, with the following modifications:

(a) any jail sentence shall be 24 consecutive hours more than is required under Section 41-6a-505;

(b) any fine imposed shall be $100 more than is required under Section 41-6a-505; and

(c) the court shall order one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual, in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring, in accordance with Section 41-6a-506.

(4) (a) The offense of refusing a chemical test under this section does not merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

(b) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense of refusal to submit to a chemical test under this section may not be held in abeyance.

(5) An actor is guilty of a separate offense under Subsection (1) for each passenger in the vehicle that is younger than 16 years old at the time the officer had grounds to believe the actor was driving under the influence.

Section 10. Section 41-6a-521.1 is amended to read:

41-6a-521.1. Driver license denial or revocation for a criminal conviction for a refusal to submit to a chemical test violation.

(1) The Driver License Division shall, if the person is 21 years [~~of age~~] old or older at the time of arrest:

(a) revoke for a period of 18 months the operator's license of a person convicted for the first time under Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1); or

(b) revoke for a period of 36 months the license of a person if:

(i) the person has a prior conviction as defined under [~~Subsection 41-6a-501(2)~~] Section 41-6a-501; and

(ii) the current refusal to submit to a chemical test violation under Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1) is committed within a period of 10 years from the date of the prior violation.

(2) The Driver License Division shall, if the person is under 21 years [~~of age~~] old at the time of arrest:

(a) revoke the person's driver license until the person is 21 years [~~of age~~] old or for a period of two years, whichever is longer; [~~or~~]

(b) revoke the person's driver license until the person is 21 years [~~of age~~] old or for a period of 36 months, whichever is longer, if:

(i) the person has a prior conviction as defined under [~~Subsection 41-6a-501(2)~~] Section 41-6a-501; and

(ii) the current refusal to submit to a chemical test violation under Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1) is committed within a period of 10 years from the date of the prior violation; or

(c) if the person has not been issued an operator license:

(i) deny the person's application for a license or learner's permit until the person is 21 years [~~of age~~]

old or for a period of two years, whichever is longer; or

(ii) deny the person's application for a license or learner's permit until the person is 21 years [~~of age~~] old or for a period of 36 months, whichever is longer, if:

(A) the person has a prior conviction as defined under [~~Subsection 41-6a-501(2)~~] Section 41-6a-501; and

(B) the current refusal to submit to a chemical test violation under Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1) is committed within a period of 10 years from the date of the prior violation.

(3) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (5).

(4) The Driver License Division shall subtract from any revocation period the number of days for which a license was previously revoked under Section [~~53-3-221~~] 41-6a-521 if the previous revocation was based on the same occurrence upon which the record of conviction under Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1) is based.

(5) (a) (i) In addition to any other penalties provided in this section, a court may order the driver license of a person who is convicted of a violation of Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1) to be revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional revocation period provided in this Subsection (5) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1).

(b) If the court suspends or revokes the person's license under this Subsection (5), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(6) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered:

(A) screening;

(B) assessment;

(C) educational series;

(D) substance abuse treatment; and

(E) hours of work in a compensatory-service work program; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification described in Subsection (6)(a), the Driver License Division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

Section 11. Section 41-6a-527 is amended to read:

41-6a-527. Seizure and impoundment of vehicles by peace officers -- Impound requirements -- Removal of vehicle by owner.

(1) If a peace officer arrests, cites, or refers for administrative action the operator of a vehicle for violating Section 41-6a-502, 41-6a-517, 41-6a-518.2, 41-6a-520, 41-6a-520.1, 41-6a-530, 41-6a-606, 53-3-231, Subsections 53-3-227(3)(a)(i) through [~~(vi)~~] (vii), Subsection [~~53-3-227(3)(a)(ix)~~] 53-3-277(3)(a)(x), or a local ordinance similar to Section 41-6a-502 which complies with Subsection 41-6a-510(1), the peace officer shall seize and impound the vehicle in accordance with Section 41-6a-1406, except as provided under Subsection (2).

(2) If a registered owner of the vehicle, other than the operator, is present at the time of arrest, the peace officer may release the vehicle to that registered owner, but only if:

(a) the registered owner:

(i) requests to remove the vehicle from the scene; and

(ii) presents to the peace officer sufficient identification to prove ownership of the vehicle or motorboat;

(b) the registered owner identifies a driver with a valid operator's license who:

(i) complies with all restrictions of his operator's license; and

(ii) would not, in the judgment of the officer, be in violation of Section 41-6a-502, 41-6a-517, 41-6a-518.2, 41-6a-520, 41-6a-520.1, 41-6a-530, 53-3-231, or a local ordinance similar to Section 41-6a-502 which complies with Subsection 41-6a-510(1) if permitted to operate the vehicle; and

(c) the vehicle itself is legally operable.

(3) If necessary for transportation of a motorboat for impoundment under this section, the motorboat's trailer may be used to transport the motorboat.

Section 12. Section 41-6a-529 is amended to read:

41-6a-529. Definitions -- Alcohol restricted drivers.

(1) As used in this section and Section 41-6a-530, "alcohol restricted driver" means a person who:

(a) within the last two years:

(i) has been convicted of:

(A) a misdemeanor violation of Section 41-6a-502 or 76-5-102.1;

(B) alcohol, any drug, or a combination of both-related reckless driving under Section 41-6a-512;

(C) impaired driving under Section 41-6a-502.5;

(D) local ordinances similar to Section 41-6a-502 or 76-5-102.1, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving adopted in compliance with Section 41-6a-510;

(E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of conviction is reduced under Section 76-3-402; or

(F) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or 76-5-102.1, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815; or

(ii) has had the person's driving privilege suspended under Section 53-3-223 for an alcohol-related offense based on an arrest which occurred on or after July 1, 2005;

(b) within the last three years has been convicted of a violation of this section or Section 41-6a-518.2;

(c) within the last five years:

(i) has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred on or after July 1, 2005;

(ii) has been convicted of a misdemeanor conviction for refusal to submit to a chemical test under Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1); or

(iii) has been convicted of a class A misdemeanor violation of Section 41-6a-502 or 76-5-102.1 committed on or after July 1, 2008;

(d) within the last 10 years:

(i) has been convicted of an offense described in Subsection (1)(a)(i) which offense was committed within 10 years of the commission of a prior offense described in Subsection (1)(a)(i) for which the person was convicted;

(ii) has been convicted of a felony violation of refusal to submit to a chemical test under Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1); or

(iii) has had the person's driving privilege revoked for refusal to submit to a chemical test and the refusal is within 10 years after:

(A) a prior refusal to submit to a chemical test under Section 41-6a-520; or

(B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not based on the same arrest as the refusal;

(e) at any time has been convicted of:

(i) a violation of Section 76-5-207 for an offense that occurred on or after July 1, 2005; or

(ii) a felony violation of Section 41-6a-502 or 76-5-102.1 for an offense that occurred on or after July 1, 2005;

(f) at the time of operation of a vehicle is under 21 years old; or

(g) is a novice learner driver.

(2) For purposes of this section and Section 41-6a-530, a plea of guilty or no contest to a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Section 13. Section 53-3-218 is amended to read:

53-3-218. Court to report convictions and may recommend suspension of license -- Severity of speeding violation defined.

(1) As used in this section, "conviction" means conviction by the court of first impression or final administrative determination in an administrative traffic proceeding.

(2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over offenses committed under this chapter or any other law of this state, or under any municipal ordinance regulating driving motor vehicles on highways or driving motorboats on the water, shall forward to the division within five days, an abstract of the court record of the conviction or plea held in abeyance of any person in the court for a reportable traffic or motorboating violation of any laws or ordinances, and may recommend the suspension of the license of the person convicted.

(b) When the division receives a court record of a conviction or plea in abeyance for a motorboat violation, the division may only take action against a person's driver license if the motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(c) A court may not forward to the division an abstract of a court record of a conviction for a violation described in Subsection 53-3-220(1)(c)(i) [~~or (ii)~~], unless the court found that the person convicted of the violation was an operator of a motor vehicle at the time of the violation.

(3) (a) A court may not order the division to suspend a person's driver license based solely on the person's failure to pay a penalty accounts receivable.

(b) The court may notify the division, and the division may, prior to sentencing, suspend the driver license of a person who fails to appear if the person is charged with:

(i) an offense of any level that is a moving traffic violation;

(ii) an offense described in Title 41, Chapter 12a, Part 3, Owner's or Operator's Security Requirement; or

(iii) an offense described in Subsection 53-3-220(1)(a) or (b).

(4) The abstract shall be made in the form prescribed by the division and shall include:

(a) the name, date of birth, and address of the party charged;

(b) the license certificate number of the party charged, if any;

(c) the registration number of the motor vehicle or motorboat involved;

(d) whether the motor vehicle was a commercial motor vehicle;

(e) whether the motor vehicle carried hazardous materials;

(f) whether the motor vehicle carried 16 or more occupants;

(g) whether the driver presented a commercial driver license;

(h) the nature of the offense;

(i) whether the offense involved an accident;

(j) the driver's blood alcohol content, if applicable;

(k) if the offense involved a speeding violation:

(i) the posted speed limit;

(ii) the actual speed; and

(iii) whether the speeding violation occurred on a highway that is part of the interstate system as defined in Section 72-1-102;

(l) the date of the hearing;

(m) the plea;

(n) the judgment or whether bail was forfeited; and

(o) the severity of the violation, which shall be graded by the court as "minimum," "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

(5) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate the convicted person's license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

(6) Upon a conviction for a violation of the prohibition on using a wireless communication device while operating a moving motor vehicle under Section 41-6a-1716, a judge may order a suspension of the convicted person's license for a period of three months.

(7) Upon a conviction for a violation of careless driving under Section 41-6a-1715 that causes or results in the death of another person, a judge may order a revocation of the convicted person's license for a period of one year.

Section 14. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, negligently operating a vehicle resulting in death under Section 76-5-207, or automobile homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; or

(xvii) refusal of a chemical test under Subsection [~~41-6a-520(7)~~] 41-6a-520.1(1).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of violating any one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

[~~(i) any violation of:~~]

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; [~~or~~]

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

[~~(ii)~~] (F) any criminal offense that prohibits[~~:(A)~~] possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in [~~Subsection (1)(c)(i); or (B)~~] Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in [~~Subsection (1)(c)(i)~~] Subsections (1)(c)(i)(A) through (E).

[~~(iii)~~] (ii) Notwithstanding the provisions in [~~this~~] Subsection (1)(c)(i), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under [~~this~~] Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

[~~(iv)~~] (iii) If a person's driving privilege is reinstated under Subsection [~~(1)(c)(iii),~~] (1)(c)(ii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

[~~(v)~~] (iv) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

[~~(vi)~~] (v) Upon receiving the notification described in Subsection [~~(1)(c)(v),~~] (1)(c)(iv), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under [~~this~~] Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and

(ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 15. Section 53-3-227 is amended to read:

53-3-227. Driving a motor vehicle prohibited while driving privilege denied, suspended, disqualified, or revoked -- Penalties.

(1) A person whose driving privilege has been denied, suspended, disqualified, or revoked under this chapter or under the laws of the state in which the person's driving privilege was granted and who drives any motor vehicle upon the highways of this state while that driving privilege is denied, suspended, disqualified, or revoked shall be punished as provided in this section.

(2) A person convicted of a violation of Subsection (1), other than a violation specified in Subsection (3), is guilty of a class C misdemeanor.

(3) (a) A person is guilty of a class B misdemeanor if the person's conviction under Subsection (1) is based on the person driving a motor vehicle while the person's driving privilege is suspended, disqualified, or revoked for:

(i) a refusal to submit to a chemical test under Section 41-6a-520;

(ii) a violation of Section 41-6a-520.1;

[~~(ii)~~] (iii) a violation of Section 41-6a-502;

[~~(iii)~~] (iv) a violation of a local ordinance that complies with the requirements of Section 41-6a-510;

[~~(iv)~~] (v) a violation of Section 41-6a-517;

[~~(v)~~] (vi) a violation of Section 76-5-207;

[~~(vi)~~] (vii) a criminal action that the person plead guilty to as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances under this Subsection (3);

[~~(vii)~~] (viii) a revocation or suspension which has been extended under Subsection 53-3-220(2);

[~~(viii)~~] (ix) where disqualification is the result of driving a commercial motor vehicle while the person's CDL is disqualified, suspended, canceled, or revoked under Subsection 53-3-414(1); or

[~~(ix)~~] (x) a violation of Section 41-6a-530.

(b) A person is guilty of a class B misdemeanor if the person's conviction under Subsection (1) is based on the person driving a motor vehicle while the person's driving privilege is suspended, disqualified, or revoked by any state, the United States, or any district, possession, or territory of the United States for violations corresponding to the violations listed in Subsection (3)(a).

(c) A fine imposed under this Subsection (3) shall be at least the maximum fine for a class C misdemeanor under Section 76-3-301.

Section 16. Section 58-37f-201 is amended to read:

58-37f-201. Controlled substance database -- Creation -- Purpose.

(1) There is created within the division a controlled substance database.

(2) The division shall administer and direct the functioning of the database in accordance with this chapter.

(3) The division may, under state procurement laws, contract with another state agency or a private entity to establish, operate, or maintain the database.

(4) The division shall, in collaboration with the board, determine whether to operate the database within the division or contract with another entity to operate the database, based on an analysis of costs and benefits.

(5) The purpose of the database is to contain:

(a) the data described in Section 58-37f-203 regarding prescriptions for dispensed controlled substances;

(b) data reported to the division under Section 26-21-26 regarding poisoning or overdose;

(c) data reported to the division under Subsection [~~41-6a-502(4)~~] 41-6a-502(5) or 41-6a-502.5(5)(b) regarding convictions for driving under the influence of a prescribed controlled substance or impaired driving; and

(d) data reported to the division under Subsection 58-37-8(1)(e) or 58-37-8(2)(g) regarding certain violations of [~~the~~] Chapter 37, Utah Controlled Substances Act.

(6) The division shall maintain the database in an electronic file or by other means established by the division to facilitate use of the database for identification of:

(a) prescribing practices and patterns of prescribing and dispensing controlled substances;

(b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;

(c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance;

(d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy;

(e) individuals admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance; and

(f) individuals convicted for:

(i) driving under the influence of a prescribed controlled substance that renders the individual incapable of safely operating a vehicle;

(ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

(iii) certain violations of [~~the~~] Chapter 37, Utah Controlled Substances Act.

Section 17. Section 58-37f-703 is amended to read:

58-37f-703. Entering certain convictions into the database and reporting them to practitioners.

(1) When the division receives a report from a court under Subsection [~~41-6a-502(4)~~] 41-6a-502(5) or 41-6a-502.5(5)(b) relating to a conviction for driving under the influence of, or while impaired by, a prescribed controlled substance, the division shall:

(a) daily enter into the database the information supplied in the report, including the date on which the person was convicted;

(b) attempt to identify, through the database, each practitioner who may have prescribed the controlled substance to the convicted person; and

(c) provide each practitioner identified under Subsection (1)(b) with:

(i) a copy of the information provided by the court; and

(ii) the information obtained from the database that led the division to determine that the practitioner receiving the information may have prescribed the controlled substance to the convicted person.

(2) It is the intent of the Legislature that the information provided under Subsection (1)(b) is provided for the purpose of assisting the practitioner in:

(a) discussing the manner in which the controlled substance may impact the convicted person's driving;

(b) advising the convicted person on measures that may be taken to avoid adverse impacts of the controlled substance on future driving; and

(c) making decisions regarding future prescriptions written for the convicted person.

(3) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup and ongoing costs of the division for complying with the requirements of this section.

Section 18. Section 76-5-102.1 is amended to read:

76-5-102.1. Negligently operating a vehicle resulting in injury.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Drug" means the same as that term is defined in Section 76-5-207.

(c) "Negligent" or "negligence" means the same as that term is defined in Section 76-5-207.

(d) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(2) An actor commits negligently operating a vehicle resulting in injury if the actor:

(a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and

(ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, a drug, or the combined influence of alcohol and a drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is:

(a) (i) a class A misdemeanor; or

(ii) a third degree felony if the bodily injury is serious bodily injury; and

(b) a separate offense for each victim suffering bodily injury as a result of the actor's violation of this section, regardless of whether the injuries arise from the same episode of driving.

(4) An actor is not guilty of negligently operating a vehicle resulting in injury under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5) (a) A judge imposing a sentence under this section may consider:

(i) the sentencing guidelines developed in accordance with Section 63M-7-404;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis under Section 41-6a-515 and the provisions for the admissibility of chemical test results under Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection [~~41-6a-502(2)~~] 41-6a-502(3).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

Section 19. Section 76-5-207 is amended to read:

76-5-207. Negligently operating a vehicle resulting in death -- Penalties -- Evidence.

(1) (a) As used in this section:

(i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(ii) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).

(iii) "Drug" means:

(A) a controlled substance;

(B) a drug as defined in Section 58-37-2; or

(C) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of an individual to safely operate a vehicle.

(iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

(v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits negligently operating a vehicle resulting in death if the actor:

(a) (i) operates a vehicle in a negligent or criminally negligent manner causing the death of another individual;

(ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b) (i) operates a vehicle in a criminally negligent manner causing death to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:

(a) a second degree felony; and

(b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.

(4) An actor is not guilty of a violation of negligently operating a vehicle resulting in death under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5) (a) A judge imposing a sentence under this section may consider:

(i) the sentencing guidelines developed in accordance with Section 63M-7-404;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection [~~41-6a-502(2)~~] 41-6a-502(3).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

Section 20. Section 77-2a-3 is amended to read:

77-2a-3. Manner of entry of plea -- Powers of court.

(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.

(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance agreement may be entered into without a personal appearance before a magistrate.

(2) A plea in abeyance agreement may provide that the court may, upon finding that the defendant has successfully completed the terms of the agreement:

(a) reduce the degree of the offense and enter judgment of conviction and impose sentence for a lower degree of offense; or

(b) allow withdrawal of defendant's plea and order the dismissal of the case.

(3) (a) Upon finding that a defendant has successfully completed the terms of a plea in abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as provided in the plea in abeyance agreement or as agreed to by all parties.

(b) Upon sentencing a defendant for any lesser offense in accordance with a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of the offense.

(4) The court may require the Department of Corrections to assist in the administration of the plea in abeyance agreement as if the defendant were on probation to the court under Section 77-18-105.

(5) The terms of a plea in abeyance agreement may include:

(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and which may not exceed in amount the maximum fine and surcharge which could have been imposed upon conviction and sentencing for the same offense;

(b) an order that the defendant pay the costs of any remedial or rehabilitative program required by the terms of the agreement; and

(c) an order that the defendant comply with any other conditions that could have been imposed as conditions of probation upon conviction and sentencing for the same offense.

(6) (a) The terms of a plea in abeyance shall include an order for a specific amount of restitution that the defendant will pay, as agreed to by the defendant and the prosecuting attorney, unless the prosecuting attorney certifies that:

(i) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and

(ii) the defendant does not owe any restitution.

(b) The court shall collect, receive, process, and distribute payments for restitution to the victim, unless otherwise provided by law or by the plea in abeyance agreement.

(c) If the defendant does not successfully complete the terms of the plea in abeyance, the court shall enter an order for restitution, in accordance with [~~Title 77, Chapter 38b, Crime Victims Restitution Act~~] Chapter 38b, Crime Victims Restitution Act, upon entering a sentence for the defendant.

(7) (a) A court may not hold a plea in abeyance without the consent of both the prosecuting attorney and the defendant.

(b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

(8) No plea may be held in abeyance in any case involving:

(a) a sexual offense against a victim who is under 14 years old; or

(b) a driving under the influence violation under Section 41-6a-502, 41-6a-502.5, 41-6a-517,

41-6a-520, 41-6a-520.1, 41-6a-521.1, 76-5-102.1, or 76-5-207.

Section 21. Repealer.

This bill repeals:

Section 41-6a-503, Penalties for driving under the influence violations.

CHAPTER 416
H. B. 375
Passed February 27, 2023
Approved March 20, 2023
Effective May 3, 2023

TRAFFIC VIOLATION EXEMPTIONS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill provides an exemption to a person who has received a citation related to a motor vehicle if the person provides evidence that the person was not the owner of the relevant vehicle at the time of the alleged violation.

Highlighted Provisions:

This bill:

- provides an exemption to a person who has received a citation related to a motor vehicle if the person provides evidence that the person was not the owner of the relevant vehicle at the time of the alleged violation; and
- allows a person to provide a bill of sale to the court clerk as evidence that the person was not the owner of the vehicle at the time of the alleged violation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-202, as last amended by Laws of Utah 2015, Chapter 412

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-202 is amended to read:

41-6a-202. Violations of chapter -- Penalties -- Acceptance of plea of guilty.

(1) As used in this section, "serious bodily injury" is as defined in Section 41-6a-401.3.

(2) A violation of any provision of this chapter is an infraction, unless otherwise provided.

(3) A violation of any provision of Part 2, Applicability and Obedience to Traffic Laws, Part 11, Bicycles and Other Vehicles, Regulation of Operation, Part 17, Miscellaneous Rules, and Part 18, Motor Vehicle Safety Belt Usage Act, of this chapter is an infraction, unless otherwise provided.

(4) (a) If a person has received a citation for a moving traffic violation under this chapter that resulted in a collision and any person involved in the collision sustained serious bodily injury or death as a proximate result of the collision, a court may not accept a plea of guilty or no contest to a charge for the moving traffic violation unless the prosecutor agrees to the plea:

(i) in open court;

(ii) in writing; or

(iii) by another means of communication which the court finds adequate to record the prosecutor's agreement.

(b) A peace officer that issues a citation for a moving traffic violation under this chapter shall record on the citation whether the moving traffic violation resulted in a collision in which any person involved in the collision sustained serious bodily injury or death as a proximate result of the traffic collision.

(5) (a) If a person receives a citation for a violation described in Subsection (5)(b), the person is not guilty of an infraction and is not required to pay a fee or fine if the person presents to the court clerk evidence that the person did not own the vehicle at the time of the alleged violation.

(b) Subsection (5)(a) applies to a person accused of a violation under this chapter or a violation of a traffic ordinance of a political subdivision for which the sole method of identifying the person alleged to be responsible for the violation is through registration or title records of the Division of Motor Vehicles.

(c) The court shall consider a bill of sale for the vehicle in question as evidence described in Subsection (5)(a) if the bill of sale:

(i) is executed by both the buyer and the seller; and

(ii) indicates that the vehicle was sold on a date before the date of the citation described in Subsection (5)(a).

CHAPTER 417
H. B. 380
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

COMPETENCY TO STAND TRIAL AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses petitions to find a defendant incompetent to stand trial in a criminal action.

Highlighted Provisions:

This bill:

- requires a court to consider certain factors when determining whether a defendant is incompetent;
- prohibits a court from granting a petition of incompetency based solely on the defendant having previously been released from custody due to incompetency in an unrelated criminal action, if the release occurred more than a year before the petition is filed; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

77-15-5, as last amended by Laws of Utah 2018, Chapter 147

Utah Code Sections Affected by Coordination Clause:

77-15-5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-15-5 is amended to read:

77-15-5. Order for hearing -- Stay of other proceedings -- Examinations of defendant -- Scope of examination and report.

(1) A court in which criminal proceedings are pending shall stay all criminal proceedings, if:

(a) a petition is filed under Section 77-15-3 or 77-15-3.5; or

(b) the court raises the issue of the defendant's competency under Section 77-15-4.

(2) The court in which the petition described in Subsection (1)(a) is filed:

(a) shall inform the court in which criminal proceedings are pending of the petition, if the petition is not filed in the court in which criminal proceedings are pending;

(b) shall review the allegations of incompetency;

(c) may hold a limited hearing solely for the purpose of determining the sufficiency of the petition, if the court finds the petition is not clearly sufficient on its face;

(d) shall hold a hearing, if the petition is opposed by either party;

(e) may not order an examination of the defendant or order a hearing on the mental condition of the defendant unless the court finds that the allegations in the petition raise a bona fide doubt as to the defendant's competency to stand trial; and

(f) if the court finds that the allegations raise a bona fide doubt as to the defendant's competency to stand trial, shall order:

(i) the department to have the defendant evaluated by one forensic evaluator, if:

(A) the most severe charge against the defendant is a misdemeanor; or

(B) the defendant is charged with a felony but is not charged with a capital felony, and the court determines, based upon the allegations in the petition, that a second competency evaluation is not necessary;

(ii) the department to have the defendant evaluated by two forensic evaluators, if:

(A) the defendant is charged with a capital felony; or

(B) the defendant is charged with a felony but is not charged with a capital felony, and the court determines, based upon the allegations in the petition, that a second competency evaluation is necessary; and

(iii) the defendant to be evaluated by an additional forensic evaluator, if requested by a party, who shall:

(A) select the additional forensic evaluator; and

(B) pay for the costs of the additional forensic evaluator.

(3) (a) If the petition or other information sufficiently raises concerns that the defendant may have intellectual or developmental disabilities, at least one forensic evaluator who is experienced in intellectual or developmental disability assessments shall conduct a competency evaluation.

(b) The petitioner or other party, as directed by the court, shall provide to the forensic evaluator information and materials relevant to a determination of the defendant's competency, including the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) For purposes of a competency evaluation, a court may order that custodians of mental health records pertaining to the defendant provide those records to a forensic evaluator without the need for consent of the defendant.

(d) An order for a competency evaluation may not contain an order for any other inquiry into the mental state of the defendant.

(4) Pending a competency evaluation, unless the court or the department directs otherwise, the defendant shall be retained in the same custody or status that the defendant was in at the time the examination was ordered.

(5) In the conduct of a competency evaluation, a progress toward competency evaluation, and in a report to the court, a forensic evaluator shall consider and address, in addition to any other factors determined to be relevant by the forensic evaluator:

(a) the defendant's present ability to:

(i) rationally and factually understand the criminal proceedings against the defendant;

(ii) consult with the defendant's legal counsel with a reasonable degree of rational understanding in order to assist in the defense;

(iii) understand the charges or allegations against the defendant;

(iv) communicate facts, events, and states of mind;

(v) understand the range of possible penalties associated with the charges or allegations against the defendant;

(vi) engage in reasoned choice of legal strategies and options;

(vii) understand the adversarial nature of the proceedings against the defendant;

(viii) manifest behavior sufficient to allow the court to proceed; and

(ix) testify relevantly, if applicable;

(b) the impact of the mental disorder or intellectual disability, if any, on the nature and quality of the defendant's relationship with counsel;

(c) if psychoactive medication is currently being administered:

(i) whether the medication is necessary to maintain the defendant's competency; and

(ii) whether the medication may have an effect on the defendant's demeanor, affect, and ability to participate in the proceedings; and

(d) whether the defendant is exhibiting false or exaggerated physical or psychological symptoms relevant to the defendant's capacity to stand trial.

(6) If the forensic evaluator's opinion is that the defendant is incompetent to proceed, the forensic evaluator shall indicate in the report to the court:

(a) the factors that contribute to the defendant's incompetency, including the nature of the defendant's mental disorder or intellectual or developmental disability, if any, and its relationship to the factors contributing to the defendant's incompetency; and

(b) whether there is a substantial probability that restoration treatment may, in the foreseeable future, bring the defendant to competency to stand trial, or that the defendant cannot become competent to stand trial in the foreseeable future.

(7) (a) A forensic evaluator shall provide an initial report to the court and the prosecuting and defense attorneys within 30 days of the receipt of the court's order. The report shall inform the court of the examiner's opinion concerning the competency of the defendant to stand trial.

(b) (i) If the forensic evaluator is unable to complete the report in the time specified in Subsection (7)(a), the forensic evaluator shall give written notice to the court.

(ii) A forensic evaluator who provides the notice described in Subsection (7)(b)(i) shall receive a 15-day extension, giving the forensic evaluator a total of 45 days after the day on which the forensic evaluator received the court's order to conduct a competency evaluation and file a report.

(iii) The court may further extend the deadline for completion of the evaluation and report if the court determines that there is good cause for the extension.

(iv) Upon receipt of an extension described in Subsection (7)(b)(iii), the forensic evaluator shall file the report as soon as reasonably possible.

(8) Any written report submitted by a forensic evaluator shall:

(a) identify the case ordered for evaluation by the case number;

(b) describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each;

(c) state the forensic evaluator's clinical observations, findings, and opinions on each issue referred for examination by the court, and indicate specifically those issues, if any, on which the forensic evaluator could not give an opinion; and

(d) identify the sources of information used by the forensic evaluator and present the basis for the forensic evaluator's clinical findings and opinions.

(9) (a) Any statement made by the defendant in the course of any competency examination, whether the examination is with or without the consent of the defendant, any testimony by a forensic evaluator based upon the statement, and any other fruits of the statement may not be admitted in evidence against the defendant in any criminal proceeding except on an issue respecting mental condition on which the defendant has introduced evidence. The evidence may be admitted, however, where relevant to a determination of the defendant's competency.

(b) Before examining the defendant, the forensic evaluator shall specifically advise the defendant of the limits of confidentiality as provided under Subsection (9)(a).

(10) (a) Upon receipt of the forensic evaluators' reports, the court shall set a date for a competency

hearing. The hearing shall be held not less than 5 and not more than 15 days after the day on which the court received the forensic evaluators' reports, unless for good cause the court sets a later date.

(b) Any person directed by the department to conduct the competency evaluation may be subpoenaed to testify at the hearing.

(c) The court may call any forensic evaluator to testify at the hearing who is not called by the parties. If the court calls a forensic evaluator, counsel for the parties may cross-examine the forensic evaluator.

(d) If the forensic evaluators are in conflict as to the competency of the defendant, all forensic evaluators should be called to testify at the hearing if reasonably available. A conflict in the opinions of the forensic evaluators does not require the appointment of an additional forensic evaluator unless the court determines the appointment to be necessary.

(11) (a) A defendant shall be presumed competent to stand trial unless the court, by a preponderance of the evidence, finds the defendant incompetent to proceed. The burden of proof is upon the proponent of incompetency at the hearing.

(b) An adjudication of incompetent to proceed does not operate as an adjudication of incompetency to give informed consent for medical treatment or for any other purpose, unless specifically set forth in the court order.

(12) In determining the defendant's competency to stand trial, the court shall consider the totality of the circumstances, [~~which may include~~] including:

(a) the petition;

(b) the defendant's criminal and arrest history;

(c) prior mental health evaluations and treatments provided to the court by the defendant;

(d) subject to Subsection (14), whether the defendant was found incompetent to proceed in a criminal action unrelated to the charged offense for which the petition is filed;

(e) the testimony of lay witnesses[~~, in addition to~~], if any;

(f) the forensic evaluator's report, testimony, and studies[~~.~~]; and

(g) any other relevant evidence bearing on the competency of the defendant.

(13) If the court finds the defendant incompetent to proceed:

(a) the court shall issue the order described in Subsection 77-15-6(1), which shall:

(i) include findings addressing each of the factors in Subsection (5)(a);

(ii) include a transportation order, if necessary;

(iii) be accompanied by the forensic evaluators' reports, any psychiatric, psychological, or social work reports submitted to the court relative to the mental condition of the defendant, and any other documents made available to the court by either the defense or the prosecution, pertaining to the defendant's current or past mental condition; and

(iv) be sent by the court to the department; and

(b) the prosecuting attorney shall provide to the department:

(i) the charging document and probable cause statement, if any;

(ii) arrest or incident reports prepared by law enforcement and pertaining to the charged offense; and

(iii) additional supporting documents.

(14) The court may not find the defendant incompetent to proceed based solely on a court having ordered the release of the defendant under Section 77-15-3.5 or Section 77-15-6 in an unrelated criminal action, if the court in the unrelated criminal action ordered the release more than one year before the day on which the petition described in Subsection (12)(a) is filed.

[~~(14)~~] (15) The court may make any reasonable order to ensure compliance with this section.

[~~(15)~~] (16) Failure to comply with this section does not result in the dismissal of criminal charges.

Section 2. Coordinating H.B. 380 with H.B. 330 -- Substantive and technical amendments.

If this H.B. 380 and H.B. 330, Civil Commitment Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 77-15-5(12) in this H.B. 380 to read:

"(12) In determining the defendant's competency to stand trial, the court shall consider the totality of the circumstances, [~~which may include~~] including:

(a) the petition;

(b) the defendant's criminal and arrest history;

(c) prior mental health evaluations and treatments provided to the court by the defendant;

(d) subject to Subsection (14), whether the defendant was found incompetent to proceed in a criminal action unrelated to the charged offense for which the petition is filed;

(e) the testimony of lay witnesses[~~, in addition to~~], if any;

(f) the forensic evaluator's [~~report, testimony, and studies~~] testimony and report;

(g) the materials on which the forensic evaluator's report is based; and

(h) any other relevant evidence or consideration bearing on the competency of the defendant.".

CHAPTER 418
H. B. 390
Passed February 24, 2023
Approved March 20, 2023
Effective May 3, 2023

CHILD CUSTODY AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses make-up parent-time.

Highlighted Provisions:

This bill:

- requires a court to award make-up parent-time under certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-5, as last amended by Laws of Utah 2022, Chapter 263

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-5 is amended to read:

30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Alimony -- Nonmeritorious petition for modification.

(1) As used in this section:

(a) "Cohabit" means to live together, or to reside together on a regular basis, in the same residence and in a relationship of a romantic or sexual nature.

(b) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage:

(i) engaging in sexual relations with an individual other than the party's spouse;

(ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or a child;

(iii) knowingly and intentionally causing the other party or a child to reasonably fear life-threatening harm; or

(iv) substantially undermining the financial stability of the other party or the child.

(c) "Length of the marriage" means, for purposes of alimony, the number of years from the day on which the parties are legally married to the day on which the petition for divorce is filed with the court.

(2) When a decree of divorce is rendered, the court may include in the decree of divorce equitable orders relating to the children, property, debts or obligations, and parties.

(3) The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of a dependent child, including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

(b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for a dependent child; and

(ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with Section 30-3-5.4 that will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;

(c) in accordance with Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders;

(d) provisions for income withholding in accordance with Title 62A, Chapter 11, Recovery Services; and

(e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.

(4) (a) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of a dependent child, necessitated by the employment or training of the custodial parent.

(b) If the court determines that the circumstances are appropriate and that the dependent child would

be adequately cared for, the court may include an order allowing the noncustodial parent to provide child care for the dependent child, necessitated by the employment or training of the custodial parent.

(5) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of a child and the child's support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.

(6) Child support, custody, visitation, and other matters related to a child born to the parents after entry of the decree of divorce may be added to the decree by modification.

(7) (a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

(8) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

(9) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court:

(a) may award to the prevailing party:

[~~(a)~~] (i) actual attorney fees incurred;

[~~(b)~~] (ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, which may include:

[~~(i)~~] (A) court costs;

[~~(ii)~~] (B) child care expenses;

[~~(iii)~~] (C) transportation expenses actually incurred;

[~~(iv)~~] (D) lost wages, if ascertainable; [~~and~~] or

[~~(v)~~] (E) counseling for a child or parent if ordered or approved by the court; or

[~~(c) make-up parent time consistent with the best interest of the child; and~~]

[~~(d)~~] (iii) any other appropriate equitable remedy[~~.~~]; and

(b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the child.

(10) (a) The court shall consider at least the following factors in determining alimony:

(i) the financial condition and needs of the recipient spouse;

(ii) the recipient's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse;

(iii) the ability of the payor spouse to provide support;

(iv) the length of the marriage;

(v) whether the recipient spouse has custody of a minor child requiring support;

(vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and

(vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage.

(b) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.

(c) The court may, when fault is at issue, close the proceedings and seal the court records.

(d) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection (10)(a). However, the court shall consider all relevant facts and equitable principles and may, in the court's discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no child has been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(e) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.

(f) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(g) In determining alimony when a marriage of short duration dissolves, and no child has been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(11) (a) The court has continuing jurisdiction to make substantive changes and new orders

regarding alimony based on a substantial material change in circumstances not expressly stated in the divorce decree or in the findings that the court entered at the time of the divorce decree.

(b) A party's retirement is a substantial material change in circumstances that is subject to a petition to modify alimony, unless the divorce decree, or the findings that the court entered at the time of the divorce decree, expressly states otherwise.

(c) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

(d) (i) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in Subsection (10) or this Subsection (11).

(ii) The court may consider the subsequent spouse's financial ability to share living expenses.

(iii) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

(e) (i) Except as provided in Subsection (11)(e)(iii), the court may not order alimony for a period of time longer than the length of the marriage.

(ii) If a party is ordered to pay temporary alimony during the pendency of the divorce action, the period of time that the party pays temporary alimony shall be counted towards the period of time for which the party is ordered to pay alimony.

(iii) At any time before the termination of alimony, the court may find extenuating circumstances or good cause that justify the payment of alimony for a longer period of time than the length of the marriage.

(12) (a) Except as provided in Subsection (12)(b), unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse.

(b) If the remarriage of the former spouse is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.

(13) If a party establishes that a current spouse cohabits with another individual during the pendency of the divorce action, the court:

(a) may not order the party to pay temporary alimony to the current spouse; and

(b) shall terminate any order that the party pay temporary alimony to the current spouse.

(14) (a) Subject to Subsection (14)(b), the court shall terminate an order that a party pay alimony to a former spouse if the party establishes that, after the order for alimony is issued, the former spouse cohabits with another individual even if the former spouse is not cohabiting with the individual when the party paying alimony files the motion to terminate alimony.

(b) A party paying alimony to a former spouse may not seek termination of alimony under Subsection (14)(a), later than one year from the day on which the party knew or should have known that the former spouse has cohabited with another individual.

CHAPTER 419
H. B. 418
Passed March 1, 2023
Approved March 20, 2023
Effective May 3, 2023

CANINE BODY ARMOR RESTRICTED ACCOUNT MODIFICATIONS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill repeals the Canine Body Armor Restricted Account.

Highlighted Provisions:

This bill:

- repeals the Canine Body Armor Restricted Account; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-65, as last amended by Laws of Utah 2014, Chapters 28, 424
17-50-336, as enacted by Laws of Utah 2014, Chapter 28
59-10-1304, as last amended by Laws of Utah 2020, Chapter 311
62A-5b-104, as last amended by Laws of Utah 2019, Chapter 190
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451

REPEALS:

53-16-101, as enacted by Laws of Utah 2011, Chapter 294
53-16-102, as enacted by Laws of Utah 2011, Chapter 294
53-16-201, as enacted by Laws of Utah 2011, Chapter 294
53-16-301, as enacted by Laws of Utah 2011, Chapter 294
53-16-302, as enacted by Laws of Utah 2011, Chapter 294
59-10-1315, as enacted by Laws of Utah 2011, Chapter 294

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-65 is amended to read:

10-8-65. Regulation of dogs -- Service animals permitted.

(1) Subject to Section 18-2-101, a municipality may:

(a) license, tax, regulate, or prohibit the keeping of dogs; and

(b) authorize the destruction, sale, or other disposal of a dog if the dog is at large contrary to ordinance.

(2) (a) As used in this Subsection (2):

(i) "Retired service animal" means a dog that:

(A) at one time was a service animal for the current owner; and

(B) no longer provides service animal services for the owner because of the dog's age or other factors limiting the dog's service capability.

(ii) "Service animal" means a [~~police service canine, as defined in Section 53-16-102~~] dog that:

(A) is used by a law enforcement agency;

(B) is specially trained or is in training for law enforcement work; and

(C) assists a law enforcement agency in the performance of law enforcement duties.

(b) If a municipality adopts a limit as to the number of dogs a person may keep, the municipality shall allow a person to keep a service animal, a retired service animal, or both in addition to that limit.

Section 2. Section 17-50-336 is amended to read:

17-50-336. Service animals permitted.

(1) As used in this section:

(a) "Retired service animal" means a dog that:

(i) at one time was a service animal for the current owner; and

(ii) no longer provides service animal services to the owner because of the dog's age or other factors limiting the dog's service capability.

(b) "Service animal" means [~~a police service canine, as defined in Section 53-16-102~~] the same as that term is defined in Section 18-8-65.

(2) If a county adopts a limit as to the number of dogs a person may keep, the county shall allow a person to keep a service animal, a retired service animal, or both in addition to that limit.

Section 3. Section 59-10-1304 is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than $30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than $30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

[~~(iv) the contribution provided for in Section 59-10-1315;~~]

[~~(v)~~] (iv) the contribution provided for in Section 59-10-1318;

[~~(vi)~~] (v) the contribution provided for in Section 59-10-1319; or

[~~(vii)~~] (vi) the contribution provided for in Section 59-10-1320.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after making the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

Section 4. Section 62A-5b-104 is amended to read:

62A-5b-104. Right to be accompanied by service animal or support animal -- Security deposits -- Discrimination -- Liability.

(1) (a) An individual with a disability has the right to be accompanied by a service animal, unless the service animal is a danger or nuisance to others as interpreted under the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

(i) in any of the places specified in Section 62A-5b-103; and

(ii) without additional charge for the service animal.

(b) An owner or lessor of private housing accommodations:

(i) may not, in any manner, discriminate against an individual with a disability on the basis of the individual's possession of a service animal or a support animal, including by charging an extra fee or deposit for a service animal or a support animal; and

(ii) may recover a reasonable cost to repair damage caused by a service animal or a support animal.

(2) An individual who is not an individual with a disability has the right to be accompanied by an animal that is in training to become a service animal [~~or a police service canine~~], as defined in Section [~~53-16-102~~] 10-8-65:

(a) in any of the places specified in Section 62A-5b-103; and

(b) without additional charge for the animal.

(3) An individual described in Subsection (1) or (2) is liable for any loss or damage the individual's accompanying service animal, support animal, or animal described in Subsection (2) causes or inflicts to the premises of a place specified in Section 62A-5b-103.

(4) Nothing in this section prohibits the exclusion, as permitted under federal law, of a service animal or a support animal from a place described in Section 62A-5b-103.

Section 5. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Technology Development Restricted Account created in Section 31A-3-104.

(18) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(19) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(20) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(21) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(22) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(23) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(24) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(34) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

(35) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(36) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(37) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(38) The Canine Body Armor Restricted Account created in Section 53-16-201.~~]

[~~(39)~~] (38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(40)~~] (39) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(41)~~] (40) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(42)~~] (41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(43)~~] (42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(44)~~] (43) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(45)~~] (44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(46)~~] (45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(47)~~] (46) Funds collected from a surcharge fee to provide certain licensees with access to an

electronic reference library, as provided in Section 58-56-3.5.

[~~(48)~~] (47) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(49)~~] (48) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(50)~~] (49) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(51)~~] (50) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(52)~~] (51) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(53)~~] (52) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

[~~(54)~~] (53) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302.

[~~(55)~~] (54) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

[~~(56)~~] (55) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.

[~~(57)~~] (56) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(58)~~] (57) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(59)~~] (58) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(60)~~] (59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[~~(61)~~] (60) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(62)~~] (61) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(63)~~] (62) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(64)~~] (63) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(65)~~] (64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under [~~Section 63N-10-301~~] Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.

[~~(66)~~] (65) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(67)~~] (66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(68)~~] (67) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(69)~~] (68) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(70)~~] (69) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(71)~~] (70) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(72)~~] (71) Fees for certificate of admission created under Section 78A-9-102.

[~~(73)~~] (72) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(74)~~] (73) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(75)~~] (74) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

[~~(76)~~] (75) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(77)~~] (76) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

[~~(78)~~] (77) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 6. Repealer.

This bill repeals:

Section 53-16-101, Title.

Section 53-16-102, Definitions.

Section 53-16-201, Canine Body Armor Restricted Account -- Creation -- Interest.

Section 53-16-301, Commissioner to distribute amounts deposited into Canine Body Armor Restricted Account -- Procedures for distribution.

Section 53-16-302, Department rulemaking authority.

Section 59-10-1315, Contribution to Canine Body Armor Restricted Account.

CHAPTER 420
H. B. 429
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

PREGNANT AND POSTPARTUM INMATE AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends requirements relating to pregnant and postpartum inmates.

Highlighted Provisions:

This bill:

- defines terms;
- specifies that if the Department of Corrections creates a nursery, the nursery is subject to rules established by the Department of Health and Human Services;
- establishes the Correctional Postnatal and Early Childhood Advisory Board (board);
- provides that the Department of Health and Human Services shall, after consulting with the board, make rules governing any nursery established by the Department of Corrections;
- modifies requirements relating to the use of restraints on a pregnant inmate;
- requires access to postpartum care and certain social services for an inmate who has recently given birth;
- includes a sunset date; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-8, as last amended by Laws of Utah 2022, Chapter 123
63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451
64-13-46, as enacted by Laws of Utah 2019, Chapter 385

ENACTS:

26B-1-401, Utah Code Annotated 1953
63I-1-264, Utah Code Annotated 1953
64-13-46.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-8 is amended to read:

17-22-8. Care of prisoners -- Funding of services -- Private contractor.

(1) Except as provided in Subsection (5), a sheriff shall:

(a) receive each individual committed to jail by competent authority;

(b) provide each prisoner with necessary food, clothing, and bedding in the manner prescribed by the county legislative body;

(c) provide each prisoner medical care when:

(i) the prisoner's symptoms evidence a serious disease or injury;

(ii) the prisoner's disease or injury is curable or may be substantially alleviated; and

(iii) the potential for harm to the person by reason of delay or the denial of medical care would be substantial; and

(d) provide each prisoner, as part of the intake process, with the option of continuing any of the following medically prescribed methods of contraception:

(i) an oral contraceptive;

(ii) an injectable contraceptive;

(iii) a patch;

(iv) a vaginal ring; or

(v) an intrauterine device, if the prisoner was prescribed the intrauterine device because the prisoner experiences serious and persistent adverse effects when using the methods of contraception described in Subsections (1)(d)(i) and (ii).

(2) A sheriff may provide the generic form of a contraceptive described in Subsection (1)(d)(i) or (ii).

(3) A sheriff shall follow the provisions of Section 64-13-46 if a prisoner is pregnant [~~and gives birth~~] or in postpartum recovery, including the reporting requirements in Subsection 64-13-45(2)(c).

(4) (a) Except as provided in Subsection (4)(b), the expense incurred in providing the services required by this section to prisoners shall be paid from the county treasury, except as provided in Section 17-22-10.

(b) The expense incurred in providing the services described in Subsection (1)(d) to prisoners shall be paid by the Department of Health and Human Services.

(5) If the county executive contracts with a private contractor to provide the services required by this section, the sheriff shall provide only those services required of the sheriff by the contract between the county and the private contractor.

Section 2. Section 26B-1-401 is enacted to read:

26B-1-401 (Codified as 26B-1-434). Correctional Postnatal and Early Childhood Advisory Board -- Duties -- Rulemaking.

(1) As used in this part:

(a) "Advisory board" means the Correctional Postnatal and Early Childhood Advisory Board.

(b) "Incarcerated mother" means the same as that term is defined in Section 64-13-46.5.

(2) The advisory board shall consist of the following members:

(a) two individuals from the Department of Corrections, appointed by the executive director of the Department of Corrections;

(b) one individual appointed by the Board of Pardons and Parole; and

(c) six individuals appointed by the executive director of the department, including:

(i) two individuals from the department with experience in child care licensing;

(ii) two pediatric healthcare providers;

(iii) one individual with expertise in early childhood development; and

(iv) one individual with experience advocating for incarcerated women.

(3) (a) Except as provided in Subsection (3)(b), a member of the advisory board shall be appointed for a four-year term.

(b) A member that is appointed to complete an unexpired term may complete the unexpired term and serve a subsequent four-year term.

(c) Appointments and reappointments may be staggered so that one-fourth of the advisory board changes each year.

(d) The advisory board shall annually elect a chair and co-chair of the board from among the members of the board to serve a two-year term.

(4) The advisory board shall meet at least bi-annually, or more frequently as determined by the executive director, the chair, or three or more members of the advisory board.

(5) A majority of the board constitutes a quorum and a vote of the majority of the members present constitutes an action of the advisory board.

(6) A member of the advisory board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) The advisory board shall:

(a) review research regarding childhood development and best practices for infants placed in a nursery located within a secure correctional environment;

(b) as part of the advisory board's review of research under Subsection (7)(a), study the benefits of having a nursery for infants and incarcerated mothers located within a secure correctional environment and the benefits of placing an infant or incarcerated mother in a diversion program removed from a secure correctional environment;

(c) study the costs of implementing a diversion program for infants and incarcerated mothers removed from a secure correctional environment;

(d) create a provisional plan for implementing a diversion program for infants and incarcerated mothers removed from a secure correctional environment; and

(e) advise and make recommendations to the department regarding rules and policies for any nursery established by the Department of Corrections to provide space for incarcerated mothers and infants.

(8) The advisory board, upon request from the Department of Corrections, may:

(a) after considering the specific circumstances of an infant and the infant's incarcerated mother, extend the age that qualifies the infant for a nursery under Subsection 64-13-46.5(2) up to 24 months old if:

(i) the extension is in the best interest of the infant; and

(ii) without the extension the infant would be separated from the incarcerated mother while the incarcerated mother remains in the correctional facility; or

(b) allow an incarcerated mother who has committed a violent felony to be provided space in a nursery if it is in the best interest of the incarcerated mother's infant.

(9) On or before November 30, 2024, the advisory board shall provide a report of the advisory board's research and study under Subsections (7)(a) through (d), including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Executive Offices and Criminal Justice Appropriations Subcommittee.

(10) The department shall:

(a) after receiving recommendations from the advisory board under Subsection (7)(e), adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for certification of a nursery established in a secure correctional environment that address:

(i) the safety of the nursery for infants and incarcerated mothers;

(ii) the childhood development needs of the infants in the nursery;

(iii) the specific medical needs of the infants and incarcerated mothers in the nursery;

(iv) the appropriate needs of the incarcerated mothers in the nursery; and

(v) any other requirements recommended by the advisory board that the department deems necessary for the nursery; and

(b) certify that any nursery established by the Department of Corrections is in compliance with the rules established under this section before the nursery begins operations.

(11) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding corrective action, including closure of a nursery established by the Department of Corrections, if the Department of Corrections fails to comply with the rules established under this section.

Section 3. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Title 26 through 26B.

(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(2) Section 26-1-40 is repealed July 1, 2022.

(3) Section 26-1-41 is repealed July 1, 2026.

(4) Section 26-1-43 is repealed December 31, 2025.

(5) Section 26-7-10 is repealed July 1, 2025.

(6) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(7) Section 26-7-14 is repealed December 31, 2027.

(8) Section 26-8a-603 is repealed July 1, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Section 26-18-28 is repealed June 30, 2027.

(16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(17) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(18) Section 26-33a-117 is repealed December 31, 2023.

(19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(24) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

(25) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(26) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(27) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

(29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

(30) Section 26-69-406 is repealed July 1, 2025.

(31) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(32) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(33) Section 26B-1-401, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

Section 4. Section 63I-1-264 is enacted to read:

63I-1-264. Repeal dates: Title 64.

Section 64-13-46.5, Correctional Facility Nursery, is repealed July 1, 2026.

Section 5. Section 64-13-46 is amended to read:

64-13-46. Pregnant inmates.

(1) As used in this section:

(a) "Postpartum recovery" means, as determined by the pregnant inmate's physician, the period immediately following delivery, including the entire period the inmate is in the hospital or health care facility after birth.

(b) "Restraints" means any physical restraint or mechanical device used to control the movement of an inmate's body or limbs, including flex cuffs, soft restraints, shackles, or a convex shield.

(c) (i) "Shackles" means metal restraints, including leg irons, belly chains, or a security or tether chain.

(ii) "Shackles" does not include hard metal handcuffs.

[~~(1) If~~] (2) Subject to Subsections (3) and (4), if the staff of a correctional facility knows or has reason to believe that an inmate is pregnant or is in postpartum recovery, the staff shall, when restraining the inmate[~~, shall~~] at any time or location, use the least restrictive restraints necessary to ensure the safety and security of the inmate and others. [~~This requirement shall continue during postpartum recovery and any transport to or from a correctional facility.~~]

[~~(2) The staff of a correctional facility~~]

(3) A correctional staff member may not use restraints on an inmate during the third trimester of pregnancy, labor [~~and~~], or childbirth unless a correctional staff member makes an individualized determination that there are compelling grounds to believe that the inmate presents:

(a) an immediate and serious risk of harm to [~~herself~~] the inmate, the inmate's infant, medical staff, correctional staff, or the public; or

(b) a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.

[~~(3)~~] (4) Notwithstanding Subsection [~~(1) or (2)~~] (3), under no circumstances may shackles, leg restraints, or waist restraints be used on an inmate during the third trimester of pregnancy, labor [~~and~~], childbirth, or postpartum recovery [~~while in a medical facility~~].

[~~(4)~~] (5) Correctional staff present during labor or childbirth shall:

(a) be stationed in a location that offers the maximum privacy to the inmate, while taking into consideration safety and security concerns; and

(b) be female, if practicable.

[~~(5) If restraints are authorized under Subsection (1) or (2)~~]

(6) If a correctional staff member authorizes restraints under Subsection (2) or (3), the correctional staff member shall make a written record of the [~~decision~~] authorization and use of the restraints [~~shall be made~~] that includes:

(a) an explanation of the grounds for the correctional staff member's [~~determination~~] authorization on the use of restraints;

[~~(b) the circumstances that necessitated the use of restraints;~~]

[~~(c)~~] (b) the type of restraints that were used; and

[~~(d)~~] (c) the length of time the restraints were used.

[~~(6)~~] (7) The record [~~created~~] described in Subsection [~~(5)~~] (6):

(a) shall be retained by the correctional facility for five years;

(b) shall be available for public inspection with individually identifying information redacted; and

(c) may not be considered a medical record under state or federal law.

(8) For a minimum of 48 hours after an inmate has given birth, a correctional facility shall, if directed by the inmate's physician, allow the infant to remain with the inmate at the health care facility.

(9) A correctional facility shall provide:

(a) an inmate who is pregnant, or who has given birth within the past six weeks, access to a social worker to help the inmate:

(i) arrange childcare;

(ii) establish a reunification plan; and

(iii) establish a substance abuse treatment plan, if needed; and

(b) an inmate in postpartum recovery access to postpartum care for up to 12 weeks as determined by the inmate's physician.

[~~(7) As used in this section:~~]

[~~(a) "Postpartum recovery" means, as determined by her physician, the period immediately following delivery, including the entire period a woman is in the hospital or medical facility after birth.~~]

[~~(b) "Restraints" means any physical restraint or mechanical device used to control the movement of an inmate's body or limbs, including flex cuffs, soft restraints, shackles, or a convex shield.~~]

[~~(c) "Shackles" means metal or iron restraints and includes hard metal handcuffs, leg irons, belly chains, or a security or tether chain.~~]

Section 6. Section 64-13-46.5 is enacted to read:

64-13-46.5. Correctional facility nursery.

(1) As used in this section:

(a) "Incarcerated mother" means an inmate who gives birth after entering the department's custody.

(b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) If, using existing appropriations, the department creates a nursery in a correctional facility to provide space for incarcerated mothers and infants, the department may not:

(a) subject to Subsection (4)(a)(i), provide space in a nursery for an infant 19 months old or older;

(b) begin or continue operating the nursery unless the Department of Health and Human Services certifies that the nursery is in compliance with the rules established under Section 26B-1-401; or

(c) subject to Subsection (4)(a)(ii), provide space in a nursery established by the department for an incarcerated mother who has been convicted of, or has charges pending for, a violent felony, including attempt, solicitation, or conspiracy to commit the violent felony.

(3) If the department establishes a nursery under Subsection (2), the department shall ensure that at least one administrator of the nursery has experience or training in early childhood development.

(4) The department may:

(a) in accordance with Section 26B-1-401, request that the Correctional Postnatal and Early Childhood Advisory Board authorize:

(i) an infant who is 24 months old or younger to remain in a nursery; or

(ii) an incarcerated mother who has committed a violent felony to be provided space in a nursery; and

(b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the eligibility requirements for an incarcerated mother to enter any nursery established by the department.

CHAPTER 421
H. B. 432
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

PROBATE MODIFICATIONS

Chief Sponsor: Brady Brammer
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses probate provisions.

Highlighted Provisions:

This bill:

- addresses when certain nonvested property interests or powers of appointment are created;
- permits a court in an action related to the administration of an estate to award costs and expenses, including reasonable attorney fees, to any party to be paid by another party or from the estate that is the subject of the controversy;
- addresses when a creditor of a settlor may not satisfy the creditor's claim from an irrevocable trust; and
- make technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

75-2-1204, as last amended by Laws of Utah 2013, Chapter 364
75-3-719, as last amended by Laws of Utah 2012, Chapter 274
75-7-505, as last amended by Laws of Utah 2017, Chapters 125, 204

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 75-2-1204 is amended to read:

75-2-1204. When nonvested property interest or power of appointment created.

(1) Except as [~~provided in Subsections (2) and (3) and in~~] otherwise provided in this section or Section 75-2-1207, the time of creation of a nonvested property interest or a power of appointment is determined under general principles of property law.

(2) For purposes of this part, if there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of:

(a) a nonvested property interest; or

(b) a property interest subject to a power of appointment described in Section 75-2-1203, the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates.

(3) For purposes of this title, a nonvested property interest or a power of appointment arising from a transfer of property to a previously funded trust or other existing property arrangement is created when the nonvested property interest or power of appointment in the original contribution was created.

(4) A person who exercises an initial power of appointment may provide in the exercise of that power of appointment:

(a) for a nonvested property interest that is considered:

(i) created when the initial power is irrevocably exercised or when a revocable exercise becomes irrevocable; and

(ii) not created at the time of the creation of the initial power of appointment that is exercised; and

(b) for a further power of appointment created by the exercise of the initial power of appointment that is considered:

(i) created when the initial power is irrevocably exercised or when a revocable exercise becomes irrevocable; and

(ii) not created at the time of the creation of the initial power of appointment that is exercised.

Section 2. Section 75-3-719 is amended to read:

75-3-719. Costs and expenses in estate litigation.

(1) (a) In a judicial proceeding involving the administration of an estate, the court may, as justice and equity may require, award costs and expenses, including reasonable attorney fees, to any party to be paid by another party or from the estate that is the subject of the controversy.

(b) This Subsection (1) does not apply to the Office of the Attorney General when the Office of the Attorney General is a party to a judicial proceeding involving the administration of an estate to protect a public or charitable interest.

(2) If any personal representative or person nominated as personal representative defends or prosecutes any proceeding in good faith, whether successful or not, the personal representative is entitled to receive from the estate [~~all~~] the necessary expenses and disbursements, including reasonable attorney fees incurred. This [~~provision~~] Subsection (2) expressly applies in a will contest to any person nominated as a personal representative in a testamentary instrument submitted in good faith.

Section 3. Section 75-7-505 is amended to read:

75-7-505. Creditor's claim against settlor.

[~~Whether or not~~] Regardless of whether the terms of a trust contain a spendthrift provision, the following rules apply:

(1) During the lifetime of the settlor, the property of a revocable trust is subject to the claims of the

settlor's creditors. If a revocable trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(2) (a) With respect to an irrevocable trust other than an irrevocable trust that meets the requirements of Section 25-6-502, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit.

(b) [~~If the trust has~~] With respect to an irrevocable trust that has more than one settlor, other than an irrevocable trust that meets the requirements of Section 25-6-502, the amount [~~the~~] a creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(c) Notwithstanding Subsections (2)(a) and (b), a creditor of a settlor may not satisfy the creditor's claim from an irrevocable trust solely because the trustee may make a discretionary distribution reimbursing the settlor for income tax liability of the settlor attributable to the income of the irrevocable trust, when the distribution is:

(i) subject to the discretion of a trustee who is not the settlor;

(ii) subject to the consent of an advisor who is not the settlor; or

(iii) at the direction of an advisor who is not the settlor.

(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death, but not property received by the trust as a result of the death of the settlor which is otherwise exempt from the claims of the settlor's creditors, is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.

CHAPTER 422
H. B. 461
Passed March 2, 2023
Approved March 20, 2023
Effective May 3, 2023

AIRPORT FIREARM POSSESSION AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill concerns possession of a firearm at an airport.

Highlighted Provisions:

This bill:

- defines terms;
- provides when a firearm that was seized as part of a criminal offense at an airport may be returned to the firearm's owner;
- modifies the offense of possession of a dangerous weapon at an airport;
- restricts the ability of a prosecutor to seek the forfeiture of a firearm under certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

24-3-103, as last amended by Laws of Utah 2021, Chapter 230
24-4-102, as last amended by Laws of Utah 2022, Chapters 116, 274
76-10-529, as last amended by Laws of Utah 2004, Chapter 169

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 24-3-103 is amended to read:

24-3-103. Disposition of property.

(1) (a) [~~If~~] Except as provided in Subsection (1)(b), a prosecuting attorney determines that seized property no longer needs to be retained for court proceedings, the prosecuting attorney may:

[~~(a)~~] (i) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;

[~~(b)~~] (ii) petition the court for an order transferring ownership of any weapons to the agency with custody for the agency's use and disposal in accordance with Section 24-3-103.5, if the owner:

[~~(i)~~] (A) is the individual who committed the offense for which the weapon was seized; or

[~~(ii)~~] (B) may not lawfully possess the weapon; or

[~~(c)~~] (iii) notify the agency with custody of the property or contraband that:

[~~(i)~~] (A) the property may be returned to the rightful owner if the rightful owner may lawfully possess the property; or

[~~(ii)~~] (B) the contraband may be disposed of or destroyed.

(b) If a prosecuting attorney determines that a firearm seized from an individual as a result of an offense committed under Section 76-10-529 no longer needs to be retained for court proceedings, the prosecuting attorney shall notify the agency with custody of the firearm that the property shall be returned to the individual if the individual may lawfully possess the firearm.

(2) The agency shall exercise due diligence in attempting to notify the rightful owner of the property to advise the owner that the property is to be returned.

(3) (a) For a computer determined to be contraband, a court may order the reasonable extraction and return of specifically described personal digital data to the rightful owner.

(b) The law enforcement agency shall determine a reasonable cost to extract the data.

(c) At the time of the request to extract the data, the owner of the computer shall pay the agency the cost to extract the data.

(4) (a) Before an agency may release seized property to a person claiming ownership of the property, the person shall establish in accordance with Subsection (4)(b) that the person:

(i) is the rightful owner; and

(ii) may lawfully possess the property.

(b) The person shall establish ownership under Subsection (4)(a) by providing to the agency:

(i) identifying proof or documentation of ownership of the property; or

(ii) a notarized statement if proof or documentation is not available.

(5) (a) When seized property is returned to the owner, the owner shall sign a receipt listing in detail the property that is returned.

(b) The agency shall:

(i) retain a copy of the receipt; and

(ii) provide a copy of the receipt to the owner.

(6) (a) Except as provided in Subsection (6)(b), if the agency is unable to locate the rightful owner of the property or the rightful owner is not entitled to lawfully possess the property, the agency may:

(i) apply the property to a public interest use;

(ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(iii) destroy the property if the property is unfit for a public interest use or for sale.

(b) If the property described in Subsection (6)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 24-3-103.5.

(7) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

(a) permission to apply the property or the proceeds to public interest use; and

(b) the designation and approval of the public interest use of the property or the proceeds.

(8) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

Section 2. Section 24-4-102 is amended to read:

24-4-102. Property subject to forfeiture.

(1) Except as provided in Subsection (2), (3), [~~or~~] (4), or (5), an agency may seek to forfeit:

(a) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; and

(b) seized proceeds.

(2) If seized property is used to facilitate an offense that is a violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:

(i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)(a);

(ii) a felony violation under Subsection 76-5-102.1(2)(b);

(iii) a violation under Section 76-5-207; or

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

(b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:

(i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:

(A) Section 41-6a-502;

(B) Section 41-6a-517;

(C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

(D) Section 41-6a-520;

(E) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(F) Section 76-5-102.1;

(G) Section 76-5-207; or

(H) a criminal prohibition as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through (G); or

(ii) the denial, suspension, revocation, or disqualification described in Subsections (3)(b)(i)(A) through (H):

(A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or disqualification; and

(B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in Subsections (3)(b)(i)(A) through (H).

(4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in accordance with the arrest.

(5) If a peace officer seizes an individual's firearm as the result of an offense under Section 76-10-529, an agency may not seek to forfeit the individual's firearm if the individual may lawfully possess the firearm.

Section 3. Section 76-10-529 is amended to read:

76-10-529. Possession of dangerous weapons, firearms, or explosives in airport secure areas prohibited -- Penalty.

(1) (a) As used in this section:

[~~(a)~~] (i) "Airport authority" has the same meaning as defined in Section 72-10-102.

[~~(b) "Dangerous weapon" is the same as defined in Section 76-10-501.~~]

[~~(c)~~] (ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section 76-10-306.

(iii) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(d) "Firearm" is the same as defined in Section 76-10-501.~~]

(b) Terms defined in Sections 76-1-101.5 and 76-10-501 apply to this section.

(2) (a) Within a secure area of an airport established pursuant to this section, a person, including a person licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is guilty of:

(i) a class A misdemeanor if the person knowingly or intentionally possesses any dangerous weapon or firearm;

(ii) an infraction if the person recklessly [~~or with criminal negligence~~] possesses any dangerous weapon or firearm; or

(iii) a violation of Section 76-10-306 if the person transports, possesses, distributes, or sells any explosive, chemical, or incendiary device.

(b) Subsection (2)(a) does not apply to:

(i) persons exempted under Section 76-10-523; and

(ii) members of the state or federal military forces while engaged in the performance of their official duties.

(3) An airport authority, county, or municipality regulating the airport may:

(a) establish any secure area located beyond the main area where the public generally buys tickets, checks and retrieves luggage; and

(b) use reasonable means, including mechanical, electronic, x-ray, or any other device, to detect dangerous weapons, firearms, or explosives concealed in baggage or upon the person of any individual attempting to enter the secure area.

(4) At least one notice shall be prominently displayed at each entrance to a secure area in which a dangerous weapon, firearm, or explosive is restricted.

(5) Upon the discovery of any dangerous weapon, firearm, or explosive, the airport authority, county, or municipality, the employees, or other personnel administering the secure area may:

(a) require the individual to deliver the item to the air freight office or airline ticket counter;

(b) require the individual to exit the secure area; or

(c) obtain possession or retain custody of the item until it is transferred to law enforcement officers.

(6) (a) An individual who is prosecuted for a violation of this section based on the possession of a firearm shall have the individual's firearm returned to the individual in accordance with Subsection 24-3-103(1)(b) if the individual may lawfully possess the firearm.

(b) In accordance with Subsection 24-4-102(5), a firearm seized under this section is not subject to forfeiture if the charged individual may lawfully possess the firearm.

(c) In a prosecution brought under this section, a prosecutor may not condition a plea on the forfeiture of a firearm.

CHAPTER 423
H. B. 481
Passed March 2, 2023
Approved March 20, 2023
Effective August 1, 2023

FIREARM SAFETY AND SUICIDE PREVENTION EDUCATION REQUIREMENTS

Chief Sponsor: Sahara Hayes
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies the suicide prevention information a school is required to provide a parent in certain circumstances.

Highlighted Provisions:

This bill:

- requires a school to provide suicide prevention materials and information, including information on firearm safety, to a parent of a child who has threatened suicide or has been involved in an incident of bullying or other abusive conduct; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-9-601, as last amended by Laws of Utah 2019, Chapter 293
53G-9-604, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-601 is amended to read:

53G-9-601. Definitions.

As used in this part:

(1) (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.

(b) A single act does not constitute abusive conduct.

(2) "Bullying" means a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:

(a) causing physical or emotional harm to the school employee or student;

(b) causing damage to the school employee's or student's property;

(c) placing the school employee or student in reasonable fear of:

(i) harm to the school employee's or student's physical or emotional well-being; or

(ii) damage to the school employee's or student's property;

(d) creating a hostile, threatening, humiliating, or abusive educational environment due to:

(i) the pervasiveness, persistence, or severity of the actions; or

(ii) a power differential between the bully and the target; or

(e) substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

(3) "Communication" means the conveyance of a message, whether verbal, written, or electronic.

(4) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

(5) (a) "Hazing" means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:

(i) (A) endangers the mental or physical health or safety of a school employee or student;

(B) involves any brutality of a physical nature, including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(C) involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or

(D) involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation; and

(ii) (A) is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or school sponsored team, organization, program, club, or event; or

(B) is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member

of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.

(b) The conduct described in Subsection (5)(a) constitutes hazing, regardless of whether the school employee or student against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(6) "LEA governing board" means a local school board or charter school governing board.

(7) "Policy" means an LEA governing board policy described in Section 53G-9-605.

(8) "Public education suicide prevention coordinator" means the public education suicide prevention coordinator described in Section 53G-9-702.

[~~(8)~~] (9) "Retaliate" means an act or communication intended:

(a) as retribution against a person for reporting bullying or hazing; or

(b) to improperly influence the investigation of, or the response to, a report of bullying or hazing.

[~~(9)~~] (10) "School" means a public elementary or secondary school, including a charter school.

[~~(10)~~] (11) "School employee" means an individual working in the individual's official capacity as:

(a) a school teacher;

(b) a school staff member;

(c) a school administrator; or

(d) an individual:

(i) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; and

(ii) who works on a school campus.

(12) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(13) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

Section 2. Section 53G-9-604 is amended to read:

53G-9-604. Parental notification of certain incidents and threats required.

(1) A school shall:

(a) notify a parent if the parent's student threatens [~~to commit~~] suicide; or

(b) notify the parents of each student involved in an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation of the incident involving each parent's student.

(2) (a) If a school notifies a parent of an incident or threat required to be reported under Subsection (1), the school shall:

(i) produce and maintain a record that verifies that the parent was notified of the incident or threat[~~.~~];

[~~(b)~~] (ii) [~~A school shall~~]maintain a record described in Subsection [~~(2)(a)~~] (2)(a)(i) in accordance with the requirements of:

[~~(i)~~] (A) Title 53E, Chapter 9, Part 2, Student Privacy;

[~~(ii)~~] (B) Title 53E, Chapter 9, Part 3, Student Data Protection;

[~~(iii)~~] (C) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

[~~(iv)~~] (D) 34 C.F.R. Part 99; and

(iii) provide the parent with:

(A) suicide prevention materials and information; and

(B) information on ways to limit the student's access to fatal means, including a firearm or medication.

(b) The state superintendent shall select the materials and information described in Subsection (2)(a)(iii) in collaboration with the state suicide prevention coordinator and public education suicide prevention coordinator.

(3) A local school board or charter school governing board shall adopt a policy regarding the process for:

(a) notifying a parent as required in Subsection (1); and

(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (2).

(4) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (1).

(5) A school shall:

(a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and

(b) expunge a record maintained in accordance with this section that relates to a student if the student:

(i) has graduated from high school; and

(ii) requests the record be expunged.

Section 3. Effective date.

This bill takes effect on August 1, 2023.

CHAPTER 424
H. B. 492
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

ABUSE OF PERSONAL IDENTITY ACT AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions of the Abuse of Personal Identity Act.

Highlighted Provisions:

This bill:

- allows an individual's lawfully obtained personal information or public data to be used to preview, advertise, or promote the sale of a product, service, or subscription, provided that the use of the personal information or public data does not imply that the individual endorses or approves of the product, service, or subscription.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

45-3-3, as last amended by Laws of Utah 1999, Chapter 146

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 45-3-3 is amended to read:

45-3-3. Acts constituting abuse -- Permitting prosecution.

(1) Except for purposes of the criminal penalty in Section 76-9-407, the personal identity of an individual is abused if:

(a) an advertisement is published in which the personal identity of that individual is used in a manner which expresses or implies that the individual approves, endorses, has endorsed, or will endorse the specific subject matter of the advertisement; and

(b) consent has not been obtained for such use from the individual, or if the individual is a minor, then consent of one of the minor's parents or consent of the minor's legally appointed guardian.

(2) Nothing in this part prohibits prosecution of abuse of personal identity under Section 76-9-407.

(3) The personal identity of an individual is not abused if the individual's personal data or publicly available information:

(a) was lawfully obtained;

(b) is used to preview, advertise, or promote the sale of a product, service, or subscription, including the sale of a product, service, or subscription of which the individual's personal data or publicly available information is or may be a part; and

(c) is not used in a way that expresses or implies that the individual approves, endorses, has endorsed, or will endorse the product, service, or subscription being previewed, advertised, or promoted.

CHAPTER 425
H. B. 507
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

FIREARM POSSESSION REVISIONS

Chief Sponsor: Phil Lyman
Senate Sponsor: Kirk A. Cullimore
Cosponsors: Melissa G. Ballard
Kera Birkeland
Kay J. Christofferson
Tim Jimenez
Jason B. Kyle
Trevor Lee
Rex P. Shipp
Christine F. Watkins

LONG TITLE

General Description:

This bill amends the definition of a restricted person.

Highlighted Provisions:

This bill:

- defines terms;
- amends the definition of a restricted person; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-501, as last amended by Laws of Utah 2015, Chapters 212, 406
76-10-503, as last amended by Laws of Utah 2021, Chapter 262
76-10-532, as last amended by Laws of Utah 2015, Chapter 37

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-501 is amended to read:

76-10-501. Definitions.

As used in this part:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; [~~or~~]

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(3) (a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

(ii) readily accessible for immediate use.

(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.

(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.

(5) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection (5)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

(C) bizarre; or

(ii) because of the firearm's association with an historical:

(A) figure;

(B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

(6) (a) "Dangerous weapon" means:

(i) a firearm; or

(ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

(i) the location and circumstances in which the object was used or possessed;

(ii) the primary purpose for which the object was made;

(iii) the character of the wound, if any, produced by the object's unlawful use;

(iv) the manner in which the object was unlawfully used;

(v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(vi) the lawful purposes for which the object may be used.

(c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.

(7) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(8) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(8)~~] (9) "Enter" means intrusion of the entire body.

[~~(9)~~] (10) "Federal Firearms Licensee" means a person who:

(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held.

[~~(10)~~] (11) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.

[~~(11)~~] (12) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

[~~(12)~~] (13) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

[~~(13)~~] (14) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.

[~~(14)~~] (15) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

[~~(15)~~] (16) "Prohibited area" means a place where it is unlawful to discharge a firearm.

[~~(16)~~] (17) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

[~~(17)~~] (18) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

[~~(18)~~] (19) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

[~~(19)~~] (20) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

[~~(20)~~] (21) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

[~~(21)~~] (22) "Shoulder arm" means a firearm that is designed to be fired while braced against the shoulder.

(23) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

[~~(22)~~] (24) "Slug" means a single projectile discharged from a shotgun shell.

[~~(23)~~] (25) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

[~~(24)~~] (26) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 2. Section 76-10-503 is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of [~~any~~] a violent felony [~~as defined in Section 76-3-203.5~~];

(ii) is on probation or parole for [~~any~~] a felony;

(iii) is on parole from secure care, as defined in Section 80-1-102;

(iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5;

(v) is an alien who is illegally or unlawfully in the United States; or

(vi) is on probation for a conviction of possessing:

(A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

(B) a controlled substance analog; or

(C) a substance listed in Section 58-37-4.2.

(b) A Category II restricted person is a person who:

(i) has been convicted of [~~any~~]:

(A) a domestic violence offense that is a felony;

(B) a felony that is not a domestic violence offense or a violent felony and within seven years after completing the sentence for the conviction, has been convicted of or charged with another felony or class A misdemeanor;

(C) multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies and within seven years after completing the sentence for the convictions, has been convicted of or charged with another felony or class A misdemeanor; or

(D) multiple felonies that are not part of a single criminal episode;

(ii) (A) within the last seven years has completed a sentence for:

(I) a conviction for a felony that is not a domestic violence offense or a violent felony; or

(II) convictions for multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies; and

(B) within the last seven years and after the completion of a sentence for a conviction described in Subsection (1)(b)(ii)(A), has not been convicted of or charged with another felony or class A misdemeanor;

[~~(ii)~~] (iii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

[~~(iii)~~] (iv) is an unlawful user of a controlled substance as defined in Section 58-37-2;

[~~(iv)~~] (v) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

[~~(v)~~] (vi) has been found not guilty by reason of insanity for a felony offense;

[~~(vi)~~] (vii) has been found mentally incompetent to stand trial for a felony offense;

[~~(vii)~~] (viii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

[~~(viii)~~] (ix) has been dishonorably discharged from the armed forces;

[~~(ix)~~] (x) has renounced the individual's citizenship after having been a citizen of the United States;

[~~(x)~~] (xi) is a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that:

(A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or

(B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or

[~~(xi)~~] (xii) has been convicted of the commission or attempted commission of assault under Section

76-5-102 or aggravated assault under Section 76-5-103 against a current or former spouse, parent, guardian, individual with whom the restricted person shares a child in common, individual who is cohabitating or has cohabitated with the restricted person as a spouse, parent, or guardian, or against an individual similarly situated to a spouse, parent, or guardian of the restricted person.

(c) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(i) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(ii) a conviction or an adjudication under Section 80-6-701 which, according to the law of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(d) It is the burden of the defendant in a criminal case to provide evidence that a conviction or an adjudication under Section 80-6-701 is subject to an exception provided in Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or the adjudication is not subject to that exception.

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

(6) It is an affirmative defense to a charge based on the definition in Subsection [~~(1)(b)(iv)~~] (1)(b)(v) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section 24-3-103;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (8)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

(9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other

person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person any information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (9) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Section 3. Section 76-10-532 is amended to read:

76-10-532. Removal from National Instant Check System database.

(1) A person who is subject to the restrictions in Subsection [~~76-10-503(1)(b)(v), (vi), or (vii)~~] 76-10-503(1)(b)(vi), (vii), or (viii), or 18 U.S.C. 922(d)(4) and (g)(4) based on a commitment, finding, or adjudication that occurred in this state may petition the district court in the county in which the commitment, finding, or adjudication occurred to remove the disability imposed.

(2) The petition shall be filed in the district court in the county where the commitment, finding, or adjudication occurred. The petition shall include:

(a) a listing of facilities, with their addresses, where the petitioner has ever received mental health treatment;

(b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain the petitioner's mental health records;

(c) a verified report of a mental health evaluation conducted by a licensed psychiatrist occurring within 30 days prior to the filing of the petition, which shall include a statement regarding:

(i) the nature of the commitment, finding, or adjudication that resulted in the restriction on the petitioner's ability to purchase or possess a dangerous weapon;

(ii) the petitioner's previous and current mental health treatment;

(iii) the petitioner's previous violent behavior, if any;

(iv) the petitioner's current mental health medications and medication management;

(v) the length of time the petitioner has been stable;

(vi) external factors that may influence the petitioner's stability;

(vii) the ability of the petitioner to maintain stability with or without medication; and

(viii) whether the petitioner is dangerous to public safety; and

(d) a copy of the petitioner's state and federal criminal history record.

(3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case or, if the disability is not based on a criminal case, on the county or district attorney's office having jurisdiction where the petition was filed and the individual who filed the original action which resulted in the disability.

(4) The court shall schedule a hearing as soon as practicable. The petitioner may present evidence and subpoena witnesses to appear at the hearing. The prosecuting, county attorney, or the individual who filed the original action which resulted in the disability may object to the petition and present evidence in support of the objection.

(5) The court shall consider the following evidence:

(a) the facts and circumstances that resulted in the commitment, finding, or adjudication;

(b) the person's mental health and criminal history records; and

(c) the person's reputation, including the testimony of character witnesses.

(6) The court shall grant the relief if the court finds by clear and convincing evidence that:

(a) the person is not a danger to the person or to others;

(b) the person is not likely to act in a manner dangerous to public safety; and

(c) the requested relief would not be contrary to the public interest.

(7) The court shall issue an order with its findings and send a copy to the bureau.

(8) The bureau, upon receipt of a court order removing a person's disability under Subsection [~~76-10-503(1)(b)(vii)~~] 76-10-503(1)(b)(viii), shall send a copy of the court order to the National Instant Check System requesting removal of the person's name from the database. In addition, if the person is listed in a state database utilized by the bureau to determine eligibility for the purchase or possession of a firearm or to obtain a concealed firearm permit, the bureau shall remove the petitioner's name or send a copy of the court's order to the agency responsible for the database for removal of the petitioner's name.

(9) If the court denies the petition, the petitioner may not petition again for relief until at least two years after the date of the court's final order.

(10) The petitioner may appeal a denial of the requested relief. The review on appeal shall be de novo.

CHAPTER 426
H. B. 509
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

CRIMINAL PROTECTIVE ORDER AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies provisions related to criminal protective orders.

Highlighted Provisions:

This bill:

- modifies definitions;
- allows a victim to request a hearing regarding a continuous protective order for domestic violence;
- requires notice to be provided to a victim for a hearing regarding a continuous protective order; and
- includes criminal protective order hearings as "important criminal justice hearings."

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-38-2, as last amended by Laws of Utah 1997, Chapter 103
77-38-3, as last amended by Laws of Utah 2022, Chapters 133, 430
77-38-4, as last amended by Laws of Utah 2011, Chapter 28
78B-7-804, as last amended by Laws of Utah 2021, Chapters 159, 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 159

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-38-2 is amended to read:

77-38-2. Definitions.

For the purposes of this chapter and the Utah Constitution:

(1) "Abuse" means treating the crime victim in a manner so as to injure, damage, or disparage.

(2) "Dignity" means treating the crime victim with worthiness, honor, and esteem.

(3) "Fairness" means treating the crime victim reasonably, even-handedly, and impartially.

(4) "Harassment" means treating the crime victim in a persistently annoying manner.

(5) "Important criminal justice hearings" or "important juvenile justice hearings" means the following proceedings in felony criminal cases or cases involving a minor's conduct which would be a felony if committed by an adult:

(a) any preliminary hearing to determine probable cause;

(b) any court arraignment where practical;

(c) any court proceeding involving the disposition of charges against a defendant or minor or the delay of a previously scheduled trial date but not including any unanticipated proceeding to take an admission or a plea of guilty as charged to all charges previously filed or any plea taken at an initial appearance;

(d) any court proceeding to determine whether to release a defendant or minor and, if so, under what conditions release may occur, excluding any such release determination made at an initial appearance;

(e) any criminal or delinquency trial, excluding any actions at the trial that a court might take in camera, in chambers, or at a sidebar conference;

(f) any court proceeding to determine the disposition of a minor or sentence, fine, or restitution of a defendant or to modify any disposition of a minor or sentence, fine, or restitution of a defendant; [~~and~~]

(g) a hearing regarding any criminal protective order described in Title 78B, Chapter 7, Part 8, Criminal Protective Orders; and

[~~(g)~~] (h) any public hearing concerning whether to grant a defendant or minor parole or other form of discretionary release from confinement.

(6) "Reliable information" means information worthy of confidence, including any information whose use at sentencing is permitted by the United States Constitution.

(7) "Representative of a victim" means a person who is designated by the victim or designated by the court and who represents the victim in the best interests of the victim.

(8) "Respect" means treating the crime victim with regard and value.

(9) (a) "Victim of a crime" means any natural person against whom the charged crime or conduct is alleged to have been perpetrated or attempted by the defendant or minor personally or as a party to the offense or conduct or, in the discretion of the court, against whom a related crime or act is alleged to have been perpetrated or attempted, unless the natural person is the accused or appears to be accountable or otherwise criminally responsible for or criminally involved in the crime or conduct or a crime or act arising from the same conduct, criminal episode, or plan as the crime is defined under the laws of this state.

(b) For purposes of the right to be present, "victim of a crime" does not mean any person who is in custody as a pretrial detainee, as a prisoner following conviction for an offense, or as a juvenile who has committed an act that would be an offense if committed by an adult, or who is in custody for mental or psychological treatment.

(c) For purposes of the right to be present and heard at a public hearing as provided in Subsection [~~77-38-2(5)(g)~~] 77-38-2(5)(h) and the right to notice as provided in Subsection 77-38-3(7)(a), "victim of a crime" includes any victim originally named in the allegation of criminal conduct who is not a victim of the offense to which the defendant entered a negotiated plea of guilty.

Section 2. Section 77-38-3 is amended to read:

77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through [~~(f)~~] (g) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through [~~(f)~~] (g), which the victim has requested; and

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(4) (a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, [~~listed~~] described in Subsections 77-38-2(5)(a) through [~~(f)~~] (g) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5) (a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through [~~(f)~~] (g) permit an opportunity for victims of crimes to be notified.

(b) The court shall consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through [~~(f)~~] (g) in advance of any requested court hearing or action so that the prosecuting agency may comply with the prosecuting agency's notification obligation.

(7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing under Subsection [~~77-38-2(5)(g)~~] 77-38-2(5)(h).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through [~~(f)~~] (g) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

(10) (a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

(11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12) (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77-37-5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

(v) the Utah Office for Victims of Crime;

(vi) the Commission on Criminal and Juvenile Justice;

(vii) the Utah State Courts; and

(viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(14) (a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section 76-10-1306 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

(15) (a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that possibility as soon as practicable.

(b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.

Section 3. Section 77-38-4 is amended to read:

77-38-4. Right to be present, to be heard, and to file an amicus brief on appeal -- Control of disruptive acts or irrelevant statements -- Statements from persons in custody.

(1) The victim of a crime, the representative of the victim, or both shall have the right:

(a) to be present at the important criminal or juvenile justice hearings provided in Subsection 77-38-2(5);

(b) to be heard at the important criminal or juvenile justice hearings provided in Subsections 77-38-2(5)(b), (c), (d), (f), [~~and (g)~~] (g), and (h);

(c) to submit a written statement in any action on appeal related to that crime; and

(d) upon request to the judge hearing the matter, to be present and heard at the initial appearance of the person suspected of committing the conduct or criminal offense against the victim on issues relating to whether to release a defendant or minor and, if so, under what conditions release may occur.

(2) This chapter shall not confer any right to the victim of a crime to be heard:

(a) at any criminal trial, including the sentencing phase of a capital trial under Section 76-3-207 or at any preliminary hearing, unless called as a witness; and

(b) at any delinquency trial or at any preliminary hearing in a minor's case, unless called as a witness.

(3) The right of a victim or representative of a victim to be present at trial is subject to Rule 615 of the Utah Rules of Evidence.

(4) Nothing in this chapter shall deprive the court of the right to prevent or punish disruptive conduct nor give the victim of a crime the right to engage in disruptive conduct.

(5) The court shall have the right to limit any victim's statement to matters that are relevant to the proceeding.

(6) In all cases where the number of victims exceeds five, the court may limit the in-court oral statements it receives from victims in its discretion to a few representative statements.

(7) Except as otherwise provided in this section, a victim's right to be heard may be exercised at the victim's discretion in any appropriate fashion, including an oral, written, audiotaped, or videotaped statement or direct or indirect information that has been provided to be included in any presentence report.

(8) If the victim of a crime is a person who is in custody as a pretrial detainee, as a prisoner following conviction for an offense, or as a juvenile who has committed an act that would be an offense if committed by an adult, or who is in custody for mental or psychological treatment, the right to be heard under this chapter shall be exercised by submitting a written statement to the court.

(9) The court may exclude any oral statement from a victim on the grounds of the victim's incompetency as provided in Rule 601(a) of Utah Rules of Evidence.

(10) Except in juvenile court cases, the Constitution may not be construed as limiting the

existing rights of the prosecution to introduce evidence in support of a capital sentence.

Section 4. Section 78B-7-804 is amended to read:

78B-7-804. Sentencing and continuous protective orders for a domestic violence offense -- Modification -- Expiration.

(1) Before a perpetrator who has been convicted of or adjudicated for a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of or adjudicated for domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter 38, Rights of Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

(b) Except as provided in Subsection (6), if a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless:

(i) the court determines by clear and convincing evidence that the victim does not a have a reasonable fear of future harm or abuse[~~.~~]; and

(ii) the court conducts a hearing.

(c) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) A victim has a right to request a hearing.

[~~(ii)~~] (iii) If the perpetrator or the victim requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court.

(iv) The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(v) A prosecutor shall use reasonable efforts to notify a victim of a hearing described in Subsection (3)(b)(ii).

(d) A continuous protective order is permanent in accordance with this Subsection (3) and may include:

(i) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(iii) an order prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;

(iv) an order directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act; and

(v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.

(4) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse.

(5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3), a district court may issue a continuous protective order at any time if the victim files a petition with the court, and after notice and hearing the court finds that a continuous protective order is necessary to protect the victim.

(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order

may not be issued under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 80-6-807, the day on which the Division of Juvenile Justice Services discharges the perpetrator.

CHAPTER 427
H. B. 511
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

CRIME VICTIM IDENTIFICATION AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Luz Escamilla
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Stewart E. Barlow
Kera Birkeland
Bridger Bolinder
Brady Brammer
Walt Brooks
Jefferson S. Burton
Kay J. Christofferson
Tyler Clancy
Joseph Elison
Stephanie Gricius
Matthew H. Gwynn
Katy Hall
Jon Hawkins
Sahara Hayes
Colin W. Jack
Tim Jimenez
Dan N. Johnson
Marsha Judkins
Michael L. Kohler
Jason B. Kyle
Trevor Lee
Karianne Lisonbee
Anthony E. Loubet
Steven J. Lund
A. Cory Maloy
Jefferson Moss
Karen M. Peterson
Susan Pulsipher
Judy Weeks Rohner
Mike Schultz
Rex P. Shipp
Andrew Stoddard
Jordan D. Teuscher
Christine F. Watkins
Ryan D. Wilcox

LONG TITLE

General Description:

This bill enacts a provision relating to the identification of a minor victim of homicide.

Highlighted Provisions:

This bill:

- prohibits a law enforcement agency and law enforcement officer from disclosing to a representative of a media outlet information on the identity of a minor victim of a criminal homicide without making a reasonable effort to obtain specified consent.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53-22-101, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-22-101 is enacted to read:

CHAPTER 22. LAW ENFORCEMENT REQUIREMENTS

53-22-101 (Codified as 53-25-101). Prohibition on disclosure of identity of minor homicide victim.

(1) As used in this section:

(a) "Criminal homicide" means the same as that term is defined in Section 76-5-201.

(b) "Media outlet" means a bona fide newspaper, magazine, or broadcast media enterprise, whether conducted on a for-profit or nonprofit basis, engaged in the business of providing news and information to the general public.

(c) "Minor victim" means the victim of a criminal homicide if the victim is younger than 18 years old.

(d) "Parent or legal guardian" does not include an individual who is a suspect or defendant with respect to the criminal homicide.

(2) A law enforcement agency and law enforcement officer may not disclose to a representative of a media outlet the name or other personally identifying information of a minor victim until the law enforcement agency or law enforcement officer has made a reasonable effort to obtain the consent of the minor victim's parent or legal guardian for the disclosure.

CHAPTER 428
H. B. 531
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

COURT FEE MODIFICATIONS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses court fees.

Highlighted Provisions:

This bill:

- defines terms related to fees;
- requires the Judicial Council to provide a report on fees to the Legislature; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63J-1-504, as last amended by Laws of Utah 2022, Chapter 73

ENACTS:

78A-2-310, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-1-504 is amended to read:

63J-1-504. Fees -- Adoption, procedure, and approval -- Establishing and assessing fees without legislative approval -- Report summarizing fees.

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not include:

(A) the Legislature or a committee or staff office of the Legislature[.]; or

(B) the Judiciary, as that term is defined in Section 78A-2-310.

(b) "Agency's cost" means all of a fee agency's direct and indirect costs and expenses for providing the goods or service for which the fee agency charges a fee or for regulating the industry in which the persons paying the fee operate, including:

(i) salaries, benefits, contracted labor costs, travel expenses, training expenses, equipment and material costs, depreciation expense, utility costs, and other overhead costs; and

(ii) costs and expenses for administering the fee.

(c) "Fee agency" means an agency that is authorized to establish and charge a service fee or a regulatory fee.

(d) "Fee schedule" means the complete list of service fees and regulatory fees charged by a fee agency and the amount of those fees.

(e) "Regulatory fee" means a fee that a fee agency charges to cover the agency's cost of regulating the industry in which the persons paying the fee operate.

(f) "Service fee" means a fee that a fee agency charges to cover the agency's cost of providing the goods or service for which the fee is charged.

(2) (a) A fee agency that charges or intends to charge a service fee or regulatory fee shall adopt a fee schedule.

(b) A service fee or regulatory fee that a fee agency charges shall:

(i) be reasonable and fair;

(ii) reflect and be based on the agency's cost for the fee; and

(iii) be established according to a cost formula determined by the executive director of the Governor's Office of Planning and Budget and the director of the Division of Finance in conjunction with the fee agency seeking to establish the fee.

(3) Except as provided in Subsection (7), a fee agency may not:

(a) set fees by rule; or

(b) create, change, or collect any fee unless the fee has been established according to the procedures and requirements of this section.

(4) Each fee agency that is proposing a new fee or proposing to change a fee shall:

(a) present each proposed fee at a public hearing, subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act;

(b) increase, decrease, or affirm each proposed fee based on the results of the public hearing;

(c) except as provided in Subsection (8), submit the fee schedule to the Legislature as part of the agency's annual appropriations request; and

(d) modify the fee schedule as necessary to implement the Legislature's actions.

(5) (a) No later than November 30, 2022, the Governor's Office of Planning and Budget and the Division of Finance shall submit a report to the Infrastructure and General Government Appropriations Subcommittee of the Legislature.

(b) A report under Subsection (5)(a) shall:

(i) provide a summary of:

(A) the types of service fees and regulatory fees included in the fee schedules of all fee agencies;

(B) the methods used by fee agencies to determine the amount of fees;

(C) each estimated agency's cost related to each fee;

(D) whether a fee is intended to cover the agency's cost related to the fee;

(E) whether the fee agency intends to subsidize the fee to cover the agency's cost related to the fee and, if so, the fee agency's justification for the subsidy; and

(F) whether the fee agency set the fee at an amount that exceeds the agency's cost related to the fee and, if so, the fee agency's justification for the excess fee; and

(ii) include any recommendations for improving the process described in this section.

(6) (a) A fee agency shall submit the fee agency's fee schedule to the Legislature for the Legislature's approval on an annual basis.

(b) The Legislature may approve, increase or decrease and approve, or reject any fee submitted to it by a fee agency.

(7) After conducting the public hearing required by this section, a fee agency may establish and assess fees without first obtaining legislative approval if:

(a) (i) the Legislature creates a new program that is to be funded by fees to be set by the Legislature;

(ii) the new program's effective date is before the Legislature's next annual general session; and

(iii) the fee agency submits the fee schedule for the new program to the Legislature for its approval at a special session, if allowed in the governor's call, or at the next annual general session of the Legislature, whichever is sooner; or

(b) (i) the fee agency proposes to increase or decrease an existing fee for the purpose of adding or removing a transactional fee that is charged or assessed by a non-governmental third party but is included as part of the fee charged by the fee agency;

(ii) the amount of the increase or decrease in the fee is equal to the amount of the transactional fee charged or assessed by the non-governmental third party; and

(iii) the increased or decreased fee is submitted to the Legislature for the Legislature's approval at a special session, if allowed in the governor's call, or at the next annual session of the Legislature, whichever is sooner.

(8) (a) A fee agency that intends to change any fee shall submit to the governor, as part of the agency's annual appropriation request a list that identifies:

(i) the title or purpose of the fee;

(ii) the present amount of the fee;

(iii) the proposed new amount of the fee;

(iv) the percent that the fee will have increased if the Legislature approves the higher fee;

(v) the estimated total annual revenue and total estimated annual revenue change that will result from the changed fee;

(vi) the account or fund into which the fee will be deposited;

(vii) the reason for the change in the fee;

(viii) the estimated number of persons to be charged the fee;

(ix) the estimated agency's cost related to the fee;

(x) whether the fee is a service fee or a regulatory fee;

(xi) whether the fee is intended to cover the agency's cost related to the fee;

(xii) whether the fee agency intends to subsidize the fee to cover the agency's cost related to the fee and, if so, the fee agency's justification for the subsidy; and

(xiii) whether the fee agency set the fee at an amount that exceeds the agency's cost related to the fee and, if so, the fee agency's justification for the excess fee.

(b) (i) The governor may review and approve, modify and approve, or reject the fee increases.

(ii) The governor shall transmit the list required by Subsection (8)(a), with any modifications, to the legislative fiscal analyst with the governor's budget recommendations.

(c) Bills approving any fee change shall be filed before the beginning of the Legislature's annual general session, if possible.

(9) (a) Except as provided in Subsection (9)(b), the School and Institutional Trust Lands Administration, established in Section 53C-1-201, is exempt from the requirements of this section.

(b) The following fees of the School and Institutional Trust Lands Administration are subject to the requirements of this section: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

Section 2. Section 78A-2-310 is enacted to read:

78A-2-310. Report by Judicial Council on court fees.

(1) As used in this section:

(a) "Cost" means the direct and indirect costs and expenses for providing the good or service for which a fee is charged, including:

(i) salaries, benefits, contracted labor costs, travel expenses, training expenses, equipment and material costs, depreciation expenses, utility costs, and other overhead costs; and

(ii) costs and expenses for administering the fee.

(b) (i) "Judiciary" means the Judicial Council, the Supreme Court, the Court of Appeals, a district court, or a juvenile court.

(ii) "Judiciary" includes any board, committee, or staff office of the Judicial Council, the Supreme Court, the Court of Appeals, a district court, or a juvenile court.

(2) Before November 30 of each year, the Judicial Council shall submit a report to the Infrastructure and General Government Appropriations Subcommittee of the Legislature that:

(a) includes details on:

(i) the types of fees charged and collected by the Judiciary;

(ii) the methods used to determine the amount of each fee charged and collected by the Judiciary;

(iii) the Judiciary's estimated cost related to each fee;

(iv) whether each fee is intended to cover the Judiciary's cost related to the fee; and

(v) the number of fee waivers granted by the Judiciary for each type of fee charged and collected by the Judiciary; and

(b) include any recommendations regarding fees charged and collected by the Judiciary.

(3) If the Judicial Council recommends that the Legislature create a fee or modify an existing fee under Subsection (2)(b), the Judicial Council shall include the following information with the recommendation:

(a) the title or purpose of the fee;

(b) the present amount of the fee;

(c) the proposed amount of the fee;

(d) the percent that the fee will have increased or decreased if the Legislature approves the modification of the fee;

(e) the estimated total annual revenue and total estimated annual revenue change that will result from the creation or modification of the fee;

(f) the account or fund into which the fee will be deposited;

(g) the reason for the creating or modifying the fee;

(h) the estimated number of persons to be charged the fee;

(i) the Judiciary's estimated cost related to the fee; and

(j) whether the fee is intended to cover the Judiciary's cost related to the fee.

CHAPTER 429
H. B. 556
Passed March 3, 2023
Approved March 20, 2023
Effective May 3, 2023

LEGISLATIVE COMMITTEE STAFF REQUIREMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses staff support of legislative committees.

Highlighted Provisions:

This bill:

- requires a professional legislative office to provide staff support to a legislative committee if the committee chair is required to be a legislator, with certain exceptions;
- designates the Office of Legislative Research and General Counsel as the staffing entity for the Ethnic Studies Commission; and
- makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-28-201, as enacted by Laws of Utah 2022, Chapter 472

ENACTS:

36-12-23, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-23 is enacted to read:

36-12-23. Legislative committees -- Staffing.

As used in this section:

(1) "Chair" means a presiding officer or a co-presiding officer of a legislative committee.

(2) "Committee" means a standing committee, interim committee, subcommittee, special committee, authority, commission, council, task force, panel, or board in which legislative participation is required by law or legislative rule.

(3) "Legislative committee" means a committee:

(a) formed by the Legislature to study or oversee subjects of legislative concern; and

(b) that is required by law or legislative rule to have a chair who is a legislator.

(4) "Legislator" means a member of either house of the Legislature.

(5) "Professional legislative office" means the Office of Legislative Research and General Counsel, the Office of the Legislative Fiscal Analyst, or the Office of the Legislative Auditor General.

(6) (a) Except as provided in Subsection (7), a professional legislative office shall provide staff support to a legislative committee.

(b) If a law or legislative rule does not designate which particular professional legislative office shall provide staff support to a legislative committee, that office shall be the Office of Legislative Research and General Counsel.

(7) This section does not apply to:

(a) the Point of the Mountain State Land Authority created in Section 11-59-201;

(b) the Utah Broadband Center Advisory Commission created in Section 36-29-109;

(c) the Blockchain and Digital Innovation Task Force created in Section 36-29-110;

(d) the Criminal Justice Data Management Task Force created in Section 36-29-111;

(e) the Constitutional Defense Council created in Section 63C-4a-202;

(f) the Women in the Economy Subcommittee created in Section 63N-1b-402;

(g) the House Ethics Committee established under Legislative Joint Rule JR6-2-101; or

(h) the Senate Ethics Committee established under Legislative Joint Rule JR6-2-101.

Section 2. Section 63C-28-201 is amended to read:

63C-28-201. Ethnic Studies Commission created.

(1) There is created the Ethnic Studies Commission to:

(a) consider and review the contributions of Utahns of diverse ethnicities to the state; and

(b) make recommendations to the state board for incorporating ethnic studies into core standards.

(2) The commission consists of the following members:

(a) five members of the Senate, appointed by the president of the Senate, one of whom the president of the Senate shall designate to serve as co-chair of the commission;

(b) five members of the House of Representatives, appointed by the speaker of the House of Representatives, one of whom the speaker of the House of Representatives shall designate to serve as co-chair of the commission; and

(c) two members appointed by the governor.

(3) (a) A majority of the members of the commission constitutes a quorum of the commission.

(b) The action by a majority of the members of a quorum constitutes the action of the commission.

(4) (a) The salary and expenses of a commission member who is a legislator shall be paid in

accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(5) The state board shall provide staff support to the commission.~~]

(5) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

CHAPTER 430
S. B. 11
Passed February 8, 2023
Approved March 20, 2023
Effective May 3, 2023

RETIREMENT FISCAL NOTE REQUIREMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill modifies the duties of the Office of the Legislative Fiscal Analyst.

Highlighted Provisions:

This bill:

- directs the Office of the Legislative Fiscal Analyst to include specified additional information in the fiscal estimate for each proposed bill that changes retirement benefits for public employees.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-12-13, as last amended by Laws of Utah 2021, Chapters 254, 421

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-13 is amended to read:

36-12-13. Office of the Legislative Fiscal Analyst established -- Powers, functions, and duties -- Qualifications.

(1) There is established an Office of the Legislative Fiscal Analyst as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of the Legislative Fiscal Analyst under the supervision of the fiscal analyst are:

(a) (i) to estimate general revenue collections, including comparisons of:

(A) current estimates for each major tax type to long-term trends for that tax type;

(B) current estimates for federal fund receipts to long-term federal fund trends; and

(C) current estimates for tax collections and federal fund receipts to long-term trends deflated for the inflationary effects of debt monetization; and

(ii) to report the analysis required under Subsection (2)(a)(i) to the Legislature's Executive Appropriations Committee before each annual general session of the Legislature;

(b) to analyze in detail the state budget before the convening of each legislative session and make recommendations to the Legislature on each item or program appearing in the budget, including:

(i) funding for and performance of programs, acquisitions, and services currently undertaken by state government to determine whether each department, agency, institution, or program should:

(A) continue at its current level of expenditure;

(B) continue at a different level of expenditure; or

(C) be terminated; and

(ii) increases or decreases to spending authority and other resource allocations for the current and future fiscal years;

(c) to prepare on all proposed bills fiscal estimates that reflect:

(i) potential state government revenue impacts;

(ii) anticipated state government expenditure changes;

(iii) anticipated expenditure changes for county, municipal, local district, or special service district governments; [~~and~~]

(iv) anticipated direct expenditure by Utah residents and businesses, including the unit cost, number of units, and total cost to all impacted residents and businesses; and

(v) if the proposed bill changes retirement benefits under a system or plan governed by Title 49, Utah State Retirement and Insurance Benefit Act, the anticipated effect on:

(A) each affected system's or plan's unfunded actuarial accrued liability and actuarial funded ratio, based on current employer contributions;

(B) employer contributions and member contributions;

(C) a retiree's retirement allowance;

(D) the total cost to active members and retirees; and

(E) the total cost to employers for all active members and retirees;

(d) to indicate whether each proposed bill will impact the regulatory burden for Utah residents or businesses, and if so:

(i) whether the impact increases or decreases the regulatory burden; and

(ii) whether the change in burden is high, medium, or low;

(e) beginning in 2017 and repeating every three years after 2017, to prepare the following cycle of analyses of long-term fiscal sustainability:

(i) in year one, the joint revenue volatility report required under Section 63J-1-205;

(ii) in year two, a long-term budget for programs appropriated from major funds and tax types; and

(iii) in year three, a budget stress test comparing estimated future revenue to and expenditure from

major funds and tax types under various potential economic conditions;

(f) to report instances in which the administration may be failing to carry out the expressed intent of the Legislature;

(g) to propose and analyze statutory changes for more effective operational economies or more effective administration;

(h) to prepare, before each annual general session of the Legislature, a summary showing the current status of the following as compared to the past nine fiscal years:

(i) debt;

(ii) long-term liabilities;

(iii) contingent liabilities;

(iv) General Fund borrowing;

(v) reserves;

(vi) fund and nonlapsing balances; and

(vii) cash funded capital investments;

(i) to make recommendations for addressing the items described in Subsection (2)(h) in the upcoming annual general session of the Legislature;

(j) to prepare, after each session of the Legislature, a summary showing the effect of the final legislative program on the financial condition of the state;

(k) to conduct organizational and management improvement studies in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule;

(l) to prepare and deliver upon request of any interim committee or the Legislative Management Committee, reports on the finances of the state and on anticipated or proposed requests for appropriations;

(m) to recommend areas for research studies by the executive department or the interim committees;

(n) to appoint and develop a professional staff within budget limitations;

(o) to prepare and submit the annual budget request for the office;

(p) to develop a taxpayer receipt:

(i) available to taxpayers through a website; and

(ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's tax dollars are expended for government purposes; and

(q) to publish or provide other information on taxation and government expenditures that may be accessed by the public.

(3) The legislative fiscal analyst shall have a master's degree in public administration, political science, economics, accounting, or the equivalent in academic or practical experience.

(4) In carrying out the duties provided for in this section, the legislative fiscal analyst may obtain access to all records, documents, and reports necessary to the scope of the legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

(5) The Office of the Legislative Fiscal Analyst shall provide any information the State Board of Education reports in accordance with Subsection 53E-3-507(7) to:

(a) the chief sponsor of the proposed bill; and

(b) upon request, any legislator.

CHAPTER 431
S. B. 21
Passed February 1, 2023
Approved March 20, 2023
Effective May 3, 2023

RETIREMENT AND INDEPENDENT ENTITIES AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill amends provisions related to the Independent Entities Code.

Highlighted Provisions:

This bill:

- clarifies which entities are considered independent entities for purposes of the Independent Entities Code;
- adds the Public Service Commission to the list of independent entities and authorizes the commission to participate in coverage under the Risk Management Fund;
- allows the Retirement and Independent Entities Committee to meet at certain times to review draft legislation that is in the committee's purview;
- requires the committee to review certain entities to determine whether an entity should be treated as an independent entity;
- amends the committee's duties concerning studying retirement issues;
- provides for the return of an independent entity's unspent appropriations to the state in certain circumstances;
- repeals a provision exempting the Utah Housing Corporation from study by the committee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-1-1, as last amended by Laws of Utah 1983, Chapter 246
63E-1-102, as last amended by Laws of Utah 2022, Chapters 44, 63
63E-1-201, as last amended by Laws of Utah 2014, Chapter 387
63E-1-202, as last amended by Laws of Utah 2002, Chapter 250
63E-1-402, as last amended by Laws of Utah 2002, Chapter 262

REPEALS:

63E-1-203, as last amended by Laws of Utah 2017, Chapter 363

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-1-1 is amended to read:

54-1-1. Establishment of commission -- Functions -- Participation in Risk Management Fund.

(1) The Public Service Commission of Utah is established as an independent agency.

(2) The Public Service Commission is charged with discharging the duties and exercising the legislative, adjudicative, and rule-making powers committed to it by law and may sue and be sued in its own name.

(3) Subject to Subsection 63E-1-304(2), the Public Service Commission may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 2. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

(i) independent state agency; or

(ii) independent corporation.

(b) [~~"Independent entity" includes the~~] For purposes of this title, the independent entities are the:

(i) Utah Beef Council, created by Section 4-21-103;

(ii) Utah Dairy Commission created by Section 4-22-103;

(iii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

(iv) Utah Housing Corporation created by Section 63H-8-201;

(v) Utah State Fair Corporation created by Section 63H-6-103;

(vi) Utah State Retirement Office created by Section 49-11-201;

(vii) School and Institutional Trust Lands Administration created by Section 53C-1-201;

(viii) School and Institutional Trust Fund Office created by Section 53D-1-201;

(ix) Utah Communications Authority created by Section 63H-7a-201;

(x) Utah Capital Investment Corporation created by Section 63N-6-301; [~~and~~]

(xi) Military Installation Development Authority created by Section 63H-1-201[~~.~~]; and

(xii) Public Service Commission of Utah created by Section 54-1-1.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

[~~(i) the Public Service Commission of Utah created by Section 54-1-1;~~]

[~~(ii)~~] (i) an institution within the state system of higher education;

[~~(iii)~~] (ii) a city, county, or town;

[~~(iv)~~] (iii) a local school district;

[~~(v)~~] (iv) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or

[~~(vi)~~] (v) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state, which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 3. Section 63E-1-201 is amended to read:

63E-1-201. Retirement and Independent Entities Committee creation.

(1) There is created the Retirement and Independent Entities Committee composed of 15 legislators appointed as follows:

(a) six senators, appointed by the president of the Senate, with at least two senators from the minority party; and

(b) nine representatives, appointed by the speaker of the House of Representatives, with at least three representatives from the minority party.

(2) (a) The president of the Senate shall designate one of the Senate appointees as a cochair of the committee.

(b) The speaker of the House of Representatives shall designate one of the House of Representatives appointees as a cochair of the committee.

(3) Committee members serve for two years, but may be reappointed by the speaker or the president.

(4) (a) The committee shall meet at least twice each year, but may meet more frequently if the chairs determine that additional meetings are needed.

(b) At the committee chairs' discretion, the committee may meet during the period that begins on the first Thursday in December and ends on the day before the beginning of the annual general session to review pending or proposed legislation related to:

(i) an existing independent entity;

(ii) the creation of a new independent entity; or

(iii) Title 49, Utah State Retirement and Insurance Benefit Act.

(5) [~~In conducting all of its business~~] Except as provided in Subsection (4), the committee shall comply with the rules of legislative interim committees.

(6) The Office of Legislative Research and General Counsel shall provide staff services to the committee.

(7) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 4. Section 63E-1-202 is amended to read:

63E-1-202. Duties of the committee.

(1) The committee shall:

(a) study the scope of this title and determine what entities should be treated under this title as independent entities;

(b) review annually new entities created by the state and entities registered as independent entities pursuant to Section 67-1a-15 to determine if any entities should be added to the list of independent entities in Section 63E-1-102;

[~~(b)~~] (c) study the provisions of the Utah Code that govern each independent entity, including whether or not there should be consistency in these provisions;

[~~(c)~~] (d) study what provisions of the Utah Code, if any, from which each independent entity should be exempted;

[~~(d)~~] (e) study whether or not the state should receive services from or provide services to each independent entity;

[~~(e)~~] (f) request and hear reports from each independent entity;

[~~(f)~~] (g) review the annual audit of each independent entity that is performed in accordance with the statutes governing the independent entity;

[~~(g)~~] (h) comply with Part 3, Creation of Independent Entities, in reviewing a proposal to create a new independent entity;

[~~(h)~~] (i) if the committee recommends a change in the organizational status of an independent entity as provided in Subsection (2) and subject to Part 4, Privatization of Independent Entities, recommend the appropriate method of changing the organizational status of the independent entity; and

(j) study pending and proposed legislation, funding, and other issues related to Title 49, Utah State Retirement and Insurance Benefit Act.

[~~(i) study the following concerning an entity created by local agreement under Title 11, Chapter 13, Interlocal Cooperation Act, if the state is a party to the agreement creating the entity:~~]

[~~(i) whether or not the entity should be subject to this chapter;~~]

[~~(ii) whether or not the state should receive services from or provide services to the entity;~~]

[~~(iii) reporting and audit requirements for the entity; and~~]

[~~(iv) the need, if any, to modify statutes related to the entity;~~]

[~~(j) make a recommendation on the organizational status of each independent entity prior to the 2002 General Session; and~~]

[~~(k) report annually to the Legislative Management Committee by no later than the Legislative Management Committee's November meeting.~~]

(2) The committee may:

(a) establish a form for any report required under Subsection (1);

(b) make recommendations to the Legislature concerning the organizational status of an independent entity; and

(c) advise the Legislature concerning issues involving independent entities[~~; and~~].

[~~(d) study issues related to the implementation of Title 49, Utah State Retirement and Insurance Benefit Act.~~]

Section 5. Section 63E-1-402 is amended to read:

63E-1-402. Benefits to interested parties of an independent entity -- Disposition of unused appropriations.

(1) If an independent entity is privatized, the following may not receive any benefit prohibited under Subsection (2):

(a) an interested party of the independent entity;

(b) an entity in which an interested party holds a business interest;

(c) a lobbyist of the independent entity; or

(d) an entity in which a lobbyist of the independent entity holds a business interest.

(2) If an independent entity is privatized:

(a) a person described in Subsection (1)(a) or (b) may not receive:

(i) compensation from an independent entity that is conditioned in whole or in part on:

(A) the passage, defeat, or amendment of legislative action related to privatization; or

(B) the approval, modification, or denial of an executive action related to privatization; or

(ii) any asset of the independent entity or its successor; and

(b) a person described in Subsection (1)(c) or (d) may not receive any:

(i) compensation that if received by the lobbyist would be in violation of Section 36-11-301; or

(ii) asset of the independent entity or its successor.

(3) Subsection (2)(a)(ii) does not apply to funds in a loan program administered by an independent entity if:

(a) the funds were provided by an entity other than the state or were derived from those funds, including loan payments, interest, and other charges paid by borrowers;

(b) the person described in Subsection (1)(a) or (b) who receives the funds assumes all duties and obligations of the independent entity:

(i) under the contract with the entity that provided the initial funding; and

(ii) relating to the loan program;

(c) separate records have been maintained regarding the use of the funds;

(d) the funds may only be used for purposes specified in an agreement with the entity that provided the initial funding; and

(e) the funds may only be transferred to a person described in Subsection (1)(a) or (b) if the transfer is approved by the entity that provided the initial funding.

(4) (a) If an action described in Subsection 63E-1-401(5)(b)(i) or (ii) is taken under circumstances in which the independent entity is no longer functioning, the independent entity shall return to the Division of Finance any unused appropriations made to the independent entity by the Legislature.

(b) The Division of Finance shall deposit funds received under Subsection (4)(a) into the General Fund.

Section 6. Repealer.

This bill repeals:

Section 63E-1-203, Exemptions from committee activities.

CHAPTER 432
S. B. 23
Passed January 25, 2023
Approved March 20, 2023
Effective May 3, 2023

TRAFFIC SAFETY AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill enacts provisions related to allocation of law and traffic enforcement responsibilities on state highways.

Highlighted Provisions:

This bill:

- requires the Department of Public Safety and Utah Highway Patrol to:
  - annually evaluate enforcement responsibilities on state highways;
  - coordinate with local law enforcement agencies regarding enforcement responsibilities; and
  - report to the Legislature each year with any significant changes in patrol responsibilities that may require budgetary changes;
- enacts a provision requiring the Department of Transportation coordinate with the Department of Public Safety and Utah Highway Patrol regarding changes to the state highway system, traffic and law enforcement, and incident management services; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-8-105, as last amended by Laws of Utah 2022, Chapter 447
72-1-201, as last amended by Laws of Utah 2022, Chapter 80

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-8-105 is amended to read:

53-8-105. Duties of Highway Patrol.

(1) In addition to the duties in this chapter, the Highway Patrol shall:

[~~(1)~~] (a) enforce the state laws and rules governing use of the state highways;

[~~(2)~~] (b) regulate traffic on all highways and roads of the state;

[~~(3)~~] (c) assist the governor in an emergency or at other times at his discretion;

[~~(4)~~] (d) in cooperation with federal, state, and local agencies, enforce and assist in the enforcement of all state and federal laws related to the operation of a motor carrier on a highway, including all state and federal rules and regulations;

[~~(5)~~] (e) inspect certain vehicles to determine road worthiness and safe condition as provided in Section 41-6a-1630;

[~~(6)~~] (f) upon request, assist with any condition of unrest existing or developing on a campus or related facility of an institution of higher education;

[~~(7)~~] (g) assist the Alcoholic Beverage Services Commission in an emergency to enforce the state liquor laws;

[~~(8)~~] (h) provide security and protection for both houses of the Legislature while in session as the speaker of the House of Representatives and the president of the Senate find necessary;

[~~(9)~~] (i) enforce the state laws and rules governing use of the capitol hill complex as defined in Section 63C-9-102; and

[~~(10)~~] (j) carry out the following for the Supreme Court and the Court of Appeals:

[~~(a)~~] (i) provide security and protection to those courts when in session in the capital city of the state;

[~~(b)~~] (ii) execute orders issued by the courts; and

[~~(c)~~] (iii) carry out duties as directed by the courts.

(2) (a) The division and the department shall annually:

(i) evaluate the inventory of new and existing state highways, in coordination with relevant local law enforcement agencies, to determine which law enforcement agency is best suited to patrol and enforce state laws and regulate traffic on each state highway; and

(ii) before October 1 of each year, report to the Transportation Interim Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(A) significant changes to the patrol and enforcement responsibilities resulting from the evaluation described in Subsection (2)(a)(i); and

(B) any budget request necessary to accommodate additional patrol and enforcement responsibilities.

(b) The division and the department shall, before July 1 of each year, coordinate with the Department of Transportation created in Section 72-1-201 regarding patrol and enforcement responsibilities described in Subsection (2)(a) and incident management services on state highways.

Section 2. Section 72-1-201 is amended to read:

72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance,

security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of the department, state transportation systems, and programs;

(i) jointly with the commission annually report to the Transportation Interim Committee, by November 30 of each year, as to the operation, maintenance, condition, mobility, safety needs, and wildlife and livestock mitigation for state transportation systems;

(j) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; [~~and~~]

(k) study and make recommendations to the Legislature on potential managed lane use and implementation on selected transportation systems within the state[~~.~~]; and

(l) before July 1 of each year, coordinate with the Utah Highway Patrol Division created in Section 53-8-103 regarding:

(i) future highway projects that will add additional capacity to the state transportation system;

(ii) potential changes in law enforcement responsibilities due to future highway projects; and

(iii) incident management services on state highways.

(2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in Subsection (2)(a) for liability purposes.

CHAPTER 433
S. B. 32
Passed February 1, 2023
Approved March 20, 2023
Effective May 3, 2023

ADMINISTRATIVE APPEALS AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill amends provisions related to administrative appeals.

Highlighted Provisions:

This bill:

- addresses the filing of a petition for judicial review; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-4-401, as renumbered and amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-4-401 is amended to read:

63G-4-401. Judicial review -- Exhaustion of administrative remedies -- Petition for judicial review.

(1) A party aggrieved may obtain judicial review of final agency action, except in actions where judicial review is expressly prohibited by statute.

(2) A party may seek judicial review only after exhausting all administrative remedies available, except that:

(a) a party seeking judicial review need not exhaust administrative remedies if this chapter or any other statute states that exhaustion is not required;

(b) the court may relieve a party seeking judicial review of the requirement to exhaust any or all administrative remedies if:

(i) the administrative remedies are inadequate; or

(ii) exhaustion of remedies would result in irreparable harm disproportionate to the public benefit derived from requiring exhaustion.

(3) (a) [~~A~~] Except as provided in Subsection (3)(c), a party shall file a petition for judicial review of final agency action within 30 days after the [~~date that~~] day on which the order:

(i) constituting the final agency action is issued; or

(ii) is considered to have been issued under Subsection 63G-4-302(3)(b).

(b) The petition shall:

(i) name the agency and all other appropriate parties as respondents; and [~~shall~~]

(ii) meet the form requirements specified in this chapter.

(c) If a party files a petition for judicial review of a final agency action resulting from a formal adjudicative proceeding within the 30-day time period described in Subsection (3)(a), any other party to the action may file a petition for judicial review if the petition is filed within the time period permitted for a cross petition under Rule 14 of the Utah Rules of Appellate Procedure.

CHAPTER 434
S. B. 33
Passed March 2, 2023
Approved March 20, 2023
Effective May 3, 2023

DISASTER AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill concerns funding for a disaster.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- modifies provisions related to the State Disaster Recovery Restricted Account including to:
  - allow for certain emergency management expenses under certain conditions; and
  - provide funding for the Response, Recovery, and Post-disaster Mitigation Restricted Account;
- renames the Post Disaster and Mitigation Restricted Account as Response, Recovery, and Post-disaster Mitigation Restricted Account;
- modifies the procedures and requirements for funds in the Response, Recovery, and Post-disaster Mitigation Restricted Account;
- modifies standards and requirements for receiving a grant from funds originating from the Response, Recovery, and Post-disaster Mitigation Restricted Account;
- grants rulemaking authority to the Division of Emergency Management; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Response, Recovery, and Post-disaster Mitigation Restricted Account:
  - from State Disaster Recovery Restricted Account, One-time, $10,000,000.
- to Department of Public Safety - Emergency Management:
  - from Response, Recovery, and Post-disaster Mitigation Restricted Account, One-time, $10,000,000.This bill appropriates in fiscal year 2024:
- to Department of Public Safety - Emergency Management:
  - from State Disaster Recovery Restricted Account, $750,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-2a-603, as last amended by Laws of Utah 2022, Chapters 111, 373
53-2a-606, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and amended by Laws of Utah 2013, Chapter 295
53-2a-1301, as enacted by Laws of Utah 2019, Chapter 306
53-2a-1302, as enacted by Laws of Utah 2019, Chapter 306
53-2a-1303, as enacted by Laws of Utah 2019, Chapter 306
53-2a-1305, as enacted by Laws of Utah 2019, Chapter 306
63J-1-314, as last amended by Laws of Utah 2017, Chapter 210
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451

REPEALS AND REENACTS:

53-2a-1304, as enacted by Laws of Utah 2019, Chapter 306

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-2a-603 is amended to read:

53-2a-603. State Disaster Recovery Restricted Account.

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery account consists of:

(i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(2) [~~Subject to being appropriated by the Legislature, money~~] Money in the disaster recovery account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $500,000, but does not exceed $3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the

expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $3,000,000, but does not exceed $5,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3); [~~and~~]

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39A-3-103, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services; and

(v) in any fiscal year, the division may expend an amount that does not exceed $750,000 to fund expenses incurred to develop or enhance emergency management capabilities if:

(A) the money is used for personnel, equipment, supplies, contracts, training, exercises, or other expenses deemed reasonable and necessary to:

(I) promote and strengthen the state's level of resiliency through mitigation, preparedness, response, or recovery activities; or

(II) meet federal grant matching requirements; and

(B) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of $5,000,000;

(b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund;

(c) to fund:

(i) the Local Government Emergency Response Loan Fund created in Section 53-2a-607; and

(ii) the Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302;

(d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of $5,000,000; and

(e) to fund up to $500,000 for the governor's emergency appropriations described in Subsection 63J-1-217(4).

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

(4) The state treasurer shall invest money in the disaster recovery account according to Title 51, Chapter 7, State Money Management Act.

(5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(6) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Section 2. Section 53-2a-606 is amended to read:

53-2a-606. Reporting.

(1) By no later than December 31 of each year, the division shall provide a written report to the governor and the Executive Offices and Criminal Justice Appropriations Subcommittee of:

(a) the division's activities under this part;

(b) money expended or committed to be expended in accordance with this part;

(c) the balances in the disaster recovery fund; and

(d) any unexpended balance of appropriations from the disaster recovery fund.

(2) (a) The governor and the Department of Public Safety shall report to the Legislative Management Committee an expenditure or commitment to expend made in accordance with Subsection 53-2a-603(2)(a)(ii) or 53-2a-1302(5)(b)(ii).

(b) The governor and the Department of Public Safety shall make the report required by this Subsection (2) on or before the sooner of:

(i) the day on which the governor calls the Legislature into session; or

(ii) 15 days after the division makes the expenditure or commitment to expend described in Subsection 53-2a-603(2)(a)(ii) or 53-2a-1302(5)(b)(ii).

(3) (a) Subject to Subsection (3)(b), before the division makes an expenditure or commitment to expend described in Subsection 53-2a-603(2)(a)(iii) or 53-5a-1302(5)(b)(iii), the governor and the Department of Public Safety shall submit the expenditure or commitment to expend to the Executive Appropriations Committee for its review and recommendations.

(b) The Executive Appropriations Committee shall review the expenditure or commitment to expend and may:

(i) recommend that the division make the expenditure or commitment to expend;

(ii) recommend that the division not make the expenditure or commitment to expend; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the expenditure or commitment to expend.

Section 3. Section 53-2a-1301 is amended to read:

Part 13. Response, Recovery, and Post-disaster Mitigation Restricted Account

53-2a-1301. Definitions.

As used in the part:

(1) "Account" means the [~~Post Disaster Recovery and~~] Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302.

(2) "Affected community" means a community directly affected by an ongoing or recent disaster.

(3) "Affected community member" means a resident, property owner, business, nonprofit, or other individual or entity that is:

(a) located within an affected community; and

(b) suffered damage due to the ongoing or recent disaster in the affected community.

[~~(3) "Chief executive officer" means the same as that term is defined in Section 53-2a-203.~~]

(4) "Community" means a county, municipality, local district, or special service district.

[~~(5) "Costs not recoverable" include:~~]

[~~(a) the county threshold; and~~]

[~~(b) costs covered by insurance or federal government grants, including funding provided to the state by FEMA's Public Assistance grant program described in 44 C.F.R. Chapter 1, Subchapter D, Part 206.~~]

[~~(6) "County threshold" means, for each county, the countywide per capita indicator established by FEMA for the state, multiplied by the population of the county as determined by the division.~~]

[~~(7)~~] (5) "Disaster response and recovery" means:

(a) action taken to respond to and recover from a disaster, including action taken to remove debris, implement life-saving emergency protective measures, or repair, replace, or restore facilities in response to a disaster; and[~~.~~]

(b) post-disaster hazard mitigation directly related to the recovery from the disaster described in Subsection (5)(a).

[~~(8)~~] (6) "Disaster response and recovery grant" means money granted to an affected community for disaster response and recovery [~~that amounts to not more than 75% of the difference between the cost of disaster recovery, as determined by the division after reviewing the official damage assessment, and costs not recoverable~~].

[~~(9) "FEMA" means the Federal Emergency Management Agency.~~]

(7) "Minimum threshold payment amount" means the amount of costs that an affected community or an affected community member shall pay before the affected community or affected community member is eligible to receive money from a disaster response and recovery grant.

[~~(10)~~] (8) "Post-disaster hazard mitigation" means action taken, after a natural disaster, to reduce or eliminate risk to people or property that may occur as a result of the long-term effects of the natural disaster or a subsequent natural disaster, including action to prevent damage caused by flooding, earthquake, dam failure, wildfire,

landslide, severe weather, drought, and problem soil.

[~~(11) "Post hazard mitigation grant" means money granted to a community for post hazard mitigation that amounts to not more than 75% of the costs deemed necessary by the division to complete the post hazard mitigation.~~]

[~~(12)~~] (9) "Official damage assessment" means a financial assessment of the damage to an affected community, caused by a disaster, that is conducted under the direction of the governing body of the affected community, in accordance with the rules described in Section 53-2a-1305.

Section 4. Section 53-2a-1302 is amended to read:

53-2a-1302. Response, Recovery, and Post-disaster Mitigation Restricted Account.

(1) There is created a restricted account in the General Fund known as the[~~"Post Disaster Recovery and~~] "Response, Recovery, and Post-disaster Mitigation Restricted Account."

(2) The account consists of:

(a) money appropriated to the account by the Legislature;

(b) money deposited into the account in accordance with Section 63J-1-314;

[~~(b)~~] (c) income and interest derived from the deposit and investment of money in the account; and

[~~(c)~~] (d) private donations, grants, gifts, bequests, or money made available from any other source to implement this section.

(3) (a) At the close of a fiscal year, money in the account exceeding [~~$10,000,000~~] $50,000,000, excluding money granted to the account under [~~Subsection (2)(c)~~] Subsection (2)(d), shall be transferred to the [~~General Fund~~] State Disaster Recovery Restricted Account.

(b) Except as provided by Subsection (3)(a), money in the Response, Recovery, and Post-disaster Mitigation Restricted Account may only be used for the purposes set forth in this part.

(4) Subject to the requirements described in this part, and upon appropriation by the Legislature, the division may grant money appropriated from the account[~~:~~]

[~~(a)~~] to an affected community for the affected community's disaster response and recovery efforts as described in Section 53-2a-1303[~~; or~~].

[~~(b) to a community for post hazard mitigation as described in Section 53-2a-1304.~~]

(5) (a) Money in the account may only be expended or committed to be expended as provided in Subsections (5)(b) and (5)(c).

(b) Subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend for disaster response and recovery efforts as described in Section 53-2a-1303:

(i) an amount that does not exceed $500,000 in response to a disaster described in Subsection 53-2a-1303(2)(b);

(ii) an amount that exceeds $500,000 but does not exceed $3,000,000 for a disaster described in Subsection 53-2a-1303(2)(b) if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment from the governor;

(B) provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2); and

(iii) an amount that exceeds $3,000,000 but does not exceed $5,000,000, if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3).

(c) Money paid by the division under this part to government entities and private persons providing emergency disaster services are subject to Title 63G, Chapter 6a, Utah Procurement Code.

Section 5. Section 53-2a-1303 is amended to read:

53-2a-1303. Disaster Response and Recovery Grant.

(1) The division may grant money under Subsection [~~53-2a-1302(4)(a)~~] 53-2a-1302(4) appropriated from the account after receiving an application from an affected community for a disaster response and recovery grant.

(2) An affected community is eligible to receive a disaster response and recovery grant appropriated from the account if:

(a) the affected community submits an application described in Subsection (1) that includes the information required by the rules described in Section 53-2a-1305;

(b) the occurrence of a disaster in the affected community results in:

(i) the president of the United States declaring an emergency or major disaster in the state; [~~or~~]

(ii) the governor declaring a state of emergency under Section 53-2a-206; or

(iii) the local municipality or county declaring an emergency under Section 53-2a-208;

(c) the governing body of the affected community conducts an official damage assessment of the disaster;

(d) [~~the cost of disaster recovery, as determined by~~] the division, after reviewing the application described in Subsection (2)(a), the official damage assessment[~~, exceeds the county threshold for the county in which the affected community is located; and~~] described in Subsection (2)(c), and other information relevant to the division's determination, determines that a grant to the affected community would be an appropriate and necessary use of account funds;

(e) the division [~~maintains~~] determines there is sufficient money for the grant[~~.~~]; and

(f) the affected community agrees to grant funding requirements as determined by the division, including the affected community's minimum threshold payment amount and cost-sharing requirements.

Section 6. Section 53-2a-1304 is repealed and reenacted to read:

53-2a-1304. Allowed uses for disaster response and recovery grant funds.

(1) An affected community may use or distribute grant funds provided under Section 53-2a-1303 in accordance with funding guidelines provided by the division, which may include providing funds for disaster response and recovery to:

(a) an affected community member;

(b) a publicly owned facility in the affected community; or

(c) publicly owned infrastructure in the affected community.

(2) The director may expend money from the account to pay necessary costs of evaluating and administering grants under this part.

(3) In accordance with Section 53-2a-1305, the division shall establish standards and procedures for the distribution of grant funds under this section, including standards and procedures for determining:

(a) when an individual or entity described in Subsection (1) (a), (b), or (c) may receive grant funds;

(b) which costs are eligible for grant funds, including administration costs; and

(c) minimum threshold payment amounts and cost-sharing requirements.

Section 7. Section 53-2a-1305 is amended to read:

53-2a-1305. Rulemaking authority and division responsibilities.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to:

(a) designate the requirements and procedures[~~:~~]

[~~(i)~~] for the governing body of an affected community to:

[~~(A)~~] (i) apply for a disaster response and recovery grant; and

[~~(B)~~] (ii) conduct an official damage assessment; [~~and~~]

[~~(ii) for the governing body of a community to apply for a post hazard mitigation grant; and~~]

(b) establish standards to determine:

(i) the categories of and criteria for entities and costs that are eligible for grant funds; and

(ii) minimum threshold payment amounts and cost-sharing requirements; and

[~~(b)~~] (c) establish standards and procedures to ensure that [~~projects completed~~] funds distributed in accordance with this [~~section are completed~~] part are distributed in a cost effective and equitable manner, are reasonably necessary for disaster response and recovery [~~or post hazard mitigation~~], are an appropriate and necessary use of public funds, and that all receipts and invoices are documented.

(2) No later than December 31 of each year, the division shall provide the governor and the Criminal Justice Appropriations Subcommittee a written report of the division's activities under this part, including:

(a) an accounting of the money expended or committed to be expended under this part; and

(b) the balance of the account.

Section 8. Section 63J-1-314 is amended to read:

63J-1-314. Deposits related to the Wildland Fire Suppression Fund and the Disaster Recovery Funding Act.

(1) As used in this section, "operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) Except as provided under Subsections (3) and (4), at the end of each fiscal year, the Division of Finance shall, after the transfer of General Fund revenue surplus has been made to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section 63J-1-312, transfer:

(a) to the Wildland Fire Suppression Fund created in Section 65A-8-204 an amount equal to the lesser of:

(i) $4,000,000; or

(ii) an amount necessary to make the balance in the Wildland Fire Suppression Fund equal to $12,000,000; and

(b) an amount into the State Disaster Recovery Restricted Account, created in Section 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312, calculated by:

(i) determining the amount of General Fund revenue surplus after the transfer to the Medicaid Growth Reduction and Budget Stabilization Account under Section 63J-1-315, the General Fund Budget Reserve Account under Section 63J-1-312, and the transfer to the Wildland Fire Suppression Fund as described in Subsection (2)(a);

(ii) calculating an amount equal to the lesser of:

(A) 25% of the amount determined under Subsection (2)(b)(i); or

(B) 6% of the total of the General Fund appropriation amount for the fiscal year in which the surplus occurs; and

(iii) adding to the amount calculated under Subsection (2)(b)(ii) an amount equal to the lesser of:

(A) 25% more of the amount described in Subsection (2)(b)(i); or

(B) the amount necessary to replace, in accordance with this Subsection (2)(b)(iii), any amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal years before the fiscal year in which the surplus occurs if:

(I) a surplus exists; and

(II) the Legislature appropriates money from the State Disaster Recovery Restricted Account that is not replaced by appropriation or as provided in this Subsection (2)(b)(iii).

(3) (a) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the division shall reduce the transfer to the State Disaster Recovery Restricted Account by an amount necessary to eliminate the operating deficit, up to the full amount of the transfer.

(b) If, after reducing the transfer to the State Disaster Recovery Account to zero under Subsection (3)(a), the Division of Finance determines that an operating deficit still exists, the division shall reduce the transfer to the Wildland Fire Suppression Fund by an amount necessary to eliminate the operating deficit, up to the full amount of the transfer.

(4) Notwithstanding Subsection (2):

(a) for the period beginning July 1, 2015, and ending June 30, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 25% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection (2)(b)(ii); [~~and~~]

(b) on and after July 1, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 10% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection (2)(b); and

(c) on and after July 1, 2023, the Division of Finance shall transfer to the Response, Recovery, and Post-disaster Mitigation Restricted Account 25% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection (2)(b).

Section 9. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Technology Development Restricted Account created in Section 31A-3-104.

(18) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(19) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(20) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(21) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(22) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(23) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(24) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(34) The [~~Post Disaster Recovery and~~] Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302.

(35) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(36) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(37) The DNA Specimen Restricted Account created in Section 53-10-407.

(38) The Canine Body Armor Restricted Account created in Section 53-16-201.

(39) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(40) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(41) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(42) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(44) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(47) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(48) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(49) The Relative Value Study Restricted Account created in Section 59-9-105.

(50) The Cigarette Tax Restricted Account created in Section 59-14-204.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(52) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(53) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

(54) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302.

(55) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

(56) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.

(57) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(58) The Immigration Act Restricted Account created in Section 63G-12-103.

(59) Money received by the military installation development authority, as provided in Section 63H-1-504.

(60) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(61) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(62) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(63) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(64) The Motion Picture Incentive Account created in Section 63N-8-103.

(65) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(66) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(67) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

(78) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 10. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Response, Recovery, and Post-disaster Mitigation Restricted Account

From State Disaster Recovery Restricted Account, One-time	10,000,000
Schedule of Programs:	
Response, Recovery, and Post-disaster Mitigation Restricted Account	10,000,000

ITEM 2

To Department of Public Safety - Emergency Management

From Response, Recovery, and Post-disaster Mitigation Restricted Account, One-time	10,000,000
Schedule of Programs:	
Emergency Management	10,000,000

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 3

To Department of Public Safety - Emergency Management

From State Disaster Recovery Restricted Account	750,000
Schedule of Programs:	
Emergency Management	750,000

Section 11. Effective date and two-thirds majority required to pass.

(1) If approved by two-thirds of all the members elected to each house, this bill takes effect on May 3, 2023.

(2) In accordance with Subsection 53-2a-603(5)(c), if this bill is not approved by two-thirds of all the members elected to each house, this bill will not go into effect.

CHAPTER 435
S. B. 43
Passed February 24, 2023
Approved March 20, 2023
Effective May 3, 2023

PUBLIC NOTICE REQUIREMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill amends provisions relating to providing public notices.

Highlighted Provisions:

This bill:

- defines terms;
- creates classifications for types of public notices where each classification requires notice to be provided in specific ways;
- amends public notice provisions to implement the new classification system; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-17-109, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-25-201, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-25-401, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-30-106, as last amended by Laws of Utah 2021, Chapters 84, 345
7-1-706, as last amended by Laws of Utah 2021, Chapters 84, 345
7-2-6, as last amended by Laws of Utah 2015, Chapter 258
8-5-6, as last amended by Laws of Utah 2021, Chapter 355
9-8-805, as last amended by Laws of Utah 2019, Chapter 221
10-2-406, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-407, as last amended by Laws of Utah 2022, Chapter 355
10-2-415, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-418, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-419, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-501, as last amended by Laws of Utah 2022, Chapter 355
10-2-502.5, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-607, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
10-2-703, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-708, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-207, as last amended by Laws of Utah 2021, Chapters 84, 112, 345, and 355
10-2a-210, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-213, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-214, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-215, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-404, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-405, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2a-410, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-3-301, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
10-3-711, as last amended by Laws of Utah 2021, Chapter 355
10-3-818, as last amended by Laws of Utah 2021, Chapters 84, 345
10-3c-204, as last amended by Laws of Utah 2021, Chapter 210 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 367
10-5-107.5, as last amended by Laws of Utah 2021, Chapters 84, 345
10-5-108, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
10-6-113, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
10-6-135.5, as last amended by Laws of Utah 2021, Chapters 84, 345
10-6-152, as last amended by Laws of Utah 2021, Chapter 355
10-7-16, as last amended by Laws of Utah 2021, Chapter 355
10-7-19, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
10-8-2, as last amended by Laws of Utah 2022, Chapter 307
10-8-15, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
10-9a-203, as last amended by Laws of Utah 2021, Chapters 84, 162 and 345
10-9a-204, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
10-9a-205, as last amended by Laws of Utah 2022, Chapter 355
10-9a-208, as last amended by Laws of Utah 2021, Chapters 84, 345
10-18-203, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-18-302, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
10-18-303, as last amended by Laws of Utah 2021, Chapter 355
11-13-204, as last amended by Laws of Utah 2021, Chapters 84, 345
11-13-219, as last amended by Laws of Utah 2021, Chapter 355
11-13-509, as last amended by Laws of Utah 2021, Chapters 84, 345
11-14-202, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

11-14-315, as last amended by Laws of Utah 2021, Chapter 355
11-14-316, as last amended by Laws of Utah 2013, Chapter 107
11-14-318, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
11-14a-1, as last amended by Laws of Utah 2021, Chapter 355
11-17-16, as last amended by Laws of Utah 2011, Chapter 145
11-27-4, as last amended by Laws of Utah 2011, Chapter 145
11-27-5, as last amended by Laws of Utah 2010, Chapter 378
11-30-5, as last amended by Laws of Utah 2021, Chapter 355
11-32-10, as last amended by Laws of Utah 2009, Chapter 388
11-32-11, as last amended by Laws of Utah 2009, Chapter 388
11-36a-501, as last amended by Laws of Utah 2021, Chapters 84, 344
11-36a-503, as last amended by Laws of Utah 2021, Chapters 84, 345
11-36a-504, as last amended by Laws of Utah 2021, Chapters 84, 345
11-39-103, as last amended by Laws of Utah 2021, Chapter 355
11-42-202, as last amended by Laws of Utah 2021, Chapters 84, 345, 355, and 415
11-42-301, as last amended by Laws of Utah 2021, Chapter 355
11-42-402, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
11-42-404, as last amended by Laws of Utah 2021, Chapter 355
11-42-604, as last amended by Laws of Utah 2014, Chapter 189
11-42a-201, as last amended by Laws of Utah 2021, Chapter 355
11-42b-104, as enacted by Laws of Utah 2022, Chapter 376
11-42b-108, as enacted by Laws of Utah 2022, Chapter 376
11-42b-109, as enacted by Laws of Utah 2022, Chapter 376
11-42b-110, as enacted by Laws of Utah 2022, Chapter 376
11-58-502, as last amended by Laws of Utah 2021, Chapters 84, 345
11-58-503, as last amended by Laws of Utah 2021, Chapters 162, 345
11-58-701, as last amended by Laws of Utah 2022, Chapter 207
11-58-901, as last amended by Laws of Utah 2021, Chapter 282
11-59-501, as last amended by Laws of Utah 2021, Chapter 282
11-65-204, as enacted by Laws of Utah 2022, Chapter 59
11-65-402, as enacted by Laws of Utah 2022, Chapter 59
11-65-601, as enacted by Laws of Utah 2022, Chapter 59
17-27a-203, as last amended by Laws of Utah 2021, Chapters 84, 162 and 345
17-27a-204, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17-27a-205, as last amended by Laws of Utah 2022, Chapter 355
17-27a-208, as last amended by Laws of Utah 2021, Chapters 84, 345
17-27a-306, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17-27a-404, as last amended by Laws of Utah 2022, Chapters 282, 406
17-36-12, as last amended by Laws of Utah 2021, Chapters 84, 345
17-36-26, as last amended by Laws of Utah 2021, Chapters 84, 345
17-41-302, as last amended by Laws of Utah 2021, Chapter 355
17-41-304, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17-41-405, as last amended by Laws of Utah 2022, Chapter 274
17-50-303, as last amended by Laws of Utah 2021, Chapters 84, 345
17B-1-106, as last amended by Laws of Utah 2021, Chapters 84, 162, 345, and 382
17B-1-111, as last amended by Laws of Utah 2021, Chapter 355
17B-1-211, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17B-1-304, as last amended by Laws of Utah 2022, Chapter 381
17B-1-306, as last amended by Laws of Utah 2022, Chapters 18, 381
17B-1-313, as last amended by Laws of Utah 2021, Chapter 355
17B-1-413, as last amended by Laws of Utah 2021, Chapters 84, 345
17B-1-417, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17B-1-505.5, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17B-1-608, as last amended by Laws of Utah 2022, Chapter 330
17B-1-609, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17B-1-643, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
17B-1-1204, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17B-1-1307, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17B-2a-705, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
17B-2a-1007, as last amended by Laws of Utah 2021, Chapter 355
17B-2a-1110, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17C-1-207, as last amended by Laws of Utah 2021, Chapters 84, 345
17C-1-601.5, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17C-1-701.5, as last amended by Laws of Utah 2021, Chapter 355
17C-1-804, as last amended by Laws of Utah 2021, Chapters 84, 345
17C-1-806, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355

17C-1-1003, as enacted by Laws of Utah 2021, Chapter 214
17C-2-108, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17C-3-107, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17C-4-106, as last amended by Laws of Utah 2021, Chapter 355
17C-4-109, as last amended by Laws of Utah 2021, Chapters 84, 345
17C-4-202, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17C-5-110, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17C-5-113, as last amended by Laws of Utah 2021, Chapters 84, 345
17C-5-205, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
17D-3-305, as last amended by Laws of Utah 2021, Chapters 84, 345
19-2-109, as last amended by Laws of Utah 2021, Chapters 84, 345
20A-1-206, as last amended by Laws of Utah 2022, Chapter 167
20A-1-512, as last amended by Laws of Utah 2021, Chapters 77, 84 and 345
20A-3a-604, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
20A-4-104, as last amended by Laws of Utah 2022, Chapter 380
20A-4-304, as last amended by Laws of Utah 2022, Chapter 342
20A-5-101, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
20A-5-403.5, as last amended by Laws of Utah 2022, Chapter 156
20A-5-405, as last amended by Laws of Utah 2022, Chapter 170
20A-7-103, as last amended by Laws of Utah 2022, Chapters 170, 325
20A-7-204.1, as last amended by Laws of Utah 2021, Chapters 84, 345
20A-7-402, as last amended by Laws of Utah 2021, Chapters 84, 345
20A-9-203, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
26-8a-405.3, as last amended by Laws of Utah 2021, Chapter 355
26-61a-303, as last amended by Laws of Utah 2022, Chapters 290, 415
52-4-202, as last amended by Laws of Utah 2021, Chapters 84, 345
52-4-302, as last amended by Laws of Utah 2012, Chapter 403
53B-7-101.5, as last amended by Laws of Utah 2021, Chapters 84, 345
53E-4-202, as last amended by Laws of Utah 2022, Chapter 377
53G-3-204, as last amended by Laws of Utah 2021, Chapters 84, 162 and 345
53G-4-204, as last amended by Laws of Utah 2021, Chapters 84, 345
53G-4-402, as last amended by Laws of Utah 2021, Chapters 84, 262, 324, and 345
53G-5-504, as last amended by Laws of Utah 2021, Chapters 84, 345
54-8-10, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
54-8-16, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
54-8-23, as last amended by Laws of Utah 2021, Chapter 355
57-11-11, as last amended by Laws of Utah 2021, Chapters 84, 345
57-13a-104, as last amended by Laws of Utah 2022, Chapter 274
59-2-919, as last amended by Laws of Utah 2021, Chapters 84, 345
59-2-919.2, as last amended by Laws of Utah 2021, Chapters 84, 345
59-12-402, as last amended by Laws of Utah 2021, Chapter 355
59-12-1102, as last amended by Laws of Utah 2021, Chapters 84, 345
59-12-2208, as last amended by Laws of Utah 2021, Chapter 355
62A-5-202.5, as last amended by Laws of Utah 2021, Chapter 355
63A-5b-305, as last amended by Laws of Utah 2021, Chapter 355
63A-16-602, as renumbered and amended by Laws of Utah 2021, Chapters 84, 344 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 344
63H-1-202, as last amended by Laws of Utah 2022, Chapters 274, 463
63H-1-701, as last amended by Laws of Utah 2022, Chapter 463
67-3-13, as enacted by Laws of Utah 2021, Chapter 155
72-3-108, as last amended by Laws of Utah 2021, Chapters 84, 345
72-5-105, as last amended by Laws of Utah 2021, Chapters 84, 345 and 355
72-6-108, as last amended by Laws of Utah 2021, Chapter 355
73-5-14, as last amended by Laws of Utah 2021, Chapters 84, 345
73-10-32, as last amended by Laws of Utah 2022, Chapter 90
75-1-401, as last amended by Laws of Utah 2021, Chapters 84, 345
76-8-809, as last amended by Laws of Utah 2021, Chapter 355
78A-7-202, as last amended by Laws of Utah 2022, Chapter 276

ENACTS:
63G-28-101, Utah Code Annotated 1953
63G-28-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-17-109 is amended to read:

4-17-109. Notice of noxious weeds to be published annually in county -- Notice to particular property owners to control noxious weeds -- Methods of prevention or control specified -- Failure to control noxious weeds considered public nuisance.

(1) Each county weed control board before May 1 of each year shall post a general notice of the noxious weeds within the county [~~in at least three public places within the county~~] and publish the [~~same~~] notice [~~on~~]:

(a) [~~at least three occasions in a newspaper or other publication of general circulation within~~] for the county, as a class A notice under Section 63G-28-102, for at least seven days; and

(b) as required in Section 45-1-101.

(2) (a) If the county weed control board determines that particular property within the county requires prompt and definite attention to prevent or control noxious weeds, the county weed control board shall serve the owner or the person in possession of the property, personally or by certified mail, a notice specifying when and what action is required to be taken on the property.

(b) Methods of prevention or control may include definite systems of tillage, cropping, use of chemicals, and use of livestock.

(3) An owner or person in possession of property who fails to take action to control or prevent the spread of noxious weeds as specified in the notice is maintaining a public nuisance.

Section 2. Section 4-25-201 is amended to read:

4-25-201. Possession of estrays -- Determination and location of owner -- Sale -- Disposition of proceeds -- Notice -- Title of purchaser -- Immunity from liability.

(1) (a) Except as provided in Section 4-25-202, a county shall:

(i) take physical possession of an estray the county finds within county boundaries;

(ii) attempt to determine the name and location of the estray's owner; and

(iii) contact the local brand inspector.

(b) The department shall assist a county that requests its help in determining the name and location of the owner or other person responsible for the estray.

(c) (i) Notwithstanding the requirements of Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act, if the county cannot determine the estray's owner, or, if having determined ownership, neither the county nor the department is able to locate the owner within a reasonable period of time, the estray shall be sold at a livestock or other appropriate market.

(ii) The proceeds of a sale under Subsection (1)(c)(i), less the costs described in Subsection (1)(c)(iii), shall be paid to the county selling the estray.

(iii) The livestock or other market conducting the sale under Subsection (1)(c)(i) may deduct the cost of feed, transportation, and other market costs from the proceeds of the sale.

(2) A county shall publish notice of the sale of an estray[~~:(a) at least once 10 days before the date of the sale; and(b) through electronic means or in a publication with general circulation~~] within the county where the estray was taken into custody, as a class A notice under Section 63G-28-102, for at least 10 days before the date of the sale.

(3) A purchaser of an estray sold under this section shall receive title to the estray free and clear of all claims of the estray's owner and a person claiming title through the owner.

(4) A county that complies with the provisions of this section is immune from liability for the sale of an estray sold at a livestock or other appropriate market.

(5) Notwithstanding the requirements of Subsection (1)(c), a county may employ a licensed veterinarian to euthanize an estray if the licensed veterinarian determines that the estray's physical condition prevents the estray from being sold.

Section 3. Section 4-25-401 is amended to read:

4-25-401. Impounded livestock -- Determination and location of owner -- Sale -- Disposition of proceeds -- Notice -- Title of purchaser -- Immunity from liability.

(1) As used in this section, "impounded livestock" means the following animals seized and retained in legal custody:

(a) cattle;

(b) calves;

(c) horses;

(d) mules;

(e) sheep;

(f) goats;

(g) hogs; or

(h) domesticated elk.

(2) (a) A county may:

(i) take physical possession of impounded livestock seized and retained within its boundaries; and

(ii) attempt to determine the name and location of the impounded livestock's owner.

(b) The department shall assist a county who requests help in locating the name and location of the owner or other person responsible for the impounded livestock.

(c) (i) Notwithstanding the requirements of Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act, if the county cannot determine ownership of the impounded livestock, or, if having determined ownership, neither the county nor the department is able to locate the owner within a reasonable period of time, the impounded livestock shall be sold at a livestock or other appropriate market.

(ii) The proceeds of a sale under Subsection (2)(c)(i), less the costs described in Subsection (2)(c)(iii), shall be paid to the State School Fund created by the Utah Constitution, Article X, Section 5, Subsection (1).

(iii) The livestock or other market conducting the sale under Subsection (2)(c)(i) may deduct the cost of feed, transportation, and other market costs from the proceeds of the sale.

(3) A county shall publish the intended sale of the impounded livestock[~~:(a) at least 10 days before the date of sale; and(b) through electronic means or in a publication with general circulation~~] within the county where the impounded livestock was taken into custody, as a class A notice under Section 63G-28-102, for at least 10 days before the date of the sale.

(4) A purchaser of impounded livestock sold under this section shall receive title to the impounded livestock free and clear of all claims of the livestock's owner or a person claiming title through the owner.

(5) If a county complies with the provisions of this section, the county is immune from liability for the sale of impounded livestock sold at a livestock or other appropriate market.

(6) Notwithstanding the requirements of Subsection (2)(c), a county may employ a licensed veterinarian to euthanize an impounded livestock if the licensed veterinarian determines that the impounded livestock's physical condition prevents the impounded livestock from being sold.

Section 4. Section 4-30-106 is amended to read:

4-30-106. Hearing on license application -- Notice of hearing.

(1) Upon the filing of an application, the department shall set a time for hearing on the application in the city or town nearest the proposed site of the livestock market and cause notice of the time and place of the hearing together with a copy of the application to be forwarded by mail, not less than 15 days before the hearing date, to the following:

(a) each licensed livestock market operator within the state; and

(b) each livestock or other interested association or group of persons in the state that has filed written notice with the department requesting receipt of notice of such hearings.

(2) Notice of the hearing shall be published for 14 days before the scheduled hearing date[~~:~~], as a class A notice under Section 63G-28-102, for the city or town where the hearing is scheduled.

[~~(a) in a daily or weekly newspaper of general circulation within the city or town where the hearing is scheduled; and~~]

[~~(b) on the Utah Public Notice Website created in Section 63A-16-601.~~]

Section 5. Section 7-1-706 is amended to read:

7-1-706. Application to commissioner to exercise power -- Procedure -- Notice.

(1) Except as provided in Sections 7-1-704 and 7-1-705, by filing a request for agency action with the commissioner, any person may request the commissioner to:

(a) issue any rule or order;

(b) exercise any powers granted to the commissioner under this title; or

(c) act on any matter that is subject to the approval of the commissioner.

(2) Within 10 days of receipt of the request, the commissioner shall, at the applicant's expense, cause a supervisor to make a careful investigation of the facts relevant or material to the request.

(3) (a) The supervisor shall submit written findings and recommendations to the commissioner.

(b) The application, any additional information furnished by the applicant, and the findings and recommendations of the supervisor may be inspected by any person at the office of the commissioner, except those portions of the application or report that the commissioner designates as confidential to prevent a clearly unwarranted invasion of privacy.

(4) (a) If a hearing is held concerning the request, the commissioner shall publish notice of the hearing, at the applicant's expense[~~:~~], for the county where the applicant is located, as a class A notice under Section 63G-28-102, for three weeks before the date of the hearing.

[~~(i) in a newspaper of general circulation within the county where the applicant is located at least once a week for three successive weeks before the date of the hearing; and~~]

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks before the date of the hearing.~~]

(b) The notice required by Subsection (4)(a) shall include the information required by the department's rules.

(c) The commissioner shall act upon the request within 30 days after the close of the hearing, based on the record before the commissioner.

(5) (a) If no hearing is held, the commissioner shall approve or disapprove the request within 90 days of receipt of the request based on:

(i) the application;

(ii) additional information filed with the commissioner; and

(iii) the findings and recommendations of the supervisor.

(b) The commissioner shall act on the request by issuing findings of fact, conclusions, and an order, and shall mail a copy of each to:

(i) the applicant;

(ii) all persons who have filed protests to the granting of the application; and

(iii) other persons that the commissioner considers should receive copies.

(6) The commissioner may impose any conditions or limitations on the approval or disapproval of a request that the commissioner considers proper to:

(a) protect the interest of creditors, depositors, and other customers of an institution;

(b) protect its shareholders or members; and

(c) carry out the purposes of this title.

Section 6. Section 7-2-6 is amended to read:

7-2-6. Possession by commissioner -- Notice -- Presentation, allowance, and disallowance of claims -- Objections to claims.

(1) (a) Possession of an institution by the commissioner commences when notice of taking possession is:

(i) posted in each office of the institution located in this state; or

(ii) delivered to a controlling person or officer of the institution.

(b) All notices, records, and other information regarding possession of an institution by the commissioner may be kept confidential, and all court records and proceedings relating to the commissioner's possession may be sealed from public access if:

(i) the commissioner finds it is in the best interests of the institution and its depositors not to notify the public of the possession by the commissioner;

(ii) the deposit and withdrawal of funds and payment to creditors of the institution is not suspended, restricted, or interrupted; and

(iii) the court approves.

(2) (a) (i) Within 15 days after taking possession of an institution or other person under the jurisdiction of the department, the commissioner shall publish a notice to all persons who may have claims against the institution or other person to file proof of their claims with the commissioner before a date specified in the notice.

(ii) The filing date shall be at least 90 days after the date of the first publication of the notice.

(iii) The notice shall be published:

(A) for at least 90 days, as a class A notice under Section 63G-28-102, for each city or county in which the institution or other person, or any subsidiary or service corporation of the institution, maintains an office; and

[~~(I) in a newspaper of general circulation in each city or county in which the institution or other person, or any subsidiary or service corporation of the institution, maintains an office; and~~]

[~~(II) published again approximately 30 days and 60 days after the date of the first publication; and~~]

(B) as required in Section 45-1-101 for 60 days.

(b) (i) Within 60 days of taking possession of a depository institution, the commissioner shall send a similar notice to all persons whose identity is reflected in the books or records of the institution as depositors or other creditors, secured or unsecured, parties to litigation involving the institution pending at the date the commissioner takes possession of the institution, and all other potential claimants against the institution whose identity is reasonably ascertainable by the commissioner from examination of the books and records of the institution. No notice is required in connection with accounts or other liabilities of the institution that will be paid in full or be fully assumed by another depository institution or trust company. The notice shall specify a filing date for claims against the institution not less than 60 days after the date of mailing. Claimants whose claims against the institution have been assumed by another depository institution or trust company pursuant to a merger or purchase and assumption agreement with the commissioner, or a federal deposit insurance agency appointed as receiver or liquidator of the institution, shall be notified of the assumption of their claims and the name and address of the assuming party within 60 days after the claim is assumed. Unless a purchase and assumption or merger agreement requires otherwise, the assuming party shall give all required notices. Notice shall be mailed to the address appearing in the books and records of the institution.

(ii) Inadvertent or unintentional failure to mail a notice to any person entitled to written notice under this paragraph does not impose any liability on the commissioner or any receiver or liquidator appointed by him beyond the amount the claimant would be entitled to receive if the claim had been timely filed and allowed. The commissioner or any receiver or liquidator appointed by him are not liable for failure to mail notice unless the claimant establishes that it had no knowledge of the commissioner taking possession of the institution until after all opportunity had passed for obtaining payment through filing a claim with the commissioner, receiver, or liquidator.

(c) Upon good cause shown, the court having supervisory jurisdiction may extend the time in which the commissioner may serve any notice required by this chapter.

(d) The commissioner has the sole power to adjudicate any claim against the institution, its property or other assets, tangible or intangible, and to settle or compromise claims within the priorities set forth in Section 7-2-15. Any action of the commissioner is subject to judicial review as provided in Subsection (9).

(e) A receiver or liquidator of the institution appointed by the commissioner has all the duties,

powers, authority, and responsibilities of the commissioner under this section. All claims against the institution shall be filed with the receiver or liquidator within the applicable time specified in this section and the receiver or liquidator shall adjudicate the claims as provided in Subsection (2)(d).

(f) The procedure established in this section is the sole remedy of claimants against an institution or its assets in the possession of the commissioner.

(3) With respect to a claim which appears in the books and records of an institution or other person in the possession of the commissioner as a secured claim, which, for purposes of this section is a claim that constitutes an enforceable, perfected lien, evidenced in writing, on the assets or other property of the institution:

(a) The commissioner shall allow or disallow each secured claim filed on or before the filing date within 30 days after receipt of the claim and shall notify each secured claimant by certified mail or in person of the basis for, and any conditions imposed on, the allowance or disallowance.

(b) For all allowed secured claims, the commissioner shall be bound by the terms, covenants, and conditions relating to the assets or other property subject to the claim, as set forth in the note, bond, or other security agreement which evidences the secured claim, unless the commissioner has given notice to the claimant of his intent to abandon the assets or other property subject to the secured claim at the time the commissioner gave the notice described in Subsection (3)(a).

(c) No petition for lifting the stay provided by Section 7-2-7 may be filed with respect to a secured claim before the claim has been filed and allowed or disallowed by the commissioner in accordance with Subsection (3)(a).

(4) With respect to all other claims other than secured claims:

(a) Each claim filed on or before the filing date shall be allowed or disallowed within 180 days after the final publication of notice.

(b) If notice of disallowance is not served upon the claimant by the commissioner within 210 days after the date of final publication of notice, the claim is considered disallowed.

(c) The rights of claimants and the amount of a claim shall be determined as of the date the commissioner took possession of the institution under this chapter. Claims based on contractual obligations of the institution in existence on the date of possession may be allowed unless the obligation of the institution is dependent on events occurring after the date of possession, or the amount or worth of the claim cannot be determined before any distribution of assets of the institution is made to claimants having the same priority under Section 7-2-15.

(d) (i) An unliquidated claim against the institution, including claims based on alleged torts for which the institution would have been liable on the date the commissioner took possession of the institution and any claims for a right to an equitable remedy for breach of performance by the institution, may be filed in an estimated amount. The commissioner may disallow or allow the claim in an amount determined by the commissioner, settle the claim in an amount approved by the court, or, in his discretion, refer the claim to the court designated by Section 7-2-2 for determination in accordance with procedures designated by the court. If the institution held on the date of possession by the commissioner a policy of insurance that would apply to the liability asserted by the claimant, the commissioner, or any receiver appointed by him may assign to the claimant all rights of the institution under the insurance policy in full satisfaction of the claim.

(ii) If the commissioner finds there are or may be issues of fact or law as to the validity of a claim, liquidated or unliquidated, or its proper allowance or disallowance under the provisions of this chapter, he may appoint a hearing examiner to conduct a hearing and to prepare and submit recommended findings of fact and conclusions of law for final consideration by the commissioner. The hearing shall be conducted as provided in rules or regulations issued by the commissioner. The decision of the commissioner shall be based on the record before the hearing examiner and information the commissioner considers relevant and shall be subject to judicial review as provided in Subsection (9).

(e) A claim may be disallowed if it is based on actions or documents intended to deceive the commissioner or any receiver or liquidator appointed by him.

(f) The commissioner may defer payment of any claim filed on behalf of a person who was at any time in control of the institution within the meaning of Section 7-1-103, pending the final determination of all claims of the institution against that person.

(g) The commissioner or any receiver appointed by him may disallow a claim that seeks a dollar amount if it is determined by the court having jurisdiction under Section 7-2-2 that the commissioner or receiver or conservator will not have any assets with which to pay the claim under the priorities established by Section 7-2-15.

(h) The commissioner may adopt rules to establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed against an institution under this chapter.

(i) In establishing alternative dispute resolution processes, the commissioner shall strive for procedures that are expeditious, fair, independent, and low cost. The commissioner shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

(j) The commissioner may establish both binding and nonbinding processes, which may be conducted

by any government or private party, but all parties, including the claimant and the commissioner or any receiver appointed by him, must agree to the use of the process in a particular case.

(5) (a) Claims filed after the filing date are disallowed, unless:

(i) the claimant who did not file his claim timely demonstrates that he did not have notice or actual knowledge of the proceedings in time to file a timely proof of claim; and

(ii) proof of the claim was filed prior to the last distribution of assets. For the purpose of this subsection only, late filed claims may be allowed if proof was filed before the final distribution of assets of the institution to claimants of the same priority and are payable only out of the remaining assets of the institution.

(b) A late filed claim may be disallowed under any other provision of this section.

(6) Debts owing to the United States or to any state or its subdivisions as a penalty or forfeiture are not allowed, except for the amount of the pecuniary loss sustained by the act, transaction, or proceeding out of which the penalty or forfeiture arose.

(7) Except as otherwise provided in Subsection 7-2-15(1)(a), interest accruing on any claim after the commissioner has taken possession of an institution or other person under this chapter may be disallowed.

(8) (a) A claim against an institution or its assets based on a contract or agreement may be disallowed unless the agreement:

(i) is in writing;

(ii) is otherwise a valid and enforceable contract; and

(iii) has continuously, from the time of its execution, been an official record of the institution.

(b) The requirements of this Subsection (8) do not apply to claims for goods sold or services rendered to an institution in the ordinary course of business by trade creditors who do not customarily use written agreements or other documents.

(9) (a) Objection to any claim allowed or disallowed may be made by any depositor or other claimant by filing a written objection with the commissioner within 30 days after service of the notice of allowance or disallowance. The commissioner shall present the objection to the court for hearing and determination upon written notice to the claimant and to the filing party. The notice shall set forth the time and place of hearing. After the 30-day period, no objection may be filed. This Subsection (9) does not apply to secured claims allowed under Subsection (3).

(b) The hearing shall be based on the record before the commissioner and any additional evidence the court allowed to provide the parties due process of law.

(c) The court may not reverse or otherwise modify the determination of the commissioner with respect to the claim unless it finds the determination of the commissioner to be arbitrary, capricious, or otherwise contrary to law. The burden of proof is on the party objecting to the determination of the commissioner.

(d) An appeal from any final judgment of the court with respect to a claim may be taken as provided by law by the claimant, the commissioner, or any person having standing to object to the allowance or disallowance of the claim.

(10) If a claim against the institution has been asserted in any judicial, administrative, or other proceeding pending at the time the commissioner took possession of the institution under this chapter or under Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, the claimant shall file copies of all documents of record in the pending proceeding with the commissioner within the time for filing claims as provided in Subsection (2). Such a claim shall be allowed or disallowed within 90 days of the receipt of the complete record of the proceedings. No application to lift the stay of a pending proceeding shall be filed until the claim has been allowed or disallowed. The commissioner may petition the court designated by Section 7-2-2 to lift the stay to determine whether the claim should be allowed or disallowed.

(11) All claims allowed by the commissioner and not disallowed or otherwise modified by the court under Subsection (9), if not paid within 30 days after allowance, shall be evidenced by a certificate payable only out of the assets of the institution in the possession of the commissioner, subject to the priorities set forth in Section 7-2-15. This provision does not apply to a secured claim allowed by the commissioner under Subsection (3)(a).

Section 7. Section 8-5-6 is amended to read:

8-5-6. Alternative council or board procedures for notice -- Termination of rights -- Notice.

(1) As an alternative to the procedures set forth in Sections 8-5-1 through 8-5-4, a municipal council or cemetery maintenance district board may pass a resolution demanding that the owner of a lot, site, or portion of the cemetery, which has been unused for burial purposes for more than 60 years, file with the county recorder, city recorder, or town clerk notice of any claim to the lot, site, or portion of the cemetery.

(2) The municipal council or cemetery maintenance district board shall then cause a copy of the resolution to be personally served on the owner in the same manner as personal service of process in a civil action. The resolution shall notify the owner that the owner shall, within 60 days after service of the resolution on the owner, express interest in maintaining the cemetery lot, site, or portion of the cemetery and submit satisfactory evidence of an intention to use the lot, site, or portion of the cemetery for a burial.

(3) If the owner cannot be personally served with the resolution of the municipal council or cemetery

maintenance district board as required in Subsection (2), the municipal council or cemetery maintenance district board shall:

(a) publish [~~its resolution on the Utah Public Notice Website created in Section 63A-16-601~~] the resolution for the municipality or cemetery maintenance district, as a class A notice under Section 63G-28-102, for three weeks; and

(b) mail a copy of the resolution within 14 days after the publication to the owner's last known address, if available.

(4) If, for 30 days after the last date of service or publication of the municipal council's or cemetery maintenance district board's resolution, the owner or person with a legal interest in the cemetery lot fails to state a valid interest in the use of the cemetery lot, site, or portion of the cemetery for burial purposes, the owner's rights are terminated and that portion of the cemetery shall be vested in the municipality or cemetery maintenance district.

Section 8. Section 9-8-805 is amended to read:

9-8-805. Collecting institutions -- Perfecting title -- Notice.

(1) (a) A collecting institution wishing to perfect title in any reposited materials held by it shall send, by registered mail, a notice containing the information required by Subsection (2) to the last-known address of the last-known owner of the property.

(b) In addition to the requirements of Subsection (1)(a), a collecting institution shall publish a notice containing the information required by Subsection (2) if:

(i) the owner or the address of the owner of the reposited materials is unknown;

(ii) the mailed notice is returned to the collecting institution without a forwarding address; or

(iii) the owner does not claim the reposited materials within 90 days after the day on which the notice was mailed.

(c) If required to publish a notice under Subsection (1)(b), the collecting institution[~~, in accordance with Section 45-1-101,~~] shall publish the notice for two weeks:

(i) [~~at least once per week for two consecutive weeks in a newspaper of general circulation in~~] for the county where the collecting institution is located, as a class A notice under Section 63G-28-102; and

[~~(ii) on the public legal notice website for at least two weeks~~]

(ii) as required in Section 45-1-101.

(2) Each notice required by this section shall include:

(a) the name, if known, and the last-known address, if any, of the last-known owner of the reposited materials;

(b) a description of the reposited materials;

(c) the name of the collecting institution that has possession of the reposited materials and a person within that institution whom the owner may contact; and

(d) a statement that if the reposited materials are not claimed within 90 days from the day on which the notice is published in accordance with Subsection (1)(b), the reposited materials are considered abandoned and become the property of the collecting institution.

(3) If no one claims reposited materials within 90 days after the day on which notice is published in accordance with Subsection (1)(b), the reposited materials are considered abandoned and are the property of the collecting institution.

Section 9. Section 10-2-406 is amended to read:

10-2-406. Notice of certification -- Providing notice of petition.

(1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall provide notice:

(a) [~~within~~] for the area proposed for annexation and the unincorporated area within 1/2 mile of the area proposed for annexation, as a class B notice under Section 63G-28-102, no later than 10 days after the day on which the municipal legislative body receives the notice of certification[~~:~~]; and

[~~(i) by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or~~]

[~~(ii) by mailing the notice to each residence within, and to each owner of real property located within, the combined area;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;~~]

[~~(c)~~] (b) within 20 days after the day on which the municipal legislative body receives the notice of certification, by mailing written notice to each affected entity[~~; and~~].

[~~(d) if the municipality has a website, by posting notice on the municipality's website for the period of time described in Subsection (1)(b).~~]

(2) The notice described in Subsection (1) shall:

(a) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;

(b) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);

(c) describe the area proposed for annexation in the annexation petition;

(d) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;

(e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;

(f) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;

(g) state that the area proposed for annexation to the municipality will also automatically be annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the proposed annexing municipality is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the area proposed to be annexed to the municipality is not already within the boundaries of the local district; and

(h) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:

(i) the petition proposes the annexation of an area that is within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the proposed annexing municipality is not within the boundaries of the local district.

(3) (a) The statement required by Subsection (2)(e) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.

(b) In addition to the requirements under Subsection (2), a notice under Subsection (1) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Section 10. Section 10-2-407 is amended to read:

10-2-407. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed -- Public hearing and notice.

(1) A protest to an annexation petition under Section 10-2-403 may only be filed by:

(a) the legislative body or governing board of an affected entity;

(b) an owner of rural real property;

(c) for a proposed annexation of an area within a county of the first class, an owner of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation; or

(d) an owner of private real property located in a mining protection area.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be

annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

(6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and provide notice of the public hearing[~~:~~] by publishing the notice for the municipality and the area proposed for annexation, as a class B notice under Section 63G-28-102, for at least seven days before the date of the public hearing.

[~~(a) (i) at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the municipality and the area proposed for annexation, in places within that combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or~~]

[~~(ii) at least 10 days before the day of the public hearing, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the public hearing; and~~]

[~~(c) if the municipality has a website, by posting notice on the municipality's website for seven days before the day of the public hearing.~~]

(8) (a) Subject to Subsection (8)(b), only a person or entity that is described in Subsection (1) has standing to challenge an annexation in district court.

(b) A person or entity described in Subsection (1) may only bring an action in district court to challenge an annexation if the person or entity has timely filed a protest as described in Subsection (2) and exhausted the administrative remedies described in this section.

Section 11. Section 10-2-415 is amended to read:

10-2-415. Public hearing -- Notice.

(1) (a) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days after the day on which the commission receives the feasibility study or supplemental feasibility study results.

(b) At the public hearing described in Subsection (1)(a), the commission shall:

(i) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

(ii) allow those present to ask questions of the feasibility consultant regarding the study results; and

(iii) allow those present to speak to the issue of annexation.

(2) The commission shall provide notice of the public hearing described in Subsection (1)(a) [~~within~~] for the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality[~~:~~], as a class B notice under Section 63G-28-102, for at least two weeks before the date of the public hearing.

[~~(a) (i) at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined~~

~~area that are most likely to give notice of the public hearing to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or~~]

[~~(ii) by mailing notice to each residence within, and to each owner of real property located within, the combined area;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks before the day of the public hearing;~~]

[~~(c) by sending written notice of the public hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(c), the contact person;~~]

[~~(d) if the municipality has a website, by posting notice on the municipality's website for two weeks before the day of the public hearing; and~~]

[~~(e) by posting notice on the county's website for two weeks before the day of the public hearing.~~]

(3) The notice described in Subsection (2) shall:

(a) be entitled, "notice of annexation hearing";

(b) state the name of the annexing municipality;

(c) describe the area proposed for annexation; and

(d) specify the following sources where an individual may obtain a copy of the feasibility study conducted in relation to the proposed annexation:

(i) if the municipality has a website, the municipality's website;

(ii) a municipality's physical address; and

(iii) a mailing address and telephone number.

(4) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.

(5) [~~At~~] For at least 14 days before the date of a hearing described in Subsection (4), the commission chair shall provide notice of the hearing[~~:~~], for the area proposed for annexation, as a class B notice under Section 63G-28-102.

[~~(a) (i) by posting one notice, and at least one additional notice per 2,000 population within the area proposed for annexation, in places within the area that are most likely to give notice of the hearing to the residents within, and the owners of real property located within, the area, subject to a maximum of 10 notices; or~~]

[~~(ii) by mailing notice to each resident within, and each owner of real property located within, the area proposed for annexation;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for 14 days before the day of the hearing;~~]

[~~(c) if the municipality has a website, by posting notice on the municipality's website for two weeks before the day of the public hearing; and~~]

[~~(d) by posting notice on the county's website for two weeks before the day of the public hearing.~~]

(6) Each notice described in Subsection (5) shall:

(a) state the date, time, and place of the hearing;

(b) briefly summarize the nature of the protest; and

(c) state that a copy of the protest is on file at the commission's office.

(7) The commission may continue a hearing under Subsection (4) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

(8) In considering protests, the commission shall consider whether the proposed annexation:

(a) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;

(b) conflicts with the annexation policy plan of another municipality; and

(c) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

(9) (a) The commission shall record each hearing under this section by electronic means.

(b) A transcription of the recording under Subsection (9)(a), the feasibility study, if applicable, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

Section 12. Section 10-2-418 is amended to read:

10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

(b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year;

(iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; or

(iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(B) the area to be annexed is located in the expansion area of a municipality; and

(C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.

(3) Notwithstanding Subsection 10-2-402 (1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents.

(4) (a) This Subsection (4) applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (4)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least 1/2 the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d).".

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).

(5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).

(6) A legislative body described in Subsection (5) shall provide notice of a public hearing described in Subsection (5)(b):

(a) [~~(i)~~] for at least three weeks before the day of the public hearing, [~~by posting one notice, and at least one additional notice per 2,000 population in~~] for the municipality and the area proposed for annexation, [~~in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or~~] as a class B notice under Section 63G-28-102; and

[~~(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection (6)(a)(i);~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;~~]

[~~(c)~~] (b) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located[~~; and~~].

[~~(d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.~~]

(7) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection (6):

(i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection (5)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the requirements of Subsection (8)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection (5)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (5)(a).

(8) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), upon conclusion of the public hearing described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire

area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

(9) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), if protests are timely filed under Subsection (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex some or all of the remaining portion of the unincorporated island.

Section 13. Section 10-2-419 is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall provide notice of a public hearing described in Subsection (2)(b):

[~~(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality, subject to a maximum of 10 notices; or~~]

[~~(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;~~]

(a) for the municipality, as a class B notice under Section 63G-28-102, for at least three weeks before the day of the public hearing; and

[~~(c)~~] (b) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection [~~(3)(d)~~] (3)(b); and

(ii) the Utah State Developmental Center Board, created under Section 62A-5-202.5, if any state-owned real property described in this Subsection [~~(3)(d)~~] (3)(b) is associated with the Utah State Developmental Center[~~; and~~].

[~~(d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.~~]

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection [~~(3)(d)~~] (3)(b);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

(5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection [~~(3)(c)(i) or (ii).~~] (3)(b)(i) or (ii).

(6) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

(7) (a) An ordinance adopted under Subsection (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 14. Section 10-2-501 is amended to read:

10-2-501. Municipal disconnection -- Definitions -- Request for disconnection -- Requirements upon filing request -- Notice.

(1) As used in this part "petitioner" means:

(a) one or more persons who:

(i) own title to real property within the area proposed for disconnection; and

(ii) sign a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality; or

(b) the mayor of the municipality within which the area proposed for disconnection is located who signs a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality.

(2) (a) A petitioner proposing to disconnect an area within and lying on the borders of a municipality shall file with that municipality's legislative body a request for disconnection.

(b) Each request for disconnection shall:

(i) contain the names, addresses, and signatures of the owners of more than 50% of any private real property in the area proposed for disconnection;

(ii) give the reasons for the proposed disconnection;

(iii) include a map or plat of the territory proposed for disconnection; and

(iv) designate between one and five persons with authority to act on the petitioner's behalf in the proceedings.

(3) Upon [~~filing the~~] receiving a request for disconnection, [~~the petitioner~~] a municipal legislative body shall publish notice of the request:

[~~(a) (i) once a week for three consecutive weeks before the public hearing described in Section 10-2-502.5 in a newspaper of general circulation within the municipality; or~~]

[~~(ii) if there is no newspaper of general circulation in the municipality, at least three weeks before the day of the public hearing described in Section 10-2-502.5, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the residents within, and the owners of real property located within, the municipality, including the residents who live in the area proposed for disconnection;~~]

[~~(b) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks before the day of the public hearing described in Section 10-2-502.5;~~]

[~~(c)~~] (a) in accordance with the legal notice requirements described in Section 45-1-101, for three weeks before the day of the public hearing described in Section 10-2-502.5; and

(b) for the area proposed to be disconnected, as a class B notice under Section 63G-28-102, for at least three weeks before the day of the public hearing described in Section 10-2-502.5.

[~~(d) by mailing notice to each:~~]

[~~(i) owner of real property located within the area proposed to be disconnected; and~~]

[~~(ii) residence within the area proposed to be disconnected;~~]

[~~(e) by delivering a copy of the request to the legislative body of the county in which the area proposed for disconnection is located; and~~]

[~~(f) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.~~]

(4) A municipal legislative body may bill the petitioner for the cost of preparing, printing, and publishing the notice required under Subsection (3).

Section 15. Section 10-2-502.5 is amended to read:

10-2-502.5. Hearing on request for disconnection -- Notice -- Determination by municipal legislative body -- Petition in district court.

(1) No sooner than three weeks after notice is provided under Subsection 10-2-501(3), the legislative body of the municipality in which the area proposed for disconnection is located shall hold a public hearing.

(2) The municipal legislative body shall provide notice of the public hearing:

(a) at least seven days before the hearing date, in writing to the petitioner and to the legislative body of the county in which the area proposed for disconnection is located; and

(b) for the municipality, as a class B notice under Section 63G-28-102, for at least 10 days before the hearing date.

[~~(b) (i) at least seven days before the hearing date, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents within, and the owners of real property located within, the municipality, subject to a maximum of 10 notices; or~~]

[~~(ii) at least 10 days before the hearing date, by mailing notice to each residence within, and each owner of real property located within, the municipality;~~]

[~~(c) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the hearing date; and~~]

[~~(d) if the municipality has a website, by posting notice on the municipality's website for seven days before the hearing date.~~]

(3) In the public hearing, any person may speak and submit documents regarding the disconnection proposal.

(4) Within 45 calendar days of the hearing, the municipal legislative body shall:

(a) determine whether to grant the request for disconnection; and

(b) if the municipality determines to grant the request, adopt an ordinance approving disconnection of the area from the municipality.

(5) (a) A petition against the municipality challenging the municipal legislative body's determination under Subsection (4) may be filed in district court by:

(i) the petitioner; or

(ii) the county in which the area proposed for disconnection is located.

(b) Each petition under Subsection (5)(a) shall include a copy of the request for disconnection.

Section 16. Section 10-2-607 is amended to read:

10-2-607. Notice of election.

If the county legislative bodies find that the resolution or petition for consolidation and their attachments substantially conform with the requirements of this part, the county legislative bodies shall, for at least four weeks before the day of the election, publish notice of the election for consolidation [~~to the voters of~~], as a class A notice under Section 63G-28-102, for each municipality that would become part of the consolidated municipality[~~:~~].

[~~(1) (a) at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or~~]

[~~(b) at least four weeks before the day of the election, by mailing notice to each registered voter in the municipality;~~]

[~~(2) on the Utah Public Notice Website created in Section 63A-16-601, for at least four weeks before the day of the election; and~~]

[~~(3) if the municipality has a website, on the municipality's website for at least four weeks before the day of the election.~~]

Section 17. Section 10-2-703 is amended to read:

10-2-703. Providing notice of election.

(1) Immediately after setting the date for the election, the court shall order for notice to be provided of the:

(a) petition; and

(b) date the election is to be held to determine the question of dissolution.

(2) The notice described in Subsection (1) shall be provided[~~:~~] for the municipality, as a class A notice under Section 63G-28-102, for at least one month before the day of the election.

[~~(a) (i) at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 notices; or~~]

[~~(ii) at least one month before the day of the election, by mailing notice to each registered voter in the municipality;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the election; and~~]

[~~(c) if the municipality has a website, by posting notice on the municipality's website for four weeks before the day of the election.~~]

Section 18. Section 10-2-708 is amended to read:

10-2-708. Notice of disincorporation.

When a municipality has been dissolved, the clerk of the court shall provide notice of the dissolution[~~:~~] for the county, as a class B notice under Section 63G-28-102, for at least four weeks.

[~~(1) (a) by posting one notice, and at least one additional notice per 2,000 population of the county in places within the county that are most likely to give notice to the residents within, and the owners of real property located within, the county, including the residents and owners within the municipality that is dissolved, subject to a maximum of 10 notices; or~~]

[~~(b) by mailing notice to each residence within, and each owner of real property located within, the county;~~]

[~~(2) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks;~~]

[~~(3) if the municipality has a website, by posting notice on the municipality's website for four weeks; and~~]

[~~(4) by posting notice on the county's website for four weeks.~~]

Section 19. Section 10-2a-207 is amended to read:

10-2a-207. Public hearings on feasibility study results -- Exclusions of property from proposed municipality -- Notice of hearings.

(1) As used in this section, "specified landowner" means the same as that term is defined in Section 10-2a-203.

(2) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-205(6)(a), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct two public hearings in accordance with this section.

(3) (a) If an area proposed for incorporation is approved for annexation after the feasibility study or supplemental feasibility study is conducted but before the lieutenant governor conducts the first public hearing under Subsection (4), the lieutenant governor may not conduct the first public hearing under Subsection (4) unless:

(i) the sponsors of the feasibility study file a modified request for a feasibility study in accordance with Section 10-2a-206; and

(ii) the results of the supplemental feasibility study comply with Subsection 10-2a-205(6)(a).

(b) For purposes of Subsection (3)(a), an area is approved for annexation if a condition described in Subsection 10-2a-206(1)(a)(iv) occurs.

(4) The lieutenant governor shall conduct the first public hearing:

(a) within 60 days after the day on which the lieutenant governor receives the results under Subsection (2) or (3)(a)(ii);

(b) within or near the proposed municipality;

(c) to allow the feasibility consultant to present the results of the feasibility study; and

(d) to inform the public about the results of the feasibility study.

(5) (a) Within 30 calendar days after the day on which the lieutenant governor completes the first public hearing under Subsection (4), a specified landowner may request that the lieutenant governor exclude all or part of the property owned by the specified landowner from the proposed incorporation by filing a notice of exclusion with the Office of the Lieutenant Governor that describes the property for which the specified landowner requests exclusion.

(b) The lieutenant governor shall exclude the property identified by a specified landowner under Subsection (5)(a) from the proposed incorporation boundaries unless the lieutenant governor finds by clear and convincing evidence that:

(i) the exclusion will leave an unincorporated island within the proposed municipality; and

(ii) the property receives from the county a majority of currently provided municipal services.

(c) (i) Within five days after the day on which the lieutenant governor determines whether to exclude property under Subsection (5)(b), the lieutenant governor shall mail or transmit written notice of whether the property is included or excluded from the proposed municipality to:

(A) the specified landowner that requested the property's exclusion; and

(B) the contact sponsor.

(ii) If the lieutenant governor makes a determination to include a property under Subsection (5)(b), the lieutenant governor shall include, in the written notice described in Subsection (5)(c)(i), a detailed explanation of the lieutenant governor's determination.

(d) (i) If the lieutenant governor excludes property from the proposed municipality under Subsection (5)(b), or if an area proposed for incorporation is approved for annexation within the time period for a specified landowner to request an exclusion under Subsection (5)(a), the lieutenant governor may not conduct the second public hearing under Subsection (6), unless:

(A) the sponsors of the feasibility study file a modified request for a feasibility study in accordance with Section 10-2a-206; and

(B) the results of the supplemental feasibility study comply with Subsection 10-2a-205(6)(a).

(ii) For purposes of Subsection (5)(d)(i), an area is approved for annexation if a condition described in Subsection 10-2a-206(1)(a)(iv) occurs.

(6) The lieutenant governor shall conduct the second public hearing:

(a) (i) within 30 days after the day on which the time period described in Subsection (5)(a) expires, if Subsection (5)(d) does not apply; or

(ii) within 30 days after the day on which the lieutenant governor receives the results of the supplemental feasibility study described in Subsection (5)(d)(i)(B), if Subsection (5)(d) applies;

(b) within or near the proposed municipality; and

(c) to allow the feasibility consultant to present the results of and inform the public about:

(i) the feasibility study presented to the public in the first public hearing under Subsection (4), if Subsection (5)(d) does not apply; or

(ii) the supplemental feasibility study described in Subsection (5)(d)(i)(B), if Subsection (5)(d) applies.

(7) At each public hearing required under this section, the lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed municipality;

(b) provide a copy of the applicable feasibility study for public review;

(c) allow members of the public to express views about the proposed incorporation, including views about the proposed boundaries; and

(d) allow the public to ask the feasibility consultant questions about the applicable feasibility study.

(8) The lieutenant governor shall publish notice of each public hearing required under this section[~~:~~] for the proposed municipality, as a class B notice under Section 63G-28-102, for at least three weeks before the day of the public hearing.

[~~(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the proposed municipality, in places within the proposed municipality that are most likely to give notice to the residents within, and the owners of real property located within, the proposed municipality; or~~]

[~~(ii) at least three weeks before the public hearing, by mailing notice to each residence within, and each owner of real property located within, the proposed municipality;~~]

[~~(b) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks before the day of the public hearing; and~~]

[~~(c) on the lieutenant governor's website for three weeks before the day of the public hearing.~~]

(9) (a) Except as provided in Subsection (9)(b), the notice described in Subsection (8) shall:

(i) include the feasibility study summary described in Subsection 10-2a-205(3)(c);

(ii) indicate that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor; and

(iii) indicate that under no circumstances may property be excluded or annexed from the proposed incorporation after the time period specified in Subsection (5)(a) has expired, if the notice is for the first public hearing under Subsection (4).

(b) Instead of publishing the feasibility summary under Subsection (9)(a)(i), the lieutenant governor may publish a statement that specifies the following sources where a resident within, or the owner of real property located within, the proposed municipality, may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

Section 20. Section 10-2a-210 is amended to read:

10-2a-210. Incorporation election -- Notice of election -- Voter information pamphlet.

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall provide notice of the election[~~:~~] for the area proposed to be incorporated, as a class B notice under Section 63G-28-102, for at least three weeks before the day of the election.

[~~(a) (i) by publishing notice in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks before the election;~~]

[~~(ii) at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated, subject to a maximum of 10 notices; or~~]

[~~(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the election;~~]

[~~(c) if the proposed municipality has a website, by posting notice on the proposed municipality's website for three weeks before the day of the election; and~~]

[~~(d) by posting notice on the county's website for three weeks before the day of the election.~~]

(3) (a) The notice required by Subsection (2) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(b), the feasibility study summary described in Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) Instead of including the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in the area proposed to be incorporated may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

(4) (a) In addition to the notice required under Subsection (2), the county clerk shall publish and distribute, before the incorporation election is held, a voter information pamphlet:

(i) in accordance with the procedures and requirements of Section 20A-7-402;

(ii) in consultation with the lieutenant governor; and

(iii) in a manner that the county clerk determines is adequate, subject to Subsections (4)(a)(i) and (ii).

(b) The voter information pamphlet described in Subsection (4)(a):

(i) shall inform the public of the proposed incorporation; and

(ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.

(5) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(6) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 21. Section 10-2a-213 is amended to read:

10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 60 days after the day on which the county conducts the canvass of the election under Section 10-2a-212:

(a) for the incorporation of a city:

(i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the city; and

(ii) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population; and

(b) for the incorporation of any municipality:

(i) determine the initial terms of the mayor and members of the municipal council so that:

(A) the mayor and approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows the mayor's and members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the municipal council are elected to serve an initial term, of no less than one year, that allows the members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(ii) submit in writing to the county legislative body the results of the determinations made by the sponsors under Subsections (1)(a) and (b)(i).

(2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(3) Before making a determination under Subsection (1)(a) or (b)(i), the petition sponsors shall hold a public hearing within the future municipality on the applicable issues described in Subsections (1)(a) and (b)(i).

(4) The [~~petition sponsors shall~~] county clerk shall provide notice of the public hearing described in Subsection (3):

[~~(a) (i) at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents within, and the owners of real property located within, the future municipality, subject to a maximum of 10 notices; or~~]

[~~(ii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the future municipality;~~]

[~~(b)~~] (a) [~~by posting notice on the Utah Public Notice Website, created in Section 63A-16-601,~~] for the future municipality, as a class B notice under Section 63G-28-102, for two weeks before the day of the public hearing; and

[~~(c)~~] (b) if the future municipality has a website, by posting notice on the future municipality's website for two weeks before the day of the public hearing[~~; and~~].

[~~(d) by posting notice on the county's website for two weeks before the day of the public hearing.~~]

(5) The county clerk may bill the petition sponsors for the cost of preparing, printing, and publishing the notice described in Subsection (4).

Section 22. Section 10-2a-214 is amended to read:

10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for municipal office.

(1) Within 20 days after the day on which a county legislative body receives the petition sponsors' determination under Subsection 10-2a-213(1)(b)(ii), the county clerk shall provide a notice, in accordance with Subsection (2), containing:

(a) the number of municipal council members to be elected for the new municipality;

(b) except as provided in Subsection (3), if some or all of the municipal council members are to be elected by district, a description of the boundaries of those districts;

(c) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council; and

(d) information about the length of the initial term of each of the municipal officers.

(2) The county clerk shall provide the notice described in Subsection (1)[~~:~~] for the future municipality, as a class B notice under Section 63G-28-102, for two weeks.

[~~(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents in the future municipality, subject to a maximum of 10 notices; or~~]

[~~(ii) by mailing notice to each residence in the future municipality;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks;~~]

[~~(c) if the future municipality has a website, by posting notice on the future municipality's website for two weeks; and~~]

[~~(d) by posting notice on the county's website for two weeks.~~]

(3) Instead of including a description of the district boundaries under Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy of the district boundaries:

(a) the county website;

(b) the physical address of the county offices; and

(c) a mailing address and telephone number.

(4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:

(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

Section 23. Section 10-2a-215 is amended to read:

10-2a-215. Election of officers of new municipality -- Primary and final election dates -- Notice of election -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of municipal officers, the county legislative body shall:

(a) unless a primary election is prohibited under Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election described in Subsection (1) shall be held:

(a) consistent with the petition sponsors' determination of the length of each council member's initial term; and

(b) for the incorporation of a city:

(i) appropriate to the form of government chosen by the voters at the incorporation election;

(ii) consistent with the voters' decision about whether to elect city council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(iii) consistent with the sponsors' determination of the number of city council members to be elected.

(3) (a) Subject to Subsection (3)(b), and notwithstanding Subsection 20A-1-201.5(2), the

primary election described in Subsection (1)(a) shall be held at the earliest of the next:

(i) regular primary election described in Subsection 20A-1-201.5(1); or

(ii) municipal primary election described in Section 20A-9-404.

(b) The county shall hold the primary election, if necessary, on the next election date described in Subsection (3)(a) that is after the incorporation election conducted under Section 10-2a-210.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election described in Subsection (1)(b):

(i) on the following election date that next follows the date of the incorporation election held under Subsection 10-2a-210(1)(a);

(ii) a regular general election described in Section 20A-1-201; or

(iii) a regular municipal general election under Section 20A-1-202.

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), or (iii):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) The county clerk shall provide notice of an election under this section[~~:~~] for the future municipality, as a class A notice under Section 63G-28-102, for at least two weeks before the day of the election.

[~~(a) (i) at least two weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the voters within the future municipality, subject to a maximum of 10 notices; or~~]

[~~(ii) at least two weeks before the day of the election, by mailing notice to each registered voter within the future municipality;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks before the day of the election;~~]

[~~(c) if the future municipality has a website, by posting notice on the future municipality's website for two weeks before the day of the election; and~~]

[~~(d) by posting notice on the county's website for two weeks before the day of the election.~~]

(6) Until the municipality is incorporated, the county clerk:

(a) is the election officer for all purposes related to the election of municipal officers;

(b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law;

(c) shall require and determine deadlines for municipal office candidates to file campaign financial disclosures in accordance with Section 10-3-208; and

(d) shall ensure that the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated municipality, including the term of each office.

(7) An individual who has filed as a candidate for an office described in this section shall comply with:

(a) the campaign finance disclosure requirements described in Section 10-3-208; and

(b) the requirements and deadlines established by the county clerk under this section.

(8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(4)(b).

Section 24. Section 10-2a-404 is amended to read:

10-2a-404. Election -- Notice.

(1) (a) Notwithstanding Section 20A-1-203, a county of the first class shall hold a local special election on November 3, 2015, on the following ballot propositions:

(i) for registered voters residing within a planning township:

(A) whether the planning township shall be incorporated as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district; and

(ii) for registered voters residing within an unincorporated island, whether the island should maintain its unincorporated status or be annexed into an eligible city.

(b) (i) A metro township incorporated under this part shall be governed by the five-member council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government.

(ii) A city or town incorporated under this part shall be governed by the five-member council form of government as defined in Section 10-3b-102.

(2) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of a planning township or an unincorporated island, the person may not vote on the proposed incorporation or annexation.

(3) The county clerk shall post notice of the election [~~on the Utah Public Notice Website, created in Section 63A-16-601,~~] for the planning township or unincorporated island, as a class A notice under Section 63G-28-102, for three weeks before the election date.

(4) The notice required by Subsection (3) shall contain:

(a) for residents of a planning township:

(i) a statement that the voters will vote:

(A) to incorporate as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district;

(ii) if applicable under Subsection 10-2a-405(5), a map showing the alteration to the planning township boundaries that would be effective upon incorporation;

(iii) a statement that if the residents of the planning township elect to incorporate:

(A) as a metro township, the metro township shall be governed by a five-member metro township council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government; or

(B) as a city or town, the city or town shall be governed by the five-member council form of government as defined in Section 10-3b-102; and

(iv) a statement of the date and time of the election and the location of polling places;

(b) for residents of an unincorporated island:

(i) a statement that the voters will vote either to be annexed into an eligible city or maintain unincorporated status; and

(ii) a statement of the eligible city, as determined by the county legislative body in accordance with Section 10-2a-405, the unincorporated island may elect to be annexed by; and

(c) a statement of the date and time of the election and the location of polling places.

[~~(5) (a) In addition to the notice required under Subsection (3), the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the planning township or unincorporated island that are most likely to give notice of the election to the voters of the proposed incorporation or annexation, subject to a maximum of 10 notices.~~]

[~~(b) The clerk shall post the notices under Subsection (5)(a) at least seven days before the election under Subsection (1).~~]

[~~(6)~~] (5) (a) In a planning township, if a majority of those casting votes within the planning township vote to:

(i) incorporate as a city or town, the planning township shall incorporate as a city or town, respectively; or

(ii) incorporate as a metro township, the planning township shall incorporate as a metro township.

(b) If a majority of those casting votes within the planning township vote to incorporate as a metro township, and a majority of those casting votes vote to include the metro township in a municipal services district and limit the metro township's municipal powers, the metro township shall be included in a municipal services district and have limited municipal powers.

(c) In an unincorporated island, if a majority of those casting a vote within the selected unincorporated island vote to:

(i) be annexed by the eligible city, the area shall be annexed by the eligible city; or

(ii) remain an unincorporated area, the area shall remain unincorporated.

[~~(7)~~] (6) The county shall, in consultation with interested parties, prepare and provide information on an annexation or incorporation subject to this part and an election held in accordance with this section.

Section 25. Section 10-2a-405 is amended to read:

10-2a-405. Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

(1) The legislative body of a county of the first class shall before an election described in Section 10-2a-404:

(a) in accordance with Subsection (3), provide notice of the public hearing described in Subsection (1)(b);

(b) hold a public hearing; and

(c) at the public hearing, adopt a resolution:

(i) identifying, including a map prepared by the county surveyor, all unincorporated islands within the county;

(ii) identifying each eligible city that will annex each unincorporated island, including whether the unincorporated island may be annexed by one eligible city or divided and annexed by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404; and

(iii) identifying, including a map prepared by the county surveyor, the planning townships within the county and any changes to the boundaries of a planning township that the county legislative body proposes under Subsection (5).

(2) The county legislative body shall exclude from a resolution adopted under Subsection (1)(c) rural real property unless the owner of the rural real property provides written consent to include the property in accordance with Subsection (7).

(3) (a) The county clerk shall provide notice of the public hearing described in Subsection (1)(b)[~~:~~] for

the unincorporated island or planning township, as a class B notice under Section 63G-28-102, for at least 15 days before the day of the public hearing.

[~~(i) by mailing notice to each owner of real property located in an unincorporated island or planning township no later than 15 days before the day of the public hearing;~~]

[~~(ii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing; and~~]

[~~(iii) by posting at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township, subject to a maximum of 10 notices.~~]

[~~(b) The clerk shall post the notices under Subsection (3)(a)(iii) at least seven days before the hearing under Subsection (1)(b).~~]

[~~(c)~~] (b) The notice under Subsection (3)(a) shall include:

(i) (A) for a resident of an unincorporated island, a statement that the property in the unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by an eligible city, including divided and annexed by multiple cities if applicable, and the name of the eligible city or cities; or

(B) for residents of a planning township, a statement that the property in the planning township shall be, pending the results of the election held under Section 10-2a-404, incorporated as a city, town, or metro township;

(ii) the location and time of the public hearing; and

(iii) the county website where a map may be accessed showing:

(A) how the unincorporated island boundaries will change if annexed by an eligible city; or

(B) how the planning township area boundaries will change, if applicable under Subsection (5), when the planning township incorporates as a metro township or as a city or town.

[~~(d)~~] (c) The county clerk shall publish a map described in Subsection [~~(3)(c)(iii)~~] (3)(b)(iii) on the county website.

(4) The county legislative body may, by ordinance or resolution adopted at a public meeting and in accordance with applicable law, resolve an issue that arises with an election held in accordance with this part or the incorporation and establishment of a metro township in accordance with this part.

(5) (a) The county legislative body may, by ordinance or resolution adopted at a public meeting, change the boundaries of a planning township.

(b) A change to a planning township boundary under this Subsection (5) is effective only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.

(c) The county legislative body:

(i) may alter a planning township boundary under Subsection (5)(a) only if the alteration:

(A) affects less than 5% of the residents residing within the planning advisory area; and

(B) does not increase the area located within the planning township's boundaries; and

(ii) may not alter the boundaries of a planning township whose boundaries are entirely surrounded by one or more municipalities.

(6) After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township.

(7) (a) As used in this Subsection (7), "rural real property" means an area:

(i) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(ii) that does not include residential units with a density greater than one unit per acre.

(b) Unless an owner of rural real property gives written consent to a county legislative body, rural real property described in Subsection (7)(c) may not be:

(i) included in a planning township identified under Subsection (1)(c); or

(ii) incorporated as part of a metro township, city, or town, in accordance with this part.

(c) The following rural real property is subject to an owner's written consent under Subsection (7)(b):

(i) rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(ii) rural real property that is not contiguous to, but used in connection with, rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(iii) rural real property that is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(iv) rural real property that is located in whole or in part in one of the following as defined in Section 17-41-101:

(A) an agricultural protection area;

(B) an industrial protection area; or

(C) a mining protection area.

Section 26. Section 10-2a-410 is amended to read:

10-2a-410. Determination of metro township districts -- Determination of metro township or city initial officer terms -- Adoption of proposed districts -- Notice.

(1) (a) If a metro township with a population of 10,000 or more is incorporated in accordance with an election held under Section 10-2a-404:

(i) each of the five metro township council members shall be elected by district; and

(ii) the boundaries of the five council districts for election and the terms of office shall be designated and determined in accordance with this section.

(b) If a metro township with a population of less than 10,000 or a town is incorporated at an election held in accordance with Section 10-2a-404, the five council members shall be elected at-large for terms as designated and determined in accordance with this section.

(c) If a city is incorporated at an election held in accordance with Section 10-2a-404:

(i) (A) the four members of the council district who are not the mayor shall be elected by district; and

(B) the boundaries of the four council districts for election and the term of office shall be designated and determined in accordance with this section; and

(ii) the mayor shall be elected at-large for a term designated and determined in accordance with this section.

(2) (a) No later than 90 days after the election day on which the metro township, city, or town is successfully incorporated under this part, the legislative body of the county in which the metro township, city, or town is located shall adopt by resolution:

(i) subject to Subsection (2)(b), for each incorporated metro township, city, or town, the council terms for a length of time in accordance with this section; and

(ii) (A) for a metro township with a population of 10,000 or more, the boundaries of the five council districts; and

(B) for a city, the boundaries of the four council districts.

(b) (i) For each metro township, city, or town, the county legislative body shall set the initial terms of the members of the metro township council, city council, or town council so that:

(A) except as provided in Subsection (2)(b)(ii), approximately half the members of the council, including the mayor in the case of a city, are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2).

(ii) For a city that incorporated in a county of the first class in 2016, the term of office for the office of mayor is:

(A) three years for the initial term of office; and

(B) four years for each subsequent term of office.

(iii) For a metro township with a population of 10,000 or more, the county legislative body shall divide the metro township into five council districts that comply with Section 10-3-205.5.

(iv) For a city, the county legislative body shall divide the city into four council districts that comply with Section 10-3-205.5.

(3) (a) Within 20 days of the county legislative body's adoption of a resolution under Subsection (2), the county clerk shall provide a notice, in accordance with Subsection (3)(b), containing:

(i) if applicable, a description of the boundaries, as designated in the resolution, of:

(A) for a metro township with a population of 10,000 or more, the metro township council districts; or

(B) the city council districts;

(ii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for metro township council, city council, town council, or city mayor, respectively; and

(iii) information about the length of the initial term of city mayor or each of the metro township, city, or town council offices, as described in the resolution.

(b) The county clerk shall provide the notice required under Subsection (3)(a)[~~:~~] for the future metro township, as a class A notice under Section 63G-28-102, for at least seven days before the deadline for filing a declaration of candidacy under Subsection (4).

[~~(i) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks; and~~]

[~~(ii) by posting at least one notice per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice to the residents of the future metro township, city, or town, subject to a maximum of 10 notices.~~]

(c) The notice under Subsection [~~(3)(b)(ii)~~] (3)(b) shall contain the information required under Subsection (3)(a).

[~~(d) The county clerk shall post the notices under Subsection (3)(b)(ii) at least seven days before the deadline for filing a declaration of candidacy under Subsection (4).~~]

(4) A person seeking to become a candidate for metro township, city, or town council or city mayor

shall, in accordance with Section 20A-9-202, file a declaration of candidacy with the clerk of the county in which the metro township, city, or town is located for an election described in Section 10-2a-411.

Section 27. Section 10-3-301 is amended to read:

10-3-301. Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.

(1) As used in this section:

(a) "Absent" means that an elected municipal officer fails to perform official duties, including the officer's failure to attend each regularly scheduled meeting that the officer is required to attend.

(b) "Principal place of residence" means the same as that term is defined in Section 20A-2-105.

(c) "Secondary residence" means a place where an individual resides other than the individual's principal place of residence.

(2) (a) On or before May 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:

(i) the municipal offices to be voted on in the municipal general election; and

(ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (2)(a)(i).

(b) The municipal clerk shall publish the notice described in Subsection (2)(a)[~~:~~] for the municipality, as a class A notice under Section 63G-28-102, for at least seven days.

[~~(i) on the Utah Public Notice Website established by Section 63A-16-601; and~~]

[~~(ii) in at least one of the following ways:~~]

[~~(A) at the principal office of the municipality;~~]

[~~(B) in a newsletter produced by the municipality;~~]

[~~(C) on a website operated by the municipality; or~~]

[~~(D) with a utility enterprise fund customer's bill.~~]

(3) (a) An individual who files a declaration of candidacy for a municipal office shall comply with the requirements described in Section 20A-9-203.

(b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(3)(a)(i) and (c)(i) unless the date occurs on a:

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (3)(b)(i) without maintaining office hours by:

(A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and

(B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i), via the contact information described in Subsection (3)(b)(ii)(A).

(4) An individual elected to municipal office shall be a registered voter in the municipality in which the individual is elected.

(5) (a) Each elected officer of a municipality shall maintain a principal place of residence within the municipality, and within the district that the elected officer represents, during the officer's term of office.

(b) Except as provided in Subsection (6), an elected municipal office is automatically vacant if the officer elected to the municipal office, during the officer's term of office:

(i) establishes a principal place of residence outside the district that the elected officer represents;

(ii) resides at a secondary residence outside the district that the elected officer represents for a continuous period of more than 60 days while still maintaining a principal place of residence within the district;

(iii) is absent from the district that the elected officer represents for a continuous period of more than 60 days; or

(iv) fails to respond to a request, within 30 days after the day on which the elected officer receives the request, from the county clerk or the lieutenant governor seeking information to determine the officer's residency.

(6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the consent of the municipal legislative body in accordance with Subsection (6)(b) before the expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

(i) reside at a secondary residence outside the district that the elected officer represents while still maintaining a principal place of residence within the district for a continuous period of up to one year during the officer's term of office; or

(ii) be absent from the district that the elected officer represents for a continuous period of up to one year during the officer's term of office.

(b) At a public meeting, the municipal legislative body may give the consent described in Subsection (6)(a) by majority vote after taking public comment regarding:

(i) whether the legislative body should give the consent; and

(ii) the length of time to which the legislative body should consent.

(7) (a) The mayor of a municipality may not also serve as the municipal recorder or treasurer.

(b) The recorder of a municipality may not also serve as the municipal treasurer.

(c) An individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(d) The restriction described in Subsection (7)(c) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

Section 28. Section 10-3-711 is amended to read:

10-3-711. Publication and posting of ordinances.

(1) Before an ordinance may take effect, the legislative body of each municipality adopting an ordinance, except an ordinance enacted under Section 10-3-706, 10-3-707, 10-3-708, 10-3-709, or 10-3-710, shall:

(a) deposit a copy of the ordinance in the office of the municipal recorder; and

(b) [~~(i)~~] publish for the municipality a short summary of the ordinance [~~on the Utah Public Notice Website created in Section 63A-16-601; or~~], as a class A notice under Section 63G-28-102.

[~~(ii) post a complete copy of the ordinance:~~]

[~~(A) for a city of the first class, in nine public places within the city; or~~]

[~~(B) for any other municipality, in three public places within the municipality.~~]

(2) (a) Any ordinance, code, or book, other than the state code, relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least one copy has been filed for use and examination by the public in the office of the recorder or clerk of the city or town prior to the adoption of the ordinance by the governing body.

(b) Any state law relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code.

(c) The ordinance adopting the code or book shall be published in the manner provided in this section.

Section 29. Section 10-3-818 is amended to read:

10-3-818. Salaries in municipalities -- Notice.

(1) The elective and statutory officers of municipalities shall receive such compensation for their services as the governing body may fix by ordinance adopting compensation or compensation schedules enacted after public hearing.

(2) Upon its own motion the governing body may review or consider the compensation of any officer or officers of the municipality or a salary schedule applicable to any officer or officers of the city for the purpose of determining whether or not it should be adopted, changed, or amended. In the event that the governing body decides that the compensation or compensation schedules should be adopted, changed, or amended, it shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.

(3) [~~(a)~~] Notice of the time, place, and purpose of the meeting shall be published, for at least seven days before the day of the meeting [~~by publication:~~], for the municipality, as a class A notice under Section 63G-28-102.

[~~(i) at least once in a newspaper published in the county within which the municipality is situated and generally circulated in the municipality; and~~]

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601.~~]

[~~(b) If there is not a newspaper as described in Subsection (3)(a)(i), then notice shall be given by posting this notice in three public places in the municipality.~~]

(4) After the conclusion of the public hearing, the governing body may enact an ordinance fixing, changing, or amending the compensation of any elective or appointive officer of the municipality or adopting a compensation schedule applicable to any officer or officers.

(5) Any ordinance enacted before Laws of Utah 1977, Chapter 48, by a municipality establishing a salary or compensation schedule for its elective or appointive officers and any salary fixed prior to Laws of Utah 1977, Chapter 48, shall remain effective until the municipality has enacted an ordinance pursuant to the provisions of this chapter.

(6) The compensation of all municipal officers shall be paid at least monthly out of the municipal treasury provided that municipalities having 1,000 or fewer population may by ordinance provide for the payment of its statutory officers less frequently. None of the provisions of this chapter shall be considered as limiting or restricting the authority to any municipality that has adopted or does adopt a charter pursuant to Utah Constitution, Article XI, Section 5, to determine the salaries of its elective and appointive officers or employees.

Section 30. Section 10-3c-204 is amended to read:

10-3c-204. Taxing authority limited -- Notice.

(1) A metro township may impose:

(a) a municipal energy sales and use tax in accordance with Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(b) a municipal telecommunication's license tax in accordance with Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(2) (a) Before a metro township enacts a tax described in Subsection (1), the metro township council shall hold a public hearing:

(i) on a weekday evening other than a holiday beginning no earlier than 6:00 p.m.;

(ii) that is open to the public; and

(iii) to allow an individual present to comment on the proposed tax:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals permitted to comment on the proposed tax.

(b) (i) A metro township council shall publish notice of the public hearing described in Subsection (2)(a)[~~:~~] for the metro township, as a class A notice under Section 63G-28-102, for at least 14 days before the day of the public hearing.

[~~(A) by mailing notice to each mailing address in the metro township at least 14 days before the day of the public hearing;~~]

[~~(B) by posting notice on the Utah Public Notice Website created in Section 63A-16-601 for each of the 14 days before the day of the public hearing; and~~]

[~~(C) if the metro township has a website, by posting notice on the metro township's website for each of the 14 days before the day of the public hearing.~~]

(ii) The council of a metro township that is included in a municipal services district satisfies the requirement described in Subsection [~~(2)(b)(i)(A)~~] (2)(b)(i) by mailing notice, at least 14 days before the day of the public hearing, to each mailing address in the metro township, using records or information available to the municipal services district in which the metro township is included.

(c) The notice described in Subsection (2)(b) shall:

(i) state "NOTICE OF PROPOSED TAX" at the top of the notice, in bold upper-case type no smaller than 18 point;

(ii) indicate the date, time, and location of the public hearing described in Subsection (2)(a); and

(iii) indicate the proposed tax rate.

Section 31. Section 10-5-107.5 is amended to read:

10-5-107.5. Transfer of enterprise fund money to another fund -- Notice.

(1) As used in this section:

(a) "Budget hearing" means a public hearing required under Section 10-5-108.

(b) "Enterprise fund accounting data" means a detailed overview of the various enterprise funds of the town that includes:

(i) a cost accounting breakdown of how money in the enterprise fund is being used to cover, as applicable:

(A) administrative and overhead costs of the town attributable to the operation of the enterprise for which the enterprise fund was created; and

(B) other costs not associated with the enterprise for which the enterprise fund was created; and

(ii) specific enterprise fund information.

(c) "Enterprise fund hearing" means the public hearing required under Subsection (3)(d).

(d) "Specific enterprise fund information" means:

(i) the dollar amount of transfers from an enterprise fund to another fund; and

(ii) the percentage of the total enterprise fund expenditures represented by each transfer to another fund.

(2) Subject to the requirements of this section, a town may transfer money in an enterprise fund to another fund to pay for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created.

(3) The governing body of a town that intends to transfer money in an enterprise fund to another fund shall:

(a) provide notice of the intended transfer as required under Subsection (4);

(b) clearly identify in a separate section or document accompanying the town's tentative budget or, if an amendment to the town's budget includes or is based on an intended transfer, in a separate section or document accompanying the amendment to the town's budget:

(i) the enterprise fund from which money is intended to be transferred; and

(ii) the specific enterprise fund information for that enterprise fund;

(c) provide notice of an enterprise fund hearing, as required in Subsection (4); and

(d) hold an enterprise fund hearing before the adoption of the town's budget or, if applicable, the amendment to the budget.

(4) (a) At least seven days before holding an enterprise fund hearing, a governing body shall[~~:~~]

[~~(i)~~] provide the notice described in Subsection (4)(b) [~~by:~~] for the town, as a class B notice under Section 63G-28-102.

[~~(A) mailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly mails users a periodic billing for the goods or services;~~]

[~~(B) emailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly emails users a periodic billing for the goods or services;~~]

[~~(C) posting the notice on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(D) if the town has a website, prominently posting the notice on the town's website until the enterprise fund hearing is concluded; and~~]

[~~(ii) if the town communicates with the public through a social media platform, publish notice of the date, time, place, and purpose of the enterprise fund hearing using the social media platform.~~]

(b) The notice required under Subsection [~~(4)(a)(i)~~] (4)(a) shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) include specific enterprise fund information for each enterprise fund from which money is intended to be transferred;

(iii) provide the date, time, and place of the enterprise fund hearing; and

(iv) explain the purpose of the enterprise fund hearing.

(5) (a) An enterprise fund hearing shall be separate and independent from a budget hearing and any other public hearing.

(b) At an enterprise fund hearing, the governing body shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) provide enterprise fund accounting data to the public; and

(iii) allow members of the public in attendance at the hearing to comment on:

(A) the intended transfer of enterprise fund money to another fund; and

(B) the enterprise fund accounting data.

(6) (a) If a governing body adopts a budget or a budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, the governing body shall:

(i) within 60 days after adopting the budget or budget amendment:

(A) mail a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly mails users a periodic billing for the goods or services; and

(B) email a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly emails users a periodic billing for the goods or services;

(ii) within seven days after adopting the budget or budget amendment:

(A) post enterprise fund accounting data on the town's website, if the town has a website;

(B) using the town's social media platform, publish notice of the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, if the town communicates with the public through a social media platform; and

(iii) within 30 days after adopting the budget, submit to the state auditor the specific enterprise fund information for each enterprise fund from which money will be transferred.

(b) A notice required under Subsection (6)(a)(i) shall:

(i) announce the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund; and

(ii) include the specific enterprise fund information.

(c) The governing body shall maintain the website posting required under Subsection (6)(a)(ii)(A) continuously until another posting is required under Subsection [~~(4)(a)(i)(C)~~] (4)(a).

Section 32. Section 10-5-108 is amended to read:

10-5-108. Budget hearing -- Notice -- Adjustments.

(1) Prior to the adoption of the final budget or an amendment to a budget, a town council shall hold a public hearing to receive public comment.

(2) The town council shall provide notice of the place, purpose, and time of the public hearing by [~~posting~~] providing notice for the town or metro township, as a class A notice under Section 63G-28-102, for at least seven days before the hearing[~~:~~].

[~~(a) in three public places at least 48 hours before the hearing;~~]

[~~(b) on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(c) on the home page of the website, either in full or as a link, of the town or metro township, if the town or metro township has a publicly viewable website, until the hearing takes place.~~]

(3) After the hearing, the town council, subject to Section 10-5-110, may adjust expenditures and revenues in conformity with this chapter.

Section 33. Section 10-6-113 is amended to read:

10-6-113. Budget -- Notice of hearing to consider adoption.

At the meeting at which each tentative budget is adopted, the governing body shall establish the time and place of a public hearing to consider its adoption and shall order that notice of the public hearing be published for the city or metro township, as a class A notice under Section 63G-28-102, for at least seven days [~~prior to~~] before the day of the hearing[~~:~~].

[~~(1) in three public places within the city;~~]

[~~(2) on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(3) on the home page of the website, either in full or as a link, of the city or metro township, if the city or metro township has a publicly viewable website, until the hearing takes place.~~]

Section 34. Section 10-6-135.5 is amended to read:

10-6-135.5. Transfer of enterprise fund money to another fund -- Notice.

(1) As used in this section:

(a) "Budget hearing" means a public hearing required under Section 10-6-114.

(b) "Enterprise fund accounting data" means a detailed overview of the various enterprise funds of the city that includes:

(i) a cost accounting breakdown of how money in the enterprise fund is being used to cover, as applicable:

(A) administrative and overhead costs of the city attributable to the operation of the enterprise for which the enterprise fund was created; and

(B) other costs not associated with the enterprise for which the enterprise fund was created; and

(ii) specific enterprise fund information.

(c) "Enterprise fund hearing" means the public hearing required under Subsection (3)(d).

(d) "Specific enterprise fund information" means:

(i) the dollar amount of transfers from an enterprise fund to another fund; and

(ii) the percentage of the total enterprise fund expenditures represented by each transfer to another fund.

(2) Subject to the requirements of this section, a city may transfer money in an enterprise fund to another fund to pay for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created.

(3) The governing body of a city that intends to transfer money in an enterprise fund to another fund shall:

(a) provide notice of the intended transfer as required under Subsection (4);

(b) clearly identify in a separate section or document accompanying the city's tentative budget or, if an amendment to the city's budget includes or is based on an intended transfer, in a separate section or document accompanying the amendment to the city's budget:

(i) the enterprise fund from which money is intended to be transferred; and

(ii) the specific enterprise fund information for that enterprise fund;

(c) provide notice of an enterprise fund hearing, as required in Subsection (4); and

(d) hold an enterprise fund hearing before the adoption of the city's budget or, if applicable, the amendment to the budget.

(4) (a) [~~At~~] For at least seven days before holding an enterprise fund hearing, a governing body shall[~~:(i)~~] provide the notice described in Subsection (4)(b) [~~by:~~] for the city, as a class A notice under Section 63G-28-102.

[~~(A) mailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly mails users a periodic billing for the goods or services;~~]

[~~(B) emailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly emails users a periodic billing for the goods or services;~~]

[~~(C) posting the notice on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(D) if the city has a website, prominently posting the notice on the city's website until the enterprise fund hearing is concluded; and~~]

[~~(ii) if the city communicates with the public through a social media platform, publish notice of the date, time, place, and purpose of the enterprise fund hearing using the social media platform.~~]

(b) The notice required under Subsection [~~(4)(a)(i)~~] (4)(a) shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) include specific enterprise fund information for each enterprise fund from which money is intended to be transferred;

(iii) provide the date, time, and place of the enterprise fund hearing; and

(iv) explain the purpose of the enterprise fund hearing.

(5) (a) An enterprise fund hearing shall be separate and independent from a budget hearing and any other public hearing.

(b) At an enterprise fund hearing, the governing body shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) provide enterprise fund accounting data to the public; and

(iii) allow members of the public in attendance at the hearing to comment on:

(A) the intended transfer of enterprise fund money to another fund; and

(B) the enterprise fund accounting data.

(6) (a) If a governing body adopts a budget or a budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, the governing body shall:

(i) within 60 days after adopting the budget or budget amendment:

(A) mail a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly mails users a periodic billing for the goods or services; and

(B) email a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly emails users a periodic billing for the goods or services;

(ii) within seven days after adopting the budget or budget amendment:

(A) post enterprise fund accounting data on the city's website, if the city has a website;

(B) using the city's social media platform, publish notice of the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, if the city communicates with the public through a social media platform; and

(iii) within 30 days after adopting the budget, submit to the state auditor the specific enterprise fund information for each enterprise fund from which money will be transferred.

(b) A notice required under Subsection (6)(a)(i) shall:

(i) announce the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund; and

(ii) include the specific enterprise fund information.

(c) The governing body shall maintain the website posting required under Subsection (6)(a)(ii)(A) continuously until another posting is required under Subsection [~~(4)(a)(i)(C)~~] (4)(a).

Section 35. Section 10-6-152 is amended to read:

10-6-152. Notice that audit completed and available for inspection.

Within 10 days following the receipt of the audit report furnished by the independent auditor, the city auditor in cities having an auditor and the city recorder in all other cities shall:

(1) prepare a notice to the public that the audit of the city has been completed;

(2) [~~post~~] provide the notice[~~:~~] for the city or metro township, as a class A notice under Section 63G-28-102, for at least 10 days; and

[~~(a) in three public places; and~~]

[~~(b) on the Utah Public Notice Website created in Section 63A-16-601; and~~]

(3) make a copy of the notice described in Subsection (1) available for inspection at the office of the city auditor or recorder.

Section 36. Section 10-7-16 is amended to read:

10-7-16. Call for bids -- Notice -- Contents.

(1) (a) Before holding an election under Subsection 10-7-15(1)(a)(ii), the municipal legislative body shall open to bid the sale or lease of the property mentioned in Section 10-7-15.

(b) The municipal legislative body shall [~~cause~~] publish notice of the bid process [~~to be given by publication~~] for the municipality, as a class A notice under Section 63G-28-102, for at least three consecutive weeks [~~on the Utah Public Notice Website created in Section 63A-16-601~~].

(c) The notice described in Subsection (1) shall:

(i) give a general description of the property to be sold or leased;

(ii) specify the time when sealed bids for the property, or for a lease on the property, will be received; and

(iii) specify the time when and the place where the bids will be opened.

(2) (a) As used in this section and in Section 10-7-17, "responsible bidder" means an entity with a proven history of successful operation of an electrical generation and distribution system, or an equivalent proven history.

(b) Subject to Subsection (2)(c), a municipal legislative body may receive or refuse to receive any bid submitted for the sale or lease of the electrical works and plant.

(c) A municipal legislative body may not receive a bid unless the municipal legislative body determines that the bid is submitted by a responsible bidder.

Section 37. Section 10-7-19 is amended to read:

10-7-19. Election to authorize -- Notice -- Ballots.

(1) Subject to Subsection (2), the board of commissioners or city council of any city, or the board of trustees of any incorporated town, may aid and encourage the building of railroads by granting to any railroad company, for depot or other railroad purposes, real property of the city or incorporated town, not necessary for municipal or public purposes, upon the limitations and conditions established by the board of commissioners, city council, or board of trustees.

(2) A board of commissioners, city council, or board of trustees may not grant real property under Subsection (1) unless the grant is approved by the eligible voters of the city or town at the next municipal election, or at a special election called for that purpose by the board of commissioners, city council, or board of trustees.

(3) If the question is submitted at a special election, the election shall be held as nearly as practicable in conformity with the general election laws of the state.

(4) The board of commissioners, city council, or board of trustees shall publish notice of an election described in Subsections (2) and (3)[~~:~~] for the city or town, as a class B notice under Section 63G-28-102, for at least four weeks before the day of the election.

[~~(a) (i) at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the city or town, in places within the city or town that are most likely to give notice to the voters in the city or town; or~~]

[~~(ii) at least four weeks before the day of the election, by mailing notice to each registered voter in the city or town;~~]

[~~(b) on the Utah Public Notice Website created in Section 63A-16-601, for four weeks before the day of the election; and~~]

[~~(c) if the municipality has a website, on the municipality's website for at least four weeks before the day of the election.~~]

(5) The board of commissioners, city council, or board of trustees shall cause ballots to be printed and provided to the eligible voters, which shall read: "For the proposed grant for depot or other railroad purposes: Yes. No."

(6) If a majority of the votes are cast in favor of the grant, the board of commissioners, city council, or board of trustees shall convey the real property to the railroad company.

Section 38. Section 10-8-2 is amended to read:

10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.

(1) (a) Subject to Section 11-41-103, a municipal legislative body may:

(i) appropriate money for corporate purposes only;

(ii) provide for payment of debts and expenses of the corporation;

(iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries, if the action is in the public interest and complies with other law;

(iv) improve, protect, and do any other thing in relation to this property that an individual could do; and

(v) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

(b) A municipality may:

(i) furnish all necessary local public services within the municipality;

(ii) purchase, hire, construct, own, maintain and operate, or lease public utilities located and operating within and operated by the municipality; and

(iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property located inside or outside the corporate limits of the municipality and necessary for any of the purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(c) Each municipality that intends to acquire property by eminent domain under Subsection (1)(b) shall comply with the requirements of Section 78B-6-505.

(d) Subsection (1)(b) may not be construed to diminish any other authority a municipality may claim to have under the law to acquire by eminent domain property located inside or outside the municipality.

(2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to the provisions of Subsection (3).

(b) The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.

(3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to this Subsection (3).

(a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.

(b) (i) A municipal legislative body shall establish the criteria for a determination under this Subsection (3).

(ii) A municipal legislative body's determination of value received is presumed valid unless a person can show that the determination was arbitrary, capricious, or illegal.

(c) The municipality may consider intangible benefits received by the municipality in determining net value received.

(d) (i) Before the municipal legislative body makes any decision to appropriate any funds for a corporate purpose under this section, the municipal legislative body shall hold a public hearing.

(ii) [~~At~~] For at least 14 days before the date of the hearing, the municipal legislative body shall publish a notice of the hearing described in Subsection (3)(d)(i) [~~by posting notice:~~] for the municipality, as a class A notice under Section 63G-28-102.

[~~(A) in at least three conspicuous places within the municipality; and~~]

[~~(B) on the Utah Public Notice Website created in Section 63A-16-601.~~]

(e) (i) Before a municipality provides notice as described in Subsection (3)(d)(ii), the municipality shall perform a study that analyzes and demonstrates the purpose for an appropriation described in this Subsection (3) in accordance with Subsection (3)(e)(iii).

(ii) A municipality shall make the study described in Subsection (3)(e)(i) available at the municipality for review by interested parties at least 14 days immediately before the public hearing described in Subsection (3)(d)(i).

(iii) A municipality shall consider the following factors when conducting the study described in Subsection (3)(e)(i):

(A) what identified benefit the municipality will receive in return for any money or resources appropriated;

(B) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, elimination of a development impediment, job preservation, the preservation of historic structures and property, and any other public purpose.

(f) (i) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation.

(ii) A person shall file an appeal as described in Subsection (3)(f)(i) with the district court within 30 days after the day on which the municipal legislative body makes a decision.

(iii) Any appeal shall be based on the record of the proceedings before the legislative body.

(iv) A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

(g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.

(h) This section applies only to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:

(i) provide [~~reasonable~~] notice of the proposed disposition for the municipality, as a class A notice under Section 63G-28-102, for at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each municipality shall, by ordinance, define what constitutes[~~:~~]

[~~(i)~~] a significant parcel of real property for purposes of Subsection (4)(a)[~~; and~~].

[~~(ii) reasonable notice for purposes of Subsection (4)(a)(i).~~]

(5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:

(i) the property is located:

(A) outside the boundaries of the municipality; and

(B) in a county of the first or second class; and

(ii) the intended use of the property is contrary to:

(A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(B) the property's current zoning designation.

(b) Each notice under Subsection (5)(a) shall:

(i) indicate that the municipality intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (5) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section 10-9a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Section 39. Section 10-8-15 is amended to read:

10-8-15. Waterworks -- Construction -- Extraterritorial jurisdiction -- Notice.

(1) As used in this section, "affected entity" means a:

(a) county that has land use authority over land subject to an ordinance or regulation described in this section;

(b) local health department, as that term is defined in Section 26A-1-102, that has jurisdiction pursuant to Section 26A-1-108 over land subject to an ordinance or regulation described in this section;

(c) municipality that has enacted or has the right to enact an ordinance or regulation described in this section over the land subject to an ordinance or regulation described in this section; and

(d) municipality that has land use authority over land subject to an ordinance or regulation described in this section.

(2) A municipality may construct or authorize the construction of waterworks within or without the municipal limits, and for the purpose of maintaining and protecting the same from injury and the water from pollution the municipality's jurisdiction shall extend over the territory occupied by such works, and over all reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or other source from which the water is taken, for 15 miles above the point from which it is taken and for a distance of 300 feet on each side of such stream and over highways along such stream or watercourse within said 15 miles and said 300 feet.

(3) The jurisdiction of a city of the first class shall additionally be over the entire watershed within the county of origin of the city of the first class and subject to Subsection (6) provided that livestock shall be permitted to graze beyond 1,000 feet from any such stream or source; and provided further, that the city of the first class shall provide a highway in and through the city's corporate limits, and so far as the city's jurisdiction extends, which may not be closed to cattle, horses, sheep, hogs, or goats driven through the city, or through any territory adjacent thereto over which the city has jurisdiction, but the board of commissioners of the city may enact ordinances placing under police regulations the manner of driving such cattle, sheep, horses, hogs, and goats through the city, or any territory adjacent thereto over which the city has jurisdiction.

(4) A municipality may enact all ordinances and regulations necessary to carry the power herein conferred into effect, and is authorized and empowered to enact ordinances preventing pollution or contamination of the streams or watercourses from which the municipality derives the municipality's water supply, in whole or in part, for domestic and culinary purposes, and may enact ordinances prohibiting or regulating the construction or maintenance of any closet, privy, outhouse or urinal within the area over which the municipality has jurisdiction, and provide for permits for the construction and maintenance of the same.

(5) In granting a permit described in Subsection (4), a municipality may annex thereto such reasonable conditions and requirements for the protection of the public health as the municipality determines proper, and may, if determined advisable, require that all closets, privies and urinals along such streams shall be provided with effective septic tanks or other germ-destroying instrumentalities.

(6) A city of the first class may only exercise extraterritorial jurisdiction outside of the city's county of origin, as described in Subsection (3), pursuant to a written agreement with all municipalities and counties that have jurisdiction over the area where the watershed is located.

(7) (a) After July 1, 2019, a municipal legislative body that seeks to adopt an ordinance or regulation under the authority of this section shall:

(i) hold a public hearing on the proposed ordinance or regulation; and

(ii) give notice of the date, place, and time of the hearing, as described in Subsection (7)(b).

(b) At least ten days before the day on which the public hearing described in Subsection (7)(a)(i) is to be held, the notice described in Subsection (7)(a)(ii) shall be:

(i) mailed to:

(A) each affected entity;

(B) the director of the Division of Drinking Water; and

(C) the director of the Division of Water Quality; and

(ii) published [~~on the Utah Public Notice Website created in Section 63A-16-601~~] for the municipality, as a class A notice under Section 63G-28-102, for at least 10 days.

(c) An ordinance or regulation adopted under the authority of this section may not conflict with:

(i) existing federal or state statutes; or

(ii) a rule created pursuant to a federal or state statute governing drinking water or water quality.

(d) A municipality that enacts an ordinance or regulation under the authority of this section shall:

(i) provide a copy of the ordinance or regulation to each affected entity; and

(ii) include a copy of the ordinance or regulation in the municipality's drinking water source protection plan.

Section 40. Section 10-9a-203 is amended to read:

10-9a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each municipality within a county of the first or second

class shall provide 10 calendar days notice of the municipality's intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Utah Geospatial Resource Center created in Section 63A-16-505;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and

[~~(d) on the Utah Public Notice Website created under Section 63A-16-601.~~]

(d) for the municipality, as a class A notice under Section 63G-28-102, for at least 10 days.

(2) Each notice under Subsection (1) shall:

(a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of an individual where more information can be obtained concerning the municipality's proposed general plan or amendment.

Section 41. Section 10-9a-204 is amended to read:

10-9a-204. Notice of public hearings and public meetings to consider general plan or modifications.

(1) Each municipality shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

(a) published [~~on the Utah Public Notice Website created in Section 63A-16-601~~] for the municipality, as a class A notice under Section 63G-28-102, for at least 10 days; and

(b) mailed to each affected entity[~~; and~~].

[~~(c) posted:~~]

[~~(i) in at least three public locations within the municipality; or~~]

[~~(ii) on the municipality's official website.~~]

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be[~~:~~] published for the municipality, as a class A notice under Section 63G-28-102, for at least 24 hours.

[~~(a) published on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(b) posted:~~]

[~~(i) in at least three public locations within the municipality; or~~]

[~~(ii) on the municipality's official website.~~]

Section 42. Section 10-9a-205 is amended to read:

10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing; and

(b) provided for the area directly affected by the land use ordinance change, as a class B notice under Section 63G-28-102, for at least 10 calendar days before the day of the public hearing.

[~~(b) posted:~~]

[~~(i) in at least three public locations within the municipality; or~~]

[~~(ii) on the municipality's official website; and~~]

[~~(c) (i) posted on the Utah Public Notice Website created in Section 63A-16-601, at least 10 calendar days before the public hearing; or~~]

[~~(ii) mailed at least 10 days before the public hearing to:~~]

[~~(A) each property owner whose land is directly affected by the land use ordinance change; and~~]

[~~(B) each adjacent property owner within the parameters specified by municipal ordinance.~~]

(3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:

(a) include a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and

(b) be provided to any person upon written request.

(4) Each notice of a public meeting under Subsection (1)(b) shall be [~~posted~~] provided for the municipality, as a class A notice under Section 63G-28-102, for at least 24 hours before the meeting[~~:~~].

[~~(a) in at least three public locations within the municipality; or~~]

[~~(b) on the municipality's official website.~~]

(5) (a) A municipality shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within a proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 10-9a-502.

(c) If a municipality mails notice to a property owner in accordance with Subsection [~~(2)(c)(ii)~~] (2)(b) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (5) may be included in or part of the notice described in Subsection [~~(2)(c)(ii)~~] (2)(b) rather than sent separately.

Section 43. Section 10-9a-208 is amended to read:

10-9a-208. Hearing and notice for petition to vacate a public street.

(1) For any petition to vacate some or all of a public street or municipal utility easement the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) is:

(a) mailed to the record owner of each parcel that is accessed by the public street or municipal utility easement;

(b) mailed to each affected entity; and

(c) [~~posted on or near~~] provided for the public street or municipal utility easement [~~in a manner that is calculated to alert the public; and~~], as a class A notice under Section 63G-28-102, for at least 10 days.

[~~(d) (i) published on the website of the municipality in which the land subject to the petition is located until the public hearing concludes; and~~]

[~~(ii) published on the Utah Public Notice Website created in Section 63A-16-601.~~]

Section 44. Section 10-18-203 is amended to read:

10-18-203. Feasibility study on providing cable television or public telecommunications services -- Public hearings -- Notice.

(1) If a feasibility consultant is hired under Section 10-18-202, the legislative body of the municipality shall require the feasibility consultant to:

(a) complete the feasibility study in accordance with this section;

(b) submit to the legislative body by no later than 180 days from the date the feasibility consultant is hired to conduct the feasibility study:

(i) the full written results of the feasibility study; and

(ii) a summary of the results that is no longer than one page in length; and

(c) attend the public hearings described in Subsection (4) to:

(i) present the feasibility study results; and

(ii) respond to questions from the public.

(2) The feasibility study described in Subsection (1) shall at a minimum consider:

(a) (i) if the municipality is proposing to provide cable television services to subscribers, whether the municipality providing cable television services in the manner proposed by the municipality will hinder or advance competition for cable television services in the municipality; or

(ii) if the municipality is proposing to provide public telecommunications services to subscribers, whether the municipality providing public

telecommunications services in the manner proposed by the municipality will hinder or advance competition for public telecommunications services in the municipality;

(b) whether but for the municipality any person would provide the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(c) the fiscal impact on the municipality of:

(i) the capital investment in facilities that will be used to provide the proposed:

(A) cable television services; or

(B) public telecommunications services; and

(ii) the expenditure of funds for labor, financing, and administering the proposed:

(A) cable television services; or

(B) public telecommunications services;

(d) the projected growth in demand in the municipality for the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(e) the projections at the time of the feasibility study and for the next five years, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the proposed:

(i) cable television services; or

(ii) public telecommunications services; and

(f) the projections at the time of the feasibility study and for the next five years of the revenues to be generated from the proposed:

(i) cable television services; or

(ii) public telecommunications services.

(3) For purposes of the financial projections required under Subsections (2)(e) and (f), the feasibility consultant shall assume that the municipality will price the proposed cable television services or public telecommunications services consistent with Subsection 10-18-303(5).

(4) If the results of the feasibility study satisfy the revenue requirement of Subsection 10-18-202(3), the legislative body, at the next regular meeting after the legislative body receives the results of the feasibility study, shall schedule at least two public hearings to be held:

(a) within 60 days of the meeting at which the public hearings are scheduled;

(b) at least seven days apart; and

(c) for the purpose of allowing:

(i) the feasibility consultant to present the results of the feasibility study; and

(ii) the public to:

(A) become informed about the feasibility study results; and

(B) ask questions of the feasibility consultant about the results of the feasibility study.

(5) [~~(a)~~] The municipality shall provide notice of the public hearings required under Subsection (4) [~~by:~~] for the municipality, as a class A notice under Section 63G-28-102, for at least three weeks before the day on which the first public hearing required under Subsection (4) is held.

[~~(i) posting the notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks, at least three days before the first public hearing required under Subsection (4); and~~]

[~~(ii) posting at least one notice of the hearings per 1,000 residents, in a conspicuous place within the municipality that is likely to give notice of the hearings to the greatest number of residents of the municipality, subject to a maximum of 10 notices.~~]

[~~(b) The municipality shall post the notices at least seven days before the first public hearing required under Subsection (4) is held.~~]

Section 45. Section 10-18-302 is amended to read:

10-18-302. Bonding authority.

(1) In accordance with Title 11, Chapter 14, Local Government Bonding Act, the legislative body of a municipality may by resolution determine to issue one or more revenue bonds or general obligation bonds to finance the capital costs for facilities necessary to provide to subscribers:

(a) a cable television service; or

(b) a public telecommunications service.

(2) The resolution described in Subsection (1) shall:

(a) describe the purpose for which the indebtedness is to be created; and

(b) specify the dollar amount of the one or more bonds proposed to be issued.

(3) (a) A revenue bond issued under this section shall be secured and paid for:

(i) from the revenues generated by the municipality from providing:

(A) cable television services with respect to revenue bonds issued to finance facilities for the municipality's cable television services; and

(B) public telecommunications services with respect to revenue bonds issued to finance facilities for the municipality's public telecommunications services; and

(ii) notwithstanding Subsection (3)(b) and Subsection 10-18-303(3)(a), from revenues generated under Title 59, Chapter 12, Sales and Use Tax Act, if:

(A) notwithstanding Subsection 11-14-201(3) and except as provided in Subsections (4) and (5), the revenue bond is approved by the registered voters in an election held:

(I) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and

(II) notwithstanding Subsection 11-14-203(2), at a regular general election;

(B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the revenue bond; and

(C) the municipality or municipalities annually appropriate the revenues described in this Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.

(b) Except as provided in Subsection (3)(a)(ii), a municipality may not pay the origination, financing, or other carrying costs associated with the one or more revenue bonds issued under this section from the town or city, respectively, general funds or other enterprise funds of the municipality.

(4) (a) As used in this Subsection (4), "municipal entity" means an entity created pursuant to an agreement:

(i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) to which a municipality is a party.

(b) The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or municipal entity that issues revenue bonds, or to a municipality that is a member of a municipal entity that issues revenue bonds, if:

(i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds has published the first notice described in Subsection (4)(b)(iii);

(ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds makes the decision to pledge the revenues described in Subsection (3)(a)(ii) as security for the revenue bonds described in this Subsection (4)(b)(ii);

(iii) (A) the municipality that is issuing the revenue bonds or the municipality that is a member of the municipal entity that is issuing the revenue bonds has held a public hearing for which public notice was given by publication of the notice [~~on the Utah Public Notice Website created in Section 63A-16-601~~] for the municipality, as a class A notice under Section 63G-28-102, for two weeks before the day of the public hearing; and

(B) the notice identifies:

(I) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(II) the purpose for the bonds to be issued;

(III) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(IV) the maximum number of years that the pledge will be in effect; and

(V) the time, place, and location for the public hearing;

(iv) the municipal entity that issues revenue bonds:

(A) adopts a final financing plan; and

(B) in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, makes available to the public at the time the municipal entity adopts the final financing plan:

(I) the final financing plan; and

(II) all contracts entered into by the municipal entity, except as protected by Title 63G, Chapter 2, Government Records Access and Management Act;

(v) any municipality that is a member of a municipal entity described in Subsection (4)(b)(iv):

(A) not less than 30 calendar days after the municipal entity complies with Subsection (4)(b)(iv)(B), holds a final public hearing;

(B) provides notice, at the time the municipality schedules the final public hearing, to any person who has provided to the municipality a written request for notice; and

(C) makes all reasonable efforts to provide fair opportunity for oral testimony by all interested parties; and

(vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(5) On or after July 1, 2007, the requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality that issues revenue bonds if:

(a) (i) the municipality that is issuing the revenue bonds has held a public hearing for which public notice was given by publication of the notice [~~on the Utah Public Notice Website created in Section 63A-16-601~~] for the municipality, as a class A notice under Section 63G-28-102, for 14 days before the day of the public hearing; and

(ii) the notice identifies:

(A) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(B) the purpose for the bonds to be issued;

(C) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(D) the maximum number of years that the pledge will be in effect; and

(E) the time, place, and location for the public hearing; and

(b) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than

50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(6) A municipality that issues bonds pursuant to this section may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:

(a) cable television services; or

(b) public telecommunications services.

Section 46. Section 10-18-303 is amended to read:

10-18-303. General operating limitations -- Notice of change to price list.

A municipality that provides a cable television service or a public telecommunications service under this chapter is subject to the operating limitations of this section.

(1) A municipality that provides a cable television service shall comply with:

(a) the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.; and

(b) the regulations issued by the Federal Communications Commission under the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.

(2) A municipality that provides a public telecommunications service shall comply with:

(a) the Telecommunications Act of 1996, Pub. L. 104-104;

(b) the regulations issued by the Federal Communications Commission under the Telecommunications Act of 1996, Pub. L. 104-104;

(c) Section 54-8b-2.2 relating to:

(i) the interconnection of essential facilities; and

(ii) the purchase and sale of essential services; and

(d) the rules made by the Public Service Commission of Utah under Section 54-8b-2.2.

(3) A municipality may not cross subsidize its cable television services or its public telecommunications services with:

(a) tax dollars;

(b) income from other municipal or utility services;

(c) below-market rate loans from the municipality; or

(d) any other means.

(4) (a) A municipality may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:

(i) cable television services; or

(ii) public telecommunications services.

(b) A municipality shall apply without discrimination as to itself and to any private provider the municipality's ordinances, rules, and policies, including those relating to:

(i) obligation to serve;

(ii) access to public rights of way;

(iii) permitting;

(iv) performance bonding;

(v) reporting; and

(vi) quality of service.

(c) Subsections (4)(a) and (b) do not supersede the exception for a rural telephone company in Section 251 of the Telecommunications Act of 1996, Pub. L. 104-104.

(5) In calculating the rates charged by a municipality for a cable television service or a public telecommunications service, the municipality:

(a) shall include within its rates an amount equal to all taxes, fees, and other assessments that would be applicable to a similarly situated private provider of the same services, including:

(i) federal, state, and local taxes;

(ii) franchise fees;

(iii) permit fees;

(iv) pole attachment fees; and

(v) fees similar to those described in Subsections (5)(a)(i) through (iv); and

(b) may not price any cable television service or public telecommunications service at a level that is less than the sum of:

(i) the actual direct costs of providing the service;

(ii) the actual indirect costs of providing the service; and

(iii) the amount determined under Subsection (5)(a).

(6) (a) A municipality that provides cable television services or public telecommunications services shall establish and maintain a comprehensive price list of all cable television services or public telecommunications services offered by the municipality.

(b) The price list required by Subsection (6)(a) shall:

(i) include all terms and conditions relating to the municipality providing each cable television service or public telecommunications service offered by the municipality;

(ii) be posted on the Utah Public Notice Website created in Section 63A-16-601; and

(iii) be available for inspection:

(A) at a designated office of the municipality; and

(B) during normal business hours.

(c) At least five days before the date a change to a municipality's price list becomes effective, the municipality shall[~~:~~] provide notice of the change:

(i) for the municipality, as a class A notice under Section 63G-28-102, for at least five days; and

(ii) to any other persons requesting notification of any changes to the municipality's price list.

[~~(i) notify the following of the change:~~]

[~~(A) all subscribers to the services for which the price list is being changed; and~~]

[~~(B) any other persons requesting notification of any changes to the municipality's price list; and~~]

[~~(ii) publish notice on the Utah Public Notice Website created in Section 63A-16-601.~~]

(d) A municipality may not offer a cable television service or a public telecommunications service except in accordance with the prices, terms, and conditions set forth in the municipality's price list.

(7) A municipality may not offer to provide or provide cable television services or public telecommunications services to a subscriber that does not reside within the geographic boundaries of the municipality.

(8) (a) A municipality shall keep accurate books and records of the municipality's:

(i) cable television services; and

(ii) public telecommunications services.

(b) The books and records required to be kept under Subsection (8)(a) are subject to legislative audit to verify the municipality's compliance with the requirements of this chapter including:

(i) pricing;

(ii) recordkeeping; and

(iii) antidiscrimination.

(9) A municipality may not receive distributions from the Universal Public Telecommunications Service Support Fund established in Section 54-8b-15.

Section 47. Section 11-13-204 is amended to read:

11-13-204. Powers and duties of interlocal entities -- Additional powers of energy services interlocal entities -- Length of term of agreement and interlocal entity -- Notice to lieutenant governor -- Recording requirements -- Public Service Commission.

(1) (a) An interlocal entity:

(i) shall adopt bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business;

(ii) may:

(A) amend or repeal a bylaw, policy, or procedure;

(B) sue and be sued;

(C) have an official seal and alter that seal at will;

(D) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(E) acquire real or personal property, or an undivided, fractional, or other interest in real or personal property, necessary or convenient for the purposes contemplated in the agreement creating the interlocal entity and sell, lease, or otherwise dispose of that property;

(F) directly or by contract with another:

(I) own and acquire facilities and improvements or an undivided, fractional, or other interest in facilities and improvements;

(II) construct, operate, maintain, and repair facilities and improvements; and

(III) provide the services contemplated in the agreement creating the interlocal entity and establish, impose, and collect rates, fees, and charges for the services provided by the interlocal entity;

(G) borrow money, incur indebtedness, and issue revenue bonds, notes, or other obligations and secure their payment by an assignment, pledge, or other conveyance of all or any part of the revenues and receipts from the facilities, improvements, or services that the interlocal entity provides;

(H) offer, issue, and sell warrants, options, or other rights related to the bonds, notes, or other obligations issued by the interlocal entity;

(I) sell or contract for the sale of the services, output, product, or other benefits provided by the interlocal entity to:

(I) public agencies inside or outside the state; and

(II) with respect to any excess services, output, product, or benefits, any person on terms that the interlocal entity considers to be in the best interest of the public agencies that are parties to the agreement creating the interlocal entity; and

(J) create a local disaster recovery fund in the same manner and to the same extent as authorized for a local government in accordance with Section 53-2a-605; and

(iii) may not levy, assess, or collect ad valorem property taxes.

(b) An assignment, pledge, or other conveyance under Subsection (1)(a)(ii)(G) may, to the extent provided by the documents under which the assignment, pledge, or other conveyance is made, rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the state or its political subdivisions.

(2) An energy services interlocal entity:

(a) except with respect to any ownership interest it has in facilities providing additional project capacity, is not subject to:

(i) Part 3, Project Entity Provisions; or

(ii) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and

(b) may:

(i) own, acquire, and, by itself or by contract with another, construct, operate, and maintain a facility or improvement for the generation, transmission, and transportation of electric energy or related fuel supplies;

(ii) enter into a contract to obtain a supply of electric power and energy and ancillary services, transmission, and transportation services, and supplies of natural gas and fuels necessary for the operation of generation facilities;

(iii) enter into a contract with public agencies, investor-owned or cooperative utilities, and others, whether located in or out of the state, for the sale of wholesale services provided by the energy services interlocal entity; and

(iv) adopt and implement risk management policies and strategies and enter into transactions and agreements to manage the risks associated with the purchase and sale of energy, including forward purchase and sale contracts, hedging, tolling and swap agreements, and other instruments.

(3) Notwithstanding Section 11-13-216, an agreement creating an interlocal entity or an amendment to that agreement may provide that the agreement may continue and the interlocal entity may remain in existence until the latest to occur of:

(a) 50 years after the date of the agreement or amendment;

(b) five years after the interlocal entity has fully paid or otherwise discharged all of its indebtedness;

(c) five years after the interlocal entity has abandoned, decommissioned, or conveyed or transferred all of its interest in its facilities and improvements; or

(d) five years after the facilities and improvements of the interlocal entity are no longer useful in providing the service, output, product, or other benefit of the facilities and improvements, as determined under the agreement governing the sale of the service, output, product, or other benefit.

(4) (a) Upon execution of an agreement to approve the creation of an interlocal entity, including an electric interlocal entity and an energy services interlocal entity, the governing body of a member of the interlocal entity under Section 11-13-203 shall:

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) if less than all of the territory of any Utah public agency that is a party to the agreement is included within the interlocal entity, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the interlocal entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of creation; and

(Cc) approved final local entity plat, if an approved final local entity plat was required to be filed with the lieutenant governor under Subsection (4)(a)(i)(B); and

(II) a certified copy of the agreement approving the creation of the interlocal entity; or

(B) if the interlocal entity is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity.

(b) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the interlocal entity is created.

(c) Until the documents listed in Subsection (4)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created interlocal entity may not charge or collect a fee for service provided to property within the interlocal entity.

(5) Nothing in this section may be construed as expanding the rights of any municipality or interlocal entity to sell or provide retail service.

(6) Except as provided in Subsection (7):

(a) nothing in this section may be construed to expand or limit the rights of a municipality to sell or provide retail electric service; and

(b) an energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members.

(7) (a) An energy services interlocal entity created before July 1, 2003, that is comprised solely of Utah municipalities and that, for a minimum of 50 years before July 1, 2010, provided retail electric service to customers outside the municipal boundaries of its members, may provide retail electric service outside the municipal boundaries of its members if:

(i) the energy services interlocal entity:

(A) enters into a written agreement with each public utility holding a certificate of public convenience and necessity issued by the Public Service Commission to provide service within an agreed upon geographic area for the energy services interlocal entity to be responsible to provide electric service in the agreed upon geographic area outside the municipal boundaries of the members of the energy services interlocal entity; and

(B) obtains a franchise agreement, with the legislative body of the county or other governmental entity for the geographic area in which the energy services interlocal entity provides service outside the municipal boundaries of its members; and

(ii) each public utility described in Subsection (7)(a)(i)(A) applies for and obtains from the Public Service Commission approval of the agreement specified in Subsection (7)(a)(i)(A).

(b) (i) The Public Service Commission shall, after a public hearing held in accordance with Title 52, Chapter 4, Open and Public Meetings Act, approve an agreement described in Subsection (7)(a)(ii) if it determines that the agreement is in the public interest in that it incorporates the customer protections described in Subsection (7)(c) and the franchise agreement described in Subsection (7)(a)(i)(B) provides a reasonable mechanism using a neutral arbiter or ombudsman for resolving potential future complaints by customers of the energy services interlocal entity.

(ii) In approving an agreement, the Public Service Commission shall also amend the certificate of public convenience and necessity of any public utility described in Subsection (7)(a)(i) to delete from the geographic area specified in the certificate or certificates of the public utility the geographic area that the energy services interlocal entity has agreed to serve.

(c) In providing retail electric service to customers outside of the municipal boundaries of its members, but not within the municipal boundaries of another municipality that grants a franchise agreement in accordance with Subsection (7)(a)(i)(B), an energy services interlocal entity shall comply with the following:

(i) the rates and conditions of service for customers outside the municipal boundaries of the members shall be at least as favorable as the rates and conditions of service for similarly situated customers within the municipal boundaries of the members;

(ii) the energy services interlocal entity shall operate as a single entity providing service both inside and outside of the municipal boundaries of its members;

(iii) a general rebate, refund, or other payment made to customers located within the municipal boundaries of the members shall also be provided to similarly situated customers located outside the municipal boundaries of the members;

(iv) a schedule of rates and conditions of service, or any change to the rates and conditions of service, shall be approved by the governing board of the energy services interlocal entity;

(v) before implementation of any rate increase, the governing board of the energy services interlocal entity shall first hold a public meeting to take public comment on the proposed increase, after providing:

(A) at least 20 days and not more than 60 days' advance written notice to its customers on the ordinary billing [~~and on the Utah Public Notice Website, created by Section 63A-16-601~~]; and

(B) notice for the interlocal entity, as a class A notice under Section 63G-28-102, for at least 20 days; and

(vi) the energy services interlocal entity shall file with the Public Service Commission its current schedule of rates and conditions of service.

(d) The Public Service Commission shall make the schedule of rates and conditions of service of the energy services interlocal entity available for public inspection.

(e) Nothing in this section:

(i) gives the Public Service Commission jurisdiction over the provision of retail electric service by an energy services interlocal entity within the municipal boundaries of its members; or

(ii) makes an energy services interlocal entity a public utility under Title 54, Public Utilities.

(f) Nothing in this section expands or diminishes the jurisdiction of the Public Service Commission over a municipality or an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act, except as specifically authorized by this section's language.

(g) (i) An energy services interlocal entity described in Subsection (7)(a) retains its authority to provide electric service to the extent authorized by Sections 11-13-202 and 11-13-203 and Subsections 11-13-204(1) through (5).

(ii) Notwithstanding Subsection (7)(g)(i), if the Public Service Commission approves the agreement described in Subsection (7)(a)(i), the energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members, except for customers located within the geographic area described in the agreement.

Section 48. Section 11-13-219 is amended to read:

11-13-219. Publication of resolutions or agreements -- Contesting legality of resolution or agreement.

(1) As used in this section:

(a) "Enactment" means:

(i) a resolution adopted or proceedings taken by a governing body under the authority of this chapter, and includes a resolution, indenture, or other instrument providing for the issuance of bonds; and

(ii) an agreement or other instrument that is authorized, executed, or approved by a governing body under the authority of this chapter.

(b) "Governing body" means:

(i) the legislative body of a public agency; or

(ii) the governing authority of an interlocal entity created under this chapter.

(c) "Notice of agreement" means the notice authorized by Subsection (3)(c).

(d) "Notice of bonds" means the notice authorized by Subsection (3)(d).

(2) Any enactment taken or made under the authority of this chapter is not subject to referendum.

(3) (a) A governing body need not publish any enactment taken or made under the authority of this chapter.

(b) A governing body may provide for the publication of any enactment taken or made by it under the authority of this chapter according to the publication requirements established by this section.

(c) (i) If the enactment is an agreement, document, or other instrument, or a resolution or other proceeding authorizing or approving an agreement, document, or other instrument, the governing body may, instead of publishing the full text of the agreement, resolution, or other proceeding, publish a notice of agreement containing:

(A) the names of the parties to the agreement;

(B) the general subject matter of the agreement;

(C) the term of the agreement;

(D) a description of the payment obligations, if any, of the parties to the agreement; and

(E) a statement that the resolution and agreement will be available for review at the governing body's principal place of business during regular business hours for 30 days after the publication of the notice of agreement.

(ii) The governing body shall make a copy of the resolution or other proceeding and a copy of the contract available at its principal place of business during regular business hours for 30 days after the publication of the notice of agreement.

(d) If the enactment is a resolution or other proceeding authorizing the issuance of bonds, the governing body may, instead of publishing the full text of the resolution or other proceeding and the documents pertaining to the issuance of bonds, publish a notice of bonds that contains the information described in Subsection 11-14-316(2).

(4) (a) If the governing body chooses to publish an enactment, notice of bonds, or notice of agreement, the governing body shall comply with the requirements of this Subsection (4).

(b) The governing body shall post the enactment, notice of bonds, or notice of agreement [~~on the Utah Public Notice Website created in Section 63A-16-601~~] for the governing body's geographic jurisdiction, as a class A notice under Section 63G-28-102, for 30 days.

(5) (a) Any person in interest may contest the legality of an enactment or any action performed or instrument issued under the authority of the enactment for 30 days after the posting of the enactment, notice of bonds, or notice of agreement.

(b) After the 30 days have passed, no one may contest the regularity, formality, or legality of the enactment or any action performed or instrument issued under the authority of the enactment for any cause whatsoever.

Section 49. Section 11-13-509 is amended to read:

11-13-509. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the governing board shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection (2) [~~or (5)~~], order that notice of the hearing[~~:(i)~~] be published, for at least seven days before the day of the hearing, [~~in at least one issue of a newspaper of general circulation in a county in which the interlocal entity provides service to the public or in which its members are located, if such a newspaper is generally circulated in the county or counties; and~~] for the interlocal entity's service area, as a class A notice under Section 63G-28-102.

[~~(ii) be published at least seven days before the day of the hearing on the Utah Public Notice Website created in Section 63A-16-601.~~]

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) Proof that notice was given in accordance with Subsection [~~(1)(b), (2), or (5)~~] (1)(b), or (2) is prima facie evidence that notice was properly given.

(4) If a notice required under Subsection [~~(1)(b), (2), or (5)~~] (1)(b), or (2) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

[~~(5) A governing board of an interlocal entity with an annual operating budget of less than $250,000 may satisfy the notice requirements in Subsection (1)(b) by:~~]

[~~(a) mailing a written notice, postage prepaid, to each voter in an interlocal entity; and~~]

[~~(b) posting the notice in three public places within the interlocal entity's service area.~~]

Section 50. Section 11-14-202 is amended to read:

11-14-202. Notice of election -- Voter information pamphlet option -- Changing or designating additional precinct polling places.

(1) The governing body shall provide notice of the election[~~:~~] for the local political subdivision for at least three weeks before the day of the election, as a class A notice under Section 63G-28-102.

[~~(a) (i) at least 21 days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the local political subdivision, in places within the local political subdivision that are most likely to give notice to the voters in the local political subdivision, subject to a maximum of 10 notices; or~~]

[~~(ii) at least three weeks before the day of the election, by mailing notice to each registered voter in the local political subdivision;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the election; and~~]

[~~(c) if the local political subdivision has a website, by posting notice on the local political subdivision's website for at least three weeks before the day of the election.~~]

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (8):

(a) at least 15 days, but not more than 45 days, before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (4) and (5).

(3) The election officer may change the location of, or establish an additional:

(a) voting precinct polling place, in accordance with Subsection (6);

(b) early voting polling place, in accordance with Subsection 20A-3a-603(2); or

(c) election day voting center, in accordance with Subsection 20A-3a-703(2).

(4) The notice described in Subsection (1) and the voter information pamphlet described in Subsection (2):

(a) shall include, in the following order:

(i) the date of the election;

(ii) the hours during which the polls will be open;

(iii) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each polling place for each voting precinct, each early voting polling place, and each election day voting center, including any changes to the location of a polling place and the location of an additional polling place;

(iv) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(v) the title and text of the ballot proposition, including the property tax cost of the bond described in Subsection 11-14-206(2)(a); and

(b) may include the location of each polling place.

(5) The voter information pamphlet required by this section shall include:

(a) the information required under Subsection (4); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(6) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadlines described in Subsections (1) and (2):

(i) if necessary, change the location of a voting precinct polling place; or

(ii) if the election officer determines that the number of voting precinct polling places is insufficient due to the number of registered voters who are voting, designate additional voting precinct polling places.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a voting precinct polling place or designates an additional voting precinct polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of a changed voting precinct polling place or an additional voting precinct polling place:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of a voting precinct polling place, at the new location and, if possible, the old location; and

(B) of an additional voting precinct polling place, at the additional voting precinct polling place.

(7) The governing body shall pay the costs associated with the notice required by this section.

(8) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (8)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(9) A local school board shall comply with the voter information pamphlet requirements described in Section 53G-4-603.

Section 51. Section 11-14-315 is amended to read:

11-14-315. Nature and validity of bonds issued -- Applicability of other statutory provisions -- Budget provision required -- Applicable procedures for issuance -- Notice.

Bonds issued under this chapter shall have all the qualities of negotiable paper, shall be incontestable in the hands of bona fide purchasers or holders for value and are not invalid for any irregularity or defect in the proceedings for their issuance and sale. This chapter is intended to afford an alternative method for the issuance of bonds by local political subdivisions and may not be so construed as to deprive any local political subdivision of the right to issue its bonds under authority of any other statute, but nevertheless this chapter shall constitute full authority for the issue and sale of bonds by local political subdivisions. The provisions of Section 11-1-1 are not applicable to bonds issued under this chapter. Any local political subdivision subject to the provisions of any budget law shall in its annual budget make proper provision for the payment of principal and interest currently falling due on bonds issued hereunder, but no provision need be made in any such budget prior to the issuance of the bonds for the issuance thereof or for the expenditure of the proceeds thereof. No ordinance, resolution or proceeding in respect to the issuance of bonds hereunder shall be necessary except as herein specifically required, nor shall the publication of any resolution, proceeding or notice relating to the issuance of the bonds be necessary except as herein required. Any publication made hereunder shall be made by [~~posting on the Utah Public Notice Website created in Section 63A-16-601~~] providing notice for the local political subdivision, as a class A notice under Section 63G-28-102. No resolution adopted or proceeding taken hereunder shall be subject to referendum petition or to an election other than as herein required. All proceedings adopted hereunder may be adopted on a single reading at any legally convened meeting of the governing body.

Section 52. Section 11-14-316 is amended to read:

11-14-316. Publication of notice, resolution, or other proceeding -- Contest.

(1) The governing body of any local political subdivision may provide for the publication of any resolution or other proceeding adopted under this chapter:

(a) [~~in a newspaper having general circulation in~~] for the local political subdivision, as a class A notice under Section 63G-28-102, for at least 30 days; and

(b) as required in Section 45-1-101.

(2) When a resolution or other proceeding provides for the issuance of bonds, the governing body may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, titled as such, containing:

(a) the name of the issuer;

(b) the purpose of the issue;

(c) the type of bonds and the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear, if any;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold;

(g) a general description of the security pledged for repayment of the bonds;

(h) the total par amount of bonds currently outstanding that are secured by the same pledge of revenues as the proposed bonds, if any;

(i) information on a method by which an individual may obtain access to more detailed information relating to the outstanding bonds of the local political subdivision;

(j) the estimated total cost to the local political subdivision for the proposed bonds if the bonds are held until maturity, based on interest rates in effect at the time that the local political subdivision publishes the notice; and

(k) the times and place where a copy of the resolution or other proceeding may be examined, which shall be:

(i) at an office of the issuer identified in the notice, during regular business hours of the issuer as described in the notice; and

(ii) for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of such resolution or proceeding;

(b) any bonds which may be authorized by such resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(4) A person shall contest the matters set forth in Subsection (3) by filing a verified written complaint in the district court of the county in which he resides within the 30-day period.

(5) After the 30-day period, no person may contest the regularity, formality, or legality of the resolution or proceeding for any reason.

Section 53. Section 11-14-318 is amended to read:

11-14-318. Public hearing required -- Notice.

(1) Before issuing bonds authorized under this chapter, a local political subdivision shall:

(a) in accordance with Subsection (2), provide public notice of the local political subdivision's intent to issue bonds; and

(b) hold a public hearing:

(i) if an election is required under this chapter:

(A) no sooner than 30 days before the day on which the notice of election is published under Section 11-14-202; and

(B) no later than five business days before the day on which the notice of election is published under Section 11-14-202; and

(ii) to receive input from the public with respect to:

(A) the issuance of the bonds; and

(B) the potential economic impact that the improvement, facility, or property for which the bonds pay all or part of the cost will have on the private sector.

(2) A local political subdivision shall:

(a) publish the notice required by Subsection (1)(a) [~~on the Utah Public Notice Website, created under Section 63A-16-601,~~] for the local political subdivision, as a class A notice under Section 63G-28-102, for no less than 14 days before the day of the public hearing required by Subsection (1)(b); and

(b) ensure that the notice:

(i) identifies:

(A) the purpose for the issuance of the bonds;

(B) the maximum principal amount of the bonds to be issued;

(C) the taxes, if any, proposed to be pledged for repayment of the bonds; and

(D) the time, place, and location of the public hearing; and

(ii) informs the public that the public hearing will be held for the purposes described in Subsection (1)(b)(ii).

Section 54. Section 11-14a-1 is amended to read:

11-14a-1. Notice of debt issuance.

(1) For purposes of this chapter:

(a) (i) "Debt" includes bonds, lease purchase agreements, certificates of participation, and contracts with municipal building authorities.

(ii) "Debt" does not include tax and revenue anticipation notes or refunding bonds.

(b) (i) "Local government entity" means a county, city, town, school district, local district, or special service district.

(ii) "Local government entity" does not mean an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act that has assets over $10,000,000.

(c) "New debt resolution" means a resolution authorizing the issuance of debt wholly or partially to fund a rejected project.

(d) "Rejected Project" means a project for which a local government entity sought voter approval for general obligation bond financing and failed to receive that approval.

(2) Unless a local government entity complies with the requirements of this section, it may not adopt a new debt resolution.

(3) (a) Before adopting a new debt resolution, a local government entity shall[~~:~~]

[~~(i)~~] advertise the local government entity's intent to issue debt by [~~posting~~] providing a notice of that intent [~~on the Utah Public Notice Website created in Section 63A-16-601,~~] for the local government entity, as a class A notice under Section 63G-28-102, for the two weeks before the meeting at which the resolution will be considered[~~; or~~].

[~~(ii) include notice of its intent to issue debt in a bill or other mailing sent to at least 95% of the residents of the local government entity.~~]

(b) The local government entity shall ensure that the notice:

(i) except for website publication, is at least as large as the bill or other mailing that it accompanies;

(ii) is entitled, in type size no smaller than 24 point, "Intent to Issue Debt"; and

(iii) contains the information required by Subsection (3)(c).

(c) The local government entity shall ensure that the advertisement or notice described in Subsection (3)(a):

(i) identifies the local government entity;

(ii) states that the entity will meet on a day, time, and place identified in the advertisement or notice to hear public comments regarding a resolution authorizing the issuance of debt by the entity and to explain to the public the reasons for the issuance of debt;

(iii) contains:

(A) the name of the entity that will issue the debt;

(B) the purpose of the debt; and

(C) that type of debt and the maximum principal amount that may be issued;

(iv) invites all concerned citizens to attend the public hearing; and

(v) states that some or all of the proposed debt would fund a project whose general obligation bond financing was rejected by the voters.

(4) (a) The resolution considered at the hearing shall identify:

(i) the type of debt proposed to be issued;

(ii) the maximum principal amount that might be issued;

(iii) the interest rate;

(iv) the term of the debt; and

(v) how the debt will be repaid.

(b) (i) Except as provided in Subsection (4)(b)(ii), the resolution considered at the hearing need not be in final form and need not be adopted or rejected at the meeting at which the public hearing is held.

(ii) The local government entity may not, in the final resolution, increase the maximum principal amount of debt contained in the notice and discussed at the hearing.

(c) The local government entity may adopt, amend and adopt, or reject the resolution at a later meeting without recomplying with the published notice requirements of this section.

Section 55. Section 11-17-16 is amended to read:

11-17-16. Publication of resolutions and notice of bonds to be issued.

(1) (a) The governing body may provide for the publication of any resolution or other proceeding adopted by it under this chapter, including all resolutions providing for the sale or lease of any land by the municipality, county, or state university in connection with the establishment, acquisition, development, maintenance, and operation of an industrial park.

(b) The publication shall be given:

(i) [~~The publication shall be:~~] as a class A notice under Section 63G-28-102, for at least seven days:

(A) [~~in a newspaper qualified to carry legal notices having general circulation in~~] for the municipality or county; or

(B) in the case of a state university, [~~in a newspaper of general circulation in~~] for the county within which the principal administrative office of the state university is located; and

(ii) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of bonds, the governing body may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, titled as such, containing:

(a) the name of the issuer;

(b) the purpose of the issue;

(c) the name of the users, if known;

(d) the maximum principal amount which may be issued;

(e) the maximum number of years over which the bonds may mature; and

(f) the times and place where a copy of the resolution or other proceeding may be examined, which shall be at an office of the issuer, identified in the notice, during regular business hours of the issuer as described in the notice and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after publication any person in interest may contest the legality of the resolution, proceeding, any bonds which may be authorized under them, or any provisions made for the security and payment of the bonds. After expiration of the 30-day period no person may contest the regularity, formality, or legality of the resolution, proceedings, bonds, or security provisions for any cause.

Section 56. Section 11-27-4 is amended to read:

11-27-4. Publication of resolution -- Notice of bond issue -- Contest of resolution or proceeding.

(1) The governing body of any public body may provide for the publication of any resolution or other proceeding adopted by it under this chapter:

(a) [~~in a newspaper having general circulation in~~] for the public body, as a class A notice under Section 63G-28-102, for at least seven days; and

(b) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of refunding bonds (or for a combined issue of refunding bonds and bonds issued for any other purpose), the governing body may, instead of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, entitled accordingly, and containing:

(a) the name of the issuer;

(b) the purposes of the issue;

(c) the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold;

(g) a general description of the security pledged for repayment of the bonds; and

(h) the times and place where a copy of the resolution or other proceeding authorizing the

issuance of the bonds may be examined, which shall be at an office of the governing body identified in the notice, during regular business hours of the governing body as described in the notice and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after the publication, any person in interest shall have the right to contest the legality of the resolution or proceeding or any bonds which may be so authorized or any provisions made for the security and payment of these bonds; and after this time no person shall have any cause of action to contest the regularity, formality, or legality thereof for any cause.

Section 57. Section 11-27-5 is amended to read:

11-27-5. Negotiability of bonds -- Intent and construction of chapter -- Budget for payment of bonds -- Proceedings limited to those required by chapter -- Notice -- No election required -- Application of chapter.

(1) Refunding bonds shall have all the qualities of negotiable paper, shall be incontestable in the hands of bona fide purchasers or holders for value, and are not invalid for any irregularity or defect in the proceedings for their issuance and sale. This chapter is intended to afford an alternative method for the issuance of refunding bonds by public bodies and may not be construed to deprive any public body of the right to issue bonds for refunding purposes under authority of any other statute, but this chapter, nevertheless, shall constitute full authority for the issue and sale of refunding bonds by public bodies. Section 11-1-1, however, is not applicable to refunding bonds.

(2) Any public body subject to any budget law shall in its annual budget make proper provision for the payment of principal and interest currently falling due on refunding bonds, but no provision need be made in the budget prior to the issuance of the refunding bonds for their issuance or for the expenditure of the proceeds from them.

(3) (a) No ordinance, resolution, or proceeding concerning the issuance of refunding bonds nor the publication of any resolution, proceeding, or notice relating to the issuance of the refunding bonds shall be necessary except as specifically required by this chapter.

(b) A publication made under this chapter may be made:

[~~(i) in any newspaper in which legal notices may be published under the laws of Utah, without regard to its designation as the official journal or newspaper of the public body; and~~]

(i) for the public body, as a class A notice under Section 63G-28-102; and

(ii) as required in Section 45-1-101.

(4) No resolution adopted or proceeding taken under this chapter shall be subject to any referendum petition or to an election other than as required by this chapter. All proceedings adopted under this chapter may be adopted on a single reading at any legally-convened meeting of the governing body. This chapter shall apply to all bonds issued and outstanding at the time this chapter takes effect as well as to bonds issued after this chapter takes effect.

Section 58. Section 11-30-5 is amended to read:

11-30-5. Publication of order for hearing.

(1) Prior to the date set for hearing, the clerk of the court shall [~~cause~~] publish the order [~~to be published by posting the order on the Utah Public Notice Website created in Section 63A-16-601~~] for the public body's jurisdiction, as a class A notice under Section 63G-28-102, for three weeks.

(2) If a refunding bond is being validated, all holders of the bonds to be refunded may be made defendants to the action, in which case notice may be made, and if so made shall be considered sufficient, by mailing a copy of the order to each holder's last-known address.

(3) By publication of the order, all defendants shall have been duly served and shall be parties to the proceedings.

Section 59. Section 11-32-10 is amended to read:

11-32-10. Application to other laws and proceedings -- Notice.

(1) This chapter is supplemental to all existing laws relating to the collection of delinquent taxes by participant members.

(2) (a) No ordinance, resolution, or proceeding in respect to any transaction authorized by this chapter is necessary except as specifically required in this chapter nor is the publication of any resolution, proceeding, or notice relating to any transaction authorized by this chapter necessary except as required by this chapter.

(b) A publication made under this chapter may be made:

[~~(i) in a newspaper conforming to the terms of this chapter and in which legal notices may be published under the laws of Utah, without regard to the designation of it as the official journal or newspaper of the public body~~]

(i) for the public body's jurisdiction, as a class A notice under Section 63G-28-102, for at least seven days; and

(ii) as required in Section 45-1-101.

(c) No resolution adopted or proceeding taken under this chapter may be subject to referendum petition or to an election other than as permitted in this chapter.

(d) All proceedings adopted under this chapter may be adopted on a single reading at any legally convened meeting of the governing body or bodies or the board of trustees of the authority as appropriate.

(3) Any formal action or proceeding taken by the governing body of a county or other public body or the board of trustees of an authority under the authority of this chapter may be taken by resolution of the governing body or the board of trustees as appropriate.

(4) This chapter shall apply to all authorities created, assignment agreements executed, and bonds issued after this chapter takes effect.

(5) All proceedings taken before the effective date of this chapter by a county or other public body in connection with the creation and operation of a financing authority are validated, ratified, approved, and confirmed.

Section 60. Section 11-32-11 is amended to read:

11-32-11. Publication of resolutions -- Notice -- Content.

(1) The governing body of any county, or the board of trustees of any financing authority, may provide for the publication of any resolution or other proceeding adopted by it under this chapter:

(a) [~~in a newspaper having general circulation in~~] for the county, as a class A notice under Section 63G-28-102, for at least seven days; and

(b) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of bonds, the board of trustees of a financing authority may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, titled as such, containing:

(a) the name of the financing authority and the participant members;

(b) the purposes of the issue;

(c) the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold; and

(g) the time and place where a copy of the resolution or other proceedings authorizing the issuance of the bonds may be examined, which shall be at an office of the financing authority, identified in the notice, during regular business hours of the financing authority as described in the notice and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after the publication, any person in interest may contest the legality of the resolution or proceeding or any bonds or assignment agreements which may be authorized by them or any provisions made for the security and payment of the bonds or for the security and payment of the assignment agreement. After such time no person has any cause of action to contest the regularity, formality, or legality of same for any cause.

Section 61. Section 11-36a-501 is amended to read:

11-36a-501. Notice of intent to prepare an impact fee facilities plan.

(1) Before preparing or amending an impact fee facilities plan, a local political subdivision or private entity shall provide written notice of its intent to prepare or amend an impact fee facilities plan.

(2) A notice required under Subsection (1) shall:

(a) indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;

(b) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and

(c) subject to Subsection (3), be [~~posted on the Utah Public Notice Website created under Section 63A-16-601~~] provided for the geographic area where the proposed impact fee facilities will be located, as a class A notice under Section 63G-28-102, for at least 10 days.

(3) For a private entity required to post notice [~~on the Utah Public Notice Website~~] under Subsection (2)(c):

(a) the private entity shall give notice to the general purpose local government in which the private entity's private business office is located; and

(b) the general purpose local government described in Subsection (3)(a) shall post the notice on the Utah Public Notice Website and, as available, on the general purpose local government's website.

Section 62. Section 11-36a-503 is amended to read:

11-36a-503. Notice of preparation of an impact fee analysis.

(1) Before preparing or contracting to prepare an impact fee analysis, each local political subdivision or, subject to Subsection (2), private entity shall [~~post~~] provide a public notice [~~on the Utah Public Notice Website created under Section 63A-16-601~~] for the local political subdivision, as a class A notice under Section 63G-28-102, for at least 10 days.

(2) For a private entity required to post notice [~~on the Utah Public Notice Website~~] under Subsection (1):

(a) the private entity shall give notice to the general purpose local government in which the private entity's primary business is located; and

(b) the general purpose local government described in Subsection (2)(a) shall post the notice on the Utah Public Notice Website and, as

available, on the general purpose local government's website.

Section 63. Section 11-36a-504 is amended to read:

11-36a-504. Notice of intent to adopt impact fee enactment -- Hearing -- Protections.

(1) Before adopting an impact fee enactment:

(a) a municipality legislative body shall:

(i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use regulation;

(b) a county legislative body shall:

(i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use regulation;

(c) a local district or special service district shall:

(i) comply with the notice and hearing requirements of Section 17B-1-111; and

(ii) receive the protections of Section 17B-1-111;

(d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:

(i) make a copy of the impact fee enactment available to the public; and

(ii) [~~post~~] provide notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, [~~on the Utah Public Notice Website created under Section 63A-16-601; and~~] for the local political subdivision, as a class A notice under Section 63G-28-102, for at least 10 days; and

(e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.

(2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Section 64. Section 11-39-103 is amended to read:

11-39-103. Requirements for undertaking a building improvement or public works project -- Request for bids -- Notice -- Authority to reject bids.

(1) If the estimated cost of the building improvement or public works project exceeds the bid limit, the local entity shall, if it determines to proceed with the building improvement or public works project:

(a) request bids for completion of the building improvement or public works project by[~~:(i) posting~~] providing notice for the local entity, as a class A notice under Section 63G-28-102, for at least five days before opening the bids [~~in at least five public places in the local entity~~] and leaving the notice posted for at least three days; and

[~~(ii) posting notice on the Utah Public Notice Website created in Section 63A-16-601, at least five days before opening the bids; and~~]

(b) except as provided in Subsection (3), enter into a contract for the completion of the building improvement or public works project with:

(i) the lowest responsive responsible bidder; or

(ii) for a design-build project formulated by a local entity, a responsible bidder that:

(A) offers design-build services; and

(B) satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements for a design-build project.

(2) (a) Each notice under Subsection (1)(a) shall indicate that the local entity may reject any or all bids submitted.

(b) (i) The cost of a building improvement or public works project may not be divided to avoid:

(A) exceeding the bid limit; and

(B) subjecting the local entity to the requirements of this section.

(ii) Notwithstanding Subsection (2)(b)(i), a local entity may divide the cost of a building improvement or public works project that would, without dividing, exceed the bid limit if the local entity complies with the requirements of this section with respect to each part of the building improvement or public works project that results from dividing the cost.

(3) (a) The local entity may reject any or all bids submitted.

(b) If the local entity rejects all bids submitted but still intends to undertake the building improvement or public works project, the local entity shall again request bids by following the procedure provided in Subsection (1)(a).

(c) If, after twice requesting bids by following the procedure provided in Subsection (1)(a), the local

entity determines that no satisfactory bid has been submitted, the governing body may undertake the building improvement or public works project as it considers appropriate.

Section 65. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation -- Notice.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the nature of the improvements; and

(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the [~~version of~~] notice mailed [~~in accordance with~~] under Subsection [~~(4)(b)~~] (4), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to calculate the proposed assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

(i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

(j) state the date, time, and place of the public hearing required in Section 11-42-204;

(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and

(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(a)(ii)(C):

(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale;

(C) is binding on the property owner and all successors; and

(D) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;

(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities;

(n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

(3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102(25)(a)(ii).

(4) Each notice required under Subsection 11-42-201(2)(a) shall[~~:~~] be published for the governing body's jurisdiction, as a class B notice under Section 63G-28-102, for at least 20 days, but not more than 35 days, before the day of the hearing required in Section 11-42-204.

[~~(a) (i) be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and~~]

[~~(ii) be published on the Utah Public Notice Website described in Section 63A-16-601 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(i); and~~]

[~~(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.~~]

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection [~~(4)(a)~~] (4) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section 66. Section 11-42-301 is amended to read:

11-42-301. Improvements made only under contract let to lowest responsive, responsible bidder -- Publishing notice -- Sealed bids -- Procedure -- Exceptions to contract requirement.

(1) Except as otherwise provided in this section, a local entity may make improvements in an assessment area only under contract let to the lowest responsive, responsible bidder for the kind of

service, material, or form of construction that the local entity's governing body determines in compliance with any applicable local entity ordinances.

(2) A local entity may:

(a) divide improvements into parts;

(b) (i) let separate contracts for each part; or

(ii) combine multiple parts into the same contract; and

(c) let a contract on a unit basis.

(3) (a) A local entity may not let a contract until after [~~posting~~] providing notice as provided in Subsection (3)(b), [~~on the Utah Public Notice Website created in Section 63A-16-601,~~] as a class A notice under Section 63G-28-102, for at least 15 days before the date specified for receipt of bids.

(b) Each notice under Subsection (3)(a) shall notify contractors that the local entity will receive sealed bids at a specified time and place for the construction of the improvements.

(c) Notwithstanding a local entity's failure, through inadvertence or oversight, to publish the notice or to publish the notice within 15 days before the date specified for receipt of bids, the governing body may proceed to let a contract for the improvements if the local entity receives at least three sealed and bona fide bids from contractors by the time specified for the receipt of bids.

(d) A local entity may publish a notice required under this Subsection (3) at the same time as a notice under Section 11-42-202.

(4) (a) A local entity may accept as a sealed bid a bid that is:

(i) manually sealed and submitted; or

(ii) electronically sealed and submitted.

(b) The governing body or project engineer shall, at the time specified in the notice under Subsection (3), open and examine the bids.

(c) In open session, the governing body:

(i) shall declare the bids; and

(ii) may reject any or all bids if the governing body considers the rejection to be for the public good.

(d) The local entity may award the contract to the lowest responsive, responsible bidder even if the price bid by that bidder exceeds the estimated costs as determined by the project engineer.

(e) A local entity may in any case:

(i) refuse to award a contract;

(ii) obtain new bids after giving a new notice under Subsection (3);

(iii) determine to abandon the assessment area; or

(iv) not make some of the improvements proposed to be made.

(5) A local entity is not required to let a contract as provided in this section for:

(a) an improvement or part of an improvement the cost of which or the making of which is donated or contributed;

(b) an improvement that consists of furnishing utility service or maintaining improvements;

(c) labor, materials, or equipment supplied by the local entity;

(d) the local entity's acquisition of completed or partially completed improvements in an assessment area;

(e) design, engineering, and inspection costs incurred with respect to the construction of improvements in an assessment area; or

(f) additional work performed in accordance with the terms of a contract duly let to the lowest responsive, responsible bidder.

(6) A local entity may itself furnish utility service and maintain improvements within an assessment area.

(7) (a) A local entity may acquire completed or partially completed improvements in an assessment area, but may not pay an amount for those improvements that exceeds their fair market value.

(b) Upon the local entity's payment for completed or partially completed improvements, title to the improvements shall be conveyed to the local entity or another public agency.

(8) The provisions of Title 11, Chapter 39, Building Improvements and Public Works Projects, and Section 72-6-108 do not apply to improvements to be constructed in an assessment area.

Section 67. Section 11-42-402 is amended to read:

11-42-402. Notice of assessment and board of equalization hearing.

Each notice required under Subsection 11-42-401(2)(a)(iii) shall:

(1) state:

(a) that an assessment list is completed and available for examination at the offices of the local entity;

(b) the total estimated or actual cost of the improvements;

(c) the amount of the total estimated or actual cost of the proposed improvements to be paid by the local entity;

(d) the amount of the assessment to be levied against benefitted property within the assessment area;

(e) the assessment method used to calculate the proposed assessment;

(f) the unit cost used to calculate the assessments shown on the assessment list, based on the assessment method used to calculate the proposed assessment; and

(g) the dates, times, and place of the board of equalization hearings under Subsection 11-42-401(2)(b)(i); and

(2) [~~(a) beginning~~] for at least 20, but not more than 35, days before the day on which the first hearing of the board of equalization is held, be [~~posted in at least three public places within the local entity's jurisdictional boundaries; and~~] published for the local entity's jurisdiction, as a class B notice under Section 63G-28-102.

[~~(b) be published on the Utah Public Notice Website created in Section 63A-16-601 for 35 days immediately before the day on which the first hearing of the board of equalization is held; and~~]

[~~(3) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.~~]

Section 68. Section 11-42-404 is amended to read:

11-42-404. Adoption of a resolution or ordinance levying an assessment -- Notice of the adoption -- Effective date of resolution or ordinance -- Notice of assessment interest.

(1) (a) After receiving a final report from a board of equalization under Subsection 11-42-403(5) or, if applicable, after the time for filing an appeal under Subsection 11-42-403(6) has passed, the governing body may adopt a resolution or ordinance levying an assessment against benefitted property within the assessment area designated in accordance with Part 2, Designating an Assessment Area.

(b) Except as provided in Subsection (1)(c), a local entity may not levy more than one assessment under this chapter for an assessment area designated in accordance with Part 2, Designating an Assessment Area.

(c) A local entity may levy more than one assessment in an assessment area designated in accordance with Part 2, Designating an Assessment Area, if:

(i) the local entity has adopted a designation resolution or designation ordinance for each assessment in accordance with Section 11-42-201; and

(ii) the assessment is levied to pay:

(A) subject to Section 11-42-401, operation and maintenance costs;

(B) subject to Section 11-42-406, the costs of economic promotion activities; or

(C) the costs of environmental remediation activities.

(d) An assessment resolution or ordinance adopted under Subsection (1)(a):

(i) need not describe each tract, block, lot, part of block or lot, or parcel of property to be assessed;

(ii) need not include the legal description or tax identification number of the parcels of property assessed in the assessment area; and

(iii) is adequate for purposes of identifying the property to be assessed within the assessment area if the assessment resolution or ordinance incorporates by reference the corrected assessment list that describes the property assessed by legal description and tax identification number.

(2) (a) A local entity that adopts an assessment resolution or ordinance shall give notice of the adoption [~~by:~~] for the local entity's jurisdiction, as a class A notice under Section 63G-28-102, for at least 21 days.

[~~(i) posting a copy of the resolution or ordinance in at least three public places within the local entity's jurisdictional boundaries for at least 21 days; and~~]

[~~(ii) posting a copy of the resolution or ordinance on the Utah Public Notice Website created in Section 63A-16-601 for at least 21 days.~~]

(b) No other publication or posting of the resolution or ordinance is required.

(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each assessment resolution or ordinance takes effect:

(a) on the date of publication or posting of the notice under Subsection (2); or

(b) at a later date provided in the resolution or ordinance.

(4) (a) The governing body of each local entity that has adopted an assessment resolution or ordinance under Subsection (1) shall, within five days after the day on which the 25-day prepayment period under Subsection 11-42-411(6) has passed, file a notice of assessment interest with the recorder of the county in which the assessed property is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:

(i) state that the local entity has an assessment interest in the assessed property;

(ii) if the assessment is to pay operation and maintenance costs or for economic promotion activities, state the maximum number of years over which an assessment will be payable; and

(iii) describe the property assessed by legal description and tax identification number.

(c) A local entity's failure to file a notice of assessment interest under this Subsection (4) has no affect on the validity of an assessment levied under an assessment resolution or ordinance adopted under Subsection (1).

Section 69. Section 11-42-604 is amended to read:

11-42-604. Notice regarding resolution or ordinance authorizing interim warrants or

bond anticipation notes -- Complaint contesting warrants or notes -- Prohibition against contesting warrants and notes.

(1) A local entity may publish notice, as provided in Subsection (2), of a resolution or ordinance that the governing body has adopted authorizing the issuance of interim warrants or bond anticipation notes.

(2) (a) If a local entity chooses to publish notice under Subsection (1), the notice shall:

(i) be published:

(A) [~~in a newspaper of general circulation within~~] for the local entity, as a class A notice under Section 63G-28-102, for at least 30 days; and

(B) as required in Section 45-1-101; and

(ii) contain:

(A) the name of the issuer of the interim warrants or bond anticipation notes;

(B) the purpose of the issue;

(C) the maximum principal amount that may be issued;

(D) the maximum length of time over which the interim warrants or bond anticipation notes may mature;

(E) the maximum interest rate, if there is a maximum rate; and

(F) the times and place where a copy of the resolution or ordinance may be examined, as required under Subsection (2)(b).

(b) The local entity shall allow examination of the resolution or ordinance authorizing the issuance of the interim warrants or bond anticipation notes at its office during regular business hours.

(3) Any person may, within 30 days after publication of a notice under Subsection (1), file a verified, written complaint in the district court of the county in which the person resides, contesting the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by the local entity or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

(4) After the 30-day period under Subsection (3), no person may contest the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by a local entity under the resolution or ordinance that was the subject of the notice under Subsection (1), or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

Section 70. Section 11-42a-201 is amended to read:

11-42a-201. Resolution or ordinance designating an energy assessment area, levying an assessment, and issuing an energy assessment bond -- Notice of adoption.

(1) (a) Except as otherwise provided in this chapter, and subject to the requirements of this part, at the request of a property owner on whose property or for whose benefit an improvement is being installed or being reimbursed, a governing body of a local entity may adopt an energy assessment resolution or an energy assessment ordinance that:

(i) designates an energy assessment area;

(ii) levies an assessment within the energy assessment area; and

(iii) if applicable, authorizes the issuance of an energy assessment bond.

(b) The governing body of a local entity may, by adopting a parameters resolution, delegate to an officer of the local entity, in accordance with the parameters resolution, the authority to:

(i) execute an energy assessment resolution or ordinance that:

(A) designates an energy assessment area;

(B) levies an energy assessment lien; and

(C) approves the final interest rate, price, principal amount, maturities, redemption features, and other terms of the energy assessment bonds; and

(ii) approve and execute all documents related to the designation of the energy assessment area, the levying of the energy assessment lien, and the issuance of the energy assessment bonds.

(c) The boundaries of a proposed energy assessment area may:

(i) include property that is not intended to be assessed; and

(ii) overlap, be coextensive with, or be substantially coterminous with the boundaries of any other energy assessment area or an assessment area created under Title 11, Chapter 42, Assessment Area Act.

(d) The energy assessment resolution or ordinance described in Subsection (1)(a) is adequate for purposes of identifying the property to be assessed within the energy assessment area if the resolution or ordinance describes the property to be assessed by legal description and tax identification number.

(2) (a) A local entity that adopts an energy assessment resolution or ordinance under Subsection (1)(a) or a parameters resolution under Subsection (1)(b) shall give notice of the adoption of the energy assessment resolution or ordinance or the parameters resolution by [~~posting~~] publishing a copy of the resolution or ordinance[~~:~~] for the local entity's jurisdiction, as a class A notice under Section 63G-28-102, for at least 21 days.

[~~(i) in at least three public places within the local entity's jurisdictional boundaries for at least 21 days; and~~]

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601, for at least 21 days.~~]

(b) Except as provided in Subsection (2)(a), a local entity is not required to make any other publication or posting of the resolution or ordinance.

(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each energy assessment resolution or ordinance takes effect on the later of:

(a) the date on which the governing body of the local entity adopts the energy assessment resolution or ordinance;

(b) the date of publication or posting of the notice of adoption of either the energy assessment resolution or ordinance or the parameters resolution described in Subsection (2); or

(c) at a later date as provided in the resolution or ordinance.

(4) (a) The governing body of each local entity that has adopted an energy assessment resolution or ordinance under Subsection (1) shall, within five days after the effective date of the resolution or ordinance, file a notice of assessment interest with the recorder of the county in which the property to be assessed is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:

(i) state that the local entity has an assessment interest in the property to be assessed; and

(ii) describe the property to be assessed by legal description and tax identification number.

(c) If a local entity fails to file a notice of assessment interest under this Subsection (4):

(i) the failure does not invalidate the designation of an energy assessment area; and

(ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:

(A) the subsequent purchaser gives written consent;

(B) the subsequent purchaser has actual notice of the assessment levy; or

(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (4)(d).

(d) The local entity may file a corrected notice if the entity fails to comply with the date or other requirements for filing a notice of assessment interest.

(e) If a governing body has filed a corrected notice under Subsection (4)(d), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity was prohibited from collecting, if applicable, under Subsection (4)(c).

Section 71. Section 11-42b-104 is amended to read:

11-42b-104. Notice of proposed assessment area -- Requirements.

(1) If the legislative body of a specified county receives a petition that meets the requirements of Section 11-42b-103, the legislative body shall give notice of the proposed assessment area.

(2) The notice under Subsection (1) shall:

(a) include the following information:

(i) a statement that the legislative body received a petition to designate an assessment area under Section 11-42b-103;

(ii) a statement that the specified county proposes to:

(A) designate one or more areas within the specified county's geographic boundaries as an assessment area;

(B) contract with a third party administrator to provide beneficial activities within the proposed assessment area; and

(C) finance some or all of the cost of providing beneficial activities by an assessment on benefitted properties within the assessment area;

(iii) a summary of the contents of the proposed management plan, including the information described in Subsection 11-42b-103(2)(a)(i);

(iv) a statement explaining how an individual can access the petition described in Subsection (2)(a), including the contents of the proposed management plan;

(v) a statement that contains:

(A) the date described in Section 11-42b-105 and the location at which a protest under Section 11-42b-105 may be filed;

(B) the method by which the legislative body will determine the number of protests required to defeat the designation of the proposed assessment area or implementation of the proposed beneficial activities, subject to Subsection 11-42b-107(1)(b); and

(C) a statement in large, boldface, and conspicuous type explaining that an owner of a benefitted property must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed beneficial activities;

(vi) the date, time, and place of the public hearing required in Section 11-42b-106; and

(vii) any other information the legislative body considers appropriate; and

[~~(b) (i) be posted in at least three public places within the specified county's geographic boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42b-106; and~~]

[~~(ii) be published on the Utah Public Notice Website described in Section 63A-16-601 for four~~

~~weeks before the deadline for filing protests specified in the notice under Subsection (2)(a)(v); and~~]

[~~(c)~~] (b) [~~be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2)(b) to each owner of benefitted property within~~] be published for the proposed assessment area [~~at the owner's mailing address~~], as a class B notice under Section 63G-28-102, for at least 20 days, but not more than 35 days, before the day of the hearing required in Section 11-42b-105.

(3) (a) The legislative body may record the version of the notice that is published or posted in accordance with Subsection (2)(b) with the office of the county recorder.

(b) The notice recorded under Subsection (3)(a) expires and is no longer valid one year after the day on which the legislative body records the notice if the legislative body has failed to adopt the designation ordinance or resolution under Section 11-42b-102 designating the assessment area for which the notice was recorded.

Section 72. Section 11-42b-108 is amended to read:

11-42b-108. Amendments to management plan -- Procedure -- Notice requirements.

(1) After the legislative body adopts an ordinance or resolution approving a management plan as provided in Subsection 11-42b-107(1)(c)(ii) and contracts with a third party administrator to provide beneficial activities within the assessment area, the legislative body may amend the management plan if:

(a) the third party administrator submits to the legislative body a written request for amendments;

(b) subject to Subsection (2), the legislative body gives notice of the proposed amendments;

(c) the legislative body holds a public meeting no more than 90 days after the day on which the legislative body gives notice under Subsection (1)(b); and

(d) at the public meeting described in Subsection (1)(c), the legislative body adopts an ordinance or resolution approving the amendments to the management plan.

(2) The notice described in Subsection (1)(b) shall:

(a) describe the proposed amendments to the management plan;

(b) state the date, time, and place of the public meeting described in Subsection (1)(c); and

[~~(c) (i) be posted in at least three public places within the specified county's geographic boundaries at least 20 but not more than 35 days before the day of the public meeting described in Subsection (1)(c); and~~]

[~~(ii) be published on the Utah Public Notice Website described in Section 63A-16-601 for four weeks before the public meeting described in Subsection (1)(c); and~~]

[~~(d)~~] (c) [~~be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2)(c) to each owner of benefitted property within~~] be published for the assessment area [~~at the owner's mailing address~~], as a class B notice under Section 63G-28-102, for at least 20 days, but not more than 35 days, before the day of the public meeting described in Subsection (1)(c).

Section 73. Section 11-42b-109 is amended to read:

11-42b-109. Renewal of assessment area designation -- Procedure -- Disposition of previous revenues -- Notice requirements.

(1) Upon the expiration of an assessment area, the legislative body may, for a period not to exceed 10 years, renew the assessment area as provided in this section.

(2) (a) If there are no changes to the management plan or the designation of the third party administrator, the legislative body may not renew the assessment area unless:

(i) subject to Subsection (2)(c), the legislative body gives notice of the proposed renewal;

(ii) the legislative body holds a public meeting no more than 90 days after the day on which the legislative body gives notice under Subsection (2)(a)(i); and

(iii) at the public meeting described in Subsection (2)(a)(ii), the legislative body adopts an ordinance or resolution renewing the assessment area designation.

(b) If there are changes to the management plan or the designation of the third party administrator, the legislative body may not renew the assessment area unless the legislative body:

(i) gives notice of the proposed renewal in accordance with Section 11-42b-104;

(ii) receives and considers all protests filed under Section 11-42b-105;

(iii) holds a public hearing as provided in Section 11-42b-106;

(iv) holds a public meeting as provided in Section 11-42b-107; and

(v) at the public meeting described in Subsection (2)(b)(iv), adopts an ordinance or resolution renewing the assessment area.

(c) The notice described in Subsection (2)(a)(i) shall:

(i) state:

(A) that the legislative body proposes to renew the assessment area with no changes; and

(B) the date, time, and place of the public meeting described in Subsection (2)(a)(ii); and

[~~(ii) (A) be posted in at least three public places within the specified county's geographic boundaries at least 20 but not more than 35 days before the day of the public meeting described in Subsection (2)(a)(ii); and~~]

[~~(B) be published on the Utah Public Notice Website described in Section 63A-16-601 for four weeks before the public meeting described in Subsection (2)(a)(ii); and~~]

[~~(iii)~~] (ii) [~~be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2)(c)(ii) to each owner of benefitted property within~~] be published for the assessment area [~~at the owner's mailing address~~], as a class B notice under Section 63G-28-102, for at least 20 days, but not more than 35 days, before the day of the public meeting described in Subsection (2)(a)(ii).

(3) (a) Upon renewal of an assessment area, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed assessment area.

(b) If the renewed assessment area includes a benefitted property that was not included in the previous assessment area, the third party administrator may only expend revenues described in Subsection (3)(a) on benefitted properties that were included in the previous assessment area.

(c) If the renewed assessment area does not include a benefitted property that was included in the previous assessment area, the third party administrator shall refund to the owner of the benefitted property the revenues described in Subsection (3)(a) attributable to the benefitted property.

Section 74. Section 11-42b-110 is amended to read:

11-42b-110. Dissolution of assessment area -- Procedure -- Disposition of revenues -- Notice requirements.

(1) The legislative body may dissolve an assessment area before the assessment area expires as provided in this section.

(2) The legislative body may not dissolve an assessment area under Subsection (1) unless:

(a) (i) the legislative body determines there has been a misappropriation of funds, malfeasance, or a violation of law in connection with the management of the assessment area; or

(ii) a petition to dissolve the assessment area:

(A) is signed by a qualified number of owners; and

(B) is submitted to the legislative body within the period described in Subsection (3);

(b) subject to Subsection (4), the legislative body gives notice of the proposed dissolution;

(c) the legislative body holds a public meeting; and

(d) at the public meeting described in Subsection (2)(c), the legislative body adopts an ordinance or resolution dissolving the assessment area.

(3) The owners of benefitted properties may submit to the legislative body a petition described in Subsection (2)(a)(ii):

(a) within a 30-day period that begins after the day on which the assessment area is designated by ordinance or resolution under Section 11-42b-107; or

(b) within the same 30-day period during each subsequent year in which the assessment area exists.

(4) The notice described in Subsection (2)(b) shall:

(a) state:

(i) the reasons for the proposed dissolution; and

(ii) the date, time, and place of the public meeting described in Subsection (2)(c); and

[~~(b) (i) be posted in at least three public places within the specified county's geographic boundaries at least 20 but not more than 35 days before the day of the public meeting described in Subsection (2)(c); and~~]

[~~(ii) be published on the Utah Public Notice Website described in Section 63A-16-601 for four weeks before the public meeting described in Subsection (2)(c); and~~]

[~~(c)~~] (b) [~~be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(b) to each owner of benefitted property within~~] be published for the assessment area [~~at the owner's mailing address~~], as a class B notice under Section 63G-28-102, for at least 20 days, but not more than 35 days, before the day of the public meeting described in Subsection (2)(c).

(5) Upon the dissolution of an assessment area, the third party administrator shall return to the owner of each benefitted property any remaining revenues attributable to the benefitted property.

Section 75. Section 11-58-502 is amended to read:

11-58-502. Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.

(1) The board shall hold at least one public meeting to consider and discuss a draft project area plan.

(2) At least 10 days before holding a public meeting under Subsection (1), the board shall give notice of the public meeting:

(a) to each taxing entity;

(b) to a municipality in which the proposed project area is located or that is located within one-half mile of the proposed project area; and

[~~(c) on the Utah Public Notice Website created in Section 63A-16-601~~]

(c) for the proposed project area, as a class A notice under Section 63G-28-102, for at least 10 days.

(3) Following consideration and discussion of the draft project area plan, and any modification of the project area plan under Subsection 11-58-501(2)(d), the board may adopt the draft project area plan or modified draft project area plan as the project area plan.

Section 76. Section 11-58-503 is amended to read:

11-58-503. Notice of project area plan adoption -- Effective date of plan -- Time for challenging a project area plan or project area.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice:

(a) [~~in a newspaper of general circulation within or near~~] for the project area, as a class A notice under Section 63G-28-102, for at least 30 days; and

(b) as required by Section 45-1-101.

(2) (a) Each notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included within the board resolution adopting the project area plan or within the summary of the resolution.

(3) The project area plan shall become effective on the date designated in the board resolution.

(4) The authority shall make the adopted project area plan available to the general public at the authority's offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Utah Geospatial Resource Center created in Section 63A-16-505; and

(c) the assessor and recorder of each county where the project area is located.

(6) (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

(b) A legal action or other challenge to a project area that consists of authority jurisdictional land is barred unless brought within 30 days after the board adopts a business plan under Subsection 11-58-202(1)(a) for the authority jurisdictional land.

Section 77. Section 11-58-701 is amended to read:

11-58-701. Resolution authorizing issuance of port authority bonds -- Characteristics of bonds -- Notice.

(1) The authority may not issue bonds under this part unless the board first:

(a) adopts a parameters resolution for the bonds that sets forth:

(i) the maximum:

(A) amount of bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(2) (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) [~~in a newspaper having general circulation in~~] for the area within the authority's boundaries, as a class A notice under Section 63G-28-102, for at least 30 days; and

(b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

(7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 78. Section 11-58-901 is amended to read:

11-58-901. Dissolution of port authority -- Restrictions -- Notice of dissolution -- Disposition of port authority property -- Port authority records -- Dissolution expenses.

(1) The authority may not be dissolved unless the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) Upon the dissolution of the authority:

(a) the Governor's Office of Economic Opportunity shall publish a notice of dissolution:

(i) [~~in a newspaper of general circulation in~~] for the county in which the dissolved authority is located, as a class A notice under Section 63G-28-102, for at least seven days; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the authority vests in the state.

(3) The books, documents, records, papers, and seal of each dissolved authority shall be deposited for safekeeping and reference with the state auditor.

(4) The authority shall pay all expenses of the deactivation and dissolution.

Section 79. Section 11-59-501 is amended to read:

11-59-501. Dissolution of authority -- Restrictions -- Publishing notice of dissolution -- Authority records -- Dissolution expenses.

(1) The authority may not be dissolved unless:

(a) the authority board first receives approval from the Legislative Management Committee of the Legislature to dissolve the authority; and

(b) the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) To dissolve the authority, the board shall:

(a) obtain the approval of the Legislative Management Committee of the Legislature; and

(b) adopt a resolution dissolving the authority, to become effective as provided in the resolution.

(3) Upon the dissolution of the authority:

(a) the Governor's Office of Economic Opportunity shall publish a notice of dissolution:

(i) [~~in a newspaper of general circulation in~~] for the county in which the dissolved authority is located, as a class A notice under Section 63G-28-102, for at least seven days; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the authority vests in the Division of Facilities Construction and Management, created in Section 63A-5b-301, for the benefit of the state.

(4) The board shall deposit all books, documents, records, papers, and seal of the dissolved authority with the state auditor for safekeeping and reference.

(5) The authority shall pay all expenses of the deactivation and dissolution.

Section 80. Section 11-65-204 is amended to read:

11-65-204. Management plan.

(1) (a) The board shall prepare, adopt, and, subject to Subsection (1)(b), implement a management plan.

(b) The lake authority may not begin to implement a management plan until April 1, 2023.

(2) In preparing a management plan, the board shall:

(a) consult with and seek and consider input from the legislative or governing body of each adjacent political subdivision;

(b) work cooperatively with and receive input from the Division of Forestry, Fire, and State Lands; and

(c) consider how the interests of adjacent political subdivisions would be affected by implementation of the management plan.

(3) A management plan shall:

(a) describe in general terms the lake authority's:

(i) vision and plan for achieving and implementing the policies and objectives stated in Section 11-65-203; and

(ii) overall plan for the management of Utah Lake, including an anticipated timetable and any anticipated phases of management;

(b) accommodate and advance, without sacrificing the policies and objectives stated in Section 11-65-203, the compatible interests of adjacent political subdivisions;

(c) describe in general terms how the lake authority anticipates cooperating with adjacent political subdivisions to pursue mutually beneficial goals in connection with the management of Utah Lake;

(d) identify the anticipated sources of revenue for implementing the management plan; and

(e) be consistent with management planning conducted by the Division of Forestry, Fire, and State Lands, to pursue the objectives of:

(i) improving the clarity and quality of the water in Utah Lake;

(ii) not interfering with water rights or with water storage or water supply functions of Utah Lake;

(iii) removing invasive plant and animal species, including phragmites and carp, from Utah Lake;

(iv) improving littoral zone and other plant communities in and around Utah Lake;

(v) improving and conserving native fish and other aquatic species in Utah Lake;

(vi) cooperating in the June Sucker Recovery Implementation Program;

(vii) increasing the suitability of Utah Lake and Utah Lake's surrounding areas for shore birds, waterfowl, and other avian species;

(viii) improving navigability of Utah Lake;

(ix) enhancing and ensuring recreational access to and opportunities on Utah Lake; and

(x) otherwise improving the use of Utah Lake for residents and visitors.

(4) A management plan may not interfere with or impair:

(a) a water right;

(b) a water project; or

(c) the management of Utah Lake necessary for the use or operation of a water facility associated with Utah Lake.

(5) (a) Before adopting a management plan, the board shall:

(i) provide a copy of the proposed management plan to:

(A) the executive director of the Department of Natural Resources;

(B) the executive director of the Department of Environmental Quality;

(C) the state engineer; and

(D) each adjacent political subdivision; and

(ii) [~~post~~] provide a copy of the proposed management plan [~~on the Utah Public Notice Website created in Section 63A-16-601~~], for Utah County, as a class A notice under Section 63G-28-102, for at least 30 days.

(b) Comments or suggestions relating to the proposed management plan may be submitted to the board within the deadline established under Subsection (5)(c).

(c) The board shall establish a deadline for submitting comments or suggestions to the proposed management plan that is at least 30 days after the board provides a copy of the proposed management plan under Subsection (5)(a)(i).

(d) Before adopting a management plan, the board shall consider comments and suggestions that are submitted by the deadline established under Subsection (5)(c).

Section 81. Section 11-65-402 is amended to read:

11-65-402. Public meetings to consider and discuss draft project area plan -- Notice -- Adoption of plan.

(1) The lake authority board shall hold at least two public meetings to:

(a) receive public comment on the draft project area plan; and

(b) consider and discuss the draft project area plan.

(2) At least 10 days before holding a public meeting under Subsection (1), the lake authority board shall:

(a) [~~(i) post~~] provide notice of the public meeting [~~on the Utah Public Notice Website created in Section 63A-16-601; and(ii) maintain the posting on the Utah Public Notice Website until the day of the public meeting;~~], for Utah County, as a class A notice under Section 63G-28-102, for at least 10 days;

(b) provide notice of the public meeting to a public entity that has entered into an agreement with the lake authority for sharing property tax revenue; and

(c) provide email notice of the public meeting to each person who has submitted a written request to the board to receive email notice of a public meeting under this section.

(3) Following consideration and discussion of the project area plan, the board may adopt the draft project area plan as the project area plan.

Section 82. Section 11-65-601 is amended to read:

11-65-601. Annual lake authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file annual budget.

(1) The board shall prepare and adopt for the lake authority an annual budget of revenues and expenditures for each fiscal year.

(2) An annual lake authority budget shall be adopted before June 22, except that the lake authority's initial budget shall be adopted as soon as reasonably practicable after the organization of the board and the beginning of lake authority operations.

(3) The lake authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) The lake authority shall provide notice of the public hearing on the annual budget by publishing notice, [~~on the Utah Public Notice Website created in Section 63A-16-601~~] for Utah County, as a class A notice under Section 63G-28-102, for at least one week immediately before the date of the public hearing.

(c) The lake authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each lake authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of lake authority personnel.

(6) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with the auditor of each county in which lake authority land is located, the State Tax Commission, and the state auditor.

Section 83. Section 17-27a-203 is amended to read:

17-27a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain counties.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each county of the first or second class shall provide 10 calendar days notice of the county's intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Utah Geospatial Resource Center created in Section 63A-16-505;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and

[~~(d) on the Utah Public Notice Website created under Section 63A-16-601~~]

(d) for the county, as a class A notice under Section 63G-28-102, for at least 10 days.

(2) Each notice under Subsection (1) shall:

(a) indicate that the county intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the county to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the county that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the county has one, and the name and telephone number of an individual where more information can be obtained concerning the county's proposed general plan or amendment.

Section 84. Section 17-27a-204 is amended to read:

17-27a-204. Notice of public hearings and public meetings to consider general plan or modifications.

(1) A county shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

(a) published [~~on the Utah Public Notice Website created in Section 63A-16-601;~~] for the county, as a class A notice under Section 63G-28-102, for at least 10 days; and

(b) mailed to each affected entity[~~; and~~].

[~~(c) posted:~~]

[~~(i) in at least three public locations within the county; or~~]

[~~(ii) on the county's official website.~~]

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be[~~:~~] published for the county, as a class A notice under Section 63G-28-102, for at least 24 hours.

[~~(a) published on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(b) posted:~~]

[~~(i) in at least three public locations within the county; or~~]

[~~(ii) on the county's official website.~~]

Section 85. Section 17-27a-205 is amended to read:

17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing; and

[~~(b) posted:~~]

(b) published for the area affected by the land use ordinance changes, as a class B notice under Section 63G-28-102, for at least 10 calendar days before the day of the public hearing.

[~~(i) in at least three public locations within the county; or~~]

[~~(ii) on the county's official website; and~~]

[~~(c) (i) posted on the Utah Public Notice Website created in Section 63A-16-601, at least 10 calendar days before the public hearing; or~~]

[~~(ii) mailed at least 10 days before the public hearing to:~~]

[~~(A) each property owner whose land is directly affected by the land use ordinance change; and~~]

[~~(B) each adjacent property owner within the parameters specified by county ordinance.~~]

(3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:

(a) include a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and

(b) be provided to any person upon written request.

(4) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be [~~posted:~~] published for the county, as a class A notice under Section 63G-28-102, for at least 24 hours.

[~~(a) in at least three public locations within the county; or~~]

[~~(b) on the county's official website.~~]

(5) (a) A county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the county will be provided to the county legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 17-27a-502.

(c) If a county mails notice to a property owner [~~in accordance with~~] under Subsection [~~(2)(c)(ii)~~] (2)(b) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (5) may be included in or part of the notice described in Subsection [~~(2)(c)(ii)~~] (2)(b) rather than sent separately.

Section 86. Section 17-27a-208 is amended to read:

17-27a-208. Hearing and notice for petition to vacate a public street.

(1) For any petition to vacate some or all of a public street or county utility easement, the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) is:

[~~(a) mailed to the record owner of~~]

(a) published for the county, as a class A notice under Section 63G-28-102, for at least 10 days;

(b) provided to the owner of each parcel that is accessed by the public street or county utility easement; and

[~~(b)~~] (c) mailed to each affected entity[~~;~~].

[~~(c) posted on or near the public street or county utility easement in a manner that is calculated to alert the public; and~~]

[~~(d) (i) published on the website of the county in which the land subject to the petition is located until the public hearing concludes; and~~]

[~~(ii) published on the Utah Public Notice Website created in Section 63A-16-601.~~]

Section 87. Section 17-27a-306 is amended to read:

17-27a-306. Planning advisory areas -- Notice of hearings.

(1) (a) A planning advisory area may be established as provided in this Subsection (1).

(b) A planning advisory area may not be established unless the area to be included within the proposed planning advisory area:

(i) is unincorporated;

(ii) is contiguous; and

(iii) (A) contains:

(I) at least 20% but not more than 80% of:

(Aa) the total private land area in the unincorporated county; or

(Bb) the total value of locally assessed taxable property in the unincorporated county; or

(II) (Aa) in a county of the second or third class, at least 5% of the total population of the unincorporated county, but not less than 300 residents; or

(Bb) in a county of the fourth, fifth, or sixth class, at least 25% of the total population of the unincorporated county; or

(B) has been declared by the United States Census Bureau as a census designated place.

(c) (i) The process to establish a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the proposed planning advisory area is located.

(ii) A petition to establish a planning advisory area may not be filed if it proposes the establishment of a planning advisory area that includes an area within a proposed planning advisory area in a petition that has previously been certified under Subsection (1)(g), until after the canvass of an election on the proposed planning advisory area under Subsection (1)(j).

(d) A petition under Subsection (1)(c) to establish a planning advisory area shall:

(i) be signed by the owners of private real property that:

(A) is located within the proposed planning advisory area;

(B) covers at least 10% of the total private land area within the proposed planning advisory area; and

(C) is equal in value to at least 10% of the value of all private real property within the proposed planning advisory area;

(ii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be established as a planning advisory area;

(iii) indicate the typed or printed name and current residence address of each owner signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to establish a planning advisory area.

(e) Subsection 10-2a-102(3) applies to a petition to establish a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.

(f) (i) Within seven days after the filing of a petition under Subsection (1)(c) proposing the establishment of a planning advisory area in a county of the second class, the county clerk shall provide notice of the filing of the petition to:

(A) each owner of real property owning more than 1% of the assessed value of all real property within the proposed planning advisory area; and

(B) each owner of real property owning more than 850 acres of real property within the proposed planning advisory area.

(ii) A property owner may exclude all or part of the property owner's property from a proposed planning advisory area in a county of the second class:

(A) if:

(I) (Aa) (Ii) the property owner owns more than 1% of the assessed value of all property within the proposed planning advisory area;

(IIii) the property is nonurban; and

(IIIiii) the property does not or will not require municipal provision of municipal-type services; or

(Bb) the property owner owns more than 850 acres of real property within the proposed planning advisory area; and

(II) exclusion of the property will not leave within the planning advisory area an island of property that is not part of the planning advisory area; and

(B) by filing a notice of exclusion within 10 days after receiving the clerk's notice under Subsection (1)(f)(i).

(iii) (A) The county legislative body shall exclude from the proposed planning advisory area the property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the property meets the applicable requirements of Subsection (1)(f)(ii)(A).

(B) If the county legislative body excludes property from a proposed planning advisory area under Subsection (1)(f)(iii), the county legislative body shall, within five days after the exclusion, send written notice of its action to the contact sponsor.

(g) (i) Within 45 days after the filing of a petition under Subsection (1)(c), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (1)(d); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (1)(d):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (1)(d), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (1)(g)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(h) (i) Within 90 days after a petition to establish a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to establish a planning advisory area.

(ii) A public hearing under Subsection (1)(h)(i) shall be:

(A) within the boundary of the proposed planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing [~~on the Utah Public Notice Website created in Section 63A-16-601~~] for the county, as a class A notice under Section 63G-28-102, for at least one week.

(i) Following the public hearing under Subsection (1)(h)(i), the county legislative body shall arrange for the proposal to establish a planning advisory area to be submitted to voters residing within the proposed planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(j) A planning advisory area is established at the time of the canvass of the results of an election under Subsection (1)(i) if the canvass indicates that a majority of voters voting on the proposal to establish a planning advisory area voted in favor of the proposal.

(k) An area that is an established township before May 12, 2015:

(i) is, as of May 12, 2015, a planning advisory area; and

(ii) (A) shall change its name, if applicable, to no longer include the word "township"; and

(B) may use the word "planning advisory area" in its name.

(2) The county legislative body may:

(a) assign to the countywide planning commission the duties established in this part that would have been assumed by a planning advisory area planning commission designated under Subsection (2)(b); or

(b) designate and appoint a planning commission for the planning advisory area.

(3) (a) An area within the boundary of a planning advisory area may be withdrawn from the planning advisory area as provided in this Subsection (3) or in accordance with Subsection (5)(a).

(b) The process to withdraw an area from a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.

(c) A petition under Subsection (3)(b) shall:

(i) be signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn from the planning advisory area;

(B) covers at least 50% of the total private land area within the area proposed to be withdrawn from the planning advisory area; and

(C) is equal in value to at least 33% of the value of all private real property within the area proposed to be withdrawn from the planning advisory area;

(ii) state the reason or reasons for the proposed withdrawal;

(iii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be withdrawn from the planning advisory area;

(iv) indicate the typed or printed name and current residence address of each owner signing the petition;

(v) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(vi) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vii) request the county legislative body to withdraw the area from the planning advisory area.

(d) Subsection 10-2a-102(3) applies to a petition to withdraw an area from a planning advisory area to the same extent as if it were an incorporation

petition under Title 10, Chapter 2a, Municipal Incorporation.

(e) (i) Within 45 days after the filing of a petition under Subsection (3)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (3)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (3)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (3)(e)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(f) (i) Within 60 days after a petition to withdraw an area from a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to withdraw the area from the planning advisory area.

(ii) A public hearing under Subsection (3)(f)(i) shall be held:

(A) within the area proposed to be withdrawn from the planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative body shall[~~:(A)~~] publish notice of the petition and the time, date, and place of the public hearing [~~on the Utah Public Notice Website created in Section 63A-16-601, for three consecutive weeks; and~~] for the area proposed to be withdrawn, as a class B notice under Section 63G-28-102, for at least three weeks before the date of the hearing.

[~~(B) mail a notice of the petition and the time, date, and place of the public hearing to each owner of private real property within the area proposed to be withdrawn.~~]

(g) (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county legislative body shall make a written decision on the proposal to withdraw the area from the planning advisory area.

(ii) In making its decision as to whether to withdraw the area from the planning advisory area, the county legislative body shall consider:

(A) whether the withdrawal would leave the remaining planning advisory area in a situation where the future incorporation of an area within the planning advisory area or the annexation of an area within the planning advisory area to an adjoining municipality would be economically or practically not feasible;

(B) if the withdrawal is a precursor to the incorporation or annexation of the withdrawn area:

(I) whether the proposed subsequent incorporation or withdrawal:

(Aa) will leave or create an unincorporated island or peninsula; or

(Bb) will leave the county with an area within its unincorporated area for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years; and

(II) whether the municipality to be created or the municipality into which the withdrawn area is expected to annex would be or is capable, in a cost effective manner, of providing service to the withdrawn area that the county will no longer provide due to the incorporation or annexation;

(C) the effects of a withdrawal on adjoining property owners, existing or projected county streets or other public improvements, law enforcement, and zoning and other municipal services provided by the county; and

(D) whether justice and equity favor the withdrawal.

(h) Upon the written decision of the county legislative body approving the withdrawal of an area from a planning advisory area, the area is withdrawn from the planning advisory area and the planning advisory area continues as a planning advisory area with a boundary that excludes the withdrawn area.

(4) (a) A planning advisory area may be dissolved as provided in this Subsection (4).

(b) The process to dissolve a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.

(c) A petition under Subsection (4)(b) shall:

(i) be signed by registered voters within the planning advisory area equal in number to at least 25% of all votes cast by voters within the planning advisory area at the last congressional election;

(ii) state the reason or reasons for the proposed dissolution;

(iii) indicate the typed or printed name and current residence address of each person signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsors to act on behalf of all persons signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to dissolve the planning advisory area.

(d) (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (4)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (4)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (4)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(e) (i) Within 60 days after a petition to dissolve the planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to dissolve the planning advisory area.

(ii) A public hearing under Subsection (4)(e)(i) shall be held:

(A) within the boundary of the planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (4)(e)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing [~~on the Utah Public Notice Website created in Section 63A-16-601,~~] for the county, as a class A notice under Section 63G-28-102, for three consecutive weeks immediately before the public hearing.

(f) Following the public hearing under Subsection (4)(e)(i), the county legislative body shall arrange for the proposal to dissolve the planning advisory area to be submitted to voters residing within the planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(g) A planning advisory area is dissolved at the time of the canvass of the results of an election under Subsection (4)(f) if the canvass indicates that a majority of voters voting on the proposal to dissolve the planning advisory area voted in favor of the proposal.

(5) (a) If a portion of an area located within a planning advisory area is annexed by a municipality or incorporates, that portion is withdrawn from the planning advisory area.

(b) If a planning advisory area in whole is annexed by a municipality or incorporates, the planning advisory area is dissolved.

Section 88. Section 17-27a-404 is amended to read:

17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing the planning commission's recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing[~~, as required by Section 17-27a-204.~~] for the county, as a class A notice under Section 63G-28-102, for at least 10 calendar days before the day of the public hearing.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of the legislative body's intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given [~~by publication on the Utah Public Notice Website created in Section 63A-16-601~~] for the county, as a class A notice under Section 63G-28-102, for at least 180 days.

(iv) The notice shall be published to allow reasonable time for interested parties and the state

to evaluate the information regarding Subsection 17-27a-401(4), including publication described in Subsection (3)(c)(iii) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may adopt, reject, or make any revisions to the proposed general plan that the legislative body considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

(c) If the county legislative body rejects the proposed general plan or amendment, the legislative body may provide suggestions to the planning commission for the planning commission's review and recommendation.

(5) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);

(c) for a specified county as defined in Section 17-27a-408, a moderate income housing element as provided in Subsection 17-27a-403(2)(a)(iii);

(d) a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv); and

(e) on or before December 31, 2025, a water use and preservation element as provided in Subsection 17-27a-403(2)(a)(v).

Section 89. Section 17-36-12 is amended to read:

17-36-12. Notice of budget hearing.

(1) The governing body shall determine the time and place for the public hearing on the adoption of the budget.

(2) Notice of such hearing shall be published[~~:~~] for the county, as a class A notice under Section 63G-28-102, for at least seven days before the day of the hearing.

[~~(a) (i) at least seven days before the hearing in at least one newspaper of general circulation within the county, if there is such a paper; or~~]

[~~(ii) if there is no newspaper as described in Subsection (2)(a)(i), by posting notice in three conspicuous places within the county seven days before the hearing;~~]

[~~(b) on the Utah Public Notice Website created in Section 63A-16-601, for seven days before the hearing; and~~]

[~~(c) on the home page of the county's website, either in full or as a link, if the county has a publicly viewable website, beginning at least seven days before the hearing and until the hearing takes place.~~]

Section 90. Section 17-36-26 is amended to read:

17-36-26. Increase in budgetary fund or county general fund -- Public hearing -- Notice.

(1) Before the governing body may, by resolution, increase a budget appropriation of any budgetary fund, increase the budget of the county general fund, or make an amendment to a budgetary fund or the county general fund, the governing body shall hold a public hearing giving all interested parties an opportunity to be heard.

(2) Notice of the public hearing described in Subsection (1) shall be published for the county, as a class A notice under Section 63G-28-102, for at least five days before the day of the hearing[~~:~~].

[~~(a) (i) in at least one issue of a newspaper generally circulated in the county; or~~]

[~~(ii) if there is not a newspaper generally circulated in the county, the hearing may be published by posting notice in three conspicuous places within the county;~~]

[~~(b) on the Utah Public Notice Website created under Section 63A-16-601; and~~]

[~~(c) on the home page of the county's website, either in full or as a link, if the county has a publicly viewable website, until the hearing takes place.~~]

Section 91. Section 17-41-302 is amended to read:

17-41-302. Notice of proposal for creation of protection area -- Responses.

(1) (a) An applicable legislative body shall provide notice of the proposal [~~by:~~], as a class B notice under Section 63G-28-102, for at least 15 days.

(b) A legislative body shall provide the notice described in Subsection (1)(a) for the geographic boundaries of the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area, and the area that extends 1,000 feet beyond the geographic boundaries of the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

[~~(a) posting notice on the Utah Public Notice Website created in Section 63A-16-601;~~]

[~~(b) posting notice at five public places, designated by the county or municipal legislative body, within or near the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area; and~~]

[~~(c) mailing written notice to each owner of land within 1,000 feet of the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.~~]

(2) The notice shall contain:

(a) a statement that a proposal for the creation of an agriculture protection area, industrial

protection area, or critical infrastructure materials protection area has been filed with the applicable legislative body;

(b) a statement that the proposal will be open to public inspection in the office of the applicable legislative body;

(c) a statement that any person affected by the establishment of the area may, within 15 days of the date of the notice, file with the applicable legislative body:

(i) written objections to the proposal; or

(ii) a written request to modify the proposal to exclude land from or add land to the proposed protection area;

(d) a statement that the applicable legislative body will submit the proposal to the advisory committee and to the planning commission for review and recommendations;

(e) a statement that the applicable legislative body will hold a public hearing to discuss and hear public comment on:

(i) the proposal to create the agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(ii) the recommendations of the advisory committee and planning commission; and

(iii) any requests for modification of the proposal and any objections to the proposal; and

(f) a statement indicating the date, time, and place of the public hearing.

(3) (a) A person wishing to modify the proposal for the creation of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall, within 15 days after the date of the notice, file a written request for modification of the proposal, which identifies specifically the land that should be added to or removed from the proposal.

(b) A person wishing to object to the proposal for the creation of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall, within 15 days after the date of the notice, file a written objection to the creation of the relevant protection area.

Section 92. Section 17-41-304 is amended to read:

17-41-304. Public hearing -- Notice -- Review and action on proposal.

(1) After receipt of the written reports from the advisory committee and planning commission, or after the 45 days have expired, whichever is earlier, the county or municipal legislative body shall:

(a) schedule a public hearing;

(b) provide notice of the public hearing [~~by:~~] for the geographic area described in Subsection 17-41-302(1)(b), as a class B notice under Section 63G-28-102, for at least seven days; and

[~~(i) posting notice on the Utah Public Notice Website created in Section 63A-16-601;~~]

[~~(ii) posting notice at five public places, designated by the applicable legislative body, within or near the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area; and~~]

[~~(iii) mailing written notice to each owner of land within 1,000 feet of the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area; and~~]

(c) ensure that the notice includes:

(i) the time, date, and place of the public hearing on the proposal;

(ii) a description of the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iii) any proposed modifications to the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iv) a summary of the recommendations of the advisory committee and planning commission; and

(v) a statement that interested persons may appear at the public hearing and speak in favor of or against the proposal, any proposed modifications to the proposal, or the recommendations of the advisory committee and planning commission.

(2) The applicable legislative body shall:

(a) convene the public hearing at the time, date, and place specified in the notice; and

(b) take oral or written testimony from interested persons.

(3) (a) Within 120 days of the submission of the proposal, the applicable legislative body shall approve, modify and approve, or reject the proposal.

(b) The creation of an agriculture protection area, industrial protection area, or critical infrastructure materials protection area is effective at the earlier of:

(i) the applicable legislative body's approval of a proposal or modified proposal; or

(ii) 120 days after submission of a proposal complying with Subsection 17-41-301(2) if the applicable legislative body has failed to approve or reject the proposal within that time.

(c) Notwithstanding Subsection (3)(b), a critical infrastructure materials protection area is effective only if the applicable legislative body, at its discretion, approves a proposal or modified proposal.

(4) (a) To give constructive notice of the existence of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the relevant protection area within 10

days of the creation of the relevant protection area, the applicable legislative body shall file an executed document containing a legal description of the relevant protection area with:

(i) the county recorder of deeds; and

(ii) the affected planning commission.

(b) If the legal description of the property to be included in the relevant protection area is available through the county recorder's office, the applicable legislative body shall use that legal description in its executed document required in Subsection (4)(a).

(5) Within 10 days of the recording of the agriculture protection area, the applicable legislative body shall:

(a) send written notification to the commissioner of agriculture and food that the agriculture protection area has been created; and

(b) include in the notification:

(i) the number of landowners owning land within the agriculture protection area;

(ii) the total acreage of the area;

(iii) the date of approval of the area; and

(iv) the date of recording.

(6) The applicable legislative body's failure to record the notice required under Subsection (4) or to send the written notification under Subsection (5) does not invalidate the creation of an agriculture protection area.

(7) The applicable legislative body may consider the cost of recording notice under Subsection (4) and the cost of sending notification under Subsection (5) in establishing a fee under Subsection 17-41-301(4)(b).

Section 93. Section 17-41-405 is amended to read:

17-41-405. Eminent domain restrictions -- Notice of hearing.

(1) A political subdivision having or exercising eminent domain powers may not condemn for any purpose any land within an agriculture protection area that is being used for agricultural production, land within an industrial protection area that is being put to an industrial use, or land within a critical infrastructure materials protection area, unless the political subdivision obtains approval, according to the procedures and requirements of this section, from the applicable legislative body and the advisory board.

(2) Any condemnor wishing to condemn property within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall file a notice of condemnation with the applicable legislative body and the relevant protection area's advisory board at least 30 days before filing an eminent domain complaint.

(3) The applicable legislative body and the advisory board shall:

(a) hold a joint public hearing on the proposed condemnation at a location within the county in which the relevant protection area is located; and

(b) [~~post~~] publish notice of the time, date, place, and purpose of the public hearing[~~.~~] for the relevant protection area, as a class A notice under Section 63G-28-102, for at least seven days.

[~~(i) on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(ii) in five conspicuous public places, designated by the applicable legislative body, within or near the relevant protection area.~~]

(4) (a) If the condemnation is for highway purposes or for the disposal of solid or liquid waste materials, the applicable legislative body and the advisory board may approve the condemnation only if there is no reasonable and prudent alternative to the use of the land within the agriculture protection area, industrial protection area, or critical infrastructure materials protection area for the project.

(b) If the condemnation is for any other purpose, the applicable legislative body and the advisory board may approve the condemnation only if:

(i) the proposed condemnation would not have an unreasonably adverse effect upon the preservation and enhancement of:

(A) agriculture within the agriculture protection area;

(B) the industrial use within the industrial protection area; or

(C) critical infrastructure materials operations within the critical infrastructure materials protection area; or

(ii) there is no reasonable and prudent alternative to the use of the land within the relevant protection area for the project.

(5) (a) Within 60 days after receipt of the notice of condemnation, the applicable legislative body and the advisory board shall approve or reject the proposed condemnation.

(b) If the applicable legislative body and the advisory board fail to act within the 60 days or such further time as the applicable legislative body establishes, the condemnation shall be considered rejected.

(6) The applicable legislative body or the advisory board may request the county or municipal attorney to bring an action to enjoin any condemnor from violating any provisions of this section.

Section 94. Section 17-50-303 is amended to read:

17-50-303. County may not give or lend credit -- County may borrow in anticipation of revenues -- Assistance to nonprofit and private entities -- Notice requirements.

(1) A county may not give or lend its credit to or in aid of any person or corporation, or, except as provided in Subsection (3), appropriate money in aid of any private enterprise.

(2) (a) A county may borrow money in anticipation of the collection of taxes and other county revenues in the manner and subject to the conditions of Title 11, Chapter 14, Local Government Bonding Act.

(b) A county may incur indebtedness under Subsection (2)(a) for any purpose for which funds of the county may be expended.

(3) (a) A county may appropriate money to or provide nonmonetary assistance to a nonprofit entity, or waive fees required to be paid by a nonprofit entity, if, in the judgment of the county legislative body, the assistance contributes to the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of county residents.

(b) A county may appropriate money to a nonprofit entity from the county's own funds or from funds the county receives from the state or any other source.

(4) (a) As used in this Subsection (4):

(i) "Private enterprise" means a person that engages in an activity for profit.

(ii) "Project" means an activity engaged in by a private enterprise.

(b) A county may appropriate money in aid of a private enterprise project if:

(i) subject to Subsection (4)(c), the county receives value in return for the money appropriated; and

(ii) in the judgment of the county legislative body, the private enterprise project provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents.

(c) The county shall measure the net value received by the county for money appropriated by the county to a private entity on a project-by-project basis over the life of the project.

(d) (i) Before a county legislative body may appropriate funds in aid of a private enterprise project under this Subsection (4), the county legislative body shall:

(A) adopt by ordinance criteria to determine what value, if any, the county will receive in return for money appropriated under this Subsection (4);

(B) conduct a study as described in Subsection (4)(e) on the proposed appropriation and private enterprise project; and

(C) post notice, subject to Subsection (4)(f), and hold a public hearing on the proposed appropriation and the private enterprise project.

(ii) The county legislative body may consider an intangible benefit as a value received by the county.

(e) (i) Before publishing or posting notice in accordance with Subsection (4)(f), the county shall study:

(A) any value the county will receive in return for money or resources appropriated to a private entity;

(B) the county's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the county in the area of economic development, job creation, affordable housing, elimination of a development impediment, as defined in Section 17C-1-102, job preservation, the preservation of historic structures, analyzing and improving county government structure or property, or any other public purpose.

(ii) The county shall:

(A) prepare a written report of the results of the study; and

(B) make the report available to the public at least 14 days immediately prior to the scheduled day of the public hearing described in Subsection (4)(d)(i)(C).

(f) The county shall publish notice of the public hearing required in Subsection (4)(d)(i)(C)[~~:~~] for the county, as a class A notice under Section 63G-28-102, for at least 14 days before the day of the public hearing.

[~~(i) in a newspaper of general circulation at least 14 days before the date of the hearing or, if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the county for the same time period; and~~]

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601, at least 14 days before the date of the hearing.~~]

(g) (i) A person may appeal the decision of the county legislative body to appropriate funds under this Subsection (4).

(ii) A person shall file an appeal with the district court within 30 days after the day on which the legislative body adopts an ordinance or approves a budget to appropriate the funds.

(iii) A court shall:

(A) presume that an ordinance adopted or appropriation made under this Subsection (4) is valid; and

(B) determine only whether the ordinance or appropriation is arbitrary, capricious, or illegal.

(iv) A determination of illegality requires a determination that the decision or ordinance violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance was adopted.

(v) The district court's review is limited to:

(A) a review of the criteria adopted by the county legislative body under Subsection (4)(d)(i)(A);

(B) the record created by the county legislative body at the public hearing described in Subsection (4)(d)(i)(C); and

(C) the record created by the county in preparation of the study and the study itself as described in Subsection (4)(e).

(vi) If there is no record, the court may call witnesses and take evidence.

(h) This section applies only to an appropriation not otherwise approved in accordance with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties.

Section 95. Section 17B-1-106 is amended to read:

17B-1-106. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, local district under this title, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(B) that has filed with the local district a copy of the general or long-range plan of the county, municipality, local district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the local district that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a local district under this title located in a county of the first or second class prepares a long-range plan regarding the local district's facilities proposed for the future or amends an already existing long-range plan, the local district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of the local district's intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the local district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Utah Geospatial Resource Center created in Section 63A-16-505;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) published for the local district, as a class A notice under Section 63G-28-102, for at least 14 days;

[~~(E) (I) placed on the Utah Public Notice Website created under Section 63A-16-601, if the local district:~~]

[~~(Aa) is required under Subsection 52-4-203(3) to use that website to provide public notice of a meeting; or~~]

[~~(Bb) voluntarily chooses to place notice on that website despite not being required to do so under Subsection (2)(b)(iii)(E)(I)(Aa); or~~]

[~~(II) the state planning coordinator appointed under Section 63J-4-401, if the local district does not provide notice on the Utah Public Notice Website under Subsection (2)(b)(iii)(E)(I);~~]

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the local district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the local district has one, and the name and telephone number of an individual where more information can be obtained concerning the local district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each local district intending to acquire real property in a county of the first or second class for the purpose of expanding the local district's infrastructure or other facilities used for providing the services that the local district is authorized to provide shall provide written notice, as provided in this Subsection (3), of the local district's intent to

acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the local district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the local district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a local district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the local district shall provide the notice specified in Subsection (3)(a) as soon as practicable after the local district's acquisition of the real property.

Section 96. Section 17B-1-111 is amended to read:

17B-1-111. Impact fee resolution -- Notice and hearing requirements.

(1) (a) If a local district wishes to impose impact fees, the board of trustees of the local district shall:

(i) prepare a proposed impact fee resolution that meets the requirements of Title 11, Chapter 36a, Impact Fees Act;

(ii) make a copy of the impact fee resolution available to the public at least [~~14~~] 10 days before the date of the public hearing and hold a public hearing on the proposed impact fee resolution; and

(iii) provide reasonable notice of the public hearing for the local district, as a class A notice under Section 63G-28-102, for at least [~~14~~] 10 days before the date of the hearing.

(b) After the public hearing, the board of trustees may:

(i) adopt the impact fee resolution as proposed;

(ii) amend the impact fee resolution and adopt or reject it as amended; or

(iii) reject the resolution.

[~~(2) A local district meets the requirements of reasonable notice required by this section if it:~~]

[~~(a) posts notice of the hearing or meeting in at least three public places within the jurisdiction; or~~]

[~~(b) gives actual notice of the hearing or meeting.~~]

[~~(3)~~] (2) The local district's board of trustees may enact a resolution establishing stricter notice requirements than those required by this section.

[~~(4)~~] (3) (a) Proof that [~~one of the two forms of~~] notice required by this section was given is prima facie evidence that notice was properly given.

(b) If notice given under authority of this section is not challenged within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

Section 97. Section 17B-1-211 is amended to read:

17B-1-211. Notice of public hearings -- Publication of resolution.

(1) Before holding a public hearing or set of public hearings under Section 17B-1-210, the legislative body of each county or municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each local district that adopts a resolution under Subsection 17B-1-203(1)(e) shall[~~:~~] publish notice for the proposed local district, as a class B notice under Section 63G-28-102, for at least two weeks before the day of the hearing or the day of the first of the set of hearings.

[~~(a) (i) in accordance with Subsection (2), post at least one notice per 1,000 population of the applicable area and at places within the area that are most likely to provide actual notice to residents of the area; and~~]

[~~(ii) publish notice on the Utah Public Notice Website created in Section 63A-16-601, for two weeks before the hearing or the first of the set of hearings; or~~]

[~~(b) mail a notice to each registered voter residing within and each owner of real property located within the proposed local district.~~]

(2) Each notice required under Subsection (1) shall:

(a) if the hearing or set of hearings is concerning a resolution:

(i) contain the entire text or an accurate summary of the resolution; and

(ii) state the deadline for filing a protest against the creation of the proposed local district;

(b) clearly identify each governing body involved in the hearing or set of hearings;

(c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and

(d) describe or include a map of the entire proposed local district.

(3) County or municipal legislative bodies may jointly provide the notice required under this section if all the requirements of this section are met as to each notice.

Section 98. Section 17B-1-304 is amended to read:

17B-1-304. Appointment procedures for appointed members -- Notice of vacancy.

(1) The appointing authority may, by resolution, appoint persons to serve as members of a local district board by following the procedures established by this section.

(2) (a) In any calendar year when appointment of a new local district board member is required, the appointing authority shall prepare a notice of vacancy that contains:

(i) the positions that are vacant that shall be filled by appointment;

(ii) the qualifications required to be appointed to those positions;

(iii) the procedures for appointment that the governing body will follow in making those appointments; and

(iv) the person to be contacted and any deadlines that a person shall meet who wishes to be considered for appointment to those positions.

(b) The appointing authority shall[~~:~~] publish the notice of vacancy for the local district, as a class A notice under Section 63G-28-102, for at least one month before the deadline for accepting nominees for appointment.

[~~(i) post the notice of vacancy in four public places within the local district at least one month before the deadline for accepting nominees for appointment; and~~]

[~~(ii) post the notice of vacancy on the Utah Public Notice Website, created in Section 63A-16-601, for five days before the deadline for accepting nominees for appointment.~~]

(c) The appointing authority may bill the local district for the cost of preparing, printing, and publishing the notice.

(3) (a) After the appointing authority is notified of a vacancy and has satisfied the requirements described in Subsection (2), the appointing authority shall select a person to fill the vacancy from the applicants who meet the qualifications established by law.

(b) The appointing authority shall:

(i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the appointment;

(ii) allow any interested persons to be heard; and

(iii) adopt a resolution appointing a person to the local district board.

(c) If no candidate for appointment to fill the vacancy receives a majority vote of the appointing authority, the appointing authority shall select the appointee from the two top candidates by lot.

(4) Persons appointed to serve as members of the local district board serve four-year terms, but may be removed for cause at any time after a hearing by two-thirds vote of the appointing body.

(5) (a) At the end of each board member's term, the position is considered vacant, and, after following the appointment procedures established in this section, the appointing authority may either reappoint the incumbent board member or appoint a new member.

(b) Notwithstanding Subsection (5)(a), a board member may continue to serve until a successor is elected or appointed and qualified in accordance with Subsection 17B-1-303(2)(b).

(6) Notwithstanding any other provision of this section, if the appointing authority appoints one of its own members and that member meets all applicable statutory board member qualifications, the appointing authority need not comply with Subsection (2) or (3).

Section 99. Section 17B-1-306 is amended to read:

17B-1-306. Local district board -- Election procedures -- Notice.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the local district shall publish the notice described in Subsection (3)[~~:~~] for the local district, as a class A notice under Section 63G-28-102, for at least 10 days before the first day for filing a declaration of candidacy.

[~~(a) by posting the notice on the Utah Public Notice Website created in Section 63A-16-601, for 10 days before the first day for filing a declaration of candidacy;~~]

[~~(b) by posting the notice in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; and~~]

[~~(c) if the local district has a website, on the local district's website for 10 days before the first day for filing a declaration of candidacy.~~]

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective local district board position, an individual shall file a declaration of candidacy in person with an official designated by the local district within the candidate filing period for the applicable election year in which the election for the local district board is held and:

(i) during the local district's standard office hours, if the standard office hours provide at least three consecutive office hours each day during the candidate filing period that is not a holiday or weekend; or

(ii) if the standard office hours of a local district do not provide at least three consecutive office hours each day, a three-hour consecutive time period each day designated by the local district during the candidate filing period that is not a holiday or weekend.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the local district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

_____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)".

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling places designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear the district's own costs of each election the district holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (14).

(15) (a) This Subsection (15) applies to a local district if:

(i) the local district's board members are elected by the owners of real property, as provided in Subsection 17B-1-1402(1)(b); and

(ii) the local district was created before January 1, 2020.

(b) The board of a local district described in Subsection (15)(a) may conduct an election:

(i) to fill a board member position that expires at the end of the term for that board member's position; and

(ii) notwithstanding Subsection 20A-1-512(1)(a)(i), to fill a vacancy in an unexpired term of a board member.

(c) An election under Subsection (15)(b) may be conducted as determined by the local district board, subject to Subsection (15)(d).

(d) (i) The local district board shall provide to property owners eligible to vote at the local district election:

(A) notice of the election; and

(B) a form to nominate an eligible individual to be elected as a board member.

(ii) (A) The local district board may establish a deadline for a property owner to submit a nomination form.

(B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after the board provides the notice and nomination form under Subsection (15)(d)(i).

(iii) (A) After the deadline for submitting nomination forms, the local district board shall provide a ballot to all property owners eligible to vote at the local district election.

(B) A local district board shall allow at least five days for ballots to be returned.

(iv) A local district board shall certify the results of an election under this Subsection (15) during an open meeting of the board.

Section 100. Section 17B-1-313 is amended to read:

17B-1-313. Publication of notice of board resolution or action -- Contest period -- No contest after contest period.

(1) After the board of trustees of a local district adopts a resolution or takes other action on behalf of the district, the board may provide for the publication of a notice of the resolution or other action.

(2) Each notice under Subsection (1) shall:

(a) include, as the case may be:

(i) the language of the resolution or a summary of the resolution; or

(ii) a description of the action taken by the board;

(b) state that:

(i) any person in interest may file an action in district court to contest the regularity, formality, or legality of the resolution or action within 30 days after the date of publication; and

(ii) if the resolution or action is not contested by filing an action in district court within the 30-day period, no one may contest the regularity, formality, or legality of the resolution or action after the expiration of the 30-day period; and

(c) be [~~posted on the Utah Public Notice Website created in Section 63A-16-601~~] published for the local district, as a class A notice under Section 63G-28-102, for at least 30 days.

(3) For a period of 30 days after the date of the publication, any person in interest may contest the regularity, formality, or legality of the resolution or other action by filing an action in district court.

(4) After the expiration of the 30-day period under Subsection (3), no one may contest the regularity, formality, or legality of the resolution or action for any cause.

Section 101. Section 17B-1-413 is amended to read:

17B-1-413. Hearing, notice, and protest provisions do not apply for certain petitions.

(1) Section 17B-1-412 does not apply, and, except as provided in Subsection (2)(a), Sections 17B-1-409 and 17B-1-410 do not apply:

(a) if the process to annex an area to a local district was initiated by:

(i) a petition under Subsection 17B-1-403(1)(a)(i);

(ii) a petition under Subsection 17B-1-403(1)(a)(ii)(A) that was signed by the owners of private real property that:

(A) is located within the area proposed to be annexed;

(B) covers at least 75% of the total private land area within the entire area proposed to be annexed and within each applicable area; and

(C) is equal in assessed value to at least 75% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or

(iii) a petition under Subsection 17B-1-403(1)(a)(ii)(B) that was signed by registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 75% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition;

(b) to an annexation under Section 17B-1-415; or

(c) to a boundary adjustment under Section 17B-1-417.

(2) (a) If a petition that meets the requirements of Subsection (1)(a) is certified under Section 17B-1-405, the local district board:

(i) shall provide notice of the proposed annexation as provided in Subsection (2)(b); and

(ii) (A) may, in the board's discretion, hold a public hearing as provided in Section 17B-1-409 after giving notice of the public hearing as provided in Subsection (2)(b); and

(B) shall, after giving notice of the public hearing as provided in Subsection (2)(b), hold a public hearing as provided in Section 17B-1-409 if a written request to do so is submitted, within 20 days after the local district provides notice under Subsection (2)(a)(i), to the local district board by an owner of property that is located within or a registered voter residing within the area proposed to be annexed who did not sign the annexation petition.

(b) The notice required under Subsections (2)(a)(i) and (ii) shall:

(i) be given:

(A) (I) for a notice under Subsection (2)(a)(i), within 30 days after petition certification; or

(II) for a notice of a public hearing under Subsection (2)(a)(ii), at least 10 but not more than 30 days before the public hearing; and

(B) by[~~:~~] providing notice, as a class A notice under Section 63G-28-102, for the area proposed to be annexed, through the day of the public hearing; and

[~~(I) posting written notice at the local district's principal office and in one or more other locations within or proximate to the area proposed to be annexed as are reasonable under the circumstances, considering the number of parcels included in that area, the size of the area, the population of the area, and the contiguousness of the area; and~~]

[~~(II) providing written notice:~~]

[~~(Aa) to at least one newspaper of general circulation, if there is one, within the area proposed to be annexed or to a local media correspondent; and~~]

[~~(Bb) on the Utah Public Notice Website created in Section 63A-16-601; and~~]

(ii) contain a brief explanation of the proposed annexation and include the name of the local district, the service provided by the local district, a description or map of the area proposed to be annexed, a local district telephone number where additional information about the proposed annexation may be obtained, and, for a notice under Subsection (2)(a)(i), an explanation of the right of a property owner or registered voter to request a public hearing as provided in Subsection (2)(a)(ii)(B).

(c) A notice under Subsection (2)(a)(i) may be combined with the notice that is required for a public hearing under Subsection (2)(a)(ii)(A).

Section 102. Section 17B-1-417 is amended to read:

17B-1-417. Boundary adjustment -- Notice and hearing -- Protest -- Resolution adjusting boundaries -- Filing of notice and plat with the lieutenant governor -- Recording requirements -- Effective date.

(1) As used in this section, "affected area" means the area located within the boundaries of one local district that will be removed from that local district and included within the boundaries of another local district because of a boundary adjustment under this section.

(2) The boards of trustees of two or more local districts having a common boundary and providing the same service on the same wholesale or retail basis may adjust their common boundary as provided in this section.

(3) (a) The board of trustees of each local district intending to adjust a boundary that is common with another local district shall:

(i) adopt a resolution indicating the board's intent to adjust a common boundary;

(ii) hold a public hearing on the proposed boundary adjustment no less than 60 days after the adoption of the resolution under Subsection (3)(a)(i); and

(iii) provide notice for the affected area, as a class B notice under Section 63G-28-102, for at least two weeks before the day of the public hearing.

[~~(A) post notice:~~]

[~~(I) in at least four conspicuous places within the local district at least two weeks before the public hearing; and~~]

[~~(II) on the Utah Public Notice Website created in Section 63A-16-601, for two weeks; or~~]

[~~(B) mail a notice to each owner of property located within the affected area and to each registered voter residing within the affected area.~~]

(b) The notice required under Subsection (3)(a)(iii) shall:

(i) state that the board of trustees of the local district has adopted a resolution indicating the board's intent to adjust a boundary that the local district has in common with another local district that provides the same service as the local district;

(ii) describe the affected area;

(iii) state the date, time, and location of the public hearing required under Subsection (3)(a)(ii);

(iv) provide a local district telephone number where additional information about the proposed boundary adjustment may be obtained;

(v) explain the financial and service impacts of the boundary adjustment on property owners or residents within the affected area; and

(vi) state in conspicuous and plain terms that the board of trustees may approve the adjustment of the

boundaries unless, at or before the public hearing under Subsection (3)(a)(ii), written protests to the adjustment are filed with the board by:

(A) the owners of private real property that:

(I) is located within the affected area;

(II) covers at least 50% of the total private land area within the affected area; and

(III) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(B) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(c) The boards of trustees of the local districts whose boundaries are being adjusted may jointly:

(i) [~~post or mail~~] provide the notice required under Subsection (3)(a)(iii); and

(ii) hold the public hearing required under Subsection (3)(a)(ii).

(4) After the public hearing required under Subsection (3)(a)(ii), the board of trustees may adopt a resolution approving the adjustment of the common boundary unless, at or before the public hearing, written protests to the boundary adjustment have been filed with the board by:

(a) the owners of private real property that:

(i) is located within the affected area;

(ii) covers at least 50% of the total private land area within the affected area; and

(iii) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(b) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(5) A resolution adopted under Subsection (4) does not take effect until the board of each local district whose boundaries are being adjusted has adopted a resolution under Subsection (4).

(6) The board of the local district whose boundaries are being adjusted to include the affected area shall:

(a) within 30 days after the resolutions take effect under Subsection (5), file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5:

(i) if the affected area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary adjustment; and

(III) approved final local entity plat; and

(B) a certified copy of each resolution adopted under Subsection (4); or

(ii) if the affected area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4); and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4).

(7) (a) Upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, the affected area is annexed to the local district whose boundaries are being adjusted to include the affected area, and the affected area is withdrawn from the local district whose boundaries are being adjusted to exclude the affected area.

(b) (i) The effective date of a boundary adjustment under this section for purposes of assessing property within the affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (6)(b) are recorded in the office of the recorder of the county in which the property is located, a local district in whose boundary an affected area is included because of a boundary adjustment under this section may not:

(A) levy or collect a property tax on property within the affected area;

(B) levy or collect an assessment on property within the affected area; or

(C) charge or collect a fee for service provided to property within the affected area.

(iii) Subsection (7)(b)(ii)(C):

(A) may not be construed to limit a local district's ability before a boundary adjustment to charge and collect a fee for service provided to property that is outside the local district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (7)(a), of the local district's boundary adjustment, with respect to a fee that the

local district was charging for service provided to property within the area affected by the boundary adjustment immediately before the boundary adjustment.

Section 103. Section 17B-1-505.5 is amended to read:

17B-1-505.5. Feasibility study for a municipality's withdrawal from a local district providing fire protection, paramedic, and emergency services or law enforcement service -- Notice of hearing.

(1) As used in this section:

(a) "Feasibility consultant" means a person with expertise in:

(i) the processes and economics of local government; and

(ii) the economics of providing fire protection, paramedic, and emergency services or law enforcement service.

(b) "Feasibility study" means a study to determine the functional and financial feasibility of a municipality's withdrawal from a first responder local district.

(c) "First responder district" means a local district, other than a municipal services district, that provides:

(i) fire protection, paramedic, and emergency services; or

(ii) law enforcement service.

(d) "Withdrawing municipality" means a municipality whose legislative body has adopted a resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district.

(2) This section applies and a feasibility study shall be conducted, as provided in this section, if:

(a) the legislative body of a municipality has adopted a resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district;

(b) the municipality and first responder district have not agreed in writing to the withdrawal; and

(c) a feasibility study is a condition under Subsection 17B-1-505(6)(a) for an election to be held approving the withdrawal.

(3) (a) As provided in this Subsection (3), the withdrawing municipality and first responder district shall choose and engage a feasibility consultant to conduct a feasibility study.

(b) The withdrawing municipality and first responder district shall jointly choose and engage a feasibility consultant according to applicable municipal or local district procurement procedures.

(c) (i) If the withdrawing municipality and first responder district cannot agree on and have not engaged a feasibility consultant under Subsection (3)(b) within 45 days after the legislative body of the withdrawing municipality submits written notice to the first responder district under Subsection 17B-1-505(3)(c), the withdrawing municipality and first responder district shall, as provided in this Subsection (3)(c), choose a feasibility consultant from a list of at least eight feasibility consultants provided by the Utah Association of Certified Public Accountants.

(ii) A list of feasibility consultants under Subsection (3)(c)(i) may not include a feasibility consultant that has had a contract to provide services to the withdrawing municipality or first responder district at any time during the two-year period immediately preceding the date the list is provided under Subsection (3)(c)(i).

(iii) (A) Beginning with the first responder district, the first responder district and withdrawing municipality shall alternately eliminate one feasibility consultant each from the list of feasibility consultants until one feasibility consultant remains.

(B) Within five days after receiving the list of consultants from the Utah Association of Certified Public Accountants, the first responder district shall make the first elimination of a feasibility consultant from the list and notify the withdrawing municipality in writing of the elimination.

(C) After the first elimination of a feasibility consultant from the list, the withdrawing municipality and first responder district shall each, within three days after receiving the written notification of the preceding elimination, notify the other in writing of the elimination of a feasibility consultant from the list.

(d) If a withdrawing municipality and first responder district do not engage a feasibility consultant under Subsection (3)(b), the withdrawing municipality and first responder district shall engage the feasibility consultant that has not been eliminated from the list at the completion of the process described in Subsection (3)(c).

(4) A feasibility consultant that conducts a feasibility study under this section shall be independent of and unaffiliated with the withdrawing municipality and first responder district.

(5) In conducting a feasibility study under this section, the feasibility consultant shall consider:

(a) population and population density within the withdrawing municipality;

(b) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(c) projected growth in the withdrawing municipality during the next five years;

(d) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of providing the same service in the

withdrawing municipality as is provided by the first responder district, including:

(i) the estimated cost if the first responder district continues to provide service; and

(ii) the estimated cost if the withdrawing municipality provides service;

(e) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of the first responder district providing service with:

(i) the municipality included in the first responder district's service area; and

(ii) the withdrawing municipality excluded from the first responder district's service area;

(f) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years after the withdrawal;

(g) the fiscal impact that the withdrawing municipality's withdrawal has on other municipalities and unincorporated areas served by the first responder district, including any rate increase that may become necessary to maintain required coverage ratios for the first responder district's debt;

(h) the physical and other assets that will be required by the withdrawing municipality to provide, without interruption or diminution of service, the same service that is being provided by the first responder district;

(i) the physical and other assets that will no longer be required by the first responder district to continue to provide the current level of service to the remainder of the first responder district, excluding the withdrawing municipality, and could be transferred to the withdrawing municipality;

(j) subject to Subsection (6)(b), a fair and equitable allocation of the first responder district's assets between the first responder district and the withdrawing municipality, effective upon the withdrawal of the withdrawing municipality from the first responder district;

(k) a fair and equitable allocation of the debts, liabilities, and obligations of the first responder district and any local building authority of the first responder district, between the withdrawing municipality and the remaining first responder district, taking into consideration:

(i) any requirement to maintain the excludability of interest from the income of the holder of the debt, liability, or obligation for federal income tax purposes; and

(ii) any first responder district assets that have been purchased with the proceeds of bonds issued by the first responder district that the first responder district will retain and any of those assets that will be transferred to the withdrawing municipality;

(l) the number and classification of first responder district employees who will no longer be required to serve the remaining portions of the first responder district after the withdrawing municipality withdraws from the first responder district, including the dollar amount of the wages, salaries, and benefits attributable to the employees and the estimated cost associated with termination of the employees if the withdrawing municipality does not employ the employees;

(m) maintaining as a base, for a period of three years after withdrawal, the existing schedule of pay and benefits for first responder district employees who are transferred to the employment of the withdrawing municipality; and

(n) any other factor that the feasibility consultant considers relevant to the question of the withdrawing municipality's withdrawal from the first responder district.

(6) (a) For purposes of Subsections (5)(d) and (e):

(i) the feasibility consultant shall assume a level and quality of service to be provided in the future to the withdrawing municipality that fairly and reasonably approximates the level and quality of service that the first responder district provides to the withdrawing municipality at the time of the feasibility study;

(ii) in determining the present value cost of a service that the first responder district provides, the feasibility consultant shall consider:

(A) the cost to the withdrawing municipality of providing the service for the first five years after the withdrawal; and

(B) the first responder district's present and five-year projected cost of providing the same service within the withdrawing municipality; and

(iii) the feasibility consultant shall consider inflation and anticipated growth in calculating the cost of providing service.

(b) The feasibility consultant may not consider an allocation of first responder district assets or a transfer of first responder district employees to the extent that the allocation or transfer would impair the first responder district's ability to continue to provide the current level of service to the remainder of the first responder district without the withdrawing municipality, unless the first responder district consents to the allocation or transfer.

(7) A feasibility consultant may retain an architect, engineer, or other professional, as the feasibility consultant considers prudent and as provided in the agreement with the withdrawing municipality and first responder district, to assist the feasibility consultant to conduct a feasibility study.

(8) The withdrawing municipality and first responder district shall require the feasibility consultant to:

(a) complete the feasibility study within a time established by the withdrawing municipality and first responder district;

(b) prepare and submit a written report communicating the results of the feasibility study, including a one-page summary of the results; and

(c) attend all public hearings relating to the feasibility study under Subsection (14).

(9) A written report of the results of a feasibility study under this section shall:

(a) contain a recommendation concerning whether a withdrawing municipality's withdrawal from a first responder district is functionally and financially feasible for both the first responder district and the withdrawing municipality; and

(b) include any conditions the feasibility consultant determines need to be satisfied in order to make the withdrawal functionally and financially feasible, including:

(i) first responder district assets and liabilities to be allocated to the withdrawing municipality; and

(ii) (A) first responder district employees to become employees of the withdrawing municipality; and

(B) sick leave, vacation, and other accrued benefits and obligations relating to the first responder district employees that the withdrawing municipality needs to assume.

(10) The withdrawing municipality and first responder district shall equally share the feasibility consultant's fees and costs, as specified in the agreement between the withdrawing municipality and first responder district and the feasibility consultant.

(11) (a) Upon completion of the feasibility study and preparation of a written report, the feasibility consultant shall deliver a copy of the report to the withdrawing municipality and first responder district.

(b) (i) A withdrawing municipality or first responder district that disagrees with any aspect of a feasibility study report may, within 20 business days after receiving a copy of the report under Subsection (11)(a), submit to the feasibility consultant a written objection detailing the disagreement.

(ii) (A) A withdrawing municipality that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the first responder district.

(B) A first responder district that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the withdrawing municipality.

(iii) A withdrawing municipality or first responder district may, within 10 business days after receiving an objection under Subsection (11)(b)(ii), submit to the feasibility consultant a written response to the objection.

(iv) (A) A withdrawing municipality that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the first responder district.

(B) A first responder district that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the withdrawing municipality.

(v) If an objection is filed under Subsection (11)(b)(i), the feasibility consultant shall, within 20 business days after the expiration of the deadline under Subsection (11)(b)(iii) for submitting a response to an objection:

(A) modify the feasibility study report or explain in writing why the feasibility consultant is not modifying the feasibility study report; and

(B) deliver the modified feasibility study report or written explanation to the withdrawing municipality and first responder local district.

(12) Within seven days after the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection or, if an objection is submitted, within seven days after receiving a modified feasibility study report or written explanation under Subsection (11)(b)(v), but at least 30 days before a public hearing under Subsection (14), the withdrawing municipality shall:

(a) make a copy of the report available to the public at the primary office of the withdrawing municipality; and

(b) if the withdrawing municipality has a website, post a copy of the report on the municipality's website.

(13) A feasibility study report or, if a feasibility study report is modified under Subsection (11), a modified feasibility study report may not be challenged unless the basis of the challenge is that the report results from collusion or fraud.

(14) (a) Following the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection, or, if an objection is submitted under Subsection (11)(b)(i), following the withdrawing municipality's receipt of the modified feasibility study report or written explanation under Subsection (11)(b)(v), the legislative body of the withdrawing municipality shall, at the legislative body's next regular meeting, schedule at least one public hearing to be held:

(i) within the following 60 days; and

(ii) for the purpose of allowing:

(A) the feasibility consultant to present the results of the feasibility study; and

(B) the public to become informed about the feasibility study results, to ask the feasibility consultant questions about the feasibility study, and to express the public's views about the proposed withdrawal.

(b) At a public hearing under Subsection (14)(a), the legislative body of the withdrawing municipality shall:

(i) provide a copy of the feasibility study for public review; and

(ii) allow the public to:

(A) ask the feasibility consultant questions about the feasibility study; and

(B) express the public's views about the withdrawing municipality's proposed withdrawal from the first responder district.

(15) (a) The clerk or recorder of the withdrawing municipality shall publish notice of a hearing under Subsection (14) [~~on the Utah Public Notice Website created in Section 63A-16-601,~~] for the withdrawing municipality, as a class A notice under Section 63G-28-102, for three consecutive weeks immediately before the public hearing.

(b) A notice under Subsection (15)(a) shall state:

(i) the date, time, and location of the public hearing; and

(ii) that a copy of the feasibility study report may be obtained, free of charge, at the office of the withdrawing municipality or on the withdrawing municipality's website.

(16) Unless the withdrawing municipality and first responder district agree otherwise, conditions that a feasibility study report indicates are necessary to be met for a withdrawal to be functionally and financially feasible for the withdrawing municipality and first responder district are binding on the withdrawing municipality and first responder district if the withdrawal occurs.

Section 104. Section 17B-1-608 is amended to read:

17B-1-608. Tentative budget and data -- Public records -- Notice.

(1) The tentative budget adopted by the board of trustees and all supporting schedules and data are public records.

(2) At least seven days before adopting a final budget in a public meeting, the local district shall:

(a) make the tentative budget available for public inspection at the local district's principal place of business during regular business hours;

(b) [~~if the local district has a website,~~] except to the extent provided in Subsection (3), publish the tentative budget [~~on the local district's website; and~~], as a class A notice under Section 63G-28-102, for at least seven days.

[~~(c) in accordance with Section 63A-16-601, do one of the following:~~]

[~~(i) publish the tentative budget on the Utah Public Notice Website; or~~]

[~~(ii) publish on the Utah Public Notice Website a link to a website on which the tentative budget is published.~~]

(3) The notice described in this section is exempt from the physical posting requirement described in Subsection 63G-28-102(1)(c).

Section 105. Section 17B-1-609 is amended to read:

17B-1-609. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the board of trustees shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection (6) or (7), order that notice of the hearing[~~:~~] be published for the district, as a class A notice under Section 63G-28-102, for at least seven days before the day of the hearing.

[~~(i) be posted in three public places within the district; and~~]

[~~(ii) be published at least seven days before the hearing on the Utah Public Notice Website created in Section 63A-16-601.~~]

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) If the budget hearing is to be held in conjunction with a fee increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 17B-1-643; and

(b) shall be published or mailed in accordance with the notice provisions of Section 17B-1-643.

(4) Proof that notice was given in accordance with Subsection (1)(b), (2), (3), or (6) is prima facie evidence that notice was properly given.

(5) If a notice required under Subsection (1)(b), (2), (3), or (6) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(6) A board of trustees of a local district with an annual operating budget of less than $250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in the local district; and

(b) posting the notice in three public places within the district.

(7) The notice described in this section is exempt from the physical posting requirement described in Subsection 63G-28-102(1)(c).

Section 106. Section 17B-1-643 is amended to read:

17B-1-643. Imposing or increasing a fee for service provided by local district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district,

each local district board of trustees shall first hold a public hearing at which:

(i) the local district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each local district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

(b) The local district board shall[~~:~~] publish the notice described in Subsection (2)(a) for the local district, as a class A notice under Section 63G-28-102, for at least 30 days.

[~~(i) post the notice required under Subsection (2)(a) on the Utah Public Notice Website, created in Section 63A-16-601; and~~]

[~~(ii) post at least one of the notices required under Subsection (2)(a) per 1,000 population within the local district, at places within the local district that are most likely to provide actual notice to residents within the local district, subject to a maximum of 10 notices.~~]

(c) The notice described in Subsection (2)(b) shall state that the local district board intends to impose or increase a fee for a service provided by the local district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d) (i) In lieu of providing notice under Subsection (2)(b), the local district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c).

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be posted or mailed in accordance with the notice provisions of this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

[~~(3)~~] (h) After holding a public hearing under Subsection (1), a local district board may:

[~~(a)~~] (i) impose the new fee or increase the existing fee as proposed;

[~~(b)~~] (ii) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

[~~(c)~~] (iii) decline to impose the new fee or increase the existing fee.

[~~(4)~~] (i) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

[~~(5)~~] (j) [~~(a)~~] (i) This section does not apply to an impact fee.

[~~(b)~~] (ii) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 107. Section 17B-1-1204 is amended to read:

17B-1-1204. Notice of the hearing on a validation petition -- Amended or supplemented validation petition.

(1) Upon the entry of an order under Section 17B-1-1203 setting a hearing on a validation petition, the local district that filed the petition shall [~~post notice:~~] publish notice, as a class A notice under Section 63G-28-102, for at least 21 days before the date of the hearing.

[~~(a) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks immediately before the hearing; and~~]

[~~(b) in the local district's principal office at least 21 days before the date set for the hearing.~~]

(2) Each notice under Subsection (1) shall:

(a) state the date, time, and place of the hearing on the validation petition;

(b) include a general description of the contents of the validation petition; and

(c) if applicable, state the location where a complete copy of a contract that is the subject of the validation petition may be examined.

(3) If a district amends or supplements a validation petition under Subsection 17B-1-1202(3) after publishing and posting notice as required under Subsection (1), the district is not required to publish or post notice again unless required by the court.

Section 108. Section 17B-1-1307 is amended to read:

17B-1-1307. Notice of public hearing and of dissolution.

(1) Before holding a public hearing required under Section 17B-1-1306, the administrative body shall[~~:(a) post~~] publish notice of the public hearing and of the proposed dissolution[~~:~~] for the local district proposed to be dissolved, as a class B notice under Section 63G-28-102, for 30 days before the day of the public hearing.

[~~(i) on the Utah Public Notice Website created in Section 63A-16-601, for 30 days before the public hearing; and~~]

[~~(ii) in at least four conspicuous places within the local district proposed to be dissolved, no less than five and no more than 30 days before the public hearing; or~~]

[~~(b) mail a notice to each owner of property located within the local district and to each registered voter residing within the local district.~~]

(2) Each notice required under Subsection (1) shall:

(a) identify the local district proposed to be dissolved and the service it was created to provide; and

(b) state the date, time, and location of the public hearing.

Section 109. Section 17B-2a-705 is amended to read:

17B-2a-705. Taxation -- Additional levy -- Election -- Notice.

(1) If a mosquito abatement district board of trustees determines that the funds required during the next ensuing fiscal year will exceed the maximum amount that the district is authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election on a date specified in Section 20A-1-204 and submit to district voters the question of whether the district should be authorized to impose an additional tax to raise the necessary additional funds.

(2) The board shall provide notice of the election[~~:~~] for the district, as a class A notice under Section 63G-28-102, for at least four weeks before the day of the election.

[~~(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the district, in places within the district that are most likely to give notice to the voters in the district, subject to a maximum of 10 notices; or~~]

[~~(ii) at least four weeks before the day of the election, by mailing notice to each registered voter in the district;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the election; and~~]

[~~(c) if the district has a website, by posting notice on the district's website for four weeks before the day of the election.~~]

(3) No particular form of ballot is required, and no informalities in conducting the election may invalidate the election, if it is otherwise fairly conducted.

(4) At the election each ballot shall contain the words, "Shall the district be authorized to impose an additional tax to raise the additional sum of $____?"

(5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes cast are in favor of the imposition of the tax, the district is authorized to impose an additional levy to raise the additional amount of money required.

Section 110. Section 17B-2a-1007 is amended to read:

17B-2a-1007. Contract assessments -- Notice.

(1) As used in this section:

(a) "Assessed land" means:

(i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or

(ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.

(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

(c) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.

(d) "Petitioner" means a private petitioner or a public petitioner.

(e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.

(g) "Public petitioner" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(h) "Public water user" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that enters into a water contract with the district.

(i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:

(i) land owned by the private water user; or

(ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.

(j) "Water user" means a private water user or a public water user.

(2) A water conservancy district may levy a contract assessment as provided in this section.

(3) (a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.

(b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.

(c) Each petition under this Subsection (3) shall include:

(i) the petitioner's name;

(ii) the quantity of water the petitioner desires to purchase or otherwise acquire;

(iii) a description of the land upon which the water will be used;

(iv) the price to be paid for the water;

(v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;

(vi) whether payment will be made in cash or annual installments;

(vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and

(viii) an agreement that the petitioner is bound by the provisions of this part and the rules and regulations of the water conservancy district board of trustees.

(4) (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:

(i) [~~post~~] provide notice of the petition and of the hearing required under Subsection (4)(a)(ii) [~~on the Utah Public Notice Website, created in Section 63A-16-601,~~] for the water conservancy district, as a class A notice under Section 63G-28-102, for at least two successive weeks immediately before the date of the hearing; and

(ii) hold a public hearing on the petition.

(b) Each notice under Subsection (4)(a)(i) shall:

(i) state that a petition has been filed and that the district is considering levying a contract assessment; and

(ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

(c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:

(A) allow any interested person to appear and explain why the petition should not be granted; and

(B) consider each written objection to the granting of the petition that the board receives before or at the hearing.

(ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.

(d) (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.

(ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.

(5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:

(a) deny the petition; or

(b) grant the petition, if the board considers granting the petition to be in the best interests of the district.

(6) The board of a water conservancy district that grants a petition under this section may:

(a) make an allotment of water for the benefit of assessed land;

(b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;

(c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and

(d) levy a contract assessment on assessed land.

(7) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and

(ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment.

(b) Upon the recording of the resolution, ordinance, or order, in accordance with Subsection (7)(a)(i):

(i) the contract assessment associated with allotting water to the assessed land under the water contract becomes a political subdivision lien, as that term is defined in Section 11-60-102, on the assessed land, in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority, as of the effective date of the resolution, ordinance, or order; and

(ii) (A) the board of trustees of the water conservancy district shall certify the amount of the assessment to the county treasurer; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

(c) (i) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.

(ii) If the amount of a contract assessment levied under this section is not paid in full in a given year:

(A) by September 15, the governing body of the water conservancy district that levies the contract assessment shall certify any unpaid amount to the treasurer of the county in which the property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

(8) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and

(ii) [~~post~~] publish a notice:

(A) [~~on the Utah Public Notice Website, created in Section 63A-16-601,~~] for the water conservancy district, as a class A notice under Section 63G-28-102, for at least the two consecutive weeks before the day of the public hearing; and

(B) that contains a general description of the assessed land, the amount of the contract assessment, and the time and place of the public hearing under Subsection (8)(a)(i).

(b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to the assessment, stating the grounds for the objection.

(c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.

(ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:

(A) shall enter a written order, stating its decision; and

(B) may modify the assessment.

(d) (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(ii)(A).

(ii) Each petition under Subsection (8)(d)(i) shall:

(A) be filed within 30 days after the board enters its written order;

(B) state specifically the part of the board's order for which review is sought; and

(C) be accompanied by a bond with good and sufficient security in an amount not exceeding $200, as determined by the court clerk.

(iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.

(iv) The court shall act as quickly as possible after a petition is filed.

(v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.

(e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.

(9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007, under the law in effect at the time of the levy is validated, ratified, and confirmed, and a

water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.

(10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.

Section 111. Section 17B-2a-1110 is amended to read:

17B-2a-1110. Withdrawal from a municipal services district upon incorporation -- Feasibility study required for city or town withdrawal -- Public hearing -- Notice -- Revenues transferred to municipal services district.

(1) (a) A municipality may withdraw from a municipal services district in accordance with Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.

(b) If a municipality engages a feasibility consultant to conduct a feasibility study under Subsection (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)(B) is tolled from the day that the municipality engages the feasibility consultant to the day on which the municipality holds the final public hearing under Subsection (5).

(2) (a) If a municipality decides to withdraw from a municipal services district, the municipal legislative body shall, before adopting a resolution under Section 17B-1-502 or 17B-1-505, as applicable, engage a feasibility consultant to conduct a feasibility study.

(b) The feasibility consultant shall be chosen:

(i) by the municipal legislative body; and

(ii) in accordance with applicable municipal procurement procedures.

(3) The municipal legislative body shall require the feasibility consultant to:

(a) complete the feasibility study and submit the written results to the municipal legislative body before the council adopts a resolution under Section 17B-1-502;

(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and

(c) attend the public hearings under Subsection (5).

(4) (a) The feasibility study shall consider:

(i) population and population density within the withdrawing municipality;

(ii) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the withdrawing municipality during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of municipal services in the withdrawing municipality;

(v) assuming the same tax categories and tax rates as currently imposed by the municipal services district and all other current service providers, the present and five-year projected revenue for the withdrawing municipality;

(vi) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years of the withdrawal; and

(vii) the fiscal impact on other municipalities serviced by the municipal services district.

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of municipal services to be provided to the withdrawing municipality in the future that fairly and reasonably approximates the level and quality of municipal services being provided to the withdrawing municipality at the time of the feasibility study.

(ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:

(A) the amount it would cost the withdrawing municipality to provide municipal services for the first five years after withdrawing; and

(B) the municipal services district's present and five-year projected cost of providing municipal services.

(iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth.

(5) If the results of the feasibility study meet the requirements of Subsection (4), the municipal legislative body shall, at its next regular meeting after receipt of the results of the feasibility study, schedule at least one public hearing to be held:

(a) within the following 60 days; and

(b) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results, including the requirement that if the municipality withdraws from the municipal services district, the municipality must comply with Subsection (9), and to ask questions about those results of the feasibility consultant.

(6) At a public hearing described in Subsection (5), the municipal legislative body shall:

(a) provide a copy of the feasibility study for public review; and

(b) allow the public to express its views about the proposed withdrawal from the municipal services district.

(7) (a) The municipal clerk or recorder shall publish notice of the public hearings required under

Subsection (5)[:] for the municipality, as a class A notice under Section 63G-28-102, for at least three weeks before the day of the first hearing described in Subsection (5).

[~~(i) by posting the notice on the Utah Public Notice Website created in Section 63A-16-601, for three weeks; and~~]

[~~(ii) by posting at least one notice of the hearings per 1,000 population in conspicuous places within the municipality that are most likely to give notice of the hearings to the residents.~~]

[~~(b) The municipal clerk or recorder shall post the notices under Subsection (7)(a)(ii) at least seven days before the first hearing under Subsection (5).~~]

[~~(c)~~] (b) The notice under Subsection (7)(a) shall include the feasibility study summary and shall indicate that a full copy of the study is available for inspection and copying at the office of the municipal clerk or recorder.

(8) At a public meeting held after the public hearing required under Subsection (5), the municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as applicable, if the municipality is in compliance with the other requirements of that section.

(9) The municipality shall pay revenues in excess of 5% to the municipal services district for 10 years beginning on the next fiscal year immediately following the municipal legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502 or 17B-1-505 if the results of the feasibility study show that the average annual amount of revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection (4)(a)(iv) by more than 5%.

Section 112. Section 17C-1-207 is amended to read:

17C-1-207. Public entities may assist with project area development -- Notice requirements.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of project area development within an area in which the public entity is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

(iii) in any part of the project area:

(A) (I) plan or replan any property within the project area;

(II) plat or replat any property within the project area;

(III) vacate a plat;

(IV) amend a plat; or

(V) zone or rezone any property within the project area; and

(B) make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) notwithstanding any law to the contrary, enter into an agreement for a period of time with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

(vi) do anything necessary to aid or cooperate in the planning or implementation of the project area development;

(vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(viii) lend, grant, or contribute funds to an agency for project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and

(b) for less than fair market value or for no consideration, and subject to Subsection (3):

(i) purchase or otherwise acquire property from an agency;

(ii) lease property from an agency;

(iii) sell, grant, convey, donate, or otherwise dispose of the public entity's property to an agency; or

(iv) lease the public entity's property to an agency.

(2) The following are not subject to Section 10-8-2, 17-50-312, or 17-50-303:

(a) project area development assistance that a public entity provides under this section; or

(b) a transfer of funds or property from an agency to a public entity.

(3) A public entity may provide assistance described in Subsection (1)(b) no sooner than 15 days after the day on which the public entity [~~posts~~] completes the requirements for publishing notice of the assistance [~~on:~~] for the public entity's jurisdiction, as a class A notice under Section 63G-28-102, for at least 15 days.

[~~(a) the Utah Public Notice Website described in Section 63A-16-601; and~~]

[~~(b) the public entity's public website.~~]

Section 113. Section 17C-1-601.5 is amended to read:

17C-1-601.5. Annual agency budget -- Fiscal year -- Public hearing required -- Notice -- Auditor forms -- Requirement to file form.

(1) Each agency shall prepare an annual budget of the agency's revenues and expenditures for each fiscal year.

(2) The board shall adopt each agency budget:

(a) for an agency created by a municipality, before June 30; or

(b) for an agency created by a county, before December 15.

(3) The agency's fiscal year shall be the same as the fiscal year of the community that created the agency.

(4) (a) Before adopting an annual budget, each board shall hold a public hearing on the annual budget.

(b) Each agency shall provide notice of the public hearing on the annual budget [~~by:~~] for the agency's jurisdiction, as a class A notice under Section 63G-28-102, for at least one week before the day of the public hearing.

[~~(i) posting a notice of the public hearing in at least three public places within the agency boundaries; and~~]

[~~(ii) publishing notice on the Utah Public Notice Website created in Section 63A-16-601, at least one week before the public hearing.~~]

(c) Each agency shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each annual budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of agency personnel.

(6) (a) Within 90 days after adopting an annual budget, each board shall file a copy of the annual budget with the auditor of the county in which the agency is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity from which the agency receives project area funds.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.

Section 114. Section 17C-1-701.5 is amended to read:

17C-1-701.5. Agency dissolution -- Restrictions -- Notice -- Recording requirements -- Agency records -- Dissolution expenses.

(1) (a) Subject to Subsection (1)(b), the community legislative body may, by ordinance, dissolve an agency.

(b) A community legislative body may adopt an ordinance described in Subsection (1)(a) only if the agency has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with a person other than the community.

(2) (a) The community legislative body shall:

(i) within 10 days after adopting an ordinance described in Subsection (1), file with the lieutenant governor a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5, submit to the recorder of the county in which the agency is located:

(A) the original notice of an impending boundary action;

(B) the original certificate of dissolution; and

(C) a certified copy of the ordinance that dissolves the agency.

(b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the agency is dissolved.

(c) Within 10 days after receiving the certificate of dissolution from the lieutenant governor under Section 67-1a-6.5, the community legislative body shall send a copy of the certificate of dissolution and the ordinance adopted under Subsection (1) to the State Board of Education, and each taxing entity.

(d) The community legislative body shall post a notice of dissolution [~~on the Utah Public Notice Website created in Section 63A-16-601~~] for the community, as a class A notice under Section 63G-28-102, for at least 10 days.

(3) The books, documents, records, papers, and seal of each dissolved agency shall be deposited for safekeeping and reference with the recorder of the community that dissolved the agency.

(4) The agency shall pay all expenses of the dissolution.

Section 115. Section 17C-1-804 is amended to read:

17C-1-804. Notice required for continued hearing.

The board shall give notice of a hearing continued under Section 17C-1-803 by announcing at the hearing:

(1) the date, time, and place the hearing will be resumed; or

(2) (a) that the hearing is being continued to a later time; and

(b) that the board will cause a notice of the continued hearing to be published [~~on the Utah Public Notice Website created in Section 63A-16-601,~~] for the community, as a class A notice under Section 63G-28-102, for at least seven days before the day on which the hearing is scheduled to resume.

Section 116. Section 17C-1-806 is amended to read:

17C-1-806. Requirements for notice provided by agency.

(1) The notice required by Section 17C-1-805 shall be given by:

(a) publishing notice for the county, as a class A notice under Section 63G-28-102, for at least 14 days before the day on which the hearing is held; and

[~~(a) (i) posting notice at least 14 days before the day of the hearing in at least three conspicuous places within the county in which the project area or proposed project area is located; or~~]

[~~(ii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:~~]

[~~(A) the Utah Public Notice Website described in Section 63A-16-601; and~~]

[~~(B) the public website of a community located within the boundaries of the project area; and~~]

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the project area or proposed project area;

(ii) the State Tax Commission;

(iii) the assessor and auditor of the county in which the project area or proposed project area is located; and

(iv) (A) if a project area is subject to a taxing entity committee, each member of the taxing entity committee and the State Board of Education; or

(B) if a project area is not subject to a taxing entity committee, the legislative body or governing board of each taxing entity within the boundaries of the project area or proposed project area.

(2) The mailing of the notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(3) The agency shall include in each notice required under Section 17C-1-805:

(a) (i) a boundary description of the project area or proposed project area; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the boundary description be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description and other related information;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(4) The agency shall include in each notice under Subsection (1)(b):

(a) a statement that property tax revenue resulting from an increase in valuation of property within the project area or proposed project area will be paid to the agency for project area development rather than to the taxing entity to which the tax revenue would otherwise have been paid if:

(i) (A) the taxing entity committee consents to the project area budget; or

(B) one or more taxing entities agree to share property tax revenue under an interlocal agreement; and

(ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(5) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose achieved by the project area development and any future tax benefits expected to result from the project area development.

Section 117. Section 17C-1-1003 is amended to read:

17C-1-1003. Interlocal agreement -- Notice requirements -- Effective date.

(1) An agency that enters into an interlocal agreement under Section 17C-1-1002 shall:

(a) adopt the interlocal agreement at an open and public meeting; and

(b) provide a notice, in accordance with Subsections (2) and (3), titled "Authorization to Levy a Property Tax."

(2) Upon the execution of an interlocal agreement, the agency shall provide, subject to Subsection (3), notice of the execution by[~~:~~] publishing the notice for the agency's jurisdiction, as a class A notice under Section 63G-28-102, for at least 14 days.

[~~(a) (i) publishing the notice in a newspaper of general circulation within the agency's geographic boundaries; or~~]

[~~(ii) if there is no newspaper of general circulation within the agency's geographic boundaries, posting the notice in at least three public places within the agency's geographic boundaries; and~~]

[~~(b) posting the notice on the Utah Public Notice Website created in Section 63A-16-601.~~]

(3) A notice described in Subsection (2) shall include:

(a) a summary of the interlocal agreement; and

(b) a statement that the interlocal agreement:

(i) is available for public inspection and the place and the hours for inspection; and

(ii) authorizes the agency to:

(A) receive all or a portion of a taxing entity's project area incremental revenue; and

(B) levy a property tax on taxable property within the agency's boundaries.

(4) An interlocal agreement described in Section 17C-1-1002 is effective the day on which the notice is published or posted in accordance with Subsections (2) and (3).

(5) An eligible taxing entity that enters into an interlocal agreement under Section 17C-1-1002 shall make a copy of the interlocal agreement available to the public for inspecting and copying at the eligible taxing entity's office during normal business hours.

Section 118. Section 17C-2-108 is amended to read:

17C-2-108. Notice of urban renewal project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an urban renewal project area plan, or an amendment to a project area plan under Section 17C-2-110, the community legislative body shall provide notice as provided in Subsection (1)(b) by[~~:~~] publishing notice for the agency's jurisdiction, as a class A notice under Section 63G-28-102, for at least 30 days.

[~~(i) causing a notice to be posted in at least three public places within the agency's boundaries; and~~]

[~~(ii) posting a notice on the Utah Public Notice Website described in Section 63A-16-601.~~]

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The project area plan shall become effective [~~on the date of:~~] at the end of the 30-day period described in Subsection (1)(a).

[~~(a) if notice was published under Subsection (1)(a), publication of the notice; or~~]

[~~(b) if notice was posted under Subsection (1)(a), posting of the notice.~~]

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the project area plan by the community legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the project area plan available to the general public at the agency's office during normal business hours.

Section 119. Section 17C-3-107 is amended to read:

17C-3-107. Notice of economic development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an economic development project area plan, or an amendment to the project area plan under Section 17C-3-109 that requires notice, the legislative body shall provide notice as provided in Subsection (1)(b) by[~~:~~] publishing notice for the agency's jurisdiction, as a class A notice under Section 63G-28-102, for at least 30 days.

[~~(i) causing a notice to be posted in at least three public places within the agency's boundaries; and~~]

[~~(ii) posting a notice on the Utah Public Notice Website described in Section 63A-16-601.~~]

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for public inspection and the hours for inspection.

(2) The project area plan shall become effective [~~on the date of:~~] at the end of the 30-day period described in Subsection (1)(a).

[~~(a) if notice was published under Subsection (1)(a), publication of the notice; or~~]

[~~(b) if notice was posted under Subsection (1)(a), posting of the notice.~~]

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the economic development project area plan by the community legislative body, the agency may implement the project area plan.

(5) Each agency shall make the economic development project area plan available to the general public at the agency's office during normal business hours.

Section 120. Section 17C-4-106 is amended to read:

17C-4-106. Notice of community development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of a community development project area plan, the community legislative body shall provide notice as provided in Subsection (1)(b) by[~~:~~] publishing notice for the agency's jurisdiction, as a class A notice under Section 63G-28-102, for at least 30 days.

[~~(i) causing a notice to be posted in at least three public places within the agency's boundaries; and~~]

[~~(ii) posting a notice or causing a notice to be posted on the Utah Public Notice Website created in Section 63A-16-601.~~]

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the community development project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The community development project area plan shall become effective [~~on the date of the posting of the notice under Subsection (1)(a)~~] at the end of the 30-day period described in Subsection (1)(a).

(3) (a) For a period of 30 days after the effective date of the community development project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the community development project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the community development project area plan by the community legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the adopted project area plan available to the public at the agency's office during normal business hours.

Section 121. Section 17C-4-109 is amended to read:

17C-4-109. Expedited community development project area plan -- Notice.

(1) As used in this section, "tax increment incentive" means the portion of tax increment awarded to an industry or business.

(2) A community development project area plan may be adopted or amended without complying with the notice and public hearing requirements of this part and Chapter 1, Part 8, Hearing and Notice Requirements, if the following requirements are met:

(a) the agency determines by resolution adopted in an open and public meeting the need to create or amend a project area plan on an expedited basis, which resolution shall include a description of why expedited action is needed;

(b) a public hearing on the amendment or adoption of the project area plan is held by the agency;

(c) notice of the public hearing is published at least 14 days before the day of the public hearing [~~on:~~] for the community that created the agency, as a class A notice under Section 63G-28-102, for at least 14 days;

[~~(i) the website of the community that created the agency; and~~]

[~~(ii) the Utah Public Notice Website created in Section 63A-16-601;~~]

(d) written consent to the amendment or adoption of the project area plan is given by all record property owners within the existing or proposed project area;

(e) each taxing entity that will be affected by the tax increment incentive enters into or amends an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, and Sections 17C-4-201, 17C-4-203, and 17C-4-204;

(f) the primary market for the goods or services that will be created by the industry or business

entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is outside of the state;

(g) the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is not primarily engaged in retail trade; and

(h) a tax increment incentive is only provided to an industry or business entity:

(i) on a postperformance basis as described in Subsection (3); and

(ii) on an annual basis after the tax increment is received by the agency.

(3) An industry or business entity may only receive a tax increment incentive under this section after entering into an agreement with the agency that sets postperformance targets that shall be met before the industry or business entity may receive the tax increment incentive, including annual targets for:

(a) capital investment in the project area;

(b) the increase in the taxable value of the project area;

(c) the number of new jobs created in the project area;

(d) the average wages of the jobs created, which shall be at least 110% of the prevailing wage of the county where the project area is located; and

(e) the amount of local vendor opportunity generated by the industry or business entity.

Section 122. Section 17C-4-202 is amended to read:

17C-4-202. Resolution or interlocal agreement to provide project area funds for the community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.

(1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.

(2) (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by[~~:~~] publishing notice for the agency's jurisdiction, as a class A notice under Section 63G-28-102, for 30 days.

[~~(i) causing a notice to be posted in at least three public places within the agency's boundaries; and~~]

[~~(ii) posting or causing to be posted a notice on the Utah Public Notice Website created in Section 63A-16-601.~~]

(b) Each notice under Subsection (2)(a) shall:

(i) set forth a summary of the resolution or interlocal agreement; and

(ii) include a statement that the resolution or interlocal agreement is available for public inspection and the hours of inspection.

(3) The resolution or interlocal agreement shall become effective [~~on the date of the posting of the notice under Subsection (2)(a)~~] at the end of the 30-day period described in Subsection (2)(a).

(4) (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (4)(a) expires, a person may not contest:

(i) the resolution or interlocal agreement;

(ii) a distribution of tax increment to the agency under the resolution or interlocal agreement; or

(iii) the agency's use of project area funds under the resolution or interlocal agreement.

(5) Each agency that is to receive project area funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity that approves a resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or interlocal agreement, as the case may be, available at the taxing entity's offices to the public for inspection and copying during normal business hours.

Section 123. Section 17C-5-110 is amended to read:

17C-5-110. Notice of community reinvestment project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon a community legislative body's adoption of a community reinvestment project area plan in accordance with Section 17C-5-109, or an amendment to a community reinvestment project area plan in accordance with Section 17C-5-112, the community legislative body shall provide notice of the adoption or amendment in accordance with Subsection (1)(b) by[~~:~~] publishing notice for the community, as a class A notice under Section 63G-28-102, for 30 days.

[~~(i) causing a notice to be posted in at least three public places within the community; and~~]

[~~(ii) posting a notice on the Utah Public Notice Website described in Section 63A-16-601.~~]

(b) A notice described in Subsection (1)(a) shall include:

(i) a copy of the community legislative body's ordinance, or a summary of the ordinance, that adopts the community reinvestment project area plan; and

(ii) a statement that the community reinvestment project area plan is available for public inspection and the hours for inspection.

(2) A community reinvestment project area plan is effective [~~on the day on which notice of adoption is published or posted in accordance with Subsection (1)(a)~~] at the end of the 30-day period described in Subsection (1)(a).

(3) A community reinvestment project area is considered created the day on which the community reinvestment project area plan becomes effective as described in Subsection (2).

(4) (a) Within 30 days after the day on which a community reinvestment project area plan is effective, a person may contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan if the community reinvestment project area plan or the procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan.

(5) Upon adoption of a community reinvestment project area plan by the community legislative body, the agency may implement the community reinvestment project area plan.

(6) The agency shall make the community reinvestment project area plan available to the public at the agency's office during normal business hours.

Section 124. Section 17C-5-113 is amended to read:

17C-5-113. Expedited community reinvestment project area plan -- Hearing and notice requirements.

(1) As used in this section:

(a) "Qualified business entity" means a business entity that:

(i) has a primary market for the qualified business entity's goods or services outside of the state; and

(ii) is not primarily engaged in retail sales.

(b) "Tax increment incentive" means the portion of an agency's tax increment that is paid to a qualified business entity for the purpose of implementing a community reinvestment project area plan.

(2) An agency and a qualified business entity may, in accordance with Subsection (3), enter into an agreement that allows the qualified business entity to receive a tax increment incentive.

(3) An agreement described in Subsection (2) shall set annual postperformance targets for:

(a) capital investment within the community reinvestment project area;

(b) the number of new jobs created within the community reinvestment project area;

(c) the average wage of the jobs described in Subsection (3)(b) that is at least 110% of the prevailing wage of the county within which the community reinvestment project area is located; and

(d) the amount of local vendor opportunity generated by the qualified business entity.

(4) A qualified business entity may only receive a tax increment incentive:

(a) if the qualified business entity complies with the agreement described in Subsection (3);

(b) on a postperformance basis; and

(c) on an annual basis after the agency receives tax increment from a taxing entity.

(5) An agency may create or amend a community reinvestment project area plan for the purpose of providing a tax increment incentive without complying with the requirements described in Chapter 1, Part 8, Hearing and Notice Requirements, if:

(a) the agency:

(i) holds a public hearing to consider the need to create or amend a community reinvestment project area plan on an expedited basis;

(ii) [~~posts~~] publishes notice for the community, as a class A notice under Section 63G-28-102, for at least 14 days before the day on which the public hearing described in Subsection (5)(a)(i) is held [~~on:~~]; and

[~~(A) the community's website; and~~]

[~~(B) the Utah Public Notice Website as described in Section 63A-16-601; and~~]

(iii) at the hearing described in Subsection (5)(a)(i), adopts a resolution to create or amend the community reinvestment project area plan on an expedited basis;

(b) all record property owners within the existing or proposed community reinvestment project area plan give written consent; and

(c) each taxing entity affected by the tax increment incentive consents and enters into an interlocal agreement with the agency authorizing the agency to pay a tax increment incentive to the qualified business entity.

Section 125. Section 17C-5-205 is amended to read:

17C-5-205. Interlocal agreement to provide project area funds for the community reinvestment project area subject to interlocal agreement -- Notice -- Effective date of interlocal agreement -- Time to contest interlocal agreement -- Availability of interlocal agreement.

(1) An agency shall:

(a) approve and adopt an interlocal agreement described in Section 17C-5-204 at an open and public meeting; and

(b) provide a notice of the meeting titled "Diversion of Property Tax for a Community Reinvestment Project Area."

(2) (a) Upon the execution of an interlocal agreement described in Section 17C-5-204, the agency shall provide notice of the execution by[~~:~~] publishing the notice for the agency's jurisdiction, as a class A notice under Section 63G-28-102, for 30 days.

[~~(i) causing the notice to be posted in at least three public places within the agency's boundaries; and~~]

[~~(ii) posting the notice or causing the notice to be posted on the Utah Public Notice Website created in Section 63A-16-601.~~]

(b) A notice described in Subsection (2)(a) shall include:

(i) a summary of the interlocal agreement; and

(ii) a statement that the interlocal agreement:

(A) is available for public inspection and the hours for inspection; and

(B) authorizes the agency to receive all or a portion of a taxing entity's tax increment or sales and use tax revenue.

(3) An interlocal agreement described in Section 17C-5-204 is effective [~~the day on which the notice described in Subsection (2) is posted in accordance with Subsection (2)(a)~~] at the end of the 30-day period described in Subsection (2)(a).

(4) (a) Within 30 days after the day on which the interlocal agreement is effective, a person may contest the interlocal agreement or the procedure used to adopt the interlocal agreement if the interlocal agreement or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest:

(i) the interlocal agreement;

(ii) a distribution of tax increment to the agency under the interlocal agreement; or

(iii) the agency's use of project area funds under the interlocal agreement.

(5) A taxing entity that enters into an interlocal agreement under Section 17C-5-204 shall make a copy of the interlocal agreement available to the public at the taxing entity's office for inspection and copying during normal business hours.

Section 126. Section 17D-3-305 is amended to read:

17D-3-305. Setting the date of nomination of the board of supervisors -- Notice requirements.

(1) The commission shall set the date of the nomination of members of the board of supervisors of a conservation district.

(2) The commission shall publish notice of the nomination day described in Subsection (1):

[~~(a) (i) in a newspaper of general circulation within the conservation district at least once, no later than four weeks before the day of the nomination; or~~]

[~~(ii) if there is no newspaper of general circulation in the conservation district, at least four weeks before the nomination day, by posting one notice, and at least one additional notice per 2,000 population of the conservation district, in places within the conservation district that are most likely to give notice to the residents in the conservation district;~~]

[~~(b)~~] (a) [~~on the Utah Public Notice Website created in Section 63A-16-601,~~] for the conservation district, as a class A notice under Section 63G-28-102, for four weeks before the day of the nomination; and

[~~(c)~~] (b) in accordance with Section 45-1-101, for four weeks before the day of the nomination[~~; and~~].

[~~(d) if the conservation district has a website, on the conservation district's website for four weeks before the day of the nomination.~~]

(3) The commissioner shall appoint the board of members by no later than six weeks after the date set by the commission for the close of nominations.

(4) The notice required under Subsection (2) shall state:

(a) the nomination date; and

(b) the number of open board member positions for the conservation district.

Section 127. Section 19-2-109 is amended to read:

19-2-109. Air quality standards -- Hearings on adoption -- Notice requirements -- Orders of director -- Adoption of emission control requirements.

(1) (a) The board, in adopting standards of quality for ambient air, shall conduct public hearings.

(b) Notice of any public hearing for the consideration, adoption, or amendment of air quality standards shall specify the locations to which the proposed standards apply and the time, date, and place of the hearing.

(c) The notice shall be:

(i) [~~(A)~~] published [~~at least twice in any newspaper of general circulation in~~] for the area affected, as a class A notice under Section 63G-28-102, for at least 20 days; and

[~~(B) published on the Utah Public Notice Website created in Section 63A-16-601, at least 20 days before the public hearing; and~~]

(ii) mailed at least 20 days before the public hearing to the chief executive of each political subdivision of the area affected and to other persons the director has reason to believe will be affected by the standards.

(d) The adoption of air quality standards or any modification or changes to air quality standards shall be by order of the director following formal action of the board with respect to the standards.

(e) The order shall be published:

(i) [~~in a newspaper of general circulation in~~] for the area affected, as a class A notice under Section 63G-28-102, for at least 20 days; and

(ii) as required in Section 45-1-101.

(2) (a) The board may establish emission control requirements by rule that in its judgment may be necessary to prevent, abate, or control air pollution that may be statewide or may vary from area to area, taking into account varying local conditions.

(b) In adopting these requirements, the board shall give notice and conduct public hearings in accordance with the requirements in Subsection (1).

Section 128. Section 20A-1-206 is amended to read:

20A-1-206. Cancellation of local election or local race -- Municipalities -- Local districts -- Notice.

(1) As used in this section:

(a) "Contested race" means a race in a general election where the number of candidates, including any eligible write-in candidates, exceeds the number of offices to be filled in the race.

(b) "Election" means an event, run by an election officer, that includes one or more races for public office or one or more ballot propositions.

(c) (i) "Race" means a contest between candidates to obtain the number of votes necessary to take a particular public office.

(ii) "Race," as the term relates to a contest for an at-large position, includes all open positions for the same at-large office.

(iii) "Race," as the term relates to a contest for a municipal council position that is not an at-large position, includes only the contest to represent a particular district on the council.

(2) A municipal legislative body may cancel a local election if:

(a) the ballot for the local election will not include any contested races or ballot propositions; and

(b) the municipal legislative body passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the election and certifies that:

(i) the ballot for the election would not include any contested races or ballot propositions; and

(ii) the candidates who qualified for the ballot are considered elected.

(3) A municipal legislative body may cancel a race in a local election if:

(a) the ballot for the race will not include any contested races or ballot propositions; and

(b) the municipal legislative body passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the race and certifies that:

(i) the ballot for the race would not include any contested races or ballot propositions; and

(ii) the candidate for the race is considered elected.

(4) A municipal legislative body that cancels a local election in accordance with Subsection (2) shall give notice that the election is cancelled by:

(a) subject to Subsection (8), providing notice to the lieutenant governor's office to be posted on the Statewide Electronic Voter Information Website described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election; and

(b) providing notice for the municipality, as a class A notice under Section 63G-28-102, for at least 15 days before the day of the scheduled election.

[~~(b) if the municipality has a public website, posting notice on the municipality's public website for 15 days before the day of the scheduled election;~~]

[~~(c) if the elected officials or departments of the municipality regularly publish a printed or electronic newsletter or other periodical, publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election;~~]

[~~(d) (i) publishing notice at least twice in a newspaper of general circulation in the municipality before the day of the scheduled election;~~]

[~~(ii) at least 10 days before the day of the scheduled election, posting one notice, and at least one additional notice per 2,000 population within the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 notices; or~~]

[~~(iii) at least 10 days before the day of the scheduled election, mailing notice to each registered voter in the municipality; and~~]

[~~(e) posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for at least 10 days before the day of the scheduled election.~~]

(5) A local district board may cancel a local election if:

(a) the ballot for the local election will not include any contested races or ballot propositions; and

(b) the local district board passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the election and certifies that:

(i) the ballot for the election would not include any contested races or ballot propositions; and

(ii) the candidates who qualified for the ballot are considered elected.

(6) A local district board may cancel a local district race if:

(a) the race is uncontested; and

(b) the local district board passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the race and certifies that the candidate who qualified for the ballot for that race is considered elected.

(7) A local district that cancels a local election in accordance with Subsection (5) shall provide notice that the election is cancelled:

(a) subject to Subsection (8), by posting notice on the Statewide Electronic Voter Information Website described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election; and

(b) as a class A notice under Section 63G-28-102, for at least 15 days before the day of the scheduled election.

[~~(b) if the local district has a public website, by posting notice on the local district's public website for 15 days before the day of the scheduled election;~~]

[~~(c) if the local district publishes a newsletter or other periodical, by publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election;~~]

[~~(d) (i) by publishing notice at least twice in a newspaper of general circulation in the local district before the scheduled election;~~]

[~~(ii) at least 10 days before the day of the scheduled election, by posting one notice, and at least one additional notice per 2,000 population of the local district, in places within the local district that are most likely to give notice to the voters in the local district, subject to a maximum of 10 notices; or~~]

[~~(iii) at least 10 days before the day of the scheduled election, by mailing notice to each registered voter in the local district; and~~]

[~~(e) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for at least 10 days before the day of the scheduled election.~~]

(8) A municipal legislative body that posts a notice in accordance with Subsection (4)(a) or a local district that posts a notice in accordance with Subsection (7)(a) is not liable for a notice that fails to post due to technical or other error by the publisher of the Statewide Electronic Voter Information Website.

Section 129. Section 20A-1-512 is amended to read:

20A-1-512. Midterm vacancies on local district boards -- Notice.

(1) (a) When a vacancy occurs on any local district board for any reason, the following shall appoint a replacement to serve out the unexpired term in accordance with this section:

(i) the local district board, if the person vacating the position was elected; or

(ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position.

(b) Except as provided in Subsection (1)(c) or (d), before acting to fill the vacancy, the local district board or appointing authority shall:

(i) give public notice of the vacancy for at least two weeks before the local district board or appointing authority meets to fill the vacancy by[~~:~~] publishing the notice, as a class A notice under Section 63G-28-102, for the local district; and

[~~(A) if there is a newspaper of general circulation, as that term is defined in Section 45-1-201, within the district, publishing the notice in the newspaper of general circulation;~~]

[~~(B) posting the notice in three public places within the local district; and~~]

[~~(C) posting on the Utah Public Notice Website created under Section 63A-16-601; and~~]

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the individual to whom an individual who is interested in an appointment to fill the vacancy may submit the individual's name for consideration; and

(C) any submission deadline.

(c) An appointing authority is not subject to Subsection (1)(b) if:

(i) the appointing authority appoints one of the appointing authority's own members; and

(ii) that member meets all applicable statutory board member qualifications.

(d) When a vacancy occurs on the board of a water conservancy district located in more than one county:

(i) the board shall give notice of the vacancy to the county legislative bodies that nominated the vacating trustee as provided in Section 17B-2a-1005;

(ii) the county legislative bodies described in Subsection (1)(d)(i) shall collectively compile a list of three nominees to fill the vacancy; and

(iii) the governor shall, with the advice and consent of the Senate, appoint an individual to fill the vacancy from nominees submitted as provided in Subsection 17B-2a-1005(2)(c).

(2) If the local district board fails to appoint an individual to complete an elected board member's term within 90 days, the legislative body of the county or municipality that created the local district shall fill the vacancy in accordance with the procedure for a local district described in Subsection (1)(b).

Section 130. Section 20A-3a-604 is amended to read:

20A-3a-604. Notice of time and place of early voting.

(1) Except as provided in Section 20A-1-308 or Subsection 20A-3a-603(2), the election officer shall, for at least [~~19~~] 28 days before the date of the election, provide notice of the dates, times, and locations of early voting[~~:~~] by publishing notice for the county, as a class A notice under Section 63G-28-102.

[~~(a) (i) by publishing notice in at least one issue of a newspaper of general circulation in the county;~~]

[~~(ii) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents in the county, subject to a maximum of 10 notices; or~~]

[~~(iii) by mailing notice to each registered voter in the county;~~]

[~~(b) by posting notice at each early voting polling place;~~]

[~~(c) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for 19 days before the day of the election; and~~]

[~~(d) by posting notice on the county's website for 19 days before the day of the election.~~]

(2) Instead of specifying all dates, times, and locations of early voting, a notice required under Subsection (1) may specify the following sources where a voter may view or obtain a copy of all dates, times, and locations of early voting:

(a) the county's website;

(b) the physical address of the county's offices; and

(c) a mailing address and telephone number.

(3) The election officer shall include in the notice described in Subsection (1):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

Section 131. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically -- Notice of testing tabulating equipment.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall provide public notice of the time and place of the test[~~:~~] by publishing the notice, as a class A notice under Section 63G-28-102, for the county, municipality, or jurisdiction where the equipment is used, for at least 10 days before the day of the test.

[~~(i) (A) by publishing notice at least 48 hours before the test in a newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used;~~]

[~~(B) at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction, subject to a maximum of 10 notices; or~~]

[~~(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;~~]

[~~(ii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the test; and~~]

[~~(iii) if the county, municipality, or jurisdiction has a website, by posting notice on the website for four weeks before the day of the test.~~]

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) (a) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(i) make a true replication of the ballot with an identifying serial number;

(ii) substitute the replicated ballot for the damaged or defective ballot;

(iii) label the replicated ballot "replicated"; and

(iv) record the replicated ballot's serial number on the damaged or defective ballot.

(b) The lieutenant governor shall provide to each election officer a standard form on which the election officer shall maintain a log of all replicated ballots, that includes, for each ballot:

(i) the serial number described in Subsection (3)(a);

(ii) the identification of the individuals who replicated the ballot;

(iii) the reason for the replication; and

(iv) any other information required by the lieutenant governor.

(c) An election officer shall:

(i) maintain the log described in Subsection (3)(b) in a complete and legible manner, as ballots are replicated;

(ii) at the end of each day during which one or more ballots are replicated, make an electronic copy of the log; and

(iii) keep each electronic copy made under Subsection (3)(c)(ii) for at least 22 months.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

(6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(7) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 132. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction; or

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each ballot-counting phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) the number of ballots that were rejected; and

(h) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that it is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2)[~~:~~] for the jurisdiction, as a class A notice under Section 63G-28-102, for at least seven days.

[~~(a) (i) by publishing notice at least once in a newspaper of general circulation within the jurisdiction;~~]

[~~(ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction, subject to a maximum of 10 notices; or~~]

[~~(iii) by mailing notice to each residence within the jurisdiction;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for one week; and~~]

[~~(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for one week.~~]

(6) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election].": and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 133. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable,

under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall provide notice for the county, as a class A notice under Section 63G-28-102, for seven days before the day of the election and in accordance with Subsection (3)[~~:~~].

[~~(i) by posting notice in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county;~~]

[~~(ii) (A) by publishing notice in a newspaper of general circulation in the county;~~]

[~~(B) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county, subject to a maximum of 10 notices; or~~]

[~~(C) by mailing notice to each registered voter in the county;~~]

[~~(iii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the election; and~~]

[~~(iv) by posting notice on the county's website for seven days before the day of the election.~~]

(b) The county clerk shall prepare an affidavit of the posting under Subsection [~~(2)(a)(i)~~] (2)(a), showing a copy of the notice and the places where the notice was posted.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(f) the qualifications for persons to vote in the election.

(5) The election officer shall provide the notice described in Subsection (4)[~~:~~] for the jurisdiction, as a class A notice under Section 63G-28-102, for at least seven days before the day of the election.

[~~(a) (i) by publishing the notice in a newspaper of general circulation in the jurisdiction to which the election pertains, at least two days before the day of the election;~~]

[~~(ii) at least two days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction, subject to a maximum of 10 notices; or~~]

[~~(iii) by mailing the notice to each registered voter who resides in the jurisdiction to which the election pertains at least five days before the day of the election;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two days before the day of the election; and~~]

[~~(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for two days before the day of the election.~~]

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 134. Section 20A-5-403.5 is amended to read:

20A-5-403.5. Ballot drop boxes -- Notice.

(1) An election officer:

(a) shall designate at least one ballot drop box in each municipality and reservation located in the jurisdiction to which the election relates;

(b) may designate additional ballot drop boxes for the election officer's jurisdiction;

(c) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction;

(d) shall provide 24-hour video surveillance of each unattended ballot drop box; and

(e) shall post a sign on or near each unattended ballot drop box indicating that the ballot drop box is under 24-hour video surveillance.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least [~~19~~] 28 days before the date of the election, provide notice of the location of each ballot drop box designated under Subsection (1)[~~:~~], by publishing notice for the jurisdiction holding the election, as a class A notice under Section 63G-28-102, for at least 28 days before the day of the election.

[~~(a) (i) by publishing notice in at least one issue of a newspaper of general circulation in the jurisdiction holding the election;~~]

[~~(ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction holding the election, in places within the jurisdiction that are most likely to give notice to the residents in the jurisdiction, subject to a maximum of 10 notices; or~~]

[~~(iii) by mailing notice to each registered voter in the jurisdiction holding the election;~~]

[~~(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for 19 days before the day of the election; and~~]

[~~(c) by posting notice on the jurisdiction's website for 19 days before the day of the election.~~]

(3) Instead of including the location of ballot drop boxes, a notice required under Subsection (2) may specify the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

(7) (a) At least two poll workers must be present when a poll worker collects ballots from a ballot drop box and delivers the ballots to the location where the ballots will be opened and counted.

(b) An election officer shall ensure that the chain of custody of ballots placed in a ballot box are recorded and tracked from the time the ballots are removed from the ballot box until the ballots are delivered to the location where the ballots will be opened and counted.

Section 135. Section 20A-5-405 is amended to read:

20A-5-405. Election officer to provide ballots -- Notice of sample ballot.

(1) An election officer shall:

(a) provide ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the election officer in the manner provided by law to be included on each ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be included on each ballot;

(d) ensure that the ballots are prepared and in the possession of the election officer before commencement of voting;

(e) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the ballots;

(f) no later than 45 days before the day of the election, make sample ballots available for inspection, in the same form as official ballots and that contain the same information as official ballots, by:

(i) posting a copy of the sample ballot in the election officer's office;

(ii) sending a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor; and

(iii) providing a copy of the sample ballot for the jurisdiction holding the election, as a class A notice under Section 63G-28-102, for at least seven days;

[~~(iii) (A) posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction, subject to a maximum of 10 notices; or~~]

[~~(B) mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;~~]

[~~(iv) posting a copy of the sample ballot on the Utah Public Notice Website, created in Section 63A-16-601; and~~]

[~~(v) if the jurisdiction has a website, posting a copy of the sample ballot on the jurisdiction's website;~~]

(g) deliver a copy of the sample ballot to poll workers for each polling place and direct the poll workers to post the sample ballot as required by Section 20A-5-102; and

(h) print and deliver, at the expense of the jurisdiction conducting the election, enough ballots, sample ballots, and instructions to meet the voting demands of the qualified voters in each voting precinct.

(2) Instead of posting the entire sample ballot under Subsection [~~(1)(f)(iii)(A)~~] (1)(f)(iii), the election officer may post a statement that:

(a) is entitled, "sample ballot";

(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction's offices; and

(iii) a mailing address and telephone number.

(3) (a) Each election officer shall, without delay, correct any error discovered in any ballot, if the correction can be made without interfering with the timely distribution of the ballots.

(b) (i) If the election officer discovers an error or omission in a manual ballot, and it is not possible to correct the error or omission, the election officer shall direct the poll workers to make the necessary corrections on the manual ballots before the ballots are distributed.

(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.

(4) (a) If the election officer refuses or fails to correct an error or omission in a ballot, a candidate or a candidate's agent may file a verified petition with the district court asserting that:

(i) an error or omission has occurred in:

(A) the publication of the name or description of a candidate;

(B) the preparation or display of an electronic ballot; or

(C) the posting of sample ballots or the printing of official manual ballots; and

(ii) the election officer has failed to correct or provide for the correction of the error or omission.

(b) The district court shall issue an order requiring correction of any error in a ballot or an order to show cause why the error should not be corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct or provide for the correction of the error or omission.

(c) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the day on which the district court enters the decision.

Section 136. Section 20A-7-103 is amended to read:

20A-7-103. Constitutional amendments and other questions submitted by the Legislature -- Publication -- Ballot title -- Procedures for submission to popular vote.

(1) The procedures contained in this section govern when the Legislature submits a proposed constitutional amendment or other question to the voters.

(2) The lieutenant governor shall, not more than 60 days or less than 14 days before the date of the election, publish the full text of the amendment, question, or statute [~~in at least one newspaper in every county of the state where a newspaper is published~~] for the state, as a class A notice under Section 63G-28-102, through the date of the election.

(3) The legislative general counsel shall:

(a) entitle each proposed constitutional amendment "Constitutional Amendment __" and assign it a letter according to the requirements of Section 20A-6-107;

(b) entitle each proposed question "Proposition Number __" with the number assigned to the proposition under Section 20A-6-107 placed in the blank;

(c) draft and designate a ballot title for each proposed amendment or question submitted by the Legislature that:

(i) summarizes the subject matter of the amendment or question; and

(ii) for a proposed constitutional amendment, summarizes any legislation that is enacted and will become effective upon the voters' adoption of the proposed constitutional amendment; and

(d) deliver each letter or number and ballot title to the lieutenant governor.

(4) The lieutenant governor shall certify the letter or number and ballot title of each amendment or question to the county clerk of each county no later than 65 days before the date of the election.

(5) The county clerk of each county shall:

(a) ensure that the letter or number and the ballot title of each amendment and question prepared in accordance with this section are included in the sample ballots and official ballots; and

(b) publish the sample ballots and official ballots as provided by law.

Section 137. Section 20A-7-204.1 is amended to read:

20A-7-204.1. Public hearings to be held before initiative petitions are circulated -- Changes to an initiative and initial fiscal impact estimate.

(1) (a) After issuance of the initial fiscal impact estimate by the Office of the Legislative Fiscal Analyst and before circulating initiative petitions for signature statewide, sponsors of the initiative petition shall hold at least seven public hearings throughout Utah as follows:

(i) one in the Bear River region -- Box Elder, Cache, or Rich County;

(ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington County;

(iii) one in the Mountain region -- Summit, Utah, or Wasatch County;

(iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;

(v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;

(vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and

(vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber County.

(b) Of the seven public hearings, the sponsors of the initiative shall hold at least two of the public hearings in a first or second class county, but not in the same county.

(c) The sponsors may not hold a public hearing described in this section until the later of:

(i) one day after the day on which a sponsor receives a copy of the initial fiscal impact estimate under Subsection 20A-7-202.5(3)(b); or

(ii) if three or more sponsors file a petition challenging the accuracy of the initial fiscal impact statement under Section 20A-7-202.5, the day after the day on which the action is final.

(2) (a) The sponsors shall[~~:(a)~~], before 5 p.m. at least [~~three~~] seven calendar days before the date of the public hearing, provide written notice of the public hearing, including the time, date, and location of the public hearing, to:

(i) the lieutenant governor for posting on the state's website; [~~and~~]

(ii) each state senator, state representative, and county commission or county council member who is elected in whole or in part from the region where the public hearing will be held; and

(iii) each county clerk from the region where the public hearing will be held.

(b) A county clerk who receives a notice from a sponsor under Subsection (2)(a) shall publish written notice of the public hearing[~~, including the time, date, and location of the public hearing, in each county in the region where the public hearing will be held:~~] for the county, as a class A notice under Section 63G-28-102, for at least three days before the day of the public hearing.

(c) A county clerk may bill the sponsors of the initiative petition for the cost of preparing, printing, and publishing the notice required under Subsection (2)(b).

[~~(i) (A) at least three calendar days before the day of the public hearing, in a newspaper of general circulation in the county;~~]

[~~(B) if there is no newspaper of general circulation in the county, at least three calendar days before the day of the public hearing, by posting one copy of the notice, and at least one additional copy of the notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents of the county; or~~]

[~~(C) at least seven days before the day of the public hearing, by mailing notice to each residence in the county;~~]

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601, for at least three calendar days before the day of the public hearing;~~]

[~~(iii) in accordance with Section 45-1-101, for at least three calendar days before the day of the public hearing; and~~]

[~~(iv) on the county's website for at least three calendar days before the day of the public hearing.~~]

(3) If the initiative petition proposes a tax increase, the written notice described in Subsection (2) shall include the following statement, in bold, in the same font and point size as the largest font and point size appearing in the notice:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(4) (a) During the public hearing, the sponsors shall either:

(i) video tape or audio tape the public hearing and, when the hearing is complete, deposit the complete audio or video tape of the meeting with the lieutenant governor; or

(ii) take comprehensive minutes of the public hearing, detailing the names and titles of each speaker and summarizing each speaker's comments.

(b) The lieutenant governor shall make copies of the tapes or minutes available to the public.

(c) For each public hearing, the sponsors shall:

(i) during the entire time that the public hearing is held, post a copy of the initial fiscal impact statement in a conspicuous location at the entrance to the room where the sponsors hold the public hearing; and

(ii) place at least 50 copies of the initial fiscal impact statement, for distribution to public hearing attendees, in a conspicuous location at the entrance to the room where the sponsors hold the public hearing.

(5) (a) Before 5 p.m. within 14 days after the day on which the sponsors conduct the seventh public hearing described in Subsection (1)(a), and before circulating an initiative petition for signatures, the sponsors of the initiative petition may change the text of the proposed law if:

(i) a change to the text is:

(A) germane to the text of the proposed law filed with the lieutenant governor under Section 20A-7-202; and

(B) consistent with the requirements of Subsection 20A-7-202(5); and

(ii) each sponsor signs, attested to by a notary public, an application addendum to change the text of the proposed law.

(b) (i) Within three working days after the day on which the lieutenant governor receives an application addendum to change the text of the proposed law in an initiative petition, the lieutenant governor shall submit a copy of the application addendum to the Office of the Legislative Fiscal Analyst.

(ii) The Office of the Legislative Fiscal Analyst shall update the initial fiscal impact estimate by following the procedures and requirements of Section 20A-7-202.5 to reflect a change to the text of the proposed law.

Section 138. Section 20A-7-402 is amended to read:

20A-7-402. Local voter information pamphlet -- Notice -- Contents -- Limitations -- Preparation -- Statement on front cover.

(1) The county or municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet that complies with the requirements of this part.

(2) (a) Within the time requirements described in Subsection (2)(c)(i), a municipality that is subject to a special local ballot proposition shall provide a notice that complies with the requirements of Subsection (2)(c)(ii) to the municipality's residents by[~~:~~] publishing the notice for the municipality, as a class A notice under Section 63G-28-102, for the time period set under Subsection (2)(c)(i).

[~~(i) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including the notice with a newsletter, utility bill, or other material;~~]

[~~(ii) posting the notice, until after the deadline described in Subsection (2)(d) has passed, on:~~]

[~~(A) the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(B) the home page of the municipality's website, if the municipality has a website; and~~]

[~~(iii) sending the notice electronically to each individual in the municipality for whom the municipality has an email address.~~]

(b) A county that is subject to a special local ballot proposition shall[~~:~~] publish a notice that complies with the requirements of Subsection (2)(c)(ii) for the county, as a class A notice under Section 63G-28-102.

[~~(i) send an electronic notice that complies with the requirements of Subsection (2)(c)(ii) to each individual in the county for whom the county has an email address; or~~]

[~~(ii) until after the deadline described in Subsection (2)(d) has passed, post a notice that complies with the requirements of Subsection (2)(c)(ii) on:~~]

[~~(A) the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(B) the home page of the county's website.~~]

(c) A municipality or county that [~~mails, sends, or posts~~] publishes a notice under Subsection (2)(a) or (b) shall:

(i) [~~mail, send, or post~~] publish the notice:

(A) not less than 90 days before the date of the election at which a special local ballot proposition will be voted upon; or

(B) if the requirements of Subsection (2)(c)(i)(A) cannot be met, as soon as practicable after the special local ballot proposition is approved to be voted upon in an election; and

(ii) ensure that the notice contains:

(A) the ballot title for the special local ballot proposition;

(B) instructions on how to file a request under Subsection (2)(d); and

(C) the deadline described in Subsection (2)(d).

(d) To prepare a written argument for or against a special local ballot proposition, an eligible voter shall file a request with the election officer before 5 p.m. no later than 64 days before the day of the election at which the special local ballot proposition is to be voted on.

(e) If more than one eligible voter requests the opportunity to prepare a written argument for or against a special local ballot proposition, the election officer shall make the final designation in accordance with the following order of priority:

(i) sponsors have priority in preparing an argument regarding a special local ballot proposition; and

(ii) members of the local legislative body have priority over others if a majority of the local legislative body supports the written argument.

(f) The election officer shall grant a request described in Subsection (2)(d) or (e) no later than 60 days before the day of the election at which the ballot proposition is to be voted on.

(g) (i) A sponsor of a special local ballot proposition may prepare a written argument in favor of the special local ballot proposition.

(ii) Subject to Subsection (2)(e), an eligible voter opposed to the special local ballot proposition who submits a request under Subsection (2)(d) may prepare a written argument against the special local ballot proposition.

(h) An eligible voter who submits a written argument under this section in relation to a special local ballot proposition shall:

(i) ensure that the written argument does not exceed 500 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv);

(ii) list, at the end of the argument, at least one, but no more than five, names as sponsors;

(iii) submit the written argument to the election officer before 5 p.m. no later than 55 days before the election day on which the ballot proposition will be submitted to the voters;

(iv) list in the argument, immediately after the eligible voter's name, the eligible voter's residential address; and

(v) submit with the written argument the eligible voter's name, residential address, postal address, email address if available, and phone number.

(i) An election officer shall refuse to accept and publish an argument submitted after the deadline described in Subsection (2)(h)(iii).

(3) (a) An election officer who timely receives the written arguments in favor of and against a special local ballot proposition shall, within one business day after the day on which the election office receives both written arguments, send, via mail or email:

(i) a copy of the written argument in favor of the special local ballot proposition to the eligible voter who submitted the written argument against the special local ballot proposition; and

(ii) a copy of the written argument against the special local ballot proposition to the eligible voter who submitted the written argument in favor of the special local ballot proposition.

(b) The eligible voter who submitted a timely written argument in favor of the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument against the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv); and

(iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely written argument against the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument in favor of the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv); and

(iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(d) An election officer shall refuse to accept and publish a written rebuttal argument in relation to a special local ballot proposition that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).

(4) (a) Except as provided in Subsection (4)(b), in relation to a special local ballot proposition:

(i) an eligible voter may not modify a written argument or a written rebuttal argument after the eligible voter submits the written argument or

written rebuttal argument to the election officer; and

(ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify a written argument or a written rebuttal argument.

(b) The election officer, and the eligible voter who submits a written argument or written rebuttal argument in relation to a special local ballot proposition, may jointly agree to modify a written argument or written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; and

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written argument or written rebuttal argument in relation to a special local ballot proposition if the eligible voter who submits the written argument or written rebuttal argument fails to negotiate, in good faith, to modify the written argument or written rebuttal argument in accordance with Subsection (4)(b).

(5) In relation to a special local ballot proposition, an election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

(6) Sponsors whose written argument in favor of a standard local ballot proposition is included in a proposition information pamphlet under Section 20A-7-401.5:

(a) may, if a written argument against the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(b) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(c) shall submit the written rebuttal argument no later than 45 days before the election day on which the standard local ballot proposition will be submitted to the voters.

(7) (a) A county or municipality that submitted a written argument against a standard local ballot proposition that is included in a proposition information pamphlet under Section 20A-7-401.5:

(i) may, if a written argument in favor of the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the written rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(b) If a county or municipality submits more than one written rebuttal argument under Subsection (7)(a)(i), the election officer shall select one of the written rebuttal arguments, giving preference to a written rebuttal argument submitted by a member of a local legislative body.

(8) (a) An election officer shall refuse to accept and publish a written rebuttal argument that is submitted after the deadline described in Subsection (6)(c) or (7)(a)(iii).

(b) Before an election officer publishes a local voter information pamphlet under this section, a written rebuttal argument is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(c) An election officer who receives a written rebuttal argument described in this section may not, before publishing the local voter information pamphlet described in this section, disclose the written rebuttal argument, or any information contained in the written rebuttal argument, to any person who may in any way be involved in preparing an opposing rebuttal argument.

(9) (a) Except as provided in Subsection (9)(b), a person may not modify a written rebuttal argument after the written rebuttal argument is submitted to the election officer.

(b) The election officer, and the person who submits a written rebuttal argument, may jointly agree to modify a written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written rebuttal argument if the person who submits the written rebuttal argument:

(i) fails to negotiate, in good faith, to modify the written rebuttal argument in accordance with Subsection (9)(b); or

(ii) does not timely submit the written rebuttal argument to the election officer.

(d) An election officer shall make a good faith effort to negotiate a modification described in Subsection (9)(b) in an expedited manner.

(10) An election officer may designate another person to take the place of a person who submits a written rebuttal argument in relation to a standard local ballot proposition if the person is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the person's duties.

(11) (a) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate and the legal impact statement prepared for each initiative under Section 20A-7-502.5.

(b) If the initiative proposes a tax increase, the local voter information pamphlet shall include the following statement in bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(12) (a) In preparing the local voter information pamphlet, the election officer shall:

(i) ensure that the written arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;

(ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed written arguments:

"The arguments for or against a ballot proposition are the opinions of the authors.";

(iii) pay for the printing and binding of the local voter information pamphlet; and

(iv) not less than 15 days before, but not more than 45 days before, the election at which the ballot proposition will be voted on, distribute, by mail or carrier, to each registered voter entitled to vote on the ballot proposition:

(A) a voter information pamphlet; or

(B) the notice described in Subsection (12)(c).

(b) (i) If the language of the ballot proposition exceeds 500 words in length, the election officer may summarize the ballot proposition in 500 words or less.

(ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c) (i) The election officer may distribute a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(ii) The notice described in Subsection (12)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail or carrier.

Section 139. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections -- Notice of candidates.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than

the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn and under penalty of perjury, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)."

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publicize a list of the names of the candidates as they will appear on the ballot[~~:~~] by publishing the list for the municipality, as a class A notice under Section 63G-28-102, for seven days; and

[~~(i) (A) by publishing the list in at least two successive publications of a newspaper of general circulation in the municipality;~~]

[~~(B) by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 lists; or~~]

[~~(C) by mailing the list to each registered voter in the municipality;~~]

[~~(ii) by posting the list on the Utah Public Notice Website, created in Section 63A-16-601, for seven days; and~~]

[~~(iii) if the municipality has a website, by posting the list on the municipality's website for seven days; and~~]

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within 10 days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 140. Section 26-8a-405.3 is amended to read:

26-8a-405.3. Use of competitive sealed proposals -- Procedure -- Notice -- Appeal rights.

(1) (a) Competitive sealed proposals for paramedic or 911 ambulance services under Section 26-8a-405.2, or for non-911 services under Section 26-8a-405.4, shall be solicited through a request for proposal and the provisions of this section.

(b) The governing body of the political subdivision shall approve the request for proposal prior to the notice of the request for proposals under Subsection (1)(c).

(c) [~~Notice~~] The governing body of the political subdivision shall publish notice of the request for proposals [~~shall be published:~~] for the political subdivision, as a class A notice under Section 63G-28-102, for at least 20 days.

[~~(i) by posting the notice for at least 20 days in at least five public places in the county; and~~]

[~~(ii) by posting the notice on the Utah Public Notice Website, created in Section 63A-16-601, for at least 20 days.~~]

(2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiations.

(b) (i) Subsequent to the published notice, and prior to selecting an applicant, the political subdivision shall hold a presubmission conference with interested applicants for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements.

(ii) A political subdivision shall allow at least 90 days from the presubmission conference for the proposers to submit proposals.

(c) Subsequent to the presubmission conference, the political subdivision may issue addenda to the request for proposals. An addenda to a request for proposal shall be finalized and posted by the political subdivision at least 45 days before the day on which the proposal must be submitted.

(d) Offerors to the request for proposals shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and revisions may be permitted after submission and before a contract is awarded for the purpose of obtaining best and final offers.

(e) In conducting discussions, there shall be no disclosures of any information derived from proposals submitted by competing offerors.

(3) (a) (i) A political subdivision may select an applicant approved by the department under Section 26-8a-404 to provide 911 ambulance or paramedic services by contract to the most responsible offeror as defined in Section 63G-6a-103.

(ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the political subdivision, taking into consideration price and the evaluation factors set forth in the request for proposal.

(b) The applicants who are approved under Section 26-8a-405 and who are selected under this section may be the political subdivision issuing the request for competitive sealed proposals, or any other public entity or entities, any private person or entity, or any combination thereof.

(c) A political subdivision may reject all of the competitive proposals.

(4) In seeking competitive sealed proposals and awarding contracts under this section, a political subdivision:

(a) shall apply the public convenience and necessity factors listed in Subsections 26-8a-408(2) through (6);

(b) shall require the applicant responding to the proposal to disclose how the applicant will meet performance standards in the request for proposal;

(c) may not require or restrict an applicant to a certain method of meeting the performance standards, including:

(i) requiring ambulance medical personnel to also be a firefighter; or

(ii) mandating that offerors use fire stations or dispatch services of the political subdivision;

(d) shall require an applicant to submit the proposal:

(i) based on full cost accounting in accordance with generally accepted accounting principals; and

(ii) if the applicant is a governmental entity, in addition to the requirements of Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and in compliance with the State of Utah Legal Compliance Audit Guide; and

(e) shall set forth in the request for proposal:

(i) the method for determining full cost accounting in accordance with generally accepted accounting principles, and require an applicant to submit the proposal based on such full cost accounting principles;

(ii) guidelines established to further competition and provider accountability; and

(iii) a list of the factors that will be considered by the political subdivision in the award of the contract, including by percentage, the relative weight of the factors established under this Subsection (4)(e), which may include such things as:

(A) response times;

(B) staging locations;

(C) experience;

(D) quality of care; and

(E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).

(5) (a) Notwithstanding any provision of Title 63G, Chapter 6a, Utah Procurement Code, to the contrary, the provisions of Title 63G, Chapter 6a, Utah Procurement Code, apply to the procurement process required by this section, except as provided in Subsection (5)(c).

(b) A procurement appeals panel described in Section 63G-6a-1702 shall have jurisdiction to review and determine an appeal of an offeror under this section.

(c) (i) An offeror may appeal the solicitation or award as provided by the political subdivision's procedures. After all political subdivision appeal rights are exhausted, the offeror may appeal under the provisions of Subsections (5)(a) and (b).

(ii) A procurement appeals panel described in Section 63G-6a-1702 shall determine whether the solicitation or award was made in accordance with the procedures set forth in this section and Section 26-8a-405.2.

(d) The determination of an issue of fact by the appeals board shall be final and conclusive unless arbitrary and capricious or clearly erroneous as provided in Section 63G-6a-1705.

Section 141. Section 26-61a-303 is amended to read:

26-61a-303. Renewal -- Notice of available license.

(1) The department shall renew a license under this part every year if, at the time of renewal:

(a) the licensee meets the requirements of Section 26-61a-301;

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license[~~:~~], for the geographic area in which the medical cannabis pharmacy license is available, as a class A notice under Section 63G-28-102, for at least seven days.

[~~(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or~~]

[~~(ii) on the Utah Public Notice Website established in Section 63A-16-601.~~]

(b) The department may establish criteria, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

(3) If the department has not completed the necessary processes to make a determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a license, the department may issue a conditional medical cannabis pharmacy license to a licensed medical cannabis pharmacy

that has applied for license renewal under this section and paid the fee described in Subsection (1)(b).

Section 142. Section 52-4-202 is amended to read:

52-4-202. Public notice of meetings -- Emergency meetings.

(1) (a) (i) A public body shall give not less than 24 hours' public notice of each meeting.

(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.

(b) The public notice required under Subsection (1)(a) shall include the meeting:

(i) agenda;

(ii) date;

(iii) time; and

(iv) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) [~~A~~] Subject to Subsection (3)(c), a public body or specified body satisfies a requirement for public notice by[~~:~~] publishing the notice for the public body's jurisdiction, as a class A notice under Section 63G-28-102, for at least 24 hours.

[~~(i) posting written notice:~~]

[~~(A) except for an electronic meeting held without an anchor location under Subsection 52-4-207(4), at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and~~]

[~~(B) on the Utah Public Notice Website created under Section 63A-16-601; and~~]

[~~(ii) providing notice to:~~]

[~~(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or~~]

[~~(B) a local media correspondent.~~]

[~~(b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63A-16-601(4)(d).~~]

[~~(c)~~] (b) A public body whose limited resources make compliance with [~~Subsection (3)(a)(i)(B)~~] the requirement to post notice on the Utah Public Notice Website difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.

(c) A public body or specified body that is required, under this chapter and Section 63G-28-102, to post notice in a public location within the affected area may comply with the requirement by posting the notice in, on, or near:

(i) the anchor location for the meeting; or

(ii) the structure or other area where the meeting will be held.

(4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body or specified body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

(7) Except as provided in this section, this chapter does not apply to a specified body.

Section 143. Section 52-4-302 is amended to read:

52-4-302. Suit to void final action -- Limitation -- Exceptions.

(1) (a) Any final action taken in violation of Section 52-4-201, 52-4-202, 52-4-207, or 52-4-209 is voidable by a court of competent jurisdiction.

(b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection [~~52-4-202(3)(a)(i)(B)~~] 52-4-202(3)(a) if:

(i) the posting is made for a meeting that is held before April 1, 2009; or

(ii) (A) the public body otherwise complies with the provisions of Section 52-4-202; and

(B) the failure was a result of unforeseen Internet hosting or communication technology failure.

(2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.

(3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

Section 144. Section 53B-7-101.5 is amended to read:

53B-7-101.5. Proposed tuition increases -- Notice -- Hearings.

(1) If an institution within the State System of Higher Education listed in Section 53B-1-102 considers increasing tuition rates for undergraduate students in the process of preparing or implementing its budget, it shall hold a meeting to receive public input and response on the issue.

(2) The institution shall advertise the hearing required under Subsection (1) using the following procedure:

(a) [~~The~~] the institution shall advertise [~~its~~] the institution's intent to consider an increase in student tuition rates:

(i) in the institution's student newspaper twice during a period of 10 days [~~prior to~~] before the meeting; and

(ii) for each county where the institution has a campus, as a class A notice under Section 63G-28-102, for at least 10 days before the meeting; and

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601, for 10 days immediately before the meeting.~~]

(b) [~~The~~] the advertisement shall state that the institution will meet on a certain day, time, and place fixed in the advertisement, which shall not be less than seven days after the day the [~~second~~] advertisement is published, for the purpose of hearing comments regarding the proposed increase and to explain the reasons for the proposed increase.

(3) The form and content of the notice shall be substantially as follows:

"NOTICE OF PROPOSED TUITION INCREASE

The (name of the higher education institution) is proposing to increase student tuition rates. This would be an increase of _____ %, which is an increase of $_____ per semester for a full-time resident undergraduate student. All concerned students and citizens are invited to a public hearing on the proposed increase to be held at (meeting place) on (date) at (time)."

(4) (a) The institution shall provide the following information to those in attendance at the meeting required under Subsection (1):

(i) the current year's student enrollment for:

(A) the State System of Higher Education, if a systemwide increase is being considered; or

(B) the institution, if an increase is being considered for just a single institution;

(ii) total tuition revenues for the current school year;

(iii) projected student enrollment growth for the next school year and projected tuition revenue increases from that anticipated growth; and

(iv) a detailed accounting of how and where the increased tuition revenues would be spent.

(b) The enrollment and revenue data required under Subsection (4)(a) shall be broken down into majors or departments if the proposed tuition increases are department or major specific.

(5) If the institution does not make a final decision on the proposed tuition increase at the meeting, it shall announce the date, time, and place of the meeting where that determination shall be made.

Section 145. Section 53E-4-202 is amended to read:

53E-4-202. Core standards for Utah public schools -- Notice and hearing requirements.

(1) (a) In establishing minimum standards related to curriculum and instruction requirements under Section 53E-3-501, the state board shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:

(i) communicate effectively, both verbally and through written communication;

(ii) apply mathematics; and

(iii) access, analyze, and apply information.

(b) Except as provided in this public education code, the state board may recommend but may not

require a local school board or charter school governing board to use:

(i) a particular curriculum or instructional material; or

(ii) a model curriculum or instructional material.

(2) The state board shall, in establishing the core standards for Utah public schools:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align with each other the core standards for Utah public schools and the assessments described in Section 53E-4-303.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the basic academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core standards for Utah public schools, the state board shall:

(a) publicize draft core standards for Utah public schools [~~on the state board's website and the Utah Public Notice website created under Section 63A-16-601~~] for the state, as a class A notice under Section 63G-28-102, for at least 90 days;

(b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.

(5) LEA governing boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.

(6) Except as provided in Sections 53G-10-103 and 53G-10-402, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that the school considers most appropriate to meet the core standards for Utah public schools.

(7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing the core standards for Utah public schools;

(b) the proposed core standards for Utah public schools are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Chapter 3, Part 8, Implementing Federal or National Education Programs, or Title 63J, Chapter 5, Federal Funds Procedures Act;

(ii) conflicts with Utah law;

(iii) requires Utah student data to be included in a national or multi-state database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The state board shall submit a report in accordance with Section 53E-1-203 on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203.

Section 146. Section 53G-3-204 is amended to read:

53G-3-204. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a school district located in a county of the first or second class prepares a long-range plan regarding the school district's facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an

existing long-range plan, provide written notice, as provided in this section, of the school district's intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Utah Geospatial Resource Center created in Section 63A-16-505;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

[~~(E) placed on the Utah Public Notice Website created under Section 63A-16-601~~]

(E) published for the geographic area that will be affected by the proposed long-range plan, or amendments to a long-range plan, as a class A notice under Section 63G-28-102, for at least 30 days;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the school district has one, and the name and telephone number of an individual where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each school district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of the school district's intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the school district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a school district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after the school district's acquisition of the real property.

Section 147. Section 53G-4-204 is amended to read:

53G-4-204. Compensation for services -- Additional per diem -- Notice of meeting -- Approval of expenses.

(1) Each member of a local school board, except the student member, shall receive compensation for services and for necessary expenses in accordance with compensation schedules adopted by the local school board in accordance with the provisions of this section.

(2) Beginning on July 1, 2007, if a local school board decides to adopt or amend its compensation schedules, the local school board shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.

(3) Notice of the time, place, and purpose of the meeting shall be provided for at least seven days [~~prior to~~] before the day of the meeting by[~~:~~] publishing the notice, as a class A notice under Section 63G-28-102, for the school district.

[~~(a) (i) publication at least once in a newspaper published in the county where the school district is situated and generally circulated within the school district; and~~]

[~~(ii) publication on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(b) posting a notice:~~]

[~~(i) at each school within the school district;~~]

[~~(ii) in at least three other public places within the school district; and~~]

[~~(iii) on the Internet in a manner that is easily accessible to citizens that use the Internet.~~]

(4) After the conclusion of the public hearing, the local school board may adopt or amend its compensation schedules.

(5) Each member shall submit an itemized account of necessary travel expenses for local school board approval.

(6) A local school board may, without following the procedures described in Subsections (2) and (3), continue to use the compensation schedule that was in effect prior to July 1, 2007, until, at the discretion of the local school board, the compensation schedule is amended or a new compensation schedule is adopted.

Section 148. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) for at least 10 days before the day of the public hearing, be[~~:~~] published for the school district in which the school is located, as a class A notice under Section 63G-28-102; and

[~~(A) published:~~]

[~~(I) in a newspaper of general circulation in the area; and~~]

[~~(II) on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and~~]

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(24) A local school board shall:

(a) make curriculum that the school district uses readily accessible and available for a parent to view;

(b) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (24)(a); and

(c) include on the school district's website information about how to access the information described in Subsection (24)(a).

Section 149. Section 53G-5-504 is amended to read:

53G-5-504. Charter school closure.

(1) As used in this section, "receiving charter school" means a charter school that an authorizer permits under Subsection (13)(a), to accept enrollment applications from students of a closing charter school.

(2) If a charter school is closed for any reason, including the termination of a charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

(3) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection 53G-5-503(2)(c);

(b) when the state board takes final action described in Subsection 53G-5-503(2)(d)(ii); or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

(4) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

(A) if the charter school made the decision to close, the charter school's authorizer;

(B) the State Charter School Board;

(C) if the state board did not make the decision to close, the state board;

(D) parents of students enrolled at the charter school;

(E) the charter school's creditors;

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

(H) other entities that may have a claim to the charter school's assets;

(I) the school district in which the charter school is located and other charter schools located in that school district; and

(J) any other person that the charter school determines to be appropriate; and

(ii) [~~post~~] publish notice of the decision [~~on the Utah Public Notice Website, created in Section 63A-16-601~~] for the school district in which the charter school is located, as a class A notice under Section 63G-28-102, for at least 30 days.

(b) The notice described in Subsection (4)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

(5) No later than 10 days after the day on which a decision to close a charter school is made, the closing charter school shall:

(a) designate a custodian for the protection of student files and school business records;

(b) designate a base of operation that will be maintained throughout the charter school closing, including:

(i) an office;

(ii) hours of operation;

(iii) operational telephone service with voice messaging stating the hours of operation; and

(iv) a designated individual to respond to questions or requests during the hours of operation;

(c) assure that the charter school will maintain private insurance coverage or risk management coverage for covered claims that arise before closure, throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;

(d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;

(e) inventory all assets of the charter school; and

(f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

(6) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (5).

(7) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.

(b) The closing charter school's authorizer shall liquidate assets at fair market value or assign the assets to another public school.

(8) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with state board rule.

(9) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the state board, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.

(10) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

(11) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules that:

(a) provide additional closure procedures for charter schools; and

(b) establish a charter school closure process.

(12) (a) Upon termination of the charter school's charter agreement:

(i) notwithstanding provisions to the contrary in Title 16, Chapter 6a, Part 14, Dissolution, the nonprofit corporation under which the charter school is organized and managed may be unilaterally dissolved by the authorizer; and

(ii) the net assets of the charter school shall revert to the authorizer as described in Subsection (7).

(b) The charter school and the authorizer shall mutually agree in writing on the effective date and time of the dissolution described in Subsection (12)(a).

(c) The effective date and time of dissolution described in Subsection (12)(b) may not exceed five years after the date of the termination of the charter agreement.

(13) Notwithstanding the provisions of Chapter 6, Part 5, Charter School Enrollment:

(a) an authorizer may permit a specified number of students from a closing charter school to be enrolled in another charter school, if the receiving charter school:

(i) (A) is authorized by the same authorizer as the closing charter school; or

(B) is authorized by a different authorizer and the authorizer of the receiving charter school approves the increase in enrollment; and

(ii) agrees to accept enrollment applications from students of the closing charter school;

(b) a receiving charter school shall give new enrollment preference to applications from students of the closing charter school in the first school year in which the closing charter school is not operational; and

(c) a receiving charter school's enrollment capacity is increased by the number of students enrolled in the receiving charter school from the closing charter school under this Subsection (13).

(14) A member of the governing board or staff of the receiving charter school that is also a member of the governing board of the receiving charter school's authorizer, shall recuse himself or herself from a decision regarding the enrollment of students from a closing charter school as described in Subsection (13).

Section 150. Section 54-8-10 is amended to read:

54-8-10. Public hearing -- Notice -- Publication.

(1) The governing body shall provide notice of a public hearing on the proposed improvement for the proposed district, as a class B notice under Section 63G-28-102, for at least 14 days.

[~~(1) Such notice shall be:~~]

[~~(a) published on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(b) posted in not less than three public places in the district.~~]

[~~(2) A copy of the notice shall be mailed by certified mail to the last known address of each owner of land within the proposed district whose property will be assessed for the cost of the improvement.~~]

[~~(3)~~] (2) The [~~address~~] addresses to be used for [~~that purpose~~] the purpose of mailing notice as required by Subsection 63G-28-102(4)(b)(i) shall be:

(a) [~~that~~] the last address appearing on the real property assessment rolls of the county [~~in which the property is located.~~] for each owner of real property whose property will be assessed for the cost of the improvement; and

[~~(4)~~] (b) [~~In addition, a copy of the notice shall be addressed to "Owner" and shall be so mailed addressed to~~] the street number of each piece of improved property to be affected by the assessment.

[~~(5)~~] (3) Mailed notices and the published notice shall state where a copy of the resolution creating the district will be available for inspection by any interested parties.

Section 151. Section 54-8-16 is amended to read:

54-8-16. Notice of assessment -- Publication.

(1) After the preparation of a resolution under Section 54-8-14, the governing body shall give notice of a public hearing on the proposed assessments [~~shall be given~~].

(2) (a) The governing body shall provide the notice described in Subsection (1) [~~shall be:~~] for the district, as a class B notice under Section 63G-28-102, for at least 20 days before the date of the hearing.

(b) The addresses to be used for the purpose of mailing notice as required by Subsection 63G-28-102(4)(b)(i) are:

(i) the last address appearing on the real property assessment rolls of the county for each owner of real property whose property will be assessed for part of the cost of the improvement; and

(ii) the street number of each piece of improved property to be affected by the proposed assessment.

[~~(a) published on the Utah Public Notice Website created in Section 63A-16-601, for at least 20 days before the date fixed for the hearing; and~~]

[~~(b) mailed by certified mail not less than 15 days prior to the date fixed for such hearing to each owner of real property whose property will be assessed for part of the cost of the improvement at the last known address of such owner using for such purpose the names and addresses appearing on the last completed real property assessment rolls of the county wherein said affected property is located.~~]

[~~(3) In addition, a copy of such notice shall be addressed to "Owner" and shall be so mailed addressed to the street number of each piece of improved property to be affected by such assessment.~~]

[~~(4)~~] (3) Each notice shall state that at the specified time and place, the governing body will hold a public hearing upon the proposed assessments and shall state that any owner of any property to be assessed pursuant to the resolution will be heard on the question of whether [~~his~~] the owner's property will be benefited by the proposed

improvement to the amount of the proposed assessment against [~~his~~] the owner's property and whether the amount assessed against [~~his~~] the owner's property constitutes more than [~~his~~] the owner's proper proportional share of the total cost of the improvement.

[~~(5)~~] (4) The notice shall further state where a copy of the resolution proposed to be adopted levying the assessments against all real property in the district will be on file for public inspection, and that subject to such changes and corrections therein as may be made by the governing body, it is proposed to adopt the resolution at the conclusion of the hearing.

[~~(6)~~] (5) A published notice shall describe the boundaries or area of the district with sufficient particularity to permit each owner of real property therein to ascertain that [~~his~~] the owner's property lies in the district.

[~~(7)~~] (6) The mailed notice may refer to the district by name and date of creation and shall state the amount of the assessment proposed to be levied against the real property of the person to whom the notice is mailed.

Section 152. Section 54-8-23 is amended to read:

54-8-23. Objection to amount of assessment -- Civil action -- Litigation to question or attack proceedings or legality of bonds -- Notice.

(1) No special assessment levied under this chapter shall be declared void, nor shall any such assessment or part thereof be set aside in consequence of any error or irregularity permitted or appearing in any of the proceedings under this chapter, but any party feeling aggrieved by any such special assessment or proceeding may bring a civil action to cause such grievance to be adjudicated if such action is commenced prior to the expiration of the period specified in this section.

(2) The burden of proof to show that such special assessment or part thereof is invalid, inequitable or unjust shall rest upon the party who brings such suit.

(3) Any such litigation shall not be regarded as an appeal within the meaning of the prohibition contained in Section 54-8-18.

(4) Every person whose property is subject to such special assessment and who fails to appear during the public hearings on said assessments to raise his objection to such tax shall be deemed to have waived all objections to such levy except the objection that the governing body lacks jurisdiction to levy such tax.

(5) For a period of 20 days after the governing body has adopted the enactment authorizing the assessment, any taxpayer in the district shall have the right to institute litigation for the purpose of questioning or attacking the proceedings pursuant to which the assessments have been authorized subject to the provisions of the preceding paragraph.

(6) Whenever any enactment authorizing the issuance of any bonds pursuant to the improvement contemplated shall have been adopted such resolution shall be [~~posted on the Utah Public Notice Website created in Section 63A-16-601~~] provided for the district, as a class A notice under Section 63G-28-102, for 20 days.

(7) For a period of 20 days thereafter, any person whose property shall have been assessed and any taxpayer in the district shall have the right to institute litigation for the purpose of questioning or attacking the legality of such bonds.

(8) After the expiration of such 20-day period, all proceedings theretofore had by the governing body, the bonds to be issued pursuant thereto, and the special assessments from which such bonds are to be paid, shall become incontestable, and no suit attacking or questioning the legality thereof may be instituted in this state, and no court shall have the authority to inquire into such matters.

Section 153. Section 57-11-11 is amended to read:

57-11-11. Rules of division -- Notice and hearing requirements -- Filing advertising material -- Injunctions -- Intervention by division in suits -- General powers of division.

(1) (a) The division shall prescribe reasonable rules which shall be adopted, amended, or repealed only after a public hearing.

(b) The division shall:

(i) publish notice of the public hearing described in Subsection (1)(a)[~~:~~] for the state, as a class A notice under Section 63G-28-102, for at least 20 days before the day of the hearing; and

[~~(A) once in a newspaper or newspapers with statewide circulation and at least 20 days before the hearing; and~~]

[~~(B) on the Utah Public Notice Website created in Section 63A-16-601, for at least 20 days before the hearing; and~~]

(ii) send a notice to a nonprofit organization which files a written request for notice with the division at least 20 days [~~prior to~~] before the day of the hearing.

(2) The rules shall include but need not be limited to:

(a) provisions for advertising standards to assure full and fair disclosure; and

(b) provisions for escrow or trust agreements, performance bonds, or other means reasonably necessary to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for.

(3) These provisions, however, shall not be required if the city or county in which the subdivision is located requires similar means of assurance of a nature and in an amount no less adequate than is required under said rules:

(a) provisions for operating procedures;

(b) provisions for a shortened form of registration in cases where the division determines that the purposes of this act do not require a subdivision to be registered pursuant to an application containing all the information required by Section 57-11-6 or do not require that the public offering statement contain all the information required by Section 57-11-7; and

(c) other rules necessary and proper to accomplish the purpose of this chapter.

(4) The division by rule or order, after reasonable notice, may require the filing of advertising material relating to subdivided lands prior to its distribution, provided that the division must approve or reject any advertising material within 15 days from the receipt thereof or the material shall be considered approved.

(5) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this chapter or a rule or order hereunder, the agency, with or without prior administrative proceedings, may bring an action in the district court of the district where said person maintains his residence or a place of business or where said act or practice has occurred or is about to occur, to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The division shall not be required to post a bond in any court proceedings.

(6) The division shall be allowed to intervene in a suit involving subdivided lands, either as a party or as an amicus curiae, where it appears that the interpretation or constitutionality of any provision of law will be called into question. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice of the suit and copies of all pleadings. Failure to do so may, in the discretion of the division, constitute grounds for the division withholding any approval required by this chapter.

(7) The division may:

(a) accept registrations filed in other states or with the federal government;

(b) contract with public agencies or qualified private persons in this state or other jurisdictions to perform investigative functions; and

(c) accept grants-in-aid from any source.

(8) The division shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules, and common administrative practices.

Section 154. Section 57-13a-104 is amended to read:

57-13a-104. Abandonment of prescriptive easement for water conveyance.

(1) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 may, in accordance with this section, abandon all or part of the easement.

(2) (a) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 who seeks to abandon the easement or part of the easement shall[~~:~~], in each county where the easement or part of the easement is located, file in the office of the county recorder a notice of intent to abandon the prescriptive easement that describes the easement or part of the easement to be abandoned.

(b) A county recorder who receives a notice of intent to abandon a prescriptive easement shall:

(i) publish copies of the notice for the area generally served by the water conveyance that utilizes the easement, as a class A notice under Section 63G-28-102, for at least 45 days; and

[~~(a) in each county where the easement or part of the easement is located, file in the office of the county recorder a notice of intent to abandon the prescriptive easement that describes the easement or part of the easement to be abandoned;~~]

[~~(b) post copies of the notice of intent to abandon the prescriptive easement in three public places located within the area generally served by the water conveyance that utilizes the easement;~~]

[~~(c)~~] (ii) mail a copy of the notice of intent to abandon the prescriptive easement to each municipal and county government where the easement or part of the easement is located[~~;~~] .

[~~(d) post a copy of the notice of intent to abandon the prescriptive easement on the Utah Public Notice Website created in Section 63A-16-601; and~~]

[~~(e)~~] (3) [~~after~~] After meeting the requirements of [~~Subsections (2)(a), (b), (c), and (d)~~] Subsection (2)(a) and at least 45 days after the last day on which the [~~holder of the easement~~] county recorder posts the notice of intent to abandon the prescriptive easement in accordance with Subsection (2)(b), the holder of the prescriptive easement shall file in the office of the county recorder for each county where the easement or part of the easement is located a notice of abandonment that contains the same description required by Subsection (2)(a).

[~~(3)~~] (4) (a) Upon completion of the requirements described in Subsection (2) [~~by the holder of a prescriptive easement for a water conveyance established under Section 57-13a-102~~]:

(i) all interest to the easement or part of the easement abandoned by the holder of the easement is extinguished; and

(ii) subject to each legal right that exists as described in Subsection [~~(3)(b)~~] (4)(b), the owner of a

servient estate whose land was encumbered by the easement or part of the easement abandoned may reclaim the land area occupied by the former easement or part of the easement and resume full utilization of the land without liability to the former holder of the easement.

(b) Abandonment of a prescriptive easement under this section does not affect a legal right to have water delivered or discharged through the water conveyance and easement established by a person other than the holder of the easement who abandons an easement as provided in this section.

(5) A county recorder may bill the holder of the prescriptive easement for the cost of preparing, printing, and publishing the notice required under Subsection (2)(b).

Section 155. Section 59-2-919 is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue

previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

[~~(iii) on the Utah Public Notice Website created in Section 63A-16-601~~]

(iii) for the taxing entity, as a class A notice under Section 63G-28-102, for at least 14 days.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a local district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a local district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section 156. Section 59-2-919.2 is amended to read:

59-2-919.2. Consolidated advertisement of public hearings.

(1) (a) Except as provided in Subsection (1)(b), on the same day on which a taxing entity provides the notice to the county required under Subsection 59-2-919(8)(a)(i), the taxing entity shall provide to the county auditor the information required by Subsection 59-2-919(8)(a)(i).

(b) A taxing entity is not required to notify the county auditor of the taxing entity's public hearing in accordance with Subsection (1)(a) if the taxing entity is exempt from the notice requirements of Section 59-2-919.

(2) If as of July 22, two or more taxing entities notify the county auditor under Subsection (1), the county auditor shall by no later than July 22 of each year:

(a) compile a list of the taxing entities that notify the county auditor under Subsection (1);

(b) include on the list described in Subsection (2)(a), the following information for each taxing entity on the list:

(i) the name of the taxing entity;

(ii) the date, time, and location of the public hearing described in Subsection 59-2-919(8)(a)(i);

(iii) the average dollar increase on a residence in the taxing entity that the proposed tax increase would generate; and

(iv) the average dollar increase on a business in the taxing entity that the proposed tax increase would generate;

(c) provide a copy of the list described in Subsection (2)(a) to each taxing entity that notifies the county auditor under Subsection (1); and

(d) in addition to the requirements of Subsection (3), if the county has a webpage, publish a copy of the list described in Subsection (2)(a) on the county's webpage until December 31.

(3) (a) At least two weeks before any public hearing included in the list under Subsection (2) is held, the county auditor shall publish:

(i) the list compiled under Subsection (2); and

(ii) a statement that:

(A) the list is for informational purposes only;

(B) the list should not be relied on to determine a person's tax liability under this chapter; and

(C) for specific information related to the tax liability of a taxpayer, the taxpayer should review the taxpayer's tax notice received under Section 59-2-919.1.

(b) Except as provided in Subsection (3)(d)(ii), the information described in Subsection (3)(a) shall be published:

(i) in no less than 1/4 page in size;

(ii) in type no smaller than 18 point; and

(iii) surrounded by a 1/4-inch border.

(c) The published information described in Subsection (3)(a) and published in accordance with Subsection (3)(d)(i) may not be placed in the portion of a newspaper where a legal notice or classified advertisement appears.

(d) A county auditor shall publish the information described in Subsection (3)(a):

(i) (A) in a newspaper or combination of newspapers that are:

(I) published at least one day per week;

(II) of general interest and readership in the county; and

(III) not of limited subject matter; and

(B) once each week for the two weeks preceding the first hearing included in the list compiled under Subsection (2); and

(ii) for two weeks preceding the the day of the first hearing included in the list compiled under Subsection (2):

(A) as required in Section 45-1-101; and

[~~(B) on the Utah Public Notice Website created in Section 63A-16-601~~]

(B) for the county, as a class A notice under Section 63G-28-102.

(4) A taxing entity that notifies the county auditor under Subsection (1) shall provide the list described in Subsection (2)(c) to a person:

(a) who attends the public hearing described in Subsection 59-2-919(8)(a)(i) of the taxing entity; or

(b) who requests a copy of the list.

(5) (a) A county auditor shall by no later than 30 days from the day on which the last publication of the information required by Subsection (3)(a) is made:

(i) determine the costs of compiling and publishing the list; and

(ii) charge each taxing entity included on the list an amount calculated by dividing the amount determined under Subsection (5)(a) by the number of taxing entities on the list.

(b) A taxing entity shall pay the county auditor the amount charged under Subsection (5)(a).

(6) The publication of the list under this section does not remove or change the notice requirements of Section 59-2-919 for a taxing entity.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) relating to the publication of a consolidated advertisement which includes the information described in Subsection (2) for a taxing entity that overlaps two or more counties;

(b) relating to the payment required in Subsection (5)(b); and

(c) to oversee the administration of this section and provide for uniform implementation.

Section 157. Section 59-12-402 is amended to read:

59-12-402. Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority imposition of tax.

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home;

(ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A municipality imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) post notice of the election[~~:~~] for the municipality, as a class A notice under Section 63G-28-102, for at least 15 days before the day on which the election is held.

[~~(i) 15 days or more before the day on which the election is held; and~~]

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601.~~]

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

(7) A military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may not impose an additional resort communities sales tax under this section.

Section 158. Section 59-12-1102 is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days

after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) [~~on the Utah Public Notice Website created in Section 63A-16-601~~] for the county, as a class A notice under Section 63G-28-102, for two weeks [~~preceding~~] before the [~~earlier of~~] day on which the first of the two public hearings is held.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least $75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is $75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) $6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 159. Section 59-12-2208 is amended to read:

59-12-2208. Legislative body approval requirements -- Notice -- Voter approval requirements.

(1) Subject to the other provisions of this section, before imposing a sales and use tax under this part, a county, city, or town legislative body shall:

(a) obtain approval to impose the sales and use tax from a majority of the members of the county, city, or town legislative body; and

(b) submit an opinion question to the county's, city's, or town's registered voters voting on the imposition of the sales and use tax so that each registered voter has the opportunity to express the registered voter's opinion on whether a sales and use tax should be imposed under this section.

(2) The opinion question required by this section shall state:

"Shall (insert the name of the county, city, or town), Utah, be authorized to impose a (insert the tax rate of the sales and use tax) sales and use tax for (list the purposes for which the revenues collected from the sales and use tax shall be expended)?"

(3) (a) Subject to Subsection (3)(b), the election required by this section shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular general elections; or

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202.

(b) (i) Subject to Subsection (3)(b)(ii), the county clerk of the county in which the opinion question required by this section will be submitted to registered voters shall[~~, no later than~~]:

(A) provide notice for the county, city, or town, as a class A notice under Section 63G-28-102, for at least 15 days before the date of the election[~~:~~]; and

[~~(A) post a notice on the Utah Public Notice Website created in Section 63A-16-601; or~~]

[~~(B) (I) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the registered voters voting on the imposition of the sales and use tax; and~~]

[~~(II)~~] (B) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(ii) The notice under Subsection (3)(b)(i) shall:

(A) state that an opinion question will be submitted to the county's, city's, or town's registered voters voting on the imposition of a sales and use tax under this section so that each registered voter has the opportunity to express the registered voter's opinion on whether a sales and use tax should be imposed under this section; and

(B) list the purposes for which the revenues collected from the sales and use tax shall be expended.

(4) A county, city, or town that submits an opinion question to registered voters under this section is subject to Section 20A-11-1203.

(5) Subject to Section 59-12-2209, if a county, city, or town legislative body determines that a majority of the county's, city's, or town's registered voters voting on the imposition of a sales and use tax under this part have voted in favor of the imposition of the sales and use tax in accordance with this section, the county, city, or town legislative body shall impose the sales and use tax.

(6) If, after imposing a sales and use tax under this part, a county, city, or town legislative body seeks to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in the opinion question described in Subsection (2), the county, city, or town legislative body shall:

(a) obtain approval from a majority of the members of the county, city, or town legislative body to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in the opinion question described in Subsection (2); and

(b) in accordance with the procedures and requirements of this section, submit an opinion question to the county's, city's, or town's registered voters voting on the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeal the tax rate stated in the opinion question described in Subsection (2).

Section 160. Section 62A-5-202.5 is amended to read:

62A-5-202.5. Utah State Developmental Center Board -- Creation -- Membership -- Duties -- Powers.

(1) There is created the Utah State Developmental Center Board within the Department of Health and Human Services.

(2) The board is composed of nine members as follows:

(a) the director of the division or the director's designee;

(b) the superintendent of the developmental center or the superintendent's designee;

(c) the executive director of the Department of Health and Human Services or the executive director's designee;

(d) a resident of the developmental center selected by the superintendent; and

(e) five members appointed by the governor with the advice and consent of the Senate as follows:

(i) three members of the general public; and

(ii) two members who are parents or guardians of individuals who receive services at the developmental center.

(3) In making appointments to the board, the governor shall ensure that:

(a) no more than three members have immediate family residing at the developmental center; and

(b) members represent a variety of geographic areas and economic interests of the state.

(4) (a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.

(b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) (a) The director shall serve as the chair.

(b) The board shall appoint a member to serve as vice chair.

(c) The board shall hold meetings quarterly or as needed.

(d) Five members are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.

(6) An appointed member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The board shall adopt bylaws governing the board's activities.

(b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.

(8) The board shall:

(a) act for the benefit of the developmental center and the division;

(b) advise and assist the division with the division's functions, operations, and duties related to the developmental center, described in Sections 62A-5-102, 62A-5-103, 62A-5-201, 62A-5-203, and 62A-5-206;

(c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section 62A-5-206.5;

(d) administer the Utah State Developmental Center Land Fund, as described in Section 62A-5-206.6;

(e) approve the sale, lease, or other disposition of real property or water rights associated with the developmental center, as described in Subsection 62A-5-206.6(2); and

(f) within 21 days after the day on which the board receives the notice required under Subsection [~~10-2-419(3)(c)~~] 10-2-419(3)(b), provide a written opinion regarding the proposed boundary adjustment to:

(i) the director of the Division of Facilities and Construction Management; and

(ii) the Legislative Management Committee.

Section 161. Section 63A-5b-305 is amended to read:

63A-5b-305. Duties and authority of director.

(1) The director shall:

(a) administer the division's duties and responsibilities;

(b) report all property acquired by the state, except property acquired by an institution of higher education or the trust lands administration, to the director of the Division of Finance for inclusion in the state's financial records;

(c) after receiving the notice required under Subsection [~~10-2-419(3)(c)~~] 10-2-419(3)(b), file a written protest at or before the public hearing under Subsection 10-2-419(2)(b), if:

(i) it is in the best interest of the state to protest the boundary adjustment; or

(ii) the Legislature instructs the director to protest the boundary adjustment; and

(d) take all other action that the director is required to take under this chapter or other applicable statute.

(2) The director may:

(a) create forms and make policies necessary for the division or director to perform the division or director's duties;

(b) (i) hire or otherwise procure assistance and service, professional, skilled, or otherwise, necessary to carry out the director's duties under this chapter; and

(ii) expend funds provided for the purpose described in Subsection (2)(b)(i) through annual operation budget appropriations or from other nonlapsing project funds;

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary for the division or director to perform the division or director's duties; and

(d) take all other action necessary for carrying out the purposes of this chapter.

Section 162. Section 63A-16-602 is amended to read:

63A-16-602. Notice and training by the Division of Archives and Records Service.

(1) The Division of Archives and Records Service shall provide notice of the provisions and requirements of this chapter to all public bodies that are subject to the provision of Subsection [~~52-4-202(3)(a)(ii)~~] 52-4-202(3)(a).

(2) The Division of Archives and Records Service shall, as necessary, provide periodic training on the use of the website to public bodies that are authorized to post notice on the website.

Section 163. Section 63G-28-101 is enacted to read:

CHAPTER 28. PUBLIC NOTICE

63G-28-101 (Codified as 63G-30-101). Definitions.

As used in this chapter:

(1) "Affected area" means:

(a) the area that is designated in statute, county ordinance, or municipal ordinance as the area for which public notice must be provided;

(b) in relation to a statute, if no affected area is designated in the statute, the affected area is the state;

(c) in relation to a county ordinance, if no affected area is designated in the county ordinance, the affected area is the county; or

(d) in relation to a municipal ordinance, if no affected area is designated in the municipal ordinance, the affected area is the municipality.

(2) "Government official" means an individual elected or appointed to a state office, county office, municipal office, school board, school district office, local district office, or special service district office.

(3) "Notice summary statement" means a statement that includes the following in relation to a public notice:

(a) a title that accurately describes the purpose or subject of the public notice;

(b) the name of the public body, or the name and title of the government official, that provides the public notice;

(c) a statement that clearly describes the matter for which the public notice is given;

(d) a general description of the area to which the public notice relates;

(e) the dates and deadlines applicable to the matter for which the public notice is given; and

(f) information specifying where a person may obtain a copy of the complete public notice, including:

(i) the web address for the Utah Public Notice Website;

(ii) if the public body or government official maintains a public website, the web address where the public notice is located;

(iii) the address of a physical location where a copy of the public notice may be viewed or obtained; and

(iv) a telephone number that an individual may call to request a copy of the public notice.

(4) "Public body" means the same as that term is defined in Section 52-4-103.

(5) "Public location" means:

(a) a location that is open to the general public, regardless of whether the location is owned by a public entity, a private entity, or an individual; or

(b) a location that is not open to the general public, but where the notice is clearly visible to, and may easily be read by, an individual while the individual is present in a location described in Subsection (5)(a).

(6) "Public notice" means a notice that is required to be provided to the public by a public body or a government official.

(7) "Utah Public Notice Website" means the Utah Public Notice Website created in Section 63A-16-601.

Section 164. Section 63G-28-102 is enacted to read:

63G-28-102 (Codified as 63G-30-102). Public notice classifications and requirements.

(1) A public body or a government official that is required to provide a class A notice:

(a) shall publish the public notice on the Utah Public Notice Website;

(b) shall publish the public notice on the public body's or government official's official website, if the public body or government official:

(i) maintains an official website; and

(ii) has an annual operating budget of $250,000 or more; and

(c) except as provided in Subsection (4), and subject to Subsection (5), post the public notice in connection with the affected area as follows:

(i) if the affected area is a municipality with a population of less than 2,000, in a public location in or near the affected area that is reasonably likely to be seen by residents of the affected area;

(ii) if the affected area is a proposed municipality with a population of less than 2,000, in a public location in or near the affected area that is reasonably likely to be seen by residents of the affected area;

(iii) if the affected area is an area other than an area described in Subsections (1)(c)(i), (1)(c)(ii), or (1)(c)(iv) through (viii), in a public location in or

near the affected area that is reasonably likely to be seen by:

(A) residents of the affected area; or

(B) if there are no residents within the affected area, individuals who pass through or near the affected area;

(iv) if the affected area is a county, in a public location within the county that is reasonably likely to be seen by residents of the county;

(v) if the affected area is a municipality with a population of 2,000 or more, or a proposed municipality with a population of 2,000 or more, in a public location within the municipality or proposed municipality that is reasonably likely to be seen by residents of the municipality or proposed municipality;

(vi) if the affected area is a public street, on or adjacent to the public street;

(vii) if the affected area is an easement:

(A) on or adjacent to the easement; or

(B) in a public location that is reasonably likely to be seen by persons who are likely to be impacted by the easement; or

(viii) if the affected area is an interlocal entity, within, or as applicable near, each jurisdiction that is part of the interlocal entity, in accordance with the provisions of this Subsection (1) that apply to that jurisdiction.

(2) Subject to Subsection (5), a public body or a government official that is required to provide a class B notice shall:

(a) comply with the requirements described in Subsection (1) for a class A notice;

(b) if a statute, county ordinance, or municipal ordinance requires that the notice be provided for a designated geographic area, mail or otherwise deliver the public notice or a notice summary statement to each residence within, and, in accordance with Subsection (3), to each owner of real property located within, the designated geographic area; and

(c) if a statute, county ordinance, or municipal ordinance requires that the notice be provided to one or more designated persons or real property owners, mail or otherwise deliver the public notice or a notice summary statement, in accordance with Subsection (3), to each designated person and real property owner.

(3) When providing notice to a real property owner under Subsection (2)(b) or (c), the public body or government official shall:

(a) use the current residential or business address of the real property owner;

(b) if the public body or government official is not reasonably able to obtain the address described in Subsection (3)(a), use the last known address of the real property owner that the public body or government official is able to obtain via a reasonable inquiry into public records; or

(c) if the public body or government official is not reasonably able to obtain an address described in Subsection (3)(a) or (b), post the notice on the real property.

(4) A government official, a public body, or any other body that is required to post notice under Subsection (1) is not required to comply with Subsection (1)(c) if:

(a) the affected area is the state;

(b) the body is a specified body, as defined in Section 52-4-103;

(c) the public body is the Legislature or a public body within the state legislative branch; or

(d) the government official is required to post the notice on behalf of a body described in Subsection (4)(b) or (c).

(5) If a statute, ordinance, or rule requires a public body or government official to provide notice for a period of time:

(a) in relation to posting the notice on the Utah Public Notice Website, the requirement is not violated due to temporary technological issues that interrupt the posting, unless the posting is interrupted for more than 25% of the required posting time;

(b) in relation to posting the notice in a physical location, the requirement is fulfilled if:

(i) the notice is posted at or, except to the extent prohibited by law, before the beginning of the period of time;

(ii) the public body or government official does not remove the posting before the end of the period of time; and

(iii) until the end of the period of time, the public body or government official:

(A) periodically verifies that the notice remains in place; and

(B) replaces the notice within a reasonable time after discovering that the notice has been removed or damaged; and

(c) in relation to mailing, sending, or otherwise delivering notice to a person, the mailing is made at or, except to the extent prohibited by law, before, the beginning of the period of time.

Section 165. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.

(b) "Subsidiary board" means the governing body of a subsidiary.

(2) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) (a) The definitions in Section 57-8-3 apply to this Subsection (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for $1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(6) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7) (a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

(i) notwithstanding Section 52-4-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

(A) the board chair, for the authority board; or

(B) the subsidiary board chair, for a subsidiary board;

(ii) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and

(iii) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:

(A) is not required to establish an anchor location; and

(B) may convene and conduct the meeting without the written determination otherwise required under Subsection 52-4-207(4).

(b) Except as provided in Subsection (7)(c), the authority is not required to physically post notice notwithstanding any other provision of law.

(c) The authority shall physically post notice in accordance with Subsection [~~52-4-202(3)(a)(i)~~] 52-4-202(3)(a).

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G-2-701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

(C) the authority board member appointed by the speaker of the House of Representatives; and

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the State Records Committee is not a party; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a

public-private partnership that results from the facilitator's work as a facilitator.

(10) (a) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

(c) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).

(ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(11) (a) Terms defined in Section 57-11-2 apply to this Subsection (11).

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:

(i) (A) has a development review committee using at least one professional planner;

(B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

(C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and

(ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).

(12) (a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution Article IV, Section 10.

(b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.

Section 166. Section 63H-1-701 is amended to read:

63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 30.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice[~~:(i) at least once in a newspaper of general circulation within the state, at least one week before the public hearing; and(ii) on the Utah Public Notice Website created in Section 63A-16-601~~], as a class A notice under Section 63G-28-102, for at least one week immediately before the day of the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of each county in which a project area of the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing

entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 167. Section 67-3-13 is amended to read:

67-3-13. State privacy officer.

(1) As used in this section:

(a) "Designated government entity" means a government entity that is not a state agency.

(b) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(c) (i) "Government entity" means the state, a county, a municipality, a higher education institution, a local district, a special service district, a school district, an independent entity, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity.

(ii) "Government entity" includes an agent of an entity described in Subsection (1)(c)(i).

(d) (i) "Personal data" means any information relating to an identified or identifiable individual.

(ii) "Personal data" includes personally identifying information.

(e) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(ii) "Privacy practice" includes:

(A) a technology use related to personal data; and

(B) policies related to the protection, storage, sharing, and retention of personal data.

(f) (i) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(A) a department;

(B) a commission;

(C) a board;

(D) a council;

(E) an institution;

(F) an officer;

(G) a corporation;

(H) a fund;

(I) a division;

(J) an office;

(K) a committee;

(L) an authority;

(M) a laboratory;

(N) a library;

(O) a bureau;

(P) a panel;

(Q) another administrative unit of the state; or

(R) an agent of an entity described in Subsections (A) through (Q).

(ii) "State agency" does not include:

(A) the legislative branch;

(B) the judicial branch;

(C) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(D) an independent entity.

(2) The state privacy officer shall:

(a) when completing the duties of this Subsection (2), focus on the privacy practices of designated government entities;

(b) compile information about government privacy practices of designated government entities;

(c) make public and maintain information about government privacy practices on the state auditor's website;

(d) provide designated government entities with educational and training materials developed by the Personal Privacy Oversight Commission established in Section 63C-24-201 that include the information described in Subsection 63C-24-202(1)(b);

(e) implement a process to analyze and respond to requests from individuals for the state privacy officer to review a designated government entity's privacy practice;

(f) identify annually which designated government entities' privacy practices pose the greatest risk to individual privacy and prioritize those privacy practices for review;

(g) review each year, in as timely a manner as possible, the privacy practices that the privacy officer identifies under Subsection (2)(e) or (2)(f) as posing the greatest risk to individuals' privacy;

(h) when reviewing a designated government entity's privacy practice under Subsection (2)(g), analyze:

(i) details about the technology or the policy and the technology's or the policy's application;

(ii) information about the type of data being used;

(iii) information about how the data is obtained, stored, shared, secured, and disposed;

(iv) information about with which persons the designated government entity shares the information;

(v) information about whether an individual can or should be able to opt out of the retention and sharing of the individual's data;

(vi) information about how the designated government entity de-identifies or anonymizes data;

(vii) a determination about the existence of alternative technology or improved practices to protect privacy; and

(viii) a finding of whether the designated government entity's current privacy practice adequately protects individual privacy; and

(i) after completing a review described in Subsections (2)(g) and (h), determine:

(i) each designated government entity's use of personal data, including the designated government entity's practices regarding data:

(A) acquisition;

(B) storage;

(C) disposal;

(D) protection; and

(E) sharing;

(ii) the adequacy of the designated government entity's practices in each of the areas described in Subsection (2)(i)(i); and

(iii) for each of the areas described in Subsection (2)(i)(i) that the state privacy officer determines to require reform, provide recommendations for reform to the designated government entity and the legislative body charged with regulating the designated government entity.

(3) (a) The legislative body charged with regulating a designated government entity that receives a recommendation described in Subsection (2)(i)(iii) shall hold a public hearing on the proposed reforms:

(i) with a quorum of the legislative body present; and

(ii) within 90 days after the day on which the legislative body receives the recommendation.

(b) (i) The legislative body shall provide notice of the hearing described in Subsection (3)(a).

(ii) Notice of the public hearing and the recommendations to be discussed shall be posted [~~on:~~] for the jurisdiction of the designated government entity, as a class A notice under Section 63G-28-102, for at least 30 days before the day on which the legislative body will hold the public hearing.

[~~(A) the Utah Public Notice Website created in Section 63A-16-601 for 30 days before the day on which the legislative body will hold the public hearing; and~~]

[~~(B) the website of the designated government entity that received a recommendation, if the designated government entity has a website, for 30 days before the day on which the legislative body will hold the public hearing.~~]

(iii) Each notice required under Subsection (3)(b)(i) shall:

(A) identify the recommendations to be discussed; and

(B) state the date, time, and location of the public hearing.

(c) During the hearing described in Subsection (3)(a), the legislative body shall:

(i) provide the public the opportunity to ask questions and obtain further information about the recommendations; and

(ii) provide any interested person an opportunity to address the legislative body with concerns about the recommendations.

(d) At the conclusion of the hearing, the legislative body shall determine whether the legislative body shall adopt reforms to address the recommendations and any concerns raised during the public hearing.

(4) (a) Except as provided in Subsection (4)(b), if the government operations privacy officer described in Section 67-1-17 is not conducting reviews of the privacy practices of state agencies, the state privacy officer may review the privacy practices of a state agency in accordance with the processes described in this section.

(b) Subsection (3) does not apply to a state agency.

(5) The state privacy officer shall:

(a) quarterly report, to the Personal Privacy Oversight Commission:

(i) recommendations for privacy practices for the commission to review; and

(ii) the information provided in Subsection (2)(i); and

(b) annually, on or before October 1, report to the Judiciary Interim Committee:

(i) the results of any reviews described in Subsection (2)(g), if any reviews have been completed;

(ii) reforms, to the extent that the state privacy officer is aware of any reforms, that the designated government entity made in response to any reviews described in Subsection (2)(g);

(iii) the information described in Subsection (2)(i); and

(iv) recommendations for legislation based on any results of a review described in Subsection (2)(g).

Section 168. Section 72-3-108 is amended to read:

72-3-108. County roads -- Vacation and narrowing -- Notice requirements.

(1) A county may, by ordinance, vacate, narrow, or change the name of a county road without petition or after petition by a property owner.

(2) A county may not vacate a county road unless notice of the hearing is:

(a) published[~~:~~] for the county, as a class A notice under Section 63G-28-102, for at least four weeks before the day of the hearing; and

[~~(i) in a newspaper of general circulation in the county once a week for four consecutive weeks before the hearing; and~~]

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601, for four weeks before the hearing; and~~]

[~~(b) posted in three public places for four consecutive weeks prior to the hearing; and~~]

[~~(c)~~] (b) mailed to the department and all owners of property abutting the county road.

(3) The right-of-way and easements, if any, of a property owner and the franchise rights of any public utility may not be impaired by vacating or narrowing a county road.

(4) Except as provided in Section 72-5-305, if a county vacates a county road, the state's right-of-way interest in the county road is also vacated.

Section 169. Section 72-5-105 is amended to read:

72-5-105. Highways, streets, or roads once established continue until abandoned -- Temporary closure -- Notice.

(1) Except as provided in Subsections (3) and (7), all public highways, streets, or roads once established shall continue to be highways, streets, or roads until formally abandoned or vacated by written order, resolution, or ordinance resolution of a highway authority having jurisdiction or by court decree, and the written order, resolution, ordinance, or court decree has been duly recorded in the office of the recorder of the county or counties where the highway, street, or road is located.

(2) (a) For purposes of assessment, upon the recordation of an order executed by the proper authority with the county recorder's office, title to the vacated or abandoned highway, street, or road shall vest to the adjoining record owners, with one-half of the width of the highway, street, or road assessed to each of the adjoining owners.

(b) Provided, however, that should a description of an owner of record extend into the vacated or abandoned highway, street, or road that portion of the vacated or abandoned highway, street, or road shall vest in the record owner, with the remainder of the highway, street, or road vested as otherwise provided in this Subsection (2).

(c) Title to a highway, street, or road that a local highway authority closes to vehicular traffic under Subsection (3) or (7) remains vested in the city.

(3) (a) In accordance with this section, a state or local highway authority may temporarily close a class B, C, or D road, an R.S. 2477 right-of-way, or a portion of a class B, C, or D road or R.S. 2477 right-of-way.

(b) (i) A temporary closure authorized under this section is not an abandonment.

(ii) The erection of a barrier or sign on a highway, street, or road once established is not an abandonment.

(iii) An interruption of the public's continuous use of a highway, street, or road once established is not an abandonment even if the interruption is allowed to continue unabated.

(c) A temporary closure under Subsection (3)(a) may be authorized only under the following circumstances:

(i) when a federal authority, or other person, provides an alternate route to an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way if the alternate route is:

(A) accepted by the highway authority; and

(B) formalized by a federal permit or a written agreement between the federal authority or other person and the highway authority;

(ii) when a state or local highway authority determines that correction or mitigation of injury to private or public land resources is necessary on or near a class B or D road or portion of a class B or D road; or

(iii) when a local highway authority makes a finding that temporary closure of all or part of a class C road is necessary to mitigate unsafe conditions.

(d) (i) If a local highway authority temporarily closes all or part of a class C road under Subsection (3)(c)(iii), the local highway authority may convert the closed portion of the road to another public use or purpose related to the mitigation of the unsafe condition.

(ii) If a local highway authority temporarily closes all or part of a class C road under Subsection (3)(c)(iii), and the closed portion of road is the subject of a lease agreement between the local highway authority and another entity, the local highway authority may not reopen the closed portion of the road until the lease agreement terminates.

(e) A highway authority shall reopen an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way temporarily closed under this section if the alternate route is closed for any reason.

(f) A temporary closure authorized under Subsection (3)(c)(ii) shall:

(i) be authorized annually; and

(ii) not exceed two years or the time it takes to complete the correction or mitigation, whichever is less.

(4) To authorize a closure of a road under Subsection (3) or (7), a local highway authority shall pass an ordinance to temporarily or indefinitely close the road.

(5) Before authorizing a temporary or indefinite closure as described in Subsection (4), a highway authority shall:

(a) hold a hearing on the proposed temporary or indefinite closure;

(b) provide notice of the hearing by mailing a notice to the Department of Transportation [~~and all owners of property abutting the highway~~]; and

(c) except for a closure under Subsection (3)(c)(iii), [~~post the notice:~~] provide notice to the owners of the properties abutting the highway, as a class B notice under Section 63G-28-102, for at least four weeks before the day of the hearing.

[~~(i) on the Utah Public Notice Website created in Section 63A-16-601, for four weeks before the hearing; or~~]

[~~(ii) in three public places for at least four consecutive weeks before the hearing.~~]

(6) The right-of-way and easements, if any, of a property owner and the franchise rights of any public utility may not be impaired by a temporary or indefinite closure authorized under this section.

(7) (a) A local highway authority may close to vehicular travel and convert to another public use or purpose a highway, road, or street over which the local highway authority has jurisdiction, for an indefinite period of time, if the local highway authority makes a finding that:

(i) the closed highway, road, or street is not necessary for vehicular travel;

(ii) the closure of the highway, road, or street is necessary to correct or mitigate injury to private or public land resources on or near the highway, road, or street; or

(iii) the closure of the highway, road, or street is necessary to mitigate unsafe conditions.

(b) If a local highway authority indefinitely closes all or part of a highway, road, or street under Subsection (7)(a)(iii), and the closed portion of road is the subject of a lease agreement between the local highway authority and another entity, the local highway authority may not reopen the closed portion of the road until the lease agreement terminates.

(c) An indefinite closure authorized under this Subsection (7) is not an abandonment.

Section 170. Section 72-6-108 is amended to read:

72-6-108. Class B and C roads -- Improvement projects -- Notice -- Contracts -- Retainage.

(1) A county executive for class B roads and the municipal executive for class C roads shall cause plans, specifications, and estimates to be made prior to the construction of any improvement project, as defined in Section 72-6-109, on a class B or C road if the estimated cost for any one project exceeds the bid limit as defined in Section 72-6-109 for labor, equipment, and materials.

(2) (a) All projects in excess of the bid limit shall be performed under contract to be let to the lowest responsible bidder.

(b) If the estimated cost of the improvement project exceeds the bid limit for labor, equipment, and materials, the project may not be divided to permit the construction in parts, unless each part is done by contract.

(3) The advertisement on bids shall be [~~posted:~~] published for the county, as a class A notice under Section 63G-28-102, for three weeks.

[~~(a) on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks; and~~]

[~~(b) for at least 20 days in at least five public places in the county.~~]

(4) The county or municipal executive or their designee shall receive sealed bids and open the bids at the time and place designated in the advertisement. The county or municipal executive or their designee may then award the contract but may reject any and all bids.

(5) The person, firm, or corporation that is awarded a contract under this section is subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(6) If any payment on a contract with a private contractor for construction or improvement of a class B or C road is retained or withheld, the payment shall be retained or withheld and released as provided in Section 13-8-5.

Section 171. Section 73-5-14 is amended to read:

73-5-14. Determination by the state engineer of watershed to which particular source is tributary -- Publications of notice and result -- Hearing -- Judicial review.

(1) The state engineer may determine for administrative and distribution purposes the watershed to which any particular stream or source of water is tributary.

(2) A determination under Subsection (1) may be made only after publication of notice to the water users.

(3) Publication of notice under Subsection (2) shall be made:

(a) [~~in a newspaper or newspapers having general circulation in~~] for every county in the state in which any rights might be affected, [~~once each week for five consecutive weeks~~] as a class A notice under Section 63G-28-102, for at least five weeks before the date of the hearing described in Subsection (4); and

(b) in accordance with Section 45-1-101 for five weeks[~~; and~~].

[~~(c) on the Utah Public Notice Website created in Section 63A-16-601, for five weeks.~~]

(4) The state engineer shall fix the date and place of hearing and at the hearing any water user shall be given an opportunity to appear and adduce evidence material to the determination of the question involved.

(5) (a) The state engineer shall publish the result of the determination as provided in Subsections (3)(a) and (b), and the notice of the decision of the state engineer shall notify the public that any person aggrieved by the decision may appeal the decision as provided by Section 73-3-14.

(b) The notice under Subsection (5)(a) shall be considered to have been given so as to start the time for appeal upon completion of the publication of notice.

Section 172. Section 73-10-32 is amended to read:

73-10-32. Definitions -- Water conservation plan required -- Notice.

(1) As used in this section:

(a) "Division" means the Division of Water Resources created under Section 73-10-18.

(b) "Water conservancy district" means an entity formed under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.

(c) "Water conservation plan" means a written document that contains existing and proposed water conservation measures describing what will be done by a water provider, and the end user of culinary water to help conserve water in the state in terms of per capita use of water provided through culinary water infrastructure owned or operated by the water provider so that adequate supplies of water are available for future needs.

(d) "Water provider" means:

(i) a retail water supplier, as defined in Section 19-4-102; or

(ii) a water conservancy district.

(2) (a) A water conservation plan shall contain:

(i) (A) a clearly stated overall water use reduction goal that is consistent with Subsection (2)(d); and

(B) an implementation plan for each water conservation measure a water provider chooses to use, including a timeline for action and an evaluation process to measure progress;

(ii) a requirement that a notification procedure be implemented that includes the delivery of the water conservation plan to the media and to the governing body of each municipality and county served by the water provider;

(iii) a copy of the minutes of the meeting regarding a water conservation plan and the notification procedure required in Subsection (2)(a)(ii) that shall be added as an appendix to the water conservation plan; and

(iv) for a retail water supplier, as defined in Section 19-4-102, the retail water supplier's rate structure that is:

(A) adopted by the retail water supplier's governing body in accordance with Section 73-10-32.5; and

(B) current as of the day the retail water supplier files a water conservation plan.

(b) A water conservation plan may include information regarding:

(i) the installation and use of water efficient fixtures and appliances, including toilets, shower fixtures, and faucets;

(ii) residential and commercial landscapes and irrigation that require less water to maintain;

(iii) more water efficient industrial and commercial processes involving the use of water;

(iv) water reuse systems, both potable and not potable;

(v) distribution system leak repair;

(vi) dissemination of public information regarding more efficient use of water, including public education programs, customer water use audits, and water saving demonstrations;

(vii) water rate structures designed to encourage more efficient use of water;

(viii) statutes, ordinances, codes, or regulations designed to encourage more efficient use of water by means such as water efficient fixtures and landscapes;

(ix) incentives to implement water efficient techniques, including rebates to water users to encourage the implementation of more water efficient measures; and

(x) other measures designed to conserve water.

(c) The division may be contacted for information and technical resources regarding measures listed in Subsection (2)(b).

(d) (i) The division shall adopt by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regional water conservation goals that:

(A) are developed by the division;

(B) are reevaluated by December 31, 2030, and every 10 years after December 31, 2030; and

(C) define what constitutes "water being conserved" under a water conservation goal after considering factors such as depletion, diversion, use, consumption, or return flows.

(ii) As part of a water conservation plan, a water provider shall adopt one of the following:

(A) the regional water conservation goal applicable to the water provider;

(B) a water conservation goal that would result in more water being conserved than would be conserved under the regional water conservation goal; or

(C) a water conservation goal that would result in less water being conserved than would be conserved under the regional water conservation goal with a reasonable justification as to why the different water conservation goal is adopted and an explanation of the factors supporting the reasonable justification, such as demographics, geography, lot sizes, make up of water service classes, or availability of secondary water.

(3) (a) A water provider shall:

(i) prepare and adopt a water conservation plan; and

(ii) file a copy of the water conservation plan with the division.

(b) (i) Before adopting or amending a water conservation plan, a water provider shall hold a public hearing with reasonable, advance public notice in accordance with this Subsection (3)(b).

(ii) The water provider shall provide public notice at least 14 days before the date of the public hearing.

(iii) A water provider meets the requirements of reasonable notice required by this Subsection (3)(b) if the water provider posts notice of the public hearing [~~in at least three public places within the service area of the water provider and~~]:

[~~(A) if the water provider is a public entity, posts notice on the Utah Public Notice Website, created in Section 63A-16-601; or~~]

(A) for the service area of the water provider, as a class A notice under Section 63G-28-102, for at least 14 days; and

(B) if the water provider is a private entity and has a public website, [~~posts notice~~] on the water provider's public website.

(iv) Proof that notice described in Subsection (3)(b)(iii) was given is prima facie evidence that notice was properly given.

(v) If notice given under authority of this Subsection (3)(b) is not challenged within 30 days from the date of the public hearing for which the notice was given, the notice is considered adequate and proper.

(c) A water provider shall:

(i) post the water provider's water conservation plan on a public website; or

(ii) if the water provider does not have a public website, make the water provider's water conservation plan [~~publically~~] publicly available for inspection upon request.

(4) (a) The division shall:

(i) provide guidelines and technical resources to help water providers prepare and implement water conservation plans;

(ii) assist water providers by identifying water conservation methods upon request; and

(iii) provide an online submission form that allows for an electronic copy of the water conservation plan to be filed with the division under Subsection (3)(a)(ii).

(b) The division shall post an annual report at the end of a calendar year listing water providers in compliance with this section.

(5) A water provider may only receive state funds for water development if the water provider complies with the requirements of this section.

(6) A water provider specified under Subsection (3)(a) shall:

(a) update the water provider's water conservation plan no less frequently than every five years; and

(b) follow the procedures required under Subsection (3) when updating the water conservation plan.

(7) It is the intent of the Legislature that the water conservation plans, amendments to existing water conservation plans, and the studies and report by the division be handled within the existing budgets of the respective entities or agencies.

Section 173. Section 75-1-401 is amended to read:

75-1-401. Notice -- Method and time of giving.

(1) If notice of a hearing on any petition is required and except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or the person's attorney if the person has appeared by attorney or requested that notice be sent to the person's attorney. Notice shall be given by the clerk posting a copy of the notice for the 10 consecutive days immediately preceding the time set for the hearing in at least three public places in the county, one of which must be at the courthouse of the county and:

(a) (i) by the clerk mailing a copy thereof at least 10 days before the time set for the hearing by certified, registered, or ordinary first class mail addressed to the person being notified at the post-office address given in the demand for notice, if any, or at the person's office or place of residence, if known; or

(ii) by delivering a copy thereof to the person being notified personally at least 10 days before the time set for the hearing; and

(b) if the address, or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing[~~:~~] for the county where the hearing is to be held, as a class A notice under Section 63G-28-102, for at least 10 days before the day of the hearing.

[~~(i) at least once a week for three consecutive weeks a copy thereof in a newspaper having general circulation in the county where the hearing is to be held, the last publication of which is to be at least 10 days before the time set for the hearing; and~~]

[~~(ii) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks.~~]

(2) The court for good cause shown may provide for a different method or time of giving notice for any hearing.

(3) Proof of the giving of notice shall be made on or before the hearing and filed in the proceeding.

Section 174. Section 76-8-809 is amended to read:

76-8-809. Closing or restricting use of highways abutting defense or war facilities -- Posting of notices.

Any individual, partnership, association, corporation, municipal corporation or state or any political subdivision thereof engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the preparation of the United States or any of the states for defense or for war or in the prosecution of war by the United States, or in the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public utility who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which the property abuts, may petition the highway commissioners of any city, town, or county to close one or more of the highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of the highways or parts thereof.

Upon receipt of the petition, the highway commissioners shall set a day for hearing and give notice of the hearing [~~by posting a notice on the Utah Public Notice Website, created in Section 63A-16-601~~], as a class A notice under Section 63G-28-102, for the city, town, or county, for at least seven days [~~prior to the date set for~~] before the day of the hearing. If, after hearing, the highway commissioners determine that the public safety and the safety of the property of the petitioner so require, they shall by suitable order close to public use and travel or reasonably restrict the use of and travel upon one or more of the highways or parts thereof; provided the highway commissioners may issue written permits to travel over the highway so closed or restricted to responsible and reputable persons for a term, under conditions and in a form as the commissioners may prescribe. Appropriate notices in letters at least three inches high shall be posted conspicuously at each end of any highway so closed or restricted by an order. The highway commissioners may at any time revoke or modify any order so made.

Section 175. Section 78A-7-202 is amended to read:

78A-7-202. Justice court judges to be appointed -- Procedure.

(1) As used in this section:

(a) "Local government executive" means:

(i) for a county:

(A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;

(B) the county executive in a county operating under the county executive-council form of county government; and

(C) the county manager in a county operating under the council-manager form of county government;

(ii) for a city or town:

(A) the mayor of the city or town; or

(B) the city manager, in the council-manager form of government described in Subsection 10-3b-103(7); and

(iii) for a metro township, the chair of the metro township council.

(b) "Local legislative body" means:

(i) for a county, the county commission or county council; and

(ii) for a city or town, the council of the city or town.

(2) (a) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position.

(b) The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.

(c) Membership of the justice court nominating commission shall be as follows:

(i) one member appointed by:

(A) the county commission if the county has a county commission form of government; or

(B) the county executive if the county has an executive-council form of government;

(ii) one member appointed by the municipalities in the counties as follows:

(A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or

(B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality and the chairs of each metro township in the county;

(iii) one member appointed by the county bar association; and

(iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.

(d) (i) If there is no county bar association, the member in Subsection (2)(c)(iii) shall be appointed by the regional bar association.

(ii) If no regional bar association exists, the state bar association shall make the appointment.

(e) Members appointed under Subsections (2)(c)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

(f) (i) Except as provided in Subsection (2)(d)(ii), the nominating commission shall submit at least three names to the appointing authority of the jurisdiction expected to be served by the judge.

(ii) If there are fewer than three applicants for a justice court vacancy, the nominating commission shall submit all qualified applicants to the appointing authority of the jurisdiction expected to be served by the judge.

(iii) The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

(g) (i) The state court administrator shall provide staff to the commission.

(ii) The Judicial Council shall establish rules and procedures for the conduct of the commission.

(3) (a) A judicial vacancy for a justice court shall be announced:

(i) as an employment opportunity on the Utah Courts' website;

(ii) in an email to the members of the Utah State Bar; and

[~~(iii) on the Utah Public Notice Website, created in Section 63A-16-601~~]

(iii) for the justice court's jurisdiction, as a class A notice under Section 63G-28-102, for at least 30 days.

(b) A judicial vacancy for a justice court may also be advertised through other appropriate means.

(4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.

(5) (a) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council.

(b) Upon completion of the orientation seminar described in Subsection (5)(a), the Judicial Council shall certify the justice court judge as qualified to hold office.

(6) (a) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council.

(b) A justice court judge may not perform judicial duties until certified by the Judicial Council.

CHAPTER 436
S. B. 49
Passed February 15, 2023
Approved March 20, 2023
Effective May 3, 2023

JUVENILE CUSTODIAL INTERROGATION AMENDMENTS

Chief Sponsor: Kathleen A. Riebe
House Sponsor: Marsha Judkins

LONG TITLE

General Description:

This bill addresses the custodial interrogation of a child.

Highlighted Provisions:

This bill:

- modifies the time period requirement for the custodial interrogation of a child;
- addresses disclosures made to a child before the custodial interrogation of the child;
- addresses compliance with required disclosures for the custodial interrogation of a child; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-6-204, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-206, as last amended by Laws of Utah 2022, Chapters 155, 312 and 335 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 155

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 80-6-204 is amended to read:

80-6-204. Detention or confinement of a minor -- Restrictions.

(1) Except as provided in Subsection (2) or this chapter, if a child is apprehended by a peace officer, or brought before a court for examination under state law, the child may not be confined:

(a) in a jail, lockup, or cell used for an adult who is charged with a crime; or

(b) in secure care .

(2) (a) The division shall detain a child in accordance with Sections 80-6-502, 80-6-504, and 80-6-505 if:

(i) the child is charged with an offense under Section 80-6-502 or 80-6-503;

(ii) the district court has obtained jurisdiction over the offense because the child is bound over to the district court under Section 80-6-504; and

(iii) the juvenile or district court orders the detention of the child.

(b) (i) If a child is detained before a detention hearing, or a preliminary hearing under Section 80-6-504 if a criminal information is filed for the child under Section 80-6-503, the child may only be held in certified juvenile detention accommodations in accordance with rules made by the commission.

(ii) The commission's rules shall include rules for acceptable sight and sound separation from adult inmates.

(iii) The commission shall certify that a correctional facility is in compliance with the commission's rules.

(iv) This Subsection (2)(b) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).

(3) (a) In an area of low density population, the commission may, by rule, approve a juvenile detention accommodation within a correctional facility that has acceptable sight and sound separation.

(b) An accommodation described in Subsection (3)(a) shall be used only:

(i) for short-term holding of a child who is alleged to have committed an act that would be a criminal offense if committed by an adult; and

(ii) for a maximum confinement period of six hours.

(c) A child may only be held in an accommodation described in Subsection (3)(a) for:

(i) identification;

(ii) notification of a juvenile court official;

(iii) processing; and

(iv) allowance of adequate time for evaluation of needs and circumstances regarding the release or transfer of the child to a shelter or detention facility.

(d) This Subsection (3) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).

(4) [~~(a) If a child is alleged to have committed an act that would be a criminal offense if committed by an adult, the child may be detained in a holding room in a local law enforcement agency facility:~~]

[~~(i) for a maximum of two hours; and~~]

[~~(ii) (A) for identification or interrogation; or~~]

[~~(B) while awaiting release to a parent or other responsible adult.~~]

(a) If a child is alleged to have committed an act that would be a criminal offense if committed by an adult, a law enforcement officer or agency may detain the child in a holding room in a local law enforcement agency facility for no longer than four hours:

(i) for identification or interrogation; or

(ii) while awaiting release to a parent or other responsible adult.

(b) A holding room described in Subsection (4)(a) shall be certified by the commission in accordance with the commission's rules.

(c) The commission's rules shall include provisions for constant supervision and for sight and sound separation from adult inmates.

(5) Willful failure to comply with this section is a class B misdemeanor.

(6) (a) The division is responsible for the custody and detention of:

(i) a child who requires detention before trial or examination, or is placed in secure detention after an adjudication under Section 80-6-704; and

(ii) a juvenile offender under Subsection 80-6-806(7).

(b) Subsection (6)(a) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).

(c) (i) The commission shall provide standards for custody or detention under Subsections (2)(b), (3), and (4).

(ii) The division shall determine and set standards for conditions of care and confinement of children in detention facilities.

(d) (i) The division, or a public or private agency willing to undertake temporary custody or detention upon agreed terms in a contract with the division, shall provide all other custody or detention in suitable premises distinct and separate from the general jails, lockups, or cells used in law enforcement and corrections systems.

(ii) This Subsection (6)(d) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).

(7) Except as otherwise provided by this chapter, if an individual who is, or appears to be, under 18 years old is received at a correctional facility, the sheriff, warden, or other official, in charge of the correctional facility shall:

(a) immediately notify the juvenile court of the individual; and

(b) make arrangements for the transfer of the individual to a detention facility, unless otherwise ordered by the juvenile court.

Section 2. Section 80-6-206 is amended to read:

80-6-206. Interrogation of a child -- Presence of a parent, legal guardian, or other adult -- Interrogation of a minor in a facility -- Prohibition on false information or unauthorized statement.

(1) As used in this section:

(a) "Custodial interrogation" means any interrogation of a minor while the individual is in custody.

(b) (i) "Friendly adult" means an adult:

(A) who has an established relationship with the child to the extent that the adult can provide meaningful advice and concerned help to the child should the need arise; and

(B) who is not hostile or adverse to the child's interest.

(ii) "Friendly adult" does not include a parent or guardian of the child.

(c) (i) "Interrogation" means any express questioning or any words or actions that are reasonably likely to elicit an incriminating response.

(ii) "Interrogation" does not include words or actions normally attendant to arrest and custody.

(2) If a child is subject to a custodial interrogation for an offense, the child has the right:

(a) to have the child's parent or guardian present during an interrogation of the child; or

(b) to have a friendly adult present during an interrogation of the child if:

(i) there is reason to believe that the child's parent or guardian has abused or threatened the child; or

(ii) the child's parent's or guardian's interest is adverse to the child's interest, including that the parent or guardian is a victim or a codefendant of the offense alleged to have been committed by the child.

(3) If a child is subject to a custodial interrogation for an offense, the child may not be interrogated unless:

(a) the child has been advised, in accordance with Subsection (4), of the child's constitutional rights and the child's right to have a parent or guardian, or a friendly adult if applicable under Subsection (2)(b), present during the interrogation;

(b) the child has waived the child's constitutional rights;

(c) except as provided in Subsection [~~(4)~~] (6), the child's parent or guardian, or the friendly adult if applicable under Subsection (2)(b), was present during the child's waiver under Subsection (3)(b) and has given permission for the child to be interrogated; and

(d) if the child is in the custody of the Division of Child and Family Services and a guardian ad litem has been appointed for the child, the child's guardian ad litem has given consent to an interview of the child as described in Section 80-2-705.

(4) Before the custodial interrogation of a child by a peace officer or a juvenile probation officer, the peace officer or juvenile probation officer shall disclose the following to the child:

(a) You have the right to remain silent.

(b) If you do not want to talk to me, you do not have to talk to me.

(c) If you decide to talk to me, you have the right to stop answering my questions or talking to me at any time.

(d) Anything you say can and will be used against you in court.

(e) If you talk to me, I can tell a judge and everyone else in court everything that you tell me.

(f) You have the right to have a parent or guardian, or a friendly adult if applicable, with you while I ask you questions.

(g) You have the right to a lawyer.

(h) You can talk to a lawyer before I ask you any questions and you can have that lawyer with you while I ask you questions.

(i) If you want to talk to a lawyer, a lawyer will be provided to you for free.

(j) These are your rights.

(k) Do you understand the rights that I have just told you?

(l) Do you want to talk to me?

(5) (a) A peace officer's, or a juvenile probation officer's, compliance with Subsection (4) is determined by examining the entirety of the officer's disclosures to the child.

(b) A peace officer's, or a juvenile probation officer's, failure to strictly comply with, or state the exact language of, Subsection (4) is not grounds by itself for finding the officer has not complied with Subsection (4).

[~~(4)~~] (6) A child's parent or guardian, or a friendly adult if applicable under Subsection (2)(b), is not required to be present during the child's waiver under Subsection (3) or to give permission to the interrogation of the child if:

(a) the child is emancipated as described in Section 80-7-105;

(b) the child has misrepresented the child's age as being 18 years old or older and a peace officer or a juvenile probation officer has relied on that misrepresentation in good faith; or

(c) a peace officer [~~or~~], a juvenile probation officer, or a law enforcement agency:

(i) has made reasonable efforts to contact the child's parent or legal guardian[~~,~~] or a friendly adult if applicable under Subsection (2)(b); and

(ii) has been unable to make contact within one hour after the time at which the child is taken into temporary custody.

[~~(5)~~] (7) (a) If an individual is admitted to a detention facility under Section 80-6-205, committed to a secure care facility under Section 80-6-705, or housed in a secure care facility under Section 80-6-507, and the individual is subject to a custodial interrogation for an offense, the individual may not be interrogated unless:

(i) the individual has had a meaningful opportunity to consult with the individual's appointed or retained attorney;

(ii) the individual waives the individual's constitutional rights after consultation with the individual's appointed or retained attorney; and

(iii) the individual's appointed or retained attorney is present for the interrogation.

(b) Subsection [~~(5)(a)~~] (7)(a) does not apply to a juvenile probation officer[~~,~~] or a staff member of a detention facility, unless the juvenile probation officer or the staff member is interrogating the individual on behalf of a peace officer or a law enforcement agency.

[~~(6) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.~~]

[~~(7)~~] (8) If a child is subject to a custodial interrogation for an offense, a peace officer, or an individual interrogating a child on behalf of a peace officer or a law enforcement agency, may not knowingly:

(a) provide false information about evidence that is reasonably likely to elicit an incriminating response from the child; or

(b) make an unauthorized statement about leniency for the offense.

(9) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.

CHAPTER 437
S. B. 51
Passed February 24, 2023
Approved March 20, 2023
Effective May 3, 2023

PARENT-TIME AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Sandra Hollins

LONG TITLE

General Description:

This bill amends provisions related to parent-time schedules.

Highlighted Provisions:

This bill:

- clarifies parent-time for certain holidays;
- addresses Juneteenth National Freedom Day in regard to the holiday schedule for parent-time;
- clarifies the purpose of the number of overnights for the optional parent-time schedule for a child who is five to 18 years old; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-35, as repealed and reenacted by Laws of Utah 2022, Chapter 471
30-3-35.1, as repealed and reenacted by Laws of Utah 2022, Chapter 471
30-3-35.5, as repealed and reenacted by Laws of Utah 2022, Chapter 471

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-35 is amended to read:

30-3-35. Minimum schedule for parent-time for a child five to 18 years old.

(1) As used in this section[, ~~"weekends"~~]:

(a) "Juneteenth National Freedom Day" means the day on which the Juneteenth National Freedom Day holiday is celebrated in this state in accordance with Section 63G-1-301.

(b) "Weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(2) The parent-time schedule in this section applies to a child who is five to 18 years old.

(3) If the parties do not agree to a parent-time schedule for a child described in Subsection (2), the following schedule is considered the minimum parent-time to which the noncustodial parent is entitled to the child:

(a) (i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending at 8:30 p.m.; or

(ii) at the election of the noncustodial parent, one weekday to be specified by the noncustodial parent or the court:

(A) beginning at the time that the child's school is regularly dismissed and ending at 8:30 p.m.; or

(B) if school is not in session, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning at 9 a.m. and ending at 8:30 p.m.;

(b) (i) beginning on the first weekend after entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Sunday at 7 p.m.; or

(ii) at the election of the noncustodial parent and beginning on the first weekend after the entry of the decree, alternating weekends:

(A) beginning at the time that the child's school is regularly dismissed on Friday and ending on Sunday at 7 p.m.; or

(B) if school is not in session, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Sunday at 7 p.m.;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (13); and

(d) extended parent-time with the child when school is not in session for summer break in accordance with Subsection (4).

(4) (a) For extended parent-time with the child under Subsection (3)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent-time for a noncustodial parent under Subsection (4)(a):

(i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and

(ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the child for two weeks, which may be consecutive, when school is not in session for summer break.

(5) (a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of extended parent-time for summer break under Subsection (4).

(b) For the notification requirement under Subsection (5)(a):

(i) in odd-numbered years:

(A) the noncustodial parent shall provide notice to the custodial parent by May 1; and

(B) the custodial parent shall provide notice to the noncustodial parent by May 15; and

(ii) in even-numbered years:

(A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c) (i) If a parent fails to provide a notification within the time periods described in Subsection (5)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in Subsection (5)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection (4)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.

(6) (a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(7) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection (13);

(ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (4) and takes the child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection (13) that is not Father's Day, Mother's Day, or the child's birthday;

(iv) extended parent-time under Subsection (4); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

(8) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the child by 7 p.m.

(9) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

(10) If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are dismissed for the holiday and ending the evening before any child returns to school.

(11) (a) Telephone contact shall be at reasonable hours and for a reasonable duration.

(b) (i) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration.

(ii) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(A) the best interests of the child;

(B) each parent's ability to handle any additional expenses for virtual parent-time; and

(C) any other factors the court considers material.

(c) Virtual parent-time supplements, but does not replace, in-person parent-time.

(12) If there is a child five to 18 years old and a child under five years old and both children are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the children so that parent-time is uniform based on a schedule under this section.

(13) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on [~~the day before school resumes.~~] Dr. Martin Luther King Jr. Day.	Odd years	Even years
President's Day	(1) Holiday begins Friday at:(a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or(c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the day before school resumes.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on [~~the day before school resumes.~~] Memorial Day.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent granted the holiday in the order.	All years if custodial parent is the mother or other parent granted the holiday in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m.(2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial Parent is the father or other parent granted the holiday in the order.	All years if custodial parent is the father or other parent granted the holiday in the order.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Juneteenth National Freedom Day	(1) Holiday begins at: (a) 6 p.m. on the day before Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is not Father's Day; or (b) 9 a.m. on Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is Father's Day. (2) Holiday ends at 6 p.m. on the day following Juneteenth National Freedom Day.	Even years	Odd years
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on [~~the day before school resumes.~~] Labor Day.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the [~~night~~] day before school resumes.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day on that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends at 7 p.m. on the [~~night~~] day before school resumes.	Even years	Odd years
Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

Section 2. Section 30-3-35.1 is amended to read:

30-3-35.1. Optional schedule for parent-time for a child five to 18 years old.

(1) As used in this section[~~, "weekends"~~]:

(a) "Juneteenth National Freedom Day" means the day on which the Juneteenth National Freedom Day holiday is celebrated in this state in accordance with Section 63G-1-301.

(b) "Weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(2) (a) The optional parent-time schedule in this section applies to a child who is five to 18 years old.

(b) [~~The~~] For purposes of calculating child support, the optional parent-time schedule in this section is 145 overnights.

(c) Any impact on child support shall be consistent with joint physical custody, as defined in Section 78B-12-102.

(3) The parents and the court may consider the increased parent-time schedule in this section as a minimum parent-time schedule when the parties agree or the noncustodial parent can demonstrate:

(a) the noncustodial parent has been actively involved in the child's life;

(b) the parties can communicate effectively regarding the child or the noncustodial parent has a plan to accomplish effective communications regarding the child;

(c) the noncustodial parent has the ability to facilitate the increased parent-time;

(d) the increased parent-time would be in the best interest of the child; and

(e) any other factor the court considers relevant.

(4) In determining whether a noncustodial parent has been actively involved in the child's life, the court shall consider:

(a) demonstrated responsibility in caring for the child;

(b) involvement in childcare;

(c) presence or volunteer efforts in the child's school and at extracurricular activities;

(d) assistance with the child's homework;

(e) involvement in preparation of meals, bath time, and bedtime for the child;

(f) bonding with the child; and

(g) any other factor the court considers relevant.

(5) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:

(a) the geographic distance between the residences of the parents and the distance between the parents' residences and the child's school;

(b) the noncustodial parent's ability to assist with after school care;

(c) the health of the child and the noncustodial parent in accordance with Subsection 30-3-10(6);

(d) flexibility of employment or another schedule of the noncustodial parent;

(e) ability to provide appropriate playtime with the child;

(f) history and ability of the noncustodial parent to implement a flexible schedule for the child;

(g) physical facilities of the noncustodial parent's residence; and

(h) any other factor the court considers relevant.

(6) If the parties agree or the court enters an order for the optional parent-time schedule under this section, a parenting plan in compliance with Sections 30-3-10.7 through 30-3-10.10 shall be filed with any order incorporating the optional parent-time schedule described in Subsection (7).

(7) The following schedule is considered the optional parent-time to which the noncustodial parent is entitled to the child:

(a) (i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending the following day upon delivering the child to school or at 8 a.m. if there is no school; or

(ii) at the election of the noncustodial parent, one weekday specified by the noncustodial parent or the court:

(A) beginning at the time the child's school is regularly dismissed until the following day upon delivering the child to school or at 8 a.m. if there is no school; or

(B) if there is no school, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning at 8 a.m. and ending on the following day upon delivering the child to school or at 8 a.m. if there is no school;

(b) (i) beginning the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school; or

(ii) at the election of the noncustodial parent, beginning the first weekend after the entry of the decree, alternating weekends:

(A) beginning at the time the child's school is regularly dismissed on Friday and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school; or

(B) if there is no school, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work

schedule, beginning on Friday at 9 a.m. and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (16); and

(d) extended parent-time with the child when school is not in session for summer break in accordance with Subsection (8).

(8) (a) For extended parent-time with the child under Subsection (7)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent-time for a noncustodial parent under Subsection (8)(a):

(i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and

(ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the child for two weeks, which may be consecutive, when school is not in session for summer break.

(9) (a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of parent-time for summer break under Subsection (8).

(b) For the notification requirement under Subsection (9)(a):

(i) in odd-numbered years:

(A) the noncustodial parent shall provide notice to the custodial parent by May 1; and

(B) the custodial parent shall provide notice to the noncustodial parent by May 15; and

(ii) in even-numbered years:

(A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c) (i) If a parent fails to provide a notification within the time periods described in Subsection (9)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in Subsection (9)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection (8)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.

(10) (a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(11) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection (16);

(ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (8) and takes the child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection (16) that is not Father's Day, Mother's Day, or the child's birthday;

(iv) extended parent-time under Subsection (8); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

(12) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the child by 7 p.m.

(13) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

(14) If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are dismissed for the holiday and ending the evening before any child returns to school.

(15) If there is a child five to 18 years old and a child under five years old and both children are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the children so that parent-time is uniform based on a schedule under this section.

(16) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends (a) upon delivery of the child to school on the day following Dr. Martin Luther King Jr. Day; or (b) at 8 a.m. on the day following Dr. Martin Luther King Jr. Day if there is no school.	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school following President's Day; or (b) at 8 a.m. on the day following President's Day if there is no school.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends (a) upon delivering the child to school on the day following the end of spring break; or (b) at 8 a.m. on the day following the end of spring break if there is no school.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or(c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the day following Memorial Day; or (b) at 8 a.m. on the day following Memorial Day if there is no school.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent designated in the order.	All years if custodial parent is the mother or other parent designated in the order.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent designated in the order.	All years if custodial parent is the father or other parent designated in in the order.
Juneteenth National Freedom Day	(1) Holiday begins at: (a) 6 p.m. on the day before Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is not Father's Day; or (b) 9 a.m. on Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is Father's Day .(2) Holiday ends at 6 p.m. on the day following Juneteenth National Freedom Day.	Even years	Odd years
Independence Day	(1) Holiday begins on July 3rd at 6 p.m.(2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends (a) upon delivering the child to school on the day following Labor Day; or (b) at 8 a.m. on the day following Labor Day if there is no school.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends (a) upon delivering the child to school on the day following the end of fall break; or (b) at 8 a.m. on the day following the end of fall break if there is no school.	Odd years	Even years
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on Monday following Thanksgiving; or (b) at 8 a.m. on the Monday following Thanksgiving if there is no school.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day on that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends upon delivering the child to school on the day that school resumes after winter break.	Even years	Odd years
Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

Section 3. Section 30-3-35.5 is amended to read:

30-3-35.5. Minimum schedule for parent-time for child under five years old.

(1) As used in this section, "Juneteenth National Freedom Day" means the day on which the Juneteenth National Freedom Day holiday is celebrated in this state in accordance with Section 63G-1-301.

[~~(1)~~] (2) The parent-time schedule in this section applies to a child who is younger than five years old.

[~~(2)~~] (3) If the parties do not agree to a parent-time schedule, the schedules in Subsections [~~(3)~~] (4) through [~~(8)~~] (9) are considered the minimum parent-time to which the noncustodial parent is entitled to the child.

[~~(3)~~] (4) For a child who is younger than five months old, the noncustodial parent is entitled to:

(a) three two-hour visits every week; and

(b) two hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection [~~(15)~~] (16).

[~~(4)~~] (5) For a child who is at least five months old but younger than nine months old, the noncustodial parent is entitled to:

(a) three three-hour visits every week; and

(b) two hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection [~~(15)~~] (16).

[~~(5)~~] (6) For a child who is at least nine months old but younger than 12 months old, the noncustodial parent is entitled to the child:

(a) one eight-hour visit every week;

(b) one three-hour visit every week; and

(c) eight hours for each holiday granted to the noncustodial parent in accordance with the holiday schedule under Subsection [~~(15)~~] (16).

[~~(6)~~] (7) For a child who is at least 12 months old but younger than 18 months old, the noncustodial parent is entitled to:

(a) one three-hour visit every week;

(b) one eight-hour visit on alternating weekends to be specified by the noncustodial parent or court;

(c) an overnight visit on opposite weekends from Subsection [~~(6)(b)~~] (7)(b) beginning at 6 p.m. on Friday and ending at noon on Saturday; and

(d) eight hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection [~~(15)~~] (16).

[~~(7)~~] (8) For a child who is at least 18 months old but younger than three years old, the noncustodial parent is entitled to:

(a) one weekday evening to be specified by the noncustodial parent or the court:

(i) beginning at 5:30 p.m. and ending at 8:30 p.m.; or

(ii) if the child is being cared for during the day outside the child's regular place of residence and with advance notice to the custodial parent, beginning at the time that the child is picked up from the caregiver and ending at 8:30 p.m.;

(b) beginning on the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending at 7 p.m. on Sunday;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection [~~(15)~~] (16); and

(d) extended parent-time for two one-week periods, separated by at least four weeks, at the option of the noncustodial parent, as follows:

(i) one week of uninterrupted parent-time for the noncustodial parent; and

(ii) one week of interrupted parent-time where the custodial parent may have an equal amount of weekday parent-time as the noncustodial parent on the same day on which the noncustodial parent is granted weekday parent-time under Subsection [~~(7)(a)~~] (8)(a).

[~~(8)~~] (9) For a child who is at least three years old but younger than five years old, the noncustodial parent is entitled to:

(a) one weekday evening to be specified by the noncustodial parent or the court:

(i) beginning at 5:30 p.m. and ending at 8:30 p.m.; or

(ii) if the child is being cared for during the day outside the child's regular place of residence and with advance notice to the custodial parent, beginning at the time that the child is picked up from the caregiver and ending at 8:30 p.m.;

(b) beginning on the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending at 7 p.m. on Sunday;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection [~~(15)~~] (16); and

(d) extended parent-time for two two-week periods, separated by at least four weeks, at the option of the noncustodial parent, as follows:

(i) two weeks of uninterrupted parent-time, which may be consecutive, for the noncustodial parent; and

(ii) two weeks of interrupted parent-time, which may be consecutive, where the custodial parent may have an equal amount of weekday parent-time as the noncustodial parent on the same day on which the noncustodial parent is granted weekday parent-time under Subsection [~~(8)(a)~~] (9)(a).

[~~(9)~~] (10) For a child who is at least 18 months old but younger than five years old, the custodial parent is entitled to one week of uninterrupted extended parent-time.

[~~(10)~~] (11) (a) For a child who is nine months old or older, the noncustodial parent shall have at least two times a week:

(i) brief telephone contact at reasonable hours and for a reasonable duration; and

(ii) virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, at reasonable hours and for reasonable duration.

(b) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(i) the best interests of the child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(c) Virtual parent-time supplements, but does not replace, in-person parent-time.

[~~(11)~~] (12) For a child who is younger than nine months old, unless the parents agree otherwise, parent-time should take place in the home of the custodial parent, an established child-care setting, or other environment familiar to the child.

[~~(12)~~] (13) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection [~~(15)~~] (16);

(ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection [~~(7)(d), (8)(d), or (9)~~] (8)(d), (9)(d), or (10) and takes the child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection [~~(15)~~] (16) that is not Father's Day, Mother's Day, or the child's birthday;

(iv) extended parent-time under Subsection [~~(7)(d), (8)(d), or (9)~~] (8)(d), (9)(d), or (10); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

[~~(13)~~] (14) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

[~~(14)~~] (15) A parent shall notify the other parent at least 30 days in advance of the parent's plans for the exercise of extended parent-time under Subsection [~~(7)(d), (8)(d), or (9)~~] (8)(d), (9)(d), or (10).

[~~(15)~~] (16) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if parent is not available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Dr. Martin Luther King Jr. Day.	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if the parent is available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on President's Day.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if the parent is available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Memorial Day.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent designated in the order.	All years if custodial parent is the mother or other parent designated in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent designated in the order.	All years if custodial parent is the father or other parent designated in in the order.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Juneteenth National Freedom Day	(1) Holiday begins at: (a) 6 p.m. on the day before Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is not Father's Day; or (b) 9 a.m. on Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is Father's Day. (2) Holiday ends at 6 p.m. on the day following Juneteenth National Freedom Day.	Even years	Odd years
Independence Day	(1) Holiday begins on July 3rd at 6 p.m.(2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. the parent is available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Labor Day.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
Thanksgiving	(1) Holiday begins at: 6 p.m.; on the day school dismisses for Thanksgiving. (2) Holiday ends at 7 p.m. on the day before school resumes.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at 6 p.m. on the day that school dismisses for winter break. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends at 7 p.m. on the [~~night~~] day before school resumes.	Even years	Odd years
Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

CHAPTER 438
S. B. 54
Passed February 23, 2023
Approved March 20, 2023
Effective May 3, 2023

CHILD WELFARE PARENTAL REPRESENTATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill amends provisions related to parental representation in child welfare cases.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions related to the Child Welfare Parental Representation Fund;
- amends provisions related to the Interdisciplinary Parental Representation Pilot Program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-22-804, as last amended by Laws of Utah 2021, Chapter 228
78B-22-805, as enacted by Laws of Utah 2022, Chapter 188

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-22-804 is amended to read:

78B-22-804. Child Welfare Parental Representation Fund -- Contracts for coverage by the fund.

(1) There is created an expendable special revenue fund known as the "Child Welfare Parental Representation Fund."

(2) Subject to availability, the office may make distributions from the fund for the following purposes:

(a) to pay for indigent defense resources for contracted parental representation attorneys;

(b) for administrative costs of the program; and

(c) for reasonable expenses directly related to the functioning of the program, including training and travel expenses.

(3) The fund consists of:

(a) federal funds received by the state as partial reimbursement for amounts expended by the Utah Indigent Defense Commission to pay for parental representation;

[~~(a)~~] (b) appropriations made to the fund by the Legislature;

[~~(b)~~] (c) interest and earnings from the investment of fund money;

[~~(c)~~] (d) proceeds deposited by contributing counties under this section; and

[~~(d)~~] (e) private contributions to the fund.

(4) The state treasurer shall invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(5) (a) If the office anticipates a deficit in the fund during a fiscal year:

(i) the commission may request an appropriation from the Legislature; and

(ii) the Legislature may fund the anticipated deficit through appropriation.

(b) If the anticipated deficit is not funded by the Legislature under Subsection (5)(a), the office may request an interim assessment from contributing counties as described in Subsection (6) to fund the anticipated deficit.

(6) (a) A county legislative body and the office may annually enter into a contract for the office to provide indigent defense services for a parent in a child welfare case in the county out of the fund.

(b) A contract described in Subsection (6)(a) shall:

(i) require the contributing county described in Subsection (6)(a) to pay into the fund an amount defined by a formula established by the commission; and

(ii) provide for revocation of the contract for the contributing county's failure to pay the assessment described in Subsection (5) on the due date established by the commission.

(7) After the first year of operation of the fund, a contributing county that enters into a contract under Subsection (6) to initiate or reestablish participation in the fund is required to make an equity payment in the amount determined by the commission, in addition to the assessment described in Subsection (5).

(8) A contributing county that withdraws from participation in the fund, or whose participation in the fund is revoked as described in Subsection (6) for failure to pay the contributing county's assessment when due, shall forfeit any right to any previously paid assessment by the contributing county or coverage from the fund.

Section 2. Section 78B-22-805 is amended to read:

78B-22-805. Interdisciplinary Parental Representation Pilot Program.

(1) As used in this section:

(a) "Parental representation liaison" means an individual who has a bachelor's or graduate degree in social work, sociology, psychology, human services, or a closely related field.

[~~(a)~~] (b) "Program" means the Interdisciplinary Parental Representation Pilot Program created in this section.

[~~(b) "Social worker" means an individual who is licensed as:~~]

[~~(i) a clinical social worker;~~]

[~~(ii) a certified social worker;~~]

[~~(iii) a marriage and family therapist; or~~]

[~~(iv) a clinical mental health counselor.~~]

(2) (a) There is created within the commission the Interdisciplinary Parental Representation Pilot Program.

(b) The purpose of the program is to enhance the legal representation of a parent in a child welfare case by including a [~~social worker~~] parental representation liaison as a member of the parent's interdisciplinary legal team.

(3) (a) A county may submit a proposal to the commission for a grant to develop a [~~social worker~~] parental representation liaison position to provide services to parents involved in a child welfare case in the county.

(b) A proposal described in Subsection (3)(a) shall include details regarding:

(i) how the county plans to use the grant award to fulfill the purpose described in Subsection (2);

(ii) any plan to use funding sources in addition to a grant awarded under this section for the proposal; and

(iii) other information the commission determines necessary to evaluate the proposal for a grant award under this section.

(c) In evaluating a proposal for a grant award under this section, the commission shall consider:

(i) the extent to which the proposal will fulfill the purpose described in Subsection (2);

(ii) the cost of the proposal;

(iii) the extent to which other funding sources identified in the proposal are likely to benefit the proposal;

(iv) the sustainability of the proposal;

(v) the need for [~~social worker~~] parental representation liaison engagement in child welfare cases in the county that submitted the proposal; and

(vi) whether the proposal will support improvements in indigent defense services in accordance with the commission core principles described in Section 78B-22-404.

(4) Before October 1, 2023, the commission shall provide a written report to the Health and Human Services Interim Committee regarding the program that includes information on:

(a) the number of grants awarded under the program; and

(b) whether the program had any impact on child welfare case outcomes.

CHAPTER 439
S. B. 79
Passed February 15, 2023
Approved March 20, 2023
Effective May 3, 2023

EXECUTIVE RESIDENCE COMMISSION AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill modifies the definition of the executive residence.

Highlighted Provisions:

This bill:

- expands the definition of the executive residence to include additional state owned property in Salt Lake City.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-1-8.1, as last amended by Laws of Utah 2021, Chapters 209, 344

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-1-8.1 is amended to read:

67-1-8.1. Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence.

(1) The Legislature finds and declares that:

(a) the state property known as the Thomas Kearns Mansion is a recognized state landmark possessing historical and architectural qualities that should be preserved; and

(b) the Thomas Kearns Mansion was the first building listed on the National Register of Historic Places in the state.

(2) As used in this section:

(a) "Executive residence" includes the:

(i) Thomas Kearns Mansion;

(ii) Carriage House building; [~~and~~]

(iii) grounds and landscaping surrounding the Thomas Kearns Mansion and the Carriage House building[~~.~~]; and

(iv) state owned property included in the Salt Lake City area bounded by South Temple, G Street, First Avenue, and H Street.

(b) "Commission" means the Executive Residence Commission established in this section.

(3) (a) An Executive Residence Commission is established to make recommendations to the Division of Facilities Construction and Management for the use, operation, maintenance, repair, rehabilitation, alteration, restoration, placement of art and monuments, or adoptive use of the executive residence.

(b) The commission shall meet at least once a year and make any recommendations to the Division of Facilities Construction and Management prior to August 1 of each year.

(4) The commission shall consist of nine voting members and one ex officio, nonvoting member representing the Governor's Mansion Foundation. The membership shall consist of:

(a) three private citizens appointed by the governor, who have demonstrated an interest in historical preservation;

(b) three additional private citizens appointed by the governor with the following background:

(i) an interior design professional with a background in historic spaces;

(ii) an architect with a background in historic preservation and restoration recommended by the Utah chapter of the American Institute of Architects; and

(iii) a landscape architect with a background and knowledge of historic properties recommended by the Utah chapter of the American Society of Landscape Architects;

(c) the director, or director's designee, of the Division of Art and Museums;

(d) the director, or director's designee, of the Division of State History; and

(e) the executive director, or executive director's designee, of the Department of Government Operations.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending on March 1.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(6) (a) The governor shall appoint a chair from among the membership of the commission.

(b) Six members of the commission shall constitute a quorum, and either the chair or two other members of the commission may call meetings of the commission.

(7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The Division of Facilities Construction and Management shall provide the administrative support to the commission.

CHAPTER 440
S. B. 85
Passed February 15, 2023
Approved March 20, 2023
Effective May 3, 2023

LICENSE PLATE REQUIREMENT AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill allows a historical support special group license plate to have a partially reflective plate face and prohibits a tinted or translucent license plate cover.

Highlighted Provisions:

This bill:

- allows a historical support special group license plate to be manufactured with a partially reflective plate face;
- prohibits an individual from obscuring a license plate with a tinted or translucent license plate cover; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-401, as last amended by Laws of Utah 2022, Chapter 259
41-1a-403, as last amended by Laws of Utah 2015, Chapter 412
41-1a-404, as last amended by Laws of Utah 2022, Chapters 180, 259

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-401 is amended to read:

41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.

(1) (a) Except as provided in Subsection (1)(c), the division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer;

(ii) one decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle;

(iii) one decal for a camper, in lieu of a license plate, which shall be attached in plain sight to the rear of the camper; and

(iv) two identical license plates for every other vehicle.

(b) The license plate or decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or decal is issued or used upon any other vehicle than the registered vehicle.

(c) (i) Notwithstanding Subsections (1)(a) and (b) and except as provided in Subsection (1)(c)(ii), the division, upon registering a motor vehicle that has been sold, traded, or the ownership of which has been otherwise released, shall transfer the license plate issued to the person applying to register the vehicle if:

(A) the previous registered owner has included the license plate as part of the sale, trade, or ownership release; and

(B) the person applying to register the vehicle applies to transfer the license plate to the new registered owner of the vehicle.

(ii) The division may not transfer a personalized or special group license plate to a new registered owner under this Subsection (1)(c) if the new registered owner does not meet the qualification or eligibility requirements for that personalized or special group license plate under Sections 41-1a-410 through 41-1a-422.

(2) The division may receive applications for registration renewal, renew registration, and issue new license plates or decals at any time prior to the expiration of registration.

(3) (a) (i) Except as provided in Subsection [~~(3)(a)(iii),~~] (3)(a)(ii), all license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

[~~(ii) Except as provided in Subsection (3)(a)(iii), for a historical support special group license plate created under this part, the division shall procure reflective material to satisfy the requirement under Subsection (3)(a)(i) as soon as such material is available at a reasonable cost.~~]

[~~(iii) Notwithstanding the reflectivity requirement described in Subsection (3)(a)(i), the division may manufacture and issue a historical support special group license plate without a fully reflective plate face if:~~]

[~~(A) the historical special group license plate is requested for a vintage vehicle that has a model year of 1980 or older; and~~]

[~~(B) the division has manufacturing equipment and technology available to produce the plate in small quantities.~~]

(ii) Notwithstanding Subsection (3)(a)(i), a historical support special group license plate may be treated with a plate face that is partially reflective and provides effective and dependable reflective brightness during the service period of the license plate.

(b) The division shall prescribe all license plate material specifications and establish and

implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

(5) A violation of this section is an infraction.

Section 2. Section 41-1a-403 is amended to read:

41-1a-403. Plates to be legible from 100 feet.

(1) License plates and the required letters and numerals on them, except the decals and the slogan, shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight.

(2) An individual may not attach a tinted or translucent license plate cover that obscures the readability of the license plate as required in Subsection (1).

[~~(2)~~] (3) A violation of this section is an infraction.

Section 3. Section 41-1a-404 is amended to read:

41-1a-404. Location and position of plates -- Visibility of plates -- Exceptions.

(1) License plates issued for a vehicle other than a motorcycle, trailer, vintage vehicle, or semitrailer shall be attached to the vehicle, one in the front and the other in the rear.

(2) (a) The license plate issued for a motorcycle, trailer, or semitrailer shall be attached to the rear of the motorcycle, trailer, or semitrailer.

(b) (i) An owner of a vintage vehicle shall ensure that a license plate is attached to the rear of the vintage vehicle.

(ii) An owner of a vintage vehicle is not required to display a license plate on the front of the vintage vehicle.

(3) Except as provided in Subsection (5), a license plate shall at all times be:

(a) securely fastened:

(i) in a horizontal position to the vehicle for which it is issued to prevent the plate from swinging;

(ii) at a height of not less than 12 inches from the ground, measuring from the bottom of the plate; and

(iii) in a place and position to be clearly visible; and

(b) maintained:

(i) free from foreign materials or a tinted or translucent license plate cover; and

(ii) in a condition to be clearly legible.

(4) Enforcement by a state or local law enforcement officer of the requirement under Subsection (1) to attach a license plate to the front of a vehicle shall be only as a secondary action when the vehicle has been detained for a suspected violation by any person in the vehicle of Title 41, Motor Vehicles, other than the requirement under Subsection (1) to attach a license plate to the front of the vehicle, or for another offense.

(5) The provisions of Subsections (3)(a)(iii) and (3)(b) do not apply:

(a) to a license plate that is obscured exclusively by one or more of the following devices or by the cargo the device is carrying, if the device is installed according to manufacturer specifications or generally accepted installation practices:

(i) a trailer hitch;

(ii) a wheelchair lift or wheelchair carrier;

(iii) a trailer being towed by the vehicle;

(iv) a bicycle rack, ski rack, or luggage rack; or

(v) a similar cargo carrying device; or

(b) to a military vehicle if the license plate is in the military vehicle and ready for inspection by law enforcement upon request.

(6) A violation of this section is an infraction.

CHAPTER 441
S. B. 87
Passed March 2, 2023
Approved March 20, 2023
Effective October 1, 2023

CRIMINAL PROSECUTION MODIFICATIONS

Chief Sponsor: Todd D. Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill addresses criminal prosecutions.

Highlighted Provisions:

This bill:

- requires the Administrative Office of the Courts to collect data in regards to preliminary hearings;
- requires the State Commission on Criminal and Juvenile Justice to include preliminary hearing data gathered by the Administrative Office of the Courts in the annual report for the State Commission on Criminal and Juvenile Justice; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

78A-2-109.5, as enacted by Laws of Utah 2020, Chapter 200

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-2-109.5 is amended to read:

78A-2-109.5. Court data collection and reporting.

(1) As used in this section, "commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) The Administrative Office of the Courts shall [~~compile and provide~~] submit the following information to the commission for each criminal case filed with the court:

(a) case number;

(b) the defendant's:

(i) full name;

(ii) offense tracking number; and

(iii) date of birth;

(c) charges filed;

(d) initial appearance date;

(e) bail amount set by the court, if any;

(f) whether the defendant was represented by a public defender, private counsel, or pro se; and

(g) final disposition of the charges.

[~~(3) The information shall be submitted~~]

(3) (a) The Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the 15th day of July and January of each year for the previous six-month period ending the last day of June and December of each year in the form and manner selected by the commission.

(b) If the last day of the month is a Saturday, Sunday, or state holiday, [~~the information shall be submitted~~] the Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the next working day.

(4) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data on cases involving individuals charged with class A misdemeanors and felonies, broken down by judicial district, to the commission for each preceding calendar year:

(a) the number of cases in which a preliminary hearing is set and placed on the court calendar;

(b) the median and range of the number of times that a preliminary hearing is continued in cases in which a preliminary hearing is set and placed on the court calendar;

(c) the number of cases, and the average time to disposition for those cases, in which only written statements from witnesses are submitted as probable cause at the preliminary hearing;

(d) the number of cases, and the average time to disposition for those cases, in which written statements and witness testimony are submitted as probable cause at the preliminary hearing;

(e) the number of cases, and the average time to disposition for those cases, in which only witness testimony is submitted as probable cause at the preliminary hearing; and

(f) the number of cases in which a preliminary hearing is held and the defendant is bound over for trial.

(5) The commission shall include the data collected under Subsection (4) in the commission's annual report described in Section 63M-7-205.

Section 2. Effective date.

This bill takes effect on October 1, 2023.

CHAPTER 442
S. B. 89
Passed March 1, 2023
Approved March 20, 2023
Effective May 3, 2023

UTAH RETIREMENT AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill modifies the provisions relating to an employer match of employee contributions to a retirement savings account.

Highlighted Provisions:

This bill:

- requires an employer to automatically enroll a newly hired benefit-eligible state employee to make a biweekly contribution to a Utah Retirement Systems 401(k) retirement savings account in an amount equal to the amount that is eligible for an employer match; and
- allows an employee to modify the automatic enrollment, including:
  - opting out of automatic enrollment;
  - changing the amount of a contribution; or
  - changing the Utah Retirement Systems retirement savings account into which the contribution is made.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-17-805, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and amended by Laws of Utah 2021, Chapter 344

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-805 is amended to read:

63A-17-805. State employee matching supplemental defined contribution benefit.

(1) As used in this section:

(a) "Qualifying account" means:

(i) a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board;

(ii) a deemed Individual Retirement Account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or

(iii) a similar savings plan or account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board.

(b) "Qualifying employee" means an employee who is:

(i) in a position that is:

(A) receiving retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act; and

(B) accruing paid leave benefits that can be used in the current and future calendar years; and

(ii) not an employee who is reemployed as that term is:

(A) defined in Section 49-11-1202; or

(B) used in Section 49-11-504.

(2) Subject to the requirements of Subsection (3), an employer shall make a biweekly matching contribution to every qualifying employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, subject to federal requirements and limitations, which is sponsored by the Utah State Retirement Board.

(3) (a) In accordance with the requirements of this Subsection (3), each qualifying employee shall be eligible to receive the same dollar amount for the contribution under Subsection (2).

(b) A qualifying employee who is hired before July 1, 2023:

(i) shall receive the contribution amount determined under Subsection [~~(3)(c)~~] (3)(f) if the qualifying employee makes a voluntary personal contribution to one or more qualifying accounts in an amount equal to or greater than the employer's contribution amount determined [~~in~~] under Subsection [~~(3)(c)~~] (3)(f);

(ii) shall receive a partial contribution amount that is equal to the qualifying employee's personal contribution amount if the employee makes a voluntary personal contribution to one or more qualifying accounts in an amount less than the employer's contribution amount determined [~~in~~] under Subsection [~~(3)(c)~~] (3)(f); or

(iii) may not receive a contribution under Subsection (2) if the qualifying employee does not make a voluntary personal contribution to a qualifying account.

(c) (i) An employer shall automatically enroll a qualifying employee who is hired on or after July 1, 2023, to make a personal contribution to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board, in an amount equal to the employer's contribution amount determined under Subsection (3)(f).

(ii) A qualifying employee who makes a personal contribution in accordance with Subsection (3)(c)(i) shall receive the contribution amount determined under Subsection (3)(f).

(d) (i) A qualifying employee who is hired on or after July 1, 2023, may opt out of the automatic enrollment by choosing not to make any future personal contributions.

(ii) A qualifying employee who opts out of automatic enrollment in accordance with this Subsection (3)(d) may not receive a contribution under Subsection (2).

(e) (i) A qualifying employee who is hired on or after July 1, 2023, may modify the automatic enrollment by opting to make future personal contributions:

(A) in an amount other than the amount determined under Subsection (3)(f); or

(B) to a qualifying account other than the defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board.

(ii) A qualifying employee who opts to make a personal contribution for less than the amount determined under Subsection (3)(f) shall receive a partial contribution that is equal to the qualifying employee's personal contribution amount.

[~~(e)~~] (f) (i) Subject to the maximum limit under Subsection [~~(3)(c)(iii)~~] (3)(f)(iii), the Legislature shall annually determine the contribution amount that an employer shall provide to each qualifying employee under Subsection (2).

(ii) The division shall make recommendations annually to the Legislature on the contribution amount required under Subsection (2), in consultation with the Governor's Office of Planning and Budget and the Division of Finance.

(iii) The biweekly matching contribution amount required under Subsection (2) may not exceed $26 for each qualifying employee.

(4) A qualifying employee is eligible to receive the biweekly contribution under this section for any pay period in which the employee is in a paid status or other status protected by federal or state law.

(5) The employer and employee contributions made and related earnings under this section vest immediately upon deposit and can be withdrawn by the employee at any time, subject to Internal Revenue Code regulations on the withdrawals.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall make rules establishing procedures to implement the provisions of this section.

CHAPTER 443
S. B. 95
Passed February 15, 2023
Approved March 20, 2023
Effective May 3, 2023

FOREIGN DRIVER LICENSE RECIPROCITY AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill allows the Driver License Division to negotiate and enter into a driver license reciprocity agreement with a foreign jurisdiction.

Highlighted Provisions:

This bill:

- allows the Driver License Division to negotiate and enter into a driver license reciprocity agreement with a foreign jurisdiction; and
- grants rulemaking authority to the Driver License Division to establish the reciprocity program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53-3-110, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-110 is enacted to read:

53-3-110. Reciprocity agreements.

(1) The division may negotiate and enter into an agreement of reciprocity with a foreign jurisdiction or country to facilitate the exchange of a driver license.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to establish the process for creating, entering into, and maintaining a reciprocity agreement.

CHAPTER 444
S. B. 98
Passed February 15, 2023
Approved March 20, 2023
Effective May 3, 2023

LEGAL COSTS RECOVERY AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill amends the Reimbursement of Legal Fees and Costs to Officers and Employees Act.

Highlighted Provisions:

This bill:

- provides that an officer or employee of a political subdivision may recover costs and legal fees from the state in certain criminal cases prosecuted by the attorney general; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-6-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
52-6-201, as renumbered and amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-6-102 is amended to read:

52-6-102. Definitions.

As used in this act:

(1) "Local attorney" means:

(a) a county attorney or district attorney, as described in Title 17, Chapter 18a, Powers and Duties of County and District Attorney; or

(b) a city attorney under Section 10-3-928.

(2) "Officer or employee" means any individual who at the time of an event giving rise to a claim under this act is or was elected or appointed to or employed by a public entity, whether or not compensated, but does not include an independent contractor.

[~~(2)~~] (3) "Public entity" means the state or any political subdivision of it or any office, department, division, board, agency, commission, council, authority, institution, hospital, school, college, university, or other instrumentality of the state or any such political subdivision.

Section 2. Section 52-6-201 is amended to read:

52-6-201. Indictment or information against officer or employee -- Reimbursement of attorney fees and court costs incurred in defense.

(1) [~~If~~] Except as provided in Subsection (3), and subject to Subsection (2), if a state grand jury indicts, or if an information is filed against, an officer or employee, in connection with or arising out of any act or omission of that officer or employee during the performance of the officer or employee's duties, within the scope of the officer or employee's employment, or under color of the officer or employee's authority, and that indictment or information is quashed or dismissed or results in a judgment of acquittal, unless the indictment or information is quashed or dismissed upon application or motion of the prosecuting attorney, that officer or employee [~~shall be~~] is entitled to recover reasonable attorney fees and court costs necessarily incurred in the defense of that indictment or information from the public entity, unless the officer or employee is found guilty of substantially the same misconduct that formed the basis for the indictment or information.

(2) [~~If~~] Except as provided in Subsection (3), if the officer or employee is acquitted of some of the charges or counts, or portions of the indictment or information are quashed or dismissed, that officer or employee [~~shall be~~] is entitled to recover from the public entity reasonable attorney fees and court costs necessarily incurred in the defense of those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal, unless the alleged misconduct covered by those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal is substantially the same alleged misconduct that formed the basis for charges, counts, or portions of the indictment or information of which the officer or employee was found guilty.

(3) An officer or employee entitled to recover reasonable attorney fees and court costs under Subsection (1) or (2) in connection with the officer's or employee's position within a political subdivision, is entitled to recover all fees and costs from the state rather than the political subdivision, if:

(a) after the local attorney declines to pursue an indictment, or file an information, against the officer or employee, the attorney general obtains an indictment, or files an information, against the officer or employee;

(b) the alleged misconduct forming the basis of the indictment or information against the officer or employee is substantially similar to the facts or investigation results upon which the local attorney relied in deciding not to pursue an indictment, or file an information, against the officer or employee; and

(c) the attorney general pursued the indictment, or filed the information, against the officer or employee, for a reason other than that:

(i) the local attorney requested the attorney general's involvement in the prosecution of the officer or employee due to a conflict of interest; or

(ii) the local attorney lacked the resources or subject matter expertise to initiate or proceed with the prosecution of the officer or employee.

[~~(3)~~] (4) An officer or employee who recovers under this section shall also be entitled to recover reasonable attorney fees and costs necessarily incurred by the officer or employee in recovering the attorney fees and costs allowed under this section, including attorney fees and costs incurred on appeal.

[~~(4)~~] (5) Notwithstanding any other provision of this section, an officer or employee may not recover for the costs incurred in defense of any charge, count, or portion of the indictment or information that is quashed or dismissed upon application or motion of the prosecuting attorney.

CHAPTER 445
S. B. 101
Passed February 9, 2023
Approved March 20, 2023
Effective May 3, 2023

PEACE OFFICER TRAINING MODIFICATIONS

Chief Sponsor: Karen Kwan
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill requires a portion of a peace officer's basic training to include certain subjects involving victim targeting.

Highlighted Provisions:

This bill:

- requires under certain conditions a peace officer's basic training to include training on identifying, responding to, and reporting a criminal offense that is motivated by certain personal attributes; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-202, as last amended by Laws of Utah 2021, First Special Session, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-6-202 is amended to read:

53-6-202. Basic training course -- Completion required -- Annual training -- Prohibition from exercising powers -- Reinstatement.

(1) (a) The director shall:

(i) (A) suggest and prepare subject material; and

(B) schedule instructors for basic training courses; or

(ii) review the material and instructor choices submitted by a certified academy.

(b) The subject material, instructors, and schedules shall be approved or disapproved by a majority vote of the council.

(2) The materials shall be reviewed and approved by the council on or before July 1st of each year and may from time to time be changed or amended by majority vote of the council.

(3) The basic training in a certified academy:

(a) shall be appropriate for the basic training of peace officers in the techniques of law enforcement in the discretion of the director; and

(b) may not include the use of chokeholds, carotid restraints, or any act that impedes the breathing or circulation of blood likely to produce a loss of consciousness, as a valid method of restraint.

(4) (a) All peace officers shall satisfactorily complete the basic training course or the waiver process provided for in this chapter as well as annual certified training of not less than 40 hours as the director, with the advice and consent of the council, directs.

(b) A peace officer who fails to satisfactorily complete the annual training shall automatically be prohibited from exercising peace officer powers until any deficiency is made up.

(c) (i) Beginning July 1, 2021, the annual training shall include no less than 16 hours of training focused on mental health and other crisis intervention responses, arrest control, and de-escalation training.

(ii) Standards for the training shall be determined by each law enforcement agency or department and approved by the director or designee.

(iii) Each law enforcement agency or department shall include a breakdown of the 16 hours within the annual audit submitted to the division.

(5) Beginning July 1, 2021, the director shall ensure that annual training covers intervention responses for mental illnesses, autism spectrum disorder, and other neurological and developmental disorders.

(6) Beginning July 1, 2023, the director shall, subject to approval by a majority vote of the council, ensure that the basic training curriculum covers instruction on identifying, responding to, and reporting a criminal offense that is motivated by a personal attribute, as that term is defined in Section 76-3-203.14, victim targeting penalty enhancement.

CHAPTER 446
S. B. 107
Passed March 2, 2023
Approved March 20, 2023
Effective May 3, 2023

OIL AND GAS SEVERANCE TAX AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill modifies provisions related to oil and gas severance tax.

Highlighted Provisions:

This bill:

- defines terms;
- directs the Division of Finance to transfer portions of the oil and gas severance tax to the Transportation Investment Fund; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-5-115, as last amended by Laws of Utah 2021, Chapter 401

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-5-115 is amended to read:

59-5-115. Disposition of taxes collected -- Credit to General Fund.

(1) As used in this section, "above-trend revenue" means the amount by which the actual revenue from the oil and gas severance tax deposited into the General Fund under Subsection (2) exceeds the long-term trend of oil and gas severance tax revenue to the General Fund as determined by the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

(2) Except as provided in Section 51-9-305, 51-9-306, 51-9-307, 59-5-116, or 59-5-119, a tax imposed and collected under Section 59-5-102 shall be paid to the commission, promptly remitted to the state treasurer, and credited to the General Fund.

(3) The Division of Finance shall transfer above-trend revenue up to $20 million from the General Fund into the Transportation Investment Fund each year beginning in the fiscal year beginning July 1, 2023, until the amount deposited into the Transportation Investment Fund totals $88.5 million.

CHAPTER 447
S. B. 117
Passed March 1, 2023
Approved March 20, 2023
Effective May 3, 2023

DOMESTIC VIOLENCE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Ryan D. Wilcox
Cosponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions relating to domestic violence.

Highlighted Provisions:

This bill:

- requires a law enforcement officer to conduct a lethality assessment when responding to a report of domestic violence between intimate partners;
- describes the protocol for a lethality assessment;
- requires a law enforcement officer who conducts a lethality assessment to:
  - include the results of the assessment with a probable cause statement and incident report; and
  - submit the results to the Department of Public Safety;
- requires the Department of Public Safety to:
  - develop and maintain a reporting mechanism by which law enforcement can submit lethality assessment data;
  - provide analytical support to a law enforcement officer who submits the results of a lethality assessment;
  - create and maintain a database of lethality assessment data; and
  - in coordination with the Administrative Office of the Courts, provide information and training to certain court personnel regarding lethality assessments;
- includes a lethality assessment as part of the information that may be considered as part of pretrial processes; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates:

- to the Department of Public Safety -- Programs and Operations -- Department Intelligence Center, as a one-time appropriation:
  - from the General Fund, One-time, $100,000; and
- to the Department of Public Safety -- Programs and Operations -- Department Intelligence Center, as an ongoing appropriation:
  - from the General Fund, $1,205,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-1-106, as last amended by Laws of Utah 2021, Chapters 344, 360
77-20-202, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-205, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-36-2.1, as last amended by Laws of Utah 2020, Chapter 142
77-36-2.2, as last amended by Laws of Utah 2022, Chapter 430
78B-7-120, as enacted by Laws of Utah 2021, Chapter 180
78B-7-803, as last amended by Laws of Utah 2021, Chapter 159

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-1-106 is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Division of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702;

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact;

(i) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:

(i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;

(ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and

(iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211; [~~and~~]

(k) provide for the security and protection of public officials, public officials' staff, and the capitol hill complex in accordance with the provisions of this part[~~.~~]; and

(l) fulfill the duties described in Sections 77-36-2.1 and 78B-7-120 related to lethality assessments.

(2) (a) The department shall establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) All fees not established in statute shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26-28-120.

Section 2. Section 77-20-202 is amended to read:

77-20-202. Collection of pretrial information.

(1) On or after May 4, 2022, when an individual is arrested without a warrant for an offense and booked at a jail facility, an employee at the jail facility, or an employee of a pretrial services program, shall submit the following information to the court with the probable cause statement to the extent that the information is reasonably available to the employee:

(a) identification information for the individual, including:

(i) the individual's legal name and any known aliases;

(ii) the individual's date of birth;

(iii) the individual's state identification number;

(iv) the individual's mobile phone number; and

(v) the individual's email address;

(b) the individual's residential address;

(c) any pending criminal charge or warrant for the individual, including the offense tracking number of the current offense for which the individual is booked;

(d) the individual's probation or parole supervision status;

(e) whether the individual was on pretrial release for another criminal offense prior to the booking of the individual for the current criminal offense;

(f) the individual's financial circumstances to the best of the individual's knowledge at the time of booking, including:

(i) the individual's current employer;

(ii) the individual's monthly income, including any alimony or child support that contributes to the individual's monthly income;

(iii) the individual's monthly expenses, including any alimony or child support obligation that the individual is responsible for paying;

(iv) the individual's ownership of, or any interest in, personal or real property, including any savings or checking accounts or cash;

(v) the number, ages, and relationships of any dependents;

(vi) any financial support or benefit that the individual receives from a state or federal government; and

(vii) any other information about the individual's financial circumstances that may be relevant; [~~and~~]

(g) any ties the individual has to the community, including:

(i) the length of time that the individual has been at the individual's residential address;

(ii) any enrollment in a local college, university, or trade school; and

(iii) the name and contact information for any family member or friend that the individual believes would be willing to provide supervision of the individual[~~.~~]; and

(h) the results of a lethality assessment completed in accordance with Section 77-36-2.1, if any.

(2) Upon request, the jail facility, or the pretrial services program, shall provide the information described in Subsection (1) to the individual, the individual's attorney, or the prosecuting attorney.

(3) Any information collected from an individual under Subsection (1) is inadmissible in any court proceeding other than:

(a) a criminal proceeding addressing the individual's pretrial release or indigency for the offense, or offenses, for which the individual was arrested or charged with; or

(b) another criminal proceeding regarding prosecution for providing a false statement under Subsection (1).

(4) Nothing in this section prohibits a court and a county from entering into an agreement regarding

information to be submitted to the court with a probable cause statement.

Section 3. Section 77-20-205 is amended to read:

77-20-205. Pretrial release by a magistrate or judge.

(1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure, the magistrate shall issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges.

(b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges.

(2) (a) Except as provided in Subsection (2)(c), at an individual's first appearance before the court, the magistrate or judge shall issue a pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges.

(b) In making a determination under Subsection (2)(a), the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.

(c) The magistrate or judge shall delay the issuance of a pretrial status order described in Subsection (2)(a):

(i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for pretrial detention as described in Section 77-20-206;

(ii) if a party requests a delay; or

(iii) if there is good cause to delay the issuance.

(d) If a magistrate or judge delays the issuance of a pretrial status order under Subsection (2)(c), the magistrate or judge shall extend the temporary pretrial status order until the issuance of a pretrial status order.

(3) In making a determination about pretrial release under Subsection (1) or (2), a magistrate or judge shall impose only conditions of release that are reasonably available and necessary to reasonably ensure:

(a) the individual's appearance in court when required;

(b) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(c) the safety and welfare of the public; and

(d) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.

(4) Except as provided in Subsection (5), a magistrate or judge may impose a condition, or combination of conditions, under Subsection (1) or (2) that requires an individual to:

(a) not commit a federal, state, or local offense during the period of pretrial release;

(b) avoid contact with a victim of the alleged offense;

(c) avoid contact with a witness who:

(i) may testify concerning the alleged offense; and

(ii) is named in the pretrial status order;

(d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;

(e) submit to drug or alcohol testing;

(f) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(g) submit to electronic monitoring or location device tracking;

(h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(i) maintain employment or actively seek employment if unemployed;

(j) maintain or commence an education program;

(k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;

(l) comply with specified restrictions on personal associations, place of residence, or travel;

(m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(n) comply with a specified curfew;

(o) forfeit or refrain from possession of a firearm or other dangerous weapon;

(p) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a reasonable person would know that children congregate;

(q) comply with requirements for house arrest;

(r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(s) remain in custody of one or more designated individuals who agree to:

(i) supervise and report on the behavior and activities of the individual; and

(ii) encourage compliance with all court orders and attendance at all required court proceedings;

(t) comply with a financial condition; or

(u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (3).

(5) (a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.

(b) The magistrate or judge may not order conditions of release that would require the county or municipality to provide services that are not currently available from the county or municipality.

(c) Notwithstanding Subsection (5)(a), the magistrate or judge may impose conditions of release not identified by the county or municipality so long as the condition does not require assistance or resources from the county or municipality.

(6) (a) If the magistrate or judge determines that a financial condition, other than an unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall consider the individual's ability to pay when determining the amount of the financial condition.

(b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and a bail commissioner fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:

(i) the bail commissioner's action to fix a financial condition; or

(ii) the amount of the financial condition that the individual was required to pay for pretrial release.

(c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.

(7) In making a determination about pretrial release under this section, the magistrate or judge may:

(a) rely upon information contained in:

(i) the indictment or information;

(ii) any sworn or probable cause statement or other information provided by law enforcement;

(iii) a pretrial risk assessment;

(iv) an affidavit of indigency described in Section 78B-22-201.5;

(v) witness statements or testimony; [~~or~~]

(vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or

[~~(vi)~~] (vii) any other reliable record or source, including proffered evidence; and

(b) consider:

(i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:

(A) whether the offense is a violent offense; and

(B) the vulnerability of a witness or alleged victim;

(ii) the nature and circumstances of the individual, including the individual's:

(A) character;

(B) physical and mental health;

(C) family and community ties;

(D) employment status or history;

(E) financial resources;

(F) past criminal conduct;

(G) history of drug or alcohol abuse; and

(H) history of timely appearances at required court proceedings;

(iii) the potential danger to another individual, or individuals, posed by the release of the individual;

(iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense or offenses;

(v) the availability of:

(A) other individuals who agree to assist the individual in attending court when required; or

(B) supervision of the individual in the individual's community;

(vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(8) An individual arrested for violation of a jail release agreement, or a jail release court order, issued in accordance with Section 78B-7-802:

(a) may not be released before the individual's first appearance before a magistrate or judge; and

(b) may be denied pretrial release by the magistrate or judge under Subsection (2).

Section 4. Section 77-36-2.1 is amended to read:

77-36-2.1. Duties of law enforcement officers -- Notice to victims -- Lethality assessments.

(1) For purposes of this section:

(a) (i) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(ii) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(b) "Intimate partner" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) has or had one or more children in common with the other party;

(iv) is the biological parent of the other party's unborn child;

(v) is or was in a consensual sexual relationship with the other party; or

(vi) is or was in a dating relationship with the other party.

(c) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

(d) "Primary purpose domestic violence organization" means a contract provider of domestic violence services as described in Section 80-2-301.

(2) A law enforcement officer who responds to an allegation of domestic violence shall:

(a) use all reasonable means to protect the victim and prevent further violence, including:

[~~(a)~~] (i) taking the action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

[~~(b)~~] (ii) confiscating the weapon or weapons involved in the alleged domestic violence;

[~~(c)~~] (iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

[~~(d)~~] (iv) providing protection while the victim removes essential personal effects;

[~~(e)~~] (v) arrange, facilitate, or provide for the victim and any child to obtain medical treatment; and

[~~(f)~~] (vi) arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence, in accordance with Subsection [~~(2).~~] (3); and

(b) if the allegation of domestic violence is against an intimate partner, complete the lethality assessment protocols described in this section.

[~~(2)~~] (3) (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective Orders.

(b) The written notice shall also include:

(i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled;

(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance; and

(iii) the information required to be provided to both parties in accordance with Subsections 78B-7-802(8) and (9) .

[~~(3)~~] (4) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a domestic violence protective order is not issued or once the domestic violence protective order is terminated.

(5) A law enforcement officer shall complete a lethality assessment form by asking the victim:

(a) if the aggressor has ever used a weapon against the victim or threatened the victim with a weapon;

(b) if the aggressor has ever threatened to kill the victim or the victim's children;

(c) if the victim believes the aggressor will try to kill the victim;

(d) if the aggressor has ever tried to choke the victim;

(e) if the aggressor has a gun or could easily get a gun;

(f) if the aggressor is violently or constantly jealous, or controls most of the daily activities of the victim;

(g) if the victim left or separated from the aggressor after they were living together or married;

(h) if the aggressor is unemployed;

(i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;

(j) if the victim has a child that the aggressor believes is not the aggressor's biological child;

(k) if the aggressor follows or spies on the victim, or leaves threatening messages for the victim; and

(l) if there is anything else that worries the victim about the victim's safety and, if so, what worries the victim.

(6) A law enforcement officer shall comply with Subsection (7) if:

(a) the victim answers affirmatively to any of the questions in Subsections (5)(a) through (d);

(b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but affirmatively to at least four of the questions in Subsections (5)(e) through (k); or

(c) as a result of the victim's response to the question in Subsection (5)(l), the law enforcement officer believes the victim is in a potentially lethal situation.

(7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer shall:

(a) advise the victim of the results of the assessment; and

(b) refer the victim to a nongovernment organization victim advocate at a primary purpose domestic violence organization.

(8) If a victim does not or is unable to provide information to a law enforcement officer sufficient to allow the law enforcement officer to complete a lethality assessment form, or does not speak or is unable to speak with a nongovernment organization victim advocate, the law enforcement officer shall document this information on the lethality assessment form and submit the information to the Department of Public Safety under Subsection (9).

(9) (a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety while on scene.

(b) If a law enforcement officer is not reasonably able to submit the results of a lethality assessment while on scene, the law enforcement officer shall submit the results of the lethality assessment to the Department of Public Safety as soon as practicable.

(c) (i) Before the reporting mechanism described in Subsection (10)(a) is developed, a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety using means prescribed by the Department of Public Safety.

(ii) After the reporting mechanism described in Subsection (10)(a) is developed, a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety using that reporting mechanism.

(10) The Department of Public Safety shall:

(a) as soon as practicable, develop and maintain a reporting mechanism by which a law enforcement officer will submit the results of a lethality assessment as required by Subsection (9);

(b) provide prompt analytical support to a law enforcement officer who submits the results of a lethality assessment using the reporting mechanism described in Subsection (10)(a); and

(c) create and maintain a database of lethality assessment data provided under this section.

(11) (a) Subject to Subsection (11)(b), a law enforcement officer shall include the results of a lethality assessment and any related, relevant analysis provided by the Department of Public Safety under Subsection (10), with:

(i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules of Criminal Procedure; and

(ii) an incident report prepared in accordance with Section 77-36-2.2.

(b) In a probable cause statement or incident report, a law enforcement officer may not include information about how or where a victim was referred under Subsection (7)(b).

Section 5. Section 77-36-2.2 is amended to read:

77-36-2.2. Powers and duties of law enforcement officers to arrest -- Reports of domestic violence cases -- Reports of parties' marital status.

(1) The primary duty of law enforcement officers responding to a domestic violence call is to protect the victim and enforce the law.

(2) (a) In addition to the arrest powers described in Section 77-7-2, when a peace officer responds to a domestic violence call and has probable cause to believe that an act of domestic violence has been committed, the peace officer shall arrest without a warrant or shall issue a citation to any person that the peace officer has probable cause to believe has committed an act of domestic violence.

(b) (i) If the peace officer has probable cause to believe that there will be continued violence against the alleged victim, or if there is evidence that the perpetrator has either recently caused serious bodily injury or used a dangerous weapon in the domestic violence offense, the officer shall arrest and take the alleged perpetrator into custody, and may not utilize the option of issuing a citation under this section.

(ii) For purposes of Subsection (2)(b)(i), "serious bodily injury" and "dangerous weapon" mean the same as those terms are defined in Section 76-1-101.5.

(c) If a peace officer does not immediately exercise arrest powers or initiate criminal proceedings by citation or otherwise, the officer shall notify the victim of the right to initiate a criminal proceeding and of the importance of preserving evidence, in

accordance with the requirements of Section 77-36-2.1.

(3) If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine who the predominant aggressor was. If the officer determines that one person was the predominant physical aggressor, the officer need not arrest the other person alleged to have committed domestic violence. In determining who the predominant aggressor was, the officer shall consider:

(a) any prior complaints of domestic violence;

(b) the relative severity of injuries inflicted on each person;

(c) the likelihood of future injury to each of the parties; and

(d) whether one of the parties acted in self defense.

(4) A law enforcement officer may not threaten, suggest, or otherwise indicate the possible arrest of all parties in order to discourage any party's request for intervention by law enforcement.

(5) (a) A law enforcement officer who does not make an arrest after investigating a complaint of domestic violence, or who arrests two or more parties, shall submit a detailed, written report specifying the grounds for not arresting any party or for arresting both parties.

(b) A law enforcement officer who does not make an arrest shall notify the victim of the right to initiate a criminal proceeding and of the importance of preserving evidence.

(6) (a) A law enforcement officer responding to a complaint of domestic violence shall prepare an incident report that includes:

(i) the officer's disposition of the case[.]; and

(ii) the results of any lethality assessment completed in accordance with Section 77-36-2.1.

(b) From January 1, 2009, until December 31, 2013, any law enforcement officer employed by a city of the first or second class responding to a complaint of domestic violence shall also report, either as a part of an incident report or on a separate form, the following information:

(i) marital status of each of the parties involved;

(ii) social, familial, or legal relationship of the suspect to the victim; and

(iii) whether or not an arrest was made.

(c) The information obtained in Subsection (6)(b):

(i) shall be reported monthly to the department;

(ii) shall be reported as numerical data that contains no personal identifiers; and

(iii) is a public record as defined in Section 63G-2-103.

(d) The incident report shall be made available to the victim, upon request, at no cost.

(e) The law enforcement agency shall forward a copy of the incident report to the appropriate prosecuting attorney within five days after the complaint of domestic violence occurred.

(7) The department shall compile the information described in Subsections (6)(b) and (c) into a report and present that report to the Law Enforcement and Criminal Justice Interim Committee during the 2013 interim, no later than May 31, 2013.

(8) Each law enforcement agency shall, as soon as practicable, make a written record and maintain records of all incidents of domestic violence reported to it, and shall be identified by a law enforcement agency code for domestic violence.

Section 6. Section 78B-7-120 is amended to read:

78B-7-120. Law enforcement -- Training -- Domestic violence -- Lethality assessments.

(1) [The] In accordance with Section 77-36-2.1, the Department of Public Safety shall develop training in domestic violence responses and lethality assessment protocols, which include the following:

(a) recognizing the symptoms of domestic violence and trauma;

(b) an evidence-based assessment to identify victims of domestic violence who may be at a high risk of being killed by a perpetrator;

(c) lethality assessment protocols and interviewing techniques, including indicators of strangulation;

(d) responding to the needs and concerns of a victim of domestic violence;

(e) delivering services to victims of domestic violence in a compassionate, sensitive, and professional manner; and

(f) understanding cultural perceptions and common myths of domestic violence.

(2) The department shall develop and offer an online training course in domestic violence issues to all certified law enforcement officers in the state.

(3) Training in domestic violence issues shall be incorporated into training offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer.

(4) The department shall develop specific training curriculums that meet the requirements of this section, including:

(a) response to domestic violence incidents, including trauma-informed and victim-centered interview techniques;

(b) lethality assessment protocols which have been demonstrated to minimize retraumatizing victims; and

(c) standards for report writing.

(5) The Department of Public Safety, in partnership with the Division of Child and Family Services and the Commission on Criminal and Juvenile Justice, shall work to identify aggregate domestic violence data to include:

(a) lethality assessments;

(b) the prevalence of stalking;

(c) strangulation;

(d) violence in the presence of children; and

(e) threats of suicide or homicide.

(6) The Department of Public Safety, with support from the Commission on Criminal and Juvenile Justice and the Division of Child and Family Services shall provide recommendations to the Law Enforcement and Criminal Justice Interim Committee not later than July 31 of each year and in the commission's annual report required by Section 63M-7-205.

(7) The Department of Public Safety and the Administrative Office of the Courts shall coordinate to provide information and training on the lethality assessment protocols described in Section 77-36-2.1 to all judges, commissioners, and court staff who may encounter lethality assessment data in the courses of their duties.

Section 7. Section 78B-7-803 is amended to read:

78B-7-803. Pretrial protective orders.

(1) (a) When an alleged perpetrator is charged with a crime involving a qualifying offense, the court shall, at the time of the alleged perpetrator's court appearance under Section 77-36-2.6:

(i) determine the necessity of imposing a pretrial protective order or other condition of pretrial release; and

(ii) state the court's findings and determination in writing.

(b) Except as provided in Subsection (4), in any criminal case, the court may, during any court hearing where the alleged perpetrator is present, issue a pretrial protective order, pending trial.

(c) When determining the necessity of imposing a pretrial protective order or other condition of pretrial release, a court may consider the results of any relevant lethality assessment conducted in accordance with Section 77-36-2.1.

(2) A court may include any of the following provisions in a pretrial protective order:

(a) an order enjoining the alleged perpetrator from threatening to commit or committing acts of domestic violence or abuse against the victim and any designated family or household member;

(b) an order prohibiting the alleged perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order removing and excluding the alleged perpetrator from the victim's residence and the premises of the residence;

(d) an order requiring the alleged perpetrator to stay away from the victim's residence, school, or place of employment, and the premises of any of these, or any specified place frequented by the victim and any designated family member;

(e) an order for any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member;

(f) an order identifying and requiring an individual designated by the victim to communicate between the alleged perpetrator and the victim if and to the extent necessary for family related matters;

(g) an order requiring the alleged perpetrator to participate in an electronic or other type of monitoring program; and

(h) if the alleged victim and the alleged perpetrator share custody of one or more minor children, an order for indirect or limited contact to temporarily facilitate parent visitation with a minor child.

(3) If the court issues a pretrial protective order, the court shall determine whether to allow provisions for transfer of personal property to decrease the need for contact between the parties.

(4) A pretrial protective order issued under this section against an alleged perpetrator who is a minor expires on the earlier of:

(a) the day on which the court issues an order against the alleged perpetrator under Section 78B-7-804 or 78B-7-805 or otherwise makes a disposition of the alleged perpetrator's case under Title 80, Chapter 6, Part 7, Adjudication and Disposition; or

(b) the day on which the juvenile court terminates jurisdiction.

Section 8. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Public Safety -- Programs and Operations

From General Fund, One-time	100,000
Schedule of Programs:	
Department Intelligence Center	100,000

The Legislature intends that the Department of Public Safety use appropriations under this item to develop, administer, and maintain a lethality assessment reporting mechanism and database.

ITEM 2

To Department of Public Safety -- Programs and Operations

From General Fund	1,205,000

Schedule of Programs:

Department Intelligence Center	1,205,000

The Legislature intends that:

(1) the Department of Public Safety use appropriations under this item to develop, administer, and maintain lethality assessment tools and services; and

(2) under Section 63J-1-603, the appropriation under this item not lapse at the close of fiscal year 2024 and the use of any nonlapsing funds is limited to the purposes described in Subsection (1) of this item.

CHAPTER 448
S. B. 120
Passed March 1, 2023
Approved March 20, 2023
Effective May 3, 2023

PROPERTY AND CONTRABAND AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill amends provisions regarding property and contraband.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions regarding the seizure of property and contraband by a conservation officer for the Division of Wildlife Resources;
- recodifies Title 24, Forfeiture and Disposition of Property Act, to Title 77, Chapter 11a, Seizure of Property and Contraband, Title 77, Chapter 11b, Forfeiture of Seized Property, and Title 77, Chapter 11c, Retention of Evidence;
- recodifies Title 53, Chapter 20, Forensic Biological Evidence Preservation, to Title 77, Chapter 11c, Retention of Evidence;
- recodifies Title 77, Chapter 24a, Lost or Mislaid Personal Property, to Title 77, Chapter 11d, Lost or Mislaid Property;
- defines terms;
- amends provisions related to the seizure of property and contraband;
- amends provisions related to the release of property to an owner, an interest holder, or a person who asserts a claim to property that the agency seeks to forfeit;
- amends provisions related to the disposal of seized property and contraband;
- amends provisions related to the forfeiture of seized property;
- addresses the retention of evidence as an exhibit;
- establishes the requirements for retaining evidence of a misdemeanor offense, including the time periods for retention;
- provides the requirements for not retaining evidence of a misdemeanor offense, including the preservation of sufficient evidence for a prosecution;
- addresses the retention of evidence for felony offenses;
- provides the procedure for an agency to request the release or disposal of evidence of a misdemeanor offense from a prosecuting attorney; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-32a-104, as last amended by Laws of Utah 2022, Chapter 201
13-32a-109, as last amended by Laws of Utah 2022, Chapters 201, 274
13-32a-116.5, as last amended by Laws of Utah 2022, Chapters 201, 274
17-18a-405, as last amended by Laws of Utah 2014, Chapter 189
23-20-1, as last amended by Laws of Utah 2013, Chapter 394
41-6a-606, as last amended by Laws of Utah 2022, Chapter 176
53-5c-201, as last amended by Laws of Utah 2021, Chapter 137
53-5c-202, as last amended by Laws of Utah 2021, Chapter 137
58-37a-6, as last amended by Laws of Utah 2015, Chapter 258
58-37c-15, as last amended by Laws of Utah 2015, Chapter 258
58-37d-7, as last amended by Laws of Utah 2015, Chapter 258
63A-16-1002, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390
63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451
76-5-109.3, as enacted by Laws of Utah 2022, Chapter 181
76-6-111, as last amended by Laws of Utah 2021, Chapters 57, 260
76-6-501, as last amended by Laws of Utah 2016, Chapter 117
76-6-1303, as last amended by Laws of Utah 2015, Chapter 258
76-10-503, as last amended by Laws of Utah 2021, Chapter 262
76-10-1108, as last amended by Laws of Utah 2015, Chapter 258
76-10-1112, as enacted by Laws of Utah 2020, Chapter 291
77-37-3, as last amended by Laws of Utah 2022, Chapter 430
78B-9-104, as last amended by Laws of Utah 2022, Chapter 120

ENACTS:

77-11a-302, Utah Code Annotated 1953
77-11a-303, Utah Code Annotated 1953
77-11b-101, Utah Code Annotated 1953
77-11b-104, Utah Code Annotated 1953
77-11c-102, Utah Code Annotated 1953
77-11c-103, Utah Code Annotated 1953
77-11c-201, Utah Code Annotated 1953
77-11c-202, Utah Code Annotated 1953
77-11c-203, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

77-11a-101, (Renumbered from 24-1-102, as last amended by Laws of Utah 2022, Chapter 179)

77-11a-102, (Renumbered from 24-1-103, as last amended by Laws of Utah 2021, Chapter 230)
77-11a-201, (Renumbered from 24-2-102, as last amended by Laws of Utah 2021, Chapter 230)
77-11a-202, (Renumbered from 24-2-102.5, as enacted by Laws of Utah 2021, Chapter 230)
77-11a-203, (Renumbered from 24-2-103, as last amended by Laws of Utah 2021, Chapter 230)
77-11a-204, (Renumbered from 24-2-104, as last amended by Laws of Utah 2022, Chapters 120, 274)
77-11a-205, (Renumbered from 24-2-105, as last amended by Laws of Utah 2022, Chapter 179)
77-11a-301, (Renumbered from 24-2-107, as last amended by Laws of Utah 2022, Chapters 120, 179)
77-11a-304, (Renumbered from 24-2-108, as last amended by Laws of Utah 2022, Chapters 120, 179)
77-11a-305, (Renumbered from 24-3-104, as last amended by Laws of Utah 2021, Chapter 230)
77-11a-401, (Renumbered from 24-3-101.5, as last amended by Laws of Utah 2022, Chapters 120, 274)
77-11a-402, (Renumbered from 24-3-103, as last amended by Laws of Utah 2021, Chapter 230)
77-11a-403, (Renumbered from 24-3-103.5, as enacted by Laws of Utah 2017, Chapter 334)
77-11b-102, (Renumbered from 24-4-102, as last amended by Laws of Utah 2022, Chapters 116, 274)
77-11b-103, (Renumbered from 24-4-106, as enacted by Laws of Utah 2013, Chapter 394)
77-11b-105, (Renumbered from 24-4-119, as enacted by Laws of Utah 2021, Chapter 230)
77-11b-201, (Renumbered from 24-4-103, as last amended by Laws of Utah 2022, Chapter 179)
77-11b-202, (Renumbered from 24-4-103.3, as last amended by Laws of Utah 2022, Chapter 120)
77-11b-203, (Renumbered from 24-4-103.5, as last amended by Laws of Utah 2022, Chapter 120)
77-11b-204, (Renumbered from 24-4-111, as last amended by Laws of Utah 2021, Chapter 230)
77-11b-301, (Renumbered from 24-4-105, as last amended by Laws of Utah 2022, Chapter 179)
77-11b-302, (Renumbered from 24-4-104, as last amended by Laws of Utah 2021, Chapter 230)
77-11b-303, (Renumbered from 24-4-113, as last amended by Laws of Utah 2021, Chapter 230)
77-11b-304, (Renumbered from 24-4-109, as last amended by Laws of Utah 2021, Chapter 230)
77-11b-305, (Renumbered from 24-4-110, as last amended by Laws of Utah 2021, Chapter 230)
77-11b-306, (Renumbered from 24-4-112, as last amended by Laws of Utah 2021, Chapter 230)
77-11b-401, (Renumbered from 24-4-115, as last amended by Laws of Utah 2022, Chapter 179)
77-11b-402, (Renumbered from 24-4-116, as last amended by Laws of Utah 2021, Chapter 230)
77-11b-403, (Renumbered from 24-4-117, as last amended by Laws of Utah 2021, Chapter 230)
77-11b-404, (Renumbered from 24-4-118, as last amended by Laws of Utah 2022, Chapter 274)
77-11c-101, (Renumbered from 53-20-101, as enacted by Laws of Utah 2022, Chapter 120)
77-11c-301, (Renumbered from 24-2-106, as last amended by Laws of Utah 2022, Chapter 120)
77-11c-401, (Renumbered from 53-20-102, as enacted by Laws of Utah 2022, Chapter 120)
77-11c-402, (Renumbered from 53-20-103, as enacted by Laws of Utah 2022, Chapter 120)
77-11c-403, (Renumbered from 53-20-104, as enacted by Laws of Utah 2022, Chapter 120)
77-11d-101, (Renumbered from 77-24a-1, as repealed and reenacted by Laws of Utah 2013, Chapter 394)
77-11d-102, (Renumbered from 77-24a-2, as last amended by Laws of Utah 2013, Chapter 394)
77-11d-103, (Renumbered from 77-24a-3, as last amended by Laws of Utah 2013, Chapter 394)
77-11d-104, (Renumbered from 77-24a-4, as last amended by Laws of Utah 2013, Chapter 394)
77-11d-105, (Renumbered from 77-24a-5, as last amended by Laws of Utah 2013, Chapter 394)

REPEALS:
24-1-101, as enacted by Laws of Utah 2013, Chapter 394
24-2-101, as enacted by Laws of Utah 2013, Chapter 394
24-3-101, as last amended by Laws of Utah 2021, Chapter 230
24-4-101, as last amended by Laws of Utah 2021, Chapter 230

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-32a-104 is amended to read:

13-32a-104. Tickets required to be maintained -- Contents -- Identification of items -- Exceptions -- Prohibition against pawning or selling certain property.

(1) A pawn or secondhand business shall keep a ticket for property a person pawns or sells to the pawn or secondhand business. A pawn or secondhand business shall document on the ticket the following information regarding the property:

(a) the date and time of the transaction;

(b) whether the transaction is a pawn or purchase;

(c) the ticket number;

(d) the date by which the property must be redeemed, if the property is pawned;

(e) the following information regarding the individual who pawns or sells the property:

(i) the individual's full name and date of birth as they appear on the individual's identification and the individual's residence address and telephone number;

(ii) the unique number and type of identification presented to the pawn or secondhand business;

(iii) the individual's signature; and

(iv) (A) subject to any rule made under Subsection (8), an electronic or tangible legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint and the reason why the right index fingerprint was unavailable; and

(B) notwithstanding the other provisions of this Subsection (1), an electronic legible fingerprint is not required to be documented on the ticket;

(f) the amount loaned on, paid for, or value for trade-in of each article of property;

(g) the full name of the individual conducting the pawn transaction or secondhand merchandise transaction on behalf of the pawn or secondhand business or the initials or a unique identifying number of the individual, if the pawn or secondhand business maintains a record of the initials or unique identifying number of the individual; and

(h) an accurate description of each article of property, with available identifying marks, including:

(i) (A) names, brand names, numbers, serial numbers, model numbers, IMEI numbers, color, manufacturers' names, and size;

(B) metallic composition, and any jewels, stones, or glass;

(C) any other marks of identification or indicia of ownership on the property;

(D) the weight of the property, if the payment is based on weight;

(E) any other unique identifying feature; and

(F) gold content, if indicated; or

(ii) if multiple articles of property of a similar nature are delivered together in one transaction and the articles of property do not bear serial or model numbers and do not include precious metals or gemstones, such as musical or video recordings, books, or hand tools, the description of the articles is adequate if it includes the quantity of the articles and a description of the type of articles delivered.

(2) (a) A pawn or secondhand business may not accept property if, upon inspection, it is apparent that:

(i) a serial number or another form of indicia of ownership has been removed, altered, defaced, or obliterated;

(ii) the property is not a numismatic item and has indicia of being new, but is not accompanied by a written receipt or other satisfactory proof of ownership other than the seller's own statement; or

(iii) except as provided in Subsection 13-32a-103.1(3), the property is a gift card, transaction card, or other physical or digital card or certificate evidencing store credit.

(b) A pawn or secondhand business is not subject to Subsection (2)(a)(ii) if the pawn or secondhand business is the original seller of the property and is accepting a return of the property as provided by the pawn or secondhand business' established return policy.

(c) Property is presumed to have had indicia of being new at the time of a transaction if the property is subsequently advertised by the pawn or secondhand business as being new.

(3) (a) An individual may not pawn or sell any property to a business regulated under this chapter if the property is subject to being turned over to a law enforcement agency in accordance with [~~Title 77, Chapter 24a, Lost or Mislaid Personal Property~~] Title 77, Chapter 11d, Lost or Mislaid Property.

(b) If an individual attempts to sell or pawn property to a business regulated under this chapter and the employee or owner of the business knows or has reason to know that the property is subject to [~~Title 77, Chapter 24a, Lost or Mislaid Personal Property~~] Title 77, Chapter 11d, Lost or Mislaid Property, the employee or owner shall advise the individual of the requirements of [~~Title 77, Chapter 24a, Lost or Mislaid Personal Property~~] Title 77, Chapter 11d, Lost or Mislaid Property, and may not receive the property in pawn or sale.

(4) A coin dealer is subject to Section 13-32a-104.5 and not subject to this section.

(5) An automated recyling kiosk operator is subject to Section 13-32a-104.6 and is not subject to this section.

(6) A catalytic converter purchaser is subject to Section 13-32a-104.7 and is not subject to this section.

(7) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

(8) The division shall establish standards and criteria for fingerprint legibility by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) (a) As used in this Subsection (9), "jewelry" means:

(i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry and watches; or

(ii) any jewelry pawned to a pawnbroker and the contract period between the pawnbroker and the pledgor has expired, including scrap jewelry and watches.

(b) On and after January 1, 2020, a pawn or secondhand business shall obtain:

(i) a color digital photograph clearly and accurately depicting:

(A) each item of jewelry; and

(B) if an item of jewelry has one or more engravings, an additional color digital photograph specifically depicting any engraving; and

(ii) a color digital photograph of an item that bears an identifying mark, including:

(A) a serial number, engraving, owner label, or similar identifying mark; and

(B) an additional photograph that clearly depicts the identifying mark described in Subsection (9)(b)(ii)(A).

Section 2. Section 13-32a-109 is amended to read:

13-32a-109. Holding period for property -- Return of property -- Penalty.

(1) (a) A pawnbroker may sell property pawned to the pawnbroker if:

(i) 15 calendar days have passed after the day on which the pawnbroker submits the information and any required photograph to the central database;

(ii) the contract period between the pawnbroker and the pledgor expires; and

(iii) the pawnbroker has complied with Sections 13-32a-104 and 13-32a-106.

(b) If property, including scrap jewelry, is purchased by a pawn or secondhand business or catalytic converter purchaser, the pawn or secondhand business or catalytic converter purchaser may sell the property if the pawn or secondhand business or catalytic converter purchaser has held the property for 15 calendar days after the day on which the pawn or secondhand business or catalytic converter purchaser submits the information to the central database, and complied with Sections 13-32a-104, 13-32a-104.6, 13-32a-104.7, and 13-32a-106, except that the pawn or secondhand business is not required to hold precious metals or numismatic items under this Subsection (1)(b).

(c) (i) This Subsection (1) does not preclude a law enforcement agency from requiring a pawn or secondhand business or catalytic converter purchaser to hold property if necessary in the course of an investigation.

(ii) If the property is pawned, the law enforcement agency may require the property be held beyond the terms of the contract between the pledgor and the pawnbroker.

(iii) If the property is sold to the pawn or secondhand business or catalytic converter purchaser, the law enforcement agency may require the property be held if the pawn or secondhand business or catalytic converter purchaser has not sold the article.

(d) If the law enforcement agency requesting a hold on property under this Subsection (1) is not the local law enforcement agency, the requesting law enforcement agency shall notify the local law enforcement agency of the request and also the pawn or secondhand business or catalytic converter purchaser.

(2) If a law enforcement agency requires the pawn or secondhand business or catalytic converter purchaser to hold property as part of an investigation, the law enforcement agency shall provide to the pawn or secondhand business or catalytic converter purchaser a hold form issued by the law enforcement agency, that:

(a) states the active case number;

(b) confirms the date of the hold request and the property to be held; and

(c) facilitates the ability of the pawn or secondhand business or catalytic converter purchaser to track the property when the prosecution takes over the case.

(3) If property is not seized by a law enforcement agency that has placed a hold on the property, the property shall remain in the custody of the pawn or secondhand business or catalytic converter purchaser until further disposition by the law enforcement agency, and in accordance with this chapter.

(4) (a) The initial hold by a law enforcement agency is for a period of 90 days.

(b) If the property is not seized by the law enforcement agency, the property shall remain in the custody of the pawn or secondhand business or catalytic converter purchaser and is subject to the hold unless exigent circumstances require the property to be seized by the law enforcement agency.

(5) (a) A law enforcement agency may extend any hold for up to an additional 90 days if circumstances require the extension.

(b) If there is an extension of a hold under Subsection (5)(a), the requesting law enforcement agency shall notify the pawn or secondhand

business or catalytic converter purchaser that is subject to the hold before the expiration of the initial 90 days.

(c) A law enforcement agency may not hold an item for more than the 180 days allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

(6) A hold on property under Subsection (2) takes precedence over any request to claim or purchase the property subject to the hold.

(7) If an original victim who has complied with Section 13-32a-115 has not been identified and the hold or seizure of the property is terminated, the law enforcement agency requiring the hold or seizure shall within 15 business days after the day on which the termination occurs:

(a) notify the pawn or secondhand business or catalytic converter purchaser in writing that the hold or seizure has been terminated;

(b) return the property subject to the seizure to the pawn or secondhand business or catalytic converter purchaser; or

(c) if the property is not returned to the pawn or secondhand business or catalytic converter purchaser, advise the pawn or secondhand business or catalytic converter purchaser either in writing or electronically of the specific alternative disposition of the property.

(8) (a) If the original victim who has complied with Section 13-32a-115 has been identified and the hold or seizure of property is terminated, the law enforcement agency requiring the hold or seizure shall:

(i) document the original victim who has positively identified the property; and

(ii) provide the documented information concerning the original victim to the prosecuting agency to determine whether continued possession of the property is necessary for purposes of prosecution[~~, as provided in Section 24-3-103~~] in accordance with Section 77-11a-301.

(b) If the prosecuting agency determines that continued possession of the property is not necessary for purposes of prosecution[~~, as provided in Section 24-3-103~~], the prosecuting agency shall provide a written or electronic notification to the law enforcement agency that authorizes the return of the property to an original victim who has complied with Section 13-32a-115.

(c) (i) A law enforcement agency shall promptly provide notice to the pawn or secondhand business or catalytic converter purchaser of the authorized return of the property under this Subsection (8).

(ii) The notice shall identify the original victim, advise the pawn or secondhand business or catalytic converter purchaser that the original victim has identified the property, and direct the pawn or secondhand business or catalytic converter purchaser to release the property to the original victim at no cost to the original victim.

(iii) If the property was seized, the notice shall advise that the property will be returned to the original victim within 15 days after the day on which the pawn or secondhand business or catalytic converter purchaser receives the notice, except as provided under Subsection (8)(d).

(d) The pawn or secondhand business or catalytic converter purchaser shall release property under Subsection (8)(c) unless within 15 days after the day on which the notice is received the pawn or secondhand business or catalytic converter purchaser complies with Section 13-32a-116.5.

(9) (a) If the law enforcement agency does not notify the pawn or secondhand business or catalytic converter purchaser that a hold on the property has expired, the pawn or secondhand business or catalytic converter purchaser shall send a letter by registered or certified mail to the law enforcement agency that ordered the hold and inform the agency that the holding period has expired.

(b) The law enforcement agency shall respond within 30 days by:

(i) confirming that the hold period has expired and that the pawn or secondhand business or catalytic converter purchaser may manage the property as if acquired in the ordinary course of business; or

(ii) providing written notice to the pawn or secondhand business or catalytic converter purchaser that a court order has continued the period of time for which the item shall be held.

(10) The written notice under Subsection (9)(b)(ii) is considered provided when:

(a) personally delivered to the pawn or secondhand business or catalytic converter purchaser with a signed receipt of delivery;

(b) delivered to the pawn or secondhand business or catalytic converter purchaser by registered or certified mail; or

(c) delivered by any other means with the mutual assent of the law enforcement agency and the pawn or secondhand business or catalytic converter purchaser.

(11) If the law enforcement agency does not respond within 30 days under Subsection (9), the pawn or secondhand business or catalytic converter purchaser may manage the property as if acquired in the ordinary course of business.

(12) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 3. Section 13-32a-116.5 is amended to read:

13-32a-116.5. Contested disposition of property - Procedure.

(1) If a pawn or secondhand business or catalytic converter purchaser receives notice from a law enforcement agency under Section 13-32a-109 that property that is the subject of a hold or seizure shall be returned to an identified original victim,

the pawn or secondhand business or catalytic converter purchaser may contest the determination and seek a specific alternative disposition if within 15 business days after the day on which the pawn or secondhand business or catalytic converter purchaser receives the notice:

(a) the pawn or secondhand business or catalytic converter purchaser gives notice to the identified original victim, by certified mail, that the pawn or secondhand business or catalytic converter purchaser contests the determination to return the property to the original victim; and

(b) the pawn or secondhand business or catalytic converter purchaser files a petition in a court having jurisdiction over the matter to determine rightful ownership of the property as provided in Section [~~24-3-104~~] 77-11a-305.

(2) A pawn or secondhand business or catalytic converter purchaser is guilty of a class B misdemeanor if the pawn or secondhand business or catalytic converter purchaser:

(a) holds or sells property in violation of a notification from a law enforcement agency that the property is to be returned to an original victim; and

(b) does not comply with the requirements of this section within the time periods specified.

Section 4. Section 17-18a-405 is amended to read:

17-18a-405. Civil responsibilities of public prosecutors.

A public prosecutor may act as legal counsel to the state, county, government agency, or government entity regarding the following matters of civil law:

(1) bail bond forfeiture actions;

(2) actions for the forfeiture of property or contraband, as provided in [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property;

(3) civil actions incidental to or appropriate to supplement a public prosecutor's duties, including an injunction, a habeas corpus, a declaratory action, or an extraordinary writ action, in which the interests of the state may be affected; and

(4) any other civil duties related to criminal prosecution that are otherwise provided by statute.

Section 5. Section 23-20-1 is amended to read:

23-20-1 (Codified as 23A-5-201). Enforcement authority of conservation officers -- Seizure and disposition of property.

[~~(1) Conservation officers of the division shall enforce the provisions of this title with the same authority and following the same procedures as other law enforcement officers.~~]

[~~(2) (a) Conservation officers shall seize any protected wildlife illegally taken or held.~~]

[~~(b) (i) Upon determination of a defendant's guilt by the court, the protected wildlife shall be confiscated by the court and sold or otherwise disposed of by the division.~~]

[~~(ii) Proceeds of the sales shall be deposited in the Wildlife Resources Account.~~]

[~~(iii) Migratory wildfowl may not be sold, but shall be given to a charitable institution or used for other charitable purposes.~~]

[~~(3) (a) Conservation officers may seize and impound a vehicle used for the unlawful taking or possessing of protected wildlife for any of the following purposes:~~]

[~~(i) to provide for the safekeeping of the vehicle, if the owner or operator is arrested;~~]

[~~(ii) to search the vehicle as provided in Subsection (2)(a) or as provided by a search warrant; or~~]

[~~(iii) to inspect the vehicle for evidence that protected wildlife was unlawfully taken or possessed.~~]

[~~(b) The division shall store any seized vehicle in a public or private garage, state impound lot, or other secured storage facility.~~]

[~~(4) A seized vehicle shall be released~~]

(1) A conservation officer shall enforce the provisions of this title in accordance with the same procedures and requirements for a law enforcement officer of this state.

(2) (a) Except as provided in Subsection (2)(b), a conservation officer may seize property or contraband in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, and Title 77, Chapter 11b, Forfeiture of Seized Property.

(b) A conservation officer shall seize protected wildlife illegally taken or held.

(3) (a) If a conservation officer seizes wildlife as part of an investigation or prosecution of an offense and the wildlife may reasonably be used to incriminate or exculpate a person for the offense, the division is not required to retain the wildlife under Title 77, Chapter 11c, Retention of Evidence.

(b) If the division does not retain wildlife under Subsection (3)(a), the division is required to preserve sufficient evidence from the wildlife for use as evidence in the prosecution of a person for the offense.

(4) (a) If a conservation officer seizes wildlife and the wildlife or parts of the wildlife are perishable, the division may donate the wildlife or parts of the wildlife to be used for charitable purposes.

(b) If wildlife or parts of the wildlife are perishable and are not fit to be donated for charitable purposes under Subsection (4)(a), the division may dispose of the wildlife or parts of the wildlife in a reasonable manner.

(5) (a) The court may order the division to sell or dispose of protected wildlife that is seized by a

conservation officer if the division is permitted by law to sell or dispose of the wildlife.

(b) The division may not sell migratory wildfowl but the division shall donate the migratory wildfowl to be used for charitable purposes.

(c) The division shall deposit the proceeds from the sale of protected wildlife into the Wildlife Resources Account.

(6) If the division disposes of wildlife, the court may order the division to:

(a) provide the owner of the disposed wildlife with wildlife that is reasonably equivalent in value to the disposed wildlife within 180 days after the day on which the court enters the order; or

(b) if the division is unable to obtain wildlife that is reasonably equivalent in value to the disposed wildlife, pay the owner of the disposed wildlife for the non-trophy value of the disposed wildlife in accordance with Subsection 23-20-4.5(2) within 180 days after the day on which the court enters the order.

(7) (a) If a conservation officer seizes a vehicle under Section 77-11a-201, the division shall store the seized vehicle in a public or private garage, state impound lot, or any other secured storage facility.

(b) The division shall release a seized vehicle to the owner no later than 30 days after the [~~date~~] day on which the vehicle is seized, unless the vehicle was used for the unlawful taking or possessing of wildlife by a person [~~who is charged with committing a felony under this title~~] charged with a felony under this title.

[~~(5)~~] (c) [~~(a)~~] The owner of a seized vehicle is liable for the payment of any impound fee if:

(i) the owner used the vehicle for the unlawful taking or possessing of wildlife [~~and is found by a court to be guilty of a violation of this title.~~]; and

(ii) the owner is convicted of an offense under this title.

[~~(b)~~] (d) The owner of a seized vehicle is not liable for the payment of any impound fee or, if the fees have been paid, is entitled to reimbursement of the fees paid, if:

(i) no charges are filed or all charges are dropped [~~which~~] that involve the use of the vehicle for the unlawful taking or possessing of wildlife;

(ii) the person charged with using the vehicle for the unlawful taking or possessing of wildlife is found by a court to be not guilty; or

(iii) the owner did not consent to a use of the vehicle [~~which~~] that violates this chapter.

Section 6. Section 41-6a-606 is amended to read:

41-6a-606. Speed contest or exhibition on highway -- Barricade or obstruction -- -- Spectators of a speed contest -- Seizure of non-street legal vehicles.

(1) A person may not engage in any motor vehicle speed contest or exhibition of speed on a highway.

(2) A person may not, in any manner, obstruct or place any barricade or obstruction or assist or participate in placing any barricade or obstruction upon any highway for any purpose prohibited under Subsection (1).

(3) (a) A person who violates Subsection (1) is guilty of a class A misdemeanor.

(b) A person who violates Subsection (2) is guilty of a class B misdemeanor.

(4) (a) In addition to the penalty provided under this section or any other section, a person who violates Subsection (1) shall have the person's driver license suspended under Subsection 53-3-220(1)(a)(xv) for a period of:

(i) 60 days for a first offense; and

(ii) 90 days for a second offense within three years of a prior offense.

(b) The court shall forward the report of the conviction to the Driver License Division in accordance with Section 53-3-218.

(5) A motor vehicle that is not street legal that is operated or used in a manner that violates this section is subject to seizure in accordance with [~~Title 24, Chapter 2, Seizure of Property~~] Title 77, Chapter 11a, Part 2, Seizure of Property and Contraband.

Section 7. Section 53-5c-201 is amended to read:

53-5c-201. Voluntary commitment of a firearm by cohabitant -- Law enforcement to hold firearm.

(1) As used in this section:

(a) "Cohabitant" means any individual 18 years old or older residing in the home who:

(i) is living as if a spouse of the owner cohabitant;

(ii) is related by blood or marriage to the owner cohabitant;

(iii) has one or more children in common with the owner cohabitant; or

(iv) has an interest in the safety and well-being of the owner cohabitant.

(b) "Owner cohabitant" means an individual:

(i) in relation to a cohabitant as described in Subsection (1)(a); and

(ii) who owns a firearm.

(2) (a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law enforcement agency or request that a law enforcement officer receive a firearm for safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to:

(i) himself or herself;

(ii) the owner cohabitant; or

(iii) any other person.

(b) If the owner of a firearm requests return of the firearm in person at the law enforcement agency's office, the law enforcement agency:

(i) may not hold the firearm under this section; and

(ii) shall return the firearm to the owner.

(3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

(a) record:

(i) the owner cohabitant's name, address, and phone number;

(ii) the firearm serial number and the make and model of each firearm committed; and

(iii) the date that the firearm was voluntarily committed;

(b) require the cohabitant to sign a document attesting that the cohabitant resides in the home;

(c) hold the firearm in safe custody for 60 days after the day on which the firearm is voluntarily committed; and

(d) upon proof of identification, return the firearm to:

(i) (A) the owner cohabitant after the expiration of the 60-day period; or

(B) if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

(4) The law enforcement agency shall hold the firearm for an additional 60 days:

(a) if the initial 60-day period expires; and

(b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

(5) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.

(6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the application of this chapter immediately, if practicable, but no later than five days after immediately upon the:

(a) return of a firearm in accordance with Subsection (3)(d); or

(b) disposal of the firearm in accordance with Section 53-5c-202.

(7) Unless otherwise provided, the provisions of [~~Title 77, Chapter 24a, Lost or Mislaid Personal Property~~] Title 77, Chapter 11d, Lost or Mislaid Property, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.

(8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

Section 8. Section 53-5c-202 is amended to read:

53-5c-202. Illegal firearms confiscated -- Disposition of unclaimed firearm.

(1) If a law enforcement agency receives a firearm in accordance with Section 53-5c-201, and the firearm is an illegal firearm, the law enforcement agency shall:

(a) notify the owner cohabitant attempting to voluntarily commit the firearm that the firearm is an illegal firearm; and

(b) confiscate the firearm and dispose of the firearm in accordance with Section [~~24-3-103.5~~] 77-11a-403.

(2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner cohabitant to return a firearm in accordance with Section 53-5c-201, the law enforcement agency shall dispose of the firearm in accordance with Section [~~24-3-103.5~~] 77-11a-403.

(b) A law enforcement agency may not dispose of a firearm under Subsection (2)(a) before one year after the day on which the cohabitant initially voluntarily committed the firearm in accordance with Section 53-5c-201.

(3) (a) If a person other than an owner cohabitant claims ownership of the firearm, the person may:

(i) request that the law enforcement agency return the firearm in accordance with Subsection (3)(b); or

(ii) petition the court for the firearm's return in accordance with Subsection (3)(c).

(b) Except as provided in Section 53-5c-201, the law enforcement agency shall return a firearm to a person other than an owner cohabitant who claims ownership of the firearm if:

(i) the 60-day period described in Section 53-5c-201 has expired;

(ii) the person provides identification; and

(iii) the person signs a document attesting that the person has an ownership interest in the firearm.

(c) After sufficient notice is given to the prosecutor, the court may order that the firearm be:

(i) returned to the rightful owner as determined by the court; or

(ii) disposed of in accordance with Section [~~24-3-103.5~~] 77-11a-403.

(d) A law enforcement agency shall return a firearm ordered returned to the rightful owner as expeditiously as possible after a court determination.

Section 9. Section 58-37a-6 is amended to read:

58-37a-6. Seizure -- Forfeiture -- Property rights.

Drug paraphernalia is subject to seizure and forfeiture in accordance with the procedures and substantive protections of [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11a, Seizure of Property and Contraband, and Title 77, Chapter 11b, Forfeiture of Seized Property.

Section 10. Section 58-37c-15 is amended to read:

58-37c-15. Civil forfeiture.

The following shall be subject to forfeiture in accordance with the procedures and substantive protections of [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property:

(1) all listed controlled substance precursor chemicals regulated under the provisions of this chapter which have been distributed, possessed, or are intended to be distributed or otherwise transferred in violation of any felony provision of this chapter; and

(2) all property used by any person to facilitate, aid, or otherwise cause the unlawful distribution, transfer, possession, or intent to distribute, transfer, or possess a listed controlled substance precursor chemical in violation of any felony provision of this chapter.

Section 11. Section 58-37d-7 is amended to read:

58-37d-7. Seizure and forfeiture.

Chemicals, equipment, supplies, vehicles, aircraft, vessels, and personal and real property used in furtherance of a clandestine laboratory operation are subject to seizure and forfeiture under the procedures and substantive protections of [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11a, Seizure of Property and Contraband, and Title 77, Chapter 11b, Forfeiture of Seized Property.

Section 12. Section 63A-16-1002 is amended to read:

63A-16-1002. Criminal Justice Database.

(1) The commission shall oversee the creation and management of a Criminal Justice Database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section [~~24-4-118~~] 77-11b-404, forfeiture reporting requirements;

(e) Section 41-6a-511, courts to collect and maintain data;

(f) Section 63M-7-214, law enforcement agency grant reporting;

(g) Section 63M-7-216, prosecutorial data collection;

(h) Section 64-13-21, supervision of sentenced offenders placed in community;

(i) Section 64-13-25, standards for programs;

(j) Section 64-13-45, department reporting requirements;

(k) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

(l) Section 77-7-8.5, use of tactical groups;

(m) Section 77-20-103, release data requirements;

(n) Section 77-22-2.5, court orders for criminal investigations;

(o) Section 78A-2-109.5, court demographics reporting; and

(p) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023.

Section 13. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(17) Subsection [~~63J-1-602.1(17)~~] 63J-1-602.1(16), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

(26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

(30) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

(31) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

(32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 14. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

[~~(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.~~]

[~~(13)~~] (12) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

[~~(14)~~] (13) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

[~~(15)~~] (14) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

[~~(16)~~] (15) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

[~~(17)~~] (16) The Technology Development Restricted Account created in Section 31A-3-104.

[~~(18)~~] (17) The Criminal Background Check Restricted Account created in Section 31A-3-105.

[~~(19)~~] (18) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

[~~(20)~~] (19) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

[~~(21)~~] (20) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

[~~(22)~~] (21) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

[~~(23)~~] (22) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

[~~(24)~~] (23) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

[~~(25)~~] (24) The School Readiness Restricted Account created in Section 35A-15-203.

[~~(26)~~] (25) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

[~~(27)~~] (26) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

[~~(28)~~] (27) The Oil and Gas Conservation Account created in Section 40-6-14.5.

[~~(29)~~] (28) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

[~~(30)~~] (29) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[~~(31)~~] (30) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account

created by Section 41-3-110 to the State Tax Commission.

[~~(32)~~] (31) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

[~~(33)~~] (32) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[~~(34)~~] (33) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

[~~(35)~~] (34) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[~~(36)~~] (35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~(37)~~] (36) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(38)~~] (37) The Canine Body Armor Restricted Account created in Section 53-16-201.

[~~(39)~~] (38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(40)~~] (39) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(41)~~] (40) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(42)~~] (41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(43)~~] (42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(44)~~] (43) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(45)~~] (44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(46)~~] (45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(47)~~] (46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~(48)~~] (47) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(49)~~] (48) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(50)~~] (49) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(51)~~] (50) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(52)~~] (51) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(53)~~] (52) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

[~~(54)~~] (53) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302.

[~~(55)~~] (54) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

[~~(56)~~] (55) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.

[~~(57)~~] (56) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(58)~~] (57) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(59)~~] (58) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(60)~~] (59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[~~(61)~~] (60) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(62)~~] (61) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(63)~~] (62) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(64)~~] (63) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(65)~~] (64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[~~(66)~~] (65) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(67)~~] (66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(68)~~] (67) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(69)~~] (68) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(70)~~] (69) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(70) Award money under the State Asset Forfeiture Grant Program, as provided under Section 77-11b-403.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

(78) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 15. Section 76-5-109.3 is amended to read:

76-5-109.3. Child abandonment.

(1) (a) As used in this section:

(i) "Child" means the same as that term is defined in Section 76-5-109.

(ii) "Enterprise" means the same as that term is defined in Section 76-10-1602.

(iii) "Serious physical injury" means the same as that term is defined in Section 76-5-109.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Except as provided in Subsection (4), an actor commits child abandonment if the actor:

(i) is a parent or legal guardian of a child, and:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C) (I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days, intentionally fails to resume physical custody of the child and fails to manifest a genuine intent to resume physical custody of the child; or

(ii) encourages or causes the parent or legal guardian of a child to violate Subsection (2)(a)(i).

(b) Except as provided in Subsection (4), an enterprise commits child abandonment if the enterprise encourages, commands, or causes another to violate Subsection (2)(a).

(3) (a) (i) A violation of Subsection (2) is a third degree felony.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second degree felony if, as a result of the child abandonment:

(A) the child suffers a serious physical injury; or

(B) the actor or enterprise receives, directly or indirectly, any benefit.

(b) (i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (3)(b)(ii).

(ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject to criminal or civil forfeiture pursuant to [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.

(4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

(b) An actor is not guilty of an offense under this section for conduct that constitutes:

(i) the safe relinquishment of a child pursuant to the provisions of Section 62A-4a-802;

(ii) giving legal consent to a court order for termination of parental rights:

(A) in a legal adoption proceeding; or

(B) in a case in which a petition for the termination of parental rights, or the termination of a guardianship, has been filed;

(iii) reasonable discipline or management of a child, including withholding privileges; or

(iv) conduct described in Section 76-2-401.

Section 16. Section 76-6-111 is amended to read:

76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria -- Seizure and disposition of property.

(1) As used in this section:

(a) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(b) "Livestock" means a domestic animal or fur bearer raised or kept for profit or as an asset, including:

(i) cattle;

(ii) sheep;

(iii) goats;

(iv) swine;

(v) horses;

(vi) mules;

(vii) poultry;

(viii) domesticated elk as defined in Section 4-39-102; and

(ix) livestock guardian dogs.

(c) "Livestock guardian dog" means a dog that is being used to live with and guard livestock, other than itself, from predators.

(2) Unless authorized by Section 4-25-201, 4-25-202, 4-25-401, 4-39-401, or 18-1-3, a person is guilty of wanton destruction of livestock if that person:

(a) injures, physically alters, releases, or causes the death of livestock; and

(b) does so:

(i) intentionally or knowingly; and

(ii) without the permission of the owner of the livestock.

(3) For purposes of this section, a livestock guardian dog is presumed to belong to an owner of the livestock with which the livestock guardian dog was living at the time of an alleged violation of Subsection (2).

(4) Wanton destruction of livestock is punishable as a:

(a) class B misdemeanor if the aggregate value of the livestock is $250 or less;

(b) class A misdemeanor if the aggregate value of the livestock is more than $250, but does not exceed $750;

(c) third degree felony if the aggregate value of the livestock is more than $750, but does not exceed $5,000; and

(d) second degree felony if the aggregate value of the livestock is more than $5,000.

(5) When a court orders a person who is convicted of wanton destruction of livestock to pay restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, the court shall consider the restitution guidelines in Subsection (6) when setting the amount of restitution under Section 77-38b-205.

(6) The minimum restitution value for cattle and sheep is the sum of the following, unless the court states on the record why it finds the sum to be inappropriate:

(a) the fair market value of the animal, using as a guide the market information obtained from the Department of Agriculture and Food created under Section 4-2-102; and

(b) 10 years times the average annual value of offspring, for which average annual value is determined using data obtained from the National Agricultural Statistics Service within the United States Department of Agriculture, for the most recent 10-year period available.

(7) A material, device, or vehicle used in violation of Subsection (2) is subject to forfeiture under the procedures and substantive protections established in [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.

(8) A peace officer may seize a material, device, or vehicle used in violation of Subsection (2):

(a) upon notice and service of process issued by a court having jurisdiction over the property; or

(b) without notice and service of process if:

(i) the seizure is incident to an arrest under:

(A) a search warrant; or

(B) an inspection under an administrative inspection warrant;

(ii) the material, device, or vehicle has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(iii) the peace officer has probable cause to believe that the property has been used in violation of Subsection (2).

(9) (a) A material, device, or vehicle seized under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of a court or official having jurisdiction.

(b) A peace officer who seizes a material, device, or vehicle under this section may:

(i) place the property under seal;

(ii) remove the property to a place designated by the warrant under which it was seized; or

(iii) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Section 17. Section 76-6-501 is amended to read:

76-6-501. Forgery and producing false identification -- Elements of offense -- Definitions.

(1) As used in this part:

(a) "Authentication feature" means any hologram, watermark, certification, symbol, code,

image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified.

(b) "Document-making implement" means any implement, impression, template, computer file, computer disc, electronic device, computer hardware or software, or scanning, printing, or laminating equipment that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement.

(c) "False authentication feature" means an authentication feature that:

(i) is genuine in origin but that, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

(ii) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which the authentication feature is intended to be affixed or embedded by the issuing authority; or

(iii) appears to be genuine, but is not.

(d) "False identification document" means a document of a type intended or commonly accepted for the purposes of identification of individuals, and that:

(i) is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and

(ii) appears to be issued by or under the authority of a governmental entity.

(e) "Governmental entity" means the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization, or a quasi-governmental organization.

(f) "Identification document" means a document made or issued by or under the authority of a governmental entity, which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

(g) "Issuing authority" means:

(i) any governmental entity that is authorized to issue identification documents, means of identification, or authentication features; or

(ii) a business organization or financial institution or its agent that issues a financial transaction card as defined in Section 76-6-506.

(h) "Means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including:

(i) name, social security number, date of birth, government issued driver license or identification number, alien registration number, government passport number, or employer or taxpayer identification number;

(ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; or

(iii) unique electronic identification number, address, or routing code.

(i) "Personal identification card" means an identification document issued by a governmental entity solely for the purpose of identification of an individual.

(j) "Produce" includes altering, authenticating, or assembling.

(k) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.

(l) "Traffic" means to:

(i) transport, transfer, or otherwise dispose of an item to another, as consideration for anything of value; or

(ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of an item to another.

(m) "Writing" includes printing, electronic storage or transmission, or any other method of recording valuable information including forms such as:

(i) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any other symbols of value, right, privilege, or identification;

(ii) a security, revenue stamp, or any other instrument or writing issued by a government or any agency; or

(iii) a check, an issue of stocks, bonds, or any other instrument or writing representing an interest in or claim against property, or a pecuniary interest in or claim against any person or enterprise.

(2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge that the person is facilitating a fraud to be perpetrated by anyone, the person:

(a) alters any writing of another without his authority or utters the altered writing; or

(b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any writing so that the writing or the making, completion, execution, authentication, issuance, transference, publication, or utterance:

(i) purports to be the act of another, whether the person is existent or nonexistent;

(ii) purports to be an act on behalf of another party with the authority of that other party; or

(iii) purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when an original did not exist.

(3) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs his own name to the writing if the actor does not have authority to make, complete, execute, authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the actor purports to act.

(4) A person is guilty of producing or transferring any false identification document who:

(a) knowingly and without lawful authority produces, attempts, or conspires to produce an identification document, authentication feature, or a false identification document that is or appears to be issued by or under the authority of an issuing authority;

(b) transfers, or possesses with intent to transfer, an identification document, authentication feature, or a false identification document knowing that the document or feature was stolen or produced without lawful authority;

(c) produces, transfers, or possesses a document-making implement or authentication feature with the intent that the document-making implement or the authentication feature be used in the production of a false identification document or another document-making implement or authentication feature; or

(d) traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification.

(5) A person who violates:

(a) Subsection (2) is guilty of a third degree felony; and

(b) Subsection (4) is guilty of a second degree felony.

(6) This part may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(7) The forfeiture of property under this part, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.

(8) The court shall order, in addition to the penalty prescribed for any person convicted of a violation of this section, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, false transaction cards, document-making implements, or means of identification.

Section 18. Section 76-6-1303 is amended to read:

76-6-1303. Possession, sale, or use of automated sales suppression device unlawful -- Penalties.

(1) It is a third degree felony to willfully or knowingly sell, purchase, install, transfer, use, or possess in this state any automated sales suppression device or phantomware with the intent to defraud, except that any second or subsequent violation of this Subsection (1) is a second degree felony.

(2) Notwithstanding Section 76-3-301, any person convicted of violating Subsection (1) may be fined not more than twice the amount of the applicable taxes that would otherwise be due, but for the use of the automated sales suppression device or phantomware.

(3) Any person convicted of a violation of Subsection (1):

(a) is liable for all applicable taxes, penalties under Section 59-1-401, and interest under Section 59-1-402 that would otherwise be due, but for the use of the automated sales suppression device or phantomware to evade the payment of taxes; and

(b) shall disgorge all profits associated with the sale or use of an automated sales suppression device or phantomware.

(4) An automated sales suppression device and any device containing an automated sales suppression device is contraband and subject to forfeiture under [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.

Section 19. Section 76-10-503 is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of any violent felony as defined in Section 76-3-203.5;

(ii) is on probation or parole for any felony;

(iii) is on parole from secure care, as defined in Section 80-1-102;

(iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5;

(v) is an alien who is illegally or unlawfully in the United States; or

(vi) is on probation for a conviction of possessing:

(A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

(B) a controlled substance analog; or

(C) a substance listed in Section 58-37-4.2.

(b) A Category II restricted person is a person who:

(i) has been convicted of any felony;

(ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(v) has been found not guilty by reason of insanity for a felony offense;

(vi) has been found mentally incompetent to stand trial for a felony offense;

(vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(viii) has been dishonorably discharged from the armed forces;

(ix) has renounced the individual's citizenship after having been a citizen of the United States;

(x) is a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that:

(A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or

(B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or

(xi) has been convicted of the commission or attempted commission of assault under Section 76-5-102 or aggravated assault under Section 76-5-103 against a current or former spouse, parent, guardian, individual with whom the restricted person shares a child in common, individual who is cohabitating or has cohabitated with the restricted person as a spouse, parent, or guardian, or against an individual similarly situated to a spouse, parent, or guardian of the restricted person.

(c) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(i) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(ii) a conviction or an adjudication under Section 80-6-701 which, according to the law of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(d) It is the burden of the defendant in a criminal case to provide evidence that a conviction or an adjudication under Section 80-6-701 is subject to an exception provided in Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or the adjudication is not subject to that exception.

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

(6) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under [~~Section 24-3-103~~] Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (8)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

(9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person any information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (9) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Section 20. Section 76-10-1108 is amended to read:

76-10-1108. Seizure and disposition of gambling debts or proceeds.

Any gambling bets or gambling proceeds which are reasonably identifiable as having been used or obtained in violation of this part may be seized and are subject to forfeiture proceedings in accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.

Section 21. Section 76-10-1112 is amended to read:

76-10-1112. Local control.

(1) Nothing in this part preempts or otherwise limits the authority of a county or municipality to enact a local ordinance related to gambling or fringe gambling.

(2) In accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11a, Seizure of Property and Contraband, a county or municipality may seize gambling debts, gambling proceeds, or fringe gaming devices that are reasonably identifiable as being obtained or provided in violation of this part or a local ordinance.

Section 22. Section 77-11a-101, which is renumbered from Section 24-1-102 is renumbered and amended to read:

CHAPTER 11A. SEIZURE OF PROPERTY AND CONTRABAND

Part 1. General Provisions

[~~24-1-102~~]. 77-11a-101. Definitions.

As used in this [~~title~~] chapter:

[~~(1) "Account" means the Criminal Forfeiture Restricted Account created in Section 24-4-116.~~]

[~~(2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not guilty.~~]

[~~(b) "Acquitted" does not include:~~]

[~~(i) a verdict of guilty on a lesser or reduced charge;~~]

[~~(ii) a plea of guilty to a lesser or reduced charge; or~~]

[~~(iii) dismissal of a charge as a result of a negotiated plea agreement.~~]

[~~(3)~~] (1) (a) "Agency" means an agency of this state or a political subdivision of this state.

(b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

[~~(4)~~] (2) "Claimant" means:

(a) an owner of property [~~as defined in this section~~];

(b) an interest holder [~~as defined in this section~~]; or

(c) an individual or entity who asserts a claim to any property [~~seized for forfeiture under this title~~] for which an agency seeks to forfeit.

[~~(5) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.~~]

[~~(6) "Complaint" means a civil or criminal complaint seeking the forfeiture of any real or personal property under this title.~~]

[~~(7)~~] (3) (a) "Computer" means, except as provided in Subsection (3)(c), an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, and storage functions.

(b) "Computer" includes any device that is used for the storage of digital or electronic files, flash memory, software, or other electronic information.

(c) "Computer" does not mean a computer server of an Internet or electronic service provider, or the service provider's employee, if used to comply with the requirements under 18 U.S.C. Sec. 2258A.

[~~(8) "Constructive seizure" means a seizure of property where the property is left in the control of the owner and an agency posts the property with a notice of intent to seek forfeiture.~~]

[~~(9)~~] (4) (a) "Contraband" means any property, item, or substance that is unlawful to produce or to possess under state or federal law.

(b) "Contraband" includes:

(i) a controlled substance that is possessed, transferred, distributed, or offered for distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(ii) a computer that:

(A) contains or houses child pornography, or is used to create, download, transfer, upload to a storage account, or store any electronic or digital files containing child pornography; or

(B) contains the personal identifying information of another individual, as defined in Subsection 76-6-1102(1), whether that individual is alive or deceased, and the personal identifying information has been used to create false or fraudulent identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.

(5) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(6) "Court" means a municipal, county, or state court.

(7) "Evidence" means the same as that term is defined in Section 77-11c-101.

[~~(10)~~] (8) "Forfeit" means to divest a claimant of an ownership interest in property seized [~~under this title~~] by a peace officer or agency.

[~~(11)~~] (9) "Innocent owner" means a claimant who:

(a) held an ownership interest in property at the time of the commission of an offense subjecting the property to [~~forfeiture under this title~~] seizure, and:

(i) did not have actual knowledge of the offense subjecting the property to [~~forfeiture~~] seizure; or

(ii) upon learning of the commission of the offense, took reasonable steps to prohibit the use of the property in the commission of the offense; or

(b) acquired an ownership interest in the property and had no knowledge that the commission of the offense subjecting the property to [~~forfeiture under this title~~] seizure had occurred or that the property had been seized [~~for forfeiture~~], and:

(i) acquired the property in a bona fide transaction for value;

(ii) was an individual, including a minor child, who acquired an interest in the property through probate or inheritance; or

(iii) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.

[~~(12)~~] (10) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value.

(b) "Interest holder" does not mean a person:

(i) who holds property for the benefit of or as an agent or nominee for another person; or

(ii) who is not in substantial compliance with any statute requiring an interest in property to be:

(A) recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value; or

(B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for value.

(11) "Law enforcement agency" means:

(a) a municipal, county, state institution of higher education, or state police force or department;

(b) a sheriff's office; or

(c) a municipal, county, or state prosecuting authority.

[~~(13) "Known address" means any address provided by a claimant to the peace officer or agency at the time the property is seized, or the claimant's~~

~~most recent address on record with a governmental entity if no address was provided at the time of the seizure.~~]

[~~(14) "Legal costs" means the costs and expenses incurred by a party in a forfeiture action.~~]

[~~(15)~~] (12) "Legislative body" means:

(a) (i) the Legislature, county commission, county council, city commission, city council, or town council that has fiscal oversight and budgetary approval authority over an agency; or

(ii) the agency's governing political subdivision; or

(b) the lead governmental entity of a multijurisdictional task force, as designated in a memorandum of understanding executed by the agencies participating in the task force.

[~~(16)~~] (13) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of individuals who are employed by or acting under the authority of different governmental entities, including federal, state, county, or municipal governments, or any combination of federal, state, county, or municipal agencies.

[~~(17)~~] (14) "Owner" means an individual or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in [~~real or personal~~] property.

(15) "Pawn or secondhand business" means the same as that term is defined in Section 13-32a-102.

[~~(18)~~] (16) "Peace officer" means an employee:

(a) of an agency;

(b) whose duties consist primarily of the prevention and detection of violations of laws of this state or a political subdivision of this state; and

(c) who is authorized by the agency to seize property [~~under this title~~].

[~~(19)~~] (17) (a) "Proceeds" means:

(i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense; or

(ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection [~~(19)(a)(i)~~] (17)(a)(i).

(b) "Proceeds" includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose regarding property under Subsection [~~(19)(a)(i)~~] (17)(a)(i).

(c) "Proceeds" is not limited to the net gain or profit realized from the offense that subjects the property to [~~forfeiture~~] seizure.

[~~(20) "Program" means the State Asset Forfeiture Grant Program created in Section 24-4-117.~~]

[~~(21)~~] (18) (a) "Property" means all property, whether real or personal, tangible or intangible.

(b) "Property" does not include contraband.

[~~(22)~~] (19) "Prosecuting attorney" means:

(a) the attorney general and an assistant attorney general;

(b) a district attorney or deputy district attorney;

(c) a county attorney or assistant county attorney; and

(d) an attorney authorized to commence an action on behalf of the state [~~under this title~~].

[~~(23)~~] (20) "Public interest use" means a:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation of the property to a nonprofit charity registered with the state.

[~~(24)~~] (21) "Real property" means land, including any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

(22) (a) "Seized property" means property seized by a peace officer or agency in accordance with Section 77-11a-201.

(b) "Seized property" includes property that the agency seeks to forfeit under Chapter 11b, Forfeiture of Seized Property.

Section 23. Section 77-11a-102, which is renumbered from Section 24-1-103 is renumbered and amended to read:

[~~24-1-103~~]. 77-11a-102. Venue.

(1) In addition to [~~the venue provided for under~~] Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, or any other [~~provisions of law, a proceeding under this title may be maintained~~] provision of law, a person may bring an action or proceeding under this chapter in the judicial district in which:

(a) the property is seized; or

(b) any part of the property is found[~~; or~~].

[~~(c) a civil or criminal action could be maintained against a claimant for the offense subjecting the property to forfeiture under this title.~~]

(2) A claimant may obtain a change of venue under Section 78B-3-309.

Section 24. Section 77-11a-201, which is renumbered from Section 24-2-102 is renumbered and amended to read:

Part 2. Seizure of Property and Contraband

[~~24-2-102~~]. 77-11a-201. Grounds for seizing property and contraband.

[~~(1)~~] A peace officer may seize property [~~and~~] or contraband:

(1) upon a search warrant or administrative warrant that is issued in accordance with the Utah Code and the Utah Rules of Criminal Procedure[.];

[~~(2) A peace officer may seize property and contraband under this chapter when:~~]

[~~(a)~~] (2) when the seizure is incident to an arrest;

[~~(b)~~] (3) when the property seized is the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under [~~this title~~] Chapter 11b, Forfeiture of Seized Property; or

[~~(c)~~] (4) when the peace officer has probable cause to believe that the property or contraband:

[~~(i)~~] (a) is directly or indirectly dangerous to health or safety;

[~~(ii)~~] (b) is evidence of an offense;

[~~(iii)~~] (c) has been used or was intended to be used to commit an offense; or

[~~(iv)~~] (d) is proceeds of an offense.

Section 25. Section 77-11a-202, which is renumbered from Section 24-2-102.5 is renumbered and amended to read:

[~~24-2-102.5~~]. 77-11a-202. Ownership interest in property or contraband seized by a peace officer.

(1) To disclaim an ownership interest in property at the time of seizure, a person's disclaimer of the property must be knowing and voluntary.

(2) [~~If a peace officer seizes contraband, a~~] A person may not assert an ownership interest in [~~the contraband under this title~~] contraband seized by a peace officer.

Section 26. Section 77-11a-203, which is renumbered from Section 24-2-103 is renumbered and amended to read:

[~~24-2-103~~]. 77-11a-203. Procedure after seizure of property or contraband.

[~~(1) To disclaim an ownership interest in property at the time of seizure, an individual's disclaimer of the property shall be knowing and voluntary.~~]

(1) If a peace officer seizes property or contraband under Section 77-11a-201, the property and contraband:

(a) is not recoverable by replevin; and

(b) is considered in the custody of the agency that employed the peace officer.

(2) If [~~property is seized~~] a peace officer seizes property under Section 77-11a-201, the peace officer or the peace officer's employing agency shall provide a receipt to the person from which the property is seized.

(3) The receipt shall describe the:

(a) property seized;

(b) date of seizure; and

(c) name and contact information of the peace officer's employing agency.

(4) In addition to the receipt, the peace officer or agency shall provide the person with:

(a) information on:

(i) the time periods for the forfeiture of property; and

(ii) what happens to property upon a conviction or acquittal of the offense subjecting the property to seizure; and

(b) a web link or referral to the self-help webpage of the Utah Courts' website for resources that may assist the person in making a claim for the return of seized property.

(5) The agency shall maintain a copy of the receipt provided in accordance with Subsection (2).

(6) If a peace officer seizes property that, at the time of seizure, is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-109.5 shall apply to the seizure of the property.

[~~(6)~~] (7) If custody of the property is transferred to another agency, the transferring agency shall provide the other agency a copy of the receipt under Subsection (2) and the name of the person from which the property was seized.

Section 27. Section 77-11a-204, which is renumbered from Section 24-2-104 is renumbered and amended to read:

[~~24-2-104~~]. 77-11a-204. Custody of seized property and contraband.

[~~(1) If a peace officer seizes property or contraband under Section 24-2-102, the property and contraband:~~]

[~~(a) is not recoverable by replevin; and~~]

[~~(b) is considered in the custody of the agency that employed the peace officer.~~]

[~~(2)~~] (1) An agency with custody of seized property or contraband shall:

(a) hold the property or contraband in safe custody until the property or contraband is released or disposed of in accordance with:

(i) [~~this title~~] this chapter; and

(ii) [~~Title 53, Chapter 20, Forensic Biological Evidence Preservation~~] Chapter 11c, Retention of Evidence; and

(b) maintain a record of the property or contraband, including:

(i) a detailed inventory of all property or contraband seized;

(ii) the name of the person from which the property or contraband was seized; and

(iii) the agency's case number.

[~~(3) In accordance with Title 53, Chapter 20, Forensic Biological Evidence Preservation, an agency may process property or contraband that is seized by a peace officer for evidentiary or investigative purposes, including sampling or other preservation procedure, before disposal or destruction.~~]

[~~(4)~~] (2) (a) Except as provided in Subsection [~~(4)(b)~~] (2)(b), no later than 30 days after the day on which a peace officer seizes property in the form of cash or other readily negotiable instruments [~~under Section 24-2-102~~], an agency shall deposit the property into a separate, restricted, interest-bearing account maintained by the agency solely for the purpose of managing and protecting the property from commingling, loss, or devaluation.

(b) A prosecuting attorney may authorize one or more written extensions of the 30-day period under Subsection [~~(4)(a)~~] (2)(a) if the property needs to maintain the form in which the property was seized for evidentiary purposes or other good cause.

[~~(c)~~] (3) An agency shall:

[~~(i)~~] (a) have written policies for the identification, tracking, management, and safekeeping of seized property and contraband; and

[~~(ii)~~] (b) shall have a written policy that prohibits the transfer, sale, or auction of seized property and contraband to an employee of the agency.

Section 28. Section 77-11a-205, which is renumbered from Section 24-2-105 is renumbered and amended to read:

[~~24-2-105~~]. 77-11a-205. Transfer or release of seized property to another governmental entity -- Requirements.

(1) Except as provided in Subsections [~~(3)(a), (b), and (c),~~] (3)(a) through (c), upon the seizure of property by a peace officer [~~under this title~~], the property is subject to the exclusive jurisdiction of a district court of this state.

(2) Except as provided in Subsection (3), a peace officer, agency, or prosecuting attorney may not directly or indirectly transfer or release [~~property seized under this title~~] seized property to a federal agency or to a governmental entity not created or subject to the laws of this state.

(3) An agency or prosecuting attorney may transfer or release seized property to a federal agency or to a governmental entity not created or subject to the laws of this state if:

(a) (i) the property is cash or another readily negotiable instrument; and

(ii) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint that is filed before the property is seized;

(b) (i) the property is not cash or another readily negotiable instrument; and

(ii) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint that is filed before the day on which the agency with custody of the property is required to return the property if no criminal or civil action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section [~~24-4-103.5~~] 77-11b-203;

(c) (i) the property was used in the commission of an offense in another state; and

(ii) an agency of that state requests the transfer of the property before the day on which the agency with custody of the property is required to return the property if no criminal or civil action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section [~~24-4-103.5~~] 77-11b-203; or

(d) a district court authorizes, in accordance with Subsection (5), the transfer or release of the property to an agency of another state or a federal agency upon a petition by a prosecuting attorney or a federal prosecutor.

(4) (a) A prosecuting attorney, or a federal prosecutor, may file a petition in the district court for the transfer or release of seized property.

(b) If a prosecuting attorney, or a federal prosecutor, files a petition under Subsection (4)(a), the petition shall include:

(i) a detailed description of the property seized;

(ii) the location where the property was seized;

(iii) the date the property was seized;

(iv) the case number assigned by the agency; and

(v) a declaration that:

(A) states the basis for relinquishing jurisdiction to a federal agency or an agency of another state;

(B) contains the names and addresses of any known claimant; and

(C) is signed by the prosecuting attorney or federal prosecutor.

(5) A district court may not authorize the transfer or release of seized property under Subsection (3)(d), unless the district court finds, by a preponderance of the evidence:

(a) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint after the property is seized;

(b) the property may only be forfeited under federal law;

(c) forfeiting the property under state law would unreasonably burden the prosecuting attorney or agency; or

(d) the property was subject to a federal criminal investigation before the property was seized.

(6) (a) Before a district court may order the transfer of seized property in accordance with this section, the court, the prosecuting attorney, or the federal prosecutor shall mail a notice to:

(i) each address contained in the declaration under Subsection (4)(b)(v) to give a claimant the right to be heard with regard to the transfer; and

(ii) (A) if a federal prosecutor files the petition under Subsection (4), the prosecuting attorney that

is representing the agency with custody of the property; or

(B) if a prosecuting attorney files the petition under Subsection (4), the federal prosecutor who will receive the property upon the transfer or release of the property.

(b) If a claimant, or the party under Subsection (6)(a)(i), does not object to the petition to transfer the property within 10 days after the day on which the notice is mailed, the district court shall issue the district court's order in accordance with this section.

(c) If the declaration does not include an address for a claimant, the district court shall delay the district court's order under this section for 20 days to allow time for the claimant to appear and make an objection.

(d) (i) If a claimant, or a party under Subsection (6)(a)(i), contests a petition to transfer the property to a federal agency or to another governmental entity not created or subject to the laws of this state, the district court shall promptly set the matter for hearing.

(ii) In making a determination under Subsection (5), the district court shall consider evidence regarding hardship, complexity, judicial and law enforcement resources, protections afforded under state and federal law, pending state or federal investigations, and any other relevant matter.

(7) If an agency receives property, money, or other things of value under a federal law that authorizes the sharing or transfer of all or a portion of forfeited property, or the proceeds from the sale of forfeited property, the agency:

(a) shall use the property, money, or other things of value in compliance with federal laws and regulations relating to equitable sharing;

(b) may use the property, money, or other things of value for a law enforcement purpose described in Subsection [~~24-4-117(10)~~] 77-11b-403(10); and

(c) may not use the property, money, or other thing of value for a law enforcement purpose prohibited in Subsection [~~24-4-117(11)~~] 77-11b-403(11).

(8) An agency awarded an equitable share of property forfeited by the federal government may use the award money only after approval of the use by the agency's legislative body.

(9) If a district court exercises exclusive jurisdiction over seized property, the district court's exclusive jurisdiction is terminated if the property is released by the agency with custody of the property to a claimant under:

(a) Part 3, Release of Seized Property to Claimant; or

(b) Section 77-11b-203.[~~:~~]

[~~(a) a claimant under Subsection 24-2-107(1)(a), Section 24-3-104, or Section 24-4-103.5;~~]

[~~(b) a rightful owner under Section 24-3-103; or~~]

[~~(c) an innocent owner or an interest holder under Section 24-2-108.~~]

Section 29. Section 77-11a-301, which is renumbered from Section 24-2-107 is renumbered and amended to read:

Part 3. Release of Seized Property to Claimant

[~~24-2-107~~]. 77-11a-301. Release of seized property to claimant -- Generally.

[~~(1) (a) Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, an~~]

(1) (a) An agency with custody of seized property, or the prosecuting attorney, may release the property to a claimant if the agency or the prosecuting attorney:

(i) determines that [~~retention of the property is unnecessary~~] the agency does not need to retain or preserve the property as evidence under Chapter 11c, Retention of Evidence; or

(ii) seeks to return the property to the claimant because the agency or prosecuting attorney determines that the claimant is an innocent owner or an interest holder.

(b) An agency with custody of seized property, or the prosecuting attorney, may not release property under this Subsection (1) if the property is subject to retention or preservation under Chapter 11c, Retention of Evidence.

[~~(b)~~] (2) An agency with custody of the seized property, or the prosecuting attorney, shall release the property to a claimant if:

[~~(i)~~] (a) the claimant posts a surety bond or cash with the court in accordance with [~~Subsection (2)~~] Section 77-11a-302;

[~~(ii)~~] (b) the court orders the release of property to the claimant for hardship purposes under [~~Subsection (3)~~] Section 77-11a-303;

[~~(iii)~~] (c) a claimant establishes that the claimant is an innocent owner or an interest holder under [~~Section 24-2-108~~] Section 77-11a-304; or

[~~(iv)~~] (d) the court orders property retained as evidence to be released to [~~a rightful owner~~] the claimant under [~~Section 24-3-104~~] Section 77-11a-305.

(3) (a) For a computer determined to be contraband, a court may order the reasonable extraction and return of specifically described personal digital data to the owner of the computer.

(b) The agency shall determine a reasonable cost to extract the data.

(c) At the time of the request to extract the data, the owner of the computer shall pay the agency the cost to extract the data.

(4) If a peace officer for the Division of Wildlife Resources seizes a vehicle, the Division of Wildlife

Resources shall release the vehicle to a claimant in accordance with Section 23-20-1.

(5) If an agency is not required, or is no longer required, to retain or preserve property as evidence under Chapter 11c, Retention of Evidence, and the agency seeks to release or dispose of the property, the agency shall exercise due diligence in attempting to notify the claimant of the property to advise the claimant that the property is to be returned.

(6) (a) Before an agency may release seized property to a person claiming ownership of the property, the person shall establish that the person:

(i) is the owner of the property; and

(ii) may lawfully possess the property.

(b) The person shall establish ownership under Subsection (6)(a) by providing to the agency:

(i) identifying proof or documentation of ownership of the property; or

(ii) a notarized statement if proof or documentation is not available.

(c) When seized property is returned to the owner, the owner shall sign a receipt listing in detail the property that is returned.

(d) The agency shall:

(i) retain a copy of the receipt; and

(ii) provide a copy of the receipt to the owner.

[~~(2) (a) Except as provided in Subsection (2)(b), a claimant may obtain release of seized property by posting a surety bond or cash with the court that is in an amount equal to the current fair market value of the property as determined by the court or a stipulation by the parties.~~]

[~~(b) A court may refuse to order the release under Subsection (2)(a) of:~~]

[~~(i) the property if:~~]

[~~(A) the bond tendered is inadequate;~~]

[~~(B) the property is retained as evidence or is subject to retention under Title 53, Chapter 20, Forensic Biological Evidence Preservation; or~~]

[~~(C) the property is particularly altered or designed for use in the commission of the offense subjecting the property to forfeiture; or~~]

[~~(ii) contraband.~~]

[~~(c) If a surety bond or cash is posted and the court later determines that the property is forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.~~]

[~~(3) A claimant is entitled to the immediate release of seized property for which the agency has filed a notice of intent to forfeit under Section 24-4-103 if:~~]

[~~(a) the claimant had a possessory interest in the property at the time of seizure;~~]

[~~(b) continued possession by the agency pending a forfeiture proceeding will cause substantial hardship to the claimant, including:~~]

[~~(i) preventing the functioning of a legitimate business;~~]

[~~(ii) preventing any individual from working;~~]

[~~(iii) preventing any child from attending elementary or secondary school;~~]

[~~(iv) preventing or hindering an individual from receiving necessary medical care;~~]

[~~(v) preventing the care of a dependent child or adult who is elderly or disabled;~~]

[~~(vi) leaving an individual homeless; or~~]

[~~(vii) any other condition that the court determines causes a substantial hardship;~~]

[~~(c) the hardship from the continued possession of the property by the agency outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if the property is returned to the claimant during the pendency of the proceeding; and~~]

[~~(d) the determination of substantial hardship under this Subsection (3) is based upon the property's use before the seizure.~~]

[~~(4) A claimant may file a motion or petition for hardship release under Subsection (3):~~]

[~~(a) in the court in which forfeiture proceedings have commenced; or~~]

[~~(b) in a district court where there is venue if a forfeiture proceeding has not yet commenced.~~]

[~~(5) The motion or petition for hardship release shall be served upon the agency with custody of the property within five days after the day on which the motion or petition is filed.~~]

[~~(6) The court shall:~~]

[~~(a) schedule a hearing on the motion or petition within 14 days after the day on which the motion or petition is filed; and~~]

[~~(b) render a decision on a motion or petition for hardship filed under this section no later than 20 days after the day of the hearing, unless this period is extended by the agreement of both parties or by the court for good cause shown.~~]

[~~(7) (a) If the claimant demonstrates substantial hardship under Subsection (3), the court shall order the property immediately released to the claimant pending completion of any forfeiture proceeding.~~]

[~~(b) The court may place conditions on release of the property as the court finds necessary and appropriate to preserve the availability of the property or the property's equivalent for forfeiture.~~]

[~~(8) The hardship release under this section does not apply to:~~]

[~~(a) contraband; or~~]

[~~(b) property that is:~~]

[~~(i) subject to retention under Title 53, Chapter 20, Forensic Biological Evidence Preservation; or~~]

[~~(ii) likely to be used to commit additional offenses if returned to the claimant.~~]

Section 30. Section 77-11a-302 is enacted to read:

77-11a-302. Release of seized property to claimant by surety bond or cash.

(1) Except as provided in Subsection (2), a claimant may obtain release of seized property by posting a surety bond or cash with the court that is in an amount equal to the current fair market value of the property as determined by the court or a stipulation by the parties.

(2) A court may refuse to order the release of property under Subsection (1) if:

(a) the bond tendered for the property is inadequate;

(b) the property is subject to the retention or preservation requirements under Chapter 11c, Retention of Evidence;

(c) the property is particularly altered or designed for use in the commission of the offense subjecting the property to forfeiture under Section 77-11b-102; or

(d) the property is contraband.

(3) If a surety bond or cash is posted and the court later determines that the property is forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.

Section 31. Section 77-11a-303 is enacted to read:

77-11a-303. Release of seized property subject to forfeiture to claimant for hardship.

(1) A claimant is entitled to the immediate release of seized property for which the agency has filed a notice of intent to forfeit under Section 77-11b-201 if:

(a) the claimant had a possessory interest in the property at the time of seizure;

(b) continued possession by the agency pending a forfeiture proceeding will cause substantial hardship to the claimant, including:

(i) preventing the functioning of a legitimate business;

(ii) preventing any individual from working;

(iii) preventing any child from attending elementary or secondary school;

(iv) preventing or hindering an individual from receiving necessary medical care;

(v) preventing the care of a dependent child or adult who is elderly or disabled;

(vi) leaving an individual homeless; or

(vii) any other condition that the court determines causes a substantial hardship;

(c) the hardship from the continued possession of the property by the agency outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if the property is returned to the claimant during the pendency of the proceeding; and

(d) the determination of substantial hardship under this Subsection (1) is based upon the property's use before the seizure.

(2) A claimant may file a motion or petition for hardship release under this section:

(a) in the court in which forfeiture proceedings have commenced; or

(b) in a district court where there is venue under Section 77-11a-102 if a forfeiture proceeding has not yet commenced.

(3) The motion or petition for hardship release shall be served upon the agency with custody of the property within five days after the day on which the motion or petition is filed.

(4) The court shall:

(a) schedule a hearing on the motion or petition within 14 days after the day on which the motion or petition is filed; and

(b) render a decision on a motion or petition for hardship filed under this section no later than 20 days after the day of the hearing, unless this period is extended by the agreement of both parties or by the court for good cause shown.

(5) If the claimant demonstrates substantial hardship under Subsection (1), the court shall order the property immediately released to the claimant pending completion of any forfeiture proceeding.

(6) The court may place conditions on release of the property as the court finds necessary and appropriate to preserve the availability of the property or the property's equivalent for forfeiture.

(7) The hardship release under this section does not apply to:

(a) contraband;

(b) property that is subject to the retention or preservation requirements under Chapter 11c, Retention of Evidence; or

(c) property that is likely to be used to commit additional offenses if returned to the claimant.

Section 32. Section 77-11a-304, which is renumbered from Section 24-2-108 is renumbered and amended to read:

[~~24-2-108~~]. 77-11a-304. Release of seized property to innocent owner or interest holder.

(1) (a) [~~Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, a~~] Except for property required to be retained or preserved under Chapter 11c, Retention of Evidence, a claimant alleged to be an innocent owner or an interest

holder may recover possession of seized property by:

(i) submitting a written request with the seizing agency before the later of:

(A) the commencement of a civil [~~asset~~] forfeiture proceeding under Section 77-11b-302; or

(B) 30 days after the day on which the property was seized; and

(ii) providing the seizing agency with:

(A) evidence that establishes proof of ownership; and

(B) a brief description of the date, time, and place that the claimant mislaid or relinquished possession of the seized property, or any evidence that the claimant is an innocent owner or an interest holder.

(b) If a seizing agency receives a claim under Subsection (1)(a), the seizing agency shall issue a written response to the claimant within 30 days after the day on which the seizing agency receives the claim.

(c) A response under Subsection (1)(b) from the seizing agency shall indicate whether the claim has been granted, denied on the merits, or denied for failure to provide the information required by Subsection (1)(a)(ii).

(d) (i) If a seizing agency denies a claim for failure to provide the information required by Subsection (1)(a)(ii), the claimant has 15 days after the day on which the claim is denied to submit additional information.

(ii) If a prosecuting attorney has not filed a civil action seeking to forfeit the property under Section 77-11b-302, and a seizing agency has denied a claim for failure to provide the information required by Subsection (1)(a)(ii), the prosecuting attorney may not commence a civil action until:

(A) the claimant has submitted information under Subsection (1)(d)(i); or

(B) the deadline for the claimant to submit information under Subsection (1)(d)(i) has passed.

(e) If a seizing agency fails to issue a written response within 30 days after the day on which the seizing agency receives the response, the seizing agency shall return the property.

(2) If a claim under Subsection (1)(a) is granted, or the property is returned because the seizing agency fails to respond within 30 days, a claimant may not receive any expenses, costs, or attorney fees for the returned property.

(3) A claimant may collect reasonable attorney fees and court costs if:

(a) a claimant filed a claim under Subsection (1)(a);

(b) the seizing agency denies the claim on the merits; and

(c) a court determines that the claimant is an innocent owner or an interest holder in a civil asset forfeiture proceeding.

(4) If a court grants reasonable attorney fees and court costs, the amount of the attorney fees begins to accrue from the day on which the seizing agency denied the claim.

(5) If the court grants reasonable attorney fees and court costs under Subsection (3), the attorney fees and court costs are not subject to the 50% cap under Subsection [~~24-4-110(2)~~] 77-11b-305(2).

(6) A communication between parties regarding a claim submitted under Subsection (3) and any evidence provided to the parties in connection with a claim is subject to the Utah Rules of Evidence, Rules 408 and 410.

[~~(7) An agency and the prosecuting attorney may not forfeit the seized property of an innocent owner or an interest holder.~~]

Section 33. Section 77-11a-305, which is renumbered from Section 24-3-104 is renumbered and amended to read:

[~~24-3-104~~]. 77-11a-305. Release of seized property to claimant when seized property is retained as evidence.

(1) (a) A claimant may file a petition with the court for the return of the property that is being retained as evidence in accordance with Chapter 11c, Retention of Evidence.

(b) The claimant may file the petition in:

(i) the court in which criminal proceedings have commenced regarding the offense for which the property is being retained as evidence; or

(ii) the district court with venue under Section [~~24-1-103~~] 77-11a-102 if there are no pending criminal proceedings.

(c) A claimant shall serve a copy of the petition on the prosecuting attorney and the agency with custody of the property.

(2) (a) The court shall provide an opportunity for an expedited hearing.

(b) After the opportunity for an expedited hearing, the court may order that the property is:

(i) returned to the [~~rightful owner~~] claimant if the claimant is the owner as determined by the court;

(ii) if the offense subjecting the property to seizure results in a conviction, applied directly or by proceeds of the sale of the property toward restitution, fines, or fees owed by the [~~rightful owner~~] claimant in an amount set by the court;

(iii) converted to a public interest use;

(iv) held for further legal action;

(v) sold at public auction and the proceeds of the sale applied to a public interest use; or

(vi) destroyed.

(3) Before the court can order property be returned to a claimant, the claimant shall establish, by clear and convincing evidence, that the claimant:

(a) is the [~~rightful owner~~] owner of the property; and

(b) may lawfully possess the property.

(4) If the court orders the property to be returned to the claimant, the agency with custody of the property shall return the property to the claimant as expeditiously as possible.

Section 34. Section 77-11a-401, which is renumbered from Section 24-3-101.5 is renumbered and amended to read:

Part 4. Disposal of Seized Property and Contraband

[~~24-3-101.5~~]. 77-11a-401. Applicability of this part.

The provisions of this [~~chapter~~] part do not apply to property or contraband:

[~~(1) that is subject to the retention requirements under Title 53, Chapter 20, Forensic Biological Evidence Preservation; or~~]

[~~(2)~~] (1) for which an agency has filed a notice of intent to seek forfeiture under [~~Section 24-4-103.~~] Chapter 11b, Forfeiture of Seized Property; or

(2) until the property or contraband is no longer subject to the retention or preservation requirements under Chapter 11c, Retention of Evidence.

Section 35. Section 77-11a-402, which is renumbered from Section 24-3-103 is renumbered and amended to read:

[~~24-3-103~~]. 77-11a-402. Disposition of seized property and contraband -- Return of seized property.

(1) If a prosecuting attorney determines that seized property no longer needs to be retained [~~for court proceedings~~] as evidence under Chapter 11c, Retention of Evidence, the prosecuting attorney may:

(a) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;

(b) petition the court for an order transferring ownership of any weapons to the agency with custody for the agency's use and disposal in accordance with Section [~~24-3-103.5,~~] 77-11a-403 if the owner:

(i) is the individual who committed the offense for which the weapon was seized; or

(ii) may not lawfully possess the weapon; or

(c) notify the agency with custody of the property or contraband that:

(i) the property may be returned to the [~~rightful~~] owner in accordance with Section 77-11a-301 if the [~~rightful~~] owner may lawfully possess the property; or

(ii) the contraband may be disposed of or destroyed.

[~~(2) The agency shall exercise due diligence in attempting to notify the rightful owner of the property to advise the owner that the property is to be returned.~~]

[~~(3) (a) For a computer determined to be contraband, a court may order the reasonable extraction and return of specifically described personal digital data to the rightful owner.~~]

[~~(b) The law enforcement agency shall determine a reasonable cost to extract the data.~~]

[~~(c) At the time of the request to extract the data, the owner of the computer shall pay the agency the cost to extract the data.~~]

[~~(4) (a) Before an agency may release seized property to a person claiming ownership of the property, the person shall establish in accordance with Subsection (4)(b) that the person:~~]

[~~(i) is the rightful owner; and~~]

[~~(ii) may lawfully possess the property.~~]

[~~(b) The person shall establish ownership under Subsection (4)(a) by providing to the agency:~~]

[~~(i) identifying proof or documentation of ownership of the property; or~~]

[~~(ii) a notarized statement if proof or documentation is not available.~~]

[~~(5) (a) When seized property is returned to the owner, the owner shall sign a receipt listing in detail the property that is returned.~~]

[~~(b) The agency shall:~~]

[~~(i) retain a copy of the receipt; and~~]

[~~(ii) provide a copy of the receipt to the owner.~~]

[~~(6)~~] (2) (a) Except as provided in Subsection [~~(6)(b)~~] (2)(b), if the agency is unable to locate the [~~rightful~~] owner of the property or the [~~rightful~~] owner is not entitled to lawfully possess the property, the agency may:

(i) apply the property to a public interest use;

(ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(iii) destroy the property if the property is unfit for a public interest use or for sale.

(b) If the property described in Subsection [~~(6)(a)~~] (2)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section [~~24-3-103.5~~] 77-11a-403.

[~~(7)~~] (3) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

(a) permission to apply the property or the proceeds to public interest use; and

(b) the designation and approval of the public interest use of the property or the proceeds.

[~~(8)~~] (4) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

Section 36. Section 77-11a-403, which is renumbered from Section 24-3-103.5 is renumbered and amended to read:

[~~24-3-103.5~~]. 77-11a-403. Disposition of firearms no longer needed as evidence.

(1) As used in this section:

(a) "Confiscated or unclaimed firearm" means a firearm that is subject to disposal by an agency under Section [~~24-3-103 or~~] 53-5c-202 or 77-11a-402.

(b) "Department" means the Department of Public Safety created in Section 53-1-103.

(c) "Federally licensed firearms dealer" means a person:

(i) licensed as a dealer under 18 U.S.C. Sec. 923; and

(ii) engaged in the business of selling firearms.

(d) "State-approved dealer" means the federally licensed firearms dealer that contracts with the department under Subsection (4).

(2) An agency shall dispose of a confiscated or unclaimed firearm by:

(a) selling or destroying the confiscated or unclaimed firearm in accordance with Subsection (3);

(b) giving the confiscated or unclaimed firearm to the state-approved dealer to sell or destroy in accordance with Subsection (4) and the agreement between the state-approved dealer and the department; or

(c) after the agency obtains approval from the legislative body of the agency's jurisdiction, transferring the confiscated or unclaimed firearm to the Bureau of Forensic Services, created in Section 53-10-401, or another public forensic laboratory for testing.

(3) (a) An agency that elects to dispose of a confiscated or unclaimed firearm under Subsection (2)(a) shall:

(i) sell the confiscated or unclaimed firearm to a federally licensed firearms dealer and apply the proceeds from the sale to a public interest use; or

(ii) destroy the firearm, if the agency determines that:

(A) the condition of a confiscated or unclaimed firearm makes the firearm unfit for sale; or

(B) the confiscated or unclaimed firearm is associated with a notorious crime.

(b) Before an agency applies the proceeds of a sale of a confiscated or unclaimed firearm to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

(i) permission to apply the proceeds of the sale to a public interest use; and

(ii) the designation and approval of the public interest use to which the agency applies the proceeds.

(4) (a) (i) The department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with a federally licensed firearms dealer to sell or destroy all confiscated or unclaimed firearms in the state.

(ii) The term of an agreement executed in accordance with this Subsection (4) may not exceed five years.

(iii) Nothing in this Subsection (4) prevents the department from contracting with the same federally licensed firearms dealer more than once.

(b) An agreement executed in accordance with Subsection (4)(a) shall:

(i) address the amount of money that the federally licensed firearms dealer is entitled to retain from the sale of each confiscated or unclaimed firearm as compensation for the federally licensed firearms dealer's performance under the agreement;

(ii) require the federally licensed firearms dealer to donate, on behalf of the state, all proceeds from the sale of a confiscated or unclaimed firearm, except the amount described in Subsection (4)(b)(i), to an organization that:

(A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code;

(B) complies with any applicable licensing or registration requirements in the state;

(C) primarily helps the families of law enforcement officers in the state who die in the line of duty;

(D) gives financial assistance to the families of law enforcement officers in the state who die in the line of duty; and

(E) provides other assistance to children of active law enforcement officers, including scholarships;

(iii) state that if the federally licensed firearms dealer determines that the condition of a confiscated or unclaimed firearm makes the firearm unfit for sale, the federally licensed firearms dealer shall destroy the firearm; and

(iv) provide a procedure by which the department can ensure that the federally licensed firearms dealer complies with the provisions of the agreement and applicable law.

Section 37. Section 77-11b-101 is enacted to read:

CHAPTER 11B. FORFEITURE OF SEIZED PROPERTY

Part 1. General Provisions

77-11b-101. Definitions.

As used in this chapter:

(1) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not guilty.

(b) "Acquitted" does not include:

(i) a verdict of guilty on a lesser or reduced charge;

(ii) a plea of guilty to a lesser or reduced charge; or

(iii) dismissal of a charge as a result of a negotiated plea agreement.

(2) "Agency" means the same as that term is defined in Section 77-11a-101.

(3) "Claimant" means the same as that term is defined in Section 77-11a-101.

(4) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(5) "Complaint" means a civil or criminal complaint seeking the forfeiture of any property under this chapter.

(6) "Forfeit" means to divest a claimant of an ownership interest in property seized under Section 77-11a-201.

(7) "Innocent owner" means the same as that term is defined in Section 77-11a-101.

(8) "Interest holder" means the same as that term is defined in Section 77-11a-101.

(9) "Known address" means:

(a) any address provided by a claimant to the peace officer or agency at the time the property is seized; or

(b) the claimant's most recent address on record with a governmental entity if no address was provided at the time of the seizure.

(10) "Legal costs" means the costs and expenses incurred by a party in a forfeiture action.

(11) "Legislative body" means the same as that term is defined in Section 77-11a-101.

(12) "Peace officer" means the same as that term is defined in Section 77-11a-101.

(13) "Proceeds" means the same as that term is defined in Section 77-11a-101.

(14) "Program" means the State Asset Forfeiture Grant Program created in Section 77-11b-403.

(15) "Property" means the same as that term is defined in Section 77-11a-101.

(16) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.

(17) "Seized property" means the same as that term is defined in Section 77-11a-101.

Section 38. Section 77-11b-102, which is renumbered from Section 24-4-102 is renumbered and amended to read:

[~~24-4-102~~]. 77-11b-102. Property subject to forfeiture.

(1) (a) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:

[~~(a)~~] (i) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; [~~and~~] or

[~~(b)~~] (ii) seized proceeds.

(b) An agency, or the prosecuting attorney, may not forfeit the seized property of an innocent owner or an interest holder.

(2) If seized property is used to facilitate an offense that is a violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:

(i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)(a);

(ii) a felony violation under Subsection 76-5-102.1(2)(b);

(iii) a violation under Section 76-5-207; or

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

(b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:

(i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:

(A) Section 41-6a-502;

(B) Section 41-6a-517;

(C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

(D) Section 41-6a-520;

(E) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(F) Section 76-5-102.1;

(G) Section 76-5-207; or

(H) a criminal prohibition as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through (G); or

(ii) the denial, suspension, revocation, or disqualification described in [~~Subsections (3)(b)(i)(A) through (H)~~] Subsection (3)(b)(i):

(A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or disqualification; and

(B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in [~~Subsections (3)(b)(i)(A) through (H)~~] Subsection (3)(b)(i).

(4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in accordance with the arrest.

Section 39. Section 77-11b-103, which is renumbered from Section 24-4-106 is renumbered and amended to read:

[~~24-4-106~~]. 77-11b-103. Trial by jury.

The right to trial by jury applies to forfeiture proceedings under this chapter.

Section 40. Section 77-11b-104 is enacted to read:

77-11b-104. Venue.

Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, or any other provision of law, a person may bring an action or proceeding under this chapter in the judicial district in which:

(1) the property is seized;

(2) any part of the property is found; or

(3) a civil or criminal action could be maintained against a claimant for the offense subjecting the property to forfeiture under this chapter.

Section 41. Section 77-11b-105, which is renumbered from Section 24-4-119 is renumbered and amended to read:

[~~24-4-119~~]. 77-11b-105. Training requirements.

(1) As used in this section:

(a) "Council" means the Utah Prosecution Council created in Section 67-5a-1.

(b) "Division" means the Peace Officers Standards and Training Division created in Section 53-6-103.

(2) To participate in the program, an agency shall have at least one employee who is certified by the division as an asset forfeiture specialist through the completion of an online asset forfeiture course by the division.

(3) The division shall:

(a) develop an online asset forfeiture specialist course that is available to an agency for certification purposes;

(b) certify an employee of an agency who meets the course requirements to be an asset forfeiture specialist;

(c) recertify, every 36 months, an employee who is designated as an asset forfeiture specialist by an agency;

(d) submit annually a report to the commission no later than April 30 that contains a list of the names of the employees and agencies participating in the certification courses;

(e) review and update the asset forfeiture specialist course each year to comply with state and federal law; and

(f) provide asset forfeiture training to all peace officers in basic training programs.

(4) To be reimbursed for costs under Subsection [~~24-4-115(3)(b)~~] 77-11b-401(3)(b), a prosecuting agency shall have at least one employee who is certified by the council as an asset forfeiture specialist through the completion of an online asset forfeiture course.

(5) The council shall:

(a) develop an online asset forfeiture specialist course that is available to a prosecuting agency for certification purposes;

(b) certify an employee of a prosecuting agency who meets the course requirements to be an asset forfeiture specialist;

(c) submit annually a report to the commission no later than April 30 that contains a list of the names of the employees and prosecuting agencies participating in certification courses by the council; and

(d) review and update the asset forfeiture specialist course each year to comply with state and federal law.

Section 42. Section 77-11b-201, which is renumbered from Section 24-4-103 is

renumbered and amended to read:

Part 2. Initiating Forfeiture of Seized Property

[~~24-4-103~~]. 77-11b-201. Initiating forfeiture proceedings -- Notice of intent to seek forfeiture.

(1) (a) If an agency seeks to forfeit [~~property seized under this title~~] seized property, the agency shall serve a notice of intent to seek forfeiture to any known claimant within 30 days after the day on which the property is seized.

(b) The notice of intent to seek forfeiture shall describe:

(i) the date of the seizure;

(ii) the property seized;

(iii) the claimant's rights and obligations under this chapter and Chapter 11a, Seizure of Property and Contraband, including the availability of hardship relief in appropriate circumstances; and

(iv) the statutory basis for the forfeiture, including the judicial proceedings by which the property may be forfeited under this chapter.

(c) The agency shall serve the notice of intent to seek forfeiture by:

(i) certified mail, with a return receipt requested, to the claimant's known address; or

(ii) personal service.

(d) A court may void a forfeiture made without notice under Subsection (1)(a), unless the agency demonstrates:

(i) good cause for the failure to give notice to the claimant; or

(ii) that the claimant had actual notice of the seizure.

(2) Before an agency serves a notice of intent to forfeit seized property under Subsection (1)(a), the agency shall conduct a search of public records applicable to the seized property, including county records or records of the Division of Corporations and Commercial Code, the Division of Motor Vehicles, or other state or federal licensing agencies, in order to obtain the name and address of each interest holder of the property.

(3) If an agency serves a notice of intent to forfeit seized property under Subsection (1)(a), an individual or entity may not alienate, convey, sequester, or attach the property until a court:

(a) issues a final order to dismiss an action under this [~~title~~] chapter; or

(b) orders the forfeiture of the property.

(4) (a) (i) If an agency has served each claimant with a notice of intent to seek forfeiture, the agency shall present a written request for forfeiture to the prosecuting attorney of the municipality or county where the property is seized.

(ii) The agency shall provide the request under Subsection (4)(a)(i) no later than 45 days after the day on which the property is seized.

(b) The written request described in Subsection (4)(a) shall:

(i) describe the property that the agency is seeking to forfeit; and

(ii) include a copy of all reports, supporting documents, and other evidence that is necessary for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture action.

(c) The prosecuting attorney shall:

(i) review the written request described in Subsection (4)(a)(i); and

(ii) within 75 days after the day on which the property is seized, decline or accept, in writing, the agency's written request for the prosecuting attorney to initiate a proceeding to forfeit the property.

Section 43. Section 77-11b-202, which is renumbered from Section 24-4-103.3 is renumbered and amended to read:

[~~24-4-103.3~~]. 77-11b-202. Sale of seized property subject to forfeiture.

(1) (a) [~~Subject to Subsection (2) and Title 53, Chapter 20, Forensic Biological Evidence Preservation~~] Except for property that is required to be retained or preserved under Chapter 11c, Retention of Evidence, the court may order seized property[~~,~~] for which a forfeiture proceeding is pending[~~,~~] to:

(i) be sold, leased, rented, or operated to satisfy a specified interest of any claimant; or

(ii) preserve the interests of any party on motion of that party.

(b) The court may only enter an order under Subsection (1)(a) after:

(i) written notice to any person known to have an interest in the property has been given; and

(ii) an opportunity for a hearing for any person known to have an interest in the property has occurred.

(2) (a) A court may order a sale of property under Subsection (1) when:

(i) the property is liable to perish, waste, or be significantly reduced in value; or

(ii) the expenses of maintaining the property are disproportionate to the property's value.

(b) A third party designated by the court shall:

(i) dispose of the property by a commercially reasonable public sale; and

(ii) distribute the proceeds in the following order of priority:

(A) first, for the payment of reasonable expenses incurred in connection with the sale;

(B) second, for the satisfaction of an interest, including an interest of an interest holder, in the

order of an interest holder's priority as determined by Title 70A, Uniform Commercial Code; and

(C) third, any balance of the proceeds shall be preserved in the actual or constructive custody of the court, in an interest-bearing account, subject to further proceedings under this chapter.

Section 44. Section 77-11b-203, which is renumbered from Section 24-4-103.5 is renumbered and amended to read:

[~~24-4-103.5~~]. 77-11b-203. Mandatory return of seized property subject to forfeiture.

(1) [~~Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation~~] Except for property that is required to be retained or preserved under Chapter 11c, Retention of Evidence, an agency shall promptly return [~~property seized under this title,~~] seized property to a claimant and the prosecuting attorney may take no further action to forfeit the property, unless within 75 days after the day on which the property is seized:

(a) the prosecuting attorney:

(i) files a criminal indictment or information under Subsection [~~24-4-105(3)~~] 77-11b-301(3);

(ii) files a petition to transfer the property to another agency in accordance with Section [~~24-2-105~~] 77-11a-205; or

(iii) files a civil forfeiture complaint under Section [~~24-4-104~~] 77-11b-302; or

(b) the prosecuting attorney or a federal prosecutor obtains a restraining order under Subsection [~~24-4-105(4)~~] 77-11b-301(4).

(2) (a) The prosecuting attorney may file a petition to extend the deadline under Subsection (1) by 21 days.

(b) If a prosecuting attorney files a petition under Subsection (2)(a)[~~,~~] and the prosecuting attorney provides good cause for extending the deadline, a court shall grant the petition.

(c) The prosecuting attorney may not file more than one petition under this Subsection (2).

(3) If a prosecuting attorney is unable to file a civil forfeiture complaint under Subsection (1)(a)(iii) because a claimant has filed a claim under Section [~~24-2-108~~] 77-11a-304 and the claimant has an extension to provide additional information on the claim under Subsection [~~24-2-108(1)(d)~~] 77-11a-304(1)(d), the deadline under Subsection (1) may be extended by 15 days.

Section 45. Section 77-11b-204, which is renumbered from Section 24-4-111 is renumbered and amended to read:

[~~24-4-111~~]. 77-11b-204. Compensation for damaged property subject to forfeiture.

(1) As used in this section[~~,~~]:

(a) [~~"damage~~] "Damage or other injury" does not mean normal depreciation, deterioration, or ordinary wear and tear of the property.

(b) "Wildlife" means the same as that term is defined in Section 23-13-2.

(2) If seized property is returned under this chapter, a claimant has a civil right of action against an agency for a claim based upon the negligent destruction, loss, or damage or other injury to seized property while in the possession or custody of the agency.

(3) This section does not apply to wildlife or parts of wildlife that are seized for an offense under Title 23, Wildlife Resources Code of Utah.

Section 46. Section 77-11b-301, which is renumbered from Section 24-4-105 is renumbered and amended to read:

Part 3. Forfeiture Proceedings

[~~24-4-105~~]. 77-11b-301. Forfeiture of seized property through the criminal case.

(1) As used in this section, "defendant" means a claimant who is criminally prosecuted for the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1).

(2) A prosecuting attorney may seek forfeiture of the defendant's interest in seized property through the criminal case.

(3) If the prosecuting attorney seeks forfeiture of a defendant's interest in seized property through the criminal case, the prosecuting attorney shall state in the information or indictment the grounds for which the agency seeks to forfeit the property.

(4) (a) (i) A court may enter a restraining order or injunction or take any other reasonable action to preserve property being forfeited under this section.

(ii) Before a court's decision under Subsection (4)(a)(i), a known claimant, who can be identified after due diligence, shall be:

(A) provided notice; and

(B) given an opportunity for a hearing.

(iii) A court shall grant an order under Subsection (4)(a)(i) if:

(A) there is a substantial probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property being sold, transferred, destroyed, or removed from the jurisdiction of the court or otherwise made unavailable for forfeiture; and

(B) the need to preserve the availability of the property or prevent the property's sale, transfer, destruction, or removal through the entry of the requested order outweighs the hardship against a claimant against which the order is to be entered.

(b) A court may enter a temporary restraining order ex parte upon application of the prosecuting attorney or a federal prosecutor before or after an information or indictment has been filed, with respect to the property, if the prosecuting attorney or federal prosecutor demonstrates that:

(i) there is probable cause to believe that the property with respect to which the order is sought

would, in the event of a conviction, be forfeited under this section; and

(ii) providing notice to a claimant would jeopardize the availability of the property for forfeiture or would jeopardize an ongoing criminal investigation.

(c) The temporary order expires no more than 10 days after the day on which the order is entered unless extended for good cause shown or unless the claimant against whom the temporary order is entered consents to an extension.

(d) After service of the temporary order upon a claimant known to the prosecuting attorney or federal prosecutor, the court shall hold a hearing on the order as soon as practicable and before the expiration of the temporary order.

(e) The court is not bound by the Utah Rules of Evidence regarding evidence the court may receive and consider at a hearing under this section.

(5) Upon conviction of a defendant for the offense subjecting the property to forfeiture, a court or jury shall find property forfeited to the state if the prosecuting attorney establishes, beyond a reasonable doubt, that:

(a) the defendant:

(i) committed the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1);

(ii) knew of the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1) and allowed the property to be used in furtherance of the offense; or

(iii) acquired the property at the time of the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1), or within a reasonable time after the offense occurred; or

(b) there is no likely source for the purchase or acquisition of the property other than the commission of the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1).

(6) (a) Upon conviction of a defendant for the offense subjecting the property to forfeiture and a finding by a court or jury that the property is forfeited, the court shall enter a judgment and order the property forfeited to the state upon the terms stated by the court in the court's order.

(b) Following the entry of an order declaring the property forfeited under Subsection (6)(a), and upon application by the prosecuting attorney, the court may:

(i) enter a restraining order or injunction;

(ii) require the execution of satisfactory performance bonds;

(iii) appoint a receiver, conservator, appraiser, accountant, or trustee; or

(iv) take any other action to protect the state's interest in property ordered forfeited.

(7) (a) (i) After property is ordered forfeited under this section, the agency shall direct the disposition of the property under Section [~~24-4-115~~] 77-11b-401.

(ii) If property under Subsection (7)(a)(i) is not transferrable for value to the agency, or the agency is not able to exercise an ownership interest in the property, the property may not revert to the defendant.

(iii) A defendant, or a person acting in concert with or on behalf of the defendant, is not eligible to purchase forfeited property at any sale held by the agency unless approved by the judge.

(b) A court may stay the sale or disposition of the property pending the conclusion of any appeal of the offense subjecting the property to forfeiture if the claimant demonstrates that proceeding with the sale or disposition of the property may result in irreparable injury, harm, or loss.

(8) If a defendant is acquitted of the offense subjecting the property to forfeiture under this section on the merits:

(a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

(ii) the open market value of the property for the property for which forfeiture is sought shall be awarded to the claimant if the property has been disposed of under Section [~~24-4-103.3~~] 77-11b-202; and

(b) any payment requirement under this chapter related to the holding of property shall be paid to the claimant.

(9) Except as provided under Subsection (4) or (12), a claimant claiming an interest in property that is being forfeited under this section:

(a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of the property; and

(b) may not commence an action at law or equity concerning the validity of the claimant's alleged interests in the property subsequent to the filing of an indictment or an information alleging that the property is being forfeited under this section.

(10) A court that has jurisdiction of a case under this part may enter orders under this section without regard to the location of any property that is or has been ordered forfeited under this section.

(11) To facilitate the identification or location of property forfeited under this section, and to facilitate the disposition of a petition for remission or mitigation of forfeiture after the entry of an order declaring property forfeited to the agency, the court may, upon application of the prosecuting attorney, order:

(a) the testimony of any witness relating to the forfeited property be taken by deposition; and

(b) any book, paper, document, record, recording, or other material is produced in accordance with the Utah Rules of Civil Procedure.

(12) (a) If a court orders property forfeited under this section, the prosecuting attorney shall publish notice of the intent to dispose of the property.

(b) Service by publication shall be by publication of two notices, in two successive weeks, of the forfeiture proceeding:

(i) in a newspaper of general circulation in the county in which the seizure of the property occurred; and

(ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

(c) The prosecuting attorney shall also send written notice to any claimants, other than the defendant, known to the prosecuting attorney to have an interest in the property, at the claimant's known address.

(13) (a) A claimant, other than the defendant, may petition the court for a hearing to adjudicate the validity of the claimant's alleged interest in property forfeited under this section.

(b) A claimant shall file a petition within 30 days after the earlier of the day on which a notice is published or the day on which the claimant receives written notice under Subsection (12)(a).

(14) The petition under Subsection (13) shall:

(a) be in writing and signed by the claimant under penalty of perjury;

(b) set forth the nature and extent of the claimant's right, title, or interest in the property, the time and circumstances of the claimant's acquisition of the right, title, or interest in the property; and

(c) set forth any additional facts supporting the claimant's claim and the relief sought.

(15) (a) The court shall expedite the trial or hearing under this Subsection (15) to the extent practicable.

(b) Any party may request a jury to decide any genuine issue of material fact.

(c) The court may consolidate a trial or hearing on the petition under Subsection (11)(b) and any other petition filed by a claimant, other than the defendant, under this section.

(d) For a petition under this section, the court shall permit the parties to conduct pretrial discovery in accordance with the Utah Rules of Civil Procedure.

(e) (i) At the trial or hearing, the claimant may testify and present evidence and witnesses on the claimant's own behalf and cross-examine witnesses who appear at the hearing.

(ii) The prosecuting attorney may present evidence and witnesses in rebuttal and in defense of the claim to the property and cross-examine witnesses who appear.

(f) In addition to testimony and evidence presented at the trial or hearing, the court may consider the relevant portion of the record of the criminal case that resulted in the order of forfeiture.

(g) A trial or hearing shall be conducted in accordance with the Utah Rules of Evidence.

(16) The court shall amend the order of forfeiture in accordance with the court's determination, if after the trial or hearing under Subsection (15), the court or jury determines that the claimant has established, by a preponderance of the evidence, that:

(a) (i) the claimant has a legal right, title, or interest in the property; and

(ii) the claimant's right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the claimant rather than the defendant, or was superior to any right, title, or interest of the defendant at the time of the commission of the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1); or

(b) the claimant acquired the right, title, or interest in the property in a bona fide transaction for value, and, at the time of acquisition, the claimant did not know that the property could be forfeited under this chapter.

(17) An agency has clear title to the property and may transfer title to a purchaser or transferee if:

(a) the court issued a disposition on all petitions under Subsection (13) denying any claimant's right, title, or interest to the property; or

(b) a petition was not filed under the timelines provided in Subsection (13)(b).

(18) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this section and transfer the action to another state or federal agency that has initiated a civil or criminal proceeding involving the same property, the prosecuting attorney shall file a petition to transfer the property in accordance with Section [~~24-2-105~~] 77-11a-205.

Section 47. Section 77-11b-302, which is renumbered from Section 24-4-104 is renumbered and amended to read:

[~~24-4-104~~]. 77-11b-302. Civil forfeiture of seized property.

(1) (a) A prosecuting attorney may commence a civil action to forfeit seized property by filing a complaint.

(b) The complaint under Subsection (1)(a) shall describe with reasonable particularity:

(i) the property that the agency is seeking to forfeit;

(ii) the date and place of seizure; and

(iii) the factual allegations that constitute a basis for forfeiture.

(2) (a) After a complaint is filed, the prosecuting attorney shall serve a copy of the complaint and summons upon each claimant known to the prosecuting attorney within 30 days after the day on which the complaint is filed.

(b) The prosecuting attorney is not required to serve a copy of the complaint or the summons upon a claimant which has disclaimed, in writing, an ownership interest in the seized property.

(c) Service of the complaint and summons shall be by:

(i) personal service;

(ii) certified mail, with a return receipt requested, to the claimant's known address; or

(iii) service by publication, if the prosecuting attorney demonstrates to the court that service cannot reasonably be made by personal service or certified mail.

(d) Service by publication shall be by publication of two notices, in two successive weeks, of the forfeiture proceeding:

(i) in a newspaper of general circulation in the county in which the seizure occurred; and

(ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

(e) Service is effective upon the earlier of:

(i) personal service;

(ii) certified mail; or

(iii) publication in accordance with Subsection (2)(d).

(f) The court may extend the period to complete service under this section for an additional 60 days if the prosecuting attorney:

(i) moves the court to extend the period to complete service; and

(ii) has shown good cause for extending service.

(3) (a) If a prosecuting attorney files a complaint for forfeiture as described in Subsection (1), a claimant may file an answer to the complaint.

(b) If a claimant files an answer in accordance with Subsection (3)(a), the claimant shall file the answer within 30 days after the day on which the complaint is served upon the claimant.

(c) If an agency is seeking to forfeit property [~~under Section 24-4-103 and the property~~] that is valued at less than $10,000, the agency shall return the property to the claimant if:

(i) (A) the prosecuting attorney has filed a forfeiture complaint, and the claimant has filed an answer, in accordance with Subsections (3)(a) and (b); and

(B) the prosecuting attorney has not filed an information or indictment for the offense for which the property is seized within 60 days after the day on which the prosecuting attorney served the claimant with the complaint, or the prosecuting attorney has not timely moved a court and demonstrated reasonable cause for extending the time to file the information or indictment; or

(ii) the information or indictment for the offense for which the property was seized was dismissed and the prosecuting attorney has not refiled the information or indictment within seven days after the day on which the information or indictment was dismissed.

(d) A claimant is not entitled to any expenses, costs, or attorney fees for the return of property to the claimant under Subsection (3)(c).

(e) (i) The time limitations in Subsection (3)(c)(i) may be extended for up to 15 days if a claimant timely seeks to recover possession of seized property in accordance with Section [~~24-2-108~~] 77-11a-304.

(ii) If the time limitations are extended under Subsection (3)(c)(i), the time limitations in Subsection (3)(c)(i) shall resume immediately upon the agency's or prosecuting attorney's timely denial of a claim under Section [~~24-2-108~~] 77-11a-304 on the merits.

(4) Except as otherwise provided in this chapter, a civil action for a forfeiture proceeding is governed by the Utah Rules of Civil Procedure.

(5) The court shall:

(a) take all reasonable steps to expedite a civil forfeiture proceeding; and

(b) give a civil forfeiture proceeding the same priority as a criminal case.

(6) A claimant may file an answer to a complaint for civil forfeiture without posting bond with respect to the property that the agency seeks to forfeit.

(7) A court shall grant an agency's request to forfeit property if the prosecuting attorney establishes, by clear and convincing evidence, that:

(a) the claimant:

(i) committed the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1);

(ii) knew of the offense subjecting the property to forfeiture under Subsection 24-4-102(1) and allowed the property to be used in furtherance of the offense; or

(iii) acquired the property at the time of the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1), or within a reasonable time after the offense occurred; or

(b) there is no likely source for the purchase or acquisition of the property other than the commission of the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1).

(8) If a court finds that the property is the proceeds of an offense that subjects the proceeds to forfeiture under Subsection [~~24-4-102(1)~~]

77-11b-102(1), the prosecuting attorney does not need to prove that the property was the proceeds of a particular exchange or transaction.

(9) If a claimant is acquitted of the offense subjecting the property to forfeiture under this section:

(a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

(ii) the open market value of the property for the property for which forfeiture is sought shall be awarded to the claimant if the property has been disposed of under Section [~~24-4-103.3~~] 77-11b-202; and

(b) any payment requirement under this chapter related to the holding of property shall be paid to the claimant.

(10) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this section and transfer the action to another state or federal agency that has initiated a civil or criminal proceeding involving the same property, the prosecuting attorney shall file a petition to transfer the property in accordance with Section [~~24-2-105~~] 77-11a-205.

(11) A civil forfeiture action under this section may be converted to a criminal forfeiture action at any time after a prosecuting attorney files a criminal complaint, information, or indictment for the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1).

Section 48. Section 77-11b-303, which is renumbered from Section 24-4-113 is renumbered and amended to read:

[~~24-4-113~~]. 77-11b-303. Proportionality of forfeiture.

(1) (a) A claimant's interest in property that is used to facilitate an offense may not be forfeited under any provision of state law if the forfeiture is substantially disproportionate to the use of the property in committing or facilitating an offense that is a violation of state law and the value of the property.

(b) If property is used solely in a manner that is merely incidental and not instrumental to the commission or facilitation of an offense, a forfeiture of the property is not proportional.

(2) (a) In determining proportionality, the court shall consider:

(i) the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1);

(ii) what portion of the forfeiture, if any, is remedial in nature;

(iii) the gravity of the conduct for which the claimant is responsible in light of the offense; and

(iv) the value of the property.

(b) If the court finds that the forfeiture is substantially disproportional to an offense for which the claimant is responsible, the court shall reduce or eliminate the forfeiture as the court finds appropriate.

(3) A prosecuting attorney has the burden of demonstrating that a forfeiture is proportional to the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~] 77-11b-102(1).

(4) In all cases, the court shall decide questions of proportionality.

(5) A forfeiture of any proceeds used to facilitate the commission of an offense that is a violation of federal or state law is proportional.

Section 49. Section 77-11b-304, which is renumbered from Section 24-4-109 is renumbered and amended to read:

[~~24-4-109~~]. 77-11b-304. Postjudgment interest to prevailing party in forfeiture proceeding.

In a proceeding to forfeit currency or other negotiable instruments under this chapter, the court shall award postjudgment interest to a prevailing party on the currency or negotiable instruments at the interest rate established under Section 15-1-4.

Section 50. Section 77-11b-305, which is renumbered from Section 24-4-110 is renumbered and amended to read:

[~~24-4-110~~]. 77-11b-305. Attorney fees and costs for forfeiture proceeding.

(1) In a forfeiture proceeding under this chapter, a court shall award reasonable legal costs and attorney fees to a prevailing claimant.

(2) If a court awards legal costs and attorney fees to a prevailing claimant under Subsection (1), the award may not exceed 50% of the value of the seized property.

(3) A claimant who prevails only in part is entitled to recover reasonable legal costs and attorney fees only on an issue on which the party prevailed.

Section 51. Section 77-11b-306, which is renumbered from Section 24-4-112 is renumbered and amended to read:

[~~24-4-112~~]. 77-11b-306. Limitation on fees for holding seized property subject to forfeiture.

In any civil or criminal proceeding under this [~~chapter~~] part in which a judgment is entered in favor of a claimant, or where a forfeiture proceeding against a claimant is voluntarily dismissed by the prosecuting attorney, an agency may not charge a claimant any fee or cost for holding seized property.

Section 52. Section 77-11b-401, which is renumbered from Section 24-4-115 is

renumbered and amended to read:

Part 4. Disposal and Allocation of Forfeited Property

[~~24-4-115~~]. 77-11b-401. Disposition and allocation of forfeited property.

(1) If a court finds that property is forfeited under this chapter, the court shall order the property forfeited to the state.

(2) (a) If the property is not currency, the agency shall authorize a public or otherwise commercially reasonable sale of that property if the property is not required by law to be destroyed and is not harmful to the public.

(b) If the property forfeited is an alcoholic product as defined in Section 32B-1-102, the property shall be disposed of as follows:

(i) an alcoholic product shall be sold if the alcoholic product is:

(A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious substance or liquid; and

(B) otherwise in saleable condition; or

(ii) an alcoholic product and the alcoholic product's package shall be destroyed if the alcoholic product is impure, adulterated, or otherwise unfit for sale.

(c) If the property forfeited is a cigarette or other tobacco product as defined in Section 59-14-102, the property shall be destroyed, except that the lawful holder of the trademark rights in the cigarette or tobacco product brand is permitted to inspect the cigarette before the destruction of the cigarette or tobacco product.

(d) The proceeds of the sale of forfeited property shall remain segregated from other property, equipment, or assets of the agency until transferred in accordance with this chapter.

(3) Before transferring currency and the proceeds or revenue from the sale of the property in accordance with this chapter, the agency shall:

(a) deduct the agency's direct costs, expense of reporting under Section [~~24-4-118~~] 77-11b-404, and expense of obtaining and maintaining the property pending a forfeiture proceeding; and

(b) if the prosecuting agency that employed the prosecuting attorney has met the requirements of Subsection [~~24-4-119(3)~~] 77-11b-105(3), pay the prosecuting attorney the legal costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of the forfeited property in attorney fees.

(4) If the forfeiture arises from a violation relating to wildlife resources, the agency shall deposit any remaining currency and the proceeds or revenue from the sale of the property into the Wildlife Resources Account created in Section 23-14-13.

(5) The agency shall transfer any remaining currency, the proceeds, or revenue from the sale of the property to the commission and deposited into the [~~account~~] Criminal Forfeiture Restricted Account created in Section 77-11b-402.

Section 53. Section 77-11b-402, which is renumbered from Section 24-4-116 is renumbered and amended to read:

[~~24-4-116~~]. 77-11b-402. Criminal Forfeiture Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Criminal Forfeiture Restricted Account."

(2) Except as provided in Section [~~24-4-115~~] 77-11b-401, the commission shall deposit any proceeds from [~~forfeited property and forfeited money~~] property forfeited through a forfeiture proceeding under this chapter into the [~~account~~] Criminal Forfeiture Restricted Account.

(3) [~~Money in the account shall be appropriated~~] The Legislature shall appropriate money in the Criminal Forfeiture Restricted Account to the commission for the purpose of implementing the [~~program under Section 24-4-117~~] State Asset Forfeiture Grant Program described in Section 77-11b-403.

Section 54. Section 77-11b-403, which is renumbered from Section 24-4-117 is renumbered and amended to read:

[~~24-4-117~~]. 77-11b-403. State Asset Forfeiture Grant Program.

(1) There is created the State Asset Forfeiture Grant Program.

(2) The program shall fund crime prevention, crime victim reparations, and law enforcement activities that have the purpose of:

(a) deterring crime by depriving criminals of the profits and proceeds of their illegal activities;

(b) weakening criminal enterprises by removing the instrumentalities of crime;

(c) reducing crimes involving substance abuse by supporting the creation, administration, or operation of drug court programs throughout the state;

(d) encouraging cooperation between agencies;

(e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited proceeds of crime;

(f) increasing the equitability and accountability of the use of forfeited property used to assist agencies in reducing and preventing crime; and

(g) providing aid to victims of criminally injurious conduct, as defined in Section 63M-7-502, who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office for Victims of Crime.

(3) (a) Upon appropriation of funds from the [~~account~~] Criminal Forfeiture Restricted Account, the commission shall allocate and administer

grants to an agency or political subdivision of the state in compliance with this section and Subsection [~~24-4-119(2)~~] 77-11b-105(2) and to further the program purposes under Subsection (2).

(b) The commission may retain up to 3% of the annual appropriation from the [~~account~~] Criminal Forfeiture Restricted Account to pay for administrative costs incurred by the commission, including salary and benefits, equipment, supplies, or travel costs that are directly related to the administration of the program.

(4) An agency or political subdivision shall apply for an award from the program by completing and submitting forms specified by the commission.

(5) In granting the awards, the commission shall ensure that the amount of each award takes into consideration the:

(a) demonstrated needs of the agency or political subdivision;

(b) demonstrated ability of the agency or political subdivision to appropriately use the award;

(c) degree to which the agency's or political subdivision's need is offset through the agency's or political subdivision's participation in federal equitable sharing or through other federal and state grant programs; and

(d) agency's or political subdivision's cooperation with other state and local agencies and task forces.

(6) The commission may award a grant to any agency or political subdivision engaged in activities associated with Subsection (2) even if the agency has not contributed to the fund.

(7) An applying agency or political subdivision shall demonstrate compliance with all reporting and policy requirements applicable under this chapter and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award recipient.

(8) (a) A recipient agency may only use award money after approval by the agency's legislative body.

(b) The award money is nonlapsing.

(9) A recipient agency or political subdivision shall use an award:

(a) only for law enforcement purposes described in this section, or for victim reparations as described in Subsection (2)(g); and

(b) for the purposes specified by the agency or political subdivision in the agency's or political subdivision's application for the award.

(10) A permissible law enforcement purpose for which award money may be used includes:

(a) controlled substance interdiction and enforcement activities;

(b) drug court programs;

(c) activities calculated to enhance future law enforcement investigations;

(d) law enforcement training that includes:

(i) implementation of the Fourth Amendment to the United States Constitution and Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's right of due process;

(ii) protection of the rights of innocent property holders; and

(iii) the Tenth Amendment to the United States Constitution regarding states' sovereignty and the states' reserved rights;

(e) law enforcement or detention facilities;

(f) law enforcement operations or equipment that are not routine costs or operational expenses;

(g) drug, gang, or crime prevention education programs that are sponsored in whole or in part by the law enforcement agency or its legislative body;

(h) matching funds for other state or federal law enforcement grants; and

(i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture actions.

(11) A law enforcement purpose for which award money may not be granted or used includes:

(a) payment of salaries, retirement benefits, or bonuses to any individual;

(b) payment of expenses not related to law enforcement;

(c) uses not specified in the agency's award application;

(d) uses not approved by the agency's legislative body;

(e) payments, transfers, or pass-through funding to an entity other than an agency; or

(f) uses, payments, or expenses that are not within the scope of the agency's functions.

Section 55. Section 77-11b-404, which is renumbered from Section 24-4-118 is renumbered and amended to read:

[~~24-4-118~~]. 77-11b-404. Forfeiture reporting requirements.

(1) An agency shall provide all reasonably available data described in Subsection (5):

(a) if transferring the forfeited property resulting from the final disposition of any civil or criminal forfeiture matter to the commission as required under Subsection [~~24-4-115(5)~~] 77-11b-401(5); or

(b) if the agency has been awarded an equitable share of property forfeited by the federal government.

(2) The commission shall develop a standardized report format that each agency shall use in reporting the data required under this section.

(3) The commission shall annually, on or before April 30, prepare a summary report of the case data submitted by each agency under Subsection (1) during the prior calendar year.

(4) (a) If an agency does not comply with the reporting requirements under this section, the commission shall contact the agency and request that the agency comply with the required reporting provisions.

(b) If an agency fails to comply with the reporting requirements under this section within 30 days after receiving the request to comply, the commission shall report the noncompliance to the attorney general, the speaker of the House of Representatives, and the president of the Senate.

(5) The data for any civil or criminal forfeiture matter for which final disposition has been made under Subsection (1) shall include:

(a) the agency that conducted the seizure;

(b) the case number or other identification;

(c) the date or dates on which the seizure was conducted;

(d) the number of individuals having a known property interest in each seizure of property;

(e) the type of property seized;

(f) the alleged offense that was the cause for seizure of the property;

(g) whether any criminal charges were filed regarding the alleged offense, and if so, the final disposition of each charge, including the conviction, acquittal, or dismissal, or whether action on a charge is pending;

(h) the type of enforcement action that resulted in the seizure, including an enforcement stop, a search warrant, or an arrest warrant;

(i) whether the forfeiture procedure was civil or criminal;

(j) the value of the property seized, including currency and the estimated market value of any tangible property;

(k) the final disposition of the matter, including whether final disposition was entered by stipulation of the parties, including the amount of property returned to any claimant, by default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal forfeiture;

(l) if the property was forfeited by the federal government, the amount of forfeited money awarded to the agency;

(m) the agency's direct costs, expense of reporting under this section, and expenses for obtaining and maintaining the seized property, as described in Subsection [~~24-4-115(3)(a)~~] 77-11b-401(3)(a);

(n) the legal costs and attorney fees paid to the prosecuting attorney, as described in Subsection [~~24-4-115(3)(b)~~] 77-11b-401(3)(b); and

(o) if the property was transferred to a federal agency or any governmental entity not created under and subject to state law:

(i) the date of the transfer;

(ii) the name of the federal agency or entity to which the property was transferred;

(iii) a reference to which reason under Subsection [~~24-2-106(3)~~] 77-11a-205(3) justified the transfer;

(iv) the court or agency where the forfeiture case was heard;

(v) the date of the order of transfer of the property; and

(vi) the value of the property transferred to the federal agency, including currency and the estimated market value of any tangible property.

(6) An agency shall annually on or before April 30 submit a report for the prior calendar year to the commission that states:

(a) whether the agency received an award from the State Asset Forfeiture Grant Program under Section [~~24-4-117~~] 77-11b-403 and, if so, the following information for each award:

(i) the amount of the award;

(ii) the date of the award;

(iii) how the award was used or is planned to be used; and

(iv) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel, that:

(A) the agency has complied with all inventory, policy, and reporting requirements under Section [~~24-4-117~~] 77-11b-403; and

(B) all awards were used for crime reduction or law enforcement purposes as specified in the application and that the awards were used only upon approval by the agency's legislative body; and

(b) whether the agency received any property, money, or other things of value in accordance with federal law as described in Subsection [~~24-2-105(7)~~] 77-11a-205(7) and, if so, the following information for each piece of property, money, or other thing of value:

(i) the case number or other case identification;

(ii) the value of the award and the property, money, or other things of value received by the agency;

(iii) the date of the award;

(iv) the identity of any federal agency involved in the forfeiture;

(v) how the awarded property has been used or is planned to be used; and

(vi) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel, that the agency has only used the award for crime reduction or law enforcement purposes authorized under Section [~~24-4-117~~] 77-11b-403, and that the award was used only upon approval by the agency's legislative body.

(7) (a) On or before July 1 of each year, the commission shall submit notice of the annual

reports in Subsection (3) and Subsection (6), in electronic format, to:

(i) the attorney general;

(ii) the speaker of the House of Representatives, for referral to any House standing or interim committees with oversight over law enforcement and criminal justice;

(iii) the president of the Senate, for referral to any Senate standing or interim committees with oversight over law enforcement and criminal justice; and

(iv) each law enforcement agency.

(b) The reports described in Subsection (3) and Subsection (6), as well as the individual case data described in Subsection (1) for the previous calendar year, shall be published on the Utah Open Government website at open.utah.gov on or before July 15 of each year.

Section 56. Section 77-11c-101, which is renumbered from Section 53-20-101 is renumbered and amended to read:

CHAPTER 11c. RETENTION OF EVIDENCE

Part 1. General Provisions

~~[53-20-101].~~ 77-11c-101. Definitions.

As used in this chapter:

(1) "Acquitted" means the same as that term is defined in Section 77-11b-101.

(2) "Adjudicated" means that:

(a) (i) a judgment of conviction by plea or verdict of an offense has been entered by a court; and

(ii) a sentence has been imposed by the court; or

(b) a judgment has been entered for an adjudication of an offense by a juvenile court under Section 80-6-701.

(3) "Adjudication" means:

(a) a judgment of conviction by plea or verdict of an offense; or

(b) an adjudication for an offense by a juvenile court under Section 80-6-701.

(4) "Agency" means the same as that term is defined in Section 77-11a-101.

(5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the United States Supreme Court.

[~~(1)~~] (6) (a) "Biological evidence" means an item that contains blood, semen, hair, saliva, epithelial cells, latent fingerprint evidence that may contain biological material suitable for DNA testing, or other identifiable human biological material that:

(i) is collected as part of an investigation or prosecution of a violent felony offense; and

(ii) may reasonably be used to incriminate or exculpate a person for the violent felony offense.

(b) "Biological evidence" includes:

(i) material that is catalogued separately, including:

(A) on a slide or swab; or

(B) inside a test tube, if the evidentiary sample that previously was inside the test tube has been consumed by testing;

(ii) material that is present on other evidence, including clothing, a ligature, bedding, a drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;

(iii) the contents of a sexual assault examination kit; and

(iv) for a violent felony offense, material described in this Subsection [~~(1)~~] (6) that is in the custody of an evidence collecting or retaining entity on May 4, 2022.

(7) "Claimant" means the same as that term is defined in Section 77-11a-101.

(8) "Computer" means the same as that term is defined in Section 77-11a-101.

[~~(2)~~] (9) "Continuous chain of custody" means:

(a) for a law enforcement agency or a court, that legal standards regarding a continuous chain of custody are maintained; and

(b) for an entity that is not a law enforcement agency or a court, that the entity maintains a record in accordance with legal standards required of the entity.

(10) "Contraband" means the same as that term is defined in Section 77-11a-101.

(11) "Controlled substance" means the same as that term is defined in Section 58-37-2.

[~~(3)~~] (12) "Court" means a municipal, county, or state court.

[~~(4)~~] (13) "DNA" means deoxyribonucleic acid.

[~~(5)~~] (14) "DNA profile" means a unique identifier of an individual derived from DNA.

(15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(16) "Evidence" means property, contraband, or an item or substance that:

(a) is seized or collected as part of an investigation or prosecution of an offense; and

(b) may reasonably be used to incriminate or exculpate an individual for an offense.

[~~(6)~~] (17) (a) "Evidence collecting or retaining entity" means an entity within the state that collects, stores, or retrieves biological evidence.

(b) "Evidence collecting or retaining entity" includes:

(i) a medical or forensic entity;

(ii) a law enforcement agency;

(iii) a court; and

(iv) an official, employee, or agent of an entity or agency described in this [~~Subsection (6)~~] Subsection (17).

(18) "Exhibit" means property, contraband, or an item or substance that is admitted into evidence for a court proceeding.

[~~(7)~~] (19) "In custody" means an individual who:

(a) is incarcerated, civilly committed, on parole, or on probation; or

(b) is required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry.

[~~(8) "Law enforcement agency" means:~~]

[~~(a) a municipal, county, state institution of higher education, or state police force or department;~~]

[~~(b) a sheriff's office; or~~]

[~~(c) a municipal, county, or state prosecuting authority.~~]

(20) "Law enforcement agency" means the same as that term is defined in Section 77-11a-101.

[~~(9)~~] (21) "Medical or forensic entity" means a private or public hospital, medical facility, or other entity that secures biological evidence or conducts forensic examinations related to criminal investigations.

[~~(10)~~] (22) "Physical evidence" includes evidence that:

(a) is related to:

(i) an investigation;

(ii) an arrest; or

(iii) a prosecution that resulted in a judgment of conviction; and

(b) is in the actual or constructive possession of a law enforcement agency or a court or an agent of a law enforcement agency or a court.

(23) "Property" means the same as that term is defined in Section 77-11a-101.

(24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.

(25) "Violent felony offense" means the same as the term "violent felony" is defined in Section 76-3-203.5.

(26) "Wildlife" means the same as that term is defined in Section 23-13-2.

[~~(11) "Violent felony" means the same as that term is defined in Section 76-3-203.5.~~]

Section 57. Section 77-11c-102 is enacted to read:

77-11c-102. Retention of evidence as an exhibit.

(1) If evidence is admitted as an exhibit for a court proceeding, the clerk of the court shall:

(a) retain the evidence; or

(b) return the evidence to the custody of the agency.

(2) Rule 4-206 of the Utah Code of Judicial Administration applies to evidence that is admitted as an exhibit in a court proceeding.

Section 58. Section 77-11c-103 is enacted to read:

77-11c-103. Disposal or return of evidence.

When evidence is no longer subject to retention under this chapter, the agency shall:

(1) return evidence that is property to a claimant under Title 77, Chapter 11a, Part 3, Release of Seized Property to Claimant; or

(2) dispose of evidence that is property or contraband in accordance with Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband.

Section 59. Section 77-11c-201 is enacted to read:

Part 2. Retention of Evidence for Misdemeanor Offenses

77-11c-201. Retention of evidence of misdemeanor offenses.

(1) An agency shall retain evidence of a misdemeanor offense for the longer of:

(a) the length of the statute of limitations for the offense if:

(i) no charges are filed for the offense; or

(ii) the offense remains unsolved;

(b) 60 days after the day on which any individual charged with the offense is acquitted if each individual charged with the offense is acquitted;

(c) 90 days after the day on which any individual is adjudicated for the offense if:

(i) each individual charged with the offense has been adjudicated;

(ii) there is no appeal pending in:

(A) an appellate court for any individual adjudicated for the offense; or

(B) the district court for a trial de novo for any individual adjudicated by a justice court for the offense; and

(iii) there is no post-trial motion pending in the court:

(A) for a new trial under Rule 24 of the Utah Rules of Criminal Procedure;

(B) to amend or make additional findings of fact under Rule 52(b) of the Utah Rules of Civil Procedure; or

(C) for relief under Rule 60(b) of the Utah Rules of Civil Procedure;

(d) 30 days after the day on which any individual is adjudicated by a district court for the offense on a trial de novo from the justice court if:

(i) each individual charged with the offense has been adjudicated by a justice court or a district court on a trial de novo from the justice court; and

(ii) there is no appeal pending in:

(A) an appellate court for any individual adjudicated for the offense; or

(B) the district court for a trial de novo for any individual adjudicated by a justice court for the offense; or

(e) 30 days after the day on which an appellate court issues a remittitur for an appeal of any individual adjudicated for the offense if:

(i) the appellate court's final decision upholds the individual's adjudication;

(ii) each individual charged with the offense has been adjudicated; and

(iii) there is no appeal pending in:

(A) an appellate court for any individual adjudicated for the offense; or

(B) the district court for a trial de novo for any individual adjudicated by a justice court for the offense.

(2) Subsection (1) does not require an agency to return or dispose of evidence of a misdemeanor offense.

(3) An agency shall ensure that evidence of a misdemeanor offense is subject to a continuous chain of custody.

Section 60. Section 77-11c-202 is enacted to read:

77-11c-202. Requirements for not retaining evidence -- Preservation of sufficient evidence.

(1) An agency is not required to retain evidence of a misdemeanor offense under Section 77-11c-201 if:

(a) (i) the agency determines that:

(A) the size, bulk, or physical character of the evidence renders retention impracticable; or

(B) the evidence poses a security or safety problem for the agency;

(ii) the agency preserves sufficient evidence of the property, contraband, item, or substance for use as evidence in a prosecution of the offense in accordance with this section;

(iii) the agency sends a written request under Subsection 77-11c-203(1) to the prosecuting attorney for permission to release or dispose of the evidence; and

(iv) the prosecuting attorney grants the agency's written request in accordance with Section 77-11c-203;

(b) a court orders the agency to return evidence that is property to a claimant under Section 77-11a-305; or

(c) the evidence is wildlife or parts of wildlife.

(2) (a) Subsection (1) does not require an agency to return or dispose of evidence of a misdemeanor offense.

(b) Subsection (1)(a) does not apply when the release or disposal of evidence of a misdemeanor offense is in compliance with a memorandum of understanding between the agency and the prosecuting attorney.

(3) If evidence is a controlled substance, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the controlled substance by:

(a) collecting and preserving a sample of the controlled substance and a sample of biological evidence from the controlled substance for independent testing and use as evidence;

(b) taking a photographic or video record of the controlled substance with identifying case numbers;

(c) maintaining a written report of a chemical analysis of the controlled substance if a chemical analysis was performed by the agency; and

(d) if the controlled substance exceeds 10 pounds, retain at least one pound of the controlled substance that is randomly selected from the controlled substance.

(4) If evidence is drug paraphernalia, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the drug paraphernalia by:

(a) collecting and preserving a sample of the controlled substance from the drug paraphernalia for independent testing and use as evidence;

(b) maintaining a written report of a chemical analysis of the drug paraphernalia if a chemical analysis was performed by the agency; and

(c) taking a photographic or video record of the drug paraphernalia with identifying case numbers.

(5) If evidence is a computer, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the computer by:

(a) extracting all data from the computer that would be evidence in a prosecution of an individual for the offense;

(b) collecting a sample of biological evidence from the computer for independent testing and use as evidence; and

(c) taking a photographic or video record of the computer with identifying case numbers.

(6) For any other type of evidence, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the property, contraband, item, or substance by:

(a) collecting and preserving a sample of biological evidence from the property, contraband, item, or substance for independent testing and use as evidence; and

(b) taking a photographic or video record of the property, contraband, item, or substance with identifying case numbers.

Section 61. Section 77-11c-203 is enacted to read:

77-11c-203. Request to prosecuting attorney by agency -- Notification to defendant.

(1) If an agency determines that the agency is not required to retain evidence of a misdemeanor offense under Subsection 77-11c-202(1)(a)(i) and the agency seeks to release or dispose of the evidence, the agency shall send a written request to the prosecuting attorney that:

(a) identifies the evidence;

(b) explains the reason for which the agency is not required to retain the evidence under Subsection 77-11c-202(1)(a)(i); and

(c) explains the steps that the agency will take, or has taken, to preserve sufficient evidence of the property, contraband, item, or substance for use as evidence in a prosecution of the offense.

(2) If the prosecuting attorney receives a written request under Subsection (1) and determines that the agency needs to retain the evidence for a prosecution of the misdemeanor offense, the prosecuting attorney shall send a written notification to the agency that explains the reason for which the prosecuting attorney is denying the agency's request.

(3) If the prosecuting attorney receives a written request under Subsection (1) and determines that the agency does not need to retain the evidence for a prosecution of the misdemeanor offense, the prosecuting attorney shall provide written notice of the intent to not retain the evidence that:

(a) is sent by certified mail, return receipt requested, or a delivery service that provides proof of delivery, to:

(i) any individual charged with or adjudicated for the offense; and

(ii) the individual's most recent attorney of record; and

(b) explains that the individual receiving the notice may submit a written objection to the prosecuting attorney.

(4) (a) An individual, who is charged with or adjudicated for the offense, may submit a written objection to the disposal or release of the evidence by the agency no later than 30 days after the day on which the prosecuting attorney receives proof of delivery under Subsection (3).

(b) If an individual submits a written objection under Subsection (4)(a), the prosecuting attorney shall send a written notification to the agency that explains the reason for which the prosecuting attorney is denying the agency's request.

(c) If the prosecuting attorney does not receive a written objection within the time period described in Subsection (4)(a), the prosecuting attorney shall send a written notification to the agency that grants the agency's request to release or dispose of the evidence.

(5) (a) If a prosecuting attorney receives a written request from an agency seeking to release or dispose of evidence, the prosecuting attorney shall:

(i) provide a notice of receipt to the agency within 15 days after the day on which the prosecuting attorney receives the written request; and

(ii) send a written notification to the agency of the prosecuting attorney's decision to deny or grant an agency's written request within 60 days after the day on which the prosecuting attorney receives the agency's written request.

(b) If an agency does not receive a notice of receipt under Subsection (5)(a)(i) or a written notification under Subsection (5)(a)(ii), the agency may send the written request to the district attorney, county attorney, attorney general, or other prosecuting attorney who directly oversees and supervises the prosecuting attorney.

(6) If a prosecuting attorney denies an agency's written request to release or dispose of evidence under this section, the agency shall retain the evidence in accordance with Section 77-11c-201.

(7) The requirements of this section do not apply when the release or disposal of evidence of a misdemeanor offense is in compliance with a memorandum of understanding between the agency and the prosecuting attorney.

Section 62. Section 77-11c-301, which is renumbered from Section 24-2-106 is renumbered and amended to read:

Part 3. Retention of Evidence for Felony Offenses

[~~24-2-106~~]. 77-11c-301. Retention of evidence for felony offenses.

[~~(1) If seized property is admitted into evidence during a court proceeding, the clerk of the court shall:~~]

[~~(a) retain the property; or~~]

[~~(b) return the property to the custody of the agency.~~]

[~~(2) Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, the agency shall retain seized or forfeited property:~~]

(1) Except as provided in Subsection (4) and Subsection 23-20-1(3), an agency shall retain evidence of a felony offense:

(a) at the discretion of the prosecuting attorney; or

(b) until all direct appeals and retrials are final.

[~~(3)~~] (2) If the prosecuting attorney decides to retain control over the [~~seized or forfeited property under Subsection (2)(a)~~] evidence of the felony offense in anticipation of possible collateral attacks upon the judgment or for use in a potential prosecution, the prosecuting attorney may decline to authorize the disposal of the [~~property~~] evidence.

(3) An agency shall ensure that evidence of a felony offense is subject to a continuous chain of custody.

(4) An agency shall retain and preserve biological evidence of a violent felony offense in accordance with Part 4, Preservation of Biological Evidence for Violent Felony Offenses.

Section 63. Section 77-11c-401, which is renumbered from Section 53-20-102 is renumbered and amended to read:

Part 4. Preservation of Biological Evidence for Violent Felony Offenses

[~~53-20-102~~]. 77-11c-401. Preservation of biological evidence -- Procedures -- Inventory request.

(1) Except as provided in Section [~~53-20-103~~] 77-11c-402, an evidence collecting or retaining entity shall preserve biological evidence[~~:~~] of a violent felony offense in accordance with this part.

(2) An evidence collecting or retaining entity shall preserve biological evidence of a violent felony offense:

(a) for the longer of:

(i) the length of the statute of limitations for the violent felony offense if:

(A) no charges are filed for the violent felony offense; or

(B) the violent felony offense remains unsolved;

(ii) the length of time that the individual convicted of the violent felony offense or any lesser included violent offense remains in custody; or

(iii) the length of time that a co-defendant remains in custody;

(b) in an amount and manner sufficient to:

(i) develop a DNA profile; and

(ii) if practicable, allow for independent testing of the biological evidence by a defendant; and

(c) subject to a continuous chain of custody.

[~~(2)~~] (3) (a) Upon request by a defendant under Title 63G, Chapter 2, Government Records Access and Management Act, the evidence collecting or retaining entity shall prepare an inventory of the biological evidence preserved in connection with the defendant's criminal case.

(b) If the evidence collecting or retaining entity cannot locate biological evidence requested under Subsection [~~(2)(a)~~] (3)(a), the custodian for the entity shall provide a sworn affidavit to the defendant that:

(i) describes the efforts taken to locate the biological evidence; and

(ii) affirms that the biological evidence could not be located.

[~~(3)~~] (4) The evidence collecting or retaining entity may dispose of biological evidence before the day on which the period described in Subsection [~~(1)(a)~~] (2)(a) expires if:

(a) no other provision of federal or state law requires the evidence collecting or retaining entity to preserve the biological evidence;

(b) the evidence collecting or retaining entity sends notice in accordance with Subsection [~~(4)~~] (5); and

(c) an individual notified under Subsection [~~(4)(a)~~] (5)(a) does not within 180 days after the day on which the evidence collecting or retaining entity receives proof of delivery under Subsection [~~(4)~~] (5):

(i) file a motion for testing of the biological evidence under Section 78B-9-301; or

(ii) submit a written request under Subsection [~~(4)(b)(ii)~~] (5)(b)(ii).

[~~(4)~~] (5) If the evidence collecting or retaining entity intends to dispose of the biological evidence before the day on which the period described in Subsection [~~(1)(a)~~] (2)(a) expires, the evidence collecting or retaining entity shall send a notice of intent to dispose of the biological evidence that:

(a) is sent by certified mail, return receipt requested, or a delivery service that provides proof of delivery, to:

(i) an individual who remains in custody based on a criminal conviction related to the biological evidence;

(ii) the private attorney or public defender of record for each individual described in Subsection [~~(4)(a)(i)~~] (5)(a)(i);

(iii) if applicable, the prosecuting agency responsible for the prosecution of each individual described in Subsection [~~(4)(a)(i)~~] (5)(a)(i); and

(iv) the Utah attorney general; and

(b) explains that the party receiving the notice may:

(i) file a motion for testing of biological evidence under Section 78B-9-301; or

(ii) submit a written request that the evidence collecting or retaining entity retain the biological evidence.

[~~(5)~~] (6) (a) Subject to Subsections [~~(5)(b) and (c)~~] (6)(b) and (c), if the evidence collecting or retaining entity receives a written request to retain the biological evidence under Subsection [~~(4)(b)(ii)~~] (5)(b)(ii), the evidence collecting or retaining entity shall retain the biological evidence while the defendant remains in custody.

(b) Subject to Subsection [~~(5)(c)~~] (6)(c), the evidence collecting or retaining entity is not required to preserve physical evidence that may contain biological evidence if the physical evidence's size, bulk, or physical character renders retention impracticable.

(c) If the evidence collecting or retaining entity determines that retention is impracticable, before returning or disposing of the physical evidence, the evidence collecting or retaining entity shall:

(i) remove the portions of the physical evidence likely to contain biological evidence related to the violent felony offense; and

(ii) preserve the removed biological evidence in a quantity sufficient to permit future DNA testing.

[~~(6)~~] (7) To comply with the preservation requirements described in this section, a law enforcement agency or a court may:

(a) retain the biological evidence; or

(b) if a continuous chain of custody can be maintained, return the biological evidence to the custody of the other law enforcement agency that originally provided the biological evidence to the law enforcement agency.

Section 64. Section 77-11c-402, which is renumbered from Section 53-20-103 is renumbered and amended to read:

[~~53-20-103~~]. 77-11c-402. Exceptions to preservation of biological evidence.

(1) As used in this section, "offense concerning driving under the influence" means:

(a) Section 41-6a-502;

(b) Section 41-6a-502.5;

(c) Section 41-6a-517;

(d) Section 41-6a-530;

(e) Section 76-5-102.1;

(f) Section 76-5-207; and

(g) a local ordinance similar to the offenses described in this Subsection (1).

(2) Section [~~53-20-102~~] 77-11c-402 does not apply to biological evidence obtained during an investigation or prosecution for an offense concerning driving under the influence solely for toxicology purposes.

Section 65. Section 77-11c-403, which is renumbered from Section 53-20-104 is renumbered and amended to read:

[~~53-20-104~~]. 77-11c-403. Remedies for failure to preserve biological evidence.

(1) (a) Except as provided in Subsections (1)(b) and (2), if a court finds that biological evidence that reasonably could have been found to be exculpatory in a defendant's criminal case was not preserved in accordance with this chapter, the court may impose sanctions and remedies at the court's discretion, including:

(i) the grant of a new trial;

(ii) an instruction to the jury that evidence was not preserved as required by law;

(iii) the reduction of the sentence;

(iv) the dismissal of the criminal charge;

(v) the vacation of the conviction; or

(vi) the entry of a finding that because the evidence was not preserved in accordance with this chapter, a presumption exists that the evidence would have been exculpatory to the defendant.

(b) The provisions in Subsection (1)(a) apply only if:

(i) a defendant's appeal has not concluded;

(ii) a defendant's time for appeal has not expired; or

(iii) a defendant has received a new trial in accordance with Subsection (2)(b).

(2) (a) A defendant shall seek relief under Title 78B, Chapter 9, Postconviction Remedies Act, if:

(i) the defendant alleges that the biological evidence that is the basis for the defendant's claim was not preserved in accordance with this chapter; and

(ii) (A) the defendant's appeal has concluded; or

(B) the time for the defendant's appeal has expired.

(b) If a defendant obtains relief under Title 78B, Chapter 9, Postconviction Remedies Act, the provisions in Subsection (1) apply to the defendant's new trial.

Section 66. Section 77-11d-101, which is renumbered from Section 77-24a-1 is renumbered and amended to read:

CHAPTER 11d. LOST OR MISLAID PROPERTY

[~~77-24a-1~~]. 77-11d-101. Definitions.

As used in this chapter:

(1) "Interest holder" means the same as that term is defined in Section 77-11a-101.

[~~(1)~~] (2) "Lost or mislaid property":

(a) means any property that comes into the possession of a peace officer or law enforcement agency:

(i) that is not claimed by anyone who is identified as the owner of the property; or

(ii) for which no owner or interest holder can be found after a reasonable and diligent search;

(b) includes any property received by a peace officer or law enforcement agency from a person claiming to have found the property; and

(c) does not include property seized by a peace officer [~~pursuant to Title 24, Forfeiture and Disposition of Property Act~~] in accordance with Chapter 11a, Seizure of Property and Contraband.

(3) "Owner" means the same as that term is defined in Section 77-11a-101.

[~~(2)~~] (4) "Public interest use" means:

(a) use by a governmental agency as determined by the agency's legislative body; or

(b) donation to a nonprofit charity registered with the state.

Section 67. Section 77-11d-102, which is renumbered from Section 77-24a-2 is renumbered and amended to read:

[~~77-24a-2~~]. 77-11d-102. Disposition by police agency.

All lost or mislaid property coming into the possession of a peace officer or law enforcement agency shall be turned over to, held, and disposed of only by the local law enforcement agency whose authority extends to the area where the item was found.

Section 68. Section 77-11d-103, which is renumbered from Section 77-24a-3 is renumbered and amended to read:

[~~77-24a-3~~]. 77-11d-103. Statement of finder of property.

(1) A person who finds lost or mislaid property and delivers it to a local law enforcement agency shall sign a statement included in a form provided by the agency, stating:

(a) the manner in which the property came into the person's possession, including the time, date, and place;

(b) that the person does not know who owns the property;

(c) that, to the person's knowledge, the property was not stolen;

(d) that the person's possession of the property is not unlawful; and

(e) any information the person is aware of which could lead to a determination of the owner.

(2) Additional information may be requested by the agency receiving the property, as necessary.

Section 69. Section 77-11d-104, which is renumbered from Section 77-24a-4 is renumbered and amended to read:

[~~77-24a-4~~]. 77-11d-104. Locating owner of property.

(1) The local law enforcement agency shall take reasonable steps to determine the identity and location of the owner, and notify the owner that the property is in custody.

(2) The owner may obtain the property only by providing personal identification, identifying the property, and paying any costs incurred by the agency, including costs for advertising or storage.

Section 70. Section 77-11d-105, which is renumbered from Section 77-24a-5 is renumbered and amended to read:

[~~77-24a-5~~]. 77-11d-105. Disposition of unclaimed property.

(1) (a) If the owner of any lost or mislaid property cannot be determined or notified, or if the owner of the property is determined and notified, and fails to appear and claim the property after three months of [~~its~~] the property's receipt by the local law enforcement agency, the agency shall:

(i) publish notice of the intent to dispose of the unclaimed property on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b);

(ii) post a similar notice on the public website of the political subdivision within which the law enforcement agency is located; and

(iii) post a similar notice in a public place designated for notice within the law enforcement agency.

(b) The notice shall:

(i) give a general description of the item; and

(ii) the date of intended disposition.

(c) The agency may not dispose of the lost or mislaid property until at least eight days after the date of publication and posting.

(2) (a) If no claim is made for the lost or mislaid property within nine days of publication and posting, the agency shall notify the person who turned the property over to the local law enforcement agency, if it was turned over by a person under Section [~~77-24a-3~~] 77-11d-103.

(b) Except as provided in Subsection (4), if that person has complied with the provisions of this chapter, the person may take the lost or mislaid property if the person:

(i) pays the costs incurred for advertising and storage; and

(ii) signs a receipt for the item.

(3) If the person who found the lost or mislaid property fails to take the property under the provisions of this chapter, the agency shall:

(a) apply the property to a public interest use as provided in Subsection (4);

(b) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(c) destroy the property if it is unfit for a public interest use or sale.

(4) Before applying the lost or mislaid property to a public interest use, the agency having possession of the property shall obtain from the agency's legislative body:

(a) permission to apply the property to a public interest use; and

(b) the designation and approval of the public interest use of the property.

(5) Any person employed by a law enforcement agency who finds property may not claim or receive property under this section.

Section 71. Section 77-37-3 is amended to read:

77-37-3. Bill of rights.

(1) The bill of rights for victims and witnesses is:

(a) Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding witness tampering, and Section 76-8-509, regarding threats against a victim. Law

enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in [~~Sections 77-24a-1 through 77-24a-5~~] Chapter 11a, Seizure of Property and Contraband, and Chapter 11d, Lost or Mislaid Property. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

(j) Victims of sexual offenses have the following rights:

(i) the right to request voluntary testing for themselves for HIV infection as provided in Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section 53-10-802;

(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;

(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;

(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and

(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (1)(j) and under Subsections (2) and (3).

(k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.

(2) The law enforcement agency investigating a sexual offense may:

(a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the request of a victim or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;

(b) require that the victim's request be in writing; and

(c) respond to the victim's request with verbal communication, written communication, or by email, if an email address is available.

(3) The law enforcement agency investigating a sexual offense has the following authority and responsibilities:

(a) If the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not been confirmed, the law enforcement agency shall notify the victim or the victim's designee.

(b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the law enforcement agency shall provide written notification of that intention and information on how to appeal the decision to the victim or the victim's designee of that intention.

(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior to the

destruction or disposal of the rape kit evidence or other crime scene evidence.

(c) A law enforcement agency responsible for providing information under Subsections (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the victim or the victim's designee, shall advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

(d) The law enforcement agency investigating the sexual offense is responsible for informing the victim or the victim's designee of the rights established under Subsections (1)(j)(ii) through (iv) and (2), and this Subsection (3).

(4) Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

Section 72. Section 78B-9-104 is amended to read:

78B-9-104. Grounds for relief -- Retroactivity of rule.

(1) Unless precluded by Section 78B-9-106 or 78B-9-107, an individual who has been convicted and sentenced for a criminal offense may file an action in the district court of original jurisdiction for postconviction relief to vacate or modify the conviction or sentence upon the following grounds:

(a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;

(b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;

(c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;

(d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;

(e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:

(i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;

(ii) the material evidence is not merely cumulative of evidence that was known;

(iii) the material evidence is not merely impeachment evidence; and

(iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received;

(f) the petitioner can prove that:

(i) biological evidence, as that term is defined in Section [~~53-20-101~~] 77-11c-101, relevant to the petitioner's conviction was not preserved in accordance with [~~Title 53, Chapter 20, Forensic Biological Evidence Preservation~~] Title 77, Chapter 11c, Part 4, Preservation of Biological Evidence for Violent Felony Offenses;

(ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested previously; or

(B) if the biological evidence described in Subsection (1)(f)(i) was tested previously, there is a material change in circumstance, including a scientific or technological advance, that would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i) would produce a favorable test result for the petitioner; and

(iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for purposes of the petitioner's action under this section, when viewed with all the other evidence, demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

(g) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:

(i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or

(ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted; or

(h) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:

(i) Section 58-37-8, possession of a controlled substance;

(ii) Section 76-10-1304, aiding prostitution;

(iii) Section 76-6-206, criminal trespass;

(iv) Section 76-6-413, theft;

(v) Section 76-6-502, possession of forged writing or device for writing;

(vi) Sections 76-6-602 through 76-6-608, retail theft;

(vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;

(viii) Section 76-9-702, lewdness;

(ix) Section 76-10-1302, prostitution; or

(x) Section 76-10-1313, sexual solicitation.

(2) The court may not grant relief from a conviction or sentence unless in light of the facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing:

(a) the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome; or

(b) if the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgment of the fact finder.

(3) (a) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

(b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence, of this chapter may not be filed as part of a petition under this part, but shall be filed separately and in conformity with the provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Section 73. Repealer.

This bill repeals:

Section 24-1-101, Title.

Section 24-2-101, Title.

Section 24-3-101, Title.

Section 24-4-101, Title.

CHAPTER 449
H. B. 78
Passed February 3, 2023
Approved March 21, 2023
Effective May 3, 2023

BEHAVIORAL HEALTH TREATMENT ACCESS AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill addresses insurance coverage for behavioral health services.

Highlighted Provisions:

This bill:

- defines terms; and
- subject to certain conditions and exceptions, requires certain health benefit plans to:
  - upon request of an enrollee who is a health care provider, offer a single case agreement for covered behavioral health treatment; and
  - include certain terms in the single case agreement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

31A-22-658, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-658 is enacted to read:

31A-22-658 (Codified as 31A-22-659). Health care provider behavioral health treatment -- Single case agreement.

(1) As used in this section:

(a) "Mental health condition" means the same as that term is defined in Section 31A-22-649.5.

(b) "Mental health provider" means:

(i) a mental health therapist, as defined in Section 58-60-102; or

(ii) an individual practicing within the scope of practice described in Title 58, Chapter 60, Part 5, Substance Use Disorder Counselor Act.

(c) "Mental health treatment" means treatment for a mental health condition.

(2) (a) Except as provided in Subsection (3), and subject to Subsections (4) and (5), beginning January 1, 2024, a health benefit plan that offers coverage for mental health treatment shall, upon request of a health benefit plan enrollee who is employed as a health care provider, offer a single case agreement that allows the enrollee to receive covered mental health treatment from an out-of-network mental health provider selected by the enrollee.

(b) A single case agreement described in Subsection (2)(a) shall:

(i) reimburse the out-of-network mental health provider for the covered mental health treatment at the equivalent out-of-network rate set by the health benefit plan, subject to the member cost-sharing requirements imposed by the health benefit plan;

(ii) include the same coinsurance, copayments, and deductibles that would be applied for the mental health treatment if the mental health treatment was provided by a mental health provider who is a network provider;

(iii) include the terms that a network provider is subject to under the health benefit plan; and

(iv) define the length and scope of the single case agreement.

(3) (a) Subsection (2) does not apply if:

(i) (A) the health benefit plan has network providers for the covered mental health treatment; and

(B) the network providers described in Subsection (3)(a)(i) do not provide the covered mental health treatment in the location where the enrollee works as a health care provider; or

(ii) the enrollee selects a mental health provider for the covered mental health treatment who the health benefit plan knows or reasonably suspects has committed a fraudulent insurance act as described in Section 31A-31-103.

(b) For purposes of this Subsection (3), the location where an enrollee works as a health care provider includes all locations or facilities of the enrollee's employer.

(4) Mental health treatment provided pursuant to a single case agreement under this section:

(a) shall be:

(i) within the out-of-network mental health provider's scope of practice; and

(ii) a service that is otherwise covered under the enrollee's health benefit plan; and

(b) may not be experimental.

(5) (a) An enrollee shall request a single case agreement under Subsection (2) prior to receiving mental health treatment from an out-of-network mental health provider.

(b) With a request for a single case agreement under Subsection (2), an enrollee shall provide information about where the enrollee works as a health care provider sufficient for the health benefit plan to determine whether the circumstances described in Subsection (3)(a)(i) exist.

CHAPTER 450
H. B. 408
Passed March 3, 2023
Approved March 21, 2023
Effective May 3, 2023

MOBILE BUSINESS LICENSING AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill establishes an enclosed mobile business as a specific type of business, and clarifies and amends a political subdivision's authority to regulate mobile businesses.

Highlighted Provisions:

This bill:

- defines terms;
- establishes an enclosed mobile business as a specific type of business;
- subjects enclosed mobile businesses to statutory provisions governing food trucks, food carts, and ice cream trucks; and
- modifies a political subdivision's authority to regulate mobile businesses.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-56-102, as last amended by Laws of Utah 2022, Chapter 306
11-56-103, as last amended by Laws of Utah 2022, Chapter 306
11-56-104, as last amended by Laws of Utah 2022, Chapter 306
11-56-105, as last amended by Laws of Utah 2019, Chapter 260
11-56-106, as last amended by Laws of Utah 2019, Chapter 260

REPEALS:

11-56-101, as enacted by Laws of Utah 2017, Chapter 165

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-56-102 is amended to read:

CHAPTER 56. MOBILE BUSINESS LICENSING AND REGULATION ACT

11-56-102. Definitions.

As used in this chapter:

(1) (a) "Enclosed mobile business" means a business that maintains ongoing mobility and of which the receipt of goods or services offered and point of sales occurs within an enclosed vehicle, an enclosed trailer, or an enclosed mobile structure.

(b) An enclosed mobile business's goods or services include those offered in the following industries:

(i) barber;

(ii) beauty and cosmetic, including nail, eyelash, and waxing;

(iii) cycling;

(iv) cell phone;

(v) computer;

(vi) footwear;

(vii) media archive and transfer;

(viii) pet grooming;

(ix) sewing and tailoring;

(x) small engine; and

(xi) tool.

(c) "Enclosed mobile business" does not include a food cart, a food truck, or an ice cream truck.

[~~(1)~~] (2) "Event permit" means a permit that a political subdivision issues to the organizer of a [~~public food truck event~~] mobile business event located on public property.

[~~(2)~~] (3) (a) "Food cart" means a cart:

[~~(a)~~] (i) that is not motorized; and

[~~(b)~~] (ii) that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.

(b) "Food cart" does not include an enclosed mobile business, a food truck, or an ice cream truck.

[~~(3)~~] (4) (a) "Food truck" means[~~:(a)~~] a fully encased food service establishment:

(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and

(ii) from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption[~~;~~].

(b) "Food truck" does not include an enclosed mobile business, a food cart, or an ice cream truck.

[~~(b) a food cart; or~~]

[~~(c) an ice cream truck.~~]

[~~(4) "Food truck business" means a person who operates a food truck or, under the same business, multiple food trucks.~~]

[~~(5) "Food truck event" means an event where an individual has ordered or commissioned the operation of a food truck at a private or public gathering.~~]

[~~(6) "Food truck operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the food truck business.~~]

[~~(7) "Food truck vendor" means a person who sells, cooks, or serves food or beverages from a food truck.~~]

[~~(8)~~] (5) [~~"Health department food truck permit"~~] "Health department permit" means a document that a local health department issues to authorize [~~a person to operate a food truck~~] a mobile business to operate within the jurisdiction of the local health department.

[~~(9)~~] (6) (a) "Ice cream truck" means a fully encased food service establishment:

[~~(a)~~] (i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;

[~~(b)~~] (ii) from which a vendor, from within the frame of the vehicle, serves ice cream;

[~~(c)~~] (iii) that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and

[~~(d)~~] (iv) that may stop to serve ice cream at the signal of a patron.

(b) "Ice cream truck" does not include an enclosed mobile business, a food cart, or a food truck.

[~~(10)~~] (7) "Local health department" means the same as that term is defined in Section 26A-1-102.

(8) "Mobile business" means an enclosed mobile business, a food cart, a food truck, or an ice cream truck.

(9) "Mobile business event" means an event at which a mobile business has been invited by the event organizer to offer the mobile business's goods or services at a private or public gathering.

(10) "Operator" means a person, including a vendor, who owns, manages, controls, or operates a mobile business.

(11) "Political subdivision" means:

(a) a city, town, or metro township; or

(b) a county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.

(12) (a) "Temporary mass gathering" means:

(i) an actual or reasonably anticipated assembly of 500 or more people that continues, or reasonably can be expected to continue, for two or more hours per day; or

(ii) an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks.

(b) "Temporary mass gathering" does not include an assembly of people at a location with permanent facilities designed for that specific assembly, unless the assembly is a temporary mass gathering described in Subsection [~~(12)(a)(i)~~] (15)(a)(i).

Section 2. Section 11-56-103 is amended to read:

11-56-103. Licensing -- Reciprocity -- Fees.

(1) (a) Subject to the provisions of this chapter, a political subdivision may require a [~~food truck business~~] mobile business to obtain a business license if the [~~food truck business~~] mobile business does not hold a current business license in good standing from another political subdivision in the state.

(b) A political subdivision may only charge a licensing fee to a [~~food truck business~~] mobile business in an amount that reimburses the political subdivision for the actual cost of processing the business license.

(2) A political subdivision may not:

(a) require a [~~food truck business~~] mobile business to:

(i) obtain a separate business license beyond the initial business license described in Subsection (1)(a);

(ii) pay a fee other than the fee for the initial business license described in Subsection (1); or

(iii) pay a fee for each employee the [~~food truck business~~] mobile business employs;

(b) as a condition of a [~~food truck business~~] mobile business obtaining a business license under Subsection (1):

(i) require [~~a food truck operator or food truck vendor~~] an operator to submit to or offer evidence of a criminal background check, except as provided in Subsection (5); or

(ii) require a [~~food truck operator~~] mobile business or its operator to demonstrate how the [~~operation of the food truck business~~] mobile business will comply with a land use or zoning ordinance at the time the [~~food truck business~~] mobile business applies for the business license; or

(c) regulate or restrict the size of a [~~food truck operated by a food truck business~~] mobile business.

(3) (a) A political subdivision shall recognize as valid within the political subdivision the business license of a [~~food truck business~~] mobile business obtained in another political subdivision within the state, if the business license is current and in good standing.

[~~(b) Notwithstanding Subsection (3)(a), a political subdivision is not required to recognize as valid the business license of a food truck business issued in another political subdivision within the state if the food truck business does not have the following for each food truck that the food truck business operates:~~]

[~~(i) a current health department food truck permit from a local health department within the state; and~~]

[~~(ii) a current approval of a political subdivision within the state that shows that the food truck passed a fire safety inspection that the other political subdivision conducted in accordance with Subsection 11-56-104(3)(a).~~]

(b) Notwithstanding Subsection (3)(a), a political subdivision is not required to recognize as valid the business license issued by another political subdivision within the state if:

(i) (A) the mobile business does not have a current health department permit from a local health department within the state; and

(B) the nature of the mobile business requires that the mobile business have a health department permit in order to operate; or

(ii) (A) the mobile business does not have current evidence of passing a fire safety inspection, conducted by another political subdivision within the state in accordance with Subsection 11-56-104(3)(a); and

(B) the nature of the mobile business requires that the mobile business pass a fire safety inspection in order to operate.

(4) Nothing in this section prevents a political subdivision from:

(a) requiring a [~~food truck business~~] mobile business to comply with local zoning and land use regulations to the extent that the regulations do not conflict with this chapter;

(b) promulgating local ordinances and regulations consistent with this section that address how and where a food truck or enclosed mobile business truck may operate within the political subdivision;

(c) requiring a [~~food truck business~~] mobile business to obtain an event permit in accordance with Section 11-56-105; or

(d) if the nature of the mobile business requires the mobile business to have a business license, health department permit, or fire safety inspection, requiring [~~a food truck business~~] the mobile business to keep a copy of the following in each [~~food truck operated by the food truck business~~] mobile business that is in operation and engaging in transactions:

(i) a valid business license [~~for the food truck business, as described in this section~~], whether issued by the political subdivision or another political subdivision;

(ii) a valid health department [~~food truck~~] permit, as described in Section 11-56-104, whether issued by a local health department or another health department; or

(iii) evidence of passing a fire safety inspection, as described in Section 11-56-104, whether conducted by the political subdivision or another political subdivision.

(5) As a condition of obtaining and maintaining in good standing an initial business license as described in Subsection (1)(a), a political subdivision may require a food truck business that operates one or more ice cream trucks to submit to or offer evidence of an annual criminal background check for each employee of the food truck business that operates or will operate an ice cream truck.

Section 3. Section 11-56-104 is amended to read:

11-56-104. Safety and health inspections and permits -- Fees.

(1) (a) (i) A food truck business shall obtain, for each food truck that the business operates, an annual health department [~~food truck~~] permit from the local health department [~~with~~] that has jurisdiction over the area in which the majority of the food truck's operations [~~takes place~~] occur.

(ii) Subject to Subsection (4)(a), a mobile business is not subject to a local health department's regulations or permit requirements, unless the local health department has authority to regulate the activities or services provided by the mobile business through regulation or permit.

(b) A local health department shall recognize as valid a health department [~~food truck~~] permit that has been issued by another local health department within the state.

(2) A local health department may only charge a [~~health department food truck permit fee to a food truck business~~] fee for a health department permit in an amount that reimburses the local health department for the cost of regulating the [~~food truck~~] mobile business.

(3) (a) A political subdivision inspecting a [~~food truck~~] mobile business for fire safety shall conduct the inspection based on the criteria that the Utah Fire Prevention Board, created in Section 53-7-203, establishes in accordance with Section 53-7-204.

(b) (i) A political subdivision shall recognize as valid within the political subdivision's jurisdiction an approval from another political subdivision within the state that shows that the [~~food truck~~] mobile business passed a fire safety inspection that the other political subdivision conducted.

(ii) A political subdivision may not require that a [~~food truck~~] mobile business pass a fire safety inspection in a given calendar year if the [~~food truck business~~] mobile business presents to the political subdivision an approval described in Subsection (3)(b)(i) issued during the same calendar year.

(4) (a) Nothing in this section prevents a local health department from requiring a [~~food truck business~~] mobile business to obtain an event permit, in accordance with Section 11-56-105.

(b) Nothing in this section prevents a political subdivision from revoking the political subdivision's approval:

(i) described in Subsection (1)(b), if the [~~operation of the related food truck within the political subdivision~~] mobile business fails a health inspection by a local health department; or

(ii) described in Subsection (3)(b)(i), if the [~~operation of the related food truck within the political subdivision fails to meet the criteria~~] mobile business does not pass a fire safety inspection described in Subsection (3)(a).

(c) For each [~~food truck~~] mobile business that fails a health inspection as described in Subsection

(4)(b)(i), a local health department may charge and collect a fee from the [~~associated food truck business~~] mobile business for that health inspection.

Section 4. Section 11-56-105 is amended to read:

11-56-105. Mobile business events.

(1) Subject to Subsection (4), a political subdivision may not require a [~~food truck business~~] mobile business to pay any fee or obtain from the political subdivision any permit to operate [~~a food truck at a food truck event~~] the mobile business at a mobile business event that takes place on private property within the political subdivision, regardless of whether the event is open or closed to the public.

(2) If [~~the food truck business~~] a mobile business has a business license from any political subdivision within the state, a political subdivision may not require [~~a food truck business~~] the mobile business to pay [~~any~~] a fee or obtain from the political subdivision an additional business license or permit to operate [~~a food truck at a food truck event~~] at an event that:

(a) takes place on private property within the political subdivision; and

(b) is not open to the public.

(3) If a political subdivision requires an event permit for a [~~food truck event~~] mobile business event, the organizer of the [~~food truck event~~] mobile business event may obtain the event permit on behalf of the [~~food trucks~~] mobile businesses that service the event.

(4) (a) Nothing in this section prohibits a county health department from requiring a permit for a temporary mass gathering.

(b) (i) [~~A food truck~~] A mobile business operating at a temporary mass gathering that occurs over multiple days may operate in a stationary manner for the duration of the temporary mass gathering, not to exceed five consecutive days, without moving or changing location if the [~~food truck~~] mobile business maintains sanitary conditions and operates in compliance with the permitting requirements and regulations imposed on other [~~food~~] similar vendors at the temporary mass gathering.

(ii) A county health department may not impose a requirement on a [~~food truck~~] mobile business described in Subsection (4)(b)(i) that the county health department does not impose on other [~~food vendors~~] similar vendors operating at the temporary mass gathering.

Section 5. Section 11-56-106 is amended to read:

11-56-106. Mobile business operation.

A political subdivision may not:

(1) entirely or constructively prohibit [~~food trucks~~] mobile businesses in a zone in which a food establishment is a permitted or conditional use;

(2) prohibit the operation of a food truck within a given distance of a restaurant;

(3) restrict the total number of days a [~~food truck business~~] mobile business may operate [~~a food truck~~] within the political subdivision during a calendar year;

(4) require a [~~food truck business~~] mobile business to:

(a) provide to the political subdivision:

(i) a site plan for each location in which a [~~food truck~~] mobile business operates in the public right of way, if the political subdivision permits [~~food truck operation~~] mobile businesses in the public right of way; or

(ii) the date, time, or duration that a [~~food truck~~] mobile business will operate within the political subdivision; or

(b) obtain and pay for a land use permit for each location and time during which a [~~food truck~~] mobile business operates; or

(5) if a [~~food truck business~~] mobile business has the consent of a private property owner to operate [~~a food truck~~] on the private property:

(a) limit the number of days the [~~food truck~~] mobile business may operate on the private property;

(b) require that the [~~food truck operator~~] mobile business provide to the political subdivision or keep on file in the [~~food truck~~] mobile business the private property owner's written consent; or

(c) require a site plan for the operation of the [~~food truck~~] mobile business on the private property where the [~~food truck~~] mobile business operates in the same location for less than 10 hours per week.

Section 6. Repealer.

This bill repeals:

Section 11-56-101, Title.

CHAPTER 451
S. B. 31
Passed March 2, 2023
Approved March 21, 2023
Effective March 9, 2024

STATE FLAG AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill addresses the state flag of Utah.

Highlighted Provisions:

This bill:

- establishes a new state flag of Utah;
- describes the design and meaning of the new state flag;
- designates the current state flag as the historical state flag;
- provides for the display of both flags; and
- depicts the flags in images.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

63G-1-503, Utah Code Annotated 1953

REPEALS AND REENACTS:

63G-1-501, as last amended by Laws of Utah 2021, Chapter 205

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-501 is repealed and reenacted to read:

Part 5. State Flags

63G-1-501. State flag -- Description -- Image -- Display.

(1) The state flag of Utah shall be a rectangle that has a width to length ratio of three to five and contain the following:

(a) two irregular, horizontal lines dividing the flag into three separate segments, of which:

(i) the top segment:

(A) is located above the higher horizontal line; and

(B) is shaded in blue;

(ii) the middle segment:

(A) is located between the two horizontal lines;

(B) is shaded in white;

(C) at the higher horizontal line, takes the shape of a mountain with five peaks, the center peak being the tallest and following the shape of the highest point of the hexagon described in Subsection (1)(b); and

(D) at the lower horizontal line, follows the shape of the lowest point of the hexagon described in Subsection (1)(b); and

(iii) the bottom segment:

(A) is located below the lower horizontal line; and

(B) is shaded in red;

(b) one hexagon that:

(i) is shaded in blue;

(ii) contains a smaller gold hexagon outline; and

(iii) is placed within the center of the middle segment described in Subsection (1)(a)(ii);

(c) one beehive that:

(i) is shaded in gold;

(ii) contains five hive sections with a small semicircle removed from the center of the base of the lowest section; and

(iii) is placed within the center of the hexagon described in Subsection (1)(b); and

(d) one five-pointed Utah star that:

(i) is shaded in white; and

(ii) is placed below the center of the beehive described in Subsection (1)(c).

(2) The state flag shall represent and symbolize the following:

(a) the beehive described in Subsection (1)(c) symbolizes industry, community, and the year 1847, the year in which pioneers first settled Utah;

(b) the Utah star described in Subsection (1)(d) symbolizes hope and the year 1896, the year in which Utah was admitted to statehood;

(c) the hexagon described in Subsection (1)(b) symbolizes the strength of Utah's people;

(d) the top segment described in Subsection (1)(a)(i) represents Utah's skies and symbolizes faith;

(e) the middle segment described in Subsection (1)(a)(ii) represents Utah's snowy mountains and peace, the peaks of which symbolize Utah's indigenous peoples; and

(f) the bottom segment described in Subsection (1)(a)(iii) represents the red rocks of Southern Utah and symbolizes perseverance and the state's unique landscapes.

(3) The state flag shall appear consistent with the following image:

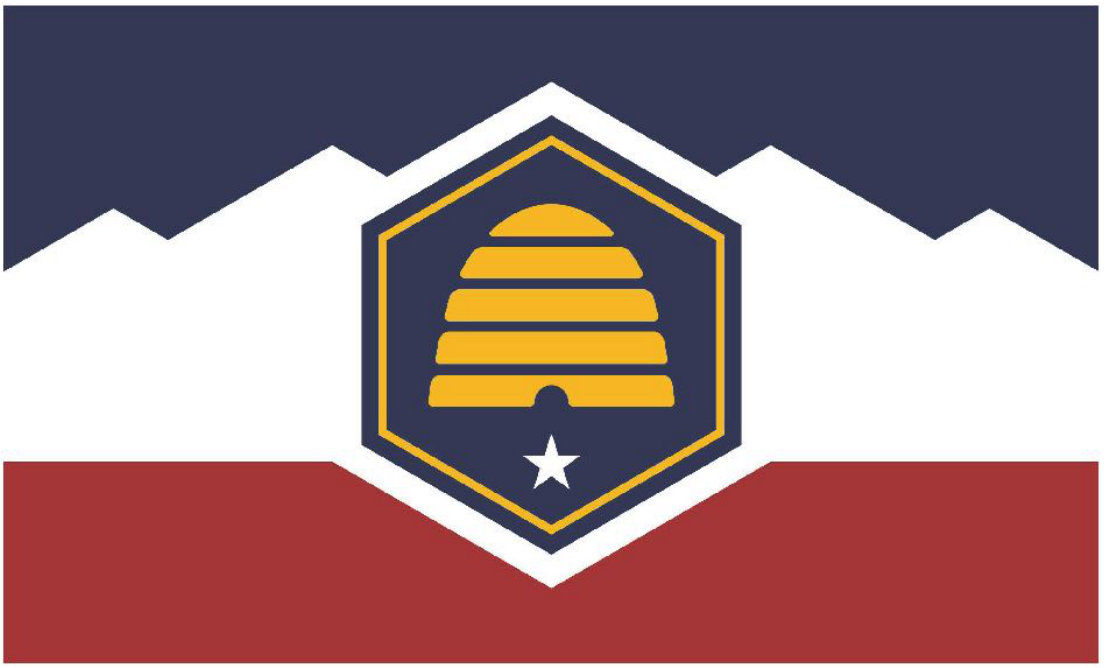

(4) The state flag shall be available in the public domain and be displayed on all occasions when the state is officially and publicly represented, with the privilege of use by all citizens upon any occasion deemed fitting and appropriate.

(5) The lieutenant governor shall establish standards and specifications for the manufacture and display of the state flag.

Section 2. Section 63G-1-503 is enacted to read:

63G-1-503. Historic state flag -- Description -- Image -- Display.

(1) The historic state flag shall be a flag of blue field, with the following device worked in natural colors on the center of the blue field:

(a) in the center a shield;

(b) above the shield and thereon an American eagle with outstretched wings;

(c) the top of the shield pierced with six arrows arranged crosswise;

(d) upon the shield under the arrows the word "Industry," and below the word "Industry" on the center of the shield, a beehive;

(e) on each side of the beehive, growing sego lilies;

(f) below the beehive and near the bottom of the shield, the word "Utah";

(g) below the word "Utah" and on the bottom of the shield, the figures "1847";

(h) behind the shield, there shall be two American flags on flagstaffs placed crosswise with the flags so draped to project beyond each side of the shield, the heads of the flagstaffs appearing in front of the eagle's wings and the bottom of each staff appearing over the face of the draped flag below the shield;

(i) below the shield and flags and upon the blue field, the figures "1896"; and

(j) around the entire design, a narrow circle in gold.

(2) The historic state flag shall appear consistent with any of the following three images:

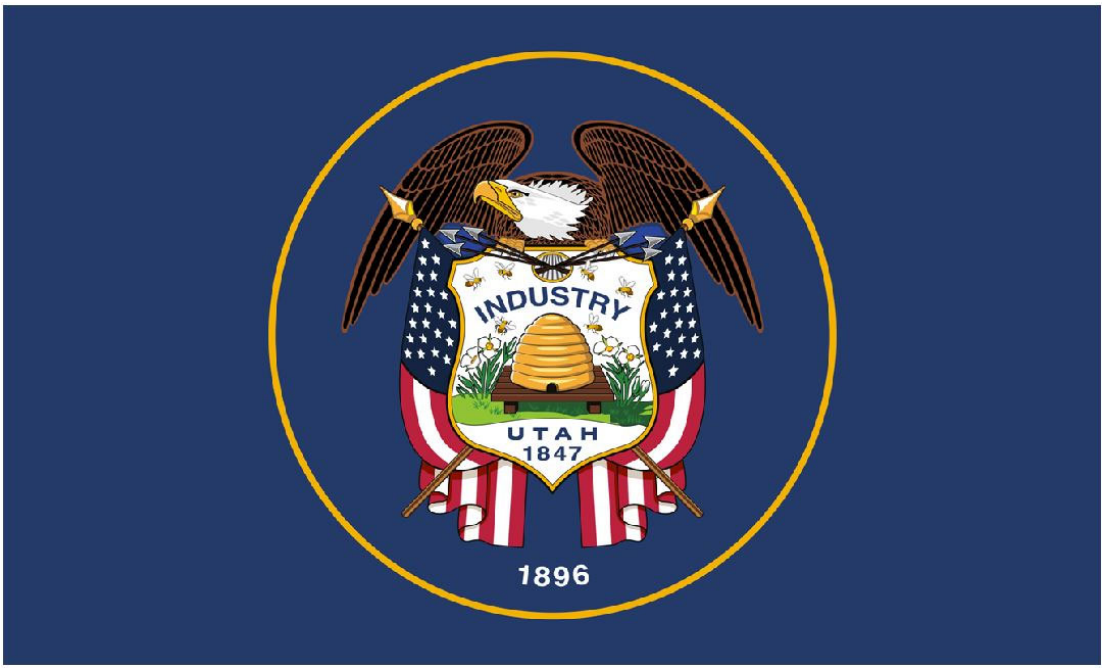
INDUSTRY
UTAH
1847
1896

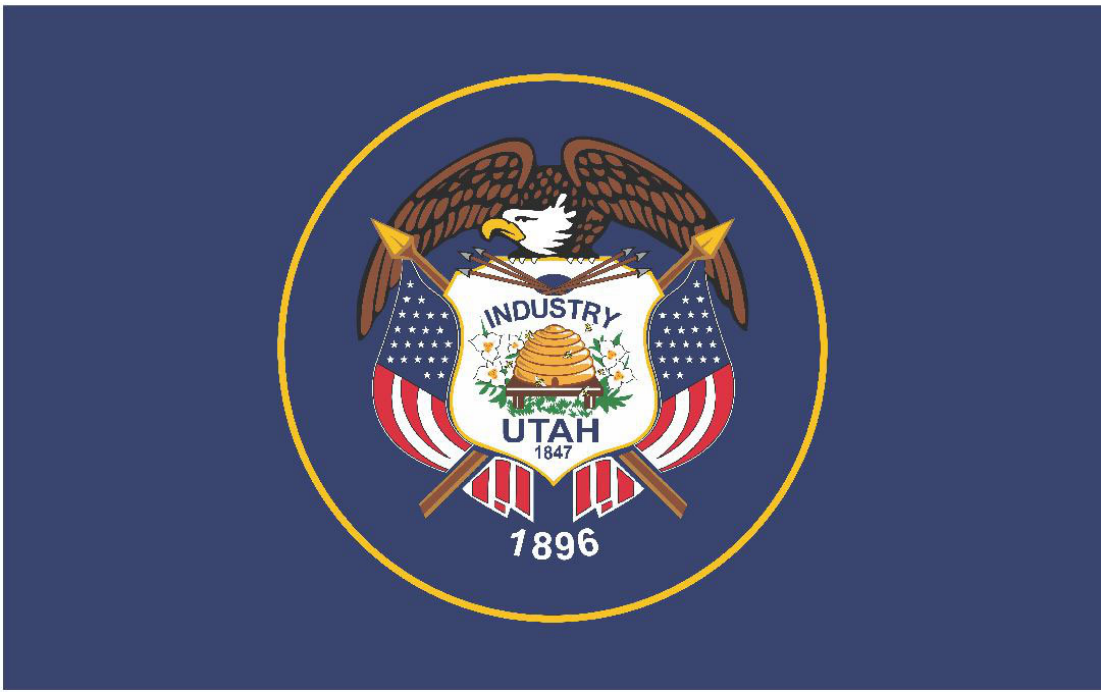
INDUSTRY
UTAH
1847
1896

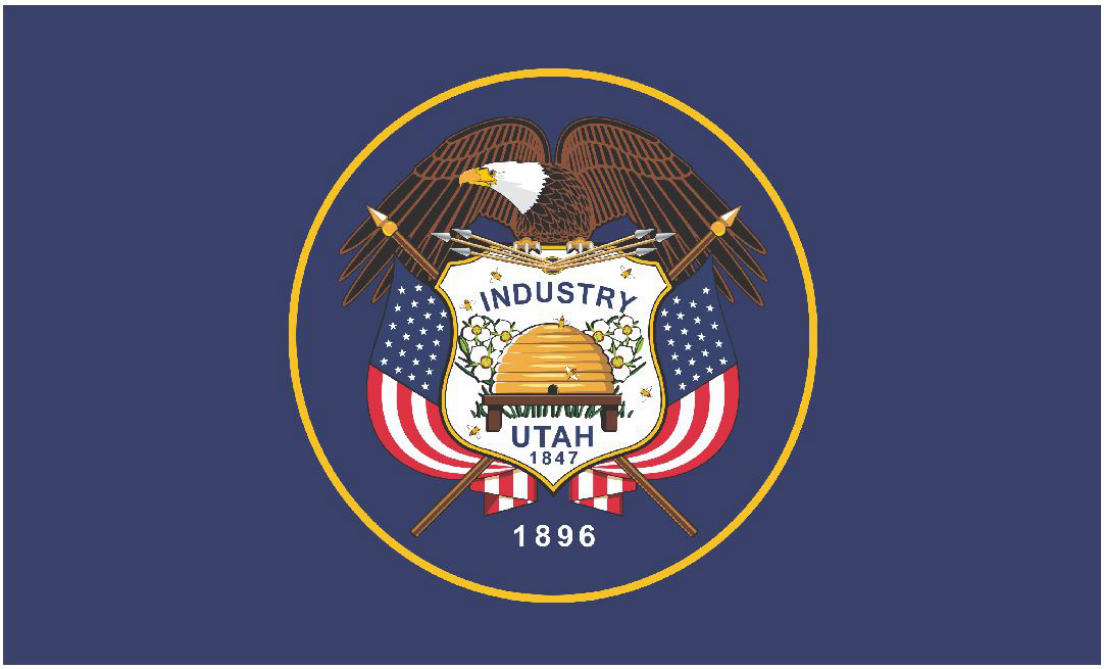
INDUSTRY
UTAH
1847
1896

(3) All citizens maintain the right to use the historic state flag upon any occasion deemed fitting and appropriate.

(4) The lieutenant governor shall establish standards and specifications for the manufacture and display of the historic state flag.

(5) The historic state flag shall be displayed:

(a) on state property during legal holidays described in Section 63G-1-301, as deemed appropriate by the governor; and

(b) on the capitol hill complex, as defined in Section 63C-9-102, during the annual general session of the Legislature.

(6) (a) The historic state flag may be displayed on state property for ceremonial purposes, so long as the flag is serviceable.

(b) The historic state flag shall be replaced by the state flag of Utah, as described in Section 63G-1-501, when the historic state flag is not displayed for ceremonial purposes.

(c) When displaying the historic state flag on public grounds in any location where the state flag of Utah, as described in Section 63G-1-501, is also displayed, the governmental entity responsible for the display of the flags shall ensure that the historic state flag is displayed beneath the state flag of Utah.

Section 3. Effective date.

This bill takes effect on March 9, 2024.

CHAPTER 452
S. B. 124
Passed March 1, 2023
Approved March 21, 2023
Effective May 3, 2023

LAW ENFORCEMENT OFFICER AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses provisions related to law enforcement officers.

Highlighted Provisions:

This bill:

- defines terms;
- amends the requirements regarding when an out-of-state law enforcement officer may respond to an emergency or a request for assistance in this state;
- authorizes the Peace Officer Standards and Training Division to discipline a chief executive who fails to report misconduct;
- addresses law enforcement officer employment and background checks;
- requires a law enforcement agency to use an early intervention system to determine law enforcement officer performance under certain circumstances;
- creates the Early Intervention System Grant Program; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2024:

- To the Department of Public Safety – Programs and Operations, as a one-time appropriation:
  - from the General Fund, One-time, $3,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-203.5, as enacted by Laws of Utah 2003, Chapter 38
53-2a-506, as renumbered and amended by Laws of Utah 2013, Chapter 295
53-6-211, as last amended by Laws of Utah 2021, Chapters 96, 311
53-14-101, as last amended by Laws of Utah 2021, Chapter 311
63G-7-201, as last amended by Laws of Utah 2021, Chapter 352

ENACTS:

53-14-102, Utah Code Annotated 1953
53-14-103, Utah Code Annotated 1953
53-14-201, Utah Code Annotated 1953
53-14-202, Utah Code Annotated 1953
53-14-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-203.5 is amended to read:

11-13-203.5. Powers, immunities, and privileges of law enforcement officers under an agreement for law enforcement -- Requirements for out-of-state officers.

(1) While performing duties under an agreement for law enforcement services under Subsection 11-13-202(1)(d), whether inside or outside the law enforcement officer's own jurisdiction, each law enforcement officer shall possess:

(a) all law enforcement powers that the officer possesses within the officer's own jurisdiction, including the power to arrest; and

(b) the same immunities and privileges as if the duties were performed within the officer's own jurisdiction.

(2) [~~Each~~] Except as provided in Subsection (3), an agreement between a [~~Utah~~] public agency in this state and an out-of-state public agency [~~under Subsection 11-13-202(1)(d)~~] providing for reciprocal law enforcement services under Subsection 11-13-202(1)(d) shall require each [~~person~~] individual from the [~~other state~~] out-of-state public agency assigned to law enforcement duty in this state:

(a) to be certified as a peace officer in the state of the out-of-state public agency; and

(b) to apply to the Peace Officer Standards and Training Council, created in Section 53-6-106, for recognition before undertaking duties in this state under the agreement.

(3) The requirements under Subsection (2)(b) do not apply to an agreement between a public agency of this state and an out-of-state public agency to provide reciprocal law enforcement services under Subsection 11-13-202(1)(d) if the agreement:

(a) only provides for aid or assistance to be given by an out-of-state peace officer to a peace officer of this state:

(i) during an emergency; or

(ii) when aid or assistance is requested by the public agency of this state; and

(b) does not include a provision allowing an out-of-state officer to be regularly assigned to law enforcement duties in this state.

Section 2. Section 53-2a-506 is amended to read:

53-2a-506. Privileges and immunities of emergency responders.

(1) [~~Any~~] An emergency responder from another state who enters into this state has the same authority to act as an emergency responder of this state while:

(a) responding to an emergency [~~has the same authority to act~~], including providing care[~~, as does any emergency responder of this state~~]; or

(b) providing aid or assistance at the request of a public agency in this state.

(2) All privileges and immunities from liability, exemption from law, ordinances, and rules, and any other benefits, which apply to an emergency responder while performing duties in the responder's state of residence or state of employment as a responder, apply when the emergency responder is acting as an emergency responder in [~~Utah~~] this state.

Section 3. Section 53-6-211 is amended to read:

53-6-211. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting -- Judicial appeal.

(1) The council has the authority to issue a Letter of Caution, or suspend or revoke the certification of a peace officer, if the peace officer:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the peace officer's ability to perform duties;

(c) engages in conduct constituting a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(d) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning issued based on Garrity v. New Jersey, 385 U.S. 493 (1967);

(e) engages in sexual conduct while on duty;

(f) is certified as a law enforcement peace officer, as defined in Section 53-13-102, and is unable to possess a firearm under state or federal law;

(g) is found by a court or by a law enforcement agency to have knowingly engaged in conduct that involves dishonesty or deception in violation of a policy of the peace officer's employer or in violation of a state or federal law; [~~or~~]

(h) is found by a court or by a law enforcement agency to have knowingly engaged in biased or prejudicial conduct against one or more individuals based on the individual's race, color, sex, pregnancy, age, religion, national origin, disability, sexual orientation, or gender identity; or

(i) is a chief, sheriff, or administrative officer of a law enforcement agency and fails to comply with Subsection (6).

(2) The council may not issue a Letter of Caution or suspend or revoke the certification of a peace officer for a violation of state or federal law or a violation of a law enforcement agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3) (a) The division is responsible for investigating officers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the peace officer involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d) (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a peace officer asserts an affirmative defense, the peace officer has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the officer engaged in conduct that is in violation of Subsection (1), the division shall present the finding and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the chief, sheriff, or administrative officer of the police agency which employs the involved peace officer of the investigation and shall provide any information or comments concerning the peace officer received from that agency regarding the peace officer to the council before a Letter of Caution is issued, or a peace officer's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the officer is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4) (a) The council shall:

(i) accept the administrative law judge's findings of fact and conclusions of law, and the information concerning the peace officer provided by the officer's employing agency; and

(ii) choose whether to issue a Letter of Caution, or suspend or revoke the officer's certification.

(b) Before making a decision, the council may consider aggravating and mitigating circumstances.

(c) A member of the council shall recuse him or herself from consideration of an issue that is before the council if the council member:

(i) has a personal bias for or against the officer;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same law enforcement agency as the officer whose case is before the council.

(5) (a) Termination of a peace officer, whether voluntary or involuntary, does not preclude

suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a peace officer by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(6) (a) A chief, sheriff, or administrative officer of a law enforcement agency who is made aware of an allegation against a peace officer employed by that agency that involves conduct in violation of [~~Subsection (1)~~] Subsections (1)(a) through (h) shall conduct an administrative or internal investigation into the allegation and report the findings of the investigation to the division if the allegation is substantiated.

(b) If a peace officer who is the subject of an internal or administrative investigation into allegations that include any of the conditions or circumstances outlined in [~~Subsection (1)~~] Subsections (1)(a) through (h) resigns, retires, or otherwise separates from the investigating law enforcement agency before the conclusion of the investigation, the chief, sheriff, or administrative officer of that law enforcement agency shall complete the investigation and report the findings to the division.

(7) The council's issuance of a Letter of Caution, or suspension or revocation of an officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4, Judicial Review.

Section 4. Section 53-14-101 is amended to read:

CHAPTER 14. PEACE OFFICER INFORMATION

Part 1. Peace Officer Background Checks

53-14-101. Definitions.

[~~(1)~~] As used in this [~~section~~] part:

[~~(a)~~] (1) "Director" means the director of a [~~certified law enforcement officer~~] training academy.

[~~(b)~~] (2) "Employer" [~~includes~~] means a public employer [~~and a~~] or private employer [~~and includes the human resource officer for the employer~~].

(3) "POST" means the Peace Officer Standards and Training Division created in Section 53-6-103.

[~~(c) "Law enforcement agency" has the same definition as in Section 53-1-102.~~]

[~~(d) "Law enforcement officer" has the same definition as in Section 53-13-103, and includes those officers in administrative positions.~~]

[~~(e)~~] (4) "Training academy" means a peace officer training institution certified in accordance with the standards developed under Section 53-6-105.

[~~(2) A current or former employer and the director of any training academy an applicant has attended or graduated from shall provide all available information in accordance with this section regarding an applicant if the request complies with Subsection (3) and is submitted by:~~]

[~~(a) a law enforcement agency regarding an applicant for an employment position; or~~]

[~~(b) the director of a law enforcement training academy for which the applicant requests admission under Section 53-6-203.~~]

[~~(3) The request for information pursuant to Subsection (2) shall be:~~]

[~~(a) in writing;~~]

[~~(b) accompanied by an authorization signed by the applicant and notarized by a notary public, in which the applicant consents to the release of the requested information and releases the employer or training academy providing the information from liability; and~~]

[~~(c) addressed to the employer or director and signed by a sworn officer or other authorized representative of the requesting law enforcement agency or the academy.~~]

[~~(4) The information that a law enforcement agency or the director of an academy shall request pursuant to Subsection (2) includes:~~]

[~~(a) the date on which the applicant's employment commenced and, if applicable, the date on which applicant's employment was terminated;~~]

[~~(b) a list of the compensation that the employer provided to the applicant during the course of the employment;~~]

[~~(c) a copy of the application for a position of employment that the applicant submitted to the employer;~~]

[~~(d) a written evaluation of the performance of the applicant;~~]

[~~(e) a record of the attendance of the applicant;~~]

[~~(f) a record of disciplinary action taken against the applicant;~~]

[~~(g) a statement regarding whether the employer would rehire the applicant and, if the employer would not rehire the applicant, the reasons why;~~]

[~~(h) if applicable, a record setting forth the reason that the employment of the applicant was terminated and whether the termination was voluntary or involuntary;~~]

[~~(i) the record of any final action regarding an applicant's peace officer certification that is based on an investigation concerning the applicant's qualification for certification; and~~]

[~~(j) notice of any pending or ongoing investigation regarding the applicant's certification as a peace officer.~~]

[~~(5) (a) In the absence of fraud or malice, an employer or training academy is not subject to any civil liability for any relevant cause of action by releasing employment information requested under this section.~~]

[~~(b) This section does not in any way or manner abrogate or lessen the existing common law or statutory privileges and immunities of an employer.~~]

[~~(c) An employer or training academy may not provide information pursuant to Subsection (2) if the disclosure of the information is prohibited pursuant to federal or state law.~~]

[~~(6) An employer's refusal to disclose information to a law enforcement agency in accordance with this section constitutes grounds for a civil action by the requesting agency for injunctive relief requiring disclosure on the part of an employer.~~]

[~~(7) (a) (i) A law enforcement agency may use the information received pursuant to this section only to determine the suitability of an applicant for employment.~~]

[~~(ii) A director may use the information received pursuant to this section only to determine the suitability of an applicant for acceptance at the training academy.~~]

[~~(b) Except as otherwise provided in Subsection (7)(c), the recipient law enforcement agency and director shall maintain the confidentiality of information received pursuant to this section.~~]

[~~(c) (i) A law enforcement agency shall share information regarding an applicant that it receives pursuant to this section with another law enforcement agency if:~~]

[~~(A) the information is requested by the other law enforcement agency in accordance with this section;~~]

[~~(B) the applicant is also an applicant for any employment position with the other law enforcement agency; and~~]

[~~(C) the confidentiality of the information is otherwise maintained.~~]

[~~(ii) A director shall share information regarding an applicant that is received pursuant to this section with another training academy if:~~]

[~~(A) the information is requested by the other training academy in accordance with this section;~~]

[~~(B) the applicant is an applicant for acceptance at the other training academy; and~~]

[~~(C) the confidentiality of the information is otherwise maintained.~~]

[~~(iii) A director shall share information regarding an applicant, attendee, or graduate of a training academy that is received pursuant to this section with a law enforcement agency if:~~]

[~~(A) the information is requested by the law enforcement agency in accordance with this section;~~]

[~~(B) the applicant is applying for a position as a peace officer with the law enforcement agency; and~~]

[~~(C) the confidentiality of the information is otherwise maintained.~~]

[~~(8) This section applies to requests submitted to employers on and after July 1, 2020 for employment information under this section.~~]

Section 5. Section 53-14-102 is enacted to read:

53-14-102. Background check for peace officer applicants.

A law enforcement agency may not employ a peace officer who is currently working, or has previously worked, for another law enforcement agency unless the hiring law enforcement agency:

(1) confirms that the peace officer is certified by POST or another comparable certifying agency if the peace officer is currently employed, or has previously been employed, by a law enforcement agency in a different state; and

(2) completes a background check that contains the information outlined in Subsection 53-14-103(3).

Section 6. Section 53-14-103 is enacted to read:

53-14-103. Law enforcement and training academy applicants -- Employer background information -- Information required upon request.

(1) Except as provided in Subsection (4), an employer or director shall provide available information regarding an individual in accordance with this section if the request for the information:

(a) complies with Subsection (2); and

(b) is submitted by:

(i) if the individual is applying for employment, a law enforcement agency; or

(ii) if the individual is applying for admission under Section 53-6-203 to a training academy, the director.

(2) A law enforcement agency or director requesting information under Subsection (1) shall:

(a) make the request in writing;

(b) include with the request:

(i) an authorization signed by the applicant and notarized by a notary public, in which the applicant consents to the release of the requested information and releases the employer or training academy providing the information from liability; and

(ii) a signature by a sworn officer or other authorized representative of the requesting law enforcement agency or the academy; and

(c) address the request to the employer or director.

(3) A law enforcement agency or director requesting information under Subsection (1) shall request:

(a) the date on which the applicant's employment commenced and, if applicable, the date on which the applicant's employment was terminated;

(b) a list of the compensation that the employer provided to the applicant during the course of the employment;

(c) a copy of the application for a position of employment that the applicant submitted to the employer;

(d) a written evaluation of the performance of the applicant;

(e) an attendance record of the applicant noting disciplinary action taken due to the applicant being late or absent without permission;

(f) a record of disciplinary action taken against the applicant;

(g) a statement regarding whether the employer would rehire the applicant and, if the employer would not rehire the applicant, the reasons why;

(h) if applicable, a record setting forth the reason that the employment of the applicant was terminated and whether the termination was voluntary or involuntary;

(i) the record of any final action regarding an applicant's peace officer certification that is based on an investigation concerning the applicant's qualification for certification; and

(j) notice of any pending or ongoing investigation regarding the applicant's certification as a peace officer.

(4) (a) In the absence of fraud or malice, an employer or training academy is not subject to any civil liability for any relevant cause of action by releasing employment information requested under this section.

(b) This section does not abrogate or lessen the existing common law or statutory privileges and immunities of an employer.

(c) An employer or training academy may not provide information under this section if the disclosure of the information is prohibited under federal or state law.

(5) An employer's refusal to make available information to a law enforcement agency in accordance with this section is grounds for a civil action by the requesting agency for injunctive relief requiring disclosure on the part of the employer.

(6) (a) (i) A law enforcement agency may use the information received under this section to determine the suitability of an applicant for employment.

(ii) A director may use the information received under this section to determine the suitability of an applicant for acceptance at the training academy.

(b) Except as provided in Subsection (6)(c), the recipient law enforcement agency and director shall maintain the confidentiality of information received under this section.

(c) (i) A law enforcement agency shall share information regarding an applicant that the law enforcement agency is in possession of with another law enforcement agency if:

(A) the information is requested by the other law enforcement agency in accordance with this section;

(B) the applicant is also an applicant for any employment position with the other law enforcement agency; and

(C) the confidentiality of the information is otherwise maintained.

(ii) A director shall share information regarding an applicant that is received under this section with another training academy if:

(A) the information is requested by the other training academy in accordance with this section;

(B) the applicant is an applicant for acceptance at the other training academy; and

(C) the confidentiality of the information is otherwise maintained.

(iii) A director shall share information regarding an applicant, attendee, or graduate of a training academy that is received under this section with a law enforcement agency if:

(A) the information is requested by the law enforcement agency in accordance with this section;

(B) the applicant is applying for a position as a peace officer with the law enforcement agency; and

(C) the confidentiality of the information is otherwise maintained.

Section 7. Section 53-14-201 is enacted to read:

Part 2. Law Enforcement Early Intervention

53-14-201. Definitions.

As used in this part:

(1) "Early intervention system" means an electronic data-based police management tool designed to track behaviors of a law enforcement officer based on performance factors.

(2) "Grant" means a grant awarded under this part.

(3) "Program" means the Early Intervention Grant Program created in section 53-14-203.

Section 8. Section 53-14-202 is enacted to read:

53-14-202. Early intervention system implementation.

(1) On or before January 1, 2025, a law enforcement agency shall use an early intervention system.

(2) Information contained in an early intervention system is part of a law enforcement officer's internal personnel file and may only be shared in accordance with Section 53-14-103.

(3) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the minimum standards that an early intervention system is required to meet in order for a law enforcement agency to comply with Subsection (1).

Section 9. Section 53-14-203 is enacted to read:

53-14-203. Early Intervention System Grant Program.

(1) (a) There is created within the department the Early Intervention System Grant Program.

(b) The purpose of the program is to award grants to law enforcement agencies to initially establish an early intervention system.

(2) (a) A law enforcement agency that submits a proposal for a grant to the department shall include in the proposal:

(i) the plan for establishing and cost of an early intervention system;

(ii) a statement that the early intervention system to be established complies with the standards under Subsection 53-14-202(3);

(iii) any funding sources in addition to the grant for the proposal; and

(iv) other information the department determines necessary to evaluate the proposal.

(b) When evaluating a proposal for a grant, the department shall consider:

(i) whether the proposed early intervention system meets the standards under Subsection 53-14-202(3);

(ii) the cost of the proposal;

(iii) the extent to which additional funding sources may benefit the proposal; and

(iv) the viability and sustainability of the proposal.

(3) Subject to Subsection (2), the department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:

(a) eligibility criteria for a grant;

(b) the form and process for submitting a proposal to the department for a grant;

(c) the method and formula for determining a grant amount; and

(d) reporting requirements for a grant recipient.

Section 10. Section 63G-7-201 is amended to read:

63G-7-201. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is

not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity;

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road; or

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section [~~53-14-101~~] 53-14-103.

Section 11. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Public Safety - Programs and Operations

From General Fund, One-time 3,000,000

Schedule of Programs:

Highway Patrol - Special Services 3,000,000

The Legislature intends that:

(1) the appropriation under this item be used to award grants over a three-year period under Title 53, Chapter 14, Part 2, Law Enforcement Early Intervention; and

(2) under Section 63J-1-603, the appropriation under this item not lapse at the close of fiscal year 2024 and the use of any nonlapsing funds is limited to the purposes described in Subsection (1) of this item.

CHAPTER 453
S. B. 128
Passed March 2, 2023
Approved March 21, 2023
Effective May 3, 2023

PUBLIC SAFETY OFFICER SCHOLARSHIP PROGRAM

Chief Sponsor: Don L. Ipson
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill enacts a public safety officer scholarship program for high school students entering into a law enforcement career.

Highlighted Provisions:

This bill:

- defines terms;
- creates a public safety officer scholarship program for high school graduates who:
  - enroll in a law enforcement agency cadet program;
  - seek a degree in a post-secondary program; and
  - after Peace Officer Standards and Training (POST) certification, commit to a peace officer career of a certain duration;
- establishes application and work requirement processes;
- allows for the Utah Board of Higher Education (board) to determine qualifying programs;
- requires a scholarship recipient to report certification and employment statuses to the board;
- requires the POST Division to report employment status changes to the board;
- provides for repayment of scholarship funds in the case of a failure to meet program requirements under certain circumstances;
- allows the board to use up to a certain percentage of appropriated funds for administering the program;
- grants the board rulemaking authority;
- amends board requirements to create a pathway plan for high school students interested in law enforcement; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Utah Board of Higher Education -- Student Assistance, as a one-time appropriation:
  - from Income Tax Fund, One-time $5,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-209, as last amended by Laws of Utah 2021, Chapter 311
53B-8-112, as last amended by Laws of Utah 2022, Chapters 370, 456
53B-10-106, as enacted by Laws of Utah 2022, Chapter 370

ENACTS:

53B-8-112.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-6-209 is amended to read:

53-6-209. Termination of employment -- Change of status form.

(1) When a peace officer's employment terminates, the employing agency shall submit a change of status form noting the termination of the peace officer to the division.

(2) The change of status form shall:

(a) be completed and submitted within 30 days [~~of the peace officer's termination date~~] after the day on which the peace officer's employment terminates;

(b) identify the circumstances of the peace officer's status change by indicating that the peace officer has resigned, retired, terminated, transferred, is deceased, or that the peace officer's name has changed;

(c) indicate the effective date of action; and

(d) indicate the name of the new employer, if the status change is due to a transfer.

(3) If a peace officer's employment terminates during an open internal investigation regarding that peace officer and involving an alleged violation of Subsection 53-6-211(1), the employing agency shall:

(a) notify the division of the investigation in accordance with Subsection 53-6-211(6) within 30 days [~~of the peace officer's termination date~~] after the day on which the peace officer's employment terminates; and

(b) provide a reasonable estimated date of completion for the investigation.

(4) (a) If an employing agency receives credible allegations and opens an internal investigation within two years after [~~a peace officer's employment has been terminated~~] the day on which a peace officer's employment terminates, the employing agency shall:

(i) notify the division within 30 days [~~of the date of the opening of the~~] after the day on which the employing agency opens the investigation; and

(ii) provide a reasonable estimated date of completion for the investigation.

(b) If the allegations described in Subsection (4)(a) involve alleged violations of Subsection 53-6-211(1), the agency shall report the allegations

to the division in accordance with Subsection 53-6-211(6), regardless of whether [~~or not~~] the employing agency opens an internal investigation.

(5) (a) Any person or agency who intentionally falsifies, misrepresents, or fails to give notice of the change of status of a peace officer is liable to the division for any damages that [~~may be sustained by~~] the failure to make the notification[~~.~~] causes.

(b) The division shall provide the change of status form described in this section to the Utah Board of Higher Education within 30 days after the day on which the division receives a notice of termination if the relevant peace officer has received a Karen Mayne Public Safety Officer Scholarship as described in Section 53B-8-112.5.

Section 2. Section 53B-8-112 is amended to read:

53B-8-112. Public Safety Officer Career Advancement Grant Program.

(1) [~~The~~] This section creates the Public Safety Officer Career Advancement Grant Program [~~is created~~].

(2) Subject to legislative appropriations and Subsection [~~(6)~~] (7), the board shall award a grant to an applicant who:

(a) is a certified peace officer, currently employed by a law enforcement agency within the state; and

(b) is seeking a post-secondary degree in the area of criminal justice from a [~~credit-granting higher education institution~~] degree-granting institution of higher education within the state system of higher education, described in Section 53B-1-102.

(3) (a) Subject to Subsection (3)(b), the board may award a qualified applicant up to the cost of tuition and fees.

(b) A grant award under Subsection (3)(a) is limited to:

(i) a maximum of $5,000 each academic year; and

(ii) a maximum of four academic years.

(4) The board shall design the program to [~~use a packaging approach that ensures~~] ensure that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

(5) Notwithstanding Subsection (4), the board may not award a scholarship described in Section 53B-8-112.5 to an applicant receiving a grant under this section.

[~~(5)~~] (6) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving grant applications and supporting documentation; and

(ii) establish the application process and an appeal process for the Public Safety Officer Career Advancement Grant Program.

(b) The board shall include a disclosure on all applications and related materials that the amount of the awarded grants may be subject to funding or be reduced, in accordance with Subsection [~~(6).~~] (7).

[~~(6)~~] (7) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Income Tax Fund to the board for the costs associated with the Public Safety Officer Career Advancement Grant Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the Public Safety Officer Career Advancement Grant Program, the board may:

(i) reduce the amount of a grant; or

(ii) distribute grants on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

(8) Notwithstanding Subsection 53B-8-112.5(5), the board may not award a grant under this section to an applicant receiving a scholarship under the Karen Mayne Public Safety Officer Scholarship Program described in Section 53B-8-112.5.

Section 3. Section 53B-8-112.5 is enacted to read:

53B-8-112.5. Karen Mayne Public Safety Officer Scholarship Program.

(1) As used in this section:

(a) "Peace officer" means the same as that term is defined in Section 53B-8c-102.

(b) "POST" means the Peace Officer Standards and Training Division created in Section 53-6-103.

(c) "Program" means the Karen Mayne Public Safety Officer Scholarship Program that this section creates.

(2) This section creates the Karen Mayne Public Safety Officer Scholarship Program.

(3) (a) Subject to legislative appropriations, the board shall award a scholarship to a qualified applicant who:

(i) is a high school graduate;

(ii) submits an application to the board with a copy of the student's high school diploma;

(iii) when eligible, enrolls in a basic training course at a state certified academy as defined in Section 53-6-202;

(iv) subject to Subsection (3)(b), is enrolled in a qualifying post-secondary program from:

(A) an institution of higher education within the state system of higher education, described in Section 53B-1-102; or

(B) a private, nonprofit institution of higher education in the state that is accredited by the Northwest Commission on Colleges and Universities; and

(v) commits to working as a peace officer for no less than five years after the day on which POST certifies the scholarship recipient.

(b) For purposes of Subsection (3)(a)(iv), the board shall determine the programs that qualify for a scholarship award, including criminal justice, police administration, criminology, social sciences, and other disciplines.

(4) (a) The board shall determine the amount of a scholarship award, ensuring that the amount does not exceed the combined cost of tuition, fees, and required textbooks.

(b) A scholarship award described in Subsection (4)(a) is limited to:

(i) POST training and certification in accordance with Title 53, Chapter 6, Peace Officer Standards and Training Act; and

(ii) a maximum of four academic years in a post-secondary program.

(5) The board shall design the scholarship program to ensure that participating institutions combine state or federal loans or grants, internships, student employment, and family and individual contributions toward financing the cost of attendance.

(6) A scholarship recipient shall:

(a) notify the board of the scholarship recipient's POST certification within 15 days after the day on which POST certifies the scholarship recipient;

(b) submit verification of the scholarship recipient's employment to the board within 15 days after the day on which the scholarship recipient is employed as a peace officer, including:

(i) the employer's name, address, and telephone number;

(ii) the date of the scholarship recipient's hiring; and

(iii) the scholarship recipient's job title; and

(c) notify the board within 15 days after the day on which the employer terminates the scholarship recipient.

(7) (a) The board may require a scholarship recipient to repay the full amount of the scholarship award that the scholarship recipient received under the program, including money paid for tuition, fees, and required textbooks, if the scholarship recipient fails to:

(i) meet the requirements for POST certification as described in Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act;

(ii) work as a peace officer for five years after the day on which POST certifies the scholarship recipient; or

(iii) subject to Subsection (3), earn a degree in a post-secondary program.

(b) Notwithstanding Subsection (7)(a), a scholarship recipient is not required to repay any amount of the scholarship award if the scholarship recipient:

(i) is unable to secure employment as a peace officer within 12 months after the day on which the scholarship recipient is POST certified; and

(ii) provides documentation from a prospective employer that the scholarship recipient was not extended an offer of employment.

(8) The board may use up to 2% of the money appropriated for the scholarship program for administrative costs.

(9) (a) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving scholarship applications and supporting documentation;

(ii) establish an application process and appeal process for the program;

(iii) establish policies and procedures for cancellation or repayment of scholarship awards if the scholarship recipient fails to meet the requirements under this section;

(iv) collaborate with POST and other law enforcement and correction agencies to provide high school students information on law enforcement careers; and

(v) notify POST when a student receives a scholarship under the program.

(b) The board shall include a disclosure on all applications and materials related to the program that the amount of the awarded scholarship may be subject to funding availability or reduction in accordance with Subsection (10).

(10) If an appropriation under this section is insufficient to cover the costs associated with the program, the board may:

(a) reduce the amount of a scholarship award; and

(b) distribute scholarship awards on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

Section 4. Section 53B-10-106 is amended to read:

53B-10-106. Pathways development.

(1) The board shall develop and implement a plan that creates clear educational pathways:

(a) from a technical college described in Subsection 53B-1-102(1)(b) to [~~an~~] a degree-granting institution; [~~and~~]

(b) in course work leading to a qualifying [~~degree~~] job or a qualifying [~~job~~] degree as described in Section 53B-10-203[~~.~~]; and

(c) for high schools that offer criminal justice or protective services pathways programs, including information on:

(i) available concurrent enrollment classes in subjects described in Section 53B-8-112.5; and

(ii) scholarship opportunities for careers as peace officers as defined in Section 53B-8c-102.

(2) The plan shall maximize efficiencies in transferring [~~cared~~] earned credit and help align academic programs with workforce needs.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules necessary to establish a plan described in this section.

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Board of Higher Education Student Assistance

From Income Tax Fund, One-time	5,000,000

Schedule of Programs:

Karen Mayne Public Safety Officer Scholarship Program	5,000,000

Under Section 63J-1-603, the Legislature intends that appropriations provided in this section not lapse at the end of fiscal year 2024. The use of any nonlapsing funds is limited to the Karen Mayne Public Safety Officer Scholarship Program.

CHAPTER 454
S. B. 132
Passed February 24, 2023
Approved March 21, 2023
Effective May 3, 2023

DRIVING PRIVILEGE CARD FINGERPRINTING REQUIREMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill allows an approved private fingerprint vendor to take and submit digital fingerprint scans and a photograph of an applicant to the Bureau of Criminal Identification for driving privilege card purposes.

Highlighted Provisions:

This bill:

- allows a private fingerprint vendor to request approval from the Driver License Division to take digital fingerprint scans of an applicant for purposes of a driving privilege card application;
- requires the Driver License Division to review a request from a private vendor and authorize the vendor to provide finger printing services for driving privilege card application purposes;
- allows an approved fingerprint vendor to take digital fingerprint scans and a photograph and submit the scans to the Bureau of Criminal Identification for purposes of a driving privilege card application;
- requires the Driver License Division to create and maintain a list of approved fingerprint vendors on the Driver License Division's website; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-205, as last amended by Laws of Utah 2022, Chapter 46
53-3-205.5, as last amended by Laws of Utah 2016, Chapter 29

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for an original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months after the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months after the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application for a commercial class A, B, or C license entitles the applicant to:

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(18);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(19) within six months after the date of application;

(c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months after the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state

resident pays the fee provided in Subsection 53-3-105(19).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class D license expires on the birth date of the applicant in the eighth year after the year the license certificate was issued.

(ii) An original provisional class D license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(iii) Except as provided in Subsection (7)(f), a limited term class D license expires on the birth date of the applicant in the fifth year the license certificate was issued.

(b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a license expires on the birth date of the licensee in the eighth year after the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and an endorsement to the regular license certificate held by an individual described in Subsection (7)(e)(ii), that expires during the time period the individual is stationed outside of the state, is valid until 90 days after the individual's orders are terminated, the individual is discharged, or the individual's assignment is changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to an individual:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, an applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's sex;

(D) (I) documentary evidence of the applicant's valid social security number;

(II) written proof that the applicant is ineligible to receive a social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for an individual who:

(Aa) does not qualify for a social security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints, or a fingerprint confirmation form described in Subsection 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5 if the applicant is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that the applicant is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had a license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had a license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Unless the applicant provides acceptable verification of homelessness as described in rules made by the division, an applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) An applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on the division's computerized records an applicant's:

(i) (A) social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of an applicant's name, birth date, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application is treated as an original application; and

(ii) license and endorsement fees is assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from an applicant previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license is accompanied by the additional fee or fees specified in Section 53-3-105.

(13) An individual who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) An applicant who applies for an original license or renewal of a license agrees that the individual's license is subject to a suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all applicants who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of Corrections, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(18) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(19) An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(20) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(21) (a) An applicant who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the applicant:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of an individual described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for an individual to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 2. Section 53-3-205.5 is amended to read:

53-3-205.5. Fingerprint and photograph submission requirements for driving privilege card applicants and cardholders -- Approved private fingerprint vendor requests -- Division approval of a vendor.

(1) (a) Every applicant for an original driving privilege card shall submit[~~: (i)~~] an application to the division[~~; and (ii) fingerprints and a photograph~~] and, in a sealed envelope provided by the Bureau of Criminal Identification, an approved fingerprint vendor, or a law enforcement agency, either:

(i) a photograph of the applicant and the applicant's fingerprints; or

(ii) a photograph of the applicant and a confirmation form from an approved fingerprint vendor, described in Subsection (1)(c), stating that:

(A) the vendor attests that the vendor verified the photograph to be placed in the envelope is a photograph of the individual whose fingerprints were digitally taken; and

(B) the vendor attests to have electronically submitted the digital fingerprint scans of the photographed individual directly to the Bureau of Criminal Identification's fingerprint database.

(b) If an applicant for a renewal of a driving privilege card has not previously submitted [~~fingerprints and a photograph~~] the required materials listed in Subsection (1)(a) to the division, the applicant shall submit [~~fingerprints and a photograph~~] the required materials listed in Subsection (1)(a) in a sealed envelope provided by the Bureau of Criminal Identification or a law enforcement agency.

(c) (i) The division shall create and maintain on the division's website a list of approved fingerprint vendors and each vendor's contact information.

(ii) The division shall review an approval request from a fingerprint vendor and determine whether to approve the vendor and add the vendor to the approved fingerprint vendor website list.

(iii) The division shall approve a fingerprint vendor and add the vendor to the division's website list if the vendor:

(A) uses digital fingerprint technology that can submit digital fingerprints directly to the Bureau of Criminal Identification's database;

(B) agrees to verify the identity of the individual by visually inspecting a government-issued photograph identification, as described in Subsection (1)(c)(iv), that the individual is required to present to the vendor;

(C) agrees to certify on the fingerprint confirmation form that the individual fingerprinted and the individual photographed under Subsection (1)(a)(ii) are the same individual; and

(D) agrees to place the photograph and fingerprint confirmation form inside the envelope described in Subsection (1)(a) and to seal the envelope.

(iv) A fingerprint vendor may accept a government-issued form of identification described in Subsection (1)(c)(v) for purposes of Subsection (1)(c)(iii)(B) if the identification includes the individual's name and photograph.

(v) A fingerprint vendor may accept the following photographic identifications required in Subsection (1)(c)(iv):

(A) a driver license from any state or country;

(B) an identification card from any state or country;

(C) a passport from any country;

(D) a passport card from any country;

(E) a border crossing card;

(F) a consulate card from any country;

(G) a visa;

(H) an employment authorization card;

(I) a foreign voter's registration card;

(J) a military identification card; and

(K) other forms of identification approved by the division.

[~~(c)~~] (d) (i) The Bureau of Criminal Identification, an approved fingerprint vendor, or a law enforcement agency that has the capability of handling fingerprint and photograph submissions shall take the applicant's fingerprints and photo for submission under Subsection (1).

(ii) An approved fingerprint vendor shall take the applicant's fingerprints via digital fingerprint technology and electronically submit the digital fingerprint scans directly to the Bureau of Criminal Identification's database.

(2) The division shall submit fingerprints or a fingerprint confirmation form for each person described in Subsection (1) to the Bureau of Criminal Identification established in Section 53-10-201.

(3) The Bureau of Criminal Identification shall:

(a) check the fingerprints submitted under Subsection (1) against the applicable state and regional criminal records databases;

(b) maintain a separate file of fingerprints submitted under Subsection (1) for search by future submissions to the local, state, and regional criminal records databases, including latent prints; and

(c) provide notice to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security of any new or existing criminal history record or new or existing warrant information contained in or entered in local, state, or regional databases.

(4) In addition to any other fees authorized by this chapter, the division shall:

(a) impose on individuals submitting fingerprints in accordance with this section the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification or other authorized agency provides under this section; and

(b) remit the fees collected under Subsection (4)(a) to the Bureau of Criminal Identification.

CHAPTER 455
S. B. 147
Passed March 3, 2023
Approved March 21, 2023
Effective May 3, 2023

DEPARTMENT OF ENVIRONMENTAL QUALITY ADJUDICATIVE PROCEEDINGS AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill addresses adjudicative proceedings of the Department of Environmental Quality.

Highlighted Provisions:

This bill:

- modifies the criteria for appointing an administrative law judge; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-1-301, as last amended by Laws of Utah 2018, Chapter 281

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-1-301 is amended to read:

19-1-301. Adjudicative proceedings.

(1) As used in this section, "dispositive action" means a final agency action that:

(a) the executive director takes following an adjudicative proceeding on a request for agency action; and

(b) is subject to judicial review under Section 63G-4-403.

(2) This section governs adjudicative proceedings that are not special adjudicative proceedings as defined in Section 19-1-301.5.

(3) (a) The department and its boards shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) The procedures for an adjudicative proceeding conducted by an administrative law judge are governed by:

(i) Title 63G, Chapter 4, Administrative Procedures Act;

(ii) this title;

(iii) rules adopted by the department under:

(A) Subsection 63G-4-102(6); or

(B) this title; and

(iv) the Utah Rules of Civil Procedure, in the absence of a procedure established under Subsection (3)(b)(i), (ii), or (iii).

(4) Except as provided in Section 19-2-113, an administrative law judge shall hear a party's request for agency action.

(5) The executive director shall appoint an administrative law judge who:

[~~(a) is a member in good standing of the Utah State Bar;~~]

[~~(b)~~] (a) has a minimum of:

(i) 10 years of experience practicing law; and

(ii) five years of experience practicing in the field of:

(A) environmental compliance;

(B) natural resources;

(C) regulation by an administrative agency; or

(D) a field related to a field listed in Subsections [~~(5)(b)(ii)(A)~~] (5)(a)(ii)(A) through (C); and

[~~(c)~~] (b) has a working knowledge of the federal laws and regulations and state statutes and rules applicable to a request for agency action.

(6) In appointing an administrative law judge who meets the qualifications described in Subsection (5), the executive director may:

(a) compile a list of persons who may be engaged as an administrative law judge pro tempore by mutual consent of the parties to an adjudicative proceeding;

(b) appoint an assistant attorney general as an administrative law judge pro tempore; or

(c) (i) appoint an administrative law judge as an employee of the department; and

(ii) assign the administrative law judge responsibilities in addition to conducting an adjudicative proceeding.

(7) (a) An administrative law judge:

(i) shall conduct an adjudicative proceeding;

(ii) may take any action that is not a dispositive action; and

(iii) shall submit to the executive director a proposed dispositive action, including:

(A) written findings of fact;

(B) written conclusions of law; and

(C) a recommended order.

(b) The executive director may:

(i) approve, approve with modifications, or disapprove a proposed dispositive action submitted to the executive director under Subsection (7)(a); or

(ii) return the proposed dispositive action to the administrative law judge for further action as directed.

(c) In making a decision regarding a dispositive action, the executive director may seek the advice of, and consult with:

(i) the assistant attorney general assigned to the department; or

(ii) a special master who:

(A) is appointed by the executive director; and

(B) is an expert in the subject matter of the proposed dispositive action.

(d) The executive director shall base a final dispositive action on the record of the proceeding before the administrative law judge.

(8) To conduct an adjudicative proceeding, an administrative law judge may:

(a) compel:

(i) the attendance of a witness; and

(ii) the production of a document or other evidence;

(b) administer an oath;

(c) take testimony; and

(d) receive evidence as necessary.

(9) A party may appear before an administrative law judge in person, through an agent or employee, or as provided by department rule.

(10) (a) Except as provided in Subsection (10)(b), an administrative law judge or the executive director may not participate in an ex parte communication with a party to an adjudicative proceeding regarding the merits of the adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties.

(b) The executive director may discuss ongoing operational matters that require the involvement of a division director without violating Subsection (10)(a).

(c) Upon receiving an ex parte communication from a party to a proceeding, an administrative law judge or the executive director shall place the communication in the public record of the proceeding and afford all parties to the proceeding with an opportunity to comment on the communication.

(d) If an administrative law judge or the executive director receives an ex parte communication, the person who receives the ex parte communication shall place the communication into the public record of the proceedings and afford all parties an opportunity to comment on the information.

(11) Nothing in this section limits a party's right to an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

CHAPTER 456
S. B. 148
Passed February 28, 2023
Approved March 21, 2023
Effective July 1, 2023

INVISIBLE CONDITION INFORMATION AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill concerns individuals with an invisible condition.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Public Safety and the Department of Health and Human Services to develop outreach materials concerning the invisible condition alert program;
- amends provisions relating to vehicle registration information concerning an individual with an invisible condition;
- amends provisions relating to license certificates, driving privilege cards, and identification cards concerning an individual with an invisible condition;
- requires the Department of Public Safety to provide a form and information concerning participation in the invisible condition alert program;
- requires local law enforcement agencies to input certain information regarding an individual with an invisible condition and ensure that certain information is immediately available to a dispatcher under certain circumstances;
- provides rulemaking authority to the Department of Public Safety to implement provisions of the invisible condition alert program;
- requires the Division of Professional Licensing to provide informational materials to health care professionals regarding the invisible condition alert program;
- provides governmental immunity with respect to the invisible condition alert program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-213, as last amended by Laws of Utah 2022, Chapter 158
53-3-207, as last amended by Laws of Utah 2022, Chapter 158
53-3-805, as last amended by Laws of Utah 2022, Chapter 158
63G-7-201, as last amended by Laws of Utah 2021, Chapter 352

ENACTS:

26B-7-102, Utah Code Annotated 1953
53-22-101, Utah Code Annotated 1953
53-22-102, Utah Code Annotated 1953
58-1-603, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-7-102 is enacted to read:

26B-7-102 (Codified as 26B-7-120). Invisible condition alert program education and outreach.

(1) As used in this section:

(a) "Health care professional" means the same as that term is defined in Section 53-3-207.

(b) "Invisible condition" means the same as that term is defined in Section 53-3-207.

(c) "Invisible condition alert program" means the same as that term is defined in Section 53-22-101.

(2) In coordination with the Department of Public Safety as described in Section 53-22-102, the department shall develop:

(a) informational materials that describe the availability of the invisible condition alert program, including information on how an individual with an invisible condition may participate in the program; and

(b) educational materials for health care professionals regarding the invisible condition alert program.

(3) The materials described in Subsection (2) shall be made available to health care professionals in accordance with Section 58-1-603.

Section 2. Section 41-1a-213 is amended to read:

41-1a-213. Contents of registration cards.

(1) As used in this section:

(a) "Health care professional" means the same as that term is defined in Section 53-3-207.

(b) "Invisible condition" means the same as that term is defined in Section 53-3-207.

(c) "Invisible condition identification decal" means the decal created by the division that incorporates the invisible condition identification symbol.

[~~(c)~~] (d) "Invisible condition identification symbol" means the same as that term is defined in Section 53-3-207.

(2) The registration card shall be delivered to the owner and shall contain:

(a) the date issued;

(b) the name of the owner;

(c) a description of the vehicle registered including the year, the make, the identification number, and the license plate assigned to the vehicle;

(d) the expiration date; and

(e) other information as determined by the commission.

(3) If a vehicle is leased for a period in excess of 45 days, the registration shall contain:

(a) the owner's name; and

(b) the name of the lessee.

(4) On all vehicles registered under Subsections 41-1a-1206(1)(d) and (1)(e), the registration card shall also contain the gross laden weight as given in the application for registration.

(5) (a) Except as provided in Subsection (5)(b), a new registration card issued by the commission on or after November 1, 2013, may not display the address of the owner or the lessee on the registration card.

(b) A new registration card issued by the commission under one of the following provisions shall display the address of the owner or the lessee on the registration card:

(i) Section 41-1a-301 for a vehicle; or

(ii) Section 73-18-7 for a vessel.

(6) (a) [~~The~~] Except as provided in Subsection (6)(d)(ii), the division shall include on a vehicle owner's vehicle registration database record in the division's vehicle registration database an invisible condition identification symbol if:

(i) (A) the vehicle owner or an individual who is a regular driver of or passenger in the vehicle owner's vehicle has an invisible condition; [~~and~~] or

[~~(ii)~~] (B) an individual with an invisible condition resides at the vehicle driver's residence; and

(ii) the vehicle owner submits to the commission a request on a form prescribed by the commission.

(b) A vehicle owner shall include in a request described in Subsection (6)(a):

(i) if the request is for an individual other than the vehicle owner, a declaration that the individual is:

(A) a regular driver of or passenger in the vehicle; or

(B) a resident at the vehicle driver's residence;

(ii) written verification from a health care professional that the vehicle owner or other individual described in Subsection (6)(a)(i) has an invisible condition; and

(iii) a waiver of liability signed by the individual with the invisible condition or the individual's legal representative for the release of any medical information to:

(A) the commission;

(B) any person who has access to the individual's medical information as recorded on the vehicle owner's vehicle registration database record or the Utah Criminal Justice Information System; and

(C) any other person who may view or receive notice of the individual's medical information by seeing the vehicle owner's vehicle registration database record or the individual's information in the Utah Criminal Justice Information System.

(c) As part of the form described in Subsection [~~(6)(b)~~] (6)(a) and (b), the commission shall advise the individual signing the waiver of liability that by submitting the signed waiver, the individual consents to the release of the [~~individual's~~] individual with an invisible condition's medical information to any person described in Subsections (6)(b)(iii)(A) through (C), even if the person is otherwise ineligible to access the [~~individual's~~] individual with an invisible condition's medical information under state or federal law.

(d) (i) The division:

(A) may not charge a fee to include an invisible condition identification symbol on a vehicle owner's vehicle registration database record[~~.~~]; and

(B) shall confirm with the Division of Professional Licensing that the health care professional described in Subsection (6)(b)(ii) holds a current state license.

(ii) If the division is unable to confirm that the health care professional described in Subsection (6)(b)(ii) holds a current state license, the division shall deny the request described in Subsection (6)(a).

(e) The inclusion of an invisible condition identification symbol on a vehicle owner's vehicle registration database record in accordance with this section does not confer any legal rights or privileges on the [~~individual~~] vehicle owner or the individual with an invisible condition, including parking privileges for individuals with disabilities under Section 41-1a-414.

(7) (a) For each individual who qualifies under this section to include an invisible condition identification symbol in a vehicle owner's vehicle registration database record, the division shall:

(i) include in the division's vehicle registration database a brief description of the nature of the individual's invisible condition linked to the vehicle owner's vehicle registration database record; and

(ii) provide an invisible condition identification decal that may be affixed to the vehicle owner's vehicle, and instructions on where the invisible condition identification decal may be placed on the vehicle, which the vehicle owner may affix to the vehicle at the vehicle owner's discretion.

(b) The division shall provide the brief description described in Subsection (7)(a)(i) to the Utah Criminal Justice Information System.

(c) Except as provided in Subsection (7)(b), the division may not release the information described in Subsection (7)(a)(i).

(8) Within 30 days after the day on which the division receives [~~an individual's~~] a vehicle owner's written request, the division shall:

(a) remove the invisible condition identification symbol and brief description described in

Subsection (7) from a vehicle owner's vehicle registration database record in the division's vehicle registration database; and

(b) provide the updated vehicle registration database record to the Utah Criminal Justice Information System.

(9) As provided in Section 63G-2-302, the information described in Subsection (6)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

Section 3. Section 53-3-207 is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "Authorized guardian" means:

(i) the parent or legal guardian of a child who:

(A) is under 18 years old; and

(B) has an invisible condition; or

(ii) the legal guardian or conservator of an adult who:

(A) is 18 years old or older; and

(B) has an invisible condition.

(b) "Driving privilege" means the privilege granted under this chapter to drive a motor vehicle.

(c) "First responder" means:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) an emergency medical technician, as defined in Section 26-8c-102;

(iii) an advanced emergency medical technician, as defined in Section 26-8c-102;

(iv) a paramedic, as defined in Section 26-8c-102;

(v) a firefighter, as defined in Section 53B-8c-102; or

(vi) a dispatcher, as defined in Section 53-6-102.

[~~(b)~~] (d) "Governmental entity" means the state or a political subdivision of the state.

[~~(c)~~] (e) "Health care professional" means:

(i) a licensed physician, physician assistant, nurse practitioner, or mental health therapist; or

(ii) any other licensed health care professional the division designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(d) "Political subdivision" means any county, city, town, school district, public transit district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.~~]

[~~(e)~~] (f) "Invisible condition" means a physical or mental condition that may interfere with an individual's ability to communicate with a [~~law enforcement officer~~] first responder, including:

(i) a communication impediment;

(ii) hearing loss;

(iii) blindness or a visual impairment;

(iv) autism spectrum disorder;

(v) a drug allergy;

(vi) Alzheimer's disease or dementia;

(vii) post-traumatic stress disorder;

(viii) traumatic brain injury;

(ix) schizophrenia;

(x) epilepsy;

(xi) a developmental disability;

(xii) Down syndrome;

(xiii) diabetes;

(xiv) a heart condition; or

(xv) any other condition approved by the department.

[~~(f)~~] (g) "Invisible condition identification symbol" means a symbol or alphanumeric code that indicates that an individual is an individual with an invisible condition.

(h) "Political subdivision" means any county, city, town, school district, public transit district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

[~~(g)~~] (i) "State" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every individual privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege card indicating the type or class of motor vehicle the individual may drive.

(b) An individual may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the individual;

(vi) a photograph or other facsimile of the individual's signature;

(vii) an indication whether the individual intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the individual states that the individual is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205 and provides verification that the individual was granted an honorable or general discharge from the United States Armed Forces, an indication that the individual is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to an individual younger than 21 years old on a portrait-style format as required in Subsection (7)(b) is not required to include an indication that the individual is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the individual's social security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) The size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) The division shall include or affix an invisible condition identification symbol on an individual's regular license certificate, limited-term license certificate, or driving privilege card if the individual or the individual's authorized guardian, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) signs a waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on the individual's driving record or the Utah Criminal Justice Information System under this chapter; [~~and~~]

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's regular license certificate, limited-term license certificate, or driving privilege card or the individual's information in the Utah Criminal Justice Information System[~~.~~];

(D) a local law enforcement agency that receives a copy of the form described in this Subsection (4)(a) and enters the contents of the form into the local law enforcement agency's record management system or computer-aided dispatch system; and

(E) a dispatcher who accesses the information regarding the individual's invisible condition through the use of a local law enforcement agency's record management system or computer-aided dispatch system.

(b) As part of the form described in Subsection (4)(a), the department shall advise the individual or the individual's authorized guardian that by submitting the signed waiver, the individual or the individual's authorized guardian consents to the release of the individual's medical information to any person described in Subsections (4)(a)(iii)(A) through [~~(C)~~] (E), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's regular license certificate, limited-term license certificate, or driving privilege card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued regular license certificate, limited-term license certificate, or driving privilege card, require the individual to provide subsequent written verification described in Subsection (4)(a)(ii) to include the invisible condition identification symbol on the individual's renewed or extended regular license certificate, limited-term license certificate, or driving privilege card.

(d) The division shall confirm with the Division of Professional Licensing that the health care professional described in Subsection (4)(a)(ii) holds a current state license.

[~~(d)~~] (e) The inclusion of an invisible condition identification symbol on an individual's license certificate, limited-term license certificate, or driving privilege card in accordance with Subsection (4)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

[~~(e)~~] (f) For each individual issued a regular license certificate, limited-term license certificate,

or driving privilege card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

[~~(f)~~] (g) Except as provided in this section, the division may not release the information described in Subsection [~~(4)(e)~~] (4)(f).

[~~(g)~~] (h) Within 30 days after the day on which the division receives an individual's or the individual's authorized guardian's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection [~~(4)(e)~~] (4)(f); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(5) As provided in Section 63G-2-302, the information described in Subsection (4)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(6) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the individual to drive a motor vehicle while the division is completing the division's investigation to determine whether the individual is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection (6) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the individual's immediate possession while driving a motor vehicle, and the temporary regular license certificate or temporary limited-term license certificate is invalid when the individual's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which the temporary regular license certificate or temporary limited-term license certificate is not valid as a temporary license.

(d) (i) Except as provided in Subsection (6)(d)(ii), the division may not issue a temporary driving privilege card or other temporary permit to an applicant for a driving privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

(7) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any individual younger than 21 years old by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to an individual younger than 21 years old by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 21 years old.

(8) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

(a) that the limited-term license certificate is temporary; and

(b) the limited-term license certificate's expiration date.

(9) (a) The division shall only issue a driving privilege card to an individual whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

(i) use of a format, color, font, or other means; and

(ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(10) The provisions of Subsection (7)(b) do not apply to a learner permit, temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

(11) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(12) (a) A governmental entity may not accept a driving privilege card as proof of personal identification.

(b) A driving privilege card may not be used as a document providing proof of an individual's age for any government required purpose.

(13) An individual who violates Subsection (2)(b) is guilty of an infraction.

(14) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Section 4. Section 53-3-805 is amended to read:

53-3-805. Identification card -- Contents -- Specifications.

(1) As used in this section:

(a) "Authorized guardian" means the same as that term is defined in Section 53-3-207.

(b) "Health care professional" means the same as that term is defined in Section 53-3-207.

[~~(b)~~] (c) "Invisible condition" means the same as that term is defined in Section 53-3-207.

[~~(c)~~] (d) "Invisible condition identification symbol" means the same as that term is defined in Section 53-3-207.

(2) (a) The division shall issue an identification card that bears:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) a photograph of the individual;

(v) a photograph or other facsimile of the individual's signature;

(vi) an indication whether the individual intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act; and

(vii) if the individual states that the individual is a veteran of the United States military on the application for an identification card in accordance with Section 53-3-804 and provides verification that the individual received an honorable or general discharge from the United States Armed Forces, an indication that the individual is a United States military veteran for a regular identification card or a limited-term identification card issued on or after July 1, 2011.

(b) An identification card issued by the division may not bear the individual's Social Security number or place of birth.

(3) (a) The card shall be of an impervious material, resistant to wear, damage, and alteration.

(b) Except as provided under Section 53-3-806, the size, form, and color of the card is prescribed by the commissioner.

(4) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(5) (a) The division shall include or affix an invisible condition identification symbol on an individual's identification card if the individual or the individual's authorized guardian, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) submits a signed waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on the individual's driving record or the Utah Criminal Justice Information System under this chapter; [~~and~~]

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's [~~regular license certificate, limited-term license certificate, or driving privilege~~] identification card or the individual's information in the Utah Criminal Justice Information System[~~.~~];

(D) a local law enforcement agency that receives a copy of the form described in this Subsection (5)(a) and enters the contents of the form into the local law enforcement agency's record management system or computer-aided dispatch system; and

(E) a dispatcher who accesses the information regarding the individual's invisible condition through the use of a local law enforcement agency's record management system or computer-aided dispatch system.

(b) As part of the form described in Subsection (5)(a), the department shall advise the individual or the individual's authorized guardian that by submitting the request and signed waiver, the individual or the individual's authorized guardian consents to the release of the individual's medical information to any person described in Subsections (5)(a)(iii)(A) through [~~(C)~~] (E), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's identification card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued identification card, require the individual to provide subsequent written verification described in Subsection (5)(a)(ii) to include the invisible

condition identification symbol on the individual's extended identification card.

(d) The division shall confirm with the Division of Professional Licensing that the health care professional described in Subsection (5)(a)(ii) holds a current state license.

(e) The inclusion of an invisible condition identification symbol on an individual's identification card in accordance with Subsection (5)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

[~~(e)~~] (f) For each individual issued an identification card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

[~~(f)~~] (g) Except as provided in this section, the division may not release the information described in Subsection [~~(5)(e)~~] (5)(f).

[~~(g)~~] (h) Within 30 days after the day on which the division receives an individual's or the individual's authorized guardian's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection [~~(5)(e)~~] (5)(f); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(6) As provided in Section 63G-2-302, the information described in Subsection (5)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(7) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated by the applicant in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all individuals who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform applicants of anatomical gift options, procedures, and benefits.

(8) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all individuals who indicate their status as a veteran under Subsection 53-3-804(2)(l).

(9) The division and the division's employees are not liable, as a result of false or inaccurate information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(10) (a) The division may issue a temporary regular identification card to an individual while the individual obtains the required documentation to establish verification of the information described in Subsections 53-3-804(2)(a), (b), (c), (d), and (i)(i).

(b) A temporary regular identification card issued under this Subsection (10) shall be recognized and grant the individual the same privileges as a regular identification card.

(c) A temporary regular identification card issued under this Subsection (10) is invalid:

(i) when the individual's regular identification card has been issued;

(ii) when, for good cause, an applicant's application for a regular identification card has been refused; or

(iii) upon expiration of the temporary regular identification card.

Section 5. Section 53-22-101 is enacted to read:

CHAPTER 22. INVISIBLE CONDITION ALERT PROGRAM

53-22-101 (Codified as 53-27-101). Definitions.

As used in this chapter:

(1) "Authorized guardian" means the same as that term is defined in Section 53-3-207.

(2) "Dispatcher" means the same as that term is defined in Section 53-6-102.

(3) "First responder" means the same as that term is defined in Section 53-3-207.

(4) "Health care professional" means the same as that term is defined in Section 53-3-207.

(5) "Invisible condition" means the same as that term is defined in Section 53-3-207.

(6) "Invisible condition alert program" means the voluntary disclosure of an invisible condition in accordance with Section 53-22-102 or Subsection 41-1a-213(6), 53-3-207(4), or 53-3-805(5).

Section 6. Section 53-22-102 is enacted to read:

53-22-102 (Codified as 53-27-102). Invisible condition alert program -- Access to information -- Outreach -- Administrative rulemaking.

(1) If an individual or an individual's authorized guardian elects to disclose the individual's invisible condition to the individual's local law enforcement agency in accordance with the invisible condition alert program, the department shall provide the individual or the individual's authorized guardian with:

(a) a form that contains the information described in Subsection 53-3-207(4) or 53-3-805(5); and

(b) instructions on how the individual or the individual's authorized guardian may submit the form described in Subsection (1)(a) to the individual's local law enforcement agency.

(2) Upon receipt of a completed form described in Subsection (1)(a), a local law enforcement agency shall enter information into the law enforcement agency's record management system or computer-aided dispatch system regarding the individual's election to disclose the individual's invisible condition, including the individual's:

(a) name;

(b) residence; and

(c) invisible condition as reported by the individual and verified by the individual's health care professional.

(3) A local law enforcement agency shall ensure that the information described in Subsection (2) is readily available to a dispatcher when the dispatcher receives a report concerning the name or the address of an individual with an invisible condition who has been entered into the local law enforcement agency's record management system or computer-aided dispatch system.

(4) (a) Within 30 days after the day on which a local law enforcement agency receives an individual's or an individual's authorized guardian's written request, the local law enforcement agency shall remove the information regarding the individual's invisible condition from the local law enforcement agency's record management system or computer-aided dispatch system.

(b) If a local law enforcement agency becomes aware that the individual described in Subsection (2) has permanently moved from the individual's residence described in Subsection (2), the local law enforcement agency may remove the information regarding the individual's invisible condition from the local law enforcement agency's record management system or computer-aided dispatch system.

(5) The department shall prepare outreach materials concerning the invisible condition alert program in coordination with the Department of Health and Human Services as described in Section 26B-7-102.

(6) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish procedures for implementing this section.

Section 7. Section 58-1-603 is enacted to read:

58-1-603 (Codified as 58-1-604). Invisible condition alert program information -- Health care professionals.

(1) As used in this section:

(a) "Health care professional" means the same as that term is defined in Section 53-3-207.

(b) "Invisible condition" means the same as that term is defined in Section 53-3-207.

(c) "Invisible condition alert program" means the same as that term is defined in Section 53-22-101.

(2) The division, in conjunction with the Department of Health and Human Services created in Section 26B-1-201, shall provide information to each health care professional in the state regarding the invisible condition alert program, including:

(a) access to informational materials described in Section 26B-7-102 that health care professionals shall make available to patients; and

(b) access to educational materials for health care professionals regarding the invisible condition alert program.

(3) A health care professional in this state shall make available to the health care professional's patients the informational materials described in Subsection (2)(a).

(4) The division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish procedures for implementing this section.

Section 8. Section 63G-7-201 is amended to read:

63G-7-201. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in

Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources – Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity;

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road; [~~or~~]

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-101[~~.~~]; or

(x) providing or failing to provide information under Section 53-22-102 or Subsection 41-1a-213(6), (7), or (8), 53-3-207(4), or 53-3-805(5).

Section 9. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 457
S. B. 169
Passed March 1, 2023
Approved March 21, 2023
Effective May 3, 2023

ENTICEMENT OF A MINOR AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill concerns the offense of enticement of a minor.

Highlighted Provisions:

This bill:

- amends provisions concerning the offense of enticement of a minor; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-103, as last amended by Laws of Utah 2022, Chapter 422
53-10-403, as last amended by Laws of Utah 2022, Chapters 116, 430
76-3-407, as last amended by Laws of Utah 2022, Chapter 185
76-4-401, as last amended by Laws of Utah 2022, Chapter 181
77-41-106, as last amended by Laws of Utah 2022, Chapters 185, 430

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) (a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

(a) electronic mail;

(b) instant messaging;

(c) electronic chat;

(d) text messaging, [~~as that term is defined in Section 76-4-401~~] which means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone, computer, or other electronic communication device to another person's telephone, computer, or electronic communication device by addressing the communication to the person's telephone number or other electronic communication access code or number; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering;

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or

(iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:

(A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or

(B) the conversation pertains only to day-to-day management and operation of the public transit district.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;

(iii) the Utah Independent Redistricting Commission; and

(iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity; or

(v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii) or (9)(c)(v).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 2. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of

an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26-28-116;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor [~~over the Internet~~], Section 76-4-401;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, Subsection 76-8-309(2);

(xv) a felony violation of assault on an elected official, Section 76-8-315;

(xvi) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xix) a felony violation of sexual battery, Section 76-9-702.1;

(xx) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xxi) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxiv) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxv) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxvi) commercial obstruction, Subsection 76-10-2402(2);

(xxvii) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxix) violation of condition for release after arrest under Section 78B-7-802.

(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:

(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or

(b) is in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002 for an offense under Subsection (2).

Section 3. Section 76-3-407 is amended to read:

76-3-407. Repeat and habitual sex offenders -- Additional prison term for prior felony convictions.

(1) As used in this section:

(a) "Prior sexual offense" means:

(i) a felony offense described in Chapter 5, Part 4, Sexual Offenses;

(ii) sexual exploitation of a minor, Section 76-5b-201;

(iii) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

(iv) a felony offense of enticing a minor [~~over the Internet~~], Section 76-4-401;

(v) a felony attempt to commit an offense described in Subsections (1)(a)(i) through (iv); or

(vi) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (1)(a)(i) through (v).

(b) "Sexual offense" means:

(i) an offense that is a felony of the second or third degree, or an attempted offense, which attempt is a felony of the second or third degree, described in Chapter 5, Part 4, Sexual Offenses;

(ii) sexual exploitation of a minor, Section 76-5b-201;

(iii) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

(iv) a felony offense of enticing a minor [~~over the Internet~~], Section 76-4-401;

(v) a felony attempt to commit an offense described in Subsections (1)(b)(ii) through (iv); or

(vi) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (1)(b)(i) through (v).

(2) Notwithstanding any other provision of law, the maximum penalty for a sexual offense is increased by five years for each conviction of the defendant for a prior sexual offense that arose from a separate criminal episode, if the trier of fact finds that:

(a) the defendant was convicted of a prior sexual offense; and

(b) the defendant was convicted of the prior sexual offense described in Subsection (2)(a) before the defendant was convicted of the sexual offense for which the defendant is being sentenced.

(3) The increased maximum term described in Subsection (2) shall be in addition to, and consecutive to, any other prison term served by the defendant.

Section 4. Section 76-4-401 is amended to read:

76-4-401. Enticing a minor -- Elements -- Penalties.

(1) (a) As used in this section:

[~~(a)~~] (i) "Minor" means [~~a person~~] an individual who is under [~~the age of~~] 18 years old.

(ii) "Electronic communication" means the same as that term is defined in Section 76-9-201.

(iii) "Electronic communication device" means the same as that term is defined in Section 76-9-201.

[~~(b) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone, computer, or other electronic communication device to another person's telephone, computer, or other electronic communication device by addressing the communication to the person's telephone number or other electronic communication access code or number.~~]

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~(a) A person~~] An actor commits enticement of a minor [~~when the person~~] if the actor knowingly:

(a) uses [~~the Internet or text messaging~~] an electronic communication or an electronic communication device to:

(i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person that the actor believes to be a minor, to engage in [~~any~~] sexual activity [~~which~~] that is a violation of state criminal law[~~.~~]; or

[~~(b) A person commits enticement of a minor when the person knowingly uses the Internet or text messaging to:~~]

[~~(i)~~] (ii) (A) initiate contact with a minor or a person the actor believes to be a minor; and

[~~(ii)~~] (B) [~~subsequently~~] subsequent to the action [~~under~~] described in Subsection [~~(2)(b)(i)~~] (2)(a)(ii)(A), by any electronic or written means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the minor or a person the actor believes to be the minor to engage in [~~any~~] sexual activity [~~which~~] that is a violation of state criminal law[~~.~~]; or

(b) develops a relationship of trust with the minor or the minor's parent or guardian with the intent to solicit, seduce, lure, or entice, or attempt to solicit, seduce, lure, or entice the minor to engage in sexual activity that is a violation of state criminal law.

(3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.

(4) Enticement of a minor under Subsection [~~(2)(a) or (b)~~] (2) is punishable as follows:

(a) enticement to engage in sexual activity [~~which~~] that would be a first degree felony for the actor is a:

(i) second degree felony upon the first conviction for violation of this Subsection (4)(a); and

(ii) first degree felony punishable by imprisonment for an indeterminate term of not

fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection (4)(a);

(b) enticement to engage in sexual activity [~~which~~] that would be a second degree felony for the actor is a third degree felony;

(c) enticement to engage in sexual activity [~~which~~] that would be a third degree felony for the actor is a class A misdemeanor;

(d) enticement to engage in sexual activity [~~which~~] that would be a class A misdemeanor for the actor is a class B misdemeanor; and

(e) enticement to engage in sexual activity [~~which~~] that would be a class B misdemeanor for the actor is a class C misdemeanor.

(5) (a) When [~~a person~~] an actor who commits a felony violation of this section has been previously convicted of an offense under Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:

(i) grant probation;

(ii) suspend the execution or imposition of the sentence;

(iii) enter a judgment for a lower category of offense; or

(iv) order hospitalization.

(b) The sections referred to in Subsection (5)(a) are:

(i) Section 76-4-401, enticing a minor;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-402, rape;

(iv) Section 76-5-402.1, rape of a child;

(v) Section 76-5-402.2, object rape;

(vi) Section 76-5-402.3, object rape of a child;

(vii) [~~Subsection 76-5-403(2)~~] Section 76-5-403, forcible sodomy;

(viii) Section 76-5-403.1, sodomy on a child;

(ix) Section 76-5-404, forcible sexual abuse;

(x) Section 76-5-404.1, sexual abuse of a child and Section 76-5-404.3, aggravated sexual abuse of a child;

(xi) Section 76-5-405, aggravated sexual assault;

(xii) Section 76-5-308.5, human trafficking of a child;

(xiii) any offense in any other state or federal jurisdiction [~~which~~] that constitutes or would constitute a crime in Subsections (5)(b)(i) through (xii); or

(xiv) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through (xiii).

Section 5. Section 77-41-106 is amended to read:

77-41-106. Registerable offenses.

Offenses referred to in Subsection 77-41-105(3)(c)(i) are:

(1) any offense listed in Subsection 77-41-102(9) or (17) if, at the time of the conviction, the offender has previously been convicted of an offense listed in Subsection 77-41-102(9) or (17) or has previously been required to register as a sex offender for an offense committed as a juvenile;

(2) a conviction for any of the following offenses, including attempting, soliciting, or conspiring to commit any felony of:

(a) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of the victim;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403.1, sodomy on a child;

(g) Section 76-5-404.3, aggravated sexual abuse of a child; or

(h) Section 76-5-405, aggravated sexual assault;

(3) Section 76-5-308.1, human trafficking for sexual exploitation;

(4) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(5) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(6) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(7) Section 76-4-401, a felony violation of enticing a minor [~~over the Internet~~];

(8) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent of the victim;

(9) Section 76-5-403, forcible sodomy;

(10) Section 76-5-404.1, sexual abuse of a child;

(11) Section 76-5b-201, sexual exploitation of a minor;

(12) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

(13) Subsection 76-5b-204(2)(b), aggravated sexual extortion; or

(14) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10, 2011.

CHAPTER 458
S. B. 180
Passed March 1, 2023
Approved March 21, 2023
Effective January 1, 2024

PRIVATE POSTSECONDARY EDUCATION MODIFICATIONS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill repeals the Utah Postsecondary School State Authorization Act and repeals, reenacts, and modifies provisions of the Utah Postsecondary Proprietary School Act as the Utah Postsecondary School and State Authorization Act.

Highlighted Provisions:

This bill:

- repeals the Utah Postsecondary School State Authorization Act;
- repeals, reenacts, and modifies the Utah Postsecondary Proprietary School Act as the Utah Postsecondary School and State Authorization Act;
- requires a postsecondary school operating in the state to file a registration statement and obtain certain certificates from the Division of Consumer Protection (division);
- establishes qualifications for a procedure by which a postsecondary school may obtain a registration certificate and state authorization certificate from the division;
- provides that, under certain circumstances, the division may deny, suspend, or revoke a registration statement, registration certificate, or state authorization certificate;
- provides procedures to enforce compliance with the provisions of this bill;
- permits the division to enter into an interstate reciprocity agreement;
- authorizes the Utah Board of Higher Education to make rules to implement an interstate reciprocity agreement if the agreement includes institutions of higher education;
- grants the division rulemaking authority;
- defines terms; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Effective 12/31/23), as last amended by Laws of Utah 2022, Chapters 201, 462
13-53-102, as enacted by Laws of Utah 2018, Chapter 252
16-6a-401, as last amended by Laws of Utah 2022, Chapter 457
16-10a-401, as last amended by Laws of Utah 2022, Chapter 457
16-11-16, as last amended by Laws of Utah 2022, Chapter 457
42-2-6.6, as last amended by Laws of Utah 2022, Chapter 457
48-1d-1105, as last amended by Laws of Utah 2022, Chapter 457
48-2e-108, as last amended by Laws of Utah 2022, Chapter 457
48-3a-108, as last amended by Laws of Utah 2022, Chapter 457

ENACTS:

13-34-202, Utah Code Annotated 1953
13-34-203, Utah Code Annotated 1953
13-34-204, Utah Code Annotated 1953
13-34-205, Utah Code Annotated 1953
13-34-301, Utah Code Annotated 1953
13-34-302, Utah Code Annotated 1953
13-34-303, Utah Code Annotated 1953

REPEALS AND REENACTS:

13-34-101, as enacted by Laws of Utah 2002, Chapter 222
13-34-102, as enacted by Laws of Utah 2002, Chapter 222
13-34-103, as last amended by Laws of Utah 2018, Chapter 276
13-34-104, as last amended by Laws of Utah 2010, Chapter 378
13-34-105, as last amended by Laws of Utah 2021, Chapter 266
13-34-106, as last amended by Laws of Utah 2014, Chapter 360
13-34-107, as last amended by Laws of Utah 2011, Chapter 221
13-34-108, as last amended by Laws of Utah 2011, Chapter 221
13-34-109, as enacted by Laws of Utah 2002, Chapter 222
13-34-110, as last amended by Laws of Utah 2014, Chapter 360
13-34-111, as last amended by Laws of Utah 2005, Chapter 242
13-34-112, as enacted by Laws of Utah 2002, Chapter 222
13-34-113, as last amended by Laws of Utah 2014, Chapter 360
13-34-201, as enacted by Laws of Utah 2002, Chapter 222

REPEALS:

13-34-114, as last amended by Laws of Utah 2018, Chapter 281
13-34a-101, as enacted by Laws of Utah 2014, Chapter 360
13-34a-102, as last amended by Laws of Utah 2021, Chapter 266
13-34a-103, as enacted by Laws of Utah 2014, Chapter 360
13-34a-104, as last amended by Laws of Utah 2020, Chapter 365
13-34a-201, as enacted by Laws of Utah 2014, Chapter 360
13-34a-202, as enacted by Laws of Utah 2014, Chapter 360
13-34a-203, as enacted by Laws of Utah 2014, Chapter 360
13-34a-204, as last amended by Laws of Utah 2021, Chapter 266

13-34a-205, as enacted by Laws of Utah 2014, Chapter 360
13-34a-206, as enacted by Laws of Utah 2014, Chapter 360
13-34a-207, as last amended by Laws of Utah 2017, Chapter 98
13-34a-301, as enacted by Laws of Utah 2014, Chapter 360
13-34a-302, as enacted by Laws of Utah 2014, Chapter 360
13-34a-303, as enacted by Laws of Utah 2014, Chapter 360
13-34a-304, as enacted by Laws of Utah 2014, Chapter 360
13-34a-305, as enacted by Laws of Utah 2014, Chapter 360
13-34a-306, as enacted by Laws of Utah 2014, Chapter 360

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 (Effective 12/31/23) is amended to read:

13-2-1 (Effective 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

[~~(m) Chapter 34, Utah Postsecondary Proprietary School Act;~~]

[~~(n) Chapter 34a, Utah Postsecondary School State Authorization Act;~~]

(m) Utah Postsecondary School and State Authorization Act;

[~~(o)~~] (n) Chapter 41, Price Controls During Emergencies Act;

[~~(p)~~] (o) Chapter 42, Uniform Debt-Management Services Act;

[~~(q)~~] (p) Chapter 49, Immigration Consultants Registration Act;

[~~(r)~~] (q) Chapter 51, Transportation Network Company Registration Act;

[~~(s)~~] (r) Chapter 52, Residential Solar Energy Disclosure Act;

[~~(t)~~] (s) Chapter 53, Residential, Vocational and Life Skills Program Act;

[~~(u)~~] (t) Chapter 54, Ticket Website Sales Act;

[~~(v)~~] (u) Chapter 56, Ticket Transferability Act;

[~~(w)~~] (v) Chapter 57, Maintenance Funding Practices Act; and

[~~(x)~~] (w) Chapter 61, Utah Consumer Privacy Act.

Section 2. Section 13-34-101 is repealed and reenacted to read:

CHAPTER 34. UTAH POSTSECONDARY SCHOOL AND STATE AUTHORIZATION ACT

Part 1. General Provisions

13-34-101. Definitions.

As used in this chapter:

(1) "Accredited postsecondary school" means a postsecondary school that is accredited by an accrediting agency.

(2) "Accrediting agency" means a private educational association that:

(a) is recognized by the United States Department of Education;

(b) develops education criteria; and

(c) conducts evaluations to assess whether a postsecondary school meets the criteria described in Subsection (2)(b).

(3) "Agent" means a person who:

(a) owns an interest in a postsecondary school;

(b) is employed by a postsecondary school;

(c) enrolls or attempts to enroll a Utah resident in a postsecondary school;

(d) offers to award an educational credential on behalf of a postsecondary school; or

(e) holds oneself out to a Utah resident as representing a postsecondary school for any purpose.

(4) "Apprentice" means the same as that term is defined in Section 35A-6-102.

(5) "Apprenticeship" means the same as that term is defined in Section 35A-6-102.

(6) "Distance postsecondary education" means the same as that term is defined in 20 U.S.C. Sec. 1003(7).

(7) "Division" means the Division of Consumer Protection.

(8) "Educational credential" means a degree, diploma, certificate, transcript, report, document, letter of designation, mark, or series of letters, numbers, or words that represent enrollment, attendance, or satisfactory completion of the requirements or prerequisites of an educational program.

(9) "Longstanding nonprofit accredited postsecondary school" means an accredited postsecondary school that:

(a) is a nonprofit organization; and

(b) has operated continuously as a nonprofit for at least 20 years.

(10) "Nonprofit organization" means a nonprofit corporation or foreign nonprofit corporation as those terms are defined in Section 16-6a-102.

(11) "Operate" means to:

(a) maintain a physical presence in the state; or

(b) provide postsecondary education to an individual who resides in the state.

(12) "Physical presence" means:

(a) to maintain in the state a physical location where a student receives postsecondary education; or

(b) to provide to a student distance postsecondary education from a location in this state.

(13) (a) "Postsecondary education" means education or educational services offered primarily to an individual who:

(i) has completed or terminated their secondary or high school education; or

(ii) is beyond the age of compulsory school attendance.

(b) "Postsecondary education" does not include instruction at or below the 12th grade level.

(14) "Postsecondary school" means a person that offers postsecondary education:

(a) in exchange for payment of tuition, fees, or other consideration; and

(b) for the purpose of attaining educational, professional, or vocational objectives.

(15) "Principal" means a postsecondary school's owner, officer, director, trustee, or administrator.

(16) "Public postsecondary school" means a postsecondary school that is:

(a) (i) an institution listed in Section 53B-1-102; or

(ii) established by another state or other governmental entity; and

(b) substantially supported with government funds.

(17) "Reciprocity agreement" means an agreement the division enters into with another state in accordance with Section 13-34-303.

(18) (a) "Registration certificate" means approval from the division to operate a postsecondary school in accordance with this chapter, and with rules adopted in accordance with this chapter.

(b) "Registration certificate" does not mean an approval or endorsement of the postsecondary school by the division or the state.

(19) "Registration statement" means an application and accompanying documentation required under this chapter for:

(a) a registration certificate; or

(b) a state authorization certificate.

(20) (a) "State authorization certificate" means a certificate that the division issues to an accredited postsecondary school in accordance with Section 13-34-302.

(b) "State authorization certificate" does not mean an approval or endorsement of the accredited postsecondary school by the division or the state.

(21) "Student" means:

(a) a person who pays or is obligated to pay a postsecondary school for postsecondary education; or

(b) a legal guardian of a person described in Subsection (21)(a).

Section 3. Section 13-34-102 is repealed and reenacted to read:

13-34-102. Division responsibilities.

(1) The division shall:

(a) exercise its enforcement powers in accordance with Chapter 2, Division of Consumer Protection, and this chapter;

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish the content of a registration statement required under this chapter;

(ii) establish a process for reviewing and responding to complaints the division receives in accordance with this chapter; and

(iii) establish a graduated fee structure in accordance with Section 63J-1-504 for filing a registration statement;

(c) issue a registration certificate or state authorization certificate to a postsecondary school upon the division's receipt and approval of a qualifying registration statement;

(d) maintain and publish a list of postsecondary schools to which the division has issued a:

(i) registration certificate; or

(ii) state authorization certificate; and

(e) deposit fees established in accordance with Subsection (1)(b)(iii), and collected in accordance

with this chapter into the Commerce Service Account created in Section 13-1-2.

(2) The division may:

(a) accept a copy of an educational credential from a postsecondary school that ceases operation;

(b) charge a reasonable fee for providing a copy of an educational credential;

(c) upon request, provide a letter confirming that a postsecondary school is exempt from registration in accordance with Section 13-34-111; and

(d) negotiate and enter into an interstate reciprocity agreement with another state, if in the judgment of the division, the agreement is consistent with the purposes of this chapter.

Section 4. Section 13-34-103 is repealed and reenacted to read:

13-34-103. Rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules:

(1) establishing the form and content of:

(a) a registration statement; and

(b) a surety bond, certificate of deposit, irrevocable letter of credit, or other proof of financial viability required under Section 13-34-202;

(2) specifying the information a postsecondary school is required to provide with a registration statement, which may vary based upon factors including:

(a) the certificate the postsecondary school seeks;

(b) whether the postsecondary school is an accredited postsecondary school; and

(c) whether the postsecondary school is a longstanding nonprofit accredited postsecondary school;

(3) establishing the amount of a surety bond, certificate of deposit, or irrevocable letter of credit required under Section 13-34-202, not to exceed an amount equal to the tuition and fees a postsecondary school anticipates receiving during a school year;

(4) providing for the execution and cancellation of the surety bond, certificate of deposit, or irrevocable letter of credit a postsecondary school obtains in accordance with Section 13-34-202;

(5) establishing the amount of money a school may charge a student in a 12 month period to qualify for an exemption in accordance with Subsection 13-34-11(3)(d)(i)(C);

(6) specifying acts or practices that:

(a) are prohibited in accordance with Section 13-34-108; and

(b) a postsecondary school that intends to cease operating is required to carry out;

(7) specifying student outcomes a postsecondary school is required to disclose under Section 13-34-109;

(8) specifying the electronic format in which a postsecondary school is required to maintain an educational credential in accordance with Section 13-34-203;

(9) establishing the type and number of credits required to obtain a degree or diploma from a postsecondary school that is not an accredited postsecondary school; and

(10) establishing:

(a) standards for granting to a postsecondary school a state authorization certificate in accordance with a reciprocity agreement;

(b) any filing, document, or fee required for a postsecondary school to obtain a state authorization certificate in accordance with a reciprocity agreement; and

(c) penalties for a postsecondary school that fails to comply with rules the division makes under this Subsection (10).

Section 5. Section 13-34-104 is repealed and reenacted to read:

13-34-104. Enforcement powers -- Action by division -- Referral.

(1) (a) In addition to the division's other enforcement powers under Chapter 2, Division of Consumer Protection, and elsewhere in this chapter, the division may, in response to a complaint or on the division's own initiative, investigate a postsecondary school to verify compliance with this chapter.

(b) For the purpose of an investigation described in Subsection (1)(a), the division may:

(i) administer an oath or affirmation;

(ii) issue a subpoena for testimony or the production of evidence;

(iii) visit a postsecondary school's physical location; and

(iv) conduct an audit.

(2) (a) The division may provide information concerning a potential violation of this chapter or rule made under this chapter to the attorney general, the county attorney, or district attorney of any county or prosecution district in which the violation or potential violation is occurring or has occurred.

(b) The attorney described in Subsection (2)(a) shall investigate the information provided by the division and immediately prosecute or bring suit to enjoin an act determined to be a violation of the chapter or rule.

(3) In addition to other penalties and remedies in this chapter, and in addition to the division's other enforcement powers under Section 13-2-6, the division may:

(a) issue a cease and desist order;

(b) impose an administrative fine for a violation of this chapter as described in Section 13-34-105; or

(c) bring an action in a court of competent jurisdiction to enforce a provision of this chapter.

(4) In an action the division brings to enforce a provision of this chapter, the court may:

(a) declare that an act or practice violates a provision of this chapter;

(b) issue an injunction for a violation of this chapter;

(c) order disgorgement of money received in violation of this chapter;

(d) order payment of disgorged money to an injured person;

(e) impose a fine;

(f) order payment of a fine imposed under Section 13-34-105;

(g) order production of educational records to the division; or

(h) award any other relief the court deems reasonable and necessary.

(5) If a court of competent jurisdiction grants judgment or injunctive relief in the division's favor, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(6) The division shall deposit all money the division receives for the payment of a fine or civil penalty imposed under this section into the Consumer Protection Education and Training Fund created in Section 13-2-8.

Section 6. Section 13-34-105 is repealed and reenacted to read:

13-34-105. Penalties and remedies.

(1) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection, and elsewhere in this chapter, the division director may, for a violation of this chapter:

(a) issue a cease and desist order; and

(b) impose an administrative fine of up to:

(i) $250 per day that a postsecondary school operates without an effective registration certificate;

(ii) $1,000 for each violation of Section 13-34-203;

(iii) $2,500 for each violation of this chapter that is not:

(A) described in Subsections (1)(b)(i) or (ii); or

(B) an intentional violation; or

(iv) $5,000 for each intentional violation of this chapter.

(2) A person intentionally violates this chapter if:

(a) (i) the violation occurs after one of the following notifies the person that the person has violated or is violating this chapter:

(A) the division;

(B) the attorney general; or

(C) a district attorney or county attorney; and

(ii) the violation is the same as the violation of which the person was notified under Subsection (2)(a)(i); or

(b) a person violates a cease and desist order the division issues under Subsection (1)(a).

(3) An intentional violation of this chapter is a class B misdemeanor.

(4) The division shall deposit all money the division receives as payment for administrative fines imposed under Subsection (1)(b) into the Consumer Protection Education and Training Fund created in Section 13-2-8.

Section 7. Section 13-34-106 is repealed and reenacted to read:

13-34-106. Denial, suspension, or revocation of registration statement, registration certificate, or state authorization certificate -- Limits on registration certificate and state authorization certificate.

(1) In accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter 4, Administrative Procedures Act, the division may initiate adjudicative proceedings to deny, suspend, or revoke a registration statement, registration certificate, or state authorization certificate if:

(a) the division finds that the denial, suspension, or revocation is in the public interest; and

(b) (i) the registration statement is incomplete, false, or misleading;

(ii) the division determines that a postsecondary school's educational credential represents undertaking or completing an educational achievement that has not been undertaken or completed; or

(iii) a postsecondary school or a principal of the postsecondary school has:

(A) violated, caused a violation, or allowed a violation of a provision of:

(I) this chapter;

(II) a rule made by the division under this chapter; or

(III) a commitment made in a registration statement;

(B) violated Chapter 11, Utah Consumer Sales Practices Act;

(C) been enjoined by a court, or is the subject of an administrative or judicial order issued in Utah or another state, if the injunction or order:

(I) includes a finding or admission of fraud, breach of fiduciary duty, or material misrepresentation; or

(II) was based on a finding of lack of integrity, truthfulness, or mental competence;

(D) been convicted of a crime involving theft, fraud, or dishonesty;

(E) obtained or attempted to obtain a registration certificate by misrepresenting any material fact;

(F) failed to timely file with the division a report required by:

(I) this chapter; or

(II) a rule made by the division under this chapter;

(G) failed to furnish information requested by the division;

(H) failed to pay an administrative fine imposed by the division under this chapter, or a fine imposed by an administrative or judicial order in Utah or another state;

(I) failed to demonstrate fiscal responsibility;

(J) failed to pay the fee required to file a registration statement;

(K) failed to satisfy the requirements of this chapter or rule made by the division under this chapter; or

(L) failed to satisfy a reasonable restriction or condition the division imposes under Subsection (2).

(2) The division may impose reasonable restrictions and conditions on a postsecondary school's registration certificate or state authorization certificate if:

(a) the restriction or condition protects student interests; and

(b) a behavior or condition described in Subsection (1)(b) applies to the postsecondary school or the postsecondary school's principal, registration statement, or educational credential.

Section 8. Section 13-34-107 is repealed and reenacted to read:

13-34-107. Limitation of authority.

Except for satisfying the provisions of this chapter and any rule made by the division in accordance with this chapter, nothing in this chapter authorizes the division to regulate educational content or to regulate a postsecondary school's day-to-day operations.

Section 9. Section 13-34-108 is repealed and reenacted to read:

13-34-108. Prohibited acts.

(1) A person may not operate a postsecondary school in this state unless:

(a) (i) the person files with the division a registration statement for the postsecondary school that complies with:

(A) the requirements of this chapter; and

(B) rules made by the division; and

(ii) the division issues a registration certificate to the postsecondary school; or

(b) the postsecondary school is exempt from the requirement to submit a registration statement under Section 13-34-111.

(2) A person who operates a postsecondary school, a postsecondary school, or a postsecondary school's agent or principal may not:

(a) omit from a registration statement a material statement of fact required by this chapter or rule made by the division under this chapter;

(b) include in a registration statement any material statement of fact that the person, postsecondary school, or the postsecondary school's principal or agent knew or should have known to be false, deceptive, inaccurate, or misleading;

(c) in connection with any investigation or request for information made by the division in accordance with this chapter, make any material statement of fact that the person, postsecondary school, or agent knew or should have known to be false, deceptive, inaccurate, or misleading;

(d) fail to provide a refund to a student within 30 days of receiving a valid request for a refund;

(e) engage in a deceptive act or practice in connection with offering or providing postsecondary education;

(f) make or cause to be made an oral, written, or visual statement or representation that the person who operates a postsecondary school, a postsecondary school, or a postsecondary school's principal or agent knows or should know is false, deceptive, substantially inaccurate, or misleading; or

(g) fail to comply with the requirements of this chapter or rule made under this chapter.

(3) (a) A postsecondary school may not offer, sell, or award an educational credential unless the recipient of the educational credential has received instruction and successfully completed requirements for the educational credential that are commensurate with reasonable standards applicable to the educational credential.

(b) Subsection (3)(a) does not apply to:

(i) an educational credential that is clearly and conspicuously designated as an honorary educational credential; or

(ii) a certificate or other award that does not designate enrollment in or successful completion of instruction or requirements to obtain a credential.

(4) A postsecondary school's name shall not contain any reference that is misleading to a

student or the public with respect to the type or nature of the postsecondary school's services, affiliation, or structure.

(5) A postsecondary school's principal or agent may not misrepresent the principal's or agent's level of educational attainment or other qualification in connection with the postsecondary school's operation.

(6) A postsecondary school may not represent that it is endorsed or approved by the division or the state.

(7) After a postsecondary school provides notice to the division that the postsecondary school will cease operations as described in Section 13-34-205, the postsecondary school may not:

(a) advertise, recruit, enroll, or offer services to a new student;

(b) charge an existing student for services beyond those for which the student has already paid or is obligated to pay;

(c) fail to notify a student that the postsecondary school intends to cease operations; or

(d) fail to comply with the requirements of Section 13-34-205.

(8) A violation of this chapter is also a violation of Subsection 13-11-4(1).

Section 10. Section 13-34-109 is repealed and reenacted to read:

13-34-109. Required disclosures.

(1) Before a postsecondary school may enroll or accept payment from a student, the postsecondary school shall clearly and conspicuously disclose in writing to the student:

(a) the postsecondary school's name, address, and location;

(b) the requirements or qualifications a student is required to satisfy to enroll in the postsecondary school;

(c) a complete description of the services for which the student will pay, including:

(i) facilities, faculty, resources, or equipment that the student may use in connection with the services, or to access the services;

(ii) the duration of services provided; and

(iii) completion or graduation requirements;

(d) information regarding how the postsecondary school's services relate to state licensing requirements if the services are intended to prepare a student for licensure;

(e) tuition, fees, and any other charge or expense to be paid by the student;

(f) a financial assistance policy, if any;

(g) the complete terms of any financing agreement, including an income sharing or other agreement, offered to the student;

(h) the postsecondary school's cancellation and tuition refund policy that shall include, at a minimum:

(i) a three-business-day cooling off period during which a person may rescind the enrollment agreement and receive a refund of all money paid, less a reasonable application fee, that may not end before midnight on the third business day after the latest of:

(A) the day on which the person signs the enrollment agreement;

(B) the day on which the person pays the postsecondary school for services, other than an application fee;

(C) the day on which the person first attends the postsecondary school; or

(D) the day on which the person first gains access to the postsecondary school's services; and

(ii) a written description of the postsecondary school's refund policy following the cooling period described in Subsection (8)(a);

(i) (i) whether the postsecondary school is accredited by an accrediting agency; and

(ii) whether the program in which a student intends to enroll is accredited by an accrediting agency, if applicable;

(j) the existence and amount of the postsecondary school's surety bond, certificate of deposit, or irrevocable letter of credit;

(k) information regarding how to file a complaint against the postsecondary school with the division, the postsecondary school's accrediting agency, and the postsecondary school's approval or licensing entity; and

(l) student outcomes specified in rules made by the division under Section 13-34-103.

(2) A postsecondary school may comply with Subsection (1)(k) by placing a conspicuous link on the postsecondary school's website that connects to:

(a) the contact information for each entity described in Subsection (1)(k) with which a person may file a complaint; or

(b) a third party's website that states the contact information for each entity described in Subsection (1)(k) with which a person may file a complaint.

Section 11. Section 13-34-110 is repealed and reenacted to read:

13-34-110. Requirement to provide official transcript and diploma to a student.

(1) A postsecondary school shall provide an official transcript or diploma to a student within 60 days of receiving a request from the student or the student's authorized representative.

(2) A postsecondary school may charge a reasonable fee to provide a transcript or diploma as described in Subsection (1).

Section 12. Section 13-34-111 is repealed and reenacted to read:

13-34-111. Exemptions.

(1) As used in this section, "State Authorization Reciprocity Agreement" or "SARA" means an agreement among member states, districts, and territories establishing comparable national standards for offering interstate postsecondary distance education courses and programs.

(2) (a) Except as provided in Subsection (2)(b), this chapter does not apply to a public postsecondary school.

(b) Notwithstanding Subsection (2)(a), the division may issue a state authorization certificate to a public postsecondary school in accordance with Section 13-34-302.

(3) A postsecondary school is exempt from Sections 13-34-201 through 13-34-205 if the postsecondary school:

(a) (i) is an active participant institution in SARA that provides distance education to a person in Utah in accordance with SARA; and

(ii) does not maintain a physical presence in the state;

(b) is owned, controlled, operated, or maintained by a bona fide church or religious organization that is exempt from property taxation by this state;

(c) is a business organization, trade or professional association, fraternal society, or labor organization that:

(i) sponsors or conducts postsecondary education primarily for its employees, independent contractors, or members; and

(ii) does not advertise as a school; or

(d) exclusively offers one or more of the following:

(i) postsecondary education:

(A) (I) that is avocational, nonvocational, or recreational;

(II) for which the postsecondary school does not represent vocational objectives; and

(III) for which the postsecondary school does not grant a degree, diploma, or other educational credential commensurate with a degree or diploma;

(B) (I) that is a prerequisite to obtain or maintain a license or certification issued by a government agency; and

(II) through a postsecondary school that is regulated and licensed, registered, or otherwise approved by a Utah or federal government agency to provide the education; or

(C) (I) for which the postsecondary school charges a student less than an amount established by division rule in any 12-month period; and

(II) for which the postsecondary school does not grant a degree, diploma, or other educational credential commensurate with a degree or diploma;

(ii) preparation for an individual to teach courses or instruction described in Subsection (3)(d)(i)(A);

(iii) courses in English as a second language or other language courses;

(iv) instruction to advance personal development or a general professional skill:

(A) that is not independently sufficient to prepare a person for specific employment; and

(B) for which the postsecondary school does not grant a degree, diploma, or other educational credential commensurate with a degree or diploma;

(v) instruction designed to prepare an individual to run for political office, for which the postsecondary school does not grant a degree, diploma, or other educational credential commensurate with a degree or diploma;

(vi) professional review programs, including certified public accountant or bar examination review and preparation courses; or

(vii) instruction to an apprentice:

(A) as part of an apprenticeship; and

(B) provided by a person who voluntarily conforms to Title 35A, Chapter 6, Apprenticeship Act, in accordance with Section 35A-6-104.

(4) A postsecondary school that is exempt under this section shall file a registration statement with the division within 30 days of the date on which the postsecondary school no longer qualifies for exemption.

(5) (a) A postsecondary school that is exempt in accordance with this section may voluntarily submit a registration statement.

(b) A postsecondary school that voluntarily submits a registration statement as described in Subsection (5)(a), and obtains a registration certificate, is not exempt from Sections 13-34-201 through 13-34-205.

(6) A postsecondary school bears the burden of proving it is exempt under this section.

Section 13. Section 13-34-112 is repealed and reenacted to read:

13-34-112. Enforcement of contract or agreement -- Rescission based on defective registration statement -- Rescission based on revocation of certificate of state authorization.

(1) A postsecondary school subject to this chapter may not enforce in the courts of this state a contract or agreement relating to postsecondary education services unless, at the time the contract or agreement is executed:

(a) the division has issued a registration certificate to the postsecondary school; or

(b) the postsecondary school is exempt from this chapter under Section 13-34-111.

(2) If an accredited postsecondary school's state authorization certificate is revoked in accordance with Section 13-34-106, or the accredited postsecondary school loses its accreditation, a student who enrolled in the postsecondary school in

reliance upon the benefits offered by the accredited postsecondary school's possession of a valid state authorization certificate or the accredited postsecondary school's accreditation may rescind an enrollment agreement.

(3) If a student rescinds an enrollment agreement as described in Subsection (2), the postsecondary school shall:

(a) release the student's future obligation to the postsecondary school for any tuition, fees, or other charges that the student paid to the postsecondary school; and

(b) refund the student any tuition, fees, or other charges that the student, or a person on the student's behalf, paid to the postsecondary school.

Section 14. Section 13-34-113 is repealed and reenacted to read:

13-34-113. Private right of action.

(1) A person may bring an action in a court of competent jurisdiction against a postsecondary school that does not comply with this chapter.

(2) If a court of competent jurisdiction finds that a postsecondary school violated this chapter, a person who brings an action under Subsection (1) is entitled to:

(a) declaratory judgment that an act or practice violates this chapter;

(b) injunctive relief;

(c) rescission of a contract;

(d) for a loss suffered as a result of a violation of this chapter, an amount equal to the greater of:

(i) actual damages; or

(ii) $2,000; and

(e) an award of reasonable attorney fees and court costs.

Section 15. Section 13-34-201 is repealed and reenacted to read:

Part 2. Postsecondary School Responsibilities

13-34-201. Registration statement -- Registration certificate.

(1) Unless exempt under Section 13-34-111, a person shall file a registration statement and obtain a registration certificate before operating a postsecondary school in this state.

(2) Before the division issues a registration certificate for a postsecondary school, the postsecondary school shall file with the division a registration statement that complies with:

(a) the requirements of this chapter; and

(b) rules made by the division in accordance with this chapter and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) A registration statement shall:

(a) be submitted on a form approved by the division;

(b) designate the certificate that the postsecondary school seeks;

(c) state whether the postsecondary school is:

(i) not accredited by an accrediting agency;

(ii) an accredited postsecondary school; or

(iii) a longstanding nonprofit accredited postsecondary school;

(d) designate a person who is authorized to respond to an inquiry from the division; and

(e) include all information required by rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A registration statement shall be:

(a) signed by the postsecondary school's owner or responsible officer; and

(b) verified by an unsworn declaration in accordance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act.

(5) A postsecondary school that submits a registration statement shall pay a non-refundable fee the division establishes in accordance with Sections 13-34-102 and 63J-1-504.

(6) (a) The division may require a postsecondary school's principal to:

(i) submit a fingerprint card in a form acceptable to the division; and

(ii) consent to a criminal background check by:

(A) the Federal Bureau of Investigation;

(B) the Utah Bureau of Criminal Identification; or

(C) another agency of any state that performs criminal background checks.

(b) The postsecondary school or the postsecondary school's principal who is the subject of the background check shall pay the cost of:

(i) the fingerprint card described in Subsection (6)(a)(i); and

(ii) the criminal background check described in Subsection (6)(a)(ii).

(7) (a) A person shall submit a separate registration statement for each postsecondary school the person operates.

(b) Notwithstanding Subsection (7)(a), a longstanding nonprofit accredited postsecondary school that has obtained and holds an active registration certificate is not required to submit a separate registration statement for a postsecondary school that:

(i) is wholly owned and operated by the longstanding nonprofit accredited postsecondary school;

(ii) is disclosed on the longstanding nonprofit accredited postsecondary school's registration statement; and

(iii) operates as a nonprofit organization.

(8) A registration certificate expires:

(a) one year after it is issued to a postsecondary school that is not an accredited postsecondary school; or

(b) two years after it is issued to an accredited postsecondary school.

(9) A registration statement, and any certificate issued in accordance with this chapter, are not transferable.

(10) Notwithstanding Subsection (8), the division may extend the period for which a registration certificate is effective so that expiration dates are staggered throughout the year.

Section 16. Section 13-34-202 is enacted to read:

13-34-202. Surety requirements.

(1) A postsecondary school required to obtain a registration certificate in accordance with this chapter shall maintain, in a form and amount approved by the division:

(a) a surety bond;

(b) a certificate of deposit;

(c) an irrevocable letter of credit; or

(d) other proof of financial viability specified in rules the division makes under Section 13-34-103.

(2) The surety bond, certificate of deposit, or irrevocable letter of credit shall be used as protection against loss of unearned tuition, tuition paid for credits that a student earned but that are not transferrable to a comparable postsecondary school, book fees, supply fees, or equipment fees:

(a) collected by the postsecondary school from a student or another person on a student's behalf; or

(b) that the student is obligated to pay.

(3) A surety bond, certificate of deposit, or irrevocable letter of credit obtained in accordance with this section may not expire:

(a) earlier than 60 days after the first day on which no student is enrolled in the postsecondary school; and

(b) while students are enrolled in the postsecondary school.

Section 17. Section 13-34-203 is enacted to read:

13-34-203. Record keeping.

(1) A postsecondary school shall maintain a student's official transcript and any diploma, degree, or certificate:

(a) in an electronic format established by division rule in accordance with Section 13-34-103; and

(b) for not less than 60 years.

(2) A postsecondary school shall maintain an educational credential not described in Subsection (1):

(a) in an electronic format established by division rule in accordance with Section 13-34-103; and

(b) for not less than 10 years.

(3) A postsecondary school shall maintain a student's enrollment agreement, record of the student's payment, and any financing agreement:

(a) in an electronic format established by division rule in accordance with Section 13-34-103; and

(b) for not less than 10 years.

(4) (a) The division may require a postsecondary school to provide an educational credential to the division.

(b) A postsecondary school shall provide a requested educational credential to the division within 14 days of a request from the division described in Subsection (4)(a).

(5) Each educational credential that is not maintained in accordance with this section constitutes a separate violation of this chapter.

(6) (a) A postsecondary school may submit to the division a written petition to request that the 60-year period described in Subsection (1) be reduced.

(b) Upon receipt of a written petition from a postsecondary school, the division may reduce the 60-year period described in Subsection (1) if:

(i) the reduced period will not substantially harm student interests;

(ii) the reduced period is consistent with any applicable requirement imposed on the postsecondary school by its accreditor or by the United States Department of Education; and

(iii) the postsecondary school demonstrates good cause for the reduced period.

Section 18. Section 13-34-204 is enacted to read:

13-34-204. Reporting material changes to registration statement.

(1) A postsecondary school shall notify the division in writing within 30 days of any material change to any information provided in a registration statement.

(2) The division may require a postsecondary school to submit a new registration statement based upon a material change to the information provided in a registration statement.

Section 19. Section 13-34-205 is enacted to read:

13-34-205. Closure.

(1) (a) A postsecondary school that has obtained a registration certificate, but has not obtained a state authorization certificate, may not cease operations unless the postsecondary school provides written notice to the division at least 30 days before the day

on which the postsecondary school ceases operations that includes:

(i) the day on which the postsecondary school will cease operations;

(ii) a copy of a teach-out plan similar to one defined in 34 C.F.R. Sec. 602.3, or another written plan that describes how students will be impacted by the postsecondary school ceasing operations;

(iii) a current list of students enrolled in the postsecondary school, including:

(A) the program in which each student is enrolled;

(B) each student's anticipated graduation date; and

(C) the method of payment the student used to pay the postsecondary school; and

(iv) if the postsecondary school is an accredited postsecondary school, a written certification signed by the postsecondary school's principal that the postsecondary school is compliant with and will continue to comply with the postsecondary school's accrediting agency's closure requirements.

(b) A postsecondary school described in Subsection (1)(a) shall provide official transcripts to the division, upon request.

(2) A postsecondary school that has obtained a state authorization certificate may not cease operations unless the postsecondary school provides written notice to the division at least 30 days before the day on which the postsecondary school ceases operations that includes:

(a) the date on which the postsecondary school will cease operations;

(b) a written certification signed by the postsecondary school's principal that the postsecondary school is compliant and will continue to comply with the postsecondary school's accrediting agency's closure requirements;

(c) a copy of any teach-out plan, as defined by 34 C.F.R. Sec. 602.3, approved by the postsecondary school's accrediting agency; and

(d) to the extent permitted by law:

(i) a current list of students who are enrolled in the postsecondary school; and

(ii) for each student described in Subsection (2)(d)(i):

(A) the student's contact information;

(B) the program or programs in which the student is enrolled;

(C) the student's anticipated graduation date; and

(D) the method of payment the student used to pay the postsecondary school.

(3) After a postsecondary school submits the written notice described in Subsection (1) or (2), the postsecondary school:

(a) may not recruit or enroll new students; and

(b) shall, within 14 days or another period approved by the division, inform its students in writing that it intends to cease operation.

(4) (a) The provisions of this Subsection (4) apply to the extent not prohibited by federal law.

(b) If a postsecondary school that ceases operations possesses a student's educational credential, the postsecondary school shall:

(i) provide for storage of the educational credential;

(ii) provide the educational credential to a student in accordance with Section 13-34-110; and

(iii) if applicable, make the educational credential available to the same extent that an education record is available under the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

Section 20. Section 13-34-301 is enacted to read:

Part 3. State Authorization

13-34-301. State authorization -- State authorization certificate.

(1) A postsecondary school that operates in the state obtains state authorization for purposes of 34 C.F.R. Sec. 600.9 if the division issues to the postsecondary school a state authorization certificate in accordance with this chapter.

(2) A postsecondary school may obtain state authorization in a manner different from the manner described in Subsection (1) if the alternative manner is accepted by the United States Department of Education.

(3) (a) A state authorization certificate is not an endorsement or approval of a postsecondary school by the division or the state.

(b) A postsecondary school may not represent that a state authorization certificate is an endorsement or approval by the division or the state.

Section 21. Section 13-34-302 is enacted to read:

13-34-302. Registration statement for state authorization certificate -- Expiration.

(1) A postsecondary school may submit a registration statement to obtain a state authorization certificate if the postsecondary school is accredited by an accrediting agency recognized by the United States Department of Education.

(2) To obtain a state authorization certificate, a postsecondary school shall submit a registration statement on a form approved by the division that includes:

(a) proof of current accreditation from the postsecondary school's accrediting agency; and

(b) all information required by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) Except as provided in Subsection (3)(b), a state authorization certificate expires two years after the division issues the state authorization certificate to an accredited postsecondary school.

(b) Notwithstanding Subsection (3)(a), the division may extend the period for which a state authorization certificate is effective so that expiration dates are staggered throughout the year.

(4) A state authorization certificate that the division issues to a longstanding nonprofit accredited postsecondary school:

(a) expires two years after the division issues the state authorization certificate;

(b) establishes the postsecondary school by name as an educational institution in accordance with 34 C.F.R. Sec. 600.9(a)(1)(i);

(c) makes the postsecondary school independent of the state system of higher education; and

(d) authorizes the postsecondary school to operate educational programs in the state that are beyond secondary education, including programs that lead to a degree or certificate.

(5) A state authorization certificate that the division issues to a public postsecondary school does not expire.

(6) A postsecondary school may satisfy Subsection (2)(a) by demonstrating to the division that the postsecondary school is:

(a) within a grace period provided by the United States Department of Education for obtaining new accreditation; or

(b) otherwise considered by the United States Department of Education to have recognized accreditation.

Section 22. Section 13-34-303 is enacted to read:

13-34-303. Authority to execute interstate reciprocity agreement.

(1) As used in this section, "institution of higher education" means an institution listed in Section 53B-1-102.

(2) The division may execute an interstate reciprocity agreement that is:

(a) for purposes of state authorization in accordance with 34 C.F.R. Sec. 600.9; and

(b) for the benefit of:

(i) postsecondary schools in the state; or

(ii) (A) postsecondary schools in the state; and

(B) institutions of higher education.

(3) If the division executes an interstate reciprocity agreement described in Subsection (2) that includes institutions of higher education, the Utah Board of Higher Education may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) implement the reciprocity agreement; and

(b) relate to institutions of higher education.

Section 23. Section 13-53-102 is amended to read:

13-53-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Consumer Protection.

(2) "Human services program" means the same as that term is defined in Section 62A-2-101.

(3) "Participant" means an individual who:

(a) resides at a residential, vocational and life skills program facility;

(b) receives from the residential, vocational and life skills program:

(i) vocational training; or

(ii) life skills training; and

(c) does not receive monetary compensation from the residential, vocational and life skills program.

(4) [~~"Proprietary school"~~] "Postsecondary school" means the same as that term is defined in Section [~~13-34-102~~] 13-34-101.

(5) "Residential, vocational and life skills program" means a program that:

(a) is operated by a nonprofit corporation, as defined in Section 16-6a-102;

(b) does not accept local, state, or federal government funding, government grant money, or any other form of government assistance to operate or provide services or training;

(c) operates on a mutually voluntary basis with each participant;

(d) houses at a program facility in this state participants who are unrelated to an owner or a manager of the program facility without charging money for lodging, food, clothing, or training;

(e) may house transitional graduates for a fee;

(f) provides vocational training to participants;

(g) provides life skills training to participants;

(h) maintains a director or senior staff member at a program facility at all times when the facility is in use;

(i) does not provide mental health services;

(j) does not provide substance use disorder treatment;

(k) does not accept payment from an insurance provider for a participant;

(l) does not award a degree, diploma, or other educational credential commensurate with a degree or diploma;

(m) does not hold itself out as a human services program; and

(n) does not hold itself out as a [~~proprietary school~~] postsecondary school.

(6) "Transitional graduate" means an individual who:

(a) graduated from a residential, vocational and life skills program;

(b) continues to reside at the residential, vocational and life skills program facility; and

(c) is employed by an entity not directly affiliated with the residential, vocational and life skills program.

(7) "Vocational training entity" is a commercial entity where a participant receives vocational training.

Section 24. Section 16-6a-401 is amended to read:

16-6a-401. Corporate name.

(1) The corporate name of a nonprofit corporation:

(a) may, but need not contain:

(i) the word "corporation," "incorporated," or "company"; or

(ii) an abbreviation of "corporation," "incorporated," or "company";

(b) may not contain:

(i) any word or phrase that indicates or implies that the nonprofit corporation is organized for a purpose other than that permitted by:

(A) Section 16-6a-301; and

(B) the nonprofit corporation's articles of incorporation; or

(ii) for a nonprofit corporation that changes the nonprofit corporation's name or is incorporated in or authorized to do business in the state on or after May 4, 2022, the number sequence "911";

(c) except as authorized by the division under Subsection (2), shall be distinguishable, as defined in Section 16-10a-401, from:

(i) the name of any domestic corporation incorporated in this state;

(ii) the name of any foreign corporation authorized to conduct affairs in this state;

(iii) the name of any domestic nonprofit corporation incorporated in this state;

(iv) the name of any foreign nonprofit corporation authorized to conduct affairs in this state;

(v) the name of any domestic limited liability company formed in this state;

(vi) the name of any foreign limited liability company authorized to conduct affairs in this state;

(vii) the name of any limited partnership formed or authorized to conduct affairs in this state;

(viii) any name that is reserved under Section 16-6a-402 or 16-10a-402;

(ix) the name of any entity that has registered the entity's name under Section 42-2-5;

(x) the name of any trademark or service mark registered by the division; or

(xi) any assumed name filed under Section 42-2-5;

(d) shall be, for purposes of recordation, either translated into English or transliterated into letters of the English alphabet if the nonprofit corporation's name is not in English; and

(e) without the written consent of the United States Olympic Committee, may not contain the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"[~~; and~~].

[~~(f) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114, may not contain the words:~~]

[~~(i) "university";~~]

[~~(ii) "college"; or~~]

[~~(iii) "institute" or "institution."~~]

(2) The division may authorize the use of the name applied for if:

(a) the name is distinguishable from one or more of the names and trademarks described in Subsection (1)(c) that are on the division's records; or

(b) if the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state registered or reserved with the division pursuant to the laws of this state.

(3) A nonprofit corporation may use the name of another domestic or foreign corporation that is used in this state if:

(a) the other corporation is incorporated or authorized to conduct affairs in this state; and

(b) the proposed user corporation:

(i) has merged with the other corporation;

(ii) has been formed by reorganization of the other corporation; or

(iii) has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(4) (a) A nonprofit corporation may apply to the division for authorization to file the nonprofit corporation's articles of incorporation under, or to register or reserve, a name that is not

distinguishable upon the division's records from one or more of the names described in Subsection (1).

(b) The division shall approve the application filed under Subsection (4)(a) if:

(i) the other person whose name is not distinguishable from the name under which the applicant desires to file, or which the applicant desires to register or reserve:

(A) consents to the filing, registration, or reservation in writing; and

(B) submits an undertaking in a form satisfactory to the division to change the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to make the requested filing in this state under the name applied for.

(5) Only names of corporations may contain the:

(a) words "corporation," or "incorporated"; or

(b) abbreviation "corp." or "inc."

(6) The division may not issue a certificate of incorporation to any association violating the provisions of this section.

Section 25. Section 16-10a-401 is amended to read:

16-10a-401. Corporate name.

(1) The name of a corporation:

(a) except for the name of a depository institution as defined in Section 7-1-103, shall contain:

(i) the word:

(A) "corporation";

(B) "incorporated"; or

(C) "company";

(ii) the abbreviation:

(A) "corp.";

(B) "inc."; or

(C) "co."; or

(iii) words or abbreviations of like import to the words or abbreviations listed in Subsections (1)(a)(i) and (ii) in another language;

(b) may not contain:

(i) language stating or implying that the corporation is organized for a purpose other than that permitted by:

(A) Section 16-10a-301; and

(B) the corporation's articles of incorporation; or

(ii) for a corporation that changes the corporation's name or is incorporated in or authorized to do business in the state on or after May 4, 2022, the number sequence "911"; and

(c) without the written consent of the United States Olympic Committee, may not contain the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"[~~; and~~].

[~~(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114, may not contain the words:~~]

[~~(i) "university";~~]

[~~(ii) "college"; or~~]

[~~(iii) "institute" or "institution."~~]

(2) Except as authorized by Subsections (3) and (4), the name of a corporation shall be distinguishable, as defined in Subsection (5), upon the records of the division from:

(a) the name of any domestic corporation incorporated in or foreign corporation authorized to transact business in this state;

(b) the name of any domestic or foreign nonprofit corporation incorporated or authorized to transact business in this state;

(c) the name of any domestic or foreign limited liability company formed or authorized to transact business in this state;

(d) the name of any limited partnership formed or authorized to transact business in this state;

(e) any name reserved or registered with the division for a corporation, limited liability company, or general or limited partnership, under the laws of this state; and

(f) any business name, fictitious name, assumed name, trademark, or service mark registered by the division.

(3) (a) A corporation may apply to the division for authorization to file the corporation's articles of incorporation under, or to register or reserve, a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (2).

(b) The division shall approve the application filed under Subsection (3)(a) if:

(i) the other person whose name is not distinguishable from the name under which the applicant desires to file, or which the applicant desires to register or reserve:

(A) consents to the filing, registration, or reservation in writing; and

(B) submits an undertaking in a form satisfactory to the division to change the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of

competent jurisdiction establishing the applicant's right to make the requested filing in this state under the name applied for.

(4) A corporation may make a filing under the name, including the fictitious name, of another domestic or foreign corporation that is used or registered in this state if:

(a) the other corporation is incorporated or authorized to transact business in this state; and

(b) the filing corporation:

(i) has merged with the other corporation; or

(ii) has been formed by reorganization of the other corporation.

(5) (a) A name is distinguishable from other names, trademarks, and service marks on the records of the division if the name:

(i) contains one or more different letters or numerals; or

(ii) has a different sequence of letters or numerals from the other names on the division's records.

(b) Differences which are not distinguishing are:

(i) the words or abbreviations of the words:

(A) "corporation";

(B) "company";

(C) "incorporated";

(D) "limited partnership";

(E) "L.P.";

(F) "limited";

(G) "limited liability company";

(H) "limited company";

(I) "L.C."; or

(J) "L.L.C.";

(ii) the presence or absence of the words or symbols of the words "the," "and," or "a";

(iii) differences in punctuation and special characters;

(iv) differences in capitalization;

(v) differences between singular and plural forms of words for a corporation:

(A) incorporated in or authorized to do business in this state on or after May 4, 1998; or

(B) that changes the corporation's name on or after May 4, 1998;

(vi) differences in whether the letters or numbers immediately follow each other or are separated by one or more spaces if:

(A) the sequence of letters or numbers is identical; and

(B) the corporation:

(I) is incorporated in or authorized to do business in this state on or after May 3, 1999; or

(II) changes the corporation's name on or after May 3, 1999; or

(vii) differences in abbreviations, for a corporation:

(A) incorporated in or authorized to do business in this state on or after May 1, 2000; or

(B) that changes the corporation's name on or after May 1, 2000.

(c) The director of the division has the power and authority reasonably necessary to interpret and efficiently administer this section and to perform the duties imposed on the division by this section.

(6) A name that implies that the corporation is an agency of this state or of any of the state's political subdivisions, if the corporation is not actually such a legally established agency or subdivision, may not be approved for filing by the division.

(7) (a) The requirements of Subsection (1)(d) do not apply to a corporation incorporated in or authorized to do business in this state on or before May 4, 1998, until December 31, 1998.

(b) On or after January 1, 1999, any corporation incorporated in or authorized to do business in this state shall comply with the requirements of Subsection (1)(d).

Section 26. Section 16-11-16 is amended to read:

16-11-16. Corporate name.

(1) The name of each professional corporation as set forth in the professional corporation's articles of incorporation:

(a) shall contain the terms:

(i) "professional corporation"; or

(ii) "P.C.";

(b) may not contain the words:

(i) "incorporated"; or

(ii) "inc.";

(c) may not contain:

(i) language stating or implying that the professional corporation is organized for a purpose other than that permitted by:

(A) Section 16-11-6; and

(B) the professional corporation's articles of incorporation; or

(ii) for a professional corporation that changes the professional corporation's name or is incorporated in or authorized to do business in the state on or after May 4, 2022, the number sequence "911"; and

(d) without the written consent of the United States Olympic Committee, may not contain the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"[~~; and~~].

[~~(e) without the written consent of the Division of Consumer Protection in accordance with Section 13-34-114, may not contain the words:~~]

[~~(i) "university";~~]

[~~(ii) "college"; or~~]

[~~(iii) "institute" or "institution."~~]

(2) The professional corporation may not imply by any word in the name that the professional corporation is an agency of the state or of any of the state's political subdivisions.

(3) A person, other than a professional corporation formed or registered under this chapter, may not use in the person's name in this state any of the terms:

(a) "professional corporation"; or

(b) "P.C."

(4) Except as authorized by Subsection (5), the name of the professional corporation shall be distinguishable, as defined in Subsection (6), upon the records of the division from:

(a) the name of any domestic corporation incorporated in or foreign corporation authorized to transact business in this state;

(b) the name of any domestic or foreign nonprofit corporation incorporated or authorized to transact business in this state;

(c) the name of any domestic or foreign limited liability company formed or authorized to transact business in this state;

(d) the name of any limited partnership formed or authorized to transact business in this state;

(e) any name reserved or registered with the division for a corporation, limited liability company, or general or limited partnership, under the laws of this state; and

(f) any business name, fictitious name, assumed name, trademark, or service mark registered by the division.

(5) (a) A professional corporation may apply to the division for authorization to file the professional corporation's articles of incorporation under, or to register or reserve, a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (4).

(b) The division shall approve the application filed under Subsection (5)(a) if:

(i) the other person whose name is not distinguishable from the name under which the applicant desires to file, or which the applicant desires to register or reserve:

(A) consents to the filing, registration, or reservation in writing; and

(B) submits an undertaking in a form satisfactory to the division to change the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to make the requested filing in this state under the name applied for.

(6) (a) A name is distinguishable from other names, trademarks, and service marks registered with the division if the name:

(i) contains one or more different letters or numerals from other names upon the division's records; or

(ii) has a different sequence of letter or numerals from the other names on the division's records.

(b) The following differences are not distinguishable:

(i) the words or abbreviations of the words:

(A) "corporation";

(B) "incorporated";

(C) "company";

(D) "limited partnership";

(E) "limited";

(F) "L.P.";

(G) "limited liability company";

(H) "limited company";

(I) "L.C."; or

(J) "L.L.C.";

(ii) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";

(iii) differences in punctuation and special characters;

(iv) differences in capitalization; or

(v) differences in abbreviations.

(7) The director of the division shall have the power and authority reasonably necessary to interpret and efficiently administer this section and to perform the duties imposed upon the division by this section.

Section 27. Section 42-2-6.6 is amended to read:

42-2-6.6. Assumed name.

(1) The assumed name:

(a) may not contain:

(i) any word or phrase that indicates or implies that the business is organized for any purpose other than a purpose contained in the business's application; or

(ii) for an assumed name that is changed or approved on or after May 4, 2022, the number sequence "911";

(b) shall be distinguishable from any registered name or trademark of record in the offices of the Division of Corporations and Commercial Code, as defined in Subsection 16-10a-401(5), except as authorized by the Division of Corporations and Commercial Code pursuant to Subsection (2);

(c) without the written consent of the United States Olympic Committee, may not contain the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; and

[~~(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114, may not contain the words:~~]

[~~(i) "university";~~]

[~~(ii) "college"; or~~]

[~~(iii) "institute" or "institution"; and~~]

[~~(e)~~] (d) an assumed name authorized for use in this state on or after May 1, 2000, may not contain the words:

(i) "incorporated";

(ii) "inc."; or

(iii) a variation of "incorporated" or "inc."

(2) Notwithstanding Subsection (1)(e), an assumed name may contain a word listed in Subsection (1)(e) if the Division of Corporations and Commercial Code authorizes the use of the name by a corporation as defined in:

(a) Subsection 16-6a-102(26);

(b) Subsection 16-6a-102(35);

(c) Subsection 16-10a-102(11); or

(d) Subsection 16-10a-102(20).

(3) The Division of Corporations and Commercial Code shall authorize the use of the name applied for if:

(a) the name is distinguishable from one or more of the names and trademarks that are on the division's records; or

(b) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) The assumed name, for purposes of recordation, shall be either translated into English or transliterated into letters of the English alphabet if the assumed name is not in English.

(5) The Division of Corporations and Commercial Code may not approve an application for an assumed name to any person violating this section.

(6) The director of the Division of Corporations and Commercial Code shall have the power and authority reasonably necessary to interpret and efficiently administer this section and to perform the duties imposed on the division by this section.

(7) A name that implies by any word in the name that the business is an agency of the state or of any of the state's political subdivisions, if the business is not actually such a legally established agency, may not be approved for filing by the Division of Corporations and Commercial Code.

(8) Section 16-10a-403 applies to this chapter.

(9) (a) The requirements of Subsection (1)(d) do not apply to a person who filed a certificate of assumed and of true name with the Division of Corporations and Commercial Code on or before May 4, 1998, until December 31, 1998.

(b) On or after January 1, 1999, any person who carries on, conducts, or transacts business in this state under an assumed name shall comply with the requirements of Subsection (1)(d).

Section 28. Section 48-1d-1105 is amended to read:

48-1d-1105. Permitted names.

(1) The name of a partnership that is not a limited liability partnership may not contain the phrase "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

(2) The name of a limited liability partnership must contain the words "Registered Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

(3) Except as otherwise provided in Subsection (6), the name of a limited liability partnership and the name under which a foreign limited liability partnership may register to do business in this state must be distinguishable on the records of the division from any:

(a) name of an existing person whose formation required the filing of a record by the division;

(b) name of a limited liability partnership;

(c) name of a person that is registered to do business in this state by the filing of a record by the division;

(d) name reserved under Section 48-1d-1106 or other law of this state providing for the reservation of a name by the filing of a record by the division;

(e) name registered under Section 48-1d-1107 or other law of this state providing for the registration of a name by the filing of a record by the division; or

(f) assumed name registered under Title 42, Chapter 2, Conducting Business Under Assumed Name.

(4) If a person consents in a record to the use of the person's name and submits an undertaking in a form satisfactory to the division to change the person's name to a name that is distinguishable on

the records of the division from any name in any category of names in Subsection (3), the name of the consenting person may be used by the person to which the consent was given.

(5) Except as otherwise provided in Subsection (6), in determining whether a name is the same as or not distinguishable on the records of the division from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP", "R.L.L.P.", "limited liability limited partnership", "LLLP", "L.L.L.P.", "registered limited liability limited partnership", "RLLLP", "R.L.L.L.P.", "limited liability company", or "LLC", "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken into account.

(6) A person may consent in a record to the use of a name that is not distinguishable on the records of the division from the person's name except for the addition of a word, phrase, or abbreviation indicating the type of person as provided in Subsection (5). In such a case, the person need not change person's name pursuant to Subsection (4).

(7) The division may not approve for filing a name that implies that a limited liability partnership is an agency of this state or any of the state's political subdivisions, if the limited liability partnership is not actually such a legally established agency or subdivision.

(8) The authorization to file a certificate under or to reserve or register a limited liability partnership name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

(9) The name of a limited liability partnership or foreign limited liability partnership may not contain:

(a) the words:

(i) "association";

(ii) "corporation";

(iii) "incorporated";

(iv) "limited liability company";

(v) "limited company";

(vi) "limited partnership"; or

(vii) "Ltd.";

(b) any word or abbreviation that is of like import to the words listed in Subsection (9)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; or

[~~(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114 the words:~~]

[~~(i) "university";~~]

[~~(ii) "college"; or~~]

[~~(iii) "institute" or "institution"; or~~]

[~~(e)~~] (d) for a limited liability partnership that changes the limited liability partnership's name or registers to do business in the state on or after May 4, 2022, the number sequence "911."

Section 29. Section 48-2e-108 is amended to read:

48-2e-108. Permitted names.

(1) The name of a limited partnership may contain the name of any partner.

(2) The name of a limited partnership that is not a limited liability limited partnership shall contain the words "limited partnership" or the abbreviation "L.P." or "LP" and may not contain the words "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP".

(3) The name of a limited liability limited partnership shall contain the words "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and may not contain the abbreviation "L.P." or "LP".

(4) Except as otherwise provided in Subsection (7), the name of a limited partnership, and the name under which a foreign limited partnership may register to do business in this state, shall be distinguishable on the records of the division from:

(a) the name of an existing person whose formation required the filing of a record by the division;

(b) the name of a limited liability partnership;

(c) the name of a person that is registered to do business in this state by the filing of a record by the division;

(d) each name reserved under Section 48-2e-109 or other law of this state providing for the reservation of a name by the filing of a record by the division;

(e) each name registered under Section 48-2e-110 or other law of this state providing for the registration of a name by the filing of a record by the division; or

(f) an assumed name registered under Title 42, Chapter 2, Conducting Business Under Assumed Name.

(5) If a person consents in a record to the use of the person's name and submits an undertaking in a form satisfactory to the division to change the person's name to a name that is distinguishable on the records of the division from any name in any category of names in Subsection (4), the name of the consenting person may be used by the person to which the consent was given.

(6) Except as otherwise provided in Subsection (7), in determining whether a name is the same as or not distinguishable on the records of the division from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP", "R.L.L.P.", "limited liability limited partnership", "LLLP", "L.L.L.P.", "registered limited liability limited partnership", "RLLLP", "R.L.L.L.P.", "limited liability company", "LLC", "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken into account.

(7) A person may consent in a record to the use of a name that is not distinguishable on the records of the division from the person's name except for the addition of a word, phrase, or abbreviation indicating the type of person as provided in Subsection (6). In such a case, the person is not required to change the person's name pursuant to Subsection (5).

(8) The division may not approve for filing a name that implies that a limited partnership is an agency of this state or any of the state's political subdivisions, if the limited partnership is not actually such a legally established agency or subdivision.

(9) The authorization to file a certificate under or to reserve or register a limited partnership name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

(10) The name of a limited partnership or foreign limited partnership may not contain:

(a) the words:

(i) "association";

(ii) "corporation";

(iii) "incorporated";

(iv) "limited liability company"; or

(v) "limited company";

(b) any word or abbreviation that is of like import to the words listed in Subsection (10)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; or

[~~(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114 the words:~~]

[~~(i) "university";~~]

[~~(ii) "college"; or~~]

[~~(iii) "institute" or "institution"; or~~]

[~~(e)~~] (d) for a limited partnership that changes the limited partnership's name or is formed on or after May 4, 2022, the number sequence "911."

Section 30. Section 48-3a-108 is amended to read:

48-3a-108. Permitted names.

(1) Except as provided in Section 48-3a-1104 or 48-3a-1302, the name of a limited liability company shall contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co.".

(2) Except as authorized by Subsection (3), the name of a company shall be distinguishable as defined in Subsection (4) upon the records of the division from:

(a) the actual name, reserved name, or fictitious or assumed name of any entity registered with the division; or

(b) any tradename, trademark, or service mark registered with the division.

(3) (a) A company may apply to the division for approval to file the company's certificate of organization under or to reserve a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (2).

(b) The division shall approve the name for which the company applies under Subsection (3)(a) if:

(i) the other person whose name is not distinguishable from the name under which the applicant desires to file:

(A) consents to the filing in writing; and

(B) submits an undertaking in a form satisfactory to the division to change the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name in this state.

(4) A name is distinguishable from other names, trademarks, and service marks registered with the

division if the name contains one or more different words, letters, or numerals from other names upon the division's records.

(5) The following differences are not distinguishing:

(a) the term:

(i) "corp.";

(ii) "corporation";

(iii) "Inc.";

(iv) "incorporated";

(v) "professional corporation";

(vi) "P.C." or "PC";

(vii) "professional association";

(viii) "P.A." or "PA";

(ix) "professional limited liability company";

(x) "P.L.L.C." or "PLLC";

(xi) "company";

(xii) "limited partnership";

(xiii) "limited";

(xiv) "L.P." or "LP";

(xv) "Ltd.";

(xvi) "limited liability company";

(xvii) "limited company";

(xviii) "L.C." or "LC";

(xix) "L.L.C." or "LLC";

(xx) "registered limited liability partnership";

(xxi) "R.L.L.P." or "RLLP";

(xxii) "limited liability partnership";

(xxiii) "L.L.P." or "LLP";

(xxiv) "limited liability limited partnership";

(xxv) "L.L.L.P." or "LLLP";

(xxvi) "registered limited liability limited partnership"; or

(xxvii) "R.L.L.L.P." or "RLLLP";

(b) an abbreviation of a word listed in Subsection (5)(a);

(c) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";

(d) differences in punctuation and special characters;

(e) differences in capitalization; or

(f) for a company that is formed in this state on or after May 4, 1998, or registered as a foreign company in this state on or after May 4, 1998, differences in singular and plural forms of words.

(6) The division may not approve for filing a name that implies that a limited liability company is an agency of this state or any of the state's political subdivisions, if the limited liability company is not actually such a legally established agency or subdivision.

(7) The authorization to file a certificate under or to reserve or register a limited liability company name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

(8) The name of a limited liability company or foreign limited liability company may not contain:

(a) the term:

(i) "association";

(ii) "corporation";

(iii) "incorporated";

(iv) "partnership";

(v) "limited partnership"; or

(vi) "L.P.";

(b) any word or abbreviation that is of like import to the words listed in Subsection (8)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; or

[~~(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114 the words:~~]

[~~(i) "university";~~]

[~~(ii) "college"; or~~]

[~~(iii) "institute" or "institution"; or~~]

[~~(e)~~] (d) for a limited liability company that changes the limited liability company's name or is formed on or after May 4, 2022, the number sequence "911."

(9) (a) A person, other than a company formed under this chapter or a foreign company authorized to transact business in this state, may not use in the person's name in this state the term:

(i) "limited liability company";

(ii) "limited company";

(iii) "L.L.C.";

(iv) "L.C.";

(v) "LLC"; or

(vi) "LC".

(b) Notwithstanding Subsection (2)(a):

(i) a foreign corporation whose actual name includes the term "limited" or "Ltd." may use the foreign corporation's actual name in this state if the foreign corporation also uses:

(A) "corporation" or "corp."; or

(B) "incorporated" or "Inc."; and

(ii) a limited liability partnership may use in the limited liability partnership's name the term:

(A) "limited liability partnership";

(B) "L.L.P."; or

(C) "LLP".

Section 31. Repealer.

This bill repeals:

Section 13-34-114, Consent to use of educational terms in business names.

Section 13-34a-101, Title.

Section 13-34a-102, Definitions.

Section 13-34a-103, Duties of the division.

Section 13-34a-104, Authority to execute interstate reciprocity agreement -- Rulemaking.

Section 13-34a-201, Title.

Section 13-34a-202, State authorization -- Certificate of postsecondary state authorization.

Section 13-34a-203, Nonprofit postsecondary school -- Procedure to obtain certificate of postsecondary state authorization.

Section 13-34a-204, Postsecondary school -- Procedure to obtain certificate of postsecondary state authorization.

Section 13-34a-205, Background checks.

Section 13-34a-206, Complaints -- Information for students and prospective students.

Section 13-34a-207, Discontinuance of operations.

Section 13-34a-301, Title.

Section 13-34a-302, Denial, suspension, or revocation of certificate of postsecondary state authorization.

Section 13-34a-303, Right to rescind.

Section 13-34a-304, Violations.

Section 13-34a-305, Enforcement.

Section 13-34a-306, Penalties.

Section 32. Effective date.

This bill takes effect on January 1, 2024, with the exception of Section 13-2-1 (Effective 12/31/23), which takes effect on December 31, 2023.

CHAPTER 459
H. B. 54
Passed March 2, 2023
Approved March 22, 2023
Effective May 3, 2023

TAX REVISIONS

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LONG TITLE

General Description:

This bill modifies state tax provisions.

Highlighted Provisions:

This bill:

- amends the corporate franchise and income tax rates;
- amends the individual income tax rate;
- adds to the taxpayer tax credit an additional Utah personal exemption in the year of a qualifying dependent's birth;
- expands eligibility for the social security benefits tax credit by increasing the thresholds for the income-based phaseout;
- modifies the calculation of the earned income tax credit;
- removes the state sales and use tax imposed on amounts paid or charged for food and food ingredients; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-104, as last amended by Laws of Utah 2022, Chapter 12
59-7-201, as last amended by Laws of Utah 2022, Chapter 12
59-10-104, as last amended by Laws of Utah 2022, Chapter 12
59-10-1018, as last amended by Laws of Utah 2021, Chapter 75
59-10-1042, as last amended by Laws of Utah 2022, Chapters 12, 258
59-10-1044, as enacted by Laws of Utah 2022, Chapter 12
59-12-102, as last amended by Laws of Utah 2021, Chapters 64, 367 and 414 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 367
59-12-103, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433
59-12-108, as last amended by Laws of Utah 2020, Chapters 294, 407
63N-2-502, as last amended by Laws of Utah 2020, Chapter 407
63N-7-301, as last amended by Laws of Utah 2022, Chapters 274, 362 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 362

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-104 is amended to read:

59-7-104. Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise or for the privilege of doing business in the state.

(2) The tax shall be [~~4.85~~] 4.65% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is $100.

Section 2. Section 59-7-201 is amended to read:

59-7-201. Tax -- Minimum tax.

(1) There is imposed upon each corporation, except a corporation that is exempt under Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be [~~4.85~~] 4.65% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than $100.

Section 3. Section 59-10-104 is amended to read:

59-10-104. Tax basis -- Tax rate -- Exemption.

(1) A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) [~~4.85~~] 4.65%.

(3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 4. Section 59-10-1018 is amended to read:

59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.

(1) As used in this section:

(a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(b) "Joint filing status" means:

(i) spouses who file a single return jointly under this chapter for a taxable year; or

(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(c) "Qualifying dependent" means an individual with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year.

(d) "Single filing status" means:

(i) a single individual who files a single federal individual income tax return for the taxable year; or

(ii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) files a single federal individual income tax return for the taxable year.

(e) "State or local income tax" means the lesser of:

(i) the amount of state or local income tax that the claimant:

(A) pays for the taxable year; and

(B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and

(ii) $10,000.

(f) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year minus any amount of state or local income tax for the taxable year.

(ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.

(g) "Utah personal exemption" means, subject to Subsection (6), $1,750 multiplied by the number of the claimant's qualifying dependents plus an additional qualifying dependent in the year of a qualifying dependent's birth.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

(a) (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

(ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction; and

(b) 6% of the claimant's Utah personal exemption.

(3) A claimant may not carry forward or carry back a tax credit under this section.

(4) The tax credit allowed by Subsection (2) shall be reduced by $.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, $15,095;

(b) for a claimant who has a head of household filing status, $22,643; or

(c) for a claimant who has a joint filing status, $30,190.

(5) (a) For a taxable year beginning on or after January 1, 2022, the commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2020:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the

commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(6) (a) For a taxable year beginning on or after January 1, 2022, the commission shall increase annually the Utah personal exemption amount listed in Subsection (1)(g) by a percentage equal to the percentage by which the consumer price index for the preceding calendar year exceeds the consumer price index for calendar year 2020.

(b) After the commission increases the Utah personal exemption amount as described in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the nearest whole dollar.

(c) For purposes of Subsection (6)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section 5. Section 59-10-1042 is amended to read:

59-10-1042. Nonrefundable tax credit for social security benefits.

(1) As used in this section:

(a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's return under this chapter is allowed a joint filing status, the claimant and the claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each claimant on a return that receives a social security benefit may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) A claimant may not:

(a) carry forward or carry back the amount of a tax credit under this section that exceeds the claimant's tax liability for the taxable year; or

(b) claim a tax credit under this section for a taxable year if a tax credit under Section 59-10-1019 is claimed on the claimant's return for the same taxable year.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by $.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, [~~$31,000~~] $37,500;

(b) for a federal individual income tax return that is allowed a single filing status, [~~$37,000~~] $45,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, [~~$62,000~~] $75,000; or

(d) for a return under this chapter that is allowed a joint filing status, [~~$62,000~~] $75,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming the tax credit described in this section.

Section 6. Section 59-10-1044 is amended to read:

59-10-1044. Nonrefundable earned income tax credit.

(1) As used in this section:

(a) "Federal earned income tax credit" means the federal earned income tax credit described in Section 32, Internal Revenue Code.

(b) "Qualifying claimant" means a resident or nonresident individual who:

(i) qualifies for and claims the federal earned income tax credit for the current taxable year[.]; and

(ii) earns income in Utah that is reported on a W-2 form.

(2) Subject to Section 59-10-1002.2, a qualifying claimant may claim a nonrefundable earned income tax credit equal to the lesser of:

(a) [15] 20% of the amount of the federal earned income tax credit that the qualifying claimant was entitled to claim on a federal income tax return for the current taxable year[.]; and

(b) the total Utah wages reported on the qualifying claimant's W-2 form for the current taxable year.

(3) A qualifying claimant may not carry forward or carry back the amount of the earned income tax credit that exceeds the qualifying claimant's tax liability.

Section 7. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

[~~(c) Subsection 59-12-103(2)(c)(i);~~]

[~~(d)~~] (c) Subsection 59-12-103(2)(d);

[~~(e)~~] (d) Subsection 59-12-103(2)(e)(i)(A)(I);

[~~(f)~~] (e) Section 59-12-204;

[~~(g)~~] (f) Section 59-12-401;

[~~(h)~~] (g) Section 59-12-402;

[~~(i)~~] (h) Section 59-12-402.1;

[~~(j)~~] (i) Section 59-12-703;

[~~(k)~~] (j) Section 59-12-802;

[~~(l)~~] (k) Section 59-12-804;

[~~(m)~~] (l) Section 59-12-1102;

[~~(n)~~] (m) Section 59-12-1302;

[~~(o)~~] (n) Section 59-12-1402;

[~~(p)~~] (o) Section 59-12-1802;

[~~(q)~~] (p) Section 59-12-2003;

[~~(r)~~] (q) Section 59-12-2103;

[~~(s)~~] (r) Section 59-12-2213;

[~~(t)~~] (s) Section 59-12-2214;

[~~(u)~~] (t) Section 59-12-2215;

[~~(v)~~] (u) Section 59-12-2216;

[~~(w)~~] (v) Section 59-12-2217;

[~~(x)~~] (w) Section 59-12-2218;

[~~(y)~~] (x) Section 59-12-2219; or

[~~(z)~~] (y) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

(21) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (112).

(25) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(26) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(27) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(28) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(29) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (29)(a) and (b).

(30) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

(31) "Construction materials" means any tangible personal property that will be converted into real property.

(32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(34) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(35) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (35)(b)(i) through (v);

(c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (35)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(36) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(37) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(38) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(39) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(40) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(41) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(42) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(43) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(45) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (45)(b)(i) through (vi).

(46) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(47) "Employee" means the same as that term is defined in Section 59-10-401.

(48) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(49) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(50) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(51) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(52) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(53) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(54) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(56) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(59) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(60) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(61) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(62) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(63) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(64) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(65) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(66) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(67) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (67)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(68) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(69) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (69)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (69)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(70) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(71) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (71)(a) through (g); or

(j) person similar to a person described in Subsections (71)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(72) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(73) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(74) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (74)(a)(i) and the termination point described in Subsection (74)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (75)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(76) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(77) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (77)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(79) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(80) "Modular home" means a modular unit as defined in Section 15A-1-302.

(81) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(82) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(83) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(84) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(85) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(86) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (86)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(88) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(89) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (89)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (89)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (130)(c).

(90) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(91) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile

Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(92) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(93) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(94) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(95) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(96) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (96)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(97) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (98)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(99) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(100) (a) Except as provided in Subsection (100)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(101) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(102) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(103) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(104) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(105) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(106) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(107) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(108) "Rental" means the same as that term is defined in Subsection (60).

(109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal

property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(110) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(111) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (111)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(112) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(114) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(116) "Sale at retail" means the same as that term is defined in Subsection (113).

(117) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(118) "Sales price" means the same as that term is defined in Subsection (104).

(119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (119)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(120) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(121) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(122) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (122)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(123) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(125) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(126) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(127) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(128) "State" means the state of Utah, its departments, and agencies.

(129) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(131) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (131)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

(132) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(133) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(134) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(135) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (135)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(136) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (136)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

(137) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (137)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (137)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

(138) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(139) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(140) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(141) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(142) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (143)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(144) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (143).

(145) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(146) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(148) "Watercraft" means a vessel as defined in Section 73-18-2.

(149) "Wind energy" means wind used as the sole source of energy to produce electricity.

(150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 8. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) (i) Except as provided in Subsection (2)(e) or (f), a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or town imposes under this chapter on the amounts paid or charged for food or food ingredients.

(ii) There is no state tax imposed on amounts paid or charged for food and food ingredients.

[~~(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:~~]

[~~(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and~~]

[~~(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.~~]

(d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as

determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i); or

[~~(iii) Subsection (2)(c)(i); or~~]

[~~(iv)~~] (iii) Subsection (2)(e)(i)(A)(I).

(i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

[~~(C) Subsection (2)(c)(i); or~~]

[~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

[~~(C) Subsection (2)(c)(i); or~~]

[~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

(j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

[~~(C) Subsection (2)(c)(i); or~~]

[~~(D)~~] (C) Subsection (2)(e)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i); and

[~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

[~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection [~~(2)(c)(ii)~~] (2)(c); and

(iv) the tax imposed by Subsection (2)(e)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i); and

[~~(C) the tax imposed by Subsection (2)(c)(i); and~~]

[~~(D)~~] (C) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) for the current fiscal year under Subsection (7)(a).

(iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C) in the current fiscal year under Subsection (7)(a).

(iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through [~~(D)~~] (C).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005 by an

amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant revenue.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

[~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

[~~(iv)~~] (iii) the tax imposed by Subsection (2)(e)(i)(~~A~~)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(ii) As used in this Subsection (8)(d), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through [~~(iv)~~] (iii).

(v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(vi).

(vi) The commission shall annually deposit the amount described in Subsection (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(vii) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(e).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel

Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

(15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i); and

[~~(c) the tax imposed by Subsection (2)(c)(i); and~~]

[~~(d)~~] (c) the tax imposed by Subsection (2)(e)(i)(A)(I).

Section 9. Section 59-12-108 is amended to read:

59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty -- Certain amounts allocated to local taxing jurisdictions.

(1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this chapter of $50,000 or more for the previous calendar year shall:

(i) file a return with the commission:

(A) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(B) for the month for which the seller collects a tax under this chapter; and

(ii) except as provided in Subsection (1)(b), remit with the return required by Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c):

(A) if that seller's tax liability under this chapter for the previous calendar year is less than $96,000, by any method permitted by the commission; or

(B) if that seller's tax liability under this chapter for the previous calendar year is $96,000 or more, by electronic funds transfer.

(b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the seller is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c) if that seller:

(i) is required by Section 59-12-107 to file the return electronically; or

(ii) (A) is required to collect and remit a tax under Section 59-12-107; and

(B) files a simplified electronic return.

(c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

(i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(ii) a fee under Section 19-6-714;

(iii) a fee under Section 19-6-805;

(iv) a charge under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(v) a tax under this chapter.

(d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for a method for making same-day payments other than by electronic funds transfer if making payments by electronic funds transfer fails.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish by rule procedures and

requirements for determining the amount a seller is required to remit to the commission under this Subsection (1).

(2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount allowed by this Subsection (2).

(b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1.31% of any amounts the seller is required to remit to the commission:

(i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax and a local tax imposed in accordance with the following, for the month for which the seller is filing a return in accordance with Subsection (1):

(A) Subsection 59-12-103(2)(a);

(B) Subsection 59-12-103(2)(b); and

(C) Subsection 59-12-103(2)(d); and

(ii) for an agreement sales and use tax.

(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described in Subsection 59-12-103(1) that is subject to the [~~state tax and the local~~] tax imposed in accordance with Subsection 59-12-103(2)(c).

(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount equal to the sum of:

(A) 1.31% of any amounts the seller is required to remit to the commission for:

(I) the [~~state tax and the local~~] tax imposed in accordance with Subsection 59-12-103(2)(c);

(II) the month for which the seller is filing a return in accordance with Subsection (1); and

(III) an agreement sales and use tax; and

(B) 1.31% of the difference between:

(I) the amounts the seller would have been required to remit to the commission:

(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

(Bb) for the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) for an agreement sales and use tax; and

(II) the amounts the seller is required to remit to the commission for:

(Aa) the [~~state tax and the local~~] tax imposed in accordance with Subsection 59-12-103(2)(c);

(Bb) the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) an agreement sales and use tax.

(d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1% of any amounts the seller is required to remit to the commission:

(i) for the month for which the seller is filing a return in accordance with Subsection (1); and

(ii) under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Subsection 59-12-603(1)(a)(i)(A);

(C) Subsection 59-12-603(1)(a)(i)(B); or

(D) Subsection 59-12-603(1)(a)(ii).

(3) A state government entity that is required to remit taxes monthly in accordance with Subsection (1) may not retain any amount under Subsection (2).

(4) A seller that has a tax liability under this chapter for the previous calendar year of less than $50,000 may:

(a) voluntarily meet the requirements of Subsection (1); and

(b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts allowed by Subsection (2).

(5) Penalties for late payment shall be as provided in Section 59-1-401.

(6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted to the commission under this part, the commission shall each month calculate an amount equal to the difference between:

(i) the total amount retained for that month by all sellers had the percentages listed under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

(ii) the total amount retained for that month by all sellers at the percentages listed under Subsections (2)(b) and (2)(c)(ii).

(b) The commission shall each month allocate the amount calculated under Subsection (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use tax that the commission distributes to each county, city, and town for that month compared to the total agreement sales and use tax that the commission distributes for that month to all counties, cities, and towns.

(c) The amount the commission calculates under Subsection (6)(a) may not include an amount collected from a tax that:

(i) the state imposes within a county, city, or town, including the unincorporated area of a county; and

(ii) is not imposed within the entire state.

Section 10. Section 63N-2-502 is amended to read:

63N-2-502. Definitions.

As used in this part:

(1) "Agreement" means an agreement described in Section 63N-2-503.

(2) "Base taxable value" means the value of hotel property before the construction on a qualified hotel begins, as that value is established by the county in which the hotel property is located, using a reasonable valuation method that may include the value of the hotel property on the county assessment rolls the year before the year during which construction on the qualified hotel begins.

(3) "Certified claim" means a claim that the office has approved and certified as provided in Section 63N-2-505.

(4) "Claim" means a written document submitted by a qualified hotel owner or host local government to request a convention incentive.

(5) "Claimant" means the qualified hotel owner or host local government that submits a claim under Subsection 63N-2-505(1)(a) for a convention incentive.

(6) "Commission" means the Utah State Tax Commission.

(7) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(8) "Construction revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

(9) "Convention incentive" means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.

(10) "Eligibility period" means:

(a) the period that:

(i) begins the date construction of a qualified hotel begins; and

(ii) ends:

(A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or

(B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or

(b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:

(i) begins no earlier than the date construction of a qualified hotel begins; and

(ii) is shorter than the period described in Subsection (10)(a).

(11) "Endorsement letter" means a letter:

(a) from the county in which a qualified hotel is located or is proposed to be located;

(b) signed by the county executive; and

(c) expressing the county's endorsement of a developer of a qualified hotel as meeting all the county's criteria for receiving the county's endorsement.

(12) "Host agency" means the community reinvestment agency of the host local government.

(13) "Host local government" means:

(a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or

(b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.

(14) "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.

(15) "Incentive fund" means the Convention Incentive Fund created in Section 63N-2-503.5.

(16) "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:

(a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and

(b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using the hotel property's base taxable value.

(17) "Local portion" means the portion of new tax revenue that is generated by local taxes.

(18) "Local taxes" means a tax imposed under:

(a) Section 59-12-204;

(b) Section 59-12-301;

(c) Sections 59-12-352 and 59-12-353;

(d) Subsection 59-12-603(1)(a); or

(e) Section 59-12-1102.

(19) "New tax revenue" means construction revenue, offsite revenue, and onsite revenue.

(20) "Offsite revenue" means revenue generated from state taxes and local taxes imposed on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:

(a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63N-2-505(2)(b)(i)(E).

(21) "Onsite revenue" means revenue generated from state taxes and local taxes imposed on

transactions occurring on hotel property during the eligibility period.

(22) "Public infrastructure" means:

(a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;

(b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and

(c) other buildings, facilities, infrastructure, and improvements that benefit the public.

(23) "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1, 2014 that:

(a) requires a significant capital investment;

(b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and

(c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.

(24) "Qualified hotel owner" means a person who owns a qualified hotel.

(25) "Review committee" means the independent review committee established under Section 63N-2-504.

(26) "Significant capital investment" means an amount of at least $200,000,000.

(27) "State portion" means the portion of new tax revenue that is generated by state taxes.

(28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), [~~(2)(e)(i),~~] or (2)(e)(i)(A).

(29) "Third-party seller" means a person who is a seller in a transaction:

(a) occurring other than on hotel property;

(b) that is:

(i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or

(ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (29)(b)(i); and

(c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Section 11. Section 63N-7-301 is amended to read:

63N-7-301. Tourism Marketing Performance Account.

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by the tourism office for the purposes listed in Subsections (6) [~~through (8)~~] and (7).

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The managing director shall use account money appropriated to the tourism office to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by the tourism office.

(6) (a) For each fiscal year, the tourism office shall annually allocate 10% of the account money appropriated to the tourism office to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.

(b) The sports organization shall:

(i) provide an annual written report to the tourism office that gives an accounting of the use of funds the sports organization receives under this Subsection (6); and

(ii) promote the state and encourage economic growth in the state.

[~~(7) Money deposited into the account shall include a legislative appropriation from the cumulative sales and use tax revenue increases described in Subsection (8), plus any additional appropriation made by the Legislature.~~]

[~~(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified by the State Tax Commission as a set-aside for the account, and the State Tax Commission shall report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance, which shall set aside the certified amount for appropriation to the account.~~]

[~~(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the set-aside under this Subsection (8) in each fiscal year by applying one of the following formulas: if the annual percentage change in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:~~]

[~~(i) greater than 3%, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than the annual percentage change in the Consumer Price Index for the fiscal year two years before the fiscal year in which the set-aside is to be~~

~~made, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and the annual percentage change in the Consumer Price Index shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made; or~~]

[~~(ii) 3% or less, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than 3%, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made.~~]

[~~(c) The total money appropriated to the account in a fiscal year under Subsections (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal year by more than $3,000,000.~~]

[~~(d) As used in this Subsection (8), "state sales and use tax revenues" are revenues collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).~~]

[~~(e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services" are calculated by adding the following percentages of sales from each business registered with the State Tax Commission under one of the following codes of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:~~]

[~~(i) 80% of the sales from each business under NAICS Codes:~~]

[~~(A) 532111 Passenger Car Rental;~~]

[~~(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;~~]

[~~(C) 5615 Travel Arrangement and Reservation Services;~~]

[~~(D) 7211 Traveler Accommodation; and~~]

[~~(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;~~]

[~~(ii) 25% of the sales from each business under NAICS Codes:~~]

[~~(A) 51213 Motion Picture and Video Exhibition;~~]

[~~(B) 532292 Recreational Goods Rental;~~]

[~~(C) 711 Performing Arts, Spectator Sports, and Related Industries;~~]

[~~(D) 712 Museums, Historical Sites, and Similar Institutions; and~~]

[~~(E) 713 Amusement, Gambling, and Recreation Industries;~~]

[~~(iii) 20% of the sales from each business under NAICS Code 722 Food Services and Drinking Places;~~]

[~~(iv) 18% of the sales from each business under NAICS Codes:~~]

[~~(A) 447 Gasoline Stations; and~~]

[~~(B) 81293 Parking Lots and Garages;~~]

[~~(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair and Maintenance; and~~]

[~~(vi) 5% of the sales from each business under NAICS Codes:~~]

[~~(A) 445 Food and Beverage Stores;~~]

[~~(B) 446 Health and Personal Care Stores;~~]

[~~(C) 448 Clothing and Clothing Accessories Stores;~~]

[~~(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;~~]

[~~(E) 452 General Merchandise Stores; and~~]

[~~(F) 453 Miscellaneous Store Retailers.~~]

[~~(9)~~] (7) (a) For each fiscal year, the tourism office shall allocate 20% of the funds appropriated to the Tourism Marketing and Performance Account to the cooperative program described in this Subsection [~~(9)~~] (7).

(b) Money allocated to the cooperative program may be awarded to cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing money committed by these entities for advertising and promoting sites and events in the state.

(c) The tourism office shall establish:

(i) an application and approval process for an entity to receive a cooperative program award, including an application deadline;

(ii) the criteria for awarding a cooperative program award, which shall emphasize attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in the state; and

(iii) eligibility, advertising, timing, and reporting requirements of an entity that receives a cooperative program award.

(d) Money allocated to the cooperative program that is not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

Section 12. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect May 3, 2023.

(2) The changes to Sections 59-12-102, 59-12-103, 59-12-108, 63N-2-502, and 63N-7-301 take effect January 1, 2025, if the amendment to the Utah Constitution proposed by S.J.R. 10, Proposal to Amend Utah Constitution - Income Tax, 2023 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

Section 13. Retrospective operation.

The following sections have retrospective operation for a taxable year beginning on or after January 1, 2023:

(1) Section 59-7-104;

(2) Section 59-7-201;

(3) Section 59-10-104;

(4) Section 59-10-1018;

(5) Section 59-10-1042; and

(6) Section 59-10-1044.

CHAPTER 460
H. B. 130
Passed March 1, 2023
Approved March 22, 2023
Effective May 3, 2023

ADOPTION TAX CREDIT

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill enacts individual income tax credits for adoption expenses.

Highlighted Provisions:

This bill:

- defines terms;
- enacts a nonrefundable and a refundable individual income tax credit for expenses related to the adoption of a child, for which eligibility depends on the individual's income;
- provides for apportionment of the tax credit;
- requires the Department of Workforce Services to certify certain information regarding an individual's eligibility for an adoption expense tax credit and to share that information with the State Tax Commission;
- repeals an individual income tax credit for adoption of a child with special needs; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-137, as last amended by Laws of Utah 2022, Chapter 264
59-10-1002.2, as last amended by Laws of Utah 2022, Chapter 12

ENACTS:

35A-1-111, Utah Code Annotated 1953
59-10-1046, Utah Code Annotated 1953
59-10-1102.1, Utah Code Annotated 1953
59-10-1114, Utah Code Annotated 1953

REPEALS:

59-10-1104, as last amended by Laws of Utah 2022, Chapter 335

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-1-111 is enacted to read:

35A-1-111. Certification for adoption tax credit.

(1) An individual who seeks to claim a tax credit under Section 59-10-1046 or 59-10-1114 shall apply to the department for a certification that:

(a) the individual did not receive any state or federal assistance described in Subsection 59-10-1046(1)(e)(ii)(A), (B), (C), or (D) during the taxable year in which the adoption is finalized; and

(b) the individual finalized an adoption during the taxable year for which the individual applies for a certification.

(2) An individual who applies for a certification under this section shall sign an information release authorizing the department to disclose the individual's name and identifying information to the State Tax Commission in accordance with Subsection (5).

(3) The department shall issue the certification on a form approved by the State Tax Commission.

(4) An individual who receives a certification under this section shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(5) (a) The department shall provide the State Tax Commission with an electronic report stating the name and identifying information of each individual to whom the department issued a certification under this section for the taxable year.

(b) The department shall provide the report described in Subsection (5)(a) on or before January 31 of the year following the year in which the department issued the certifications.

Section 2. Section 59-10-137 is amended to read:

59-10-137. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Opportunity is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

(iii) Section 59-10-1015;

(iv) Section 59-10-1025;

(v) Section 59-10-1027;

(vi) Section 59-10-1031;

(vii) Section 59-10-1032;

(viii) Section 59-10-1035;

[~~(ix) Section 59-10-1104;~~]

[~~(x)~~] (ix) Section 59-10-1105; and

[~~(xi)~~] (x) Section 59-10-1108.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1005;

(ii) Section 59-10-1006;

(iii) Section 59-10-1012;

(iv) Section 59-10-1022;

(v) Section 59-10-1023;

(vi) Section 59-10-1028;

(vii) Section 59-10-1034;

(viii) Section 59-10-1037; and

(ix) Section 59-10-1107.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1007;

(ii) Section 59-10-1014;

(iii) Section 59-10-1017;

(iv) Section 59-10-1018;

(v) Section 59-10-1019;

(vi) Section 59-10-1024;

(vii) Section 59-10-1029;

(viii) Section 59-10-1036;

(ix) Section 59-10-1106; and

(x) Section 59-10-1111.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 3. Section 59-10-1002.2 is amended to read:

59-10-1002.2. Apportionment of tax credits.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, 59-10-1028, 59-10-1042, 59-10-1043, [~~or~~] 59-10-1044, or 59-10-1046 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 4. Section 59-10-1046 is enacted to read:

59-10-1046. Nonrefundable adoption expense tax credit.

(1) As used in this section:

(a) "Adoption expense" means a reasonable and necessary adoption fee, court cost, attorney fee, or other expense that is:

(i) directly related to, and for the primary purpose of, adoption of a qualifying child through a domestic adoption;

(ii) not incurred in violation of federal or state law or in carrying out any surrogate parenting arrangement; and

(iii) not paid or reimbursed by any employer or state assistance program.

(b) "Domestic adoption" means an adoption of a child who is a United States citizen or a resident of the United States or its possessions before the adoption effort begins.

(c) (i) "Qualifying child" means an individual who is under 18 years old.

(ii) "Qualifying child" does not include an individual who is a child of the claimant's spouse.

(d) "Qualifying claimant" means a claimant:

(i) whose adjusted gross income on a federal tax return is:

(A) for a claimant who files the federal tax return jointly with the claimant's spouse, $55,000 or more but less than $110,000; or

(B) for a claimant who files the federal tax return other than jointly, $27,500 or more but less than $55,000;

(ii) who did not, and if the claimant is married, whose spouse did not, receive state or federal assistance during the taxable year in which the adoption is finalized; and

(iii) who applies for and receives a certification described in Section 35A-1-111 from the Department of Workforce Services.

(e) (i) "State or federal assistance" means public funds that are:

(A) expended for the benefit of an individual in need of financial, medical, food, housing, or related assistance;

(B) means tested; and

(C) provided by a state or the federal government.

(ii) "State or federal assistance" includes:

(A) the Medicaid program, as defined in Section 26-18-2;

(B) the Employment Support Act described in Title 35A, Chapter 3, Employment Support Act;

(C) the Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act;

(D) the Supplemental Nutrition Assistance Program established in 7 U.S.C. Chapter 51, Supplemental Nutrition Assistance Program;

(E) the Women, Infants, and Children Program established in 42 U.S.C. Sec. 1786;

(F) the federal Social Security Act; and

(G) housing assistance.

(iii) "State or federal assistance" does not include an income tax credit, subtraction, or deduction.

(2) Subject to Section 59-10-1002.2, a qualifying claimant may claim, in the taxable year in which the adoption is finalized, a nonrefundable tax credit equal to the lesser of:

(a) $3,500; or

(b) the amount of the qualifying claimant's adoption expenses.

(3) A qualifying claimant may carry forward, to the next three taxable years, the amount of any tax credit that exceeds the qualifying claimant's tax liability for the taxable year.

(4) A qualifying claimant may not claim a credit under this section to the extent that the qualifying claimant claims a federal tax credit under 26 U.S.C. Sec. 23 for the same adoption expense.

(5) A qualifying claimant who is married may claim a tax credit under this section only if the qualifying claimant and the qualifying claimant's spouse file a joint federal income tax return.

Section 5. Section 59-10-1102.1 is enacted to read:

59-10-1102.1. Apportionment of tax credit.

A nonresident individual or a part-year resident individual who claims a tax credit in accordance with Section 59-10-1114 may claim only an apportioned amount of the tax credit equal to the product of:

(1) the state income tax percentage for the nonresident individual or the state income tax percentage for the part-year resident individual; and

(2) the amount of the tax credit that the nonresident individual or the part-year resident individual would have been allowed to claim but for the apportionment requirement of this section.

Section 6. Section 59-10-1114 is enacted to read:

59-10-1114. Refundable adoption expense tax credit.

(1) As used in this section:

(a) "Adoption expense" means the same as that term is defined in Section 59-10-1046.

(b) "Domestic adoption" means the same as that term is defined in Section 59-10-1046.

(c) "Qualifying child" means the same as that term is defined in Section 59-10-1046.

(d) "Qualifying claimant" means a claimant:

(i) whose adjusted gross income is:

(A) for a claimant who files a federal income tax return jointly with the claimant's spouse, less than $55,000; and

(B) for a claimant who files a federal income tax return other than jointly, less than $27,500;

(ii) who did not, and if the claimant is married, whose spouse did not, receive state or federal assistance during the taxable year in which the adoption is finalized; and

(iii) who applies for and receives a certification described in Section 35A-1-111 from the Department of Workforce Services.

(e) "State or federal assistance" means the same as that term is defined in Section 59-10-1046.

(2) (a) Subject to Section 59-10-1102.1 and other provisions of this Subsection (2), a qualifying claimant is eligible to claim a refundable tax credit equal to the lesser of:

(i) $3,500; or

(ii) the amount of the qualifying claimant's adoption expenses.

(b) A qualifying claimant who claims the tax credit described in Subsection (2)(a) shall claim the tax credit for the taxable year in which the adoption is finalized.

(3) A qualifying claimant may not claim a credit under this section to the extent that the qualifying claimant claims a federal tax credit under 26 U.S.C. Sec. 23 for the same adoption expense.

(4) A qualifying claimant who is married may claim a tax credit under this section only if the qualifying claimant and the qualifying claimant's spouse file a joint federal income tax return.

Section 7. Repealer.

This bill repeals:

Section 59-10-1104, Tax credit for adoption of a child who has a special need.

Section 8. Retrospective operation.

(1) Except as provided in Subsection (2), this bill has retrospective operation for a taxable year beginning on or after January 1, 2023.

(2) Section 35A-1-111 has retrospective operation to January 1, 2023.

CHAPTER 461
H. B. 151
Passed March 3, 2023
Approved March 22, 2023
Effective May 3, 2023

VETERAN PROPERTY TAX REVISIONS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:
This bill amends provisions related to the veterans armed forces property tax exemption.

Highlighted Provisions:
This bill:

- increases the amount of taxable value that a disabled veteran may have exempted from property tax.

Monies Appropriated in this Bill:
None

Other Special Clauses:
This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:
59-2-1901, as enacted by Laws of Utah 2019, Chapter 453

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1901 is amended to read:

59-2-1901. Definitions.

As used in this section:

(1) "Active component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

(2) "Active duty claimant" means a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who:

(a) performed qualifying active duty military service; and

(b) applies for an exemption described in Section 59-2-1902.

(3) "Adjusted taxable value limit" means:

(a) for the calendar year that begins on January 1, [~~2015~~] 2023, [~~$252,126~~] $479,504; or

(b) for each calendar year after the calendar year that begins on January 1, [~~2015~~] 2023, the amount of the adjusted taxable value limit for the previous year plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the previous year by the actual percent change in the consumer price index during the previous calendar year.

(4) "Consumer price index" means the same as that term is described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(5) "Deceased veteran with a disability" means a deceased individual who was a veteran with a disability at the time the individual died.

(6) "Military entity" means:

(a) the United States Department of Veterans Affairs;

(b) an active component of the United States Armed Forces; or

(c) a reserve component of the United States Armed Forces.

(7) "Primary residence" includes the residence of a individual who does not reside in the residence if the individual:

(a) does not reside in the residence because the individual is admitted as an inpatient at a health care facility as defined in Section 26-55-102; and

(b) otherwise meets the requirements of this part.

(8) "Qualifying active duty military service" means at least 200 days, regardless of whether consecutive, in any continuous 365-day period of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, if the days of active duty military service:

(a) were completed in the year before an individual applies for an exemption described in Section 59-2-1902; and

(b) have not previously been counted as qualifying active duty military service for purposes of qualifying for an exemption described in Section 59-2-1902 or applying for the exemption described in Section 59-2-1902.

(9) "Statement of disability" means the statement of disability described in Section 59-2-1904.

(10) "Reserve component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

(11) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

(12) "Veteran claimant" means one of the following individuals who applies for an exemption described in Section 59-2-1903:

(a) a veteran with a disability;

(b) the unmarried surviving spouse:

(i) of a deceased veteran with a disability; or

(ii) a veteran who was killed in action or died in the line of duty; or

(c) a minor orphan:

(i) of a deceased veteran with a disability; or

(ii) a veteran who was killed in action or died in the line of duty.

(13) "Veteran who was killed in action or died in the line of duty" means an individual who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that individual had a disability at the time that individual was killed in action or died in the line of duty.

(14) "Veteran with a disability" means an individual with a disability who, during military training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, as determined by a military entity.

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2023.

CHAPTER 462
H. B. 170
Passed March 2, 2023
Approved March 22, 2023
Effective January 1, 2024

CHILD TAX CREDIT REVISIONS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill enacts a child tax credit.

Highlighted Provisions:

This bill:

- enacts a nonrefundable child tax credit; and
- provides for apportionment of the child tax credit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-10-1002.2, as last amended by Laws of Utah 2022, Chapter 12

ENACTS:

59-10-1046, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-10-1002.2 is amended to read:

59-10-1002.2. Apportionment of tax credits.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, 59-10-1028, 59-10-1042, 59-10-1043, [~~or~~] 59-10-1044, or 59-10-1046 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 2. Section 59-10-1046 is enacted to read:

59-10-1046 (Codified as 59-10-1047). Nonrefundable child tax credit.

(1) As used in this section:

(a) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's federal individual income tax return is allowed a joint filing status, the claimant and the claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Qualifying child" means an individual:

(i) with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year; and

(ii) who is at least one year old and younger than four years old on the last day of the claimant's taxable year.

(f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(2) Subject to Subsection 59-2-1002.2, a claimant may claim a nonrefundable tax credit of $1,000 for each qualifying child.

(3) A claimant may not carry forward or carry back the amount of the tax credit that exceeds the claimant's tax liability.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be

reduced by $.10 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, $27,000;

(b) for a federal individual income tax return that is allowed a single filing status or head of household filing status, $43,000; and

(c) for a federal individual income tax return under this chapter that is allowed a joint filing status, $54,000.

Section 3. Effective date.

This bill takes effect for a taxable year beginning on or after January 1, 2024.

CHAPTER 463
H. B. 228
Passed February 17, 2023
Approved March 22, 2023
Effective May 3, 2023

UNPROFESSIONAL CONDUCT AMENDMENTS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: Curtis S. Bramble
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Kera Birkeland
Bridger Bolinder
Brady Brammer
Walt Brooks
Jefferson S. Burton
Kay J. Christofferson
Joseph Elison
Matthew H. Gwynn
Katy Hall
Jon Hawkins
Colin W. Jack
Tim Jimenez
Dan N. Johnson
Marsha Judkins
Quinn Kotter
Jason B. Kyle
Trevor Lee
Karianne Lisonbee
Steven J. Lund
Phil Lyman
A. Cory Maloy
Calvin R. Musselman
Judy Weeks Rohner
Rex P. Shipp
Casey Snider
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
Christine F. Watkins
Douglas R. Welton

LONG TITLE

General Description:

This bill modifies and enacts provisions relating to the provision of conversion therapy to minors.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits certain health care professionals from providing conversion therapy to a minor client;
- includes a severability clause; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
58-1-501, as last amended by Laws of Utah 2020, Chapters 289, 339

ENACTS:
58-1-511, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-501 is amended to read:

58-1-501. Unlawful and unprofessional conduct.

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

(ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;

(b) (i) impersonating another licensee or practicing an occupation or profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same occupation or profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any occupation or profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any occupation or profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission;

(f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the

prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title; or

(g) aiding or abetting any other person to violate any statute, rule, or order regulating an occupation or profession under this title.

(2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

(a) violating any statute, rule, or order regulating an occupation or profession under this title;

(b) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;

(c) subject to the provisions of Subsection (4), engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession;

(d) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

(e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession;

(f) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so;

(g) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

(h) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

(i) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

(j) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's license;

(k) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

(l) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

(m) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(i) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

(ii) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

(n) violating a provision of Section 58-1-501.5; [~~or~~]

(o) violating the terms of an order governing a license[~~.~~]; or

(p) violating Section 58-1-511.

(3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding commenced by the division under this title, a person subject to any of the unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.

(4) The following are not evidence of engaging in unprofessional conduct under Subsection (2)(c):

(a) an arrest not followed by a conviction; or

(b) a conviction for which an individual's incarceration has ended more than seven years before the date of the division's consideration, unless:

(i) after the incarceration the individual has engaged in additional conduct that results in another conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation; or

(ii) the conviction was for:

(A) a violent felony as defined in Section 76-3-203.5;

(B) a felony related to a criminal sexual act pursuant to Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; or

(C) a felony related to criminal fraud or embezzlement, including a felony pursuant to Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft.

Section 2. Section 58-1-511 is enacted to read:

58-1-511. Prohibition on providing conversion therapy to a minor.

(1) As used in this section:

(a) "Conversion therapy" means a practice or treatment by which a health care professional intends to change a minor client's sexual orientation or gender identity, or to impose a different sexual orientation or gender identity upon a minor client, including a practice or treatment that:

(i) subjects a minor client to physical discomfort through aversive treatment that causes nausea, vomiting, or other unpleasant physical sensation;

(ii) provides electric shock or other electrical therapy, including electroconvulsive therapy or transcranial magnetic stimulation;

(iii) subjects a minor client to touching themself or another individual as part of the therapy; or

(iv) causes the minor client to engage in physical self-harm or physical self-inflicted pain.

(b) "Health care professional" means an individual who is licensed, or an individual who provides mental health therapy as part of the individual's training for a profession that is licensed, under:

(i) Chapter 31b, Nurse Practice Act;

(ii) Chapter 60, Mental Health Professional Practice Act;

(iii) Chapter 61, Psychologist Licensing Act;

(iv) Chapter 67, Utah Medical Practice Act;

(v) Chapter 68, Utah Osteopathic Medical Practice Act; or

(vi) Chapter 70a, Utah Physician Assistant Act.

(c) "Minor client" means an individual who is younger than 18 years old and who consults, is examined or interviewed by, or receives services, care, or treatment from a health care professional who is acting in their professional capacity.

(d) "Religious advisor" means an individual who is designated by a religious organization or association as clergy, minister, pastor, priest, rabbi, imam, bishop, stake president, or other spiritual advisor.

(e) (i) "Sexual orientation" means the same as that term is defined in Section 34A-5-102.

(ii) "Sexual orientation" does not include an action that would constitute sexual abuse or sexual exploitation as those terms are defined in Section 80-1-102.

(2) A health care professional who is acting in their professional capacity may not provide conversion therapy to a minor client.

(3) A health care professional who is not intending to change a minor client's sexual orientation or gender identity, or to impose a different sexual orientation or gender identity upon a minor client, may engage in any professional and lawful conduct, including a practice or treatment by which the health care professional:

(a) is neutral with respect to sexual orientation and gender identity;

(b) provides a minor client with acceptance, support, and understanding;

(c) provides treatment to a minor client who is considering a gender transition in any direction, including exploration of the timing thereof;

(d) facilitates a minor client's social support, ability to cope, or the exploration and development of the minor client's identity, including sexual orientation or gender identity;

(e) addresses unlawful, unsafe, premarital, or extramarital sexual activities in a manner that is neutral with respect to sexual orientation and gender identity;

(f) discusses moral, philosophical, or religious beliefs or practices;

(g) addresses body-image issues, social pressure, or sex or gender stereotypes;

(h) addresses co-occurring mental health, neurological, developmental, trauma, or family issues;

(i) helps a minor client to understand and assess the stages and timing of identity development;

(j) consistent with other applicable laws, rules, orders, and ethical standards, discusses with a minor client's parent or guardian the mental health or development of a minor client; or

(k) assists the minor client to understand the medical, social, or other implications of decisions related to sexual orientation or gender identity.

(4) Subsection (2) does not apply to:

(a) an individual who is both a health care professional and a religious advisor, when the individual is acting substantially in the capacity of a religious advisor and not in the capacity of a health care professional; or

(b) an individual who is both a health care professional and a parent or grandparent, when the individual is acting substantially in the capacity of a parent or grandparent and not in the capacity of a health care professional.

(5) A violation of this section is unprofessional conduct.

(6) A rule adopted under this title that defines "unprofessional conduct" shall be consistent with this section.

(7) If any provision of this section or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

CHAPTER 464
H. B. 301
Passed March 2, 2023
Approved March 22, 2023
Effective January 1, 2024

TRANSPORTATION TAX AMENDMENTS

Chief Sponsor: Mike Schultz
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill reduces the tax on motor fuel, increases vehicle registration fees, and imposes a tax on the sale of electricity for electric vehicle charging.

Highlighted Provisions:

This bill:

- increases vehicle registration fees by $7;
- amends provisions related to and reduces the rate for motor fuel tax;
- imposes a tax on the sale of electricity at an electric vehicle charging station or an electric vehicle charging subscription and deposits the revenue into the Transportation Fund; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-1206, as last amended by Laws of Utah 2022, Chapters 56, 259
59-13-201, as last amended by Laws of Utah 2022, Chapter 68

ENACTS:

59-30-101, Utah Code Annotated 1953
59-30-102, Utah Code Annotated 1953
59-30-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) $46.00 for each motorcycle;

(b) $44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) $31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) $28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) $53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) $69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) $69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(g) $45 for each vintage vehicle that has a model year of 1981 or newer;

(h) in addition to the fee described in Subsection (1)(b):

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) Each motor vehicle not described in this Subsection (1)(h) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $21.75 for each hybrid electric motor vehicle; and

(iii) $56.50 for each plug-in hybrid electric motor vehicle; and

(i) in addition to the fee described in Subsection (1)(g), for a vintage vehicle that has a model year of 1981 or newer, 50 cents.

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) $34.50 for each motorcycle; and

(ii) $33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) each motor vehicle not described in this Subsection (2)(b) that is fueled exclusively by a

source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $16.50 for each hybrid electric motor vehicle; and

(iii) $43.50 for each plug-in hybrid electric motor vehicle.

(3) (a) Beginning on January 1, 2024, at the time of registration:

(i) in addition to the amounts described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(h), (4)(a), and (7), the individual shall also pay an additional $7 as part of the registration fee; and

(ii) in addition to the amounts described in Subsection (2)(a), the individual shall also pay an additional $5 as part of the registration fee.

[~~(a)~~] (b) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (2)(a), (3)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2024, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(ii) and (iii) and (2)(b)(ii) and (iii) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

[~~(b)~~] (c) The amounts calculated as described in Subsection [~~(3)(a)~~] (3)(b) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that has a model year of 1980 or older is $40.

(b) A vintage vehicle that has a model year of 1980 or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of $130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than $200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 2. Section 59-13-201 is amended to read:

59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited into the Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax in limited circumstances.

(1) (a) (i) Subject to the provisions of this section and except as provided in Subsection (1)(e), a tax is imposed at the rate of [~~16.5%~~] 14.2% of the statewide average rack price of a gallon of motor fuel per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

(ii) Notwithstanding Subsection (1)(a)(i), for the period beginning on July 1, 2023, and ending on December 31, 2023, the rate described in Subsection (1)(a)(i) shall be 34.5 cents per gallon.

(b) (i) Until December 31, 2018, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous fiscal year statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending on the previous June 30 as published by an oil pricing service.

(ii) Beginning on January 1, 2019, and subject to the requirements under Subsection (1)(c), the

statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous three fiscal years statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months ending on the previous June 30 as published by an oil pricing service.

(c) (i) Subject to the requirement in Subsection (1)(c)(ii), the statewide average rack price of a gallon of motor fuel determined under Subsection (1)(b) may not be less than $1.78 per gallon.

(ii) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the minimum statewide average rack price of a gallon of motor fuel described in Subsection (1)(c)(i) by taking the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(iii) The statewide average rack price of a gallon of motor fuel determined by the commission under Subsection (1)(b) may not exceed [~~$2.43 per gallon.~~]:

(A) for a calendar year beginning on January 1, 2024, $2.57 per gallon;

(B) for a calendar year beginning on January 1, 2025, $2.71 per gallon;

(C) for a calendar year beginning on January 1, 2026, $2.82 per gallon; and

(D) for a calendar year beginning on January 1, 2028, and thereafter, $2.96 per gallon.

(iv) The minimum statewide average rack price of a gallon of motor fuel described and adjusted under Subsections (1)(c)(i) and (ii) may not exceed the maximum statewide average rack price of a gallon of motor fuel under Subsection (1)(c)(iii).

(d) (i) The commission shall annually:

(A) determine the statewide average rack price of a gallon of motor fuel in accordance with Subsections (1)(b) and (c);

(B) adjust the fuel tax rate imposed under Subsection (1)(a), rounded to the nearest one-tenth of a cent, based on the determination under Subsection (1)(b);

(C) publish the adjusted fuel tax as a cents per gallon rate; and

(D) post or otherwise make public the adjusted fuel tax rate as determined in Subsection (1)(d)(i)(B) no later than 60 days before the annual effective date under Subsection (1)(d)(ii).

(ii) The tax rate imposed under this Subsection (1) and adjusted as required under Subsection (1)(d)(i) shall take effect on January 1 of each year.

(e) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a), rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in Section 59-13-102 and are sold, used, or received for sale or use in this state.

(2) Any increase or decrease in tax rate applies to motor fuel that is imported to the state or sold at refineries in the state on or after the effective date of the rate change.

(3) (a) No motor fuel tax is imposed upon:

(i) motor fuel that is brought into and sold in this state in original packages as purely interstate commerce sales;

(ii) motor fuel that is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) motor fuel or components of motor fuel that is sold and used in this state and distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in this state; or

(iv) motor fuel that is sold to the United States government, this state, or the political subdivisions of this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the tax exemption provided under Subsection (3)(a)(iv).

(4) The commission may either collect no tax on motor fuel exported from the state or, upon application, refund the tax paid.

(5) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the motor fuel tax.

(6) (a) The commission shall determine what amount of motor fuel tax revenue is received from the sale or use of motor fuel used in motorboats registered under Title 73, Chapter 18, State Boating Act, and this amount shall be deposited into a restricted revenue account in the General Fund of the state.

(b) The funds from this account shall be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the Division of Outdoor Recreation in administering and enforcing Title 73, Chapter 18, State Boating Act.

(7) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased motor fuel from a licensed distributor or from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (7)(a).

(8) (a) The commission shall refund annually into the Off-highway Vehicle Account in the General Fund an amount equal to .5% of the motor fuel tax revenues collected under this section.

(b) This amount shall be used as provided in Section 41-22-19.

(9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that is sold, used, or received for sale or use in this state is reduced to the extent provided in Subsection (9)(b) if:

(i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor fuel is paid to the Navajo Nation;

(ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or not the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (9) for the administration of the reduction of tax.

(b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that difference is greater than $0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (9)(b)(ii) is less than or equal to $0.

(ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the motor fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the motor fuel.

(c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of motor fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (9).

(e) The agreement required under Subsection (9)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (9); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (9)(f)(ii).

(ii) The notice described in Subsection (9)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on motor fuel;

(B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A); and

(C) the new rate of the tax described in Subsection (9)(f)(ii)(A).

(g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not permitted under this Subsection (9) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (9) and the agreement required by Subsection (9)(a), this Subsection (9) governs.

Section 3. Section 59-30-101 is enacted to read:

CHAPTER 30. ELECTRIC VEHICLE CHARGING TAX

Part 1. Electric Vehicle Charging Tax

59-30-101. Definitions.

As used in this chapter:

(1) "Charging station" means equipment designed to deliver electric energy to an electric vehicle for a fee.

(2) "Charging station operator" means a person who owns or operates a charging station in the state.

(3) "Charging station subscription" means a service for which a person pays a charging station operator a subscription fee for a reduced charging rate or unlimited charging during the subscription period.

(4) "Electric vehicle" means a qualifying electric vehicle or qualifying plug-in hybrid vehicle.

(5) "Qualifying electric vehicle" means the same as that term is defined in Section 11-42a-102.

(6) "Qualifying plug-in hybrid vehicle" means the same as that term is defined in Section 11-42a-102.

Section 4. Section 59-30-102 is enacted to read:

59-30-102. Imposition -- Rate -- Revenue distribution.

(1) There is levied a tax upon the retail sale of:

(a) electric current sold by a charging station operator to charge or recharge an electric vehicle; and

(b) a charging station subscription by a charging station operator to charge or recharge an electric vehicle.

(2) The tax levied under Subsection (1) is imposed at a rate of 12.5% for a charging station operator that charges:

(a) per kilowatt hour as described in Subsection (4)(a);

(b) per hour as described in Subsection (4)(a);

(c) a subscription fee for charging services as described in Subsection (4)(b); or

(d) a combination of Subsections (2)(a) through (c).

(3) (a) A charging station operator shall remit a return on the tax imposed in Subsection (1) in an electronic format approved by the commission on the same schedule as the charging station operator's sales and use tax filing.

(b) The tax amount reported on the return described in Subsection (3)(a) is due and payable according to the same terms and schedule as the charging station operator's sales and use tax remittance schedule.

(4) (a) For a charging station operator that charges a fee per kilowatt hour, the charging station operator shall furnish with each sale an itemized invoice, including:

(i) the name of the charging station operator;

(ii) the date of sale;

(iii) the number of kilowatt hours sold, or the length of time using the charging station;

(iv) the sales price per kilowatt hour, or per hour for use of the charging station; and

(v) the total sales price of the transaction.

(b) For a charging station operator that charges a fee for a charging station subscription, the charging station operator shall furnish with each sale an itemized invoice, including:

(i) the name of the charging station operator;

(ii) the date of sale;

(iii) the subscription price; and

(iv) the total sales price of the transaction.

(c) In addition to the information required in Subsection (4)(a) or (b), a charging station operator shall ensure that an invoice indicates on a separate line the tax imposed under Subsection (1).

(5) In addition to the tax required by this part, a charging station operator shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402, if the charging station operator subject to this section fails to:

(a) pay the tax prescribed by this section by the due date described in Subsection (3); or

(b) file a return required by this section by the due date described in Subsection (3).

(6) The commission shall deposit revenue from the tax imposed in Subsection (1) into the Transportation Fund.

Section 5. Section 59-30-103 is enacted to read:

59-30-103. Collection of electric vehicle charging tax.

(1) The commission shall administer, collect, and enforce a tax under this chapter in accordance with:

(a) Chapter 1, General Taxation Policies; and

(b) the same procedures used to administer, collect, and enforce the tax under Chapter 12, Part 1, Tax Collection.

(2) A charging station operator required to collect a tax under this chapter may retain 6% of any amounts the seller is required to remit to the commission under this chapter for the costs of collecting the tax.

(3) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this chapter.

Section 6. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2024.

(2) The amendments to Section 59-13-201 in this bill take effect on July 1, 2023.

CHAPTER 465
H. B. 487
Passed March 2, 2023
Approved March 22, 2023
Effective May 3, 2023

SICKLE CELL DISEASE

Chief Sponsor: Sandra Hollins
Senate Sponsor: Jen Plumb
Cosponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill addresses sickle cell disease among residents of the state.

Highlighted Provisions:

This bill:

- requires the Division of Population Health (division) in collaboration with others within the Department of Health and Human Services to review and develop recommendations for improving the surveillance, screening, diagnosis, and treatment of sickle cell disease among residents of the state;
- requires the division to report the recommendations to the Health and Human Services Interim Committee;
- establishes a repeal date; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-226, as last amended by Laws of Utah 2022, Chapters 255, 365

ENACTS:

26B-7-120, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-7-120 is enacted to read:

26B-7-120 (Codified as 26B-7-121). Sickle cell disease.

In collaboration with the Medicaid program as defined in Section 26B-3-101, the Drug Utilization Review Board created in Section 26B-3-302, the Health Data Committee created in Section 26B-1-413, the Office of Health Disparities Reduction created in Section 26B-7-114, and others within the department, the Division of Population Health created in Section 26B-1-204 shall:

(1) review and develop recommendations for improving the surveillance, screening, diagnosis, and treatment of sickle cell disease among residents of the state; and

(2) report the recommendations to the Health and Human Services Interim Committee before July 1, 2024.

Section 2. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26 through 26B.

[~~(1) Subsection 26-2-12.6(3), relating to the report for birth certificate fees, is repealed December 31, 2022.~~]

[~~(2)~~] (1) Subsection 26-7-8(3) is repealed January 1, 2027.

[~~(3)~~] (2) Section 26-8a-107 is repealed July 1, 2024.

[~~(4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.~~]

[~~(5)~~] (3) Section 26-8a-211 is repealed July 1, 2023.

[~~(6)~~] (4) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(7) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.~~]

[~~(8) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.~~]

[~~(9)~~] (5) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(10)~~] (6) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(11) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.~~]

[~~(12)~~] (7) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(13) Subsection 26-61-202(4)(b) is repealed January 1, 2022.~~]

[~~(14) Subsection 26-61-202(5) is repealed January 1, 2022.~~]

[~~(15)~~] (8) Subsection 26B-1-204(2)(f), relating to the Air Ambulance Committee, is repealed July 1, 2024.

(9) Section 26B-7-120, relating to sickle cell disease, is repealed July 1, 2025.

CHAPTER 466
S. B. 154
Passed March 2, 2023
Approved March 22, 2023
Effective May 3, 2023

ADOPTION AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill addresses adoptions.

Highlighted Provisions:

This bill:

- defines terms;
- addresses Medicaid coverage and payments related to a birth mother who considers or proceeds with an adoptive placement for a child;
- prohibits a child-placing agency from charging for services that are not actually rendered or for medical or hospital expenses that were paid for with public funds;
- requires certain child-placing agencies to join a child-placing consortium by which the consortium can serve all birth mothers and all prospective adoptive parents;
- provides protections for consortium-member child-placing agencies that cannot participate in child placing that is contrary to the agency's religious teachings, practices, or beliefs, or certain wishes of the birth mother;
- requires the Judicial Council to create a uniform fee and expense form for adoption proceedings;
- with certain conditions and exceptions:
  - requires a prospective adoptive parent to file a fee and expense form with the court prior to the finalization of an adoption;
  - requires the court to review a fee and expense form for completeness;
  - requires a child placing agency to file a fee and expense form with the Office of Licensing within the Department of Health and Human Services; and
  - requires the Department of Health and Human Services to provide an annual report to the Health and Human Services Interim Committee and Judicial Council regarding adoption costs in the state; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-3, as last amended by Laws of Utah 2021, Chapter 422
62A-2-108.6, as last amended by Laws of Utah 2022, Chapters 287, 326 and renumbered and amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 334
63G-20-102, as enacted by Laws of Utah 2015, Chapter 46
63G-20-202, as enacted by Laws of Utah 2015, Chapter 46
78B-6-140, as last amended by Laws of Utah 2021, Chapter 65

ENACTS:

63G-20-203.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-3 is amended to read:

26-18-3. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26-1-37 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

(i) implements a change in the Medicaid State Plan;

(ii) initiates a new Medicaid waiver;

(iii) initiates an amendment to an existing Medicaid waiver;

(iv) applies for an extension of an application for a waiver or an existing Medicaid waiver;

(v) applies for or receives approval for a change in any capitation rate within the Medicaid program; or

(vi) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

(i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and

(ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with the Department of Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section 26-20-13, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7) are nonlapsing.

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) For purposes of this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

(11) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

(b) A health opportunity account established under Subsection (11)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.

(c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.

(12) (a) (i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection (12) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection (12)(b) for eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection (12)(a)(i), the department shall:

(i) disregard resources held in an account in the savings plan created under Title 53B, Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:

(A) under the age of 26; and

(B) living with the account owner, as that term is defined in Section 53B-8a-102, or temporarily absent from the residence of the account owner; and

(ii) include the withdrawals from an account in the Utah Educational Savings Plan as resources for a benefit determination, if the withdrawal was not used for qualified higher education costs as that term is defined in Section 53B-8a-102.5.

(13) (a) The department may not deny or terminate eligibility for Medicaid solely because an individual is:

(i) incarcerated; and

(ii) not an inmate as defined in Section 64-13-1.

(b) Subsection (13)(a) does not require the Medicaid program to provide coverage for any services for an individual while the individual is incarcerated.

(14) The department is a party to, and may intervene at any time in, any judicial or administrative action:

(a) to which the Department of Workforce Services is a party; and

(b) that involves medical assistance under:

(i) Title 26, Chapter 18, Medical Assistance Act; or

(ii) Title 26, Chapter 40, Utah Children's Health Insurance Act.

(15) (a) The department may not deny or terminate eligibility for Medicaid solely because a birth mother, as that term is defined in Section 78B-6-103, considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

(b) A health care provider, as that term is defined in Section 26-18-17, may not decline payment by Medicaid for covered health and medical services provided to a birth mother, as that term is defined in Section 78B-6-103, who is enrolled in Utah's Medicaid program and who considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

Section 2. Section 62A-2-108.6 is amended to read:

62A-2-108.6. Child placing licensure requirements -- Prohibited acts -- Consortium.

(1) As used in this section:

(a) (i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) "Advertisement" includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Birth parent" means the same as that term is defined in Section 78B-6-103.

(c) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.

(d) (i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection (1)(d)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(2) (a) Subject to Section 78B-24-205, a person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the office in accordance with this chapter.

(b) If a child-placing agency's license is suspended or revoked in accordance with this

chapter, the care, control, or custody of any child who is in the care, control, or custody of the child-placing agency shall be transferred to the Division of Child and Family Services.

(3) (a) (i) An attorney, physician, or other person may assist:

(A) a birth parent to identify or locate a prospective adoptive parent who is interested in adopting the birth parent's child; or

(B) a prospective adoptive parent to identify or locate a child to be adopted.

(ii) A payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may not be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

(A) "comprehensive";

(B) "complete";

(C) "one-stop";

(D) "all-inclusive"; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the office shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the office.

(4) A person who intentionally or knowingly violates Subsection (2) or (3) is guilty of a third degree felony.

(5) This section does not preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings, except that a child-placing agency may not:

(a) charge or accept payment for services that were not actually rendered; or

(b) charge or accept payment from a prospective adoptive parent for medical or hospital expenses that were paid for by public funds.

(6) In accordance with federal law, only an agent or employee of the Division of Child and Family Services or of a licensed child-placing agency may certify to United States Citizenship and Immigration Services that a family meets the preadoption requirements of the Division of Child and Family Services.

(7) A licensed child-placing agency or an attorney practicing in this state may not place a child for adoption, either temporarily or permanently, with an individual who would not be qualified for adoptive placement under Sections 78B-6-102, 78B-6-117, and 78B-6-137.

(8) (a) A child-placing agency, as that term is defined in Section 63G-20-102, that serves a resident of the state who is a birth mother or a prospective adoptive parent must be a member of a statewide consortium of licensed child-placing agencies that, together, serve all birth mothers lawfully seeking to place a child for adoption and all qualified prospective adoptive parents.

(b) The department shall receive and investigate any complaint against a consortium of licensed child-placing agencies.

Section 3. Section 63G-20-102 is amended to read:

63G-20-102. Definitions.

As used in this chapter:

(1) "Child placing" means the same as that term is defined in Section 62A-2-101.

(2) "Child-placing agency" means a private person that is engaged in child placing related to a child who is not in the custody of the state.

(3) "Government retaliation" means an action by a state or local government or an action by a state or local government official that:

(a) is taken in response to a person's exercise of a protection contained in Section 17-20-4, 63G-20-201, 63G-20-203.5, or 63G-20-301; and

(b) (i) imposes a formal penalty on, fines, disciplines, discriminates against, denies the rights of, denies benefits to, or denies tax-exempt status to a person; or

(ii) subjects a person to an injunction or to an administrative claim or proceeding.

[~~(2)~~] (4) (a) "Religious official" means an officer or official of a religion, when acting as such.

(b) "Religious official" includes an individual designated by the religion as clergy, minister, priest, pastor, rabbi, imam, bishop, stake president, or sealer, when that individual is acting as such.

[~~(3)~~] (5) "Religious organization" means:

(a) a religious organization, association, educational institution, or society;

(b) a religious corporation sole; or

(c) any corporation or association constituting a wholly owned subsidiary, affiliate, or agency of any religious organization, association, educational institution, society, or religious corporation sole.

[~~(4)~~] (6) "Sexuality" includes legal sexual conduct, legal sexual expression, sexual desires, and the status of a person as male or female.

[~~(5)~~] (7) "State or local government" means:

(a) a state government entity, agency, or instrumentality; or

(b) a local government entity, agency, or instrumentality.

[~~(6)~~] (8) "State or local government official" means an officer, employee, or appointee of a state or local government.

Section 4. Section 63G-20-202 is amended to read:

63G-20-202. Prohibition on government retaliation.

Notwithstanding any other law, a state or local government or a state or local government official may not engage in government retaliation against:

(1) an individual, a religious official when acting as such, or a religious organization for exercising the protections contained in Section 17-20-4, 63G-20-201, or 63G-20-301[~~.~~]; or

(2) a child-placing agency for exercising the protections contained in Section 63G-20-203.5.

Section 5. Section 63G-20-203.5 is enacted to read:

63G-20-203.5. Child-placing agencies.

(1) As used in this section, "consortium" means a statewide consortium of child-placing agencies described in Subsection 62A-2-108.6(8).

(2) Notwithstanding any other provision of law, a state or local government, a state or local government official, or another accrediting, certifying, or licensing body, including the Office of Licensing within the Department of Health and Human Services, may not:

(a) require a consortium-member child-placing agency to perform, assist, counsel, recommend, consent to, facilitate, or participate in child placing, with a qualified prospective adoptive parent, that is contrary to the child-placing agency's religious teaching, practices, or sincerely held beliefs, or the good faith wishes of the birth mother as to the optimal placement of the child;

(b) deny a consortium-member child-placing agency any grant, contract, or participation in a government program because the child-placing agency cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent; or

(c) deny an application for an initial license or accreditation, deny the renewal of a license or accreditation, or revoke the license or accreditation of a consortium-member child-placing agency that cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent.

(3) (a) A consortium-member child-placing agency that cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent, shall refer the individual who is seeking child-placement services to another child-placing agency in the consortium.

(b) A referral by a child-placing agency under Subsection (3)(a) does not constitute a determination that a proposed placement is not in the best interest of the child.

(4) The fact that a consortium-member child-placing agency cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent, may not form the basis for:

(a) the imposition of a civil fine or other adverse administrative action; or

(b) any claim or cause of action under any state or local law.

Section 6. Section 78B-6-140 is amended to read:

78B-6-140. Itemization of fees and expenses -- Reporting.

(1) (a) Except as provided in Subsection [~~(4)~~] (5), before the date that a final decree of adoption is entered, a prospective adoptive parent or, if the child was placed by a child-placing agency, the person or agency placing the child shall file with the court an affidavit regarding fees and expenses[~~,~~

~~signed by the prospective adoptive parent or parents and the person or agency placing the child, shall be filed with the court~~] on a form prescribed by the Judicial Council in accordance with Subsection (2).

(b) An affidavit filed pursuant to Subsection (1)(a) shall be signed by each prospective adoptive parent and, if the child was placed by a child-placing agency, the person or agency placing the child.

(c) The court shall review an affidavit filed under this section for completeness and compliance with the requirements of this section.

(d) The results of the court's review under Subsection (1)(c) shall be noted in the court's record.

(2) (a) The Judicial Council shall prescribe a uniform form for the affidavit described in Subsection (1).

(b) The uniform affidavit form shall [~~itemize~~] require itemization of the following items in connection with the adoption:

[~~(a)~~] (i) all legal expenses[~~, maternity expenses, medical or hospital expenses, and living expenses~~] that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(ii) all maternity expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(iii) all medical or hospital expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(iv) all living expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

[~~(b)~~] (v) fees paid by the prospective adoptive parent or parents in connection with the adoption;

[~~(c)~~] (vi) all gifts, property, or other items that have been or will be provided to the preexisting parents, including the source and approximate value of the gifts, property, or other items;

[~~(d)~~] (vii) all public funds used for any medical or hospital costs in connection with the:

[~~(i)~~] (A) pregnancy;

[~~(ii)~~] (B) delivery of the child; or

[~~(iii)~~] (C) care of the child; and

[~~(e) the state of residence of the:~~]

[~~(i) birth mother or the preexisting parents; and~~]

[~~(ii) prospective adoptive parent or parents;~~]

[~~(f)~~] (viii) if a child-placing agency placed the child:

(A) a description of services provided to the prospective adoptive parents or preexisting parents in connection with the adoption; [~~and~~]

(B) all expenses associated with matching the prospective adoptive parent or parents and the birth mother;

(C) all expenses associated with advertising; and

(D) any other agency fees or expenses paid by an adoptive parent that are not itemized under one of the other categories described in this Subsection (2)(b), including a description of the reason for the fee or expense.

[~~(g) that Section 76-7-203 has not been violated.~~]

(c) The uniform affidavit form shall require:

(i) a statement of the state of residence of the:

(A) birth mother or the preexisting parents; and

(B) prospective adoptive parent or parents;

(ii) a declaration that Section 76-7-203 has not been violated; and

(iii) if the affidavit includes an itemized amount for both of the categories described in Subsections (2)(b)(iii) and (vii), a statement explaining why certain medical or hospital expenses were paid by a source other than public funds.

(3) (a) If a child-placing agency, that is licensed by this state, placed the child, the child-placing agency shall provide a copy of the affidavit described in Subsection (1) [~~shall be provided~~] to the Office of Licensing within the Department of Health and Human Services.

(b) Before August 30 of each year, the Office of Licensing within the Department of Health and Human Services shall provide a written report to the Health and Human Services Interim Committee and to the Judicial Council regarding the cost of adoptions in the state that includes:

(i) the total number of affidavits provided to the Office of Licensing during the previous year; and

(ii) for each of the categories described in Subsection (2)(b):

(A) the average amount disclosed on affidavits submitted during the previous year; and

(B) the range of amounts disclosed on affidavits submitted during the previous year;

(iii) the average total amount disclosed on affidavits submitted during the previous year;

(iv) the range of total amounts disclosed on affidavits submitted during the previous year; and

(v) any recommended legislation that may help reduce the cost of adoptions.

(c) The Health and Human Services Interim Committee shall, based on information in reports provided under Subsection (3)(b) and in consultation with a consortium described in Subsection 62A-2-108.6(8), consider:

(i) what constitutes reasonable fees and expenses related to adoption; and

(ii) the standards that may be used to determine whether fees and expenses related to adoption are reasonable in a specific case.

(4) The Judicial Council shall make a copy of each report provided by the Office of Licensing under Subsection (3)(b) available to each court that may be required to review an affidavit under Subsection (1)(c).

[~~(4)~~] (5) This section does not apply if the prospective adoptive parent is the legal spouse of a preexisting parent.

CHAPTER 467
H. B. 2
Passed March 1, 2023
Approved March 23, 2023
Effective March 23, 2023

PUBLIC EDUCATION BUDGET AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2022, and ending June 30, 2023, and for the fiscal year beginning July 1, 2023, and ending June 30, 2024.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- sets the value of the weighted pupil unit (WPU) at $4,280 for fiscal year 2023-2024, which is 6% higher than the WPU Value in fiscal year 2023;
- amends provisions related to scholarship amounts tied to the length of a kindergarten class;
- removes fiscal year limitations on a provision allowing for the unrestricted use of a portion of restricted funds;
- repeals provisions related to an obsolete equity pupil tax rate;
- amends funding formulas related to kindergarten to reflect a full-day length of a kindergarten class;
- amends the intended use of the Enrollment Growth Contingency Program;
- enacts provisions regarding the distribution of a flexible allocation;
- amends directions for the distribution of a voted and board local levy funding balance for a prior fiscal year;
- requires certain reporting of one-time funds for student and school support;
- amends a formula for small charter school base funding;
- broadens the school districts that are eligible for one-time capital development project funding;
- requires local education agency governing boards to provide an optional half-day kindergarten class upon request;
- amends provisions regarding a requirement for a kindergarten assessment;
- repeals an optional expanded kindergarten program and an obsolete program regarding enrollment growth for certain previous fiscal years;
- adjusts the number of weighted pupil units for the Kindergarten and At-Risk Students Add-on WPU programs to reflect statutory changes made in this bill and anticipated student enrollment in fall 2023;
- makes certain statutory changes to adjust programmatic formulas with funding changes;
- provides appropriations for other purposes as described;
- provides intent language; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates $48,631,700 in operating and capital budgets for fiscal year 2023, including:

- $12,704,000 from the Income Tax Fund; and
- $35,927,700 from various sources as detailed in this bill.

This bill appropriates $12,704,000 in transfers to unrestricted funds for fiscal year 2023.

This bill appropriates $506,039,600 in operating and capital budgets for fiscal year 2024, including:

- $154,886,600 from the Uniform School Fund;
- $3,835,500 from the Income Tax Fund; and
- $347,317,500 from various sources as detailed in this bill.

This bill appropriates $4,184,200 in restricted fund and account transfers for fiscal year 2024, all of which is from the Income Tax Fund.

This bill appropriates $133,869,700 in transfers to unrestricted funds for fiscal year 2024.

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53E-7-402, as last amended by Laws of Utah 2022, Chapter 262
53F-2-209, as last amended by Laws of Utah 2022, Chapter 1
53F-2-301, as last amended by Laws of Utah 2021, Chapter 319
53F-2-302, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 9
53F-2-302.1, as last amended by Laws of Utah 2022, Chapter 1
53F-2-601, as last amended by Laws of Utah 2021, Chapters 319, 382
53F-2-706, as last amended by Laws of Utah 2021, Chapter 439
53F-7-202, as enacted by Laws of Utah 2022, Chapter 407
53F-10-101, as enacted by Laws of Utah 2022, Chapter 407
53G-7-203, as last amended by Laws of Utah 2022, Chapter 316
63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370, and 409

ENACTS:

53F-2-421, Utah Code Annotated 1953

REPEALS:

53F-2-507, as last amended by Laws of Utah 2022, Chapter 316

Utah Code Sections Affected by Coordination Clause:

53F-2-301, as last amended by Laws of Utah 2021, Chapter 319

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-7-402 is amended to read:

53E-7-402. Special Needs Opportunity Scholarship Program.

(1) There is established the Special Needs Opportunity Scholarship Program under which a parent may apply to a scholarship granting organization on behalf of the parent's student for a scholarship to help cover the cost of a scholarship expense.

(2) (a) A scholarship granting organization shall:

(i) award, in accordance with this part, scholarships to eligible students; and

(ii) determine the amount of a scholarship in accordance with Subsection (3).

(b) In awarding scholarships, a scholarship granting organization shall give priority to an eligible student described in Subsection 53E-7-401(1)(a) by:

(i) establishing an August 10 deadline for an eligible student described in Subsection 53E-7-401(1)(b) to apply for a scholarship; and

(ii) awarding a scholarship to an eligible student described in Subsection 53E-7-401(1)(b) only if funds exist after awarding scholarships to all eligible students described in Subsection 53E-7-401(1)(a) who have applied and qualify.

(c) Subject to available funds, a scholarship awarded to an eligible student described in Subsection 53E-7-401(1)(b) shall be for a similar term as a scholarship awarded to the eligible student's sibling.

(3) A scholarship granting organization shall determine a full-year scholarship award to pay for the cost of one or more scholarship expenses in an amount not more than:

(a) for an eligible student described in Subsection 53E-7-401(1)(a) who is[~~: (i)~~] in grades 1 through 12 with an IEP and whose family income is:

[~~(A)~~] (i) at or below 185% of the federal poverty level, the value of the weighted pupil unit multiplied by 2.5;

[~~(B)~~] (ii) between 185% and 555% of the federal poverty level, the value of the weighted pupil unit multiplied by two; or

[~~(C)~~] (iii) above 555% of the federal poverty level, the value of the weighted pupil unit multiplied by 1.5;

(b) for a fiscal year beginning before July 1, 2023, for an eligible student who is:

[~~(ii)~~] (i) in grades 1 through 12 and who does not have an IEP, the value of the weighted pupil unit;

[~~(iii)~~] (ii) in kindergarten with an IEP, the value of the weighted pupil unit; or

[~~(iv)~~] (iii) in kindergarten and who does not have an IEP, half the value of the weighted pupil unit; [~~or~~]

(c) for a fiscal year beginning on or after July 1, 2023, for an eligible student in kindergarten or grades 1 through 12, the value of the weighted pupil unit; or

[~~(b)~~] (d) for an eligible student described in Subsection 53E-7-401(1)(b), half the value of the weighted pupil unit.

(4) Eligibility for a scholarship as determined by a multidisciplinary evaluation team under this program does not establish eligibility for an IEP under the Individuals with Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419, and is not binding on any LEA that is required to provide an IEP under the Individuals with Disabilities Education Act.

(5) The scholarship granting organizations shall prepare and disseminate information on the program to a parent applying for a scholarship on behalf of a student.

Section 2. Section 53F-2-209 is amended to read:

53F-2-209. Limited LEA budgetary flexibility.

(1) Notwithstanding any other provision of the Utah Code[~~, for fiscal years 2021, 2022, and 2023~~]:

(a) except as provided in Subsection (1)(b), an LEA may:

(i) use up to 35% of the LEA's state restricted funding for each formula-based program to flexibly and without restriction respond to changing circumstances and student needs [~~resulting from the COVID-19 emergency, as that term is defined in Section 53-2c-102~~];

(ii) transfer fund balances between funds as necessary to flexibly expend funds as described in Subsection (1)(a)(i); and

(b) an LEA may not:

(i) transfer funds under Subsection (1)(a)(i) related to the school LAND Trust Program, established in Section 53G-7-1206, or a qualified grant program; or

(ii) expend the transferred funds for capital projects or improvements.

[~~(2) Notwithstanding any other provision of the Utah Code, for any funds for which the state imposes restrictions on the use of the funds:~~]

[~~(a) any expenditure that would have been required to be made before the end of fiscal year 2021 without the application of this section is extended to fiscal year 2022;~~]

[~~(b) any expenditure that would have been required to be made before the end of fiscal year 2022 without the application of this section is extended to fiscal year 2023; and~~]

[~~(c) any expenditure that would have been required to be made before the end of fiscal year~~

~~2023 without the application of this section is extended to fiscal year 2024.~~]

(2) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding LEA record-keeping of flexible uses of restricted funds under this section.

(3) (a) Nothing in this section authorizes an LEA to violate federal law or federal restrictions on the LEA's funds.

(b) An LEA that takes an action that this section authorizes shall ensure that the LEA continues to meet federal maintenance of effort requirements.

Section 3. Section 53F-2-301 is amended to read:

53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

[~~(1) The provisions of this section are not in effect for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.~~]

[~~(2)~~] (1) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

[~~(d) "Equity pupil tax rate" means the tax rate that will generate an amount of revenue equal to the amount generated by the equity pupil tax rate as defined in Section 53F-2-301.5 in the fiscal year that begins July 1, 2022.~~]

[~~(e)~~] (d) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

[~~(C) the amount generated by the equity pupil tax rate; and~~]

[~~(D)~~] (C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection [~~(3)(a)~~] (2)(a).

[~~(f)~~] (e) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection [~~(3)(a)~~] (2)(a).

[~~(g)~~] (f) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

[~~(h)~~] (g) "WPU value amount" means an amount:

(i) that is equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection [~~(4)(a)~~] (3)(a).

[~~(i)~~] (h) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

[~~(j)~~] (i) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection [~~(4)(a)~~] (3)(a).

[~~(3)~~] (2) (a) The minimum basic local amount for the fiscal year that begins on July 1, [~~2018, is $408,073,800~~] 2023, is $708,960,800 in revenue statewide.

(b) The preliminary estimate of the minimum basic tax rate for a fiscal year that begins on July 1, [~~2018, is .001498~~] 2023, is .001356.

[~~(4)~~] (3) (a) The WPU value amount for the fiscal year that begins on July 1, [~~2018, is $18,650,000~~] 2023, is $27,113,600 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, [~~2018, is .000069~~] 2023, is .000052.

[~~(5)~~] (4) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection [~~(3)(b)~~] (2)(b) and the estimate of the WPU value rate provided in Subsection [~~(4)(b)~~] (3)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection [~~(5)(a)(i)~~] (4)(a)(i) and the certified WPU value rate described in Subsection [~~(5)(a)(ii)~~] (4)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

[~~(6)~~] (5) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of

the basic school program for the school district, each local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection [~~(6)~~] (5).

(ii) [~~(A) Except as provided in Subsection (6)(b)(ii)(B), the~~] The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection [~~(6)~~] (5).

[~~(B) For a calendar year that begins on January 1, 2018, the state is not subject to the notice and public hearing requirements of Section 59-2-926 if the state authorizes a combined basic rate that exceeds the tax rates authorized in this section.~~]

[~~(7)~~] (6) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:

(i) the combined basic rate; and

(ii) the basic levy increment rate[~~; and~~].

[~~(iii) the equity pupil tax rate.~~]

(b) (i) If the difference described in Subsection [~~(7)(a)~~] (6)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection [~~(7)(a)~~] (6)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

[~~(8)~~] (7) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302; and

[~~(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and~~]

[~~(c)~~] (b) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

[~~(9) After July 1, 2021, but before November 30, 2022, the Public Education Appropriations Subcommittee:~~]

[~~(a) shall review the WPU value rate, the impact of revenues generated by the WPU value rate on public education funding, and whether local school boards should continue to levy the WPU value rate; and~~]

[~~(b) may recommend an increase, repeal, or continuance of the WPU value rate.~~]

Section 4. Section 53F-2-302 is amended to read:

53F-2-302. Determination of weighted pupil units.

(1) The number of weighted pupil units in the Minimum School Program for each year is the total of the units for each school district and, subject to Subsection [~~(4)~~] (5), charter school, determined [~~as follows:~~] in accordance with this section.

[~~(1)~~] (2) The number of weighted pupil units is computed by adding the average daily membership of all pupils of the school district or charter school attending schools, other than [~~kindergarten and~~] self-contained classes for children with a disability.

[~~(2)~~] (3) (a) Except as provided in Subsection (3)(b), for a fiscal year beginning on or after July 1, 2023, the number of weighted pupil units for kindergarten students shall be computed by adding the average daily membership of all pupils of the school district or charter school enrolled in kindergarten.

(b) The number of weighted pupil units is computed by [~~adding~~] multiplying the average daily membership [~~of all pupils of the school district or charter school enrolled in kindergarten and multiplying the total~~] for the number of students who are enrolled in kindergarten for less than the equivalent length of the schedule for grades 1 through 3, based on the October 1 data described in Section 53F-2-302, by .55.

[~~(a) In those school districts or charter schools that do not hold kindergarten for a full nine-month term, the local school board or charter school governing board may approve a shorter term of nine weeks' duration.~~]

[~~(b) Upon LEA governing board approval, the number of pupils in average daily membership at the short-term kindergarten shall be counted for the purpose of determining the number of units allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding nine weeks, compared to the total number of days schools are held in that school district or charter school in the regular school year.~~]

[~~(3)~~] (4) (a) The state board shall use prior year plus growth to determine average daily membership in distributing money under the Minimum School Program where the distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

(b) Under prior year plus growth, kindergarten through grade 12 average daily membership for the current year is based on the actual kindergarten through grade 12 average daily membership for the previous year plus an estimated percentage growth factor.

(c) The growth factor is the percentage increase in total average daily membership on the first school day of October in the current year as compared to

the total average daily membership on the first school day of October of the previous year.

[~~(4)~~] (5) In distributing funds to charter schools under this section, charter school pupils shall be weighted, where applicable, as follows:

[~~(a) .55 for kindergarten pupils;~~]

[~~(b)~~] (a) except as provided in Subsection (3)(b), .9 for pupils in [~~grades 1~~] kindergarten through grade 6;

[~~(c)~~] (b) .99 for pupils in grades 7 through 8; and

[~~(d)~~] (c) 1.2 for pupils in grades 9 through 12.

[~~(5) Notwithstanding Subsection (3)(c):~~]

[~~(a) for the 2020-2021 school year the state board may use a count of average daily membership on any day or days of the current school year in 2020 to calculate a growth factor for the 2020-2021 school year; and~~]

[~~(b) when calculating the growth factor as described in Subsection (5)(a), the state board shall comply with all applicable federal requirements.~~]

Section 5. Section 53F-2-302.1 is amended to read:

53F-2-302.1. Enrollment Growth Contingency Program.

(1) As used in this section:

(a) "Program funds" means money appropriated under the Enrollment Growth Contingency Program.

(b) "Student enrollment count" means the enrollment count on the first school day of October, as described in [~~Subsection 53F-2-302(3)~~] Section 53F-2-302.

(2) There is created the Enrollment Growth Contingency Program to mitigate funding impacts on an LEA resulting from student enrollment irregularities [~~during fiscal years 2021, 2022, and 2023~~] regarding kindergarten.

(3) Subject to legislative appropriations, the state board, in consultation with the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget, shall use program funds to[~~:~~] fund additional WPUs if the student enrollment count for kindergarten exceeds the amount of legislative appropriations for kindergarten.

[~~(a) for fiscal years 2021, 2022, and 2023 and for an LEA that has declining enrollment, pay costs associated with Subsection 53F-2-302(3) to hold LEA funding distributions at the prior year's average daily membership;~~]

[~~(b) for fiscal year 2022, fund ongoing impacts of student enrollment changes in the 2021-2022 academic year, including:~~]

[~~(i) assigning additional weighted pupil units to an LEA experiencing a net growth in weighted pupil units over the fiscal year 2022 base allocations associated with student enrollment increases following the student enrollment count; and~~]

[~~(ii) at the request of an LEA that experienced a significant decline in student enrollment during the 2020-2021 academic year, pre-fund significantly higher anticipated student enrollment growth before the student enrollment count; and~~]

[~~(c) for fiscal years 2022 and 2023, with any remaining weighted pupil units, pay other weighted pupil unit related costs in accordance with Section 53F-2-205.~~]

[~~(4) If the state board pre-funds anticipated student enrollment growth under Subsection (3)(b)(ii), the state board shall:~~]

[~~(a) verify the LEA's enrollment after the student enrollment count; and~~]

[~~(b) balance funds as necessary based on the actual increase in student enrollment.~~]

Section 6. Section 53F-2-421 is enacted to read:

53F-2-421. Flexible allocation.

Subject to appropriations, the state board shall distribute funds in the MSP flexible allocation on a WPU basis resulting in LEAs receiving funding proportional to the number of WPUs the LEA generates under the Basic School Program.

Section 7. Section 53F-2-601 is amended to read:

53F-2-601. State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of minimum basic tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.

(1) As used in this section:

(a) "Board local levy" means a local levy described in Section 53F-8-302.

(b) "Guaranteed local levy increment" means a local levy increment guaranteed by the state:

(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(B); or

(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and (2)(b)(ii)(A).

(c) "Local levy increment" means .0001 per dollar of taxable value.

(d) (i) "Voted and board local levy funding balance" means the difference between:

(A) the amount appropriated for the guaranteed local levy increments in a fiscal year; and

(B) the amount necessary to fund in the same fiscal year the guaranteed local levy increments as determined under this section.

(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).

(e) "Voted local levy" means a local levy described in Section 53F-8-301.

(2) (a) (i) In addition to the revenue collected from the imposition of a voted local levy or a board local levy, the state shall guarantee that a school district receives, subject to Subsections (2)(b)(ii)(C) and (3)(a), for each guaranteed local levy increment, an amount sufficient to guarantee for a fiscal year that begins on July 1, 2018, $43.10 per weighted pupil unit.

(ii) Except as provided in Subsection (2)(b)(ii), the number of local levy increments that are subject to the guarantee amount described in Subsection (2)(a)(i) are:

(A) for a board local levy, the first four local levy increments a local school board imposes under the board local levy; and

(B) for a voted local levy, the first 16 local levy increments a local school board imposes under the voted local levy.

(b) (i) Subject to future budget constraints and Subsection (2)(c), the Legislature shall annually appropriate money from the Local Levy Growth Account established in Section 53F-9-305 for purposes described in Subsection (2)(b)(ii).

(ii) The state board shall, for a fiscal year beginning on or after July 1, 2018, and subject to Subsection (2)(c), allocate funds appropriated under Subsection (2)(b)(i) and the amount described in Subsection (3)(c) in the following order of priority by increasing:

(A) by up to four increments the number of voted local levy guaranteed local levy increments above 16;

(B) by up to 16 increments the number of board local levy guaranteed local levy increments above four; and

(C) the guaranteed amount described in Subsection (2)(a)(i).

(c) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

(3) (a) The guarantee described in Subsection (2)(a)(i) is indexed each year to the value of the weighted pupil unit by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit.

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for each year subject to the Legislature appropriating funds for an increase in the guarantee.

(c) If the indexing and growth described in Subsections (3)(a) and (b) result in a cost to the state in a given fiscal year that is less than the amount the Legislature appropriated, the state board shall dedicate the difference to the allocation described in Subsection (2)(b)(ii).

(4) (a) The amount of state guarantee money that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection (4)(a) applies for a period of five years following a change in the certified tax rate as described in Subsection (4)(a).

(5) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(6) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the state board shall[~~: (i) use~~] distribute the voted and board local levy funding balance [~~to increase the value of the state guarantee per weighted pupil unit described in Subsection (3)(a) in the current fiscal year; and~~], using the calculations for distribution of program balances for the fiscal year in which the balance occurs, to qualifying school districts in a one-time payment during the first quarter of the current fiscal year.

[~~(ii) distribute guaranteed local levy increment funds to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (6)(a)(i).~~]

(b) The state board shall report action taken under Subsection (6)(a) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

(7) A local school board of a school district that receives funds described in this section shall budget and expend the funds for public education purposes.

Section 8. Section 53F-2-706 is amended to read:

53F-2-706. Small charter school base funding.

(1) Subject to legislative appropriation, the state board shall distribute small charter school base funding [~~in the following amounts~~] to charter schools with 2,000 or [~~less students:~~] fewer students in the amount of the greater of $40,000 or $115 per student.

[~~(a) for a charter school with 300 students or less, $40,000;~~]

[~~(b) for a charter school with 301 to 400 students, $35,000;~~]

[~~(c) for a charter school with 401 to 500 students, $30,000;~~]

[~~(d) for a charter school with 501 to 600 students, $25,000;~~]

[~~(e) for a charter school with 601 to 1,000 students, $20,000; and~~]

[~~(f) for a charter school with 1,001 to 2,000 students, $15,000.~~]

(2) A charter school's eligibility for small charter school base funding is determined by the charter school's student enrollment on October 1 of a given year.

(3) Notwithstanding this section and subject to legislative appropriations, the state board may distribute to charter schools, regardless of size, one-time funding that the Legislature appropriates to mitigate funding losses as described in legislative appropriations.

Section 9. Section 53F-7-202 is amended to read:

53F-7-202. Distribution of one-time funding for student and school support.

(1) Subject to legislative appropriations, the state board shall allocate one-time funding appropriated for student and school support in accordance with this section by:

(a) for charter schools:

(i) distributing an amount that is equal to the product of:

(A) charter school enrollment on October 1 in the prior year, or projected enrollment for a charter school in the charter school's first year of operations, divided by enrollment on October 1 in public schools statewide in the prior year; and

(B) the total amount available for distribution; and

(ii) allocating to each charter school:

(A) an equally divided portion of 20% of the amount described in Subsection (1)(a)(i); and

(B) 80% of the amount described in Subsection (1)(a)(i) on a per-student basis; and

(b) for school districts, distributing the remainder of funds available for distribution after the distribution to charter schools under Subsection (1)(a) by allocating to each school district:

(i) a base allocation relative to student enrollment as follows:

(A) for a school district with enrollment less than 1% of total state enrollment, $500,000;

(B) for a school district with enrollment of between 1% and 5% of total state enrollment, $350,000; and

(C) for a school district with enrollment greater than 5% of total state enrollment, $200,000; and

(ii) after the base allocation described in Subsection (1)(b)(i), the remainder on a per-student basis.

(2) (a) An LEA shall:

(i) use funds that the state board distributes under this section to support students and schools through one-time priorities that the relevant local governing board approves, including student safety, technology, instructional materials, and capital facility improvements; and

(ii) submit to the state board, using the survey described in Subsection (3), an accounting of [~~the use of~~] the LEA's use of the funds that the state board distributes under this section for the given fiscal year.

(b) Subsection (2)(a) does not require state board authorization or approval of an LEA expenditure.

(3) The state board shall:

(a) create a one-page survey to allow LEAs to report the LEA's expenditures as described in Subsection (2)(a); and

(b) after the close of each fiscal year, report to the Public Education Appropriations Subcommittee at or before the subcommittee's October meeting regarding expenditures described in this section statewide the previous fiscal year.

(4) An LEA may use funds distributed under this section in a given fiscal year over multiple fiscal years.

Section 10. Section 53F-10-101 is amended to read:

53F-10-101. Definitions.

As used in this section:

(1) "Capital development project" means the same as that term is defined in Section 63A-5b-401, including new construction, capital expansion, and renovation.

(2) "Capital local levy" means the levy that a local school board imposes under Section 53F-8-303.

(3) "Capital Projects Evaluation Panel" or "panel" means the panel established in Section 53F-10-201.

(4) "Capital projects funding" means funds distributed from the Small School District Capital Projects Fund.

(5) "Division" means the Division of Facilities Construction and Management.

(6) "Eligible school district" means a school district:

(a) in a county of the fourth, fifth, or sixth class; and

(b) (i) that qualifies for state guarantee funding related to local levies under Section 53F-2-601[~~.~~]; or

(ii) (A) that has a project that the panel has approved; and

(B) that the state board approves, upon the state superintendent's recommendation.

(7) "Small School District Capital Projects Fund" or "fund" means the capital projects fund created in Section 53F-9-601.

Section 11. Section 53G-7-203 is amended to read:

53G-7-203. Kindergartens -- Establishment -- Funding -- Assessment.

(1) Kindergartens are an integral part of the state's public education system.

(2) (a) Each [~~local school~~] LEA governing board shall provide kindergarten classes free of charge for kindergarten children residing within the district or attending the charter school.

(b) Each LEA governing board shall provide a half-day kindergarten option for a student if the student's parent requests a half-day option.

[~~(b)~~] (c) Nothing in this Subsection (2):

(i) allows an LEA governing board to require a student to participate in a full-day kindergarten program;

(ii) modifies the non-compulsory status of kindergarten under Title 53G, Chapter 6, Part 2, Compulsory Education; or

(iii) requires a student who only attends a half day of kindergarten to participate in dual enrollment under Section 53G-6-702.

(3) Kindergartens established under Subsection (2) shall receive state money under Title 53F, Public Education System -- Funding.

(4) (a) The state board shall:

(i) develop and collect data from a kindergarten [~~entry and exit assessments~~] assessment that the board selects by rule; and

(ii) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the administration of and reporting regarding the [~~assessments~~] assessment described in Subsection (4)(a)(i).

(b) An LEA shall:

(i) administer the [~~entry and exit assessments~~] assessment described in Subsection (4)(a) to each kindergarten student; and

(ii) report to the state board the results of the [~~entry and exit assessments~~] assessment described in Subsection (4)(b)(i) in relation to each kindergarten student in the LEA.

(5) Beginning with the 2022-2023 school year, the state board shall require LEAs to report average daily membership for all kindergarten students who attend kindergarten on a schedule that is equivalent in length to the schedule for grades 1 through 3 with the October 1 data described in Section 53F-2-302.

Section 12. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-6-105.7 is repealed July 1, 2024.

(3) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(4) Section 53B-8-114 is repealed July 1, 2024.

(5) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(6) Section 53B-10-101 is repealed on July 1, 2027.

(7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(8) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(9) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(10) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

(11) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(12) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.~~]

[~~(14) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.~~]

[~~(15)~~] (13) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU

add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(16)~~] (14) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(17)~~] (15) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (16) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

[~~(19)~~] (17) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

[~~(20)~~] (18) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

[~~(21)~~] (19) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (20) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (21) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (22) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (23) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 13. Repealer.

This bill repeals:

Section 53F-2-507, Enhanced kindergarten early intervention program.

Section 14. Fiscal Year 2023 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 14(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

Public Education

State Board of Education - Minimum School Program

Item 1 To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund, One-Time	50,000,000
From Local Revenue, One-Time	126,000,000
From Closing Nonlapsing Balances	(126,000,000)
Schedule of Programs:	
Grades 1 - 12	50,000,000

Item 2 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Uniform School Fund, One-Time	(50,000,000)
Schedule of Programs:	
Voted Local Levy Program	(50,000,000)

State Board of Education

Item 3 To State Board of Education - Educator Licensing

From Income Tax Fund, One-Time	(20,300)
Schedule of Programs:	
Educator Licensing	(20,300)

Item 4 To State Board of Education - Contracted Initiatives and Grants

From Income Tax Fund, One-Time	(11,500)
From Revenue Transfers, One-Time	(5,848,600)
From Closing Nonlapsing Balances	3,089,900
Schedule of Programs:	
Contracts and Grants	(2,758,700)
Software Licenses for Early Literacy	(1,100)
General Financial Literacy	(1,100)
Intergenerational Poverty Interventions	(900)
Partnerships for Student Success	(2,100)
UPSTART	(2,000)
ULEAD	(3,500)
Special Needs Opportunity Scholarship Administration	(800)

Item 5 To State Board of Education - MSP Categorical Program Administration

From Income Tax Fund, One-Time	(47,000)
From Revenue Transfers, One-Time	(885,200)
From Closing Nonlapsing Balances	885,200
Schedule of Programs:	

Adult Education	(2,800)
Beverley Taylor Sorenson Elementary Arts Learning Program	(1,800)
CTE Comprehensive Guidance	(2,400)
Digital Teaching and Learning	(6,900)
Dual Immersion	(2,000)
At-Risk Students	(7,000)
Special Education State Programs	(2,400)
Youth-in-Custody	(8,100)
Early Literacy Program	(4,200)
State Safety and Support Program	(1,600)
Student Health and Counseling Support Program	(3,300)
Early Learning Training and Assessment	(2,000)
Early Intervention	(2,500)

Item 6 To State Board of Education - Policy, Communication, & Oversight

From Income Tax Fund, One-Time	171,400
From Revenue Transfers, One-Time	(4,000,000)
From Closing Nonlapsing Balances	4,000,000
Schedule of Programs:	
Teacher Retention in Indigenous Schools Grants	225,000
Policy and Communication	(24,700)
Student Support Services	(25,000)
School Turnaround and Leadership Development Act	(3,900)

Item 7 To State Board of Education - System Standards & Accountability

From Income Tax Fund, One-Time	(330,000)
From Federal Funds, One-Time	38,686,400
From Revenue Transfers, One-Time	(1,970,200)
From Closing Nonlapsing Balances	1,970,200
Schedule of Programs:	
Teaching and Learning	8,807,300
Assessment and Accountability	456,700
Career and Technical Education	1,285,000
Special Education	27,807,400

Item 8 To State Board of Education - State Charter School Board

From Income Tax Fund, One-Time	(13,000)
Schedule of Programs:	
State Charter School Board & Administration	(13,000)

Item 9 To State Board of Education - Statewide Online Education Program Subsidy

From Income Tax Fund, One-Time	(6,700)
Schedule of Programs:	
Statewide Online Education Program	(7,276,700)
Home and Private School Students	6,588,400
Small High School Support	681,600

Item 10 To State Board of Education - State Board and Administrative Operations

From Income Tax Fund, One-Time	12,961,100
Schedule of Programs:	
Financial Operations	(51,000)
Information Technology	351,300
Indirect Cost Pool	(5,800)
Data and Statistics	(14,300)
Statewide Financial Management Systems Grants	4,000,000
Board and Administration	8,680,900

Subsection 14(b). Transfers to Unrestricted Funds.

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

Public Education

Item 11 To Income Tax Fund

From Nonlapsing Balances - $5,848,600 from Contracts & Grants;

$1,970,200 from Student Achievement; and $885,200 from CTE Comprehensive Guidance 8,704,000

From Nonlapsing Balances - Transfer from Statewide Financial Management Software Grants 4,000,000

Schedule of Programs:

Income Tax Fund, One-Time 12,704,000

Section 15. Fiscal Year 2024 Appropriations.

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024.

(2) Notwithstanding S.B. 1, Public Education Base Budget Amendments, the value of the weighted pupil unit for fiscal year 2024 is $4,280.

Subsection 15(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

Public Education

State Board of Education - Minimum School Program

Item 12 To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund	195,851,600
From Public Education Economic Stabilization Restricted Account, One-Time	4,186,500
From Local Revenue	4,184,200
From Revenue Transfers, One-Time	(126,000,000)
From Beginning Nonlapsing Balances	126,000,000
Schedule of Programs:	
Kindergarten (14,405 WPUs)	64,347,900
Grades 1 - 12	64,202,300
Foreign Exchange	41,800
Necessarily Existent Small Schools	4,724,300
Professional Staff	5,997,400
Special Education - Add-on	9,825,800
Special Education - Self-Contained	1,190,100
Special Education - Preschool	1,194,100
Special Education - Extended School Year	48,300
Special Education - Impact Aid	217,600
Special Education - Extended Year for Special Educators	95,500
Career and Technical Education - Add-on	3,072,000
Class Size Reduction	4,473,400
Enrollment Growth Contingency	19,101,000
Students At-Risk Add-on (5,432 WPUs)	25,690,800

The Legislature intends that local education agencies prioritize classified staff compensation increases with additional funding received through the WPU Value increase in fiscal year 2024.

Item 13 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Uniform School Fund	(44,131,800)
From Public Education Economic Stabilization Restricted Account, One-Time	189,650,000
From Teacher and Student Success Account	4,184,200
From Revenue Transfers, One-Time	(2,204,400)
From Closing Nonlapsing Balances	2,204,400
Schedule of Programs:	
Pupil Transportation To & From School	9,053,600
Flexible Allocation - WPU Distribution	12,666,000
At-Risk Students - Gang Prevention and Intervention	58,400
Youth in Custody	771,600
Adult Education	433,600
Enhancement for Accelerated Students	167,700
Concurrent Enrollment	434,300
Teacher Salary Supplement	(510,000)
School Library Books and Electronic Resources	(765,000)
Matching Fund for School Nurses	(1,002,000)
Beverley Taylor Sorenson Elementary Arts Learning Program	4,865,000
Early Intervention	(36,655,000)
Teacher and Student Success Program	4,184,200
Charter School Funding Base Program	4,850,000
English Language Learner Software	5,000,000
Grow Your Own Teacher and Counselor Pipeline	7,150,000
Educator Professional Time	64,000,000
Public Education Capital and Technology	75,000,000

The Legislature intends that the State Board of Education:

(1) allocate funds appropriated for English Language Learner Software to qualifying local education agencies as provided in Section 53F-2-419; and

(2) distribute $30,000,000, one-time, appropriated to the Flexible Allocation - WPU Distribution program to local education agencies in counties of the 4th through 6th class in accordance with Section 53F-2-421.

Item 14 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Uniform School Fund	3,166,800
Schedule of Programs:	
Board Local Levy Program	3,166,800

State Board of Education

Item 15 To State Board of Education - Child Nutrition Programs

From Federal Funds	16,173,500
Schedule of Programs:	
Child Nutrition	14,906,600
Federal Commodities	1,266,900

Item 16 To State Board of Education - Educator Licensing

From Income Tax Fund	29,700
Schedule of Programs:	
Educator Licensing	(20,300)
National Board-Certified Teachers	50,000

Item 17 To State Board of Education - Fine Arts Outreach

From Income Tax Fund	465,000
Schedule of Programs:	
Professional Outreach Programs in the Schools	750,000
Provisional Program	(285,000)

Item 18 To State Board of Education - Contracted Initiatives and Grants

From Income Tax Fund	2,638,500
From Public Education Economic Stabilization Restricted Account, One-Time	28,128,000
From Revenue Transfers, One-Time	(1,400,500)
From Beginning Nonlapsing Balances	(3,089,900)
From Closing Nonlapsing Balances	1,400,500
Schedule of Programs:	
Computer Science Initiatives	8,000,000
Contracts and Grants	20,038,100
Software Licenses for Early Literacy	(1,100)
General Financial Literacy	(1,100)
Intergenerational Poverty Interventions	(900)
Interventions for Reading Difficulties	(350,000)
Partnerships for Student Success	(2,100)
UPSTART	(2,000)
ULEAD	(3,500)
Special Needs Opportunity Scholarship Administration	(800)

Item 19 To State Board of Education - MSP Categorical Program Administration

From Income Tax Fund	(32,000)
From Revenue Transfers, One-Time	(999,400)
From Beginning Nonlapsing Balances	(885,200)
From Closing Nonlapsing Balances	1,884,600
Schedule of Programs:	
Adult Education	(2,800)
Beverley Taylor Sorenson Elementary Arts Learning Program	133,200
CTE Comprehensive Guidance	(2,400)
Digital Teaching and Learning	(6,900)
Dual Immersion	(2,000)
At-Risk Students	(7,000)
Special Education State Programs	(2,400)
Youth-in-Custody	(8,100)
Early Literacy Program	(4,200)
State Safety and Support Program	(101,600)
Student Health and Counseling Support Program	(23,300)
Early Learning Training and Assessment	(2,000)
Early Intervention	(2,500)

Item 20 To State Board of Education - Regional Education Service Agencies

From Income Tax Fund	115,000
Schedule of Programs:	
Regional Education Service Agencies	115,000

Item 21 To State Board of Education - Policy, Communication, & Oversight

From Income Tax Fund	171,400
From Federal Funds	(10,992,800)
From Beginning Nonlapsing Balances	(4,000,000)
From Closing Nonlapsing Balances	4,000,000
Schedule of Programs:	
Teacher Retention in Indigenous Schools Grants	225,000
Policy and Communication	(24,700)
Student Support Services	(11,017,800)
School Turnaround and Leadership Development Act	(3,900)

Item 22 To State Board of Education - System Standards & Accountability

From Income Tax Fund	20,000
From Federal Funds	58,477,800
From Revenue Transfers, One-Time	(49,500)
From Beginning Nonlapsing Balances	(1,970,200)

From Closing Nonlapsing Balances 5,235,600

Schedule of Programs:

Student Achievement 573,300

Teaching and Learning (2,811,000)

Assessment and Accountability 3,447,000

Career and Technical Education 1,285,000

Special Education 59,219,400

Item 23 To State Board of Education - State Charter School Board

From Income Tax Fund (13,000)

Schedule of Programs:

State Charter School Board & Administration (1,978,900)

Statewide Charter School Training Programs 400,000

New Charter School Start-up Funding 1,565,900

Item 24 To State Board of Education - Utah Schools for the Deaf and the Blind

From Federal Funds (1,500)

Schedule of Programs:

School for the Deaf (1,000)

School for the Blind (500)

Item 25 To State Board of Education - Statewide Online Education Program Subsidy

From Income Tax Fund 183,800

From Public Education Economic Stabilization Restricted Account, One-Time 3,200,000

Schedule of Programs:

Statewide Online Education Program (5,063,700)

Home and Private School Students 7,652,200

Small High School Support 795,300

The Legislature intends that the State Board of Education:

(1) use $3.2 million, one-time, appropriated to the Statewide Online Education Program to support students from small high schools, home schools, or private schools; and

(2) manage the funding between the programs to best meet the needs of students.

Item 26 To State Board of Education - State Board and Administrative Operations

From Income Tax Fund 257,100

From Federal Funds 1,600

Schedule of Programs:

Financial Operations (51,000)

Information Technology 352,900

Indirect Cost Pool (5,800)

Data and Statistics (14,300)

Board and Administration (23,100)

Item 27 To State Board of Education - Public Education Capital Projects

From Public Education Economic Stabilization Restricted Account, One-Time 50,000,000

Schedule of Programs:

Small School District Capital Projects 50,000,000

Subsection 15(b). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Public Education

Item 28 To Teacher and Student Success Account

From Income Tax Fund 4,184,200

Schedule of Programs:

Teacher and Student Success Account 4,184,200

Subsection 15(c). Transfers to Unrestricted Funds.

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

Public Education

Item 29 To Income Tax Fund

From Nonlapsing Balances - From MSP - Related to Basic 2,204,400

From Nonlapsing Balances - From State Board - Contracted Initiatives and Grants 1,400,500

From Nonlapsing Balances - From State Board - MSP Categorical Program Administration 999,400

From Nonlapsing Balances - From State Board - System Standards & Accountability 3,265,400

From Nonlapsing Balances - MSP - Basic Program, One-Time 126,000,000

Schedule of Programs:

Income Tax Fund, One-Time 133,869,700

Section 16. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected

to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The following sections of this bill take effect on July 1, 2023:

(a) Section 53E-7-402;

(b) Section 53F-2-209;

(c) Section 53F-2-301;

(d) Section 53F-2-302;

(e) Section 53F-2-302.1;

(f) Section 53F-2-421;

(g) Section 53F-2-601;

(h) Section 53F-2-706;

(i) Section 53F-7-202;

(j) Section 53G-7-203;

(k) Section 63I-2-253;

(l) Section 15, Fiscal Year 2024 Appropriations;

(m) Subsection 15(a), Operating and Capital Budgets; and

(n) Subsection 15(b), Restricted Fund and Account Transfers.

Section 17. Coordinating H.B. 2 with S.B. 1 -- Superseding technical and substantive amendments.

If this H.B. 2 and S.B. 1, Public Education Base Budget Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 53F-2-301 in this bill supersede the amendments to Section 53F-2-301 in S.B. 1 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 468
H. B. 3
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

CURRENT FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of higher education and certain state agencies;
- authorizes full time employment levels for certain internal service funds;
- provides appropriations for other purposes as described; and
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $1,445,817,800 in operating and capital budgets for fiscal year 2023, including:

- ($382,802,100) from the General Fund;
- $425,524,400 from the Income Tax Fund; and
- $1,403,095,500 from various sources as detailed in this bill.

This bill appropriates $5,852,400 in expendable funds and accounts for fiscal year 2023.

This bill appropriates $53,004,700 in business-like activities for fiscal year 2023, including:

- $64,987,000 from the General Fund; and
- ($11,982,300) from various sources as detailed in this bill.

This bill appropriates $12,151,300 in restricted fund and account transfers for fiscal year 2023, including:

- ($1,948,700) from the General Fund; and
- $14,100,000 from various sources as detailed in this bill.

This bill appropriates $10,536,500 in transfers to unrestricted funds for fiscal year 2023.

This bill appropriates $17,904,400 in capital project funds for fiscal year 2023.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From General Fund, One-Time ..... (1,060,000)
From Income Tax Fund, One-Time ..... (700)
Schedule of Programs:
Administration ..... (560,700)
Civil ..... (500,000)

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that up to $3,000,000 in appropriations to the Attorney General's Office in Item 1 of Chapter 3 Laws of Utah 2022, not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to purchase of computer hardware and software, specific program development/operation, pass-thru funds appropriated by the Legislature, and other one-time operational and capital expenses.

The Legislature intends that the Attorney General's Office, Investigations Division, may purchase two additional vehicles with department funds in Fiscal Year 2023 and Fiscal Year 2024.

Item 2
To Attorney General - Children's Justice Centers
From Federal Funds, One-Time 602,000
Schedule of Programs:
Children's Justice Centers 602,000

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $1,000,000 to the Attorney General's Office Children's Justice Centers Item 2 of Chapter 3, Laws of Utah 2022, not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to costs passed through to operate the local centers or for one-time operational expenses.

Item 3
To Attorney General - Contract Attorneys
From General Fund, One-Time 6,488,900
Schedule of Programs:
Contract Attorneys 6,488,900

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $6,000,000 provided to the Attorney General - Contract Attorneys Item 3 of Chapter 3, Laws of Utah 2022, not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to payment of costs associated with the Commerce Clause litigation, the Utah Monuments litigation, and other civil litigation.

Item 4
To Attorney General – Prosecution Council
From Revenue Transfers, One-Time .. 3,000,000
Schedule of Programs:
Prosecution Council 3,000,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $150,000 provided for the Utah Prosecution Council Item 4 of Chapter 3, Laws of Utah 2022, not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to training and technical assistance to prosecutors.

Item 5
To Attorney General – State Settlement Agreements
From General Fund, One-Time ..... (5,988,900)
Schedule of Programs:
State Settlement Agreements ..... (5,988,900)

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $1,855,000 provided to the Attorney General – State Settlements Item 5 of Chapter 3, Laws of Utah 2022, not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to payment of costs associated with the False Claims Lawsuit Settlement Agreement.

BOARD OF PARDONS AND PAROLE

Item 6
To Board of Pardons and Parole
From General Fund, One-Time ..... (250,000)
Schedule of Programs:
Board of Pardons and Parole ..... (250,000)

UTAH DEPARTMENT OF CORRECTIONS

Item 7
To Utah Department of Corrections – Programs and Operations
From General Fund, One-Time ..... (1,455,700)
From Revenue Transfers, One-Time 694,600
Schedule of Programs:
Adult Probation and Parole Programs 3,900
Department Executive Director .... (1,500,000)
Programming Skill Enhancement 491,900
Programming Treatment 198,800
Prison Operations Utah State Correctional Facility 44,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriation of up to $10,000,000 for the Utah Department of Corrections – Programs and Operations in items 57 and 103 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to the purchase of the following items: stab & ballistic vests, uniforms, radio supplies & equipment, authorized vehicle purchases, inmate support & food costs, inmate programming/treatment, firearms & ammunition, computer equipment/software & support, equipment & supplies, employee training & development, building & office maintenance/remodeling, furniture, and special projects.

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to find additional Adult Probation & Parole Agents and AP&P Supervisors, for every two agents and for every one supervisor hired or reassigned to field supervision duties, the Legislature grants the authority to purchase one vehicle with Department funds.

The Legislature intends that the Department of Corrections, Facilities Bureau/Adult Probation and Parole Programs, is granted authority to purchase two trucks with plow & spreader with Department funds.

The Legislature intends that the Department of Corrections report on progress during the 2023 Interim on the audit recommendations found in "A Performance Audit of the Oversight and Effectiveness of Adult Probation and Parole"; "A Limited Review of the Coordination Between Public Safety Entities."

Item 8
To Utah Department of Corrections – Department Medical Services
From General Fund, One-Time 1,500,000
Schedule of Programs:
Medical Services 1,500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $2,500,000 for the Utah Department of Corrections – Medical Services item 58 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to the purchase of pharmaceuticals, medical supplies & equipment, computer equipment/software, contractual medical services, and employee training & development.

Item 9
To Utah Department of Corrections – Jail Contracting

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $5,000,000 for the Utah Department of Corrections – Jail Contracting in item 59 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to housing additional inmates, and treatment and vocational programming for inmates housed at the county jails.

The Legislature intends that $1,032,400 of the appropriations in SB3 Appropriation Adjustments, item 90 from the 2021 General Session, to implement provisions of SB249 County Jail Amendments to cover program costs until the repeal date of June 30, 2024 stated in Section 1 of SB249, and under Section 63J-1-603 of the Utah Code, not lapse at the close of Fiscal Year 2023.

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 10
To Judicial Council/State Court Administrator- Administration
From Federal Funds, One-Time 53,900
From Dedicated Credits Revenue, One-Time 612,600
Schedule of Programs:
Grants Program 666,500

GOVERNOR'S OFFICE

Item 11
To Governor's Office - Commission on Criminal and Juvenile Justice
Schedule of Programs:
Sentencing Commission ..... (37,000)
Substance Use and Mental Health Advisory Council 37,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $2,500,000 provided for the Commission on Criminal and Juvenile Justice Commission in Items 18 and 106 of Chapter 3 Laws of Utah 2022 not lapse at the close of fiscal year 2023. The Legislature also intends that dedicated credits that have not been expended shall also not lapse at the close of fiscal year 2023. The use of any unused funds is limited to employee incentives, one-time remodeling costs, equipment purchases, one-time DTS projects, research and development contract extradition costs, meeting and travel costs, state pass through grant programs, legal costs associated with deliberations required for judicial retention elections and voter outreach for judicial retention elections.

The Legislature intends that the Commission on Criminal and Juvenile Justice report on progress during the 2023 Interim on the audit recommendations found in "A Limited Review of the Coordination Between Public Safety Entities".

Item 12
To Governor's Office
From Dedicated Credits Revenue, One-Time 309,500
Schedule of Programs:
Lt. Governor's Office 309,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $2,500,000 provided for the Governor's Office in Items 68 and 107 of Chapter 3 Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to one-time expenditures of the Governor and Lieutenant Governors Offices.

Item 13
To Governor's Office - Governors Office of Planning and Budget
From Federal Funds, One-Time 824,000
From Transfer for COVID-19 Response, One-Time 3,000,000
Schedule of Programs:
Administration 3,000,000
Planning Coordination 824,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $2,000,000 provided for the Governor's Office - Governor's Office of Planning and Budget in Items 69 and 108 of Chapter 3 Laws of Utah 2022 and Item 13 of Chapter 193 Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. The use of any funds is limited to one-time expenditures of the Governor's Office of Planning and Budget.

Item 14
To Governor's Office - Suicide Prevention

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $100,000 provided for the Governor's Office - Suicide Prevention in Item 71 of Chapter 3 Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. The use of any funds is limited to the same purposes as the original appropriations.

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 15
To Department of Health and Human Services - Division of Juvenile Justice Services - Juvenile Justice & Youth Services
From Federal Funds, One-Time ..... (573,600)
From Dedicated Credits Revenue, One-Time ..... (926,200)
From Expendable Receipts, One-Time 3,600
From General Fund Restricted - Juvenile Justice Reinvestment Account, One-Time ..... (1,505,900)
From Revenue Transfers, One-Time ... (70,100)
Schedule of Programs:
Juvenile Justice & Youth Services ..... (1,273,600)
Secure Care ..... (66,500)
Community Programs ..... (1,732,100)

OFFICE OF THE STATE AUDITOR

Item 16
To Office of the State Auditor - State Auditor

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $790,000 provided for the Office of the State Auditor in Item 73 of Chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to the same purposes of the original appropriation including local government oversight, audit activities, and data analysis.

DEPARTMENT OF PUBLIC SAFETY

Item 17
To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management

From Expendable Receipts,
One-Time 5,000,000
Schedule of Programs:
Emergency and Disaster
Management 5,000,000

Item 18
To Department of Public Safety - Emergency Management
From Expendable Receipts, One-Time 60,000
Schedule of Programs:
Emergency Management 60,000

Item 19
To Department of Public Safety - Peace Officers' Standards and Training

The Legislature intends that the Department of Public Safety - Peace Officers' Standards and Training is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2023 and Fiscal Year 2024.

Item 20
To Department of Public Safety - Programs & Operations
From General Fund, One-Time 868,000
From Federal Funds, One-Time 89,400
From Expendable Receipts, One-Time 50,000
From Revenue Transfers, One-Time .. 1,244,000
Schedule of Programs:
CITS Communications 738,000
Department Commissioner's Office 130,000
Department Grants 1,294,000
Fire Marshal - Fire Operations 89,400

The Legislature intends that the Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2023 and Fiscal Year 2024.

The Legislature intends that any proceeds from the sale of a helicopter or salvaged helicopter parts and any insurance reimbursements for helicopter repair are to be used by the department for its Aero Bureau operations.

STATE TREASURER

Item 21
To State Treasurer

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $400,000 provided for the Office of the State Treasurer in Item 34 of Chapter 2, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to Computer Equipment/Software, Equipment/Supplies, Special Projects and Unclaimed Property Outreach.

INFRASTRUCTURE AND GENERAL GOVERNMENT

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 22
To Utah Education and Telehealth Network
From General Fund, One-Time ..... (51,000)
Schedule of Programs:
Technical Services ..... (51,000)

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 23
To Department of Government Operations - Executive Director
From General Fund, One-Time 145,000
Schedule of Programs:
Executive Director 145,000

Item 24
To Department of Government Operations - Finance - Mandated
From General Fund, One-Time ..... (1,034,300)
From Federal Funds - CARES Act,
One-Time 22,000,000
Schedule of Programs:
Internal Service Fund
Rate Impacts ..... (112,300)
State Employee Benefits ..... (1,000,000)
Redistricting Commission 78,000
Emergency Disease Response 22,000,000

Item 25
To Department of Government Operations - Inspector General of Medicaid Services

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Inspector General of Medicaid Services in Item 32, Chapter 193, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to updating the Case Management System: $175,000.

Item 26
To Department of Government Operations - Chief Information Officer

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $37,250,000 of appropriations provided for the Chief Information Officer line item in Item 14, Chapter 8, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to costs associated with DTS rate study, other IT initiatives, to implement the provisions relating to a technology innovation program (H.B. 395, 2018 General Session) $250,000; for network enhancement, data security, and broadband (S. B. 1001 Item 45, 2021 Special Session 1) $12,000,000; for development of a Human Capital Management system (H.B. 2, Item 36, 2022 General Session) $5,000,000; and for Innovation funds (H.B. 2, Item 36, 2022 General Session) $20,000,000.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 27
To State Board of Bonding Commissioners – Debt Service – Debt Service
From Transportation Investment Fund of 2005, One-Time ..... (7,216,400)
From Federal Funds, One-Time 5,618,700
Schedule of Programs:
G.O. Bonds – Transportation ..... (1,597,700)

TRANSPORTATION

Item 28
To Transportation – Aeronautics
From General Fund, One-Time 7,000,000
Schedule of Programs:
Airplane Operations 7,000,000

The Legislature intends that up to $7,000,000 provided by this item be used to replace the Department of Transportation's (UDOT) two existing King Air airplanes with a single aircraft of similar capability. The Legislature further intends that UDOT transfer the existing King Airs to Utah Valley University (UVU) for use in state aviation instruction programs. UVU shall partner with other institutions to provide training and experience in twin engine fixed-wing aviation throughout the state. UVU shall also occasionally offer the use of these aircraft to UDOT and the State of Utah as back-up to the new state plane. The Legislature intends that UDOT and UVU report progress on the above transactions to the Executive Appropriations Committee before October 1, 2023.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $7,000,000 of appropriations provided for Aeronautics related to purchasing a state aircraft not lapse at the close of fiscal year 2023.

Item 29
To Transportation – Highway System Construction
From Transportation Fund, One-Time ..... (2,151,600)
From Federal Funds, One-Time 50,118,000
Schedule of Programs:
Federal Construction 50,118,000
State Construction ..... (2,151,600)

Item 30
To Transportation – Engineering Services
From Transportation Fund, One-Time .. 651,600
From Federal Funds, One-Time 16,620,000
Schedule of Programs:
Engineering Services 20,000
Program Development 16,429,300
Research 472,300
Structures 350,000

Item 31
To Transportation – Operations/ Maintenance Management
From Transportation Fund, One-Time 1,404,000
From Federal Funds, One-Time 319,700
From Dedicated Credits Revenue, One-Time 1,181,900
Schedule of Programs:
Field Crews ..... (96,000)
Maintenance Administration 1,500,000
Region 1 617,700
Region 2 478,800
Region 3 126,800
Region 4 278,300

Item 32
To Transportation – Region Management
From Transportation Fund, One-Time ... 96,000
From Federal Funds, One-Time 636,000
From Dedicated Credits Revenue, One-Time 527,600
Schedule of Programs:
Region 1 57,200
Region 2 976,400
Region 3 141,500
Region 4 84,500

Item 33
To Transportation – Support Services
From Federal Funds, One-Time 986,600
Schedule of Programs:
Ports of Entry 986,600

Item 34
To Transportation – Amusement Ride Safety
From General Fund, One-Time ..... (72,500)
Schedule of Programs:
Amusement Ride Safety ..... (72,500)

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 35
To Department of Alcoholic Beverage Services – DABS Operations
From Liquor Control Fund, One-Time ... (2,500)
Schedule of Programs:
Executive Director ..... (2,500)

DEPARTMENT OF COMMERCE

Item 36
To Department of Commerce – Commerce General Regulation
From Federal Funds, One-Time 18,300
From General Fund Restricted – Utah Housing Opportunity Restricted, One-Time 29,600
Schedule of Programs:
Real Estate 47,900

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 37
To Governor's Office of Economic Opportunity – Administration
From General Fund, One-Time ..... (1,359,700)
From Federal Funds – American Rescue Plan, One-Time ..... (25,000,000)
Schedule of Programs:
Administration ..... (26,359,700)

Item 38
To Governor's Office of Economic Opportunity – Economic Prosperity

From General Fund, One-Time 242,700
From Federal Funds, One-Time 125,000
From Federal Funds - American Rescue Plan, One-Time 25,000,000
From Dedicated Credits Revenue, One-Time 75,000
From Rural Opportunity Fund, One-Time ..... (23,550,000)
From Closing Nonlapsing Balances .... (500,000)
Schedule of Programs:
Corporate Recruitment and Business Services ..... (45,652,300)
Outreach and International Trade 47,045,000

The Legislature intends that the Division of Finance transfer $227,000 for fiscal year 2023 beginning nonlapsing balances from the Governor's Office of Economic Opportunity - Corporate Recruitment & Business Service line item to the Department of Cultural and Community Engagement.

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 39
To Governor's Office of Economic Opportunity - Pass-Through
From General Fund, One-Time 1,575,000
From Revenue Transfers, One-Time ..... (8,200,000)
Schedule of Programs:
Pass-Through ..... (6,625,000)

The Legislature intends that the Division of Finance transfer $8,200,000 in nonlapsing amounts originally appropriated to the Governor's Office of Economic Opportunity Pass-through line item from the Utah Capital Investment Restricted Account in "Appropriations Adjustments") Senate Bill 1001, 2021 First Special Session), Item 53 back to the Utah Capital Investment Restricted Account.

The Legislature intends that the funding for " Community Clinic Funding" be provided directly to the Doctors' Volunteer Clinic located in St. George.

The Legislature intends that the Division of Finance transfer $8,200,000 in nonlapsing amounts originally appropriated to the Governor's Office of Economic Opportunity - Pass-through line item from the Utah Capital Investment Restricted Account in "Appropriations Adjustments" (Senate Bill 1001, 2021 First Special Session), Item 53 back to the Utah Capital Investment Restricted Account.

Item 40
To Governor's Office of Economic Opportunity - Pete Suazo Utah Athletics Commission

The Legislature intends that the Division of Finance transfer all fiscal year 2023 closing nonlapsing balances from the Governor's Office of Economic Opportunity - Pete Suazo Utah Athletics Commission line item to the Cultural and Community Engagement - Pete Suazo Athletics Commission line item.

Item 41
To Governor's Office of Economic Opportunity - Talent Ready Utah Center

The Legislature intends that the Division of Finance transfer all fiscal year 2023 closing nonlapsing balances from the Governor's Office of Economic Opportunity - Talent Ready Utah Center line item to the Utah Board of Higher Education - Talent Ready Utah line item.

Item 42
To Governor's Office of Economic Opportunity - Rural Opportunity Program
From General Fund, One-Time ..... (500,000)
From Rural Opportunity Fund, One-Time 23,550,000
From Closing Nonlapsing Balances 500,000
Schedule of Programs:
Rural Opportunity Program 23,550,000

Item 43
To Governor's Office of Economic Opportunity - GOUTAH Economic Assistance Grants

The Legislature intends that the Governor's Office of Economic Opportunity use $759,000 from "Event Services Industry Revitalization" as found in Item 204 of H.B.3 "Appropriations Adjustments" from the 2022 General Session for the "Local Grant Matching Program."

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 44
To Department of Cultural and Community Engagement - Administration
From General Fund, One-Time ..... (110,000)
Schedule of Programs:
Utah Multicultural Affairs Office .... (110,000)

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to an additional $200,000 of the General Fund provided by Item 73, Chapter 7, Laws of Utah 2022 for the Department of Cultural and Community Engagement - Administration Division not lapse at the close of Fiscal Year 2023.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to an additional $250,000 of the General Fund provided by Item 73, Chapter 7, Laws of Utah 2022 for the Department of Cultural and Community Engagement - Administration Division not lapse at the close of Fiscal Year 2023. These funds will be used specifically for America 250.

Item 45
To Department of Cultural and Community Engagement - Division of Arts and Museums
From Federal Funds, One-Time 1,099,900
Schedule of Programs:
Museum Services 1,099,900

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to an additional $280,000 of the General Fund provided by Item 74, Chapter 7, Laws of Utah 2022 for the Department of Cultural and Community Engagement - Division of Arts and Museums not lapse at the close of Fiscal Year 2023. These funds will be used as intended as the "Milk Money" appropriated during the 2018 General Session.

Item 46
To Department of Cultural and Community Engagement - Commission on Service and Volunteerism

Under Section 63J-1-903 of the Utah Code, the Legislature intends that up to $100,000 additional of the General Fund provided by Item 75, Chapter 7, Laws of Utah 2022 for the Department of Cultural and Community Engagement - Commission on Service and Volunteerism not lapse at the close of Fiscal Year 2023. These funds will be limited to community outreach and programming.

Item 47
To Department of Cultural and Community Engagement - Historical Society

The Legislature intends that any unexpended funds remaining at the end of fiscal year 2023 in the DHA Historical Society line item be transferred to line item DHA State History and the new line item created for the State Historic Preservation Office.

Item 48
To Department of Cultural and Community Engagement - Indian Affairs

Under Section 63J-1-903 of the Utah Code, the Legislature intends that up to $260,000 additional of the General Fund provided by Item 77, Chapter 7, Laws of Utah 2022 for the Department of Cultural and Community Engagement - Indian Affairs not lapse at the close of Fiscal Year 2023. These funds will be limited to the Bears Ears project.

Item 49
To Department of Cultural and Community Engagement - Pass-Through
From Gen. Fund Rest. - Humanitarian Service Rest. Acct, One-Time 10,000
Schedule of Programs:
Pass-Through 10,000

Item 50
To Department of Cultural and Community Engagement - State History
From General Fund, One-Time ..... (53,600)
Schedule of Programs:
Administration ..... (53,600)

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to an additional $300,000 of the General Fund provided by Item 207, Chapter 300, Laws of Utah 2022 for the Department of Cultural and Community Engagement - State History not lapse at the close of Fiscal Year 2023. These funds will be used for operations, projects, and community outreach.

Item 51
To Department of Cultural and Community Engagement - One Percent for Arts
From Revenue Transfers, One-Time .. 1,130,000
Schedule of Programs:
One Percent for Arts 1,130,000

The Legislature intends that any appropriation received by the director shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division. Any unexpended funds remaining at the end of the fiscal year shall be nonlapsing and not revert to the General Fund.

Item 52
To Department of Cultural and Community Engagement - Arts & Museums Grants

Move an ongoing appropriation of $350,000 from the Department of Cultural and Community Engagement - Arts & Museums Grants to the Southern Utah University - Utah Shakespeare Festival line item beginning in FY 2024 (in coordination with the Higher Education Appropriation Subcommittee).

Item 53
To Department of Cultural and Community Engagement - Heritage & Events Grants
From General Fund, One-Time ..... (980,000)
Schedule of Programs:
Pass Through Grants 20,000
Competitive Grants ..... (1,000,000)

The Legislature intends that Finance move an ongoing appropriation of $45,000 from the Department of Cultural and Community Engagement - Heritage & Events Grants to the newly created Southern Utah University - Utah Summer Games line item beginning in FY 2024 (in coordination with the Higher Education Appropriation Subcommittee).

Item 54
To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 of the General Fund provided by Item 212, Chapter 300, Laws of Utah 2022 for the Department of Cultural and Community Engagement - Pete Suazo not lapse at the close of Fiscal Year 2023. These funds will be limited to general operating.

The Legislature intends that the Division of Finance transfer all fiscal year 2023 closing nonlapsing balances from the Governor's

Office of Economic Opportunity – Pete Suazo Utah Athletics Commission line item to the Cultural and Community Engagement – Pete Suazo Athletics Commission line item.

LABOR COMMISSION

Item 55
To Labor Commission
From General Fund, One-Time ..... (50,000)
Schedule of Programs:
Administration ..... (50,000)

The Legislature intends that the Labor Commission may purchase one additional vehicle with department funds in Fiscal Year 2023.

UTAH STATE TAX COMMISSION

Item 56
To Utah State Tax Commission – License Plates Production
From Dedicated Credits Revenue, One-Time 50,000
Schedule of Programs:
License Plates Production 50,000

Item 57
To Utah State Tax Commission – Tax Administration
From General Fund, One-Time 21,600
From Income Tax Fund, One-Time 17,600
From Federal Funds, One-Time 1,100
From Dedicated Credits Revenue, One-Time 500,000
From General Fund Restricted – Electronic Payment Fee Rest. Acct, One-Time 1,000,000
From General Fund Rest. – Sales and Use Tax Admin Fees, One-Time 13,900
From Revenue Transfers, One-Time 300
Schedule of Programs:
Operations 32,000
Customer Service 1,470,000
Property and Miscellaneous Taxes 22,500
Enforcement 30,000

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 58
To Department of Workforce Services – Administration
From General Fund, One-Time ..... (132,000)
From Federal Funds, One-Time 1,250,300
From Expendable Receipts, One-Time ... 200,000
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct, One-Time 1,000
From Permanent Community Impact Loan Fund, One-Time ..... (68,400)
From Permanent Community Impact Bonus Fund, One-Time 68,400
From Beginning Nonlapsing Balances ... 152,500
Schedule of Programs:
Administrative Support 958,500
Communications 126,600
Executive Director's Office 126,400
Human Resources 122,700
Internal Audit 137,600

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of General Fund appropriations provided in Item 47 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services' Administration line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, and one-time projects.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $132,000 of general fund appropriations provided in Item 3 of Chapter 406 Laws of Utah 2022, for the Department of Workforce Services Administration line item, shall not lapse in the Housing and Community Development line item at the close of Fiscal Year 2023. The nonlapsing of these funds into the Housing and Community Development line item is contingent upon a separate action by the Legislature during the 2023 General Session to reallocate these funds from the Administration line item to the Housing and Community Development line item in Fiscal Year 2023. The use of any nonlapsing funds is limited to one-time studies or projects, one-time administrative costs including time-limited or temporary personnel or contractor costs, one-time training, and the purchase of equipment or software.

Item 59
To Department of Workforce Services – General Assistance
From General Fund, One-Time ..... (48,400)
From Income Tax Fund, One-Time ..... (85,100)
From Beginning Nonlapsing Balances ..... (1,500,000)
Schedule of Programs:
General Assistance ..... (1,633,500)

Item 60
To Department of Workforce Services – Housing and Community Development
From General Fund, One-Time 132,000
From Federal Funds, One-Time 121,488,400
From Dedicated Credits Revenue, One-Time 4,600,000
From Permanent Community Impact Loan Fund, One-Time ..... (588,000)
From Permanent Community Impact Bonus Fund, One-Time 588,000
Schedule of Programs:
Community Development 15,297,000
Community Development Administration 1,490,100
Community Services 17,310,800
HEAT 58,008,100
Housing Development 10,870,600
Weatherization Assistance 23,243,800

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,000,000 of this Dedicated Credit revenue appropriation for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the

close of Fiscal Year 2023. The use of any nonlapsing funds is limited to one-time projects or activities such as the Emergency Rental Assistance program, affordable housing, or administrative expenses.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,200,000 of this Dedicated Credit revenue appropriation for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to one-time projects or activities such as the Housing Assistance Fund program, affordable housing, or administrative expenses.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of General Fund appropriations provided in Item 103 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time projects; time-limited, temporary personnel or contractor costs; and one-time training.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $400,000 of Dedicated Credit revenue appropriations provided in Item 103 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to one-time affordable housing projects, needs including administrative expenses or projects for the Private Activity Bond program, and one-time COVID community relief activities.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of Expendable Receipts appropriations provided in Item 103 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to weatherization assistance projects, including the pass-through of utility rebates by the Department of Workforce Services for weatherization assistance projects completed by local governments.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $59,600 of Dedicated Credit revenue appropriations provided in Item 78 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to one-time affordable housing projects, needs including administrative expenses or projects for the Private Activity Bond program, and one-time COVID community relief activities.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $158,500 of Dedicated Credit revenue appropriations provided in Item 72 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to one-time affordable housing projects, needs including administrative expenses or projects for the Private Activity Bond program, and one-time COVID community relief activities.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $870,000 of Special Administrative Expense Account appropriations provided in Item 18 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to one-time affordable housing projects and needs including one-time administrative expenses, affordable housing projects and needs including one-time administrative needs, and one-time COVID community relief activities.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,000,000 of general fund appropriations provided in Items 1, 4, and 5 of Chapter 406 Laws of Utah 2022, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to developing a statewide database for moderate income housing units, providing regional land use training and workshops to local officials and policymakers on housing issues, and efforts to increase housing affordability through local zoning and housing regulation reform, as described in House Bill 462 of the Utah Legislature 2022 General Session.

Item 61

To Department of Workforce Services -
Nutrition Assistance - SNAP
From Federal Funds, One-Time 148,755,100
Schedule of Programs:
Nutrition Assistance - SNAP 148,755,100

Item 62

To Department of Workforce Services -
Operations and Policy
From Federal Funds, One-Time 141,862,100
From Permanent Community Impact
Loan Fund, One-Time ..... (114,100)
From Permanent Community Impact
Bonus Fund, One-Time 114,100
From Qualified Emergency Food
Agencies Fund, One-Time 1,000
From Revenue Transfers,
One-Time ..... (9,000,000)

From Beginning Nonlapsing Balances 1,300,000
Schedule of Programs:
Child Care Assistance 42,842,500
Eligibility Services 3,429,500
Facilities and Pass-Through 2,396,900
Information Technology 10,749,700
Nutrition Assistance 23,200
Other Assistance 7,300
Refugee Assistance 3,577,500
Temporary Assistance for Needy Families 30,835,600
Trade Adjustment Act Assistance 725,200
Workforce Development 36,227,200
Workforce Investment Act Assistance 2,189,100
Workforce Research and Analysis ... 1,159,400

The Legislature authorizes the Department of Workforce Services, as allowed by the fund's authorizing statute, to spend all available money, as authorized by the Department of Health and Human Services, in the Medicaid Expansion Fund for FY 2023 regardless of the amount appropriated.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,500,000 of Special Administrative Expense Account appropriations provided in Item 76 of Chapter 193 Laws of Utah 2022, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to programs that reinvest in the workforce and support employer initiatives and one-time studies.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $3,200,000 of General Fund appropriations provided in Item 51 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, one-time projects, time-limited, temporary personnel or contractor costs, and one-time training.

Item 63
To Department of Workforce Services - State Office of Rehabilitation
From General Fund, One-Time ..... (601,600)
From Income Tax Fund, One-Time 601,600
From Federal Funds, One-Time 3,400
From Permanent Community Impact Loan Fund, One-Time ..... (1,000)
From Permanent Community Impact Bonus Fund, One-Time 1,000
From Beginning Nonlapsing Balances 4,500
Schedule of Programs:
Deaf and Hard of Hearing 7,900

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $10,500,000 of General Fund appropriations provided in Item 76 of Chapter 5 Laws of Utah 2020 and/or Item 82 of Chapter 9 Laws of Utah 2021 and/or Education Fund/Income Tax Fund appropriations provided in Items 41 and/or 236 of Chapter 442 of Laws of Utah 2021 and/or Item 77 of Chapter 193 Laws of Utah 2022, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to the purchase of equipment and software, including assistive technology devices and items for the low vision store; one-time studies; one-time projects associated with client services; and one-time projects to enhance or maintain State Office of Rehabilitation facilities and to facilitate co-location of personnel.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $10,000 of Dedicated Credit revenue appropriations provided in Item 53 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to the purchase of items and devices for the low vision store.

Item 64
To Department of Workforce Services - Unemployment Insurance
From General Fund, One-Time ..... (214,500)
From Federal Funds, One-Time 308,100
From Expendable Receipts, One-Time ... 390,000
From Permanent Community Impact Loan Fund, One-Time ..... (3,300)
From Permanent Community Impact Bonus Fund, One-Time 3,300
From Beginning Nonlapsing Balances 43,000
Schedule of Programs:
Adjudication 434,300
Unemployment Insurance Administration 92,300

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of General Fund appropriations provided in Item 54 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services' Unemployment Insurance line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to the purchase of equipment and software and one-time projects associated with client services.

Item 65
To Department of Workforce Services - Office of Homeless Services
From Federal Funds, One-Time 34,754,800
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-Time 19,533,200
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-Time 1,663,600
Schedule of Programs:
Homeless Services 55,951,600

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,500,000 of General Fund appropriations provided in Item 1 of Chapter 414 Laws of Utah 2020, for the Department of Workforce Services' Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to improvement of the electronic Homeless Management Information System as described in Senate Bill 244 of the Utah Legislature 2020 General Session.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of General Fund appropriations provided in Item 104 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services' Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time projects; time-limited, temporary personnel or contractor costs; and one-time training.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 66

To Department of Health and Human Services - Operations
From General Fund, One-Time ..... (315,700)
From Federal Funds, One-Time ... (20,365,500)
From Dedicated Credits Revenue, One-Time 5,000
From Revenue Transfers, One-Time .. 2,216,000
From Closing Nonlapsing Balances ... (5,473,200)
Schedule of Programs:
Executive Director Office ..... (1,224,000)
Finance & Administration ..... (19,245,900)
Data, Systems, & Evaluations ..... (1,388,800)
Public Affairs, Education & Outreach 118,900
American Indian / Alaska Native 111,000
Continuous Quality Improvement ..... (1,632,500)
Customer Experience ..... (672,100)

Pursuant to Section 63J-1-603 of the Utah code, the Legislature intends that any General Fund savings remaining from the enhanced FMAP related to the American Rescue Plan Act of 2021 (ARPA) in the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to expenses authorized under the Department's ARPA Home and Community Based Services Enhanced Funding Spending Plan approved by the Centers for Medicare and Medicaid Services.

Item 67

To Department of Health and Human Services - Clinical Services
From General Fund, One-Time ..... (137,900)
From Federal Funds, One-Time 14,677,800
From Expendable Receipts, One-Time ... 462,900
Schedule of Programs:
State Laboratory 262,900
Primary Care and Rural Health ..... (87,900)
Health Equity 14,827,800

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 56 of Chapter 4, Laws of Utah 2022 up to $1,612,500 under the Clinical Services line item shall not lapse at the close of fiscal year 2023. The use of any nonlapsing funds is limited to: (1) $750,000 to laboratory equipment, computer equipment, software, building improvements, or other laboratory needs to sustain continuing operations that would otherwise not be possible without this nonlapsing authority, (2) $500,000 to maintenance or replacement of computer equipment and software, equipment, building improvements or other purchases or services that improve or expand services provided by the Office of the Medical Examiner, (3) $200,000 for programming and information technology projects, replacement of computers and other information technology equipment or other one time projects, (4) $50,000 for the Maliheh Free Clinic, (5) $50,000 to the services of eligible clients in the Assistance for People with Bleeding Disorders Program, and (6) $62,500 for the Phenylketonuria (PKU) Formula Program.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 86 of Chapter 193, Laws of Utah 2022, up to $50,000 provided for the Clinical Services line item shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to $50,000 to help maintain the existing Veterans Health Access Program.

Item 68

To Department of Health and Human Services - Department Oversight
From General Fund, One-Time ..... (125,000)
From Federal Funds, One-Time ..... (4,543,300)
From Revenue Transfers, One-Time 11,724,400
From Closing Nonlapsing Balances .... (650,000)
Schedule of Programs:
Licensing & Background Checks ... 11,074,400
Internal Audit ..... (5,360,700)
Utah Developmental Disabilities Council 692,400

Item 69

To Department of Health and Human Services - Health Care Administration
From General Fund, One-Time ..... (287,600)
From Federal Funds, One-Time 14,109,100
From Expendable Receipts, One-Time 2,600,000
From Medicaid Expansion Fund, One-Time 118,600
From Nursing Care Facilities Provider Assessment Fund, One-Time 64,000
From Revenue Transfers, One-Time .. 8,525,900
Schedule of Programs:

Integrated Health Care
Administration 8,979,400
Long-Term Services and
Supports Administration 270,600
Provider Reimbursement Information
System for Medicaid 13,972,400
Utah Developmental Disabilities
Council ..... (692,400)
Seeded Services 2,600,000

The Legislature intends that the Department of Health and Human Services report by June 1, 2023 to the Social Services Appropriations Subcommittee regarding the following for payments to Medicaid accountable care organizations: (1) what payments are currently based on performance outcomes and (2) what are some options to pay accountable care organizations based on performance outcomes.

The Legislature intends that the $500,000 in beginning nonlapsing provided to the Department of Health and Human Services' Health Care Administration line item for state match to improve existing application level security and provide redundancy for core Medicaid applications is dependent upon up to $500,000 funds not otherwise designated as nonlapsing to the Department of Health and Human Services' Integrated Health Care Services line item or Health Care Administration line item or a combination from both line items not to exceed $500,000 being retained as nonlapsing in Fiscal Year 2023.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 58 of Chapter 4, Laws of Utah 2022, up to $10,075,000 of appropriations provided for the Department of Health and Human Services' Health Care Administration line item not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds shall be limited to: (1) $8,500,000 for the redesign, replacement, and operations of the Medicaid Management Information System, (2) $500,000 for providing application level security and redundancy for core Medicaid applications, (3) $475,000 for compliance with unfunded mandates and the purchase of computer equipment and software, and (4) $600,000 for data processing and technology based expenditures; facility repairs, maintenance, and improvements; other charges and pass through expenditures; short-term projects and studies that promote efficiency and service improvement; appropriated one-time projects; and appropriated restricted fund purposes.

The Legislature intends that the Department of Health and Human Services report by June 1, 2023 to the Social Services Appropriations Subcommittee on the potential financial and other impacts from making the following statutory changes to Medicaid's preferred drug list: (1) remove the dispense as written prescriber override option for psychotropic drugs and (2) remove the exclusion for immunosuppressive drugs.

The Legislature intends that funding of $400,000 in the 2022 General Session in House Bill 3, Item 240 for the LTSS Service Array and Cost Study not lapse at the close of FY 2023.

Pursuant to Section 63J-1-603 of the Utah code, the Legislature intends that any unspent funds in the Department of Health and Human Services Health Care Administration line item shall not lapse at the end of the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to Medicaid expenditures.

Item 70
To Department of Health and Human Services - Integrated Health Care Services
From General Fund, One-Time ..... (970,100)
From Federal Funds, One-Time 345,166,000
From Expendable Receipts,
One-Time 30,000,000
From Expendable Receipts -
Rebates, One-Time 120,000,000
From Medicaid Expansion Fund,
One-Time 411,000
From Nursing Care Facilities Provider
Assessment Fund, One-Time ..... (64,000)
From Revenue Transfers,
One-Time 78,589,100
From Closing Nonlapsing
Balances ..... (16,188,100)
Schedule of Programs:
Medicaid Behavioral Health
Services 41,344,500
Medicaid Home and Community
Based Services 139,679,300
Medicaid Long Term Care
Services 99,458,000
Medicare Buy-In and Clawback
Payments 11,000,000
Medicaid Other Services 149,095,800
Expansion Other Services 120,000,000
Non-Medicaid Behavioral Health
Treatment & Crisis Response .... (2,854,300)
State Hospital ..... (779,400)

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 84 of Chapter 193, Laws of Utah 2022, up to $2,800,000 provided for the Department of Health and Human Services' Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to supporting pregnant women with substance use disorder.

Pursuant to Section 63J-1-603 of the Utah code, the Legislature intends that any unspent funds in the Department of Health and Human Services Integrated Healthcare Services line item shall not lapse at the end of the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to Medicaid expenditures.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of appropriations provided in Item 59, Chapter 4, Laws of Utah 2022 and subsequent FY 2023 appropriations for the Department of Health and Human Services' Integrated Health Care Services line item not lapse at the close of Fiscal Year 2023. The nonlapsing funds shall be limited to providing application level security and redundancy for core Medicaid applications in the Department of Health and Human Services' Health Care Administration line item.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $3,500,000 of appropriations provided in Item 59, Chapter 4, Laws of Utah 2022 and subsequent FY 2023 appropriations for the Department of Health and Human Services - Integrated Health Care Services line item not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to data processing and technology based expenditures; incentive awards and bonuses; facility repairs, maintenance, and improvements; other charges and pass through expenditures; Utah State Hospital cost settlement audit variances; insurance paybacks; short-term projects and studies that promote efficiency and service improvement; trainings; appropriated one-time projects; and appropriated restricted fund purposes.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 84 of Chapter 193, Laws of Utah 2022, up to $6,200 provided for the Department of Health and Human Services' Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to adjustments to behavioral health service reimbursement in Medicaid.

Item 71

To Department of Health and Human Services - Long-Term Services & Support
From General Fund, One-Time ..... (1,501,600)
From Expendable Receipts, One-Time 288,900
From Revenue Transfers, One-Time 15,797,900
From Closing Nonlapsing Balances .... (325,000)
Schedule of Programs:
Aging & Adult Services ..... (324,900)
Adult Protective Services 317,300
Office of Public Guardian 45,700
Services for People with Disabilities 9,265,700
Community Supports Waiver Services 1,820,600
Disabilities - Other Waiver Services 1,539,700
Utah State Developmental Center ... 1,596,100

Item 72

To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From Federal Funds, One-Time 140,488,000
From Expendable Receipts, One-Time ... 502,100
From Revenue Transfers, One-Time .. 1,679,100
Schedule of Programs:
Communicable Disease 2,181,200
Health Promotion and Prevention 140,488,000

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 61 of Chapter 4, Laws of Utah 2022 up to $1,075,000 provided for the Department of Health and Human Services Public Health, Prevention, and Epidemiology line item shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to: (1) $500,000 to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs; (2) $175,000 to maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand services provided by the Office of Communicable Disease; (3) $75,000 for use of the Traumatic Brain Injury Fund; (4) $25,000 to local health departments expenses in responding to a local health emergency; (5) $100,000 to support the Utah Produce Incentive Program; and (6) $200,000 to support testing, certifications, background screenings, replacement of testing equipment and supplies in the Office of Emergency Medical Services and Preparedness.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 86 of Chapter 193, Laws of Utah 2022 up to $4,000,000 provided for the Department of Health and Human Services Public Health, Prevention, and Epidemiology line item shall not lapse at the close of FY 2023. The use of any nonlapsing funding is limited to payments to local health departments for compliance with state standards.

Item 73

To Department of Health and Human Services - Children, Youth, & Families
From General Fund, One-Time 669,100
From Dedicated Credits Revenue, One-Time 68,000
From Revenue Transfers, One-Time .. 5,030,200
Schedule of Programs:
Child & Family Services 1,017,400
Out-of-Home Services 1,949,400
Adoption Assistance 538,900
Children with Special Healthcare Needs 300
Maternal & Child Health 261,300
Family Health 1,000,000
Office of Coordinated Care and Regional Supports 1,000,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $250,000 of

HB7, Item 62 in the Children, Youth and Families line item shall not lapse at the close of State Fiscal Year 2023. The use of nonlapsing funds is limited to funding within the Division of Family Health, including $100,000 for evidence-based nurse home visiting services for at risk individuals with a priority focus on first-time mothers and; up to $150,000 for Children with Special Health Care Needs, Maternal and Child Health, and Coordinated Care and Regional Supports activities.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $4,000,000 of appropriations provided in Item 62, Chapter 4, Laws of Utah 2022 for the Department of Health and Human Services - Division of Child and Family Services not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to facility repair, maintenance, technology upgrades, and improvements; Adoption Assistance; Contracted Services; In-Home Services; Out of Home Care; Selected Services; Service Delivery; Special Needs; SAFE Management Information System development and operations consistent with the requirements found at UCA 63J-1-603(3)(b). The Legislature intends the Department of Health and Human Services - Division of Child and Family Services use nonlapsing state funds originally appropriated for Adoption Assistance non-Title-IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act consistent with the requirements found at UCA 63J-1-603(3)(b). Of the $4,000,000 nonlapsing a portion is mandated by the Social Security Act for maintenance of effort requirements.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 253 of Chapter 200, Laws of Utah 2022 up to $1,000,000 provided for the Department of Health and Human Services Children, Youth, & Families line item shall not lapse at the close of FY 2023. The use of any nonlapsing funding is limited to complement other funding sources in the construction of transitional housing units in Weber County for survivors of domestic violence.

Item 74
To Department of Health and Human Services - Office of Recovery Services
From Federal Funds, One-Time ... (19,504,300)
From Revenue Transfers, One-Time 602,200
Schedule of Programs:
Recovery Services ..... (9,588,300)
Child Support Services ..... (9,504,300)
Children in Care Collections 37,700
Medical Collections 152,800

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 75
To University of Utah - Education and General
From General Fund, One-Time ... (195,600,000)
From Income Tax Fund,
One-Time 202,592,300
From Dedicated Credits Revenue,
One-Time 39,307,100
Schedule of Programs:
Education and General 46,772,800
Operations and Maintenance ..... (473,400)

The Legislature intends that the $100,000 one-time Income Tax Fund appropriation in this line item be used for the Women Legislators of Utah History Project.

Item 76
To University of Utah - School of Medicine
From Dedicated Credits Revenue,
One-Time 375,400
Schedule of Programs:
School of Medicine 375,400

Item 77
To University of Utah - School of Dentistry
From Dedicated Credits Revenue,
One-Time 7,614,200
Schedule of Programs:
School of Dentistry 7,614,200

UTAH STATE UNIVERSITY

Item 78
To Utah State University - Education and General
From General Fund, One-Time ... (122,000,000)
From Income Tax Fund,
One-Time 127,171,000
From Dedicated Credits Revenue,
One-Time ..... (1,120,900)
Schedule of Programs:
Education and General 3,994,900
USU - School of Veterinary Medicine ... 55,200

Item 79
To Utah State University - USU - Eastern Education and General
From Dedicated Credits Revenue,
One-Time 662,800
Schedule of Programs:
USU - Eastern Education and General 662,800

Item 80
To Utah State University - USU - Eastern Career and Technical Education
From Dedicated Credits Revenue,
One-Time 281,000
Schedule of Programs:
USU - Eastern Career and Technical Education 281,000

Item 81
To Utah State University - Regional Campuses
From Dedicated Credits Revenue,
One-Time ..... (310,300)
Schedule of Programs:

Uintah Basin Regional Campus .... (1,738,100)
Brigham City Regional Campus ..... (111,200)
Tooele Regional Campus 1,539,000

Item 82
To Utah State University – Cooperative Extension
From General Fund, One-Time ..... (75,000)
From Income Tax Fund, One-Time 75,000

Item 83
To Utah State University – Blanding Campus
From Dedicated Credits Revenue,
One-Time ..... (280,800)
Schedule of Programs:
Blanding Campus ..... (280,800)

WEBER STATE UNIVERSITY

Item 84
To Weber State University – Education and General
From Income Tax Fund, One-Time 4,640,700
From Dedicated Credits Revenue,
One-Time 554,000
Schedule of Programs:
Education and General 5,194,700

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024.

SOUTHERN UTAH UNIVERSITY

Item 85
To Southern Utah University – Education and General
From Income Tax Fund, One-Time 2,937,600
From Dedicated Credits Revenue,
One-Time 9,974,300
Schedule of Programs:
Education and General 12,973,800
Operations and Maintenance ..... (61,900)

UTAH VALLEY UNIVERSITY

Item 86
To Utah Valley University – Education and General
From General Fund, One-Time .... (70,000,000)
From Income Tax Fund, One-Time ... 78,619,200
From Dedicated Credits Revenue,
One-Time 2,015,900
Schedule of Programs:
Education and General 10,635,100

The Legislature intends that the $1,506,700 one-time Income Tax Fund appropriation in this line item be used for the Native American Excellence Opportunity at Utah Valley University.

SNOW COLLEGE

Item 87
To Snow College – Education and General
From Income Tax Fund, One-Time 1,447,300
From Dedicated Credits Revenue,
One-Time ..... (1,668,300)
Schedule of Programs:
Education and General ..... (221,000)

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

UTAH TECH UNIVERSITY

Item 88
To Utah Tech University – Education and General
From Income Tax Fund, One-Time 2,505,300
From Dedicated Credits Revenue,
One-Time 7,553,700
Schedule of Programs:
Education and General 10,122,600
Operations and Maintenance ..... (63,600)

SALT LAKE COMMUNITY COLLEGE

Item 89
To Salt Lake Community College – Education and General
From Income Tax Fund, One-Time 3,758,000
From Dedicated Credits Revenue,
One-Time ..... (2,179,800)
Schedule of Programs:
Education and General 1,868,500
Operations and Maintenance ..... (290,300)

Item 90
To Salt Lake Community College – School of Applied Technology
From Dedicated Credits Revenue,
One-Time 17,000
Schedule of Programs:
School of Applied Technology 17,000

UTAH BOARD OF HIGHER EDUCATION

Item 91
To Utah Board of Higher Education – Administration
From General Fund, One-Time ..... (1,044,600)
From Income Tax Fund, One-Time 1,044,600

The Legislature intends that the Utah System of Higher Education (USHE) work with the Office of the Legislative Fiscal Analyst (LFA) and the Division of Finance during the 2023 Interim to create a budget that reflects all sources of revenue and all expenses and expenditures for each institution of higher education. USHE and LFA shall report that budget to the Higher Education Appropriations Committee by October 1, 2023 before its final 2023 Interim meeting for potential inclusion in an appropriations act.

Item 92
To Utah Board of Higher Education – Talent Ready Utah

The Legislature intends that the Division of Finance transfer all fiscal year 2023 closing nonlapsing balances from the Governor's Office of Economic Opportunity – Talent Ready Utah Center line item to the Utah Board of Higher Education – Talent Ready Utah line item.

BRIDGERLAND TECHNICAL COLLEGE

Item 93
To Bridgerland Technical College
From Dedicated Credits Revenue,
One-Time 829,900
Schedule of Programs:
Bridgerland Technical College 829,900

DAVIS TECHNICAL COLLEGE

Item 94
To Davis Technical College
From Dedicated Credits Revenue,
One-Time ..... (109,700)
Schedule of Programs:
Davis Technical College ..... (109,700)

DIXIE TECHNICAL COLLEGE

Item 95
To Dixie Technical College
From General Fund, One-Time 535,300
From Dedicated Credits Revenue,
One-Time 330,600
Schedule of Programs:
Dixie Technical College 865,900

The Legislature intends that the $535,300 one-time Income Tax Fund appropriation in this line item be used for the Washington County Bond Defeasance.

MOUNTAINLAND TECHNICAL COLLEGE

Item 96
To Mountainland Technical College
From Dedicated Credits Revenue,
One-Time 701,400
Schedule of Programs:
Mountainland Technical College 701,400

OGDEN-WEBER TECHNICAL COLLEGE

Item 97
To Ogden-Weber Technical College
From Dedicated Credits Revenue,
One-Time 198,300
Schedule of Programs:
Ogden-Weber Technical College 198,300

SOUTHWEST TECHNICAL COLLEGE

Item 98
To Southwest Technical College
From Dedicated Credits Revenue,
One-Time 81,300
Schedule of Programs:
Southwest Technical College 81,300

UINTAH BASIN TECHNICAL COLLEGE

Item 99
To Uintah Basin Technical College
From Dedicated Credits Revenue,
One-Time ..... (55,800)
Schedule of Programs:
Uintah Basin Technical College ..... (55,800)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 100
To Department of Agriculture and Food - Administration
From Federal Funds, One-Time 200,000
Schedule of Programs:
Commissioner's Office 200,000

Item 101
To Department of Agriculture and Food - Animal Industry
From Income Tax Fund, One-Time .... (100,000)
Schedule of Programs:
Animal Health ..... (100,000)

Item 102
To Department of Agriculture and Food - Invasive Species Mitigation
From Federal Funds, One-Time 200,000
Schedule of Programs:
Invasive Species Mitigation 200,000

Item 103
To Department of Agriculture and Food - Marketing and Development
From Federal Funds, One-Time 500,000
Schedule of Programs:
Marketing and Development 500,000

Item 104
To Department of Agriculture and Food - Plant Industry
From General Fund, One-Time ..... (640,800)
From Federal Funds, One-Time ..... (420,000)
From Dedicated Credits Revenue,
One-Time 600,000
From Revenue Transfers, One-Time .. (392,200)
From Beginning Nonlapsing Balances ..... (450,000)
Schedule of Programs:
Grazing Improvement Program .... (1,483,000)
Plant Industry Administration 180,000

Item 105
To Department of Agriculture and Food - Rangeland Improvement
From General Fund, One-Time 1,376,200
From Revenue Transfers, One-Time 392,200
From Beginning Nonlapsing Balances ... 450,000
Schedule of Programs:
Rangeland Improvement 2,218,400

Item 106
To Department of Agriculture and Food - Regulatory Services
From General Fund, One-Time ..... (735,400)
From Federal Funds, One-Time ..... (665,800)
From Dedicated Credits Revenue,
One-Time ..... (589,800)
From Pass-through, One-Time ..... (65,000)
Schedule of Programs:
Regulatory Services Administration ..... (500,000)
Egg Grading and Inspection ..... (1,556,000)

Item 107
To Department of Agriculture and Food - Resource Conservation

From Revenue Transfers, One-Time 907,000
Schedule of Programs:
Water Quantity 907,000

Item 108
To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue, One-Time 300,000
Schedule of Programs:
Industrial Hemp 300,000

Item 109
To Department of Agriculture and Food - Analytical Laboratory
From Federal Funds, One-Time 50,000
From Dedicated Credits Revenue, One-Time 20,000
Schedule of Programs:
Analytical Laboratory 70,000

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 110
To Department of Environmental Quality - Drinking Water
From General Fund, One-Time ..... (7,700)
From Federal Funds, One-Time 3,054,700
From Revenue Transfers, One-Time .. (151,000)
Schedule of Programs:
Drinking Water Administration ..... (7,700)
Safe Drinking Water Act ..... (20,000)
System Assistance 2,623,900
State Revolving Fund 299,800

Item 111
To Department of Environmental Quality - Environmental Response and Remediation
From General Fund, One-Time 55,800
From Federal Funds, One-Time 75,000
From Revenue Transfers, One-Time 54,300
Schedule of Programs:
Voluntary Cleanup ..... (15,100)
CERCLA 122,000
Petroleum Storage Tank Cleanup 77,100
Petroleum Storage Tank Compliance 1,100

Item 112
To Department of Environmental Quality - Executive Director's Office
From General Fund, One-Time ..... (162,600)
From General Fund Restricted - Environmental Quality, One-Time ... (57,500)
From Revenue Transfers, One-Time 208,900
Schedule of Programs:
Executive Director Office Administration ..... (11,200)

Item 113
To Department of Environmental Quality - Waste Management and Radiation Control
From General Fund Restricted - Environmental Quality, One-Time 57,500
From Revenue Transfers, One-Time ... (12,100)
Schedule of Programs:
Hazardous Waste 8,000
Solid Waste 17,100
Radiation 10,800
Low Level Radioactive Waste 5,800
WIPP ..... (1,300)
X-Ray 5,000

Item 114
To Department of Environmental Quality - Water Quality
From General Fund, One-Time 60,100
From Federal Funds, One-Time 965,400
From Dedicated Credits Revenue, One-Time 425,100
From Revenue Transfers, One-Time ... (18,400)
Schedule of Programs:
Water Quality Support 579,800
Water Quality Protection 811,500
Water Quality Permits 40,900

Item 115
To Department of Environmental Quality - Air Quality
From General Fund, One-Time 54,400
From Federal Funds, One-Time 3,762,100
From Revenue Transfers, One-Time 25,800
Schedule of Programs:
Compliance 213,500
Permitting 455,000
Planning 2,938,100
Air Quality Administration 235,700

DEPARTMENT OF NATURAL RESOURCES

Item 116
To Department of Natural Resources - Administration
From General Fund, One-Time ..... (700,000)
Schedule of Programs:
Law Enforcement ..... (700,000)

Notwithstanding intent language in S.B. 5, Item 22, under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $225,000 appropriations provided for DNR Administration line item in Item 61, Chapter 2, Laws of Utah 2022 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to: Computer Equipment/ Software $75,000; Equipment/Supplies $25,000; and Current Expense $125,000.

Item 117
To Department of Natural Resources - DNR Pass Through
From General Fund, One-Time ..... (480,000)
Schedule of Programs:
DNR Pass Through ..... (480,000)

Notwithstanding intent language in S.B. 5, Item 23, under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $10,677,000 appropriations provided for the DNR Pass Through line item in Item 65, Chapter 2, Laws of Utah 2022, shall not lapse at the close of FY 2023. Expenditures of these funds are limited to projects that have been appropriated but unexpended at the end of fiscal year 2023: Utah Lake Funding $8,722,000; Hogle Zoo "Wild Utah" exhibit $1,500,000; Bear Lake Improvements $350,000; and Utah County Fire Rehabilitation $105,000.

Item 118
To Department of Natural Resources - Forestry, Fire, and State Lands
From Dedicated Credits Revenue, One-Time 1,500,000
From Revenue Transfers, One-Time 15,000,000
Schedule of Programs:
Fire Suppression Emergencies 16,500,000

Item 119
To Department of Natural Resources - Oil, Gas, and Mining
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining, One-Time 514,000
Schedule of Programs:
Coal Program 400,000
Oil and Gas Program 114,000

Item 120
To Department of Natural Resources - Utah Geological Survey
From General Fund Restricted - Mineral Lease, One-Time 628,400
Schedule of Programs:
Energy and Minerals 628,400

Item 121
To Department of Natural Resources - Water Resources
From General Fund, One-Time 3,000,000
From Revenue Transfers, One-Time .. 1,000,000
Schedule of Programs:
Cloud Seeding 4,000,000

Under the terms of 63J-1-603, the Legislature intends that the $3,000,00 one-time General Fund provided by this item for Cloud Seeding shall not lapse at the close of FY 2023.

Item 122
To Department of Natural Resources - Water Rights

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 of the General Fund appropriated for purchasing equipment in Item 2, Chapter 70, Laws of Utah 2022, shall not lapse at the end of FY 2023.

Item 123
To Department of Natural Resources - Wildlife Resources
From General Fund, One-Time 830,000
From General Fund Restricted - Wildlife Resources, One-Time 550,000
Schedule of Programs:
Habitat Section 680,000
Law Enforcement 700,000

Item 124
To Department of Natural Resources - Division of State Parks
From General Fund Restricted - State Park Fees, One-Time 4,850,000
Schedule of Programs:
State Park Operation Management 4,600,000
Support Services 250,000

Item 125
To Department of Natural Resources - Division of Parks - Capital
From General Fund Restricted - State Park Fees, One-Time 8,000,000
Schedule of Programs:
Renovation and Development 8,000,000

Item 126
To Department of Natural Resources - Division of Outdoor Recreation
From General Fund, One-Time 350,000
From Dedicated Credits Revenue, One-Time 50,000
From Expendable Receipts, One-Time ... 200,000
Schedule of Programs:
Recreation Services 250,000
Administration 350,000

Notwithstanding the legislative intent language in S.B. 3, Item 274 (2021 General Session), the Legislature intends that the $350,000 one-time appropriation for Bear Lake improvements be used for trails construction in the Bear Lake area. Further, under the terms of 63J-1-603 of the Utah Code, the Legislature intends that this appropriation shall not lapse at the close of FY 2023.

Item 127
To Department of Natural Resources - Division of Outdoor Recreation- Capital
From Dedicated Credits Revenue, One-Time 50,000
From Expendable Receipts, One-Time ... 200,000
Schedule of Programs:
Recreation Capital 250,000

Item 128
To Department of Natural Resources - Office of Energy Development
From General Fund, One-Time 1,000,000
From Federal Funds, One-Time 5,860,000
Schedule of Programs:
Office of Energy Development 6,860,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the $1,000,000 provided by this item for the IIJA Grid Resilience Formula Grant Match to the Office of Energy Development not lapse at the close of FY 2023.

Notwithstanding intent language in S.B. 5, Item 39, under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $3,000,000 of the appropriations provided for the Office of Energy Development, Laws of Utah 2022, Chapter 410, Item 117 shall not lapse at the close of FY 2023. Expenditures of these funds are limited to EV Charging Infrastructure in rural Utah.

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 129
To School and Institutional Trust Lands Administration
From Land Grant Management Fund, One-Time 4,500,000

Schedule of Programs:
Administration 3,000,000
Director 1,500,000

Under the terms of 63J-1-603, the Legislature intends that the $1,500,000 provided for Federal Land Exchanges by this item to the School and Institutional Trust Lands Administration shall not lapse at the close of FY2023.

Item 130
To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital
From Land Grant Management Fund, One-Time ..... (3,000,000)
Schedule of Programs:
Capital ..... (3,000,000)

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 131
To Capitol Preservation Board

The Legislature intends that the Capitol Preservation Board may use appropriations for State Capitol field trips for ancillary costs associated with bringing school children to the State Capitol.

LEGISLATURE

Item 132
To Legislature - Office of the Legislative Fiscal Analyst
From General Fund, One-Time ..... (42,200)
Schedule of Programs:
Administration and Research ..... (42,200)

Item 133
To Legislature - Legislative Services
From General Fund, One-Time 42,200
Schedule of Programs:
Administration 42,200

UTAH NATIONAL GUARD

Item 134
To Utah National Guard
From Income Tax Fund, One-Time 300,000
From General Fund Restricted - West Traverse Sentinel Landscape Fund, One-Time ..... (1,938,700)
Schedule of Programs:
Tuition Assistance 300,000
Fort Douglas Relocation ..... (1,938,700)

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 135
To Department of Veterans and Military Affairs - DVMA Pass Through
From General Fund, One-Time 40,000
Schedule of Programs:
DVMA Pass Through 40,000

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 136
To Department of Cultural and Community Engagement - Heritage and Arts Foundation Fund
From Dedicated Credits Revenue, One-Time 1,000,000
From Revenue Transfers, One-Time .. 1,000,000
Schedule of Programs:
Heritage and Arts Foundation Fund 2,000,000

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 137
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds, One-Time 3,852,400
Schedule of Programs:
Veterans Nursing Home Fund 3,852,400

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 138
To Utah Department of Corrections - Utah Correctional Industries

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriation for the Utah Department of Corrections - Utah Correctional Industries in item 94 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. Any nonlapsing retained earnings would be used in the ongoing operations of UCI.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 139
To Department of Government Operations – Division of Finance
From Dedicated Credits Revenue, One-Time 480,600
Schedule of Programs:
ISF – Purchasing Card 480,600

Item 140
To Department of Government Operations – Division of Fleet Operations
From General Fund, One-Time ..... (13,000)
From Dedicated Credits Revenue, One-Time 23,207,000
Schedule of Programs:
ISF – Fuel Network 23,194,000

Item 141
To Department of Government Operations – Risk Management
From General Fund, One-Time 15,000,000
From Interest Income, One-Time 144,600
From Risk Management – Workers Compensation Fund, One-Time 2,000,000
Schedule of Programs:
ISF – Workers' Compensation 14,000
Risk Management – Liability 15,130,600
Risk Management – Property 2,000,000

Item 142
To Department of Government Operations – Enterprise Technology Division
From Dedicated Credits Revenue, One-Time 11,885,500
Schedule of Programs:
ISF – Enterprise Technology Division 11,885,500
Budgeted FTE 13.0

Item 143
To Department of Government Operations – Utah Inland Port Authority Fund
From Long-term Capital Projects Fund, One-Time ..... (50,000,000)
Schedule of Programs:
Inland Port Authority Fund ..... (50,000,000)

By this line item the Legislature also rescinds legislative intent included in the Infrastructure and General Government Base Budget Bill, Senate Bill 6, Item 97.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 144
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Qualified Production Enterprise Fund, One-Time 300,000
Schedule of Programs:
Qualified Production Enterprise Fund 300,000

DEPARTMENT OF NATURAL RESOURCES

Item 145
To Department of Natural Resources – Water Resources Conservation & Development Fund
From General Fund, One-Time 50,000,000
Schedule of Programs:
Water Resources Conservation & Development Fund 50,000,000

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 146
To Utah Capital Investment Restricted Account
From Revenue Transfers, One-Time .. 8,200,000
Schedule of Programs:
Utah Capital Investment Restricted Account 8,200,000

The Legislature intends that the Division of Finance transfer $8,200,000 in nonlapsing amounts originally appropriated to the Governor's Office of Economic Opportunity – Pass-through line item from the Utah Capital Investment Restricted Account in "Appropriations Adjustments" (Senate Bill 1001, 2021 First Special Session), Item 53 back to the Utah Capital Investment Restricted Account.

Item 147
To General Fund Restricted – Native American Repatriation Restricted Account
From General Fund, One-Time ..... (10,000)
Schedule of Programs:
General Fund Restricted – Native American Repatriation Restricted Account ..... (10,000)

SOCIAL SERVICES

Item 148
To Ambulance Service Provider Assessment Expendable Revenue Fund
From Dedicated Credits Revenue, One-Time 1,900,000
Schedule of Programs:
Ambulance Service Provider Assessment Expendable Revenue Fund 1,900,000

Item 149
To Nursing Care Facilities Provider Assessment Fund
From Dedicated Credits Revenue, One-Time 4,000,000
Schedule of Programs:
Nursing Care Facilities Provider Assessment Fund 4,000,000

EXECUTIVE APPROPRIATIONS

Item 150
To West Traverse Sentinel Landscape Fund
From General Fund, One-Time ..... (1,938,700)
Schedule of Programs:
West Traverse Sentinel Landscape Fund ..... (1,938,700)

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 151
To General Fund
From General Fund Restricted - Industrial Assistance Account, One-Time 10,000,000
Schedule of Programs:
General Fund, One-time 10,000,000

SOCIAL SERVICES

Item 152
To General Fund
From Nonlapsing Balances - From Department of Workforce Services - General Assistance 536,500
Schedule of Programs:
General Fund, One-time 536,500

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 153
To Transportation - Transportation Investment Fund of 2005
From Transportation Fund, One-Time 17,904,400
Schedule of Programs:
Transportation Investment Fund ... 17,904,400

Section 2. Effective Date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override.

CHAPTER 469
H. B. 8
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

STATE AGENCY AND HIGHER EDUCATION COMPENSATION APPROPRIATIONS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

- provides funding for a 5% labor market increase for state employees;
- provides funding for a 3.75% targeted compensation increases for state employees;
- provides funding for an average 2.5% discretionary pay increases for state employees;
- provides funding for an 8.75% discretionary compensation increase for higher education employees;
- provides funding for an average 7.2% increase in health insurance benefits rates and 0.9% increase in dental insurance benefits rates for state and higher education employees;
- provides funding for discretionary compensation increase for offices of the Legislature, statewide elected officials, and the Judiciary;
- provides funding for an up-to $26 per pay period 401(k) match for qualifying state employees; and
- provides funding for other compensation adjustments as authorized.

Money Appropriated in this Bill:

This bill appropriates $352,864,500 in operating and capital budgets for fiscal year 2024, including:

- $157,119,400 from the General Fund;
- $84,834,600 from the Income Tax Fund; and
- $110,910,500 from various sources as detailed in this bill.

This bill appropriates $560,500 in expendable funds and accounts for fiscal year 2024, including:

- $96,700 from the General Fund; and
- $463,800 from various sources as detailed in this bill.

This bill appropriates $4,336,700 in business-like activities for fiscal year 2024, including:

- $1,700 from the General Fund; and
- $4,335,000 from various sources as detailed in this bill.

This bill appropriates $74,600 in restricted fund and account transfers for fiscal year 2024, all of which is from the General Fund.

This bill appropriates $57,800 in fiduciary funds for fiscal year 2024.

Other Special Clauses:

This bill takes effect on July 1, 2023.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1

To Attorney General
From General Fund 1,495,400
From General Fund, One-Time 78,000
From Income Tax Fund 8,800
From Income Tax Fund, One-Time 400
From Federal Funds 193,200
From Federal Funds, One-Time 7,500
From Dedicated Credits Revenue 56,500
From Dedicated Credits Revenue, One-Time 2,300
From General Fund Restricted - Consumer Privacy Account 8,200
From General Fund Restricted - Consumer Privacy Account, One-Time 400
From Attorney General Litigation Fund 700
From General Fund Restricted - Tobacco Settlement Account 20,000
From General Fund Restricted - Tobacco Settlement Account, One-Time ... 800
From Revenue Transfers 50,900
From Revenue Transfers, One-Time 2,000
Schedule of Programs:
Administration 473,700
Civil 477,200
Criminal Prosecution 974,200

Item 2

To Attorney General - Children's Justice Centers
From General Fund 25,700
From General Fund, One-Time 300
From Federal Funds 11,000
From Federal Funds, One-Time 300
From Dedicated Credits Revenue 400
From Expendable Receipts 8,600
From Expendable Receipts, One-Time 300
Schedule of Programs:
Children's Justice Centers 46,600

Item 3

To Attorney General - Prosecution Council
From General Fund 22,900
From General Fund, One-Time 1,200
From Federal Funds 1,500
From Dedicated Credits Revenue 2,400
From Dedicated Credits Revenue, One-Time 100
From Revenue Transfers 40,400

From Revenue Transfers, One-Time 2,300
Schedule of Programs:
Prosecution Council 70,800

BOARD OF PARDONS AND PAROLE

Item 4
To Board of Pardons and Parole
From General Fund 317,400
From General Fund, One-Time 31,400
Schedule of Programs:
Board of Pardons and Parole 348,800

UTAH DEPARTMENT OF CORRECTIONS

Item 5
To Utah Department of Corrections - Programs and Operations
From General Fund 18,624,500
From General Fund, One-Time 3,067,600
Schedule of Programs:
Adult Probation and Parole Administration 218,100
Adult Probation and Parole Programs 6,136,000
Department Administrative Services .. 413,200
Department Executive Director 447,500
Department Training 277,200
Prison Operations Administration 637,800
Prison Operations Central Utah/Gunnison 3,995,700
Prison Operations Inmate Placement 264,700
Programming Administration 60,500
Programming Skill Enhancement 991,500
Programming Treatment 703,300
Prison Operations Utah State Correctional Facility 7,546,600

Item 6
To Utah Department of Corrections - Department Medical Services
From General Fund 1,100,100
From General Fund, One-Time 84,600
Schedule of Programs:
Medical Services 1,184,700

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 7
To Judicial Council/State Court Administrator - Administration
From General Fund 9,603,800
From General Fund, One-Time 461,200
From Federal Funds 15,600
From General Fund Restricted - Court Security Account 10,700
From General Fund Restricted - Court Security Account, One-Time 700
Schedule of Programs:
Administrative Office 365,800
Court of Appeals 383,000
Courts Security 11,400
Data Processing 500,400
District Courts 4,805,500
Grants Program 47,500
Judicial Education 59,700
Justice Courts 18,300
Juvenile Courts 3,515,500
Law Library 88,600
Supreme Court 296,300

Item 8
To Judicial Council/State Court Administrator - Guardian ad Litem
From General Fund 725,200
From General Fund, One-Time 36,300
Schedule of Programs:
Guardian ad Litem 761,500

Item 9
To Judicial Council/State Court Administrator - Jury and Witness Fees
From General Fund 43,300
From General Fund, One-Time 2,000
Schedule of Programs:
Jury, Witness, and Interpreter 45,300

GOVERNOR'S OFFICE

Item 10
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund 302,700
From General Fund, One-Time 20,100
From Federal Funds 170,200
From Federal Funds, One-Time 10,900
From Dedicated Credits Revenue 500
From Crime Victim Reparations Fund 4,200
From Crime Victim Reparations Fund, One-Time 200
From General Fund Restricted - Criminal Forfeiture Restricted Account 5,600
From General Fund Restricted - Criminal Forfeiture Restricted Account, One-Time 100
Schedule of Programs:
CCJJ Commission 184,700
Extraditions 4,100
Judicial Performance Evaluation Commission 31,500
Sentencing Commission 12,100
State Asset Forfeiture Grant Program ... 5,700
State Task Force Grants 5,100
Substance Use and Mental Health Advisory Council 12,000
Utah Office for Victims of Crime 259,300

Item 11
To Governor's Office
From General Fund 400,000
From General Fund, One-Time 11,900
From Dedicated Credits Revenue 60,200
From Dedicated Credits Revenue, One-Time 2,200
Schedule of Programs:
Administration 287,800
Governor's Residence 27,600
Lt. Governor's Office 139,600
Washington Funding 19,300

Item 12
To Governor's Office - Governors Office of Planning and Budget
From General Fund 309,800
From General Fund, One-Time 15,800
Schedule of Programs:
Administration 66,100
Management and Special Projects 51,900

Budget, Policy, and Economic Analysis 165,900
Planning Coordination 41,700

Item 13
To Governor's Office – Indigent Defense Commission
From Expendable Receipts 2,700
From Expendable Receipts, One-Time 200
From General Fund Restricted – Indigent Defense Resources 122,900
From General Fund Restricted – Indigent Defense Resources, One-Time 5,100
From Revenue Transfers 3,200
From Revenue Transfers, One-Time 200
Schedule of Programs:
Office of Indigent Defense Services 67,200
Indigent Appellate Defense Division 67,100

Item 14
To Governor's Office – Colorado River Authority of Utah
From Expendable Receipts 5,900
From Expendable Receipts, One-Time 300
From General Fund Restricted – Colorado River Authority of Utah Restricted Account 62,400
From General Fund Restricted – Colorado River Authority of Utah Restricted Account, One-Time 2,800
Schedule of Programs:
Colorado River Authority of Utah 71,400

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 15
To Department of Health and Human Services – Division of Juvenile Justice Services – Juvenile Justice & Youth Services
From General Fund 5,006,400
From General Fund, One-Time 339,900
From Federal Funds 118,800
From Federal Funds, One-Time 12,700
From Dedicated Credits Revenue 71,400
From Dedicated Credits Revenue, One-Time 7,600
From Expendable Receipts 700
From Expendable Receipts, One-Time 100
From General Fund Restricted – Juvenile Justice Reinvestment Account 36,400
From General Fund Restricted – Juvenile Justice Reinvestment Account, One-Time 4,400
From Revenue Transfers 39,200
From Revenue Transfers, One-Time 4,100
Schedule of Programs:
Juvenile Justice & Youth Services ... 2,841,000
Secure Care 1,011,800
Youth Services 1,551,800
Community Programs 237,100

OFFICE OF THE STATE AUDITOR

Item 16
To Office of the State Auditor – State Auditor
From General Fund 213,500
From General Fund, One-Time 13,900
From Dedicated Credits Revenue 173,900
From Dedicated Credits Revenue, One-Time 10,500
Schedule of Programs:
State Auditor 386,200
State Privacy Officer 25,600

DEPARTMENT OF PUBLIC SAFETY

Item 17
To Department of Public Safety – Driver License
From Dedicated Credits Revenue 1,200
From Dedicated Credits Revenue, One-Time 100
From Department of Public Safety Restricted Account 1,688,200
From Department of Public Safety Restricted Account, One-Time 121,100
From Public Safety Motorcycle Education Fund 3,400
From Public Safety Motorcycle Education Fund, One-Time 700
From Pass-through 2,600
From Pass-through, One-Time 200
Schedule of Programs:
Driver License Administration 243,500
Driver Records 679,600
Driver Services 890,300
Motorcycle Safety 4,100

Item 18
To Department of Public Safety – Emergency Management
From General Fund 460,100
From General Fund, One-Time 2,000
From Federal Funds 322,700
From Federal Funds, One-Time 27,200
Schedule of Programs:
Emergency Management 812,000

Item 19
To Department of Public Safety – Highway Safety
From Federal Funds 158,800
From Federal Funds, One-Time 7,500
From Dedicated Credits Revenue 1,000
From Public Safety Motorcycle Education Fund 1,200
From Public Safety Motorcycle Education Fund, One-Time 100
From Revenue Transfers 8,300
From Revenue Transfers, One-Time 900
From Other Financing Sources 8,400
Schedule of Programs:
Highway Safety 186,200

Item 20
To Department of Public Safety – Peace Officers' Standards and Training
From General Fund 188,100
From General Fund, One-Time 20,800
From Dedicated Credits Revenue 4,500
From Dedicated Credits Revenue, One-Time 200
Schedule of Programs:
Basic Training 106,800
POST Administration 57,700
Regional/Inservice Training 49,100

Item 21
To Department of Public Safety – Programs & Operations
From General Fund 7,688,700

From General Fund, One-Time 1,037,500
From Federal Funds 38,100
From Federal Funds, One-Time 1,600
From Dedicated Credits Revenue 430,700
From Dedicated Credits Revenue, One-Time 31,600
From Expendable Receipts 3,000
From Expendable Receipts, One-Time 100
From Department of Public Safety Restricted Account 130,500
From Department of Public Safety Restricted Account, One-Time 8,600
From General Fund Restricted - Fire Academy Support 140,900
From General Fund Restricted - Fire Academy Support, One-Time 9,900
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct. 114,200
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct., One-Time 7,500
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account 3,500
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account, One-Time 200
From Revenue Transfers 15,000
From Revenue Transfers, One-Time 800
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau 8,900
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau, One-Time 500
From Other Financing Sources 3,500
Schedule of Programs:
Aero Bureau 104,300
CITS Administration 51,600
CITS Communications 3,001,600
CITS State Bureau of Investigation 609,300
CITS State Crime Labs 486,900
Department Commissioner's Office 261,400
Department Fleet Management 10,000
Department Grants 62,000
Department Intelligence Center 187,700
Fire Marshal - Fire Fighter Training 22,100
Fire Marshal - Fire Operations 150,900
Highway Patrol - Administration 67,400
Highway Patrol - Commercial Vehicle 249,600
Highway Patrol - Federal/State Projects 500
Highway Patrol - Field Operations 3,354,700
Highway Patrol - Protective Services 474,700
Highway Patrol - Safety Inspections 61,800
Highway Patrol - Special Enforcement 89,800
Highway Patrol - Special Services 352,400
Highway Patrol - Technology Services 76,600

Item 22
To Department of Public Safety - Bureau of Criminal Identification
From General Fund 100,800
From General Fund, One-Time 8,500
From Dedicated Credits Revenue 228,600
From Dedicated Credits Revenue, One-Time 16,900
From General Fund Restricted - Concealed Weapons Account 173,200
From General Fund Restricted - Concealed Weapons Account, One-Time 13,000
From Other Financing Sources 6,500
Schedule of Programs:
Non-Government/Other Services 547,500

STATE TREASURER

Item 23
To State Treasurer
From General Fund 58,200
From General Fund, One-Time 3,000
From Dedicated Credits Revenue 63,300
From Dedicated Credits Revenue, One-Time 2,900
From Land Trusts Protection and Advocacy Account 26,100
From Land Trusts Protection and Advocacy Account, One-Time 1,400
From Unclaimed Property Trust 115,600
From Unclaimed Property Trust, One-Time 7,000
Schedule of Programs:
Advocacy Office 27,500
Money Management Council 8,000
Treasury and Investment 119,500
Unclaimed Property 122,500

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 24
To Career Service Review Office
From General Fund 11,700
From General Fund, One-Time 1,400
Schedule of Programs:
Career Service Review Office 13,100

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 25
To Utah Education and Telehealth Network - Digital Teaching and Learning Program
From Income Tax Fund 13,600
From Federal Funds 500
Schedule of Programs:
Digital Teaching and Learning Program 14,100

Item 26
To Utah Education and Telehealth Network
From General Fund 46,200
From Income Tax Fund 863,200
From Federal Funds 242,500
From Dedicated Credits Revenue 371,300
Schedule of Programs:
Utah Telehealth Network 1,523,200

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 27
To Department of Government Operations - Administrative Rules

From General Fund 21,400
From General Fund, One-Time 3,300
Schedule of Programs:
DAR Administration 24,700

Item 28
To Department of Government Operations - DFCM Administration
From General Fund 132,800
From General Fund, One-Time 11,300
From Income Tax Fund 27,000
From Income Tax Fund, One-Time 2,200
From Dedicated Credits Revenue 76,200
From Dedicated Credits Revenue, One-Time 6,300
From Capital Projects Fund 142,600
From Capital Projects Fund, One-Time ... 11,600
Schedule of Programs:
DFCM Administration 382,100
Energy Program 27,900

Item 29
To Department of Government Operations - Executive Director
From General Fund 75,000
From General Fund, One-Time 6,000
From Dedicated Credits Revenue 23,900
From Dedicated Credits Revenue, One-Time 1,800
Schedule of Programs:
Executive Director 106,700

Item 30
To Department of Government Operations - Finance - Mandated
From General Fund 16,423,600
From General Fund, One-Time ..... (7,848,600)
Schedule of Programs:
Internal Service Fund Rate Impacts ..... (4,786,100)
State Employee Benefits 13,361,100

Under provisions of Section 63A-17-805, Utah Code Annotated, the employer defined contribution match for the fiscal year beginning July 1, 2023, and ending June 30, 2024 shall be $26 per pay period.

Item 31
To Department of Government Operations - Finance Administration
From General Fund 276,200
From General Fund, One-Time 22,600
From Transportation Fund 1,500
From Dedicated Credits Revenue 76,200
From Dedicated Credits Revenue, One-Time 6,300
From Gen. Fund Rest. - Internal Service Fund Overhead 27,100
From Gen. Fund Rest. - Internal Service Fund Overhead, One-Time 1,800
Schedule of Programs:
Finance Director's Office 34,400
Financial Information Systems 112,800
Financial Reporting 116,400
Payables/Disbursing 92,900
Payroll 55,200

Item 32
To Department of Government Operations - Inspector General of Medicaid Services
From General Fund 76,000
From General Fund, One-Time 4,500
From Federal Funds 500
From Federal Funds, One-Time 100
From Medicaid Expansion Fund 1,000
From Medicaid Expansion Fund, One-Time 100
From Revenue Transfers 76,600
From Revenue Transfers, One-Time 7,900
Schedule of Programs:
Inspector General of Medicaid Services 166,700

Item 33
To Department of Government Operations - Judicial Conduct Commission
From General Fund 13,000
From General Fund, One-Time 700
Schedule of Programs:
Judicial Conduct Commission 13,700

Item 34
To Department of Government Operations - Purchasing
From General Fund 123,500
From General Fund, One-Time 5,700
Schedule of Programs:
Purchasing and General Services 129,200

Item 35
To Department of Government Operations - State Archives
From General Fund 151,800
From General Fund, One-Time 14,400
From Federal Funds 3,900
From Federal Funds, One-Time 300
From Dedicated Credits Revenue 4,800
From Dedicated Credits Revenue, One-Time 500
Schedule of Programs:
Archives Administration 31,500
Patron Services 71,100
Preservation Services 23,900
Records Analysis 49,200

Item 36
To Department of Government Operations - Chief Information Officer
From General Fund 252,900
From General Fund, One-Time 18,000
Schedule of Programs:
Chief Information Officer 270,900

Item 37
To Department of Government Operations - Integrated Technology
From General Fund 44,300
From General Fund, One-Time 3,500
From Federal Funds 6,500
From Federal Funds, One-Time 700
From Dedicated Credits Revenue 35,800
From Dedicated Credits Revenue, One-Time 2,900
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct. 10,400
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct., One-Time ... 800

Schedule of Programs:
Utah Geospatial Resource Center 104,900

Item 38
To Department of Government Operations – Human Resource Management
From General Fund 26,500
From General Fund, One-Time 4,000
Schedule of Programs:
Pay for Performance 30,500

TRANSPORTATION

Item 39
To Transportation – Aeronautics
From Dedicated Credits Revenue 37,600
From Dedicated Credits Revenue, One-Time 2,000
From Aeronautics Restricted Account 66,100
From Aeronautics Restricted Account, One-Time 3,600
Schedule of Programs:
Administration 43,800
Airplane Operations 65,500

Item 40
To Transportation – Highway System Construction
From Transportation Fund 105,100
From Transportation Fund, One-Time 7,500
From Federal Funds 44,500
From Federal Funds, One-Time 3,200
Schedule of Programs:
State Construction 160,300

Item 41
To Transportation – Engineering Services
From Transportation Fund 1,436,400
From Transportation Fund, One-Time .. 101,500
From Federal Funds 534,400
From Federal Funds, One-Time 43,200
From Dedicated Credits Revenue 101,900
From Dedicated Credits Revenue, One-Time 9,000
Schedule of Programs:
Civil Rights 13,800
Construction Management 125,800
Engineer Development Pool 75,300
Engineering Services 178,700
Environmental 181,700
Highway Project Management Team 75,700
Planning and Investment 32,400
Materials Lab 289,800
Preconstruction Admin 208,500
Program Development 493,400
Research 104,200
Right-of-Way 223,700
Structures 223,400

Item 42
To Transportation – Operations/ Maintenance Management
From Transportation Fund 9,115,200
From Transportation Fund, One-Time .. 481,600
From Federal Funds 559,800
From Federal Funds, One-Time 35,900
From Dedicated Credits Revenue 160,000
From Dedicated Credits Revenue, One-Time 8,200
Schedule of Programs:
Field Crews 1,173,200
Maintenance Planning 167,200
Region 1 1,281,200
Region 2 1,809,600
Region 3 1,106,500
Region 4 2,496,700
Seasonal Pools 495,800
Shops 902,300
Traffic Operations Center 727,000
Traffic Safety/Tramway 201,200

Item 43
To Transportation – Region Management
From Transportation Fund 1,807,700
From Transportation Fund, One-Time .. 133,400
From Federal Funds 166,200
From Federal Funds, One-Time 12,300
From Dedicated Credits Revenue 140,800
From Dedicated Credits Revenue, One-Time 10,600
Schedule of Programs:
Region 1 497,000
Region 2 760,100
Region 3 435,900
Region 4 578,000

Item 44
To Transportation – Support Services
From Transportation Fund 1,098,600
From Transportation Fund, One-Time ... 86,200
From Federal Funds 166,700
From Federal Funds, One-Time 16,300
Schedule of Programs:
Administrative Services 143,600
Community Relations 66,100
Comptroller 384,100
Data Processing 15,700
Human Resources Management 96,100
Internal Auditor 56,900
Ports of Entry 489,400
Procurement 69,800
Risk Management 46,100

Item 45
To Transportation – Amusement Ride Safety
From General Fund 2,700
From General Fund, One-Time 200
From General Fund Restricted – Amusement Ride Safety Restricted Account 4,900
From General Fund Restricted – Amusement Ride Safety Restricted Account, One-Time 400
Schedule of Programs:
Amusement Ride Safety 8,200

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 46
To Department of Alcoholic Beverage Services – DABS Operations
From Liquor Control Fund 5,278,100
From Liquor Control Fund, One-Time 80,200
Schedule of Programs:
Administration 37,800
Executive Director 319,300
Stores and Agencies 4,628,300
Warehouse and Distribution 372,900

DEPARTMENT OF COMMERCE

Item 47
To Department of Commerce – Building Inspector Training
From Dedicated Credits Revenue 3,600
From Dedicated Credits Revenue, One-Time 700
Schedule of Programs:
Building Inspector Training 4,300

Item 48
To Department of Commerce – Commerce General Regulation
From Federal Funds 15,400
From Federal Funds, One-Time 1,400
From Dedicated Credits Revenue 59,000
From Dedicated Credits Revenue, One-Time 5,000
From General Fund Restricted – Commerce Service Account 1,228,700
From General Fund Restricted – Commerce Service Account, One-Time 94,100
From General Fund Restricted – Factory Built Housing Fees 5,400
From General Fund Restricted – Factory Built Housing Fees, One-Time 300
From Gen. Fund Rest. – Geologist Education and Enforcement 900
From Gen. Fund Rest. – Geologist Education and Enforcement, One-Time 100
From Gen. Fund Rest. – Nurse Education & Enforcement Acct. 2,400
From Gen. Fund Rest. – Nurse Education & Enforcement Acct., One-Time 200
From General Fund Restricted – Pawnbroker Operations 9,400
From General Fund Restricted – Pawnbroker Operations, One-Time 700
From General Fund Restricted – Public Utility Restricted Acct. 199,100
From General Fund Restricted – Public Utility Restricted Acct., One-Time 18,100
From Revenue Transfers 35,900
From Revenue Transfers, One-Time 3,300
From Other Financing Sources 15,400
From Pass-through 5,400
From Pass-through, One-Time 700
Schedule of Programs:
Administration 146,200
Consumer Protection 179,600
Corporations and Commercial Code 127,100
Occupational and Professional Licensing 677,500
Office of Consumer Services 29,600
Public Utilities 210,200
Real Estate 171,100
Securities 159,600

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 49
To Governor's Office of Economic Opportunity – Administration
From General Fund 125,970
From General Fund, One-Time 5,400
Schedule of Programs:
Administration 131,370

Item 50
To Governor's Office of Economic Opportunity – Economic Prosperity
From General Fund 345,030
From General Fund, One-Time 14,700
From Federal Funds 14,600
From Federal Funds, One-Time 800
From Dedicated Credits Revenue 28,200
From Dedicated Credits Revenue, One-Time 1,500
From General Fund Restricted – Industrial Assistance Account 4,600
From General Fund Restricted – Industrial Assistance Account, One-Time 300
From Rural Opportunity Fund 28,700
From Rural Opportunity Fund, One-Time 2,600
Schedule of Programs:
Business Services 174,300
Incentives and Grants 70,800
Strategic Initiatives 124,300
Systems and Control 71,630

Item 51
To Governor's Office of Economic Opportunity – Office of Tourism
From General Fund 212,300
From General Fund, One-Time 12,800
From Transportation Fund 2,500
From Dedicated Credits Revenue 16,800
From Dedicated Credits Revenue, One-Time 1,200
From General Fund Rest. – Motion Picture Incentive Acct. 18,000
From General Fund Rest. – Motion Picture Incentive Acct., One-Time 2,400
Schedule of Programs:
Film Commission 52,200
Tourism 213,800

FINANCIAL INSTITUTIONS

Item 52
To Financial Institutions – Financial Institutions Administration
From General Fund Restricted – Financial Institutions 300,300
From General Fund Restricted – Financial Institutions, One-Time 30,500
Schedule of Programs:
Administration 330,800

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 53
To Department of Cultural and Community Engagement – Administration
From General Fund 137,400
From General Fund, One-Time 10,000
From Dedicated Credits Revenue 4,100
From Dedicated Credits Revenue, One-Time 400
Schedule of Programs:
Administrative Services 72,600
Executive Director's Office 25,500
Information Technology 7,900
Utah Multicultural Affairs Office 45,900

Item 54
To Department of Cultural and Community Engagement - Division of Arts and Museums
From General Fund 136,700
From General Fund, One-Time 9,700
From Federal Funds 5,400
From Dedicated Credits Revenue 5,100
From Dedicated Credits Revenue, One-Time 500
Schedule of Programs:
Administration 17,700
Community Arts Outreach 132,800
Museum Services 6,900

Item 55
To Department of Cultural and Community Engagement - Commission on Service and Volunteerism
From General Fund 7,300
From General Fund, One-Time 500
From Federal Funds 80,400
From Federal Funds, One-Time 5,300
From Dedicated Credits Revenue 800
Schedule of Programs:
Commission on Service and Volunteerism 94,300

Item 56
To Department of Cultural and Community Engagement - Indian Affairs
From General Fund 29,900
From Dedicated Credits Revenue 2,500
Schedule of Programs:
Indian Affairs 32,400

Item 57
To Department of Cultural and Community Engagement - State History
From General Fund 203,900
From General Fund, One-Time 10,800
From Federal Funds 68,700
From Federal Funds, One-Time 2,700
From Dedicated Credits Revenue 32,800
From Dedicated Credits Revenue, One-Time 1,500
Schedule of Programs:
Administration 51,500
Historic Preservation and Antiquities .. 170,000
History Projects and Grants 12,800
Library and Collections 40,400
Public History, Communication and Information 41,400
Main Street Program 4,300

Item 58
To Department of Cultural and Community Engagement - State Library
From General Fund 145,500
From General Fund, One-Time 9,700
From Federal Funds 24,000
From Federal Funds, One-Time 3,000
From Dedicated Credits Revenue 93,900
From Dedicated Credits Revenue, One-Time 6,400
From Revenue Transfers 5,100
From Revenue Transfers, One-Time 600
From Other Financing Sources 2,200
Schedule of Programs:
Administration 36,100
Blind and Disabled 103,500
Bookmobile 60,500
Library Development 33,300
Library Resources 57,000

Item 59
To Department of Cultural and Community Engagement - Stem Action Center
From General Fund 58,600
From General Fund, One-Time 4,000
From Federal Funds 6,400
From Federal Funds, One-Time 400
From Dedicated Credits Revenue 5,900
From Dedicated Credits Revenue, One-Time 400
Schedule of Programs:
STEM Action Center 51,600
STEM Action Center - Grades 6-8 24,100

Item 60
To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission
From General Fund 4,900
From Dedicated Credits Revenue 1,800
Schedule of Programs:
Pete Suazo Athletics Commission 6,700

INSURANCE DEPARTMENT

Item 61
To Insurance Department - Bail Bond Program
From General Fund Restricted - Bail Bond Surety Administration 3,000
From General Fund Restricted - Bail Bond Surety Administration, One-Time 1,400
Schedule of Programs:
Bail Bond Program 4,400

Item 62
To Insurance Department - Health Insurance Actuary
From General Fund Rest. - Health Insurance Actuarial Review 9,400
From General Fund Rest. - Health Insurance Actuarial Review, One-Time ... 700
Schedule of Programs:
Health Insurance Actuary 10,100

Item 63
To Insurance Department - Insurance Department Administration
From General Fund, One-Time 10,100
From Dedicated Credits Revenue 600
From General Fund Restricted - Captive Insurance 66,400
From General Fund Restricted - Captive Insurance, One-Time 6,800
From General Fund Restricted - Insurance Department Acct. 398,600
From General Fund Restricted - Insurance Department Acct., One-Time 38,500
From General Fund Rest. - Insurance Fraud Investigation Acct. 85,600
From General Fund Rest. - Insurance Fraud Investigation Acct., One-Time 6,100
Schedule of Programs:
Administration 437,100
Captive Insurers 73,200
Insurance Fraud Program 102,400

Item 64
To Insurance Department – Title Insurance Program
From General Fund Rest. – Title Licensee Enforcement Acct. 6,700
From General Fund Rest. – Title Licensee Enforcement Acct., One–Time 1,400
Schedule of Programs:
Title Insurance Program 8,100

LABOR COMMISSION

Item 65
To Labor Commission
From General Fund 239,800
From General Fund, One–Time 23,300
From Federal Funds 123,800
From Federal Funds, One–Time 13,100
From Dedicated Credits Revenue 5,200
From Dedicated Credits Revenue, One–Time 400
From Employers' Reinsurance Fund 3,100
From Employers' Reinsurance Fund, One–Time 200
From General Fund Restricted – Industrial Accident Account 137,600
From General Fund Restricted – Industrial Accident Account, One–Time . 13,300
From General Fund Restricted – Workplace Safety Account 21,600
From General Fund Restricted – Workplace Safety Account, One–Time 2,600
Schedule of Programs:
Adjudication 70,400
Administration 54,700
Antidiscrimination and Labor 106,100
Boiler, Elevator and Coal Mine Safety Division 86,800
Industrial Accidents 84,400
Utah Occupational Safety and Health 176,900
Workplace Safety 4,700

PUBLIC SERVICE COMMISSION

Item 66
To Public Service Commission
From General Fund Restricted – Public Utility Restricted Acct. 102,700
From General Fund Restricted – Public Utility Restricted Acct., One–Time 10,100
From Revenue Transfers 500
Schedule of Programs:
Administration 113,300

UTAH STATE TAX COMMISSION

Item 67
To Utah State Tax Commission – Tax Administration
From General Fund 1,691,000
From General Fund, One–Time 97,200
From Income Tax Fund 1,068,200
From Income Tax Fund, One–Time 81,800
From Federal Funds 34,800
From Federal Funds, One–Time 2,800
From Dedicated Credits Revenue 707,700
From Dedicated Credits Revenue, One–Time 30,600
From General Fund Restricted – Motor Vehicle Enforcement Division Temporary Permit Account 242,500
From General Fund Restricted – Motor Vehicle Enforcement Division Temporary Permit Account, One–Time 13,500
From General Fund Rest. – Sales and Use Tax Admin Fees 566,400
From General Fund Rest. – Sales and Use Tax Admin Fees, One–Time ... 40,300
From Revenue Transfers 8,900
From Revenue Transfers, One–Time 700
From Uninsured Motorist Identification Restricted Account 12,900
From Uninsured Motorist Identification Restricted Account, One–Time 600
From Other Financing Sources 800
Schedule of Programs:
Operations 378,300
Tax and Revenue 1,192,800
Customer Service 2,221,100
Property and Miscellaneous Taxes 435,300
Enforcement 373,200

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 68
To Department of Workforce Services – Administration
From General Fund 182,500
From General Fund, One–Time 15,500
From Federal Funds 405,200
From Federal Funds, One–Time 34,200
From Dedicated Credits Revenue 4,800
From Dedicated Credits Revenue, One–Time 300
From Expendable Receipts 4,400
From Expendable Receipts, One–Time 300
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct 900
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct, One–Time 100
From Navajo Revitalization Fund 700
From Olene Walker Housing Loan Fund 900
From Olene Walker Housing Loan Fund, One–Time 100
From OWHTF–Low Income Housing 900
From OWHTF–Low Income Housing, One–Time 100
From Permanent Community Impact Loan Fund 6,200
From Permanent Community Impact Loan Fund, One–Time 600
From General Fund Restricted – School Readiness Account 700
From General Fund Restricted – School Readiness Account, One–Time 100
From Revenue Transfers 149,800
From Revenue Transfers, One–Time 12,800
Schedule of Programs:
Administrative Support 603,300
Communications 91,000
Executive Director's Office 61,700

Internal Audit 65,100

Item 69
To Department of Workforce Services - General Assistance
From General Fund 27,600
From General Fund, One-Time 4,700
From Revenue Transfers 1,600
From Revenue Transfers, One-Time 300
Schedule of Programs:
General Assistance 34,200

Item 70
To Department of Workforce Services - Housing and Community Development
From General Fund 41,800
From General Fund, One-Time 3,400
From Federal Funds 368,800
From Federal Funds, One-Time 21,500
From Dedicated Credits Revenue 37,000
From Dedicated Credits Revenue, One-Time 3,000
From Expendable Receipts 12,200
From Expendable Receipts, One-Time 600
From Housing Opportunities for Low Income Households 21,600
From Housing Opportunities for Low Income Households, One-Time 1,700
From Navajo Revitalization Fund 1,400
From Olene Walker Housing Loan Fund 21,600
From Olene Walker Housing Loan Fund, One-Time 1,700
From OWHT-Fed Home 21,600
From OWHT-Fed Home, One-Time 1,700
From OWHTF-Low Income Housing 21,600
From OWHTF-Low Income Housing, One-Time 1,700
From Permanent Community Impact Loan Fund 21,900
From Permanent Community Impact Loan Fund, One-Time 1,200
From Qualified Emergency Food Agencies Fund 600
From Revenue Transfers 23,700
From Revenue Transfers, One-Time 1,900
From Uintah Basin Revitalization Fund ... 1,000
Schedule of Programs:
Community Development 121,700
Community Development Administration 37,100
Community Services 21,000
HEAT 44,100
Housing Development 303,100
Weatherization Assistance 106,200

Item 71
To Department of Workforce Services - Operations and Policy
From General Fund 1,415,100
From General Fund, One-Time 134,200
From Income Tax Fund 78,500
From Income Tax Fund, One-Time 7,000
From Federal Funds 3,111,100
From Federal Funds, One-Time 285,000
From Dedicated Credits Revenue 12,800
From Dedicated Credits Revenue, One-Time 1,400
From Expendable Receipts 35,400
From Expendable Receipts, One-Time 3,400
From Medicaid Expansion Fund 159,000
From Medicaid Expansion Fund, One-Time 15,600
From Olene Walker Housing Loan Fund ... 1,000
From Olene Walker Housing Loan Fund, One-Time 100
From OWHTF-Low Income Housing 800
From OWHTF-Low Income Housing, One-Time 100
From General Fund Restricted - School Readiness Account 240,200
From General Fund Restricted - School Readiness Account, One-Time 21,200
From Revenue Transfers 1,996,500
From Revenue Transfers, One-Time 195,300
Schedule of Programs:
Eligibility Services 4,508,300
Workforce Development 3,048,200
Workforce Research and Analysis 157,200

Item 72
To Department of Workforce Services - State Office of Rehabilitation
From General Fund 679,400
From General Fund, One-Time 60,200
From Federal Funds 1,436,800
From Federal Funds, One-Time 127,700
From Dedicated Credits Revenue 16,500
From Dedicated Credits Revenue, One-Time 1,500
From Expendable Receipts 14,700
From Expendable Receipts, One-Time 1,300
From Revenue Transfers 2,800
From Revenue Transfers, One-Time 200
Schedule of Programs:
Blind and Visually Impaired 178,300
Deaf and Hard of Hearing 166,300
Disability Determination 533,500
Executive Director 26,400
Rehabilitation Services 1,436,600

Item 73
To Department of Workforce Services - Unemployment Insurance
From General Fund 61,300
From General Fund, One-Time 3,700
From Federal Funds 1,335,900
From Federal Funds, One-Time 122,200
From Dedicated Credits Revenue 32,500
From Dedicated Credits Revenue, One-Time 3,300
From Expendable Receipts 2,100
From Expendable Receipts, One-Time 100
From Permanent Community Impact Loan Fund 300
From Revenue Transfers 7,200
From Revenue Transfers, One-Time 400
Schedule of Programs:
Adjudication 343,900
Unemployment Insurance Administration 1,225,100

Item 74
To Department of Workforce Services - Office of Homeless Services
From General Fund 13,100
From General Fund, One-Time 600
From Federal Funds 35,500
From Federal Funds, One-Time 1,600

From Dedicated Credits Revenue 100
From Gen. Fund Rest. -
Pamela Atkinson Homeless Account 16,600
From Gen. Fund Rest. - Pamela
Atkinson Homeless Account, One-Time ... 700
From Gen. Fund Rest. - Homeless
Housing Reform Rest. Acct 89,000
From Gen. Fund Rest. - Homeless Housing
Reform Rest. Acct, One-Time 4,000
From General Fund Restricted -
Homeless Shelter Cities Mitigation
Restricted Account 71,500
From General Fund Restricted -
Homeless Shelter Cities Mitigation
Restricted Account, One-Time 3,200
From Revenue Transfers 100
Schedule of Programs:
Homeless Services 236,000

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 75
To Department of Health and Human Services -
Operations
From General Fund 1,041,800
From General Fund, One-Time 42,000
From Income Tax Fund 12,700
From Income Tax Fund, One-Time 1,200
From Federal Funds 488,300
From Federal Funds, One-Time 44,700
From Dedicated Credits Revenue 73,100
From Dedicated Credits Revenue,
One-Time 6,700
From Revenue Transfers 87,600
From Revenue Transfers, One-Time 8,200
Schedule of Programs:
Executive Director Office 148,100
Finance & Administration 960,900
Data, Systems, & Evaluations 383,100
Public Affairs, Education & Outreach ... 47,200
American Indian / Alaska Native 25,700
Continuous Quality Improvement 172,900
Customer Experience 68,400

Item 76
To Department of Health and Human Services -
Clinical Services
From General Fund 494,000
From General Fund, One-Time 28,300
From Income Tax Fund 2,900
From Federal Funds 61,000
From Federal Funds, One-Time 5,300
From Dedicated Credits Revenue 287,100
From Dedicated Credits Revenue,
One-Time 25,600
From Expendable Receipts 3,900
From Expendable Receipts, One-Time 400
From Department of Public Safety
Restricted Account 15,000
From Department of Public Safety
Restricted Account, One-Time 800
From Gen. Fund Rest. - State Lab
Drug Testing Account 18,600
From Gen. Fund Rest. - State Lab
Drug Testing Account, One-Time 1,900
From Revenue Transfers 5,200
From Revenue Transfers, One-Time 500
Schedule of Programs:
Medical Examiner 368,200
State Laboratory 427,800
Primary Care and Rural Health 59,500
Health Equity 91,100
Medical Education Council 3,900

Item 77
To Department of Health and Human Services -
Department Oversight
From General Fund 398,400
From General Fund, One-Time 36,000
From Federal Funds 306,600
From Federal Funds, One-Time 31,500
From Dedicated Credits Revenue 84,800
From Dedicated Credits Revenue,
One-Time 9,500
From Revenue Transfers 124,200
From Revenue Transfers, One-Time 13,800
Schedule of Programs:
Licensing & Background Checks 860,100
Internal Audit 97,200
Admin Hearings 47,500

Item 78
To Department of Health and Human Services -
Health Care Administration
From General Fund 451,300
From General Fund, One-Time 39,100
From Federal Funds 1,138,400
From Federal Funds, One-Time 113,000
From Dedicated Credits Revenue 600
From Expendable Receipts 237,300
From Expendable Receipts, One-Time 23,600
From Ambulance Service Provider
Assess Exp Rev Fund 600
From Medicaid Expansion Fund 68,100
From Medicaid Expansion Fund,
One-Time 6,800
From Nursing Care Facilities Provider
Assessment Fund 25,100
From Nursing Care Facilities Provider
Assessment Fund, One-Time 2,500
From Revenue Transfers 397,200
From Revenue Transfers, One-Time 40,700
Schedule of Programs:
Integrated Health Care
Administration 1,832,300
Long-Term Services and
Supports Administration 467,400
Provider Reimbursement Information
System for Medicaid 222,600
Utah Developmental Disabilities
Council 22,000

Item 79
To Department of Health and Human Services -
Integrated Health Care Services
From General Fund 3,704,500
From General Fund, One-Time 246,600
From Federal Funds 184,700
From Federal Funds, One-Time 18,900
From Dedicated Credits Revenue 209,100
From Dedicated Credits Revenue,
One-Time 17,600
From Expendable Receipts 8,100
From Expendable Receipts, One-Time 900
From Expendable Receipts - Rebates 12,300
From Expendable Receipts - Rebates,
One-Time 500

From Ambulance Service Provider Assess Exp Rev Fund 500
From Medicaid Expansion Fund 700
From Medicaid Expansion Fund, One-Time 100
From General Fund Restricted - Tobacco Settlement Account 2,700
From General Fund Restricted - Tobacco Settlement Account, One-Time ... 200
From Revenue Transfers 675,900
From Revenue Transfers, One-Time 57,500
Schedule of Programs:
Children's Health Insurance Program Services 33,500
Medicaid Home and Community Based Services 112,200
Medicaid Pharmacy Services 32,100
Medicaid Other Services 69,200
Non-Medicaid Behavioral Health Treatment & Crisis Response 174,600
State Hospital 4,719,200

Item 80
To Department of Health and Human Services - Long-Term Services & Support
From General Fund 1,998,300
From General Fund, One-Time 107,100
From Income Tax Fund 8,200
From Income Tax Fund, One-Time 600
From Federal Funds 299,200
From Federal Funds, One-Time 5,200
From Dedicated Credits Revenue 89,600
From Dedicated Credits Revenue, One-Time 6,200
From Expendable Receipts 1,200
From Expendable Receipts, One-Time 100
From Revenue Transfers 1,460,300
From Revenue Transfers, One-Time 103,300
Schedule of Programs:
Aging & Adult Services 5,500
Adult Protective Services 1,029,500
Office of Public Guardian 48,300
Aging Waiver Services 29,300
Services for People with Disabilities ... 453,000
Utah State Developmental Center ... 2,513,700

Item 81
To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund 351,300
From General Fund, One-Time 13,800
From Federal Funds 2,213,600
From Federal Funds, One-Time 177,100
From Dedicated Credits Revenue 11,200
From Dedicated Credits Revenue, One-Time 900
From Expendable Receipts 14,900
From Expendable Receipts, One-Time 1,200
From Expendable Receipts - Rebates 39,300
From Expendable Receipts - Rebates, One-Time 3,100
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account 155,800
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account, One-Time 14,000
From General Fund Restricted - Emergency Medical Services System Account 32,900
From General Fund Restricted - Emergency Medical Services System Account, One-Time 2,700
From General Fund Restricted - Tobacco Settlement Account 57,000
From General Fund Restricted - Tobacco Settlement Account, One-Time 5,100
From Revenue Transfers 79,100
From Revenue Transfers, One-Time 6,900
Schedule of Programs:
Communicable Disease 1,916,400
Health Promotion and Prevention 755,000
Emergency Medical Services and Preparedness 316,000
Population Health 192,500

Item 82
To Department of Health and Human Services- Children, Youth, & Families
From General Fund 14,115,900
From General Fund, One-Time 268,600
From Federal Funds 3,240,200
From Federal Funds, One-Time 178,600
From Dedicated Credits Revenue 25,500
From Dedicated Credits Revenue, One-Time 2,700
From Expendable Receipts 9,400
From Expendable Receipts, One-Time 900
From General Fund Restricted - Adult Autism Treatment Account 19,600
From General Fund Restricted - Adult Autism Treatment Account, One-Time 2,200
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account 4,100
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account, One-Time 400
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp. 1,200
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp., One-Time 200
From Revenue Transfers 108,400
From Revenue Transfers, One-Time 11,100
Schedule of Programs:
Child & Family Services 17,046,100
Domestic Violence 26,300
Child Abuse Prevention and Facility Services 41,000
Children with Special Healthcare Needs 637,800
Maternal & Child Health 237,800

Item 83
To Department of Health and Human Services - Office of Recovery Services
From General Fund 389,400
From General Fund, One-Time 50,100
From Federal Funds 676,600
From Federal Funds, One-Time 84,700
From Dedicated Credits Revenue 192,900
From Dedicated Credits Revenue, One-Time 24,500
From Expendable Receipts 177,400
From Expendable Receipts, One-Time 21,600

From Medicaid Expansion Fund 2,600
From Medicaid Expansion Fund, One-Time 400
From Revenue Transfers 102,500
From Revenue Transfers, One-Time 14,200
Schedule of Programs:
Recovery Services 315,400
Child Support Services 1,201,800
Children in Care Collections 36,800
Medical Collections 182,900

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 84
To University of Utah - Education and General
From General Fund 30,753,400
From Income Tax Fund 10,777,200
From Dedicated Credits Revenue 12,470,800
Schedule of Programs:
Education and General 49,883,200
Operations and Maintenance 4,080,800
Educationally Disadvantaged 37,400

Item 85
To University of Utah - School of Medicine
From Income Tax Fund 3,575,400
From Dedicated Credits Revenue 1,192,100
Schedule of Programs:
School of Medicine 4,767,500

Item 86
To University of Utah - University Hospital
From Income Tax Fund 514,500
Schedule of Programs:
University Hospital 479,500
Miners' Hospital 35,000

Item 87
To University of Utah - School of Dentistry
From Income Tax Fund 730,800
From Dedicated Credits Revenue 243,900
Schedule of Programs:
School of Dentistry 974,700

Item 88
To University of Utah - Public Service
From Income Tax Fund 144,200
Schedule of Programs:
Seismograph Stations 58,300
Natural History Museum of Utah 73,900
State Arboretum 12,000

Item 89
To University of Utah - Statewide TV Administration
From Income Tax Fund 215,000
Schedule of Programs:
Public Broadcasting 215,000

Item 90
To University of Utah - Poison Control Center
From Income Tax Fund 228,800
Schedule of Programs:
Poison Control Center 228,800

Item 91
To University of Utah - Center on Aging
From Income Tax Fund 10,300
Schedule of Programs:
Center on Aging 10,300

Item 92
To University of Utah - Rocky Mountain Center for Occupational and Environmental Health
From Income Tax Fund 119,100
Schedule of Programs:
Center for Occupational and Environmental Health 119,100

UTAH STATE UNIVERSITY

Item 93
To Utah State University - Education and General
From General Fund 12,711,000
From Income Tax Fund 4,683,300
From Dedicated Credits Revenue 5,270,900
Schedule of Programs:
Education and General 20,702,100
USU - School of Veterinary Medicine 381,500
Operations and Maintenance 1,581,600

Item 94
To Utah State University - USU - Eastern Education and General
From Income Tax Fund 623,600
From Dedicated Credits Revenue 206,000
Schedule of Programs:
USU - Eastern Education and General 823,800
Educationally Disadvantaged 5,800

Item 95
To Utah State University - USU - Eastern Career and Technical Education
From Income Tax Fund 440,200
Schedule of Programs:
USU - Eastern Career and Technical Education 440,200

Item 96
To Utah State University - Regional Campuses
From Income Tax Fund 1,802,700
From Dedicated Credits Revenue 460,100
Schedule of Programs:
Administration 424,100
Uintah Basin Regional Campus 534,000
Brigham City Regional Campus 636,300
Tooele Regional Campus 668,400

Item 97
To Utah State University - Water Research Laboratory
From Income Tax Fund 273,700
Schedule of Programs:
Water Research Laboratory 273,700

Item 98
To Utah State University - Agriculture Experiment Station
From Income Tax Fund 1,144,000
Schedule of Programs:
Agriculture Experiment Station 1,144,000

Item 99
To Utah State University - Cooperative Extension
From General Fund 5,900
From Income Tax Fund 1,621,300
Schedule of Programs:
Cooperative Extension 1,627,200

Item 100
To Utah State University - Prehistoric Museum

From Income Tax Fund 34,700
Schedule of Programs:
Prehistoric Museum 34,700

Item 101
To Utah State University – Blanding Campus
From Income Tax Fund 229,700
From Dedicated Credits Revenue 76,000
Schedule of Programs:
Blanding Campus 305,700

Item 102
To Utah State University – USU – Custom Fit
From Income Tax Fund 4,000
Schedule of Programs:
USU – Custom Fit 4,000

WEBER STATE UNIVERSITY

Item 103
To Weber State University – Education and General
From Income Tax Fund 10,151,800
From Dedicated Credits Revenue 3,373,000
Schedule of Programs:
Education and General 12,629,800
Operations and Maintenance 859,500
Educationally Disadvantaged 35,500

SOUTHERN UTAH UNIVERSITY

Item 104
To Southern Utah University – Education and General
From Income Tax Fund 6,204,100
From Dedicated Credits Revenue 2,066,400
Schedule of Programs:
Education and General 7,638,400
Operations and Maintenance 626,300
Educationally Disadvantaged 5,800

Item 105
To Southern Utah University – Rural Health
From Income Tax Fund 10,600
Schedule of Programs:
Rural Health 10,600

UTAH VALLEY UNIVERSITY

Item 106
To Utah Valley University – Education and General
From General Fund 11,328,600
From Income Tax Fund 4,567,200
From Dedicated Credits Revenue 5,292,700
Schedule of Programs:
Education and General 19,944,500
Operations and Maintenance 1,227,300
Educationally Disadvantaged 16,700

Item 107
To Utah Valley University – Fire and Rescue Training
From Income Tax Fund 287,000
Schedule of Programs:
Fire and Rescue Training 287,000

SNOW COLLEGE

Item 108
To Snow College – Education and General
From Income Tax Fund 2,467,400
From Dedicated Credits Revenue 822,700
Schedule of Programs:
Education and General 3,007,700
Operations and Maintenance 282,400

Item 109
To Snow College – Career and Technical Education
From Income Tax Fund 220,300
Schedule of Programs:
Career and Technical Education 220,300

Item 110
To Snow College – Snow College – Custom Fit
From Income Tax Fund 17,600
Schedule of Programs:
Snow College – Custom Fit 17,600

UTAH TECH UNIVERSITY

Item 111
To Utah Tech University – Education and General
From Income Tax Fund 4,853,700
From Dedicated Credits Revenue 1,618,400
Schedule of Programs:
Education and General 6,092,000
Operations and Maintenance 380,100

Item 112
To Utah Tech University – Zion Park Amphitheater
From Income Tax Fund 2,200
From Dedicated Credits Revenue 1,000
Schedule of Programs:
Zion Park Amphitheater 3,200

SALT LAKE COMMUNITY COLLEGE

Item 113
To Salt Lake Community College – Education and General
From Income Tax Fund 9,018,500
From Dedicated Credits Revenue 3,005,900
Schedule of Programs:
Education and General 10,853,200
Operations and Maintenance 1,171,200

Item 114
To Salt Lake Community College – School of Applied Technology
From Income Tax Fund 690,800
Schedule of Programs:
School of Applied Technology 690,800

Item 115
To Salt Lake Community College – SLCC – Custom Fit
From Income Tax Fund 11,200
Schedule of Programs:
SLCC – Custom Fit 11,200

UTAH BOARD OF HIGHER EDUCATION

Item 116
To Utah Board of Higher Education – Administration
From Income Tax Fund 940,200
Schedule of Programs:
Administration 843,000
Utah Data Research Center 97,200

Item 117
To Utah Board of Higher Education – Talent Ready Utah
From Income Tax Fund 36,700
Schedule of Programs:

Talent Ready Utah 36,700

BRIDGERLAND TECHNICAL COLLEGE

Item 118
To Bridgerland Technical College
From Income Tax Fund 1,294,400
Schedule of Programs:
Bridgerland Technical College 1,294,400

DAVIS TECHNICAL COLLEGE

Item 119
To Davis Technical College
From Income Tax Fund 1,760,000
Schedule of Programs:
Davis Technical College 1,760,000

Item 120
To Davis Technical College – USTC Davis – Custom Fit
From Income Tax Fund 3,500
Schedule of Programs:
USTC Davis – Custom Fit 3,500

DIXIE TECHNICAL COLLEGE

Item 121
To Dixie Technical College
From Income Tax Fund 775,900
Schedule of Programs:
Dixie Technical College 775,900

Item 122
To Dixie Technical College – USTC Dixie – Custom Fit
From Income Tax Fund 11,900
Schedule of Programs:
USTC Dixie – Custom Fit 11,900

MOUNTAINLAND TECHNICAL COLLEGE

Item 123
To Mountainland Technical College
From Income Tax Fund 1,697,600
Schedule of Programs:
Mountainland Technical College 1,697,600

Item 124
To Mountainland Technical College – USTC Mountainland – Custom Fit
From Income Tax Fund 26,100
Schedule of Programs:
USTC Mountainland – Custom Fit 26,100

OGDEN-WEBER TECHNICAL COLLEGE

Item 125
To Ogden–Weber Technical College
From Income Tax Fund 1,270,100
Schedule of Programs:
Ogden–Weber Technical College 1,270,100

SOUTHWEST TECHNICAL COLLEGE

Item 126
To Southwest Technical College
From Income Tax Fund 500,500
Schedule of Programs:
Southwest Technical College 500,500

Item 127
To Southwest Technical College – USTC Southwest – Custom Fit
From Income Tax Fund 13,800
Schedule of Programs:
USTC Southwest – Custom Fit 13,800

TOOELE TECHNICAL COLLEGE

Item 128
To Tooele Technical College
From Income Tax Fund 529,400
Schedule of Programs:
Tooele Technical College 529,400

Item 129
To Tooele Technical College – USTC Tooele – Custom Fit
From Income Tax Fund 15,200
Schedule of Programs:
USTC Tooele – Custom Fit 15,200

UINTAH BASIN TECHNICAL COLLEGE

Item 130
To Uintah Basin Technical College
From Income Tax Fund 780,400
Schedule of Programs:
Uintah Basin Technical College 780,400

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 131
To Department of Agriculture and Food – Administration
From General Fund 98,100
From General Fund, One–Time 7,800
From Federal Funds 7,700
From Federal Funds, One–Time 600
From Dedicated Credits Revenue 10,900
From Dedicated Credits Revenue, One–Time 900
From Revenue Transfers 2,200
From Revenue Transfers, One–Time 200
Schedule of Programs:
Commissioner's Office 128,400

Item 132
To Department of Agriculture and Food – Animal Industry
From General Fund 105,100
From General Fund, One–Time 10,600
From Income Tax Fund 5,500
From Income Tax Fund, One–Time 500
From Federal Funds 60,600
From Federal Funds, One–Time 6,500
From Dedicated Credits Revenue 2,500
From Dedicated Credits Revenue, One–Time 300
From General Fund Restricted – Livestock Brand 45,400
From General Fund Restricted – Livestock Brand, One–Time 3,900
Schedule of Programs:
Animal Health 65,300
Brand Inspection 67,200
Meat Inspection 108,400

Item 133
To Department of Agriculture and Food – Invasive Species Mitigation

From General Fund Restricted - Invasive Species Mitigation Account 17,000
From General Fund Restricted - Invasive Species Mitigation Account, One-Time 600
Schedule of Programs:
Invasive Species Mitigation 17,600

Item 134
To Department of Agriculture and Food - Marketing and Development
From General Fund 13,800
From General Fund, One-Time 1,700
From Federal Funds 5,700
From Federal Funds, One-Time 700
From Dedicated Credits Revenue 500
From Dedicated Credits Revenue, One-Time 100
Schedule of Programs:
Marketing and Development 22,500

Item 135
To Department of Agriculture and Food - Plant Industry
From General Fund 17,600
From General Fund, One-Time 1,800
From Federal Funds 78,800
From Federal Funds, One-Time 7,800
From Dedicated Credits Revenue 126,600
From Dedicated Credits Revenue, One-Time 12,600
From Revenue Transfers 7,500
From Revenue Transfers, One-Time 800
Schedule of Programs:
Environmental Quality 3,700
Grain Lab 14,400
Grazing Improvement Program 35,000
Insect, Phyto, and Nursery 43,400
Plant Industry Administration 157,000

Item 136
To Department of Agriculture and Food - Predatory Animal Control
From General Fund 32,200
From General Fund, One-Time 3,300
From Revenue Transfers 17,100
From Revenue Transfers, One-Time 1,800
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention 14,200
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention, One-Time 1,400
Schedule of Programs:
Predatory Animal Control 70,000

Item 137
To Department of Agriculture and Food - Rangeland Improvement
From Gen. Fund Rest. - Rangeland Improvement Account 22,200
From Gen. Fund Rest. - Rangeland Improvement Account, One-Time 1,800
Schedule of Programs:
Rangeland Improvement 24,000

Item 138
To Department of Agriculture and Food - Regulatory Services
From General Fund 46,800
From General Fund, One-Time 6,100
From Federal Funds 39,400
From Federal Funds, One-Time 4,800
From Dedicated Credits Revenue 106,000
From Dedicated Credits Revenue, One-Time 13,600
Schedule of Programs:
Regulatory Services Administration 16,800
Bedding & Upholstered 15,400
Weights & Measures 71,500
Food Inspection 93,500
Dairy Inspection 19,500

Item 139
To Department of Agriculture and Food - Resource Conservation
From General Fund 153,700
From General Fund, One-Time 8,800
From Federal Funds 61,400
From Federal Funds, One-Time 3,300
From Dedicated Credits Revenue 900
From Dedicated Credits Revenue, One-Time 100
From Revenue Transfers 29,500
From Revenue Transfers, One-Time 1,600
Schedule of Programs:
Water Quantity 232,500
Conservation Administration 26,800

Item 140
To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue 37,300
From Dedicated Credits Revenue, One-Time 2,900
Schedule of Programs:
Industrial Hemp 40,200

Item 141
To Department of Agriculture and Food - Analytical Laboratory
From General Fund 26,000
From General Fund, One-Time 2,600
From Dedicated Credits Revenue 6,900
From Dedicated Credits Revenue, One-Time 700
Schedule of Programs:
Analytical Laboratory 36,200

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 142
To Department of Environmental Quality - Drinking Water
From General Fund 744,100
From General Fund, One-Time 9,700
From Dedicated Credits Revenue 59,100
From Dedicated Credits Revenue, One-Time 3,000
From Water Dev. Security Fund - Drinking Water Loan Prog. 190,300
From Water Dev. Security Fund - Drinking Water Loan Prog., One-Time 9,700
From Water Dev. Security Fund - Drinking Water Orig. Fee 49,100
From Water Dev. Security Fund - Drinking Water Orig. Fee, One-Time 5,700
Schedule of Programs:
Drinking Water Administration 98,300
Safe Drinking Water Act 289,400

System Assistance 556,700
State Revolving Fund 126,300

Item 143
To Department of Environmental Quality – Environmental Response and Remediation
From General Fund 751,900
From General Fund, One-Time 15,200
From Dedicated Credits Revenue 150,500
From Dedicated Credits Revenue, One-Time 5,800
From General Fund Restricted – Petroleum Storage Tank 5,300
From General Fund Restricted – Petroleum Storage Tank, One-Time 100
From Petroleum Storage Tank Cleanup Fund 26,000
From Petroleum Storage Tank Cleanup Fund, One-Time 2,300
From Petroleum Storage Tank Trust Fund 251,400
From Petroleum Storage Tank Trust Fund, One-Time 9,400
From General Fund Restricted – Voluntary Cleanup 69,200
From General Fund Restricted – Voluntary Cleanup, One-Time 1,900
Schedule of Programs:
Voluntary Cleanup 71,500
CERCLA 572,900
Tank Public Assistance 5,400
Petroleum Storage Tank Cleanup 367,400
Petroleum Storage Tank Compliance 271,800

Item 144
To Department of Environmental Quality – Executive Director's Office
From General Fund 149,300
From General Fund, One-Time 10,600
From General Fund Restricted – Environmental Quality 54,000
From General Fund Restricted – Environmental Quality, One-Time 4,300
Schedule of Programs:
Executive Director Office Administration 206,600
Radon 11,600

Item 145
To Department of Environmental Quality – Waste Management and Radiation Control
From General Fund 155,300
From Dedicated Credits Revenue 239,700
From Dedicated Credits Revenue, One-Time 8,500
From Expendable Receipts 17,500
From Expendable Receipts, One-Time 600
From General Fund Restricted – Environmental Quality 778,200
From General Fund Restricted – Environmental Quality, One-Time 26,600
From Gen. Fund Rest. – Used Oil Collection Administration 80,100
From Gen. Fund Rest. – Used Oil Collection Administration, One-Time 2,100
From Waste Tire Recycling Fund 18,800
From Waste Tire Recycling Fund, One-Time 600
Schedule of Programs:
Hazardous Waste 560,900
Solid Waste 151,900
Radiation 245,600
Low Level Radioactive Waste 171,700
WIPP 18,400
Used Oil 87,900
Waste Tire 19,800
X-Ray 71,800

Item 146
To Department of Environmental Quality – Water Quality
From General Fund 897,800
From General Fund, One-Time 19,700
From Dedicated Credits Revenue 333,800
From Dedicated Credits Revenue, One-Time 11,600
From General Fund Restricted – GFR – Division of Water Quality Oil, Gas, and Mining 13,100
From General Fund Restricted – GFR – Division of Water Quality Oil, Gas, and Mining, One-Time 500
From Revenue Transfers 11,000
From Revenue Transfers, One-Time 800
From Gen. Fund Rest. – Underground Wastewater System 5,200
From Water Dev. Security Fund – Utah Wastewater Loan Prog. 220,500
From Water Dev. Security Fund – Utah Wastewater Loan Prog., One-Time 10,300
From Water Dev. Security Fund – Water Quality Orig. Fee 14,100
From Water Dev. Security Fund – Water Quality Orig. Fee, One-Time 800
From Other Financing Sources 6,100
Schedule of Programs:
Water Quality Support 295,700
Water Quality Protection 711,600
Water Quality Permits 532,800
Onsite Wastewater 5,200

Item 147
To Department of Environmental Quality – Air Quality
From General Fund 1,165,400
From General Fund, One-Time 28,000
From Dedicated Credits Revenue 748,100
From Dedicated Credits Revenue, One-Time 28,500
From General Fund Restricted – GFR – Division of Air Quality Oil, Gas, and Mining 86,000
From General Fund Restricted – GFR – Division of Air Quality Oil, Gas, and Mining, One-Time 3,400
From Clean Fuel Conversion Fund 8,900
From Clean Fuel Conversion Fund, One-Time 1,000
Schedule of Programs:
Compliance 748,600
Permitting 385,200
Planning 804,600
Air Quality Administration 130,900

DEPARTMENT OF NATURAL RESOURCES

Item 148
To Department of Natural Resources – Administration
From General Fund 144,600
From General Fund, One-Time 11,900
From General Fund Restricted – Sovereign Lands Management 4,100
From General Fund Restricted – Sovereign Lands Management, One-Time 400
Schedule of Programs:
Administrative Services 83,200
Executive Director 48,800
Lake Commissions 8,400
Law Enforcement 9,400
Public Information Office 11,200

Item 149
To Department of Natural Resources – Contributed Research
From Expendable Receipts 4,900
From Expendable Receipts, One-Time 300
Schedule of Programs:
Contributed Research 5,200

Item 150
To Department of Natural Resources – Cooperative Agreements
From Federal Funds 85,200
From Federal Funds, One-Time 7,700
From Expendable Receipts 33,500
From Expendable Receipts, One-Time 3,000
From Revenue Transfers 23,700
From Revenue Transfers, One-Time 2,100
Schedule of Programs:
Cooperative Agreements 155,200

Item 151
To Department of Natural Resources – Forestry, Fire, and State Lands
From General Fund 315,600
From General Fund, One-Time 45,900
From Federal Funds 217,400
From Federal Funds, One-Time 23,600
From Dedicated Credits Revenue 310,200
From Dedicated Credits Revenue, One-Time 32,300
From General Fund Restricted – Sovereign Lands Management 71,100
From General Fund Restricted – Sovereign Lands Management, One-Time 8,100
From Revenue Transfers 32,300
From Revenue Transfers, One-Time 3,200
Schedule of Programs:
Division Administration 105,700
Fire Management 102,100
Fire Suppression Emergencies 52,400
Forest Management 48,500
Lands Management 76,400
Lone Peak Center 230,000
Program Delivery 444,600

Item 152
To Department of Natural Resources – Oil, Gas, and Mining
From Federal Funds 169,500
From Federal Funds, One-Time 17,500
From Dedicated Credits Revenue 10,200
From Dedicated Credits Revenue, One-Time 1,100
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining 96,700
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining, One-Time 9,400
From Gen. Fund Rest. – Oil & Gas Conservation Account 201,600
From Gen. Fund Rest. – Oil & Gas Conservation Account, One-Time 18,100
Schedule of Programs:
Abandoned Mine 65,900
Administration 168,300
Coal Program 76,000
Minerals Reclamation 52,900
Oil and Gas Program 161,000

Item 153
To Department of Natural Resources – Species Protection
From General Fund Restricted – Species Protection 67,400
From General Fund Restricted – Species Protection, One-Time 6,300
Schedule of Programs:
Species Protection 73,700

Item 154
To Department of Natural Resources – Utah Geological Survey
From General Fund 492,600
From General Fund, One-Time 20,300
From Federal Funds 166,400
From Federal Funds, One-Time 7,000
From Dedicated Credits Revenue 56,400
From Dedicated Credits Revenue, One-Time 2,200
From General Fund Restricted – Utah Geological Survey Oil, Gas, and Mining Restricted Account 83,100
From General Fund Restricted – Utah Geological Survey Oil, Gas, and Mining Restricted Account, One-Time ... 2,900
From General Fund Restricted – Mineral Lease 181,000
From General Fund Restricted – Mineral Lease, One-Time 6,200
From Gen. Fund Rest. – Land Exchange Distribution Account 2,900
From Gen. Fund Rest. – Land Exchange Distribution Account, One-Time 100
From Revenue Transfers 102,600
From Revenue Transfers, One-Time 6,700
Schedule of Programs:
Administration 79,600
Energy and Minerals 254,600
Geologic Hazards 130,800
Geologic Information and Outreach 221,400
Geologic Mapping 215,500
Groundwater 228,500

Item 155
To Department of Natural Resources – Water Resources
From General Fund 356,100
From General Fund, One-Time 21,100
From Federal Funds 24,900

From Federal Funds, One-Time 2,900
From Dedicated Credits Revenue 100
From Water Resources Conservation and Development Fund 204,200
From Water Resources Conservation and Development Fund, One-Time 11,700
Schedule of Programs:
Administration 71,300
Construction 245,700
Interstate Streams 33,900
Planning 270,100

Item 156
To Department of Natural Resources - Water Rights
From General Fund 619,800
From General Fund, One-Time 35,800
From Federal Funds 9,500
From Federal Funds, One-Time 700
From Dedicated Credits Revenue 78,100
From Dedicated Credits Revenue, One-Time 4,700
From General Fund Restricted - Water Rights Restricted Account 321,500
From General Fund Restricted - Water Rights Restricted Account, One-Time ... 17,600
Schedule of Programs:
Adjudication 271,500
Administration 91,100
Applications and Records 439,500
Dam Safety 92,900
Field Services 129,100
Technical Services 63,600

Item 157
To Department of Natural Resources - Watershed Restoration
From General Fund 7,400
From General Fund, One-Time 700
Schedule of Programs:
Watershed Restoration 8,100

Item 158
To Department of Natural Resources - Wildlife Resources
From General Fund 306,100
From General Fund, One-Time 87,600
From Federal Funds 923,900
From Federal Funds, One-Time 78,700
From Expendable Receipts 9,100
From Expendable Receipts, One-Time 700
From General Fund Restricted - Aquatic Invasive Species Interdiction Account ... 52,200
From General Fund Restricted - Aquatic Invasive Species Interdiction Account, One-Time 4,200
From General Fund Restricted - Mule Deer Protection Account 12,600
From General Fund Restricted - Mule Deer Protection Account, One-Time 1,100
From General Fund Restricted - Predator Control Account 20,800
From General Fund Restricted - Predator Control Account, One-Time 1,800
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account 1,200
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account, One-Time 100
From Revenue Transfers 4,900
From Revenue Transfers, One-Time 400
From General Fund Restricted - Wildlife Conservation Easement Account 200
From General Fund Restricted - Wildlife Habitat 22,300
From General Fund Restricted - Wildlife Habitat, One-Time 700
From General Fund Restricted - Wildlife Resources 1,564,300
From General Fund Restricted - Wildlife Resources, One-Time 118,000
Schedule of Programs:
Administrative Services 387,000
Aquatic Section 638,900
Conservation Outreach 291,800
Director's Office 130,800
Habitat Council 23,000
Habitat Section 452,000
Law Enforcement 732,600
Wildlife Section 554,800

Item 159
To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund 89,300
From General Fund, One-Time 6,600
From General Fund Restricted - Constitutional Defense 38,100
From General Fund Restricted - Constitutional Defense, One-Time 2,800
Schedule of Programs:
Public Lands Policy Coordinating Office 136,800

Item 160
To Department of Natural Resources - Division of State Parks
From General Fund 136,400
From General Fund, One-Time 68,800
From Federal Funds 6,400
From Federal Funds, One-Time 400
From Dedicated Credits Revenue 47,800
From Dedicated Credits Revenue, One-Time 2,700
From Expendable Receipts 5,600
From Expendable Receipts, One-Time 300
From General Fund Restricted - State Park Fees 1,252,300
From General Fund Restricted - State Park Fees, One-Time 70,900
From Revenue Transfers 4,400
From Revenue Transfers, One-Time 200
From Other Financing Sources 100
Schedule of Programs:
Executive Management 50,600
State Park Operation Management 1,424,300
Planning and Design 1,500
Support Services 108,200
Heritage Services 11,700

Item 161
To Department of Natural Resources - Division of Parks - Capital
From Federal Funds 32,000

From Federal Funds, One-Time 4,000
From Expendable Receipts 2,000
From General Fund Restricted -
State Park Fees 54,900
From General Fund Restricted -
State Park Fees, One-Time 6,800
Schedule of Programs:
Donated Capital Projects 2,000
Renovation and Development 97,700

Item 162
To Department of Natural Resources -
Division of Outdoor Recreation
From General Fund 8,300
From General Fund, One-Time 11,000
From Federal Funds 38,700
From Federal Funds, One-Time 2,700
From General Fund Restricted -
Boating 49,600
From General Fund Restricted -
Boating, One-Time 3,400
From General Fund Restricted -
Off-highway Vehicle 68,700
From General Fund Restricted -
Off-highway Vehicle, One-Time 4,600
Schedule of Programs:
Management 20,200
Oversight 66,100
Recreation Services 34,900
Administration 65,800

Item 163
To Department of Natural Resources - Division
of Outdoor Recreation- Capital
From General Fund Restricted -
Off-highway Vehicle 3,400
From General Fund Restricted -
Off-highway Vehicle, One-Time 700
Schedule of Programs:
Off-highway Vehicle Grants 4,100

Item 164
To Department of Natural Resources -
Office of Energy Development
From General Fund 39,300
From General Fund, One-Time 2,700
From Income Tax Fund 5,600
From Income Tax Fund, One-Time 400
From Federal Funds 20,500
From Federal Funds, One-Time 1,400
From Dedicated Credits Revenue 2,600
From Dedicated Credits Revenue,
One-Time 200
From Expendable Receipts 5,600
From Expendable Receipts, One-Time 400
From Ut. S. Energy Program Rev.
Loan Fund (ARRA) 5,100
From Ut. S. Energy Program Rev.
Loan Fund (ARRA), One-Time 400
Schedule of Programs:
Office of Energy Development 84,200

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 165
To School and Institutional Trust
Lands Administration
From Land Grant Management Fund 744,600
From Land Grant Management
Fund, One-Time 37,400
Schedule of Programs:
Accounting 48,000
Administration 22,900
Auditing 33,900
Board 5,400
Development - Operating 100,400
Director 51,600
External Relations 17,100
Grazing and Forestry 46,200
Information Technology Group 92,900
Legal/Contracts 74,100
Mining 37,300
Oil and Gas 66,700
Surface 167,500
Renewables 18,000

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 166
To State Board of Education - Child
Nutrition Programs
From Federal Funds 181,900
From Federal Funds, One-Time 12,800
From Dedicated Credit - Liquor Tax 52,200
From Dedicated Credit - Liquor Tax,
One-Time 3,800
Schedule of Programs:
Child Nutrition 250,700

Item 167
To State Board of Education - Educator Licensing
From Income Tax Fund 161,100
From Income Tax Fund, One-Time 8,900
Schedule of Programs:
Educator Licensing 170,000

Item 168
To State Board of Education -
Contracted Initiatives and Grants
From General Fund 12,400
From General Fund, One-Time 900
From Income Tax Fund 64,000
From Income Tax Fund, One-Time 2,500
Schedule of Programs:
Carson Smith Scholarships 10,600
Software Licenses for Early Literacy 8,500
General Financial Literacy 6,100
Intergenerational Poverty
Interventions 5,200
Partnerships for Student Success 10,300
UPSTART 8,700
ULEAD 15,400
Supplemental Educational
Improvement Matching Grants 2,700
Competency-Based Education Grants ... 7,400
Special Needs Opportunity
Scholarship Administration 4,900

Item 169
To State Board of Education - MSP
Categorical Program Administration
From Income Tax Fund 212,400
From Income Tax Fund, One-Time 10,200
Schedule of Programs:
Adult Education 16,600
Beverley Taylor Sorenson Elem.
Arts Learning Program 7,500

CTE Comprehensive Guidance 11,300
Digital Teaching and Learning 23,700
Dual Immersion 8,400
At-Risk Students 35,400
Special Education State Programs 8,600
Youth-in-Custody 39,300
Early Literacy Program 20,400
State Safety and Support Program 14,100
Student Health and Counseling Support Program 15,700
Early Learning Training and Assessment 9,400
Early Intervention 12,200

Item 170
To State Board of Education - Policy, Communication, & Oversight
From General Fund 4,300
From Income Tax Fund 306,600
From Income Tax Fund, One-Time 15,400
From Federal Funds 125,000
From Federal Funds, One-Time 7,300
From Income Tax Fund Restricted - Underage Drinking Prevention Program Restricted Account 3,400
From Income Tax Fund Restricted - Underage Drinking Prevention Program Restricted Account, One-Time ... 300
Schedule of Programs:
Policy and Communication 121,800
Student Support Services 267,500
School Turnaround and Leadership Development Act 73,000

Item 171
To State Board of Education - System Standards & Accountability
From Income Tax Fund 721,000
From Income Tax Fund, One-Time 33,900
From Federal Funds 590,400
From Federal Funds, One-Time 28,400
From Dedicated Credits Revenue 23,100
From Dedicated Credits Revenue, One-Time 800
From Expendable Receipts 1,800
Schedule of Programs:
Teaching and Learning 319,300
Assessment and Accountability 183,500
Career and Technical Education 200,500
Special Education 463,800
RTC Fees 9,400
Early Literacy Outcomes Improvement 222,900

Item 172
To State Board of Education - State Charter School Board
From Income Tax Fund 109,600
From Income Tax Fund, One-Time 4,400
Schedule of Programs:
State Charter School Board & Administration 114,000

Item 173
To State Board of Education - Utah Schools for the Deaf and the Blind
From Income Tax Fund 2,354,100
From Income Tax Fund, One-Time 198,300
From Federal Funds 3,800
From Federal Funds, One-Time 700
From Dedicated Credits Revenue 113,600
From Dedicated Credits Revenue, One-Time 17,700
From Revenue Transfers 207,800
From Revenue Transfers, One-Time 40,700
Schedule of Programs:
Administration 1,608,700
Transportation and Support Services 525,700
Utah State Instructional Materials Access Center 171,200
School for the Deaf 267,900
School for the Blind 363,200

Item 174
To State Board of Education - Statewide Online Education Program Subsidy
From Income Tax Fund 29,700
From Income Tax Fund, One-Time 1,900
Schedule of Programs:
Statewide Online Education Program ... 31,600

Item 175
To State Board of Education - State Board and Administrative Operations
From Income Tax Fund 3,044,800
From Income Tax Fund, One-Time 36,900
From Federal Funds 41,200
From Federal Funds, One-Time 2,800
From General Fund Restricted - Mineral Lease 21,100
From General Fund Restricted - Mineral Lease, One-Time 1,400
From General Fund Restricted - School Readiness Account 1,600
From General Fund Restricted - School Readiness Account, One-Time 100
From Revenue Transfers 389,500
From Revenue Transfers, One-Time 19,100
From Uniform School Fund Rest. - Trust Distribution Account 32,200
From Uniform School Fund Rest. - Trust Distribution Account, One-Time ... 1,300
Schedule of Programs:
Financial Operations 253,700
Information Technology 314,800
Indirect Cost Pool 452,400
Data and Statistics 73,500
School Trust 33,500
Board and Administration 2,464,100

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 176
To School and Institutional Trust Fund Office
From School and Institutional Trust Fund Management Acct. 147,100
From School and Institutional Trust Fund Management Acct., One-Time 4,700
Schedule of Programs:
School and Institutional Trust Fund Office 151,800

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 177
To Capitol Preservation Board

From General Fund 80,600
From General Fund, One-Time 5,600
Schedule of Programs:
Capitol Preservation Board 86,200

LEGISLATURE

Item 178
To Legislature - Senate
From General Fund 187,300
From General Fund, One-Time 5,300
Schedule of Programs:
Administration 192,600

Item 179
To Legislature - House of Representatives
From General Fund 225,100
From General Fund, One-Time 6,000
Schedule of Programs:
Administration 231,100

Item 180
To Legislature - Office of Legislative Research and General Counsel
From General Fund 868,200
From General Fund, One-Time 23,800
Schedule of Programs:
Administration 892,000

Item 181
To Legislature - Office of the Legislative Fiscal Analyst
From General Fund 385,600
From General Fund, One-Time 13,900
Schedule of Programs:
Administration and Research 399,500

Item 182
To Legislature - Office of the Legislative Auditor General
From General Fund 509,100
From General Fund, One-Time 17,900
Schedule of Programs:
Administration 527,000

Item 183
To Legislature - Legislative Services
From General Fund 429,200
From General Fund, One-Time 12,100
From Dedicated Credits Revenue 14,900
From Dedicated Credits Revenue, One-Time 500
Schedule of Programs:
Administration 106,100
Information Technology 350,600

UTAH NATIONAL GUARD

Item 184
To Utah National Guard
From General Fund 261,600
From General Fund, One-Time 35,900
From Federal Funds 1,294,200
From Federal Funds, One-Time 130,100
From Dedicated Credits Revenue 1,200
From Dedicated Credits Revenue, One-Time 100
Schedule of Programs:
Administration 63,400
Operations and Maintenance 1,659,700

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 185
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund 103,500
From General Fund, One-Time 8,000
From Federal Funds 21,600
From Federal Funds, One-Time 2,100
From Dedicated Credits Revenue 4,500
From Dedicated Credits Revenue, One-Time 200
Schedule of Programs:
Administration 45,800
Cemetery 32,800
State Approving Agency 7,300
Outreach Services 45,800
Military Affairs 8,200

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 186
To Attorney General - Litigation Fund
From Dedicated Credits Revenue 16,100
Schedule of Programs:
Litigation Fund 16,100

GOVERNOR'S OFFICE

Item 187
To Governor's Office - Pretrial Release Programs Special Revenue Fund
From Dedicated Credits Revenue 1,400
From Dedicated Credits Revenue, One-Time 500
Schedule of Programs:
Pretrial Release Programs Special Revenue Fund 1,900

DEPARTMENT OF PUBLIC SAFETY

Item 188
To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From General Fund 59,200
From General Fund, One-Time 37,500
From Dedicated Credits Revenue 165,500
From Dedicated Credits Revenue, One-Time 13,300
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 275,500

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 189
To Department of Government Operations – State Debt Collection Fund
From Dedicated Credits Revenue 70,100
From Dedicated Credits Revenue, One-Time 7,000
Schedule of Programs:
State Debt Collection Fund 77,100

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 190
To Department of Commerce – Cosmetologist/Barber, Esthetician, Electrologist Fund
From Licenses/Fees 11,500
From Licenses/Fees, One-Time 700
From Interest Income 100
Schedule of Programs:
Cosmetologist/Barber, Esthetician, Electrologist Fund 12,300

Item 191
To Department of Commerce – Real Estate Education, Research, and Recovery Fund
From Dedicated Credits Revenue 39,600
From Dedicated Credits Revenue, One-Time 700
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 40,300

Item 192
To Department of Commerce – Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 5,600
From Licenses/Fees, One-Time 600
From Interest Income 500
Schedule of Programs:
RMLERR Fund 6,700

Item 193
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 3,000
From Licenses/Fees, One-Time 700
Schedule of Programs:
Securities Investor Education/ Training/Enforcement Fund 3,700

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 194
To Department of Cultural and Community Engagement – Heritage and Arts Foundation Fund
From Dedicated Credits Revenue 10,800
From Dedicated Credits Revenue, One-Time 700
Schedule of Programs:
Heritage and Arts Foundation Fund 11,500

PUBLIC SERVICE COMMISSION

Item 195
To Public Service Commission – Universal Public Telecom Service
From Dedicated Credits Revenue 8,800
From Dedicated Credits Revenue, One-Time 700
Schedule of Programs:
Universal Public Telecommunications Service Support 9,500

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 196
To Department of Agriculture and Food – Salinity Offset Fund
From Revenue Transfers 3,400
From Revenue Transfers, One-Time 300
Schedule of Programs:
Salinity Offset Fund 3,700

DEPARTMENT OF NATURAL RESOURCES

Item 197
To Department of Natural Resources – Outdoor Recreation Infrastructure Account
From Designated Sales Tax 12,700
From Designated Sales Tax, One-Time 600
From Other Financing Sources 500
Schedule of Programs:
Outdoor Recreation Infrastructure Account 13,800

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 198
To Utah National Guard – National Guard MWR Fund
From Dedicated Credits Revenue 51,600
From Dedicated Credits Revenue, One-Time 2,000
Schedule of Programs:
National Guard MWR Fund 53,600

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 199
To Department of Veterans and Military Affairs – Utah Veterans Nursing Home Fund
From Federal Funds 31,400
From Federal Funds, One-Time 3,400
Schedule of Programs:
Veterans Nursing Home Fund 34,800

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees,

and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 200
To Attorney General – ISF – Attorney General
From Dedicated Credits Revenue 1,464,400
Schedule of Programs:
Civil Division 896,700
Child Protection Division 295,900
Criminal Division 271,800

UTAH DEPARTMENT OF CORRECTIONS

Item 201
To Utah Department of Corrections – Utah Correctional Industries
From General Fund, One-Time 1,700
From Dedicated Credits Revenue 410,500
From Dedicated Credits Revenue, One-Time 20,000
Schedule of Programs:
Utah Correctional Industries 432,200

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 202
To Department of Government Operations – Division of Facilities Construction and Management – Facilities Management
From Dedicated Credits Revenue 86,000
Schedule of Programs:
ISF – Facilities Management 86,000

Item 203
To Department of Government Operations – Division of Fleet Operations
From Dedicated Credits Revenue 35,900
Schedule of Programs:
ISF – Motor Pool 3,800
Transactions Group 32,100

Item 204
To Department of Government Operations – Division of Purchasing and General Services
From Dedicated Credits Revenue 11,600
Schedule of Programs:
ISF – Central Mailing 4,800
ISF – Cooperative Contracting 6,800

Item 205
To Department of Government Operations – Risk Management
From Premiums 29,600
Schedule of Programs:
ISF – Risk Management Administration 29,600

Item 206
To Department of Government Operations – Enterprise Technology Division
From Dedicated Credits Revenue 1,870,600
Schedule of Programs:
ISF – Enterprise Technology Division 1,870,600

Item 207
To Department of Government Operations – Human Resources Internal Service Fund
From Dedicated Credits Revenue 224,600
Schedule of Programs:
ISF – Field Services 160,800
ISF – Payroll Field Services 46,500
Policy 17,300

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

LABOR COMMISSION

Item 208
To Labor Commission – Uninsured Employers Fund
From Dedicated Credits Revenue 1,000
From Premium Tax Collections 500
Schedule of Programs:
Uninsured Employers Fund 1,500

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 209
To Department of Health and Human Services – Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 90,400
From Dedicated Credits Revenue, One-Time 10,800
Schedule of Programs:
Qualified Patient Enterprise Fund 101,200

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 210
To Department of Agriculture and Food – Agriculture Loan Programs
From Agriculture Resource Development Fund 6,900
From Agriculture Resource Development Fund, One-Time 800
From Utah Rural Rehabilitation Loan State Fund 3,700
From Utah Rural Rehabilitation Loan State Fund, One-Time 400
Schedule of Programs:
Agriculture Loan Program 11,800

Item 211
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Dedicated Credits Revenue 63,300
From Dedicated Credits Revenue, One-Time 4,000
Schedule of Programs:
Qualified Production Enterprise Fund .. 67,300

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the

following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 212
To General Fund Restricted – Indigent Defense Resources Account
From General Fund 32,500
From General Fund, One-Time 3,300
Schedule of Programs:
General Fund Restricted – Indigent Defense Resources Account 35,800

Item 213
To Colorado River Authority of Utah Restricted Account
From General Fund 36,000
From General Fund, One-Time 2,800
Schedule of Programs:
Colorado River Authority Restricted Account 38,800

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

STATE TREASURER

Item 214
To State Treasurer – Navajo Trust Fund
From Trust and Agency Funds 55,500
From Trust and Agency Funds, One-Time 2,300
Schedule of Programs:
Utah Navajo Trust Fund 57,800

Section 2. Effective Date.
This bill takes effect on July 1, 2023.

CHAPTER 470
H. B. 56
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

TAX ASSESSMENT AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions relating to tax assessments.

Highlighted Provisions:

This bill:

- defines terms;
- requires a county assessor to provide certain assessment data to the commission;
- establishes a date by which the county assessor must provide the assessment data to the commission;
- permits the commission to review the county's assessment data and to provide findings and make recommendations to the county;
- permits the commission to subscribe to a market data service; and
- establishes requirements for a pass-through entity when filing an amended return.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-114, as last amended by Laws of Utah 2022, Chapter 238
59-10-406, as last amended by Laws of Utah 2022, Chapter 238
59-10-1045, as enacted by Laws of Utah 2022, Chapter 238
59-10-1402, as last amended by Laws of Utah 2022, Chapter 238
59-10-1403, as last amended by Laws of Utah 2022, Chapter 238
59-10-1403.2, as last amended by Laws of Utah 2022, Chapter 238

ENACTS:

59-2-313.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-313.1 is enacted to read:

59-2-313.1. County assessor duties to provide assessment data -- Commission review -- Subscription to market data service.

(1) As used in this section, "assessment data" means:

(a) the information described in Subsection 59-2-303.1(6) contained in a county's database used in mass appraisal; and

(b) any other assessment information the commission requires.

(2) A county assessor shall provide assessment data to the commission:

(a) (i) annually on or before March 31;

(ii) no later than 15 days after the date the county assessor provides the assessment book to the county auditor under Section 59-2-311;

(iii) no later than 15 days after the date the county auditor provides the assessment roll to the county treasurer under Section 59-2-326; or

(b) at any other time requested by the commission.

(3) The commission may:

(a) review a county's annual update of property values the county is required to perform under Section 59-2-303.1;

(b) review a county's detailed review of property characteristics the county is required to perform under Section 59-2-303.1; and

(c) provide findings and recommendations to the county.

(4) The commission may subscribe to a market data service to assist:

(a) the commission in performing a review described in Subsection (3); and

(b) counties in meeting the requirements of Section 59-2-303.1.

Section 2. Section 59-10-114 is amended to read:

59-10-114. Additions to and subtractions from adjusted gross income of an individual.

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

(A) a state other than this state;

(B) the District of Columbia;

(C) a political subdivision of a state other than this state; or

(D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A) through (C); and

(ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income;

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return;

(i) the amount of tax paid on income attributed to the individual in accordance with Subsection 59-10-1403.2(2) that is not included in adjusted gross income; and

(j) the amount of tax paid:

(i) on income attributed to the individual and taxable in this state, that is not included in adjusted gross income;

(ii) to another state; and

(iii) that the commission determines is substantially similar to the tax imposed under Subsection 59-10-1403.2(2).

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a

resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year;

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(f) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident individual;

(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:

(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

(iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year;

(h) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year;

(i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

(j) an amount of a distribution from a qualified retirement plan under Section 401(a), Internal Revenue Code, if:

(i) the amount of the distribution is included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(ii) for the taxable year when the amount of the distribution was contributed to the qualified retirement plan, the amount of the distribution:

(A) was not included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(B) was taxed by another state of the United States, the District of Columbia, or a possession of the United States.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 3. Section 59-10-406 is amended to read:

59-10-406. Collection and payment of tax -- Forms filed electronically.

(1) (a) Each employer shall, on or before the last day of April, July, October, and January, pay to the commission the amount required to be deducted and withheld from wages paid to any employee during the preceding calendar quarter under this part.

(b) The commission may change the time or period for making reports and payments if:

(i) in its opinion, the tax is in jeopardy; or

(ii) a different time or period will facilitate the collection and payment of the tax by the employer.

(2) (a) Each employer shall file a return, in a form the commission prescribes, with each payment of the amount deducted and withheld under this part showing:

(i) the total amount of wages paid to his employees;

(ii) the amount of federal income tax deducted and withheld;

(iii) the amount of tax under this part deducted and withheld; and

(iv) any other information the commission may require.

(b) The employer shall file the return described in Subsection (2)(a) in an electronic format approved by the commission.

(3) (a) Each employer shall file an annual return, in a form the commission prescribes, summarizing:

(i) the total compensation paid;

(ii) the federal income tax deducted and withheld; and

(iii) the state tax deducted and withheld for each employee during the calendar year.

(b) The return required by Subsection (3)(a) shall be filed with the commission:

(i) in an electronic format approved by the commission; and

(ii) on or before January 31 of the year following that for which the report is made.

(4) (a) Each employer shall also, in accordance with rules prescribed by the commission, provide each employee from whom state income tax has been withheld with a statement of the amounts of total compensation paid and the amounts deducted and withheld for that employee during the preceding calendar year in accordance with this part.

(b) The statement shall be made available to each employee described in Subsection (4)(a) on or before January 31 of the year following that for which the report is made.

(5) (a) The employer is liable to the commission for the payment of the tax required to be deducted and withheld under this part.

(b) If an employer pays the tax required to be deducted and withheld under this part:

(i) an employee of the employer is not liable for the amount of any payment described in Subsection (5)(a); and

(ii) the employer is not liable to any person or to any employee for the amount of any such payment described in Subsection (5)(a).

(c) For the purpose of making penal provisions of this title applicable, any amount deducted or required to be deducted and remitted to the commission under this part is considered to be the tax of the employer and with respect to such amounts the employer is considered to be the taxpayer.

(6) (a) Each employer that deducts and withholds any amount under this part shall hold the amount in trust for the state for the payment of the amount to the commission in the manner and at the time provided for in this part.

(b) So long as any delinquency continues, the state shall have a lien to secure the payment of any amounts withheld, and not remitted as provided under this section, upon all of the assets of the employer and all property owned or used by the employer in the conduct of the employer's business, including stock-in-trade, business fixtures, and equipment.

(c) The lien described in Subsection (6)(b) shall be prior to any lien of any kind, including existing liens for taxes.

(7) To the extent consistent with this section, the commission may use all the provisions of this chapter relating to records, penalties, interest, deficiencies, redetermination of deficiencies, overpayments, refunds, assessments, and venue to enforce this section.

(8) (a) Subject to Subsections (8)(b) and (c), the commission shall require an employer that issues the following forms for a taxable year to file the forms with the commission in an electronic format approved by the commission:

(i) a federal Form W-2;

(ii) a federal Form 1099 filed for purposes of withholding under Section 59-10-404; or

(iii) a federal form substantially similar to a form described in Subsection (8)(a)(i) or (ii) if designated by the commission in accordance with Subsection (8)(d).

(b) An employer that is required to file a form with the commission in accordance with Subsection (8)(a) shall file the form on or before January 31.

(c) An employer that is required to file a form with the commission in accordance with Subsection (8)(a) shall provide:

(i) accurate information on the form; and

(ii) all of the information required by the Internal Revenue Service to be contained on the form.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (8)(a), the commission may designate a federal form as being substantially similar to a form described in Subsection (8)(a)(i) or (ii) if:

(i) for purposes of federal individual income taxes a different federal form contains substantially similar information to a form described in Subsection (8)(a)(i) or (ii); or

(ii) the Internal Revenue Service replaces a form described in Subsection (8)(a)(i) or (ii) with a different federal form.

(9) (a) Subject to Subsection (9)(b), a pass-through entity shall file with the commission in an electronic format approved by the commission a [~~Utah Schedule K-1, or a substantially similar~~] form designated by the commission, providing information for each final pass-through entity taxpayer of a pass-through entity that elected to pay a tax in accordance with Subsection 59-10-1403.2(2).

(b) The pass-through entity shall file [~~a~~] the form described in Subsection (9)(a) [~~with the pass-through entity's return.~~] on or before the last day of the pass-through entity's taxable year.

Section 4. Section 59-10-1045 is amended to read:

59-10-1045. Nonrefundable tax credit for taxes paid by pass-through entity.

(1) As used in this section, "taxed pass-through entity taxpayer" means a resident or nonresident individual who:

(a) has income attributed to the individual by a pass-through entity;

(b) receives the income described in Subsection (1)(a) after the pass-through entity pays the tax described in Subsection 59-10-1403.2(2); and

(c) adds the amount of tax paid on the income described in Subsection (1)(a) to adjusted gross income in accordance with Subsection 59-10-114(1)(i).

(2) (a) A taxed pass-through entity taxpayer may claim a nonrefundable tax credit for the taxes imposed under Subsection 59-10-1403.2(2).

(b) The tax credit is equal to the amount of the tax paid under Subsection 59-10-1403.2(2) by the pass-through entity on the income attributed to the taxed pass-through entity taxpayer.

(3) (a) A taxed pass-through entity taxpayer may carry forward the amount of the tax credit that exceeds the taxed pass-through [~~entity's~~] entity taxpayer's tax liability for a period that does not exceed the next five taxable years.

(b) A taxed pass-through entity taxpayer may not carry back the amount of the tax credit that exceeds the taxed pass-through [~~entity's~~] entity taxpayer's tax liability for the taxable year.

Section 5. Section 59-10-1402 is amended to read:

59-10-1402. Definitions.

As used in this part:

(1) "Addition, subtraction, or adjustment" means:

(a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes:

(i) an addition to unadjusted income described in Section 59-7-105; or

(ii) a subtraction from unadjusted income described in Section 59-7-106;

(b) for a pass-through entity taxpayer that is classified as an individual, partnership, or S corporation for federal income tax purposes:

(i) an addition to or subtraction from adjusted gross income described in Section 59-10-114; or

(ii) an adjustment to adjusted gross income described in Section 59-10-115; or

(c) for a pass-through entity taxpayer that is classified as an estate or a trust for federal income tax purposes:

(i) an addition to or subtraction from unadjusted income described in Section 59-10-202; or

(ii) an adjustment to unadjusted income described in Section 59-10-209.1.

(2) "Business income" means income arising from transactions and activity in the regular course of a pass-through entity's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the pass-through entity's regular trade or business operations.

(3) "C corporation" means the same as that term is defined in Section 1361, Internal Revenue Code.

(4) "Commercial domicile" means the principal place from which the trade or business of a business entity is directed or managed.

(5) "Dependent beneficiary" means an individual who:

(a) is claimed as a dependent under Section 151, Internal Revenue Code, on another person's federal income tax return; and

(b) is a beneficiary of a trust that is a pass-through entity.

(6) "Derived from or connected with Utah sources" means:

(a) if a pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, derived from or connected with Utah sources in accordance with Chapter 7, Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; or

(b) if a pass-through entity or pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, derived from or connected with Utah sources in accordance with Sections 59-10-117 and 59-10-118.

(7) (a) "Final pass-through entity taxpayer" means a pass-through entity taxpayer who is a resident or nonresident individual.

(b) "Final pass-through entity taxpayer" does not include:

(i) a resident or nonresident business entity; or

(ii) a resident or nonresident estate or trust.

(8) "Nonbusiness income" means all income of a pass-through entity other than business income.

(9) "Nonresident business entity" means a business entity that does not have its commercial domicile in this state.

(10) "Nonresident pass-through entity taxpayer" means a pass-through entity taxpayer that is a:

(a) nonresident individual; or

(b) nonresident business entity.

(11) "Pass-through entity" means a business entity that is:

(a) the following if classified as a partnership for federal income tax purposes:

(i) a general partnership;

(ii) a limited liability company;

(iii) a limited liability partnership; or

(iv) a limited partnership;

(b) an S corporation;

(c) an estate or trust with respect to which the estate's or trust's income, gain, loss, deduction, or credit is divided among and passed through to one or more pass-through entity taxpayers; or

(d) a business entity similar to Subsections (11)(a) through (c):

(i) with respect to which the business entity's income, gain, loss, deduction, or credit is divided among and passed through to one or more pass-through entity taxpayers; and

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) "Pass-through entity taxpayer" means a resident or nonresident individual, a resident or nonresident business entity, or a resident or nonresident estate or trust:

(a) that is:

(i) for a general partnership, a partner;

(ii) for a limited liability company, a member;

(iii) for a limited liability partnership, a partner;

(iv) for a limited partnership, a partner;

(v) for an S corporation, a shareholder;

(vi) for an estate or trust described in Subsection(11)(c), a beneficiary; or

(vii) for a business entity described in Subsection(11)(d), a member, partner, shareholder, or other title designated by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) to which the income, gain, loss, deduction, or credit of a pass-through entity is passed through.

(13) "Resident business entity" means a business entity that is not a nonresident business entity.

(14) "Resident pass-through entity taxpayer" means a pass-through entity taxpayer that is a:

(a) resident individual; or

(b) resident business entity.

(15) "Return" means a return that a pass-through entity taxpayer files:

(a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or

(b) for a pass-through entity taxpayer that is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, under this chapter.

(16) "S corporation" means the same as that term is defined in Section 1361, Internal Revenue Code.

(17) "Share of income, gain, loss, deduction, or credit of a pass-through entity" means:

(a) for a pass-through entity except for a pass-through entity that is an S corporation:

(i) for a resident pass-through entity taxpayer, the resident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through entity as determined under Section 704 et seq., Internal Revenue Code; and

(ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through entity:

(A) as determined under Section 704 et seq., Internal Revenue Code; and

(B) derived from or connected with Utah sources; or

(b) for an S corporation:

(i) for a resident pass-through entity taxpayer, the resident pass-through entity taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation, as determined under Sec. 1366 et seq., Internal Revenue Code; or

(ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation:

(A) as determined under Section 1366 et seq., Internal Revenue Code; and

(B) derived from or connected with Utah sources.

(18) "Statement of dependent beneficiary income" means a statement:

(a) signed by the person who claims a dependent beneficiary as a dependent under Section 151, Internal Revenue Code, on the person's federal income tax return for the taxable year;

(b) attesting that the dependent is a dependent beneficiary; and

(c) indicating that the person expects that the dependent beneficiary's adjusted gross income for the taxable year will not exceed the basic standard deduction for the dependent beneficiary, as calculated under Section 63, Internal Revenue Code, for that taxable year.

(19) "Voluntary taxable income" means the sum of a pass-through entity's income that is:

(a) attributed to a final pass-through entity taxpayer who is a resident individual unless the income is taxed by another state of the United States, the District of Columbia, or possession of the United States; and

(b) (i) business income and nonbusiness income that is derived from or connected with Utah sources; and

(ii) attributed to a final pass-through entity taxpayer who is a nonresident individual.

Section 6. Section 59-10-1403 is amended to read:

59-10-1403. Income tax treatment of a pass-through entity -- Returns -- Classification same as under Internal Revenue Code.

(1) Subject to Subsection (3) and except as provided in Subsection 59-10-1403.2(2), a pass-through entity is not subject to a tax imposed by this chapter.

(2) Except as provided in Section 59-10-1403.3, the income, gain, loss, deduction, or credit of a pass-through entity shall be passed through to one or more pass-through entity taxpayers as provided in this part.

(3) A pass-through entity is subject to the return filing requirements of Sections 59-10-507, 59-10-514, and 59-10-516.

(4) For purposes of taxation under this title, a pass-through entity that transacts business in the state shall be classified in the same manner as the pass-through entity is classified for federal income tax purposes.

(5) (a) If a change is made in a pass-through entity's net income or loss on the pass-through entity's federal income tax return because of an action of the federal government, the pass-through entity shall file with the commission within 90 days after the date of a final determination of the action:

(i) a copy of the pass-through entity's amended federal income tax return or federal adjustment; and

(ii) an amended state income tax return that conforms with the changes made in the pass-through entity's amended federal income tax return.

(b) If a change is made in a pass-through entity's net income on the pass-through entity's federal income tax return because the pass-through entity files an amended federal income tax return, the pass-through entity shall file with the commission, within 90 days after the date the taxpayer files the amended federal income tax return:

(i) a copy of the pass-through entity's amended federal income tax return; and

(ii) an amended state income tax return that conforms with the changes made in the pass-through entity's amended federal income tax return.

Section 7. Section 59-10-1403.2 is amended to read:

59-10-1403.2. Pass-through entity payment or withholding of tax on behalf of a pass-through entity taxpayer -- Exceptions to payment or withholding requirement -- Procedures and requirements -- Failure to pay or withhold a tax on behalf of a pass-through entity taxpayer.

(1) (a) Except as provided in Subsections (1)(b) and (2), for a taxable year, a pass-through entity shall pay or withhold a tax:

(i) on:

(A) the business income of the pass-through entity; and

(B) the nonbusiness income of the pass-through entity derived from or connected with Utah sources; and

(ii) on behalf of a pass-through entity taxpayer.

(b) A pass-through entity is not required to pay or withhold a tax under Subsection (1)(a):

(i) on behalf of a final pass-through entity taxpayer who is a resident individual;

(ii) if the pass-through entity is an organization exempt from taxation under Subsection 59-7-102(1)(a);

(iii) if the pass-through entity:

(A) is a plan under Section 401, 408, or 457, Internal Revenue Code; and

(B) is not required to file a return under Chapter 7, Corporate Franchise and Income Taxes, or this chapter;

(iv) if the pass-through entity is a publicly traded partnership:

(A) as defined in Section 7704(b), Internal Revenue Code;

(B) that is classified as a partnership for federal income tax purposes; and

(C) that files an annual information return reporting the following with respect to each partner of the publicly traded partnership with income derived from or connected with Utah sources that exceeds $500 in a taxable year:

(I) the partner's name;

(II) the partner's address;

(III) the partner's taxpayer identification number; and

(IV) other information required by the commission; or

(v) on behalf of a final pass-through entity taxpayer that is a nonresident individual if the pass-through entity pays the tax described in Subsection (2).

(2) (a) For each taxable year that begins on or after January 1, 2022, but begins on or before December 31, 2025, a pass-through entity that is not a disregarded pass-through entity may elect to pay a tax in an amount equal to the product of:

(i) the percentage listed in Subsection 59-10-104(2); and

(ii) voluntary taxable income.

(b) A pass-through entity that elects to pay the tax in accordance with Subsection (2)(a) shall notify

any final pass-through entity taxpayer of that election.

(c) A pass-through entity that pays a tax described in Subsection (2)(a) shall provide to each final pass-through entity taxpayer a statement that states:

(i) the amount of tax paid under Subsection (2)(a) on the income attributed to the final pass-through entity taxpayer[.]; and

(ii) the amount of tax paid to another state by the pass-through entity on income:

(A) attributed to the final pass-through entity taxpayer; and

(B) that the commission determines is substantially similar to the tax under Subsection (2)(a).

(d) A payment of the tax described in Subsection (2)(a) on or before the last day of the taxable year:

(i) is an irrevocable election to be subject to the tax for the taxable year; and [.]

(ii) may not be refunded.

(3) (a) Subject to Subsection (3)(b), the tax a pass-through entity shall pay or withhold on behalf of a pass-through entity taxpayer for a taxable year is an amount:

(i) determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) that the commission estimates will be sufficient to pay the tax liability of the pass-through entity taxpayer under this chapter with respect to the income described in Subsection (1)(a)(i) or (2)(a)(ii) of that pass-through entity for the taxable year.

(b) The rules the commission makes in accordance with Subsection (3)(a):

(i) except as provided in Subsection (3)(c):

(A) shall:

(I) for a pass-through entity except for a pass-through entity that is an S corporation, take into account items of income, gain, loss, deduction, and credit as analyzed on the schedule for reporting partners' distributive share items as part of the federal income tax return for the pass-through entity; or

(II) for a pass-through entity that is an S corporation, take into account items of income, gain, loss, deduction, and credit as reconciled on the schedule for reporting shareholders' pro rata share items as part of the federal income tax return for the pass-through entity; and

(B) notwithstanding Subsection (3)(b)(ii)(D), take into account the refundable tax credit provided in Section 59-6-102; and

(ii) may not take into account the following items if taking those items into account does not result in an accurate estimate of a pass-through entity taxpayer's tax liability under this chapter for the taxable year:

(A) a capital loss;

(B) a passive loss;

(C) another item of deduction or loss if that item of deduction or loss is generally subject to significant reduction or limitation in calculating:

(I) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, unadjusted income as defined in Section 59-7-101;

(II) for a pass-through entity that is classified as an individual, partnership, or S corporation for federal income tax purposes, adjusted gross income; or

(III) for a pass-through entity that is classified as an estate or a trust for federal income tax purposes, unadjusted income as defined in Section 59-10-103; or

(D) a tax credit allowed against a tax imposed under:

(I) Chapter 7, Corporate Franchise and Income Taxes; or

(II) this chapter.

(c) The rules the commission makes in accordance with Subsection (3)(a) may establish a method for taking into account items of income, gain, loss, deduction, or credit of a pass-through entity if:

(i) for a pass-through entity except for a pass-through entity that is an S corporation, the pass-through entity does not analyze the items of income, gain, loss, deduction, or credit on the schedule for reporting partners' distributive share items as part of the federal income tax return for the pass-through entity; or

(ii) for a pass-through entity that is an S corporation, the pass-through entity does not reconcile the items of income, gain, loss, deduction, or credit on the schedule for reporting shareholders' pro rata share items as part of the federal income tax return for the pass-through entity.

(4) (a) Except as provided in Subsection (4)(b), a pass-through entity shall remit to the commission the tax the pass-through entity pays or withholds on behalf of a pass-through entity taxpayer under this section:

(i) on or before the due date of the pass-through entity's return, not including extensions; and

(ii) on a form provided by the commission.

(b) A pass-through entity shall remit the tax described in Subsection (2) on or before the last day of the pass-through entity's taxable year.

(c) The commission shall consider only the amount of tax remitted as provided in Subsection (4)(b), on or before the last day of the pass-through entity's taxable year as a payment described in Subsection (2).

(d) Except as provided in Subsection (1)(b), a pass-through entity that files an amended return

under this part shall pay or withhold tax on any increase in the income described in Subsection (1)(a)(i) on behalf of the pass-through entity taxpayer and remit that tax to the commission.

(5) A pass-through entity shall provide a statement to a pass-through entity taxpayer on behalf of whom the pass-through entity pays or withholds a tax under this section showing the amount of tax the pass-through entity pays or withholds under this section for the taxable year on behalf of the pass-through entity taxpayer.

(6) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an amount under this section for a taxable year from a pass-through entity and shall waive any penalty and interest on that amount if:

(a) the pass-through entity fails to pay or withhold the tax on the amount as required by this section on behalf of the pass-through entity taxpayer;

(b) the pass-through entity taxpayer:

(i) files a return on or before the due date for filing the pass-through entity's return, including extensions; and

(ii) on or before the due date including extensions described in Subsection (6)(b)(i), pays the tax on the amount for the taxable year:

(A) if the pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or

(B) if the pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, under this chapter; and

(c) the pass-through entity applies to the commission.

(7) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an amount under this section for a taxable year from a pass-through entity that is a trust and shall waive any penalty and interest on that amount if:

(a) the pass-through entity fails to pay or withhold the tax on the amount as required by this section on behalf of a dependent beneficiary;

(b) the pass-through entity applies to the commission; and

(c) (i) the dependent beneficiary complies with the requirements of Subsection (6)(b); or

(ii) (A) the dependent beneficiary's adjusted gross income for the taxable year does not exceed the basic standard deduction for the dependent beneficiary, as calculated under Section 63, Internal Revenue Code, for that taxable year; and

(B) the trustee of the trust retains a statement of dependent beneficiary income on behalf of the dependent beneficiary.

(8) If a pass-through entity would have otherwise qualified for a waiver of a penalty and interest under Subsection (7), except that the trustee of a trust has not applied to the commission as required by Subsection (7)(b) or retained the statement of dependent beneficiary income required by Subsection (7)(c)(ii)(B), it is a rebuttable presumption in an audit that the pass-through entity would have otherwise qualified for the waiver of the penalty and interest under Subsection (7).

Section 8. Retrospective operation.

(1) The following sections have retrospective operation for a taxable year beginning on or after January 1, 2022:

(a) Section 59-10-1403; and

(b) Section 59-10-1403.2.

CHAPTER 471
H. B. 58
Passed February 2, 2023
Approved March 23, 2023
Effective May 3, 2023

TAX MODIFICATIONS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill modifies provisions related to tax.

Highlighted Provisions:

This bill:

- makes corrections to provisions related to tax, including eliminating redundant or obsolete language and updating cross-references;
- modifies the required contents of a property tax notice;
- clarifies that the State Tax Commission, not the Division of Finance, is responsible for certain sales tax deposits and transfers; and
- repeals language related to expired income tax credits.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

17C-1-409, as last amended by Laws of Utah 2022, Chapter 307
17C-1-411, as last amended by Laws of Utah 2018, Chapter 312
17C-1-412, as last amended by Laws of Utah 2022, Chapter 21
26-36b-208, as last amended by Laws of Utah 2021, Chapter 367
51-9-902, as enacted by Laws of Utah 2022, Chapter 77
53-2a-1102, as last amended by Laws of Utah 2022, Chapters 68, 73
59-1-401, as last amended by Laws of Utah 2022, Chapter 238
59-1-1420, as last amended by Laws of Utah 2022, Chapter 273
59-2-109, as last amended by Laws of Utah 2021, Chapter 377
59-2-201, as last amended by Laws of Utah 2022, Chapter 239
59-2-919.1, as last amended by Laws of Utah 2022, Chapter 293
59-2-1101, as last amended by Laws of Utah 2022, Chapter 235
59-2-1102, as last amended by Laws of Utah 2022, Chapter 235
59-2-1710, as enacted by Laws of Utah 2012, Chapter 197
59-2-1803, as enacted by Laws of Utah 2019, Chapter 453
59-10-552, as enacted by Laws of Utah 2022, Chapter 258
59-12-103, as last amended by Laws of Utah 2022, Chapters 77, 106 and 433
59-12-205, as last amended by Laws of Utah 2022, Chapters 59, 82 and 403
59-12-302, as last amended by Laws of Utah 2021, Chapter 376
59-12-354, as last amended by Laws of Utah 2018, Chapters 258, 312
59-12-403, as last amended by Laws of Utah 2018, Chapters 258, 312
59-12-603, as last amended by Laws of Utah 2020, Chapter 407
59-12-703, as last amended by Laws of Utah 2017, Chapters 181, 422
59-12-802, as last amended by Laws of Utah 2020, Chapter 427
59-12-804, as last amended by Laws of Utah 2017, Chapter 422
59-12-1102, as last amended by Laws of Utah 2021, Chapters 84, 345
59-12-1201, as last amended by Laws of Utah 2016, Chapters 184, 291
59-12-1302, as last amended by Laws of Utah 2017, Chapter 422
59-12-1402, as last amended by Laws of Utah 2017, Chapter 422
59-12-2103, as last amended by Laws of Utah 2017, Chapter 422
59-12-2206, as last amended by Laws of Utah 2018, Chapters 258, 312
63G-2-302, as last amended by Laws of Utah 2022, Chapters 169, 334
63N-2-510, as last amended by Laws of Utah 2021, Chapter 282
63N-2-512, as last amended by Laws of Utah 2021, Chapter 282

ENACTS:

59-2-1806, Utah Code Annotated 1953
59-2-1906, Utah Code Annotated 1953

REPEALS:

59-7-613, as last amended by Laws of Utah 2016, Chapter 135
59-7-614.9, as enacted by Laws of Utah 2012, Chapter 306
59-7-617, as enacted by Laws of Utah 2014, Chapter 315
59-7-622, as enacted by Laws of Utah 2017, Chapter 479
59-10-1013, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-10-1040, as enacted by Laws of Utah 2017, Chapter 479

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17C-1-409 is amended to read:

17C-1-409. Allowable uses of agency funds.

(1) (a) An agency may use agency funds:

(i) for any purpose authorized under this title;

(ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;

(iii) subject to Section 11-41-103, to pay for, including financing or refinancing, all or part of:

(A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;

(B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;

(C) an incentive or other consideration paid to a participant under a participation agreement;

(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area;

(v) subject to Subsection (5), to transfer funds to a community that created the agency; or

(vi) subject to Subsection (1)(f), for agency-wide project development under Part 10, Agency Taxing Authority.

(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.

(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:

(A) the board approves; and

(B) the community legislative body approves.

(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.

(iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

(e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(f) Before an agency may use project area funds for agency-wide project development, as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity committee or each taxing entity party to an interlocal agreement with the agency.

(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Retail Facility Incentive Payments Act.

(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.

(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.

(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.

(4) Notwithstanding any other provision of this title, an agency may not use project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001, to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection [~~59-12-205(5)~~] 59-12-205(4).

Section 2. Section 17C-1-411 is amended to read:

17C-1-411. Use of project area funds for housing-related improvements and for relocating mobile home park residents -- Funds to be held in separate accounts.

(1) An agency may use project area funds:

(a) to pay all or part of the value of the land for and the cost of installation, construction, or rehabilitation of any housing-related building, facility, structure, or other housing improvement, including infrastructure improvements related to housing, located in any project area within the agency's boundaries;

(b) outside of a project area for the purpose of:

(i) replacing housing units lost by project area development; or

(ii) increasing, improving, or preserving the affordable housing supply within the boundary of the agency;

(c) for relocating mobile home park residents displaced by project area development, whether inside or outside a project area; or

(d) subject to Subsection (4), to transfer funds to a community that created the agency.

(2) (a) Each agency shall create a housing fund and separately account for project area funds allocated under this section.

(b) Interest earned by the housing fund described in Subsection (2)(a), and any payments or repayments made to the agency for loans, advances, or grants of any kind from the housing fund, shall accrue to the housing fund.

(c) An agency that designates a housing fund under this section shall use the housing fund for the purposes set forth in this section or Section 17C-1-412.

(3) An agency may lend, grant, or contribute funds from the housing fund to a person, public entity, housing authority, private entity or business, or nonprofit corporation for affordable housing or homeless assistance.

(4) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(d), 17C-1-409(1)(a)(v), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection [~~59-12-205(5)~~] 59-12-205(4).

Section 3. Section 17C-1-412 is amended to read:

17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

(1) (a) An agency shall use the agency's housing allocation to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where a board has determined that a development impediment exists;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(ix) relocate mobile home park residents displaced by project area development;

(x) subject to Subsection (7), transfer funds to a community that created the agency; or

(xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:

(A) is located in the same county as the agency;

(B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit college or university; and

(C) only students of the relevant college or university, including the students' immediate families, occupy.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county;

(iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community;

(v) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if the housing is located along or near a major transit investment corridor that services the community and the related project has been approved by the community in which the housing is or will be located; or

(vi) pay for or make a contribution toward the expansion of child care facilities within the boundary of the agency, provided that any recipient of funds from the agency's housing allocation reports annually to the agency on how the funds were used.

(2) (a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) An agency that has entered into an interlocal agreement as described in Subsection (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation meets the requirements for at least one agency that is a party to the interlocal agreement.

(3) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

(4) An agency may:

(a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (4)(a) previously issued by the agency.

(5) (a) Except as provided in Subsection (5)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

(b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.

(6) (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

(b) In an action under Subsection (6)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

(7) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Subsection [~~59-12-205(5)~~] 59-12-205(4).

Section 4. Section 26-36b-208 is amended to read:

26-36b-208. Medicaid Expansion Fund.

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

(a) assessments collected under this chapter;

(b) intergovernmental transfers under Section 26-36b-206;

(c) savings attributable to the health coverage improvement program as determined by the department;

(d) savings attributable to the enhancement waiver program as determined by the department;

(e) savings attributable to the Medicaid waiver expansion as determined by the department;

(f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;

(g) revenues collected from the sales tax described in Subsection [~~59-12-103(12)~~] 59-12-103(11);

(h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(i) interest earned on money in the fund; and

(j) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program;

(ii) the enhancement waiver program;

(iii) a Medicaid waiver expansion; and

(iv) the outpatient upper payment limit supplemental payments under Section 26-36b-210.

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 5. Section 51-9-902 is amended to read:

51-9-902. Outdoor Adventure Infrastructure Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Outdoor Adventure Infrastructure Restricted Account."

(2) The account shall consist of:

(a) money deposited into the account under Subsection [~~59-12-103(16)~~] 59-12-103(15); and

(b) interest and earnings on money in the account.

(3) Subject to appropriation from the Legislature, money from the account shall be used for:

(a) new construction of outdoor recreation infrastructure;

(b) upgrades of outdoor recreation infrastructure;

(c) the replacement of or structural improvements to outdoor recreation infrastructure;

(d) the acquisition of land, a right-of-way, or easement used in relationship to outdoor recreation infrastructure; or

(e) providing access from state highways, as defined in Section 72-1-102, to outdoor recreation infrastructure.

(4) If the Legislature appropriates money to the Department of Transportation from the account, the Transportation Commission, created in Section 72-1-301, shall prioritize projects and determine funding levels in accordance with Subsection 72-1-303(1)(a) based on recommendations of the Department of Transportation.

Section 6. Section 53-2a-1102 is amended to read:

53-2a-1102. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses" means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections 23-19-42, 41-22-34, and 73-18-24;

(iii) money deposited under Subsection [~~59-12-103(14)~~] 59-12-103(13);

(iv) contributions deposited in accordance with Section 41-1a-230.7; and

(v) appropriations made to the program by the Legislature.

(b) Money received from the revenue sources in Subsections (3)(a)(i), (ii), and (iv), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the program.

(c) Ten percent of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be used solely to promote the assistance card program.

(d) Funding for the program is nonlapsing.

(4) Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

(b) defining the procedures of counties to submit expenses and be reimbursed;

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

(i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the Division of Outdoor Recreation, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection 63J-1-504(7).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23-19-42, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:

(a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or

(b) the rescuing county finds that the participant intentionally created a situation resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be used to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23-19-42, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the Division of Outdoor Recreation regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

Section 7. Section 59-1-401 is amended to read:

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

[~~(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:~~]

[~~(i) has implemented the commission's GenTax system; and~~]

[~~(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:~~]

[~~(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and~~]

[~~(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:~~]

[~~(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and~~]

[~~(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).~~]

[~~(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:~~]

[~~(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or~~]

[~~(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.~~]

[~~(c)~~] (a) [~~(i) Except as provided in Subsection (1)(c)(ii), "tax~~] "Tax, fee, or charge" means:

[~~(A)~~] (i) a tax, fee, or charge the commission administers under:

[~~(I)~~] (A) this title;

[~~(II)~~] (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

[~~(III)~~] (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

[~~(IV)~~] (D) Section 19-6-410.5;

[~~(V)~~] (E) Section 19-6-714;

[~~(VI)~~] (F) Section 19-6-805;

[~~(VII)~~] (G) Section 34A-2-202;

[~~(VIII)~~] (H) Section 40-6-14; or

[~~(IX)~~] (I) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

[~~(B)~~] (ii) another amount that by statute is subject to a penalty imposed under this section.

[~~(ii)~~] (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

[~~(A)~~] (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

[~~(B)~~] (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

[~~(C)~~] (iii) Chapter 2, Property Tax Act, except for Section 59-2-1309;

[~~(D)~~] (iv) Chapter 3, Tax Equivalent Property Act; or

[~~(E)~~] (v) Chapter 4, Privilege Tax.

[~~(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.~~]

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

[~~(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:~~]

[~~(A) $20; or~~]

[~~(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or~~]

[~~(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:~~]

[~~(A)~~] (i) $20; or

[~~(B)~~] (ii) [~~(I)~~] (A) 2% of the unpaid [~~activated~~] tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

[~~(II)~~] (B) 5% of the unpaid [~~activated~~] tax, fee, or charge due on the return if the return is filed more

than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

[~~(III)~~] (C) 10% of the unpaid [~~activated~~] tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) Except as provided in Subsection (15), a person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

[~~(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:~~]

[~~(A) $20; or~~]

[~~(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or~~]

[~~(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:~~]

[~~(A)~~] (i) $20; or

[~~(B)~~] (ii) [~~(I)~~] (A) 2% of the unpaid [~~activated~~] tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

[~~(II)~~] (B) 5% of the unpaid [~~activated~~] tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

[~~(III)~~] (C) 10% of the unpaid [~~activated~~] tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) In the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against

unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is $50 for each information return, information report, or supporting schedule up to a maximum of $1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is $500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is $500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than $500; or

(B) exceed $1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than $1,000; or

(B) exceed $5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) or (9) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8) or (9);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8) or (9);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) $30 per form, not to exceed $75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8) or (9), more than 14 days after the due date provided in Subsection 59-10-406(8) or (9) but no later than 30 days after the due date provided in Subsection 59-10-406(8) or (9);

(ii) $60 per form, not to exceed $200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8) or (9), more than 30 days after the due date provided in Subsection 59-10-406(8) or (9) but on or before June 1; or

(iii) $100 per form, not to exceed $500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) or (9) after June 1; or

(B) fails to file the form.

(14) Upon making a record of the commission's actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

(15) Failure to pay a tax described in Subsection 59-10-1403.2(2) shall be subject to a penalty as described in Subsection (3) except that the penalty shall be:

(a) assessed only if the pass-through entity reports tax paid on a Utah Schedule K-1 but does not pay some or all of the tax reported; and

(b) calculated based on the difference between the amount of tax reported and the amount of tax paid.

Section 8. Section 59-1-1420 is amended to read:

59-1-1420. Administrative garnishment order for liability.

(1) As used in this section:

(a) "Administrative garnishment order" includes a continuing administrative garnishment order issued under this section.

(b) "Disposable earnings" means the same as that term is defined in Section 70C-7-103.

(c) "Garnishee" means a person to whom the commission issues an administrative garnishment order under this section.

(d) "Nonexempt periodic payment" means any recurring payment that, under Title 78B, Chapter 5, Part 5, Utah Exemptions Act, is not exempt from the judicial process to collect an unsecured debt.

(2) (a) Subject to Subsection (3), if a taxpayer owes a liability, the commission may issue an administrative garnishment order against the taxpayer's personal property, including wages, in the possession or control of a person other than the taxpayer in the same manner and with the same effect as if the order were a writ of garnishment issued by a court with jurisdiction.

(b) In addition to the underlying liability, the commission may satisfy through an administrative garnishment any costs or fees incurred by the commission as a result of issuing the administrative garnishment order.

(3) The commission may issue an administrative garnishment order to a person described in Subsection (2) if:

(a) the commission has filed a warrant against the taxpayer for the underlying liability in accordance with Section 59-1-1414; and

(b) the commission's executive director or the executive director's designee signs the administrative garnishment order.

(4) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure.

(5) The maximum portion of a taxpayer's disposable earnings subject to garnishment under this section is the lesser of:

(a) 25% of the taxpayer's disposable earnings; or

(b) the amount by which the taxpayer's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(6) Upon agreement by the garnishee, the parties to an administrative garnishment order may accept and transmit documents relating to the administrative garnishment order by electronic means, including service of process, proof of service, interrogatories, answers, and any other information shared between the garnishee and the commission.

(7) In an administrative garnishment order issued under this section, the commission shall:

(a) identify the taxpayer, including:

(i) the taxpayer's name and address; and

(ii) if known:

(A) the last four digits of the taxpayer's social security number, or the taxpayer's full social security number, if the taxpayer's full social security number is required by federal law; and

(B) the taxpayer's date of birth;

(b) contain a statement that includes:

(i) if known, the nature, location, account number, and estimated value of the property subject to administrative garnishment;

(ii) if known, the name, address, and phone number of the person holding the property subject to administrative garnishment; and

(iii) the name, address, and phone number of any person claiming an interest in the property described in Subsection (7)(b)(i) or (ii);

(c) state whether any of the property subject to administrative garnishment consists of earnings;

(d) state the outstanding amount owed under the warrant described in Subsection (3)(a);

(e) state the amount of any applicable costs or fees included in the administrative garnishment;

(f) state the manner in which the garnishee shall deliver the property to the commission; and

(g) state that the commission shall pay the garnishee the fee described in Section 78A-2-216.

(8) As part of the administrative garnishment order, the commission shall serve on the garnishee the following interrogatories:

(a) whether the garnishee is indebted to the taxpayer and, if so, the nature of the indebtedness;

(b) whether the garnishee possesses or controls any property of the taxpayer, and, if so, the nature, location, and estimated value of the property;

(c) whether the garnishee knows of any property of the taxpayer in the possession or control of another person, and if so, the following information about the property:

(i) the nature;

(ii) the location; and

(iii) the estimated value;

(d) (i) whether the garnishee intends to deduct from the property a liquidated claim against the taxpayer;

(ii) a description of any claim described in Subsection (8)(d)(i); and

(iii) the amount deducted, if any;

(e) the date and manner of the garnishee's service of the documents described in Subsection (9)(c) on the taxpayer and any third party;

(f) the date on which the taxpayer was previously served with any continuing administrative garnishment order;

(g) any other relevant information the commission requests, including:

(i) the taxpayer's position;

(ii) the taxpayer's rate of pay;

(iii) the taxpayer's compensation method;

(iv) the taxpayer's pay period; and

(v) a computation of the taxpayer's disposable earnings.

(9) Within seven days after the day on which an administrative garnishment order is served, the garnishee shall:

(a) answer each interrogatory described in Subsection (8);

(b) serve the answers to the interrogatories on the commission;

(c) serve the taxpayer and any other person known to the garnishee to have an interest in the property a copy of:

(i) the administrative garnishment order; and

(ii) the answers to the interrogatories described in Subsection (9)(b); and

(d) inform the taxpayer of the taxpayer's right to reply to the answers described in Subsection (9)(b) and request a hearing in district court as provided by Rule 64D, Utah Rules of Civil Procedure.

(10) (a) A garnishee who acts in accordance with this section and the administrative garnishment order is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (10)(c), if a garnishee fails to comply with the administrative garnishment order without a court or final administrative order directing otherwise, the garnishee is liable for an amount including:

(i) the lesser of the value of the property or the balance owed under the warrant described in Subsection (3)(a);

(ii) reasonable costs and fees; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(c) If a garnishee demonstrates that the garnishee took reasonable steps to secure the

property, the commission may excuse the garnishee of liability in whole or in part.

(11) If the commission files a motion [~~for an order to show cause~~] to enforce an administrative garnishment order under this section, the commission shall file the motion in district court and attach to the motion a statement that the commission has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(12) A garnishee is not liable for drawing, accepting, making, or endorsing a negotiable instrument that is not in the possession or control of the garnishee at the time the administrative garnishment order is served.

(13) A garnishee may deduct from the property any liquidated claim against the taxpayer.

(14) (a) If a debt owed by the taxpayer to the garnishee is secured by the property subject to the administrative garnishment order, the commission may apply the property to the debt.

(b) An administrative garnishment order described in Subsection (14)(a) remains in effect regardless of whether the commission applies the property to the debt.

(15) (a) The commission may issue a continuing administrative garnishment order against any nonexempt periodic payment.

(b) A continuing administrative garnishment order applies to payments to the taxpayer:

(i) beginning on the day on which the continuing administrative garnishment order is served; and

(ii) ending on the earlier of:

(A) subject to Subsection (15)(c), one year after the day on which the continuing administrative garnishment order is served;

(B) 120 days after the day on which a second or subsequent continuing administrative garnishment against the taxpayer is served;

(C) the day on which the last nonexempt periodic payment subject to the continuing administrative garnishment order occurs;

(D) the day on which the warrant described in Subsection (3)(a) is stayed, vacated, or satisfied in full; or

(E) the day on which the commission releases the continuing administrative garnishment order.

(c) If the commission issues a continuing administrative garnishment order during the term of another continuing administrative garnishment order against the same taxpayer, the period described in Subsection (15)(b)(i) is tolled if the other continuing administrative garnishment order:

(i) is in effect at the time the commission serves the subsequent continuing administrative garnishment order; and

(ii) requires payments greater than or equal to the maximum portion of disposable earnings described in Subsection (5).

(d) For each periodic payment period, no later than seven days after the day on which the periodic payment period ends, the garnishee shall:

(i) answer each interrogatory described in Subsection (8);

(ii) serve the answers to the interrogatories on the commission, the taxpayer, and any other person known to the garnishee to have an interest in the property; and

(iii) deliver the property to the commission in the manner specified in the continuing administrative garnishment order.

(16) (a) The commission may not name more than one garnishee in an administrative garnishment order.

(b) Priority among garnishments is according to the order of service on the garnishee.

(c) An administrative garnishment order applies to earnings accruing during the pay period in which the order is effective.

(17) This section is subject to Title 78B, Chapter 5, Part 5, Utah Exemptions Act.

Section 9. Section 59-2-109 is amended to read:

59-2-109. Burden of proof.

(1) As used in this section:

(a) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with Section 59-2-1004, the value given to the real property by the county board of equalization, including a value based on a stipulation of the parties;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal or the parties have entered a stipulation; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Inflation adjusted value" means the same as that term is defined in Section 59-2-1004.

(c) "Qualified real property" means real property:

(i) that is assessed by a county assessor in accordance with Part 3, County Assessment;

(ii) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with Section 59-2-1004 or the commission in accordance with Section 59-2-1006;

(B) the appeal described in Subsection (1)(c)(ii)(A) resulted in a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(iii) that, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, has not had a qualifying change.

(d) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:

(i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of fair market value of the real property or $20,000;

(ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.

(2) For an appeal involving the valuation of real property to the county board of equalization or the commission, the party carrying the burden of proof shall demonstrate:

(a) substantial error in:

(i) for an appeal not involving qualified real property:

(A) if Subsection (3) does not apply and the appeal is to the county board of equalization, the original assessed value;

(B) if Subsection (3) does not apply and the appeal is to the commission, the value given to the property by the county board of equalization; or

(C) if Subsection (3) applies, the original assessed value; or

(ii) for an appeal involving qualified real property, the inflation adjusted value; and

(b) a sound evidentiary basis upon which the county board of equalization or the commission could adopt a different valuation.

(3) (a) The party described in Subsection (3)(b) shall carry the burden of proof before a county board of equalization or the commission, in an action appealing the value of property:

(i) that is not qualified real property; and

(ii) for which a county assessor, a county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

(b) For purposes of Subsection (3)(a), the following have the burden of proof:

(i) for property assessed under Part 3, County Assessment:

(A) the county assessor, if the county assessor is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or

(B) the county board of equalization, if the county board of equalization is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or

(ii) for property assessed under Part 2, Assessment of Property, the commission, if the commission is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

(c) For purposes of this Subsection (3) only, if a county assessor, county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year:

(i) the original assessed value shall lose the presumption of correctness;

(ii) a preponderance of the evidence shall suffice to sustain the burden for all parties; and

(iii) the county board of equalization or the commission shall be free to consider all evidence allowed by law in determining fair market value, including the original assessed value.

(4) (a) The party described in Subsection (4)(b) shall carry the burden of proof before a county board of equalization or the commission in an action appealing the value of qualified real property if at least one party presents evidence of or otherwise asserts a value other than inflation adjusted value.

(b) For purposes of Subsection (4)(a):

(i) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof if the county assessor or county board of equalization presents evidence of or otherwise asserts a value that is greater than [~~or equal to~~] the inflation adjusted value; or

(ii) the taxpayer that is a party to the appeal has the burden of proof if the taxpayer presents evidence of or otherwise asserts a value that is less than the inflation adjusted value.

(c) The burdens of proof described in Subsection (4)(b) apply before a county board of equalization or the commission even if the previous year's valuation is:

(i) pending an appeal requested in accordance with Section 59-2-1006 or judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review; or

(ii) overturned by the commission as a result of an appeal requested in accordance with Section 59-2-1006 or by a court of competent jurisdiction as a result of judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review.

Section 10. Section 59-2-201 is amended to read:

59-2-201. Assessment by commission -- Determination of value of mining property -- Determination of value of aircraft -- Notification of assessment -- Local assessment of property assessed by the unitary method -- Commission may consult with county.

(1) (a) By May 1 of each year, the following property, unless otherwise exempt under the Utah Constitution or under [~~Part 11, Exemptions, Deferrals, and Abatements~~] Part 11, Exemptions, shall be assessed by the commission at 100% of fair market value, as valued on January 1, in accordance with this chapter:

(i) except as provided in Subsection (2), all property that operates as a unit across county lines, if the values must be apportioned among more than one county or state;

(ii) all property of public utilities;

(iii) all operating property of an airline, air charter service, and air contract service;

(iv) all geothermal fluids and geothermal resources;

(v) all mines and mining claims except in cases, as determined by the commission, where the mining claims are used for other than mining purposes, in which case the value of mining claims used for other than mining purposes shall be assessed by the assessor of the county in which the mining claims are located; and

(vi) all machinery used in mining, all property or surface improvements upon or appurtenant to mines or mining claims. For the purposes of assessment and taxation, all processing plants, mills, reduction works, and smelters that are primarily used by the owner of a mine or mining claim for processing, reducing, or smelting minerals taken from a mine or mining claim shall be considered appurtenant to that mine or mining claim, regardless of actual location.

(b) (i) For purposes of Subsection (1)(a)(iii), operating property of an air charter service does not include an aircraft that is:

(A) used by the air charter service for air charter; and

(B) owned by a person other than the air charter service.

(ii) For purposes of this Subsection (1)(b):

(A) "person" means a natural person, individual, corporation, organization, or other legal entity; and

(B) a person does not qualify as a person other than the air charter service as described in Subsection (1)(b)(i)(B) if the person is:

(I) a principal, owner, or member of the air charter service; or

(II) a legal entity that has a principal, owner, or member of the air charter service as a principal, owner, or member of the legal entity.

(2) (a) The commission may not assess property owned by a telecommunications service provider.

(b) The commission shall assess and collect property tax on state-assessed commercial vehicles at the time of original registration or annual renewal.

(i) The commission shall assess and collect property tax annually on state-assessed commercial vehicles that are registered pursuant to Section 41-1a-222 or 41-1a-228.

(ii) State-assessed commercial vehicles brought into the state that are required to be registered in Utah shall, as a condition of registration, be subject to ad valorem tax unless all property taxes or fees imposed by the state of origin have been paid for the current calendar year.

(iii) Real property, improvements, equipment, fixtures, or other personal property in this state owned by the company shall be assessed separately by the local county assessor.

(iv) The commission shall adjust the value of state-assessed commercial vehicles as necessary to comply with 49 U.S.C. Sec. 14502, and the commission shall direct the county assessor to apply the same adjustment to any personal property, real property, or improvements owned by the company and used directly and exclusively in their commercial vehicle activities.

(3) (a) The method for determining the fair market value of productive mining property is the capitalized net revenue method or any other valuation method the commission believes, or the taxpayer demonstrates to the commission's satisfaction, to be reasonably determinative of the fair market value of the mining property.

(b) The commission shall determine the rate of capitalization applicable to mines, consistent with a fair rate of return expected by an investor in light of that industry's current market, financial, and economic conditions.

(c) In no event may the fair market value of the mining property be less than the fair market value of the land, improvements, and tangible personal property upon or appurtenant to the mining property.

(4) (a) As used in this Subsection (4), "aircraft pricing guide" means a nationally recognized publication that assigns value estimates for individual commercial aircraft that are:

(i) identified by year, make, and model; and

(ii) in average condition typical for the aircraft's type and vintage.

(b) (i) Except as provided in Subsection (4)(d), the commission shall use an aircraft pricing guide, adjusted as provided in Subsection (4)(c), to determine the fair market value of aircraft assessed under this part.

(ii) The commission shall use the Airliner Price Guide as the aircraft pricing guide, except that:

(A) if the Airliner Price Guide is no longer published or the commission determines that another aircraft pricing guide more reasonably reflects the fair market value of aircraft, the commission, after consulting with the airlines operating in the state, shall select an alternative aircraft pricing guide;

(B) if an aircraft is not listed in the Airliner Price Guide, the commission shall use the Aircraft Bluebook Price Digest as the aircraft pricing guide; and

(C) if the Aircraft Bluebook Price Digest is no longer published or the commission determines that another aircraft pricing guide more reasonably reflects the fair market value of aircraft, the commission, after consulting with the airlines operating in the state, shall select an alternative aircraft pricing guide.

(c) (i) To reflect the value of an aircraft fleet that is used as part of the operating property of an airline, air charter service, or air contract service, the fair market value of the aircraft shall include a fleet adjustment as provided in this Subsection (4)(c).

(ii) If the aircraft pricing guide provides a method for making a fleet adjustment, the commission shall use the method described in the aircraft pricing guide.

(iii) If the aircraft pricing guide does not provide a method for making a fleet adjustment, the commission shall make a fleet adjustment by reducing the aircraft pricing guide value of each aircraft in the fleet by .5% for each aircraft over three aircraft up to a maximum 20% reduction.

(d) The commission may use an alternative method for valuing aircraft of an airline, air charter service, or air contract service if the commission:

(i) has clear and convincing evidence that the aircraft values reflected in the aircraft pricing guide do not reasonably reflect fair market value of the aircraft; and

(ii) cannot identify an alternative aircraft pricing guide from which the commission may determine aircraft value.

(5) Immediately following the assessment, the commission shall send, by certified mail, notice of the assessment to the owner or operator of the assessed property and the assessor of the county in which the property is located.

(6) The commission may consult with a county in valuing property in accordance with this part.

(7) The local county assessor shall separately assess property that is assessed by the unitary method if the commission determines that the property:

(a) is not necessary to the conduct of the business; and

(b) does not contribute to the income of the business.

Section 11. Section 59-2-919.1 is amended to read:

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection [~~(6)~~] (4), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the taxable value of the property;

(iii) (A) the deadline for the taxpayer to make an application to appeal the valuation or equalization of the property under Section 59-2-1004; or

(B) for property assessed by the commission, the deadline for the taxpayer to apply to the commission for a hearing on an objection to the valuation or equalization of the property under Section 59-2-1007;

(iv) for a property assessed by the commission, a statement that the taxpayer may not appeal the valuation or equalization of the property to the county board of equalization;

(v) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(vi) the following, stated separately:

(A) the charter school levy described in Section 53F-2-703;

(B) the multicounty assessing and collecting levy described in Subsection 59-2-1602(2);

(C) the county assessing and collecting levy described in Subsection 59-2-1602(4);

(D) for a fiscal year that begins before July 1, 2023, the combined basic rate as defined in Section 53F-2-301.5; and

(E) for a fiscal year that begins on or after July 1, 2023, the combined basic rate as defined in Section 53F-2-301;

(vii) the tax impact on the property;

(viii) the time and place of the required public hearing for each entity;

(ix) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes;

(C) collection procedures; and

(D) the residential exemption described in Section 59-2-103;

(x) information specifically authorized to be included on the notice under this chapter;

(xi) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); and

(xii) other property tax information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(viii); and

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate.

[~~(4) For tax year 2022, the notice described in Subsection (1) shall state:~~]

[~~(a) the difference between:~~]

[~~(i) the dollar amount of the taxpayer's liability for the combined basic rate as defined in Section 53F-2-301.5; and~~]

[~~(ii) the dollar amount that the taxpayer's liability for the combined basic rate as defined in Section 53F-2-301.5 would have been if the combined basic rate were equal to the sum of the minimum basic tax rate and the WPU value rate, as those terms are defined in Section 53F-2-301.5; and~~]

[~~(b) the percentage change between the amount described in Subsection (4)(a)(i) and the amount described in Subsection (4)(a)(ii).~~]

[~~(5) For tax years 2022 through 2025, the notice described in Subsection (1) shall state:~~]

[~~(a) the difference between:~~]

[~~(i) the dollar amount of the taxpayer's liability for the rate imposed under Subsection 59-2-1602(2)(b)(i); and~~]

[~~(ii) the dollar amount of the taxpayer's liability if the rate imposed under Subsection 59-2-1602(2)(b)(i) were the certified revenue levy; and~~]

[~~(b) the percentage change between the amount described in Subsection (5)(a)(i) and the amount described in Subsection (5)(a)(ii).~~]

[~~(6)~~] (4) (a) Subject to the other provisions of this Subsection [~~(6)~~] (4), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b) (i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection [~~(6)~~] (4):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection [~~(6)~~] (4), if:

(i) the taxpayer revokes an election in accordance with Subsection [~~(6)(c)~~] (4)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection [~~(6)~~] (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 12. Section 59-2-1101 is amended to read:

Part 11. Exemptions

59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) (i) "Educational purposes" means purposes carried on by an educational organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in this Subsection (1)(b)(ii).

(c) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(i) religious purposes;

(ii) charitable purposes; or

(iii) educational purposes.

(d) (i) "Farm machinery and equipment" means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(e) "Gift to the community" means:

(i) the lessening of a government burden; or

(ii) (A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

(f) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(g) (i) "Nonprofit entity" means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity's assets are distributable only for exempt purposes under state law or to the government for a public purpose; and

(C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) "Nonprofit entity" includes an entity:

(A) if the entity is treated as a disregarded entity for federal income tax purposes and wholly owned by, and controlled under the direction of, a nonprofit entity; and

(B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.

[~~(h) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.~~]

(2) (a) Except as provided in Subsection (2)(b) [~~or (c), tax relief~~], an exemption under this part may be allowed only if the claimant is the owner of the

property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

[~~(c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed Forces Exemptions .~~]

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(A) religious purposes;

(B) charitable purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational; and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

(8) A county legislative body may adopt rules or ordinances to:

(a) effectuate [~~the exemptions, deferrals, abatements, or other relief from taxation provided~~

~~in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and~~] an exemption under this part; and

(b) designate one or more persons to perform the functions given to the county under this par [~~, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions~~].

(9) If a person is dissatisfied with [~~a tax relief~~] an exemption decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 13. Section 59-2-1102 is amended to read:

59-2-1102. Determination of exemptions by board of equalization -- Appeal -- Application for exemption -- Annual statement -- Exceptions.

(1) (a) For property assessed under Part 3, County Assessment, the county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation.

(b) The decision of the county board of equalization described in Subsection (1)(a) shall:

(i) be in writing; and

(ii) include:

(A) a statement of facts; and

(B) the statutory basis for its decision.

(c) Except as provided in Subsection (10)(a), a copy of the decision described in Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

(2) Except as provided in Subsection (7) and subject to Subsection (8), a reduction in the value of property may not be made under this part [~~or Part 18, Tax Deferral and Tax Abatement, and an exemption may not be granted under this part or Part 19, Armed Forces Exemptions~~], unless the person affected or the person's agent:

(a) submits a written application to the county board of equalization; and

(b) verifies the application by signed statement.

(3) (a) The county board of equalization may require a person making an application for exemption or reduction to appear before the county board of equalization and be examined under oath.

(b) If the county board of equalization requires a person making an application for exemption or reduction to appear before the county board of equalization, a reduction may not be made or exemption granted unless the person appears and answers all questions pertinent to the inquiry.

(4) For the hearing on the application, the county board of equalization may subpoena any witnesses, and hear and take any evidence in relation to the pending application.

(5) Except as provided in Subsection (10)(b), the county board of equalization shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.

(6) Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

(7) Notwithstanding Subsection (2), a county board of equalization may not require an owner of property to file an application in accordance with this section in order to claim an exemption for the property under the following:

(a) Subsections 59-2-1101(3)(a)(i) through (iii);

(b) Subsection 59-2-1101(3)(a)(vi) or (viii);

(c) Section 59-2-1110;

(d) Section 59-2-1111;

(e) Section 59-2-1112;

(f) Section 59-2-1113; or

(g) Section 59-2-1114.

(8) (a) Except as provided in Subsection (8)(b), for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall, consistent with Subsection (9), require an owner of that property to file an application in accordance with this section in order to claim an exemption for that property.

(b) Notwithstanding Subsection (8)(a), a county board of equalization may not require an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to file an application under Subsection (8)(a) if:

(i) the owner filed an application under Subsection (8)(a);

(ii) the county board of equalization determines that the owner may claim an exemption for that property; and

(iii) the exemption described in Subsection (8)(b)(ii) is in effect.

(c) (i) For the time period that an owner is granted an exemption in accordance with this section for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall require the owner to file an annual statement on or before March 1 on a form prescribed by the commission establishing that the property continues to be eligible for the exemption.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(A) the form for the annual statement required by Subsection (8)(c)(i);

(B) the contents of the form for the annual statement required by Subsection (8)(c)(i); and

(C) procedures and requirements for making the annual statement required by Subsection (8)(c)(i).

(iii) The commission shall make the form described in Subsection (8)(c)(ii)(A) available to counties.

(d) On or before April 1, a county board of equalization shall notify each property owner who fails to timely file an annual statement in accordance with Subsection (8)(c) of the county board of equalization's intent to revoke the exemption.

(e) An owner of exempt property described in Subsection 59-2-1101(3)(a)(iv) may file the annual statement described in Subsection (8)(c) after March 1 if the property owner:

(i) files the annual statement on or before March 31; and

(ii) includes a statement of facts establishing that the property owner was unable to file the annual statement on or before March 1 due to one of the following conditions and no other responsible party was capable of filing the annual statement:

(A) a medical emergency of the property owner, an immediate family member of the property owner, or the property owner's agent;

(B) the death of the property owner, an immediate family member of the property owner, or the property owner's agent; or

(C) other extraordinary and unanticipated circumstances.

(9) (a) For purposes of this Subsection (9), "exclusive use exemption" [~~is as~~] means the same as that term is defined in Section 59-2-1101.

(b) For purposes of Subsection (1)(a), when a person acquires property on or after January 1 that qualifies for an exclusive use exemption, that person may apply for the exclusive use exemption on or before the later of:

(i) the day set by rule as the deadline for filing a property tax exemption application; or

(ii) 120 days after the day on which the property is acquired.

(10) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed under Subsection (9), a county board of equalization shall send a copy of the decision described in Subsection (1)(c) to the person applying for the exemption on or before the later of:

(i) May 15; or

(ii) 45 days after the day on which the application for the exemption is filed.

(b) Notwithstanding Subsection (5), if an application for an exemption is filed under Subsection (9), a county board of equalization shall hold the hearing and render the decision described in Subsection (5) on or before the later of:

(i) May 1; or

(ii) 30 days after the day on which the application for the exemption is filed.

Section 14. Section 59-2-1710 is amended to read:

59-2-1710. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including a county, city, town, school district, local district, or special service district; or

(d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.

(3) (a) Land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.

(ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall make a

one-time in lieu fee payment to the county treasurer of the county in which the land is located:

(A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or

(B) if the land remaining after the acquisition by the governmental entity is less than [~~two acres~~] one acre, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues collected from the payment:

(i) to the taxing entities in which the land is located; and

(ii) in the same proportion as the revenue from real property taxes is distributed.

(4) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.

Section 15. Section 59-2-1803 is amended to read:

59-2-1803. Tax abatement for indigent individuals -- Maximum amount -- Refund.

(1) In accordance with this part, a county may remit or abate the taxes of an indigent individual:

(a) if the indigent individual owned the property as of January 1 of the year for which the county remits or abates the taxes; and

(b) in an amount not more than the lesser of:

[~~(a)~~] (i) the amount provided as a homeowner's credit for the lowest household income bracket as described in Section 59-2-1208; or

[~~(b)~~] (ii) 50% of the total tax levied for the indigent individual for the current year.

(2) A county that grants an abatement to an indigent individual shall refund to the indigent individual an amount that is equal to the amount by which the indigent individual's property taxes paid exceed the indigent individual's property taxes due, if the amount is at least $1.

Section 16. Section 59-2-1806 is enacted to read:

59-2-1806 (Codified as 59-2-1807). County legislative body authority to adopt rules or ordinances.

A county legislative body may adopt rules or ordinances to:

(1) effectuate an abatement or exemption; or

(2) designate one or more persons to perform the functions given to the county under this part.

Section 17. Section 59-2-1906 is enacted to read:

59-2-1906. County legislative body authority to adopt rules or ordinances.

A county legislative body may adopt rules or ordinances to:

(1) effectuate an exemption under this part; or

(2) designate one or more persons to perform the functions given to the county under this part.

Section 18. Section 59-10-552 is amended to read:

59-10-552. Carry forward of expired or repealed tax credit.

When a nonrefundable individual income tax credit, under Part 10, Nonrefundable Tax Credit Act, expires or is repealed, the commission shall allow a claimant, estate, or trust to carry forward any amount of the tax credit that remains for the period of time described in the tax credit for the taxable year in which the [~~estate, claimant, or estate~~] claimant, estate, or trust first claimed the tax credit.

Section 19. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection [~~(12)(a)~~] (11)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(e)(i)(A)(I).

(i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(e)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in

Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year [~~shall be deposited as follows:~~].

[~~(a) for fiscal year 2020-21 only:~~]

[~~(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and~~]

[~~(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and~~]

[~~(b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.~~]

(7) (a) Notwithstanding Subsection (3)(a)[~~, in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b)~~] and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, [~~2012~~] 2023, the [~~Division of Finance~~] commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124[~~:~~]

[~~(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products~~] a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

[~~(A)~~] (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

[~~(B)~~] (ii) the tax imposed by Subsection (2)(b)(i);

[~~(C)~~] (iii) the tax imposed by Subsection (2)(c)(i); and

[~~(D)~~] (iv) the tax imposed by Subsection (2)(e)(i)(A)(I)[~~; plus~~].

[~~(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.~~]

[~~(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:~~]

[~~(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and~~]

[~~(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.~~]

[~~(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection~~

~~(7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).~~]

[~~(iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).~~]

(b) [~~(iv)~~] (i) As used in this Subsection (7)(b):

(A) [~~As used in this Subsection (7)(b)(iv), "additional~~] "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) [~~As used in this Subsection (7)(b)(iv), "combined~~] "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections [~~(7)(b)(iv)(F) and (8)(d)(vi)~~] (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) [~~As used in this Subsection (7)(b)(iv),~~] "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) [~~As used in this Subsection (7)(b)(iv), "relevant~~] "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections [~~(7)(a)(i)(A) through (D)~~] (7)(a)(i) through (iv).

[~~(E)~~] (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection [~~(7)(b)(iii)~~] (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection [~~(7)(b)(iv)~~] (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection [~~(7)(b)(iv)(F)~~] (7)(b)(iii).

[~~(F)~~] (iii) The commission shall annually deposit the amount described in Subsection [~~(7)(b)(iv)(E)~~] (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

[~~(G)~~] (iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection [~~(7)(b)(iv)~~] (7)(b) in the same proportion as the decline in relevant revenue.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under [~~Subsections (6) and~~] Subsection (7), and subject to Subsections (8)(b) and [~~(d)(v)~~] (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d)[~~,~~]:

(A) [~~"additional~~] "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

[~~(ii)~~] (B) [~~As used in this Subsection (8)(d), "combined~~] "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections [~~(7)(b)(iv)(F) and (8)(d)(vi)~~] (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

[~~(iii)~~] (C) [~~As used in this Subsection (8)(d),~~] "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

[~~(iv)~~] (D) [~~As used in this Subsection (8)(d), "relevant~~] "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

[~~(v)~~] (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection [~~(8)(d)(vi)~~] (8)(d)(iii).

[~~(vi)~~] (iii) The commission shall annually deposit the amount described in Subsection [~~(8)(d)(v)~~]

(8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

[~~(vii)~~] (iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

[~~(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:~~]

[~~(i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and~~]

[~~(ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).~~]

[~~(b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(e).~~]

[~~(11)~~] (10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the [~~Division of Finance~~] commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the [~~Division of Finance~~] commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

[~~(12)~~] (11) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the [~~Division of Finance~~] commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection [~~(12)(a)~~] (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

[~~(13)~~] (12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the [~~Division of Finance~~] commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

[~~(14)~~] (13) (a) For each fiscal year beginning with fiscal year 2020-21, the [~~Division of Finance~~] commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections [~~(6) through~~] (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections [~~(6) through~~] (7) and (8) is less than $1,813,400 for a fiscal year, the [~~Division of Finance~~] commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections [~~(6) through~~] (7) and (8) during the fiscal year to the General Fund.

[~~(15)~~] (14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

[~~(16)~~] (15) Notwithstanding Subsection (3)(a), the [~~Division of Finance~~] commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(e)(i)(A)(I).

Section 20. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) (a) Except as provided in Subsections [~~(3) through (5)~~] (3) and (4) and subject to Subsection [~~(6)~~] (5):

(i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(ii) (A) except as provided in Subsections (2)(a)(ii)(B), (C), and (D), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(B) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201;

(C) beginning July 1, 2022, 50% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201; and

(D) 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

[~~(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:~~]

[~~(i) the county, city, or town is a:~~]

[~~(A) county of the third, fourth, fifth, or sixth class;~~]

[~~(B) city of the fifth class; or~~]

[~~(C) town;~~]

[~~(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;~~]

[~~(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or~~]

[~~(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and~~]

[~~(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or~~]

[~~(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.~~]

[~~(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):~~]

[~~(i) from the distribution required by Subsection (2)(a); and~~]

[~~(ii) before making any other distribution required by this section.~~]

[~~(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by $333,583.~~]

[~~(ii) For purposes of Subsection (3)(c)(i):~~]

[~~(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and~~]

[~~(B) the denominator of the fraction is $333,583.~~]

[~~(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.~~]

[~~(4)~~] (3) (a) As used in this Subsection [~~(4)~~] (3):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection [~~(4)(b)~~] (3)(b) equal to

the amount described in Subsection [~~(4)(b)(ii)~~] (3)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

[~~(5)~~] (4) (a) For purposes of this Subsection [~~(5)~~] (4):

(i) "Annual local contribution" means the lesser of $200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection [~~(5)(b)(i)~~] (4)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3) [~~or (4)~~], the commission shall apply the provisions of this Subsection [~~(5)~~] (4) after the commission applies the provisions of [~~Subsections (3) and (4)~~] Subsection (3).

[~~(6)~~] (5) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 21. Section 59-12-302 is amended to read:

59-12-302. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2), (3), and (4), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through [~~(6)~~] (5).

(4) A county auditor may make referrals to the commission to assist the commission in determining whether to require an audit of any person that is required to remit a tax authorized under this part.

(5) The commission:

(a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this part.

Section 22. Section 59-12-354 is amended to read:

59-12-354. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(b) The commission:

(i) except as provided in Subsection (2)(b)(ii), shall distribute the revenue collected from the tax to the municipality within which the revenue was collected; and

(ii) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from

the revenue the commission collects from a tax under this part.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through [~~(6)~~] (5).

Section 23. Section 59-12-403 is amended to read:

59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be

administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through [~~(6)~~] (5).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

Section 24. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) beginning on January 1, 2021, a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food; and

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) A county of the first class shall expend at least $450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to

conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through [~~(6)~~] (5).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase

shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 25. Section 59-12-703 is amended to read:

59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) sales and uses within a municipality that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenue generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.

(3) Subject to Section 59-12-704, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through [~~(6)~~] (5).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 26. Section 59-12-802 is amended to read:

59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county.

(b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:

(i) rural emergency medical services in that county;

(ii) federally qualified health centers in that county;

(iii) freestanding urgent care centers in that county;

(iv) rural county health care facilities in that county;

(v) rural health clinics in that county; or

(vi) a combination of Subsections (1)(b)(i) through (v).

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)(b) within that county;

(b) the acquisition of land for a center, clinic, or facility described in Subsection (1)(b) within that county;

(c) the design, construction, equipping, or furnishing of a center, clinic, or facility described in Subsection (1)(b) within that county; or

(d) rural emergency medical services within that county.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through [~~(6)~~] (5).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 27. Section 59-12-804 is amended to read:

59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the city; and

(ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the city legislative body; and

(ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) ongoing operating expenses of a rural city hospital;

(b) the acquisition of land for a rural city hospital; or

(c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the city legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through [~~(6)~~] (5).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 28. Section 59-12-1102 is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) on the Utah Public Notice Website created in Section 63A-16-601, for two weeks preceding the earlier of the two public hearings.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least $75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is $75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through [~~(6)~~] (5).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection

(4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) $6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and

use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 29. Section 59-12-1201 is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(4) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections [~~59-12-103(4) through (10)~~] 59-12-103(4) through (9) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

Section 30. Section 59-12-1302 is amended to read:

59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

(2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

(3) A town imposing a tax under this section shall:

(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) A town may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) A town imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food

and food ingredients and tangible personal property other than food and food ingredients.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) The commission shall:

(a) distribute the revenue generated by the tax under this section to the town imposing the tax; and

(b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) A tax under this section is not subject to Subsections 59-12-205(2) through [~~(6)~~] (5).

Section 31. Section 59-12-1402 is amended to read:

59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A city or town legislative body may not impose a tax under this section:

(i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(ii) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;

(b) to finance ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:

(i) administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.

(ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a ten-year period.

(c) A tax under this section is not subject to Subsections 59-12-205(2) through [~~(6)~~] (5).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county

under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Section 32. Section 59-12-2103 is amended to read:

59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) As used in this section, "eligible city or town" means a city or town that imposed a tax under this part on July 1, 2016.

(b) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), the legislative body of an eligible city or town may impose a sales and use tax of up to .20% on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the city or town.

(c) A city or town legislative body that imposes a tax under Subsection (1)(b) shall expend the revenue collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenue.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(2) (a) A city or town legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

(b) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(3) An eligible city or town may impose a tax under this part until no later than June 30, 2030.

(4) The commission shall transmit revenue collected within a city or town from a tax under this part:

(a) to the city or town legislative body;

(b) monthly; and

(c) by electronic funds transfer.

(5) (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through [~~(6)~~] (5).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.

(ii) The notice described in Subsection (7)(a)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;

(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.

(b) (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (7)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 33. Section 59-12-2206 is amended to read:

59-12-2206. Administration, collection, and enforcement of a sales and use tax under this part -- Transmission of revenue monthly by electronic funds transfer -- Transfer of revenue to a public transit district or eligible political subdivision.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a sales and use tax imposed under this part.

(2) The commission shall administer, collect, and enforce a sales and use tax imposed under this part in accordance with:

(a) the same procedures used to administer, collect, and enforce a tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(3) A sales and use tax under this part is not subject to Subsections 59-12-205(2) through [~~(6)~~] (5).

(4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another provision of this part, the state treasurer shall transmit revenue collected within a county, city, or town from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

(5) (a) Subject to Section 59-12-2207, and except as provided in Subsection (5)(b), the state treasurer shall transfer revenue collected within a county, city, or town from a sales and use tax under this part directly to a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, or an eligible political subdivision as defined in Section 59-12-2219, if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) designates the public transit district or eligible political subdivision to which the county, city, or town legislative body requests the state treasurer to transfer the revenue.

(b) The commission shall transmit a portion of the revenue collected within a county, city, or town from a sales and use tax under this part that would be transferred to a public transit district or an eligible political subdivision under Subsection (5)(a) to the county, city, or town to fund public transit fixed guideway safety oversight under Section 72-1-214 if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) specifies the amount of revenue required to be transmitted to the county, city, or town.

Section 34. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) [~~Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements~~] Title 59, Chapter 2, Part 11, Exemptions;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);

(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); and

(dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 35. Section 63N-2-510 is amended to read:

63N-2-510. Report by office -- Posting of report.

(1) The office shall include the following information in the office's annual written report described in Section 63N-1a-306:

(a) the state's success in attracting new conventions and corresponding new state revenue;

(b) the estimated amount of convention incentive commitments and the associated calculation made by the office and the period of time over which convention incentives are expected to be paid;

(c) the economic impact on the state related to generating new state revenue and providing convention incentives; and

(d) the estimated and actual costs and economic benefits of the convention incentive commitments that the office made.

(2) Upon the commencement of the construction of a qualified hotel, the office shall send a written notice to the Division of Finance:

(a) referring to the two annual deposits required under Subsection [~~59-12-103(11)~~] 59-12-103(10); and

(b) notifying the Division of Finance that construction on the qualified hotel has begun.

Section 36. Section 63N-2-512 is amended to read:

63N-2-512. Hotel Impact Mitigation Fund.

(1) As used in this section:

(a) "Affected hotel" means a hotel built in the state before July 1, 2014.

(b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified

hotel room supply being added to the market in the state.

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by the GO Utah board;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection [~~59-12-103(11)~~] 59-12-103(10);

(ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection (6).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5) (a) In accordance with office rules, the GO Utah board shall annually pay up to $2,100,000 of money in the mitigation fund:

(i) to affected hotels;

(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and

(iii) to mitigate direct losses.

(b) (i) If the amount the GO Utah board pays under Subsection (5)(a) in any year is less than $2,100,000, the GO Utah board shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63N-2-511, the difference between $2,100,000 and the amount paid under Subsection (5)(a).

(ii) The GO Utah board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the GO Utah board is required to pay to affected hotels under Subsection (5)(a).

(6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Section 37. Repealer.

This bill repeals:

Section 59-7-613, Tax credits for machinery, equipment, or both primarily used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

Section 59-7-614.9, Nonrefundable tax credit for employing a recently deployed veteran.

Section 59-7-617, Nonrefundable tax credit for employment of a person who is homeless.

Section 59-7-622, Nonrefundable tax credit for small employer's participation in retirement.

Section 59-10-1013, Tax credits for machinery, equipment, or both primarily used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

Section 59-10-1040, Nonrefundable tax credit for small employer's participation in retirement.

Section 38. Retrospective operation.

Section 59-2-919.1 has retrospective operation to January 1, 2023.

CHAPTER 472
H. B. 75
Passed February 14, 2023
Approved March 23, 2023
Effective May 3, 2023

STATE COMMEMORATIVE PERIODS AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to commemorative periods.

Highlighted Provisions:

This bill:

- defines terms;
- provides for the establishment of commemorative periods by the governor; and
- requires the governor's office to maintain a list of commemorative periods.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-401, as last amended by Laws of Utah 2022, Chapter 14

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-401 is amended to read:

63G-1-401. Commemorative periods.

(1) As used in this section, "commemorative period" means a special observance declared by the governor that annually recognizes and honors a culturally or historically significant day, week, month, or other time period in the state.

(2) (a) The governor may declare a commemorative period by issuing a declaration.

(b) The governor shall maintain a list of all commemorative periods declared by the governor.

(3) (a) The governor's declaration of a commemorative period expires the year immediately following the day on which the governor issues the declaration.

(b) Subsection (3)(a) does not prevent the governor from redeclaring a commemorative period before or after the commemorative period expires.

[~~(1)~~] (4) [~~The~~] Notwithstanding Subsections (2) and (3), the following days shall be commemorated annually:

(a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history;

(b) Day of Remembrance for Incarceration of Japanese Americans, on February 19, in remembrance of the incarceration of Japanese Americans during World War II;

(c) Utah State Flag Day, on March 9;

(d) Vietnam Veterans Recognition Day, on March 29;

(e) Utah Railroad Workers Day, on May 10;

(f) Dandy-Walker Syndrome Awareness Day, on May 11;

(g) Armed Forces Day, on the third Saturday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

[~~(h) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;~~]

[~~(i)~~] (h) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;

[~~(j)~~] (i) Navajo Code Talker Day, on August 14;

[~~(k)~~] (j) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

(i) encourage individuals to make child safety a priority;

(ii) remember the importance of continued efforts to reunite missing children with their families; and

(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;

[~~(l)~~] (k) Constitution Day, on September 17;

[~~(m)~~] (l) POW/MIA Recognition Day, on the third Friday in September;

[~~(n)~~] (m) Victims of Communism Memorial Day, on November 7;

[~~(o)~~] (n) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

[~~(p)~~] (o) Bill of Rights Day, on December 15.

[~~(2)~~] (5) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections [~~(1)(g) and (m)~~] (4)(g) and (l).

[~~(3)~~] (6) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

[~~(4)~~] (7) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

[~~(5)~~] (8) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

[~~(6)~~] (9) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

[~~(7)~~] (10) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

[~~(8)~~] (11) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

[~~(9)~~] (12) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

[~~(10)~~] (13) The month of October shall be commemorated annually as Italian-American Heritage Month.

[~~(11)~~] (14) The month of November shall be commemorated annually as American Indian Heritage Month.

[~~(12)~~] (15) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

(a) educate the public about avalanche awareness and safety;

(b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and

(c) honor Utah residents who have lost their lives in avalanches, including those who lost their lives working to prevent avalanches.

CHAPTER 473
H. B. 144
Passed March 3, 2023
Approved March 23, 2023
Effective January 1, 2024

HIGH COST INFRASTRUCTURE DEVELOPMENT TAX CREDIT AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies the high cost infrastructure development tax credit.

Highlighted Provisions:

This bill:

- provides that the corporate high cost infrastructure development tax credit does not automatically expire for lack of use before the 2027 tax year;
- modifies the definition of "high cost infrastructure project" to include the storage or production of all fuels;
- defines an "underground mine infrastructure project";
- adds an "underground mine infrastructure project" to the definition of "infrastructure" for purposes of being eligible for a high cost infrastructure development income tax credit;
- includes severance tax revenue in the calculation of the taxpayer's high cost infrastructure development tax credit; and
- provides that a high cost infrastructure project that begins in the taxable year before an applicant makes a tax credit application is eligible for a tax credit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-7-619, as last amended by Laws of Utah 2021, Chapters 280, 367
79-6-602, as last amended by Laws of Utah 2022, Chapter 44
79-6-603, as last amended by Laws of Utah 2022, Chapter 44

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-619 is amended to read:

59-7-619. Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.

(d) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) Subject to the other provisions of this section, a corporation that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(B) the infrastructure-related revenue generated by each high cost infrastructure project;

(C) the information contained in the office's latest report under Section 79-6-605; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal

Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

(6) Notwithstanding Section 59-7-903, the commission may not remove the tax credit described in this section from the tax return for a taxable year beginning before January 1, 2027.

Section 2. Section 79-6-602 is amended to read:

79-6-602. Definitions.

As used in this part:

(1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.

(2) "Energy delivery project" means a project that is designed to:

(a) increase the capacity for the delivery of energy to a user of energy inside or outside the state; or

(b) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state.

(3) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

(4) "High cost infrastructure project" means a project, including an energy delivery project or a fuel standard compliance project:

(a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;

(ii) that involves new investment of at least $50,000,000 in an existing industrial, mining, manufacturing, or agriculture entity, by the entity; or

(iii) for the construction of a plant or other facility[~~, including a fueling station,~~] for the storage[~~, production, or distribution of hydrogen~~] or production of fuel used for transportation, electricity generation, or industrial use;

(b) that requires or is directly facilitated by infrastructure construction; and

(c) for which the cost of infrastructure construction to the entity creating the project is greater than:

(i) 10% of the total cost of the project; or

(ii) $10,000,000.

(5) "Infrastructure" means:

(a) an energy delivery project;

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

(f) a water removal system project;

(g) a solution-mined subsurface salt cavern; [~~or~~]

(h) a project that is designed to:

(i) increase the capacity for water delivery to a water user in the state; or

(ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state[~~.~~]; or

(i) an underground mine infrastructure project.

(6) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (6)(a).

(7) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

(a) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;

(b) Title 59, Chapter 5, Part 2, Mining Severance Tax;

(c) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

[~~(b)~~] (d) Title 59, Chapter 10, Individual Income Tax Act; and

[~~(c)~~] (e) Title 59, Chapter 12, Sales and Use Tax Act.

(8) "Office" means the Office of Energy Development created in Section 79-6-401.

(9) "Tax credit" means a tax credit under Section 59-7-619 or 59-10-1034.

(10) "Tax credit certificate" means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity's taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

(11) (a) "Underground mine infrastructure project" means a project that:

(i) is designed to create permanent underground infrastructure to facilitate underground mining operations; and

(ii) services multiple levels or areas of an underground mine or multiple underground mines.

(b) "Underground mine infrastructure project" includes:

(i) an underground access or a haulage road, entry, ramp, or decline;

(ii) a vertical or incline mine shaft;

(iii) a ventilation shaft or an air course; or

(iv) a conveyor or a truck haulageway.

Section 3. Section 79-6-603 is amended to read:

79-6-603. Tax credit -- Amount -- Eligibility -- Reporting.

(1) (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure Board created in Section 79-6-902, and other state agencies as necessary, shall, in accordance with the procedures described in Section 79-6-604, certify:

[~~(a)~~] (i) that the project meets the definition of a high cost infrastructure project under this part;

[~~(b)~~] (ii) that the high cost infrastructure project will generate infrastructure-related revenue;

[~~(c)~~] (iii) the economic life of the high cost infrastructure project; and

[~~(d)~~] (iv) that the applicant has received a certificate of existence from the Division of Corporations and Commercial Code.

(b) For purposes of determining whether a project meets the definition of a high cost infrastructure project, the office shall consider a project to be a new project if the project began no earlier than the taxable year before the year in which the applicant applies for a tax credit.

(2) (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure Board shall evaluate the project's net benefit to the state, including:

(i) whether the project is likely to increase the property tax revenue for the municipality or county where the project will be located;

(ii) whether the project would contribute to the economy of the state and the municipality, tribe, or county where the project will be located;

(iii) whether the project would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;

(iv) whether the project is supported by a business case for providing the revenue necessary to finance the construction and operation of the project;

(v) whether the project would have a positive environmental impact on the state;

(vi) whether the project promotes responsible energy development;

(vii) whether the project would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability;

(viii) whether the project is less likely to be completed without a tax credit issued to the applicant under this part; and

(ix) other relevant factors that the board specifies in the board's evaluation.

(b) Before the office enters into an agreement described in Subsection (3) with an applicant regarding an energy delivery project, in addition to the criteria described in Subsection (2)(a) the Utah Energy Infrastructure Board shall determine that the project:

(i) is strategically situated to maximize connections to an energy source project located in the state that is:

(A) existing;

(B) under construction;

(C) planned; or

(D) foreseeable;

(ii) is supported by a project plan related to:

(A) engineering;

(B) environmental issues;

(C) energy production;

(D) load or other capacity; and

(E) any other issue related to the building and operation of energy delivery infrastructure; and

(iii) complies with the regulations of the following regarding the building of energy delivery infrastructure:

(A) the Federal Energy Regulatory Commission;

(B) the North American Electric Reliability Council; and

(C) the Public Service Commission of Utah.

(c) The Utah Energy Infrastructure Board may recommend that the office deny an applicant a tax credit if, as determined by the Utah Energy Infrastructure Board:

(i) the project does not sufficiently benefit the state based on the criteria described in Subsection (2)(a); or

(ii) for an energy delivery project, the project does not satisfy the conditions described in Subsection (2)(b).

(3) Subject to the procedures described in Section 79-6-604, if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure Board under Subsection (2), the office shall enter into an agreement with the applicant to authorize the tax credit in accordance with this part.

(4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):

(a) for the lesser of:

(i) the economic life of the high cost infrastructure project;

(ii) 20 years; or

(iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:

(A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or

(B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the infrastructure construction associated with the high cost infrastructure project;

(b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a);

(c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during that taxable year; and

(d) if the high cost infrastructure project is a fuel standard compliance project, in a total amount that is:

(i) determined by the Utah Energy Infrastructure Board, based on:

(A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and

(B) how soon the applicant plans to complete the high cost infrastructure project; and

(ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a).

(5) An infrastructure cost-burdened entity shall, for each taxable year:

(a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;

(b) subject to Subsection (7), file a report with the office that is prepared by an independent certified public accountant that verifies the infrastructure-related revenue described in Subsection (5)(a); and

(c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.

(6) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.

(7) An infrastructure cost-burdened entity for which a report is prepared under Subsection (5)(b) shall pay the costs of preparing the report.

(8) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.

Section 4. Effective date.

This bill takes effect on January 1, 2024.

CHAPTER 474
H. B. 208
Passed February 27, 2023
Approved March 23, 2023
Effective May 3, 2023

CRIMINAL TRESPASS AMENDMENTS

Chief Sponsor: Scott H. Chew
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses criminal trespass on private property related to use of public waters.

Highlighted Provisions:

This bill:

- defines terms;
- establishes the elements of and penalty for certain criminal trespass;
- specifies certain defenses; and
- provides for statutory damages, attorney fees, and court costs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-6-206.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-6-206.5 is enacted to read:

76-6-206.5 (Codified as 76-6-206.6). Criminal trespass on private property for recreational purposes related to use of public waters.

(1) (a) As used in this section:

(i) "Bank" means the land within three feet of a public water.

(ii) "Private property" means the bed or bank of a non-navigable freshwater stream or river that flows through privately owned land and is privately owned.

(iii) "Private property to which access is restricted" means the same as that term is defined in Section 73-29-102.

(iv) "Recreational purpose" includes one or more of the following:

(A) hunting;

(B) fishing;

(C) swimming;

(D) skiing;

(E) snowshoeing;

(F) camping;

(G) picnicking;

(H) hiking;

(I) studying nature;

(J) engaging in water sports;

(K) mountain biking; or

(L) viewing or enjoying historical, archaeological, scenic, or scientific sites.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) An actor is guilty of criminal trespass if for recreational purposes, under circumstances not amounting to a greater offense, and without authorization or a right under state law:

(a) the actor touches or remains unlawfully on private property to which access is restricted in violation of Section 73-29-201 and:

(i) intends to cause annoyance or injury to a person or damage to property;

(ii) intends to commit a crime, other than theft or a felony; or

(iii) is reckless as to whether the actor's presence will cause fear for the safety of another; or

(b) knowing the actor's touching or presence is unlawful, the actor touches or remains on private property to which notice against entering is given by:

(i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) It is a defense to prosecution under this section that:

(a) (i) the private property was at the time open to the public; and

(ii) the actor complied with all lawful conditions imposed on access to or remaining on the private property;

(b) the actor acted in compliance with an express easement; or

(c) the actor touched the private property as allowed by Section 73-29-202.

(5) In addition to an order for restitution under Section 77-38b-205, an actor who violates Subsection (2) is also liable for:

(a) statutory damages in the amount of the greater of:

(i) three times the value of damages resulting from the violation of Subsection (2); or

(ii) $500;

(b) reasonable attorney fees not to exceed $250; and

(c) court costs.

(6) Civil damages under Subsection (5) may be collected in a separate action by the private property owner or the owner's assignee.

CHAPTER 475
H. B. 210
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

JUSTICE COURT CHANGES

Chief Sponsor: Jon Hawkins
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends provisions related to justice courts.

Highlighted Provisions:

This bill:

- creates the Justice Court Reform Task Force;
- provides the membership of the Justice Court Reform Task Force;
- addresses vacancies, salaries and expenses, staffing, and the duties of the Justice Court Reform Task Force;
- provides a sunset date for the Justice Court Reform Task Force;
- clarifies that a justice court is part of the state judiciary;
- addresses the independence of a justice court from other branches of government for a municipality or county;
- amends the eligibility requirements for a justice court judge;
- amends provisions regarding the salary of a justice court judge;
- repeals a statute regarding an annual review and adjustment of a justice court judge's compensation; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
63I-1-236, as last amended by Laws of Utah 2022, Chapters 175, 247
78A-7-101, as last amended by Laws of Utah 2012, Chapter 205
78A-7-201, as last amended by Laws of Utah 2016, Chapter 146
78A-7-206, as last amended by Laws of Utah 2022, Chapter 276

ENACTS:
36-29-112, Utah Code Annotated 1953

REPEALS:
78A-7-207, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-29-112 is enacted to read:

36-29-112. Justice Court Reform Task Force.

(1) As used in this section, "task force" means the Justice Court Reform Task Force created in Subsection (2).

(2) There is created the Justice Court Reform Task Force consisting of the following members:

(a) two members of the Senate, appointed by the president of the Senate;

(b) two members of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the state court administrator or the state court administrator's designee;

(d) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(e) one member representing municipalities, appointed by the Utah League of Cities and Towns;

(f) one member representing counties, appointed by the Utah Association of Counties; and

(g) one attorney representing the Utah State Bar, appointed by the Utah State Bar.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) If a vacancy occurs in the membership of the task force described in Subsection (2), the member shall be replaced in the same manner in which the original appointment was made.

(5) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(6) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with:

(a) Section 36-2-2;

(b) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses; and

(c) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(7) A member of the task force who is not a legislator:

(a) may not receive compensation for the member's work associated with the task force; and

(b) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(8) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(9) The task force shall review the court system of this state and make recommendations regarding:

(a) the structure and organization of the court system of this state;

(b) appeals from the justice court to the district court;

(c) qualifications and requirements for justice court judges;

(d) the procedures and practices for small claims cases and infractions; and

(e) other changes related to justice courts.

(10) On or before November 30 of each year that the task force is in effect, the task force shall provide a report, including any proposed legislation, to:

(a) the Judiciary Interim Committee; and

(b) the Legislative Management Committee.

(11) The task force is repealed July 1, 2025.

Section 2. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates: Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

(2) Section 36-12-20 is repealed June 30, 2023.

(3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

(4) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1, 2023.

(5) Section 36-29-112, Justice Court Reform Task Force, is repealed July 1, 2025.

[~~(5) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2022.~~]

Section 3. Section 78A-7-101 is amended to read:

78A-7-101. Creation of justice court -- Not of record -- Independent branch of local government -- Classes of justice courts.

(1) (a) Under Article VIII, Section 1, Utah Constitution, there is created a court not of record known as the justice court.

(b) The judges of this court are justice court judges.

(2) A justice court is:

(a) a court of this state in accordance with Section 78A-1-101;

(b) a part of the state judiciary even though the justice court is funded and staffed by a municipality or county; and

(c) independent from the other branches of government for a municipality or county.

(3) A justice court may not be treated as part of the executive or legislative branches or offices of a municipality or county.

(4) A municipality or county may only operate a justice court as authorized by this chapter.

[~~(2)~~] (5) Justice courts shall be divided into the following classes:

(a) Class I: 501 or more case filings per month;

(b) Class II: 201-500 case filings per month;

(c) Class III: 61-200 case filings per month; and

(d) Class IV: 60 or fewer case filings per month.

Section 4. Section 78A-7-201 is amended to read:

78A-7-201. Justice court judge eligibility -- Mandatory retirement.

(1) A justice court judge shall be:

(a) a citizen of the United States;

(b) 25 years [~~of age~~] old or older;

(c) a resident of Utah for at least three years immediately preceding [~~his~~] the judge's appointment;

(d) upon appointment or within a reasonable time after appointment, a resident of the county, an adjacent county, or the judicial district in which the justice court is located; and

[~~(d) a resident of the county in which the court is located or an adjacent county for at least six months immediately preceding appointment; and~~]

(e) a qualified voter of the county in which the judge resides.

(2) (a) On and after May 3, 2023, a justice court judge shall have a degree from a law school that makes one eligible to apply for admission to a bar in any state.

(b) A justice court judge holding office on May 3, 2023, who does not meet the qualification described in Subsection (2)(a) may continue in office until the judge resigns, retires, is not retained in a retention election, or is removed from office.

(3) Notwithstanding Subsection (2), a justice court judge is not required to be admitted to practice law in the state as a qualification to hold office.

[~~(2) Effective May 10, 2016, a justice court judge is not required to be admitted to practice law in the state as a qualification to hold office but:~~]

[~~(a) in counties of the first and second class, a justice court judge shall have a degree from a law school that makes one eligible to apply for admission to a bar in any state; and~~]

[~~(b) in counties of the third, fourth, fifth, and sixth class, a justice court judge shall have at the~~

~~minimum a diploma of graduation from high school or its equivalent.~~]

[~~(3)~~] (4) A justice court judge shall be a person who has demonstrated maturity of judgment, integrity, and the ability to understand and apply appropriate law with impartiality.

[~~(4)~~] (5) A justice court judge shall retire upon attaining the age of 75 years.

(6) If there are not at least two applicants for a justice court judge position who meet the requirement of Subsection (2)(a), the justice court nominating commission may:

(a) re-advertise the position; and

(b) accept applications from individuals who do not meet the requirement of Subsection (2)(a).

[~~(5) In counties of the first and second class, if there are not at least three applicants for a justice court judge position who meet the requirements of Subsection (2)(a), the justice court nominating commission shall re-advertise the position, and may accept applications from persons who do not meet the requirements of Subsections (1)(d) and (2)(a).~~]

[~~(6) (a) In accordance with Subsection 78A-7-202(3), the Administrative Office of the Courts shall provide notice to all attorneys in the county and adjacent counties when a justice court judge position is vacant.~~]

[~~(b) If the justice court nominating commission waives the requirement of Subsection (1)(d) in accordance with Subsection (5), the Administrative Office of the Courts shall provide notice to all attorneys in the state.~~]

[~~(7) A justice court judge holding office on May 10, 2016, who does not meet the qualification in Subsection (2)(a) may continue in the judge's position until the judge resigns, retires, is not retained in a retention election, or is removed from office.~~]

Section 5. Section 78A-7-206 is amended to read:

78A-7-206. Determination of compensation for justice court judge -- Limits on secondary employment -- Prohibition on holding political or elected office -- Penalties.

(1) Every justice court judge shall be paid a fixed compensation determined by the governing body of the respective municipality or county.

(a) The governing body of the municipality or county may not set a full-time justice court judge's salary at less than [~~50%~~] 70% nor more than 90% of a district court judge's salary.

(b) The governing body of the municipality or county shall set a part-time justice court judge's salary as follows:

(i) The governing body shall first determine the full-time salary range outlined in Subsection (1)(a).

(ii) The caseload of a part-time judge shall be determined by the office of the state court administrator and expressed as a percentage of the caseload of a full-time judge.

(iii) The judge's salary shall then be determined by applying the percentage determined in Subsection (1)(b)(ii) against the salary range determined in Subsection (1)(a).

(c) A justice court judge shall receive an annual salary adjustment at least equal to the average salary adjustment for all county or municipal employees for the jurisdiction served by the judge.

(d) Notwithstanding Subsection (1)(c), a justice court judge may not receive a salary greater than 90% of the salary of a district court judge.

(e) A justice court judge employed by more than one entity as a justice court judge may not receive a total salary for service as a justice court judge greater than the salary of a district court judge.

(f) A salary described in this Subsection (1) does not include additional compensation provided for a presiding judge or associate presiding judge of a justice court under Section 78A-7-209.5.

(2) A justice court judge may not appear as an attorney in any:

(a) justice court;

(b) criminal matter in any federal, state, or local court; or

(c) juvenile court case involving conduct which would be criminal if committed by an adult.

(3) A justice court judge may not hold any office or employment including contracting for services in any justice agency of state government or any political subdivision of the state including law enforcement, prosecution, criminal defense, corrections, or court employment.

(4) A justice court judge may not hold any office in any political party or organization engaged in any political activity or serve as an elected official in state government or any political subdivision of the state.

(5) A justice court judge may not own or be employed by any business entity which regularly litigates in small claims court.

(6) The Judicial Council shall file a formal complaint with the Judicial Conduct Commission for each violation of this section.

Section 6. Repealer.

This bill repeals:

Section 78A-7-207, Compensation -- Annual review and adjustment.

CHAPTER 476
H. B. 243
Passed February 16, 2023
Approved March 23, 2023
Effective May 3, 2023

PUBLIC TRANSIT EMPLOYEE COLLECTIVE BARGAINING AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill makes changes to provisions related to collective bargaining for employees of a public transit district.

Highlighted Provisions:

This bill:

- excludes confidential employees, managerial employees, and supervisors of a public transit district from certain employee rights and benefits, including the right to:
  - self-organization;
  - form, join, or assist a labor organization; and
  - bargain collectively through representatives of their choosing;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-802, as last amended by Laws of Utah 2022, Chapters 69, 406
17B-2a-813, as last amended by Laws of Utah 2013, Chapter 448

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-802 is amended to read:

17B-2a-802. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(3) (a) "Chief executive officer" means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) "Confidential employee" means a person who, in the regular course of the person's duties:

(a) assists in and acts in a confidential capacity in relation to other persons who formulate, determine, and effectuate management policies regarding labor relations; or

(b) has authorized access to information relating to effectuating or reviewing the employer's collective bargaining policies.

[~~(4)~~] (5) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

[~~(5)~~] (6) "Department" means the Department of Transportation created in Section 72-1-201.

[~~(6)~~] (7) "Executive director" means a person appointed by the board of trustees of a large public transit district to serve as executive director.

[~~(7)~~] (8) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

[~~(8)~~] (9) "Fixed guideway capital development" means the same as that term is defined in Section 72-1-102.

[~~(9)~~] (10) (a) "General manager" means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

[~~(10)~~] (11) "Large public transit district" means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on the most recent official census or census estimate of the United States Census Bureau; and

(b) two or more counties.

[~~(11)~~] (12) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

(13) "Managerial employee" means a person who is:

(a) engaged in executive and management functions; and

(b) charged with the responsibility of directing, overseeing, or implementing the effectuation of management policies and practices.

[~~(12)~~] (14) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

[~~(13)~~] (15) "Multicounty district" means a public transit district located in more than one county.

[~~(14)~~] (16) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

[~~(15)~~] (17) (a) "Public transit" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.

(b) "Public transit" does not include transportation services provided by:

(i) chartered bus;

(ii) sightseeing bus;

(iii) taxi;

(iv) school bus service;

(v) courtesy shuttle service for patrons of one or more specific establishments; or

(vi) intra-terminal or intra-facility shuttle services.

[~~(16)~~] (18) "Public transit district" means a local district that provides public transit services.

[~~(17)~~] (19) "Small public transit district" means any public transit district that is not a large public transit district.

[~~(18)~~] (20) "Station area plan" means a plan developed and adopted by a municipality in accordance with Section 10-9a-403.1.

(21) (a) "Supervisor" means a person who has authority, in the interest of the employer, to:

(i) hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or

(ii) adjust another employee's grievance or recommend action to adjust another employee's grievance.

(b) "Supervisor" does not include a person whose exercise of the authority described in Subsection (21)(a):

(i) is of a merely routine or clerical nature; and

(ii) does not require the person to use independent judgment.

[~~(19)~~] (22) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

[~~(20)~~] (23) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

[~~(21)~~] (24) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a large public transit district.

[~~(22)~~] (25) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a large public transit district.

Section 2. Section 17B-2a-813 is amended to read:

17B-2a-813. Rights, benefits, and protective conditions for employees of a public transit district -- Strike prohibited -- Employees of an acquired transit system.

(1) As used in this section:

(a) (i) "Employee" means an individual employed by an employer.

(ii) "Employee" does not include a person employed as a supervisor, managerial employee, or confidential employee.

(b) "Employer" means a person that employs an employee.

(2) The rights, benefits, and other employee protective conditions and remedies of Section 13(c) of the Urban Mass Transportation Act of 1964, 49 U.S.C. Sec. 5333(b), as determined by the Secretary of Labor, apply to a public transit district's establishment and operation of a public transit service or system.

[~~(2)~~] (3) (a) Employees of a public transit system established and operated by a public transit district have the right to:

(i) self-organization;

(ii) form, join, or assist labor organizations; and

(iii) bargain collectively through representatives of their own choosing.

(b) Employees of a public transit district and labor organizations may not join in a strike against the public transit system operated by the public transit district.

(c) Each public transit district shall:

(i) recognize and bargain exclusively with any labor organization representing a majority of the district's employees in an appropriate unit with respect to wages, salaries, hours, working conditions, and welfare, pension, and retirement provisions; and

(ii) upon reaching agreement with the labor organization, enter into and execute a written contract incorporating the agreement.

[~~(3)~~] (4) If a public transit district acquires an existing public transit system:

(a) all employees of the acquired system who are necessary for the operation of the acquired system, except executive and administrative officers and employees, shall be:

(i) transferred to and appointed employees of the acquiring public transit district; and

(ii) given sick leave, seniority, vacation, and pension or retirement credits in accordance with the acquired system's records;

(b) members and beneficiaries of a pension or retirement plan or other program of benefits that the acquired system has established shall continue to have rights, privileges, benefits, obligations, and status with respect to that established plan or program; and

(c) the public transit district may establish, amend, or modify, by agreement with employees or their authorized representatives, the terms, conditions, and provisions of a pension or retirement plan or of an amendment or modification of a pension or retirement plan.

[~~(4)~~] (5) A pension administrator for a retirement plan sponsored by a public transit district or a person designated by the administrator shall maintain retirement records in accordance with Subsection 49-11-618(2).

CHAPTER 477
H. B. 311
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

SOCIAL MEDIA USAGE AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Gay Lynn Bennion
Bridger Bolinder
Brady Brammer
Joel K. Briscoe
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Angela Romero
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Keven J. Stratton
Mark A. Strong
R. Neil Walter
Mark A. Wheatley
Stephen L. Whyte

LONG TITLE

General Description:

This bill regulates social media companies and the use and design of social media platforms.

Highlighted Provisions:

This bill:

- defines terms;
- enacts the Utah Social Media Regulation Act;
- prohibits a social media company from using a design or feature that causes a minor to have an addiction to the company's social media platform;
- grants the Division of Consumer Protection enforcement and auditing authority to enforce requirements under the act;
- authorizes a private right of action to collect attorney fees and damages from a social media company for harm incurred by a minor's use of the company's social media platform;
- creates a rebuttable presumption that harm and causation occurred in some circumstances;
- prohibits certain waivers;
- provides a severability clause; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Superseded 12/31/23), as last amended by Laws of Utah 2022, Chapter 201
13-2-1 (Effective 12/31/23), as last amended by Laws of Utah 2022, Chapters 201, 462

ENACTS:

13-63-101, Utah Code Annotated 1953
13-63-201, Utah Code Annotated 1953
13-63-301, Utah Code Annotated 1953
13-63-401, Utah Code Annotated 1953
13-63-501, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 (Superseded 12/31/23) is amended to read:

TITLE 13. COMMERCE AND TRADE

13-2-1 (Superseded 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act; [~~and~~]

(w) Chapter 57, Maintenance Funding Practices Act[~~.~~]; and

(x) Chapter 63, Utah Social Media Regulation Act.

Section 2. Section 13-2-1 (Effective 12/31/23) is amended to read:

13-2-1 (Effective 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act;

(w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]

(x) Chapter 61, Utah Consumer Privacy Act[~~.~~]; and

(y) Chapter 63, Utah Social Media Regulation Act.

Section 3. Section 13-63-101 is enacted to read:

CHAPTER 63. UTAH SOCIAL MEDIA REGULATION ACT

Part 1. General Requirements

13-63-101. Definitions.

As used in this chapter:

(1) "Account holder" means a person who has, or opens, an account or profile to use a social media company's platform.

(2) "Addiction" means use of a social media platform that:

(a) indicates the user's substantial preoccupation or obsession with, or the user's substantial difficulty to cease or reduce use of, the social media platform; and

(b) causes physical, mental, emotional, developmental, or material harms to the user.

(3) "Director" means the director of the Division of Consumer Protection created in Section 13-2-1.

(4) "Division" means the Division of Consumer Protection created in Section 13-2-1.

(5) "Educational entity" means a public school, an LEA, a charter school, the Utah Schools for the Deaf and Blind, a private school, a denominational

school, a parochial school, a community college, a state college, a state university, or a nonprofit private postsecondary educational institution.

(6) (a) "Interactive computer service" means an information service, information system, or information access software provider that:

(i) provides or enables computer access by multiple users to a computer server; and

(ii) provides access to the Internet.

(b) "Interactive computer service" includes:

(i) a web service;

(ii) a web system;

(iii) a website;

(iv) a web application; or

(v) a web portal.

(7) "Minor" means an individual who is under the age of 18 and:

(a) has not been emancipated as that term is defined in Section 80-7-102; or

(b) has not been married.

(8) "Post" means content that an account holder makes available on a social media platform for other account holders or users to view.

(9) "Social media company" means a person or entity that:

(a) provides a social media platform that has at least 5,000,000 account holders worldwide; and

(b) is an interactive computer service.

(10) (a) "Social media platform" means an online forum that a social media company makes available for an account holder to:

(i) create a profile;

(ii) upload posts;

(iii) view the posts of other account holders; and

(iv) interact with other account holders or users.

(b) "Social media platform" does not include an online service, website, or application:

(i) where the predominant or exclusive function is:

(A) electronic mail;

(B) direct messaging consisting of text, photos, or videos that are sent between devices by electronic means, where messages are:

(I) shared between the sender and the recipient;

(II) only visible to the sender and the recipient; and

(III) are not posted publicly;

(C) a streaming service that:

(I) provides only licensed media in a continuous flow from the service, website, or application to the end user; and

(II) does not obtain a license to the media from a user or account holder by agreement to its terms of service;

(D) news, sports, entertainment, or other content that is preselected by the provider and not user generated, and any chat, comment, or interactive functionality that is provided incidental to, directly related to, or dependent upon provision of the content;

(E) online shopping or e-commerce, if the interaction with other users or account holders is generally limited to:

(I) the ability to upload a post and comment on reviews;

(II) the ability to display lists or collections of goods for sale or wish lists; and

(III) other functions that are focused on online shopping or e-commerce rather than interaction between users or account holders;

(F) interactive gaming, virtual gaming, or an online service, that allows the creation and uploading of content for the purpose of interactive gaming, edutainment, or associated entertainment, and the communication related to that content;

(G) photo editing that has an associated photo hosting service, if the interaction with other users or account holders is generally limited to liking or commenting;

(H) a professional creative network for showcasing and discovering artistic content, if the content is required to be non-pornographic;

(I) single-purpose community groups for public safety if:

(I) the interaction with other users or account holders is generally limited to that single purpose; and

(II) the community group has guidelines or policies against illegal content;

(J) providing career development opportunities, including professional networking, job skills, learning certifications, and job posting and application services;

(K) business to business software;

(L) a teleconferencing or videoconferencing service that allows reception and transmission of audio and video signals for real time communication;

(M) cloud storage;

(N) shared document collaboration;

(O) cloud computing services, which may include cloud storage and shared document collaboration;

(P) providing access to or interacting with data visualization platforms, libraries, or hubs;

(Q) to permit comments on a digital news website, if the news content is posted only by the provider of the digital news website;

(R) providing or obtaining technical support for a platform, product, or service;

(S) academic or scholarly research; or

(T) genealogical research; or

(ii) where:

(A) the majority of the content that is posted or created is posted or created by the provider of the online service, website, or application; and

(B) the ability to chat, comment, or interact with other users is directly related to the provider's content;

(iii) that is a classified ad service that only permits the sale of goods and prohibits the solicitation of personal services; or

(iv) that is used by and under the direction of an educational entity, including:

(A) a learning management system;

(B) a student engagement program; and

(C) a subject or skill-specific program.

(11) "User" means a person who has access to view all, or some of, the posts on a social media platform, but is not an account holder.

(12) (a) "Utah account holder" means a person who is a Utah resident and an account holder.

(b) "Utah account holder" includes a Utah minor account holder.

(13) "Utah minor account holder" means a Utah account holder who is a minor.

(14) "Utah resident" means an individual who currently resides in Utah.

Section 4. Section 13-63-201 is enacted to read:

Part 2. Social Media Design Regulations

13-63-201 (Codified as 13-63-401). Social media platform design regulations -- Enforcement and auditing authority -- Penalties.

(1) Beginning March 1, 2024:

(a) the division shall administer and enforce the provisions of this section; and

(b) the division may audit the records of a social media company in order to determine compliance with the requirements of this section or to investigate a complaint, including a random sample of a social media company's records and other audit methods.

(2) Beginning March 1, 2024, a social media company shall not use a practice, design, or feature on the company's social media platform that the social media company knows, or which by the exercise of reasonable care should know, causes a Utah minor account holder to have an addiction to the social media platform.

(3) Beginning March 1, 2024:

(a) Subject to Subsection (3)(b), a social media company is subject to:

(i) a civil penalty of $250,000 for each practice, design, or feature shown to have caused addiction; and

(ii) a civil penalty of up to $2,500 for each Utah minor account holder who is shown to have been exposed to the practice, design, or feature found to have caused addiction under Subsection (3)(a)(i).

(b) A social media company shall not be subject to a civil penalty for violating this section if the social media company, as an affirmative defense, demonstrates that the social media company:

(i) instituted and maintained a program of at least quarterly audits of the social media company's practices, designs, and features to detect practices, designs, or features that have the potential to cause or contribute to the addiction of a minor user; and

(ii) corrected, within 30 days of the completion of an audit described in Subsection (3)(b)(i), any practice, design, or feature discovered by the audit to present more than a de minimus risk of violating this section.

(c) In a court action by the division to enforce this section, the court may, in addition to a civil penalty:

(i) declare that the act or practice violates a provision of this section;

(ii) issue an injunction for a violation of this section;

(iii) award actual damages to an injured purchaser or consumer; and

(iv) award any other relief that the court deems reasonable and necessary.

(4) Nothing in this section may be construed to impose liability for a social media company for any of the following:

(a) content that is generated by an account holder, or uploaded to or shared on the platform by an account holder, that may be encountered by another account holder;

(b) passively displaying content that is created entirely by a third party;

(c) information or content for which the social media company was not, in whole or in part, responsible for creating or developing; or

(d) any conduct by a social media company involving a Utah minor account holder who would otherwise be protected by federal or Utah law.

(5) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(6) Nothing in this section may be construed to negate or limit a cause of action that may have existed or exists against a social media company under the law as it existed before the effective date of this section.

(7) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund established in Section 13-2-8.

Section 5. Section 13-63-301 is enacted to read:

Part 3. Harm to a Minor by a Social Media Company -- Private Right of Action

13-63-301 (Codified as 13-63-501). Private right of action for harm to a minor -- Rebuttable presumption of harm and causation.

(1) Beginning March 1, 2024, a person may bring an action under this section against a social media company to recover damages incurred after March 1, 2024 by a Utah minor account holder for any addiction, financial, physical, or emotional harm suffered as a consequence of using or having an account on the social media company's social media platform.

(2) A suit filed under the authority of this section shall be filed in the district court for the district in which the Utah minor account holder resides.

(3) Notwithstanding Subsection (4), if a court finds that a Utah minor account holder has been harmed as a consequence of using or having an account on the social media company's social media platform, the minor seeking relief under this section is entitled to:

(a) an award of reasonable attorney fees and court costs; and

(b) an amount equal to the greater of:

(i) $2,500 per each incident of harm; or

(ii) actual damages for addiction, financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations.

(4) If a Utah minor account holder seeking recovery of damages under this section is under the age of 16, there shall be a rebuttable presumption that the harm actually occurred and that the harm was a caused as a consequence of using or having an account on the social media company's social media platform.

Section 6. Section 13-63-401 is enacted to read:

Part 4. Waiver Prohibited

13-63-401 (Codified as 13-63-601). Waiver prohibited.

A waiver or limitation, or a purported waiver or limitation, of any of the following is void as unlawful, is against public policy, and a court or arbitrator may not enforce or give effect to the waiver, notwithstanding any contract or choice-of-law provision in a contract:

(1) a protection or requirement provided under this chapter;

(2) the right to cooperate with the division or to file a complaint with the division;

(3) the right to a private right of action as provided under this chapter; or

(4) the right to recover actual damages, statutory damages, civil penalties, costs, or fees as allowed by this chapter.

Section 7. Section 13-63-501 is enacted to read:

Part 5. Severability

13-63-501 (Codified as 13-63-701). Severability.

If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application. The provisions of this chapter are severable.

Section 8. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) The actions affecting Section 13-2-1 (Effective 12/31/2023) take effect on December 31, 2023.

CHAPTER 478
H. B. 406
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

LAND USE, DEVELOPMENT, AND MANAGEMENT ACT MODIFICATIONS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to municipal land use, development, and management of real property.

Highlighted Provisions:

This bill:

- modifies the definition of rural real property;
- modifies provisions relating to a municipality's annexation of unincorporated private property;
- modifies the process by which a boundary commission considers competing petitions for annexation of unincorporated private property;
- clarifies the circumstances under which a municipality may adopt temporary land use restrictions; and
- modifies the way private parties and municipalities may use development agreements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-401, as last amended by Laws of Utah 2021, Chapter 112
10-2-402, as last amended by Laws of Utah 2021, Chapter 112
10-2-403, as last amended by Laws of Utah 2021, Chapter 112
10-2-405, as last amended by Laws of Utah 2021, Chapter 112
10-2-407, as last amended by Laws of Utah 2022, Chapter 355
10-2-408, as last amended by Laws of Utah 2021, Chapter 112
10-2-416, as last amended by Laws of Utah 2015, Chapter 352
10-9a-103, as last amended by Laws of Utah 2022, Chapters 355, 406
10-9a-504, as renumbered and amended by Laws of Utah 2005, Chapter 254
10-9a-508, as last amended by Laws of Utah 2016, Chapter 350
10-9a-509, as last amended by Laws of Utah 2022, Chapters 325, 355 and 406
10-9a-532, as enacted by Laws of Utah 2021, Chapter 385
10-9a-534, as enacted by Laws of Utah 2021, First Special Session, Chapter 3
10-9a-604.5, as last amended by Laws of Utah 2019, Chapter 384
17-27a-103, as last amended by Laws of Utah 2022, Chapter 406
17-27a-504, as renumbered and amended by Laws of Utah 2005, Chapter 254
17-27a-507, as last amended by Laws of Utah 2013, Chapter 309
17-27a-508, as last amended by Laws of Utah 2022, Chapters 325, 355 and 406
17-27a-528, as enacted by Laws of Utah 2021, Chapter 385
17-27a-530, as enacted by Laws of Utah 2021, First Special Session, Chapter 3
17-27a-604.5, as last amended by Laws of Utah 2020, Chapter 354

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-401 is amended to read:

10-2-401. Definitions -- Property owner provisions.

(1) As used in this part:

(a) "Affected entity" means:

(i) a county of the first or second class in whose unincorporated area the area proposed for annexation is located;

(ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the area proposed for annexation is located, if the area includes residents or commercial or industrial development;

(iii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, whose boundary includes any part of an area proposed for annexation;

(iv) a school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation; and

(v) a municipality whose boundaries are within 1/2 mile of an area proposed for annexation.

(b) "Annexation petition" means a petition under Section 10-2-403 proposing the annexation to a municipality of a contiguous, unincorporated area that is contiguous to the municipality.

(c) "Commission" means a boundary commission established under Section 10-2-409 for the county in which the property that is proposed for annexation is located.

(d) "Expansion area" means the unincorporated area that is identified in an annexation policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in the future.

(e) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.

(f) "Mining protection area" means the same as that term is defined in Section 17-41-101.

(g) "Municipal selection committee" means a committee in each county composed of the mayor of each municipality within that county.

(h) "Planning advisory area" means the same as that term is defined in Section 17-27a-306.

(i) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, a municipality, a school district, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision or governmental entity of the state.

(j) (i) "Rural real property" means [~~the same as that term is defined in Section 17B-2a-1107.~~] a group of contiguous tax parcels, or a single tax parcel, that:

(A) are under common ownership;

(B) consist of no less than 1,000 total acres;

(C) are zoned for manufacturing or agricultural purposes; and

(D) do not have a residential unit density greater than one unit per acre.

(ii) "Rural real property" includes any portion of private real property, if the private real property:

(A) qualifies as rural real property under Subsection (1)(j)(i); and

(B) consists of more than 1,500 total acres.

(k) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

(l) "Unincorporated peninsula" means an unincorporated area:

(i) that is part of a larger unincorporated area;

(ii) that extends from the rest of the unincorporated area of which it is a part;

(iii) that is surrounded by land that is within a municipality, except where the area connects to and extends from the rest of the unincorporated area of which it is a part; and

(iv) whose width, at any point where a straight line may be drawn from a place where it borders a municipality to another place where it borders a municipality, is no more than 25% of the boundary of the area where it borders a municipality.

(m) "Urban development" means:

(i) a housing development with more than 15 residential units and an average density greater than one residential unit per acre; or

(ii) a commercial or industrial development for which cost projections exceed $750,000 for all phases.

(2) For purposes of this part:

(a) the owner of real property shall be:

(i) except as provided in Subsection (2)(a)(ii), the record title owner according to the records of the county recorder on the date of the filing of the petition or protest; or

(ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and

(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest:

(a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and

(ii) the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.

Section 2. Section 10-2-402 is amended to read:

10-2-402. Annexation -- Limitations.

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) Except as provided in Subsection (1)(c), an unincorporated area may not be annexed to a municipality unless:

(i) the unincorporated area is a contiguous area;

(ii) the unincorporated area is contiguous to the municipality;

(iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:

(A) except as provided in Subsection 10-2-418(3);

(B) except where an unincorporated island or peninsula existed before the annexation, if the annexation will reduce the size of the unincorporated island or peninsula; or

[~~(B)~~] (C) unless the county and municipality have otherwise agreed; and

(iv) for an area located in a specified county, the area is within the proposed annexing municipality's expansion area.

(c) A municipality may annex an unincorporated area within a specified county that does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated island or unincorporated peninsula, if:

(i) the area is within the annexing municipality's expansion area;

(ii) the specified county in which the area is located and the annexing municipality agree to the annexation;

(iii) the area is not within the area of another municipality's annexation policy plan, unless the other municipality agrees to the annexation; and

(iv) the annexation is for the purpose of providing municipal services to the area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

(3) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5) (a) As used in this subsection, "expansion area urban development" means:

(i) for a specified county, urban development within a city or town's expansion area; or

(ii) for a county of the first class, urban development within a city or town's expansion area that:

(A) consists of 50 or more acres;

(B) requires the county to change the zoning designation of the land on which the urban development is located; and

(C) does not include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.

(b) A county legislative body may not approve expansion area urban development unless:

(i) the county notifies the city or town of the proposed development; and

(ii) (A) the city or town consents in writing to the development;

(B) within 90 days after the county's notification of the proposed development, the city or town submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or

(C) the city or town fails to respond to the county's notification of the proposed development within 90 days after the day on which the county provides the notice.

(6) (a) As used in this Subsection (6), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (6)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

(7) (a) As used in this Subsection (7), "project area" means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) A municipality may not annex an unincorporated area located within a project area without the authority's approval.

(c) (i) Except as provided in Subsection (7)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as if the Military Installation Development Authority was the sole private property owner within the area:

(A) an area within a project area;

(B) an area that is contiguous to a project area and within the boundaries of a military installation;

(C) an area owned by the Military Installation Development Authority; and

(D) an area that is contiguous to an area owned by the Military Installation Development Authority that the Military Installation Development Authority plans to add to an existing project area.

(ii) If any portion of an area annexed under a petition for annexation filed by the Military Installation Development Authority is located in a specified county:

(A) the annexation process shall follow the requirements for a specified county; and

(B) the provisions of Section 10-2-402.5 do not apply.

(8) A municipality may not annex an unincorporated area if:

(a) the area is proposed for incorporation in:

(i) a feasibility study conducted under Section 10-2a-205; or

(ii) a supplemental feasibility study conducted under Section 10-2a-206;

(b) the lieutenant governor completes the first public hearing on the proposed incorporation under Subsection 10-2a-207(4); and

(c) the time period for a specified landowner, as defined in Section 10-2a-203, to request that the lieutenant governor exclude the specified landowner's property from the proposed incorporation under Subsection 10-2a-207(5)(a) has expired.

Section 3. Section 10-2-403 is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1), the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of all of the rural real property within the area proposed for annexation; and

(C) covers 100% of all of the private land area within the area proposed for annexation[~~, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas,~~] or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section 17-23-20, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

⍰ There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

⍰ If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes a cross-county annexation, as defined in Section 10-2-402.5, be accompanied by a copy of the resolution described in Subsection 10-2-402.5(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(7) A property owner who signs an annexation petition may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 4. Section 10-2-405 is amended to read:

10-2-405. Acceptance or denial of an annexation petition -- Petition certification process -- Modified petition.

(1) (a) (i) A municipal legislative body may:

(A) subject to Subsection (1)(a)(ii), deny a petition filed under Section 10-2-403; or

(B) accept the petition for further consideration under this part.

(ii) A petition shall be considered to have been accepted for further consideration under this part if a municipal legislative body fails to act to deny or accept the petition under Subsection (1)(a)(i):

(A) in the case of a city of the first or second class, within 14 days after the filing of the petition; or

(B) in the case of a city of the third, fourth, or fifth class, a town, or a metro township, at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days after the date the petition was filed.

(b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall, within five days after the denial, mail written notice of the denial to:

(i) the contact sponsor; and

(ii) the clerk of the county in which the area proposed for annexation is located.

(2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) or is considered to have accepted the petition under Subsection (1)(a)(ii), the city recorder or town clerk, as the case may be, shall, within 30 days after that acceptance:

(a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the area proposed for annexation is located the records the city recorder or town clerk needs to determine whether the petition meets the requirements of Subsections 10-2-403(3) and (4);

(b) with the assistance of the municipal attorney, determine whether the petition meets the requirements of Subsections 10-2-403(3) and (4); and

(c) (i) if the city recorder or town clerk determines that the petition meets those requirements, certify the petition and mail or deliver written notification of the certification to the municipal legislative body, the contact sponsor, and the county legislative body; or

(ii) if the city recorder or town clerk determines that the petition fails to meet any of those requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the municipal legislative body, the contact sponsor, and the county legislative body.

(3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(c)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the city recorder or town clerk, as the case may be.

(ii) A signature on an annexation petition filed under Section 10-2-403 may be used toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as modified under Subsection (3)(a)(i).

(b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city recorder or town clerk under Subsection (2)(c)(ii), the refiled petition shall be treated as a newly filed petition under Subsection 10-2-403(1).

(4) Any vote by a municipal legislative body to deny a petition under this part may be recalled and set for reconsideration by a majority of the voting members of the municipal legislative body.

[~~(4)~~] (5) Each county assessor, clerk, surveyor, and recorder shall provide copies of records that a city recorder or town clerk requests under Subsection (2)(a).

Section 5. Section 10-2-407 is amended to read:

10-2-407. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) A protest to an annexation petition under Section 10-2-403 may only be filed by:

(a) the legislative body or governing board of an affected entity;

(b) an owner of rural real property located within the area proposed for annexation;

(c) for a proposed annexation of an area within a county of the first class, an owner of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation; or

(d) an owner of private real property located in a mining protection area.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county,

justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

(6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and provide notice of the public hearing:

(a) (i) at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the municipality and the area proposed for annexation, in places within that combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) at least 10 days before the day of the public hearing, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the public hearing; and

(c) if the municipality has a website, by posting notice on the municipality's website for seven days before the day of the public hearing.

(8) (a) Subject to Subsection (8)(b), only a person or entity that is described in Subsection (1) has standing to challenge an annexation in district court.

(b) A person or entity described in Subsection (1) may only bring an action in district court to challenge an annexation if the person or entity has timely filed a protest as described in Subsection (2) and exhausted the administrative remedies described in this section.

Section 6. Section 10-2-408 is amended to read:

10-2-408. Denying or approving the annexation petition -- Notice of approval.

(1) After receipt of the commission's decision on a protest under Subsection 10-2-416(2), a municipal legislative body may:

(a) deny the annexation petition; or

(b) subject to Subsection (2), if the commission approves the annexation, approve the annexation petition consistent with the commission's decision.

(2) A municipal legislative body shall exclude from the annexed area:

(a) rural real property, unless the owner of the rural real property has signed the petition for annexation or gives written consent to include the rural real property; and

(b) private real property located in a mining protection area, unless the owner of the private real property gives written consent to include the private real property.

Section 7. Section 10-2-416 is amended to read:

10-2-416. Commission decision -- Time limit -- Limitation on approval of annexation.

(1) (a) Subject to [~~Subsection (3)~~] Subsections (1)(b) and (3), after the public hearing under Subsection 10-2-415(1) the boundary commission may:

[~~(a)~~] (i) approve the proposed annexation, either with or without conditions;

[~~(b)~~] (ii) make minor modifications to the proposed annexation and approve it, either with or without conditions; or

[~~(c)~~] (iii) disapprove the proposed annexation.

(b) If a legislative body or governing board of an affected entity files a timely protest to the annexation petition in accordance with Section 10-2-407, the boundary commission, in making a decision under Subsection (1)(a), shall consider and weigh the preferences, to the extent made known during the boundary commission's proceedings, of:

(i) the person or persons who submitted the annexation petition; and

(ii) any property owner who has timely filed a protest in accordance with Section 10-2-407.

(2) The commission shall issue a written decision on the proposed annexation within 30 days after the conclusion of the hearing under Section 10-2-415 and shall send a copy of the decision to:

(a) the legislative body of the county in which the area proposed for annexation is located;

(b) the legislative body of the proposed annexing municipality;

(c) the contact person on the annexation petition;

(d) the contact person of each entity that filed a protest; and

(e) if a protest was filed under Subsection 10-2-407(1)(c) with respect to a proposed annexation of an area located in a county of the first class, the contact person designated in the protest.

(3) Except for an annexation for which a feasibility study may not be required under Subsection 10-2-413(1)(b), the commission may not approve a proposed annexation of an area located within a county of the first class unless the results of the feasibility study under Section 10-2-413 show that the average annual amount under Subsection 10-2-413(3)(a)(ix) does not exceed the average annual amount under Subsection 10-2-413(3)(a)(viii) by more than 5%.

Section 8. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

(ii) a therapeutic school.

(15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(21) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(25) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(29) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(30) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

(32) "Land use permit" means a permit issued by a land use authority.

(33) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(34) "Legislative body" means the municipal council.

(35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(36) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(38) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision or a subdivision amendment.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(39) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(41) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

(42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(43) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(44) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(46) "Parcel" means any real property that is not a lot.

(47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(48) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(50) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

(51) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(52) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(57) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(58) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(59) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

[~~(59)~~] (60) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(60)~~] (61) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(61)~~] (62) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(62)~~] (63) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(63)~~] (64) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(64)~~] (65) "State" includes any department, division, or agency of the state.

[~~(65)~~] (66) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

[~~(66)~~] (67) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

[~~(a)~~] (i) vacates all or a portion of the subdivision;

[~~(b)~~] (ii) alters the outside boundary of the subdivision;

[~~(c)~~] (iii) changes the number of lots within the subdivision;

[~~(d)~~] (iv) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

[~~(e)~~] (v) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

[~~(67)~~] (68) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(68)~~] (69) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(69)~~] (70) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(70)~~] (71) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(71)~~] (72) "Unincorporated" means the area outside of the incorporated area of a city or town.

[~~(72)~~] (73) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(73)~~] (74) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 9. Section 10-9a-504 is amended to read:

10-9a-504. Temporary land use regulations.

(1) (a) [~~A~~] Except as provided in Subsection (2)(b), a municipal legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality if:

(i) the legislative body makes a finding of compelling, countervailing public interest; or

(ii) the area is unregulated.

(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.

(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.

(2) (a) The municipal legislative body shall establish a period of limited effect for the ordinance not to exceed [~~six months~~] 180 days.

(b) A municipal legislative body may not apply the provisions of a temporary land use regulation to the review of a specific land use application if the land use application is impaired or prohibited by proceedings initiated under Subsection 10-9a-509(1)(a)(ii)(B).

(3) (a) A municipal legislative body may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.

(b) A regulation under Subsection (3)(a):

(i) may not exceed [~~six months~~] 180 days in duration;

(ii) may be renewed, if requested by the Transportation Commission created under Section 72-1-301, for up to two additional [~~six-month~~] 180-day periods by ordinance enacted before the expiration of the previous regulation; and

(iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the Environmental

Impact Statement or Major Investment Study is in progress.

Section 10. Section 10-9a-508 is amended to read:

10-9a-508. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:

(a) the governmental entity shall request the exaction; and

(b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

(3) (a) (i) A municipality shall base any exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.

(b) A municipality may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(4) (a) If a municipality plans to dispose of surplus real property that was acquired under this section and has been owned by the municipality for less than 15 years, the municipality shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the municipality.

(b) A person to whom a municipality offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the municipality's offer.

(c) If a person to whom a municipality offers to reconvey property declines the offer, the municipality may offer the property for sale.

(d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community reinvestment agency.

(5) (a) A municipality may not, as part of an infrastructure improvement, require the installation of pavement on a residential roadway at a width in excess of 32 feet.

(b) Subsection (5)(a) does not apply if a municipality requires the installation of pavement in excess of 32 feet:

(i) in a vehicle turnaround area;

(ii) in a cul-de-sac;

(iii) to address specific traffic flow constraints at an intersection, mid-block crossings, or other areas;

(iv) to address an applicable general or master plan improvement, including transportation, bicycle lanes, trails, or other similar improvements that are not included within an impact fee area;

(v) to address traffic flow constraints for service to or abutting higher density developments or uses that generate higher traffic volumes, including community centers, schools, and other similar uses;

(vi) as needed for the installation or location of a utility which is maintained by the municipality and is considered a transmission line or requires additional roadway width;

(vii) for third-party utility lines that have an easement preventing the installation of utilities maintained by the municipality within the roadway;

(viii) for utilities over 12 feet in depth;

(ix) for roadways with a design speed that exceeds 25 miles per hour;

(x) as needed for flood and stormwater routing;

(xi) as needed to meet fire code requirements for parking and hydrants; or

(xii) as needed to accommodate street parking.

(c) Nothing in this section shall be construed to prevent a municipality from approving a road cross section with a pavement width less than 32 feet.

(d) (i) A land use applicant may appeal a municipal requirement for pavement in excess of 32 feet on a residential roadway.

(ii) A land use applicant that has appealed a municipal specification for a residential roadway pavement width in excess of 32 feet may request that the municipality assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(iii) Unless otherwise agreed by the applicant and the municipality, the panel described in Subsection (5)(d)(ii) shall consist of the following three experts:

(A) one licensed engineer, designated by the municipality;

(B) one licensed engineer, designated by the land use applicant; and

(C) one licensed engineer, agreed upon and designated by the two designated engineers under Subsections (5)(a)(d)(iii)(A) and (B).

(iv) A member of the panel assembled by the municipality under Subsection (5)(d)(ii) may not have an interest in the application that is the subject of the appeal.

(v) The land use applicant shall pay:

(A) 50% of the cost of the panel; and

(B) the municipality's published appeal fee.

(vi) The decision of the panel is a final decision, subject to a petition for review under Subsection (5)(d)(vii).

(vii) Pursuant to Section 10-9a-801, a land use applicant or the municipality may file a petition for review of the decision with the district court within 30 days after the date that the decision is final.

Section 11. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted[.]; or

(B) during the 12 months prior to the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section 10-9a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 10-9a-509(1)(a)(ii); or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; [~~or~~]

(vi) in a municipal ordinance; or

(vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.

(h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted [~~landscaping~~] public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 12. Section 10-9a-532 is amended to read:

10-9a-532. Development agreements.

(1) Subject to Subsection (2), a municipality may enter into a development agreement containing any term that the municipality considers necessary or appropriate to accomplish the purposes of this chapter.

(2) (a) A development agreement may not:

(i) limit a municipality's authority in the future to:

(A) enact a land use regulation; or

(B) take any action allowed under Section 10-8-84;

(ii) require a municipality to change the zoning designation of an area of land within the municipality in the future; or

[~~(iii) contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement~~]

(iii) allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 10-9a-502, including a review and recommendation from the planning commission and a public hearing.

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section 10-9a-502.

[~~(c) A municipality may not require a development agreement as the only option for developing land within the municipality.~~]

(c) (i) If a development agreement restricts an applicant's rights under clearly established state law, the municipality shall disclose in writing to the applicant the rights of the applicant the development agreement restricts.

(ii) A municipality's failure to disclose in accordance with Subsection (2)(c)(i) voids any provision in the development agreement pertaining to the undisclosed rights.

(d) A municipality may not require a development agreement as a condition for developing land if the municipality's land use regulations establish all applicable standards for development on the land.

[~~(d)~~] (e) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:

(i) this chapter; and

(ii) any applicable land use regulations.

Section 13. Section 10-9a-534 is amended to read:

10-9a-534. Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a [~~one to two family dwelling~~] one- or two-family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021, except as provided under Subsection (3)(b);

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; or

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the municipality to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 14. Section 10-9a-604.5 is amended to read:

10-9a-604.5. Subdivision plat recording or development activity before required landscaping or infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) As used in this section, "public landscaping improvement" means landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that:

(a) will be dedicated to and maintained by the municipality; or

(b) are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.

[~~(1)~~] (2) A land use authority shall establish objective inspection standards for acceptance of a [~~landscaping~~] public landscaping improvement or infrastructure improvement that the land use authority requires.

[~~(2)~~] (3) (a) Before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required [~~landscaping~~] public landscaping improvements or infrastructure improvements; or

(ii) post an improvement completion assurance for any required [~~landscaping~~] public landscaping improvements or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall provide completion assurance for:

(i) completion of 100% of the required [~~landscaping~~] public landscaping improvements or infrastructure improvements; or

(ii) if the municipality has inspected and accepted a portion of the [~~landscaping~~] public landscaping improvements or infrastructure improvements, 100% of the incomplete or unaccepted [~~landscaping~~] public landscaping improvements or infrastructure improvements.

(c) A municipality shall:

(i) establish a minimum of two acceptable forms of completion assurance;

(ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;

(iii) establish a system for the partial release of an improvement completion assurance as portions of required [~~landscaping~~] public landscaping improvements or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the installation of [~~landscaping~~] public landscaping improvements or infrastructure improvements.

(d) A municipality may not require an applicant to post an improvement completion assurance for:

(i) [~~landscaping~~] public landscaping improvements or an infrastructure improvement that the municipality has previously inspected and accepted;

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation; [~~or~~]

(iii) in a municipality where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the municipality requires to be private[~~.~~]; or

(iv) landscaping improvements that are not public landscaping improvements, as defined in Section 10-9a-103, unless the landscaping improvements and completion assurance are required under the terms of a development agreement.

(4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or other entitlement benefit not currently available under the existing zone, a municipality may require a completion assurance bond for landscaped amenities and common area that are dedicated to and maintained by a homeowners association.

(b) Any agreement regarding a completion assurance bond under Subsection (4)(a) between the applicant and the municipality shall be memorialized in a development agreement.

(c) A municipality may not require a completion assurance bond for the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area.

(5) The sum of the improvement completion assurance required under Subsections (3) and (4) may not exceed the sum of:

(a) 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and

(b) 10% of the amount of the bond to cover administrative costs incurred by the municipality to complete the improvements, if necessary.

[~~(3)~~] (6) At any time before a municipality accepts a [~~landscaping~~] public landscaping improvement or infrastructure improvement, and for the duration of each improvement warranty period, the municipality may require the applicant to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:

(i) municipal engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

[~~(4)~~] (7) When a municipality accepts an improvement completion assurance for [~~landscaping~~] public landscaping improvements or infrastructure improvements for a development in accordance with [~~Subsection (2)(c)(ii)~~] Subsection (3)(c)(ii), the municipality may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

[~~(5)~~] (8) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 15. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owner's association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before

the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(15) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(16) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

(ii) a therapeutic school.

(17) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(18) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(19) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(20) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(21) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(22) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(23) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(25) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(26) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(27) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(28) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

(29) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(30) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(31) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(32) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(33) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(34) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(35) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(36) "Land use permit" means a permit issued by a land use authority.

(37) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(38) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(39) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(40) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(41) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision or a subdivision amendment.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(42) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(43) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(44) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section 17-27a-901.

(45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(46) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(47) "Nonconforming use" means a use of land that:

(a) legally existed before the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(48) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(49) "Parcel" means any real property that is not a lot.

(50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(51) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(52) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(53) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

(54) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

(55) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(56) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(57) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(58) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(59) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(60) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(61) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(62) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(63) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

[~~(63)~~] (64) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(64)~~] (65) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(65)~~] (66) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(66)~~] (67) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

[~~(67)~~] (68) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(68)~~] (69) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(69)~~] (70) "State" includes any department, division, or agency of the state.

[~~(70)~~] (71) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (70)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 17-27a-523 if no new lot is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat;

(x) a deed or easement for a road, street, or highway purpose; or

(xi) any other division of land authorized by law.

[~~(71)~~] (72) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

[~~(a)~~] (i) vacates all or a portion of the subdivision;

[~~(b)~~] (ii) alters the outside boundary of the subdivision;

[~~(c)~~] (iii) changes the number of lots within the subdivision;

[~~(d)~~] (iv) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

[~~(e)~~] (v) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

[~~(72)~~] (73) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(73)~~] (74) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(74)~~] (75) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(75)~~] (76) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(76)~~] (77) "Unincorporated" means the area outside of the incorporated area of a municipality.

[~~(77)~~] (78) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(78)~~] (79) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 16. Section 17-27a-504 is amended to read:

17-27a-504. Temporary land use regulations.

(1) (a) [~~A~~] Except as provided in Subsection 2(b), a county legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the county if:

(i) the legislative body makes a finding of compelling, countervailing public interest; or

(ii) the area is unregulated.

(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.

(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.

(2) (a) The legislative body shall establish a period of limited effect for the ordinance not to exceed [~~six months~~] 180 days.

(b) A county legislative body may not apply the provisions of a temporary land use regulation to the review of a specific land use application if the land use application is impaired or prohibited by proceedings initiated under Subsection 17-27a-508(1)(a)(ii)(B).

(3) (a) A legislative body may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.

(b) A regulation under Subsection (3)(a):

(i) may not exceed [~~six months~~] 180 days in duration;

(ii) may be renewed, if requested by the Transportation Commission created under Section 72-1-301, for up to two additional [~~six-month~~] 180-day periods by ordinance enacted before the expiration of the previous regulation; and

(iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the Environmental Impact Statement or Major Investment Study is in progress.

Section 17. Section 17-27a-507 is amended to read:

17-27a-507. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A county may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:

(a) the governmental entity shall request the exaction; and

(b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

(3) (a) (i) A county or, if applicable, the county's culinary water authority shall base any exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.

(b) A county or its culinary water authority may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(4) (a) If a county plans to dispose of surplus real property under Section 17-50-312 that was acquired under this section and has been owned by the county for less than 15 years, the county shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the county.

(b) A person to whom a county offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the county's offer.

(c) If a person to whom a county offers to reconvey property declines the offer, the county may offer the property for sale.

(d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community development or urban renewal agency.

(5) (a) A county may not, as part of an infrastructure improvement, require the

installation of pavement on a residential roadway at a width in excess of 32 feet.

(b) Subsection (5)(a) does not apply if a county requires the installation of pavement in excess of 32 feet:

(i) in a vehicle turnaround area;

(ii) in a cul-de-sac;

(iii) to address specific traffic flow constraints at an intersection, mid-block crossings, or other areas;

(iv) to address an applicable general or master plan improvement, including transportation, bicycle lanes, trails, or other similar improvements that are not included within an impact fee area;

(v) to address traffic flow constraints for service to or abutting higher density developments or uses that generate higher traffic volumes, including community centers, schools, and other similar uses;

(vi) as needed for the installation or location of a utility which is maintained by the county and is considered a transmission line or requires additional roadway width;

(vii) for third-party utility lines that have an easement preventing the installation of utilities maintained by the county within the roadway;

(viii) for utilities over 12 feet in depth;

(ix) for roadways with a design speed that exceeds 25 miles per hour;

(x) as needed for flood and stormwater routing;

(xi) as needed to meet fire code requirements for parking and hydrants; or

(xii) as needed to accommodate street parking.

(c) Nothing in this section shall be construed to prevent a county from approving a road cross section with a pavement width less than 32 feet.

(d) (i) A land use applicant may appeal a municipal requirement for pavement in excess of 32 feet on a residential roadway.

(ii) A land use applicant that has appealed a municipal specification for a residential roadway pavement width in excess of 32 feet may request that the county assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(iii) Unless otherwise agreed by the applicant and the county, the panel described in Subsection (5)(d)(ii) shall consist of the following three experts:

(A) one licensed engineer, designated by the county;

(B) one licensed engineer, designated by the land use applicant; and

(C) one licensed engineer, agreed upon and designated by the two designated engineers under Subsections (5)(a)(d)(iii)(A) and (B).

(iv) A member of the panel assembled by the county under Subsection (5)(d)(ii) may not have an interest in the application that is the subject of the appeal.

(v) The land use applicant shall pay:

(A) 50% of the cost of the panel; and

(B) the county's published appeal fee.

(vi) The decision of the panel is a final decision, subject to a petition for review under Subsection (5)(d)(vii).

(vii) Pursuant to Section 17-27a-801, a land use applicant or the county may file a petition for review of the decision with the district court within 30 days after the date that the decision is final.

Section 18. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted[.]; or

(B) during the 12 months prior to the county processing the application or multiple applications of the same type, the application is impaired or prohibited under the terms of a temporary land use regulation adopted under Section 17-27a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) [~~in~~] this chapter;

(ii) [~~in~~] a county ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 17-27a-508(1)(a)(ii); or

(iii) [~~in~~] a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; [~~or~~]

(vi) in a county ordinance; or

(vii) in a county specification for residential roadways in effect at the time a residential subdivision was approved.

(g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted [~~landscaping~~] public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection(5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 19. Section 17-27a-528 is amended to read:

17-27a-528. Development agreements.

(1) Subject to Subsection (2), a county may enter into a development agreement containing any term that the county considers necessary or appropriate to accomplish the purposes of this chapter.

(2) (a) A development agreement may not:

(i) limit a county's authority in the future to:

(A) enact a land use regulation; or

(B) take any action allowed under Section 17-53-223;

(ii) require a county to change the zoning designation of an area of land within the county in the future; or

(iii) [~~contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement~~] allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 17-27a-502, including a review and recommendation from the planning commission and a public hearing.

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section 17-27a-502.

[~~(c) A county may not require a development agreement as the only option for developing land within the county. (d)~~]

(c) (i) If a development agreement restricts an applicant's rights under clearly established state law, the county shall disclose in writing to the applicant the rights of the applicant the development agreement restricts.

(ii) A county's failure to disclose in accordance with Subsection (2)(c)(i) voids any provision in the development agreement pertaining to the undisclosed rights.

(d) A county may not require a development agreement as a condition for developing land if the county's land use regulations establish all applicable standards for development on the land.

(e) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:

(i) this chapter; and

(ii) any applicable land use regulations.

Section 20. Section 17-27a-530 is amended to read:

17-27a-530. Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a county may not impose a requirement for a building design element on a [~~one to two family dwelling~~] one- or two-family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021, except as provided under Subsection (3)(b);

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; or

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the county to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 21. Section 17-27a-604.5 is amended to read:

17-27a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) As used in this section, "public landscaping improvement" means landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that:

(a) will be dedicated to and maintained by the county; or

(b) are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.

(2) A land use authority shall establish objective inspection standards for acceptance of a required [~~landscaping~~] public landscaping improvement or infrastructure improvement.

[~~(2)~~] (3) (a) Before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required [~~landscaping~~] public landscaping improvements or infrastructure improvements; or

(ii) post an improvement completion assurance for any required [~~landscaping~~] public landscaping improvements or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall provide completion assurance for:

(i) completion of 100% of the required [~~landscaping~~] public landscaping improvements or infrastructure improvements; or

(ii) if the county has inspected and accepted a portion of the [~~landscaping~~] public landscaping improvements or infrastructure improvements, 100% of the incomplete or unaccepted [~~landscaping~~] public landscaping improvements or infrastructure improvements.

(c) A county shall:

(i) establish a minimum of two acceptable forms of completion assurance;

(ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;

(iii) establish a system for the partial release of an improvement completion assurance as portions of required [~~landscaping~~] public landscaping improvements or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) issue or deny a building permit in accordance with Section 17-27a-802 based on the installation of [~~landscaping~~] public landscaping improvements or infrastructure improvements.

(d) A county may not require an applicant to post an improvement completion assurance for:

(i) [~~landscaping or an infrastructure improvement~~] public landscaping improvements or infrastructure improvements that the county has previously inspected and accepted;

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation; or

(iii) in a county where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the county requires to be private[~~,~~];

(iv) landscaping improvements that are not public landscaping improvements, as defined in Section 17-27a-103, unless the landscaping improvements and completion assurance are required under the terms of a development agreement.

(4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or other entitlement benefit not currently available under the existing zone, a county may require a completion assurance bond for landscaped amenities and common area that are dedicated to and maintained by a homeowners association.

(b) Any agreement regarding a completion assurance bond under Subsection (4)(a) between the applicant and the county shall be memorialized in a development agreement.

(c) A county may not require a completion assurance bond for the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area.

(5) The sum of the improvement completion assurance required under Subsections (3) and (4) may not exceed the sum of:

(a) 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and

(b) 10% of the amount of the bond to cover administrative costs incurred by the county to complete the improvements, if necessary.

[~~(3)~~] (6) At any time before a county accepts a [~~landscaping~~] public landscaping improvement or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the applicant to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:

(i) county engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

[~~(4)~~] (7) When a county accepts an improvement completion assurance for [~~landscaping~~] public landscaping improvements or infrastructure improvements for a development in accordance with [~~Subsection (2)(c)(ii)~~] Subsection (3)(c)(ii), the county may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

[~~(5)~~] (8) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

CHAPTER 479
H. B. 417
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

MOTOR VEHICLE TAX AMENDMENTS

Chief Sponsor: Phil Lyman
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act.

Highlighted Provisions:

This bill:

- provides the circumstances under which a county may use the revenue collected from a county tax on rental vehicles to mitigate the impacts of tourism; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-31-5.5, as last amended by Laws of Utah 2022, Chapter 360
59-12-603, as last amended by Laws of Utah 2020, Chapter 407

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-31-5.5 is amended to read:

17-31-5.5. Report by county legislative body -- Content.

(1) The legislative body of each county that imposes a transient room tax under Section 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall prepare annually a written report in accordance with Subsection (2).

(2) The report described in Subsection (1) shall include a breakdown of expenditures into the following categories:

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production;

(D) conventions; and

(E) economic diversification activity;

(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in Subsection (2)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and

(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2(2)(e) and (5)(a); and

(b) for the tourism, recreation, cultural, convention, and airport facilities tax, identification of expenditures for:

(i) financing tourism promotion, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising;

(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; and

(E) a tourist facility; [~~and~~]

(iii) mitigation costs as identified in Subsection 59-12-603(2)(b); and

[~~(iii)~~] (iv) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

(3) For the transient room tax, the report described in Subsection (1) shall include a breakdown of each expenditure described in Subsection (2)(a)(i), including:

(a) whether the expenditure was used for in-state and out-of-state promotion efforts;

(b) an explanation of how the expenditure targeted a cost created by tourism; and

(c) an accounting of the expenditure showing that the expenditure was used only for costs directly related to a cost created by tourism.

(4) On or before October 1, the county legislative body shall provide a copy of the annual written report described in Subsection (1) for the previous fiscal year to:

(a) the Utah Office of Tourism within the Governor's Office of Economic Opportunity;

(b) the county's tourism tax advisory board; and

(c) the Office of the Legislative Fiscal Analyst.

Section 2. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) [~~beginning on January 1, 2021,~~] a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food; and

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection [~~(2)(b)~~] (2)(c), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) (i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)(b)(ii), a county of the fourth, fifth, or sixth class or a county with a population density of fewer than 15 people per square mile may expend the revenue from the imposition of a tax under Subsections (1)(a)(i) and (ii) on the following activities to mitigate the impacts of tourism:

(A) solid waste disposal;

(B) search and rescue activities;

(C) law enforcement activities;

(D) emergency medical services; or

(E) fire protection services.

(ii) A county may only expend the revenue as outlined in Subsection (2)(b)(i) if the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) has prioritized the use of revenue to mitigate the impacts of tourism.

(c) A county of the first class shall expend at least $450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall,

within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection

(1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

CHAPTER 480
H. B. 506
Passed March 1, 2023
Approved March 23, 2023
Effective July 1, 2023

GOVERNMENT ENTITY COMPLIANCE AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses public reporting relating to certain obligations of a government actor.

Highlighted Provisions:

This bill:

- requires the Office of Legislative Research and General Counsel to publicly post certain information relating to:
  - reports required to be provided to a legislative committee; and
  - policies required to be adopted by a government actor;
- requires the state auditor to publicly post certain information relating to policies required to be adopted by a government actor; and
- permits the state auditor to conduct an inquiry to determine whether a government actor has complied with certain legal requirements imposed by recent legislation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

67-3-1, as last amended by Laws of Utah 2022, Chapter 307

ENACTS:

36-12-12.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-12.1 is enacted to read:

36-12-12.1. Posting of required reports and policies -- Compliance.

The Office of Legislative Research and General Counsel shall maintain a page on the Legislature's website that provides the following information:

(1) an annual list of all reports that a government entity, government official, or government employee is required to submit to a committee of the Legislature, including for each:

(a) a brief description of the report;

(b) the name of the committee to which submission is required;

(c) the report submission deadline;

(d) a citation to the law requiring the report;

(e) an indication regarding whether the report is timely submitted, submitted late, or not submitted;

(f) an indication regarding whether the report contained the information required by law; and

(g) a link to the report; and

(2) an annual list of each bill that becomes law that year that requires a government entity, government official, or government employee to adopt a policy, including for each:

(a) the bill number and short title;

(b) a citation to the law requiring the policy;

(c) a brief description of the policy;

(d) a list of the government entities, government officials, or government employees required to adopt the policy;

(e) the deadline for adopting the policy; and

(f) a link to the information described in Subsection 67-3-1(21).

Section 2. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of

the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) The state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(22) (a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (22)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (22)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (22) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 481
H. B. 523
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

EGG RETAILER AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses exemptions from regulations for the sale of shell eggs.

Highlighted Provisions:

This bill:

▶ modifies requirements for the sale of shell eggs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-4-107, as last amended by Laws of Utah 2020, Chapter 354

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-4-107 is amended to read:

4-4-107. Exemptions from regulation.

(1) Except as provided in this section, a small producer and the shell eggs produced by a small producer are exempt from regulation by the department.

(2) The Department of Health and Human Services has the authority to investigate foodborne illness.

(3) The department may assist, consult, or inspect shell eggs when requested by a small producer.

(4) Nothing in this section affects the authority of the Department of Health and Human Services or the department to certify, license, regulate, or inspect food or food products that are not exempt from certification, licensing regulation, or inspection under this section.

(5) The Department of Health and Human Services, or a local health department, may not prevent the sale of shell eggs from a small producer to an end consumer unless the Department of Health and Human Services, or the county health department, establishes that the shell eggs:

(a) are addled or moldy; or

(b) contain:

(i) black spot;

(ii) black rot;

(iii) white rot;

(iv) blood ring;

(v) adherent yolk; or

(vi) a bloody or green albumen.

[~~(5)~~] (6) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the temperature, cleaning, and sanitization of shell eggs under this chapter that are sold by a small producer to a restaurant.

[~~(6)~~] (7) Eggs sold by a small producer pursuant to this chapter are exempt from the restricted egg tolerances for United States Consumer Grade B as specified in the United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of United States Agriculture Department.

CHAPTER 482
H. B. 528
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

UTAH ENERGY ACT AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill makes changes to the qualifications for certain energy related tax credits.

Highlighted Provisions:

This bill:

- prohibits a taxpayer, claimant, estate, or trust from claiming or carrying forward a renewable energy system tax credit and an alternative energy development tax credit in the same taxable year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-614, as last amended by Laws of Utah 2022, Chapter 274
59-7-614.7, as last amended by Laws of Utah 2021, Chapter 280
59-10-1029, as last amended by Laws of Utah 2021, Chapter 280
59-10-1106, as last amended by Laws of Utah 2021, Chapters 280, 374

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-614 is amended to read:

59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Commercial energy system" means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(d) "Commercial enterprise" means an entity, the purpose of which is to produce:

(i) electrical, mechanical, or thermal energy for sale from a commercial energy system; or

(ii) hydrogen for sale from a hydrogen production system.

(e) (i) "Commercial unit" means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(f) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(h) "Geothermal energy" means energy generated by heat that is contained in the earth.

(i) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:

(i) electricity from a renewable energy source to create hydrogen gas from water, regardless of whether the renewable energy source is at a separate facility or the same facility as the system of apparatus and equipment; or

(ii) uses renewable natural gas to produce hydrogen gas.

(l) "Office" means the Office of Energy Development created in Section 79-6-401.

(m) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and the structure's operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(n) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(o) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(p) "Renewable energy source" means the same as that term is defined in Section 54-17-601.

(q) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(r) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(s) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and

(ii) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed $2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(v) for a system installed on or after January 1, 2024, $0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (4); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (4)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (5); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (6); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (6)(b)(ii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7) if:

(i) the taxpayer owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4), (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this Subsection (7); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system, the commercial energy system, or the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system, the commercial energy system, or the hydrogen production system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system, a commercial energy system, or a hydrogen production system meets the requirements of Subsection (8)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system was installed.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may make rules to address the certification of a tax credit under this section.

(10) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(11) A taxpayer may not claim or carry forward a tax credit described in this section in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-7-614.7.

Section 2. Section 59-7-614.7 is amended to read:

59-7-614.7. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" means the same as that term is defined in Section 79-6-502.

(b) "Alternative energy project" means the same as that term is defined in Section 79-6-502.

(c) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(A) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(B) the new state revenues generated by each alternative energy project;

(C) the information contained in the office's latest report under Section 79-6-505; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative energy entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (2) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-7-614.

Section 3. Section 59-10-1029 is amended to read:

59-10-1029. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" means the same as that term is defined in Section 79-6-502.

(b) "Alternative energy project" means the same as that term is defined in Section 79-6-502.

(c) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(A) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(B) the new state revenues generated by each alternative energy project;

(C) the information contained in the office's latest report under Section 79-6-505; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative energy entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (2) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-10-1106.

Section 4. Section 59-10-1106 is amended to read:

59-10-1106. Refundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system" means the same as that term is defined in Section 59-10-1014.

(b) "Biomass system" means the same as that term is defined in Section 59-10-1014.

(c) "Commercial energy system" means the same as that term is defined in Section 59-7-614.

(d) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.

(e) "Commercial unit" means the same as that term is defined in Section 59-7-614.

(f) "Direct use geothermal system" means the same as that term is defined in Section 59-10-1014.

(g) "Geothermal electricity" means the same as that term is defined in Section 59-10-1014.

(h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.

(i) "Geothermal heat pump system" means the same as that term is defined in Section 59-10-1014.

(j) "Hydroenergy system" means the same as that term is defined in Section 59-10-1014.

(k) "Hydrogen production system" means the same as that term is defined in Section 59-7-614.

(l) "Office" means the Office of Energy Development created in Section 79-6-401.

(m) "Passive solar system" means the same as that term is defined in Section 59-10-1014.

(n) "Principal recovery portion" means the same as that term is defined in Section 59-10-1014.

(o) "Wind system" means the same as that term is defined in Section 59-10-1014.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4); and

(iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:

(i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (5); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5) for production

occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the claimant, estate, or trust owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(7) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the commercial energy system or the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system or the hydrogen production system uses the state's renewable and nonrenewable resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a commercial energy system or a hydrogen production system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the commercial energy system or the hydrogen production system was installed.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(10) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(11) A claimant, estate, or trust may not claim or carry forward a tax credit described in this section in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 59-10-1029.

Section 5. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2023.

CHAPTER 483
H. B. 539
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

VETERAN PROPERTY TAX EXEMPTION

Chief Sponsor: Jon Hawkins
Senate Sponsor: Michael K. McKell
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
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Gay Lynn Bennion
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Ken Ivory
Tim Jimenez
Marsha Judkins
Jason B. Kyle
Rosemary T. Lesser
Anthony E. Loubet
Steven J. Lund
A. Cory Maloy
Ashlee Matthews
Carol S. Moss
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Doug Owens
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Thomas W. Peterson
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Angela Romero
Rex P. Shipp
Jeffrey D. Stenquist
Andrew Stoddard
Mark A. Strong
Jordan D. Teuscher
Christine F. Watkins
Mark A. Wheatley
Stephen L. Whyte
Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends the veteran armed forces property tax exemption.

Highlighted Provisions:

This bill:

- creates a process for a veteran with a 100% service-connected disability that is permanent and total to apply for a veteran armed forces property tax exemption before the veteran purchases a residence.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-1904, as enacted by Laws of Utah 2019, Chapter 453

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1904 is amended to read:

59-2-1904. Veteran armed forces exemption -- Application.

(1) As used in this section[~~, "default~~]:

(a) "Default application deadline" means the application deadline described in Subsection (3)(a).

(b) "Qualifying disabled veteran claimant" means a veteran claimant who has a 100% service-connected disability rating by the Veterans Benefits Administration that is permanent and total.

(2) A veteran claimant may claim an exemption in accordance with Section 59-2-1903 and this section if the veteran claimant owns the property eligible for the exemption at any time during the calendar year for which the veteran claimant claims the exemption.

(3) (a) Except as provided in Subsection (4) [~~or~~], (5), or (7), a veteran claimant shall file, on or before September 1 of the calendar year for which the veteran claimant is applying for the exemption, [~~file~~] an application for an exemption described in Section 59-2-1903 with the county in which the veteran claimant resides on September 1 of that calendar year.

(b) An application described in Subsection (3)(a) shall include:

(i) a copy of the veteran's certificate of discharge from military service or other satisfactory evidence of eligible military service; and

(ii) for an application submitted under the circumstances described in Subsection (5)(a), a statement, issued by a military entity, that gives the date on which the written decision described in Subsection (5)(a) takes effect.

(c) A veteran claimant who is claiming an exemption for a veteran with a disability or a deceased veteran with a disability, shall ensure that as part of the application described in this Subsection (3), the county has on file, for the veteran related to the exemption, a statement of disability:

(i) issued by a military entity; and

(ii) that lists the percentage of disability for the veteran with a disability or deceased veteran with a disability.

(d) If a veteran claimant is in compliance with Subsection (3)(c), a county may not require the veteran claimant to file another statement of disability, except under the following circumstances:

(i) the percentage of disability has changed for the veteran with a disability or the deceased veteran with a disability; or

(ii) the veteran claimant is not the same individual who filed an application for the exemption for the calendar year immediately preceding the current calendar year.

(e) A county that receives an application described in Subsection (3)(a) shall, within 30 days after the day on which the county received the application, provide the veteran claimant with a receipt that states that the county received the veteran claimant's application.

(4) A county may extend the default application deadline for an initial or amended application until December 31 of the year for which the veteran claimant is applying for the exemption if the county finds that good cause exists to extend the default application deadline.

(5) A county shall extend the default application deadline by one additional year if, on or after January 4, 2004:

(a) a military entity issues a written decision that:

(i) (A) for a potential claimant who is a living veteran, determines the veteran is a veteran with a disability; or

(B) for a potential claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran, determines the deceased veteran was a deceased veteran with a disability at the time the deceased veteran with a disability died; and

(ii) takes effect in a year before the current calendar year; or

(b) the county legislative body determines that:

(i) the veteran claimant or a member of the veteran claimant's immediate family had an illness or injury that prevented the veteran claimant from filing the application on or before the default application deadline;

(ii) a member of the veteran claimant's immediate family died during the calendar year of the default application deadline;

(iii) the veteran claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year of the default application deadline; or

(iv) the failure of the veteran claimant to file the application on or before the default application deadline:

(A) would be against equity or good conscience; and

(B) was beyond the reasonable control of the veteran claimant.

(6) (a) A county shall allow a veteran claimant to amend an application described in Subsection (3)(a) after the default application deadline if, on or after January 4, 2004, a military entity issues a written decision:

(i) that the percentage of disability has changed:

(A) for a veteran with a disability, if the veteran with a disability is the veteran claimant; or

(B) for a deceased veteran with a disability, if the claimant is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability; and

(ii) that takes effect in a year before the current calendar year.

(b) A veteran claimant who files an amended application under Subsection (6)(a) shall include a statement, issued by a military entity, that gives the date on which the written decision described in Subsection (6)(a) takes effect.

(7) (a) A qualifying disabled veteran claimant may submit an application described in Subsection (3)(b) before the qualifying disabled veteran claimant owns a residence if the qualifying disabled veteran claimant:

(i) intends to purchase the residence as evidenced by a real estate purchase contract or similar documentation;

(ii) files the application in the county where the residence that the qualifying disabled veteran claimant intends to purchase is located; and

(iii) intends to use the residence as the qualifying disabled veteran claimant's primary residence.

(b) (i) The county shall process the application and send the qualifying disabled veteran claimant a receipt, which shall also include documentation that:

(A) the application is preliminarily approved or denied; and

(B) if the application is preliminarily approved, the amount of the qualifying disabled veteran claimant's tax exemption calculated in accordance with Section 59-2-1903.

(ii) The county shall provide the receipt within 15 business days after the day on which the county received the application.

(8) After issuing the receipt described in Subsection (3)(e) or (7)(b), a county may not require a veteran claimant to file another application under Subsection (3)(a) or (7)(a), except under the following circumstances relating to the veteran claimant:

(a) the veteran claimant applies all or a portion of an exemption to tangible personal property;

(b) the percentage of disability changes for a veteran with a disability or a deceased veteran with a disability;

(c) the veteran with a disability dies;

(d) a change in the veteran claimant's ownership of the veteran claimant's primary residence;

(e) a change in the veteran claimant's occupancy of the primary residence for which the veteran claimant claims an exemption under this section; or

(f) for an exemption relating to a deceased veteran with a disability or a veteran who was killed in action or died in the line of duty, the veteran claimant is not the same individual who filed an application for the exemption for the calendar year immediately preceding the current calendar year.

[~~(8)~~] (9) If a veteran claimant is the grantor of a trust holding title to real or tangible personal property for which an exemption described in Section 59-2-1903 is claimed, a county may allow the veteran claimant to claim a portion of the exemption and be treated as the owner of that portion of the property held in trust, if the veteran claimant proves to the satisfaction of the county that:

(a) title to the portion of the trust will revest in the veteran claimant upon the exercise of a power by:

(i) the veteran claimant as grantor of the trust;

(ii) a nonadverse party; or

(iii) both the veteran claimant and a nonadverse party;

(b) title will revest as described in Subsection [~~(8)(a)~~] (9)(a), regardless of whether the power described in Subsection [~~(8)(a)~~] (9)(a) is a power to revoke, terminate, alter, amend, or appoint; and

(c) the veteran claimant satisfies the requirements described in this part for the exemption described in Section 59-2-1903.

[~~(9)~~] (10) A county may verify that real property for which a veteran claimant applies for an exemption is the veteran claimant's primary residence.

[~~(10)~~] (11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, by rule:

(a) establish procedures and requirements for amending an application described in Subsection (3)(a);

(b) for purposes of Subsection (5)(b), define the terms:

(i) "immediate family"; or

(ii) "physically present"; [~~or~~]

(c) for purposes of Subsection (5)(b), [~~prescribe~~] provide the circumstances under which the failure of a veteran claimant to file an application on or before the default application deadline:

(i) would be against equity or good conscience; and

(ii) is beyond the reasonable control of a veteran claimant[~~.~~]; or

(d) for purposes of Subsection (7)(a), establish the type of documentation that is evidence of intent to purchase.

CHAPTER 484
H. B. 545
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

CYBERSECURITY INFRASTRUCTURE MODIFICATIONS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill enacts certain cybersecurity requirements for state information architecture.

Highlighted Provisions:

This bill:

- defines terms;
- specifies the applicability of the provisions enacted in this bill;
- enacts requirements regarding the adoption of zero trust architecture and multi-factor authentication for executive branch agencies; and
- creates a reporting requirement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63A-16-214, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-16-214 is enacted to read:

63A-16-214. Zero trust architectures -- Implementation -- Requirements -- Reporting.

(1) As used in this section:

(a) "Endpoint detection and response" means a cybersecurity solution that continuously monitors end-user devices to detect and respond to cyber threats.

(b) "Governmental entity" means:

(i) the state;

(ii) a political subdivision of the state; and

(iii) an entity created by the state or a political subdivision of the state, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(c) "Multi-factor authentication" means using two or more different types of identification factors to authenticate a user's identity for the purpose of accessing systems and data, which may include:

(i) knowledge-based factors, which require the user to provide information that only the user knows, such as a password or personal identification number;

(ii) possession-based factors, which require the user to have a physical item that only the user possesses, such as a security token, key fob, subscriber identity module card, or smart phone application; or

(iii) inherence-based credentials, which require the user to demonstrate specific known biological traits attributable only to the user, such as fingerprints or facial recognition.

(d) "Zero trust architecture" means a security model, a set of system design principles, and a coordinated cybersecurity and system management strategy that employs continuous monitoring, risk-based access controls, secure identity and access management practices, and system security automation techniques to address the cybersecurity risk from threats inside and outside traditional network boundaries.

(2) This section applies to:

(a) all systems and data owned, managed, maintained, or utilized by or on behalf of an executive branch agency to access state systems or data; and

(b) all hardware, software, internal systems, and essential third-party software, including for on-premises, cloud, and hybrid environments.

(3) (a) On or before November 1, 2023, the chief information officer shall develop uniform technology policies, standards, and procedures for use by executive branch agencies in implementing zero trust architecture and multi-factor authentication on all systems in accordance with this section.

(b) On or before July 1, 2024, the division shall consider adopting the enterprise security practices described in this section and consider implementing zero trust architecture and robust identity management practices, including:

(i) multi-factor authentication;

(ii) cloud-based enterprise endpoint detection and response solutions to promote real-time detection, and rapid investigation and remediation capabilities; and

(iii) robust logging practices to provide adequate data to support security investigations and proactive threat hunting.

(4) (a) If implementing a zero trust architecture and multi-factor authentication, the division shall consider prioritizing the use of third-party cloud computing solutions that meet or exceed industry standards.

(b) The division shall consider giving preference to zero trust architecture solutions that comply with, are authorized by, or align to applicable federal guidelines, programs, and frameworks, including:

(i) the Federal Risk and Authorization Management Program;

(ii) the Continuous Diagnostics and Mitigation Program; and

(iii) guidance and frameworks from the National Institute of Standards and Technology.

(5) (a) In procuring third-party cloud computing solutions, the division may utilize established purchasing vehicles, including cooperative purchasing contracts and federal supply contracts, to facilitate efficient purchasing.

(b) The chief information officer shall establish a list of approved vendors that are authorized to provide zero trust architecture to governmental entities in the state.

(c) If an executive branch agency determines that procurement of a third-party cloud computing solution is not feasible, the executive branch agency shall provide a written explanation to the division of the reasons that a cloud computing solution is not feasible, including:

(i) the reasons why the executive branch agency determined that a third-party cloud computing solution is not feasible;

(ii) specific challenges or difficulties of migrating existing solutions to a cloud environment; and

(iii) the total expected cost of ownership of existing or alternative solutions compared to a cloud computing solution.

(6) (a) On or before November 30 of each year, the chief information officer shall report on the progress of implementing zero trust architecture and multi-factor authentication to:

(i) the Public Utilities, Energy, and Technology Interim Committee; and

(ii) the Cybersecurity Commission created in Section 63C-25-201.

(b) The report described in Subsection (6)(a) may include information on:

(i) applicable guidance issued by the United States Cybersecurity and Infrastructure Security Agency; and

(ii) the progress of the division, executive branch agencies, and governmental entities with respect to:

(A) shifting away from a paradigm of trusted networks toward implementation of security controls based on a presumption of compromise;

(B) implementing principles of least privilege in administering information security programs;

(C) limiting the ability of entities that cause incidents to move laterally through or between agency systems;

(D) identifying incidents quickly; and

(E) isolating and removing unauthorized entities from agency systems as quickly as practicable, accounting for cyber threat intelligence or law enforcement purposes.

CHAPTER 485
S. B. 2
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

NEW FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS ACT

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies;
- provides budget increases and decreases for the use and support of certain institutions of higher education;
- provides budget increases and decreases for other purposes as described;
- authorizes full time employment levels for certain internal service funds; and
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $2,293,220,400 in operating and capital budgets for fiscal year 2024, including:

- ($372,794,000) from the General Fund;
- $906,043,600 from the Income Tax Fund; and
- $1,759,970,800 from various sources as detailed in this bill.

This bill appropriates $113,768,600 in expendable funds and accounts for fiscal year 2024, including:

- $77,250,000 from the General Fund; and
- $36,518,600 from various sources as detailed in this bill.

This bill appropriates $310,448,100 in business-like activities for fiscal year 2024, including:

- $176,531,700 from the General Fund; and
- $133,916,400 from various sources as detailed in this bill.

This bill appropriates $12,294,000 in restricted fund and account transfers for fiscal year 2024, including:

- $6,394,000 from the General Fund; and
- $5,900,000 from various sources as detailed in this bill.

This bill appropriates $6,046,800 in transfers to unrestricted funds for fiscal year 2024.

This bill appropriates $1,553,118,700 in capital project funds for fiscal year 2024, including:

- $1,226,313,100 from the General Fund;
- $283,917,400 from the Income Tax Fund; and
- $42,888,200 from various sources as detailed in this bill.

Other Special Clauses:

This bill takes effect on July 1, 2023.

Utah Code Sections Affected:
ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From General Fund 100,000
Schedule of Programs:
Administration 100,000

The Legislature intends that the Attorney General's Office, Investigations Division, may purchase two additional vehicles with department funds in Fiscal Year 2023 and Fiscal Year 2024.

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney General's Office report performance measures for the Attorney General line item. The Attorney General's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Attorney Staff Assessment (Target=90).

Item 2
To Attorney General - Children's Justice Centers
From General Fund, One-Time ..... (4,699,200)
From Income Tax Fund, One-Time 4,699,200

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney General's Office report performance measures for the Children's Justice Centers line item. The Attorney General's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Caregiver References (Target=90.9%); 2) Multidisciplinary Teams (Target=89.1%); 3) Caregiver Satisfaction (Target=88.7%).

Item 3
To Attorney General - Contract Attorneys

From General Fund, One-Time 6,000,000
Schedule of Programs:
Contract Attorneys 6,000,000

Item 4
To Attorney General - Prosecution Council
From Dedicated Credits Revenue,
One-Time 20,000
From Revenue Transfers, One-Time .. 3,000,000
Schedule of Programs:
Prosecution Council 3,020,000

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney General's Office report performance measures for the Prosecution Council line item. The Attorney General's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Trial without Domestic Violence Victim (Target=80%); 2) Utah Prosecution Council Conferences (Target=50%); 3) Trauma-Informed Training (Target=50%).

BOARD OF PARDONS AND PAROLE

Item 5
To Board of Pardons and Parole

In accordance with UCA 63J-1-903, the Legislature intends that the Board of Pardons and Parole report performance measures for their line item, whose mission is "to provide fair and balanced release, supervision, and clemency decisions that address community safety, victim needs, offender accountability, risk reduction, and reintegration." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) measure of recidivism; 2) measure of time under board jurisdiction; 3) measure of parole revocations; and 4) measure of alignment of board decisions with the guidelines.

The Legislature intends that the Board of Pardons and Parole report on progress during the 2023 Interim on the audit recommendations found in "A Performance Audit of the Board of Pardons and Parole"; and "A Limited Review of the Coordination Between Public Safety Entities".

UTAH DEPARTMENT OF CORRECTIONS

Item 6
To Utah Department of Corrections - Programs and Operations
From General Fund 388,000
From General Fund, One-Time 100,000
From Revenue Transfers, One-Time 265,000
Schedule of Programs:
Adult Probation and Parole
Programs 115,000
Programming Treatment 265,000
Prison Operations Utah State
Correctional Facility 373,000

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to find additional Adult Probation & Parole Agents and AP&P Supervisors, for every two agents and for every one supervisor hired or reassigned to field supervision duties, the Legislature grants the authority to purchase one vehicle with Department funds.

The Legislature intends that the Department of Corrections, Facilities Bureau/Adult Probation and Parole Programs, is granted authority to purchase two trucks with plow & spreader with Department funds.

The Legislature intends that the Department of Corrections may transfer up to $6 million of operational funding in the Programs & Operations - Adult Probation and Parole Programs appropriation unit for the Behavioral Health Transitional Facility to the Division of Facilities Construction and Management in FY2024 to complete construction of the facility. The Legislature further intends that the Department of Corrections submit an electronic written report to the Executive Offices and Criminal Justices Appropriations Subcommittee no later than one week prior to the transfer on the amount that will be transferred.

The Legislature intends that the Department of Corrections report on progress during the 2023 Interim on the audit recommendations found in "A Performance Audit of the Oversight and Effectiveness of Adult Probation and Parole"; "A Limited Review of the Coordination Between Public Safety Entities."

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Corrections report performance measures for the Programs and Operations line item. The Department of Corrections shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percentage of all probationers' and parolees' Case Action Plan (CAP) goals that are active and align with primary Risk/Needs assessment indicators; 2) Per capita rate of assault incidents in the prison.

Item 7
To Utah Department of Corrections - Department Medical Services
From General Fund 18,844,600
From General Fund, One-Time .... (12,000,000)

Schedule of Programs:
Medical Services 6,844,600

The Legislature intends that the Department of Corrections partner with the Department of Health and Human Services to ensure that medical care is provided to state inmates. The Legislature further intends that the Department of Corrections and the Department of Health and Human Services report to the Executive Offices and Criminal Justice Appropriations Subcommittee during the interim on progress made toward service goals for the Clinical Services Bureau.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Corrections report performance measures for the Medical Services line item. The Department of Corrections shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percentage of Dental Exams performed within 7 days of admission (or evidence of refusal); 2) Percentage of Mental Health screenings completed within 14 days of admission; 3) Percentage of inmates failing to keep appointments; 4) Percentage of initial health assessments completed within 7 days of admission (or evidence of refusal).

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 8
To Judicial Council/State Court Administrator - Administration
From General Fund 442,900
From General Fund, One-Time 978,000
From Federal Funds 53,900
From Dedicated Credits Revenue 464,100
Schedule of Programs:
Administrative Office 21,000
Data Processing 978,000
District Courts 174,900
Grants Program 518,000
Law Library 247,000

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Courts report performance measures for the Administration line item, whose mission is "to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Target the recommended time standards in District and Juvenile Courts for all case types; as per the published Utah State Courts Performance Measures; (2) and Clearance rate in all courts, as per the published Utah State Courts Performance Measures (Target 100%).

Item 9
To Judicial Council/State Court Administrator - Contracts and Leases
From General Fund 163,300
Schedule of Programs:
Contracts and Leases 163,300

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Courts report performance measures for the Contracts and Leases line item, whose mission is "to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Execute and administer required contracts within the terms of the contracts and appropriations (Target 100%).

Item 10
To Judicial Council/State Court Administrator - Grand Jury

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Courts report performance measures for the Grand Jury line item, whose mission is "to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Administer called Grand Juries (Target 100%).

Item 11
To Judicial Council/State Court Administrator - Guardian ad Litem

In accordance with UCA 63J-1-903, the Legislature intends that the Office of the Guardian ad Litem report performance measures for the Administration line item, whose mission is "to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: seven performance

measures for the line item found in the Utah Office of Guardian ad Litem and CASA Annual Report.

Item 12
To Judicial Council/State Court Administrator – Jury and Witness Fees

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Courts report performance measures for the Jury, Witness, and Interpreter line item, whose mission is "to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: Timely pay all required jurors, witnesses and interpreters (Target 100%).

GOVERNOR'S OFFICE

Item 13
To Governor's Office – CCJJ – Jail Reimbursement

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Jail Reimbursement line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Parolees on 72-Hour Holds; 2) Condition of Probation Felony Offenders.

Item 14
To Governor's Office – Commission on Criminal and Juvenile Justice
Schedule of Programs:
Sentencing Commission ..... (37,000)
Substance Use and Mental Health Advisory Council 37,000

The Legislature intends that the Commission on Criminal and Juvenile Justice report on progress during the 2023 Interim on the audit recommendations found in "A Limited Review of the Coordination Between Public Safety Entities".

In accordance with UCA 63J-1-903, the Legislature intends that the Governors Office report performance measures for the Commission on Criminal and Juvenile Justice line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Victim Reparation Claim Timeliness (Target=50%); 2) Improvement in Website Visits (Target=100%); CCJJ Grant Monitoring, number of site visits conducted (Target=25).

Item 15
To Governor's Office
From General Fund 236,000
From Dedicated Credits Revenue 309,500
Schedule of Programs:
Lt. Governor's Office 545,500

In accordance with UCA 63J-1-903, the Legislature intends that the Governors Office report performance measures for the Governors Office line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percentage of registered voters that voted during the last even year general election (Target = 75%); 2) Number of constituent affairs responses.

Item 16
To Governor's Office – Governors Office of Planning and Budget
From General Fund 260,000
From General Fund, One-Time 50,000
From Federal Funds, One-Time 50,000
From Transfer for COVID-19 Response, One-Time 3,000,000
Schedule of Programs:
Administration 3,000,000
Management and Special Projects 310,000
Planning Coordination 50,000

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Governor's Office of Planning and Budget line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the overall percentage of budget line items with a defined performance measure (Target = increase FY 2024 percentage compared to FY 2023 percentage).

Item 17
To Governor's Office – Indigent Defense Commission

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Indigent Defense line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of

performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Organizational Capacity (Target=10% increase); 2) Counsel for All Eligible (Target=10% increase); 3) Scope of Representation (Target=10% increase); 4) Independence (Target=10% increase); 5) Specialization (Target=10% increase); 6) Right to Appeal (Target=10% increase); 7) Free From Conflicts of Interest (Target=10% increase); 8) Effective Representation – Training, Resources, Compensation (Target=10% increase).

Item 18
To Governor's Office – Suicide Prevention

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Suicide Prevention line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Suicide Rate (Target = below 22.2 per 100,000).

Item 19
To Governor's Office – Colorado River Authority of Utah
From General Fund, One-Time 7,000,000
Schedule of Programs:
Colorado River Authority of Utah ... 7,000,000

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 20
To Department of Health and Human Services – Division of Juvenile Justice Services – Juvenile Justice & Youth Services
From General Fund 708,200
From Federal Funds ..... (412,000)
From Dedicated Credits Revenue ..... (942,600)
From Expendable Receipts, One-Time 3,700
From General Fund Restricted – Juvenile Justice Reinvestment Account ..... (3,629,700)
From Revenue Transfers ..... (522,300)
Schedule of Programs:
Juvenile Justice & Youth Services ... (785,700)
Secure Care ..... (268,600)
Community Programs ..... (3,740,400)

In accordance with UCA 63J-1-903, the Legislature intends that the Division of Juvenile Justice and Youth Services report performance measures for the Administration line item, whose mission is "to be a leader in the field of juvenile justice by changing young lives, supporting families and keeping communities safe." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Avoid new felony or misdemeanor charge while enrolled in the Youth Services program and within 90 days of release (Target = 100%); and 2) Reduce the risk of recidivism by 15% within 3 years (Target = 15%).

OFFICE OF THE STATE AUDITOR

Item 21
To Office of the State Auditor – State Auditor

In accordance with UCA 63J-1-903, the Legislature intends that the State Auditor's Office report performance measures for the State Auditor line item. The State Auditor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Timely Audits (Target=65%); 2) Annual Comprehensive Financial Report (Target=153 days); 3) Federal Compliance Report (Target=184 days); 4) Local Government Financial Audits (Target=100%).

DEPARTMENT OF PUBLIC SAFETY

Item 22
To Department of Public Safety – Division of Homeland Security – Emergency and Disaster Management
From Expendable Receipts 5,000,000
Schedule of Programs:
Emergency and Disaster Management 5,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for the Division of Homeland Security Emergency and Disaster Management line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: (1) distribution of funds for appropriate and approved expenses (Target 100%).

Item 23
To Department of Public Safety – Driver License

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for the Driver License Division line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget

before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: (1) average customer call wait time (Target=30 seconds).

Item 24
To Department of Public Safety – Emergency Management
From Federal Funds 107,720,800
From Federal Funds, One-Time 60,000,000
From Expendable Receipts 60,000
Schedule of Programs:
Emergency Management 167,780,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for the Emergency Management line item, whose mission is, "To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: (1) percentage of personnel that have completed the required National Incident Management System training (Target=100 percent).

Item 25
To Department of Public Safety – Highway Safety
From Federal Funds 848,100
Schedule of Programs:
Highway Safety 848,100

Item 26
To Department of Public Safety – Peace Officers' Standards and Training
From General Fund 514,500
From General Fund, One-Time 170,000
Schedule of Programs:
POST Administration 684,500

The Legislature intends that the Department of Public Safety – Peace Officers' Standards and Training is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2023 and Fiscal Year 2024.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for the POST line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: (1) percentage of presented cases of law enforcement personnel complaints or misconduct allegations ratified by POST Council (Target=95 percent), and (2) percentage of law enforcement officers completing 40 hours of mandatory annual training (Target= 100 percent).

Item 27
To Department of Public Safety – Programs & Operations
From General Fund 4,201,600
From General Fund, One-Time 13,004,500
From Federal Funds 1,342,300
Schedule of Programs:
Aero Bureau 575,000
CITS Communications 1,295,300
CITS State Bureau of Investigation 312,500
CITS State Crime Labs 1,342,300
Department Commissioner's Office 5,429,500
Highway Patrol – Field Operations 9,593,800

The Legislature intends that the Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2023 and Fiscal Year 2024.

The Legislature intends that the State Bureau of Investigations within the Department of Public Safety be able to use $169,716 of unclaimed and abandoned seized funds for purposes of public interest. Examples of public interest include payment of court awarded attorney fees and interest charges. Legislative authority is required under Section 24-3-103(7).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for their Programs and Operations line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: (1) median DNA case turnaround time (Target=60 days).

Item 28
To Department of Public Safety – Bureau of Criminal Identification
From General Fund 180,000
From General Fund, One-Time 180,000
Schedule of Programs:
Non-Government/Other Services 360,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for the Bureau of Criminal Identification line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: (1) percentage of LiveScan

fingerprint card data entered into the Utah Computerized Criminal History (UCCH) and Automated fingerprint identification System (AFIS) databases, or deleted from the queue (Target=7 days).

STATE TREASURER

Item 29
To State Treasurer

In accordance with UCA 63J-1-903, the Legislature intends that the State Treasurer's Office report performance measures for the State Treasurer line item. The State Treasurer's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Beneficiary and Legislative Outreach; 2) Beneficiaries Use of Trust Funds; 3) Reporting of Trust Fund Distributions; 4) Ratio of Claim Dollars Paid to Unclaimed Property Received (Target=50%); 5) Unclaimed Property Claims (Target=$20,000,000); 6) PTIF Rate Spread to Benchmark Rate (Target=0.3%).

UTAH COMMUNICATIONS AUTHORITY

Item 30
To Utah Communications Authority -
Administrative Services Division

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Communications Authority (UCA) report performance measures for their line item, whose mission is "to provide administrative and financial support for statewide 911 emergency services." The UCA shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the UCA shall maintain the statewide public safety communications network in a manner that maximizes network availability for its users; 2) monitor best practices and other guidance for PSAPs across Utah; and 3) ensure compliance with applicable laws, policies, procedures, and other internal controls to ensure adequate administration of the organization.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 31
To Career Service Review Office

In accordance with UCA 63J-1-903, the Legislature intends that the Career Service Review Office, whose mission is to administer the Utah State Employees' Grievance and Appeals Procedures for executive branch employees, shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the office shall report the following performance measures: 1) the length of time to issue a jurisdictional decision on a new grievance (target: 15 days); 2) the length of time to conduct an evidentiary hearing once a grievance has been established (target: 150 days); 3) the length of time to issue a written decision after an evidentiary hearing has adjourned (target: 20 working days); and 4) hire and retain hearing officers who meet the performance standards set by DHRM (target: 100%).

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 32
To Utah Education and Telehealth Network
From General Fund ..... (51,000)
From Income Tax Fund 1,150,000
Schedule of Programs:
Administration 400,000
Technical Services 519,000
Utah Telehealth Network 180,000

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Education and Telehealth Network, whose mission is "to connect people and technologies to improve education and telehealth in Utah," shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of circuits (target: 1,447); 2) the percentage of potential customers using UETNs Learning Management System services (target: 74%); and 3) the number of Interactive Video Conferencing (IVC) courses (target: 56,733).

The Legislature intends that the Utah Education and Telehealth Network report to the Infrastructure and General Government Appropriations Subcommittee during 2023 interim on how they have spent the funding appropriated for FY 2023 and provide explanations for any discrepancies between the appropriated amounts and the actual spending.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 33
To Department of Government Operations -
Administrative Rules
From General Fund, One-Time ..... (100,000)
Schedule of Programs:
DAR Administration ..... (100,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Office of Administrative Rules line item, whose mission is "to enable citizens' participation in their own government by supporting agency rulemaking and ensuring agency compliance with the Utah Administrative Rulemaking Act." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) average number of business days to review rule filings (target: 4 days or less); 2) average number of days from the effective date to publish the final version of an administrative rule after the rule becomes effective (target: 4 days or less); and 3) number of agency administrative rules coordinators trained during the fiscal year (target: 80%).

Item 34

To Department of Government Operations - DFCM Administration

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the DFCM Administration line item, whose mission is "to provide professional services to assist State entities in meeting their facility needs for the benefit of the public." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills: 1) capital improvement projects completed in the fiscal year they are funded (target: at least 86%); and 2) accuracy of Capital Budget Estimates (CBE) (baseline +/- 10%; target: +/- 5%).

Item 35

To Department of Government Operations - Executive Director

From General Fund 527,000
From General Fund, One-Time 105,000
From Dedicated Credits Revenue 147,000
From General Services - Cooperative Contract Mgmt, One-Time 995,000
Schedule of Programs:
Executive Director 1,774,000

The Legislature intends that the Department of Government Operations report to the Infrastructure and General Government Appropriations Subcommittee during 2023 interim on how they have spent the funding appropriated for FY 2023 and provide explanations for any discrepancies between the appropriated amounts and the actual spending.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Executive Director line item, whose mission is "to create innovative solutions to transform government services." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) independent evaluation/audit of divisions/key programs (target: at least 6 annually); and 2) air quality improvement activities across state agencies (target: 40 activities each year).

Item 36

To Department of Government Operations - Finance - Mandated

From General Fund ..... (1,862,300)
Schedule of Programs:
Internal Service Fund Rate Impacts ..... (112,300)
State Employee Benefits ..... (1,750,000)

Item 37

To Department of Government Operations - Finance Administration

From General Fund 1,454,000
From General Fund, One-Time 525,000
Schedule of Programs:
Financial Information Systems 1,979,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Finance Administration line item, whose mission is "to serve Utah citizens and state agencies with fiscal leadership and quality financial systems, processes, and information." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) close the fiscal year within 60 days of the end of the fiscal year (baseline: 101 days after June 30; target: 60 days after June 30).

Item 38

To Department of Government Operations - Inspector General of Medicaid Services

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Office of Inspector General of Medicaid Services, whose mission is to "eliminate fraud, waste, and abuse within the Medicaid program." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills.

For FY 2024, the department shall report the following performance measures: 1) cost avoidance projected over one year and three years (target: $15 million); 2) Medicaid dollars recovered through cash collections, directed re-bills, and credit adjustments (target: $3 to 5 million); 3) the number of credible allegations of provider and/or recipient fraud received, initial investigations conducted, and referred to an outside entity, e.g. Medicaid Fraud Control Unit (MFCU), Department of Workforce Services (DWS), local law enforcement, etc. (target: 10 cases referred to MFCU; 30 cases referred to DWS/others); 4) the number of fraud, waste, and abuse cases identified and evaluated (target: 350 leads/ideas turn into 750 cases, that encompass around 3,500 individual transactions reviewed); and 5) the number of recommendations for improvement made to the Department of Health and Human Services (target: 100).

Item 39

To Department of Government Operations - Judicial Conduct Commission
From General Fund 60,000
Schedule of Programs:
Judicial Conduct Commission 60,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Judicial Conduct Commission line item, whose mission is to investigate and conduct confidential hearings regarding complaints against state, county, and municipal judges throughout the state. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Timely publication of an annual report with all public dispositions in the last year (target: 60 days from the end of the fiscal year); and 2) Annualized average number of business days to conduct a preliminary investigation (target: 90 days).

Item 40

To Department of Government Operations - Purchasing

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Purchasing and General Services line item, whose mission is to ensure that the state agencies adhere to the requirement of the Utah Procurement Code when conducting procurements. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) increase the average discount on State of Utah Best Value cooperative contracts (baseline: 35%, target: 40%); 2) increase the number of State of Utah Best Value Cooperative Contracts for public entities to use (baseline: 1,250 target: 1,400); and 3) increase the amount of total spent on State of Utah Best Value Cooperative contracts (baseline: $550 million, target: $900 million).

Item 41

To Department of Government Operations - State Archives
From General Fund, One-Time 120,000
Schedule of Programs:
Archives Administration 120,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the State Archives and Records Service line item, whose mission is "to assist Utah government agencies in the efficient management of their records, to preserve those records of enduring value, and to provide quality access to public information." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) percentage of reformatted records that meet or exceed estimated completion date (target: 95%); 2) percentage of reformatted records projects completed that were error-free in quality control checks (target: 95%); and 3) percentage of government entity or political subdivision designated records officers who are certified (Target: 95%).

Item 42

To Department of Government Operations - Chief Information Officer

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Chief Information Officer line item, whose mission is "to provide innovative, secure, and cost-effective technology solutions that are convenient and empower our partner agencies to better serve the residents of Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) data security - ongoing systematic prioritization of high-risk areas across the state (target: 700 or greater); 2) application development - satisfaction scores on application

development projects from agencies (target: average at least 83%); 3) procurement and deployment – ensure state employees receive computers in a timely manner (target: 10 days or fewer); and 4) Privacy Protection Amendments – Initial assessment of agencies completed after appointment by Governor (target: 52 privacy impact assessments completed per year. Assess privacy controls as outlined in H.B. 243, 2021 General Session).

Item 43
To Department of Government Operations – Integrated Technology
From General Fund 142,600
From General Fund, One-Time 500,000
Schedule of Programs:
Utah Geospatial Resource Center 642,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Integrated Technology Services line item, whose mission is "to provide innovative, secure, and cost-effective technology solutions that are convenient and empower our partner agencies to better serve the residents of Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) uptime for the Utah Geospatial Resource Center (UGRC) portfolio of streaming geographic data web services and State Geographic Information Database connection services (target: at least 99.5%); 2) road centerline and addressing map data layer required for Next Generation 911 services is published monthly to the State Geographic Information Database (target: at least 120 county-sourced updates including 50 updates from Utah's class I and II counties); and 3) uptime for UGRC's TURN GPS real-time, high precision geopositioning service that provides differential correction services to paying and partner subscribers in the surveying, mapping, construction, and agricultural industries (target: at least 99.5%).

CAPITAL BUDGET

Item 44
To Capital Budget – Capital Development – Higher Education
From General Fund, One-Time 5,300,000
From Capital Projects Fund, One-Time 28,000,000
From Higher Education Capital Projects Fund, One-Time 227,176,500
Schedule of Programs:
Mountainland Technical College Wasatch Campus Building 65,736,500
SLCC Business Building Expansion and Remodel 18,063,400
SUU Business Building West Addition 12,500,000
UU Computing and Engineering Building 108,344,200
USU Huntsman Experiential Learning Center 10,000,000
USU Science Engineering Research Building Renovation 4,200,000
WSU Engineering Technology Building Renovation 8,332,400
WSU Farmington Station Infrastructure 5,300,000
UTU Cox Performing Arts Center Renovation 28,000,000

Item 45
To Capital Budget – Capital Development – Other State Government
From Capital Projects Fund, One-Time 160,313,100
Schedule of Programs:
Convergence Hall 50,000,000
DFCM and DPS Block 407 30,000,000
DNR Loa Fish Hatchery 56,843,400
UDOT Ogden Maintenance Signals and Materials Lab 23,469,700

Item 46
To Capital Budget – Capital Improvements
From Income Tax Fund, One-Time 1,000,000
Schedule of Programs:
Capital Improvements 1,000,000

The Legislature intends that the Division of Facilities Construction and Management use up to $1.5 million from appropriations for Capital Improvements to make improvements on the Fort Douglas Military Museum.

The Legislature intends that the University of Utah use up to $1,000,000 in this line item for parking lot safety improvements and to repair a HVAC system for the Thomas S. Monson Center Building.

Item 47
To Capital Budget – Pass-Through
From General Fund, One-Time 40,000,000
From Federal Funds – American Rescue Plan – Capital Projects Fund, One-Time 25,000,000
Schedule of Programs:
DFCM Pass Through 25,000,000
Olympic Park Improvement 40,000,000

The Legislature intends that the appropriations by this line item from the American Rescue Plan Act Capital Projects Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021 Capital Projects Fund after the Grant Plan has been approved by the U.S. Department of the Treasury. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as

directed by the Governor's Office of Planning and Budget.

Item 48
To Capital Budget - Property Acquisition
From Income Tax Fund, One-Time ... 12,913,800
Schedule of Programs:
Snow College Central Valley Medical Center Land Bank 2,000,000
Snow College Jorgensen Land Bank ... 850,000
UTU 1000E Land Bank 1,340,000
WSU Farmington Station Land Bank 5,723,800
Snow College Triple D Land Bank ... 3,000,000

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 49
To State Board of Bonding Commissioners - Debt Service - Debt Service
From General Fund, One-Time 3,433,800
From Transportation Investment Fund of 2005, One-Time ..... (37,749,900)
From Federal Funds, One-Time 3,433,800
From County of First Class Highway Projects Fund, One-Time ..... (1,202,300)
From Revenue Transfers, One-Time ..... (3,433,800)
Schedule of Programs:
G.O. Bonds - Transportation ..... (35,518,400)

TRANSPORTATION

Item 50
To Transportation - Aeronautics
From General Fund 689,200
From General Fund, One-Time 495,000
Schedule of Programs:
Administration 309,200
Airplane Operations 875,000

Item 51
To Transportation - Highway System Construction
From General Fund, One-Time 20,000,000
From Transportation Fund ..... (10,596,700)
From Federal Funds 136,647,500
Schedule of Programs:
Federal Construction 136,647,500
State Construction 9,403,300

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $20,000,000 of appropriations provided for Highway Systems Construction related to wildlife highway mitigation not lapse at the close of fiscal year 2024.

The Legislature intends that the Department of Transportation use $20,000,0000 to match federal discretionary grant funds awarded to the department to construct wildlife mitigation projects.

The Legislature intends that the Department of Transportation prioritize mitigation projects at the junction of I-84 and I-80 and on portions of I-80 and I-84 in the surrounding areas of that junction.

Item 52
To Transportation - Engineering Services
From Transportation Fund 4,952,600
From Federal Funds 6,085,600
From Transit Transportation Investment Fund 3,000,000
Schedule of Programs:
Civil Rights 200,000
Engineering Services 6,859,900
Environmental 300,000
Program Development 6,237,600
Research 90,700
Structures 350,000

Item 53
To Transportation - Operations/ Maintenance Management
From Transportation Fund 18,492,700
From Transportation Investment Fund of 2005 1,370,000
From Transportation Investment Fund of 2005, One-Time 2,284,000
From Federal Funds 319,700
From Dedicated Credits Revenue 1,181,900
Schedule of Programs:
Equipment Purchases 4,791,900
Field Crews ..... (96,000)
Maintenance Administration 2,970,000
Region 1 11,114,300
Region 2 1,361,300
Region 3 623,000
Region 4 1,474,500
Shops 509,300
Traffic Operations Center 900,000

Item 54
To Transportation - Region Management
From Transportation Fund 4,510,100
From Federal Funds 636,000
From Dedicated Credits Revenue 527,600
Schedule of Programs:
Region 1 4,471,300
Region 2 976,400
Region 3 141,500
Region 4 84,500

Item 55
To Transportation - Support Services
From Transportation Fund 3,146,100
From Federal Funds 2,602,200
Schedule of Programs:
Administrative Services 2,262,100
Data Processing 884,000
Ports of Entry 2,602,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Transportation, whose mission is to "Keep Utah Moving," report performance measures for the Support Services line item. The department shall report fiscal year 2023 results to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills for the goal of optimizing mobility. For calendar year 2023, the department shall report the following performance measures: (1) delay along I-15 (target: delay should not grow by more than 4% annually); (2) maintain a reliable fast condition on I-15 along the

Wasatch Front during peak hours (target: at least 90% of segments); (3) achieve optimal use of snow and ice equipment and materials (target: at least 87% effectiveness); and (4) support increase of trips by public transit (target: increase in average weekday boarding by 1% year over year).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Transportation, whose mission is to "Keep Utah Moving," report performance measures for the Support Services line item. The department shall report fiscal year 2023 results to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills for the goal of reducing crashes, injuries, and fatalities. For calendar year 2023, the department shall report the following performance measures: (1) traffic fatalities (target: at least a 2.5% reduction from the 3-year rolling average); (2) traffic serious injuries (target: at least a 2.5% reduction from the 3-year rolling average); (3) traffic crashes (target: at least a 2.5% reduction from the 3-year rolling average); (4) internal fatalities (target: zero); (5) internal injuries (target: 10% below prior year injury rate); and (6) internal equipment damage (target: equipment damage 6.85 incidents per 200,0000 working hours).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Transportation, whose mission is to "Keep Utah Moving," report performance measures for the Support Services line item. The department shall report fiscal year 2023 results to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills for the goal of preserving infrastructure. For calendar year 2023, the department shall report the following performance measures: (1) pavement performance (target: at least 50% of pavements in good condition and less than 10% of pavements in poor condition- low volume pavement); (2) maintain the bridge condition (target: at least 80% in fair or good condition); (3) maintain the health of Automated Transportation Management Systems (ATMS) (target: at least 90% in good condition); and (4) maintain the health of signals (target: at least 90% in good condition).

The Legislature intends that the Department of Transportation and the Transportation Commission report to the Infrastructure and General Government Appropriations Subcommittee during 2023 interim on how they have spent the funding appropriated for FY 2023 and provide explanations for any discrepancies between the appropriated amounts and the actual spending.

Item 56
To Transportation - Transportation Investment Fund Capacity Program
From Transportation Investment Fund of 2005 ..... (46,370,000)
From Transportation Investment Fund of 2005, One-Time ..... (2,284,000)
Schedule of Programs:
Transportation Investment Fund Capacity Program ..... (48,654,000)

The Legislature intends that the Department of Transportation use excess funds from the Transportation Investment Fund to pay utility costs associated with the Toquerville Parkway project.

Item 57
To Transportation - Amusement Ride Safety
From General Fund 18,100
Schedule of Programs:
Amusement Ride Safety 18,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Transportation report performance measures for the Amusement Ride Safety line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills: (1) number of rides registered; (2) percent of ride registrations completed within 3 days of receipt; and (3) number of inspectors registered.

Item 58
To Transportation - Transit Transportation Investment
From Transit Transportation Investment Fund ..... (3,000,000)
Schedule of Programs:
Transit Transportation Investment ..... (3,000,000)

Item 59
To Transportation - Pass-Through
From General Fund, One-Time 16,477,800
Schedule of Programs:
Pass-Through 16,477,800

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 60
To Department of Alcoholic Beverage Services - DABS Operations
From Liquor Control Fund 3,679,600
From Liquor Control Fund, One-Time ..... (5,652,500)
Schedule of Programs:
Executive Director 117,000
Operations ..... (2,089,900)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of

Alcoholic Beverage Services report performance measures for the DABS Operations line item, whose mission is, "Conduct, license, and regulated the sale of alcoholic products in a manner and at prices that: Reasonably satisfy the public demand and protect the public interest, including the rights of citizens who do not wish to be involved with alcoholic products." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: 1) On Premise licensee audits conducted (Target = 85%); 2) Percentage of net profit to sales (Target = 23%); Supply chain (Target = 97% in stock); 4) Liquor payments processed within 30 days of invoices received (Target = 97%).

Item 61

To Department of Alcoholic Beverage Services – Parents Empowered
From Liquor Control Fund, One-Time ..... (24,500)
Schedule of Programs:
Parents Empowered ..... (24,500)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Alcoholic Beverage Services report performance measures for the Parents Empowered line item, whose mission is, "pursue a leadership role in the prevention of underage alcohol consumption and other forms of alcohol misuse and abuse. Serve as a resource and provider of alcohol educational, awareness, and prevention programs and materials. Partner with other government authorities, advocacy groups, legislators, parents, communities, schools, law enforcement, business and community leaders, youth, local municipalities, state and national organizations, alcohol industry members, alcohol licensees, etc., to work collaboratively to serve in the interest of public health, safety, and social well-being, for the benefit of everyone in our communities." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2024 appropriations bills and the current status of the following performance measure for FY 2024: 1) Ad awareness of the dangers of underage drinking and prevention tips (Target =70%); 2) Ad awareness of "Parents Empowered" (Target =60%); 3) Percentage of students who used alcohol during their lifetime (Target = 16%).

DEPARTMENT OF COMMERCE

Item 62

To Department of Commerce – Commerce General Regulation
From Federal Funds 18,300
From General Fund Restricted – Commerce Service Account ..... (300,000)
From General Fund Restricted – Public Utility Restricted Acct. 300,000
From Single Sign-On Expendable Special Revenue Fund, One-Time 310,000
From General Fund Restricted – Utah Housing Opportunity Restricted 29,600
Schedule of Programs:
Administration 310,000
Real Estate 47,900

The Legislature intends that the Department of Commerce be allowed to purchase a fleet vehicle with funds previously provided and authorized for the Physicians Health Program for Physician outreach.

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 63

To Governor's Office of Economic Opportunity – Administration
From General Fund ..... (667,700)
Schedule of Programs:
Administration ..... (667,700)

Item 64

To Governor's Office of Economic Opportunity – Economic Prosperity
From General Fund 7,347,700
From General Fund, One-Time 18,000,000
From Beginning Nonlapsing Balances ... 500,000
Schedule of Programs:
Corporate Recruitment and Business Services ..... (13,827,600)
Outreach and International Trade ..... (4,946,700)
Business Services 3,881,800
Incentives and Grants 29,361,300
Strategic Initiatives 6,410,000
Systems and Control 4,968,900

Item 65

To Governor's Office of Economic Opportunity – Office of Tourism
From General Fund, One-Time 1,000,000
From General Fund Restricted – Tourism Marketing Performance ... (2,282,300)
From General Fund Restricted – Tourism Marketing Performance, One-Time ..... (450,000)
Schedule of Programs:
Administration ..... (1,281,700)
Marketing and Advertising ..... (2,732,300)
Operations and Fulfillment ..... (2,935,600)
Tourism 5,217,300

Item 66

To Governor's Office of Economic Opportunity – Pass-Through

From General Fund 9,865,700
From General Fund, One-Time 42,520,500
From General Fund Restricted -
Tourism Marketing Performance,
One-Time 450,000
Schedule of Programs:
Pass-Through 48,336,200
Economic Assistance Grants 4,500,000

The Legislature intends that $450,000 one-time from the Tourism Marketing Performance Fund provided by this item be used for the Taste Utah - Let's Eat Out! Marketing Campaign

Item 67
To Governor's Office of Economic Opportunity - Inland Port Authority

The Legislature intends that the Utah Inland Port Authority reports on progress during the 2023 Interim on the Audit Recommendations found in "2022-07: A Limited Review of the Utah Inland Port Authority."

Item 68
To Governor's Office of Economic Opportunity - Rural Opportunity Program
From General Fund ..... (6,550,000)
From Beginning Nonlapsing
Balances ..... (500,000)
Schedule of Programs:
Rural Opportunity Program ..... (7,050,000)

Item 69
To Governor's Office of Economic Opportunity - GOUTAH Economic Assistance Grants
From General Fund ..... (16,240,200)
Schedule of Programs:
Pass-Through Grants ..... (11,740,200)
Competitive Grants ..... (4,500,000)

Item 70
To Governor's Office of Economic Opportunity - World Trade Center Utah
From General Fund 1,162,500
From General Fund, One-Time 100,000
Schedule of Programs:
World Trade Center Utah 1,262,500

Item 71
To Governor's Office of Economic Opportunity - Utah Sports Commission
From General Fund 5,255,000
From General Fund, One-Time 2,150,000
From General Fund Restricted -
Tourism Marketing Performance 2,282,300
Schedule of Programs:
Utah Sports Commission 9,687,300

FINANCIAL INSTITUTIONS

Item 72
To Financial Institutions - Financial Institutions Administration
From General Fund Restricted -
Financial Institutions 649,400
From General Fund Restricted -
Financial Institutions, One-Time 95,100
Schedule of Programs:
Administration 744,500

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 73
To Department of Cultural and Community Engagement - Administration
From General Fund ..... (5,613,200)
From Closing Nonlapsing Balances 5,000,000
Schedule of Programs:
Administrative Services ..... (613,200)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the Administration line item, whose mission is, "Increase value to customers through leveraged collaboration between divisions and foster a culture of continuous improvement to find operational efficiencies." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: (1) Digitally share the States historical and art collections (including art, artifacts, manuscripts, maps, etc.) The percentage of collection digitized and available online. (Target = 35%); (2) Expand the reach and impact of youth engagement without disrupting the quality of programming by engaging a target number of students from a wide range of schools. (Target = 1,450 Students and 60 Schools); and (3) Implement procedures to ensure that programming is available to vulnerable student populations by measuring the percentage of students attending that align with identified target audiences. (Target = 78%).

Item 74
To Department of Cultural and Community Engagement - Division of Arts and Museums
From General Fund 150,000
From Federal Funds, One-Time 299,900
Schedule of Programs:
Community Arts Outreach 150,000
Museum Services 299,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the Arts and Museums line item, whose mission is, "connect people and communities through arts and museums." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: 1) Foster collaborative partnerships to nurture understanding of art forms and cultures in local communities through a travelling art

exhibition program emphasizing services in communities lacking easy access to cultural resources. Measure the number of counties served by Travelling Exhibitions annually (Target = 69% of counties annually); 2) Support the cultural and economic health of communities through grant funding, emphasizing support to communities lacking easy access to cultural resources. The number of counties served by grant funding will be tracked (Target = 27); 3) Provide training and professional development to the cultural sector, emphasizing services to communities lacking easy access to cultural resources. The number of people served will be tracked (Target = 2500).

Item 75

To Department of Cultural and Community Engagement - Commission on Service and Volunteerism

From General Fund, One-Time 1,200,000

Schedule of Programs:

Commission on Service and Volunteerism 1,200,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the Commission on Service and Volunteerism line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: 1) Assist organizations in Utah to effectively use service and volunteerism as a strategy to fulfill organizational missions and address critical community needs by measuring the percent of organizations trained that are implementing effective volunteer management practices (Target = 85%); 2) Manage the AmeriCorps program for Utah to target underserved populations in the focus areas of Economic Opportunity, Education, Environmental Stewardship, Disaster Preparedness, Healthy Futures, and Veterans and Military Families by measuring the percent of AmeriCorps programs showing improved program management and compliance through training and technical assistance (Target = 90%); 3) Manage the AmeriCorps program for Utah to target underserved populations in the focus areas of Economic Opportunity, Education, Environmental Stewardship, Disaster Preparedness, Healthy Futures, and Veterans and Military Families by measuring the percent of targeted audience served through AmeriCorps programs (Target = 88%).

Item 76

To Department of Cultural and Community Engagement - Indian Affairs

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the Indian Affairs line item, whose mission is, "to address the socio-cultural challenges of the eight federally-recognized Tribes residing in Utah." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: 1) Assist the eight tribal nations of Utah in preserving culture and growing communities by measuring the percent of attendees participating in the Youth Track of the Governor's Native American Summit (Target = 30%) 2) Assist the eight tribal nations of Utah in preserving culture and interacting effectively with State of Utah agencies by managing an effective liaison working group as measured by the percent of mandated state agencies with designated liaisons actively participating to respond to tribal concerns (Target = 70%); 3) Represent the State of Utah by developing strong relationships with tribal members by measuring the percent of tribes personally visited on their lands annually. (Target = 80% annually).

Item 77

To Department of Cultural and Community Engagement - Pass-Through

From General Fund, One-Time 545,000

From Income Tax Fund, One-Time 100,000

Schedule of Programs:

Pass-Through 645,000

Item 78

To Department of Cultural and Community Engagement - State History

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the State History line item, whose mission is, "to preserve and share the past for a better present and future." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: 1) Support management and development of public lands by completing cultural compliance reviews (federal Section 106 and Utah 9-8-404) within 20 days. (Target = 95%); 2) Promote historic preservation at the community level. Measure the percent of Certified Local Governments actively involved in historic preservation by applying for a grant at least once within a four year period and successfully completing the grant-funded

1035 project (Target = 60% active CLGs); 3) Provide public access to the states history collections. Percentage of collection prepared to move to a collections facility: Identified, Digitized, Cataloged, Packed for moving and long term storage (Target = 33%).

Item 79
To Department of Cultural and Community Engagement – Stem Action Center

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the Utah STEM Action Center line item, whose mission is, "to promote science, technology, engineering and math through best practices in education to ensure connection with industry and Utah's long–term economic prosperity." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills and the current status of the following performance measure for FY 2024: 1) Percentage of communities off the Wasatch Front served by the STEM bus (Target = 40%); 2) Number of events with engagement of Corporate Partners (Target = 50%); and 3) Percentage of grants and dollars awarded off the Wasatch Front (Target = 40%).

Item 80
To Department of Cultural and Community Engagement – One Percent for Arts
From Revenue Transfers 1,100,000
Schedule of Programs:
One Percent for Arts 1,100,000

Item 81
To Department of Cultural and Community Engagement – State of Utah Museum
From General Fund 5,613,200
Schedule of Programs:
State of Utah Museum Administration 5,613,200

Item 82
To Department of Cultural and Community Engagement – Arts & Museums Grants
From General Fund ..... (1,075,000)
Schedule of Programs:
Pass Through Grants ..... (1,075,000)

Item 83
To Department of Cultural and Community Engagement – Capital Facilities Grants
From General Fund, One–Time 3,980,000
Schedule of Programs:
Pass Through Grants 3,980,000

Item 84
To Department of Cultural and Community Engagement – Heritage & Events Grants
From General Fund ..... (405,700)
From Income Tax Fund ..... (50,000)
Schedule of Programs:
Pass Through Grants ..... (455,700)

INSURANCE DEPARTMENT

Item 85
To Insurance Department – Bail Bond Program
From General Fund Restricted – Bail Bond Surety Administration ..... (44,200)
Schedule of Programs:
Bail Bond Program ..... (44,200)

Item 86
To Insurance Department – Health Insurance Actuary
From General Fund Rest. – Health Insurance Actuarial Review 225,000
Schedule of Programs:
Health Insurance Actuary 225,000

Item 87
To Insurance Department – Insurance Department Administration
From General Fund Restricted – Bail Bond Surety Administration 44,200
Schedule of Programs:
Administration ..... (221,500)
Insurance Fraud Program 265,700

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Insurance report performance measures for all Insurance line items based upon the following measures: Customer Feedback. Percent of customers surveyed that report satisfactory or exceptional service, target 75%. Department Efficiency. Monitor growth in the Insurance Department as a ratio to growth in the industry to assure efficient and effective government. Insurance Industry's Financial Contribution to Utah's Economy. Target a 3% increase in the total contributions to Utah's economy through the industry regulated by the Insurance Department.

Item 88
To Insurance Department – Title Insurance Program
From General Fund Rest. – Title Licensee Enforcement Acct. 150,000
Schedule of Programs:
Title Insurance Program 150,000

UTAH STATE TAX COMMISSION

Item 89
To Utah State Tax Commission – License Plates Production
From Dedicated Credits Revenue 50,000
Schedule of Programs:
License Plates Production 50,000

Item 90
To Utah State Tax Commission – Liquor Profit Distribution
From General Fund Restricted – Alcoholic Beverage Enforcement and Treatment Account 202,000
Schedule of Programs:
Liquor Profit Distribution 202,000

Item 91
To Utah State Tax Commission – Tax Administration
From General Fund 129,700
From Income Tax Fund 105,500
From Federal Funds 6,300
From Dedicated Credits Revenue 500,300
From General Fund Restricted – Electronic Payment Fee Rest. Acct 1,000,000
From General Fund Rest. – Sales and Use Tax Admin Fees 83,200
From Revenue Transfers 1,700
Schedule of Programs:
Operations 192,000
Customer Service 1,470,000
Property and Miscellaneous Taxes 134,700
Enforcement 30,000

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 92
To Department of Workforce Services – Administration
From General Fund ..... (158,700)
From Federal Funds 31,800
From Federal Funds, One-Time 1,359,500
From Expendable Receipts 9,300
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct 1,000
From Permanent Community Impact Loan Fund ..... (68,400)
From Permanent Community Impact Bonus Fund 68,400
From General Fund Restricted – Special Admin. Expense Account, One-Time 67,500
From Revenue Transfers ..... (26,700)
From Unemployment Compensation Fund, One-Time 75,900
Schedule of Programs:
Administrative Support 841,800
Communications 140,900
Executive Director's Office 140,600
Human Resources 136,600
Internal Audit 99,700

The Legislature intends that $75,900 of the Unemployment Compensation Fund appropriation provided for the Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 93
To Department of Workforce Services – General Assistance
From General Fund, One-Time ..... (4,265,000)
From Income Tax Fund, One-Time 4,265,000

Item 94
To Department of Workforce Services – Housing and Community Development
From General Fund 132,000
From General Fund, One-Time 7,700,000
From Federal Funds 3,615,000
From Federal Funds, One-Time 49,993,000
From Federal Funds – American Rescue Plan, One-Time 1,000,000
From Dedicated Credits Revenue, One-Time 2,700,000
From Permanent Community Impact Loan Fund ..... (588,000)
From Permanent Community Impact Bonus Fund 588,000
Schedule of Programs:
Community Development 5,582,700
Community Development Administration 1,583,300
Community Services 20,793,300
HEAT 19,274,100
Housing Development 10,183,500
Weatherization Assistance 7,723,100

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 95
To Department of Workforce Services – Nutrition Assistance – SNAP
From Federal Funds 96,510,200
Schedule of Programs:
Nutrition Assistance – SNAP 96,510,200

Item 96
To Department of Workforce Services – Operations and Policy
From General Fund ..... (32,300)
From General Fund, One-Time ..... (4,428,800)
From Income Tax Fund, One-Time 4,428,800
From Federal Funds 3,000,000
From Federal Funds, One-Time 249,867,500
From Permanent Community Impact Loan Fund ..... (114,100)
From Permanent Community Impact Bonus Fund 114,100
From Qualified Emergency Food Agencies Fund 1,000
From General Fund Restricted – Special Admin. Expense Account, One-Time 3,268,500
From Revenue Transfers ..... (9,045,500)
From Unemployment Compensation Fund, One-Time 2,396,500
Schedule of Programs:
Child Care Assistance 72,289,200
Eligibility Services 9,701,300
Facilities and Pass-Through 4,044,400
Information Technology 22,034,100
Nutrition Assistance 39,200
Other Assistance 112,300
Refugee Assistance 6,036,400
Temporary Assistance for Needy Families 52,029,700
Trade Adjustment Act Assistance ... 1,223,600
Workforce Development 76,295,500

Workforce Investment Act
Assistance 3,693,700
Workforce Research and Analysis ... 1,956,300

The Legislature intends that the $900,000 provided in the Department of Workforce Services – Operations and Policy line item for the "Breaking Poverty Cycles through Professional Mentoring" from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of the Breaking Poverty Cycles through Professional Mentoring to receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY2024 – $300,000; FY2025 – $300,000; FY2026 – $300,000.

The Legislature intends that the $10,500,000 provided in the Department of Workforce Services – Operations and Policy line item for the "Early Childhood Home Visitation" from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of the Early Childhood Home Visitation Program to receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY2024 – $3,500,000; FY2025 – $3,500,000; FY2026 – $3,500,000.

The Legislature intends that the $10,000,000 provided in the Department of Workforce Services – Operations and Policy line item for the "Poverty Mitigation Amendments" from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of the Poverty Mitigation Grant Program to receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY2024 – $3,334,000; FY2025 – $3,333,000; FY2026 – $3,333,000.

The Legislature intends that one-time funding appropriated for Home Visitation Services for More Families to the Department of Health and Human Services will be used for the following purposes: 1) Provide the opportunity for selected request for proposal community vendors to complete a three-year pilot for the opportunity to create an updated home visiting system which can serve more infants, children and families and with more service offerings; 2) The request for proposal for this pilot will include: outreach, follow up, support provided, referrals, data collection on programmatic outcomes, type of service received and by which program; 3) Request for proposal-selected vendors shall recommend how to expand and structure a statewide home visiting program based off the data collected in the pilot program.; and 4) Selected request for proposal vendor(s) shall include accountabilities/and proposed programmatic outcomes in their proposal.

The Legislature intends that the Department of Workforce Services develop one proposed performance measure for each new funding item of $10,000 or more from Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2023. For FY 2024 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 15, 2024. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

The Legislature intends that $2,396,500 of the Unemployment Compensation Fund appropriation provided for the Operations and Policy line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 97

To Department of Workforce Services – State Office of Rehabilitation
From General Fund 735,000
From General Fund, One-Time .... (22,746,800)
From Income Tax Fund, One-Time ... 22,746,800
From Federal Funds 800
From Federal Funds, One-Time 12,800
From Permanent Community Impact Loan Fund ..... (1,000)
From Permanent Community Impact Bonus Fund 1,000
From General Fund Restricted – Special Admin. Expense Account, One-Time 1,500
From Unemployment Compensation Fund, One-Time 1,400
Schedule of Programs:
Deaf and Hard of Hearing 16,500
Rehabilitation Services 735,000

The Legislature intends that $1,400 of the Unemployment Compensation Fund appropriation provided for the State Office of Rehabilitation line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 98

To Department of Workforce Services – Unemployment Insurance
From Federal Funds, One-Time 2,810,400
From Permanent Community Impact Loan Fund ..... (3,300)
From Permanent Community Impact Bonus Fund 3,300
From General Fund Restricted – Special Admin. Expense Account, One-Time ... 837,500
From Unemployment Compensation Fund, One-Time 726,200
Schedule of Programs:
Adjudication 580,600
Unemployment Insurance Administration 3,793,500

The Legislature intends that $726,200 of the Unemployment Compensation Fund appropriation provided for the Unemployment Insurance line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 99
To Department of Workforce Services – Office of Homeless Services
From General Fund 17,000,000
From General Fund, One-Time 1,600,000
From Federal Funds, One-Time 32,711,700
From Gen. Fund Rest. – Pamela Atkinson Homeless Account 100,000
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct, One-Time 17,123,600
From General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account 686,000
From Revenue Transfers, One-Time 75,000
Schedule of Programs:
Homeless Services 69,296,300

The Legislature intends that the prioritized list of Homeless Shelter Cities Mitigation Program grant requests, including the recommended grant amount for each grant-eligible entity, be approved as submitted to the Social Services Appropriations Subcommittee by the State Homeless Coordinating Committee in accordance with Utah Code 63J-1-802.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 100
To Department of Health and Human Services – Operations
From General Fund 995,000
From General Fund, One-Time 7,098,400
From Federal Funds ..... (18,627,800)
From Dedicated Credits Revenue 5,000
From Revenue Transfers 2,218,500
From Beginning Nonlapsing Balances 5,473,200
Schedule of Programs:
Executive Director Office 11,313,800
Finance & Administration ..... (9,583,000)
Data, Systems, & Evaluations 1,551,000
Public Affairs, Education & Outreach 118,900
American Indian / Alaska Native 111,000
Continuous Quality Improvement ..... (1,526,900)
Customer Experience ..... (4,822,500)

The Legislature intends that the use of the $18,500,000 American Rescue Plan Act funding appropriated to the Department of Health and Human Services in SB1001, line 755 June 2021 Special Session, be expanded to include (1) development of a comprehensive Utah Healthy Places Index implementation and communication plan, (2) maintenance of a Utah DHHS disaster response PPE stockpile including warehouse space, support services, personnel, inventory cycling and sustainability analysis, (3) COVID response activities related to testing operations, response personnel, non congregate sheltering, covid units at long-term care facilities and novel therapeutics, in addition to vaccine distribution/access in alternative locations, educational information and similar expenses.

Item 101
To Department of Health and Human Services – Clinical Services
From General Fund 821,900
From General Fund, One-Time 1,712,200
From Income Tax Fund, One-Time 1,072,700
From Federal Funds 17,703,900
From Expendable Receipts 176,300
From General Fund Restricted – Opioid Litigation Settlement Restricted Account 1,300,000
Schedule of Programs:
Medical Examiner 465,200
State Laboratory 18,496,700
Primary Care and Rural Health 3,850,000
Health Clinics of Utah ..... (134,900)
Health Equity 110,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measure for the Center for Medical Cannabis, whose mission is to "provide safe and timely access to medical cannabis." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: Increase the compliance rate of facility inspections for medical cannabis pharmacies (Target = average 95% compliance rate).

The Legislature intends that the funding for "Community Clinic Funding" be provided directly to the Doctors' Volunteer Clinic located in St. George.

The Legislature intends that prior to the release of any state appropriations for Seager Memorial Clinic Free Clinic Renovations the recipient must provide evidence of matching funds either for capital or operations from local sources that equal the amount of any state support received over the preceding 24 months.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via OUD Treatment Expansion report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

Item 102
To Department of Health and Human Services – Department Oversight
From General Fund ..... (1,125,000)
From General Fund, One-Time ..... (7,701,800)
From Income Tax Fund, One-Time 7,701,800
From Federal Funds ..... (4,542,400)
From Revenue Transfers 760,800

From Beginning Nonlapsing Balances 650,000
Schedule of Programs:
Licensing & Background Checks 1,410,800
Internal Audit ..... (6,357,800)
Utah Developmental Disabilities Council 690,400

Item 103
To Department of Health and Human Services – Health Care Administration
From General Fund ..... (88,900)
From Federal Funds ..... (58,777,700)
From Expendable Receipts 2,475,000
From Medicaid Expansion Fund 46,900
From Revenue Transfers 7,738,900
Schedule of Programs:
Integrated Health Care Administration ..... (42,432,000)
Long-Term Services and Supports Administration 66,600
Provider Reimbursement Information System for Medicaid 11,850,000
Utah Developmental Disabilities Council ..... (690,400)
Seeded Services ..... (17,400,000)

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittee by October 1, 2023 on the following regarding prescribing opiates for lower back pain in Medicaid: (1) assessment of acute pain protocols and recommended guidelines, (2) identify coverage gaps and estimated cost, (3) stakeholder input, and (4) recommendations for changes.

The Legislature intends that the Department of Health and Human Services report by September 30, 2023 to the Social Services Appropriations Subcommittee on the status of replacing the Medicaid Management Information System replacement.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2024 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2024 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2024 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Medicaid Expansion Fund 2252 for FY 2024 regardless of the amount appropriated.

Item 104
To Department of Health and Human Services – Integrated Health Care Services
From General Fund 15,983,700
From General Fund, One-Time ... (322,889,200)
From Income Tax Fund, One-Time 323,320,400
From Federal Funds 262,863,400
From Federal Funds, One-Time 168,800
From Expendable Receipts 28,928,800
From Expendable Receipts – Rebates 120,000,000
From Medicaid Expansion Fund 421,000
From General Fund Restricted – Opioid Litigation Settlement Restricted Account 4,384,300
From Revenue Transfers 78,589,100
From Beginning Nonlapsing Balances 16,188,100
Schedule of Programs:
Medicaid Behavioral Health Services 41,344,500
Medicaid Home and Community Based Services 161,449,800
Medicaid Pharmacy Services 82,200
Medicaid Long Term Care Services 115,083,600
Medicare Buy-In and Clawback Payments 11,000,000
Medicaid Other Services 54,868,800
Expansion Other Services 120,000,000
Non-Medicaid Behavioral Health Treatment & Crisis Response 24,084,300
State Hospital 45,200

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 84 of Chapter 193, Laws of Utah 2022, up to $2,400,000 provided for the Department of Health and Human Services' Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to supporting pregnant women with substance use disorder.

The Legislature intends that $43,100 from the General Fund and the matching federal funds for Provide Medicaid Annual Wellcare Visits be spent on providing wellcare visits to primary care medical providers for Medicaid recipients.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Matching Funds for Counties Using Opioid Funds in County Jails or Receiving Centers report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services

or other recipients of funding via Emergency Department/Urgent Care induction to Medications for Opioid Use Disorder report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via State Opioid Settlement Appropriation – Shifting Efforts Upstream report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Department of Health and Human Services shall provide a report within two months after the close of Fiscal Year 2023 demonstrating that funding appropriated for Equal Medicaid Reimbursement Rate for Autism has actually been spent for this purpose during Fiscal Year 2023.

The Legislature intends that the income eligibility ceiling shall be the following percent of federal poverty level for UCA 26-18-411 Health Coverage Improvement Program: (1) 5% for individuals who meet the additional criteria in 26-18-411 Subsection 3 and (2) the income level in place prior to July 1, 2017 for an individual with a dependent child.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Medicaid Expansion Fund 2252 for FY 2024 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2024 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2024 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2024 regardless of the amount appropriated.

Item 105
To Department of Health and Human Services – Long-Term Services & Support
From General Fund 11,467,100
From General Fund, One-Time ... (210,997,800)
From Income Tax Fund, One-Time 209,929,600
From Federal Funds ..... (2,186,700)
From Expendable Receipts 289,100
From Revenue Transfers 37,561,700
From Revenue Transfers, One-Time ..... (4,158,400)
From Beginning Nonlapsing Balances ... 325,000
Schedule of Programs:
Aging & Adult Services ..... (2,502,300)
Adult Protective Services 317,500
Office of Public Guardian 56,400
Services for People with Disabilities 2,824,100
Community Supports Waiver Services 38,755,800
Disabilities – Other Waiver Services 1,943,900
Utah State Developmental Center 834,200

The Legislature intends that any funding provided under this item for the Caregiver Compensation program allow for expenditure for care provided by a parent or guardian for wards for whom they are legally responsible.

Under Subsection 62A-5-102(7)(a) of the Utah Code, the Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2024 beginning nonlapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the Divisions of Child and Family Services and Juvenile Justice and Youth Services, individuals court ordered into DSPD services, to provide increases to providers for direct care staff salaries, and for facility repairs, maintenance, and improvements, and improvements to provide services to eligible individuals waiting for services, limited one-time services including respite care, service brokering, family skill building and preservation classes, after school group services, contractor training and other professional services. The Legislature further intends DSPD report to the Office of Legislative Fiscal Analyst by October 15, 2024 on the use of these nonlapsing funds.

Item 106
To Department of Health and Human Services – Public Health, Prevention, and Epidemiology
From General Fund, One-Time ..... (251,500)
From Income Tax Fund, One-Time 251,500
From Federal Funds ..... (67,245,600)
From Expendable Receipts 153,100
From General Fund Restricted – Opioid Litigation Settlement Restricted Account 443,400
From Revenue Transfers 1,616,200
Schedule of Programs:
Communicable Disease ..... (65,476,300)
Health Promotion and Prevention 443,400

The Legislature intends that funds provided for the building block entitled "Primary Prevention" be matched by the recipients of the funding and be prioritized to Local Substance Abuse Authorities for evidence-based primary prevention.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Primary Prevention report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services report by October 1, 2023 to the Social Services Appropriations Subcommittee in collaboration with local health departments on options to adjust the funding formula for FY 2025 to adjust for areas with higher smoking rates as well as shifting more existing funding sources to address the rates of electronic cigarette use and the pros and cons of that approach.

The Legislature intends that the General Fund provided in the Public Health, Prevention, and Epidemiology line item in the Local Health Departments program provided to local health departments not exceed the county match from general funds to local health departments.

Item 107

To Department of Health and Human Services - Children, Youth, & Families
From General Fund 6,411,600
From General Fund, One-Time ... (154,431,100)
From Income Tax Fund, One-Time 156,646,100
From Federal Funds 150,800
From Dedicated Credits Revenue 68,000
From Expendable Receipts 200
From Revenue Transfers 4,276,300
From Federal Funds - American Rescue Plan - Capital Projects Fund, One-Time 7,000,000
Schedule of Programs:
Child & Family Services ..... (21,710,500)
Domestic Violence 3,000,000
Out-of-Home Services 3,792,500
Adoption Assistance 428,900
Maternal & Child Health 233,300
Family Health 1,715,000
Office of Coordinated Care and Regional Supports 1,000,000
Children, Youth, & Families 31,662,700

The Legislature intends that the appropriations by this line item from the American Rescue Plan Act Capital Projects Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021 Capital Projects Fund after the Grant Plan has been approved by the U.S. Department of the Treasury. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 108

To Department of Health and Human Services - Office of Recovery Services
From Federal Funds 2,140,900
From Revenue Transfers 172,600
Schedule of Programs:
Recovery Services 2,140,900
Children in Care Collections 34,600
Medical Collections 138,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Office of Recovery Services line item, whose mission is "to serve children and families by promoting independence by providing services on behalf of children and families in obtaining financial and medical support, through locating parents, establishing paternity and support obligations, and enforcing those obligations when necessary." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Medical Coverage for children (Target = Improve from baseline with the baseline being developed), 2) Cost Effectiveness (ORS overall) (Target= $5.50), and 3) Current Support Collection Rates (Target = 65%).

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 109

To University of Utah - Education and General
From Income Tax Fund 4,597,300
From Income Tax Fund, One-Time ... 96,577,800
From Federal Funds - American Rescue Plan, One-Time 4,000,000
Schedule of Programs:
Education and General 106,295,000
Operations and Maintenance ..... (1,119,900)

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

The Legislature intends that the Division of Facilities Construction and Management and the University of Utah use $100,000,000 of

funds appropriated to the University of Utah to acquire property adjacent to the University of Utah and to coordinate with the Utah National Guard and the U.S. Army Reserve to relocate the Stephen A. Douglas Armed Forces Reserve Center to land held by the State Armory Board at Camp Williams, including the design and construction of facilities to complete the relocation.

Item 110
To University of Utah - University Hospital
From Income Tax Fund, One-Time 6,000,000
From Federal Funds - American Rescue Plan - Capital Projects Fund, One-Time 25,000,000
Schedule of Programs:
University Hospital 31,000,000

The Legislature intends that the appropriations by this line item from the American Rescue Plan Act Capital Projects Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021 Capital Projects Fund after the Grant Plan has been approved by the U.S. Department of the Treasury. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

The Legislature intends that the $6 million one-time Income Tax Fund appropriation in this line item be used for the Huntsman Mental Health Crisis Receiving Center.

The Legislature intends that the $25.0 million one-time ARPA appropriation in this line item be used for the University of Utah West Valley Hospital.

Item 111
To University of Utah - Center on Aging

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Center on Aging line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) increased penetration of the Center on Aging's influence measured by the number of stakeholders including members and community guests who engaged in meetings and events or consulted directly as a result of the centers efforts and facilitation (target: annual increase of 25% of qualified engagements with aging stakeholders); and 2) access to the Aging and Disability Resource Center (ADRC) - Cover to Cover Program (target: provide services to 100% of the people of Utah over age 65).

UTAH STATE UNIVERSITY

Item 112
To Utah State University - Education and General
From Income Tax Fund 2,354,600
From Income Tax Fund, One-Time .... (662,400)
Schedule of Programs:
Education and General 1,011,700
USU - School of Veterinary Medicine ... 39,200
Operations and Maintenance 641,300

The Legislature intends that the $200,000 one-time Income Tax Fund appropriation in this line item be used for the Center for the School of the Future.

The Legislature intends that the $500,000 ongoing Income Tax Fund appropriation in this line item be used for the Utah Women and Leadership Project Support.

Item 113
To Utah State University - USU - Eastern Education and General
From Income Tax Fund ..... (57,000)
Schedule of Programs:
USU - Eastern Education and General ..... (57,000)

Item 114
To Utah State University - USU - Eastern Career and Technical Education
From Income Tax Fund 251,100
From Income Tax Fund, One-Time 212,700
Schedule of Programs:
USU - Eastern Career and Technical Education 463,800

Item 115
To Utah State University - Regional Campuses
From Income Tax Fund ..... (304,900)
Schedule of Programs:
Administration ..... (9,400)
Uintah Basin Regional Campus ..... (60,900)
Brigham City Regional Campus ..... (88,900)
Tooele Regional Campus ..... (145,700)

Item 116
To Utah State University - Water Research Laboratory
From Income Tax Fund ..... (5,300)
Schedule of Programs:
Water Research Laboratory ..... (5,300)

Item 117
To Utah State University - Agriculture Experiment Station
From Income Tax Fund ..... (55,000)
Schedule of Programs:
Agriculture Experiment Station ..... (55,000)

Item 118
To Utah State University - Cooperative Extension
From Income Tax Fund ..... (4,200)
Schedule of Programs:
Cooperative Extension ..... (4,200)

Item 119
To Utah State University - Prehistoric Museum

From Income Tax Fund ..... (200)
Schedule of Programs:
Prehistoric Museum ..... (200)

Item 120
To Utah State University - Blanding Campus
From Income Tax Fund ..... (30,300)
Schedule of Programs:
Blanding Campus ..... (30,300)

Item 121
To Utah State University - USU - Custom Fit
From Income Tax Fund ..... (100)
Schedule of Programs:
USU - Custom Fit ..... (100)

WEBER STATE UNIVERSITY

Item 122
To Weber State University - Education and General
From Income Tax Fund 2,001,500
From Income Tax Fund, One-Time ... 19,539,100
Schedule of Programs:
Education and General 21,711,800
Operations and Maintenance ..... (171,200)

The Legislature intends that the $786,300 ongoing and $50,000 one-time Income Tax Fund appropriation in this line item be used for the WSU-UU Rocky Mountain Center Pathways.

The Legislature intends that the $20 million one-time Income Tax Fund appropriation in this line item be used for the Missile and Energy Research Center at WSU (MERC).

In accordance with UCA 63J-1-903, the Legislature intends that Weber State University report performance measures for Weber State University - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) awarding degrees to underrepresented students (target: increase to average of 15% of all degrees awarded); 2) Bachelor's degrees within six years (target: average five-year graduation rate of 25%); 3) first year to second year enrollment (target: 55%).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in FY 2024.

SOUTHERN UTAH UNIVERSITY

Item 123
To Southern Utah University - Education and General
From Income Tax Fund 1,091,700
From Income Tax Fund, One-Time 207,900
Schedule of Programs:
Education and General 1,049,600
Operations and Maintenance 250,000

The Legislature intends that the $300,000 one-time Income Tax Fund appropriation in this line item be used for the Helen Foster Snow Cultural Center.

The Legislature intends that the $155,600 ongoing Income Tax Fund appropriation in this line item be used for the Utah Rural Leadership Academy.

Item 124
To Southern Utah University - Shakespeare Festival
From Income Tax Fund 350,000
From Income Tax Fund, One-Time 650,000
Schedule of Programs:
Shakespeare Festival 1,000,000

Item 125
To Southern Utah University - Utah Summer Games
From Income Tax Fund 45,000
Schedule of Programs:
Utah Summer Games 45,000

UTAH VALLEY UNIVERSITY

Item 126
To Utah Valley University - Education and General
From Income Tax Fund 1,900,500
From Income Tax Fund, One-Time 2,494,800
Schedule of Programs:
Education and General 6,150,500
Operations and Maintenance ..... (1,755,200)

The Legislature intends that the $503,500 ongoing Income Tax Fund appropriation in this line item be used for the Native American Excellence Opportunity at Utah Valley University.

The Legislature intends that the $250,000 one-time Income Tax Fund appropriation in this line item be used for the Herbert Institute.

Item 127
To Utah Valley University - Civic Thought and Leadership Initiative
From Income Tax Fund, One-Time 1,750,000
Schedule of Programs:
Civic Thought and Leadership Initiative 1,750,000

The Legislature intends that the $1.75 million one-time Income Tax Fund appropriation in this line item be used for the Civic Thought and Leadership Initiative.

SNOW COLLEGE

Item 128
To Snow College - Education and General
From Income Tax Fund 210,000
Schedule of Programs:
Education and General 210,000

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report performance measures for Snow College - Education and General line item. The department shall report to the Office of the

Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.33%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 12.77%; and 3) high-yield awards - increase the percent of high-yield awards granted by 7%.

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

Item 129
To Snow College - Career and Technical Education
From Income Tax Fund 646,000
From Income Tax Fund, One-Time 193,300
Schedule of Programs:
Career and Technical Education 839,300

UTAH TECH UNIVERSITY

Item 130
To Utah Tech University - Education and General
From Income Tax Fund 660,000
From Income Tax Fund, One-Time .... (768,600)
Schedule of Programs:
Education and General 760,000
Operations and Maintenance ..... (868,600)

The Legislature intends that the $100,000 one-time Income Tax Fund appropriation in this line item be used for the Digital Forensics Crime Lab.

SALT LAKE COMMUNITY COLLEGE

Item 131
To Salt Lake Community College - Education and General
From Income Tax Fund 498,600
From Income Tax Fund, One-Time .... (767,400)
Schedule of Programs:
Education and General ..... (268,800)

The Legislature intends that the $250,000 ongoing Income Tax Fund appropriation in this line item be used for Salt Lake Technical College Scholarships.

Item 132
To Salt Lake Community College - School of Applied Technology
From Income Tax Fund 1,389,900
From Income Tax Fund, One-Time 172,400
Schedule of Programs:
School of Applied Technology 1,562,300

Item 133
To Salt Lake Community College - SLCC - Custom Fit
From Income Tax Fund 127,100
Schedule of Programs:
SLCC - Custom Fit 127,100

UTAH BOARD OF HIGHER EDUCATION

Item 134
To Utah Board of Higher Education - Administration
From General Fund 1,167,800
From General Fund, One-Time 931,300
From Income Tax Fund ..... (7,550,600)
From Income Tax Fund, One-Time 8,200,000
Schedule of Programs:
Administration 2,748,500

The Legislature intends that the Utah System of Higher Education (USHE) work with the Office of the Legislative Fiscal Analyst (LFA) and the Division of Finance during the 2023 Interim to create a budget that reflects all sources of revenue and all expenses and expenditures for each institution of higher education. USHE and LFA shall report that budget to the Higher Education Appropriations Committee before its final 2023 Interim meeting for potential inclusion in an appropriations act.

The Legislature intends that the Utah Board of Higher Education work with Utah State University, Weber State University, Utah Valley University, and the University of Utah to determine how the $1,167,800 ongoing and $931,300 one-time Income Tax Fund appropriation in this line item be allocated for the Behavioral Health Workforce Initiative.

The Legislature intends that the Utah System of Higher Education report to the Legislative Fiscal Analysts Office by December 1, 2023 estimates for growth funding based on net growth.

The Legislature intends that the institutions of the Utah System of Higher Education increase its fleet by up to 71 vehicles with funding from existing appropriations as presented in the USHE Vehicle Expansion Report FY 2024.

The Legislature intends that the State Board of Higher Education use the $8,200,000 appropriated by this item for innovative higher education initiatives. The Board shall consult with public and private partners, including those in education, business, and technology, to establish benchmarks regarding the scope and scale of the initiatives and shall expend fund appropriated by this item only as initiatives reach the identified benchmarks

Item 135
To Utah Board of Higher Education - Education Excellence
From Income Tax Fund 35,000,000

From Income Tax Fund,
One-Time ..... (35,000,000)

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 136
To Utah System of Technical Colleges - USTC Administration

BRIDGERLAND TECHNICAL COLLEGE

Item 137
To Bridgerland Technical College
From Income Tax Fund 1,238,400
From Income Tax Fund, One-Time 218,000
Schedule of Programs:
Bridgerland Tech Equipment 356,500
Bridgerland Technical College 1,099,900

Item 138
To Bridgerland Technical College - USTC Bridgerland - Custom Fit
From Income Tax Fund 100,000
Schedule of Programs:
USTC Bridgerland - Custom Fit 100,000

The Legislature intends that the $100,000 ongoing Income Tax Fund appropriation in this line item be used for Custom Fit.

DAVIS TECHNICAL COLLEGE

Item 139
To Davis Technical College
From Income Tax Fund 1,209,100
From Income Tax Fund, One-Time 322,200
Schedule of Programs:
Davis Tech Equipment 439,700
Davis Technical College 1,091,600

DIXIE TECHNICAL COLLEGE

Item 140
To Dixie Technical College
From General Fund, One-Time 6,944,100
From Income Tax Fund 1,058,900
From Income Tax Fund, One-Time 254,200
Schedule of Programs:
Dixie Tech Equipment 254,200
Dixie Technical College 8,003,000

The Legislature intends that the $6,944,100 one-time Income Tax Fund appropriation in this line item be used for the Washington County Bond Defeasance.

MOUNTAINLAND TECHNICAL COLLEGE

Item 141
To Mountainland Technical College
From Income Tax Fund 3,783,600
From Income Tax Fund, One-Time ... (1,232,100)
Schedule of Programs:
Mountainland Tech Equipment 414,800
Mountainland Technical College 2,136,700

Item 142
To Mountainland Technical College - USTC Mountainland - Custom Fit
From Income Tax Fund 300,000
Schedule of Programs:
USTC Mountainland - Custom Fit 300,000

The Legislature intends that the $300,000 ongoing Income Tax Fund appropriation in this line item be used for Custom Fit.

OGDEN-WEBER TECHNICAL COLLEGE

Item 143
To Ogden-Weber Technical College
From Income Tax Fund 1,256,500
From Income Tax Fund, One-Time 385,800
Schedule of Programs:
Ogden-Weber Tech Equipment 385,800
Ogden-Weber Technical College 1,256,500

SOUTHWEST TECHNICAL COLLEGE

Item 144
To Southwest Technical College
From Income Tax Fund 408,800
From Income Tax Fund, One-Time 185,600
Schedule of Programs:
Southwest Tech Equipment 185,600
Southwest Technical College 408,800

TOOELE TECHNICAL COLLEGE

Item 145
To Tooele Technical College
From Income Tax Fund 875,400
From Income Tax Fund, One-Time .... (398,100)
Schedule of Programs:
Tooele Tech Equipment 199,300
Tooele Technical College 278,000

Item 146
To Tooele Technical College - USTC Tooele - Custom Fit
From Income Tax Fund 50,000
Schedule of Programs:
USTC Tooele - Custom Fit 50,000

The Legislature intends that the $50,000 ongoing Income Tax Fund appropriation in this line item be used for Custom Fit.

UINTAH BASIN TECHNICAL COLLEGE

Item 147
To Uintah Basin Technical College
From Income Tax Fund 595,100
From Income Tax Fund, One-Time 185,700
Schedule of Programs:
Uintah Basin Tech Equipment 185,700
Uintah Basin Technical College 595,100

Item 148
To Uintah Basin Technical College - USTC Uintah Basin - Custom Fit
From Income Tax Fund 50,000
Schedule of Programs:
USTC Uintah Basin - Custom Fit 50,000

The Legislature intends that the $50,000 ongoing Income Tax Fund appropriation in this line item be used for Custom Fit.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 149
To Department of Agriculture and Food - Administration

From General Fund, One-Time 485,500
From Federal Funds 200,000
Schedule of Programs:
Commissioner's Office 685,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Administration line item, whose mission is "Promote the healthy growth of Utah agriculture, conserve our natural resources and protect our food supply." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) Successful completion of an agency-wide continuous improvement project in the last fiscal year (Target = 100%); (2) Increase accuracy of reporting fee information in the annual fee reporting exercise (Target = 90% of all fees with accurate revenues and costs); and (3) Perform proper and competent financial support according to State guidelines and policies by reducing the number of adverse audit findings in quarterly division of finance reviews (Target = 0 moderate or significant audit findings).

Item 150
To Department of Agriculture and Food - Animal Industry
From General Fund 90,500
Schedule of Programs:
Horse Racing Commission 90,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Animal Health line item, whose mission is "Deny a market to potential thieves & to detect the true owners of livestock. It is the mission of the Livestock Inspection Bureau to provide quality, timely, and courteous service to the livestock men and women of the state, in an effort to protect the cattle and horse industry." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Increase education to industry and public on correct practices to verify and record changes of ownership when selling or buying livestock in the State of Utah (Target = 40 hours of training); 2) Meat Inspection - Ensure 70% of all sanitation tasks are performed (Target = 70%); 3) Increase number of animal traces completed in under one hour (Target = Increase by 5%); 4) Increase total attendance at animal health outreach events (Target = 10% increase).

Item 151
To Department of Agriculture and Food - Invasive Species Mitigation
From Federal Funds 200,000
Schedule of Programs:
Invasive Species Mitigation 200,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Invasive Species Mitigation line item, whose mission is "Help government and private entities control noxious weeds in the state through providing project funding and help those entities meet the requirements of the Noxious Weed Act." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Growth of projects focused on Early Detection Rapid Response (EDRR) weeds (Target = 25%); (2) EDRR Points treated (Target = 40% increase); and (3) Monitoring results for 1 and 5 years after treatment (Target = 100%).

Item 152
To Department of Agriculture and Food - Marketing and Development
From Federal Funds, One-Time 500,000
Schedule of Programs:
Marketing and Development 500,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Marketing and Development line item, whose mission is "Promoting the healthy growth of Utah agriculture." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) UDAF website bounce rate (Target = 70% rate); 2) UDAF social media follower increase (Target = 5%); 3) Percent of consumers on the annual survey that responded that the Utahs Own logo helps identify local products (Target = 50%); and 4) Utah's Own retention rate (Target = 60% renewal rate).

Item 153
To Department of Agriculture and Food - Plant Industry
From General Fund ..... (640,800)
From Federal Funds ..... (421,000)
From Dedicated Credits Revenue ..... (589,200)
From Dedicated Credits Revenue, One-Time 600,000
From Revenue Transfers ..... (391,300)

Schedule of Programs:
Grazing Improvement Program .... (1,766,600)
Plant Industry Administration 324,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Plant Industry line item, whose mission is "Ensuring consumers of disease free and pest free plants, grains, seeds, as well as properly labeled agricultural commodities, and the safe application of pesticides and farm chemicals." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Pesticide Compound Enforcement Action Rate (Target = 30%); 2) Fertilizer Compliance Violation Rate (Target = 5%); and 3) Seed Compliance Violation Rate (Target = 10%).

The Legislature intends that the Division of Plant Industry purchase the following vehicles through Fleet Operations: one small SUV and two mid-sized trucks.

Item 154
To Department of Agriculture and Food - Predatory Animal Control
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention, One-Time 154,500
Schedule of Programs:
Predatory Animal Control 154,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Predatory Animal Control line item, whose mission is "Protecting Utah's agriculture including protecting livestock, with the majority of the programs efforts directed at protecting adult sheep, lambs and calves from predation." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Decrease the amount of predation from bears, by increasing count of animals and decreasing staff hours (Target = 68 hours per bear); 2) Decrease the amount of predation from lions, by increasing count of animals and decreasing staff hours (Target = 92 hours per lion); 3) Decrease the amount of predation from coyotes, by increasing count of animals and decreasing staff hours (Target = 24 hours per 10 coyotes), 4) Decrease the amount of hours taken to rid nuisance predator animals (Target = 1% reduction over previous fiscal year).

Item 155
To Department of Agriculture and Food - Rangeland Improvement
From General Fund 1,376,200
From Revenue Transfers 392,200
Schedule of Programs:
Rangeland Improvement 1,768,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Rangeland Improvement line item, whose mission is "Improve the productivity, health and sustainability of our rangelands and watersheds." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Number of Animal Unit Months Affected by GIP Projects per Year (Target = 160,000; 2) Number of Projects with Water Systems Installed Per Year (Target =50/year); and 3) Number of GIP Projects that Time, Timing, and Intensity Grazing Management to Improve Grazing Operations (Target = 15/year).

Item 156
To Department of Agriculture and Food - Regulatory Services
From General Fund ..... (735,400)
From Federal Funds ..... (165,300)
From Federal Funds, One-Time ..... (529,800)
From Dedicated Credits Revenue ..... (441,200)
From Dedicated Credits Revenue, One-Time 700,000
From Pass-through ..... (64,800)
Schedule of Programs:
Regulatory Services Administration ..... (529,800)
Bedding & Upholstered 272,800
Weights & Measures 363,100
Food Inspection 208,600
Egg Grading and Inspection ..... (1,551,200)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Regulatory Services line item, whose mission is "Through continuous improvement, become a world class leader in regulatory excellence through our commitment to food safety, public health and fair and equitable trade of agricultural and industrial commodities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Reduce the number of "Critical" violations observed on dairy farms and thereby reduce the number of follow up inspections required (Target =25% of current); 2) Reduce the

number of retail fuel station follow up inspections by our weights and measures program (Target = increase to 85% compliance); 3) Reduce the % of identified instances of the 5 risk factors attributed to foodborne illness (Target = less than 50% incidents identified); and 4) Identify and reduce the number of temperature control violations found in food inspections (Target = have this violation occur in less than 7% of inspections); and 5) Increase the number of retail inspections in rural areas, including e-commerce facilities and distribution centers (Target = 350 new inspections over previous fiscal year).

Item 157

To Department of Agriculture and Food - Resource Conservation
From General Fund 700,000
From General Fund, One-Time 1,000,000
From Agriculture Resource Development Fund ..... (958,300)
From Revenue Transfers 21,300
From Utah Rural Rehabilitation Loan State Fund ..... (142,500)
Schedule of Programs:
Water Quantity 309,900
Conservation Administration 310,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Resource Conservation line item, whose mission is "Assist Utah's agricultural producers in caring for and enhancing our states vast natural resources." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Number of Utah Conservation Commission projects completed (Target = 125); 2) Reduction in water usage after Agricultural Water Optimization project completion (Target = 25%); and 3) Real time measurement of water for each of Water Optimization project (Target = 100%).

The Legislature intends that the Division of Conservation purchase one full-sized truck through Fleet Operations.

Item 158

To Department of Agriculture and Food - Utah State Fair Corporation
From General Fund 325,000
Schedule of Programs:
State Fair Corporation 325,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Utah State Fair Corporation line item, whose mission is to "maximize revenue opportunities by establishing strategic partnerships to develop the Fairpark." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Develop new projects on the fair grounds and adjacent properties, create new revenue stream for the Fair Corporation (Target = $150,000 dollars in new incremental revenue); 2) Annual Fair attendance (Target = 5% increase in annual attendance); 3) Increase Fairpark net revenue (Target = 5% increase in net revenue over FY 2022).

Item 159

To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue 144,500
From Dedicated Credits Revenue, One-Time 200,000
Schedule of Programs:
Industrial Hemp 344,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Industrial Hemp line item, whose mission is "Support Utah's industrial hemp cultivators, processors and retail establishments by ensuring compliance with state law and providing for the safety of consumers through regulatory oversight within the supply chain." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Conduct product potency inspections throughout the calendar year to measure accuracy in marketing (Target = 6% of all registered products); 2) Ensure that registered hemp products introduced into the Utah marketplace are in compliance, as measured by retail inspections resulting in a noncompliance rate of less than 15 percent, annually (Target = <15% products noncompliant); and 3) Conduct inspections of licensed industrial hemp processors to validate compliance of processors and safety of hemp products (Target = 80% of processing facilities inspected).

Item 160

To Department of Agriculture and Food - Analytical Laboratory
From Federal Funds 50,000
From Dedicated Credits Revenue 20,000
Schedule of Programs:
Analytical Laboratory 70,000

Add intent the following intent language for the Analytical Laboratory line item: In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance

measures for the Analytical Lab line item, whose mission is "to provide chemical, physical, and microbiological analyses to other divisions within the Department of Agriculture and Food and other state agencies to ensure the safety of Utah's food supply, natural resources, and consumer goods." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Total number of tests conducted (excluding Medical Cannabis) (Target = 10,000); 2) Total number of Samples Collected (excluding Medical Cannabis) (Target = 3,700); 3) Laboratory Certification (Target = Completed); 4) Laboratory Test Results Completed within 10 Days (Target = 100%); and 5) Laboratory Equipment Replacement (Target = 0% of equipment needing to be replaced at the end of the fiscal year).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 161
To Department of Environmental Quality - Drinking Water
From General Fund ..... (7,700)
From Federal Funds, One-Time 3,090,900
From Revenue Transfers ..... (151,000)
Schedule of Programs:
Drinking Water Administration ..... (7,700)
Safe Drinking Water Act ..... (20,000)
System Assistance 2,623,900
State Revolving Fund 336,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Drinking Water line item, whose mission is "Cooperatively work with drinking water professionals and the public to ensure a safe and reliable supply of drinking water." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of population served by Approved public water systems (Target = 95%); 2) Percent of water systems with an Approved rating (Target = 95%); and 3) Percentage of identified significant deficiencies resolved by water systems within the deadline established by the Division of Drinking Water (Target = 25% improvement over FY 2021 baseline by FY 2025).

Item 162
To Department of Environmental Quality - Environmental Response and Remediation
From General Fund 55,800
From Federal Funds, One-Time 550,000
From Revenue Transfers 54,300
Schedule of Programs:
Voluntary Cleanup ..... (15,100)
CERCLA 597,000
Petroleum Storage Tank Cleanup 77,100
Petroleum Storage Tank Compliance 1,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Environmental Response and Remediation line item, whose mission is "Protect public health and Utah's environment by cleaning up contaminated sites, helping to return contaminated properties to a state of beneficial reuse, ensuring underground storage tanks are managed and used properly, and providing chemical usage and emission data to the public and local response agencies." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of UST facilities in Significant Operational Compliance at time of inspection, and in compliance within 60 days of inspection (Target = 70%), (2) Leaking Underground Storage Tank (LUST) site release closures, (Target = 80), (3) Issued brownfields tools facilitating cleanup and redevelopment of impaired properties, (Target = 18).

Item 163
To Department of Environmental Quality - Executive Director's Office
From General Fund ..... (162,600)
From General Fund Restricted - Environmental Quality ..... (57,500)
From Revenue Transfers 208,900
Schedule of Programs:
Executive Director Office Administration ..... (11,200)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Executive Directors Office line item, whose mission is ""safeguarding and improving Utah's air, land and water through balanced regulation." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of systems within the Department involved in

a continuous improvement project in the last year (Target = 100%); and 2) Number of state audit findings/Percent of state audit findings resolved within 30 days (Target = 0 and 100%).

Item 164

To Department of Environmental Quality - Waste Management and Radiation Control
From General Fund Restricted - Environmental Quality 424,100
From Revenue Transfers ..... (12,100)
Schedule of Programs:
Hazardous Waste 8,000
Solid Waste 17,100
Radiation 377,400
Low Level Radioactive Waste 5,800
WIPP ..... (1,300)
X-Ray 5,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Waste Management and Radiation Control line item, whose mission is "Protect human health and the environment by ensuring proper management of solid wastes, hazardous wastes and used oil, and to protect the general public and occupationally exposed employees from sources of radiation that constitute a health hazard." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of x-ray machines in compliance (Target = 90%); 2) Percent of permits and licenses issued/modified within set timeframes (Target = 90%) and 3) Compliance Assistance for Small Businesses (Target = 65 businesses).

Item 165

To Department of Environmental Quality - Water Quality
From General Fund 60,100
From Federal Funds, One-Time 5,503,700
From Dedicated Credits Revenue, One-Time 125,000
From Revenue Transfers ..... (18,400)
Schedule of Programs:
Water Quality Support 271,000
Water Quality Protection 5,358,500
Water Quality Permits 40,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Water Quality line item, whose mission is "Protect, maintain and enhance the quality of Utah's surface and underground waters for appropriate beneficial uses; and protect the public health through eliminating and preventing water related health hazards which can occur as a result of improper disposal of human, animal or industrial wastes while giving reasonable consideration to the economic impact." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of permits renewed "On-time" (Target = 95%); and 2) Percent of permit holders in compliance (Target = 90%); and 3) Municipal wastewater effluent quality measured as mg/L oxygen consumption potential (Target = state average attainment of 331 mg/L oxygen consumption potential by 2025).

Item 166

To Department of Environmental Quality - Air Quality
From General Fund 970,400
From General Fund, One-Time 459,500
From Federal Funds, One-Time 6,346,600
From General Fund Restricted - GFR - Division of Air Quality Oil, Gas, and Mining 15,000
From General Fund Restricted - GFR - Division of Air Quality Oil, Gas, and Mining, One-Time 157,500
From Revenue Transfers 25,800
Schedule of Programs:
Compliance 412,500
Permitting 5,000
Planning 7,621,700
Air Quality Administration ..... (64,400)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Air Quality line item, whose mission is "Protect public health and the environment from the harmful effects of air pollution." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of facilities inspected that are in compliance with permit requirements (Target = 100%); 2) Percent of approval orders that are issued within 180-days after the receipt of a complete application (Target = 95%); 3) Percent of data availability from the established network of air monitoring samplers for criteria air pollutants (Target = 100%); and 4) Per Capita Rate of State-Wide Air Emissions (Target = 0.63).

The Legislature intends that $645,000 of funds appropriated to the Division of Air Quality (DAQ) for the woodstove/fireplace conversion program be used on activities to support DAQ's gas to electric lawn equipment exchange incentives in order to help meet summertime ozone health standards.

DEPARTMENT OF NATURAL RESOURCES

Item 167
To Department of Natural Resources - Administration
From General Fund ..... (700,000)
Schedule of Programs:
Law Enforcement ..... (700,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Executive Director line item, whose mission is "to facilitate economic development and wise use of natural resources to enhance the quality of life in Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) To keep the ratio of total employees in DNR in proportion to the employees in DNR administration at greater than or equal to 55:1 (Target = 55:1), 2) To continue to grow non-general fund revenue sources in order to maintain a total DNR non-general fund ratio to total funds at 80% or higher (Target = 80%), 3) To perform proper and competent financial support according to State guidelines and policies for DNR Administration by reducing the number of adverse audit findings in our quarterly State Finance audit reviews (Target = zero with a trend showing an annual year-over-year reduction in findings).

Item 168
To Department of Natural Resources - Building Operations

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Building Operations line item, whose mission is "to properly pay for all building costs of the DNR headquarters located in Salt Lake City." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Despite two aging facilities, the goal is DFCM to keep O&M rates at the current cost of $4.25 (Target = $4.25), 2) To have the DFCM O&M rate remain at least 32% more cost competitive than the private sector rate (Target = 32%), 3) To improve building services customer satisfaction with DFCM facility operations by 10% (Target = 10%).

Item 169
To Department of Natural Resources - Contributed Research

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Contributed Research line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percentage of mule deer units at or exceeding 90% of their population objective (Target = 50%), 2) Percentage of elk units at or exceeding 90% of their population objective (Target = 75%), and 3) Maintain positive hunter satisfaction index for general season deer hunt (Target = 3.3).

Item 170
To Department of Natural Resources - Cooperative Agreements

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Cooperative Agreements line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Aquatic Invasive Species containment - number of public contacts and boat decontaminations (Targets = 400,000 contacts and 10,000 decontaminations), 2) Number of new wildlife species listed under the Endangered Species Act (Target = 0), and 3) Number of habitat acres restored annually (Target = 180,000).

Item 171
To Department of Natural Resources - DNR Pass Through
From General Fund ..... (130,000)
Schedule of Programs:
DNR Pass Through ..... (130,000)

Update intent language item 29 to read: In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the DNR Pass Through line item, whose mission is "to carry out pass through requests as directed by the Legislature." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Ensure

transactions are completed in accordance with legislative direction (Target = 100%), 2) Maintain low auditing and administrative costs for pass through funding (Target = less than 8% of appropriated funds), 3) Percent of completed project(s) within established timeframe(s) and budget (Target = 100%), and 4) Number of annual visitors to the Hogle Zoo (Target = 1,000,000).

Item 172

To Department of Natural Resources – Forestry, Fire, and State Lands
From General Fund, One-Time 5,000,000
From Dedicated Credits Revenue 1,500,000
From General Fund Restricted – Sovereign Lands Management 2,000,000
From General Fund Restricted – Sovereign Lands Management, One-Time 5,530,000
From Revenue Transfers 15,000,000
Schedule of Programs:
Fire Suppression Emergencies 16,500,000
Lands Management 5,300,000
Project Management 7,230,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Forestry, Fire and State Lands line item, whose mission is "to manage, sustain, and strengthen Utah's forests, range lands, sovereign lands and watersheds for its citizens and visitors." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Fuel Reduction Treatment Acres (Target = 4,034), 2) Fire Fighters Trained to Meet Standards (Target = 2,256), and 3) Communities With Tree City USA Status (Target = 88).

The Legislature intends that the Division of Forestry, Fire, and State Land purchase one vehicle through the Division of Fleet Operations for the Sovereign Lands Law Enforcement Office.

Item 173

To Department of Natural Resources – Oil, Gas, and Mining
From Federal Funds 6,000,000
From Federal Funds, One-Time 6,500,000
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining 362,100
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining, One-Time 225,000
From Gen. Fund Rest. – Oil & Gas Conservation Account, One-Time 500,000
Schedule of Programs:
Abandoned Mine 12,000,000
Oil and Gas Program 1,587,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Oil, Gas, and Mining line item, whose mission is "the Division of Oil, Gas and Mining regulates and ensures industry compliance and site restoration while facilitating oil, gas and mining activities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Timing of Issuing Coal Permits (Target = 100%), 2) Average number of days between well inspections (Target = 365 days or less), and 3) Average number of days to conduct inspections for Priority 1 sites (Target = 90 days or less).

The Legislature intends that the Division of Oil, Gas and Mining purchase three vehicles through the Division of Fleet Operations.

Item 174

To Department of Natural Resources – Species Protection
From General Fund Restricted – Species Protection, One-Time 1,000,000
Schedule of Programs:
Species Protection 1,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Species Protection line item, whose mission is "to create innovative solutions to transform government services." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Delisting or Downlisting (Target = one delisting or downlisting proposed or final rule published in the Federal Register per year), 2) Red Shiner Eradication (Target = Eliminate 100% of Red Shiner from 37 miles of the Virgin River in Utah), and 3) June Sucker Population Enhancement (Target = 5,000 adult spawning June Sucker).

Item 175

To Department of Natural Resources – Utah Geological Survey
From General Fund 165,000
From General Fund, One-Time 123,300
From Federal Funds, One-Time 116,300
From General Fund Restricted – Mineral Lease 628,400
From General Fund Restricted – Sovereign Lands Management, One-Time 1,800,000
Schedule of Programs:
Energy and Minerals 2,428,400
Geologic Information and Outreach 83,800
Groundwater 320,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance

measures for the Utah Geological Survey line item, whose mission is "to provide timely, scientific information about Utah's geologic environment, resources, and hazards." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Total number of individual item views in the UGS GeoData Archive (Target = 1,700,000), 2) Total number of website user requests/queries to UGS interactive map layers (Target = 9,000,000), and 3) Public engagement of UGS reports and publications (Target = 68,000 downloads).

Item 176

To Department of Natural Resources – Water Resources
From General Fund 5,000,000
From General Fund, One-Time 9,000,000
From Federal Funds – American Rescue Plan, One-Time 15,000,000
From General Fund Restricted – Agricultural Water Optimization Restricted Account ..... (2,800)
From General Fund Restricted – Agricultural Water Optimization Restricted Account, One-Time 42,000
From General Fund Restricted – Sovereign Lands Management, One-Time 313,900
Schedule of Programs:
Cloud Seeding 9,000,000
Construction 15,000,000
Planning 5,313,900
Funding Projects and Research 39,200

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Water Resources line item, whose mission is "plan, conserve, develop and protect Utah's water resources." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Water conservation and development projects funded (Target = 15), 2) Reduction of per capita M&I water use (Target = 25%), and 3) Percentage of precipitation increase due to cloud seeding efforts (Target = 7%).

Item 177

To Department of Natural Resources – Water Rights
From General Fund 165,000
From General Fund, One-Time 5,000,000
From General Fund Restricted – Water Rights Restricted Account 1,548,000
Schedule of Programs:
Adjudication 650,000
Field Services 449,000
Technical Services 5,614,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Water Rights line item, whose mission is "to promote order and certainty in the beneficial use of public water." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Timely Application processing (Target = 80 days for uncontested applications), 2) Use of technology to provide information (Target = 1,500 unique web users per month), and 3) Parties that have been noticed in comprehensive adjudication (Target = 20,000).

Item 178

To Department of Natural Resources – Watershed Restoration

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Watershed Restoration Initiative line item, whose mission is "rehabilitation or restoration of priority watershed areas in order to address the needs of water quality and yield, wildlife, agriculture and human needs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Number of acres treated (Target = 120,000 acres per year), 2) State of Utah funding leverage with partners for projects completed through WRI (Target = 3), and 3) Miles of stream and riparian areas restored (Target = 175 miles).

Item 179

To Department of Natural Resources – Wildlife Resources
From General Fund 830,000
From General Fund, One-Time 6,000,000
From General Fund Restricted – Wildlife Resources 1,100,000
Schedule of Programs:

Administrative Services 1,100,000
Habitat Section 6,130,000
Law Enforcement 700,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Wildlife Resources Operations line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Number of people participating in hunting and fishing in Utah (Target = 800,000 anglers and 380,000 hunters), 2) Percentage of law enforcement contacts without a violation (Target = 90%), and 3) Number of participants at DWR shooting ranges (Target = 90,000).

The Legislature intends that up to $2,400,000 of the General Fund appropriation for the Division of Wildlife Resources line item RFAA shall be used for efforts to contain aquatic invasive species at Lake Powell and prevent them from spreading to other waters in Utah. Upon request the division shall provide detailed documentation as to how its appropriation from the General Fund was spent.

Item 180
To Department of Natural Resources - Wildlife Resources Capital Budget
From General Fund Restricted - State Fish Hatchery Maintenance ... 1,205,000
Schedule of Programs:
Fisheries 1,205,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Wildlife Resources Capital line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Average score from annual DFCM facility audits (Target = 90%), (2) New Motorboat Access projects (Target = 10), and (3) Number of hatcheries in operation (Target = 12).

Item 181
To Department of Natural Resources - Public Lands Policy Coordinating Office

In accordance with UCA 63J-1-903, the Legislature intends that the Public Lands Policy Coordinating Office report performance measures for the Public Lands Policy Coordinating Office line item, whose mission is "Preserve and defend rights to access, use and benefit from public lands within the State." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percentage of Utah Counties which reported PLPCOs work as "very good" (Target = 70%); 2) Percentage of State Natural Resource Agencies working with PLPCOs which reported PLPCOs work as "good" (Target = 70%); and 3) Percentage of Administrative comments and legal filings prepared and submitted in a timely manner (Target = 70%).

The Legislature intends that the Public Lands Policy Coordinating Office purchase two vehicles through the Division of Fleet Operations.

Item 182
To Department of Natural Resources - Division of State Parks
From General Fund Restricted - State Park Fees 5,750,000
Schedule of Programs:
State Park Operation Management 5,750,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the State Parks line item, whose mission is "to enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Total Revenue Collections (Target = $40,000,000), (2) Gate Revenue (Target = $36,000,000), and (3) Expenditures (Target = $36,500,000).

Item 183
To Department of Natural Resources - Division of Parks - Capital
From General Fund, One-Time 29,300,000
From Federal Funds 4,000,000
From General Fund Restricted - State Park Fees, One-Time 7,000,000
Schedule of Programs:
Major Renovation 21,000,000
Renovation and Development 19,300,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the State Parks Capital line

item, whose mission is "to enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Donations Revenue (Target = $140,000); and (2) Capital renovation projects completed (Target = 15).

The Legislature intends that the Division of State Parks purchase three vehicles through the Division of Fleet Operations.

The legislature intends that the $12,000,000 from the State Park Fees Restricted Account provided for Deer Creek State Park Improvements Match in Laws of Utah 2022, Chapter 193, Item 179 be used for the following projects in the following amounts: Green River State Park, $1,000,000; Gunlock State Park, $5,000,000; Utah State Park $2,000,000; and Goblin Valley State Park, $4,000,000.

Item 184

To Department of Natural Resources – Division of Outdoor Recreation
From Dedicated Credits Revenue 50,000
From Expendable Receipts 200,000
From General Fund Restricted – Outdoor Adventure Infrastructure Restricted Account 900,000
From General Fund Restricted – Boating 50,000
From General Fund Restricted – Off-highway Vehicle 450,000
Schedule of Programs:
Recreation Services 250,000
Administration 1,400,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Outdoor Recreation line item, whose mission is "to enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of personnel hours spent on on-the-ground projects (Target = 50% of all personnel hours), 2) Successful completions of the Adult OHV Education Course (Target = 60,000 completions), 3) Successful completions of the Youth OHV Education course (Target = 2,400 completions), 4) OHV contacts made during patrols (Target = 60,000), 5) Successful completions of the Youth Personal Watercraft Course (Target = 1,000), and 6) Boating vessel inspections completed (Target = 5,000).

Item 185

To Department of Natural Resources – Division of Outdoor Recreation– Capital
From Dedicated Credits Revenue 50,000
From Expendable Receipts 200,000
Schedule of Programs:
Recreation Capital 250,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Outdoor Recreation Capital line item, whose mission is "to enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Downtime for the divisions snowcats resulting from preventable accidents (Target = less than 70 days), 2) Division assets receiving preventative maintenance, including snowmobiles, snowcats, OHVs and watercraft vessels (Target = 95% of machines), 3) Total amount of OHV Recreation grants awarded (Target = $3,600,000), 4) Federal funds awarded from the Land and Water Conservation Fund (Target = $1,200,000), 5) Federal funds awarded from the Recreation Trail Program (Target = $2,800,000), and 6) Utah Outdoor Recreation Grant dollars spent in rural areas (Target = 60% of all awards).

The Legislature intends that the Division of Outdoor Recreation purchase eight vehicles through the Division of Fleet Operations.

Item 186

To Department of Natural Resources – Office of Energy Development
From General Fund 416,000
From General Fund, One-Time 3,720,000
From Federal Funds 5,860,000
Schedule of Programs:
Office of Energy Development 9,996,000

In accordance with UCA 63J-1-903, the Legislature intends that the Office of Energy Development report performance measures for the Office of Energy Development line item, whose mission is "Advance Utah's energy and minerals economy through energy policy, energy infrastructure and business development, energy efficiency and renewable energy programs, and energy research, education and workforce development." The department shall report to the Office of the Legislative Fiscal Analyst

and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of RESTC tax incentive applications processed within 30 days (Target = 95%); 2) Number of energy education and workforce development training opportunities provided (Target = 50); and 3) Percent of annual milestones achieved in U.S. D.O.E. funded programs. (Target = 90%).

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 187
To School and Institutional Trust Lands Administration
From Land Grant Management Fund, One-Time 4,000,000
Schedule of Programs:
Director 1,500,000
Information Technology Group 2,500,000

In accordance with UCA 63J-1-903, the Legislature intends that the School and Institutional Trust Lands Administration report performance measures for the Operations line item, whose mission is "Generate revenue in the following areas by leasing and administering trust parcels." The School and Institutional Trust Lands Administration shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Planning and Development gross revenue (Target =$ 35,000,000); 2) Energy and Minerals gross revenue (Target = $ 45,000,000); and 3) Surface gross revenue (Target = 14,500,000).

Item 188
To School and Institutional Trust Lands Administration - Land Stewardship and Restoration

In accordance with UCA 63J-1-903, the Legislature intends that the School and Institutional Trust Lands Administration report performance measures for the Land Stewardship and Restoration line item, whose mission is "Mitigate damages to trust parcels or preserve the value of the asset by preventing degradation." The School and Institutional Trust Lands Administration shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Maintenance of large land blocks (Target = $150,000); 2) Fire rehabilitation on trust parcels (Target = up to $500,000); and 3) Mitigation, facilitation of de-listing or preventing the listing of sensitive species (Target = $200,000).

Item 189
To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital

In accordance with UCA 63J-1-903, the Legislature intends that the School and Institutional Trust Lands Administration report performance measures for the SITLA Capital line item, whose mission is to "Provide funding for agency projects that enhance the value of trust land parcels." The School and Institutional Trust Lands Administration shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Planning and infrastructure expenditures for Northwest Quadrant (Target = $1,500,000); 2) Economic development planning and infrastructure expenditures for the St. George Airport project (Target = $1,500,000); 3) Infrastructure spending for Warner Valley/water (Target = $1,500,000).

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 190
To Capitol Preservation Board
From General Fund, One-Time ..... (597,600)
Schedule of Programs:
Capitol Preservation Board ..... (597,600)

The Legislature intends that the Capitol Preservation Board may use appropriations for State Capitol field trips for ancillary costs associated with bringing school children to the State Capitol.

LEGISLATURE

Item 191
To Legislature - Office of Legislative Research and General Counsel
From General Fund 775,000
From General Fund, One-Time 3,500,000
Schedule of Programs:
Administration 4,275,000

Item 192
To Legislature - Office of the Legislative Fiscal Analyst
From General Fund ..... (84,400)
Schedule of Programs:
Administration and Research ..... (84,400)

Item 193
To Legislature - Office of the Legislative Auditor General
From General Fund 650,000
Schedule of Programs:
Administration 650,000

The Legislature intends that the Office of the Legislative Auditor General report to the Social Services Appropriations Subcommittee by October 1, 2023 on what the Department of Health and Human Services has done in response to the recommendations included in the Office of the Medical Examiner Efficiency Evaluation report.

Item 194
To Legislature – Legislative Services
From General Fund 401,900
From General Fund, One-Time 583,000
Schedule of Programs:
Administration 131,900
Pass-Through 50,000
Information Technology 803,000

UTAH NATIONAL GUARD

Item 195
To Utah National Guard
From General Fund 100,000
From General Fund, One-Time 4,105,000
From Income Tax Fund 1,650,000
From Income Tax Fund, One-Time 1,350,000
From General Fund Restricted – West Traverse Sentinel Landscape Fund, One-Time 2,150,000
Schedule of Programs:
Operations and Maintenance 4,205,000
Tuition Assistance 3,000,000
West Traverse Sentinel Landscape 2,150,000

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 196
To Department of Veterans and Military Affairs – Veterans and Military Affairs
From General Fund, One-Time 1,500,000
From Federal Funds, One-Time 5,000,000
Schedule of Programs:
Cemetery 6,500,000

Item 197
To Department of Veterans and Military Affairs – DVMA Pass Through
From General Fund 700,000
From General Fund, One-Time 3,000,000
Schedule of Programs:
DVMA Pass Through 3,700,000

The Legislature intends that any funding from the appropriation for Utah Defense Ecosystem Development used to acquire or construct a Sensitive Compartmented Information Facility (SCIF) may only be expended for a facility on state property.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 198
To Transportation – County of the First Class Highway Projects Fund

The Legislature intends that the Department of Transportation transfer $2,000,000 from the County of the First Class Highway Fund to Riverton for improvements to the interchange at 13400 S. Bangerter Highway.

The Legislature intends that the Department of Transportation transfer $4,000,000 from the County of the First Class Highway Fund to West Jordan City for improvements to 8600 South between U-111 and 6400 West.

The Legislature intends that the Department of Transportation transfer $900,000 from the County of the First Class Highway Fund to South Jordan City for improvements to Grandville Avenue from 10200 S. to Old Bingham Highway.

Item 199
To Transportation – Marda Dillree Corridor Preservation Fund
From General Fund, One-Time 60,000,000
Schedule of Programs:
Marda Dillree Corridor Preservation Fund 60,000,000

The Legislature intends that the Department of Transportation allocate a portion of the corridor preservation funds to right-of-way preservation for the Cedar Valley Freeway in Eagle Mountain and for the westward extension of SR-92 in Lehi.

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 200
To Department of Workforce Services – Olene Walker Low Income Housing
From General Fund 3,250,000
From General Fund, One-Time 14,000,000
Schedule of Programs:
Olene Walker Low Income Housing 17,250,000

The Legislature intends that the recipient of "DWS-Rural Single-Family Home Lone Revolving Program" shall (1) provide a report to the Social Services Appropriations Subcommittee no later than October 1, 2023 with a summary of project investments including units built, location, Area Median Income served, remaining funds, and program fund balance; (2) Priority for funding shall be for projects that target less than 80% AMI; (3) Projects developed utilizing these funds should be deed restricted for 30 years;

and (4) Administration costs for this program shall not exceed 3.3% of appropriated funds.

The Legislature intends that the foregone revenue from the item "DWS - Utah Low-Income Housing Tax Credit" be $9 million per year ($90 million over 10 years) and specifically not $9 million in new funding each year ($900 million). The Legislature further intends that the recipient of this appropriation shall (1) provide a report to the Social Services Appropriations Subcommittee no later than October 1, 2023 with a summary of project investments including units built, location, AMI served, remaining funds, and program fund balance; (2) Projects developed utilizing these funds should be deed restricted for 50 years; and (3) Projects funded under this program shall not be eligible for subsequent credits for rehabilitation.

The Legislature intends that the recipient of "Utah Housing Preservation Fund" shall (1) Provide a report to the Social Services Appropriations Subcommittee no later than October 1, 2023 with a summary of project investments including units built, location, AMI served, remaining funds, and program fund balance; (2) For any return of capital, the State will receive a cumulative preferred return under the same terms as private investors; and (3) Only receive funding upon submission of proof of 2x matching funds to the Department.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Olene Walker Housing Loan Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: (1) housing units preserved or created (Target = 811), (2) construction jobs preserved or created (Target = 2,750), and (3) leveraging of other funds in each project to Olene Walker Housing Loan Fund monies (Target = 15:1).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 201
To Department of Environmental Quality - Waste Tire Recycling Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Waste Tire Recycling Fund, funding shall be used "For partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires and payment of administrative costs of local health departments or costs of the Department of Environmental Quality in administering and enforcing this fund." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Number of Waste Tires Cleaned-Up (Target = 50,000).

DEPARTMENT OF NATURAL RESOURCES

Item 202
To Department of Natural Resources - Wildland Fire Suppression Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Wildland Fire Suppression Fund line item, managed by the Division of Forestry, Fire, and State Lands, whose mission is "to manage, sustain, and strengthen Utah's forests, range lands, sovereign lands and watersheds for its citizens and visitors." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Non-federal wildland fire acres burned (Target = 59,770), 2) Human-caused wildfire rate (Target = 50%), and 3) Number of counties and municipalities participating with the Utah Cooperative Wildfire system (Target = all 29 counties, and an annual year-over increase in the number of participating municipalities).

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 203
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds 3,852,400
From Federal Funds, One-Time 32,666,200
Schedule of Programs:
Veterans Nursing Home Fund 36,518,600

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature

approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 204
To Attorney General - ISF - Attorney General

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney General's Office report performance measures for the Attorney General ISF line item. The Attorney General's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Attorney Staff Assessment (Target=90).

UTAH DEPARTMENT OF CORRECTIONS

Item 205
To Utah Department of Corrections - Utah Correctional Industries

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Corrections report performance measures for the Utah Correctional Industries line item. The Department of Corrections shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of work-eligible inmates employed by UCI in prison; 2) Percent of workers leaving UCI who are successfully completing the program.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 206
To Department of Government Operations - Division of Facilities Construction and Management - Facilities Management
From Dedicated Credits Revenue 1,601,500
Schedule of Programs:
ISF - Facilities Management 1,601,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the ISF-Facilities Management line item, whose mission is "to provide professional building maintenance services to state facilities, agency customers, and the general public." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) average maintenance cost per square foot compared to the private sector (target: at least 18% less than the private market).

Item 207
To Department of Government Operations - Division of Finance
From Dedicated Credits Revenue 492,000
Schedule of Programs:
ISF - Purchasing Card 492,000

Item 208
To Department of Government Operations - Division of Fleet Operations
From Dedicated Credits Revenue 23,207,000
Schedule of Programs:
ISF - Fuel Network 23,207,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Fleet Operations line item, whose mission is "emphasizing customer service, provide safe, efficient, dependable, and responsible transportation options." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) improve EPA emission standard certification level for the State's light duty fleet in non-attainment areas (target: reduce average fleet emission by .75 mg/mile annually); 2) maintain the financial solvency of the Division of Fleet Operations (target: 40% or less of the allowable debt); and 3) audit agency customers' mobility options and develop improvement plans for audited agencies (target: at least 4 annually).

Item 209
To Department of Government Operations - Division of Purchasing and General Services
From General Services - Cooperative Contract Mgmt, One-Time ..... (995,000)
Schedule of Programs:
ISF - General Services Administration ..... (995,000)

Item 210
To Department of Government Operations - Risk Management
From Premiums 14,031,200
From Interest Income 25,400
Schedule of Programs:
ISF - Risk Management Administration 1,366,000

Risk Management – Auto 1,100,000
Risk Management – Liability 5,107,200
Risk Management – Property 6,483,400

Item 211
To Department of Government Operations –
Enterprise Technology Division
From Dedicated Credits Revenue 19,617,800
Schedule of Programs:
ISF – Enterprise Technology
Division 19,617,800
Budgeted FTE 44.5

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Integrated Technology Services line item, whose mission is "to provide innovative, secure, and cost-effective technology solutions that are convenient and empower our partner agencies to better serve the residents of Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) uptime for the Utah Geospatial Resource Center (UGRC) portfolio of streaming geographic data web services and State Geographic Information Database connection services (target: at least 99.5%); 2) road centerline and addressing map data layer required for Next Generation 911 services is published monthly to the State Geographic Information Database (target: at least 120 county-sourced updates including 50 updates from Utah's class I and II counties); and 3) uptime for UGRC's TURN GPS real-time, high precision geopositioning service that provides differential correction services to paying and partner subscribers in the surveying, mapping, construction, and agricultural industries (target: at least 99.5%).

Item 212
To Department of Government Operations –
Utah Inland Port Authority Fund
From Long-term Capital Projects
Fund, One-Time 10,000,000
Schedule of Programs:
Inland Port Authority Fund 10,000,000

The Legislature intends that the Inland Port shall report to the Executive Appropriations Committee before expending appropriated funds.

By this line item the Legislature also rescinds legislative intent included in the Infrastructure and General Government Base Budget Bill, House Bill 6, Item 95.

Item 213
To Department of Government Operations –
Human Resources Internal Service Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Human Resources line item, whose mission is "to create excellent human capital strategies and attract and utilize human resources to effectively meet mission requirements with ever-increasing efficiency and the highest degree of integrity." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the ratio of DHRM staff to agency staff (target: 60%); 2) the amount of operating expenses held in reserve (target: 25 days); and 3) the latest satisfaction survey results (target: above 91%).

Item 214
To Department of Government Operations –
Point of the Mountain Infrastructure Fund
From General Fund, One-Time 108,000,000
Schedule of Programs:
Point of the Mountain Infrastructure
Fund 108,000,000

The Legislature intends that the Point of the Mountain shall report to the Executive Appropriations Committee before expending appropriated funds.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 215
To Governor's Office of Economic Opportunity –
State Small Business Credit Initiative Program
Fund
From Beginning Fund Balance 123,600
Schedule of Programs:
State Small Business Credit
Initiative Program Fund 123,600

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 216
To Department of Workforce Services –
Unemployment Compensation Fund
From Federal Funds 257,400
Schedule of Programs:
Unemployment Compensation Fund ... 257,400

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 217
To Department of Agriculture and Food –
Agriculture Loan Programs

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance

measures for the Agricultural Loan Programs line item, whose mission is "Serve and deliver financial services to our agricultural clients and partners through delivery of effective customer service and efficiency with good ethics and fiscal responsibility." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Keep UDAF agriculture loan default rate lower than average bank default rates of 3% per fiscal year (Target = 2% or less); 2) Receive unanimous Utah Conservation Commission approval for every approved loan (Target = 100%); and 3) Receive commission approval within 3 weeks of application completion (Target = 100%).

Item 218
To Department of Agriculture and Food - Qualified Production Enterprise Fund
From Qualified Production Enterprise Fund 144,500
From Qualified Production Enterprise Fund, One-Time 200,000
Schedule of Programs:
Qualified Production Enterprise Fund 344,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Medical Cannabis line item, whose mission is "Ensure and facilitate an efficient, responsible, and legal medical marijuana industry to give patients a safe and affordable product." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Inspect Medical Cannabis Production Establishments to validate compliance with state statute and rules (Target = 100% of licensees inspected twice a year), 2) Use sampling procedures to ensure medical cannabis products are safe for consumption (Target = <5% of inspected products violte safety standards), and 3) Support the Medical Cannabis industry in distributing products to pharmacies by responding to Licensed Cannabis Facility and Agent requests within 5 business days (Target = 90% of responses within 5 business days).

Item 219
To Department of Agriculture and Food - Agriculture Resource Development Fund
From General Fund, One-Time 25,000,000
Schedule of Programs:
Agriculture Resource Development Fund 25,000,000

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 220
To Department of Environmental Quality - Water Development Security Fund - Drinking Water
From General Fund, One-Time 12,730,000
From Federal Funds, One-Time 51,905,000
Schedule of Programs:
Drinking Water 64,635,000

Item 221
To Department of Environmental Quality - Water Development Security Fund - Water Quality
From General Fund, One-Time 5,801,700
From Federal Funds, One-Time 13,306,000
Schedule of Programs:
Water Quality 19,107,700

DEPARTMENT OF NATURAL RESOURCES

Item 222
To Department of Natural Resources - Water Resources Revolving Construction Fund
From General Fund, One-Time 25,000,000
Schedule of Programs:
Construction Fund 25,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Water Resources Revolving Construction Fund line item, whose mission is "to plan, conserve, develop and protect Utahs water resources." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Dam Safety minimum standards upgrade projects funded per fiscal year (Target = 2), 2) Percent of appropriated funding to be spent on Dam Safety projects (Target = 100%), and 3) Timeframe by which all state monitored high hazard dams will be brought up to minimum safety standards (Target = year 2084).

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 223
To Risk Management-Workers Compensation Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance

measures for the Risk Management line item, whose mission is "to insure, restore and protect State resources through innovation and collaboration." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) follow up on life safety findings on onsite inspections (target: 100%); 2) annual independent claims management audit (target: 97%); and 3) ensure liability fund reserves are actuarially and economically sound (baseline: 90.57%; target: 100% of the actuary's recommendation).

SOCIAL SERVICES

Item 224
To Ambulance Service Provider Assessment Expendable Revenue Fund
From Dedicated Credits Revenue 1,900,000
Schedule of Programs:
Ambulance Service Provider Assessment Expendable Revenue Fund 1,900,000

Item 225
To Nursing Care Facilities Provider Assessment Fund
From Dedicated Credits Revenue 4,000,000
Schedule of Programs:
Nursing Care Facilities Provider Assessment Fund 4,000,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 226
To General Fund Restricted – Agriculture and Wildlife Damage Prevention Account
From General Fund 108,000
From General Fund, One-Time 136,000
Schedule of Programs:
General Fund Restricted – Agriculture and Wildlife Damage Prevention Account 244,000

Item 227
To General Fund Restricted – Rangeland Improvement Account
From General Fund 1,000,000
From General Fund, One-Time 3,000,000
Schedule of Programs:
General Fund Restricted – Rangeland Improvement Account 4,000,000

EXECUTIVE APPROPRIATIONS

Item 228
To West Traverse Sentinel Landscape Fund
From General Fund, One-Time 2,150,000
Schedule of Programs:
West Traverse Sentinel Landscape Fund 2,150,000

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 229
To General Fund
From Nonlapsing Balances – Debt Service 3,433,800
Schedule of Programs:
General Fund, One-time 3,433,800

SOCIAL SERVICES

Item 230
To General Fund
From Qualified Patient Enterprise Fund, One-Time 2,000,000
Schedule of Programs:
General Fund, One-time 2,000,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 231
To General Fund
From Natural Resources-Warehouse, One-Time 113,000
From Qualified Production Enterprise Fund, One-Time 500,000
Schedule of Programs:
General Fund, One-time 613,000

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 232
To Capital Budget – DFCM Capital Projects Fund
From General Fund, One-Time 126,313,100
From Income Tax Fund, One-Time 172,000,000
Schedule of Programs:
DFCM Capital Projects Fund 298,313,100

The Legislature intends that the Division of Facilities Construction and Management and the University of Utah use $100,000,000 of funds appropriated to the University of Utah to acquire property adjacent to the University of Utah and to coordinate with the Utah National Guard and the U.S. Army Reserve to relocate the Stephen A. Douglas Armed Forces Reserve Center to land held by the State Armory Board at Camp Williams, including the design and construction of facilities to complete the relocation.

Item 233
To Capital Budget – Higher Education
Capital Projects Fund
From Income Tax Fund, One-Time . . . 72,801,200
Schedule of Programs:
Higher Education Capital
Projects Fund 72,801,200

Item 234
To Capital Budget – Technical Colleges
Capital Projects Fund
From Income Tax Fund, One-Time . . . 39,116,200
Schedule of Programs:
Technical Colleges Capital
Projects Fund 39,116,200

TRANSPORTATION

Item 235
To Transportation – Transportation
Investment Fund of 2005
From General Fund, One-Time 800,000,000
From Transportation Fund,
One-Time 42,888,200
Schedule of Programs:
Transportation Investment
Fund 842,888,200

The Legislature intends that the Department of Transportation use $800,000,000 appropriated by this item to make Transportation Investment Fund bond principal and interest payments for fiscal year 2024, fiscal year 2025, and fiscal year 2026.

The Legislature intends that the Department of Transportation pass-through $14,000,000 appropriated by this item to build a new roadway in Herriman that runs southeasterly and connects from 12600 South to 6400 West at approximately 13000 S.

The Legislature intends that the Department of Transportation use excess amounts in the Transportation Investment Fund to accelerate projects.

The Legislature intends that the Department of Transportation use $100,000,000 of the excess amounts to program an interchange upgrade that has an environmental analysis complete and has a substantial right-of-way donation, and complete an environmental analysis on West Davis Corridor at 5500 S. and 1800 N.

Item 236
To Transportation – Transit
Transportation Investment Fund
From General Fund, One-Time 200,000,000
Schedule of Programs:
Transit Transportation Investment
Fund 200,000,000

The Legislature intends that the Department of Transportation use $200,000,000 appropriated by this item to build a new FrontRunner Station at The Point of the Mountain and double-track necessary sections of the FrontRunner commuter rail system.

Item 237
To Transportation – Cottonwood
Canyon Transportation Investment Fund
From General Fund, One-Time 100,000,000
Schedule of Programs:
Cottonwood Canyon Transportation
Investment Fund 100,000,000

The Legislature intends that the Department of Transportation use $100,000,000 provided by this item plus $50,000,000 in fund balances to provide enhanced bus service, tolling, a mobility hub, and resort bus stops for Big and Little Cottonwood Canyons.

Section 2. Effective Date.
This bill takes effect on July 1, 2023.

CHAPTER 486
S. B. 3
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023 and for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies;
- provides budget increases and decreases for the use and support of certain public education programs;
- provides budget increases and decreases for the use and support of certain institutions of higher education;
- provides funds for the bills with fiscal impact passed in the 2023 General Session;
- provides budget increases and decreases for other purposes as described;
- authorizes fees;
- authorizes rates and full time employment levels for certain internal service funds;
- provides intent language; and
- provides a mathematical formula for the annual appropriations limit.

Money Appropriated in this Bill:

This bill appropriates ($4,484,200) in operating and capital budgets for fiscal year 2023, including:

- ($71,660,400) from the General Fund;
- ($3,076,800) from the Income Tax Fund; and
- $70,253,000 from various sources as detailed in this bill.

This bill appropriates $12,062,500 in expendable funds and accounts for fiscal year 2023, including:

- $3,812,100 from the General Fund; and
- $8,250,400 from various sources as detailed in this bill.

This bill appropriates ($55,186,300) in business-like activities for fiscal year 2023, including:

- ($55,102,300) from the General Fund; and
- ($84,000) from various sources as detailed in this bill.

This bill appropriates $64,617,900 in restricted fund and account transfers for fiscal year 2023, including:

- $66,799,600 from the General Fund; and
- ($2,181,700) from various sources as detailed in this bill.

This bill appropriates $11,600 in transfers to unrestricted funds for fiscal year 2023.

This bill appropriates $1,782,073,000 in operating and capital budgets for fiscal year 2024, including:

- ($38,774,800) from the General Fund;
- $198,255,400 from the Uniform School Fund;
- $1,044,872,600 from the Income Tax Fund; and
- $577,719,800 from various sources as detailed in this bill.

This bill appropriates $53,104,000 in expendable funds and accounts for fiscal year 2024, including:

- $50,379,500 from the General Fund; and
- $2,724,500 from various sources as detailed in this bill.

This bill appropriates $218,082,600 in business-like activities for fiscal year 2024, including:

- $185,000,600 from the General Fund; and
- $33,082,000 from various sources as detailed in this bill.

This bill appropriates $205,648,900 in restricted fund and account transfers for fiscal year 2024, including:

- $148,681,300 from the General Fund;
- $19,092,000 from the Uniform School Fund; and
- $37,875,600 from various sources as detailed in this bill.

This bill appropriates $160,958,600 in fiduciary funds for fiscal year 2024.

This bill appropriates $175,000,000 in capital project funds for fiscal year 2024, including:

- $50,000,000 from the General Fund; and
- $125,000,000 from the Income Tax Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2023.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From General Fund, One-Time 1,063,900
Schedule of Programs:
Administration 59,900
Civil 606,100
Criminal Prosecution 397,900

Item 2
To Attorney General – Children's Justice Centers

The Legislature intends that the Children's Justice Centers report to the Executive Appropriations Committee on their planned use of the appropriation for the Victim Services Funding before the Division of Finance disburses funding.

Item 3
To Attorney General – Prosecution Council
From General Fund, One-Time 51,400
From Revenue Transfers,
One-Time ..... (3,000,000)
Schedule of Programs:
Prosecution Council ..... (2,948,600)

Item 4
To Attorney General – State Settlement Agreements
From General Fund, One-Time 1,550,000
Schedule of Programs:
State Settlement Agreements 1,550,000

To implement the provisions of *Joint Resolution Approving Settlement Agreement with the United States* (Senate Joint Resolution 7, 2023 General Session).

BOARD OF PARDONS AND PAROLE

Item 5
To Board of Pardons and Parole
From General Fund, One-Time 9,700
Schedule of Programs:
Board of Pardons and Parole 9,700

UTAH DEPARTMENT OF CORRECTIONS

Item 6
To University of Utah – Education and General
To Utah Department of Corrections – Programs and Operations
From General Fund, One-Time 1,676,900
Schedule of Programs:
Adult Probation and Parole Administration 22,900
Adult Probation and Parole Programs 327,200
Department Administrative Services ... 60,600
Department Executive Director 44,600
Department Training 65,900
Prison Operations Administration 50,800
Prison Operations Central Utah/Gunnison 372,500
Prison Operations Inmate Placement ... 28,000
Programming Administration 5,200
Programming Skill Enhancement 57,800
Programming Treatment 105,800
Prison Operations Utah State Correctional Facility 535,600

Item 7
To Utah Department of Corrections – Department Medical Services
From General Fund, One-Time 88,700
From General Fund Restricted – Correctional Institution Clinical Services Transition Account, One-Time 4,922,400
Schedule of Programs:
Medical Services 5,011,100

The Legislature intends that the Department of Corrections work with the Department of Health and Human Services over the 2023 interim to fully transfer provision of medical services at state correctional institutions to the Department of Health and Human Services by July 1, 2024. During the transition, the Department of Corrections and Department of Health and Human Services may both access spending authority provided from the Correctional Institution Clinical Services Transition Account. However, the two departments combined may not spend more than the amount transferred into the account from the General Fund in FY 2024. The Legislature intends that the departments report progress on the transition to the Executive Offices and Criminal Justice Appropriations Subcommittee at each of the subcommittee meetings in the 2023 Interim and again at the start of the 2024 General Session.

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 8
To Judicial Council/State Court Administrator – Administration

The Legislature intends that an additional $250,000 provided to the Judicial Council/State Court Administrator–Administration in Laws of Utah 2022 Chapter 003, Item 60, shall not lapse at the close of Fiscal Year 2023. The use of any unused funds is limited to the Indigency Default Relief Program.

Item 9
To Judicial Council/State Court Administrator Administration
From General Fund, One-Time 43,000
Schedule of Programs:
Data Processing 43,000

To implement the provisions of *Criminal Code Recodification and Cross References* (House Bill 46, 2023 General Session).

Item 10
To Judicial Council/State Court Administrator Administration
From General Fund, One-Time 37,200
Schedule of Programs:
Administrative Office 4,800
Data Processing 32,400

To implement the provisions of *Juvenile Justice Revisions* (House Bill 304, 2023 General Session).

Item 11
To Judicial Council/State Court Administrator Administration

From General Fund, One-Time 9,600
Schedule of Programs:
Data Processing 9,600

To implement the provisions of *Mentally Ill Offenders Amendments* (House Bill 385, 2023 General Session).

GOVERNOR'S OFFICE

Item 12
To Governor's Office - Commission on Criminal and Juvenile Justice

The Legislature intends that the Commission on Criminal and Juvenile Justice - The Utah Office for Victims of Crime report to the Executive Appropriations Committee on their planned use of the appropriation for the Victim Services Funding before the Division of Finance disburses funding.

Item 13
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund, One-Time 106,500
Schedule of Programs:
CCJJ Commission 106,500

To implement the provisions of *Juvenile Justice Revisions* (House Bill 304, 2023 General Session).

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 14
To Department of Health and Human Services - Division of Juvenile Justice Services - Juvenile Justice & Youth Services
From General Fund, One-Time 204,700
From Federal Funds, One-Time 69,900
From Dedicated Credits Revenue, One-Time 7,000
From Expendable Receipts, One-Time 100
From General Fund Restricted - Juvenile Justice Reinvestment Account, One-Time 2,700
From Revenue Transfers, One-Time 3,400
Schedule of Programs:
Juvenile Justice & Youth Services 106,800
Secure Care 58,400
Youth Services 106,900
Community Programs 15,700

DEPARTMENT OF PUBLIC SAFETY

Item 15
To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management
From General Fund, One-Time 5,000,000
Schedule of Programs:
Emergency and Disaster Management 5,000,000

The Legislature intends that an additional $5,000,000 provided for the Department of Public Safety - Emergency Management - Emergency and Disaster Management item 74 of chapter 3, Laws of Utah 2022 not lapse at the close of Fiscal Year 2023. Funding shall be limited to Emergency Management Flood Mitigation.

Item 16
To Department of Public Safety - Driver License
From Dedicated Credits Revenue, One-Time 100
From Department of Public Safety Restricted Account, One-Time 113,500
From Pass-through, One-Time 200
Schedule of Programs:
Driver License Administration 21,600
Driver Records 15,300
Driver Services 76,900

Item 17
To Department of Public Safety - Driver License
From Department of Public Safety Restricted Account, One-Time 41,900
Schedule of Programs:
Driver Services 41,900

To implement the provisions of *Driving Under the Influence Modifications* (House Bill 62, 2023 General Session).

Item 18
To Department of Public Safety - Driver License
From Department of Public Safety Restricted Account, One-Time 9,500
Schedule of Programs:
Driver Services 9,500

To implement the provisions of *Driver License Suspension and Revocation Amendments* (Senate Bill 80, 2023 General Session).

Item 19
To Department of Public Safety - Emergency Management
From General Fund, One-Time 4,800
From Federal Funds, One-Time 66,100
Schedule of Programs:
Emergency Management 70,900

Item 20
To Department of Public Safety - Highway Safety
From Federal Funds, One-Time 15,100
From Dedicated Credits Revenue, One-Time 100
From Public Safety Motorcycle Education Fund, One-Time 100
From Revenue Transfers, One-Time 1,800
Schedule of Programs:
Highway Safety 17,100

Item 21
To Department of Public Safety - Peace Officers' Standards and Training
From General Fund, One-Time 612,600
From Dedicated Credits Revenue, One-Time 600
Schedule of Programs:
Basic Training 13,200
POST Administration 600,000

Item 22
To Department of Public Safety - Programs & Operations
From General Fund, One-Time 269,800

From Dedicated Credits Revenue, One-Time 62,800
From Department of Public Safety Restricted Account, One-Time 25,200
From General Fund Restricted - Fire Academy Support, One-Time 9,000
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct., One-Time 18,200
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account, One-Time 100
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau, One-Time 1,300
Schedule of Programs:
Aero Bureau 13,300
CITS Administration 20,300
CITS Communications 62,800
CITS State Bureau of Investigation 73,300
CITS State Crime Labs 88,900
Department Commissioner's Office .. (588,500)
Department Intelligence Center 9,900
Fire Marshal - Fire Fighter Training 4,700
Fire Marshal - Fire Operations 4,900
Highway Patrol - Administration 12,600
Highway Patrol - Commercial Vehicle 32,900
Highway Patrol - Field Operations 433,000
Highway Patrol - Protective Services ... 80,900
Highway Patrol - Safety Inspections 21,600
Highway Patrol - Special Enforcement 25,600
Highway Patrol - Special Services 77,400
Highway Patrol - Technology Services 12,800

Item 23
To Department of Public Safety - Bureau of Criminal Identification
From General Fund, One-Time 9,700
From Dedicated Credits Revenue, One-Time 19,300
From General Fund Restricted - Concealed Weapons Account, One-Time 14,800
Schedule of Programs:
Non-Government/Other Services 43,800

Item 24
To Department of Public Safety - Bureau of Criminal Identification
From General Fund, One-Time 17,000
Schedule of Programs:
Law Enforcement/Criminal Justice Services 17,000

To implement the provisions of *Law Enforcement Investigation Amendments* (House Bill 57, 2023 General Session).

Item 25
To Department of Public Safety - Bureau of Criminal Identification
From General Fund, One-Time 42,400
Schedule of Programs:
Non-Government/Other Services 42,400

To implement the provisions of *Sale of a Firearm Amendments* (House Bill 226, 2023 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 26
To Department of Government Operations - DFCM Administration
From General Fund, One-Time 10,500
From Income Tax Fund, One-Time 2,600
From Dedicated Credits Revenue, One-Time 6,900
From Capital Projects Fund, One-Time ... 13,600
Schedule of Programs:
DFCM Administration 33,600

Item 27
To Department of Government Operations - Executive Director

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that the $145,000 appropriated for Internal Audit Support for Small Agencies, H.B. 3, Item 23 (2023 GS), shall not lapse at the close of FY 2023.

Item 28
To Department of Government Operations- Finance - Mandated
From General Fund, One-Time ..... (8,702,300)
Schedule of Programs:
Internal Service Fund Rate Impacts ..... (4,786,100)
State Employee Benefits ..... (3,916,200)

Item 29
To Department of Government Operations - Finance Administration
From General Fund, One-Time 39,200
From Dedicated Credits Revenue, One-Time 8,800
From Gen. Fund Rest. - Internal Service Fund Overhead, One-Time 3,400
Schedule of Programs:
Finance Director's Office 8,100
Financial Information Systems 13,200
Financial Reporting 7,000
Payables/Disbursing 12,200
Payroll 10,900

The Legislature intends that, if Senate Bill 272 becomes law, the Division of Finance, when closing FY 2023, transfer any balances in the following accounts to the following agency budgets: 1) Survivors of Suicide Loss Account to the Department of Health and Human Services - Integrated Health - Non-Medicaid Behavioral Health Treatment and Crisis Response Program; 2) Psychiatric Consultation Program Account to the Department of Health and Human Services - Integrated Health - Non-Medicaid Behavioral Health Treatment and Crisis Response Program; 3) Choose Life Adoption Support Restricted Account to the Department of Health and Human Services - Children, Youth, & Families - Adoption Assistance Program; 4) Mule Deer Protection Restricted Account to the Department of

Natural Resources – Wildlife Resources – Wildlife Section Program; 5) Children's Hearing Aid Program Restricted Account to the Department of Health and Human Services – Children, Youth, & Families – Children with Special Healthcare Needs Program; 6) Children with Cancer Support Restricted Account to the Department of Health and Human Services – Children, Youth, & Families – Children with Special Healthcare Needs Program; 7) Children with Heart Disease Support Restricted Account to the Department of Health and Human Services – Children, Youth, & Families – Children with Special Healthcare Needs Program; 8) Prison Development Restricted Account to the Prison Project Fund created in UCA 63A-5b-1107; 9) State Capitol Fund to the Capitol Preservation Board – Capitol Preservation Board – Capitol Preservation Board Program; 10) Child Care Fund to the Department of Workforce Services – Operations and Policy – Workforce Development Program; 11) Invest More for Education Account to the Uniform School Fund.

The Legislature intends that the Division of Finance, when closing FY 2023, transfer any balances in the Canine Body Armor Restricted Account to the Department of Public Safety – Programs and Operations – Field Operations.

The Legislature intends that the Division of Finance, when closing FY 2023, transfer any balances in the New Public Safety and Firefighter Tier II Retirement Benefits Account to the General Fund.

Item 30
To Department of Government Operations – Purchasing
From General Fund, One-Time 44,400
Schedule of Programs:
Purchasing and General Services 44,400

Item 31
To Department of Government Operations – State Archives
From General Fund, One-Time 19,100
From Federal Funds, One-Time 500
From Dedicated Credits Revenue, One-Time 900
Schedule of Programs:
Patron Services 9,300
Preservation Services 4,000
Records Analysis 7,200

TRANSPORTATION

Item 32
To Transportation – Aeronautics
From Dedicated Credits Revenue, One-Time 2,900
From Aeronautics Restricted Account, One-Time 1,900
Schedule of Programs:
Airplane Operations 4,800

Item 33
To Transportation – Engineering Services
From Transportation Fund, One-Time .. 220,200
From Federal Funds, One-Time 66,700
From Dedicated Credits Revenue, One-Time 18,200
Schedule of Programs:
Construction Management 15,300
Engineering Services 24,500
Environmental 21,400
Highway Project Management Team 29,600
Materials Lab 47,400
Preconstruction Admin 43,600
Program Development 45,000
Research 19,400
Right-of-Way 29,800
Structures 29,100

Item 34
To Transportation – Operations/ Maintenance Management
From Transportation Fund, One-Time .. 690,700
From Federal Funds, One-Time 42,100
From Dedicated Credits Revenue, One-Time 11,800
Schedule of Programs:
Field Crews 85,300
Maintenance Planning 18,200
Region 1 79,300
Region 2 88,500
Region 3 81,300
Region 4 162,300
Shops 37,300
Traffic Operations Center 150,800
Traffic Safety/Tramway 41,600

Item 35
To Transportation – Region Management
From Transportation Fund, One-Time .. 321,300
From Federal Funds, One-Time 29,900
From Dedicated Credits Revenue, One-Time 24,500
Schedule of Programs:
Region 1 85,600
Region 2 124,000
Region 3 84,700
Region 4 81,400

Item 36
To Transportation – Support Services
From Transportation Fund, One-Time .. 130,400
From Federal Funds, One-Time 26,100
Schedule of Programs:
Comptroller 55,400
Human Resources Management 17,600
Ports of Entry 70,300
Procurement 3,300
Risk Management 9,900

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 37
To Department of Alcoholic Beverage Services-DABS Operations
From Liquor Control Fund, One-Time 94,800
Schedule of Programs:

Executive Director 23,400
Stores and Agencies 68,300
Warehouse and Distribution 3,100

DEPARTMENT OF COMMERCE

Item 38
To Department of Commerce – Commerce General Regulation
From Federal Funds, One-Time 2,100
From Dedicated Credits Revenue, One-Time 3,000
From General Fund Restricted – Commerce Service Account, One-Time 53,300
From General Fund Restricted – Factory Built Housing Fees, One-Time 100
From Gen. Fund Rest. – Nurse Education & Enforcement Acct., One-Time 100
From General Fund Restricted – Public Utility Restricted Acct., One-Time 22,400
From Revenue Transfers, One-Time 1,100
From Pass-through, One-Time 600
Schedule of Programs:
Administration 7,200
Corporations and Commercial Code 9,000
Occupational and Professional Licensing 16,700
Public Utilities 25,200
Real Estate 11,000
Securities 13,600

Item 39
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account, One-Time 1,100
Schedule of Programs:
Occupational and Professional Licensing . 1,100

To implement the provisions of *County Recorder Modifications* (House Bill 351, 2023 General Session).

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 40
To Governor's Office of Economic Opportunity – Administration

The Legislature intends that, at the close of fiscal year 2023, the Division of Finance transfer $700,000 in fiscal year 2023 closing nonlapsing balances in Administration – Administration to Office of Tourism – Tourism in the new fiscal year 2024.

Item 41
To Governor's Office of Economic Opportunity – Pass-Through
From Income Tax Fund, One-Time 2,800,000
Schedule of Programs:
Pass-Through 2,800,000

The Legislature intends that the Governor's Office of Economic Opportunity use up to $2.8 million one-time appropriated to the Pass-Through program in FY 2023 for a grant program administered by the UPSTART contractor to provide funding to participating schools to perform outreach activities to educate and promote the adoption of UPSTART.

The Legislature intends that the Division of Finance disregard duplicate intent language in "Current Year Supplemental Appropriations" (House Bill 3, 2023 General Session). Item 39.

Item 42
To Governor's Office of Economic Opportunity – Rural Employment Expansion Program

The Legislature intends that, at the close of fiscal year 2023, the Division of Finance transfer any fiscal year 2023 closing nonlapsing balances in the Rural Employment Expansion Program – Rural Employment Expansion Program to Economic Prosperity – Incentives and Grants in the new fiscal year 2024.

Item 43
To Governor's Office of Economic Opportunity – Rural Coworking and Innovation Center Grant Program

The Legislature intends that, at the close of fiscal year 2023, the Division of Finance transfer any fiscal year 2023 closing nonlapsing balances in Rural Coworking and Innovation Center Grant Program – Rural Coworking and Innovation Center Grant Program to Economic Prosperity – Incentives and Grants in the new fiscal year 2024.

Item 44
To Governor's Office of Economic Opportunity – Rural Rapid Manufacturing Grant

The Legislature intends that, at the close of fiscal year 2023, the Division of Finance transfer any fiscal year 2023 closing nonlapsing balances in the Rural Rapid Manufacturing Grant – Rural Rapid Manufacturing Grant to Economic Prosperity – Incentives and Grants in the new fiscal year 2024.

Item 45
To Governor's Office of Economic Opportunity – Point of the Mountain Authority

Notwithstanding the intent language passed in Item 17 of House Bill 4, Business, Economic Development, and Labor Base Budget, Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Point of the Mountain Authority in Laws of Utah 2022, shall not lapse at the close of Fiscal Year 2023. The use of any nonlapsing funds is limited to operational costs and contractual obligations $1,700,000.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 46
To Department of Cultural and Community Engagement – Administration
From General Fund, One-Time 5,300
Schedule of Programs:

Administrative Services 5,300

Item 47
To Department of Cultural and Community Engagement - Division of Arts and Museums
From General Fund, One-Time 3,700
From Dedicated Credits Revenue, One-Time 200
Schedule of Programs:
Community Arts Outreach 3,900

Item 48
To Department of Cultural and Community Engagement - Commission on Service and Volunteerism
From General Fund, One-Time 700
From Federal Funds, One-Time 7,800
From Dedicated Credits Revenue, One-Time 100
Schedule of Programs:
Commission on Service and Volunteerism 8,600

Item 49
To Department of Cultural and Community Engagement - State History
From General Fund, One-Time 3,200
From Federal Funds, One-Time 3,400
From Dedicated Credits Revenue, One-Time 1,500
Schedule of Programs:
Historic Preservation and Antiquities 8,100

Item 50
To Department of Cultural and Community Engagement - State Library
From General Fund, One-Time 15,800
From Federal Funds, One-Time 3,600
From Dedicated Credits Revenue, One-Time 13,200
Schedule of Programs:
Blind and Disabled 6,600
Bookmobile 14,400
Library Development 5,300
Library Resources 6,300

Item 51
To Department of Cultural and Community Engagement - Stem Action Center
From General Fund, One-Time 13,400
From Federal Funds, One-Time 1,400
From Dedicated Credits Revenue, One-Time 1,300
Schedule of Programs:
STEM Action Center 10,600
STEM Action Center - Grades 6-8 5,500

Item 52
To Department of Cultural and Community Engagement - Heritage & Events Grants

The Legislature intends that the Department of Cultural and Community Engagement use appropriations provided by House Bill 3, item 53 to consider funding for the following project: Warriors Over the Wasatch/Hill AFB Show $20,000.

INSURANCE DEPARTMENT

Item 53
To Insurance Department - Insurance Department Administration
From General Fund Restricted - Captive Insurance, One-Time 6,000
From General Fund Restricted - Insurance Department Acct., One-Time 39,500
Schedule of Programs:
Administration 39,500
Captive Insurers 6,000

Item 54
To Insurance Department - Coverage for Autism Spectrum Disorder
From General Fund Restricted - State Mandated Insurer Payments Restricted, One-Time 3,916,200
Schedule of Programs:
Coverage for Autism Spectrum Disorder 3,916,200

LABOR COMMISSION

Item 55
To Labor Commission
From General Fund, One-Time 3,500
From Federal Funds, One-Time 1,300
From Dedicated Credits Revenue, One-Time 200
From Employers' Reinsurance Fund, One-Time 200
From General Fund Restricted - Industrial Accident Account, One-Time 5,000
Schedule of Programs:
Antidiscrimination and Labor 5,000
Industrial Accidents 5,200

UTAH STATE TAX COMMISSION

Item 56
To Utah State Tax Commission - Tax Administration
From General Fund, One-Time 109,900
From Income Tax Fund, One-Time 109,200
From Federal Funds, One-Time 4,900
From Dedicated Credits Revenue, One-Time 34,700
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account, One-Time 19,800
From General Fund Rest. - Sales and Use Tax Admin Fees, One-Time 49,200
From Revenue Transfers, One-Time 1,300
From Uninsured Motorist Identification Restricted Account, One-Time 600
Schedule of Programs:
Operations 11,100
Tax and Revenue 124,600
Customer Service 102,700
Property and Miscellaneous Taxes 60,100
Enforcement 31,100

Item 57
To Utah State Tax Commission - Tax Administration
From General Fund, One-Time ..... (43,200)
Schedule of Programs:

Motor Vehicles ..... (43,200)

To implement the provisions of *Off-highway Vehicle Registration Requirements* (House Bill 55, 2023 General Session).

Item 58
To Utah State Tax Commission – Tax Administration
From Income Tax Fund, One-Time 200,000
Schedule of Programs:
Operations 200,000

To implement the provisions of *Tax Assessment Amendments* (House Bill 56, 2023 General Session).

Item 59
To Utah State Tax Commission – Tax Administration
From General Fund, One-Time 24,600
Schedule of Programs:
Technology Management 24,600

To implement the provisions of *Car-sharing Amendments* (Senate Bill 121, 2023 General Session).

Item 60
To Utah State Tax Commission – Tax Administration
From General Fund, One-Time 76,900
Schedule of Programs:
Technology Management 76,900

To implement the provisions of *Modified Car Emissions Requirements* (Senate Bill 264, 2023 General Session).

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 61
To Department of Workforce Services – Administration
From General Fund, One-Time 17,800
From Federal Funds, One-Time 35,600
From Dedicated Credits Revenue, One-Time 500
From Expendable Receipts, One-Time 300
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-Time 100
From Navajo Revitalization Fund, One-Time 100
From Olene Walker Housing Loan Fund, One-Time 9,000
From OWHTF-Low Income Housing, One-Time 100
From Permanent Community Impact Loan Fund, One-Time 700
From General Fund Restricted - School Readiness Account, One-Time 100
From Revenue Transfers, One-Time 14,200
Schedule of Programs:
Administrative Support 71,900
Communications 6,600

Item 62
To Department of Workforce Services – Housing and Community Development
From General Fund, One-Time 1,300
From Federal Funds, One-Time 14,600
From Dedicated Credits Revenue, One-Time 700
From Housing Opportunities for Low Income Households, One-Time 300
From Olene Walker Housing Loan Fund, One-Time 98,000
From OWHT-Fed Home, One-Time 300
From OWHTF-Low Income Housing, One-Time 300
From Permanent Community Impact Loan Fund, One-Time 900
From Revenue Transfers, One-Time 500
Schedule of Programs:
Community Development 5,300
Community Services 4,400
HEAT 4,200
Housing Development 103,000

Item 63
To Department of Workforce Services – Operations and Policy
From General Fund, One-Time 45,100
From Income Tax Fund, One-Time 4,200
From Federal Funds, One-Time 134,900
From Dedicated Credits Revenue, One-Time 700
From Expendable Receipts, One-Time 700
From Medicaid Expansion Fund, One-Time 3,200
From Olene Walker Housing Loan Fund, One-Time 11,000
From General Fund Restricted - School Readiness Account, One-Time 12,900
From Revenue Transfers, One-Time 43,000
Schedule of Programs:
Eligibility Services 82,800
Workforce Development 161,200
Workforce Research and Analysis 11,700

Item 64
To Department of Workforce Services – State Office of Rehabilitation
From General Fund, One-Time 103,600
From Federal Funds, One-Time 184,900
From Dedicated Credits Revenue, One-Time 2,500
From Expendable Receipts, One-Time 2,000
From Revenue Transfers, One-Time 400
Schedule of Programs:
Blind and Visually Impaired 25,200
Deaf and Hard of Hearing 25,900
Disability Determination 48,400
Executive Director 14,800
Rehabilitation Services 179,100

Item 65
To Department of Workforce Services – Office of Homeless Services
From General Fund, One-Time 600
From Federal Funds, One-Time 1,500
From Gen. Fund Rest. - Pamela Atkinson Homeless Account, One-Time ... 700
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-Time 3,700
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-Time 3,000
Schedule of Programs:

Homeless Services 9,500

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 66

To Department of Health and Human Services - Operations
From General Fund, One-Time ..... (956,300)
From Income Tax Fund, One-Time 1,300
From Federal Funds, One-Time 75,300
From Dedicated Credits Revenue, One-Time 7,800
From Revenue Transfers, One-Time 7,000
Schedule of Programs:
Finance & Administration 3,035,800
Data, Systems, & Evaluations 75,900
Continuous Quality Improvement .. (2,982,000)
Customer Experience ..... (994,600)

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 55 of Chapter 4, Laws of Utah 2022, up to $1,000,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2023. The nonlapsing funds shall be applied to the Department of Health and Human Services - Operations line item as a beginning balance in Fiscal Year 2024 and the use of any nonlapsing funds is limited to the consolidation of the Department of Health and the Department of Human Services.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 55 of chapter 4, Laws of Utah 2022, up to $2,990,400 of funds appropriated to the Department of Health and Human Services under HB3 Item 231 General Session 2022, shall not lapse at the close of Fiscal Year 2023. The nonlapsing funds shall be applied to the Department of Health and Human Services Operations line item as a beginning balance in Fiscal Year 2024 and the use of nonlapsing funds is limited to the funds received for the Utah Sustainable Health Collaborative.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 55 of Chapter 4, Laws of Utah 2022, up to $1,450,000 provided to the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2023. The nonlapsing funds shall be applied to the Department of Health and Human Services -Operations line item as a beginning balance in Fiscal Year 2024 and the use of any nonlapsing funds is limited to (1) $1,200,000 Federal revenue management, expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; and short-term projects and studies that promote efficiency and service improvement, (2) $200,000 ongoing development and maintenance of the vital records application portal, and (3) $50,000 ongoing maintenance and upgrades of the database in the Office of Medical Examiner and the Electronic Death Entry Network or replacement of personal computers and information technology equipment in the Center for Health Data and Informatics.

The Legislature intends that prior to the release of any state appropriations for Ability 1st Accessibility Project, the recipient must provide evidence of matching funds either for capital or operations from local sources that equal the amount of any state support received over the preceding 24 months.

Item 67

To Department of Health and Human Services - Clinical Services
From General Fund, One-Time 21,500
From Federal Funds, One-Time 2,700
From Dedicated Credits Revenue, One-Time 14,500
From Expendable Receipts, One-Time 200
From Department of Public Safety Restricted Account, One-Time 900
From Gen. Fund Rest. - State Lab Drug Testing Account, One-Time 900
From Revenue Transfers, One-Time 100
Schedule of Programs:
Medical Examiner 19,800
State Laboratory 17,200
Primary Care and Rural Health 3,800

Item 68

To Department of Health and Human Services - Department Oversight
From General Fund, One-Time 32,000
From Federal Funds, One-Time 28,100
From Dedicated Credits Revenue, One-Time 8,900
From Revenue Transfers, One-Time 13,000
Schedule of Programs:
Licensing & Background Checks 75,800
Internal Audit 6,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 57 of Chapter 4, Laws of Utah 2022, up to $150,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2023. The nonlapsing funds shall be applied to the Department of Health and Human Services - Department Oversight line item as a beginning balance in Fiscal Year 2024 and the use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; and short-term projects and studies that promote efficiency and service improvement.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 57 of Chapter 4, Laws of Utah 2021, up to $500,000 provided for the Department of Health and Human Services Department Oversight line item shall not lapse at the close of Fiscal Year 2023. Civil money penalties collected in the Division of Licensing and Background Checks for child care licensing and Health Facility Licensing programs. The nonlapsing funds shall be applied to the Department of Health and Human Services

Department Oversight line item as a beginning balance in Fiscal Year 2024 and the use of any nonlapsing funds is limited to upgrades to databases, training for providers and staff, or assistance of individuals during a facility shutdown. Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 57 of Chapter 4, of Utah Laws 2021, up to $505,000 provided for the Department Oversight line item shall not lapse at the close of Fiscal Year 2023. The nonlapsing funds shall be applied to the Department of Health and Human Services Department Oversight line item as a beginning balance in Fiscal Year 2024 and the use of any nonlapsing funds is limited to (1) $210,000 to health facility plan review activities in Health Facility Licensing and Certification, (2) $150,000 to health facility licensure and certification activities in Health Facility Licensing and Certification, and (3) $145,000 to Emergency Medical Services and Health Facility Licensing background screening for replacement of live scan machines, and enhancements and maintenance of the Direct Access Clearing System.

Item 69

To Department of Health and Human Services - Department Oversight
From General Fund, One-Time 8,400
Schedule of Programs:
Licensing & Background Checks 8,400

To implement the provisions of *Adoption Amendments* (Senate Bill 154, 2023 General Session).

Item 70

To Department of Health and Human Services - Health Care Administration
From General Fund, One-Time 37,400
From Federal Funds, One-Time 99,300
From Dedicated Credits Revenue, One-Time 100
From Expendable Receipts, One-Time 25,600
From Ambulance Service Provider Assess Exp Rev Fund, One-Time 100
From Medicaid Expansion Fund, One-Time 7,100
From Nursing Care Facilities Provider Assessment Fund, One-Time 2,700
From Revenue Transfers, One-Time ..... (8,102,600)
Schedule of Programs:
Integrated Health Care Administration ..... (16,116,900)
Long-Term Services and Supports Administration 39,300
Seeded Services 8,147,300

Item 71

To Department of Health and Human Services - Health Care Administration
From General Fund, One-Time 2,300
From Federal Funds, One-Time 2,300
Schedule of Programs:
Integrated Health Care Administration 4,600

To implement the provisions of *Modifications to Medicaid Coverage* (Senate Bill 133, 2023 General Session).

Item 72

To Department of Health and Human Services - Integrated Health Care Services
From General Fund, One-Time .... (74,350,800)
From Income Tax Fund, One-Time ... (3,400,000)
From Federal Funds, One-Time ..... (15,500)
From Federal Funds - Enhanced FMAP, One-Time 19,827,000
From Dedicated Credits Revenue, One-Time 29,900
From Expendable Receipts, One-Time 100
From Medicaid Expansion Fund, One-Time 100
From General Fund Restricted - Tobacco Settlement Account, One-Time ... 100
From Revenue Transfers, One-Time 240,000
Schedule of Programs:
Children's Health Insurance Program Services 800,000
Medicaid Accountable Care Organizations ..... (59,700,000)
Medicaid Behavioral Health Services ... 33,900
Medicaid Home and Community Based Services 5,500
Medicaid Other Services ..... (33,700)
Expansion Accountable Care Organizations 8,500
Non-Medicaid Behavioral Health Treatment & Crisis Response 15,100
State Hospital 1,201,600

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 59 of Chapter 4, Laws of Utah 2022, General Fund provided for HB 35, Mental Health Treatment Access Amendments (2020 Defunded Bill) shall not lapse at the close of Fiscal Year 2023. The nonlapsing funds shall be applied to the Department of Health and Human Services - Integrated Health Care Services line item as a beginning balance in Fiscal Year 2024 and the use of any nonlapsing funds is limited to funding for HB 35, Mental Health Treatment Access Amendments (2020 Defunded Bill).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $11,888,100 of the ongoing appropriation provided in Item 59, Chapter 4, Laws of Utah 2022 for the Department of Health and Human Services - Integrated Health Care Services shall not lapse at the close of FY 2023. The use of any nonlapsing funds is limited to expenditures for development and implementation of a behavioral health receiving center for which a grant was awarded under Section 62A-15-118. The nonlapsing funds shall be applied to the Department of Health and Human Services - Integrated Health Care Services line item as a beginning balance in Fiscal Year 2024.

The Legislature intends that the funding appropriated under the Community Mental Health Medicaid Rate Increase item will fund increases of 29.2% for the 99214 (CG

modifier), T1017, H2019, H2017 and 90853 codes. The Department will pass along additional Medicaid state match funds to ensure that the county local authorities receive a commensurate increase.

Item 73
To Department of Health and Human Services – Long-Term Services & Support
From General Fund, One-Time ..... (2,167,200)
From Income Tax Fund, One-Time ... (3,571,100)
From Federal Funds, One-Time 2,800
From Federal Funds – Enhanced FMAP, One-Time 5,754,200
From Dedicated Credits Revenue, One-Time 4,500
From Expendable Receipts, One-Time 100
From Revenue Transfers, One-Time 74,100
Schedule of Programs:
Adult Protective Services 10,900
Aging Waiver Services ..... (69,200)
Services for People with Disabilities 44,100
Utah State Developmental Center 111,600

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $325,000 of appropriations provided in Item 60, Chapter 4, Laws of Utah 2022 and subsequent FY 2023 appropriations for the Department of Health and Human Services – Long-Term Services & Support line item not lapse at the close of Fiscal Year 2023. The nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; incentives and bonuses; other equipment or supplies; training; special projects or studies; and client services for Adult Protective Services and the Aging Waiver consistent with the requirements found at UCA 63J-1-603(3).

Item 74
To Department of Health and Human Services – Public Health, Prevention, and Epidemiology
From General Fund, One-Time 22,200
From Federal Funds, One-Time 194,200
From Dedicated Credits Revenue, One-Time 900
From Expendable Receipts, One-Time 1,700
From Expendable Receipts – Rebates, One-Time 2,800
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account, One-Time 27,000
From General Fund Restricted – Emergency Medical Services System Account, One-Time 2,700
From General Fund Restricted – Tobacco Settlement Account, One-Time 9,900
From Revenue Transfers, One-Time 12,200
Schedule of Programs:
Communicable Disease 124,300
Health Promotion and Prevention 119,700
Emergency Medical Services and Preparedness 22,300
Population Health 7,300

Item 75
To Department of Health and Human Services – Public Health, Prevention, and Epidemiology
From General Fund, One-Time 2,600
Schedule of Programs:
Health Promotion and Prevention 2,600

To implement the provisions of *Sickle Cell Disease* (House Bill 487, 2023 General Session).

Item 76
To Department of Health and Human Services – Children, Youth, & Families
From General Fund, One-Time 2,298,400
From Income Tax Fund, One-Time ... (1,558,300)
From Federal Funds, One-Time 12,980,000
From Dedicated Credits Revenue, One-Time 1,800
From Expendable Receipts, One-Time 900
From General Fund Restricted – Adult Autism Treatment Account, One-Time 1,400
From Gen. Fund Rest. – Children's Hearing Aid Pilot Program Account, One-Time 300
From Gen. Fund Rest. – K. Oscarson Children's Organ Transp., One-Time 100
From Revenue Transfers, One-Time 8,600
Schedule of Programs:
Child & Family Services 6,266,700
Out-of-Home Services ..... (97,800)
Adoption Assistance ..... (157,800)
Children with Special Healthcare Needs 35,700
Maternal & Child Health 9,500
Family Health 7,676,900

The Legislature intends that a minimum of $600,000 appropriated in FY 2024 for DCFS & JJYS Provider Continuum and Medicaid Parity shall be utilized for foster children categorized as level 1, 2 and 3.

The Legislature intends that the Department of Health and Human Services report to the Executive Appropriations Committee on their planned use of the appropriation for Victim Services Funding before the Division of Finance disburses funding.

Item 77
To Department of Health and Human Services – Office of Recovery Services
From General Fund, One-Time 28,100
From Federal Funds, One-Time 26,635,900
From Dedicated Credits Revenue, One-Time 9,400
From Expendable Receipts, One-Time 9,800
From Medicaid Expansion Fund, One-Time 100
From Revenue Transfers, One-Time 6,600
Schedule of Programs:
Recovery Services 17,122,900
Child Support Services 9,556,100
Children in Care Collections 3,900
Medical Collections 7,000

Item 78
To Department of Health and Human Services – Prison Medical Services

From General Fund Restricted –
Correctional Institution Clinical
Services Transition Account,
One–Time 4,922,400
Schedule of Programs:
Prison Medical Services 4,922,400

The Legislature intends that the Department of Corrections work with the Department of Health and Human Services over the 2023 interim to fully transfer provision of medical services at state correctional institutions to the Department of Health and Human Services by July 1, 2024. During the transition, the Department of Corrections and Department of Health and Human Services may both access spending authority provided from the Correctional Institution Clinical Services Transition Account. However, the two departments combined may not spend more than the amount transferred into the account from the General Fund in FY 2024. The Legislature intends that the departments report progress on the transition to the Executive Offices and Criminal Justice Appropriations Subcommittee at each of the subcommittee meetings in the 2023 Interim and again at the start of the 2024 General Session.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 79
To University of Utah – Education and General

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that up to $7,365,700 of appropriations provided for Performance Funding – Degree Granting Institutions in H.B. 3 not lapse at the close of FY 2023 and may be used toward the new performance funding model in subsequent years.

The Legislature intends that in addition to the 8.75 percent compensation increase included in State Agency and Higher Education Compensation Appropriations (House Bill 8, 2023 General Session), state institutions may use performance funding to provide additional compensation increases to higher education employees.

UTAH STATE UNIVERSITY

Item 80
To Utah State University – Education and General
From Income Tax Fund, One–Time 1,110,000
Schedule of Programs:
Education and General 1,110,000

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that up to $1,110,000 one–time of appropriations provided for Agriculture and Small Business Innovation/Sustainability not lapse at the close of fiscal year 2023 and shall be used toward Agriculture and Small Business Innovation/Sustainability over three years as follows: $370,000 each year in FY 204, FY 2025, and FY 2026.

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that up to $5,171,000 of appropriations provided for Performance Funding – Degree Granting Institutions in H.B. 3 not lapse at the close of FY 2023 and may be used toward the new performance funding model in subsequent years.

The Legislature intends that in addition to the 8.75 percent compensation increase included in State Agency and Higher Education Compensation Appropriations (House Bill 8, 2023 General Session), state institutions may use performance funding to provide additional compensation increases to higher education employees.

WEBER STATE UNIVERSITY

Item 81
To Weber State University – Education and General

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that up to $4,640,700 of appropriations provided for Performance Funding – Degree Granting Institutions in H.B. 3 not lapse at the close of FY 2023 and may be used toward the new performance funding model in subsequent years.

The Legislature intends that in addition to the 8.75 percent compensation increase included in State Agency and Higher Education Compensation Appropriations (House Bill 8, 2023 General Session), state institutions may use performance funding to provide additional compensation increases to higher education employees.

SOUTHERN UTAH UNIVERSITY

Item 82
To Southern Utah University – Education and General

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that up to $2,999,500 of appropriations provided for Performance Funding – Degree Granting Institutions in H.B. 3 not lapse at the close of FY 2023 and may be used toward the new performance funding model in subsequent years.

The Legislature intends that in addition to the 8.75 percent compensation increase included in State Agency and Higher Education Compensation Appropriations (House Bill 8, 2023 General Session), state institutions may use performance funding to provide additional compensation increases to higher education employees.

UTAH VALLEY UNIVERSITY

Item 83
To Utah Valley University – Education and General

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends

that up to $7,112,500 of appropriations provided for Performance Funding – Degree Granting Institutions in H.B. 3 not lapse at the close of FY 2023 and may be used toward the new performance funding model in subsequent years.

The Legislature intends that in addition to the 8.75 percent compensation increase included in State Agency and Higher Education Compensation Appropriations (House Bill 8, 2023 General Session), state institutions may use performance funding to provide additional compensation increases to higher education employees.

SNOW COLLEGE

Item 84
To Snow College – Education and General

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $1,447,300 of appropriations provided for Performance Funding – Degree Granting Institutions in H.B. 3 not lapse at the close of FY 2023 and may be used toward the new performance funding model in subsequent years.

The Legislature intends that in addition to the 8.75 percent compensation increase included in State Agency and Higher Education Compensation Appropriations (House Bill 8, 2023 General Session), state institutions may use performance funding to provide additional compensation increases to higher education employees.

Item 85
To Snow College – Career and Technical Education
From Income Tax Fund, One-Time 324,400
Schedule of Programs:
Career and Technical Education 324,400

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $324,400 one-time of appropriations provided for Rural Technical Training Outreach not lapse at the close of fiscal year 2023 and shall be used toward Rural Technical Training Outreach.

UTAH TECH UNIVERSITY

Item 86
To Utah Tech University – Education and General

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $2,505,300 of appropriations provided for Performance Funding – Degree Granting Institutions in H.B. 3 not lapse at the close of FY 2023 and may be used toward the new performance funding model in subsequent years.

The Legislature intends that in addition to the 8.75 percent compensation increase included in State Agency and Higher Education Compensation Appropriations (House Bill 8, 2023 General Session), state institutions may use performance funding to provide additional compensation increases to higher education employees.

SALT LAKE COMMUNITY COLLEGE

Item 87
To Salt Lake Community College – Education and General

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $3,758,000 of appropriations provided for Performance Funding – Degree Granting Institutions in H.B. 3 not lapse at the close of FY 2023 and may be used toward the new performance funding model in subsequent years.

The Legislature intends that in addition to the 8.75 percent compensation increase included in State Agency and Higher Education Compensation Appropriations (House Bill 8, 2023 General Session), state institutions may use performance funding to provide additional compensation increases to higher education employees.

UTAH BOARD OF HIGHER EDUCATION

Item 88
To Utah Board of Higher Education – Administration
From Income Tax Fund, One-Time 200,000
Schedule of Programs:
Administration 200,000

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $35,000,000 of appropriations provided for Performance Funding – Degree Granting Institutions in H.B. 3 (2023 General Session) not lapse at the close of Fiscal Year 2023 and may be used toward the new performance funding model in subsequent years.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $200,000 one-time of appropriations provided for International Internship Scholarship Pilot Program Fund not lapse at the close of fiscal year 2023 and shall be used toward the International Internship Scholarship Pilot Program Fund.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 89
To Department of Agriculture and Food – Administration
From General Fund, One-Time 8,500
From Federal Funds, One-Time 700
From Dedicated Credits Revenue, One-Time 900
From Revenue Transfers, One-Time 200
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention, One-Time ..... (30,000)
Schedule of Programs:
Commissioner's Office 10,300

Sheep Promotion ..... (30,000)

Item 90
To Department of Agriculture and Food – Invasive Species Mitigation
From General Fund Restricted – Invasive Species Mitigation Account, One-Time ... 5,200
Schedule of Programs:
Invasive Species Mitigation 5,200

Item 91
To Department of Agriculture and Food – Plant Industry
From General Fund, One-Time 2,000
From Federal Funds, One-Time 6,900
From Dedicated Credits Revenue, One-Time 11,100
From Pass-through, One-Time 800
Schedule of Programs:
Plant Industry Administration 17,300
Grain Lab 3,500

Item 92
To Department of Agriculture and Food – Predatory Animal Control
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention, One-Time 30,000
Schedule of Programs:
Predatory Animal Control 30,000

Item 93
To Department of Agriculture and Food – Rangeland Improvement
From Gen. Fund Rest. – Rangeland Improvement Account, One-Time 4,500
Schedule of Programs:
Rangeland Improvement Projects 4,500

Item 94
To Department of Agriculture and Food – Regulatory Services
From General Fund, One-Time 1,100
From Dedicated Credits Revenue, One-Time 2,200
Schedule of Programs:
Weights & Measures 3,300

Item 95
To Department of Agriculture and Food – Resource Conservation
From General Fund, One-Time 12,100
From Federal Funds, One-Time 6,800
From Dedicated Credits Revenue, One-Time 100
From Agriculture Resource Development Fund, One-Time 7,800
From Revenue Transfers, One-Time 3,300
From Utah Rural Rehabilitation Loan State Fund, One-Time 1,000
Schedule of Programs:
Conservation Administration 5,300
Water Quantity 25,800

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 96
To Department of Environmental Quality – Drinking Water
From General Fund, One-Time 20,300
From Dedicated Credits Revenue, One-Time 2,100
From Water Dev. Security Fund – Drinking Water Loan Prog., One-Time 10,000
Schedule of Programs:
Drinking Water Administration 19,500
Safe Drinking Water Act 6,600
System Assistance 6,300

Item 97
To Department of Environmental Quality – Environmental Response and Remediation
From General Fund, One-Time 18,200
From Dedicated Credits Revenue, One-Time 1,800
From Petroleum Storage Tank Cleanup Fund, One-Time 2,800
From Petroleum Storage Tank Trust Fund, One-Time 8,800
Schedule of Programs:
CERCLA 19,400
Petroleum Storage Tank Cleanup 12,200

Item 98
To Department of Environmental Quality – Executive Director's Office
From General Fund, One-Time 8,200
From General Fund Restricted – Environmental Quality, One-Time 3,500
Schedule of Programs:
Executive Director Office Administration 11,700

Item 99
To Department of Environmental Quality – Waste Management and Radiation Control
From Dedicated Credits Revenue, One-Time 11,300
From General Fund Restricted – Environmental Quality, One-Time 26,000
From Gen. Fund Rest. – Used Oil Collection Administration, One-Time 6,200
Schedule of Programs:
Hazardous Waste 17,700
Solid Waste 6,000
Low Level Radioactive Waste 13,200
Used Oil 6,600

Item 100
To Department of Environmental Quality – Water Quality
From General Fund, One-Time 7,400
From Dedicated Credits Revenue, One-Time 9,900
From General Fund Restricted – GFR – Division of Water Quality Oil, Gas, and Mining, One-Time 400
From Revenue Transfers, One-Time 400
From Water Dev. Security Fund – Utah Wastewater Loan Prog., One-Time 1,300
Schedule of Programs:
Water Quality Support 6,500
Water Quality Permits 12,900

Item 101
To Department of Environmental Quality – Air Quality
From General Fund, One-Time 25,300
From Dedicated Credits Revenue, One-Time 35,800

From General Fund Restricted - GFR - Division of Air Quality Oil, Gas, and Mining, One-Time 4,500
From Clean Fuel Conversion Fund, One-Time 600
Schedule of Programs:
Compliance 25,300
Permitting 19,900
Planning 12,600
Air Quality Administration 8,400

The Legislature intends that $645,000 of the funding previously appropriated to the Division of Air Quality for the woodstove/fireplace conversion program be used on activities to support the division's gas-to-electric lawn equipment exchange incentives to help meet summertime ozone health standards.

DEPARTMENT OF NATURAL RESOURCES

Item 102
To Department of Natural Resources - Forestry, Fire, and State Lands
From General Fund, One-Time 25,900
From Federal Funds, One-Time 22,200
From Dedicated Credits Revenue, One-Time 14,900
From General Fund Restricted - Sovereign Lands Management, One-Time 5,900
Schedule of Programs:
Division Administration 6,200
Fire Management 7,800
Forest Management 5,600
Lands Management 5,700
Lone Peak Center 4,000
Program Delivery 39,600

Item 103
To Department of Natural Resources - Oil, Gas, and Mining
From Federal Funds, One-Time 5,400
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining, One-Time 1,300
From Gen. Fund Rest. - Oil & Gas Conservation Account, One-Time 4,900
Schedule of Programs:
Abandoned Mine 5,300
Oil and Gas Program 6,300

Item 104
To Department of Natural Resources - Utah Geological Survey
From General Fund, One-Time 23,700
From Federal Funds, One-Time 2,200
From Dedicated Credits Revenue, One-Time 2,800
From General Fund Restricted - Utah Geological Survey Oil, Gas, and Mining Restricted Account, One-Time ... 2,500
From General Fund Restricted - Mineral Lease, One-Time 6,900
From Gen. Fund Rest. - Land Exchange Distribution Account, One-Time 100
From Revenue Transfers, One-Time 5,300
Schedule of Programs:
Administration 14,000
Energy and Minerals 12,200
Geologic Information and Outreach 17,300

Item 105
To Department of Natural Resources - Water Resources
From General Fund, One-Time 34,800
From Federal Funds, One-Time 2,100
From Water Resources Conservation and Development Fund, One-Time 12,300
Schedule of Programs:
Administration 7,800
Construction 7,500
Planning 33,900

Item 106
To Department of Natural Resources - Water Rights
From General Fund, One-Time 96,800
From Federal Funds, One-Time 1,600
From Dedicated Credits Revenue, One-Time 10,900
From General Fund Restricted - Water Rights Restricted Account, One-Time 17,100
From Designated Sales Tax, One-Time ... 17,700
Schedule of Programs:
Adjudication 21,200
Administration 21,400
Applications and Records 64,500
Dam Safety 14,600
Field Services 8,300
Technical Services 14,100

Item 107
To Department of Natural Resources - Wildlife Resources
From General Fund, One-Time 60,500
From Federal Funds, One-Time 198,500
From Expendable Receipts, One-Time 1,500
From General Fund Restricted - Aquatic Invasive Species Interdiction Account, One-Time 10,800
From General Fund Restricted - Mule Deer Protection Account, One-Time 3,100
From General Fund Restricted - Predator Control Account, One-Time 5,100
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account, One-Time 100
From Revenue Transfers, One-Time 800
From General Fund Restricted - Wildlife Conservation Easement Account, One-Time 100
From General Fund Restricted - Wildlife Habitat, One-Time 5,800
From General Fund Restricted - Wildlife Resources, One-Time 291,600
Schedule of Programs:
Administrative Services 59,600
Aquatic Section 128,700
Conservation Outreach 33,900
Director's Office 19,800
Habitat Council 5,800
Habitat Section 81,700
Law Enforcement 123,000
Wildlife Section 125,400

Under Section 63-J-603 of the Utah Code, the Legislature intends that the $550,000

appropriation for Porcupine Public Access Purchase, H.B. 3, Item 123 (2023 GS), shall not lapse at the close of FY 2023 and the funding shall be used for the public access acquisition.

Item 108
To Department of Natural Resources – Division of State Parks
From General Fund, One-Time 29,000
From Federal Funds, One-Time 1,600
From Dedicated Credits Revenue, One-Time 11,600
From Expendable Receipts, One-Time 1,300
From General Fund Restricted – State Park Fees, One-Time 289,600
From Revenue Transfers, One-Time 1,100
Schedule of Programs:
Executive Management 12,300
State Park Operation Management 311,300
Support Services 10,600

Item 109
To Department of Natural Resources – Division of Parks – Capital
From Federal Funds, One-Time 1,900
From General Fund Restricted – State Park Fees, One-Time 3,300
Schedule of Programs:
Renovation and Development 5,200

Item 110
To Department of Natural Resources – Division of Outdoor Recreation
From Federal Funds, One-Time 5,400
From General Fund Restricted – Boating, One-Time 5,200
From Gen. Fund Rest. – Off-highway Access and Education, One-Time ..... (19,000)
From General Fund Restricted – Off-highway Vehicle, One-Time 25,700
Schedule of Programs:
Oversight 9,100
Administration 8,200

Item 111
To Department of Natural Resources – Office of Energy Development
From General Fund, One-Time 325,000
Schedule of Programs:
Office of Energy Development 325,000

Item 112
To Department of Natural Resources – Office of Energy Development
From General Fund, One-Time 10,000
Schedule of Programs:
Office of Energy Development 10,000

To implement the provisions of *Statewide Energy Policy Amendments* (House Bill 426, 2023 General Session).

Item 113
To Department of Natural Resources – Office of Energy Development
From General Fund, One-Time 1,600
Schedule of Programs:
Office of Energy Development 1,600

To implement the provisions of *Hydrogen Amendments* (Senate Bill 62, 2023 General Session).

Item 114
To Department of Natural Resources – Office of the Great Salt Lake Commissioner
From General Fund, One-Time 2,900
Schedule of Programs:
GSL Commissioner Administration 2,900

To implement the provisions of *Amendments Related to the Great Salt Lake* (House Bill 491, 2023 General Session).

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 115
To State Board of Education – Educator Licensing
From Income Tax Fund, One-Time 213,400
Schedule of Programs:
Educator Licensing 213,400

To implement the provisions of *Statewide Online Education Program Modifications* (Senate Bill 167, 2023 General Session).

Item 116
To State Board of Education – Contracted Initiatives and Grants
From Lapsing Balance ..... (2,800,000)
Schedule of Programs:
UPSTART ..... (2,800,000)

The Legislature intends that the State Board of Education lapse up to $2.8 million in balances remaining in the UPSTART program to the Income Tax Fund at the end of fiscal year 2023.

The Legislature intends that the Division of Finance transfer any nonlapsing balances remaining in the USTART program appropriation unit after the $2.8 million in balances are lapsed to the Income Tax Fund to the Governor's Office of Economic Opportunity and after all outstanding financial obligations of the State Board of Education relative to the UPSTART program are paid at the close of FY 2023.

Item 117
To State Board of Education – Contracted Initiatives and Grants
From Income Tax Fund, One-Time 51,300
Schedule of Programs:
Utah Fits All Scholarship Program 51,300

To implement the provisions of *Funding for Teacher Salaries and Optional Education Opportunities* (House Bill 215, 2023 General Session).

Item 118
To State Board of Education – State Board and Administrative Operations
From Income Tax Fund, One-Time 436,200
Schedule of Programs:
Information Technology 436,200

To implement the provisions of *Statewide Online Education Program Modifications* (Senate Bill 167, 2023 General Session).

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 119
To Legislature – Senate
From General Fund, One-Time 13,600
Schedule of Programs:
Administration 13,600

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (House Joint Resolution 6, 2023 General Session).

Item 120
To Legislature – Senate
From General Fund, One-Time 5,000
Schedule of Programs:
Administration 5,000

To implement the provisions of *Energy Producer States' Agreement Amendments* (Senate Bill 48, 2023 General Session).

Item 121
To Legislature – House of Representatives
From General Fund, One-Time 21,400
Schedule of Programs:
Administration 21,400

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (House Joint Resolution 6, 2023 General Session).

Item 122
To Legislature – House of Representatives
From General Fund, One-Time 5,000
Schedule of Programs:
Administration 5,000

To implement the provisions of *Energy Producer States' Agreement Amendments* (Senate Bill 48, 2023 General Session).

UTAH NATIONAL GUARD

Item 123
To Utah National Guard
From General Fund, One-Time 5,000
From Federal Funds, One-Time 54,100
Schedule of Programs:
Operations and Maintenance 59,100

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 124
To Department of Veterans and Military Affairs – Veterans and Military Affairs
From General Fund, One-Time 6,700
From Federal Funds, One-Time 2,600
From Dedicated Credits Revenue, One-Time 700
Schedule of Programs:
Administration 4,800
Cemetery 5,200

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 125
To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund
From General Fund, One-Time 12,100
From Dedicated Credits Revenue, One-Time 33,800
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 45,900

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 126
To Department of Government Operations – State Debt Collection Fund
From Dedicated Credits Revenue, One-Time 9,800
Schedule of Programs:
State Debt Collection Fund 9,800

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 127
To Department of Commerce – Real Estate Education, Research, and Recovery Fund
From Dedicated Credits Revenue, One-Time 6,800
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 6,800

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 128
To Department of Cultural and Community Engagement – Heritage and Arts Foundation Fund
From General Fund, One-Time 3,800,000
From General Fund Restricted – Utah Capital Investment Restricted Account, One-Time 8,200,000
Schedule of Programs:
Heritage and Arts Foundation Fund 12,000,000

The Legislature intends that $12,000,000 provided by this item shall be used by the Utah Cultural and Community Engagement Foundation to match private donations for art and artifact acquisition and to establish or expand an endowment for the new Museum of Utah.

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following

proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 129
To Attorney General - ISF - Attorney General
From General Fund, One-Time 3,884,700
Schedule of Programs:
Civil Division 2,445,400
Child Protection Division 757,800
Criminal Division 681,500

UTAH DEPARTMENT OF CORRECTIONS

Item 130
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits Revenue, One-Time 36,000
Schedule of Programs:
Utah Correctional Industries 36,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 131
To Department of Government Operations - Division of Facilities Construction and Management - Facilities Management
From Dedicated Credits Revenue, One-Time 73,800
Schedule of Programs:
ISF - Facilities Management 73,800

Item 132
To Department of Government Operations - Division of Fleet Operations
From General Fund, One-Time 13,000
From Dedicated Credits Revenue, One-Time 3,800
Schedule of Programs:
ISF - Fuel Network 13,000
ISF - Motor Pool 3,800

Item 133
To Department of Government Operations - Division of Purchasing and General Services
From Dedicated Credits Revenue, One-Time 11,600
Schedule of Programs:
ISF - Central Mailing 4,800
ISF - Cooperative Contracting 6,800

Item 134
To Department of Government Operations - Risk Management
From Premiums, One-Time 29,600
Schedule of Programs:
ISF - Risk Management Administration 29,600

Item 135
To Department of Government Operations - Enterprise Technology Division
From Dedicated Credits Revenue, One-Time 36,900
Schedule of Programs:
ISF - Enterprise Technology Division ... 36,900

Item 136
To Department of Government Operations - Human Resources Internal Service Fund
From Dedicated Credits Revenue, One-Time 46,000
Schedule of Programs:
ISF - Field Services 31,500
ISF - Payroll Field Services 4,100
Policy 10,400

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 137
To Governor's Office of Economic Opportunity - Rural Opportunity Fund
From General Fund, One-Time ..... (9,000,000)
Schedule of Programs:
Rural Opportunity Fund ..... (9,000,000)

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 138
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue, One-Time 11,700
Schedule of Programs:
Qualified Patient Enterprise Fund 11,700

Item 139
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue, One-Time ..... (37,500)
Schedule of Programs:
Qualified Patient Enterprise Fund ... (37,500)

To implement the provisions of *Medical Cannabis Amendments* (Senate Bill 137, 2023 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 140
To Department of Agriculture and Food - Qualified Production Enterprise Fund

From Dedicated Credits Revenue, One-Time 4,100
From Qualified Production Enterprise Fund, One-Time ..... (300,000)
Schedule of Programs:
Qualified Production Enterprise Fund ..... (295,900)

DEPARTMENT OF NATURAL RESOURCES

Item 141
To Department of Natural Resources - Water Resources Conservation & Development Fund
From General Fund, One-Time .... (50,000,000)
Schedule of Programs:
Water Resources Conservation & Development Fund ..... (50,000,000)

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 142
To State Mandated Insurer Payments Restricted
From General Fund, One-Time 3,916,200
Schedule of Programs:
State Mandated Insurer Payments Restricted 3,916,200

SOCIAL SERVICES

Item 143
To Medicaid Expansion Fund
From General Fund, One-Time ..... (39,000)
From Dedicated Credits Revenue, One-Time 18,700,000
From Closing Fund Balance ..... (20,881,700)
Schedule of Programs:
Medicaid Expansion Fund ..... (2,220,700)

Item 144
To General Fund Restricted - Medicaid Restricted Account
From General Fund, One-Time 58,000,000
Schedule of Programs:
Medicaid Restricted Account 58,000,000

Item 145
To Correctional Institution Clinical Services Transition Account
From General Fund, One-Time 4,922,400
Schedule of Programs:
Correctional Institution Clinical Services Transition Account 4,922,400

The Legislature intends that the Department of Corrections work with the Department of Health and Human Services over the 2023 interim to fully transfer provision of medical services at state correctional institutions to the Department of Health and Human Services by July 1, 2024. During the transition, the Department of Corrections and Department of Health and Human Services may both access spending authority provided from the Correctional Institution Clinical Services Transition Account. However, the two departments combined may not spend more than the amount transferred into the account from the General Fund in FY 2024. The Legislature intends that the departments report progress on the transition to the Executive Offices and Criminal Justice Appropriations Subcommittee at each of the subcommittee meetings in the 2023 Interim and again at the start of the 2024 General Session.

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 146
To General Fund
From General Fund Restricted - Law Enforcement Services, One-Time ..... (1,400)
Schedule of Programs:
General Fund, One-time ..... (1,400)

The Legislature intends that the Division of Finance, when closing FY 2023, transfer any balances in the Law Enforcement Services Account to the General Fund.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 147
To General Fund
From Fleet Operations - Fuel Network, One-Time 13,000
Schedule of Programs:
General Fund, One-time 13,000

Section 2. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 148
To Attorney General
From General Fund 4,955,400

Schedule of Programs:
Administration 152,900
Civil 2,296,300
Criminal Prosecution 2,506,200

Item 149
To Attorney General
From General Fund 222,400
Schedule of Programs:
Civil 222,400

To implement the provisions of *Energy Security Amendments* (House Bill 425, 2023 General Session).

Item 150
To Attorney General
From Dedicated Credits Revenue, One-Time 24,500
Schedule of Programs:
Administration 24,500

To implement the provisions of *Blockchain Liability Amendments* (Senate Bill 160, 2023 General Session).

Item 151
To Attorney General
From General Fund 78,400
From General Fund, One-Time 10,000
From Federal Funds 234,800
From Federal Funds, One-Time 30,000
Schedule of Programs:
Criminal Prosecution 353,200

To implement the provisions of *Utah False Claims Act Amendments* (Senate Bill 214, 2023 General Session).

Item 152
To Attorney General – Children's Justice Centers
From General Fund Restricted – Victim Services Restricted Account 3,200,000
From General Fund Restricted – Victim Services Restricted Account, One-Time 5,166,700
Schedule of Programs:
Children's Justice Centers 8,366,700

The Legislature intends that the $5,166,700 one-time appropriation from the Victim Services Restricted Account in this item be used over three years as follows: $1,033,300 in FY 2024, $2,066,700 in FY 2025, and $2,066,700 in FY 2026.

The Legislature intends that the Children's Justice Centers report to the Executive Appropriations Committee on their planned use of the appropriation for the Victim Services Funding before the Division of Finance disburses funding.

Item 153
To Attorney General – Prosecution Council
From General Fund 219,200
From Revenue Transfers, One-Time ..... (3,000,000)
Schedule of Programs:
Prosecution Council ..... (2,780,800)

BOARD OF PARDONS AND PAROLE

Item 154
To Board of Pardons and Parole
From General Fund 40,100
Schedule of Programs:
Board of Pardons and Parole 40,100

Item 155
To Board of Pardons and Parole
From General Fund ..... (9,100)
Schedule of Programs:
Board of Pardons and Parole ..... (9,100)

To implement the provisions of *Mentally Ill Offenders Amendments* (House Bill 385, 2023 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 156
To Utah Department of Corrections – Programs and Operations
From General Fund 125,800
Schedule of Programs:
Department Executive Director 125,800

The Legislature intends that when the Department of Corrections applies compensation increases provided for Corrections Officers in House Bill 8, State Agency and Higher Education Compensation Appropriations, that they factor and address salary compression issues between supervisors and those they supervise.

Item 157
To Utah Department of Corrections – Programs and Operations
From General Fund ..... (825,500)
From General Fund, One-Time 825,500
From Dedicated Credits Revenue ..... (499,100)
From Dedicated Credits Revenue, One-Time 499,100

To implement the provisions of *Sex and Kidnap Offender Registry and Child Abuse Offender Registry Administration Amendments* (House Bill 156, 2023 General Session).

Item 158
To Utah Department of Corrections – Programs and Operations
From General Fund ..... (222,300)
Schedule of Programs:
Adult Probation and Parole Programs 5,700
Prison Operations Utah State Correctional Facility ..... (228,000)

To implement the provisions of *Mentally Ill Offenders Amendments* (House Bill 385, 2023 General Session).

Item 159
To Utah Department of Corrections – Programs and Operations
From General Fund 16,500
From General Fund, One-Time ..... (11,000)
Schedule of Programs:
Adult Probation and Parole Programs 5,500

To implement the provisions of *Enticement of a Minor Amendments* (Senate Bill 169, 2023 General Session).

Item 160
To Utah Department of Corrections – Department Medical Services
From General Fund ..... (54,601,000)
From General Fund, One-Time 12,000,000
From Dedicated Credits Revenue ..... (629,800)
From General Fund Restricted – Correctional Institution Clinical Services Transition Account 49,650,400
From General Fund Restricted – Correctional Institution Clinical Services Transition Account, One-Time 658,000
Schedule of Programs:
Medical Services 7,077,600

The Legislature intends that the Department of Corrections work with the Department of Health and Human Services over the 2023 interim to fully transfer provision of medical services at state correctional institutions to the Department of Health and Human Services by July 1, 2024. During the transition, the Department of Corrections and Department of Health and Human Services may both access spending authority provided from the Correctional Institution Clinical Services Transition Account. However, the two departments combined may not spend more than the amount transferred into the account from the General Fund in FY 2024. The Legislature intends that the departments report progress on the transition to the Executive Offices and Criminal Justice Appropriations Subcommittee at each of the subcommittee meetings in the 2023 Interim and again at the start of the 2024 General Session.

Item 161
To Utah Department of Corrections – Department Medical Services
From General Fund Restricted – Correctional Institution Clinical Services Transition Account 211,300
Schedule of Programs:
Medical Services 211,300

To implement the provisions of *Inmate Amendments* (Senate Bill 188, 2023 General Session).

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 162
To Judicial Council/State Court Administrator – Administration
From General Fund 4,141,500
Schedule of Programs:
Administrative Office ..... (21,000)
District Courts 4,162,500

The Legislature intends the salary for a District Court judge for the fiscal year beginning July 1, 2023, and ending June 30, 2024, shall be $203,700. The Legislature intends that other judicial salaries shall be calculated in accordance with the formula set forth in UCA Title 67 Chapter 8 Section 2 and rounded to the nearest $50.

Item 163
To Judicial Council/State Court Administrator – Administration
From General Fund 98,900
From General Fund, One-Time 473,000
Schedule of Programs:
Data Processing 498,000
Juvenile Courts 73,900

To implement the provisions of *Juvenile Justice Modifications* (House Bill 60, 2023 General Session).

Item 164
To Judicial Council/State Court Administrator – Administration
From General Fund 300
Schedule of Programs:
District Courts 300

To implement the provisions of *Sex Offender Restrictions Amendments* (House Bill 99, 2023 General Session).

Item 165
To Judicial Council/State Court Administrator – Administration
From General Fund, One-Time 10,700
Schedule of Programs:
Data Processing 10,700

To implement the provisions of *Sex and Kidnap Offender Registry and Child Abuse Offender Registry Administration Amendments* (House Bill 156, 2023 General Session).

Item 166
To Judicial Council/State Court Administrator – Administration
From General Fund Rest. – Justice Court Tech., Security & Training, One-Time 70,500
Schedule of Programs:
Data Processing 70,500

To implement the provisions of *Traffic Violation Amendments* (House Bill 192, 2023 General Session).

Item 167
To Judicial Council/State Court Administrator – Administration
From General Fund 734,300
Schedule of Programs:
Data Processing 62,400
District Courts 671,900

To implement the provisions of *Business and Chancery Court Amendments* (House Bill 216, 2023 General Session).

Item 168
To Judicial Council/State Court Administrator – Administration
From General Fund, One-Time 88,400
Schedule of Programs:
Data Processing 88,400

To implement the provisions of *Firearm Possession Amendments* (House Bill 225, 2023 General Session).

Item 169
To Judicial Council/State Court Administrator – Administration
From General Fund 33,300
Schedule of Programs:
Juvenile Courts 33,300

To implement the provisions of *Juvenile Justice Revisions* (House Bill 304, 2023 General Session).

Item 170
To Judicial Council/State Court Administrator – Administration
From General Fund 1,200
Schedule of Programs:
District Courts 1,200

To implement the provisions of *Civil Commitment Amendments* (House Bill 330, 2023 General Session).

Item 171
To Judicial Council/State Court Administrator – Administration
From General Fund 9,700
Schedule of Programs:
District Courts 9,700

To implement the provisions of *Mentally Ill Offenders Amendments* (House Bill 385, 2023 General Session).

Item 172
To Judicial Council/State Court Administrator – Administration
From General Fund, One-Time 6,500
Schedule of Programs:
District Courts 6,500

To implement the provisions of *Joint Resolution Amending Rules of Civil Procedure on Injunctions* (House Joint Resolution 2, 2023 General Session).

Item 173
To Judicial Council/State Court Administrator – Administration
From General Fund 3,300
From General Fund, One-Time 18,300
Schedule of Programs:
Data Processing 18,300
District Courts 3,300

To implement the provisions of *Criminal Prosecution Modifications* (Senate Bill 87, 2023 General Session).

Item 174
To Judicial Council/State Court Administrator – Administration
From General Fund, One-Time 30,200
Schedule of Programs:
Data Processing 30,200

To implement the provisions of *Traffic Enforcement Amendments* (Senate Bill 105, 2023 General Session).

Item 175
To Judicial Council/State Court Administrator – Administration
From General Fund 121,100
Schedule of Programs:
Juvenile Courts 121,100

To implement the provisions of *Child Welfare Modifications* (Senate Bill 163, 2023 General Session).

Item 176
To Judicial Council/State Court Administrator – Administration
From General Fund 5,500
Schedule of Programs:
District Courts 5,500

To implement the provisions of *Enticement of a Minor Amendments* (Senate Bill 169, 2023 General Session).

Item 177
To Judicial Council/State Court Administrator – Administration
From General Fund 13,700
Schedule of Programs:
District Courts 13,700

To implement the provisions of *Sexual Crime Modifications* (Senate Bill 178, 2023 General Session).

Item 178
To Judicial Council/State Court Administrator – Administration
From General Fund 475,000
Schedule of Programs:
Juvenile Courts 475,000

To implement the provisions of *Juvenile Court Judge Amendments* (Senate Bill 220, 2023 General Session).

Item 179
To Judicial Council/State Court Administrator – Administration
From General Fund 14,900
From General Fund, One-Time 14,800
Schedule of Programs:
Juvenile Courts 29,700

To implement the provisions of *Juvenile Court Modifications* (Senate Bill 290, 2023 General Session).

Item 180
To Judicial Council/State Court Administrator – Contracts and Leases
From General Fund, One-Time 1,655,800
Schedule of Programs:
Contracts and Leases 1,655,800

To implement the provisions of *Business and Chancery Court Amendments* (House Bill 216, 2023 General Session).

Item 181
To Judicial Council/State Court Administrator – Guardian ad Litem
From General Fund Restricted – Victim Services Restricted Account 214,000
Schedule of Programs:
Guardian ad Litem 214,000

Item 182
To Judicial Council/State Court Administrator – Guardian ad Litem
From General Fund 1,000
From Dedicated Credits Revenue 1,000

Schedule of Programs:
Guardian ad Litem 2,000

To implement the provisions of *Birth Certificate Modifications* (Senate Bill 93, 2023 General Session).

GOVERNOR'S OFFICE

Item 183
To Governor's Office – Commission on Criminal and Juvenile Justice
From General Fund 29,800
From General Fund, One-Time 290,000
From Federal Funds 22,300
From General Fund Restricted – Victim Services Restricted Account 5,200,000
From General Fund Restricted – Victim Services Restricted Account, One-Time 5,166,700
From Crime Victim Reparations Fund ... 250,400
Schedule of Programs:
CCJJ Commission 2,600
Judicial Performance Evaluation Commission 1,800
Utah Office for Victims of Crime ... 10,954,800

The Legislature intends that $3,200,000 of the appropriation for Victim Services Funding be used for Sexual Assault Services and the remaining be used for other victim services.

The Legislature intends that the $5,166,700 one-time appropriation from the Victim Services Restricted Account in this item be used by the Office of Victims of Crime to provide sexual assault services over three years as follows: $1,033,300 in FY 2024, $2,066,700 in FY 2025, and $2,066,700 in FY 2026.

The Legislature intends that the Commission on Criminal and Juvenile Justice – The Utah Office for Victims of Crime report to the Executive Appropriations Committee on their planned use of the appropriation for the Victim Services Funding before the Division of Finance disburses funding.

Item 184
To Governor's Office – Commission on Criminal and Juvenile Justice
From General Fund, One-Time 7,000
Schedule of Programs:
CCJJ Commission 7,000

To implement the provisions of *Business and Chancery Court Amendments* (House Bill 216, 2023 General Session).

Item 185
To Governor's Office – Commission on Criminal and Juvenile Justice
From General Fund 160,700
From General Fund, One-Time 6,500
Schedule of Programs:
CCJJ Commission 167,200

To implement the provisions of *Sex Offense Amendments* (House Bill 268, 2023 General Session).

Item 186
To Governor's Office – Commission on Criminal and Juvenile Justice
From General Fund 144,200
Schedule of Programs:
CCJJ Commission 144,200

To implement the provisions of *Juvenile Justice Revisions* (House Bill 304, 2023 General Session).

Item 187
To Governor's Office
From General Fund 110,000
From Dedicated Credits Revenue 8,300
Schedule of Programs:
Lt. Governor's Office 118,300

The Legislature intends that the Governor's salary for the fiscal year beginning July 1, 2023, and ending June 30, 2024, shall be $182,900. Other constitutional offices shall be calculated in accordance with the formula set forth in Section 67-22-1.

Item 188
To Governor's Office
From General Fund, One-Time 10,000
Schedule of Programs:
Lt. Governor's Office 10,000

To implement the provisions of *Election Modifications* (House Bill 69, 2023 General Session).

Item 189
To Governor's Office
From General Fund, One-Time 2,300
Schedule of Programs:
Lt. Governor's Office 2,300

To implement the provisions of *Voter Accessibility Amendments* (House Bill 162, 2023 General Session).

Item 190
To Governor's Office
From General Fund 50,000
Schedule of Programs:
Lt. Governor's Office 50,000

To implement the provisions of *Election Audit Requirements* (House Bill 269, 2023 General Session).

Item 191
To Governor's Office
From General Fund, One-Time 107,200
Schedule of Programs:
Lt. Governor's Office 107,200

To implement the provisions of *Elections Record Amendments* (House Bill 303, 2023 General Session).

Item 192
To Governor's Office
From General Fund, One-Time 8,600
Schedule of Programs:
Lt. Governor's Office 8,600

To implement the provisions of *Proposal to Amend Utah Constitution - Election of County Sheriffs* (House Joint Resolution 10, 2023 General Session).

Item 193
To Governor's Office – Governors Office of Planning and Budget
From General Fund 1,584,300
Schedule of Programs:
Administration 4,300
Planning Coordination 1,580,000

Item 194
To Governor's Office – Indigent Defense Commission
From General Fund Restricted – Indigent Defense Resources 1,450,200
From General Fund Restricted – Indigent Defense Resources, One–Time 700,000
Schedule of Programs:
Office of Indigent Defense Services .. 2,000,200
Indigent Appellate Defense Division ... 150,000

Item 195
To Governor's Office – Indigent Defense Commission
From General Fund 150,000
Schedule of Programs:
Indigent Appellate Defense Division ... 150,000

To implement the provisions of *Parental Indigent Defense Amendments* (Senate Bill 52, 2023 General Session).

Item 196
To Governor's Office – Colorado River Authority of Utah
From Expendable Receipts 200
From General Fund Restricted – Colorado River Authority of Utah Restricted Account 1,400
Schedule of Programs:
Colorado River Authority of Utah 1,600

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 197
To Department of Health and Human Services – Division of Juvenile Justice Services – Juvenile Justice & Youth Services
From General Fund 590,000
From General Fund, One–Time ..... (32,500)
From Federal Funds 362,800
From Federal Funds, One–Time 6,000
Schedule of Programs:
Juvenile Justice & Youth Services 450,000
Community Programs 476,300

Item 198
To Department of Health and Human Services – Division of Juvenile Justice Services – Juvenile Justice & Youth Services
From General Fund 236,600
Schedule of Programs:
Youth Services 236,600

To implement the provisions of *School Absenteeism Amendments* (House Bill 400, 2023 General Session).

OFFICE OF THE STATE AUDITOR

Item 199
To Office of the State Auditor – State Auditor
From General Fund 4,100
From Dedicated Credits Revenue 3,900
Schedule of Programs:
State Auditor 8,000

Item 200
To Office of the State Auditor – State Auditor
From General Fund 42,000
Schedule of Programs:
State Auditor 42,000

To implement the provisions of *Government Entity Compliance Amendments* (House Bill 506, 2023 General Session).

Item 201
To Office of the State Auditor – State Auditor
From Dedicated Credits Revenue 110,100
Schedule of Programs:
State Auditor 110,100

To implement the provisions of *Education Scholarship Amendments* (Senate Bill 77, 2023 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 202
To Department of Public Safety – Driver License
From Department of Public Safety Restricted Account 39,000
Schedule of Programs:
Driver Records 39,000

Item 203
To Department of Public Safety – Driver License
From Department of Public Safety Restricted Account 88,400
Schedule of Programs:
Driver Services 88,400

To implement the provisions of *Driving Under the Influence Modifications* (House Bill 62, 2023 General Session).

Item 204
To Department of Public Safety – Driver License
From Department of Public Safety Restricted Account 71,700
Schedule of Programs:
Driver Services 71,700

To implement the provisions of *Driver License Test Amendments* (House Bill 141, 2023 General Session).

Item 205
To Department of Public Safety – Programs & Operations
From General Fund 474,300
From General Fund, One–Time 1,403,600
From General Fund Restricted – Victim Services Restricted Account 186,000
From Department of Public Safety Restricted Account 6,900
Schedule of Programs:
CITS Communications 1,613,600
Department Commissioner's Office 457,200

Item 206
To Department of Public Safety – Programs & Operations
From General Fund, One–Time 62,000
Schedule of Programs:

CITS State Bureau of Investigation 62,000

To implement the provisions of *Domestic Violence Modifications* (House Bill 43, 2023 General Session).

Item 207
To Department of Public Safety –
Programs & Operations
From Dedicated Credits Revenue 200,000
From Dedicated Credits Revenue,
One–Time ..... (100,000)
Schedule of Programs:
Information Management –
Operations 100,000

To implement the provisions of *Traffic Violation Amendments* (House Bill 192, 2023 General Session).

Item 208
To Department of Public Safety –
Programs & Operations
From General Fund 140,600
Schedule of Programs:
Department Commissioner's Office 140,600

To implement the provisions of *Suicide Prevention in Correctional Facilities* (House Bill 259, 2023 General Session).

Item 209
To Department of Public Safety –
Programs & Operations
From Income Tax Fund 46,000
Schedule of Programs:
Department Commissioner's Office 46,000

To implement the provisions of *Fallen Officer Memorial Scholarship Program* (House Bill 332, 2023 General Session).

Item 210
To Department of Public Safety –
Programs & Operations
From Expendable Receipts 1,000
From General Fund Restricted –
Canine Body Armor ..... (25,000)
Schedule of Programs:
Highway Patrol – Field Operations ... (24,000)

To implement the provisions of *Canine Body Armor Restricted Account Modifications* (House Bill 418, 2023 General Session).

Item 211
To Department of Public Safety –
Programs & Operations
From General Fund 5,891,800
From General Fund, One–Time ..... (5,891,800)
From Federal Funds 104,900
From Federal Funds, One–Time ..... (104,900)
From Dedicated Credits Revenue 673,700
From Dedicated Credits Revenue,
One–Time ..... (673,700)
From General Fund Restricted –
Emergency Medical Services
System Account 2,042,500
From General Fund Restricted –
Emergency Medical Services
System Account, One–Time ..... (2,042,500)

To implement the provisions of *Bureau of Emergency Medical Services Amendments* (Senate Bill 64, 2023 General Session).

Item 212
To Department of Public Safety –
Programs & Operations
From General Fund 26,000
Schedule of Programs:
CITS State Crime Labs 26,000

To implement the provisions of *Property and Contraband Amendments* (Senate Bill 120, 2023 General Session).

Item 213
To Department of Public Safety –
Bureau of Criminal Identification
From General Fund 825,500
From General Fund, One–Time ..... (825,500)
From Dedicated Credits Revenue 499,100
From Dedicated Credits Revenue,
One–Time ..... (499,100)

To implement the provisions of *Sex and Kidnap Offender Registry and Child Abuse Offender Registry Administration Amendments* (House Bill 156, 2023 General Session).

Item 214
To Department of Public Safety – Bureau
of Criminal Identification
From General Fund, One–Time 8,600
Schedule of Programs:
Law Enforcement/Criminal
Justice Services 8,600

To implement the provisions of *Firearm Possession Amendments* (House Bill 225, 2023 General Session).

Item 215
To Department of Public Safety – Bureau
of Criminal Identification
From General Fund, One–Time 17,000
From Closing Nonlapsing Balances ..... (8,500)
Schedule of Programs:
Non–Government/Other Services 8,500

To implement the provisions of *Sale of a Firearm Amendments* (House Bill 226, 2023 General Session).

Item 216
To Department of Public Safety –
Bureau of Criminal Identification
From Dedicated Credits Revenue 25,000
From Dedicated Credits Revenue,
One–Time ..... (25,000)

To implement the provisions of *Public Library Background Check Requirements* (House Bill 284, 2023 General Session).

Item 217
To Department of Public Safety –
Bureau of Criminal Identification
From Dedicated Credits Revenue 1,900
From Dedicated Credits Revenue,
One–Time 14,100
Schedule of Programs:
Non–Government/Other Services 16,000

To implement the provisions of Massage Therapy Practice Act Amendments (Senate Bill 42, 2023 General Session).

Item 218
To Department of Public Safety –
Bureau of Criminal Identification
From Dedicated Credits Revenue 2,000
Schedule of Programs:
Non–Government/Other Services 2,000

To implement the provisions of *Regulations for Legal Services* (Senate Bill 274, 2023 General Session).

STATE TREASURER

Item 219
To State Treasurer
From General Fund 6,500
From Dedicated Credits Revenue 6,900
From Land Trusts Protection and
Advocacy Account 400
From Unclaimed Property Trust 1,800
Schedule of Programs:
Advocacy Office 400
Money Management Council 1,000
Treasury and Investment 12,400
Unclaimed Property 1,800

INFRASTRUCTURE AND GENERAL GOVERNMENT

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 220
To Utah Education and Telehealth Network
From Income Tax Fund 1,000
From Federal Funds 400
Schedule of Programs:
Administration 1,400

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 221
To Department of Government Operations –
Administrative Rules
From General Fund 400
Schedule of Programs:
DAR Administration 400

Item 222
To Department of Government Operations –
Executive Director
From General Fund 400
From Dedicated Credits Revenue 200
Schedule of Programs:
Executive Director 600

Item 223
To Department of Government Operations –
Finance – Mandated
From General Fund ..... (3,774,200)
From General Fund, One–Time ..... (3,800)
Schedule of Programs:
State Employee Benefits ..... (3,778,000)

The Legislature intends that the Division of Finance may not allocate the $5.0 million one–time General Fund appropriated in House Bill 3, Appropriations Adjustments, 2022 General Session, for the Public Lands Litigation Program until after the Federalism Commission reports to the Executive Appropriations Committee (EAC) and the EAC approves the allocation.

Item 224
To Department of Government Operations –
Finance – Mandated
From General Fund 1,357,800
From Income Tax Fund 118,000
Schedule of Programs:
State Employee Benefits 1,475,800

To implement the provisions of *Public Employee Disability Benefits Amendments* (House Bill 105, 2023 General Session).

Item 225
To Department of Government Operations –
Finance – Mandated
From General Fund 250,000
Schedule of Programs:
Internal Service Fund Rate Impacts ... 250,000

To implement the provisions of *Vaccine Passport Prohibition* (House Bill 131, 2023 General Session).

Item 226
To Department of Government Operations –
Finance – Mandated
From General Fund, One–Time 31,000
Schedule of Programs:
Internal Service Fund Rate Impacts 31,000

To implement the provisions of *Offender Employment Amendments* (House Bill 181, 2023 General Session).

Item 227
To Department of Government Operations –
Finance – Mandated
From General Fund 15,300
Schedule of Programs:
State Employee Benefits 15,300

To implement the provisions of *Opioid Dispensing Requirements* (House Bill 288, 2023 General Session).

Item 228
To Department of Government Operations –
Finance – Mandated
From General Fund 28,800
From General Fund, One–Time 162,800
Schedule of Programs:
Internal Service Fund Rate Impacts ... 191,600

To implement the provisions of *Government Records Modifications* (House Bill 343, 2023 General Session).

Item 229
To Department of Government Operations –
Finance – Mandated
From General Fund, One–Time ..... (29,900)
From Income Tax Fund, One–Time ..... (65,300)
Schedule of Programs:
State Employee Benefits ..... (95,200)

To implement the provisions of *Maternal Coverage Amendments* (House Bill 415, 2023 General Session).

Item 230
To Department of Government Operations – Finance – Mandated
From General Fund 105,500
From Income Tax Fund 8,200
Schedule of Programs:
State Employee Benefits 113,700

To implement the provisions of *Joint Resolution for Fertility Preservation Coverage* (House Joint Resolution 8, 2023 General Session).

Item 231
To Department of Government Operations – Finance – Mandated
From General Fund 421,800
Schedule of Programs:
State Employee Benefits 421,800

To implement the provisions of *Utah Retirement Amendments* (Senate Bill 89, 2023 General Session).

Item 232
To Department of Government Operations – Finance – Mandated
From General Fund 57,600
From Income Tax Fund 13,800
Schedule of Programs:
Internal Service Fund Rate Impacts 71,400

To implement the provisions of *Cybersecurity Amendments* (Senate Bill 127, 2023 General Session).

Item 233
To Department of Government Operations – Finance Administration
From General Fund 2,300
From Transportation Fund ..... (1,500)
Schedule of Programs:
Finance Director's Office 800

Item 234
To Department of Government Operations – Inspector General of Medicaid Services
From General Fund 1,800
From Revenue Transfers 3,100
Schedule of Programs:
Inspector General of Medicaid Services .. 4,900

Item 235
To Department of Government Operations – Inspector General of Medicaid Services
From General Fund 1,400
From Federal Funds 3,800
Schedule of Programs:
Inspector General of Medicaid Services .. 5,200

To implement the provisions of *Recreational Therapy Medicaid Coverage Amendments* (House Bill 315, 2023 General Session).

Item 236
To Department of Government Operations – Inspector General of Medicaid Services
From Federal Funds 3,800
From Federal Funds, One–Time ..... (3,800)
From Expendable Receipts 1,400
From Expendable Receipts, One–Time ... (1,400)

To implement the provisions of *Medicaid Dental Waiver Amendments* (Senate Bill 19, 2023 General Session).

Item 237
To Department of Government Operations – Inspector General of Medicaid Services
From General Fund 2,800
From General Fund, One–Time ..... (1,400)
From Federal Funds 7,600
From Federal Funds, One–Time ..... (3,800)
Schedule of Programs:
Inspector General of Medicaid Services .. 5,200

To implement the provisions of *Modifications to Medicaid Coverage* (Senate Bill 133, 2023 General Session).

Item 238
To Department of Government Operations – Inspector General of Medicaid Services
From General Fund 1,400
From Federal Funds 3,800
Schedule of Programs:
Inspector General of Medicaid Services .. 5,200

To implement the provisions of *Autism Coverage Amendments* (Senate Bill 204, 2023 General Session).

Item 239
To Department of Government Operations – Judicial Conduct Commission
From General Fund 1,000
Schedule of Programs:
Judicial Conduct Commission 1,000

Item 240
To Department of Government Operations – Purchasing
From General Fund 4,900
Schedule of Programs:
Purchasing and General Services 4,900

Item 241
To Department of Government Operations – State Archives
From General Fund 17,300
Schedule of Programs:
Archives Administration 17,300

Item 242
To Department of Government Operations – Chief Information Officer
From General Fund, One–Time 3,200,000
Schedule of Programs:
Chief Information Officer 3,200,000

Item 243
To Department of Government Operations – Chief Information Officer
From General Fund, One–Time 250,000
Schedule of Programs:
Chief Information Officer 250,000

To implement the provisions of *Government Digital Verifiable Record Amendments* (House Bill 470, 2023 General Session).

CAPITAL BUDGET

Item 244
To Capital Budget – Capital Development – Higher Education

From Higher Education Capital Projects Fund, One-Time ..... (65,736,500)
From Technical Colleges Capital Projects Fund, One-Time 65,736,500

Item 245
To Capital Budget - Capital Improvements
From General Fund 21,300
From Income Tax Fund 26,600
Schedule of Programs:
Capital Improvements 47,900

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 246
To State Board of Bonding Commissioners - Debt Service - Debt Service
From Income Tax Fund 335,000,000
From Income Tax Fund, One-Time 440,000,000
Schedule of Programs:
G.O. Bonds - Higher Ed 775,000,000

The Legislature intends that, should revenue collections for fiscal year 2023 and revised revenue projections for fiscal year 2024 be sufficient to support all existing appropriations from the General and Income Tax Funds for those years with the exception of the $125,000,000 appropriation contained in the State Agency Capital Development Fund of this Act, the Legislative Fiscal Analyst shall, when drafting base budget bills for the 2024 legislative General Session, rescind this appropriation from Income Tax Funds, apply those funds to qualified program base budgets freeing-up General Fund money one-time in fiscal year 2025, and replace this appropriation with a one-time appropriation of up to $1,110,000,000 from the General Fund for transportation debt service in fiscal year 2025.

The Legislature intends that the State Board of Bonding Commissioners does not commit, encumber, or expend this appropriation until after the tenth day of the 2024 legislative General Session.

TRANSPORTATION

Item 247
To Transportation - Aeronautics
From General Fund ..... (39,200)
From Aeronautics Restricted Account 39,200

Item 248
To Transportation - Aeronautics
From Aeronautics Restricted Account 12,000
From Aeronautics Restricted Account, One-Time ..... (6,000)
Schedule of Programs:
Administration 6,000

To implement the provisions of *Advanced Air Mobility Amendments* (Senate Bill 24, 2023 General Session).

Item 249
To Transportation - B and C Roads
From Transportation Fund ..... (7,272,000)
From Transportation Fund, One-Time ..... (2,418,000)
Schedule of Programs:
B and C Roads ..... (9,690,000)

To implement the provisions of *Transportation Tax Amendments* (House Bill 301, 2023 General Session).

Item 250
To Transportation - Highway System Construction
From Transportation Fund 15,400
From Federal Funds 316,700
From Expendable Receipts 2,400
From Federal Funds - American Rescue Plan - Capital Projects Fund, One-Time 33,000,000
Schedule of Programs:
Federal Construction 334,500
Rehabilitation/Preservation ..... (10,596,700)
State Construction 43,596,700

The Legislature intends that the appropriations by this line item from the American Rescue Plan Act Capital Projects Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021 Capital Projects Fund after the Grant Plan has been approved by the U.S. Department of the Treasury. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Notwithstanding intent language in Senate Bill 2, Item 51, the Legislature intends that the Department of Transportation use $20,000,000 to match federal discretionary grant funds awarded to the department to construct wildlife mitigation projects.

The Legislature intends that in conjunction with the construction of the Department of Veterans Affairs West Valley Veterans Nursing Home, the Division of Facilities Construction and Management (DFCM) relocate the Department of Public Safety driving range to other state-owned property. The Legislature further intends that the Utah Department of Transportation transfer the 14.8-acre parcel which the driving range encumbers to DFCM for the West Valley Veterans Home.

Item 251
To Transportation - Highway System Construction
From General Fund, One-Time 88,500,000
Schedule of Programs:
State Construction 88,500,000

To implement the provisions of *Oil and Gas Severance Tax Amendments* (Senate Bill 107, 2023 General Session).

Item 252
To Transportation - Engineering Services
From Marda Dillree Corridor Preservation Fund 120,200

From Marda Dillree Corridor
Preservation Fund, One-Time 2,500
Schedule of Programs:
Right-of-Way 122,700

To implement the provisions of *Transportation Corridor Funding Amendments* (House Bill 44, 2023 General Session).

Item 253
To Transportation - Engineering Services
From Active Transportation
Investment Fund 900,000
Schedule of Programs:
Engineering Services 900,000

To implement the provisions of *Transportation Amendments* (Senate Bill 185, 2023 General Session).

Item 254
To Transportation - Operations/
Maintenance Management
From General Fund, One-Time 15,000
Schedule of Programs:
Traffic Safety/Tramway 15,000

To implement the provisions of *Railroad Right of Way Amendments* (House Bill 51, 2023 General Session).

Item 255
To Transportation - Operations/
Maintenance Management
From Dedicated Credits Revenue 59,800
Schedule of Programs:
Traffic Operations Center 59,800

To implement the provisions of *Traffic Enforcement Amendments* (Senate Bill 105, 2023 General Session).

Item 256
To Transportation - Support Services
From Transportation Fund 160,400
Schedule of Programs:
Administrative Services 160,400

Item 257
To Transportation - Support Services
From Transportation Fund 70,000
Schedule of Programs:
Comptroller 70,000

To implement the provisions of *Rural Transportation Infrastructure Fund* (Senate Bill 175, 2023 General Session).

Item 258
To Transportation - Transit
Transportation Investment
From Transit Transportation
Investment Fund 9,500,000
Schedule of Programs:
Transit Transportation
Investment 9,500,000

To implement the provisions of *Transportation Revisions* (Senate Bill 27, 2023 General Session).

Item 259
To Transportation - Pass-Through

The Legislature intends that the Department of Transportation transfer $977,800 from funds appropriated in the New Fiscal Year Supplemental Appropriations Act, Senate Bill 2, Item 59, to the Mountainland Association of Governments to be used for expenditures for a regional roadway grid network study whereby the Mountainland Association of Governments would manage the study in coordination with the Department of Transportation and three other metropolitan planning organizations.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 260
To Department of Alcoholic Beverage Services -
DABS Operations
From Liquor Control Fund 46,400
Schedule of Programs:
Executive Director 46,400

Item 261
To Department of Alcoholic Beverage Services -
DABS Operations
From Liquor Control Fund 124,500
Schedule of Programs:
Executive Director 124,500

To implement the provisions of *Alcoholic Beverage Control Act Amendments* (Senate Bill 173, 2023 General Session).

DEPARTMENT OF COMMERCE

Item 262
To Department of Commerce - Commerce
General Regulation
From Federal Funds 6,100
From Dedicated Credits Revenue 25,600
From General Fund Restricted -
Commerce Service Account 492,200
From General Fund Restricted -
Factory Built Housing Fees 1,400
From Gen. Fund Rest. - Geologist
Education and Enforcement 200
From Gen. Fund Rest. - Nurse
Education & Enforcement Acct. 800
From OWHTF-Low Income Housing 5,500
From General Fund Restricted - Public
Utility Restricted Acct. 108,800
From Revenue Transfers 17,300
From Pass-through 5,100
Schedule of Programs:
Administration 120,000
Consumer Protection 99,600
Corporations and Commercial Code 1,000
Occupational and Professional
Licensing 30,100
Office of Consumer Services 41,900
Public Utilities 75,000
Real Estate 96,800
Securities 198,600

Item 263
To Department of Commerce - Commerce
General Regulation

From General Fund Restricted –
Commerce Service Account 2,300
Schedule of Programs:
Consumer Protection 2,300

To implement the provisions of *Online Dating Safety Amendments* (House Bill 18, 2023 General Session).

Item 264
To Department of Commerce – Commerce General Regulation
From General Fund Restricted –
Commerce Service Account ..... (800)
Schedule of Programs:
Corporations and Commercial Code ..... (800)

To implement the provisions of *Collection Agency Amendments* (House Bill 20, 2023 General Session).

Item 265
To Department of Commerce – Commerce General Regulation
From General Fund Restricted –
Commerce Service Account ..... (200)
Schedule of Programs:
Consumer Protection ..... (200)

To implement the provisions of *Charitable Organization Registration Amendments* (House Bill 119, 2023 General Session).

Item 266
To Department of Commerce – Commerce General Regulation
From General Fund Restricted –
Commerce Service Account 451,500
From General Fund Restricted – Commerce Service Account, One–Time ..... (61,300)
Schedule of Programs:
Occupational and Professional Licensing 390,200

To implement the provisions of *Health Care Professional Licensing Requirements* (House Bill 159, 2023 General Session).

Item 267
To Department of Commerce – Commerce General Regulation
From General Fund Restricted –
Commerce Service Account 5,100
Schedule of Programs:
Occupational and Professional Licensing 5,100

To implement the provisions of *Mental Health Professional Licensing Amendments* (House Bill 166, 2023 General Session).

Item 268
To Department of Commerce – Commerce General Regulation
From General Fund Restricted –
Commerce Service Account 29,700
From General Fund Restricted – Commerce Service Account, One–Time 13,000
Schedule of Programs:
Occupational and Professional Licensing 42,700

To implement the provisions of *Social Worker Licensing Amendments* (House Bill 250, 2023 General Session).

Item 269
To Department of Commerce – Commerce General Regulation
From General Fund Restricted –
Commerce Service Account 16,300
From General Fund Restricted – Commerce Service Account, One–Time 23,100
Schedule of Programs:
Consumer Protection 39,400

To implement the provisions of *Social Credit Score Amendments* (House Bill 281, 2023 General Session).

Item 270
To Department of Commerce – Commerce General Regulation
From General Fund Restricted –
Commerce Service Account 93,000
From General Fund Restricted – Commerce Service Account, One–Time ..... (46,500)
Schedule of Programs:
Occupational and Professional Licensing 46,500

To implement the provisions of *Opioid Dispensing Requirements* (House Bill 288, 2023 General Session).

Item 271
To Department of Commerce – Commerce General Regulation
From General Fund Restricted –
Commerce Service Account 220,500
From General Fund Restricted – Commerce Service Account, One–Time 181,000
Schedule of Programs:
Consumer Protection 401,500

To implement the provisions of *Social Media Usage Amendments* (House Bill 311, 2023 General Session).

Item 272
To Department of Commerce – Commerce General Regulation
From General Fund Restricted –
Commerce Service Account 8,800
Schedule of Programs:
Occupational and Professional Licensing 8,800

To implement the provisions of *Patient Medical Record Access Amendments* (House Bill 312, 2023 General Session).

Item 273
To Department of Commerce – Commerce General Regulation
From General Fund Restricted –
Commerce Service Account 22,500
From General Fund Restricted –
Commerce Service Account, One–Time ... 9,600
Schedule of Programs:
Occupational and Professional Licensing 32,100

To implement the provisions of *County Recorder Modifications* (House Bill 351, 2023 General Session).

Item 274
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 108,200
From General Fund Restricted – Commerce Service Account, One–Time 120,700
Schedule of Programs:
Corporations and Commercial Code 228,900

To implement the provisions of *Decentralized Autonomous Organizations Amendments* (House Bill 357, 2023 General Session).

Item 275
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 4,200
Schedule of Programs:
Corporations and Commercial Code 4,200

To implement the provisions of *Corporation Amendments* (House Bill 399, 2023 General Session).

Item 276
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 2,400
From General Fund Restricted – Commerce Service Account, One–Time 29,000
Schedule of Programs:
Occupational and Professional Licensing 31,400

To implement the provisions of *Wildlife Related Amendments* (House Bill 469, 2023 General Session).

Item 277
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 2,500
From General Fund Restricted – Commerce Service Account, One–Time 6,700
Schedule of Programs:
Occupational and Professional Licensing 9,200

To implement the provisions of *Transgender Medical Treatments and Procedures Amendments* (Senate Bill 16, 2023 General Session).

Item 278
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 117,400
From General Fund Restricted – Commerce Service Account, One–Time 9,700
Schedule of Programs:
Administration 127,100

To implement the provisions of *Reciprocal Professional Licensing Amendments* (Senate Bill 35, 2023 General Session).

Item 279
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 49,000
From General Fund Restricted – Commerce Service Account, One–Time 4,200
Schedule of Programs:
Occupational and Professional Licensing 53,200

To implement the provisions of *Massage Therapy Practice Act Amendments* (Senate Bill 42, 2023 General Session).

Item 280
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 7,500
From General Fund Restricted – Commerce Service Account, One–Time 1,800
Schedule of Programs:
Consumer Protection 9,300

To implement the provisions of *Fraudulent Ticket Sales Modifications* (Senate Bill 138, 2023 General Session).

Item 281
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 2,200
From General Fund Restricted – Commerce Service Account, One–Time 4,200
Schedule of Programs:
Occupational and Professional Licensing . 6,400

To implement the provisions of *Invisible Condition Information Amendments* (Senate Bill 148, 2023 General Session).

Item 282
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 220,500
From General Fund Restricted – Commerce Service Account, One–Time 279,800
Schedule of Programs:
Consumer Protection 500,300

To implement the provisions of *Social Media Regulation Amendments* (Senate Bill 152, 2023 General Session).

Item 283
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 20,100
Schedule of Programs:
Occupational and Professional Licensing 20,100

To implement the provisions of *Health Care Practitioner Liability Amendments* (Senate Bill 171, 2023 General Session).

Item 284
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 22,800

From General Fund Restricted – Commerce Service Account, One-Time 14,300
Schedule of Programs:
Consumer Protection 37,100

To implement the provisions of *Private Postsecondary Education Modifications* (Senate Bill 180, 2023 General Session).

Item 285
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 2,600
Schedule of Programs:
Occupational and Professional Licensing 2,600

To implement the provisions of *Anesthesia Amendments* (Senate Bill 197, 2023 General Session).

Item 286
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 36,700
From General Fund Restricted – Commerce Service Account, One-Time ..... (8,000)
Schedule of Programs:
Occupational and Professional Licensing 28,700

To implement the provisions of *Vehicle Value Protection Agreements* (Senate Bill 216, 2023 General Session).

Item 287
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 4,900
Schedule of Programs:
Occupational and Professional Licensing 4,900

To implement the provisions of *Private Probation and Court Ordered Services Amendments* (Senate Bill 218, 2023 General Session).

Item 288
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 70,200
From General Fund Restricted – Commerce Service Account, One-Time ..... (3,000)
Schedule of Programs:
Consumer Protection 67,200

To implement the provisions of *Commercial Email Act* (Senate Bill 225, 2023 General Session).

Item 289
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 10,500
From General Fund Restricted – Commerce Service Account, One-Time 1,000
Schedule of Programs:
Occupational and Professional Licensing 11,500

To implement the provisions of *Dental Hygienist Amendments* (Senate Bill 237, 2023 General Session).

Item 290
To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 5,800
From General Fund Restricted – Commerce Service Account, One-Time 36,000
Schedule of Programs:
Consumer Protection 41,800

To implement the provisions of *Regulations for Legal Services* (Senate Bill 274, 2023 General Session).

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 291
To Governor's Office of Economic Opportunity – Administration
From General Fund 117,100
From General Fund, One-Time 180,000
Schedule of Programs:
Administration 297,100

Item 292
To Governor's Office of Economic Opportunity – Economic Prosperity
From General Fund, One-Time 4,000,000
Schedule of Programs:
Incentives and Grants 4,000,000

Item 293
To Governor's Office of Economic Opportunity – Economic Prosperity
From General Fund, One-Time 700
From Dedicated Credits Revenue 1,000
From Dedicated Credits Revenue, One-Time 300
Schedule of Programs:
Strategic Initiatives 2,000

To implement the provisions of *Blockchain Provider Registration* (House Bill 289, 2023 General Session).

Item 294
To Governor's Office of Economic Opportunity – Economic Prosperity
From General Fund, One-Time 40,000
Schedule of Programs:
Business Services 40,000

To implement the provisions of *Housing and Transit Reinvestment Zone Amendments* (Senate Bill 84, 2023 General Session).

Item 295
To Governor's Office of Economic Opportunity – Economic Prosperity
From Income Tax Fund 24,234,100
Schedule of Programs:
Incentives and Grants 24,234,100

To implement the provisions of *Upstart Program Amendments* (Senate Bill 258, 2023 General Session).

The Legislature intends that the Governor's Office of Economic Opportunity use up to $1.2 million one-time appropriated to the Economic Prosperity - Incentives and Grants in FY 2024 for a grant program administered by the UPSTART contractor to provide funding to participating schools to perform outreach activities to education and promote the adoption of UPSTART.

Item 296
To Governor's Office of Economic Opportunity - Office of Tourism
From General Fund 155,600
From Transportation Fund ..... (2,500)
From General Fund Restricted - Tourism Marketing Performance, One-Time 450,000
Schedule of Programs:
Marketing and Advertising 450,000
Tourism 153,100

Item 297
To Governor's Office of Economic Opportunity - Pass-Through
From General Fund 25,000
From General Fund, One-Time 71,530,000
From General Fund Restricted - Tourism Marketing Performance, One-Time ..... (450,000)
Schedule of Programs:
Pass-Through 69,105,000
Economic Assistance Grants 2,000,000

The Legislature intends that the $50 million provided to the Governor's Office of Economic Opportunity - Pass Through line for Water Infrastructure Projects be used for loans or grants.

Notwithstanding the intent language in S.B. 2, "New Fiscal Year Supplemental Appropriations," Item 66, the Legislature intends that the Division of Finance and the Governor's Office of Economic Opportunity disregard the intent language from lines 1198-1200.

The Legislature intends that the Governor's Office of Economic Opportunity (GOEO) grant up to $2 million provided by this item to arts and culture organization in the state. GOEO shall report to the Executive Appropriations Committee its recommendations for these grants prior to making final award decisions in the 2023 Interim.

The Legislature intends that the Governor's Office of Economic Opportunity use appropriations provided by Senate Bill 2, item 66 and this item to consider funding for the following projects and pass-through grants: Utah Lake Authority $1,495,200; Northern Economic Alliance $300,000; Pete Suazo Center for Business Development and Entrepreneurship $67,500; Utah Industry Resource Alliance $2,800,000; Utahs Small Business Development Center Operations $1,198,200; Get Healthy Utah $250,000; SheTech $350,000; Impact Utah $1,000,000; Taste Utah $450,000; Partnership for Hill Airforce Base and Camp Williams Public Protect Area $250,000; Central Wasatch Mountains Project $193,000; Sundance Institute $1,000,000; Tintic Branch Rehabilitation $3,000,000; MIDA Falcon Hill & MRF Projects $9,327,500; Utah Advanced Materials Manufacturing Initiative $1,000,000; Breaking Through Women-Owned Business Funding Barriers $1,500,000; Historic Corrine Methodist Church Museum Restoration $150,000; USA Climbing Facility Request $15,000,000; Bryce Canyon Centennial Celebration $350,000; Pioneer Stadium Renovation $300,000; Agriculture Infrastructure Development $8,000,000; Utah Consular Corps $30,000; Zion Multi-Modal Transportation Infrastructure $18,000,000; Water Infrastructure Projects $50,000,000; Utah Diplomacy $200,000; Financial Capacity Program $100,000; Rocky Mountain Golden Gloves $25,000; Heber Valley Railroad Infrastructure Debt Relief $1,000,000; Hunter Outreach $500,000; Atlantis Foundation $1,000,000; and Bicycling Safety Education and Infrastructure Planning $100,000.

Item 298
To Governor's Office of Economic Opportunity - World Trade Center Utah
From General Fund, One-Time 100,000
Schedule of Programs:
World Trade Center Utah 100,000

Item 299
To Governor's Office of Economic Opportunity - Utah Sports Commission

The Legislature intends that $150,000 one-time and $150,000 ongoing appropriated in Senate Bill 2, New Fiscal Year Supplemental Appropriations Act, Item 71, be used for the Run Elite Program.

The Legislature intends that $45,000 ongoing appropriated in Senate Bill 2, "New Fiscal Year Supplemental Appropriations Act", Item 71, be used for the Utah Championship.

FINANCIAL INSTITUTIONS

Item 300
To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions 1,000
Schedule of Programs:
Administration 1,000

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 301
To Department of Cultural and Community Engagement - Administration
From General Fund 7,900
Schedule of Programs:
Administrative Services 7,900

Item 302
To Department of Cultural and Community Engagement – Division of Arts and Museums
From General Fund 200,000
Schedule of Programs:
Community Arts Outreach 200,000

Item 303
To Department of Cultural and Community Engagement – Commission on Service and Volunteerism
From General Fund, One-Time ..... (1,200,000)
Schedule of Programs:
Commission on Service and Volunteerism ..... (1,200,000)

Item 304
To Department of Cultural and Community Engagement – Pass-Through
From General Fund, One-Time ..... (545,000)
From Income Tax Fund, One-Time .... (100,000)
Schedule of Programs:
Pass-Through ..... (645,000)

Item 305
To Department of Cultural and Community Engagement – State History
From General Fund ..... (1,565,000)
From Federal Funds ..... (1,294,000)
From Dedicated Credits Revenue ..... (580,700)
From Beginning Nonlapsing Balances . (500,000)
From Closing Nonlapsing Balances 574,200
Schedule of Programs:
Historic Preservation and Antiquities ..... (3,010,200)
Main Street Program ..... (355,300)

Item 306
To Department of Cultural and Community Engagement – State History
From General Fund ..... (1,500)
Schedule of Programs:
Administration ..... (1,500)

To implement the provisions of *Cultural and Community Engagement Amendments* (House Bill 302, 2023 General Session).

Item 307
To Department of Cultural and Community Engagement – State Library
From General Fund 25,000
From General Fund, One-Time ..... (25,000)

To implement the provisions of *Public Library Background Check Requirements* (House Bill 284, 2023 General Session).

Item 308
To Department of Cultural and Community Engagement – State of Utah Museum
From General Fund, One-Time ..... (3,800,000)
Schedule of Programs:
State of Utah Museum Administration ..... (3,800,000)

Item 309
To Department of Cultural and Community Engagement – Arts & Museums Grants
From General Fund ..... (2,000,000)
Schedule of Programs:
Competitive Grants ..... (2,000,000)

Notwithstanding the intent in "Business, Economic Development, and Labor Base Budget" (House Bill 4, 2023 General Session) item 91, the Legislature intends that the Department of Cultural and Community Engagement use appropriations provided by House Bill 4, item 91, Senate Bill 2, Item 82, and this item to consider funding for the following projects and pass-through grants: Utah Sports Hall of Fame $252,500 and Utah Humanities $170,000.

Item 310
To Department of Cultural and Community Engagement – Capital Facilities Grants
From General Fund, One-Time 3,750,000
Schedule of Programs:
Pass Through Grants 3,750,000

The Legislature intends that the Department of Cultural and Community Engagement use appropriations provided by Senate Bill 2, item 83 and this item to consider funding for the following projects and pass-through grants: Hale Center Foundation – The Ruth Theater $3,000,000; Tuacahn Center for the Arts $980,000; WVC Academy Expansion $250,000; Huntsman World Senior Games Facility Acquisition or Development $500,000; and Historic Cemetery Preservation $3,000,000.

Item 311
To Department of Cultural and Community Engagement – Heritage & Events Grants
From General Fund ..... (2,000,000)
From General Fund, One-Time 1,345,000
Schedule of Programs:
Pass Through Grants 1,345,000
Competitive Grants ..... (2,000,000)

Notwithstanding the intent in "Business, Economic Development, and Labor Base Budget" (House Bill 4, 2023 General Session) item 92, the Legislature intends that the Department of Cultural and Community Engagement use appropriations provided by House Bill 4, item 92, Senate Bill 2, item 84, and this item to consider funding for the following projects and pass-through grants: Warriors Over the Wasatch/Hill AFB Show $200,000; Americas Freedom Festival at Provo $100,000; Days of 47 Rodeo $200,000; Gail Halvorsen Foundation $45,000; Refugee Community Engagement Through Soccer $100,000; and Show Up For Teachers $1,200,000.

Item 312
To Department of Cultural and Community Engagement – State Historic Preservation Office
From General Fund 1,565,000
From Federal Funds 1,294,000
From Dedicated Credits Revenue 580,700
From Beginning Nonlapsing Balances ... 500,000
From Closing Nonlapsing Balances .... (574,200)
Schedule of Programs:
Administration 2,542,900
Public Archaeology 467,300
Main Street Program 355,300

INSURANCE DEPARTMENT

Item 313
To Insurance Department – Insurance Department Administration
From Federal Funds 5,200
From Dedicated Credits Revenue 400
From General Fund Restricted – Insurance Department Acct. 88,000
From General Fund Rest. – Insurance Fraud Investigation Acct. 120,000
Schedule of Programs:
Administration 46,400
Insurance Fraud Program 123,000
Bail Bond Program 44,200

Item 314
To Insurance Department – Insurance Department Administration
From General Fund Restricted – Insurance Department Acct., One-Time 8,900
Schedule of Programs:
Administration 8,900

To implement the provisions of Motor Vehicle Insurance Revisions (House Bill 113, 2023 General Session).

Item 315
To Insurance Department – Insurance Department Administration
From General Fund Restricted – Captive Insurance 200,000
Schedule of Programs:
Captive Insurers 200,000

To implement the provisions of *Insurance Amendments* (House Bill 410, 2023 General Session).

Item 316
To Insurance Department – Coverage for Autism Spectrum Disorder
From General Fund Restricted – State Mandated Insurer Payments Restricted 8,778,000
Schedule of Programs:
Coverage for Autism Spectrum Disorder 8,778,000

LABOR COMMISSION

Item 317
To Labor Commission
From General Fund 18,700
From Federal Funds 20,200
From Dedicated Credits Revenue 600
From General Fund Restricted – Workplace Safety Account 2,800
Schedule of Programs:
Antidiscrimination and Labor 16,500
Utah Occupational Safety and Health ... 25,800

Item 318
To Labor Commission
From General Fund 65,700
Schedule of Programs:
Antidiscrimination and Labor 65,700

To implement the provisions of *Vaccine Passport Prohibition* (House Bill 131, 2023 General Session).

UTAH STATE TAX COMMISSION

Item 319
To Utah State Tax Commission – License Plates Production
From Dedicated Credits Revenue .... (4,880,900)
From General Fund Restricted – License Plate Restricted Account 4,880,900

To implement the provisions of *Motor Vehicle Registration Amendments* (Senate Bill 13, 2023 General Session).

Item 320
To Utah State Tax Commission – Tax Administration
From General Fund 144,600
From Income Tax Fund 110,200
From Dedicated Credits Revenue 1,600
From General Fund Rest. – Sales and Use Tax Admin Fees 77,500
From Other Financing Sources ..... (800)
Schedule of Programs:
Operations 333,100

Item 321
To Utah State Tax Commission – Tax Administration
From General Fund, One-Time ..... (43,200)
Schedule of Programs:
Customer Service ..... (43,200)

To implement the provisions of *Off-highway Vehicle Registration Requirements* (House Bill 55, 2023 General Session).

Item 322
To Utah State Tax Commission – Tax Administration
From Income Tax Fund 200,000
Schedule of Programs:
Operations 200,000

To implement the provisions of *Tax Assessment Amendments* (House Bill 56, 2023 General Session).

Item 323
To Utah State Tax Commission – Tax Administration
From General Fund, One-Time 573,100
Schedule of Programs:
Operations 573,100

To implement the provisions of *Transportation Tax Amendments* (House Bill 301, 2023 General Session).

Item 324
To Utah State Tax Commission – Tax Administration
From Income Tax Fund, One-Time 49,200
Schedule of Programs:
Operations 49,200

To implement the provisions of *Unclaimed Property Amendments* (House Bill 360, 2023 General Session).

Item 325
To Utah State Tax Commission – Tax Administration

From Dedicated Credits Revenue ..... (526,600)
From General Fund Restricted –
License Plate Restricted Account 526,600

To implement the provisions of *Motor Vehicle Registration Amendments* (Senate Bill 13, 2023 General Session).

Item 326
To Utah State Tax Commission –
Tax Administration
From Dedicated Credits Revenue,
One–Time 7,500
Schedule of Programs:
Customer Service 7,500

To implement the provisions of *Special License Plate Designation* (Senate Bill 92, 2023 General Session).

Item 327
To Utah State Tax Commission –
Tax Administration
From General Fund Restricted – Aquatic Invasive Species Interdiction Account,
One–Time 49,200
Schedule of Programs:
Operations 49,200

To implement the provisions of *Aquatic Invasive Species Amendments* (Senate Bill 112, 2023 General Session).

Item 328
To Utah State Tax Commission –
Tax Administration
From General Fund 85,700
From General Fund, One–Time 1,000
Schedule of Programs:
Operations 2,500
Tax and Revenue 84,200

To implement the provisions of *Car-sharing Amendments* (Senate Bill 121, 2023 General Session).

Item 329
To Utah State Tax Commission –
Tax Administration
From General Fund, One–Time 13,700
Schedule of Programs:
Customer Service 13,700

To implement the provisions of *Invisible Condition Information Amendments* (Senate Bill 148, 2023 General Session).

Item 330
To Utah State Tax Commission –
Tax Administration
From General Fund, One–Time 89,700
From General Fund Restricted –
Electronic Cigarette Substance and Nicotine Product Tax
Restricted Account 89,700
From General Fund Restricted –
Electronic Cigarette Substance and Nicotine Product Tax
Restricted Account, One–Time ..... (89,700)
Schedule of Programs:
Enforcement 89,700

To implement the provisions of *Electronic Cigarette and Other Nicotine Product Tax Amendments* (Senate Bill 263, 2023 General Session).

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 331
To Department of Workforce Services –
Administration
From Olene Walker Housing Loan Fund ... 3,900
From Olene Walker Housing
Loan Fund, One–Time 4,800
Schedule of Programs:
Administrative Support 8,700

Item 332
To Department of Workforce Services –
Housing and Community Development
From General Fund 5,100
From General Fund, One–Time ..... (4,800,000)
From Federal Funds 24,000
From Dedicated Credits Revenue 5,100
From Housing Opportunities for
Low Income Households 2,600
From Olene Walker Housing
Loan Fund 90,300
From Olene Walker Housing
Loan Fund, One–Time 108,000
From OWHT–Fed Home 2,600
From Permanent Community
Impact Loan Fund 1,600
From Revenue Transfers 3,300
Schedule of Programs:
Community Development 10,100
Housing Development ..... (4,567,500)

Item 333
To Department of Workforce Services –
Operations and Policy
From General Fund 9,100
From General Fund, One–Time 150,000
From Federal Funds 10,200
From Federal Funds, One–Time 10,000,000
From Expendable Receipts 400
From Medicaid Expansion Fund 1,600
From Olene Walker Housing Loan Fund ... 5,900
From Olene Walker Housing
Loan Fund, One–Time 7,200
From Revenue Transfers 18,700
Schedule of Programs:
Eligibility Services 40,000
Workforce Development 10,163,100

The Legislature intends that the appropriation provided in S.B. 7, "Social Services Base Budget" for School Readiness be used by the Department of Workforce Services, in conjunction with the Utah State Board of Education and the School Readiness Board, using academic outcomes, classroom observation tool scores, and application scores in a one–step application process that combines all three scores when determining Expanding High Quality Grant allocations.

The Legislature intends that the ongoing funds provided for the building block entitled "Home Visitation Services for More Families" only be given to local entities that are already providing this service.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that the $4,700,000 appropriated for Home Visitation Services for More Families shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to expanding home visitation services for families.

Item 334
To Department of Workforce Services - Operations and Policy
From General Fund, One-Time 35,000
Schedule of Programs:
Information Technology 35,000

To implement the provisions of *Adoption Tax Credit* (House Bill 130, 2023 General Session).

Item 335
To Department of Workforce Services - Operations and Policy
From General Fund, One-Time ..... (1,600)
From Revenue Transfers 14,200
From Revenue Transfers, One-Time 4,800
Schedule of Programs:
Eligibility Services 17,400

To implement the provisions of *Medicaid Waiver for Medically Complex Children Amendments* (House Bill 290, 2023 General Session).

Item 336
To Department of Workforce Services - Operations and Policy
From General Fund 246,900
From General Fund, One-Time ..... (14,300)
From Revenue Transfers 740,900
From Revenue Transfers, One-Time 251,800
Schedule of Programs:
Eligibility Services 798,700
Information Technology 426,600

To implement the provisions of *Modifications to Medicaid Coverage* (Senate Bill 133, 2023 General Session).

Item 337
To Department of Workforce Services - Operations and Policy
From Expendable Receipts 20,000
Schedule of Programs:
Workforce Development 20,000

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Item 338
To Department of Workforce Services - State Office of Rehabilitation
From General Fund 600
From Federal Funds 800
Schedule of Programs:
Blind and Visually Impaired 600
Rehabilitation Services 800

Item 339
To Department of Workforce Services - Unemployment Insurance
From General Fund 1,600
From Federal Funds 39,200
From Dedicated Credits Revenue 1,000
From Revenue Transfers 200
Schedule of Programs:
Adjudication 6,900
Unemployment Insurance Administration 35,100

Item 340
To Department of Workforce Services - Office of Homeless Services
From General Fund 200
From General Fund, One-Time 20,000,000
From Federal Funds 400
From Federal Funds - American Rescue Plan, One-Time 30,000,000
From Gen. Fund Rest. - Pamela Atkinson Homeless Account 200
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 1,000
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 800
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-Time 2,500,000
Schedule of Programs:
Homeless Services 52,502,600

Notwithstanding the intent language passed on lines 3539 through 3551 in S.B. 2, New Fiscal Year Supplemental Appropriations Act, the Legislature intends that the following intent language is deleted from S.B. 2: The Legislature intends that the foregone revenue from the item "DWS - Utah Low-Income Housing Tax Credit" be $9 million per year ($90 million over 10 years) and specifically not $9 million in new funding each year ($900 million). The Legislature further intends that the recipient of this appropriation shall (1) provide a report to the Social Services Appropriations Subcommittee no later than October 1, 2023 with a summary of project investments including units built, location, AMI served, remaining funds, and program fund balance; (2) Projects developed utilizing these funds should be deed restricted for 50 years; and (3) Projects funded under this program shall not be eligible for subsequent credits for rehabilitation.

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 341
To Department of Workforce Services - Office of Homeless Services
From General Fund 340,500
Schedule of Programs:
Homeless Services 340,500

To implement the provisions of *Housing Affordability Amendments* (House Bill 364, 2023 General Session).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 342
To Department of Health and Human Services – Operations
From General Fund ..... (1,400,300)
From General Fund, One-Time 2,091,700
From Income Tax Fund, One-Time 148,100
From Federal Funds ..... (1,793,000)
Schedule of Programs:
Executive Director Office ..... (187,800)
Ancillary Services 143,800
Finance & Administration ..... (2,899,900)
Continuous Quality Improvement ... 2,990,400
Customer Experience ..... (1,000,000)

Notwithstanding intent language passed in Item 61 of S.B. 7 during the 2023 General Session, Item 61 is hereby struck and replaced with the following language: In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Executive Director Operations line item, whose mission is "ensure all Utahns have fair and equitable opportunities to live safe and healthy lives." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023, the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Percent of Department of Health and Human Services agreements for services that include outcomes that alight with operational unit Results Based Accountability plans, 2) Number of improvement projects completed per cycle per year, and 3) Percent of key data systems that are modernized, optimized, and integrated by 2026 (American Rescue Plan Act project tracking).

Item 343
To Department of Health and Human Services – Operations
From General Fund 10,700
Schedule of Programs:
Finance & Administration 10,700

To implement the provisions of *School Absenteeism Amendments* (House Bill 400, 2023 General Session).

Item 344
To Department of Health and Human Services – Operations
From General Fund Restricted – Children with Cancer Support Restricted Account ..... (2,000)
From General Fund Restricted – Children with Heart Disease Support Restr Acct ..... (2,000)
Schedule of Programs:
Finance & Administration ..... (4,000)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Item 345
To Department of Health and Human Services – Clinical Services
From General Fund ..... (5,000)
From General Fund, One-Time 100,000
From Income Tax Fund ..... (52,700)
Schedule of Programs:
Primary Care and Rural Health 95,000
Medical Education Council ..... (52,700)

The Legislature intends that prior to the release of any state appropriations for Accessibility Improvements to LGBTQ+ Health Clinic the recipient must provide evidence of matching funds either for capital or operations from local sources that equal the amount of any state support received over the preceding 24 months.

Item 346
To Department of Health and Human Services – Department Oversight
From General Fund 1,119,500
From Federal Funds 44,500
From Revenue Transfers 33,900
Schedule of Programs:
Internal Audit 1,000,000
Admin Hearings 197,900

Item 347
To Department of Health and Human Services – Department Oversight
From Dedicated Credits Revenue ..... (95,700)
From Dedicated Credits Revenue, One-Time 95,700

To implement the provisions of *Bureau of Emergency Medical Services Amendments* (Senate Bill 64, 2023 General Session).

Item 348
To Department of Health and Human Services – Department Oversight
From General Fund 600
Schedule of Programs:
Licensing & Background Checks 600

To implement the provisions of *Adoption Amendments* (Senate Bill 154, 2023 General Session).

Item 349
To Department of Health and Human Services – Health Care Administration
From General Fund ..... (34,500)
From General Fund, One-Time 200,000
From Federal Funds 65,676,000
From Federal Funds, One-Time 200,000
From Expendable Receipts 5,900
From Medicaid Expansion Fund 1,600
From Nursing Care Facilities Provider Assessment Fund 600
From Revenue Transfers ..... (7,556,800)
Schedule of Programs:
Integrated Health Care Administration 50,966,300

Long-Term Services and
Supports Administration ..... (37,800)
Seeded Services 7,564,300

Item 350
To Department of Health and Human Services – Health Care Administration
From General Fund 64,000
From General Fund, One-Time 36,000
Schedule of Programs:
Integrated Health Care
Administration 100,000

To implement the provisions of *Behavioral Health Crisis Response Commission Amendments* (House Bill 66, 2023 General Session).

Item 351
To Department of Health and Human Services – Health Care Administration
From General Fund, One-Time ..... (51,000)
From Federal Funds 228,300
From Federal Funds, One-Time ..... (119,800)
Schedule of Programs:
Integrated Health Care
Administration 48,100
Seeded Services 9,400

To implement the provisions of *Medicaid Waiver for Medically Complex Children Amendments* (House Bill 290, 2023 General Session).

Item 352
To Department of Health and Human Services – Health Care Administration
From General Fund, One-Time 7,500
From Federal Funds, One-Time 67,500
Schedule of Programs:
Provider Reimbursement Information
System for Medicaid 75,000

To implement the provisions of *Recreational Therapy Medicaid Coverage Amendments* (House Bill 315, 2023 General Session).

Item 353
To Department of Health and Human Services – Health Care Administration
From General Fund 12,900
Schedule of Programs:
Integrated Health Care
Administration 12,900

To implement the provisions of *Mentally Ill Offenders Amendments* (House Bill 385, 2023 General Session).

Item 354
To Department of Health and Human Services – Health Care Administration
From General Fund, One-Time 50,000
Schedule of Programs:
Integrated Health Care
Administration 50,000

To implement the provisions of *Sickle Cell Disease* (House Bill 487, 2023 General Session).

Item 355
To Department of Health and Human Services – Health Care Administration
From General Fund, One-Time 103,000
Schedule of Programs:
Integrated Health Care
Administration 103,000

To implement the provisions of *Transgender Medical Treatments and Procedures Amendments* (Senate Bill 16, 2023 General Session).

Item 356
To Department of Health and Human Services – Health Care Administration
From Federal Funds 170,000
From Federal Funds, One-Time ..... (12,500)
From Expendable Receipts 170,000
From Expendable Receipts,
One-Time ..... (152,500)
Schedule of Programs:
Integrated Health Care
Administration 175,000

To implement the provisions of *Medicaid Dental Waiver Amendments* (Senate Bill 19, 2023 General Session).

Item 357
To Department of Health and Human Services – Health Care Administration
From Federal Funds 211,300
From Hospital Provider Assessment
Fund 211,300
Schedule of Programs:
Integrated Health Care
Administration 422,600

To implement the provisions of *Hospital Assessment Amendments* (Senate Bill 126, 2023 General Session).

Item 358
To Department of Health and Human Services – Health Care Administration
From General Fund 20,000
From General Fund, One-Time 15,000
From Federal Funds 760,900
From Federal Funds, One-Time 466,800
Schedule of Programs:
Integrated Health Care
Administration 20,000
Provider Reimbursement Information
System for Medicaid 250,000
Seeded Services 992,700

To implement the provisions of *Modifications to Medicaid Coverage* (Senate Bill 133, 2023 General Session).

Item 359
To Department of Health and Human Services – Health Care Administration
From General Fund 78,700
From General Fund, One-Time 1,000
From Federal Funds 92,200
From Federal Funds, One-Time 9,000
Schedule of Programs:
Integrated Health Care
Administration 170,900
Provider Reimbursement Information
System for Medicaid 10,000

To implement the provisions of *Autism Coverage Amendments* (Senate Bill 204, 2023 General Session).

Item 360
To Department of Health and Human Services – Integrated Health Care Services
From General Fund ..... (10,146,200)
From General Fund, One-Time .... (15,348,200)
From Income Tax Fund, One-Time .... (900,000)
From Federal Funds 7,542,500
From Federal Funds, One-Time ..... (446,100)
From Federal Funds – Enhanced FMAP, One-Time 20,205,800
From Dedicated Credits Revenue 65,100
From Dedicated Credits Revenue, One-Time ..... (12,800)
From Medicaid Expansion Fund 94,600
From General Fund Restricted – Opioid Litigation Settlement Restricted Account, One-Time 300,000
From Revenue Transfers 280,800
Schedule of Programs:
Children's Health Insurance Program Services 1,100,000
Medicaid Accountable Care Organizations ..... (15,400,000)
Medicaid Behavioral Health Services ... 65,100
Medicaid Home and Community Based Services 1,851,500
Medicaid Pharmacy Services 1,067,300
Medicaid Long Term Care Services 3,900,200
Medicaid Other Services 814,400
Expansion Accountable Care Organizations 8,000
Non-Medicaid Behavioral Health Treatment & Crisis Response 5,806,500
State Hospital 2,422,500

The Legislature intends that the Division of Integrated Healthcare (Division) incorporate into the accountable care organization rate structure calculation, consistent with the certified actuarial rate range, an amount equal to the difference between payments made to publicly owned hospitals by accountable care organizations for the Medicaid eligibility categories covered in Utah based on submitted encounter data and the maximum amount that could be paid for those services to be used for directed payments to hospitals for inpatient and outpatient services.

The Legislature intends that the funding appropriated to the Department of Health and Human Services for the purpose of enhancing Medicaid Accountable Care Organization (ACO) rates be used to pay ACO rates up to actuarially certified rates approved by the Centers for Medicare and Medicaid Services. If the Department is unable to establish actuarially certified rates for FY 2024 through its current rate setting process, then it shall incorporate historical data, commitments from the ACOs to spend a portion of these funds on increased provider payments, quality improvement adjustments, flexibilities afforded in 42 CFR 438.5(f) Adjustments, or other mutually agreeable strategies to facilitate rate approval.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $617,300 of the funding for HCBS Waiver Rates Increase shall not lapse at the close of Fiscal Year 2024. The funding is limited to implementing HCBS Waiver Rates Increase.

Item 361
To Department of Health and Human Services – Integrated Health Care Services
From General Fund 3,136,000
From General Fund, One-Time 1,764,000
Schedule of Programs:
Non-Medicaid Behavioral Health Treatment & Crisis Response 4,900,000

To implement the provisions of *Behavioral Health Crisis Response Commission Amendments* (House Bill 66, 2023 General Session).

Item 362
To Department of Health and Human Services – Integrated Health Care Services
From General Fund, One-Time ..... (500,000)
From Federal Funds 1,741,400
From Federal Funds, One-Time ..... (900,000)
Schedule of Programs:
Medicaid Home and Community Based Services 341,400

To implement the provisions of *Medicaid Waiver for Medically Complex Children Amendments* (House Bill 290, 2023 General Session).

Item 363
To Department of Health and Human Services – Integrated Health Care Services
From Federal Funds 2,910,000
From Federal Funds, One-Time ..... (1,455,000)
From Expendable Receipts 1,200,000
From Expendable Receipts, One-Time ..... (600,000)
From Medicaid Expansion Fund 60,000
From Medicaid Expansion Fund, One-Time ..... (30,000)
Schedule of Programs:
Medicaid Behavioral Health Services 1,800,000
Expansion Behavioral Health Services 285,000

To implement the provisions of *Recreational Therapy Medicaid Coverage Amendments* (House Bill 315, 2023 General Session).

Item 364
To Department of Health and Human Services – Integrated Health Care Services
From General Fund 38,100
Schedule of Programs:
State Hospital 38,100

To implement the provisions of *Civil Commitment Amendments* (House Bill 330, 2023 General Session).

Item 365
To Department of Health and Human Services – Integrated Health Care Services
From General Fund 388,500
Schedule of Programs:
Non-Medicaid Behavioral Health Treatment & Crisis Response 364,400
State Hospital 24,100

To implement the provisions of *Mentally Ill Offenders Amendments* (House Bill 385, 2023 General Session).

Item 366
To Department of Health and Human Services – Integrated Health Care Services
From Federal Funds 38,000,000
From Federal Funds, One-Time ... (38,000,000)
From Expendable Receipts 4,200,000
From Expendable Receipts, One-Time ..... (4,200,000)

To implement the provisions of *Medicaid Dental Waiver Amendments* (Senate Bill 19, 2023 General Session).

Item 367
To Department of Health and Human Services – Integrated Health Care Services
From Federal Funds 221,000,000
From Federal Funds – Enhanced FMAP, One-Time 2,014,000
From Hospital Provider Assessment Fund 57,000,000
From Hospital Provider Assessment Fund, One-Time ..... (2,014,000)
Schedule of Programs:
Medicaid Accountable Care Organizations 278,000,000

To implement the provisions of *Hospital Assessment Amendments* (Senate Bill 126, 2023 General Session).

Item 368
To Department of Health and Human Services – Integrated Health Care Services
From General Fund 2,890,000
From General Fund, One-Time ..... (1,445,000)
From Federal Funds 6,950,000
From Federal Funds, One-Time ..... (3,475,000)
From Dedicated Credits Revenue 190,000
From Dedicated Credits Revenue, One-Time ..... (95,000)
Schedule of Programs:
Medicaid Other Services 5,015,000

To implement the provisions of *Modifications to Medicaid Coverage* (Senate Bill 133, 2023 General Session).

Item 369
To Department of Health and Human Services – Integrated Health Care Services
From General Fund 3,031,800
From General Fund, One-Time ..... (90,000)
From Federal Funds 5,930,000
From Federal Funds – Enhanced FMAP, One-Time 90,000
Schedule of Programs:
Medicaid Other Services 8,961,800

To implement the provisions of Autism Coverage Amendments *(Senate Bill 204, 2023 General Session).*

Item 370
To Department of Health and Human Services – Integrated Health Care Services
From General Fund ..... (170,500)
From General Fund, One-Time 5,000
From Federal Funds ..... (329,500)
From Federal Funds – Enhanced FMAP, One-Time ..... (5,000)
Schedule of Programs:
Offsets to Medicaid Expenditures .... (500,000)

To implement the provisions of *Utah False Claims Act Amendments* (Senate Bill 214, 2023 General Session).

Item 371
To Department of Health and Human Services – Integrated Health Care Services
From Dedicated Credits Revenue 562,600
From Dedicated Credits Revenue, One-Time ..... (350,900)
Schedule of Programs:
Medicaid Accountable Care Organizations 211,700

To implement the provisions of *Children's Health Coverage Amendments* (Senate Bill 217, 2023 General Session).

Item 372
To Department of Health and Human Services – Integrated Health Care Services
From General Fund 362,800
From General Fund Restricted – Psychiatric Consultation Program Account ..... (322,800)
From General Fund Restricted – Survivors of Suicide Loss Account .... (40,000)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Item 373
To Department of Health and Human Services – Long-Term Services & Support
From General Fund 61,700
From General Fund, One-Time 4,045,400
From Income Tax Fund, One-Time ... (3,615,200)
From Federal Funds 181,400
From Federal Funds – Enhanced FMAP, One-Time 4,028,200
Schedule of Programs:
Aging & Adult Services 1,500,000
Aging Waiver Services 201,100
Services for People with Disabilities 400
Disabilities – Non Waiver Services .. 3,000,000

The Legislature intends that the department use the appropriation for Services for People with Disabilities Waiting List to provide up to eight hours per week of respite services for one year to individuals at the top of the waiting list.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $617,300 of the funding for HCBS Waiver Rates Increase shall not lapse at the close of

Fiscal Year 2024. The funding is limited to implementing HCBS Waiver Rates Increase.

Item 374
To Department of Health and Human Services – Long-Term Services & Support
From General Fund 44,400
From Federal Funds 83,000
Schedule of Programs:
Utah State Developmental Center 127,400

To implement the provisions of *Mentally Ill Offenders Amendments* (House Bill 385, 2023 General Session).

Item 375
To Department of Health and Human Services – Long-Term Services & Support
From General Fund 2,250,000
From General Fund, One-Time ..... (1,000,000)
Schedule of Programs:
Community Supports Waiver Services 1,250,000

To implement the provisions of *Caregiver Compensation Amendments* (Senate Bill 106, 2023 General Session).

Item 376
To Department of Health and Human Services – Public Health, Prevention, and Epidemiology
From General Fund, One-Time 20,600
Schedule of Programs:
Health Promotion and Prevention 20,600

To implement the provisions of *Sickle Cell Disease* (House Bill 487, 2023 General Session).

Item 377
To Department of Health and Human Services – Public Health, Prevention, and Epidemiology
From General Fund ..... (5,891,800)
From General Fund, One-Time 5,891,800
From Federal Funds ..... (104,900)
From Federal Funds, One-Time 104,900
From Dedicated Credits Revenue ..... (578,000)
From Dedicated Credits Revenue, One-Time 578,000
From General Fund Restricted – Emergency Medical Services System Account ..... (2,042,500)
From General Fund Restricted – Emergency Medical Services System Account, One-Time 2,042,500

To implement the provisions of *Bureau of Emergency Medical Services Amendments* (Senate Bill 64, 2023 General Session).

Item 378
To Department of Health and Human Services – Public Health, Prevention, and Epidemiology
From General Fund Restricted – Children with Cancer Support Restricted Account ..... (10,500)
From General Fund Restricted – Children with Heart Disease Support Restr Acct ..... (10,500)
Schedule of Programs:
Health Promotion and Prevention .... (21,000)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Item 379
To Department of Health and Human Services – Children, Youth, & Families
From General Fund 3,183,500
From General Fund, One-Time 5,391,300
From Income Tax Fund, One-Time .... (206,700)
From Federal Funds 21,160,900
From Federal Funds, One-Time 178,500
From Expendable Receipts 4,100
From General Fund Restricted – Victim Services Restricted Account 3,200,000
From General Fund Restricted – Victim Services Restricted Account, One-Time 2,166,600
From General Fund Restricted – National Professional Men's Basketball Team Support of Women and Children Issues 1,600
From Revenue Transfers 29,500
From Revenue Transfers, One-Time .. 3,500,000
Schedule of Programs:
Child & Family Services 930,700
Domestic Violence 5,516,600
In-Home Services ..... (290,500)
Out-of-Home Services ..... (264,700)
Adoption Assistance ..... (88,200)
Maternal & Child Health 24,877,500
Family Health 7,927,900

The Legislature intends that the $2,166,600 one-time appropriation provided in this item for Victim Services Funding from the Victim Services Restricted Account be used to provide domestic violence services over three years as follows: $433,300 in FY 2024, $866,600 in FY 2025, and $866,600 in FY 2026.

The Legislature intends that the ongoing funds provided for the building block entitled "Home Visitation Services for More Families" only be given to local entities that are already providing this service.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that the $4,700,000 appropriated for Home Visitation Services for More Families shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to expanding home visitation services for families.

Item 380
To Department of Health and Human Services – Children, Youth, & Families
From General Fund 291,600
From Expendable Receipts 20,000
From Gen. Fund Rest. – Children's Hearing Aid Pilot Program Account .. (301,100)
From General Fund Restricted – Choose Life Adoption Support Account ... (100)
From Beginning Nonlapsing Balances ... 326,300
From Closing Nonlapsing Balances .... (326,300)
Schedule of Programs:
Adoption Assistance ..... (100)

Children with Special
Healthcare Needs 10,500

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Item 381
To Department of Health and Human Services – Office of Recovery Services
From General Fund 371,800
From Federal Funds 497,300
From Revenue Transfers 30,300
Schedule of Programs:
Attorney General Contract 899,400

Item 382
To Department of Health and Human Services – Prison Medical Services
From General Fund Restricted – Correctional Institution Clinical Services Transition Account 49,650,400
From General Fund Restricted – Correctional Institution Clinical Services Transition Account, One–Time 658,000
Schedule of Programs:
Prison Medical Services 50,308,400

The Legislature intends that the Department of Corrections work with the Department of Health and Human Services over the 2023 interim to fully transfer provision of medical services at state correctional institutions to the Department of Health and Human Services by July 1, 2024. During the transition, the Department of Corrections and Department of Health and Human Services may both access spending authority provided from the Correctional Institution Clinical Services Transition Account. However, the two departments combined may not spend more than the amount transferred into the account from the General Fund in FY 2024. The Legislature intends that the departments report progress on the transition to the Executive Offices and Criminal Justice Appropriations Subcommittee at each of the subcommittee meetings in the 2023 Interim and again at the start of the 2024 General Session.

Item 383
To Department of Health and Human Services – Prison Medical Services
From General Fund Restricted – Correctional Institution Clinical Services Transition Account 211,300
Schedule of Programs:
Prison Medical Services 211,300

To implement the provisions of *Inmate Amendments* (Senate Bill 188, 2023 General Session).

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 384
To University of Utah – Education and General
From General Fund 60,000,000
From General Fund, One–Time ... (189,875,000)
From Income Tax Fund ..... (52,769,900)
From Income Tax Fund, One–Time 190,000,000
From Dedicated Credits Revenue 15,000
Schedule of Programs:
Education and General 7,370,100

The Legislature intends that the $125,000 one–time Income Tax Fund appropriation in this line item be used for the Family Friendly Workplace Study.

The Legislature intends that the $750,000 ongoing Income Tax Fund appropriation in this line item be used for the University of Utah High School–Based Clinic.

Item 385
To University of Utah – School of Medicine
From Income Tax Fund 595,800
Schedule of Programs:
School of Medicine 595,800

Item 386
To University of Utah – University Hospital
From Income Tax Fund, One–Time 1,000,000
Schedule of Programs:
University Hospital 1,000,000

Item 387
To University of Utah – School of Dentistry
From Income Tax Fund 121,800
Schedule of Programs:
School of Dentistry 121,800

UTAH STATE UNIVERSITY

Item 388
To Utah State University – Education and General
From General Fund, One–Time ... (100,000,000)
From Income Tax Fund 3,157,100
From Income Tax Fund, One–Time 108,500,000
From Dedicated Credits Revenue 7,300
Schedule of Programs:
Education and General 11,616,700
USU – School of Veterinary Medicine ... 47,700

The Legislature intends that the $2,500,000 one–time Income Tax Fund appropriation in this line item be used for the Utah Earthquake Engineering Center.

The Legislature intends that the $200,000 ongoing Income Tax Fund appropriation in this line item be used for Support for Medical and Community Service Interpretation.

The Legislature intends that the $6,000,000 one–time Income Tax Fund appropriation in this line item be used for Electric Train Research.

The Legislature intends that Utah State University may use part of $18,000,000 funded ongoing in the 2022 General Session, House Bill 2, Item 100, for operations and maintenance costs for the School of Veterinary Medicine after the building is constructed.

Item 389
To Utah State University – USU – Eastern Education and General

From Income Tax Fund 103,000
Schedule of Programs:
USU – Eastern Education and General 103,000

Item 390
To Utah State University – Regional Campuses
From Income Tax Fund 229,800
Schedule of Programs:
Uintah Basin Regional Campus 66,700
Brigham City Regional Campus 79,600
Tooele Regional Campus 83,500

Item 391
To Utah State University – Blanding Campus
From Income Tax Fund 38,200
Schedule of Programs:
Blanding Campus 38,200

WEBER STATE UNIVERSITY

Item 392
To Weber State University – Education and General
From General Fund 100,000,000
From General Fund, One-Time ... (100,000,000)
From Income Tax Fund ..... (99,091,100)
From Income Tax Fund, One-Time ... 99,950,000
From Dedicated Credits Revenue 3,100
Schedule of Programs:
Education and General 754,600
Operations and Maintenance 107,400

Item 393
To Weber State University – Rocky Mountain Center for Occupational & Environmental Health
From Income Tax Fund 786,300
From Income Tax Fund, One-Time 50,000
Schedule of Programs:
Rocky Mountain Center for Occupational & Environmental Health 836,300

The Legislature intends that the $786,300 ongoing and $50,000 one-time Income Tax Fund appropriation in this line item be used for the WSU-UU Rocky Mountain Center Pathways.

SOUTHERN UTAH UNIVERSITY

Item 394
To Southern Utah University – Education and General
From Income Tax Fund 1,054,600
From Income Tax Fund, One-Time 125,000
From Dedicated Credits Revenue 7,300
Schedule of Programs:
Education and General 1,108,700
Operations and Maintenance 78,200

The Legislature intends that $25,000 one-time of the Innovative Higher Education Initiatives Funds from the Income Tax Fund appropriated in Item 134 of S.B. 2 (2023 General Session) be used to fund the Utah Tech University CSET and SUU Innovation Outreach Program at Southern Utah University.

Item 395
To Southern Utah University – Utah Summer Games
From Income Tax Fund, One-Time 100,000
Schedule of Programs:
Utah Summer Games 100,000

UTAH VALLEY UNIVERSITY

Item 396
To Utah Valley University – Education and General
From Income Tax Fund 3,552,000
From Income Tax Fund, One-Time 875,000
From Dedicated Credits Revenue 10,200
Schedule of Programs:
Education and General 4,283,800
Operations and Maintenance 153,400

The Legislature intends that the $875,000 ongoing and $875,000 one-time Income Tax Fund appropriations in this line item be used for Civic Thought and Leadership Initiative.

Item 397
To Utah Valley University – Civic Thought and Leadership Initiative
From Income Tax Fund, One-Time ... (1,750,000)
Schedule of Programs:
Civic Thought and Leadership Initiative ..... (1,750,000)

SNOW COLLEGE

Item 398
To Snow College – Education and General
From Income Tax Fund 424,400
From Income Tax Fund, One-Time 1,500,000
From Dedicated Credits Revenue 4,300
Schedule of Programs:
Education and General 1,893,400
Operations and Maintenance 35,300

The Legislature intends that the $1,500,000 one-time appropriation from the Income Tax Fund in this item be used for the Innovative Agricultural Center.

Item 399
To Snow College – Career and Technical Education
From Income Tax Fund 175,700
Schedule of Programs:
Career and Technical Education 175,700

UTAH TECH UNIVERSITY

Item 400
To Utah Tech University – Education and General
From Income Tax Fund 1,230,400
From Income Tax Fund, One-Time 100,000
From Dedicated Credits Revenue 7,300
Schedule of Programs:
Education and General 1,290,300
Operations and Maintenance 47,400

The Legislature intends that $100,000 one-time of the Innovative Higher Education Initiatives Funds from the Income Tax Fund appropriated in Item 134 of S.B. 2 (2023 General Session) be used to fund the Utah Tech University CSET and SUU Innovation Outreach Program at Utah Tech University.

The Legislature intends that the $400,000 ongoing Income Tax Fund appropriation in

this line item be used for Innovation Lab at Utah Tech University in coordination with the Utah System of Higher Education Innovation Lab.

Item 401
To Utah Tech University – Education and General
From Income Tax Fund 65,000
Schedule of Programs:
Education and General 65,000

To implement the provisions of *Higher Education for Incarcerated Youth Program Amendments* (Senate Bill 145, 2023 General Session).

Item 402
To Utah Tech University – Zion Park Amphitheater
From Income Tax Fund 400
Schedule of Programs:
Zion Park Amphitheater 400

SALT LAKE COMMUNITY COLLEGE

Item 403
To Salt Lake Community College – Education and General
From General Fund 100,000,000
From General Fund, One-Time ... (100,000,000)
From Income Tax Fund ..... (98,725,300)
From Income Tax Fund, One-Time 100,000,000
From Dedicated Credits Revenue 7,300
Schedule of Programs:
Education and General 1,135,600
Operations and Maintenance 146,400

Item 404
To Salt Lake Community College – School of Applied Technology
From Income Tax Fund 250,000
Schedule of Programs:
School of Applied Technology 250,000

UTAH BOARD OF HIGHER EDUCATION

Item 405
To Utah Board of Higher Education – Administration
From Income Tax Fund 9,034,600
From Income Tax Fund, One-Time .... (125,000)
Schedule of Programs:
Administration 8,909,600

The Legislature intends that $125,000 one-time of the Innovative Higher Education Initiatives Funds from the Income Tax Fund appropriated in Item 134 of S.B. 2 (2023 General Session) be used to fund the Utah Tech University CSET and SUU Innovation Outreach Program as follows: $100,000 one-time to Utah Tech University and $25,000 one-time to Southern Utah University.

The Legislature intends that appropriations for Targeted Workforce Development – Computer Science Program Expansions be used to expand program capacity as soon as Fall 2023 in the following occupations: Information Security Analysts, Software Developers and QA Analysts, Digital Interface Designers, Computer and Information Research Scientists, Database Administrators and Architects. It is further the intent of the Legislature that any ongoing funding allocations be transferred to the base budget of institutions in the 2024 General Session.

The Legislature intends that appropriations for Targeted Workforce Development – Healthcare be used to expand program capacity as soon as Fall 2023 in the following occupations: Respiratory Therapists, Registered Nurses, Licensed Practical Nurses, Radiology Technologists, Surgical Technologists, Diagnostic Medical Sonographers, Behavioral Health, Psychiatric Technicians, and/or Behavioral Management Specialists. It is further the intent of the Legislature that any ongoing funding allocations be transferred to the base budget of institutions in the 2024 General Session.

Item 406
To Utah Board of Higher Education – Administration
From Income Tax Fund 450,000
Schedule of Programs:
Administration 450,000

To implement the provisions of *First Responder Mental Health Services Grant Program* (House Bill 278, 2023 General Session).

Item 407
To Utah Board of Higher Education – Administration
From Income Tax Fund 510,500
Schedule of Programs:
Administration 510,500

To implement the provisions of *Prime Pilot Program Amendments* (House Bill 318, 2023 General Session).

Item 408
To Utah Board of Higher Education – Administration
From Income Tax Fund 44,000
From Income Tax Fund, One-Time 175,000
Schedule of Programs:
Utah Data Research Center 219,000

To implement the provisions of *Utah Data Research Center Amendments* (House Bill 355, 2023 General Session).

Item 409
To Utah Board of Higher Education – Administration
From Income Tax Fund 124,800
Schedule of Programs:
Administration 124,800

To implement the provisions of *Higher Education Governance Amendments* (Senate Bill 146, 2023 General Session).

Item 410
To Utah Board of Higher Education – Administration
From Income Tax Fund 20,800

Schedule of Programs:
Administration 20,800

To implement the provisions of *Higher Education Funding Amendments* (Senate Bill 194, 2023 General Session).

Item 411
To Utah Board of Higher Education – Education Excellence

The Legislature intends that when drafting base budget bills for the 2024 General Session, the Legislative Fiscal Analyst shall reallocate ongoing Higher Education Performance Funding provided by New Fiscal Year Supplemental Appropriations Act (Senate Bill 2, 2023 General Session), Item 135 to individual institutions ongoing for FY 2025 based on the new performance funding model established in Utah Code Annotated title 53B Chapter 7 Part 7.

Item 412
To Utah Board of Higher Education – Talent Ready Utah
From Income Tax Fund 140,000
Schedule of Programs:
Talent Ready Utah 140,000

To implement the provisions of *Talent Ready Utah Program Modifications* (House Bill 555, 2023 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 413
To Department of Agriculture and Food – Administration
From General Fund 71,200
From General Fund, One-Time 1,000,000
From Federal Funds 5,500
From Dedicated Credits Revenue 7,700
From Revenue Transfers 1,800
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention ..... (30,000)
Schedule of Programs:
Commissioner's Office ..... (1,854,200)
Administrative Services 2,940,400
Sheep Promotion ..... (30,000)

Item 414
To Department of Agriculture and Food Marketing and Development
From General Fund, One-Time 45,000
Schedule of Programs:
Marketing and Development 45,000

Item 415
To Department of Agriculture and Food – Plant Industry
From Federal Funds ..... (108,800)
From Federal Funds, One-Time ..... (300)
From Dedicated Credits Revenue 733,700
From Pass-through ..... (190,300)
From Lapsing Balance 207,100
Schedule of Programs:
Plant Industry Administration ..... (4,505,900)
Environmental Quality ..... (109,100)
Grain Lab 77,900
Insect, Phyto, and Nursery 503,700
Grazing Improvement Program 167,800
Pesticide 1,797,300
Feed, Fertilizer, and Seed 1,684,600
Organics 1,025,100

Item 416
To Department of Agriculture and Food – Predatory Animal Control
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention 30,000
Schedule of Programs:
Predatory Animal Control 30,000

Item 417
To Department of Agriculture and Food – Rangeland Improvement
From Gen. Fund Rest. – Rangeland Improvement Account 1,000,000
From Gen. Fund Rest. – Rangeland Improvement Account, One-Time ... 3,000,000
Schedule of Programs:
Rangeland Improvement Projects ... 2,231,600
Grazing Improvement Program Administration 1,768,400

Item 418
To Department of Agriculture and Food – Resource Conservation
From General Fund, One-Time 4,000,000
From Federal Funds 108,800
From Federal Funds, One-Time 300
From Closing Nonlapsing Balances 242,900
Schedule of Programs:
Conservation Administration ..... (169,500)
Conservation Districts 553,100
Water Quantity ..... (3,724,300)
Water Quality 2,395,000
Soil Health 1,748,900
Salinity 113,000
Easements and Loan Projects 3,435,800

Item 419
To Department of Agriculture and Food – Resource Conservation
From General Fund, One-Time 351,900
From Closing Nonlapsing Balances .... (351,900)

To implement the provisions of *Pollinator Pilot Program Amendments* (House Bill 327, 2023 General Session).

Item 420
To Department of Agriculture and Food – Industrial Hemp
From Dedicated Credits Revenue 45,400
From Dedicated Credits Revenue, One-Time 46,900
Schedule of Programs:
Industrial Hemp 92,300

To implement the provisions of *Hemp Amendments* (House Bill 227, 2023 General Session).

Item 421
To Department of Agriculture and Food – Analytical Laboratory
From Dedicated Credits Revenue 70,200
Schedule of Programs:

Analytical Laboratory 70,200

To implement the provisions of *Sale of Dairy Amendments* (House Bill 320, 2023 General Session).

Item 422
To Department of Agriculture and Food –
Veterinarian Education Loan Repayment Program
From General Fund, One-Time 2,500,000
Schedule of Programs:
Veterinarian Education Loan Repayment Program 2,500,000

To implement the provisions of *Veterinarian Education Loan Repayment Program* (House Bill 184, 2023 General Session).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 423
To Department of Environmental Quality –
Drinking Water
From General Fund 22,500
From Federal Funds 2,400
Schedule of Programs:
Drinking Water Administration 10,500
Safe Drinking Water Act 10,900
System Assistance 2,900
State Revolving Fund 600

Item 424
To Department of Environmental Quality –
Environmental Response and Remediation
From General Fund 48,500
From Federal Funds 6,000
Schedule of Programs:
Voluntary Cleanup 400
CERCLA 3,200
Petroleum Storage Tank Cleanup 49,300
Petroleum Storage Tank Compliance 1,600

Item 425
To Department of Environmental Quality –
Executive Director's Office
From General Fund 118,700
From General Fund Restricted –
Environmental Quality ..... (163,400)
Schedule of Programs:
Executive Director Office
Administration ..... (44,700)

Item 426
To Department of Environmental Quality –
Executive Director's Office
From General Fund 5,300
Schedule of Programs:
Radon 5,300

To implement the provisions of *Radon Notice Amendments* (Senate Bill 201, 2023 General Session).

Item 427
To Department of Environmental Quality –
Waste Management and Radiation Control
From General Fund ..... (155,300)
From General Fund Restricted –
Environmental Quality 241,600
Schedule of Programs:
Hazardous Waste 25,200
Solid Waste 19,700
Radiation 20,100
Low Level Radioactive Waste 19,900
WIPP ..... (300)
Used Oil ..... (900)
Waste Tire ..... (400)
X-Ray 3,000

Item 428
To Department of Environmental Quality –
Water Quality
From General Fund 48,500
From Federal Funds 5,600
Schedule of Programs:
Water Quality Support 2,400
Water Quality Protection 4,500
Water Quality Permits 47,100
Onsite Wastewater 100

Item 429
To Department of Environmental Quality –
Air Quality
From General Fund 89,700
From General Fund, One-Time 495,000
From Federal Funds 12,200
From Dedicated Credits Revenue 200
From General Fund Restricted –
Environmental Quality 35,900
Schedule of Programs:
Compliance 129,100
Permitting 3,300
Planning 499,800
Air Quality Administration 800

Item 430
To Department of Environmental Quality –
Air Quality
From General Fund, One-Time 60,600
Schedule of Programs:
Planning 60,600

To implement the provisions of *Emissions Reduction Amendments* (House Bill 220, 2023 General Session).

DEPARTMENT OF NATURAL RESOURCES

Item 431
To Department of Natural Resources –
Administration
From General Fund 458,900
Schedule of Programs:
Executive Director 458,900

Item 432
To Department of Natural Resources –
Administration
From General Fund, One-Time 200,000
Schedule of Programs:
Executive Director 200,000

To implement the provisions of *Water Infrastructure Funding Study* (Senate Bill 34, 2023 General Session).

Item 433
To Department of Natural Resources –
DNR Pass Through
From General Fund, One-Time 350,000
Schedule of Programs:
DNR Pass Through 350,000

Item 434
To Department of Natural Resources – Forestry, Fire, and State Lands
From General Fund 160,000
From General Fund, One-Time 6,850,000
From General Fund Restricted – Sovereign Lands Management, One-Time 2,113,900
Schedule of Programs:
Fire Management 160,000
Forest Management 3,250,000
Lands Management 2,113,900
Project Management 3,600,000

Item 435
To Department of Natural Resources – Forestry, Fire, and State Lands
From General Fund Restricted – Sovereign Lands Management 12,500
Schedule of Programs:
Project Management 12,500

To implement the provisions of *Special License Plate Designation* (Senate Bill 92, 2023 General Session).

Item 436
To Department of Natural Resources – Utah Geological Survey
From General Fund Restricted – Sovereign Lands Management, One-Time .... (1,800,000)
Schedule of Programs:
Energy and Minerals ..... (1,800,000)

Item 437
To Department of Natural Resources – Water Resources
From General Fund 400
From General Fund, One-Time 8,000,000
From General Fund Restricted – Sovereign Lands Management, One-Time ..... (313,900)
From Water Resources Conservation and Development Fund 600
Schedule of Programs:
Cloud Seeding 5,000,000
Construction 3,001,000
Planning ..... (313,900)

Item 438
To Department of Natural Resources – Water Resources
From General Fund 2,000
Schedule of Programs:
Board 2,000

To implement the provisions of *Amendments Related to the Great Salt Lake* (House Bill 491, 2023 General Session).

Item 439
To Department of Natural Resources – Wildlife Resources
From General Fund Restricted – Aquatic Invasive Species Interdiction Account, One-Time 900,000
Schedule of Programs:
Aquatic Section 900,000

The Legislature intends that the Division of Wildlife Resources maintain its efforts to prevent aquatic invasive species spread into Bear Lake in FY 2024, with up to $900,000 to be spent on check stations for boats entering Bear Lake Valley, boat decontamination, public education, and related activities.

Item 440
To Department of Natural Resources – Wildlife Resources
From General Fund Restricted – Aquatic Invasive Species Interdiction Account 646,300
From General Fund Restricted – Aquatic Invasive Species Interdiction Account, One-Time ..... (49,200)
Schedule of Programs:
Aquatic Section 597,100

To implement the provisions of *Aquatic Invasive Species Amendments* (Senate Bill 112, 2023 General Session).

Item 441
To Department of Natural Resources – Wildlife Resources
From General Fund 250,000
From General Fund Restricted – Mule Deer Protection Account ..... (538,100)
Schedule of Programs:
Wildlife Section ..... (288,100)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Item 442
To Department of Natural Resources – Public Lands Policy Coordinating Office
From General Fund 133,600
From General Fund, One-Time 500,000
From General Fund Restricted – Constitutional Defense 56,900
Schedule of Programs:
Public Lands Policy Coordinating Office 690,500

Item 443
To Department of Natural Resources – Public Lands Policy Coordinating Office
From General Fund, One-Time 225,000
Schedule of Programs:
Public Lands Policy Coordinating Office 225,000

To implement the provisions of *Provo Canyon Resource Management Plan* (House Bill 32, 2023 General Session).

Item 444
To Department of Natural Resources – Division of Parks – Capital
From General Fund Restricted – State Park Fees, One-Time 5,000,000
Schedule of Programs:
Renovation and Development 5,000,000

The Legislature intends that $5,000,000 from the State Park Fees Restricted Account provided by this item be used to fund capital improvements on the state-owned golf courses.

Item 445
To Department of Natural Resources – Division of Outdoor Recreation
From Gen. Fund Rest. – Off-highway Access and Education ..... (19,000)
From General Fund Restricted – Off-highway Vehicle 19,000

Item 446
To Department of Natural Resources – Division of Outdoor Recreation
From General Fund Restricted – Outdoor Adventure Infrastructure Restricted Account 40,000
Schedule of Programs:
Administration 40,000

To implement the provisions of *Outdoor Recreation Initiative* (House Bill 224, 2023 General Session).

Item 447
To Department of Natural Resources – Division of Outdoor Recreation– Capital
From General Fund Restricted – Utah Boating Grant Account 1,974,400
Schedule of Programs:
Boat Access Grants 1,974,400

To implement the provisions of *Boating Amendments* (House Bill 299, 2023 General Session).

Item 448
To Department of Natural Resources – Office of Energy Development
From General Fund 400
From General Fund, One-Time 1,525,000
Schedule of Programs:
Office of Energy Development 1,525,400

The Legislature intends that Emery County, Utah State University, and the State of Utah establish a memorandum of understanding regarding the future operation and funding of the San Rafael Energy Research Center.

Item 449
To Department of Natural Resources – Office of Energy Development
From General Fund, One-Time 250,000
Schedule of Programs:
Office of Energy Development 250,000

To implement the provisions of *Energy Security Amendments* (House Bill 425, 2023 General Session).

Item 450
To Department of Natural Resources – Office of Energy Development
From General Fund, One-Time 30,000
Schedule of Programs:
Office of Energy Development 30,000

To implement the provisions of *Statewide Energy Policy Amendments* (House Bill 426, 2023 General Session).

Item 451
To Department of Natural Resources – Office of Energy Development
From General Fund 6,200
Schedule of Programs:
Office of Energy Development 6,200

To implement the provisions of *Hydrogen Amendments* (Senate Bill 62, 2023 General Session).

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 452
To School and Institutional Trust Lands Administration
From Land Grant Management Fund 22,800
Schedule of Programs:
Legal/Contracts 22,800
Mining ..... (668,700)
Oil and Gas ..... (1,030,400)
Surface ..... (541,400)
Renewables ..... (287,000)
Archaeology 541,400
Energy and Minerals 1,986,100

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

Item 453
To State Board of Education – Minimum School Program – Related to Basic School Programs
From Uniform School Fund 79,571,600
From Uniform School Fund, One-Time ..... (79,571,600)
From Public Education Economic Stabilization Restricted Account, One-Time ..... (73,125,000)
Schedule of Programs:
Charter School Funding Base Program 1,875,000
Public Education Capital and Technology ..... (75,000,000)

The Legislature intends that the State Board of Education distribute the funds appropriated to increase the weighted pupil unit value by two percent appropriated to the Related to Basic School Program – Flexible Allocation – WPU Distribution program one-time in FY 2025 if the amendment to the Utah Constitution proposed by S.J.R. 10, Proposal to Amend Utah Constitution – Income Tax, 2023 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular General Session. The Legislature further intends that the ongoing funds be used beginning in FY 2026 to increase the weighted pupil unit value by two percent.

The Legislature intends that the Legislative Fiscal Analyst adjust the $79,571,600 ongoing appropriated to the Related to Basic School Program – Flexible Allocation – WPU Distribution program by increases in the value of the weighted pupil unit provided by the Legislature in FY 2025 and FY 2026 to ensure there is enough funding available to increase the value by two percent in FY 2026.

Item 454
To State Board of Education – Minimum School Program – Related to Basic School Programs
From Uniform School Fund 196,914,400
Schedule of Programs:
Educator Salary Adjustments 196,914,400

To implement the provisions of *Funding for Teacher Salaries and Optional Education Opportunities* (House Bill 215, 2023 General Session).

Item 455
To State Board of Education – Minimum School Program – Related to Basic School Programs
From Uniform School Fund 17,923,900
From Uniform School Fund, One-Time ..... (16,587,900)
Schedule of Programs:
Teacher Salary Supplement 1,336,000

To implement the provisions of *Educator Salary Amendments* (Senate Bill 183, 2023 General Session).

Item 456
To State Board of Education – Minimum School Program – Voted and Board Local Levy Programs
From Local Levy Growth Account 19,092,000
Schedule of Programs:
Voted Local Levy Program 19,092,000

To implement the provisions of *Public Education Funding Equalization* (Senate Bill 83, 2023 General Session).

STATE BOARD OF EDUCATION

Item 457
To State Board of Education – Educator Licensing
From Income Tax Fund 189,300
Schedule of Programs:
Educator Licensing 189,300

To implement the provisions of *Reciprocal Professional Licensing Amendments* (Senate Bill 35, 2023 General Session).

Item 458
To State Board of Education – Educator Licensing
From Income Tax Fund 99,500
Schedule of Programs:
Educator Licensing 99,500

To implement the provisions of *Statewide Online Education Program Modifications* (Senate Bill 167, 2023 General Session).

Item 459
To State Board of Education – Contracted Initiatives and Grants
From Public Education Economic Stabilization Restricted Account, One-Time 950,000
Schedule of Programs:
Contracts and Grants 950,000

The Legislature intends that $600,000 of the one-time appropriations in House Bill 2, Public Education Budget Amendments, Item 18 be used to award as a grant to a Utah non-profit entity that consists of educators and professionals that are focused on improving the lives of children to implement a program that connects pre-K through 2nd grade students in Utah elementary schools with a National Science Foundation supported organization that utilizes software instruction to improve social skills in neurotypical and neurodivergent children. The entity and schools must be selected prior to the 2023/2024 school year to allow for a full school year program deployment and analysis. Baseline and ongoing data collection that is aligned with performance measures should be implemented to track and report on student participant improvements in social and emotional skills. This data and program should be analyzed and compared to similar programs and student participants using different methods, as well as non-participant students. Targeted social skills for improvement shall include self-esteem, confidence, eye contact, listening, facial expressions, good posture, answering and asking questions, greeting and closing conversations, self-regulation and mindfulness, developing solutions, good manners, making friends, resolving conflict, and caring for self. Other issues that shall be considered include sensory integration, working memory, attention span, processing speed, auditory processing, anxiety, depression, and coordination.

Item 460
To State Board of Education – Contracted Initiatives and Grants
From Income Tax Fund 36,700
Schedule of Programs:
Utah Fits All Scholarship Program 36,700

To implement the provisions of *Funding for Teacher Salaries and Optional Education Opportunities* (House Bill 215, 2023 General Session).

Item 461
To State Board of Education – Contracted Initiatives and Grants
From General Fund 36,700
From Income Tax Fund 73,400
Schedule of Programs:
Carson Smith Scholarships 36,700
Special Needs Opportunity Scholarship Administration 36,700
Utah Fits All Scholarship Program 36,700

To implement the provisions of *Education Scholarship Amendments* (Senate Bill 77, 2023 General Session).

Item 462
To State Board of Education – Contracted Initiatives and Grants
From Income Tax Fund ..... (24,234,100)
Schedule of Programs:
UPSTART ..... (24,234,100)

To implement the provisions of *Upstart Program Amendments* (Senate Bill 258, 2023 General Session).

Item 463
To State Board of Education – MSP Categorical Program Administration

From Income Tax Fund 141,800
Schedule of Programs:
State Safety and Support Program 141,800

To implement the provisions of *School Absenteeism Amendments* (House Bill 400, 2023 General Session).

Item 464
To State Board of Education – System Standards & Accountability
From Revenue Transfers, One–Time ..... (3,215,900)
Schedule of Programs:
Assessment and Accountability ..... (3,215,900)

Item 465
To State Board of Education – System Standards & Accountability
From Income Tax Fund 92,500
Schedule of Programs:
Teaching and Learning 92,500

To implement the provisions of *Sensitive Material Requirements* (House Bill 138, 2023 General Session).

Item 466
To State Board of Education – System Standards & Accountability
From Income Tax Fund 800,000
Schedule of Programs:
Teaching and Learning 800,000

To implement the provisions of *Prime Pilot Program Amendments* (House Bill 318, 2023 General Session).

Item 467
To State Board of Education – State Charter School Board
From Income Tax Fund 5,100
Schedule of Programs:
State Charter School Board & Administration 5,100

Item 468
To State Board of Education – State Charter School Board
From Uniform School Fund, One–Time 5,000
Schedule of Programs:
State Charter School Board & Administration 5,000

To implement the provisions of *Charter School Authorizers Modifications* (Senate Bill 65, 2023 General Session).

Item 469
To State Board of Education – Utah Schools for the Deaf and the Blind
From Income Tax Fund 400
From Dedicated Credits Revenue 200
Schedule of Programs:
Administration 600

Item 470
To State Board of Education – Statewide Online Education Program Subsidy
From Income Tax Fund 40,400
Schedule of Programs:
Statewide Online Education Program ... 40,400

To implement the provisions of *Statewide Online Education Program Modifications* (Senate Bill 167, 2023 General Session).

Item 471
To State Board of Education – State Board and Administrative Operations
From Income Tax Fund 51,800
Schedule of Programs:
Board and Administration 51,800

Item 472
To State Board of Education – State Board and Administrative Operations
From Income Tax Fund 146,800
Schedule of Programs:
Data and Statistics 146,800

To implement the provisions of *Education Related Amendments* (House Bill 249, 2023 General Session).

Item 473
To State Board of Education – State Board and Administrative Operations
From Income Tax Fund, One–Time 161,500
Schedule of Programs:
Information Technology 161,500

To implement the provisions of *Reciprocal Professional Licensing Amendments* (Senate Bill 35, 2023 General Session).

Item 474
To State Board of Education – State Board and Administrative Operations
From Income Tax Fund 36,400
Schedule of Programs:
Information Technology 36,400

To implement the provisions of *Statewide Online Education Program Modifications* (Senate Bill 167, 2023 General Session).

Item 475
To State Board of Education – State Board and Administrative Operations
From Income Tax Fund, One–Time 192,900
Schedule of Programs:
Information Technology 192,900

To implement the provisions of *State Board of Education Amendments* (Senate Bill 257, 2023 General Session).

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 476
To School and Institutional Trust Fund Office
From School and Institutional Trust Fund Management Acct. 5,700
Schedule of Programs:
School and Institutional Trust Fund Office 5,700

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 477
To Capitol Preservation Board
From Dedicated Credits Revenue 1,400
Schedule of Programs:
Capitol Preservation Board 1,400

Item 478
To Capitol Preservation Board
From Dedicated Credits Revenue 319,100
From Expendable Receipts 10,000
From Beginning Nonlapsing Balances 1,508,800
From Closing Nonlapsing Balances ... (1,154,800)
Schedule of Programs:
Capitol Preservation Board 683,100

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

LEGISLATURE

Item 479
To Legislature – Senate
From General Fund 130,500
Schedule of Programs:
Administration 130,500

Item 480
To Legislature – Senate
From General Fund 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *Criminal Code Evaluation Task Force Sunset Extension* (House Bill 47, 2023 General Session).

Item 481
To Legislature – Senate
From General Fund, One–Time 3,200
Schedule of Programs:
Administration 3,200

To implement the provisions of *Medical Cannabis Governance Revisions* (House Bill 72, 2023 General Session).

Item 482
To Legislature – Senate
From General Fund 3,200
Schedule of Programs:
Administration 3,200

To implement the provisions of *Justice Court Changes* (House Bill 210, 2023 General Session).

Item 483
To Legislature – Senate
From General Fund 500
Schedule of Programs:
Administration 500

To implement the provisions of *Utah Victim Services Commission and Victim Services* (House Bill 244, 2023 General Session).

Item 484
To Legislature – Senate
From General Fund, One–Time 9,600
Schedule of Programs:
Administration 9,600

To implement the provisions of *Criminal Justice Data Management Task Force Sunset Extension* (House Bill 362, 2023 General Session).

Item 485
To Legislature – Senate
From General Fund 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *State Olympic Coordination Amendments* (House Bill 430, 2023 General Session).

Item 486
To Legislature – Senate
From General Fund 13,600
Schedule of Programs:
Administration 13,600

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (House Joint Resolution 6, 2023 General Session).

Item 487
To Legislature – Senate
From General Fund 2,400
Schedule of Programs:
Administration 2,400

To implement the provisions of *Retirement and Independent Entities Amendments* (Senate Bill 21, 2023 General Session).

Item 488
To Legislature – Senate
From General Fund 1,600
Schedule of Programs:
Administration 1,600

To implement the provisions of *State Employee Benefits Amendments* (Senate Bill 22, 2023 General Session).

Item 489
To Legislature – Senate
From General Fund 15,000
Schedule of Programs:
Administration 15,000

To implement the provisions of *Energy Producer States' Agreement Amendments* (Senate Bill 48, 2023 General Session).

Item 490
To Legislature – House of Representatives
From General Fund 132,300
Schedule of Programs:
Administration 132,300

Item 491
To Legislature – House of Representatives
From General Fund 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *Criminal Code Evaluation Task Force Sunset Extension* (House Bill 47, 2023 General Session).

Item 492
To Legislature – House of Representatives
From General Fund, One–Time 6,400
Schedule of Programs:
Administration 6,400

To implement the provisions of *Medical Cannabis Governance Revisions* (House Bill 72, 2023 General Session).

Item 493
To Legislature – House of Representatives

From General Fund 3,200
Schedule of Programs:
Administration 3,200

To implement the provisions of *Justice Court Changes* (House Bill 210, 2023 General Session).

Item 494
To Legislature – House of Representatives
From General Fund 500
Schedule of Programs:
Administration 500

To implement the provisions of *Utah Victim Services Commission and Victim Services* (House Bill 244, 2023 General Session).

Item 495
To Legislature – House of Representatives
From General Fund, One-Time 9,600
Schedule of Programs:
Administration 9,600

To implement the provisions of *Criminal Justice Data Management Task Force Sunset Extension* (House Bill 362, 2023 General Session).

Item 496
To Legislature – House of Representatives
From General Fund 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *State Olympic Coordination Amendments* (House Bill 430, 2023 General Session).

Item 497
To Legislature – House of Representatives
From General Fund 21,400
Schedule of Programs:
Administration 21,400

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (House Joint Resolution 6, 2023 General Session).

Item 498
To Legislature – House of Representatives
From General Fund 3,600
Schedule of Programs:
Administration 3,600

To implement the provisions of *Retirement and Independent Entities Amendments* (Senate Bill 21, 2023 General Session).

Item 499
To Legislature – House of Representatives
From General Fund 1,600
Schedule of Programs:
Administration 1,600

To implement the provisions of *State Employee Benefits Amendments* (Senate Bill 22, 2023 General Session).

Item 500
To Legislature – House of Representatives
From General Fund 15,000
Schedule of Programs:
Administration 15,000

To implement the provisions of *Energy Producer States' Agreement Amendments* (Senate Bill 48, 2023 General Session).

Item 501
To Legislature – Office of Legislative Research and General Counsel
From General Fund 1,711,600
Schedule of Programs:
Administration 1,711,600

Item 502
To Legislature – Office of Legislative Research and General Counsel
From General Fund 1,400
Schedule of Programs:
Administration 1,400

To implement the provisions of *Criminal Code Evaluation Task Force Sunset Extension* (House Bill 47, 2023 General Session).

Item 503
To Legislature – Office of Legislative Research and General Counsel
From General Fund 1,400
Schedule of Programs:
Administration 1,400

To implement the provisions of *Justice Court Changes* (House Bill 210, 2023 General Session).

Item 504
To Legislature – Office of the Legislative Fiscal Analyst
From General Fund 324,000
Schedule of Programs:
Administration and Research 324,000

The Legislature intends that when drafting base budget bills for the 2024 General Session, the Legislative Fiscal Analyst shall reallocate ongoing Higher Education Performance Funding provided by New Fiscal Year Supplemental Appropriations Act (Senate Bill 2, 2023 General Session), Item 135, to individual institutions ongoing for FY 2025 based on the new performance funding model established in Utah Code Annotated title 53B Chapter 7 Part 7.

Item 505
To Legislature – Office of the Legislative Auditor General
From General Fund 420,300
Schedule of Programs:
Administration 420,300

Item 506
To Legislature – Office of the Legislative Auditor General
From General Fund 186,000
Schedule of Programs:
Administration 186,000

To implement the provisions of *Election Audit Requirements* (House Bill 269, 2023 General Session).

Item 507
To Legislature – Legislative Services
From General Fund 353,700
From Dedicated Credits Revenue 11,700

Schedule of Programs:
Administration 82,800
Information Technology 282,600

Item 508
To Legislature – Legislative Services
From General Fund 38,400
Schedule of Programs:
Pass–Through 38,400

To implement the provisions of *Energy Producer States' Agreement Amendments* (Senate Bill 48, 2023 General Session).

UTAH NATIONAL GUARD

Item 509
To Utah National Guard
From General Fund 200
From Federal Funds 2,000
Schedule of Programs:
Operations and Maintenance 2,200

Item 510
To Utah National Guard
From General Fund, One–Time 2,150,000
From General Fund Restricted –
West Traverse Sentinel
Landscape Fund, One–Time ..... (2,150,000)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 511
To Department of Veterans and Military Affairs – Veterans and Military Affairs
From General Fund 400
Schedule of Programs:
Administration 400

The Legislature intends that the department use the appropriation for Veterans Cemetery and Memorial Park Expansion in Senate Bill 2, 2023 General Session, to purchase property adjoining the Veterans Memorial Park in coordination with the Division of Facilities Construction and Management.

Item 512
To Department of Veterans and Military Affairs – DVMA Pass Through
From General Fund, One–Time 1,000,000
Schedule of Programs:
DVMA Pass Through 1,000,000

The Legislature intends that funds appropriated in this item for Best Defense Foundation be used to provide programs and services that benefit veterans who are Utah residents.

The Legislature intends that the department use the appropriation for Military Installations Sentinel Landscape in Senate Bill 2, 2023 General Session, to implement provisions of House Bill 265, Sentinel Landscape Amendments and application and administration of the Great Salt Lake Sentinel Landscape program. Funding may be used to secure on– and off–installation land easements for military installations throughout Utah in coordination with The Governor's Office of Economic Opportunity.

The Legislature intends that the department use the appropriation for Utah Defense Ecosystem Development in Senate Bill 2, 2023 General Session, to support Utah aerospace and defense initiatives. Funds may be used to develop industry workforce development plans, partner with the aerospace and defense community, and to develop the infrastructure industry needs such as a sensitive compartmentalized information facility in partnership with a state (or higher education) entity.

The Legislature intends that the department may use the appropriation for Veterans First Time Home Buyer Program in Senate Bill 2, 2023 General Session, to contract with the Utah Housing Corporation to administer the Veterans First Time Home Buyer Program. The department may use up to five percent for administrative costs.

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 513
To Governor's Office – Crime Victim Reparations Fund
From Crime Victim Reparations Fund 50,000
Schedule of Programs:
Crime Victim Reparations Fund 50,000

To implement the provisions of *Victim Services Amendments* (House Bill 297, 2023 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 514
To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund
From Liquor Control Fund 3,104,000
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 3,104,000

To implement the provisions of *Drug and Alcohol Enforcement Amendments* (House Bill 223, 2023 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 515
To Department of Government Operations – State Debt Collection Fund
From Dedicated Credits Revenue 109,400
Schedule of Programs:
State Debt Collection Fund 109,400

TRANSPORTATION

Item 516
To Transportation – Marda Dillree Corridor Preservation Fund

The Legislature intends that the Department of Transportation allocate a portion of the corridor preservation funds appropriated to the Marda Dillree Corridor Preservation Fund in the New Fiscal Year Supplemental Appropriations Act, Senate Bill 2, Item 199, for FrontRunner preservation between Provo and Payson.

Item 517
To Transportation – Office of Rail Safety Account
From General Fund, One-Time 379,500
From Dedicated Credits Revenue 259,000
From Dedicated Credits Revenue, One-Time ..... (259,000)
Schedule of Programs:
Office of Rail Safety Account 379,500

To implement the provisions of *Office of Rail Safety* (House Bill 63, 2023 General Session).

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 518
To Department of Commerce – Consumer Protection Education and Training Fund
From Licenses/Fees 22,400
Schedule of Programs:
Consumer Protection Education and Training Fund 22,400

Item 519
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 7,900
Schedule of Programs:
Securities Investor Education/ Training/Enforcement Fund 7,900

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 520
To Department of Workforce Services – Olene Walker Low Income Housing
From General Fund, One-Time 5,000,000
Schedule of Programs:
Olene Walker Low Income Housing 5,000,000

The Legislature intends that no funding shall be released for "Deeply Affordable Housing" without federal approval of matching American Rescue Plan Act funds. The Legislature further intends that the recipient of this appropriation shall provide a report to the Social Services Appropriations Subcommittee no later than October 1, 2023 with a summary of (1) Project investments including units built, location, AMI served, remaining funds, and program fund balance; (2) Projects developed utilizing these funds should be deed restricted for 50 years; and (3) Projects funded under this program shall not be eligible for subsequent credits for rehabilitation.

The Legislature intends that the $5 million appropriated in Senate Bill 2, Item 94, for Shared Equity Revolving Loan Fund be allocated giving preference to veterans.

Item 521
To Department of Workforce Services – Olene Walker Low Income Housing
From General Fund, One-Time 50,000,000
Schedule of Programs:
Olene Walker Low Income Housing 50,000,000

To implement the provisions of *First-time Homebuyer Assistance Program* (Senate Bill 240, 2023 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 522
To Department of Agriculture and Food – Railroad Livestock Damage Fund
From Dedicated Credits Revenue, One-Time 103,900
Schedule of Programs:
Railroad Livestock Damage Fund 103,900

To implement the provisions of *Livestock Collision Amendments* (Senate Bill 61, 2023 General Session).

DEPARTMENT OF NATURAL RESOURCES

Item 523
To Department of Natural Resources – Wildland Fire Suppression Fund
From General Fund, One-Time ..... (5,000,000)
Schedule of Programs:
Wildland Fire Suppression Fund ... (5,000,000)

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 524
To Capitol Preservation Board – State Capitol Fund
From Dedicated Credits Revenue ..... (319,100)
From Beginning Fund Balance ..... (1,508,800)
From Closing Fund Balance 1,154,800
Schedule of Programs:

State Capitol Fund ..... (673,100)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 525
To Attorney General - ISF - Attorney General
From Dedicated Credits Revenue 8,566,900
Schedule of Programs:
Civil Division 5,377,700
Child Protection Division 1,692,600
Criminal Division 1,496,600

Notwithstanding the rates approved in Senate Bill 8, State Agency Fees and Internal Service Fund Rate Authorization and Appropriations, lines 1328-1335, the Legislature intends that the Attorney - Co-located Rate (per Hour) be 156.00, the Attorney - Office Rate (per Hour) be 161.00, the Paralegal - Co-located Rate (per Hour) be 73.00, and the Paralegal - Office Rate (per Hour) be 76.00 for the Fiscal Year beginning July 1, 2023, and ending June 30, 2024.

Item 526
To Attorney General - ISF - Attorney General
From Dedicated Credits Revenue 15,000
Schedule of Programs:
Civil Division 15,000
Budgeted FTE 0.1

To implement the provisions of *Vaccine Passport Prohibition* (House Bill 131, 2023 General Session).

Item 527
To Attorney General - ISF - Attorney General
From Dedicated Credits Revenue 61,300
Schedule of Programs:
Criminal Division 61,300
Budgeted FTE 0.3

To implement the provisions of *Commercial Email Act* (Senate Bill 225, 2023 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 528
To Department of Government Operations - Risk Management
From General Fund Restricted - State Disaster Recovery Restr Acct, One-Time 25,000,000
Schedule of Programs:
Risk Management - Property 25,000,000

The Legislature intends that the $25 million from the Disaster Recovery Fund provided by this item shall only be used to cover insurance deductibles in the event of an earthquake. Should the funds not be use for this purpose at the end of FY 2024, they shall lapse back to the Disaster Recovery Fund.

Item 529
To Department of Government Operations - Enterprise Technology Division
From Dedicated Credits Revenue, One-Time 7,200
Schedule of Programs:
ISF - Agency Services Division 7,200

To implement the provisions of *Elections Record Amendments* (House Bill 303, 2023 General Session).

Item 530
To Department of Government Operations - Human Resources Internal Service Fund
From General Fund 600
Schedule of Programs:
Administration 600

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 531
To Department of Alcoholic Beverage Services - State Store Land Acquisition Fund
From General Fund, One-Time 140,000,000
Schedule of Programs:
State Store Land Acquisition Fund 140,000,000

The Legislature intends that the Department of Alcoholic Beverage Services borrow $140,000,000 for the Warehouse Expansion, Moab Replacement Store, Ogden Area New Store, and Roy Replacement Store.

LABOR COMMISSION

Item 532
To Labor Commission - Uninsured Employers Fund
From Dedicated Credits Revenue 55,100
From Interest Income 1,200
From Premium Tax Collections 14,800
From Trust and Agency Funds 200

Schedule of Programs:
Uninsured Employers Fund 71,300

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 533
To Department of Health and Human Services – Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 4,900
Schedule of Programs:
Qualified Patient Enterprise Fund 4,900

Item 534
To Department of Health and Human Services – Qualified Patient Enterprise Fund
From Dedicated Credits Revenue ..... (395,600)
Schedule of Programs:
Qualified Patient Enterprise Fund .. (395,600)

To implement the provisions of *Medical Cannabis Governance Revisions* (House Bill 72, 2023 General Session).

Item 535
To Department of Health and Human Services – Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 104,500
Schedule of Programs:
Qualified Patient Enterprise Fund 104,500

To implement the provisions of *Center for Medical Cannabis Research* (House Bill 230, 2023 General Session).

Item 536
To Department of Health and Human Services – Qualified Patient Enterprise Fund
From Dedicated Credits Revenue ..... (491,800)
Schedule of Programs:
Qualified Patient Enterprise Fund .. (491,800)

To implement the provisions of *Medical Cannabis Amendments* (Senate Bill 137, 2023 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 537
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Qualified Production Enterprise Fund ..... (144,500)
From Qualified Production Enterprise Fund, One-Time ..... (200,000)
Schedule of Programs:
Qualified Production Enterprise Fund ..... (344,500)

Item 538
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Dedicated Credits Revenue 566,200
From Dedicated Credits Revenue, One-Time 77,500
From Closing Fund Balance ..... (170,600)
Schedule of Programs:
Qualified Production Enterprise Fund 473,100

To implement the provisions of *Medical Cannabis Governance Revisions* (House Bill 72, 2023 General Session).

Item 539
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Dedicated Credits Revenue 2,500
Schedule of Programs:
Qualified Production Enterprise Fund ... 2,500

To implement the provisions of *Center for Medical Cannabis Research* (House Bill 230, 2023 General Session).

Item 540
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Dedicated Credits Revenue ..... (14,800)
Schedule of Programs:
Qualified Production Enterprise Fund ..... (14,800)

To implement the provisions of *Medical Cannabis Regulation Amendments* (Senate Bill 91, 2023 General Session).

Item 541
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Dedicated Credits Revenue 44,000
From Dedicated Credits Revenue, One-Time ..... (22,000)
Schedule of Programs:
Qualified Production Enterprise Fund .. 22,000

To implement the provisions of *Medical Cannabis Amendments* (Senate Bill 137, 2023 General Session).

Item 542
To Department of Agriculture and Food – Agriculture Resource Development Fund
From General Fund, One-Time ..... (5,000,000)
Schedule of Programs:
Agriculture Resource Development Fund ..... (5,000,000)

DEPARTMENT OF NATURAL RESOURCES

Item 543
To Department of Natural Resources – Water Resources Conservation & Development Fund
From General Fund, One-Time 50,000,000
Schedule of Programs:
Water Resources Conservation & Development Fund 50,000,000

The Legislature intends that the $50,000,000 one-time General Fund provided by this item for Wasatch Front Aqueduct Resilience be used for loans or grants.

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to

which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 544
To General Fund Restricted – Indigent Defense Resources Account
From General Fund 1,450,000
From General Fund, One-Time 700,000
Schedule of Programs:
General Fund Restricted – Indigent Defense Resources Account 2,150,000

Item 545
To Victim Services Restricted Account
From General Fund 12,000,000
From General Fund, One-Time 12,500,000
Schedule of Programs:
Victim Services Restricted Account 24,500,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 546
To Rural Transportation Infrastructure Fund
From Transportation Fund 7,500,000
From Transportation Fund, One-Time ..... (4,400,000)
Schedule of Programs:
Rural Transportation Infrastructure Fund 3,100,000

To implement the provisions of *Rural Transportation Infrastructure Fund* (Senate Bill 175, 2023 General Session).

Item 547
To Active Transportation Investment Fund

The Legislature intends that the Department of Transportation transfer $17,000,0000 from the Active Transportation Investment Fund to the Mountainland Association of Governments to reimburse local funds committed on an active transportation project in Provo Canyon.

Item 548
To Active Transportation Investment Fund
From General Fund, One-Time 45,000,000
From Transportation Investment Fund of 2005 45,000,000
Schedule of Programs:
Active Transportation Investment Fund 90,000,000

To implement the provisions of *Transportation Amendments* (Senate Bill 185, 2023 General Session).

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 549
To General Fund Restricted – Industrial Assistance Account
From General Fund, One-Time 18,929,100
Schedule of Programs:
General Fund Restricted – Industrial Assistance Account 18,929,100

Item 550
To State Mandated Insurer Payments Restricted
From General Fund 8,778,000
Schedule of Programs:
State Mandated Insurer Payments Restricted 8,778,000

SOCIAL SERVICES

Item 551
To General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account
From General Fund, One-Time 2,500,000
Schedule of Programs:
General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account 2,500,000

To implement the provisions of *Homeless Services Amendments* (House Bill 499, 2023 General Session).

Item 552
To Medicaid Expansion Fund
From General Fund, One-Time ..... (3,700)
From Dedicated Credits Revenue 19,300,000
From Beginning Fund Balance 20,881,700
From Closing Fund Balance ..... (51,035,900)
Schedule of Programs:
Medicaid Expansion Fund ..... (10,857,900)

Item 553
To Psychiatric Consultation Program Account
From General Fund ..... (322,800)
Schedule of Programs:
Psychiatric Consultation Program Account ..... (322,800)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Item 554
To Survivors of Suicide Loss Account
From General Fund ..... (40,000)
Schedule of Programs:
Survivors of Suicide Loss Account .... (40,000)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Item 555
To General Fund Restricted – Children's Hearing Aid Program Account
From General Fund ..... (291,600)
From Beginning Fund Balance ..... (326,300)
From Closing Fund Balance 326,300
Schedule of Programs:
General Fund Restricted – Children's Hearing Aid Account ..... (291,600)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Item 556
To Correctional Institution Clinical Services Transition Account
From General Fund 49,020,600
From General Fund, One-Time 650,400
From Dedicated Credits Revenue, One-Time 629,800

Schedule of Programs:
Correctional Institution Clinical Services Transition Account 50,300,800

The Legislature intends that the Department of Corrections work with the Department of Health and Human Services over the 2023 interim to fully transfer provision of medical services at state correctional institutions to the Department of Health and Human Services by July 1, 2024. During the transition, the Department of Corrections and Department of Health and Human Services may both access spending authority provided from the Correctional Institution Clinical Services Transition Account. However, the two departments combined may not spend more than the amount transferred into the account from the General Fund in FY 2024. The Legislature intends that the departments report progress on the transition to the Executive Offices and Criminal Justice Appropriations Subcommittee at each of the subcommittee meetings in the 2023 Interim and again at the start of the 2024 General Session.

Item 557
To Correctional Institution Clinical Services Transition Account
From General Fund 211,300
Schedule of Programs:
Correctional Institution Clinical Services Transition Account 211,300

To implement the provisions of *Inmate Amendments* (Senate Bill 188, 2023 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 558
To General Fund Restricted – Mule Deer Protection Account
From General Fund ..... (250,000)
Schedule of Programs:
General Fund Restricted – Mule Deer Protection ..... (250,000)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

PUBLIC EDUCATION

Item 559
To Local Levy Growth Account
From Uniform School Fund 19,092,000
Schedule of Programs:
Local Levy Growth Account 19,092,000

To implement the provisions of *Public Education Funding Equalization* (Senate Bill 83, 2023 General Session).

EXECUTIVE APPROPRIATIONS

Item 560
To West Traverse Sentinel Landscape Fund
From General Fund, One-Time ..... (2,150,000)
Schedule of Programs:
West Traverse Sentinel Landscape Fund ..... (2,150,000)

To implement the provisions of *Funds Amendments* (Senate Bill 272, 2023 General Session).

Subsection 2(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

STATE TREASURER

Item 561
To State Treasurer – Navajo Trust Fund
From Trust and Agency Funds 3,700
Schedule of Programs:
Utah Navajo Trust Fund 3,700

PUBLIC EDUCATION

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 562
To School and Institutional Trust Fund Office – Permanent State School Fund
From Public Education Economic Stabilization Restricted Account, One-Time 160,954,900
Schedule of Programs:
Permanent State School Fund 160,954,900

Subsection 2(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 563
To Capital Budget – DFCM Capital Projects Fund
From General Fund, One-Time 15,000,000
Schedule of Programs:
DFCM Capital Projects Fund 15,000,000

The Legislature intends that in conjunction with the construction of the Department of Veterans Affairs West Valley Veterans Nursing Home, the Division of Facilities Construction and Management (DFCM) relocate the Department of Public Safety driving range to other state-owned property. The Legislature further intends that the Utah Department of Transportation transfer the 14.8-acre parcel which the driving range encumbers to DFCM for the West Valley Veterans Home.

The Legislature intends that the Division of Facilities Construction and Management use up to $15,000,000 from the Capital Projects Fund for demolition of the old state prison.

Item 564
To Capital Budget – State Agency Capital Development Fund

From General Fund, One-Time 35,000,000
Schedule of Programs:
State Agency Capital Development Fund 35,000,000

The Legislature intends that the Division of Facilities Construction and Management use up to $35,000,000 from the State Agency Capital Development Fund for the Richfield Regional Center and the Farmington Regional Center.

Item 565
To Capital Budget - State Agency Capital Development Fund
From Income Tax Fund, One-Time 125,000,000
Schedule of Programs:
State Agency Capital Development Fund 125,000,000

To implement the provisions of *State Agency Capital Development Fund* (Senate Bill 168, 2023 General Session).

The Legislature intends that, should revenue collections for fiscal year 2023 and revised revenue projections for fiscal year 2024 be sufficient to support all existing appropriations from the General and Income Tax Funds for those years including the $335,000,000 ongoing and $440,000,000 one-time appropriation contained in Debt Service-G.O. Bonds-Higher Ed of this Act, the Legislative Fiscal Analyst shall, when drafting the base budget bills for the 2024 legislative General Session, rescind this appropriation from Income Tax Funds, apply those funds to qualified program base budgets freeing-up General Fund money one-time in fiscal year 2025, and replace this appropriation with a one-time appropriation of up to $125,000,000 from the General Fund for the State Building Infrastructure Fund in fiscal year 2025.

The Legislature intends that the Division of Facilities Construction Management does not commit, encumber, or expend this appropriation until after the tenth day of the 2024 legislative General Session.

TRANSPORTATION

Item 566
To Transportation - Transportation Investment Fund of 2005

The Legislature intends that the Department of Transportation use $4,000,000 appropriated to the Transportation Investment Fund in the New Fiscal Year Supplemental Appropriations Act, Senate Bill 2, Item 235, to conduct an environmental analysis for an interchange on I-15 at Santaquin Main Street.

Section 3. FY 2024 Appropriations Limit Formula.

The state appropriations limit for a given fiscal year, FY, shall be calculated by

$$ApproplLimit_{FY} = PerCapitaBase_{1985} \times Pop_{FY-2} \times Inflate_{FY-2} \times SumAdjust_{FY}$$

, where:

(a) $$Inflate_{Base} = \frac{GNPIndex_{vintage,1983}}{GNPIndex_{vintage,1989}} = \frac{(100.8+101.7+102.5+103.3)/4}{(121.9+123.3+124.5+125.9)/4} = \frac{102.075}{123.900}$$

(b) $$Inflate_{FY-2} = \frac{GNPIndex_{FY-2}}{GNPIndex_{1983}} \times Inflate_{Base}$$

(c) $$PerCapitaBase_{1985} = \frac{Appropriations_{1985} - Debt_{1985}}{Pop_{1983} \times Inflate_{Base}} = \frac{734,333,000 - 52,273,100}{1,594,943 \times \left(\frac{102.075}{123.900}\right)}$$

(d) $$SumAdjust_{FY} = \sum_{i=1985}^{FY} \left[Adjust_i \times \left(\frac{Inflate_{FY-2}}{Inflate_{i-2}} \right) \times \left(\frac{Pop_{FY-2}}{Pop_{i-2}} \right) \right]$$

(e) as used in the state appropriations limit formula:

(i) i is a variable representing a given fiscal year;

(ii) $Adjust_i$ is the net adjustments to the state appropriations limit for a given fiscal year due to program or service adjustments, as required under Section 63J-3-203;

(iii) $Appropriations_{1985}$ is the state capital and operations appropriations from the General Fund and non-Uniform School fund in fiscal year 1985;

(iv) $Debt_{1985}$ is the amount the state paid in debt payments in fiscal year 1985;

(v) $GNPIndex_{FY-2}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for the fiscal year two fiscal years before FY, as published by the United States Federal Reserve by January 31 of each year;

(vi) $GNPIndex_{vintage,i}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for a given fiscal year, as measured by the Gross National Product Implicit Price Deflator from the vintage series published by the United States Department of Commerce on January 26, 1990;

(vii) $Inflate_{i-2}$ is the change in the general price level of goods and services nationally from 1983 to two fiscal years before a given fiscal year, as measured by the most current Gross National Product Implicit Price Deflator series published by the United States Federal Reserve, adjusted to a 1989 basis;

(viii) $PerCapitaBase_{1985}$ is the amount of real per capita state appropriations for fiscal year 1985; and

(ix) Pop_{i-2} is:

(A) the population as of July 1 in the fiscal year two fiscal years before a given fiscal year, as estimated by the United States Census Bureau by January 31 of each year; or

(B) if the estimate described in Subsection (3)(e)(ix)(A) is not available, an amount determined by the Governor's Office of Management and Budget, estimated by adjusting an available April 1 decennial census count or by adjusting a fiscal year population estimate available from the United States Census Bureau.

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2023.

CHAPTER 487
S. B. 8
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
- authorizes certain state agency fees;
- authorizes internal service fund rates;
- adjusts funding for the impact of Internal Service Fund rate changes; and
- provides budget increases and decreases for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates $22,055,700 in operating and capital budgets for fiscal year 2024, including:

- $10,012,500 from the General Fund;
- $2,308,100 from the Income Tax Fund; and
- $9,735,100 from various sources as detailed in this bill.

This bill appropriates $133,400 in expendable funds and accounts for fiscal year 2024, including:

- $18,300 from the General Fund; and
- $115,100 from various sources as detailed in this bill.

This bill appropriates $27,200 in business-like activities for fiscal year 2024.

This bill appropriates $3,200 in restricted fund and account transfers for fiscal year 2024, all of which is from the General Fund.

This bill appropriates $12,400 in fiduciary funds for fiscal year 2024.

Other Special Clauses:

This bill takes effect on July 1, 2023.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From General Fund 13,800
From Federal Funds 3,000
From Dedicated Credits Revenue 700
From General Fund Restricted –
Consumer Privacy Account 100
From Revenue Transfers 700
Schedule of Programs:
Administration 3,900
Civil 300
Criminal Prosecution 14,100

BOARD OF PARDONS AND PAROLE

Item 2
To Board of Pardons and Parole
From General Fund 63,800
Schedule of Programs:
Board of Pardons and Parole 63,800

UTAH DEPARTMENT OF CORRECTIONS

Item 3
To Utah Department of Corrections –
Programs and Operations
From General Fund 1,661,300
Schedule of Programs:
Adult Probation and Parole
Administration 82,300
Adult Probation and Parole Programs ... 55,900
Department Administrative
Services 1,461,300
Department Executive Director 29,500
Department Training 4,600
Prison Operations Administration 11,300
Prison Operations Central
Utah/Gunnison 9,600
Prison Operations Inmate Placement 4,000
Programming Administration 700
Programming Skill Enhancement 600
Programming Treatment 2,400
Prison Operations Utah State
Correctional Facility ..... (900)

Item 4
To Utah Department of Corrections –
Department Medical Services
From General Fund 64,000
Schedule of Programs:
Medical Services 64,000

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 5
To Judicial Council/State Court Administrator –
Administration
From General Fund 110,000
From Dedicated Credits Revenue 100
From General Fund Restricted –
Children's Legal Defense 900
From General Fund Restricted –
Court Trust Interest 4,500

From General Fund Rest. - Justice Court Tech., Security & Training 1,300
From General Fund Restricted - Nonjudicial Adjustment Account 100
Schedule of Programs:
Administrative Office 109,400
District Courts 4,000
Juvenile Courts 3,500

Item 6
To Judicial Council/State Court Administrator Contracts and Leases
From General Fund 195,300
From Dedicated Credits Revenue 3,000
From General Fund Restricted - State Court Complex Account 51,700
Schedule of Programs:
Contracts and Leases 250,000

Item 7
To Judicial Council/State Court Administrator- Guardian ad Litem
From General Fund 800
From General Fund Restricted - Children's Legal Defense 100
Schedule of Programs:
Guardian ad Litem 900

GOVERNOR'S OFFICE

Item 8
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund 20,300
From Federal Funds 12,300
From Crime Victim Reparations Fund 300
Schedule of Programs:
CCJJ Commission 7,600
Judicial Performance Evaluation Commission 2,600
Sentencing Commission 300
Utah Office for Victims of Crime 22,400

Item 9
To Governor's Office
From General Fund 57,200
From Dedicated Credits Revenue 22,500
Schedule of Programs:
Administration 28,500
Governor's Residence 900
Lt. Governor's Office 50,300

Item 10
To Governor's Office - Governors Office of Planning and Budget
From General Fund 24,500
Schedule of Programs:
Administration 5,200
Management and Special Projects 1,700
Budget, Policy, and Economic Analysis 17,200
Planning Coordination 400

Item 11
To Governor's Office - Indigent Defense Commission
From Expendable Receipts 200
From General Fund Restricted - Indigent Defense Resources 3,900
From Revenue Transfers 200
Schedule of Programs:
Office of Indigent Defense Services 4,300

Item 12
To Governor's Office - Colorado River Authority of Utah
From Expendable Receipts 200
From General Fund Restricted - Colorado River Authority of Utah Restricted Account 2,100
Schedule of Programs:
Colorado River Authority of Utah 2,300

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 13
To Department of Health and Human Services - Division of Juvenile Justice Services - Juvenile Justice & Youth Services
From General Fund 184,000
From Federal Funds 6,500
From Dedicated Credits Revenue 3,700
From General Fund Restricted - Juvenile Justice Reinvestment Account 2,600
From Revenue Transfers 2,100
Schedule of Programs:
Juvenile Justice & Youth Services 54,800
Secure Care 40,800
Youth Services 87,600
Community Programs 15,700

OFFICE OF THE STATE AUDITOR

Item 14
To Office of the State Auditor - State Auditor
From General Fund 8,800
From Dedicated Credits Revenue 7,900
Schedule of Programs:
State Auditor 16,700

DEPARTMENT OF PUBLIC SAFETY

Item 15
To Department of Public Safety - Driver License
From Federal Funds 3,900
From Dedicated Credits Revenue 100
From Department of Public Safety Restricted Account 322,900
From Pass-through 300
Schedule of Programs:
DL Federal Grants 3,900
Driver License Administration 500
Driver Records 195,500
Driver Services 127,300

Item 16
To Department of Public Safety - Emergency Management
From General Fund 2,500
From Federal Funds 34,000
Schedule of Programs:
Emergency Management 36,500

Item 17
To Department of Public Safety - Highway Safety
From Federal Funds 3,500
From Department of Public Safety Restricted Account 600
From Revenue Transfers 400
Schedule of Programs:

Highway Safety 4,500

Item 18
To Department of Public Safety –
Peace Officers' Standards and Training
From General Fund ..... (165,100)
From Dedicated Credits Revenue ..... (7,600)
Schedule of Programs:
Basic Training ..... (183,300)
POST Administration 9,000
Regional/Inservice Training 1,600

Item 19
To Department of Public Safety –
Programs & Operations
From General Fund 913,800
From Federal Funds 5,900
From Dedicated Credits Revenue 34,600
From Expendable Receipts 400
From Department of Public Safety
Restricted Account 52,300
From General Fund Restricted –
Fire Academy Support 12,300
From Gen. Fund Rest. – Motor
Vehicle Safety Impact Acct. 2,700
From General Fund Restricted –
Reduced Cigarette Ignition Propensity
& Firefighter Protection Account 300
From Revenue Transfers 2,900
From Gen. Fund Rest. – Utah Highway
Patrol Aero Bureau 100
Schedule of Programs:
Aero Bureau 2,100
CITS Administration 1,200
CITS Communications 29,300
CITS State Bureau of Investigation 31,600
CITS State Crime Labs 34,800
Department Commissioner's Office 711,100
Department Grants 9,200
Department Intelligence Center 9,000
Fire Marshal – Fire Fighter Training 500
Fire Marshal – Fire Operations 13,500
Highway Patrol – Administration 4,800
Highway Patrol – Commercial Vehicle ... 2,800
Highway Patrol – Federal/State Projects .. 200
Highway Patrol – Field Operations 67,500
Highway Patrol – Protective Services 5,300
Highway Patrol – Safety Inspections 800
Highway Patrol – Special Enforcement 300
Highway Patrol – Special Services 24,100
Highway Patrol – Technology
Services 44,000
Information Management –
Operations 33,200

Item 20
To Department of Public Safety –
Bureau of Criminal Identification
From General Fund 35,200
From Dedicated Credits Revenue 70,000
From General Fund Restricted –
Concealed Weapons Account 53,700
Schedule of Programs:
Non-Government/Other Services 158,900

STATE TREASURER

Item 21
To State Treasurer
From General Fund 5,100
From Dedicated Credits Revenue 6,300
From Land Trusts Protection and
Advocacy Account 500
From Unclaimed Property Trust 15,700
Schedule of Programs:
Advocacy Office 500
Treasury and Investment 11,400
Unclaimed Property 15,700

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 22
To Career Service Review Office
From General Fund 1,200
Schedule of Programs:
Career Service Review Office 1,200

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 23
To Department of Government Operations –
Administrative Rules
From General Fund 2,300
Schedule of Programs:
DAR Administration 2,300

Item 24
To Department of Government
Operations – DFCM Administration
From General Fund 72,000
From Income Tax Fund 4,500
From Dedicated Credits Revenue 12,300
From Capital Projects Fund 22,900
Schedule of Programs:
DFCM Administration 56,800
Energy Program 4,900
Governor's Residence 50,000

Item 25
To Department of Government
Operations – Executive Director
From General Fund 1,600
From Dedicated Credits Revenue 600
Schedule of Programs:
Executive Director 2,200

Item 26
To Department of Government
Operations – Finance – Mandated
From General Fund 355,200
Schedule of Programs:
State Employee Benefits 355,200

Item 27
To Department of Government Operations –
Finance – Mandated – Ethics Commissions
From General Fund 200
Schedule of Programs:
Political Subdivisions Ethics
Commission 200

Item 28
To Department of Government Operations –
Finance Administration
From General Fund 89,200
From Transportation Fund 1,100
From Dedicated Credits Revenue 27,900

From Gen. Fund Rest. - Internal Service Fund Overhead 4,200
Schedule of Programs:
Finance Director's Office 8,500
Financial Information Systems 17,300
Financial Reporting 76,200
Payables/Disbursing 17,900
Payroll 2,600
Technical Services ..... (100)

Item 29
To Department of Government Operations - Inspector General of Medicaid Services
From General Fund 4,600
From Medicaid Expansion Fund 100
From Revenue Transfers 8,000
Schedule of Programs:
Inspector General of Medicaid Services 12,700

Item 30
To Department of Government Operations - Judicial Conduct Commission
From General Fund 2,300
Schedule of Programs:
Judicial Conduct Commission 2,300

Item 31
To Department of Government Operations - Purchasing
From General Fund 1,000
Schedule of Programs:
Purchasing and General Services 1,000

Item 32
To Department of Government Operations - State Archives
From General Fund 28,800
Schedule of Programs:
Archives Administration 27,700
Patron Services 400
Preservation Services 100
Records Analysis 600

CAPITAL BUDGET

Item 33
To Capital Budget - Capital Improvements
From General Fund 600
From Income Tax Fund 700
Schedule of Programs:
Capital Improvements 1,300

TRANSPORTATION

Item 34
To Transportation - Aeronautics
From Aeronautics Restricted Account 53,500
Schedule of Programs:
Administration 53,500

Item 35
To Transportation - Highway System Construction
From Federal Funds 1,000
Schedule of Programs:
Federal Construction 1,000

Item 36
To Transportation - Engineering Services
From Transportation Fund ..... (200)
From Federal Funds ..... (100)
From Dedicated Credits Revenue 100
Schedule of Programs:
Engineering Services ..... (100)
Materials Lab 200
Preconstruction Admin ..... (100)
Program Development ..... (100)
Right-of-Way ..... (100)

Item 37
To Transportation - Operations/ Maintenance Management
From Transportation Fund 1,400
From Federal Funds 100
Schedule of Programs:
Field Crews 300
Maintenance Planning ..... (100)
Region 1 ..... (100)
Region 2 200
Region 3 ..... (100)
Region 4 500
Shops 900
Traffic Operations Center ..... (100)

Item 38
To Transportation - Region Management
From Transportation Fund 281,100
From Federal Funds 27,100
From Dedicated Credits Revenue 31,800
Schedule of Programs:
Region 2 ..... (100)
Region 3 ..... (200)
Region 4 340,300

Item 39
To Transportation - Support Services
From Transportation Fund 750,100
From Federal Funds 11,100
Schedule of Programs:
Administrative Services ..... (100)
Comptroller ..... (100)
Data Processing 689,000
Human Resources Management 71,000
Ports of Entry 1,400

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 40
To Department of Alcoholic Beverage Services - DABS Operations
From Liquor Control Fund 1,029,300
Schedule of Programs:
Administration 64,200
Executive Director 21,100
Operations 341,300
Stores and Agencies 591,600
Warehouse and Distribution 11,100

DEPARTMENT OF COMMERCE

Item 41
To Department of Commerce - Commerce General Regulation
From Federal Funds 600
From Dedicated Credits Revenue 3,300
From General Fund Restricted - Commerce Service Account 166,400
From General Fund Restricted - Factory Built Housing Fees 200

From Gen. Fund Rest. - Latino Community Support Rest. Acct 200
From General Fund Restricted - Public Utility Restricted Acct. 7,100
From Revenue Transfers 2,200
Schedule of Programs:
Administration 136,400
Consumer Protection 700
Corporations and Commercial Code 700
Occupational and Professional Licensing 32,800
Office of Consumer Services 100
Public Utilities 7,800
Real Estate 900
Securities 600

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 42
To Governor's Office of Economic Opportunity - Administration
From General Fund 28,000
Schedule of Programs:
Administration 28,000

Item 43
To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund 25,700
From Federal Funds 400
From Dedicated Credits Revenue 3,200
From General Fund Restricted - Industrial Assistance Account 200
From Rural Opportunity Fund 1,400
Schedule of Programs:
Business Services 10,700
Incentives and Grants 2,700
Strategic Initiatives 4,200
Systems and Control 13,300

Item 44
To Governor's Office of Economic Opportunity - Office of Tourism
From General Fund 8,900
From Dedicated Credits Revenue 700
From General Fund Rest. - Motion Picture Incentive Acct. 1,500
Schedule of Programs:
Film Commission 2,500
Tourism 8,600

Item 45
To Governor's Office of Economic Opportunity - Inland Port Authority
From General Fund 3,800
Schedule of Programs:
Inland Port Authority 3,800

Item 46
To Governor's Office of Economic Opportunity - Point of the Mountain Authority
From General Fund 200
Schedule of Programs:
Point of the Mountain Authority 200

FINANCIAL INSTITUTIONS

Item 47
To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions 20,000
Schedule of Programs:
Administration 20,000

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 48
To Department of Cultural and Community Engagement - Administration
From General Fund 91,500
From Dedicated Credits Revenue 1,400
Schedule of Programs:
Administrative Services 22,000
Executive Director's Office 6,700
Information Technology 64,100
Utah Multicultural Affairs Office 100

Item 49
To Department of Cultural and Community Engagement - Division of Arts and Museums
From General Fund 13,200
Schedule of Programs:
Administration 13,200

Item 50
To Department of Cultural and Community Engagement - Commission on Service and Volunteerism
From Federal Funds 900
Schedule of Programs:
Commission on Service and Volunteerism 900

Item 51
To Department of Cultural and Community Engagement - State History
From General Fund 6,300
Schedule of Programs:
Administration 6,100
Library and Collections 200

Item 52
To Department of Cultural and Community Engagement - State Library
From General Fund ..... (1,800)
From Dedicated Credits Revenue ..... (100)
From Revenue Transfers ..... (1,300)
Schedule of Programs:
Administration ..... (5,500)
Blind and Disabled 1,800
Bookmobile 500

Item 53
To Department of Cultural and Community Engagement - Stem Action Center
From General Fund 3,800
From Federal Funds 700
From Dedicated Credits Revenue 500
Schedule of Programs:
STEM Action Center 5,000

Item 54
To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission
From General Fund 2,900

From Dedicated Credits Revenue 1,100
Schedule of Programs:
Pete Suazo Athletics Commission 4,000

INSURANCE DEPARTMENT

Item 55
To Insurance Department - Insurance Department Administration
From General Fund Restricted - Captive Insurance 3,000
From General Fund Restricted - Insurance Department Acct. 58,200
From General Fund Rest. - Insurance Fraud Investigation Acct. 9,400
From General Fund Restricted - Technology Development 17,400
Schedule of Programs:
Administration 58,200
Captive Insurers 3,000
Electronic Commerce Fee 17,400
Insurance Fraud Program 9,400

LABOR COMMISSION

Item 56
To Labor Commission
From General Fund 87,000
From Federal Funds 10,600
From Dedicated Credits Revenue 300
From Employers' Reinsurance Fund 600
From General Fund Restricted - Industrial Accident Account 8,700
From General Fund Restricted - Workplace Safety Account 1,600
Schedule of Programs:
Adjudication 3,600
Administration 70,200
Antidiscrimination and Labor 6,600
Boiler, Elevator and Coal Mine Safety Division 8,500
Industrial Accidents 5,300
Utah Occupational Safety and Health ... 14,600

PUBLIC SERVICE COMMISSION

Item 57
To Public Service Commission
From General Fund Restricted - Public Utility Restricted Acct. 12,500
Schedule of Programs:
Administration 12,500

UTAH STATE TAX COMMISSION

Item 58
To Utah State Tax Commission - Tax Administration
From General Fund 267,200
From Income Tax Fund 216,300
From Federal Funds 500
From Dedicated Credits Revenue 5,000
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account 8,600
From General Fund Rest. - Sales and Use Tax Admin Fees 118,600
From Revenue Transfers 100
Schedule of Programs:
Operations 587,600
Tax and Revenue ..... (300)
Customer Service 10,700
Property and Miscellaneous Taxes 4,800
Enforcement 13,500

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 59
To Department of Workforce Services - Administration
From General Fund 84,500
From Federal Funds 148,900
From Dedicated Credits Revenue 2,000
From Expendable Receipts 1,800
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 300
From Housing Opportunities for Low Income Households 100
From Navajo Revitalization Fund 200
From Olene Walker Housing Loan Fund 300
From OWHT-Fed Home 100
From OWHTF-Low Income Housing 300
From Permanent Community Impact Loan Fund 2,700
From Qualified Emergency Food Agencies Fund 100
From General Fund Restricted - School Readiness Account 300
From Revenue Transfers 61,700
From Uintah Basin Revitalization Fund 100
Schedule of Programs:
Administrative Support 212,600
Human Resources 90,800

Item 60
To Department of Workforce Services - Housing and Community Development
From General Fund 1,100
From Federal Funds 6,300
From Dedicated Credits Revenue 1,100
From Expendable Receipts 100
From Housing Opportunities for Low Income Households 500
From Olene Walker Housing Loan Fund 500
From OWHT-Fed Home 500
From OWHTF-Low Income Housing 500
From Revenue Transfers 700
Schedule of Programs:
Community Development Administration 200
HEAT 2,200
Housing Development 8,300
Weatherization Assistance 600

Item 61
To Department of Workforce Services - Operations and Policy
From General Fund 222,900
From Income Tax Fund 500
From Federal Funds 920,100
From Dedicated Credits Revenue 3,900
From Expendable Receipts 46,700
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 1,700
From Medicaid Expansion Fund 600
From Navajo Revitalization Fund 400
From OWHTF-Low Income Housing 100

From Permanent Community Impact Loan Fund 10,400
From General Fund Restricted – School Readiness Account 1,200
From Revenue Transfers 625,300
Schedule of Programs:
Eligibility Services 17,400
Facilities and Pass–Through 20,200
Information Technology 1,782,500
Workforce Development 13,800
Workforce Research and Analysis ..... (100)

Item 62
To Department of Workforce Services – State Office of Rehabilitation
From General Fund 13,300
From Federal Funds 6,500
From Dedicated Credits Revenue 200
From Revenue Transfers 200
Schedule of Programs:
Blind and Visually Impaired 1,000
Deaf and Hard of Hearing 13,000
Rehabilitation Services 6,200

Item 63
To Department of Workforce Services – Unemployment Insurance
From Federal Funds 300
Schedule of Programs:
Unemployment Insurance Administration 300

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 64
To Department of Health and Human Services – Operations
From General Fund 412,900
From Income Tax Fund 800
From Federal Funds 660,100
From Dedicated Credits Revenue 5,600
From Revenue Transfers 14,600
Schedule of Programs:
Finance & Administration 801,200
Data, Systems, & Evaluations 21,500
Public Affairs, Education & Outreach 249,800
Continuous Quality Improvement 21,500

Item 65
To Department of Health and Human Services – Clinical Services
From General Fund 3,900
From Federal Funds 200
From Dedicated Credits Revenue 7,000
From Expendable Receipts 100
From Gen. Fund Rest. – State Lab Drug Testing Account 500
From Revenue Transfers 100
Schedule of Programs:
Medical Examiner 800
State Laboratory 10,900
Primary Care and Rural Health 100

Item 66
To Department of Health and Human Services – Department Oversight
From General Fund 11,400
From Federal Funds 8,000
From Dedicated Credits Revenue 2,700
From Revenue Transfers 4,000
Schedule of Programs:
Licensing & Background Checks 23,300
Internal Audit 100
Admin Hearings 2,700

Item 67
To Department of Health and Human Services – Health Care Administration
From General Fund 43,500
From Federal Funds 290,100
From Dedicated Credits Revenue 100
From Expendable Receipts 29,300
From Medicaid Expansion Fund 8,400
From Nursing Care Facilities Provider Assessment Fund 3,200
From Revenue Transfers 50,600
Schedule of Programs:
Integrated Health Care Administration 360,300
Long–Term Services and Supports Administration 43,400
Provider Reimbursement Information System for Medicaid 19,700
Utah Developmental Disabilities Council 1,800

Item 68
To Department of Health and Human Services – Integrated Health Care Services
From General Fund 164,600
From Federal Funds 14,100
From Dedicated Credits Revenue 11,800
From Expendable Receipts 300
From Medicaid Expansion Fund 100
From General Fund Restricted – Tobacco Settlement Account 200
From Revenue Transfers 37,000
Schedule of Programs:
Children's Health Insurance Program Services 400
Medicaid Home and Community Based Services 200
Medicaid Other Services 700
Non–Medicaid Behavioral Health Treatment & Crisis Response 31,000
State Hospital 195,800

Item 69
To Department of Health and Human Services – Long–Term Services & Support
From General Fund 66,400
From Income Tax Fund 400
From Federal Funds 3,800
From Dedicated Credits Revenue 4,900
From Revenue Transfers 79,500
Schedule of Programs:
Adult Protective Services 14,300
Office of Public Guardian 2,600
Aging Waiver Services 700
Services for People with Disabilities 17,300
Utah State Developmental Center 120,100

Item 70
To Department of Health and Human Services – Public Health, Prevention, and Epidemiology
From General Fund 2,400
From Federal Funds 37,900
From Dedicated Credits Revenue 300

From Expendable Receipts 100
From Expendable Receipts – Rebates 700
From General Fund Restricted –
Electronic Cigarette Substance
and Nicotine Product Tax
Restricted Account 1,000
From General Fund Restricted –
Emergency Medical Services
System Account 1,000
From General Fund Restricted –
Tobacco Settlement Account 400
From Revenue Transfers 700
Schedule of Programs:
Communicable Disease 32,400
Health Promotion and Prevention 4,400
Emergency Medical Services
and Preparedness 7,700

Item 71
To Department of Health and Human Services –
Children, Youth, & Families
From General Fund 284,300
From Federal Funds 189,900
From Dedicated Credits Revenue 200
From Expendable Receipts 1,000
From General Fund Restricted –
Adult Autism Treatment Account 100
From Revenue Transfers 3,200
Schedule of Programs:
Child & Family Services 450,000
Child Abuse Prevention and
Facility Services 400
Children with Special Healthcare
Needs 3,400
Maternal & Child Health 24,900

Item 72
To Department of Health and Human
Services – Office of Recovery Services
From General Fund 84,500
From Federal Funds 176,300
From Dedicated Credits Revenue 10,100
From Expendable Receipts 8,200
From Revenue Transfers 15,600
Schedule of Programs:
Recovery Services 239,400
Child Support Services 55,300

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 73
To University of Utah – Education and General
From General Fund 2,199,900
From Income Tax Fund 476,400
From Dedicated Credits Revenue 892,100
Schedule of Programs:
Education and General 3,568,400

UTAH STATE UNIVERSITY

Item 74
To Utah State University – Education and General
From General Fund 662,500
From Income Tax Fund 146,700
From Dedicated Credits Revenue 269,800
Schedule of Programs:
Education and General 1,079,000

WEBER STATE UNIVERSITY

Item 75
To Weber State University –
Education and General
From Income Tax Fund 165,900
From Dedicated Credits Revenue 55,300
Schedule of Programs:
Education and General 221,200

SOUTHERN UTAH UNIVERSITY

Item 76
To Southern Utah University –
Education and General
From Income Tax Fund 227,100
From Dedicated Credits Revenue 75,700
Schedule of Programs:
Education and General 302,800

UTAH VALLEY UNIVERSITY

Item 77
To Utah Valley University – Education and General
From General Fund 369,200
From Income Tax Fund 118,300
From Dedicated Credits Revenue 162,600
Schedule of Programs:
Education and General 650,100

SNOW COLLEGE

Item 78
To Snow College – Education and General
From Income Tax Fund 89,900
From Dedicated Credits Revenue 29,900
Schedule of Programs:
Education and General 119,800

UTAH TECH UNIVERSITY

Item 79
To Utah Tech University – Education and General
From Income Tax Fund 214,300
From Dedicated Credits Revenue 71,500
Schedule of Programs:
Education and General 285,800

SALT LAKE COMMUNITY COLLEGE

Item 80
To Salt Lake Community College –
Education and General
From Income Tax Fund 190,600
From Dedicated Credits Revenue 63,500
Schedule of Programs:
Education and General 254,100

UTAH BOARD OF HIGHER EDUCATION

Item 81
To Utah Board of Higher
Education – Administration
From Income Tax Fund 134,800
Schedule of Programs:
Administration 134,800

BRIDGERLAND TECHNICAL COLLEGE

Item 82
To Bridgerland Technical College
From Income Tax Fund 27,500
Schedule of Programs:
Bridgerland Technical College 27,500

DAVIS TECHNICAL COLLEGE

Item 83
To Davis Technical College
From Income Tax Fund 105,300
Schedule of Programs:
Davis Technical College 105,300

DIXIE TECHNICAL COLLEGE

Item 84
To Dixie Technical College
From Income Tax Fund 21,300
Schedule of Programs:
Dixie Technical College 21,300

MOUNTAINLAND TECHNICAL COLLEGE

Item 85
To Mountainland Technical College
From Income Tax Fund 47,100
Schedule of Programs:
Mountainland Technical College 47,100

OGDEN-WEBER TECHNICAL COLLEGE

Item 86
To Ogden–Weber Technical College
From Income Tax Fund 50,200
Schedule of Programs:
Ogden–Weber Technical College 50,200

SOUTHWEST TECHNICAL COLLEGE

Item 87
To Southwest Technical College
From Income Tax Fund 13,000
Schedule of Programs:
Southwest Technical College 13,000

TOOELE TECHNICAL COLLEGE

Item 88
To Tooele Technical College
From Income Tax Fund 10,000
Schedule of Programs:
Tooele Technical College 10,000

UINTAH BASIN TECHNICAL COLLEGE

Item 89
To Uintah Basin Technical College
From Income Tax Fund 20,200
Schedule of Programs:
Uintah Basin Technical College 20,200

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 90
To Department of Agriculture and Food – Administration
From General Fund 118,700
From Federal Funds 9,300
From Dedicated Credits Revenue 12,800
From Revenue Transfers 2,900
Schedule of Programs:
Commissioner's Office 143,700

Item 91
To Department of Agriculture and Food – Animal Industry
From General Fund 10,000
From Income Tax Fund 300
From Federal Funds 5,700
From Dedicated Credits Revenue 200
From General Fund Restricted – Livestock Brand 6,900
Schedule of Programs:
Animal Health 3,900
Brand Inspection 9,400
Meat Inspection 9,800

Item 92
To Department of Agriculture and Food – Invasive Species Mitigation
From General Fund Restricted – Invasive Species Mitigation Account 800
Schedule of Programs:
Invasive Species Mitigation 800

Item 93
To Department of Agriculture and Food – Marketing and Development
From General Fund 1,400
From Federal Funds 600
Schedule of Programs:
Marketing and Development 2,000

Item 94
To Department of Agriculture and Food – Plant Industry
From General Fund 2,300
From Federal Funds 12,000
From Dedicated Credits Revenue 19,900
From Revenue Transfers 900
Schedule of Programs:
Grain Lab 1,100
Grazing Improvement Program 4,300
Insect, Phyto, and Nursery 2,400
Plant Industry Administration 27,300

Item 95
To Department of Agriculture and Food – Predatory Animal Control
From General Fund 4,300
From Revenue Transfers 2,200
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention 1,800
Schedule of Programs:
Predatory Animal Control 8,300

Item 96
To Department of Agriculture and Food – Rangeland Improvement
From Gen. Fund Rest. – Rangeland Improvement Account 600
Schedule of Programs:
Rangeland Improvement 600

Item 97
To Department of Agriculture and Food – Regulatory Services
From General Fund 10,000
From Federal Funds 8,300
From Dedicated Credits Revenue 19,500
Schedule of Programs:
Regulatory Services Administration 1,600
Bedding & Upholstered 1,200
Weights & Measures 8,800

Food Inspection 18,400
Dairy Inspection 7,800

Item 98
To Department of Agriculture and Food – Resource Conservation
From General Fund 4,700
From Federal Funds 1,600
From Revenue Transfers 700
Schedule of Programs:
Water Quantity 5,900
Conservation Administration 1,100

Item 99
To Department of Agriculture and Food – Industrial Hemp
From Dedicated Credits Revenue 2,800
Schedule of Programs:
Industrial Hemp 2,800

Item 100
To Department of Agriculture and Food – Analytical Laboratory
From General Fund 3,300
From Dedicated Credits Revenue 900
Schedule of Programs:
Analytical Laboratory 4,200

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 101
To Department of Environmental Quality – Drinking Water
From General Fund 23,400
From Dedicated Credits Revenue 7,600
From Water Dev. Security Fund – Drinking Water Loan Prog. 15,700
Schedule of Programs:
Drinking Water Administration 13,300
Safe Drinking Water Act 25,900
System Assistance 7,500

Item 102
To Department of Environmental Quality – Environmental Response and Remediation
From General Fund 9,100
From Dedicated Credits Revenue 1,400
From General Fund Restricted – Petroleum Storage Tank 600
From Petroleum Storage Tank Cleanup Fund 1,400
From Petroleum Storage Tank Trust Fund 4,300
Schedule of Programs:
CERCLA 9,800
Tank Public Assistance 600
Petroleum Storage Tank Cleanup 5,900
Petroleum Storage Tank Compliance 500

Item 103
To Department of Environmental Quality – Executive Director's Office
From General Fund 127,200
From General Fund Restricted – Environmental Quality 54,600
Schedule of Programs:
Executive Director Office Administration 181,800

Item 104
To Department of Environmental Quality – Waste Management and Radiation Control
From Dedicated Credits Revenue 6,200
From General Fund Restricted – Environmental Quality 12,900
From Gen. Fund Rest. – Used Oil Collection Administration 200
Schedule of Programs:
Hazardous Waste 17,400
Solid Waste 400
Radiation 600
Low Level Radioactive Waste 400
Used Oil 200
X-Ray 300

Item 105
To Department of Environmental Quality – Water Quality
From General Fund 22,000
From Dedicated Credits Revenue 1,100
From Revenue Transfers 1,500
From Water Dev. Security Fund – Utah Wastewater Loan Prog. 1,100
Schedule of Programs:
Water Quality Support 23,600
Water Quality Protection 2,100

Item 106
To Department of Environmental Quality – Air Quality
From General Fund 17,100
From Dedicated Credits Revenue 32,000
From General Fund Restricted – GFR – Division of Air Quality Oil, Gas, and Mining 1,900
Schedule of Programs:
Compliance 10,700
Permitting 2,100
Planning 1,400
Air Quality Administration 36,800

DEPARTMENT OF NATURAL RESOURCES

Item 107
To Department of Natural Resources – Administration
From General Fund 352,100
Schedule of Programs:
Administrative Services 347,100
Executive Director 3,700
Law Enforcement 500
Public Information Office 800

Item 108
To Department of Natural Resources – Forestry, Fire, and State Lands
From General Fund 49,400
From Federal Funds 14,100
From Dedicated Credits Revenue 12,800
From General Fund Restricted – Sovereign Lands Management 3,700
Schedule of Programs:
Division Administration 47,100
Fire Management 3,500
Forest Management 1,600
Lands Management 3,400
Lone Peak Center 9,200
Program Delivery 15,200

Item 109
To Department of Natural Resources – Oil, Gas, and Mining
From Federal Funds 24,900
From Dedicated Credits Revenue 300
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining 8,300
From Gen. Fund Rest. – Oil & Gas Conservation Account 29,500
Schedule of Programs:
Administration 39,200
Coal Program 14,400
Oil and Gas Program 9,400

Item 110
To Department of Natural Resources – Utah Geological Survey
From General Fund 20,200
From Federal Funds 900
From Dedicated Credits Revenue 1,700
From General Fund Restricted – Utah Geological Survey Oil, Gas, and Mining Restricted Account 1,100
From General Fund Restricted – Mineral Lease 3,700
From Revenue Transfers 600
Schedule of Programs:
Administration 100
Geologic Information and Outreach 28,100

Item 111
To Department of Natural Resources – Water Resources
From General Fund 13,400
From Federal Funds 1,100
From Water Resources Conservation and Development Fund 4,100
Schedule of Programs:
Administration 6,700
Construction 5,000
Interstate Streams 600
Planning 6,300

Item 112
To Department of Natural Resources – Water Rights
From General Fund 54,400
From Dedicated Credits Revenue 2,400
From General Fund Restricted – Water Rights Restricted Account 600
Schedule of Programs:
Adjudication 700
Administration 1,000
Applications and Records 5,800
Dam Safety 600
Field Services 600
Technical Services 48,700

Item 113
To Department of Natural Resources – Watershed Restoration
From General Fund 200
Schedule of Programs:
Watershed Restoration 200

Item 114
To Department of Natural Resources – Wildlife Resources
From General Fund 18,200
From Federal Funds 48,100
From Expendable Receipts 300
From General Fund Restricted – Aquatic Invasive Species Interdiction Account 2,200
From General Fund Restricted – Mule Deer Protection Account 600
From General Fund Restricted – Predator Control Account 1,000
From Revenue Transfers 200
From General Fund Restricted – Wildlife Resources 260,300
Schedule of Programs:
Administrative Services 218,200
Aquatic Section 29,100
Conservation Outreach 15,600
Director's Office 4,100
Habitat Section 17,500
Law Enforcement 22,500
Wildlife Section 23,900

Item 115
To Department of Natural Resources – Public Lands Policy Coordinating Office
From General Fund 17,100
From General Fund Restricted – Constitutional Defense 7,300
Schedule of Programs:
Public Lands Policy Coordinating Office 24,400

Item 116
To Department of Natural Resources – Division of State Parks
From General Fund 23,600
From Federal Funds 400
From Dedicated Credits Revenue 3,100
From Expendable Receipts 400
From General Fund Restricted – State Park Fees 196,900
From Revenue Transfers 500
Schedule of Programs:
Executive Management 2,100
State Park Operation Management 83,000
Planning and Design 4,200
Support Services 134,100
Heritage Services 1,500

Item 117
To Department of Natural Resources – Division of Outdoor Recreation
From Federal Funds 1,800
From General Fund Restricted – Boating .. 1,200
From General Fund Restricted – Off-highway Vehicle 1,700
Schedule of Programs:
Oversight 1,600
Recreation Services 500
Administration 2,600

Item 118
To Department of Natural Resources – Office of Energy Development
From General Fund 27,900
From Income Tax Fund 3,900
From Federal Funds 13,400
From Dedicated Credits Revenue 1,600
From Expendable Receipts 3,500
From Ut. S. Energy Program Rev. Loan Fund (ARRA) 3,400
Schedule of Programs:

Office of Energy Development 53,700

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 119
To School and Institutional Trust Lands Administration
From Land Grant Management Fund 16,800
Schedule of Programs:
Accounting 100
Administration 12,200
Development – Operating 500
Director 100
Grazing and Forestry 1,300
Information Technology Group 1,100
Legal/Contracts 400
Oil and Gas 100
Surface 1,000

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 120
To State Board of Education – Child Nutrition Programs
From Federal Funds 200
Schedule of Programs:
Child Nutrition 200

Item 121
To State Board of Education – Utah Schools for the Deaf and the Blind
From Income Tax Fund 7,200
From Dedicated Credits Revenue 1,800
Schedule of Programs:
Administration 9,000

Item 122
To State Board of Education – State Board and Administrative Operations
From Income Tax Fund 14,900
From Revenue Transfers 152,600
Schedule of Programs:
Indirect Cost Pool 167,500

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 123
To School and Institutional Trust Fund Office
From School and Institutional Trust Fund Management Acct. 8,800
Schedule of Programs:
School and Institutional Trust Fund Office 8,800

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 124
To Legislature – Senate
From General Fund 2,800
Schedule of Programs:
Administration 2,800

Item 125
To Legislature – House of Representatives
From General Fund 4,200
Schedule of Programs:
Administration 4,200

Item 126
To Legislature – Office of Legislative Research and General Counsel
From General Fund 4,300
Schedule of Programs:
Administration 4,300

Item 127
To Legislature – Office of the Legislative Fiscal Analyst
From General Fund 7,400
Schedule of Programs:
Administration and Research 7,400

Item 128
To Legislature – Office of the Legislative Auditor General
From General Fund 6,500
Schedule of Programs:
Administration 6,500

Item 129
To Legislature – Legislative Services
From General Fund 7,600
From Dedicated Credits Revenue 1,200
Schedule of Programs:
Administration 8,800

UTAH NATIONAL GUARD

Item 130
To Utah National Guard
From General Fund 92,800
Schedule of Programs:
Administration 500
Operations and Maintenance 92,300

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 131
To Department of Veterans and Military Affairs – Veterans and Military Affairs
From General Fund 38,600
From Federal Funds 13,700
From Dedicated Credits Revenue 3,700
Schedule of Programs:
Administration 24,800
Cemetery 26,100
State Approving Agency 600
Outreach Services 4,100
Military Affairs 400

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 132
To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund

From General Fund 18,300
From Dedicated Credits Revenue 50,700
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 69,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 133
To Department of Government Operations – State Debt Collection Fund
From Dedicated Credits Revenue 9,700
Schedule of Programs:
State Debt Collection Fund 9,700

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 134
To Department of Commerce – Architecture Education and Enforcement Fund
From Licenses/Fees 200
Schedule of Programs:
Architecture Education and Enforcement Fund 200

Item 135
To Department of Commerce – Consumer Protection Education and Training Fund
From Licenses/Fees 2,200
Schedule of Programs:
Consumer Protection Education and Training Fund 2,200

Item 136
To Department of Commerce – Real Estate Education, Research, and Recovery Fund
From Dedicated Credits Revenue 300
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 300

Item 137
To Department of Commerce – Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 100
Schedule of Programs:
RMLERR Fund 100

Item 138
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 1,600
Schedule of Programs:
Securities Investor Education/Training/ Enforcement Fund 1,600

PUBLIC SERVICE COMMISSION

Item 139
To Public Service Commission – Universal Public Telecom Service
From Dedicated Credits Revenue 300
Schedule of Programs:
Universal Public Telecommunications Service Support 300

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 140
To Department of Workforce Services – Individuals with Visual Impairment Vendor Fund
From Trust and Agency Funds 100
Schedule of Programs:
Individuals with Visual Disabilities Vendor Fund 100

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 141
To Department of Agriculture and Food – Salinity Offset Fund
From Revenue Transfers 100
Schedule of Programs:
Salinity Offset Fund 100

DEPARTMENT OF NATURAL RESOURCES

Item 142
To Department of Natural Resources – Outdoor Recreation Infrastructure Account
From Designated Sales Tax 1,800
Schedule of Programs:
Outdoor Recreation Infrastructure Account 1,800

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 143
To Capitol Preservation Board – State Capitol Fund
From Dedicated Credits Revenue 39,100
Schedule of Programs:
State Capitol Fund 39,100

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 144
To Department of Veterans and Military Affairs – Utah Veterans Nursing Home Fund
From Federal Funds 8,900
Schedule of Programs:
Veterans Nursing Home Fund 8,900

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer

amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 145
To Utah Department of Corrections – Utah Correctional Industries
From Dedicated Credits Revenue 22,300
Schedule of Programs:
Utah Correctional Industries 22,300

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

LABOR COMMISSION

Item 146
To Labor Commission – Uninsured Employers Fund
From Dedicated Credits Revenue 200
From Premium Tax Collections 100
Schedule of Programs:
Uninsured Employers Fund 300

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 147
To Department of Health and Human Services – Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 300
Schedule of Programs:
Qualified Patient Enterprise Fund 300

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 148
To Department of Agriculture and Food – Agriculture Loan Programs
From Agriculture Resource Development Fund 700
From Utah Rural Rehabilitation Loan State Fund 400
Schedule of Programs:
Agriculture Loan Program 1,100

Item 149
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Dedicated Credits Revenue 3,200
Schedule of Programs:
Qualified Production Enterprise Fund ... 3,200

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 150
To General Fund Restricted – Indigent Defense Resources Account
From General Fund 1,600
Schedule of Programs:
General Fund Restricted – Indigent Defense Resources Account 1,600

Item 151
To Colorado River Authority of Utah Restricted Account
From General Fund 1,600
Schedule of Programs:
Colorado River Authority Restricted Account 1,600

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

STATE TREASURER

Item 152
To State Treasurer – Navajo Trust Fund
From Trust and Agency Funds 12,400
Schedule of Programs:
Utah Navajo Trust Fund 12,400

Section 2. Fees. Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Administration
Government Records Access and Management Act
Document Certification 2.00
CD Duplication (per CD) 5.00
Plus actual staff costs
DVD Duplication (per DVD) 10.00
Plus actual staff costs
Photocopies
Non-color (per page) 0.25
Color (per page) 0.40
11 x 17 (per page) 1.00
Odd Size ..... Actual cost
Document Faxing (per page) 1.00
Long Distance Faxing for Over 10 Pages 1.00
Record Preparation ..... Actual cost
Record Preparation 2.00
Plus actual postage costs
Other Media ..... Actual cost
Other Services ..... Actual cost

CHILDREN'S JUSTICE CENTERS

CJC Conference Registrations
(per Variable) ..... Varies by type

This represents the fee charged for the Children's Justice Center's annual conference. Conference Registration (per unit/day) – Varies by Type.

ISF - ATTORNEY GENERAL

Attorney – Co–located Rate (per Hour) 132.00
Attorney – Office Rate (per Hour) 136.00
Investigator – Co–located Rate
(per Month) ..... Actual cost
Investigator – Office Rate ..... Actual cost
Paralegal – Co–located Rate (per Hour) 62.00
Paralegal – Office Rate (per Hour) 64.00

PROSECUTION COUNCIL

UPC Training Registrations
Private Attorney 350.00

This fee covers expenses incurred by the Utah Prosecution Council for trainings provided throughout the year.

UPC Training Registrations
Public Attorneys 125.00

This fee covers expenses incurred by the Utah Prosecution Council for trainings provided many times per year.

BOARD OF PARDONS AND PAROLE

Digital Media 10.00

UTAH DEPARTMENT OF CORRECTIONS

PROGRAMS AND OPERATIONS

Department Executive Director
Government Records Access and Management Act (GRAMA) Fees (GRAMA fees apply to the entire Department of Corrections)
Odd Size Photocopies (per page) .... Actual cost

Fee entitled "Odd size photocopies" applies to the entire Department of Corrections.

Document Certification 2.00

Fee entitled "Document Certification" applies to the entire Department of Corrections.

Local Document Faxing (per page) 0.50

Fee entitled "Local Document Faxing" applies to the entire Department of Corrections.

Long Distance Document
Faxing (per page) 2.00

Fee entitled "Long Distance Document Faxing" applies to the entire Department Of Corrections.

Staff Time to Search, Compile, and
Otherwise Prepare Record ..... Actual cost

Fee entitled "Staff time to search, compile, and otherwise prepare record" applies to the entire Department of Corrections.

Mail and Ship Preparation, Plus
Actual Postage Costs ..... Actual cost

Fee entitled "Mail and ship preparation, plus actual postage costs" applies to the entire Department of Corrections.

CD Duplication (per CD) 5.00

Fee entitled "CD Duplication" applies to the entire Department of Corrections.

DVD Duplication (per DVD) 10.00

Fee entitled "DVD Duplication" applies to the entire Department of Corrections.

Other Media ..... Actual cost

Fee entitled "Other Media" applies to the entire Department of Corrections.

Other Services ..... Actual cost

Fee entitled "Other Services" applies to the entire Department of Corrections.

8.5 x 11 Photocopy (per page) 0.25

Fee entitled "8.5 x 11 photocopy" applies to the entire Department of Corrections.

Parole/Probation Supervision
OSDC Supervision Collection 30.00

Fee entitled "OSDC Supervision Collection" applies for the entire Department of Corrections.

Resident Support 6.00

Fee entitled "Resident Support" applies for the entire Department of Corrections.

Department Wide
Restitution for Prisoner
Damages ..... Actual cost

Fee entitled "Restitution for Prisoner Damages" applies for the entire Department of Corrections.

False Information Fines .. Range: $1 – $84,200

Fee entitled "False Information Fines" applies for the entire Department of Corrections.

Sale of Services ..... Actual cost

Fee entitled "Sale of Services" applies for the entire Department of Corrections.

Patient Social Security Benefits
Collections ..... Amount Based on Actual Collected

Fee entitled "Patient Social Security Benefits Collections" applies for the entire Department of Corrections.

Sale of Goods and Materials ..... Actual cost

Fee entitled "Sale of Goods & Materials" applies for the entire Department of Corrections.

Buildings Rental ..... Contractual

Fee entitled "Building Rental" applies for the entire Department of Corrections.

Victim Rep Inmate
Withheld ..... Range: $1 – $50,000

Fee entitled "Victim Rep Inmate Withheld" applies for the entire Department of Corrections.

Offender Tuition Payments ..... Actual cost

Fee entitled "Offender Tuition Payments" applies to the entire Department of Corrections.

Sundry Revenue Collection ..... Miscellaneous collections

Fee entitled "Sundry Revenue Collection" applies for the entire Department of Corrections.

DEPARTMENT MEDICAL SERVICES

Medical Services
Medical
Prisoner Various Prostheses Co-pay ... 1/2 cost
Inmate Support Collections ..... Actual cost

UTAH CORRECTIONAL INDUSTRIES

UCi
Sale of Goods and Materials .. Cost plus profit
Sale of Services ..... Cost plus profit

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

ADMINISTRATION

Administrative Office
Email
Email Up to 10 pages 5.00
Email Up to 10 pages 5.00
Audio tape 10.00
Video tape 15.00
CD 10.00
Reporter Text (per half day) .... $25 per half day
Personnel time after 15 min
(per 15 minutes) ..... Cost of Employee Time
Electronic copy of Court
Proceeding (per half day) 10.00
Mailings ..... Actual cost
Preprinted
Forms ..... Cost based on number and size

State Court Administrator
Copies (per page) 0.25
Microfiche (per card) 1.00
Data Processing
Court Records Online
Subscription
Over 200 records (per search) 0.10
200 records (per month) 30.00
Online Services Setup 25.00
Fax
Up to 10 pages 5.00
After 10 pages (per page) 0.50

GOVERNOR'S OFFICE

COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

Extraditions
Extraditions Services-Restitution Court Ordered
Utah Office for Victims of Crime
Utah Crime Victims Conference 150.00
Utah Victim Assistance Academy 500.00
Administration
Government Records Access and Management Act (GRAMA) Fees for the Entire Governor's Office
Staff Time to Search, Compile, and Otherwise Prepare Record ..... Actual Cost
Mailing ..... Actual Cost
Paper (per side of sheet) 0.25
Audio Recording 5.00
Video Recording 15.00
Document Faxing (per page) 0.50
Long Distance Faxing over 10 Pages 1.00
Lt. Governor's Office
Lobbyist
Lobbyist Badge Replacement 10.00
Election Information
Copy of Election Results 35.00
Copy of Complete Voter Information Database 1,050.00
Notary
Notary Commission 95.00
Notary Test Retake Within 30 Days 40.00
Remote Notary Application 50.00
Certifications
Apostille 20.00
Apostille for Adoption 10.00
Certificate of Authentication 20.00
Certificate of Authentication for Adoption 10.00
Special Certificate 10.00
Photocopies (per page) 0.25
International Postage 10.00
Expedited Processing
Within Two Hours if Presented Before 3:00 p.m. 75.00
End of Next Business Day 35.00
Local Government and Limited Purpose Entity Registry
Local Government and Limited Purpose Entity New Registration 50.00
Local Government and Limited Purpose Entity Registration Renewal 25.00

GOVERNORS OFFICE OF PLANNING AND BUDGET

Management and Special Projects
Conference Registration
(per unit / day) ..... Varies by Type

INDIGENT DEFENSE COMMISSION

Child Welfare Parental Defense Program
Continuing Legal Education (CLE)
Fee (per CLE Hour) ..... CLE Fee

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

JUVENILE JUSTICE & YOUTH SERVICES

Government Records Access and Management Act
Paper (per side of sheet) 0.25
Audio Tape (per tape) 5.00
Video Tape (per tape) 15.00
Mailing ..... Actual cost
Compiling and Reporting in Another Format (per hour) 25.00
Programmer/Analyst Assistance Required (per hour) 50.00

OFFICE OF THE STATE AUDITOR

STATE AUDITOR

Training (per hour) 15.00

This fee is for an individual to take one hour of training provided either online or in person at the Office of the State Auditor.

Professional Services and Event Training ..... Actual Cost

This fee is to reimburse the State Auditor for the actual costs of audit services or actual costs of training services provided at a location other than online or in the Office of the State Auditor.

Record Access Fee ..... Actual Cost

This fee is to reimburse the Office of the State Auditor for the actual costs of providing records under the Government Records Access and Management Act (GRAMA).

Financial Transparency Database Subscription Fee ..... Actual Cost

This fee is to reimburse the Office of the State Auditor for actual costs of accessing large amounts of transparency database information.

DEPARTMENT OF PUBLIC SAFETY

DRIVER LICENSE

Driver License Administration
Commercial Driver School License
Original 100.00
Annual renewal 100.00
Duplicate 10.00
Instructor 30.00
Annual instructor renewal 20.00
Duplicate instructor 6.00
Branch office original 30.00
Branch office annual renewal 30.00
Branch office reinstatement 75.00
Instructor/operation reinstatement 75.00
School Reinstatement 75.00
Commercial Driver License intra-state medical waiver 25.00
Certified Record
first 15 pages 10.75
Includes Motor Vehicle Record
16 to 30 pages 15.75
Includes Motor Vehicle Record
31 to 45 pages 20.75
Includes Motor Vehicle Record
46 or more pages 25.75
Includes Motor Vehicle Record
Copy of full driver history 7.00
Copies of any other record 5.00
Includes tape recording, letter, medical copy, arrests
Verification
Driver address record verification 3.00
Validate service 0.75
Pedestrian vehicle permit 13.00
Citation monitoring verification 0.06
Ignition Interlock System License
Provider
Original 100.00
Annual renewal 100.00
Duplicate 10.00
Branch office inspection 30.00
Branch office annual inspection 30.00
Installer
Original 30.00
Annual renewal 30.00
Duplicate 6.00
Provider
Reinstatement 75.00
Installer 75.00
Driver Records
Online services 3.00
Utah Interactive Convenience Fee
Driver Services
Commercial Driver License third party testing License
Original tester 100.00
Annual tester renewal 100.00
Duplicate tester 10.00
Original examiner 30.00
Annual examiner renewal 20.00
Duplicate examiner 6.00
Examiner reinstatement 75.00
Tester reinstatement 75.00

EMERGENCY MANAGEMENT

PIO Conference registration fees 225.00
PIO Conference late registration fee 250.00
PIO Conference half registration fee 100.00
PIO Conference guest fee 200.00
Mobile Command Vehicle (per Hour) 65.00
Mobile command operator (per Hour) 40.00
Utah Expo registration fee 5.00
Utah Certified Emergency Manager (per Application) 100.00

PEACE OFFICERS' STANDARDS AND TRAINING

Basic Training
Satellite academy technology fee 25.00
Dorm room 10.00
K-9 training (out of state agencies) 2,175.00
Duplicate POST certification 5.00
Duplicate certificate, wallet card 5.00
Duplicate radar or intox card 2.00
Law enforcement officials and judges firearms course 1,000.00
Cadet Application
Online application processing fee 35.00
Rental
Pursuit interventions technique training vehicles 100.00
Firing range 300.00
Shoot house 150.00
Camp William firing range 200.00
Peace Officers' Standards and Training (POST)
Reactivation/waiver 75.00
Supervisor class 50.00

PROGRAMS & OPERATIONS

CITS State Crime Labs
Additional DNA casework per sample - full analysis 894.00
DNA casework per sample - quantitation only 459.00
Drugs - controlled substances per item of evidence 355.00
Fingerprints per item of evidence 345.00

Serology/Biology per item of evidence 335.00
Training course materials
reimbursement (per Person) 250.00
Department Commissioner's Office
Fees Applicable to All Divisions In Department of Public Safety
Courier delivery ..... Actual cost
Fax (per page) 1.00
Audio/Video/Photos (per CD) 25.00
Developed photo negatives (per photo) 1.00
Printed digital photos (per paper) 2.00
1, 2, or 4 photos per sheet (8x11) based on request
Miscellaneous computer processing (per hour) ..... Cost of Employee Time
Bulk/e-data transaction (per Record) 0.10
Copies
Mailing ..... Actual cost
Color (per page) 1.00
Over 50 pages (per page) 0.50
1-10 pages 5.00
11-50 pages 25.00
Department Sponsored Conferences
Registration (per registrant) 275.00
Late registration (per registrant) 300.00
Vendor fee (per Vendor) 700.00
Fire Marshal - Fire Operations
Fire and life safety review
(per Sq. Ft.) ..... Greater of $75/plan review or $.022/sq. ft.
Annual license for display operator, special effects operator, or flame effects operator (per License) 40.00
Annual license for importer and wholesaler of pyrotechnic devices (per License) 250.00
Inspection For Fire Clearance
Re-Inspection Fee
(per Re-Inspection) 250.00
Liquid Petroleum Gas
License
Class I 450.00
Class II 450.00
Class III 105.00
Class IV 150.00
Branch office 338.00
Duplicate 30.00
Examination 30.00
Re-examination 30.00
Five year examination 30.00
Certificate 40.00
Dispenser Operator B 20.00
Plan Reviews
More than 5000 gallons 150.00
5000 water gallons or less 75.00
Special inspections (per hour) 50.00
Re-inspection 250.00
3rd inspection or more
Private Container Inspection
More than one container 150.00
One container 75.00
Portable Fire Extinguisher and Automatic Fire Suppression Systems
License 300.00
Combination 150.00
Branch office license 150.00
Certificate of registration 40.00
Duplicate certificate of registration 40.00
License transfer 50.00
Application for exemption 150.00
Examination 30.00
Re-examination 30.00
Five year examination 30.00
Automatic Fire Sprinkler Inspection and Testing
Certificate of registration 30.00
Examination 20.00
Re-examination 20.00
Three year extension 20.00
Fire Alarm Inspection and Testing
Certificate of registration 40.00
Examination 30.00
Re-examination 30.00
Three year extension 30.00
Highway Patrol - Administration
UHP conference registration fee 250.00
Online traffic reports Utah
Interactive convenience fee 2.50
Photogrammetry 100.00
Cessna (per hour) 155.00
Plus meals and lodging
Helicopter (per hour) 1,350.00
Plus meals and lodging
Court order requesting blood samples be sent to outside agency 40.00
Highway Patrol - Federal/State Projects
24-7 Sobriety Program
New participant set up fee
(per Participant) 30.00
Portable breath test (per Test) 2.00
Urine test (per Test) 6.00
Continuous alcohol monitoring bracelet (per Day) 10.00
Transportation and security details (per hour) 100.00
Plus mileage
Highway Patrol - Safety Inspections
Safety Inspection Program
Safety inspection manual 5.50
Stickers (book of 25) 4.50
Sticker reports (book of 25) 3.00
Inspection certificates for passenger/light truck (book of 50) 3.00
Inspection certificates for ATV (book of 25) 3.00
Inspection Station
Permit application fee 100.00
Station physical address change 100.00
Replacement of lost permit 2.25
Inspector
Certificate application fee 7.00
Valid for 5 years
Certificate renewal fee 4.50
Replacement of lost certificate 1.00

BUREAU OF CRIMINAL IDENTIFICATION

Law Enforcement/Criminal Justice Services
TAC Conference registration 100.00
Non-Government/Other Services
Vacatur expungement order processing fee 65.00
Replication fee for Rap Back enrollment (per Request) 10.00
Record challenge fee (per Request) 15.00

Paper arrest (OTN) fingerprint card packets (per card packet) 15.00
Right of Access (per Request) 15.00
AFIS retain (per Request) 5.00
Applicant fingerprint card (WIN) (per Request) 15.00
Firearm transaction (Brady check) 7.50
Name/DOB applicant background check . . . 15.00
CFP instructor registration 35.00
Board of Pardons expungement processing 65.00
Fingerprint services 15.00
Print Other State Agency Cards 5.00
State agency ID set up 50.00
Child ID kits 1.00
Extra copies rap sheet 15.00
Extra fingerprint cards 5.00
Concealed weapons permit renewal Utah Interactive convenience fee 0.75
Photos15.00
Application for removal from White Collar Crime Registry 120.00
Private Investigator
Original agency license application and license 215.00
Renewal of an agency license 115.00
Original registrant or apprentice license application and license 115.00
Renewal of a registrant or apprentice license 65.00
Late fee renewal – agency 65.00
Late fee renewal – registrant/ apprentice 45.00
Reinstatement of any license 65.00
Duplicate identification card 25.00
Bail Enforcement
Original bail enforcement agent license application and license 250.00
Renewal of a bail enforcement agent or bail bond recovery agency license . . . 150.00
Original bail recovery agent license application and license 150.00
Renewal of each bail recovery agent license 100.00
Original bail recovery apprentice license application and license 150.00
Renewal of each bail recovery apprentice license 100.00
Late fee renewal – enforcement agent/recovery agency 50.00
Late fee renewal – recovery agent 30.00
Late fee renewal – recovery apprentice . . . 30.00
Reinstatement of a bail enforcement agent or bail bond recovery agency license 50.00
Duplicate identification card 10.00
Reinstatement of an identification card 10.00
Sex Offender Kidnap Registy
Application for removal from registry . . . 168.00
Eligibility certificate for removal from registry 25.00
Expungements
Special certificate of eligibility. 65.00
Application 65.00
Certificate of eligibility 65.00

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

DFCM ADMINISTRATION

Program Management
Non–state Funded Project Fees
Projects <$99,999 (per project)
Maximum fee of $4,000
Projects >= $100K and <$499,999
(per project) . . . . . $4,000 + 1.8% over $100,000
Maximum fee of $11,200
Projects >= $500K and <$2,499,999
(per project) . . . . . $11,200 + 0.9% over $500,000
Maximum fee of $29,200
Projects >= $2.5M and <$9,999,999
(per project) . . . . . $29,200 + 0.6% over $2,500,000
Maximum fee of $74,200
Projects >= $10M and <$49,999,999
(per project) . . . . . $74,200 + 0.18% over $10,000,000
Maximum fees of $146,200
Projects >= $50M
(per Project) . . . . . $146,200 + 0.12% over $50,000,000
Maximum fees of $206,200 at $100M

EXECUTIVE DIRECTOR

Government Records Access and Management Act
Photocopies, Black & White (per Copy) 0.10
Photocopies, Color (per Copy) 0.25
Photocopy Labor Cost (per Utah Statute 63G–2–203(2)) (per page) . . . . . Actual Cost
Certified Copy of a Document (per certification) 4.00
Long Distance Fax Within U.S. (per fax number) 2.00
Electronic Documents on Any Physical Media (per USB (GB)) . . . . . Actual Cost
Mail Within U.S. (per address) 2.00
Mail Outside U.S. (per address) 5.00
Research or services . . . . . Actual cost

FINANCE ADMINISTRATION

Financial Information Systems
FINET Interface Document Clean Up (per Hour) 46.00
Credit Card Payments . . . . . Variable
Contract rebates
Financial Reporting
Loan Origination Fee 500.00
Loan Servicing 125.00
ISF Accounting Services . . . . . Actual cost
Cash Mgt Improvement Act
Interest Calculation . . . . . Actual cost

Single Audit Billing to State
Auditor's Office ..... Actual Cost
Payables/Disbursing
Disbursements
Collection Service 15.00
IRS Collection Service 25.00
Payroll
Out-of-State Employee
Maintenance Fee 1,300.00
Out-of-State Employee Set Up Fee 2,200.00
Payroll Interface Document Cleanup 46.00

STATE ARCHIVES

Archives Administration
Data Base Download (plus Work
Setup Fee) (per Record) 0.10
Patron Services
Copy - Paper to PDF (Copier
use by Patron) 0.05
Digital Collection Setup Host fee 300.00
Local Commercial License 10.00
National Commercial License 50.00
Copy - Paper to PDF (copier use by staff) ... 0.25
General
Certified Copy of a Document 4.00
Photo Reproductions
Digital Imaging 300 dpi or higher 10.00
Mailing and Fax Charges
Within USA
Mailing in USA - 1 to 10 Pages 3.00
Mailing in USA - Microfilm
1 to 2 Reels 4.00
Mailing in USA - Each additional
Microfilm Reel 1.00
Mailing in USA - CD/DVD/USB 4.00
Mailing in USA - Add Postage
for Each 10 Pages 1.00
International
Mailing International - 1 to 10 Pages ... 5.00
Mailing International - Each
Additional 10 Pages 1.00
Mailing International - Microfilm
1 to 2 Reels 6.00
Mailing International - Each
additional Microfilm Reel 2.00
Mailing International -
CD/DVD/ USB 6.00
Copy Charges
Audio
Copy Charges - Audio Recordings 10.00
Price excludes cost of medium
Documents
Copy Charges - 11 x 14 and
11 x 17 by Staff, Limit 50 ..... 0.50
Copy Charges - 11 x 14 and
11 x 17 by Patron 0.25
8.5x11
Copy - 8.5 x 11 by Staff, Limit 50 ..... 0.25
Copy - 8.5 x 11 by Patron 0.10
Microfilm/Microfiche
Digital
Copy - Digital by Staff, Limit 25 ..... 1.00
Copy - Digital by Patron 0.15
Paper
Copy Microfilm - Paper by Staff,
Limit 25 ..... 1.00
Copy Microfilm - Paper by Patron 0.25
Video
Copy Video - Video Recording
(excludes cost of medium) 20.00
Price excludes cost of medium
Other
Archivist Handling fee (per hr.)
(per hour) ..... At Cost
Special Request ..... At Cost
Supplies
Supplies - USB Flash Drive
(per gigabyte) 5.00
Supplies - CD (per disk) 0.30
Supplies - DVD (per disk) 0.40
Electronic File on-line (per File) 2.50
Preservation Services
Work Setup Fee (WSF) 17.00
Microfiche Production Fee per
Image Plus (WSF) (per image) 0.045
General
16-mm Master Film 13.00
Digital Copies of Electronic Rolls of
Microfilm plus medium cost 10.00
35-mm Master Film 35.00
16-mm Silver Duplicate Copy 30.00
35-mm Silver Duplicate Copy 24.00
Books filmed (per Page) 0.15
Electronic Image to Microfilm
(per Reel) 45.00
Microfilm to CD/DVD/USB (per reel) 40.00
Microfilm Lab Processing Setup Fee 5.00
Microfilm to digital PDF conversion 5.00

STATE DEBT COLLECTION FUND

Office of State Debt Collection
Corrections Tuition
Fee ..... 10% of tuition account balance
Collection Penalty 6.0%
Collection Interest ..... Prime + 2%
Post Judgment Interest ..... Variable
Labor Commission Wage Claims ..... Variable
10% of partial payments; 1/3 of claim or
$500, whichever is greater for full payments
Administrative Collection 15.5%
15.5% of amount collected (18.34% effective
rate)
Garnishment Request ..... Actual cost
Legal Document Service ..... Actual cost
Greater of $20 or Actual
Credit card processing fee charged
to collection vendors 1.75%
Court Filing, Deposition/Transcript
/Skip Tracing ..... Actual cost

DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT - FACILITIES MANAGEMENT

Box Elder Public Safety 71,705.00
Cultural & Community
Engagement MSS 39,964.25
Garage-Groundskeeper III 58.50
Garage-Lead Journey Maintenance 68.93
Taylorsville State Office Building .. 3,159,056.00
SLC VA home 40,667.90
Garage-Groundskeeper I 41.10
Provo Courts/Terrace 1,320,997.88
DEQ Building 104,788.63
Unified Lab #2 ..... 865,836.54
Cedar City DNR 77,790.16

Ogden VA Nursing Home 52,945.37
Clearfield Warehouse C6 – Archives 157,693.20
Garage–Facilities Manager / Coord II 71.47
Spanish Fork Veterinary Lab 50,716.03
Utah Arts Collection 43,900.00
West Jordan Courts 557,835.00
Chase Home 17,428.00
Clearfield Warehouse C7 – DNR/DPS 102,837.00
Garage–Grounds Supervisor 50.45
Garage–Journey Plumber 69.05
Payson VA Nursing Home 189,105.70
Utah State Office of Education 410,669.00
Calvin Rampton Complex 1,602,863.00
Garage–Journey Electrician 74.70
Utah State Developmental Center 3,098,357.00
Vernal DNR Regional 80,394.00
Vernal Drivers License 36,055.00
Department of Public Safety
DPS Crime Lab 42,000.00
Cannon Health 860,515.00
Garage–Electronics Resource Group 59.33
Garage–Groundskeeper II 49.46
Garage–Journey HVAC 70.28
Lone Peak Forestry & Fire 45,820.65
N UT Fire Dispatch Center 30,438.66
DPS Drivers License 185,577.00
Alcoholic Beverage Services
Stores 2,514,930.00
Garage–Journey Maintenance 65.28
Ivins VA Nursing Home 134,064.39
Utah State Tax Commission 970,200.00
Vernal Juvenile Courts 40,256.00
Veteran's Memorial Cemetery 69,504.00
Work Force Services
DWS/DHS – 1385 South State 408,430.70
Alcoholic Beverage Services
Administration 954,951.92
Brigham City Regional Center 573,808.00
Garage–Maintenance Supervisor 69.98
Price Public Safety 90,897.00
Vernal 8th District Court 248,649.00
Wasatch Courts 11,518.56
DWS Administration 685,930.00
Archive Building 166,335.00
Capitol Hill Complex 2,893,434.07
Department of Government Operations
Surplus Property 59,747.00
Garage–Mechanic 47.66
Juab County Court 76,798.00
Ogden Juvenile Court 444,038.00
Department of Public Safety
DPS Farmington Public Safety 100,425.00
Work Force Services
DWS Call Center 200,317.00
Brigham City Court 169,400.00
Cedar City Courts 155,520.00
Dixie Drivers License 72,928.00
Fairpark Driver's License Division 61,571.00
Garage–Administrative Staff 55.85
Garage–Journey Boiler Operator 73.41
Garage–Office Specialist 56.73
Rio Grande Depot 244,431.35
Human Services
DHS – Vernal 74,117.00
Work Force Services
DWS Cedar City 93,461.00
Adult Probation and Parole
Freemont Office Building 223,375.00
Cedar City Regional Center 92,008.00
DCFS – Orem 120,792.00
Division of Services for the Blind and Visually Impaired
Training Housing 49,736.00
Driver License West Valley 98,880.00
Farmington 2nd District Courts 537,465.00
Garage–Apprentice Maintenance 54.89
Garage–Journey Carpenter 60.39
Garage–Temp Groundskeeper 27.00
Glendinning Fine Arts Center 43,691.00
Governor's Residence 227,156.00
Heber M. Wells 1,152,179.00
Highland Regional Center 331,766.40
Layton Court 105,896.00
Logan 1st District Court 379,267.00
Moab Regional Center 142,533.00
Murray Highway Patrol 141,738.00
Natural Resources 745,072.00
Natural Resources Price 124,323.00
Natural Resources Richfield (Forestry) 104,508.14
Navajo Trust Fund Administration ... 157,640.00
Office of Rehabilitation Services 204,156.00
Ogden Court 562,740.00
Ogden Division of Motor Vehicles and Drivers License 91,964.00
Ogden Juvenile Probation 211,134.00
Ogden Radio Shop 16,434.00
Ogden Regional Center 786,511.27
Orem Public Safety 130,640.00
Orem Region Three Department of Transportation 178,192.00
Provo Juvenile Work Crew 74,164.77
Provo Regional Center 839,011.10
Public Safety Depot Ogden 34,822.00
Richfield Court 161,535.68
Richfield Dept. of Technology Services Center 39,000.00
Richfield Regional Center 75,499.00
Salt Lake Court 2,118,160.00
Salt Lake Government Building #1 ... 972,934.00
Salt Lake Regional Center – 1950 West 250,492.00
St. George Courts 600,353.00
St. George DPS 49,572.00
St. George Tax Commission 64,224.00
State Library 221,121.80
State Library State Mail 162,341.55
State Library Visually Impaired 137,538.65
Taylorsville BCI 185,250.00
Taylorsville Center for the Deaf 166,141.60
Tooele Courts 354,051.00
Unified Lab 883,894.00
Vernal Division of Services for People with Disabilities 31,330.00
Human Services
DHS Clearfield East 127,306.00
DHS Ogden – Academy Square 374,834.00
Work Force Services
DWS Brigham City 62,804.00
DWS Clearfield/Davis County 180,633.00
DWS Logan 140,088.00
DWS Metro Employment Center ... 252,776.00
DWS Midvale 135,640.00

DWS Ogden 203,748.00
DWS Provo 195,970.00
DWS Richfield 58,072.00
DWS South County Employment Center 176,196.00
DWS St. George 86,452.00
DWS Vernal 73,702.00

DIVISION OF FINANCE

ISF – Purchasing Card
Purchasing Card ..... Variable
Contract rebates
Car and/or Hotel Only 8.00
Travel
Travel Agency Service
Regular 27.00
Online 17.00
State Agent 22.00
Group
10–25 people 24.50
26–50 people 22.00
51–99 people 19.50
100+ people 19.00
School District Agent 17.00

DIVISION OF FLEET OPERATIONS

ISF – Fuel Network
State-Owned Sites Markup on Fuel (per gallon) 0.28
Retail Sites Markup on Fuel (per gallon) 0.18
Percentage of Transaction Value on Non-fuel Purchases 3.0%
EPA Compliance Monitoring (per month) 100.00
Service Rate (per hour) 70.00
Materials Rate ..... Actual cost
Petroleum Storage Tank Trust Fund Rate ..... Actual cost
Accounts receivable late fee
Past 30 Days ..... 5% of balance
Past 60 Days ..... 10% of balance
Past 90 Days ..... 15% of balance
ISF – Motor Pool
Lease Rate (per month, per vehicle) ..... See formula
Contract price divided by current life cycle.
Mileage ..... See formula
Maintenance and repair costs for a particular vehicle/use type, divided by total miles for that vehicle/use type
Management Information System (per month each vehicle) 4.00
Administrative Rate 42.00
Daily Pool Rates – Actual Cost From Vendor Contract ..... Actual Cost
Short Term Used Vehicle Lease 155.02
Commercial Equipment Rental ..... Cost plus $12 Fee
Telematics GPS Tracking ..... Actual cost
Accident Deductible (per accident) .... Actual cost
Fuel Pass-through (per gallons) ..... Actual cost
Additional Management Service and Research 50.00
Vehicle Complaint Processing (per occurrence) 20.00
Operator Negligence and Vehicle Abuse (per occurrence) ..... Varies
Vehicle Service Center (per occurrence each vehicle) 7.50
Vehicle Feature and Miscellaneous Equipment Upgrade ..... Actual cost
Vehicle Detail Cleaning Service 40.00
Accounts receivable late fee
Past 30-days ..... 5% of balance
Past 60-days ..... 10% of balance
Past 90-days ..... 15% of balance
Statutory Maintenance Non-Compliance
10 Days Late (per vehicle per month) 100.00
20 Days Late (per vehicle per month) 200.00
30+ Days Late (per vehicle per month) 300.00
Transactions Group
Transactions Rate (per hour) 46.00

DIVISION OF PURCHASING AND GENERAL SERVICES

ISF – Central Mailing
State Mail
Courier
Courier – Zone 1 ..... 2.26
Courier – Zone 2 ..... 3.88
Courier – Zone 3 ..... 8.04
Courier – Zone 4 ..... 9.70
Courier – Zone 5 ..... 14.35
Courier – Zone 6 ..... 17.79
Courier – Zone 7 ..... 21.73
Courier – Zone 8 ..... 26.42
Courier – Zone 9 ..... 28.49
Courier – Zone 10 ..... 33.22
Courier – Zone 11 ..... 36.02
Courier – Zone 12 ..... 39.87
Production
Incoming OCR Sort 0.103
Business Reply/Postage Due 0.54
Special Handling/Labor (per hour) 85.00
Auto Fold 0.024
Label Generate 0.155
Label Apply 0.15
Auto Tab 0.35
Meter/Seal 0.028
Optical Character Reader 0.028
Additional Insert 0.01
Accountable Mail 1.45
Intelligent Inserting 0.033
ISF – Cooperative Contracting
Cooperative Contracts
Administrative ..... Up to 1.0%
ISF – Federal Surplus Property
Surplus
Federal Shipping and handling charges ..... See formula
Not to exceed 20% of federal acquisition cost plus freight/shipping charges
Accounts receivable late fees
Past 30 days ..... 5% of balance
Past 60 days ..... 10% of balance
ISF – Print Services
Contract Management (per impression) 0.005
Self Service Copy Rates 0.004

Cost computed by: (Depreciation + Maintenance + Supplies)/Impressions + copy multiplied impressions results
ISF – State Surplus Property
Surplus
Surcharge for use of a Financial Transaction Card ..... Up to 3%
Surcharge applies only to the amount charged to a financial transaction card
Online Sales Non-Vehicle ..... 50% of net proceeds
Miscellaneous Property Pick-up Process
State Agencies
Total Sales Proceeds ..... See formula
Less prorated rebate of retained earnings
Handheld Devices (PDAs and wireless phones)
Less than 1-Year Old .... 75% of actual cost $30 minimum
1 Year and Older . 50% of cost – $30 minimum
Unique Property Processing .. Negotiated % of sales price
Electronic/Hazardous Waste Recycling ..... Actual cost
Vehicles and Heavy Equipment ..... 6.5% of Net Sale Price plus $100 per Vehicle
Default Auction Bids ..... 10% of sales price
Labor (per hour) 26.00
Half hour minimum
Copy Rates (per copy) 0.10
Semi Truck and Trailer Service (per mile) 1.08
Two-ton Flat Bed Service (per mile) 0.61
Forklift Service (per hour) 23.00
4-6000 lbs
On-site sale away from Utah State Agency Surplus Property yard ..... 7% of net sale price
Storage
Building (per cubic foot per month) 0.43
Fenced lot (per square foot per month) 0.23
Accounts receivable late fees
Past 30 days ..... 5% of balance
Past 60 days ..... 10% of balance

RISK MANAGEMENT

ISF – Risk Management Administration
Specialized Lines of Coverage ..... See Formula
These are specialized lines of insurance outside of typical coverage lines. The aviation and cyber fees are pass through costs direct from insurance provider. Also shown are fees to host (administer) the enterprise learning management system (Saba).
Aviation Insurance Premiums (pass through)
HE-00121 Utah State University ... 364,647.00
HE-00122 Utah Valley University 173,817.00
SG-00232 Dept of Agriculture & Food 19,278.00
SG-00090 Dept of Public Safety 185,648.00
SG-00219 DNR Dept of Natural Resources 32,398.00
SG-00109 DOT Aeronautics 53,576.00
Cyber Liability
HE-00175 Dixie State University ... 34,620.00
HE-00042 Salt Lake Community College 66,989.00
HE-00051 Snow College 8,053.00
HE-00058 Southern Utah University 92,460.00
HE-00082 UCAT-Bridgerland ATC 10,380.00
HE-00170 UCAT-Davis ATC 16,240.00
HE-00174 UCAT-Dixie ATC 8,900.00
HE-00213 UCAT-Mountainland Technical College 16,100.00
HE-00158 UCAT-Ogden Weber Technical College 20,900.00
HE-00059 UCAT-Southwest ATC 4,012.00
HE-00036 UCAT-Tooele ATC 4,514.00
HE-00113 UCAT-Uintah Basin ATC 6,180.00
HE-00115 University of Utah 1,255,826.00
HE-00121 Utah State University 88,719.00
HE-00122 Utah Valley University ... 81,250.00
HE-00248 Weber State University .. 38,950.00
Learning Management System
Learning Management System – Enterprise Rate (per Hour) 55.00
Learning Management System – Garage Rate (per Hour) 55.00
SG-00038 DOT Dept of Transportation 3,798.00
SG-00210 Dept of Human Services 15,338.00
SG-00204 Dept of Health 3,108.00
SG-00225 Dept of GovOps 34,690.00
SG-00140 Dept of Commerce 2,921.00
SG-00071 Dept of Alcoholic Beverage Service 3,031.00
SG-00249 Dept of Workforce Services 7,241.00
ISF – Workers' Compensation
Workers Compensation Premiums
Aviation Crews (per '$100 wages) ..... 1.60% per $100 wages
Aviation Pilots (per '$100 wages) ..... $3.37 per $100 wages
Helicopter Pilots (per '$100 wages) ..... $1.53 per $100 wages
Road Construction Crews ..... 1.60% per $100 wages
State Workers ..... 0.45% per $100 wages
Risk Management – Auto
Auto Property Damage (APD)
Premium Methodology
APD Premiums ..... See below
Exposure data (vehicles) and loss history are provided to an actuary, who proposes rates.
Standard Deductible (per incident) ... 1,500.00
Currently applying a $1,000.00 deductible
APD Premiums: Charter Schools
CS-00074 American Leadership Academy 2,470.00
CS-00094 C S Lewis Academy Charter School 840.00
CS-00104 Canyon Grove Academy 840.00
CS-00191 East Hollywood High School 470.00
CS-00016 Fast Forward Charter 310.00

CS-00304 Franklin Discovery Academy 730.00
CS-00029 Gateway Preparatory Academy 1,470.00
CS-00202 Guadalupe School 1,210.00
CS-00127 Itineris Early College High School 210.00
CS-00134 Karl G Maeser Preparatory Academy 1,210.00
CS-00196 Merit College Preparatory Academy 1,210.00
CS-00154 Northern Utah Academy for Math Engr & Science 680.00
CS-00085 Pinnacle Canyon Academy 6,400.00
CS-00087 Providence Hall Charter School 3,150.00
CS-00283 Real Salt Lake Academy ... 1,470.00
CS-00282 Salt Lake Charter School 370.00
CS-00046 Salt Lake School for Performing Arts 1,470.00
CS-00062 Success Academy - Iron 420.00
CS-00119 Utah County Academy Of Sciences 310.00
CS-00302 Utah Military Academy 2,260.00
CS-00237 Valley Academy 2,680.00
CS-00284 Vanguard Charter School 730.00
CS-00241 Vista at Entrada School for Performing Arts And Technology 100.00
CS-00242 Walden School Of Liberal Arts 100.00
APD Premiums: Higher Education
HE-00175 Dixie State University ... 16,760.00
HE-00042 Salt Lake Community College 31,670.00
HE-00051 Snow College 9,120.00
HE-00058 Southern Utah University 30,780.00
HE-00082 UCAT-Bridgerland ATC .. 4,300.00
HE-00170 UCAT-Davis ATC 3,160.00
HE-00174 UCAT-Dixie ATC 4,860.00
HE-00213 UCAT-Mountainland ATC 4,290.00
HE-00158 UCAT-Ogden/Weber ATC 1,360.00
HE-00059 UCAT-Southwest ATC 3,230.00
HE-00036 UCAT-Tooele ATC 2,470.00
HE-00113 UCAT-Uintah Basin ATC 4,470.00
HE-00115 University of Utah 2,990.00
HE-00121 Utah State University ... 144,720.00
HE-00122 Utah Valley University ... 35,260.00
HE-00248 Weber State University .. 23,630.00
APD Premiums: Independent Agencies
OT-00205 Heber Valley Railroad 990.00
OT-00120 Utah State Fairpark 1,480.00
APD Premiums: School Districts
SD-00073 Alpine School District ... 207,140.00
SD-00078 Beaver School District 10,780.00
SD-00080 Box Elder School District 61,790.00
SD-00096 Cache School District 56,650.00
SD-00098 Canyons School District .. 86,770.00
SD-00100 Carbon School District ... 17,750.00
SD-00168 Daggett School District 5,410.00
SD-00172 Davis School District 190,890.00
SD-00177 Duchesne School District 31,870.00
SD-00194 Emery County School District 17,430.00
SD-00019 Garfield School District 9,780.00
SD-00200 Grand School District 7,820.00
SD-00201 Granite School District 150,020.00
SD-00126 Iron School District 36,260.00
SD-00129 Jordan School District ... 122,180.00
SD-00130 Juab School District 12,460.00
SD-00133 Kane School District 11,270.00
SD-00166 Logan City School District 5,250.00
SD-00197 Millard School District ... 16,390.00
SD-00212 Morgan School District ... 12,620.00
SD-00215 Murray School District ... 10,790.00
SD-00186 Nebo School District 87,090.00
SD-00189 North Sanpete School District 11,190.00
SD-00152 North Summit School District 7,080.00
SD-00153 Northeastern Utah Education Services 970.00
SD-00156 Ogden City School District 8,380.00
SD-00083 Park City School District 13,990.00
SD-00086 Piute School District 6,200.00
SD-00088 Provo School District 24,890.00
SD-00039 Rich School District 5,470.00
SD-00044 Salt Lake School District 56,540.00
SD-00047 San Juan School District 34,430.00
SD-00050 Sevier School District 21,400.00
SD-00054 South Sanpete School District 12,980.00
SD-00055 South Summit School District 9,140.00
SD-00057 Southeastern Educational Center 110.00
SD-00060 Southwest Educational Developmental Center ... 960.00
SD-00035 Tintic School District 2,180.00
SD-00037 Tooele School District 43,160.00
SD-00114 Uintah School District 33,030.00
SD-00244 Wasatch County School District 20,440.00
SD-00245 Washington County School District 66,260.00
SD-00246 Wayne School District 4,970.00
SD-00247 Weber School District 80,700.00
APD Premiums: State Agencies
SG-00075 Attorney General 15,110.00
SG-00070 Board of Pardons & Parole 1,850.00
SG-00141 DCCE Department of Cultural & Community Engagement 2,600.00
SG-00144 DCCE State Library 5,200.00
SG-00143 DCCE Utah Arts Council 250.00
SG-00232 Dept of Agriculture & Food 45,840.00
SG-00071 Dept of Alcoholic Beverage Service 2,490.00
SG-00140 Dept of Commerce 6,960.00

SG-00014 Dept of Environmental Quality 6,920.00
SG-00204 Dept of Health 18,070.00
SG-00124 Dept of Insurance 5,470.00
SG-00090 Dept of Public Safety 632,270.00
SG-00240 Dept of Veterans & Military Affairs 6,060.00
SG-00249 Dept of Workforce Services 35,550.00
SG-00225 DGO Executive Director 260.00
SG-00226 DGO FCM Facilities Management ISF 30,280.00
SG-00228 DGO FLT Fleet Operations 9,610.00
SG-00230 DGO PUR Purchasing 3,990.00
SG-00231 DGO RM Risk Management 1,320.00
SG-00066 DGO Technology Services DTS 5,960.00
SG-00210 DHS Dept of Human Services 133,530.00
SG-00219 DNR Dept of Natural Resources 193,310.00
SG-00025 DNR DWR Wildlife 5,390.00
SG-00220 DNR Forestry, Fire & State Lands 2,610.00
SG-00020 DNR OGM Oil, Gas and Mining 4,480.00
SG-00021 DNR Parks & Recreation 48,110.00
SG-00148 DOC AP&P Administration 110,900.00
SG-00146 DOC Central Utah Corr Facility 8,940.00
SG-00147 DOC Dept of Corrections 83,330.00
SG-00038 DOT Dept of Transportation 255,800.00
SG-00092 DPS UHP Utah Highway Patrol 870.00
SG-00181 GOV Comm. Criminal & Juvenile Justice 250.00
SG-00180 Governor's Office 260.00
SG-00183 Governor's Office of Economic Opportunity 4,480.00
SG-00257 Governor's Office of Energy 250.00
SG-00149 Judicial Branch 34,390.00
SG-00135 Labor Commission 9,720.00
SG-00026 Navajo Trust Administration 3,780.00
SG-00089 Public Lands Policy Coordination Office 1,000.00
SG-00048 School for the Deaf and Blind 1,130.00
SG-00111 School & Institutional Trust Lands Admin 4,880.00
SG-00110 State Treasurer 500.00
SG-00065 Tax Commission 16,730.00
SG-00118 Utah Communications Authority 5,440.00
SG-00216 Utah National Guard 13,650.00
SG-00076 Utah State Auditor 500.00
SG-00193 Utah State Board of Education 18,180.00
Risk Management – Liability
Liability Premium Methodology
Liability Premiums 1.00
Exposure data and loss history are provided to an actuary, who proposes rates. Penalties shown below may also apply.
Charter School-Existing school Liability rate (per Student) 12.70
Charter School Pre-opening Liability Coverage (per School) 1,000.00
For newly-formed Charter Schools
Liability Premiums: Charter Schools
CS-00221 Academy for Math, Engineering, & Science 7,340.00
CS-00074 American Leadership Academy 25,510.00
CS-00079 Beehive Science & Technology Academy 4,560.00
CS-00289 Bonneville Academy 8,490.00
CS-00094 C S Lewis Academy Charter School 4,700.00
CS-00104 Canyon Grove Academy .. 10,780.00
CS-00300 Career Path High 2,690.00
CS-00238 Center for Creativity Innovation and Discovery 7,540.00
CS-00137 Channing Hall 8,290.00
CS-00138 City Academy 1,710.00
CS-00191 East Hollywood High School 4,760.00
CS-00015 Excelsior Academy | Charter School 21,040.00
CS-00016 Fast Forward Charter 4,870.00
CS-00304 Franklin Discovery Academy 9,940.00
CS-00029 Gateway Preparatory Academy 10,750.00
CS-00179 Good Foundations Charter School 6,270.00
CS-00202 Guadalupe School 4,010.00
CS-00275 Ignite Entrepreneurship Academy 8,430.00
CS-00125 Intech Collegiate High School 3,090.00
CS-00127 Itineris Early College High School 5,680.00
CS-00128 John Hancock Foundation 2,890.00
CS-00134 Karl G Maeser Preparatory Academy 9,720.00
CS-00136 Lakeview Academy 15,690.00
CS-00196 Merit College Preparatory Academy 7,250.00
CS-00198 Moab Charter School 1,240.00
CS-00160 Mountain Heights Academy 15,100.00
CS-00214 Mountainville Academy ... 10,750.00
CS-00027 Navigator Pointe Charter School 6,590.00
CS-00187 Noah Webster Academy ... 7,960.00
CS-00190 North Star Academy 8,240.00
CS-00154 Northern Utah Academy for Math Engr & Science 17,640.00
CS-00155 Odyssey Charter School ... 5,970.00
CS-00085 Pinnacle Canyon Academy 6,470.00
CS-00087 Providence Hall Charter School 31,730.00
CS-00105 Quest Academy Charter School 15,740.00
CS-00106 Reagan Academy 10,200.00
CS-00283 Real Salt Lake Academy ... 6,390.00

CS-00043 Renaissance Academy 11,800.00
CS-00041 Salt Lake Arts Academy ... 6,330.00
CS-00282 Salt Lake Charter School .. 4,560.00
CS-00046 Salt Lake School for Performing Arts 3,230.00
CS-00270 Scholar Academy 10,330.00
CS-00053 Soldier Hollow Charter School 4,350.00
CS-00279 St George Academy 3,970.00
CS-00062 Success Academy - Iron ... 6,270.00
CS-00063 Success Academy - Washington 8,090.00
CS-00031 The Ranches Academy Charter School 5,750.00
CS-00119 Utah County Academy Of Sciences 9,940.00
CS-00314 Utah International Charter School 2,970.00
CS-00302 Utah Military Academy ... 14,950.00
CS-00237 Valley Academy 7,990.00
CS-00284 Vanguard Charter School 7,880.00
CS-00123 Venture Academy Charter 11,740.00
CS-00241 Vista at Entrada School For Performing Arts And Technology 17,090.00
CS-00242 Walden School Of Liberal Arts 6,500.00
CS-00301 Wallace Stegner Academy 18,940.00
CS-00243 Wasatch Peak Academy ... 7,200.00
CS-00253 Winter Sports School 1,730.00
CS-00252 WSU Kinder Charter Academy 440.00
Liability Premiums: Higher Education
HE-00009 Aggie Redrock Foundation ... 750.00
HE-00175 Dixie State University .. 355,450.00
HE-00042 Salt Lake Community College 438,460.00
HE-00051 Snow College 123,110.00
HE-00058 Southern Utah University 343,260.00
HE-00082 UCAT-Bridgerland ATC 51,160.00
HE-00170 UCAT-Davis ATC 53,190.00
HE-00174 UCAT-Dixie ATC 34,440.00
HE-00213 UCAT-Mountainland ATC 53,250.00
HE-00158 UCAT-Ogden/Weber ATC 53,930.00
HE-00059 UCAT-Southwest ATC ... 17,910.00
HE-00036 UCAT-Tooele ATC 14,110.00
HE-00113 UCAT-Uintah Basin ATC 29,310.00
HE-00115 University of Utah 2,636,840.00
HE-00121 Utah State University 1,090,310.00
HE-00122 Utah Valley University 930,950.00
HE-00248 Weber State University 430,470.00
Liability Premiums: Independent Agencies
OT-00205 Heber Valley Railroad 10,420.00
OT-00120 Utah State Fairpark 14,140.00
School Districts (per Group) 10,018,520.00
Liability Premiums: State Agencies
SG-00075 Attorney General 306,450.00
SG-00070 Board of Pardons & Parole 21,070.00
SG-00099 Capitol Preservation Board 5,180.00
SG-00101 Career Service Review Office 1,060.00
SG-00141 DCCE Department of Cultural & Community Engagement 71,990.00
SG-00232 Dept of Agriculture & Food 178,690.00
SG-00071 Dept of Alcoholic Beverage Service 222,750.00
SG-00140 Dept of Commerce 119,690.00
SG-00014 Dept of Environmental Quality 177,610.00
SG-00017 Dept of Financial Institutions 26,760.00
SG-00204 Dept of Health 212,455.00
SG-00124 Dept of Insurance 42,830.00
SG-00090 Dept of Public Safety .. 1,201,560.00
SG-00240 Dept of Veterans & Military Affairs 16,020.00
SG-00249 Dept of Workforce Services 672,210.00
SG-00222 DGO Administrative Rules 2,010.00
SG-00223 DGO Archives Administration 11,350.00
SG-00225 DGO Executive Director ... 2,370.00
SG-00226 DGO FCM Facilities Management ISF 59,390.00
SG-00227 DGO FIN Finance 20,280.00
SG-00228 DGO FLT Fleet Operations 10,630.00
SG-00207 DGO Human Resource Management 48,700.00
SG-00251 DGO Inspector Gen Med Admin 7,530.00
SG-00230 DGO PUR Purchasing 29,070.00
SG-00231 DGO RM Risk Management 12,840.00
SG-00224 DGO SDC State Debt Collection 5,350.00
SG-00066 DGO Technology Services DTS 294,370.00
SG-00210 DHS Dept of Human Services 1,293,815.00
SG-00219 DNR Dept of Natural Resources 1,146,670.00
SG-00147 DOC Dept of Corrections 1,981,350.00
SG-00038 DOT Dept of Transportation 4,640,770.00
SG-00180 Governor's Office 92,000.00
SG-00183 Governor's Office of Economic Opportunity 42,010.00
SG-00257 Governor's Office of Energy 7,530.00
SG-00206 House of Representatives 11,230.00
SG-00149 Judicial Branch 437,780.00
SG-00131 Judicial Conduct Commission 5,230.00
SG-00135 Labor Commission 53,720.00

SG-00161 Legislative Auditor General 19,320.00
SG-00162 Legislative Fiscal Analyst 13,440.00
SG-00164 Legislative Research & General Counsel 34,170.00
SG-00163 Legislative Services 15,680.00
SG-00026 Navajo Trust Administration 11,500.00
SG-00103 Public Service Commission 8,970.00
SG-00268 School & Institutional Trust Fund Office 5,110.00
SG-00111 School & Institutional Trust Lands Admin 32,040.00
SG-00049 Senate 8,440.00
SG-00110 State Treasurer 13,440.00
SG-00065 Tax Commission 261,870.00
SG-00107 Utah Board of Higher Education 166,990.00
SG-00118 Utah Communications Authority 18,560.00
SG-00259 Utah Independent Redistricting Commission 6,620.00
SG-00216 Utah National Guard 120,150.00
SG-00076 Utah State Auditor 19,700.00
SG-00193 Utah State Board of Education 388,670.00
Risk Management – Property
Property Coverage Premium Methodology
Premium for Existing Insured Building and Contents ..... See formula
The building/structure values are professionally evaluated every three to five years by an outside contractor through an agency contract. Values during interim years are updated by applying annual trending data supplied by the contractor for buildings that have been previously appraised. Content values are provided annually by the insured entities. Exposure data (asset values) and loss history are provided to an outside actuary, who provides a proposal for rates.
Premium for Newly Insured Buildings
Buildings valued in excess of $25 million reported to broker, who obtains rate from excess insurance carrier. Initial premium cost is passed through to covered entity.
Property Premiums: Charter Schools
CS-00221 Academy for Math, Engineering, & Science 1,010.00
CS-00074 American Leadership Academy 34,770.00
CS-00079 Beehive Science & Technology Academy 21,450.00
CS-00289 Bonneville Academy 9,530.00
CS-00094 C S Lewis Academy Charter School 5,900.00
CS-00104 Canyon Grove Academy ... 1,880.00
CS-00300 Career Path High 730.00
CS-00238 Center for Creativity Innovation and Discovery 8,290.00
CS-00137 Channing Hall 10,020.00
CS-00138 City Academy 530.00
CS-00191 East Hollywood High School 9,590.00
CS-00015 Excelsior Academy Charter School 21,350.00
CS-00016 Fast Forward Charter 6,420.00
CS-00304 Franklin Discovery Academy 9,750.00
CS-00029 Gateway Preparatory Academy 9,880.00
CS-00179 Good Foundations Charter School 5,270.00
CS-00202 Guadalupe School 760.00
CS-00275 Ignite Entrepreneurship Academy 7,400.00
CS-00125 Intech Collegiate High School 590.00
CS-00127 Itineris Early College High School 8,920.00
CS-00128 John Hancock Foundation 4,320.00
CS-00134 Karl G Maeser Preparatory Academy 13,270.00
CS-00136 Lakeview Academy 20,280.00
CS-00196 Merit College Preparatory Academy 7 ,990.00
CS-00198 Moab Charter School 1,770.00
CS-00160 Mountain Heights Academy 640.00
CS-00214 Mountainville Academy ... 14,630.00
CS-00027 Navigator Pointe Charter School 4,920.00
CS-00187 Noah Webster Academy ... 9,100.00
CS-00190 North Star Academy 7,340.00
CS-00154 Northern Utah Academy for Math Engr & Science 260.00
CS-00155 Odyssey Charter School ... 7,160.00
CS-00085 Pinnacle Canyon Academy 26,080.00
CS-00087 Providence Hall Charter School 33,790.00
CS-00105 Quest Academy Charter School 14,260.00
CS-00106 Reagan Academy 9,520.00
CS-00283 Real Salt Lake Academy 12,460.00
CS-00043 Renaissance Academy 8,510.00
CS-00041 Salt Lake Arts Academy ... 7,690.00
CS-00282 Salt Lake Charter School 540.00
CS-00046 Salt Lake School for Performing Arts 740.00
CS-00270 Scholar Academy 9,700.00
CS-00053 Soldier Hollow Charter School 5,860.00
CS-00279 St George Academy 5,470.00
CS-00062 Success Academy – Iron 250.00
CS-00063 Success Academy – Washington 190.00
CS-00031 The Ranches Academy Charter School 5,640.00
CS-00119 Utah County Academy Of Sciences 13,850.00
CS-00314 Utah International Charter School 410.00
CS-00302 Utah Military Academy 5,200.00
CS-00237 Valley Academy 6,360.00
CS-00284 Vanguard Charter School 700.00

CS-00123 Venture Academy Charter 19,080.00
CS-00241 Vista at Entrada School for Performing Arts And Technology 13,930.00
CS-00242 Walden School Of Liberal Arts 6,960.00
CS-00301 Wallace Stegner Academy 10,790.00
CS-00243 Wasatch Peak Academy ... 5,550.00
CS-00253 Winter Sports School 2,230.00
CS-00252 WSU Kinder Charter Academy 50.00
Property Premiums: Higher Education
HE-00175 Dixie State University .. 536,960.00
HE-00042 Salt Lake Community College 646,940.00
HE-00051 Snow College 316,390.00
HE-00058 Southern Utah University 538,760.00
HE-00082 UCAT-Bridgerland ATC 92,230.00
HE-00170 UCAT-Davis ATC 191,000.00
HE-00174 UCAT-Dixie ATC 67,780.00
HE-00213 UCAT-Mountainland ATC 93,940.00
HE-00158 UCAT-Ogden/Weber ATC 147,300.00
HE-00059 UCAT-Southwest ATC ... 37,710.00
HE-00036 UCAT-Tooele ATC 21,870.00
HE-00113 UCAT-Uintah Basin ATC 88,300.00
HE-00115 University of Utah ... 10,887,080.00
HE-00121 Utah State University 2,439,100.00
HE-00122 Utah Valley University 940,930.00
HE-00248 Weber State University 1,072,900.00
Property Premiums: Independent Agencies
OT-00205 Heber Valley Railroad 3,100.00
SG-00118 Utah Communications Authority 69,050.00
OT-00120 Utah State Fairpark 72,200.00
Property Premiums: School Districts
SD-00073 Alpine School District 1,822,700.00
SD-00078 Beaver School District 74,550.00
SD-00080 Box Elder School District 313,870.00
SD-00096 Cache School District 299,320.00
SD-00098 Canyons School District 939,490.00
SD-00100 Carbon School District ... 84,050.00
SD-00168 Daggett School District ... 20,260.00
SD-00172 Davis School District 2,047,720.00
SD-00177 Duchesne School District 173,270.00
SD-00194 Emery County School District 111,650.00
SD-00019 Garfield School District ... 53,720.00
SD-00200 Grand School District 70,410.00
SD-00201 Granite School District .. 860,980.00
SD-00126 Iron School District 223,380.00
SD-00129 Jordan School District ... 969,020.00
SD-00130 Juab School District 65,180.00
SD-00133 Kane School District 115,770.00
SD-00166 Logan City School District 158,410.00
SD-00197 Millard School District .. 111,370.00
SD-00212 Morgan School District ... 81,130.00
SD-00215 Murray School District .. 125,910.00
SD-00186 Nebo School District 534,420.00
SD-00189 North Sanpete School District 50,890.00
SD-00152 North Summit School District 41,030.00
SD-00153 Northeastern Utah Education Services 790.00
SD-00156 Ogden City School District 430,760.00
SD-00083 Park City School District 122,120.00
SD-00086 Piute School District 15,960.00
SD-00088 Provo School District 369,450.00
SD-00039 Rich School District 47,360.00
SD-00044 Salt Lake School District 1,367,830.00
SD-00047 San Juan School District 213,770.00
SD-00050 Sevier School District ... 120,730.00
SD-00054 South Sanpete School District 140,980.00
SD-00055 South Summit School District 75,100.00
SD-00057 Southeastern Educational Center 1,130.00
SD-00060 Southwest Educational Developmental Center 1,230.00
SD-00035 Tintic School District 44,800.00
SD-00037 Tooele School District ... 273,360.00
SD-00114 Uintah School District ... 173,170.00
SD-00244 Wasatch County School District 141,490.00
SD-00245 Washington County School District 841,730.00
SD-00246 Wayne School District 17,420.00
SD-00247 Weber School District ... 690,130.00
Property Premiums: State Agencies
SG-00075 Attorney General 6,670.00
SG-00070 Board of Pardons & Parole 1,570.00
SG-00099 Capitol Preservation Board 399,540.00
SG-00101 Career Service Review Office 70.00
SG-00141 DCCE Department of Cultural & Community Engagement 800.00
SG-00145 DCCE Foundation 111,340.00
SG-00144 DCCE State Library 12,500.00
SG-00143 DCCE Utah Arts Council 6,950.00
SG-00232 Dept of Agriculture & Food 9,190.00
SG-00071 Dept of Alcoholic Beverage Service 109,240.00
SG-00140 Dept of Commerce 5,520.00
SG-00014 Dept of Environmental Quality 26,630.00
SG-00017 Dept of Financial Institutions 830.00
SG-00204 Dept of Health 18,770.00
SG-00124 Dept of Insurance 1,370.00

SG-00090 Dept of Public Safety 106,570.00
SG-00240 Dept of Veterans & Military Affairs 169,950.00
SG-00249 Dept of Workforce Services 48,160.00
SG-00222 DGO Administrative Rules .. 170.00
SG-00223 DGO Archives Administration 46,480.00
SG-00225 DGO Executive Director 230.00
SG-00226 DGO FCM Facilities Management ISF 1,696,380.00
SG-00227 DGO FIN Finance 7,090.00
SG-00228 DGO FLT Fleet Operations 670.00
SG-00207 DGO Human Resource Management 840.00
SG-00230 DGO PUR Purchasing 19,410.00
SG-00231 DGO RM Risk Management 330.00
SG-00224 DGO SDC State Debt Collection 270.00
SG-00066 DGO Technology Services DTS 72,340.00
SG-00210 DHS Dept of Human Services 79,070.00
SG-00211 DHS DSPD Svcs for Disabilities 80,330.00
SG-00208 DHS JJS Juvenile Justice Serv 149,000.00
SG-00209 DHS Substance Abuse & Mental Health 114,400.00
SG-00219 DNR Dept of Natural Resources 12,110.00
SG-00025 DNR DWR Wildlife 220,310.00
SG-00220 DNR Forestry, Fire & State Lands 10,980.00
SG-00023 DNR Natural Resources Administration 5,110.00
SG-00020 DNR OGM Oil, Gas and Mining 2,170.00
SG-00021 DNR Parks & Recreation 631,540.00
SG-00022 DNR Utah Geological Survey 2,600.00
SG-00024 DNR WRi 2,020.00
SG-00148 DOC AP&P Administration 59,840.00
SG-00146 DOC Central Utah Corr Facility 150,080.00
SG-00147 DOC Dept of Corrections 515,970.00
SG-00109 DOT Aeronautics 3,810.00
SG-00108 DOT Construction Mgmt 21,130.00
SG-00038 DOT Dept of Transportation 500,500.00
SG-00091 DPS Dl Driver License ... 10,390.00
SG-00093 DPS FM Fire Marshal 620.00
SG-00181 GOV Comm. Criminal & Juvenile Justice 1,690.00
SG-00185 GOV Constitutional Defense 1,190.00
SG-00184 GOV Office Planning & Budget 2,330.00
SG-00180 Governor's Office 11,600.00
SG-00258 Governor's Office-Colorado River Authority 210.00
SG-00183 Governor's Office of Economic Opportunity 2,150.00
SG-00206 House of Representatives 2,670.00
SG-00149 Judicial Branch 62,530.00
SG-00131 Judicial Conduct Commission 70.00
SG-00135 Labor Commission 4,040.00
SG-00161 Legislative Auditor General 810.00
SG-00162 Legislative Fiscal Analyst ... 350.00
SG-00164 Legislative Research & General Counsel 1,400.00
SG-00163 Legislative Services 1,530.00
SG-00026 Navajo Trust Administration 3,880.00
SG-00089 Public Lands Policy Coordination Office 320.00
SG-00103 Public Service Commission 1,970.00
SG-00268 School & Institutional Trust Fund Office 1,630.00
SG-00111 School & Institutional Trust Lands Admin 5,130.00
SG-00048 School for the Deaf and Blind 81,880.00
SG-00049 Senate 1,310.00
SG-00110 State Treasurer 1,100.00
SG-00065 Tax Commission 16,490.00
SG-00107 Utah Board of Higher Education 29,910.00
SG-00259 Utah Independent Redistricting Commission 20.00
SG-00195 Utah Medical Education Council 60.00
SG-00216 Utah National Guard 527,630.00
SG-00076 Utah State Auditor 1,310.00
SG-00193 Utah State Board of Education 30,920.00
Course of Construction Premiums
Rate per $100 of value 0.10
Charged once per project (unless scope changes)

ENTERPRISE TECHNOLOGY DIVISION

ISF – Enterprise Technology Division
Application Developer Rate
Tier 1 (per Hour) 79.01
Tier 2 (per Hour) 94.70
Tier 3 (per Hour) 110.34
Tier 4 (per Hour) 125.51
Master Engineer/Consultant (per Hour) ..... Special Billing Agreement
Communications and Phone Services
Business Phone Line VoIP (incl. Softphone & LD) (per Line/Month) 28.85
Business Phone Line Analog (per SBA) ..... Special Billing Agreement
Toll Free (per Minute) 0.0353
Persistent Chat (per User/Month) 8.78
Contact Center (per Core License/Month) 28.10
Technician Hourly Rate (per Hour) 90.33
Computer Support Services
Computer and Helpdesk Support (per Device/Month) 74.34

Adobe Pro/Sign (per Device/Month) 1.62
DaaS AWS (per Cost + 10%) ..... Direct Cost + 10%
DaaS Citrix/GCP (per Device/Month) 43.67
Google Email and Collaboration Tools (per Account/Month) 12.22
On-Call Support (per SBA) .... Special Billing Agreement
Network Services
Network Connection (ISP, VPN) (per Device/Month) 55.63
Network Connection - IoT (per Connection/Month) 9.82
Network Services - 10 GB (per Connection/Month) 222.52
Network Connection - Non-Cabinet Agencies (per Device/Month) 64.08
Security Services
Security Support (including Authentication Services) (per Device/Month) 44.85
Security Assessment and Remediation (per Table) ..... Table
Device Count: 1-99 $15,500; 100-499 $31,000; 500-1999 $62,000; 2000-4999 $124,000; >5000 $248,000
Database Services
Oracle Database Hosting Core Model (per Core/Month) 1,138.69
Oracle Database Hosting Shared Model (per GB/Month) 11.07
SQL Database Hosting Core Model (per Core/Month) 1,189.50
SQL Database Hosting Shared Model (per GB/Month) 12.14
Hosting Services
Processing (CPU) (per CPU/Month) 46.25
Memory (per GB/Month) 6.95
General Purpose Storage (per GB/Month) 0.08
Back-up Services (per GB/Month) 0.1993
Web Application Hosting (per Instance/Month) 109.81
Data Center Rack Space - Full Rack (per Rack/Month) 936.86
Data Center Rack Space - Rack U (per Rack U/Month) 31.23
Cloud Hosting and Storage Services (per Cloud) ..... Actual Cost
DTS Cloud Infrastructure (per Hour) 2.42
Print Services
High Speed Laser Print (per Image) 0.0269
Miscellaneous Services
DTS Consulting Charge (per Hour) ..... Table
Tier 1: $79.01/hr; Tier 2: $94.70/hr; Tier 3: $110.34/hr; Tier 4: $125.51/hr; Master Engineer/Consultant: SBA rate/hr
Consultant Services (Managed Service Provider) (per Cost + 3%) .. Direct Cost + 3%
All Other Contracts (per Up to Cost + 1%) ..... Cost + 1%
Enterprise Software (Adobe, Microsoft, Salesforce, etc.) ..... Direct Cost + 10%
Other Technical Services (per Cost + 10%) ..... Cost + 10%
Service Now License (per User/Month) ... 40.00
Microsoft Power App License (per User/Month) 15.03
Salesforce Service Cloud Unlimited License (per User/Month) .. 121.06

INTEGRATED TECHNOLOGY

Utah Geospatial Resource Center
UGRC Services
GPS Subscriptions (per Subscription/Year) 600.00
GIT Professional Labor (per Hour) ..... see schedule below
Tier 1: $79.01/hr; Tier 2: $94.70/hr; Tier 3: $110.34/hr; Tier 4: $125.51/hr; Master Engineer/Consultant: SBA rate/hr

HUMAN RESOURCE MANAGEMENT

Statewide Management Liability Training
Course Fee (per student) 750.00
Per Course
Other Training Fee (per hour) 25.00
$25 per training hour - materials not included.

HUMAN RESOURCES INTERNAL SERVICE FUND

ISF - Core HR Services
Core HR (per FTE) 12.00
ISF - Field Services
Consulting Services (Non-Customer) (per Consult) ..... Actual Cost
Billing for DHRM consultation with agencies who do not use DHRM HR services.
HR Services (per FTE) 862.00
Remote Notary Background Check Fee 6.50
This fee originated after 2019 General Session HB 52 directing DHRM to provide background checks for remote notaries for the state. The cost agreed upon was $6.50 per background check performed.
ISF - Payroll Field Services
Payroll Services (per FTE) 72.50

TRANSPORTATION

AERONAUTICS

Administration
Convenience Fee (for Credit or Debit Card Payment) 3%
Airplane Operations
Aircraft Rental
Cessna (per hour) 195.00
King Air C90B (per Hour) 935.00
King Air B200 (per Hour) 1,200.00

DOT NON-BUDGETARY

XYD DOT MISCELLANEOUS REVENUE
Event Coordination, Inspection and Monitoring (Regular Hours) (per Hour) .. 60.00
Event Coordination, Inspection and Monitoring (Non-regular Hours) (per Hour) 80.00
Special Event Application Review (Single Region) (per Event) 250.00

Special Event Application Review
(Multi-region) (per Event) 500.00
Expedited Review Fee (per Event) 600.00
Outdoor Advertising
New Permit 950.00
Permit Renewal and Administrative
Services Fee 90.00
Permit Renewal Late Fee (per Sign) 300.00
Sign Alteration Permit (per Sign) 950.00
Transfer of Ownership Permit 250.00
Retroactive Permit Fee Penalty
(per Sign) 250.00
Impound and Storage Fees 25.00

OPERATIONS/
MAINTENANCE MANAGEMENT

Region 4
Lake Powell Ferry Rates
Foot Passengers 10.00
Motorcycles 15.00
Vehicles Under 20' 25.00
Vehicles Over 20' (per Additional Foot) 1.50
Traffic Safety/Tramway
Tramway Registration
Two-car or Multicar Aerial Passenger Tramway
Aerial Tramway - 101 Horse
Power or Over 2,030.00
Aerial Tramway - 100 Horse
Power or Under 1,010.00
Tramway Surcharge for Winter
and Summer Use 15%
This is a surcharge to the registration fee for passenger ropeways that are operated year round. 15% will be added to the registration fee for those ropeways.
Chair Lift
Fixed Grip
2 Passenger 630.00
3 Passenger 750.00
4 Passenger 875.00
Conveyor, Rope Tow 260.00
Funicular - Single or Double
Reversible 2,030.00
Rope Tow, J-bar, T-bar, or
Platter Pull 260.00
Detachable Grip Chair or Gondola
3 Passenger 1,510.00
4 Passenger 1,625.00
6 Passenger 1,750.00
8 Passenger 1,880.00
Gondola - Cabin Capacity
from 5 to 8 ..... 1,010.00
Gondola - Cabin Capacity
greater than 8 ..... 2,030.00

SUPPORT SERVICES

Administrative Services
Express Lane - Administrative Fee 2.50
GRAMA Requests (per Hour) 40.00
Non-sufficient Check Collection 20.00
Non-sufficient Check Service Charge 20.00
Tow Truck Driver Certification 200.00
Access Management Application
Type 1 ..... 75.00
Type 2 ..... 475.00
Type 3 ..... 1,000.00
Type 4 ..... 2,300.00
Access Violation Fine (per Day) 100.00
Encroachment Permits
Landscaping 30.00
Manhole Access 30.00
Inspection (per Hour) 60.00
Overtime Inspection (per Hour) 80.00
Utility Permits
Low Impact 30.00
Medium Impact 135.00
High Impact 300.00
Excess Impact 500.00

AMUSEMENT RIDE SAFETY

Citations - Denying Access to the
Director 1st Offense 1,000.00
Citations - Denying Access to the
Director 2nd Offense 1,500.00
Citations - Failure to Maintain Proper
Records for an Amusement
Ride 1st Offense 500.00
Citations - Failure to Maintain
Proper Records for an Amusement
Ride 2nd Offense 1,000.00
Citations - Failure to Notify Director
of Intent to Operate within the
State 1st Offense 500.00
Citations - Failure to Notify Director
of Intent to Operate within the
State 2nd Offense 1,000.00
Citations - Failure to Report a Reportable
Injury to the Director within Eight
Hours after the Owner-operator
Learns of the Reportable Serious
Injury 1st Offense (per Violation,
per Ride, per Day) 1,000.00
Citations - Failure to Report a Reportable
Injury to the Director within Eight
Hours after the Owner-operator
Learns of the Reportable Serious
Injury 2nd Offense (per Violation,
per Ride, per Day) 1,500.00
Citations - Failure to Report a
Serious Physical Injury to Fair,
Show, Landlord, or Owner of the
Property 1st Offense (per Violation,
per Ride, per Day) 500.00
Citations - Failure to Report a Serious
Physical Injury to Fair, Show,
Landlord, or Owner of the Property
2nd Offense (per Violation,
per Ride, per Day) 750.00
Citations - Failure to Update
Locations of Operation with Director
Prior to Operation 1st Offense
(per Violation, per Ride, per Day) 250.00
Citations - Failure to Update
Locations of Operation with Director
Prior to Operation 2nd Offense
(per Violation, per Ride, per Day) 500.00
Citations - Falsifying an Application to
the Director 1st Offense 1,000.00
Citations - Falsifying an Application to
the Director 2nd Offense 1,500.00

Citations – Operation of an Amusement Ride by an Unqualified Person 1st Offense (per Violation, per Ride, per Day) 500.00
Citations – Operation of an Amusement Ride by an Unqualified Person 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Operation of an Amusement Ride in Violation of a Cease and Desist Order 1st Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Operation of an Amusement Ride in Violation of a Cease and Desist Order 2nd Offense (per Violation, per Ride, per Day) 2,500.00
Citations – Operation of an Amusement Ride without a Current Permit 1st Offense (per Violation, per Ride, per Day) 500.00
Citations – Operation of an Amusement Ride without a Current Permit 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Operation of an Amusement Ride without Current Safety Inspection Report 1st Offense (per Violation, per Ride, per Day) 500.00
Citations – Operation of an Amusement Ride without Current Safety Inspection Report 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Operation of an Amusement Ride without Proper Liability Insurance 1st Offense (per Violation, per Ride, per Day) 500.00
Citations – Operation of an Amusement Ride without Proper Liability Insurance 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Other Violations to the Statute or Rules not Listed 2nd Offense 250.00
Annual Amusement Ride Permit
Kiddie Ride 100.00
Non-kiddie Ride 100.00
Multi-ride Annual Amusement Ride Permit (for all amusement rides located at an amusement park that employs more than 1,000 individuals in a calendar year)
Permit Fee per Ride
Kiddie Ride 100.00
Non-kiddie Ride 100.00
Annual Inspector Registration
Application Fee 50.00
Renewal Fee (Every Two Years) 40.00

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

DABS OPERATIONS

Administration
Customized Reports Produced by Request (per hour) 50.00
Stock Location Report 25.00
Photocopies 0.15
Returned Check Fee 20.00
Application to Relocate Alcoholic Beverages Due to Change or Residence .. 20.00
Research (per hour) 30.00
Video/DVD 25.00
Price Lists
Master Category 8.00
$96 Yearly
Alpha by Product 8.00
$96 Yearly
Numeric by Code 8.00
$96 Yearly
Military 8.00
$96 Yearly
Executive Director
Compliance Licensee Lists 10.00
Label Approval Fee 50.00
Fee for DABC staff time for label approval process
Late Fee 300.00
Fee charged for missing the application or renewal deadline. Was approved after public hearing September 2021.
Licensee Rules 20.00
Master Limited Restaurant License Application fee 5,330.00
Master Limited Restaurant License Application fee
Master Limited Restaurant License renewal fee 4,250.00
Master Limited Restaurant License renewal fee
Training Fee 25.00
H.B. 442 passed in the 2017 General Session requires DABC to charge a fee for required manager and violation training that will be offered by the department starting in 2018. By statute, the fee is to cover the department's cost of providing the training program. 32B-5-405(3)(e). The new training program is meant to assist licensees to remain in compliance and in business as well as provide education to prevent any future violations.
Utah Code 30.00
Warehouse and Distribution
Missed Appointment with Less than 24 Hour Notice (per appointment) 500.00
Missed Appointment Without Notice (per appointment) 1,000.00
Non-Compliant Labeling (per case) 25.00
PO Revisions Not Sent to Purchasing in Advance (per line item) 250.00
Product Disposal (per pallet) 500.00
Re-configuring Pallets (per pallet) 250.00
Restacking Shifted/Collapsed Loads (per load) 250.00

DEPARTMENT OF COMMERCE

COMMERCE GENERAL REGULATION

Administration
Commerce Department
All Divisions
Booklets ..... Actual Cost
Administrative Expungement Application 200.00

Electronic Payment (Base sub-total under $100) ..... Not to Exceed $3.00
Electronic Payment Fee (Base sub-total over $100) ..... Not to Exceed 3%
Priority Processing 75.00
List of Licensees/Business Entities 25.00
Photocopies (per copy) 0.30
Verification of Licensure/ Custodian of Record 20.00
Returned Check Charge 20.00
FBI Fingerprint File Search 10.00
BCI Fingerprint File Search 20.00
($25 With $5 Rapback included)
Fingerprint Processing for non-department 10.00
Government Records and Management Act Staff time to search, compile and otherwise prepare record ..... Actual Amount
GRAMA Electronic Record ..... Actual Cost
Administration
Motor Vehicle Franchise Act
Application 83.00
Renewal 83.00
Powersport Vehicle Franchise Act
Application 83.00
Renewal 83.00
Application in addition to MVFA 27.00
Renewal in addition to MVFA 27.00
Late Renewal 20.00
Employer Legal Status Voluntary Certification (Bi-annual) 3.00
Property Rights Ombudsman
Filing Request for Advisory Opinion 150.00
Land Use Seminar Continuing Education 25.00
Books
Citizens Guide to Land Use
Single copy 15.00
Six or more copies 9.00
Case of 22 books 132.00
Administration
Home Owner Associations
HOA Registration 37.00
Change in HOA Registration 10.00
Consumer Protection
Maintenance Funding Provider
Registrations New Application/ Renewal 300.00
Miscellaneous
Transcript / Diploma Request 30.00
Residential vocational and life skills registration 500.00
Charitable Solicitation Act
Charity 75.00
Transportation Network Company
Registration 5,000.00
License Renewal 5,000.00
Immigration Consultants
Initial Registration Fee 200.00
License Renewal Fee 200.00
Pawnshop Registry
Pawnbroker Late Fee 50.00
Charitable Solicitation Act
Professional Fund Raiser 250.00
Telephone Solicitation
Telemarketing Registration 500.00
Health Spa
Registration / Renewal 100.00
Credit Services Organization
Annual Fee 250.00
Debt Management Services Organizations 250.00
Business Opportunity Disclosure Register
Exempt 100.00
Approved 200.00
Pawnshop Registry
Out of State Pawnshop Database Request 900.00
Pawnshop/2nd hand store Registration 300.00
Law Enforcement Registration 3.00
Proprietary Schools
Initial Application 500.00
Renewal Application ..... 1% of gross revenue
Registration Review ..... 1% of gross revenue
Miscellaneous Fees
Late Renewal (per month) 25.00
Miscellaneous
Microcassette Copying (per tape) ..... Actual Cost
Proprietary Schools Registration
Application ..... 1% of gross revenue
$500 min; $2,500 max
Proprietary Schools
Accredited Institution Certificate of Exemption
Registration/Renewal ... 1% of gross revenue
Up to $2,500 or $1,500 min
Non-Profit Exemption
Certificate Registration/Renewal ... 1,500.00
Corporations and Commercial Code
Partnerships
Limited Liability 27.00
Single-Sign-On
Single Sign-On-Portal Fee 5.00
Surcharge on Business renewals for Single Sign-On Portal.
Articles of Incorporation
Domestic Profit 54.00
Partnerships
General 27.00
5 year renewal
Other
Statement Authority 15.00
One time registration or as changes are needed
Partnerships
Limited Liability Partnership
Articles of Incorporation 70.00
Previously under Limited Partnership, now LLP's Articles of Incorporation
Articles of Incorporation
Domestic Nonprofit 30.00
Foreign Profit 54.00
Foreign Nonprofit 30.00
Reinstatement
Profit 54.00
Requalification/Reinstatement
Nonprofit 30.00
Changes of Corporate Status
Amend/Restate/Merge-Profit 37.00
Amend/Restate/Merge-Nonprofit 17.00
Amendment-Foreign 37.00
Pre-authorization of document 25.00
Statement of Correction 12.00
Conversion 37.00

Annual Report
Profit 13.00
Nonprofit 10.00
Limited Partnership 13.00
Limited Liability Company 13.00
Other Foreign/Domestic 13.00
Change Form 13.00
Certification
Corporate Standing 12.00
Corporate Standing–Long Form 20.00
Commercial Registered Agent
Registration 52.00
Changes 52.00
Terminations 52.00
Corporation Search
In House 10.00
Limited Partnership
Certificate/Qualification 70.00
Reinstate 54.00
Amend/Restate/Merge 37.00
Statement of Correction 12.00
Conversion 37.00
DBA
Registration 22.00
Renewals 13.00
Business/Real Estate Investment
Trust 22.00
Trademark/Electronic Trademark
Initial Application and 1st Class Code . . . 50.00
Each Additional Class Code 25.00
Renewals 50.00
Assignments 25.00
Unincorporated Cooperative Association
Articles of Incorporation/Qualification . . . 22.00
Annual Report 7.00
Limited Liability Company
Articles of Organization/Qualification 54.00
Reinstate 54.00
Amend/Merge 37.00
Statement of Correction 12.00
Conversion 37.00
Other
Late Renewal 10.00
Out of State Motorist Summons 12.00
Collection Agency Bond 32.00
Unregistered Foreign Business 12.00
Foreign Name Registration 22.00
Statement of Certification 12.00
Name Reservation 22.00
Telecopier Transmittal 5.00
Telecopier Transmittal (per page) 1.00
Commercial Code Lien Filing
UCC I Filings (per page) 12.00
UCC Addendum (per page) 12.00
UCC III Assignment/Amendment 12.00
UCC III Continuation 12.00
UCC III Termination . . . . . No Charge
CFS–1 . . . . . 12.00
CFS Addendum 12.00
CFS–3 . . . . . 12.00
CFS–2 . . . . . 12.00
CFS Registrant 25.00
Master List 25.00
Lien Search
Search 12.00
Transactions Through Utah Interactive
Registered Principal Search 3.00
Business Entity Search Principals 1.00
Certificate of Good Standing 12.00
Subscription 75.00
UCC Searches 12.00
List Compilation
Customized . . . . . $5.00 + $0.03 per record
One Stop Business
Registration . . . . . $5.00 + $0.05 per record
Occupational and Professional Licensing
Cosmetologist/Barber
Esthetician / Nail Technician
Apprentice Cosmetology
disciplines Registration/Renewal 20.00
Deception Detection
Examiner Administrator Application 50.00
Examiner Administrator Renewal 32.00
Commercial Interior Design
Certification New Application 70.00
Certification Renewal 47.00
Hair Design
New Application Filing 60.00
License Renewal 52.00
Instructor Certificate 60.00
School New Application Filing
and Renewal 110.00
Plumber
General Plumbing Contractor
New Application Filing 175.00
General Plumbing Contractor
Renewal 113.00
Residential Plumbing
Contractor New Application Filing 175.00
Electrician
General Electrical Contractor New
Application Filing 175.00
Residential Electrical Contractor
New Application Filing 175.00
Residential Electrical Contractor
Renewal 113.00
General Electrical Contractor
Renewal 113.00
Plumber
Residential Plumbing Contractor
Renewal 113.00
Physician and Surgeon
Restricted Associate Physician
New Application Filing 210.00
Restricted Associate Physician
Renewal 123.00
State Construction Registry
Online
Intent To Finance 8.00
Final Lien Waiver . . . . . Free Filing
Electrician
Contractor Surcharge Education Fund 5.00
Plumber
Contractor Surcharge Education Fund 5.00
Other
Pre–License Conviction
Administrative Review 50.00
Physician and Surgeon
Qualified Medical Provider
Cannabis Fee 100.00
Cosmetologist/Barber
Barber Renewal 52.00
Physical Therapy
Compact New / Renewal 47.00
Assistant Compact Ne / Renewal 47.00
Physician and Surgeon

Physician Compact Interstate Commission Service Fee ..... Actual Cost
Speech Language Pathologist/Audiologist
Speech Language Pathologist Compact New Application Filing 70.00
Speech Language Pathologist Compact Renewal 47.00
Audiologist Compact New Application Filing 70.00
Audiologist Compact Renewal 47.00
Hair Design
License Apprenticeship 20.00
Osteopathic Physician and Surgeon
Interstate Compact License Renewal ... 193.00
Interstate Compact License New Application Filing 200.00
State Certified Veterinary Technician
New Application 50.00
Renewal 35.00
Occupational Therapist
Compact New 80.00
Compact Renewal 47.00
Occupational Therapy Assistant
Compact New 80.00
Compact Renewal 47.00
Registered Nurse
Apprentice 35.00
Anesthesiologist Assistant
Anesthesiologist Assistant 180.00
Renewal 133.00
Pharmacy
Licensed Dispensing Practice–New Application 110.00
Licensed Dispensing Practice–Renewal 73.00
State Construction Registry
Construction Business Registry 5.00
Social Worker
Counseling Compact 50.00
Acupuncturist
New Application Filing 110.00
Electrician
Apprentice tracking per credit hour 0.24
Massage
Apprentice Renewal 20.00
Plumber
CE Course approval 40.00
CE Course Attendee Tracking/ per hour 1.00
Apprentice CE attendance tracking/ per hour 0.24
Substance Use Disorder Counselor (Licensed)
Licensed Advanced New Application 85.00
Licensed Advanced Renewal 78.00
Substance Use Disorder Counselor (Certified)
Certified Advanced Counselor 70.00
Certified Advanced Counselor Intern 70.00
Pharmacy
Dispensing Medical Practitioner New Application Filing 110.00
Dispensing Medical Practitioner License Renewal 73.00
Dispensing Medical Practitioner Clinic New Application 200.00
Dispensing Medical Practitioner Clinic License Renewal 113.00
Technician Trainee New / Renewal 50.00
Music Therapy
Certified Music Therapist New Application 70.00
Certified Music Therapist Application Renewal 47.00
Physical Therapy
Dry Needle Registration 50.00
Psychologist
Behavioral Analyst New Application Filing 120.00
Behavioral Analyst License Renewal 93.00
Assistant Behavioral Analyst New Application Filing 120.00
Assistant Behavioral Analyst License Renewal 93.00
Behavioral Specialist License Renewal ... 78.00
Assistant Behavioral Specialist License Renewal 78.00
Physician and Surgeon
Compact Existing Licensee Fee 40.00
Interstate Compact New License Application Filing 200.00
Interstate Compact License Renewal ... 193.00
Acupuncturist
License Renewal 63.00
Alarm Company
Company Application Filing 330.00
Company License Renewal 203.00
Agent Application Filing 60.00
Agent License Renewal 42.00
Agent Temporary Permit 20.00
Architect
New Application Filing 110.00
License Renewals 63.00
Education and Enforcement Surcharge .. 10.00
Armored Car
Registration 330.00
Renewal 203.00
Security Officer Registration 60.00
Security Officer Renewal 42.00
Education Approval 300.00
Athletic Agents
New Application Filing 510.00
License Renewal 510.00
Athletic Trainer
New Application Filing 70.00
License Renewal 47.00
Building Inspector
New Application Filing 85.00
License Renewal 63.00
Certified Court Reporter
New Application Filing 45.00
License Renewal 42.00
Certified Dietician
New Application Filing 60.00
License Renewals 37.00
Certified Nurse Midwife
New Application Filing 100.00
License Renewal 73.00
Intern–New Application Filing 35.00
Certified Public Accountant
Individual CPA Application Filing 85.00
Individual License/Certificate Renewal .. 63.00
CPA Firm Application for Registration ... 90.00
CPA Firm Registration Renewal 52.00
Chiropractic Physician
New Application Filing 200.00
License Renewal 103.00
Contractor

New Application Filing 175.00
License Renewals 113.00
New / Change Qualifier 50.00
Corporation Conversion 35.00
Continuing Education
Course Approval 40.00
Continuing Education (per credit
hour tracking) 1.00
Controlled Substance
New Application Filing 100.00
License Renewal 78.00
Controlled Substance Handler
Facility New Application Filing 90.00
Facility License Renewal 68.00
Individual New Application Filing 90.00
Individual License Renewal 68.00
Controlled Substance Precursor
Distributor New Application Filing 210.00
License Renewal 113.00
Cosmetologist/Barber
New Application Filing 60.00
License Renewal 52.00
Instructor Certificate 60.00
School New Application Filing 110.00
School License Renewal 110.00
Barber New Application 60.00
School License Renewal 52.00
Barber Instructor Certificate 60.00
Deception Detection
Examiner New Application Filing 50.00
Examiner License Renewal 32.00
Intern New Application Filing 35.00
Intern License Renewal 32.00
Dentist
New Application Filing 110.00
License Renewals 73.00
Anesthesia Upgrade New Application 60.00
Dental Hygienist
New Application Filing 60.00
License Renewal 47.00
Anesthesia Upgrade New Application 35.00
Direct Entry Midwife
New Application Filing 100.00
License Renewal 73.00
Electrician
New Application Filing 110.00
License Renewal 63.00
Continuing Education Course Approval .. 40.00
Continuing Education (per credit
hour tracking) 1.00
Electrologist
New Application Filing 50.00
License Renewals 32.00
Instructor Certificate 60.00
School New Application Filing 110.00
School License Renewal 110.00
Elevator Mechanic
New Application Filing 110.00
License Renewal 63.00
Continuing Education Course Approval .. 40.00
Continuing Education (per credit
hour tracking) 1.00
Engineer, Professional
New Application Filing 110.00
Engineer License Renewal 63.00
Structural Engineer New
Application Filing 110.00
Structural Engineer License Renewal 63.00
Engineer
Education and Enforcement Surcharge .. 10.00
Environmental Health Scientist
New Application Filing 60.00
License Renewal 37.00
New Application Filing 60.00

In training
Esthetician
New Application Filing 60.00
License Renewals 52.00
Instructor Certificate 60.00
Master New Application Filing 85.00
Master License Renewal 68.00
School New Application Filing 110.00
School License Renewal 110.00
Factory Built Housing
Dealer New Application Filing 30.00
Dealer License Renewal 30.00
On–site Plant Inspection
(per hour) ..... $50 per hour plus expenses
Education and Enforcement 25.00
Funeral Services
Director New Application Filing 160.00
Director License Renewal 88.00
Intern New Application Filing 85.00
Establishment New
Application Filing 250.00
Establishment License Renewal 250.00
Genetic Counselor
New Application Filing 150.00
License Renewal 138.00
Geologist
New Application Filing 150.00
License Renewal 123.00
Education and Enforcement Fund 15.00
Handyman Affirmation
Handyman Exemption
Registration/Renewal 35.00
Health Facility Administrator
New Application Filing 120.00
License Renewals 83.00
Hearing Instrument Specialist
New Application Filing 150.00
License Renewal 103.00
Intern New Application Filing 35.00
Hunting Guide
New Application Filing 75.00
License Renewal 50.00
Landscape Architect
New Application Filing 110.00
License Renewal 63.00
Examination Record 30.00
Education and Enforcement Fund 10.00
Land Surveyor
New Application Filing 110.00
License Renewals 63.00
Education and Enforcement Surcharge .. 10.00
Marriage and Family Therapist
Therapist New Application Filing 120.00
Therapist License Renewal 93.00
Associate New Application Filing 85.00
Externship New Application Filling 85.00
Massage
Therapist New Application Filing 60.00
Therapist License Renewal 52.00

Apprentice New Application Filing 35.00
Medical Language Interpreter
New Application Filing 50.00
Interpreter Renewal 25.00
Nail Technician
New Application Filing 60.00
License Renewal 52.00
Instructor Certificate 60.00
School New Application Filing 110.00
School License Renewal 110.00
Naturopathic Physician
New Application Filing 200.00
License Renewals 113.00
Nursing
Licensed Practical Nurse New Application Filing 60.00
Licensed Practical Nurse License Renewal 68.00
Registered Nurse New Application Filing 60.00
Registered Nurse License Renewal 68.00
Advanced Practice RN New Application Filing 100.00
Advanced Practice RN License Renewal 78.00
Advanced Practice RN–Intern New Application Filing 35.00
Certified Nurse Anesthetist New Application Filing 100.00
Certified Nurse Anesthetist License Renewal 78.00
Educational Program Approval–Initial Visit 500.00
Educational Program Approval–Follow–up 250.00
Medication Aide Certified New Application Filing 50.00
Medication Aide Certified License Renewal 42.00
Occupational Therapist
New Application Filing 70.00
Therapist License Renewal 47.00
Assistant New Application Filing 70.00
Assistants License Renewal 47.00
Online Contract Pharmacy
New Application 200.00
Renewal 103.00
Online Internet Facilitator
New Application 7,000.00
Renewal 7,000.00
Optometrist
New Application Filing 140.00
License Renewal 93.00
Osteopathic Physician Online Prescriber
New Application 200.00
License Renewal 193.00
Outfitter
New License Filing 150.00
Renewal License 50.00
Osteopathic Physician and Surgeon
New Application Filing 200.00
License Renewals 193.00
Pharmacy
Pharmacist New Application Filing 110.00
Pharmacist License Renewal 73.00
Intern New Application Filing 100.00
Technician New Application Filing 60.00
Technician License Renewal 57.00
Class A New Application Filing 200.00
Class A License Renewal 103.00
Class B New Application 200.00
Class B License Renewal 103.00
Class C New Application 200.00
Class C License Renewal 103.00
Class D New Application 200.00
Class D License Renewal 103.00
Class E New Application 200.00
Class E License Renewal 103.00
Physical Therapy
New Application Filing 70.00
License Renewal 47.00
Physical Therapy Assistant
New Application Filing 60.00
License Renewal 47.00
Physician/Surgeon
New Application Filing 200.00
License Renewal 193.00
Physician Assistant
New Application Filing 180.00
License Renewals 133.00
Physician Online Prescriber
New Application 200.00
License Renewal 193.00
Plumber
New Application Filing 110.00
License Renewals 63.00
Podiatric Physician
New Application Filing 200.00
License Renewal 113.00
Pre–Need Funeral Arrangement
Sales Agent New Application Filing 85.00
Sales Agent License Renewal 73.00
Private Probation Provider
New Application Filing 85.00
License Renewal 63.00
Clinical Mental Health Counselor
New Application Filing 120.00
License Renewals 93.00
Professional Counselor Associate New Application Filing 85.00
Associate Clinical Mental Health Extern New Application 85.00
Psychologist
New Application Filing 200.00
License Renewal 128.00
Certified Psychology Resident New App Filing 85.00
Radiology
Technologist New Application Filing 70.00
Technologist License Renewal 47.00
Practical Technologist New Application Filing 70.00
Practical Technologist License Renewal 47.00
Recreation Therapy
Master Therapeutic Recreational Specialist New Application Filing 70.00
Master Therapeutic Recreational Specialist License Renewal 47.00
Therapeutic Recreational Specialist New Application Filing 70.00
Therapeutic Recreational Specialist License Renewal 47.00

Therapeutic Recreational Technical
New License Application 70.00
Therapeutic Recreational Technician
License Renewal 47.00
Residence Lien Recovery Fund
Registration Processing
Fee–Voluntary Registrants 25.00
Post–claim Laborer Assessment 20.00
Beneficiary Claim 120.00
Laborer Beneficiary Claim 15.00
Reinstatement of Lapsed Registration . . . 50.00
Late 20.00
Certificate of Compliance 30.00
Respiratory Care Practitioner
New Application Filing 60.00
License Renewal 52.00
Security Services
Contract Security Company
Application Filing 330.00
Contract Security Company Renewal . . . 203.00
Replace/Change Qualifier 50.00
Education Program Approval 300.00
Education Program Approval Renewal . . 103.00
Armed Security Officer New
Application Filing 60.00
Armed Security Officer New
License Renewal 42.00
Unarmed Security Officer New
Application Filing 60.00
Unarmed Security Officer New
License Renewal 42.00
Social Worker
Clinical New Application Filing 120.00
Clinical License Renewal 93.00
Certified New Application Filing 120.00
Certified License Renewal 93.00
Certified Intern New 85.00
Certified Externship 85.00
Social Service Worker New
Application Filing 85.00
Social Service Worker License
Renewal 78.00
Speech Language Pathologist/Audiologist
Speech Language Pathologist
New Application Filing 70.00
Speech Language Pathologist
License Renewal 47.00
Audiologist New Application Filing 70.00
Audiologist License Renewal 47.00
Speech Language Pathologist / Audiologist
Speech Language Pathologist and
Audiologist New Application Filing 70.00
Speech Language Pathologist
and Audiologist License Renewal 47.00
Substance Use Disorder Counselor (Licensed)
New Application Filing 85.00
License Renewal 78.00
Substance Use Disorder Counselor (Certified)
Certified Substance Counselor 70.00
Certified Counselor Intern 70.00
Certified Substance Extern 70.00
Veterinarian
New Application Filing 150.00
License Renewal 83.00
Intern New Application Filing 35.00
Vocational Rehab Counselor
New Application Filing 70.00
License Renewal 47.00

Other
Inactive/Reactivation/Emeritus
License 50.00
Temporary License 50.00
Late Renewal 20.00
License/Registration Reinstatement 50.00
Duplicate License 10.00
Disciplinary File Search (per order
document) 12.00
Change Qualifier 50.00
UBC Seminar . . . . . Actual Cost
surcharge of 1% of Building Permits in
accordance w/ UCA–15a–1–209–5–a
UBC Building Permit
surcharge . . . . . 1% of Building Cost
State Construction Registry
Online
Notice of Commencement 7.50
Appended Notice of
Commencement online 7.50
Preliminary Notice 1.25
Notice of Completion 7.50
Required Notifications . . . . . Actual Cost
Requested Notifications . . . . . Opt in Free
No Charge
Receipt Retrieval
Within 2 years 1.00
Beyond 2 years 5.00
Public Search 1.00
Annual account set up
Auto bill to credit card 60.00
Invoice 100.00
Notice of Construction Loan 8.00
Notice of Intent to Complete 8.00
Notice of Retention 1.25
Notice of Remaining to Complete 1.25
Offline
Notice of Commencement 15.00
Appended Notice of
Commencement – On–line 15.00
Preliminary Notice 6.00
Notice of Completion 15.00
Required Notifications 6.00
Requested Notifications 25.00
Receipt Retrieval
Within 2 years 6.00
Beyond 2 years 12.50
Public Search . . . . . No Charge
Annual account set up
Auto bill to credit card 75.00
Invoice 125.00
Notice of Construction Loan 15.00
Notice of Intent to Complete 16.00
Notice of Retention 8.00
Notice of Remaining to Complete 6.00
Notice of Loan Default . . . . . No Charge
Building Permit . . . . . No Charge
Filed by city
Withdrawal of Preliminary
Notice . . . . . No Charge
Construction Ownership
Ownership Status Report 20.00
Ownership Listing/Change 20.00
Physician Educator
I new application 200.00
I renewal 193.00
II new application 200.00
I renewal 193.00

Radiologist Assistant
New Application Filing 70.00
License Renewal 47.00
Real Estate
Broker/Sales Agent
Property Management Sales
Agent Designation 50.00
Appraisers
AMC National Registry Fee 25.00
Appraisal Education Special
Event Provider Fee 250.00
Subdivided Land
Exemption
Water Corporation 50.00
Temporary Permit 100.00
Appraisers
Appraisal Education Special
Event (per day) 150.00
Timeshare and Camp Resort
Late Fee 100.00
Subdivided Land
Application 500.00
Charge over 30 . . . . . 3.00
Appraisers
Licensed and Certified
Application 250.00
Subdivided Land
Inspection Deposit 300.00
Mortgage Broker
Mortgage Loan Originator
New Application 100.00
Mortgage Loan Originator Renewal 30.00
Subdivided Land
Consolidation 200.00
Charge 3.00
Sales Agent
New Application (2 year) 100.00
Renewal 48.00
Subdivided Land
Renewal Report 203.00
Timeshare and Camp Resort
Salesperson 100.00
New and renewal
Education
Real Estate Broker 18.00
Timeshare and Camp Resort
Registration 500.00
Education
Continuing Registration 10.00
Timeshare and Camp Resort
Per unit charge over 100 . . . . . 3.00
Education
Real Estate Agent 12.00
Timeshare and Camp Resort
Inspection Deposit 300.00
Appraisers
Licensed and Certified
Renewal 350.00
Appraiser CE Course
Application/Renewal 75.00
National Register 80.00
Appraiser Temporary Permit
Extension 100.00
One time only
Timeshare and Camp Resort
Consolidation 200.00
Appraisal Management Company
AMC Registration 350.00
Timeshare and Camp Resort
Per unit charge 3.00
Appraisal Management Company
Renewal 350.00
Certifications
Real Estate Prelicense School
Certification 100.00
Appraisal Management Company
Late 50.00
Certifications
Real Estate Prelicense Instructor
Certification 75.00
Broker
New Application 100.00
2 year
Timeshare and Camp Resort
Temporary Permit 100.00
Broker
Renewal 48.00
Timeshare and Camp Resort
Renewal Reports 203.00
Appraisers
Temporary Permit 100.00
Broker/Sales Agent
Activation 15.00
Appraisers
Appraiser Trainee Registration 100.00
Broker/Sales Agent
New Company 200.00
Company Broker Change 50.00
Registration Addendum
Supplementary Filing 200.00
Broker/Sales Agent
Company Name Change 100.00
Mortgage Education
Individual 36.00
Broker/Sales Agent
Verification (per copy) 20.00
Real Estate Education
Real Estate Continuing
Education Course Certification 75.00
General Division
Duplicate License 10.00
Real Estate Education
Real Estate Continuing Education
Instructor Certification 50.00
General Division
Certifications/Computer Histories 20.00
Mortgage Education
Entity 50.00
General Division
Late Renewal 50.00
Mortgage Education
Mortgage Prelicense School
Certification 100.00
Appraisers
Appraiser expert witness 200.00
General Division
Reinstatement 100.00
Appraisers
Appraiser Trainee Renewal 100.00
General Division
Branch Office 200.00
No Action Letter 120.00
Mortgage Education
Mortgage Prelicense
Instructor Certification/Renewal 75.00
General Division

Trust Account Seminar 5.00
Mortgage Education
Mortgage Branch Schools 100.00
Certifications
Real Estate Branch Schools 100.00
General Division
Continuing Education
Instructor/Course Late 25.00
Certifications
Appraiser Prelicense Course
Certification 70.00
Mortgage Broker
Mortgage Lending Manager
Application 100.00
Renewal 30.00
Mortgage Education
Mortgage Continuing Education
Course Certification
Application Renewal 75.00
Mortgage Broker
Mortgage Lender Entities
Application 200.00
Mortgage Education
Mortgage Continuing Education
Instructor Certification 50.00
Appraisers
Appraiser Pre-License School
Application 100.00
Mortgage Broker
Mortgage Lender Entities
Renewal 200.00
Appraisers
Appraiser Pre-License Instructor
Application 75.00
Mortgage Broker
Mortgage DBA 200.00
Activation 15.00
Mortgage Education
Mortgage Out of State Records
Inspection 500.00
Certifications
Appraiser CE Instructor
Application/Renewal 75.00
Subdivided Land
Exemption
HUD 100.00
Securities
Other
Title III Crowd Funding Timely
Notice Filing 100.00
Title III Crowd Funding
Notice Filing Late Fee 500.00
Securities Registration
Qualification Registration 300.00
Covered Securities Notice Filings
Regulation A timely Securities Filing ... 100.00
Late Fee Regulation A Filing 500.00
Securities Registration
Coordinated Registration 300.00
Exemptions
Transactional 60.00
Transactional Exemptions
No-action and Interpretative
Opinions 120.00
Licensing
Agent 40.00
Broker/Dealer 130.00
Investment Advisor
New and renewal 40.00
Investment Advisor Representative
New and renewal 30.00
Certified Dealer
New and Renewal 500.00
Certified Adviser
New and Renewal 500.00
Covered Securities Notice Filings
Investment Companies 600.00
All Other Covered Securities 100.00
Late Fee Rule 506 Notice Filing 500.00

Less than 15 days after sale
Federal Covered Adviser
New and Renewal 70.00
Exemptions
Securities 60.00
Other
Late Renewal 20.00
Fairness Hearing 1,500.00
Statute Booklet ..... Actual Cost
Small Corp. Offering
Registration (SCOR) ..... Variable
Rules and form booklet ..... Actual Cost
Excluding SCOR
Postage and Handling ..... Actual Cost

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ADMINISTRATION

Government Records Access and Management Act (GRAMA) fees apply for the entire Department
Odd size photocopies (per Page) ... Actual Cost
GRAMA fees apply to the entire Department
8.5 x 11 photocopy (per page) 0.25
GRAMA fees apply to the entire Department
Document Certification 2.00
GRAMA fees apply to the entire Department
Local Document Faxing (per page) 0.50
GRAMA fees apply to the entire Department
Long Distance Document Faxing
(per page) 2.00
GRAMA fees apply to the entire Department
Staff time to search, compile and prepare records
(per Hour) ..... Actual Cost
GRAMA fees apply to the entire Department
Mail and ship preparation, plus actual postage
(per Hour) ..... Actual Cost
GRAMA fees apply to the entire Department
Media Storage Duplication
(per Hour) ..... Actual Cost
GRAMA fees apply to the entire Department
SPONSORSHIP - LEVEL 1
(per SPONSORSHIP) ..... $0 to $500
From $1 to $500 fee applies for the entire Department

SPONSORSHIP – LEVEL 2
(per SPONSORSHIP) ..... $501 to $1,000
From $501 to $1,000 fee applies for the entire Department
SPONSORSHIP – LEVEL 3
(per SPONSORSHIP) ..... $1,001 to $5,000
From $1,001 to $5,000 fee applies for the entire Department
SPONSORSHIP – LEVEL 4
(per SPONSORSHIP) ..... $5,001 to $10,000
From $5,001 to $10,000 fee applies for the entire Department
SPONSORSHIP – LEVEL 5
(per SPONSORSHIP) ..... Over $10,000
Over $10,000 fee applies for the entire Department
GOED Participation Fees
(per Participant) ... Up to $500 per participant

ECONOMIC PROSPERITY

Corporate Recruitment and Business Services
PTAC Participation Fee
(per Participant) ..... Up to $60
Rural Investment Jobs Act –
Annual Fee 50,000.00
Annual fee to be paid by each approved rural investment company. Calculated by dividing $50,000 by the number of approved rural investment companies. Due on or before the last day of February each year.
Market Tax Credit Fee 100,000.00
Annual fee to certify a proposed equity investment or long–term debt security as a qualified equity investment.
Business Services
Loan Origination Fee for Capital Access
Program ..... 0.5% of the full program cost
This a fee that will be charged to financial institutions to cover the admin costs associated with originating the loan and starts calendar year 2023.
Loan Origination Fee for
Loan Participation Program ..... Variable
This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level and starts calendar year 2023.
Loan Origination Fee for Loan
Participation
Program ..... 0.5% of the full program cost
This a fee that will be charged to financial institutions to cover the admin costs associated with originating the loan and starts calendar year 2023.
Small Business Innovative Research (SBIR) /
Small Business Technology Transfer (STTR)
Innovation Center Search Fee
(per User) 125.00
Innovation Center 4–8 hour
seminar/workshop (per User) 75.00
Innovation Center 4–8 hour seminar/
workshop: non–client (per User) 50.00
Innovation Center 4–8 hour seminar/
workshop: client (per User) 25.00
Innovation Center 2–4 hour seminar/
workshop (per User) 25.00
Innovation Center 1–4 hour seminar/
workshop (per User) 10.00
Seminar – Outside speakers: all
day event (per User) 225.00
Seminar – Outside speakers: all
day event (early bird) (per User) 150.00
Seminar – Outside speakers: all day
event (search client) (per User) 100.00
Strategic Initiatives
Community Reinvestment Agency Database
Community Reinvestment
Agency Database Fee ..... Actual Amount
Actual costs to administer the Community Reinvestment Agency Database.
CommunityGrants App
CommunityGrants App User – State
of Utah Executive Branch
Agencies (per User) 72.00
CommunityGrants App User – State of Utah Executive Branch Agencies (per User)
CommunityGrants App User –
Tier 1 (per User) 480.00
CommunityGrants App User – Tier 1 (per User)
CommunityGrants App User –
Tier 2 (per User) 420.00
CommunityGrants App User – Tier 2 (per User)
CommunityGrants App User –
Tier 3 (per User) 360.00
CommunityGrants App User – Tier 3 (per User)
CommunityGrants App User –
Tier 4 (per User) 300.00
CommunityGrants App User – Tier 4 (per User)
CommunityGrants App User –
Tier 5 (per User) 240.00
CommunityGrants App User – Tier 5 (per User)
CommunityGrants Customer Portal –
100 Members (per User) 3,000.00
CommunityGrants Customer Portal – 100 Members (per 100)
CommunityGrants Customer Community –
Min. 100 Members (per User) 900.00
CommunityGrants Customer Community – Minimum – 100 Members (per 100 Members)
CommunityGrants Customer Community –
Min. 500 Members (per User) 2,000.00
CommunityGrants Customer Community – Minimum – 500 Members (per 100)
CommunityGrants
Customer Community–
Wholesale–100 Members
(per User) 1,200.00
CommunityGrants Customer Community – Wholesale – 100 Members (per 100)
CommunityGrants
Customer Community–Wholesale–
500 Members (per User) 2,400.00
CommunityGrants Customer Community – Wholesale – 500 Members (per 100)

CommunityGrants Customer Community – Retail – 100 Members (per User) ... 1,800.00
CommunityGrants Customer Community – Retail – 100 Members (per 100)
CommunityGrants Customer Community – Retail – 500 Members (per User) ... 3,720.00
CommunityGrants Customer Community – Retail – 500 Members (per 100)

OFFICE OF TOURISM

Tourism
Tourism/Film Participation Fees
(per Event) ..... Actual cost up to $70,000
Gift Store Fee (per Net Revenue) ..... 3% of Net Revenue
Calendars
Calendar sales: Individual
(purchases of less than 30) 10.00
Calendar sales: Bulk
(non-state agencies) 8.00
Calendar sales: Bulk (state agencies) 6.00
Calendar sales: Office of Tourism, Film, and Global Branding employees ... 5.00
These fees may apply to one or more programs within the Office of Tourism Line Item.
Calendar Envelopes 0.50
Posters
Posters: Framed wall posters 55.00
Posters: Non framed wall posters 2.99
Shirts
T-shirt sales (cost per shirt) 10.00
Commissions
Tourism promotional items
re-seller commission 12%
This licensing fee is 12% of product sales.
UDOT Signage Commissions 54,000.00

FINANCIAL INSTITUTIONS

FINANCIAL INSTITUTIONS ADMINISTRATION

Administration
Photocopies 0.25

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

UTAH STEM FOUNDATION FUND

Innovation Hub Camp 200.00
Innovation Hub Equipment
Use (per hour) 10.00
Innovation Hub General Use (per Day) 5.00
Innovation Hub General Use
(monthly) (per month) 25.00
Innovation Hub Premium PLA
Filament Use (per gram) 0.02
Innovation Hub Space Rental (per hour) ... 50.00
Innovation Hub Standard PLA
Filament Use (per gram) 0.01
Makerspace Class 100.00

ADMINISTRATION

Administrative Services
Conference Level 4 – Vendor/Display Table – registration not included (per Table) 300.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 5 – Vendor/Display Table – registration not included (per Table) 500.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Department Merchandise
General Merchandise – Level 1
(per Item) 5.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.
General Merchandise –
Level 2 (per Item) 10.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.
General Merchandise –
Level 3 (per Item) 15.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.
General Merchandise –
Level 4 (per Item) 20.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.
General Merchandise –
Level 5 (per Item) 50.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.
General Merchandise –
Level 6 (per Item) 100.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.
Department Conference
Conference Level 1 – Early
Registration (per Person) 20.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 1 – Regular
Registration (per Person) 25.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 1 – Late
Registration (per Person) 30.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 1 – Vendor/Display Table – registration not included (per Table) ... 50.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 2 – Early
Registration (per Person) 45.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 2 – Regular Registration (per Person) 50.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 2 – Late Registration (per Person) 55.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 2 – Vendor/Display Table – registration not included (per Table) 100.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 3 – Student/Group/ Change Leader Registration (per Person) 70.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 3 – Early Registration (per Person) 80.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 3 – Regular Registration (per Person) 95.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 3 – Late Registration (per Person) 100.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.
Conference Level 3 – Vendor/Display Table Fee – registration not included (per Table) 150.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship

Conference Sponsorship Level 1 ..... 350.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.
Conference Sponsorship Level 2 ..... 500.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.
Conference Sponsorship Level 3 ..... 650.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.
Conference Sponsorship Level 4 ..... 1,000.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.
Conference Sponsorship Level 5 ..... 2,500.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.
Conference Sponsorship Level 6 ..... 5,000.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.
Conference Sponsorship Level 7 ..... 10,000.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

General Training and Workshop

General Training/Workshop Participation – Level 1 (per Person) 5.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation – Level 2 (per Person) 10.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation – Level 3 (per Person) 15.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation – Level 4 (per Person) 25.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation – Level 5 (per Person) 30.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation – Level 6 (per Person) 40.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation – Level 7 (per Person) 50.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation – Level 8 (per Person) 60.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation – Level 9 (per Person) 125.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation – Level 10 (per Person) 300.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Materials Fee (per Person) 15.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

Government Records Access and Management Act

Photocopies (per page) 0.25

GRAMA fees apply for the entire Department of Cultural and Community Engagement.
Information Technology
Online Cultural Resources Viewer
(per unit 1–20, depending on usage) 50.00

DIVISION OF ARTS AND MUSEUMS

Community Arts Outreach
Art Consultation Fee Level 1
(per Hour) ..... 2 Hour Minimum
2 Hour Minimum – consultation, site visits, and curation
Art Consultation Fee Level 2 (per Hour) ... 60.00
2 Hour Minimum – condition inspection, reporting, documentation, and pulling from and returning to the vault at (this charge would also be incurred for yearly site inspections without change to loan)
Art Consultation Fee Level 3 (per Hour) ... 45.00
3 Hour Minimum – packing, shipping, and installation
Change Leader Conference 55.00
This is the fee that will be charged for the annual change leader conference.
Change Leader Institute Level 5 ..... 500.00
Community Outreach
Traveling Exhibit Fees 125.00
Traveling Exhibit Fees Title I Schools .. 100.00
Community/State Partnership Change Leader Registration
Change Leader Institute Level 1 ..... 100.00
Change Leader Institute Level 2 ..... 200.00
Change Leader Institute Level 3 ..... 300.00
Change Leader Institute Level 4 ..... 400.00
Museum Services
Museum Environmental Monitoring Kit Rental/Shipping (per Period) 40.00
Museum Environmental Monitoring Kit Deposit 150.00

HISTORICAL SOCIETY

State Historical Society
Business/Corporate 80.00
Utah Historical Society Annual Membership
History Conference – Member 50.00
Annual History Conference Registration fee for Utah State Historical Society Members
History Conference – Non member 100.00
Annual History Conference Registration for non historical society members
History Conference – Vendor/ Exhibitor Table 50.00
Annual History Conference
University of Illinois Press 9,600.00
Utah Historical Society Annual Membership UIP manages the institutional subscription agency memberships and sends the money to the State of Utah.
Utah Historical Society Annual Membership
Student/Adjunct/Senior 40.00
Individual 50.00
Sustaining/Business/Corporate 250.00
Patron/Institution/Subscription Agencies/UIP 100.00
Sponsor 300.00
Lifetime 1,000.00
Utah Historical Quarterly (per issue) 13.00
Cost of a single issue of Utah Historical Quarterly (in addition to mailing costs, when applicable)
Publication Royalties 1.00

STATE HISTORY

Historic Preservation and Antiquities
Anthropological Remains Recovery (per Recovery or Analysis and reporting) 2,500.00
Fee is for recovery or analysis and reporting services.
GIS Search – Staff Performed (per 1/4 Hour) 15.00
GIS Data Cut and Transfer (per Section) ... 15.00
Library and Collections
Surplus Photo 5x7 ..... 2.50
Surplus Photo 8x10 ..... 4.00
B/W Historic Photo
4x5 B/W Historic Photo 7.00
5x7 B/W Historic Photo 10.00
8x10 B/W Historic Photo 15.00
Self Serve Photo 0.50
Digital Image 300 dpl> 10.00
Historic Collection Use 10.00
Research Center
Self Copy 8.5x11 ..... 0.10
Self Copy 11x17 ..... 0.25
Staff Copy 8.5x11 ..... 0.25
Staff Copy 11x17 ..... 0.50
Digital Self Scan/Save (per Page) 0.05
Digital Staff Scan/Save (per Page) 0.25
Microfilm Self Copy (per page) 0.25
Microfilm Self Scan/Save (per Page) 0.15
Microfilm Staff Scan/Save or Copy (per page) 1.00
Audio Recording (per item) 10.00
Video Recording (per item) 20.00
Diazo print
16 mm diazo print (per roll) 12.00
35 mm diazo print (per roll) 14.00
Microfilm Digitization 40.00
Digital Format Conversion 5.00
Surplus Photo 4x5 ..... 1.00
Mailing Charges 1.00

STATE LIBRARY

Administration
Sale of Used Books/Materials 1.00
Disposal of discarded books.
Library Resources
Cataloging Services 7,000.00
Catalog Express Utilization 0.58
Catalog Express Overage 1.17

STEM ACTION CENTER

STEM Bus – Charitable (per Day) 500.00
STEM Bus – Private (per Day) 1,000.00

PETE SUAZO ATHLETICS COMMISSION

Unarmed Combat Event

Unarmed Combat Event: <500 Seats 500.00
Unarmed Combat Event:
500 – 1,000 Seats 1,000.00
This fee is not changing but is more accurately reflecting the individual charge vs how it was previously listed as a compounding charge.
Unarmed Combat Event:
1,000 – 3,000 Seats 1,750.00
This fee is not changing but is more accurately reflecting the individual charge vs how it was previously listed as a compounding charge.
Unarmed Combat Event:
3,000 – 5,000 seats 3,250.00
This fee is not changing but is more accurately reflecting the individual charge vs how it was previously listed as a compounding charge.
Unarmed Combat Event:
5,000 – 10,000 Seats 4,750.00
This fee is not changing but is more accurately reflecting the individual charge vs how it was previously listed as a compounding charge.
Unarmed Combat Event:
>10,000 Seats 6,250.00
This fee is not changing but is more accurately reflecting the individual charge vs how it was previously listed as a compounding charge.
Licenses and Badges
Promoter (per License) 250.00
Official, Manager, Matchmaker (per License) 50.00
Judge, Referee, Matchmaker, Contestant Manager Licenses
Contestant, Second (Corner) (per License) 50.00
Amateur, Professional, Second (Corner), Timekeeper Licenses
Federal and National ID (per Badge) 10.00
Drug Tests, Fight Fax, Contestant ID Badge
Additional Inspector 100.00
Health Testing 20.00
Health and safety testing required for participants
Event Registration 100.00
Fee to reserve a date on the Pete Suazo Utah Athletic Commission event calendar

INSURANCE DEPARTMENT

BAIL BOND PROGRAM

Bail Bond Agency
Bail Bond Agency – Resident Initial or Renewal License 250.00
Bail Bond Agency – Reinstatement of Lapsed License 300.00

HEALTH INSURANCE ACTUARY

Actuary Restricted Revenue
Actuary Restricted Revenue – Actuarial Review Assessment ..... As Appropriated
Health Insurance Actuarial Review Assessment for the cost of one-full time actuary position limited to the amount appropriated by the legislature for the fiscal year pursuant to 31A-30-115.

INSURANCE DEPARTMENT ADMINISTRATION

Administration
Continuing Care Provider
Continuing Care Provider – Initial Application 6,900.00
Continuing Care Provider – Initial Disclosure Statement 600.00
Continuing Care Provider – Renewal 6,900.00
Continuing Care Provider – Renewal Disclosure Statement 600.00
Continuing Care Provider – Late Renewal or Reinstatement 6,950.00
Continuing Education Provider
Continuing Education Provider – Initial or Renewal 250.00
Continuing Education Provider – Late Renewal or Reinstatement 300.00
Continuing Education Provider – Post Approval 25.00
Insurer
Annual Service Fee
Insurer – Annual Service Fee – $0 premium volume 0.00
Insurer – Annual Service Fee – More than $0 to less than $1M premium volume 700.00
Insurer – Annual Service Fee – $1M to less than $3M premium volume ... 1,100.00
Insurer Annual Service Fee – $3M to less than $6M premium volume ... 1,550.00
Insurer – Annual Service Fee – $6M to less than $11M premium volume 2,100.00
Insurer – Annual Service Fee – $11M to less than $15M premium volume 2,750.00
Insurer – Annual Service Fee – $15M to less than $20M premium volume 3,500.00
Insurer – Annual Service Fee – $20M or more in premium volume 4,350.00
Certificate of Authority
Insurer – Certificate of Authority Initial Application 1,000.00
Insurer – Certificate of Authority Renewal 300.00
Insurer – Certificate of Authority Late Renewal 350.00
Insurer – Certificate of Authority Reinstatement 1,000.00
Insurer – Certificate of Authority Amendment 250.00
Insurer – Insurer Form A Filing 2,000.00
Insurer – Mutual Insurer Organizational Permit 1,000.00
Insurer – Redomestication Filing 2,000.00
Life Settlement Provider
Life Settlement Provider – Initial License Application 1,000.00

Life Settlement Provider – Renewal 300.00
Life Settlement Provider – Late Renewal 350.00
Life Settlement Provider – Reinstatement 1,000.00
Life Settlement Provider – Annual Service Fee 600.00
Navigator
Navigator – Individual Initial License ... 35.00
Navigator – Individual License Renewal 35.00
Navigator – Individual License Reinstatement 60.00
Navigator – Agency Initial License 40.00
Navigator – Agency License Renewal 40.00
Navigator – Agency License Reinstatement 65.00
Other
Other – Accepting Service of Legal Process 10.00
Other – Address Correction 35.00
Other – Administrative Action Removal from Public Access (per action) 185.00
Other – Annual Statement Copy 40.00
Other – Code Book 57.00
Cost to agency
Other – Code Book Mailing Fee 3.00
Other – Examination Fee 72.00
Agency cost
Other – Independent Review Organization Application 250.00
Other – List Production – Staff Fee 50.00
1 CD and up to 30 minutes of staff time
Other – List Production – Staff Fee – Additional Time 50.00
For each additional 30 minutes or fraction thereof
Other – List Production – Printed List (per page) 1.00
Information already in list format
Other – Non–Electronic Payment Processing 25.00
Other – Photocopy (per page) 0.50
Other – Returned Check Charge 20.00
Other – Workers' Comp Schedule 5.00
Other Organization
Other Organization – Initial Application 250.00
Other Organization – Renewal 200.00
Other Organization – Late Renewal 250.00
Other Organization – Reinstatement ... 250.00
Other Organization – Annual Service Fee 200.00
Pharmacy Benefit Manager
Pharmacy Benefit Manager – Initial License Application 1,000.00
Pharmacy Benefit Manager – Renewal 1,000.00
Pharmacy Benefit Manager – Late Renewal or Reinstatment 1,050.00
Producer
Producer – Individual
Full Line Initial or Biennial Renewal License 70.00
Producer – Individual – Full Line Reinstatement 120.00
Producer – Individual – Limited Line Initial or Biennial Renewal License 45.00
Producer – Individual – Limited Line Reinstatement 95.00
Producer – Individual – Additional Line of Authority 25.00
Producer – Agency
Producer – Agency – Full Line and Limited Line Initial or Biennial Renewal License 75.00
Producer – Agency – License Reinstatement 125.00
Producer – Agency – Additional Line of Authority 25.00
Producer – Title Resident Agency Initial or Biennial Renewal License 100.00
Producer – Title Resident Agency Reinstatement 150.00
Producer – Title Dual License Form Filing 25.00
Professional Employer Organization
Professional Employer Organization – Certified – Initial License 2,000.00
Professional Employer Organization – Certified – Renewal 1,000.00
Professional Employer Organization – Certified Late Renewal or Reinstatement 1,050.00
Professional Employer Organization – Non–Certified – Initial or Renewal License 2,000.00
Non–Certified – Late Renewal or Reinstatement 2,050.00
Small Operator
Professional Employer Organization – Small Operator – Initial License 2,000.00
Professional Employer Organization – Small Operator – Renewal 1,000.00
Small Operator – Late Renewal or Reinstatement 1,050.00
Surplus Lines Insurers & Accredited/Certified/Trusteed Reinsurer
Surplus Lines Insurers & Accredited/Certified/Trusteed Reinsurer –Initial License Application 1,000.00
Surplus Lines Insurers & Accredited/Certified/Trusteed Reinsurer – Renewal 500.00
Surplus Lines Insurers & Accredited/Certified/Trusteed Reinsurer – Late Renewal 550.00
Surplus Lines Insurers & Accredited/Certified/Trusteed Reinsurer – Reinstatement 1,000.00
Captive Insurers
Captive Insurer
Captive Insurer – License Initial Application 200.00
Captive Insurer – Initial License Application Review 72.00
Captive Insurer – Initial License Issuance 7,250.00

Captive Insurer – Renewal 7,250.00
Captive Insurer – Dormancy Certificate Annual Renewal 2,500.00
Captive Insurer – Late Renewal 7,300.00
Captive Insurer – Reinstatement 7,300.00
Captive Insurer – Cell Initial Application 200.00
Captive Insurer – Cell Initial License 1,000.00
Captive Insurer – Cell License Renewal 1,000.00
Captive Insurer – Cell Late Renewal Additional Fee 50.00
Captive Insurer – Cell Dormancy Certificate Annual Renewal 500.00
Criminal Background Checks
Criminal Background Check
Criminal Background Check – BCI Fingerprinting 15.00
Criminal Background Check – FBI Fingerprinting 13.25
Electronic Commerce Fee
Electronic Commerce Restricted
Electronic Commerce Restricted – Agency License 10.00
Electronic Commerce Restricted – Captive Insurer 250.00
Electronic Commerce Restricted – Continuing Education Provider 20.00
Electronic Commerce Restricted – Database Access per Transaction 3.00
Electronic Commerce Restricted – Individual License 5.00
Electronic Commerce Restricted – Paper Filing 5.00
Electronic Commerce Restricted – Paper Application 25.00
Electronic Commerce Restricted – Insurer, Surplus Lines Insurer, and Accredited/Certified/Trusteed Reinsurer 75.00
Electronic Commerce Restricted – Life Settlement Provider, Professional Employer Organization, Continuing Care Provider, Pharmacy Benefit Manager and Other Organization Fee 50.00
GAP Waiver Program
GAP Waiver Restricted Revenue
GAP Waiver Restricted Revenue – Annual Registration 1,000.00
GAP Waiver Restricted Revenue – Late Annual Registration 1,050.00
GAP Waiver Restricted Revenue – Retailer Assessment 50.00
GAP Waiver Restricted Revenue – Late Retailer Assessment 100.00
GAP Waiver Restricted Revenue – Late Retailer Assessment
Insurance Fraud Program
Fraud Program Restricted Revenue
Premium Assessment
Fraud Program Restricted Revenue – Premium Assessment – $0 to less than $1M premium volume 200.00
Fraud Program Restricted Revenue – Premium Assessment – $1M to less than $2.5M premium volume ... 450.00
Fraud Program Restricted Revenue – Premium Assessment – $2.5M to less than $5M premium volume 800.00
Fraud Program Restricted Revenue – Premium Assessment – $5M to less than $10M premium volume 1,600.00
Fraud Program Restricted Revenue – Premium Assessment – $10M to less than $50M premium volume 6,100.00
Fraud Program Restricted Revenue – Premium Assessment – $50M or more in premium volume 15,000.00
Fraud Program Restricted Revenue – Premium Assessment Late Fee 50.00
Investigation Recovery
Fraud Program Restricted Revenue–Investigative Recovery 0.00
Cost to agency

TITLE INSURANCE PROGRAM

Title
Title Insurance Recovery, Education, and Research Fund
Title – Title Insurance Recovery, Education and Research Fund – Individual Initial or Renewal Assessment 15.00
Title – Title Insurance Recovery, Education and Research Fund – Agency Initial License Assessment 1,000.00
Title – Title Insurance Recovery, Education and Research Fund – Agency Renewal Assessment Band A $0 up to $1M written premium volume 125.00
Title – Title Insurance Recovery, Education and Research Fund – Agency Renewal Assessment B and B $1 up to $10M written premium volume 250.00
Title – Title Insurance Recovery, Education and Research Fund – Agency Renewal Assessment B and C $10M up to $20M written premium volume 375.00
Title – Title Insurance Recovery, Education and Research Fund – Agency Renewal Assessment B and D or more than $20M written premium volume 500.00
Title Licensee Enforcement Restricted Account
Regulation Assessment ..... As Appropriated
The cost of one full-time equivalent position limited to the amount appropriated by the legislature for the fiscal year.

LABOR COMMISSION

Administration
Industrial Accidents Division
Workers Compensation
Coverage Waiver 50.00

Seminar Fee (alternate years)
(per registrant) ..... Not to exceed 500.00
Premium Assessment
Workplace Safety Fund
(per premium) 0.25%
Employers Reinsurance Fund
(per premium) 0%
Uninsured Employers Fund
(per premium) 0.5%
Industrial Accidents Restricted
Account (per premium) 0.50%
Certificate to Self-Insured
New Self-Insured Certificate 1,200.00
Self-Insured Certificate Renewal ... 650.00
Boiler, Elevator and Coal Mine Safety Division
Boiler and Pressure Vessel Inspections
Owner
User Inspection Agency
Certification 250.00
Certificate of Competency
Original Exam 25.00
Renewal 20.00
Jacketed Kettles and Hot Water Supply
Consultation
Witness special inspection
(per hour) 60.00
Boilers
Existing
<250,000 BTU 30.00
> 250,000 BTU but <4,000,000
BTU 60.00
> 4,000,001 BTU but
<20,000,000 BTU 150.00
> 20,000,000 BTU 300.00
New
<250,000 BTU 45.00
> 250,000 BTU but <4,000,000
BTU 90.00
> 4,000,001 BTU but <20,000,000
BTU 225.00
> 20,000,000 BTU 450.00
Pressure Vessel
Existing 30.00
New 45.00
Pressure Vessel Inspection by Owner-user
25 or less on single statement
(per vessel) 5.00
26 through 100 on single
statement (per statement) 100.00
101 through 500 on single
statement (per statement) 200.00
over 500 on single statement
(per statement) 400.00
Elevator Inspections Existing Elevators
Hydraulic 85.00
Electric 85.00
Handicapped 85.00
Other Elevators 85.00
Elevator Inspections New Elevators
Hydraulic 300.00
Electric 700.00
Handicapped 200.00
Other Elevators 200.00
Consultation and Review (per hour) 60.00
Escalators/Moving Walks 700.00
Remodeled Electric 500.00
Roped Hydraulic 500.00
Coal Mine Certification
Mine Foreman 50.00
Temporary Mine Foreman 35.00
Fire Boss 50.00
Surface Foreman 50.00
Temporary Surface Foreman 35.00
Hoistman 50.00
Electrician
Underground 50.00
Surface 50.00
Certification Retest
Per section 20.00
Maximum fee charge 50.00
Hydrocarbon Mine Certifications
Hoistman 50.00
Certification Retest
Per section 20.00
Maximum fee charge 50.00
Gilsonite
Mine Examiner 50.00
Shot Firerer 50.00
Mine Foreman
Certificate 50.00
Temporary 35.00
Photocopies, Search, Printing
Black and White no special handling 0.25
Research, redacting, unstapling,
restapling (per hour) 15.00
More than 1 hour (per hour) 20.00
Color Printing (per page) 0.50
Certified Copies (per certification) 2.00
Plus search fees if applicable
Electronic documents CD or DVD 2.00
Fax, plus telephone costs 0.50

UTAH STATE TAX COMMISSION

LICENSE PLATES PRODUCTION

License Plates Production
Decal Replacement 1.00
Reflectorized Plate ..... Up to $20
Plate Mailing Charge (per Plate Set) 4.00

TAX ADMINISTRATION

Operations
Administration
Liquor Profit Distribution 6.00
All Divisions
Certified Document 5.00
Faxed Document Processing
(per page) 1.00
Record Research 6.50
Photocopies, over 10 copies (per page) ... 0.10
Research, special requests (per hour) ... 20.00
Customer Service
Administration
All Divisions
Convenience Fee ..... Not to exceed 3%
Convenience fee for tax payments and other
authorized transactions
Lien Subordination ..... Not to exceed 300.00
Tax Clearance 50.00
Custom Programming (per hour) 85.00
Data Processing Set-Up 55.00
Sample License Plates 5.00
Outdoor Recreation
Outdoor Recreation Decal Replacement ... 4.00
Motor Vehicle

Motor Vehicle Information 3.00
Motor Vehicle Information Via Internet ... 1.00
Motor Vehicle Transaction
(per standard unit) 1.73
Motor Carrier
Cab Card 3.00
Duplicate Registration 3.00
Temporary Permit
Individual permit 6.00
Electronic Payment
Authorized Motor Vehicle
Registrations ..... Not to exceed 4.00
License Plates
Reflectorized Plate ..... Up to $20
Special Group Plate Programs
Inventory ordered before July 1, 2003
Extra Plate Costs 5.50
Plus standard plate fee
New Programs or inventory reorders
after July 1, 2003
Start-up or significant program
changes (per program) 3,900.00
Extra Plate Costs (per decal
set ordered) 3.50
Plus standard plate fee
Extra Handling Cost (per decal
set ordered) 2.40
Special Group Logo Decals ..... Variable
Variable depending upon the specific order
of decals
Special Group Slogan Decals ..... Variable
Variable depending upon the specific order
of decals
Property and Miscellaneous Taxes
Motor and Special Fuel
International Fuel Tax Administration
Decal (per set) 4.00
Reinstatement 100.00
Enforcement
Outdoor Recreation
Outdoor Recreation Decal Replacement ... 4.00
Motor Vehicle
Motor Vehicle Information 3.00
Motor Vehicle Information Via Internet ... 1.00
Motor Vehicle Transaction (per
standard unit) 1.73
Temporary Permit Restricted Fund
Individual Permit 6.00
Temporary Permit ..... Not to exceed 12.00
Sold to dealers in bulk, not to exceed
approved fee amount
Temporary Sports Event Registration
Certificate ..... Not to exceed 12.00
MV Business Regulation
Dismantler's Retitling Inspection 50.00
Salvage Vehicle Inspection 50.00
Electronic Payment
Temporary Permit Books
(per book) ..... Not to exceed 4.00
Dealer Permit Penalties
(per penalty) ..... Not to exceed 1.00
Salvage Buyer's License
(per license) ..... Not to exceed 3.00
Licenses
Motor Vehicle Manufacturer
License 102.00
Motor Vehicle Remanufacturer
License 102.00
New Motor Vehicle Dealer 127.00
Transporter 51.00
Body Shop 112.00
Used Motor Vehicle Dealer 127.00
Dismantler 102.00
Salesperson 31.00
Salesperson's License Transfer Fee 31.00
Salesperson's License Reissue 5.00
Crusher 102.00
Used Motorcycle, Off-Highway
Vehicle, and Small Trailer Dealer 51.00
New Motorcycle, Off-Highway
Vehicle, and Small Trailer Dealer 51.00
Representative 26.00
Distributor or Factory Branch
and Distributor Branch's 61.00
Additional place of business
Temporary 26.00
Permanent ..... Variable
Variable rate - same rate as the original
license fee (based on license type)
License Plates
Reflectorized Plate ..... Up to $20
Purchase
Manufacturer 10.00
Dealer 12.00
Dismantler 10.00
Transporter 10.00
Renewal
Manufacturer 8.50
Dealer 10.50
Dismantler 8.50
Transporter 8.50
In-transit Permit 2.50

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

ADMINISTRATION

Executive Director's Office
Government Records Access and Management Act
(GRAMA) Fees - these GRAMA fees apply for the
entire Department of Workforce Services
Photocopies (for all copies
after the first 10) 0.10
These GRAMA fees apply to the entire
Department of Workforce Services.
Fax Pages Local, All Pages 2.00
These GRAMA fees apply to the entire
Department of Workforce Services.
Fax Pages Long Distance, All Pages 2.00
These GRAMA fees apply to the entire
Department of Workforce Services.
Research (per hour) 20.00
These GRAMA fees apply to the entire
Department of Workforce Services.

HOUSING AND COMMUNITY DEVELOPMENT

Housing Development
Private Activity Bond
Confirmation per million volume cap (per million
of allocated volume cap) 300.00
Original application:
under $3 million 1,500.00
Original application: $3-$5 million ... 2,000.00

Original application:
over $5 million 3,000.00
Private Activity Bond Re-application
Re-application: under $3 million 750.00
Re-application: $3 - $5 million 1,000.00
Re-application: over $5 million 1,500.00
Private Activity Bond Extension
Second 90 Day Extension 2,000.00
Third 90 Day Extension 4,000.00
Each Additional 90 Day Extension 4,000.00
Weatherization Assistance
Certification Training Exam
(per Exam) ..... Actual Cost
Field Certification Test
Proctoring (per Field Exam) 400.00
Initial Certification Training
(per Person) 2,200.00
Intermountain Weatherization
Training Center Additional
Instructor (per Instructor) 540.00
Intermountain Weatherization
Training Center Facility Use
0-24 persons (per Day) 1,100.00
Intermountain Weatherization
Training Center Facility Use
25-50 persons (per Day) 1,700.00
Intermountain Weatherization
Training Center Training
0-24 persons (per Day) 2,220.00
Intermountain Weatherization
Training Center Training
25-50 persons (per Day) 4,000.00
Recertification Refresher
Training (per Hour) 105.00
Written Certification Test
Proctoring (per Written Exam) 300.00

OPERATIONS AND POLICY

Workforce Development
Career Ladder Course (per Course) 16.00

STATE OFFICE OF REHABILITATION

Blind and Visually Impaired
Low Vision Store ..... Actual Cost
Deaf and Hard of Hearing
Interpreter
Standard Late Fee (per Assessment) 80.00
Annual Maintenance/
Recognition (per Individual) 70.00
Interpreter Certification
Knowledge Exam (per Exam) 60.00
Novice Exam (per Exam) 150.00
Professional Exam (per Exam) 150.00
Temporary Permit (per Permit) 150.00
Student Permit (per Permit) 15.00
Out-of-State Interpreter Certification
Utah Novice Level Certificate 300.00
Utah Professional Level Certificate 300.00
Knowledge Exam 120.00

UNEMPLOYMENT INSURANCE

Unemployment Insurance Administration
Debt Collection Information
Disclosure Fee (per Report) 15.00
Fee for employment information research and report for creditors providing a court order for employment information of a specific debtor.

REFUGEE SERVICES FUND

World Refugee Day Around the
World Booth (per Booth) 25.00
World Refugee Day Food Vendor
Booth (per Booth) 75.00
World Refugee Day Full Partner
Booth (per Full Booth) 100.00
World Refugee Day Global Market
Booth (per Booth) 40.00
World Refugee Day Shared Partner
Booth (per Shared Booth) 50.00
World Refugee Day Soccer (per Team) 50.00

OFFICE OF HOMELESS SERVICES

Homeless Services
State Community Services Office
Homeless Summit 35.00

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OPERATIONS

Executive Director Office
All the fees in this section apply for the entire Department of Health and Human Services
Conference Registrations 100.00
Non-sufficient Check Collection Fee 20.00
Non-sufficient Check Service Charge 20.00
Specialized Services
Expedited Shipping Fee 17.00
Testimony
Expert Testimony Fee for those without a PhD (Doctor of Philosophy) or MD (Medical Doctor) (per hour) 78.75
Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Plus travel costs.
Expert Testimony Fee for those with a PhD (Doctor of Philosophy) or MD (Medical Doctor) (per hour) 250.00
Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Plus travel costs.
Government Records Access and Management Act
Mailing or shipping
cost ..... Actual cost up to a $100.00
Staff time for file search and/or information compilation
Department of Technology Services (per hour) 70.00
For Department of Technology Services or programmer/analyst staff time.
Department of Health and Human Services (per hour) 35.00
For Department of Health and Human Services staff time; first 15 minutes free, additional time.
Copy
11 x 8.5 Black and White (per page) ... 0.15
11x17 or color (per page) 0.40

Information on disk (per kilobyte) 0.02
Administrative Fee, 1-15 copies 25.00
Administrative Fee, each additional copy 1.00
Fax (per page) 0.50
Data, Systems, & Evaluations
Data Access Base Fees
Behavioral Risk Factor Surveillance System
Standard Annual Limited Data Set ... 300.00

The following discounts apply: Local Health Department (100% for any standard annual data set); State Agency, Student or Not for Profit Entity (75% for any standard annual data set); Researcher (50% for any standard annual data set); For Profit Entities pay full amount. Note that entities that have paid to have questions included on the Behavioral Risk Factor Surveillance System are excluded from this fee as their payment includes receipt of data. Fee will be $300.00 for initial dataset. Each additional year dataset will be an additional $150.00 (50% discount).

Healthcare Facilities Data Series
Fee Discounts - Healthcare Facilities Data Series ..... Note

Note: (1) The Following Discounts Apply: Utah State agencies, Local Health Departments and Utah State Tribal Organizations (100%); Utah Healthcare Facility with <35,000 discharges (50% for Standard Limited Data Set); Prior Years (25% for any standard data series); Geographic Subset (discount proportional to percent of records required from limited use data set, including custom data services fee); Institutional license One-time Renewal (15%). (2) Pricing for redistribution agreements: The distributor shall reimburse the state for the cost of the data covered by the agreement as depicted on the latest legislative fee schedule.
Standard Annual Limited Data Set 3,600.00
Standard Annual Research Data set 6,000.00
Quarterly Preliminary Feeds 4,500.00
Federal Annual Database 4,500.00
Database for agreements conducted under Federal government entities.

All Payer Claims Data Standard Limited Data Series
Fee Discounts - All Payer Claims Data Standard Limited Data Series .. Note

Notes: (1) Utah State agencies, Local Health Departments and Utah State Tribal Organizations (100%); Contributing Carrier (50% for standard limited use data sets); Geographic Subset (discount proportional to percent of records required from limited use data set, in addition to custom data services fee.); Institutional License On-time Renewal (15%). (2) Pricing for redistribution agreements: (2) Pricing for redistribution agreements: The distributor shall reimburse the state for the cost of the data covered by the agreement as depicted on the latest legislative fee schedule.
Single Year 8,000.00
Two Years 12,000.00
Three Years 16,000.00
Additional Years 4,000.00

All Payer Claims Data Standard Research Data Series
Fee Discounts - All Payer Claims Data Standard Research Data Series ..... Note

Notes: (1) The following discounts apply: Utah State agencies, Local Health Departments and State Tribal Organizations (100%); Contributing Carrier (50% for standard limited use data sets); Geographic Subset (discount proportional to percent of records required from limited use data set, in addition to custom data services fee.); Institutional License On-time Renewal (15%). (2) Pricing for redistribution agreements: The distributor shall reimburse the state the cost of the data covered the agreement, as depicted on the latest legislative fee schedule.
Single Year 20,000.00
Two Years 30,000.00
Three Years 40,000.00
Additional Years 10,000.00

Other Data Series and Licenses (Fee Discounts Apply)
Fee Discounts - Other Data Series and Licenses ..... Note

Note: The following discounts apply: Non-Contributing Carrier (50% for CAHPS Data Set); Contributing Carrier (75% for CAHPS Data Set); Prior Year (20% for HEDIS & CAHPS Data Set); Years before Current and Prior Year (35% for HEDIS & CAHPS Data Set); Student (75% for HEDIS & CAHPS Data Set or Survey Responses); University or Not for Profit Entity (35% for HEDIS & CAHPS Data Set or Survey Responses); Institutional license On-time Renewal (15%).
Institutional License 150,000.00
Healthcare Effectiveness Data and Information Set Data Set 1,575.00
Consumer Assessment of Healthcare Providers and Systems Data Set 1,575.00
Consumer Assessment of Healthcare Providers and Systems Survey Responses 2,000.00

Other Fees and Services
Custom data services (per hour) 100.66

Note: This hourly fee applies to all custom work, including but not limited to: data extraction analytics; aggregate patient-risk profiles for clinics, payers or systems; data management reprocessing; data matching; and creation of samples or subsets.
Additional Fields to create a custom data set (per field added) 225.00
Individual Information Extract (per person) 100.00

Convenience Fee (for Credit or Debit Card payment) 3%
Birth Certificate
Initial Copy 22.00
Stillbirth Certificate Initial Copy 18.00
Book Copy of Birth Certificate – in addition to birth certificate fee 5.00
Adoption – in addition to birth certificate fee 40.00
Sealed Record Fee – in addition to birth certificate fee 40.00
This fee is for an amendment to a record that will not be displayed on the record as an amendment.
Delayed Registration – in addition to birth certificate fee 40.00
Legitimation – in addition to birth certificate fee 40.00
Death Certificate
Initial Copy 30.00
The Legislature intends that for every initial copy of a Utah Death Certificate sold, $12 shall be remitted to the Office of the Medical Examiner.
Burial Transit Permit 7.00
Disinterment Permit 25.00
Reprint Fee 3.00
Specialized Services
Additional Copies 10.00
Amendment Fee – Affidavit, Court Order, Voluntary Declaration of Paternity – in addition to certificate fee 5.00
Paternity Search (one hour minimum) (per hour) 18.00
Marriage and Divorce Abstracts 18.00
Adoption Registry 25.00
Adoption Expedite Fee 25.00
Birth Parent Information Registration ... 25.00
Adoption Records Access Fee 25.00
Adoption Records Amendment Fee 10.00
Death Research (one hour minimum) (per hour) 20.00
Death Notification Subscription Fee (organization less than or equal to 100,000 lives) 500.00
Death Notification Subscription Fee (organizations greater than 100,000 lives) 1,000.00
Death Notification Fee (per matched death) 1.00
Court Order Paternity – in addition to birth certificate fee 40.00
Online Access to Computerized Vital Records (per month) 12.00
Ad–hoc Statistical Requests (per hour) ... 45.00
Online Convenience Fee 4.00
Online Identity Verification 1.39
Expedite Fee 15.00
Delay of File Fee (charged for every birth/death certificate registered 30 days or more after the event) 50.00
Public Affairs, Education & Outreach
Government Records Access and Management Act Fees – these fees apply for the entire Department of Human Services
Paper (per side of sheet) 0.25
Audio Tape (per tape) 5.00
Video Tape (per tape) 15.00
Mailing ..... Actual cost
Compiling and Reporting
In Another Format (per hour) 25.00
If Programmer/Analyst Assistance is Required (per hour) 50.00

CLINICAL SERVICES

Medical Examiner
Examinations of Non–jurisdictional Cases
Autopsy, full or partial 2,500.00
plus cost of body transportation
External Examination 500.00
plus cost of body transportation
Facilities
Use of Office of the Medical Examiner facilities by Non–Office of the Medical Examiner Pathologists
Use of facilities and staff for autopsy .. 500.00
Use of facilities only for autopsy or examination 400.00
Use of facilities and staff for external examinations 300.00
Use of Tissue Harvest Room for Acquisition
Skin Graft 133.00
Bone 266.00
Heart Valve 70.00
Saphenous vein 70.00
Eye 35.00
Reports
Copy of Autopsy and Toxicology Report
All requestors. 35.00
No charge for copies for (1) immediate relative or legal representative as outlined in UCA 26–4–17(2)(a)(i)–(ii) and (2) for law enforcement, physicians, attorneys and government entities as outlined in UCA 26–4–17(2)(a)(iii)–(iv), and 26–4–17(2)(b)(i)–(iv).
Copy of Miscellaneous Office of the Medical Examiner Case File Papers
Copies for immediate relative or legal representative as outlined in UCA 26–4–17(2)(a)(i)–(ii) 10.00
All other requestors. 35.00
No charge for copies for law enforcement, physicians, attorneys and government entities as outlined in UCA 26–4–17(2)(a)(iii)–(iv), and 26–4–17(2)(b)(i)–(iv).
Cremation Authorization
Review and authorize cremation permit. 150.00
$10.00 per permit payable to Vital Records for processing.
Expert Services – Forensic Pathologist Case Review, Consultation, and Testimony, Portal to Portal, up to 8 Hours/day
Criminal cases, out of state (per hour) .. 500.00
$4,000.00 max/day
Non–jurisdictional criminal and all civil cases (per hour) 500.00
$4,000.00 max/day
Consultation on non–Medical Examiner cases (per hour) 500.00
$4,000.00 max/day
Photographic, Slide, and Digital Services

Digital Photographic Images
Copies for immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)(i)-(ii) (per image) 10.00
All other requestors. (per image) 35.00
No charge for copies for law enforcement, physicians, attorneys and government entities as outlined in UCA 26-4-17(2)(a)(iii)-(iv), and 26-4-17(2)(b)(i)-(iv).
Digital X-ray images from Digital Source (Digital Imaging and Communications in Medicine). 10.00
Copied from color slide negatives. (per image) 5.00
Digital photographic images.

Body Storage
Daily charge for use of Medical Examiner Storage Facilities (per Day) 30.00
Beginning 24 hours after notification that body is ready for release.

Biologic samples requests
Handling of requested samples for shipping to outside lab. 25.00
Processing of Office of the Medical Examiner samples for non-Office of the Medical Examiner testing.
Handling and storage of requested samples by outside sources (per year) 25.00
Storage fee (outside normal Office of the Medical Examiner retention schedule)
Return request by immediate relative as defined in code UCA 26-4-2(3) 55.00
Sample return fee

Histology
Glass Slides (re-cuts, routine stains) per slide 20.00
Glass slides - Immunohistochemical stains per slide 50.00
Histochemical stains per slide 30.00

State Laboratory
These fees apply for the entire Division of Disease Control and Prevention
Laboratory General
Emergency Waiver 0.00
Under certain conditions of public health import (e.g. - disease outbreak, terrorist event, or environmental catastrophe) fees may be reduced or waived.
Handling
Total cost of shipping and testing of referral samples to be rebilled to customer. (per Referral lab's invoice) ..... Actual Cost
Repeat Testing - normal fee will be charged if repeat testing is required due to poor quality sample. (per sample, each reanalysis) .... Actual Cost of normal fee

Mycoplasma Genitalium Detection by Nucleic Acid Testing 30.00

All
Laboratory Testing of Public Health Significance ..... Actual costs up to $200
The emergence of diseases and subsequent testing methods are unpredictable. This fee allows Utah Public Health Laboratory to offer a test that is vital to protecting the public as the need arises to help diagnosis and prevent illness.

Newborn Screening
Laboratory Testing and Follow-up Services 140.00
This fee covers the costs for screening all newborns in the state of Utah for common disorders.
Out of State Screening 116.00

Chemistry
Admin
Chain of Custody Request Fee 20.00
Rush Fee 50.00
Metals
Standard Metals
Environmental Protection Agency 200.8 Copper and Lead 26.40
Standard Method 2330B Langelier Index 6.05
Environmental Protection Agency 353.2 Nitrite 17.60
Environmental Protection Agency 353.2 Nitrate 17.60
Environmental Protection Agency 200.8 - Magnesium 13.20
Environmental Protection Agency 200.8 - Iron 13.20
Environmental Protection Agency 200.8 Lithium 13.20
Environmental Protection Agency 200.8 - Potassium 13.20
Environmental Protection Agency 200.8 - Strontium 13.20
Environmental Protection Agency 200.8 Digestion 24.20
Environmental Protection Agency 200.8 Tin 13.20
Environmental Protection Agency 200.8 Cobalt 13.20
Environmental Protection Agency 200.8 Vanadium 13.20
Environmental Protection Agency Method 200.8 Zirconium 13.20
Mercury 245.1 ..... 27.50
may include a digestion fee
Mercury Environmental Protection Agency 7473 ..... 35.00
Selenium by Selenium Hydride - Atomic Absorption - Standard Method 3114C 43.00
may include a digestion fee
Environmental Protection Agency 200.8 Aluminum 13.20
Environmental Protection Agency 200.8 Antimony 13.20
Environmental Protection Agency 200.8 Arsenic 13.20
Environmental Protection Agency 200.8 Barium 13.20
Environmental Protection Agency 200.8 Beryllium 13.20
Environmental Protection Agency 200.8 Cadmium 13.20
Environmental Protection Agency 200.8 Chromium 13.20

Environmental Protection Agency 200.8 Copper 13.20
Environmental Protection Agency 200.8 Lead 13.20
Environmental Protection Agency 200.8 Manganese 13.20
Environmental Protection Agency 200.8 Molybdenum 13.20
Environmental Protection Agency 200.8 Nickel 13.20
Environmental Protection Agency 200.8 Selenium 13.20
Environmental Protection Agency 200.8 Silver 13.20
Environmental Protection Agency 200.8 Thallium 13.20
Environmental Protection Agency 200.8 Zinc 13.20
Environmental Protection Agency 200.8 Boron 13.20
Environmental Protection Agency 200.8 Calcium 13.20
Environmental Protection Agency Sodium 200.8 . . . . . 13.20
Hardness (Requires Calcium & Magnesium tests) 6.05
Selenium Environmental Protection Agency 1638 . . . . . 50.00
Organic Contaminants
Environmental Protection Agency 524.2 Trihalomethanes 89.93
Haloacetic Acids Method 6251B 179.30
Environmental Protection Agency 524.2 . . . . . 228.80
Trihalomethanes, Maximum Potential Environmental Protection Agency 544
Microcystin RR: Microcystin Arginine (R) 300.00
Microcystin YR Tyrosine (Y). Arginine (R) 300.00
Microcystin LR Leucine (L) Arginine (R) 300.00
Inorganics
Alkalinity (Total) Standard Method 2320B 25.00
Bromate Environmental Protection Agency 300.1 . . . . . 30.25
Chlorate Environmental Protection Agency 300.1 . . . . . 30.25
Chlorite Environmental Protection Agency 300.1 . . . . . 30.25
Chloride Environmental Protection Agency 300.0 . . . . . 19.31
Environmental Protection Agency 300.0 Fluoride 20.35
Environmental Protection Agency 300.1 Sulfate 17.88
Chromium (Hexavalent) Environmental Protection Agency 218.7 . . . . . 60.50
Cyanide, Total 335.4 . . . . . 55.00
Environmental Protection Agency 353.2 Nitrate + Nitrite 20.00
Perchlorate 314.0 . . . . . 60.50
Environmental Protection Agency 537.1 – Per–and Polyfluoroalkyl Substances 290.00
pH (Test of acidity or alkalinity) 150.1 . . . . . 12.00
Environmental Protection Agency 375.2 Sulfate 25.00
Environmental Protection Agency 180.1 Turbidity 12.00
Odor, Environmental Protection Agency 140.1 . . . . . 30.25
Organic Constituents, Ultra Violet–Absorbing Standard Method 5910B 36.30
Carboxylic Acids (Oxalate, Formate, Acetate) 46.20
Nitrogen, Total Standard Method 4500–N (Lachat) 35.00
Organic Carbon, Total Standard Method 5310B 30.00
Environmental Protection Agency 300.1 Bromide 30.25
Organics
Anatoxin by Enzyme–Linked Immunosorbent Assay 300.00
Chlorophyll–A Free From Pheophytin A High Sensitivity Environmental Protection Agency 447 . . . . . 120.00
Chlorophyll–A Corrected for Pheophytin A Environmental Protection Agency 445, 446 or equivalent 25.00
Chlorophyll–A by High Performance Liquid Chromatography 110.61
Cyanotoxin Quantitative Polymerase Chain Reaction Method 33.00
Cylindrospermopsin by Enzyme–Linked Immunosorbent Assay 300.00
Periphyton 30.00
Organic Wet Chemistry 200.00
Water Bacteriology
Legionella Standard Methods 9260J . . . 68.20 Liter of water
Solids, Total Dissolved Standard Method 2540C 14.03
Environmental Protection Agency 325.2 Chloride 20.00
Standard Method 5210B Carbonaceous Biochemical/ Soluble Oxygen Demand 36.30
Standard Method 2120B Color 13.20
Environmental Protection Agency 544 Nodularin 300.00
Legiolert 37.22
Water Microbiology (Drinking Water and Surface Water)
Total Coliforms/Escherichia coli 20.90
Colilert/Colisure
Heterotrophic Plate Count by 9215 B Pour Plate 14.30
Inorganic Surface Water (Lakes, Rivers, Streams) Tests
Ammonia Environmental Protection Agency 350.1 . . . . . 22.00
Biochemical Oxygen Demand 5 day test Standard Method 5210B . . 27.00
Chlorophyll A Standard Method 10200H – Chlorophyll–A 18.70
Phosphorus, Total 365.1 . . . . . 23.00

Silica 370.1 ..... 20.00
Solids, Total Volatile, Environmental Protection Agency 160.4 ..... 22.50
Solids, Total Suspended Standard Method 2540D 15.00
Specific Conductance 120.1 ..... 10.00
Environmental Protection Agency 376.2 Sulfide 50.00
Infectious Disease
Arbovirus
TrioPlex Polymerase Chain Reaction ... 65.00
Zika Immunoglobulin M 45.00
Next Generation Sequencing
Bacterial Sequencing 107.00
Bacterial Sequencing Analysis 40.00
Bacterial Sequencing and Identification 108.00
Bacterial Sequencing, Identification, Analysis 122.00
Microbial Source Tracking via shotgun metagenomics sequencing 194.00
Microbial Source Tracking via culture based 150.00
Immunology
Hepatitis
Anti-Hepatitis B Antibody 21.50
Anti-Hepatitis B Antigen 21.50
C (Anti-Hepatitis C Virus) Antibody 25.00
HIV (Human Immunodeficiency Virus)
1/2 and O, Antigen/Antibody Combo 30.00
Supplemental Testing (HIV-1/HIV-2 differentiation) 42.00
Syphilis
Immunoglobulin G (IgG) Antibody (including reflex Rapid Plasma Reagin titer) 11.00
TP-PA (Treponema Pallidum - Particle Agglutination) Confirmation 22.00
QuantiFERON
QuantiFERON Gold 65.00
Virology
BioFire FilmArray Respiratory Panel 160.00
Herpesvirus (Herpes Simplex Virus-1, Herpes Simplex Virus-2, Varicella Zoster Virus) Detection and Differentiation by Polymerase Chain Reaction 51.00
Rabies - Not epidemiological indicated or pre-authorized 180.00
Influenza (Polymerase Chain Reaction) 150.00
Chlamydia trachomatis and Neisseria gonorrhoeae detection by nucleic acid testing 25.00
Trichomonas vaginalis detection PCR Polymerase Chain Reaction 35.00
Bacterial and yeast species identification 4.00
Bacteriology
BioFire FilmArray Gastrointestinal Panel 185.00
Mycobacteriology
Culture 81.00
Mycobacterium tuberculosis susceptibilities (send out) 175.00
Identification and Susceptibility by GeneXpert 126.00
Parameter Category Fees charge for each sample tested
Atomic Absorption/Atomic Emission 300.00
Radiological chemistry - Alpha spectrometry 300.00
Radiological chemistry - Beta 300.00
Calculation of Analytical Results 50.00
Organic Clean Up 200.00
Toxicity/Synthetic Extractions Characteristics Procedure 200.00
Radiological chemistry - Gamma 300.00
Gas Chromatography
Simple 300.00
Complex 600.00
Semivolatile 500.00
Volatile 500.00
Radiological chemistry - Gas Proportional Counter 300.00
Gravimetric 100.00
High Pressure Liquid Chromatography 300.00
Inductively Coupled Plasma Metals Analysis 400.00
Inductively Coupled Plasma Mass Spectrometry 500.00
Ion Chromatography 200.00
Ion Selective Electrode base methods ... 100.00
Radiological chemistry - Liquid Scintillation 300.00
Metals Digestion 100.00
Simple Microbiological Testing 100.00
Complex Microbiological Testing 300.00
Organic Extraction 200.00
Physical Properties 100.00
Titrimetric 100.00
Spectrometry 200.00
While Effluent Toxicity 600.00
Environmental Laboratory Certification
Certification Clarification 0.00
Note: Laboratories applying for certification are subject to the annual certification fee, plus the fee listed, for each category in which they are to be certified.
Annual certification fee (chemistry and/or microbiology)
Utah laboratories 1,250.00
Out-of-state laboratories 3,250.00
Plus reimbursement of all travel expenses
National Environmental Accreditation Program recognition 1,250.00
Certification change 500.00
Performance Based Method Review (per method fee) 250.00
Primary Method Addition for Recognition Laboratories 500.00
Health Equity
Community Health Worker
Certification (per certification) 50.00
Community Health Worker Certification Penalty Fee (per certification) 100.00
Community Health Worker Certification Renewal Fee (per certification) 25.00

DEPARTMENT OVERSIGHT

Licensing & Background Checks
Licensing
Online Background Check Application 9.00
Adult Day Care
Initial License Fee
0-50 Consumers per Program 900.00
More than 50 Consumers per Program 900.00
Renewal Fee
0-50 Consumers per Program 300.00
More than 50 Consumers per Program 600.00
Per Licensed Capacity 9.00
Child Placing Adoption
Initial License Fee 900.00
Renewal Fee 750.00
Child Placing Foster
Initial License Fee and Renewal Fee 250.00
Day Treatment
Initial License Fee 900.00
Renewal Fee 450.00
Intermediate Secure Treatment
Initial License Fee 900.00
Renewal Fee 750.00
Per Licensed Capacity 9.00
Life Safety Pre-inspection
Initial Fee to Verify Life and Fire Safety 600.00
Outdoor Youth Program
Initial License Fee and Renewal Fee 1,408.00
Outpatient Treatment
Initial License Fee 900.00
Renewal Fee 300.00
Recovery Residences
Initial License Fee 1,295.00
Renewal Fee 500.00
Residential Support
Initial License Fee 900.00
Renewal Fee 300.00
Social Detoxification
Initial license fee 900.00
Renewal Fee 600.00
Residential Treatment
Initial License Fee 900.00
Renewal Fee 600.00
Per Licensed Capacity 9.00
Therapeutic School Program
Initial License Fee 900.00
Renewal Fee 600.00
Per Licensed Capacity 9.00
These fees apply for the entire Department of Health and Human Services
Background Screening Fee - Public Safety 33.25
This fee should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health and Human Services. Fees collected by the Division of Licensing and Background Checks are passed through to Public Safety.
Background checks initial or annual renewal (not in Direct Access Clearance System) 20.00
This fee will be assessed at the Division level for background checks not completed through the Direct Access Clearance System. This fee will be assessed for initial or annual renewal.
Fingerprint Clone Fee 10.00
If an applicant has previously been fingerprinted and is changing the program they are associated with, Department of Public Safety can transfer the prints instead of the applicant being reprinted.
Direct Access Clearance System
Facility Initial or Change of Ownership (per 100) 100.00
Initial Clearance 20.00
Facility Renewal 200.00
Fee type now required
Other
Inspection fee for non-compliant facility follow-up inspection 25.00
Charge per extra follow-up visit begins with the second additional visit required due to non-compliance.
These fees apply for the entire Division of Licensing and Background Checks
Credit Card Fee (per transaction) ..... Not to exceed 3%
To determine the amount charged, a percentage will be calculated using the total of credit card fees incurred by the Division, divided by the total credit card revenues. Convenience Fee (for debit or credit card payment)
Online Processing Fee (per transaction) ... 0.75
Convenience fee to cover cost of Utah Interactive processing fee.
Fingerprints 12.00
Annual License
Abortion Clinics 1,800.00
Health Facilities base 260.00
A base fee for health facilities plus the appropriate fee as indicated below applies to any new or renewal license.
Direct Access Clearance System
Contractor Access 100.00
Two Year Licensing Base
Plus the appropriate fee as listed below to any new or renewal license
Health Care Facility 520.00
Every other year
Health Care Providers
Change Fee 130.00
Charged for making changes to existing licenses.
Hospitals
Hospital Licensed Bed 39.00
Nursing Care Facilities, and Small Health Care Facilities Licensed Bed 31.20
End Stage Renal Disease Centers
Licensed Station 182.00
Freestanding Ambulatory Surgery Centers (per facility) 2,990.00
Birthing Centers (per licensed unit) 520.00
Hospice Agencies 1,495.00

Home Health Agencies 1,495.00
Personal Care Agencies 1,000.00
Mammography Screening Facilities 520.00
Assisted Living Facilities
Type I (per licensed bed) 26.00
Type II (per licensed bed) 26.00
The fee for each satellite and branch office of current licensed facility 260.00

Late Fee
Within 1 to 14 days after expiration of license ..... 50% of scheduled fee
Within 15 to 30 days after expiration of license ..... 75% of scheduled fee

New Provider/Change in Ownership
Applications for health care facilities ... 747.50
Assessed for services rendered providers seeking initial licensure to or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.
Assisted Living and Small Health Care Type–N (nursing focus) Limited Capacity Applications: 325.00
Assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation and initial inspection.

Application Termination or Delay
If a health care facility application is terminated or delayed during the application process, then a fee based on services rendered will be retained as follows:
On–site inspections ..... 90% of total fee

Plan Review and Inspection
Hospitals
Number of Beds
Up to 16 ..... 3,445.00
17 to 50 ..... 6,890.00
51 to 100 ..... 10,335.00
101 to 200 ..... 12,870.00
201 to 300 ..... 15,470.00
301 to 400 ..... 17,192.50
Over 400, base 17,192.50
Over 400, each additional bed 37.50
In the case of complex or unusual hospital plans, the Bureau will negotiate with the provider an appropriate plan review fee at the start of the review process based on the best estimate of the review time involved and the standard hourly review rate.
Nursing Care Facilities and Small Health Care Facilities
Number of Beds
Up to 5 ..... 1,118.00
6 to 16 ..... 1,716.00
17 to 50 ..... 3,900.00
51 to 100 ..... 6,890.00
101 to 200 ..... 8,580.00
Freestanding Ambulatory Surgical Facilities (per operating room) 1,722.50
Other Freestanding Ambulatory Facilities (per service unit) 442.00
Includes Birthing Centers, Abortion Clinics, and similar facilities.
End Stage Renal Disease Facilities (per service unit) 175.50
Assisted Living Type I and Type II
Number of Beds
Up to 5 ..... 598.00
6 to 16 ..... 1,196.00
17 to 50 ..... 2,762.50
51 to 100 ..... 5,167.50
101 to 200 ..... 7,247.50

Each additional inspection required (beyond the two covered by the fees listed above) or each additional inspection requested by the facility shall cost $559.00 plus mileage reimbursement at the approved state rate, for travel to and from the site by a department representative.

Remodels of Licensed Facilities
Hospitals, Freestanding Surgery Facilities (per square foot) 0.29
All others excluding Home Health Agencies (per square foot) 0.25
Each additional required on–site inspection 559.00

Health Care Facility Licensing
Rules ..... Actual cost
Plus mailing

Other Plan Review Fee Policies
Plan Review Onsite Inspection .... See Notes
If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, then the Department may conduct a detailed on–site inspection in lieu of the plan review. The fee for this will be $559.00 per inspection, plus mileage reimbursement at the approved state rate.
Previously Reviewed or Approved Plan ..... 60% of scheduled fee
A facility that uses plans and specifications previously reviewed and approved by the Department. Cost: 60% of the scheduled plan review fee.
Special Equipment Facility Addition or Remodel (per square foot) 0.52
A facility making additions or remodels that house special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator.
Terminated or Delayed Plan Review
Preliminary Drawing Review ..... 25% of scheduled fee
If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 25% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re–submit plans and pay a new plan review fee in order to renew the review action.
Working Drawings and Specifications Review ..... 80% of scheduled fee
If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 80% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, then the

applicant must re-submit plans and pay a new plan review fee in order to renew the review action.
Certificate of Authority
Working Drawings and Specifications
Review ..... 80% of scheduled fee
If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 80% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, then the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.
Conditional Monitoring Inspections
Center-based providers (per visit) 253.00
Charge is per each visit required due to non-compliance when a Facility is on a conditional license.
Home-based providers (per visit) 245.00
Charge is per each visit required due to non-compliance when a Facility is on a conditional license.
Conditional Monitoring Fee 275.00
Visits required due to non-compliance. Facility is on a conditional license. Excludes state operated facilities.
Annual License
Child Care Facility Base 62.00
Plus the appropriate fee as listed below to any new or renewal license
Change in license or certificate during the license period more than twice a year 31.00
Child Care Center Facilities (per child) ... 1.75
Late Fee ..... Variable
Within 1 - 30 days after expiration of license facility will be assessed 50% of scheduled fee. For centers, $31 plus $0.75 per child in the requested capacity. For homes, $31.
New Provider/Change in Ownership
Applications for Child Care center facilities 200.00
A fee will be assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.

HEALTH CARE ADMINISTRATION

Integrated Health Care Administration
Provider Enrollment
Medicaid application fee for prospective or re-enrolling 688.00
This fee is set by the federal government (Centers for Medicare and Medicaid Services) and is effective on January 1 of each year.

INTEGRATED HEALTH CARE SERVICES

Children's Health Insurance Program Services
Quarterly Premium
Plan B 30.00
138%-150% of Poverty Level
Plan C 75.00
150%-200% of Poverty Level
Late 15.00
Non-Medicaid Behavioral Health Treatment & Crisis Response
Alcoholic Beverage Server
On Premise and Off Premise Sales 3.50
State Hospital
Use of Utah State Hospital Facilities
Photo Shoots (per 2 hours) 20.00
Groups Up To 50 People (per day) 75.00
Groups Over 50 People (per day) 150.00

LONG-TERM SERVICES & SUPPORT

Disabilities - Other Waiver Services
Graduated 1,300.00
Critical support services for people with disabilities who are non-Medicaid matched. The fee ranges between 1 percent and 3 percent of gross family income.

PUBLIC HEALTH, PREVENTION, AND EPIDEMIOLOGY

Communicable Disease
Utah Statewide Immunization Information System
Non-Financial Contributing Partners
Match on Immunization Records in Database (per record) 12.00
File Format Conversion (per hour) 30.00
Emergency Medical Services and Preparedness Data
EMS License
Emergency Medical Services License Data Request 500.00
Registration and Licensure
License/License Renewal Fee
Instructor Six Month Extension Fee ... 40.00
License Verification 10.00
Permit
Behavior Health Unit (per Vehicle) 105.00
Behavioral Health Unit Permit
Registration and Licensure
License/License Renewal Fee
Course Coordinator Extension Fee 40.00
Inspection
Dispatch 105.00
Quality Assurance and Designation Review
Stroke Center Designation/ Redesignation 150.00
Registration and Licensure
License/License Renewal Fee
Quality Assurance Review Fee
All Levels 30.00
Training Officer Extension Fee 40.00
Quality Assurance Designation Review
Air Ambulance Quality Assurance Review 5,000.00
Registration and Licensure
License Fee
Blood Draw Permit 35.00
Quality Assurance Review Fee for All Levels Late Fee 75.00
Certification Fee
License/License Renewal Fee
Initial and Reciprocity Quality Assurance for All Levels 45.00
Decal for purchase for All Levels 2.00
Patches for purchase for All Levels 5.00
Course Audit Fee 40.00

Course Request Fee
Course for All Levels 300.00
Course for All Levels 300.00
Ground Ambulance – Emergency
Medical Technician
Permit
Quality Assurance Review
(per vehicle) 105.00
Advanced (per vehicle) 135.00
Ground Ambulance Emergency Medical Technician Permit Advanced
Interfacility Transfer Ambulance
Permit
Emergency Medical Technician
Quality Assurance Review
(per vehicle) 100.00
Advanced (per vehicle) 130.00
Interfacility Transfer Ambulance Permit Advanced
Fleet Vehicles
Permit
Fleet fee (per fleet) 3,200.00
Agency with 20 or more vehicles
Paramedic
Permit
Rescue (per vehicle) 170.00
Paramedic Rescue Permit
Tactical Response (per vehicle) 170.00
Paramedic Tactical Response Permit
Ambulance (per vehicle) 170.00
Interfacility Transfer Service
(per vehicle) 170.00
Quick Response Unit
Permit
Emergency Medical Technician
Quality Assurance Review
(per vehicle) 105.00
Advanced (per vehicle) 100.00
Air Ambulance
Permit
Advanced Permit (per vehicle) 135.00
Specialized (per vehicle) 170.00
Out of State (per vehicle) 205.00
Quality Assurance Designation Review
Resource Hospital (per hospital) 150.00
Trauma Center Verification/Quality
Assurance Review 5,000.00
Trauma Designation Consultation
Quality Assurance Review 750.00
Focused Quality Assurance Review . . . 3,000.00
Emergency Patient Receiving
Facility Re-designation 150.00
Emergency Patient Receiving Facility
Initial Designation 500.00
Quality Assurance Application Reviews
Newspaper Publications
Original Air Ambulance License 850.00
Original Ground Ambulance/Paramedic
License Non-Contested 850.00
Original Ambulance/Paramedic
License Contested 1,500.00
up to actual cost
Original Designation 135.00
Renewal Ambulance/Paramedic/
Air License 135.00
Renewal Designation 135.00
Upgrade in Ambulance Service Level . . . 125.00
Change in ownership/operator
Upgrade in Ambulance Service Level . 125.00
Contested . . . . . Up to actual cost
Change in geographic service area
Non-contested 850.00
Contested . . . . . Up to actual cost
Quality Assurance Course Review
Critical Care Endorsement 20.00
Requesting a change to the name. Remove Certification and replace with Endorsement.
Course Coordinator
Seminar Registration 50.00
Emergency Medical
Training and Testing Program
Designation 135.00
Instructor Seminar
Registration 150.00
Training Application Late Fee 25.00
None
Conference Sponsor/Vendor 500.00
New Course Coordinator
Course Coordination Endorsement 75.00
Course Coordination Endorsement 75.00
New Instructor
Endorsement 150.00
Requesting a change to the name. Remove Course Certification and replace with New Instructor Endorsement.
New Training Officer
Endorsement 75.00
Requesting a change to the name. Remove Initial Certification and replace with New Training Officer Endorsement.
Pediatric
Advanced Life Support Course 170.00
Education for Prehospital
Professionals Course 170.00
Training Officer
Seminar Registration 50.00
Training and Seminars
Additional Lunch 15.00
Emergency Vehicle Operations
Instructor Course 40.00
Medical Director's Course 50.00
Management/Leadership Seminar 150.00
Prehospital Trauma Life
Support Course 175.00
Pediatric Advanced Life Support
Course Renewal 85.00
Equipment Delivery
Strike Team BLU-MED Mobile
Field Response Tent Support 6,000.00
Pediatric
Rental of course equipment to
for-profit agency 150.00
Quality Assurance Course Review
Pediatric
Education for Prehospital Professionals
Course Renewal 85.00
Data
Pre-hospital
Non-profits Users 800.00
Academic, non-profit, and other government users
For-profit Users 1,600.00
Trauma Registry
Non-profits Users 800.00
Academic, non-profit, and other government users

For-profit Users 1,600.00

CHILDREN, YOUTH, & FAMILIES

Child & Family Services
Live Scan Testing 10.00
Children with Special Healthcare Needs
Baby Watch Early Intervention
Monthly Participation Fee
Household income 101% to 186% of Federal Poverty Level 10.00
Household income 187% to 200% of Federal Poverty Level 20.00
Household income 201% to 250% of Federal Poverty Level 30.00
Household income 251% to 300% of Federal Poverty Level 40.00
Household income 301% to 400% of Federal Poverty Level 50.00
Household income 401% to 500% of Federal Poverty Level 60.00
Household income 501% to 600% of Federal Poverty Level 80.00
Household income 601% to 700% of Federal Poverty Level 100.00
Household income 701% to 800% of Federal Poverty Level 120.00
Household income 801% to 900% of Federal Poverty Level 140.00
Household income 901% to 1000% of Federal Poverty Level 160.00
Household income 1001% to 1100% of Federal Poverty Level 180.00
Household income above 1100% of Federal Poverty Level 200.00

OFFICE OF RECOVERY SERVICES

Child Support Services
Automated Credit Card Convenience 2.00
Fee for self-serve payments made online or through the automated phone system (IVR)
Collections Processing 12.00
Six percent of payment disbursed up to a maximum of $12 per month
Assisted Credit Card Convenience 6.00
Fee for phone payments made with the assistance of an accounting worker
Federal Offset 25.00
Annual Collection 35.00

QUALIFIED PATIENT ENTERPRISE FUND

Administrative Penalties (Subsequent Violation) 5,000.00
Fine of $5,000 per subsequent violation of Title 26, Chapter 61a, Utah Medical Cannabis Act and applicable administrative rules
Administrative Penalty (Initial Violation) 2,000.00
Fine of $500-$2,000 per violation of Title 26, Chapter 61a, Utah Medical Cannabis Act and applicable administrative rules
Caregiver (already background screened as a Guardian) Registration and Card (Initial) (per Guardian/Patient/Caregiver) 15.00
Caregiver Registration (already background screened as a Guardian) and Card (Renewal) (per Guardian/Patient/Caregiver) 5.00
Renewal date is dependent upon the renewal date of the related patient card. No fee for the first 90-day patient renewal.
Change in Ownership or Structure Application 300.00
Application fee for a change in the ownership or structure of a medical cannabis pharmacy or a medical cannabis courier.
Change of Location Application 750.00
Application fee for a medical cannabis pharmacy change of location request.
Guardian (already background screened as a Caregiver) and Provisional Card (6 Month) (per Guardian/ Patient/Caregiver) 15.00
Guardian (already background screened as a Caregiver) and Provisional Card (Initial) (per Guardian/ Patient/Caregiver) 15.00
Non-Utah Resident Guardian and Provisional Card (Initial) (per Guardian/Patient) 15.00
Valid for 21 days
Non-Utah Resident Guardian and Provisional Card (Renewal) (per Guardian/Patient) 15.00
Guardian may register for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.
Non-Utah Resident Patient Card (Initial) (per Patient) 15.00
Valid for 21 days
Non-Utah Resident Patient Card (Renewal) (per Patient) 15.00
Patient may register for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.
Qualified Medical Provider Proxy Registration (Initial) (per Provider) 30.00
Qualified Medical Provider Proxy Registration (Renewal) (per Provider) 30.00
Renewal every 2 years
Medical Cannabis
Pharmacy and Medical Provider Fees
Pharmacy
Application (per Region) 2,500.00
License Urban (per Pharmacy per year) 67,000.00
Home Delivery License Urban (per Pharmacy per year) 69,500.00
License Rural (per Pharmacy per year) 50,000.00
Home Delivery License Rural (per Pharmacy per year) 52,500.00
Qualified Medical Provider Registration (Initial) (per Provider) 150.00
Qualified Medical Provider Registration (Renewal) (per Provider) 50.00
Renewal every 2 years
Pharmacy Medical Provider/ Pharmacist Registration Fee (Initial) (per Provider) 150.00

Pharmacy Medical Provider/
Pharmacist Registration Fee
(Renewal) (per Provider) 50.00
Renewal every 2 years
Pharmacy Agent Registration (Initial
or >= 1 Year Expired) (per Agent) ... 100.00
Pharmacy Agent Registration
(Renewal) (per Agent) 50.00
Courier Application (per Courier) 125.00
Courier License (Initial) (per
Courier) 2,500.00
Courier License (Renewal)
(per Courier) 1,000.00
Courier Agent Registration
(Initial or >= 1 Year Expired)
(per Agent) 100.00
Courier Agent Registration
(Renewal) (per Agent) 50.00
Patient Fees
Patient Card (Initial) (per Patient) 15.00
Patient Registration Renewal
(6 Month) (per Patient) 15.00
Guardian and Provisional Card
(Initial or >= 1 Year
Expired) (per Guardian/Patient) 68.25
Guardian and Provisional Card
(6 Month) (per Guardian/Patient) 24.00
Guardian (already background
screened as a Guardian) and
Provisional Card (Initial)
(per Guardian/Patient) 15.00
Guardian (already background
screened as a Guardian) and
Provisional Card (6 Month)
(per Guardian/patient) 15.00
Caregiver Registration and Card
(Initial or >= 1 Year Expired)
(per Caregiver) 68.25
Caregiver Registration and Card
(Renewal) (per Caregiver) 14.00
Caregiver (already background
screened as a Caregiver) Registration
and Card (Initial) (per Caregiver) 15.00
Caregiver Registration (already
background screened as a0
Caregiver) and Card
(Renewal) (per Caregiver) 5.00
Renewal date is dependent upon the
renewal date of the related patient card.
Uniform Transaction Fee
(per Transaction) 3.00

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

ADMINISTRATION

Commissioner's Office
General Administration
Administrative Hearing Fee
(per Hour) ..... Variable
Hourly charge varies from $0 to $500
depending on type of hearing and staffing
required.
Registered Farms Recording 10.00
All Agriculture Divisions
Background Check Fee 51.50
Certified document 25.00
Mileage ..... Variable
To be charged according to the current
mileage rate of the State of Utah.
Duplicate 15.00
Late 25.00
Print License/Prod Certificate Fee 20.00
Returned check 20.00
Copies of files
Per hour 10.00
Per copy 0.25
Certificates of Export
Single Certificate 30.00
More than 3 pages 55.00

ANIMAL INDUSTRY

Animal Health
Animal Health
Aerial Hunting License Fee 10.00
Inspection Service (per Hour) 60.00
Commercial Aquaculture Facility 150.00
Commercial Fishing Facility 30.00
Aquaculture Inspection: Aquatic
Invasive Species (AIS) 100.00
Aquaculture Inspection: Sterility
Testing 100.00
Aquaculture/Fee Fishing: New
Facility Inspection 100.00
Aquaculture Inspection: Supplemental
Health Inspection 100.00
Hatchery Operation (Poultry) 25.00
Poultry Dealer License (per dealer) 25.00
Health Certificate Book 50.00
Trichomoniasis Report Book 8.00
Trichomoniasis Ear Tags 2.00
Citation
Per violation 500.00
Per head 2.00
If not paid within 15 days, two times the
citation fee; if not paid within 30 days, four
times the citation fee.
Service Fee for Veterinarians
Per day 600.00
Per mile ..... Variable
To be charged according to the current
mileage rate of the State of Utah.
Meat Inspection
Meat Inspection
Inspection Service 60.00
Meat Packing
Meat Packing Plant 150.00
Custom Exempt 150.00
T/A (Talmage–Aiken) Official 150.00
Packing/Processing Official 150.00
Horse Racing Commission
Utah Horse Commission (fees are not to
exceed the amounts identified)
Owner/Trainer 150.00
Owner 100.00
Organization 100.00
Trainer 100.00
Assistant trainer 100.00
Jockey 100.00
Veterinary Clinic 100.00
Racing Official 100.00

Racing Organization Manager or Official 100.00
Pony Rider 75.00
Groom 75.00
Security Guard 75.00
Security Investigator 75.00
Concessionaire 75.00
Drug Test Fee 100.00

MARKETING AND DEVELOPMENT

Marketing/Utah's Own
Utah's Own Supporter 1,000.00
Utah's Own New Member Registration .. 75.00
Utah's Own Member Renewal 60.00

PLANT INDUSTRY

Grain Lab
Grain Inspection
Regular hourly rate (per hour) 28.00
Overtime hourly rate (per hour) 42.00
Official Inspection Services (includes sampling, except where indicated)
Railcar (per car) 20.50
Supervision Fee – Railcar (per car) 1.10
Truck or trailer (per carrier) 10.50
Supervision Fee – Truck or Trailer (per carrier) 0.26
Container Inspection 21.50
Submitted sample (per sample) 9.00
Supervision Fee – Submitted Sample (per sample) 0.26
Re-inspection
Based on new sample (per truck) 10.50
Basis file sample 9.00
Based on new sample rail 20.50
Protein test
Original or file sample retest 9.00
Oil and starch 9.00
Basis new sample 6.00
Factor only determination (per factor) ... 3.00
Plus samplers hourly rate, if applicable
Stowage examination services (per certificate) 10.00
Extra copies of certificates (per copy) 1.00
Insect damaged kernel, determination (weevil, bore) 3.00
Sealing rail cars or containers upon request over 5 seals per rail car 5.00
Falling number inspection, per sample (per Sample) 13.00
Class X Weighing inspection (per Inspection) 6.00
Non-Official Services
Safflower Grading 13.00
Class II weighing (per carrier) 6.00
Grain grading instructions (per hour, per person) 20.00
Set of check Samples 25.00
Proteins-moisture, Set of 5
Other Requests (per hour) 48.00
Grade certification (per inspection) 50.00
Insect, Phyto, and Nursery
Agriculture Inspection
Phytosanitary
Inspection (per inspection) 100.00
Export Compliance Agreements 50.00
Beekeepers
Lab Diagnostics – Non-Licensed 40.00
License
1 to 20 hives 10.00
21 to 100 hives 25.00
101 to 500 hives 50.00
Plant Industry Administration
Agriculture Inspection
Agricultural Inspection: Inspection services performed (per Hour) 40.00
Agricultural Inspection: Overtime (per hour) 60.00
For inspectors' time over 40 hours per week and on Holidays, plus regular fees.
Good Agricultural Practices (GAP) Inspection (per hour) ..... Federal rate
Agricultural Inspection Mileage ..... Variable
To be charged according to the current mileage rate of the State of Utah.
Control Atmosphere 10.00
Citations, maximum per violation 500.00
Feed
Product Registration 60.00
Custom Formula Permit 75.00
Fertilizer
Product Registration 60.00
Blenders License 75.00
Minimum Annual Assessment (per Assessment) 20.00
Assessment (per ton) 0.35
Seed
Seed Purity
Flowers 24.00
Grains 16.00
Grasses 34.00
Legumes 16.00
Trees and Shrubs 25.00
Vegetables 16.00
Seed Germination
Flowers 24.00
Grains 16.00
Grasses 25.00
Legumes 16.00
Trees and Shrubs 25.00
Vegetables 16.00
Seed Tetrazolium Test
Flowers 44.00
Grains 28.00
Grasses 44.00
Legumes 34.00
Trees and Shrubs 44.00
Vegetables 28.00
Embryo Analysis (Loose Smut Test) 25.00
Cut Test 16.00
Mill Check (per hour) 40.00
Moisture Test 24.00
Canada Standards 20.00
Examination of Extra Quantity for Other Crop or Weed (per hour) 40.00
Examination for Noxious Weeds Only (per hour) 40.00
Identification ..... No charge
Quick identification using microscope to determine seed type. There is no charge for this service.
Additional Copies of Analysis Reports ... 1.00

Emergency service for single component only (per sample) 42.00
Shipping Point
Fruit
Bulk load (per hundredweight) 0.10
Vegetables
Potatoes (per hundredweight) 0.10
Onions (per hundredweight) 0.10
Cucurbita (per hundredweight) 0.10
Cucurbita family includes: watermelon, muskmelon, squash (summer, fall, and winter), pumpkin, gourd and others.
One commodity (per certificate) 30.00
Mixed loads (per commodity) 30.00
Nursery
Agent 50.00
Gross Sales – based on previous calendar year, applies to all Gross Sales Fees ($10 minimum)
$0 to $5,000 ..... 40.00
$5,001 to $100,000 ..... 80.00
$100,001 to $250,000 ..... 120.00
$250,001 to $500,000 ..... 160.00
$500,001 and up 200.00
Organic Certification
Certification – Crop 400.00
Certification – Livestock 750.00
Certification – Processor 750.00
Export Origin Certification 100.00
Annual registration late fee (per Registration) 100.00
Fee for inspection (per hour) 65.00
Inspectors' time >40 hours per week (overtime) plus regular fees (per hour) 98.00
Major holidays and Sundays plus regular fees (per hour) 98.00
Gross Sales
$0 to $5,000 ..... Exempt
If an organic producer has gross sales of less than or equal to $5,000 for the previous calendar year, they are exempt from paying this fee.
$5,001 to $10,000 ..... 100.00
$10,001 to $15,000 ..... 180.00
$15,001 to $20,000 ..... 240.00
$20,001 to $25,000 ..... 300.00
$25,001 to $30,000 ..... 360.00
$30,001 to $35,000 ..... 420.00
$35,001 to $50,000 ..... 600.00
$50,001 to $75,000 ..... 900.00
$75,001 to $100,000 ..... 1,200.00
$100,001 to $150,000 ..... 1,800.00
$150,001 to $280,000 ..... 2,240.00
$280,001 to $375,000 ..... 3,000.00
$375,001 to $500,000 ..... 4,000.00
$500,001 to $1,000,000 ..... 5,000.00
$1,000,001 and up 10,000.00
Pesticide
Product Registration 195.00
Adding Category (per occurrence) 15.00
Triennial (3 year) examination and educational materials 20.00
Commercial Applicator Certification
Business License 110.00
Triennial (3 year) Certification and License 45.00
Dealer License
Triennial 100.00
Hay and Straw Weed Free Certification
Bulk loads of hay up to 10 loads 30.00
Charge for each hay tag 0.10

REGULATORY SERVICES

Regulatory Services Administration
Domestic Game Slaughter
Domestic Game Slaughter Permit 500.00
Domestic Game Slaughter Inspection (per Hour) 100.00
Domestic Game Slaughter Mileage ... Variable
To be charged according to the current mileage rate of the State of Utah.
Bedding & Upholstered
Bedding/Upholstered Furniture
Manufacturers of Bedding and/or Upholstered Furniture 105.00
Wholesale Dealer 105.00
Supply Dealer 105.00
Manufacturers of Quilted Clothing 105.00
Upholsterer with employees 90.00
Upholsterer without employees 65.00
Sterilization Fee 105.00
Weights & Measures
Weights and Measures
Petroleum Refinery
Gasoline
Octane Rating 132.00
Benzene Level 88.00
Pensky–Martens Flash Point 22.00
Overtime charges (per hour) 33.00
Gravity 11.00
Distillation 28.00
Sulfur, X–ray 39.00
Reid Vapor Pressure 28.00
Aromatics 55.00
Leads 22.00
Diesel
Gravity 28.00
Distillation 28.00
Sulfur, X–ray 22.00
Cloud Point 22.00
Conductivity 28.00
Cetane 22.00
Weighing and measuring devices/ individual service person (per Service person) 50.00
Metrology services (per hour) 50.00
Fuel Dispenser Inspection, including LPG/CNG 50.00
Base Weights and Measures
Meter Inspection 50.00
Small Scale Inspection 50.00
Large Scale Inspection 200.00
Check Registers/Scanners 25.00
Special Scale Inspections
Large Capacity Truck (Man Hour) (per hour) 25.00
Large Capacity Truck (per mile) 2.00
Large Capacity Truck (Equipment Hour) (per hour) 25.00
Pickup Truck (Man Hour) (per hour) ... 25.00
Pickup Truck (per mile) 1.00
Pickup Truck (Equipment Hour) (per hour) 20.00
Equipment use
Overnight Trip (per day) ..... Variable

Includes the State's per diem rate plus the cost of lodging.
Citations, maximum per violation 500.00
Food Inspection
Base Inspection by Establishment Type
Cottage / Very Small 75.00
Small 150.00
Less than 1,000 sq. ft. / 4 or fewer employees
Medium 300.00
1,000–5,000 sq. ft., with limited food processing
Large 500.00
Food processor over 1,000 sq. ft. / Grocery store 1,000–50,000 sq. ft. and two or fewer food processing areas / Warehouse 1,000–50,000 sq. ft.
Super 750.00
Food processor over 20,000 sq. ft. / Grocery store over 50,000 sq. ft. and more than two food processing areas / Warehouse over 50,000 sq. ft.
Kratom
Kratom Product Registration 240.00
Kratom Alkaloid Testing 120.00
Plan Review
Follow Up 200.00
Alternative Follow Up ..... Variable
Based on the establishment size as defined in Base Food Inspection (Cottage/Very Small, Small, Medium, Large or Super).
Special Inspection
Food and Dairy Inspection
Per hour 30.00
Overtime rate 40.00
Dairy Inspection
Dairy
Test milk for payment 100.00
Operate milk manufacturing plant (per Plant) 1,000.00
Make butter (per Operation) 100.00
Haul farm bulk milk (per Operation) 100.00
Make cheese (per Operation) 100.00
Operate a pasteurizer (per Operator) ... 100.00
Dairy Products Distributor (per Distributor) 500.00
Milk Processing Plants
Milk Processing Plants – Small (per Each) 250.00
Milk Processing Plants – Medium (per Each) 500.00
Milk Processing Plants – Large (per Each) 1,000.00
Milk Processing Plants – Super (per Each) 2,000.00

QUALIFIED PRODUCTION ENTERPRISE FUND

Medical Cannabis
Cultivation License Fee 100,000.00
Cultivation License Application Fee .. 2,500.00
Processor Tier 1 License Fee 100,000.00
Tier 1 License Application Fee 1,250.00
Processor Tier 2 License Fee 35,000.00
Processor Tier 2 License Application Fee 1,250.00
Establishment Agent Registration Fee – Background Check Needed 150.00
Establishment Agent Registration Fee – No Background Check Needed 100.00
Laboratory License Fee 15,000.00
Laboratory License Application Fee 500.00
Medical Cannabis Research
University License 2,500.00
Medical Cannabis Laboratory Testing
Medical Cannabis Concentrate Testing Panel ..... Actual Cost
Amount charged per test is calculated as actual labor and material expenses.
Medical Cannabis Flower Testing Panel ..... Actual Cost
Amount charged per test is calculated as actual labor and material expenses.
Medical Cannabis Final Product Testing Panel ..... Actual Cost
Amount charged per test is calculated as actual labor and material expenses.
Medical Cannabis Pre–Pack Testing Panel ..... Actual Cost
Amount charged per test is calculated as actual labor and material expenses.
Cannabinoid Testing – Low Volume ... 125.00
Pesticide Testing 160.00
Foreign Matter Testing 15.00
Heavy Metal Testing 110.00
Mycotoxin Testing 130.00
Microbial Life Testing (w/PCR) 120.00
Microbial Life Testing (w/o PCR) 90.00
Residual Solvent Testing 110.00
Terpenes Testing 110.00
Moisture Content Testing 25.00
Water Activity 20.00

INDUSTRIAL HEMP

Industrial Hemp
Industrial Hemp Processor Licensing Fee Tier 1 ..... 2,500.00
Industrial Hemp Processor Licensing Fee Tier 2 ..... 2,000.00
Industrial Hemp Processor Licensing Fee Tier 3 ..... 1,000.00
Industrial Hemp Processor Licensing Fee Tier 4 ..... 750.00
Industrial Hemp Lab Licensing Fee .. 2,500.00
Product Registration Fee for Cannabinoid Products 250.00
Product Registration Service Fee for Cannabinoid Products 75.00
Late Fee for Product Registration for Cannabis or Cannabis Seed Products .. 50.00
Hemp Retail Establishment Permit 50.00

ANALYTICAL LABORATORY

Analytical Laboratory
Expedited (Rush) Testing – Any Test 60.00
General Laboratory Test Fee ..... Actual Cost
All tests not listed in the fee schedule. Amount charged per test is calculated as actual labor and material expenses.
Cannabinoid Testing – High Volume 70.00
Chemistry
Alcohol Content Testing 25.00
Anatoxin–a ELISA Test – First Sample 128.00

Anatoxin-a ELISA Test - Additional Samples 13.00
Microcystin ELISA Test - First Sample 124.00
Microcystin ELISA Test - Additional Samples 11.00
Cylindrospermopsin ELISA Test - First Sample 124.00
Cylindrospermopsin ELISA Test- Additional Samples 11.00
Saxitoxin ELISA Test - First Sample 124.00
Saxitoxin ELISA Test - Additional Sample 11.00
Fat 60.00
Fiber, Crude 60.00
Proximate analysis (moisture, protein, fat, fiber, ash) 90.00
Proximate analysis (moisture, protein, fiber) 60.00
Protein 40.00
NPN (Non-Protein Nitrogen) 50.00
Ash 20.00
Nitrogen 40.00
Available Phosphorous 120.00
Potash 120.00
Nutritive Metals, First Analyte 60.00
Nutritive Metals, Additional Analytes 25.00
pH 20.00
Soil/Plants - Single Test 305.00
Soil/Plants - Multi-residue Test 400.00
Microbiology
Appendix N Splits <2Analysts, per sample 70.00
Appendix N Splits <15 Analysts, per sample 140.00
Appendix N Splits 15+ Analysts, per sample 200.00
Section 6 Splits <2 Analysts, per sample 70.00
Section 6 Splits <15 Analysts, per sample 140.00
Section 6 Splits 15+ Analysts 200.00
Salmonella Screen 40.00
Salmonella confirmatory testing (per Test) 250.00
E. coli Screen (per Test) 40.00
E. coli confirmatory testing (per Test) 250.00
E. coli O157:H7 Screen 40.00
E. coli O157:H7 confirmation testing 250.00
STEC Screen (per Test) 40.00
STEC confirmatory testing (per Test) 450.00
Listeria Screen 40.00
Listeria confirmatory testing (per Test) 250.00
Campylobacter Screen 40.00
Campylobacter confirmation testing .. 250.00

GENERAL FUND RESTRICTED - UTAH LIVESTOCK BRAND AND ANTI-THEFT ACCOUNT

Brand Inspection
Rodeo Stock Inspection 350.00
Brand Recording 75.00
Brand Renewal and Registration 175.00
Brand registration is on a 5-year cycle.
Brand Transfer 175.00
Online Production Sale License 50.00
Livestock Dealer (per dealer) 250.00
Livestock Auction Market (per Market) 100.00
Livestock Dealer/Agent (per Agent) 75.00
Auction Weigh Person (per Weigh Person) 25.00
Minimum Charge (per inspection stop) ... 20.00
Cattle (per head) 1.00
Horse (per head) 2.00
Sheep (per head) 0.05
Estray Animals ..... Variable
Actual amount of proceeds received for the sale of the estray animal.
Lifetime Horse Permit (per Horse) 40.00
Citation (per violation) 200.00
Citation (per head) 2.00
If not paid within 15 days, two times citation fee. If not paid within 30 days, four times citation fee.
Special Sales 250.00
Temporary Livestock Sale 250.00
Brand Book 25.00
Certified copy of Recording (new brand card) 5.00
Meat Inspection
Farm Custom Slaughter 100.00
Harvest Ear Tags 2.00
Brand Verification of Ownership at Slaughter 10.00
Verification of Ownership License 100.00
Show and Seasonal Permits
Horse (per head) 25.00
Cattle (per head) 25.00
Horse Permit
Duplicate Lifetime 10.00
Lifetime Transfer 10.00
Elk Farming
Elk Inspection New License 500.00
Elk Brand Inspection (per elk) 5.00
Service Charge (per stop, per owner) ... 15.00
Elk Hunting Permit 100.00
Elk License
Renewal 300.00
Late 50.00

DEPARTMENT OF ENVIRONMENTAL QUALITY

DRINKING WATER

Drinking Water Administration
Special Surveys ..... Actual cost
File Searches ..... Actual cost
Cost Recovery
Preparation, Issuance and Oversight of Enforcement Orders
Administrative Orders (per order) .. 6,000.00
Stipulated Enforcement Orders (per order) 2,000.00
Other orders resulting from non-compliance or public health risks (per order) 1,000.00

Resulting from non-compliance or public health risks.
Safe Drinking Water Act
Operator Certification Program
Examination: online 144.00
Any level
Examination: paper 240.00
Any level
Renewal of certification 180.00
Every 3 years if applied for during designated period
Reinstatement of lapsed certificate 360.00
Certificate of reciprocity with another state 180.00
Cross Connection Control Program
Certification and Renewal
Program Administrator: paper testing 270.00
Program Administrator: renewal 150.00
Assembly Tester and Class III; initial certification and renewal 270.00
Certificate of reciprocity with another state 270.00
Replacement Certificate 30.00
Cost Recovery
Additional Follow up – Monitoring Compliance (per violation) 300.00
Additional Follow up – Reporting Compliance (per violation) 200.00
Reassessed every compliance period.
Additional Follow up – CCR Compliance (per violation) 500.00
Reassessed quarterly.
Additional Follow up – Public Notice Compliance (per violation) 500.00
Reassessed every compliance period.
Additional Follow up – Unresolved Significant Deficiencies (per citation) 1,000.00
Reassessed quarterly.
Additional Follow up – Compliance Inspections and Assessments (per inspection) 1,000.00
System Assistance
Well Sealing Inspection (per hour) 115.00
Technical Assistance (per hour) 115.00
Cost Recovery
After-the-Fact Review – Construction without Approval (per project) 1,000.00
After-the-Fact Review – Unapproved Facility in Use (per project) 1,000.00

ENVIRONMENTAL RESPONSE AND REMEDIATION

CERCLA
Clandestine Drug Lab Decontamination Specialist Certification
Certification and Recertification 225.00
Retest of Certification Exam 100.00
Enforceable Written Assurance Letters
Written letter 500.00
Flat fee to cover costs up to 8 hours of work.
Additional charge for any costs above $500 (per hour) 115.00
CERCLA Professional and Technical services or assistance (per hour) 115.00
Including but not limited to oversight of cleanups EPCRA Technical Assistance, preparing, administering or conducting administrative process, environmental covenants.
Petroleum Storage Tank Cleanup
Petroleum Storage Tank
(PST) Professional/Technical services or assistance (per hour) 115.00
Including but not limited to PST Claim Preparation Assistance, Management and Oversight for releases not covered by the fund, PST Compliance follow-up Inspection, apportionment of Liability requested by responsible parties, prepare, administer, or conduct administrative process, environmental covenants.
Petroleum Storage Tank Compliance
Annual Petroleum Storage Tank
Tanks on Petroleum Storage Tank (PST) Fund 110.00
Tanks not on PST Fund 220.00
Tanks at Facilities significantly out of compliance with leak prevention or leak detection requirements 300.00
PST Fund Reapplication, Certification of Compliance Reapplication Fee, or both 300.00
Aboveground Petroleum Storage Tank Notification Fee (per Facility) 250.00
Initial Approval of Alternate Petroleum Storage Tank Financial Assurance Mechanisms 420.00
(Non-PST Fund Participants)
Renewal of Alternate Petroleum Storage Tank Financial Assurance Mechanisms 300.00
(After initial year, with no Mechanism changes)
Certification or Certification Renewal for UST Contractors
PST Consultants, UST installers, UST removers, Certified Samplers, & non-government UST inspectors & testers (per Certification) 225.00
PST Consultant Recertification Class ... 150.00
Environmental Response and Remediation Program Training .... Actual cost
UST Operators Registration 60.00
Petroleum Storage Tank Red Tag Replacement 500.00
Applied only when a Red Tag is removed without authorization
Petroleum Storage Tank Installation Base Fee 500.00
Petroleum Storage Tank Installation Tank Fee (State Inspector) 200.00

EXECUTIVE DIRECTOR'S OFFICE

Executive Director Office Administration
All Divisions
Request for copies over 10 pages (per page) 0.25
Copies made by the requestor-over 10 pages (per page) 0.05

Compiling, tailoring, searching, etc., a record in another format . Actual cost after 1st 1/4 hour
Charged at rate of lowest paid staff employee who has necessary skill/training to perform the request after the first 1/4 hour.
Special computer data requests (per hour) 115.00
CDs (per disk) 10.00
DVDs (per disk) 8.00
Contract Services ..... Actual Cost
To be charged in order to efficiently utilize department resources, protect dept permitting processes, address extraordinary or unanticipated requests on the permitting processes, or make use of specialized expertise. In providing these services, department may not provide service in a manner that impairs any other person's service from the department.

WASTE MANAGEMENT AND RADIATION CONTROL

Hazardous Waste
Resource Conservation and Recovery Act (RCRA) Facility List 5.00
Solid and Hazardous Waste
Program Administration (including Used Oil and Waste Tire Recycling Programs)
Professional (per hour) 115.00
This fee includes but is not limited to: Review of Site Investigation and Site Remediation Plans, Review of Permit Applications, Permit Modifications and Permit Renewals; Review and Oversight of Administrative Consent Orders and Consent Agreements, Judicial Orders; compliance activities; Review and Oversight of Construction Activities; Review and Oversight of Corrective Action Activities; and Review and Oversight of Vehicle Manufacturer Mercury Switch Removal and Collection Plans
Hazardous Waste Permit Filing
Hazardous Waste Operation Plan Renewal 1,000.00
Enforceable Written Assurance Letters or Similar Letters
Flat fee for up to 8 hours to complete letter 500.00
Additional per hour charge if over the original 8 hours 115.00
Vehicle Manufacturer Mercury Switch Removal and Collection Plan
Mercury Switch Removal and Collection Plan Filing 100.00
Solid Waste
Solid Waste Permit Filing (does not apply to Municipalities, Counties, or Special Service Districts seeking review from the Division)
New Comm. Facility
Class V and Class VI Landfills 1,000.00
New Non-Commercial Facility 750.00
New Incinerator
Commercial 5,000.00
Industrial or Private 1,000.00
Plan Renewals and Plan Modifications 100.00
Variance Requests 500.00
Radiation
Review of licensing or permit actions, amendments, environmental monitoring reports, and miscellaneous reports for uranium recovery facilities (per hour) ... 115.00
Publication costs for making public notice of required actions ..... Actual cost
Expedited application review (per hour) 115.00
Applicable when, by mutual consent of the applicant and staff, an application request is taken out of date order and processed by staff.
Management and oversight of impounded radioactive material .... Actual cost
Analytical costs for monitoring samples from radioactive materials facilities ..... Actual cost
Low Level Radioactive Waste
Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)
Review of Commercial Low-level Radioactive Waste Disposal and Uranium Recovery Special Projects ..... Actual cost
Applicable when the licensee and the Division agree that a review will be conducted by a contractor in support of the efforts of Division staff.

WASTE TIRE RECYCLING FUND

Waste Tire Recycling
Registration
Recycler or Transporter (per year) 100.00
Fees for registration applications received during the year will be prorated at $8.30 per month over the number of months remaining in the year.

WATER QUALITY

Water Quality Support
Operator Certification
Certification Examination 100.00
Renewal of Certificate 50.00
or New Certificate Change in Status
Renewal of Lapsed Certificate plus renewal (per month) 50.00
$150 maximum
Duplicate Certificate 25.00
Certification by reciprocity with another state 100.00
Water Quality Protection
All Other Permits
Construction permits and sales and use tax exemptions (per hour) 115.00
Except projects of political subdivisions funded by the Division of Water Quality.
Water Quality Permits
Annual Utah Pollutant Discharge Elimination System (UPDES) Permits, Surface Water
Cement Manufacturing
Major 1,002.00
Minor 251.00
Coal Mining and Preparation
General Permit 501.00
Individual Major 1,503.00

Individual Minor 1,002.00
Concentrated Animal Feeding
Operations (CAFO) General Permit ... 127.00
Construction Dewatering/Hydrostatic
Testing General Permit 173.00
Dairy Products
Major 1,002.00
Minor 501.00
Electric
Major 1,252.00
Minor 501.00
Fish Hatcheries General Permit 139.00
Food and Kindred Products
Major 1,252.00
Minor 501.00
Hazardous Waste Clean-up Sites 3,006.00
Geothermal
Major 1,002.00
Minor 501.00
Inorganic Chemicals
Major 1,503.00
Minor 751.00
Iron and Steel Manufacturing
Major 3,006.00
Minor 751.00
Leaking Underground Storage
Tank (LUST) Cleanup
General Permit 501.00
LUST Cleanup Individual Permit ... 1,002.00
Meat Products
Major 1,503.00
Minor 501.00
Metal Finishing and Products
Major 1,503.00
Minor 751.00
Mineral Mining and Processing
Sand and Gravel 278.00
Salt Extraction 278.00
Other
Other Majors 1,002.00
Other Minors 501.00
Manufacturing
Major 2,003.00
Minor 751.00
Oil and Gas Extraction
flow rate 501.00
flow rate > 0.5 MGD 751.00
Ore Mining
Major 1,503.00
Minor 751.00
Major w/ concentration process 11,500.00
Organic Chemicals Manufacturing
Major 2,505.00
Minor 751.00
Petroleum Refining
Major 2,003.00
Minor 751.00
Pharmaceutical Preparations
Major 2,003.00
Minor 751.00
Rubber and Plastic Products
Major 1,252.00
Minor 751.00
Space Propulsion
Major 2,783.00
Minor 751.00
Steam and/or Power Electric Plants
Major 1,002.00
Minor 501.00
Water Treatment Plants (Except
Political Subdivisions)
General Permit 139.00
Annual UPDES Publicly Owned
Treatment Works (POTW)
Large >10 million gallons per day (mgd)
flow design (per year) 10,120.00
Medium >3 mgd but <10 mgd flow
design (per year) 6,325.00
Small <3mgd but >1 mgd
(per year) 1,265.00
Very Small <1 mgd (per year) 633.00
Annual UPDES Pesticide Applicator Fee
Small Applicator 230.00
Medium Applicator 575.00
Large Applicator 1,898.00
Groundwater Remediation Treatment
Plant 6,325.00
Biosolids Annual Fee (Domestic Sludge)
Small Systems (per year) 443.00
1-4,000 connections
Medium Systems (per year) 1,285.00
4,001 to 15,000 connections
Large Systems (per year) 1,866.00
greater than 15,000 connections
Non-contact Cooling Water
Flow rate <= 10,000 gallons per
day (gpd) (per year) 127.00
10,000 gpd <Flow rate 100,000
gpd (per year) 253.00
100,000 gpd < Flow rate <1.0 mgd
(per year) 506.00
Flow Rate > 1.0 mgd (per year) 759.00
Pretreatment Program
Pretreatment Program - For Industrial
Users in non-Approved
Pretreatment Program
areas (per application) 600.00
Pretreatment Inspections and
Audits (per hour) 115.00
Pretreatment Technical Assistance
(per hour) 115.00
Pretreatment sample analytical
costs (per analysis) ..... Actual Cost
Stormwater Permits
General Multi-Sector Industrial Storm
Water Permit (per year) 250.00
Industrial Stormwater No Exposure
Certificate (per 5 years) 150.00
General Construction Storm Water
Permit (per year) 150.00
Common Plan Storm Water Permit
(per year) 150.00
Construction Stormwater Low
Erosivity Waiver Fee (per project) 100.00
One-time project based fee.
Municipal Storm Water
0-5,000 Population (per year) 750.00
5,001 - 10,000 Population
(per year) 1,250.00
10,001 - 50,000 Population
(per year) 1,750.00
50,001 - 125,000 Population
(per year) 3,000.00
> 125,000 Population (per year) 4,000.00

Annual Ground Water Permit
Administration Fee
Tailings/Evaporation/Process Ponds;
Heaps (per Each) ..... Actual cost
0-1 Acre 443.00
>1-15 Acres 886.00
>15-50 Acres 1,771.00
>50-300 Acres 2,657.00
>300-500 Acres 7,061.00
>500 Acres 14,122.00
Annual Non-discharging municipal
and commercial treatment facilities 350.00
Underground Injection Control Permit
Application Fee
Class I Hazardous Waste Disposal ... 25,000.00
One-time fee
Class I Non-Hazardous Waste
Disposal 9,000.00
One-time fee
Class III Solution Mining 7,200.00
One-time fee
Class V Aquifer Storage and
Recovery 5,400.00
One-time fee
UIC Class V Inventory Review Fee 230.00
All Other Permits
UPDES, Ground Water, &
Underground Injection Control permits
not listed above (per hour) 115.00
including permit renewals and modifications
Complex facilities where the anticipated
permit issuance costs will exceed
the above categorical fees by
25% (per hour) 115.00
Permittee to be notified upon receipt of application
Water Quality Cleanup Activities
Corrective Action, Site Investigation/ Remediation Oversight, Administration of Consent Orders and Agreements, and emergency response to spills and water pollution incidents (per hour) 115.00
Actual cost for sample analytical lab work actual cost
Technical Review of and assistance
given (per hour) 115.00
401 Certification; permit appeals; and sales and use tax exemptions; waste-load analysis

GENERAL FUND RESTRICTED - ENVIRONMENTAL QUALITY

Other Radioactive Materials License Annual
Fee (per License) ..... Actual Cost
For radioactive materials not listed on this schedule.
Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)
Annual 1,724,200.00
New Application
Siting application ..... Actual costs up to $250,000
License application ..... Actual costs up to $1,000,000
Renewal ..... Actual costs up to $1,000,000
Pre-licensing, operations review,
and consultation on commercial
low-level radioactive waste
facilities (per hour) 115.00
Radioactive Material
Special Nuclear Material
Possession and use in sealed sources contained in devices used in industrial measuring systems, including X-ray fluorescence analyzers and neutron generators, possession and use of less than 15 grams in unsealed form for research and development 2,960.00
Use as calibration and reference
sources 960.00
Non-Hazardous Solid Waste
Polychlorinated Biphenyl (PCBs)
(per ton) 4.75
Or fraction of a ton
Radioactive Material
Special Nuclear Material
All other licenses 6,400.00
Hazardous Waste Flat Fee
(per year) 2,444,800.00
Provides for implementation of waste management programs and oversight of the Hazardous Waste Industry in accordance with UCA 19-6-118.
Source Material
Uranium mills or commercial sites disposing of or reprocessing byproduct material , including mills in standby status
(per month) 10,760.00
Solid Waste Facility Fee
Treatment and Disposal facilities ... Greater of $125 or $0.21/ton Quarterly
Treatment (thermal, physical, or chemical) and Disposal facilities including: Land Application, Land Treatment, Composting, Waste to Energy, Landfill, Incineration. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.
Transfer facilities ..... Greater of $125 or $0.11/ton Quarterly
The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.
Radioactive Material
Source Material
Annual Fee
All other source material
licenses 5,100.00
Machine-Generated Radiation
Annual Registration Fee
Per control unit including first tube, plus annual fee for each additional tube connected to the control unit
Hospital/Therapy, Medical, Chiropractic, Podiatry, Veterinary, Dental and Industrial Facility 45.00
Division Conducted Inspection, Per Tube
Hospital/Therapy, Medical, Chiropractic, Industrial Facility with High and/or Very High Radiation Areas Accessible to

Individuals and Other Types, Annual or Biennial 115.00
Podiatry/Veterinary, Industrial Facility with Cabinet X-Ray Units or Units Designated for Other Purposes 85.00
Dental
First tube on a single control unit 55.00
Additional tubes on a control unit (per Tube) 22.50
Independent Qualified Experts Conducted Inspections or Registrants Using Qualified Experts
Inspection report (per Tube) 25.00
Radioactive Material
Radioactive Material other than Source Material and Special Nuclear Material
Annual license fee for possession and use of radioactive material for:
Broad scope for processing or manufacturing for commercial distribution, processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, sources or devices containing radioactive material 11,840.00

Includes broad scope for research and development that do not authorize commercial distribution.
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material 4,000.00
Industrial radiography operations 10,240.00
Sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units), or search and development that do not authorize commercial distribution 3,760.00
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 6,960.00
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 13,920.00
All other radioactive material 2,080.00
Annual fee for:
Licenses that Authorize Services for Other Licensees 1,680.00
Except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services
Licenses that authorize services for leak testing only 640.00
Generator Site Access Permits
Non-Broker Generators transferring radioactive waste (per year) 2,500.00
Brokers (waste collectors or processors) (per year) 7,500.00
License Authorizing the Receipt of Waste Radioactive Material for Packaging 11,040.00
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material (Annual fee). Includes repackaging.
Licenses authorizing receipt of prepackaged waste radioactive material from others 4,400.00
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material (annual fee).
Well Logging, Well Surveys, and Tracer Studies Licenses
for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies
Well Logging, Well Surveys, and Tracer Studies Licenses - Annual Fee ... 8,400.00
for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies.
Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development 11,840.00
including human use of radioactive material, except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices. Annual Fee
Other licenses issued for human use of radioactive material 4,400.00
except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices. Annual fee.
Investigation of a misadministration by a third party as defined in R313-30-5 or in R313-32-2, as applicable ..... Actual cost
General License
Annual Fee for measuring, gauging, and control devices 100.00
as described in R313-21-22(4), other than hydrogen-3 (tritium) devices and polonium-210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere, including In Vitro testing, Depleted Uranium.
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30 (per type of license category) ... Full annual fee
License amendment, for greater than three applications in a calendar year 200.00
Other types of radioactive materials license fees (per license) ..... Actual Cost
For types not listed on this schedule.

AIR QUALITY

Compliance
Major and Minor Source Compliance Inspection (per hour) 115.00
Annual Aggregate Compliance
20 or less tons per year (per year) 180.00
21-79 tons per year (per year) 360.00
80-99 tons per year (per year) 900.00
100 or more tons per year (per year) .. 1,260.00
Asbestos and Lead-Based Paint (LBP) Abatement
Course Accreditation Fee (per hour) 115.00

Asbestos Company/LBP Firm Certification Application (per year) ... 275.00
LBP Renovation Firm Certification Application (per year) 110.00
Asbestos Individual Certification Application 137.50
Asbestos Individual Certification Application Surcharge, (Non-Utah Accredited Training Provider) 33.00
LBP Abatement Worker Certification Application (per year) ... 110.00
LBP Inspector, Dust Sampling Technician Certification Application (per year) 137.50
LBP Inspector/Risk Assessor, Supervisor, Project Designer Certification Application (per year) 220.00
LBP Renovator Certification Application (per year) 110.00
Lost Certification Card Replacement 33.00
Annual Asbestos Notification 550.00
Asbestos/LBP Abatement Project Notification Base Fee 165.00
Asbestos/LBP Abatement Project Notification Base Fee - Owner Occupied Residences 55.00
Abatement Unit Fee/100 units or any fraction thereof up to 10,000 units 7.70
(square feet/linear feet/cubic feet) (times 3)
School Building Asbestos Hazard Emergency Response Act (AHERA) abatement unit fees will be waived
Abatement Unit Fee/100 units or any fraction thereof more than 10,000 units 3.85
(square feet/linear feet/cubic feet) (times 3)
School Building AHERA abatement fees will be waived
Demolition Notification Base 27.50
Demolition unit per 5,000 square feet or any fraction thereof 55.00
Alternative Work Practice Review Application
Less than 10 day training provider/Private Residence Non-National Emission Standards for Hazardous Air Pollutants (NESHAP) Requests 115.00
NESHAP Structures and Any Other Requests 275.00
Oil and Gas
Permit By Rule (PBR) Registration (Control Not Required) (per hour) 250.00
Permit By Rule (PBR) Registration (Control Required) (per hour) 500.00
Permitting
Emission Inventory Workshop 15.00
Attendance
Air Emissions (per ton) 101.75
Title V of the Clean Air Act Amendments of 1990 (CAAA) requires the State of Utah to develop an Operating Permit Program (OPP) to include a fee system used solely to fund all direct and indirect costs associated with administering the OPP. Section 19-2-109.1 of the Utah Conservation Act authorizes an annual proposal to the Legislature for an emission fee that conforms to the CAAA for each ton of chargeable pollutant.
Permit Category
Filing Fees
Name Changes 100.00
Small Sources Exemptions and Soil Remediation, Source Determination Letter, Permit By Rule (PBR) Registration (Control not Required) 250.00
New non-Prevention of Significant Deterioration (PSD) sources, minor & major modifications to existing sources, Administrative Amendments, Permit By Rule (PBR) Registration (Control Required) 500.00
Any unpermitted sources at an existing facility 1,500.00
New major prevention of significant deterioration (PSD) sources 5,000.00

Monitoring plan review and site visit
Application Review Fees
New Prevention of Significant Deterioration (PSD) Source or Major PSD Modification to Major Source in Nonattainment Area .. 51,750.00

or New Major Non-PSD Source or Major Non-PSD Modification in Nonattainment Areas. Covers initial hours up to 450.
New Prevention of Significant Deterioration (PSD) in Attainment Areas, Non-PSD Major Source or Non-PSD Major Modification to Major Source in Attainment Areas 34,500.00
Covers initial hours up to 300
New minor source or modifications to minor source 2,300.00
Covers initial hours up to 20
Generic permit for minor source or modifications of minor sources ... 920.00
up to 8 hours (sources for which engineering review/BACT standardized)
Temporary Relocations 805.00
Up to 7 hours, at $115/hour
Permitting cost for additional hours (per hour) 115.00
Technical review of and assistance given (per hour) 115.00
e.g. appeals, sales/use tax exemptions, soils exemptions, soils remediations, name change, small source exemptions, experimental approvals, impact analyses, etc.
Annual NSR Fee
Ten year review of non-expiring permits, rule and process training, electronic permitting tools
<20 tons annual emissions (per unit) 165.00
This permit fee is billed to help cover time spent in annual review of New Source Review ongoing permits. The fee amount is determined by the number of sources that are emitting less than 20 tons of emissions into the air.

20 to 49 tons annual emissions
(per unit) 330.00
This permit fee is billed to help cover time spent in annual review of New Source Review ongoing permits. The fee amount is determined by the number of sources that are emitting between 20 and 49 tons of emissions into the air.
50–99 tons annual emissions
(per unit) 660.00
This permit fee is billed to help cover time spent in annual review of New Source Review ongoing permits. The fee amount is determined by the number of sources that are emitting between 50 and 99 tons of emissions into the air.
100–250 tons annual emissions
(per unit) 1,100.00
This permit fee is billed to help cover time spent in annual review of New Source Review ongoing permits. The fee amount is determined by the number of sources that are emitting between 100 and 250 tons of emissions into the air.
>250 tons annual emissions
(per unit) 1,650.00
This permit fee is billed to help cover time spent in annual review of New Source Review ongoing permits. The fee amount is determined by the number of sources that are emitting greater than 250 tons of emissions into the air.
Air Quality Training ..... Actual Cost

GENERAL FUND REST. - USED OIL COLLECTION ADMINISTRATION ACCOUNT

Used Oil
Used Oil Collection Center
Registration ..... No charge
Permit Application Fee for Transporter, Transfer Facility, Processor/Re-refiner, and Off-Specification Burner, including Permit Modifications and Plan Reviews 100.00
Annual Used Oil Handler Certification for Transporter, Transfer Facility, Processor/ Re-refiner, Off-Specification Burner, (per year) 100.00
Marketer Application Fee 50.00
Annual Used Oil Handlers Certificate for Marketer (per year) 50.00

ENVIRONMENTAL VOLUNTARY CLEANUP RESTRICTED ACCOUNT

Voluntary Environmental Cleanup
Program Application Fee 2,500.00
Review/Oversight/Participation in
Voluntary Agreements (per hour) 115.00

UNDERGROUND WASTEWATER DISPOSAL SYSTEM RESTRICTED ACCT

Underground Wastewater Disposal Systems
New Systems Fee 40.00
Certificate Issuance 25.00

DRINKING WATER ORIGINATION FEE SUB ACCOUNT

Drinking Water Loan Origination
(State) ..... 1.0% of Loan Amount

DRINKING WATER ORIGINATION FEE-FEDERAL

Drinking Water Loan Origination
(Federal) ..... 1.0% of Loan Amount

WATER QUALITY ORIGINATION FEE SUB ACCOUNT

Water Quality Loan Origination
(State) ..... 1.0% of Loan Amount

WATER QUALITY ORIGINATION FEE-FEDERAL

Water Quality Loan Origination
(Federal) ..... 1.0% of Loan Amount

DEPARTMENT OF NATURAL RESOURCES

FORESTRY, FIRE, AND STATE LANDS

Division Administration
Administrative
Application
Mineral Lease 40.00
Special Lease Agreement 40.00
Mineral Unit/Communitization Agreement 40.00
Special Use Lease Agreement (SULA) 300.00
Grazing Permit 50.00
Materials Permit 200.00
Easement 150.00
Right of Entry 50.00
Exchange of Land 1,000.00
Sovereign Land General Permit
Private 50.00
Public 0.00
Assignment
Mineral Lease
Total Assignment 50.00
Interest Assignment 50.00
Operating Right Assignment 50.00
Overriding Royalty Assignment 50.00
Partial Assignment 50.00
Collateral Assignment 50.00
Special Use Lease Agreement (SULA) ... 50.00
Grazing Permit per AUM
(Animal Unit Month) 2.00
Grazing Sublease per AUM
(Animal Unit Month) 2.00
Materials Permits 50.00
Easement 50.00
Right of Entry (ROE) 50.00
Sovereign Land General Permit 50.00
Grazing Non-use (per lease) 10%
Special Use Lease Agreement
(SULA) non-use 10%
ROE, Easement, Grazing amendment 50.00
SULA, general permit, mineral lease, materials permit amendment 125.00
Reinstatement 150.00

Surface leases & permits per reinstatement/per lease or permit
Bioprospecting – Registration 50.00
Oral Auction Administration ..... Actual cost
Affidavit of Lost Document
(per document) 25.00
Certified Document (per document) 10.00
Research on Leases or Title Records
(per hour) 50.00
Reproduction of Records
Self–Service (per copy) 0.10
By staff (per copy) 0.40
Change on Name of Division
Records (per occurrence) 20.00
Fax copy (per page) 1.00
Send only
Late Fee ..... 6% or $30
Returned check charge 30.00
Sovereign Lands
Rights of Entry
Seismic Survey Fees
Primacord (per mile) 200.00
Surface Vibrators (per mile) 200.00
Shothole >50 ft (per hole) 50.00
Shothole <50 ft (per mile) 200.00
Pattern Shotholes (per pattern) 200.00
Commercial 200.00
Commercial Recreation Event (per person over 150 people) 2.00
Minimum ROE of $200 plus per person royalty
Data Processing
Production Time (per hour) 55.00
Programming Time (per hour) 75.00
Geographic Information System
Processing Time (per hour) 55.00
Personnel Time (per hour) 50.00
Sovereign Lands
Easements
Minimum Easement 225.00
Canal
Existing
<=33' wide (per rod) 15.00
>33' but <=66' wide (per rod) 30.00
>66' but <=100' wide (per rod) 45.00
>100' wide (per rod) 60.00
New
<=33' wide (per rod) 30.00
>33' but <=66' wide (per rod) 45.00
>66' but <=100' wide (per rod) 60.00
>100' wide (per rod) 75.00
Roads
Existing
<=33' wide (per rod) 5.50
>33' but <=66' wide (per rod) 11.00
>66' but <=100' wide (per rod) 16.50
>100' wide (per rod) 22.00
New
<=33' wide (per rod) 8.50
>33' but <=66' wide (per rod) 17.00
>66' but <=100' wide (per rod) 25.50
>100' wide (per rod) 34.00
Power lines, Telephone Cables, Retaining walls and jetties
<=30' wide (per rod) 14.00
>30' but <=60' wide (per rod) 20.00
>60' but <=200' wide (per rod) 26.00
>100' but <=200' wide (per rod) 32.00
>200' but <=300' wide (per rod) 42.00
>300 wide (per rod) 52.00
Pipelines
<=2" (per rod) 7.00
>2" but <=13" (per rod) 14.00
>13" but <25" (per rod) 20.00
>25" but <=37" (per rod) 26.00
>37" (per rod) 52.00
Special Use Lease Agreements (SULA)
SULA Lease Rate 450.00
Minimum $450 or market rate per R652–30–400
Grazing Permits 3.00
Annual rate per AUM (Animal Unit Month)
Special Use Lease Agreements .... Market rate
General Permits
Mooring Buoys: 3 year max term 50.00
Renewal – Mooring Buoys; 3 year max term 50.00
Floating Dock, Wheeled Pier, Seasonal Use; 3 year max 250.00
Dock/pier, Single Upland Owner Use; 3 year max 350.00
Boat Ramp, Temporary, Metal; 3 year max 250.00
Boat Ramp, Concrete, Gravel; 10 year max 700.00
Irrigation Pump – Pump Head Only; 15 year max 50.00
Irrigation Pump – Structure; 15 year max 150.00
Storm Water Outfall, Drain; 10 year max 150.00
Other 450.00
Minimum $450 or market rate per R652–30–400
Mineral Lease
Rental Rate 1st ten years (per acre) 1.10
Rental Rate Renewals (per acre) 2.20

OIL, GAS, AND MINING

Administration
New Coal Mine Permit Application 5.00
Copy
Staff Copy (per page) 0.25
Self Copy (per page) 0.10
Minerals Reclamation
Mineral Program
Exploration Permit 150.00
Annual Permit
Small Mining Operations 150.00
Large Mining Operations
20 to 50 acres 500.00
over 50 acres 1,000.00

UTAH GEOLOGICAL SURVEY

Administration
Sample Library
Cutting Thin Section Blanks 10.00
Core Plug < 1 inch (per plug) 10.00
Core Plugs > 1 inch diameter 25.00
Layout–Cuttings, Core, Coal, Oil/Water (per box) 5.00
Binocular/Petrographic Microscopes (per day) 25.00

Workshop Fee – Building Use (per day) 250.00
Workshop – Saturday/Sunday/ Holiday Surcharge 320.00
Research Fee (per hour) 50.00
Core Slabbing
1.8" Diameter or Smaller (per foot) 10.00
1.8"–3.5" Diameter (per foot) 14.00
Core Photographing
Box/Closeup 8x10 color/Thin Section (per Photo) 5.00
Miscellaneous
Copies, Self–Serve (per copy) 0.10
Copies, Staff (per copy) 0.25
Research and Professional Services (per hour) 50.00
Geologic Mapping
Paleontology
File Search Requests
Paleontology File Search Fee 30.00
Up to 30 minutes

WATER RESOURCES

Administration
Water Banking Contract
Application Fee 200.00
Water Banking Statutory
Application Fee 300.00
Color Plots
Existing (per linear foot) 2.00
Custom Orders ..... Current staff rate
Plans and Specifications
Small Set 10.00
Average Size Set 25.00
Large Set 35.00
Cloud Seeding License ..... Variable
Fees shall be determined by the division based on actual cost.
Copies, Staff (per hour) ..... Current staff rate

WATER RIGHTS

Administration
Applications
Flow – cubic feet per second (cfs)
More than 0, not to exceed 0.1 ..... 150.00
More than 0.1, not to exceed 0.5 ..... 200.00
More than 0.5, not to exceed 1.0 ..... 250.00
More than 1.0, not to exceed 2.0 ..... 300.00
More than 2.0, not to exceed 3.0 ..... 350.00
More than 3.0, not to exceed 4.0 ..... 400.00
More than 4.0, not to exceed 5.0 ..... 430.00
More than 5.0, not to exceed 6.0 ..... 460.00
More than 6.0, not to exceed 7.0 ..... 490.00
More than 7.0, not to exceed 8.0 ..... 520.00
More than 8.0, not to exceed 9.0 ..... 550.00
More than 9.0, not to exceed 10.0 ..... 580.00
More than 10.0, not to exceed 11.0 ..... 610.00
More than 11.0, not to exceed 12.0 ..... 640.00
More than 12.0, not to exceed 13.0 ..... 670.00
More than 13.0, not to exceed 14.0 ..... 700.00
More than 14.0, not to exceed 15.0 ..... 730.00
More than 15.0, not to exceed 16.0 ..... 760.00
More than 16.0, not to exceed 17.0 ..... 790.00
More than 17.0, not to exceed 18.0 ..... 820.00
More than 18.0, not to exceed 19.0 ..... 850.00
More than 19.0, not to exceed 20.0 ..... 880.00
More than 20.0, not to exceed 21.0 ..... 910.00
More than 21.0, not to exceed 22.0 ..... 940.00
More than 22.0, not to exceed 23.0 ..... 970.00
More than 23.0 ..... 1,000.00
Volume – acre–feet (af)
More than 0, not to exceed 20 ..... 150.00
More than 20, not to exceed 100 ..... 200.00
More than 100, not to exceed 500 ..... 250.00
More than 500, not to exceed 1,000 ..... 300.00
More than 1,000, not to exceed 1,500 ..... 350.00
More than 1,500, not to exceed 2,000 ..... 400.00
More than 2,000, not to exceed 2,500 ..... 430.00
More than 2,500, not to exceed 3,000 ..... 460.00
More than 3,000, not to exceed 3,500 ..... 490.00
More than 3,500, not to exceed 4,000 ..... 520.00
More than 4,000, not to exceed 4,500 ..... 550.00
More than 4,500, not to exceed 5,000 ..... 580.00
More than 5,000, not to exceed 5,500 ..... 610.00
More than 5,500, not to exceed 6,000 ..... 640.00
More than 6,000, not to exceed 6,500 ..... 670.00
More than 6,500, not to exceed 7,000 ..... 700.00
More than 7,000, not to exceed 7,500 ..... 730.00
More than 7,500, not to exceed 8,000 ..... 760.00
More than 8,000, not to exceed 8,500 ..... 790.00
More than 8,500, not to exceed 9,000 ..... 820.00
More than 9,000, not to exceed 9,500 ..... 850.00
More than 9,500, not to exceed 10,000 ..... 880.00
More than 10,000, not to exceed 10,500 ..... 910.00
More than 10,500, not to exceed 11,000 ..... 940.00
More than 11,000, not to exceed 11,500 ..... 970.00
More than 11,500 ..... 1,000.00
Extension Requests for Submitting a Proof of Appropriation
Less than 14 years after the date of approval of the application 50.00
14 years or more after the date of approval of the application 150.00
Fixed time periods 150.00
For Each Certification of Copies 10.00
A Reasonable Charge for Preparing Copies of a Document ..... Variable
Actual cost
Application to Segregate a Water Right 50.00
Groundwater Recovery Permit 2,500.00
Fee Changed from Recharge to Recovery

Notification for the use of Sewage Effluent or to Change the Point of Discharge 750.00
Diligence Claim Investigation 500.00
Report of Water Right Conveyance Submission 40.00
Protest Filings 15.00
Livestock Watering Certificate 150.00
Well Driller
Permit
Initial 350.00
Renewal (Annual) (per year) 100.00
Late renewal (Annual) (per year) 50.00
Drill Rig Operator Registration
Initial 100.00
Renewal (Annual) (per year) 50.00
Late Renewal (Annual) (per year) 50.00
Pump Installer License
Initial 200.00
Renewal (Annual) (per year) 75.00
Late renewal (Annual) (per year) 50.00
Pump Rig Operator Registration
Initial 75.00
Renewal (Annual) (per year) 25.00
Late renewal (Annual) (per year) 25.00
Stream Alteration
Commercial 2,000.00
Government 500.00
Non-Commercial 100.00
Field Services
Applications
Appropriation . . . . . Variable see below
For any application that proposes to appropriate or recharge by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:

WATERSHED RESTORATION

Sage Grouse Mitigation Agreement
Fee (per Credit/Acre) 5.00
Sage Grouse Mitigation Application Fee . . 100.00
Sage Grouse Mitigation Credit Transfer
Fee (per Credit/Acre) 5.00

WILDLIFE RESOURCES

Director's Office
Fishing Licenses
Resident
Youth Fishing (12-13) 5.00
Resident Youth Fishing Ages 14-17 (365 Day) 16.00
Resident Fishing Ages 18-64 (365 Day) 40.00
Resident Multi Year License (Up to 5 years) for Ages 18-64 $39/year.
Age 65 Or Older (365 Day) 31.00
Disabled Veteran (365 Day) 12.00
Resident Fishing 3 Day Any Age 19.00
7-Day (Any Age) 30.00
Resident Set Line Fishing License 22.00
Nonresident
Youth Fishing (12-13) 10.00
Nonresident Youth Fishing Ages 14-17 (365 Day) 34.00
Nonresident Fishing Age 18 Or Older (365 Day) 94.00
Nonresident Multi Year (Up to 5 Years) for Ages 18 or Older $93/year (includes license extensions).
Nonresident Fishing 3 Day Any Age . . . 31.00
7-Day (Any Age) 51.00
Nonresident Set Line Fishing License 25.00
Season Fishing Licenses Includes Combinations Up to 20% discount
Stamps
Wyoming Flaming Gorge 30.00
Game Licenses
Introductory Hunting License 5.00
Upon successful completion of Hunter Education - add to registration fee
Resident Introductory Combination License (Hunter's Ed Completion) 6.00
Nonresident Introductory Combination License (Hunter's Ed Completion) 6.00
Resident
Hunting License (up to 13) 11.00
Resident Hunting License Ages 14-17 . . . . . 16.00
Resident Hunting License Ages 18-64 . . . . . 40.00
Resident Multi Year license (Up to 5 years) for Ages 18-64 $39/year
Resident Hunting License Ages 65 Or Older 31.00
Resident Hunting License Disabled Veteran (365 Day) 25.50
Resident Youth Combination License Ages 14-17 . . . . . 20.00
Resident Combination License Ages 18-64 . . . . . 44.00
Resident Multi Year License (Up to 5 Years) for ages 18-64 $43/year
Resident Combination Ages 65 or Older 35.00
Resident Combination License Disabled Veteran (365 Day) 28.50
Dedicated Hunter Certificate of Registration (COR)
3 Year (12-17) 120.00
3 Year (18+) 215.00
Lifetime License Dedicated Hunter Certificate of Registration (COR)
3 Year (12-17) 37.50
3 Year (18+) 86.00
Nonresident
Nonresident Youth Hunting License Ages 17 and Under 34.00
Nonresident Hunting License Age 18 or Older (365 Day) 120.00
Nonresident Multi Year Hunting License 119.00
(Up to 5 Years, including license extensions)
Nonresident Youth Combination License (Ages 17 and under) 38.00
Nonresident Combination License (Ages 18 or Older) 150.00
Nonresident Multi Year License (Up to 5 Years, includes extensions) for Ages 18 or Older $149/year.

Nonresident Small Game – 3 Day 46.00
Falconry Meet 15.00
Dedicated Hunter Certificate of Registration (COR)
3 Year (12–17) 834.00
Includes season fishing license
3 Year (18+) 1,067.00
Includes season fishing license
General Season Permits
Resident
Youth General Season Turkey 25.00
Turkey 40.00
General Season Deer 46.00
General Season Deer Youth 40.00
Antlerless Deer 35.00
Two Doe Antlerless 50.00
Depredation – Antlerless 35.00
Archery Bull Elk 56.00
General Bull Elk 56.00
Youth General Season Bull Elk 50.00
Multi Season General Bull Elk 200.00
Antlerless Elk 56.00
Control Antlerless Elk 40.00
Resident Two Cow Elk permit 85.00
Resident Bison (No Management Plan) 50.00
This permit is valid on private lands only.
Resident Landowner Mitigation
Deer – Antlerless 35.00
Elk – Antlerless 40.00
Pronghorn – Doe 35.00
Nonresident
Turkey 125.00
General Season Deer 418.00
Includes season fishing license
Depredation – Antlerless 118.00
Antlerless Deer 118.00
Two Doe Antlerless 217.00
Archery Bull Elk 613.00
Includes season fishing license
General Bull 613.00
Includes season fishing license
Multi Season General Bull Elk 830.00
Antlerless Elk 350.00
Control Antlerless Elk 118.00
Nonresident Two Cow Elk permit 385.00
Nonresident Bison (No Management Plan) 100.00
Permit valid on private lands only.
Nonresident Landowner Mitigation
Deer – Antlerless 118.00
Two Doe Antlerless Deer Mitigation .. 217.00
Elk – Antlerless 350.00
Pronghorn – Doe 118.00
Two doe Antlerless Pronghorn Mitigation 217.00
Limited Entry Game Permits
Deer
Resident
Limited Entry 94.00
Multi Season Limited Entry Buck ... 170.00
Premium Limited Entry 185.00
Multi Season Premium Limited Entry Buck 336.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Buck 94.00
Limited Entry 94.00
Premium Limited Entry 185.00
Antlerless 35.00
Two Doe Antlerless 50.00
Nonresident
Limited Entry 670.00
Includes season fishing license
Multi Season Limited Entry
Buck 1,130.00
Includes season fishing license
Premium Limited Entry 798.00
Includes season fishing license
Multi Season Premium Limited Entry Buck 1,330.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Buck 670.00
Includes season fishing license
Limited Entry 568.00
Includes season fishing license. Includes CWMU Management buck deer permits.
Premium Limited Entry 798.00
Includes season fishing license
Antlerless 118.00
Two Doe Antlerless 217.00
Elk
Resident
Limited Entry Bull 314.00
Multi Season Limited Entry Bull ... 564.00
Depredation 56.00
Depredation – Bull Elk – With Current Year Unused Bull Permit 235.00
Depredation – Bull Elk – Without Current Year Unused Bull Permit 314.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Any Bull 314.00
Antlerless 56.00
Nonresident
Limited Entry Bull 1,050.00
Includes season fishing license
Multi Season Limited Entry Bull . 1,855.00
Includes fishing license
Depredation – Antlerless 350.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Any Bull 1,050.00
Includes fishing license
Antlerless 350.00
Pronghorn
Resident
Limited Buck 63.00
Limited Doe 35.00
Limited Two Doe 60.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Buck 63.00
Doe 35.00
Depredation Doe 35.00
Archery Buck 63.00
Nonresident
Limited Buck 371.00
Includes season fishing license
Limited Doe 118.00
Limited Two Doe 217.00

- Archery Buck 371.00
  Includes season fishing license
- Depredation Doe 118.00
- Co-Operative Wildlife Management Unit (CWMU)/Landowner
  - Buck 371.00
  - Includes season fishing license
  - Doe 118.00

Moose
- Resident
  - Bull 454.00
  - Antlerless 249.00
  - Co-Operative Wildlife Management Unit (CWMU)/Landowner
    - Bull 454.00
    - Antlerless 249.00
- Nonresident
  - Bull 2,244.00
    Includes season fishing license
  - Antlerless 1,100.00
  - Co-Operative Wildlife Management Unit (CWMU)/Landowner
    - Bull 2,244.00
    - Includes season fishing license
    - Antlerless 1,100.00

Bison
- Resident 460.00
- Resident Antelope Island 1,221.00
- Nonresident 2,420.00
  Includes season fishing license
- Nonresident Antelope Island 2,877.00
  Includes season fishing license

Bighorn Sheep
- Resident
  - Desert 564.00
  - Rocky Mountain 564.00
  - Resident Rocky Mtn/Desert Bighorn Sheep Ewe permit 110.00
- Nonresident
  - Desert 2,244.00
    Includes season fishing license
  - Rocky Mountain 2,244.00
    Includes season fishing license
  - Nonresident Rocky Mtn/Desert Bighorn Sheep Ewe permit 1,050.00

Goats
- Resident Mountain 454.00
- Nonresident Mountain 2,244.00
  Includes season fishing license

Cougar/Bear
- Resident
  - Cougar 58.00
  - Cougar Spot and Stalk 10.00
    This fee will permit qualified hunters to take a cougar while in the field.
  - Bear 93.00
  - Premium Bear 183.00
  - Bear Archery 93.00
  - Cougar Pursuit 50.00
  - Bear Pursuit 45.00
- Nonresident
  - Cougar 327.00
  - Bear 389.00
  - Multi Season Bear 566.00
  - Cougar Pursuit 171.00
  - Bear Pursuit 171.00

Wolf
- Resident 20.00
- Nonresident 80.00

Cougar/Bear
- Cougar or Bear Damage 30.00

Wild Turkey
- Resident Limited Entry 40.00
- Nonresident Limited Entry 125.00

Waterfowl
- Swan
  - Resident 40.00
  - Nonresident 125.00
- Sandhill Crane
  - Resident 40.00
  - Nonresident 125.00

Sportsman Permits
- Resident
  - Bull Moose 454.00
  - Hunter's Choice Bison 454.00
  - Desert Bighorn Ram 564.00
  - Bull Elk 564.00
  - Buck Deer 185.00
  - Buck Pronghorn 63.00
  - Bear 93.00
  - Cougar 58.00
  - Mountain Goat 454.00
  - Rocky Mountain Sheep 564.00
  - Turkey 40.00

Other
- Falconry Permits
  - Resident
    - Capture
      - Apprentice Class 40.00
      - General Class 55.00
      - Master Class 55.00
  - Nonresident
    - Capture
      - Apprentice Class 145.00
      - General Class 145.00
      - Master Class 145.00
- Handling 10.00
  Includes licenses, Certificate of Registration, and exchanges
- Resident Drawing Application 10.00
- Nonresident Draw Applications 15.00
- Landowner Association Application 150.00
  Nonrefundable
- Resident/Nonresident Dedicated Hunter
  - Hourly Labor Buyout Rate 25.00
    First 16 hours are paid out at $25/hour, last 16 hours are paid out at $40/hour.
- Bird Bands 0.25
- Furbearer/Trap Registration
  - Resident Furbearer 33.00
    Any age
  - Nonresident Furbearer 195.00
    Any age
  - Resident Bobcat Temporary Possession 17.00
  - Nonresident Bobcat Temporary Possession 57.00
  - Resident Trap Registration 10.00
  - Nonresident Trap Registration 10.00
- Duplicate Licenses, Permits and Tags
  - Hunter Education Cards 10.00
  - Furharvester Education Cards 10.00
  - Duplicate Vouchers CWMU/Conservation/ Mitigation 25.00
- Refund of Hunting Draw License 25.00

Application Amendment 25.00
Late Harvest Reporting 50.00
Exchange 10.00
Wildlife Management Area Access
(Without a Valid License) 10.00
Division Programs Participation
Fee ..... Variable
Fees shall be determined by the division using the estimated costs of materials and supplies needed for participation in the event.
Wood Products on Division Land
Firewood (2 Cords) 10.00
Christmas Tree 5.00
Ornamentals
Conifers (per tree) 5.00
Maximum $60.00 per permit
Deciduous (per tree) 3.00
Maximum $60.00 per permit
Posts 0.40
Maximum $60.00 per permit
Hunter Education
Hunter Education Training 7.00
Hunter Education Home Study 7.00
Furharvester Education Training 7.00
Bowhunter Education Class 7.00
Long Distance Verification 2.00
Becoming an Outdoors Woman 150.00
Special Needs Rates Available
Hunter Education Range
Adult 15.00
Market price up to $15
Youth 8.00
Ages 15 and under. Market price up to $8.
Annual Pass for Rifle/Archery/Handgun
Range ..... Market Price Up to $500
Group rate for organized groups and not for special passes ..... 50% discount
Spotting Scope Rental ..... Up to $10.00
Trap, Skeet or Riverside Skeet
(per round) ..... Up to $15.00
Market price up to $15
Five Stand – Multi–Station
Birds ..... Up To $15.00
Market price up to $15
Ten Punch Pass
Ten Punch Pass Shooting Ranges Youth (Rifle/Archery/Handgun) ..... Up to $75
Market price up to $75.00
Ten Punch Pass Shooting
Ranges (Shotgun) ..... Up to $145
Market price up to $145.00
Ten Punch Pass Shooting Ranges Adult (Rifle/Archery/Handgun) ..... Up to $145
Market price up to $145.00
Range Venue Rental (50%
Cancellation0 ..... Up To $150
Shooting Center RV
Camping ..... $10.00 to $50.00
Reproduction of Records
Self–Service (per copy) 0.10
Staff Service (per copy) 0.25
Geographic Information System
Personnel Time (per hour) 50.00
Processing (per hour) 55.00
Data Processing
Programming Time (per hour) 75.00
Production (per hour) 55.00
License Agency
Application 20.00
Other Services to be reimbursed at actual time and materials
Postage ..... Current rate
Lost License Paper by License
Agents (per page) 10.00
Return check charge 20.00
Easement and Leases Schedule
Application for Leases
Leases 250.00
Nonrefundable
Easements
Rights–of–Way 750.00
Nonrefundable
Rights–of–Entry 50.00
Nonrefundable
Easements Oil and Gas Pipelines ... 250.00
Amendment to Lease,
Easement, Right–of–Way 400.00
Nonrefundable
Amendment to Right of Entry 50.00
Certified Document 5.00
Nonrefundable
Research on Leases or Title
Records (per hour) 50.00
Rights–of–Way
Leases and Easements – Resulting in Long–Term Uses of Habitat .... Variable
Fees shall be determined on a case–by–case basis by the division, using the estimated fair market value of the property, or other legislatively established fees, whichever is greater, plus the cost of administering the lease, right–of–way, or easement. Fair market value shall be determined by customary market valuation practices.
Special Use Permits for Non–Depleting
Land Uses of < 1 year ..... Variable
A nonrefundable application of $50 shall be assessed for any commercial use. Fees for approved special uses will be based on the fair market value of the use, determined by customary practices which may include: an assessment of comparable values for similar properties, comparable fees for similar land uses, or fee schedules. If more than one fee determination applies, the highest fee will be selected.
Width of Easement
0' – 30' Initial 13.00
0' – 30' Renewal 10.00
31' – 60' Initial 20.00
31' – 60' Renewal 15.00
61' – 100' Initial 26.00
61' – 100' Renewal 20.00
101' – 200' Initial 33.00
101' – 200' Renewal 25.00
201' – 300' Initial 44.00
201' – 300' Renewal 35.00
>300' Initial 55.00
>300' Renewal 42.00
Outside Diameter of Pipe
<2.0" Initial 10.00
<2.0" Renewal 5.00
2.0" – 13" Initial 20.00
2.0" – 13" Renewal 10.00
13.1"–25" Initial 40.00
25.1" – 37" Initial 75.00

Outside Pipe Diameter
13.1" – 25" Renewal 15.00
25.1" – 37" Renewal 20.00
>37" Initial 100.00
>37" Renewal 40.00
Roads, Canals
Permanent Loss of Habitat Plus High Maintenance Disturbance 20.00
1' – 33' New Construction
Permanent Loss of Habitat Plus High Maintenance Disturbance 13.00
1' – 33' Existing
Permanent Loss of Habitat Plus High Maintenance Disturbance 27.00
33.1' – 66' New Construction
Permanent Loss of Habitat Plus High Maintenance Disturbance 20.00
33.1' – 66' Existing
Assignments: Easements, Grazing Permits, Right-of-entry, Special Use . 250.00
Certificates of Registration
Initial – Personal Use 75.00
Initial – Commercial 150.00
TYPE I
Certificate of Registration (COR) Fishing Contest
Small, Under 50 ..... 20.00
Medium, 50 to 100 ..... 100.00
Large, over 200 ..... 250.00
Amendment 10.00
Certificate of Registration (COR) Handling 10.00
Renewal 30.00
Late Fee for Failure to Renew Certificates of Registration When Due: Greater of $10 or 20% of Fee ..... Variable
Greater of $10 or 20% of fee.
Required Inspections 100.00
Failure to Submit Required Annual Activity Report When Due 10.00
Request for Species Reclassification ... 200.00
Request for Variance 200.00
Commercial Fishing and Dealing Commercially in Aquatic Wildlife
Dealer in Live/Dead Bait 75.00
Helper Cards – Live/Dead Bait 15.00
Commercial Seiner 1,000.00
Helper Cards – Commercial Seiner 100.00
Commercial Brine Shrimper 15,000.00
Helper Cards – Commercial Brine Shrimper 1,500.00
Upland Game Cooperative Wildlife Management Units
New Application 250.00
Annual 150.00
Big Game Cooperative Wildlife Management Unit
New Application 250.00
Annual 150.00
Falconry
Three Year 45.00
Five Year 75.00
Commercial Hunting Areas
New Application 150.00
Renewal Application 150.00

DIVISION OF STATE PARKS

State Park Operation Management
All fees for the Division of State Parks may not exceed, but may be less than, the amounts stated in the division's fee schedule.
Golf Course Fees RENTALS
Motorized Cart, per 9 Holes 16.00
Driving Range 9.00
Golf Course Fees GREENS FEES
Greens Fees, 9 Holes 25.00
Reservation Fee 10.65
Camping Fees 60.00
Group Camping Fees 400.00
Boating Fees
Boat Mooring
In/Off Season With or Without Utilities (per foot) 7.00
Boat and RV Storage 200.00
Promotional Pass 1,100.00
Entrance Fees
Motor Vehicles
Day Use Annual Pass 150.00
Group Site Day-Use Fees 250.00
Parking Fee 5.00
Entrance Fees 25.00
Application Fees 250.00
Easement, Grazing permit, Construction/ Maintenance, Special Use Permit, Waiting List, Events
Assessment and Assignment Fees
Repository Fees
Curation (per storage unit) 700.00
Annual Repository Agreement, Annual Agreement Fee, Fee Collection, Return Checks, and Duplicate Document (per storage unit) 80.00
Staff or Researcher Time per Hour 50.00
Equipment and Building Rental per Hour 100.00
OHV and Boating Program Fees
Boating Section Fees
Commercial Dealer Demo Pass 200.00
Lodging Fees
Lodging 200.00

DIVISION OF OUTDOOR RECREATION

Management
Boat Dealer Number and Registration Fee . 25.00
OHV and Boating Program Fees
OHV Program Fee
Statewide OHV Registration Fee 72.00
State-issued Permit to Non-resident OHV 30.00
OHV Education Fee
Division's Off-highway Vehicle Program and Personal Watercraft Safety Certificate, including replacement certificates 30.00
Boating Section Fees
Statewide Boat Registration Fee 40.00
Carrying Passengers for Hire Fee 200.00
Boat Livery Registration Fee 100.00

OFFICE OF ENERGY DEVELOPMENT

Renewable energy Systems Tax Credit and Qualifying Solar Projects Tax Credit 15.00
Well Recompletion or Workover 10.00
Application fee for the Well Recompletion or Workover Tax Credit certificate (59-5-102)
RESTC Production Tax Credit 150.00
Application fee for the Renewable Energy Systems PRODUCTION Tax Credit.
Alternative Energy Development Tax Credit 150.00
High Cost Infrastructure Tax Credit, private investment $10 million or less .. 150.00
High Cost Infrastructure Tax Credit, private investment more than $10 million 250.00

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Administration
Name change on Administrative Records
Name Change on Admin. Records - Surface Document 50.00
Name Change on Admin. Records - Mineral Lease (per lease) 50.00
Surface Resources
Easements
Application 750.00
Amendment 400.00
Assignment Fees 250.00
Collateral 250.00
Reinstatement 400.00
Exchange
Application 1,000.00
Grazing Permit
Application 75.00
Amendment 75.00
Assignment Fees ..... $10 per AUM (Standard) or $30 (Within a Family)
Collateral 50.00
Reinstatement 100.00
Non-Use 20.00
Modified
Application 250.00
Assignment Fees 250.00
Amendment 50.00
Collateral 50.00
Reinstatement 30.00
Right of Entry
Application 100.00
Amendment 50.00
Assignment Fees 250.00
Extension of Time 100.00
Right of Entry Trailing Permit
Application plus AUM (Animal Unit Month) fees 50.00
Sales/Certificates
Processing 750.00
Assignment 250.00
Partial Conveyance 250.00
Patent Reissue 50.00
Special Use Agreements
Application 250.00
Amendment 400.00
Assignment Fees 250.00
Collateral 250.00
Processing 700.00
Reinstatement 400.00
Timber Agreement
Application (<6 months) ..... 100.00 6 months or less
Assignment (<6 months) ..... 250.00 6 months or less
Application (>6 months) ..... 500.00 longer than 6 months
Assignment (>6 months) ..... 250.00 longer than 6 months
Extension of Time ..... 250.00 longer than 6 months
Energy & Minerals
Assignment
Mineral Assignment 150.00
Materials Permit (Sand & Gravel) - Assignment 400.00
Overriding Royalty 150.00
Segregation 300.00
Application
Materials Permit (Sand and Gravel) Application 500.00
Mineral Materials Permit 250.00
Mineral Lease 50.00
Rockhounding Permit
Association 200.00
Individual/Family 25.00
Processing
Materials Permit (Sand/Gravel) 1,000.00
Transfer Active Oil and Gas Lease to Current Form 50.00
Affidavit of Lost Document (per document) 25.00
Utah Interactive / E-check fee 3.00
Bank Charge / Credit Card fees (per incident) ..... 3 percent
Fee based on total transaction value.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

POLICY, COMMUNICATION, & OVERSIGHT

Student Support Services
Conference or Professional Development Registration (per Day) 50.00
This fee applies to multiple appropriation units.

SYSTEM STANDARDS & ACCOUNTABILITY

RTC Fees
RTC Special Education Program Monitoring Fee: 1-75 Students (per RTC) 2,200.00
RTC Special Education Program Monitoring Fee: 76+ Students (per RTC) 2,900.00
RTC Special Education Program Monitoring Fee: Distance Over 2 Hours (per RTC) 1,545.00
RTC Special Education Program Monitoring Fee: Distance Up to 2 Hours (per RTC) 490.00

UTAH SCHOOLS FOR THE DEAF AND THE BLIND

Administration
USDB Audiologist Fee (per Hour) 84.56
This audiology fee is charged to LEAs that have greater than 3% of student population when an USDB audiologist performs a hearing exam on a student. This fee is an hourly fee. This fee assists in recovering the costs of our audiology team.
Study Abroad Fee 500.00
This fee is a commitment fee charged to students that sign up to participate in USDB's study abroad. The fee is returned to the student days before the trip and is used by the student for spending money. This teaches the student commitment, and budgeting and use of the funds during the trip.
Support Services
Conference Attendance
Educator - Conference Attendance Fee 100.00
This fee is for when USDB creates a conference and charges up to $100 for educators to attend to assist in recouping the conference costs.
Parent - Conference Attendance Fee ... 25.00
This nominal fee of $25 is charged to parents of deaf or hard of hearing, blind or low-vision, or deaf-blind students. The fee assists USDB in creating and presenting the conference.
Adult Lunch Tickets (per meal) 4.00
This fee is charged to any USDB employee or parent that purchases a school lunch. The purpose of this fee is to recoup the cost of the lunch provided to the employee or parent.
Copy and Fax Machine
Copy Machine
Color 1.00
This fee reimburses USDB for personal color copies made by staff.
Black/White 0.10
This fee reimburses USDB for black and white copies made by USDB personnel.
Room Rental
Conference 100.00
This fee offsets the cost for support services to set up the meeting room, costs of utilities, and to clean the room after it has been used.
Utah State Instructional Materials Access Center
USIMAC Book Processing Fee
(per Braille Volume) 150.00
This fee covers the cost of printing a textbook in braille or large print for an out of state student.
USIMAC Book Shipping Fee
(per Braille Volume) 15.00
This fee covers the cost for USIMAC to ship a textbook to an out of state student.
School for the Deaf
Instruction
Teacher's Aide 16.49
This fee covers the cost per hour of providing a teacher's aide to an LEA that has over 3% of the state's student population.
Educator 79.65
This fee recovers the cost of providing an educator of the deaf, blind or deaf blind to LEAs that have greater than 3% of the state's student population
After-School Program 30.00
This fee covers the cost of any after-school program(s) that a student may participate in.
Pre-School Monthly Tuition 100.00
This nominal monthly fee helps offset some of the costs of running the USDB preschool.
Out-of-State Tuition 50,600.00
This fee is imposed on out of state school districts for sending one of their students to attend USDB. This fee offsets the costs of the educator, aide and other staff involved in the child's education.
Educational Interpreter 50.58
This fee covers the cost to provide an interpreter for our deaf students to LEAs that have greater than 3% of the students' population.
Support Services
Athletic (per sport) 100.00
This $100 fee is charged to USDB students that participate in any given sport. The fee is charged per sport that the student participates in.
Room Rental
Multipurpose 200.00
This fee covers the cost of setting up, taking down and cleaning the multipurpose room. The fee also includes utilities costs.
School for the Blind
Instruction
Student Education Services Aide 33.22
This fees recovers the costs per hour for an educational service aide.
Support Services
Room Rental
Dormitory 50.00
This fee covers the cost of having a parent or individual that is not a USDB student to stay in the dorms on the Ogden campus.

STATE BOARD AND ADMINISTRATIVE OPERATIONS

Indirect Cost Pool
Indirect Cost Pool
Restricted Funds
USBE percentage of personal service costs 14.8%
Unrestricted Funds
USBE percentage of personal service costs 18.5%
Board and Administration
Unauthorized parking fee 31.00

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

STATE CAPITOL FUND

Capitol Hill Grounds
Commercial Production Grounds/per event (per day) 2,500.00
Commercial Production White Chapel/per event 1,000.00

Commercial filming/photography
Capitol building 2-hour increments . . . 500.00
Commercial filming/photography
Capitol grounds 2-hour increments . . . 250.00
A-South Lawn
A-South Lawn/per event 2,000.00
A-South Lawn/per hour 400.00
D-West Lawn
D-West Lawn/per event 500.00
D-West Lawn/per hour 150.00
South Steps
South Steps/per event (per event) 500.00
South Steps/per hour (per hour) 125.00
Capitol Hill - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.
Parking Lot
Parking Space (per stall per day) 7.00
For events only
Rotunda
Commercial Production Rotunda/ per event (per day) 5,000.00
Rotunda Rental Fee Monday-Thursday (per event) 2,000.00
Rotunda Rental Fee Friday-Sunday (per event) 2,300.00
Rotunda two-hour block Mon-Fri during Leg Session and Interim days (7 a.m.-5:30 p.m.) . . . . . No charge
Hall of Governors
Hall of Governors/per event 1,300.00
Hall of Governors - Two-hour block Monday - Friday during Leg Session and Interim days (7:00 a.m.-5:30 p.m.) . . . . . No charge
Plaza
Plaza/per event 1,300.00
Plaza/per hour 200.00
Room 105
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Room #105/per hour 50.00
Room #105 Mon - Fri. 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) . . . . . No charge
Room 170
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Room #170/per hour 50.00
Room #170 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) . . . . . No charge
Room 210
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
Room #210/per hour 50.00
Room #210 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) . . . . . No charge
Board Room
General Public, Commercial, & Private Groups
Board Room/per hour 150.00
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
Board Room/per hour 75.00
Olmsted Room
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
Olmsted Room/per hour 50.00
Olmsted Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) . . . . . No charge
Kletting Room
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
Kletting Room/per hour 50.00
Kletting Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) . . . . . No charge
Seagull Room
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
Seagull Room/per hour 50.00
Seagull Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) . . . . . No charge
Beehive Room
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
Beehive Room/per hour 50.00
Beehive Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) . . . . . No charge
Copper Room
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
Copper Room/per hour 50.00
Copper Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) . . . . . No charge
Aspen Room
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
Aspen Room/per hour 50.00
Aspen Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) . . . . . No charge
White Community Memorial Chapel
White Chapel per day of event 1,000.00
White Chapel noon-midnight rehearsal 250.00
Miscellaneous Other
Access Badges 25.00
Additional Labor (per person, per 1/2 hr) 25.00
Additional Personnel (per person, per 1/2 hr) 25.00
Adjustment (per person, per 1/2 hr) 25.00
Administrative Fee 10.00
Baby Grand Piano 200.00
Chairs (per chair) 1.50
Change in set-up fee (per person, per 1/2 hr) 25.00
Easel 10.00
Event/Dance Floor 30x30 . . . . . 1,000.00
Event/Dance Floor 21x21 . . . . . 600.00
Event/Dance Floor 15x15 . . . . . 450.00
Event/Dance Floor 12x12 . . . . . 250.00
Event/Dance Floor 6x6 . . . . . 125.00
Extension Cords 5.00
Free Speech Public Space Usage . . . No charge
Garbage Can . . . . . No charge
Gold Formal Chair (per chair) 5.00
Image Use Fee 50.00
Insurance Coverage for Capitol Hill Facilities and Grounds . . . . . Coverage of $1,000,000.00

Locker Rentals (per year) 40.00
Podium
With Microphone 35.00
Without Microphone 25.00
Polycom Phone Rental 10.00
Projector Cart 25.00
Risers (per section) 25.00
Security (per officer, per hour) 60.00
Speaker (per speaker) 15.00
Stanchion 10.00
Standing Microphone 15.00
Table (per table) 7.00
Table Pedestal Round 42" (per table) 10.00
Upright Piano 50.00
United States Flag 35.00
Utah Flag 40.00
Wood Folding Chair (per chair) 2.50

UTAH NATIONAL GUARD

Operations and Maintenance
Armory Rental
Armory Rental Fee (per hour) 25.00
Armory rental fee of $25/hour is charged to pay for the additional operations and maintenance costs to the National Guard when an armory is rented to a group outside of the National Guard.
Security Attendant (per hour) 15.00
Utah National Guard requires a security attendant to accompany an armory rental outside of business hours to ensure the security of facilities and equipment.
Refundable Cleaning Deposit 100.00

This refundable fee is required to mitigate the liability of damage or additional cleaning requirement for National Guard armories during or after rental.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

VETERANS AND MILITARY AFFAIRS

Cemetery
Veterans' Burial 893.00
Individual veteran burial fee at the Utah Veterans Cemetery & Memorial Park. Fee is determined by the National Cemetery Administration within the federal U.S. Department of Veterans Affairs.
Spouse/Dependent Burial 893.00
Individual veteran spouse or dependent burial fee at the Utah Veterans Cemetery & Memorial Park. Fee is determined by the National Cemetery Administration within the federal U.S. Department of Veterans Affairs.
Saturday Burial Surcharge 700.00
Chapel Rental 150.00
Fee for renting the on-site chapel for funerals, memorials, or other events.
Disinterment
Cremains Disinterment 150.00
Double Depth Disinterment 900.00

Section 3. Effective Date.
This bill takes effect on July 1, 2023.

CHAPTER 488
S. B. 18
Passed February 2, 2023
Approved March 23, 2023
Effective May 3, 2023

PUBLIC EXPRESSION PROTECTION ACT

Chief Sponsor: Curtis S. Bramble
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill enacts the Uniform Public Expression Protection Act.

Highlighted Provisions:

This bill:

- defines terms;
- creates a process for a claim asserted against a person for:
  - communication in, or on an issue under consideration in, certain governmental proceedings; or
  - exercising certain rights under the United States Constitution or Utah Constitution;
- requires a court to award costs, attorney fees, and other litigation expenses under certain circumstances;
- includes a severability clause; and
- repeals the Citizenship Participation in Government Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-25-101, Utah Code Annotated 1953
78B-25-102, Utah Code Annotated 1953
78B-25-103, Utah Code Annotated 1953
78B-25-104, Utah Code Annotated 1953
78B-25-105, Utah Code Annotated 1953
78B-25-106, Utah Code Annotated 1953
78B-25-107, Utah Code Annotated 1953
78B-25-108, Utah Code Annotated 1953
78B-25-109, Utah Code Annotated 1953
78B-25-110, Utah Code Annotated 1953
78B-25-111, Utah Code Annotated 1953
78B-25-112, Utah Code Annotated 1953
78B-25-113, Utah Code Annotated 1953
78B-25-114, Utah Code Annotated 1953
78B-25-115, Utah Code Annotated 1953

REPEALS:

78B-6-1401, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-1402, as last amended by Laws of Utah 2010, Chapter 254
78B-6-1403, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-1404, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-1405, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-25-101 is enacted to read:

CHAPTER 25. UNIFORM PUBLIC EXPRESSION PROTECTION ACT

78B-25-101. Title.

This chapter may be cited as the "Uniform Public Expression Protection Act."

Section 2. Section 78B-25-102 is enacted to read:

78B-25-102. Scope.

(1) As used in this section:

(a) "Goods or services" does not include the creation, dissemination, exhibition, or advertisement or similar promotion of a dramatic, literary, musical, political, journalistic, or artistic work.

(b) "Governmental unit" means a public corporation or government or governmental subdivision, agency, or instrumentality.

(c) "Person" means an individual, estate, trust, partnership, business or nonprofit entity, governmental unit, or other legal entity.

(2) Except as provided in Subsection (3), this chapter applies to a cause of action asserted in a civil action against a person based on the person's:

(a) communication in a legislative, executive, judicial, administrative, or other governmental proceeding;

(b) communication on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding; or

(c) exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the United States Constitution or Utah Constitution, on a matter of public concern.

(3) This chapter does not apply to a cause of action asserted:

(a) against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity;

(b) by a governmental unit or an employee or agent of a governmental unit acting in an official capacity to enforce a law to protect against an imminent threat to public health or safety; or

(c) against a person primarily engaged in the business of selling or leasing goods or services if the cause of action arises out of a communication related to the person's sale or lease of the goods or services.

Section 3. Section 78B-25-103 is enacted to read:

78B-25-103. Special motion for expedited relief.

Not later than 60 days after the day on which a party is served with a complaint, crossclaim, counterclaim, third-party claim, or other pleading that asserts a cause of action to which this chapter applies, or at a later time on a showing of good cause, the party may file a special motion for expedited relief to dismiss the cause of action or part of the cause of action.

Section 4. Section 78B-25-104 is enacted to read:

78B-25-104. Stay.

(1) Except as provided in Subsections (4) through (7), on the filing of a motion under Section 78B-25-103:

(a) all other proceedings between the moving party and responding party, including discovery and a pending hearing or motion, are stayed; and

(b) on motion by the moving party, the court may stay a hearing or motion involving another party, or discovery by another party, if the hearing or ruling on the motion would adjudicate, or the discovery would relate to, an issue material to the motion under Section 78B-25-103.

(2) A stay under Subsection (1) remains in effect until the day on which an order ruling on the motion under Section 78B-25-103 is entered and expiration of the time under Utah Rules of Appellate Procedure, Rule 4, for the moving party to appeal the order.

(3) (a) Except as provided in Subsections (5) through (7), if a party appeals from an order ruling on a motion under Section 78B-25-103, all proceedings between all parties in the action are stayed.

(b) A stay under Subsection (3)(a) remains in effect until the day on which the appeal concludes.

(4) During a stay under Subsection (1), the court may allow limited discovery if a party shows that specific information is necessary to establish whether a party has satisfied or failed to satisfy a burden under Subsection 78B-25-107(1) and the information is not reasonably available unless discovery is allowed.

(5) A motion under Section 78B-25-110 for costs, attorney fees, and expenses is not subject to a stay under this section.

(6) A stay under this section does not affect a party's ability to voluntarily dismiss a cause of action or part of a cause of action or move to sever a cause of action.

(7) During a stay under this section, the court for good cause may hear and rule on:

(a) a motion unrelated to the motion under Section 78B-25-103; and

(b) a motion seeking a special or preliminary injunction to protect against an imminent threat to public health or safety.

Section 5. Section 78B-25-105 is enacted to read:

78B-25-105. Hearing.

(1) The court shall hear a motion under Section 78B-25-103 not later than 60 days after the day on which the motion is filed, unless the court orders a later hearing:

(a) to allow discovery under Subsection 78B-25-104(4); or

(b) for other good cause.

(2) If the court orders a later hearing under Subsection (1)(a), the court shall hear the motion under Section 78B-25-103 not later than 60 days after the day on which the court issues an order allowing the discovery, unless the court orders a later hearing under Subsection (1)(b).

Section 6. Section 78B-25-106 is enacted to read:

78B-25-106. Proof.

In ruling on a motion under Section 78B-25-103, the court shall consider the pleadings, the motion, any reply or response to the motion, and any evidence that could be considered in ruling on a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.

Section 7. Section 78B-25-107 is enacted to read:

78B-25-107. Dismissal of cause of action in whole or part.

(1) In ruling on a motion under Section 78B-25-103, the court shall dismiss with prejudice a cause of action, or part of a cause of action, if:

(a) the moving party establishes under Subsection 78B-25-102(2) that this chapter applies;

(b) the responding party fails to establish under Subsection 78B-25-102(3) that this chapter does not apply; and

(c) either:

(i) the responding party fails to establish a prima facie case as to each essential element of the cause of action; or

(ii) the moving party establishes that:

(A) the responding party failed to state a cause of action upon which relief can be granted; or

(B) there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the cause of action or part of the cause of action.

(2) A voluntary dismissal without prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under Section 78B-25-103 does not affect a moving party's right to obtain a ruling on the motion and seek costs, attorney fees, and expenses under Section 78B-25-110.

(3) A voluntary dismissal with prejudice of a responding party's cause of action, or part of a cause

of action, that is the subject of a motion under Section 78B-25-103 establishes for the purpose of Section 78B-25-110 that the moving party prevailed on the motion.

Section 8. Section 78B-25-108 is enacted to read:

78B-25-108. Ruling.

The court shall rule on a motion under Section 78B-25-103 not later than 60 days after the day on which a hearing is held under Section 78B-25-105.

Section 9. Section 78B-25-109 is enacted to read:

78B-25-109. Appeal.

(1) A moving party may appeal as a matter of right from an order denying, in whole or in part, a motion under Section 78B-25-103.

(2) The appeal shall be filed in accordance with Utah Rules of Appellate Procedure, Rule 4.

Section 10. Section 78B-25-110 is enacted to read:

78B-25-110. Costs, attorney fees, and expenses.

On a motion under Section 78B-25-103, the court shall award court costs, reasonable attorney fees, and reasonable litigation expenses related to the motion:

(1) to the moving party if the moving party prevails on the motion; or

(2) to the responding party if the responding party prevails on the motion and the court finds that the motion was frivolous or filed solely with intent to delay the proceeding.

Section 11. Section 78B-25-111 is enacted to read:

78B-25-111. Construction.

This chapter shall be broadly construed and applied to protect the exercise of the right of freedom of speech and of the press, the right to assemble and petition, and the right of association, guaranteed by the United States Constitution or the Utah Constitution.

Section 12. Section 78B-25-112 is enacted to read:

78B-25-112. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to the uniform law's subject matter among states that enact the uniform law.

Section 13. Section 78B-25-113 is enacted to read:

78B-25-113. Transitional provision.

This chapter applies to a civil action filed or cause of action asserted in a civil action on or after May 3, 2023.

Section 14. Section 78B-25-114 is enacted to read:

78B-25-114. Savings clause.

This chapter does not affect a cause of action asserted before May 3, 2023, in a civil action or a motion under Chapter 6, Part 14, Citizen Participation in Government Act, regarding the cause of action.

Section 15. Section 78B-25-115 is enacted to read:

78B-25-115. Severability.

If any provision of this chapter or the chapter's application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Section 16. Repealer.

This bill repeals:

Section 78B-6-1401, Title.

Section 78B-6-1402, Definitions.

Section 78B-6-1403, Applicability.

Section 78B-6-1404, Procedures.

Section 78B-6-1405, Counter actions -- Attorney fees -- Damages.

CHAPTER 489
S. B. 22
Passed March 2, 2023
Approved March 23, 2023
Effective July 1, 2023

STATE EMPLOYEE BENEFITS AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill creates the State Employee Benefits Advisory Commission.

Highlighted Provisions:

This bill:

- defines terms;
- creates the State Employee Benefits Advisory Commission;
- describes the commission's membership, quorum requirements, duties, and other requirements;
- establishes reporting requirements for the commission;
- provides a sunset date for the commission; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63A-17-307, as last amended by Laws of Utah 2022, Chapters 169, 209
63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472

ENACTS:

63C-29-101, Utah Code Annotated 1953
63C-29-102, Utah Code Annotated 1953
63C-29-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-307 is amended to read:

63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of director.

(1) (a) This section, and the rules made by the division under this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).

(b) If not exempted under Subsection (2), an employee is considered to be in classified service.

(2) The following employees are exempt from this section:

(a) members of the Legislature and legislative employees;

(b) members of the judiciary and judicial employees;

(c) elected members of the executive branch and employees designated as schedule AC as provided under Subsection 63A-17-301(1)(c);

(d) employees of the State Board of Education;

(e) officers, faculty, and other employees of state institutions of higher education;

(f) employees in a position that is specified by statute to be exempt from this Subsection (2);

(g) employees in the Office of the Attorney General;

(h) department heads and other persons appointed by the governor under statute;

(i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);

(j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 63A-17-301(1)(d);

(k) employees that determine and execute policy designated as schedule AR as provided under Subsection 63A-17-301(1)(l);

(l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 63A-17-301(1)(g);

(m) temporary employees described in Subsection 63A-17-301(1)(r);

(n) patients and inmates designated as schedule AU as provided under Subsection 63A-17-301(1)(o) who are employed by state institutions; and

(o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 63A-17-301(1)(k).

(3) (a) The director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.

(b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range, subject to Section 63A-17-112, may be applied equitably to each position in the same class.

(c) The director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.

(d) (i) The division shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.

(ii) The director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.

(4) (a) With the approval of the executive director and the governor, the director shall develop and

adopt pay plans for each position in classified service.

(b) The director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.

(c) The director shall adhere to the following in developing each pay plan:

(i) each pay plan shall consist of sufficient salary ranges to:

(A) permit adequate salary differential among the various classes of positions in the classification plan; and

(B) reflect the normal growth and productivity potential of employees in that class.

(ii) The director shall issue rules for the administration of pay plans.

(d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a, Grievance Procedures, or otherwise.

(e) The director shall make rules, accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for:

(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment; and

(ii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.

(5) (a) On or before October 31 of each year, the director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget[.] and to the State Employee Benefits Advisory Commission created in Section 63C-29-102.

(b) The plan described in Subsection (5)(a) may include recommendations, including:

(i) salary increases that generally affect employees, including a general increase or merit increase;

(ii) salary increases that address compensation issues unique to an agency or occupation;

(iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or

(iv) changes to employee benefits.

(c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.

(B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions in the state that employ, respectively, comparable positions.

(C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.

(ii) The director may cooperate with or participate in any survey conducted by other public and private employers.

(iii) The director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.

(iv) The division shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.

(d) The director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.

(e) The director shall:

(i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and

(ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.

(f) (i) Upon request and subject to Subsection (5)(f)(ii), the division shall make available foundational information used by the division or director in the drafting of a plan described in Subsection (5)(a), including:

(A) demographic and labor market information;

(B) information on employee turnover;

(C) salary information;

(D) information on recruitment; and

(E) geographic data.

(ii) The division may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.

(g) The governor shall:

(i) consider salary and structure adjustments recommended under Subsection (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;

(ii) submit compensation recommendations to the Legislature; and

(iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.

(h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.

(6) (a) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.

(b) An agency may not grant a market-based award unless the award is previously approved by the division.

(c) In accordance with Subsection (6)(b), an agency requesting the division's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the division.

(d) In the documentation required in Subsection (6)(c), the requesting agency shall identify for the division:

(i) any benefit the market-based award would provide for the agency, including:

(A) budgetary advantages; or

(B) recruitment advantages;

(ii) a mission critical need to attract or retain unique or hard to find skills in the market; or

(iii) any other advantage the agency would gain through the utilization of a market-based award.

(7) (a) The director shall regularly evaluate the total compensation program of state employees in the classified service.

(b) The division shall determine if employee benefits are comparable to those offered by other private and public employers using information from:

(i) a study conducted by a third-party consultant; or

(ii) the most recent edition of a nationally recognized benefits survey.

Section 2. Section 63C-29-101 is enacted to read:

CHAPTER 29. STATE EMPLOYEE BENEFITS ADVISORY COMMISSION

63C-29-101 (Codified as 63C-31-101). Definitions.

As used in this chapter:

(1) "Annual compensation plan" means the annual compensation plan described in Section 63A-17-307.

(2) "Benefits advisory commission" means the State Employee Benefit Advisory Commission created in Section 63C-29-102.

(3) "Total compensation" means the same as that term is defined in Section 63A-17-102.

Section 3. Section 63C-29-102 is enacted to read:

63C-29-102 (Codified as 63C-31-102). Creation of State Employee Benefits Advisory Commission -- Membership.

(1) There is created the State Employee Benefits Advisory Commission consisting of the following members:

(a) one member of the Senate, appointed by the president of the Senate;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the director of the Division of Human Resource Management, created in Section 63A-17-105, or the director's designee;

(d) the executive director of the Governor's Office of Planning and Budget, created in Section 63J-4-201, or the executive director's designee;

(e) the following four individuals who are not employed by the state or another public entity and are appointed jointly by the president of the Senate and speaker of the House of Representatives:

(i) an individual who has experience in health insurance benefits in the private sector;

(ii) an individual who has experience in business and employee benefits in the private sector; and

(iii) a representative of an organization that represents the interests of state employees; and

(f) a representative of the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, appointed by the executive director of the Utah State Retirement Office.

(2) (a) The member of the Senate appointed under Subsection (1)(a) is a cochair of the benefits advisory commission.

(b) The member of the House of Representatives appointed under Subsection (1)(b) is a cochair of the benefits advisory commission.

(3) (a) Each position described in Subsection (1)(e) is for a term of four years.

(b) A vacancy in a position appointed under Subsection (1)(a), (b), (e), or (f) shall be filled by appointing a replacement member in the same manner as the member creating the vacancy was appointed under Subsection (1)(a), (b), (e), or (f), respectively.

(c) If a position described in Subsection (1)(e) is vacant, the president of the Senate and speaker of the House of Representatives shall jointly appoint the replacement member for the remainder of the unexpired term.

(4) (a) A majority of members constitute a quorum.

(b) The action of a majority of a quorum constitutes the action of the benefits advisory commission.

(5) The benefits advisory commission shall meet as necessary to effectively conduct the commission's business and duties as prescribed by statute, but not less than twice a year.

(6) The Division of Human Resource Management shall provide staff support to facilitate the function of the benefits advisory commission and record the benefits advisory commission's action and recommendations.

(7) (a) The salary and expenses of a benefits advisory commission member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) A benefits advisory commission member who is not a legislator may not receive compensation or benefits for the member's service on the benefits advisory commission, but may receive per diem and reimbursement for travel expenses incurred as a benefits advisory commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(8) The benefits advisory commission shall comply with the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

Section 4. Section 63C-29-103 is enacted to read:

63C-29-103 (Codified as 63C-31-103). Duties of benefits advisory commission.

(1) The benefits advisory commission shall:

(a) review the annual compensation plan;

(b) review proposed legislation submitted to the benefits advisory commission that amends the health care, leave, or salary benefits for state employees while considering total compensation; and

(c) provide recommendations, if any, for the annual compensation plan or legislation described in Subsection (1)(b) that would make total compensation competitive with private sector employees.

(2) (a) No later than November 1 of each year, the benefits advisory commission shall submit a written report on the benefits advisory commission's activities and recommendations, if any, for the annual compensation plan and legislation described in Subsection (1)(b) to the Executive Appropriations Committee and the Retirement and Independent Entities Interim Committee.

(b) The report submitted under Subsection (2)(a) shall comply with Section 68-3-14.

Section 5. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Title 63C, Chapter 29, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

[~~(13)~~] (14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(14)~~] (15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(15)~~] (16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(16)~~] (17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(17)~~] (18) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

[~~(18)~~] (19) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.~~]

(20) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

(26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

(30) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

(31) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

(32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 6. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 490
S. B. 30
Passed February 1, 2023
Approved March 23, 2023
Effective May 3, 2023

ROAD USAGE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill clarifies language related to the Road Usage Charge Program Special Revenue Fund.

Highlighted Provisions:

This bill:

- clarifies that the Road Usage Charge Program Special Revenue Fund is an expendable special revenue fund; and
- removes language requiring appropriation by the Legislature in order for the Department of Transportation to administer the Road Usage Charge Program Special Revenue Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-1-213.2, as last amended by Laws of Utah 2022, Chapter 259

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-1-213.2 is amended to read:

72-1-213.2. Road Usage Charge Program Special Revenue Fund -- Revenue.

(1) There is created [~~a~~] an expendable special revenue fund within the Transportation Fund known as the "Road Usage Charge Program Special Revenue Fund."

(2) (a) The fund shall be funded from the following sources:

(i) revenue collected by the department under Section 72-1-213.1;

(ii) appropriations made to the fund by the Legislature;

(iii) contributions from other public and private sources for deposit into the fund;

(iv) interest earnings on cash balances; and

(v) money collected for repayments and interest on fund money.

(b) If the revenue derived from the sources described in Subsection (2)(a) is insufficient to cover the costs of administering the road usage charge program, subject to Subsection 72-2-107(1), the department may transfer into the fund revenue deposited into the Transportation Fund from the fee described in Subsections 41-1a-1206(1)(h) and (2)(b) in an amount sufficient to enable the department to administer the road usage charge program.

(3) (a) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Road Usage Charge Program Special Revenue Fund.

(b) Revenue in the Road Usage Charge Program Special Revenue Fund is nonlapsing.

(4) [~~Upon appropriation by the Legislature, the~~] The department may use revenue deposited into the Road Usage Charge Program Special Revenue Fund:

(a) to cover the costs of administering the program; and

(b) for state transportation purposes.

CHAPTER 491
S. B. 73
Passed February 2, 2023
Approved March 23, 2023
Effective May 3, 2023

GRATUITY AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill addresses sharing of employee tips and gratuities.

Highlighted Provisions:

This bill:

- allows an employee who is not customarily tipped to participate in a tip sharing arrangement under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34-40-104, as last amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-40-104 is amended to read:

34-40-104. Exemptions.

(1) The minimum wage established in this chapter does not apply to:

(a) [~~any~~] an employee who is entitled to a minimum wage as provided in the Fair Labor Standards Act of 1938, 29 U.S.C. Sec. 201 et seq.[~~, the Fair Labor Standards Act of 1938, as amended~~];

(b) an outside sales [~~persons~~] person;

(c) an employee who is a member of the employer's immediate family;

(d) companionship service for [~~persons~~] an individual who, because of age or infirmity, [~~are~~] is unable to care for [~~themselves~~] the individual's self;

(e) casual and domestic employees as defined by the commission;

(f) a seasonal [~~employees~~] employee of a nonprofit camping [~~programs~~] program, religious or recreation [~~programs, and~~] program, or nonprofit educational [~~and~~] or charitable [~~organizations~~] organization registered under Title 13, Chapter 22, Charitable Solicitations Act;

(g) an individual employed by the United States of America;

(h) [~~any~~] a prisoner employed through the penal system;

(i) [~~any~~] an employee employed in agriculture if the employee:

(i) is principally engaged in the range production of livestock;

(ii) is employed as a harvest laborer and is paid on a piece rate basis in an operation that has been and is generally recognized by custom as having been paid on a piece rate basis in the region of employment;

(iii) was employed in agriculture less than 13 weeks during the preceding calendar year; or

(iv) is a retired or semiretired [~~person~~] individual performing part-time or incidental work as a condition of the employee's residence on a farm or ranch;

(j) a registered [~~apprentices or students~~] apprentice or student employed by the educational institution in which [~~they are~~] the apprentice or student is enrolled; or

(k) [~~any~~] a seasonal amusement establishment with permanent structures and facilities if the other direct monetary compensation from tips, incentives, commissions, end-of-season bonus, or other forms of pay is sufficient to cause the average hourly rate of total compensation for the season of seasonal hourly employees who continue to work to the end of the operating season to equal the applicable minimum wage if [~~the seasonal amusement establishment~~]:

(i) the seasonal amusement establishment does not operate for more than seven months in any calendar year; or

(ii) during the preceding calendar year [~~its~~] the seasonal amusement establishment's average receipts for any six months of that year were not more than 33-1/3% of [~~its~~] the seasonal amusement establishment's average receipts for the other six months of that year.

(2) (a) [~~Persons~~] An individual with a disability whose earnings or productive capacities are impaired by age, physical or mental [~~deficiencies~~] deficiency, or injury may be employed at wages that are lower than the minimum wage, provided the wage is related to the [~~employee's~~] individual's productivity.

(b) The commission may establish and regulate the wages paid or wage scales for [~~persons~~] an individual with a disability.

(3) The commission may establish or [~~may~~] set a lesser minimum wage for learners not to exceed the first 160 hours of employment.

(4) (a) An employer of a tipped employee shall pay the tipped employee at least the minimum wage established by this chapter.

(b) In computing a tipped employee's wage under this Subsection (4), an employer of a tipped employee:

(i) shall pay the tipped employee at least the cash wage obligation as an hourly wage; and

(ii) may compute the remainder of the tipped employee's wage using the tips or gratuities the tipped employee actually receives.

(c) [~~An~~] A tipped employee shall retain all tips and gratuities except to the extent that the employee participates in a bona fide tip pooling or sharing arrangement with other tipped employees.

(d) An employer may allow an employee who is not a tipped employee to participate in a bona fide tip pooling or sharing arrangement with another employee who is not a tipped employee in accordance with the Fair Labor Standards Act of 1938, 29 U.S.C. Sec. 201 et seq., and 29 C.F.R. Sec. 531.50 through 531.60.

[~~(d)~~] (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule establish the cash wage obligation in conjunction with [~~its~~] the commission's review of the minimum wage under Section 34-40-103.

CHAPTER 492
S. B. 75
Passed February 16, 2023
Approved March 23, 2023
Effective May 3, 2023

SAND AND GRAVEL SALES TAX AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill modifies provisions related to local sales and use tax.

Highlighted Provisions:

This bill:

- distributes the local sales and use tax revenue from sales made by ready-mix concrete manufacturers to each county, city, and town with a sand and gravel extraction site within its boundaries;
- specifies a formula by which the State Tax Commission apportions the revenue;
- requires the county, city, or town to use the revenue for class B and class C roads;
- provides direction related to sourcing in-state sales made by certain establishments; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17C-1-409, as last amended by Laws of Utah 2022, Chapter 307
17C-1-411, as last amended by Laws of Utah 2018, Chapter 312
17C-1-412, as last amended by Laws of Utah 2022, Chapter 21
59-1-404, as last amended by Laws of Utah 2021, Chapter 367
59-12-205, as last amended by Laws of Utah 2022, Chapters 59, 82 and 403
59-12-212, as last amended by Laws of Utah 2009, Chapter 27

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17C-1-409 is amended to read:

17C-1-409. Allowable uses of agency funds.

(1) (a) An agency may use agency funds:

(i) for any purpose authorized under this title;

(ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;

(iii) subject to Section 11-41-103, to pay for, including financing or refinancing, all or part of:

(A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;

(B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;

(C) an incentive or other consideration paid to a participant under a participation agreement;

(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area;

(v) subject to Subsection (5), to transfer funds to a community that created the agency; or

(vi) subject to Subsection (1)(f), for agency-wide project development under Part 10, Agency Taxing Authority.

(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.

(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:

(A) the board approves; and

(B) the community legislative body approves.

(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.

(iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

(e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(f) Before an agency may use project area funds for agency-wide project development, as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity committee or each taxing entity party to an interlocal agreement with the agency.

(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Retail Facility Incentive Payments Act.

(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.

(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.

(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.

(4) Notwithstanding any other provision of this title, an agency may not use project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001, to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection [~~59-12-205(5)~~] 59-12-205(4).

Section 2. Section 17C-1-411 is amended to read:

17C-1-411. Use of project area funds for housing-related improvements and for relocating mobile home park residents -- Funds to be held in separate accounts.

(1) An agency may use project area funds:

(a) to pay all or part of the value of the land for and the cost of installation, construction, or rehabilitation of any housing-related building, facility, structure, or other housing improvement, including infrastructure improvements related to housing, located in any project area within the agency's boundaries;

(b) outside of a project area for the purpose of:

(i) replacing housing units lost by project area development; or

(ii) increasing, improving, or preserving the affordable housing supply within the boundary of the agency;

(c) for relocating mobile home park residents displaced by project area development, whether inside or outside a project area; or

(d) subject to Subsection (4), to transfer funds to a community that created the agency.

(2) (a) Each agency shall create a housing fund and separately account for project area funds allocated under this section.

(b) Interest earned by the housing fund described in Subsection (2)(a), and any payments or repayments made to the agency for loans, advances, or grants of any kind from the housing fund, shall accrue to the housing fund.

(c) An agency that designates a housing fund under this section shall use the housing fund for the purposes set forth in this section or Section 17C-1-412.

(3) An agency may lend, grant, or contribute funds from the housing fund to a person, public entity, housing authority, private entity or business, or nonprofit corporation for affordable housing or homeless assistance.

(4) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(d), 17C-1-409(1)(a)(v), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection [~~59-12-205(5)~~] 59-12-205(4).

Section 3. Section 17C-1-412 is amended to read:

17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

(1) (a) An agency shall use the agency's housing allocation to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where a board has determined that a development impediment exists;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(ix) relocate mobile home park residents displaced by project area development;

(x) subject to Subsection (7), transfer funds to a community that created the agency; or

(xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:

(A) is located in the same county as the agency;

(B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit college or university; and

(C) only students of the relevant college or university, including the students' immediate families, occupy.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county;

(iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community;

(v) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if the housing is located along or near a major transit investment corridor that services the community and the related project has been approved by the community in which the housing is or will be located; or

(vi) pay for or make a contribution toward the expansion of child care facilities within the boundary of the agency, provided that any recipient of funds from the agency's housing allocation reports annually to the agency on how the funds were used.

(2) (a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) An agency that has entered into an interlocal agreement as described in Subsection (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation meets the requirements for at least one agency that is a party to the interlocal agreement.

(3) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

(4) An agency may:

(a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (4)(a) previously issued by the agency.

(5) (a) Except as provided in Subsection (5)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

(b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.

(6) (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

(b) In an action under Subsection (6)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

(7) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Subsection [~~59-12-205(5)~~] 59-12-205(4).

Section 4. Section 59-1-404 is amended to read:

59-1-404. Definitions -- Confidentiality of commercial information obtained from a property taxpayer or derived from the commercial information -- Rulemaking authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of signed explanation by employer -- Penalty.

(1) As used in this section:

(a) "Appraiser" means an individual who holds an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act and includes an individual associated with an appraiser who assists the appraiser in preparing an appraisal.

(b) "Appraisal" is as defined in Section 61-2g-102.

(c) (i) "Commercial information" means:

(A) information of a commercial nature obtained from a property taxpayer regarding the property taxpayer's property; or

(B) information derived from the information described in this Subsection (1)(c)(i).

(ii) (A) "Commercial information" does not include information regarding a property taxpayer's property if the information is intended for public use.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(c)(ii)(A), the commission may by rule prescribe the circumstances under which information is intended for public use.

(d) "Consultation service" is as defined in Section 61-2g-102.

(e) "Locally assessed property" means property that is assessed by a county assessor in accordance with Chapter 2, Part 3, County Assessment.

(f) "Property taxpayer" means a person that:

(i) is a property owner; or

(ii) has in effect a contract with a property owner to:

(A) make filings on behalf of the property owner;

(B) process appeals on behalf of the property owner; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.

(g) "Property taxpayer's property" means property with respect to which a property taxpayer:

(i) owns the property;

(ii) makes filings relating to the property;

(iii) processes appeals relating to the property; or

(iv) pays a tax under Chapter 2, Property Tax Act, on the property.

(h) "Protected commercial information" means commercial information that:

(i) identifies a specific property taxpayer; or

(ii) would reasonably lead to the identity of a specific property taxpayer.

(2) An individual listed under Subsection 59-1-403(2)(a) may not disclose commercial information:

(a) obtained in the course of performing any duty that the individual listed under Subsection 59-1-403(2)(a) performs under Chapter 2, Property Tax Act; or

(b) relating to an action or proceeding:

(i) with respect to a tax imposed on property in accordance with Chapter 2, Property Tax Act; and

(ii) that is filed in accordance with:

(A) this chapter;

(B) Chapter 2, Property Tax Act; or

(C) this chapter and Chapter 2, Property Tax Act.

(3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403(2)(a) may disclose the following information:

(i) the assessed value of property;

(ii) the tax rate imposed on property;

(iii) a legal description of property;

(iv) the physical description or characteristics of property, including a street address or parcel number for the property;

(v) the square footage or acreage of property;

(vi) the square footage of improvements on property;

(vii) the name of a property taxpayer;

(viii) the mailing address of a property taxpayer;

(ix) the amount of a property tax:

(A) assessed on property;

(B) due on property;

(C) collected on property;

(D) abated on property; or

(E) deferred on property;

(x) the amount of the following relating to property taxes due on property:

(A) interest;

(B) costs; or

(C) other charges;

(xi) the tax status of property, including:

(A) an exemption;

(B) a property classification;

(C) a bankruptcy filing; or

(D) whether the property is the subject of an action or proceeding under this title;

(xii) information relating to a tax sale of property; or

(xiii) information relating to single-family residential property.

(b) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403(2)(a) shall disclose, upon request, the information described in Subsection 59-2-1007(9).

(c) (i) Subject to Subsection (3)(c)(ii), a person may receive the information described in Subsection (3)(a) or (b) in written format.

(ii) The following may charge a reasonable fee to cover the actual cost of providing the information described in Subsection (3)(a) or (b) in written format:

(A) the commission;

(B) a county;

(C) a city; or

(D) a town.

(4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an individual listed under Subsection 59-1-403(2)(a) shall disclose commercial information:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding:

(A) under this title;

(B) under another law under which a property taxpayer is required to disclose commercial information; or

(C) to which the commission is a party;

(iii) on behalf of any party to any action or proceeding under this title if the commercial information is directly involved in the action or proceeding; or

(iv) if the requirements of Subsection (4)(b) are met, that is:

(A) relevant to an action or proceeding:

(I) filed in accordance with this title; and

(II) involving property; or

(B) in preparation for an action or proceeding involving property.

(b) Commercial information shall be disclosed in accordance with Subsection (4)(a)(iv):

(i) if the commercial information is obtained from:

(A) a real estate agent if the real estate agent is not a property taxpayer of the property that is the subject of the action or proceeding;

(B) an appraiser if the appraiser:

(I) is not a property taxpayer of the property that is the subject of the action or proceeding; and

(II) did not receive the commercial information pursuant to Subsection (8);

(C) a property manager if the property manager is not a property taxpayer of the property that is the subject of the action or proceeding; or

(D) a property taxpayer other than a property taxpayer of the property that is the subject of the action or proceeding;

(ii) regardless of whether the commercial information is disclosed in more than one action or proceeding; and

(iii) (A) if a county board of equalization conducts the action or proceeding, the county board of equalization takes action to provide that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section;

(B) if the commission conducts the action or proceeding, the commission enters a protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, makes rules specifying that any commercial information disclosed during the action or proceeding may not

be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section; or

(C) if a court of competent jurisdiction conducts the action or proceeding, the court enters a protective order specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section.

(c) Notwithstanding Subsection (4)(a), a court may require the production of, and may admit in evidence, commercial information that is specifically pertinent to the action or proceeding.

(5) Notwithstanding Subsection (2), this section does not prohibit:

(a) the following from receiving a copy of any commercial information relating to the basis for assessing a tax that is charged to a property taxpayer:

(i) the property taxpayer;

(ii) a duly authorized representative of the property taxpayer;

(iii) a person that has in effect a contract with the property taxpayer to:

(A) make filings on behalf of the property taxpayer;

(B) process appeals on behalf of the property taxpayer; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;

(iv) a property taxpayer that purchases property from another property taxpayer; or

(v) a person that the property taxpayer designates in writing as being authorized to receive the commercial information;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of a particular property taxpayer's commercial information; [~~or~~]

(c) the inspection by the attorney general or other legal representative of the state or a legal representative of a political subdivision of the state of the commercial information of a property taxpayer:

(i) that brings action to set aside or review a tax or property valuation based on the commercial information;

(ii) against which an action or proceeding is contemplated or has been instituted under this title; or

(iii) against which the state or a political subdivision of the state has an unsatisfied money judgment[~~.~~]; or

(d) the commission from disclosing commercial information to the extent necessary to comply with the requirements of Subsection 59-12-205(5).

(6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish standards authorizing an individual listed under Subsection 59-1-403(2)(a) to disclose commercial information:

(a) (i) in a published decision; or

(ii) in carrying out official duties; and

(b) if that individual listed under Subsection 59-1-403(2)(a) consults with the property taxpayer that provided the commercial information.

(7) Notwithstanding Subsection (2):

(a) an individual listed under Subsection 59-1-403(2)(a) may share commercial information with the following:

(i) another individual listed in Subsection 59-1-403(2)(a)(i) or (ii); or

(ii) a representative, agent, clerk, or other officer or employee of a county as required to fulfill an obligation created by Chapter 2, Property Tax Act;

(b) an individual listed under Subsection 59-1-403(2)(a) may perform the following to fulfill an obligation created by Chapter 2, Property Tax Act:

(i) publish notice;

(ii) provide notice; or

(iii) file a lien; or

(c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share commercial information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, if these political subdivisions or the federal government grant substantially similar privileges to this state.

(8) Notwithstanding Subsection (2):

(a) subject to the limitations in this section, an individual described in Subsection 59-1-403(2)(a) may share the following commercial information with an appraiser:

(i) the sales price of locally assessed property and the related financing terms;

(ii) capitalization rates and related rates and ratios related to the valuation of locally assessed property; and

(iii) income and expense information related to the valuation of locally assessed property; and

(b) except as provided in Subsection (4), an appraiser who receives commercial information:

(i) may disclose the commercial information:

(A) to an individual described in Subsection 59-1-403(2)(a);

(B) to an appraiser;

(C) in an appraisal if protected commercial information is removed to protect its confidential nature; or

(D) in performing a consultation service if protected commercial information is not disclosed; and

(ii) may not use the commercial information:

(A) for a purpose other than to prepare an appraisal or perform a consultation service; or

(B) for a purpose intended to be, or which could reasonably be foreseen to be, anti-competitive to a property taxpayer.

(9) (a) The commission shall:

(i) prepare a written explanation of this section; and

(ii) make the written explanation described in Subsection (9)(a)(i) available to the public.

(b) An employer of a person described in Subsection 59-1-403(2)(a) shall:

(i) provide the written explanation described in Subsection (9)(a)(i) to each person described in Subsection 59-1-403(2)(a) who is reasonably likely to receive commercial information;

(ii) require each person who receives a written explanation in accordance with Subsection (9)(b)(i) to:

(A) read the written explanation; and

(B) sign the written explanation; and

(iii) retain each written explanation that is signed in accordance with Subsection (9)(b)(ii) for a time period:

(A) beginning on the day on which a person signs the written explanation in accordance with Subsection (9)(b)(ii); and

(B) ending six years after the day on which the employment of the person described in Subsection (9)(b)(iii)(A) by the employer terminates.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define "employer."

(10) (a) An individual described in Subsection (1)(a) or 59-1-403(2)(a), or an individual that violates a protective order or similar limitation entered pursuant to Subsection (4)(b)(iii), is guilty of a class A misdemeanor if that person:

(i) intentionally discloses commercial information in violation of this section; and

(ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this section.

(b) If the individual described in Subsection (10)(a) is an officer or employee of the state or a county and is convicted of violating this section, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall forfeit any certification or license received under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

(d) If the individual described in Subsection (10)(a) is an individual associated with an appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited from becoming licensed or certified under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

Section 5. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) (a) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

(i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(ii) (A) except as provided in Subsections (2)(a)(ii)(B), (C), and (D), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(B) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201;

(C) beginning July 1, 2022, 50% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201; and

(D) 50% of each dollar collected from the sales and use tax authorized by this part within the lake

authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

[~~(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:~~]

[~~(i) the county, city, or town is a:~~]

[~~(A) county of the third, fourth, fifth, or sixth class;~~]

[~~(B) city of the fifth class; or~~]

[~~(C) town;~~]

[~~(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;~~]

[~~(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or~~]

[~~(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and~~]

[~~(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or~~]

[~~(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.~~]

[~~(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):~~]

[~~(i) from the distribution required by Subsection (2)(a); and~~]

[~~(ii) before making any other distribution required by this section.~~]

[~~(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by $333,583.~~]

[~~(ii) For purposes of Subsection (3)(c)(i):~~]

[~~(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and~~]

[~~(B) the denominator of the fraction is $333,583.~~]

[~~(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.~~]

[~~(4)~~] (3) (a) As used in this Subsection [~~(4)~~] (3):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection [~~(4)(b)~~] (3)(b) equal to the amount described in Subsection [~~(4)(b)(ii)~~] (3)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

[~~(5)~~] (4) (a) For purposes of this Subsection [~~(5)~~] (4):

(i) "Annual local contribution" means the lesser of $200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection [~~(5)(b)(i)~~] (4)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3) [~~or (4)~~], the commission shall apply the provisions of this Subsection [~~(5)~~] (4) after the commission applies the provisions of [~~Subsections (3) and (4)~~] Subsection (3).

(5) (a) As used in this Subsection (5):

(i) "Annual dedicated sand and gravel sales tax revenue" means an amount equal to the total revenue an establishment described in NAICS Code 327320, Ready-Mix Concrete Manufacturing, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, collects and remits under this part for a calendar year.

(ii) "Sand and gravel" means sand, gravel, or a combination of sand and gravel.

(iii) "Sand and gravel extraction site" means a pit, quarry, or deposit that:

(A) contains sand and gravel; and

(B) is assessed by the commission in accordance with Section 59-2-201.

(iv) "Ton" means a short ton of 2,000 pounds.

(v) "Tonnage ratio" means the ratio of:

(A) the total amount of sand and gravel, measured in tons, sold during a calendar year from all sand and gravel extraction sites located within a county, city, or town; to

(B) the total amount of sand and gravel, measured in tons, sold during the same calendar year from sand and gravel extraction sites statewide.

(b) For purposes of calculating the ratio described in Subsection (5)(a)(v), the commission shall:

(i) use the gross sales data provided to the commission as part of the commission's property tax valuation process; and

(ii) if a sand and gravel extraction site operates as a unit across municipal or county lines, apportion the reported tonnage among the counties, cities, or towns based on the percentage of the sand and gravel extraction site located in each county, city, or town, as approximated by the commission.

(c) (i) Beginning July 2023, and each July thereafter, the commission shall distribute from total collections under this part an amount equal to the annual dedicated sand and gravel sales tax revenue for the preceding calendar year to each county, city, or town in the same proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.

(ii) The commission shall ensure that the revenue distributed under this Subsection (5)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of total collections for the preceding 12-month period.

(d) A county, city, or town shall use revenue described in Subsection (5)(c) for class B or class C roads.

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 6. Section 59-12-212 is amended to read:

59-12-212. Location of certain transactions if receipt of order and receipt of tangible personal property or product take place in this state -- Location of sale, lease, or rental of a service -- Exception from tax, penalty, or interest.

(1) The location of the sale of tangible personal property or a product transferred electronically is the location where the seller receives the order if:

(a) the seller receives the order for the tangible personal property or product transferred electronically in this state;

(b) receipt of the tangible personal property or product transferred electronically by the purchaser or the purchaser's donee occurs in this state;

(c) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3) through (6); and

(d) at the time the seller receives the order, the record keeping system that the seller uses to calculate the proper amount of tax imposed under this chapter captures the location where the order is received.

(2) (a) Subject to Subsections (2)(b) through (d), for purposes of this section, the location where a seller receives an order is:

(i) a physical location of the seller or a third party; and

(ii) where an order is initially received by or on behalf of the seller.

(b) A physical location of a seller or third party includes the following if operated by or on behalf of the seller:

(i) an automated order receipt system;

(ii) an office; or

(iii) an outlet.

(c) The location where a seller receives an order does not include the location:

(i) where an order is accepted, completed, or fulfilled; or

(ii) from which tangible personal property or a product transferred electronically is shipped.

(d) (i) For purposes of this Subsection (2), an order is considered to be received when all of the information necessary to the determination of whether the order can be accepted has been received by or on behalf of the seller.

(ii) If the seller is an establishment within any of the following classifications, as described in the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, the seller or the seller's agent has not received all the information described in Subsection (2)(d)(i) until the purchaser communicates to the fulfillment location that the purchaser is prepared to receive the order:

(A) NAICS Industry Group 2123, Nonmetallic Mineral Mining and Quarrying;

(B) NAICS Code 327320, Ready-Mix Concrete Manufacturing; or

(C) NAICS Code 324121, Asphalt Paving Mixture and Block Manufacturing.

(3) (a) A purchaser is not liable for a tax, penalty, or interest on a sale for which the purchaser remits a tax under this chapter to the seller in the amount the seller invoices if the amount is calculated at the total tax rate applicable to the location where:

(i) receipt by the purchaser occurs; or

(ii) the seller receives the order.

(b) A purchaser may rely on a written representation by the seller as to the location where the seller receives the order for the sale.

(c) If a purchaser does not have a written representation by the seller as to the location where the seller receives the order for the sale, the purchaser may determine the total tax rate applicable to the location where the order is received by using a location indicated by a business address for the seller that is available from the business records:

(i) of the purchaser; and

(ii) that are maintained in the ordinary course of the purchaser's business.

(4) If an item of tangible personal property or an item that is a product transferred electronically is sold with an item that is subject to Section 59-12-211, all of the items are subject to this section if the items are:

(a) sold under a single contract;

(b) sold in the same transaction; and

(c) billed on the same billing statement.

(5) Notwithstanding Section 59-12-211, a seller may elect to determine the location of a sale, lease, or rental of a service under this section if the seller makes any sale, lease, or rental that is subject to this section.

(6) Except as provided in Subsection (5), this section does not apply to the lease or rental of:

(a) tangible personal property; or

(b) a product transferred electronically.

CHAPTER 493
S. B. 93
Passed March 2, 2023
Approved March 23, 2023
Effective March 23, 2023

BIRTH CERTIFICATE MODIFICATIONS

Chief Sponsor: Daniel McCay
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill enacts provisions regarding amending birth certificates.

Highlighted Provisions:

This bill:

- modifies the rulemaking authority of the Department of Health and Human Services (department) regarding when an error or omission to a vital record may be corrected;
- allows the department to amend a birth certificate without a court order under certain circumstances;
- creates the procedure a court must follow to grant a petition to amend the sex designation of a birth certificate;
- requires the court to appoint a guardian ad litem before granting a petition to amend the sex designation of a birth certificate;
- requires the department to issue an amended birth certificate that does not identify the fields that were amended; and
- requires the department to issue an amendment history with a birth certificate.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

26-2-2, as last amended by Laws of Utah 2022, Chapter 415
26-2-7, as last amended by Laws of Utah 2022, Chapter 231

REPEALS AND REENACTS:

26-2-11, as last amended by Laws of Utah 1995, Chapter 202

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-2-2 is amended to read:

26-2-2. Definitions.

As used in this chapter:

(1) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(2) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by sex and reproductive organ anatomy, chromosomal makeup, and endogenous hormone profiles.

[~~(2)~~] (3) "Certified nurse midwife" means an individual who:

(a) is licensed to practice as a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3)~~] (4) "Custodial funeral service director" means a funeral service director who:

(a) is employed by a licensed funeral establishment; and

(b) has custody of a dead body.

[~~(4)~~] (5) "Dead body" or "decedent" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death occurred.

[~~(5)~~] (6) "Dead fetus" means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):

(a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and

(b) that was not born alive.

[~~(6)~~] (7) "Declarant father" means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child's paternity.

[~~(7)~~] (8) "Dispositioner" means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or

(b) the next of kin of the decedent, if:

(i) (A) a person has not been designated as described in Subsection [~~(7)~~] (8)(a); or

(B) the person described in Subsection [~~(7)~~] (8)(a) is unable or unwilling to exercise the right and duty described in Subsection [~~(7)~~] (8)(a); and

(ii) the next of kin voluntarily acts as the dispositioner.

[~~(8)~~] (9) "Fetal remains" means:

(a) an aborted fetus as that term is defined in Section 26-21-33; or

(b) a miscarried fetus as that term is defined in Section 26-21-34.

[~~(9)~~] (10) "File" means the submission of a completed certificate or other similar document, record, or report as provided under this chapter for

registration by the state registrar or a local registrar.

[~~(10)~~] (11) "Funeral service director" means the same as that term is defined in Section 58-9-102.

[~~(11)~~] (12) "Health care facility" means the same as that term is defined in Section 26-21-2.

[~~(12)~~] (13) "Health care professional" means a physician, physician assistant, nurse practitioner, or certified nurse midwife.

(14) "Intersex individual" means an individual who:

(a) is born with external biological sex characteristics that are irresolvably ambiguous;

(b) is born with 46, XX chromosomes with virilization;

(c) is born with 46, XY chromosomes with undervirilization;

(d) has both ovarian and testicular tissue; or

(e) has been diagnosed by a physician, based on genetic or biochemical testing, with abnormal:

(i) sex chromosome structure;

(ii) sex steroid hormone production; or

(iii) sex steroid hormone action for a male or female.

[~~(13)~~] (15) "Licensed funeral establishment" means:

(a) if located in Utah, a funeral service establishment, as that term is defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or

(b) if located in a state, district, or territory of the United States other than Utah, a funeral service establishment that complies with the licensing laws of the jurisdiction where the establishment is located.

[~~(14)~~] (16) "Live birth" means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

[~~(15)~~] (17) "Local registrar" means a person appointed under Subsection 26-2-3(3)(b).

[~~(16)~~] (18) "Nurse practitioner" means an individual who:

(a) is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(17)~~] (19) "Office" means the Office of Vital Records and Statistics within the Department of Health, operating under Title 26, Chapter 2, Utah Vital Statistics Act.

[~~(18)~~] (20) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(19)~~] (21) "Physician assistant" means an individual who:

(a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(20)~~] (22) "Presumed father" means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.

[~~(21)~~] (23) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

[~~(22)~~] (24) "State registrar" means the state registrar of vital records appointed under Subsection 26-2-3(2)(e).

[~~(23)~~] (25) "Vital records" means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

(b) amendments to any of the registered certificates or reports described in Subsection [~~(23)~~] (25)(a);

(c) an adoption document; and

(d) other similar documents.

[~~(24)~~] (26) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

Section 2. Section 26-2-7 is amended to read:

26-2-7. Correction of errors or omissions in vital records -- Conflicting birth and foundling certificates -- Administrative birth certificate amendment -- Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules:

[~~(1)~~] (a) governing applications to correct alleged errors or omissions on any vital record;

[~~(2)~~] (b) establishing procedures to resolve conflicting birth and foundling certificates; [~~and~~]

[~~(3)~~] (c) allowing for the correction and reissuance of a vital record that was originally created omitting a diacritical mark[~~.~~]; and

(d) notwithstanding any other provision of law, allowing for the change of a child's name on the child's birth certificate within one year from the day the child is born.

(2) For a birth certificate, the department may correct an error or omission under Subsection (1)(a) if:

(a) the error or omission is a result of a scrivener's error or a data entry error; and

(b) the department receives:

(i) (A) an affidavit from the applicant attesting that there is an error on the birth certificate;

(B) supporting documentation from the health care facility or attending health care provider; and

(C) an affidavit from the health care facility or health care provider described in Subsection (2)(b)(i)(B) attesting to the accuracy of the supporting documentation; or

(ii) documentation deemed sufficient by the state registrar to establish the facts of the error or omission.

(3) The department may amend a birth certificate's sex designation for an intersex individual at the request of the individual or the guardian of the individual if:

(a) the sex designation indicating the biological sex at birth of the individual was misidentified on the original certificate due to the individual's condition; and

(b) the department receives:

(i) a correction affidavit attesting the individual is intersex;

(ii) chromosomal, molecular, karyotypic, DNA, or genetic testing results that confirm the individual is intersex; and

(iii) an affidavit from the health care facility, health care professional, or laboratory testing facility that conducted the test or analyzed the test results, attesting to the test results and accuracy.

Section 3. Section 26-2-11 is repealed and reenacted to read:

26-2-11. Birth certificate name or sex designation change -- Registration of court order and amendment of birth certificate.

(1) An individual may obtain a court order in accordance with Title 42, Names, to change the name on the individual's birth certificate.

(2) (a) A court may grant a petition ordering a sex designation change on a birth certificate if the court determines by clear and convincing evidence that the individual seeking the sex designation change:

(i) is not involved in any kind of lawsuit;

(ii) is not on probation or parole;

(iii) is not seeking the amendment:

(A) to commit a crime;

(B) to interfere with the rights of others;

(C) to avoid creditors;

(D) to influence the sentence, fine, or conditions of imprisonment in a criminal case;

(E) to commit fraud on the public; or

(F) for any other fraudulent purpose;

(iv) has transitioned from the sex designation of the biological sex at birth to the sex sought in the petition;

(v) has outwardly expressed as the sex sought in the petition in a consistent and uniform manner for at least six months; and

(vi) suffers from clinically significant distress or impairment due to the current sex designation on the birth certificate.

(b) The court shall consider the following when making the determination described in Subsection (2)(a)(iv):

(i) evidence of medical history, care, or treatment related to sex transitioning; and

(ii) evidence that the sex sought in the petition is sincerely held and part of the individual's core identity.

(3) (a) (i) When determining whether to grant a sex designation change for a child who is at least 15 years and six months old, unless the child is emancipated, the court shall appoint, notwithstanding Subsection 78A-2-703(1), a guardian ad litem for the child.

(ii) Notwithstanding Subsection 78A-2-703(7), the child's parent or guardian is responsible for the costs of the guardian ad litem's services unless the court determines the parent or guardian is indigent in accordance with Section 78A-2-302.

(b) The guardian ad litem shall provide the court relevant evidence, whether submitted by the child or other sources of evidence, regarding the following:

(i) whether the child is capable of making decisions with long-term consequences independently of the child's parent or guardian;

(ii) whether the child is mature and capable of appreciating the implications of the decision to change the sex designation on the child's birth certificate; and

(iii) whether the child meets the other requirements of this section.

(c) The guardian of a child described in Subsection (3)(a) shall:

(i) give notice of the proceeding to any known parent of the child; and

(ii) provide the court with a declaration of the status of any divorce or custody matter pertaining to the child, including the case name, case number, court, judge, and current status of the case.

(d) The court shall:

(i) consider any objection given by a parent;

(ii) close the hearing on a petition for a sex designation change;

(iii) receive all evidence; and

(iv) make a determination as to whether:

(A) all of the requirements of Subsection (2) have been met; and

(B) the evidence supports a finding by clear and convincing evidence that the sex designation change is in the best interest of the child and would not create a risk of harm to the minor.

(4) (a) A court may not grant a petition for a sex designation change if:

(i) the birth certificate is for a child who is younger than 15 years and six months old; or

(ii) the child's parent or guardian with legal custody has not given permission.

(b) An order granting a sex designation change under this section is not effective until the individual is at least 16 years old.

(5) A petition for a sex designation under this section may be combined with a petition under Title 42, Names.

(6) (a) Upon the receipt of a certified order granting a birth certificate amendment, any required application, and an appropriate fee, the department shall issue:

(i) a birth certificate that does not indicate which fields were amended unless requested by the individual; and

(ii) an amendment history of the birth certificate, including the fields of the birth certificate that have been amended and the date of the amendment.

(b) The department shall retain a record of all amendments to a birth certificate, including any amendment history issued by the department.

(7) The provisions of this section are severable.

(8) This section only applies to birth certificates issued by the state.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 5. Coordinating S.B. 93 with H.B. 209 -- Substantive and technical amendments.

If this S.B. 93 and H.B. 209, Participation in Extracurricular Activities Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by replacing each reference to "birth certificate" in Section 53G-7-1102 with "birth certificate and birth certificate amendment history".

CHAPTER 494
S. B. 125
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

TRANSPORTATION INFRASTRUCTURE AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill designates the ASPIRE Engineering Research Center at Utah State University as the lead research center for strategic planning for electrification of transportation infrastructure and requires certain actions.

Highlighted Provisions:

This bill:

- designates the ASPIRE Engineering Research Center at Utah State University as the lead research center for strategic planning for electrification of transportation infrastructure in this state;
- creates a steering committee and requires the creation of an industry advisory board to assist in the direction of the research center and initiative;
- provides duties of the steering committee, industry advisory board, and the research center;
- requires reports on the proposed action plan and goals of the initiative; and
- provides for a sunset review of the initiative.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Utah State University -- Education and General -- Education and General as an ongoing appropriation:
  - from the Income Tax Fund, $2,100,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2022, Chapters 10, 30, 31, 172, 173, 194, 218, 224, 229, 236, 254, 274, and 414

ENACTS:

53B-18-1801, Utah Code Annotated 1953
53B-18-1802, Utah Code Annotated 1953
53B-18-1803, Utah Code Annotated 1953
53B-18-1804, Utah Code Annotated 1953
53B-18-1805, Utah Code Annotated 1953
53B-18-1806, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-18-1801 is enacted to read:

53B-18-1801. Definitions.

As used in this part:

(1) "Department of Environmental Quality" means the Department of Environmental Quality created in Section 19-1-104.

(2) "Department of Transportation" means the Department of Transportation created in Section 72-1-201.

(3) "Governor's Office of Economic Opportunity" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(4) "Industry advisory board" means the industry advisory board created in accordance with Section 53B-18-1804.

(5) "Initiative" means the strategic planning and development initiative to guide the transition to an electrified and intelligent transportation system in this state.

(6) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(7) "Office of Energy Development" means the Office of Energy Development created in Section 79-6-401.

(8) "Project director" means the project director of the research center appointed under Subsection 53B-18-1802(2)(b).

(9) "Research center" means the ASPIRE Engineering Research Center at Utah State University.

(10) "Steering committee" means the Electrification of Transportation Infrastructure Steering Committee created in Section 53B-18-1803.

Section 2. Section 53B-18-1802 is enacted to read:

53B-18-1802. Research enter -- Designation -- Duties.

(1) The ASPIRE Engineering Research Center at Utah State University is designated as the lead research center to coordinate and lead the initiative described in this part.

(2) The research center shall:

(a) direct and carry out the mission of the initiative;

(b) appoint a project director to oversee the initiative; and

(c) provide administrative and staff support to the steering committee and industry advisory board.

(3) The project director shall:

(a) oversee the operations of the initiative; and

(b) propose to the steering committee the expenditure of funds appropriated by the Legislature to carry out the duties under this part.

Section 3. Section 53B-18-1803 is enacted to read:

53B-18-1803. Steering committee -- Creation -- Duties.

(1) There is created the Electrification of Transportation Infrastructure Steering Committee.

(2) The Electrification of Transportation Infrastructure Steering Committee consists of the following members:

(a) the executive director of the Department of Transportation, or the executive director's designee;

(b) the executive director of the Department of Environmental Quality, or the executive director's designee;

(c) the director of the Office of Energy Development, or the director's designee;

(d) the executive director of a large public transit district, or the executive director's designee;

(e) the executive director of the Governor's Office of Economic Opportunity, or the executive director's designee;

(f) one representative of a major electrical power provider in the state, appointed by the governor; and

(g) the chair of the industry advisory board created in Section 53B-18-180.

(3) The steering committee member representing the Department of Transportation shall serve as the chair of the steering committee.

(4) The steering committee shall:

(a) provide direction to the project director on the nature and priorities of the strategic planning and development initiative;

(b) assist the project director in the development of a strategic action plan and implementation related to the electrification of transportation infrastructure;

(c) approve annual reports on the strategic planning and development initiative as required in Section 53B-18-1806;

(d) consider and approve the budget proposed by the project director for the expenditure of funds for the initiative; and

(e) review expenditures authorized by the project director made before October 1, 2023.

(5) The steering committee shall convene no later than October 1, 2023.

Section 4. Section 53B-18-1804 is enacted to read:

53B-18-1804. Industry advisory board -- Duties.

(1) The research center shall create an industry advisory board with members selected from the following relevant sectors:

(a) electrical power providers;

(b) electric bus manufacturers;

(c) electric vehicle manufacturers;

(d) electric passenger or freight rail manufacturers;

(e) electric aircraft manufacturers;

(f) electric freight truck manufacturers;

(g) high-capacity battery manufacturers;

(h) large fiber-optic or high-speed Internet providers;

(i) transportation infrastructure companies;

(j) charging component, systems, or network providers;

(k) smart or artificial intelligence-integrated infrastructure providers; and

(l) any other sector that the research center determines is substantially necessary to fulfilling the initiative goals.

(2) The industry advisory board members shall designate the chair and other officers of the industry advisory board.

(3) The industry advisory board shall:

(a) assist the project director in operating the strategic planning and development initiative with insights and needs from across the industries;

(b) develop a chapter to be included in each annual report that describes the industry support and perspectives relative to the analysis and recommendations provided in the annual report; and

(c) provide at least one representative to participate in briefings to interim or appropriations committees of the Legislature.

Section 5. Section 53B-18-1805 is enacted to read:

53B-18-1805. Duties of the project director.

(1) The project director and the steering committee shall consult the following parties in developing and carrying out the initiative:

(a) representatives of each sector described in the industry advisory board membership in Subsection 53B-18-1804(1), regardless of whether that sector is actually represented on the industry advisory board;

(b) institutions of higher education, including institutions of technical education, both inside and outside this state;

(c) the chairs of the following committees of the Legislature:

(i) the Infrastructure and General Government Appropriations Subcommittee;

(ii) the Public Utilities, Energy, and Technology Interim Committee; and

(iii) the Transportation Interim Committee; and

(d) any other persons or entities the steering committee determines are relevant or necessary to fulfilling the stated mission.

(2) The project director, in consultation with the steering committee and the industry advisory board, shall lead an outreach and promotional effort to:

(a) build awareness among stakeholders, industry partners, federal agencies, and the state's congressional delegation of the state's efforts to be a national leader in electrifying the state's transportation system; and

(b) attract industry partners and industry and federal investment to the state to design, develop, and deliver systems to promote and implement the initiative.

(3) The project director shall:

(a) oversee the operations of the initiative; and

(b) propose to the steering committee the program budget for the expenditure of funds appropriated by the Legislature to carry out the duties under this part.

(4) (a) The project director may, in accordance with this part, and subject to this Subsection (4), expend funds appropriated by the Legislature.

(b) (i) Before October 1, 2023, the project director may not expend more than 25% of the annual project budget.

(ii) At the first meeting of the steering committee, the project director shall:

(A) provide a detailed account to the steering committee for all expenditures made before October 1, 2023; and

(B) present a budget proposal for the remainder of the fiscal year ending June 30, 2024.

(iii) Before October 1, 2023, the project director may expend funds for the following purposes:

(A) establish necessary and time-sensitive groundwork for development of the vision and strategic objective of the initiative;

(B) acquisition of materials needed for the initiative; and

(C) costs to hire and pay salaries of staff.

(c) Except as described in Subsection (4)(b), the project director:

(i) shall propose an annual budget for the initiative; and

(ii) may not expend funds appropriated to the research center outside of the approved budget without approval of the steering committee.

Section 6. Section 53B-18-1806 is enacted to read:

53B-18-1806. Project development and strategic objectives -- Reporting requirements.

(1) (a) The research center shall develop and define an action plan for the electrification of transportation infrastructure in this state.

(b) The research center shall provide a report of the action plan that includes:

(i) a description of the ideal electrified transportation system and incremental steps to implement the action plan over 10-year, 20-year, and 30-year time horizons, including a description of a transportation system that:

(A) provides intelligent coordination for vehicular traffic and charging individually and collectively into a dynamically communicative transportation system that links to and coordinates with the electric grid;

(B) integrates across and supports all modes of transportation and vehicle classes in complementary ways;

(C) integrates with hydrogen and renewable natural gas generation, storage, grid support, and fuel cell vehicles in complementary ways; and

(D) provides improved air quality, reduced cost to move people and goods, and new jobs and economic growth in the state;

(ii) strategic objectives in each element of the action plan above that are necessary to realize the action plan;

(iii) an initial description of changes needed to realize the action plan in each of the following sectors across the ecosystem:

(A) electrical power generation, distribution, and utility-scale energy storage infrastructure and capacity, including reliability, cost, and availability standards;

(B) interconnected smart charging infrastructure, intelligent transportation systems, control systems, and communications systems to facilitate the transition to electrified transportation;

(C) private surface transportation, including passenger vehicles, freight trucks, and freight trains;

(D) public surface transportation, including passenger vehicles, buses, and trains;

(E) air transportation, including private commercial aircraft and unmanned aircraft systems;

(F) vehicles that operate off-highway, including construction, mining, and agriculture;

(G) charging technology, solutions, and systems, including charging stations and shared use of infrastructure across modes of transportation and vehicle classes;

(H) workforce, including analysis of the capacity and types of education, vocations, trades, and certifications necessary in each relevant sector to develop the local workforce needed to accomplish the vision; and

(I) any other sector that the steering committee determines is substantially necessary to fulfilling the stated mission;

(iv) identification of key gaps in the ecosystem from the sectors and industries described in this Subsection (1)(b) that serve as priorities for near term innovation and investment;

(v) evaluation of risk and vulnerability of relevant supply chains, including natural resources to ensure stability and availability; and

(vi) an accounting of funds appropriated to or received by the research center, and any expenditure of those funds.

(c) Before August 1, 2024, the research center shall report on the action plan described in this Subsection (1) to the Infrastructure and General Government Appropriations Subcommittee of the Legislature.

(2) Beginning in 2025, before August 1 of each year, the research center shall provide an annual report to the Infrastructure and General Government Appropriations Subcommittee of the Legislature, including:

(a) an updated and prioritized list of strategic objectives identified in the initial report described in Subsection (1)(b);

(b) any actionable goals established or recommended by the research center;

(c) a prioritized list of steps to accomplish the goals and strategic objectives identified by the research center;

(d) metrics to measure the effectiveness of any goals or strategic objectives and related analysis;

(e) the research center's progress and effort in developing a long-range strategy for implementation of the action plan;

(f) the research center's efforts in and results of outreach to relevant industry, government, and investment sectors;

(g) any recommendations on potential legislation to implement the action plan; and

(h) an accounting of funds appropriated to or received by the research center, and any expenditure of those funds.

(3) Before November 30, 2027, the Transportation Interim Committee shall consider whether to continue the initiative as described in this part or allow the repeal of this part as described in Section 63I-1-253.

Section 7. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(7) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(9) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

[~~(9)~~] (10) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(10)~~] (11) [~~Subsection~~] Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(11)~~] (12) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(12)~~] (13) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(13)~~] (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(14)~~] (15) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(15)~~] (16) Section 53F-5-203 is repealed July 1, 2024.

[~~(16)~~] (17) Section 53F-5-213 is repealed July 1, 2023.

[~~(17)~~] (18) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(18)~~] (19) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(19)~~] (20) Section 53F-5-219, which creates the Local [~~I~~Innovations] Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(20)~~] (21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(21)~~] (22) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(22)~~] (23) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2027.

[~~(23)~~] (24) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24)~~] (25) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 8. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah State University - Education and General

From Income Tax Fund	2,100,000
Schedule of Programs:	
Education and General	2,100,000

CHAPTER 495
S. B. 126
Passed February 21, 2023
Approved March 23, 2023
Effective May 3, 2023

HOSPITAL ASSESSMENT AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends the hospital provider assessment.

Highlighted Provisions:

This bill:

- amends factors that the Medicaid program incorporates into the accountable care organization payment rate structure; and
- extends the sunset for the hospital provider assessment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-36d-205, as repealed and reenacted by Laws of Utah 2019, Chapter 455
26-36d-207, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255, 347, and 451

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-36d-205 is amended to read:

26-36d-205. Medicaid hospital adjustment under accountable care organization rates.

(1) To preserve and improve access to hospital services, the division shall[~~, for accountable care organization rates effective on or after April 1, 2013,~~] incorporate into the accountable care organization rate structure calculation consistent with the certified actuarial rate range:

[~~(1)~~] (a) $154,000,000 to be allocated toward the hospital inpatient directed payments for the Medicaid eligibility categories covered in Utah before January 1, 2019; and

[~~(2)~~] (b) an amount equal to the difference between payments made to hospitals by accountable care organizations for the Medicaid eligibility categories covered in Utah [~~before January 1, 2019~~], based on submitted encounter data and the maximum amount that could be paid for those services [~~using Medicare payment principles~~] to be used for directed payments to hospitals for inpatient and outpatient services.

(2) (a) To preserve and improve the quality of inpatient and outpatient hospital services authorized under Subsection (1)(b), the division shall amend its quality strategies required by 42 C.F.R. Sec. 438.340 to include quality measures selected from the CMS hospital quality improvement programs.

(b) To better address the unique needs of rural and specialty hospitals, the division may adopt different quality standards for rural and specialty hospitals.

(c) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adopt the selected quality measures and prescribe penalties for not meeting the quality standards that are established by the division by rule.

(d) The division shall apply the same quality measures and penalties under this Subsection (2) to new directed payments made to the University of Utah Hospital and Clinics.

Section 2. Section 26-36d-207 is amended to read:

26-36d-207. Hospital Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the department under this chapter;

(b) any interest and penalties levied with the administration of this chapter; and

(c) any other funds received as donations for the fund and appropriations from other sources.

(3) Money in the fund shall be used:

(a) to support capitated rates consistent with Subsection 26-36d-203(1)(d) for accountable care organizations; [~~and~~]

(b) to implement the quality strategies described in Subsection 26-36d-205(2), except that the amount under this Subsection (3)(b) may not exceed $211,300 in each fiscal year; and

[~~(b)~~] (c) to reimburse money collected by the division from a hospital through a mistake made under this chapter.

(4) (a) Subject to Subsection (4)(b), for the fiscal year beginning July 1, 2019, and ending July 1, 2020, any fund balance in excess of the amount necessary to pay for the costs described in Subsection (3) shall be deposited into the General Fund.

(b) Subsection (4)(a) applies only to funds that were appropriated by the Legislature from the General Fund to the fund and the interest and penalties deposited into the fund under Subsection (2)(b).

Section 3. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Title 26 through 26B.

(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(2) Section 26-1-40 is repealed July 1, 2022.

(3) Section 26-1-41 is repealed July 1, 2026.

(4) Section 26-1-43 is repealed December 31, 2025.

(5) Section 26-7-10 is repealed July 1, 2025.

(6) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(7) Section 26-7-14 is repealed December 31, 2027.

(8) Section 26-8a-603 is repealed July 1, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Section 26-18-28 is repealed June 30, 2027.

(16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(17) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(18) Section 26-33a-117 is repealed December 31, 2023.

(19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, [~~2024~~] 2028.

(23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(24) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

(25) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(26) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(27) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

(29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

(30) Section 26-69-406 is repealed July 1, 2025.

(31) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(32) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

CHAPTER 496
S. B. 127
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

CYBERSECURITY AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill enacts provisions relating to cybersecurity.

Highlighted Provisions:

This bill:

- amends the disclosure requirement for system security breaches;
- requires the Division of Technology Services to report certain information regarding consolidation of networks used by governmental entities;
- creates the Utah Cyber Center and defines the center's duties;
- requires governmental entities in the state to report a breach of system security to the Utah Cyber Center; and
- requires governmental websites to use an authorized top level domain by January 1, 2025.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
13-44-202, as last amended by Laws of Utah 2019, Chapter 348

ENACTS:
63A-16-302.1, Utah Code Annotated 1953
63A-16-510, Utah Code Annotated 1953
63A-16-511, Utah Code Annotated 1953
63D-2-105, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-44-202 is amended to read:

13-44-202. Personal information -- Disclosure of system security breach.

(1) (a) A person who owns or licenses computerized data that includes personal information concerning a Utah resident shall, when the person becomes aware of a breach of system security, conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused for identity theft or fraud purposes.

(b) If an investigation under Subsection (1)(a) reveals that the misuse of personal information for identity theft or fraud purposes has occurred, or is reasonably likely to occur, the person shall provide notification to [~~each affected Utah resident.~~] each affected Utah resident.

(c) If an investigation under Subsection (1)(a) reveals that the misuse of personal information relating to 500 or more Utah residents, for identity theft or fraud purposes, has occurred or is reasonably likely to occur, the person shall, in addition to the notification required in Subsection (1)(b), provide notification to:

(i) the Office of the Attorney General; and

(ii) the Utah Cyber Center created in Section 62A-16-510.

(d) If an investigation under Subsection (1)(a) reveals that the misuse of personal information relating to 1,000 or more Utah residents, for identity theft or fraud purposes, has occurred or is reasonably likely to occur, the person shall, in addition to the notification required in Subsections (1)(b) and (c), provide notification to each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, as defined in 15 U.S.C. Sec. 1681a.

(2) A person required to provide notification under Subsection (1) shall provide the notification in the most expedient time possible without unreasonable delay:

(a) considering legitimate investigative needs of law enforcement, as provided in Subsection (4)(a);

(b) after determining the scope of the breach of system security; and

(c) after restoring the reasonable integrity of the system.

(3) (a) A person who maintains computerized data that includes personal information that the person does not own or license shall notify and cooperate with the owner or licensee of the information of any breach of system security immediately following the person's discovery of the breach if misuse of the personal information occurs or is reasonably likely to occur.

(b) Cooperation under Subsection (3)(a) includes sharing information relevant to the breach with the owner or licensee of the information.

(4) (a) Notwithstanding Subsection (2), a person may delay providing notification under Subsection (1)(b) at the request of a law enforcement agency that determines that notification may impede a criminal investigation.

(b) A person who delays providing notification under Subsection (4)(a) shall provide notification in good faith without unreasonable delay in the most expedient time possible after the law enforcement agency informs the person that notification will no longer impede the criminal investigation.

(5) (a) A notification required by [~~this section~~] Subsection (1)(b) may be provided:

(i) in writing by first-class mail to the most recent address the person has for the resident;

(ii) electronically, if the person's primary method of communication with the resident is by electronic means, or if provided in accordance with the

consumer disclosure provisions of 15 U.S.C. Section 7001;

(iii) by telephone, including through the use of automatic dialing technology not prohibited by other law; or

(iv) for residents of the state for whom notification in a manner described in Subsections (5)(a)(i) through (iii) is not feasible, by publishing notice of the breach of system security:

(A) in a newspaper of general circulation; and

(B) as required in Section 45-1-101.

(b) If a person maintains the person's own notification procedures as part of an information security policy for the treatment of personal information the person is considered to be in compliance with [~~this chapter's notification requirements~~] the notification requirement in Subsection (1)(b) if the procedures are otherwise consistent with this chapter's timing requirements and the person notifies each affected Utah resident in accordance with the person's information security policy in the event of a breach.

(c) A person who is regulated by state or federal law and maintains procedures for a breach of system security under applicable law established by the primary state or federal regulator is considered to be in compliance with this part if the person notifies each affected Utah resident in accordance with the other applicable law in the event of a breach.

(6) (a) If a person providing a notification under Subsection (1)(c) to the Office of the Attorney General or the Utah Cyber Center submits the information required under Subsection 63G-2-309(1)(a)(i), records submitted to the Office of the Attorney General or the Utah Cyber Center under Subsection (1)(c) and information produced by the Office of the Attorney General or the Utah Cyber Center for any coordination or assistance provided to the person are presumed to be confidential and are a protected record under Subsections 63G-2-305(1) and (2).

(b) The department may disclose information provided by a person under Subsection (1)(c) or produced as described in Subsection (6)(a) only if:

(i) disclosure is necessary to prevent imminent and substantial harm; or

(ii) the information is anonymized or aggregated in a manner that makes it unlikely that information that is a trade secret, as defined in Section 13-24-2, will be disclosed.

[~~(6)~~] (7) A waiver of this section is contrary to public policy and is void and unenforceable.

Section 2. Section 63A-16-302.1 is enacted to read:

63A-16-302.1. Reporting on consolidation of certain information technology services.

(1) The division shall, in collaboration with the Cybersecurity Commission created in Section 63C-27-201, identify opportunities, limitations, and barriers to enhancing the overall cybersecurity resilience of the state by consolidating:

(a) certain information technology services utilized by governmental entities; and

(b) to the extent feasible, the information technology networks that are operated or utilized by governmental entities.

(2) On or before November 15, 2023, the division shall report the information described in Subsection (1) to:

(a) the Government Operations Interim Committee;

(b) the Infrastructure and General Government Appropriations Subcommittee; and

(c) the Cybersecurity Commission created in Section 63C-27-201.

Section 3. Section 63A-16-510 is enacted to read:

63A-16-510. Utah Cyber Center -- Creation -- Duties.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(b) "Utah Cyber Center" means the Utah Cyber Center created in this section.

(2) (a) There is created within the division the Utah Cyber Center.

(b) The chief information security officer appointed under Section 63A-16-210 shall serve as the director of the Utah Cyber Center.

(3) The division shall operate the Utah Cyber Center in partnership with the following entities within the Department of Public Safety:

(a) the Statewide Information and Analysis Center;

(b) the State Bureau of Investigation; and

(c) the Division of Emergency Management.

(4) In addition to the entities described in Subsection (3), the Utah Cyber Center shall collaborate with:

(a) the Cybersecurity Commission created in Section 63C-27-201;

(b) the Office of the Attorney General;

(c) the Utah Education and Telehealth Network created in Section 53B-17-105;

(d) appropriate federal partners, including the Federal Bureau of Investigation and the Cybersecurity and Infrastructure Security Agency;

(e) appropriate information sharing and analysis centers;

(f) associations representing political subdivisions in the state, including the Utah League of Cities and Towns and the Utah Association of Counties; and

(g) any other person the division believes is necessary to carry out the duties described in Subsection (5).

(5) The Utah Cyber Center shall, within legislative appropriations:

(a) by June 30, 2024, develop a statewide strategic cybersecurity plan for executive branch agencies and other governmental entities;

(b) with respect to executive branch agencies:

(i) identify, analyze, and, when appropriate, mitigate cyber threats and vulnerabilities;

(ii) coordinate cybersecurity resilience planning;

(iii) provide cybersecurity incident response capabilities; and

(iv) recommend to the division standards, policies, or procedures to increase the cyber resilience of executive branch agencies individually or collectively;

(c) at the request of a governmental entity, coordinate cybersecurity incident response for an incident affecting the governmental entity in accordance with Section 63A-16-511;

(d) promote cybersecurity best practices;

(e) share cyber threat intelligence with governmental entities and, through the Statewide Information and Analysis Center, with other public and private sector organizations;

(f) serve as the state cybersecurity incident response hotline to receive reports of breaches of system security, including notification or disclosure under Section 13-44-202 or 63A-16-511;

(g) develop incident response plans to coordinate federal, state, local, and private sector activities and manage the risks associated with an attack or malfunction of critical information technology systems within the state;

(h) coordinate, develop, and share best practices for cybersecurity resilience in the state;

(i) identify sources of funding to make cybersecurity improvements throughout the state;

(j) develop a sharing platform to provide resources based on information, recommendations, and best practices; and

(k) partner with institutions of higher education and other public and private sector organizations to increase the state's cyber resilience.

Section 4. Section 63A-16-511 is enacted to read:

63A-16-511. Reporting to the Utah Cyber Center -- Assistance to governmental entities -- Records.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(b) "Utah Cyber Center" means the Utah Cyber Center created in Section 62A-16-510.

(2) A governmental entity shall contact the Utah Cyber Center as soon as practicable when the governmental entity becomes aware of a breach of system security.

(3) The Utah Cyber Center shall provide the governmental entity with assistance in responding to the breach of system security, which may include:

(a) conducting all or part of the investigation required under Subsection 13-44-202(1)(a);

(b) assisting law enforcement with the law enforcement investigation if needed;

(c) determining the scope of the breach of system security;

(d) assisting the governmental entity in restoring the reasonable integrity of the system; or

(e) providing any other assistance in response to the reported breach of system security.

(4) (a) A person providing information to the Utah Cyber Center may submit the information required in Section 63G-2-309 to request that the information submitted by the person and information produced by the Utah Cyber Center in the course of the Utah Cyber Center's investigation be classified as a confidential protected record.

(b) Information submitted to the Utah Cyber Center under Subsection 13-44-202(1)(c) regarding a breach of system security may include information regarding the type of breach, the attack vector, attacker, indicators of compromise, and other details of the breach that are requested by the Utah Cyber Center.

(c) A governmental entity that is required to submit information under Section 63A-16-511 shall provide records to the Utah Cyber Center as a shared record in accordance with Section 63G-2-206.

Section 5. Section 63D-2-105 is enacted to read:

63D-2-105. Use of authorized domain extensions for government websites.

(1) (a) As used in this section, "authorized top level domain" means any of the following suffixes that follows the domain name in a website address:

(i) gov;

(ii) edu; and

(iii) mil.

(2) Beginning January 1, 2025, a governmental entity shall use an authorized top level domain for:

(a) the website address for the governmental entity's government website; and

(b) the email addresses used by the governmental entity and the governmental entity's employees.

(3) Notwithstanding Subsection (2), a governmental entity may operate a website that

uses a top level domain that is not an authorized top level domain if:

(a) a reasonable person would not mistake the website as the governmental entity's primary website; and

(b) the governmental website is:

(i) solely for internal use and not intended for use by members of the public;

(ii) temporary and in use by the governmental entity for a period of less than one year; or

(iii) related to an event, program, or informational campaign operated by the governmental entity in partnership with another person that is not a governmental entity.

(4) The chief information officer appointed under Section 63A-16-201 may authorize a waiver of the requirement in Subsection (2) if:

(a) there are extraordinary circumstances under which use of an authorized domain extension would cause demonstrable harm to citizens or businesses; and

(b) the executive director or chief executive of the governmental entity submits a written request to the chief information officer that includes a justification for the waiver.

CHAPTER 497
S. B. 135
Passed February 23, 2023
Approved March 23, 2023
Effective May 3, 2023

GOVERNMENT TRANSPORTATION COST AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions related to government transportation costs for individuals charged with or convicted of a crime.

Highlighted Provisions:

This bill:

- clarifies the fees charged by a sheriff for government transportation of a prisoner to a court proceeding in a civil action;
- repeals provisions regarding government transportation costs that are ordered as part of a criminal sentence;
- amends the requirements for reporting transportation costs to the clerk of the court;
- amends provisions related to costs ordered by a court as part of a criminal sentence; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-2.5, as last amended by Laws of Utah 2018, Chapter 86
17-50-319, as last amended by Laws of Utah 2021, Chapter 260
76-3-201, as repealed and reenacted by Laws of Utah 2021, Chapter 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261
77-7-5, as last amended by Laws of Utah 2022, Chapter 131
77-30-24, as last amended by Laws of Utah 2021, Chapter 260
77-32b-104, as renumbered and amended by Laws of Utah 2021, Chapter 260
78B-22-1002, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-2.5 is amended to read:

17-22-2.5. Fees of sheriff.

(1) (a) The legislative body of a county may set a fee for a service described in this section and charged by the county sheriff:

(i) in an ordinance adopted under Section 17-53-223; and

(ii) in an amount reasonably related to, but not exceeding, the actual cost of providing the service.

(b) If the legislative body of a county does not under Subsection (1)(a) set a fee charged by the county sheriff, the sheriff shall charge a fee in accordance with Subsections (2) through (7).

(2) Unless under Subsection (1) the legislative body of a county sets a fee amount for a fee described in this Subsection (2), the sheriff shall charge the following fees:

(a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and complaint, or garnishee execution, or other process by which an action or proceeding is commenced, on each defendant, including copies when furnished by plaintiff, $20;

(b) for taking or approving a bond or undertaking in any case in which he is authorized to take or approve a bond or undertaking, including justification, $5;

(c) for a copy of any writ, process or other paper when demanded or required by law, for each folio, 50 cents;

(d) for serving an attachment on property, or levying an execution, or executing an order of arrest or an order for the delivery of personal property, including copies when furnished by plaintiff, $50;

(e) for taking and keeping possession of and preserving property under attachment or execution or other process, the amount the court orders to a maximum of $15 per day;

(f) for advertising property for sale on execution, or any judgment, or order of sale, exclusive of the cost of publication, $15;

(g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive of acknowledgment, $15, to be paid by the grantee;

(h) for recording each deed, conveyance, or other instrument affecting real estate, exclusive of the cost of recording, $10, to be paid by the grantee;

(i) for serving a writ of possession or restitution, and putting any person entitled to possession into possession of premises, and removing occupant, $50;

(j) for holding each trial of right of property, to include all services in the matter, except mileage, $35;

(k) for conducting, postponing, or canceling a sale of property, $15;

(l) for transporting a prisoner to and from prison to attend court proceedings in a civil case, $2.50 for each mile necessarily traveled, up to a maximum of 100 miles;

[~~(l) for taking a prisoner in civil cases from prison before a court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100 miles, $2.50;~~]

[~~(m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a court or~~

~~magistrate, for each mile necessarily traveled, in going only, to a maximum of 100 miles, $2.50;~~]

[~~(n)~~] (m) for receiving and paying over money on execution or other process, as follows:

(i) if the amount collected does not exceed $1,000, 2% of this amount, with a minimum of $1; and

(ii) if the amount collected exceeds $1,000, 2% on the first $1,000 and 1-1/2% on the balance; and

[~~(o)~~] (n) for executing in duplicate a certificate of sale, exclusive of filing it, $10.

(3) The fees allowed by Subsection (2)(f) for the levy of execution and for advertising shall be collected from the judgment debtor as part of the execution in the same manner as the sum directed to be made.

(4) When serving an attachment on property, an order of arrest, or an order for the delivery of personal property, the sheriff may only collect traveling fees for the distance actually traveled beyond the distance required to serve the summons if the attachment or those orders:

(a) accompany the summons in the action; and

(b) may be executed at the time of the service of the summons.

(5) (a) (i) When traveling generally to serve notices, orders, process, or other papers, the sheriff may receive, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, computed from the courthouse for each person served, to a maximum of 100 miles.

(ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may receive, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, computed from the post office where received for each person served, to a maximum of 100 miles.

(b) The sheriff may only charge one mileage fee if any two or more papers are required to be served in the same action or proceeding at the same time and at the same address.

(c) If it is necessary to make more than one trip to serve any notice, order, process, or other paper, the sheriff may not collect more than two additional mileage charges.

(6) (a) For transporting a patient to the Utah State Hospital or to or from a hospital or a mental health facility, as defined in Section 62A-15-602, when the cost of transportation is payable by private individuals, the sheriff may collect, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, to a maximum of 100 miles.

(b) If the sheriff requires assistance to transport the person, the sheriff may also charge the actual and necessary cost of that assistance.

(7) (a) Subject to Subsection (7)(b), for obtaining a saliva DNA specimen under Section 53-10-404, the sheriff shall collect the fee of $150 in accordance with Section 53-10-404.

(b) The fee amount described in Subsection (7)(a) may not be changed by a county legislative body under Subsection (1).

Section 2. Section 17-50-319 is amended to read:

17-50-319. County charges enumerated.

(1) County charges are:

(a) charges incurred against the county by any law;

(b) the necessary expenses of the county attorney or district attorney incurred in criminal cases arising in the county, and all other expenses necessarily incurred by the county or district attorney in the prosecution of criminal cases, except jury and witness fees;

(c) the expenses of medical care as described in Section 17-22-8, and other expenses necessarily incurred in the support of persons charged with or convicted of a criminal offense and committed to the county jail, except as provided in Subsection (2);

(d) for a county not within the state district court administrative system, the sum required by law to be paid jurors in civil cases;

(e) all charges and accounts for services rendered by any justice court judge for services in the trial and examination of persons charged with a criminal offense not otherwise provided for by law;

(f) the contingent expenses necessarily incurred for the use and benefit of the county;

(g) every other sum directed by law to be raised for any county purposes under the direction of the county legislative body or declared a county charge;

(h) the fees of constables for services rendered in criminal cases;

(i) the necessary expenses of the sheriff and deputies incurred in civil and criminal cases arising in the county, and all other expenses necessarily incurred by the sheriff and deputies in performing the duties imposed upon them by law;

(j) the sums required by law to be paid by the county to jurors and witnesses serving at inquests and in criminal cases in justice courts; and

(k) subject to Subsection (2), expenses incurred by a health care facility or provider in providing medical services, treatment, hospitalization, or related transportation, at the request of a county sheriff for:

(i) persons booked into a county jail on a charge of a criminal offense; or

(ii) persons convicted of a criminal offense and committed to a county jail.

(2) (a) Expenses described in Subsections (1)(c) and (1)(k) are a charge to the county only to the extent that they exceed any private insurance in effect that covers the expenses described in Subsections (1)(c) and (1)(k).

(b) The county may collect costs of medical care, treatment, hospitalization, and related transportation provided to the person described in Subsection (1)(k) who has the resources or the ability to pay, subject to the following priorities for payment:

(i) first priority shall be given to restitution; and

(ii) second priority shall be given to family support obligations.

(c) A county may seek reimbursement from a person described in Subsection (1)(k) for expenses incurred by the county in behalf of the inmate for medical care, treatment, hospitalization, or related transportation by:

(i) deducting the cost from the inmate's cash account on deposit with the detention facility during the inmate's incarceration or during a subsequent incarceration if the subsequent incarceration occurs within the same county and the incarceration is within 10 years of the date of the expense in behalf of the inmate;

(ii) placing a lien for the amount of the expense against the inmate's personal property held by the jail; and

(iii) adding the amount of expenses incurred to any other amount owed by the inmate to the jail upon the inmate's release in accordance with Subsection [~~76-3-201(4)(d)~~] 76-3-201(4)(c).

(d) An inmate who receives medical care, treatment, hospitalization, or related transportation shall cooperate with the jail facility seeking payment or reimbursement under this section for the inmate's expenses.

(e) If there is no contract between a county jail and a health care facility or provider that establishes a fee schedule for medical services rendered, expenses under Subsection (1)(k) shall be commensurate with:

(i) for a health care facility, the current noncapitated state Medicaid rates; and

(ii) for a health care provider, 65% of the amount that would be paid to the health care provider:

(A) under the Public Employees' Benefit and Insurance Program, created in Section 49-20-103; and

(B) if the person receiving the medical service were a covered employee under the Public Employees' Benefit and Insurance Program.

(f) Subsection (1)(k) does not apply to expenses of a person held at the jail at the request of an agency of the United States.

(g) A county that receives information from the Public Employees' Benefit and Insurance Program to enable the county to calculate the amount to be paid to a health care provider under Subsection (2)(e)(ii) shall keep that information confidential.

Section 3. Section 76-3-201 is amended to read:

76-3-201. Sentences or combination of sentences allowed -- Restitution and other costs -- Civil penalties.

(1) As used in this section:

(a) (i) "Convicted" means:

(A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a mental illness; or

(B) having received a judgment of guilty or a judgment of guilty with a mental illness.

(ii) "Convicted" does not include an adjudication of an offense under Section 80-6-701.

(b) "Restitution" means the same as that term is defined in Section 77-38b-102.

(2) Within the limits provided by this chapter, a court may sentence an individual convicted of an offense to any one of the following sentences, or combination of the following sentences:

(a) to pay a fine;

(b) to removal or disqualification from public or private office;

(c) except as otherwise provided by law, to probation in accordance with Section 77-18-105;

(d) to imprisonment;

(e) on or after April 27, 1992, to life in prison without parole; or

(f) to death.

(3) (a) This chapter does not deprive a court of authority conferred by law:

(i) to forfeit property;

(ii) to dissolve a corporation;

(iii) to suspend or cancel a license;

(iv) to permit removal of an individual from office;

(v) to cite for contempt; or

(vi) to impose any other civil penalty.

(b) A court may include a civil penalty in a sentence.

(4) In addition to any other sentence that a sentencing court may impose, the court shall order an individual to:

(a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act;

[~~(b) subject to Subsection (5) and Section 77-32b-104, pay the cost of any government transportation if the individual was:~~]

[~~(i) transported, in accordance with a court order, from one county to another county within the state;~~]

[~~(ii) charged with a felony or a misdemeanor; and~~]

[~~(iii) convicted of an offense;~~]

[~~(c)~~] (b) subject to Section 77-32b-104, pay the cost expended by an appropriate governmental

entity under Section 77-30-24 for the extradition of the individual if the individual:

(i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve pending criminal charges; and

(ii) is convicted of an offense in the county for which the individual is returned;

[~~(d)~~] (c) subject to Subsection [~~(6)~~] (5) and Subsections 77-32b-104(2), (3), and (4), pay the cost of medical care, treatment, hospitalization, and related transportation, as described in Section 17-50-319, that is provided by a county to the individual while the individual is in a county correctional facility before and after sentencing if:

(i) the individual is convicted of an offense that results in incarceration in the county correctional facility; and

(ii) (A) the individual is not a state prisoner housed in the county correctional facility through a contract with the Department of Corrections; or

(B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104 if the individual is a state probationary inmate or a state parole inmate; and

[~~(e)~~] (d) pay any other cost that the court determines is appropriate under Section 77-32b-104.

[~~(5) (a) The court may not order an individual to pay the costs of government transportation under Subsection (4)(b) if:~~]

[~~(i) the individual is charged with an infraction or a warrant is issued for an infraction on a subsequent failure to appear; or~~]

[~~(ii) the individual was not transported in accordance with a court order.~~]

[~~(b) (i) The cost of governmental transportation under Subsection (4)(b) shall be calculated according to the following schedule:~~]

[~~(A) $100 for up to 100 miles that an individual is transported;~~]

[~~(B) $200 for 100 miles to 200 miles that an individual is transported; and~~]

[~~(C) $350 for 200 miles or more that an individual is transported.~~]

[~~(ii) The schedule under Subsection (5)(b)(i) applies to each individual transported regardless of the number of individuals transported in a single trip.~~]

[~~(6)~~] (5) The cost of medical care under Subsection [~~(4)(d)~~] (4)(c) does not include expenses incurred by the county correctional facility in providing reasonable accommodation for an inmate qualifying as an individual with a disability as defined and covered by the Americans with Disabilities Act, 42 U.S.C. 12101 through 12213, including medical and mental health treatment for the inmate's disability.

Section 4. Section 77-7-5 is amended to read:

77-7-5. Issuance of summons or warrant -- Time and place arrests may be made -- Contents of warrant or summons -- Responsibility for transporting prisoners.

(1) As used in this section:

(a) "Daytime hours" means the hours after 6 a.m. and before 10 p.m.

(b) "Nighttime hours" means the hours after 10 p.m. and before 6 a.m.

(2) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance of the accused only upon finding:

(a) probable cause to believe that the person to be arrested has committed a public offense; and

(b) under the Utah Rules of Criminal Procedure, and this section that a warrant is necessary to:

(i) prevent risk of injury to a person or property;

(ii) secure the appearance of the accused; or

(iii) protect the public safety and welfare of the community or an individual.

(3) If the offense charged is:

(a) a felony, the arrest upon a warrant may be made at any time of the day or night; or

(b) a misdemeanor, the arrest upon a warrant may be made during nighttime hours only if:

(i) the magistrate has endorsed authorization to do so on the warrant;

(ii) the person to be arrested is upon a public highway, in a public place, or in a place open to or accessible to the public; or

(iii) the person to be arrested is encountered by a peace officer in the regular course of that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for arrest.

(4) (a) If the magistrate determines that the accused must appear in court, the magistrate shall include in the arrest warrant the name of the law enforcement agency in the county or municipality with jurisdiction over the offense charged.

(b) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a) is responsible for providing inter-county transportation of the defendant, if necessary, from the arresting law enforcement agency to the court site.

(ii) The law enforcement agency named on the warrant may contract with another law enforcement agency to have a defendant transported.

[~~(c) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a) as responsible for transporting the defendant shall provide to the court clerk of the court in which the defendant is tried, an affidavit stating that the defendant was transported, indicating the law~~

~~enforcement agency responsible for the transportation, and stating the number of miles the defendant was transported.~~]

[~~(ii) The court clerk shall:~~]

[~~(A) account for a cost paid under Subsection 76-3-201(4)(b) for government transportation; and~~]

[~~(B) dispense money collected by the court under Subsection (4)(c)(ii)(A) to the law enforcement agency responsible for the transportation of a convicted defendant.~~]

(5) The law enforcement agency identified by the magistrate under Subsection (4)(a) shall indicate to the court within 48 hours of the issuance, excluding Saturdays, Sundays, and legal holidays if a warrant issued in accordance with this section is an extradition warrant.

(6) The law enforcement agency identified by the magistrate under Subsection (4)(a) shall report any changes to the status of a warrant issued in accordance with this section to the Bureau of Criminal Identification.

Section 5. Section 77-30-24 is amended to read:

77-30-24. Payment of expenses -- Extradition costs.

(1) (a) When the punishment of an offense is the confinement of the defendant in prison, the expenses shall be paid out of the state treasury on the certificate of the governor and warrant of the auditor.

(b) In all other cases, the expenses for confinement shall be paid out of the treasury of the county where the offense is alleged to have been committed.

(c) The expenses shall be the fees paid to the officers of the state on whose governor the requisition is made.

(2) If a defendant is returned to the state under this chapter and the defendant is convicted of, or pleads guilty or no contest to, the offense or to a lesser offense, the defendant may be required to pay the costs of extradition to the appropriate governmental entity as described in Subsection [~~76-3-201(4)(c)~~] 76-3-201(4)(b).

Section 6. Section 77-32b-104 is amended to read:

77-32b-104. Costs -- What constitute costs -- Ability to pay.

(1) Except for a cost described in Subsection 76-3-201(4), [~~costs shall be limited to~~] a court may order a defendant under Section 76-3-201 to pay costs for expenses incurred by the state or any political subdivision of the state for investigating, searching for, apprehending, and prosecuting the defendant, including:

(a) attorney fees of counsel assigned to represent the defendant;

(b) investigators' fees; or

(c) except for a monetary reward that is paid to a codefendant, an accomplice, or a bounty hunter, a monetary reward that is:

(i) offered to the public in exchange for information that would lead to the apprehension and conviction of the defendant; and

(ii) paid to a person who provided information that led to the apprehension and conviction of the defendant.

(2) A cost under Subsection (1) may not include:

(a) expenses inherent in providing a constitutionally guaranteed trial;

(b) expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law; [~~or~~]

(c) attorney fees for prosecuting attorneys[~~.~~]; or

(d) expenses for government transportation to and from court proceedings related to the prosecution of the offense for which the defendant is convicted.

(3) The court may not order a defendant to pay a cost, unless there is evidence that the defendant is, or will be, able to pay the cost.

(4) In determining the amount of a cost that a defendant is ordered to pay, the court shall take into account:

(a) the financial resources of the defendant;

(b) the nature of the burden that payment of the cost will impose; and

(c) that restitution is prioritized over any cost.

Section 7. Section 78B-22-1002 is amended to read:

78B-22-1002. Recovery of costs for indigent defense services.

(1) Except as provided in Subsection (2), a court shall order an individual to pay the indigent defense system for the cost of indigent defense services in accordance with Subsection [~~76-3-201(4)(c)~~] 76-3-201(4)(d) and Section 77-32b-104 if:

(a) the individual was provided indigent defense services by the indigent defense system; and

(b) the indigent defense system provides financial documentation or proof to the court that demonstrates that the individual is not indigent under Section 78B-22-202.

(2) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.

CHAPTER 498
S. B. 152
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

SOCIAL MEDIA REGULATION AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill enacts provisions related to the regulation of social media companies and social media platforms.

Highlighted Provisions:

This bill:

- defines terms;
- enacts the Utah Social Media Regulation Act;
- requires a social media company to verify the age of a Utah resident seeking to maintain or open a social media account;
- requires a social media company to obtain the consent of a parent or guardian before a Utah resident under the age of 18 may maintain or open an account;
- prohibits a social media company from permitting a Utah resident to open an account if that person does not meet age requirements under state or federal law;
- requires that for accounts held by a Utah minor, certain social media companies:
  - shall prohibit direct messaging with certain accounts;
  - may not show the minor's account in search results;
  - may not display advertising;
  - may not collect, share, or use personal information from the account, with certain exceptions;
  - may not target or suggest ads, accounts, or content; and
  - shall limit hours of access, subject to parental or guardian direction;
- requires a social media company to provide a parent or guardian access to the content and interactions of an account held by a Utah resident under the age of 18;
- directs the Division of Consumer Protection to receive and investigate complaints of violations of the requirements established under the act and impose administrative fines for violations;
- authorizes the division to seek enforcement through an injunction, civil penalties, and other relief through the judicial process;
- requires fines and civil penalties to be deposited into the Consumer Protection Education and Training Fund;
- requires an annual report from the division;
- authorizes a private right of action to collect attorney fees and damages from a social media company for harm incurred in relation to a violation of the requirements established by the act;
- prohibits certain waivers; and
- provides a severability clause.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Superseded 12/31/23), as last amended by Laws of Utah 2022, Chapter 201
13-2-1 (Effective 12/31/23), as last amended by Laws of Utah 2022, Chapters 201, 462

ENACTS:

13-63-101, Utah Code Annotated 1953
13-63-102, Utah Code Annotated 1953
13-63-103, Utah Code Annotated 1953
13-63-104, Utah Code Annotated 1953
13-63-105, Utah Code Annotated 1953
13-63-201, Utah Code Annotated 1953
13-63-202, Utah Code Annotated 1953
13-63-203, Utah Code Annotated 1953
13-63-301, Utah Code Annotated 1953
13-63-401, Utah Code Annotated 1953
13-63-501, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 (Superseded 12/31/23) is amended to read:

TITLE 13. COMMERCE AND TRADE

13-2-1 (Superseded 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act; [~~and~~]

(w) Chapter 57, Maintenance Funding Practices Act[~~.~~]; and

(x) Chapter 63, Utah Social Media Regulation Act.

Section 2. Section 13-2-1 (Effective 12/31/23) is amended to read:

13-2-1 (Effective 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act;

(w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]

(x) Chapter 61, Utah Consumer Privacy Act[~~.~~]; and

(y) Chapter 63, Utah Social Media Regulation Act.

Section 3. Section 13-63-101 is enacted to read:

CHAPTER 63. UTAH SOCIAL MEDIA REGULATION ACT

Part 1. General Requirements

13-63-101. Definitions.

As used in this chapter:

(1) "Account holder" means a person who has, or opens, an account or profile to use a social media company's platform.

(2) "Director" means the director of the Division of Consumer Protection created in Section 13-2-1.

(3) "Division" means the Division of Consumer Protection created in Section 13-2-1.

(4) "Educational entity" means a public school, an LEA, a charter school, the Utah Schools for the Deaf and Blind, a private school, a denominational school, a parochial school, a community college, a state college, a state university, or a nonprofit private postsecondary educational institution.

(5) (a) "Interactive computer service" means an information service, information system, or information access software provider that:

(i) provides or enables computer access by multiple users to a computer server; and

(ii) provides access to the Internet.

(b) "Interactive computer service" includes:

(i) a web service;

(ii) a web system;

(iii) a website;

(iv) a web application; or

(v) a web portal.

(6) "Minor" means an individual who is under the age of 18 and:

(a) has not been emancipated as that term is defined in Section 80-7-102; or

(b) has not been married.

(7) "Post" means content that an account holder makes available on a social media platform for other account holders or users to view.

(8) "Social media company" means a person or entity that:

(a) provides a social media platform that has at least 5,000,000 account holders worldwide; and

(b) is an interactive computer service.

(9) (a) "Social media platform" means an online forum that a social media company makes available for an account holder to:

(i) create a profile;

(ii) upload posts;

(iii) view the posts of other account holders; and

(iv) interact with other account holders or users.

(b) "Social media platform" does not include an online service, website, or application:

(i) where the predominant or exclusive function is:

(A) electronic mail;

(B) direct messaging consisting of text, photos, or videos that are sent between devices by electronic means, where messages are:

(I) shared between the sender and the recipient;

(II) only visible to the sender and the recipient; and

(III) are not posted publicly;

(C) a streaming service that:

(I) provides only licensed media in a continuous flow from the service, website, or application to the end user; and

(II) does not obtain a license to the media from a user or account holder by agreement to its terms of service;

(D) news, sports, entertainment, or other content that is preselected by the provider and not user generated, and any chat, comment, or interactive functionality that is provided incidental to, directly related to, or dependent upon provision of the content;

(E) online shopping or e-commerce, if the interaction with other users or account holders is generally limited to:

(I) the ability to upload a post and comment on reviews;

(II) the ability to display lists or collections of goods for sale or wish lists; and

(III) other functions that are focused on online shopping or e-commerce rather than interaction between users or account holders;

(F) interactive gaming, virtual gaming, or an online service, that allows the creation and uploading of content for the purpose of interactive gaming, edutainment, or associated entertainment, and the communication related to that content;

(G) photo editing that has an associated photo hosting service, if the interaction with other users or account holders is generally limited to liking or commenting;

(H) a professional creative network for showcasing and discovering artistic content, if the content is required to be non-pornographic;

(I) single-purpose community groups for public safety if:

(I) the interaction with other users or account holders is generally limited to that single purpose; and

(II) the community group has guidelines or policies against illegal content;

(J) providing career development opportunities, including professional networking, job skills, learning certifications, and job posting and application services;

(K) business to business software;

(L) a teleconferencing or videoconferencing service that allows reception and transmission of audio and video signals for real time communication;

(M) cloud storage;

(N) shared document collaboration;

(O) cloud computing services, which may include cloud storage and shared document collaboration;

(P) providing access to or interacting with data visualization platforms, libraries, or hubs;

(Q) to permit comments on a digital news website, if the news content is posted only by the provider of the digital news website;

(R) providing or obtaining technical support for a platform, product, or service;

(S) academic or scholarly research; or

(T) genealogical research;

(ii) where:

(A) the majority of the content that is posted or created is posted or created by the provider of the online service, website, or application; and

(B) the ability to chat, comment, or interact with other users is directly related to the provider's content;

(iii) that is a classified ad service that only permits the sale of goods and prohibits the solicitation of personal services; or

(iv) that is used by and under the direction of an educational entity, including:

(A) a learning management system;

(B) a student engagement program; and

(C) a subject or skill-specific program.

(10) "User" means a person who has access to view all, or some of, the posts on a social media platform, but is not an account holder.

(11) (a) "Utah account holder" means a person who is a Utah resident and an account holder.

(b) "Utah account holder" includes a Utah minor account holder.

(12) "Utah minor account holder" means a Utah account holder who is a minor.

(13) "Utah resident" means an individual who currently resides in Utah.

Section 4. Section 13-63-102 is enacted to read:

13-63-102. Age requirements for use of social media platform -- Parental consent -- Rulemaking authority of division.

(1) Beginning March 1, 2024, a social media company may not permit a Utah resident who is a minor to be an account holder on the social media company's social media platform unless the Utah resident has the express consent of a parent or guardian.

(2) Notwithstanding any provision of this chapter, a social media company may not permit a Utah resident who is a minor to hold or open an account on a social media platform if the minor is ineligible to hold or open an account under any other provision of state or federal law.

(3) (a) Beginning March 1, 2024, a social media company shall verify the age of an existing or new Utah account holder and, if the existing or new account holder is a minor, confirm that a minor has consent as required under Subsection (1):

(i) for a new account, at the time the Utah resident opens the account; or

(ii) for a Utah account holder who has not provided age verification as required under this section, within 14 calendar days of the Utah account holder's attempt to access the account.

(b) If a Utah account holder fails to meet the verification requirements of this section within the required time period, the social media company shall deny access to the account:

(i) upon the expiration of the time period; and

(ii) until all verification requirements are met.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, with consideration of stakeholder input, shall make rules to:

(a) establish processes or means by which a social media company may meet the age verification requirements of this chapter;

(b) establish acceptable forms or methods of identification, which may not be limited to a valid identification card issued by a government entity;

(c) establish requirements for providing confirmation of the receipt of any information provided by a person seeking to verify age under this chapter;

(d) establish processes or means to confirm that a parent or guardian has provided consent for the minor to open or use an account as required under this section;

(e) establish requirements for retaining, protecting, and securely disposing of any information obtained by a social media company or its agent as a result of compliance with the requirements of this chapter;

(f) require that information obtained by a social media company or its agent in order to comply with the requirements of this chapter are only retained for the purpose of compliance and may not be used for any other purpose;

(g) if the division permits an agent to process verification requirements required by this section, require that the agent have its principal place of business in the United States of America;

(h) require other applicable state agencies to comply with any rules promulgated under the authority of this section; and

(i) ensure that the rules are consistent with state and federal law, including Title 13, Chapter 61, Utah Consumer Privacy Act.

Section 5. Section 13-63-103 is enacted to read:

13-63-103. Prohibition on data collection for certain accounts -- Prohibition on advertising -- Use of information -- Search results -- Directed content.

Beginning March 1, 2024, a social media company, for a social media platform account held by a Utah minor account holder:

(1) shall prohibit direct messaging between the account and any other user that is not linked to the account through friending;

(2) may not show the account in search results for any user that is not linked to the account through friending;

(3) shall prohibit the display of any advertising in the account;

(4) shall not collect or use any personal information from the posts, content, messages, text, or usage activities of the account other than information that is necessary to comply with, and to verify compliance with, state or federal law, which information includes a parent or guardian's name, a

birth date, and any other information required to be submitted under this section; and

(5) shall prohibit the use of targeted or suggested groups, services, products, posts, accounts, or users in the account.

Section 6. Section 13-63-104 is enacted to read:

13-63-104. Parental access to social media account.

Beginning March 1, 2024, a social media company shall provide a parent or guardian who has given parental consent for a Utah minor account holder under Section 13-63-102 with a password or other means for the parent or guardian to access the account, which shall allow the parent or guardian to view:

(1) all posts the Utah minor account holder makes under the social media platform account; and

(2) all responses and messages sent to or by the Utah minor account holder in the social media platform account.

Section 7. Section 13-63-105 is enacted to read:

13-63-105. Limited hours of access for minors -- Parental access and options.

(1) Beginning March 1, 2024, a social media company shall prohibit a Utah minor account holder from having access to the Utah minor account holder's account during the hours of 10:30 p.m. to 6:30 a.m., unless the access is modified according to another requirement of this section.

(2) Time of day under this section shall be calculated based on the Internet protocol address being used by the Utah minor account holder at the time of attempting access.

(3) A social media company shall provide options for a parent or guardian with access to an account under Section 13-63-104 to:

(a) change or eliminate the time-of-day restriction described in Subsection (1); and

(b) set a limit on the number of hours per day that a Utah minor account holder may use the account.

(4) A social media company shall not permit a Utah minor account holder to change or bypass restrictions on access as required by this section.

(5) Notwithstanding any provision of this section, a social media company shall permit a parent or guardian with access to an account under Section 13-63-104 to access the account without time restrictions.

Section 8. Section 13-63-201 is enacted to read:

Part 2. Enforcement of General Requirements by Division

13-63-201. Investigative powers of the division.

(1) The division shall receive consumer complaints alleging a violation of Part 1, General Requirements.

(2) A person may file a consumer complaint that alleges a violation under Part 1, General Requirements, with the division.

(3) The division shall investigate a consumer complaint to determine whether a violation of Part 1, General Requirements, occurred.

Section 9. Section 13-63-202 is enacted to read:

13-63-202. Enforcement powers of the division.

(1) Except for a private right of action under Section 13-63-301, the division has the exclusive authority to administer and enforce the requirements of Part 1, General Requirements.

(2) The attorney general, upon request, shall give legal advice to, and act as counsel for, the division in the exercise of the division's responsibilities under this part.

(3) (a) Subject to the ability to cure an alleged violation under Subsection (4):

(i) the division director may impose an administrative fine of up to $2,500 for each violation of Part 1, General Requirements; and

(ii) the division may bring an action in a court of competent jurisdiction to enforce a provision of Part 1, General Requirements.

(b) In a court action by the division to enforce a provision of Part 1, General Requirements, the court may:

(i) declare that the act or practice violates a provision of Part 1, General Requirements;

(ii) issue an injunction for a violation of Part 1, General Requirements;

(iii) order disgorgement of any money received in violation of Part 1, General Requirements;

(iv) order payment of disgorged money to an injured purchaser or consumer;

(v) impose a civil penalty of up to $2,500 for each violation of Part 1, General Requirements;

(vi) award actual damages to an injured purchaser or consumer; and

(vii) award any other relief that the court deems reasonable and necessary.

(4) (a) At least 30 days before the day on which the division initiates an enforcement action against a person that is subject to the requirements of Part 1, General Requirements, the division shall provide the person with:

(i) written notice that identifies each alleged violation; and

(ii) an explanation of the basis for each allegation.

(b) Except as provided under Subsection (4)(c), the division may not initiate an action if the person:

(i) cures the noticed violation within 30 days after the day on which the person receives the notice described in Subsection (4)(a); and

(ii) provides the division with a written statement that:

(A) the person has cured the violation; and

(B) no further violation will occur.

(c) The division may initiate a civil action against a person that:

(i) fails to cure a violation after receiving the notice described in Subsection (4)(a); or

(ii) after curing a noticed violation and providing a written statement in accordance with Subsection (4)(b), commits another violation of the same provision.

(5) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(6) (a) A person who violates an administrative or court order issued for a violation of Part 1, General Requirements, is subject to a civil penalty of no more than $5,000 for each violation.

(b) A civil penalty authorized under this section may be imposed in any civil action brought by the division, or by the attorney general on behalf of the division.

(7) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund established in Section 13-2-8.

Section 10. Section 13-63-203 is enacted to read:

13-63-203. Division report.

(1) The division shall compile an annual report:

(a) evaluating the liability and enforcement provisions of this chapter, including:

(i) the effectiveness of the division's efforts to enforce this chapter; and

(ii) any recommendations for changes to this chapter;

(b) summarizing the consumer interactions that are protected and not protected by this chapter, including a list of alleged violations the division has received; and

(c) an accounting of:

(i) all administrative fines and civil penalties assessed during the year;

(ii) all administrative fines and civil penalties collected during the year; and

(iii) the use of funds from the Consumer Protection Education and Training Fund.

(2) The division may update or correct the report as new information becomes available.

(3) The division shall submit the report to the Business and Labor Interim Committee on or before the August meeting of each interim period.

Section 11. Section 13-63-301 is enacted to read:

Part 3. Private Right of Action for Violation of General Requirements

13-63-301. Private right of action.

(1) Beginning March 1, 2024, a person may bring an action against a person that does not comply with a requirement of Part 1, General Requirements.

(2) A suit filed under the authority of this section shall be filed in the district court for the district in which a person bringing the action resides.

(3) If a court finds that a person has violated a provision of Part 1, General Requirements, the person who brings an action under this section is entitled to:

(a) an award of reasonable attorney fees and court costs; and

(b) an amount equal to the greater of:

(i) $2,500 per each incident of violation; or

(ii) actual damages for financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations.

Section 12. Section 13-63-401 is enacted to read:

Part 4. Waiver Prohibited

13-63-401 (Codified as 13-62-601). Waiver prohibited.

A waiver or limitation, or a purported waiver or limitation, of any of the following is void as unlawful, is against public policy, and a court or arbitrator may not enforce or give effect to the waiver, notwithstanding any contract or choice-of-law provision in a contract:

(1) a protection or requirement provided under this chapter;

(2) the right to cooperate with the division or to file a complaint with the division; or

(3) the right to a private right of action as provided under this chapter.

Section 13. Section 13-63-501 is enacted to read:

Part 5. Severability

13-63-501 (Codified as 13-63-701). Severability.

If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court of

competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application. The provisions of this chapter are severable.

Section 14. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) The actions affecting Section 13-2-1 (Effective 12/31/2023) take effect on December 31, 2023.

CHAPTER 499
S. B. 153
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Jeffrey D. Stenquist

LONG TITLE

General Description:

This bill modifies provisions related to the Governor's Office of Economic Opportunity.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Governor's Office of Economic Opportunity (office) to report certain information regarding reinvestment agencies to the Legislature;
- expands the nonvoting membership of the Unified Economic Opportunity Commission;
- expands the membership of the Unified Economic Opportunity Commission's Women in the Economy Subcommittee;
- modifies provisions relating to the office's authorization of economic development tax credits;
- modifies provisions relating to the office's award of loans and grants from the Industrial Assistance Account;
- repeals limitations on the office's use of funds from the State Small Business Credit Initiative Program Fund for administration;
- modifies provisions relating to the office's award of grants under the Economic Assistance Grant Program;
- establishes the Redevelopment Matching Grant Program for supporting certain projects related to housing and water conservation;
- allows the office to award grants to associations of governments under the office's Rural Opportunity Program;
- allows for motion picture incentives that are available only for rural productions to be available for productions occurring in certain second class counties;
- renames the Utah Immigration Assistance Center to the Utah Center for Immigration and Integration and modifies the center's duties; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17C-1-603, as last amended by Laws of Utah 2021, Chapter 282
63N-1a-201, as last amended by Laws of Utah 2022, Chapter 362
63N-1b-402, as renumbered and amended by Laws of Utah 2022, Chapter 362
63N-1b-403, as renumbered and amended by Laws of Utah 2022, Chapter 362
63N-1b-404, as renumbered and amended by Laws of Utah 2022, Chapter 362
63N-2-104.3, as enacted by Laws of Utah 2022, Chapter 200
63N-3-102, as last amended by Laws of Utah 2022, Chapter 200
63N-3-105, as last amended by Laws of Utah 2022, Chapter 362
63N-3-106, as last amended by Laws of Utah 2021, Chapter 282
63N-3-107, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-111, as last amended by Laws of Utah 2022, Chapter 200
63N-3-801, as renumbered and amended by Laws of Utah 2022, Chapter 22
63N-3-802, as renumbered and amended by Laws of Utah 2022, Chapter 22
63N-3-1002, as enacted by Laws of Utah 2022, Chapter 362
63N-4-801, as enacted by Laws of Utah 2022, Chapter 362
63N-4-802, as enacted by Laws of Utah 2022, Chapter 362
63N-8-102, as last amended by Laws of Utah 2022, Chapter 417
63N-8-103, as last amended by Laws of Utah 2022, Chapter 417
63N-13-101, as last amended by Laws of Utah 2021, Chapter 282
63N-17-202, as last amended by Laws of Utah 2021, Chapters 162, 345 and renumbered and amended by Laws of Utah 2021, Chapter 282
63N-18-102, as enacted by Laws of Utah 2021, Chapter 304

ENACTS:

63N-3-1201, Utah Code Annotated 1953
63N-3-1202, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63N-18-201, (Renumbered from 63N-18-103, as enacted by Laws of Utah 2021, Chapter 304)
63N-18-202, (Renumbered from 63N-18-104, as enacted by Laws of Utah 2021, Chapter 304)

REPEALS:

63N-3-109, as last amended by Laws of Utah 2022, Chapter 362
63N-18-101, as enacted by Laws of Utah 2021, Chapter 304

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17C-1-603 is amended to read:

17C-1-603. Reporting requirements -- Governor's Office of Economic Opportunity to maintain a database.

(1) On or before June 1, 2022, the Governor's Office of Economic Opportunity shall:

(a) create a database to track information for each agency located within the state; and

(b) make the database publicly accessible from the office's website.

(2) (a) The Governor's Office of Economic Opportunity may:

(i) contract with a third party to create and maintain the database described in Subsection (1); and

(ii) charge a fee for a county, city, or agency to provide information to the database described in Subsection (1).

(b) The Governor's Office of Economic Opportunity shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a fee schedule for the fee described in Subsection (2)(a)(ii).

(3) Beginning in 2022, on or before June 30 of each calendar year, an agency shall, for each active project area for which the project area funds collection period has not expired, provide to the database described in Subsection (1) the following information:

(a) an assessment of the change in marginal value, including:

(i) the base year;

(ii) the base taxable value;

(iii) the prior year's assessed value;

(iv) the estimated current assessed value;

(v) the percentage change in marginal value; and

(vi) a narrative description of the relative growth in assessed value;

(b) the amount of project area funds the agency received for each year of the project area funds collection period, including:

(i) a comparison of the actual project area funds received for each year to the amount of project area funds forecasted for each year when the project area was created, if available;

(ii) (A) the agency's historical receipts of project area funds, including the tax year for which the agency first received project area funds from the project area; or

(B) if the agency has not yet received project area funds from the project area, the year in which the agency expects each project area funds collection period to begin;

(iii) a list of each taxing entity that levies or imposes a tax within the project area and a description of the benefits that each taxing entity receives from the project area; and

(iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;

(c) a description of current and anticipated project area development, including:

(i) a narrative of any significant project area development, including infrastructure development, site development, participation agreements, or vertical construction; and

(ii) other details of development within the project area, including:

(A) the total developed acreage;

(B) the total undeveloped acreage;

(C) the percentage of residential development; and

(D) the total number of housing units authorized, if applicable;

(d) the project area budget, if applicable, or other project area funds analyses, including:

(i) each project area funds collection period, including:

(A) the start and end date of the project area funds collection period; and

(B) the number of years remaining in each project area funds collection period;

(ii) the amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity, including:

(A) the total dollar amount; and

(B) the percentage of the total amount of project area funds generated within the project area;

(iii) the remaining amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity; and

(iv) the amount of project area funds the agency is authorized to use to pay for the agency's administrative costs, as described in Subsection 17C-1-409(1), including:

(A) the total dollar amount; and

(B) the percentage of the total amount of all project area funds;

(e) the estimated amount of project area funds that the agency is authorized to receive from the project area for the current calendar year;

(f) the estimated amount of project area funds to be paid to the agency for the next calendar year;

(g) a map of the project area; and

(h) any other relevant information the agency elects to provide.

[~~(4) (a) Until the Governor's Office of Economic Opportunity creates a database as required in Subsection (1), an agency shall, on or before November 1 of each calendar year, electronically submit a report to:~~]

[~~(i) the community in which the agency operates;~~]

[~~(ii) the county auditor;~~]

[~~(iii) the State Tax Commission;~~]

[~~(iv) the State Board of Education; and~~]

[~~(v) each taxing entity from which the agency receives project area funds.~~]

[~~(b) An agency shall ensure that the report described in Subsection (4)(a):~~]

[~~(i) contains the same information described in Subsection (3); and~~]

[~~(ii) is posted on the website of the community in which the agency operates.~~]

[~~(5)~~] (4) Any information an agency submits in accordance with this section:

(a) is for informational purposes only; and

(b) does not alter the amount of project area funds that an agency is authorized to receive from a project area.

[~~(6)~~] (5) The provisions of this section apply regardless of when the agency or project area is created.

(6) On or before September 1 of each year, the Governor's Office of Economic Opportunity shall prepare and submit an annual written report to the Political Subdivisions Interim Committee that identifies:

(a) the agencies that complied with the reporting requirements of this section during the preceding reporting period; and

(b) any agencies that failed to comply with the reporting requirements of this section during the preceding reporting period.

Section 2. Section 63N-1a-201 is amended to read:

63N-1a-201. Creation of commission.

(1) There is created in the office the Unified Economic Opportunity Commission, established to carry out the mission described in Section 63N-1a-103 and direct the office and other appropriate entities in fulfilling the state strategic goals.

(2) The commission consists of:

(a) the following voting members:

(i) the governor, who shall serve as the chair of the commission;

(ii) the executive director, who shall serve as the vice chair of the commission;

(iii) the executive director of the Department of Workforce Services;

(iv) the executive director of the Department of Transportation;

(v) the executive director of the Department of Natural Resources;

(vi) the executive director of the Department of Commerce;

(vii) the commissioner of the Department of Agriculture and Food;

(viii) the executive director of the Governor's Office of Planning and Budget;

(ix) the commissioner of higher education;

(x) the state superintendent of public instruction;

(xi) the president of the Senate or the president's designee;

(xii) the speaker of the House of Representatives or the speaker's designee;

(xiii) one individual who is knowledgeable about housing needs in the state, including housing density and land use, appointed by the governor;

(xiv) one individual who represents the interests of urban cities, appointed by the Utah League of Cities and Towns; and

(xv) one individual who represents the interests of rural counties, appointed by the Utah Association of Counties; and

(b) the following non-voting members:

(i) the chief executive officer of World Trade Center Utah;

(ii) the chief executive officer of the Economic Development Corporation of Utah; [~~and~~]

(iii) a senior advisor to the chair of the commission with expertise in rural affairs of the state, appointed by the chair of the commission[~~.~~]; and

(iv) the chief executive officer of one of the following entities, appointed by the chair of the commission:

(A) the Utah Inland Port Authority created in Section 11-58-201;

(B) the Point of the Mountain State Land Authority created in Section 11-59-201; or

(C) the Military Installation Development Authority created in Section 63H-1-201.

(3) A majority of commission members constitutes a quorum for the purposes of conducting commission business and the action of a majority of a quorum constitutes the action of the commission.

(4) The executive director of the office, or the executive director's designee, is the executive director of the commission.

(5) The office shall provide:

(a) office space and administrative staff support for the commission; and

(b) the central leadership and coordination of the commission's efforts in the field of economic development.

(6) (a) A member may not receive compensation or benefits for the member's service on the commission, but may receive per diem and travel expenses in accordance with:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 3. Section 63N-1b-402 is amended to read:

63N-1b-402. Women in the Economy Subcommittee created.

(1) There is created a subcommittee of the commission called the Women in the Economy Subcommittee.

(2) The subcommittee shall consist of [~~11~~] 15 members as follows:

(a) one senator appointed by the president of the Senate;

(b) one senator appointed by the minority leader of the Senate;

(c) one representative appointed by the speaker of the House of Representatives;

(d) one representative appointed by the minority leader of the House of Representatives;

(e) the executive director of the department, or the executive director's designee; and

(f) [~~six~~] 10 members appointed by the governor as follows:

(i) [~~a representative of a business with fewer than 50 employees that has been awarded for work flexibility or work-life balance~~] two individuals who represent businesses in the state that:

(A) have fewer than 50 employees; and

(B) have demonstrated a commitment to women in the economy;

[~~(ii) a representative of a business with 50 or more employees, but fewer than 500 employees, that has been awarded for work flexibility or work-life balance~~]

(ii) two individuals who represent businesses in the state that:

(A) have 50 or more employees, but fewer than 500 employees; and

(B) have demonstrated a commitment to women in the economy;

[~~(iii) a representative of a business with 500 or more employees that has been awarded for work flexibility or work-life balance~~]

(iii) two individuals who represent businesses in the state that:

(A) have 500 or more employees; and

(B) have demonstrated a commitment to women in the economy;

(iv) an individual who has experience in economic and demographic work [~~and is employed by a state institution of higher education~~];

(v) one individual from a nonprofit organization that [~~addresses issues related to domestic violence; and~~] focuses on women's advocacy;

(vi) one individual with managerial experience with organized labor[~~.~~]; and

(vii) one individual who serves as an officer, employee, or appointee of a local government, nominated by the Utah League of Cities and Towns.

(3) (a) When a vacancy occurs in a position appointed by the governor under Subsection (2)(f), the governor shall appoint a person to fill the vacancy.

(b) A member appointed under Subsection (2)(f) shall serve a term of four years.

(c) Notwithstanding Subsection (3)(b), for members appointed under Subsection (2)(f), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of subcommittee members are staggered so that approximately half of the subcommittee members appointed under Subsection (2)(f) are appointed every two years.

[~~(b)~~] (d) Members appointed under Subsection (2)(f) may be removed by the governor for cause.

[~~(c)~~] (e) A member appointed under Subsection (2)(f) shall be removed from the subcommittee and replaced by the governor if the member is absent for three consecutive meetings of the subcommittee without being excused by the chair of the subcommittee.

[~~(d)~~] (f) A member serves until the member's successor is appointed and qualified.

(4) In appointing the members under Subsection (2)(f), the governor shall:

(a) take into account the geographical makeup of the subcommittee; and

(b) strive to appoint members who are knowledgeable or have an interest in issues related to women in the economy.

(5) (a) The subcommittee shall select two members who are legislators to serve as cochairs, [~~one of which shall be a legislator~~] of which:

(i) one cochair shall be a member of the Senate; and

(ii) one cochair shall be a member of the House of Representatives.

(b) Subject to the other provisions of this Subsection (5), the cochairs are responsible for the call and conduct of meetings.

(c) The cochairs shall call and hold meetings of the subcommittee at least [~~every two months~~] four times per year.

[~~(d) One of the bimonthly meetings described in Subsection (5)(c) shall be held while the Legislature is convened in the Legislature's annual general session.~~]

[~~(e) One or more additional meetings may be called upon request by a majority of the subcommittee's members.~~]

(6) (a) A majority of the members of the subcommittee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the subcommittee.

(7) (a) A member of the subcommittee described in Subsection (2)(e) or (f) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(8) The office shall provide staff support to the subcommittee.

Section 4. Section 63N-1b-403 is amended to read:

63N-1b-403. Purpose -- Powers and duties of the subcommittee.

(1) The subcommittee's purpose is to:

(a) increase public and government understanding of the current and future impact and needs of the state's women in the economy and how those needs may be most effectively and efficiently met;

(b) identify and recommend implementation of specific policies, procedures, and programs to respond to the rights, needs, and impact of women in the economy; and

(c) facilitate coordination of the functions of public and private entities concerned with women in the economy.

(2) The subcommittee shall:

(a) facilitate the communication and coordination of public and private entities that provide services to women or protect the rights of women;

(b) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to women or protect the rights of women;

(c) study and evaluate the policies, procedures, and programs implemented by other states that address the needs of women in the economy or protect the rights of women;

(d) facilitate and conduct the research and study of issues related to women in the economy;

(e) provide a forum for public comment on issues related to women in the economy;

(f) provide public information on women in the economy and the services available to women; and

(g) encourage state and local governments to analyze, plan, and prepare for the impact of women in the economy on services and operations.

(3) To accomplish the subcommittee's duties, the subcommittee may:

(a) request and receive from a state or local government agency or institution summary information relating to women in the economy, including:

(i) reports;

(ii) audits;

(iii) projections; and

(iv) statistics;

(b) in coordination with the office, apply for and accept grants or donations for uses consistent with the duties of the subcommittee from public or private sources; and

(c) appoint one or more working groups to advise and assist the subcommittee.

(4) Money received by the office under Subsection (3)(b) shall be:

(a) accounted for and expended in compliance with the requirements of federal and state law; and

(b) continuously available to the subcommittee to carry out the subcommittee's duties.

(5) (a) A member of a working group described in Subsection (3)(c):

(i) shall be appointed by the subcommittee;

(ii) may be:

(A) a member of the subcommittee; or

(B) an individual from the private or public sector; and

(iii) notwithstanding Section 35A-11-201, may not receive reimbursement or pay for any work done in relation to the working group.

(b) A working group described in Subsection (3)(c) shall report to the subcommittee on the progress of the working group.

Section 5. Section 63N-1b-404 is amended to read:

63N-1b-404. Annual report.

(1) The subcommittee shall annually prepare a report for inclusion in the [~~office's annual written report described in Section 63N-1a-306~~] commission's report to the office under Subsection 63N-1a-202(3).

(2) The report described in Subsection (1) shall:

(a) describe how the subcommittee fulfilled the subcommittee's statutory purposes and duties during the year; and

(b) contain recommendations on how the state should act to address issues relating to women in the economy.

Section 6. Section 63N-2-104.3 is amended to read:

63N-2-104.3. Limitations on tax credit amount.

(1) Except as provided in Subsection (2)(a), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize a tax credit that exceeds:

(a) 50% of the new state revenues from the new commercial project in any given year;

(b) 30% of the new state revenues from the new commercial project over [~~the lesser of the life of a new commercial project or~~] a period of up to 20 years; or

(c) 35% of the new state revenues from the new commercial project over [~~the lesser of the life of a new commercial project or~~] a period of up to 20 years, if:

(i) the new commercial project brings 2,500 or more new incremental jobs to the state;

(ii) the amount of capital expenditures associated with the new commercial project is $1,000,000,000 or more; and

(iii) the commission approves the tax credit.

(2) If the office authorizes a tax credit for a new commercial project located within the boundary of:

(a) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office [~~shall~~] may authorize a tax credit of up to 50% of new state revenues from the new commercial project over [~~the lesser of the life of the new commercial project or~~] a period of up to 20 years;

(b) a county of the third class, the office [~~shall~~] may authorize a tax credit of up to 50% of new state revenues from the new commercial project over [~~the lesser of the life of the new commercial project or~~] a period of up to 20 years; and

(c) a county of the fourth, fifth, or sixth class, the office [~~shall~~] may authorize a tax credit of 50% of new state revenues from the new commercial project over [~~the lesser of the life of the new commercial project or~~] a period of up to 20 years.

Section 7. Section 63N-3-102 is amended to read:

63N-3-102. Definitions.

As used in this part:

(1) "Administrator" means the executive director or the executive director's designee.

(2) "Economic opportunities" means [~~unique~~] business situations or community circumstances[~~, including the development of recreation infrastructure and the promotion of the high tech sector in the state,~~] which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state [~~as determined by the GO Utah board~~].

(3) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section 63N-3-103.

(4) "Talent development grant" means a grant awarded under Section 63N-3-112.

Section 8. Section 63N-3-105 is amended to read:

63N-3-105. Qualification for assistance -- Application requirements.

[~~(1) (a) Except as provided in Section 63N-3-109, the administrator, in consultation with the GO Utah board, shall determine which industries, companies, and individuals qualify to receive money from the Industrial Assistance Account.~~]

[~~(b) Except as provided by Subsection (2), to qualify for financial assistance from the restricted account, an applicant shall:~~]

[~~(i) demonstrate to the satisfaction of the administrator that the applicant will expend funds in the state with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of one to one per year or other more stringent requirements as established on a per project basis by the administrator;~~]

[~~(ii) demonstrate to the satisfaction of the administrator the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and~~]

[~~(iii) satisfy other criteria the administrator considers appropriate.~~]

[~~(2) (a) The administrator may exempt an applicant from the requirements of Subsection (1)(a) or (b) if:~~]

[~~(i) the applicant is part of a targeted industry;~~]

[~~(ii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state; or~~]

[~~(iii) the applicant is an entity offering an economic opportunity under Section 63N-3-109.~~]

[~~(b) The administrator may not exempt the applicant from the requirement under Subsection 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.~~]

(1) Subject to the requirements of this part, the administrator may provide loans, grants, or other financial assistance from the restricted account to an entity offering an economic opportunity if that entity:

(a) applies to the administrator in a form approved by the administrator; and

(b) meets the qualifications of Subsection (2).

(2) As part of an application for receiving financial assistance under this part, an applicant shall demonstrate the following to the satisfaction of the administrator:

(a) the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the expenditure of money necessitated by the economic opportunity;

(b) how the economic opportunity will act in concert with other state, federal, or local agencies to achieve the economic benefit;

(c) that the applicant will expend funds in the state with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of one to one per year or other more stringent requirements as established on a per project basis by the administrator;

(d) for an application for a loan, the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

(e) any other criteria the administrator considers appropriate.

(3) (a) The administrator may exempt an applicant from any of the requirements of Subsection (2) if:

(i) the applicant is part of a targeted industry;

(ii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and the applicant's operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state; or

(iii) the GO Utah board recommends awarding a grant to the applicant.

(b) The administrator may not exempt the applicant from the requirement under Subsection 63N-3-106(1)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

[~~(3)~~] (4) The GO Utah board shall make recommendations to the administrator regarding applications for loans, grants, or other financial assistance from the Industrial Assistance Account.

(5) Before awarding any money under this part, the administrator shall:

(a) make findings as to whether an applicant has satisfied the requirements of Subsection (2);

(b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;

(c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; and

(d) make funding decisions based upon appropriate findings and compliance.

[~~(4) The administrator shall:~~]

[~~(a) for applicants not described in Subsection (2)(a):~~]

[~~(i) make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (1); and~~]

[~~(ii) monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (1) for five years;~~]

[~~(b) consider the GO Utah board's recommendations with respect to each application;~~]

[~~(c) monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section 63N-3-107; and~~]

[~~(d) make funding decisions based upon appropriate findings and compliance.~~]

Section 9. Section 63N-3-106 is amended to read:

63N-3-106. Structure of loans, grants, and assistance -- Repayment -- Earned credits.

[~~(1) (a) A company that qualifies under Section 63N-3-105 may receive loans, grants, or other financial assistance from the Industrial Assistance Account for expenses related to establishment, relocation, or development of industry in Utah.~~]

[~~(b) An entity offering an economic opportunity that qualifies under Section 63N-3-109 may:~~]

[~~(i) receive loans, grants, or other financial assistance from the restricted account for expenses related to the establishment, relocation, retention, or development of industry in the state; and~~]

[~~(ii) include infrastructure or other economic development precursor activities that act as a catalyst and stimulus for economic activity likely to lead to the maintenance or enlargement of the state's tax base.~~]

[~~(2)~~] (1) (a) Subject to Subsection [~~(2)(b)~~] (1)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.

(b) Loans made under [~~Subsection (2)(a)~~] this part shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.

(c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.

[~~(3)~~] (2) [~~(a) (i)~~] (a) [~~Except as provided in Subsection (3)(b), the~~] The administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.

[~~(ii)~~] (b) The value of the credits described in Subsection [~~(3)(a)(i)~~] (2)(a) shall be based on factors determined by the administrator, including:

[~~(A)~~] (i) the number of Utah jobs created;

[~~(B)~~] (ii) the increased economic activity in Utah; or

[~~(C)~~] (iii) other events and activities that occur as a result of the restricted account assistance.

[~~(b) (i) The administrator shall provide for a system of credits to be used to support grant payments or in lieu of cash repayment of a restricted account loan when loans are made to a company creating an economic impediment.~~]

[~~(ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors determined by the administrator, including:~~]

[~~(A) the number of Utah jobs created;~~]

[~~(B) the increased economic activity in Utah; or~~]

[~~(C) other events and activities that occur as a result of the restricted account assistance.~~]

[~~(4)~~] (3) (a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the restricted account.

(b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection [~~(3)~~] (2).

[~~(5)~~] (4) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection [~~(5)(b)~~] (4)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.

(ii) The set aside under Subsection [~~(5)(a)(i)~~] (4)(a)(i) shall be capped at $50,000,000, at which time no subsequent contributions may be made and any interest accrued above the $50,000,000 cap shall be deposited into the General Fund.

(b) The set aside required by Subsection [~~(5)(a)~~] (4)(a) shall be made after the transfer of surplus General Fund revenue surplus is made:

(i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as provided in Section 63J-1-315;

(ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312; and

(iii) to the Wildland Fire Suppression Fund or State Disaster Recovery Restricted Account, as provided in Section 63J-1-314.

(c) These credit amounts may not be used for purposes of the restricted account as provided in this part until appropriated by the Legislature.

Section 10. Section 63N-3-107 is amended to read:

63N-3-107. Agreements.

The administrator shall enter into agreements with each successful applicant that have specific terms and conditions for each loan, grant, or financial assistance under this part, including:

(1) for a loan:

[~~(1)~~] (a) repayment schedules;

[~~(2)~~] (b) interest rates;

[~~(3)~~] (c) specific economic activity required to qualify for the loan [~~or assistance~~] or for repayment credits;

[~~(4)~~] (d) collateral or security, if any; and

[~~(5)~~] (e) other terms and conditions considered appropriate by the administrator[~~.~~]; and

(2) for a grant or other financial assistance:

(a) requirements for compliance monitoring, for a period of five years;

(b) repayment for nonperformance or departure from the state;

(c) collateral or security, if any; and

(d) other terms and conditions considered appropriate by the administrator.

Section 11. Section 63N-3-111 is amended to read:

63N-3-111. Annual policy considerations.

(1) (a) The office shall make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the economic development of targeted industries.

(b) The office may create one or more voluntary advisory committees that may include public and private stakeholders to solicit input on policy guidance and best practices in encouraging the economic development of targeted industries.

(2) In evaluating the economic impact of applications for assistance, the GO Utah board shall use an econometric cost-benefit model.

(3) The GO Utah board may establish:

(a) minimum interest rates to be applied to loans granted that reflect a fair social rate of return to the state comparable to prevailing market-based rates such as the prime rate, U.S. Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators such as the rate of unemployment; and

(b) minimum applicant expense ratios, as long as they are at least equal to those required under Subsection [~~63N-3-105(1)(b)~~] 63N-3-105(2).

Section 12. Section 63N-3-801 is amended to read:

63N-3-801. Creation and administration.

(1) There is created an enterprise fund known as the "State Small Business Credit Initiative Program Fund" administered by the office.

(2) The executive director or the executive director's designee is the administrator of the fund.

(3) Revenues deposited into the fund shall consist of:

(a) grants, pay backs, bonuses, entitlements, and other money received from the federal government to implement the State Small Business Credit Initiative; and

(b) transfers, grants, gifts, bequests, and other money made available from any source to implement this part.

(4) (a) The state treasurer shall invest the money in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(b) Interest and other earnings derived from the fund money shall be deposited in the fund.

(5) The office may use fund money for administration of the fund[~~, but not to exceed 4% of the annual receipts to the fund~~].

Section 13. Section 63N-3-802 is amended to read:

63N-3-802. Distribution of fund money.

[~~(1) (a) The office shall make loans and loan guarantees from the fund for the Small Business Credit Initiative created under the Small Business Jobs Act of 2010, 12 U.S.C. Sec. 5701 et seq., as amended, to use federal money for programs that leverage private lending to help finance small businesses and manufacturers that are creditworthy but not receiving the loans needed to expand and create jobs.~~]

[~~(b) In making loans and loan guarantees under this part, the office shall give due consideration to small businesses in underserved communities throughout the state that have been deeply impacted by recession and not seen a comparable resurgence in their economies.~~]

[~~(2)~~] (1) The office shall distribute federal money in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government under the Small Business Jobs Act of 2010, 12 U.S.C. Sec. 5701 et seq., as amended.

[~~(3)~~] (2) The office may:

(a) enact rules to establish procedures for the [~~loan and loan guarantee process~~] distribution of fund money by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

Section 14. Section 63N-3-1002 is amended to read:

63N-3-1002. Creation of Economic Assistance Grant Program -- Requirements -- Rulemaking -- Annual report.

(1) There is created the Economic Assistance Grant Program administered by the office.

(2) Subject to appropriations from the Legislature, the office may award one or more grants to a business entity to provide funding for projects that:

(a) promote and support economic opportunities in the state; and

(b) provide a service in the state related to industry, education, community development, or infrastructure.

(3) In awarding grants, the office may prioritize projects:

[~~(a) that create new jobs in the state;~~]

[~~(b)~~] (a) that develop targeted industries in the state;

[~~(c)~~] (b) where an applicant identifies clear metrics to measure the progress, effectiveness, and scope of the project;

[~~(d) where an applicant secures funding from other sources to help finance the project;~~]

[~~(e)~~] (c) where an applicant demonstrates comprehensive planning of the project; and

[~~(f)~~] (d) that require one-time funds.

(4) Before a business entity may receive a grant, the business entity shall enter into a written agreement with the office that specifies:

(a) the amount of the grant;

(b) the time period for distributing the grant;

(c) the terms and conditions that the business entity shall meet to receive the grant;

(d) the structure of the grant; and

(e) the expenses for which the business entity may expend the grant.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to administer the grant program.

(6) The office shall include in the annual written report described in Section 63N-1a-306 a report on the grant program[~~, including a description and the amount of any grants awarded~~].

Section 15. Section 63N-3-1201 is enacted to read:

Part 12. Redevelopment Matching Grant Program

63N-3-1201. Definitions.

As used in this part:

(1) "American Rescue Plan Act" means the American Rescue Plan Act, Pub. L. 117-2.

(2) "Grant" means a financial grant awarded as part of the Redevelopment Matching Grant Program created in Section 63N-3-1202.

(3) "Grant program" means the Redevelopment Matching Grant Program created in Section 63N-3-1202.

(4) "Local government" means a county or municipality.

Section 16. Section 63N-3-1202 is enacted to read:

63N-3-1202. Creation of Redevelopment Matching Grant Program -- Eligibility and program requirements -- Rulemaking -- Reporting.

(1) There is created the Redevelopment Matching Grant Program administered by the office.

(2) Subject to appropriations from the Legislature, the office shall award grants to:

(a) local governments that meet the qualifications described in Subsection (3), to provide support for projects or services that increase the supply of affordable and high quality living units; and

(b) water conservancy districts, local districts, and special service districts that meet the qualifications described in Subsection (4), to provide support for projects or services that conserve or develop water assets.

(3) To qualify for a grant, a local government shall:

(a) demonstrate that the local government has approved a development application after January 1, 2021, that allows for the creation of new or additional affordable housing units, attached or detached, at a density of at least eight units per acre;

(b) demonstrate that the project for which grant funds are sought is not subject to a land use referendum or initiative;

(c) provide an equal amount of matching funds; and

(d) certify that the local government will spend grant funds:

(i) on a project or service that increases the supply of affordable and high quality living units;

(ii) within six months of receiving the grant; and

(iii) in accordance with the American Rescue Plan Act.

(4) To qualify for a grant, a water conservancy district, local district, or special service district shall:

(a) provide an equal amount of matching funds; and

(b) certify that the water conservancy district, local district, or special service district will spend grant funds:

(i) on a project or service that conserves or develops water assets; and

(ii) in accordance with the American Rescue Plan Act.

(5) In awarding grants to local governments, the office may award an initial grant to a local government in an amount of up to $2,500,000, and an additional grant of up to $1,500,000, if the project includes a minimum of 1,000 housing units or a minimum of 40 units per acre.

(6) The office may not award more than 35% of the total amount of grant funds available for projects to conserve or develop water assets.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing the eligibility and reporting criteria for grants, including:

(a) the form and process of applying for grants;

(b) the method and formula for determining grant amounts; and

(c) the reporting requirements of grant recipients.

(8) The office shall annually prepare and submit a report describing the distribution and uses of grants to the Governor's Office of Planning and Budget and to the Office of the Legislative Fiscal Analyst.

(9) In addition to the report described in Subsection (8), the office shall include in the annual written report described in Section 63N-1a-306 a report on the grant program.

Section 17. Section 63N-4-801 is amended to read:

63N-4-801. Definitions.

As used in this part:

(1) "Advisory committee" means the Rural Opportunity Advisory Committee created in Section 63N-4-804.

(2) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(2)~~] (3) (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) "Business entity" does not include a business primarily engaged in the following:

(i) construction;

(ii) staffing;

(iii) retail trade; or

(iv) public utility activities.

[~~(3)~~] (4) "CEO board" means a County Economic Opportunity Advisory Board as described in Section 63N-4-803.

[~~(4)~~] (5) "Fund" means the Rural Opportunity Fund created in Section 63N-4-805.

[~~(5)~~] (6) "Qualified asset" means a physical asset that provides or supports an essential public service.

[~~(6)~~] (7) " Qualified project" means a project to build or improve one or more qualified assets for a rural community, including:

(a) telecom and high-speed Internet infrastructure;

(b) power and energy infrastructure;

(c) water and sewerage infrastructure;

(d) healthcare infrastructure; or

(e) other infrastructure as defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(7)~~] (8) "Rural community" means a rural county or rural municipality.

[~~(8)~~] (9) "Rural county" means a county of the third, fourth, fifth, or sixth class.

[~~(9)~~] (10) "Rural municipality" means a city, town, or metro township located within the boundaries of:

(a) a county of the third, fourth, fifth, or sixth class; or

(b) a county of the second class, if the municipality has a population of 10,000 or less.

[~~(10)~~] (11) "Rural Opportunity Program" or "program" means the Rural Opportunity Program created in Section 63N-4-802.

Section 18. Section 63N-4-802 is amended to read:

63N-4-802. Creation of Rural Opportunity Program -- Awarding of grants and loans -- Rulemaking -- Reporting.

(1) There is created the Rural Opportunity Program.

(2) The program shall be overseen by the advisory committee and administered by the office.

(3) (a) In overseeing the program, the advisory committee shall make recommendations to the office on the awarding of grants and loans under this section.

(b) After reviewing the recommendations of the advisory committee, and subject to appropriations from the Legislature, the office shall:

(i) award grants to rural communities and business entities in accordance with Subsection (4) and rules made by the center under Subsection (6); and

(ii) award loans to rural communities in accordance with Subsection (5) and rules made by the center under Subsection (6).

(4) (a) The office shall annually distribute an equal amount of grant money to all rural counties that have created a CEO board and apply for a grant, in an amount up to and including $200,000 annually per county.

(b) In addition to the grant money distributed to rural counties under Subsection (4)(a), the office may use program funds to:

(i) award grants to rural communities that demonstrate a funding match, in an amount established by rule under Subsection (6); [~~and~~]

(ii) award grants to business entities that create new jobs within rural communities[~~.~~]; and

(iii) award grants to associations of governments, subject to Subsection (4)(e).

(c) The office shall award grants under this Subsection (4) to address the economic development needs of rural communities, which needs may include:

(i) business recruitment, development, and expansion;

(ii) workforce training and development; and

(iii) infrastructure, industrial building development, and capital facilities improvements for business development.

(d) In awarding grants under this Subsection (4), the office:

(i) shall prioritize applications in accordance with rules made by the office under Subsection (6); [~~and~~]

(ii) may not award more than $800,000 annually to a rural community or business entity[~~.~~]; and

(iii) may not award more than 20% of the total amount of grant funds made available each year to associations of governments.

(e) An association of governments may not receive a grant from the program unless the association of governments demonstrates to the office that each county belonging to the association of governments has approved the request for grant funds.

(5) (a) In addition to the awarding of grants under Subsection (4), the office may use program funds to award loans to rural communities to provide financing for qualified projects.

(b) (i) A rural community may not receive a loan from the program for a qualified project unless:

(A) the rural community demonstrates to the office that the rural community has exhausted all other means of securing funding from the state for the qualified project; and

(B) the rural community enters into a loan contract with the office.

(ii) A loan contract under Subsection (5)(b)(i)(B):

(A) shall be secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the rural community to the repayment of the loan; and

(B) may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.

(c) A loan under this Subsection (5) shall bear interest at a rate:

(i) not less than bond market interest rates available to the state; and

(ii) not more than .5% above bond market interest rates available to the state.

(d) Before a rural community may receive a loan from the office, the rural community shall:

(i) publish the rural community's intention to obtain the loan at least once in accordance with the publication and notice requirements described in Section 11-14-316; and

(ii) adopt an ordinance or resolution authorizing the loan.

(e) (i) If a rural community that receives a loan from the office fails to comply with the terms of the loan contract, the office may seek any legal or equitable remedy to obtain compliance or payment of damages.

(ii) If a rural community fails to make loan payments when due, the state shall, at the request of the office, withhold an amount of money due to the rural community and deposit the withheld money into the fund to pay the amount due under the contract.

(iii) The office may elect when to take any action or request the withholding of money under this Subsection (5)(e).

(f) All loan contracts, bonds, notes, or other evidence of indebtedness securing any loans shall be collected and accounted for in accordance with Section 63B-1b-202.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the advisory committee, the office shall make rules to administer the program.

(b) The rules under Subsection (6)(a) shall establish:

(i) eligibility criteria for a rural community or business entity to receive a grant or loan under the program;

(ii) application requirements;

(iii) funding match requirements for a rural community to receive a grant under Subsection (4)(b);

(iv) a process for prioritizing grant and loan applications; and

(v) reporting requirements.

(7) The office shall include the following information in the annual written report described in Section 63N-1a-306:

(a) the total amount of grants and loans the office awarded to rural communities and business entities under the program;

(b) a description of the projects for which the office awarded a grant or loan under the program;

(c) the total amount of outstanding debt service that is being repaid by a grant or loan awarded under the program;

(d) whether the grants and loans awarded under the program have resulted in economic development within rural communities; and

(e) the office's recommendations regarding the effectiveness of the program and any suggestions for legislation.

Section 19. Section 63N-8-102 is amended to read:

63N-8-102. Definitions.

As used in this chapter:

(1) "Digital media company" means a company engaged in the production of a digital media project.

(2) "Digital media project" means all or part of a production of interactive entertainment or animated production that is produced for distribution in commercial or educational markets, which shall include projects intended for Internet or wireless distribution.

(3) "Dollars left in the state" means expenditures made in the state for a state-approved production, including:

(a) an expenditure that is subject to:

(i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act; and

(iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, notwithstanding any sales and use tax exemption allowed by law; or

(iv) a combination of Subsections (3)(a)(i), (ii), and (iii);

(b) payments made to a nonresident only to the extent of the income tax paid to the state on the

payments, the amount of per diems paid in the state, and other direct reimbursements transacted in the state; and

(c) payments made to a payroll company or loan-out corporation that is registered to do business in the state, only to the extent of the amount of withholding under Section 59-10-402.

(4) "Loan-out corporation" means a corporation owned by one or more artists that provides services of the artists to a third party production company.

(5) "Motion picture company" means a company engaged in the production of:

(a) motion pictures;

(b) television series; or

(c) made-for-television movies.

(6) "Motion picture incentive" means either a cash rebate from the Motion Picture Incentive Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.

(7) "New state revenues" means:

(a) incremental new state sales and use tax revenues generated as a result of a digital media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax Act;

(b) incremental new state tax revenues that a digital media company pays as a result of a digital media project under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

(iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(v) a combination of Subsections (7)(b)(i), (ii), (iii), and (iv);

(c) incremental new state revenues generated as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by employees of the new digital media project as evidenced by payroll records from the digital media company; or

(d) a combination of Subsections (7)(a), (b), and (c).

(8) "Payroll company" means a business entity that handles the payroll and becomes the employer of record for the staff, cast, and crew of a motion picture production.

(9) "Refundable tax credit" means a refundable motion picture tax credit authorized under Section 63N-8-103 and claimed under Section 59-7-614.5 or 59-10-1108.

(10) "Restricted account" means the Motion Picture Incentive Account created in Section 63N-8-103.

(11) "Rural production" means a state-approved production in which at least 75% of the total number of production days occur within:

(a) a county of the third, fourth, fifth, or sixth class[.]; or

(b) a county of the second class that has a national park within or partially within the county's boundaries.

(12) "State-approved production" means a production under Subsections (2) and (5) that is:

(a) approved by the office and ratified by the GO Utah board; and

(b) produced in the state by a motion picture company.

(13) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

(14) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the applicant;

(b) lists the applicant's taxpayer identification number;

(c) lists the amount of tax credit that the office awards the applicant for the taxable year; and

(d) may include other information as determined by the office.

Section 20. Section 63N-8-103 is amended to read:

63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.

(1) (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.

(b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.

(c) The restricted account shall consist of an annual appropriation by the Legislature.

(d) The office shall:

(i) with the advice of the GO Utah board, administer the restricted account; and

(ii) make payments from the restricted account as required under this section.

(e) The cost of administering the restricted account shall be paid from money in the restricted account.

(2) (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall

follow the procedures and requirements of this Subsection (2).

(b) The motion picture company or digital media company shall provide the office with an incentive request form, provided by the office, identifying and documenting the dollars left in the state and new state revenues generated by the motion picture company or digital media company for state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).

(c) For a motion picture company, an independent certified public accountant shall:

(i) review the incentive request form submitted by the motion picture company; and

(ii) provide a report on the accuracy and validity of the incentive request form, including the amount of dollars left in the state, in accordance with the agreed upon procedures established by the office by rule.

(d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

(e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.

(f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax Commission to provide to the office in the document described in Subsection (2)(d).

(g) Subject to Subsection (3), for a motion picture company the office shall:

(i) review the incentive request form from the motion picture company described in Subsection (2)(b) and verify that the incentive request form was reviewed by an independent certified public accountant as described in Subsection (2)(c); and

(ii) based upon the independent certified public accountant's report under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under the motion picture company's agreement with the office.

(h) Subject to Subsection (3), for a digital media company, the office shall:

(i) ensure the digital media project results in new state revenues; and

(ii) based upon review of new state revenues, determine the amount of the incentive that a digital media company is entitled to under the digital media company's agreement with the office.

(i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-105(6).

(j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:

(i) issue a tax credit certificate to the motion picture company or digital media company; and

(ii) provide a digital record of the tax credit certificate to the State Tax Commission.

(k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).

(l) A motion picture company or digital media company may claim a motion picture tax credit on the motion picture company's or the digital media company's tax return for the amount listed on the tax credit certificate issued by the office.

(m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection 63N-8-104(6).

(3) (a) Subject to this Subsection (3), the office may issue $6,793,700 in tax credit certificates under this part in each fiscal year.

(b) For the fiscal year ending June 30, 2022, the office may issue $8,393,700 in tax credit certificates under this part.

(c) For [~~a fiscal year beginning on or after July 1, 2022~~] fiscal years 2023 and 2024, in addition to the amount of tax credit certificates authorized under Subsection (3)(a), the office may issue $12,000,000 in tax credit certificates under this part only for rural productions.

(d) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under this Subsection (3), the office may carry over that amount for issuance in subsequent fiscal years.

Section 21. Section 63N-13-101 is amended to read:

63N-13-101. Title -- Projects to assist companies to secure new business with federal, state, and local governments.

(1) This chapter is known as "Procurement Programs."

(2) The Legislature recognizes that:

(a) many Utah companies provide products and services which are routinely procured by a myriad of governmental entities at all levels of government, but that attempting to understand and comply with

the numerous certification, registration, proposal, and contract requirements associated with government procurement often raises significant barriers for those companies with no government contracting experience;

(b) the costs associated with obtaining a government contract for products or services often prevent most small businesses from working in the governmental procurement market;

(c) currently a majority of federal procurement opportunities are contracted to businesses located outside of the state;

(d) the office currently administers programs and initiatives that help create and grow companies in Utah and recruit companies to Utah through the use of state employees, public-private partnerships, and contractual services; and

(e) there exists a significant opportunity for Utah companies to secure new business with federal, state, and local governments.

(3) The office, through its executive director:

(a) shall manage and direct the administration of state and federal programs and initiatives whose purpose is to procure federal, state, and local governmental contracts;

(b) may require program accountability measures; and

(c) may receive and distribute legislative appropriations and public and private grants for projects and programs that:

(i) are focused on growing Utah companies and positively impacting statewide revenues by helping these companies secure new business with federal, state, and local governments;

(ii) provide guidance to Utah companies interested in obtaining new business with federal, state, and local governmental entities;

(iii) would facilitate marketing, business development, and expansion opportunities for Utah companies in cooperation with the office's [~~Procurement Technical Assistance Center Program~~] APEX accelerator program and with public, nonprofit, or private sector partners such as local chambers of commerce, trade associations, or private contractors as determined by the office's director to successfully match Utah businesses with government procurement opportunities; and

(iv) may include the following components:

(A) recruitment, individualized consultation, and an introduction to government contracting;

(B) specialized contractor training for companies located in Utah;

(C) a Utah contractor matching program for government requirements;

(D) experienced proposal and bid support; and

(E) specialized support services.

(4) (a) The office, through its executive director, shall make any distribution referred to in Subsection (3) on a semiannual basis.

(b) A recipient of money distributed under this section shall provide the office with a set of standard monthly reports, the content of which shall be determined by the office to include at least the following information:

(i) consultive meetings with Utah companies;

(ii) seminars or training meetings held;

(iii) government contracts awarded to Utah companies;

(iv) increased revenues generated by Utah companies from new government contracts;

(v) jobs created;

(vi) salary ranges of new jobs; and

(vii) the value of contracts generated.

Section 22. Section 63N-17-202 is amended to read:

63N-17-202. Infrastructure and broadband coordination.

(1) The broadband center shall partner with the Utah Geospatial Resource Center created in Section 63A-16-505 to collect and maintain a database and interactive map that displays economic development data statewide, including:

(a) voluntarily submitted broadband availability, speeds, and other broadband data;

(b) voluntarily submitted public utility data;

(c) workforce data, including information regarding:

(i) enterprise zones designated under Section 63N-2-206;

(ii) public institutions of higher education; and

(iii) [~~procurement technical assistance centers~~] APEX accelerators;

(d) transportation data, which may include information regarding railway routes, commuter rail routes, airport locations, and major highways;

(e) lifestyle data, which may include information regarding state parks, national parks and monuments, United States Forest Service boundaries, ski areas, golf courses, and hospitals; and

(f) other relevant economic development data as determined by the office, including data provided by partner organizations.

(2) The broadband center may:

(a) make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure in the state and help implement those policies and initiatives;

(b) facilitate coordination between broadband providers and public and private entities;

(c) collect and analyze data on broadband availability and usage in the state, including Internet speed, capacity, the number of unique visitors, and the availability of broadband infrastructure throughout the state;

(d) create a voluntary broadband advisory committee, which shall include broadband providers and other public and private stakeholders, to solicit input on broadband-related policy guidance, best practices, and adoption strategies;

(e) work with broadband providers, state and local governments, and other public and private stakeholders to facilitate and encourage the expansion and maintenance of broadband infrastructure throughout the state; and

(f) in accordance with the requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, and in accordance with federal requirements:

(i) apply for federal grants;

(ii) participate in federal programs; and

(iii) administer federally funded broadband-related programs.

Section 23. Section 63N-18-102 is amended to read:

CHAPTER 18. UTAH CENTER FOR IMMIGRATION AND INTEGRATION

Part 1. General Provisions

63N-18-102. Definitions.

As used in this chapter:

(1) "Center" means the Utah [~~Immigration Assistance Center~~] Center for Immigration and Integration created in Section 63N-18-201.

(2) "Foreign labor" means one or more individuals from a nation other than the United States who are eligible to participate in visa programs established by the federal government to work in the state.

(3) "Foreign labor [~~programs" means programs~~] program" means a program established by the United States Department of Labor to bring eligible foreign individuals to the United States for employment opportunities.

(4) "Immigrant integration" means a dynamic two-way process in which immigrant communities and host communities work together to build a cohesive and vibrant society that has respect for unique cultural differences.

Section 24. Section 63N-18-201, which is renumbered from Section 63N-18-103 is renumbered and amended to read:

Part 2. Utah Center for Immigration and Integration

[~~63N-18-103~~]. 63N-18-201. Creation of the Utah Center for Immigration and Integration -- Responsibilities of the center.

(1) There is created within the Governor's Office of Economic Opportunity the Utah [~~Immigration Assistance~~] Center for Immigration and Integration.

(2) The center shall:

[~~(a) coordinate and provide technical support for businesses in the state that intend to utilize federal foreign labor programs;~~]

[~~(b) provide outreach and information to businesses that could benefit from foreign labor programs;~~]

[~~(c) coordinate with state and federal government partners to facilitate the successful use of foreign labor programs on behalf of businesses in the state; and~~]

[~~(d) coordinate with other entities engaged in international efforts.~~]

(a) assist individuals and businesses in the state with identifying pathways for recruiting and retaining foreign labor;

(b) coordinate with state agencies in developing and administering policies and programs related to immigrant integration;

(c) develop and implement a statewide strategy for immigrant integration that promotes economic opportunities for immigrant communities in the state;

(d) create and convene a task force to review and make recommendations regarding the state's policies on immigrant integration;

(e) develop sustainable partnerships with local officials, the business sector, and community organizations serving immigrant communities in the state; and

(f) advise and make recommendations to the governor, state agencies, and the Legislature regarding immigrant integration and foreign labor issues.

(3) The center may not encourage a business to bypass state residents for the business's workforce needs.

(4) The center may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out the center's responsibilities under this chapter.

Section 25. Section 63N-18-202, which is renumbered from Section 63N-18-104 is renumbered and amended to read:

[~~63N-18-104~~]. 63N-18-202. Annual report.

The office shall include in the annual written report described in Section 63N-1a-306, a report of the center's operations, including:

(1) a description of the center's activities regarding immigrant integration;

[~~(1)~~] (2) the number of businesses that received assistance in utilizing foreign labor programs;

[~~(2)~~] (3) the number of [~~individuals who were able to work in the state as a result of foreign labor programs~~] employment-based immigration visas issued for individuals to secure employment opportunities in the state, including the primary employers associated with the visas; and

[~~(3)~~] (4) recommendations regarding:

(a) changes that would improve the center; and

(b) the task force described in Subsection 63N-18-201(2)(d).

Section 26. Repealer.

This bill repeals:

Section 63N-3-109, Financial assistance to entities offering economic opportunities.

Section 63N-18-101, Title.

CHAPTER 500
S. B. 156
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

INVESTIGATIVE GENETIC GENEALOGY MODIFICATIONS

Chief Sponsor: Todd D. Weiler
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill concerns the use of investigative genetic genealogy.

Highlighted Provisions:

This bill:

- defines and modifies terms;
- establishes requirements that a law enforcement agency is required to meet in order to:
  - request an investigative genetic genealogy service or a genetic genealogy database utilization from a genetic genealogy company or the Bureau of Forensic Services; and
  - obtain and process a third-party DNA specimen for information regarding the third-party individual's potential biological relatives;
- provides limitations on:
  - arrests and charges based on certain types of genetic information; and
  - uses of certain genetic information;
- establishes procedural requirements for retention and destruction of certain types of genetic information;
- establishes remedies for certain law enforcement investigation violations;
- establishes law enforcement reporting requirements for certain investigative genetic genealogy database utilizations;
- requires the State Commission on Criminal and Juvenile Justice to receive, compile, and publish data concerning certain law enforcement genetic genealogy utilizations;
- creates provisions concerning postconviction relief involving an investigative genetic genealogy service or a genetic genealogy database utilization; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-403.5, as last amended by Laws of Utah 2020, Chapter 415
63M-7-204, as last amended by Laws of Utah 2022, Chapter 187
78B-9-301, as last amended by Laws of Utah 2022, Chapter 274

ENACTS:

53-10-403.7, Utah Code Annotated 1953
53-22-101, Utah Code Annotated 1953

REPEALS:

78B-9-300, as enacted by Laws of Utah 2008, Chapter 358

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-403.5 is amended to read:

53-10-403.5. Definitions.

As used in Sections 53-10-403, 53-10-403.7, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406:

(1) "Bureau" means the Bureau of Forensic Services.

(2) "Combined DNA Index System" or "CODIS" means the program operated by the Federal Bureau of Investigation to support criminal justice DNA databases and the software used to run the databases.

(3) "Conviction" means:

(a) a verdict or conviction;

(b) a plea of guilty or guilty and mentally ill;

(c) a plea of no contest; or

(d) the acceptance by the court of a plea in abeyance.

(4) "DNA" means deoxyribonucleic acid.

(5) "DNA profile" means the patterns of fragments of DNA used to identify an individual.

[~~(5)~~] (6) "DNA specimen" or "specimen" means a biological sample [~~of a person's saliva or blood, a biological sample~~] collected from an individual or a crime scene, or [~~a sample~~] that is collected as part of an investigation.

[~~(6)~~] (7) "Final judgment" means a judgment, including any supporting opinion, concerning which all appellate remedies have been exhausted or the time for appeal has expired.

[~~(7)~~] (8) "Rapid DNA" means the fully automated process of developing a DNA profile.

[~~(8)~~] (9) "Violent felony" means any offense under Section 76-3-203.5.

Section 2. Section 53-10-403.7 is enacted to read:

53-10-403.7. Investigative genetic genealogy service -- Genetic genealogy database utilization -- Third-party specimens -- Requirements.

(1) As used in this section:

(a) "Genetic genealogy company" means a company that provides a genetic genealogy database utilization or an investigative genetic genealogy service.

(b) "Genetic genealogy database utilization" means a utilization of a genetic genealogical database for the purpose of identifying potential biological relatives to a DNA profile.

(c) "Genetic information" means data acquired from an analysis of a DNA specimen.

(d) "Investigative genetic genealogy service" means the processing of an individual's DNA specimen or genetic data file to be used for a genetic genealogy database utilization.

(e) "Prosecuting agency" means the Office of the Attorney General or the office of a county attorney or district attorney, including an attorney on the staff, whether acting in a civil or criminal capacity.

(f) "Qualifying case" means an investigation of:

(i) a violent felony; or

(ii) the identity of a missing or unknown individual.

(g) "Third-party DNA specimen" means a DNA specimen obtained from an individual who is not a likely suspect in an investigation.

(2) A law enforcement agency may request an investigative genetic genealogy service or a genetic genealogy database utilization from the bureau or a genetic genealogy company if:

(a) (i) the law enforcement agency, through the law enforcement agency's investigation, has a DNA profile from forensic evidence that the law enforcement agency reasonably believes is attributable to:

(A) the perpetrator of a crime;

(B) the remains of an unidentified individual; or

(C) a missing or unknown individual;

(ii) the case for which the law enforcement agency requires the information is a qualifying case;

(iii) a routine search of CODIS-eligible profiles, if any, developed in the case revealed no DNA matches to the DNA profile;

(iv) the law enforcement agency, the bureau, and the prosecuting agency consult regarding whether an investigative genetic genealogy service or genetic genealogy database utilization is an appropriate and necessary step in the development of information that may contribute to solving the case; and

(v) the law enforcement agency and prosecuting agency commit to further investigation of the case if the investigative genetic genealogy service or genetic genealogy database utilization produces information that may contribute to solving the case; or

(b) ordered by a court in accordance with a postconviction relief proceeding under Section 78B-9-301.

(3) (a) Before a law enforcement agency may collect a third-party DNA specimen for the purpose of obtaining an investigative genetic genealogy service or a genetic genealogy database utilization, the law enforcement agency shall:

(i) consult with the prosecuting agency; and

(ii) (A) obtain informed, voluntary consent from the individual providing the third-party DNA specimen; or

(B) if the law enforcement agency concludes that the case-specific circumstances provide reasonable grounds to believe that a request for informed, voluntary consent would compromise the integrity of the investigation, obtain from the prosecuting agency authorization for a covert collection of the third-party DNA specimen.

(b) Before obtaining a third-party DNA specimen in accordance with Subsection (3)(a)(ii)(B), a law enforcement agency shall, if applicable, request the prosecuting agency to notify and consult with the prosecuting agency in the jurisdiction in which the sample will be covertly collected to ensure that all applicable laws and procedures are followed.

(c) A law enforcement agency that obtains a DNA specimen in accordance with Subsection (3)(a)(ii)(B) shall obtain and process the DNA specimen in a lawful manner including, if necessary, obtaining a search warrant.

(4) A law enforcement agency or a prosecuting agency may only use a third-party DNA specimen obtained under Subsection (3) to:

(a) identify a possible suspect;

(b) exonerate a possible suspect; or

(c) identify a missing or unknown individual.

(5) When requesting an investigative genetic genealogy service or genetic genealogy database utilization from a genetic genealogy company under Subsection (2), a law enforcement agency shall:

(a) disclose to the genetic genealogy company that the request is from a law enforcement agency;

(b) only make a request to a genetic genealogy company that:

(i) provides notice to the genetic genealogy company's service users and the public that law enforcement may use the genetic genealogy company's services to investigate crimes or to identify unidentified human remains;

(ii) allows a user to:

(A) opt in or out of having the user's data be accessible in an investigation requested by law enforcement; and

(B) access the genetic genealogy company's services even if the user opts out of having the user's data be accessible in an investigation requested by law enforcement; and

(iii) has a policy that prevents the genetic genealogy company from compiling, selling, licensing, or transferring to a third party any data generated by the genetic genealogy company concerning a victim, crime scene, or suspect;

(c) confirm that the request is permitted under the terms of service for the genetic genealogy company; and

(d) if possible, configure or request the genetic genealogy company to configure service site user settings that control access to the DNA submitted by the law enforcement agency and associated account information in a manner that will prevent

the information from being viewed by other service users.

(6) (a) Before an individual may be arrested as a suspect in a crime for which an investigative genetic genealogy service or genetic genealogy database utilization has been conducted under Subsection (2)(a) and the investigative genetic genealogy service or genetic genealogy database utilization has aided in the identification of the individual as a suspect, the law enforcement agency and the bureau shall verify with confirmatory genetic testing that the DNA obtained from the crime scene could have originated from the individual unless the law enforcement agency or the prosecuting agency has sufficient evidence outside of the investigative genetic genealogy service or genetic genealogy database utilization to independently support the individual's arrest.

(b) After an individual has been charged with an offense after an investigative genetic genealogy service or a genetic genealogy database utilization has been conducted for that offense, the law enforcement agency shall:

(i) if applicable, verify with confirmatory genetic testing that the DNA obtained from the crime scene could have originated from the individual;

(ii) if applicable, make a prompt, formal request to the genetic genealogy company to:

(A) provide the DNA information and any associated account information related to the charged crime directly to the law enforcement agency; and

(B) remove the DNA information and any associated account information held by the genetic genealogy company;

(iii) if applicable, document the request described in Subsection (6)(b)(ii); and

(iv) retain the information received from the genetic genealogy company or the bureau for use during prosecution and subsequent judicial proceedings.

(7) A law enforcement agency or a prosecuting agency:

(a) may not request an investigative genetic genealogy service or a genetic genealogy database utilization except as provided in this section;

(b) shall ensure that genetic information obtained under this section is used only for law enforcement purposes or postconviction relief purposes under Section 78B-9-301; and

(c) shall ensure that a DNA specimen and associated genetic information is:

(i) retained in conformance with applicable laws; and

(ii) destroyed once permitted under applicable laws.

(8) (a) A violation of this section does not confer standing to a criminal defendant to request the suppression of evidence unless a court determines that the violation led to a deprivation of the defendant's constitutional rights.

(b) (i) If a court in a civil suit finds that an employee or agent of a law enforcement agency knowingly has violated a provision of this section, the court shall order that the employee or agent may not participate in another investigative genetic genealogy service or genetic genealogy database utilization under this section for one year.

(ii) A finding or order under Subsection (8)(b)(i) may not constitute cause for a judgment for monetary damages or attorney fees against the state or a governmental entity or an individual employed by the state or a governmental entity.

Section 3. Section 53-22-101 is enacted to read:

CHAPTER 22. REPORTING REQUIREMENTS FOR GENETIC GENEALOGY DATABASE UTILIZATIONS

53-22-101 (Codified as 53-26-101). Law enforcement reporting requirements for genetic genealogy database utilizations -- Report.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Genetic genealogy database utilization" means the same as that term is defined in Section 53-10-403.7.

(c) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(d) "Qualifying case" means the same as that term is defined in Section 53-10-403.7.

(2) (a) Beginning on January 1, 2024, a law enforcement agency shall annually on or before April 30 submit a report to the commission with the following data for the previous calendar year:

(i) the number of genetic genealogy database utilizations requested by the law enforcement agency under Section 53-10-403.7; and

(ii) for each utilization described in Subsection (2)(a)(i):

(A) if applicable, the type of qualifying case;

(B) for a criminal investigation, the alleged offense;

(C) whether the case was a cold case, as that term is defined in Section 53-10-115, at the time of the request for the utilization; and

(D) whether the results of the utilization revealed the identity of the owner of the DNA specimen.

(b) A law enforcement agency shall compile the report described in Subsection (2)(a) for each year in the standardized format developed by the commission under Subsection (4).

(3) If a genetic genealogy database utilization is requested by a multijurisdictional team of law

enforcement officers, the reporting requirement in this section is the responsibility of the commanding agency or governing authority of the multijurisdictional team.

(4) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2), including the number of genetic genealogy database utilizations requested by each reporting law enforcement agency; and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 4. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 62A-15-103(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209;

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 62A-15-103(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 62A-15-103(2)(n) by each mental health or substance use treatment program; [~~and~~]

(y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees[~~.~~]; and

(z) receive, compile, and publish on the commission's website the data provided under Section 53-22-101.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 5. Section 78B-9-301 is amended to read:

78B-9-301. Postconviction testing of DNA -- Petition -- Sufficient allegations -- Notification of victim -- Investigative genetic genealogy.

(1) As used in this part:

(a) "DNA" means deoxyribonucleic acid.

(b) "Factually innocent" means the same as that term is defined in Section 78B-9-401.5.

(c) "Genetic genealogy database utilization" means the same as that term is defined in Section 53-10-403.7.

(d) "Investigative genetic genealogy service" means the same as that term is defined in Section 53-10-403.7.

(2) An individual convicted of a felony offense may at any time file a petition for postconviction DNA testing in the trial court that entered the judgment of conviction if the individual asserts factual innocence under oath and the petition alleges:

(a) evidence has been obtained regarding the individual's case that is still in existence and is in a condition that allows DNA testing to be conducted;

(b) the chain of custody is sufficient to establish that the evidence has not been altered in any material aspect;

(c) the individual identifies the specific evidence to be tested and states a theory of defense, not inconsistent with theories previously asserted at trial, that the requested DNA testing would support;

(d) the evidence was not previously subjected to DNA testing, or if the evidence was tested previously, the evidence was not subjected to the testing that is now requested, and the new testing may resolve an issue not resolved by the prior testing;

(e) the proposed DNA testing is generally accepted as valid in the scientific field or is otherwise admissible under Utah law;

(f) the evidence that is the subject of the request for testing:

(i) has the potential to produce new, noncumulative evidence; and

(ii) there is a reasonable probability that the defendant would not have been convicted or would have received a lesser sentence if the evidence had been presented at the original trial; and

(g) the individual is aware of the consequences of filing the petition, including:

(i) the consequences specified in Sections 78B-9-302 and 78B-9-304; and

(ii) that the individual is waiving any statute of limitations in all jurisdictions as to any felony offense the individual has committed which is identified through DNA database comparison.

(3) The petition under Subsection (2) shall comply with Utah Rules of Civil Procedure, Rule 65C, including providing the underlying criminal case number.

(4) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel have a duty to cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which may be subject to DNA testing.

(5) (a) (i) An individual who files a petition under this section shall serve notice upon the office of the prosecutor who obtained the conviction, and upon the Utah attorney general.

(ii) The attorney general shall, within 30 days after receipt of service of a copy of the petition, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.

(b) After the attorney general responds under Subsection (5)(a), the petitioner has the right to reply to the response of the attorney general.

(c) After the attorney general and the petitioner have filed a response and reply in compliance with Subsection (5)(b), the court shall order DNA testing if it finds by a preponderance of the evidence that all criteria of Subsection (2) have been met.

(6) (a) If the court grants the petition for testing, the DNA test shall be performed by the Utah State Crime Laboratory within the Criminal Investigations and Technical Services Division created in Section 53-10-103, unless the individual establishes that the state crime laboratory has a conflict of interest or does not have the capability to perform the necessary testing.

(b) If the court orders that the testing be conducted by any laboratory other than the state crime laboratory, the court shall require that the testing be performed:

(i) under reasonable conditions designed to protect the state's interests in the integrity of the evidence; and

(ii) according to accepted scientific standards and procedures.

(7) (a) DNA testing under this section shall be paid for from funds appropriated to the Department of Public Safety under Subsection 53-10-407(4)(d)(ii) from the DNA Specimen Restricted Account created in Section 53-10-407 if:

(i) the court ordered the DNA testing under this section;

(ii) the Utah State Crime Laboratory within the Criminal Investigations and Technical Services Division has a conflict of interest or does not have the capability to perform the necessary testing; and

(iii) the petitioner who has filed for postconviction DNA testing under Section 78B-9-201 is serving a sentence of imprisonment and is indigent.

(b) Under this Subsection (7), costs of DNA testing include costs that are necessary to transport the evidence, prepare samples for analysis, analyze the evidence, and prepare reports of findings.

(8) If the individual is serving a sentence of imprisonment and is indigent, the state shall pay for the costs of the testing under this part, but if the result is not favorable to the individual, the court may order the individual to reimburse the state for the costs of the testing, in accordance with Subsections 78B-9-302(4) and 78B-9-304(1)(b).

(9) Any victim of the crime regarding which the individual petitions for DNA testing, who has elected to receive notice under Section 77-38-3 shall be notified by the state's attorney of any hearing regarding the petition and testing, even though the hearing is a civil proceeding.

(10) A court order requiring DNA testing under this section may include an order to perform an investigative genetic genealogy service or a genetic genealogy database utilization only if:

(a) the individual requests an investigative genetic genealogy service or a genetic genealogy database utilization;

(b) the individual demonstrates no other available DNA test can provide:

(i) a conclusive result; or

(ii) any result due to the nature or quantity of the DNA evidence;

(c) the individual demonstrates that an investigative genetic genealogy service or a genetic genealogy database utilization may reasonably be expected to provide meaningful information about the identity of the perpetrator;

(d) the investigative genetic genealogy service or genetic genealogy database utilization will be performed in accordance with the requirements described in Subsection (6); and

(e) if applicable, the individual or a third party agrees to pay for additional investigative expenses that may occur subsequent to the investigative genetic genealogy service or genetic genealogy database utilization.

Section 6. Repealer.

This bill repeals:

Section 78B-9-300, Title.

CHAPTER 501
S. B. 174
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

LOCAL LAND USE AND DEVELOPMENT REVISIONS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill amends provisions related to local land use and development.

Highlighted Provisions:

This bill:

- amends the penalties for noncompliance with the requirements applicable to a political subdivision's moderate income housing report;
- defines the circumstances under which a garage may be included in the definition of an internal accessory dwelling unit;
- amends a political subdivision's authority with respect to restrictions and requirements for internal accessory dwelling units;
- enacts a new process for subdivision review and approval; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
10-9a-408, as last amended by Laws of Utah 2022, Chapter 406
10-9a-530, as enacted by Laws of Utah 2021, Chapter 102
10-9a-608, as last amended by Laws of Utah 2022, Chapter 355
17-27a-408, as last amended by Laws of Utah 2022, Chapter 406
17-27a-526, as enacted by Laws of Utah 2021, Chapter 102
17-27a-608, as last amended by Laws of Utah 2022, Chapter 355
63I-2-210, as last amended by Laws of Utah 2022, Chapter 274
63I-2-217, as last amended by Laws of Utah 2022, Chapter 123

ENACTS:
10-9a-604.1, Utah Code Annotated 1953
10-9a-604.2, Utah Code Annotated 1953
10-9a-604.9, Utah Code Annotated 1953
17-27a-604.1, Utah Code Annotated 1953
17-27a-604.2, Utah Code Annotated 1953
17-27a-604.9, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-408 is amended to read:

10-9a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-9a-403(2)(c).

(c) "Moderate income housing report" or "report" means the report described in Subsection (2)(a).

(d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403(2)(b)(iii).

(e) "Specified municipality" means:

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; or

(iii) a metro township with a population of 5,000 or more.

(2) (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified municipality shall annually submit a written moderate income housing report to the division.

(b) The moderate income housing report submitted in 2022 shall include:

(i) a description of each moderate income housing strategy selected by the specified municipality for implementation; and

(ii) an implementation plan.

(c) The moderate income housing report submitted in each calendar year after 2022 shall include:

(i) the information required under Subsection (2)(b);

(ii) a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous fiscal year to implement the moderate income housing strategies selected by the specified municipality for implementation;

(iii) a description of each land use regulation or land use decision made by the specified municipality during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;

(iv) a description of any barriers encountered by the specified municipality in the previous fiscal year in implementing the moderate income housing strategies;

(v) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:

(A) issued a building permit to construct; or

(B) issued a business license to rent;

(vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(vii) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.

(d) The moderate income housing report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before July 1 of the year in which the report is required.

(3) Within 90 days after the day on which the division receives a specified municipality's moderate income housing report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (4), review the report to determine compliance with Subsection (2).

(4) (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(b);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and

(iii) is in a form approved by the division.

(b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) four or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;

(iii) is in a form approved by the division; and

(iv) provides sufficient information for the division to:

(A) assess the specified municipality's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified municipality's implementation plan;

(C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies; and

(D) identify how the market has responded to the specified municipality's selected moderate income housing strategies.

(5) (a) A specified municipality qualifies for priority consideration under this Subsection (5) if the specified municipality's moderate income housing report:

(i) complies with Subsection (2); and

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

[~~(b) The following apply to a specified municipality described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:~~]

[~~(i) the Transportation Commission may give priority consideration to transportation projects located within the boundaries of the specified municipality in accordance with Subsection 72-1-304(3)(c); and~~]

[~~(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).~~]

(b) The Transportation Commission may give priority consideration to transportation projects located within the boundaries of a specified municipality described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required, in accordance with Subsection 72-1-304(3)(c).

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified municipality[,] and the Department of Transportation[, and the Governor's Office of Planning and Budget].

(d) The notice described in Subsection (5)(c) shall:

(i) name the specified municipality that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration;

(iii) specify the fiscal year during which the specified municipality qualifies for priority consideration; and

(iv) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(6) (a) If the division, after reviewing a specified municipality's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) The notice described in Subsection (6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified municipality has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and

(iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds and fees owed under Subsection (7).

(7) (a) A specified municipality is ineligible for funds and owes a fee under this Subsection (7) if the specified municipality:

(i) fails to submit a moderate income housing report to the division; or

(ii) fails to cure the deficiencies in the specified municipality's moderate income housing report within 90 days after the day on which the division sent to the specified municipality a notice of noncompliance under Subsection (6).

(b) The following apply to a specified municipality described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5); [and]

[~~(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).~~]

(ii) beginning with a report submitted in 2024, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified municipality:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (6); and

(iii) beginning with the report submitted in 2025, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified municipality, in a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (6).

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection (7), and is required to pay a fee under Subsection (7)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (7)(c) shall:

(i) name the specified municipality that is ineligible for funds;

(ii) describe the funds for which the specified municipality is ineligible to receive;

(iii) describe the fee the specified municipality is required to pay under Subsection (7)(b), if applicable;

[~~(iii)~~] (iv) specify the fiscal year during which the specified municipality is ineligible for funds; and

[~~(iv)~~] (v) state the basis for the division's determination that the specified municipality is ineligible for funds.

(e) The division may not determine that a specified municipality that is required to pay a fee under Subsection (7)(b) is in compliance with the reporting requirements of this section until the specified municipality pays all outstanding fees required under Subsection (7)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover

damages but may be awarded only injunctive or other equitable relief.

Section 2. Section 10-9a-530 is amended to read:

10-9a-530. Internal accessory dwelling units.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) (i) "Primary dwelling" means a single-family dwelling that:

[~~(i)~~] (A) is detached; and

[~~(ii)~~] (B) is occupied as the primary residence of the owner of record.

(ii) "Primary dwelling" includes a garage if the garage:

(A) is a habitable space; and

(B) is connected to the primary dwelling by a common wall.

(2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use; [~~and~~]

(b) except as provided in Subsections (3) and (4), a municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size; [~~or~~]

(iii) street frontage[~~,~~]; or

(iv) internal connectivity; and

(c) a municipality's regulation of architectural elements for internal accessory dwelling units shall be consistent with the regulation of single-family units, including single-family units located in historic districts.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

(4) A municipality may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) regardless of whether the primary dwelling is existing or new construction, to include one additional on-site parking space for an internal accessory dwelling unit, [~~regardless of whether the primary dwelling is existing or new construction~~] in addition to the parking spaces required under the municipality's land use regulation, except that if the municipality's land use ordinance requires four off-street parking spaces, the municipality may not require the additional space contemplated under this Subsection (4)(c)(i); and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport and is a habitable space;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to:

(i) 25% or less of the total area in the municipality that is zoned primarily for residential use, except that the municipality may not prohibit newly constructed internal accessory dwelling units that:

(A) have a final plat approval dated on or after October 1, 2021; and

(B) comply with applicable land use regulations; or

(ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5) (a) In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);

(ii) the municipality provides a written notice of violation in accordance with Subsection (5)(b);

(iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);

(v) the municipality provides a written notice of lien in accordance with Subsection (5)(c); and

(vi) the municipality records a copy of the written notice of lien described in Subsection [~~(5)(a)(iv)~~] (5)(a)(v) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

(A) no less than 14 days after the day on which the municipality sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or

(B) no less than 30 days after the day on which the municipality sends the written notice of violation, for any other violation;

(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (5)(b)(ii), the municipality may hold a lien against the property in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and

(B) of the name and address of the municipal office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) state that the property is subject to a lien;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the municipality shall:

(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a municipality may not record a lien under this Subsection (5) until the municipality holds a hearing and determines that the specific violation has occurred.

(iii) If the municipality determines at the hearing that the specific violation has occurred, the municipality may impose a lien in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the municipality may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection (5)(b).

(6) (a) A municipality that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.

(c) The municipality shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 3. Section 10-9a-604.1 is enacted to read:

10-9a-604.1. Process for subdivision review and approval.

(1) (a) As used in this section, an "administrative land use authority" means an individual, board, or commission, appointed or employed by a municipality, including municipal staff or a municipal planning commission.

(b) "Administrative land use authority" does not include a municipal legislative body or a member of a municipal legislative body.

(2) (a) This section applies to land use decisions arising from subdivision applications for single-family dwellings, two-family dwellings, or townhomes.

(b) This section does not apply to land use regulations adopted, approved, or agreed upon by a legislative body exercising land use authority in the review of land use applications for zoning or other land use regulation approvals.

(3) A municipal ordinance governing the subdivision of land shall:

(a) comply with this section, and establish a standard method and form of application for preliminary subdivision applications and final subdivision applications; and

(b) (i) designate a single administrative land use authority for the review of preliminary applications to subdivide land; or

(ii) if the municipality has adopted an ordinance that establishes a separate procedure for the review and approval of subdivisions under Section 10-9a-605, the municipality may designate a different and separate administrative land use authority for the approval of subdivisions under Section 10-9a-605.

(4) (a) If an applicant requests a pre-application meeting, the municipality shall, within 15 business days after the request, schedule the meeting to review the concept plan and give initial feedback.

(b) At the pre-application meeting, the municipal staff shall provide or have available on the municipal website the following:

(i) copies of applicable land use regulations;

(ii) a complete list of standards required for the project;

(iii) preliminary and final application checklists; and

(iv) feedback on the concept plan.

(5) A preliminary subdivision application shall comply with all applicable municipal ordinances and requirements of this section.

(6) An administrative land use authority may complete a preliminary subdivision application review in a public meeting or at a municipal staff level.

(7) With respect to a preliminary application to subdivide land, an administrative land use authority may:

(a) receive public comment; and

(b) hold no more than one public hearing.

(8) If a preliminary subdivision application complies with the applicable municipal ordinances and the requirements of this section, the administrative land use authority shall approve the preliminary subdivision application.

(9) A municipality shall review and approve or deny a final subdivision plat application in accordance with the provisions of this section and municipal ordinances, which:

(a) may permit concurrent processing of the final subdivision plat application with the preliminary subdivision plat application; and

(b) may not require planning commission or city council approval.

(10) If a final subdivision application complies with the requirements of this section, the applicable municipal ordinances, and the preliminary subdivision approval granted under Subsection (9)(a), a municipality shall approve the final subdivision application.

Section 4. Section 10-9a-604.2 is enacted to read:

10-9a-604.2. Review of subdivision land use applications and subdivision improvement plans.

(1) As used in this section:

(a) "Review cycle" means the occurrence of:

(i) the applicant's submittal of a complete subdivision land use application;

(ii) the municipality's review of that subdivision land use application;

(iii) the municipality's response to that subdivision land use application, in accordance with this section; and

(iv) the applicant's reply to the municipality's response that addresses each of the municipality's required modifications or requests for additional information.

(b) "Subdivision improvement plans" means the civil engineering plans associated with required infrastructure and municipally controlled utilities required for a subdivision.

(c) "Subdivision ordinance review" means review by a municipality to verify that a subdivision land use application meets the criteria of the municipality's subdivision ordinances.

(d) "Subdivision plan review" means a review of the applicant's subdivision improvement plans and other aspects of the subdivision land use application to verify that the application complies with municipal ordinances and applicable standards and specifications.

(2) The review cycle restrictions and requirements of this section do not apply to the review of subdivision applications affecting property within identified geological hazard areas.

(3) (a) No later than 15 business days after the day on which an applicant submits a complete preliminary subdivision land use application for a residential subdivision for single-family dwellings, two-family dwellings, or townhomes, the municipality shall complete the initial review of the application, including subdivision improvement plans.

(b) A municipality shall maintain and publish a list of the items comprising the complete preliminary subdivision land use application, including:

(i) the application;

(ii) the owner's affidavit;

(iii) an electronic copy of all plans in PDF format;

(iv) the preliminary subdivision plat drawings; and

(v) a breakdown of fees due upon approval of the application.

(4) (a) A municipality shall publish a list of the items that comprise a complete final subdivision land use application.

(b) No later than 20 business days after the day on which an applicant submits a plat, the municipality shall complete a review of the applicant's final subdivision land use application for a residential subdivision for single-family dwellings, two-family dwellings, or townhomes, including all subdivision plan reviews.

(5) (a) In reviewing a subdivision land use application, a municipality may require:

(i) additional information relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards and specifications for construction of public improvements; and

(ii) modifications to plans that do not meet current ordinances, applicable standards or specifications, or do not contain complete information.

(b) A municipality's request for additional information or modifications to plans under Subsection (5)(a)(i) or (ii) shall be specific and include citations to ordinances, standards, or specifications that require the modifications to plans, and shall be logged in an index of requested modifications or additions.

(c) A municipality may not require more than four review cycles.

(d) (i) Subject to Subsection (5)(d)(ii), unless the change or correction is necessitated by the applicant's adjustment to a plan set or an update to a phasing plan that adjusts the infrastructure needed for the specific development, a change or correction not addressed or referenced in a municipality's plan review is waived.

(ii) A modification or correction necessary to protect public health and safety or to enforce state or federal law may not be waived.

(iii) If an applicant makes a material change to a plan set, the municipality has the discretion to restart the review process at the first review of the final application, but only with respect to the portion of the plan set that the material change substantively effects.

(e) If an applicant does not submit a revised plan within 20 business days after the municipality requires a modification or correction, the municipality shall have an additional 20 business days to respond to the plans.

(6) After the applicant has responded to the final review cycle, and the applicant has complied with each modification requested in the municipality's previous review cycle, the municipality may not require additional revisions if the applicant has not materially changed the plan, other than changes that were in response to requested modifications or corrections.

(7) (a) In addition to revised plans, an applicant shall provide a written explanation in response to the municipality's review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.

(b) The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design and an index of requested revisions or additions for each required correction.

(c) If an applicant fails to address a review comment in the response, the review cycle is not complete and the subsequent review cycle may not begin until all comments are addressed.

(8) (a) If, on the fourth or final review, a municipality fails to respond within 20 business days, the municipality shall, upon request of the property owner, and within 10 business days after the day on which the request is received:

(i) for a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Subsection 10-9a-508(5)(d) to review and approve or deny the final revised set of plans; or

(ii) for a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to a designated appeal authority.

Section 5. Section 10-9a-604.9 is enacted to read:

10-9a-604.9. Effective dates of Sections 10-9a-604.1 and 10-9a-604.2.

(1) Except as provided in Subsection (2), Sections 10-9a-604.1 and 10-9a-604.2 do not apply until December 31, 2024.

(2) For a specified municipality, as defined in Section 10-9a-408, Sections 10-9a-604.1 and 10-9a-604.2 do not apply until February 1, 2024.

Section 6. Section 10-9a-608 is amended to read:

10-9a-608. Subdivision amendments.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.

(b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 10-9a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.

(d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(e) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioner fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join in the petition, regardless of whether the properties are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or municipal utility easement is also subject to Section 10-9a-609.5.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and

(b) the signature of each owner described in Subsection (4)(a) who consents to the petition.

(5) (a) The owners of record of adjoining properties where one or more of the properties is a lot may exchange title to portions of those [~~parcels~~] properties if the exchange of title is approved by the land use authority as a lot line adjustment in accordance with Subsection (5)(b).

(b) The land use authority shall approve [~~an exchange of title~~] a lot line adjustment under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If [~~an exchange of title~~] a lot line adjustment is approved under Subsection (5)(b):

(i) a notice of lot line adjustment approval shall be recorded in the office of the county recorder which:

(A) is [~~executed~~] approved by [~~each owner included in the exchange and by~~] the land use authority; and

[~~(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and~~]

[~~(C)~~] (B) recites the legal descriptions of both the original properties and the properties resulting from the exchange of title; and

(ii) a document of conveyance shall be recorded in the office of the county recorder [~~with an amended plat~~].

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 7. Section 17-27a-408 is amended to read:

17-27a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan as provided in Subsection [~~10-9a-403(2)(c)~~] 17-27a-401(3)(a).

(c) "Moderate income housing report" or "report" means the report described in Subsection (2)(a).

(d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).

(e) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

(2) (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified county shall annually submit a written moderate income housing report to the division.

(b) The moderate income housing report submitted in 2022 shall include:

(i) a description of each moderate income housing strategy selected by the specified county for implementation; and

(ii) an implementation plan.

(c) The moderate income housing report submitted in each calendar year after 2022 shall include:

(i) the information required under Subsection (2)(b);

(ii) a description of each action, whether one-time or ongoing, taken by the specified county during the previous fiscal year to implement the moderate income housing strategies selected by the specified county for implementation;

(iii) a description of each land use regulation or land use decision made by the specified county during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

(iv) a description of any barriers encountered by the specified county in the previous fiscal year in implementing the moderate income housing strategies; and

(v) information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:

(A) issued a building permit to construct; or

(B) issued a business license to rent;

(vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(vii) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

(d) The moderate income housing report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before July 1 of the year in which the report is required.

(3) Within 90 days after the day on which the division receives a specified county's moderate income housing report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning

and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (4), review the report to determine compliance with Subsection (2).

(4) (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(b);

(ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies; and

(iii) is in a form approved by the division.

(b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies;

(iii) is in a form approved by the division; and

(iv) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified county's implementation plan;

(C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies; and

(D) identify how the market has responded to the specified county's selected moderate income housing strategies.

(5) (a) A specified county qualifies for priority consideration under this Subsection (5) if the specified county's moderate income housing report:

(i) complies with Subsection (2); and

(ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.

[~~(b) The following apply to a specified county described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:~~]

[~~(i) the Transportation Commission may give priority consideration to transportation projects located within the unincorporated areas of the specified county in accordance with Subsection 72-1-304(3)(c); and~~]

[~~(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).~~]

(b) The Transportation Commission may give priority consideration to transportation projects located within the boundaries of a specified county described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required, in accordance with Subsection 72-1-304(3)(c).

(c) Upon determining that a specified county qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified county[~~,~~] and the Department of Transportation[~~, and the Governor's Office of Planning and Budget~~].

(d) The notice described in Subsection (5)(c) shall:

(i) name the specified county that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified county qualifies to receive priority consideration;

(iii) specify the fiscal year during which the specified county qualifies for priority consideration; and

(iv) state the basis for the division's determination that the specified county qualifies for priority consideration.

(6) (a) If the division, after reviewing a specified county's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified county.

(b) The notice described in Subsection (6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified county has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and

(iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds and fees owed under Subsection (7).

(7) (a) A specified county is ineligible for funds and owes a fee under this Subsection (7) if the specified county:

(i) fails to submit a moderate income housing report to the division; or

(ii) fails to cure the deficiencies in the specified county's moderate income housing report within 90 days after the day on which the division sent to the specified county a notice of noncompliance under Subsection (6).

(b) The following apply to a specified county described in Subsection (7)(a) during the fiscal year

immediately following the fiscal year in which the report is required:

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72-2-124(6); and

[~~(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7)~~]

(ii) beginning with the report submitted in 2024, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified county:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (6)[~~.~~]; and

(iii) beginning with the report submitted in 2025, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified county, for a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (6).

(c) Upon determining that a specified county is ineligible for funds under this Subsection (7), and is required to pay a fee under Subsection (7)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (7)(c) shall:

(i) name the specified county that is ineligible for funds;

(ii) describe the funds for which the specified county is ineligible to receive;

(iii) describe the fee the specified county is required to pay under Subsection (7)(b), if applicable;

[~~(iii)~~] (iv) specify the fiscal year during which the specified county is ineligible for funds; and

[~~(iv)~~] (v) state the basis for the division's determination that the specified county is ineligible for funds.

(e) The division may not determine that a specified county that is required to pay a fee under Subsection (7)(b) is in compliance with the reporting requirements of this section until the specified county pays all outstanding fees required under Subsection (7)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 8. Section 17-27a-526 is amended to read:

17-27a-526. Internal accessory dwelling units.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) (i) "Primary dwelling" means a single-family dwelling that:

[~~(i)~~] (A) is detached; and

[~~(ii)~~] (B) is occupied as the primary residence of the owner of record.

(ii) "Primary dwelling" includes a garage if the garage:

(A) is a habitable space; and

(B) is connected to the primary dwelling by a common wall.

(2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use; [~~and~~]

(b) except as provided in Subsections (3) and (4), a county may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size; [~~or~~]

(iii) street frontage[~~.~~]; or

(iv) internal connectivity; and

(c) a county's regulation of architectural elements for internal accessory dwelling units shall be consistent with the regulation of single-family

units, including single-family units located in historic districts.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

(4) A county may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) regardless of whether the primary dwelling is existing or new construction, to include one additional on-site parking space for an internal accessory dwelling unit, [~~regardless of whether the primary dwelling is existing or new construction~~] in addition to the parking spaces required under the county's land use ordinance, except that if the county's land use ordinance requires four off-street parking spaces, the county may not require the additional space contemplated under this Subsection (4)(c)(i); and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport and is habitable space;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to 25% or less of the total unincorporated area in the county that is zoned primarily for residential use[~~;~~], except that the county may not prohibit newly constructed internal accessory dwelling units that:

(i) have a final plat approval dated on or after October 1, 2021; and

(ii) comply with applicable land use regulations;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5) (a) In addition to any other legal or equitable remedies available to a county, a county may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);

(ii) the county provides a written notice of violation in accordance with Subsection (5)(b);

(iii) the county holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);

(v) the county provides a written notice of lien in accordance with Subsection (5)(c); and

(vi) the county records a copy of the written notice of lien described in Subsection [~~(5)(a)(iv)~~] (5)(a)(v) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

(A) no less than 14 days after the day on which the county sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or

(B) no less than 30 days after the day on which the county sends the written notice of violation, for any other violation; [~~and~~]

(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (5)(b)(ii), the county may hold a lien against the property in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and

(B) of the name and address of the county office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) describe the specific violation;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the county shall:

(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a county may not record a lien under this Subsection (5) until the county holds a hearing and determines that the specific violation has occurred.

(iii) If the county determines at the hearing that the specific violation has occurred, the county may impose a lien in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the county may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection (5)(b).

(6) (a) A county that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the county's land use regulations.

(c) The county shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 9. Section 17-27a-604.1 is enacted to read:

17-27a-604.1. Process for subdivision review and approval.

(1) (a) As used in this section, an "administrative land use authority" means an individual, board, or commission, appointed or employed by a county, including county staff or a county planning commission.

(b) "Administrative land use authority" does not include a county legislative body or a member of a county legislative body.

(2) (a) This section applies to land use decisions arising from subdivision applications for single-family dwellings, two-family dwellings, or townhomes.

(b) This section does not apply to land use regulations adopted, approved, or agreed upon by a legislative body exercising land use authority in the review of land use applications for zoning or other land use regulation approvals.

(3) A county ordinance governing the subdivision of land shall:

(a) comply with this section and establish a standard method and form of application for preliminary subdivision applications and final subdivision applications; and

(b) (i) designate a single administrative land use authority for the review of preliminary applications to subdivide land; or

(ii) if the county has adopted an ordinance that establishes a separate procedure for the review and approval of subdivisions under Section 17-27a-605, the county may designate a different and separate administrative land use authority for the approval of subdivisions under Section 17-27a-605.

(4) (a) If an applicant requests a pre-application meeting, the county shall, within 15 business days after the request, schedule the meeting to review the concept plan and give initial feedback.

(b) At the pre-application meeting, the county staff shall provide or have available on the county website the following:

(i) copies of applicable land use regulations;

(ii) a complete list of standards required for the project;

(iii) preliminary and final application checklists; and

(iv) feedback on the concept plan.

(5) A preliminary subdivision application shall comply with all applicable county ordinances and requirements of this section.

(6) An administrative land use authority may complete a preliminary subdivision application review in a public meeting or at a county staff level.

(7) With respect to a preliminary application to subdivide land, an administrative land use authority may:

(a) receive public comment; and

(b) hold no more than one public hearing.

(8) If a preliminary subdivision application complies with the applicable county ordinances and the requirements of this section, the administrative land use authority shall approve the preliminary subdivision application.

(9) A county shall review and approve or deny a final subdivision plat application in accordance with the provisions of this section and county ordinances, which:

(a) may permit concurrent processing of the final subdivision plat application with the preliminary subdivision plat application; and

(b) may not require planning commission or county legislative body approval.

(10) If a final subdivision application complies with the requirements of this section, the applicable county ordinances, and the preliminary subdivision approval granted under Subsection (9)(a), a county shall approve the final subdivision application.

Section 10. Section 17-27a-604.2 is enacted to read:

17-27a-604.2. Review of subdivision land use applications and subdivision improvement plans.

(1) As used in this section:

(a) "Review cycle" means the occurrence of:

(i) the applicant's submittal of a complete subdivision land use application;

(ii) the county's review of that subdivision land use application;

(iii) the county's response to that subdivision land use application, in accordance with this section; and

(iv) the applicant's reply to the county's response that addresses each of the county's required modifications or requests for additional information.

(b) "Subdivision improvement plans" means the civil engineering plans associated with required infrastructure and county-controlled utilities required for a subdivision.

(c) "Subdivision ordinance review" means review by a county to verify that a subdivision land use application meets the criteria of the county's subdivision ordinances.

(d) "Subdivision plan review" means a review of the applicant's subdivision improvement plans and other aspects of the subdivision land use application to verify that the application complies with county ordinances and applicable standards and specifications.

(2) The review cycle restrictions and requirements of this section do not apply to the review of subdivision applications affecting property within identified geological hazard areas.

(3) (a) No later than 15 business days after the day on which an applicant submits a complete preliminary subdivision land use application for a residential subdivision for single-family dwellings, two-family dwellings, or townhomes, the county shall complete the initial review of the application, including subdivision improvement plans.

(b) A county shall maintain and publish a list of the items comprising the complete preliminary subdivision land use application, including:

(i) the application;

(ii) the owner's affidavit;

(iii) an electronic copy of all plans in PDF format;

(iv) the preliminary subdivision plat drawings; and

(v) a breakdown of fees due upon approval of the application.

(4) (a) A county shall publish a list of the items that comprise a complete final subdivision land use application.

(b) No later than 20 business days after the day on which an applicant submits a plat, the county shall complete a review of the applicant's final subdivision land use application for single-family dwellings, two-family dwellings, or townhomes, including all subdivision plan reviews.

(5) (a) In reviewing a subdivision land use application, a county may require:

(i) additional information relating to an applicant's plans to ensure compliance with county ordinances and approved standards and specifications for construction of public improvements; and

(ii) modifications to plans that do not meet current ordinances, applicable standards, or specifications or do not contain complete information.

(b) A county's request for additional information or modifications to plans under Subsections (5)(a)(i) or (ii) shall be specific and include citations to ordinances, standards, or specifications that require the modifications to plans, and shall be logged in an index of requested modifications or additions.

(c) A county may not require more than four review cycles.

(d) (i) Subject to Subsection (5)(d)(ii), unless the change or correction is necessitated by the applicant's adjustment to a plan set or an update to a phasing plan that adjusts the infrastructure needed for the specific development, a change or

correction not addressed or referenced in a county's plan review is waived.

(ii) A modification or correction necessary to protect public health and safety or to enforce state or federal law may not be waived.

(iii) If an applicant makes a material change to a plan set, the county has the discretion to restart the review process at the first review of the final application, but only with respect to the portion of the plan set that the material change substantively effects.

(e) If an applicant does not submit a revised plan within 20 business days after the county requires a modification or correction, the county shall have an additional 20 business days to respond to the plans.

(6) After the applicant has responded to the final review cycle, and the applicant has complied with each modification requested in the county's previous review cycle, the county may not require additional revisions if the applicant has not materially changed the plan, other than changes that were in response to requested modifications or corrections.

(7) (a) In addition to revised plans, an applicant shall provide a written explanation in response to the county's review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.

(b) The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design and an index of requested revisions or additions for each required correction.

(c) If an applicant fails to address a review comment in the response, the review cycle is not complete and the subsequent review cycle may not begin until all comments are addressed.

(8) (a) If, on the fourth or final review, a county fails to respond within 20 business days, the county shall, upon request of the property owner, and within 10 business days after the day on which the request is received:

(i) for a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Subsection 17-27a-507(5)(d) to review and approve or deny the final revised set of plans; or

(ii) for a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to a designated appeal authority.

Section 11. Section 17-27a-604.9 is enacted to read:

17-27a-604.9. Effective dates of Sections 17-27a-604.1 and 17-27a-604.2.

(1) Except as provided in Subsection (2), Sections 17-27a-604.1 and 17-27a-604.2 do not apply until December 31, 2024.

(2) Sections 17-27a-604.1 and 17-27a-604.2 do not apply until February 1, 2024 for:

(a) a specified county, as defined in Section 17-27a-408;

(b) a county that is a voting member of the Wasatch Front Regional Council, including:

(i) Davis County;

(ii) Morgan County;

(iii) Salt Lake County;

(iv) Tooele County; and

(v) Weber County; and

(c) a county that is a member of the Mountainland Association of Governments, including:

(i) Summit County;

(ii) Utah County; and

(iii) Wasatch County.

Section 12. Section 17-27a-608 is amended to read:

17-27a-608. Subdivision amendments.

(1) (a) A fee owner of a lot, as shown on the last county assessment roll, in a plat that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.

(b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 17-27a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.

(d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the county of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(e) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join the petition, regardless of whether the properties are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or county utility easement is also subject to Section 17-27a-609.5.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

(5) (a) The owners of record of adjoining properties where one or more of the properties is a lot may exchange title to portions of those properties if the exchange of title is approved by the land use authority as a lot line adjustment in accordance with Subsection (5)(b).

(b) The land use authority shall approve [~~an exchange of title~~] a lot line adjustment under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If [~~an exchange of title~~] a lot line adjustment is approved under Subsection (5)(b):

(i) a notice of lot line adjustment approval shall be recorded in the office of the county recorder which:

(A) is [~~executed~~] approved by [~~each owner included in the exchange and by~~] the land use authority; and

[~~(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and~~]

[~~(C)~~] (B) recites the legal descriptions of both the properties and the properties resulting from the exchange of title; and

(ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder [~~with an amended plat~~].

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 13. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates: Title 10.

On January 1, 2025, Section 10-9a-604.9 is repealed.

Section 14. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates: Title 17.

[~~(1) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.~~]

(1) On January 1, 2022, Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed.

[~~(2) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.~~]

[~~(3)~~] (2) On June 1, 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and

(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.

(3) On January 1, 2025, Section 17-27a-604.9 is repealed.

(4) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.

CHAPTER 502
S. B. 187
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

STATE FAIR PARK AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill modifies provisions relating to the state fair park.

Highlighted Provisions:

This bill:

- provides for the dissolution of the Utah State Fair Corporation;
- creates the State Fair Park Authority as a successor entity to the Utah State Fair Corporation, with similar but modified duties;
- authorizes the Authority to impose a special event sales tax;
- requires the State Tax Commission to distribute to the authority certain sales tax revenue generated from a hotel on fair park land;
- makes property on state fair park land subject to the privilege tax and provides for revenue from the tax and from personal property tax to be paid to the Authority;
- modifies provisions relating to the operation, maintenance, construction, and modification of buildings and facilities on state fair park land;
- authorizes the Authority to issue bonds and enacts provisions relating to the bonds; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-36a-202, as last amended by Laws of Utah 2022, Chapter 406
59-2-924, as last amended by Laws of Utah 2022, Chapters 237, 239, and 433
59-4-101, as last amended by Laws of Utah 2020, Chapter 105
63C-25-101, as enacted by Laws of Utah 2022, Chapter 207 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 207
63E-1-102, as last amended by Laws of Utah 2022, Chapters 44 and 63
63J-7-102, as last amended by Laws of Utah 2022, Chapters 224, 451, and 456
67-3-12, as last amended by Laws of Utah 2022, Chapters 169, 205, and 274

ENACTS:

11-68-401, Utah Code Annotated 1953
11-68-501, Utah Code Annotated 1953
11-68-502, Utah Code Annotated 1953
11-68-503, Utah Code Annotated 1953
11-68-504, Utah Code Annotated 1953
11-68-505, Utah Code Annotated 1953
11-68-506, Utah Code Annotated 1953
59-12-2301, Utah Code Annotated 1953
59-12-2302, Utah Code Annotated 1953
59-12-2303, Utah Code Annotated 1953
59-12-2304, Utah Code Annotated 1953
59-12-2305, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

11-68-101, (Renumbered from 63H-6-102, as last amended by Laws of Utah 2020, Chapter 152)
11-68-201, (Renumbered from 63H-6-103, as last amended by Laws of Utah 2022, Chapter 421)
11-68-202, (Renumbered from 63H-6-108, as last amended by Laws of Utah 2022, Chapter 421)
11-68-301, (Renumbered from 63H-6-104, as last amended by Laws of Utah 2020, Chapters 352 and 373)
11-68-302, (Renumbered from 63H-6-105, as renumbered and amended by Laws of Utah 2011, Chapter 370)
11-68-402, (Renumbered from 63H-6-109, as enacted by Laws of Utah 2016, Chapter 301)
11-68-403, (Renumbered from 63H-6-107, as last amended by Laws of Utah 2016, Chapter 301)
11-68-601, (Renumbered from 63H-6-106, as renumbered and amended by Laws of Utah 2011, Chapter 370)

REPEALS:

63H-6-101, as last amended by Laws of Utah 2016, Chapter 301
63H-6-201, as enacted by Laws of Utah 2016, Chapter 301
63H-6-202, as enacted by Laws of Utah 2016, Chapter 301
63H-6-203, as enacted by Laws of Utah 2016, Chapter 301
63H-6-204, as enacted by Laws of Utah 2016, Chapter 301
63H-6-205, as enacted by Laws of Utah 2016, Chapter 301

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-36a-202 is amended to read:

11-36a-202. Prohibitions on impact fees.

(1) A local political subdivision or private entity may not:

(a) impose an impact fee to:

(i) cure deficiencies in a public facility serving existing development;

(ii) raise the established level of service of a public facility serving existing development; or

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement;

(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(2) (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;

(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) a state institution of higher education that has its own police force;

(v) on development activity on [~~the state~~] fair park land, as defined in Section [~~63H-6-102~~] 11-68-101; or

(vi) on development activity that consists of the construction of an internal accessory dwelling unit, as defined in Section 10-9a-530, within an existing primary dwelling.

(b) (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 11-36a-206.

Section 2. Section 11-68-101, which is renumbered from Section 63H-6-102 is renumbered and amended to read:

CHAPTER 68. STATE FAIR PARK AUTHORITY ACT

Part 1. General Provisions

[63H-6-102]. 11-68-101. Definitions.

As used in this chapter:

(1) "Authority" means the State Fair Park Authority, created in Section 11-68-201.

[~~(1)~~] (2) "Board" means the authority board [~~of directors of the corporation~~], created in Section 11-68-301.

[~~(2)~~] (3) "Business related experience" means at least three years of professional experience in business administration, marketing, advertising, economic development, or a related field.

[~~(3)~~] (4) "Capital development projects" means the same as [~~capital development project, as~~] that term is defined in Section 63A-5b-401.

[~~(4) "Capital improvements" means the same as that term is defined in Section 63A-5b-401.~~]

[~~(5) "Corporation" means the Utah State Fair Corporation created by this chapter.~~]

[~~(6) "Corporation bond" means a bond issued by the corporation in accordance with Part 2, Bonding Authority.~~]

(5) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (5)(a).

[~~(7)~~] (6) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

[~~(8)~~] (7) "Executive director" means the executive director hired by the board [~~in accordance with Section 63H-6-105~~] under Section 11-68-302.

(8) "Fair corporation" means the Utah State Fair Corporation, created by Laws of Utah 1995, Chapter 260.

(9) (a) [~~"State fair park"~~] "Fair park land" means the property owned by the state located at:

(i) 155 North 1000 West, Salt Lake City, Utah, consisting of approximately 50 acres;

(ii) 1139 West North Temple, Salt Lake City, Utah, consisting of approximately 10.5 acres; and

(iii) 1220 West North Temple, Salt Lake City, Utah, consisting of approximately two acres.

[~~(b) "State fair park" includes each building and each improvement on the property described in Subsection (9)(a) that is owned by the state.~~]

(b) "Fair park land" includes any land acquired by the authority under Subsection 11-68-201(6)(i).

Section 3. Section 11-68-201, which is renumbered from Section 63H-6-103 is renumbered and amended to read:

Part 2. State Fair Park Authority

[~~63H-6-103~~]. 11-68-201. State Fair Park Authority -- Legal status -- Powers.

(1) There is created [~~an independent public nonprofit corporation known as the "Utah State Fair Corporation."~~] the State Fair Park Authority.

[~~(2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.~~]

[~~(3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.~~]

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) (a) The fair corporation is dissolved and ceases to exist, subject to any winding down and other actions necessary for a transition to the authority.

(b) The authority:

(i) replaces and is the successor to the fair corporation;

(ii) succeeds to all rights, obligations, privileges, immunities, and assets of the fair corporation; and

(iii) shall fulfill and perform all contractual and other obligations of the fair corporation.

(c) The board shall take all actions necessary and appropriate to wind down the affairs of the fair corporation as quickly as practicable and to make a transition from the fair corporation to the authority.

(4) The [~~corporation~~] authority shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events held at the state fair park:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;

(d) use generally accepted accounting principles in accounting for the [~~corporation's~~] authority's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities [~~within the~~] on fair park land;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah [~~Travel Council~~] Office of Tourism, and other entities to develop and promote expositions and the use of [~~the state~~] fair park land;

(g) develop and maintain a marketing program to promote expositions and the use of [~~the state~~] fair park land;

(h) in accordance with provisions of this [~~part~~] chapter, operate and maintain [~~the state~~] state-owned buildings and facilities on fair park land, including the physical appearance and structural integrity of [~~the state fair park and the~~] those buildings [~~located at the state fair park~~] and facilities;

(i) prepare an economic development plan for the [~~state~~] fair park land;

(j) hold an annual exhibition on fair park land that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the [~~corporation's~~] board's opinion, will best stimulate agricultural, industrial, artistic, and

educational pursuits and the sharing of talents among the people of [~~Utah~~] the state;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the [~~corporation~~] authority may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of [~~Utah~~] the state.

(6) The [~~corporation~~] authority may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201 or any captive insurance company created by the risk manager; or

(ii) procure insurance against any loss in connection with the [~~corporation's~~] authority's property and other assets[~~, including mortgage loans~~];

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or [~~Utah~~] the state;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the [~~corporation~~] authority, subject to the conditions, if any, upon which the aid and contributions [~~were~~] are made;

(e) enter into management agreements with any person or entity for the performance of the [~~corporation's~~] authority's functions or powers;

(f) establish [~~whatever~~] accounts and procedures [~~as~~] that are necessary to budget, receive, [~~and~~] disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the state-owned buildings or facilities [~~at the state~~] located on fair park land;

(h) sponsor events as approved by the board; [~~and~~]

(i) subject to Subsection (11), acquire any interest in real property that the board considers necessary or advisable to further a purpose of the authority or facilitate the authority's fulfillment of a duty under this chapter;

(j) in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure, as those terms are defined in Section 11-42a-102; and

[~~(i)~~] (k) enter into one or more agreements to develop the [~~state~~] fair park land.

[~~(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:~~]

[~~(i) Title 51, Chapter 5, Funds Consolidation Act;~~]

[~~(ii) Title 51, Chapter 7, State Money Management Act;~~]

[~~(iii) Title 63A, Utah Government Operations Code;~~]

[~~(iv) Title 63J, Chapter 1, Budgetary Procedures Act; and~~]

[~~(v) Title 63A, Chapter 17, Utah State Personnel Management Act.~~]

[~~(b) The board shall adopt policies parallel to and consistent with:~~]

(7) The authority shall comply with:

[~~(i)~~] (a) Title 51, Chapter 5, Funds Consolidation Act;

[~~(ii)~~] (b) Title 51, Chapter 7, State Money Management Act;

[~~(iii) Title 63A, Utah Government Operations Code; and~~]

[~~(iv) Title 63J, Chapter 1, Budgetary Procedures Act.~~]

[~~(c) The corporation shall comply with:~~]

[~~(i)~~] (c) Title 52, Chapter 4, Open and Public Meetings Act;

[~~(ii)~~] (d) Title 63G, Chapter 2, Government Records Access and Management Act;

[~~(iii)~~] (e) the provisions of Section 67-3-12;

[~~(iv)~~] (f) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

[~~(A)~~] (i) entertainment provided at the state fair park;

[~~(B)~~] (ii) judges for competitive exhibits; or

[~~(C)~~] (iii) sponsorship of an event [~~at the state~~] on fair park land; and

[~~(v)~~] (g) the legislative approval requirements for [~~new facilities~~] capital development projects established in Section 63A-5b-404.

(8) (a) Before the [~~corporation~~] authority executes a lease described in Subsection (6)(g) with a term of 10 or more years, the [~~corporation~~] authority shall:

(i) submit the proposed lease to the division for the division's approval or rejection; and

(ii) if the division approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the [~~corporation~~] authority that the [~~corporation~~] authority:

(i) execute the proposed [~~sublease~~] lease, either as proposed or with changes recommended by the Executive Appropriations Committee; or

(ii) reject the proposed [~~sublease~~] lease.

(9) (a) Subject to Subsection (9)(b), a department, division, or other instrumentality of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) The division shall provide assistance and resources to the authority as the division director determines is appropriate.

(10) The authority may share authority revenue with a municipality in which the fair park land is located, as provided in an agreement between the authority and the municipality, to pay for municipal services provided by the municipality.

(11) (a) As used in this Subsection (11), "new land" means land that, if acquired by the authority, would result in the authority having acquired over three acres of land more than the land described in Subsection 11-68-101(9)(a).

(b) In conjunction with the authority's acquisition of new land, the authority shall enter an agreement with the municipality in which the new land is located.

(c) To provide funds for the cost of increased municipal services that the municipality will provide to the new land, an agreement under Subsection (11)(b) shall:

(i) provide for:

(A) the payment of impact fees to the municipality for development activity on the new land; and

(B) the authority's sharing with the municipality tax revenue generated from the new land; and

(ii) be structured in a way that recognizes the needs of the authority and furthers mutual goals of the authority and the municipality.

Section 4. Section 11-68-202, which is renumbered from Section 63H-6-108 is renumbered and amended to read:

[~~63H-6-108~~]. 11-68-202. Operation of the state-owned buildings and facilities on fair park land -- New construction and modification of existing facilities -- Liability insurance -- Obligations of the authority.

(1) The [~~corporation~~] authority shall:

(a) operate and maintain [~~the state~~] state-owned buildings and facilities on fair park land in accordance with the facility maintenance standards approved by the division;

(b) pay for all costs associated with operating and maintaining [~~the state fair park~~] state-owned buildings and facilities on fair park land;

[~~(c) obtain approval from the division before the corporation commences capital developments or capital improvements on the state fair park that involve:~~]

[~~(i) a construction project that costs more than $250,000; or~~]

[~~(ii) the construction of a new building that costs more than $1,000,000;~~]

[~~(d) obtain a building permit from the division before commencing an activity that requires a building permit;~~]

[~~(e) ensure that:~~]

[~~(i) any design plan related to the state fair park satisfies any applicable design standards established by the division; and~~]

[~~(ii) construction performed on the state fair park satisfies any applicable construction standards established by the division;~~]

[~~(f) for any new construction project on the state fair park that costs $250,000 or more:~~]

[~~(i) notify the division before commencing the new construction project; and~~]

[~~(ii) coordinate with the division regarding review of design plans and construction management;~~]

[~~(g)~~] (c) obtain approval from the division before [~~the corporation makes~~] making any alteration or addition to the water system, heating system, plumbing system, air conditioning system, or electrical system of a state-owned building or facility on fair park land;

[~~(h) obtain approval from the division before the corporation demolishes a building or facility on the state fair park;~~]

[~~(i)~~] (d) keep the [~~state~~] fair park land and all state-owned buildings and facilities on fair park land fully insured to protect against loss or damage by fire, vandalism, or malicious mischief;

[~~(j)~~] (e) in accordance with Subsection (3), at the [~~corporation's~~] authority's expense, and for the mutual benefit of the division, maintain general public liability insurance in an amount equal to at least $1,000,000 through one or more companies that are:

(i) licensed to do business in the state;

(ii) selected by the [~~corporation~~] authority; and

(iii) approved by the division and the Division of Risk Management;

[~~(k)~~] (f) ensure that the division is an additional insured with primary coverage on each insurance policy that the [~~corporation~~] authority obtains in accordance with this section;

[~~(l)~~] (g) give the division notice at least 30 days before the day on which the [~~corporation~~] authority cancels any insurance policy that the [~~corporation~~] authority obtains in accordance with this section; and

[~~(m)~~] (h) if any lien that is not invalid under Section 38-1a-103 is recorded or filed against the state fair park as a result of an act or omission of the [~~corporation~~] authority, cause the lien to be satisfied or [~~cancelled~~] released within 10 days after the day on which the [~~corporation~~] authority receives notice of the lien.

[~~(2) At least 90 calendar days before demolition work begins, the division shall notify the State Historic Preservation Office of any division plan to demolish a facility on the state fair park.~~]

(2) (a) As used in this Subsection (2):

(i) "Existing facility modification" means an alteration, repair, or improvement to an existing state-owned building or facility on fair park land.

(ii) "Major project" means new construction or an existing facility modification that costs, regardless of the funding source, over $100,000.

(iii) "Minor project" means new construction or an existing facility modification that costs, regardless of the funding source, $100,000 or less.

(iv) "New construction" means the design and construction of a new state-owned or privately owned building or facility on fair park land.

(b) (i) The director of the division shall exercise direct supervision over a major project.

(ii) Notwithstanding Subsection (2)(b)(i), the director of the division may delegate control over a major project to the authority on a project-by-project basis.

(iii) With respect to a delegation of control under Subsection (2)(b)(ii), the director of the division may:

(A) impose terms and conditions on the delegation that the director considers necessary or advisable to protect the interests of the state; and

(B) revoke the delegation and assume control of the design, construction, or other aspect of a delegated project if the director considers the revocation and assumption of control to be necessary to protect the interests of the state.

(iv) If a major project over which the division exercises direct supervision includes the demolition of a building or other facility on fair park land, the division shall, at least 90 days before demolition work begins, notify the State Historic Preservation Office of the division's demolition plan.

(c) Subject to Subsection (2)(d), the authority may exercise direct supervision over a minor project.

(d) With respect to a minor project over which the authority exercises direct supervision, the authority shall:

(i) obtain the division's approval before commencing the new construction or existing facility modification;

(ii) obtain a building permit from the division before commencing the new construction or existing facility modification, if a building permit is required;

(iii) comply with the division's forms and contracts and the division's design, construction, alteration, repair, improvement, and code inspection standards;

(iv) notify the division before commencing the new construction or existing facility modification;

(v) coordinate with the division regarding the review of design plans and management of the new construction or existing facility modification project; and

(vi) at least 90 days before the beginning of any demolition of a building or facility on the fair park land, notify the division and the State Historic Preservation Office of the proposed demolition.

(3) The general public liability insurance described in Subsection [~~(1)(j)~~] (1)(e) shall:

(a) insure against any claim for personal injury, death, or property damage that occurs [~~at the state~~] on fair park land; and

(b) be a blanket policy that covers all activities of the [~~corporation~~] authority.

[~~(4) The division shall administer any capital improvements on the state fair park that cost more than $250,000.~~]

[~~(5)~~] (4) Upon 24 hours notice to the [~~corporation~~] board, the division may enter the [~~state~~] fair park land to inspect [~~the state~~] any facility on fair park land and make any repairs that the division determines necessary.

[~~(6) If the corporation no longer operates as an independent public nonprofit corporation as described in this chapter, the state shall assume the responsibilities of the corporation under any contract that is:~~]

[~~(a) in effect as of the day on which the status of the corporation changes; and~~]

[~~(b) for the lease, construction, or development of a building or facility on the state fair park.~~]

[~~(7)~~] (5) (a) A debt or obligation contracted by the [~~corporation~~] authority is a debt or obligation of the [~~corporation~~] authority and not of the state.

(b) The state is not liable and assumes no responsibility for any debt or obligation [~~described in Subsection (7)(a), unless the Legislature expressly:~~] of the authority.

[~~(i) authorizes the corporation to contract for the debt or obligation; and~~]

[~~(ii) accepts liability or assumes responsibility for the debt or obligation.~~]

[~~(8) The provisions of this section apply notwithstanding any contrary provision in Title 63A, Chapter 5b, Administration of State Facilities.~~]

Section 5. Section 11-68-301, which is renumbered from Section 63H-6-104 is renumbered and amended to read:

Part 3. Authority Governance

[~~63H-6-104~~]. 11-68-301. Board -- Membership -- Term -- Quorum -- Vacancies -- Duties.

(1) The [~~corporation~~] authority is governed by a board [~~of directors~~].

(2) The board is composed of [~~members as follows~~]:

(a) the director of the Division of Facilities Construction and Management or the director's designee;

(b) the commissioner of agriculture and food or the commissioner's designee;

(c) two members, appointed by the president of the Senate:

(i) who have business related experience; and

(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);

(d) two members, appointed by the speaker of the House:

(i) who have business related experience; and

(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);

(e) five members, of whom only one may be a legislator, in accordance with Subsection (3)(e), appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies as follows:

(i) two members who represent agricultural interests;

(ii) two members who have business related experience; and

(iii) one member who is recommended by the Utah Farm Bureau Federation;

(f) one member, appointed by the mayor of Salt Lake City with the advice and consent of the Senate, who is a resident of the neighborhood located adjacent to the [~~state~~] fair park land;

(g) a representative of Salt Lake County, if Salt Lake County is party to an executed lease agreement with the [~~corporation~~] authority; and

(h) a representative of the Days of '47 Rodeo.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(c), (d), (e), or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.

(ii) In making appointments to the board, the president of the Senate, the speaker of the House, the governor, and the mayor of Salt Lake City shall ensure that the terms of approximately 1/4 of the appointed board members expire each year.

(b) Except as provided in Subsection (3)(c), appointed board members serve until their successors are appointed and qualified.

(c) (i) If an appointed board member is absent from three consecutive board meetings without excuse, that member's appointment is terminated, the position is vacant, and the individual who appointed the board member shall appoint a replacement.

(ii) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as applicable, may remove an appointed member of the board at will.

(d) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as appropriate, shall fill any vacancy that occurs on the board for any reason by appointing an individual in accordance with the procedures described in this section for the unexpired term of the vacated member.

(e) No more than a combined total of two legislators may be appointed under Subsections (2)(c), (d), and (e).

(4) The governor shall select the board's chair.

(5) A majority of the members of the board is a quorum for the transaction of business.

(6) The board may elect a vice chair and any other board offices.

(7) The board may create one or more subcommittees to advise the board on any issue related to the state fair park.

(8) A member described in Subsection (2)(e) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(9) The board shall create and may, as the board considers appropriate, modify:

(a) a business plan for the authority;

(b) a financial plan for the authority that projects self-sufficiency for the authority within two years; and

(c) a master plan for the fair park land.

Section 6. Section 11-68-302, which is renumbered from Section 63H-6-105 is renumbered and amended to read:

[~~63H-6-105~~]. 11-68-302. Executive director.

(1) (a) The board shall:

(i) hire an executive director for the [~~corporation~~] authority as provided in this [~~subsection~~] Subsection (1)(a);

(ii) conduct a national search to find applicants for the position of executive director; and

(iii) establish the salary, benefits, and other compensation of the executive director.

(b) The board may appoint an interim director while searching for a permanent executive director.

(c) The executive director serves at the pleasure of the board and may be terminated by the board at will.

(d) The executive director is an employee of the [~~corporation~~] authority.

(e) The executive director may not be a member of the board.

(2) The executive director shall:

(a) act as the executive officer of the board and the [~~corporation~~] authority;

(b) administer, manage, and direct the affairs and activities of the [~~corporation~~] authority in accordance with the policies and under the control and direction of the board;

(c) keep the board, the governor, the Legislature, and its agencies, and other affected officers, associations, and groups informed about the operations of the [~~corporation~~] authority;

(d) recommend to the board any necessary or desirable changes in the statutes governing the [~~corporation~~] authority;

(e) recommend to the board an annual administrative budget covering the operations of the [~~corporation~~] authority and, upon approval, submit the budget to the governor and the Legislature for their examination and approval;

(f) after approval, direct and control the subsequent expenditures of the budget;

(g) employ, within the limitations of the budget, staff personnel and consultants to accomplish the purpose of the [~~corporation~~] authority, and establish [~~their~~] the qualifications, duties, and compensation of the staff personnel and consultants;

(h) keep in convenient form all records and accounts of the [~~corporation~~] authority, including those necessary for the administration of the [~~state~~] fair park land;

[~~(i) in cooperation with the board, create:~~]

[~~(i) business plans for the corporation;~~]

[~~(ii) a financial plan for the corporation that projects self-sufficiency for the corporation within two years; and~~]

[~~(iii) a master plan for the state fair park;~~]

[~~(j)~~] (i) approve all accounts for:

(i) salaries;

(ii) allowable expenses of the [~~corporation~~] authority and its employees and consultants; and

(iii) expenses incidental to the operation of the [~~corporation~~] authority; and

[~~(k)~~] (j) perform other duties as directed by the board.

Section 7. Section 11-68-401 is enacted to read:

Part 4. Authority Revenues

11-68-401. Distribution of sales tax revenue to authority.

(1) As used in this section:

(a) "Applicable sales tax revenue" means all revenue collected under Title 59, Chapter 12, Sales and Use Tax Act, on transactions that occur within a qualified hotel, except:

(i) revenue distributed under Subsection 59-12-205(2)(a)(ii)(A); and

(ii) revenue collected under Title 59, Chapter 12, Part 3A, Municipality Transient Room Tax.

(b) "Commission" means the State Tax Commission.

(c) "Qualified hotel" means a hotel for which the authority provides notice to the commission under Subsection (2).

(2) Upon the division's issuance of a certificate of occupancy for a hotel located on fair park land, the authority shall provide written notification to the commission of the existence, location, and imminent operation of the hotel.

(3) Notwithstanding any provision of Title 59, Chapter 12, Sales and Use Tax Act, the commission shall distribute to the authority all applicable sales tax revenue, beginning the next quarter that begins more than 60 days after the notification under Subsection (2).

Section 8. Section 11-68-402, which is renumbered from Section 63H-6-109 is renumbered and amended to read:

[~~63H-6-109~~]. 11-68-402. Privilege tax -- Personal property tax revenue -- Deposit into Utah State Fair Fund.

(1) The possession or beneficial use of property [~~within the state~~] on fair park land is [~~exempt from taxation under~~] subject to Title 59, Chapter 4, Privilege Tax.

[~~(2) (a) Any agreement between the corporation and a person to develop property within the state~~

~~fair park shall provide that the person shall, in accordance with Title 59, Chapter 3, Tax Equivalent Property Act, make a tax equivalent payment as defined in Section 59-3-102 to the corporation each year.~~]

(2) (a) As provided in Subsection (2)(b), the authority shall be paid:

(i) all revenue from a privilege tax under Subsection (1); and

(ii) all revenue from a property tax on personal property located on property that is subject to a privilege tax under Subsection (1).

(b) The treasurer of the county in which the fair park land is located shall, in the manner and at the time provided in Section 59-2-1365, pay and distribute to the authority the revenue described in Subsection (2)(a).

[~~(b)~~] (c) The [~~corporation~~] authority shall deposit all revenue collected under this Subsection (2)[~~(a)~~] into the Utah State Fair Fund created in Section [~~63H-6-107~~] 11-68-403.

Section 9. Section 11-68-403, which is renumbered from Section 63H-6-107 is renumbered and amended to read:

[~~63H-6-107~~]. 11-68-403. Enterprise fund -- Creation -- Revenue -- Uses.

(1) (a) There is created an enterprise fund entitled the Utah State Fair Fund.

(b) The executive director shall administer the fund under the direction of the board.

(2) The fund consists of money generated from the following revenue sources:

(a) lease payments from person or entities leasing [~~the state~~] any part of the fair park land or any other facilities owned by the [~~corporation~~] authority;

(b) revenue received from any expositions or other events wholly or partially sponsored by the [~~corporation~~] authority;

(c) aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or [~~Utah~~] the state;

(d) appropriations made to the fund by the Legislature;

(e) revenue received under [~~an agreement described in Subsection 63H-6-109(2)~~] a privilege tax or a tax on personal property; and

(f) any other income obtained by the [~~corporation~~] authority.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director may use fund money to operate, maintain, and support the Utah [~~state fair, the state~~] State Fair, the fair park land, and other expositions sponsored by the [~~corporation~~] authority.

Section 10. Section 11-68-501 is enacted to read:

Part 5. Authority Bonds

11-68-501. Authority may issue bonds -- Resolution authorizing issuance of authority bonds -- Characteristics of bonds.

(1) The authority may issue bonds, as provided in this part, to fund development consistent with the master plan adopted under Subsection 11-68-301(9)(c).

(2) The authority may not issue bonds under this part unless the board first:

(a) adopts a parameters resolution that sets forth:

(i) the maximum:

(A) amount of the bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(3) (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing the bonds' issuance or the trust indenture under which the bonds are issued.

(4) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) in a newspaper having general circulation in the authority's boundaries; and

(b) as required in Section 45-1-101.

(5) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(6) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(7) (a) A person may contest the matters set forth in Subsection (6) by filing a verified written complaint, within 30 days after the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (6), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (7)(a).

(8) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 11. Section 11-68-502 is enacted to read:

11-68-502. Sources from which bonds may be made payable -- Authority powers regarding bonds.

(1) The principal and interest on bonds issued by the authority may be made payable from:

(a) the income and revenues of the development projects financed with the proceeds of the bonds;

(b) the income and revenues of certain designated development projects whether or not they were financed in whole or in part with the proceeds of the bonds;

(c) the income, revenues, proceeds, and funds the authority derives from or holds in connection with the authority undertaking and carrying out development;

(d) privilege tax and property tax revenue under Section 11-68-402;

(e) revenue from a special event tax under Title 59, Chapter 12, Part 23, Fair Park Special Event Tax;

(f) authority revenues generally;

(g) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the development; or

(h) funds derived from any combination of the sources listed in Subsections (1)(a) through (g).

(2) (a) In connection with the issuance of authority bonds, the authority may:

(i) pledge all or any part of the authority's gross or net rents, fees, or revenues to which the authority's right then exists or may thereafter come into existence; and

(ii) make the covenants and take the action that may be necessary, convenient, or desirable to secure the authority's bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

(b) The authority may not use all or any portion of the fair park land as collateral for any bonds or encumber the fair park land by mortgage, deed of trust, or otherwise as collateral for any bonds.

Section 12. Section 11-68-503 is enacted to read:

11-68-503. Authority to purchase agency bonds.

(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an authority under this part with funds owned or controlled by the purchaser.

(2) Nothing in this section may be construed to relieve a purchaser of authority bonds of any duty to exercise reasonable care in selecting securities.

Section 13. Section 11-68-504 is enacted to read:

11-68-504. Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.

(1) A member of the board or other person executing an authority bond is not liable personally on the bond.

(2) (a) A bond issued by the authority is not an obligation or liability of the state or any of the state's political subdivisions, except the authority, and does not constitute a charge against the general credit or taxing powers of the state or other political subdivisions of the state.

(b) A bond issued by the authority is not payable out of any funds other than those of the authority.

(c) The state and any political subdivision of the state, other than the authority, may not be liable on a bond issued by the authority.

(d) A bond issued by the authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

(3) A bond issued by the authority under this part is fully negotiable.

Section 14. Section 11-68-505 is enacted to read:

11-68-505. Obligee rights -- Board may confer other rights.

(1) In addition to all other rights that are conferred on an obligee of a bond issued by the authority under this part and subject to contractual restrictions binding on the obligee, an obligee may:

(a) by mandamus, suit, action, or other proceeding, compel the authority and the authority's board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to carry out the covenants and

agreements of the authority and to fulfill all duties imposed on the authority by this part; and

(b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2) In a board resolution authorizing the issuance of bonds or in a trust indenture, lease, or other contract, the board may confer upon an obligee holding or representing a specified amount in bonds, certain rights to receive the income, revenues, proceeds, funds, fees, rents, grants, or taxes.

Section 15. Section 11-68-506 is enacted to read:

11-68-506. Bonds exempt from taxes -- Authority may purchase its own bonds.

(1) A bond issued by the authority under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from the bond, exempt from all state taxes except the corporate franchise tax.

(2) The authority may purchase the authority's own bonds at a price that the board determines.

(3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on the authority's income, revenues, proceeds, funds, fees, rents, grants, or taxes.

Section 16. Section 11-68-601, which is renumbered from Section 63H-6-106 is renumbered and amended to read:

Part 6. Authority Reporting

[~~63H-6-106~~]. 11-68-601. Financial reports -- Audit -- Surety bonds.

(1) (a) The [~~corporation~~] authority shall, following the close of each fiscal year, submit an annual report of [~~its~~] the authority's activities for the preceding year to the governor and the Legislature.

(b) The report shall contain:

(i) a complete operating report detailing the [~~corporation's~~] authority's activities; and

(ii) financial statements of the [~~corporation~~] authority audited by a certified public accountant according to generally accepted auditing standards.

(2) (a) At least once a year, the state auditor shall:

(i) audit the books and accounts of the [~~corporation~~] authority; or

(ii) contract with a nationally recognized independent certified public accountant to conduct the audit and review the audit report when [~~it~~] the audit is completed.

(b) The [~~corporation~~] authority shall reimburse the state auditor for the costs of the audit.

(c) If the audit is conducted by an independent auditor, the independent auditor shall submit a copy of the audit to the state auditor for review within 90 days after the end of the fiscal year covered by the audit.

(3) (a) The [~~corporation~~] authority shall maintain a surety bond in the penal sum of $25,000 for each member of the board.

(b) The [~~corporation~~] authority shall maintain a surety bond in the penal sum of $50,000 for the executive director.

(c) The [~~corporation~~] authority shall ensure that each surety bond is:

(i) conditioned upon the faithful performance of the duties of office to which [~~it~~] the surety bond attaches;

(ii) issued by a surety company authorized to transact business in [~~Utah~~] the state as a surety; and

(iii) filed in the office of the State Treasurer.

(d) The [~~corporation~~] authority shall pay the cost of the surety bonds.

Section 17. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(v) for a host local government, the same as that term is defined in Section 63N-2-502; or

(vi) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602.

(e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(iv) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(v) for a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone; [~~or~~]

(vi) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government[~~.~~]; or

(vii) for the State Fair Park Authority created in Section 11-68-201, the taxable value of:

(A) fair park land, as defined in Section 11-68-101, that is subject to a privilege tax under Section 11-68-402; or

(B) personal property located on property that is subject to the privilege tax described in Subsection (1)(n)(vii)(A).

(o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

(iv) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation; or

(v) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(ii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 18. Section 59-4-101 is amended to read:

59-4-101. Tax basis -- Exceptions -- Assessment and collection -- Designation of person to receive notice.

(1) (a) Except as provided in Subsections (1)(b), (1)(c), and (3), a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property that is exempt for any reason from taxation, if that property is used in connection with a business conducted for profit.

(b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.

(c) The tax imposed under Subsection (1)(a) does not apply to property exempt from taxation under Section 59-2-1114.

(2) (a) The tax imposed under this chapter is the same amount that the ad valorem property tax would be if the possessor or user were the owner of the property.

(b) The amount of any payments that are made in lieu of taxes is credited against the tax imposed on the beneficial use of property owned by the federal government.

(3) A tax is not imposed under this chapter on the following:

(a) the use of property that is a concession in, or relative to, the use of a public airport, park, fairground, or similar property that is available as a matter of right to the use of the general public;

(b) the use or possession of property by a religious, educational, or charitable organization;

(c) the use or possession of property if the revenue generated by the possessor or user of the property through its possession or use of the property inures only to the benefit of a religious, educational, or charitable organization and not to the benefit of any other person;

(d) the possession or other beneficial use of public land occupied under the terms of an agricultural lease or permit issued by the United States or this state;

(e) the use or possession of any lease, permit, or easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates;

(f) the use or possession of property by a public agency, as defined in Section 11-13-103, to the extent that the ownership interest of the public agency in that property is subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

(g) the possession or beneficial use of public property as a tollway by a private entity through a tollway development agreement as defined in Section 72-6-202.

(4) For purposes of Subsection (3)(e):

(a) every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right permit, or easement, except from brines of the Great Salt Lake, is considered to be in possession of the premises, regardless of whether another party has a similar right to remove or extract another mineral from the same property; and

(b) a lessee, permittee, or holder of an easement still has exclusive possession of the premises if the owner has the right to enter the premises, approve leasehold improvements, or inspect the premises.

(5) A tax imposed under this chapter is assessed to the possessors or users of the property on the same forms, and collected and, subject to Subsection 11-68-402(2), distributed at the same time and in the same manner, as taxes assessed owners, possessors, or other claimants of property that is subject to ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

(6) (a) (i) Except as provided in Subsection (6)(a)(ii), if a governmental entity is required under this chapter to send information or notice to a person, the governmental entity shall send the information or notice to:

(A) the person required under the applicable provision of this chapter; and

(B) each person designated in accordance with Subsection (6)(b) by the person described in Subsection (6)(a)(i)(A).

(ii) If a governmental entity is required under Section 59-2-919.1 or 59-2-1317 to send information or notice to a person, the governmental entity shall send the information or notice to:

(A) the person required under the applicable section; or

(B) one person designated in accordance with Subsection (6)(b) by the person described in Subsection (6)(a)(ii)(A).

(b) (i) A person to whom a governmental entity is required under this chapter to send information or notice may designate a person to receive the information or notice in accordance with Subsection (6)(a).

(ii) To make a designation described in Subsection (6)(b)(i), the person shall submit a written request to the governmental entity on a form prescribed by the commission.

(c) A person who makes a designation described in Subsection (6)(b) may revoke the designation by submitting a written request to the governmental entity on a form prescribed by the commission.

(7) Sections 59-2-301.1 through 59-2-301.7 apply for purposes of assessing a tax under this chapter.

Section 19. Section 59-12-2301 is enacted to read:

Part 23. Fair Park Special Event Tax

59-12-2301. Definitions.

As used in this part:

(1) "Authority board" means the fair park authority board under Section 11-68-301.

(2) "Fair park authority" means the State Fair Park Authority, created in Section 11-68-201.

(3) "Fair park land" means the same as that term is defined in Section 11-68-101.

(4) "Fair park special event" means an event:

(a) that occurs on fair park land, except within a qualified hotel as defined in Section 11-68-401;

(b) that lasts six months or less;

(c) that is:

(i) sponsored by the fair park authority; or

(ii) provided pursuant to a contract with the fair park authority;

(d) for which a special event permit is obtained under Section 59-12-106; and

(e) where taxable sales occur.

(5) "Fair park special event tax" means a tax imposed under this part on taxable items.

(6) "Taxable items" means:

(a) alcoholic beverages;

(b) food and food ingredients; or

(c) prepared food.

Section 20. Section 59-12-2302 is enacted to read:

59-12-2302. Fair park authority may impose special event tax.

(1) The fair park authority may impose a tax of not to exceed 1.5% on all sales:

(a) of taxable items; and

(b) that occur at a fair park special event.

(2) (a) To impose a tax under Subsection (1), the authority board shall adopt a resolution imposing the tax.

(b) The resolution under Subsection (2)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on taxable items.

(c) The name of the fair park authority as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(3) To maintain in effect a tax resolution adopted under this part, the authority board shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the fair park authority's tax resolution to conform with the applicable amendments to Part 1, Tax Collection.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection, or Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(b) Except as provided in Subsection (4)(c), the commission shall distribute the revenue from a fair park special event tax to the fair park authority.

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a fair park special event tax.

(5) (a) (i) Except as provided in Subsection (5)(b), if the fair park authority enacts or repeals a fair park special event tax or changes the rate of a fair park special event tax, the enactment, repeal, or change takes effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (5)(a)(ii) from the fair park authority.

(ii) The notice described in Subsection (5)(a)(i) shall state:

(A) that the fair park authority will enact or repeal a fair park special event tax or change the rate of a fair park special event tax;

(B) the statutory authority for the fair park special event tax;

(C) the effective date of the imposition, repeal, or change in the rate of the fair park special event tax; and

(D) if the fair park authority enacts the fair park special event tax or changes the rate of the fair park special event tax, the rate of the fair park special event tax.

(b) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(c) If the fair park authority acquires land that becomes part of the fair park land, the acquisition of that additional land constitutes the fair park authority's enactment of a fair park special event tax as to that additional land, requiring the fair park authority's compliance with the notice provisions of this Subsection (5).

(d) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 21. Section 59-12-2303 is enacted to read:

59-12-2303. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a fair park special event tax if the seller's or certified service provider's failure to collect the fair park special event tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Section 22. Section 59-12-2304 is enacted to read:

59-12-2304. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a fair park special event tax if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a fair park special event tax is a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Section 23. Section 59-12-2305 is enacted to read:

59-12-2305. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a fair park special event tax or an underpayment of the fair park special event tax if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a fair park special event tax or an underpayment of the fair park special event tax if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term that is in the library of definitions and that is listed as taxable or exempt, included in or excluded from "sales price," or included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term that is in the library of definitions and that is listed as taxable or exempt, included in or excluded from "sales price," or included in or excluded from a definition.

Section 24. Section 63C-25-101 is amended to read:

63C-25-101. Definitions.

As used in this chapter:

(1) "Authority" means the same as that term is defined in Section 63B-1-303.

(2) "Bond" means the same as that term is defined in Section 63B-1-101.

(3) "Bonding political subdivision" means:

(a) the Utah Inland Port Authority, created in Section 11-58-201;

(b) the Military Installation Development Authority, created in Section 63H-1-201;

(c) the Point of the Mountain State Land Authority, created in Section 11-59-201; [~~or~~]

(d) the Utah Lake Authority, created in Section 11-65-201[~~.~~]; or

(e) the State Fair Park Authority, created in Section 11-68-201.

(4) "Commission" means the State Finance Review Commission created in Section 63C-25-201.

(5) "Concessionaire" means a person who:

(a) operates, finances, maintains, or constructs a government facility under a contract with a bonding political subdivision; and

(b) is not a bonding political subdivision.

(6) "Creating entity" means the same as that term is defined in Section 17D-4-102.

(7) "Government facility" means infrastructure, improvements, or a building that:

(a) costs more than $5,000,000 to construct; and

(b) has a useful life greater than five years.

(8) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(9) "Loan entity" means the board, person, unit, or agency with legal responsibility for making a loan from a revolving loan fund.

(10) "Obligation" means the same as that term is defined in Section 63B-1-303.

(11) "Parameters resolution" means a resolution of a bonding political subdivision, or public infrastructure district created by a bonding political subdivision, that sets forth for proposed bonds:

(a) the maximum:

(i) amount of bonds;

(ii) term; and

(iii) interest rate; and

(b) the expected security for the bonds.

(12) "Public infrastructure district" means a public infrastructure district created under Title 17D, Chapter 4, Public Infrastructure District Act.

(13) "Public-private partnership" means a contract:

(a) between a bonding political subdivision and a concessionaire for the operation, finance, maintenance, or construction of a government facility;

(b) that authorizes the concessionaire to operate the government facility for a term of five years or longer, including any extension of the contract; and

(c) in which all or some of the annual source of payment to the concessionaire comes from state funds provided to the bonding political subdivision.

(14) "Revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank Fund, created in Section 19-6-409;

(j) the School Building Revolving Account, created in Section 53F-9-206;

(k) the State Infrastructure Bank Fund, created in Section 72-2-202;

(l) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

(m) the Navajo Revitalization Fund, created in Section 35A-8-1704;

(n) the Energy Efficiency Fund, created in Section 11-45-201;

(o) the Brownfields Fund, created in Section 19-8-120;

(p) the following enterprise revolving loan funds created in Section 63A-3-402:

(i) the inland port infrastructure revolving loan fund;

(ii) the point of the mountain infrastructure revolving loan fund; or

(iii) the military development infrastructure revolving loan fund; and

(q) any other revolving loan fund created in statute where the borrower from the revolving loan fund is a public non-profit entity or political subdivision, including a fund listed in Section 63A-3-205, from which a loan entity is authorized to make a loan.

(15) (a) "State funds" means an appropriation by the Legislature identified as coming from the General Fund or Education Fund.

(b) "State funds" does not include:

(i) a revolving loan fund; or

(ii) revenues received by a bonding political subdivision from:

(A) a tax levied by the bonding political subdivision;

(B) a fee assessed by the bonding political subdivision; or

(C) operation of the bonding political subdivision's government facility.

Section 25. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

(i) independent state agency; or

(ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Beef Council, created by Section 4-21-103;

(ii) Utah Dairy Commission created by Section 4-22-103;

(iii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

(iv) Utah Housing Corporation created by Section 63H-8-201;

[~~(v) Utah State Fair Corporation created by Section 63H-6-103;~~]

[~~(vi)~~] (v) Utah State Retirement Office created by Section 49-11-201;

[~~(vii)~~] (vi) School and Institutional Trust Lands Administration created by Section 53C-1-201;

[~~(viii)~~] (vii) School and Institutional Trust Fund Office created by Section 53D-1-201;

[~~(ix)~~] (viii) Utah Communications Authority created by Section 63H-7a-201;

[~~(x)~~] (ix) Utah Capital Investment Corporation created by Section 63N-6-301; and

[~~(xi)~~] (x) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state, which has accepted from the state the grant of a franchise or

contract involving the performance of a public purpose relating to the state or its citizens.

Section 26. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a Fiduciary Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the Income Tax Fund or Uniform School Fund as free revenue;

(f) in-kind donations;

(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;

(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;

(i) a grant received by an agency from another agency or political subdivision;

(j) a grant to the Utah Dairy Commission created in Section 4-22-103;

(k) a grant to the Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(l) a grant to the Utah State Railroad Museum Authority created in Section 63H-5-102;

(m) a grant to the Utah Housing Corporation created in Section 63H-8-201;

(n) a grant to the [~~Utah State Fair Corporation~~] State Fair Park Authority created in Section [~~63H-6-103~~] 11-68-201;

(o) a grant to the Utah State Retirement Office created in Section 49-11-201;

(p) a grant to the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(q) a grant to the Utah Communications Authority created in Section 63H-7a-201;

(r) a grant to the Medical Education Program created in Section 26-69-403;

(s) a grant to the Utah Capital Investment Corporation created in Section 63N-6-301;

(t) a grant to the Utah Charter School Finance Authority created in Section 53G-5-602;

(u) a grant to the State Building Ownership Authority created in Section 63B-1-304; or

(v) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

(a) the governor has declared a state of emergency; and

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 27. Section 67-3-12 is amended to read:

67-3-12. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) As used in this section:

(a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) the State Fair Park Authority, created in Section 11-68-201;

[~~(iii)~~] (iv) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

[~~(iv)~~] (v) a special service district under Title 17D, Chapter 1, Special Service District Act;

[~~(v)~~] (vi) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

[~~(vi)~~] (vii) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

[~~(vii)~~] (viii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

[~~(viii)~~] (ix) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through [~~(vii)~~] (viii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through [~~(vii)~~] (viii) under the governmental accounting standards issued by the Governmental Accounting Standards Board; or

[~~(ix)~~] (x) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(d) (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

(f) "Public financial information" means each record that is required under this section or by rule made by the Office of the State Auditor under Subsection (9) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.

(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) a state institution of higher education as defined in Section 53B-3-102;

(vi) the Utah Educational Savings Plan created in Section 53B-8a-103;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

(x) a URS-participating employer.

(h) (i) "URS-participating employer" means an entity that:

(A) is a participating employer, as that term is defined in Section 49-11-102; and

(B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).

(ii) "URS-participating employer" does not include:

(A) the Utah State Retirement Office created in Section 49-11-201;

(B) an insurer that is subject to the disclosure requirements of Section 31A-4-113; or

(C) a withdrawing entity.

(i) (i) "Withdrawing entity" means:

(A) an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records;

(B) until the date determined under Subsection 49-11-626(2)(a), a public employees' association that provides the notice of intent described in Subsection 49-11-626(2)(b); and

(C) beginning on the date determined under Subsection 49-11-626(2)(a), a public employees' association that makes an election described in Subsection 49-11-626(3).

(ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.

(2) The state auditor shall establish and maintain a public finance website in accordance with this section.

(3) The website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, participating local entities, and URS-participating employers, using the website; and

(ii) link to websites administered by participating local entities, independent entities, or URS-participating employers that do not use the website for the purpose of providing public financial information as required by this section and by rule made under Subsection (9);

(b) allow a person that has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the website;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made in accordance with Subsection (9);

(e) have a unique and simplified website address;

(f) be guided by the principles described in Subsection 63A-16-202(2);

(g) include other links, features, or functionality that will assist the public in obtaining and

reviewing public financial information, as may be established by rule made under Subsection (9); and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(4) The state auditor shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities; and

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

(7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

(8) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Section 28. Repealer.

This bill repeals:

Section 63H-6-101, Title.

Section 63H-6-201, Title.

Section 63H-6-202, Resolution authorizing issuance of corporation bond -- Presentation to Executive Appropriations Committee -- Characteristics of bond.

Section 63H-6-203, Sources from which a corporation bond may be made payable -- Corporation powers regarding corporation bond.

Section 63H-6-204, Purchaser of a corporation bond.

Section 63H-6-205, Obligee rights.

CHAPTER 503
S. B. 191
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

CONDOMINIUM AND COMMUNITY ASSOCIATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions governing community associations and condominium associations.

Highlighted Provisions:

This bill:

- amends certain provisions of the Utah Nonprofit Corporation Act that apply to community associations;
- provides certain qualifications for a director on a board or member of a management committee;
- provides that an association of unit owners or community association may disqualify an individual from being a director on a board or member of a management committee for certain criminal violations;
- provides that a community association rule may not prohibit low water use on lawns during drought conditions;
- requires a community association created before March 5, 2023, to adopt required rules regarding water efficient landscaping before June 30, 2023;
- permits an association of unit owners or community association to adopt a rule restricting sex offenders from certain areas the association maintains, operates, or owns;
- provides that a community association that registers, or renews or updates the association's registration, with the Department of Commerce is subject to the Community Association Act;
- permits certain community associations to charge an annual fee to a lot owner who owns a rental lot;
- permits certain associations of unit owners to charge an annual fee to a unit owner who owns a rental unit;
- clarifies provisions related to charging systems for electric or hybrid electric vehicles;
- clarifies provisions related to the application of regulations related to solar system installation to attached dwellings;
- requires an action against a community association board or board member for a violation of certain provisions to be brought no later than 18 months after the challenged board action;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

16-6a-102, as last amended by Laws of Utah 2017, Chapter 358
16-6a-1602, as enacted by Laws of Utah 2000, Chapter 300
57-8-3, as last amended by Laws of Utah 2020, Chapter 398
57-8-8.1, as last amended by Laws of Utah 2022, Chapter 439
57-8-8.2, as enacted by Laws of Utah 2022, Chapter 439
57-8-10.1, as last amended by Laws of Utah 2018, Chapter 395
57-8-59, as enacted by Laws of Utah 2018, Chapter 395
57-8a-102, as last amended by Laws of Utah 2020, Chapter 398
57-8a-105, as last amended by Laws of Utah 2020, Chapter 75
57-8a-209, as last amended by Laws of Utah 2021, Chapter 102
57-8a-217, as last amended by Laws of Utah 2015, Chapter 325
57-8a-218, as last amended by Laws of Utah 2022, Chapter 439
57-8a-501, as enacted by Laws of Utah 2013, Chapter 152
57-8a-701, as last amended by Laws of Utah 2022, Chapter 439
57-8a-802, as enacted by Laws of Utah 2022, Chapter 439

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 16-6a-102 is amended to read:

16-6a-102. Definitions.

As used in this chapter:

(1) (a) "Address" means a location where mail can be delivered by the United States Postal Service.

(b) "Address" includes:

(i) a post office box number;

(ii) a rural free delivery route number; and

(iii) a street name and number.

(2) "Affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the person specified.

(3) "Articles of incorporation" include:

(a) amended articles of incorporation;

(b) restated articles of incorporation;

(c) articles of merger; and

(d) a document of a similar import to the documents described in Subsections (3)(a) through (c).

(4) "Assumed corporate name" means a name assumed for use in this state:

(a) by a:

(i) foreign corporation pursuant to Section 16-10a-1506; or

(ii) a foreign nonprofit corporation pursuant to Section 16-6a-1506; and

(b) because the corporate name of the foreign corporation described in Subsection (4)(a) is not available for use in this state.

(5) (a) Except as provided in Subsection (5)(b), "board of directors" means the body authorized to manage the affairs of a domestic or foreign nonprofit corporation.

(b) Notwithstanding Subsection (5)(a), a person may not be considered a member of the board of directors because of a power delegated to that person pursuant to Subsection 16-6a-801(2).

(6) (a) "Bylaws" means the one or more codes of rules, other than the articles of incorporation, adopted pursuant to this chapter for the regulation or management of the affairs of a domestic or foreign nonprofit corporation irrespective of the one or more names by which the codes of rules are designated.

(b) "Bylaws" includes:

(i) amended bylaws; and

(ii) restated bylaws.

(7) (a) "Cash" or "money" means:

(i) legal tender;

(ii) a negotiable instrument; or

(iii) other cash equivalent readily convertible into legal tender.

(b) "Cash" and "money" are used interchangeably in this chapter.

(8) (a) "Class" means a group of memberships that has the same right with respect to voting, dissolution, redemption, transfer, or other characteristics.

(b) For purposes of Subsection (8)(a), a right is considered the same if it is determined by a formula applied uniformly to a group of memberships.

(9) (a) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed the writing.

(b) "Conspicuous" includes printing or typing in:

(i) italics;

(ii) boldface;

(iii) contrasting color;

(iv) capitals; or

(v) underlining.

(10) "Control" or a "controlling interest" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity by:

(a) the ownership of voting shares;

(b) contract; or

(c) a means other than those specified in Subsection (10)(a) or (b).

(11) Subject to Section 16-6a-207, "cooperative nonprofit corporation" or "cooperative" means a nonprofit corporation organized or existing under this chapter.

(12) "Corporate name" means:

(a) the name of a domestic corporation as stated in the domestic corporation's articles of incorporation;

(b) the name of a domestic nonprofit corporation as stated in the domestic nonprofit corporation's articles of incorporation;

(c) the name of a foreign corporation as stated in the foreign corporation's:

(i) articles of incorporation; or

(ii) document of similar import to articles of incorporation; or

(d) the name of a foreign nonprofit corporation as stated in the foreign nonprofit corporation's:

(i) articles of incorporation; or

(ii) document of similar import to articles of incorporation.

(13) (a) "Corporate records" means the records described in Section 16-6a-1601.

(b) "Corporate records" does not include correspondence, communications, notes, or other similar information, regardless of format or method of storage, that are not an official decision, published document, or record of the corporation.

[~~(13)~~] (14) "Corporation" or "domestic corporation" means a corporation for profit that:

(a) is not a foreign corporation; and

(b) is incorporated under or subject to Chapter 10a, Utah Revised Business Corporation Act.

[~~(14)~~] (15) "Delegate" means a person elected or appointed to vote in a representative assembly:

(a) for the election of a director; or

(b) on matters other than the election of a director.

[~~(15)~~] (16) "Deliver" includes delivery by mail or another means of transmission authorized by Section 16-6a-103, except that delivery to the division means actual receipt by the division.

[~~(16)~~] (17) "Director" means a member of the board of directors.

[~~(17)~~] (18) (a) "Distribution" means the payment of a dividend or any part of the income or profit of a nonprofit corporation to the nonprofit corporation's:

(i) members;

(ii) directors; or

(iii) officers.

(b) "Distribution" does not include a fair-value payment for:

(i) a good sold; or

(ii) a service received.

[~~(18)~~] (19) "Division" means the Division of Corporations and Commercial Code.

[~~(19)~~] (20) "Effective date," when referring to a document filed by the division, means the time and date determined in accordance with Section 16-6a-108.

[~~(20)~~] (21) "Effective date of notice" means the date notice is effective as provided in Section 16-6a-103.

[~~(21)~~] (22) "Electronic transmission" or "electronically transmitted" means a process of communication not directly involving the physical transfer of paper that is suitable for the receipt, retention, retrieval, and reproduction of information by the recipient, whether by email, texting, facsimile, or otherwise.

[~~(22)~~] (23) (a) "Employee" includes an officer of a nonprofit corporation.

(b) (i) Except as provided in Subsection [~~(22)(b)(ii)~~] (23)(b)(ii), "employee" does not include a director of a nonprofit corporation.

(ii) Notwithstanding Subsection [~~(22)(b)(i)~~] (23)(b)(i), a director may accept one or more duties that make that director an employee of a nonprofit corporation.

[~~(23)~~] (24) "Entity" includes:

(a) a domestic or foreign corporation;

(b) a domestic or foreign nonprofit corporation;

(c) a limited liability company;

(d) a profit or nonprofit unincorporated association;

(e) a business trust;

(f) an estate;

(g) a partnership;

(h) a trust;

(i) two or more persons having a joint or common economic interest;

(j) a state;

(k) the United States; or

(l) a foreign government.

[~~(24)~~] (25) "Executive director" means the executive director of the Department of Commerce.

[~~(25)~~] (26) "Foreign corporation" means a corporation for profit incorporated under a law other than the laws of this state.

[~~(26)~~] (27) "Foreign nonprofit corporation" means an entity:

(a) incorporated under a law other than the laws of this state; and

(b) that would be a nonprofit corporation if formed under the laws of this state.

[~~(27)~~] (28) "Governmental entity" means:

(a) (i) the executive branch of the state;

(ii) the judicial branch of the state;

(iii) the legislative branch of the state;

(iv) an independent entity, as defined in Section 63E-1-102;

(v) a political subdivision of the state;

(vi) a state institution of higher education, as defined in Section 53B-3-102;

(vii) an entity within the state system of public education; or

(viii) the National Guard; or

(b) any of the following that is established or controlled by a governmental entity listed in Subsection [~~(27)(a)~~] (28)(a) to carry out the public's business:

(i) an office;

(ii) a division;

(iii) an agency;

(iv) a board;

(v) a bureau;

(vi) a committee;

(vii) a department;

(viii) an advisory board;

(ix) an administrative unit; or

(x) a commission.

[~~(28)~~] (29) "Governmental subdivision" means:

(a) a county;

(b) a city;

(c) a town; or

(d) another type of governmental subdivision authorized by the laws of this state.

[~~(29)~~] (30) "Individual" means:

(a) a natural person;

(b) the estate of an incompetent individual; or

(c) the estate of a deceased individual.

[~~(30)~~] (31) "Internal Revenue Code" means the federal "Internal Revenue Code of 1986," as amended from time to time, or to corresponding provisions of subsequent internal revenue laws of the United States of America.

[~~(31)~~] (32) (a) "Mail," "mailed," or "mailing" means deposit, deposited, or depositing in the United States mail, properly addressed, first-class postage prepaid.

(b) "Mail," "mailed," or "mailing" includes registered or certified mail for which the proper fee is paid.

[~~(32)~~] (33) (a) "Member" means one or more persons identified or otherwise appointed as a member of a domestic or foreign nonprofit corporation as provided:

(i) in the articles of incorporation;

(ii) in the bylaws;

(iii) by a resolution of the board of directors; or

(iv) by a resolution of the members of the nonprofit corporation.

(b) "Member" includes:

(i) "voting member"; and

(ii) a shareholder in a water company.

[~~(33)~~] (34) "Membership" refers to the rights and obligations of a member or members.

[~~(34)~~] (35) "Mutual benefit corporation" means a nonprofit corporation:

(a) that issues shares of stock to its members evidencing a right to receive distribution of water or otherwise representing property rights; or

(b) all of whose assets are contributed or acquired by or for the members of the nonprofit corporation or their predecessors in interest to serve the mutual purposes of the members.

[~~(35)~~] (36) "Nonprofit corporation" or "domestic nonprofit corporation" means an entity that:

(a) is not a foreign nonprofit corporation; and

(b) is incorporated under or subject to this chapter.

[~~(36)~~] (37) "Notice" means the same as that term is defined in Section 16-6a-103.

[~~(37)~~] (38) "Party related to a director" means:

(a) the spouse of the director;

(b) a child of the director;

(c) a grandchild of the director;

(d) a sibling of the director;

(e) a parent of the director;

(f) the spouse of an individual described in Subsections [~~(37)(b)~~] (38)(b) through (e);

(g) an individual having the same home as the director;

(h) a trust or estate of which the director or another individual specified in this Subsection [~~(37)~~] (38) is a substantial beneficiary; or

(i) any of the following of which the director is a fiduciary:

(i) a trust;

(ii) an estate;

(iii) an incompetent;

(iv) a conservatee; or

(v) a minor.

[~~(38)~~] (39) "Person" means an:

(a) individual; or

(b) entity.

[~~(39)~~] (40) "Principal office" means:

(a) the office, in or out of this state, designated by a domestic or foreign nonprofit corporation as its principal office in the most recent document on file with the division providing that information, including:

(i) an annual report;

(ii) an application for a certificate of authority; or

(iii) a notice of change of principal office; or

(b) if no principal office can be determined, a domestic or foreign nonprofit corporation's registered office.

[~~(40)~~] (41) "Proceeding" includes:

(a) a civil suit;

(b) arbitration;

(c) mediation;

(d) a criminal action;

(e) an administrative action; or

(f) an investigatory action.

[~~(41)~~] (42) "Receive," when used in reference to receipt of a writing or other document by a domestic or foreign nonprofit corporation, means the writing or other document is actually received:

(a) by the domestic or foreign nonprofit corporation at:

(i) its registered office in this state; or

(ii) its principal office;

(b) by the secretary of the domestic or foreign nonprofit corporation, wherever the secretary is found; or

(c) by another person authorized by the bylaws or the board of directors to receive the writing or other document, wherever that person is found.

[~~(42)~~] (43) (a) "Record date" means the date established under Part 6, Members, or Part 7, Member Meetings and Voting, on which a nonprofit corporation determines the identity of the nonprofit corporation's members.

(b) The determination described in Subsection [~~(42)(a)~~] (43)(a) shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

[~~(43)~~] (44) "Registered agent" means the registered agent of:

(a) a domestic nonprofit corporation; or

(b) a foreign nonprofit corporation.

[~~(44)~~] (45) "Registered office" means the office within this state designated by a domestic or foreign nonprofit corporation as its registered office in the most recent document on file with the division providing that information, including:

(a) articles of incorporation;

(b) an application for a certificate of authority; or

(c) a notice of change of registered office.

[~~(45)~~] (46) "Secretary" means the corporate officer to whom the bylaws or the board of directors delegates responsibility under Subsection 16-6a-818(3) for:

(a) the preparation and maintenance of:

(i) minutes of the meetings of:

(A) the board of directors; or

(B) the members; and

(ii) the other records and information required to be kept by the nonprofit corporation pursuant to Section 16-6a-1601; and

(b) authenticating records of the nonprofit corporation.

[~~(46)~~] (47) "Share" means a unit of interest in a nonprofit corporation.

[~~(47)~~] (48) "Shareholder" means a person in whose name a share is registered in the records of a nonprofit corporation.

[~~(48)~~] (49) "State," when referring to a part of the United States, includes:

(a) a state;

(b) a commonwealth;

(c) the District of Columbia;

(d) an agency or governmental and political subdivision of a state, commonwealth, or District of Columbia;

(e) territory or insular possession of the United States; or

(f) an agency or governmental and political subdivision of a territory or insular possession of the United States.

[~~(49)~~] (50) "Street address" means:

(a) (i) street name and number;

(ii) city or town; and

(iii) United States post office zip code designation; or

(b) if, by reason of rural location or otherwise, a street name, number, city, or town does not exist, an appropriate description other than that described in Subsection [~~(49)(a)~~] (50)(a) fixing as nearly as possible the actual physical location, but only if the information includes:

(i) the rural free delivery route;

(ii) the county; and

(iii) the United States post office zip code designation.

[~~(50)~~] (51) "Tribal nonprofit corporation" means a nonprofit corporation:

(a) incorporated under the law of a tribe; and

(b) that is at least 51% owned or controlled by the tribe.

[~~(51)~~] (52) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

[~~(52)~~] (53) "United States" includes a district, authority, office, bureau, commission, department, and another agency of the United States of America.

[~~(53)~~] (54) "Vote" includes authorization by:

(a) written ballot; and

(b) written consent.

[~~(54)~~] (55) (a) "Voting group" means all the members of one or more classes of members or directors that, under this chapter, the articles of incorporation, or the bylaws, are entitled to vote and be counted together collectively on a matter.

(b) All members or directors entitled by this chapter, the articles of incorporation, or the bylaws to vote generally on a matter are for that purpose a single voting group.

[~~(55)~~] (56) (a) "Voting member" means a person entitled to vote for all matters required or permitted under this chapter to be submitted to a vote of the members, except as otherwise provided in the articles of incorporation or bylaws.

(b) A person is not a voting member solely because of:

(i) a right the person has as a delegate;

(ii) a right the person has to designate a director; or

(iii) a right the person has as a director.

(c) Except as the bylaws may otherwise provide, "voting member" includes a "shareholder" if the nonprofit corporation has shareholders.

[~~(56)~~] (57) "Water company" means:

(a) the same as that term is defined in Subsection 16-4-102(5); or

(b) a mutual benefit corporation, when the stock in the mutual benefit corporation represents a right to receive a distribution of water for beneficial use.

Section 2. Section 16-6a-1602 is amended to read:

16-6a-1602. Inspection of records by directors and members.

(1) A director or member is entitled to inspect and copy any of the records of the nonprofit corporation described in Subsection 16-6a-1601(5):

(a) during regular business hours;

(b) at the nonprofit corporation's principal office; and

(c) if the director or member gives the nonprofit corporation written demand, at least five business days before the date on which the member wishes to inspect and copy the records.

(2) In addition to the rights set forth in Subsection (1), a director or member is entitled to inspect and copy any of the other records of the nonprofit corporation described in Subsections 16-6a-1601(2) through (5):

(a) during regular business hours;

(b) at a reasonable location specified by the nonprofit corporation; and

(c) at least five business days before the date on which the member wishes to inspect and copy the records, if the director or member:

(i) meets the requirements of Subsection (3); and

(ii) gives the nonprofit corporation written demand.

(3) A director or member may inspect and copy the records described in Subsection (2) only if:

(a) the demand is made:

(i) in good faith; and

(ii) for a proper purpose;

(b) the director or member describes with reasonable particularity the purpose and the records the director or member desires to inspect; and

(c) the records are directly connected with the described purpose.

(4) Notwithstanding Section 16-6a-102, for purposes of this section:

(a) "member" includes:

(i) a beneficial owner whose membership interest is held in a voting trust; and

(ii) any other beneficial owner of a membership interest who establishes beneficial ownership; and

(b) "proper purpose" means a purpose reasonably related to the demanding member's or director's interest as a member or director.

(5) The right of inspection granted by this section may not be abolished or limited by the articles of incorporation or bylaws.

(6) This section does not affect:

(a) the right of a director or member to inspect records under Section 16-6a-710;

(b) the right of a member to inspect records to the same extent as any other litigant if the member is in litigation with the nonprofit corporation; or

(c) the power of a court, independent of this chapter, to compel the production of corporate records for examination.

(7) A director or member may not use any information obtained through the inspection or copying of records permitted by Subsection (2) for any purposes other than those set forth in a demand made under Subsection (3).

Section 3. Section 57-8-3 is amended to read:

57-8-3. Definitions.

As used in this chapter:

(1) "Assessment" means any charge imposed by the association, including:

(a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and

(b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" or "association" means all of the unit owners:

(a) acting as a group in accordance with the declaration and bylaws; or

(b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

(a) the land included within the condominium project, whether leasehold or in fee simple;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(g) such community and commercial facilities as may be provided for in the declaration; and

(h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

(a) all sums lawfully assessed against the unit owners;

(b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(8) "Condominium" means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

(9) "Condominium plat" means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.

(10) "Condominium project" means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) "Condominium unit" means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) "Contractible condominium" means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) "Convertible land" means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) "Convertible space" means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) "Declarant" means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) "Declaration" means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

(17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

(18) "Expandable condominium" means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this chapter.

(19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

(20) "Governing documents":

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(21) "Independent third party" means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(22) "Judicial foreclosure" means a foreclosure of a unit:

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in this chapter.

(23) "Leasehold condominium" means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or

both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

(24) "Limited common areas and facilities" means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

(25) "Majority" or "majority of the unit owners," unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

(26) "Management committee" means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

(27) "Management committee meeting" means a gathering of a management committee, whether in person or by means of electronic communication, at which the management committee can take binding action.

(28) (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

(29) "Mixed-use condominium project" means a condominium project that has both residential and commercial units in the condominium project.

(30) "Nonjudicial foreclosure" means the sale of a unit:

(a) for the nonpayment of an assessment;

(b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(c) as provided in this chapter.

(31) "Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners' association, liability for common expenses, or right to common profits, assigned on the basis thereof.

(32) "Period of administrative control" means the period of control described in Subsection 57-8-16.5(1).

(33) "Person" means an individual, corporation, partnership, association, trustee, or other legal entity.

(34) "Political sign" means any sign or document that advocates:

(a) the election or defeat of a candidate for public office; or

(b) the approval or defeat of a ballot proposition.

[~~(34)~~] (35) "Property" means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(36) "Protected area" means the same as that term is defined in Section 77-27-21.7.

[~~(35)~~] (37) "Record," "recording," "recorded," and "recorder" have the meaning stated in Chapter 3, Recording of Documents.

[~~(36)~~] (38) "Rentals" or "rental unit" means:

(a) a unit that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the unit owner is not occupying the unit as the unit owner's primary residence; or

(b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.

[~~(37)~~] (39) "Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

[~~(38)~~] (40) "Time period unit" means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Section 57-19-2.

[~~(39)~~] (41) "Unconstructed unit" means a unit that:

(a) is intended, as depicted in the condominium plat, to be fully or partially contained in a building; and

(b) is not constructed.

[~~(40)~~] (42) (a) "Unit" means a separate part of the property intended for any type of independent use, which is created by the recording of a declaration and a condominium plat that describes the unit boundaries.

(b) "Unit" includes one or more rooms or spaces located in one or more floors or a portion of a floor in a building.

(c) "Unit" includes a convertible space, in accordance with Subsection 57-8-13.4(3).

[~~(41)~~] (43) "Unit number" means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

[~~(42)~~] (44) "Unit owner" means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

Section 4. Section 57-8-8.1 is amended to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners;

(ii) differ between residential and nonresidential uses; or

(iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

(2) (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:

(A) charge a rental unit owner a fee to use the common areas and facilities; and

(B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) Notwithstanding Subsection (3)(a), an association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas and facilities.

(4) Unless contrary to a declaration, a rule may require a minimum lease term.

(5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas and facilities; and

(ii) a service provided to a unit owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6) (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.

(b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.

(7) (a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.

(b) An association may adopt a reasonable time, place, and manner restriction with respect to a display that is visible from the exterior of a unit.

(8) (a) A rule may not:

(i) prohibit a unit owner from displaying in a window of the owner's condominium unit:

(A) a for-sale sign; or

(B) a political sign;

(ii) regulate the content of a political sign; or

(iii) establish design criteria for a political sign.

(b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign or a political sign.

(9) An association of unit owners:

(a) shall adopt rules supporting water-efficient landscaping, including allowance for low water use on lawns during drought conditions; and

(b) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.

(10) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

[~~(10)~~] (11) A rule shall be reasonable.

[~~(11)~~] (12) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

[~~(12)~~] (13) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 5. Section 57-8-8.2 is amended to read:

57-8-8.2. Electric vehicle charging systems -- Restrictions -- Responsibilities.

(1) As used in this section:

(a) "Charging system" means a device that is:

(i) used to provide electricity to an electric or hybrid electric vehicle; and

(ii) designed to ensure a safe connection between the electric grid and the vehicle.

(b) "General electrical contractor" means the same as that term is defined in Section 58-55-102.

(c) "Residential electrical contractor" means the same as that term is defined in Section 58-55-102.

(2) Notwithstanding any provision in an association's governing documents to the contrary, an association may not prohibit a unit owner from installing or using a charging system in:

(a) a parking space:

(i) assigned to the unit owner's unit; and

(ii) used for the parking or storage of a vehicle or equipment; or

(b) a limited common area parking space designated for the unit owner's exclusive use.

(3) An association may:

(a) require a unit owner to submit an application for approval of the installation of a charging system;

(b) require the unit owner to agree in writing to:

(i) hire a general electrical contractor or residential electrical contractor to install the charging system; or

(ii) if a charging system is installed in a common area, provide reimbursement to the association for the actual cost of the increase in the association's insurance premium attributable to the installation or use of the charging system;

(c) require a charging system to comply with:

(i) the association's reasonable design criteria governing the dimensions, placement, or external appearance of the charging system; or

(ii) applicable building codes;

(d) impose a reasonable charge to cover costs associated with the review and permitting of a charging [~~station~~] system;

(e) impose a reasonable restriction on the installation and use of a charging [~~station~~] system that does not significantly:

(i) increase the cost of the charging [~~station~~] system; or

(ii) decrease the efficiency or performance of the charging [~~station~~] system; or

(f) require a unit owner to pay the costs associated with installation, metering, and use of the charging [~~station~~] system, including the cost of:

(i) electricity associated with the charging [~~station~~] system; and

(ii) damage to a general common area, a limited common area, or an area subject to the exclusive use of another unit owner that results from the installation, use, maintenance, repair, removal, or replacement of the charging [~~station~~] system.

(4) A unit owner who installs a charging system shall disclose to a prospective buyer of the unit:

(a) the existence of the charging [~~station~~] system; and

(b) the unit owner's related responsibilities under this section.

(5) Unless the unit owner and the association or the declarant otherwise agree:

(a) a charging [~~station~~] system installed under this section is the personal property of the unit owner of the unit with which the charging station is associated; and

(b) a unit owner who installs a charging [~~station~~] system shall, before transferring ownership of the

owner's unit, unless the prospective buyer of the unit accepts ownership and all rights and responsibilities that apply to the charging station under this section:

(i) remove the charging [~~station~~] system; and

(ii) restore the premises to the condition before installation of the charging [~~station~~] system.

Section 6. Section 57-8-10.1 is amended to read:

57-8-10.1. Rental restrictions.

(1) (a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:

(i) create restrictions on the number and term of rentals in a condominium project; or

(ii) prohibit rentals in the condominium project.

(b) An association of unit owners that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a declaration or by amending the declaration.

(2) If an association of unit owners prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires a condominium project to exempt from the rental restrictions the following unit owner and the unit owner's unit:

(i) a unit owner in the military for the period of the unit owner's deployment;

(ii) a unit occupied by a unit owner's parent, child, or sibling;

(iii) a unit owner whose employer has relocated the unit owner for two years or less;

(iv) a unit owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:

(A) a current resident of the unit; or

(B) the parent, child, or sibling of the current resident of the unit;

(b) a provision that allows a unit owner who has a rental in the condominium project before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the condominium project is located to continue renting until:

(i) the unit owner occupies the unit;

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the unit, occupies the unit; or

(iii) the unit is transferred; and

(c) a requirement that the association of unit owners create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and units in the condominium project subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a unit by deed;

(b) the granting of a life estate in the unit; or

(c) if the unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association of unit owners that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration or amendment to a declaration recorded before transfer of the first unit from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).

(6) (a) Subsections (1) through (5) do not apply to:

(i) a condominium project that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), a condominium project in which the initial declaration is recorded before May 12, 2009, unless, on or after May 12, 2015, the association of unit owners:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association of unit owners may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all unit owners; and

(b) when the restriction or prohibition requires an amendment to the association of unit owners'

declaration, the association of unit owners fulfills all other requirements for amending the declaration described in the association of unit owners' governing documents.

(8) Except as provided in Subsection (9), an association of unit owners may not require a unit owner who owns a rental unit to:

(a) obtain the association of unit owners' approval of a prospective renter;

(b) give the association of unit owners:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age; or

(c) pay an additional assessment, fine, or fee because the unit is a rental unit.

(9) (a) A unit owner who owns a rental unit shall give an association of unit owners the documents described in Subsection (8)(b) if the unit owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy of the units by a certain class of individuals, the association of unit owners may require a unit owner who owns a rental unit to give the association of unit owners the information described in Subsection (8)(b), if:

(i) the information helps the association of unit owners determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration; and

(ii) the association of unit owners uses the information to determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration.

(c) An association that permits at least 35% of the units in the association to be rental units may charge a unit owner who owns a rental unit an annual fee of up to $200 to defray the association's additional administrative expenses directly related to a unit that is a rental unit, as detailed in an accounting provided to the unit owner.

(10) The provisions of Subsections (8) and (9) apply to an association of unit owners regardless of when the association of unit owners is created.

Section 7. Section 57-8-59 is amended to read:

57-8-59. Management committee.

(1) A member of the management committee shall be:

(a) a natural person; and

(b) 18 years old or older.

(2) An association's bylaws may prescribe other qualifications for members of the management committee in addition to the requirements described in Subsection (1).

(3) Without limiting the qualifications an association prescribes under Subsection (2), an association may, through governing documents or the management committee's internal procedures, disqualify an individual from serving as a member of the management committee because the individual:

(a) has been convicted of a felony; or

(b) is a sex offender.

(4) A member of the management committee need not be a resident of this state or a lot owner in the association unless required by the association's bylaws.

(5) Except as limited in the declaration, the association of unit owners bylaws or articles of incorporation, or other provisions of this chapter, a management committee acts in all instances on behalf of the association of unit owners.

Section 8. Section 57-8a-102 is amended to read:

57-8a-102. Definitions.

As used in this chapter:

(1) (a) "Assessment" means a charge imposed or levied:

(i) by the association;

(ii) on or against a lot or a lot owner; and

(iii) pursuant to a governing document recorded with the county recorder.

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

(A) real property taxes;

(B) insurance premiums;

(C) maintenance costs; or

(D) for improvement of real property not owned by the member.

(b) "Association" or "homeowner association" does not include an association created under ~~[Title 57, Chapter 8, Condominium Ownership Act~~] Chapter 8, Condominium Ownership Act.

(3) "Board meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.

(4) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.

(5) "Common areas" means property that the association:

(a) owns;

(b) maintains;

(c) repairs; or

(d) administers.

(6) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.

(7) "Declarant":

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person's successor and assign.

(8) "Director" means a member of the board of directors.

[~~(8)~~] (9) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

[~~(9)~~] (10) "Gas corporation" means the same as that term is defined in Section 54-2-1.

[~~(10)~~] (11) (a) "Governing documents" means a written instrument by which the association may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) "Governing documents" includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association.

[~~(11)~~] (12) "Independent third party" means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

[~~(12)~~] (13) "Judicial foreclosure" means a foreclosure of a lot:

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in Part 3, Collection of Assessments.

[~~(13)~~] (14) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

[~~(14)~~] (15) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

[~~(15)~~] (16) "Lot" means:

(a) a lot, parcel, plot, or other division of land:

(i) designated for separate ownership or occupancy; and

(ii) (A) shown on a recorded subdivision plat; or

(B) the boundaries of which are described in a recorded governing document; or

(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

[~~(16)~~] (17) (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

[~~(17)~~] (18) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.

[~~(18)~~] (19) "Nonjudicial foreclosure" means the sale of a lot:

(a) for the nonpayment of an assessment;

(b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(c) as provided in Part 3, Collection of Assessments.

[~~(19)~~] (20) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:

(a) appoint or remove members of the association's board of directors; or

(b) exercise power or authority assigned to the association under the association's governing documents.

(21) "Political sign" means any sign or document that advocates:

(a) the election or defeat of a candidate for public office; or

(b) the approval or defeat of a ballot proposition.

(22) "Protected area" means the same as that term is defined in Section 77-27-21.7.

[~~(20)~~] (23) "Rentals" or "rental lot" means:

(a) a lot that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary residence; or

(b) an occupied lot owned by an entity or trust, regardless of who occupies the lot.

[~~(21)~~] (24) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

(25) (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:

(i) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration; and

(ii) governs:

(A) the conduct of persons; or

(B) the use, quality, type, design, or appearance of real property or personal property.

(b) "Rule" does not include the internal business operating procedures of a board.

(26) "Sex offender" means the same as that term is defined in Section 77-27-21.7.

[~~(22)~~] (27) "Solar energy system" means:

(a) a system that is used to produce electric energy from sunlight; and

(b) the components of the system described in Subsection [~~(22)(a)~~] (27)(a).

Section 9. Section 57-8a-105 is amended to read:

57-8a-105. Registration with Department of Commerce -- Department publication of educational materials.

(1) As used in this section, "department" means the Department of Commerce created in Section 13-1-2.

(2) (a) No later than 90 days after the recording of a declaration of covenants, conditions, and restrictions establishing an association, the association shall register with the department in the manner established by the department.

(b) An association existing under a declaration of covenants, conditions, and restrictions recorded before May 10, 2011, shall, no later than July 1, 2011, register with the department in the manner established by the department.

(3) The department shall require an association registering as required in this section to provide with each registration:

(a) the name and address of the association;

(b) the name, address, telephone number, and, if applicable, email address of the chair of the association board;

(c) contact information for the manager;

(d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has association payoff information that a closing agent needs in connection with the closing of a lot owner's financing, refinancing, or sale of the owner's lot; and

(e) a registration fee not to exceed $37.

(4) An association that has registered under Subsection (2) shall submit to the department an updated registration, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).

(5) (a) During any period of noncompliance with the registration requirement described in Subsection (2) or the requirement for an updated registration described in Subsection (4):

(i) a lien may not arise under Section 57-8a-301; and

(ii) an association may not enforce an existing lien that arose under Section 57-8a-301.

(b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated registration requirement of Subsection (4) does not begin until after the expiration of the 90-day period specified in Subsection (2) or (4), respectively.

(c) An association that is not in compliance with the registration requirement described in Subsection (2) may end the period of noncompliance by registering with the department in the manner established by the department under Subsection (2).

(d) An association that is not in compliance with the updated registration requirement described in Subsection (4) may end the period of noncompliance by submitting to the department an updated registration in the manner established by the department under Subsection (4).

(e) Except as described in Subsection (5)(f), beginning on the date an association ends a period of noncompliance:

(i) a lien may arise under Section 57-8a-301 for any event that:

(A) occurred during the period of noncompliance; and

(B) would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements described in this section; and

(ii) an association may enforce a lien described in this Subsection (5)(e) or a lien that existed before the period of noncompliance.

(f) If an owner's residential lot is conveyed to an independent third party during a period of noncompliance described in this Subsection (5):

(i) a lien that arose under Section 57-8a-301 before the conveyance of the residential lot became final is extinguished when the conveyance of the residential lot becomes final; and

(ii) an event that occurred before the conveyance of the residential lot became final, and that would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements of this section, may not give rise to a lien under Section 57-8a-301 if the conveyance of the residential lot becomes final before the association ends the period of noncompliance.

(6) The department shall publish educational materials on the department's website providing, in simple and easy to understand language, a brief overview of state law governing associations, including:

(a) a description of the rights and responsibilities provided in this chapter to any party under the jurisdiction of an association; and

(b) instructions regarding how an association may be organized and dismantled in accordance with this chapter.

(7) (a) Unless otherwise expressly exempted, this chapter applies to an association that registers, or renews or updates the association's registration, with the department under this section.

(b) This section applies to an association regardless of when the association is created.

Section 10. Section 57-8a-209 is amended to read:

57-8a-209. Rental restrictions.

(1) (a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:

(i) create restrictions on the number and term of rentals in an association; or

(ii) prohibit rentals in the association.

(b) An association that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

(2) If an association prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner's lot:

(i) a lot owner in the military for the period of the lot owner's deployment;

(ii) a lot occupied by a lot owner's parent, child, or sibling;

(iii) a lot owner whose employer has relocated the lot owner for two years or less;

(iv) a lot owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:

(A) the estate of a current resident of the lot; or

(B) the parent, child, or sibling of the current resident of the lot;

(b) a provision that allows a lot owner who has a rental in the association before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting until:

(i) the lot owner occupies the lot;

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or

(iii) the lot is transferred; and

(c) a requirement that the association create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a lot by deed;

(b) the granting of a life estate in the lot; or

(c) if the lot is owned by a limited liability company, corporation, partnership, or other

business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).

(6) (a) Subsections (1) through (5) do not apply to:

(i) an association that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all lot owners; and

(b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.

(8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter;

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age; or

(c) pay an additional assessment, fine, or fee because the lot is a rental lot.

(9) (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

(c) An association that permits at least 35% of the lots in the association to be rental lots may charge a lot owner who owns a rental lot an annual fee of up to $200 to defray the association's additional administrative expenses directly related to a lot that is a rental lot, as detailed in an accounting provided to the lot owner.

(10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an internal accessory dwelling unit, as defined in Section 10-9a-530, constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:

(a) land use ordinances;

(b) building codes;

(c) health codes; and

(d) fire codes.

(11) The provisions of Subsections (8) through (10) apply to an association regardless of when the association is created.

Section 11. Section 57-8a-217 is amended to read:

57-8a-217. Association rules, including design criteria -- Requirements and limitations relating to board's action on rules and design criteria -- Vote of disapproval.

(1) (a) Subject to Subsection (1)(b), a board may adopt, amend, modify, cancel, limit, create exceptions to, or expand[~~, or enforce~~] the rules [~~and design criteria~~] of the association.

(b) A board's action under Subsection (1)(a) is subject to:

(i) this section;

(ii) any limitation that the declaration imposes on the authority stated in Subsection (1)(a);

(iii) the limitation on rules in Sections 57-8a-218 and 57-8a-219;

(iv) the board's duty to exercise business judgment on behalf of:

(A) the association; and

(B) the lot owners in the association; [~~and~~]

(v) the right of the lot owners or declarant to disapprove the action under Subsection (4)[~~.~~] ; and

(vi) Subsection (7).

(2) Except as provided in Subsection (3), before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the rules [~~and design criteria~~] of the association, the board shall:

(a) at least 15 days before the board will meet to consider a change to a rule or design criterion, deliver notice to lot owners, as provided in Section 57-8a-214, that the board is considering a change to a rule or design criterion;

(b) provide an open forum at the board meeting giving lot owners an opportunity to be heard at the board meeting before the board takes action under Subsection (1)(a); and

(c) deliver a copy of the change in the rules or design criteria approved by the board to the lot owners as provided in Section 57-8a-214 within 15 days after the date of the board meeting.

(3) (a) Subject to Subsection (3)(b), a board may adopt a rule without first giving notice to the lot owners under Subsection (2) if there is an imminent risk of harm to a common area, a limited common area, a lot owner, an occupant of a lot, a lot, or a dwelling.

(b) The board shall provide notice under Subsection (2) to the lot owners of a rule adopted under Subsection (3)(a).

(4) A board action in accordance with Subsections (1), (2), and (3) is disapproved if within 60 days after the date of the board meeting where the action was taken:

(a) (i) there is a vote of disapproval by at least 51% of all the allocated voting interests of the lot owners in the association; and

(ii) the vote is taken at a special meeting called for that purpose by the lot owners under the declaration, articles, or bylaws; or

(b) (i) the declarant delivers to the board a writing of disapproval; and

(ii) (A) the declarant is within the period of administrative control; or

(B) for an expandable project, the declarant has the right to add real estate to the project.

(5) (a) The board has no obligation to call a meeting of the lot owners to consider disapproval, unless lot owners submit a petition, in the same manner as the declaration, articles, or bylaws provide for a special meeting, for the meeting to be held.

(b) Upon the board receiving a petition under Subsection (5)(a), the effect of the board's action is:

(i) stayed until after the meeting is held; and

(ii) subject to the outcome of the meeting.

(6) During the period of administrative control, a declarant may exempt the declarant from association rules and the rulemaking procedure under this section if the declaration reserves to the declarant the right to exempt the declarant.

(7) An action against an association or member of the association's board based upon failure to comply with the requirements of Subsection (2) shall be commenced no later than 18 months after the day on which the board took the challenged action under Subsection (2).

Section 12. Section 57-8a-218 is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2) (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule criterion may not abridge the rights of a lot owner to display a religious or holiday sign, symbol, or decoration:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or

(C) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.

(b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time, place, and manner restriction with respect to a display that is:

(i) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling; or

(C) the front yard of the dwelling; and

(ii) visible from outside the lot.

(4) (a) A rule may not prohibit a lot owner from displaying a political sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) A rule may not regulate the content of a political sign.

(c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place, and manner of posting a political sign.

(d) An association design provision may not establish design criteria for a political sign.

(5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place, and manner of posting a for-sale sign.

(6) (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection (6)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(7) (a) A rule may not interfere with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.

(b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (7)(b) that affect the use of or behavior inside the dwelling.

(8) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection (8)(a), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (8) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(9) (a) Subject to Subsection (9)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

(10) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (10)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (10)(a).

(11) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(12) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(13) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(14) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(15) A rule may not prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit.

(16) (a) An association[~~:~~]

[~~(a)~~] shall adopt rules supporting water-efficient landscaping, including allowance for low water use on lawns during drought conditions[~~; and~~] .

(b) A rule may not:

(i) prohibit or restrict the conversion of a grass park strip to water-efficient landscaping[~~.~~] ; or

(ii) prohibit low water use on lawns during drought conditions.

(c) An association subject to this chapter and formed before March 5, 2023, shall adopt rules required under Subsection (16)(a) before June 30, 2023.

(17) (a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530, within the owner's residential lot.

(b) Subsection (17)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(18) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

[~~(18)~~] (19) A rule shall be reasonable.

[~~(19)~~] (20) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

[~~(20)~~] (21) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

[~~(21)~~] (22) This section applies to an association regardless of when the association is created.

Section 13. Section 57-8a-501 is amended to read:

57-8a-501. Board.

(1) A director shall be:

(a) a natural person; and

(b) 18 years old or older.

(2) An association's bylaws may prescribe other qualifications for directors in addition to the requirements described in Subsection (1).

(3) Without limiting the qualifications an association prescribes under Subsection (2), an association may, through governing documents or the board's internal procedures, disqualify an individual from serving as a director because the individual:

(a) has been convicted of a felony; or

(b) is a sex offender.

(4) A director need not be a resident of this state or a unit owner in the association unless required by the association's bylaws.

(5) Except as limited in a declaration, the association bylaws, or other provisions of this chapter, a board acts in all instances on behalf of the association.

Section 14. Section 57-8a-701 is amended to read:

57-8a-701. Solar energy system -- Prohibition or restriction in declaration or association rule.

(1) As used in this section, "detached dwelling" means a detached dwelling for which the association does not have an ownership interest in the detached dwelling's roof.

(2) (a) A governing document other than a declaration may not prohibit an owner of a lot with:

(i) a detached dwelling from installing a solar energy system; or

(ii) a dwelling attached to other dwellings from installing a solar energy system, if:

(A) the association does not have an ownership interest in the dwelling's roof or building exterior;

(B) the association does not have a maintenance, repair, or replacement obligation in the dwelling's roof or building exterior; and

(C) all lot owners with attached dwellings in the building agree to the installation of the solar energy system.

(b) A governing document other than a declaration or an association rule may not restrict an owner of a lot with:

(i) a detached dwelling from installing a solar energy system on the owner's lot; or

(ii) a dwelling attached to other dwellings from installing a solar energy system on the roof of the dwelling's building, if:

(A) the association does not have an ownership interest in the dwelling's roof or building exterior;

(B) the association does not have a maintenance, repair, or replacement obligation in the dwelling's roof or building exterior; and

(C) all lot owners with attached dwellings in the building agree to the installation of the solar energy system.

(3) A declaration may, for a lot with a detached dwelling:

(a) prohibit a lot owner from installing a solar energy system; or

(b) impose a restriction other than a prohibition on a solar energy system's size, location, or manner of placement if the restriction:

(i) decreases the solar energy system's production by 5% or less;

(ii) increases the solar energy system's cost of installation by 5% or less; and

(iii) complies with Subsection (6).

(4) (a) If a declaration does not expressly prohibit the installation of a solar energy system on a lot with a detached dwelling, an association may not amend the declaration to impose a prohibition on the installation of a solar energy system unless the association approves the prohibition by a vote of greater than 67% of the allocated voting interests of the lot owners in the association.

(b) An association may amend an existing provision in a declaration that prohibits the installation of a solar energy system on a lot with a detached dwelling if the association approves the amendment by a vote of greater than 67% of the allocated voting interests of the lot owners in the association.

(5) An association may, by association rule, for a lot with a detached dwelling, impose a restriction other than a prohibition on a lot owner's installation of a solar energy system if the restriction:

(a) complies with Subsection (6);

(b) decreases the solar energy system's production by 5% or less; and

(c) increases the solar energy system's cost of installation by 5% or less.

(6) A declaration or an association rule may require an owner of a [~~detached~~] dwelling that installs a solar energy system on the owner's lot:

(a) to install a solar energy system that, or install the solar energy system in a manner that:

(i) complies with applicable health, safety, and building requirements established by the state or a political subdivision of the state;

(ii) if the solar energy system is used to heat water, is certified by:

(A) the Solar Rating and Certification Corporation; or

(B) a nationally recognized solar certification entity;

(iii) if the solar energy system is used to produce electricity, complies with applicable safety and performance standards established by:

(A) the National Electric Code;

(B) the Institute of Electrical and Electronics Engineers;

(C) Underwriters Laboratories;

(D) an accredited electrical testing laboratory; or

(E) the state or a political subdivision of the state;

(iv) if the solar energy system is mounted on a roof:

(A) does not extend above the roof line; or

(B) has panel frame, support bracket, or visible piping or wiring that has a color or texture that is similar to the roof material; or

(v) if the solar energy system is mounted on the ground, is not visible from the street that a lot fronts;

(b) to pay any reasonable cost or expense incurred by the association to review an application to install a solar energy system;

(c) be responsible, jointly and severally with any subsequent owner of the lot while the violation of the rule or requirement occurs, for any cost or expense incurred by the association to enforce a declaration requirement or association rule; or

(d) as a condition of installing a solar energy system, to record a deed restriction against the owner's lot that runs with the land that requires the current owner of the lot to indemnify or reimburse the association or a member of the association for any loss or damage caused by the installation, maintenance, or use of the solar energy system, including costs and reasonable attorney fees incurred by the association or a member of the association.

Section 15. Section 57-8a-802 is amended to read:

57-8a-802. Electric vehicle charging systems -- Restrictions -- Responsibilities.

(1) Notwithstanding any provision in an association's governing documents to the contrary, an association may not prohibit a lot owner from installing or using a charging system in:

(a) a parking space:

(i) on the lot owner's lot; and

(ii) used for the parking or storage of a vehicle or equipment; or

(b) a limited common area parking space designated for the lot owner's exclusive use.

(2) An association may:

(a) require a lot owner to submit an application for approval of the installation of a charging system;

(b) require the lot owner to agree in writing to:

(i) hire a general electrical contractor or residential electrical contractor to install the charging system; or

(ii) if a charging system is installed in a common area, provide reimbursement to the association for the actual cost of the increase in the association's insurance premium attributable to the installation or use of the charging system;

(c) require a charging system to comply with:

(i) the association's reasonable design criteria governing the dimensions, placement, or external appearance of the charging system; or

(ii) applicable building codes;

(d) impose a reasonable charge to cover costs associated with the review and permitting of a charging [~~station~~] system;

(e) impose a reasonable restriction on the installation and use of a charging [~~station~~] system that does not significantly:

(i) increase the cost of the charging [~~station~~] system; or

(ii) decrease the efficiency or performance of the charging [~~station~~] system; or

(f) require a lot owner to pay the costs associated with installation, metering, and use of the charging [~~station~~] system, including the cost of:

(i) electricity associated with the charging [~~station~~] system; and

(ii) damage to a general common area, a limited common area, or an area subject to the exclusive use of another lot owner that results from the installation, use, maintenance, repair, removal, or replacement of the charging [~~station~~] system.

(3) A lot owner who installs a charging system shall disclose to a prospective buyer of the lot:

(a) the existence of the charging [~~station~~] system; and

(b) the lot owner's related responsibilities under this section.

(4) Unless the lot owner and the association or the declarant otherwise agree:

(a) a charging [~~station~~] system installed under this section is the personal property of the lot owner of the lot with which the charging [~~station~~] system is associated; and

(b) a lot owner who installs a charging [~~station~~] system shall, before transferring ownership of the owner's lot, unless the prospective buyer of the lot accepts ownership and all rights and responsibilities that apply to the charging [~~station~~] system under this section:

(i) remove the charging [~~station~~] system; and

(ii) restore the premises to the condition before installation of the charging [~~station~~] system.

CHAPTER 504
S. B. 199
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

LOCAL LAND USE AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Mike Schultz

LONG TITLE

General Description:
This bill modifies provisions regarding referenda.

Highlighted Provisions:
This bill:

- disallows referral of a referendum to voters for municipal land use laws that passed by a unanimous vote of the local legislative body.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
20A-7-602.8, as last amended by Laws of Utah 2022, Chapters 325, 406

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-602.8 is amended to read:

20A-7-602.8. Referability to voters of local land use law.

(1) Within 20 days after the day on which an eligible voter files an application to circulate a referendum petition under Section 20A-7-602 for a land use law, counsel for the county, city, town, or metro township to which the referendum pertains shall:

(a) review the application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) (a) Subject to Subsection (2)(b), for a land use law, a proposed referendum is legally referable to voters unless:

(i) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(ii) the proposed referendum challenges a land use decision, rather than a land use regulation, as those terms are defined in Section 10-9a-103 or 17-27a-103;

(iii) the proposed referendum challenges more than one law passed by the local legislative body; or

(iv) the application for the proposed referendum was not timely filed or does not comply with the requirements of this part.

(b) In addition to the limitations of Subsection (2)(a), a proposed referendum is not legally referable to voters for a:

(i) municipal land use law, as defined in Section 20A-7-101, if the land use law was passed by a unanimous vote of the local legislative body; or

(ii) transit area land use law, as defined in Section 20A-7-601, if the transit area land use law was passed by a two-thirds vote of the local legislative body.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If a county, city, town, or metro township rejects a proposed referendum concerning a land use law, a sponsor of the proposed referendum may, within seven days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on challenge or appeal, the court determines that the proposed referendum is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

CHAPTER 505
S. B. 201
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

RADON NOTICE AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Katy Hall

LONG TITLE

General Description:

This bill allows for educational information about radon to be provided to residential property owners.

Highlighted Provisions:

This bill:

- requires the Division of Waste Management and Radiation Control (division) to provide information to a county treasurer about the effects of radon in the home, the presence of radon in some homes, and the availability of radon testing;
- authorizes a county treasurer to include the radon information from the division with a property tax notice provided this year; and
- schedules the repeal of these requirements at the end of 2023.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-1317, as last amended by Laws of Utah 2022, Chapter 463
63I-2-219, as last amended by Laws of Utah 2022, Chapter 95
63I-2-259, as last amended by Laws of Utah 2022, Chapter 264

ENACTS:

19-3-114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-3-114 is enacted to read:

19-3-114. Radon education.

(1) On or before September 1, 2023, the division shall provide to each county treasurer, for inclusion with the mailing of the property tax notice in accordance with Section 59-2-1317, information about:

(a) the possible effects of radon in the home;

(b) the presence of radon in some Utah homes;

(c) the availability of radon tests for purchase at retail stores;

(d) the availability of professional radon testing; and

(e) possible radon mitigation resources.

(2) The division may provide the information in electronic format for the county treasurer to print for mailing if the information may be printed on a paper that does not exceed 4" x 5.5".

Section 2. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a local district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17D-4-304; and

(I) if applicable, an annual payment to the Military Installation Development Authority or an entity designated by the authority in accordance with Section 63H-1-501;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

(xi) the date on which the taxes and tax notice charges are delinquent;

(xii) the penalty imposed on delinquent taxes and tax notice charges;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xiv) other information specifically authorized to be included on the notice under this chapter; and

(xv) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer may include with a notice to a residential property provided in 2023 the information described in Section 19-3-114.

[~~(b)~~] (c) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

[~~(c)~~] (d) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due local district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

Section 3. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates: Title 19.

(1) Subsections 19-2-109.2(2) through (10), related to the Compliance Advisory Panel, are repealed July 1, 2023.

(2) Section 19-2a-102.5, addressing a study and recommendations for a diesel emission reduction program, is repealed July 1, 2024.

(3) Section 19-3-114 is repealed December 31, 2023.

Section 4. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates: Title 59.

(1) In Section 59-2-926, the language that states "applicable" and "or 53F-2-301.5" is repealed July 1, 2023.

(2) Subsection 59-2-1317(7)(b), relating to including information described in Section 19-3-114 with the property tax notice, is repealed December 31, 2023.

[~~(2)~~] (3) Subsection 59-7-610(8), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(3)~~] (4) Subsection 59-7-614.10(5), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(4)~~] (5) Section 59-7-624 is repealed December 31, 2024.

[~~(5)~~] (6) Subsection 59-10-210(2)(b)(vi) is repealed December 31, 2024.

[~~(6)~~] (7) Subsection 59-10-1007(8), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(7)~~] (8) Subsection 59-10-1037(5), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(8)~~] (9) Section 59-10-1112 is repealed December 31, 2024.

CHAPTER 506
S. B. 203
Passed February 27, 2023
Approved March 23, 2023
Effective May 3, 2023

CORPORATE TAX AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill amends corporate franchise and income tax provisions related to Utah net loss.

Highlighted Provisions:

This bill:

- provides that a corporate taxpayer may carry forward a Utah net loss arising from a taxable year beginning on or after January 1, 2008, for an unlimited number of years, subject to a cap on the amount of the loss carry forward at 80% of taxable income; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-110, as last amended by Laws of Utah 2021, Chapter 390

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-110 is amended to read:

59-7-110. Utah net loss -- Carry forward -- Deduction.

(1) A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry forward to offset income of another taxable year as provided in this section.

(2) Subject to the other provisions of this section, a taxpayer:

(a) may carry forward a Utah net loss from a taxable year beginning on or after January 1, 2008, to a future taxable year until the Utah net loss is exhausted; and

(b) may not carry back a Utah net loss from a taxable year.

(3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that a taxpayer applied or was required to apply to offset income, is not less than zero.

(4) (a) Subject to Subsection (4)(b), the amount of Utah net loss that a taxpayer may carry to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that a taxpayer carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that a taxpayer carried or was required to carry to the year identified in Subsection (3).

(b) (i) For a Utah net loss carried forward to a taxable year beginning on or after January 1, [~~2021~~] 2023, the amount of Utah net loss that a taxpayer may carry forward to a taxable year may not exceed 80% of Utah taxable income [~~computed without regard to the deduction of any Utah net loss~~] calculated before deducting any Utah net loss from Utah taxable income.

(ii) A taxpayer may carry a remaining Utah net loss to one or more taxable years in accordance with this section.

[~~(c) If the only Utah net loss that a taxpayer carries forward is from a taxable year that began before January 1, 2018, the commission:~~]

[~~(i) shall instruct the taxpayer to calculate the 80% limitation described in Subsection (4)(b) by following federal guidance for calculating the 80% taxable income limitation for federal income tax purposes; or~~]

[~~(ii) if the commission determines that adequate federal corporate guidance on how to calculate the 80% limitation is unavailable, may not apply the 80% limitation to the Utah net loss.~~]

[~~(d) If a taxpayer carries forward a Utah net loss from a taxable year beginning before January 1, 2018, and a Utah net loss from a taxable year beginning on or after January 1, 2018, the commission shall instruct the taxpayer to calculate the 80% limitation described in Subsection (4)(b) by:~~]

[~~(i) following federal guidance for calculating the 80% of taxable income limitation for federal income tax purposes; or~~]

[~~(ii) if the commission determines that adequate federal corporate guidance on how to calculate the 80% limitation is unavailable, by:~~]

[~~(A) calculating 80% of Utah taxable income before deducting any Utah net losses from Utah taxable income; and~~]

[~~(B) applying the limitation that the Utah net loss that a taxpayer carries forward may not exceed 80% of Utah taxable income to Utah net losses incurred on or after January 1, 2018, without regard to Utah net losses from a previous taxable year that the taxpayer carries forward.~~]

[~~(e) The commission shall:~~]

[~~(i) make a determination annually, on or before April 15 of the year after the taxable year ends, about whether adequate federal corporate guidance on how to calculate the 80% limitation is available; and~~]

[~~(ii) if the commission determines that adequate federal corporate guidance on how to calculate the 80% limitation is unavailable, notify the Revenue and Taxation Interim Committee, electronically before the next interim committee meeting, that the commission intends to issue instructions in accordance with Subsection (4)(c)(ii) or (d)(ii).~~]

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) [~~except as provided in Subsection (6)(a)(ii),~~] calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by[~~: (I)~~] dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; [~~and~~] or

[~~(II) if the unitary group elects or is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(4) in taxable year 2019 or taxable year 2020, multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by, for the taxable year 2019, four, or, for the taxable year 2020, eight; or~~]

(ii) if the unitary group is required or elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(2), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state for that taxable year in accordance with Section 59-7-311;

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

(A) nonbusiness income allocable to this state; or

(B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Section 2. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2023.

CHAPTER 507
S. B. 212
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

UTAH COMMUNICATIONS AUTHORITY AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill makes changes to the Utah Communications Authority Act.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Retirement and Independent Entities Committee to provide recommendations regarding the Utah Communications Authority to the Legislative Management Committee;
- increases the amount of funds that can be distributed to a qualifying public safety answering point ("PSAP");
- requires a PSAP to be designated as an emergency medical service dispatch center to receive certain funds;
- clarifies how long funds will not be distributed to a non-qualifying PSAP;
- allows a public agency to create a PSAP to provide 911 service to non-contiguous areas in certain situations; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63E-1-202, as last amended by Laws of Utah 2002, Chapter 250
63H-7a-102, as last amended by Laws of Utah 2019, Chapter 509
63H-7a-202, as last amended by Laws of Utah 2020, Chapter 368
63H-7a-304.5, as enacted by Laws of Utah 2020, Chapter 368
63H-7a-402, as last amended by Laws of Utah 2019, Chapter 509
69-2-201, as last amended by Laws of Utah 2020, Chapter 368
69-2-203, as last amended by Laws of Utah 2020, Chapter 368
69-2-204, as enacted by Laws of Utah 2020, Chapter 368

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63E-1-202 is amended to read:

63E-1-202. Duties of the committee.

(1) The committee shall:

(a) study the scope of this title and determine what entities should be treated under this title as independent entities;

(b) study the provisions of the Utah Code that govern each independent entity, including whether or not there should be consistency in these provisions;

(c) study what provisions of the Utah Code, if any, from which each independent entity should be exempted;

(d) study whether or not the state should receive services from or provide services to each independent entity;

(e) request and hear reports from each independent entity;

(f) review the annual audit of each independent entity that is performed in accordance with the statutes governing the independent entity;

(g) comply with Part 3, Creation of Independent Entities, in reviewing a proposal to create a new independent entity;

(h) if the committee recommends a change in the organizational status of an independent entity as provided in Subsection (2) and subject to Part 4, Privatization of Independent Entities, recommend the appropriate method of changing the organizational status of the independent entity;

(i) study the following concerning an entity created by local agreement under Title 11, Chapter 13, Interlocal Cooperation Act, if the state is a party to the agreement creating the entity:

(i) whether or not the entity should be subject to this chapter;

(ii) whether or not the state should receive services from or provide services to the entity;

(iii) reporting and audit requirements for the entity; and

(iv) the need, if any, to modify statutes related to the entity;

(j) make a recommendation on the organizational status of each independent entity prior to the 2002 General Session; and

(k) report annually to the Legislative Management Committee by no later than the Legislative Management Committee's November meeting.

(2) The committee may:

(a) establish a form for any report required under Subsection (1);

(b) make recommendations to the Legislature concerning the organizational status of an independent entity;

(c) advise the Legislature concerning issues involving independent entities; and

(d) study issues related to the implementation of Title 49, Utah State Retirement and Insurance Benefit Act.

(3) (a) By the November 2023 Legislative Management Committee meeting, the committee shall provide specific recommendations to the Legislative Management Committee for the Utah Communications Authority.

(b) The report described in Subsection (3)(a) shall include recommendations regarding:

(i) the Utah Communication Authority's:

(A) administration;

(B) financial accountability;

(C) current and future needs;

(D) assets;

(E) history; and

(F) organizational status as an independent entity; and

(ii) any need to modify statutes related to the entity.

Section 2. Section 63H-7a-102 is amended to read:

63H-7a-102. Utah Communications Authority -- Purpose.

(1) This chapter establishes the Utah Communications Authority as an independent state agency.

(2) The Utah Communications Authority shall:

(a) provide administrative and financial support for statewide 911 emergency services; and

(b) establish and maintain a statewide public safety communications network for [~~state agencies, public safety agencies, and public safety answering points.~~] all state, city, county, and local governmental entities.

Section 3. Section 63H-7a-202 is amended to read:

63H-7a-202. Powers and duties of the Utah Communications Authority.

(1) The authority has the power to:

(a) sue and be sued in the authority's own name;

(b) have an official seal and power to alter that seal at will;

(c) make and execute contracts and all other instruments necessary or convenient for the performance of the authority's duties and the exercise of the authority's powers and functions under this chapter, including contracts with public and private providers;

(d) own, acquire, design, construct, operate, maintain, repair, and dispose of any portion of a public safety communications network utilizing technology that is fiscally prudent, upgradable, technologically advanced, redundant, and secure;

(e) borrow money and incur indebtedness;

(f) enter into agreements with public agencies, private persons, the state, and federal government to provide public safety communications network services on terms and conditions the authority considers to be in the best interest of the authority;

(g) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a public safety communications network and all related facilities and rights-of-way that the authority owns, operates, and maintains;

(h) sell, lease, or trade public safety communications network capacity, except backhaul network capacity, to a state agency, a political subdivision of the state, or an agency of the federal government;

(i) sell, lease, or trade backhaul network capacity to a state agency, a political subdivision of the state, or an agency of the federal government for a public safety purpose;

(j) sell, lease, or trade backhaul network capacity to a state agency, a political subdivision of the state, or an agency of the federal government for a purpose other than a public safety purpose, subject to a maximum of 50 megabytes per second in the aggregate at any one location;

(k) subject to Subsection (2):

(i) sell, lease, or trade backhaul network capacity to a private person for a public safety purpose, subject to a maximum of 50 megabytes per second in the aggregate at any one location; or

(ii) sell, lease, or trade public safety communications network capacity, except backhaul network capacity, to a private person for any purpose;

(l) sell, lease, or trade public safety communications network capacity, if the sale, lease, or trade is under an agreement the authority entered into before June 30, 2020, or under an extension of an agreement that the authority entered into before June 30, 2020;

(m) review, approve, disapprove, or revise recommendations regarding the expenditure of funds disbursed by the authority under this chapter; and

(n) perform all other duties authorized by this chapter.

(2) (a) For a sale, lease, or trade to a private person under Subsection (1)(k), the authority shall require compensation from the private person that is:

(i) at fair market prices and reasonable;

(ii) competitively neutral;

(iii) nondiscriminatory;

(iv) open to public inspection; and

(v) established to promote access by multiple telecommunication facility providers[~~; and~~].

[~~(vi) set after the authority conducts a market analysis to determine the fair and reasonable value of public safety communications network capacity.~~]

[~~(b) The authority shall conduct the market analysis required under Subsection (2)(a)(vi):~~]

[~~(i) before a sale, lease, or trade to a private person under Subsection (1)(k); and~~]

[~~(ii) thereafter no less frequently than every five years.~~]

[~~(c)~~] (b) (i) Compensation charged under Subsection (2)(a) may be cash, in-kind, or a combination of cash and in-kind.

(ii) In-kind compensation may not be charged without the agreement of the authority and the private person who will pay the in-kind compensation.

(iii) The authority shall determine the present value of any in-kind compensation based on the incremental cost to the private person.

(iv) The authority shall require the value of any in-kind compensation or combination of cash and in-kind compensation to be at least the amount of cash that would be paid if compensation were cash only.

(3) The authority shall work with PSAPs to identify and address deficiencies relating to PSAP staffing and training.

Section 4. Section 63H-7a-304.5 is amended to read:

63H-7a-304.5. Distributions from 911 account to qualifying PSAPs.

(1) As used in this section:

(a) "Certified statement" means a statement signed by a PSAP's director or other authorized administrator certifying the PSAP's compliance with the requirements of Subsection (2)(a).

(b) "Fiscal year" means the period from July 1 of one year to June 30 of the following year.

(c) "Proportionate share" means a percentage derived by dividing a PSAP's average 911 call volume, as reported to the State Tax Commission under Section 69-2-302, for the preceding three years by the total of the average 911 call volume for the same three-year period for all PSAPs that have submitted a certified statement seeking a distribution of the applicable remaining funds.

(d) "Qualifying PSAP" means a PSAP that:

(i) meets the requirements of Subsection (2)(a) for the period for which remaining funds are sought; and

(ii) submits a timely certified statement to the authority.

(e) "Remaining funds" means the money remaining in the 911 account after deducting:

(i) disbursements under Subsections 63H-7a-304(2)(a), (3), and (4);

(ii) authority expenditures or disbursements in accordance with the authority's strategic plan, including expenditures or disbursements to pay for:

(A) implementing, maintaining, or upgrading the public safety communications network or statewide 911 phone system; and

(B) authority overhead for managing the 911 portion of the public safety communications network; and

(iii) money that the board determines should remain in the 911 account for future use.

(f) "Required transfer rate" means:

(i) a transfer rate of no more than 2%; or

(ii) for a PSAP with a transfer rate for the fiscal year ending June 30, 2020, that is greater than 2%, and until June 30, 2023, the transfer rate that meets the requirement for the applicable period under Subsection 69-2-204(3)(a), (b), or (c).

(g) "Transfer rate" means the same as that term is defined in Section 69-2-204.

(2) (a) To qualify for a proportionate share of remaining funds, a PSAP shall, for the period for which remaining funds are sought:

(i) have answered:

(A) 90% of all 911 calls arriving at the PSAP within 15 seconds; and

(B) 95% of all 911 calls arriving at the PSAP within 20 seconds;

(ii) have adopted and be using the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the board under Subsection 63H-7a-204(17);

(iii) have participated in the authority's annual interoperability exercise; [~~and~~]

(iv) have complied with the required transfer rate[~~.~~]; and

(v) be designated as an emergency medical service dispatch center according to Section 26-8a-303.

(b) A PSAP that seeks a proportionate share of remaining funds shall submit a certified statement to the authority no later than July 31 following the end of the fiscal year for which remaining funds are sought.

(c) Notwithstanding Subsection (2)(a):

(i) a qualifying PSAP in a county with multiple PSAPs does not qualify for a proportionate share of remaining funds for a period beginning after June 30, 2023, unless every PSAP in that county is a qualifying PSAP; and

(ii) a PSAP described in Subsection 69-2-203(5) does not qualify for remaining funds.

(3) (a) Subject to Subsection (3)(b) [~~and beginning after July 2021~~], for PSAPs that have become qualifying PSAPs for the previous fiscal year the authority shall distribute to each qualifying PSAP that PSAP's proportionate share of the remaining funds.

(b) The authority may not distribute more than [~~15%~~] 20% of remaining funds to any single PSAP.

(4) All money that a PSAP receives under this section is subject to Section 69-2-301.

Section 5. Section 63H-7a-402 is amended to read:

63H-7a-402. Radio Network Division duties.

(1) The Radio Network Division shall:

(a) provide and maintain the public safety communications network for [~~state agencies and local government public safety agencies~~] all political subdivisions in the state within the authority network, including the existing VHF and 700 and 800 MHz networks, in a manner that:

(i) promotes high quality, cost effective service;

(ii) evaluates the benefits, cost, existing facilities, equipment, and services of public and private providers; and

(iii) where economically feasible, utilizes existing infrastructure to avoid duplication of facilities, equipment, and services of providers of communication services;

(b) prior to issuing one or more requests for proposal:

(i) prepare a report demonstrating the Radio Network Division has:

(A) identified the locations and functional capabilities of existing public and private communications facilities in the state;

(B) specifically evaluated the benefits, costs, and economic feasibility of utilizing existing facilities, equipment, and services of public and private providers; and

(C) identified the public and private communications facilities that may be integrated with the public safety communications network; and

(ii) present the report to the board at an open and public board meeting;

(c) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the Radio Network Division;

(ii) an annual plan for the program funded by the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403; and

(iii) information required by the director to contribute to the comprehensive strategic plan described in Section 63H-7a-206;

(d) recommend to the executive director administrative rules for approval by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program funded by the restricted account created in Section 63H-7a-403, including rules that establish the criteria, standards, technology, equipment, and services that will qualify for goods or services that are funded from the restricted accounts; and

(e) fulfill other duties assigned to the Radio Network Division under this chapter.

(2) The Radio Network Division may:

(a) recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to the public safety communications network;

(b) recommend to the executive director to own, operate, or enter into contracts for the public safety communications network;

(c) review information regarding:

(i) in aggregate, the number of radio service subscribers by service type in a political subdivision; and

(ii) matters related to the public safety communications network;

(d) in accordance with Subsection (2)(c), request information from:

(i) local and state entities; and

(ii) public safety agencies; and

(e) employ outside consultants to study and advise the division on issues related to:

(i) the public safety communications network;

(ii) radio technologies and services;

(iii) microwave connectivity;

(iv) fiber connectivity; and

(v) public safety communication network connectivity and usage.

(3) The information requested by and provided to the Radio Network Division under Subsections (2)(c) and (d) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section 6. Section 69-2-201 is amended to read:

69-2-201. Public safety answering point -- Establishment -- Administration -- Consolidation.

(1) (a) A public agency may:

(i) operate a public safety answering point to provide 911 emergency service to any part of the geographic area within the public agency's jurisdiction;

(ii) subject to Subsection (1)(b), operate a public safety answering point with any other contiguous public agency to provide 911 emergency service to any part of the geographic area within the public agencies' jurisdictions; [~~or~~]

(iii) operate a public safety answering point under an agreement with another public agency that existed before January 1, 2017, to provide 911 emergency service to any part of the geographic area within the public agencies' jurisdictions[.]; or

(iv) subject to Subsections (1)(b) and (c), operate a public safety answering point to provide 911 emergency service for all public safety agencies in a non-contiguous county of the fourth, fifth, or sixth class, if the public agency is located in a county of the fourth, fifth, or sixth class.

(b) A public agency that operates a public safety answering point in connection with [~~a contiguous~~] another public agency shall:

(i) provide for the operation of the public safety answering point by interlocal agreement between the public agencies; and

(ii) submit a copy of the interlocal agreement each year to the director of the Utah Communications Authority.

(c) A public agency that operates a public safety answering point described in Subsection (1)(a)(iv) shall:

(i) promote interoperability among the public agencies served;

(ii) positively impact a large service territory;

(iii) annually qualify for disbursements as described in Section 63H-7a-304.5; and

(iv) maintain a designation as an emergency medical service dispatch center as described in Section 26-8a-303.

(2) Except as provided in Subsection (3), a public agency may not establish a dispatch center or a public safety answering point after January 1, 2017.

(3) (a) A public agency that operates a public safety answering point established before January 1, 2017, may:

(i) continue to operate the public safety answering point; or

(ii) physically consolidate the public safety answering point with another public safety answering point operated by another contiguous public agency or consolidate with a non-contiguous county in accordance with Subsection (1)(a)(iv).

(b) A county may establish a public safety answering point on or after January 1, 2017, if no public safety answering point exists in the county.

(4) A public agency may, in order to provide funding for operating a public safety answering point:

(a) seek funds from the federal or state government;

(b) seek funds appropriated by local governmental taxing authorities to fund a public safety agency; or

(c) seek gifts, donations, or grants from a private person.

(5) (a) Each dispatch center in the state shall enter into an interlocal agreement with the governing authority of a public safety answering point that serves the county [~~where~~] for which the dispatch center [~~is located that provides for:~~] provides dispatch services.

(b) The agreement listed in Subsection (5)(a) shall provide for:

[~~(a)~~] (i) functional consolidation of the dispatch center with the public safety answering point that allows for dispatching to occur without the caller being transferred; and

[~~(b)~~] (ii) a plan for the public safety answering point to provide 911 emergency service to the geographic area served by the dispatch center that meets the requirements of Section 63H-7a-304.5.

(6) (a) No public entity may cause or allow a 911 or emergency call box communication to be redirected to any network other than to the 911 emergency service network.

(b) Each public entity shall comply with Subsection (6)(a) on or before July 1, 2019, and thereafter.

(7) A special service district that operates a public safety answering point or a dispatch center:

(a) shall administer the public safety answering point or dispatch center in accordance with Title 17D, Chapter 1, Special Service District Act; and

(b) may raise funds, borrow money, or incur indebtedness for the purpose of maintaining the public safety answering point or the dispatch center in accordance with:

(i) Section 17D-1-105; and

(ii) Section 17D-1-103.

(8) [~~No later than January 1, 2021, a~~] A public safety answering point and dispatch center shall adopt the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the Utah Communications Authority board under Subsection 63H-7a-204(17).

Section 7. Section 69-2-203 is amended to read:

69-2-203. Audit of public safety answering points within a county -- Reports -- Consequence of failure to comply.

(1) A county that by June 30, 2024, has not achieved a transfer rate, as defined in Section 69-2-204, of 2% or less shall:

(a) utilize a qualified third party to conduct an audit of each public safety answering point within the county; and

(b) require the audit to be completed no later than January 1, 2025.

(2) The audit described in Subsection (1) shall evaluate:

(a) how best to provide the emergency services within the county;

(b) what needs to happen for the PSAPs within the county to achieve a transfer rate, as defined in Section 69-2-204, of 2% or less; [~~and~~]

(c) whether the county could provide more cost efficient emergency service or improve public safety by establishing a single public safety answering point for the county[~~.~~]; and

(d) the extent to which the dispatch center's policies, procedures, or interlocal agreements cause a PSAP to experience difficulty in meeting the requirements of Section 63H-7a-304.5.

(3) (a) Each public safety answering point shall participate and cooperate in the audit described in Subsection (1).

(b) A public safety answering point that fails to participate and cooperate in the audit as described in Subsection (1) is ineligible for funding or services provided by the Unified Statewide 911 Emergency Services Account described in Section 63H-7a-304.

(4) No later than February 28, 2025, a county required to have an audit conducted under Subsection (1) shall submit to the Utah Communications Authority:

(a) a copy of the audit report; and

(b) a written plan of how and when the county will implement the audit recommendations.

(5) A PSAP in a county that fails to comply with the requirements of this section does not qualify for a distribution of funds under Section 63H-7a-304.5 for the entire calendar year in which the PSAP does not qualify.

Section 8. Section 69-2-204 is amended to read:

69-2-204. Public safety answering point 911 call transfer rate requirements.

(1) As used in this section:

(a) "Fiscal year" means the period from July 1 of one year to June 30 of the following year.

(b) (i) "Transfer rate" means the percentage of 911 calls that are:

[~~(i)~~] (A) received by a public safety answering point during a fiscal year; and

[~~(ii)~~] (B) transferred to another location in the state.

(ii) "Transfer rate" does not include transfers from a public safety answering point to 988 services or poison control.

(2) Subject to Subsection (3), a public safety answering point shall maintain a transfer rate that is no more than 2%.

(3) A public safety answering point with a transfer rate for the fiscal year ending June 30, 2020, that is greater than 2% shall:

(a) for the fiscal year ending June 30, 2021, reduce the public safety answering point's transfer rate to at least 5% less than the transfer rate for the fiscal year ending June 30, 2020;

(b) for the fiscal year ending June 30, 2022, reduce the public safety answering point's transfer rate:

(i) to at least 15% less than the transfer rate for the fiscal year ending June 30, 2020; or

(ii) to at least 10% less than the transfer rate for the fiscal year ending June 30, 2021; and

(c) for the fiscal year ending June 30, 2023, reduce the public safety answering point's transfer rate to no more than 5%.

CHAPTER 508
S. B. 213
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

TRANSIT DISTRICT AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Michael J. Petersen

LONG TITLE

General Description:

This bill amends provisions related to the membership of a board of trustees of a small public transit district.

Highlighted Provisions:

This bill:

- requires relevant political subdivisions to enact a governing ordinance related to a small public transit district to establish methods for appointment and apportionment of membership on the board of trustees of the small public transit district;
- allows a small public transit district to have a board of trustees between five and nine members; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-807, as last amended by Laws of Utah 2018, Chapters 330, 424

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-807 is amended to read:

17B-2a-807. Small public transit district board of trustees -- Appointment -- Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.

(1) (a) For a small public transit district, the board of trustees shall consist of members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county [~~on the basis of one member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year~~].

[~~(b) For purposes of determining membership under Subsection (1)(a), the number of service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district.~~]

(b) The legislative bodies of each municipality, county, or unincorporated area within any county shall establish a governing ordinance for the small public transit district, which shall include:

(i) the method for apportioning representation on the board of trustees among the relevant municipalities, counties, or unincorporated areas of any counties within the boundary of the small public transit district;

(ii) subject to Subsection (1)(c), the number of members of the board of trustees;

(iii) the method for reapportionment of representation on the board of trustees based on changes in the boundary of the small public transit district; and

(iv) other aspects of appointment and apportionment of membership of the board of trustees as necessary.

(c) A board of trustees of a small public transit district may have membership of not less than five and not more than nine members.

[~~(c)~~] (d) The board of trustees of a public transit district under this section may include a member that is a commissioner on the Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection (8), who shall serve as a nonvoting, ex officio member.

[~~(d) Members appointed under this section shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures.~~]

[~~(e) For purposes of appointing members under this section, municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.~~]

(2) Upon the completion of an annexation to a public transit district under Chapter 1, Part 4, Annexation, [~~the annexed area shall have a representative on the board of trustees on the same basis as if the area had been included in the district as originally organized~~] membership on the board of trustees of the small public transit district shall reapportion membership as described in the governing ordinance enacted pursuant to Subsection (1)(b).

(3) (a) Vacancies for members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection (1) does not fill the vacancy within 90 days, the board of trustees of the [~~authority~~] small public transit district shall fill the vacancy.

(4) (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.

(b) A majority of all voting members of the board of trustees are a quorum for the transaction of business.

(c) The affirmative vote of a majority of all voting members present at any meeting at which a quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

(5) Each public transit district shall pay to each member per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.

(6) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

(b) The board of trustees shall elect from its voting membership a chair, vice chair, and secretary.

(c) The members elected under Subsection (6)(b) shall serve for a period of two years or until their successors shall be elected and qualified.

(d) [~~On or after January 1, 2011, a~~] A locally elected public official is not eligible to serve as the chair, vice chair, or secretary of the board of trustees.

(7) (a) Except as otherwise authorized under Subsection (7)(b), at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality within the district.

(b) A member appointed by a county or municipality may hold employment with the county or municipality if the employment is disclosed in writing and the public transit district board of trustees ratifies the appointment.

(8) The Transportation Commission created in Section 72-1-301 may appoint a commissioner of the Transportation Commission to serve on the board of trustees of a small public transit district as a nonvoting, ex officio member.

(9) (a) (i) Each member of the board of trustees of a public transit district is subject to recall at any time by the legislative body of the county or municipality from which the member is appointed.

(ii) Each recall of a board of trustees member shall be made in the same manner as the original appointment.

(iii) The legislative body recalling a board of trustees member shall provide written notice to the member being recalled.

(b) Upon providing written notice to the board of trustees, a member of the board may resign from the board of trustees.

(c) If a board member is recalled or resigns under this Subsection (9), the vacancy shall be filled as provided in Subsection (3).

CHAPTER 509
S. B. 216
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

VEHICLE VALUE PROTECTION AGREEMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill addresses vehicle value protection agreements.

Highlighted Provisions:

This bill:

- defines terms;
- allows a person to enter into a vehicle value protection agreement under certain circumstances;
- details requirements for cancellation of a vehicle value protection agreement;
- requires the provider of a benefit under a vehicle value protection agreement to:
  - obtain contract liability insurance for the vehicle value protection agreement;
  - provide other security for payment under the vehicle value protection agreement; or
  - maintain a certain net worth;
- authorizes the Division of Consumer Protection (division) to enforce vehicle value protection agreement requirements;
- requires the insurer under a contract liability insurance policy for a vehicle value protection agreement and a provider of a vehicle value protection agreement to provide certain information to the division;
- provides fines and civil penalties for a violation of vehicle value protection agreement requirements;
- requires fines and civil penalties received by the division for a violation to be placed in the Consumer Protection Education and Training Fund;
- provides administrative rulemaking authority; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Superseded 12/31/23), as last amended by Laws of Utah 2022, Chapter 201
13-2-1 (Effective 12/31/23), as last amended by Laws of Utah 2022, Chapters 201, 462

ENACTS:

13-63-101, Utah Code Annotated 1953
13-63-201, Utah Code Annotated 1953
13-63-202, Utah Code Annotated 1953
13-63-203, Utah Code Annotated 1953
13-63-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 (Superseded 12/31/23) is amended to read:

13-2-1 (Superseded 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act; [~~and~~]

(w) Chapter 57, Maintenance Funding Practices Act[~~.~~]; and

(x) Chapter 63, Vehicle Value Protection Agreement Act.

Section 2. Section 13-2-1 (Effective 12/31/23) is amended to read:

13-2-1 (Effective 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act;

(w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]

(x) Chapter 61, Utah Consumer Privacy Act[~~.~~]; and

(y) Chapter 63, Vehicle Value Protection Agreement Act.

Section 3. Section 13-63-101 is enacted to read:

CHAPTER 63. VEHICLE VALUE PROTECTION AGREEMENT ACT

Part 1. General Provisions

13-63-101 (Codified as 13-64-101). Definitions.

As used in this chapter:

(1) "Administrative functions" means the same as that term is defined in Section 31A-6b-102.

(2) "Agreement administrator" means a person who provides administrative functions related to a vehicle value protection agreement.

(3) "Covered vehicle" means a vehicle that is covered under a vehicle value protection agreement.

(4) "Division" means the Division of Consumer Protection established in Section 13-2-1.

(5) "Finance agreement" means the same as that term is defined in Section 31A-6b-102.

(6) "Insurer" means the same as that term is defined in Section 31A-1-301.

(7) "Preliminary period" means a time period that:

(a) begins the day on which the vehicle value protection agreement becomes effective; and

(b) ends the last day on which the purchaser may cancel the vehicle value protection agreement with a full refund.

(8) "Provider" means a person who is obligated to provide a benefit to another person under a vehicle value protection agreement.

(9) "Purchaser" means a person who purchases a benefit from another person under a vehicle value protection agreement.

(10) "Security" means the same as that term is defined in Section 31A-1-301.

(11) "Vehicle" means the same as that term is defined in Section 31A-6b-102.

(12) (a) "Vehicle value protection agreement" means an agreement for a separate charge between a provider and purchaser under which the provider agrees to, upon damage, total loss, or unrecovered theft of the purchaser's covered vehicle, provide a benefit to the purchaser that may be applied to:

(i) the cash value of the covered vehicle when traded in for a replacement vehicle;

(ii) the finance agreement for a replacement vehicle; or

(iii) the purchase or lease price of a replacement vehicle.

(b) "Vehicle value protection agreement" includes:

(i) a vehicle trade-in agreement;

(ii) a vehicle diminished value agreement;

(iii) a vehicle cash down payment protection agreement; and

(iv) a vehicle depreciation benefit agreement.

(c) "Vehicle value protection agreement" does not include:

(i) insurance or an insurance contract regulated under Title 31A, Insurance Code;

(ii) a guaranteed asset protection waiver, as defined in Section 31A-6b-102;

(iii) a debt cancellation agreement, as defined in Section 31A-21-109; or

(iv) a debt suspension contract, as defined in Section 31A-21-109.

Section 4. Section 13-63-201 is enacted to read:

Part 2. Vehicle Value Protection Agreements

13-63-201 (Codified as 13-64-201). Vehicle value protection agreement -- Required disclosures -- Finance agreement conditions.

(1) A person may not issue, sell, offer to sell, or otherwise provide a vehicle value protection agreement that does not comply with this chapter.

(2) A vehicle value protection agreement shall conspicuously disclose:

(a) the name, address, and contact information of:

(i) the provider;

(ii) the agreement administrator, if any; and

(iii) the purchaser;

(b) the terms of the vehicle value protection agreement, including:

(i) the charges under the vehicle value protection agreement;

(ii) the benefit eligibility requirements;

(iii) the conditions imposed by the vehicle value protection agreement; and

(iv) the procedure a purchaser is required to follow to obtain the benefit; and

(c) subject to Subsection (3), the terms or restrictions governing cancellation of the vehicle value protection agreement, including:

(i) that the purchaser may cancel the vehicle value protection agreement during the preliminary period;

(ii) the length of the preliminary period;

(iii) the purchaser's right to a refund for cancellation under Section 13-63-203; and

(iv) the methodology for calculating any refund to the purchaser for cancellation.

(3) The disclosure described in Subsection (2)(c)(i) shall:

(a) be written in dark bold with at least 12-point type on the first page of the vehicle value protection agreement; and

(b) read as follows: "IN ACCORDANCE WITH UTAH CODE SECTION 13-63-203, YOU, THE PURCHASER, MAY CANCEL THIS AGREEMENT AT ANY TIME BEFORE THE END OF THE PRELIMINARY PERIOD DESCRIBED IN THIS AGREEMENT."

(4) The provider shall provide the purchaser a copy of the vehicle value protection agreement at the time the provider and purchaser enter into the vehicle value protection agreement.

(5) A finance agreement or vehicle purchase agreement may not be conditioned on a purchaser entering into a vehicle value protection agreement.

Section 5. Section 13-63-202 is enacted to read:

13-63-202 (Codified as 13-64-202). Liability insurance -- Security for payment -- Provider net worth value.

(1) A provider under a vehicle value protection agreement shall:

(a) insure all vehicle value protection agreements the provider enters into under a contractual liability insurance policy that:

(i) (A) is issued by an insurer authorized to do business in this state that has a surplus as to policyholders and paid-in capital of less than $10,000,000 and more than $5,000,000 and provides evidence to the division that the insurer maintains a ratio of net written premiums to surplus as to policyholders and paid-in capital of not greater than three to one; or

(B) is issued by an insurer authorized to do business in this state that has as a surplus as to policyholders and paid-in capital of more than $10,000,000; and

(ii) (A) requires the insurer to reimburse the purchaser if the provider fails to perform the provider's obligations under a vehicle value protection agreement;

(B) covers any amount the provider is required to pay for failure to perform under a vehicle value protection agreement; and

(C) allows a purchaser to file with the insurer a claim for reimbursement under the vehicle value protection agreement if the provider does not pay the purchaser within 60 days after the day on which proof of damage, total loss, or unrecovered theft of the covered vehicle is provided to the provider in accordance with the terms of the vehicle value protection agreement;

(b) (i) maintain a funded reserve account to cover the provider's obligations under all vehicle value protection agreements the provider enters into that is equal to or greater than 40% of money received by, less claims paid to, the provider for the vehicle value protection agreements; and

(ii) place in trust with the division a security that is equal to at least 5% of money received by, less claims paid to, the provider for all vehicle value protection agreements the provider enters into and more than $25,000; or

(c) maintain, or together with the provider's parent company maintain, a net worth or stockholders' equity of $100,000,000.

(2) (a) An insurer described in Subsection (1)(a) shall annually file with the division:

(i) a copy of the insurer's audited financial statements;

(ii) the insurer's National Association of Insurance Commissioner annual statement; and

(iii) the actuarial certification filed in the insurer's state of domicile.

(b) The division may examine a reserve account described in Subsection (1)(b).

(c) A provider shall, upon request, provide the division a copy of:

(i) the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission; or

(ii) if the provider does not file with the Securities and Exchange Commission, a copy of the provider's audited financial statements that shows the net worth of the provider or the provider's parent company.

Section 6. Section 13-63-203 is enacted to read:

13-63-203 (Codified as 13-64-203). Preliminary period -- Cancellation -- Refund.

(1) (a) A vehicle value protection agreement shall provide for a preliminary period of at least 30 days.

(b) If a purchaser cancels a vehicle value protection agreement within the preliminary period, the purchaser is entitled to a refund of the charges under the vehicle value protection agreement as follows:

(i) if benefits have not been provided, a full refund; or

(ii) if benefits have been provided, a refund to the extent provided for in the vehicle value protection agreement.

(2) (a) Except as provided in Subsection (2)(b), if a provider cancels a vehicle value protection agreement, the provider shall mail a written notice to the purchaser at least five days before the day on which the vehicle value protection agreement is canceled.

(b) A provider may immediately cancel a vehicle value protection agreement upon sending a notice of cancellation to the purchaser if the reason for the cancellation is:

(i) the purchaser's failure to pay the provider's fee under the vehicle value protection agreement; or

(ii) the purchaser's breach of the purchaser's duties relating to the covered vehicle.

(3) A notice described in Subsection (2) shall include:

(a) the effective date of the cancellation; and

(b) the reason for the cancellation.

(4) If a provider cancels a vehicle value protection agreement for a reason other than the purchaser's failure to pay the provider's fee under the vehicle value protection agreement, the provider:

(a) shall refund the purchaser any unearned provider fee under the vehicle value protection agreement;

(b) may charge the purchaser an administrative fee of up to $75; and

(c) may deduct the amount of a benefit paid under the vehicle value protection agreement from the refund.

Section 7. Section 13-63-301 is enacted to read:

Part 3. Enforcement

13-63-301 (Codified as 13-64-301). Administration and enforcement -- Division powers -- Fees -- Rulemaking.

(1) The division shall administer and enforce this chapter in accordance with Chapter 2, Division of Consumer Protection.

(2) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(a) the division director may impose an administrative fine of up to $2,500 for each act that is in violation of this chapter, including failure to insure or consider a vehicle value protection agreement as required under Subsection 13-63-202(1); and

(b) the division may bring a civil action to enforce this chapter.

(3) In a civil action by the division to enforce this chapter, the court may:

(a) declare that an act or practice violates this chapter;

(b) issue an injunction for a violation of this chapter;

(c) order disgorgement of any money received after a violation of this chapter;

(d) order payment of disgorged money to an injured individual;

(e) impose a civil penalty of up to $2,500 for each violation of this chapter; or

(f) award any other relief that the court deems reasonable and necessary.

(4) If a court grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(5) (a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of no more than $5,000 for each violation.

(b) A civil penalty authorized under this section may be imposed in any civil action brought by the division.

(c) The division shall deposit money received for the payment of a fine or civil penalty under this section into the Consumer Protection Education and Training Fund created in Section 13-2-8.

(6) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter.

Section 8. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

(2) The amendments to Section 13-2-1 (Effective 12/31/23) take effect on December 31, 2023.

CHAPTER 510
S. B. 219
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

CRIMINAL PRIVACY VIOLATION AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill amends provisions related to criminal privacy violation to include the capture of data, information, or characteristics of property for which the owner has an expectation of privacy.

Highlighted Provisions:

This bill:

- codifies an expectation of privacy for characteristics, data, or information about an owner's property that:
  - is not immediately apparent through routine visual observation; and
  - requires ground-penetrating technology to capture the information about the property;
- amends the offense of privacy violation to include the capture of data, information, or characteristics of property for which the owner has an expectation of privacy;
- allows a court to order the removal of any data captured during a criminal trespass; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-9-402, as last amended by Laws of Utah 2017, Chapter 364

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-9-402 is amended to read:

76-9-402. Privacy violation.

(1) (a) A property owner has an expectation of privacy regarding characteristics, data, or information pertaining to the owner's property that:

(i) is not immediately apparent through routine visual observation of the property; and

(ii) requires ground-penetrating technology to detect, observe, measure, map, or otherwise capture information or data about the property or characteristics of the property.

[~~(1)~~] (2) A person is guilty of privacy violation if, except as authorized by law, the person:

(a) trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place;

(b) installs, or uses after unauthorized installation in a private place, without the consent of the person or persons entitled to privacy in the private place, any device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or events in the private place; [~~or~~]

(c) installs or uses outside of a private place a device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or events originating in the private place which would not ordinarily be audible, visible, or comprehensible outside the private place, without the consent of the person or persons entitled to privacy in the private place[~~.~~]; or

(d) uses ground-penetrating technology, without the consent of the property owner, to detect, observe, measure, map, or otherwise capture information or data about the property or characteristics of the property of another for which the property owner has an expectation of privacy as described in Subsection (1).

[~~(2)~~] (3) A person is not guilty of a violation of this section if:

(a) the device used is an unmanned aircraft;

(b) the person is operating the unmanned aircraft for legitimate commercial or educational purposes in a manner consistent with applicable Federal Aviation Administration rules, exemptions, or other authorizations; and

(c) any conduct described in Subsection [~~(1)~~] (2) that occurs via the unmanned aircraft is solely incidental to the lawful commercial or educational use of the unmanned aircraft.

(4) For a person who commits a violation of Subsection (2), a court may order the person to remove and destroy any data collected by the person in the commission of the violation of Subsection (2).

[~~(3)~~] (5) Privacy violation is a class B misdemeanor.

(6) (a) This section does not apply to lawful practices of:

(i) a law enforcement agency; or

(ii) another government entity.

(b) Subsection (2)(d) does not apply to a land surveyor if:

(i) the land surveyor is performing a survey service in good faith pursuant to a bona fide contract; and

(ii) for any data pertaining to property not owned by a party to the contract described in Subsection (6)(b)(i) that is captured incidentally by the land surveyor, the land surveyor:

(A) does not share, publish, sell, or distribute any incidentally captured data pertaining to property that is not relevant to the contract described in Subsection (6)(b)(i); and

(B) upon completion of the contract, deletes or destroys any data pertaining to property that is not the subject of the contract.

CHAPTER 511
S. B. 220
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

JUVENILE COURT JUDGE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill addresses juvenile judges.

Highlighted Provisions:

This bill:

- increases the number of juvenile judges assigned to a certain judicial district.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-1-104, as last amended by Laws of Utah 2022, Chapter 271

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-1-104 is amended to read:

78A-1-104. Number of juvenile judges.

The number of juvenile court judges shall be:

(1) two juvenile judges in the First Juvenile District;

(2) six juvenile judges in the Second Juvenile District;

(3) nine juvenile judges in the Third Juvenile District;

(4) [~~five~~] six juvenile judges in the Fourth Juvenile District;

(5) three juvenile judges in the Fifth Juvenile District;

(6) two juvenile judges in the Sixth Juvenile District;

(7) two juvenile judges in the Seventh Juvenile District; and

(8) two juvenile judges in the Eighth Juvenile District.

CHAPTER 512
S. B. 221
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

PUBLIC RETIREMENT WITHDRAWAL AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill modifies provisions of the Utah State Retirement and Insurance Benefit Act by providing the circumstances for a participating entity's withdrawal.

Highlighted Provisions:

This bill:

- modifies provisions relating to withdrawal from participation in a Utah retirement system, including:
  - amending the definition of "withdrawing entity" to include a nonprofit organization;
  - providing the procedures for a withdrawing entity to make an election to withdraw; and
  - requiring the withdrawing entity to pay certain costs that arise out of the election to withdraw; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-11-626, as enacted by Laws of Utah 2022, Chapter 205
49-12-203, as last amended by Laws of Utah 2022, Chapter 205
49-13-203, as last amended by Laws of Utah 2022, Chapter 205
49-22-203, as last amended by Laws of Utah 2022, Chapter 205

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-626 is amended to read:

49-11-626. Withdrawing entity -- Participation election date -- Withdrawal costs -- Rulemaking.

(1) As used in this section, "withdrawing entity" means an entity that:

(a) participates in a system or plan under this title before January 1, [~~2022~~] 2023; and

(b) (i) is a public employees' association; [~~or~~]

(ii) is an insurer that is subject to the disclosure requirements of Section 31A-4-113[~~.~~]; or

(iii) after beginning participation with a system or plan under this title, has modified the entity's federal tax status to a nonprofit organization that qualified under Section 501(c)(3) of the Internal Revenue Code.

(2) Notwithstanding any other provision of this title, a withdrawing entity may provide for the participation of the withdrawing entity's employees with that system or plan as follows:

(a) the withdrawing entity shall determine a date that is no later than July 1, [~~2024~~] 2025, on which the withdrawing entity shall make an election and complete withdrawal under Subsection (3);

(b) the withdrawing entity shall provide to the office notice of the withdrawing entity's intent to enter into an agreement described in Subsection (2)(c);

(c) the withdrawing entity and the office may enter into an intent to withdraw agreement to document a good faith arrangement to complete a withdrawal under this section; and

(d) subject to Subsection (6), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section.

(3) The withdrawing entity may elect to:

(a) (i) continue the withdrawing entity's participation for all current employees of the withdrawing entity, who are covered by a system or plan on the date set under Subsection (2)(a); and

(ii) withdraw from participation in all systems and plans for all persons initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a); or

(b) withdraw from participation in all systems or plans for all current and future employees of the withdrawing entity, beginning on the date set under Subsection (2)(a).

(4) (a) An election made under Subsection (3):

(i) shall be made on or before the date specified under Subsection (2)(a);

(ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;

(iii) remains in effect unless and until the withdrawing entity again becomes a participating employer with the office in accordance with Subsection (5); and

(iv) applies to the withdrawing entity as the employer and to all employees of the withdrawing entity.

(b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.

(c) Notwithstanding any other provision of this title, a withdrawing entity that makes an election under Subsection (3) may provide or participate in any type of public or private retirement for the withdrawing entity's employees after the withdrawal.

(5) After the withdrawal and subject to the laws and rules governing participating employer admission, the withdrawing entity may elect, by resolution of the withdrawing entity's governing body, to resume participation with the office and apply for admission as a participating employer in a system or plan under this title.

(6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described under Subsection (2)(d); and

(b) arrangements for the payment of the costs described under Subsection (2)(d).

Section 2. Section 49-12-203 is amended to read:

49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c);

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d);

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b);

(j) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system; or

(k) an employee who is employed with a withdrawing entity that[~~, before July 1, 2024,~~] elects under Section 49-11-626 to exclude:

(i) new employees from participation in this system under Subsection 49-11-626(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-626(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Planning and Budget;

(e) an employee of the Governor's Office of Economic Opportunity;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the Public Lands Policy Coordinating Office, created in Section 63L-11-201;

(i) an employee of the State Auditor's Office;

(j) an employee of the State Treasurer's Office;

(k) any other member who is permitted to make an election under Section 49-11-406;

(l) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to the organization's members; and

(n) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 3. Section 49-13-203 is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5);

(g) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b);

(i) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system; or

(j) an employee who is employed with a withdrawing entity that[~~, before July 1, 2024,~~] elects under Section 49-11-626 to exclude:

(i) new employees from participation in this system under Subsection 49-11-626(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-626(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Planning and Budget;

(e) an employee of the Governor's Office of Economic Opportunity;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(m) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 4. Section 49-22-203 is amended to read:

49-22-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(e) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(f) a person who files a written request for exemption with the office under Section 49-22-205;

(g) an employee described in Subsection (1)(g)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b);

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system; or

(i) an employee who is employed with a withdrawing entity that[~~, before July 1, 2024,~~] elects under Section 49-11-626 to exclude:

(i) new employees from participation in this system under Subsection 49-11-626(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-626(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(4) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

CHAPTER 513
S. B. 223
Passed March 1, 2023
Approved March 23, 2023
Effective January 1, 2024

CHARITABLE CONTRIBUTION AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Angela Romero

LONG TITLE

General Description:

This bill creates the Nonprofit Capacity Fund and provides an option for a taxpayer to make a contribution for nonprofit support organizations on the income tax return.

Highlighted Provisions:

This bill:

- creates the Nonprofit Capacity Fund;
- allows a taxpayer to contribute to the Nonprofit Capacity Fund through the income tax return;
- creates the Nonprofit Capacity Grant Program in the Department of Cultural and Community Engagement (department);
- specifies how the department shall administer the Nonprofit Capacity Grant Program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-10-1304, as last amended by Laws of Utah 2020, Chapter 311

ENACTS:

9-1-211, Utah Code Annotated 1953
59-10-1321, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-1-211 is enacted to read:

9-1-211. Nonprofit Capacity Grant Program.

(1) As used in this section, "nonprofit support organization" means a nonprofit organization that:

(a) is organized under the Utah Revised Nonprofit Corporation Act; and

(b) provides the following support for nonprofit organizations located in the state:

(i) building operational capacity;

(ii) improving the delivery of essential services in the state;

(iii) providing professional training;

(iv) providing technical support; or

(v) encouraging collaboration with other nonprofit organizations, industry, and government agencies.

(2) (a) There is created within the department the Nonprofit Capacity Grant Program.

(b) The purpose of the program is to provide grants to nonprofit support organizations.

(3) (a) A nonprofit support organization that submits a proposal for a grant to the department shall include details in the proposal regarding:

(i) the nonprofit support organization's name;

(ii) information about the nonprofit support organization's activities and purpose;

(iii) the nonprofit support organization's budget;

(iv) plans for sustaining the nonprofit support organization beyond the grant period;

(v) specific proposals for how the nonprofit support organization would use the grant; and

(vi) other information the department determines necessary to evaluate the proposal.

(b) When evaluating a proposal for a grant, the department shall consider:

(i) the grant amount requested;

(ii) the extent to which the proposal advances the goals described in Subsection (1)(b);

(iii) the extent to which any additional funding sources or existing or planned partnerships may benefit the proposal; and

(iv) the viability of the proposal.

(4) Subject to Subsection (3), the department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:

(a) eligibility criteria for a grant;

(b) the form and process for submitting a proposal to the department for a grant;

(c) the process and criteria for determining the priority of applications received;

(d) the formula and method for determining a grant amount; and

(e) reporting requirements for a grant recipient.

Section 2. Section 59-10-1304 is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than $30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than $30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

(iv) the contribution provided for in Section 59-10-1315;

(v) the contribution provided for in Section 59-10-1318;

(vi) the contribution provided for in Section 59-10-1319; [~~or~~]

(vii) the contribution provided for in Section 59-10-1320[~~.~~]; or

(viii) the contribution provided for in Section 59-10-1321.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after [~~making~~] the day on which the commission makes the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

Section 3. Section 59-10-1321 is enacted to read:

59-10-1321. Contribution to the Nonprofit Capacity Fund.

(1) (a) There is created an expendable special revenue fund known as the "Nonprofit Capacity Fund."

(b) The fund shall consist of all amounts deposited into the fund in accordance with Subsection (2).

(2) Except as provided in Section 59-10-1304, a resident or nonresident individual who files an income tax return under this chapter may designate on the resident or nonresident individual's income tax return a contribution to be:

(a) deposited into the Nonprofit Capacity Fund; and

(b) expended as provided in Subsection (3).

(3) (a) Each year, the commission shall disburse from the Nonprofit Capacity Fund all money deposited into the fund since the last disbursement.

(b) The commission shall disburse money under Subsection (3)(a) to the Department of Cultural and Community Engagement for the purpose of providing money for grants to nonprofit organizations in the state.

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect for a taxable year beginning on or after January 1, 2024.

(2) Section 9-1-211 takes effect on January 1, 2024.

CHAPTER 514
S. B. 226
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

ELECTRONIC INFORMATION OR DATA PRIVACY ACT AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill concerns the ability of law enforcement to obtain certain information or data without a search warrant.

Highlighted Provisions:

This bill:

- amends the ability of law enforcement to obtain certain information or data without a search warrant; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-23c-102, as last amended by Laws of Utah 2022, Chapter 274

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-23c-102 is amended to read:

77-23c-102. Electronic information or data privacy -- Warrant required for disclosure.

(1) (a) Except as provided in Subsection (2), for a criminal investigation or prosecution, a law enforcement agency may not obtain, without a search warrant issued by a court upon probable cause:

(i) the location information, stored data, or transmitted data of an electronic device; or

(ii) electronic information or data transmitted by the owner of the electronic information or data:

(A) to a provider of a remote computing service; or

(B) through a provider of an electronic communication service.

(b) Except as provided in Subsection (1)(c), a law enforcement agency may not use, copy, or disclose, for any purpose, the location information, stored data, or transmitted data of an electronic device, or electronic information or data provided by a provider of a remote computing service or an electronic communication service, that:

(i) is not the subject of the warrant; and

(ii) is collected as part of an effort to obtain the location information, stored data, or transmitted data of an electronic device, or electronic information or data provided by a provider of a remote computing service or an electronic communication service that is the subject of the warrant in Subsection (1)(a).

(c) A law enforcement agency may use, copy, or disclose the transmitted data of an electronic device used to communicate with the electronic device that is the subject of the warrant if the law enforcement agency reasonably believes that the transmitted data is necessary to achieve the objective of the warrant.

(d) The electronic information or data described in Subsection (1)(b) shall be destroyed in an unrecoverable manner by the law enforcement agency as soon as reasonably possible after the electronic information or data is collected.

(2) (a) A law enforcement agency may obtain location information without a warrant for an electronic device:

(i) in accordance with Section 53-10-104.5;

(ii) if the device is reported stolen by the owner;

(iii) with the informed, affirmative consent of the owner or user of the electronic device;

(iv) except for the automobile exception to the warrant requirement, in accordance with a judicially recognized exception to warrant requirements;

(v) if the owner has voluntarily and publicly disclosed the location information; or

(vi) from a provider of a remote computing service or an electronic communications service if the provider voluntarily discloses the location information:

(A) under a belief that an emergency exists involving an imminent risk to an individual of death, serious physical injury, sexual abuse, live-streamed sexual exploitation, kidnapping, or human trafficking; or

(B) that is inadvertently discovered by the provider and appears to pertain to the commission of a felony, or of a misdemeanor involving physical violence, sexual abuse, or dishonesty.

(b) A law enforcement agency may obtain stored data or transmitted data from an electronic device or electronic information or data transmitted by the owner of the electronic information or data to a provider of a remote computing service or through a provider of an electronic communication service, without a warrant:

(i) with the informed consent of the owner of the electronic device or electronic information or data;

(ii) except for the automobile exception to the warrant requirement, in accordance with a judicially recognized exception to warrant requirements; or

(iii) subject to Subsection(2)(a)(vi)(B), from a provider of a remote computing service or an electronic communication service if the provider

voluntarily discloses the stored or transmitted data as otherwise permitted under 18 U.S.C. Sec. 2702.

(c) A prosecutor may obtain a judicial order as described in Section 77-22-2.5 for the purposes described in Section 77-22-2.5.

(3) A provider of an electronic communication service or a remote computing service, the provider's officers, employees, or agents, or other specified persons may not be held liable for providing information, facilities, or assistance in good faith reliance on the terms of the warrant issued under this section or without a warrant in accordance with Subsection (2).

(4) Nothing in this chapter:

(a) limits or affects the disclosure of public records under Title 63G, Chapter 2, Government Records Access and Management Act;

(b) affects the rights of an employer under Subsection 34-48-202(1)(e) or an administrative rule adopted under Section 63A-16-205; or

(c) limits the ability of a law enforcement agency to receive or use information, without a warrant or subpoena, from the National Center for Missing and Exploited Children under 18 U.S.C. Sec. 2258A.

CHAPTER 515
S. B. 230
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

KICKBACK PROHIBITION AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill amends prohibitions on kickbacks.

Highlighted Provisions:

This bill:

- amends the definition of "kickback or bribe"; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-3201, as enacted by Laws of Utah 2022, Chapter 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-3201 is amended to read:

76-10-3201. Prohibition on kickbacks.

(1) As used in this section:

(a) "Kickback or bribe" means a rebate, compensation, or any other form of remuneration, that is:

(i) direct or indirect;

(ii) overt or covert; or

(iii) in cash or in kind.

(b) "Kickback or bribe" does not include:

(i) a fee that is:

[~~(i)~~] (A) shared between two or more individuals, each of whom is licensed to practice law; and

[~~(ii)~~] (B) charged for services provided in the individual's capacity as a licensee described in Subsection [~~(1)(b)(i)~~] (1)(b)(i)(A); or

(ii) payment for medical services rendered.

(2) (a) An actor may not solicit or receive a kickback or bribe in return for the referral of a person to another person for the furnishing of any good or service that relates to any insurance claim or a claim for damages.

(b) An actor may not offer or pay a kickback or bribe to induce the referral of a person to another person for the furnishing of any good or service that relates to any insurance claim or a claim for damages.

(3) A violation of Subsection [~~(2)(a) or (b)~~] (2) is a third degree felony.

(4) This section does not apply to an individual licensed to practice law or a medical provider when referring, without compensation, a client for medical treatment or evaluation.

CHAPTER 516
S. B. 231
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACTAMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill makes changes related to the Government Records Access and Management Act (act).

Highlighted Provisions:

This bill:

- provides that a governmental entity is not required to create a document indicating that a requested record does not exist;
- requires a governmental entity to conduct a reasonable search for a record;
- enacts a provision establishing a process for a governmental entity to petition for relief against a vexatious requester;
- provides for a hearing before the State Records Committee;
- allows for judicial review of the State Records Committee's decision;
- allows the court to award reasonable attorney fees to a responder for a vexatious requester petition found to be without merit and waives governmental immunity for a claim of attorney fees;
- requires a person outside of a governmental entity who makes a claim of business confidentiality for a record the person provided to a governmental entity to indemnify the governmental entity in an action arising from the governmental entity's denial of access to the record;
- limits judicial review of an appeal to the issues raised in the underlying appeal and order, except in exceptional circumstances;
- authorizes the legislative branch, the judicial branch, and the governor and lieutenant governor to establish a process for obtaining relief against a vexatious requester;
- amends the act's applicability to the governor and lieutenant governor;
- clarifies the Utah Supreme Court's jurisdiction over appeals under the act;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-103, as last amended by Laws of Utah 2021, Chapters 211, 283
63G-2-201, as last amended by Laws of Utah 2019, Chapter 334
63G-2-309, as last amended by Laws of Utah 2019, Chapter 254
63G-2-404, as last amended by Laws of Utah 2021, Chapter 325
63G-2-604, as last amended by Laws of Utah 2019, Chapter 254
63G-2-702, as last amended by Laws of Utah 2012, Chapter 369
63G-2-703, as last amended by Laws of Utah 2015, Chapter 258
63G-7-301, as last amended by Laws of Utah 2022, Chapters 388, 428
78A-4-103, as last amended by Laws of Utah 2022, Chapter 388

ENACTS:

63G-2-209, Utah Code Annotated 1953
63G-2-704, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

[~~(22)~~] (23) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used

by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child pornography, as defined by Section 76-5b-103;

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; or

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702.

[~~(23)~~] (24) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

[~~(24)~~] (25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

[~~(25)~~] (26) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

[~~(26)~~] (27) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

[~~(27)~~] (28) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

[~~(28)~~] (29) "State archivist" means the director of the state archives.

[~~(29)~~] (30) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

[~~(30)~~] (31) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 2. Section 63G-2-201 is amended to read:

63G-2-201. Provisions relating to records -- Public records -- Private, controlled, protected, and other restricted records -- Disclosure and nondisclosure of records -- Certified copy of record -- Limits on obligation to respond to record request.

(1) (a) Except as provided in Subsection (1)(b), a person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.

(b) A right under Subsection (1)(a) does not apply with respect to a record:

(i) a copy of which the governmental entity has already provided to the person;

(ii) that is the subject of a records request that the governmental entity is not required to fill under Subsection [~~(8)(e)~~] (8)(a)(v); or

(iii) (A) that is accessible only by a computer or other electronic device owned or controlled by the governmental entity;

(B) that is part of an electronic file that also contains a record that is private, controlled, or protected; and

(C) that the governmental entity cannot readily segregate from the part of the electronic file that contains a private, controlled, or protected record.

(2) A record is public unless otherwise expressly provided by statute.

(3) The following records are not public:

(a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and

(b) a record to which access is restricted pursuant to court rule, another state statute, federal statute,

or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305 may be classified private, controlled, or protected.

(5) (a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.

(b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:

(i) there is no interest in restricting access to the record; or

(ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.

(c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:

(i) the head of the governmental entity, or a designee, determines that the disclosure:

(A) is mutually beneficial to:

(I) the subject of the record;

(II) the governmental entity; and

(III) the public; and

(B) serves a public purpose related to:

(I) public safety; or

(II) consumer protection; and

(ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.

(6) (a) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.

(b) This chapter applies to records described in Subsection (6)(a) insofar as this chapter is not inconsistent with the statute, rule, or regulation.

(7) A governmental entity shall provide a person with a certified copy of a record if:

(a) the person requesting the record has a right to inspect it;

(b) the person identifies the record with reasonable specificity; and

(c) the person pays the lawful fees.

(8) (a) In response to a request, a governmental entity is not required to:

[~~(a)~~] (i) create a record;

[~~(b)~~] (ii) compile, format, manipulate, package, summarize, or tailor information;

[~~(c)~~] (iii) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;

[~~(d)~~] (iv) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; [~~or~~]

[~~(e)~~] (v) fill a person's records request if:

[~~(i)~~] (A) the record requested is:

[~~(A)~~] (I) publicly accessible online; or

[~~(B)~~] (II) included in a public publication or product produced by the governmental entity receiving the request; and

[~~(ii)~~] (B) the governmental entity:

[~~(A)~~] (I) specifies to the person requesting the record where the record is accessible online; or

[~~(B)~~] (II) provides the person requesting the record with the public publication or product and specifies where the record can be found in the public publication or product[~~.~~]; or

(vi) fulfill a person's records request if:

(A) the person has been determined under Section 63G-2-209 to be a vexatious requester;

(B) the State Records Committee order determining the person to be a vexatious requester provides that the governmental entity is not required to fulfill a request from the person for a period of time; and

(C) the period of time described in Subsection (8)(a)(vi)(B) has not expired.

(b) A governmental entity shall conduct a reasonable search for a requested record.

(9) (a) Although not required to do so, a governmental entity may, upon request from the person who submitted the records request, compile, format, manipulate, package, summarize, or tailor information or provide a record in a format, medium, or program not currently maintained by the governmental entity.

(b) In determining whether to fulfill a request described in Subsection (9)(a), a governmental entity may consider whether the governmental entity is able to fulfill the request without unreasonably interfering with the governmental entity's duties and responsibilities.

(c) A governmental entity may require a person who makes a request under Subsection (9)(a) to pay the governmental entity, in accordance with Section 63G-2-203, for providing the information or record as requested.

(10) (a) Notwithstanding any other provision of this chapter, and subject to Subsection (10)(b), a governmental entity is not required to respond to, or provide a record in response to, a record request if the request is submitted by or in behalf of an individual who is confined in a jail or other correctional facility following the individual's conviction.

(b) Subsection (10)(a) does not apply to:

(i) the first five record requests submitted to the governmental entity by or in behalf of an individual described in Subsection (10)(a) during any calendar year requesting only a record that contains a specific reference to the individual; or

(ii) a record request that is submitted by an attorney of an individual described in Subsection (10)(a).

(11) (a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:

(i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and

(ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.

(b) If the requirements of Subsection (11)(a) are met, the governmental entity may:

(i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or

(ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.

(12) (a) A governmental entity that owns an intellectual property right and that offers the intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest.

(b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.

(13) A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.

(14) Subject to the requirements of Subsection (8), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:

(a) the person making the request requests or states a preference for an electronic copy;

(b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and

(c) the electronic copy of the record:

(i) does not disclose other records that are exempt from disclosure; or

(ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.

(15) In determining whether a record is properly classified as private under Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals board, or court shall consider and weigh:

(a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and

(b) any public interests served by disclosure.

Section 3. Section 63G-2-209 is enacted to read:

63G-2-209. Vexatious requester.

(1) As used in this section:

(a) "Committee" means the State Records Committee created in Section 63G-2-501.

(b) "Executive secretary" means an individual appointed as executive secretary under Subsection 63G-2-502(3).

(c) "Respondent" means a person that a governmental entity claims is a vexatious requester under this section.

(2) (a) A governmental entity may file a petition with the committee to request relief from a person that the governmental entity claims is a vexatious requester.

(b) A petition under Subsection (2)(a) shall:

(i) be filed with the committee by submitting the petition to the executive secretary; and

(ii) contain:

(A) the name, phone number, mailing address, and email address that the respondent submitted to the governmental entity;

(B) a description of the conduct that the governmental entity claims demonstrates that the respondent is a vexatious requester;

(C) a statement of the relief the governmental entity seeks; and

(D) a sworn declaration or an unsworn declaration, as those terms are defined in Section 78B-18a-102.

(c) On the day the governmental entity files a petition under Subsection (2)(a), the governmental

entity shall send a copy of the petition to the respondent.

(3) (a) Except as provided in Subsection (3)(c), no later than seven business days after receiving the petition the executive secretary shall schedule a hearing for the committee to consider the petition, to be held:

(i) (A) at the next regularly scheduled committee meeting falling at least 16 calendar days after the date the petition is filed but no later than 64 calendar days after the date the petition is filed; or

(B) at a regularly scheduled committee meeting that is later than the period described in Subsection (3)(a)(i)(A) if the later committee meeting is the first regularly scheduled committee meeting at which there are fewer than 10 appeals scheduled to be heard; or

(ii) at a date sooner than a period described in Subsection (3)(a)(i) if the governmental entity:

(A) requests an expedited hearing; and

(B) shows good cause for the expedited hearing.

(b) If the executive secretary schedules a hearing under Subsection (3)(a), the executive secretary shall:

(i) send a copy of the petition to each member of the committee;

(ii) send a copy of the notice of hearing to the governmental entity, the respondent, and each member of the committee; and

(iii) if applicable, send a copy of the respondent's statement under Subsection (3)(c)(ii) to the governmental entity and each member of the committee.

(c) (i) The executive secretary may decline to schedule a hearing if:

(A) the executive secretary recommends that the committee deny the petition without a hearing because the petition does not warrant a hearing;

(B) the executive secretary consults with the chair of the committee and at least one other member of the committee; and

(C) the chair of the committee and all committee members with whom the executive secretary consults under this Subsection (3)(c)(i) agree with the executive secretary's recommendation to deny the petition without a hearing.

(ii) The executive secretary may, in making the determination described in Subsection (3)(c)(i)(A), request that the respondent submit a written response to the petition.

(d) If the executive secretary declines to schedule a hearing in accordance with Subsection (3)(c):

(i) the executive secretary shall send a notice to the governmental entity and the respondent indicating that the request for a hearing has been denied and the reasons for the denial; and

(ii) the committee shall:

(A) vote at the committee's next regular meeting to accept or reject the recommendation to deny the petition without a hearing;

(B) issue an order that includes the reasons for the committee's decision to accept or reject the recommendation; and

(C) if the committee rejects the recommendation to deny the petition without a hearing, direct the executive secretary to schedule a hearing as provided in Subsection (3)(a).

(4) (a) No later than five business days before the hearing, the respondent may submit to the executive secretary and the governmental entity a written statement in response to the governmental entity's petition.

(b) The written statement described in Subsection (4)(a) may be the same document as the respondent's written response described in Subsection (3)(c)(ii).

(5) No later than 10 business days before a hearing under this section, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention with the committee as provided in Subsection 63G-2-403(6).

(6) If a respondent fails to submit a written statement under Subsection (4) or fails to appear at the hearing, the committee shall:

(a) cancel the hearing; or

(b) hold the hearing in accordance with Subsection (7).

(7) (a) If the committee holds a hearing scheduled under Subsection (3), the committee shall:

(i) allow the governmental entity to testify, present evidence, and comment on the issues; and

(ii) allow the respondent to testify, present evidence, and comment on the issues if the respondent appears at the hearing.

(b) At the hearing, the committee may allow another interested person to comment on the issues.

(c) (i) Discovery is prohibited, but the committee may issue subpoenas or other orders to compel production of necessary testimony or evidence.

(ii) If the subject of a committee subpoena disobeys or fails to comply with the subpoena, the committee may file a motion with the district court for an order to compel obedience to the subpoena.

(8) (a) No later than seven business days after a hearing is held as scheduled under Subsection (3) or the date on which a hearing cancelled under Subsection (6) was scheduled to be held, the committee shall:

(i) determine, in accordance with Subsection (9), whether the governmental entity has

demonstrated that the respondent is a vexatious requester; and

(ii) issue a signed order that grants or denies the petition in whole or in part.

(b) Upon granting the petition in whole or in part, the committee may order that the governmental entity is not required to fulfill requests from the respondent or a person that submits a request on the respondent's behalf for a period of time that may not exceed one year.

(c) The committee's order shall contain:

(i) a statement of the reasons for the committee's decision;

(ii) if the petition is granted in whole or in part, a specific description of the conduct the committee determines demonstrates that the respondent is a vexatious requester, including any conduct the committee finds to constitute an abuse of the right of access to information under this chapter or a substantial interference with the operations of the governmental entity;

(iii) a statement that the respondent or governmental entity may seek judicial review of the committee's decision in district court as provided in Section 63G-2-404; and

(iv) a brief summary of the judicial review process, the time limits for seeking judicial review, and a notice that, in order to protect applicable rights in connection with the judicial review, the person seeking judicial review of the committee's decision may wish to seek advice from an attorney.

(9) In determining whether a governmental entity has demonstrated that the respondent is a vexatious requester, the committee shall consider:

(a) the interests described in Section 63G-2-102;

(b) as applicable:

(i) the number of requests the respondent has submitted to the governmental entity, including the number of pending record requests;

(ii) the scope, nature, content, language, and subject matter of record requests the respondent has submitted to the governmental entity;

(iii) the nature, content, language, and subject matter of any communications to the governmental entity related to a record request of the respondent; and

(iv) any pattern of conduct that the committee determines to constitute:

(A) an abuse of the right of access to information under this chapter; or

(B) substantial interference with the operations of the governmental entity; and

(c) any other factor the committee considers relevant.

(10) (a) A governmental entity or respondent aggrieved by the committee's decision under this section may seek judicial review of the decision as provided in Section 63G-2-404.

(b) In a judicial review under Subsection (10)(a), the court may award reasonable attorney fees to a respondent if:

(i) the respondent substantially prevails; and

(ii) the court determines that:

(A) the petition filed by the governmental entity under Subsection (2) is without merit; and

(B) the governmental entity's actions in filing the petition lack a reasonable basis in fact or law.

(c) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees under this Subsection (10) is not subject to Chapter 7, Governmental Immunity Act of Utah.

(11) Notwithstanding any other provision of this chapter, a records request that a governmental entity is not required to fulfill in accordance with an order issued under this section may not be the subject of an appeal under Part 4, Appeals.

(12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee shall make rules to implement this section.

Section 4. Section 63G-2-309 is amended to read:

63G-2-309. Confidentiality claims.

(1) (a) (i) Any person who provides to a governmental entity a record that the person believes should be protected under Subsection 63G-2-305(1) or (2) or both Subsections 63G-2-305(1) and (2) shall provide with the record:

(A) a written claim of business confidentiality; and

(B) a concise statement of reasons supporting the claim of business confidentiality.

(ii) Any of the following who provides to an institution within the state system of higher education defined in Section 53B-1-102 a record that the person or governmental entity believes should be protected under Subsection 63G-2-305(40)(a)(ii) or (vi) or both Subsections 63G-2-305(40)(a)(ii) and (vi) shall provide the institution within the state system of higher education a written claim of business confidentiality in accordance with Section 53B-16-304:

(A) a person;

(B) a federal governmental entity;

(C) a state governmental entity; or

(D) a local governmental entity.

(b) A person or governmental entity who complies with this Subsection (1) shall be notified by the governmental entity to whom the request for a record is made if:

(i) a record claimed to be protected under one of the following is classified public:

(A) Subsection 63G-2-305(1);

(B) Subsection 63G-2-305(2);

(C) Subsection 63G-2-305(40)(a)(ii);

(D) Subsection 63G-2-305(40)(a)(vi); or

(E) a combination of the provisions described in Subsections (1)(b)(i)(A) through (D); or

(ii) the governmental entity to whom the request for a record is made determines that the record claimed to be protected under a provision listed in Subsection (1)(b)(i) should be released after balancing interests under Subsection 63G-2-201(5)(b) or 63G-2-401(6).

(c) A person who makes a claim of business confidentiality under this Subsection (1) shall protect, defend, and indemnify the governmental entity that retains the record, and all staff and employees of the governmental entity from and against any claims, liability, or damages resulting from or arising from a denial of access to the record as a protected record based on the claim of business confidentiality.

(2) (a) Except as provided in Subsection (2)(b) or by court order, the governmental entity to whom the request for a record is made may not disclose a record claimed to be protected under a provision listed in Subsection (1)(b)(i) but which the governmental entity or State Records Committee determines should be disclosed until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal.

(b) Subsection (2)(a) does not apply where the claimant, after notice, has waived the claim by not appealing or intervening before the State Records Committee.

(3) Disclosure or acquisition of information under this chapter does not constitute misappropriation under Subsection 13-24-2(2).

Section 5. Section 63G-2-404 is amended to read:

63G-2-404. Judicial review.

(1) (a) A petition for judicial review of an order or decision, as allowed under this part, in Section 63G-2-209, or in Subsection 63G-2-701(6)(a)(ii), shall be filed no later than 30 days after the date of the order or decision.

(b) The State Records Committee is a necessary party to a petition for judicial review of a State Records Committee order.

(c) The executive secretary of the State Records Committee shall be served with notice of a petition for judicial review of a State Records Committee order, in accordance with the Utah Rules of Civil Procedure.

(2) (a) A petition for judicial review is a complaint governed by the Utah Rules of Civil Procedure and shall contain:

[~~(a)~~] (i) the petitioner's name and mailing address;

[~~(b)~~] (ii) a copy of the State Records Committee order from which the appeal is taken, if the petitioner is seeking judicial review of an order of the State Records Committee;

[~~(c)~~] (iii) the name and mailing address of the governmental entity that issued the initial determination with a copy of that determination;

[~~(d)~~] (iv) a request for relief specifying the type and extent of relief requested; and

[~~(e)~~] (v) a statement of the reasons why the petitioner is entitled to relief.

(b) Except in exceptional circumstances, a petition for judicial review may not raise an issue that was not raised in the underlying appeal and order.

(3) If the appeal is based on the denial of access to a protected record based on a claim of business confidentiality, the court shall allow the claimant of business confidentiality to provide to the court the reasons for the claim of business confidentiality.

(4) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.

(5) The district court may review the disputed records. The review shall be in camera.

(6) (a) The court shall:

(i) make the court's decision de novo, but, for a petition seeking judicial review of a State Records Committee order, allow introduction of evidence presented to the State Records Committee;

(ii) determine all questions of fact and law without a jury; and

(iii) decide the issue at the earliest practical opportunity.

(b) A court may remand a petition for judicial review to the State Records Committee if:

(i) the remand is to allow the State Records Committee to decide an issue that:

(A) involves access to a record; and

(B) the State Records Committee has not previously addressed in the proceeding that led to the petition for judicial review; and

(ii) the court determines that remanding to the State Records Committee is in the best interests of justice.

(7) (a) Except as provided in Section 63G-2-406, the court may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the interest favoring access is greater than or equal to the interest favoring restriction of access.

(b) The court shall consider and, where appropriate, limit the requester's use and further disclosure of the record in order to protect privacy

interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of other protected records.

Section 6. Section 63G-2-604 is amended to read:

63G-2-604. Retention and disposition of records.

(1) (a) Except for a governmental entity that is permitted to maintain the governmental entity's own retention schedules under [~~Part 7, Applicability to Political Subdivisions, the Judiciary, and the Legislature~~] Part 7, Applicability to Political Subdivisions, the Judiciary, the Legislature, and the Governor and Lieutenant Governor, each governmental entity shall file with the Records Management Committee created in Section 63A-12-112 a proposed schedule for the retention and disposition of each type of material that is defined as a record under this chapter.

(b) After a retention schedule is reviewed and approved by the Records Management Committee under Subsection 63A-12-113(1)(b), the governmental entity shall maintain and destroy records in accordance with the retention schedule.

(c) If a governmental entity subject to the provisions of this section has not received an approved retention schedule from the Records Management Committee for a specific type of material that is classified as a record under this chapter, the model retention schedule maintained by the state archivist shall govern the retention and destruction of that type of material.

(2) A retention schedule that is filed with or approved by the Records Management Committee under the requirements of this section is a public record.

Section 7. Section 63G-2-702 is amended to read:

Part 7. Applicability to Political Subdivisions, the Judiciary, the Legislature, and the Governor and Lieutenant Governor

63G-2-702. Applicability to the judiciary.

(1) The judiciary is subject to the provisions of this chapter except as provided in this section.

(2) (a) The judiciary is not subject to:

(i) Section 63G-2-209; or

(ii) Part 4, Appeals, except as provided in Subsection [~~(5)~~] (6).

(b) The judiciary is not subject to Part 5, State Records Committee, and Part 6, Collection of Information and Accuracy of Records.

(c) The judiciary is subject to only the following sections in Part 9, Public Associations: Sections 63A-12-105 and 63A-12-106.

(3) The Judicial Council, the Administrative Office of the Courts, the courts, and other administrative units in the judicial branch shall designate and classify their records in accordance with Sections 63G-2-301 through 63G-2-305.

(4) Substantially consistent with the provisions of this chapter, the Judicial Council shall:

(a) make rules governing requests for access, fees, classification, designation, segregation, management, retention, denials and appeals of requests for access and retention, and amendment of judicial records;

(b) establish an appellate board to handle appeals from denials of requests for access and provide that a requester who is denied access by the appellate board may file a lawsuit in district court; and

(c) provide standards for the management and retention of judicial records substantially consistent with Section 63A-12-103.

(5) The Judicial Council may:

(a) establish a process for an administrative unit of the judicial branch to petition for relief from a person that the administrative unit claims is a vexatious requester; and

(b) establish an appellate board to hear a petition for relief from a person that an administrative unit of the judicial branch claims is a vexatious requester.

[~~(5)~~] (6) Rules governing appeals from denials of requests for access shall substantially comply with the time limits provided in Section 63G-2-204 and Part 4, Appeals.

[~~(6)~~] (7) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program in the judicial branch; and

(b) as required by the judiciary, provide program services similar to those available to the executive and legislative branches of government as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service.

Section 8. Section 63G-2-703 is amended to read:

63G-2-703. Applicability to the Legislature.

(1) The Legislature and its staff offices shall designate and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.

(2) (a) The Legislature and its staff offices are not subject to [~~Section 63G-2-203 or to~~]:

(i) Section 63G-2-203 or 63G-2-209; or

(ii) Part 4, Appeals, Part 5, State Records Committee, or Part 6, Collection of Information and Accuracy of Records.

(b) The Legislature is subject to only the following sections in Title 63A, Chapter 12, Division of Archives and Records Service: Sections 63A-12-102 and 63A-12-106.

(3) The Legislature, through the Legislative Management Committee:

(a) (i) shall establish policies to handle requests for classification, designation, fees, access, denials, segregation, appeals, management, retention, and amendment of records; and

[~~(b)~~] (ii) may establish an appellate board to hear appeals from denials of access[~~.~~]; and

(b) may establish:

(i) a process for determining that a person is a vexatious requester, including a process for an appeal from a determination that a person is a vexatious requester; and

(ii) appropriate limitations on a person determined to be a vexatious requester.

(4) Policies shall include reasonable times for responding to access requests consistent with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.

(5) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program in the Legislature; and

(b) as required by the Legislature, provide program services similar to those available to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service.

Section 9. Section 63G-2-704 is enacted to read:

63G-2-704. Applicability to the governor and lieutenant governor.

(1) The governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor shall designate and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.

(2) (a) The governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor are not subject to:

(i) Section 63G-2-203;

(ii) Section 63G-2-209;

(iii) Section 63G-2-401; or

(iv) Part 6, Collection of Information and Accuracy of Records.

(b) The governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor are subject to only the following sections in Title 63A, Chapter 12, Division of Archives and Records Service:

(i) Section 63A-12-102; and

(ii) Section 63A-12-106.

(3) The governor and lieutenant governor:

(a) (i) shall establish policies to handle requests for classification, designation, fees, access, denials, segregation, appeals to the chief administrative officer, management, retention, and amendment of records; and

(ii) may establish an appellate board to hear appeals from denials of access; and

(b) may establish:

(i) a process for determining that a person is a vexatious requester, including a process for an appeal from a determination that a person is a vexatious requester; and

(ii) appropriate limitations on a person determined to be a vexatious requester.

(4) Policies described in Subsection (3) shall include reasonable times for responding to access requests consistent with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.

(5) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program for the governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor; and

(b) as required by the governor or lieutenant governor, provide program services as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service.

Section 10. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any

governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) as to any claim for attorney fees or costs under [~~Sections~~] Section 63G-2-209, 63G-2-405 [~~and~~], or 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a background check under Section 53G-11-402; and

(k) as to any action brought under Section 78B-6-2303.

(3) (a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 11. Section 78A-4-103 is amended to read:

78A-4-103. Court of Appeals jurisdiction.

(1) As used in this section,[~~"informal~~] "adjudicative proceeding" does not include a proceeding under Title 63G, Chapter 2, Part 4, Appeals, that precedes judicial review under Section 63G-2-404.

(2) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

(a) to carry into effect its judgments, orders, and decrees; or

(b) in aid of its jurisdiction.

(3) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) (i) a final order or decree resulting from:

(A) a formal adjudicative proceeding of a state agency;

(B) a special adjudicative proceeding, as described in Section 19-1-301.5; or

(C) a hearing before a local school board or the State Board of Education as described in Section 53G-11-515; or

(ii) an appeal from the district court review of an informal adjudicative proceeding of an agency other than the following:

(A) the Public Service Commission;

(B) the State Tax Commission;

(C) the School and Institutional Trust Lands Board of Trustees;

(D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the executive director of the Department of Natural Resources;

(E) the Board of Oil, Gas, and Mining; or

(F) the state engineer;

(b) appeals from the district court review of:

(i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and

(ii) a challenge to agency action under Section 63G-3-602;

(c) appeals from the juvenile courts;

(d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

(e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;

(f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;

(g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;

(h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;

(i) appeals from the Utah Military Court; and

(j) cases transferred to the Court of Appeals from the Supreme Court.

(4) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

(5) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

CHAPTER 517
S. B. 233
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

PORTABLE BENEFIT PLAN

Chief Sponsor: John D. Johnson
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill enacts provisions related to portable benefit plans.

Highlighted Provisions:

This bill:

- provides that government entities or private entities may offer a portable benefit plan;
- requires contributions to a portable benefit plan be voluntary;
- provides that contributions to a portable benefit plan:
  - are not evidence of an employment relationship or employer liability; and
  - may not be used as criteria in determining employment classifications; and
- defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
34-57-101, Utah Code Annotated 1953
34-57-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-57-101 is enacted to read:

CHAPTER 57. PORTABLE BENEFIT PLAN

Part 1. General Provisions

34-57-101. Definitions.

As used in this chapter:

(1) "Hiring party" means a person who hires or enters into a contract with an independent contractor.

(2) "Independent contractor" means the same as that term is defined in Section 34A-2-103.

(3) "Portable benefit plan" means a group that:

(a) offers an insurance product regulated by:

(i) Title 31A, Insurance Code; or

(ii) Title 35A, Chapter 4, Employment Security Act; and

(b) is assigned to an individual beneficiary and is not associated with a specific employer or hiring party.

Section 2. Section 34-57-102 is enacted to read:

34-57-102. Administration -- Assignment of benefits -- Portability.

(1) A governmental entity or private entity may offer a portable benefit plan.

(2) Contributions to a portable benefit plan:

(a) shall be voluntary; and

(b) may not be used as a criterion for determining a person's employment classification.

(3) If an Internet or application-based company contributes to a portable benefit plan for the benefit of an individual beneficiary:

(a) the contribution is not evidence of employer liability; and

(b) a court may not construe the contribution as an element of an employment relationship for purposes of:

(i) Title 34A, Chapter 2, Workers' Compensation Act; or

(ii) Title 35A, Chapter 4, Employment Security Act.

CHAPTER 518
S. B. 235
Passed March 2, 2023
Approved March 23, 2023
Effective July 1, 2023

TAX AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Steve Eliason

LONG TITLE

General Description:
This bill amends the sales and use tax exemptions.

Highlighted Provisions:
This bill:

- exempts certain sales of rolling stock; and
- exempts purchases of sand, gravel, rock aggregate, cement products, or construction materials between certain companies with common ownership or control.

Monies Appropriated in this Bill:
None

Other Special Clauses:
This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
59-12-104, as last amended by Laws of Utah 2022, Chapters 228, 275, 280, and 373

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating

repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office

of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance,

repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;

(89) amounts paid or charged for an item exempt under Section 59-12-104.10;

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback;

(92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1; [~~and~~]

(93) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (93)(a); and

(c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose[~~.~~];

(94) sales of rail rolling stock manufactured in Utah; and

(95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or construction materials between establishments, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

(a) the establishments are related directly or indirectly through 100% common ownership or control; and

(b) each establishment is described in one of the following subsectors of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

(ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing.

Section 2. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 519
S. B. 240
Passed February 28, 2023
Approved March 23, 2023
Effective July 1, 2023

FIRST-TIME HOMEBUYER ASSISTANCE PROGRAM

Chief Sponsor: J. Stuart Adams
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill creates the First-Time Homebuyer Assistance Program.

Highlighted Provisions:

This bill:

- defines terms;
- creates the First-Time Homebuyer Assistance Program (program) within the Utah Housing Corporation;
- provides for the Utah Housing Corporation to use program funds to assist first-time homebuyers in purchasing certain housing;
- limits the use of program funds for payment of certain costs associated with the purchase of housing;
- provides for a first-time homebuyer's repayment of program funds in certain circumstances;
- requires the Utah Housing Corporation to make rules to administer the program;
- allows the Utah Housing Corporation to use a certain amount of program funds on administration; and
- requires the Utah Housing Corporation to report annually to the Legislature on program disbursements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
63H-8-501, Utah Code Annotated 1953
63H-8-502, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63H-8-501 is enacted to read:

Part 5. First-Time Homebuyer Assistance Program

63H-8-501. Definitions.

As used in this part:

(1) "First-time homebuyer" means an individual who qualifies for assistance under 42 U.S.C. Sec. 12852.

(2) "Home equity amount" means the difference between:

(a) (i) in the case of a sale, the sales price for which the qualifying residential unit is sold by the recipient in a bona fide sale to a third party with no right to repurchase; or

(ii) in the case of a refinance, the current appraised value of the qualifying residential unit; and

(b) the total payoff amount of any qualifying mortgage loan that was used to finance the purchase of the qualifying residential unit.

(3) "Program" means the First-Time Homebuyer Assistance Program created in Section 63H-8-502.

(4) "Program funds" means money appropriated for the program.

(5) "Qualifying mortgage loan" means a mortgage loan that:

(a) is purchased by the corporation; and

(b) is subject to a document that is recorded in the office of the county recorder of the county in which the residential unit is located.

(6) "Qualifying residential unit" means a residential unit that:

(a) is located in the state;

(b) is new construction or newly constructed but not yet inhabited;

(c) is financed by a qualifying mortgage loan;

(d) is owner-occupied upon purchase; and

(e) is purchased for an amount that does not exceed:

(i) $450,000; or

(ii) if applicable, the maximum purchase price established by the corporation under Subsection 63H-8-502(6).

(7) "Recipient" means a first-time homebuyer who receives program funds.

(8) (a) "Residential unit" means a house, condominium, townhome, or similar residential structure that serves as a one-unit dwelling.

(b) "Residential unit" includes a manufactured home or modular home that is attached to a permanent foundation.

Section 2. Section 63H-8-502 is enacted to read:

63H-8-502. First-Time Homebuyer Assistance Program.

(1) There is created the First-Time Homebuyer Assistance Program administered by the corporation.

(2) Subject to appropriations from the Legislature, the corporation shall distribute program funds to first-time homebuyers to provide support for the purchase of qualifying residential units.

(3) The maximum amount of program funds that a first-time homebuyer may receive under the program is $20,000.

(4) (a) A recipient may use program funds to pay for:

(i) the down payment on a qualifying residential unit;

(ii) closing costs associated with the purchase of a qualifying residential unit;

(iii) a permanent reduction in the advertised par interest rate on a qualifying mortgage loan that is used to finance a qualifying residential unit; or

(iv) any combination of Subsections (4)(a)(i), (ii), and (iii).

(b) The corporation shall direct the disbursement of program funds for a purpose authorized in Subsection (4)(a).

(c) A recipient may not receive a payout or distribution of program funds upon closing.

(5) The builder or developer of a qualifying residential unit may not increase the price of the qualifying residential unit on the basis of program funds being used towards the purchase of that qualifying residential unit.

(6) In accordance with rules made by the corporation under Subsection (9), the corporation may adjust the maximum purchase price of a qualifying residential unit for which a first-time homebuyer qualifies to receive program funds in order to reflect current market conditions, provided that the corporation adjusts the maximum purchase price under this Subsection (6) no more frequently than once each calendar year.

(7) If the recipient sells the qualifying residential unit or refinances the qualifying mortgage loan that was used to finance the purchase of the qualifying residential unit before the end of the original term of the qualifying mortgage loan, the recipient shall repay to the corporation an amount equal to the lesser of:

(a) the amount of program funds the recipient received; or

(b) 50% of the recipient's home equity amount.

(8) Any funds repaid to the corporation under Subsection (7) shall be used for program distributions.

(9) The corporation shall make rules governing the application form, process, and criteria the corporation will use to distribute program funds to first-time homebuyers.

(10) The corporation may use up to 5% of program funds for administration.

(11) The corporation shall report annually to the Social Services Appropriations Subcommittee on disbursements from the program and any adjustments made to the maximum purchase price of a qualifying residential unit under Subsection (6).

Section 3. Effective date.

This bill takes effect on July 1, 2023.

CHAPTER 520
S. B. 244
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

DRIVER LICENSE HEARINGS AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill allows the Driver License Division, in certain circumstances, to hold an administrative hearing in a county designated by the Driver License Division.

Highlighted Provisions:

This bill:

- allows the Driver License Division to hold an administrative hearing in a county designated by the Driver License Division if all parties and witnesses have requested to testify or attend by telephone or live audiovisual means.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-223.5, as last amended by Laws of Utah 2005, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-223.5 is amended to read:

53-3-223.5. Telephonic or live audiovisual testimony at hearings.

(1) In any division hearing authorized under this chapter or Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving, the division may permit a party or witness to attend or to testify by telephone or live audiovisual means.

(2) Notwithstanding Subsections 41-6a-521(2), 53-3-223(6), 53-3-231(6)(b), and 53-3-518(9)(a), if all parties and witnesses have requested to attend or testify by telephone or live audiovisual means, the division may hold the hearing in a county designated by the division.

CHAPTER 521
S. B. 245
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

CLOSED PUBLIC MEETING AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill modifies a provision relating to the purposes for which a closed meeting may be held.

Highlighted Provisions:

This bill:

- includes the consideration of a loan application among the reasons for which a meeting of a public body may be closed, if public discussion of the loan application would disclose certain nonpublic information.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-205, as last amended by Laws of Utah 2022, Chapters 237, 237, 290, 290, 332, 332, 335, 422, 422, 478, and 478

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement

process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments; [~~or~~]

(r) considering a loan application, if public discussion of the loan application would disclose:

(i) nonpublic personal financial information; or

(ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business financial information the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information; or

[~~(r)~~] (s) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105;

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(83);

(h) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market; and

(i) a meeting of the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

CHAPTER 522
S. B. 246
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

ACCIDENT REPORT ACCESS AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill prohibits a person from using an accident report for purposes of marketing services to a person involved in the accident in question.

Highlighted Provisions:

This bill:

- prohibits a person from obtaining an accident report if the person is not described in statute;
- prohibits a person from using information in an accident report for marketing purposes; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-404, as last amended by Laws of Utah 2021, Chapters 211, 216

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-404 is amended to read:

41-6a-404. Accident reports -- When confidential -- Insurance policy information -- Use as evidence -- Penalty for false information.

(1) As used in this section:

(a) "Accompanying data" means all materials gathered by the investigating peace officer in an accident investigation including:

(i) the identity of witnesses and, if known, contact information;

(ii) witness statements;

(iii) photographs and videotapes;

(iv) diagrams; and

(v) field notes.

(b) "Agent" means:

(i) a person's attorney that has been formally engaged;

(ii) a person's insurer;

(iii) a general acute hospital, as defined in Section 26-21-2, that:

(A) has an emergency room; and

(B) is providing or has provided emergency services to the person in relation to the accident; or

(iv) any other individual or entity with signed permission from the person to receive the person's accident report.

(2) (a) Except as provided in Subsections (3) and (7), all accident reports required in this part to be filed with the department:

(i) are without prejudice to the reporting individual;

(ii) are protected and for the confidential use of the department or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(iii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) An investigating peace officer shall include in an accident report an indication as to whether the accident occurred on a highway designated as a livestock highway in accordance with Section 72-3-112 if the accident resulted in the injury or death of livestock.

(3) (a) Subject to the provisions of this section, the department or the responsible law enforcement agency employing the peace officer that investigated the accident shall disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i) and (ii);

(iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator who:

(A) represents an individual described in Subsections (3)(a)(i) through (iii); and

(B) demonstrates that the representation of the individual described in Subsections (3)(a)(i) through (iii) is directly related to the accident that is the subject of the accident report.

(b) The responsible law enforcement agency employing the peace officer that investigated the accident:

(i) shall in compliance with Subsection (3)(a):

(A) disclose an accident report; or

(B) upon written request disclose an accident report and its accompanying data within 10 business days from receipt of a written request for disclosure; or

(ii) may withhold an accident report, and any of its accompanying data if disclosure would jeopardize an ongoing criminal investigation or criminal prosecution.

(c) In accordance with Subsection (3)(a), the department or the responsible law enforcement agency employing the investigating peace officer shall disclose whether any person or vehicle involved in an accident reported under this section was covered by a vehicle insurance policy, and the name of the insurer.

(d) Information provided to a member of the press or broadcast news media under Subsection (3)(a)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (3)(d)(i).

(e) The department shall disclose to any requesting person the following vehicle accident history information, excluding personal identifying information, in bulk electronic form:

(i) any vehicle identifying information that is electronically available, including the make, model year, and vehicle identification number of each vehicle involved in an accident;

(ii) the date of the accident; and

(iii) any electronically available data which describes the accident, including a description of any physical damage to the vehicle.

(f) The department may establish a fee under Section 63J-1-504 based on the fair market value of the information for providing bulk vehicle accident history information under Subsection (3)(e).

(4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section may not be used as evidence in any civil or criminal trial arising out of an accident.

(b) (i) Upon demand of any party to the trial or upon demand of any court, the department shall furnish a certificate showing that a specified accident report has or has not been made to the department in compliance with law.

(ii) If the report has been made, the certificate furnished by the department shall show:

(A) the date, time, and location of the accident;

(B) the names and addresses of the drivers;

(C) the owners of the vehicles involved; and

(D) the investigating peace officers.

(iii) The reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (5).

(5) A person who gives information in reports as required in this part knowing or having reason to believe that the information is false is guilty of a class A misdemeanor.

(6) The department and the responsible law enforcement agency employing the investigating peace officer may charge a reasonable fee determined by the department under Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report and any of its accompanying data under Subsections (3)(a) and (b).

(7) (a) The Office of State Debt Collection, the Division of Risk Management, and the Department of Transportation may, in the performance of the regular duties of each respective division or department, disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) an owner of a vehicle involved in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsection (7)(a)(i) or (ii); or

(iv) an insurer that provides motor vehicle insurance to a person described in Subsection (7)(a)(i) or (iii).

(b) A disclosure under Subsection (7)(a) does not change the classification of the record as a protected record under Section 63G-2-305.

(8) (a) A person may not knowingly obtain an accident report described in this part if the person is not described in Subsection (3).

(b) A person may not knowingly use information in an accident report to market services, including marketing for legal representation.

(c) A person who violates this Subsection (8) is guilty of a class A misdemeanor.

CHAPTER 523
S. B. 247
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

MEDICAL MALPRACTICE AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill clarifies what health care means in the context of a medical malpractice action.

Highlighted Provisions:

This bill:

- clarifies what health care means in the context of a medical malpractice action.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-3-403, as last amended by Laws of Utah 2022, Chapters 356, 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-3-403 is amended to read:

78B-3-403. Definitions.

As used in this part:

(1) "Audiologist" means a person licensed to practice audiology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

(2) "Certified social worker" means a person licensed to practice as a certified social worker under Section 58-60-205.

(3) "Chiropractic physician" means a person licensed to practice chiropractic under Title 58, Chapter 73, Chiropractic Physician Practice Act.

(4) "Clinical social worker" means a person licensed to practice as a clinical social worker under Section 58-60-205.

(5) "Commissioner" means the commissioner of insurance as provided in Section 31A-2-102.

(6) "Dental hygienist" means a person licensed to engage in the practice of dental hygiene as defined in Section 58-69-102.

(7) "Dental care provider" means any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders dental care or professional services as a dentist, dental hygienist, or other person rendering similar care and services relating to or arising out of the practice of dentistry or the practice of dental hygiene, and the officers, employees, or agents of any of the above acting in the course and scope of their employment.

(8) "Dentist" means a person licensed to engage in the practice of dentistry as defined in Section 58-69-102.

(9) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(10) "Future damages" includes a judgment creditor's damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering.

(11) (a) "Health care" means any act or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement.

(b) "Health care" does not include an act that, based on the totality of the circumstances, is sexual in nature regardless of whether:

(i) the act was committed under the auspice of providing professional diagnosis, counseling, or treatment; or

(ii) at the time the act occurred, the victim believed the act was for medically or professionally appropriate diagnosis, counseling, or treatment.

(12) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, health care facilities owned or operated by health maintenance organizations, and end stage renal disease facilities.

(13) "Health care provider" includes any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders health care or professional services as a hospital, health care facility, physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech-language pathologist, clinical social worker, certified social worker, social service worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons and officers, employees, or agents of any of the above acting in the course and scope of their employment.

(14) "Hospital" means a public or private institution licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(15) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.

(16) "Licensed direct-entry midwife" means a person licensed under the Direct-entry Midwife Act to engage in the practice of direct-entry midwifery as defined in Section 58-77-102.

(17) "Licensed practical nurse" means a person licensed to practice as a licensed practical nurse as provided in Section 58-31b-301.

(18) "Malpractice action against a health care provider" means any action against a health care provider, whether in contract, tort, breach of warranty, wrongful death, or otherwise, based upon alleged personal injuries relating to or arising out of health care rendered or which should have been rendered by the health care provider.

(19) "Marriage and family therapist" means a person licensed to practice as a marriage therapist or family therapist under Sections 58-60-305 and 58-60-405.

(20) "Naturopathic physician" means a person licensed to engage in the practice of naturopathic medicine as defined in Section 58-71-102.

(21) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife under Section 58-44a-301.

(22) "Optometrist" means a person licensed to practice optometry under Title 58, Chapter 16a, Utah Optometry Practice Act.

(23) "Osteopathic physician" means a person licensed to practice osteopathy under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(24) "Patient" means a person who is under the care of a health care provider, under a contract, express or implied.

(25) "Periodic payments" means the payment of money or delivery of other property to a judgment creditor at intervals ordered by the court.

(26) "Pharmacist" means a person licensed to practice pharmacy as provided in Section 58-17b-301.

(27) "Physical therapist" means a person licensed to practice physical therapy under Title 58, Chapter 24b, Physical Therapy Practice Act.

(28) "Physical therapist assistant" means a person licensed to practice physical therapy, within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical Therapy Practice Act.

(29) "Physician" means a person licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act.

(30) "Physician assistant" means a person licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(31) "Podiatric physician" means a person licensed to practice podiatry under Title 58, Chapter 5a, Podiatric Physician Licensing Act.

(32) "Practitioner of obstetrics" means a person licensed to practice as a physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(33) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

(34) "Registered nurse" means a person licensed to practice professional nursing as provided in Section 58-31b-301.

(35) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes relationships that are created as a result of adoption.

(36) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact, person designated to make decisions on behalf of a patient under a medical power of attorney, or other legal agent of the patient.

(37) "Social service worker" means a person licensed to practice as a social service worker under Section 58-60-205.

(38) "Speech-language pathologist" means a person licensed to practice speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

(39) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.

(40) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

CHAPTER 524
S. B. 250
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

PUBLIC SURVEILLANCE AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies provisions related to government surveillance.

Highlighted Provisions:

This bill:

- defines terms;
- allows a law enforcement agency to use license plate reading technology gathered by a private entity in certain circumstances;
- allows the Department of Transportation to issue a permit for the use of license plate reading technology on a state highway in certain circumstances;
- requires a law enforcement agency participating in a license plate reading technology program to publicly post policies related to license plate reading technology and special use permits the law enforcement agency has received;
- defines parameters for the collection and retention of information for investigative searches and for audit purposes gathered through license plate reading technology by a law enforcement agency; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-2002, as last amended by Laws of Utah 2020, Chapter 365
41-6a-2003, as last amended by Laws of Utah 2022, Chapter 82
41-6a-2004, as last amended by Laws of Utah 2018, Chapter 269
41-6a-2005, as last amended by Laws of Utah 2014, Chapter 276
41-6a-2006, as enacted by Laws of Utah 2013, Chapter 447
72-1-212, as enacted by Laws of Utah 2015, Chapter 267

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-2002 is amended to read:

41-6a-2002. Definitions.

As used in this [~~section~~] chapter:

(1) "Automatic license plate reader system" means a system of one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert an image of a license plate into computer-readable data.

(2) "Captured plate data" means the global positioning system coordinates, date and time, photograph, license plate number, and any other data captured by or derived from an automatic license plate reader system.

(3) (a) "Governmental entity" means:

(i) executive department agencies of the state;

(ii) the offices of the governor, the lieutenant governor, the state auditor, the attorney general, and the state treasurer;

(iii) the Board of Pardons and Parole;

(iv) the Board of Examiners;

(v) the National Guard;

(vi) the Career Service Review Office;

(vii) the State Board of Education;

(viii) the Utah Board of Higher Education;

(ix) the State Archives;

(x) the Office of the Legislative Auditor General;

(xi) the Office of the Legislative Fiscal Analyst;

(xii) the Office of Legislative Research and General Counsel;

(xiii) the Legislature;

(xiv) legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(xv) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(xvi) any state-funded institution of higher education or public education; [~~or~~]

(xvii) any political subdivision of the state[~~.~~]; or

(xviii) a law enforcement agency.

(b) "Governmental entity" includes:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsections (3)(a)(i) through [~~(xvii)~~] (xviii) that is funded or established by the government to carry out the public's business; or

(ii) a person acting as an agent of a governmental entity or acting on behalf of a governmental entity.

(4) "Nongovernmental entity" means a person that is not a governmental entity.

[~~(4)~~] (5) "Secured area" means an area, enclosed by clear boundaries, to which access is limited and not open to the public and entry is only obtainable through specific access-control points.

Section 2. Section 41-6a-2003 is amended to read:

41-6a-2003. Automatic license plate reader systems -- Restrictions.

(1) Except as provided in Subsection (2), a governmental entity may not use an automatic license plate reader system.

(2) [~~An~~] Subject to Subsection (3), an automatic license plate reader system may be used:

(a) by a law enforcement agency: [~~for the purpose of protecting public safety, conducting criminal investigations, or ensuring compliance with local, state, and federal laws;~~]

(i) as part of an active criminal investigation;

(ii) to apprehend an individual with an outstanding warrant;

(iii) to locate a missing or endangered person; or

(iv) to locate a stolen vehicle;

(b) by a governmental parking enforcement entity for the purpose of enforcing state and local parking laws;

(c) by a parking enforcement entity for regulating the use of a parking facility;

(d) for the purpose of controlling access to a secured area;

(e) for the purpose of collecting an electronic toll;

(f) for the purpose of enforcing motor carrier laws;

(g) by a public transit district for the purpose of assessing parking needs and conducting a travel pattern analysis;

(h) by an institution of higher education within the state system of higher education as described in Section 53B-1-102:

(i) for a purpose described in Subsections (2)(a) through (d); or

(ii) if the data collected is anonymized, for research and educational purposes; [~~or~~]

(i) by the Utah Inland Port Authority, created in Section 11-58-201, or by a contractor of the Utah Inland Port Authority with the approval of the board of the Utah Inland Port Authority, if:

(i) the automatic license plate reader system is used only within a project area, as defined in Section 11-58-102, of the Utah Inland Port Authority;

(ii) the purpose of using the automatic license plate reader system is to improve supply chain efficiency or the efficiency of the movement of goods by analyzing and researching data related to commercial vehicle traffic; and

(iii) specific license plate information is anonymized[~~.~~]; or

(j) by an international airport owned by a governmental entity for the purpose of promoting efficient regulation and implementation of traffic control and direction, parking, security, and other similar operational objectives on the airport campus.

(3) A law enforcement agency may not use an automatic license plate reader system unless:

(a) the law enforcement agency has a written policy regarding the use, management, and auditing of the automatic license plate reader system;

(b) for any stationary device installed with the purpose of capturing license plate data of vehicles traveling on a state highway, the law enforcement agency obtains a special use permit as described in Section 72-1-212 from the Department of Transportation before installing the device; and

(c) the policy under Subsection (3)(a) and any special use permits granted in accordance with Subsection (3)(b) are:

(i) posted and publicly available on the appropriate city, county, or state website; or

(ii) posted on the Utah Public Notice Website created in Section 63A-16-601 if the law enforcement agency does not have access to a website under Subsection (3)(c)(i).

Section 3. Section 41-6a-2004 is amended to read:

41-6a-2004. Captured plate data -- Preservation and disclosure.

(1) Captured plate data obtained for the purposes described in Section 41-6a-2003:

(a) in accordance with Section 63G-2-305, is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, if the captured plate data is maintained by a governmental entity;

(b) may not be used or shared for any purpose other than the purposes described in Section 41-6a-2003;

(c) except as provided in Subsection (3), may not be preserved for more than nine months by a governmental entity except pursuant to:

(i) a preservation request under Section 41-6a-2005;

(ii) a disclosure order under Subsection 41-6a-2005(2); or

(iii) a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section 63G-2-202;

(ii) pursuant to a disclosure order under Subsection 41-6a-2005(2); or

(iii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant.

(2) (a) A governmental entity that is authorized to use an automatic license plate reader system under

this part may not sell captured plate data for any purpose.

(b) A governmental entity that is authorized to use an automatic license plate reader system under this part may not share or use captured plate [~~date~~] data for a purpose not authorized under Subsection 41-6a-2003(2).

(c) Notwithstanding the provisions of this section, a governmental entity may preserve and disclose aggregate captured plate data for planning and statistical purposes if the information identifying a specific license plate is not preserved or disclosed.

(3) Plate data collected in accordance with Section 72-6-118 may be preserved so long as necessary to collect the payment of a toll or penalty imposed in accordance with Section 72-6-118 and the nine-month preservation limitation described in Subsection (1)(c) shall not apply.

(4) (a) Except as provided in Subsections (1)(c)(i) through (1)(c)(iii), a governmental entity shall destroy as soon as reasonably possible, in an unrecoverable manner, plate data obtained pursuant to this chapter that is not specifically necessary to achieve the authorized objectives under Subsection 41-6a-2003(2).

(b) Subsection (4)(a) applies to data a governmental entity obtains:

(i) from a nongovernmental entity pursuant to a warrant; or

(ii) from an automatic license plate reader system owned or operated by a governmental entity.

Section 4. Section 41-6a-2005 is amended to read:

41-6a-2005. Preservation request.

(1) A person or governmental entity using an automatic license plate reader system shall take all steps necessary to preserve captured plate data in its possession for 14 days after the date the data is captured pending the issuance of a court order requiring the disclosure of the captured plate data if a governmental entity or defendant in a criminal case requesting the captured plate data submits a written statement to the person or governmental entity using an automatic license plate reader system:

(a) requesting the person or governmental entity to preserve the captured plate data;

(b) identifying:

(i) the camera or cameras for which captured plate data shall be preserved;

(ii) the license plate for which captured plate data shall be preserved; or

(iii) the dates and time frames for which captured plate data shall be preserved; and

(c) notifying the person or governmental entity maintaining the captured plate data that the governmental entity or defendant in a criminal case is applying for a court order for disclosure of the captured plate data.

(2) (a) A governmental entity or defendant in a criminal case may apply for a court order for the disclosure of captured plate data possessed by a governmental entity.

(b) A court that is a court of competent jurisdiction shall issue a court order requiring the disclosure of captured plate data if the governmental entity or defendant in a criminal case offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data is relevant and material to an ongoing criminal or missing person investigation.

(3) Captured plate data that is the subject of an application for a disclosure order under Subsection (2) may be destroyed at the later of:

(a) the date that an application for an order under Subsection (2) is denied and any appeal exhausted;

(b) the end of 14 days, if the person or governmental entity does not otherwise preserve the captured plate data; or

(c) the end of the period described in Subsection 41-6a-2004(1)(c).

(4) Notwithstanding Subsection (2), a governmental entity may enter into a memorandum of understanding with another governmental entity to share access to an automatic license plate reader system or captured plate data otherwise authorized by this part.

[~~(4)~~] (5) A governmental entity may obtain, receive, or use [~~privately held~~] captured plate data from a nongovernmental entity only:

(a) (i) pursuant to a warrant issued using the procedures described in the Utah Rules of Criminal Procedure or an equivalent federal warrant; or

(ii) using the procedure described in Subsection (2); and

[~~(b) if the private automatic license plate reader system retains captured plate data for 30 days or fewer.~~]

(b) for the purposes authorized in Subsection 41-6a-2003(2).

(6) (a) A law enforcement agency shall preserve a record of:

(i) the number of times a search of captured license plate data is conducted by the agency or the agency's employees or agents; and

(ii) the crime type and incident number associated with each search of captured license plate data.

(b) A law enforcement agency shall preserve a record identified in Subsection (6)(a) for at least five years.

Section 5. Section 41-6a-2006 is amended to read:

41-6a-2006. Penalties.

A person [~~who violates a provision under this part~~] who knowingly or intentionally uses, obtains, or discloses captured license plate data in violation of this part is guilty of a class B misdemeanor.

Section 6. Section 72-1-212 is amended to read:

72-1-212. Special use permitting -- Rulemaking.

[~~(1) For purposes of this section, "special use permit" means a permit issued for a special use or a special event that takes place on a highway.~~]

(1) As used in this section:

(a) "Law enforcement agency" means the same as that term is defined in Section 53-3-102.

(b) "Special use permit" means a permit issued:

(i) for a special use or a special event that takes place on a highway; or

(ii) to a law enforcement agency to install an automatic license plate reader on a state highway for the purpose of capturing license plate data of vehicles traveling on a state highway, regardless of whether the device is installed on property owned by the department or the law enforcement agency.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with representatives of the Utah League of Cities and Towns and the Utah Association of Counties, the department shall make rules that are not inconsistent with this chapter or the constitution and laws of this state or of the United States governing the issuance of a special use permit to maintain public safety and serve the needs of the traveling public.

(3) The rules described in Subsection (2) may:

(a) establish the highways for which the highest number of special use permits are issued;

(b) develop, in consultation with municipalities, a limit on the number of special use permits that may be issued in any calendar year on a particular highway;

(c) require a person to submit an application designated by the department before the department issues a special use permit;

(d) limit the number of special use permits issued on any one day for any specified location based on a first-come, first-served basis for completed applications;

(e) establish criteria for evaluating completed applications, such as historic use, potential economic benefit, or other relevant factors;

(f) specify conditions that are required to be met before a special use permit may be issued;

(g) establish a penalty for failure to fulfill conditions required by the special use permit, including suspension of the special use permit or suspension of a future special use permit;

(h) require an applicant to obtain insurance for certain special uses or special events; or

(i) provide other requirements to maintain public safety and serve the needs of the traveling public.

(4) The limit on the number of special use permits described in Subsection (3)(b) may not include:

(a) a special use permit issued for a municipality-sponsored special use or special event on a highway within the jurisdiction of the municipality[~~.~~]; or

(b) a special use permit issued to a law enforcement agency to install a device as part of an automatic license plate reader system authorized by Section 41-6a-2003.

(5) The rules described in Subsection (2) shall consider:

(a) traveler safety and mobility;

(b) the safety of special use or special event participants;

(c) emergency access;

(d) the mobility of residents close to the event or use;

(e) access and economic impact to businesses affected by changes to the normal operation of highway traffic; [~~and~~]

(f) past performance of an applicant's adherence to special use permit requirements[~~.~~]; and

(g) whether a law enforcement agency applying for a special use permit has published a policy online as required by Section 41-6a-2003.

(6) Notwithstanding any other provision of this chapter, the department may also require a law enforcement agency applying for a special use permit described in this section to obtain an encroachment permit.

[~~(6)~~] (7) The department shall adopt a fee schedule in accordance with Section 63J-1-504 that reflects the cost of services provided by the department associated with special use permits and with special uses or special events that take place on a highway.

(8) For a device installed in accordance with Section 41-6a-2003, the installation, maintenance, data collection, and removal are the responsibility of the law enforcement agency that obtains the special use permit.

(9) (a) The department shall preserve a record of special use permits issued to a law enforcement agency, including the stated purpose for each permit.

(b) The department shall preserve a record identified in Subsection (9)(a) for at least five years.

CHAPTER 525
S. B. 253
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

UNIFORM LAW COMMISSION REIMBURSEMENTAMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill modifies expense reimbursement requirements and updates language relating to Utah members of the Uniform Law Commission.

Highlighted Provisions:

This bill:

- updates terminology;
- modernizes titles and references to the Uniform Law Commission;
- modifies provisions related to uniform law commissioner duties; and
- modifies provisions that govern expense reimbursement requirements for uniform law commissioners.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

68-4-5, as last amended by Laws of Utah 2020, Chapter 352
68-4-6, as last amended by Laws of Utah 2020, Chapter 352
68-4-8, as last amended by Laws of Utah 2011, Chapter 356
68-4-9, as last amended by Laws of Utah 2011, Chapter 356

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 68-4-5 is amended to read:

68-4-5. Creation -- Members -- Terms.

(1) There is established the "Utah Commission on Uniform State Laws," which consists of members of the Utah State Bar who are appointed as commissioners to the [~~National Conference of Commissioners on Uniform State Laws~~] Uniform Law Commission as follows:

(a) one commissioner, appointed by the governor with the advice and consent of the Senate, who shall be a member of the Senate at the time of appointment;

(b) one commissioner, appointed by the governor with the advice and consent of the Senate, who shall be a member of the House of Representatives at the time of appointment;

(c) two commissioners, appointed by the governor with the advice and consent of the Senate, who shall be active members of the Utah State Bar;

(d) one commissioner who is the Legislature's general counsel or, alternatively, an attorney from the Office of Legislative Research and General Counsel who is appointed by the general counsel;

(e) any commissioner that has previously served as a member of the commission and has been elected as a life member of the [~~National Conference of Commissioners on Uniform State Laws~~] Uniform Law Commission according to the conference's constitution, bylaws, and rules of procedure; and

(f) up to one associate commissioner, appointed by the Legislature's general counsel, who is an attorney from the Office of Legislative Research and General Counsel.

(2) Commissioners appointed by the governor shall be appointed for four-year terms commencing on the date of their confirmation by the Senate.

(3) A commissioner continues to serve:

(a) unless the commissioner dies or resigns;

(b) unless the commissioner ceases to be a member of the Utah State Bar in good standing; or

(c) (i) for a commissioner appointed by the governor and notwithstanding expiration of the commissioner's term under Subsection (2), until the governor:

(A) reappoints the commissioner to a new term; or

(B) appoints a successor commissioner;

(ii) for the general counsel, until the general counsel ceases to serve as general counsel or appoints an attorney to serve in the general counsel's place;

(iii) for a commissioner appointed to serve in the place of the general counsel, until the general counsel chooses to serve as a commissioner or appoints a successor commissioner; or

(iv) for an associate commissioner, until the general counsel appoints a successor commissioner or elects not to fill the position of associate commissioner.

Section 2. Section 68-4-6 is amended to read:

68-4-6. Vacancies.

(1) For a commissioner who serves in a governor-appointed position described in Subsection 68-4-5(1)(a), (b), or (c):

(a) the office of a commissioner becomes vacant and the governor, with the advice and consent of the Senate, shall immediately appoint a new commissioner upon the commissioner's:

(i) death;

(ii) resignation; or

(iii) failure to be a member of the Utah State Bar in good standing; and

(b) the governor may, with the advice and consent of the Senate, appoint a new commissioner or, as applicable, reappoint the current commissioner, provided that the current commissioner meets the requirements for appointment, after any of the following events:

(i) the commissioner's failure to actively serve as commissioner;

(ii) the commissioner's refusal to serve as commissioner;

(iii) expiration of the commissioner's term;

(iv) the commissioner's appointment to another position on the commission; or

(v) the commissioner's election as a life member of the [~~National Conference of Commissioners on Uniform State Laws~~] Uniform Law Commission.

(2) (a) [~~The~~] A commissioner who is the Legislature's general counsel shall serve only while acting as the Legislature's general counsel.

(b) A commissioner who is serving as an appointee of the Legislature's general counsel shall serve [~~at the will of the~~] until the general counsel chooses to serve as a commissioner or appoints a successor commissioner.

Section 3. Section 68-4-8 is amended to read:

68-4-8. Duties of a commissioner.

(1) [~~The commissioners~~] A commissioner shall:

(a) participate in the [~~National Conference of Commissioners on Uniform State Laws~~] Uniform Law Commission on behalf of the state, including attending the annual meeting of the Uniform Law Commission;

(b) examine the subjects upon which uniformity of legislation in the various states of the union is desirable but that are outside the jurisdiction of the Congress of the United States;

(c) confer upon these matters with the commissioners appointed by other states for the same purpose;

(d) at the direction of the [~~National Conference of Commissioners on Uniform State Laws~~] Uniform Law Commission, serve on national committees that develop and draft uniform and model laws; and

(e) devise and recommend other means to accomplish the purposes of this chapter.

(2) [~~The commission~~] A commissioner may request that a legislator [~~to sponsor, as an item on the interim study resolution~~] consider sponsoring, as an interim study item or as a bill or resolution for introduction, any uniform legislation that [~~the commission~~] a commissioner determines would be in the best interests of the state to adopt.

Section 4. Section 68-4-9 is amended to read:

68-4-9. Expenditures -- Reimbursement.

(1) [~~A~~] Except as otherwise provided by legislative policies and procedures under Subsection (3), a commissioner may not receive compensation or benefits for the commissioner's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(2) The Legislature shall make appropriations to Legislative Services and to the Office of Legislative Research and General Counsel to pay the necessary per diem and expenses of the commissioners and to make an appropriate contribution on behalf of this state to the [~~National Conference of Commissioners on Uniform State Laws~~] Uniform Law Commission, including any per diem and expenses of a commissioner who has been elected as a life member of the [~~National Conference of Commissioners on Uniform State Laws~~] Uniform Law Commission.

[~~(3) The commissioners shall keep a full account of their expenditures in the discharge of their official duties and shall report the account to the Office of Legislative Research and General Counsel.~~]

(3) Notwithstanding Subsection (1):

(a) a commissioner who is employed by the Office of Legislative Research and General Counsel shall receive reimbursement for their expenditures incurred in the discharge of their official duties according to the policies and procedures of the Office of Legislative Research and General Counsel; and

(b) a commissioner who is not employed by the Office of Legislative Research and General Counsel shall receive reimbursement for the commissioner's expenditures incurred in the discharge of their official duties according to the policies and procedures of Legislative Services.

CHAPTER 526
S. B. 256
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

SEVERANCE TAX REVENUE AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill modifies provisions related to the deposit of severance tax revenue into state agency accounts.

Highlighted Provisions:

This bill:

- clarifies the timing for the deposit of severance tax revenue into state agency accounts.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

51-9-306, as enacted by Laws of Utah 2021, Chapter 401

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-9-306 is amended to read:

51-9-306. Deposit of certain severance tax revenue for specified state agencies.

(1) As used in this section:

(a) "Aggregate annual revenue" means the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119.

(b) "Aggregate annual mining revenue" means the aggregate annual revenue collected in a fiscal year from taxes imposed under Title 59, Chapter 5, Part 2, Mining Severance Tax, after subtracting the amounts required to be distributed under Section 51-9-305.

(c) "Aggregate annual oil and gas revenue" means the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax, after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119.

(d) "Average aggregate annual revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining:

(i) after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119; and

(ii) ending in the fiscal year immediately preceding the fiscal year of a deposit required by this section.

(e) "Average aggregate annual mining revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 2, Mining Severance Tax:

(i) after subtracting the amounts required to be distributed under Section 51-9-305; and

(ii) ending in the fiscal year immediately preceding the fiscal year of a deposit required by this section.

(f) "Average aggregate annual oil and gas revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax:

(i) after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119; and

(ii) ending in the fiscal year immediately preceding the fiscal year of a deposit required by this section.

(2) After making the deposits of oil and gas severance tax revenue as required under Sections 59-5-116 and 59-5-119 and making the credits under Section 51-9-305, for a fiscal year beginning on or after July 1, 2021, the State Tax Commission shall annually make the following deposits:

(a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in Section 19-2a-106, the following average aggregate annual revenue:

(i) 2.75% of the first $50,000,000 of the average aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .5% of the average aggregate annual revenue that exceeds $100,000,000;

(b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created in Section 19-5-126, the following average aggregate annual revenue:

(i) .4% of the first $50,000,000 of the average aggregate annual revenue;

(ii) .15% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .08% of the average aggregate annual revenue that exceeds $100,000,000;

(c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section 40-6-23, the following:

(i) (A) 11.5% of the first $50,000,000 of the average aggregate annual mining revenue;

(B) 3% of the next $50,000,000 of the average aggregate annual mining revenue; and

(C) 1% of the average aggregate annual mining revenue that exceeds $100,000,000; and

(ii) (A) 18% of the first $50,000,000 of the average aggregate annual oil and gas revenue;

(B) 3% of the next $50,000,000 of the average aggregate annual oil and gas revenue; and

(C) 1% of the average aggregate annual oil and gas revenue that exceeds $100,000,000; and

(d) to the Utah Geological Survey Oil, Gas, and Mining Restricted Account, created in Section 79-3-403, the following average aggregate annual revenue:

(i) 2.5% of the first $50,000,000 of the average aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .5% of the average aggregate annual revenue that exceeds $100,000,000.

(3) If the money collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, is insufficient to make the deposits required by Subsection (2), the State Tax Commission shall deposit money collected in the fiscal year as follows:

(a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in Section 19-2a-106, the following revenue:

(i) 2.75% of the first $50,000,000 of the aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .5% of the aggregate annual revenue that exceeds $100,000,000;

(b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created in Section 19-5-126, the following revenue:

(i) .4% of the first $50,000,000 of the aggregate annual revenue;

(ii) .15% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .08% of the aggregate annual revenue that exceeds $100,000,000;

(c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section 40-6-23, the following:

(i) (A) 11.5% of the first $50,000,000 of the aggregate annual mining revenue;

(B) 3% of the next $50,000,000 of the aggregate annual mining revenue; and

(C) 1% of the aggregate annual mining revenue that exceeds $100,000,000; and

(ii) (A) 18% of the first $50,000,000 of the aggregate annual oil and gas revenue;

(B) 3% of the next $50,000,000 of the aggregate annual oil and gas revenue; and

(C) 1% of the aggregate annual oil and gas revenue that exceeds $100,000,000; and

(d) to the Utah Geological Survey Oil, Gas, and Mining Restricted Account, created in Section 79-3-403, the following revenue:

(i) 2.5% of the first $50,000,000 of the aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .5% of the aggregate annual revenue that exceeds $100,000,000.

(4) The severance tax revenues deposited under this section into restricted accounts for the state agencies specified in Subsection (2) and appropriated from the restricted accounts offset and supplant General Fund appropriations used to pay the costs of programs or projects administered by the state agencies that are primarily related to oil, gas, and mining.

Section 2. Retrospective operation.

This bill provides retrospective operation to July 1, 2021.

CHAPTER 527
S. B. 257
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

STATE BOARD OF EDUCATION AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends and enacts provisions related to the general control and supervision of the State Board of Education over the public education system.

Highlighted Provisions:

This bill:

- amends State Board of Education (state board) establishment of minimum standards for public schools;
- requires the state board to require local education agencies (LEAs) to issue high school diplomas to students who:
  - receive an associate's degree with certain minimum credit hours earned; and
  - receive an industry certificate with certain minimum hours;
- exempts schools with an assessment opt out rate exceeding 50% from the school accountability system under certain conditions;
- amends definitions;
- amends a provision regarding background checks for private school employees; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-501, as last amended by Laws of Utah 2021, Chapter 308
53E-4-204, as last amended by Laws of Utah 2019, Chapters 186, 226
53E-5-203, as last amended by Laws of Utah 2019, Chapter 186
53G-7-901, as last amended by Laws of Utah 2020, Chapter 374
53G-9-801, as last amended by Laws of Utah 2020, Chapter 408
53G-11-402, as last amended by Laws of Utah 2020, Chapters 285, 374

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-501 is amended to read:

53E-3-501. State board to establish miscellaneous minimum standards for public schools.

(1) The state board shall establish rules and minimum standards for the public schools that are consistent with this public education code, including rules and minimum standards governing the following:

(a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

(ii) the academic year;

(iii) alternative and pilot programs;

(iv) curriculum and instruction requirements; and

(v) school libraries; [~~and~~]

[~~(vi)~~] (d) services to:

[~~(A)~~] (i) persons with a disability as defined by and covered under:

[~~(I)~~] (A) the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102;

[~~(II)~~] (B) the Rehabilitation Act of 1973, 29 U.S.C. Sec. 705(20)(A); and

[~~(III)~~] (C) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401(3); and

[~~(B)~~] (ii) other special groups;

[~~(d)~~] (e) (i) state reimbursed bus routes;

(ii) bus safety and operational requirements; and

(iii) other transportation needs;

[~~(e)~~] (f) (i) school productivity and cost effectiveness measures;

(ii) federal programs;

(iii) school budget formats; and

(iv) financial, statistical, and student accounting requirements; and

[~~(f)~~] (g) data collection and reporting by LEAs.

(2) [~~The~~] Except as provided in Subsection (3), the state board shall determine if:

(a) the minimum standards have been met; and

(b) required reports are properly submitted.

(3) When the state board makes a request of an LEA under Subsection (1)(f) or (g), the state board shall include:

(a) the justification for the requested information;

(b) a statement confirming that the information is not available elsewhere;

(c) a deadline by which the LEA must provide the information in accordance with state board rule; and

(d) penalties, including withholding of funds, for non-compliance in accordance with state and federal law.

[~~(3)~~] (4) The state board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.

[~~(4)~~] (5) (a) A technical college listed in Section 53B-2a-105 shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the state board.

(b) A school district may grant a high school diploma to a student participating in a course described in Subsection [~~(4)(a)~~] (5)(a) that is provided by a technical college listed in Section 53B-2a-105.

[~~(5)~~] (6) (a) As used in this Subsection [~~(5)~~] (6), "generally accepted accounting principles" means a common framework of accounting rules and standards for financial reporting promulgated by the Governmental Accounting Standards Board.

(b) Subject to Subsections [~~(5)(c)~~] (6)(c) and (d), the state board shall ensure [~~that~~] the rules and standards described in Subsections [~~(1)(e) and (f)~~] (1)(f) and (g) allow for an LEA to make adjustments to the LEA's general entry ledger, in accordance with generally accepted accounting principles, to accurately reflect the LEA's use of funds for allowable costs and activities:

(i) during a fiscal year; and

(ii) at the close of a fiscal year.

(c) If the state board determines under Subsection (2) that an LEA has not met the minimum standards described in Subsection [~~(1)(e) or (f)~~] (1)(f) or (g) or has not properly submitted a required report, the state board shall allow the LEA an opportunity to cure the relevant defect through an adjustment described in Subsection [~~(5)(b).~~] (6)(b).

(d) An LEA may not, in an adjustment described in Subsection [~~(5)(b),~~] (6)(b), reflect the use of restricted federal or state funds for a cost or activity that is not an allowable cost or activity for the restricted funds.

Section 2. Section 53E-4-204 is amended to read:

53E-4-204. Standards and graduation requirements.

(1) The state board shall establish rigorous core standards for Utah public schools and graduation requirements under Section 53E-3-501 for grades 9 through 12 that:

(a) are consistent with state law and federal regulations;

(b) use competency-based standards and assessments;

(c) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; and

(d) include graduation requirements in language arts, mathematics, and science that exceed 3.0 units in language arts, 2.0 units in mathematics, and 2.0 units in science.

(2) The state board shall establish competency-based standards and assessments for elective courses.

(3) The state board shall study requiring all LEAs to issue a high school diploma to students who receive:

(a) an associate's degree with at least 60 credit hours from an accredited post-secondary institution; or

(b) an industry certification with at least 500 hours of instruction from a business, trade association, or other industry group in accordance with Section 53E-3-501.

Section 3. Section 53E-5-203 is amended to read:

53E-5-203. Schools included in school accountability system -- Other indicators and point distribution for a school that serves a special student population.

(1) Except as provided in Subsection (2), the state board shall include all public schools in the state in the school accountability system established under this part.

(2) The state board shall exempt from the school accountability system:

(a) a school in which the number of students tested on a statewide assessment for accountability is lower than the minimum sample size necessary, based on acceptable professional practice for statistical reliability, or when release of the information would violate 20 U.S.C. Sec. 1232h, the prevention of the unlawful release of personally identifiable student data;

(b) if the United States Department of Education approves the state's application for a waiver of federal accountability requirements, a school with an opt out rate on statewide assessments for accountability that exceeds 50%;

[~~(b)~~] (c) a school in the school's first year of operations if the school's local school board or charter school governing board requests the exemption; or

[~~(c)~~] (d) a high school in the school's second year of operations if the school's local school board or

charter school governing board requests the exemption.

(3) Notwithstanding the provisions of this part, the state board may use[~~,~~] to appropriately assess the educational impact of a school that serves a special student population:

(a) other indicators in addition to the indicators described in Section 53E-5-205 or 53E-5-206; or

(b) different point distribution than the point distribution described in Section 53E-5-207.

Section 4. Section 53G-7-901 is amended to read:

53G-7-901. Definitions.

As used in this part:

(1) "Cooperating employer" means a public or private entity which, as part of a work experience [~~and~~] or career exploration program offered through a school, provides interns with educational resources, training, and work experience in activities related to the entity's ongoing business activities.

(2) "Intern" means a student enrolled in a school-sponsored work experience and career exploration program under Section 53G-7-902 involving both classroom instruction and work experience with a cooperating employer, for which the student receives no compensation.

(3) "Internship" means the work experience segment of an intern's school-sponsored work experience and career exploration program, performed under the direct supervision of a cooperating employer.

(4) "Internship safety agreement" means the agreement between a public or private school and a cooperating employer in accordance with Section 53G-7-904.

(5) "Private school" means a school serving any of grades 7 through 12 which is not part of the public education system.

(6) "Public school" means:

(a) a public school district;

(b) an applied technology center or applied technology service region;

(c) the Schools for the Deaf and the Blind; or

(d) other components of the public education system authorized by the state board to offer internships.

Section 5. Section 53G-9-801 is amended to read:

53G-9-801. Definitions.

As used in Section 53G-9-802:

(1) "Attainment goal" means earning:

(a) a high school diploma;

(b) a Utah High School Completion Diploma, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) an Adult Education Secondary Diploma, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(d) an employer-recognized, industry-based certificate that is:

(i) likely to result in job placement; and

(ii) included in the state board's approved career and technical education industry certification list.

(2) "Cohort" means a group of students, defined by the year in which the group enters grade 9.

(3) "Designated student" means a student:

(a) (i) who has withdrawn from an LEA before earning a diploma;

(ii) who has been dropped from average daily membership; and

(iii) whose cohort has not yet graduated; or

(b) who is at risk of meeting the criteria described in Subsection (3)(a), as determined by the student's LEA, using risk factors defined in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Graduation rate" means:

(a) for a school district or a charter school that includes grade 12, the graduation rate calculated by the state board for federal accountability and reporting purposes; or

(b) for a charter school that does not include grade 12, a proxy graduation rate defined in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Local education agency" or "LEA" means a school district or charter school that serves students in grade 9, 10, 11, or 12.

(6) "Nontraditional program" means a program, as defined in rules made by the state board under Subsection [~~53E-3-501(1)(c)~~] 53E-3-501(1)(c), in which a student receives instruction through:

(a) distance learning;

(b) online learning;

(c) blended learning; or

(d) competency-based learning.

(7) "Statewide graduation rate" means:

(a) for a school district or a charter school that includes grade 12, the statewide graduation rate, as annually calculated by the state board; or

(b) for a charter school that does not include grade 12, the average graduation rate for all charter schools that do not include grade 12.

(8) "Third party" means:

(a) a private provider; or

(b) an LEA that does not meet the criteria described in Subsection 53G-9-802(3).

Section 6. Section 53G-11-402 is amended to read:

53G-11-402. Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.

(1) An LEA or qualifying private school shall:

(a) require [~~each of~~] the following individuals who [~~is~~] are 18 years old or older to submit to a nationwide criminal background check and ongoing monitoring as a condition [~~for~~] of employment or appointment:

(i) a non-licensed employee;

(ii) a contract employee;

(iii) except for an officer or employee of a cooperating employer under an internship safety agreement under Section 53G-7-904, a volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment; and

(iv) a charter school governing board member;

(b) collect the following from an individual required to submit to a background check under Subsection (1)(a):

(i) personal identifying information;

(ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and

(iii) consent, on a form specified by the LEA or qualifying private school, for:

(A) an initial fingerprint-based background check by the FBI and the bureau upon submission of the application; and

(B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404;

(c) submit the individual's personal identifying information to the bureau for:

(i) an initial fingerprint-based background check by the FBI and the bureau; and

(ii) ongoing monitoring through registration with the systems described in Section 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the LEA or qualifying private school in accordance with Section 53G-11-405; and

(d) identify the appropriate privacy risk mitigation strategy [~~that will~~] to be used to ensure [~~that~~] the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.

(2) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:

(a) has passed an initial review; and

(b) is one of a pool of no more than five candidates for the position.

[~~(3) By September 1, 2018, an LEA or qualifying private school shall:~~]

[~~(a) collect the information described in Subsection (1)(b) from individuals:~~]

[~~(i) who were employed or appointed prior to July 1, 2015; and~~]

[~~(ii) with whom the LEA or qualifying private school currently maintains an authorizing relationship; and~~]

[~~(b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53G-11-404.~~]

[~~(4)~~] (3) An LEA or qualifying private school that receives criminal history information about a licensed educator under Subsection 53G-11-403(5) shall assess the employment status of the licensed educator as provided in Section 53G-11-405.

[~~(5)~~] (4) An LEA or qualifying private school may establish a policy to exempt an individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if the individual is being temporarily employed or appointed.

CHAPTER 528
S. B. 259
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

DEPARTMENT OF AGRICULTURE AND FOOD AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill modifies provisions affecting the Department of Agriculture and Food.

Highlighted Provisions:

This bill:

- defines terms;
- addresses changes to the state veterinarian responsibilities;
- provides labeling requirements for pet treats;
- modifies labeling requirements for seed;
- creates a restricted account; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-402, as last amended by Laws of Utah 2017, Chapter 345
4-3-102, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-3-301, as last amended by Laws of Utah 2020, Chapter 422
4-3-302, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-3-401, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-4-102, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-4-103, as last amended by Laws of Utah 2019, Chapter 138
4-5-102, as last amended by Laws of Utah 2020, Chapter 311
4-7-106, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-12-102, as renumbered and amended by Laws of Utah 2018, Chapter 355
4-12-104, as renumbered and amended by Laws of Utah 2018, Chapter 355
4-12-105, as renumbered and amended by Laws of Utah 2018, Chapter 355
4-13-102, as last amended by Laws of Utah 2020, Chapter 311
4-16-102, as last amended by Laws of Utah 2021, Chapter 153
4-16-201, as last amended by Laws of Utah 2021, Chapter 153
4-18-306, as last amended by Laws of Utah 2022, Chapter 274
4-24-205, as last amended by Laws of Utah 2021, Chapter 295
4-24-301, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-30-106, as last amended by Laws of Utah 2021, Chapters 84, 345

ENACTS:

4-12-105.5, Utah Code Annotated 1953
4-46-304, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-2-402 is amended to read:

4-2-402. State veterinarian responsibilities.

(1) The state veterinarian shall:

(a) coordinate the department's responsibilities for:

(i) the promotion of animal health; and

(ii) the diagnosis, surveillance, and prevention of animal disease[.];

(b) aid the meat inspection manager, whose duties are specified by the commissioner, in the direction of the inspection of meat and poultry; and

(c) perform other official duties assigned by the commissioner.

[~~(2) The state veterinarian may not receive compensation for services provided while engaging in the private practice of veterinary medicine.~~]

[~~(3)~~] (2) The state veterinarian shall be a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act.

Section 2. Section 4-3-102 is amended to read:

4-3-102. Definitions.

As used in this chapter:

(1) "Adulterated" means any dairy product that:

(a) contains any poisonous or deleterious substance that may render it injurious to health;

(b) has been produced, prepared, packaged, or held:

(i) under unsanitary conditions;

(ii) where it may have become contaminated; or

(iii) where it may have become diseased or injurious to health;

(c) contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;

(d) contains:

(i) any filthy, putrid, or decomposed substance;

(ii) fresh fluid milk with a lactic acid level at or above .0018; or

(iii) cream with a lactic acid level at or above .008 or that is otherwise unfit for human food;

(e) is the product of:

(i) a diseased animal;

(ii) an animal that died otherwise than by slaughter; or

(iii) an animal fed upon uncooked offal;

(f) has intentionally been subjected to radiation, unless the use of the radiation is in conformity with a rule or exemption promulgated by the department; or

(g) (i) has any valuable constituent omitted or abstracted;

(ii) has any substance substituted in whole or in part;

(iii) has damage or inferiority concealed in any manner; or

(iv) has any substance added, mixed, or packed with the product to:

(A) increase its bulk or weight;

(B) reduce its quality or strength; or

(C) make it appear better or of greater value.

(2) "Certificate" means a document allowing a person to market milk.

[~~(2)~~] (3) "Cow-share program" means a program in which a person acquires an undivided interest in a milk producing hoofed mammal through an agreement with a producer that includes:

(a) a bill of sale for an interest in the mammal;

(b) a boarding arrangement under which the person boards the mammal with the producer for the care and milking of the mammal and the boarding arrangement and bill of sale documents remain with the program operator;

(c) an arrangement under which the person receives raw milk for personal use not to be sold or distributed in a retail environment or for profit; and

(d) no more than two cows, 10 goats, and 10 sheep per farm in the program.

[~~(3)~~] (4) "Dairy product" means any product derived from raw or pasteurized milk.

[~~(4)~~] (5) "Distributor" means any person who distributes a dairy product.

[~~(5)~~] (6) (a) "Filled milk" means any milk, cream, or skimmed milk, whether condensed, evaporated, concentrated, powdered, dried, or desiccated, that has fat or oil other than milk fat added, blended, or compounded with it so that the resultant product is an imitation or semblance of milk, cream, or skimmed milk.

(b) "Filled milk" does not include any distinctive proprietary food compound:

(i) that is prepared and designated for feeding infants and young children, which is customarily used upon the order of a licensed physician;

(ii) whose product name and label does not contain the word "milk"; and

(iii) whose label conforms with the food labeling requirements.

[~~(6)~~] (7) "Frozen dairy products" mean dairy products normally served to the consumer in a frozen or semifrozen state.

[~~(7)~~] (8) "Grade A milk," "grade A milk products," and "milk" have the same meaning that is accorded the terms in the federal standards for grade A milk and grade A milk products unless modified by rules of the department.

[~~(8) "License" means a document allowing a person or plant to process, manufacture, supply, test, haul, or pasteurize milk or milk products or conduct other activity specified by the license.~~]

(9) "Manufacturer" means any person who processes milk in a way that changes the milk's character.

(10) "Manufacturing milk" means milk used in the production of non-grade A dairy products.

(11) "Misbranded" means:

(a) any dairy product whose label is false or misleading in any particular, or whose label or package fails to conform to any federal regulation adopted by the department that pertains to packaging and labeling;

(b) any dairy product in final packaged form manufactured in this state that does not bear:

(i) the manufacturer's, packer's, or distributor's name, address, and plant number, if applicable;

(ii) a clear statement of the product's common or usual name, quantity, and ingredients, if applicable; and

(iii) any other information required by rule of the department;

(c) any butter in consumer package form that is not at least B grade, or that does not meet the grade claimed on the package, measured by U.S.D.A. butter grade standards;

(d) any imitation butter made in whole or in part from material other than wholesome milk or cream, except clearly labeled "margarine";

(e) renovated butter unless the words "renovated butter," in letters not less than 1/2-inch in height appear on each package, roll, square, or container of such butter; or

(f) any dairy product in final packaged form that makes nutritional claims or adds or adjusts nutrients that are not so labeled.

(12) "Pasteurization" means any process that renders dairy products practically free of disease organisms and is accepted by federal standards.

(13) "Permit" [~~or certificate" means a document allowing a person to market milk~~] means a document allowing a person or plant, as designated in the permit, to:

(a) process, manufacture, supply, test, haul, or pasteurize milk or milk products; or

(b) repair equipment used to conduct the activities described in Subsection (13)(a).

(14) "Plant" means any facility where milk is processed or manufactured.

(15) "Processor" means any person who subjects milk to a process.

(16) "Producer" means a person who owns a cow or other milk producing hoofed mammal that produces milk for consumption by persons other than the producer's family, employees, or nonpaying guests.

(17) "Raw milk" means unpasteurized milk.

(18) "Renovated butter" means butter that is reduced to a liquid state by melting and drawing off such liquid or butter oil and churning or otherwise manipulating it in connection with milk or any product of milk.

(19) "Retailer" means any person who sells or distributes dairy products directly to the consumer.

Section 3. Section 4-3-301 is amended to read:

4-3-301. Permits or certificates -- Application -- Fee -- Expiration -- Renewal.

(1) Application for a [~~license~~] permit to operate a plant, manufacture butter or cheese, pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products shall be made to the department upon forms prescribed and furnished by the department.

(2) Upon receipt of a proper application, compliance with the applicable rules, and payment of a [~~license~~] permit fee determined by the department according to Subsection 4-2-103(2), the commissioner, if satisfied that the public convenience and necessity and the industry will be served, shall issue an appropriate [~~license~~] permit to the applicant subject to suspension or revocation for cause.

(3) A [~~license~~] permit issued under this section expires at midnight on December 31 of each year.

(4) A [~~license~~] permit to operate a plant, manufacture butter or cheese, pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products, is renewable for a period of one year upon the payment of an annual [~~license~~] permit renewal fee determined by the department according to Subsection 4-2-103(2) on or before December 31 of each year.

(5) Notwithstanding the requirements of Subsection (1), application for a permit or certificate to produce milk or a raw milk product, as that term is defined in Section 4-3-503, shall be made to the department on forms prescribed and furnished by the department.

(6) (a) Upon receipt of a proper application and compliance with applicable rules, the commissioner shall issue a permit entitling the applicant to engage in the business of producer, subject to suspension or revocation for cause.

(b) A fee may not be charged by the department for issuance of a [~~permit or~~] certificate.

Section 4. Section 4-3-302 is amended to read:

4-3-302. Permits and certificates -- Suspension or revocation -- Grounds.

(1) The department may revoke or suspend the [~~license,~~] permit[~~,~~] or [~~certification~~] certificate of any person who violates this chapter or any rule enacted under the authority of this chapter.

(2) All or part of any [~~license,~~] permit[~~,~~] or [~~certification~~] certificate may be suspended immediately if an emergency exists that presents a clear and present danger to the public health, or if inspection or sampling is refused.

Section 5. Section 4-3-401 is amended to read:

4-3-401. Unlawful acts specified.

It is unlawful for any person in this state to:

(1) operate a plant without a [~~license~~] permit issued by the department;

(2) market milk without a [~~permit or~~] certificate issued by the department;

(3) manufacture butter or cheese, pasteurize milk, test milk for payment, or haul milk in bulk without a special [~~license~~] permit to perform the particular activity designated in this Subsection (3); unless if more than one person working in a plant is engaged in the performance of a single activity designated in this Subsection (3), the person who directs the activity is [~~licensed~~] permitted;

(4) manufacture, distribute, sell, deliver, hold, store, or offer for sale any adulterated or misbranded dairy product;

(5) manufacture, distribute, sell, deliver, hold, store, or offer for sale any dairy product without a [~~license,~~] permit[~~,~~] or certificate required by this chapter;

(6) sell or offer for sale any milk not intended for human consumption unless it is denatured or decharacterized in accordance with the rules of the department;

(7) manufacture, distribute, sell, or offer for sale any filled milk labeled as milk or as a dairy product;

(8) keep any animals with brucellosis, tuberculosis, or other infectious or contagious diseases communicable to humans in any place where they may come in contact with cows or other milking animals;

(9) draw milk for human food from cows or other milking animals that are infected with tuberculosis, running sores, communicable diseases, or from animals that are fed feed that will produce milk that is adulterated;

(10) accept or process milk from any producer without verification that the producer holds a valid

permit or certification or, if milk is accepted from out of the state, without verification that the producer holds a permit or certification from the appropriate regulatory agency of that state;

(11) use any contaminated or unclean equipment or container to process, manufacture, distribute, deliver, or sell a dairy product;

(12) remove, change, conceal, erase, or obliterate any mark or tag placed upon any equipment, tank, or container by the department except to clean and sanitize it;

(13) use any tank or container used for the transportation of milk or other dairy products that is unclean or contaminated;

(14) refuse to allow the department to take samples for testing; or

(15) prohibit adding vitamin compounds in the processing of milk and dairy products in accordance with rules of the department.

Section 6. Section 4-4-102 is amended to read:

4-4-102. Department to establish egg grades and standards -- Authority to make and enforce rules.

(1) The department [~~shall~~] may establish grades and standards of quality, size, and weight governing the sale of eggs.

(2) The department shall, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make and enforce rules that are necessary to administer and enforce this chapter.

Section 7. Section 4-4-103 is amended to read:

4-4-103. Definitions.

As used in this chapter:

(1) "Addled" or "white rot" means putrid or rotten.

(2) "Adherent yolk" means the yolk has settled to one side and become fastened to the shell.

(3) "Albumen" means the white of an egg.

(4) "Black rot" means the egg has deteriorated to such an extent that the whole interior presents a blackened appearance.

(5) "Black spot" means mold or bacteria have developed in isolated areas inside the shell.

(6) "Blood ring" means bacteria have developed to such an extent that blood is formed.

(7) "Candling" means the act of determining the condition of an egg by holding it before a strong light in such a way that the light shines through the egg and reveals the egg's contents.

(8) "End consumer" means a household consumer, restaurant, institution, or any other person who has purchased or received shell eggs for consumption.

[~~(8)~~] (9) "Moldy" means mold spores have formed within the shell.

[~~(9)~~] (10) "Shell egg" means an egg in the shell as distinguished from a dried or powdered egg.

[~~(10)~~] (11) "Small producer" means a producer of shell eggs:

(a) having less than 3,000 layers;

(b) selling only to an [~~ultimate~~] end consumer; and

(c) who is exempt from 21 C.F.R. Chapter 1, Part 118, Production, Storage, and Transportation of Shell Eggs.

[~~(11) "Ultimate consumer" means a household consumer, restaurant, institution, or any other person who has purchased or received shell eggs for consumption.~~]

Section 8. Section 4-5-102 is amended to read:

4-5-102. Definitions.

As used in this chapter:

(1) "Advertisement" means a representation, other than by labeling, made to induce the purchase of food.

(2) (a) "Color additive":

(i) means a dye, pigment, or other substance not exempted under the federal act that, when added or applied to a food, is capable of imparting color; and

(ii) includes black, white, and intermediate grays.

(b) "Color additive" does not include a pesticide chemical, soil or plant nutrient, or other agricultural chemical that imparts color solely because of the chemical's effect, before or after harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of any plant life.

(3) (a) "Consumer commodity" means a food, as defined by this chapter, or by the federal act.

(b) "Consumer commodity" does not include:

(i) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;

(ii) a commodity subject to [~~Title 4, Chapter 16, Utah Seed Act~~] Chapter 16, Utah Seed Act;

(iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

(iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec. 451 et seq.;

(v) a tobacco or tobacco product; or

(vi) a beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

(4) "Contaminated" means not securely protected from dust, dirt, or foreign or injurious agents.

(5) (a) "Farm" means an agricultural operation, under management by one entity, that grows or harvests crops.

(b) "Farm" does not include an entity that is exempt under 21 C.F.R. 112.4(a) or 21 C.F.R. 112.5.

(6) "Farmers market" means a market where a producer of a food product sells only a fresh, raw, whole, unprocessed, and unprepared food item directly to the final consumer.

(7) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(8) "Food" means:

(a) an article used for food or drink for human or animal consumption or the components of the article;

(b) chewing gum or chewing gum components; or

(c) a food supplement for special dietary use that is necessitated because of a physical, physiological, pathological, or other condition.

(9) (a) "Food additive" means a substance, the intended use of which results in the substance becoming a component, or otherwise affecting the characteristics, of a food.

(b) (i) "Food additive" includes a substance or source of radiation intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food.

(ii) "Food additive" does not include:

(A) a pesticide chemical in or on a raw agricultural commodity;

(B) a pesticide chemical that is intended for use or is used in the production, storage, or transportation of a raw agricultural commodity; or

(C) a substance used in accordance with a sanction or approval granted pursuant to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.

(10) (a) "Food establishment" means a grocery store, bakery, candy factory, food processor, bottling plant, sugar factory, cannery, farm, rabbit processor, meat processor, flour mill, cold or dry warehouse storage, or other facility where food products are manufactured, canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.

(b) "Food establishment" does not include:

(i) a dairy farm, a dairy plant, or a meat establishment, that is subject to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.; [~~or~~]

(ii) a farmers market[~~.~~]; or

(iii) a food service establishment, as that term is defined in Section 26-15a-102.

(11) "Label" means a written, printed, or graphic display on the immediate container of an article of food.

(12) "Labeling" means a label and other written, printed, or graphic display:

(a) on an article of food or the article of food's container or wrapper; or

(b) accompanying the article of food.

(13) "Official compendium" means the official documents or supplements to the:

(a) United States Pharmacopoeia;

(b) National Formulary; or

(c) Homeopathic Pharmacopoeia of the United States.

(14) (a) "Package" means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of the consumer commodity to retail purchasers.

(b) "Package" does not include:

(i) a package liner;

(ii) a shipping container or wrapping used solely for the transportation of a consumer commodity in bulk or in quantity to a manufacturer, packer, processor, or wholesale or retail distributor; or

(iii) a shipping container or outer wrapping used by a retailer to ship or deliver a consumer commodity to a retail customer, if the container and wrapping bear no printed information relating to the consumer commodity.

(15) (a) "Pesticide" means a substance intended:

(i) to prevent, destroy, repel, or mitigate a pest, as defined under Section 4-14-102; or

(ii) for use as a plant regulator, defoliant, or desiccant.

(b) "Pesticide" does not include:

(i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by the United States Secretary of Health and Human Services not to be a new animal drug by federal regulation establishing conditions of use of the drug; or

(ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal drug.

(16) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(17) "Produce" means a food that is a:

(a) fruit, vegetable, mix of intact fruits and vegetables, mushroom, sprout from any seed source, peanut, tree nut, or herb; and

(b) raw agricultural commodity.

(18) "Raw agricultural commodity" means a food in the food's raw or natural state, including all fruits that are washed, colored, or otherwise treated in the fruit's unpeeled, natural form before marketing.

(19) "Registration" means the commissioner's issuance of a certificate to a qualified food establishment.

(20) "Sprout" means the shoot of a plant generally harvested when cotyledons are undeveloped or underdeveloped and mature leaves have not emerged.

Section 9. Section 4-7-106 is amended to read:

4-7-106. Licenses -- Applications.

Application for an agent's or dealer's license shall be made to the department upon forms prescribed and furnished by the department, and the application shall state:

(1) the applicant's name, principal address in this state, and [~~date of birth~~] age;

(2) the applicant's principal address in any location outside Utah;

(3) the name and principal address of the person authorized by the applicant to accept service of process in this state on behalf of the applicant during the licensure period;

(4) the name and principal address of the applicant's surety if the application is for a dealer's license;

(5) a schedule of the commissions, fees, and other charges the applicant intends to collect for services during the period of licensure;

(6) the name and address of each principal the applicant intends to represent during the period of licensure; and

(7) any other information that the department may require by rule.

Section 10. Section 4-12-102 is amended to read:

4-12-102. Definitions.

As used in this chapter:

(1) "Adulterated commercial feed" means any commercial feed that:

(a) (i) contains any poisonous or deleterious substance that may render it injurious to health;

(ii) contains any added poisonous, added deleterious, or added nonnutritive substance that is unsafe within the meaning of 21 U.S.C. Sec. 346, other than a pesticide chemical in or on a raw agricultural commodity or a food additive;

(iii) contains any food additive or color additive that is unsafe within the meaning of 21 U.S.C. Sec. 348 or 379e;

(iv) contains a pesticide chemical in or on a raw agricultural commodity that is unsafe within the meaning of 21 U.S.C. Sec. 346a unless it is used in or on the raw agricultural commodity in conformity with an exemption or tolerance prescribed under 21 U.S.C. Sec. 346a and is subjected to processing such as canning, cooking, freezing, dehydrating, or milling, so that the residue, if any, of the pesticide chemical in or on the processed feed is removed to the extent possible through good manufacturing practices as prescribed by rules of the department so that the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity in 21 U.S.C. Sec. 346a;

(v) contains viable weed seeds in amounts exceeding limits established by rule of the department;

(vi) contains a drug that does not conform to good manufacturing practice as prescribed by federal regulations promulgated under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., for medicated feed premixes and for medicated feeds unless the department determines that the regulations are not appropriate to the conditions that exist in this state;

(vii) contains any filthy, putrid, or decomposed substance, or is otherwise unfit for feed; or

(viii) has been prepared, packed, or held under unsanitary conditions; or

(b) has a valuable constituent omitted or abstracted from it, in whole or in part, or its composition or quality falls below or differs from that represented on its label or in labeling.

(2) (a) "Animal remedy" means a remedy that:

(i) is not used for food or cosmetic purposes; and

(ii) is prepared or compounded for animal use.

(b) "Animal remedy" does not mean:

(i) a material, other than food, that is intended to affect the structure or function of the body of a human; or

(ii) a product produced primarily as feed, to which medication is added at the time of manufacture as an additional ingredient.

[~~(2)~~] (3) "Brand name" means one or more words, names, symbols, or devices that:

(a) identify a distributor or registrant's commercial feed; and

(b) distinguish the distributor or registrant's commercial feed from the commercial feed of others.

[~~(3)~~] (4) (a) "Commercial feed" means all materials that are distributed for use as feed or for mixing in feed.

(b) "Commercial feed" does not include:

(i) unadulterated, whole, unmixed seeds;

(ii) unadulterated, physically altered, entire, unmixed seeds; [~~or~~]

(iii) any unadulterated commodity that the department specifies by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances, unless the commodities, compounds, or substances are intermixed or mixed with other materials[~~.~~];

(iv) a live, whole, or unprocessed animal that is not:

(A) adulterated; or

(B) misbranded; or

(v) an animal remedy that is not:

(A) adulterated; or

(B) misbranded.

[~~(4)~~] (5) "Contract feeder" means a person who:

(a) is an independent contractor; and

(b) in accordance with the terms of a contract:

(i) is provided commercial feed;

(ii) feeds the commercial feed to an animal; and

(iii) receives remuneration that is calculated in whole or in part by feed consumption, mortality, profit, product amount, or product quality.

[~~(5)~~] (6) "Customer-formula feed" means commercial feed that consists of a mixture of commercial feeds or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

[~~(6)~~] (7) "Distribute" means to:

(a) offer for sale, sell, exchange, or barter commercial feed; or

(b) supply, furnish, or otherwise provide commercial feed to a contract feeder.

[~~(7)~~] (8) "Drug" means any article intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans; and

(b) to affect the structure or any function of the animal body, unless the article is feed.

[~~(8)~~] (9) "Feed ingredient" means each constituent material in a commercial feed.

(10) "Home-produced" means a pet treat produced in a private home kitchen in the state.

[~~(9)~~] (11) "Label" means any written, printed, or graphic matter upon or accompanying a commercial feed.

[~~(10)~~] (12) "Manufacture" means to grind, mix, blend, or otherwise process a commercial feed for distribution.

[~~(11)~~] (13) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

[~~(12)~~] (14) (a) "Misbranded" means any commercial feed, whether in a container or in bulk, that bears a label that:

(i) is false or misleading in any particular; or

(ii) does not strictly conform to the labeling requirements of Section 4-12-105.

(b) "Misbranded" includes commercial feed that is distributed under the name of another commercial feed.

[~~(13)~~] (15) "Official sample" means a sample of commercial feed taken by the department in accordance with this chapter and designated as "official."

[~~(14)~~] (16) "Percent" or "percentage" means percentage by weight.

[~~(15)~~] (17) "Pet" means a domesticated dog or cat.

[~~(16)~~] (18) "Pet food" means a commercial feed prepared and distributed for consumption by a pet.

(19) "Pet treat" means commercial feed intended for pets that:

(a) is not intended to provide complete and balanced nutrition; and

(b) is fed intermittently for training, reward, enjoyment, or other purposes.

(20) "Pharmaceutical" means a product prescribed for the treatment or prevention of disease for veterinary purposes, including:

(a) a vaccine;

(b) a synthetic or natural hormone;

(c) an anesthetic;

(d) a stimulant; or

(e) a depressant.

[~~(17)~~] (21) "Product name" means the name of the commercial feed that:

(a) identifies the kind, class, or specific use of the commercial feed; and

(b) distinguishes the commercial feed from all other products bearing the same brand name.

[~~(18)~~] (22) "Quantity statement" means the net weight in mass, liquid measurement, or count.

(23) "Remedy" means:

(a) a drug;

(b) a combination of drugs;

(c) a pharmaceutical;

(d) a proprietary medicine;

(e) a veterinary biologic; or

(f) a combination of drugs and other ingredients.

[~~(19)~~] (24) "Specialty pet" means any animal normally maintained in a household for nonproduction purposes, including rodents, ornamental birds, ornamental fish, reptiles, amphibians, ferrets, hedgehogs, marsupials, and rabbits.

[~~(20)~~] (25) "Specialty pet food" means a commercial feed prepared and distributed for consumption by a specialty pet.

[~~(21)~~] (26) "Ton" means a net weight of 2,000 pounds avoirdupois.

(27) "Veterinary biologic" means a biologic product used for veterinary purposes, including:

(a) an antibiotic;

(b) an antiparasiticide;

(c) a growth promotant; or

(d) a bioculture product.

Section 11. Section 4-12-104 is amended to read:

4-12-104. Distribution of commercial and customer-formula feed -- Registration or license required -- Application -- Fees -- Expiration -- Renewal.

(1) A home-produced pet treat:

(a) is exempt from Subsections (2), (4), (5)(a), and (6)(a); and

(b) is required to comply with Section 4-12-105.5.

[~~(1)~~] (2) (a) A person may not distribute a commercial feed in this state without a registration from the department.

(b) Except as provided by Subsection [~~(3)(a)~~] (4)(a), a person shall apply for a registration from the department for each brand name of commercial feed by:

(i) submitting forms prescribed and furnished by the department; and

(ii) paying an annual registration fee, determined by the department pursuant to Subsection 4-2-103(2).

(c) Upon receipt of the appropriate application forms and fee payment, the commissioner shall issue a registration to the applicant allowing the applicant to distribute the registered commercial feed in this state through December 31 of the year in which the registration is issued, subject to suspension or revocation for cause.

[~~(2)~~] (3) (a) Subject to Subsection [~~(2)(b),~~] (3)(b) the department may:

(i) refuse registration to any commercial feed found to not be in compliance with this chapter; and

(ii) cancel the registration of any commercial feed found to not be in compliance with this chapter.

(b) A registration may not be refused or canceled unless the department gives the registrant an opportunity to:

(i) be heard before the department; and

(ii) amend the registrant's application in order to comply with the requirements of this chapter.

[~~(3)~~] (4) (a) A person who distributes customer-formula feed is not required to register the feed, but is required to obtain a license from the department before distribution.

(b) A person shall apply for a license to distribute customer-formula feed from the department by:

(i) submitting forms prescribed and furnished by the department; and

(ii) paying an annual license fee, determined by the department pursuant to Subsection 4-2-103(2).

(c) Upon receipt of the appropriate application forms and fee payment, the commissioner shall issue a license to the applicant allowing the applicant to distribute customer-formula feed in this state through December 31 of the year in which the license is issued, subject to suspension or revocation for cause.

[~~(4)~~] (5) (a) Each commercial feed registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.

(b) Each registration renewal fee shall be paid on or before December 31 of each year.

[~~(5)~~] (6) (a) Each customer-formula feed license is renewable for a period of one year upon the payment of an annual license renewal fee in an amount equal to the current applicable original license fee.

(b) Each license renewal fee shall be paid on or before December 31 of each year.

Section 12. Section 4-12-105 is amended to read:

4-12-105. Labeling requirements for commercial and customer-formula feed specified.

(1) A home-produced pet treat:

(a) is exempt from the provisions of this section, other than Subsection (3); and

(b) is required to comply with Section 4-12-105.5.

[~~(1)~~] (2) Except for customer-formula feed, each container of commercial feed distributed in this state shall bear a label specifying:

(a) the name and principal mailing address of the manufacturer, distributor, or registrant;

(b) the product name and brand name, if any, under which the commercial feed is distributed;

(c) the common name of each feed ingredient used in the commercial feed, stated in the manner prescribed by rule of the department, unless the department finds that a full statement of ingredients is not required to serve the interests of a consumer;

(d) the guaranteed analysis of the feed, expressed on an as-is basis:

(i) advising the user of the feed composition; or

(ii) supporting claims made in the labeling;

(e) a quantity statement for the feed;

(f) the lot number or some other means of lot identification;

(g) adequate direction for the feed's safe and effective use; and

(h) precautionary statements, if necessary, or any information prescribed by rule of the

department considered necessary for the safe and effective use of the feed.

[~~(2)~~] (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may by rule authorize a label to use a collective term for a group of ingredients that perform a similar function.

[~~(3)~~] (4) (a) Except for customer-formula feed, each bulk shipment of commercial feed distributed in this state shall be accompanied by a printed or written statement specifying the information in Subsections [~~(1)(a)~~] (2)(a) through (h).

(b) The statement shall be delivered to the purchaser at the time the bulk feed is delivered.

[~~(4)~~] (5) Each container or bulk shipment of customer-formula feed distributed in this state shall be accompanied by a label, invoice, delivery slip, or other shipping document specifying:

(a) the name and principal mailing address of the manufacturer;

(b) the name and principal mailing address of the purchaser;

(c) the date of delivery;

(d) the product name of each commercial feed;

(e) the quantity statement of each commercial feed;

(f) the net weight for each ingredient used that is not a commercial feed;

(g) except as provided in Subsection [~~(5),~~] (6), the quantity statement of each ingredient used in the mixture, stated in terms the department determines necessary to advise the user of the feed composition or to support claims made on the label;

(h) directions for the feed's use;

(i) precautionary statements, if applicable; and

(j) any information considered necessary for the safe and effective use of the customer-formula feed as prescribed by rule of the department.

[~~(5)~~] (6) If the manufacturer of a customer-formula feed intends to protect a proprietary formula, the information required by Subsection [~~(4)(g)~~] (5)(g) may be substituted with a guaranteed analysis of each nutritional component the feed intends to deliver, stated in terms the department determines necessary to advise the user of the feed composition.

[~~(6)~~] (7) If a customer-formula feed contains a drug, the label shall include the:

(a) purpose of the medication;

(b) established name of each active drug ingredient; and

(c) amount of each drug included in the final mixture, expressed by weight, grams per ton, or milligrams per pound.

Section 13. Section 4-12-105.5 is enacted to read:

4-12-105.5. Labeling and registration requirements for home-produced pet treats specified.

(1) Each container of home-produced pet treats distributed in the state shall have a label specifying:

(a) the name and principal mailing address of the manufacturer or registrant;

(b) the text "Assorted Pet Treats" and the brand name, if any, under which the pet treat is distributed;

(c) the common name of each ingredient used in the pet treat, in descending order, by predominance based on weight;

(d) a quantity statement for the treat;

(e) adequate direction for the treat's safe and effective use, if necessary; and

(f) precautionary statements, if necessary.

(2) (a) A home-produced pet treat:

(i) shall be registered as an "Assorted Pet Treat";

(ii) shall include a label with the registered name;

(iii) may not be distributed outside of the state; and

(iv) is restricted to retail sales only.

(b) A registration described in Subsection (2)(a)(i) covers all versions of a home-produced pet treat.

Section 14. Section 4-13-102 is amended to read:

4-13-102. Definitions.

As used in this chapter:

(1) "Adulterated fertilizer" means a fertilizer or soil amendment that:

(a) contains a deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with the directions for use on the label;

(b) has a composition that falls below or differs from that which the composition is purported to possess by the composition's labeling;

(c) contains unwanted crop or weed seed; or

(d) exceeds levels of metals permitted by the United States Environmental Protection Agency.

(2) "Beneficial substances or compounds" means a substance or compound other than primary, secondary, and micro plant nutrients that can be demonstrated by scientific research to be beneficial to one or more species of plants when applied exogenously.

(3) "Biostimulant" means a product containing naturally-occurring substances and microbes that are used to stimulate plant growth, enhance resistance to plant pests, and reduce abiotic stress.

(4) "Blender" means a person engaged in the business of blending or mixing fertilizer, soil amendments, or both.

(5) "Brand" means a term, design, or trade mark used in connection with one or several grades of fertilizer or soil amendment.

(6) "Bulk fertilizer" means fertilizer delivered to the purchaser either in solid or liquid state in a non-packaged form to which a label cannot be attached.

(7) "Custom blend" means a fertilizer blended according to specification provided to a blender in a soil test nutrient recommendation or to meet the specific consumer request before blending.

(8) "Deficiency" means the amount of nutrient found by analysis to be less than that guaranteed.

(9) "Derivation" means the source from which the guaranteed nutrients are derived.

(10) "Distribute" means to import, consign, manufacture, produce, compound, mix, blend, or to offer for sale, sell, barter, or supply fertilizer or soil amendments in the state.

(11) "Distributor" means a person who distributes.

(12) "Fertilizer" means a substance that contains one or more recognized plant nutrients that is used for the substance's plant nutrient content and is designed for use or claimed to have value in promoting plant growth, exclusive of unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule.

(13) "Fertilizer material" means a fertilizer that contains:

(a) quantities of no more than one of the primary plant nutrients, nitrogen (N), phosphate (P2O5), Potash (K2O);

(b) 85% plant nutrients in the form of a single chemical compound; or

(c) plant or animal residues or by-products, or a natural material deposit that is processed so that its primary plant nutrients have not been materially changed, except through purification and concentration.

(14) "Grade" means the percentage of total nitrogen, available phosphate and soluble potash stated [~~in whole numbers in the same terms, order, and percentages as in the guaranteed analysis if that specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash and that fertilizer materials such as bone meal, manures, and similar raw materials may be guaranteed in fractional units~~] in the same terms, order, and percentages as in the guaranteed analysis.

(15) (a) "Guaranteed analysis" means the minimum percentage by weight of plant nutrients claimed in the following order and form:

Total Nitrogen (N)	____ percent
Available Phosphate (P2O5)	____ percent
Soluble Potash (K2O)	____ percent

(b) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphate or degree of fineness may also be guaranteed.

(c) (i) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by rule of the department.

(ii) The guarantees for such other nutrients shall be expressed in the form of the element.

(iii) The sources of such other nutrients, such as oxides, salt, chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label.

(iv) Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department.

(v) Any plant nutrients or other substances or compounds guaranteed are subject to inspection and analysis in accord with the methods and rules prescribed by the department.

(16) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer or soil amendment.

(17) "Label" means the display of the written, printed, or graphic matter upon the immediate container or statement accompanying a fertilizer or soil amendment.

(18) "Labeling" means the written, printed, or graphic matter upon or accompanying fertilizer or soil amendment, or advertisements, brochures, posters, television and radio announcements used in promoting the sale of fertilizers or soil amendments.

(19) "Lot" means a definite quantity identified by a combination of numbers, letters, characters, or amount represented by a weight certificate from which every part is uniform within recognized tolerances from which the distributor can be determined.

(20) "Micro plant nutrient" means boron, chlorine, colbalt, copper, iron, manganese, molybdenum, nickel, sodium, and zinc.

(21) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.

(22) "Nonplant food ingredient" means a substance or compound other than the primary, secondary, or micro nutrients.

(23) "Official sample" means a sample of fertilizer or soil amendment taken by the department and designated as "official."

(24) "Other ingredients" means the non-soil amending ingredients present in soil amendments.

(25) "Percent" or "percentage" means the percentage by weight.

(26) "Plant amendment" means a substance applied to plants or seeds that is intended to improve growth, yield, product quality, reproduction, flavor, or other favorable characteristics of plants except fertilizer, soil amendments, agricultural liming materials, animal and vegetable manure, pesticides, or plant regulators.

(27) "Primary nutrient" includes total nitrogen, available phosphate, and soluble potash.

(28) "Registrant" means a person who registers a fertilizer or a soil amendment under this chapter.

(29) "Secondary nutrient" includes calcium, magnesium, and sulfur.

(30) "Slow release fertilizer" means a fertilizer in a form that releases, or converts to a plant-available form, plant nutrients at a slower rate relative to an appropriate reference soluble product.

(31) "Soil amending ingredient" means a substance that will improve the physical, chemical, biochemical, biological, or other characteristics of the soil.

(32) "Soil amendment" means a substance or a mixture of substances that is intended to improve the physical, chemical, biochemical, biological, or other characteristics of the soil, except fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated vegetable manures, or pesticides.

(33) "Specialty fertilizer" means fertilizer distributed primarily for non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.

(34) "Ton" means a net weight of 2,000 pounds avoirdupois.

Section 15. Section 4-16-102 is amended to read:

4-16-102. Definitions.

As used in this chapter:

(1) "Advertisement" means any representation made relative to seeds, plants, bulbs, or ground stock other than those on the label of a seed container, disseminated in any manner.

(2) "Agricultural seed" includes:

(a) grass, forage, cereal, oil, fiber, and other kinds of crop seed commonly recognized within this state as agricultural seed;

(b) lawn seed;

(c) combinations of the seed described in Subsections (2)(a) and (2)(b); and

(d) noxious weed seed, if the department determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that a noxious weed seed is being used as agricultural seed.

(3) "Blend" means seed consisting of more than one variety of a kind, each in excess of 5% by weight of the whole.

(4) "Brand" means a word, name, symbol, number, or design used to:

(a) identify the seed of one person; and

(b) distinguish the seed of one person from the seed of another person.

(5) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession to officially certify seed and that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification.

(6) "Coated seed" means seed that has been covered by a layer of materials that obscure the original shape and size of the seed resulting in an increase of the weight of the seed.

[~~(6)~~] (7) (a) "Complete record" means all information that relates to the[~~:~~] origin, treatment, germination, purity, kind, and variety of each lot of agricultural seed sold in this state.

[~~(i) origin, treatment, germination, purity, kind, and variety of each lot of agricultural seed sold in this state; or~~]

[~~(ii) treatment, germination, kind, and variety of each lot of vegetable or flower seed sold in this state.~~]

(b) "Complete record" includes seed samples and records of declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and examinations.

[~~(7)~~] (8) "Conditioning" means drying, cleaning, scarifying, and other operations that:

(a) could change the purity or germination of a seed; and

(b) require a seed lot to be retested to determine the label information.

[~~(8)~~] (9) "Controlling the pollination" means to use a method of hybridization that will produce pure seed that is at least 75% hybrid seed.

[~~(9)~~] (10) "Dormant" means viable seed, excluding hard seed, that fail to germinate when provided the specified germination conditions for the kind of seed in question.

[~~(10)~~] (11) "Flower seed" includes the seed of herbaceous plants that are:

(a) grown for their blooms, ornamental foliage, or other ornamental parts; and

(b) commonly known and sold under the name of flower or wildflower seed in this state.

[~~(11)~~] (12) "Foundation seed," "registered seed," or "certified seed" means seed that is produced and

labeled in accordance with procedures officially recognized by a seed certifying agency approved and accredited in this state.

(13) "Genuine grower declaration" means a statement signed by a grower which, for each lot of seed, provides the:

(a) lot number;

(b) kind;

(c) variety, if known;

(d) origin;

(e) weight;

(f) year of production;

(g) date of shipment; and

(h) name of the person to whom the shipment was made.

[~~(12)~~] (14) "Germination" means the emergence and development from the seed embryo of those essential structures that are, for the kind of seed in question, indicative of the ability to produce a normal plant under favorable conditions expressed in whole numbers.

[~~(13)~~] (15) "Hard seed" means seed that remains hard at the end of the prescribed germination test period because the seed has not absorbed water due to an impermeable seed coat.

[~~(14)~~] (16) (a) "Hybrid," applied to kinds or varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:

(i) two or more inbred lines;

(ii) one inbred or a single cross with an open pollinated variety; or

(iii) two selected clones, seed lines, varieties, or species.

(b) The department shall treat hybrid designations as variety names.

[~~(15)~~] (17) "Inert matter" means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones, as determined by methods defined by rule.

[~~(16)~~] (18) "Inoculant" means a commercial preparation containing nitrogen-fixing bacteria applied to seed.

[~~(17)~~] (19) "Kind" means one or more related species or subspecies of seed that singly or collectively are known by one common name, for example, corn, oats, alfalfa, and timothy.

[~~(18)~~] (20) (a) "Label" means any written, printed, or graphic representation accompanying and pertaining to any seeds, plants, bulbs, or ground stock whether in bulk or in containers.

(b) "Label" includes a representation on an invoice, bill, or letterhead.

[~~(19)~~] (21) "Labeling" includes a tag or other device attached to, written, stamped, or printed on a container or accompanying a lot of bulk seeds that:

(a) claims to specify the information required on the seed label by this chapter; and

(b) may include other information related to the labeled seed.

[~~(20)~~] (22) "Lot" means a definite quantity of seed identified by a number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.

[~~(21)~~] (23) "Mixture" or "mix" or "mixed" means seed consisting of more than one kind, each in excess of 5% by weight of the whole.

[~~(22)~~] (24) "Mulch" means a protective covering of a suitable substance placed with seed that:

(a) acts to retain sufficient moisture to support seed germination and sustain early seedling growth;

(b) aids in the prevention of the evaporation of soil moisture;

(c) aids in the control of weeds; and

(d) aids in the prevention of erosion.

[~~(23)~~] (25) "Noxious weed seeds" means:

(a) prohibited noxious weed seeds; or

(b) restricted noxious weed seeds.

[~~(24)~~] (26) (a) "Off-type" means a seed or plant not part of the variety because the seed or plant deviates in one or more characteristics from the variety.

(b) "Off-type" may include a seed or plant that:

(i) is of another variety;

(ii) is not necessarily any variety;

(iii) results from cross-pollination by another kind or variety; or

(iv) results from uncontrolled self-pollination during production of hybrid seeds.

[~~(25)~~] (27) "Origin" means:

(a) for an indigenous stand of trees, the area on which the trees are growing; and

(b) for a nonindigenous stand of trees, the place from which the seeds or plants originated.

[~~(26)~~] (28) "Other crop seed" means the seed of plants grown as crops other than the kind or variety included in the pure seed, as determined by methods defined by rule.

[~~(27)~~] (29) "Person" means an individual, partnership, corporation, company, association, receiver, trustee, or agent.

[~~(28)~~] (30) (a) "Prohibited noxious weed seeds" means those weed seeds determined by the commissioner that are prohibited from being

present in agricultural, vegetable, flower, tree, or shrub seed.

(b) "Prohibited noxious weed seeds" include the seeds of weeds that are highly destructive and difficult to control by good cultural practices and the use of herbicides.

[~~(29)~~] (31) "Pure seed" means seed exclusive of inert matter and all other seed not of the seed being considered as determined by methods defined by rule.

[~~(30)~~] (32) "Restricted noxious weed seeds" means those weed seeds determined by the commissioner that:

(a) are objectionable in agricultural crops, lawns, and gardens of this state; and

(b) can be controlled by good cultural practices or the use of herbicides.

[~~(31)~~] (33) "Seed for sprouting" means seed sold for sprouting for salad or culinary purposes.

[~~(32)~~] (34) "Sowing" means the placement of agricultural seed, vegetable seed, flower seed, tree and shrub seed, or seed for sprouting in a selected environment for the purpose of obtaining plant growth.

[~~(33)~~] (35) "Tetrazolium test (TZ)" means a biochemical seed viability test using the compound 2, 3, 5 triphenyl tetrazolium chloride (TTC), as specified in Part II, Tetrazolium Testing Handbook, Contribution Number 29, to the handbook on Seed Testing, prepared by the Tetrazolium subcommittee of the Association of Official Seed Analysts, 2008 Edition.

[~~(34)~~] (36) "Total viable" is:

(a) equal to the sum of percentage germination, percentage dormant seed, and percentage hard seed; or

(b) determined by a tetrazolium test for species identified in the rules for testing or for species for which there are no rules for testing.

[~~(35)~~] (37) "Treated" means that a seed has received an application of a substance or been subjected to a process [~~about which a claim is made~~] designed to reduce, control, or repel disease organisms, insects, or other pests that attack seeds or seedlings.

[~~(36)~~] (38) "Tree and shrub seed" includes seed of woody plants commonly known and sold as tree and shrub seeds in this state.

[~~(37)~~] (39) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

[~~(38)~~] (40) (a) "Variant" means a seed or plant that:

(i) is distinct within the variety but occurs naturally in the variety;

(ii) is stable and predictable with a degree of reliability comparable to other varieties of the same kind, within recognized tolerances, when the variety is reproduced or reconstituted; and

(iii) was originally a part of the variety as released.

(b) "Variant" does not include an off-type.

[~~(39)~~] (41) "Variety" means a subdivision of a kind that is:

(a) distinct, meaning a variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge;

(b) uniform, meaning that variations in essential and distinctive characteristics are describable; and

(c) stable, meaning a variety's essential and distinctive characteristics and uniformity will remain unchanged when reproduced or reconstituted as required by the category of variety.

[~~(40)~~] (42) "Vegetable seed" includes the seed of those crops that are:

(a) grown in gardens or on truck farms; and

(b) generally known and sold under the name of vegetable or herb seed in this state.

[~~(41)~~] (43) "Weed seed" means the seed of all plants generally recognized as weeds within this state, as determined by methods defined by rule.

[~~(42)~~] (44) "Weight" means the net weight of the commodity.

(45) "Wholesaler" is a person who predominantly supplies seed to a distributor rather than a customer.

Section 16. Section 4-16-201 is amended to read:

4-16-201. Labeling requirements.

(1) A container of seed that is transported, sold, offered, or exposed for sale within this state shall bear on the container or have attached to the container a printed label that:

(a) is in a conspicuous place;

(b) is plainly written in the English language;

(c) is in type no smaller than eight point;

(d) specifies the information required by this chapter; and

(e) does not modify or deny the information required by this chapter in the labeling or on another label attached to the container.

(2) A container of agricultural seed offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) name of the kind and variety for each seed component in excess of 5% of the whole and the

percentage by weight of each component in the order of its predominance in columnar form, provided that:

(i) the label shall specify the name of the variety or state "Variety Not Stated" or "VNS," for any component that is required by rule of the department to be labeled as a variety;

(ii) a hybrid shall be labeled as a hybrid;

(iii) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named; and

(iv) the total of the percentages described in Subsections (2)(a), (2)(d), (2)(e), and (2)(f) shall equal 100%;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) lot number or other lot identification;

(d) percentage by weight of all weed seeds;

(e) percentage by weight of agricultural or crop seeds other than those named on the label pursuant to Subsection (2)(a);

(f) percentage by weight of inert matter;

(g) name and rate of occurrence per pound of each kind of restricted noxious weed seed present for which tolerance is permitted;

(h) origin, if known, of alfalfa, red clover, white clover, or field corn seed, except hybrid corn, and, if the origin is unknown, that fact shall be stated;

(i) month and year seed tests were conducted for each named agricultural seed, specifying:

(i) percentage of germination, exclusive of hard or dormant seed; and

(ii) percentage of hard or dormant seed, if present; and

(j) net weight or seed count.

(3) A container of lawn and turf seed or lawn and turf seed mixture offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) name of the kind and variety for each lawn and turf seed component in excess of 5% of the whole, and the percentage by weight of each component in the order of its predominance in columnar form, provided that:

(i) the label shall specify the name of the variety or state "Variety Not Stated" or "VNS," for any component that is required by rule of the department to be labeled as a variety;

(ii) a hybrid shall be labeled as a hybrid; and

(iii) the total of the percentages described in Subsections (3)(a), (3)(d), (3)(e), and (3)(f) shall equal 100%;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) lot number or other lot identification;

(d) percentage by weight of all weed seeds;

(e) percentage by weight of agricultural or crop seeds other than those named on the label pursuant to Subsection (3)(a);

(f) percentage by weight of inert matter;

(g) name and rate of occurrence per pound of each kind of restricted noxious weed seed present for which tolerance is permitted;

(h) month and year seed tests were conducted for each named lawn and turf seed, specifying:

(i) percentage of germination, exclusive of hard or dormant seed; and

(ii) percentage of hard or dormant seed, if present;

(i) the word "mix," "mixture," or "blend," if more than one component is required to be named; and

(j) net weight or seed count.

(4) Vegetable seed in packets of one pound or less prepared for home gardens or household plantings or vegetable seed preplanted in containers, mats, tapes, or other planting devices shall be labeled with the following information:

(a) name of the kind and variety of seed, provided that a hybrid shall be labeled as a hybrid;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) (i) calendar month and year the germination test was completed and sell by date, which may not be more than 12 months past the date of the germination test exclusive of the month of test;

(ii) year for which the seed was packaged for sale, stated as "Packed for yy," or year of the seed sell by date, stated as "Sell by yy"; or

(iii) calendar month and year the germination test was completed and the percentage germination, provided that the germination test was completed within the previous 12 months exclusive of the month of test;

(d) seed with germination less than the germination standard last established for the seed by the department shall specify the:

(i) percentage of germination, exclusive of hard or dormant seed;

(ii) percentage of hard or dormant seed, if present; and

(iii) words "Below Standard" in not less than eight-point type;

(e) statement to indicate the minimum number of seeds or net weight in the container, if the seed are placed in a germination medium, mat, tape, or other device that makes it difficult to determine the quantity of the seed without removing the seed;

(f) lot number or other lot identification;

(g) the word "mix," "mixture," or "blend," if more than one component is required to be named; and

(h) net weight or seed count.

(5) Vegetable seed not described in Subsection (4) shall be labeled with the following information:

(a) name of each kind and variety present in excess of 5% of the whole and the percentage by weight of each in order of its predominance in columnar form, provided that a hybrid shall be labeled as a hybrid;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) lot number or other lot identification;

(d) month and year seed tests were conducted, for each named vegetable seed, specifying the:

(i) percentage of germination, exclusive of hard or dormant seed; and

(ii) percentage of hard or dormant seed, if present;

(e) name and rate of occurrence per pound of each kind of restricted noxious-weed seed for which tolerance is permitted;

(f) the word "mix," "mixture," or "blend," if more than one component is required to be named; and

(g) net weight or seed count.

(6) A flower seed packet of one pound or less prepared for use in home flower gardens or household plantings or flower seed in preplanted containers, mats, tapes, or other planting devices shall be labeled with the following information:

(a) name of the kind and variety or a statement of type and performance characteristics of the seed as prescribed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:

(i) a hybrid shall be labeled as a hybrid; and

(ii) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) (i) calendar month and year the germination test was completed and the sell by date, which may not be more than 12 months past the date of the germination test exclusive of the month of the test;

(ii) year for which the seed was packed for sale, stated as "Packed for yy," or year of the seed sell by date, stated as "Sell by yy"; or

(iii) calendar month and year the germination test was completed and percentage germination, provided that the germination test was completed within the previous 12 months exclusive of the month of the test;

(d) seed with germination less than the germination standard last established by the department shall specify the:

(i) percentage of germination, exclusive of hard or dormant seed;

(ii) percentage of hard or dormant seed, if present; and

(iii) words "Below Standard" in not less than eight-point type; and

(e) statement to indicate the minimum number of seeds or net weight in the container, if the seeds are placed in a germination medium, mat, tape, or other device that makes it difficult to determine the quantity of seed without removing the seed.

(7) Flower seed not described in Subsection (6) offered or exposed for sale in this state shall be labeled with the following information:

(a) name of the kind and variety or statement of the type and performance characteristics of the seed as prescribed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:

(i) a hybrid shall be labeled as a hybrid; and

(ii) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named;

(b) genus and species of wildflower and the subspecies, if appropriate, of wildflower;

(c) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(d) lot number or other lot identification;

(e) percentage of germination, exclusive of hard or dormant seed;

(f) percentage of hard or dormant seed, if present;

(g) calendar month and year that testing was completed to determine percentages described in Subsections (7)(e) and (7)(f);

(h) net weight or seed count; and

(i) wildflower seed with a pure seed percentage of less than 90% shall specify the percentage by weight of:

(i) each component listed in order of predominance;

(ii) weed seed if present; and

(iii) inert matter.

(8) A container of tree and shrub seed that is sold, offered, or exposed for sale or transported for sowing into this state shall:

(a) bear a label as required by Subsection (1), unless:

(i) each bag or other container is clearly identified by a lot number stenciled on the container or the seed is in bulk; and

(ii) under a contractual agreement the seed may bear a label by invoice accompanying the shipment or an analysis tag attached to the invoice; and

(b) bear on the label the following information:

(i) name of the seed and name of the subspecies, if appropriate;

(ii) scientific name of the genus and species and scientific name of the subspecies, if appropriate;

(iii) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(iv) lot number or other lot identification;

(v) information as to origin as follows:

(A) seed collected from a predominantly indigenous stand shall specify the area of collection given by latitude and longitude, geographic description, or political subdivision such as state or county; and

(B) seed collected from other than a predominantly indigenous stand shall specify identity of the area of collection and the origin of the stand or state "origin not indigenous";

(vi) elevation or the upper and lower limits of elevation within which the seed was collected;

(vii) purity as a percentage of pure seed by weight;

(viii) percentage of germination, exclusive of hard or dormant seed;

(ix) percentage of hard or dormant seed, if present;

(x) calendar month and year the germination test was completed to determine percentages described in Subsections (8)(b)(viii) and (8)(b)(ix);

(xi) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named; and

(xii) net weight.

(9) A container of seed for sprouting that is offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(b) name of the kind or kinds in order of predominance;

(c) lot number or other identification;

(d) percentage by weight of each pure seed component in excess of 5% of the whole, other crop seeds, inert matter, and weed seeds, if any;

(e) percentage of germination of each pure seed component, exclusive of hard or dormant seed;

(f) percentage of hard or dormant seed, if present;

(g) calendar month and year the test was completed to determine percentages described in Subsections (9)(d) through (9)(f) or the year for which the seed was packaged;

(h) the word "mix," "mixture," or "blend," if more than one component is required to be named; and

(i) net weight or seed count.

(10) A combination mulch, seed, and fertilizer product shall:

(a) contain a minimum of 70% mulch;

(b) bear a label with the word "combination" followed by the words "mulch – seed – fertilizer" on the upper 30% of the principal display panel, provided that the:

(i) word "combination" shall be the largest and most conspicuous type on the container and equal to or larger than the product name; and

(ii) words "mulch – seed – fertilizer" shall be no smaller than one–half the size of the word "combination" and in close proximity to the word "combination"; and

(c) bear an analysis label for seed placed in a germination medium, mat, tape, or other device or mixed with mulch, specifying the following information:

(i) name of each kind and variety;

(ii) product name;

(iii) lot number;

(iv) percentage by weight of pure seed of each kind and variety named, including those less than 5% of the whole, provided that the total of the percentages described in Subsections (10)(c)(iv) through (10)(c)(vii) shall equal 100%;

(v) percentage by weight of other crop seed;

(vi) percentage by weight of inert matter, which may not be less than 70%;

(vii) percentage by weight of weed seed;

(viii) name and number of noxious weed seed per pound, if present;

(ix) percentage of germination of each kind or kind and variety named;

(x) percentage hard or dormant seed, if appropriate;

(xi) date of germination test;

(xii) name and address of tagger; and

(xiii) net weight.

(11) A product containing a combination of seed and granular fertilizer shall be labeled with the following information:

(a) the word "combination" followed by the words "seed–fertilizer" on the upper 30% of the principal display panel provided that:

(i) the word "combination" must be the largest and most conspicuous type on the container and equal to or larger than the product name; and

(ii) the words "seed-fertilizer" shall be no smaller than one-half the size of the word "combination" and in close proximity to the word "combination"; and

(b) an analysis label specifying the information listed in Subsection (10)(c) and the percentage by weight of the fertilizer, listed on a separate line as a component of the inert matter.

(12) Coated seed shall be labeled with the:

(a) information required by Subsections (2)(a) through (2)(e) and (2)(g);

(b) percentage by weight of pure seed exclusive of coating material;

(c) percentage by weight of coating material;

(d) percentage by weight of inert material exclusive of coating material; and

(e) percentage of germination, determined on 400 pellets with or without seed.

Section 17. Section 4-18-306 is amended to read:

4-18-306. Soil Health Advisory Committee.

(1) The Soil Health Advisory Committee is created under the commission.

(2) The Soil Health Advisory Committee shall assist the commission in administering the program.

(3) The Soil Health Advisory Committee shall maintain no less than seven members appointed by the commissioner.

(4) Soil Health Advisory Committee members shall include farmers, ranchers, or other agricultural producers of diverse production systems, including diversity in size, product, irrigated and dryland systems, and other production methods. Members may include:

(a) an irrigated crop producer;

(b) a dryland crop producer;

(c) a dairyman or pasture producer;

(d) a rancher;

(e) a specialty crop or small farm producer;

(f) a crop consultant;

(g) a tribal representative;

(h) a representative with expertise in soil health;

(i) a committee member representative of the commission; or

(j) a Utah Association of Conservation Districts representative.

(5) At least two members of the Soil Health Advisory Committee shall be water users who own, lease, or represent owners of adjudicated water rights used for agricultural purposes.

(6) Representation on the Soil Health Advisory Committee shall reflect the different geographic areas and demographic diversity of the state, to the greatest extent possible.

(7) (a) The commissioner shall appoint members of the Soil Health Advisory Committee for [~~two~~] four year terms.

(b) Notwithstanding the requirements of Subsection (7)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of Soil Health Advisory Committee members are staggered so that approximately half of the committee is appointed every two years.

(c) An appointee to the Soil Health Advisory Committee may not serve more than two full terms.

(8) A Soil Health Advisory Committee member shall hold office until the expiration of the term for which the member is appointed or until a successor has been duly appointed.

(9) The commissioner may remove a member of the Soil Health Advisory Committee for cause.

(10) The Soil Health Advisory Committee may invite a representative of the Utah Association of Conservation Districts, the United States Department of Agriculture Natural Resources Conservation Service, Utah State University faculty member, the Department of Natural Resources, Division of Water Rights, and Division of Water Quality, to provide technical expertise to the Soil Health Advisory Committee on an as needed basis.

(11) The department will provide staff to manage the Soil Advisory Health Committee.

(12) The Soil Health Advisory Committee shall make recommendations to the commission concerning and assist in:

(a) setting program priorities;

(b) developing the development of guidelines for the implementation of the program, including guidelines and recommendations for the qualifications of nonprofit entities to receive grant money;

(c) soliciting input from similar stakeholders within each member's area of expertise and region of the state and communicate the Soil Health Advisory Committee's recommendations to the region and stakeholders represented by each member;

(d) soliciting input, in collaboration with the department, from underserved agricultural producers;

(e) soliciting input from producers that reflect the different geographic areas and demographic diversity of the state to the greatest extent possible;

(f) identifying key questions and areas of need to recommend for future research and demonstration efforts;

(g) reviewing soil health grant proposals, including proposed budgets, proposed grant outcomes, and the qualifications of any nonprofits applying for grants;

(h) creating a screening and ranking system for proposals and proposing funding recommendations to the commission;

(i) reviewing agreements for cooperation or collaboration entered into by the department pursuant to Subsection 4-18-305(1)(f) and making recommendations to the commission for approval;

(j) reviewing and recommending soil health practices to ensure they support soil health;

(k) evaluating the results and effectiveness of soil health activities and the program in improving soil health; and

(l) recommending to the commission, ways to enhance statewide efforts to support healthy soils throughout the state.

(13) The Soil Health Advisory Committee shall meet at least quarterly. Meetings shall be conducted as required by Title 52, Chapter 4, Open and Public Meetings Act.

(14) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 18. Section 4-24-205 is amended to read:

4-24-205. Livestock on open range or outside enclosure to be branded -- Cattle upon transfer of ownership to be branded -- Exceptions.

(1) (a) Subject to Subsections (1)(b) and (c), livestock may not forage upon an open range in this state or outside an enclosure unless the livestock bears a brand recorded in accordance with this chapter.

(b) Swine, goats, and unweaned calves or colts are not required to bear a brand to forage upon open range or outside an enclosure.

(c) Domesticated elk may not forage upon open range or outside an enclosure under any circumstances as provided in Chapter 39, Domesticated Elk Act.

(2) (a) Except as provided in [~~Subsection~~] Subsections (2)(b) and (2)(c), cattle, upon sale or other transfer of ownership, shall be branded with the recorded brand of the new owner within 30 days after transfer of ownership.

(b) Branding, upon change of ownership, is not required within the 30-day period for:

(i) unweaned calves;

(ii) registered or certified cattle;

(iii) youth project calves, if the number transferred is less than five; or

(iv) dairy cattle held on farms.

(c) If the animal will be harvested within 60 days after the date of the sale or other transfer of ownership, no rebrand is required.

Section 19. Section 4-24-301 is amended to read:

4-24-301. State may be divided into brand inspection districts -- Description filed with county clerk and sheriff.

(1) The commissioner, to facilitate and improve brand inspection, may divide the state into brand inspection districts.

[~~(2) A description covering each district shall be filed by the department with each county clerk and county sheriff in the state.~~]

[~~(3)~~] (2) District boundaries may be changed as considered necessary by the commissioner, with the approval of the Livestock Brand Board.

[~~(4)~~] (3) Brand inspection stations within brand inspection districts may be located and established by the commissioner to assist in the enforcement of this chapter.

Section 20. Section 4-30-106 is amended to read:

4-30-106. Hearing on license application -- Notice of hearing.

(1) Upon the filing of an application, the department [~~shall~~] may set a time for hearing on the application in the city or town nearest the proposed site of the livestock market and cause notice of the time and place of the hearing together with a copy of the application to be forwarded by mail, not less than 15 days before the hearing date, to the following:

(a) each licensed livestock market operator within the state; and

(b) each livestock or other interested association or group of persons in the state that has filed written notice with the department requesting receipt of notice of such hearings.

(2) Notice of the hearing shall be published 14 days before the scheduled hearing date:

(a) in a daily or weekly newspaper of general circulation within the city or town where the hearing is scheduled; and

(b) on the Utah Public Notice Website created in Section 63A-16-601.

Section 21. Section 4-46-304 is enacted to read:

4-46-304. Agriculture Conservation Easement Account.

(1) There is created within the General Fund a restricted account known as the Agriculture Conservation Easement Account.

(2) The Agriculture Conservation Easement Account consists of:

(a) conservation easement stewardship fees;

(b) grants from private foundations;

(c) grants from local governments, the state, or the federal government;

(d) grants from the Land Conservation Board created under Section 4-46-201;

(e) donations from landowners for monitoring and enforcing compliance with conservation easements;

(f) donations from any other person; and

(g) interest on account money.

(3) Upon appropriation by the Legislature, the department shall use money from the account to monitor and enforce compliance with conservation easements held by the department.

(4) The department may not receive or expend donations from the account to acquire conservation easements.

CHAPTER 529
S. B. 260
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

TRANSPORTATION FUNDING REQUIREMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends provisions related to allowed uses for a certain local option sales and use tax for transportation.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions related to the allowed uses for a certain local option sales and use taxes;
- allows a certain portion of a local option sales and use tax within a county of the first class to be used to fund or provide loans for public transit projects in a county of the first class;
- amends the distribution for a certain local option sales and use tax;
- specifies the allowed uses and conditions for a county, city, or town to expend the sales and use tax revenue based on allocations;
- provides requirements for a county to meet if the county elects to change distribution allocations;
- requires a city to comply with the moderate income housing plan requirements to receive a sales and use tax distribution;
- eliminates the deadline for a county to impose the local option sales and use tax; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-408, as last amended by Laws of Utah 2022, Chapter 406
17-27a-408, as last amended by Laws of Utah 2022, Chapter 406
59-12-2202, as last amended by Laws of Utah 2019, Chapter 479
59-12-2219, as last amended by Laws of Utah 2019, Chapter 479
59-12-2220, as last amended by Laws of Utah 2022, Chapter 259
72-2-121, as last amended by Laws of Utah 2022, Chapter 259
72-2-124, as last amended by Laws of Utah 2022, Chapters 69, 259 and 406

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-408 is amended to read:

10-9a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-9a-403(2)(c).

(c) "Moderate income housing report" or "report" means the report described in Subsection (2)(a).

(d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403(2)(b)(iii).

(e) "Specified municipality" means:

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; or

(iii) a metro township with a population of 5,000 or more.

(2) (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified municipality shall annually submit a written moderate income housing report to the division.

(b) The moderate income housing report submitted in 2022 shall include:

(i) a description of each moderate income housing strategy selected by the specified municipality for implementation; and

(ii) an implementation plan.

(c) The moderate income housing report submitted in each calendar year after 2022 shall include:

(i) the information required under Subsection (2)(b);

(ii) a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous fiscal year to implement the moderate income housing strategies selected by the specified municipality for implementation;

(iii) a description of each land use regulation or land use decision made by the specified municipality during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;

(iv) a description of any barriers encountered by the specified municipality in the previous fiscal year in implementing the moderate income housing strategies;

(v) information regarding the number of internal and external or detached accessory dwelling units

located within the specified municipality for which the specified municipality:

(A) issued a building permit to construct; or

(B) issued a business license to rent;

(vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(vii) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.

(d) The moderate income housing report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before July 1 of the year in which the report is required.

(3) Within 90 days after the day on which the division receives a specified municipality's moderate income housing report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (4), review the report to determine compliance with Subsection (2).

(4) (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(b);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and

(iii) is in a form approved by the division.

(b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) four or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;

(iii) is in a form approved by the division; and

(iv) provides sufficient information for the division to:

(A) assess the specified municipality's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified municipality's implementation plan;

(C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies; and

(D) identify how the market has responded to the specified municipality's selected moderate income housing strategies.

(5) (a) A specified municipality qualifies for priority consideration under this Subsection (5) if the specified municipality's moderate income housing report:

(i) complies with Subsection (2); and

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

(b) The following apply to a specified municipality described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the Transportation Commission may give priority consideration to transportation projects located within the boundaries of the specified municipality in accordance with Subsection 72-1-304(3)(c); and

(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (5)(c) shall:

(i) name the specified municipality that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration;

(iii) specify the fiscal year during which the specified municipality qualifies for priority consideration; and

(iv) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(6) (a) If the division, after reviewing a specified municipality's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) The notice described in Subsection (6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified municipality has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and

(iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds under Subsection (7).

(7) (a) A specified municipality is ineligible for funds under this Subsection (7) if the specified municipality:

(i) fails to submit a moderate income housing report to the division; or

(ii) fails to cure the deficiencies in the specified municipality's moderate income housing report within 90 days after the day on which the division sent to the specified municipality a notice of noncompliance under Subsection (6).

(b) The following apply to a specified municipality described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5); and

(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection (7), the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (7)(c) shall:

(i) name the specified municipality that is ineligible for funds;

(ii) describe the funds for which the specified municipality is ineligible to receive;

(iii) specify the fiscal year during which the specified municipality is ineligible for funds; and

(iv) state the basis for the division's determination that the specified municipality is ineligible for funds.

(8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 2. Section 17-27a-408 is amended to read:

17-27a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan as provided in Subsection 10-9a-403(2)(c).

(c) "Moderate income housing report" or "report" means the report described in Subsection (2)(a).

(d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).

(e) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

(2) (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified county shall annually submit a written moderate income housing report to the division.

(b) The moderate income housing report submitted in 2022 shall include:

(i) a description of each moderate income housing strategy selected by the specified county for implementation; and

(ii) an implementation plan.

(c) The moderate income housing report submitted in each calendar year after 2022 shall include:

(i) the information required under Subsection (2)(b);

(ii) a description of each action, whether one-time or ongoing, taken by the specified county during the previous fiscal year to implement the moderate income housing strategies selected by the specified county for implementation;

(iii) a description of each land use regulation or land use decision made by the specified county

during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

(iv) a description of any barriers encountered by the specified county in the previous fiscal year in implementing the moderate income housing strategies; and

(v) information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:

(A) issued a building permit to construct; or

(B) issued a business license to rent;

(vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(vii) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

(d) The moderate income housing report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before July 1 of the year in which the report is required.

(3) Within 90 days after the day on which the division receives a specified county's moderate income housing report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (4), review the report to determine compliance with Subsection (2).

(4) (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(b);

(ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies; and

(iii) is in a form approved by the division.

(b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies;

(iii) is in a form approved by the division; and

(iv) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified county's implementation plan;

(C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies; and

(D) identify how the market has responded to the specified county's selected moderate income housing strategies.

(5) (a) A specified county qualifies for priority consideration under this Subsection (5) if the specified county's moderate income housing report:

(i) complies with Subsection (2); and

(ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.

(b) The following apply to a specified county described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the Transportation Commission may give priority consideration to transportation projects located within the unincorporated areas of the specified county in accordance with Subsection 72-1-304(3)(c); and

(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).

(c) Upon determining that a specified county qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified county, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (5)(c) shall:

(i) name the specified county that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified county qualifies to receive priority consideration;

(iii) specify the fiscal year during which the specified county qualifies for priority consideration; and

(iv) state the basis for the division's determination that the specified county qualifies for priority consideration.

(6) (a) If the division, after reviewing a specified county's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified county.

(b) The notice described in Subsection (6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified county has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and

(iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds under Subsection (7).

(7) (a) A specified county is ineligible for funds under this Subsection (7) if the specified county:

(i) fails to submit a moderate income housing report to the division; or

(ii) fails to cure the deficiencies in the specified county's moderate income housing report within 90 days after the day on which the division sent to the specified county a notice of noncompliance under Subsection (6).

(b) The following apply to a specified county described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72-2-124(6); and

(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).

(c) Upon determining that a specified county is ineligible for funds under this Subsection (7), the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (7)(c) shall:

(i) name the specified county that is ineligible for funds;

(ii) describe the funds for which the specified county is ineligible to receive;

(iii) specify the fiscal year during which the specified county is ineligible for funds; and

(iv) state the basis for the division's determination that the specified county is ineligible for funds.

(8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 3. Section 59-12-2202 is amended to read:

59-12-2202. Definitions.

As used in this part:

(1) "Airline" means the same as that term is defined in Section 59-2-102.

(2) "Airport facility" means the same as that term is defined in Section 59-12-602.

(3) "Airport of regional significance" means an airport identified by the Federal Aviation Administration in the most current National Plan of Integrated Airport Systems or an update to the National Plan of Integrated Airport Systems.

(4) "Annexation" means an annexation to:

(a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(5) "Annexing area" means an area that is annexed into a county, city, or town.

(6) "Class A road" means the same as that term is described in Section 72-3-102.

(7) "Class B road" means the same as that term is described in Section 72-3-103.

(8) "Class C road" means the same as that term is described in Section 72-3-104.

(9) "Class D road" means the same as that term is described in Section 72-3-105.

(10) "Council of governments" means the same as that term is defined in Section 72-2-117.5.

(11) "Eligible political subdivision" means a political subdivision that:

(a) provides public transit services;

(b) is not a public transit district; and

(c) is not annexed into a public transit district.

[~~(11)~~] (12) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

[~~(12)~~] (13) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(13)~~] (14) "Major collector highway" means the same as that term is defined in Section 72-4-102.5.

[~~(14)~~] (15) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

[~~(15)~~] (16) "Minor arterial highway" means the same as that term is defined in Section 72-4-102.5.

[~~(16)~~] (17) "Minor collector road" means the same as that term is defined in Section 72-4-102.5.

[~~(17)~~] (18) "Principal arterial highway" means the same as that term is defined in Section 72-4-102.5.

(19) "Public transit" means the same as that term is defined in Section 17B-2a-802.

(20) "Public transit district" means the same as that term is defined in Section 17B-2a-802.

(21) "Public transit provider" means a public transit district or an eligible political subdivision.

(22) "Public transit service" means a service provided as part of public transit.

[~~(18)~~] (23) "Regionally significant transportation facility" means:

(a) in a county of the first or second class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a fixed guideway that:

(A) extends across two or more cities or unincorporated areas; or

(B) is an extension to an existing fixed guideway; or

(iv) an airport of regional significance; or

(b) in a county of the second class that is not part of a large public transit district, or in a county of the third, fourth, fifth, or sixth class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a major collector highway;

(iv) a minor collector road; or

(v) an airport of regional significance.

[~~(19)~~] (24) "State highway" means a highway designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act.

[~~(20)~~] (25) (a) Subject to Subsection [~~(20)(b)~~] (25)(b), "system for public transit" means the same as the term "public transit" is defined in Section 17B-2a-802.

(b) "System for public transit" includes:

(i) the following costs related to public transit:

(A) maintenance costs; or

(B) operating costs;

(ii) a fixed guideway;

(iii) a park and ride facility;

(iv) a passenger station or passenger terminal;

(v) a right-of-way for public transit; or

(vi) the following that serve a public transit facility:

(A) a maintenance facility;

(B) a platform;

(C) a repair facility;

(D) a roadway;

(E) a storage facility;

(F) a utility line; or

(G) a facility or item similar to those described in Subsections [~~(20)(b)(vi)(A)~~] (25)(b)(vi)(A) through (F).

Section 4. Section 59-12-2219 is amended to read:

59-12-2219. County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

[~~(1) As used in this section:~~]

[~~(a) "Eligible political subdivision" means a political subdivision that:~~]

[~~(i) (A) on May 12, 2015, provides public transit services; or~~]

[~~(B) after May 12, 2015, provides written notice to the commission in accordance with Subsection (9)(b) that it intends to provide public transit service within a county;~~]

[~~(ii) is not a public transit district; and~~]

[~~(iii) is not annexed into a public transit district.~~]

[~~(b) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.~~]

[~~(2)~~] (1) Subject to the other provisions of this part, and subject to Subsection [~~(14)~~] (13), a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

[~~(3)~~] (2) Subject to Subsection [~~(10)~~] (9), the commission shall distribute sales and use tax revenue collected under this section as provided in Subsections [~~(4) through (9)~~] (3) through (8).

[~~(4)~~] (3) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection [~~(7)~~] (6); and

(c) .05% shall be distributed to the county legislative body.

[~~(5)~~] (4) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single large public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection [~~(7)~~] (6); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection [~~(7)~~] (6); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections [~~(5)(a)~~] (4)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection [~~(7)~~] (6); and

(ii) .15% shall be distributed to the county legislative body.

[~~(6)~~] (5) For a county not described in Subsection [~~(4) or (5)~~] (3) or (4), if a county of the second, third, fourth, fifth, or sixth class imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be distributed as provided in Subsection [~~(7)~~] (6);

(ii) .10% shall be distributed as provided in Subsection [~~(8)~~] (7); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be distributed as provided in Subsection [~~(7)~~] (6);

(ii) .10% shall be distributed as provided in Subsection [~~(8)~~] (7); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections [~~(6)(a)~~] (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection [~~(7)~~] (6); and

(ii) .15% shall be distributed to the county legislative body.

[~~(7)~~] (6) (a) Subject to Subsection [~~(7)(b)~~] (6)(b), the commission shall make the distributions required by Subsections [~~(4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(i), (6)(b)(i), (6)(c)(i), and (8)(d)(ii)(A)~~] (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) as follows:

(i) 50% of the total revenue collected under Subsections [~~(4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(i), (6)(b)(i), (6)(c)(i), and (8)(d)(ii)(A)~~] (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties and cities that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections [~~(4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(i), (6)(b)(i), (6)(c)(i), and (8)(d)(ii)(A)~~] (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection [~~(7)~~] (6) shall be determined on the basis of the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from an estimate from the Utah Population Committee.

[~~(8)~~] (7) (a) (i) Subject to the requirements in Subsections [~~(8)(b)~~] (7)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection [~~(8)(e)~~] (7)(e), allocate the revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that imposes a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection [~~(8)(a)(i)(A)~~] (7)(a)(i)(A) does not allocate the revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) in accordance with Subsection [~~(8)(a)(i)(A)~~] (7)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection [~~(8)(a)(i)~~] (7)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question described in Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection [~~(8)~~] (7).

(d) The commission shall make the distributions required by Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection [~~(8)(a)~~] (7)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection [~~(8)(a)(ii)~~] (7)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) not allocated by a county legislative body through a resolution under Subsection [~~(8)(a)~~] (7)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection [~~(7)~~] (6); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection [~~(8)(a)~~] (7)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection [~~(8)(a)~~] (7)(a) specifying the percentage of revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection [~~(8)(f)~~] (7)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection [~~(8)(e)(iii)(A)~~] (7)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection [~~(8)(e)~~] (7)(e) and approved by the county legislative body in accordance with Subsection [~~(8)(e)(ii)~~] (7)(e)(ii).

(g) (i) If a county makes an allocation by adopting a resolution under Subsection [~~(8)(a)~~] (7)(a) or changes an allocation by adopting a resolution under Subsection [~~(8)(e)~~] (7)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection [~~(8)(g)(ii)~~] (7)(g)(ii) from the county.

(ii) The notice described in Subsection [~~(8)(g)(i)~~] (7)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection [~~(8)(a)~~] (7)(a) or (e); and

(B) the percentage of revenue under Subsection [~~(6)(a)(ii) or (6)(b)(ii)~~] (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

[~~(9)~~] (8) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution

required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

[~~(10)~~] (9) (a) (i) Notwithstanding Subsections [~~(4) through (9)~~] (3) through (8), for a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute all of the sales and use tax revenue collected by the county before June 30, 2019, to the county for the purposes described in Subsection [~~(10)(a)(ii)~~] (9)(a)(ii).

(ii) For any revenue collected by a county pursuant to Subsection [~~(10)(a)(i)~~] (9)(a)(i) before June 30, 2019, the county may expend that revenue for:

(A) reducing transportation related debt;

(B) a regionally significant transportation facility; or

(C) a public transit project of regional significance.

(b) For a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute the sales and use tax revenue collected by the county on or after July 1, 2019, as described in Subsections [~~(4) through (9).~~] (3) through (8).

(c) For a county that has not imposed a sales and use tax under this section before June 30, 2019, if the entire boundary of that county is annexed into a large public transit district, and if the county imposes a sales and use tax under this section on or after July 1, 2019, the commission shall distribute the sales and use tax revenue collected by the county as described in Subsections [~~(4) through (9).~~] (3) through (8).

[~~(11)~~] (10) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection [~~(4)(a), (5)(a)(i), (5)(b)(i), or (8)(d)(i)~~] (3)(a), (4)(a)(i), (4)(b)(i), or (7)(d)(i), for a purpose described in Section 59-12-2212.2.

[~~(12)~~] (11) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection [~~(4)(a), (5)(a)(i), (5)(b)(i), or (8)(d)(i)~~] (3)(a), (4)(a)(i), (4)(b)(i), or (7)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

[~~(13)~~] (12) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

[~~(14)~~] (13) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection [~~(14)(a)~~] (13)(a), any sales and use tax imposed under this section by passage of a county ordinance on or before June 30, 2022, may remain in effect.

[~~(15)~~] (14) (a) Beginning on July 1, 2020, and subject to Subsection [~~(16)~~] (15), if a county has not imposed a sales and use tax under this section, subject to the provisions of this part, the legislative body of a city or town described in Subsection [~~(15)(b)~~] (14)(b) may impose a .25% sales and use tax on the transactions described in Subsection 59-12-103(1) within the city or town.

(b) The following cities or towns may impose a sales and use tax described in Subsection [~~(15)(a)~~] (14)(a):

(i) a city or town that has been annexed into a public transit district; or

(ii) an eligible political subdivision.

(c) If a city or town imposes a sales and use tax as provided in this section, the commission shall distribute the sales and use tax revenue collected by the city or town as follows:

(i) .125% to the city or town that imposed the sales and use tax, to be distributed as provided in Subsection [~~(7)~~] (6); and

(ii) .125%, as applicable, to:

(A) the public transit district in which the city or town is annexed; or

(B) the eligible political subdivision for public transit services.

(d) If a city or town imposes a sales and use tax under this section and the county subsequently imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the city or town as described in Subsection [~~(15)(c)~~] (14)(c).

[~~(16)~~] (15) (a) (i) Notwithstanding any other provision in this section, if a city or town legislative body wishes to impose a sales and use tax under this section, the city or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) A city or town legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection [~~(16)(a)~~] (15)(a), any sales and use tax imposed under this section by passage of an ordinance by a city or town legislative body on or before June 30, 2022, may remain in effect.

Section 5. Section 59-12-2220 is amended to read:

59-12-2220. County option sales and use tax to fund highways or a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, [~~beginning on July 1, 2019,~~] the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision [~~as defined in Section 59-12-2219~~]; or

(ii) a city or town within the boundary of the county is an eligible political subdivision[~~as defined in Section 59-12-2219~~]; or

(c) a county legislative body of a county not described in Subsection (1)(a) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county[~~, if there is a public transit district within the boundary of the county~~].

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

[~~(3) A county imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax for capital expenses and service delivery expenses of:~~]

[~~(a) a public transit district;~~]

[~~(b) an eligible political subdivision, as that term is defined in Section 59-12-2219; or~~]

[~~(c) another entity providing a service for public transit or a transit facility within the county as those terms are defined in Section 17B-2a-802.~~]

(3) (a) The commission shall distribute sales and use tax revenue collected under this section as determined by a county legislative body as described in Subsection (3)(b).

(b) If a county legislative body imposes a sales and use tax as described in this section, the county legislative body may elect to impose a sales and use tax revenue distribution as described in Subsection (4), (5), (6), or (7), depending on the class of county, and presence and type of a public transit provider in the county.

(4) If a county legislative body imposes a sales and use tax as described in this section, and the entire boundary of the county is annexed into a large public transit district, and the county is a county of the first class, the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(5) If a county legislative body imposes a sales and use tax as described in this section and the entire boundary of the county is annexed into a large public transit district, and the county is a county not described in Subsection (4), the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(6) (a) Except as provided in Subsection (12)(d), if the entire boundary of a county that imposes a sales and use tax as described in this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district, or if the city or town is an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the county as provided in Subsection (6)(b) or (c).

(b) For a city, town, or portion of the county described in Subsection (6)(a) that is annexed into the single public transit district, or an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the portion of the county that is within a public transit district or eligible political subdivision as follows:

(i) .05% to a public transit provider as described in Subsection (11);

(ii) .075% to the cities and towns as provided in Subsection (8); and

(iii) .075% to the county legislative body.

(c) Except as provided in Subsection (12)(d), for a city, town, or portion of the county described in Subsection (6)(a) that is not annexed into a single public transit district or eligible political subdivision in the county, the commission shall distribute the sales and use tax revenue collected within that portion of the county as follows:

(i) .08% to the cities and towns as provided in Subsection (8); and

(ii) .12% to the county legislative body.

(7) For a county without a public transit service that imposes a sales and use tax as described in this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .08% to the cities and towns as provided in Subsection (8); and

(b) .12% to the county legislative body.

(8) (a) Subject to Subsections (8)(b) and (c), the commission shall make the distributions required by Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c) (i) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a city, town, or metro township is ineligible for funds in accordance with Subsection 10-9a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that city, town, or metro township would have received under Subsection (8)(a) to cities, towns, or metro townships to which Subsection 10-9a-408(7) does not apply.

(ii) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a county is ineligible for funds in accordance with Subsection 17-27a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that county would have received under Subsection (8)(a) to counties to which Subsection 17-27a-408(7) does not apply.

(9) If a public transit service is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit provider that the public transit service has been organized.

(10) A county, city, or town that received distributions described in Subsections (4)(b), (4)(c), (5)(b), (5)(c), (6)(b)(ii), (6)(b)(iii), (6)(c), and (7) may only expend those funds for a purpose described in Section 59-12-2212.2.

(11) (a) Subject to Subsections (11)(b), (c), and (d), revenue designated for public transit as described in this section may be used for capital expenses and service delivery expenses of:

(i) a public transit district;

(ii) an eligible political subdivision; or

(iii) another entity providing a service for public transit or a transit facility within the relevant county, as those terms are defined in Section 17B-2a-802.

(b) (i) If a county of the first class imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit within a county of the first class as described in Subsection (4)(a) shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121.

(ii) If a county of the first class imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(b)(i), for revenue designated for public transit as described in Subsection (4)(a):

(A) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) 50% of the revenue from a sales and use tax imposed under this section in a county of the first

class shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9).

(c) (i) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit as described in Subsection (5)(a) shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(ii) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(c)(i), for the revenue that is designated for public transit in Subsection (5)(a):

(A) 50% shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9); and

(B) 50% shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(d) Except as provided in Subsection (12)(d), for a county that imposes a sales and use tax under this section, for revenue designated for public transit as described in Subsection (6)(b)(i), the revenue shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

[~~(4)~~] (12) (a) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(b) If a county passes an ordinance to impose a sales and use tax as described in this section, the sales and use tax shall take effect on the first day of the calendar quarter after a 90-day period that begins on the date the commission receives written notice from the county of the passage of the ordinance.

(c) A county that imposed the local option sales and use tax described in this section before January 1, 2023, may maintain that county's distribution allocation in place as of January 1, 2023.

[~~(5) (a) Notwithstanding any other provision in this section, if a county wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2023.~~]

[~~(b) The county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2023.~~]

[~~(c) Notwithstanding the deadline described in Subsection (5)(a), any sales and use tax imposed under this section on or before June 30, 2023, may remain in effect.~~]

[~~(6)~~] (13) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county, city, or town [~~has~~] budgeted for transportation or public transit as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection [~~(6)(a)~~] (13)(a) does not apply to a designated transportation or public transit capital or reserve account a county [~~may have established prior to~~], city, or town established before the date the tax becomes effective.

Section 6. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited into or transferred to the fund; [~~and~~]

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited into or transferred to the fund[~~.~~]; and

(e) the portion of the sales and use tax transferred into the fund as described in Subsections 59-12-2220(4)(a) and 59-12-2220(11)(b).

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) [~~The~~] Subject to Subsection (9), the executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the

municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-102 and 63B-31-103;

(h) after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer $2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

(j) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(g), (h), and (i) have been made, to transfer $12,000,000 to the department to distribute for the following projects:

(i) $2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) $1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) $1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) $1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) $1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

(vi) $1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) $1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) $900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) $1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) $700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) $500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

(k) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities, metro townships, and the county of the first class for priority projects to mitigate congestion and improve transportation safety:

(i) $2,000,000 to Sandy;

(ii) $2,000,000 to Taylorsville;

(iii) $1,100,000 to Salt Lake City;

(iv) $1,100,000 to West Jordan;

(v) $1,100,000 to West Valley City;

(vi) $800,000 to Herriman;

(vii) $700,000 to Draper;

(viii) $700,000 to Riverton;

(ix) $700,000 to South Jordan;

(x) $500,000 to Bluffdale;

(xi) $500,000 to Midvale;

(xii) $500,000 to Millcreek;

(xiii) $500,000 to Murray;

(xiv) $400,000 to Cottonwood Heights; and

(xv) $300,000 to Holladay.

(5) (a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection (4)(k), the executive director shall proportionately reduce the amounts transferred as described in Subsection (4)(k).

(b) A local government entity, as that term is defined in Section 63J-1-220, is exempt from entering into an agreement as described in Section 63J-1-220 pertaining to the receipt or expenditure of any funding described in Subsection (4)(k).

(c) A local government may not use revenue described in Subsection (4)(k) to supplant existing class B or class C road funds that a local government has budgeted for transportation projects.

(d) (i) A municipality or county that received a transfer of funds described in Subsection (4)(j) shall submit to the department a statement of cash flow and progress pertaining to the municipality's or county's respective project described in Subsection (4)(j).

(ii) After the department is satisfied that the municipality or county described in Subsection (4)(j) has made substantial progress and the expenditure of funds is programmed and imminent, the department may transfer to the same municipality or county the respective amounts described in Subsection (4)(k).

(6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(7) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(8) [~~Notwithstanding~~] Subject to Subsection (9), and notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

[~~(9) As resources allow, the department shall study in 2020 transportation connectivity in the southwest valley of Salt Lake County, including the feasibility of connecting major east-west corridors to U-111.~~]

(9) Any revenue deposited into the fund as described in Subsection (2)(e) shall be used to provide funding or loans for public transit projects, operations, and supporting infrastructure in the county of the first class.

Section 7. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class

Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) two lanes on U-111 from Herriman Parkway to 11800 South;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality during the fiscal year specified in the notice.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county during the fiscal year specified in the notice.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);

[~~(iv)~~] (v) private contributions; and

[~~(v)~~] (vi) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;

(ii) for development of the oversight plan described in Section 72-1-202(5); or

(iii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility.

(e) (i) [~~The~~] Subject to Subsections (9)(g) and (h), the Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(g) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(b):

(i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and

(ii) Subsection (9)(e) does not apply.

(h) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(c):

(i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and

(ii) Subsection (9)(e) does not apply.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

CHAPTER 530
S. B. 261
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

INFANT AT WORK PILOT PROGRAM SUNSET EXTENSION

Chief Sponsor: Stephanie Pitcher
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill addresses the sunset date of the Infant at Work Pilot Program.

Highlighted Provisions:

This bill:

- extends the sunset date of the Infant at Work Pilot Program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

63A-17-806, as last amended by Laws of Utah 2022, Chapter 169
63I-2-263, as last amended by Laws of Utah 2022, Chapters 63, 209, 240, 242, 264, 354, and 435
63I-2-267, as last amended by Laws of Utah 2021, Chapter 345

Utah Code Sections Affected by Coordination Clause:

63I-2-263 as last amended by Laws of Utah 2022, Chapters 63, 209, 240, 242, 264, 354, and 435

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-806 is amended to read:

63A-17-806. Definitions -- Infant at Work Pilot Program -- Administration -- Report.

(1) As used in this section:

(a) "Eligible employee" means an employee who has been employed by the Department of Health and Human Services for a minimum of:

(i) 12 consecutive months; and

(ii) 1,250 hours, excluding paid time off during the 12-month period immediately preceding the day on which the employee applies for participation in the program.

(b) "Infant" means a baby that is at least six weeks of age and no more than six months of age.

(c) "Parent" means:

(i) a biological or adoptive parent of an infant; or

(ii) an individual who has an infant placed in the individual's foster care by the Division of Child and Family Services.

(d) "Program" means the Infant at Work Pilot Program established in this section.

(2) There is created the Infant at Work Pilot Program for eligible employees.

(3) The program shall:

(a) allow an eligible employee to bring the eligible employee's infant to work subject to the provisions of this section;

(b) be administered by the division; and

(c) be implemented for a minimum of one year.

(4) The division shall establish an application process for eligible employees of the Department of Health and Human Services to apply to the program that includes:

(a) a process for evaluating whether an eligible employee's work environment is appropriate for an infant;

(b) guidelines for infant health and safety; and

(c) guidelines regarding an eligible employee's initial and ongoing participation in the program.

(5) If the division approves the eligible employee for participation in the program, the eligible employee shall have the sole responsibility for the care and safety of the infant at the workplace.

(6) The division may not require the Department of Health and Human Services to designate or set aside space for an eligible employee's infant other than the eligible employee's existing work space.

(7) The division, in consultation with the Department of Health and Human Services, shall make rules that the department determines necessary to establish the program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) On or before June 30, [~~2022~~] 2025, the division, in consultation with the Department of Health and Human Services, shall submit a written report to the Business and Labor Interim Committee that describes the efficacy of the program, including any recommendations for additional legislative action.

Section 2. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Titles 63A through 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

[~~(3) Subsection 63A-17-304(1)(c) is repealed July 1, 2022.~~]

(3) Subsection 63A-17-806 is repealed June 30, 2026.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

[~~(5) Section 63G-1-502 is repealed July 1, 2022.~~]

[~~(6) The following sections regarding the World War II Memorial Commission are repealed July 1, 2022:~~]

[~~(a) Section 63G-1-801;~~]

[~~(b) Section 63G-1-802;~~]

[~~(c) Section 63G-1-803; and~~]

[~~(d) Section 63G-1-804.~~]

[~~(7) Title 63H, Chapter 5, Utah State Railroad Museum Authority, is repealed on July 1, 2022.~~]

[~~(8)~~] (5) Section 63H-7a-303 is repealed July 1, 2024.

[~~(9)~~] (6) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(10)~~] (7) Subsection 63J-1-602.2(44), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

[~~(11) Sections 63M-7-213 and 63M-7-213.5 are repealed January 1, 2023.~~]

[~~(12) Section 63M-7-217 is repealed July 1, 2022.~~]

[~~(13)~~] (8) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(14)~~] (9) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 3. Section 63I-2-267 is amended to read:

63I-2-267. Repeal dates: Title 67.

[~~Section 63A-17-806 is repealed June 30, 2023.~~]

Section 4. Coordinating S.B. 261 with H.B. 201 -- Substantive and technical amendments.

If this S.B. 261 and H.B. 201, Revisor's Technical Corrections to Utah Code, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by not making the changes to Section 63I-2-263 in H.B. 201.

CHAPTER 531
S. B. 263
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

ELECTRONIC CIGARETTE AND OTHER NICOTINE PRODUCT TAX AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies tax provisions in the Electronic Cigarette and Nicotine Product Taxation and Licensing Act.

Highlighted Provisions:

This bill:

- provides for proportional reductions in the amounts distributed from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account (the account) if the revenue deposited into the account is insufficient to fund the statutory amounts;
- extends the use of the account revenue to include funding compliance personnel within the State Tax Commission; and
- requires the State Tax Commission to:
  - increase enforcement of the collection of the electronic cigarette and nicotine product tax;
  - conduct a study on enforcement and collection of the electronic cigarette and nicotine product tax; and
  - report the State Tax Commission's findings and recommendations to the Revenue and Taxation Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

59-14-807, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

ENACTS:

59-14-809, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

59-14-807, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
59-14-809, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-14-807 is amended to read:

59-14-807. Electronic Cigarette Substance and Nicotine Product Tax Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account consists of:

(a) [~~revenues~~] revenue collected from the tax imposed by Section 59-14-804; and

(b) amounts appropriated by the Legislature.

(3) (a) For each fiscal year[~~, beginning with fiscal year 2021~~], and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account:

[~~(a)~~] (i) $2,000,000, which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116;

[~~(b)~~] (ii) $2,000,000 to the Department of Health for statewide cessation programs and prevention education;

[~~(c)~~] (iii) $1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;

[~~(d)~~] (iv) $3,000,000, which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116;

[~~(e)~~] (v) $5,084,200 to the State Board of Education for school-based prevention programs; and

[~~(f)~~] (vi) $2,000,000 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television.

(b) If the amount in the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the distribution amounts shall be adjusted proportionately.

(4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26-57-103;

(ii) the labeling requirement described in Section 26-57-104; and

(iii) the penalty provisions described in Section 26-62-305.

(b) The Department of Health shall use the money received in accordance with Subsection [~~(3)(b)~~] (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26-7-10.

(c) The local health departments shall use the money received in accordance with Subsection [~~(3)(d)~~] (3)(a)(iv) to issue grants under the

Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection [~~(3)(e)~~] (3)(a)(v) to distribute to local education agencies to pay for:

(i) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(ii) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b).

(5) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account after the distribution described in Subsection (3) may only be used for:

(a) funding commission personnel to enforce compliance with the tax collection requirements of this part; and

(b) programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

Section 2. Section 59-14-809 is enacted to read:

59-14-809. Commission study on enforcement and collection of tax.

(1) The commission shall:

(a) implement increased enforcement of the tax imposed by this part; and

(b) study issues related to increased enforcement and compliance with the requirements of this part.

(2) The study shall include a review of:

(a) the impact of increased enforcement on collections of the tax imposed by this part;

(b) options for long-term funding of increased enforcement of the tax imposed by this part;

(c) the sufficiency of collections of the tax imposed by this part to fund distributions from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account under Section 59-14-807;

(d) impacts of a lack of federal regulation of electronic cigarettes on enforcement and compliance efforts; and

(e) potential impacts on compliance of changing the incidence of taxation to a tax imposed on the retail sale of an electronic cigarette substance or prefilled electronic cigarette.

(3) The commission shall annually report the commission's findings and recommendations on the study items described in Subsections (2)(a) through (d) to the Revenue and Taxation Interim Committee on or before the September interim meeting.

(4) The commission shall report the commission's findings and recommendations on the study item described in Subsection (2)(e) to the Revenue and Taxation Interim Committee on or before the September 2023 interim meeting.

Section 3. Coordinating S.B. 263 with H.B. 460 -- Technical amendments.

If this S.B. 263 and H.B. 460, Settlement Fund Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) modify Subsection 59-14-807(3)(b) in this S.B. 263 to read:

"(b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the distribution amounts shall be adjusted proportionately."; and

(2) modify Subsection 59-14-809(2)(c) in this S.B. 263 to read:

"(c) the sufficiency of collections of the tax imposed by this part to fund distributions from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account under Section 59-14-807;".

CHAPTER 532
S. B. 264
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

MODIFIED CAR EMISSIONS REQUIREMENTS

Chief Sponsor: John D. Johnson
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill defines a restored-modified motor vehicle and provides procedures for an emissions test as a prerequisite to registration of the restored-modified motor vehicle, if required.

Highlighted Provisions:

This bill:

- defines the term, "restored modified vehicle";
- at the request of the owner, allows the Motor Vehicle Division to notate the registration certificate of a restored-modified vehicle indicating that the vehicle is a restored-modified vehicle;
- requires an emissions inspection as a prerequisite to registration of a restored-modified vehicle;
- prohibits a county emissions program from refusing to perform an emissions test based solely on the status of a vehicle as a restored-modified vehicle; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-102, as last amended by Laws of Utah 2022, Chapters 92, 180
41-1a-201, as last amended by Laws of Utah 2022, Chapter 259
41-1a-202, as last amended by Laws of Utah 2019, Chapters 251, 459
41-1a-226, as last amended by Laws of Utah 2022, Chapter 259
41-6a-102, as last amended by Laws of Utah 2022, Chapters 86, 92 and 104
41-6a-1642, as last amended by Laws of Utah 2022, Chapters 160, 259

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

(a) an electric motor vehicle;

(b) a hybrid electric motor vehicle;

(c) a plug-in hybrid electric motor vehicle; or

(d) a motor vehicle powered exclusively by a fuel other than:

(i) motor fuel;

(ii) diesel fuel;

(iii) natural gas; or

(iv) propane.

(7) "Amateur radio operator" means a person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Automated driving system" means the same as that term is defined in Section 41-26-102.1.

(10) "Branded title" means a title certificate that is labeled:

(a) rebuilt and restored to operation;

(b) flooded and restored to operation; or

(c) not restored to operation.

(11) "Camper" means a structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(12) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(13) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(14) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

(a) as a carrier for hire, compensation, or profit; or

(b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(15) "Commission" means the State Tax Commission.

(16) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(17) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(18) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(19) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(20) "Dynamic driving task" means the same as that term is defined in Section 41-26-102.1.

(21) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(22) "Essential parts" means the integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter the vehicle's appearance, model, type, or mode of operation.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(24) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and any other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(25) "Fleet" means one or more commercial vehicles.

(26) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(27) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(28) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(29) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(30) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(31) "Implement of husbandry" means a vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(32) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If a fleet is composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(33) "Interstate vehicle" means a commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(34) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(35) "Lienholder" means a person with a security interest in particular property.

(36) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(37) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(38) "Military vehicle" means a vehicle of any size or weight that was manufactured for use by armed forces and that is maintained in a condition that represents the vehicle's military design and markings regardless of current ownership or use.

(39) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(40) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(41) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include:

(i) an off-highway vehicle; or

(ii) a motor assisted scooter as defined in Section 41-6a-102.

(42) "Motorboat" means the same as that term is defined in Section 73-18-2.

(43) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(44) "Natural gas" means a fuel of which the primary constituent is methane.

(45) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains a vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(46) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(47) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(48) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(49) (a) "Operate" means:

(i) to navigate a vessel; or

(ii) collectively, the activities performed in order to perform the entire dynamic driving task for a given motor vehicle by:

(A) a human driver as defined in Section 41-26-102.1; or

(B) an engaged automated driving system.

(b) "Operate" includes testing of an automated driving system.

(50) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(51) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

(52) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

(53) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(54) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes a motor vehicle with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(55) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(56) "Pneumatic tire" means a tire in which compressed air is designed to support the load.

(57) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(58) "Public garage" means a building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(59) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

(60) "Reconstructed vehicle" means a vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(61) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

(62) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

(63) (a) "Registration year" means a 12 consecutive month period commencing with the completion of the applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

(64) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

(65) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

(66) "Restored-modified vehicle" means a motor vehicle that has been restored and modified with modern parts and technology, including emission control technology and an on-board diagnostic system.

[~~(66)~~] (67) "Road tractor" means a motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

[~~(67)~~] (68) "Sailboat" means the same as that term is defined in Section 73-18-2.

[~~(68)~~] (69) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

[~~(69)~~] (70) "Semitrailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

[~~(70)~~] (71) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

[~~(71)~~] (72) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection [~~(71)(a),~~] (72)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

[~~(72)~~] (73) (a) "Special mobile equipment" means a vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

[~~(73)~~] (74) "Specially constructed vehicle" means a vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

[~~(74)~~] (75) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission pursuant to Subsection 41-1a-1101(5).

[~~(75)~~] (76) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[~~(76)~~] (77) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[~~(77)~~] (78) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(78)~~] (79) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(79)~~] (80) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[~~(80)~~] (81) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[~~(81)~~] (82) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

[~~(82)~~] (83) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[~~(83)~~] (84) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[~~(84)~~] (85) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[~~(85)~~] (86) "Vessel" means the same as that term is defined in Section 73-18-2.

[~~(86)~~] (87) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[~~(87)~~] (88) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[~~(88)~~] (89) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-1a-201 is amended to read:

41-1a-201. Function of registration -- Registration required -- Penalty.

(1) Unless exempted, a person or automated driving system may not operate and an owner may not engage an automated driving system, give another person permission to engage an automated driving system, or give another person permission to operate a motor vehicle, combination of vehicles, trailer, semitrailer, vintage vehicle, restored-modified vehicle, off-highway vehicle, vessel, or park model recreational vehicle in this state unless it has been registered in accordance with this chapter, Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act.

(2) Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

(3) (a) In the event that materials are temporarily unavailable for registration items required under Section 41-1a-402, the commission may delay initial vehicle registration or renewal of vehicle registrations.

(b) In a circumstance described in Subsection (3)(a), a person does not violate Subsection (1) for failure to register a vehicle during a delay period described in Subsection (3)(a).

Section 3. Section 41-1a-202 is amended to read:

41-1a-202. Definitions -- Vehicles exempt from registration -- Registration of vehicles after establishing residency.

(1) In this section:

(a) "Domicile" means the place:

(i) where an individual has a fixed permanent home and principal establishment;

(ii) to which the individual if absent, intends to return; and

(iii) in which the individual and his family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

(b) (i) "Resident" means any of the following:

(A) an individual who:

(I) has established a domicile in this state;

(II) regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(III) engages in a trade, profession, or occupation in this state or who accepts employment in other than seasonal work in this state and who does not commute into the state;

(IV) declares himself to be a resident of this state for the purpose of obtaining a driver license or motor vehicle registration; or

(V) declares himself a resident of Utah to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees; or

(B) any individual, partnership, limited liability company, firm, corporation, association, or other entity that:

(I) maintains a main office, branch office, or warehouse facility in this state and that bases and operates a motor vehicle in this state; or

(II) operates a motor vehicle in intrastate transportation for other than seasonal work.

(ii) "Resident" does not include any of the following:

(A) a member of the military temporarily stationed in Utah;

(B) an out-of-state student, as classified by the institution of higher education, enrolled with the equivalent of seven or more quarter hours, regardless of whether the student engages in a trade, profession, or occupation in this state or accepts employment in this state; and

(C) an individual domiciled in another state or a foreign country that:

(I) is engaged in public, charitable, educational, or religious services for a government agency or an organization that qualifies for tax-exempt status under Internal Revenue Code Section 501(c)(3);

(II) is not compensated for services rendered other than expense reimbursements; and

(III) is temporarily in Utah for a period not to exceed 24 months.

(iii) Notwithstanding Subsections (1)(b)(i) and (ii), "resident" includes the owner of a vehicle equipped with an automated driving system as defined in Section 41-26-102.1 if the vehicle is physically present in the state for more than 30 consecutive days in a calendar year.

(2) (a) Registration under this chapter is not required for any:

(i) vehicle registered in another state and owned by a nonresident of the state or operating under a temporary registration permit issued by the division or a dealer authorized by this chapter, driven or moved upon a highway in conformance with the provisions of this chapter relating to manufacturers, transporters, dealers, lien holders, or interstate vehicles;

(ii) vehicle driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

(iii) implement of husbandry, whether of a type otherwise subject to registration or not, that is only incidentally operated or moved upon a highway;

(iv) special mobile equipment;

(v) vehicle owned or leased by the federal government;

(vi) motor vehicle not designed, used, or maintained for the transportation of passengers for hire or for the transportation of property if the motor vehicle is registered in another state and is owned and operated by a nonresident of this state;

(vii) vehicle or combination of vehicles designed, used, or maintained for the transportation of persons for hire or for the transportation of property if the vehicle or combination of vehicles is registered in another state and is owned and operated by a nonresident of this state and if the vehicle or combination of vehicles has a gross laden weight of 26,000 pounds or less;

(viii) trailer of 750 pounds or less unladen weight and not designed, used, and maintained for hire for the transportation of property or person;

(ix) manufactured home or mobile home;

(x) off-highway vehicle currently registered under Section 41-22-3 if the off-highway vehicle is:

(A) being towed;

(B) operated on a street or highway designated as open to off-highway vehicle use; or

(C) operated in the manner prescribed in Subsections 41-22-10.3(1) through (3);

(xi) off-highway implement of husbandry operated in the manner prescribed in Subsections 41-22-5.5(3) through (5);

(xii) modular and prebuilt homes conforming to the uniform building code and presently regulated by the United States Department of Housing and Urban Development that are not constructed on a permanent chassis;

(xiii) electric assisted bicycle defined under Section 41-6a-102;

(xiv) motor assisted scooter defined under Section 41-6a-102; or

(xv) electric personal assistive mobility device defined under Section 41-6a-102.

(b) For purposes of an implement of husbandry as described in Subsection (2)(a)(iii), incidental operation on a highway includes operation that is:

(i) transportation of raw agricultural materials or other agricultural related operations; and

(ii) limited to 100 miles round trip on a highway.

(3) Unless otherwise exempted under Subsection (2), registration under this chapter is required for any motor vehicle, combination of vehicles, trailer, semitrailer, ~~[or]~~ vintage vehicle, or restored-modified vehicle within 60 days of the owner establishing residency in this state.

(4) A motor vehicle that is registered under Section 41-3-306 is exempt from the registration requirements of this part for the time period that the registration under Section 41-3-306 is valid.

(5) A vehicle that has been issued a nonrepairable certificate may not be registered under this chapter.

Section 4. Section 41-1a-226 is amended to read:

41-1a-226. Vintage vehicle -- Signed statement -- Restored-modified vehicle -- Registration.

(1) The owner of a vintage vehicle who applies for registration under this part shall provide a signed statement that the vintage vehicle:

(a) is owned and operated for the purposes described in Section 41-21-1; and

(b) is safe to operate on the highways of this state as described in Section 41-21-4.

(2) For a vintage vehicle with a model year of 1980 or older, the signed statement described in Subsection (1) is in lieu of an emissions inspection, from which a vintage vehicle is exempt under Subsection 41-6a-1642(4).

(3) Before registration of a vintage vehicle that has a model year of 1981 or newer, an owner shall:

(a) obtain a certificate of emissions inspection as provided in Section 41-6a-1642; or

(b) provide proof of vehicle insurance coverage for the vintage vehicle that is a type specific to a vehicle collector.

(4) (a) If an owner of a restored-modified vehicle who applies for registration that wishes to have the notation on the registration certificate as described in Subsection (4)(b), the owner may provide a signed statement that the vehicle:

(i) meets the definition of a restored-modified vehicle, and has modern technology, including emission control technology and an on-board diagnostic system; and

(ii) is safe to operate on the highways of this state.

(b) If a vehicle qualifies as a restored-modified vehicle, the division shall notate the registration certificate indicating that the vehicle is a restored-modified vehicle.

(c) An owner of a restored-modified vehicle may elect to remove the restored-modified notation on the registration certificate at the time of a subsequent registration.

Section 5. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) (a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(24) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(25) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(26) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

(27) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(28) "Highway authority" means the same as that term is defined in Section 72-1-102.

(29) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral [~~curblines~~] curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(30) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(31) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

(32) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

(33) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(34) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(35) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

(36) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(37) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(38) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (38)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the

transportation of property for distribution by a private carrier.

(39) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

(40) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

(41) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

(42) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(43) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

(44) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

(45) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

(46) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

(47) "Operate" means the same as that term is defined in Section 41-1a-102.

(48) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

(49) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

(50) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

(51) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(52) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

(53) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

(54) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(55) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

(56) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(57) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

(58) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(59) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

(60) "Restored-modified vehicle" means the same as that term is defined in Section 41-1a-102.

[~~(60)~~] (61) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(61)~~] (62) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(62)~~] (63) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(63)~~] (64) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(64)~~] (65) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(65)~~] (66) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(66)~~] (67) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(67)~~] (68) (a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(68)~~] (69) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(69)~~] (70) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(70)~~] (71) "Stop" when required means complete cessation from movement.

[~~(71)~~] (72) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(72)~~] (73) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(73)~~] (74) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(74)~~] (75) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(75)~~] (76) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(76)~~] (77) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(77)~~] (78) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(78)~~] (79) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(79)~~] (80) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(80)~~] (81) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(81)~~] (82) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(82)~~] (83) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(83)~~] (84) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(84)~~] (85) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 6. Section 41-6a-1642 is amended to read:

41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) (a) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

[~~(a)~~] (i) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

[~~(i)~~] (A) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

[~~(ii)~~] (B) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

[~~(iii)~~] (C) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

[~~(iv)~~] (D) Volkswagen Golf Sportwagen, model year 2015;

[~~(v)~~] (E) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

[~~(vi)~~] (F) Volkswagen Beetle, model years 2013, 2014, and 2015;

[~~(vii)~~] (G) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

[~~(viii)~~] (H) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

[~~(b)~~] (ii) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

[~~(i)~~] (A) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

[~~(ii)~~] (B) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

[~~(iii)~~] (C) Audi A6 Quattro, model years 2014, 2015, and 2016;

[~~(iv)~~] (D) Audi A7 Quattro, model years 2014, 2015, and 2016;

[~~(v)~~] (E) Audi A8, model years 2014, 2015, and 2016;

[~~(vi)~~] (F) Audi A8L, model years 2014, 2015, and 2016;

[~~(vii)~~] (G) Audi Q5, model years 2014, 2015, and 2016; and

[~~(viii)~~] (H) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(b) (i) An owner of a restored-modified vehicle subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1).

(ii) A county emissions program may not refuse to perform an emissions inspection or indicate a failed emissions test of the vehicle based solely on a modification to the engine or component of the motor vehicle if:

(A) the modification is not likely to result in the motor vehicle having increased emissions relative to the emissions of the motor vehicle before the modification; and

(B) the motor vehicle modification is a change to an engine that is newer than the engine with which the motor vehicle was originally equipped, or the engine includes technology that increases the facility of the administration of an emissions test, such as an on-board diagnostics system.

(iii) The first time an owner seeks to obtain an emissions inspection as a prerequisite to registration of a restored-modified vehicle:

(A) the owner shall present the signed statement described in Subsection 41-1a-226(4); and

(B) the county emissions program shall perform the emissions test.

(iv) If a motor vehicle is registered as a restored-modified vehicle and the registration certificate is notated as described in Subsection 41-1a-226(4), a county emissions program may not refuse to perform an emissions test based solely on the restored-modified status of the motor vehicle.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1:

(i) if the vintage vehicle has a model year of 1980 or older; or

(ii) for a vintage vehicle that has a model year of 1981 or newer, if the owner provides proof of vehicle insurance that is a type specific to a vehicle collector;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(g) a motorcycle as defined in Section 41-1a-102;

(h) an electric motor vehicle as defined in Section 41-1a-102; and

(i) a motor vehicle with a model year of 1967 or older.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(f) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

(a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(i) a model year of 2007 or newer;

(ii) a gross vehicle weight rating of 14,000 pounds or less; and

(iii) a model year that is five years old or older; and

(b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(i) with a gross vehicle weight rating of 14,000 pounds or less;

(ii) that has a model year of 1998 or newer; and

(iii) that has a model year that is five years old or older.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in regulations or ordinances made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in

accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13) (a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

(14) (a) If a county has reason to believe that a vehicle owner has provided an address as required in Section 41-1a-209 to register or attempt to register a motor vehicle in a county other than the county of the bona fide residence of the owner in order to avoid an emissions inspection required under this section, the county may investigate and gather evidence to determine whether the vehicle owner has used a false address or an address other than the vehicle owner's bona fide residence or place of business.

(b) If a county conducts an investigation as described in Subsection (14)(a) and determines that the vehicle owner has used a false or improper address in an effort to avoid an emissions inspection as required in this section, the county may impose a civil penalty of $1,000.

CHAPTER 533
S. B. 271
Passed March 3, 2023
Approved March 23, 2023
Effective May 3, 2023

HOME OWNERSHIP REQUIREMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill prohibits certain municipal and county land use regulations.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a county or municipal legislative body from adopting or enforcing a land use regulation that regulates co-owned homes differently from other residential units; and
- prohibits a county or municipal legislative body from using a land use regulation regarding co-owned homes to punish individuals for owning or using a co-owned home.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
10-8-85.10, Utah Code Annotated 1953
17-50-340, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-85.10 is enacted to read:

10-8-85.10. Ordinances regarding co-ownership -- Prohibition on municipal ordinances restricting co-ownership models.

(1) As used in this section:

(a) "Co-owned home" means any residential unit that is jointly owned, in any manner or form, by any combination of individuals or entities.

(b) "Residential unit" means the same as that term is defined in Section 10-8-85.4.

(2) Notwithstanding Section 10-9a-501 and Subsection 10-9a-503(1), a municipal legislative body may not:

(a) adopt or enforce a land use regulation that regulates co-owned homes differently than other residential units; or

(b) use a land use regulation governing co-owned homes to fine, charge, prosecute, or otherwise punish an individual solely for the act of owning or using a co-owned home.

(3) Notwithstanding Subsection (2), a legislative body may adopt and enforce land use regulations, if the regulations are applied equally to all residential units, including co-owned homes.

(4) This section does not limit private individuals or associations from adopting rules or regulations governing co-owned homes.

(5) Nothing in this section limits a municipality's authority to adopt or enforce regulations regarding:

(a) accessory dwelling units, as defined in Section 10-9a-103;

(b) internal accessory dwelling units, as defined in Section 10-9a-511.5; or

(c) the rental of a residential unit for fewer than 30 days consistent with Section 10-8-85.4.

Section 2. Section 17-50-340 is enacted to read:

17-50-340. Ordinances regarding co-ownership -- Prohibition on county ordinances restricting co-ownership models.

(1) As used in this section:

(a) "Co-owned home" means any residential unit that is jointly owned, in any manner or form, by any combination of individuals or entities.

(b) "Residential unit" means the same as that term is defined in Section 17-50-338.

(2) Notwithstanding Section 17-27a-501 or Subsection 17-27a-503(1), a county legislative body may not:

(a) adopt or enforce a land use regulation that governs co-owned homes differently than other residential units; or

(b) use a land use regulation that regulates co-owned homes to fine, charge, prosecute, or otherwise punish an individual solely for the act of owning or using a co-owned home.

(3) Notwithstanding Subsection (2), a legislative body may adopt and enforce land use regulations, if the regulations are applied equally to all residential units, including co-owned homes.

(4) This section does not limit homeowners' associations or condominium associations from adopting rules or regulations governing co-owned homes.

(5) Nothing in this section limits a county's authority to adopt or enforce regulations regarding:

(a) accessory dwelling units, as defined in Section 17-27a-103;

(b) internal accessory dwelling units, as defined in Section 17-27a-510.5; or

(c) the rental of a residential unit for fewer than 30 days consistent with Section 17-50-338.

CHAPTER 534
S. B. 272
Passed March 1, 2023
Approved March 23, 2023
Effective July 1, 2023

FUNDS AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies provisions related to various funds and repeals contribution dependent accounts that have not received a sufficient level of contributions, together with those accounts' associated programs, where applicable.

Highlighted Provisions:

This bill:

- repeals the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account;
- repeals the Survivors of Suicide Loss Account and makes technical amendments to the program;
- repeals the Psychiatric Consultation Program Account and makes technical adjustments to the program;
- repeals the Choose Life Adoption Support Restricted Account;
- repeals the Mule Deer Protection Restricted Account;
- repeals the Automatic External Defibrillator Restricted Account;
- repeals the Children's Hearing Aid Program Restricted Account;
- repeals the Children with Cancer Support Restricted Account;
- repeals the Children with Heart Disease Support Restricted Account;
- repeals the Drinking While Pregnant Prevention Media and Education Campaign Restricted Account and the Drinking While Pregnant Prevention Media and Education Campaign;
- repeals the West Traverse Sentinel Landscape Fund;
- repeals the Prison Development Restricted Account;
- repeals the State Capitol Fund;
- repeals the Child Care Fund;
- repeals the Invest More for Education Account and its associated tax return contribution option;
- modifies the purposes of the State Disaster Recovery Restricted Account to add payment of state earthquake deductibles as a permitted use;
- permits the State Employees' Annual Leave Trust Fund to be used for the purpose of reimbursing overpayments; and
- changes lapsing procedures for the Commerce Electronic Payment Fee Restricted Account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

26-8b-102, as last amended by Laws of Utah 2015, Chapter 411
35A-3-205, as last amended by Laws of Utah 2016, Chapter 144
41-1a-418, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, and 451
41-1a-422, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, 255, 259, 335, 451, and 456
53-2a-603, as last amended by Laws of Utah 2022, Chapters 111, 373
59-10-1304, as last amended by Laws of Utah 2020, Chapter 311
62A-15-1501, as last amended by Laws of Utah 2021, Chapter 277
62A-15-1502, as last amended by Laws of Utah 2021, Chapter 277
62A-15-1601, as last amended by Laws of Utah 2021, Chapter 278
62A-15-1602, as last amended by Laws of Utah 2021, Chapter 278
62A-15-1801, as enacted by Laws of Utah 2020, Chapter 304
63A-5b-1107, as last amended by Laws of Utah 2020, Chapter 354 and renumbered and amended by Laws of Utah 2020, Chapter 152
63C-9-501, as last amended by Laws of Utah 2014, Chapter 172
63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154
63M-7-303, as last amended by Laws of Utah 2022, Chapter 211
67-19f-201, as last amended by Laws of Utah 2021, Chapter 344

REPEALS:

4-42-101, as enacted by Laws of Utah 2017, Chapter 194
4-42-102, as enacted by Laws of Utah 2017, Chapter 194
23-30-103, as enacted by Laws of Utah 2012, Chapter 143
26-8b-601, as enacted by Laws of Utah 2013, Chapter 99
26-8b-602, as last amended by Laws of Utah 2014, Chapter 109
26-10-11, as last amended by Laws of Utah 2021, Chapter 50
26-21a-304, as enacted by Laws of Utah 2016, Chapter 46
26-58-101, as enacted by Laws of Utah 2016, Chapter 71
26-58-102, as enacted by Laws of Utah 2016, Chapter 71

32B-2-308, as last amended by Laws of Utah 2022, Chapter 255
35A-3-206, as last amended by Laws of Utah 2015, Chapter 221
39A-8-105, as renumbered and amended by Laws of Utah 2022, Chapter 373
53F-9-205, as renumbered and amended by Laws of Utah 2018, Chapter 2
59-10-1318, as last amended by Laws of Utah 2018, Chapter 415
62A-15-403, as renumbered and amended by Laws of Utah 2022, Chapter 211
63C-9-502, as last amended by Laws of Utah 2015, Chapter 314
80-2-502, as renumbered and amended by Laws of Utah 2022, Chapter 334

Utah Code Sections Affected by Coordination Clause:
13-1-17, Utah Code Annotated 1953
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8b-102 is amended to read:

26-8b-102. Definitions.

As used in this chapter:

[~~(1) "Account" means the Automatic External Defibrillator Restricted Account, created in Section 26-8b-602.~~]

[~~(2)~~] (1) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to 21 U.S.C. Sec. 360(k);

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to a person's heart.

[~~(3)~~] (2) "Bureau" means the Bureau of Emergency Medical Services, within the department.

[~~(4)~~] (3) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

[~~(5)~~] (4) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the bureau.

[~~(6)~~] (5) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

Section 2. Section 35A-3-205 is amended to read:

35A-3-205. Creation of committee.

(1) There is created a Child Care Advisory Committee.

(2) The committee shall counsel and advise the office in fulfilling its statutory obligations, including:

(a) reviewing and providing recommendations on the office's annual budget;

(b) providing recommendations on how the office might best respond to child care needs throughout the state; and

(c) providing recommendations on the use of money [~~in the Child Care Fund and other money that comes into~~] that is provided to the office for the purpose of addressing child care needs.

(3) The committee is composed of the following members, with special attention given to insure diversity and representation from both urban and rural groups:

(a) one expert in early childhood development;

(b) one child care provider who operates a center;

(c) one child care provider who operates a family child care business;

(d) one parent who is representative of households receiving a child care subsidy from the office;

(e) one representative from the public at-large;

(f) one representative selected by the State Board of Education;

(g) one representative of the Department of Health;

(h) one representative of the Department of Human Services;

(i) two representatives from the corporate community, one who is a recent "Family Friendly" award winner and who received the award because of efforts related to child care;

(j) two representatives from the small business community;

(k) one representative from child care advocacy groups;

(l) one representative of children with disabilities;

(m) one representative from the state Head Start Association appointed by the association;

(n) one representative from each child care provider association; and

(o) one representative of a child care resource and referral center appointed by the organization representing child care resource and referral agencies.

(4) (a) The executive director shall appoint the members designated in Subsections (3)(a) through (e) and (j) through (n).

(b) The head of the respective departments shall appoint the members referred to in Subsections (3)(f) through (i).

(c) Each child care provider association shall appoint its respective member referred to in Subsection (3)(o).

(5) (a) Except as required by Subsection (5)(b), as terms of current committee members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(6) When a vacancy occurs in the membership for any reason, including missing three consecutive meetings where the member has not been excused by the chair prior to or during the meeting, the replacement shall be appointed for the unexpired term.

(7) A majority of the members constitutes a quorum for the transaction of business.

(8) (a) The executive director shall select a chair from the committee membership.

(b) A chair may serve no more than two one-year terms as chair.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

Section 3. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of Outdoor Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

[~~(xx) programs that support and promote adoptions;~~]

[~~(xxi)~~] (xx) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

[~~(xxii)~~] (xxi) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

[~~(xxiii) programs that support children with heart disease;~~]

[~~(xxiv)~~] (xxii) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

[~~(xxv) programs that provide assistance to children with cancer;~~]

[~~(xxvi) programs that promote leadership and career development through agricultural education;~~]

[~~(xxvii)~~] (xxiii) the Utah State Historical Society;

[~~(xxviii)~~] (xxiv) programs that promote motorcycle safety awareness;

[~~(xxix)~~] (xxv) organizations that promote clean air through partnership, education, and awareness;

[~~(xxx)~~] (xxvi) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities;

[~~(xxxi)~~] (xxvii) organizations dedicated to facilitating, connecting, registering, and advocating for organ donors and donor families;

[~~(xxxii)~~] (xxviii) public education on behalf of the Kiwanis International clubs;

[~~(xxxiii)~~] (xxix) the Live On suicide prevention campaign; or

[~~(xxxiv)~~] (xxx) the Division of State Parks to advance the Utah State Parks dark sky initiative.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor

vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 4. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Outdoor Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Outdoor Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

[~~(T) the Choose Life Adoption Support Restricted Account created in Section 80-2-502 to support programs that promote adoption;~~]

[~~(U)~~] (T) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302;

[~~(V)~~] (U) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

[~~(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;~~]

[~~(X)~~] (V) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

[~~(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;~~]

[~~(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;~~]

[~~(AA)~~] (W) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

[~~(BB)~~] (X) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

[~~(CC)~~] (Y) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

[~~(DD)~~] (Z) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

[~~(EE)~~] (AA) the Latino Community Support Restricted Account created in Section 13-1-16;

[~~(FF)~~] (BB) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101;

[~~(GG)~~] (CC) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Uniform School Fund;

[~~(HH)~~] (DD) the Governor's Suicide Prevention Fund created in Section 62A-15-1103 to support the Live On suicide prevention campaign administered by the Division of Integrated Healthcare; or

[~~(II)~~] (EE) the State Park Fees Restricted Account created in Section 79-4-402 to support the Division of State Parks' dark sky initiative.

(ii) (A) For a veterans special group license plate described in Subsection (4) or 41-1a-421(1)(a)(v), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions

from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), an applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(ii) An applicant for a historical special group license plate is not required to make a donation to the Utah State Historical Society if the historical special group license plate is for a vintage vehicle that has a model year of 1980 or older.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months before registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 5. Section 53-2a-603 is amended to read:

53-2a-603. State Disaster Recovery Restricted Account.

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery account consists of:

(i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(2) Subject to being appropriated by the Legislature, money in the disaster recovery account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $500,000, but does not exceed $3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $3,000,000, but does not exceed $5,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3); and

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39A-3-103, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services;

(b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund;

(c) to fund the Local Government Emergency Response Loan Fund created in Section 53-2a-607;

(d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of $5,000,000; [~~and~~]

(e) to fund up to $500,000 for the governor's emergency appropriations described in Subsection 63J-1-217(4)[~~.~~]; and

(f) to pay the state's deductible in the event of an earthquake.

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

(4) The state treasurer shall invest money in the disaster recovery account according to Title 51, Chapter 7, State Money Management Act.

(5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(6) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Section 6. Section 59-10-1304 is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than $30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than $30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

(iv) the contribution provided for in Section 59-10-1315;

[~~(v) the contribution provided for in Section 59-10-1318;~~]

[~~(vi)~~] (v) the contribution provided for in Section 59-10-1319; or

[~~(vii)~~] (vi) the contribution provided for in Section 59-10-1320.

(2) If the commission removes the designation for a contribution under Subsection (1), the

commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after making the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

Section 7. Section 62A-15-1501 is amended to read:

62A-15-1501. Definitions.

As used in this part:

[~~(1) "Account" means the Survivors of Suicide Loss Account created in Section 62A-15-1502.~~]

[~~(2)~~] (1) (a) "Cohabitant" means an individual who lives with another individual.

(b) "Cohabitant" does not include a relative.

[~~(3)~~] (2) "Relative" means father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

Section 8. Section 62A-15-1502 is amended to read:

62A-15-1502. Survivors of Suicide Loss Assistance.

[~~(1) There is created a restricted account within the General Fund known as the "Survivors of Suicide Loss Account."~~]

[~~(2) The division shall administer the account in accordance with this part.~~]

[~~(3) The account shall consist of:~~]

[~~(a) money appropriated to the account by the Legislature; and~~]

[~~(b) interest earned on money in the account.~~]

[~~(4)~~] (1) Upon appropriation, the division shall award grants from the [~~account~~] appropriation to a person who provides, for no or minimal cost:

(a) clean-up of property affected or damaged by an individual's suicide, as reimbursement for the costs incurred for the clean-up; and

(b) bereavement services to a relative, legal guardian, or cohabitant of an individual who dies by suicide.

[~~(5)~~] (2) Before November 30 of each year, the division shall report to the Health and Human Services Interim Committee regarding [~~the status of the account and~~] expenditures made [~~from the account~~] in accordance with this section.

Section 9. Section 62A-15-1601 is amended to read:

62A-15-1601. Definitions.

As used in this part:

[~~(1) "Account" means the Psychiatric and Psychotherapeutic Consultation Program Account created in Section 62A-15-1602.~~]

[~~(2)~~] (1) "Child care" means the child care services defined in Section 35A-3-102 for a child during early childhood.

[~~(3)~~] (2) "Child care provider" means a person who provides child care or mental health support or interventions to a child during early childhood.

[~~(4)~~] (3) "Child mental health therapist" means a mental health therapist who:

(a) is knowledgeable and trained in early childhood mental health; and

(b) provides mental health services to children during early childhood.

[~~(5)~~] (4) "Child mental health care facility" means a facility that provides licensed mental health care programs and services to children and families and employs a child mental health therapist.

[~~(6)~~] (5) "Early childhood" means the time during which a child is zero to six years old.

[~~(7)~~] (6) "Early childhood psychotherapeutic telehealth consultation" means a consultation regarding a child's mental health care during the child's early childhood between a child care provider or a mental health therapist and a child mental health therapist that is focused on psychotherapeutic and psychosocial interventions and is completed through the use of electronic or telephonic communication.

[~~(8)~~] (7) "Health care facility" means a facility that provides licensed health care programs and services and employs at least two psychiatrists, at least one of whom is a child psychiatrist.

[~~(9)~~] (8) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

[~~(10)~~] (9) "Nurse practitioner" means an individual who is licensed to practice as an

advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act.

[~~(11)~~] (10) "Physician" means an individual licensed to practice as a physician or osteopath under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(12)~~] (11) "Physician assistant" means an individual who is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(13)~~] (12) "Primary care provider" means a nurse practitioner, physician, or physician assistant.

[~~(14)~~] (13) "Psychiatrist" means an individual who:

(a) is licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

[~~(15)~~] (14) "Telehealth psychiatric consultation" means a consultation regarding a patient's mental health care, including diagnostic clarification, medication adjustment, or treatment planning, between a primary care provider and a psychiatrist that is completed through the use of electronic or telephonic communication.

Section 10. Section 62A-15-1602 is amended to read:

62A-15-1602. Psychiatric and Psychotherapeutic Consultation Program.

[~~(1) There is created a restricted account within the General Fund known as the "Psychiatric and Psychotherapeutic Consultation Program Account."~~]

[~~(2) The division shall administer the account in accordance with this part.~~]

[~~(3) The account shall consist of:~~]

[~~(a) money appropriated to the account by the Legislature; and~~]

[~~(b) interest earned on money in the account.~~]

[~~(4)~~] (1) Upon appropriation, the division shall award grants from the [~~account~~] appropriation to:

(a) at least one health care facility to implement a program that provides a primary care provider access to a telehealth psychiatric consultation when the primary care provider is evaluating a patient for or providing a patient mental health treatment; and

(b) at least one child mental health care facility to implement a program that provides access to an early childhood psychotherapeutic telehealth consultation to:

(i) a mental health therapist when the mental health therapist is evaluating a child for or providing a child mental health treatment; or

(ii) a child care provider when the child care provider is providing child care to a child.

[~~(5)~~] (2) The division may award and distribute grant money to a health care facility or child mental health care facility only if the health care facility or child mental health care facility:

(a) is located in the state; and

(b) submits an application in accordance with Subsection [~~(6)~~] (3).

[~~(6)~~] (3) An application for a grant under this section shall include:

(a) the number of psychiatrists employed by the health care facility or the number of child mental health therapists employed by the child mental health care facility;

(b) the health care facility's or child mental health care facility's plan to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection [~~(4)~~] (1);

(c) the estimated cost to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection [~~(4)~~] (1);

(d) any plan to use one or more funding sources in addition to a grant under this section to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection [~~(4)~~] (1);

(e) the amount of grant money requested to fund the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection [~~(4)~~] (1); and

(f) any existing or planned contract or partnership between the health care facility and another person to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection [~~(4)~~] (1).

[~~(7)~~] (4) A health care facility or child mental health care facility that receives grant money under this section shall file a report with the division before October 1 of each year that details for the immediately preceding calendar year:

(a) the type and effectiveness of each service provided in the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program;

(b) the utilization of the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program based on metrics or categories determined by the division;

(c) the total amount expended from the grant money; and

(d) the intended use for grant money that has not been expended.

[~~(8)~~] (5) Before November 30 of each year, the division shall report to the Health and Human Services Interim Committee regarding:

(a) [~~the status of the account and~~] expenditures made [~~from the account~~] in accordance with this section; and

(b) a summary of any report provided to the division under Subsection [~~(7)~~] (4).

Section 11. Section 62A-15-1801 is amended to read:

62A-15-1801. Definitions.

As used in this part:

(1) "ACT team personnel" means a licensed psychiatrist or mental health therapist, or another individual, as determined by the division, who is part of an ACT team.

(2) "Assertive community treatment team" or "ACT team" means a mobile team of medical and mental health professionals that provides assertive community outreach treatment and, based on the individual circumstances of each case, coordinates with other medical providers and appropriate community resources.

(3) (a) "Assertive community treatment" means mental health services and on-site intervention that a person renders to an individual with a mental illness.

(b) "Assertive community treatment" includes the provision of assessment and treatment plans, rehabilitation, support services, and referrals to other community resources.

(4) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(5) "Mental illness" means the same as that term is defined in Section 62A-15-602.

(6) "Psychiatrist" means [~~the same as that term is defined in Section 62A-15-1601~~] an individual who:

(a) is licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

Section 12. Section 63A-5b-1107 is amended to read:

63A-5b-1107. Development of new correctional facilities.

(1) As used in this section:

(a) "Committee" means the Legislative Management Committee created in Section 36-12-6.

(b) "New correctional facilities" means a new prison and related facilities to be constructed to replace the state prison located in Draper.

(c) "Prison project" means all aspects of a project for the design and construction of new correctional facilities on the selected site, including:

(i) the acquisition of land, interests in land, easements, or rights-of-way;

(ii) site improvement; and

(iii) the acquisition, construction, equipping, or furnishing of facilities, structures, infrastructure, roads, parking facilities, utilities, and improvements, whether on or off the selected site, that are necessary, incidental, or convenient to the development of new correctional facilities on the selected site.

(d) "Selected site" means the site selected as the site for new correctional facilities.

(2) In consultation with the committee, the division shall oversee the prison project, as provided in this section.

(3) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this section, the division shall:

(i) enter into contracts with persons providing professional and construction services for the prison project;

(ii) provide reports to the committee regarding the prison project, as requested by the committee; and

(iii) consider input from the committee on the prison project, subject to Subsection (3)(b).

(b) The division may not consult with or receive input from the committee regarding:

(i) the evaluation of proposals from persons seeking to provide professional and construction services for the prison project; or

(ii) the selection of persons to provide professional and construction services for the prison project.

(c) A contract with a project manager or person with a comparable position on the prison project shall include a provision that requires the project manager or other person to provide reports to the committee regarding the prison project, as requested by the committee.

(4) All contracts associated with the design or construction of new correctional facilities shall be awarded and managed by the division in accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this section.

(5) The division shall coordinate with the Department of Corrections, created in Section 64-13-2, and the State Commission on Criminal and Juvenile Justice, created in Section

63M-7-201, during the prison project to help ensure that the design and construction of new correctional facilities are conducive to and consistent with, and help to implement any reforms of or changes to, the state's corrections system and corrections programs.

[~~(6) (a) There is created within the General Fund a restricted account known as the "Prison Development Restricted Account."~~]

[~~(b) The account created in Subsection (6)(a) is funded by legislative appropriations.~~]

[~~(c) (i) The account shall earn interest or other earnings.~~]

[~~(ii) The Division of Finance shall deposit interest or other earnings derived from the investment of account funds into the account.~~]

[~~(d) Upon appropriation from the Legislature, money from the account shall be used to fund the Prison Project Fund created in Subsection (7).~~]

[~~(7)~~] (6) (a) There is created a capital projects fund known as the "Prison Project Fund."

(b) The fund consists of:

(i) money appropriated to the fund by the Legislature; and

(ii) proceeds from the issuance of bonds authorized in Section 63B-25-101 to provide funding for the prison project.

(c) (i) The fund shall earn interest or other earnings.

(ii) The Division of Finance shall deposit interest or other earnings derived from the investment of fund money into the fund.

(d) Money in the fund shall be used by the division to fund the prison project.

Section 13. Section 63C-9-501 is amended to read:

63C-9-501. Soliciting donations.

(1) The executive director, under the direction of the board, shall:

(a) develop plans and programs to solicit gifts, money, and items of value from private persons, foundations, or organizations; and

(b) actively solicit donations from those persons and entities.

(2) (a) Property provided by those entities is the property of the state and is under the control of the board.

(b) Subsection (2)(a) does not apply to temporary exhibits or to the personal property of persons having an office in a building on capitol hill.

(3) The board:

(a) shall deposit money donated to the board into the State Capitol [~~Fund established by this part~~] Preservation Board budget as expendable receipts;

(b) shall use gifts of money made to the board for the purpose specified by the grantor, if any; and

(c) may return to the donor any gift or money donated to the board if a majority of the board determines that use of the gift or money is unfeasible, or will otherwise not be placed or used on capitol hill.

Section 14. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.~~]

[~~(18)~~] (17) Subsection [~~63J-1-602.2(6)~~] 63J-1-602.2(7), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.~~]

[~~(20)~~] (18) Subsection [~~63J-1-602.2(26)~~] 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21)~~] (19) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(22)~~] (20) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(23)~~] (21) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(24)~~] (22) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~] (23) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~] (24) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~] (25) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~] (26) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~] (27) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~] (28) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~] (29) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~] (30) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 15. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

[~~(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.~~]

[~~(2)~~] (1) The Native American Repatriation Restricted Account created in Section 9-9-407.

[~~(3)~~] (2) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

[~~(4)~~] (3) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

[~~(5)~~] (4) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

[~~(6)~~] (5) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

[~~(7)~~] (6) The "Latino Community Support Restricted Account" created in Section 13-1-16.

[~~(8)~~] (7) The Clean Air Support Restricted Account created in Section 19-1-109.

[~~(9)~~] (8) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

[~~(10)~~] (9) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

[~~(11)~~] (10) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

[~~(12)~~] (11) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

[~~(13)~~] (12) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

[~~(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.~~]

[~~(15)~~] (13) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

[~~(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.~~]

[~~(17)~~] (14) The Technology Development Restricted Account created in Section 31A-3-104.

[~~(18)~~] (15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

[~~(19)~~] (16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

[~~(20)~~] (17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

[~~(21)~~] (18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

[~~(22)~~] (19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

[~~(23)~~] (20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

[~~(24)~~] (21) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

[~~(25)~~] (22) The School Readiness Restricted Account created in Section 35A-15-203.

[~~(26)~~] (23) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

[~~(27)~~] (24) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

[~~(28)~~] (25) The Oil and Gas Conservation Account created in Section 40-6-14.5.

[~~(29)~~] (26) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

[~~(30)~~] (27) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[~~(31)~~] (28) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[~~(32)~~] (29) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

[~~(33)~~] (30) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[~~(34)~~] (31) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

[~~(35)~~] (32) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[~~(36)~~] (33) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~(37)~~] (34) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(38)~~] (35) The Canine Body Armor Restricted Account created in Section 53-16-201.

[~~(39)~~] (36) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(40)~~] (37) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(41)~~] (38) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(42)~~] (39) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(43)~~] (40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(44)~~] (41) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(45)~~] (42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(46)~~] (43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(47)~~] (44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~(48)~~] (45) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(49)~~] (46) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(50)~~] (47) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(51)~~] (48) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(52)~~] (49) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(53)~~] (50) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

[~~(54)~~] (51) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302.

[~~(55)~~] (52) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

[~~(56)~~] (53) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.

[~~(57)~~] (54) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(58)~~] (55) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(59)~~] (56) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(60)~~] (57) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[~~(61)~~] (58) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(62)~~] (59) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(63)~~] (60) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(64)~~] (61) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(65)~~] (62) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[~~(66)~~] (63) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(67)~~] (64) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(68)~~] (65) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(69)~~] (66) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(70)~~] (67) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(71)~~] (68) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(72)~~] (69) Fees for certificate of admission created under Section 78A-9-102.

[~~(73)~~] (70) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(74)~~] (71) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(75)~~] (72) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

[~~(76)~~] (73) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(77)~~] (74) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

[~~(78)~~] (75) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 16. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

[~~(3)~~] (4) The Percent-for-Art Program created in Section 9-6-404.

[~~(4)~~] (5) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

[~~(5)~~] (6) The Utah Lake Authority created in Section 11-65-201.

[~~(6)~~] (7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

[~~(7)~~] (8) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

[~~(8)~~] (9) The Emergency Medical Services Grant Program in Section 26-8a-207.

[~~(9)~~] (10) The primary care grant program created in Section 26-10b-102.

[~~(10)~~] (11) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

[~~(11)~~] (12) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

[~~(12)~~] (13) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

[~~(13)~~] (14) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

[~~(14)~~] (15) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

[~~(15)~~] (16) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

[~~(16)~~] (17) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[~~(17)~~] (18) The Utah National Guard, created in Title 39, Militia and Armories.

[~~(18)~~] (19) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

[~~(19)~~] (20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(20)~~] (21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(21)~~] (22) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(22)~~] (23) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

[~~(23)~~] (24) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

[~~(24)~~] (25) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

[~~(25)~~] (26) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[~~(26)~~] (27) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(28) The State Capitol Preservation Board created by Section 63C-9-201.

[~~(27)~~] (29) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(28)~~] (30) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

[~~(29)~~] (31) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[~~(30)~~] (32) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[~~(31)~~] (33) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(32)~~] (34) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

[~~(33)~~] (35) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(34)~~] (36) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(35)~~] (37) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(36)~~] (38) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(37)~~] (39) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(38)~~] (40) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(39)~~] (41) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(40)~~] (42) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(41)~~] (43) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(42)~~] (44) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and

pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

[~~(43)~~] (45) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 17. Section 63M-7-303 is amended to read:

63M-7-303. Duties of council.

(1) The Utah Substance Use and Mental Health Advisory Council shall:

(a) provide leadership and generate unity for Utah's ongoing efforts to reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(b) recommend and coordinate the creation, dissemination, and implementation of statewide policies to address substance use and mental health disorders;

(c) facilitate planning for a balanced continuum of substance use and mental health disorder prevention, treatment, and justice services;

(d) promote collaboration and mutually beneficial public and private partnerships;

(e) coordinate recommendations made by any committee created under Section 63M-7-302;

(f) analyze and provide an objective assessment of all proposed legislation concerning substance use, mental health, and related issues;

(g) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d), as provided in Section 63M-7-305;

(h) comply with [~~Sections 32B-2-306 and 62A-15-403~~] Section 32B-2-306; and

(i) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section 62A-15-1101.

(2) The council shall meet quarterly or more frequently as determined necessary by the chair.

(3) The council shall report the council's recommendations annually to the commission, governor, the Legislature, and the Judicial Council.

Section 18. Section 67-19f-201 is amended to read:

67-19f-201. State Employees Annual Leave Trust Fund -- Creation -- Oversight -- Dissolution.

(1) There is created a trust fund entitled the "State Employees' Annual Leave Trust Fund."

(2) The trust fund consists of:

(a) ongoing revenue provided from a state agency set aside for accrued annual leave II required under Section 63A-17-510;

(b) appropriations made to the trust fund by the Legislature, if any;

(c) transfers from the termination pool described in Subsection 63A-17-510(6) made by the Division of Finance to the trust fund for annual leave liabilities accrued before the change date established under Section 63A-17-510;

(d) income; and

(e) revenue received from other sources.

(3) (a) The Division of Finance shall account for the receipt and expenditures of trust fund money.

(b) The Division of Finance shall make the necessary adjustments to the amount of set aside costs required under Subsection 63A-17-510(4)(a) to provide that upon the trust fund's accrual of funding equal to 10% of the annual leave liability, year-end trust fund balances remain equal to at least 10% of the total state employee annual leave liability.

(4) (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Investment of Trust Funds.

(b) (i) The trust fund shall earn interest.

(ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.

(5) The board of trustees created in Section 67-19f-202 may expend money from the trust fund for:

(a) reimbursement to the employer of the costs paid to the trust fund in accordance with Section 63A-17-510 as annual leave II is used by an employee;

(b) payments based on accrued annual leave and on accrued annual leave II that are made upon termination of an employee; [~~and~~]

(c) refunds for overpayments; and

[~~(c)~~] (d) reasonable administrative costs that the board of trustees incurs in performing its duties as trustee of the trust fund.

(6) The board of trustees shall ensure that:

(a) money deposited into the trust fund is irrevocable and is expended only for the costs described in Subsection (5); and

(b) assets of the trust fund are dedicated to providing annual leave and annual leave II established by statute and rule.

(7) A creditor of the board of trustees or a state agency liable for annual leave benefits may not seize, attach, or otherwise obtain assets of the trust fund.

Section 19. Repealer.

This bill repeals:

Section 4-42-101, Title.

Section 4-42-102, Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account.

Section 23-30-103, Mule Deer Protection Account -- Contents -- Use of Funds.

Section 26-8b-601, Title.

Section 26-8b-602, Automatic External Defibrillator Restricted Account.

Section 26-10-11, Children's Hearing Aid Program -- Advisory Committee -- Restricted Account -- Rulemaking.

Section 26-21a-304, Children with Cancer Support Restricted Account.

Section 26-58-101, Title.

Section 26-58-102, Children with Heart Disease Support Restricted Account.

Section 32B-2-308, Drinking while pregnant prevention media and education campaign restricted account.

Section 35A-3-206, Child Care Fund -- Use of money -- Committee and director duties -- Restrictions.

Section 39A-8-105, West Traverse Sentinel Landscape Fund.

Section 53F-9-205, Invest More for Education Account.

Section 59-10-1318, Contribution to Invest More for Education Account.

Section 62A-15-403, Drinking while pregnant prevention media and education campaign.

Section 63C-9-502, Fund created -- Donations.

Section 80-2-502, Choose Life Adoption Support Restricted Account.

Section 20. Effective date.

This bill takes effect on July 1, 2023.

Section 21. Coordinating S.B. 272 with H.B. 12 -- Superseding amendments -- Omitting substantive changes.

If this S.B. 272 and H.B. 12, Department of Commerce Electronic Payment Fees, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) amend Subsection 13-1-17(5) of H.B. 12 to read:

"(5) (a) The account balance may not exceed $1,000,000 at the end of each fiscal year.

(b) At the end of each fiscal year, the Division of Finance shall transfer into the General Fund any funds in the account that exceed an account balance of $1,000,000."; and

(2) not make the changes in H.B. 12 Section 3.

CHAPTER 535
S. B. 273
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

STATE SETTLEMENT AGREEMENTS REQUIREMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies provisions related to approval of settlements.

Highlighted Provisions:

This bill:

- provides definitions;
- requires notice of certain settlements be provided to the Legislative Management Committee;
- adjusts thresholds for executive and legislative approval of settlement agreements involving the state or the state's subdivisions;
- clarifies that final approval is contingent upon receipt of approvals of lower threshold amounts;
- requires the Legislature's general counsel to receive notice of and updates on negotiation proceedings, and permits the general counsel to attend negotiations in some circumstances;
- requires notice of certain settlements to be sent to the Legislative Management Committee;
- revises language for clarity; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-10-102, as last amended by Laws of Utah 2020, Chapter 365
63G-10-201, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-10-202, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-10-301, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-10-302, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-10-303, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-10-401, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-10-402, as enacted by Laws of Utah 2011, Chapter 361
63G-10-403, as last amended by Laws of Utah 2017, Chapter 348
63G-10-503, as last amended by Laws of Utah 2021, Chapter 63

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-10-102 is amended to read:

63G-10-102. Definitions.

As used in this chapter:

(1) (a) "Action settlement agreement" includes a stipulation, consent decree, settlement agreement, or any other legally binding document or representation that resolves a threatened or pending lawsuit between the state and another party by requiring the state to take legally binding action.

(b) "Action settlement agreement" includes stipulations, consent decrees, settlement agreements, and other legally binding documents or representations resolving a dispute between the state and another party when the state is required to pay money and required to take legally binding action.

(c) "Action settlement agreement" does not include:

(i) the internal process established by the Department of Transportation to resolve construction contract claims;

(ii) any resolution of an employment dispute or claim made by an employee of the state of Utah against the state as employer;

(iii) adjudicative orders issued by the State Tax Commission, the Public Service Commission, the Labor Commission, or the Department of Workforce Services; or

(iv) the settlement of disputes arising from audits, defaults, or breaches of permits, contracts of sale, easements, or leases by the School and Institutional Trust Lands Administration.

(2) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the legislative branch, the judicial branch, the attorney general's office, the State Board of Education, the Utah Board of Higher Education, the institutional councils of each higher education institution, and each higher education institution.

(3) (a) "Financial settlement agreement" includes a stipulation, consent decree, settlement agreement, and any other legally binding document or representation that resolves a dispute between the state and another party exclusively by requiring the payment of money from one party to the other.

(b) "Financial settlement agreement" does not include:

(i) agreements made under the internal process established by the Department of Transportation to resolve construction contract claims;

(ii) adjudicative orders issued by the State Tax Commission, Public Service Commission, Labor

Commission, or the Department of Workforce Services;

(iii) the settlement of disputes arising from audits, defaults, or breaches of permits, contracts of sale, easements, or leases by the School and Institutional Trust Lands Administration; or

(iv) agreements made under the internal processes established by the Division of Facilities Construction and Management or by law to resolve construction contract claims made against the state by contractors or subcontractors.

(4) "Government entities" means the state and its political subdivisions.

(5) "Settlement agreement report" means a report that:

(a) states the total amount of the settlement;

(b) states the payer of the settlement;

(c) states the recipient of the payment;

(d) summarizes the circumstances related to the settlement; and

(e) contains a copy of the settlement agreement, unless the agreement is not permitted to be disclosed due to a court order or other legal requirement.

Section 2. Section 63G-10-201 is amended to read:

63G-10-201. Governor to approve financial settlement agreements.

(1) Before legally binding the state by executing a financial settlement agreement that might cost government entities more than [~~$100,000~~] $250,000 to implement, an agency shall submit the proposed financial settlement agreement to the governor for the governor's approval or rejection.

(2) The governor shall approve or reject each financial settlement agreement.

(3) (a) If the governor approves the financial settlement agreement, the agency may execute the agreement.

(b) If the governor rejects the financial settlement agreement, the agency may not execute the agreement.

(4) If an agency executes a financial settlement agreement without obtaining the governor's approval under this section, the governor may issue an executive order declaring the settlement agreement void.

(5) An agency executing an agreement under this section shall give notice of the settlement to the Legislative Management Committee by sending a settlement agreement report to the president of the Senate, the speaker of the House of Representatives, and the director of the Office of Legislative Research and General Counsel within three business days of executing the agreement.

Section 3. Section 63G-10-202 is amended to read:

63G-10-202. Legislative review and approval of financial settlement agreements.

(1) (a) Before legally binding the state by executing a financial settlement agreement that might cost government entities more than [~~$500,000~~] $1,000,000 to implement, an agency shall:

(i) submit the proposed financial settlement agreement to the governor for the governor's approval or rejection as required by Section 63G-10-201; and

(ii) if the governor approves the financial settlement agreement, submit the financial settlement agreement to the Legislative Management Committee for its review and recommendations.

(b) The Legislative Management Committee shall review the financial settlement agreement and may:

(i) recommend that the agency execute the financial settlement agreement;

(ii) recommend that the agency reject the financial settlement agreement; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the financial settlement agreement.

(2) (a) Before legally binding the state by executing a financial settlement agreement that might cost government entities more than [~~$1,000,000~~] $2,000,000 to implement, an agency shall:

(i) upon initiation of negotiations that an agency reasonably believes to have the potential to lead to a settlement agreement:

(A) notify the Legislature's general counsel that negotiations have commenced;

(B) continue to keep the Legislature's general counsel informed of material developments in the negotiation process; and

(C) permit the Legislature's general counsel to attend the negotiations;

(ii) submit the proposed financial settlement agreement to the governor for the governor's approval or rejection as required by Section 63G-10-201; and

[~~(ii)~~] (iii) if the governor approves the financial settlement agreement, submit the financial settlement agreement to the Legislature for its approval in an annual general session or a special session.

(b) (i) If the Legislature approves the financial settlement agreement, the agency may execute the agreement.

(ii) If the Legislature rejects the financial settlement agreement, the agency may not execute the agreement.

(c) If an agency executes a financial settlement agreement without obtaining the Legislature's approval under this Subsection (2):

(i) the governor may issue an executive order declaring the settlement agreement void; or

(ii) the Legislature may pass a joint resolution declaring the settlement agreement void.

Section 4. Section 63G-10-301 is amended to read:

63G-10-301. Cost evaluation of action settlement agreements.

(1) Before legally binding the state to an action settlement agreement that might cost the state a total of [~~$100,000~~] $250,000 or more to implement, an agency shall estimate the cost of implementing the action settlement agreement and submit that cost estimate to the governor and the Legislative Management Committee.

(2) The Legislative Management Committee may:

(a) direct its staff to make an independent cost estimate of the cost of implementing the action settlement agreement; and

(b) affirmatively adopt a cost estimate as the benchmark for determining which authorizations established by this part are necessary.

Section 5. Section 63G-10-302 is amended to read:

63G-10-302. Governor to approve action settlement agreements.

(1) Before legally binding the state by executing an action settlement agreement that might cost government entities more than [~~$100,000~~] $250,000 to implement, an agency shall submit the proposed settlement agreement to the governor for the governor's approval or rejection.

(2) The governor shall approve or reject each action settlement agreement.

(3) (a) If the governor approves the action settlement agreement, the agency may execute the agreement.

(b) If the governor rejects the action settlement agreement, the agency may not execute the agreement.

(4) If an agency executes an action settlement agreement without obtaining the governor's approval under this section, the governor may issue an executive order declaring the settlement agreement void.

(5) An agency executing an agreement under this section shall give notice of the settlement to the Legislative Management Committee by sending a settlement agreement report to the president of the Senate, the speaker of the House of Representatives, and the director of the Office of Legislative Research and General Counsel within three business days of executing the agreement.

Section 6. Section 63G-10-303 is amended to read:

63G-10-303. Legislative review and approval of action settlement agreements.

(1) (a) Before legally binding the state by executing an action settlement agreement that might cost government entities more than [~~$500,000~~] $1,000,000 to implement, an agency shall:

(i) submit the proposed action settlement agreement to the governor for the governor's approval or rejection as required by Section 63G–10–302; and

(ii) if the governor approves the action settlement agreement, submit the action settlement agreement to the Legislative Management Committee for its review and recommendations.

(b) The Legislative Management Committee shall review the action settlement agreement and may:

(i) recommend that the agency execute the settlement agreement;

(ii) recommend that the agency reject the settlement agreement; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the settlement agreement.

(2) (a) Before legally binding the state by executing an action settlement agreement that might cost government entities more than [~~$1,000,000~~] $2,000,000 to implement, an agency shall:

(i) submit the proposed action settlement agreement to the governor for the governor's approval or rejection as required by Section 63G–10–302; and

(ii) if the governor approves the action settlement agreement, submit the action settlement agreement to the Legislature for its approval in an annual general session or a special session.

(b) (i) If the Legislature approves the action settlement agreement, the agency may execute the agreement.

(ii) If the Legislature rejects the action settlement agreement, the agency may not execute the agreement.

(c) If an agency executes an action settlement agreement without obtaining the Legislature's approval under this Subsection (2):

(i) the governor may issue an executive order declaring the action settlement agreement void; or

(ii) the Legislature may pass a joint resolution declaring the action settlement agreement void.

Section 7. Section 63G-10-401 is amended to read:

63G-10-401. Condemnation, inverse condemnation settlements involving the Department of Transportation.

(1) Notwithstanding the provisions of this chapter, the Department of Transportation need not obtain the approval of the governor or the Legislature for financial or action settlement agreements that resolve condemnation or inverse condemnation cases.

(2) Financial settlement agreements involving condemnation or inverse condemnation cases for $1,000,000 to $2,000,000 over the Department of Transportation's original appraisal shall be presented to the Transportation Commission for approval or rejection.

(3) (a) Financial settlement agreements involving condemnation or inverse condemnation cases for more than $2,000,000 over the Department of Transportation's original appraisal and all action settlement agreements that resolve condemnation or inverse condemnation cases shall be presented:

(i) to the Transportation Commission for approval or rejection; and

(ii) if the financial or action settlement agreement is approved by the Transportation Commission, to the Legislative Management Committee.

(b) The Legislative Management Committee may recommend approval or rejection of the financial or action settlement agreement.

(4) (a) The Department of Transportation may not enter into a financial settlement agreement that resolves a condemnation or inverse condemnation case and requires payment of $1,000,000 to $2,000,000 over the Department of Transportation's original appraisal until the Transportation Commission has approved the agreement.

(b) The Department of Transportation may not enter into a financial settlement agreement that resolves a condemnation or inverse condemnation case and requires payment of more than $2,000,000 over the Department of Transportation's original appraisal or enter into an action settlement agreement that resolves a condemnation or inverse condemnation case until:

(i) the Transportation Commission has approved the agreement; and

(ii) the Legislative Management Committee has reviewed the agreement.

(5) The Department of Transportation shall, for each settlement agreement approved under this section for an amount greater than $1,000,000 but less than $2,000,000, give notice to the Legislative Management Committee by sending a settlement agreement report to the president of the Senate, the speaker of the House of Representatives, and the director of the Office of Legislative Research and General Counsel within three business days of executing the agreement.

Section 8. Section 63G-10-402 is amended to read:

63G-10-402. Department of Transportation construction contract claim settlement agreement approval and review.

(1) As used in this section:

(a) "Claims review board" means a committee established by the department to hear unresolved claims and make recommendations for settlement to the deputy director of the department.

(b) "Department" means the Department of Transportation created in Section 72-1-201.

(c) "Settlement agreement" includes stipulations, consent decrees, settlement agreements, or other legally binding documents or representations resolving a dispute between the department and another party when the department is required to pay money or required to take legally binding action.

(2) The department shall obtain the approval of the Transportation Commission or the governor or review by the Legislative Management Committee of a settlement agreement that involves a construction contract claim in accordance with this section.

(3) A construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than [~~$100,000~~] $250,000 to implement shall be presented to the Transportation Commission for approval or rejection.

(4) A construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than [~~$500,000~~] $1,000,000 to implement shall be presented:

(a) to the Transportation Commission for approval or rejection; and

(b) to the governor for approval or rejection.

(5) (a) A construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than [~~$1,000,000~~] $2,000,000 to implement shall be presented:

(i) to the Transportation Commission for approval or rejection;

(ii) to the governor for approval or rejection; and

(iii) if the construction contract claim settlement agreement is approved by the Transportation Commission and the governor, to the Legislative Management Committee.

(b) The Legislative Management Committee may recommend approval or rejection of the construction contract claim settlement agreement.

(6) (a) The department may not enter into a construction contract claim settlement agreement that is being recommended by the department's

claims review board that might cost government entities more than [~~$100,000~~] $250,000 to implement until the Transportation Commission has approved the agreement.

(b) The department may not enter into a construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than [~~$500,000~~] $1,000,000 to implement until the Transportation Commission and the governor have approved the agreement.

(c) The department may not enter into a construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than [~~$1,000,000~~] $2,000,000 to implement until:

(i) the Transportation Commission has approved the agreement;

(ii) the governor has approved the agreement; and

(iii) the Legislative Management Committee has reviewed the agreement.

(7) The department shall, for each settlement agreement approved under this section for an amount greater than $250,000 but less than $2,000,000, give notice to the Legislative Management Committee by sending a settlement agreement report to the president of the Senate, the speaker of the House of Representatives, and the director of the Office of Legislative Research and General Counsel within three business days of executing the agreement.

Section 9. Section 63G-10-403 is amended to read:

63G-10-403. Department of Transportation bid or request for proposals protest settlement agreement approval and review.

(1) As used in this section:

(a) "Department" means the Department of Transportation created in Section 72-1-201.

(b) "Settlement agreement" includes stipulations, consent decrees, settlement agreements, or other legally binding documents or representations resolving a dispute between the department and another party when the department is required to pay money or required to take legally binding action.

(2) The department shall obtain the approval of the Transportation Commission or the governor or review by the Legislative Management Committee of a settlement agreement that involves a bid or request for proposal protest in accordance with this section.

(3) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602(8), that might cost government entities more than [~~$100,000~~] $250,000 to implement shall be presented to the Transportation Commission for approval or rejection.

(4) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602(8), that might cost government entities more than [~~$500,000~~] $1,000,000 to implement shall be presented:

(a) to the Transportation Commission for approval or rejection; and

(b) to the governor for approval or rejection.

(5) (a) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602(8), that might cost government entities more than [~~$1,000,000~~] $2,000,000 to implement shall be presented:

(i) to the Transportation Commission for approval or rejection;

(ii) to the governor for approval or rejection; and

(iii) if the settlement agreement is approved by the Transportation Commission and the governor, to the Legislative Management Committee.

(b) The Legislative Management Committee may recommend approval or rejection of the settlement agreement.

(6) (a) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602(8), that might cost government entities more than [~~$100,000~~] $250,000 to implement until the Transportation Commission has approved the agreement.

(b) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602(8), that might cost government entities more than [~~$500,000~~] $1,000,000 to implement until the Transportation Commission and the governor have approved the agreement.

(c) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602(8), that might cost government entities more than [~~$1,000,000~~] $2,000,000 to implement until:

(i) the Transportation Commission has approved the agreement;

(ii) the governor has approved the agreement; and

(iii) the Legislative Management Committee has reviewed the agreement.

(7) The department shall, for each settlement agreement approved under this section for an amount greater than $250,000 but less than $2,000,000, give notice to the Legislative Management Committee by sending a settlement agreement report to the president of the Senate, the speaker of the House of Representatives, and the

director of the Office of Legislative Research and General Counsel within three business days of executing the agreement.

Section 10. Section 63G-10-503 is amended to read:

63G-10-503. Risk manager's authority to settle a claim -- Additional approvals required.

(1) The risk manager may compromise and settle any claim for which the risk management fund may be liable:

(a) if the settlement amount is $500,000 or less, on the risk manager's own authority[~~, if the settlement amount is $100,000 or less~~];

(b) if the settlement amount is more than $500,000 but not more than $1,000,000, upon the approval of the attorney general, or the attorney general's representative, and the executive director[~~, if the settlement amount is more than $100,000 but not more than $250,000~~];

(c) if the settlement amount is more than $1,000,000 but not more than $1,500,000, upon the governor's approval[~~, if the settlement amount is more than $250,000 but not more than $500,000~~] after receiving approval under Subsection (1)(b);

(d) if the settlement amount is more than $1,500,000 but not more than $2,000,000, upon the Legislative Management Committee's approval[~~, if the settlement amount is more than $500,000 but not more than $1,000,000~~] after receiving approval under Subsections (1)(b) and (c); and

(e) if the settlement amount is more than $2,000,000, upon the Legislature's approval[~~, if the settlement amount is more than $1,000,000.~~] after receiving approval under Subsections (1)(b), (c), and (d).

(2) (a) The risk manager shall[~~: (i) as soon as reasonably possible after negotiations begin, notify legislative general counsel of~~], upon initiation of negotiations that the risk manager reasonably believes to have the potential to lead to a settlement requiring approval under Subsection (1)(d) or (e)[~~; and~~]:

(i) notify the Legislature's general counsel that negotiations have commenced;

(ii) continue to keep [~~legislative~~] the Legislature's general counsel informed of material developments in the negotiation process[~~.~~]; and

(iii) permit the Legislature's general counsel to attend negotiations.

(b) The information that the risk manager shall provide to [~~legislative~~] the Legislature's general counsel under Subsection (2)(a) includes:

(i) the nature of the claim that is the subject of the settlement negotiations;

(ii) the known facts that support the claim and the known facts that controvert the claim; and

(iii) the risk manager's assessment of the potential liability under the claim.

(c) A document, paper, electronic data, communication, or other material that the risk manager provides to legislative general counsel in the discharge of the risk manager's responsibility under Subsection (2) may not be considered to be a record, as defined in Section 63G-2-103.

(d) Information provided by the risk manager to legislative general counsel under Subsection (2)(a) and a communication between the risk manager and legislative general counsel under Subsection (2)(a) shall be considered to be evidence that is subject to Rule 408 of the Utah Rules of Evidence to the fullest extent possible.

(e) Subsections (2)(c) and (d) apply regardless of whether:

(i) the risk manager acts personally under this section or through counsel or another individual acting under the risk manager's direction; or

(ii) other individuals under the direction of legislative general counsel are involved in the process described in this section.

(3) The risk manager shall, for each settlement agreement approved under this section for an amount greater than $250,000 but less than $1,500,000, give notice of the settlement to the Legislative Management Committee by sending a settlement agreement report to the president of the Senate, the speaker of the House of Representatives, and the director of the Office of Legislative Research and General Counsel within three business days of executing the agreement.

CHAPTER 536
S. B. 274
Passed March 2, 2023
Approved March 23, 2023
Effective May 2, 2024

REGULATIONS FOR LEGAL SERVICES

Chief Sponsor: Michael K. McKell
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill enacts and amends provisions related to the regulation of legal services and lawyer referral services.

Highlighted Provisions:

This bill:

- enacts provisions related to lawyer referral consultants, including provisions that:
  - require certain persons to be registered as lawyer referral consultants;
  - establish application requirements;
  - require criminal background checks for lawyer referral consultants;
  - establish requirements for posting bond;
  - establish requirements for a contract that a lawyer referral consultant enters into;
  - require accounting for lawyer referral services;
  - address delivery, release, and treatment of documents;
  - provide requirements for posting certain notices; and
  - provide for enforcement of provisions and recovery of losses;
- amends provisions related to exceptions to a prohibition on kickbacks for certain activities;
- provides that certain providers of legal services owe a fiduciary duty to the person to whom legal services are provided;
- creates a private right of action for a breach of certain fiduciary duties; and
- defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Effective 12/31/23), as last amended by Laws of Utah 2022, Chapters 201, 462
76-10-3201, as enacted by Laws of Utah 2022, Chapter 415

ENACTS:

13-63-101, Utah Code Annotated 1953
13-63-201, Utah Code Annotated 1953
13-63-202, Utah Code Annotated 1953
13-63-203, Utah Code Annotated 1953
13-63-204, Utah Code Annotated 1953
13-63-301, Utah Code Annotated 1953
13-63-302, Utah Code Annotated 1953
13-63-303, Utah Code Annotated 1953
13-63-304, Utah Code Annotated 1953
13-63-305, Utah Code Annotated 1953
13-63-401, Utah Code Annotated 1953
13-63-402, Utah Code Annotated 1953
13-63-403, Utah Code Annotated 1953
13-63-404, Utah Code Annotated 1953
13-64-101, Utah Code Annotated 1953
13-64-201, Utah Code Annotated 1953
13-64-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 (Effective 12/31/23) is amended to read:

13-2-1 (Effective 12/31/23). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act;

(w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]

(x) Chapter 61, Utah Consumer Privacy Act[~~.~~]; and

(y) Chapter 63, Lawyer Referral Consultants Registration Act.

Section 2. Section 13-63-101 is enacted to read:

CHAPTER 63. LAWYER REFERRAL CONSULTANTS REGISTRATION ACT

Part 1. General Provisions

13-63-101 Codified as 13-68-101). Definitions.

As used in this chapter:

(1) "Attorney" means an individual who is authorized to provide legal services in any state or territory of the United States.

(2) "Client" means a person that is provided lawyer referral services by a lawyer referral consultant.

(3) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to a person for or in consideration of:

(a) services;

(b) personal or real property; or

(c) another thing of value.

(4) "Digital marketing service" means an Internet-based company that:

(a) advertises legal services on behalf of a law firm; and

(b) does not contact prospective clients individually.

(5) "Division" means the Division of Consumer Protection in the Department of Commerce.

(6) "Law firm" means an entity consisting of one or more licensed lawyers lawfully engaged in the practice of law.

(7) "Lawyer referral consultant" means an individual that engages in lawyer referral service.

(8) (a) "Lawyer referral service" means assisting a person to find an attorney or law firm that provides legal services in the legal field appropriate for the person's legal matter.

(b) "Lawyer referral service" does not include a digital marketing service.

(9) "Legal services" means any form of legal advice or legal representation that is subject to the laws of this state.

Section 3. Section 13-63-201 is enacted to read:

Part 2. Registration Requirements

13-63-201 (Codified as 13-68-201). Requirement to be registered as a lawyer referral consultant.

(1) (a) Except as provided in Subsection (1)(b), an individual may not engage in an activity of a lawyer referral consultant for compensation unless the individual is registered under this chapter.

(b) Except as provided in Subsections 13-63-303(3) and (4), this chapter does not apply to an attorney.

(2) A lawyer referral consultant may only offer nonlegal assistance or advice in providing lawyer referral services.

Section 4. Section 13-63-202 is enacted to read:

13-63-202 (Codified as 13-68-202). Application for registration.

(1) To register as a lawyer referral consultant an individual shall:

(a) submit an annual application in a form prescribed by the division;

(b) pay an annual registration fee determined by the division in accordance with Section 63J-1-504, which shall include the costs of the criminal background check required under Subsection (1)(e);

(c) have good moral character in that the individual has not been convicted of:

(i) a felony; or

(ii) within the prior 10 years, a misdemeanor involving theft, fraud, or dishonesty;

(d) submit fingerprint cards in a form acceptable to the division at the time the application is filed; and

(e) consent to a fingerprint background check of the individual by the Bureau of Criminal Identification regarding the application.

(2) The division shall register an individual who qualifies under this chapter as a lawyer referral consultant.

Section 5. Section 13-63-203 is enacted to read:

13-63-203 (Codified as 13-68-203). Requirement to submit to criminal background check.

(1) The division shall require an applicant for registration as a lawyer referral consultant to:

(a) submit a fingerprint card in a form acceptable to the division; and

(b) consent to a fingerprint criminal background check by the Bureau of Criminal Identification.

(2) (a) The division shall obtain information from a criminal background history record maintained

by the Bureau of Criminal Identification pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(b) The information obtained under Subsection (2)(a) may only be used by the division to determine whether an applicant for registration as a lawyer referral consultant meets the requirements of Subsection 13-63-202(1)(c).

Section 6. Section 13-63-204 is enacted to read:

13-63-204 (Codified as 13-68-204). Bonds -- Exemption -- Statements dependent on posting bond.

(1) A lawyer referral consultant shall post a cash bond or surety bond:

(a) in the amount of $50,000; and

(b) payable to the division for the benefit of any person damaged by any of the following acts that a lawyer referral consultant or the lawyer referral consultant's agent, representative, or employee commits:

(i) fraud;

(ii) misstatement;

(iii) misrepresentation;

(iv) unlawful act;

(v) omission; or

(vi) failure to provide lawyer referral services.

(2) A bond under this section shall be:

(a) in a form approved by the division;

(b) conditioned upon the faithful compliance of a lawyer referral consultant with this chapter and division rules; and

(c) maintained at all times while the lawyer referral consultant provides lawyer referral services.

(3) A lawyer referral consultant shall keep the bond required under this section in force for one year after:

(a) the lawyer referral consultant's registration expires; or

(b) the lawyer referral consultant notifies the division in writing that the lawyer referral consultant has ceased all activities regulated under this chapter.

(4) (a) If a surety bond posted by a lawyer referral consultant under this section is canceled due to the lawyer referral consultant's negligence, the division may assess a $300 reinstatement fee.

(b) No part of a bond posted by a lawyer referral consultant under this section may be withdrawn:

(i) during the one-year period the registration under this chapter is in effect; or

(ii) while a revocation proceeding is pending against the lawyer referral consultant.

(5) (a) A bond posted under this section by a lawyer referral consultant may be forfeited if the lawyer referral consultant's registration under this chapter is revoked.

(b) Notwithstanding Subsection (5)(a), the division may make a claim against a bond posted by a lawyer referral consultant for money owed to the division under this chapter without the division first revoking the lawyer referral consultant's registration.

(6) An individual may not disseminate by any means a statement indicating that the individual is a lawyer referral consultant, or proposes to engage in the business of a lawyer referral consultant, unless the individual has posted a bond under this section that is maintained throughout the period covered by the statement.

(7) A lawyer referral consultant may not make or authorize the making of an oral or written reference to the lawyer referral consultant's compliance with the bonding requirements of this section except as provided in this section.

Section 7. Section 13-63-301 is enacted to read:

Part 3. Operational Requirements

13-63-301 (Codified as 13-68-301). Requirements for written contract -- Prohibited statements.

(1) (a) Before a lawyer referral consultant may provide lawyer referral services to a client, the lawyer referral consultant shall provide the client with a written contract.

(b) The contents of the written contract described in Subsection (1)(a) shall comply with this section and rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) A prospective client may cancel a written contract on or before midnight of the third business day after execution of the written contract, excluding weekends and state and federal holidays.

(2) A written contract under this section shall be stated in both English and in the client's native language.

(3) A written contract under this section shall:

(a) state the purpose for which the lawyer referral consultant has been hired;

(b) state the one or more lawyer referral services to be performed;

(c) state the price for a lawyer referral service to be performed;

(d) include a statement printed in 10-point boldface type that the lawyer referral consultant is not an attorney and may not perform the legal services that an attorney performs;

(e) include a provision stating that the client may report complaints relating to a lawyer referral consultant to the division, including a toll-free telephone number and Internet website;

(f) include a provision stating that complaints concerning the unauthorized practice of law may be reported to the Utah State Bar, including a toll-free telephone number and Internet website; and

(g) in accordance with Subsection (1)(b), include a provision stating in boldface on the first page of the written contract in both English and in the client's native language in accordance with Subsection (2): "You may cancel this contract on or before midnight of the third business day after execution of the written contract."

(4) A written contract may not contain a provision relating to a guarantee or promise unless the lawyer referral consultant has some basis in fact for making the guarantee or promise.

(5) A lawyer referral consultant may not make a guarantee or promise described in Subsection (4) orally to a client.

(6) A written contract is void if not written in accordance with this section.

Section 8. Section 13-63-302 is enacted to read:

13-63-302 (Codified as 13-68-302). Accounting for services -- Receipts.

(1) (a) A lawyer referral consultant shall provide a signed receipt to a client for each payment made by that client.

(b) A receipt described in Subsection (1)(a) shall be typed or computer generated on the lawyer referral consultant's letterhead.

(2) A lawyer referral consultant shall make a statement of accounting for the lawyer referral services rendered and payments made:

(a) in the client's native language;

(b) that is typed or computer generated on the lawyer referral consultant's letterhead;

(c) that lists the individual and total charges for services; and

(d) that lists the payments made by the client.

Section 9. Section 13-63-303 is enacted to read:

13-63-303 (Codified as 13-68-303). Notice to be displayed -- Disclosure to be provided in writing.

(1) A lawyer referral consultant shall conspicuously display in the lawyer referral consultant's office a notice that shall be at least 12 by 20 inches with boldface type or print with each character at least one inch in height and width, that contains the following information:

(a) the full name, address, and evidence of compliance with any applicable bonding requirement including the bond number;

(b) a statement that the lawyer referral consultant is not an attorney; and

(c) the name of each lawyer referral consultant employed at each location.

(2) (a) Before providing any services, a lawyer referral consultant shall provide a client with a written disclosure in the native language of the client that includes the following:

(i) the lawyer referral consultant's name, address, and telephone number;

(ii) the lawyer referral consultant's agent for service of process;

(iii) evidence of compliance with any applicable bonding requirement, including the bond number; and

(iv) a list of the services that the lawyer referral consultant provides and the current and total fee for each service.

(b) A lawyer referral consultant shall obtain the signature of the client verifying that the client received the written disclosure described in Subsection (2)(a) before a service is provided.

(3) (a) Except as provided in Subsection (3)(b), a lawyer referral consultant who prints, displays, publishes, distributes, or broadcasts, or who causes to be printed, displayed, published, distributed, or broadcasted, any advertisement for services as a lawyer referral consultant, shall include in that advertisement a clear and conspicuous statement that the lawyer referral consultant is not an attorney.

(b) (i) Subsection (3)(a) does not apply to a person who is not an active member of the Utah State Bar, but is an attorney licensed in another state or territory of the United States.

(ii) A person described in Subsection (3)(b)(i) shall include in any advertisement for lawyer referral services a clear and conspicuous statement that the person is not an attorney licensed to practice law in this state, but is an attorney licensed in another state or territory of the United States.

(4) If an advertisement subject to this section is in a language other than English, the statement required by Subsection (3) shall be in the same language as the advertisement.

Section 10. Section 13-63-304 is enacted to read:

13-63-304 (Codified as 13-68-304). Translations -- Prohibited acts.

(1) As used in this section, "literal translation" of a word or phrase from one language means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language that is being translated.

(2) A lawyer referral consultant may not, with the intent to mislead, literally translate, from English into another language, words or titles, including, "notary public," "notary," "licensed," "attorney," "lawyer," or any other terms that imply that the lawyer referral consultant is an attorney, in any document, including an advertisement, stationery,

letterhead, business card, or other comparable written material describing the lawyer referral consultant.

Section 11. Section 13-63-305 is enacted to read:

13-63-305 (Codified as 13-68-305). Documents -- Treatment of original documents.

A lawyer referral consultant shall:

(1) deliver to a client a copy of a document completed on behalf of the client;

(2) include on a document delivered to a client the name and address of the lawyer referral consultant;

(3) retain a copy of a document of a client for not less than three years from the date of the last service the lawyer referral consultant provides to the client; and

(4) return to a client all original documents that the client has provided to the lawyer referral consultant.

Section 12. Section 13-63-401 is enacted to read:

Part 4. Prohibited Acts and Penalties

13-63-401 (Codified as 13-68-401). Unlawful acts.

(1) It is unlawful for a lawyer referral consultant to:

(a) make a false or misleading statement to a client while providing services to that client;

(b) make a guarantee or promise to a client, unless the guarantee or promise is in writing and the lawyer referral consultant has some basis in fact for making the guarantee or promise; or

(c) charge a client a fee for referral of the client to another person for services that the lawyer referral consultant cannot or will not provide to the client.

(2) A sign describing the prohibition described in Subsection (1)(c) shall be conspicuously displayed in the office of a lawyer referral consultant.

Section 13. Section 13-63-402 is enacted to read:

13-63-402 (Codified as 13-68-402). Violations -- Actions by division.

(1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.

(2) The attorney general, upon request, shall give legal advice to, and act as counsel for, the division in the exercise of the division's responsibilities under this chapter.

(3) (a) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(i) the division director may impose an administrative fine of up to $2,500 for each violation of this chapter; and

(ii) the division may bring an action in a court of competent jurisdiction to enforce a provision of this chapter.

(b) In a court action by the division to enforce a provision of this chapter, the court may:

(i) declare that an act or practice violates a provision of this chapter;

(ii) issue an injunction for a violation of this chapter;

(iii) order disgorgement of any money received in violation of this chapter;

(iv) order payment of disgorged money to an injured purchaser or consumer;

(v) impose a fine of up to $2,500 for each violation of this chapter; or

(vi) award any other relief that the court deems reasonable and necessary.

(4) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(5) (a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of no more than $5,000 for each violation.

(b) A civil penalty authorized under this section may be imposed in any civil action brought by the attorney general on behalf of the division.

(c) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund created in Section 13-2-8.

(6) (a) A person who intentionally violates this chapter:

(i) is guilty of a class A misdemeanor; and

(ii) may be fined up to $10,000.

(b) A person intentionally violates this part if the violation occurs after the division, attorney general, or a district or county attorney notifies the person by certified mail that the person is in violation of this chapter.

Section 14. Section 13-63-403 is enacted to read:

13-63-403 (Codified as 13-68-403). Action by attorney general or district or county attorney.

(1) Upon referral from the division, the attorney general or any district or county attorney may:

(a) bring an action for temporary or permanent injunctive or other relief in any court of competent jurisdiction for any violation of this part;

(b) bring an action in any court of competent jurisdiction for the collection of penalties authorized under Subsection 13-63-402(2); or

(c) bring an action under Subsection 13-63-402(4).

(2) A court may, upon entry of final judgment, award restitution when appropriate to any person suffering loss because of a violation of this part if proof of loss is submitted to the satisfaction of the court.

Section 15. Section 13-63-404 is enacted to read:

13-63-404 (Codified as 13-68-404). Recovery of losses.

In addition to any other remedies, a person suffering pecuniary loss because of a violation by another person of this chapter may bring an action in any court of competent jurisdiction and may recover:

(1) the greater of:

(a) $500; or

(b) twice the amount of the pecuniary loss; and

(2) court costs and reasonable attorney fees as determined by the court.

Section 16. Section 13-64-101 is enacted to read:

CHAPTER 64. FIDUCIARY DUTY FOR CERTAIN PROVIDERS OF LEGAL SERVICES

Part 1. General Provisions

13-64-101 (Codified as 13-69-101). Definitions.

As used in this chapter:

(1) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other legal entity that is:

(a) used to carry on a business for profit; and

(b) a participant in the sandbox.

(2) "Court rule" means rules of procedure, evidence, or practice for use of the courts of this state.

(3) "Out-of-state attorney" means an individual admitted and licensed to practice law in another state or territory of the United States who is authorized by court rule to practice law in this state without being admitted and licensed to practice law in this state.

(4) "Participant" means a business entity or a business entity's officer, director, partner, or employee that provides legal services under the sandbox:

(a) to a person other than the business entity; and

(b) for the business entity's profit.

(5) "Sandbox" means the regulatory sandbox program established by the Utah Supreme Court for authorizing nontraditional legal service providers to practice law on a limited and temporary basis under Utah Supreme Court Rule of Professional Practice 14-802.

Section 17. Section 13-64-201 is enacted to read:

Part 2. Duty and Cause of Action

13-64-201 (Codified as 13-69-201). Fiduciary duty.

Each officer, director, and partner of a participant owes a fiduciary duty to:

(1) the person to whom legal service is provided;

(2) in relation to legal service provided; and

(3) as applicable, that supersedes the duties described in Subsection 16-10a-840(1).

Section 18. Section 13-64-202 is enacted to read:

13-64-202 (Codified as 13-69-202). Cause of action.

(1) A person may bring an action in a court of competent jurisdiction for:

(a) a breach of the fiduciary duty described in Section 13-64-201; or

(b) an out-of-state attorney's breach of a fiduciary duty arising from an attorney-client relationship.

(2) If a court of competent jurisdiction finds that a person breached a fiduciary duty described in this chapter, the person who brings an action described in Subsection (1) is entitled to:

(a) actual damages;

(b) punitive damages;

(c) injunctive relief;

(d) attorney fees; or

(e) any combination of relief described in Subsections (2)(a) through (2)(d).

Section 19. Section 76-10-3201 is amended to read:

76-10-3201. Prohibition on kickbacks.

(1) As used in this section:

(a) "Kickback or bribe" means a rebate, compensation, or any other form of remuneration, that is:

(i) direct or indirect;

(ii) overt or covert; or

(iii) in cash or in kind.

(b) "Kickback or bribe" does not include:

(i) a fee that is:

[~~(i)~~] (A) shared between two or more individuals, each of whom is licensed to practice law; and

[~~(ii)~~] (B) charged for services provided in the individual's capacity as a licensee described in Subsection (1)(b)(i)[~~.~~]; or

(ii) payment for medical services rendered.

(2) (a) An actor may not solicit or receive a kickback or bribe in return for the referral of a person to another person for the furnishing of any good or service that relates to any insurance claim or a claim for damages.

(b) An actor may not offer or pay a kickback or bribe to induce the referral of a person to another person for the furnishing of any good or service that relates to any insurance claim or a claim for damages.

(3) A violation of Subsection (2)(a) or (b) is a third degree felony.

(4) This section does not apply to an individual licensed to practice law or a medical provider when referring[~~, without compensation,~~] a client for medical treatment or evaluation, if the referral is made without compensation.

(5) This section does not apply to an individual licensed to practice law when:

(a) paying a lien, contractual reimbursement, or medical bill on behalf of a client from proceeds of a settlement or judgment; or

(b) marketing to, or engaging in client development activities with, an individual licensed to provide medical treatment or evaluation, if the marketing or client development activities are not for the purpose of inducing the individual licensed to provide medical treatment or evaluation to refer a particular person to the individual licensed to practice law.

Section 20. Effective date.

This bill takes effect on May 2, 2024.

CHAPTER 537
S. B. 284
Passed March 1, 2023
Approved March 23, 2023
Effective May 3, 2023

AVIATION FUEL INCENTIVE AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill addresses provisions relating to an aviation fuel incentive program.

Highlighted Provisions:

This bill:

- directs the Division of Finance to deposit money from severance tax revenue into an aviation fuel incentive account;
- enacts provisions relating to an aviation fuel incentive, including provisions that:
  - authorize the Utah Inland Port Authority to award an aviation fuel incentive, under certain circumstances, to an airline carrier that meets certain requirements;
  - establish application procedures and requirements; and
  - establish maximum amounts to be awarded as an aviation fuel incentive; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

51-9-307, as enacted by Laws of Utah 2021, Chapter 401
59-5-115, as last amended by Laws of Utah 2021, Chapter 401

ENACTS:

11-58-208, Utah Code Annotated 1953
59-5-121, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-58-208 is enacted to read:

11-58-208. New aviation fuel incentive -- Requirements.

(1) As used in this section:

(a) "Aviation fuel" means fuel that is:

(i) used by a carrier; and

(ii) subject to an aviation fuel tax under Title 59, Chapter 13, Part 4, Aviation Fuel.

(b) "Aviation fuel incentive" means a grant awarded by the authority to a qualifying carrier from the incentive account as provided in this section.

(c) "Aviation fuel project" means a project for the development of facilities in the state to increase the production of aviation fuel.

(d) "Base production year" means the fiscal year designated by the authority under Subsection (3).

(e) "Carrier" means a federally certificated air carrier, as defined in Section 59-13-102.

(f) "Commission" means the State Tax Commission.

(g) "Incentive account" means an account that the authority establishes and maintains under Subsection (4) and from which the authority pays an aviation fuel incentive.

(h) "Incentive year" means any of the first 10 consecutive fiscal years immediately following the base production year.

(i) "New aviation fuel" means the quantity of aviation fuel produced by a refinery during an incentive year that exceeds the quantity of aviation fuel produced by the refinery during the base production year.

(j) "Qualifying carrier" means a carrier that meets the requirements of Subsection (4).

(k) "Refinery" means the same as that term is defined in Section 79-6-701.

(2) As provided in this section, the authority may award a grant of up to $1,000,000 per incentive year from the incentive account to a carrier that the authority determines to be a qualifying carrier.

(3) The authority shall designate as the base production year the fiscal year that the authority determines to be the fiscal year that precedes the first fiscal year during which new aviation fuel is expected to be produced.

(4) (a) The authority shall establish and maintain an account for the deposit of money under Section 59-5-121 and for the authority's payment of aviation fuel incentives under this section.

(b) The authority shall maintain and account for money in the account described in Subsection (4)(a) separate from all other money of the authority.

(5) A carrier that seeks to be awarded an aviation fuel incentive for a fiscal year shall:

(a) submit to the authority an application that meets the requirements of Subsection (6); and

(b) demonstrate to the authority's satisfaction that:

(i) a refinery from which the carrier purchases aviation fuel has invested at least $5,000,000 since May 3, 2023 in an aviation fuel project; and

(ii) due to the aviation fuel project, the refinery, during an incentive year:

(A) has produced at least 4,500,000 gallons more aviation fuel for use by carriers in the state than the refinery produced during the base production year; and

(B) has not produced less gas and diesel fuel than the refinery produced during the base production year.

(6) (a) An application under Subsection (5) shall include information that the authority determines to be relevant to the authority's determination of whether the carrier qualifies for an aviation fuel incentive, including:

(i) for the application for the first incentive year that the carrier submits an application under this section:

(A) the amount of the refinery's investment in an aviation fuel project; and

(B) the quantity of aviation fuel and gas and diesel fuel produced by the refinery during the base production year;

(ii) the quantity of aviation fuel and gas and diesel fuel produced by the refinery during the applicable incentive year; and

(iii) verification that the new aviation fuel was produced for use by a carrier in the state.

(b) An application under Subsection (5) shall be submitted to the authority before a deadline established by the authority.

(c) Multiple carriers may not rely on the same refinery to support the carriers' applications for an aviation fuel incentive.

(7) (a) A carrier may receive an aviation fuel incentive for no more than 15 consecutive incentive years.

(b) The maximum cumulative amount a carrier may receive as an aviation fuel incentive is $10,000,000 or one-third of the amount the refineries represented in the carrier's applications invested in an aviation fuel project, whichever is less.

(c) The authority may not award aviation fuel incentives in excess of the amount that the Division of Finance deposits into the incentive account under Section 59-5-121.

(d) If more than one carrier qualifies for an aviation fuel incentive in an incentive year, the authority shall prorate money granted to qualifying carriers based on the percentage of new aviation fuel produced by the refineries represented in a carrier's application as compared to the total amount of new aviation fuel produced by all refineries represented in the applications of all qualifying carriers.

(8) (a) For purposes of determining whether a carrier meets the requirements to be a qualifying carrier, the authority may require a carrier that submits an application for an aviation fuel incentive to provide the authority with a document that expressly directs and authorizes the commission to disclose to the authority the carrier's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code.

(b) Upon the commission's receipt of a document described in Subsection (8)(a), the commission shall provide the authority with the returns and other information requested by the authority that the document directs and authorizes the commission to provide to the authority.

(9) The authority may adopt a policy establishing:

(a) the application and reporting criteria for a carrier to receive an aviation fuel incentive under this section; and

(b) procedures for establishing the base production year.

(10)(a) Within 90 days after the end of the 15th fiscal year after the base production year, the authority shall pay to the Division of Finance all money in the account that the port authority has not awarded by grant under this section.

(b) Any money that the authority pays to the Division of Finance under Subsection (10)(a) is considered to be severance tax revenue collected under Section 59-5-102 in the fiscal year during which the authority pays the money to the Division of Finance.

Section 2. Section 51-9-307 is amended to read:

51-9-307. New Severance Tax Revenue Special Revenue Fund.

(1) As used in this section:

(a) "Fund" means the New Severance Tax Revenue Special Revenue Fund created in this section.

(b) "New revenue" means revenue collected above $100,000,000 from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting the amounts required to be distributed under Sections 51-9-305, 51-9-306, 59-5-116, [~~and~~] 59-5-119, and 59-5-121.

(2) There is created a special revenue fund known as the "New Severance Tax Revenue Special Revenue Fund" that consists of:

(a) money deposited by the State Tax Commission in accordance with this section; and

(b) interest earned on the money in the fund.

(3) Beginning July 1, 2021, the State Tax Commission shall deposit into the fund 100% of new revenue until the new revenue equals or exceeds $200,000,000 in a fiscal year.

Section 3. Section 59-5-115 is amended to read:

59-5-115. Disposition of taxes collected -- Credit to General Fund.

Except as provided in Section 51-9-305, 51-9-306, 51-9-307, 59-5-116, [~~or~~] 59-5-119, or 59-5-121, a tax imposed and collected under Section 59-5-102 shall be paid to the commission, promptly remitted to the state treasurer, and credited to the General Fund.

Section 4. Section 59-5-121 is enacted to read:

59-5-121. Severance tax revenue for aviation fuel incentive account.

(1) As used in this section:

(a) "Base revenue year" means the fiscal year designated by the port authority under Subsection (3).

(b) "Incentive account" means the same as that term is defined in Section 11-58-208.

(c) "Incremental revenue" means the amount that is calculated by subtracting the net severance revenue for the base revenue year from the net severance revenue for the applicable incremental revenue year.

(d) "Incremental revenue year" means any of the first 10 consecutive fiscal years immediately following the base revenue year.

(e) "Net severance revenue" means the amount of severance tax revenue collected during a fiscal year under Section 59-5-102, after deducting the amount of severance tax revenue required to be distributed under Sections 51-9-305, 51-9-306, 59-5-116, and 59-5-119.

(f) "Port authority" means the Utah Inland Port Authority created in Section 11-58-201.

(2) Subject to Subsections (3) and (4), for each of the 10 consecutive fiscal years beginning the first incremental revenue year, the Division of Finance shall deposit incremental revenue into the incentive account.

(3) (a) The port authority shall designate as the base revenue year the fiscal year that:

(i) begins on or after July 1, 2023; and

(ii) the port authority determines will precede the first fiscal year during which the effects of the aviation fuel incentive program under Section 11-58-208 on the amount of severance tax revenue under Section 59-5-102 are expected to begin to occur.

(b) No later than September 30 of the first incremental revenue year, the port authority shall provide written notification to the Division of Finance of the fiscal year that the port authority designates as the base revenue year.

(4) (a) The Division of Finance may not deposit incremental revenue under Subsection (2) that exceeds $1,000,000 per fiscal year.

(b) The maximum cumulative amount of incremental revenue that the Division of Finance may deposit into the incentive account is $10,000,000.

(c) If the amount of incremental revenue for any incentive year is less than $1,000,000, the Division of Finance shall deposit into the incentive account the amount of incremental revenue available.

CHAPTER 538
S. B. 297
Passed March 2, 2023
Approved March 23, 2023
Effective May 3, 2023

REVENUE BOND AND CAPITAL FACILITIES AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill amends and enacts provisions relating to revenue bonds and funding for certain capital facility design and construction projects.

Highlighted Provisions:

This bill:

- addresses the use of money appropriated to the State Store Land Acquisition and Building Construction Fund; and
- expresses the Legislature's intent relating to the Utah Board of Higher Education's issuance, sale, and delivery of revenue bonds to finance the construction of:
  - the West Village Family and Graduate Housing Phase Two at the University of Utah;
  - the Undergraduate Student Housing project at the University of Utah;
  - the South Campus Garage at the University of Utah;
  - the John and Marcia Price Computing and Engineering project at the University of Utah;
  - the South Campus Residence Hall at Utah State University; and
  - the South Campus Parking Terrace project at Utah State University.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-2-307, as last amended by Laws of Utah 2022, Chapter 315 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 315

ENACTS:

63B-33-101, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-2-307 is amended to read:

32B-2-307. State Store Land Acquisition and Building Construction Fund.

(1) As used in this section, "fund" means the State Store Land Acquisition and Building Construction Fund created in this section.

(2) There is created an enterprise fund known as the State Store Land Acquisition and Building Construction Fund.

(3) The fund is funded from the following sources:

(a) appropriations made to the fund by the Legislature;

(b) in accordance with Subsection (6)(a), proceeds from revenue bonds authorized by Title 63B, Bonds;

(c) subject to Subsection (7)(b), repayments to the fund; and

(d) the interest described in Subsection (4).

(4) (a) The fund shall earn interest.

(b) Interest earned on the fund shall be deposited into the fund.

(5) Subject to Subsection (6), the department may use the money deposited into the fund:

(a) for construction of new state stores, including to purchase or lease property; and

(b) for maintenance or renovation of existing state stores or facilities.

(6) (a) Before the department spends or commits money from the fund, the department shall:

(i) present to the Infrastructure and General Government Appropriations Subcommittee a description of how the department will spend the money; and

(ii) if the department intends to spend or commit money from the fund for construction of a new state store:

(A) receive approval from the Division of Facilities Construction and Management, created in Section 63A-5b-301; and

(B) receive authorization in an appropriations act.

(b) Following a presentation described in Subsection (6)(a)(i), the Infrastructure and General Government Appropriations Subcommittee shall recommend whether the department spend the money in accordance with the department's presentation.

(7) (a) If the department uses money in the fund for a purpose described in Subsection (5), and subsequently issues a revenue bond for that purpose, the department shall repay the money with proceeds from the revenue bond.

(b) If the department uses money from the fund for a purpose described in Subsection (5), and subsequently uses, instead of issuing bonds, cash funding appropriated by the Legislature to fund that purpose, the department shall reimburse the fund:

(i) with proceeds from liquor revenue in the Liquor Control Fund, created in Section 32B-2-301, on a long-term payment schedule set by the state treasurer; and

(ii) before the transfer described in Subsection 32B-2-301(7).

(8) (a) If the department uses money from the fund that the Legislature appropriated as a loan to

be used for the purposes described in Subsection (5), the department shall repay the money with proceeds from liquor revenue in the Liquor Control Fund, created in Section 32B-2-301:

(i) with interest at prevailing municipal revenue bond rates for the state of Utah at the time of loan origination minus 50 basis points; and

(ii) on a term not to exceed 15 years.

(b) The department shall make each payment under Subsection (8)(a) before the transfer described in Subsection 32B-2-301(7).

Section 2. Section 63B-33-101 is enacted to read:

CHAPTER 33. 2023 BONDING AND FINANCING AUTHORIZATIONS

Part 1. 2023 Revenue Bond Authorizations

63B-33-101. Revenue bond authorizations -- Utah Board of Higher Education.

(1) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the West Village Family and Graduate Housing Phase Two;

(b) the University of Utah use student housing rental fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) may not exceed $214,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the West Village Family and Graduate Housing Phase Two subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Undergraduate Student Housing project;

(b) the University of Utah use student housing rental fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (2);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not exceed $382,415,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Undergraduate Student Housing project subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the South Campus Garage;

(b) the University of Utah use parking fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (3);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (3) may not exceed $116,300,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the South Campus Garage subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the John and Marcia Price Computing and Engineering project;

(b) the University of Utah use donations, parking revenues, federal funds, and other institutional revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (4);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (4) may not exceed $76,198,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the John and Marcia Price Computing and Engineering building subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may request additional state funds for operation and maintenance costs and capital improvements.

(5) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the South Campus Residence Hall;

(b) Utah State University use student housing rental fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (5);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (5) may not exceed $49,293,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the South Campus Residence Hall subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

(6) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the South Campus Parking Terrace project;

(b) Utah State University use parking fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (6);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (6) may not exceed $22,925,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the South Campus Parking Terrace project subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

Resolutions

passed at the

General Session

of the

Sixty-Fifth Legislature

2023

H. C. R. 4
Passed March 2, 2023
Approved March 14, 2023
Effective March 14, 2023

CONCURRENT RESOLUTION ADDRESSING SERVICE MEMBERS IN JAPAN

Chief Sponsor: Tyler Clancy
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This resolution encourages the United States Congress and National Security Council to review the Status of Forces Agreement between the United States and Japan and to review the investigation and trial of Navy Lieutenant Ridge Alkonis.

Highlighted Provisions:

This resolution:

- encourages the United States Congress and National Security Council to formally review the Status of Forces Agreement between the United States and Japan; and
- encourages the United States Congress and National Security Council to officially investigate the circumstances surrounding the investigation and trial of Navy Lieutenant Ridge Alkonis to ensure that American service members are being properly treated and adequately protected while serving in Japan.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, there are over 100,000 American service members and dependents stationed in Japan, more than any other place in the world other than the United States;

WHEREAS, active-duty Utahns are, and will continue to be, stationed abroad in Japan while serving in the United States Armed Forces;

WHEREAS, status of forces agreements are designed to ensure adequate and fair legal treatment of American service members stationed abroad;

WHEREAS, in practice, the United States-Japan Status of Forces Agreement does not appear to provide adequate legal protection for American service members as there are reports that Japan regularly violates the Status of Forces Agreement by detaining American service members without adequate cause or necessity prior to charges;

WHEREAS, there are reports that Japanese authorities consistently deny legal counsel to service members during police interrogations and fail to provide adequate translation assistance during interrogations and trials, which violates Department of Defense policy regarding the legal rights of service members overseas as outlined in Secretary of the Navy Instruction 5820.4G and Army Regulation 27-50;

WHEREAS, the case of Navy Lieutenant Ridge Alkonis embodies the reported issues surrounding the United States-Japan Status of Forces Agreement as Lieutenant Alkonis experienced prejudicial treatment during Japanese police detainment and trial;

WHEREAS, there are numerous reports of Lieutenant Alkonis receiving extremely suspect legal advice and inadequate support from United States Navy personnel during legal proceedings;

WHEREAS, there is evidence of the United States Navy knowingly misleading members of the United States Congress regarding Lieutenant Alkonis's case;

WHEREAS, there is sufficient evidence to reasonably suspect that Lieutenant Alkonis is wrongfully detained; and

WHEREAS, the United States Congress through the United States House Committee on Armed Services is responsible for conducting oversight of the United States Navy and ensuring that international agreements are in the best interest of the American people and abided by the parties entered therein:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages the United States Congress and the National Security Council to:

(1) conduct a formal review of the Status of Forces Agreement between the United States and Japan to ensure that the agreement is in the best interest of the United States and adequately protects American service members in accordance with constitutional rights and United States Department of Defense policy;

(2) conduct an official investigation into the circumstances and dealings surrounding the investigation, trial, and conviction of Navy Lieutenant Ridge Alkonis to ensure that Lieutenant Alkonis was treated fairly by Japan and that the United States Navy provided fair and adequate support; and

(3) refer Lieutenant Ridge Alkonis's case to the Special Presidential Envoy for Hostage Affairs to be designated as a wrongfully detained case.

BE IT FURTHER RESOLVED that upon adoption of this resolution, an appropriate copy be provided by the Chief Clerk of the House of Representatives to the majority leader of the United States Senate, the Speaker of the United States House of Representatives, the Chairman of the United States House Committee on Armed Services, the Chairman of the United States Senate Committee on Armed Services, the Chairman of the United States Senate Committee on Foreign Relations, the Chairman of the United States House Committee on Foreign Affairs, the Chairman of the United States Senate Committee on the Judiciary, the Chairman of the United States House Committee on the Judiciary, the National Security Advisor, and the members of the Utah congressional delegation.

H. C. R. 6
Passed March 3, 2023
Approved March 14, 2023
Effective March 14, 2023

CONCURRENT RESOLUTION REGARDING MENTAL HEALTH SUPPORT IN SCHOOLS

Chief Sponsor: Steve Eliason
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This resolution recognizes the crucial contributions of school nurses, psychologists, social workers, and counselors in Utah schools.

Highlighted Provisions:

This resolution:

- highlights the critical role of school nurses, psychologists, social workers, and counselors in education;
- recognizes the inadequacy of current funding streams to meet demand for school-based mental health professionals;
- supports the creation and adoption of school formulas for staffing school-based mental health professionals at appropriate levels; and
- commits to exploring legislative options for increased funding allocations for school-based mental health positions.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Legislature recognizes that school nurses, school social workers, school psychologists, and school counselors are uniquely qualified to provide essential supports that address the physical, social, and emotional needs of students;

WHEREAS, all children and youth learn best when they are healthy, supported, and receive an education that meets their individual needs, schools can more effectively ensure that all students are ready and able to learn if schools meet all the needs of each student, and learning and development are directly linked to the physical and mental health of children and a supportive learning environment is an optimal place to promote physical and mental health;

WHEREAS, the school-based mental health professionals create a strong support for students by directly working with parents and families and connecting parents, families, and students with community resources outside the school system;

WHEREAS, the State of Utah has a shortage of all of the professionals listed in this resolution, and as of the 2021-2022 school year:

- the ratio of school psychologists to students in Utah was 1:2,114 students, while the national recommendation is 1:500-700;
- the ratio of school social workers to students in Utah was 1:2,443, while the national recommendation is 1:250;
- the ratio of school nurses to students in Utah was 1:2,445, while the national recommendation is one for each school, and the Utah recommendation is 1:2,000; and
- the ratio of school counselors to students in Utah was 1:503, while the national recommendation is 1:250, and the Utah recommendation is 1:350;

WHEREAS, school psychologists are specially trained to deliver mental health services and academic support that lower barriers to learning and allow teachers to teach more effectively; school psychologists use sound psychological principles which are critical to proper instruction and learning, social and emotional development, prevention and early intervention, and support for a culturally diverse student population; school psychologists facilitate collaboration that helps parents and educators to identify and reduce risk factors, promote protective factors, create safe schools, and access community resources; and school psychologists are trained to assess barriers to learning, utilize data-based decision making, implement research-driven prevention and intervention strategies, evaluate outcomes, and improve accountability;

WHEREAS, school social workers are trained mental health professionals especially skilled in providing services to students who face serious challenges to school success, including disability, poverty, discrimination, abuse, neglect, mental illness, homelessness, bullying, familial stressors, and other barriers to learning; school social workers, being licensed mental health professionals in schools in the United States, are a vital link between the home, school, and community by providing necessary assessments, interventions, counseling, family outreach, and community referrals; and school social workers maintain knowledge of school culture and school climate, which are necessary for responsible school safety planning;

WHEREAS, school nurses are registered professional school nurses that advance the well-being, academic success, and life-long achievements of all students by serving the school community and providing a critical safety net for our state's children; school nurses provide support and direct care to students with acute injuries and chronic health conditions through care management, advocacy, and coordination; school nurses are often the first to identify behavioral health concerns and families in crisis; school nurses act as a liaison to the school community, parents, and health care providers on behalf of children's health by promoting wellness and improving health outcomes for our community's children; and school nurses, as members of school-based mental health

teams, understand the link between health and learning and are in a position to make a positive difference for children every day;

WHEREAS, school counselors recognize and respond to the need for mental health services that promote social/emotional wellness and development for all students; school counselors advocate for the mental health needs of all students by offering instruction that enhances awareness of mental health, appraisal, and advisement addressing academic, career, and social/emotional development, short-term counseling interventions, and referrals to community resources for long-term support; school counselors perform a wide range of duties to help students excel academically, develop resiliency, adjust socially, and cope with school-related and personal concerns or problems both in and out of school; school counselors help develop well-rounded students by guiding students through academic learning, social and emotional development, and career exploration; school counselors play a vital role in ensuring that students are ready for both college and careers; and school counselors coordinate efforts to foster a positive school climate, resulting in a safe learning environment for all students;

WHEREAS, the Legislature recognizes that school nurses, school social workers, school psychologists, and school counselors are uniquely qualified to provide essential supports that address the physical, social, and emotional needs of students;

WHEREAS, the need for comprehensive student support has grown beyond what is currently funded in the prototypical school model, and the need for these professionals in schools has grown beyond what is currently available for staffing and hiring availability;

WHEREAS, the Legislature recognizes that solving a shortage problem in these multiple fields will require a multifaceted response; action and problem solving will need to address training program funding, training program increased capacity, payment structures that incentivize and honor professionals to work and stay working in school systems, models of school-based mental health services to best utilize all professionals, ensuring professionals are able to work within their appropriate domains, creative funding solutions, and taking advantage of all funding opportunities to support intentional efforts to solve this issue; more than one solution will be necessary, and solutions will need to be collaboratively created with all stakeholders; and we cannot wait for one solution before working towards another, otherwise we continue to be stuck in a loop of inaction;

WHEREAS, current funding streams do not support appropriate hiring of school-based mental health professionals, and the opening of other funding streams, such as general education funds, would more accurately represent student needs and support hiring of school-based mental health professionals; and

WHEREAS, while certain school-based mental health professionals have codified ratios in place, others do not; having a codified ratio is a step in the right direction, and each school-based mental health profession should have a codified ratio; however, ratios are of little practical use if local education agencies (LEAs) are not able to or choose not to use multiple streams of funding to pay for professionals; ongoing funding is needed to meet the ratio rules that already exist or should be created; and codified ratios help to guide LEAs in appropriate staffing decisions:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports the creation and adoption of school formulas for staffing physical, social, and emotional support in schools to meet staffing ratio recommendations for school nurses, school counselors, school social workers, and school psychologists.

BE IT FURTHER RESOLVED that the Legislature and the Governor honor and recognize the contributions of school nurses, school counselors, school social workers, and school psychologists in providing social and emotional support and health services to K-12 students across the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor commit to exploring legislation to provide increased allocations to LEAs that demonstrate they have hired staff for these roles or have a need for hiring to meet appropriate ratios in anticipation that enhanced state funding will allow school districts to hire additional school nurses, school social workers, school psychologists, and school counselors.

BE IT FURTHER RESOLVED that the Legislature and the Governor commit to exploring increased funding to increase the number of school nurses, school counselors, school social workers, and school psychologists providing social and emotional support and health services to K-12 students across the state by adopting a formula for the distribution of a basic education instructional allocation for each LEA.

BE IT FURTHER RESOLVED that the Legislature and the Governor support exploring the codification of appropriate ratios for all professions if they are not already in statute.

BE IT FURTHER RESOLVED that the Legislature and the Governor commit to funding for training programs to increase student capacity and explore ways that training programs can access necessary supports, funding, and personnel to increase training of future professionals.

BE IT FURTHER RESOLVED that the Legislature and the Governor commit to furthering retention and attraction of professionals to the school system and finding related retention and attraction solutions.

BE IT FURTHER RESOLVED that the Legislature and the Governor commit to exploring salary and payment of professionals compared to other educators and professionals working in the

private sector and to generating ideas to make payment equitable and attractive.

BE IT FURTHER RESOLVED that the Legislature and the Governor commit to exploring professionals' scope of practice and structures of school-based mental health services to ensure that professionals are being used in the appropriate capacity and are able to function in their specific domains that support their retention in school systems and best services delivered to students.

H. C. R. 7
Passed March 3, 2023
Approved March 14, 2023
Effective March 14, 2023

CONCURRENT RESOLUTION SUPPORTING THE CREATION OF THE GREAT SALT LAKE SENTINEL LANDSCAPE

Chief Sponsor: Trevor Lee
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This resolution encourages the Utah Department of Veterans and Military Affairs and its partners to submit an application to establish the Great Salt Lake Sentinel Landscape.

Highlighted Provisions:

This resolution:

- addresses open spaces in Utah;
- recognizes the importance of protecting Utah's military missions;
- promotes shared conservations of the natural beauty of Utah;
- describes the Sentinel Landscape opportunity; and
- encourages and supports the submission of an application to the Sentinel Landscape Partnership.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah has a rich agricultural and working land heritage and contains open spaces and habitats that support recreational activities and numerous wildlife species;

WHEREAS, Utah is home to some of the nation's most important military installations and ranges, including Hill Air Force Base, Little Mountain Test Facility, Utah Test and Training Range, Dugway Proving Ground, Tooele Army Depot, Camp Williams, and the Utah National Guard facilities in Salt Lake and Utah County;

WHEREAS, Utah's military installations contribute $19,300,000,000 to the Utah economy and support over 211,000 jobs;

WHEREAS, Utah's military installations provide state-of-the-art and one of a kind training facilities that are unique to Utah;

WHEREAS, preserving key landscapes near military installations strengthens the economies of farms and forests and, in turn, strengthens the economy of Utah, while also ensuring the military's ability to conduct vital test and training missions within these installations and their areas of operations that anchor such landscapes;

WHEREAS, the preservation of Utah's military capabilities, missions, and installations is critical to our nation's defense;

WHEREAS, the United States Department of Defense, Department of Agriculture, and Department of Interior created the Sentinel Landscape Partnership, a federal governmental conservation policy, to designate, as Sentinel Landscapes, certain landscapes that are critical to the nation's defense mission and to preserve the working economies and natural resources within designated Sentinel Landscapes;

WHEREAS, a Sentinel Landscape designation for the Great Salt Lake region promotes shared conservation of the natural beauty of Utah and Utah's vital resources;

WHEREAS, a Sentinel Landscape designation for the Great Salt Lake region promotes common goals of clean water and a healthy and thriving Great Salt Lake for Utah's citizens;

WHEREAS, a Sentinel Landscape designation for the Great Salt Lake region promotes current and future federal, state, and local intergovernmental resource sharing for the purposes of conservation and creation of parks, nature preserves, agricultural, and other public open spaces;

WHEREAS, a Sentinel Landscape designation improves communication and collaboration between partner organizations and local communities, encourages partners to develop new technical and financial assistance options, and leads to greater voluntary landowner participation; and

WHEREAS, a Sentinel Landscape designation promotes shared values and equities of air and water quality, access and value of public open spaces, protection of natural infrastructure, and the rugged natural beauty of Utah:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports the Utah Department of Veterans and Military Affairs and its partners in applying for the establishment of the Great Salt Lake Sentinel Landscape encompassing Hill Air Force Base, Little Mountain Test Facility, Utah Test and Training Range, Dugway Proving Ground, Tooele Army Depot, Camp Williams, and the Utah National Guard facilities in Salt Lake and Utah County.

H. C. R. 8
Passed February 16, 2023
Approved February 21, 2023
Effective February 21, 2023

CONCURRENT RESOLUTION ADDRESSING THE OLYMPIC AND PARALYMPIC WINTER GAMES

Chief Sponsor: Jon Hawkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This resolution addresses Utah's hosting of a future Olympic and Paralympic Winter Games.

Highlighted Provisions:

This resolution:

- describes the status of Utah's bid to host a future Olympic and Paralympic Winter Games;
- describes previous legislation supporting Utah's hosting of a future Olympic and Paralympic Winter Games in accordance with International Olympic Committee and International Paralympic Committee requirements;
- acknowledges the success of the 2002 Olympic and Paralympic Winter Games in Salt Lake City and the expected benefit of another Olympic and Paralympic Winter Games in Utah; and
- makes certain assurances in contemplation of Utah's potential hosting of the 2030 or 2034 Olympic and Paralympic Winter Games.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Salt Lake City–Utah Committee for the Games (Host Committee) has submitted a bid to the International Olympic Committee (IOC) for Utah to host the 2030 or 2034 Olympic and Paralympic Winter Games (Winter Games);

WHEREAS, the United States Olympic and Paralympic Committee (USOPC) adopted a resolution supporting the efforts to bring the Winter Games to Utah and committing to work with the Host Committee toward a potential Winter Games bid;

WHEREAS, the Legislature, the governor concurring therein, passed 2020 General Session, S.C.R. 9, Concurrent Resolution Addressing the Olympics, indicating that the state is comfortable with the concepts and principles in the host agreement documents provided by the IOC and would support the state signing similar host agreement documents for a future Olympic and Paralympic Winter Games;

WHEREAS, as indicated in S.C.R. 9, the state actively partners with and supports the mission and charter of the USOPC, the IOC, and the International Paralympic Committee (IPC);

WHEREAS, as indicated in S.C.R. 9, since the Salt Lake City 2002 Olympic and Paralympic Winter Games (2002 Games), the state continues to maintain and improve critical infrastructure and assets to support the state's future hosting of the Winter Games;

WHEREAS, in continuing the legacy of the 2002 Games, the state continues to promote the values of Olympism, Paralympism, and winter sport;

WHEREAS, given the state's preservation of critical infrastructure from the 2002 Games, hosting the Winter Games is expected to generate to the state economic, environmental, and other benefits greater than the benefits to the state from the 2002 Games;

WHEREAS, the 2002 Games were overall a success for Salt Lake City, the state, and the athletes and individuals who participated;

WHEREAS, if the IOC chooses Utah to host the Winter Games, the IOC will require the state to make various assurances; and

WHEREAS, in contemplation of a bid to host the Winter Games, the state makes the following assurances:

- the state will ensure sufficient power and telecommunications infrastructure is in place to host the Winter Games;
- the state's transportation infrastructure is able to support the Winter Games and current transportation projects are not dependent on a bid being awarded for the Winter Games;
- the state, in coordination with the federal and local governments, will provide sufficient security and cooperate with the USOPC, the IOC, and the IPC on security matters to provide for a peaceful celebration of the Winter Games;
- the state will ensure the health and safety of the Winter Games athletes and other participants by supporting the provision of appropriate medical services;
- the state does not support, and the Utah Constitution and other provisions of the Utah Code prohibit, sports betting or gambling during the Winter Games;
- the state will coordinate with local authorities to ensure appropriate public services are provided for the participants of the Winter Games;
- the state supports federal and other labor laws and regulations necessary for employees or contractors to offer services at the Winter Games;
- the state respects and supports the United Nations Guiding Principles on Business and Human Rights and international standards on anti–corruption;
- the state will ensure the Winter Games venues are operated in accordance with international accessibility standards; and
- the state supports any international agreements, laws, or regulations applicable to the Winter Games:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the State of Utah, the Governor concurring therein, makes the assurances described in this resolution in contemplation of the state hosting the Winter Games.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the IOC, IPC, USOPC, the

Host Committee, the Utah Sports Commission, the Utah Olympic Legacy Foundation, the Governor's Office of Economic Opportunity, the Utah State Chamber of Commerce, and the members of Utah's congressional delegation.

H. C. R. 9
Passed March 3, 2023
Approved March 14, 2023
Effective March 14, 2023

CONCURRENT RESOLUTION CONCERNING THE SHUTDOWN OF UTAH'S POWER BY THE FEDERAL GOVERNMENT

Chief Sponsor: Mike Schultz
Senate Sponsor: Evan J. Vickers
Cosponsors: Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Kera Birkeland
Bridger Bolinder
Brady Brammer
Walt Brooks
Jefferson S. Burton
Scott H. Chew
Kay J. Christofferson
Tyler Clancy
James A. Dunnigan
Steve Eliason
Stephanie Gricius
Matthew H. Gwynn
Katy Hall
Jon Hawkins
Ken Ivory
Colin W. Jack
Tim Jimenez
Michael L. Kohler
Quinn Kotter
Jason B. Kyle
Trevor Lee
Karianne Lisonbee
Anthony E. Loubet
Steven J. Lund
Phil Lyman
A. Cory Maloy
Calvin R. Musselman
Thomas W. Peterson
Val L. Peterson
Candice B. Pierucci
Susan Pulsipher
Rex P. Shipp
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
R. Neil Walter
Raymond P. Ward
Christine F. Watkins
Douglas R. Welton
Stephen L. Whyte
Ryan D. Wilcox

LONG TITLE

General Description:

This resolution highlights the state's need to protect and defend against federal government regulations that jeopardize the state's right to an affordable, reliable, and dispatchable energy supply.

Highlighted Provisions:

This resolution:

- highlights Utah's measured approach to energy policy and the harm of the federal government's rulemaking regarding ozone transfer.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state has employed to great success a measured, all-of-the-above energy policy that has powered decades of prosperity and provided some of the nation's most reliable, affordable, and dispatchable energy;

WHEREAS, in the face of population growth, changing technology, and security threats, the state needs to protect the reliability of our electric grid;

WHEREAS, the state has a history of applying common sense solutions to provide base-load power for the state, fuel the economy, and maintain a high quality of life for the people in the state;

WHEREAS, because the current federal administration continues to assault the energy industry through regulatory rulemaking;

WHEREAS, a recent federal regulatory rule from the federal government on ozone transport will force the early closure of certain power plants located in the state;

WHEREAS, the closure of these certain power plants will put the state's supply of reliable, affordable, and dispatchable power at significant risk;

WHEREAS, the state should fight for a responsible energy policy that embraces efficiency and is based in reality; and

WHEREAS, the state should stand in the way of the federal government's egregious power grab that harms the state's citizens:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, will push back on the federal regulatory overreach that threatens our ability to provide power to our state, fuel our economy and maintain a high quality of life for the people of the state;

BE IT FURTHER RESOLVED that the Legislature and the Governor will support and defend our right, as a state's right, to an affordable, reliable, and dispatchable energy supply from any harmful federal encroachment.

H. C. R. 10
Passed March 3, 2023
Approved March 14, 2023
Effective March 14, 2023

CONCURRENT RESOLUTION REGARDING THE PLEDGE OF ALLEGIANCE IN SCHOOLS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This resolution emphasizes the inspired ideas, principles, and values espoused in the Pledge of Allegiance.

Highlighted Provisions:

This resolution:

- emphasizes the inspired values the United States was founded upon;
- highlights how the inspired values that founded the United States are embedded in the Pledge of Allegiance; and
- directs compliance with the statute and administrative rule requirements to recite the Pledge of Allegiance daily in school.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the United States was founded upon a set of inspired ideals, principles, values, and symbols shared by the Founding Fathers, which serve as the foundation for the greatest nation the world has ever known;

WHEREAS, generations of Americans have given their lives to preserve the founding ideals of morality, individual liberty, representative government, and equality before the law;

WHEREAS, the political, social, and ideological divisions in contemporary society threaten to weaken, obscure, and even nullify the commitment shared to these foundational ideals, principles, and values;

WHEREAS, the Pledge of Allegiance embodies and represents the inspired ideals, principles, and values that bind us together as a nation;

WHEREAS, the Pledge of Allegiance is a solemn promise to support and defend these ideals, principles, and values;

WHEREAS, the repeated expression of the Pledge of Allegiance in a classroom instills in a child an appreciation for the inspired ideals, principles, and values that the United States of America represents and reminds all citizens that the nation is a nation under God, not without God;

WHEREAS, Section 53G-10-304 requires the Pledge of Allegiance to the flag to be recited once at the beginning of each day in each public school classroom in the state, led by a student in the classroom, as assigned by the classroom teacher on a rotating basis; and

WHEREAS, the State Board of Education, in Rule R277-475, requires each local education agency (LEA) to teach patriotic values associated with the flag of the United States as a central part of efforts to provide instruction on patriotic, civic, and character education in grades K-12:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the State of Utah, the Governor concurring therein, directs that the State Board of Education remind all LEAs of the obligation under statute and to take sufficient measures in ensuring that the Pledge of Allegiance is recited in every Utah classroom at the beginning of every school day.

H. J. R. 2
Passed February 14, 2023
Approved February 14, 2023
Effective February 14, 2023

JOINT RESOLUTION AMENDING RULES OF CIVIL PROCEDURE ON INJUNCTIONS

Chief Sponsor: Brady Brammer
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This joint resolution amends the Utah Rules of Civil Procedure, Rule 65A, regarding injunctions.

Highlighted Provisions:

This resolution:

- amends the Utah Rules of Civil Procedure, Rule 65A, regarding injunctions.

Special Clauses:

This resolution provides a special effective date.

Utah Rules of Civil Procedure Affected:

AMENDS:

Rule 65A, Utah Rules of Civil Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 65A, Utah Rules of Civil Procedure is amended to read:

Rule 65A. Injunctions.

(a) Preliminary injunctions.

(a) (1) Notice. No preliminary injunction shall be issued without notice to the adverse party.

(a) (2) Consolidation of hearing. Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order

the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible at the trial on the merits becomes part of the trial record and need not be repeated at the trial. This subdivision (a)(2) shall be so construed and applied as to save to the parties any rights they may have to trial by jury.

(b) Temporary restraining orders.

(b) (1) Notice. No temporary restraining order shall be granted without notice to the adverse party or that party's attorney unless (A) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (B) the applicant or the applicant's attorney certifies to the court in writing as to the efforts, if any, that have been made to give notice and the reasons supporting the claim that notice should not be required.

(b) (2) Form of order. Every temporary restraining order shall be endorsed with the date and hour of issuance and shall be filed forthwith in the clerk's office and entered of record. The order shall define the injury and state why it is irreparable. The order shall expire by its terms within such time after entry, not to exceed 14 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record.

(b) (3) Priority of hearing. If a temporary restraining order is granted, the motion for a preliminary injunction shall be scheduled for hearing at the earliest possible time and takes precedence over all other civil matters except older matters of the same character. When the motion comes on for hearing, the party who obtained the temporary restraining order shall have the burden to show entitlement to a preliminary injunction; if the party does not do so, the court shall dissolve the temporary restraining order.

(b) (4) Dissolution or modification. On 48 hours' notice to the party who obtained the temporary restraining order without notice, or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification. In that event the court shall proceed to hear and determine the motion as expeditiously as the ends of justice require.

(c) Security.

(c) (1) Requirement. The court shall condition issuance of the order or injunction on the giving of security by the applicant, in such sum and form as the court deems proper, unless it appears that none of the parties will incur or suffer costs, attorney fees or damage as the result of any wrongful order or injunction, or unless there exists some other substantial reason for dispensing with the requirement of security. No such security shall be required of the United States, the State of Utah, or of an officer, agency, or subdivision of either; nor shall it be required when it is prohibited by law.

(c) (2) Amount not a limitation. The amount of security shall not establish or limit the amount of costs, including reasonable attorney fees incurred in connection with the restraining order or preliminary injunction, or damages that may be awarded to a party who is found to have been wrongfully restrained or enjoined.

(c) (3) Jurisdiction over surety. A surety upon a bond or undertaking under this rule submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall forthwith mail copies to the persons giving the security if their addresses are known.

(d) Form and scope. Every restraining order and order granting an injunction shall set forth the reasons for its issuance. It shall be specific in terms and shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained. It shall be binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive notice, in person or through counsel, or otherwise, of the order. If a restraining order is granted without notice to the party restrained, it shall state the reasons justifying the court's decision to proceed without notice.

(e) Grounds. A restraining order or preliminary injunction may issue only upon a showing by the applicant that:

(e) (1) there is a substantial likelihood that the applicant will prevail on the merits of the underlying claim;

(e) [~~(1) The~~] (2) the applicant will suffer irreparable harm unless the order or injunction issues;

(e) [~~(2) The~~] (3) the threatened injury to the applicant outweighs whatever damage the proposed order or injunction may cause the party restrained or enjoined; and

(e) [~~(3) The~~] (4) the order or injunction, if issued, would not be adverse to the public interest[~~; and~~].

[~~(e) (4) There is a substantial likelihood that the applicant will prevail on the merits of the underlying claim, or the case presents serious issues on the merits which should be the subject of further litigation.~~]

(f) Motion for reconsideration.

(f) (1) A party enjoined or restrained by a restraining order or a preliminary injunction on

February 14, 2023, may move the court to reconsider whether the order or injunction should remain in effect if the order or injunction:

(A) is in writing;

(B) is restraining or enjoining the enforcement of a law; and

(C) explicitly states that the court granted the order or injunction on the ground that the case presented serious issues on the merits which should be the subject of further litigation.

(f) (2) A motion for reconsideration under this paragraph (f) may be filed at any time before the final determination of the case.

(f) (3) Upon a motion for reconsideration, the court must determine whether the issuance of the restraining order or preliminary injunction meets the requirements in paragraph (e) regardless of the requirements for the issuance of the order or injunction on the day on which the order or injunction was issued.

(f) (4) If the court determines that the issuance of the restraining order or preliminary injunction does not meet the requirements of paragraph (e), the court must terminate the order or injunction.

[~~(f)~~] (g) Domestic relations cases. Nothing in this rule shall be construed to limit the equitable powers of the courts in domestic relations cases.

Section 2. Effective date.

As provided in Utah Constitution Article VIII, Section 4, this resolution takes effect upon a two-thirds vote of all members elected to each house.

H. J. R. 3
Passed February 16, 2023
Approved February 16, 2023
Effective February 16, 2023

JOINT RESOLUTION RECOGNIZING SCHOOL TEACHERS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This resolution recognizes Utah's public school educators for their extraordinary efforts to educate students during a public health crisis.

Highlighted Provisions:

This resolution:

- acknowledges the challenges educators in Utah's public schools faced in providing instruction during a public health crisis, including the challenges of remote instruction;
- highlights Utah's history of education innovation; and
- declares that curricular decisions should be made at the local level.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, in March and April of 2020, teachers in Utah's public schools transitioned to remote instruction for the remainder of the 2019-2020 school year due to the coronavirus pandemic, and some public schools continued remote instruction during the 2020-2021 school year;

WHEREAS, Utah's educators were faced with profound challenges as this public health crisis created unprecedented problems for student learning and educational delivery;

WHEREAS, Utah's educators rose to the challenge by creating new delivery platforms on the fly and spent countless hours refining curriculum and student access to learning models;

WHEREAS, educators, including teachers and administrators, and school staff in Utah made extraordinary efforts to educate students during a time of separation and uncertainty;

WHEREAS, educators in Utah routinely dedicate personal time and resources to helping students achieve their learning goals and objectives;

WHEREAS, Utah has a history of education innovation, developing relevant curriculum at the local level to best prepare our students for the challenges of the 21st century;

WHEREAS, time and long experience have shown that curricular decisions are best made at the local district level without undue federal influence or overreach:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah acknowledges the significant sacrifices made by Utah's educators to educate students during a public health crisis.

BE IT FURTHER RESOLVED that the Legislature recognizes National Teacher Appreciation Day on May 2, 2023, and encourages all Utahns to honor the state's educators on this day and thank them for their invaluable contributions.

BE IT FURTHER RESOLVED that the Legislature recognizes educators as precious resources, critical to preparing Utah's students to face the challenges of the 21st century with confidence.

BE IT FURTHER RESOLVED that the Legislature declares that curriculum choices for Utah students will continue to be made at the local school district level to ensure that our students are prepared to enter the workforce with the confidence and skills required to support Utah's thriving economy.

H. J. R. 4
Passed February 1, 2023
Approved February 1, 2023
Effective February 1, 2023

JOINT RESOLUTION HONORING THE SIKH COMMUNITY

Chief Sponsor: Angela Romero
Senate Sponsor: Luz Escamilla
Cosponsor: Brett Garner

LONG TITLE

General Description:

This joint resolution honors the Sikh community.

Highlighted Provisions:

This resolution:

- highlights the history and significant contributions of the Sikh community; and
- expresses support for the Sikh community in the state.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, founded by Guru Nanak in 15th Century Punjab, India, the Sikh monotheistic tradition teaches its adherents to practice the universal principles of truthful living, service to humanity, and devotion to God;

WHEREAS, the Sikh community began immigrating to the United States in the late 1800s and has played an important role in developing this country and the state of Utah while enriching American culture, history, economy, and diversity;

WHEREAS, Sikhism is the fifth largest religion in the world with more than 25 million Sikhs worldwide, including more than one million in the United States;

WHEREAS, Sikh Americans distinguished themselves by fostering respect among all people through faith and service;

WHEREAS, the religion's emphasis on loving service to humanity also inspires Sikhs living in Utah to make lasting social contributions;

WHEREAS, the 10th Sikh Guru, Guru Gobind Singh Ji, left the world and indicated to the generations ahead to avoid idol worship and recognize the Shri Guru Granth Sahib Ji, the principal scripture of Sikhism, as the "Living and Eternal Guru" of the Sikh religion;

WHEREAS, an essential part of Sikhism is langar, the practice of preparing and serving a free meal to promote the Sikh tenet of seva, or selfless service;

WHEREAS, anyone, Sikh or not, can visit a gurdwara and partake in langar, with the Darbar Sahib in Amristar serving more than 100,000 people every day;

WHEREAS, World Sikh Parliament, the governing body of the Sikhs, and Sikh communities throughout the country have provided free meals, groceries, masks, and sanitizer, etc. to many communities and organizations during the pandemic;

WHEREAS, Utah recognizes the cultural, religious, and interfaith importance of Shri Guru Granth Sahib Ji as the "Living Guru" of Sikhs in promoting peace and declaring Sikhs as a distinct ethnic and religious minority;

WHEREAS, although Sikhs have made immense contributions throughout history, they have long faced oppression and discrimination throughout the world;

WHEREAS, according to the Sikh religion and history, Sikhs share a unique set of beliefs and practices that are altogether different from other religions;

WHEREAS, the United Nations office of High Commissioner for Human Rights has recognized Sikh Holy Scripture, Shri Guru Granth Sahib Ji, as a scripture meant to promote the interfaith and inter-religious harmony, peace, and human rights;

WHEREAS, the state of Utah is committed to educating citizens about the world's religions, the value of religious diversity, tolerance grounded in First Amendment principles, a culture of mutual understanding, and the importance of reducing violence, all of which are consistent with Shri Guru Granth Sahib Ji's teachings; and

WHEREAS, the state of Utah seeks to further the diversity of its community and afford all residents the opportunity to better understand, recognize, and appreciate the rich history and shared experiences of Sikhs to enforce laws for access to equal opportunity of humans, irrespective of their caste, creed, color, or appearance:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes and pays just tribute to the cultural heritage of the ethnic groups which compromise and contribute to the richness and diversity of the community of the state of Utah.

BE IT FURTHER RESOLVED that the Legislature encourages all Sikhs to practice their faith freely and fearlessly.

H. J. R. 6
Passed January 25, 2023
Approved January 25, 2023
Effective January 25, 2023

JOINT RESOLUTION AUTHORIZING PAY OF IN-SESSION EMPLOYEES

Chief Sponsor: Mike Schultz
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This joint resolution of the Legislature sets the compensation for Senate and House of Representatives in-session employees for 2023.

Highlighted Provisions:

This resolution:

- sets the compensation for Senate and House of Representatives in-session employees for the 2023 annual general session.

Special Clauses:

This resolution provides retrospective operation to January 1, 2023.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislature, acting under authority of Utah Code Section 36-2-2, is required to set the compensation of Senate and House of Representatives in-session employees by joint resolution:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the compensation of the individuals employed by the Senate or House of Representatives for the 2023 annual general session for actual hours worked be set as follows:

Employees shall be paid the hourly rate as specified in this resolution.

Employees who are working their first annual general session shall be paid under the "Level 1" scale.

Employees who are working their second annual general session shall be paid under the "Level 2" scale.

Employees who are working their third annual general session shall be paid under the "Level 3" scale.

Employees who are working their fourth annual general session shall be paid under the "Level 4" scale.

Employees who are working their fifth to ninth annual general session shall be paid under the "Level 5" scale.

Employees who are working their 10th to 14th annual general session shall be paid under the "Level 6" scale.

Employees who are working their 15th to 19th annual general session shall be paid under the "Level 7" scale.

Employees who are working their 20th or more annual general session shall be paid under the "Level 8" scale.

Senate employees are designated with an "S." House of Representatives employees are designated with an "H."

Employee Position	Level 1 Wage	Level 2 Wage	Level 3 Wage	Level 4 Wage	Level 5 Wage	Level 6 Wage	Level 7 Wage	Level 8 Wage
Admin. Asst. to Third House (H)	$19.24	$19.50	$19.72	$20.00	$20.27	$20.53	$20.76	$21.02
Amending Clerk (H-S)	$21.68	$22.04	$22.24	$22.47	$22.72	$22.93	$23.16	$23.44
Assistant Page Supervisor (H-S)	$18.77	$19.02	$19.26	$19.53	$19.76	$19.99	$20.27	$20.51
Asst. Sergeant-at-Arms (H-S)	$18.77	$19.02	$19.26	$19.53	$19.76	$19.99	$20.27	$20.51
Calendar/Voting System Specialist (H)	$19.19	$19.50	$19.77	$20.00	$20.25	$20.53	$20.76	$21.02
Docket Clerk/Legislative Aide (H-S)	$23.58	$23.90	$24.24	$24.56	$24.90	$25.27	$25.60	$25.94
Reading Clerk (S)	$17.44	$17.65	$17.90	$18.10	$18.35	$18.58	$18.83	$19.03
Kitchen Specialist (H-S)	$17.44	$17.65	$17.90	$18.10	$18.35	$18.58	$18.83	$19.03
IT Technician (S)	$21.26	$22.06	$22.37	$22.67	$22.95	$23.25	$23.59	$23.84
Page (H-S)	$17.44	$17.65	$17.90	$18.10	$18.35	$18.58	$18.83	$19.03
Page Supervisor (H-S)	$21.26	$22.06	$22.37	$22.67	$22.95	$23.25	$23.59	$23.84
Public Information Specialist (H-S)	$17.44	$17.65	$17.90	$18.10	$18.35	$18.58	$18.83	$19.03
Receptionist (H-S)	$17.44	$17.65	$17.90	$18.10	$18.35	$18.58	$18.83	$19.03
Receptionist and Legislative Aide (H-S)	$19.24	$19.50	$19.72	$19.87	$20.23	$20.53	$20.76	$21.02
Audio Specialist (H-S)	$18.29	$18.55	$18.79	$19.04	$19.30	$19.51	$19.75	$20.03
Rules Committee Secretary (H-S)	$21.87	$22.14	$22.41	$22.74	$23.02	$23.31	$23.63	$23.91
Security (H-S)	$17.44	$17.65	$17.90	$18.10	$18.35	$18.58	$18.83	$19.03
Sergeant-at-Arms (H-S)	$21.26	$22.06	$22.37	$22.67	$22.95	$23.25	$23.59	$23.84
Supply/Copy Room Specialist(H)	$17.44	$17.65	$17.90	$18.10	$18.35	$18.58	$18.83	$19.03
Tour Liaison (H-S)	$17.44	$17.65	$17.90	$18.10	$18.35	$18.58	$18.83	$19.03
Video Specialist (H-S)	$17.44	$17.65	$17.90	$18.10	$18.35	$18.58	$18.83	$19.03

The compensation schedule established by this resolution has retrospective operation to January 1, 2023.

H. J. R. 8
Passed March 1, 2023
Approved March 1, 2023
Effective March 1, 2023

JOINT RESOLUTION FOR FERTILITY PRESERVATION COVERAGE

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This resolution directs the Public Employees' Benefit and Insurance Program (PEHP) to provide fertility preservation coverage.

Highlighted Provisions:

This resolution:

- directs the Public Employees' Benefit and Insurance Program (PEHP) to provide fertility preservation coverage.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, in accordance with Utah Code Section 49-20-201, the state participates in the Public Employees' Benefit and Insurance Program (PEHP);

WHEREAS, the Legislature may determine what benefits to offer Utah's state employees;

WHEREAS, standard fertility preservation services are procedures to preserve fertility that are consistent with established medical practices or professional guidelines published by the American Society of Clinical Oncology or the American Society for Reproductive Medicine:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah directs PEHP to provide coverage to state employees and eligible dependents for standard fertility preservation services when a medically necessary gonadotoxic treatment may directly or indirectly cause iatrogenic infertility due to a cancerous condition or a condition that requires a bone marrow transplant.

BE IT FURTHER RESOLVED that the coverage shall include consultations, medications, and procedures for cryopreservation.

BE IT FURTHER RESOLVED that the coverage shall include the costs of cryopreservation for:

- five years; or
- if the covered individual is younger than 18 years old, until the individual is 23 years old.

H. J. R. 10
Passed February 17, 2023
Approved February 17, 2023
Effective January 1, 2025

PROPOSAL TO AMEND UTAH CONSTITUTION -ELECTION OF COUNTY SHERIFFS

Chief Sponsor: Brad R. Wilson
Senate Sponsor: J. Stuart Adams
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Gay Lynn Bennion
Kera Birkeland
Bridger Bolinder
Brady Brammer
Joel K. Briscoe
Walt Brooks
Jefferson S. Burton
Scott H. Chew
Kay J. Christofferson
Tyler Clancy
James F. Cobb
Paul A. Cutler
Jennifer Dailey-Provost
James A. Dunnigan
Steve Eliason
Joseph Elison
Brett Garner
Stephanie Gricius
Matthew H. Gwynn
Katy Hall
Jon Hawkins
Sahara Hayes
Sandra Hollins
Ken Ivory
Colin W. Jack
Tim Jimenez
Dan N. Johnson
Marsha Judkins
Brian S. King
Michael L. Kohler
Quinn Kotter
Jason B. Kyle
Trevor Lee
Rosemary T. Lesser
Karianne Lisonbee
Anthony E. Loubet
Steven J. Lund
Phil Lyman
A. Cory Maloy
Ashlee Matthews
Carol S. Moss
Jefferson Moss
Calvin R. Musselman
Doug Owens
Michael J. Petersen
Karen M. Peterson
Thomas W. Peterson
Val L. Peterson
Candice B. Pierucci
Susan Pulsipher
Judy Weeks Rohner
Angela Romero

Mike Schultz
Rex P. Shipp
Casey Snider
Robert M. Spendlove
Jeffrey D. Stenquist
Andrew Stoddard
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
Norman K Thurston
R. Neil Walter
Raymond P. Ward
Christine F. Watkins
Douglas R. Welton
Mark A. Wheatley
Stephen L. Whyte
Ryan D. Wilcox

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to provide the position and term of county sheriff.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- establish, in the constitution, the office and term of a county sheriff.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.This resolution provides a contingent effective date of January 1, 2025 for this proposal.

Utah Constitution Sections Affected:

ENACTS:
ARTICLE XI, SECTION 10

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to enact Utah Constitution Article XI, Section 10, to read:

Article XI, Section 10. [Election of County Sheriffs.]

(1) Each county shall have an office of county sheriff.

(2) The office of county sheriff is an elected office.

(3) Their term of office shall be four years from the first day of January next after their election.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2025.

H. J. R. 12
Passed February 27, 2023
Approved February 27, 2023
Effective February 27, 2023

JOINT RULES RESOLUTION - BUDGET EFFICIENCY MODIFICATIONS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This joint rules resolution addresses budget reporting and evaluation requirements.

Highlighted Provisions:

This resolution:

- amends definitions;
- modifies the responsibilities of the Office of the Legislative Auditor General related to an efficiency evaluation;
- requires an appropriations subcommittee to review nonlapsing appropriations; and
- makes technical and conforming changes.

Special Clauses:

This resolution provides a coordination clause.

Legislative Rules Affected:

AMENDS:
JR1-4-601
JR1-4-603
JR3-2-501

ENACTS:
JR3-2-709

Legislative Rules Affected by Coordination Clause:
JR3-2-501
JR3-2-709

Be it resolved by the Legislature of the state of Utah:

Section 1. JR1-4-601 is amended to read:

JR1-4-601. Definitions.

As used in this part:

(1) "Appropriated entity" means [~~any entity that receives state funds~~] the same as that term is defined in Utah Code Section 63J-1-902.

(2) "Efficiency evaluation" means an evaluation of a government process identified for efficiency improvements under this part.

[~~(2) "Product or service" means an appropriated entity's final output or outcome.~~]

(3) "Government process" means [~~a set of functions and procedures by which an appropriated entity creates a product or service~~] the same as that term is defined in Utah Code Section 63J-1-902.

(4) "Legislative office" means:

(a) the Office of Legislative Research and General Counsel;

(b) the Office of the Legislative Auditor General;

(c) the Office of the Legislative Fiscal Analyst; or

(d) Legislative Services.

(5) "Performance measure" means [~~a program objective, effectiveness measure, program size indicator, or other related measure~~] the same as that term is defined in Utah Code Section 63J-1-902.

(6) "Product or service" means the same as that term is defined in Utah Code Section 63J-1-902.

[~~(6) "Targeted efficiency evaluation" means an evaluation of a government process identified for efficiency improvements under this part.~~]

Section 2. JR1-4-603 is amended to read:

JR1-4-603. Efficiency improvement process.

[~~(1) By May 1, 2022, the Office of the Legislative Fiscal Analyst shall, in collaboration with the Governor's Office of Planning and Budget:~~]

[~~(a) establish a process to conduct targeted efficiency evaluations; and~~]

[~~(b) submit a plan to the Legislative Management Committee that:~~]

[~~(i) prioritizes the government processes for which the Office of the Legislative Fiscal Analyst will conduct a targeted efficiency evaluation; and~~]

[~~(ii) establishes a schedule by which the Office of the Legislative Fiscal Analyst will conduct each targeted efficiency evaluation.~~]

[~~(2)~~] (1) (a) When conducting [~~a targeted~~] an efficiency evaluation under this rule, the Office of the Legislative Fiscal Analyst may work with the Governor's Office of Planning and Budget and the appropriated entity that administers the government process to identify:

(i) any operational inefficiencies in the government process and ways to eliminate the inefficiencies;

(ii) rewards or incentives for implementing recommendations of the [~~targeted~~] efficiency evaluation; and

(iii) any misalignment in the appropriated entity's products or services in relation to the appropriated entity's adopted performance measures.

(b) The Office of the Legislative Fiscal Analyst shall report to the Office of the Legislative Auditor General the results of each [~~targeted~~] efficiency evaluation.

[~~(3)~~] (2) (a) The Office of the Legislative Auditor General shall independently review the results of each [~~targeted~~] efficiency evaluation [~~and, based on that review, conduct further risk assessment to determine the extent to which the appropriated entity has implemented any recommendations from the targeted efficiency evaluation~~] and may conduct initial survey work.

(b) Based on the review described in Subsection [~~(3)(a)~~] (2)(a), the Office of the Legislative Auditor General may recommend to the Audit Subcommittee created in Utah Code Section 36-12-8 that the Office of the Legislative Auditor General conducts an in-depth [~~review~~] audit of the appropriated entity.

(c) The Office of the Legislative Auditor General shall provide a copy of any in-depth [~~review described in Subsection (3)(b) to the legislative interim committee and the legislative appropriations subcommittee with oversight responsibility for the appropriated entity~~] audit to the Audit Subcommittee created in Utah Code Section 36-12-8 for referral to a legislative committee or appropriations subcommittee.

[~~(4)~~] (3) [~~(a)~~] Upon receipt of an in-depth [~~review described in Subsection (3),~~] audit under Subsection (2)(c):

(a) a legislative interim committee shall:

(i) review the appropriated entity that is the subject of the in-depth [~~review~~] audit; and

(ii) if appropriate, recommend to the Legislature any legislation to improve the efficiency of the appropriated entity[~~.~~]; and

(b) [~~Upon receipt of an in-depth review described in Subsection (3),~~] a legislative appropriations subcommittee shall:

(i) review the appropriated entity that is the subject of the in-depth [~~review~~] audit;

(ii) determine whether the appropriated entity is appropriately using the appropriated entity's state funds; and

(iii) if appropriate, recommend to the Legislature any budgetary changes to improve the efficiency of the appropriated entity.

[~~(5)~~] (4) As part of the efficiency improvement process described in this rule, the Office of the Legislative Fiscal Analyst or the Office of the Legislative Auditor General may, in consultation with the Governor's Office of Planning and Budget:

(a) recommend that an appropriated entity receives training; or

(b) provide training to the appropriated entity.

[~~(6)~~] (5) The efficiency improvement process described in this rule does not apply to a legislative department government process.

Section 3. JR3-2-501 is amended to read:

JR3-2-501. Meetings -- Accountable process budget creation -- Appropriation reviews.

(1) (a) During the interim, the Executive Appropriations Committee shall meet at least every other month on the day before interim meetings.

(b) The appropriations subcommittee chairs may attend these meetings and provide input regarding their budget.

(2) [~~Appropriation~~] Appropriations subcommittees shall meet at least once during the interim and may also hold additional meetings if authorized by the Legislative Management Committee.

(3) (a) Each interim, each appropriations subcommittee shall create an accountable process budget for approximately 20% of the budgets that fall within the [~~appropriation~~] appropriations subcommittee's responsibilities.

(b) Each appropriations subcommittee shall ensure that each of the budgets for which the appropriations subcommittee has responsibility is the subject of an accountable budget process at least once every five years.

(4) (a) The Executive Appropriations Committee may, based on a legislator's or citizen's complaint, review any appropriation, whether in an appropriations bill or otherwise, to ensure that the entity to which the funds were appropriated complies with any legislative intent expressed in the legislation appropriating the funds.

(b) If the Executive Appropriations Committee finds that an entity has not complied with any legislative intent concerning an appropriation expressed in the legislation appropriating the fund, the committee may make a recommendation concerning the appropriation to the entity receiving the funds and the Legislative Management Committee.

Section 4. JR3-2-709 is enacted to read:

JR3-2-709. Review of nonlapsing appropriations.

Each appropriations subcommittee shall, during an accountable budget process under JR3-2-501, review each account, fund, and appropriation to a program that is designated as nonlapsing under Utah Code Section 63J-1-602.1 or 63J-1-602.2.

Section 5. Coordinating H.J.R. 12 and H.B. 322 -- Substantive and technical amendments.

If this H.J.R. 12 and H.B. 322, Budget Reporting Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Legislative Rules database for publication by:

(1) amending Subsection JR3-2-501(3) to read:

"(3) (a) Each interim, each appropriations subcommittee shall create an accountable process budget for approximately 20% of the budgets that fall within the appropriations subcommittee's responsibilities.

(b) Each appropriations subcommittee shall ensure that each of the budgets for which the appropriations subcommittee has responsibility is the subject of an accountable budget process at least once every five years.

(c) For each budget that is subject to an accountable budget process, an appropriations subcommittee shall:

(i) review and discuss the budget evaluation submitted in accordance with Utah Code Section 63J-1-903;

(ii) identify whether any portion of the budget overlaps with another budget; and

(iii) identify any opportunities to increase budgetary efficiencies."; and

(2) amending JR3-2-709 to read:

"(1) Each appropriations subcommittee shall:

(a) during an accountable budget process under JR3-2-501, review each account, fund, and appropriation to a program that is designated as nonlapsing under Utah Code Section 63J-1-602.1 or 63J-1-602.2; and

(b) review any nonlapsing appropriations report submitted in accordance with Utah Code Section 63J-1-602.

(2) For any nonlapsing appropriation that is saved over multiple years to pay for an anticipated expense, an appropriations subcommittee shall make a recommendation as to whether the Legislature should instead appropriate one-time funding for the expense.".

H. J. R. 16
Passed February 22, 2023
Approved February 22, 2023
Effective February 22, 2023

JOINT RESOLUTION TO REVIEW RAILROAD AUTHORITY

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This resolution calls on Congress to review federal railroad laws.

Highlighted Provisions:

This resolution:

- expresses strong support for Utah's federal delegation and Congress to review federal protections related to railroad companies and how those federal laws impact the state of Utah and its political subdivisions; and
- urges Congress to take necessary action to align federal laws related to railroads with the intent of the 10th Amendment to the United States Constitution.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the federal railroad system has set up monopolistic control of all freight railroad infrastructure in the country;

WHEREAS, the 10th Amendment to the United States Constitution states that "the powers not delegated to the United States by the Constitution,

nor prohibited by it to the States, are reserved to the States respectively, or to the people";

WHEREAS, Utah has the highest birthrate in the nation;

WHEREAS, Utah is one of the fastest growing population states in the nation;

WHEREAS, roughly 66% of Utah's land is controlled by the federal government;

WHEREAS, roughly 80% of Utah's population lives in four contiguous counties along the Wasatch Front;

WHEREAS, Utah is proud to be known as the Crossroads of the West;

WHEREAS, as population grows and states are forced to plan their infrastructure to support that growth, collaboration and cooperation with all stakeholders is necessary for success;

WHEREAS, the state of Utah and its political subdivisions have a desire to be strong partners with the railroads and all infrastructure partners;

WHEREAS, the safety of Utah's residents must be prioritized related to railroad infrastructure;

WHEREAS, infrastructure delays lead to increases in costs related to Utah's affordable housing crisis;

WHEREAS, the state of Utah, its political subdivisions, and many of its infrastructure partners are increasingly frustrated by a lack of willingness by freight railroad companies to work together;

WHEREAS, the lack of support from freight railroad companies is harming Utah's ability to expand economic development;

WHEREAS, the burden on Utah's tax base has increased due to a lack of cooperation by railroad infrastructure monopolies;

WHEREAS, a lack of willingness to attempt to find common ground is not a sustainable model for states that are growing and uniquely concentrated like Utah; and

WHEREAS, Utahns are best positioned to make infrastructure decisions that are in the best interest of the state with willing partners:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, strongly urges the United States Congress to review federal laws related to freight railroad infrastructure and to develop solutions that better align with the interests of states and local control.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Utah's congressional delegation and all members of the United States Congress.

H. J. R. 18
Passed March 2, 2023
Approved March 2, 2023
Effective January 1, 2025

PROPOSAL TO AMEND UTAH CONSTITUTION - STATE SCHOOL FUND

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution relating to the State School Fund.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- change the limit on annual distributions from the State School Fund from 4% to 5%.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2025 for this proposal.

Utah Constitution Sections Affected:

AMENDS:
ARTICLE X, SECTION 5

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article X, Section 5, to read:

Article X, Section 5. [State School Fund and Uniform School Fund -- Establishment and use -- Debt guaranty.]

(1) There is established a permanent State School Fund which consists of:

(a) proceeds from the sales of all lands granted by the United States to this state for the support of the public elementary and secondary schools;

(b) 5% of the net proceeds from the sales of United States public lands lying within this state;

(c) all revenues derived from nonrenewable resources on state lands, other than sovereign lands and lands granted for other specific purposes;

(d) all revenues derived from the use of school trust lands;

(e) revenues appropriated by the Legislature; and

(f) other revenues and assets received by the permanent State School Fund under any other provision of law or by bequest or donation.

(2) (a) The permanent State School Fund shall be prudently invested by the state and shall be held by the state in perpetuity.

(b) Only earnings received from investment of the permanent State School Fund may be distributed from the fund, and any distribution from the fund

shall be for the support of the public education system as defined in Article X, Section 2 of this constitution.

(c) Annual distributions from the permanent State School Fund under Subsection (2)(b) may not exceed [4%] 5% of the fund, calculated as provided by statute.

(d) The Legislature may make appropriations from school trust land revenues to provide funding necessary for the proper administration and management of those lands consistent with the state's fiduciary responsibilities towards the beneficiaries of the school land trust. Unexpended balances remaining from the appropriation at the end of each fiscal year shall be deposited in the permanent State School Fund.

(e) The permanent State School Fund shall be guaranteed by the state against loss or diversion.

(3) There is established a Uniform School Fund which consists of:

(a) money from the permanent State School Fund;

(b) revenues appropriated by the Legislature; and

(c) other revenues received by the Uniform School Fund under any other provision of law or by donation.

(4) The Uniform School Fund shall be maintained and used for the support of the state's public education system as defined in Article X, Section 2 of this constitution and apportioned as the Legislature shall provide.

(5) (a) Notwithstanding Article VI, Section 29, the State may guarantee the debt of school districts created in accordance with Article XIV, Section 3, and may guarantee debt incurred to refund the school district debt. Any debt guaranty, the school district debt guaranteed thereby, or any borrowing of the state undertaken to facilitate the payment of the state's obligation under any debt guaranty shall not be included as a debt of the state for purposes of the 1.5% limitation of Article XIV, Section 1.

(b) The Legislature may provide that reimbursement to the state shall be obtained from monies which otherwise would be used for the support of the educational programs of the school district which incurred the debt with respect to which a payment under the state's guaranty was made.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2025.

H. J. R. 21
Passed February 28, 2023
Approved February 28, 2023
Effective February 28, 2023

JOINT RESOLUTION HONORING THE HISPANIC COMMUNITY

Chief Sponsor: Ken Ivory
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This joint resolution honors the state of Utah's Hispanic community.

Highlighted Provisions:

This resolution:

- recognizes the contributions of Utah's Hispanic community to the prosperity of the state; and
- expresses support for strengthening and ensuring a bright future for Utah's Hispanic community.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Hispanic community has a deep-rooted history in the state, beginning centuries ago when Utah was a territory of New Spain;

WHEREAS, with 14.8% of Utah's citizens identifying as being of Hispanic or Latino descent, Utah's Hispanic community represents an integral part of the cultural fabric of the state;

WHEREAS, Utah's Hispanic community is projected to grow an astonishing 39% within the next seven years;

WHEREAS, Utah's Hispanic community has origins in 33 different countries across Central America, South America, and the Caribbean, representing a compilation of cultures, languages, and ideologies;

WHEREAS, Utah's Hispanic community provides significant contributions to Utah's economy by fostering innovation and forming, growing, and improving businesses;

WHEREAS, members of Utah's Hispanic community serve in positions of leadership across state government and have made notable contributions to the state's progress;

WHEREAS, faith-based assemblies in Utah are strengthened and uplifted by the contributions and leadership that Utah's Hispanic community provides; and

WHEREAS, Utah's Hispanic community demonstrates longstanding support for multigenerational family relationships and a commitment to community:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes the past,

present, and forthcoming contributions of Utah's Hispanic community to the culture and prosperity of Utah, the preservation of faith, the commitment to families, and the furtherance of life-long friendships.

BE IT FURTHER RESOLVED that the Legislature appreciates the role of Utah's Hispanic community in the history and development of the state of Utah.

BE IT FURTHER RESOLVED that the Legislature is committed to advancing policies that strengthen and ensure a bright future for Utah's Hispanic community.

H. J. R. 26
Passed March 3, 2023
Approved March 3, 2023
Effective March 3, 2023

JOINT RESOLUTION ON TRANSIT OPERATOR SAFETY AWARENESS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Kathleen A. Riebe

LONG TITLE

General Description:

This resolution recognizes the importance of transit operators and highlights the need to protect transit operators from assaults.

Highlighted Provisions:

This resolution:

- acknowledges the important role transit operators play as part of the state's infrastructure;
- expresses concern for the rise in assaults on transit operators; and
- calls for perpetrators of assaults on transit workers to be prosecuted to the fullest extent of the law.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, mass transit constitutes a community-connector lifeline and is an essential part of Utah's critical infrastructure;

WHEREAS, transit operators and employees are front-line workers who are vital to protecting the health, safety, and security of the State of Utah;

WHEREAS, assaults on transit operators pose a significant risk to public safety and transportation;

WHEREAS, the Federal Transit Administration reported that assaults on transit operators have increased by four times during the past decade;

WHEREAS, local reporting has indicated that reports of assault against transit operators in Utah rose dramatically between 2020 and 2022; and

WHEREAS, assaults on transit operators constitute an unacceptable threat to the state's orderly transit system:

NOW, THEREFORE, BE IT RESOLVED that the Legislature acknowledges the valuable contributions made by transit operators who provide the citizens of Utah with greater mobility options and cleaner transportation alternatives.

BE IT FURTHER RESOLVED that the Legislature recognizes that assaults on transit operators pose a unique threat to the stability of our mass transit systems and perpetrators must be prosecuted to the fullest extent of the law.

H. R. 1
Passed February 21, 2023
Approved February 21, 2023
Effective February 21, 2023

HOUSE RULES RESOLUTION - HOUSE COMMITTEE SECURITY

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This resolution enacts House rules related to conduct at a House committee meeting.

Highlighted Provisions:

This resolution:

- directs the chair of a House committee to preserve order and decorum during a meeting of the House committee;
- provides the items and activities that are prohibited at a House committee meeting; and
- makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

ENACTS:
HR3-3-101
HR3-3-102

REPEALS AND REENACTS:
HR3-2-310

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR3-2-310 is repealed and reenacted to read:

HR3-2-310. Chair to preserve order and decorum.

In accordance with HR3-3-101, the chair shall preserve order and decorum during a standing committee meeting.

Section 2. HR3-3-101 is enacted to read:

CHAPTER 3. PROVISIONS APPLICABLE TO ALL HOUSE COMMITTEES

HR3-3-101. Chair to preserve order and decorum.

(1) The chair shall preserve order and decorum during a House committee meeting by:

(a) ensuring nothing obstructs a walkway or the view of a meeting attendee;

(b) ensuring the meeting is free from any audible or visual disturbance;

(c) protecting state property from damage or disarray;

(d) prohibiting speech likely to incite or produce imminent lawless action, fighting words, or obscenity; and

(e) prohibiting any activity or item that poses a danger to the safety of a meeting attendee.

(2) To preserve order and decorum in accordance with Subsection (1), the chair may:

(a) prohibit the following:

(i) standing, waving, yelling, or clapping;

(ii) loud noises;

(iii) food or drink, other than water in a closed container;

(iv) musical instruments;

(v) any item that may require excessive cleanup; or

(vi) to the extent necessary to preserve order and decorum, any other item or activity the chair determines necessary;

(b) clear the meeting room of one or more individuals;

(c) recess the meeting; or

(d) request assistance from:

(i) the sergeant-at-arms; or

(ii) the Utah Highway Patrol.

Section 3. HR3-3-102 is enacted to read:

HR3-3-102. Prohibited items and activities in House committee meetings.

A member of the public attending a meeting of a House committee may not:

(1) bring into the meeting room, or possess while in the meeting room, any of the following:

(a) a sign, poster, banner, or placard;

(b) glitter or confetti;

(c) a laser pointer;

(d) paint;

(e) an open flame;

(f) an incendiary device;

(g) a noise maker;

(h) flammable liquid; or

(i) any harmful or hazardous substance; or

(2) engage in any of the following while in the meeting room:

(a) commercial solicitation;

(b) leafletting;

(c) throwing an item; or

(d) adhering any item to a furnishing, a wall, or other state property.

H. R. 2
Passed February 17, 2023
Approved February 17, 2023
Effective February 17, 2023

HOUSE RULES RESOLUTION - PUBLIC COMMENT AMENDMENTS

Chief Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This resolution modifies requirements for the public comment phase of a standing committee meeting.

Highlighted Provisions:

This resolution:

- prohibits a chair from taking public comment from an individual witness unless the individual provides certain information;
- if an individual witness is participating via video conference, prohibits a chair from taking the individual's comment unless:
  - the individual provides the individual's place of residence; and
  - the individual's video is enabled; and
- makes technical and conforming changes.

Legislative Rules Affected:

AMENDS:
HR3-2-308

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR3-2-308 is amended to read:

HR3-2-308. Public comment.

(1) During the public comment phase[~~, a committee member may not~~] of a committee meeting:

(a) except for a motion to amend legislation, substitute legislation, or dispose of legislation[~~. All other motions are in order during the public comment phase.~~], all other motions are in order;

[~~(2) During the public comment phase of a committee meeting:~~]

[~~(a)~~] (b) the chair, or a committee by majority vote, may limit the time an individual witness or presenter speaks to a committee as authorized under HR3-2-304; [~~and~~]

[~~(b)~~] (c) the chair, or the committee by majority vote, may terminate the public comment phase at any time[~~.~~]; and

(d) the chair may not take comment from an individual witness unless:

(i) the individual provides the individual's legal name and the entity that the individual represents, if any; and

(ii) if the individual is participating via video conference:

(A) the individual provides the individual's place of residence; and

(B) the individual's video is enabled.

[~~(3)~~] (2) Unless the chair, or a committee by majority vote, permits additional public comment, once the public comment phase has ended only committee members, legislative sponsors, staff, and those authorized under HR3-2-307 may address the committee.

H. R. 4
Passed February 28, 2023
Approved February 28, 2023
Effective February 28, 2023

HOUSE RULES RESOLUTION - AMENDMENTS TO HOUSE RULES

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This resolution modifies legislative rules governing the House of Representatives.

Highlighted Provisions:

This resolution:

- modifies references to members of House staff;
- prohibits a standing committee from reviewing legislation without an approved fiscal note;
- amends the circumstances under which a standing committee may recommend legislation be placed on the consent calendar;
- allows a standing committee member to make a motion to recess without a quorum present;
- prohibits a representative from reading a written speech or using a display, exhibit, demonstration, or prop during debate on the House floor; and
- makes corrections to House rules, including eliminating obsolete language and clarifying existing requirements.

Special Clauses:

This resolution provides a coordination clause.

Legislative Rules Affected:

AMENDS:

HR1-4-201
HR1-4-202
HR1-5-201
HR1-5-202
HR1-5-301
HR3-1-101
HR3-1-102
HR3-1-103
HR3-2-306
HR3-2-310
HR3-2-318
HR3-2-319
HR3-2-401
HR3-2-402
HR3-2-405
HR3-2-406
HR3-2-408
HR3-2-510
HR4-2-201
HR4-4-101
HR4-4-201
HR4-4-202
HR4-4-301
HR4-4-501
HR4-6-105.5
HR4-7-102
HR4-7-104
HR4-8-104
HR4-9-101
HR4-9-103

ENACTS:

HR1-4-301
HR1-4-302

REPEALS AND REENACTS:

HR1-4-101
HR1-4-102Legislative Rules Affected by Coordination Clause:
HR3-3-101

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR1-4-101 is repealed and reenacted to read:

Part 1. House Chief of Staff

HR1-4-101. Appointment of the House chief of staff.

The speaker or speaker-elect of the House shall appoint an individual to serve as chief of staff of the House.

Section 2. HR1-4-102 is repealed and reenacted to read:

HR1-4-102. Duties of the House chief of staff.

The chief of staff shall perform duties as assigned by the speaker or speaker-elect.

Section 3. HR1-4-201 is amended to read:

HR1-4-201. Appointment of sergeant-at-arms.

[~~The speaker or speaker-elect of the House~~] The chief of staff or the chief of staff's designee shall appoint a person to serve as sergeant-at-arms of the Utah House of Representatives.

Section 4. HR1-4-202 is amended to read:

HR1-4-202. Duties of the sergeant-at-arms.

[~~The~~] Subject to the chief of staff's or the chief of staff's designee's direction, the sergeant-at-arms and the employees under the sergeant's direction shall:

(1) maintain security in areas controlled by the House;

(2) enforce the House Rules [~~at the direction of the presiding officer of the House~~];

(3) enforce the [~~provision~~] provisions of Utah Code Title 26, Chapter 38, Utah Indoor Clean Air Act, in areas controlled by the House;

(4) when the House is convened in annual general session or special session, receive and, in coordination with [~~the chief clerk~~] House staff, transmit written messages to representatives on the House floor from or on behalf of individuals who are present at the capitol; and

(5) provide other service as requested by the [~~chief clerk~~] chief of staff or the speaker.

Section 5. HR1-4-301 is enacted to read:

Part 3. Chief Clerk of the House

HR1-4-301. Appointment of the chief clerk.

(1) The speaker or speaker-elect of the House shall appoint an individual to serve as chief clerk of the House.

(2) The chief clerk reports to the chief of staff.

Section 6. HR1-4-302 is enacted to read:

HR1-4-302. Duties of the chief clerk. The chief clerk shall perform the following duties:

(1) certify and transmit legislation to the Senate and inform the Senate of all House action;

(2) assist in the preparation of the House Journal and certify it as an accurate reflection of House action;

(3) make the following technical corrections to legislation either before or following final passage:

(a) correct the spelling of words;

(b) correct the erroneous division and hyphenation of words;

(c) correct mistakes in numbering sections and their references;

(d) capitalize words or change capitalized words to lower case;

(e) change numbers from words to figures or from figures to words; or

(f) underscore or remove underscoring in legislation without a motion to amend;

(4) modify the long title of a piece of legislation to ensure that the long title accurately reflects any changes to the legislation made by amendment or substitute;

(5) act as custodian of all official documents related to legislation;

(6) receive all numbered legislation from the Office of Legislative Research and General Counsel;

(7) record the number, title, sponsor, each action, and final disposition of each piece of legislation on the back of the legislation;

(8) prepare and distribute the daily order of business each day;

(9) advise the speaker on parliamentary procedure, Joint Rules, and House Rules;

(10) assist with amendments to legislation;

(11) record votes and, if requested, present the results to the speaker;

(12) record the votes of any member who is present in the House chamber who requests assistance of the chief clerk;

(13) transmit all enrolled House bills and House concurrent resolutions to the governor;

(14) approve material for placement on the representatives' desks if a representative has authorized that distribution;

(15) maintain all calendars for the House floor; and

(16) other duties as assigned by the chief of staff.

Section 7. HR1-5-201 is amended to read:

HR1-5-201. Scheduling guest speakers.

(1) As used in this rule:

(a) "Guest speaker" means a person who is scheduled to address the House of Representatives who is not a representative.

(b) "Guest speaker" does not include:

(i) a person who is called to address the House on a particular piece of legislation or issue under consideration by the House; or

(ii) a representative's introduction or acknowledgment of a visitor or special guest who does not address the House.

(2) Before a guest speaker may address the House, the [~~chief clerk, under the direction of the speaker,~~] speaker must schedule the guest speaker for a time certain on the House daily order of business.

Section 8. HR1-5-202 is amended to read:

HR1-5-202. Executive session.

(1) The House of Representatives shall comply with the requirements of Utah Code Title 52, Chapter 4, Open and Public Meetings Act, when holding an executive session.

(2) When the House of Representatives approves a motion to go into executive session, the

sergeant-at-arms shall close the House chamber doors.

(3) The presiding officer may require that all persons, except the representatives[~~, chief clerk, journal clerk, and sergeant-at-arms~~] and specified staff leave the chamber, halls, gallery, and lounge.

(4) During the executive session, everyone present must remain within the chamber.

(5) Everyone present shall keep all matters discussed in executive session confidential.

(6) During the executive session, those within the chamber may not communicate with anyone outside the chamber by verbal, written, electronic, or any other means.

Section 9. HR1-5-301 is amended to read:

HR1-5-301. Special order of business -- Time certain.

(1) (a) Except as provided in Subsection (2), a representative may make a motion, or the House Rules committee may recommend, that a piece of legislation become a special order of business on the time certain calendar.

(b) If the motion is approved by a majority of the members present, the [~~chief clerk~~] presiding officer shall place the legislation on the time certain calendar.

(2) A motion to place a piece of legislation as a special order of business on the time certain calendar may not be made if the legislation has not yet been placed on the third reading calendar or the consent calendar.

(3) At the time set for consideration of the legislation, the presiding officer shall place the legislation before the House.

Section 10. HR3-1-101 is amended to read:

HR3-1-101. House Rules Committee -- Appointment -- General responsibilities.

(1) The speaker shall appoint members of the House of Representatives to serve on the House Rules Committee.

(2) The House Rules Committee shall perform the following functions as further elaborated in this part:

(a) receive introduced legislation from the House and recommend that the legislation be assigned to a House standing committee or to the House third reading calendar;

(b) receive legislation from the House that has been sent back to the House Rules Committee from the third reading calendar, and recommend to the House which legislation should be assigned to the third reading calendar and the order in which it should be heard; and

(c) function as a standing committee or interim committee when reviewing Joint Rules, [~~Interim Rules,~~] House Rules, or other legislation.

Section 11. HR3-1-102 is amended to read:

HR3-1-102. House Rules Committee -- Assignment duties.

(1) The presiding officer shall submit all legislation introduced in the House of Representatives to the House Rules Committee.

(2) For all legislation not specified in HR3-1-103 that is referred to the House Rules Committee, the committee shall examine the legislation [~~referred to it~~] for proper form, including fiscal note and committee note, if any, and either:

(a) refer the legislation to the House with a recommendation that the legislation be:

(i) referred to a standing committee for consideration; or

(ii) read the second time and placed on the third reading calendar if the legislation:

(A) has received a favorable recommendation from a House standing committee;

(B) is exempted from the House standing committee review requirements under HR3-2-401; or

(C) has received a favorable recommendation from the House Rules Committee meeting as a standing committee as permitted under HR3-1-101; or

[~~(D) was approved by a unanimous vote of the members present at an interim committee meeting and met the posting requirements of JR7-1-602.5; or~~]

(b) hold the legislation.

[~~(3) If the chair of the House Rules Committee receives a summary report from the Occupational and Professional Licensure Review Committee related to newly regulating an occupation or profession within the two calendar years immediately preceding the session in which a piece of legislation is introduced related to the regulation by the Division of Occupational and Professional Licensing of that occupation or profession:~~]

[~~(a) the chair of the House Rules Committee shall ensure that the House Rules Committee is informed of the summary report before the House Rules Committee takes action on the legislation; and~~]

[~~(b) if the House Rules Committee refers the legislation to the House as provided for in Subsection (2)(a):~~]

[~~(i) the Office of Legislative Research and General Counsel shall make the summary report reasonably available to the public and to legislators; and~~]

[~~(ii) if the legislation is referred to a standing committee, the House Rules Committee shall forward the summary report to the standing committee.~~]

[~~(4)~~] (3) In carrying out the House Rules Committee's functions and responsibilities under this rule, the committee may not:

(a) table legislation without the written consent of the sponsor;

(b) report out any legislation that has been tabled by a standing committee;

(c) amend legislation without the written consent of the sponsor; or

(d) substitute legislation without the written consent of the sponsor.

[~~(5)~~] (4) The House Rules Committee may recommend a time certain for floor consideration of any legislation when [~~it~~] the legislation is reported out of the House Rules Committee, or at any other time.

[~~(6)~~] (5) When the House Rules Committee is carrying out the committee's functions and responsibilities under this rule, the committee shall:

(a) when the Legislature is in session, give notice of the committee's meetings according to the requirements of HR3-1-106;

(b) when the Legislature is not in session, post a notice of meeting at least 24 hours before the meeting convenes;

(c) have as the committee's agenda all legislation in the committee's possession for assignment to committee or to the House calendars; and

(d) prepare minutes that include a record, by individual representative, of votes taken.

[~~(7)~~] (6) House Rules Committee meetings are open to the public, but comments and discussion are limited to members of the committee and the committee's staff.

Section 12. HR3-1-103 is amended to read:

HR3-1-103. House Rules Committee -- Standing and interim committee duties.

(1) The House Rules Committee has all the powers, functions, and duties of a standing committee or interim committee when it reviews proposed House Rules, [~~Interim Rules,~~] Joint Rules resolutions, or other legislation.

(2) Any rules resolutions or legislation reviewed and approved by the House Rules Committee may be reported directly to the House for [~~its approval, amendment, or disapproval~~] consideration.

(3) When meeting as a standing committee or interim committee under this rule, [~~persons~~] individuals other than committee members may address the committee at the discretion of the chair.

(4) When meeting as a standing committee or interim committee under this rule, the House Rules Committee shall comply with the provisions of Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

Section 13. HR3-2-306 is amended to read:

HR3-2-306. Sponsor presentation.

(1) (a) Except as provided in Subsection (2), during the presentation phase, a committee member may not amend legislation, substitute legislation, or dispose of legislation.

(b) All other motions are in order during the presentation phase.

(2) During the presentation phase of a committee meeting, the chair may accept a [~~simple~~] motion to amend legislation if the chair permits:

(a) committee questions and debate;

(b) public comment as provided in HR3-2-308;

(c) the sponsor of the legislation affected by the amendment to respond to the motion to amend; and

(d) the committee member who made the motion to amend to have the final word on the motion as required under HR3-2-313.

(3) During the presentation phase of a standing committee meeting, the chair shall:

(a) permit the legislative sponsor to present the sponsor's legislation; and

(b) except as provided in Subsection (4), and at the election of the legislative sponsor, permit [~~persons~~] individuals who have expertise on the legislation to assist with the presentation as provided in HR3-2-304.

(4) The chair may not permit a legislative intern or a legislative aide to present legislation.

Section 14. HR3-2-310 is amended to read:

HR3-2-310. Chair to preserve order -- Powers to preserve order.

(1) The chair shall preserve order and decorum during standing committee meetings by:

(a) controlling outbursts and demonstrations; and

(b) ensuring that committee members, presenters, witnesses, and visitors act in a dignified and respectful manner.

(2) To preserve order, the chair may:

(a) clear the committee room of any person who engages in disorderly conduct;

(b) recess a standing committee meeting without a motion; or

(c) request assistance from:

(i) the sergeant-at-arms; or

(ii) the Utah Highway Patrol.

Section 15. HR3-2-318 is amended to read:

HR3-2-318. Chair to send standing committee reports to the House.

(1) When a standing committee approves a motion to dispose of legislation under the requirements of HR3-2-408 or HR3-2-403, the chair shall, no later than the next legislative day, submit to the chief clerk of the House:

(a) the official version of the legislation; and

(b) a committee report, signed by the chair, describing the committee's action.

(2) (a) A committee member who dissents from a motion to dispose of legislation may request to be listed by name on the committee report.

(b) If a committee member requests to be listed by name on a committee report, the committee report shall include the name of the committee member.

(3) If, for any reason, the chair does not submit a committee report to the chief clerk of the House as required in Subsection (1), the chief clerk of the House shall ensure that the official version of the legislation and the committee report are submitted before the end of the second legislative day after the [~~legislation was acted on by a standing committee~~] committee disposed of the legislation.

Section 16. HR3-2-319 is amended to read:

HR3-2-319. Chair to ensure integrity of minutes -- Retention of minutes.

(1) The chair shall:

(a) ensure that a secretary takes minutes of standing committee meetings;

(b) present the minutes to the committee for approval; and

(c) send the approved minutes to [~~the office of the chief clerk of~~] the House.

[~~(2) The chief clerk of the House shall retain committee minutes for three years.~~]

[~~(3)~~] (2) The chair shall ensure that committee minutes comply with the requirements of Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

[~~(4) The chair shall ensure that committee minutes include:~~]

[~~(a) the date, time, and place of each committee meeting;~~]

[~~(b) a list of committee members present;~~]

[~~(c) each motion made;~~]

[~~(d) the vote on each motion;~~]

[~~(e) points of order; and~~]

[~~(f) the outcome of each appeal of the decision of the chair.~~]

Section 17. HR3-2-401 is amended to read:

HR3-2-401. Standing committee review required -- Exceptions.

(1) Except as provided in Subsection (2), the House of Representatives may not pass a bill, joint resolution, or concurrent resolution during the annual general session unless a House standing committee has given a favorable recommendation to the legislation.

(2) Subsection (1) does not apply to:

(a) a resolution regarding legislative rules or legislative personnel;

(b) legislation that [~~has been approved by a unanimous vote of the members present at an interim committee meeting~~] is a committee bill as defined in JR7-1-101 that:

(i) received its favorable recommendation by a unanimous vote of the members present at the authorized legislative committee; and

(ii) satisfied the posting requirements described in JR7-1-602.5;

(c) the revisor's statute; or

(d) if the legislation was reviewed and approved by the Executive Appropriations Committee, legislation that:

(i) exclusively appropriates money;

(ii) amends Utah Code Title 53F, Chapter 2, State Funding -- Minimum School Program;

(iii) amends Utah Code Title 67, Chapter 22, State Officer Compensation; or

(iv) authorizes the issuance of general obligation or revenue bonds.

Section 18. HR3-2-402 is amended to read:

HR3-2-402. Standing committee review of legislation with a fiscal impact.

(1) (a) A standing committee may not review legislation unless the legislation has an approved fiscal note.

(b) Notwithstanding Subsection (1)(a), a standing committee may consider a substitute not previously adopted, regardless of whether the substitute has an approved fiscal note.

(2) Except as provided in HR3-2-401, a standing committee in one or both houses shall review legislation before the legislation is held in the opposite house because of its fiscal impact.

Section 19. HR3-2-405 is amended to read:

HR3-2-405. Consent calendar -- Nonbinding resolutions -- Committee recommendations.

(1) As used in this rule, "nonbinding resolution":

(a) means a resolution that:

(i) is primarily for the purpose of recognizing, honoring, or memorializing an individual, group, or event;

(ii) requests, rather than compels, action or awareness by an individual or group; or

(iii) is informational or promotional in nature; and

(b) does not mean:

(i) a rules resolution;

(ii) a resolution for a constitutional amendment; or

(iii) any resolution that approves or authorizes any action, requires any substantive action to be taken, or results in a change in law, policy, or funding.

(2) (a) A nonbinding resolution shall be placed on the consent calendar.

(b) A nonbinding resolution may be moved to the time certain calendar or other calendar by a majority vote of those present.

(3) A standing committee may recommend that legislation in the standing committee's possession be placed on the consent calendar if:

(a) the committee approves a motion, by a unanimous vote of those present, to give the legislation a favorable recommendation; and

(b) immediately subsequent to that action, the committee approves a separate motion, by a unanimous vote of those present, to recommend that the legislation be placed on the consent calendar[~~; and~~].

[~~(c) the legislation has a fiscal note that is less than $10,000.~~]

[~~(4) If, in accordance with HR3-1-102, the House Rules Committee forwards a summary report from the Occupational and Professional Licensure Review Committee in conjunction with legislation referred to a standing committee, the chair shall ensure that the summary report is read orally to the committee before action is taken by the committee on the legislation that is related to the summary report.~~]

Section 20. HR3-2-406 is amended to read:

HR3-2-406. Amending legislation -- Verbal amendments -- Amendments must be germane.

(1) (a) Subject to Subsection (2) and HR3-2-306, and if recognized by the chair during the [~~sponsor~~] presentation phase or the committee action phase, a committee member may make a motion to amend the legislation that is under consideration.

(b) (i) A committee member may propose a verbal amendment to the legislation under consideration if the amendment contains 15 or fewer words.

(ii) Unless the amendment contains 15 or fewer words, before proposing a motion to amend, a committee member shall ensure that a copy of the proposed amendment is available online.

(iii) Each word inserted shall count as one of the 15 words permitted under a verbal amendment, except that:

(A) numbering shall not be counted as a word;

(B) instructions to delete a word or words shall not count as a word; and

(C) a word or an exact phrase that is inserted in multiple locations shall only be counted for the first insertion.

(2) (a) A committee member may only make a motion to amend that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in HR3-2-506.

Section 21. HR3-2-408 is amended to read:

HR3-2-408. Legislation tabled in a standing committee -- Requirements.

(1) If legislation is tabled, the chair shall list the tabled legislation on the committee agenda for the next committee meeting.

(2) At the next committee meeting, the committee may, by a two-thirds vote, lift the tabled legislation from the table.

(3) If a motion to lift tabled legislation is successful, the standing committee may make any motion on the legislation that is authorized under this chapter.

(4) (a) If legislation is tabled by a committee and the legislation is not lifted from the table at the committee's next meeting, the committee chair shall submit a committee report to the chief clerk of the House informing the House that the legislation was tabled.

(b) After reading the committee report on the tabled legislation, the [~~chief clerk of the House~~] presiding officer shall send the tabled legislation to the House Rules Committee for filing.

(5) After tabled legislation is sent to the House Rules Committee for filing, a representative may not make a motion to:

(a) lift the tabled legislation from the House Rules Committee and place it on the third reading calendar; or

(b) lift the tabled legislation from the House Rules Committee and refer it to a standing committee for consideration.

Section 22. HR3-2-510 is amended to read:

HR3-2-510. Prohibited motions.

(1) (a) Except for a motion to adjourn or a motion to recess, a committee member may not make a motion unless a quorum of the standing committee is present.

(b) When a quorum is not present, a motion to adjourn or a motion to recess is passed with a majority vote of those present.

(2) No motion is in order during a vote.

(3) A point of order is not in order during a vote.

(4) A committee member may not make a motion to:

(a) strike the enacting clause of legislation;

(b) strike the resolving clause of a resolution;

(c) circle legislation;

(d) place legislation on a time certain calendar;

(e) postpone legislation to a day certain; or

(f) postpone legislation indefinitely.

Section 23. HR4-2-201 is amended to read:

HR4-2-201. Point of order.

(1) (a) If a representative believes that there has been a breach of order, a breach of rules, or a breach of established parliamentary practice, the representative may rise and, without being recognized, state: "point of order."

(b) When a representative raises a point of order:

(i) the presiding officer shall interrupt the proceedings;

(ii) the representative who has the floor shall yield the floor; and

(iii) the presiding officer shall ask the representative raising the point of order to "state your point."

(c) When the presiding officer responds "state your point," the representative shall briefly explain the alleged breach to the body, citing to appropriate authority if possible.

(2) (a) The presiding officer may:

(i) speak to points of order in preference to other representatives rising for that purpose;

(ii) rule on the point of order immediately;

(iii) consult with [~~the chief clerk~~] staff, the parliamentarian, or both before ruling on the point of order; or

(iv) suggest that the House recess until the presiding officer can research and rule on the point of order.

(b) (i) Although points of order are generally decided without debate, the presiding officer may submit the point of order to the House for decision in doubtful cases.

(ii) If submitted to the House for decision, a presiding officer shall allow debate or discussion on the point of order by recognizing members of the House who wish to speak to the point of order.

(iii) A decision by the House deciding a point of order is not subject to appeal.

(3) When the presiding officer rules on the point of order, any representative who disagrees with the presiding officer's decision may appeal that decision to the House by following the procedures and requirements of HR4-2-202.

Section 24. HR4-4-101 is amended to read:

HR4-4-101. Committee reports -- Second reading calendar.

(1) [~~The chief clerk of the House or the chief clerk's designee~~] House staff shall:

(a) read to the House each standing committee report submitted to the House; and

(b) read the legislation by title unless the House suspends this requirement by a two-thirds vote.

(2) (a) If the House passes a motion to adopt the committee report, the amendments and substitutes adopted by the committee and identified on the committee report become legally part of the legislation.

(b) If a motion to adopt the committee report fails, the [~~chief clerk~~] presiding officer shall return the legislation to the House Rules Committee.

(3) A majority vote of the House is required to:

(a) approve a motion to adopt the committee report; and

(b) pass the legislation on second reading to the third reading or consent calendar.

(4) The placement of a piece of legislation on a House reading calendar is the second reading of that legislation.

Section 25. HR4-4-201 is amended to read:

HR4-4-201. Third reading calendar -- Procedures.

(1) (a) For the third reading on a piece of legislation, [~~the chief clerk of the House or the chief clerk's designee~~] House staff shall read the legislation by title unless the House suspends this requirement by a two-thirds vote.

(b) (i) After reading the title of the legislation, [~~the chief clerk or the chief clerk's designee~~] House staff shall identify the House standing committee that reviewed the legislation and the vote in that committee.

(ii) If the legislation has not been reviewed by a House standing committee, [~~the chief clerk or the chief clerk's designee~~] House staff shall announce that the legislation was not reviewed by a House standing committee.

(2) When [~~the chief clerk or the chief clerk's designee~~] House staff has completed the third reading of the legislation, the legislation is before the House for debate.

(3) When debate on the legislation is complete, the presiding officer shall take the final vote on the legislation.

Section 26. HR4-4-202 is amended to read:

HR4-4-202. Disposition of legislation voted on third reading.

(1) Except as provided in Subsection (2), the chief clerk or the chief clerk's designee shall:

(a) for a piece of House legislation passed by the House on third reading but not yet acted upon by the Senate, transmit the House legislation to the Senate for its further action;

(b) for a piece of House legislation that fails to pass the House on third reading, file the legislation;

(c) for a piece of House legislation that has passed both houses, follow the procedures and requirements of JR4-5-101;

(d) for a piece of Senate legislation passed by the House on third reading and not amended or substituted in the House, transmit the Senate legislation to the presiding officer of the House for

the presiding officer's signature and return the legislation to the Senate for the signature of the president of the Senate;

(e) for a piece of Senate legislation passed by the House on third reading that was amended or substituted in the House, transmit the legislation to the Senate with the amendments or substitute for further action by the Senate; and

(f) for a piece of Senate legislation that fails to pass the House on third reading, transmit the legislation to the Senate with notice of the House's action.

(2) (a) The chief clerk shall ensure that the House retains possession of a piece of legislation for no more than one legislative day when:

(i) a representative gives notice of intention to move for reconsideration to the chief clerk or the presiding officer;

(ii) a representative requests that the chief clerk hold the legislation; or

(iii) the House passes a motion to retain possession of the legislation.

(b) When a representative moves for reconsideration or requests a hold under Subsection (2)(a)(i) or (2)(a)(ii), the chief clerk shall give notice of the action to the speaker and to the sponsor of the legislation.

(c) Notwithstanding the requirements of Subsection (2)(a), a piece of legislation may be released earlier than 24 hours if the hold is released.

Section 27. HR4-4-301 is amended to read:

HR4-4-301. Consent calendar.

(1) The [~~chief clerk or the chief clerk's designee~~] presiding officer shall place legislation on the consent calendar if:

(a) a standing committee report recommends that the legislation be placed on the consent calendar and the standing committee report is adopted by the House; or

(b) the legislation is a nonbinding resolution as provided in HR3-2-405.

(2) If the chief clerk receives written objections to a piece of legislation from six or more representatives, the chief clerk shall:

(a) remove the legislation from the consent calendar;

(b) inform the sponsor that the legislation has been removed from the consent calendar; and

(c) place the legislation at the bottom of the third reading calendar.

(3) When legislation is removed from the consent calendar, the presiding officer shall inform the House of its removal.

(4) (a) If, after two calendar days, no more than five members have registered written objections to the legislation with the chief clerk:

(i) the legislation shall be read the third time;

(ii) the presiding officer shall grant the sponsor of the legislation two minutes to introduce and explain the legislation; and

(iii) the presiding officer shall pose the question and take the final vote on the legislation.

(b) The presiding officer may not allow debate on legislation on the consent calendar.

(5) (a) If the representative sponsoring the legislation on the consent calendar is absent from the floor when the legislation is ready to be read for the third time and considered for passage, a representative may make a motion to circle the legislation.

(b) If the motion to circle is successful and the representative sponsoring the legislation has not moved to uncircle the legislation before floor time is recessed or adjourned, the bill shall be placed on the bottom of the third reading calendar.

Section 28. HR4-4-501 is amended to read:

HR4-4-501. Time certain calendar.

The [~~chief clerk or the clerk's designee~~] presiding officer shall place on the time certain calendar legislation or other matters approved by the House for a time certain under:

(1) HR1-5-301; or

(2) other rules allowing matters to be set for a time certain.

Section 29. HR4-6-105.5 is amended to read:

HR4-6-105.5. Prohibited references during debate.

(1) During debate on the House floor, a representative may not:

(a) allude to or discuss what was done or said in committee in relation to the legislation under debate, except that a representative may allude to or discuss information contained on a House or Senate committee report[~~.~~];

(b) use a display, exhibit, demonstration, or prop, including an individual who is present on the House floor, to illustrate the representative's remarks or to emphasize the representative's position; or

(c) read from a written, prepared speech.

(2) During debate on the House floor, a representative may use notes when delivering a speech.

(3) Nothing in this rule affects a representative's ability to seek approval in accordance with HR1-4-302(14) to have material placed on the representatives' desks.

Section 30. HR4-7-102 is amended to read:

HR4-7-102. Number of votes required for passage.

Unless otherwise specified in these rules:

(1) each piece of legislation requires a constitutional majority vote -- 38 votes -- to pass;

(2) amendments to the Utah Constitution, legislation described in Utah Constitution, Article VI, Section 25 that is intended to take effect earlier than 60 days after adjournment of the session in which it passes, amendments to court rules, and certain motions specified in these rules require a constitutional two-thirds vote -- 50 votes -- to pass; and

(3) a motion requires a majority vote to pass.

Section 31. HR4-7-104 is amended to read:

HR4-7-104. Disturbing House staff during voting prohibited.

While an electronic vote or roll call vote is being taken, a person may not disturb or remain by the desks of [~~the chief clerk of the House, the docket clerk, the minute clerk, the voting machine operator, or the public address system operator~~] House staff conducting or helping to conduct the roll call vote.

Section 32. HR4-8-104 is amended to read:

HR4-8-104. Process for conducting a call of the House.

(1) During a call of the House:

(a) a representative present in the chamber may not leave the chamber; and

(b) the sergeant-at-arms or the sergeant's designees shall close the doors to the House chamber.

(2) After ordering the call of the House, the presiding officer shall:

(a) [~~in consultation with the chief clerk,~~] identify any absent representatives; and

(b) provide the sergeant-at-arms with the names of those representatives who are absent but who have not asked to be excused.

(3) The sergeant-at-arms or the sergeant's designees shall:

(a) search for the absent representatives;

(b) if they are found, escort them to the House chamber; and

(c) make a report to the House about the sergeant's efforts.

Section 33. HR4-9-101 is amended to read:

HR4-9-101. Motion to reconsider.

(1) As used in this rule, "legislative day" means a day when the House of Representatives convenes in the House chamber and conducts House business.

(2) (a) Except as provided in Subsection (3), when a question has been decided on the floor of the House, a representative voting with the prevailing side may move for reconsideration after intervening business.

(b) If the motion to reconsider is to reconsider passage of a piece of legislation, the representative making the motion shall include the number and short title of the legislation as part of the motion.

(c) If a motion for reconsideration is made on the floor of the House after a piece of legislation has left the possession of the House, the chief clerk shall request that the legislation be returned to the House.

(d) The presiding officer shall rule a motion for reconsideration out of order unless the motion is made:

(i) before the 43rd legislative day;

(ii) before the House adjourns on the legislative day after the legislative day on which the action sought to be reconsidered occurred; and

(iii) by a representative who previously served notice to the chief clerk or the presiding officer.

(3) A representative may not make a motion to reconsider after the 42nd day of the annual general session of the Legislature.

Section 34. HR4-9-103 is amended to read:

HR4-9-103. Rules governing motions to reconsider.

(1) A motion to reconsider takes precedence over all other motions and questions, except a motion to adjourn.

(2) (a) Except as provided in Subsection (2)(b), a motion to reconsider is debatable.

(b) A motion to reconsider is nondebatable only if the action it seeks to reconsider is nondebatable.

(3) When a motion to reconsider is made, the presiding officer shall:

(a) allow the proponents a total of five minutes to address the issue;

(b) allow the opponents a total of five minutes to address the issue; and

(c) allow the proponents one minute to sum up.

(4) (a) A motion to reconsider a vote on the final passage of a piece of legislation requires approval by a constitutional majority of representatives.

(b) Upon adoption of a motion to reconsider and if the legislation is in possession of the House, the [~~chief clerk~~] presiding officer shall ensure that the legislation is placed at the top of the third reading calendar.

(c) The House may not reconsider a piece of legislation more than once.

Section 35. Coordinating H.R. 4 and H.R. 1 -- Substantive amendments.

If this H.R. 4 and H.R. 1, House Rules Resolution - House Committee Security, both pass, it is the intent of the Legislature that the Office of

Legislative Research and General Counsel, in preparing the House Rules for publication, amend HR3-3-101(2)(c) in H.R. 1 to read:

"(c) recess the meeting without a motion; or".

S. C. R. 1
Passed February 16, 2023
Approved March 1, 2023
Effective March 1, 2023

CONCURRENT RESOLUTION SUPPORTING THE TAX CUTS AND JOBS ACT

Chief Sponsor: Lincoln Fillmore
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This resolution recognizes the benefits from the Tax Cuts and Jobs Act of 2017 (the Act) and encourages the United States Congress to permanently extend the Act.

Highlighted Provisions:

This resolution:

- recognizes the various positive economic benefits to individual and corporate taxpayers due to the Tax Cuts and Jobs Act of 2017;
- examines the consequences of the expiration of the Act in 2025; and
- encourages Congress to permanently extend the Act to retain the economic benefits to taxpayers.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, before the government-mandated economic shutdowns during the COVID-19 pandemic, the Tax Cuts and Jobs Act of 2017 spurred steady economic expansion and allowed the spirit of entrepreneurship to flourish while creating new jobs and opportunities for millions of Americans;

WHEREAS, the tax cuts of 2017 resulted in a $1.5 trillion net tax cut and were followed by historically low unemployment rates, an increase in business investment, and a $6,000 increase in real median household income over two years, which included raises and bonuses for workers immediately after the 2017 tax cuts were adopted;

WHEREAS, more than 100 million American taxpayers from all income groups, particularly middle and working class Americans, have enjoyed real tax relief due to the Tax Cuts and Jobs Act;

WHEREAS, twenty-three provisions of the 2017 tax cuts directly relating to individual income taxes, such as the reductions in personal income tax rates, the near doubling of the standard deduction, and the substantial reduction of the Alternative Minimum Tax (AMT) will expire after December 31, 2025;

WHEREAS, the 2017 tax cuts reduced federal tax rates for households across every income level, and this relief resulted in a tax cut of more than $1,500 for the average middle-income earner;

WHEREAS, before the 2017 tax cuts, the top corporate income tax rate in the United States was 35%, the highest among all nations in the Organization for Economic Co-operation and Development (OECD);

WHEREAS, the 2017 tax cuts reduced the business tax rate from 35% to 21%, bringing the United States back to average among OECD member nations and enhancing American competitiveness;

WHEREAS, the 2017 tax cuts set an annual cap of $10,000 on the state and local tax (SALT) deduction, thereby broadening the tax base at the federal level and in many states, which caused state level budget surpluses and resulted in many states offering substantial tax relief;

WHEREAS, if the current $10,000 cap on the SALT deduction is allowed to expire after December 31, 2025, the federal tax base will be narrowed;

WHEREAS, returning to an unlimited SALT deduction would be an incentive for many states to once again implement higher taxes and spend at higher levels;

WHEREAS, a majority of Americans support making the 2017 tax cuts permanent; and

WHEREAS, allowing the Tax Cuts and Jobs Act of 2017 to expire would result in a tax increase on hardworking American taxpayers, a significant decline in American competitiveness, fewer jobs, reduced wage income for workers, and higher prices:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the United States Congress to permanently extend the Tax Cuts and Jobs Act of 2017 with commensurate spending cuts to avoid increasing the federal debt burden.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the members of Utah's congressional delegation.

S. C. R. 2
Passed February 16, 2023
Approved February 27, 2023
Effective February 27, 2023

CONCURRENT RESOLUTION REGARDING THE ENVIRONMENTAL IMPACT OF VEHICLE IDLING

Chief Sponsor: Lincoln Fillmore
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This resolution encourages Utahns, businesses, and other entities to take steps to reduce idling.

Highlighted Provisions:

This resolution:

- provides data on fuel expended idling compared with restarting an engine;
- encourages Utahns to turn off their engines, especially in areas where sensitive populations congregate; and
- encourages certain businesses, organizations, and entities to place signs educating drivers on the fuel savings of restarting an engine instead of idling.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, idling for ten seconds wastes more fuel than restarting the engine;

WHEREAS, according to studies conducted by the Argonne National Laboratory, restarting a car uses 10.2 cubic centimeters of fuel on average while idling for ten seconds wastes 11.3 cubic centimeters of fuel;

WHEREAS, according to the Environmental Defense Fund, restarting a car off and on may cost about $10 in wear-and-tear over the course of a year, but idling can cost between $70 to $650 depending on fuel prices, idling habits, and vehicle type;

WHEREAS, an idling vehicle is earning zero miles per gallon;

WHEREAS, the engine and interior of a car today can "warm up" more efficiently by moving and does not require any idle or stationary time;

WHEREAS, idling vehicles emit particulate matter which worsen air pollution, and have been linked to serious illnesses such as asthma, heart disease, chronic bronchitis, and cancer;

WHEREAS, poor air quality is particularly hazardous for sensitive populations, including children;

WHEREAS, in areas where sensitive populations are more likely to be found, such as hospitals and schools, vehicle idling should be avoided as much as possible; and

WHEREAS, Utah is home to the nationally-recognized "Turn Your Key, Be Idle Free" campaign which continues to grow with support from the Governor and Legislature, the Utah Clean Air Partnership, Utah Clean Cities Coalition, and Utah's Bipartisan Clean Air Caucus:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages all Utahns to "Turn Your Key, Be Idle Free" and turn off their engine when idling for more than ten seconds at the drive-through, school pickup, airports, and any areas where sensitive populations congregate, to improve air quality and save on fuel.

BE IT FURTHER RESOLVED that businesses along with chambers of commerce, schools, hospitals, and airports are encouraged to place signs educating the public on how ten seconds of idling wastes more gas than restarting the engine and spread awareness of the "Turn Your Key, Be Idle Free" campaign.

S. C. R. 3
Passed February 17, 2023
Approved March 1, 2023
Effective March 1, 2023

CONCURRENT RESOLUTION ENCOURAGING SUPPORT FOR THE LISTEN AND EXPLAIN, COOPERATE AND COMMUNICATE CAMPAIGN

Chief Sponsor: Wayne A. Harper
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This resolution supports the creation of the Listen and Explain, Cooperate and Communicate Campaign.

Highlighted Provisions:

This resolution:

- highlights the importance of a relationship of trust between law enforcement and the community members they serve;
- details what elements must be in place to strengthen the relationship between law enforcement and community members; and
- supports the creation of the Listen and Explain, Cooperate and Communicate Campaign.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, public safety is paramount to a thriving and healthy society;

WHEREAS, Utah's law enforcement officers are integral to the safety of our cities and towns, our counties, and our state;

WHEREAS, positive interactions and civility, including respectful dialogue and communication during police interactions by all parties, is paramount to building relationships of trust;

WHEREAS, Sir Robert Peele, the father of modern policing, wrote in 1829 about the importance of the partnership between the police and the community, arguing the police at all times should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police;

WHEREAS, Sir Robert Peele also stressed the responsibility of the law enforcement profession to

continually be proactive and collaborative with the citizens they are sworn to protect, stating the ability of the police to perform their duties is dependent upon public approval of police existence, actions, behavior, and the ability of the police to secure and maintain public respect;

WHEREAS, Utah's residents are also responsible to be good partners with their law enforcement agencies within their respective communities;

WHEREAS, when citizens trust and cooperate with law enforcement, use of force incidents are reduced and safety is increased for everyone involved;

WHEREAS, the Utah Legislature has made legislation designed to enhance the safety of the general public and the wellness and safety of Utah's law enforcement officers a clear priority;

WHEREAS, recent events nationally and locally have strained the relationship between our law enforcement agencies and the communities they serve;

WHEREAS, a reduction in use of force incidents is dependent upon repairing the strained relationship between law enforcement and community members;

WHEREAS, in order for the relationship between citizens and law enforcement to be strengthened, citizens and law enforcement should calmly and respectfully cooperate with each other;

WHEREAS, law enforcement agencies and law enforcement agency leadership must be committed to thoroughly investigating legitimate complaints and concerns brought to them by citizens; and

WHEREAS, to meet these ends, the Utah Law Enforcement Legislative Committee has proposed the creation of the Listen and Explain, Cooperate and Communicate Campaign, which would facilitate cooperation between citizens and law enforcement:

NOW, THEREFORE, BE IT RESOLVED that the Legislature and the Governor concurring therein, supports and encourages the creation of the Listen and Explain, Cooperate and Communicate Campaign.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage Utah's law enforcement agencies to use this campaign as a means to train their officers to actively and intently listen to citizens' concerns during all interactions and then reasonably and respectfully explain, when possible, what action will take place according to the law or agency policy.

S. C. R. 4
Passed February 10, 2023
Approved February 27, 2023
Effective February 27, 2023

CONCURRENT RESOLUTION ENCOURAGING HYPERTROPHIC CARDIOMYOPATHY AWARENESS AND SCREENING

Chief Sponsor: Don L. Ipson
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This resolution encourages the promotion of hypertrophic cardiomyopathy awareness and screening.

Highlighted Provisions:

This resolution:

- recognizes undiagnosed and untreated hypertrophic cardiomyopathy as a significant public health issue; and
- encourages healthcare providers, public health departments, health insurers, employers, education institutions, the media, and others to promote awareness of the disease and encourage individuals to seek appropriate screening from qualified healthcare professionals.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, hypertrophic cardiomyopathy is a chronic cardiovascular disease marked by thickening of the heart muscle, which in some cases produces debilitating symptoms and serious complications, including heart failure, atrial fibrillation, stroke, and, in rare cases, sudden cardiac death;

WHEREAS, hypertrophic cardiomyopathy affects people regardless of age, gender, and race and is believed to be the most common inherited or genetic heart disease;

WHEREAS, hypertrophic cardiomyopathy affects 1 in 500 people, and possibly as many as 1 in 200 worldwide;

WHEREAS, an estimated 700,000 to 1,650,000 people in the United States have hypertrophic cardiomyopathy, yet 85% remain undiagnosed;

WHEREAS, hypertrophic cardiomyopathy produces symptoms common to other cardiovascular and pulmonary diseases, including shortness of breath, chest pain, fatigue, palpitations, and fainting, making it difficult to distinguish hypertrophic cardiomyopathy from other diseases;

WHEREAS, for individuals with hypertrophic cardiomyopathy the all-cause mortality risk is three to four times greater than the general population;

WHEREAS, knowledge of one's own medical history and the signs and symptoms of hypertrophic

cardiomyopathy are important first steps toward determining risk and obtaining timely diagnosis and treatment of hypertrophic cardiomyopathy;

WHEREAS, screenings by healthcare providers, which include a battery of cardiac health questions, are essential to determining a patient's risk of congenital or genetic cardiac disorders;

WHEREAS, to accurately diagnose hypertrophic cardiomyopathy, a healthcare provider must examine a patient's heart and may conduct several tests, including an echocardiogram, magnetic resonance imaging, and genetic testing;

WHEREAS, following a diagnosis of hypertrophic cardiomyopathy, a patient should work with a healthcare provider to learn more of the disease and determine the best management options, including use of pharmaceuticals and surgery; and

WHEREAS, the fourth Wednesday in February is an appropriate day to observe Hypertrophic Cardiomyopathy Awareness Day:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes undiagnosed and untreated hypertrophic cardiomyopathy as a significant public health issue.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage healthcare providers, public health departments, health insurers, employers, education institutions, the media, and others to promote awareness of the disease and encourage individuals to seek appropriate screening from qualified healthcare professionals.

S. C. R. 7
Passed March 2, 2023
Approved March 14, 2023
Effective March 14, 2023

CONCURRENT RESOLUTION CONCERNING THE NORTHERN UTAH VETERANS CEMETERY GRANT SUBMISSION

Chief Sponsor: Ann Millner
House Sponsor: Katy Hall

LONG TITLE

General Description:

This resolution encourages the Utah Department of Veterans and Military Affairs to submit a grant application for assistance in the construction of a new veterans cemetery.

Highlighted Provisions:

This resolution:

- honors all who have served in the United States Armed Forces;
- recognizes that many of Utah's veterans live north of Salt Lake County; and
- encourages and supports the submission of a grant application to the Veterans Cemetery Grant Program.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah honors and is proud of all who have worn the uniform of our great nation while serving in the United States Armed Forces;

WHEREAS, Utah is home to almost 150,000 military veterans;

WHEREAS, there is one state-owned veterans cemetery in Utah under the oversight of the Utah Department of Veterans and Military Affairs providing a final resting place for veterans;

WHEREAS, the current veterans cemetery is located in Bluffdale at the Salt Lake and Utah County line;

WHEREAS, less than 10% of interments at the Veterans Cemetery are north of Salt Lake County;

WHEREAS, counties north of Salt Lake County are home to over 41,000 veterans; and

WHEREAS, the United States Department of Veterans Affairs, through the National Cemetery Administration, participates with states in the construction of state-owned veterans cemeteries by way of the Veterans Cemetery Grant Program:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports the Utah Department of Veterans and Military Affairs in applying for a grant to assist in the construction of a new veterans cemetery at a location north of Salt Lake County.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah and the Governor encourage the Utah Department of Veterans and Military Affairs to submit a grant application to the United States Department of Veterans Affairs for participation in the Veterans Cemetery Grant Program.

S. C. R. 8
Passed March 2, 2023
Approved March 14, 2023
Effective March 14, 2023

CONCURRENT RESOLUTION PROMOTING KINDNESS IN UTAH

Chief Sponsor: Curtis S. Bramble
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This resolution expresses recognition of, and support for, kindness throughout the state of Utah.

Highlighted Provisions:

This resolution:

- emphasizes the importance of kindness in Utah;
- recognizes Utah citizen's inherent proclivity to be kind to their fellow citizens; and
- urges continued support for proactive acts of kindness to foster a healthier society for our citizens.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, now, more than ever, the world needs more kindness;

WHEREAS, kindness can be as simple as a single smile, a thoughtful message to a friend, or just a small, unexpected gesture, but the effects can be powerful;

WHEREAS, one act of kindness can brighten a moment, lift someone's spirits, and turn a bad day into a good story;

WHEREAS, kindness can become contagious and one small act of kindness can spark another small act of kindness;

WHEREAS, an act of kindness has been proven to be beneficial to both the giver and the recipient, and acts of kindness can promote positive behaviors from others, provide a sense of purpose and satisfaction for ourselves, and even help us live longer;

WHEREAS, an act of kindness is an act of good health and self-care;

WHEREAS, in partnership with The Semnani Family Foundation, local faith and business leaders, educators, and government leaders, the One Kind Act a Day movement will start here in Utah and create an impact that can be felt around the nation and even around the world;

WHEREAS, our community can be the nexus of a rippling effect that can transform the globe with kindness; and

WHEREAS, we encourage all Utahns to commit one kind act today and every day:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, do hereby declare April 12 as "One Kind Act A Day" Day in Utah.

S. C. R. 9
Passed March 3, 2023
Approved March 14, 2023
Effective March 14, 2023

CONCURRENT RESOLUTION OPPOSING EFFORTS TO WEAKEN THE ECONOMY OR RESTRICT ENERGY SUPPLY

Chief Sponsor: Chris H. Wilson
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This resolution supports the treasurer and government entities in opposing environmental, social, and governance (ESG) investing.

Highlighted Provisions:

This resolution:

- highlights how ESG investing harms consumers and investors;
- supports the state treasurer, attorney general, state auditor, and state agencies in opposing ESG investing;
- identifies the coordinated pressure campaigns from financial institutions and regulatory bodies; and
- calls upon Utah to defend consumers and investors from the harms of ESG investing.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, environmental, social, and governance (ESG) investing is an investment approach that considers ESG factors in the investment decision-making process;

WHEREAS, ESG investing encourages investment managers to invest in companies that meet certain ESG standards and priorities;

WHEREAS, ESG investing priorities are subjective and change substantially based on political agendas;

WHEREAS, ESG investing outlines societal goals without appropriately considering the costs associated with ESG's coercive nature;

WHEREAS, ESG investing pursues political objectives without the appropriate checks, balances, and accountability present in the legislative bodies created to address these issues;

WHEREAS, ESG investing attempts to use the allocation of capital to punish or reward entities to enforce compliance with and commitment to the social issues promoted by ESG;

WHEREAS, investment managers have a fiduciary obligation to focus solely on the financial interests of their clients;

WHEREAS, ESG investing promotes social issues and political agendas even though such investing may result in less favorable financial outcomes;

WHEREAS, statements or commitments to promote ESG goals are evidence of a motive to promote non-financial purposes;

WHEREAS, ESG investing may compromise an investment manager's fiduciary duty by placing social issues above the financial interests of their clients;

WHEREAS, many individuals do not have the ability to decide where to invest their savings for retirement;

WHEREAS, the state attorney general, the state treasurer, and the state auditor have stated publicly that ESG investing is putting individual's retirement savings at risk;

WHEREAS, ESG investing provides increasing costs for certain consumers and investors;

WHEREAS, ESG investing encourages the consideration of factors related to climate change when making investment decisions;

WHEREAS, during the past 10 years, the approval rate of climate change shareholder resolutions increased from 10% to 40%;

WHEREAS, this change contributes to the increased cost of capital for high-carbon versus low-carbon energy projects;

WHEREAS, the cost of high-carbon energy projects translates to higher energy prices;

WHEREAS, as of November 2022, energy prices have risen 13.1% during a 12-month period and are a considerable driver of total United States inflation;

WHEREAS, the production of traditional sources of energy plays an important role in the state's economy, particularly in the rural areas of the state;

WHEREAS, transitioning away from traditional sources of energy will have a negative impact on jobs in the state, specifically in the state's rural areas;

WHEREAS, well-functioning markets require alternative viewpoints to operate efficiently and ESG investing advocates that all market actors adopt a singular view for the future;

WHEREAS, ESG utilizes an emergency or crisis to declare the necessity for cutting or eliminating the personal freedoms of citizens;

WHEREAS, ESG investing stunts innovation and silences alternative viewpoints;

WHEREAS, the United States Securities and Exchange Commission proposes rules to enhance and standardize climate-related disclosures for investors;

WHEREAS, the Office of the Comptroller of the Currency ensures that national banks and federal savings associations understand climate-related financial risks and develop risk management frameworks and capabilities to identify, measure, monitor, and control those risks;

WHEREAS, the United States Federal Deposit Insurance Corporation (FDIC) released draft principles for banks with over $100 billion in total assets to manage exposures to climate-related financial risks;

WHEREAS, the FDIC principles largely mirrored those released by the Office of the Comptroller of the Currency;

WHEREAS, ESG investing criteria as outlined by credit rating agencies undermine the sovereignty and self-determination of states and municipalities;

WHEREAS, Utah should avoid investment managers that are committed to advance, or market themselves as advancing, social or environmental goals with client assets;

WHEREAS, the state auditor is responsible for auditing the financial statements and operations of state government entities and ensuring compliance with laws, regulations, and financial reporting standards;

WHEREAS, the state treasurer is responsible for overseeing the management of the state's financial resources and assets, including investment portfolios; and

WHEREAS, the attorney general is responsible for providing legal advice and representation to the state and enforcing state laws:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, take immediate action and direct that investment funds should be managed by investment managers with a commitment to focus solely on financial interests.

BE IT FURTHER RESOLVED that the Legislature encourages the Office of the Attorney General to provide legal advice to the state treasurer and investment managers on the enforceability of state investment policies and the risks of using ESG criteria in investment decisions, and when necessary, take legal action to protect the state's investments.

BE IT FURTHER RESOLVED that the Legislature encourages the Office of the State Treasurer to implement investment policies that restrict the use of ESG criteria in the selection of investments for state portfolios.

BE IT FURTHER RESOLVED that the Legislature encourages the Office of the State Auditor to conduct audits of state investments to determine if the investments comply with the state's policies and objectives.

S. J. R. 2
Passed January 18, 2023
Approved January 18, 2023
Effective January 18, 2023

JOINT RESOLUTION APPOINTING VICTORIA STIRLING ASHBY AS GENERAL COUNSEL

Chief Sponsor: J. Stuart Adams
House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This resolution approves the appointment of Victoria Stirling Ashby as the Legislative General Counsel.

Highlighted Provisions:

This resolution:

- approves the appointment of Victoria Stirling Ashby as Legislative General Counsel for a six-year term.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, pursuant to Utah Code Section 36-12-17, the Legislative Management Committee, upon recommendation of its Research and General Counsel Subcommittee, has recommended the appointment of Victoria Stirling Ashby as Legislative General Counsel for the Utah Legislature; and

WHEREAS, the appointment of Victoria Stirling Ashby in this position for a term of office of six years beginning May 3, 2023, is subject to further approval of a majority vote of both the House of Representatives and the Senate:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the appointment of Victoria Stirling Ashby as Legislative General Counsel for the Utah Legislature be approved for a six-year term of office beginning May 3, 2023.

S. J. R. 4

Passed February 8, 2023
Approved February 8, 2023
Effective February 8, 2023

JOINT RULES RESOLUTION - FISCAL NOTE DEADLINES

Chief Sponsor: Lincoln Fillmore
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This resolution modifies the fiscal note deadline for certain legislation.

Highlighted Provisions:

This resolution:

- provides an exception to the fiscal note deadline for legislation that affects public retirement benefits and requires an actuarial analysis to prepare the fiscal note.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR4-2-403

Be it resolved by the Legislature of the state of Utah:

Section 1. JR4-2-403 is amended to read:

JR4-2-403. Fiscal notes.

(1) (a) (i) When the legislative fiscal analyst receives the electronic copy of the approved legislation from the Office of Legislative Research and General Counsel, that office shall, within three business days:

(A) review and analyze the legislation to determine its fiscal impact; and

(B) provide a fiscal note to the sponsor of the legislation.

(ii) [~~The~~] To the extent reasonably necessary, the three day deadline for the preparation of the fiscal note may be extended if:

(A) the legislative fiscal analyst requests it, states the reasons for the delay, and informs the sponsor of the legislation of the delay[~~.~~] ; or

(B) the legislation affects public retirement benefits, requires an actuarial analysis to prepare the fiscal note, and the legislative fiscal analyst informs the sponsor of the legislation of the delay.

(b) If the legislative fiscal analyst determines that the legislation has no fiscal impact, the legislative fiscal analyst may release the fiscal note immediately after the sponsor has received a copy of the fiscal note.

(c) The sponsor may:

(i) approve the release of the fiscal note;

(ii) direct that the fiscal note be held; or

(iii) if the sponsor disagrees with the fiscal note, contact the legislative fiscal analyst to discuss that disagreement and provide evidence, data, or other information to support a revised fiscal note.

(d) If the sponsor does not contact the legislative fiscal analyst with instructions about the fiscal note within one 24 hour legislative day, the legislative fiscal analyst shall release the fiscal note.

(e) The legislative fiscal analyst shall make the final determination on the fiscal note.

(f) The fiscal note shall be printed with the legislation.

(2) If an amendment or a substitute to legislation appears to substantively change the fiscal impact of the legislation, the legislative fiscal analyst shall prepare an amended fiscal note for the legislation.

(3) The fiscal note is not an official part of the legislation.

S. J. R. 5

Passed March 3, 2023
Approved March 3, 2023
Effective May 3, 2023

JOINT RULES RESOLUTION - BUDGETING CHANGES TO STATE RETIREMENT CONTRIBUTIONS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This resolution modifies duties of the Executive Appropriations Committee related to retirement contributions.

Highlighted Provisions:

This resolution:

- directs the Executive Appropriations Committee to set aside any savings from each reduction in the amortization rate and, when the total set aside money reaches a specified threshold, include the amount in the base budget as an increase to benefitted state employee salaries.

Special Clauses:

This resolution provides a special effective date.

Legislative Rules Affected:

AMENDS:

JR3-2-402

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-402 is amended to read:

JR3-2-402. Executive appropriations -- Duties -- Base budgets.

(1) (a) The Executive Appropriations Committee shall meet no later than the third Wednesday in December to:

(i) direct staff as to what revenue estimate to use in preparing budget recommendations, to include a forecast for federal fund receipts;

(ii) consider treating above-trend revenue growth as one-time revenue for major tax types and for federal funds;

(iii) hear a report on the historical, current, and anticipated status of the following:

(A) debt;

(B) long term liabilities;

(C) contingent liabilities;

(D) General Fund borrowing;

(E) reserves;

(F) fund balances;

(G) nonlapsing appropriation balances;

(H) cash funded infrastructure investment; and

(I) changes in federal funds paid to the state;

(iv) hear a report on:

(A) the next fiscal year base budget appropriation for Medicaid accountable care organizations according to Section 26-18-405.5;

(B) an explanation of program funding needs;

(C) estimates of overall medical inflation in the state; and

(D) mandated program changes and their estimated cost impact on Medicaid accountable care organizations;

(v) decide whether to set aside special allocations for the end of the session, including allocations:

(A) to address any anticipated reduction in the amount of federal funds paid to the state; and

(B) of one-time revenue to pay down debt and other liabilities;

(vi) decide whether to set aside special allocations for legislation that will reduce taxes, including legislation that will reduce one or more tax rates;

(vii) subject to Subsection (1)(c), unless waived by majority vote, if the amortization rate as defined in Utah Code Section 49-11-102 for the new fiscal year is less than the amortization rate for the preceding fiscal year, set aside an amount equal to the value of the reduction in the amortization rate;

[~~(vii)~~] (viii) approve the appropriate amount for each subcommittee to use in preparing its budget;

[~~(viii)~~] (ix) set a budget figure; and

[~~(ix)~~] (x) adopt a base budget in accordance with Subsection (1)(b) and direct the legislative fiscal analyst to prepare one or more appropriations acts appropriating one or more base budgets for the next fiscal year.

(b) In a base budget adopted under Subsection (1)(a), the Executive Appropriations Committee shall set appropriations from the General Fund, the Education Fund, and the Uniform School Fund [~~shall be set~~] as follows:

(i) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are equal to or greater than the current fiscal year ongoing appropriations, the new fiscal year base budget is not changed;

(ii) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are less than the current fiscal year ongoing appropriations, the new fiscal year base budget is reduced by the same percentage that projected next fiscal year ongoing revenue estimates are lower than the total of current fiscal year ongoing appropriations;

(iii) in making a reduction under Subsection (1)(b)(ii), appropriated debt service shall not be reduced, and other ongoing appropriations shall be reduced, in an amount sufficient to make the total ongoing appropriations, including the unadjusted debt service, equal to the percentage calculated under Subsection (1)(b)(ii); and

(iv) the new fiscal year base budget shall include an appropriation to the Department of Health for Medicaid accountable care organizations in the amount required by Section 26-18-405.5.

(c) (i) The Executive Appropriations Committee shall:

(A) comply with the set aside requirement described in Subsection (1)(a)(vii) using money from the General Fund, Income Tax Fund, and Uniform School Fund;

(B) accumulate money set aside under Subsection (1)(a)(vii) across fiscal years; and

(C) when the total amount set aside under Subsection (1)(a)(vii), including any amount to be set aside in the new fiscal year, equals or exceeds the cost of a 0.50% increase in benefited state employee salaries for the new fiscal year, include in

the base budget an increase in benefited state employee salaries equal to the total set aside amount.

(ii) The Executive Appropriations Committee may waive or modify a requirement described in Subsection (1)(c)(i) by majority vote.

[~~(c)~~] (d) The chairs of each joint appropriations subcommittee are invited to attend this meeting.

(2) All proposed budget items shall be submitted to one of the subcommittees named in JR3-2-302 for consideration and recommendation.

(3) (a) After receiving and reviewing subcommittee reports, the Executive Appropriations Committee may refer the report back to a joint appropriations subcommittee with any guidelines the Executive Appropriations Committee considers necessary to assist the subcommittee in producing a balanced budget.

(b) The subcommittee shall meet to review the new guidelines and report the adjustments to the chairs of the Executive Appropriations Committee as soon as possible.

S. J. R. 6
Passed March 3, 2023
Approved March 3, 2023
Effective May 3, 2023

JOINT RESOLUTION AMENDING RULES OF PROCEDURE AND EVIDENCE REGARDING CRIMINAL PROSECUTIONS

Chief Sponsor: Todd D. Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This joint resolution amends court rules of procedure and evidence regarding criminal prosecutions.

Highlighted Provisions:

This joint resolution:

- amends Rule 7B of the Utah Rules of Criminal Procedure to address the probable cause determination at a preliminary examination;
- amends Rule 16 of the Utah Rules of Criminal Procedure to address the disclosure of evidence after an information is filed;
- amends Rule 22 of the Utah Rules of Juvenile Procedure to address the probable cause determination at a preliminary examination;
- amends Rule 1102 of the Utah Rules of Evidence to address statements from witnesses; and
- makes technical and conforming changes.

Special Clauses:

This joint resolution provides a special effective date.

Utah Rules of Criminal Procedure Affected:

AMENDS:

Rule 7B, Utah Rules of Criminal Procedure
Rule 16, Utah Rules of Criminal Procedure

Utah Rules of Juvenile Procedure Affected:

AMENDS:

Rule 22, Utah Rules of Juvenile Procedure

Utah Rules of Evidence Affected:

AMENDS:

Rule 1102, Utah Rules of Evidence

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 7B, Utah Rules of Criminal Procedure is amended to read:

Rule 7B. Preliminary examinations.

(a) Burden of proof. At the preliminary examination, the state has the burden of proof and proceeds first with its case. At the conclusion of the state's case, the defendant may testify under oath, call witnesses, and present evidence. The defendant may also cross-examine adverse witnesses.

(b) Probable cause determination. If from the evidence the magistrate finds probable cause to believe that the crime charged has been committed and that the defendant has committed it, the magistrate must order that the defendant be bound over for trial. The findings of probable cause may be based on hearsay, [~~in whole or in part~~] but may not be based solely on hearsay evidence admitted under Rule 1102(b)(8) of the Utah Rules of Evidence. Objections to evidence on the ground that it was acquired by unlawful means are not properly raised at the preliminary examination.

(c) If no probable cause. If the magistrate does not find probable cause to believe the crime charged has been committed or the defendant committed it, the magistrate must dismiss the information and discharge the defendant. The magistrate may enter findings of fact, conclusions of law, and an order of dismissal. The dismissal and discharge do not preclude the state from instituting a subsequent prosecution for the same offense.

(d) Witnesses. At a preliminary examination, the magistrate, upon request of either party, may exclude witnesses from the courtroom and may require witnesses not to converse with each other until the preliminary examination is concluded.

(e) Written findings. If the magistrate orders the defendant bound over for trial, the magistrate must execute a bind-over order and include any written findings in the case record.

(f) Assignment on motion to quash. If a defendant files a motion to quash a bind-over order, the motion shall be decided by the judge assigned to the

case after bind-over, regardless of whether the judge conducted the preliminary examination in the judge's role as a magistrate.

Section 2. Rule 16, Utah Rules of Criminal Procedure is amended to read:

Rule 16. Discovery.

(a) Disclosures by prosecutor.

(1) Mandatory disclosures. The prosecutor must disclose to the defendant the following material or information directly related to the case of which the prosecution team has knowledge and control:

(A) written or recorded statements of the defendant and any codefendants, and the substance of any unrecorded oral statements made by the defendant and any codefendants to law enforcement officials;

(B) reports and results of any physical or mental examination, of any identification procedure, and of any scientific test or experiment;

(C) physical and electronic evidence, including any warrants, warrant affidavits, books, papers, documents, photographs, and digital media recordings;

(D) written or recorded statements of witnesses;

(E) reports prepared by law enforcement officials and any notes that are not incorporated into such a report; and

(F) evidence that must be disclosed under the United States and Utah constitutions, including all evidence favorable to the defendant that is material to guilt or punishment.

(2) Timing of mandatory disclosures. The prosecutor's duty to disclose under paragraph (a)(1) is a continuing duty as the material or information becomes known to the prosecutor. The prosecutor's disclosures must be made as soon as practicable following the filing of [~~charges an Information~~] an information, except that a prosecutor must disclose all evidence that the prosecutor relied upon to file the information within five days after the day on which the prosecutor receives a request for discovery from the defendant. In every case, all material or information listed under paragraph (a)(1) that is presently and reasonably available to the prosecutor must be disclosed before the preliminary [~~hearing~~] examination, if applicable, or before the defendant enters a plea of guilty or no contest or goes to trial, unless otherwise waived by the defendant.

(3) Disclosures upon request.

(A) Upon request, the prosecutor must obtain and disclose to the defendant any of the material or information listed in paragraph (a)(1) which is in a record possessed by another governmental agency and may be shared with the prosecutor under Title 63G, Chapter 2, Government Records Access and Management Act. The request must identify with particularity the record sought and the agency that possesses it, and must demonstrate that the information in the record is directly related to the case.

(B) If the government agency refuses to share with the prosecutor the record containing the requested material or information under paragraph (a)(3)(A), or if the prosecution determines that it is prohibited by law from disclosing to the defense the record shared by the governmental agency, the prosecutor must promptly file notice stating the reasons for noncompliance. The defense may thereafter file an appropriate motion seeking a subpoena or other order requiring the disclosure of the requested record.

(4) Good cause disclosures. The prosecutor must disclose any other item of evidence which the court determines on good cause shown should be made available to the defendant in order for the defendant to adequately prepare a defense.

(5) Trial disclosures. The prosecutor must also disclose to the defendant the following information and material no later than 14 days, or as soon as practicable, before trial:

(A) Unless otherwise prohibited by law, a written list of the names and current contact information of all persons whom the prosecution intends to call as witnesses at trial; and

(B) Any exhibits that the prosecution intends to introduce at trial.

(C) Upon order of the court, the criminal records, if any, of all persons whom the prosecution intends to call as a witness at trial.

(6) Information not subject to disclosure. Unless otherwise required by law, the prosecution's disclosure obligations do not include information or material that is privileged or attorney work product. Attorney work product protection is not subject to the exception in Rule 26(b)(5) of the Utah Rules of Civil Procedure.

(b) Disclosures by defense.

(1) Good cause disclosures. The defense must disclose to the prosecutor any item of evidence which the court determines on good cause shown should be made available to the prosecutor in order for the prosecutor to adequately prepare the prosecutor's case for trial.

(2) Other disclosures required by statute. The defense must disclose to the prosecutor such information as required by statute relating to alibi or insanity.

(3) Trial disclosures. The defense must also disclose to the prosecutor the following information and material no later than 14 days, or as soon as practicable, before trial:

(A) A written list of the names and current contact information of all persons, except for the defendant, whom the defense intends to call as witnesses at trial; and

(B) Any exhibits that the defense intends to introduce at trial.

(4) Information not subject to disclosure. The defendant's disclosure obligations do not include information or material that is privileged or attorney work product. Attorney work product protection is not subject to the exception in Rule 26(b)(5) of the Utah Rules of Civil Procedure.

(c) Methods of disclosure.

(1) The prosecutor or defendant may make disclosure by notifying the opposing party that material and information may be inspected, tested, or copied at specified reasonable times and places.

(2) If the prosecutor concludes any disclosure required under this rule is prohibited by law, or believes disclosure would endanger any person or interfere with an ongoing investigation, the prosecutor must file notice identifying the nature of the material or information withheld and the basis for non-disclosure. If disclosure is then requested by the defendant, the court must hold an in camera review to decide whether disclosure is required and whether any limitations or restrictions will apply to disclosure as provided in paragraph (d).

(d) Disclosure limitations and restrictions.

(1) The prosecutor or defendant may impose reasonable limitations on the further dissemination of sensitive information otherwise subject to discovery to prevent improper use of the information or to protect victims and witnesses from harassment, abuse, or undue invasion of privacy, including limitations on the further dissemination of recorded interviews, photographs, or psychological or medical reports.

(2) Upon a sufficient showing the court may at any time order that discovery or inspection be denied, restricted, or deferred, that limitations on the further dissemination of discovery be modified or make such other order as is appropriate. Upon motion by a party, the court may permit the party to make such showing, in whole or in part, in the form of a written statement to be inspected by the judge alone. If the court enters an order granting relief following such an ex parte showing, the entire text of the party's statement shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

(e) Relief and sanctions for failing to disclose.

(1) When a party fails to comply with the disclosure requirements of this rule, the court may, subject to constitutional limitations and the rules of evidence, take the measures or impose the sanctions provided in this paragraph that it deems appropriate under the circumstances. If a party has failed to comply with this rule, the court may take one or more of the following actions:

(A) order such party to permit the discovery or inspection, of the undisclosed material or information;

(B) grant a continuance of the proceedings;

(C) prohibit the party from introducing evidence not disclosed; or

(D) order such other relief as the court deems just under the circumstances.

(2) If after a hearing the court finds that a party has knowingly and willfully failed to comply with an order of the court compelling disclosure under this rule, the nondisclosing party or attorney may be held in contempt of court and subject to the penalties thereof.

(f) Identification evidence.

(1) Subject to constitutional limitations and upon good cause shown, the trial court may order the defendant to: appear in a lineup; speak for identification; submit to fingerprinting or the making of other bodily impressions; pose for photographs not involving reenactment of the crime; try on articles of clothing or other items of disguise; permit the taking of samples of blood, hair, fingernail scrapings, and other bodily materials which can be obtained without unreasonable intrusion; provide specimens of handwriting; submit to reasonable physical or medical inspection of the accused's body; and cut hair or allow hair to grow to approximate appearance at the time of the alleged offense.

(2) Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given to the accused and the accused's counsel.

(3) Unless relieved by court order, failure of the accused to appear or to comply with the requirements of this paragraph without reasonable excuse shall be grounds for revocation of pre-trial release and will subject the defendant to such further consequences or sanctions as the court may deem appropriate, including allowing the prosecutor to offer as evidence at trial the defendant's failure to comply with this paragraph.

Section 3. Rule 22, Utah Rules of Juvenile Procedure is amended to read:

Rule 22. Initial appearance and preliminary examinations in cases under Utah Code section 80-6-503.

(a) When a summons is issued in lieu of a warrant of arrest, the minor shall appear before the court as directed in the summons.

(b) When any peace officer or other person makes an arrest of a minor without a warrant, the minor shall be taken to a juvenile detention facility pending a detention hearing, which shall be held as provided by these rules. When any peace officer makes an arrest of a minor with a warrant, the minor shall be taken to the place designated on the warrant. If an information has not been filed, one shall be filed without delay in the court with jurisdiction over the offense.

(c) If a minor is arrested in a county other than where the offense was committed the minor shall without unnecessary delay be returned to the county where the crime was committed and shall be taken before a judge of the juvenile court.

(d) The court shall, upon the minor's first appearance, inform the minor:

(1) of the charge in the information or indictment and furnish the minor with a copy;

(2) of any affidavit or recorded testimony given in support of the information and how to obtain them;

(3) of the right to retain counsel or have counsel appointed by the court;

(4) of rights concerning detention, pretrial release, and bail in the event the minor is bound over to stand trial in district court; and

(5) that the minor is not required to make any statement, and that any statements made may be used against the minor in a court of law.

(e) The court shall, after providing the information under paragraph (d) and before proceeding further, allow the minor reasonable time and opportunity to consult counsel and shall allow the minor to contact any attorney by any reasonable means, without delay and without fee.

(f) The minor may not be called on to enter a plea. During the initial appearance, the minor shall be advised of the right to a preliminary examination. If the minor waives the right to a preliminary examination the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504.

(g) If the minor does not waive a preliminary examination, the court shall schedule the preliminary examination. The time periods of this rule may be extended by the court for good cause shown. The preliminary examination shall be held within a reasonable time, but not later than ten days after the initial appearance if the minor is in custody for the offense charged and the information is filed under Utah Code section 80-6-503. The preliminary examination shall be held within a reasonable time, but not later than 30 days after the initial appearance if:

(1) the minor is in custody for the offense charged and the information is filed under Utah Code section 80-6-503; or

(2) the minor is not in custody.

(h) A preliminary examination may not be held if the minor is indicted. If the indictment is filed under Utah Code section 80-6-503, the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-503.

(i) A preliminary examination shall be held under the rules and laws applicable to criminal cases tried before a court. The state has the burden of proof and shall proceed first with its case. At the conclusion of the state's case, the minor may testify under oath, call witnesses, and present evidence. The minor may cross-examine adverse witnesses.

(j) If from the evidence the court finds probable cause to believe that the crime charged has been committed, that the minor has committed it, and the information is filed under Utah Code section 80-6-503, the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504.

(k) The finding of probable cause may be based on hearsay [~~in whole or in part~~], but not be based solely on reliable hearsay evidence admitted under Rule 1102(b)(8) of the Utah Rules of Evidence. Objections to evidence on the ground that it was acquired by unlawful means are not properly raised at the preliminary examination.

(l) If the court does not find probable cause to believe that the crime charged has been committed or that the minor committed it, the court shall dismiss the information and discharge the minor. The court may enter findings of fact, conclusions of law, and an order of dismissal. The dismissal and discharge do not preclude the state from instituting a subsequent prosecution for the same offense.

(m) At a preliminary examination, upon request of either party, and subject to Title 77, Chapter 38, [~~Victim Rights~~] Rights of Crime Victims Act, the court may:

(1) exclude witnesses from the courtroom;

(2) require witnesses not to converse with each other until the preliminary examination is concluded; and

(3) exclude spectators from the courtroom.

Section 4. Rule 1102, Utah Rules of Evidence is amended to read:

Rule 1102. Reliable Hearsay in Criminal Preliminary Examinations.

(a) Statement of the Rule. Reliable hearsay is admissible at criminal preliminary examinations.

(b) Definition of Reliable Hearsay. For purposes of criminal preliminary examinations only, reliable hearsay includes:

(b)(1) hearsay evidence admissible at trial under the Utah Rules of Evidence;

(b)(2) hearsay evidence admissible at trial under Rule 804 of the Utah Rules of Evidence, regardless of the availability of the declarant at the preliminary examination;

(b)(3) evidence establishing the foundation for or the authenticity of any exhibit;

(b)(4) scientific, laboratory, or forensic reports and records;

(b)(5) medical and autopsy reports and records;

(b)(6) a statement of a non-testifying peace officer to a testifying peace officer;

(b)(7) a statement made by a child victim of physical abuse or a sexual offense which is recorded in accordance with Rule 15.5 of the Utah Rules of Criminal Procedure;

(b)(8) a statement of a declarant that is written, recorded, or transcribed verbatim which is:

(b)(8)(A) under oath or affirmation; or

(b)(8)(B) pursuant to a notification to the declarant that a false statement made therein is punishable; and

(b)(9) other hearsay evidence with similar indicia of reliability, regardless of admissibility at trial under Rules 803 and 804 of the Utah Rules of Evidence.

(c) Continuance for Production of Additional Evidence. If hearsay evidence is proffered or admitted in the preliminary examination, a continuance of the hearing may be granted for the purpose of furnishing additional evidence if:

(c)(1) The magistrate finds that the hearsay evidence proffered or admitted is not sufficient and additional evidence is necessary for a bindover; or

(c)(2) The defense establishes that it would be so substantially and unfairly disadvantaged by the use of the hearsay evidence as to outweigh the interests of the declarant and the efficient administration of justice.

(d)(1) Except as provided in paragraph (d)(2), a prosecutor, or any staff for the office of the prosecutor, may transcribe a declarant's statement verbatim or assist a declarant in drafting a statement.

(d)(2) A prosecutor, or any staff for the office of the prosecutor, may not draft a statement for a declarant, or tamper with a witness in violation of Utah Code section 76-8-508.

Section 5. Effective date.

(1) In accordance with Utah Constitution Article VIII, Section 4, the amendments in this resolution pass upon approval by a two-thirds vote of all members elected to each house.

(2) After passage of this resolution under Subsection (1), the amendments in this resolution take effect on May 3, 2023.

(4) (a) After receiving the reports, the Executive Appropriations Committee chairs will report them to the Executive Appropriations Committee.

(b) The Executive Appropriations Committee shall:

(i) make any further adjustments necessary to balance the budget; and

(ii) complete all decisions necessary to draft the final appropriations bills no later than the last Friday before the 45th day of the annual general session.

Section 6. Effective date.

This resolution takes effect on May 3, 2023.

S. J. R. 7
Passed March 1, 2023
Approved March 1, 2023
Effective March 1, 2023

JOINT RESOLUTION APPROVING SETTLEMENT AGREEMENT WITH THE UNITED STATES

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This resolution approves a proposed settlement agreement.

Highlighted Provisions:

This resolution:

- approves the proposed settlement agreement related to the United States' claims against the state of Utah in United States, ex. rel. Williams, v. State of Utah, et. al., United States District Court, District of Utah, Case No. 2:15-cv-00054.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Reginald Williams, a Utah Department of Corrections inmate, filed a qui tam action against the state of Utah and certain current and former state employees ("State Defendants") in the United States District Court for the District of Utah, Case No. 2:15-cv-00054 ("Williams Lawsuit");

WHEREAS, Williams alleged violations of the federal False Claims Act related to the state's use of certain federal grant funds received between 2009 and 2011;

WHEREAS, pursuant to the False Claims Act, the United States intervened in the case adding fraud claims and seeking repayment of all of the grant amounts plus treble damages, totaling more than $50,000,000;

WHEREAS, the parties attended a settlement conference with the court and reached a proposed agreement to settle the claims brought by the United States ("Settlement Agreement");

WHEREAS, under the Settlement Agreement, the state agrees to pay the United States $1,550,000 and the United States agrees to release all claims asserted, or that could have been asserted, in the Williams Lawsuit;

WHEREAS, pursuant to Utah Code Section 63G-10-302, the governor has approved the Settlement Agreement;

WHEREAS, Utah Code Section 63G-10-303 requires approval from the Legislature for any settlement agreement that legally binds the state to take action that might cost government entities more than $1,000,000 to implement; and

WHEREAS, the cost of implementing the Settlement Agreement will exceed $1,000,000:

NOW, THEREFORE, BE IT RESOLVED that the Legislature approves the Settlement Agreement.

S. J. R. 9
Passed March 3, 2023
Approved March 3, 2023
Effective March 3, 2023

JOINT RULES RESOLUTION - AMENDMENTS TO JOINT RULES

Chief Sponsor: Lincoln Fillmore
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This resolution modifies joint legislative rules.

Highlighted Provisions:

This resolution:

- modifies references to Senate and House staff;
- prohibits a chair from taking comment from a member of the public unless the individual provides certain information;
- modifies the permissible effective dates for legislation;
- increases the threshold for fiscal note bills that are subject to a funding prioritization process and passage deadline;
- provides that a nonbinding joint resolution converts to a Senate resolution or a House resolution, if the resolution passes the originating house but fails to pass the opposite house;
- clarifies a legislator's authority to request legislation or an appropriation when the legislator fails to win reelection;
- addresses the process by which on the 11th day of the annual general session the Office of Legislative Research and General Counsel makes public the short title of each request for legislation;
- modifies the definition of "authorized legislative committee";
- provides the items and activities that are prohibited at a legislative committee meeting;
- directs the chair of a legislative committee to preserve order and decorum during a meeting of the legislative committee; and
- makes corrections to joint legislative rules, including eliminating obsolete language and clarifying existing requirements.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
JR2-1-103
JR3-2-402
JR3-2-606
JR3-2-701
JR4-1-203
JR4-2-101
JR4-2-102
JR4-2-406
JR4-4-101
JR4-5-102
JR4-5-104
JR6-1-102
JR6-1-201
JR7-1-101
JR7-1-202
JR7-1-602.5
JR7-1-606
JR7-1-611

ENACTS:
JR7-1-104

REPEALS AND REENACTS:
JR3-2-605
JR7-1-302

REPEALS:
JR6-1-202

Be it resolved by the Legislature of the state of Utah:

Section 1. JR2-1-103 is amended to read:

JR2-1-103. Motion to reconsider.

[~~A~~] Notwithstanding any rule to the contrary, a motion to reconsider [~~a piece of~~] a final vote on special session legislation may be made at any time during that special session of the Legislature.

Section 2. JR3-2-402 is amended to read:

JR3-2-402. Executive appropriations -- Duties -- Base budgets.

(1) (a) The Executive Appropriations Committee shall meet no later than the third Wednesday in December to:

(i) direct staff as to what revenue estimate to use in preparing budget recommendations, to include a forecast for federal fund receipts;

(ii) consider treating above-trend revenue growth as one-time revenue for major tax types and for federal funds;

(iii) hear a report on the historical, current, and anticipated status of the following:

(A) debt;

(B) long term liabilities;

(C) contingent liabilities;

(D) General Fund borrowing;

(E) reserves;

(F) fund balances;

(G) nonlapsing appropriation balances;

(H) cash funded infrastructure investment; and

(I) changes in federal funds paid to the state;

(iv) hear a report on:

(A) the next fiscal year base budget appropriation for Medicaid accountable care organizations according to Section 26-18-405.5;

(B) an explanation of program funding needs;

(C) estimates of overall medical inflation in the state; and

(D) mandated program changes and their estimated cost impact on Medicaid accountable care organizations;

(v) decide whether to set aside special allocations for the end of the session, including allocations:

(A) to address any anticipated reduction in the amount of federal funds paid to the state; and

(B) of one-time revenue to pay down debt and other liabilities;

(vi) decide whether to set aside special allocations for legislation that will reduce taxes, including legislation that will reduce one or more tax rates;

(vii) approve the appropriate amount for each subcommittee to use in preparing its budget;

(viii) set a budget figure; and

(ix) adopt a base budget in accordance with Subsection (1)(b) and direct the legislative fiscal analyst to prepare one or more appropriations acts appropriating one or more base budgets for the next fiscal year.

(b) In a base budget adopted under Subsection (1)(a), appropriations from the General Fund, the [~~Education~~] Income Tax Fund, and the Uniform School Fund shall be set as follows:

(i) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are equal to or greater than the current fiscal year ongoing appropriations, the new fiscal year base budget is not changed;

(ii) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are less than the current fiscal year ongoing appropriations, the new fiscal year base budget is reduced by the same percentage that projected next fiscal year ongoing revenue estimates are lower than the total of current fiscal year ongoing appropriations;

(iii) in making a reduction under Subsection (1)(b)(ii), appropriated debt service shall not be reduced, and other ongoing appropriations shall be reduced, in an amount sufficient to make the total ongoing appropriations, including the unadjusted debt service, equal to the percentage calculated under Subsection (1)(b)(ii); and

(iv) the new fiscal year base budget shall include an appropriation to the Department of Health for Medicaid accountable care organizations in the amount required by Section 26-18-405.5.

(c) The chairs of each joint appropriations subcommittee are invited to attend this meeting.

(2) All proposed budget items shall be submitted to one of the subcommittees named in JR3-2-302 for consideration and recommendation.

(3) (a) After receiving and reviewing subcommittee reports, the Executive Appropriations Committee may refer the report back to a joint appropriations subcommittee with any guidelines the Executive Appropriations Committee considers necessary to assist the subcommittee in producing a balanced budget.

(b) The subcommittee shall meet to review the new guidelines and report the adjustments to the chairs of the Executive Appropriations Committee as soon as possible.

(4) (a) After receiving the reports, the Executive Appropriations Committee chairs will report them to the Executive Appropriations Committee.

(b) The Executive Appropriations Committee shall:

(i) make any further adjustments necessary to balance the budget; and

(ii) complete all decisions necessary to draft the final appropriations bills no later than the last Friday before the 45th day of the annual general session.

Section 3. JR3-2-605 is repealed and reenacted to read:

JR3-2-605. Chair to preserve order and decorum.

In accordance with JR7-1-302, the chair shall preserve order and decorum during a committee meeting.

Section 4. JR3-2-606 is amended to read:

JR3-2-606. Chair to recognize committee members -- Remarks to be germane -- Committee members may make motions when recognized -- Addressing the committee.

(1) The chair shall recognize a committee member who desires to speak to a subject that is under consideration by an appropriations committee.

(2) Upon recognition by the chair, a committee member:

(a) shall ensure that the member's remarks are germane to the subject under consideration; and

(b) may make a motion that is authorized by this chapter.

(3) (a) Presenters, witnesses, visitors, staff, and committee members may not speak to an appropriations committee unless recognized by the chair.

(b) The chair may not take comment from a member of the public unless:

(i) the individual provides the individual's legal name and the entity that the individual represents, if any; and

(ii) if the individual is participating via video conference:

(A) the individual provides the individual's place of residence; and

(B) the individual's video is enabled.

Section 5. JR3-2-701 is amended to read:

JR3-2-701. Request for appropriation -- Contents -- Timing.

(1) (a) A legislator intending to file a request for appropriation shall file the request for appropriation with the Office of the Legislative Fiscal Analyst in accordance with this rule.

(b) Except for an amendment to a proposed budget item described in JR3-2-703, a committee may not adopt, recommend, or prioritize a request for appropriation that is not filed or generated in accordance with this rule.

(c) A legislator may not file a request for appropriation if the request is intended to fund the fiscal impact of legislation.

(d) The Office of the Legislative Fiscal Analyst shall automatically generate a request for appropriation to fund the fiscal impact of legislation if:

(i) the legislation has an expenditure impact of $1,000,000 or more from the General Fund or the [~~Education~~] Income Tax Fund; and

(ii) the Office of the Legislative Fiscal Analyst knows the fiscal impact of the legislation before the deadline described in Subsection (3)(a).

(2) (a) A legislator may file a request for appropriation beginning 60 days after the day on which the Legislature adjourns its annual general session sine die.

(b) A legislator-elect may file a request for appropriation beginning on:

(i) the day after the day on which the election canvass is complete; or

(ii) if the legislator-elect's election results have not been finalized as of the canvass date, the day after the day on which the election results for the legislator-elect's race are final.

(c) (i) An incumbent legislator may not file a request for appropriation as of the date that the legislator:

[~~(i)~~] (A) fails to file to run for reelection;

[~~(ii) resigns or is removed from office; or~~]

[~~(iii)~~] (B) is ineligible to be included on the ballot for the election in which the legislator would have sought an additional term[~~.~~]; or

(C) fails to win reelection and the legislator's opponent is eligible to file a request for appropriation under Subsection (2)(b).

(ii) Subsection (2)(c)(i) does not apply to a request for appropriation for a general session that occurs while the legislator is in office.

(3) (a) Except as provided in Subsection (3)(b), a legislator may not file a request for appropriation with the Office of the Legislative Fiscal Analyst after noon on the 11th day of the annual general session.

(b) After the date established by this Subsection (3), a legislator may file a request for appropriation if:

(i) for a request by a House member, the representative makes a motion to file a request for appropriation and that motion is approved by a constitutional majority of the House;

(ii) for a request by a senator, the senator makes a motion to file a request for appropriation and that motion is approved by a constitutional majority vote of the Senate; or

(iii) a member of the Executive Appropriations Committee has presented the request at a public meeting of the Executive Appropriations Committee.

(4) A legislator who files a request for appropriation:

(a) is the chief sponsor; and

(b) shall provide the following information related to the project or program that is the subject of the request for appropriation:

(i) the name and a description of the project or program;

(ii) the statewide purpose of the project or program;

(iii) if applicable, the legislator's designee who is knowledgeable about and responsible for providing pertinent information while the Office of the Legislative Fiscal Analyst processes the request;

(iv) the state funding source from which the legislator proposes to fund the project or program;

(v) the amount of the request and whether the amount is to be appropriated one-time, ongoing, or a combination of one-time and ongoing;

(vi) an itemized budget for the project or program;

(vii) the state agency that has jurisdiction over the project or program;

(viii) if the request is for pass through funding that a state agency will distribute, the type of entity or organization the legislator intends to receive the funding;

(ix) the scalability of the project or program; and

(x) one or more outcomes the legislator expects the project or program to achieve.

Section 6. JR4-1-203 is amended to read:

JR4-1-203. Effective date of bills.

(1) (a) Unless otherwise directed by the Legislature and subject to Subsections (2) and (3), a

bill becomes effective 60 days after the adjournment of the session at which it passed.

(b) The 60 days begins to run the day after the Legislature adjourns sine die.

(2) (a) The effective date of a bill may not be a date later than [~~December 31 of the~~] January 1 of the second calendar year immediately following the calendar year of the session at which the bill is passed.

(b) A bill with a contingent effective date is not subject to Subsection (2)(a).

(3) (a) If the effective date of a bill is contingent, before the bill may be introduced:

(i) the bill sponsor shall inform the legislative general counsel of the contingent effective date; and

(ii) the legislative general counsel shall, on behalf of the bill sponsor, request approval of the contingent effective date from the president and speaker.

(b) A bill that has a contingent effective date that is not approved by the president and the speaker may not be introduced.

(c) Subsections (3)(a) and (b) do not apply to a bill that has a contingent effective date that is contingent on voter approval of an amendment to the Utah Constitution.

(4) A rules committee, a standing committee, the Senate, or the House of Representatives is prohibited from suspending the provisions of Subsection (2) or (3).

Section 7. JR4-2-101 is amended to read:

JR4-2-101. Requests for legislation -- Contents -- Timing.

(1) (a) A legislator wishing to introduce a bill or resolution shall file a request for legislation with the Office of Legislative Research and General Counsel within the time limits established by this rule.

(b) The request for legislation shall:

(i) designate the chief sponsor, who is knowledgeable about and responsible for providing pertinent information as the legislation is drafted;

(ii) if the request is for a general session, designate any supporting legislators from the same house as the chief sponsor who wish to cosponsor the legislation; and

(iii) (A) provide specific information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(B) identify the specific situation or concern that the legislator intends the legislation to address.

(2) (a) Any legislator may file a request for legislation beginning 60 days after the Legislature adjourns its annual general session sine die.

(b) A legislator-elect may file a request for legislation beginning on:

(i) the day after the date the election canvass is completed; or

(ii) if the legislator-elect's election results have not been finalized as of the canvass date, the day after the date the election results for the legislator-elect's race are finalized.

(c) (i) An incumbent legislator may not file any requests for legislation as of the date that the legislator:

(A) fails to file to run for election to a seat in the Legislature;

[~~(B) resigns or is removed from office; or~~]

[~~(C)~~] (B) is ineligible to be included on the ballot for the election in which the legislator would have sought an additional term[~~.~~]; or

(C) fails to win reelection and the legislator's opponent is eligible to file a request for legislation under Subsection (2)(b).

(ii) Subsection (2)(c)(i) does not apply to a request for legislation for:

(A) a general session that occurs while the legislator is in office; or

(B) a special session that occurs [~~before the legislator leaves~~] while the legislator is in office.

[~~(iii) The Office of Legislative Research and General Counsel shall abandon each request for legislation from the legislator that is pending on that date unless, within 30 days after that date, another member of the Legislature qualified to file a request for legislation assumes sponsorship of the legislation.~~]

(d) (i) If, for any reason, a legislator who filed a request for legislation is unavailable to serve in the next annual general session, the former legislator [~~shall~~] may seek another legislator to assume sponsorship of each request for legislation filed by the legislator who is unavailable to serve.

(ii) If the former legislator is unable to find another legislator to sponsor the legislation within 30 days, the Office of Legislative Research and General Counsel shall abandon each pending request for legislation from the legislator who is unavailable to serve.

(e) (i) If a legislator dies while in office and is the chief sponsor of one or more requests for legislation or pieces of legislation, the individual appointed to the legislator's seat may assume sponsorship of each request for legislation or piece of legislation.

(ii) If the individual appointed to the legislator's seat chooses not to assume sponsorship of one or more of the legislator's requests for legislation or pieces of legislation, the following individual shall seek another legislator to assume sponsorship of each request for legislation or piece of legislation:

(A) if the legislator was a member of the House majority caucus, the House majority leader;

(B) if the legislator was a member of the House minority caucus, the House minority leader;

(C) if the legislator was a member of the Senate majority caucus, the Senate majority leader; or

(D) if the legislator was a member of the Senate minority caucus, the Senate minority leader.

(iii) If the individual described in Subsection (2)(e)(ii) does not find a new sponsor for a request for legislation, the Office of Legislative Research and General Counsel shall abandon the request for legislation.

(3) (a) Except as provided in Subsection (3)(c), a legislator may not file a request for legislation with the Office of Legislative Research and General Counsel after noon on the 11th day of the annual general session.

[~~(b) Except as provided in Subsection (3)(c), by noon on the 11th day of the annual general session, each legislator shall, for each Request for Legislation on file with the Office of Legislative Research and General Counsel, either approve the request for numbering or abandon the request.~~]

[~~(c)~~] (b) On the 11th day of the annual general session, the Office of Legislative Research and General Counsel shall make public on the Legislature's website the short title and sponsor of each request for legislation, unless the sponsor abandons the request for legislation before noon on the 11th day of the annual general session.

(c) (i) After the [~~date established by this Subsection (3), a legislator may file a Request for Legislation and automatically approve the legislation for numbering if~~] 11th day of the annual general session, a legislator may file a request for legislation only if:

[~~(i)~~] (A) for House legislation, the representative makes a motion to request [~~a bill or resolution~~] legislation for drafting and introduction and that motion is approved by a constitutional majority of the House; or

[~~(ii)~~] (B) for Senate legislation, the senator makes a motion to request [~~a bill or resolution~~] legislation for drafting and introduction and that motion is approved by a constitutional majority vote of the Senate.

(ii) The Office of Legislative Research and General Counsel shall make public on the Legislature's website the short title and sponsor of each request for legislation described in this Subsection (3)(c).

(4) After a request for legislation is abandoned, a legislator may not revive the request for legislation.

(5) A legislator wishing to obtain funding for a project, program, or entity, when that funding request does not require that a statute be enacted, repealed, or amended, may not file a Request for Legislation but instead shall file a request for appropriation by following the procedures and requirements of JR3-2-701.

Section 8. JR4-2-102 is amended to read:

JR4-2-102. Drafting and prioritizing legislation.

(1) As used in this rule, "interim committee" means a committee established under JR7-1-201.

(2) (a) Requests for legislation shall be drafted on a first-in, first-out basis, except for legislation that is prioritized under the provisions of this rule.

(b) When sufficient drafting information is available, the following requests for legislation shall be drafted before other requests for legislation, in the following order of priority:

(i) a committee bill file, as defined in JR7-1-101; and

(ii) a request for legislation that is prioritized by a legislator under Subsection (3).

(3) (a) Beginning on the first day on which a request for legislation may be filed under JR4-2-101, a member of the House of Representatives may designate up to four requests for legislation as priority requests, and a member of the Senate may designate up to five requests for legislation as priority requests, subject to the following deadlines:

(i) except as provided in Subsection (3)(b), priority request number one for representatives, and priority request numbers one and two for senators, must be requested on or before November 15, or the following regular business day if November 15 falls on a weekend or a holiday;

(ii) priority request number two for representatives, and priority request number three for senators, must be requested on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday;

(iii) priority request number three for representatives, and four for senators must be requested on or before the first Thursday in January, or the following business day if the first Thursday falls on a holiday; and

(iv) priority request number four for representatives, and five for senators must be requested on or before the first Thursday of the annual general session.

(b) (i) A representative-elect who is not a sitting legislator, shall designate priority request number one on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday.

(ii) A representative-elect who is a sitting senator shall designate each of the representative-elect's priority requests in accordance with the deadlines for representatives described in Subsection (3)(a).

(iii) (A) A senator-elect who is not a sitting legislator, shall designate priority request numbers one and two on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday.

(B) A senator-elect who is a sitting representative, shall designate priority request number one in accordance with Subsection (3)(a)(i), and priority request number two on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday.

(c) (i) A legislator who is appointed to replace a legislator who resigns or is otherwise unable to serve, may:

(A) if the legislator is a representative, designate up to four requests for legislation as priority requests, less the number of priority requests designated by the legislator's predecessor; or

(B) if the legislator is a senator, designate up to five requests for legislation as priority requests, less the number of priority requests designated by the legislator's predecessor.

(ii) The deadline for an appointed legislator to designate each priority request is the same as the deadline that would apply if the designation were made by the legislator's predecessor.

(d) (i) A legislator who fails to make a priority request on or before a deadline loses that priority request. [~~However, the legislator is not prohibited~~]

(ii) Subsection (3)(d)(i) does not prohibit a legislator from using any remaining priority requests that are associated with a later deadline, if available.

(e) A legislator may not designate a request for legislation as a priority request unless the request:

(i) provides specific or conceptual information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(ii) identifies the specific situation or concern that the legislator intends the legislation to address.

(4) A legislator may not:

(a) revoke a priority designation once it has been requested;

(b) transfer a priority designation to a different request for legislation; or

(c) transfer a priority designation to another legislator.

(5) (a) Notwithstanding Subsection (4), a request for legislation designated as a priority request remains a priority request if the request for legislation is transferred to another legislator in accordance with:

(i) Subsection JR4-2-101(2)(d) [~~or (e).~~] because the legislator resigned or was removed from office; or

(ii) Subsection JR4-2-101(2)(e).

(b) A priority request described in Subsection (5)(a) does not count against the number of priority designations to which the receiving legislator is entitled under Subsection (3).

(6) Except as provided under JR4-2-502 or as otherwise provided in these rules, the Office of Legislative Research and General Counsel shall:

(a) reserve as many bill numbers as necessary to number the bills recommended by an interim committee; and

(b) number all other legislation in the order in which the legislation is approved by the sponsor for numbering.

Section 9. JR4-2-406 is amended to read:

JR4-2-406. Funding mix for state employee compensation adjustments and internal service fund rate impacts.

(1) The legislative fiscal analyst shall prepare a budget for state employee compensation adjustments and internal service fund rate impacts that minimizes costs to the unrestricted General Fund, [~~Education~~] Income Tax Fund, and Uniform School Fund, by:

(a) using a mix of funding sources that is proportionate to that of the base budget, as defined in JR3-2-101, at the appropriation unit level for the same budget year;

(b) including sources other than the unrestricted General Fund, [~~Education~~] Income Tax Fund, and Uniform School Fund, regardless of the availability of additional revenue;

(c) adjusting the funding mix when the full or partial use of one or more sources is directed in statute, federal regulation, or the terms of a federal grant; and

(d) adjusting the funding mix based on the appropriate use of funding sources other than the unrestricted General Fund, [~~Education~~] Income Tax Fund, and Uniform School Fund, transportation-related funds, federal funds, restricted accounts, and dedicated credits.

(2) When the legislative fiscal analyst adjusts the funding mix in accordance with Subsection (1)(c) or (d), the legislative fiscal analyst shall:

(a) eliminate the appropriate portion of the source from the funding mix;

(b) deduct the amount associated with the source from the base budget total;

(c) recalculate the proportional distribution among remaining sources; and

(d) distribute the appropriate budget adjustment amounts accordingly.

(3) If the legislative fiscal analyst identifies a funding mix that would provide additional spending authority for sources other than the unrestricted General Fund, [~~Education~~] Income Tax Fund, and Uniform School Fund and additional revenue is unavailable, in accordance with Subsection (1)(b), an agency may make or request program reductions, reprioritizations, reallocations, or fee increases pursuant with Utah Code Title 63J, Chapter 1, Budgetary Procedures Act.

(4) The legislative fiscal analyst shall request that an internal service fund agency reflect state employee compensation adjustments and impacts from rate changes in other internal funds in the rates recommended by the internal service fund agency for a given budget cycle, either:

(a) on a prospective basis for the budget year, based on an estimated amount; or

(b) on a one-year lag basis, if the specific internal service fund has sufficient operating reserves to maintain the internal service fund's fiscal integrity.

(5) (a) The Executive Appropriations Committee may approve for one fiscal year exceptions to the budget preparation criteria described in Subsections (1) through (4).

(b) The legislative fiscal analyst shall prepare a budget that includes exceptions approved by the Executive Appropriations Committee under this Subsection (5).

(c) The Executive Appropriations Committee shall annually determine whether to re-approve an exception approved by the Executive Appropriations Committee under this Subsection (5).

Section 10. JR4-4-101 is amended to read:

JR4-4-101. Deadline for passing certain fiscal note bills.

(1) (a) The House shall refer any Senate bill with a fiscal note of [~~$10,000~~] $15,000 or more to the House Rules Committee before giving that bill a third reading.

(b) The Senate shall table on third reading each House bill with a fiscal note of [~~$10,000~~] $15,000 or more.

(2) (a) Before adjourning on the 43rd day of the annual general session, each legislator shall prioritize fiscal note bills and identify other projects or programs for new or one-time funding according to the process established by leadership.

(b) Before adjourning on the 44th day of the annual general session, the Legislature shall either pass or defeat each bill with a fiscal note of [~~$10,000~~] $15,000 or more except constitutional amendment resolutions.

Section 11. JR4-5-102 is amended to read:

JR4-5-102. Enrollment and transmittal of legislation to the governor.

(1) (a) After a piece of legislation that has passed both houses has been signed by the presiding officers, the secretary or chief clerk shall deliver it to the Office of Legislative Research and General Counsel.

(b) The Office of Legislative Research and General Counsel shall:

(i) examine and enroll the legislation;

(ii) correct any technical errors as provided by Utah Code Section 36-12-12; and

(iii) transmit a copy of the enrolled legislation to:

(A) the secretary of the Senate for legislation originating in the Senate; and

(B) the chief clerk of the House for legislation originating in the House.

(2) When enrolling the legislation, the Office of Legislative Research and General Counsel shall:

(a) include the name of the House floor sponsor for Senate legislation under the heading "House Sponsor:"; or

(b) include the name of the Senate floor sponsor for House legislation under the heading "Senate Sponsor:".

(3) The secretary of the Senate or chief clerk of the House shall:

(a) certify each enrolled piece of legislation; and

(b) ensure that a copy of the enrolled legislation is:

(i) transmitted to the governor;

(ii) filed with the secretary or chief clerk;

(iii) transmitted to the chief sponsor upon request; and

(iv) transmitted to the Office of Legislative [~~Printing~~] Services.

Section 12. JR4-5-104 is amended to read:

JR4-5-104. Converting certain joint and concurrent resolutions.

(1) As used in this rule:

(a) "Nonbinding concurrent resolution" means a nonbinding resolution that is a concurrent resolution.

(b) "Nonbinding House joint resolution" means a nonbinding resolution that is a House joint resolution.

(c) (i) "Nonbinding resolution" means a resolution that:

(A) is primarily for the purpose of recognizing, honoring, or memorializing an individual, group, or event;

(B) requests, rather than compels, action or awareness by an individual or group; or

(C) is informational or promotional in nature.

(ii) "Nonbinding resolution" does not include:

(A) a rules resolution;

(B) a resolution for a constitutional amendment; or

(C) any resolution that approves or authorizes any action, requires any substantive action be taken, or results in a change in law, policy, or funding.

(d) "Nonbinding Senate joint resolution" means a nonbinding resolution that is a Senate joint resolution.

[~~If~~] (2) (a) A nonbinding concurrent resolution converts to a joint resolution if the governor does not approve [~~a~~] the nonbinding concurrent resolution before the expiration of the time limit described in Utah Constitution, Article VII, Section 8 that would apply if the nonbinding concurrent resolution were a bill[~~, the concurrent resolution converts to a joint resolution~~].

(b) A nonbinding Senate joint resolution converts to a Senate resolution if:

(i) the Senate passes the nonbinding Senate joint resolution; and

(ii) the House does not pass the same version of the nonbinding Senate joint resolution as the Senate.

(c) A nonbinding House joint resolution converts to a House resolution if:

(i) the House passes the nonbinding House joint resolution; and

(ii) the Senate does not pass the same version of the nonbinding House joint resolution as the House.

(3) The version of a nonbinding Senate joint resolution or a nonbinding House joint resolution that passes the originating chamber is the version that converts to a Senate resolution or a House resolution.

[~~(2)~~] (4) (a) The Office of Legislative Research and General Counsel shall convert a resolution in accordance with this rule when the office enrolls the resolution.

(b) The legislative general counsel may make technical revisions to convert a resolution [~~described in Subsection (1) from a concurrent resolution to a joint resolution~~] in accordance with this rule, including the revisions necessary to comply with JR4-1-301.

[~~(3) For a resolution that converts to a joint resolution in accordance with Subsection (1)~~]

(5) When the Office of Legislative Research and General Counsel converts a resolution in accordance with this rule, the Office of Legislative Research and General Counsel shall note the conversion in the Laws of Utah and on the [~~final version of the joint resolution that the resolution converted from a concurrent resolution to a joint resolution in accordance with this rule~~] enrolled resolution.

Section 13. JR6-1-102 is amended to read:

JR6-1-102. Code of official conduct.

(1) As used in this rule:

(a) "Person" includes an individual, a partnership, an association, an organization, a company, and a body politic and corporate, or a lobbyist from any of these.

(b) "Person" does not include an individual or entity described in Subsection (1)(a) that provides the legislator's primary source of income.

(2) Each legislator shall comply with the guidelines established in Subsection [~~(2)~~] (3).

[~~(2)~~] (3) In judging members of its house charged with an ethical violation, the Senate and House Ethics Committees shall consider whether or not the member has violated any of the following guidelines:

(a) Members of the Senate and House shall not engage in any employment or other activity that would destroy or impair their independence of judgment.

(b) Members of the Senate and House shall not be paid by a person[~~, as defined in JR6-1-202,~~] to lobby, consult, or to further the interests of any legislation or legislative matter.

(c) Members of the Senate and House shall not exercise any undue influence on any governmental entity. "Undue influence" means deceit or threat of violence.

(d) Members of the Senate and House shall not engage in any activity that would be an abuse of official position or a violation of trust.

(e) Members of the Senate and House shall not use any nonpublic information obtained by reason of their official position to gain advantage over any business or professional competition for activities with the state and its political subdivisions.

(f) Members of the Senate and House shall not engage in any business relationship or activity that would require the disclosure of confidential information obtained because of their official position.

(g) Members of the Senate and House shall not use their official position to secure privileges for themselves or others.

(h) While in session, members of the Senate and House shall disclose any conflict of interest on any legislation or legislative matter as provided in JR6-1-201.

(i) Members of the Senate and House may accept small gifts, awards, or contributions if these favors do not influence them in the discharge of official duties.

(j) Members of the Senate and the House may engage in business or professional activities with the state or its political subdivisions if the activities are entered into under the same conditions and in the same manner applicable to any private citizen or company engaged in similar activities.

(k) Legislators may enter into transactions with the state by contract by following the procedures and requirements of Utah Code Title 63G, Chapter 6a, Utah Procurement Code.

Section 14. JR6-1-201 is amended to read:

JR6-1-201. Declaring and recording conflicts of interest.

(1) As used in this rule:

(a) "Conflict of interest" means the same as that term is defined in Utah Code Section 20A-11-1602.

(b) "Conflict of interest disclosure" means the same as that term is defined in Utah Code Section 20A-11-1602.

(2) A legislator shall file a conflict of interest disclosure by complying with the requirements of Utah Code Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures.

(3) (a) For a legislator who is a senator, [~~the secretary of the Senate~~] Senate staff shall ensure that a link to the legislator's conflict of interest disclosure is available to the public on the Senate's website.

(b) For a legislator who is a representative, [~~the chief clerk of the House of Representatives~~] House staff shall ensure that a link to the legislator's conflict of interest disclosure is available to the public on the House of Representative's website.

(4) If a legislator has actual knowledge that the legislator has a conflict of interest that is not stated on the legislator's financial disclosure form filed under Subsection (2), that legislator shall, before or during a vote on legislation or any legislative matter, orally declare to the committee or legislative body:

(a) that the legislator may have a conflict of interest; and

(b) what that conflict is.

(5) A verbal declaration of a conflict of interest under Subsection (4) shall be recorded:

(a) for a declaration made on the floor, in the Senate or House [~~Journal by the secretary of the Senate or the chief clerk of the House of Representatives~~] journal; or

(b) for a declaration made in a committee or other meeting, in the minutes of the meeting.

(6) The requirements of this rule do not prohibit a legislator from voting on any legislation or legislative matter.

Section 15. JR7-1-101 is amended to read:

JR7-1-101. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Authorized legislative committee" means:

(a) an interim committee;

(b) the Legislative Management Committee;

[~~(b)~~] (c) when functioning as an interim committee:

(i) the Senate Rules Committee created in SR3-1-101; or

(ii) the House Rules Committee created in HR3-1-101; or

[~~(c)~~] (d) a special committee:

(i) that is not a mixed special committee; and

(ii) to the extent the special committee has statutory authority to open a committee bill file or create a committee bill.

(3) "Bill" means the same as that term is defined in JR4-1-101.

(4) "Chair" except as otherwise expressly provided, means:

(a) the member of the Senate appointed as chair of an interim committee by the president of the Senate under JR7-1-202;

(b) the member of the House of Representatives appointed as chair of an interim committee by the speaker of the House of Representatives under JR7-1-202;

(c) a member of a special committee appointed as chair of the special committee; or

(d) a member of a legislative committee designated by the chair of the legislative committee under Subsection (4)(a), (b), or (c) to act as chair under JR7-1-202.

(5) "Committee bill" means draft legislation that receives a favorable recommendation from an authorized legislative committee.

(6) "Committee bill file" means a request for legislation made by:

(a) a majority vote of an authorized legislative committee; or

(b) the chairs of an interim committee, if the interim committee authorizes the chairs to open one or more committee bill files in accordance with JR7-1-602.

(7) "Committee note" means a note that the Office of Legislative Research and General Counsel places on legislation in accordance with JR4-2-401.

(8) "Draft legislation" means a draft of a bill or resolution before it is numbered by the Office of Legislative Research and General Counsel.

(9) "Electronic meeting" means the same as that term is defined in Utah Code Section 52-4-103.

(10) "Favorable recommendation" means an action of an authorized legislative committee by majority vote to favorably recommend legislation.

(11) "Legislative committee" means:

(a) an interim committee; or

(b) a special committee.

(12) "Interim committee" means a committee created under JR7-1-201.

(13) "Legislative sponsor" means:

(a) for a committee bill file, the chairs of the authorized legislative committee that opened the committee bill file or the chairs' designee; or

(b) for a request for legislation that is not a committee bill file, the legislator who requested the request for legislation or the legislator's designee.

(14) "Majority vote" means:

(a) with respect to an interim committee, an affirmative vote of at least 50% of a quorum of members of the interim committee from one chamber and more than 50% of a quorum of members of the interim committee from the other chamber; or

(b) with respect to a special committee, an affirmative vote of more than 50% of a quorum.

(15) "Mixed special committee" means a special committee that is composed of one or more voting members who are legislators and one or more voting members who are not legislators.

(16) "Original motion" means a nonprivileged motion that is accepted by the chair when no other motion is pending.

(17) "Pending motion" means a motion described in JR7-1-307.

(18) "Privileged motion" means a motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(19) "Public statement" means a statement made in the ordinary course of business of a legislative committee with the intent that all other members of the legislative committee receive it.

(20) "Remote location" means a location other than the anchor location from which a member of a legislative committee may participate in the meeting.

(21) "Request for legislation" means the same as that term is defined in JR4-1-101.

(22) "Resolution" means the same as that term is defined in JR4-1-101.

(23) (a) "Special committee" means a committee, commission, task force, or other similar body that is:

(i) created by legislation; and

(ii) staffed by:

(A) the Office of Legislative Research and General Counsel; or

(B) the Office of the Legislative Fiscal Analyst.

(b) "Special committee" does not include:

(i) an interim committee;

(ii) a standing committee created under SR3-2-201 or HR3-2-201; or

(iii) a Senate confirmation committee described in SR3-3-101 or SR3-3-201.

(24) "Subcommittee" means a subsidiary unit of a legislative committee formed in accordance with JR7-1-411.

(25) "Substitute motion" means a nonprivileged motion that a member of a legislative committee makes when there is a nonprivileged motion pending.

Section 16. JR7-1-104 is enacted to read:

JR7-1-104. Prohibited items and activities in legislative committee meetings.

A member of the public attending a meeting of a legislative committee may not:

(1) bring into the meeting room, or possess while in the meeting room, any of the following:

(a) a sign, poster, banner, or placard;

(b) glitter or confetti;

(c) a laser pointer;

(d) paint;

(e) an open flame;

(f) an incendiary device;

(g) a noise maker;

(h) flammable liquid; or

(i) any harmful or hazardous substance; or

(2) engage in any of the following while in the meeting room:

(a) commercial solicitation;

(b) leafletting;

(c) throwing an item; or

(d) adhering any item to a furnishing, a wall, or other state property.

Section 17. JR7-1-202 is amended to read:

JR7-1-202. President and speaker to appoint legislative committee members and chairs.

(1) The president of the Senate shall appoint:

(a) one or more senators to each legislative committee[~~; and~~], including one senator to serve as chair of the legislative committee; or

[~~(b) one senator to serve as a chair of each legislative committee.~~]

(b) if the legislative committee is a special committee, senators as provided by the special committee's enacting legislation.

(2) The speaker of the House of Representatives shall appoint:

(a) one or more representatives to each legislative committee[~~; and~~], including one representative to serve as chair of the legislative committee; or

[~~(b) one representative to serve as a chair under each legislative committee.~~]

(b) if the legislative committee is a special committee, representatives as provided by the special committee's enacting legislation.

(3) A chair may designate a member of the legislative committee to act as a chair for all or part of a legislative committee meeting if neither chair is present at the meeting.

Section 18. JR7-1-302 is repealed and reenacted to read:

JR7-1-302. Chair to preserve order and decorum.

(1) The chair shall preserve order and decorum during a legislative committee meeting by:

(a) ensuring nothing obstructs a walkway or the view of a meeting attendee;

(b) ensuring that nothing disrupts, disturbs, or otherwise impedes the orderly course of the meeting;

(c) protecting state property from damage or disarray;

(d) prohibiting speech likely to incite or produce imminent lawless action, fighting words, or obscenity; and

(e) prohibiting any activity or item that poses a danger to the safety of a meeting attendee.

(2) To preserve order and decorum in accordance with Subsection (1), the chair may:

(a) prohibit the following:

(i) standing, waving, yelling, cheering, whistling, or clapping;

(ii) loud noises;

(iii) food or drink, other than water in a closed container;

(iv) musical instruments;

(v) any item that may require excessive cleanup; or

(vi) to the extent necessary to preserve order and decorum, any other item or activity the chair determines necessary;

(b) clear the meeting room of one or more individuals;

(c) recess the meeting without a motion; or

(d) request assistance from:

(i) the sergeant-at-arms; or

(ii) the Utah Highway Patrol.

Section 19. JR7-1-602.5 is amended to read:

JR7-1-602.5. Draft legislation presented to authorized legislative committees during the interim.

(1) Draft legislation that is presented to an authorized legislative committee for the committee's review shall be:

(a) listed on the agenda of the committee's meeting in accordance with Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(b) publicly posted on the Legislature's website at least 24 hours in advance of the time of commencement of the committee meeting.

(2) (a) A legislator seeking to present draft legislation to an authorized legislative committee for review shall provide the drafting attorney with clear and final instructions for completing the draft legislation no later than three full working days before the commencement time of the committee meeting where the legislation will be reviewed, or at an earlier time if significant drafting time is required.

(b) Draft legislation will be drafted in the priority and order set forth under JR4-2-102.

(3) (a) Draft legislation that is recommended by an authorized legislative committee but did not meet the posting requirements of Subsection (1)(b) may not be placed directly on [~~the~~] a reading calendar by a rules committee under SR3-1-102 or HR3-1-102.

[~~(b) This Subsection (3) does not apply to draft legislation that met the requirements of Subsection (1)(b) but was amended or substituted during the committee meeting.~~]

(b) Notwithstanding Subsection (3)(a), a rules committee may refer a committee bill that was posted in accordance with Subsection (1)(b) directly to a reading calendar regardless of whether the committee bill was modified after posting and before the authorized legislative committee's vote to recommend.

Section 20. JR7-1-606 is amended to read:

JR7-1-606. Public comment phase.

(1) Except as otherwise provided in this rule, during the public comment phase:

(a) the chair shall, subject to Subsection (1)(c), take comment from one or more members of the public; [~~and~~]

(b) a member of the authorized legislative committee may not make a motion to amend the draft legislation or dispose of the draft legislation[~~.~~]; and

(c) the chair may not take comment from a member of the public unless:

(i) the individual provides the individual's legal name and the entity that the individual represents, if any; and

(ii) if the individual is participating via video conference:

(A) the individual provides the individual's place of residence; and

(B) the individual's video is enabled.

(2) The chair, or the authorized legislative committee by majority vote, may preclude or terminate the public comment phase.

Section 21. JR7-1-611 is amended to read:

JR7-1-611. Assignment of committee bills -- Report on committee bills and study items.

(1) The chairs of each authorized legislative committee shall:

(a) assign each of the authorized legislative committee's committee bills a chief sponsor and a floor sponsor from the opposite chamber; and

(b) deliver to the Senate Rules Committee and the House Rules Committee a report that includes, for each of the authorized legislative committee's committee bills:

(i) the short title;

(ii) the chief sponsor;

(iii) the floor sponsor; and

(iv) how each member of the authorized legislative committee voted when the authorized legislative committee gave the committee bill a favorable recommendation, including whether a member was absent at the time of the vote.

(2) In addition to the items described in Subsection (1), the chairs of each interim committee shall deliver to the Legislative Management Committee:

(a) a copy of the report described in Subsection (1)(b); and

(b) the disposition of each issue assigned to or studied by the interim committee during the preceding calendar year.

(3) (a) The chairs of an interim committee shall comply with this rule on or before December 15.

(b) The chairs of an authorized legislative committee that is not an interim committee shall comply with this rule as soon as practicable.

Section 22.

Repealer.

This resolution repeals:JR6-1-202, Disclosure of outside remuneration.

S. J. R. 10
Passed March 3, 2023
Approved March 3, 2023
Effective January 1, 2025

PROPOSAL TO AMEND UTAH CONSTITUTION - INCOME TAX

Chief Sponsor: Daniel McCay
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify provisions related to the use of taxes on intangible property and income.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- require taxes on intangible property and income to be used to:
  - maintain a statutory public education funding framework; and
  - fund a budgetary stabilization account; and
- permit tax on intangible property and income to be used to support state needs in addition to other permitted uses.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2025 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

Article XIII, Section 5

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article XIII, Section 5, to read:

Article XIII, Section 5. [Use and amount of taxes and expenditures.]

(1) (a) The Legislature shall provide by statute for an annual tax sufficient, with other revenues, to defray the estimated ordinary expenses of the State for each fiscal year.

(b) If the ordinary expenses of the State will exceed revenues for a fiscal year, the Governor shall:

(i) reduce all State expenditures on a pro rata basis, except for expenditures for debt of the State; or

(ii) convene the Legislature into session under Article VII, Section 6 to address the deficiency.

(2) (a) For any fiscal year, the Legislature may not make an appropriation or authorize an expenditure if the State's expenditure exceeds the total tax provided for by statute and applicable to the particular appropriation or expenditure.

(b) Subsection (2)(a) does not apply to an appropriation or expenditure to suppress insurrection, defend the State, or assist in defending the United States in time of war.

(3) For any debt of the State, the Legislature shall provide by statute for an annual tax sufficient to pay:

(a) the annual interest; and

(b) the principal within 20 years after the final passage of the statute creating the debt.

(4) Except as provided in Article X, Section 5, Subsection (5)(a), the Legislature may not impose a tax for the purpose of a political subdivision of the State, but may by statute authorize political subdivisions of the State to assess and collect taxes for their own purposes.

(5) All revenue from taxes on intangible property or from a tax on income shall be used:

(a) to support the systems of public education and higher education as defined in Article X, Section 2; [~~and~~]

(b) to maintain a statutory public education funding framework that:

(i) uses a portion of revenue growth for expenditures from the Uniform School Fund for changes in student enrollment and long-term inflation; and

(ii) provides a budgetary stabilization account;

[~~(b)~~] (c) to support children and to support individuals with a disability[~~.~~]; and

(d) to support other state needs after the fulfillment of the requirements in Subsection (5)(b).

(6) Proceeds from fees, taxes, and other charges related to the operation of motor vehicles on public highways and proceeds from an excise tax on liquid motor fuel used to propel those motor vehicles shall be used for:

(a) statutory refunds and adjustments and costs of collection and administration;

(b) the construction, maintenance, and repair of State and local roads, including payment for property taken for or damaged by rights-of-way and for associated administrative costs;

(c) driver education;

(d) enforcement of state motor vehicle and traffic laws; and

(e) the payment of the principal of and interest on any obligation of the State or a city or county, issued for any of the purposes set forth in Subsection (6)(b) and to which any of the fees, taxes, or other charges described in this Subsection (6) have been pledged, including any paid to the State or a city or county, as provided by statute.

(7) Fees and taxes on tangible personal property imposed under Section 2, Subsection (6) of this article are not subject to Subsection (6) of this Section 5 and shall be distributed to the taxing districts in which the property is located in the same proportion as that in which the revenue collected from real property tax is distributed.

(8) A political subdivision of the State may share its tax and other revenues with another political subdivision of the State as provided by statute.

(9) Beginning July 1, 2016, the aggregate annual revenue from all severance taxes, as those taxes are defined by statute, except revenue that by statute is used for purposes related to any federally recognized Indian tribe, shall be deposited annually into the permanent State trust fund under Article XXII, Section 4, as follows:

(a) 25% of the first $50,000,000 of aggregate annual revenue;

(b) 50% of the next $50,000,000 of aggregate annual revenue; and

(c) 75% of the aggregate annual revenue that exceeds $100,000,000.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2025.

S. J. R. 11
Passed March 2, 2023
Approved March 2, 2023
Effective March 2, 2023

JOINT RESOLUTION APPROVING ZHIFAN DONG PROPOSED SETTLEMENT AGREEMENT

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This resolution approves a settlement agreement to resolve claims against the state, the University of Utah, and individual employees of the University of Utah.

Highlighted Provisions:

This resolution:

- approves a settlement agreement for claims related to the death of Zhifan Dong.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, following the death of University of Utah student Zhifan Dong, her parents, Junfang Shen and Mingsheng Dong ("Claimants") filed a notice of claim against the state, the University of Utah, and individual employees of the University of Utah ("Defendants");

WHEREAS, the notice of claim sets forth claims alleging negligence, wrongful death, and violations of the state and federal constitutions and Title IX;

WHEREAS, the parties participated in mediation that resulted in a proposed settlement agreement;

WHEREAS, under the proposed settlement agreement, the University of Utah agrees to pay $5,000,000, and the Claimants agree to release all claims, known or unknown, against Defendants relating to or arising from events that caused damages relating to Zhifan Dong ("Settlement Agreement");

WHEREAS, pursuant to Utah Code Section 63G-10-302, the governor has approved the Settlement Agreement;

WHEREAS, Utah Code Section 63G-10-303 requires approval from the Legislature for any

settlement agreement that legally binds the state to take action that might cost government entities more than $1,000,000 to implement; and

WHEREAS, the cost of implementing the Settlement Agreement will exceed $1,000,000:

NOW, THEREFORE, BE IT RESOLVED that the Legislature approves the Settlement Agreement.

S. R. 2
Passed February 14, 2023
Approved February 14, 2023
Effective February 14, 2023

SENATE RULES RESOLUTION - SENATE COMMITTEE SECURITY

Chief Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This resolution enacts Senate rules related to conduct at a Senate committee meeting.

Highlighted Provisions:

This resolution:

- directs the chair of a Senate committee to preserve order and decorum during a meeting of the Senate committee;
- provides the items and activities that are prohibited at a Senate committee meeting; and
- makes technical and conforming changes.

Other Special Clauses:

None

Legislative Rules Affected:

ENACTS:
SR3-4-101
SR3-4-102

REPEALS AND REENACTS:
SR3-2-310

Be it resolved by the Senate of the state of Utah:

Section 1. SR3-2-310 is repealed and reenacted to read:

SR3-2-310. Chair to preserve order and decorum.

In accordance with SR3-4-101, the chair shall preserve order and decorum during a standing committee meeting.

Section 2. SR3-4-101 is enacted to read:

CHAPTER 4. PROVISIONS APPLICABLE TO ALL SENATE COMMITTEES

SR3-4-101. Chair to preserve order and decorum.

(1) The chair shall preserve order and decorum during a Senate committee meeting by:

(a) ensuring nothing obstructs a walkway or the view of a meeting attendee;

(b) ensuring the meeting is free from any audible or visual disturbance;

(c) protecting state property from damage or disarray;

(d) prohibiting speech likely to incite or produce imminent lawless action, fighting words, or obscenity; and

(e) prohibiting any activity or item that poses a danger to the safety of a meeting attendee.

(2) To preserve order and decorum in accordance with Subsection (1), the chair may:

(a) prohibit the following:

(i) standing, waving, yelling, or clapping;

(ii) loud noises;

(iii) food or drink, other than water in a closed container;

(iv) musical instruments;

(v) any item that may require excessive cleanup; or

(vi) to the extent necessary to preserve order and decorum, any other item or activity the chair determines necessary;

(b) clear the meeting room of one or more individuals;

(c) recess the meeting; or

(d) request assistance from:

(i) the sergeant-at-arms; or

(ii) the Utah Highway Patrol.

Section 3. SR3-4-102 is enacted to read:

SR3-4-102. Prohibited items and activities in Senate committee meetings.

A member of the public attending a meeting of a Senate committee may not:

(1) bring into the meeting room, or possess while in the meeting room, any of the following:

(a) a sign, poster, banner, or placard;

(b) glitter or confetti;

(c) a laser pointer;

(d) paint;

(e) an open flame;

(f) an incendiary device;

(g) a noise maker;

(h) flammable liquid; or

(i) any harmful or hazardous substance; or

(2) engage in any of the following while in the meeting room:

(a) commercial solicitation;

(b) leafletting;

(c) throwing an item; or

(d) adhering any item to a furnishing, wall, or other state property.

S. R. 4
Passed February 28, 2023
Approved February 28, 2023
Effective February 28, 2023

SENATE RULES RESOLUTION - AMENDMENTS TO SENATE RULES

Chief Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This resolution modifies legislative rules governing the Senate.

Highlighted Provisions:

This resolution:

- modifies references to members of Senate staff;
- prohibits a chair from taking public comment from an individual witness unless the individual provides certain information;
- if an individual witness is participating via video conference, prohibits a chair from taking the individual's comment unless:
  - the individual provides the individual's place of residence; and
  - the individual's video is enabled;
- allows a standing committee member to make a motion to recess without a quorum present; and
- makes corrections to Senate rules, including eliminating obsolete language and clarifying existing requirements.

Other Special Clauses:

This bill provides a coordination clause.

Legislative Rules Affected:

AMENDS:
SR1-1-101
SR1-4-201
SR1-4-202
SR2-4-106
SR3-1-101
SR3-1-102
SR3-2-306
SR3-2-308
SR3-2-310
SR3-2-318
SR3-2-319
SR3-2-401
SR3-2-405
SR3-2-406
SR3-2-509
SR4-2-201
SR4-3-101
SR4-3-104
SR4-4-101
SR4-4-301
SR4-7-102
SR4-7-104

ENACTS:
SR1-4-301
SR1-4-302

REPEALS AND REENACTS:
SR1-4-101
SR1-4-102

Legislative Rules Affected by Coordination Clause:
SR3-4-101

Be it resolved by the Senate of the state of Utah:

Section 1. SR1-1-101 is amended to read:

SR1-1-101. Adoption, amendment, or suspension of Senate rules.

(1) (a) The Senate shall adopt Senate rules, by a constitutional two-thirds vote, at the beginning of each new Legislature convening in an odd-numbered year.

(b) If a motion to adopt the rules under Subsection (1)(a) meets or exceeds a majority vote but fails to reach a constitutional two-thirds vote:

(i) rules adopted by the Senate during the immediately preceding annual general session, as amended during that general session and any intervening session, apply to the conduct of the Senate; and

(ii) the [~~secretary of the Senate~~] presiding officer shall announce to the Senate that the previously adopted rules apply to the newly convened Legislature.

(2) (a) Except as provided in this rule:

(i) during an annual general session held in an even-numbered year, rules adopted by the Senate during the immediately preceding general session, as amended during that general session and any intervening session, apply to the conduct of the Senate; and

(ii) during any special session, Senate rules apply as provided in JR2-1-101.

(b) For a session described in Subsection (2)(a), the [~~secretary of the Senate~~] presiding officer shall announce to the Senate that the previously adopted rules apply to the newly convened session.

(3) Except as provided in Subsection (4), additional rules may be adopted and existing rules may be suspended, amended, or repealed by a majority vote, except for those rules that require a two-thirds vote to adopt, suspend, amend, or repeal, including:

(a) rules governing motions for lifting tabled legislation from committee under SR4-3-104; and

(b) rules governing consideration of legislation during the last three days of a session.

(4) (a) A rule that includes a voting requirement of more than a constitutional majority must be adopted and may only be amended, suspended, or repealed by a constitutional two-thirds vote.

(b) If the suspension of any Senate Rule is governed by the Utah Constitution or Utah statutes, the Senate may suspend that rule only as provided by that constitutional or statutory provision.

Section 2. SR1-4-101 is repealed and reenacted to read:

Part 1. Senate Chief of Staff

SR1-4-101. Appointment of the Senate chief of staff.

The president or president-elect of the Senate shall appoint an individual to serve as chief of staff of the Senate.

Section 3. SR1-4-102 is repealed and reenacted to read:

SR1-4-102. Duties of the Senate chief of staff.

The chief of staff shall:

(1) appoint the Senate sergeant-at-arms and the secretary of the Senate; and

(2) perform other duties as assigned by the president or president-elect.

Section 4. SR1-4-201 is amended to read:

SR1-4-201. Appointment of sergeant-at-arms.

[~~Before the annual general session of the Legislature is convened, the president or president-elect of the Senate shall appoint a person~~] The chief of staff shall appoint an individual to serve as sergeant-at-arms of the Senate.

Section 5. SR1-4-202 is amended to read:

SR1-4-202. Duties of the sergeant-at-arms.

[~~The~~] Subject to the chief of staff's direction, the sergeant-at-arms and the employees under the sergeant's direction shall:

(1) maintain security;

(2) enforce the Senate Rules and other legislative rules [~~at the direction of the presiding officer or the Senate~~]; and

(3) provide other service as requested by the [~~secretary of the Senate~~] chief of staff or the president.

Section 6. SR1-4-301 is enacted to read:

Part 3. Secretary of the Senate

SR1-4-301. Appointment of the secretary of the Senate.

The chief of staff shall appoint an individual to serve as secretary of the Senate.

Section 7. SR1-4-302 is enacted to read:

SR1-4-302. Duties of the secretary of the Senate.

Subject to the chief of staff's direction, the secretary of the Senate shall perform the following duties:

(1) certify and transmit legislation to the Senate and inform the Senate of all House action;

(2) assist in the preparation of the Senate journal and certify it as an accurate reflection of Senate action;

(3) make the following technical corrections to legislation either before or following final passage:

(a) correct the spelling of words;

(b) correct the erroneous division and hyphenation of words;

(c) correct mistakes in numbering sections and their references;

(d) capitalize words or change capitalized words to lower case;

(e) change numbers from words to figures or from figures to words;

(f) underscore or remove underscoring in legislation without a motion to amend; or

(g) any combination of Subsections (3)(a) through (f);

(4) modify the long title of a piece of legislation to ensure that the long title accurately reflects any changes to the legislation made by amendment or substitute;

(5) act as custodian of all official documents related to legislation;

(6) receive all numbered legislation from the Office of Legislative Research and General Counsel;

(7) record the number, title, sponsor, each action, and final disposition of each piece of legislation on the back of the legislation;

(8) prepare and distribute the daily order of business each day;

(9) advise the president on parliamentary procedure, Joint Rules, and Senate Rules;

(10) read, or cause to be read, the title of all bills and other materials as requested by the president;

(11) receive committee reports and present them to the Senate;

(12) assist with amendments to legislation;

(13) record votes and present the results to the president;

(14) transmit all enrolled Senate bills and Senate concurrent resolutions to the governor;

(15) maintain all calendars for the Senate floor; and

(16) other duties as assigned by the chief of staff.

Section 8. SR2-4-106 is amended to read:

SR2-4-106. Executive sessions.

(1) A senator may make a motion to convene the Senate in executive session.

(2) When a motion for executive session is adopted, the presiding officer shall direct the sergeant-at-arms to close the Senate chamber doors.

(3) The president may require all [~~persons, except the senators, secretary, reading clerk, docket clerk, and sergeant-at-arms~~] individuals, except the senators and specified staff, to leave the Senate chamber.

(4) During the discussion, every person present shall remain within the Senate chamber.

(5) During and after conclusion of the executive session, each person who was present in the executive session shall keep all matters discussed in executive session confidential.

Section 9. SR3-1-101 is amended to read:

SR3-1-101. Senate Rules Committee -- Appointment -- General responsibilities.

(1) The president shall appoint members of the Senate to serve on the Senate Rules Committee.

(2) The Senate Rules Committee shall perform the following functions as further elaborated in this part:

(a) when assigned by the president, receive introduced legislation from the Senate and recommend that they be assigned to a Senate standing committee or to the Senate second or third reading calendar;

(b) after the Senate has sifted -- sent legislation on the second and third reading calendars back to the Senate Rules Committee -- make recommendations to the Senate about which legislation should be assigned to the third reading calendar and the order in which it should be heard; and

(c) function as a standing committee or interim committee when reviewing Joint Rules[~~, Interim Rules,~~] or Senate Rules.

Section 10. SR3-1-102 is amended to read:

SR3-1-102. Senate Rules Committee -- Assignment duties.

(1) (a) Subject to Subsection (1)(b), the presiding officer shall submit all legislation introduced in the Senate to the Senate Rules Committee.

(b) The president may direct legislation to be sent directly to a standing committee or to one of the Senate floor calendars.

(2) The Senate Rules Committee shall:

(a) examine the legislation referred to it for proper form, including fiscal note and committee note, if any; and

(b) (i) refer the legislation to the Senate with a recommendation that the legislation be:

(A) referred to a standing committee for consideration;

(B) subject to Subsection (3), placed directly onto the second reading calendar;

(C) subject to Subsection (3), read the second time and placed onto the consent calendar; or

(D) if during the last week of the legislative session, read the second time and placed on the third reading calendar; or

(ii) hold the legislation.

(3) During an annual general session, the Senate Rules Committee may not refer legislation to the Senate with a recommendation under Subsection (2)(b)(i)(B) or (2)(b)(i)(C) unless:

(a) [~~(i)~~] a Senate standing committee has given the legislation a favorable recommendation; or

[~~(ii)~~] (b) the legislation is described in [~~SR3-2-401(2);and~~] SR3-2-401(2).

[~~(b) as applicable, the legislation satisfies the posting requirements of JR7-1-602.5.~~]

[~~(4) If the chair of the Senate Rules Committee receives a summary report from the Occupational and Professional Licensure Review Committee related to newly regulating an occupation or profession within the two calendar years immediately preceding the session in which a piece of legislation is introduced related to the regulation by the Division of Occupational and Professional Licensing of that occupation or profession:~~]

[~~(a) the chair of the Senate Rules Committee shall ensure that the Senate Rules Committee is informed of the summary report before the Senate Rules Committee takes action on the legislation; and~~]

[~~(b) if the Senate Rules Committee refers the legislation to the Senate as provided in Subsection (2)(b)(i):~~]

[~~(i) the Office of Legislative Research and General Counsel shall make the summary report reasonably available to the public and to legislators; and~~]

[~~(ii) if the legislation is referred to a standing committee, the Senate Rules Committee shall forward the summary report to the standing committee.~~]

[~~(5)~~] (4) In carrying out its functions and responsibilities under this rule, the Senate Rules Committee may not amend, substitute, or table legislation without the written consent of the sponsor.

Section 11. SR3-2-306 is amended to read:

SR3-2-306. Sponsor presentation.

(1) Except as provided in Subsection (2), during the presentation phase, a committee member may not amend legislation, substitute legislation, or dispose of legislation. All other motions are in order during the presentation phase.

(2) During the presentation phase of a committee meeting, the chair may accept a [~~simple~~] motion to amend or substitute legislation if the chair permits:

(a) committee questions and debate;

(b) public comment as provided in SR3-2-308;

(c) the sponsor of the legislation affected by the amendment to respond to the motion to amend; and

(d) the committee member who made the motion to amend to have the final word on the motion as required under SR3-2-313.

(3) During the presentation phase of a standing committee meeting, the chair shall:

(a) permit the chief sponsor or another legislator designated by the chief sponsor to present the chief sponsor's legislation; and

(b) except as provided in Subsection (4), and at the election of the chief sponsor or the chief sponsor's designee, permit persons who have expertise on the legislation to assist with the presentation as provided in SR3-2-304.

(4) The chair may not permit:

(a) legislation to be presented if the chief sponsor or another legislator designated by the chief sponsor is not present; or

(b) legislative interns or legislative aides to present legislation.

Section 12. SR3-2-308 is amended to read:

SR3-2-308. Public comment.

(1) During the public comment phase, a committee member may not amend legislation, substitute legislation, or dispose of legislation. All other motions are in order during the public comment phase.

(2) During the public comment phase of a committee meeting:

(a) the chair, or a committee by majority vote, may limit the time an individual witness or presenter speaks to a committee as authorized under SR3-2-304; [~~and~~]

(b) the chair, or the committee by majority vote, may terminate the public comment phase at any time[~~.~~]; and

(c) the chair may not take comment from an individual witness unless:

(i) the individual provides the individual's legal name and the entity that the individual represents, if any; and

(ii) if the individual is participating via video conference:

(A) the individual provides the individual's place of residence; and

(B) the individual's video is enabled.

(3) Unless the chair, or a committee by majority vote, permits additional public comment, once the public comment phase has ended only committee members, legislative sponsors, staff, and those authorized under SR3-2-306 may address the committee.

Section 13. SR3-2-310 is amended to read:

SR3-2-310. Chair to preserve order -- Powers to preserve order.

(1) The chair shall preserve order and decorum during standing committee meetings by:

(a) controlling outbursts and demonstrations; and

(b) ensuring that committee members, presenters, witnesses, and visitors act in a dignified and respectful manner.

(2) To preserve order, the chair may:

(a) clear the committee room of any person who engages in disorderly conduct;

(b) recess a standing committee meeting without a vote; or

(c) request assistance from:

(i) the sergeant-at-arms; or

(ii) the Utah Highway Patrol.

Section 14. SR3-2-318 is amended to read:

SR3-2-318. Chair to send standing committee reports to the Senate.

(1) When a standing committee approves a motion to dispose of legislation under the requirements of SR3-2-408 or SR3-2-403, the chair shall, no later than the next legislative day, submit to the secretary of the Senate:

(a) the official version of the legislation; and

(b) a committee report, signed by the chair, describing the committee's action.

(2) If, for any reason, the chair does not submit a committee report to the secretary of the Senate as required in Subsection (1), the secretary of the Senate shall ensure that the official version of the legislation and the committee report are submitted before the end of the second legislative day after the [~~legislation was acted on by a standing committee~~] committee disposed of the legislation.

Section 15. SR3-2-319 is amended to read:

SR3-2-319. Chair to ensure integrity of minutes -- Retention of minutes.

(1) The chair shall:

(a) ensure that a secretary takes minutes of standing committee meetings;

(b) present the minutes to the committee for approval; and

(c) send the approved minutes to [~~the office of the secretary of~~] the Senate.

[~~(2) The secretary of the Senate shall retain committee minutes for three years.~~]

[~~(3)~~] (2) The chair shall ensure that committee minutes comply with the requirements of Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

[~~(4) The chair shall ensure that committee minutes include:~~]

[~~(a) the date, time, and place of each committee meeting;~~]

[~~(b) a list of committee members present;~~]

[~~(c) each motion made;~~]

[~~(d) the vote on each motion;~~]

[~~(e) points of order; and~~]

[~~(f) the outcome of each appeal of the decision of the chair.~~]

Section 16. SR3-2-401 is amended to read:

SR3-2-401. Standing committee review required -- Exceptions.

(1) Except as provided in Subsection (2), the Senate may not pass a bill, joint resolution, or concurrent resolution during the annual general session unless a Senate standing committee has given a favorable recommendation to the legislation.

(2) Subsection (1) does not apply to:

(a) a resolution regarding legislative rules or legislative personnel;

(b) legislation that [~~has been approved by a unanimous vote of the members present at an interim committee meeting~~] is a committee bill as defined in JR7-1-101 that:

(i) received its favorable recommendation by a unanimous vote of the members present at the authorized legislative committee meeting; and

(ii) satisfied the posting requirements described in JR7-1-602.5;

(c) legislation placed on a reading calendar in accordance with SR3-1-102(1)(b);

[~~(c)~~] (d) the revisor's statute; or

[~~(d)~~] (e) if the legislation was reviewed and approved by the Executive Appropriations Committee, legislation that:

(i) exclusively appropriates money;

(ii) amends Utah Code Title 53F, Chapter 2, State Funding -- Minimum School Program;

(iii) amends Utah Code Title 67, Chapter 22, State Officer Compensation; or

(iv) authorizes the issuance of general obligation or revenue bonds.

Section 17. SR3-2-405 is amended to read:

SR3-2-405. Consent calendar.

(1) A standing committee may recommend that legislation in its possession be placed on the consent calendar if:

(a) the committee approves a motion, by a unanimous vote, to send the legislation to the second reading calendar;

(b) immediately subsequent to that action, the chief sponsor or the chief sponsor's designee under SR3-2-306(3) requests that the legislation be placed on the consent calendar; and

(c) in a separate motion and vote, the committee unanimously approves the sponsor's request to place the legislation on the consent calendar instead of the second reading calendar.

(2) If, in accordance with SR3-1-102, the Senate Rules Committee forwards a summary report from the Occupational and Professional Licensure Review Committee in conjunction with legislation referred to a standing committee, the chair shall ensure that the summary report is read orally to the committee before action is taken by the committee on the legislation that is related to the summary report.

Section 18. SR3-2-406 is amended to read:

SR3-2-406. Amending legislation -- Amendments must be germane.

(1) (a) Except as provided in Subsection (2), and if recognized by the chair during the presentation phase or the committee action phase, a committee member may make a motion to amend the legislation that is under consideration.

(b) (i) A committee member may propose a verbal amendment to the legislation under consideration if the amendment contains 25 or fewer words.

(ii) Unless an amendment contains 25 or fewer words, before proposing a motion to amend, a committee member shall ensure that a copy of the proposed amendment is available online.

(2) (a) A committee member may only make a motion to amend that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in SR3-2-506.

Section 19. SR3-2-509 is amended to read:

SR3-2-509. Prohibited motions.

(1) (a) Except for a motion to adjourn or a motion to recess, a committee member may not make a motion unless a quorum of the standing committee is present.

(b) When a quorum is not present, a motion to adjourn or a motion to recess is passed with a majority vote of those present.

(2) No motion is in order during a vote.

(3) A point of order is not in order during a vote.

(4) A committee member may not make a motion to:

(a) strike the enacting clause of legislation; or

(b) circle legislation.

Section 20. SR4-2-201 is amended to read:

SR4-2-201. Point of order.

(1) (a) If a senator believes that there has been a breach of order, a breach of rules, or a breach of established parliamentary practice, the senator may rise and, without being recognized, state: "point of order."

(b) When a senator raises a point of order:

(i) the presiding officer shall interrupt the proceedings;

(ii) the senator who has the floor shall yield the floor; and

(iii) the presiding officer shall ask the senator raising the point of order to "state your point."

(c) When the presiding officer responds "state your point," the senator shall briefly explain the alleged breach to the body, citing to appropriate authority if possible.

(2) (a) The presiding officer may speak to points of order in preference to other senators rising for that purpose.

(b) The presiding officer may:

(i) rule on the point of order immediately;

(ii) consult with the secretary of the Senate [~~and then rule~~], other staff, or another senator before ruling on the point of order; or

(iii) defer the point of order until the presiding officer can research and rule on the point of order.

(c) (i) Although points of order are generally decided without debate, the presiding officer may submit the point of order to the Senate for decision in doubtful cases.

(ii) If submitted to the Senate for decision, a presiding officer shall allow debate or discussion on the point of order by recognizing members of the Senate who wish to speak to the point of order.

(iii) A decision by the Senate deciding a point of order is not subject to appeal.

(3) When the presiding officer rules on the point of order, any senator who disagrees with the presiding officer's decision may appeal that decision to the Senate by following the procedures and requirements of SR4-2-202.

Section 21. SR4-3-101 is amended to read:

SR4-3-101. Bills placed on calendars.

(1) [~~(a) The secretary of the Senate shall cause each bill reported to the Senate by a Senate standing committee or the Senate Rules Committee to be placed at the bottom of the second reading calendar or on the consent calendar in the order that the bill is received.~~]

[~~(b)~~] The secretary of the Senate shall cause legislation to be placed on a Senate calendar described in Title 4, Part 4, Senate Calendars, as provided in Senate Rules and directed by the presiding officer.

(2) The presiding officer shall ensure that each bill that is placed on the [~~second~~] third reading calendar without a fiscal note is circled until the fiscal note is received.

[~~(2)~~] (3) The secretary of the Senate shall ensure that [~~each bill~~] legislation on the second reading calendar that is passed by a constitutional majority vote is placed at the bottom of the third reading calendar.

Section 22. SR4-3-104 is amended to read:

SR4-3-104. Action of bills tabled in committee.

(1) (a) A senator may make a motion to lift [~~a bill tabled in the standing committee from the secretary of the Senate or from the standing committee that has possession of the bill~~] legislation tabled in a standing committee.

(b) If the motion passes by a two-thirds vote of those senators present on the floor of the Senate, the [~~bill~~] legislation is placed on the Senate second reading calendar.

(2) The president of the Senate [~~can reassign a bill~~] may reassign legislation tabled in a standing committee to another standing committee.

Section 23. SR4-4-101 is amended to read:

SR4-4-101. Second reading calendar.

(1) (a) After the Senate considers all legislation on the third reading calendar that is not circled or tabled, the Senate shall consider legislation on the second reading calendar as follows:

(i) the presiding officer shall cause each piece of legislation on the second reading calendar to be read by title before debate begins, unless the Senate suspends this requirement by a two-thirds vote;

(ii) the secretary of the Senate or the secretary's designee shall read the committee report, noting for the Senate those instances when the legislation did not receive a Senate standing committee review or an interim committee review;

(iii) if the Senate passes a motion to adopt a "favorable" committee report, the legislation, including any substitute or amendment adopted by the standing committee that is identified in the committee report, is before the Senate; and

(iv) the presiding officer shall allow debate on the legislation.

(b) If the Senate fails to pass a motion to adopt a "favorable" committee report, the legislation will be returned to the [~~secretary of the Senate~~] Senate Rules Committee.

(2) (a) The final question on second reading is: "Shall the bill (resolution) be read a third time?"

(b) The presiding officer shall place the question as a roll call vote.

(c) If a constitutional majority of the Senate votes in favor of the motion, the legislation is passed to the third reading calendar.

Section 24. SR4-4-301 is amended to read:

SR4-4-301. Consent calendar.

(1) If a standing committee report recommends that [~~a piece of~~] legislation be placed on the consent calendar and the standing committee report is adopted by the Senate, the secretary of the Senate or the secretary's designee shall:

(a) read the legislation for the second time; and

(b) place the legislation on the consent calendar.

(2) (a) Whenever the consent calendar contains legislation, the presiding officer shall inform the Senate each day that:

(i) there are items on the consent calendar; and

(ii) if any senator objects to [~~a piece of~~] any legislation on the consent calendar, three or more senators may move the legislation to the second reading calendar by notifying the [~~secretary of the Senate~~] presiding officer verbally or in writing.

(b) If the [~~secretary of the Senate~~] presiding officer receives requests to move [~~a piece of~~] legislation from the consent calendar to the second reading calendar from three or more senators, the secretary shall:

(i) remove the legislation from the consent calendar; and

(ii) place the legislation at the bottom of the second reading calendar.

(3) If, after three days during which the Senate has floor time, no more than two members have registered objections to the legislation, the legislation shall be:

(a) read the third time;

(b) placed before the Senate; and

(c) considered for final passage.

(4) (a) The presiding officer shall pose the question on each consent calendar bill in the following form:

"The presiding officer has determined that a quorum is present.

Those who favor the question say, 'aye.'

Does the chair hear a single dissenting nay to the question?"

(b) If the presiding officer hears no nays to the question, a unanimous vote of the senators present shall be recorded in favor of the legislation.

(c) If the presiding officer hears any nays to the question, a roll call vote shall be taken immediately.

(5) Notwithstanding the requirements of Subsection (4), any senator may, before the roll call vote is taken, make a motion to remove the bill from the consent calendar and place it on the bottom of the third reading calendar.

(6) Nothing in this rule prevents a senator from challenging the ruling of the chair or asking for a vote on any question.

Section 25. SR4-7-102 is amended to read:

SR4-7-102. Number of votes required for passage.

(1) Unless otherwise specified in these rules:

(a) each piece of legislation requires a constitutional majority vote -- 15 votes -- to pass;

(b) amendments to the Utah Constitution, amendments to court rules, and certain motions specified in these rules require a constitutional two-thirds vote -- 20 votes -- to pass;

(c) legislation described in Utah Constitution, Article VI, Section 25 that is intended to take effect earlier than 60 days after adjournment of the session in which it passes requires a constitutional two-thirds vote -- 20 votes -- to pass with that immediate effective date;

(d) certain motions require a two-thirds vote -- two-thirds of those present -- to pass; and

(e) other motions require a majority vote -- a majority of those present -- to pass.

(2) The Senate may only suspend a rule requiring that a motion must receive a two-thirds vote or a constitutional two-thirds vote to pass by a two-thirds vote.

Section 26. SR4-7-104 is amended to read:

SR4-7-104. Disturbing Senate staff during voting prohibited.

While a roll call vote is being taken, a person may not disturb or remain by the desks of [~~the secretary of the Senate, the docket clerk, the reading clerk, the voting machine operator, or the public address system operator~~] Senate staff conducting or helping to conduct the roll call vote.

Section 27. Coordinating S.R. 4 with S.R. 2 -- Substantive amendments.

If this S.R. 4 and S.R. 2, Senate Rules Resolution - Senate Committee Security, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Senate Rules for publication, amend SR3-4-101(2)(c) in S.R. 2 to read:

"(c) recess the meeting without a motion; or".

LEGISLATION, LAW WITHOUT SIGNATURE, AND LINE ITEMS VETOED BY THE GOVERNOR

The Governor vetoed 1 line item in H.B. 8.
See page 5515 for the Governor's letter that explains the vetoed line.
See Chapter 469, page 4794, for complete text.

The Governor vetoed many line items in S.B. 3.
See page 5517 For the Governor's letter that explains the vetoed lines.
See Chapter 486, page 4997, for complete text.

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

Mar. 23, 2023

The Honorable Brad R. Wilson
Speaker of the House

and

The Honorable J. Stuart Adams
President of the Senate

Dear Speaker Wilson and President Adams,

This letter serves to inform you that on Mar. 23, 2023, I signed House Bill 8, *State Agency and Higher Education Compensation Appropriations* with the following line item veto:

- Item 61, lines 753-758. This item appropriates funding for the Bail Bond program to the incorrect line item. This funding can be appropriated to the correct line item in a future legislative session.

Sincerely,

Spencer J. Cox
Governor

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

Mar. 23, 2023

The Honorable Brad R. Wilson
Speaker of the House

and

The Honorable J. Stuart Adams
President of the Senate

Dear President Adams and Speaker Wilson,

This letter serves to inform you that on Mar. 23, 2023, I signed Senate Bill 3, *Appropriations Adjustments* with the following line item vetoes:

- Item 174, lines 1903-1908. Senate Bill 105, *Traffic Enforcement Amendments*, did not pass.
- Item 177, lines 1921-1926. Senate Bill 178, *Sexual Crime Modifications* did not pass.
- Item 255, lines 2511-2516. Senate Bill 105, *Traffic Enforcement Amendments* did not pass.
- Item 401, lines 3941-3947. Senate Bill 145, *Higher Education for Incarcerated Youth Program Amendments* did not pass.
- Item 422, lines 4123-4130. This appropriation to implement provisions of House Bill 184, *Veterinarian Education Loan Repayment Program* was duplicative because House Bill 184 carried its own appropriation.
- Item 465, lines 4490-4495. House Bill 138, *Sensitive Material Requirements* did not pass.
- Item 514, lines 4845-4853. House Bill 223, *Drug and Alcohol Enforcement Amendments* will automatically increase transfers into the Alcoholic Beverage Control Act Enforcement Fund without requiring an additional appropriation through Senate Bill 3. Additionally, this line item references an incorrect funding source.

Sincerely,

Spencer J. Cox
Governor

LAWS

of the

STATE OF UTAH, 2023

Passed at the
FIRST SPECIAL SESSION
of the
SIXTY-FIFTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
May 17, 2023 and
Adjourned Sine Die May 17, 2023

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2023 First Special Session of the Sixty-Fifth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2023 First Special Session of the Sixty-Fifth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 17th of May 2023 and adjourned sine die on the 17th of May 2023.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City,

this 21st day of December 2023

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
H. B. 1001
Passed May 17, 2023
Approved May 18, 2023
Effective July 1, 2023

EMERGENCY RESPONSE FUNDING

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023and for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:This bill:

- provides funding for flood related expenses;
- provides funding for other purposes, as indicated; and
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $5,000,000 in operating and capital budgets for fiscal year 2023, all of which is from the General Fund.

This bill appropriates ($5,000,000) in expendable funds and accounts for fiscal year 2023, allof which is from the General Fund.

This bill appropriates $8,000,000 in operating and capital budgets for fiscal year 2024,including:

- $5,000,000 from the General Fund; and
- $3,000,000 from various sources as detailed in this bill.

This bill appropriates ($5,000,000) in expendable funds and accounts for fiscal year 2024, allof which is from the General Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1,2023.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 1
To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management
From General Fund, One-Time 5,000,000
Schedule of Programs:
Emergency and Disaster Management 5,000,000
The Legislature intends that:
1. the funds provided by this item only be used for reimbursement of infrastructure improvement costs associated with spring/summer 2023 flooding;
2. the funds provided by this item not be used for response, protective action, or maintenance costs;
3. the funds provided by this item not be used to reimburse private parties or governments for financial losses;
4. the Department of Public Safety report to the Legislative Fiscal Analyst proposed uses of the funds provided by this item before expending or commiting to expend the funds;
5. under Section 63J-1-603 of the Utah Code, the appropriation provided by this item not lapse at the close of fiscal year 2023; and
6. any nonlapsing funds be restricted to the uses identified in paragraphs 1 through 3 above.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 2
To Transportation - Highway System Construction
From Transportation Fund,
One-Time ..... (20,000,000)
Schedule of Programs:
Rehabilitation/Preservation ..... (20,000,000)

Item 3
To Transportation - Operations/Maintenance Management
From Transportation Fund,
One-Time 20,000,000
Schedule of Programs:
Maintenance Administration 20,000,000
Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $20,000,000 provided by this item not lapse at the close of fiscal year 2023 and may be used for costs associated with snow removal,avalanche control, slide mitigation, and other flood emergency impacts.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from

the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 4
To Department of Natural Resources - Wildland Fire Suppression
Fund
From General Fund, One-Time ..... (5,000,000)
Schedule of Programs:
Wildland Fire Suppression Fund ... (5,000,000)

Section 2. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 5
To Department of Public Safety - Division of Homeland Security -
Emergency and Disaster Management
From General Fund Restricted - State Disaster Recovery Restr Acct,
One-Time 3,000,000
Schedule of Programs:
Emergency and Disaster Management 3,000,000
In accordance with Section 53-6a-606 of the Utah Code, the Legislature intends that the Department of Public Safety report to the Executive Appropriations Committee before expending or committing to expend the funds provided by this item.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 6
To Department of Government Operations - Finance - Mandated
From General Fund, One-Time 5,000,000
Schedule of Programs:
Emergency Response 5,000,000
The Legislature intends that:
1. the funds provided by this item be used to address infrastructure improvement costs associated with the spring/summer 2023 flood emergency, if necessary; and
2. if the Governor's Office of Planning and Budget (GOPB) and Department of Public Safety (DPS) identify a need for this appropriation, before expending or committing to expend the funds provided by this item, and prior to November 30, 2023, GOPB and DPS submit to the Executive Appropriations Committee a report that includes proposed uses as well as recommendations for reallocating funds provided by this item to impacted budget line items as a fiscal year 2024 supplemental appropriation.

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 7
To Department of Natural Resources - Wildland Fire Suppression
Fund
From General Fund, One-Time ..... (5,000,000)
Schedule of Programs:
Wildland Fire Suppression Fund ... (5,000,000)

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto the date of override. Section 2 of this bill takes effect on July 1, 2023.

CHAPTER 2
H. B. 1002
Passed May 17, 2023
Approved May 18, 2023
Effective May 18, 2023

RESTRICTED PERSONS AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions concerning dangerous weapons restrictions for certain persons.

Highlighted Provisions:

This bill:

- amends provisions concerning dangerous weapons restrictions for an alien who has been admitted to the United States under a nonimmigrant visa; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

76-10-503, as last amended by Laws of Utah 2023, Chapters 389, 397, 425, and 448 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 397

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-503 is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of a violent felony;

(ii) is on probation or parole for a felony;

(iii) is on parole from secure care, as defined in Section 80-1-102;

(iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5;

(v) is an alien who is illegally or unlawfully in the United States; or

(vi) is on probation for a conviction of possessing:

(A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

(B) a controlled substance analog; or

(C) a substance listed in Section 58-37-4.2.

(b) A Category II restricted person is a person who:

(i) has been convicted of:

(A) a domestic violence offense that is a felony;

(B) a felony that is not a domestic violence offense or a violent felony and within seven years after completing the sentence for the conviction, has been convicted of or charged with another felony or class A misdemeanor;

(C) multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies and within seven years after completing the sentence for the convictions, has been convicted of or charged with another felony or class A misdemeanor; or

(D) multiple felonies that are not part of a single criminal episode;

(ii) (A) within the last seven years has completed a sentence for:

(I) a conviction for a felony that is not a domestic violence offense or a violent felony; or

(II) convictions for multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies; and

(B) within the last seven years and after the completion of a sentence for a conviction described in Subsection (1)(b)(ii)(A), has not been convicted of or charged with another felony or class A misdemeanor;

(iii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iv) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(v) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(vi) has been found not guilty by reason of insanity for a felony offense;

(vii) has been found mentally incompetent to stand trial for a felony offense;

(viii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(ix) has been dishonorably discharged from the armed forces;

(x) has renounced the individual's citizenship after having been a citizen of the United States;

(xi) is a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or

defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that:

(A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or

(B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or

(xii) except as provided in Subsection (1)(d), has been convicted of the commission or attempted commission of misdemeanor assault under Section 76-5-102 or aggravated assault under Section 76-5-103 against an individual:

(A) who is a current or former spouse, parent, or guardian;

(B) with whom the restricted person shares a child in common;

(C) who is cohabitating or has cohabitated with the restricted person as a spouse, parent, or guardian;

(D) involved in a dating relationship with the restricted person within the last five years; or

(E) similarly situated to a spouse, parent, or guardian of the restricted person[~~; or~~].

[~~(xiii) is an alien who has been admitted to the United States under a nonimmigrant visa as defined in 8 U.S.C. Sec. 1101(a)(26).~~]

(c) (i) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(A) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(B) a conviction or an adjudication under Section 80-6-701 which, in accordance with the law of the jurisdiction in which the conviction or adjudication occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(ii) As used in this section, a conviction for misdemeanor assault under Subsection (1)(b)(xii), does not include a conviction which, in accordance with the law of the jurisdiction in which the conviction occurred, has been expunged, set aside, reduced to an infraction by court order, pardoned, or regarding which the person's civil rights have been restored, unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(iii) It is the burden of the defendant in a criminal case to provide evidence that a conviction or an adjudication under Section 80-6-701 is subject to an exception provided in this Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or the adjudication is not subject to that exception.

(d) A person is not a restricted person for a conviction under Subsection (1)(b)(xii)(D) if:

(i) five years have elapsed from the later of:

(A) the day on which the conviction is entered;

(B) the day on which the person is released from incarceration following the conviction; or

(C) the day on which the person's probation for the conviction is successfully terminated;

(ii) the person only has a single conviction for misdemeanor assault as described in Subsection (1)(b)(xii)(D); and

(iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) a firearm is guilty of a second degree felony; or

(b) a dangerous weapon other than a firearm is guilty of a third degree felony.

(3) [~~Except as provided in Subsection (4), a~~] A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) a firearm is guilty of a third degree felony; or

(b) a dangerous weapon other than a firearm is guilty of a class A misdemeanor.

[~~(4) A Category II restricted person may possess, use, or have under the person's control a firearm or dangerous weapon if:~~]

[~~(a) the person is a Category II restricted person solely due to Subsection (1)(b)(xiii);~~]

[~~(b) the person has been admitted to the United States under a nonimmigrant visa solely for lawful hunting or sporting purposes;~~]

[~~(c) the person is in possession of a valid hunting license or permit; and~~]

[~~(d) the possession, use, or control of the firearm or dangerous weapon is directly related to the lawful hunting or sporting purposes described in Subsection (4)(b).~~]

[~~(5)~~] (4) A person may be subject to the restrictions of both categories at the same time.

[~~(6)~~] (5) A Category I or Category II restricted person may not use an antique firearm for an activity regulated under Title 23A, Wildlife Resources Code of Utah.

[~~(7)~~] (6) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control a dangerous weapon, the penalties of that section control.

[~~(8)~~] (7) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(v) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

[~~(9)~~] (8) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection [~~(9)(a)~~] (8)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

[~~(10)~~] (9) (a) A person may not sell, transfer, or otherwise dispose of a firearm or dangerous weapon to a person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection [~~(10)(a)~~] (9)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for an unlawful purpose, is guilty of a class A misdemeanor.

[~~(11)~~] (10) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection [~~(11)~~] (10) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 3
H. B. 1003
Passed May 17, 2023
Approved May 18, 2023
Effective May 18, 2023

FIREFIGHTER DEATH BENEFIT AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies the death benefit for certain firefighters under the Firefighters' Retirement Act.

Highlighted Provisions:

This bill:

- amends the death benefits under the Firefighters' Retirement Act that are payable to the surviving spouse of a Division B active member whose death is not classified by the Utah State Retirement Office as a line-of-duty death.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-16-502, as last amended by Laws of Utah 2016, Chapter 84

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-16-502 is amended to read:

49-16-502. Death of active member in Division B -- Payment of benefits.

(1) If an active member of this system enrolled in Division B under Section 49-16-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of firefighter service credit, the surviving spouse shall receive:

(A) a lump sum equal to six months of the active member's final average salary; and

(B) an allowance equal to 37.5% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of firefighter service credit, the member shall be considered to have retired with an allowance calculated under Section 49-16-402 and the surviving spouse shall receive the death benefit payable to a surviving spouse under Section 49-16-504.

(b) If the death is not classified by the office as a line-of-duty death, the benefits are payable as follows:

(i) If the member has accrued 20 or more years of firefighter service credit, the death is considered line-of-duty and the surviving spouse shall receive:

(A) a lump sum of $1,500; and

(B) the greater of an allowance established under Subsection (1)(a)(i)(B) or Subsection (1)(a)(ii).

(ii) If the member has accrued five or more years of firefighter service credit but less than 20 years of firefighter service credit, the death is considered line-of-duty and the surviving spouse shall receive:

(A) a lump sum of $1,500; and

(B) an allowance as established under Subsection (1)(a)(i)(B).

[~~(ii)~~] (iii) If the member has accrued less than five years of firefighter service credit, the surviving spouse shall receive a refund of the member's contributions, plus 50% of the member's most recent 12 months compensation.

(c) If the member has accrued five or more years of firefighter service credit, the member's unmarried children until they reach age 21 or dependent unmarried children with a mental or physical disability, shall receive a monthly allowance of $75.

(2) (a) If the member dies and there is no surviving spouse, any amounts that would have been the surviving spouse's benefits are equally divided and paid to each unmarried child until the child reaches age 21.

(b) The payments shall be made to the surviving parent or duly appointed guardian or as provided under Sections 49-11-609 and 49-11-610.

(3) If a benefit is not distributed under Subsection (1) or (2), and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) The combined monthly payments made to the beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.

(5) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

LAWS

of the

STATE OF UTAH, 2023

Passed at the
SECOND SPECIAL SESSION
of the
SIXTY-FIFTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
June 14, 2023 and
Adjourned Sine Die June 14, 2023

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2023 Second Special Session of the Sixty-Fifth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2023 Second Special Session of the Sixty-Fifth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 14th of June 2023 and adjourned sine die on the 14th of June 2023.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City,

this 21st day of December 2023

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
H. B. 2001
Passed June 14, 2023
Approved June 17, 2023
Effective June 17, 2023

ELECTION AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill enacts provisions relating to a special congressional election, and the municipal elections, held in 2023.

Highlighted Provisions:

This bill:

- defines terms;
- modifies municipal election provisions, for the 2023 municipal elections only, including:
  - changing the dates of the municipal primary elections and municipal general elections;
  - requiring that the counties conduct the municipal elections;
  - changing the canvassing deadlines and other deadlines for the municipal elections; and
  - addressing other provisions relating to administration of the municipal elections;
- directs each county in the Second Congressional District of Utah to conduct a special congressional primary election on the same day as the 2023 municipal primary election and a special congressional general election on the same day as the 2023 municipal general election;
- directs the counties in the Second Congressional District of Utah on the procedures, requirements, and deadlines to be followed to:
  - conduct the special congressional election; and
  - conduct the 2023 municipal election concurrently with the special congressional election;
- provides direction for the conduct of the congressional special election in relation to political party requirements;
- modifies deadlines for changing party affiliation status in relation to the special congressional election;
- for the special congressional primary election and the 2023 municipal primary election, permits the counting of ballots postmarked on or before the day of the election;
- modifies deadlines for challenging a general special congressional election and the 2023 municipal general election; and
- repeals the codified provisions of this bill on May 1, 2024.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to the Governor's Office Governor's Office Lt. Governor's Office, as a one-time appropriation:
  - from the General Fund, One-time, $2,500,000.

Other Special Clauses:

This bill provides revisor instructions.

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
63I-2-220, as last amended by Laws of Utah 2021, Second Special Session, Chapter 6

ENACTS:
20A-1-207, Utah Code Annotated 1953
20A-1-208, Utah Code Annotated 1953
Utah Code Sections Affected by Revisor Instructions:
20A-1-208, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-207 is enacted to read:

20A-1-207. Provisions relating to the 2023 municipal election.

(1) As used in this section:

(a) (i) "2023 municipal election" means, in relation to the entire state of Utah, including all political subdivisions of Utah:

(A) the 2023 municipal primary election;

(B) the 2023 municipal general election; and

(C) all processes relating to the elections described in this Subsection (1)(a), regardless of whether the processes occur before, during, or after the day of the election.

(ii) "2023 municipal election" includes elections held under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(b) (i) "Municipal election" means:

(A) a municipal primary election;

(B) a municipal general election; or

(C) the processes relating to the elections described in this Subsection (1)(b), regardless of whether the processes occur before, during, or after the day of the election.

(ii) "Municipal election" includes elections held under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(c) "Second-tier political subdivision" means a political subdivision other than a county.

(2) This section relates to the 2023 municipal election only.

(3) (a) In relation to the 2023 municipal election, to the extent that the provisions of this section conflict with any other provision of the Utah Code, the provisions of this section take precedence.

(b) The counties, and not the second-tier political subdivisions, will conduct all municipal elections in Utah in 2023.

(c) Except as provided in Subsection (4), any duties imposed by statute on, or powers granted by statute to, a person described in Subsection 20A-1-102(23)(c) or (d) in relation to a municipal election are instead, for the 2023 municipal

election, imposed on and granted to the applicable county election officer.

(d) Except as provided in Subsection (4), any duties imposed by statute on, or powers granted by statute to, a second-tier political subdivision, the legislative body of a second-tier political subdivision, or the executive of a second-tier political subdivision in relation to a municipal election are instead, for the 2023 municipal election, imposed on and granted to the applicable county, county legislative body, or county executive.

(e) For the 2023 municipal election, each municipality shall pay, to the county that conducts the election for the municipality, the costs incurred by the county to conduct the election.

(4) (a) Subsections (3)(c) and (d) do not apply to the extent that the duties are expressly imposed on, or the powers are expressly granted to, another person under:

(i) a provision of this section other than Subsection (3)(c) or (d); or

(ii) Section 20A-1-208.

(b) To the extent necessary, the lieutenant governor may direct that a duty or power described in Subsection (3)(c) or (d) remain with the person directed by statute, unless the duty is expressly imposed on, or the power is expressly granted to, another person under:

(i) a provision of this section other than Subsection (3)(c) or (d); or

(ii) Section 20A-1-208.

(c) A second-tier political subdivision, the legislative body of a second-tier political subdivision, the executive of a second-tier political subdivision, or a person described in Subsection 20A-1-102(23)(c) or (d) shall cooperate with the applicable county, county election officer, county legislative body, or county executive on whom a duty is imposed, or to whom authority is granted, under this section to ensure the successful conduct the 2023 municipal election.

(5) For the 2023 municipal election:

(a) the mayor and the municipal legislative body remain the board of canvassers for the municipal election, but not for the special congressional election, and maintain all duties and powers relating to the municipal election canvass;

(b) the legislative body of an entity that authorizes a bond election remains the board of canvassers for the bond election, but not for the special congressional election, and maintains all duties and powers relating to the canvass for the bond election; and

(c) the persons on whom duties are imposed, or to whom powers are granted, for a local initiative or referendum remain in possession of those duties and powers, except to the extent the lieutenant governor otherwise directs, if necessary, to provide for efficient conduct of the 2023 municipal election.

(6) Notwithstanding Subsection 20A-1-102(23), for the 2023 municipal election, the election officer for a municipality is:

(a) if the municipality is located entirely within a county, the county clerk; or

(b) if the municipality is located in more than one county, the county clerk of the county designated by the lieutenant governor.

(7) Notwithstanding Subsection 20A-1-201.5(2) or Section 20A-9-404, the 2023 municipal primary election date is September 5, 2023.

(8) Notwithstanding Subsection 20A-1-202(1), the 2023 municipal general election date is November 21, 2023.

(9) Notwithstanding Subsection 20A-3a-603(1)(c), the 2023 municipal election is not exempt from the requirement that at least 10% of the voting devices at a polling place be accessible for individuals with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002.

(10) Subsection 20A-3a-601(3)(b) does not apply to the 2023 municipal election.

(11) Section 20A-3a-605 does not apply to the 2023 municipal election.

(12) Notwithstanding Subsection 11-14-207(1)(c), 20A-4-301(1)(b) or (2), or 20A-4-304(8), the canvassing deadlines for the 2023 municipal election are:

(a) September 19, 2023, for the 2023 municipal primary election; and

(b) December 6, 2023, for the 2023 municipal general election.

(13) In conducting the 2023 municipal primary election, the county shall, in relation to a participating municipality, as defined in Section 20A-4-601, comply with the applicable provisions of Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

Section 2. Section 20A-1-208 is enacted to read:

20A-1-208. Provisions relating to the 2023 special congressional election and the 2023 municipal election.

(1) As used in this section:

(a) "2023 municipal election" means the same as that term is defined in Subsection 20A-1-207(1).

(b) "Election proclamation" means the Writ of Election, Proclamation, and Notice of Election 2023-1P, as issued by the governor on June 7, 2023.

(c) "Municipal election" means the same as that term is defined in Subsection 20A-1-207(1).

(d) "Second-tier political subdivision" means the same as that term is defined in Subsection 20A-1-207(1).

(e) (i) "Special congressional election" means the special congressional election called via the election proclamation.

(ii) "Special congressional election" includes:

(A) the special congressional primary election;

(B) the special congressional general election; and

(C) the processes relating to the elections described in Subsection (1)(e)(ii)(A) or (B), regardless of whether the processes occur before, during, or after the day of the election.

(f) "Special congressional election county" means a county located, in whole or in part, within the Second Congressional District of Utah.

(g) (i) "Special congressional general election" means the general election for the special congressional election, scheduled by the election proclamation for November 21, 2023.

(ii) "Special congressional general election" includes the processes relating to the election described in Subsection (1)(g)(i), regardless of whether the processes occur before, during, or after the day of the election.

(h) (i) "Special congressional primary election" means the primary election for the special congressional election, scheduled by the election proclamation for September 5, 2023.

(ii) "Special congressional primary election" includes the processes relating to the election described in Subsection (1)(h)(i), regardless of whether the processes occur before, during, or after the day of the election.

(2) This section relates only to the special congressional election and the 2023 municipal election.

(3) (a) Each county is directed to conduct the 2023 municipal election in accordance with Section 20A-1-207 and the applicable requirements of this section.

(b) A special congressional election county is directed to conduct the special congressional election in accordance with this section, Section 20A-1-502.5, and the election proclamation.

(4) In relation to the special congressional election, the provisions of the election proclamation prevail over any conflicting statutory provision except the provisions of this section, Section 20A-1-207, and Section 20A-1-502.5.

(5) (a) Each county shall conduct the 2023 municipal elections for each municipality for which the county clerk is the election officer under Subsection 20A-1-207(6), except to the extent that an election is canceled for the municipality in accordance with Section 20A-1-206.

(b) A special congressional election county shall, regardless of whether the county is required to conduct a municipal election under Subsection (3)(a), conduct the special congressional election, in accordance with this section.

(c) Each county shall comply with Section 20A-5-401 for the 2023 municipal primary election and the 2023 municipal general election.

(d) A special congressional election county shall comply with Section 20A-5-401 for the special congressional primary election and the special congressional general election.

(e) In relation to the appointment of poll workers:

(i) a special congressional election county shall comply with the provisions of Section 20A-5-601 for the 2023 municipal election and the special congressional election; and

(ii) a county that is not a special congressional election county shall comply with the provisions of Section 20A-5-602 for the 2023 municipal election.

(f) (i) For a special congressional election county, if a ballot for a primary election includes items for both the special congressional primary election and the primary election for the 2023 municipal election, the special congressional election county shall, to the extent possible, comply with the ballot form requirements for both regular primary elections and municipal primary elections.

(ii) For a special congressional election county, if a ballot for a general election includes items for both the special congressional general election and the general election for the 2023 municipal election, the special congressional election county shall, to the extent possible, comply with the ballot form requirements for both regular general elections and municipal general elections.

(iii) The lieutenant governor may approve ballot form changes in relation to ballots described in Subsection (5)(f)(i) or (ii) only to the extent necessary.

(6) For purposes of the special congressional election:

(a) a registered political party is a qualified political party if the registered political party certified as a qualified political party for the 2022 election cycle;

(b) for a registered political party that participates in the special congressional election:

(i) the registered political party shall, within seven days after the day of the effective date of this bill, file a statement with the lieutenant governor that identifies one or more registered political parties whose members may vote for the registered political party's candidates in the special congressional primary election and states whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates; or

(ii) if the registered political party fails to timely file the statement described in Subsection (6)(b)(i), the selection last made by the registered political party under Subsection 20A-9-403(2)(a)(ii) will apply for the special congressional primary election; and

(c) a registered political party that holds a convention for placing a candidate on the special

congressional primary election ballot shall notify the lieutenant governor of the date, time, and location of the convention at least seven days before the day on which the convention is held.

(7) The definition of election in Subsection 20A-1-102(19) includes the special congressional primary election and the special congressional general election.

(8) The definition of primary convention in Subsection 20A-1-102(52) includes a convention held to nominate a candidate for the special congressional primary election.

(9) Notwithstanding Section 20A-2-107 or 20A-2-107.5, a request by a registered voter to change the voter's political party affiliation that is made, via a voter registration form or otherwise, after the effective date of this bill, but before September 6, 2023, does not take effect until September 6, 2023.

(10) Notwithstanding Chapter 4, Part 3, Canvassing Returns, the canvassing deadlines for the special congressional election are:

(a) for the counties, September 19, 2023, for the special congressional primary election and 5 p.m. on December 6, 2023, for the special congressional general election; and

(b) for the statewide canvass, December 8, 2023, for the special congressional general election.

(11) The board of canvassers of each special congressional election county shall:

(a) for the special congressional primary election:

(i) on September 19, 2023, transmit to the lieutenant governor, via a secure electronic method, the county totals for the special congressional primary election and the signed canvassing report; and

(ii) on or before September 22, 2023, mail to the lieutenant governor a complete tabulation showing voting totals for the special congressional primary election, precinct by precinct; and

(b) for the special congressional general election:

(i) on December 6, 2023, transmit to the lieutenant governor, via a secure electronic method, the county totals for the special congressional general election, and the signed canvassing report, immediately upon adjournment of the board of canvassers; and

(ii) on or before December 9, 2023, mail to the lieutenant governor a complete tabulation showing voting totals for the special congressional general election, precinct by precinct.

(12) Notwithstanding Subsection 20A-3a-204(2)(a), except as otherwise provided in Section 20A-16-404, to be valid for the special congressional primary election or the 2023 municipal primary election, a ballot must be:

(a) clearly postmarked on or before election day, or otherwise clearly marked by the post office as received by the post office on or before election day; and

(b) received in the office of the election officer before noon on September 19, 2023.

(13) Notwithstanding Subsection 20A-4-403(1)(a), for the special congressional general election, in contesting the results of elections, except for bond elections, a registered voter may contest the right of an individual declared elected to office by filing a verified written complaint with the district court of the county in which the registered voter resides within 10 days after the day on which the canvass concludes.

(14) Notwithstanding Subsection 20A-4-404(1)(b), for a petition contesting the results of the special congressional general election, the chief judge of the court having jurisdiction shall issue the order described in Subsection 20A-4-404(1)(b) not less than 10, nor more than 15, days after the day on which the petition is filed.

(15) Notwithstanding Subsection 20A-4-406(2), in relation to the special congressional general election, the deadline described in Subsection 20A-4-406(2) is changed from 10 days to seven days.

(16) Notwithstanding Subsection 20A-16-402(1), an application for a military-overseas ballot for the primary elections held on September 5, 2023, is timely if received before noon on the day of the election.

Section 3. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates: Title 20A.

(1) Sections 20A-1-207 and 20A-1-208 are repealed May 1, 2024.

[~~(1)~~] (2) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed January 1, 2026.

[~~(2)~~] (3) Subsection 20A-5-803(8) is repealed July 1, 2023.

[~~(3)~~] (4) Section 20A-5-804 is repealed July 1, 2023.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office -- Governor's Office

From General Fund, One-time	2,500,000
Schedule of Programs:	
Lt. Governor's Office	2,500,000

The Legislature intends that:

(1) the lieutenant governor use up to $2,050,000 of this appropriation to reimburse counties for only:

(a) the incremental cost of adding a special congressional election for the Second Congressional District of Utah; and

(b) if the total amount reimbursed to all counties involved in the special congressional election under Subsection (1)(a) is less than the maximum amount calculated under Subsection (3) for all counties involved in the special congressional election, and less than $2,050,000, the lieutenant governor may use the difference in the total amount reimbursed under Subsection (1)(a) and the total maximum amount calculated under Subsection (3), toward reimbursing any counties in Utah for amounts expended to run a municipal election that exceed the amount that would have been incurred by the municipality if the county had not been required, under this bill, to run the municipal election;

(2) except as provided in Subsection (1)(b), the lieutenant governor may not use any portion of the appropriation in this bill to reimburse a county or municipality for any cost associated with an election that otherwise would have taken place in a county or a municipality;

(3) the actual amount reimbursed to a county under Subsection (1)(a) not exceed an amount equal to $2.50 multiplied by the sum of the following:

(a) the number of special congressional primary election ballots mailed to registered voters;

(b) the number of special congressional primary election ballots cast by registered voters who did not receive a special congressional primary election ballot by mail;

(c) the number of special congressional general election ballots mailed to registered voters; and

(d) the number of special congressional general election ballots cast by registered voters who did not receive a special congressional general election ballot by mail;

(4) the lieutenant governor use up to $50,000 of this appropriation to pay for the programming costs necessary to comply with the modified change of party affiliation requirements described in Section 20A-1-208;

(5) the lieutenant governor use up to $400,000 for voter outreach regarding the elections described in this bill;

(6) the lieutenant governor document the reimbursement described in Subsections (1) through (3), the payment described in Subsection (4), and the expenditures made under Subsection (5) in a manner that is verifiable via audit; and

(7) any amount of this appropriation not expended in accordance with Subsections (1) through (5) lapse at the end of fiscal year 2024.

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 6. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) in Subsection 20A-1-208(6)(b)(i), replace "within seven days after the day of" with "on or before" and replace "the effective day of this bill" with the date that is seven days after the actual effective date of this bill; and

(2) in Subsection 20A-1-208(9), replace "the effective date of this bill" with the actual effective date of this bill.

UTAH CODE SECTION INDEX

The following Code Section Index lists, in section order, each Utah Code section affected by bills passed during the 2023 General Session, 2023 First Special Session, and 2023 Second Special Session. The first column lists the section affected. The second column lists the action taken with the following abbreviations: A = Amends, E = Enacts, F = Former Section Number, N = Renumbered and Amended, R = Repeals, T = Technical Renumbers, X = Repeals and Reenacts. The third column lists the bill number. The fourth column lists either the former number or the new number, if applicable. The fifth column lists the chapter number.

See Technical Action Index (page 5585) for explanations and clarifications of sections that were technically renumbered.

Section	Bill Action	Former/ Number	Chapter Renumber	Number
2023 General Session				
A10 S5	A	HJR018		
A10 S5	A	HJR018		
A11 S10	E	HJR010		
A13 S5	A	SJR010		
3-1-20	A	HB0251		401
3-1-20.1	A	HB0251		401
3-1-20.2	R	HB0251		401
4-1-112	E	SB0035		222
4-2-103	A	HB0150		126
4-2-103	A	SB0061		232
4-2-402	A	SB0259		528
4-2-901	E	HB0184		134
4-2-902	E	HB0184		134
4-3-102	A	SB0259		528
4-3-301	A	SB0259		528
4-3-302	A	SB0259		528
4-3-401	A	SB0259		528
4-3-503	A	HB0320		78
4-4-102	A	SB0259		528
4-4-103	A	SB0259		528
4-4-107	A	HB0523		481
4-5-102	A	SB0259		528
4-5-501	A	SB0206		327
4-5a-102	A	SB0151		362
4-5a-103	A	SB0151		362
4-5a-104	A	SB0151		362
4-7-106	A	SB0259		528
4-12-102	A	SB0259		528
4-12-104	A	SB0259		528
4-12-105	A	SB0259		528
4-12-105.5	E	SB0259		528
4-13-102	A	SB0259		528
4-14-102	A	HB0031		34
4-16-102	A	SB0259		528
4-16-201	A	SB0259		528
4-17-109	A	SB0043		435
4-18-103	A	HB0221		144
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4-18-106	A	HB0221		144
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4-18-108	A	SB0076		238
4-18-306	A	SB0259		528
4-23-106	A	HB0031		34
4-24-205	A	SB0259		528
4-24-301	A	SB0259		528
4-25-201	A	SB0043		435
4-25-401	A	SB0043		435
4-30-106	A	SB0043		435
4-30-106	A	SB0259		528
4-34-108	A	HB0031		34
4-37-103	A	HB0031		34
4-37-108	A	HB0031		34
4-37-111	A	HB0031		34
4-37-204	A	HB0031		34
4-39-102	A	HB0045		110
4-39-107	A	HB0045		110
4-39-303	A	HB0045		110
4-39-308	E	HB0045		110
4-39-401	A	HB0031		34
4-39-503	E	HB0045		110
4-41-102	A	HB0227		146
4-41-103.1	A	HB0227		146
4-41-103.2	A	HB0227		146
4-41-103.3	A	HB0227		146
4-41-103.3	A	SB0206		327
4-41-103.4	A	HB0227		146
4-41-103.5	E	HB0227		146
4-41-104	A	HB0227		146
4-41-105	A	HB0227		146
4-41-106	A	HB0227		146
4-41-402	A	HB0227		146
4-41-402	A	SB0206		327
4-41-403	A	HB0227		146
4-41a-102	A	HB0072		273
4-41a-102	A	SB0206		327
4-41a-102	A	SB0091		313
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4-41a-201	A	HB0072		273
4-41a-201	A	SB0091		313
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4-41a-204	A	SB0206		327
4-41a-301	A	SB0091		313
4-41a-403	A	SB0206		327
4-41a-404	A	SB0206		327
4-41a-404	A	SB0091		313
4-41a-404	A	HB0072		273
4-41a-406	A	SB0206		327
4-41a-501	A	SB0091		313
4-41a-602	A	SB0091		313
4-41a-603	A	SB0091		313
4-41a-701	A	SB0091		313
4-41a-701	A	SB0137		317
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4-41a-1001	F	HB0072	26-61a-301	273
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4-41a-1003	F	HB0072	26-61a-303	273
4-41a-1004	F	HB0072	26-61a-304	273
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4-41a-1101	F	HB0072	26-61a-501	273
4-41a-1102	F	HB0072	26-61a-502	273
4-41a-1103	F	HB0072	26-61a-504	273
4-41a-1104	F	HB0072	26-61a-505	273
4-41a-1105	F	HB0072	26-61a-507	273
4-41a-1106	F	HB0072	26-61a-401	273
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78B-7-1103	E	HB0324		170
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78B-8-302	A	HB0122		123
78B-8-401	A	SB0209		330
78B-8-401	A	SB0064		310
78B-8-402	A	SB0209		330
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78B-9-104	A	SB0120		448
78B-9-104	A	HB0046		111
78B-9-300	R	SB0156		500
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78B-12-102	A	SB0209		330
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78B-12-111	A	SB0209		330
78B-12-112	A	SB0209		330
78B-12-113	A	SB0209		330
78B-12-212	A	SB0229		333
78B-12-216	A	SB0209		330
78B-12-402	A	SB0209		330
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78B-14-605	A	SB0209		330
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80-3-504	A	SB0209		330
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80-4-501	A	SB0209		330
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80-5-202	A	HB0201		139
80-5-401	A	HB0400		93
80-6-103	A	HB0304		161
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80-6-303	A	HB0304		161
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80-6-402	A	SB0209		330
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80-6-1005	R	HB0060		115
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SR1-4-201	A	SR0004		
SR1-4-202	A	SR0004		
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2023 First Special Session

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76-10-503	A	HB1002	2

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63I-2-220	A	HB2001	1

TECHNICAL ACTION INDEX

Subsection 36-12-12(2)(g) of the Utah code grants the legislative general counsel the power to "correct any technical errors . . . in order to enroll the legislation and prepare the laws for publication; . . . ." The following Technical Action Index lists Utah Code sections that were modified by the Office of Legislative Research and General Counsel after the 2023 General Session to resolve technical errors identified by the office. The modified sections are listed in order by the section numbers used to identify them in the bills.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
			2023 General Session		
11-68-101	11-69-101	T	H.B. 376	90	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 187, Chapter 502.
13-1-17	13-1-18	T	S.B. 35	222	Technically renumbered to avoid duplication of newly enacted Section also in HB 12, Chapter 26.
13-63-101	13-64-101	T	S.B. 216	509	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 18, Chapter 31, HB 311, Chapter 477, HB 449, Chapter 298, SB 152, Chapter 498, SB 225, Chapter 377, and SB 274, Chapter 536.
13-63-101	13-65-101	T	S.B. 225	377	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 18, Chapter 31, HB 311, Chapter 477, HB 449, Chapter 298, SB 152, Chapter 498, SB 216, Chapter 509, and SB 274, Chapter 536.
13-63-101	13-66-101	T	H.B. 449	298	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 311, Chapter 477, HB 18, Chapter 31, SB 152, Chapter 498, SB 216, Chapter 509, SB 225, Chapter 377, and SB 274, Chapter 536.
13-63-101	13-67-101	T	H.B. 18	31	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 311, Chapter 477, HB 449, Chapter 298, SB 152, Chapter 498, SB 216, Chapter 509, SB 225, Chapter 377, and SB 274, Chapter 536.
13-63-101	13-68-101	T	S.B. 274	536	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 18, Chapter 536, HB 311, Chapter 477, HB 449, Chapter 298, SB 152, Chapter 498, SB 216, Chapter 509, and SB 225, Chapter 377.
13-63-102	13-67-102	T	H.B. 18	31	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
13-63-103	13-67-103	T	H.B. 18	31	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498.
13-63-104	13-67-104	T	H.B. 18	31	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498.
13-63-105	13-67-105	T	H.B. 18	31	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498.
13-63-106	13-67-106	T	H.B. 18	31	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
13-63-201	13-63-401	T	H.B. 311	477	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 449, Chapter 298, SB 152, Chapter 498, SB 216, Chapter 509, SB 225, Chapter 377, SB 274, Chapter 536.
13-63-201	13-64-201	T	S.B. 216	509	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 311, Chapter 477, HB 449, Chapter 298, SB 152, Chapter 498, SB 225, Chapter 377, SB 274, Chapter 536.
13-63-203	13-64-203	T	S.B. 216	509	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498, SB 225, Chapter 377, and SB 274, Chapter 536.
13-63-201	13-65-201	T	S.B. 225	377	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 311, Chapter 477, HB 449, Chapter 298, SB 152, Chapter 498, SB 216, Chapter 509, SB 274, Chapter 536.
13-63-201	13-66-201	T	H.B. 449	298	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 311, Chapter 477, SB 152, Chapter 498, SB 216, Chapter 509, SB 225, Chapter 377, SB 274, Chapter 536.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
13-63-201	13-68-201	T	S.B. 274	536	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 311, Chapter 477, HB 449, Chapter 298, SB 152, Chapter 498, SB 216, Chapter 509, and SB 225, Chapter 377.
13-63-202	13-64-202	T	S.B. 216	509	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498, SB 225, Chapter 377, and SB 274, Chapter 536.
13-63-202	13-65-202	T	S.B. 225	377	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498, SB 216, Chapter 509, and SB 274, Chapter 536.
13-63-202	13-68-202	T	S.B. 274	536	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498, SB 216, Chapter 509, and SB 225, Chapter 377.
13-63-203	13-65-203	T	S.B. 225	377	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498, SB 216, Chapter 509, and SB 274, Chapter 536.
13-63-203	13-68-203	T	S.B. 274	536	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498, SB 216, Chapter 509, and SB 225, Chapter 377.
13-63-204	13-68-204	T	S.B. 274	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
13-63-301	13-63-501	T	H.B. 311	477	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 152, Chapter 498, SB 216, Chapter 509, and SB 274, Chapter 536.
13-63-301	13-64-301	T	S.B. 216	509	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 311, Chapter 477, SB 152, Chapter 498, and SB 274, Chapter 536.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
13-63-301	13-68-301	T	S.B. 274	536	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 311, Chapter 477, SB 152, Chapter 498, and SB 216, Chapter 509.
13-63-302	13-68-302	T	S.B. 274	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
13-63-303	13-68-303	T	S.B. 274	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
13-63-304	13-68-304	T	S.B. 274	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
13-63-305	13-68-305	T	S.B. 274	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
13-63-401	13-63-601	T	H.B. 311	477	Technical renumber of section for proper placement in Title and Chapter. Intentional identical language as this Section in SB 152.
13-63-401	13-63-601	T	S.B. 152	498	Technical renumber of section for proper placement in Title and Chapter. Intentional identical language as this Section in HB 311.
13-63-401	13-68-401	T	S.B. 274	536	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 311, Chapter 477, and SB 152 Chapter 498.
13-63-402	13-68-402	T	S.B. 27	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
13-63-403	13-68-403	T	S.B. 274	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
13-63-404	13-68-404	T	S.B. 274	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
13-63-501	13-63-701	T	H.B. 311	477	Technical renumber of section for proper placement in Title and Chapter. Intentional identical language as this Section in SB 152.
13-63-501	13-63-701	T	S.B. 152	498	Technical renumber of section for proper placement in Title and Chapter. Intentional identical language as this Section in HB 311.
13-64-101	13-69-101	T	S.B. 274	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
13-64-201	13-69-201	T	S.B. 274	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
13-64-202	13-69-202	T	S.B. 274	536	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
17-50-340	17-50-341	T	S.B. 271	533	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 351, Chapter 413.
23-13-18	23A-5-307	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-14-2	23A-2-301	T	S.B. 10	211	Technical renumber of section for proper placement in Title and Chapter.
23-14-2.5	23A-2-302	T	S.B. 10	211	Technical renumber of section for proper placement in Title and Chapter.
23-14-2.6	23A-2-303	T	S.B. 10	211	Technical renumber of section for proper placement in Title and Chapter.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
23-14-13.5	23A-3-203	T	H.B. 30	103	Technical renumber of section for proper placement in Title and Chapter.
23-14-18	23A-2-305	T	H.B. 341	82	Technical renumber of section for proper placement in Title and Chapter.
23-14-21	23A-2-209	T	H.B. 447	198	Technical renumber of section for proper placement in Title and Chapter.
23-14-21.5	23A-2-210	T	H.B. 447	198	Technical renumber of section for proper placement in Title and Chapter.
23-15-14	23A-3-210	T	H.B. 112	120	Technical renumber of section for proper placement in Title and Chapter.
23-19-1	23A-4-201	T	H.B. 237	149	Technical renumber of section for proper placement in Title and Chapter.
23-19-5.5	23A-4-1102	T	S.B. 206	327	Technical renumber of section for proper placement in Title and Chapter.
23-19-9	23A-4-1106	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-19-14	23A-4-303	T	S.B. 206	327	Technical renumber of section for proper placement in Title and Chapter.
23-19-17	23A-4-401	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-19-22.5	23A-4-704	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-19-24	23A-4-706	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-19-26	23A-4-707	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
23-19-43	23A-3-207	T	H.B. 121	122	Technical renumber of section for proper placement in Title and Chapter.
23-19-47	23A-3-208	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-19-49	23A-4-702	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-19-50	23A-4-211	T	H.B. 341	82	Technical renumber of section for proper placement in Title and Chapter.
23-19-50	23A-4-710	T	H.B. 237	149	Technical renumber of section for proper placement in Title and Chapter.
23-20-1	23A-5-201	T	S.B. 120	448	Technical renumber of section for proper placement in Title and Chapter.
23-21-8	23A-6-205	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-23-2	23A-7-101	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-23-3	23A-7-102	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-23-6	23A-7-203	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-23-7	23A-7-204	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-23-10	23A-7-208	T	H.B. 469	345	Technical renumber of section for proper placement in Title and Chapter.
23-27-201	23A-10-201	T	S.B. 112	244	Technical renumber of section for proper placement in Title and Chapter.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
23-27-304	23A-10-304	T	S.B. 112	244	Technical renumber of section for proper placement in Title and Chapter.
23-27-305	23A-3-211	T	S.B. 112	244	Technical renumber of section for proper placement in Title and Chapter.
26-2-11	26B-8-111	T	S.B. 93	306	Technical renumber instructions from Coordination Clause.
26-8a-206	53-2d-206	T	S.B. 206	327	Technical renumber instructions from Coordination Clause.
26-10-16	26B-1-241	T	H.B. 437	295	Technical renumber of enacted section for proper placement in Title and Chapter, according to Coordniation Clause and Revisor Instructions.
26-18-29	26B-3-142	T	H.B. 437	295	Technical renumber of section for proper placement in Title and Chapter, according to Coordniation Clause and Revisor Instructions.
26-18-29	26B-3-225	T	S.B. 204	326	Technical renumber of section for proper placement in Title and Chapter.
26-18-430	26B-3-226	T	S.B. 269	336	Technical renumber of section for proper placement in Title and Chapter.
26-18-430	26B-3-227	T	H.B. 315	288	Technical renumber of section for proper placement in Title and Chapter.
26-21-36	26B-2-242	T	H.B. 133	276	Technically renumbered newly enacted section following revisor instructions regarding recodification of Titles 26 and 62A in 2023 General Session.
26-21b-202	26B-4-515	T	H.B. 297	158	Technically renumbered newly enacted section following revisor instructions regarding recodification of Titles 26 and 62A in 2023 General Session.
26-40-117	26B-3-910	T	S.B. 217	332	Technical renumber instructions from Coordination Clause.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
26-61a-117	26B-4-243	T	H.B. 230	281	Technical renumber of section for proper placement in Title and Chapter.
26-61a-117	26B-4-244	T	S.B. 137	317	Technical renumber of section for proper placement in Title and Chapter.
26-61a-206	26B-4-245	T	H.B. 72	273	Technical renumber of section for proper placement in Title and Chapter.
26-61a-206	26B-4-246	T	S.B. 137	317	Technical renumber of section for proper placement in Title and Chapter.
26-61a-503	26B-4-231	T	S.B. 40	307	Technical renumber instructions from Coordination Clause.
26-61a-801	26B-1-435	T	H.B. 72	273	Technically renumbered newly enacted section following revisor instructions regarding recodification of Titles 26 and 62A in 2023 General Session.
26-61a-802	26B-1-435.1	T	H.B. 72	273	Technically renumbered newly enacted section following revisor instructions regarding recodification of Titles 26 and 62A in 2023 General Session.
26-61a-803	26B-4-247	T	H.B. 72	273	Technically renumbered newly enacted section following revisor instructions regarding recodification of Titles 26 and 62A in 2023 General Session.
26-66-204	26B-1-422.1	T	H.B. 48	269	Technically renumbered newly enacted section following revisor instructions regarding recodification of Titles 26 and 62A in 2023 General Session.
26-68-103	26B-1-242	T	H.B. 131	275	Technically renumbered newly enacted section following revisor instructions regarding recodification of Titles 26 and 62A in 2023 General Session.
26B-1-214	26B-1-239	T	S.B. 16	2	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 38, Chapter 305.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
26B-1-401	26B-1-434	T	H.B. 429	420	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 38, Chapter 305.
26B-3-102	26B-1-240	T	S.B. 35	222	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 39, Chapter 306.
26B-3-201	26B-3-228	T	S.B. 133	316	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 39, Chapter 306.
26B-4-105	53-2d-103	T	S.B. 40	307	Technical renumber instructions from Coordination Clause.
26B-4-301	26B-4-325	T	S.B. 188	322	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 40, Chapter 307.
26B-5-102	26B-5-211	T	S.B. 155	319	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 41, Chapter 308.
26B-7-102	26B-7-120	T	S.B. 148	456	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 41, Chapter 308.
26B-7-120	26B-7-121	T	H.B. 487	465	Technically renumbered newly enacted section following revisor instructions regarding recodification of Titles 26 and 62A in 2023 General Session.
31A-22-658	31A-22-659	T	S.B. 193	325	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 78, Chapter 449.
41-1a-122	41-1a-123	T	S.B. 13	212	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 26, Chapter 33.
53-22-101	53-23-101	T	H.B. 57	382	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 61, Chapter 383, HB297, Chapter 158, HB 511, Chapter 427, SB 148, Chapter 456, and SB 156, Chapter 500.
53-22-101	53-24-101	T	H.B. 297	158	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 57, Chapter 382, HB 61, Chapter 383, HB 511, Chapter 427, SB 148, Chapter 456, and SB 156, Chapter 500.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
53-22-101	53-25-101	T	H.B. 511	427	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 57, Chapter 382, HB 61, Chapter 383, HB 297, Chapter 158, SB 148, Chapter 456, and SB 156, Chapter 500.
53-22-101	53-26-101	T	S.B. 156	500	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 57, Chapter 382, HB 61, Chapter 383, HB 297, Chapter 158, HB 511, Chapter 427, and SB 148, Chapter 456.
53-22-101	53-27-101	T	S.B. 148	456	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 57, Chapter 382, HB 61, Chapter 383, HB 297, Chapter 158, HB 511, Chapter 427, and SB 156, Chapter 500.
53-22-102	53-24-102	T	H.B. 297	158	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 61, Chapter 383, and SB 148, Chapter 456.
53-22-102	53-27-102	T	S.B. 148	456	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 61, Chapter 383, and HB 297, Chapter 158.
53-22-103	53-24-103	T	H.B. 297	158	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 61, Chapter 383.
53F-5-220	53F-5-221	T	H.B. 217	142	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 61, Chapter 383.
53F-6-401	53F-6-415	T	S.B. 77	353	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 215, Chapter 1.
58-1-603	58-1-604	T	S.B. 148	456	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 16, Chapter 2.
59-2-1806	59-2-1807	T	H.B. 58	471	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 81, Chapter 354.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
59-10-1046	59-10-1047	T	H.B. 170	462	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 130, Chapter 460.
62A-2-129	26B-1-334	T	S.B. 198	325	Technical renumber of section for proper placement in Title and Chapter.
62A-2-129	26B-2-134	T	S.B. 218	257	Technical renumber of section for proper placement in Title and Chapter.
62A-5-112	26B-1-335	T	S.B. 198	325	Technically renumbered newly enacted section following revisor instructions regarding recodification of Titles 26 and 62A in 2023 General Session.
62A-15-116.5	26B-5-112.5	T	S.B. 208	329	Technical renumber instructions from Coordination Clause.
62A-15-125	26B-5-120	T	S.B. 208	329	Technical renumber instructions from Coordination Clause.
63A-17-808	63A-17-809	T	H.B. 181	58	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 1677, Chapter 279.
63C-29-101	63C-30-101	T	H.B. 351	413	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 43, Chapter 109 and SB 22, Chapter 489.
63C-29-101	63C-31-101	T	S.B. 22	489	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 43, Chapter 109 and HB 35, Chapter 413.
63C-29-102	63C-31-102	T	S.B. 22	489	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
63C-29-103	63C-31-103	T	S.B. 22	489	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
63C-29-201	63C-30-201	T	H.B. 351	413	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 43, Chapter 109.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63C-29-202	63C-30-202	T	H.B. 351	413	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 43, Chapter 109.
63G-28-101	63G-29-101	T	H.B. 281	76	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 430, Chapter 14 and SB 43, Chapter 435.
63G-28-101	63G-30-101	T	S.B. 43	435	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 430, Chapter 14 and HB281, Chapter 76.
63G-28-102	63G-30-102	T	S.B. 43	435	Technically renumbered for proper placement with other section that was technically renumbered in same bill.
63G-28-201	63G-29-201	T	H.B. 281	76	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 430, Chapter 14.
63M-7-801	63M-7-901	T	H.B. 244	150	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 268, Chapter 155.
63M-7-802	63M-7-902	T	H.B. 244	150	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 268, Chapter 155.
63M-7-803	63M-7-903	T	H.B. 244	150	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 268, Chapter 155.
63M-7-804	63M-7-904	T	H.B. 244	150	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
63M-7-805	63M-7-905	T	H.B. 244	150	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
63N-20-101	63N-21-101	T	H.B. 42	38	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 258, Chapter 380.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63N-20-201	63N-21-201	T	H.B. 42	38	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
63N-20-202	63N-21-202	T	H.B. 42	38	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
63N-20-203	63N-21-203	T	H.B. 42	38	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
63N-20-301	63N-21-301	T	H.B. 42	38	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
63N-20-401	63N-21-401	T	H.B. 42	38	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
63N-20-402	63N-21-402	T	H.B. 42	38	Technically renumbered for proper placement with other sections that were technically renumbered in same bill.
72-1-203			H.B. 63	42	No future version (Effective 3/31/24) of this section exists. SB 185 repealed most of the existing language in the section, which controls over other amendments made in other bills.
72-7-601	72-17-201	T	H.B. 232	42	Technical renumber instructions from Coordination Clause.
72-7-602	72-17-202	T	H.B. 232	42	Technical renumber instructions from Coordination Clause.
76-6-206.5	76-6-206.6	T	H.B. 208	474	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 46, Chapter 111.
78A-10-401	78A-10a-501	T	S.B. 129	250	Technical renumber instructions from Coordination Clause.
78A-10-402	78A-10a-502	T	S.B. 129	250	Technical renumber instructions from Coordination Clause.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
78A-10-403	78A-10a-503	T	S.B. 129	250	Technical renumber instructions from Coordination Clause.
78A-10-404	78A-10a-504	T	S.B. 129	250	Technical renumber instructions from Coordination Clause.
78A-10-405	78A-10a-505	T	S.B. 129	250	Technical renumber instructions from Coordination Clause.
78B-6-2401	78B-6-2501	T	S.B. 241	259	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 328, Chapter 80.
78B-6-2402	78B-6-2502	T	S.B. 241	259	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 328, Chapter 80.
79-2-407	79-2-408	T	H.B. 307	163	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 34, Chapter 221.

SUBJECT INDEX

The following topical or subject index is intended to aid in locating a bill according to its subject matter. Titles of bills are listed under the subject heading and are followed by the page numbers on which they begin.

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